THE CONGRESSIONAL GLOBE:

CONTAINING

THE DEBATES AND PROCEEDINGS



OF

THE SECOND SESSION

OF

THE THIRTY-SEVENTH CONGRESS.

BY JOHN C. RIVES.

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cantile community. The money received from the banks and individuals on deposit has also been freely disbursed by the Treasury Department.

Of the twelve months' promissory notes or certificates of indebtedness $80,000,000 were issued; but so overflowing seems to have been our Treasury, so little use for money, that the payment of $33,000,000 was anticipated, and on the 29th day of May only $47,000,000 were on the bill book of the Department. It would be a cheering sign to witness an anticipated payment of any or all our obligations, if done when the exchequer had been replenished by a legitimate revenue, or resources derived from the sale of long maturing bonds.

But as a fund was thereby exhausted which should have been kept as a reserve, and which it is now proposed to secure by this bill, the transaction is indefensible. By this hasty sketch it will be noted that the Treasury Department, between the 1st of March and the 1st of June, a short period of three months, has paid out of Treasury notes $90,000,000, from deposits $51,000,000, and of certificates of indebtedness $47,000,000, making $188,000,000; and during the same time, with its five-twenty year stock at par, it has sold or exchanged bonds to the amount of $2,699,000.

Masters of finance, behold! Oh, monstrous! What an intolerable quantity of sack, and how little bread. This rapid issue found easy circulation. Examine for a moment its effect on the price of gold, stocks, and bonds:

Gold.

March 1	2.2	per cent.	premium.
April 1	2	"	"
May 1	2¾	"	"
June 1	3.2	"	"
June 16	6.2	"	"

Central Railroad.

March 1	83
April 1	83
May 1	85
June 1	86¾
June 16	95
Average price in 1861	75¼

United States twenty years six per cent. bonds.

March 1	92
April 1	93
May 1	98
June 1	104
June 16	107
Average price in 1861	90½

This sudden and apparently gratifying rise is delusive, and marks, not the accurate advance in the market value of the stocks and bonds, but the rapid depreciation of the currency.

I have remarked that during the three months ending the 1st of June, only $2,699,000 of bonds were sold. It is almost incredible that such should be the case, yet it is so set down under the sign manual of the Department. Advantage was taken of the rapid rise in the price of our securities to dispose of bonds, but not by the Government. It may be remembered that on the 16th of November, 1861, the Secretary of the Treasury negotiated a sale with the associated banks of $50,000,000 of twenty years six per cent. bonds, for which he obtained $45,795,000, or about 91.59 cents on the dollar. Now, while the Secretary was engaged in the pleasant pastime of issuing about three hundred millions of notes and giving $3,000,000 of bonds in exchange for notes, the aforesaid banks were quietly and dexterously selling $35,000,000 of the twenty year bonds which they had purchased. Thanks to the Secretary they had the entire, exclusive monopoly of the market, and netted, on the purchase and sale of these bonds, a clean profit of ten or twelve million dollars. That notable gentleman inflated the balloon, and the banks sailed away with the ballast. On these "propitious" transactions so "happily accomplished," comment is unnecessary, criticism would be offensive; for grateful "associated institutions" give the cue, and all the world exclaims, what "masterly financial ability!"

The past is gone, and let those who have the wit profit by its experience. I am willing to aid in retrieving the errors of the past to fill again the empty sack of a spendthrift, but not with Treasury notes. I originally favored the project of increasing the sum that should be received on deposit to $50,000,000, and when I proposed such an amendment I was met by the assertion that it would prevent the funding of our debt, a blessing which the Department seems not to have realized; and now, true to my conviction of its safety and propriety, I am willing to authorize the receipt on deposit of an additional $50,000,000.

With the adoption of this measure added to the means already authorized, and the receipts from customs and internal revenues, I think we shall have ample means to meet our daily expenditures and even reserve a fund for unforeseen contingencies. During three months the amount of currency poured into the Treasury on deposit was at the rate of four or five million dollars per week, and if the restriction on temporary deposits were removed, the deposits would probably again equal that amount weekly. Our receipts from customs average $1,000,000 per week, and two months after the tax bill goes into operation the receipts from that source will be two or three million dollars per week. In consideration of the circumstance that the banks have sold most of their bonds, it is possible that the Secretary may obtain three or four million dollars per week by selling or exchanging the five-twenties. That sum is realized from that source at this time. From the sources thus indicated I do not think it would be difficult to realize weekly from twelve to thirteen millions. This should be abundant for all current expenses, and give something to hold in reserve. I suppose there are still twenty or thirty million seven and three tenth bonds to bridge over the chasm until the receipts from internal duties are paid into the Treasury.

Having shown that the issue of $150,000,000 of legal tender Treasury notes are unnecessary, I will proceed to state why I think they will bring disaster and ruin upon our country. What are the notes authorized to be issued by Congress? They are not money, they are mere evidences of debt, of unfulfilled contracts, which the people by taxation, direct or indirect, must eventually pay. They have been issued to relieve the people of the onerous and crushing weight of immediate taxation, and as the faith and property of all the people are pledged for their redemption, perhaps it was proper to direct that all shall receive them as a legal tender in payment of public and private debts. On the plea of stern necessity, I voted for the Treasury note bill, although they were not issued in the form I thought best. At that time our soldiers had long been unpaid; those who in good faith had furnished the Government with its needful supplies had not been paid for many months, and the credit of the nation had so fallen that supplies could not be purchased at fair market rates. All this is changed, and partly by the success of our arms, but mainly by the action of Congress, the credit of the Government has been restored. In my judgment, the pledge of Congress to provide for $150,000,000 of revenue, which has been redeemed by the passage of the tax bill, did, and will more effectually, restore the credit of the Government and enhance the value of our public securities.

By our legislation on the tax bill we have gone to the fountains of our national resources, and we have sought to draw only from copious and overflowing streams. We shall send out our collectors to dip up a little here and a little there, and they will cast it into the public reservoir from whence it will flow in many channels to the same source from whence it originally came—the wells of diligence and industry.

We have demonstrated to the world our willingness and ability to collect a sufficient revenue to meet the ordinary expenses of the Government, and to pay promptly in money the interest on all our indebtedness, and set aside a handsome allowance for a sinking fund. It is punctual interest that capitalists seek, and an ample income furnishes palpable evidence that such interest is permanently secure.

Over and above the conviction that a new issue of notes is not demanded by the present or future wants of the Treasury, I have insuperable objections to the passage of this bill. The same pen that wrote, on the 7th June, 1862, "I propose, also, that authority be given to the Secretary of the Treasury to issue $150,000,000 in United States notes," thus wrote in the report dated 4th of July, 1861, after recommending an issue of Treasury notes to the amount of $50,000,000, bearing three and sixty-five one hundredths per cent. per annum interest:

"The greatest care will, however, be requisite to prevent the degradation of such issues into an irredeemable paper currency, than which no more certainly fatal expedient for impoverishing the masses and discrediting the Government of any country can well be devised."

Again, let me repeat that it is the same pen that wrote these sound views in July last, that in January, 1862, asked for authority to issue $10,000,000 of demand notes to meet the pressing wants of the Treasury, that in February approved of the issue of $150,000,000 of irredeemable paper currency, and growing bolder and reckless, now asks for authority to issue $150,000,000 of "irredeemable paper currency, than which no more fatal expedient for impoverishing the masses and discrediting the Government of any country could well be devised." I pray you to give heed to these words. They enunciate a fixed and immutable principle of monetary science. I have called them up to confront, overcome, and vanquish the suggestions contained in the letter which ushered in this delusive and pernicious scheme.

It is, indeed, the first step which costs. A slight departure from the right path seems to warp the judgment, dull the senses, and prevent a return to the straight and rugged path of just and sound principles in morals, politics, or finance. A fierce lust after money has overcome the slight scruples of the contractor, the careful prudence of the trader, the correct judgment of the merchant, the cool calculations of the crafty and skillful financier, and even the moral rectitude of the Christian. Let our care be that, with all the evils and disasters of a civil war, there be not superadded an inordinate expansion, and consequently a wild and ruinous depreciation of the currency. I have no disposition to create alarm or excite idle fears. The depreciation has already commenced. The premium on specie marks the decline of even our legal tender currency. Let me quote from a recent article:

"A vast expansion of currency, with its depreciation of money, in the issue of notes by banks or Government, is perfectly practicable among a credulous people, or where, from the popularity of the issues, or, in case of the Government, from patriotic motives, the public are disposed to grant an easy confidence and encourage the issue, before an inevitable reflux will demonstrate the fact of the over-issue and consequent depreciation in the value of money."

Perhaps the most vivid illustration in history of an undue expansion of the currency may be found in the instructive story of the banking scheme of John Law. I will quote from a recent magazine article, premising that the entire issue of Law's redeemable notes amounted to $540,000,000:

"Law's bank notes did circulate *easily* and eagerly, greatly in excess of the gold and silver of which they supplied the place. The rise of prices they occasioned threw all France, excepting the Chancellor D'Aguesseau and the refractory Parliament, into an ecstacy of delight. A Plutus had come among them, and enraptured the nation with his skill in creating debt and converting it into *money*. Prices rose fourfold in the four years, from May, 1716, to the commencement of the year 1720. The distinction between price and value being unknown, this wonderful rise of prices was supposed to be an increase of value and of wealth. The bank notes commanded gold on presentation at the bank. Were they not as good as gold? Who doubted it? Few suspected that this rise of prices was merely a depreciation of the value of money, and that the currency of the kingdom had fallen in value the exact equivalent of the rise of prices; but such was the fact; the livre had lost so much of its purchasing power, and other nations were taking the gold and silver of France for nothing. Precisely as many livres as were added to the currency in paper were added to the price of things over and above the true money value; and neighboring nations poured their commodities into the kingdom, to be exchanged for the precious metals upon these terms, profitable to themselves, but ruinous to France."

Such are the warnings of a somewhat remote history in a foreign country; but the same immutable laws still exist as led to such sad results, and human nature is ever the same, no matter what the age or where it may assume a different phase of life. But we need not go to a distant land to

paint the picture of folly that keeps pace with and the ruin that follows the reckless expansion of a paper currency. It is fresh in the memory of men not yet grown old that our own country was convulsed by an inflation of the currency that tossed and wrecked the commercial world from one end of the Union to the other. Even the farmer, the retired merchant, and the capitalist were seized by the fleeting spirit of speculation, and staked their all on the rise of wild lands, town and city lots, moonshine stocks, and wild-cat banks.

Sir, I am sternly opposed to the issue of Treasury notes to the amount named in this bill or to any amount, because I think such issue fraught with many evils, unnecessary, inexpedient, ruinous to the best interests of our countrymen, and the steady and continued prosperity of our country. With such untold wealth as we possess, with such vast resources as seek the garnering, and with such imperial revenues as will shortly flow into our Treasury, it is discreditable and humiliating to resort to an increased issue of an irredeemable paper currency.

Mr. HOOPER. Mr. Chairman, to provide a suitable currency for the trade and commerce of the country, and carefully to guard its security and purity, has been deemed by all political writers and statesmen to be one of the highest duties and highest privileges of a national Government. This duty is performed, and this privilege exercised by every civilized country other than the United States, either directly by the Government itself in furnishing coin or paper for the currency, or indirectly by conferring the power on banks established by the Government, and more or less under its control. The Government of the United States is the only exception, the only Government that has not claimed this to be its exclusive privilege and duty.

It is the duty of every national Government to encourage and sustain the trade and commerce and prosperity of the country by providing and maintaining a suitable and safe currency for the regulation of the exchangeable value of property; and it is the privilege and right of a national Government to avail of, and control for the benefit of the people of the country, any advantages and profits that may accrue from its power to provide and regulate the currency.

The bill passed by this Congress in February, authorizing the issue of $150,000,000 of Government notes, was in accordance with what may be considered to be the duty of the Government to the people of the United States, and the exercise for their benefit of its peculiar power and exclusive privilege. Every one must acknowledge that thus far that measure has resulted beneficially both to the people and to the Government. It directly provides means to carry on the war, without any cost for interest, to the extent of $150,000,000; and in connection with the tax bill and other proposed measures, it has indirectly produced effects, by aiding to restore confidence, to establish the value of Government securities, to encourage the trade and commerce of the country, that are difficult to estimate, but are undoubtedly of far greater value than the direct benefit of furnishing that large sum of money to the Treasury.

The bill now under consideration is a continuation of the same measure, and is intended for its perfection. As a business man I have no apprehension in regard to its effects. The objections urged against it are generally from the same sources, and I consider them to be of the same character, as those which were urged against the first bill, and I believe they will prove equally groundless. The most important objection thus urged is the apprehension that an increase of Government notes will cause a great depreciation of the currency. The rise that has occurred in the price of Government stocks since the former bill was passed, which is nearly fifteen per cent., instead of being considered evidence of increased confidence produced by success in the financial as well as in the military operations of the last few months, is referred to as evidence of depreciation of the currency; although the premium on gold has been, until recently, less than it was before the passage of the bill to authorize the issue of the legal tender notes. It should be remembered that one of the immediate results of suspending specie payments by the banks throughout the country was the premium on gold, which rose to about five per cent. before the passage of that bill; and that after its passage gold declined to one and a half per cent. premium.

It may well be considered whether the banks are not now encouraging the depreciation of the currency and this rise of premium on gold by extending their liabilities and augmenting their circulation; and whether any restriction of the Government issues will not serve to encourage and to increase the issues of the banks. I confess that I can see no limit to a depreciation of the currency that may be produced by the banks; and were it not that I have great faith in the prudence and wisdom and patriotism of those who manage the banks, I should have great apprehension in regard to it, as no obligation is now recognized by them to redeem their circulation, many of the States having legalized the suspension of specie payments. But with the Government notes there is a limit beyond which their depreciation cannot reach, and that we know has been already attained by the conversion now being made of those notes into the six per cent. stock at par, known as the five-twenty bonds, in accordance with the conditions on which they were issued. This conversion of the Government notes would check the depreciation of the currency by diminishing the amount of notes in circulation, were it not for the constant pressure on the part of some of the banks to replace, and more than replace, with their circulation whatever is thus withdrawn by the conversion of the Government notes. The premium on gold has recently risen and is more than one per cent. higher now than it was before the bill that authorized the issue of Government notes was adopted.

The deposit of money in the Treasury at a moderate rate of interest was an afterthought ingrafted on the former bill after it was reported; and thus far it has proved advantageous to the community as well as to the Government, though it has delayed the conversion of the Government notes. If the Secretary of the Treasury could not use these deposits it would be absurd to pay interest on them. This authority to issue an increased amount of the Government notes is partly to provide a power to be held in reserve by the Secretary to meet those deposits which he has considered and used as so much addition to the available means of the Treasury. Without such a power in reserve, the thought might occur at some time to many who have made those deposits whether the Secretary could pay them back if they were demanded; and it is possible that any doubt on that point may create distrust, and even a panic, which might embarrass the Government and produce much evil to the trade and commerce of the country. But if this bill is passed, it will be known that the Government has the power at any time to pay the whole amount of the deposit whenever it may be demanded, which will insure absolute confidence in the safety and security of the deposit.

It is proposed by this bill to extend the present limit of $50,000,000, in the former bill, to $100,000,000 of deposits; this it is believed will be a great convenience and benefit to the public, and furnish not only so much loan to the Government, at a cheaper rate than could be obtained in any other way, but also keep down the rate of interest on all other loans to the community as well as to the Government.

Congress has recently passed a bill to repeal the law which prohibited the issue or circulation in the District of Columbia of bank bills of denominations below five dollars. It seems to me Congress was hasty in passing that bill, and acted without sufficient consideration, for the reason that, having refused to renew the charters of the banks in the District when they expired, their legal existence was continued only for the purpose of closing their business; and in that condition they should not have been authorized or permitted to issue any notes for circulation. To permit and sanction by an act of Congress the issue or circulation of any bank notes has been contrary to the policy of the legislation of Congress for many years past, and is inconsistent with the strict prohibition of existing laws to receive or pay them in the receipts and disbursements of the Government. By that act, Congress directly permitted and sanctioned the issue and circulation of a currency for the people, which for a long time past and now it refuses for the Government.

At a time like the present, when all the resources of the country are taxed to the utmost extent for the support of the war, there is no good reason, that I know of, why the benefits and profits to be derived from the privilege of furnishing notes for circulation below five dollars should be given to a few favored individuals or private corporations, when the service of furnishing them can be so much better performed by the Government, and the benefits and profits accrue to the nation.

The Secretary of the Treasury, in his letter to the committee, recommended the authority to issue $50,000,000 of Government notes in denominations below five dollars, for which the faith of the Government will be pledged, rendering them absolutely as secure as any stock or bonds of the Government. Such notes could, therefore, be used with propriety in payments to the soldiers and all other small creditors of the Government, with great convenience to the Treasury Department, and great benefit and convenience to the soldiers and other creditors of the Government; and they can also be used with great convenience for the people, particularly at the West, where the amount of small paper currency, entitled to confidence, is said to be much restricted. There is no doubt that a circulation of $50,000,000 of small Government notes could be permanently maintained, which would be equivalent to a loan from the people to the Government of $50,000,000 not bearing interest; saving annually to the Government an amount of interest equal to $3,000,000. If it is expedient and desirable to permit the issue of small notes for circulation, it does not seem to be the part of wisdom for the Government to refuse to avail itself of the benefit of this loan, and to save this large amount of annual interest for no other conceivable purpose than to confer the benefits and profits on others who cannot perform the duty with the same security and advantages to the community, and who have no claim to such a privilege. This is not a question whether $50,000,000 of small notes shall be circulated; we know they will be. The question is, whether the Government shall derive any benefit from them, or shall the profit on their circulation be left for the banks.

Should this bill, now under consideration, be passed, the Secretary of the Treasury will have authority to issue $300,000,000 of Government notes for circulation; but practically, in my opinion, the issue of them will never extend beyond the sum of $200,000,000 at any one time, including the $50,000,000 of notes below five dollars; and such also is the opinion of the Secretary, expressed in his letter. In such a condition, with $200,000,000 of notes issued and in circulation, and $100,000,000 of deposit payable after thirty days, on demand at ten days' notice, the Secretary of the Treasury should have the power to issue, in all, $300,000,000, in order to insure absolute confidence in this system, which Congress has inaugurated, by insuring the absolute ability to meet all possible demands against the Treasury Department.

To provide the currency is one of the highest prerogatives of Government; it is the power to regulate, to some extent, the value of all property in the country; and it ought never to be delegated to any private associations or individuals without the most carefully guarded restrictions and securities. This power to provide the currency has heretofore been exercised in this country chiefly by State banks for their own benefit and profit; and it is not to be expected that, under ordinary circumstances, they would willingly and cheerfully consent to have that power pass from them, or even shared in by the Government. But in a great emergency like the present, when all private interests should be yielded that will contribute to support the Government in conducting this war to a successful conclusion, the same patriotism which induced the banks so promptly to supply the means to pay the interest on the public debt, when a traitor Secretary of the Treasury, in the autumn of 1860, attempted to break down the public credit by omitting to make provision for the payment of interest on the public debt; and which prompted them again, in the autumn of 1861, to take $150,000,000 of Government loans, for the purpose of supplying the wants of the Treasury until measures could be adopted by Congress; the same spirit of patriotism will, I believe, induce them now to do everything in their power to sustain the value of the Government issues, whether of currency or of bonded debt. There may be instances of selfish

management on the part of some few banks, expanding and extending their circulation regardless of the public interest; but most of them, from motives of patriotism and an enlarged appreciation of their true interest, will withdraw or diminish their circulation, so far as it may be necessary to prevent an undue depreciation of the currency of the country, which the Government now claims to share with them. It was in this spirit that the first bill authorizing the issue of legal tender notes was received by the banks; and consequently the rate of premium on gold was reduced from about five to less than two per cent. after its passage.

Unwisely, as I think, the banks have been permitted to be and are now the guardians of the currency, and control it. I long since expressed the opinion that the currency should be guarded and controlled and secured by national law, and that the banks should be the servants and not the masters of the currency of the country; but I have a confident hope that their business will be now conducted with a wise foresight, to prevent a depreciation of the currency that would be in the end more injurious to the people and to the banks themselves than to the credit of the Government, though they would all suffer together from the effects of such depreciation.

The banks and capitalists, and those who support themselves by labor, have the greatest interest in sustaining the credit of the Government, the interests of labor and of property under just laws being identical. There is a sort of partnership between them; property furnishes all the materials and makes all the advances necessary for the employment of labor, and no income can be derived from property except by the aid of labor. Where property is best secured there the employment of labor is most diversified and most abundantly supplied, and the greater the skill of the labor the more profitable it is to both. "Salary" or "wages" designates the proportion which belongs to those who have contributed the labor, and "interest" that which goes to capital; any profit beyond these justly belongs to whoever incurs the loss when the work results unprofitably. I refer, of course, to free labor. But the same truth underlies the connection between property and labor in communities where it is said "capital owns the labor." There, however, the law may be said to be unjust, because the terms on which the labor is employed are compulsory, and there is no incentive to skilled labor. It may be worth more to the master, but not to the man; he can get only his pittance of food and clothing, whatever may be the character of his labor, therefore he has not the inducement for improvement which free labor gives, of higher pay and increased comforts and conveniences for his family, of the means for education and improvement, and, with thrift and economy and industry, of the accumulations which will gradually change him as he advances in life to the position in which he employs others.

I repeat, therefore, that the interests of labor and of property are identical. To sustain the public credit is to sustain the value of property and to protect the labor of the country; and any injury to one is equally an injury to the others. If it were not unparliamentary to refer to what is done in the other branch of Congress, I would venture to express my regret that the Senate should have sanctioned what seems to me a mere prejudice, by an amendment to the tax bill fining with an extra tax all those who have accumulated large incomes, as if to disparage thrift and economy.

Mr. Chairman, the proverb says "it is important to put the saddle on the right horse." I believe that the depreciation of the currency is caused by the action of the banks; and I will therefore call attention again to the fact that, months before the legal tender note bill was passed, the banks of the country had suspended specie payments, the premium on gold had advanced to about five per cent., and six per cent. stock of the United States was selling at less than ninety per cent.; that after the passage of that bill the premium on gold declined gradually until it was below two per cent.—proving conclusively that the effect of the passage of that bill was not to depreciate the currency. If this was a question between Government notes and a currency of coin, or of paper redeemable in coin, there would be a force in the objection urged of depreciation of the currency, which is wholly inapplicable under the present circumstances, when the currency consists of the notes of banks that have suspended specie payments.

The most direct and immediate cause of the recent increase in the demand for gold has been to remit for stocks sent here for sale from England. The extent to which this has occurred during the last few weeks has suggested that it was done in no friendly spirit, to create a demand for gold for the purpose of crippling the resources of this country as a new mode of aiding the enemy. To pay for these stocks may be an immediate inconvenience, but, the more of them we import, the less means we shall have to expend for foreign merchandise; and this may be more effectual than the Morrill tariff to restrain the excessive imports of European manufactures.

I have no apprehension of any depreciation of the currency being produced by the passage of this bill; and as Congress by a recent act has approved of the issue of small notes, I hope the bill will be passed with the amendment authorizing the Secretary of the Treasury to issue, to an extent not exceeding $50,000,000, the notes of less denominations than five dollars; and I hope the amendment offered by my friend from Ohio to substitute for this bill the authority to issue and sell at the market rate $100,000,000 of bonds will not be adopted, because it is based on a different view, and is not conformable to the theory of this measure. The honorable gentleman has been consistent in his opposition to the issue of the Government notes; but now when those who supported the measure claim that it has just reached its effective stage, and the conversion of the notes into the five-twenty years bonds is rapidly increasing, it seems unwise to repudiate the measure by adopting this amendment.

The question recurred upon the amendment offered by Mr. SPAULDING, to strike out from line eight, 1st page of the substitute, the words "not less," and to insert in lieu thereof the words:

Provided, That no notes shall be issued for a fractional part of a dollar, and not more than fifty million shall be of less denominations.

Mr. WATTS. I claim the indulgence of the House for a few moments for the purpose of making a few plain observations in a plain way about the finances of the country. It is just as true in finances as in war that a bad financial campaign well fought is better than a good financial campaign badly fought. Now, I admit that it is better for the Government of the United States, if it is possible to do so, not to resort to paper currency at all to meet Government obligations. But if it is impossible for the Government to carry on its operations under the medium of gold and silver currency, and it must resort to paper currency, then every consideration demands that we should make it as good as we possibly can.

Now, the only question is, what is the best kind of paper currency, because, whether that paper currency which we must use to pay our indebtedness is supplied by the banks of the country or supplied by the Government of the United States, it does not increase or decrease the circulating medium a single dollar. Gentlemen say they are opposed to the issuing of any more Treasury notes because that will inflate the currency. Does it inflate it a single dollar? Does the payment of indebtedness in Treasury notes, instead of in the local currency, or gold and silver, increase the indebtedness a single dollar? Not a single dollar is changed in the amount we have to pay, whether we pay the indebtedness in gold and silver or the paper currency of the Government or the local currency of the banks.

Then, if the currency is to be inflated, the question is whether the local banks shall do it or whether we shall do it ourselves. Now, inasmuch as the Treasury notes issued by the Government are much better than this local bank paper, when it comes to be a contest between who shall inflate——

Mr. BAKER. Will the gentleman allow me to ask a question?

Mr. WATTS. Certainly.

Mr. BAKER. The Government proposes to issue $150,000,000 of Treasury notes to be used as currency. Do the banks propose to do any such thing, or to increase their circulation at all?

Mr. WATTS. In thirty-four States they have the power to do it, and we have no power to prevent them, and they are just as apt to do it, if there is any necessity for it, as anybody else.

Mr. BAKER. If the gentleman will permit me, I will state that in one State, which controls a large amount of the capital of the country, the banks have no authority to increase their circulation.

Mr. WATTS. But they have authority to buy up our bonds in the market, to take up our circulation, and put their circulation in the place of it, and that is what they are doing all the time; and the question is whether we shall pay these people six per cent. upon our bonds for furnishing no better currency than we can furnish ourselves. In a contest of this kind I am in favor of the Government.

Now, what do these capitalists do? As soon as a United States five dollar Treasury note gets into market, they grab it up and put one of their own five dollar notes into circulation in its place, and then convert their Treasury notes into six per cent. bonds. That is the process which is going on all the time; and in that way the banks keep their own paper in circulation, and keep the paper of the United States out of circulation. In other words, it is a struggle upon the part of the banking institutions of the country to bleed the Government of the United States to the tune of six per cent. upon every dollar which it is necessary for the Government to use in carrying on this struggle for our independence and our life.

In other words, the children of the Government come to their father, who has protected them, and say, "give me your bonds and pay me six per cent. or I will take your life—you shall be dishonored and discredited, and you shall not be permitted to prosecute the war."

Now, as to the circulation of small notes. Will the authority to circulate small notes through the country put a single additional dollar in circulation? Not at all. It will displace these local, insignificant little bits of small notes that are scattered all over the country, the credit of which you can run down in half an hour, and which you cannot get a breakfast for a hundred miles from the place of issue, and put in their place good circulating notes that will pass all over the country. Why, what happened yesterday, or the day before? A man came here from Vermont, where they have as good banks as there are in the country, with fifty dollars in Vermont money in his pocket. He wanted to go to Pittsburg Landing, and was afraid that as soon as he got into Ohio they would know nothing about his Vermont money, and he therefore changed it all for these green-backed Treasury notes, because he knew that they would know at Pittsburg Landing, or anywhere else, what they were made of.

Now, sir, a word or two with regard to the magnificent financial scheme of the gentleman from New York, [Mr. BAKER,] who has just advocated, in his elaborate essay, the banks, the moneyed capitalists, and the shaving shops of the country. He reminds us of the financial schemes of a certain John Law, who flooded France with fifty millions of promises to pay, which he never redeemed; and he raised a warning voice to this country and to the American Congress not to follow in the footsteps of John Law. Now, that is all very pretty rhetoric; it sounds well; but then it has nothing whatever to do with this case. [Laughter.] If the gentleman will demonstrate to me that there is any analogy between the solvency, the responsibility, the integrity, and faith of this Government, with all its vast resources upon which it can draw to redeem every dollar of its circulating medium, and the responsibility of John Law, who put these paper credits in circulation, then I will admit the force and philosophy of his argument. The very reason why I am in favor of the Government issuing these notes is because I believe its credit is good; but the banks of New York are John Laws, and all the other shaving shops which are flooding the country with notes are John Laws.

Mr. HOLMAN. I hope my friend from New Mexico does not refer to my colleague, Mr. LAW. [Laughter.] He is not in his seat at this moment, and the gentleman might possibly be understood as referring to him.

Mr. WATTS. Not in the slightest degree. I am referring to a quotation made by the gentleman from New York, [Mr. BAKER.] The John Law that I am referring to was an outlaw, and not an inlaw in this House. [Laughter.]

Now, sir, if the small notes of the Government are just as good as the small notes of the States, and we can save $3,000,000 annually by their issuance, I call upon these lovers of economy who are always alive to jump on anything that proposes the expenditure of an additional dollar by the Government, and who are always in for anything that has a show of economy—I call upon them to come up to the rescue. Here is an advantage of $3,000,000 annually to the Government of the United States in the issue of these small notes, and let us avail ourselves of this advantage of $3,000,000 by the issue of these small notes, and to that extent relieve the people from taxation. I think it is altogether a mistake about our being in such a bad condition financially as the gentleman from New York would seem to indicate when he alludes to the high price of gold and the premiums upon gold. He says that it has been going up and going up, until now it is at a fearful rate of premium. Well, does not my friend know, in addition to the facts alluded to by the gentleman from Massachusetts, [Mr. HOOPER,] who has just concluded his remarks, that we have not been able to ship cotton and but very little tobacco, and hence we have been obliged to ship gold in great quantities to pay our indebtedness? This fact and the return of our American stocks here to be speculated in by banks and bankers—all these things satisfactorily account for the premium upon gold, owing to the demand for its exportation. But you just give us peace and prosperity, and bring this war to a speedy close, and we will pay off our present indebtedness in less than twenty years, and we will repeal the present tax bill in less than three years. We have had no depreciation here compared with the depreciation that existed in 1812, and we got along then, and maintained our nationality even under that depreciation.

There is another argument which I wish to throw out for the consideration of the House. I am utterly opposed, if it can possibly be avoided, to the issuing of any further certificates of indebtedness, and I will briefly state the reasons why. I would rather give the man to whom the Government owes $100 the choice to take it in Treasury notes or in a certificate of indebtedness; and if he prefers to take it in Treasury notes, as nine out of ten of the creditors of the Government would do, I would pay him in something that will circulate as money and answer his present purposes, rather than give him a promise to pay, bearing interest at the rate of six per cent. How is it with these promises to pay, or certificates of indebtedness? A man who comes here and is pressed for money wants something as a circulating medium, and he must go into a "shaving" shop and have his certificate of indebtedness shaved at ninety cents on the dollar, or ninety-one, or ninety-two, or ninety-three cents on the dollar. That is the way in which certificates of indebtedness are used and treated. They are speculated in by the bankers and brokers of the country, who take advantage of the necessities of the men who are compelled to take them. I would give every creditor the choice of taking Treasury notes or certificates of indebtedness. If he chooses to take Treasury notes, it relieves us of that amount of interest; but if he is a wealthy man, and wants to make a permanent investment, he would not need a certificate of indebtedness, because he would take the five-twenty bonds.

But we are met here by another argument. It is said that when we issue so much paper money it increases the price of everything which the Government wants to buy, and that, therefore, it is a great deal better to put bonds in the market and sell them at any price and get gold and silver with which to pay our indebtedness. Well, in the first place, there is not gold and silver enough in the country to answer our purposes, even if we could get it; and in the next place I deny the correctness or philosophy of the argument. For example, the Government wants to buy a barrel of flour; it can get it for a five dollar Treasury note, and that circulates at a premium, and there is the end of it; the barrel of flour costs the Government only five dollars; but according to the theory of these other gentlemen, we must go and pay twenty-five cents to some banker for gold and silver, and then give him a note at five per cent. interest running twenty years, and at the end of the twenty years you will have paid for the barrel of flour, including the interest, ten dollars and a quarter instead of five dollars. Ah, but gentlemen say that it will increase the price of produce. It may increase it to some little extent, but I deny that it will begin to increase it to the extent suggested by the gentlemen who bring forward this argument, because we have an immense surplus of cereals in the country, and the competition will bring down the price of all those articles of prime necessity that the Government has to pay for, so that prices cannot possibly by any means be inflated to that injurious extent that gentlemen apprehend. If they were to be inflated to any great extent the people of New England would be in a very precarious condition indeed, for I believe they do not raise in all New England bread enough to feed them for more than about three weeks in the year, and if by any means the price of bread should be increased to any great extent, it might bring starvation upon New England; and we could not afford to bring starvation upon New England, because if it was not for New England we of the West should be compelled in a very short time to go naked. [Laughter.] So we are all dependent on one another—the East on the West for something to eat, the West on the East for something to wear; and all of us depending on the South for cotton out of which to make something to wear.

I will not trouble the committee longer with any remarks on this interesting subject. I merely wished to call attention to a few facts, in a plain way, for the careful consideration of the committee, and for elaboration by gentlemen who have made this matter for their study, and who are better able to discuss it than I am.

Mr. MORRILL, of Vermont. Mr. Chairman, perhaps the record of so humble an individual as myself is unimportant; but, to use language which was in fashion here some time ago, I desire to "preserve the symmetry of my record." I was, as you are aware, Mr. Chairman, utterly opposed to the initiation of this system of legal tender notes, and I remain so still. The gentleman from Massachusetts [Mr. HOOPER] has introduced an elaborate argument, which it seems to me would be an appropriate discussion upon a national bank, or on a system of small banks nationalized, rather than on a question of issuing this additional amount of Treasury notes. If he has introduced a single argument in favor of a further increase of these Treasury notes, except that of saving so much interest to the Government, I have failed to perceive it.

Mr. Chairman, I regard the policy in regard to a national bank as having been settled. I do not myself propose to disturb that settlement, or to undertake to repeal the verdict of the people. I think the people are opposed to a national bank. Still I cannot but perceive, Mr. Chairman, from the remarks of the gentleman from New Mexico, who has spoken more unguardedly than those who have preceded him, that that is the real question which is to be presented to Congress. This measure is regarded as an entering wedge for another banking system to be hereafter introduced. This proposition is to make the subsequent one absolutely indispensable. The existing banks are to be thrown overboard. In my judgment, it is more for that purpose than for any other that this large issue of notes is urged upon us. The gentleman from Massachusetts admits that we are not likely to need more than $50,000,000 more of these notes; but they are to be held as a rod of power by the General Government to coerce the banks. When they get our promises to pay, or when anybody gets them we are never to pay—only to give a new promise to pay, and thus keep up a perpetual motion of our great financial machine.

Now, in regard to the banks—have they not pursued a magnanimous and liberal course from the start? I am no special advocate or champion of banks *per se*, but I cannot but admit the great fact that had it not been for the banks we should have been crippled at the very start in our attempt to put down this rebellion. They have been patriotic.

Mr. LOVEJOY. Will the gentleman allow me to ask him a question?

Mr. MORRILL, of Vermont. Certainly.

Mr. LOVEJOY. I would be glad to know what the gentleman means by this action of the banks. What have they done which is so magnanimous and generous?

Mr. MORRILL, of Vermont. They loaned to the Government when it could not get a loan anywhere else.

Mr. LOVEJOY. They promised to do so, but did not.

Mr. MORRILL, of Vermont. They did it. There is no question at all about it.

Mr. ENGLISH. I desire to state at this point that the banks of the State which I have the honor in part to represent, contributed more than one third of the entire capital of the State to the public wants.

Mr. MORRILL, of Vermont. The record shows that the banks of the country have contributed more than half of their entire capital to this Government. I believe that the parties owning these banks are not all overgrown capitalists. There are many with only a very small surplus who seek this mode of investment. But whoever they are, they are citizens who are deserving a fair and handsome acknowledgment for whatever they may have done in this crisis.

Mr. WATTS. Will the gentleman permit me?

Mr. MORRILL, of Vermont. Certainly.

Mr. WATTS. Have not the banks, in compensation for their liberality, got our bonds at a high rate of interest, and sold them at a profit of $10,000,000?

Mr. MORRILL, of Vermont. It does so happen that it was fortunate for these banks that they had more confidence in the Government than private individuals had, and therefore they have been benefited by it. They hardly deserve to be punished for their patriotism.

Mr. Chairman, the gentleman from Massachusetts charged it upon the banks that they were guilty of depreciating the currency. Now, how is that possible? There is not a bank in the whole country whose circulation is not limited by its charter, nor is it pretended that they have increased their circulation a single dollar since the commencement of the rebellion. When they suspended specie payments by force of circumstances, as a matter of course gold rose in value. That was inevitable. But it did not rise to anything like the extent to which it has done since the Government of the United States issued its legal tender notes. I was opposed to the original issue. All that the opposition to that issue obtained in that contest was two things: one that the interest on the bonds should be paid in specie; the other, that the only amount of Treasury notes to be received for customs should be the $50,000,000 then out. I undertake to say that that was the only salt in the measure which has preserved it from putrefaction. Now, indeed, no one advocates any other course than to pay interest on our bonds in specie, and to pay custom duties in specie or its equivalent. But why did gold go down? The gentleman from Massachusetts intimated that gold went down immediately after our issue of legal tender notes; and that is true to a certain extent, for this plain reason, that we had made the legal tender notes receivable for our customs dues. We had made all other Treasury notes a tender for every debt of the country, public and private. There was, therefore, no use for gold, except for the miser. Until gold should be required to pay our foreign debts and to purchase goods abroad, there could be no demand for gold. And now, sir, if you inaugurate this new issue of Treasury notes, you will make gold and silver useless to the country, and it will be exported, as a matter of course. We are too poor to hoard it. We shall trade to the amount of our ability to pay, and if we are not able to pay with our exports of grain, flour, cotton, tobacco, and whisky, we must pay the difference in gold and silver. I want to know whether it is desirable at this time to strip the country of the little gold remaining in the country? I believe not.

But, Mr. Speaker, it is pretended that the banks, and not the Government, inflate the currency. Why, sir, that is about as absurd as it would be for a man to take pills and swear they should not operate. It is the old fable of the wolf and the lamb, and the wolf ever thinks the lamb a criminal worthy of death. We have issued $150,000,000 of Treasury notes in all forms—more than the entire circulation of all the banks—and we have on hand about $5,000,000. The banks have taken on deposit about $55,000,000, so that in fact there are but $90,000,000 out now to inflate the currency. A

few days since gold stood at seven per cent. premium. If the currency is to be inflated it must be, as a matter of course, just in proportion to whatever we issue. When we have crammed the country with $60,000,000 more of Treasury notes, gold must necessarily rise five per cent. more; or the difference between paper and gold and silver will be twelve per cent. instead of seven per cent., and when we get out $150,000,000 more, gentlemen may then argue that it is the banks, and not the Government, which has caused the expansion. When this measure was under consideration and under discussion before, there was but a single gentleman in this House who had the candor to admit—I allude to the gentleman from New York [Mr. SPAULDING]—that it was intended hereafter to increase this kind of circulation. That gentleman did admit that this kind of circulation could only be limited by the wants of the Government. All others who discussed the subject utterly denied and repudiated the idea that they were ever to come here again for another similar batch.

Now, Mr. Chairman, what improvement will be made in our condition when we have exhausted this new fund of resources? The only policy which we can properly have is to fund our indebtedness. Will the further increase of Treasury notes tend to fund our debt? Is it not perfectly obvious that by a system of inflation like this you inflate all kinds of business? By this further issue of Treasury notes you make it just as much the object of a man to go into other kinds of speculation as into the purchase of the bonds of the United States. You cannot inflate the bonds of the United States without inflating everything else. If you could, you might take out a patent upon this new process. Then, sir, it follows that we shall be no nearer reaching the goal after we have authorized another issue of $150,000,000 than we are at the present time.

The true theory is to make it an object for the public to purchase our bonds. If we cannot do that, we must go to the extent of $1,000,000,000 of Treasury notes; for all concede that in due time our indebtedness will reach that amount. No one hopes to escape with anything less.

Now, the funding process was going on very well, some days reaching as high as $500,000 per day, and for several days reaching $300,000. This, with the receipts from customs and with the receipts from the internal duties which we propose to put in operation immediately, would leave but a small amount to be provided for. It seems to me, the true policy is to put upon the market the small amount which will be required in addition to meet the current expenses of the Government, in bonds of the Government, at whatever they would bring. Be the amount small or great, I do not disguise my position in favor of selling the bonds to meet whatever additional sums the Treasury may require at whatever they will bring. I would make it the object of the public to purchase these bonds and get them out of the way. It seems to me, that that would be the true policy.

But I only desired to state some of the objections which I have entertained and still entertain to this measure, regarding it, as I do, as a sure way of depreciating the currency of the country and affording no permanent relief to the Government, and fraught with immense future mischief. Before our long and brilliant series of victories there might have been some excuse for unlimited use of a paper currency, but there is none now. Before it was made certain that our indebtedness would all be promptly met by adequate taxation there might be some reason, but there is none now for making paper money our sole reliance.

Mr. LOVEJOY. It was my purpose, and is still, on the first appropriate occasion, to introduce a resolution to instruct the Committee of Ways and Means to report a bill for the suppression of the bank currency throughout the country. I do not know that any remarks upon that point would be proper at the present time. At any rate I have made no special preparation to do so, and my voice would hardly permit me to speak at any length.

But if we have to vote upon this proposition, as I suppose it is the purpose of the gentlemen having charge of the bill to do soon, I desire to say a very few words. I was opposed to the issue of Treasury notes when the proposition was originally before us. I am opposed to the principle still. I believe the true policy was for us to have gone into the market with our bonds and sell them for whatever they would bring. I believe it would have been better for us ultimately to do business on a specie basis. I have no doubt, notwithstanding all that has been said, that there is gold enough in the country for all business transactions, that our bonds would bring the gold, and that it would have been much safer and better to have adhered strictly to specie payment.

That was my opinion; but the House thought differently; the Secretary of the Treasury thought differently; and we have launched our revenue cutter on the ocean of paper currency. That seems to be the policy which has been adopted for replenishing the Treasury, and I do not propose to persist in any factious opposition to what is a foregone conclusion. That having been settled, it seems to me our next best policy is to monopolize this business of making irredeemable money, and not allow the banks to come into competition with the Government in this respect, for I have no doubt the national currency will depreciate sufficiently as compared with gold without any aid from the banks; and therefore it is that I am in favor of giving to the Government the entire monopoly of this business. I believe it is in accordance with the decision of the courts that wherever the Federal Government acts it has exclusive jurisdiction. I have no doubt bankers are as good a class of citizens, as patriotic, as philanthropic, and as little avaricious as any other class. I have no doubt they do just what any of us would do if we were in their circumstances, and in what I say I do not intend to make any charge against them as a class. I simply speak of the banking policy. But, sir, I am and always have been, and I suppose always will be, against the utterance of these bank notes which do not command the specie.

Mr. Chairman, I desire to remind the House that the manufacture of paper money, whether by the banks or by the Government, does not add one cent to the wealth of the country. It does not add a dollar to the money of the country. We had just as much money in the country before the issue of the $150,000,000 of Treasury notes already in circulation as we had after that issue. We have just as much money before the banks issue their paper notes as we have subsequent to their utterance.

These bank notes have a charm about them, simply because they are engraved, simply because they are supposed to represent a dollar somewhere in place of that promised on paper. Now, sir, this bank note is simply a note, a promise to pay. It bears no interest. I go to the bank and give my note for $100, agreeing to pay six or ten per cent., as the case may be, and take bank notes in its place, bearing no interest whatever. I keep the bank notes for six months. The bank has had my $100 note in the mean time, with six or ten per cent., which I have agreed to pay. I ask them to pay their note, and am told they have suspended specie payments, a very soft way of saying that the bank is broken, for when a bank refuses or fails to pay according to promise—that is on demand—it is a broken bank. The merchant who refuses or is unable to pay his debts when they become due, loses his credit, and becomes insolvent. Well, sir, if any one is to have this privilege of not paying these debts, let the Government have it. Everybody has an interest in the Government; while every one has not a direct interest in these banking corporations. If anybody is to have the advantage of a depreciated currency—the advantage, in other words, of not paying interest on what they owe—I say let the Government have that advantage, and let the bankers share with the rest of us.

Now, sir, I do not propose to go into competition with these banks in issuing currency. The result will be precisely this: as we utter paper money gold will disappear, because the currency will depreciate to a certain extent, and the invariable rule is that the currency of the least value will displace that which is of higher value. The inevitable result, therefore, is that whenever these Treasury notes come into circulation the yellow boys, or gold, will disappear. And the result of the same law, if we allow ourselves to go into competition with the banks, will be that as the country becomes flooded with irredeemable bank paper, for which nobody is responsible, the more valuable Treasury notes of the Government will be withdrawn from circulation.

I have, Mr. Chairman, made this statement to indicate the position I occupy, and the purpose which I had and have of introducing a resolution instructing the Committee of Ways and Means. I want to do it. I had prepared a resolution to offer this morning before this bill was passed, to compel the Committee of Ways and Means to report some measure for the purpose of driving out of circulation altogether the worthless trash which pretends to be money—which goes out and says I am one dollar, or five dollars, or ten dollars, or fifty or a hundred dollars, when it lies, for it is no such thing, and it knows it. There is no place in the United States where the great mass of bank notes tell the truth when they say there is specie in the vault to redeem them.

Mr. ENGLISH. I desire to say to the gentleman from Illinois that there are banks in my State of Connecticut which have never suspended specie payment. The Bank of New Haven has never suspended. It did not suspend in 1837, or at any other time. There has never been a time that it has not paid specie for every bill that it had out. The banks of Connecticut are not suspended to-day. The laws are in force there, as they ever have been. I want the gentleman to know that our banks redeem their notes to the satisfaction of everybody, and that the notes of the New England banks are redeemed every fifteen days.

Mr. OLIN. The gentleman's remarks are true, also, of the banks in New York.

Mr. LOVEJOY. I have no doubt that the banks referred to have paid a moderate portion of their circulation in specie. Does the gentleman say that those banks redeem all of their circulation in gold and silver?

Mr. ENGLISH. I received, about a week ago, the report of the bank commissioners, which I wish I had here to show to the gentleman and the House. Our banks now redeem their circulation in gold and silver in a moderate amount, if wanted, or in drafts upon New York or Boston.

Mr. LOVEJOY. And what better than these notes are the drafts referred to?

Mr. ENGLISH. They pay gold and silver for all the ordinary purposes of business. They are compelled to keep ten per cent. of gold and silver on hand all the time. They pay as much in specie now as they ever did.

Mr. LOVEJOY. I have no doubt that there are some banks which pay a portion of their issue in specie, and then have recourse to the drafts referred to; and so it runs around in a circle. I would like to know of the gentlemen how ten cents can pay a hundred? I am aware that the same thing, to a certain extent, can be truthfully said of the Government issues; but I insist, if anybody is to have the benefit of a paper currency without paying interest, the Government shall receive it. I want the Government, and not the banks, to have this advantage, if it is to be allowed at all. I never believed that these bank corporations should have the privilege of issuing notes payable on demand, receive interest on them, and yet refuse to pay, under the specious name of suspending specie payment. If any one owes a bank, and does not promptly pay with interest, he would be cast off, and it would be said that he would not pay his debts. There is not one of these banks which refuses to pay its issues in gold and silver which does not refuse to pay its debts. Now, I claim that the Government should have the privilege, exclusively, of not paying its debts. [Laughter.] If the privilege is to be enjoyed by anybody, anywhere, of promising to pay and not paying, I want the Government to enjoy it. I do not mean to intimate that ultimately we will not redeem in specie every one of these green-backed notes that we may issue. I have now to pay my taxes at home in gold and silver.

Mr. SHEFFIELD. Perhaps the supreme court of his State has decided the act of Congress to be unconstitutional, because it makes these Treasury notes a legal tender. I ask the gentleman whether that is not the reason for his paying his taxes in gold and silver.

Mr. LOVEJOY. I do not know that the court has decided that. I do not suppose that that court is competent to decide on a United States law. It is decided, however, that the people of Illinois must pay their taxes in gold and silver.

Mr. SHEFFIELD. Was it not because these notes were not held to be a legal tender?

Mr. LOVEJOY. I do know that the people of

Illinois and elsewhere have great confidence in these green-backed Treasury notes. They gather them up and hoard them just as much as they used to hoard gold and silver.

Inasmuch as Congress has decided to issue these notes, I shall acquiesce in it still, although it may be of little consequence to me or anybody else; yet I want to put on the record that I deem it to be an unwise financial policy that we have inaugurated; but having inaugurated it, I want the Government to have the exclusive benefit. I want a law to be passed to exclude the bank note circulation, which is of much less value than the United States Treasury notes. The people have confidence in these Treasury notes, and they do not generally have it in the irredeemable bank note issues. I say that they are not money. There is not a bank which redeems its issues. I am told that the Chemical Bank has never suspended or failed to redeem their notes. I have no doubt that is true of that bank and of a few others; but these are exceptional cases.

Mr. STEVENS. Mr. Chairman, it seems to me that I have heard all this before. [Laughter.] I do not believe that any one new idea has been advanced by anybody since we discussed it before, and, therefore, I do not propose to discuss it at this time.

Mr. LOVEJOY. I have been told that I have done injustice to the Chemical Bank—that it is a bank of issue, and redeems its issue in gold and silver.

Mr. BLAKE. The gentleman has done injustice to the banks of Ohio.

Mr. DAWES. There is not a bank in Massachusetts that does not pay its notes.

Mr. BLAKE. Or in Ohio.

Mr. LOVEJOY. There is not one in either State that does.

Mr. STEVENS. Banks are excellent things; yet, if you get one of their notes you cannot pass it beyond the town in which it is issued. If you can, you have better luck than I have. I got one from Pennsylvania, and I could not pass it at all; and yet I dare say that it was as good as any one of those I have heard praised. The truth is, these one dollar bank notes are not known beyond their local circulation. It is desirable that our soldiers should be paid in something that will pass all over the country. It is desirable that they should have notes when they are paid at the White House and desire to go home, to Pennsylvania, New York, or New England, which they can pass as well anywhere fifty miles from where they get them as at the place where they received them. They cannot do it now, and what is the result? Either the Government must buy gold, and pay it out in sums below five dollars, or these poor men will have to take these notes of the banks which they cannot pass beyond the neighborhood where they had been manufactured. If we have to buy gold, as we have, one result is that gold will rise. The other reason is that we have to buy gold with which to pay interest upon our bonds. I think the Government might as well pay its own notes as to buy gold at the premium which is now ruling. I think we had better use these notes in paying our soldiers, than have the paymaster pay them in the notes of the local banks where the paymasters respectively reside. A paymaster residing at York, Pennsylvania, gets the small notes of the York banks, good at home and redeemable there, but not known when you get south of the Potomac.

Therefore it is we are paying off these poor men in what to them is a nuisance, and are buying gold and paying just what the bullion dealers choose to charge the United States. I want to get out of that condition of things. I am now speaking to the amendment upon which I am now about to ask a vote.

As to the general principles of the bill, if I should hear one idea which was not advanced at the time of the last argument upon this subject, I may say a word in acknowledgment of it, for, so far as I am concerned, I had not many ideas then, and I have got fewer now, I believe, for they have run out. [Laughter.]

Mr. MALLORY. I desire to inquire of the gentleman from Pennsylvania—not with a view of advancing a new idea, for he has announced that almost impossible after the discussion we have heretofore had upon the subject—whether he, as chairman of the Committee of Ways and Means, can give us any assurance that this is the last batch of notes of this description the Secretary will call upon this House to authorize him to issue?

Mr. STEVENS. After we shall have got through with the amendments, I propose to say a few words generally upon the merits of the bill, and then I will answer the question which the gentleman propounds to me now. I will, however, now say that if the system which is at present pursued of depositing notes and never converting them into bonds, and which has prevailed since that vicious deposit system upon interest was forced upon us by the Senate and outside of the Senate, shall continue, I do not know where there will be an end of this issue. I cannot see it. I am not responsible for it.

Mr. MALLORY. One question more. We all know the intimate relation subsisting, and which must necessarily subsist, between the manager of the Finance Committee of this House and the Secretary of the Treasury. We all know that that distinguished gentleman must be aware, to a great extent, of the opinions and purposes of the distinguished member of the Administration to whom I have alluded; and I respectfully inquire of the gentleman from Pennsylvania, in view of that fact, whether he knows that the Secretary of the Treasury does or does not contemplate an additional demand on this House for a further issue of Treasury notes?

Mr. STEVENS. I have no knowledge that he intends to ask for authority to issue any more. I may say to the gentleman from Kentucky that, while I have great respect for all of the opinions of the Secretary of the Treasury, we do not agree upon financial questions exactly, and we cannot harmonize any more than I do with gentlemen around me. I do not know his views. I had hoped the business would be so conducted that no more would be needed. I do not believe this issue will be injurious; but I do believe a repetition of it might bring us to that. I shall say a few words upon that subject hereafter. At present I am speaking to the amendment; and I now move that the committee rise for the purpose of closing debate upon the pending amendment.

The motion was agreed to.

So the committee rose; and the Speaker having resumed the chair, Mr. PHELPS, of Missouri, reported that the Committee of the Whole on the state of the Union had, according to order, had the Union generally under consideration, and particularly a bill (H. R. No. 187) to authorize the issue of additional Treasury notes, and had come to no conclusion thereon.

Mr. STEVENS. I move that all debate upon the pending amendment be closed in one second after the Committee of the Whole resumes the consideration thereof.

The motion was agreed to.

PAY OF OFFICERS OF THE ARMY, ETC.

Mr. OLIN. Before going into committee again, I move that the House insist upon their amendments to the bill of the Senate (No. 175) to define the pay and emoluments of certain officers of the Army and for other purposes, and agree to the committee of conference asked for by the Senate.

The motion was agreed to.

TREASURY NOTE BILL—AGAIN.

Mr. STEVENS. I move that the rules be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union.

The motion was agreed to.

So the House resolved itself into the Committee of the Whole on the state of the Union, (Mr. PHELPS, of Missouri, in the chair,) and resumed the consideration of the bill (H. R. No. 187) to authorize the issue of additional Treasury notes; the pending question being on the amendment offered by Mr. SPAULDING, to strike out, in section one, line eight, the words "not less," and insert:

Provided, That no notes shall be issued for a fractional part of a dollar, and not more than $50,000,000 shall be of less denomination.

Mr. MORRILL, of Vermont, called for tellers.

Tellers were ordered; and Mr. THOMAS, of Massachusetts, and Mr. SHANKS were appointed.

The committee divided; and the tellers reported—ayes 67, noes 45.

So the amendment was agreed to.

Mr. STEVENS. I move to amend the substitute by striking out from the word "and," in the eighteenth line, to the word "thereof," in line twenty-nine, as follows:

And any holder of said United States notes depositing any sum not less than fifty dollars, or some multiple of fifty dollars, with the Treasurer of the United States, or either of the Assistant Treasurers, shall receive in exchange therefor duplicate certificates of deposit, one of which may be transmitted to the Secretary of the Treasury, who shall thereupon issue to the holder an equal amount of bonds of the United States, coupon or registered, as may by said holder be desired, bearing interest at the rate of six per cent. per annum, payable semi-annually, and redeemable at the pleasure of the United States after five years, and payable twenty years from the date thereof.

I will explain the reason why I make this motion. The provision is not in the draft of this bill as sent to the House in the communication from the Secretary of the Treasury, and I do not very well know how it got into this bill, unless it was copied from the old bill, in which it was. By this provision, any man holding demand notes and legal tender notes can deposit them at par, and compel the Secretary of the Treasury to issue twenty years bonds at par for them. It leaves no option. For some time past, if it had not been for that provision in the former law, the Secretary of the Treasury could have sold these bonds at about five per cent. advance. They have borne a premium to that extent. This has, therefore, allowed speculators to take these legal tender notes and demand six per cent. bonds, which were five per cent. in value above the notes. There was no discretion in the Secretary of the Treasury to refuse it. By striking this out we should leave it discretionary with the Secretary to exchange the bonds at such price as they are worth, and do not compel him to exchange them at par for a currency which is below the value of the bonds themselves.

Mr. POMEROY. If I understand correctly the motion of the chairman of the Committee of Ways and Means, he proposes by his amendment to throw the depreciation of this currency upon the holders of it, upon whom it is forced, by the operation of the legal tender clause, and he does not propose that the Government shall have the magnanimity to give even its own bonds in exchange for its own currency. That is the effect of it, as I understand.

Now, in the letter of the Secretary of the Treasury, sent to us on the 7th of June, I find this clause:

"It may properly be further observed that since the United States notes are made a legal tender, and maintained nearly at the par of gold by the provision for their conversion into bonds bearing six per cent. interest, payable in coin, it is not easy to see why small notes may not be issued as wisely as large ones. The notes made a legal tender circulate as money; and the Government may authenticate, by device and imprint, small notes as well as small coins. The limit is to be found only in public convenience, which indicates the denominations in notes similar to denominations in gold, leaving the smaller circulation of silver (less valuable than gold) as before."

The Secretary himself assigns as a reason why these notes are maintained nearly at par of coin, the fact of their convertibility into bonds. I do not know but I may be mistaken, and that I may have misunderstood the gentleman from Pennsylvania. If I do understand the gentleman, to strike out this provision will throw the loss, whatever it may be, upon the innocent holders and not upon the Government, which is the cause of the depreciation.

Mr. STEVENS. My amendment will give the Secretary the option to sell these bonds for their value or to keep them until he can so sell them. As the law now stands, he is obliged to sell bonds at five per cent. below their value and take the notes that we issue. I do not care what is the cause of their keeping at par or nearly so. I shall not enter into any financial disquisition as to what it is that keeps the bonds very nearly at the value of gold. I think the Secretary of the Treasury ought to have an opportunity of selling the bonds for just what they will bring without regard to anything else.

Mr. POMEROY. Then the effect of this amendment, if adopted, would be to create still another class of Treasury notes. We have now those that are receivable in dues, and we have authorized still another class convertible into United States stocks; and now the proposition is to cut loose from gold in every respect, and to issue a currency the first $10,000,000 of which necessitates $50,000,000 more, and that $50,000,000 more necessitates bankruptcy. If this amendment shall be adopted, there is no hold left to the standard of specie at all, and hereafter the Secretary of the Treasury is to be authorized to exchange for notes

which have no standard value because no convertibility into gold, that issue of United States bonds, which are also deprived of all standard value by reason of their very convertibility in a thing that is worthless. I think we have gone far enough in that direction.

Mr. THOMAS, of Massachusetts. I should like to inquire of the gentleman from Pennsylvania [Mr. STEVENS] if this amendment is the recommendation of the Committee of Ways and Means?

Mr. STEVENS. As I said before, I do not know how this clause got in the bill.

Mr. THOMAS, of Massachusetts. Is this amendment recommended by the committee?

Mr. STEVENS. The bill which the committee recommended was the bill of the Secretary of the Treasury, which had not that clause in it at all. How that clause got in in the printing I do not know. It was not in the bill which was sent us by the Secretary, and which was adopted by the committee.

Mr. THOMAS, of Massachusetts. Does the committee recommend that the clause be stricken out?

Mr. STEVENS. The committee was in favor of the bill without that clause.

Mr. ROSCOE CONKLING. I would like to inquire of the chairman of the Committee of Ways and Means whether it is in accordance with the views and recommendations of the Secretary of the Treasury to strike out this clause of the bill.

Mr. STEVENS. It is; I have seen the Secretary of the Treasury since I made the motion, and he told me he hoped I would persevere in it.

Mr. DUNN. I desire to ask the chairman of the Committee of Ways and Means how many classes of Treasury notes we will have in circulation?

Mr. STEVENS. Well, we have one class out now that are made legal tender, and then the Secretary of the Treasury informs us that there are $56,000,000 of notes that are held up for the purpose of paying dues. They are of a different class altogether.

Mr. DUNN. Then we have now Treasury notes that are receivable for customs dues.

Mr. STEVENS. Yes, sir; there are $56,000,000 out of that class.

Mr. DUNN. And then we have another class that are made legal tender, and are convertible into six per cent. bonds. And if this amendment prevails, we shall have still another class also made legal tender, but not convertible into bonds except at such prices as the Secretary of the Treasury may choose to take them at.

Mr. STEVENS. Yes, sir.

The question was taken on Mr. STEVENS's amendment; and there were—ayes 25, noes 52; no quorum voting.

Mr. STEVENS. If there is no objection, I will withdraw my amendment, although it is in accordance with the wishes of the Secretary of the Treasury.

There was no objection; and the amendment was withdrawn.

Mr. SHEFFIELD. I move to amend the first section of the bill by striking out, in the sixteenth line, the words "public and private within," and inserting in lieu thereof the word "due;" so that it will read:

And shall also be lawful money and a legal tender in payment of all debts due the United States, except duties on imports and interest, as aforesaid.

Mr. Chairman, I believe that Congress has not the power to make Treasury notes a legal tender in payment of debts, and I expressed that belief when a similar bill was under consideration early in the present session. I have seen no reason since to change that opinion. Upon that occasion arguments and opinions were adduced from the great expounder of the Constitution, Mr. Webster, and it was stated by gentlemen upon this floor that he had modified his views upon this subject before his death. While that bill was under discussion, and after I had addressed the House upon it, I received a request from one of the literary executors of Mr. Webster that I would deny this allegation. That executor, who is the accomplished historian of the Constitution, regarded it as a reflection on Mr. Webster's ability to decide upon such questions and unjust to his memory. I make this statement now in addition to what I then stated to the House upon the subject. I did not make it at that time, because, if the bill was to pass and these notes were to be issued, it was my desire that they should go out before the country under the most favorable auspices possible. It was no part of my duty to unnecessarily embarrass the bill after I was made aware that the House was determined to pass it.

No intelligent student of the history of the Constitution and of the times in which it was adopted will say that this power of making Treasury notes a legal tender would not have been expressly prohibited in the Constitution if it had not been supposed by those who framed the Constitution that it was impliedly prohibited by that instrument. I have here the Debates upon the Constitution and the Madison Papers, and I find on page 1346 this note by Mr. Madison on the subject of emitting bills of credit:

"The vote in the affirmative by Virginia was occasioned by the acquiescence of Mr. Madison, who became satisfied that striking out the words would not disable the Government from the use of public notes as far as they could be safe and proper, and would only cut off the pretext for a paper currency, and particularly for making bills a tender either for public or private debts."

Mr. LOVEJOY. I wish while the gentleman is explaining the Constitution on that point, he would expound that other clause which forbids the States to emit bills of credit.

Mr. SHEFFIELD. I have read the note of Mr. Madison, and I defer in such matters to Mr. Madison rather than to the gentleman from Illinois. But I may say that the notes of individuals or of corporations are not bills of credit, such as the States are prohibited from issuing.

Now, with reference to the matter of the issuing of these Treasury notes, while I am upon the floor I will say a few words. We are called upon to issue these notes at their par value—that is, at one hundred cents for the dollar, when in fact they are worth but ninety-three cents and a half in the market, because specie is the standard, and specie is now somewhere about one hundred and seven in the market. This fact is before us: we issue them at ninety-three and a half cents, and we shall have to pay, when we redeem them, one dollar. That fact is patent. One effect of that will be to make everybody else in the community who makes a purchase pay a price corresponding with that rate; that is, they will pay one dollar for every ninety-three and a half cents of value; and the inflation of the currency has already caused this difference between price and value. It may be necessary that we should issue these notes. I am free to say that I should vote with a great deal of reluctance for the bill if this provision making the notes a legal tender be stricken out; but if that provision be retained I shall vote against the bill.

If the Government would hire money upon its bonds this would only affect the value of the bonds and would not affect the interest of other persons. It would only affect the price which the Government had to pay for the money. Whatever shave—to use the language of 'change—the Government had to submit to would operate only on the Government. By issuing these notes at this time, in the manner that we do issue them, we increase the price which the people have to pay for all of their purchases, as well as increase the price which the Government has to pay for its purchases.

The speech made by the gentleman from Illinois [Mr. LOVEJOY] carried us back to 1839–40. He made an argument which I heard during the celebrated campaign of Van Buren and Harrison upon the hard-money question. We have not specie enough in the country to meet the business demands at this time. I do not agree that the argument of the gentleman from Massachusetts [Mr. HOOPER] is entirely sound, that the banks are inflating the currency. I do not believe that that is true; but I think that the currency is now being inflated by the Government and not by the banks. In my district there is a little more than twenty million dollars of banking capital. That would ordinarily furnish a basis of loan and discount to the extent of twenty-six or twenty-seven million dollars. Their line of discount is only about twenty-three million dollars. Their present circulation is perhaps less than it has been for several years. It is about three million dollars; and what is true of these banks I suppose to be true of others. I do not, therefore, believe that the basis of the gentleman's argument is founded on the existing state of things in New England and in the country. The bank circulation has been and is much contracted, while the Government has already issued $150,000,000 of notes, which have been added to the circulating medium, so that it is most clearly the Government and not the banks which has inflated the currency.

Again, when he says that the local banks do not redeem their circulation, I do not think that he puts the whole facts before the country. As I understand it, every bank in New England every bank in my own State I am quite sure, redeems its circulation at one of the banks in Boston—at the agency for redemption in the city of Boston, as often as once in each week.

Mr. WASHBURNE. In what do these banks redeem their circulation?

Mr. SHEFFIELD. They are obliged to redeem it in specie or its equivalent. Its equivalent to the business community is checks on the banks of New York and the bills of other banks which redeem through the same agency.

Mr. WASHBURNE. I ask the gentleman from Rhode Island whether these checks are paid in specie or not?

Mr. SHEFFIELD. That I cannot tell.

Mr. WASHBURNE. Does not the gentleman know that they are not paid in specie?

Mr. SHEFFIELD. I do not. I answer the question very frankly. The banks in New England and New York, and perhaps in many other States, are conducted on a very different basis and system from the banks of several western States. I see my friend from Illinois [Mr. KELLOGG] looking very inquiringly at me, and probably he is thinking in his own mind of the Rhode Island Central Bank, which one of the Governors of Illinois who came down there, carried out to Illinois and destroyed, and made its circulation very bad.

Mr. WALL. The gentleman from Rhode Island states that this currency is worth only about ninety-three cents on a dollar. I desire to respond that for all purposes of the Government it is worth par. The gentleman also talks about the inflation which is caused by putting hundreds of millions into the market. Now we all know that the supply and demand regulates the inflation of prices. In 1837 flour was worth fourteen dollars a barrel while money in New York was one and a half and two per cent. a month. It is now as cheap as it has been for several years. The gentleman also remarked about the Rhode Island banks paying their checks in New York in specie. I am a director of two banks in Brooklyn and the president of another, and I tell the gentleman they do not pay a dollar in gold, except it may be to accommodate some poor man.

Mr. SHEFFIELD. I do not think that it is owing to the mismanagement or fault of my friend that the Brooklyn banks with which he is connected do not pay specie.

Mr. WALL. Not at all. I am in favor of paying in specie, but we have not got it. I have heard no complaints, however, in the banks with which I am connected, as to their not being able to get out their circulation.

Mr. KELLOGG, of Illinois. My friend from Rhode Island alludes to me in connection with the Rhode Island bank said to have been in some way attracted from the State of Rhode Island to the State of Illinois, and there used to the detriment either of the bank or our people. I suggest to him that if he treasures up the green-backed Treasury notes and has them taken out to Illinois it will not injure any body, but will give us a good circulation.

Mr. SHEFFIELD. I am not green enough to do that, Mr. Chairman. I will attend first, however, to the suggestions of my friend from New York, [Mr. WALL.] He says that prices are regulated by the supply and demand. I do not think that that standard is an infallible one. If we have nothing to buy with, I do not think that supply and demand has much to do with the price which we may be asked to pay, while the currency that is in circulation has a great deal to do with fixing values. I do not think that the gentleman when he comes to reflect upon the subject, will adopt the theory which he stated in all its length and breadth. If all the property of the country was at once to be reduced to money, as it is, values must depend upon the demand for the circulating medium. If we should adopt a circulating medium, whether of Treasury notes, bank notes or gold or silver or copper or all combined, values would afterwards bear a relation to the business demands of the country for the circulating medium, and

would not necessarily be referred to the relations between supply and demand. I believe that this bill will tend to inflate unduly the currency which is already very considerably inflated. It will tend to increase the mischief to which we are already subjected rather than to diminish it.

We have appeared to go along very well under the present arrangement, perhaps better than we could have expected; but, Mr. Chairman, I fear that our success is like the uncertain sign of recovery which consumptive patients sometimes exhibit before dissolution. Our success is a precursor, I fear, of consequences which every gentleman here does not anticipate. The condition of our finances, at any rate, behooves us to be very careful, otherwise we may involve the country in a financial crisis such as it has never before realized. We must know that the financial condition of the country at this time is not a healthy one, because we are not producing as much as we consume; and when we are not doing that our financial condition is necessarily growing weak.

The great argument which will be urged in favor of this bill is, that we have not sufficient currency in circulation, which the Government can command with its bonds, to meet the wants of the Government; that the Government wants currency to meet the present demands upon the Treasury, and that this is the only way in which it can command it. I feel the force of this argument. But I am persuaded that it would be far better for the people of the country to sell bonds at a large discount than to further disturb the relation between price and value by a further issue of these notes.

Mr. EDWARDS. The question now is, I understand, upon the amendment proposed by the gentleman from Rhode Island, [Mr. SHEFFIELD.] I am opposed to that amendment, in the first place, for the reason which was so fatal to the amendment proposed just now by the gentleman from Pennsylvania, [Mr. STEVENS,] which seemed to strike the House with alarm, and that was that its effect would be to introduce another species of Treasury notes. If that reason was a valid objection to that amendment, it is equally a valid objection to the amendment of the gentleman from Rhode Island, because if the amendment of the gentleman prevails, we shall still have a third species of Treasury notes in circulation, the third differing from the second in that the second is valuable in every description of private business.

Mr. SHEFFIELD. If we have done wrong before, let us do right now.

Mr. EDWARDS. I am free, however, to say that while this objection is as strong in opposition to this amendment as to the amendment of the gentleman from Pennsylvania, it is not one which has very great weight with me. I am opposed to it mainly for another reason, which is that it introduces one kind of currency for the Government and another for the people. That is an objection which has been made use of with great force in former times, when the currency of the Government was hard money and the currency of the people paper. I think this proposition to make one description of currency for the Government and another for the people is an equally offensive discrimination. If it is good enough for the Government it is good enough for the people themselves. I know nothing about the Government except as the mere agency to do the business of the people of the whole country in the best way possible for their interest.

Then again, how could the Government use these notes if the amendment of the gentleman from Rhode Island prevails? Would they pay one class of creditors with the kind of notes which cannot be brought into general use, and another class of creditors with another kind of notes which circulate everywhere in the community?

But, sir, passing from this amendment I understand the gentleman from Rhode Island to urge a constitutional objection to this whole bill. Sir, I think it is too late to argue that constitutional question in connection with this subject. This House have already passed, by a large majority, in favor of the constitutionality of the measure, overruling the objections which have been urged in that regard. If the only objection to the issue of these notes is that, in the opinion of some of the members of the House, it is liable to a constitutional objection, it is sufficient to answer that that question has once been settled here, and it is hardly to be supposed that, upon a review, the opinion of the House will be changed from any new light that has now been presented to it.

But, sir, the great question to be determined in considering this bill, the question passing in moment all others, passing even that of constitutionality, is, do the wants of the Government require the issue of this additional amount of $150,000,000 legal tender notes. And here let me say that I would have been glad if the necessity had not arisen, I would be glad if the necessity did not exist. Like every other member, no doubt, I have felt extremely reluctant to respond to this new call which is now made for so large an increased issue of evidences of indebtedness of the Government. It may be answered that it is not at the option of the Government whether it will increase its indebtedness or not. It has been demonstrated that while the receipts from imports are, at most, but some two hundred thousand dollars per day, and we are in receipt of no other revenue from any source, we are expending $1,000,000 per day. Then is it not apparent, is it not obvious to every member of the House that the Government is compelled to increase its indebtedness, and that the only question is in what form that indebtedness shall stand? The only question is what kind of evidence shall be furnished to the people who supply the wants of the Government, and who furnish it with means?

This again brings up the question which was formerly discussed, whether the evidence of that indebtedness shall be Treasury notes or bonds; or whether it shall promise to pay in the form of notes bearing no interest or in the form of bonds bearing interest. If I were discussing that question at length, I would not then permit the constitutional question to be raised, I would regard it as a mere matter of policy and expediency. That, in my judgment, is the only aspect in which it can properly be presented to the House. The propositions before the House are, the sale of bonds bearing interest to the extent of $100,000,000, or issue of notes to the extent of $150,000,000. I would gladly give my consent to the amendment proposing the sale of bonds of the Government if I were assured those bonds could be sold at par. If we could realize money on the sale of these bonds at par to a sufficient extent to meet the wants of the Government, we should be saved the necessity of the issue of these additional Treasury notes at this time. They might be issued at some future time if it should become necessary. But my judgment is, and I think the judgment of this House is, that $100,000,000 of these six per cent. bonds could not be negotiated at this time at par. The effect of offering so large a sum upon the market would be not only to depreciate them, but to drag down all other securities of the Government held in private hands. If that be true, to me it is an unanswerable objection.

I go, therefore, for the issue of notes at this time, and why? Because if we desire to place the indebtedness of the Government in the shape of bonds it can be done more successfully in the future by a gradual conversion of the notes into bonds than by offering so large an amount upon the market directly.

It is said that these notes have not been absorbed by the bonds as rapidly as was expected. I admit the fact. I admit that the amount of notes which have been funded is small, but this is accounted for in the letter of the Secretary of the Treasury himself in the fact that our demand notes were receivable for duties and were held back for the payment of the duties which may arise on imports as they shall come in, and for that purpose they command a premium of two or three per cent. over the legal tender notes. It is accounted for, too, in the fact that the community requires so large an amount for circulation that when you take into consideration the demand notes which have been withdrawn from circulation to the extent of near sixty million dollars, but little of the $90,000,000 remaining can be withdrawn from circulation for funding in the six per cent. bonds. That alone is sufficient to account for the small amount of these bonds which have been taken. But if you authorize the further issue of $150,000,000 Treasury notes, or so much thereof as the Government may require to meet its necessities, it will furnish more than is required for the circulation of the country. Large amounts of it will be held by capitalists and they will fund it in these six per cent. bonds of the Government. Hence, I shall expect when this new issue of notes comes into circulation, instead of their being funded in mere driblets as they have been in the past we shall find them being rapidly converted into bonds, for the reason that they will accumulate in the hands of capitalists, there being an excess over the requirements of the country for circulation.

The question then for us to decide is whether this amount of $150,000,000 is too large. That is the only point upon which I hesitate at all. If the Government requires these additional means we have got to furnish them, and it seems to me it is altogether unprofitable for gentlemen to get up here and treat this question as if it were at our option whether we should furnish the Government with the means it is decided it requires, or not. The interests of the country demand, nay, they imperatively require that we shall vote means sufficient to meet the exigences of the case as they arise.

I repeat, then, the only question with me is whether this amount of $150,000,000 is not too large, whether a less amount would not answer. My first impression was that $100,000,000 was all that would be asked for. I agree with the gentleman who has preceded me that after having fixed the amount asked at $100,000,000, it was unfortunate that in demanding an additional $50,000,000 the Secretary of the Treasury gave us no reason why this additional amount was required.

But, Mr. Chairman, there is something which justifies this $150,000,000, and which justifies our investing the Secretary of the Treasury with discretion to issue these notes in order to adjust the indebtedness of the country as fast as possible. He has accounted for $100,000,000, and let gentlemen take notice that there is something like $50,000,000 of outstanding certificates of indebtedness issued by the Government. They are to be met, and when are they to be met? Gentlemen may say they do not become payable under eight, ten, or twelve months. Still they are the debts of the Government, and they have to be met one way or the other. There is no probability that we will be in a better position to meet them in eight, ten, or twelve months than we are now. There is no probability that we will derive sufficient from the known revenues of the country to meet them or the other indebtedness of the country. We have to meet them, then, as other debtors meet their debts in time of embarrassment. We have to change liabilities, and this additional $50,000,000 may be required, if we have no other means, to take up those certificates of indebtedness within twelve months. I do not say that we must wait until they become due before we give the Secretary of the Treasury the power in some bill by which, in his discretion, those certificates of indebtedness may be canceled. I say that that is too narrow a view of the matter. I say, if that indebtedness has to be met, it is best for us now to give the Secretary of the Treasury these means, which are to be used at his discretion, so that he may shape the indebtedness of the Government from time to time, and the means for meeting that indebtedness, so that the latter will not outstrip the former, or that at any time there will be a failure on the part of the Government to meet any of its just obligations.

That is all I intended to say. I did not rise for the purpose of going into an elaborate argument on the principles which govern this matter. I have endeavored to take a practical view of it, to see whether it is safe and proper for the House to place in the hands of the Secretary of the Treasury the amount of means which he suggests. I do not see any objection to it. It is to be issued to be used for a temporary purpose. These notes are for the Government. They are to remain in the Treasury. They are not indebtedness anywhere until used. If the exercise of the power to issue shall become necessary, we trust the Government will decide wisely as to the extent to which it shall be used, and exercise it only to the extent which shall be unavoidable. In times like these we must trust power somewhere, and when we shall come to the conclusion that we can only be safe from its abuse by withholding it, our extrication from the difficulties and perils that surround us will be hopeless indeed.

Mr. LOVEJOY. I wish to make a single remark in reply to the gentleman from Rhode Island, who took exception to my declaration that none of these banks redeemed the notes which

they issued in gold and silver. I understood him to say in relation to the Rhode Island banks that they redeemed every dollar of their currency by gold and silver.

Mr. SHEFFIELD. I expressly stated that that was not so.

Mr. LOVEJOY. When the question was put to the gentleman sometime after he had interrupted me, he then avowed that he did not know whether the drafts which they paid out were paid in gold and silver. So, then, my original declaration in reference to the issues of these banks holds good. There is not one of them which redeems its issue in specie. I do not believe that there is one of them that could redeem all its circulation in gold and silver in one year or in ten years.

Mr. SPAULDING. The amendment of the gentleman from Rhode Island now pending proposes to strike out the legal tender clause. If that be done, it will destroy the vital character of the bill. I hope the amendment will be defeated, and with a view of speedily bringing the committee to a vote on the question, I move that the committee do now rise.

The motion was agreed to.

So the committee rose; and the Speaker having resumed the chair, Mr. PHELPS, of Missouri, reported that the Committee of the Whole on the state of the Union had, according to order, had under consideration the state of the Union generally, and particularly the bill (H. R. No. 187) to authorize an additional issue of United States notes, and for other purposes, and had come to no conclusion thereon.

Mr. SPAULDING. I move that the debate in the Committee of the Whole on the state of the Union on the Treasury note bill shall be closed within five minutes after its consideration shall be resumed.

The motion was agreed to.

REBELLION LOSSES.

Mr. WICKLIFFE. If there be no objection, I move that the amendment which I have prepared to the bill pending before the House, relating to claims of loyal citizens for property destroyed during the war shall be ordered to be printed, in order that it may be before the House for consideration.

The motion was agreed to.

MARGARET BAILEY.

Mr. DUNN, by unanimous consent, from the Committee on Military Affairs, reported back House bill No. 527, to secure one month's pay and pension to Margaret Bailey, widow of George B. Bailey, lieutenant colonel of the ninth regiment Virginia volunteers; which was ordered to be printed and recommitted to the same committee.

TREASURY NOTE BILL—AGAIN.

Mr. HOLMAN. I ask the consent of the gentleman from New York, and the consent of the House, to make a brief statement.

Mr. SPAULDING. I decline to yield for that purpose. I move that the rules be suspended, and the House resolve itself into the Committee of the Whole on the state of the Union.

The motion was agreed to.

The House accordingly resolved itself into the Committee of the Whole on the state of the Union, (Mr. PHELPS, of Missouri, in the chair,) and resumed the consideration of the Treasury note bill, the pending question being on the amendment of Mr. SHEFFIELD.

The amendment was rejected.

The Clerk read the second section, as follows:

SEC. 2. *And be it further enacted*, That the Secretary of the Treasury be, and is hereby, authorized, in case he shall think it inexpedient to procure said notes, or any part thereof, to be engraved and printed by contract, to cause the said notes, or any part thereof, to be engraved, printed, and executed, in such form as he shall prescribe, at the Treasury Department in Washington, and under his direction; and he is hereby empowered to purchase and provide all the machinery and materials and to employ such persons and appoint such officers as may be necessary for this purpose.

Mr. CALVERT. I move to strike that section of the bill out, for two reasons. In the first place, I do not believe there is any economy in it; and in the second place, I believe that the Government is already too rapidly monopolizing the trades and occupations of our citizens. I believe that the engraving of these notes can be better and more cheaply done for the Government by private individuals than it can be by the Treasury Department. For the short time during which men are to be employed for the purpose of manufacturing these notes, I do not believe that the Government can secure the services of engravers of the very highest talent, which it is necessary that it should have. I trust this section will be stricken out. We have found from some other experiments, that the Government is not quite so economical in doing these things for itself as it is in getting them done by others who are in the business. This Government, like the French Government, is monopolizing too much the occupations of our citizens. I have made the motion because I think it is better to have this work done by private individuals than it is to have it done by the Government.

Mr. DAWES. When the other Treasury note bill was up, I submitted some remarks on the subject of engraving Treasury notes. The object of those remarks was to secure for the Government, as well as might be, security and economy in the engraving of those notes. I took pains to investigate the matter, and I submitted to the House some reasons why I thought the Government was in danger of a want of security in the engraving of those notes. At the same time I submitted some remarks in reference to the economy of the means employed in the manufacture of those notes. I had in view only those two objects. I am gratified to see that the Secretary of the Treasury has made a move which, to my mind, is a great advance both to security and economy in this particular. I propose to show to the House from an investigation I have been able to make since the bill was reported on the economy of the plan of this section which it is proposed to strike out. I propose to show the estimated saving by printing Treasury notes in the Department and by the Government.

Cost at present prices, if $25,000,000 be issued in $1's, $2's, and $3's, as follows:

$10,000,000 of $1's, four on a plate	2,500,000	impressions.
10,000,000 of $2's, four on a plate	1,250,000	"
5,000,000 of $3's, four on a plate	416,666	"
Total impressions	4,164,666	

They are paid for by the thousand impressions, and this makes 4,166 thousand impressions, which cost, at American and National Bank Note Companies' prices, as follows: $25 first printing, $20 second printing, $20 third printing, or $65 each thousand, or $270,790 total cost of printing $25,000,000 Treasury notes in small denominations, divided as above. This does not include the cost of printing the autograph signatures, *fac simile*, which would swell the total cost of printing $25,000,000 of small notes to upwards of $300,000. The numbering of the notes costs $5 per thousand impressions, and this increases the total by $20,830. So that the entire cost cannot fall short of $325,000.

The same work done by the Government, employing the printers at current prices, would cost as follows: $25,000,000, in denominations as just stated, 4,166 thousand impressions would cost, including ink, blankets, and all material for the printing, not more than $24 per thousand impressions, or $99,986. The amount saved by Government in printing $25,000,000 in small notes, $170,806; $125,000,000 in $5's, $10's, $20's, $100's, $500's, and $1,000's, of these—

$40,000,000 in	$5's, make	2,000,000	impressions.
40,000,000 in	10's, make	1,000,000	"
20,000,000 in	20's, make	500,000	"
10,000,000 in	50's, make	200,000	"
5,000,000 in	100's, make	12,500	"
5,000,000 in	500's, make	2,500	"
5,000,000 in	1,000's, make	1,250	"
Total impressions		3,716,250	

Which, divided by 1,000, gives 3,716 thousand impressions, at $65 per thousand—$241,540.

The same work done by Government, as just shown, would cost $89,184, saving to the Government, in printing $125,000,000 in denominations of $5 and upwards, $152,356.

To recapitulate:

The printing of $25,000,000, in denominations under $5's, costs, under present system		$325,000
The printing of $125,000,000, in denominations of $5's and upwards		241,540
Total cost of the whole issue		566,540
The Government doing its own printing, the same work would cost as follows:		
The printing of $25,000,000 in small notes	$99,986	
The printing of $125,000,000 of $5's and upwards	89,184	
		189,170
Total saving		$377,370

Outlay to enable Government to print its own notes.

Eighty presses	$10,000
Transfer press	1,000
Hydraulic presses	1,600
Numbering	500
Miscellaneous	1,000
Superintendent	3,000
Transferer	2,000
Two engravers	3,000
Foreman	1,600
Clerk	1,600
	$25,300

Mr. ENGLISH. Does this include the paper?

Mr. DAWES. It does not include the profit on the paper which is saved to the Government by printing the Treasury notes in the Treasury Department. I wish also to add that the Government pays each year for printing postage stamps about thirty-five thousand dollars. They can be printed by the Government for $15,000. The Government will also be compelled to provide stamps under the tax bill, so long as that bill is in force, and these stamps may also be engraved and supplied by the Government. I think that the Secretary of the Treasury has never suggested a wiser scheme than this; and I hope that the section will not be stricken out.

MESSAGE FROM THE SENATE.

The committee here rose informally, and the House received a message from the Senate, by Mr. FORNEY, their Secretary, announcing that the Senate had agreed to the report of the committee of conference upon the disagreeing votes of the two Houses on the bill to provide internal revenue to support the Government and pay interest upon the public debt.

TREASURY NOTE BILL—AGAIN.

The committee resumed its session.

Mr. WALTON. I move to amend by inserting after the word "direction," the words "or to be printed only at the Treasury Department, under the direction of the Secretary, if he shall so determine."

It will be observed, if this amendment be adopted, that the Secretary will have the right to procure the engraving outside of the Department, or he may do a portion of it, or the whole of it, in the Department.

This amendment also provides that in case he shall procure the engraving outside, the printing alone may be done in the Department.

I agree with my friend from Massachusetts [Mr. DAWES] that there may be and that there ought to be great economy in having this work done within the Department and under the immediate direction of the Secretary. But I remember very well reading "Samuel Pepys, his Diary," an old Englishman, who, after long experience in the navy department, said he "was perfectly satisfied the King could not get his work done as cheaply as other people could." I believe that is practically so in our own Government, and therefore I have not much confidence, not much faith, that if this work is done by the Department it will be done much cheaper than it could or might be done under contractors.

But there is this important point—the point of security. As the work is now done, with all the plates, all the printing, all the colors under his own control, there is no security under heaven, except the integrity of the contractor, against an over issue of notes. Therefore, I think we ought to put this matter under the control of the Department and the direct supervision of the Secretary.

Mr. STEVENS. By the last act we passed upon this subject, all the plates from which these notes are struck belong to the Government; and we have not got to look anywhere else for the purchase of them again.

I now move that the committee rise, for the purpose of proceeding to the consideration of the report of the committee of conference upon the tax bill.

The motion was agreed to.

So the committee rose; and the Speaker having resumed the chair, Mr. PHELPS, of Missouri, reported that the Committee of the Whole on the state of the Union had, according to order, had the Union generally under consideration, and particularly the bill of the House, No. 187, to authorize the issue of additional Treasury notes, and had come to no conclusion thereon.

J. F. SIMMONS.

On motion of Mr. FENTON the bill (S. No.

353) for the relief of J. F. Simmons was taken from the Speaker's table, read a first and second time, and referred to the Committee of Claims.

TAX BILL.

Mr. STEVENS. I hold in my hand, and I desire to submit, the report of the committee of conference upon the disagreeing votes of the two Houses on the bill to provide internal revenue to support the Government, and pay the interest on the public debt. I will send it to the Clerk's desk.

Mr. LOVEJOY. The report is very long, covering some three hundred amendments, and I propose that the amendments be printed.

Mr. STEVENS. I believe reports of committees of conference are never printed.

Mr. LOVEJOY. This should be.

Mr. STEVENS. I would state that the number of amendments to the House bill was three hundred and fifteen, and the House have receded from their disagreement to two hundred and twenty-three of them, most of them very unimportant. I doubt whether the House wants to hear them read one by one.

I propose to state to the House such amendments as are of any importance, and to answer any inquiries which gentlemen may make in reference to any parts of the bill in which they may feel a special interest. It would be tedious to read all the amendments, one by one.

Mr. WICKLIFFE. It is now four o'clock. The Senate amendments to this bill have never been read in this House, and, whether members have had an opportunity to read them out of the House I do not know, and I was about to suggest that the amendments be printed, and that we take this bill up for consideration to-morrow morning. Do not press it at this hour. Let us have, at least, the appearance of legislating upon the tax bill.

Mr. STEVENS. If I thought it important, I might consent to depart from the usual rule; but I think, after I have explained what we have done with the material amendments, and gentlemen have asked explanations of those matters, in which they feel particularly interested, we shall be able to act as intelligently upon it now as we shall be at any other time. I hope, then, I may be allowed to take that course as the most expeditious and satisfactory.

Mr. KELLOGG, of Illinois. This matter is taking the course which many of us supposed it would take when these three hundred and odd amendments were disagreed to by the House in a lump. We then supposed that when the report came in it would be said it is not necessary to enter into any lengthy explanation.

I feel that I am but discharging my duty when I ask of the House to have the report printed so that the members can, at least, see what they are going to vote upon. There are some important amendments of the Senate agreed to, some receded from, and they should be known to members of the House; and if I have an opportunity I shall move to have them printed. I ask the chairman of the Committee of Ways and Means to give way to that motion. It is useless to tell me that we can understand these three hundred amendments by the explanation he may give, however lucid it may be. Inasmuch as the House is in advance of the Senate in its legislation, so that we have abundant time to consider the amendments, there can be no question raised in reference to time. Will the chairman yield to allow me to make that motion?

Mr. STEVENS. No, sir. The Senate has just acted upon the report of the committee of conference, and after explanation they passed it unanimously, and I do not believe there will be any difficulty here after I have made an explanation. After I have made that explanation, I will consider whether I will give way for such a motion.

The Senate have receded from sixteen of their amendments, and the House have receded from their disagreement to forty-six, and agreed to them with amendments, and have receded from their disagreement to the others.

The first amendment of any importance, relates to the pay of collectors, which is changed from one per cent. after the first $100,000, to two per cent.

We also gave the President power when he made a district out of more than one congressional district, to make such additional allowance as circumstances might render necessary.

The committee changed the pay of the assessors, and made it five dollars a day when engaged in hearing appeals.

The next question of any importance which we considered was the whisky question, which, in the committee of conference, as everywhere else, is looked upon as a very important subject for discussion. It will be recollected that the bill we sent to the Senate provided a tax of fifteen cents upon a gallon, and thirty cents upon rectified whisky. The Senate changed that and made the tax twenty cents on whisky, still keeping the tax on rectified whisky thirty cents. The committee of conference, after full discussion, were satisfied that twenty cents would be better for the revenue, and much better for those engaged in the various branches of its manufacture, than either the House or Senate provision. We agreed, therefore, to put the full tax on whisky at twenty cents a gallon in lieu of all other taxes.

Mr. WICKLIFFE. Do I understand that the committee of conference propose a tax upon the raw material, whisky, twenty cents a gallon, and that when it is rectified and made worse, there is to be no tax upon it?

Mr. STEVENS. There is no different tax upon rectified whisky.

Mr. WICKLIFFE. Is there not a drawback upon whisky exported from the United States, and allowed to the exporter?

Mr. STEVENS. There is a drawback upon all articles on which we put a tax, which are exported—a drawback to the amount of the tax laid.

Mr. WICKLIFFE. Allow me to make a further inquiry. Whisky distilled and sold in the original barrels from the distillery—what is termed copper-distilled whisky—is sent to New York. It there undergoes what they call manufacture, and in that character it is shipped. Do you give the shipper the twenty cents drawback, or does it go to the original manufacturer—to the farmer who made the whisky?

Mr. STEVENS. We give the shipper exactly all the tax which is paid in the United States upon the material.

Mr. WICKLIFFE. Then, sir, I understand that the distiller pays the tax and the shipper gets the drawback. He makes two gallons of whisky out of the one he obtains from the distiller and gets forty cents drawback!

Mr. STEVENS. It is so with every other article manufactured in the United States. It is on the material here that the tax is paid; and when they export it in the manufactured form to a foreign market, we take off the tax and give the manufacturer the benefit of the drawback. Upon all that is used in the United States there is no drawback.

Mr. HOLMAN. I call the attention of the gentleman from Pennsylvania to the statement made by the gentleman from Kentucky. He seems to imagine that where the whisky is redistilled or combined with other spirits, and two gallons made out of one, the drawback is thereby increased. The only article of this character shipped abroad in any quantity is alcohol, and it stands upon the same footing with every other article made in the United States and exported; the drawback being the amount of duty or excise originally paid, and no more.

Mr. STEVENS. I so stated, and I suppose the House fully understands it. By one of the general provisions of the bill, all exported articles manufactured here out of our materials, when taken to foreign ports, are allowed a drawback.

Mr. MALLORY. Allow me to suggest or to inquire of the gentleman from Pennsylvania, whether, if the manufacturer of whisky exported the article from his distillery, he would, in that case, get the drawback himself?

Mr. STEVENS. Whoever exports it gets the drawback, because whoever buys it pays the tax, and the man who ships it does not get it less the drawback from the distiller. He pays, of course, the addition of the tax to the manufacturer of it. The idea that the shipper is to get the advantage was suggested by the gentleman's colleague, [Mr. WICKLIFFE,] but it was one which I did not think it became me to answer, as every one seemed to understand it without a word being said.

Now, sir, the next article is tobacco. The tax laid on tobacco by the House was much raised by the Senate. A compromise was agreed upon by the committee, and the following sums were fixed as the tax on tobacco: on tobacco, not including snuff, cigars, and smoking tobacco, when valued at more than thirty cents per pound, fifteen cents per pound; when valued at any sum not exceeding thirty cents per pound, ten cents per pound; on snuff, except aromatic or medical, twenty cents per pound; on cigars, valued at not over five dollars per thousand, $1 50 per thousand; if over five dollars and not over ten dollars, two dollars; if over ten dollars and not over twenty dollars, $2 50; if over twenty dollars, $3 50.

Mr. MENZIES. From whom do you collect the tax on tobacco?

Mr. STEVENS. The manufacturer of the tobacco, when he sells or removes it for sale, pays the tax.

Mr. MENZIES. Then the figures there are intended for the wholesale prices of the articles?

Mr. STEVENS. Oh, not the retail, of course. It is the manufacturer and not the retailer of the article who pays the tax.

There was one other item, and only one other, about which we had any difficulty, and that was the direct tax, about which we had great difficulty; indeed, the committee were about separating without coming to any agreement in consequence of it. The Senate had added a section to the bill repealing the direct tax after the first year. The House committee refused to consent to that, believing that it was relieving the landed property of the country and throwing the burden of the tax upon the commercial and manufacturing interests in an undue proportion. Rather, however, than have the bill fail, the House committee agreed, after the payment of the first direct tax, in consideration of the great difficulty in some of the western States of raising the money to pay that direct tax, as they asserted, to suspend the collection of the direct tax, or the assessment of it, for the two succeeding years, and it was finally put upon that ground as the only one upon which we could agree. The House committee thought the proposal of the Senate unjust, the Senate committee thought it just, and we met upon this middle ground, rather than lose the bill.

If there is any other item in which particular interest is felt by any gentleman, and he will inquire regarding it, I will endeavor to answer him.

Mr. ENGLISH. How do the committee propose to make up the deficit occasioned by the suspension of the $20,000,000 of income tax per annum?

Mr. STEVENS. There must be some provision made at the time. My own judgment is that this Congress will have to reimpose that tax, but I do not wish to embarrass this question.

Mr. ENGLISH. I did not know but that some substitute might have been suggested.

Mr. STEVENS. No, sir; the House committee had great difficulty on the subject. We could not see our way clear.

Mr. HUTCHINS. How does the tax on cotton stand?

Mr. STEVENS. Just as the Senate put it, at half a cent a pound, with a drawback on all manufactured articles when shipped. On the raw material there is no drawback.

Mr. WALL. I should like to ask the gentleman a question in regard to this direct tax. If you remove the burden from the real estate of the country, what tax are you to get from the seceded States? They have nothing but real estate and darkies.

Mr. STEVENS. That question I cannot answer. That was one of the arguments made use of by the House committee. It was only in order to save the bill from being lost that we agreed to let the next Congress provide for that. I believe they will have to reimpose the tax.

Mr. BINGHAM. I desire to ask if, under this report, the direct tax for the current year is not to be collected?

Mr. STEVENS. It is to be collected. We do not repeal it. We merely suspend it for the next two years unless Congress shall otherwise order. We do not agree to repeal it, but simply suspend it, so that there will be no necessity to reënact it; but the tax will not be collected for two years.

Mr. WALL. What portion of this tax is to be levied on the foreign residents in this country?

Mr. STEVENS. Of the present tax there will be very little levied on them. The direct tax was that which reached them.

Mr. COLFAX. I would like to ask the chairman of the Committee of Ways and Means whether

the committee of conference did not estimate that, by the amendments in regard to whisky and tobacco, a larger amount would be received from articles than those under the bill as it passed the House? It seems to me that it is so if I have got the figures correct.

Mr. STEVENS. We supposed that in this way we would get more than by any proposition made by either House. That is my judgment; and I believe it was the judgment of the committee of conference.

Mr. HOLMAN. I trust the chairman of the committee will permit me to say that while I was not able to concur in the opinion entertained by my colleague on the committee as to the fairness and policy of the direct tax, yet inasmuch as it became necessary to compromise that question and adjust it on some fair basis, I concurred in the determination which the members of the conference committee on the part of the House ultimately reached, of suspending the operation of that law for two years, although I was myself in favor of the Senate amendment; and if, in the mean time, it shall be found necessary to impose this direct tax, Congress and the country will have time to consider it.

Mr. STEVENS. The gentleman from Indiana took the ground in committee which he has stated here, and we so compromised on it. I am asked as to the provisions about collection districts. We disagreed to the Senate amendment in reference to collection districts, and left it as the House did, with this amendment, that there were to be no more than the congressional districts in the Thirty-Seventh Congress, except where there was an increase of congressional districts in the Thirty-Eighth, in which case the number of collection districts may be extended. Where there is no such increase, it stands precisely as it came from the House.

Mr. THOMAS, of Massachusetts. What about the income tax?

Mr. STEVENS. The conference committee modified the income tax by striking out the provision imposing seven and a half per cent. where the income is over $50,000, and leaving only the two grades—three per cent. on incomes from $600 to $10,000, and five per cent. on incomes above $10,000.

Mr. COLFAX. Is the tax on plate, carriages, &c., retained?

Mr. STEVENS. That entire section was struck out by the Senate, but the committee of conference has agreed to retain the tax on both plate and carriages. The tax on musical instruments, watches, dolls, &c., was struck out. The tax on billiard tables is retained, but is reduced from twenty dollars to ten dollars.

Mr. MAYNARD. When is the bill to take effect?

Mr. STEVENS. On the 1st of August. We were obliged to change it from the 1st of July to the 1st of August, because we ascertained that it would not be possible to get the machinery of the bill ready before that time.

Mr. MAYNARD. When does the income tax commence?

Mr. STEVENS. The bill goes into operation at the same time. The year commences in May.

Mr. MAYNARD. Did the committee make any change in the bill as to stock of wines, liquors, &c., on hand now?

Mr. STEVENS. No, sir, no change was made in that.

Mr. HOLMAN. There is a further modification made as to the tax on carriages, which tax is not to apply to carriages of a less value than seventy-five dollars.

Mr. ELIOT. I understand the chairman of the conference committee to say that the time for the bill to go into operation is changed from 1st of July to 1st August. Does the same change apply to that section imposing taxes on all articles manufactured after the 1st of July?

Mr. STEVENS. It does. There was no change made from that decision of the House in regard to not taxing goods on hand.

Mr. ELIOT. Then the change has been made in that section from July to August?

Mr. STEVENS. It reads August all through the bill.

Mr. ELIOT. On goods made before the 1st of August the tax is not imposed?

Mr. STEVENS. No.

Mr. WADSWORTH. Is the tax on oils changed?

Mr. STEVENS. There is no change made on it.

Mr. MORRILL, of Vermont. I think the House did not quite understand the explanation in regard to the income tax. It goes into operation for the first time on the 1st of May, 1863, while the general provisions of the bill go into operation on the 1st of August.

Mr. STEVENS. With regard to the income tax, I understand it counts back from May, 1862; so that really that tax takes place from last May.

Mr. THOMAS, of Massachusetts. It is to cover the year between May, 1862, and May, 1863.

Mr. STEVENS. That is my understanding.

Mr. KELLOGG, of Illinois. The explanation that has been given satisfies me, Mr. Speaker, that we ought to have this matter postponed and the report printed. If the previous question be voted down, I will submit a motion to postpone this subject for two or three days, that the report may be printed.

Mr. STEVENS. I am about to move the previous question. If the House desire to have the report printed, let it vote down the previous question, and then let the gentleman's motion be put.

Mr. SHEFFIELD. Did the committee agree to the Senate amendments with reference to the income tax?

Mr. STEVENS. We did not agree to that provision imposing seven and a half per cent. on incomes over fifty thousand dollars. We left it with the five per cent. on incomes over ten thousand dollars.

Mr. DELANO. I wish to ask the chairman of the committee whether any change has been made in the Senate bill with reference to the tax on checks drawn by depositaries on banks; and if so, what?

Mr. STEVENS. We changed the amount from ten dollars to twenty dollars. We made it read, "on all above twenty dollars." I now move the previous question.

Mr. RICE, of Massachusetts. I apprehend that that change which has been made in the bill, as I understand it, will have the effect of lessening the comparative burdens upon the agricultural portion of the country, and that the additional two per cent. income tax is to supply the deficit, which tax will come mainly from the commercial and industrial or manufacturing portions of the country.

Mr. STEVENS. I do not think we laid two per cent. additional tax upon incomes.

Mr. RICE, of Massachusetts. I understand the rate fixed by the committee of conference to be five per cent. on incomes above $10,000. If I mistake not, the bill as it went to the Senate contained a uniform income tax of three per cent.

Mr. STEVENS. The Senate, however, increased the tax to seven and a half per cent. We reduced it to five.

Mr. RICE, of Massachusetts. The bill as reported from the committee of conference contains a discrimination, the effect of which, I apprehend, is, that the deficit which is to arise from the relief extended to the agricultural interest of the country is to be made up by imposing an additional two per cent. upon the industry of the manufacturing portions of the country and upon the commerce of the country. Now, sir, I protest against that kind of injustice.

Mr. WASHBURNE. When the gentleman speaks of industrial interests, does he refer to the agricultural interests?

Mr. RICE, of Massachusetts. I referred, as I stated, to the commercial and manufacturing interests of the country. I am at a loss to know upon what principle of justice one class of industry should be taxed five per cent. upon its industry and another class of industry exempted from such taxation. If the gentleman from Illinois can give me a satisfactory explanation, I should be glad to hear it.

Mr. WASHBURNE. I do not propose to enter into a discussion with the gentleman upon this subject. I say to him that under this bill the agricultural interest will sustain its fair and proper proportion of the national burdens.

Mr. STEVENS. I can only say what I have perhaps before stated, that we resisted the suspension of the direct tax after the present year as long as we could without losing the bill, and I did not think it proper to lose the bill rather than suspend that direct tax. If the gentleman will now show us any way to retain the direct tax and save the bill I certainly would be glad to unite with him.

Mr. THOMAS, of Massachusetts. I submit to the gentleman whether it would not have been well to have insisted on the direct tax and throw upon the Senate the responsibility of defeating the bill rather than yield.

Mr. STEVENS. It might be very well to punish them, but I do not see how the poor country is to get along. I say to the gentleman that we separated on last Friday with no prospect of agreement. I never went back again until this morning when this modification was proposed, and as the bill was likely otherwise to be lost, I consented to the compromise. I now demand the previous question.

The House divided on seconding the demand for the previous question, and there were—ayes 68, noes 43.

Mr. DAWES demanded tellers.

Tellers were ordered; and Messrs. DAWES and HOLMAN were appointed.

The House again divided; and the tellers reported—ayes 63, noes 41.

So the previous question was seconded. The main question was then ordered to be put.

Mr. WICKLIFFE demanded the yeas and nays upon agreeing to the report of the committee of conference.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 106, nays 11; as follows:

YEAS—Messrs. Aldrich, Ashley, Baily, Baker, Baxter, Biddle, Bingham, Jacob B. Blair, Samuel S. Blair, Blake, William G. Brown, Buffinton, Campbell, Chamberlin, Clark, Clements, Cobb, Colfax, Frederick A. Conkling, Roscoe Conkling, Corning, Covode, Cravens, Crisfield, Dawes, Delano, Dunlap, Dunn, Edgerton, Edwards, Eliot, English, Fenton, Fessenden, Fisher, Franchot, Frank, Gooch, Goodwin, Granger, Grider, Gurley, Haight, Hale, Hall, Harding, Harrison, Holman, Hooper, Hutchins, Julian, Kelley, Francis W. Kellogg, William Kellogg, Lansing, Loomis, Lovejoy, Low, McKnight, Maynard, Menzies, Mitchell, Moorhead, Justin S. Morrill, Morris, Nixon, Noble, Odell, Timothy G. Phelps, Pomeroy, Porter, Potter, Alexander H. Rice, John H. Rice, Riddle, Edward H. Rollins, James S. Rollins, Sargent, Sedgwick, Segar, Shanks, Sheffield, Shellabarger, Sherman, Smith, Spaulding, John B. Steele, William G. Steele, Stevens, Stratton, Benjamin F. Thomas, Trimble, Van Horn, Van Valkenburgh, Vibbard, Wall, Wallace, Walton, Ward, Washburne, Webster, Wheeler, Wilson, Windom, Woodruff, and Worcester—106.

NAYS—Messrs. William J. Allen, George H. Browne, Johnson, Norton, Nugen, Pendleton, Shiel, Stiles, Chilton A. White, Wickliffe, and Wood—11.

So the report was agreed to.

Before the vote was announced,

Mr. THOMAS, of Massachusetts, stated that Mr. ALLEY was detained from the House by sickness.

Mr. VAN VALKENBURGH stated that Mr. DIVEN was necessarily absent.

Mr. McKNIGHT stated that Mr. PATTON was at home sick.

Mr. HALE stated that Mr. WRIGHT was confined at home by sickness.

Mr. COLFAX stated that Mr. WHITE, of Indiana, had been called home by sickness in his family, otherwise he would have voted for this bill.

Mr. LANSING stated that Mr. SLOAN was detained from the House by sickness.

Mr. ASHLEY stated that he had paired on this bill with Mr. ANCONA, but as his vote would not change the result, by consent of the friends of Mr. ANCONA he would vote.

The vote was announced as above recorded.

Mr. STEVENS moved to reconsider the vote by which the report was agreed to; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

PRINTING OF TAX BILL.

Mr. COLFAX submitted the following resolution for reference to the Committee on Printing:

Resolved, That twenty thousand copies of the tax bill, as reported from the committee of conference, be printed for the use of the House.

Mr. MALLORY. I hope the gentleman will also include the income and direct tax in the same order. Let them all be printed together.

Mr. COLFAX. The Committee on Printing can regulate that.

Mr. MALLORY. I hope the gentleman will accept my modification, and allow it to go as a suggestion to the Committee on Printing.

Mr. COLFAX. Very well; I accept the modification.

Mr. HOLMAN. I ask the gentleman to make the number fifty thousand.

Mr. COLFAX. The Committee on Printing will report as to the proper number.

The resolution was received and referred.

BLANKS FOR BACK PAY AND BOUNTY.

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

Resolved, That the Secretary of the Treasury be directed to inform this House why the necessary blanks for soldiers' back pay, bounty, &c., have not been made out and printed for the use of the heirs of deceased and wounded soldiers, as ordered by the House some time since, and when the same will be made out and printed for distribution.

On motion of Mr. WOOD, (at five o'clock, p. m.,) the House adjourned

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IN SENATE.

TUESDAY, *June* 24, 1862.

Prayer by the Chaplain, Rev. Dr. SUNDERLAND.

The Journal of yesterday was read and approved.

EXECUTIVE COMMUNICATION.

The PRESIDENT *pro tempore* laid before the Senate a report of the Secretary of War, communicating, in compliance with the resolution of the Senate of the 6th instant, information in relation to the military force necessary for the protection of the interests of the United States in the Territory of Arizona and on the frontiers of Mexico; which was ordered to lie on the table.

HOUSE BILL REFERRED.

The bill (No. 442) to establish a land district in the Territory of Nevada, and for other purposes, was read twice by its title, and referred to the Committee on Public Lands.

PETITIONS AND MEMORIALS.

Mr. DAVIS presented the memorial of Frances Ann McCauley, widow of Daniel S. McCauley, praying compensation for judicial services performed by her late husband as consul general at Tripoli, in the Barbary States, and at Alexandria, in Egypt; which was referred to the Committee on Foreign Relations.

Mr. HARRIS presented five petitions of merchants, traders, and citizens of New York, praying for the passage of a general bankrupt law; which were referred to the Committee on the Judiciary.

MESSAGE FROM THE HOUSE.

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

A bill (No. 290) for the relief of Thomas Young and George Young, owners of the schooner Elizabeth Mary;

A bill (No. 486) to authorize a rehearing of the application of Daniel Woodbury before the Commissioner of Patents for the extension of his letters patent for an improvement in horse power, dated August 26, 1846; and

A bill (No. 510) for the relief of James N. Müller, supervising inspector of steamboats for the third supervising district.

The message also requested the return to the House of Representatives of the bill (H. R. No. 280) to establish and equalize the grades of the officers of the United States Navy, in order that a clerical error in the engrossment of the bill might be corrected.

THE TAX BILL.

The message further announced that the House of Representatives had concurred in the report of the committee of conference on the disagreeing votes of the two Houses on the bill (H. R. No. 312) to provide internal revenue to support the Government and pay interest on the public debt.

PAY OF ARMY OFFICERS.

The message also announced that the House of Representatives insisted upon its amendments to the bill (S. No. 175) to define the pay and emoluments of certain officers of the Army, and for other purposes, disagreed to by the Senate, disagreed to the amendments of the Senate to other amendments of the House, and agreed to the conference asked for by the Senate on the disagreeing votes of the two Houses; and had appointed Messrs. A. B. OLIN of New York, W. MCKEE DUNN of Indiana, and GEORGE H. BROWNE of Rhode Island, managers at the conference on its part.

CONGRESSMEN INTERESTED IN CONTRACTS.

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

Resolved, That the Judiciary Committee be, and are hereby, instructed to inquire into the statements and charges made in the report to the Secretary of War, by Hon. Joseph Holt and Robert Dale Owen, in the case of C. D. Schubarth, relating to a certain contract for furnishing arms to the Government, and to report, by bill or otherwise, what additional legislation may be necessary to forbid and punish Senators or Representatives in Congress who shall lend their official influence over the executive and other departments of the Government to the procurement of contracts therewith, and who shall receive or accept, directly or indirectly, for himself or for another, any money, reward, or compensation therefor, paid or to be paid, and either certain or contingent.

REPORTS FROM COMMITTEES.

Mr. HARRIS, from the Committee on Foreign Relations, to whom was referred the memorial of Andrew Ten Broeck, late consul of the United States at Munich, in the kingdom of Bavaria, submitted a report, accompanied by a bill (S. No. 368) for the relief of Andrew Ten Broeck. The bill was read, and passed to a second reading; and the report was ordered to be printed.

Mr. GRIMES, from the Committee on the District of Columbia, to whom was referred the bill (S. No. 351) supplementary to the act for the release of certain persons held to service in the District of Columbia, approved April 16, 1862, reported it with amendments.

ORDER OF BUSINESS.

Mr. HARRIS. I move that all orders of business be suspended, and that the bill (S. No. 275) to increase the compensation of the surveyors of customs at Albany and Troy, and for other purposes, be taken up for consideration. I have made several efforts to get this bill through.

Mr. HALE. I hope that it will not be taken up until we get through with the morning business, the introduction of bills, &c.

Mr. HARRIS. I think this bill will take but a minute. I have tried several times to get it up, and have given way for other business.

The question being put, the ayes were eleven, which not being a majority of a quorum, the motion was declared to be not agreed to.

BILL INTRODUCED.

Mr. HALE. I ask leave to introduce a bill, without previous notice, and I will state in explanation that it is the same bill which I introduced some week or two ago, but by some means or other it has been lost and the committee have not possession of it.

By unanimous consent, leave was given to introduce a bill (S. No. 369) abolishing the office of marshal of the District of Columbia and creating that of sheriff of the District of Columbia; which was read twice by its title, and referred to the Committee on the District of Columbia.

APPROPRIATION FOR VOLUNTEERS' BOUNTY.

Mr. SHERMAN. The Committee on Finance, to whom was referred the bill (S. No. 364) to make an appropriation for the payment of the bounty authorized by the sixth section of an act entitled "An act to authorize the employment of volunteers to aid in enforcing the laws and protecting public property," approved July 22, 1861, and for other purposes, report it back without amendment, and if there is no objection to the bill, I should wish to have it put upon its passage now. It is the same bill which has been acted upon by two committees of conference.

There being no objection, the bill was considered as in Committee of the Whole. It appropriates, for the payment of the bounty to widows, children, fathers, mothers, brothers, and sisters of such volunteers as may have died or been killed, or may die or be killed, in service, authorized by the sixth section of an act to authorize the employment of volunteers to aid in enforcing the laws and protecting public property, approved July 22, 1861, $5,000,000, or so much thereof as may be found necessary. It also proposes to authorize the Secretary of the Interior to employ fifteen additional clerks of the first class, and five clerks of the second class, for the purpose of increasing, temporarily, the clerical force in the office of the Commissioner of Pensions, and to appropriate $25,000 for the compensation of these clerks for the fiscal year ending June 13, 1863. The bill also proposes to appropriate $3,000, or as much thereof as may be found necessary, for the expenses of the committee on disloyal employés of the Government, appointed by resolution of the House of Representatives of July 8, 1861. It further provides that that part of the sixth section of the act of July 22, 1861, which secured to the widow, if there be one, and if not, the legal heirs of such volunteers as die or may be killed in service, in addition to all arrears of pay and allowances, a bounty of $100, shall be held to apply to those persons who have enlisted in the regular forces since the 1st of July, 1861, or shall enlist in the regular forces during the year 1862.

Mr. FOSTER. This bill, I believe, is the offspring of the second committee of conference which has already attracted some notice in both Houses. The advantage of the operations of the second committee is, unless interrupted, that we now get a bill, an appropriation bill, together with legislative matter connected with it creating a considerable number of new officers, passed through both Houses of Congress without ever having been printed, instead of having a slight amendment made in a bill which was before both Houses, printed, and in the hands of every member. This is the advantage thus far of the "rebuke," as the Senator from Ohio styled it, which was administered to the first committee of conference. It seems to me the advantage is not so great that on the whole the Senate will be inclined to repeat the operation. We saw the effect of it yesterday in the report of the committee of conference on the tax bill, which was passed through the Senate directly in face of the great principle which, it was said, the former committee of conference had attempted to infringe. The way in which this committee have avoided infringing on the same rule which it was said the first committee infringed is this: that whereas the first committee simply recommended a slight verbal alteration in a bill pending, printed, and in the hands of every member, the second committee agreed to disagree with the view of destroying the bill which was before them, and reported a new bill containing legislative matter, and containing matter not in the original bill, and proposed to have that go through the House of Representatives and the Senate without having been printed at all, and when it is first reported they ask that it be considered as a matter necessary. Indeed, the honorable Senator from Ohio said the other day, when I suggested some doubt in respect to considering the bill when it was first introduced without ever having been referred or considered, that it was a very ungracious thing to stand in the way of an appropriation of money to pay poor soldiers, or the widows or heirs of poor soldiers. The Senator should have thought of that when by his own vote he attempted, indeed succeeded, according to his own view, in rebuking the first committee, for the first committee proposed to have that money paid at once without delay. But that did not satisfy the views of the Senator from Ohio; for although he said in his remarks subsequently that he was not present at the discussion, he was in at all events at the vote, and voted thus, as he says, to rebuke the committee. It is to be presumed he knew in regard to the subject on which he was voting. If he had not heard the discussion he was very unfortunate in electing the side on which he would vote. If therefore there is anything improper in delaying the passage of a bill to pay poor soldiers and the heirs of poor soldiers, the gentleman from Ohio, and those who voted with him, and not those who urged the passage of the bill at that time, are responsible.

It is suggested to me that I move to print this bill. The Senator from Ohio thinks I speak as one of the wounded; but I certainly am not desirous of delaying action on this bill. I am willing to move, however, that it be printed; for it contains matter which I think the Senate should scrutinize somewhat before it passes it. Unless I mistake from the hasty reading of the bill at the desk—I have not had the advantage of reading it before—it contains matter not in the original bill, and con-

tains variations of the matter which was in that bill.

Mr. SHERMAN. I beg leave to say to the Senator that he will find, by a comparison, that the bill now presented is *verbatim* the bill as proposed to be amended by the report of the first committee of conference, except that the proviso which prescribes the persons who shall be beneficiaries of the bounty is not contained in this bill, as it is already contained in a bill of which the Senator from Massachusetts [Mr. WILSON] has charge, which contains a section making this provision that has received the assent of both Houses. There are no new provisions in this bill. It makes but three appropriations: one to pay bounty, another for the payment of additional clerks agreed to by the first committee, and the last provision extends the bounty law to the regulars as well as to the volunteers. There is no new provision in the bill.

Mr. FOSTER. I will ask if the provision in regard to the regulars was in the former bill?

Mr. SHERMAN. It was in the former bill; we copied it word for word; there is no alteration in it.

Mr. FOSTER. Neither of these bills, so far as my attention has been called to them, carries out fully the act of 22d July last. That act provided in general terms that a bounty of $100 should be paid to the widow or heirs. Each of the bills has made an enumeration of heirs to a certain extent, and has stopped without completing the design of the act in specifying what heirs shall finally take. This bill, I believe, as it now stands, does not purpose enumerating the heirs; and the Senator from Ohio says it is because they are already provided for in another bill. That bill has not yet passed, and is, I believe, in the hands of a committee of conference, and of course, therefore, cannot be amended; and it does not provide for carrying out the provisions of the sixth section of the law of 22d July last in regard to the heirs among whom this bounty shall be distributed.

Mr. GRIMES. I move that this bill be printed and postponed until to-morrow.

Mr. FOSTER. At the suggestion of the Senator from Iowa I move that this bill be printed, and that its further consideration be postponed until to-morrow.

Mr. SHERMAN. I have no objection to the motion to postpone and print. I think enough has already been said on this subject, and I shall therefore take but little time in replying to what has been said by the Senator from Connecticut. I came in the other day without any knowledge of who were on the first committee of conference. I did not know that the honorable Senator from Connecticut was on it, or that my colleague of the Committee on Finance [Mr. HOWE] was on it. I came in here and voted for a proposition which I think is a correct one: that a committee of conference have no right to alter the text of a bill or section which has been agreed to by both Houses. That is a general principle never departed from but in one case. I know of but one case where it was departed from; and it was done after a statement made, similar, no doubt, to the statement made by the Senator.

Mr. FOSTER. If the Senator will permit me; it has been done in a score of cases, even during the short period I have been in the Senate.

Mr. SHERMAN. I know of but one case, and that was an appropriation bill, where the text was altered. I voted the other day to establish a precedent, a rule which ought never to be departed from. A conference report compels us to one solitary vote; we can only vote on the result of that conference; and if you allow the committee of conference to change the text of the bill, you prevent both Houses from voting on the particular change; you compel them to vote as one vote on the report of the conference. The effect of that was noticed yesterday, where all of us probably disagreed to some of the clauses of the report of the committee of conference on the tax bill, and yet we were compelled to vote for it as an entirety. I think, therefore, the Senator is entirely too sensitive in regard to that matter. There was no design—certainly none on my part—to rebuke him or his colleagues.

Mr. FOSTER. I only took the word of the Senator from Ohio for it.

Mr. SHERMAN. I will state, in explanation of it, that the Senator condemned the action of the second committee of conference, I think improperly. He said we sought to evade a rule—words that might just as well have been omitted—and in reply, I said the Senate had rebuked the first committee: one was an answer to the other. I think, probably, that it would have been better if both had been omitted. The second committee of conference did not seek to evade the rule at all. They stated that they could not agree, and then we report a bill *in hæc verba* the bill agreed upon by the first committee of conference.

Mr. FOSTER. If the Senator will allow me, I should like to ask him what he proposes to do with the bill which his committee of conference reported upon? What does he propose to ask to be done with it?

Mr. SHERMAN. I am perfectly willing to let it stand without any further action; but if it is thought necessary to make a motion in regard to it, I will move that the Senate adhere to their amendments. I do not intend to take further action upon it, but to let it stand on the disagreement.

Mr. FOSTER. I will ask whether the decided design of the committee was not to kill the bill which that committee were instructed to agree with the House committee upon, if they could; and whether that was not the design of their action—to kill the bill?

Mr. SHERMAN. The design of the action is stated in the report itself, that we could not agree upon the pending amendments, and therefore as a matter of course we reported that disagreement to both Houses. It is then perfectly competent for a Senator to move that the Senate recede, or that the Senate adhere to their amendments. The report of the committee of conference ends their action by simply saying they cannot agree. A new committee may be appointed or the Senate may adhere, or the Senate may recede. Those are the proper forms; and therefore the second committee of conference adhered strictly to the strict line of their duty and to the order of the Senate. They did not seek to evade the rules, but simply conformed to the rules. At their request I introduced a new bill and it went through the proper stages. It was read a first and second time and referred, and has now been reported back, and now, at the request of the Senator, it is to be laid over and printed. When it is printed I shall call it up and ask the action of the Senate upon it.

The PRESIDENT *pro tempore*. The motion to print is unnecessary. The bill will be printed under the general rule.

Mr. GRIMES. I move that the Senate proceed to the consideration of Senate bill No. 363. I do not ask any action upon it, but I wish to submit a few observations.

Mr. COLLAMER. We have not taken a vote on the other matter yet.

The PRESIDENT *pro tempore*. The pending motion is to postpone the consideration of the bill reported by the Senator from Ohio until to-morrow.

Mr. POWELL. There has been a good deal of feeling exhibited about this bill, and about the motion to recommit it to another committee of conference. I have been a little astonished at the feeling exhibited on the subject. I made the motion to lay the report of that committee on the table, and that another committee be raised. I wish to state that I did it, not out of any disrespect to the Senators who composed the first committee of conference. I entertain very great respect for those Senators. I made the motion because I thought a precedent was about to be established that was unwise and dangerous, without any intention whatever to rebuke the honorable Senators who composed the committee. So far as the action of the last committee of conference, of which I was a member, was concerned, we acted in the only way we thought we could under the rules of the Senate, so as to attain the object desired. There has been a good deal of debate about it; and as I was somewhat instrumental in having a second committee of conference raised, I merely rise now for the purpose of saying to those Senators who composed the first committee that I had no intention of reflecting on them in the slightest degree. I have no doubt that they thought they did everything for the best; but I acted so as to prevent the establishement of a precedent which for the future would be dangerous. The matter which they introduced into the text of that bill I think was itself right; and consequently, as one of the last committee of conference, in order to have that retained, which we could not do under the rules otherwise, we made the report that we did, and presented a new bill.

Mr. HOWE. Let me put the mind of the Senator from Kentucky at rest on that point. I had not the slightest feeling about the motion which he submitted to the Senate the other day. I did not suppose he intended to reflect on the committee of conference, nor did I suppose at the time that the Senate intended any reflection on the committee.

Now, I want to make a few remarks in reply to what has just been said by the Senator from Ohio. He says he voted the other day to establish what he thought a correct parliamentary principle, when he voted not to agree to the report of the committees. I said the other day when the subject was up that that was not the effect of his vote. The effect of his vote was simply to disapprove of the amendment; it was not upon any question of order whatever. If the recommendation of the committee of conference was out of order, that question should have been presented upon a point of order; it should have been objected to as out of order, the same as if I had moved the amendment myself in an improper stage of the bill, and then if the objection had been sustained by the Chair, and an appeal being taken, if the Senator had voted to sustain the decision of the Chair, he would have voted to sustain what he considers a correct principle; but the vote which was taken was a vote upon the motion made by the Senator from Kentucky, which was to nonconcur in the report, and to ask for a new committee of conference. That put in issue the merits of the recommendation made by the committee; as it seems to me, there is nothing more.

Mr. POWELL. The Senator will allow me one word. I did not regard the motion I made as putting in issue the merits of the amendment which was proposed in the body of the bill. I am not very familiar with the rules of the Senate, but I was told by Senators that the only way to reach the case and save the establishment of the precedent of putting into the body of the bill by a committee of conference any new matter, was by the motion that I made. At first I did not make the motion broad enough, but on the suggestion of a Senator who was more familiar with the rules than myself, I amended the motion so as to cover the whole question.

The PRESIDENT *pro tempore*. The Chair feels himself called upon to rule this discussion out of order on the motion to postpone the consideration of this bill till to-morrow.

Mr. HOWE. I acquiesce in the ruling of the Chair.

The motion to postpone was agreed to.

HOUSE BILLS REFERRED.

The following bills of the House of Representatives were severally read twice by their titles, and referred as indicated below:

A bill (No. 290) for the relief of Thomas Young and George Young, owners of the schooner Elizabeth Mary—to the Committee on Commerce.

A bill (No. 486) to authorize a rehearing of the application of Daniel Woodbury before the Commissioner of Patents for the extension of his letters patent for an improvement in horse power, dated August 26, 1846—to the Committee on Patents and the Patent Office.

A bill (No. 510) for the relief of James N. Müller, supervising inspector of steamboats for the third supervising district—to the Committee on Commerce.

SMALL BANK NOTES—VETO MESSAGE.

To the Senate of the United States:

The bill which has passed the House of Representatives and the Senate, entitled "An act to repeal that part of an act of Congress which prohibits the circulation of bank notes of a less denomination than five dollars in the District of Columbia," has received my attentive consideration, and I now return it to the Senate, in which it originated, with the following objections:

1. The bill proposes to repeal the existing legislation, prohibiting the circulation of bank notes of a less denomination than five dollars within the District of Columbia, without permitting the issuing of such bills by banks not now legally authorized to issue them. In my judgment, it will be found impracticable, in the present condition of the currency, to make such a discrimination. The banks have generally suspended specie payments; and a legal sanction given to the circulation of the irredeemable notes of one class of them, will almost certainly be so extended, in practical operation, as to include those of all classes, whether authorized or unauthorized. If this view be correct, the currency of the District, should this act become a law, will

certainly and greatly deteriorate to the serious injury of honest trade and honest labor.

2. This bill seems to contemplate no end which cannot be otherwise more certainly and beneficially attained. During the existing war, it is peculiarly the duty of the national Government to secure to the people a sound circulating medium. This duty has been, under existing circumstances, satisfactorily performed, in part at least, by authorizing the issue of United States notes, receivable for all Government dues except customs, and made a legal tender for all debts public and private, except interest on the public debt. The object of the bill submitted to me, namely, that of providing a small note currency during the present suspension, can be fully accomplished by authorizing the issue—as part of any new emission of United States notes made necessary by the circumstances of the country—of notes of a similar character, but of less denomination than five dollars. Such an issue would answer all the beneficial purposes of the bill; would save a considerable amount to the Treasury, in interest; would greatly facilitate payments to soldiers and other creditors of small sums; and would furnish to the people a currency as safe as their own Government.

Entertaining these objections to the bill, I feel myself constrained to withhold from it my approval, and return it for the further consideration and action of Congress.

ABRAHAM LINCOLN.

JUNE 23, 1862.

Mr. GRIMES. I move that the communication lie on the table, and be printed for the use of the Senate.

The motion was agreed to.

NAVY-YARD AT LEAGUE ISLAND.

Mr. GRIMES. I move that the Senate now proceed to the consideration of Senate bill No. 363.

The motion was agreed to; and the bill (S. No. 363) to authorize the Secretary of the Navy to accept the title to the League Island, in the Delaware river, for naval purposes, was read a second time, and considered as in Committee of the Whole. It proposes to authorize the Secretary of the Navy to receive and accept from the city authorities of the city of Philadelphia the title to League Island, in the Delaware river, within the first ward of that city, together with all riparian rights and privileges thereunto belonging and appertaining, to be used for naval purposes by the Government of the United States; but it is provided that the title shall not be accepted and received unless it shall be perfect and indefeasible to the whole island to low-water mark; nor if, upon more thorough examination and survey of the premises by a competent board of officers to be by him appointed, he shall discover that the public interests will not be promoted by acquiring the title. If the title shall be accepted and received, then, for the purposes of surveys, piling, dredging, filling, excavating, building walls, houses, and shops on the island, the bill proposes to appropriate $200,000.

Mr. GRIMES. The events of the past year have taught us many important lessons, among the most valuable of which is the entire truth of that apothegm of the Father of his Country, that it is the duty of this nation "in time of peace to prepare for war." When this rebellion began we were not only comparatively without an army and a navy, but we were apparently without the means of building a navy. The few steam war vessels belonging to the Government were scattered over the world; the most of our sailing vessels were dismantled and dilapidated, and nearly worthless in their best estate; two of our important navy-yards were surrendered to the enemy, and the remaining ones were contracted in size and capacity for labor, and nearly bereft of material for construction. Yet, the Navy was suddenly called upon to maintain the most extensive blockade known in history. The efficiency of that blockade the whole civilized world knows and has borne testimony to. Probably no nation ever exhibited such an amount of energy and maritime resources as has been shown by this country during the past year; certainly no country ever put afloat such powerful and well-appointed fleets in so short a time, and conducted them with such eminent success.

But the great danger is that these very successes may lull us into security for the future, and thus betray us into danger, if not into ruin. It must be remembered that in this contest we have derived immense support from the merchant marine; that we have had the use of large numbers of merchant steamers, which were admirably adapted to all of the purposes of blockade, but which would be comparatively worthless as war vessels against a great naval Power. Our present war has been against belligerents who were almost entirely destitute of ships, seamen, and naval resources. The light-draught, light-built steamers with which we have so well kept up the blockade upon the southern coasts, would be but a slender resource to us in case of a war with England or France. In such an event we should be constrained to rely upon vessels built for war purposes with heavy armaments, and, in a great measure, upon iron-clad ships and floating batteries. Upon this last proposition it would seem that there could now be no further controversy. The experience of the past few months has fully demonstrated not only their practicability, but their absolute necessity. No country can hereafter hold a respectable position among maritime nations without a reasonable amount of iron ships in her navy, and, in my opinion, no nation will hereafter be able to successfully defend her coasts against foreign invasion without the use of iron floating batteries. A very important question, then, presents itself for our solution, namely, where can such iron vessels be advantageously built, and where can we best accumulate materials, machinery, and appliances for their use, when the great necessities of war shall be upon us? That we must have such an accumulation of material and such an organization of means for the production of such defenses, is unquestioned. The Secretary of the Navy, in his letter of the 9th of June, calls the attention of Congress specially to this matter. He says:

"It is not the part of wisdom to close our eyes to the progress of events, nor to evade the responsibilities that properly belong to us. The creation of a new and different Navy, such as the development of science and art already demonstrates as a necessity, calls for vigorous measures and prompt and energetic action. The Government should not, in justice to itself, be dependent on private establishments for its most important and expensive works, but should rely upon itself. Great works, however, require time in their preparation, and lavish expenditures cannot hasten them. Congress has been liberal in its appropriations for building vessels, but these appropriations cannot be made available in obtaining the proper locations and mills, forges, furnaces, and shops, all of which are requisite, and which, to be secured properly, need time and careful consideration.

"If the money for these purposes be now appropriated, we shall commence, under as favorable circumstances as any nation, the construction of a Navy adapted to the wants of our country and the times. No nation can have an advantage over us if we avail ourselves of our means and opportunities; and it is no longer doubtful that our future safety and welfare are dependent on our naval strength and efficiency. It is a duty, as well as a necessity, that we make these United States a great naval Power. We owe it to ourselves to commence at once this work; and the present Congress should, in my opinion, take the preliminary steps at the present session for laying the foundation for the construction of a Navy commensurate with the wants and magnitude of the country. The place or places, the shops and tools, and other appurtenances for this great work, must be provided in season. The experience we have had admonishes us not to permit a war to come upon us unprepared: yet such an event may be pending, and the responsibilities and calamities that would follow neglect should be a warning for us to be prepared. No amount of money would repair the wrong that might be inflicted from present neglect. A million or two of dollars, judiciously expended at the present time, may save hundreds of millions and the honor of the nation after hostilities shall have commenced."

Mr. President, these are wise suggestions, and we would do well to heed them.

The policy of civilized nations, in their dealings with each other, is dictated principally by facts relating to geographical position and commercial interests. We have not been compelled to maintain an Army corresponding to those of European nations, only because of our remoteness from that continent and the inability of either of those nations to support an army so far as we are from the center of their supplies. On the ocean our jurisdictions adjoin and become concurrent. Causes of grievance will constantly arise, as they have arisen, but we shall no longer have that great pacificator denominated "king cotton" between us to settle our differences. The days of American cotton as a political power are numbered and finished. Hereafter we shall stand like other nations, able only to maintain and enforce peace by the magnitude and completeness of our preparations for war, and that a naval war. This nation never need fear any hostile military force on this continent. The warlike developments and the military tendencies shown by our people during the last twelve months ought to satisfy us of that. It is upon the water that we must prepare to meet our foes. These preparations must be, not in the building of ships alone, but in our ability to build or repair them speedily and in safety when the emergency arises.

Now, what are our means of preparation and supply in the event of a war with a first-class naval Power? The Secretary of the Navy tells us that "it is doubtful whether either of our present navy-yards is adapted to the purposes indicated" by his letter; "but if so, they will require considerable enlargement;" and he asks Congress "to give authority to designate and procure one or more suitable locations." He is alive "to the necessity of making provision for ourselves by providing the means and conveniences for building and repairing a Navy such as the strength and character of our Government and country require, in order to maintain its true position among maritime Powers;" and he tells us that we have not those means now. I agree with him entirely. We have none of the requisite conveniences for building and maintaining such a Navy as the safety and honor of the nation require.

I ask the attention of the Senate a few moments while I contrast the facilities of the navy-yards of the United States, for building and repairing vessels of war, with those of France and Great Britain, our great rivals for the commerce of the world, and the only Governments from which danger may, therefore, be apprehended. Great Britain has at

1. *Deptford*, on the Thames, a navy-yard containing an area of thirty-eight acres, with a wharf front of seventeen hundred feet. In this yard are five building slips with iron roofs, two dry docks, one of which is double, and a wet dock or basin of two hundred and sixty by two hundred and twenty feet. It is provided with storehouses of various descriptions of immense capacity, and adjoining it is the victualing yard with a river front of ten hundred and sixty feet, and containing a superficies of nineteen acres.

2. *Woolwich*, on the Thames, has an area of fifty-six acres, and has a river front of three thousand eight hundred and forty feet. In this yard are eight building slips, three dry docks, and two large wet basins. The conveniences for building are very great, the yard containing immense rope-walks, steam-engine factories, foundery, boiler shops, saw-mills, rolling-mills, &c.

3. *Chatham*, on the river Medway, has a river wall of five thousand feet, and a surface of ninety-five acres, besides the island of St. Mary's, which adjoins the yard and contains two hundred and eighty-four acres. In this yard are four dry docks and ten building slips, two of the latter covered with iron roofs. The rope-walk at this yard is very extensive, employing two hundred and fifty men constantly. The storehouses, shops, foundries, and timber docks, are of the most complete character and of immense magnitude.

4. *Sheerness* has a surface of fifty-seven acres, has one building slip and five dry docks; a wet basin five hundred and twenty by three hundred feet, with an area of three and a half acres, a capacity sufficient to contain ten ships-of-the-line. Three of the dry docks open into the wet basin. The building slip is covered with zinc, and the storehouses and workshops at this yard are fireproof, with iron beams.

5. *Portsmouth*, in the Channel, is the most complete of British dock-yards. It has a surface of one hundred and fifteen acres, with a front wharf wall of three thousand nine hundred feet. There are seven building slips, of which five are covered with iron roofs, and nine dry docks. There are two wet basins, one of three hundred and eighty by two hundred and sixty feet, furnishing an area of two and one third acres, and into which four of the dry docks open; and one wet basin two hundred and fifty feet square. There is also a slip of six hundred and sixty feet long, with a wharf wall on each side.

6. *Plymouth*, in the Channel, sometimes called Davenport, contains ninety-two acres, with a wharf wall of three thousand five hundred feet. In this yard there are six building slips, five of them covered with iron, and five dry docks. There is here a wet basin of three hundred by two hundred and eighty feet; a canal or slip, with wharf walls on each side, from which transports can discharge or take in cargo, and five piers projecting into the river, alongside of which vessels of war can lie. Adjoining this yard is the Keyham steam factory, a Government work, having a water front of thirteen hundred feet, a wet basin six hundred and thirty by five hundred and sixty feet, another in progress of seven hundred by four hundred feet, and three dry docks.

7. *Pembroke*, at Milford Haven, has an area of

seventy-seven acres, a water front of two thousand three hundred and fifty-six feet, one dry dock, and fourteen building slips, of which six are covered with iron. This is one of the principal building yards of Great Britain.

Besides the seven yards I have enumerated, there are conveniences belonging to the British Government for building and repairing vessels at Deal and Yarmouth, though they are only used in time of war. They have also the same facilities at Gibraltar, at Malta, where there are a dry dock and factories of various kinds sufficient for their Mediterranean squadron, Bermuda, Bombay, Ascension, Antigua, Jamaica, Cape of Good Hope, Trincomalee, and Hong Kong.

The French navy-yards are of even greater size and capacity than the English.

Cherbourg has an area of two hundred and fifty-six acres, with twelve building slips, seven dry docks, and three immense wet basins.

Brest extends on each side of the river for the length of about three miles, has an area of one hundred and thirty-one acres, with eleven building slips, and six dry docks.

L'Orient has a surface of about two hundred acres, sixteen building slips, and two huge dry docks.

Rochefort has an area of three hundred acres, extending on both sides of the river, with ten building slips, and three dry docks.

Toulon has an area of two hundred and forty acres, twenty building slips and eight dry docks.

At *Indret*, on the Loire, the French have an immense establishment for making steam machinery for the navy, and building iron vessels, but it is carefully kept from inspection by foreigners, and hence but little is known of it.

At *Dunkirk* they have a wet basin and building slips.

At *Havre* two building slips,

And at *Bayonne* several building slips and a basin, which are only used in time of war.

Let us now turn from these magnificent establishments of France and England to the pigmy navy-yards of the United States. We have upon the Atlantic coast six yards, including the one at Norfolk, now destroyed, besides one at Pensacola, also destroyed, and one on the Pacific coast at Mare Island, which is in a very incomplete condition.

The yard at *Portsmouth* embraces an area of sixty-three and one eighth acres—four and seven eighths acres require to be filled to make it available. Being on an island, it can furnish about one thousand feet of water front, has one floating dock and three building slips.

The *Boston* (Charlestown) yard has a surface of eighty and three eighths acres, sixteen and one eighth acres of which are marsh and accretions, and unavailable, and a frontage of only about six hundred feet that is of any value. This yard has one stone dry dock and three building slips.

The *New York* (Brooklyn) yard has an area of eighty and one quarter acres, and thirty-nine and five eighths acres which are flats which require to be filled up, making an aggregate of one hundred and nineteen and seven eighths acres. This yard has an available frontage of twelve hundred feet, one stone dry dock and two building slips.

The *Philadelphia* navy-yard has a surface of only fifteen and three eighths acres, one and one eighth acre of which requires to be filled to make it useful to the Government. Here are a floating dock, two building slips, and a water front of about six hundred feet.

In *Washington*, the yard has an area of forty-one and seven eighths acres, one and seven eighths of which is marsh; a useful frontage of nine hundred feet on the water, two building slips, and no dock of any kind.

The yards at Norfolk and Pensacola are almost wholly destroyed, and whether rebuilt or not, should be left out of the account of our available resources in the way of docks, slips, machinery, supplies, and means for maritime defense. But let them stand with Mare Island, against Havre, Dunkirk, and Bayonne, in France, and Keyham, Deal, Yarmouth, Gibraltar, Malta, Bermuda, &c., of Great Britain, and the comparison will be as follows: England has an area within the seven principal navy-yards on the British isles, of five hundred and thirty acres, and including the island of St. Mary's, eight hundred and fourteen acres, with a wharf frontage, not including slips, canals, and artificial basins, of twenty-four thousand one hundred and ninety-six feet, or nearly five miles; forty-one building slips, twenty-nine dry docks, and seven immense wet basins. France has an area within her five principal navy-yards, of eleven hundred and twenty-nine acres, between ten and twelve miles of wharf front, seventy-five building slips, and twenty-six dry docks. We have in our remaining navy-yards an area of two hundred and eighteen and one eighth acres, an available water frontage of only four thousand three hundred feet, twelve building slips, and four dry docks, two of which are comparatively worthless.

Such are our meager facilities for building and repairing wooden ships; and for building or repairing iron ships we have no facilities whatever anywhere.

The contrast between the United States and Great Britain or France, in the number of shops, founderies, storehouses, and amount of materials on hand, adapted to naval construction, is even greater than in the extent of yards, frontage, slips, docks, and basins.

It needs no argument to convince the most skeptical, who will examine these figures, that our preparations for war are not such as they should be, and that the Secretary of the Navy acted wisely when he reminded us of the necessity of "making the necessary provision for ourselves, by providing the means and conveniences for building and repairing a Navy such as the strength and character of our Government and country require, in order to maintain its true position among maritime Powers."

The bill under consideration authorizes the selection of League Island, in the Delaware river, for the purposes of a navy yard, and looks to the abandonment and sale of the present yard in Philadelphia. It is proposed to erect on this island the necessary works for rolling plates and building iron vessels. The whole argument in favor of this proposition is thus summed up by the Secretary, and to which I can add nothing:

"The Government has several large navy-yards for building ships; and the introduction of steam—which is necessary for, and made applicable to, all naval vessels now constructed—has compelled it to erect extensive shops for making steam machinery. But these shops are inadequate to the wants of the Navy, and for some years it will be necessary under any circumstances to contract for much the larger portion of the work that will be required.

"It is now generally conceded that vessels for fighting purposes must be heavily plated with iron, if they are not built entirely of that material. In this, as in most costly fabrics, economy is reached through durability. Iron shipbuilding is new in this country; but few persons are engaged in it, and it is a novelty in our navy-yards. Heavy iron beams, shafting, and thick iron plates, can be procured from only two or three parties, and then in limited quantities, and subject to great delay. Individuals have little use for iron of such magnitude as the Navy must have, and there must unavoidably be great outlay to prepare for the execution of such work. With only the Navy for a purchaser, there can be no competition, and the Government will be compelled, under such circumstances, to pay almost any price the mills and forges may demand. No inconsiderable portions of an iron ship can be made and procured at the ordinary mills, and, so far as it can be done, it may be the best policy to be so supplied; but the heavy and expensive portions cannot be so procured, and unless the Government is prepared to execute the work, it will be subject to imposition, and its vessels to marked inferiority."

The capacity of our present yards is wholly inadequate to the erection of the contemplated works, unless one of the largest shall be entirely abandoned for the purpose for which it is now used, and that will be unadvisable. No one believes that iron vessels will entirely supersede wooden ones. Our cruisers will continue to be principally built of wood, and their ports of departure will be New York, Boston, and Portsmouth. At those ports they will be built and repaired. It has been the policy of all Governments, and it ought to be our policy, to make different yards its principal manufactories and depots of certain articles, as of cordage at one, anchors and chains at another, ordnance at another, wooden ships at another, and iron vessels at another. For the manufacture of the latter class of vessels, League Island possesses peculiar advantages, and of those I propose now to speak. The advantages of this position for the purposes for which it is particularly desired are, in my opinion, unsurpassed by any other on the Atlantic or Gulf coasts.

1. It contains the requisite amount of land. There are on the island four hundred and nine acres of what is called "fast land," being high, dry, and tillable, susceptible of use without embankment or other preparation; one hundred and twenty-four acres of marsh land east of Broad street, and sixty-seven acres west of Broad street, embracing in the aggregate an area of six hundred acres, or more than five times the area of the largest of our present navy-yards, and twice the size of the largest yard in Europe.

2. The island possesses the necessary amount of frontage upon the water, which is a most important consideration, and the want of which is one of the great defects of all our present yards. The water front of the island will extend six miles, furnishing room for mooring in safety all the vessels in our present Navy, and all we shall be likely to have for many years to come. The sum of money to be saved in warping vessels in and out of slips when a change in their positions may be necessary, and in wharfage and rent of docks, where private property is used, will be very great in the course of a single year, and, of course, greater in the lapse of time and the necessary additions to our Navy. By possessing an expansive frontage workmen, materials, and stores, can be placed on board at the wharf, instead of being put on board of tenders and transported into the stream, as is required to be done at all of our yards where there is an insufficiency of frontage, as there is in a peculiar degree at the Philadelphia yard at the present time.

3. There is an abundant depth of water for all of the purposes of Government. Along the outer shore of the island, near to its edge, and for more than three miles in length, there is a sufficient depth of water to float the largest class of war vessels.

4. The greatest advantage of this location, and that which, taken in connection with the frontage and depth of water, places it far beyond any rival, is the fact that the yard would be in water wholly fresh. It is a well-known fact that iron corrodes and decomposes in salt much more rapidly than in fresh water, and hence that the endurance of an iron vessel, when either in service or laid up in ordinary, is much greater in fresh than in salt water. Nor is this all. Iron vessels when exposed to the action of salt water for a considerable period of time, and especially in warm climates, become foul by the accumulation of marine crustacæa, thus not only lessening their speed and injuring the vessels, but requiring them to be taken into dry dock to be scraped. As an illustration of this fact, the iron blockading vessel South Carolina, after a service of nine months in the Gulf of Mexico, had her speed reduced by the accumulation of barnacles, sea-weed, and other marine nuisances, from twelve to six knots an hour, requiring her to be sent north to be cleaned. Had the Philadelphia navy-yard been in a condition to receive her, and complete her other necessary repairs, her passage through the fresh water of the Delaware river from Newcastle, which is practically the limit of the salt water, would of itself have cleared her bottom of those impediments as perfectly as it could have been done by mechanical means.

It is hardly doubted by any one that iron vessels are hereafter to constitute our principal reliance for harbor defense. It will unquestionably be the policy of the Government to keep these vessels, when not required for active service, in some secure place where they will be as little liable to decay as may be, and where the largest possible number can be put in repair and dispatched to the threatened points at the shortest notice. Experience may show the necessity or economy of keeping such vessels in dry slips, in which case the capacity of this island will by no means exceed the necessities of the Government. Should it be otherwise, and should it be deemed advisable to dismantle and moor them in wet docks in time of peace, the value of League Island for a naval station may be more correctly estimated when I say that it is the opinion of naval officers and of scientific experts that an iron vessel will last more than ten times longer in fresh than in salt water. The United States iron steamer Michigan was built in 1844, has been in continuous service in the fresh-water lakes of the North eighteen years, and has had no repairs to her hull, which is apparently as perfect as it ever was. In salt water her bottom would probably have been destroyed ten years ago.

5. The proximity of the island to a large maritime and manufacturing city is one of its greatest advantages for a naval station. Whenever an

extra force of mechanics or seamen are required, or an extra supply of naval stores needed, they can be procured at short notice and at no extra expense. It is well known that whenever such extra force was required at the southern yards, neither of which were near a large industrial population accustomed to such labor, the cost of procuring the necessary craftsmen was much greater than at Charlestown, Brooklyn, or Philadelphia. The men had to be transported at Government expense, extra wages were demanded, and the laborers in almost every instance were clamorous to be retained permanently because of alleged loss of situations at home. Nor could sailors be procured at those yards in an emergency, except by sending to the northern cities to recruit, always an expensive process, and generally consuming weeks of time, the value of which could not be computed in money. The great advantages of a Government establishment of this kind in proximity to a large mechanical population, whose leading pursuit is the fabrication of iron in its various forms and for its numerous purposes, cannot be over-estimated.

6. Another consideration of the highest importance is the susceptibility of League Island for perfect defense against foreign invasion or domestic insurrection. The channel of the Delaware, although affording a sufficient depth of water at all times, is so narrow and tortuous for a distance of one hundred miles above its mouth that a ship in the hands of any other than an experienced pilot, especially with the buoys removed, would have the greatest difficulty in reaching Philadelphia at all. If the present defenses should be considered insufficient, a single martello tower on the edge of the channel, mounted with an iron turret like that of the Monitor, would command the approach to the island from the sea more completely than Fortress Monroe commands Hampton Roads or Fort Sumter the harbor of Charleston. A succession of such towers would cost less than any one of our large coast fortifications. So far as stationary defenses may be relied on, there can hardly be any system more efficient than this. The island is even more susceptible of defense against a domestic insurrection, being cut off from the Pennsylvania shore by a deep natural moat fifty feet in width. No assault could be made upon it except by vessels, in which, of course, the Government would have such a superiority that no attempt to capture the yard would ever be hazarded, even if we suppose that the materials for an insurrection of that kind would ever be found in the vicinity of Philadelphia.

7. The accessibility of coal and iron commends League Island very strongly to our favor. Situated at the junction of the Delaware and Schuylkill rivers, it is the natural *entrepôt* of the whole anthracite coal trade of the United States. The steam power necessary to the maintenance of a modern navy is here obtainable at the smallest cost. Pennsylvania, if not possessing the largest iron resources to be found in the country, certainly has those resources in by far the highest state of development and in close proximity to the sea-board. Philadelphia is the great ironmongering metropolis of the country. Her furnaces and shops are numbered by hundreds, her artificers by thousands, and her capital invested in the production of iron by millions.

8. The island is below the bend in the Delaware, and hence mainly out of danger from ice gorges, from which the present yard suffers to a considerable extent; and yet it should be remarked that the river Delaware is seldom closed by ice—the only point on the Atlantic where fresh water can be obtained that is not closed two or three months in the year.

9. It is to be observed also that the insular position of the proposed yard will effectually estop corrupt speculations in real estate, so far as the Government property is concerned. It will be impossible for jobbers to besiege Congress with any degree of plausibility or hope of success to buy the adjoining lots at fabulous prices, and I can hardly conceive of any other than an insular position which will debar the tribe of speculators and lobbyists from all chances of successful assault upon the Treasury.

10. The selection of this site for a navy-yard will save to the Government just the sum at which the present yard in Philadelphia can be sold, the estimated value of which is $1,800,000. That we must have a yard at which iron vessels can be built is, I think, admitted. Were it established at any other place than Philadelphia, the yard at that place would be continued, with its officers and large annual expense. Established on League Island, the present yard would be vacated and sold, and the cost of keeping up the present establishment saved. The price that could be realized for it would nearly equip and complete the yard on the island.

The city of Philadelphia has purchased League Island, with all its riparian rights and privileges, at a cost of $309,000, and tendered it to the Government for naval purposes. Of course the city expects to be, and ought to be, greatly benefited by its acceptance. It will be benefited by the enhanced value of the corporation property in the vicinity of the island bequeathed by Stephen Girard; by the laying out of streets through the present navy-yard; by the increase of deep-water dockage for commercial purposes; by the valuable property added to its assessment lists for taxation; and by the large mechanical establishments that must be developed on the island. All this is legitimate and proper. Other things being equal, the money of the Government should be expended so as to strengthen and benefit the largest number of citizens possible. But, while Philadelphia will thus be greatly aided in its prosperity, the advantage to the Government by this selection will be far greater than at any other place. When I consider the capacity of the site—its insular position, the character and depth of the water by which it is surrounded, its susceptibility of defense, its proximity to a large mechanical population and commercial city, its proximity to the great coal and iron fields of Pennsylvania, and the economy of substituting this for the old yard, I have no hesitation in saying that I know of none, and I have heard of none, on this continent, that can fairly come in competition with it as the great *iron navy-yard of the United States.*

CONFISCATION OF REBEL PROPERTY.

The PRESIDENT *pro tempore*. The morning hour having expired, the consideration of this bill is superseded by the special order of the day. The special order is the bill (H. R. No. 471) to confiscate the property of rebels for the payment of the expenses of the present rebellion, and for other purposes. The pending question is on the motion of the Senator from New Hampshire, [Mr. CLARK,] to strike out all after the enacting clause of the bill, and insert the substance of the bill reported from the select committee of the Senate. Both these propositions are now before the Senate, as in Committee of the Whole, for consideration, and both are open to amendment for the purpose of perfecting them before the question shall be taken on substitution, or on striking out and inserting. Upon this question the Senator from Delaware [Mr. SAULSBURY] is entitled to the floor.

Mr. SAULSBURY. Mr. President, nearly sixty years ago, when Napoleon was at the zenith of his power, M. de Châteaubriand penned these words:

"When, in the silence of abject submission, we hear only the chains of the slave and the voice of the informer; when all tremble before the tyrant, and it is as dangerous to incur favor as to merit disgrace, the historian appears to be charged with the vengeance of nations. It is in vain that Nero triumphs. Tacitus has been born in the empire; he grows up, unnoticed, near the ashes of Germanicus, and already uncompromising Providence has handed over to an obscure child the glory of the master of the world."

Sir, let the wicked imitators of the cruelties of the bloody Nero, and the oppressions of the haughty emperor, ponder well the utterances of Châteaubriand. History has not only a voice, she bears a scourge. Some future Tacitus shall yet do justice to the genius of our free but violated institutions, and transmit, embalmed in merited and everlasting infamy, for the execration of future generations, the names and actions of those who, charged with a nation's weal, have produced a nation's woe. If, in anticipating to some extent to-day the historian's task, I shall speak plainly, and with somewhat of unwonted feeling, a deep sense of duty to my countrymen will constitute my full justification.

The times are sadly out of joint. Ruin and destruction lie immediately in our pathway. The passions, not the judgment of men, control their action. The fondest hopes of the patriot may in a moment be forever blasted. Whether even now it is possible to escape final and irretrievable shipwreck is a problem which the wisest are unable to solve. It is time, high time, that the representatives of the States and of the people should cry aloud and spare not. It is time that the American people should arouse themselves from the lethargy that enervates and the false security that deludes them. Born to an inheritance of freedom, they should not passively submit to be slaves. Unless they mean to shame a noble ancestry, and bequeath a name of infamy to their posterity, they should at once awake to the dangers of the present, and provide against the foreshadowed calamities of the future. Arbitrary and despotic power, not satisfied with trampling upon every constitutional right of the citizen, has profanely dared to invade the temple of justice, and dragged her minister from her altar. He who invades the sanctuary of justice and interrupts the due course of its administration proves himself a tyrant capable of any assaults upon the liberties of the people. That people are madly blind who, witnessing such acts of usurpation, fail to demand with more than baron-like firmness the reaffirmance of the *Magna Charta* of their liberties.

Under the pretense of suppressing a causeless rebellion, the executive and legislative departments of this Government are, in my opinion, daily engaged in the grossest violations of the fundamental law. If in times of peace the Constitution is the surest protection of the citizen, in time of civil war it is his only hope of safety. When skies are clear, when seas are calm, and winds are lulled, the mariner treads with unconcern the deck of his ocean home. It is only when waves run high and skies are dark and tempests howl, that with unfaltering grasp he trusts the helm to guide him safely through the storm. Sir, darkness and night have set in around us as a nation. Would that "the night were far spent and that day was at hand." But alas! the watchmen can give no signs of promise. The hope of the most hopeful begins to fail him, and a nation is solemnly inquiring whether it must not cease to be. Sir, I propose to-day before the tribunal of my countrymen to make solemn and impartial inquisition of blood. Who are they that have murdered constitutional liberty and destroyed our Federal Union? Day after day, since this session has commenced, false teachers have uttered their sayings, and false prophets have prophesied to the people. Making wide their political phylacteries, they stand in the chief places of the political synagogue that they may be seen and heard of men.

Having deliberately chosen, by the rejection of every honorable and peaceful mode of adjustment, the arbitrament of the sword, they have plunged the country into all the horrors of civil war, and now that the work of their hands is upon them, they shout aloud their devotion to the Union, and evidence their sincerity by attempting the destruction of the liberties of the people. They even assume to sit in judgment upon the motives and action of those who have independence enough to condemn, and love of country enough to resist, the consummation of their schemes for the permanent severance or destruction of the Federal Union. With pharisaical coolness they stand in the public places and impiously thank God that they are not as other persons are, or even as those who will not join them in their ruthless war upon the Constitution of the country. Measures grossly and palpably unconstitutional are deliberately presented for adoption, and he who questions their propriety, or refuses his support of them, is, according to their standard of judgment, either indifferent to the country's interests or traitorous in design against them. It is my purpose, in part, to-day, to strip assumption of its false pretensions, and to expose to public view the real authors and abettors of my country's ruin. They strut the hour, dressed in a little brief authority, but the great day of judgment is at hand, and fortunate for many of those whose administration of office and power has been characterized by cruelty and injustice, if there shall be found hiding places amid the rocks and mountains in which they may shelter from the popular storm. From my place in this Council Chamber of the nation I say to my countrymen that it is my deliberate and solemn conviction that either abolitionism or constitutional liberty must forever die. The two cannot exist together. Abolitionism has for the time being dissolved the Union. While it lives and

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rules, the Union will remain dissolved. No free people either will or ought to submit to its sway. It is the prolific mother of all our national woes. Until it entered our political Eden, we did eat of the pleasant fruits of the tree of liberty and were content. It came, and with it death.

A little more than seventy years ago, the people of thirteen separate and independent States entered into an agreement, made a compact, formed a union, the terms of which were plainly and distinctly evidenced in writing, which writing they denominated a constitution of government. By their valor in the field they had forced an acknowledgment not of their collective, but of their separate independence. They had been separate not united colonies of Great Britain, and although, when the latter attempted to coerce the colony of Massachusetts into obedience to the exercise of arbitrary power, all the others united with her in her defense, and afterwards continued united for purposes of common defense against a common oppressor until oppression had been overcome and independence achieved, yet none of them at any time or for any purpose yielded up its separate and independent position. By the first article of the treaty of peace in 1783, Great Britain, distinctly recognizing each of her original thirteen colonies by name, as distinctly acknowledges each to be a free, sovereign, and independent State, and treats with them collectively as such. As such separate and independent States allegiance was due to each of them from their respective citizens. Each possessed all the attributes of independent sovereignty, and had full power and right to make treaties and form alliances with any or all other nations of the earth. In a word, each had the right to do all acts which a free and independent nation might of right do. For purposes of common convenience and interest they entered as independent States, each with the other, into Articles of Confederation.

In 1787, for the purpose of forming a more perfect union between them, these separate, independent, and sovereign States appointed delegates to a common convention, to consider and agree upon terms of union for purposes common to them all, subject, however, to their separate ratification and approval. The approval of a majority of all the people of these States could not make the agreement of the delegates a constitution for all or any of them. It required the separate approval of each separate State to make that agreement its constitution. When nine States had thus separately ratified this agreement, it became their Constitution, but not the Constitution of those States which had not given it their assent. The smallest of the States was the last to yield that assent, and until that assent was given, she was to the others as a foreign State. In the formation of this agreement, contract, compact, or Constitution of Union, the representatives of the several States encountered many and some almost insuperable difficulties. These were occasioned by supposed differences of State and sectional interests. Harmony and union could only be secured by concession and compromise. Representation and taxation were subjects of difference. The domestic relation of master and slave was another. These, however, with others, were happily adjusted. No one was mad enough then to propose emancipation of slaves as a condition of Union. The representatives from those States now most clamorous for emancipation were the most anxious for the continuance of the slave trade. To satisfy them, the African slave trade was legalized for a period of twenty years. To render the master secure in the possession of his slave, it was provided that—

"No person held to service or labor in one State, under the laws thereof, escaping into another, shall, in consequence of any law or regulation therein, be discharged from such service or labor, but shall be delivered up on claim of the party to whom such service or labor may be due."

To compensate for this pledge of security to slave property, it was provided that—

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

It was further provided in said Constitution, that "new States may be admitted by the Congress into this Union," and as the States forming the Constitution were in all respects equal, the just, fair, and only inference to be drawn from this provision is that such "new States" were to be admitted on terms of perfect equality with the original States. The purposes inducing the formation of the Constitution were, as therein stated, "to form a more perfect union, establish justice, insure domestic tranquillity, provide for the common defense, promote the general welfare, and secure the blessings of liberty to ourselves and our posterity." The Government thus formed was clothed with ample powers, but it could exercise no powers not delegated in the instrument creating it, for it was expressly provided that "the powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people." The application of these principles to the bill under consideration will hereafter appear. A Federal, common Government, with delegated and strictly-defined powers, having thus been established, the fondest hope of the patriot was at last realized. He looked forward in exultant hope and saw in the not distant future a mighty people, with a domain extending from lakes to gulf and from ocean to ocean, attracting by the free spirit of their institutions the wanderer from every clime, and commanding by their justice and power the admiration and respect of the whole civilized world.

For more than thirty years this people were contented, happy, prosperous, free. They had not listened to the teachings of a false philanthropy, nor yielded to the suggestions of those governed solely by motives of personal ambition. The fathers lived, and while they lived plighted faith was observed and national honor was maintained. To carry into effect that compromise of the Constitution without which even Justice Story admits the Constitution could not have been formed, they passed the first fugitive slave act in 1793, which received the approval of the Father of his Country, as President of the United States. New States were from time to time admitted into the Union, from the time of its formation until 1820, with or without slavery, according to the free choice of their citizens. Vermont, Kentucky, Tennessee, Ohio, Louisiana, Indiana, Mississippi, Illinois, Alabama, and Maine, were so admitted. In 1819, the people of Missouri applied for admission into the Union. Their constitution recognized the relation of master and slave. It was then that political abolitionism attempted to deprive the people of a State of admission into the Union unless they would surrender the dearest constitutional right of American freemen—the right to form and regulate their domestic institutions in their own way—and consent to have those institutions formed and regulated by others. The controversy convulsed the nation, and threatened with destruction the best and freest Government on earth. To escape that destruction, an ignominious and unconstitutional condition was extorted from the patriots of that day, which has had, in its effects and consequences, much to do in involving us in the unhappy condition in which we are now placed. This was the first installment of abolitionism towards our country's ruin. The storm passed by, and abolitionism slept, but was not dead.

From 1838 to 1844 it again disturbed the peace of the country by its repeated appeals to Congress to abolish slavery in the District of Columbia and in the national dock-yards and arsenals. About the same time it clamored against the admission of Texas into the Union until that people would consent to mold their domestic institutions to suit its vitiated taste. We acquired our possessions from Mexico, and true to its instincts for political mischief, it convulsed the land and threatened the Government with destruction unless slavery should be by act of Congress excluded therefrom. The fugitive slave law was amended so as to enable the master to reclaim the possession of the fugitive from service and labor, as was his unquestionable right under the Federal Constitution. Abolitionism resisted, and by force, the execution of that law, and in many States attempted to nullify, and practically did nullify it, by opposing unconstitutional State legislation denominated personal liberty bills. In every instance from the foundation of the Government it had been aggressive. Political parties, yielding to its influence to gain a temporary advantage, were first corrupted and then destroyed by it.

In 1856 a new party arose, many of whose members were honestly opposed to political abolitionism, but her votaries thronged its conventions, made its platforms, and nominated its candidates for office. Passing by the distinguished men who gave to it their adhesion, they nominated for the first office in the nation a political adventurer, and declared a general war upon what they were pleased to term "those twin relics of barbarism, polygamy and slavery." They emerged from the conflict defeated, but surprised at their almost triumphal success. Gaining control of almost if not all the State governments in the North and Northwest, they directed their legislation and inflamed the minds of their people against the institution of domestic slavery. Their representatives thronged the Halls of Federal legislation and clamored for emancipation. Abolition petitions flooded the country and loaded your tables. An abolition press debauched the minds of the people, and abolition orators inflamed their passions by reciting to them the horrors of slavery among a distant people. This fanaticism and wickedness culminated in the attempt by abolition emissaries to invade a slaveholding State, for the purpose of stirring up a servile insurrection, and in murdering, with the assistance of their free negro associates, peaceful citizens in the stillness of a Sabbath's night. Abolitionism howled in rage at the failure of his hellish scheme, and declared his execution a judicial murder. Abolitionists followed him to his grave, and a leading saint proclaimed that the gallows upon which he expiated his crimes was by his death rendered as illustrious as the cross upon which the Saviour died. Thus again, continuously and persistently, has abolitionism been aggressive.

In 1860 the Republican party, in a natonal convention, composed of men some of whom were not and some of whom were abolitionists, adopted a platform aggressive in its character, in which they, among other things, declared their intention to prohibit the admission of any more slave States into the Union, and also an intention to exclude slavery from the common Territories. Upon this platform they nominated for President of the United States a man who had previously proclaimed in substance, in allusion to the States composing the Federal Union, "that a house divided against itself cannot stand, that either all the States would become free or all slave, and that the agitation of slavery would continue until the public mind could rest in the assurance that it was in the course of ultimate extinction." He was elected. Then it was that the clouds gathered darkness, and the howlings of the coming storm were distinctly heard in the distance. Wise men, good men, saw those clouds and heard the mutterings of that storm. The opposing elements of political discord were brought face to face in the Council Chamber of the nation. The representatives of the South demanded guarantees that their constitutional rights should be respected and observed in the future. The representatives of the North refused to give them. A venerable Senator [Mr. CRITTENDEN] who had been almost a cotemporary with the fathers, yet lingered beyond his years among their children. He offered in his place in the Senate a compromise honorable to all, derogatory to none, guaranteeing rights which had solemnly been decided by the highest and final legal tribunal to exist under the Constitution. The representatives of the South were willing to accept them. The people of the North, by their petitions, requested you to accept them. You refused, and

your refusal produced war, deadly war, civil war, remorseless war; war the end of which the wisest cannot foresee, but which threatens to end only in the overthrow of the nation and the destruction of the liberties of the people.

When I say that your refusal to adopt the Crittenden compromise measures produced war, I do not mean to say that this Government struck the first blow. I mean to say that you knew, were assured, had reason to believe, and, in my opinion, *did* believe, that war would result from your refusal; that you had it in your power by honorable compromise to prevent war, and that you deliberately chose war in preference to averting it by compromise. A number of the southern States assumed to withdraw from the Union. They confederated together and established an independent government. They organized a military force, seized upon the forts and arsenals within their limits, and failing to receive a recognition of their independence by the Executive, in apprehension that a feeble garrison at Fort Sumter might be reinforced, they demanded its surrender. Being refused, they fired the first gun, and thus precipitated war. Would that the hand that applied that torch had fell paralyzed and withered to the ground.

Mr. President, this inauguration of civil war might have been averted by the adoption of the Crittenden compromise. War followed its rejection. Let the responsibility rest where it properly belongs. History will record her verdict. Posterity will judge righteously. The attack upon Fort Sumter inflamed the passions of the nation. The President called for seventy-five thousand volunteers,

"They came as the winds come when forests are rended,
They came as the waves come when navies are stranded."

Congress met. He who would have proposed to avert the further calamities of war, or to have preserved the nation by any other means than war, might expect to be regarded as little better than a traitor. Men and money were profusely voted. Armies were marched into the field, and "on to Richmond!" was the cry. On towards Richmond they went, and the bloody field of Manassas evidenced their defeat. On the very day succeeding that battle, Congress unanimously passed the following resolution:

"That this war is not waged on their part in any spirit of oppression, nor for any purpose of conquest or subjugation, nor purpose of overthrowing or interfering with the rights or established institutions of those States, but to defend and maintain the supremacy of the Constitution, and to preserve the Union with all the dignity, equality, and rights of the several States unimpaired; and that as soon as these objects are accomplished the war ought to cease."

The nation took heart again. Seven hundred thousand volunteers went to the field. Every border slave State that had not seceded resolved to stand by the old flag and by the Federal Union. They sent their sons to swell your armies, and their bones whiten every battle-ground. Congress met in December. How have you kept your plighted faith? "Let facts be submitted to a candid world." You have abolished slavery in the District of Columbia without the consent of their owners and against their wishes. You have thus created a "paradise for free negroes," to which the slaves of loyal masters in Maryland escape by hundreds. When the owner applies to your courts for redress and they afford it, as they are bound to and as far as they can, you turn your military power against the marshal and prevent the due execution of legal process. You have made it an offense punishable by dismissal from the service for any officer of the Army to return a fugitive slave to his loyal owner. You have refused to make it an offense punishable in like manner for such officer to entice or decoy a slave from his loyal owner. You have through your armies decoyed from the service of their owners, loyal and disloyal, or afforded shelter and protection to them, thousands of slaves within the States. You are now feeding and clothing thousands of this class of people out of the public Treasury without warrant of law, and are levying taxes upon the white people of the country to enable you to continue the expenditure. You are now keeping at the public expense in this city a row of houses in which you support, without authority of law, hundreds of this class of people in idleness. You are paying thousands of negroes as teamsters in your Army at the rate of thirty dollars per month, while your white soldiers are fighting your battles for thirteen dollars per month. You are arming the slaves of the South and enlisting them in your Navy for the murder of their masters. You have, as far as this body could do so, repealed the law prohibiting free negroes from carrying the mail. You have legalized the testimony of a negro against a white man, and that of the slave which you have freed as against his master. You have, upon the recommendation of the President, attempted to build up an abolition party in the border slave States by the offer of pecuniary aid which you have neither the ability, constitutional authority, or intention to give. As if for the purpose of irritating and wounding the sensibilities of those whom you have already grievously wronged, you have chosen this as the most opportune time to establish diplomatic relations with the free negro republics of Hayti and Liberia. Instead of returning fugitive slaves to their owners, as by law you are bound to do, you have appointed a superintendent over them to prevent their return, and to provide for their comfort out of the taxes levied upon the industry of the country. Instead of avoiding unnecessary legislation in reference to the causes of sectional difference, you have prohibited the existence of slavery, not only in existing territory but in any which may hereafter be acquired. Lest the sincerity of your pledge should not otherwise be sufficiently evidenced, the Council Chamber of the nation is converted into a house of wailing over the wrongs inflicted upon the poor unoffending slave. You have by your bills proposed the emancipation of almost the entire slave population in the States, and the bill now before the Senate is to be amended, if possible, so as to accomplish that object. But I turn from the recital of these violations of plighted faith to a consideration of the principles involved in the measure now before the Senate.

In order to understand the character of the bill under consideration, the power of Congress to pass it, and the propriety of its passage, we must consider the nature of the conflict in which we are involved. Loose ideas prevail upon this subject Some have denominated the resistance of the confederate States sedition. The President considers it an insurrection, but it is most generally termed a rebellion. Sedition is defined to be "a tumult, an insurrection, a popular commotion, an uproar."

"That sunshine brew'd a shower for him,
That wash'd his father's fortunes forth of France,
And heap'd *sedition* on his crown at home."
"In soothing them, we nourish 'gainst our senate
The cockle of rebellion, insolence, sedition."

The term sedition, therefore, cannot in this instance be properly applied. An insurrection is a seditious rising, a rebellious commotion. Like sedition, it is the act of unorganized individuals. A portion of the people, without the forms of law, may make a sedition or insurrection against the authority of the State; but States and organized political communities cannot with propriety be said to be seditious or insurrectionary.

"Between the acting of a dreadful thing
And the first motion, all the interim is
Like a phantasma, or a hideous dream;
The genius, and the mortal instruments,
Are then in council; and the state of man,
Like to a little kingdom, suffers then
The nature of an *insurrection*."

Insurrections of base people are commonly more furious in their beginnings. (Bacon's Henry VII.) Neither is rebellion, in the popular sense, a proper term to describe the resistance of those States to Federal authority. Rebellion is resistance to lawful authority, but it is always the voluntary act of individuals, and never is applied to the organized action of political communities. We read and have heard of the whisky insurrection in Pennsylvania, and of Shay's rebellion in Massachusetts, but who ever heard or read of the American insurrection or the French rebellion. Sir, we are in the midst of a great political revolution or change of government, to which sovereign States, confederated together, not individuals, are parties on one side, and the Government of the United States is party on the other. This fact is necessary to be observed and remembered that we may have a clear perception of the character of much of our legislation, consummated and proposed. I shall assume what is conceded, conceded by the Senator from Vermont, [Mr. COLLAMER,] and also by the Senator from Pennsylvania, [Mr. COWAN,] that the government of the confederate States is a government *de facto*. Assuming this, which I think cannot be successfully denied, I propose to consider the question whether, under existing circumstances, all those who yield obedience to the government of the confederate States, by accepting and exercising office under it, or even by bearing arms in its support, can be rightfully regarded and treated as traitors by us.

This is a subject that should be approached with an honest and candid purpose, and its consideration freed as far as possible from all the passions and prejudices of the maddened hour. We can gain nothing before the great tribunal of the world, that of history, or, eventually, that of our own consciences, by self deception, by the adoption of false premises, or the application of false logic. I am aware, Mr. President, that the opinions I am about to express do not accord with the notions of many blatant patriots of the present times. There is not an Army contractor in the land who will not condemn them. There is not a public plunderer between the two oceans whose patriotism would not be shocked at them. There is not an abolition Union-slider, from Maine to California, that would not consider them heretical. But, sir, I speak to men of sense, and not to fools. I want the ear of honest Union-loving men, whose action in the past, as well as at the present, evidence the sincerity of their attachment to the Union. I have no message for those who are for a Union without slavery, but opposed to a Union in which slavery exists. Such miserable traitors deceive nobody by their cry of Union.

I believe that when a revolution is so far completed that a government *de facto* has become established, when the former Government is so far ousted that after having had a full opportunity it has shown itself unable to afford protection to its adherents in the revolutionary government, the duty of allegiance so far ceases that it would be unjust, and therefore illegal, to punish obedience to the commands of the government *de facto* as treason towards the Government *de jure*. It is a well recognized maxim that allegiance and protection are reciprocal. If the latter cannot be afforded, the former cannot be required. It is not, however, every temporary interruption of the one that will even proportionately dissolve the other. An insurrection or even a mob may for the time being overpower the civil authorities of a country without in any degree affecting the right of the lawful government to the allegiance of its citizens. But suppose that, after full time has been given to the protecting government to discharge its duty to the citizen, it has been found wholly unable to do so, does the reciprocal duty of allegiance remain in full force and forever? When a revolution is fully effected; when the old government is entirely ousted, and the new one firmly established, can those who yield support to the latter incur thereby the pains and penalties of treason against the former? Were those who recognized the government of Cromwell, and who actually took up arms in its defense, even as against the Stuarts themselves, justly liable to the penalty of having their bodies drawn and quartered, their property confiscated, and their widows and orphans beggared, when Charles II afterwards came to the throne? Even were such the stern rule of English law, I might ask, is it so here? Is it in consonance with the great principles of national justice and reason upon which our maxims of government are founded?

Monarchists sedulously inculcate the rule that the safety of the Government is paramount to every other consideration. According to them, it is better that the rights and interests, the life, liberty, and property of thousands of subjects should be sacrificed, than that the stability of the throne should be in the least degree affected. Passive obedience is the foundation of their whole system of government. No force of circumstances can justify a transfer of the allegiance of the people from him who rules by divine right. But with us—*salus populi suprema lex est*. Governments, according to our theory, derive all their just powers from the consent of the governed. There is no divine right in the ruling power. The Government is the servant of the people, the mere instrument to promote their welfare. In the Declaration of Independence, life, liberty, and the pursuit of happiness, are declared to be inalienable rights; and that "to secure these rights, governments are instituted among men, deriving their just powers from the consent of the governed; that whenever any form of government becomes destructive of these ends,

it is the right of the people to alter or to abolish it, and to institute a new government, laying its foundations on such principles and organizing its powers in such form as to them shall seem most likely to effect their safety and happiness." Nor have we been slow in affirming our implicit faith in this declaration of the fathers. Witness our prompt recognition of the independence of the South American and other republics. Kossuth, the unsuccessful revolutionist, was the nation's guest. Founded on principles and aiming at purposes so entirely different, our maxims of government must be expected to be shaped accordingly, and therefore, in many respects, to be wholly at variance with those of other nations.

As an example of this, I refer to the doctrine on the right of expatriation. It is an established rule, in most other countries, that the allegiance of the subject is perpetual, and can never be thrown off by his own act. He may have removed his domicil; he may have abjured his allegiance; he may have renounced all right to protection from his original sovereign; he may have united his fortunes and those of his posterity with another Government, and sworn allegiance thereto, but still the obligation imposed by birth remains in force. If taken in arms against his native country, though in support of that of his adoption, he is regarded as a traitor, and is liable to punishment as such. Nay, he may be seized by force, and compelled to serve his native sovereign in his fleet and in his armies, and may be treated in all respects as though his original allegiance had never been interrupted, changed, or diminished. At the cannon's mouth we have denied the exercise of any such right on the part of another nation over any of our adopted citizens. We are estopped from claiming for ourselves that which we deny to others. The law of nations, as understood in European monarchies, has therefore been essentially modified by us in this important particular.

The rule I am now considering is closely akin to that just stated, and rests on a similar basis. In fact, it may be said to have a more firm foundation. He who leaves his country and abjures his allegiance to his sovereign acts a voluntary part. He who is forced away from the protection of his native country by the current of events yields to necessity. Without any act of his own he finds himself subject to a power which he has no means of resisting, and that power, to all appearances, firmly established as one of the nations of the earth. To persist in allegiance to the Federal Government is to court inevitable destruction. He yields to the power he cannot resist. He acknowledges the *de facto* government. He swears allegiance to it. He accepts office under it, as did Hale and Milton under Cromwell, and as did thousands of our ancestors in the days of our own Revolution. He takes up arms in its defense. Is he a traitor, is he guilty of treason under any rule of law founded on reason and supported by justice? Does a just Government impose such conditions upon the loyalty of its citizens? If it is no sufficient cause of war for a foreign Power to acknowledge the independence of a *de facto* government founded on revolution, can a single individual, who has been driven by necessity to do the same thing, be punished as a felon therefor? Could they who accepted office under the Republic, the Consulate, or the Empire of France, they who fought the battles, or who in any other way recognized and endeavored to sustain either of those Governments, be rightfully punished as traitors by the restored Bourbons?

I do not ask now, although I may show hereafter, what is the European law on this subject; but what says the American mind, how throbs the American heart in relation to this matter? I say nothing of the application of these principles to the conduct of the instigators of revolutions so far as relates to overt acts preceding the establishment of a government *de facto*. If such acts amount to treason, the Constitution defines treason, and the laws provide an ample punishment. I speak only of acts done after the establishment of a government *de facto*, in obedience to and in compliance with its demands. Englishmen persisted in calling Washington, Franklin, Adams, and Jefferson rebels and traitors. Had fortune placed the colonies again under the dominion of the British king, these leaders might have been called upon to have paid the forfeiture of their lives, but there would have stood the solemn assertion before cited from the Declaration of Independence as evidencing the judgment of their cotemporaries that their execution was judicial murder. But whether such severity would have been in accordance with the dictates of humanity, of good policy, or even the principles of English law, it is not necessary now to consider.

I do not deny that the Draconian law of treason, with which most Governments have thought it expedient to hedge themselves around, would justify such bloody severity; but I do deny that persons who merely held civil offices, or the rank and file, or even the officers of the army, who, after the colonies had established a *de facto* government, and showed a probable capability of sustaining it, had given it their support, were guilty even of technical treason, within the meaning of that term, according to either English or American law. So thought the English Government itself, for no trial for treason was had in its courts, and no estates were confiscated by acts of its Parliament. Punishment is sometimes meted out from considerations of mere policy, irrespective of any rule of right or wrong; but such cases are few and of doubtful authority. In general, no act which is not wrong in itself, and which does not involve moral turpitude, should ever be punished with severity. At all events, he who is only insisting on what he has reason to believe is his just right, or does that which he honestly thinks is his duty, should never be punished as a felon. Governments founded on mere force may disregard this rule, but not one which is founded in reason.

Now, we have solemnly promulgated to the world the great truth that the people have a right to revolutionize their Government whenever they find it not calculated to promote the purpose for which it was organized. They may overturn and overturn and overturn, according to the American idea, until they obtain one such as they desire. This is not only the doctrine of the political fathers. It has been declared in more precise and unmistakable terms by the present head of the party which now controls the destinies of this nation. In a published speech, delivered by him when a member of the House of Representatives in 1848, he says:

"Any people anywhere being inclined, and having the power, have the right to rise up and shake off the existing Government, and form a new one that suits them better. This is a most valuable, a most sacred right, a right which we hope and believe is to liberate the world. Nor is the right confined to cases in which the *whole* people of an existing Government may choose to exercise it. Any portion of such people that *can may* revolutionize and make their own of so much of the territory as they inhabit. More than this, a majority of any portion of such people may revolutionize, putting down a minority *intermingled with* or *near about* them who may oppose these movements. Such minority was precisely the case with the Tories of our Revolution. It is a quality of revolutions not to go by old lines or old laws, but to break up both, and make new ones."—*Appendix to Congressional Globe for* 1847-48, p. 94.

I quote this expression of opinion, because it is, or at least was, the opinion of the present Chief Magistrate, and not because I approve it. I dissent from it. It more than justifies the secession of, or revolution in, the confederate States, a justification which I never have and which I do not now accord to them. It will be observed, however, that the rule here laid down exculpates not only the abettors but the instigators of successful revolutions. Can a change of external circumstances convert that into a crime which has once been but the exercise of an admitted right? When a revolution has once been completely successful, can a subsequent counter-revolution change an act of patriotism into one of felony? It is reasonable, therefore, to contend that the principles which have been established in this country lead necessarily to the conclusion that the law of treason, as at one time understood in England and other countries where it has been the offspring of kingcraft, has never been adopted in all its severity here. It is only necessary to determine how great is the modification we have made in this respect. Some change has been effected. How great is that change? If it be said that the right of revolution, which we allow only contemplates a revolution that is finally successful and permanent, and that where such eventual success is not attained the severity of the old rule is still in full force, I inquire what, then, is the change which has been made? Wherein does the rule, as thus expounded, differ from that which has been recognized since the origin of civil Governments, even by the most absolute tyrants? The practical justification of a successful revolution has never been denied. It would have been admitted by the Cæsars, the Tudors, or the Bourbons. If the right of revolution, as understood by us, is merely an exemption from punishment of those whom we could not punish if we would; if we are to treat all those within our reach just as they would have been treated by the despots of Europe, wherein consists the propriety of all the flourish of trumpets as to the right of revolution? How can this be "a most valuable and sacred right—a right which we hope and believe is to liberate the world?" Have we made any new discovery? Have we recognized any new doctrine, or are we not, rather, in this respect, practically following along in the beaten track that has been undeviatingly trodden by the most arbitrary Governments ever since the flood? The bloodiest tyrant never contended for any severer rule than that the unsuccessful rebels should be gibbeted. Success has always atoned for crimes of this nature.

But such is not a just interpretation of the great American doctrine on which our very existence as a nation is founded. The right of revolution is not a mere name—a sound without signification. But there is a substantial difference between us and the monarchies of the Old World in regard to the light in which efforts at revolution are to be regarded. I claim no exemption from punishment for the wanton disturbers of the public peace. Violators of law have even less excuse here than in countries where the people have less to do with their enactment. Superadded to their general duties as citizens are the obligations of good faith to support what they themselves have aided to establish. A riot, a mob, or even an insurrection, will justly subject all those connected therewith to the punishment provided by law. A revolution at its commencement may be but an insurrection. If it has no sufficient foundation in the public mind—if there is no great popular grievance sufficient to give it the necessary support it will fail. They who engage in it act at their own peril. They must have sufficient grounds to believe that the causes of public dissatisfaction are sufficient to secure them success before they are justified in aiding such a measure. If they misjudge they are liable to punishment. This is the only effectual way to prevent causeless attempts at revolution occasioning frequent bloodshed and general feeling of personal insecurity both of life and property.

The first movers in a revolution may, therefore, be compelled to look to final success as their sole justification. But is this the case of all those who yield allegiance to the revolutionary government when it has been, in point of fact, established, and before it is acknowledged by the former sovereign? Take an individual citizen of a country thus situated, and suppose him to be actuated by the most conscientious desire to perform his public duty. If the revolution is to be a success, ought he not to support it; if a failure, ought he not to oppose it? Would not such a course tend to lessen the evils of a revolutionary struggle? But he has no means of determining the future and must be governed by probabilities. Shall a mere mistake of judgment, while his intentions are good, constitute a crime? If the doctrine of divine, indefeasible right were established, he would be free from all moral difficulty on this subject. His duty would be plain, though it might be dangerous to discharge it fully. But where the right of revolution is the established doctrine, it may become a matter of duty to support the revolutionary government, not only when it has been fully established, but when it has shown a sufficient probability that it will ultimately be established. The Tories of the Revolution may not have been morally culpable for their adherence to the king at the commencement of that struggle, but those who continued their allegiance to him up to its very close have always been held so; and, under the American doctrine, they have been justly so held. No rule of law can be just and sound which punishes a person as a felon for doing what he earnestly and conscientiously believes to be right. The doctrine of the right of revolution leads, therefore, unerringly to this result—that where a revolution is begun under circumstances which show clear probability of success, it may become the duty of every citizen to yield allegiance to the new government; and where there is only a reasonable probability of success, they who support that government commit thereby no felony, and cannot

justly be subjected to the punishment of death, imprisonment, or the confiscation of their property.

Does the present condition of the confederate States bring their people within the saving influence of the latter of these rules? They have established a government *de facto*, which they have sustained for more than a year in spite of the most gigantic efforts to overthrow it. That government exerts its sway over a region truly imperial in territorial extent, and over a people who have manifested a unanimity and earnestness of feeling rarely witnessed in any other country on earth. They have kept on foot an army of half a million of brave men, and have manifested an energy and a power that, according to all the rules of common calculation, would have insured success. In spite of all these efforts, however, they may eventually be crushed; but this can only be by the weight of exertions on our part little short of superhuman. It must be recollected, too, that the power we are now putting forth is not known or appreciated by the masses of the people in the revolted States. Judging by what they have the means of learning, they may fairly conclude that the revolution is an accomplished fact, and that no public or private duty stands in opposition to their recognition and support of the *de facto* government. And even should this not amount to a justification, when it is remembered that the force of sympathy and that pressing considerations of personal safety are all acting as a bias upon their judgments, will it be worthy of the magnanimity of a great and powerful country to visit with death, imprisonment, or confiscation those whose judgments and whose sense of duty have been swayed from their equilibrium by considerations that always so naturally and powerfully operate upon the minds of erring men?

But there is another consideration which deserves to be well weighed. The people of the confederate States had sworn to support the constitutions of their respective States, as well as that of the United States. They owed, therefore, a double allegiance, which, from the force of circumstances, becoming antagonized, drew them in opposite directions. Which of these obligations was paramount it is not for me to decide. The people of the confederate States had always, with great unanimity, held that the State sovereignty was paramount. It is original, the other derivative. The latter is specific, the former general. The one authority exercises only those powers which are enumerated, the other all those which are not prohibited. Admitting that their notions upon this subject are erroneous, it is an error which does not involve criminality. Men as honest and as intelligent as any of us are earnestly and entirely convinced of the soundness of their doctrine in regard to the paramount sovereignty of the States. It is certainly a question upon which men may honestly differ, and in regard to which toleration and charity are unquestionable duties on the part of those who believe themselves wiser than those who differ from them on this subject. Shall we then consign men to the dungeon or the grave, and their families to penury, merely for differing with us in opinion on this subject and honestly acting upon their conviction of duty? Let us not congratulate ourselves upon the disuse of the inquisition, or claim superiority over those who a few centuries since consigned men and women to the dungeon and the flames for what were deemed errors in respect to religion, while we practice the same rigorous and bloody intolerance towards the less important errors of political opinion.

I know it may be said, in reply, that the errors of which I speak are not those of mere abstract theory, but are productive of immediate practical evils. I admit it; and since the arbitrament of the sword has unwisely been resorted to as the means of settling our difficulties I do not object to the proper amount of physical coercion. The same would be the case if men under the garb of religion should introduce practices destructive of the peace and order of society. But in such cases the remedy should only be commensurate with the disease. We might justly punish persons for the direct consequences of any of their acts in violation of law, how much soever they might profess to have been actuated by conscientious motives, or to have acted in accordance with their religious theories, but we should never send them to the gallows or the penitentiary; we should never confiscate their property on account of their errors of opinion and judgment, or of acts done in obedience to their dictates, because they had adopted notions and acted upon them which in our opinion were calculated to produce and did produce public mischiefs. So, in the present case, let men be punished for the direct and immediate consequences of their conduct. If their mistaken theories cause them to rise in arms, let them be put down by the strong arm of power, if it be necessary to invoke war for that purpose; but when the desired result is attained, when all resistance to the law is overcome, let reason and humanity again resume their sway.

It certainly cannot be expedient, upon the principles I have been considering, that he who, from a mistaken political theory, had consented to exercise the functions of civil office and to aid a government that could command his obedience and punish him for disobedience, should be made to undergo the punishment of a felon; nor that he who, having just grounds of doubt as to his public duty in any other respect, has followed the dictates of his own judgment and adopted a course which subsequent events have shown to be erroneous, should be visited with all the dire consequences of intentional wickedness. But why argue the question as a matter of law, or assign reasons founded in justice and humanity against the exercise of the power. The whole subject is *res adjudicata*. Even in England the statute of treason applies to a king *de facto*, and not *de jure*. Says Blackstone, vol. 4, p. 221:

"A usurper who has got possession of the throne is a king within the meaning of the statute, as there is a temporary allegiance due to him for his administration of the government and temporary protection of the public; and therefore treasons committed against Henry VI were punished under Edward IV, though all the line of Lancaster had been previously declared usurpers by act of Parliament. When, therefore, a usurper is in possession, the subject is excused and justified in *obeying* and giving his *assistance*. Otherwise, under a usurpation, no man would be safe if the lawful prince had a right to hang him for obedience to the powers in being, as the usurper would certainly do for disobedience."

If such be the rule in a consolidated monarchy, where there is no double allegiance to be by force of circumstances antagonized, how much more powerful are the reasons for its recognition and observance in a Government and country like ours, where allegiance is due to State as well as Federal authority? Observe the reason assigned by Blackstone for the principle which he asserts to be law:

"When, therefore, a usurper is in possession, the subject is excused and justified in obeying and giving his assistance; otherwise, under a usurpation no one would be safe, if the lawful prince had a right to hang him for obedience to the powers in being, as the usurper would certainly do for disobedience."

But, sir, this principle is not without judicial recognition in this country. In the case of Respublica *vs.* Samuel Chapman, (1 Dallas, pages 53 to 60,) decided in 1781, before the recognition of our independence, the court held, Chief Justice McKean delivering the opinion, that the State of Pennsylvania having declared its independence of Great Britain, and having established a Government *capable of affording protection to the citizen, high treason might have been committed against it by any person who was a subject of the Commonwealth.* The court say:

"Allegiance being due from the 28th of November, 1776, when, as already observed, the Legislature was convened, and the members of Council were appointed, treason, which is nothing more than a criminal attempt to destroy the existence of the Government, might certainly have been committed before the different qualities of the crime were defined and its punishment declared by a positive law."

And why? Because treason being a crime at common law, and protection and allegiance being reciprocal, the power—organized political power—that protects, has the undoubted right to command the obedience of those whom it protects. The court, in this case, also observe:

"Pennsylvania was not a nation at war with another nation, but a country in a state of *civil war*, and there is no precedent in the books to show what might be done in that case; except, indeed, where a prince has subdued the people who took arms against him *before they had formed a regular government, which is likewise inapplicable here.*"

Why inapplicable? Because, although less than five months had elapsed since the assertion of independence, yet the people of Pennsylvania had "formed a regular government." The right, therefore, which a prince has to the allegiance of a people in arms against him, and to punish them criminally, they being subdued before a regular government was formed by them, could not exist after the formation of such government and for such acts as were done in obedience thereto. The correctness of this opinion has never, to my knowledge, been questioned by any subsequent judicial decision. It is supported by reason and acknowledged in the political action of every modern civilized nation. Coke says, and lawyers have ever been proud to repeat it, that "law is the perfection of reason."

Now is it reasonable, or can it possibly be law, that a citizen can be answerable, capitally, at the same time to two governments for his political conduct? The government *de facto* having power and control over him, capable of punishing with death his disobedience, commands him to do a certain act. The Government *de jure* has not the power to protect him against the consequences of disobedience to that command, but threatens to punish obedience thereto with death in the future. He yields obedience to the government *de facto;* fortune subsequently places him in your power. Would you, could you, lawfully execute him? Reason says no; justice says no; humanity says no; and all civilized nations have said no. I admit that you may arbitrarily declare belligerent acts of a government *de facto* to be as against you acts of treason on the part of those committing them, and a subservient court, adopting the views of the legislative and executive departments of the Government, might feel constrained to pronounce in favor of the validity of your enactments; but you cannot rightfully or justly change the nature of things, or influence the judgment of the world in respect to them. All nations profess to be *neutral* in reference to our existing difficulties. They acknowledge the *existence of civil war* in this country. Acknowledging the existence of civil war, they cannot consider as criminal those acts of hostility on the part of the so-called confederate States which war authorizes, and which they may direct against us. We have decided this question ourselves, and cannot complain if other nations shall act upon our decision. In case of the United States *vs.* Palmer, (3 Wheaton,) the court held that—

"Where civil war rages in a foreign nation, one part of which separates itself from the old-established Government and erects itself into a distinct government, the courts of the Union must view such newly constituted government as it is viewed by the legislative and executive departments of the Government of the United States. If the Government of the Union remains *neutral* but *recognizes the existence of civil war*, the courts of the Union cannot consider as criminal those acts of hostility which war authorizes, and which the new government may direct against the enemy."

The court also held that the same testimony which would be sufficient to prove that a vessel or person is in the service of an acknowledged State is admissible to prove that they are in the service of a newly created government, and Judge Johnson well remarked, that—

"To exempt from the punishment of piracy it was only necessary to prove, first, the existence of open war; and, secondly, that the vessel was owned and commanded as a belligerent vessel."

Mr. President, the true theory of our Government is this: the Federal Government is the creature of the States. They, being sovereign, made it. Within the sphere of its delegated powers they agreed that it should be supreme. They thereby did not relinquish their own sovereignty, but retained it fully and absolutely within the sphere of their reserved or non-delegated authority. But that I may not be deemed heretical, I will adopt the language of Roger Sherman:

"The Government of the United States being *federal*, and instituted by a number of *sovereign* States, they may be considered as so many pillars to support it."

I also adopt the language of the men who assisted in making the Federal Constitution, in their joint official report to Governor Huntington. They say:

"Those powers (those granted to Congress) extend only to matters respecting the common interests of the Union, and are specially defined, so that *the particular States retain their sovereignty in all other matters.*"

Is it necessary to multiply authorities? They are innumerable. Let the defamers of their living countrymen hear what the fathers and the men who framed the Constitution said in reference to the nature and extent of Federal and State authority. Sir, if the men who made the Constitution were alive to-day the abolition disunionists of the North would call them secessionists. Their theory seems to be that the States, as such, are nothing in our

Federal system; that they are mere *provinces;* that their citizens are subjects of one great, powerful, consolidated Government, of which Abraham Lincoln is absolute sovereign and William H. Seward prime minister.

The principles of these Constitution-destroyers, however, are very flexible. They can resist and advise resistance to the due execution of Federal authority when attempted in their midst; they can abet and countenance insurrection and treason in Virginia, arm slaves for the murder of their masters, and impiously proclaim that the gallows upon which John Brown was hanged to be as glorious as the cross upon which our Saviour died; but if abolitionism is to be forced upon an unwilling people, then passive obedience is the highest duty; and resistance to arbitrary power, even by one who, by command of his State, is forced to resist or die, the Federal authority not being capable of shielding him from the consequences of disobedience, is treason, to be punished with death and confiscation of estate. Sir, if Caleb Strong, Christopher Gore, James Wilson, Governor Huntington, Roger Sherman, and many of the political fathers were alive to-day, they would be very fortunate, indeed, if they escaped a compulsory residence in Fort Warren. Says Caleb Strong:

"The State Legislatures are the guardians not only of individuals, but of the *sovereignty* of their respective States."

Says Senator Gore:

"The Government of the United States can exercise no powers not granted by the Constitution; and so far as this Government can support such as it claims, *on this charter* it is sovereign. The government of each State IS EQUALLY SOVEREIGN with respect to *every* power of an independent State which it has not delegated to the United States, or is not prohibited to the several States by the Constitution."

Says Judge Wilson:

"On what pretense can it be alleged that it was designed to annihilate the State governments? I will undertake to prove that upon their *existence* depends the *existence* of the Federal plan."

But why multiply authorities. The principles already discussed, and authorities cited, convince me of the truth of the following propositions:

The Government of the United States was made by the people of the several States, acting in their separate State capacity, and not by a majority of the whole people of the United States, acting in their collective capacity.

That the Government thus made is one of delegated limited powers, but that within the scope of those powers it is supreme, and that allegiance is due to it to that extent by every citizen of the United States.

That the several States are equally sovereign within the scope of their reserved or non-delegated powers, and that to this extent allegiance is due to them respectively by their citizens.

That we are in the midst of a great political revolution in which eleven States are parties on one side and the Federal Government party on the other —those States confederating unwisely and wrongfully, as I believe, to withdraw themselves from the Federal Union, and to permanently establish one among themselves.

That the events developed by this revolution have antagonized the double allegiance of the citizens of the confederated States. That those States having established a government *de facto*, and the Federal authority having been so far in fact ousted from those States that it cannot afford protection to the citizen against the consequences of disobedience to the commands of State authority, and the State or confederation of States having the power to punish him even with death for disobedience, he is *excused*, in the language of Blackstone, in obeying, and thereby incurs neither the penalty of death nor confiscation of estate as a consequence of the crime of treason against the United States.

If these principles, Mr. President, be correct, and however unpopular they may be, and however much they may subject me to misrepresentation and abuse by the ignorant, the thoughtless, and the malicious, I honestly believe them to be, there is an end to the bill under consideration. Its only basis of support is gone. Treason is out of the question. It is "an act to confiscate the property of rebels for the payment of the expenses of the present rebellion, and for other purposes." In other words it is an act for the punishment of treason.

But there is another view to be taken of this matter which presents the argument I am urging in a still stronger light. While I admit the right of this Government by force of arms to prevent the secession of any of the States of the Union, I deny that such right is derived from or granted by the Constitution of the United States. I believe the doctrine of Oliver Ellsworth to be true, that "this Constitution does not attempt to *coerce sovereign States* in their political capacity." This right, if it exists, springs from the overruling necessity of self-preservation and the right which one party to a contract, while fulfilling his own obligations under it, has to compel a compliance by the other party to it with his obligations. If these reasons do not justify us, then we are without excuse for all the blood we are now shedding. Let those who deny the truth of this proposition point to the article and section and clause in the Constitution which give the power they claim. Congress, it is true, has power "to provide for calling forth the militia to execute the laws of the Union, suppress insurrection, and repel invasion;" but the action of a sovereign State is not an insurrection within the meaning of this provision. This is clearly inferrable from the direct refusal of the constitutional convention to give authority to the Federal Government to exercise its military power to control the action of the State governments, and also by the recorded opinions of its founders in reference to the extent of authority granted to it.

Practically, however, it makes little difference whether this power of coercion is of constitutional origin, or whether it results from the principles before stated so far as its direct consequences are involved. But it makes an essential difference in reference to the question we are considering. If the possession of the Island of Cuba were necessary to the safety and existence of this nation, we should be fully justified by the law of nations in seizing it at any hazard. War would be the necessary result; but even this, with all its consequences, would be justified by the great right of self-preservation. As far as the necessity of the case should go her commerce might be destroyed, her fields laid waste, her cities ruined, those of her people who should meet us in arms would be liable to be slaughtered, but never could they be regarded or treated as rebels or traitors. The law of necessity upon which our justification was founded would impose no obligations upon them. We might coerce them into submission, but we could not regard them as having violated any great moral or political duty. Their only crime would have been the want of sufficient physical strength to sustain themselves against our arms.

Whether a continuance of the war which we are now waging, will be justifiable or otherwise, will depend upon the purpose and object for which it shall be waged. No one will contend, I presume, that it is necessary to the existence or independence of the adhering States, or of a common Government between them. The right, therefore, to wage it is the same that one party to a contract, fulfilling his own obligations under it, has to a specific performance of it by another party. The party asking for the specific performance must show his own compliance with its terms and spirit. Showing this, he establishes his right to a decree against a defaulting party. But the complainant cannot have a decree for performance on any other terms than those named in the original agreement. He cannot interpolate or take from it. It must be performed in whole or not at all. If you wage this war, therefore, for the restoration of the Union as it was and the Constitution as it is, observing your own obligations under that instrument, and infringing no constitutional right of others, you will, since the sword only can decide, be justified, and the good and the patriotic everywhere will invoke the blessings of Heaven upon your efforts, and hold up your hands when they are feeble. But if, in waging it, you mean to subvert the Constitution, which is the only bond and obligation of union, if you mean to destroy or impair the constitutional rights of the States or the people, you wage it under a false pretense and your war is murder and your success treason.

If the principles for which I contend be correct, it follows that the contest in which we are involved is war, civil war. Sedition, insurrection, rebellion, in the ordinary acceptation of those terms, are out of the question. The rights and duties of the parties to the controversy are to be determined by the rules of modern civilized warfare. What those rules justify may and what they forbid may not be done. Those rules are to be learned from institutional writers and the modern practice of nations. The old rule of barbarism, that a nation at war with another was at war with each and all its subjects, has passed away with the ignorance and inhumanity in which it had its origin. The modern rule and the modern practice is, that private property is to be respected, and that public property alone can be acquired by war. On this principle we acted during the war with Mexico. Robbery of private Mexican citizens was punished, by our order, with death. Private rights, of person and property, were sacredly respected, and in this we but followed the example of all modern civilized nations. Does the fact that we are now at war with our own kindred change the rule or justify the visitation of punishment upon them which we would not and which we could not rightfully inflict upon a foreign people under similar circumstances? Senators, I am afraid that the existence of negro slavery in the southern States makes all the difference, both in theory and practice.

Mr. President, it is no use to attempt to disguise the fact or conceal the truth in this case. Ostrich like, you may stick your heads in the sand and suppose you are concealed. You delude yourselves. Your purposes are known. Your motives are understood. The present knows them, the future will know them, and history will record them. Did not slavery exist in the southern States you never would have thought of a confiscation bill. You did not think of it in the war of 1812 with England. You did not think of it in the war with Mexico. Why do you think of it now? Your design is to make this a war for the abolition of slavery. You desire to destroy the domestic institutions of the States. Abolitionism will be satisfied with nothing less than universal emancipation; and abolitionism would not prosecute this war another day or another hour were it not for the hope that these objects may be accomplished. Abolitionism is speculating upon the patriotism of the people. It shouts Union, while meaning, if possible, to destroy the only bond of Union. Could it be personified, clothed in flesh, made a living, sentient being, it could be indicted and convicted as a common cheat, as an insidious, dastardly traitor. Sir, I do not believe you could this day pass through the two Houses of Congress by a majority vote of the representatives of the party in power a joint resolution in favor of the Union as it was and the Constitution as it is. Abolitionism demands universal emancipation or disunion. It is as much a foe to the constitutional Union of the fathers as is secession. They are twin spirits of evil, allies in a common cause, and as such deserve the execration of the patriotic everywhere.

In such motives, Mr. President, I believe this measure has its origin. It is a measure the principles of which are condemned by modern writers upon international law, and is wholly unknown in the legislation of other nations in modern times. Even in the case of conquests from foreign nations, no general transmutation of title has occurred since the time of William the Conqueror; nor has private property, unless under peculiar circumstances, been interfered with by a conquering Power. The bill under consideration embraces not only things corporeal, but stocks, credits, and other effects of an incorporeal nature, and, as if our stupidity and folly shall be evidenced in every possible form and to all future generations, the act declares that these shall be lawful subjects of *seizure* and of *prize* and *capture*. A debt, a credit, the subject of *seizure*, of *prize*, and of capture! Sir, you have provided this session that the acts of Congress shall not in future be engrossed on parchment. It is well. Let those of this session be traced in sand, or written in water that our children may not blush at the ignorance of their fathers. There is not a single modern publicist that would not pronounce the attempt to confiscate choses in action as contrary to the law of nations; and there is not, as I believe, a single institutional writer of any country who would justify confiscation at the end of a civil war. When Alexander, by conquest, became absolute master of Thebes, he remitted to the Thessalians a hundred talents, which they owed to the Thebans, and this is the origin of this whole doctrine of confiscation. To this origin Vattel traces it. The doctrine is worthy of its origin. Puffendorf lays

down the doctrine that "*incorporalia bello non adquirunter;*" and also remarks:

"Unde si civis ab hoste, captus fuerit, bona istius, quæ simul capta non fuerunt, non adquirunter capienti; sed ad eum perveniunt, quem leges civites, ad successionem vocabant si este naturali morte functus esset."

Upon which Lord Ellenborough, in the case of Wolf against Oxholm, (6 Maule and Selwyn, p. 92,) observes:

"If things belonging to a captive enemy, but not actually taken, do not pass to the conquering enemy, how can things belonging to a person not made captive be legally acquired by an enemy who is not a conqueror, either as to the person or the things?"

In the case referred to, Lord Ellenborough decided that an ordinance made by the Government of Denmark, pending hostilities with Great Britain, whereby all ships, goods, moneys, and money's worth, of or belonging to English subjects, were declared to be sequestrated and detained, and by which all persons were commanded, within three days, to transmit an account of debts due to English subjects, in default of which they were to be proceeded against in the exchequer, was not conformable to the usage of nations and was, therefore, void, and he gave judgment against the defendant, notwithstanding he had previously paid the amount of the debt to commissioners appointed in virtue of the ordinance to receive payment. The conclusion of the opinion in that case is as follows:

"Considering, therefore, that the right of confiscating debts contended for on the authority of these citations from Vattel, is not recognized by Grotius, and is impugned by Puffendorff and others, that such confiscation was not general at any period of time, and that no instance of it, except the ordinance in question, is to be found for something more than a century. We think our judgment would be pregnant of mischief to future times if we did not declare that in our opinion this ordinance and the payment to commissioners appointed under it, do not furnish a defense to the present action; and if they cannot do this of themselves, neither can they do so by the aid of the proceedings in the Danish court. The parties went into that court expecting justice according to the then existing laws of the country, and are not bound by the quashing of their suit in consequence of a *subsequent* ordinance, not conformable to the usage of nations, and which therefore they could not expect, nor are they or we bound to regard."

That confiscation is contrary to the modern law of nations is further evidenced by what occurred in 1853, on behalf of the Lombards, who had been obliged to leave the Austrian dominions in consequence of the unsuccessful attempt at revolution in Italy in 1848–49. On that occasion the reclamations of Sardinia on behalf of those refugees, and to prevent the confiscation of their property, were earnestly sustained at Vienna, both by England and France. On no other principle could those Powers have interfered than that such confiscation was contrary to the law of nations. (See page 168 of the introduction to the last edition of Wheaton.)

Again, sir, the same principle has been decided in this country in an opinion by Judge Sprague. He settles the principle that confiscations of property, not for any use made of it in war, which go not against an offending article of property, but are inflicted for the personal delinquency or crime of the party, are punitive, and that all punishments should be inflicted only on conviction by due process of law for personal guilt. There is the great advantage of the bill proposed by the Senator from New Hampshire [Mr. CLARK] over the bill of the House of Representatives, it conforming, to some extent at least, with the provisions of the Constitution in reference to trial by jury; but for neither of these bills shall I vote.

It may be said that the principle for which I contend applies only to hostilities between foreign nations. But Vattel declares that "the common laws of war are in civil wars to be observed on both sides. The same reasons which make the obligations between foreign States render them necessary in the unhappy circumstances where two exasperated parties are destroying their common country;" and the action of France and England referred to evidences the correctness of the declaration. Let us avoid a like interference by foreign Powers in behalf of humanity by abstaining from those acts which the law of nations condemns. I am aware of the attempts to disregard the facts which determine the character of the present contest—that our Government, while taking advantage of belligerent rights in instituting blockades, and in doing similar acts, has professed to regard the existing state of things as an insurrection merely, and not a civil war. The distinction in this case is nowhere more ably stated than in the chapter of Vattel to which I have referred, and I believe no foreign publicist will be disposed to deny what Lord Lyons was instructed, in January, to say to Mr. Seward, that "an insurrection extending over nine States in space and ten months in duration can only be considered as a civil war."

But, sir, we ourselves have determined the character of our present struggle. Day after day it has been declared on this floor and in the other House of Congress that we are engaged in war. On the 22d of July last, in the resolutions adopted by Congress, and before referred to, it was declared that when the supremacy of the Constitution was vindicated and the Union preserved, the *war* ought to cease. We have adopted all the usages and ceremonies of war. What mean your flags of truce, your commissions to negotiate for the exchange and your actual exchange of prisoners? Were these things ever done in an insurrection or a rebellion? Sir, you have acknowledged the existence of war; and war has its laws, its rights, its duties, which nations cannot disregard, but are bound to respect.

Mr. President, I will detain the Senate no longer with the discussion of this measure. As means of punishing treason, its provisions are so flagrantly unconstitutional that few will venture to claim for it constitutional authority. Due process of law, trial by jury, and judgment of courts of common-law jurisdiction are wholly ignored by it. Proceedings *in rem* are to be the efficient means for the forfeiture of estates and condemnation for treason against the Government. As a war measure, it contravenes the well-established principles and violates the practice of all modern civilized nations. As a measure of policy, it is repudiated by reason and condemned by humanity. Its adoption can only prolong the war and render separation final and forever. No happier rebuke has been given to the attempts to barbarize our insane civil war than the remarks of Lord Russell in reference to the stone blockade, as repeated by Lord Lyons to Mr. Seward:

"The object of war is peace, and the purposes of peace are mutual good will and advantageous commercial intercourse; but this proceeding would deprive war of its legitimate objects by stripping peace of its natural fruits."

In the remarks I have submitted I have had but one object in view: the discharge of a solemn duty to my bleeding and distracted country. Could passion cease to govern and reason be allowed to control our action, we might, in the providence of God, even yet rescue our institutions from destruction and perpetuate them to remotest generations. Whatever shall be the result of this contest, as long as there shall remain a hope for the preservation of constitutional liberty, I shall remain true to my allegiance to that Government to which I owe all that I am and all that I hope to be, even until I shall be gathered to my fathers in the midst of that people among whom both they and I were born. Their people shall be my people, their God my God, and where they are buried there also will I finally repose. My fervent prayer is that peace, harmony, fraternal union may be again restored and one flag proudly float from ocean to ocean and from lakes to gulf; that the Federal Government, based upon an unchanged Constitution, may again dispense its blessings to a united, happy, prosperous, and free people.

Mr. HOWARD addressed the Senate in opposition to the amendment of Mr. CLARK. [His speech will be published in the Appendix.]

Mr. SHERMAN. I desire to offer two or three amendments to the House bill which will take but a short time, and I may as well offer them now.

Mr. DOOLITTLE. We desire to have an executive session.

Mr. CLARK. Let the Senator from Ohio offer his amendments first.

Mr. SHERMAN. I desire to offer two or three amendments to the House bill. They are merely verbal amendments, except one. I will offer them now or at any other time that will suit the Senate.

Mr. DOOLITTLE. Offer them, and have them printed, and let them lie over.

Mr. SHERMAN. They do not require to be printed. They are simply to strike out words. The first amendment is on page 6 of the House bill, line five of section seven, to strike out the words, "ninety days," and to insert, "one year;" and then after the word "provided," in line six, to strike out all down to the word "proceeds," in line nine, and insert what I send to the Chair.

The PRESIDENT *pro tempore*. The Senator from Ohio proposes the following amendment to the original or principal bill, which is the bill of the House of Representatives, and which is open to perfection before the question shall be taken on striking it out and inserting a substitute.

The Secretary read the amendment on page 6 of the House bill, line five of section seven, to strike out the words "ninety days," and to insert the words "one year;" and in line six, after the word "provided," to strike out the words:

Exhibit his claims to the Secretary of the Treasury, who, upon proof of the loyalty of the claimant and the justice of the claim, shall have power to allow and pay the same out of such proceeds.

And to insert the following in lieu thereof:

By petition present his claim to the court having jurisdiction of such property under the provisions of this act, which court shall, upon satisfactory proof that the petitioner has not been engaged in armed rebellion against the United States, or in aiding and abetting such rebellion, and shall present satisfactory proof of the justice and amount of such claim, shall determine the amount due on such claim, and upon a properly authenticated transcript of such judgment, the Secretary of the Treasury shall pay the same out of the proceeds of such property.

The PRESIDENT *pro tempore*. The question will be first taken on the first amendment proposed, which has no connection with the second one.

Mr. SHERMAN. It is absolutely physically impossible for the Secretary of the Treasury to pass upon these claims within ninety days. I have spoken to some members of the House committee about it. This amendment substitutes the courts having jurisdiction of the property to fix the amount of liens upon the property instead of the Secretary of the Treasury.

The PRESIDENT *pro tempore*. The first question is on striking out "ninety days," and inserting "one year."

Mr. TRUMBULL. I hope that amendment will not be adopted in this thin Senate. I think we had better vote upon these questions together. I do not know but that it would be a wise amendment; but I am opposed to altering the House bill. This is an amendment of detail; we can extend the time hereafter. We have had a great deal of controversy about this confiscation question, and I think the wisest course would be to adhere to the House bill, and make it a law. If we undertake to amend it, the amendments, I fear, will be infinite. I do not say this because I am satisfied with the House bill. I am not. I should have framed a different bill; but if it should be the sense of the Senate not to adopt the substitute, but to act on the House bill, I think it would be the wisest course. I mean as to details—not to amend it unless there is some insurmountable obstacle in it; but to make it a law, and rely upon changing it hereafter as to the length of time when these claims shall be exhibited and as to the mode of proceeding. At all events, whether that course is adopted or not, I trust the question will not be taken in so thin a Senate as we have here now.

Mr. SHERMAN. I simply desire to say that I wish to offer this amendment at some time; I do not care when. I desire to vote for the House bill, and wish to put it in such a condition that I can vote for it. I certainly would not throw on the Secretary of the Treasury the burden of determining all the liens on all the property of all the leaders of this rebellion in ninety days; it would be simply an absurdity; and therefore I want some amendments to the House bill; I do not care whether they are voted on now or at some future time.

Mr. TRUMBULL. The Senator from Ohio will see that this section applies only to the case of persons whose property is sold. Now, it will be some time before this property is sold and brought into the Treasury. It reads:

That in all cases arising under this act where the proceeds of property sold shall be paid into the Treasury of the United States, a distinct account shall be kept thereof, and any creditor of the former owner of such property may, within ninety days—

That, I suppose, would be ninety days after the money was paid in, and it certainly would be some time hence before this proceeding *in rem* would take place, and the property be condemned. I am not sure but that the amendment of the Senator from Ohio is a good one. What I objected to was

to taking the question in a thin Senate, and I wished to make the suggestion that it would be very desirable to take the House bill without amendment if we can. If we cannot, if we are to amend it, there are several particulars in which I should like to amend it.

EXECUTIVE SESSION.

On motion of Mr. DOOLITTLE, the Senate proceeded to the consideration of executive business; and after some time spent therein, the doors were reopened, and the Senate adjourned.

HOUSE OF REPRESENTATIVES.

TUESDAY, *June* 24, 1862.

The House met at twelve o'clock, m. Prayer by Rev. BYRON SUNDERLAND, D. D., Chaplain of the Senate.

The Journal of yesterday was read and approved.

TAX BILL.

Mr. BROWNE, of Rhode Island. I rise to a question of privilege. I ask the consent of the House to change the vote I yesterday gave on the tax bill, from the negative to the affirmative. I voted against the bill from a misapprehension of the action of the conference committee. I understood that the committee, whose report was not printed, had assented to the repeal of the direct tax, and therefore voted against the bill. But on examination I find I was mistaken, and desire to change my vote.

Mr. PHELPS, of Missouri. As the change of vote in this instance could not change the result, I see no objection to the proposition of the gentleman from Rhode Island. It is, however, a precedent which it may be dangerous to follow in other instances.

The SPEAKER. The gentleman can only change his vote by unanimous consent.

Mr. PHELPS, of Missouri. I will not object in this instance.

No objection being made, the change was accordingly made.

Mr. NOELL. I ask consent to record my vote upon the same bill.

Mr. PHELPS, of Missouri. I must interpose the usual objection if my colleague was not present when the bill was passed.

Mr. NOELL. I desire, then, to announce that if I had been present, I would have voted for the bill.

NIAGARA SHIP CANAL.

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

Resolved, That all the papers on file in relation to the construction of a ship canal around the Falls of Niagara be referred to a select committee of seven to be appointed by the Chair, with leave to report by bill or otherwise.

PAYMENT OF BOUNTY.

Mr. STEVENS. I am directed by the Committee of Ways and Means to report back House bill (No. 540) making appropriations for the payment of the bounty authorized by the sixth section of an act entitled "An act to authorize the employment of volunteers to aid in enforcing the laws and protecting public property," approved July 22, 1861, and for other purposes, with the recommendation that it do pass. It is the same bill that was agreed upon by the committee of conference. I move that it be put on its passage.

The bill, which was read, provides that the following sums be appropriated, out of any money in the Treasury not otherwise appropriated, for the objects hereinafter expressed: for payment of the bounty to widows, children, fathers, mothers, brothers, and sisters of such volunteers as may have died or been killed in service, authorized by the sixth section of an act to authorize the employment of volunteers to aid in enforcing the laws and protecting public property, approved July 22, 1861, $5,000,000, or so much as may be found necessary; provided, the bounty shall be paid to the following persons, and in the order following, and to no other person: first, to the widow of such deceased soldier; second, to the children of such deceased soldier, share and share alike; third, to the following persons, provided they be residents of the United States: first to his father; or if he shall not be living, or has abandoned the support of his family, then to the mother of such soldier; and if there be neither father nor mother, then such bounty shall be paid to the brothers and sisters of the deceased soldier. For compensation of twenty additional clerks hereby authorized to be employed in the office of the Commissioner of Pensions, to wit: for fifteen clerks of the first class, $18,000; for five clerks of the second class, $7,000; and that $3,000, or so much as may be found necessary, be appropriated for the expenses of the committee on disloyal employés of the Government, appointed by resolution of the House of Representatives, July 8, 1861; and that that part of the sixth section of the act to authorize the employment of volunteers to aid in enforcing the laws and protecting public property, approved July 22, 1861, which secured to the widow, if there be one, and if not the legal heirs of such volunteers as die or may be killed in service, in addition to all arrears of pay and allowances, a bounty of $100, shall be held to apply to those persons who have enlisted in the regular forces since the 1st of July, 1861, or shall enlist in the regular forces during the year 1862, and be paid to the heirs named in this act, and that the bounties herein provided for shall be paid out of any money appropriated for bounty to volunteers.

Mr. WOOD moved to strike out the words "provided that they be residents of the United States."

The amendment was rejected.

Mr. STEVENS demanded the previous question.

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

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

The latter motion was agreed to.

TREASURY NOTE BILL.

Mr. SHEFFIELD. I demand the regular order of business.

Mr. STEVENS. I hope not. Unless we get through with the Treasury note bill in the morning hour, we will not get through with it to-day. I move the rules be suspended, and the House resolve itself into the Committee of the Whole on the state of the Union.

The motion was agreed to.

The House accordingly resolved itself into the Committee of the Whole on the state of the Union, (Mr. PHELPS, of Missouri, in the chair,) and resumed the consideration of the Treasury note bill, the pending question being on the amendment of Mr. WALTON, of Vermont, to insert, after the word "direction," the words "or to be printed only at the Treasury Department, under the direction of the Secretary, if he shall so determine."

Mr. WALTON. I am satisfied that the section is right as it stands, and I withdraw my amendment.

The question then recurred on striking out the second section, as follows:

SEC. 2. *And be it further enacted*, That the Secretary of the Treasury be, and is hereby authorized, in case he shall think it inexpedient to procure said notes, or any part thereof, to be engraved and printed by contract, to cause the said notes, or any part thereof, to be engraved, printed, and executed, in such form as he shall prescribe, at the Treasury Department, in Washington, and under his direction; and he is hereby empowered to purchase and provide all the machinery and materials, and to employ such persons and appoint such officers as may be necessary for this purpose.

The amendment was rejected.

Section third:

SEC. 3. *And be it further enacted*, That the limitation upon temporary deposits of United States notes with any Assistant Treasurer, or designated depositary authorized by the Secretary of the Treasury to receive such deposits to $50,000,000, be, and is hereby repealed: and the Secretary of the Treasury is authorized to receive such deposits, under such regulations as he may prescribe, to such amount as he may deem expedient, not exceeding $100,000,000, for not less than thirty days, in sums not less than $100, at a rate of interest not exceeding five per cent. per annum; and any amount so deposited may be withdrawn from deposit at any time after ten days' notice, on return of the certificate of deposit: *Provided, however*, That United States notes, to an amount not less than one third of the aggregate sum of said deposits, shall at all times be reserved in the Treasury of the United States, or from issue under this act, for the purpose of securing prompt payment of such deposits on demand: *And provided further*, That certificates of deposit and of indebtedness issued under this or former acts may be received on the same terms as United States notes in payment for bonds redeemable after five and payable in twenty years.

No amendment was offered.

Fourth section:

SEC. 4. *And be it further enacted*, That the Secretary of the Treasury may, at any time until otherwise ordered by Congress, and under the restrictions imposed by the act to authorize a national loan, and for other purposes, borrow, on the credit of the United States, such part of the sum of $250,000,000 mentioned in said act as may not have been borrowed, under the provisions of the same, within twelve months from the passage thereof.

Mr. MORRILL, of Vermont. I move to add the following proviso:

Provided, That no United States notes shall be issued under this act when the bonds of the United States can be sold or negotiated at not less than par.

The amendment was disagreed to.

Sections five and six were then adopted, as follows:

SEC. 5. *And be it further enacted*, That any part of the appropriation of $10,000 for the detection and bringing to trial of persons engaged in counterfeiting the coin of the United States made by the act entitled "An act making appropriations for the legislative, executive, and judicial expenses of the Government for the year ending 30th of June, 1861," may be applied in detecting and bringing to trial and punishment persons engaged in counterfeiting Treasury notes, bonds, or other securities of the United States, as well as the coin of the United States. And to carry into effect the preceding sections of this act, the sum of $300,000 is hereby appropriated out of any money in the Treasury not otherwise appropriated.

SEC. 6. *And be it further enacted*, That all the provisions of the act entitled "An act to authorize the issue of United States notes, and for the redemption or funding thereof, and for funding the floating debt of the United States," approved February 25, 1862, so far as the same can or may be applied to the provisions of this act, and not inconsistent therewith, shall apply to the notes hereby authorized to be issued.

The CHAIRMAN. The question now recurs on the substitute of the gentleman from Ohio, [Mr. HORTON.]

Mr. STEVENS. My impression is that that substitute was not offered, as it could not have been offered at the time, but that it was merely read for information.

Mr. SPAULDING. The gentleman from Ohio is absent from the city. The Globe states that the substitute was only read for information.

The CHAIRMAN. The Chair is informed that the substitute is not pending. The question recurs on the substitute of the gentleman from Pennsylvania, [Mr. STEVENS,] which has just been gone through with.

The amendment was agreed to.

Mr. STEVENS moved that the committee rise, and report the bill and amendment.

The motion was agreed to.

So the committee rose; and the Speaker having resumed the chair, Mr. PHELPS, of Missouri, reported that the Committee of the Whole on the state of the Union had, according to order, had under consideration the state of the Union generally, and particularly the bill (H. R. No. 187) to authorize an additional issue of United States notes, and for other purposes, and had directed him to report the same back with an amendment.

Mr. STEVENS demanded the previous question.

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

Mr. SPAULDING demanded the previous question on the passage of the bill.

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

Mr. ENGLISH demanded the yeas and nays on the passage of the bill.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 76, nays 47; as follows:

YEAS—Messrs. Aldrich, Alley, Arnold, Babbitt, Baily, Beaman, Bingham, Francis P. Blair, Jacob B. Blair, Samuel S. Blair, Blake, William G. Brown, Campbell, Casey, Chamberlin, Clark, Colfax, Cutler, Davis, Delaplaine, Duell, Dunn, Edgerton, Edwards, Ely, Fenton, Fessenden, Franchot, Granger, Gurley, Haight, Hale, Hall, Hanchett, Harrison, Hooper, Hutchins, Kelley, Francis W. Kellogg, Lansing, Loomis, Lovejoy, Low, McKnight, Maynard, Mitchell, Moorhead, Nixon, Noell, Nugen, Olin, Timothy G. Phelps, Pomeroy, Potter, Price, John H. Rice, Riddle, Sargent,

Shanks, Shellabarger, Sherman, Sloan, Spaulding, Stevens, Trimble, Trowbridge, Van Horn, Van Valkenburgh, Verree, Wall, Wallace, Washburne, Wheeler, Whaley, Wilson, Windom, and Worcester—76.

NAYS—Messrs. William J. Allen, Baker, Biddle, George H. Browne, Buffinton, Calvert, Clements, Cobb, Roscoe Conkling, Corning, Cravens, Crisfield, Dawes, Delano, Dunlap, Elliot, English, Fouke, Goodwin, Grider, Harding, Johnson, Law, Menzies, Justin S. Morrill, Norton, Pendleton, Perry, John S. Phelps, Porter, Alexander H. Rice, Richardson, Sheffield, Shiel, Stiles, Benjamin F. Thomas, Francis Thomas, Vallandigham, Vibbard, Wadsworth, Walton, Ward, Webster, Chilton A. White, Wickliffe, Wood, and Woodruff—47.

So the bill was passed.

During the call,

Mr. VERREE stated that his colleague, Mr. LEHMAN, was detained in Philadelphia by illness.

Mr. MENZIES stated that his colleague, Mr. MALLORY, was confined to his room by sickness.

Mr. OLIN made a like statement in reference to Mr. HICKMAN.

Mr. VAN VALKENBURGH stated that his colleague, Mr. DIVEN, was absent because of illness.

Mr. VALLANDIGHAM said that if he had been present yesterday when his name was called, he would have voted against the tax bill.

Mr. SPAULDING stated that his colleague, Mr. FRANK, was absent attending a sick soldier.

Mr. SEGAR stated that if he had been within the bar when his name was called he would have voted for the bill.

The vote was announced as above recorded.

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

The latter motion was agreed to.

On motion of Mr. SPAULDING, the title of the bill was made to read as follows:

An act to authorize an additional issue of United States Treasury notes, and for other purposes.

BANK IN THE DISTRICT.

Mr. STEVENS, from the Committee of Ways and Means, reported a bill to incorporate a bank in the District of Columbia; and moved that it be made a special order for Saturday next.

Mr. THOMAS, of Massachusetts, objected to the special order.

The bill was read a first and second time.

On motion of Mr. PHELPS, of Missouri, it was referred to the Committee of the Whole on the state of the Union, and ordered to be printed.

OATH OF OFFICE.

Mr. MAYNARD. I ask the unanimous consent of the House to take from the Speaker's table House bill No. 371, to prescribe an oath of office, and for other purposes.

Mr. VALLANDIGHAM. I object.

PAMPHLET EDITION OF TAX ACT, ETC.

Mr. WALTON, from the Committee on Printing, reported the following resolution:

Resolved, That fifty thousand copies of the acts of the present Congress imposing direct, income, and other taxes, be printed for the House in pamphlet form, with marginal notes and a copious index.

Mr. OLIN. How many will that give to each member?

Mr. WALTON. Two hundred and fifty copies.

Mr. OLIN. What would be the expense to double the number?

Mr. WALTON. Seventy-five thousand dollars.

Mr. OLIN. I move to amend by making the number seventy-five thousand copies.

Mr. EDWARDS. I move to amend the amendment by striking out "seventy-five thousand," and inserting "one hundred thousand." That will, I understand, increase the expense but little, and will give each member five hundred copies.

Mr. PHELPS, of Missouri. I would inquire of the gentleman from Vermont whether he did not intend to embrace in that resolution the direct tax bill passed at the extra session?

Mr. WALTON. Certainly; and it does embrace it.

Mr. PHELPS, of Missouri. I thought it referred to bills passed at this session only.

Mr. WALTON. No; but during this Congress.

The amendment to the amendment was not agreed to.

Mr. OLIN. Is it in order to say a word?

The SPEAKER. The resolution is debatable.

Mr. OLIN. I intend to detain the House but a moment. I think every man in the House, who has a district in which this law is to have a practical operation, will foresee at once that it is almost absolutely necessary for every business man in the community to become acquainted with the provisions of this bill. I have been importuned the present session, during the consideration of this bill, for copies of it. The community ought to be possessed of it. Many of its provisions are important and intricate; and I trust the House will agree to the amendment. I call the previous question.

The previous question was seconded, and the main question ordered; and under the operation thereof, the amendment was agreed to.

The resolution, as amended, was agreed to.

Mr. WALTON moved to reconsider the vote by which the resolution was adopted; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

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

REBELLION LOSSES.

The SPEAKER. The regular order of business is the consideration of the bill (H. R. No. 401) relating to claims for the loss and destruction of property belonging to loyal citizens, and damages done thereto by the troops of the United States during the present rebellion, on which the gentleman from New York [Mr. SEDGWICK] is entitled to the floor.

Mr. ROSCOE CONKLING. I move, by the consent of my colleague, that the consideration of this bill be postponed until to-morrow.

Mr. FENTON. Is it the understanding that it shall be postponed and made the special order for to-morrow?

Mr. ROSCOE CONKLING. A single objection would defeat that. If it is postponed until to-morrow the bill will retain its place.

Mr. SEDGWICK. I only yield to such a motion to postpone as will retain the bill in its place.

Mr. ARNOLD. I would ask the gentleman if he makes the motion with the view of taking up the special order?

Mr. FENTON. The special order will come up after the morning hour.

The motion to postpone was agreed to.

ENLISTMENTS IN THE REGULAR ARMY.

The SPEAKER stated the next business in order to be the consideration of the House bill (No. 217) to encourage enlistments in the regular Army, and for other purposes, reported from the Committee on Military Affairs.

The bill was read.

Mr. BLAIR, of Missouri. I move to postpone the further consideration of this bill until next Saturday.

Mr. PHELPS, of Missouri. I was about to call the attention of the Committee on Military Affairs to the first section of the bill. We have recently, and during the absence of the chairman of that committee, passed an act to encourage enlistments in the volunteer service as well as in the regular Army.

Again: I perceive that the President is calling for additional troops, and has received additional cavalry regiments, or at any rate has authorized them to be raised. But this bill proposes a reduction of the present cavalry force in service. I desire to invite the attention of the committee to that fact, for in the event of a campaign being made in a particular direction during this war, we shall need all the cavalry we have and probably more.

Mr. BLAIR, of Missouri. I will withdraw my motion to postpone, and move that the bill be recommitted to the Committee on Military Affairs, with leave to report at any time.

The motion was agreed to.

ENGINEER AND COMMISSARY DEPARTMENT.

The SPEAKER announced the next bill in order to be the consideration of the bill (H. R. No. 523) to promote the efficiency of the corps of engineers, and of the commissary department, upon which the gentleman from Indiana [Mr. DUNN] is entitled to the floor.

Mr. BLAKE. I desire to say that the gentleman from Pennsylvania, [Mr. MCPHERSON,] who is necessarily absent at this time, desires to be heard upon this bill. I trust, therefore, the bill will be postponed, or be recommitted to the Committee on Military Affairs.

The bill was read.

Mr. CAMPBELL. Will the gentleman from Indiana yield to allow me to make a motion?

Mr. DUNN. I will.

PACIFIC RAILROAD BILL.

Mr. CAMPBELL. I move to reconsider the vote whereby the Senate amendments to House bill No. 364, the Pacific railroad bill, were referred to the select committee. I make the motion, and wish it entered, for the purpose of keeping the matter under the control of the House.

The motion was entered.

TREASURY NOTE BILL.

Mr. STEELE, of New Jersey. I ask unanimous consent to record my vote upon the passage of the Treasury note bill, being absent yesterday.

Mr. PHELPS, of Missouri, objected.

Mr. STEELE, of New Jersey. I will state that I should have voted against the bill.

ENGINEER AND COMMISSARY DEPARTMENTS.

Mr. DUNN. So far as this bill relates to the organization of the engineer and topographical corps, it is recommended very influentially from different quarters; and I ask leave to have read the following communication.

The Clerk read, as follows:

CAMP NEAR CUMBERLAND, VIRGINIA,
May 15, 1862.

GENTLEMEN: The legislation in relation to the corps of engineers and topographical engineers, which I requested last winter as a measure required by the good of the service, I have greatly felt the need of during the siege of Yorktown. These officers, with very insufficient numbers, have performed laborious and highly important duties, which have resulted in the bloodless reduction of the place—bloodless, so far as the Army in general is concerned, but costly enough for them. Each corps has lost a valuable officer—one killed and the other dangerously wounded—and this from a total of only seventeen. They have fairly earned the favorable consideration of Congress.

Legislation is greatly needed to effect three practical objects immediately:

1. To unite the corps of engineers and topographical engineers, and thus do away with a complicated and faulty organization.

2. To provide a proper means for filling the numerous and increasing vacancies—a matter which is becoming embarrassing. My engineer officers have been greatly overworked, and in fact crippled, from the want of the young officers, who, if the bill submitted last winter had become a law, would now be actively engaged. These vacancies, about thirty, cannot be properly filled without legislation.

3. To give the rank—at least temporary—which is demanded by every principle of equity and expediency. I have a battalion of three companies of regular engineer troops. It is commanded by a captain, an officer of fourteen years' invaluable experience, who may well feel aggrieved at not having even the rank to which his actual command would entitle him in any regiment of the line. Each of these companies is commanded by a lieutenant, upon whom the same relative injustice is inflicted. This is all the more galling to the officers of these two corps, because they are habitually and necessarily refused permission to accept the command of volunteer regiments, on the ground that their professional services cannot be spared.

I therefore earnestly hope that a bill providing for these three needs of the service may very speedily become a law. The necessity for it is injuriously felt every day. The bill submitted by these corps last winter had, and still has, my full approval; but if Congress is unwilling to increase so largely the permanent rank, the provisions for temporary rank during the war, added as an amendment to the bill reported by the Military Committee of the Senate, will provide for the immediate and pressing needs of the service.

GEORGE B. MCCLELLAN,
Major General Commanding.

Hon. H. WILSON, *Chairman Military Committee, United States Senate.*

Hon. F. P. BLAIR, *Chairman Military Committee, House of Representatives.*

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WASHINGTON, *January* 27, 1862.

DEAR SIR: I have examined with care the remarks and project of a law submitted by the committee from the corps of engineers and the corps of topographical engineers, in reference to increasing the efficiency of their branch of the military service. I cordially approve the views presented by them. The efficiency of the engineer service will be much increased by the union of these two corps. The great value of the services of engineer officers is felt in every expeditionary and Army corps, while the important functions exercised by them require that they should be invested with commensurate rank.

I therefore earnestly recommend that the provision for increase of rank in the proposed organization be adopted, as well as that for the temporary rank to be conferred during the war.

I have the honor to be, very respectfully, your obedient servant,

GEORGE B. MCCLELLAN,
Major General Commanding United States Army.

Hon. E. M. STANTON, *Secretary of War.*

Project for increasing the efficiency of the engineering branch of the Army.

The undersigned officers of the corps of engineers and topographical engineers, believing that legislation in reference to the two corps is necessary for their efficiency, beg leave to submit the following considerations:

Taking for basis the best European organizations, a force of six hundred thousand men should have ten thousand engineer soldiers, commanded by engineer officers, and, in addition, three hundred engineer officers for staff duty.

We must obtain engineer soldiers as we have those of other arms, by assignment of volunteer regiments to such duty. Three hundred engineer officers qualified for staff duty cannot be obtained.

If the war were to last ten years, engineers might be educated in the field by their own mistakes. In one that must be short there is no time to educate civilians for what Congress has called "the most elevated branch of military service."

Any increase must come, then, from the Army.

First. The corps of engineers may be nearly doubled by uniting to it the corps of topographical engineers, composed of officers of like education and ability, and separate from it without necessity.

Second. It may be further increased by giving its officers sufficient rank to induce line officers of the regular Army to transfer to it. Such is not the case at present, and there are numerous vacancies in it. Look at the Army Register for September, 1861. The senior first lieutenant of engineers was almost the only man in his class not a captain. The senior first lieutenant of topographical engineers, after thirteen years of service, was the only man of his class not a captain. Such are the rewards for entering and faithfully laboring in corps supposed to require much ability and much study, without as well as within the walls of the Military Academy.

It has been seen that officers of the corps do not have proper rank in reference to the line of the Army. Still less do they have proper rank relatively to volunteer officers. It is well understood that no officer of engineers will be allowed to accept anything below a brigadier general's position in the volunteer service, the reason being that his services as an engineer officer are deemed more important than as a colonel. Justice seems, then, to require that officers of this corps should have, *during the war*, rank commensurate with the importance of the duties they have to perform. These duties are recognized by Congress as of paramount importance.

The selection of positions, the construction of intrenchments, the reconnoitering the positions of the enemy, and devising the manner of attacking them; the construction of military bridges, and the conducting of sieges, &c., are among the most important duties of active war, and necessarily bring the officers charged with them into intimate and confidential relations with the general officers. Thus, for a stronger reason than mere justice to engineer officers, they should have rank commensurate with the importance of their positions. Rank gives weight to professional opinions, and a commanding general scarcely feels justified in being influenced by the advice of a mere lieutenant or captain.

The undersigned believe, then,

First. That it may be safely asserted that the interests of the service would be promoted by uniting the corps of engineers and topographical engineers.

Second. That these corps do not at present offer sufficient inducements in comparison with the rest of the regular Army to obtain and retain the officers qualified and recommended for them at the Military Academy.

Third. That at present, officers of engineers do not have rank corresponding to the importance of their duties, or sufficient to give proper weight to their recommendations.

And the undersigned submit herewith the draft of a bill which they believe adequate to the necessities of the case.

Committee of the Corps of Engineers.
J. G. BARNARD,
Major of Engineers and Brig. Gen. Vol.
D. P. WOODBURY,
Major Engineers, Lieut. Col. A. D. C.
B. S. ALEXANDER,
Lieutenant Colonel, A. D. C.
J. C. DUANE,
Captain of Engineers.
C. B. COMSTOCK,
First Lieutenant Engineers.
D. HOUSTON,
First Lieutenant Engineers.

Committee of the Corps of Topographical Engineers.
J. N. NACOMB,
Major Top. Engineers, Lieut. Col. A. D. C.
J. C. WOODRUFF,
Major Topographical Engineers.
W. R. PALMER,
Major Topographical Engineers.
A. W. WHIPPLE,
Major Topographical Engineers.
S. R. WILLIAMSON,
Captain Topographical Engineers.
H. L. ABBOT,
First Lieutenant Topographical Engineers.

An act to promote the efficiency of the Corps of Engineers.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the corps of engineers, and the corps of topographical engineers, be, and they are hereby, united into one corps, to be called the corps of engineers.

SEC. 2. *And be it further enacted,* That the organization of the corps of engineers shall be as follows: Four brigadier generals, eight colonels, sixteen lieutenant colonels, twenty-four majors, twenty-four captains, eighteen first lieutenants, twelve second lieutenants, one sergeant major, one quartermaster sergeant, and five companies of enlisted men as already provided for by law.

SEC. 3. *And be it further enacted,* The relative rank of the officers of the corps shall be the same as their relative rank previous to uniting the two corps.

SEC. 4. *And be it further enacted,* That the general officers herein provided for, shall be appointed by selection from the commissioned officers of the corps.

SEC. 5. *And be it further enacted,* That the other vacancies herein provided for, shall be filled by regular promotion of the present officers of the corps. The remaining vacancies shall be filled by graduates of the Military Academy, who have heretofore received recommendations from the academic board for the corps of engineers, topographical engineers, or ordnance corps, or who may be recommended by a board of engineer officers to be appointed by the Secretary of War.

SEC. 6. *And be it further enacted,* That, after the present vacancies are filled, all vacancies occurring in the corps of engineers shall be filled only by graduates of the Military Academy, who shall have been recommended thereto by the academic board.

SEC. 7. *And be it further enacted,* That during the present war all officers of the corps of engineers who have served two years, shall have the rank, pay, and emoluments of captain; those who have served five years, the rank, pay, and emoluments of major; those who have served ten years, the rank, pay, and emoluments of lieutenant colonel; those who have served twenty years, the rank, pay, and emoluments of colonel.

Mr. DUNN. It will be perceived by those who listened to the reading of the communication from General McClellan, that he recommends the adoption of the bill suggested by the committees of the engineer and topographical corps, but the Committee on Military Affairs recommend a more limited promotion out of regard to the increasing expenses of the war and the supposed views of this House, though the recommendation of General McClellan may have been the best.

This bill provides not only for the engineer and topographical corps, but also the commissary department, leaving but one department unprovided for, this House having already passed a bill in regard to the Adjutant General's department. I now send to the Clerk's desk an amendment by way of an additional section, embracing the Quartermaster General's department.

The amendment was read, as follows:

SEC. —. *And be it further enacted,* That there be added to the officers now in the Quartermaster General's department of the Army, by regular promotion therein, one colonel, four lieutenant colonels, and eight majors, who shall have the same rank in said department as other officers of like grade therein.

Mr. DUNN. I now ask to have read a communication from General Meigs, which has reference to the amendment just read.

The letter was read, as follows:

I shall be much gratified to see the foregoing proposition become law. It will give a deserved rank to officers who are rendering most important service to the country, whose responsibilities are very heavy, whose labors know no intermission, no rest or relaxation. Marches, drills, battles, are occasional, but the labor of provision and supply is unceasing.

There are officers in the quartermaster's department still ranking as captains who have served for years, and who, during the past year of preparation, have worked without rest all day and far into every night; who have faithfully disbursed millions of the public money, and who have equipped and supplied, some of them, over one hundred and fifty thousand men. They deserve promotion and reward.

M. C. MEIGS, *Quartermaster General.*

Mr. DUNN. If it is now the pleasure of the House to recommit this bill to the Committee on Military Affairs, with leave to report at any time, I will yield the floor to such a motion. I do not wish to press the consideration of the bill at the present time, but if the committee does not have leave to report at any time, we may not have an opportunity to report the bill back during the present session.

Mr. BLAKE. I make that motion, and hope it will prevail, as the gentleman from Pennsylvania, [Mr. MCPHERSON,] now absent, desires to be heard upon the subject.

The motion was agreed to.

BETTER GOVERNMENT OF THE NAVY.

Mr. SEDGWICK. I ask leave to take from the Speaker's table Senate bill No. 348, for the better government of the Navy of the United States, in order that it may be referred to the Committee on Naval Affairs, and ordered to be printed. If there is no objection, I will make that motion.

The motion was agreed to.

BUSINESS FROM THE NAVAL COMMITTEE.

Mr. SEDGWICK. This day was assigned for the consideration of business from the Naval Committee. The bill just ordered to be printed is the principal business, the prize bill to which I referred before having been incorporated into a Senate bill. I move that Thursday of this week, instead of to-day, be set aside for the consideration of business from that committee.

The motion was agreed to.

Mr. CAMPBELL. I now call for the regular order of business.

Mr. MAYNARD. I appeal to the gentleman to let me ask the House to allow bill of the House No. 371, in reference to an oath of office, to be taken up and referred to the Committee on the Judiciary.

Mr. WASHBURNE. I cannot agree to that, unless the committee have leave to report at any time.

Mr. CAMPBELL. Then I must insist on the regular order.

The SPEAKER. Reports are in order from special committees.

PACIFIC RAILROAD BILL.

Mr. CAMPBELL. I now withdraw the motion to reconsider the vote whereby the amendments of the Senate to bill of the House No. 364, to aid in constructing a railroad and telegraph line from the Missouri river to the Pacific ocean, and to secure to the Government the use of the same for postal, military, and other purposes, were referred to the select committee on the Pacific railroad, and I now report back the bill and beg leave to say that the committee have instructed me to move a concurrence in all the amendments of the Senate.

These Senate amendments are more in form than in substance, with two or three exceptions, and I trust that the House will not consider it necessary to take them up in detail, but that a motion to concur in the whole of them may be acceptable to the House. The amendments of the Senate are more stringent in some respects than the provisions of the bill as it passed the House. One of the most important of the amendments is that twenty-five per cent. of all the aid the Government gives to the branches and fifteen per cent. of the aid the Government gives to the main road shall be reserved until the final completion of the road. The friends of the bill might object to amendments of that character, but its opponents will not be disposed to do so. It is further provided by the Senate's amendments that the Government for all the bonds advanced shall have a lien, not only upon the whole of the road and its fixtures, as provided for in the House bill, but also on all the rolling stock and other property of the road. This is extreme, but rather than run the risk of failure of a measure of such magnitude we will accept the amendment.

With these exceptions, the committee deemed the amendments immaterial, and in a matter of such great importance to the country in every aspect, we thought it our duty to recommend a concurrence. I hope, therefore, that the House will agree to the amendments generally without taking a separate vote on each one. The amendments have been printed and gentlemen can refer to them. Let us now adopt this great measure, a measure second to none in its wide bearings on the interests of our country.

I move that the amendments be concurred in, and I ask the previous question on that motion.

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

Mr. LOVEJOY demanded the yeas and nays on concurring in the amendments.

The yeas and nays were ordered.

Mr. SHEFFIELD. I hope the amendments will be reported.

The Clerk read the amendments.

The question was taken; and it was decided in the affirmative—yeas 104, nays 21; as follows:

YEAS—Messrs. Aldrich, Alley, Arnold, Ashley, Babbitt, Baker, Baxter, Beaman, Biddle, Bingham, Francis P. Blair, Samuel S. Blair, Blake, Buffinton, Campbell, Casey, Chamberlin, Clark, Clements, Colfax, Roscoe Conkling, Corning, Cutler, Davis, Dawes, Delano, Duell, Dunlap, Dunn, Edgerton, Edwards, Eliot, Ely, Fenton, Fessenden, Fisher, Fouke, Franchot, Frank, Gooch, Goodwin, Granger, Gurley, Haight, Hale, Hanchett, Hooper, Hutchins, Julian, Kelley, Francis W. Kellogg, Knapp, Lansing, Loomis, Lovejoy, Low, McKnight, Maynard, Mitchell, Moorhead, Nixon, Noell, Nugen, Olin, Perry, Timothy G. Phelps, Pomeroy, Porter, Potter, Price, Alexander H. Rice, Richardson, Riddle, Edward H. Rollins, Sargent, Sedgwick, Segar, Shanks, Sheffield, Shellabarger, Shiel, Spaulding, John B. Steele, Stevens, Stratton, Benjamin F. Thomas, Trimble, Trowbridge, Van Horn, Van Valkenburgh, Verree, Wall, Wallace, Walton, Ward, Washburne, Webster, Wheeler, Whaley, Wilson, Windom, Wood, Worcester, and Wright—104.

NAYS—Messrs. William J. Allen, Ancona, Baily, Cal-

vert, Frederick A. Conkling, Cravens, Crisfield, Delaplaine, Hall, Harding, Harrison, Holman, Johnson, Law, Lazear, Justin S. Morrill, Morris, Norton, William G. Steele, Francis Thomas, and Chilton A. White—21.

So the amendments of the Senate were concurred in.

Mr. CAMPBELL moved to reconsider the vote by which the amendments of the Senate were concurred in; and also moved to lay the motion to reconsider upon the table.

The latter motion was agreed to.

ENROLLED BILL SIGNED.

Mr. GRANGER, from the Committee on Enrolled Bills, reported that the committee had examined and found truly enrolled an act (S. No. 343) to provide for additional medical officers of the volunteer service; when the Speaker signed the same.

SHIP CANAL.

The morning hour having now expired, the House resumed the consideration of the bill of the House (No. 288) to construct a ship canal for the passage of armed and naval vessels from the Mississippi river to Lake Michigan, and for other purposes, postponed until this day, and upon which Mr. BLAIR, of Missouri, was entitled to the floor.

Mr. STEVENS. I hope the gentleman from Missouri will allow me to move to postpone this bill until next week. The printed substitute has only just been laid upon our tables, and we have had no time to examine it.

Mr. WASHBURNE. The substitute is very simple.

Mr. BLAIR, of Missouri. I do not understand the proposition of the gentleman from Pennsylvania.

Mr. STEVENS. I propose to move to postpone this bill until Monday next. It will then be the special order for that day.

Mr. BLAIR, of Missouri. Well, let it be made the special order from day to day until disposed of.

Mr. WASHBURNE. The bill has been postponed once, and I hope we shall consider it to-day.

Mr. BLAIR, of Missouri. I have no objection to allowing the gentleman from Pennsylvania to make that motion I wish first, however, to offer an amendment which I desire to have printed.

The SPEAKER. Does the gentleman offer it as an amendment to the amendment which he offered heretofore?

Mr. BLAIR, of Missouri. I do. I ask that it be printed.

It was so ordered.

Mr. BLAIR, of Missouri. I now yield to the gentleman from Pennsylvania to make his motion.

Mr. STEVENS. I move that the bill be postponed until Monday next, and be made the special order for that day.

Mr. VALLANDIGHAM. I object to making it a special order. Is it a special order now?

The SPEAKER. It was made the special order for to-day.

Mr. VALLANDIGHAM. I object to its being made the special order for any other day.

The SPEAKER. The gentleman from Pennsylvania moves to postpone the special order until Monday next. The special order cannot be extended beyond that day except by unanimous consent.

The motion to postpone until Monday next was agreed to.

RECORDING OF VOTES.

Mr. WRIGHT. In consequence of a severe injury which I received a week ago, I was unable to be present in the House. I therefore ask the unanimous consent of the House to record my vote on the confiscation bill, the emancipation bill, and the tax bill.

There being no objection,

Mr. WRIGHT. I vote "no" on the confiscation and emancipation bills, and "ay" on the tax bill.

Mr. FISHER. I ask unanimous consent to record my vote on the Treasury note bill, as I was absent from the House on account of sickness.

There being no objection,

Mr. FISHER voted "ay."

Mr. VALLANDIGHAM. I would be glad to have the same privilege on the Treasury note bill.

There being no objection,

Mr. VALLANDIGHAM voted "no."

Mr. F. A. CONKLING made a similar request.

There being no objection,

Mr. F. A. CONKLING voted "ay."

Mr. COVODE asked leave to have his vote recorded on the Pacific railroad bill, he having been absent on the special committee on the conduct of the war when the vote was taken.

There being no objection,

Mr. COVODE voted "ay."

Mr. FRANK asked leave to have his vote recorded on the Treasury note bill.

There being no objection,

Mr. FRANK voted "ay."

Mr. RICE, of Maine, asked leave to have his vote recorded on the Pacific railroad bill.

There being no objection,

Mr. RICE, of Maine, voted "ay."

Mr. EDWARDS. I was absent, in attendance on a sick friend, when the bill to establish diplomatic relations with Hayti passed. I desire to have my vote recorded.

The SPEAKER. It is too late to have the vote on that bill changed, the Journal having been already printed.

Mr. STILES. I ask leave to have my vote recorded on the confiscation bill.

Objection was made.

Mr. STILES stated that he would have voted "no."

The SPEAKER. The Chair will state, in the same connection, that the Clerk informs him that the Journal, containing the vote on the passage of the confiscation bill, has gone to the printer. It is therefore too late to record any additional votes on that bill.

OATH OF OFFICE.

Mr. WILSON. I ask the consent of the House to have taken from the Speaker's table House bill No. 371, to prescribe an oath of office, and for other purposes, with the Senate amendments thereto.

Mr. VALLANDIGHAM. I object.

Mr. WASHBURNE. Has the morning hour expired?

The SPEAKER. It has.

Mr. WASHBURNE. Then I move to go to the business on the Speaker's table.

The motion was agreed to; and the following bills were taken from the Speaker's table, and disposed of as indicated below:

INDIAN APPROPRIATION BILL.

An act (H. R. No. 260) making appropriations for the current and contingent expenses of the Indian department, and for fulfilling treaty stipulations with various Indian tribes for the year ending June 30, 1863, with Senate amendments thereto.

Mr. ALDRICH. I move that the House insist on its disagreeing votes to the Senate's amendments, and agree to the committee of conference asked by the Senate.

The motion was agreed to.

REORGANIZATION OF NAVY DEPARTMENT.

An act (S. No. 171) to reorganize the Navy Department of the United States, with House amendments thereto, in which the Senate non-concurred.

Mr. SEDGWICK. I move that the House insist on its amendments, and ask a committee of conference on the disagreeing votes of the two Houses.

The motion was agreed to.

Subsequently the Speaker appointed Messrs. SEDGWICK, MOORHEAD, and CRAVENS the managers on the part of the House.

POLYGAMY.

An act (H. R. No. 391) to punish the practice of polygamy in the Territories of the United States and other places, and disapproving and annulling certain acts of the Legislative Assembly of the Territory of Utah, with Senate amendments thereto.

Mr. MORRILL, of Vermont. I desire to say, in reference to the objection made by the gentleman from Missouri [Mr. PHELPS] last week, to one of the provisions of this bill, that I understand the Roman Catholic church at Santa Fé has property exceeding $50,000 in amount, but that it is protected under treaty stipulations. His objection, therefore, is not valid. I now move the previous question on concurring with the Senate amendments.

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

The amendments were read, as follows:

Strike out all after the enacting clause, and insert:

That every person having a husband or wife living, who shall marry any other person, whether married or single, in a Territory of the United States, or other place over which the United States have exclusive jurisdiction, shall, except in the cases specified in the proviso to this section, be adjudged guilty of bigamy, and, upon conviction thereof, shall be punished by a fine not exceeding $500, and by imprisonment for a term not exceeding five years: *Provided, nevertheless*, That this section shall not extend to any person by reason of any former marriage, whose husband or wife by such marriage shall have been absent for five successive years without being known to such person within that time to be living; nor to any person by reason of any former marriage which shall have been dissolved by the decree of a competent court; nor to any person by reason of any former marriage which shall have been annulled or pronounced void by the sentence or decree of a competent court on the ground of the nullity of the marriage contract.

SEC. 2. *And be it further enacted*, That the following ordinance of the provisional government of the State of Deseret, so-called, namely: "An ordinance incorporating the Church of Jesus Christ of Latter Day Saints," passed February 8, 1851, and adopted, reënacted, and made valid by the Governor and Legislative Assembly of the Territory of Utah by an act passed January 19, 1855, entitled "An act in relation to the compilation and revision of the laws and resolutions in force in Utah Territory, their publication, and distribution," and all other acts and parts of acts heretofore passed by said Legislative Assembly of the Territory of Utah, which establish, support, maintain, shield, or countenance polygamy, be, and the same hereby are, disapproved and annulled: *Provided*, That this act shall be so limited and construed as not to affect or interfere with the right of property legally acquired under the ordinance heretofore mentioned, nor with the right "to worship God according to the dictates of conscience," but only to annul all acts and laws which establish, maintain, protect, or countenance the practice of polygamy, evasively called spiritual marriage, however disguised by legal or ecclesiastical solemnities, sacraments, ceremonies, consecrations, or other contrivances.

SEC. 3. *And be it further enacted*, That it shall not be lawful for any corporation or association, for religious or charitable purposes, to acquire or hold real estate in any Territory of the United States during the existence of the territorial government of a greater value than $50,000; and all real estate acquired or held by any such corporation or association contrary to the provisions of this act shall be forfeited and escheat to the United States: *Provided*, That existing vested rights in real estate shall not be impaired by the provisions of this section.

Amend the title, so as to make it read:

An act to punish and prevent the practice of polygamy in the Territories of the United States and other places, and disapproving and annulling certain acts of the Legislative Assembly of the Territory of Utah.

The amendments of the Senate were concurred in.

Mr. MORRILL, of Vermont, moved to reconsider the vote by which the amendments were concurred in; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

GUARDIAN SOCIETY OF THE DISTRICT.

An act (H. R. No. 425) to incorporate the Guardian Society to Reform Juvenile Offenders in the District of Columbia, with Senate amendments thereto.

The amendments of the Senate were concurred in.

OATH OF OFFICE.

An act (H. R. No. 371) to prescribe an oath of office, and for other purposes, with Senate amendments thereto.

Mr. WILSON. I move that the House nonconcur in the Senate amendments, and ask a committee of conference; and on that I demand the previous question.

Mr. VALLANDIGHAM. I move that the House concur in the Senate amendments.

The SPEAKER. The gentleman from Iowa called the previous question on his motion.

Mr. VALLANDIGHAM. I submit that it is not in order to move to non-concur in all the amendments at once.

The SPEAKER. The gentleman is entitled to a separate vote on each of the amendments.

Mr. VALLANDIGHAM. I now move that the House concur in the first amendment.

The SPEAKER. The previous question is pending on the motion of the gentleman from Iowa.

Mr. VALLANDIGHAM. If the gentleman's motion was not in order, his call for the previous question on it would fail.

The SPEAKER. The gentleman's call for the previous question was in order; and when the

House comes to act on the amendments, a separate vote can be demanded on each.

Mr. VALLANDIGHAM. The Chair does not seem to understand my point. My point of order is that it is not in order to move that the House concur or non-concur in several amendments where there are more than one, and that the motion not being in order, the demand for the previous question cannot be entertained.

The SPEAKER. If the main question was ordered on the bill, the House would proceed to act separately on the amendments, unless the House agreed to take the vote on all together. The gentleman from Iowa has therefore the right to move the previous question.

Mr. VALLANDIGHAM. I remember the Chair ruling that it required unanimous consent.

The SPEAKER. The Chair sustains the point of order, that, if objection be made, the vote cannot be taken on all the amendments at once. There must be a separate vote. But there is no question that the gentleman can call the previous question on the action of the House.

Mr. VALLANDIGHAM. I demand a separate vote.

The SPEAKER. The gentleman from Ohio insisted upon the reading of all the amendments of the Senate before taking the question on seconding the demand for the previous question. If the gentleman still insists, the amendments must all be read through.

Mr. VALLANDIGHAM. I have no special interest in reference to any other amendment except the first. As I understand, the only question before the House at this time is upon that amendment.

The SPEAKER. The previous question has not yet been seconded. The gentleman has the right to have all the amendments read if he insists upon it.

Mr. VALLANDIGHAM. Only thirty-three voted for seconding the previous question.

The SPEAKER. Only five voted against seconding the demand. If the gentleman insists upon it, he is entitled to have all the amendments of the Senate read at this time.

Mr. VALLANDIGHAM. I care nothing, as I have said, about any amendment except the first. They might, however, be as well read now as any other time. I ask for the reading.

The Clerk read the amendments of the Senate.

The question recurred on seconding the demand for the previous question.

Mr. WASHBURNE demanded tellers.

Tellers were ordered; and Messrs. WASHBURNE and VALLANDIGHAM were appointed.

The House divided; and the tellers reported—ayes 69, noes 30.

So the previous question was seconded.

The main question was ordered to be put.

The House then proceeded to vote on the amendments of the Senate, as follows:

First amendment:

Page 1, line four, after the word "service," insert as follows:

For whom the form of oath of office has not been prescribed by the Constitution, and excepting the Vice President, and Senators and Representatives in Congress.

The House divided on concurring in the Senate amendment; and there were—ayes 33, noes 63.

Mr. VALLANDIGHAM demanded the yeas and nays.

The yeas and nays were ordered—ayes 17, noes 63.

The question was taken; and it was decided in the negative—yeas 42, nays 76; as follows:

YEAS—Messrs. William J. Allen, Ancona, Baily, Jacob B. Blair, William G. Brown, Calvert, Cobb, Corning, Cravens, Crisfield, Crittenden, Dunlap, Fouke, Grider, Haight, Hall, Harding, Johnson, Kerrigan, Knapp, Law, Lazear, Menzies, Morris, Noble, Norton, Perry, Richardson, Sheffield, Shiel, Smith, William G. Steele, Stiles, Benjamin F. Thomas, Francis Thomas, Vallandigham, Ward, Webster, Chilton A. White, Wickliffe, Wood, and Wright—42.

NAYS—Messrs. Aldrich, Alley, Babbitt, Baker, Baxter, Bingham, Samuel S. Blair, Blake, Buffinton, Campbell, Chamberlin, Clark, Clements, Colfax, Frederick A. Conkling, Roscoe Conkling, Covode, Cutler, Davis, Dawes, Duell, Dunn, Edgerton, Edwards, Eliot, Ely, Fenton, Fessenden, Franchot, Gooch, Granger, Hale, Hanchett, Holman, Hooper, Hutchins, Julian, Kelley, Francis W. Kellogg, Loomis, Lovejoy, Low, McKnight, Maynard, Moorhead, Justin S. Morrill, Timothy G. Phelps, Pomeroy, Porter, Potter, Price, John H. Rice, Riddle, Edward H. Rollins, Sargent, Sedgwick, Segar, Shanks, Shellabarger, Sherman, John B. Steele, Stevens, Trimble, Trowbridge, Van Horn, Van Valkenburgh, Verree, Wall, Wallace, Walton, Washburne, Wheeler, Whaley, Wilson, Windom, and Worcester—76.

So the amendment was non-concurred in.

During the call of the roll,

Mr. RICHARDSON stated that his colleague, Mr. ROBINSON, was detained from the House by sickness.

Second amendment:

Same page, lines eight and nine, strike out the words "Government of."

The amendment was non-concurred in.

Third amendment:

Same page, lines fourteen and fifteen, strike out the words "Government of."

The amendment was non-concurred in.

Fourth amendment:

Same page, line seventeen, strike out after the word "have" to the word "yielded," and insert in lieu thereof the word "not," in the following clause of the bill: "that I have neither voluntarily renounced my allegiance to the Government of the United States, nor yielded a voluntary support to any pretended government, authority, Power, or constitution hostile or inimical thereto."

The amendment was non-concurred in.

Fifth amendment:

Same page, line eighteen, after the word "Constitution," insert the words "within the United States."

The amendment was non-concurred in.

Sixth amendment:

Same page, line twenty-one, strike out the words "and Government."

The amendment was non-concurred in.

Seventh amendment:

Same page, line twenty-one, strike out the words "and all laws made in pursuance thereof."

The amendment was non-concurred in.

Mr. WILSON moved that the House ask a committee of conference on the amendments of the Senate disagreed to by the House.

The motion was agreed to.

QUINDARO NANCY GUTHRIE.

Senate bill (No. 315) for the relief of Quindaro Nancy Guthrie and her children of Shawnee blood, was taken from the Speaker's table, and read a first and second time.

Mr. ALDRICH. I would like to have that bill put on its passage. I think if the House will hear the bill read there will be no objection.

Mr. F. A. CONKLING. I rise to a question of order. I submit that this bill must have its first consideration in a Committee of the Whole.

The SPEAKER. For what reason?

Mr. F. A. CONKLING. For the reason that it makes an appropriation.

The SPEAKER. The Chair cannot decide whether it does or not, until it has been read.

The bill was read.

The SPEAKER. The Chair overrules the question of order. The bill does not make an appropriation.

Mr. ALDRICH. The bill makes no appropriation. It simply authorizes the Secretary of the Treasury to ascertain whether this woman is a member of the Shawnee tribe of Kansas, and if she is, to place her upon the same footing with the other members of that tribe, entitling her to her share of the annuities and lands which have been divided in severalty, she having been excluded, as it is claimed unjustly by those who have introduced the bill in the Senate. The bill has been very carefully examined by a committee of the Senate. Senator HARLAN reported a substitute for the bill which was passed by the Senate, and which, I think, is properly guarded. I hope the bill will be put on its passage.

Mr. WASHBURNE. I think all these private bills ought to go to the standing committees. Let the bill go to the Committee on Indian Affairs, and let them examine it.

Mr. ALDRICH. I have examined the bill as one of that committee.

Mr. F. A. CONKLING. I ask the gentleman whether these annuities and lands have not been distributed in accordance with treaty stipulations?

Mr. ALDRICH. I suppose so.

Mr. F. A. CONKLING. Then, if it be the intent of this bill to change payments which have been made in accordance with treaty stipulations, it seems to me, in the first place, that it is unconstitutional. If that question is involved, it certainly ought to be thoroughly examined. I hope, therefore, it will be referred to the Committee on Indian Affairs, or to a Committee of the Whole, so that it may be examined.

Mr. ALDRICH. I am willing that it shall be referred to the Committee on Indian Affairs.

The bill was accordingly referred to the Committee on Indian Affairs.

PREËMPTORS IN WISCONSIN.

Senate bill (No. 307) granting the right of preemption to settlers on certain lands in Wisconsin, was next taken from the Speaker's table, read a first and second time, and referred to the Committee on Public Lands.

MEDALS OF HONOR.

Senate joint resolution (No. 82) providing for the presentation of medals of honor to enlisted men in the Army and volunteer forces who have distinguished or may distinguish themselves in battle during the present rebellion, was taken from the Speaker's table, read a first and second time, and referred to the Committee on Military Affairs.

POST OFFICE DEPARTMENT.

Senate bill (No. 362) in relation to the Post Office Department, was taken from the Speaker's table, read a first and second time, and referred to the Committee on the Post Office and Post Roads.

POSTAL SERVICE.

A communication from the Postmaster General, transmitting the annual statement of the offers received and contracts made for carrying the mails during the past year, was taken from the Speaker's table, referred to the Committee on the Post Office and Post Roads, and ordered to be printed.

CALL OF COMMITTEES.

The SPEAKER stated the business next in order to be the call of committees for reports.

PRESTON BECK.

Mr. FENTON, from the Committee of Claims, reported back a bill for the relief of Preston Beck, administrator of Preston Beck, jr., deceased, late surviving partner of the firm of Brent & Beck; which was referred to a Committee of the Whole House on the Private Calendar, and ordered to be printed.

JAMES L. JOHNSON.

Mr. FENTON, from the same committee, reported back a bill (C. C. No. 110) for the relief of James L. Johnson, surviving partner of the firm of Beck & Johnson; which was referred to a Committee of the Whole House on the Private Calendar, and ordered to be printed.

A. M. JACKSON.

Mr. FENTON, from the same committee, reported back a bill (C. C. No. 99) for the relief of Alexander M. Jackson, administrator of John Gorman, deceased; which was referred to a Committee of the Whole House on the Private Calendar, and ordered to be printed.

DENNIS CRONANS.

Mr. FENTON, from the same committee, reported a joint resolution to confirm the adverse decision of the Court of Claims in the case of Dennis Cronans; which was read a first and second time.

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

T. S. J. JOHNSON.

Mr. FENTON, from the same committee, also reported a joint resolution to confirm the adverse decision of the Court of Claims in the case of T. S. J. Johnson; which was read a first and second time, ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

ABRAHAM KING.

Mr. FENTON, from the same committee, also reported a joint resolution to confirm the adverse decision of the Court of Claims in the case of Abraham King, administrator of John Mandeville; which was read a first and second time, ordered to be engrossed, and read a third time; and being engrossed, it was accordingly read the third time, and passed.

EXECUTORS OF LEWIS WARRINGTON, ETC.

Mr. FENTON, from the same committee, also reported a joint resolution to confirm the adverse decision of the Court of Claims in the case of the executors of Lewis Warrington and others; which was read a first and second time, ordered to be engrossed, and read a third time; and being engrossed, it was accordingly read the third time, and passed.

RICHARD IRVIN.

Mr. FENTON, from the same committee, also reported a joint resolution to confirm the adverse decision of the Court of Claims in the case of Richard Irvin, trustee of the Mechanics' Bank, New York; which was read a first and second time, ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

C. J. JENKINS AND COMPANY.

Mr. FENTON, from the same committee, also reported a joint resolution to confirm the adverse decision of the Court of Claims in the case of C. J. Jenkins and W. W. Mann, assignees of John W. McKinney; which was read a first and second time, ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

DEPUTY COLLECTOR.

Mr. WASHBURNE, from the Committee on Commerce, reported a bill to authorize the Secretary of the Treasury to appoint a deputy collector of customs at Chincoteague Island, Virginia; which was read a first and second time.

The bill was read through.

Mr. WASHBURNE. I have a letter from the Secretary of the Treasury recommending the passage of this bill, which I will have read if any gentleman desires it.

Mr. THOMAS, of Massachusetts. I should like to hear it.

The Clerk read, as follows:

TREASURY DEPARTMENT, *June* 17, 1862.

SIR: I have the honor to acknowledge the receipt of your letter of the 16th instant, inclosing a petition for making Chincoteague Island, Virginia, a port of entry, and a draft of a bill authorizing the Secretary of the Treasury to appoint a deputy collector to reside on said island, who shall grant enrollments and licenses to vessels.

I inclose, for your consideration, a draft of a bill authorizing the Secretary of the Treasury to appoint a deputy collector to reside on Chincoteague Island, and to exercise such powers, under the revenue laws, as he, the Secretary of the Treasury, may prescribe. The nature of the powers conferred upon the deputy collector under this bill would be authority to issue marine papers to vessels and to collect duties. This bill, it is presumed, will accommodate to the fullest extent the merchants and masters of vessels doing business at Chincoteague Island.

I am, very respectfully, your obedient servant,

S. P. CHASE,
Secretary of the Treasury.

Hon. E. B. WASHBURNE, *Chairman of Committee on Commerce, House of Representatives.*

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

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

The latter motion was agreed to.

BRANCH MINT IN NEVADA.

Mr. WASHBURNE moved that the Committee on Commerce be discharged from the further consideration of a bill to establish a branch mint in the Territory of Nevada, and that it be referred to the Committee of Ways and Means.

The motion was agreed to.

PORT OF ENTRY AT EVANSVILLE, INDIANA.

Mr. WASHBURNE, from the Committee on Commerce, submitted an adverse report on the petition of the citizens of Evansville, Indiana, to constitute that place a port of entry; which was laid upon the table, and ordered to be printed.

PORTS OF ENTRY IN REBELLIOUS STATES, ETC.

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

A bill (H. R. No. 3) to repeal all of the laws creating ports of entry in the rebellious States.

Petition of William B. Coyle and joint resolutions of the Legislative Assembly of Washington Territory in relation to the lumber interests.

PROTECTION OF HARBORS.

Mr. ELIOT, from the same committee, reported a bill to preserve and protect for national defense the harbors of Provincetown, Massachusetts, and Erie, Pennsylvania; which was read a first and second time, referred to the Committee of the Whole on the state of the Union, and, with the accompanying report, ordered to be printed.

CHANGE OF VESSELS' NAMES.

Mr. ELIOT, from the same committee, reported a bill changing the name of the steamboat Charlotte Vanderbilt to William F. Russell; which was read a first and second time, ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

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

The latter motion was agreed to.

Mr. WARD, from the same committee, reported a bill authorizing the Secretary of the Treasury to change the name of the steamer Coatzacoalcos to America; which was read a first and second time, ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

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

The latter motion was agreed to.

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

The memorial of Thomas Clyde, to change the name of the steamer M. S. Perry; and

The memorial of Philip Fitzpatrick, to change the name of the schooner Sarah Jane.

Mr. NIXON, from the same committee, reported back Senate bill No. 242, to change the name of the American-built schooner Tom Dyer to that of Dolphin; which was ordered to a third reading; and it was accordingly read the third time, and passed.

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

The latter motion was agreed to.

Mr. NIXON, from the same committee, reported back Senate bill No. 243, to change the name of the American-built schooner Curtis Mann to that of Supply; which was ordered to a third reading; and was accordingly read the third time, and passed.

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

The latter motion was agreed to.

LUMBER INTERESTS.

Mr. WASHBURNE. At the suggestion of a gentleman from Washington Territory, I move to take from the Speaker's table the joint resolutions of the Legislative Assembly of that Territory in relation to the lumber interests, and that it be referred to the Committee on Public Lands.

The motion was agreed to.

ABOLITION OF PORTS OF ENTRY.

Mr. SHEFFIELD, from the same committee, reported a bill to abolish certain ports of delivery in the Mississippi valley; which was read a first and second time.

The bill abolishes the ports of delivery of Hannibal, Missouri; Hickman and Columbus; Kentucky; Chattanooga and Knoxville, Tennessee; Tuscumbia, Alabama; and Shreveport, Louisiana.

Mr. MAYNARD. I move to strike out "Knoxville." It is the metropolitan point of an area of country extending two hundred miles each way. It is a place of sufficient importance to allow it to remain a port of delivery, which it has been for many years.

Mr. SHEFFIELD. The Secretary of the Treasury recommended the abolition of these ports of delivery. The reason which led to the establishment of these ports of delivery was this: there were railroads to be constructed in the vicinity of those places, and it was deemed convenient to have the railroad iron, instead of being delivered at New Orleans, delivered at one or other of these places in the valley of the Mississippi. But, sir, this reason does not any longer exist. And for the years 1859 and 1860 no business was done, and no fees of any consequence were collected at any of these places. Nothing was done by the collectors of the ports except to receive their salaries. It seems to me therefore proper that the bill should pass.

Mr. MAYNARD. I will say in regard to the expenses of the office that they are very small, not exceeding $200 a year.

The gentleman is right in saying that the object of establishing that point as a port of entry was to facilitate the construction of the system of railroads of that State. The importance of that system of railroads has been developed to some extent during the present war. That system remains incomplete, but it is still in process of completion. The labor is going on actively upon two of the roads which propose a connection between the northwest and southeast Atlantic border, and I presume they will be completed as soon as the war is brought to a close and we get possession of that country.

The reasons which originated the policy, operate at present as vigorously as they did at the beginning, and will, I think, after this war is over operate more strongly than they did originally, from the fact that that portion of the country, as we all know, has been subjected to a degree of hardship and rigor that has not fallen upon other portions of the country, inasmuch as it has received the support of neither of the two Governments, the Federal or that of the southern confederacy, and has been the theater of active hostilities between the two. I hope, at this time, the gentleman will interpose no objection, but let Knoxville be stricken out.

Mr. WICKLIFFE. I want to inquire of the chairman of the Committee on Commerce, or of the gentleman who reported this bill, from what foreign port a vessel can sail with a package of merchandise to the city of Knoxville? A port of entry is one at which goods may be received directly from Europe.

Mr. SHEFFIELD. It is not a port of entry, but a port of delivery.

Mr. WICKLIFFE. Articles imported in bulk from abroad are to be delivered at the port of delivery. Now, I want to know by what body of water goods can reach Knoxville from abroad? If there is any such body of water I shall vote for the bill; if there is none I shall vote against it.

Mr. MAYNARD. I supposed that every gentleman familiar with the geography of that country was aware of the fact that Knoxville, though certainly not on tide water, is upon the water of the Holston river, navigable by steamboats of considerable size during perhaps three fourths of the year.

Mr. SHEFFIELD. I call the previous question, but first I desire to say that the gentleman has urged no reason which, it seems to me, ought to satisfy the House why this place should not be retained. I move the previous question.

The previous question was seconded, and the main question ordered to be put; and under the operation thereof the amendment was not agreed to.

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

Mr. PHELPS, of Missouri. I desire to inquire of the gentleman who reported this bill whether there is not authority already given to the Secretary of the Treasury to abolish many of these ports of delivery?

Mr. SHEFFIELD. I think not.

Mr. PHELPS, of Missouri. I have sent for a volume of the statutes in order to find the law. I am satisfied that he possesses that power now wherever he believes there is no necessity for maintaining them.

I recollect well that several of these ports of delivery were established because they were in the vicinity of some railroad then being constructed, and they were needed for the purpose of having the iron, which the companies imported from abroad, delivered at that particular point, which was thus made a port of entry merely for the accommodation of the railroad company.

Mr. SHEFFIELD. I have stated that the reason for the establishment of these ports has been superseded. I call the previous question.

Mr. PHELPS, of Missouri. With the consent of the gentleman, I will say I have sent to the library for the volume containing the law to which I referred. I have a distinct recollection that three or four years ago an authority was given to the Secretary of the Treasury to abolish these ports. I think the authority was coupled with the condition that where the amount of duties did not come up to a certain amount the President should abolish such port.

The Secretary of the Treasury, under the preceding Administration failed, I think, to execute that law as it was designed to be executed; but, as I was informed by him during the last session of the last Congress, he was waiting for further legislation by Congress upon the subject. It will be recollected by many of the old members that it was then proposed to revise all our revenue laws, and that bills for that purpose were pending in Congress.

I have no objection to the passage of this bill; but I think the authority is already vested in the Secretary of the Treasury.

Mr. SHEFFIELD. As the gentleman has no objection to the passage of the bill, I move the previous question on the passage of the bill.

The previous question was seconded, and the main question ordered to be put; and under the operation thereof the bill was passed.

Mr. SHEFFIELD moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

COLLECTION OF REVENUE.

Mr. SHEFFIELD, from the Committee on Commerce, reported a bill to provide for the collection of revenue in the northern, northeastern, and northwestern portions of the frontier, and for other purposes; which was read a first and second time.

Mr. PHELPS, of Missouri. I desire to suggest to the gentleman from Rhode Island, in reference to the bill just passed, that Independence, which is two hundred and fifty miles west of St. Louis, was not embraced in that bill.

The SPEAKER. Debate is not in order on the bill which has been passed.

Mr. PHELPS, of Missouri. Well, I will make my remarks applicable to this bill at some stage of its consideration.

The bill was read.

Mr. SHEFFIELD. The first section of this bill simply provides that vessels employed upon the lakes shall carry a manifest of their cargoes. The difficulty which is encountered by the Government now is that vessels in which lake commerce is carried sometimes touch at Canadian ports, take on goods which are dutiable, and land them at the ports of destination of the vessels. Now, to obviate that difficulty, the bill requires that the vessels shall have a manifest of their cargo, and that if they touch at any of the lake ports and receive any additional cargo on board, they shall have indorsed on the manifest the additional cargo so received.

The second section provides for the keeping of blanks by the collectors upon the lakes, just as they are kept at the ports upon the sea-coast, to be sold at the same price and under the same regulations generally.

The third section provides that every vessel which comes in from a Canadian port and enters her cargo, shall pay to the collector a fee of forty cents, which he is to account for to the Government.

The fifth section provides that a fee shall be paid for a register, license, or enrollment, precisely the same as upon the sea-coast. The officers have hitherto done that service and have received nothing for it. The committee could see no reason why the vessels should be exempted from the payment of that fee. The provisions of this bill meet the approbation of the Department, and I trust it will be passed.

Mr. PHELPS, of Missouri. I suppose the object of this bill is to facilitate commerce, and perhaps it diminishes the cost. Is that so?

Mr. SHEFFIELD. I do not think it causes a reduction in the expenditures, nor do I think it increases them to the Government. A party carrying a cargo upon the lakes will have to pay ten cents for a manifest. That is the only increase of expense.

Mr. PHELPS, of Missouri. I was about to remark that I desired very much to see a reduction of the expense of collecting the revenue. I recollect very well that in 1858 authority was given to the Secretary of the Treasury, at his discretion, to discontinue ports of delivery, the revenues received at which did not amount to the sum of $10,000; and the Secretary of the Treasury has now authority, under that act of 1858, to discontinue every port of delivery which was made in the bill which recently passed the House. I have before me the authority which I referred to a short time since, and which I thought I could find.

Mr. SHEFFIELD. The gentleman is discussing the other bill, and not this one. I call the previous question.

The previous question was seconded, and the main question ordered to be put.

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

Mr. SHEFFIELD moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider upon the table.

The latter motion was agreed to.

COMPENSATION OF COLLECTORS.

Mr. SHEFFIELD, from the Committee on Commerce, reported a bill to equalize and establish the compensation of collectors of the customs on the northern, northeastern, and northwestern frontiers; which was read a first and second time.

Mr. SHEFFIELD. Mr. Speaker, the salaries of collectors on the northern, northeastern, and northwestern frontiers were fixed by an act of Congress of 1831, which fixed the compensation of these officers at the amount of fees for the year then next preceding. Since that time the relative importance of the ports upon the frontier has been very much changed. Chicago, Detroit, Buffalo, and Oswego have become very much enlarged, while other ports have diminished in importance.

Mr. RIDDLE. The gentlemen will permit me to say that my own port of Cleveland, I think, has a larger foreign trade than any other port on either of these lakes. I know that our shipowners own, build, and fit out vessels for almost all the ports in Europe—direct trade. So far from there having been a material reduction in the business at the port of Cleveland, except as it has suffered in common with the whole country, it has very largely increased; the gentleman's statistics, if he has any, to the contrary notwithstanding. The collector at that port has charge, of course, of that district which embraces other ports, and his compensation is certainly not at all at present above what a fair and economical rule could prescribe. I believe that this bill does not propose to reduce it very much, perhaps only seventy or eighty dollars; but I think even that reduction would be unjust to him. It is clearly a matter of injustice to that port to say that its business has declined, excepting in so far as the business of the world generally has declined, or that its importance has diminished. I know that it is the interest of some of its rivals sometimes to report some of its vessels as having been cleared out and returned to them. Cleveland inaugurated the business of building and dispatching vessels to Europe, and has substantially monopolized that business.

Mr. HOLMAN. I desire to ask the gentleman from Rhode Island a question.

Mr. SHEFFIELD. I will answer the gentleman from Cleveland first. I will take one at a time, if the gentleman will allow me.

The first section of this bill divides the collectors of these northern ports into three classes, and provides that the salary of the first class shall be $1,500, of the second class $1,000, and of the third class $750. The gentleman from Ohio is mistaken in supposing that his district has a larger commerce than any other port upon the lakes, or a larger foreign commerce, or that the Government realizes a larger revenue from that port than it does from other ports. The figures which I have before me show that it is the fourth port in point of importance upon the lakes. I have here a statement, showing the gross amount of revenue collected at the several ports on the northern, northeastern, and northwestern frontiers of the United States, in the year 1830; the gross amount received by the collectors of said ports respectively—for salary, fees, and commissions; the amount disbursed for office expenses, and the net compensation received by each in 1830. Also, the gross amount of revenue collected in 1861, the gross amount of salary, fees, and commissions received, the amount disbursed for office expenses, and the net amount of compensation that would have accrued to each respectively, on the basis of 1830:

STATEMENT.

District.	Gross revenue. 1830.	Gross salary, fees, and com. 1830.	Expenses to be deducted.	Net compensation. 1830.	Gross revenue. 1861.	Gross salary, fees, and com. 1861.	Expenses to be deducted.	Net compensation. 1861.
Vermont	$8,923 51	$1,408 14	$317 33	$1,090 81	$9,170 08	$1,604 08	$1,023 28	$580 80
Sackett's Harbor	121 66	750 21	32 43	717 78	93 96	283 02	106 69	176 33
Genesee	459 38	700 25	14 00	686 25	1,875 55	694 27	63 58	630 69
Oswego	554 83	1,011 85	50 00	961 85	4,357 70	2,403 33	319 17	2,084 16
Niagara	1,264 57	1,402 12	43 00	1,359 12	5,798 94	1,759 17	488 49	1,283 66
Buffalo	2,501 58	2,017 41	63 13	1,954 23	11,753 08	3,516 94	305 14	3,211 80
Oswegatchie	2,472 17	1,460 10	.....	1,460 10	3,791 63	1,056 45	74 46	981 99
Champlain	7,441 55	1,908 44	157 73	1,050 71	34,695 13	3,149 65	467 28	2,675 37
Cape Vincent	534 99	1,063 00	49 00	1,014 00	1,156 89	638 51	13 54	624 97
Dunkirk	.....	.....	.....	.....	282 90	274 19	.....	274 19
Presque Isle	45 07	381 96	4 50	376 76	311 80	974 25	5 46	269 79
Cuyahoga	101 47	591 23	65 66	525 57	21,329 20	1,307 82	760 92	546 90
Sandusky	104 09	459 53	50 50	409 03	1,583 37	1,138 47	466 83	.....
Miami	14 74	325 46	.....	325 46	377 98	306 78	120 91	185 87
Detroit	1,869 63	1,618 42	.....	1,618 42	68,686 11	4,666 32	686 44	4,009 88
Michilimackinac	154 83	840 85	5 00	835 85	321 19	723 37	93 95	629 32
Chicago	.....	.....	.....	.....	48,250 93	2,324 01	899 77	1,424 24
Milwaukee	.....	.....	.....	.....	3,203 18	796 34	938 92	.....

Mr. RIDDLE. I did not contend that Cleveland was first in point of general commercial advantages. I said that it inaugurated the business of sending vessels direct to Europe, and has sent and continues to send a larger number than any port on any of the lakes.

Mr. SHEFFIELD. Upon that ground the collector of the city of Newport, where I reside, would be entitled to larger compensation than any other collector in the United States, because it was once the first commercial city of this country.

The second section of the bill provides that these collectors on the frontier shall receive fees and compensation as allowed to the collectors upon the sea-board up to $3,000, and the balance they are to pay into the Treasury.

The third section of the bill provides for the keeping of accounts and estimates by these collectors precisely as is done now by the collectors upon the sea-board.

Mr. HOLMAN. Will the gentleman allow me to ask him a question?

Mr. SHEFFIELD. In a moment, if the gentleman will be patient. The fifth section of the bill abolishes the district of Sackett's Harbor and annexes it to Cape Vincent, and enlarges the district of Niagara, and changes the port of entry to Suspension Bridge.

The sixth section repeals the eleventh section of the act of May 7, 1822, which provides that, in addition to the compensation of $3,000, which is the maximum allowed to this class of collectors, they may receive a share of the fines and penalties. This repeals that law, and limits the entire compensation from all sources to $3,000. Any-

thing more than that which they may receive from any source is to go into the Treasury.

I have here a statement showing the difference between the compensation now received by the collectors of the lake ports and that proposed by this act, on the basis of collection for the year ending June 30, 1861:

Districts.	Present compensation.	Proposed compensation.	Amount of increase.	Amount of diminution.
Vermont	$1,090 81	$1,080 80	.....	$10 01
Genesee	686 25	880 69	$196 44	
Oswego	961 85	1,834 16	873 31	
Niagara	1,339 12	1,003 66	.....	315 46
Buffalo	1,934 23	2,961 80	1,007 57	
Oswegatchie	1,460 10	1,231 99	.....	228 11
Champlain	1,050 76	2,425 37	1,374 66	
Cape Vincent	1,014 00	874 97	.....	139 03
Dunkirk	500 00	524 19	24 19	
Presque Isle	376 76	519 79	143 03	
Cuyahoga	1,618 42	1,546 90	.....	71 52
Sandusky	1,618 42	750 00	.....	868 42
Miami	1,618 42	750 00	.....	868 42
Detroit	1,618 42	3,000 00	1,381 58	
Michilimackinac	835 85	869 52	33 67	
Chicago	1,950 00	1,174 24	.....	75 76
Milwaukee	1,950 00	750 00	.....	500 00

This shows the gross increase of salaries to be about two thousand dollars—I think exactly $1,988 94. The bill, I think, will not make any substantial difference in the receipts into the Treasury.

I will now hear the question of the gentleman from Indiana, [Mr. HOLMAN.]

Mr. HOLMAN. I believe the question I proposed to ask has been substantially answered already. I wished to inquire whether the effect of this bill would be to increase or to decrease the expenses, and that question has been substantially answered already. I would inquire, however, as this bill has not been printed, whether these items for rent, clerk hire, stationery, &c., are to be received by the collectors, over and above the compensation provided for either by salary, by fines and penalties, or in any other way?

Mr. SHEFFIELD. The law in regard to that will remain substantially as it now exists. The existing law will not be varied, except in this: we abolish one collection district, and shall therefore be relieved from the expense of that district. It will diminish the expense slightly, so far as they are affected by this one district. Otherwise, the law remains precisely as it is now.

Mr. HOLMAN. The items of stationery, office rent, clerk hire, &c., may be received, over and above these salaries.

Mr. SHEFFIELD. The collector does not, of course, furnish the custom-house or clerk hire. Collectors in the lake ports are to be allowed expenses precisely as they are allowed on the sea-board. They are to be estimated for in advance, and the Secretary is to allow or to disallow them as on the sea-board.

There is another provision, however, to which I did not particularly call the attention of the House. The bill does away with the necessity of having a consular certificate of the value of the Canadian currency, for that value is known as well by the collector in the lake ports as it is known by those on the Canadian side. These certificates, as I understand, are left in hotels, barrooms, or stores, and hawked about to every person who wishes to carry over an invoice of goods from Canada to any part of the United States. As there is no necessity for this restriction on commerce, and as the Secretary recommends its abolition, the bill proposes to abolish it.

Mr. CLARK. I understand the gentleman from Rhode Island to state that the collection district of Sackett's Harbor is to be abolished, and the collector's salary at Cape Vincent increased.

Mr. SHEFFIELD. The district of Sackett's Harbor is to be abolished, and the compensation of the collector at Cape Vincent is to be decreased $139 03.

Mr. SHERMAN. I ask the gentleman on what ground he proposes to reduce the salary of the collector at Oswegatchie?

Mr. SHEFFIELD. The bill gives him a fixed salary instead of fees. This paper is made up on the authority of the Secretary of the Treasury.

Mr. F. A. CONKLING. I inquire of the gentleman from Rhode Island whether the Committee on Commerce have any objection to permitting this bill to be printed, and its consideration postponed for the present?

Mr. SHEFFIELD. My objection to that is, that there is great necessity for the passage of this bill at present. These revenue officers have done a great deal of work, and some of them have perhaps incurred more expenses during the last year, by the extraordinary duties imposed upon them, than they realized from their office—in this: they have become the depositaries for the Government, and have been obliged to incur expenses not provided for by law. It will take the entire income for the year, of some of them, to defray these extraordinary expenses. The objection that I have to deferring the bill is, for fear that it might hazard its passage at the present session.

Mr. BAXTER. I notice that the salary of the collector at Vermont is fixed at $750. I think that is a reduction.

Mr. SHEFFIELD. Yes, of $10 01.

Mr. BAXTER. I do not know the sum. I see also that the salary of the collector at Champlain is fixed at $1,000.

Mr. SHEFFIELD. Yes, sir.

Mr. BAXTER. Will the gentleman tell me what rule he adopted in making that classification?

Mr. SHEFFIELD. The classification is made on the amount of revenue collected.

Mr. BAXTER. Will the gentleman be good enough to state the gross amount of revenue received at these two points?

Mr. SHEFFIELD. The gross amount of revenue received at Vermont is $9,107 08, and at Champlain $34,695 13. I now demand the previous question.

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

Mr. SHEFFIELD moved the previous question on the passage of the bill.

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

Mr. SHERMAN called for the yeas and nays on the passage of the bill.

The yeas and nays were not ordered.

The question was taken, and the bill was passed.

Mr. SHEFFIELD moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

REPRESENTATIVE FROM NORTH CAROLINA.

Mr. HOLMAN. I rise to a privileged question. The chairman of the Committee of Elections reported yesterday a resolution that Charles Henry Foster, claiming a seat as a Representative from the second congressional district of North Carolina was not entitled to a seat. Mr. Foster was not then in the House. If he had been, he would have been entitled to be heard. The resolution was adopted; and on motion of the gentleman from Rhode Island, [Mr. BROWNE,] the motion to reconsider was laid on the table. That was a final disposition of the matter. I desire to ask, as a matter of justice to Mr. Foster, that he may have an opportunity to be heard, as if the matter was still pending for the action of the House.

Mr. DAWES. I suggest that the gentleman can reach his object by offering a resolution that Mr. Foster is entitled to his seat. That is a privileged question, and nothing else can override it. Mr. Foster may speak to that motion, and satisfy the House, as I have no doubt he will, that its action yesterday was correct.

Mr. HOLMAN. I ask unanimous consent to my proposition.

Mr. WALL. I object.

Mr. HOLMAN. Then I offer the following resolution; which, however, I do not think should be adopted:

Resolved, That Charles H. Foster is entitled to a seat in this House as a Representative from the second district in North Carolina.

The SPEAKER. By unanimous consent the resolution can be received.

Messrs. WALL and TROWBRIDGE objected.

The SPEAKER. After the House has once decided a question, and laid on the table a motion to reconsider it, and no new case is presented, it cannot be brought back.

Mr. HOLMAN. It seemed to me that unless by unanimous consent the subject could not be brought again before the House.

The SPEAKER. That is the Chair's opinion.

CONGRESSIONAL ELECTIONS.

Mr. DAWES, by unanimous consent, reported back a bill (H. R. No. 525) in relation to the election of Representatives to Congress by single districts.

The bill was read. It enacts that in each State entitled in the next and any succeeding Congress to more than one Representative, the number to which such State is or may be hereafter entitled shall be elected by districts composed of contiguous territory, equal in number to the number of Representatives to which the State may be entitled in the Congress for which the election is held, no one district electing more than one Representative.

Mr. DAWES. I move the previous question on the third reading of the bill.

Mr. VALLANDIGHAM. I desire the gentleman from Massachusetts to withdraw the demand for the previous question, that I may ask a question in reference to the meaning of the bill.

Mr. DAWES. I withdraw for that purpose.

Mr. VALLANDIGHAM. It has been stated in the public papers that the object of the bill was to prevent the election of members from any portion of a State except from the particular district within which they lived; is that so?

Mr. DAWES. The object of the bill is to carry out precisely the law of 1842. Its phraseology is almost the same. That law expired by its own limitation. It provides merely that members of Congress shall be elected by single districts. There is nothing else in it.

Mr. VALLANDIGHAM. Then it does not undertake to limit the election.

Mr. DAWES. Not at all. It follows the phraseology, almost precisely, of the law of 1842. but that law confined its operation to the apportionment of that year.

Mr. VALLANDIGHAM. This bill provides only for an election by districts instead of by general ticket.

Mr. DAWES. That is all.

Mr. VALLANDIGHAM. I have no objection to that.

Mr. HOLMAN. Does not the bill adopt, and properly, the provision that members shall represent the districts in which they reside?

Mr. VALLANDIGHAM. Upon that subject I will say that it has been repeatedly decided that it is not in the power of Congress to prescribe any qualification of members which is not prescribed by the Constitution.

Mr. DAWES. The bill certainly does not prescribe anything in violation of the Constitution. It simply provides that members shall be elected by single districts.

Mr. VALLANDIGHAM. The Constitution only provides that each member shall represent the district in which he resides.

Mr. DAWES. I understand that. This bill does not interfere with that.

Mr. SARGENT. If I understand this bill, it provides that the election of members shall take place this fall, and that previous to that time the States shall be districted in accordance with the new apportionment.

Mr. DAWES. The gentleman is mistaken. This bill does not provide for fixing the time of election at all. The sole provision in it is that members of Congress shall be chosen by single districts.

Mr. SARGENT. I will simply remark that the Legislature of my State has adjourned without districting the State. It does not meet again until the next year, and therefore, if the election should take place this fall, this law could not be

complied with unless a special session of the Legislature was called for that purpose. And even then the disagreement in the Legislature in respect to this question is so radical that it would be impossible for it to agree upon the division of the State into congressional districts. It cannot be done until another election has been held. I do not see, therefore, how it will be possible to district California for the next Congress.

Mr. DAWES. I regret, most certainly, that the Legislature of California has not done its duty; but really this is a bill, I think, which will commend itself to even the gentleman from California, as a proper bill to be placed upon the statute-books of the country; and no more opportune time can be selected for its passage than the present. I call the previous question on the bill.

Mr. MAYNARD. I hope the gentleman will allow me for a moment.

Mr. DAWES. I will withdraw the demand for the previous question, to hear the gentleman.

Mr. MAYNARD. I respectfully suggest that the objection of the gentleman from California ought to receive more consideration than it is likely to receive. Suppose a State either fails or refuses to district itself; I would be unwilling to see a law upon the statute-books of the country that such a State should go unrepresented in this House. It seems to me the bill should go further, and provide in such a contingency that a State so neglecting or refusing should be districted by the Federal authority.

Mr. DAWES. It will be within the power of Congress or of the House to determine how to act in such case. The House may provide for such an emergency as they did in 1842, though I trust they will not determine it in the same way they did under the law of 1842. It would be beyond the power of Congress now to provide that a State so failing to comply with its requirements should be unrepresented in the next Congress, for the reason that by the Constitution each House for itself is to be the sole judge of the election and qualification of its own members.

Mr. MAYNARD. That is all very true.

Mr. DAWES. The Constitution also, if the gentleman will allow me, authorizes Congress to prescribe the manner in which they are to be elected. Each House is to judge upon its own responsibility whether the member is elected in accordance with the manner so prescribed or not. That I suppose is the meaning of the two clauses of the Constitution. Congress is to prescribe the manner and the House is to judge as to whether that manner has been complied with when the members present themselves for admission.

Mr. STEVENS. I desire to make a suggestion. Unless there is a necessity that this bill should pass now, I hope the gentleman will agree to a postponement of it, for this reason: I think that Congress ought to fix a uniform time for holding the elections for members of Congress in all the States, and that this bill ought to be amended so as to accomplish that object.

Mr. DAWES. There is a bill pending in the Committee of Elections to fix the time for holding elections for members of Congress in all the States. It is under consideration in committee, but no member of the committee has yet been authorized to report it. It was deemed important that this bill should become a law at this session; and for that reason it was not thought best to encumber it with other propositions. As the law now stands, an inconsiderable number of electors could get together in one corner of any of the States in rebellion, and elect members of this House for the whole State. We propose, therefore, to require members of Congress to be elected by separate districts; and it seems to me that no one but the members from California, who were themselves elected upon general ticket voluntarily adopted by that State, could object to such a proposition.

Mr. STEVENS. The same law has been in operation for a long time, and yet California has habitually disregarded it.

Mr. DAWES. I beg the gentleman's pardon. Since California came into the Union, there has been no law requiring the elections of members to be by single districts. That law was only made to apply to the apportionment of 1840, and, of course, expired in 1850.

Mr. SARGENT. The gentleman states the law correctly, and yet he expresses regret, that California has not done her duty.

Mr. DAWES. In making that remark, I referred simply to the statement of the gentleman himself, that the Legislature of California had adjourned without districting the State. The gentleman said the disagreement on that subject in the Legislature was so radical that it could not be done without the intervention of another election.

Mr. SARGENT. As a matter of policy merely.

Mr. WICKLIFFE. I desire to ask whether, without any law, any State in the Union has failed to elect by single districts?

Mr. DAWES. Yes, sir; California and Minnesota.

Mr. ALDRICH. Minnesota has, however, now provided for districting the State.

Mr. DAWES. Then California is the only State which has not done it.

Mr. WICKLIFFE. It does strike me that it is better to leave this congressional district question to the State power. Gentlemen, let us not lose sight altogether of the fact that this Union is composed of States, and that the people of these States have certain rights.

Now, sir, as I run my eye over this bill I see that it requires the States to lay off districts by counties *pro terminus* with equal population. Why, sir, under that law no State can hold a valid election, for no State can lay off districts by counties *pro terminus* with an equal population in each. I undertake to say that in the West—I will not speak for east of the Alleghanies—no such districts can be laid off in any State.

Mr. DAWES. The bill does not require that the districts shall be equal in population.

Mr. WICKLIFFE. I ask that the bill may be read.

The bill was again read.

Mr. DAWES. In respect to the provision to which the gentleman from Kentucky alludes, I will say that it is precisely that of the law of 1842. It is copied from that law.

Mr. WICKLIFFE. I never examined the law of 1842.

Mr. DAWES. I agree with the gentleman that it would be impossible to make the districts equal in size, equal in population, and of contiguous territory, but the bill requires no such thing.

Mr. WICKLIFFE. What evil has afflicted the country by leaving the whole matter with the States, to elect by general ticket or by single district? Has any great evil afflicted any interest of the country from any such cause? What was the cause of the passage of the law of 1842? Why not allow the States to lay off their own districts as they please?

Mr. DAWES. I will reply to the gentleman that this bill does not contemplate what he supposes. There is no provision that the Federal Government shall lay off the districts for any State.

Mr. WICKLIFFE. It is coming to that.

Mr. DAWES. It contemplates merely that this shall be done by State authority.

Mr. WICKLIFFE. The Constitution gives to each House the power to decide upon the election and qualifications of its own members. It did not contemplate that we should interfere with the States in respect to the districts they are to lay off. I see no necessity for such legislation.

Mr. DAWES. The gentleman does not comprehend the bill. It is perfectly apparent that, without this bill, any State can elect by a general ticket. The bill requires that members shall hereafter be elected by single tickets, and that is all it does require.

Mr. WICKLIFFE. I was inquiring whether any evil resulted to the country by the general ticket system.

Mr. DAWES. I have been under the impression that the general ticket system was considered an evil.

Mr. WICKLIFFE. It has not been deemed dangerous that I know of.

Mr. DAWES. During the last twenty years nearly every State in the Union has abandoned the general ticket system, and resorted to the single ticket system. I demand the previous question on the passage of the bill.

Mr. LOVEJOY moved that the House do now adjourn.

The motion was disagreed to.

Mr. SARGENT. I ask the gentleman from Massachusetts to withdraw the call for the previous question in order that I may move an amendment.

Mr. DAWES. I have no objection to withdrawing the call for the previous question for that purpose.

Mr. SARGENT. I will simply remark that unless the amendment which I propose to offer is adopted, the State of California will be unrepresented in the next Congress. I do not believe that it is the purpose of this House to exclude California from representation in the next Congress, which it certainly will do if it passes this bill as it has been reported from the Committee of Elections. It will certainly, unless amended, leave California dependent upon the charity of the next House of Representatives for any representation at all. Saying that much, I will leave it to the good sense of the House to decide whether we ought not to be excluded from the provisions of the bill. I move the adoption of the following amendment:

Provided, That the provisions of this act shall not apply to the State of California, so far as they may have Representatives to the Thirty-Eighth Congress.

Mr. DAWES. I demand the previous question.

Mr. PHELPS, of Missouri. I desire to say a few words upon this bill before the question is taken upon its passage. We are called upon to pass a measure that the members of the next Congress——

Mr. LOVEJOY. I call the gentleman to order. I make the point that it is not in order to debate the question during the call for the previous question.

Mr. DAWES. I will yield to the gentleman from Missouri.

Mr. LOVEJOY. I object.

Mr. DAWES. I will yield to him, then, altogether, on condition that he renews the demand for the previous question.

Mr. PHELPS, of Missouri. I will renew the demand for the previous question. I desire to present some reasons, Mr. Speaker, why I think it inexpedient to legislate at this time in the manner proposed.

The next Congress will assemble under the new apportionment. In some of the States not now represented on this floor the number of Representatives will be increased, in others diminished; while in others no change in the number will be made by the new apportionment. In all these States the Representatives are elected by districts, each district electing but one Representative. Such is the requirement of the laws of these States. In those States where the number of Representatives will be less in the next Congress than they are entitled to in this Congress, the Legislature must assemble and redistrict the State before Representatives shall be elected. It is manifest it is the intention of the framers of this bill to require the States which have not already done so to redistrict the States. This will require the Legislatures to be assembled. In many of the States not here represented this cannot be done. The civil war prevents it. But if Congress shall not legislate as proposed so soon as the authority of the General Government shall be maintained throughout a congressional district, there is nothing to prevent the people of that district from electing a Representative. The Union electors of such a district will elect a Representative, and I shall be rejoiced to see him here.

But the requirements of this bill cannot be complied with, unless the people of the State shall have returned to their allegiance and assembled its Legislature. And that Legislature must redistrict the State for the election of its Representatives. If this bill shall not become a law, and I see no necessity for its passage, the necessity of convening the Legislature will not exist, unless the representation of the State shall be less in the next than in the present Congress. But suppose the representation of a State shall be increased in the next Congress. Take, for instance, the State of Louisiana, which is entitled to four Representatives. Suppose it will be entitled to five under the new apportionment. Then, if the Legislature of the State shall not assemble, the people can elect a Representative from each of the four districts and leave the Legislature to provide for the election of the fifth Representative at such time and in such manner as it may deem advisable. The pending bill will not permit this course to be adopted.

The State of Arkansas is now entitled to two

Representatives, but in the next Congress will be entitled to three or four Representatives; yet, if its Legislature fails to meet, and divide the State into three or four congressional districts, that State will fail to have some of the Representatives to which it may be entitled. It may be impossible for her Legislature, under the circumstances, to meet and redistrict the State, and have an election before the next Congress. Would it not, therefore, be advisable to permit the people to do what they can now do under the laws? At the congressional election held in the State of Missouri in 1852, the people of that State elected but five Representatives to Congress, though by the apportionment of representation the State was entitled to seven Representatives. But before the Thirty-Third Congress assembled the Legislature of the State provided by law for the election of two more Representatives. At the time the regular congressional election was held, there were but five districts in the State, and the people could elect but five Representatives until further legislation by the State Legislature was had. I ask is this legislation necessary? Is it right? Is it expedient, then, to pass this bill, if it is intended to deal with the States which are disposed to return to the Union in a kind manner?

Mr. DAWES. I think the gentleman has given a reason which, of all others, should control the House in the passage of this bill. I think we should only have men coming here representing districts, so far as the districts become loyal, and so far as the men in a loyal district may be able to express themselves in loyalty to the Union; but I do not desire to see a full delegation sent up here by a very small portion of a State. I do not want to give the power to a single district, or even a part of a district, to send a delegation here for a whole State. I would not say to the five hundred voters in the district of Accomac, who cast their votes for the distinguished member from Virginia, [Mr. SEGAR,] that they shall have the power to meet together and on a general ticket send a full delegation here for the State of Virginia. I am anxious that the voters in that district shall have an opportunity to express themselves in the absence of an armed occupation on the part of the rebels, that they shall select their own Representative, and he shall come here and represent them, and I will throw no obstacle in his way. But I have no desire to have the other districts filled up by the votes in that district; and therefore I want the House to declare that Representatives shall be elected by single districts. As fast as a district becomes loyal—as fast as any considerable number get together and choose a loyal Representative, so that we may fairly consider him the Representative of the loyal votes—I am willing to go with the gentleman from Missouri; but I do not go with him to the extent that any number, however few, may meet in any State and elect a full delegation of Representatives for that State.

Mr. PHELPS, of Missouri. The argument of the gentleman from Massachusetts is easily answered. If the people in any one of the States now in rebellion which may become loyal and submit to the authority of the United States, desire to send a Representative here, this bill will prevent them from doing so. It will for a time disfranchise the people of the States now in rebellion, if they shall return to their loyalty, because it requires their Legislatures to meet and provide for redistricting the States. A portion of the State may be loyal, and yet the Legislature cannot assemble.

Why not permit the people of the loyal congressional districts as now organized to elect their Representatives? The laws of all the States, except of California, require the Representatives to be elected by single districts. The case which the gentleman from Massachusetts [Mr. DAWES] supposes cannot occur until those laws shall be changed. No State authorizes its Representatives, except California, to be elected by general ticket. Let the people elect so soon as a district becomes loyal, as the districts are now organized.

The argument of the gentleman proceeds upon an assumption of facts which do not exist, and he is endeavoring to defeat the very object he professes to desire to accomplish. Let us take for instance the State of Arkansas. There are but two congressional districts in that State; I believe a majority of the people of the northern district of Arkansas are loyal; and yet, by the action of the constituted authorities of the State, all the people of that State are placed in rebellion to the Government. As soon as the authority of the United States shall be maintained in that northern district, the people may assemble and send their Representative here, and yet, by the bill under consideration, the State is required to be divided into three or four districts before an election can be held, and that requires the convening of the State Legislature. I have briefly given some of my objections to this bill.

Mr. SHEFFIELD. Will the gentleman allow me to ask a question?

Mr. PHELPS, of Missouri. Certainly.

Mr. LOVEJOY. I object.

Mr. PHELPS, of Missouri. I now redeem the promise I made to the gentleman from Massachusetts, and call the previous question.

The previous question was seconded, and the main question ordered to be put.

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

The motion was not agreed to.

Mr. PHELPS, of Missouri, demanded the yeas and nays upon the adoption of the amendment.

The yeas and nays were ordered.

Mr. MAYNARD. Suppose the House adjourn now, what will be the first business in the morning.

The SPEAKER. This will be the unfinished business.

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

Mr. JOHNSON demanded the yeas and nays upon the motion to adjourn.

The yeas and nays were not ordered.

The motion to adjourn was not agreed to.

Mr. WICKLIFFE. I move to lay the whole subject upon the table.

The motion was not agreed to.

The question was then taken on the adoption of the amendment; and it was decided in the affirmative—yeas 59, nays 46; as follows:

YEAS—Messrs. Aldrich, Alley, Ashley, Babbitt, Baker, Baxter, Beaman, Bingham, Samuel S. Blair, Blake, George H. Browne, Buffinton, Campbell, Chamberlin, Clark, Colfax, Covode, Cutler, Davis, Duell, Dunn, Edgerton, Eliot, Fessenden, Franchot, Frank, Goodwin, Granger, Hanchett, Hooper, Hutchins, Kelley, Francis W. Kellogg, Lovejoy, Low, Mitchell, Moorhead, Justin S. Morrill, Nixon, Odell, Timothy G. Phelps, Porter, Potter, John H. Rice, Riddle, Sargent, Segar, Sheffield, Sherman, Stevens, Stratton, Trowbridge, Verree, Wadsworth, Wallace, Walton, Washburne, Wilson, and Windom—59.

NAYS—Messrs. Baily, Jacob B. Blair, William G. Brown, Calvert, Casey, Clements, Cobb, Frederick A. Conkling, Roscoe Conkling, Cravens, Cristfield, Dawes, Delano, Dunlap, Edwards, English, Fenton, Gooch, Grider, Hale, Holman, Johnson, Knapp, Law, Lazear, Maynard, Menzies, Morris, Noble, Nugen, Pendleton, John S. Phelps, James S. Rollins, Smith, John B. Steele, William G. Steele, Stiles, Benjamin F. Thomas, Francis Thomas, Vallandigham, Voorhees, Ward, Webster, Chilton A. White, Wickliffe, and Wood—46.

So the amendment was agreed to.

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

Mr. DAWES. I move the previous question upon the passage of the bill.

Mr. VALLANDIGHAM. I move to reconsider the vote by which the bill was ordered to be engrossed and read a third time. Is that motion debatable?

The SPEAKER. It is not, as the previous question upon the passage of the bill has been called.

Mr. VALLANDIGHAM. It would be debatable but for the call of the previous question?

The SPEAKER. It would.

Mr. HOLMAN moved that the House adjourn, and upon that motion demanded the yeas and nays.

The yeas and nays were not ordered.

The motion to adjourn was not agreed to.

The previous question was then seconded, and the main question ordered to be put.

Mr. PHELPS, of Missouri, demanded the yeas and nays upon the passage of the bill.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 69, nays 36; as follows:

YEAS—Messrs. Aldrich, Alley, Ashley, Babbitt, Baker, Baxter, Beaman, Bingham, Samuel S. Blair, Blake, George H. Browne, Buffinton, Campbell, Chamberlin, Clark, Colfax, Frederick A. Conkling, Covode, Cutler, Davis, Dawes, Delano, Duell, Dunn, Edgerton, Edwards, Eliot, Fenton, Fessenden, Fisher, Franchot, Frank, Gooch, Goodwin, Granger, Hale, Hanchett, Hooper, Hutchins, Kelley, Francis W. Kellogg, Loomis, Lovejoy, Low, Mitchell, Moorhead, Justin S. Morrill, Nixon, Timothy G. Phelps, Porter, Potter, John H. Rice, Riddle, Sargent, Sheffield, Sherman, Spaulding, Stevens, Stratton, Benjamin F. Thomas, Trowbridge, Van Horn, Verree, Wallace, Walton, Washburne, Wilson, Windom, and Worcester—69.

NAYS—Messrs. Baily, Biddle, Francis P. Blair, Jacob B. Blair, William G. Brown, Casey, Clements, Cobb, Cravens, Dunlap, Grider, Holman, Johnson, Knapp, Lazear, Maynard, Menzies, Morris, Noble, Nugen, Pendleton, John S. Phelps, James S. Rollins, Smith, John B. Steele, William G. Steele, Stiles, Francis Thomas, Vallandigham, Voorhees, Wadsworth, Ward, Webster, Chilton A. White, Wickliffe, and Wood—36.

So the bill was passed.

During the call of the roll,

Mr. BAKER stated that Mr. WHITE, of Indiana, had been called home in consequence of sickness in his family.

Mr. DAWES moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

VOTE RECORDED.

Mr. ROLLINS, of Missouri. I was out of my seat when the vote was taken upon concurring in the amendments of the Senate to the Pacific railroad bill. I ask the unanimous consent to record my vote.

No objection being made, Mr. ROLLINS, of Missouri, recorded his vote in the affirmative.

GENERAL MCKINSTRY.

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

Resolved, That the Secretary of War be directed to communicate to the House all the proceedings of the courts of inquiry and of courts-martial in the case of McKinstry, on file in his Department.

PRINTING OF PACIFIC RAILROAD BILL.

Mr. SARGENT moved that five thousand extra copies of the Pacific railroad bill be printed for the use of the House; which motion was referred to the Committee on Printing.

And then, on motion of Mr. VALLANDIGHAM (at five o'clock, p. m.,) the House adjourned.

IN SENATE.

WEDNESDAY, *June* 25, 1862.

Prayer by the Chaplain, Rev. Dr. SUNDERLAND.

The Journal of yesterday was read and approved.

PETITIONS AND MEMORIALS.

Mr. HARRIS presented two petitions of merchants, traders, and citizens of New York, praying for the passage of a general uniform bankrupt law; which were referred to the Committee on the Judiciary.

Mr. SUMNER presented two petitions from merchants, traders, and citizens of New York, praying for the passage of a general, uniform bankrupt law; which were referred to the Committee on the Judiciary.

Mr. CLARK presented the memorial of A. G. Benson, praying for the passage of a bill to protect citizens of the United States who may discover deposits of guano; which was referred to the Committee on Commerce.

Mr. TEN EYCK presented the petition of Marcus Spring, praying that the name of the schooner Sally McGee may be changed to that of Ocean Queen; which was referred to the Committee on Commerce.

REPORTS FROM COMMITTEES.

Mr. DOOLITTLE, from the Committee on Indian Affairs, to whom was referred a communication from the Second Auditor of the Treasury transmitting copies of accounts which had been received at that office from persons charged or intrusted with the disbursement of moneys, goods, or effects of any kind, for the benefit of Indians, from July 1, 1860, to June 30, 1861, asked to be discharged from its further consideration; which was agreed to.

Mr. DOOLITTLE. The same committee, to whom was referred the bill (S. No. 274) to provide a temporary government for the Territory of Lanniwa, in the Indian territory, have instructed me to report it back, and ask to be discharged from its further consideration, and that the matter lie over until the next session of Congress.

It was so ordered.

THE CONGRESSIONAL GLOBE.

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

THIRTY-SEVENTH CONGRESS, 2D SESSION. THURSDAY, JUNE 26, 1862. NEW SERIES.....No. 183.

Mr. DOOLITTLE. The same committee, to whom was referred the bill (S. No. 245) for the removal and consolidation of certain Indian tribes, regarding the matter as of great importance, but there not being sufficient time to act on it at the present session of Congress, ask that that also lie over until the next session of Congress.

It was so ordered.

Mr. DOOLITTLE, from the same committee, to whom was referred a petition of citizens of New York, praying for the passage of laws for the protection and improvement of the Indians, asked to be discharged from its further consideration; which was agreed to.

He also, from the same committee, to whom was referred a resolution on the subject of extending the jurisdiction of the State of Kansas over the Indian territory, asked to be discharged from its further consideration; which was agreed to.

He also, from the same committee, to whom were referred resolutions from the Legislature of Kansas, in favor of the passage of an act to secure the early completion of a railroad from the Missouri river to the Pacific ocean, the ratification of the treaty lately made with the Pottawatomie Indian nation, and a grant to that State of five million acres of the public lands to aid in the construction of railroads, asked to be discharged from their further consideration, the subject-matter of the treaty having been acted upon.

The motion to discharge the committee was agreed to.

He also, from the same committee, to whom was referred resolutions of the Legislature of Kansas in favor of an appropriation to extend the lines of the public surveys over the unsurveyed portion of the State, and the extinguishment of Indian titles to lands in that State, asked to be discharged from their further consideration; which was agreed to.

Mr. HARLAN. The Committee on Public Lands, to whom was referred the bill (H. R. No. 442) to establish a land district in the Territory of Nevada, and for other purposes, have instructed me to report the same back and recommend its passage. It is a subject of some public interest to the people of that Territory, and ought to be acted on very soon. I therefore ask the unanimous consent of the Senate to consider it now.

The PRESIDENT *pro tempore*. Is there any objection to its present consideration?

Mr. FESSENDEN. Yes, sir; I object to it. I want to offer a resolution.

Mr. HARLAN, from the Committee on Public Lands, to whom was referred the bill (S. No. 355) for increasing the revenue by reservation and sale of town sites on public lands, reported it with an amendment.

Mr. CARLILE, from the Committee on Public Lands, to whom was referred the bill (S. No. 360) to grant the proceeds of the sales of certain public lands to aid in the construction of a northern Pacific railroad, reported it with an amendment.

Mr. CHANDLER, from the Committee on Commerce, to whom was referred the bill (H. R. No. 478) for the relief of certain of the crew of the ship Nightingale, reported it without amendment.

Mr. POWELL. The Committee on the Judiciary, to whom was referred the memorial of F. E. Hassler, praying for a revision of the laws relating to landlord and tenant in the District of Columbia, ask to be discharged from its further consideration. I will remark that the committee have had that matter under consideration, and gave it an elaborate investigation in the early part of the session, and think no change in the law is necessary.

The motion to discharge the committee was agreed to.

INDIAN AGENT IN COLORADO.

Mr. DOOLITTLE. The Committee on Indian Affairs, to whom was referred the bill (H. R. No. 515) to provide for the appointment of an Indian agent in Colorado Territory, have had the same under consideration, and report it back without amendment. This is a bill which has passed the House of Representatives, and which has been recommended by the Department, and if there be no objection, I should like to have it passed at the present time.

By unanimous consent the bill was considered as in Committee of the Whole. It proposes to authorize the President to appoint, by and with the advice and consent of the Senate, or during its recess, and until the end of its next session after such appointment, an agent for the Grand River and Wintah bands of Indians, in the Territory of Colorado, at a salary of $1,500 per annum.

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

WYANDOTTE INDIANS.

Mr. DOOLITTLE. The Committee on Indian Affairs, to whom was referred the bill (S. No. 314) for the relief of the Wyandotte Indians, agreeably to certain treaty stipulations, and who have once reported the bill to the Senate with a report which has already been printed, having had the same bill recommitted to them, now beg leave to say that they have had it under consideration and see no reason to modify the recommendation of their former report, which is that the bill pass with an amendment. It is a matter of some importance to the Wyandotte Indians, and I can state in a single moment what it is; and if it be the pleasure of the Senate, I should like to have it passed now. It seems that by a treaty with the Wyandotte Indians we agreed to pay them a sum of about one hundred thousand dollars. The persons who then had charge of the Indian department, instead of paying them that sum in money, insisted that the Indians should take the bonds of certain States, which at that time were depreciated. The Indians received them under protest, objecting to their reception at the time, but they were forced upon them by the Commissioner of Indian Affairs. They have petitioned for relief. The committee, on examining the matter, were satisfied that the Government, by virtue of its treaty, was bound to make good the difference between the amount of money which it was obliged to pay the Indians and the value of the bonds at the time, which they were forced to take. The Commissioner of Indian Affairs and the Department, on computing that amount, first stated that the difference was some thirty-four thousand dollars, and a bill was introduced to pay that sum; but the matter has been very carefully examined by the Indian Committee, and reëxamined and reopened from the beginning, and the computation made, and on the evidence we find, and have so reported, that there is only $9,000, or about that sum, which should be paid. The Senator from Kansas, [Mr. LANE,] who introduced the bill, is now in his seat, and if there is no objection on the part of the Senate, I should like to have the bill taken up and the amendment acted upon.

Mr. LANE, of Kansas. I object.

The PRESIDENT *pro tempore*. Objection being made, the bill must lie over.

WILLIAM B. DODD AND OTHERS.

Mr. WILKINSON. I move to postpone all prior orders, with a view to take up the bill (H. R. No. 521) for the relief of William B. Dodd and others.

Mr. HALE. I hope no private bill will be taken up until we have disposed of a public bill which has been long before the Senate, and which it is absolutely necessary to pass, or do something with. I refer to the bill repealing the act for the suppression of fraudulent contracts. We must either repeal that act or pass an appropriation for an infinite number of clerks. I think public bills ought to take precedence of private ones at this stage of the session.

The PRESIDENT *pro tempore*. The question is on the motion of the Senator from Minnesota to postpone all prior orders and to proceed to the consideration of the bill indicated by him.

Mr. WILKINSON. I am satisfied, when the Senator from New Hampshire understands this bill, he will not object to it.

Mr. HALE. I have not said a word or a syllable against the bill.

Mr. WILKINSON. It can be disposed of in a very few minutes, and is so manifestly just that I am satisfied the Senator from New Hampshire will not oppose it.

The motion was agreed to; and the Senate as in Committee of the Whole proceeded to consider the bill (H. R. No. 521) for the relief of William B. Dodd and others. It directs the Secretary of the Treasury to pay out of the appropriation to complete the road from Mendota to the Big Sioux river, contained in the act approved March 3, 1855, entitled "An act making appropriations for the support of the Army for the year ending the 30th of June, 1856, and for other purposes," into the hands of Horace Austin, of St. Peter, Minnesota, who is hereby appointed a commissioner to dispose of the same, the sum of $3,270, the same having been estimated for in the appropriation, and being for completing a part of the road, to be paid out by him as follows, to wit: the commissioner shall give notice to all persons having claims against William B. Dodd for labor or materials furnished in the construction of the road, by publication in a newspaper of general circulation in the neighborhood where the road is situated, for ninety days, and by posting written or printed notices in three public places in each county through which the road passes, to present and prove their claims within the ninety days; and all such claims, so presented and proved within the time limited, he shall pay to the parties respectively, and the residue, after the liquidation of such claims, and the payment of the expenses of this commission, he shall pay to William B. Dodd.

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

AGRICULTURAL DEPARTMENT.

Mr. LANE, of Indiana, gave notice of his intention to ask leave to introduce a bill to repeal the act passed at the present session of Congress to organize an Agricultural Department.

BILLS INTRODUCED.

Mr. FESSENDEN asked, and by unanimous consent obtained, leave to introduce a joint resolution (S. No. 93) in relation to contracts with the United States; which was read twice by its title, and ordered to be printed.

Mr. TEN EYCK asked, and by unanimous consent obtained, leave to introduce a joint resolution (S. No. 94) to change the name of the schooner Sally McGee to that of Ocean Queen; which was read twice by its title, and referred to the Committee on Commerce.

CLERK OF THE PACIFIC RAILROAD COMMITTEE.

Mr. McDOUGALL. I am authorized by the committee on the Pacific railroad to report a resolution; and I ask that it be considered now:

Resolved, That there be paid to the clerk of the special committee on the Pacific railroad six dollars per diem, to commence from the first Monday of December last, until the 24th of June instant, out of the contingent fund.

The resolution was read a first and second time.

Mr. HALE. I think it ought to be referred to the Committee on the Contingent Expenses of the Senate.

Mr. McDOUGALL. I will state to the Senator that the gentleman who has been acting as clerk to the committee desires to leave the city on his way to California to take the next steamer. I think there can be no objection to it. The committee are unanimously in favor of it.

Mr. HALE. I have not a word to say against it; but I think it is an evil example to allow a select committee without leave to employ a clerk, and then on their motion to pay him during the whole session.

Mr. McDOUGALL. He was employed by leave of the Senate. I introduced the resolution.

Mr. HALE. When was the leave granted?

Mr. McDOUGALL. At the commencement of the session.

Mr. HALE. I move that the resolution be re-

ferred to the Committee to Audit and Control the Contingent Expenses of the Senate.

The motion was agreed to.

Mr. CLARK subsequently said: The Committee to Audit and Control the Contingent Expenses of the Senate, to whom was referred a resolution in regard to the pay of the clerk of the Pacific railroad committee, have directed me to report it back, with a recommendation that it pass; and I ask unanimous consent to have it put on its passage now, and I will state the reason why. The clerk is from California, and expects to leave on Saturday in the steamer, and it is desirable that he should have his pay immediately, so that he may make preparations to leave.

Mr. TRUMBULL. What is the amount?

Mr. CLARK. About twelve hundred dollars for seven months' service—the same as other committee clerks get.

The resolution was read the third time, and passed.

JANE B. EVANS.

On motion of Mr. COWAN, the bill (S. No. 346) for the relief of Jane B. Evans was read the second time, and considered as in Committee of the Whole. It provides that the patent originally granted to Cadwallader Evans on the 15th of April, 1839, which letters patent were surrendered and renewed on the 23d of November, 1852, and afterwards extended by the Commissioner of Patents for the term of seven years from and after the expiration of the first term, the patent being a "new and useful improvement in steam boilers and apparatus to be used on board of steamboats to prevent the explosion of boilers," shall be renewed, revived, and extended for the term provided in section sixteen of "An act to promote the progress of useful arts," approved March 2, 1861, for the benefit of Jane B. Evans, widow of Cadwallader Evans, her heirs or assigns; but it is provided that the renewed and extended patent shall be open to legal inquiry and decision in the same manner as if issued under the general law relating to patents; and that all rights of third persons, acquired and intervening between the expiration and renewal of the patent, shall be saved to them against such renewal.

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

BANKRUPT LAW.

Mr. TRUMBULL. The committee on the Judiciary, to whom was referred the bill (S. No. 324) to provide for the relief of honest but unfortunate debtors, and the distribution of their property among their creditors, by the establishment of a uniform system of bankruptcy throughout the United States, together with numerous memorials, both for and against the passage of a bankrupt law, have instructed me to report back the memorials to the Senate, and ask to be discharged from their further consideration, and to report back the bill, with a recommendation that its consideration be postponed until the first Monday of December next.

The motion to discharge the committee from the consideration of the various memorials was agreed to.

The PRESIDENT *pro tempore*. The Senator from Illinois, from the Committee on the Judiciary, reported back a bill for a uniform system of bankruptcy, and by direction of the committee moves that the further consideration of that bill be postponed until the first Monday of December next.

Mr. HALE. Does it not require unanimous consent to consider that report to-day, under the rule?

The PRESIDENT *pro tempore*. It does.

Mr. SUMNER. Then I hope it will not be considered to-day.

The PRESIDENT *pro tempore*. It lies over under the rule.

Mr. HARRIS. I desire to know what disposition was made of the report on the bankrupt bill?

The PRESIDENT *pro tempore*. It lies over under the rule, no action being taken on the report, which will come up to-morrow, or whenever it shall be called up.

Mr. HARRIS. I want to be heard on that question.

CONGRESSMEN INTERESTED IN CONTRACTS.

Mr. TRUMBULL. The Committee on the Judiciary, to whom were referred a resolution instructing the Committee on the Judiciary to inquire into the charges against C. D. Schubarth, as made in the report to the Secretary of War by Hons. Joseph Holt and Robert Dale Owen, and what legislation is necessary to prevent official influence in procuring contracts from the Government, and also a bill (S. No. 358) to prevent members of Congress and officers of the Government of the United States from taking consideration for procuring contracts from the United States, ask to be discharged from the consideration of the resolution, and report the bill back with an amendment.

Mr. POWELL. I desire to inform the Senate that to-morrow morning I shall move to take up that bill and put it on its passage.

JUDICIAL CIRCUITS.

Mr. TRUMBULL. The Committee on the Judiciary, to whom were referred the amendments of the House of Representatives to the bill of the Senate (S. No. 89) to amend the act of the 3d of March, 1837, entitled "An act supplementary to the act entitled 'An act to amend the judicial system of the United States,'" have instructed me to report back the House amendments, with a recommendation that the Senate do not agree to the amendments of the House; and also to ask to be discharged from sundry petitions of members of the bar in the State of Indiana, and a resolution of the Legislature of Iowa in reference to the same subject.

The committee were discharged.

The PRESIDENT *pro tempore*. The question recurs on concurring in the amendment of the House of Representatives. The Committee on the Judiciary report adversely to concurrence, and recommend that the Senate non-concur.

Mr. TRUMBULL. I do not ask for action at present.

Mr. GRIMES. I enter the motion that the Senate do concur.

The PRESIDENT *pro tempore*. That will be the motion put. It lies over, objection being made to its present consideration.

GOVERNMENT CONTRACTS.

Mr. HALE. I now move to take up the bill (S. No. 350) to repeal an act entitled "An act to prevent and punish fraud on the part of officers intrusted with making out contracts for the Government," approved June 2, 1862.

Mr. HARRIS. I hope the Senator from New Hampshire will be gratified in this motion. Yesterday, when I moved to take up a little bill which would save to the Government $3,680 a year, that Senator objected to its consideration, and called for a division of the Senate. I have tried for the last fortnight and more to get that bill passed. I have yielded at one time to the Senator from Kentucky, at another time to the Senator from Iowa, at another time to the Senator from California, and to three or four other Senators. I have given way repeatedly. Yesterday, a little ungraciously, as I thought, the Senator from New Hampshire, without having any apparent object—for he did not move anything afterwards—opposed it; but as the Senate was very thin, I withdrew the motion rather than have a division when there was no quorum present. Now, I hope the Senator from New Hampshire will be gratified in his own way, and some time or other, perhaps, I shall get up my bill.

Mr. HALE. I will not make a personal apology to the Senator, because I think he makes his complaint in bad temper; but I will make it to the Senate. I did object to that because it was a private bill; and I said I thought public bills ought to be considered; and I did move to take up this bill, and was voted down on it.

Mr. COLLAMER. It is not a private bill.

Mr. HALE. I cannot help it. I thought this was a public bill that demanded the consideration of the Senate, and as an act of duty, on no private bill of my own, but simply governed by public considerations, I moved to take up this bill yesterday, but failed.

Mr. SUMNER. It is proposed to postpone all prior orders. I shall not oppose the motion, though, like the Senator from New York, I have every day for more than a week tried to get the eye of the Chair in order to call up a bill of very important public interest, which ought to be acted upon without delay—a bill to carry into effect the treaty between the United States and her Britannic Majesty for the suppression of the African slave trade. It ought to be acted upon as soon as possible, in order to secure the concurrence of the House of Representatives during the present session. With that view, I have sought to bring it forward. I have not succeeded; but I give notice that as soon as the Senate has acted upon the bill of the Senator from New Hampshire I shall deem it my duty to call up the other bill.

The PRESIDENT *pro tempore*. The question is on the motion of the Senator from New Hampshire.

The motion was agreed to; and the consideration of the bill (S. No. 350) to repeal an act entitled "An act to prevent and punish fraud on the part of officers intrusted with making of contracts for the Government," approved June 2, 1862, was resumed as in Committee of the Whole.

Mr. COWAN. I should like to have the bill read.

The Secretary read the bill, as follows:

Be it enacted, &c., That the act entitled "An act to prevent and punish frauds on the part of officers intrusted with making of contracts for the Government," approved June 2, 1862, be, and the same is hereby, repealed.

The bill was reported to the Senate without amendment.

Mr. COWAN. I think that this bill might be amended so as perhaps to reserve to the Government all the benefits which the bill it proposes to repeal would confer, by simply excepting from the operation of the repealing bill all such contracts as in the opinion of the Department ought to be kept secret and apart from the public eye. I understand that the Navy Department object to the bill because it requires them to put upon the public files of the new office which it is contemplated shall be established by the original bill, contracts which, in their opinion, ought not to be exposed to the inspection of everybody. Now, I see no great difficulty in confining this repealing clause to such contracts as ought not to be put upon the record, and I therefore propose to amend the bill, and except from the operation of the original law those contracts which in the opinion of the Department by which the contract was made ought not to be put upon the records.

Mr. SAULSBURY. I should like to hear from the Senator from New Hampshire, who offers this bill, what reasons exist for repealing the act. None have been stated. It may be very proper to repeal it, but I have heard no reason why it should be repealed. I should like to know if there be any reason.

Mr. HALE. That is not my fault. It was stated very fully, verbally and in writing, and then the Senate ordered the documents, which were read, to be printed. They have been printed, and laid on the tables of members.

Mr. SAULSBURY. I have not seen them.

Mr. GRIMES. I should like to hear the amendment read.

The PRESIDENT *pro tempore*. The amendment is being prepared by the Senator from Pennsylvania, and will be read as soon as it is forwarded to the Clerk.

Mr. COWAN. I propose to amend by adding at the end of the bill the following:

In so far as the same requires contracts to be filed in the —— office, which in the opinion of the Department making the same ought not to be made public.

So that the bill will read:

That the act entitled "An act to prevent and punish frauds," &c., be, and the same is hereby, repealed, in so far as the same requires contracts to be filed in the —— office, which in the opinion of the Department making the same ought not to be made public.

I will ask the Senator from Iowa what that office is called in the law.

Mr. GRIMES. The "Bureau of Returns" is what the law calls it.

The PRESIDENT *pro tempore*. The blank will be filled by inserting the appropriate name of the office.

Mr. GRIMES. I think the title of the bill is the "Bureau of Returns." I hope the Senator from Pennsylvania will consent to modify his amendment so as to provide that the law shall not apply to the Navy Department. The reason why it ought not to apply to that Department is obvious. The Navy Department is now required to do sub-

stantially the very thing that is required to be done by the law which is sought to be repealed. If the Senator from Pennsylvania will listen to me one moment, I will state to him what I understand to be the regulation and the law on the subject. Whenever anything is to be supplied to that Department and a contract is closed, the contract is reduced to writing; the original contract is copied; a copy is retained in the Navy Department, and the original sent to the Fourth Auditor, who has the auditing of all the Navy accounts; and there the original contract can be found. There is a law of Congress which requires the Navy Department to cause a statement annually of every contract that is entered into by that Department with any individual to be published with the annual returns of the Department. Nor is that all: the law goes on and requires them to publish all the offers to contract, every proposal that is made. I hold in my hand a report of the Secretary of the Navy showing every proposition that has been made by any citizen to contract with that Department, so that you know exactly the date, the amount proposed to be contracted, the value which is to be contracted——

Mr. POWELL. Will the Senator allow me to ask him if he refers to the fifth section of the act of 1808?

Mr. GRIMES. No, sir; I think it was subsequent to that.

Mr. POWELL. I should like to see the law.

Mr. GRIMES. The Senator will see in every annual report of the Secretary of the Navy such a statement as this made: a tabular statement of all the contracts and of all the offers to contract. Now, what does the law, which is sought to be repealed by the bill introduced by the Senator from New Hampshire, require? That the Secretary shall not only make a tabular statement of these contracts and a tabular statement of all the propositions to contract, but that all these contracts shall be written out *verbatim*, and shall be handed over to this Bureau of Returns. This is only piling Pelion upon Ossa. It is only requiring to be done every thirty days what is already required to be done by a law of Congress in the annual report of the Secretary. The Secretary tells us that it will cost in his Department $12,500 to perform this duty, and asks us to make an appropriation to that extent in order to meet these additional expenses.

Now, sir, if it would be a check upon frauds, I think there is no man in this body who would be more anxious to allow the law to stand than I would; but I cannot conceive that it will be of the slightest advantage to the Government. The truth is, the frauds are not perpetrated in the contract. They are perpetrated in the execution of the contract, not in the contract. Nobody is going to discover any very palpable, gross frauds in the writing itself; but it is in the method and manner of its execution, and that depends on whether it shall be honestly or dishonestly construed and carried out; it depends upon the honor and honesty of the man who is to see that it is executed.

But, Mr. President, I ought to say in reply to the suggestion that was made the other day, that the chiefs of the Departments, or any of the subordinates of the Departments, were seeking the repeal of this law, that the Senator who made that statement is altogether mistaken. The Secretary of the Navy has not proposed that this law should be repealed. He has merely sent a communication to the Senate asking that an appropriation shall be made to carry the law into effect. When that letter came before the Committee on Naval Affairs, and they were thoroughly informed as to what was already required of that Department, and what would be required under this new law, they thought it would be more advisable to repeal the law, so far as it related to the Navy Department, and save $12,500, than it would be to appropriate that amount, and authorize the employment of ten or twelve additional clerks.

The PRESIDENT *pro tempore*. The question is on the amendment moved by the Senator from Pennsylvania.

Mr. COWAN. I do not think the provisions as stated by the Senator from Iowa, now existing in the laws, will remedy the mischief. That mischief was, that it was difficult to see copies of contracts made by the Government; and hence the Government itself, the contracting officers, and the public at large, were always more or less laboring under a delusion as to the true character of the contracts. Persons who were disappointed in obtaining contracts went abroad through the country and misrepresented matters, and caused a great deal of excitement, clamor, and even scandal, which really had no foundation. It was the object of the Committee on the Judiciary, who prepared this law originally, to establish this office of returns, and to make a place where anybody desiring to know the truth in relation to Government contracts could go and procure that information; see the copy of the contract gratis; or, if they desired to have an additional copy themselves, it could be made there, and they were to pay for it.

Now, as to the additional amount of writing which it would require to be done, I take it it would be very small after all that has been said about it. A copy of the contract actually made was all the copy that was required to be filed in this Returns Office, and all additional papers such as bids, proposals, and advertisements for bids and proposals, were to go there *en masse;* they themselves were to go, not copies of them; and therefore copies would not have to be made. It would be very easy at the time the Departments or the officers are making those contracts, to have blank forms which could be filled up readily on the instant, and have all the contracts duplicated. It seems, however, that the Navy Department would have to provide a triplicate because they send the original to the Auditor and keep a copy for themselves at the office; that is all right enough; and then they would require a third copy to go to the Returns Office. In ninety-nine out of every one hundred of the contracts made by these Departments they might be all printed with the exception of a very small amount of writing, because I suppose most of the language of these contracts is merely formal, and I presume, in ninety-nine out of every one hundred of the contracts made by the Government, there need not be in handwriting more than twenty words in each contract. All the rest might be done through a printed form and with but little more labor than is now required. Still, I think there is great force in the objection that by the terms of the law which is sought to be repealed here, they would be obliged to expose contracts not fit for the eye of the public, and therefore I propose an amendment which excepts those contracts from the law, and it will give the Departments enlarged discretion in that behalf. If they think it is not proper to send a contract to the Returns Office, they will retain it, and there is an end of it.

I am satisfied further, Mr. President, that we never will check frauds on the Government, and what is quite as great a mischief, the imputation of fraud, unless some such expedient as this is resorted to. It is not enough that we correct the actual frauds on the Government, but it is most important that we keep the Government from being charged with frauds. How is it now? Half a dozen men are disappointed in getting a contract, and they immediately go abroad throughout the country everywhere, and assert a false statement of the actual contract made, misrepresent it, set everybody together by the ears as to the enormity of the transaction. Well, when you examine it, what is it? It is perfectly fair and right and honest, and all this has been merely the imagination of the disappointed person who would have liked to engage in the contract.

We thought that by means of this office all this might be prevented, because if a man should then represent anything about a fraudulent contract, the listener would have a right to say to him, "have you got a copy of it; have you been to the Returns Office and seen the contract; seen that it was made as represented, and if it was so monstrous as is alleged; have you got a copy of it?" These are obvious questions, questions that I think would be asked by all prudent people, and if they were not answered satisfactorily, the tale would fall to the ground, as it ought, and I am satisfied that nine out of every ten of the stories that are in circulation, and of the charges that are made, are utterly groundless and without any foundation; but there is no way of ascertaining it now, and people are wandering about in a mist, and harboring suspicions, when they have no means of ascertaining whether they are well founded or not. If the law which we have passed shall be carried into operation, I think it will relieve the country of that mischief, afford to all people the means of detecting at any time if a fraud has really been committed, or what is almost of equal value—detecting if anybody is misrepresenting Government officers, and alleging fraud when none has been committed.

Mr. TEN EYCK. I am in favor of repealing this law. It is precisely the same bill which was enacted into a law at our last session, and which we repealed upon five minutes' notice, having the facts stated to us from the Quartermaster General of the operation of that bill, and the utter impracticability of it. It has been said that we reversed our action last summer very hastily and unreasonably under the influence or dictation of the Quartermaster General; but I do not think so. The same bill was introduced before the Judiciary Committee at this present session, and it hung there for a long while for the reasons that have been stated. We desired to get some information from the Departments as to the practicability of the measure. It has been stated that the War Department did not respond to applications made to it on the part of the committee as readily as the committee supposed it ought to have done. It has been stated, also, that the Navy Department failed to respond; but it was subsequently ascertained that they never had been asked for their opinion upon the subject.

The bill which was passed had a majority of the Judiciary Committee in its favor. It was reported to the Senate and passed when I had no knowledge of it; passed without the notice of the Senate; passed in the regular order of business without any attention being called to it, and without any examination or investigation. I am opposed to that bill, because, at the same time that I profess to be as much opposed to fraud and the perpetration of fraud, and to be as anxious for its disclosure and punishment as any other man, I believe that bill is perfectly impracticable, and that it will hamper the conduct of the Army and the management of the war. I believe that bill will be violated a hundred times every day while it remains a statute of the United States. As I understand the bill, an army moving cannot procure supplies to sustain and support it without having a contract made, reduced to writing, and recorded in this Returns Office.

Mr. HALE. And sworn to.

Mr. TEN EYCK. And besides it must be sworn to before a magistrate. It will be necessary to take a corps of magistrates along with a moving column, and a scrivener also, to draw up contracts and have them sworn to, before a wagon load of hay can be taken as forage for the Army. It is very proper to have important contracts returned to an office and recorded, so that anybody may see them; but it is utterly impracticable for an Army constituted as ours is, now moving down, I was about to say, into an enemy's country, but certainly into a rebellious country, to procure supplies and subsistence without violating that statute every time they make a purchase or make a contract, and you might as well disband the Army and send them back across the Potomac, as to undertake to hamper them and tie them up by that bill, under the idea that we are about to prevent the perpetration of great frauds. At least, that is my view of it, and that is the reason which influenced me in voting to overturn my action on this bill last session, when the facts were brought to my notice, and that has been the reason which has prevailed with me ever since in differing, which I unfortunately did, from my colleagues on the Judiciary Committee.

Mr. DAVIS. Mr. President, I was opposed to the repeal of this law when the repealing bill was first introduced. I understand the subject a little better now than I did then, and I am satisfied that the law which is proposed to be repealed, as it is executed, does not do the least good under the sun. The Senator from Iowa touched upon the real mischief in matters of this kind: it is not in the making of contracts so much as in the execution of contracts, though it is in the making of contracts to some extent. For example, the quartermaster's department advertises for a contract for the delivery of two or five thousand mules, three years old. There are not that many mules three years old in the country, and they cannot be got in the country. There is not one mule in ten that is three years old that can be bought. Mules, as a general rule, are sold in lots or herds after they are two years old. The quartermaster's department advertises for a contract for the

delivery of two thousand mules. Gentlemen of the first intelligence and respectability, largely engaged in that trade, go and tell the officers that the mules are not to be had, they are not in existence; and being men of common honesty they refuse to deliver mules of that description. The quartermaster or his agent, nevertheless, persists in letting contracts for mules to be three years old, and those contracts are executed by the delivery of mules from twenty to thirty months old. Many of them are under two years. It is a very common occurrence. In the course of the last six or eight months, I have no doubt that contracts for mules of three years of age have been executed, in three fourths of all the cases of such contracts, by mules two years old and many mules under two years old. Where is the difficulty? It is in the execution of the contract. A faithless inspector of the stock is procured, and he is purchased up, literally bought and sold as the mules are, by the contractor who makes his contract to deliver the mules.

Mr. COWAN. Will the Senator allow me to ask whether the inspector is not really the contractor? He is the person who accepts delivery of the two year old mules, when the contract requires that they shall be three years old. The bill that we have passed is for the very purpose of protecting the Government against such things.

Mr. DAVIS. The inspector is not the contractor; he has nothing to do with the contract. A contracts with the Government to deliver two thousand three year old mules; B is appointed inspector, and A buys up B, gives him so much money to pass his stock that are under age and under the standard, and he passes the stock. Thousands and hundreds of thousands of dollars have in that way been plundered from the Government. If gentlemen want to reform these abuses, they must have honest inspectors. I could name inspectors that I am informed, and informed by gentlemen whose word I believe, have been literally bought and sold by men who have contracted to deliver mules to the Government. I do not know any here in this city, but I do in Cincinnati. A county-man of mine sent me a letter to this effect: that he knew that mules had been contracted to be delivered to the Government at three years old, and that the contracts had been filled by mules that were from eighteen to twenty months old.

CONFISCATION OF REBEL PROPERTY.

The PRESIDENT *pro tempore*. The special order of the day supersedes this and all other bills. The special order is the bill (H. R. No. 471) to confiscate the property of rebels for payment of the expenses of the present rebellion, and for other purposes. To that bill the Senator from New Hampshire [Mr. CLARK] has moved an amendment in the form of a substitute. Both the original bill and the substitute being open to amendment by way of perfecting them, the question is on the amendment moved by the Senator from Ohio to the original or House bill, in the fifth line of the seventh section to strike out the words "ninety days," and insert "one year."

Mr. WADE. I ask the unanimous consent of the Senate to take up a bill for the purpose of making it a special order. I ask that the bill for the admission of West Virginia into the Union be taken up and made the special order for Monday next, at twelve o'clock.

The PRESIDENT *pro tempore*. That can be done now only by unanimous consent. Does any Senator object?

Mr. TRUMBULL. I object

Mr. HALE. I move that the further consideration of the special order be postponed until the bill which we have had under discussion be disposed of.

Mr. CLARK. I hope not, unless that can be got through in a very short time. The Senator from Illinois [Mr. BROWNING] is desirous of being heard this morning on the special order.

The PRESIDENT *pro tempore*. The question is on the motion of the Senator from New Hampshire.

Mr. GRIMES. We must either make an appropriation to carry into effect the law that we have enacted, or else we must pass this bill. Let us have a test vote; there is no necessity for further argument. If the Senate chooses to indicate its disposition not to pass the bill of the Senator from New Hampshire, the Committee on Naval Affairs, as desired by the Secretary of the Navy, will introduce an appropriation to assist in carrying out the law as it now stands. All we want is to know whether it is to stand or not. I take it that nobody wishes to argue the question any longer.

Mr. COWAN. If that bill is not gone through with now, I think that perhaps by to-morrow we shall have an opportunity of effecting such amendments to it as will relieve the Departments from any difficulty and save the act which it is proposed to repeal. I was not exactly prepared to make the amendments to-day, but I think a little further time will give me full opportunity.

Mr. HALE. I beg to suggest that to-morrow, by a vote of the Senate, we are to act as members of the court of impeachments, which will probably take several days; and besides that, the Committee on Naval Affairs have a meeting to-morrow morning, and if the Senate insists on not passing this bill, we must report an appropriation.

Mr. COWAN. The court does not sit until one o'clock.

Mr. TRUMBULL. I think it altogether better to let this bill go over, and see if provisions cannot be framed to obviate the objections to the bill which has been passed. This naked bill, to repeal the act which was passed some day ago, manifestly cannot pass without considerable discussion. I am prepared to meet, and, as I think, successfully refute, the argument of the Senator from New Jersey as to the necessity of a magistrate going along with the Army; there is no such thing required under the law we have passed.

Mr. TEN EYCK. That was suggested to me; I did not originate it.

Mr. TRUMBULL. It was suggested in one of the papers we have received, and I want to compare that paper with the law. It is very easy for officers who do not wish to discharge their duty under a law to find objections to it. But, sir, I do not propose to argue the question now. I merely meant to suggest that if the law which we have passed to prevent fraud and imposition upon the Government is inconvenient in its execution, or impracticable, let us perfect it; let the suggestion be made wherein it cannot be executed, and let us alter it and make it efficient and practicable, and not repeal it in this hasty way. The Senator from Pennsylvania has turned attention to it, and says that by to-morrow he will be prepared with amendments to obviate this objection. It seems to me that is altogether the better course, and therefore I trust the special order of the day, the business regularly before the Senate, which is of very great importance, will not be postponed for the purpose of going on with this repealing bill. We shall lose a great deal of time, I am sure, in attempting to go on with it now.

The PRESIDENT *pro tempore*. The question is on the motion of the Senator from New Hampshire, to postpone the present consideration of the special order, and to continue the consideration of Senate bill No. 350.

The motion was not agreed to.

MESSAGE FROM THE HOUSE.

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

A bill (No. 187) to authorize an additional issue of United States notes, and for other purposes;

A bill (No. 525) in relation to the election of Representatives to Congress by single districts;

A bill (No. 540) making appropriations for the payment of the bounty authorized by the sixth section of an act entitled "An act to authorize the employment of volunteers to aid in enforcing the laws and protecting public property," approved July 22, 1861, and for other purposes;

A bill (No. 545) to authorize the Secretary of the Treasury to appoint a deputy collector of the customs at Chincoteague island, in the State of Virginia;

A bill (No. 547) changing the name of the steamboat Charlotte Vanderbilt to that of William F. Russell;

A bill (No. 548) authorizing the Secretary of the Treasury to change the name of the steamship Coatzacoalcos to America;

A bill (No. 549) to abolish certain ports of delivery in the Mississippi valley;

A bill (No. 550) to further provide for the collection of the revenue upon the northern, northeastern, and northwestern frontiers, and for other purposes;

A bill (No. 551) to equalize and establish the compensation of the collectors of the customs on the northern, northeastern, and northwestern frontiers;

A joint resolution (No. 87) to confirm the adverse decision of the Court of Claims in the case of Dennis Cronans;

A joint resolution (No. 88) to confirm the adverse decision of the Court of Claims in the case of T. S. J. Johnson;

A joint resolution (No. 89) to confirm the adverse decision of the Court of Claims in the case of executor of Lewis Warrington and others;

A joint resolution (No. 90) to confirm the adverse decision of the Court of Claims in the case of Abraham King, administrator of John Mandeville;

A joint resolution (No. 91) to confirm the adverse decision of the Court of Claims in the case of Richard Irvin, trustee of the Mechanics' Bank of New York; and

A joint resolution (No. 92) to confirm the adverse decision of the Court of Claims in the case of C. J. Jenkins and W. W. Mann, assignees of John McKinnie.

The message also announced that the House of Representatives had passed the following bills of the Senate:

A bill (No. 242) to change the name of the American built schooner Tom Dyer to that of Dolphin; and

A bill (No. 243) changing the name of the American built schooner Curtis Mann to that of Supply.

The message also announced that the House had further insisted upon its disagreement to certain amendments of the Senate to the bill (H. R. No. 260) making appropriations for the current and contingent expenses of the Indian department, and for fulfilling treaty stipulations with various Indian tribes for the year ending June 30, 1863, insisted on by the Senate, and upon its amendments to certain other amendments of the Senate to said bill disagreed to by the Senate, agreed to the further conference asked by the Senate on the disagreeing votes of the two Houses thereon, and had appointed Mr. CYRUS ALDRICH of Minnesota, Mr. THOMAS M. EDWARDS of New Hampshire, and Mr. AARON A. SARGENT of California, managers at the same on its part.

The message also announced that the House of Representatives had disagreed to the amendments of the Senate to the bill (H. R. No. 371) to prescribe an oath of office, and for other purposes, asked a conference on the disagreeing votes of the two Houses thereon, and had appointed Mr. JAMES F. WILSON of Iowa, Mr. JOHN A. BINGHAM of Ohio, and Mr. JOHN S. PHELPS of Missouri, managers at the same on its part.

The message also announced that the House of Representatives had insisted upon its third and fourth amendments to the bill of the Senate (No. 171) to reorganize the Navy Department of the United States, disagreed to by the Senate, and had disagreed to the amendment of the Senate to the fourteenth amendment of the House to the said bill, and asked a conference on the disagreeing votes of the two Houses thereon, and had appointed Mr. CHARLES B. SEDGWICK of New York, Mr. JAMES K. MOORHEAD of Pennsylvania, and Mr. JAMES A. CRAVENS of Indiana, managers at the same on its part.

The message also announced that the House of Representatives had agreed to the amendments of the Senate to the following bills of the House:

A bill (No. 364) to aid in constructing a railroad and telegraph line from the Missouri river to the Pacific ocean, and to secure to the Government the use of the same for postal, military, and other purposes;

A bill (H. R. No. 391) to punish and prevent the practice of polygamy in the Territories of the United States and other places, and disapproving and annulling certain acts of the Legislative Assembly of the Territory of Utah; and

A bill (H. R. No. 425) to incorporate the Guardian Society to Reform Juvenile Offenders in the District of Columbia.

ENROLLED BILL SIGNED.

The message further announced that the Speaker of the House of Representatives had signed an

enrolled bill (S. No. 343) to provide additional medical officers of the volunteer service; and it was signed by the President *pro tempore*.

NAVY DEPARTMENT REORGANIZATION.

The Senate proceeded to consider the amendments of the House of Representatives to the bill (S. No. 171) to reorganize the Navy Department of the United States, insisted on by the House, and its amendment to the fourteenth amendment of the House to said bill.

On motion of Mr. GRIMES, it was

Resolved, That the Senate insist upon its disagreement to the amendments of the House of Representatives to the said bill, and upon its amendment to the fourteenth amendment of the House thereto, and agree to the conference asked by the House upon the disagreeing votes of the two Houses thereon.

Ordered, That the committee of conference on the part of the Senate be appointed by the President *pro tempore*.

The PRESIDENT *pro tempore* appointed Mr. HALE, Mr. GRIMES, and Mr. LATHAM.

ADDITIONAL MEDICAL OFFICERS.

Mr. WILSON, of Massachusetts. A day or two ago we passed a very important bill in regard to the medical department. The bill has passed both Houses and is now enrolled and will go to the President. The bill was amended in the House of Representatives; but there is an error in the enrolled bill, and our object is to introduce a bill with the correction, and have it passed through immediately.

The PRESIDENT *pro tempore*. The Senator from Massachusetts asks unanimous consent to introduce a bill.

There being no objection, leave was granted to introduce a bill (S. No. 370) to provide for additional medical officers of the volunteer service; which was read three times, and passed. It provides that there shall be appointed by the President, by and with the advice and consent of the Senate, forty surgeons and one hundred and twenty assistant surgeons of volunteers, who shall have the rank, pay, and emoluments of officers of corresponding grades in the regular Army; but no one is to be appointed to any position under the act unless he shall previously have been examined by a board of medical officers, to be appointed by the Secretary of War; and vacancies in the grade of surgeon are to be filled by selection from the grade of assistant surgeon, on the ground of merit only. The act is to continue in force only during the existence of the present rebellion. Brigade surgeons are to be known and designated as surgeons of volunteers, and to be attached to the general medical staff under the direction of the Surgeon General. Instead of one assistant surgeon, as provided by the act of July 22, 1861, each regiment of volunteers in the service of the United States is to have two assistant surgeons.

HOUSE BILLS REFERRED.

The following bills and joint resolutions from the House of Representatives were severally read twice by their titles, and referred as indicated below:

A bill (No. 187) to authorize an additional issue of United States notes, and for other purposes—to the Committee on Finance.

A bill (No. 525) in relation to the election of Representatives to Congress by single districts—to the Committee on the Judiciary.

A bill (No. 545) to authorize the Secretary of the Treasury to appoint a deputy collector of the customs at Chincoteague island, in the State of Virginia—to the Committee on Commerce.

A bill (No. 547) changing the name of the steamboat Charlotte Vanderbilt to that of William F. Russell—to the Committee on Commerce.

A bill (No. 548) authorizing the Secretary of the Treasury to change the name of the steamship Coatzacoalcos to America—to the Committee on Commerce.

A bill (No. 549) to abolish certain ports of delivery in the Mississippi valley—to the Committee on Commerce.

A bill (No. 550) to further provide for the collection of the revenue upon the northern, northeastern, and northwestern frontiers, and for other purposes—to the Committee on Commerce.

A bill (No. 551) to equalize and establish the compensation of the collectors of the customs on the northern, northeastern, and northwestern frontiers—to the Committee on Commerce.

A joint resolution (No. 87) to confirm the adverse decision of the Court of Claims in the case of Dennis Cronans—to the Committee on Claims.

A joint resolution (No. 88) to confirm the adverse decision of the Court of Claims in the case of T. S. J. Johnson—to the Committee on Claims.

A joint resolution (No. 89) to confirm the adverse decision of the Court of Claims in the case of executor of Lewis Warrington and others—to the Committee on Claims.

A joint resolution (No. 90) to confirm the adverse decision of the Court of Claims in the case of Abraham King, administrator of John Mandeville—to the Committee on Claims.

A joint resolution (No. 91) to confirm the adverse decision of the Court of Claims in the case of Richard Irvin, trustee of the Mechanics' Bank of New York—to the Committee on Claims.

A joint resolution (No. 92) to confirm the adverse decision of the Court of Claims in the case of C. J. Jenkins and W. W. Mann, assignees of John McKinnie—to the Committee on Claims.

The bill (No. 540) making appropriations for the payment of the bounty authorized by the sixth section of an act entitled "An act to authorize the employment of volunteers to aid in enforcing the laws and protecting public property," approved July 22, 1861, and for other purposes, was read twice by its title and ordered to lie on the table, Mr. SHERMAN giving notice that he would call it up to-morrow morning.

EMANCIPATION IN MISSOURI.

The PRESIDENT *pro tempore* laid before the Senate the following communication:

ST. LOUIS, *June* 21, 1862.

SIR: By direction of the convention of the State of Missouri I have the honor to transmit to you a copy of resolutions adopted by that body, in response to a joint resolution of Congress upon the subject of emancipation.

I have the honor to be your obedient servant,

H. R. GAMBLE.

HON. PRESIDENT OF THE SENATE *of United States*.

Mr. HENDERSON. I ask that the resolutions be read.

The Secretary read as follows:

Whereas, the Congress of the United States, upon the special recommendation of the President, has at its present session adopted a joint resolution in the following words, to wit: "*Resolved*, That the United States ought to co-operate with any State which may adopt a gradual abolishment of slavery, giving to such State aid, to be used in its discretion, to compensate for the inconvenience, public and private, produced by such change of system:"

Be it therefore resolved, 1. That in the opinion of this convention the proposition contained in the said joint resolution, adopted by Congress, and approved A. D. 1862, is entitled, as well from its eminent source as from its intrinsic importance, to deliberate and respectful consideration.

Resolved, 2. That while a majority of this convention have not felt authorized to take action with respect to the grave and delicate questions of private right and public policy presented by said resolution, yet this body desires to recognize the liberality therein displayed by the Government of the United States, and to express its profound appreciation thereof.

Resolved, 3. That the Governor be, and he is hereby, requested to transmit properly authenticated copies of the foregoing resolutions to the President of the United States and the Presiding Officers of the Senate and House of Representatives.

The above resolutions were adopted by the Missouri State convention on the 14th day of June, 1862.

AIKMAN WELCH,
Vice President of Convention.

Attest: SAMUEL A. LOWE,
Secretary of Convention.

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OFFICE SECRETARY OF STATE,
CITY OF JEFFERSON, MISSOURI.

I, Mordecai Oliver, Secretary of State, do hereby certify that the foregoing is a true and perfect copy of the preamble and resolutions, the originals of which are now on file in this office.

In testimony whereof I have hereunto set my hand and affixed the seal of office. Done at office this 18th day of June, A. D. 1862. [L. S.]

M. OLIVER,
Secretary of State.

On motion of Mr. HENDERSON, the resolutions were ordered to be printed.

CONFISCATION OF REBEL PROPERTY.

The Senate, as in Committee of the Whole, resumed the consideration of the bill (H. R. No. 471) to confiscate the property of rebels for the payment of the expenses of the present rebellion, and for other purposes.

The PRESIDENT *pro tempore*. The question is on the amendment of the Senator from Ohio, to the fifth line of the seventh section of the original bill, to strike out the words "ninety days," and insert "one year."

Mr. CLARK. The Senator from Ohio told me that he would withdraw that amendment, and would not ask action upon it until the vote was taken upon the substitute.

The PRESIDENT *pro tempore*. By unanimous consent of the Senate only can it be withdrawn, the mover not being present. If there be no objection, the amendment will be regarded as withdrawn. No objection being interposed the amendment is withdrawn. Another amendment was moved by the Senator from Ohio to strike out in the same section certain words, and insert other words, which have been read.

Mr. CLARK. I understood his intimation to be as to both his amendments, because he gave this reason, that he would not attempt to amend the bill until the question had been taken on the substitute.

The PRESIDENT *pro tempore*. No objection being interposed, the other amendment will be regarded as withdrawn.

Mr. TRUMBULL. It seems to me that the amendments open the whole subject, and that there is no necessity for withdrawing them until the Senator from Ohio is here. However, I shall not object.

The PRESIDENT *pro tempore*. The amendments of the Senator from Ohio being withdrawn, the question recurs on the amendment offered by the Senator from New Hampshire as a substitute for the whole bill.

Mr. BROWNING. Mr. President, we are in the midst of a war for the support of the Constitution. If there had been no departure from its principles, no violation of its provisions, there would have been no war. If all the citizens of the United States would return to their allegiance to the Constitution, and submit to its requirements, the war would at once cease. It could not be prolonged an hour. We are in arms against the rebels because they are in arms against the Constitution. They are struggling to overthrow it, we to maintain and uphold it. This is the theory of war. The practice should conform to the theory. If it does not we are fighting in vain. We should keep the reëstablishment of the authority of the Constitution and the Government over all the States of the Union steadily before us as the great central object of our efforts. We cannot succeed unless we, ourselves, keep within the limits of the Constitution, and respect and submit to its authority. When we put aside its provisions, break over its restraints, and go outside of its limits, we become co-workers with rebels and traitors in their work of destruction. If, in the progress of the war, the Constitution falls, whether by the act of the rebels, by our act, or by the joint action of both, I repeat that the people will have fought and bled in vain, and have expended their treasure in vain. The Senator from Massachusetts, [Mr. SUMNER,] in his discussion of the bill under consideration, has given expression to such novel and extraordinary views, and has announced, as undeniable law, principles of such dangerous tendency, and which, if carried into legislation, will be so fatally mischievous in their consequences, that I cannot permit them to go the country, and into the permanent records of its history without my earnest protest against them, in however feeble terms that protest may be made.

The Senator has truly stated the ends we have in view, "national unity under the Constitution of the United States." These ends cannot be attained by the measures he proposes. If it be conceded that they would secure "national unity," they would fail of the other end, to secure it "under the Constitution of the United States," for they would themselves overthrow that Constitution. The Senator struggles with difficulties which could not beset him if his *only* object was "national unity under the Constitution of the United States." This object can be easily reached if we forbear infringing any provision of the Constitution, or going outside of it.

But there is another object which cannot be reached without going "outside of the Constitution," and assuming and exercising powers not granted by it; and I presume that I do the Senator no injustice in supposing him to be more earnestly in pursuit of this object than any other. If not, whence the necessity of quitting the Constitution and exploring the history of the world, from the time "when Ahab took the vineyard of Naboth, and David gave away the goods of one of the confederates of Absalom;" through all the barbarisms of intervening ages, for sources from which Con-

gress is to draw its power to do the act which he proposes? Why refer us to the confiscation bills of colonial Legislatures, passed during the struggle with the mother country? They were restrained by no such provisions as are contained in our Constitution, but gave unbridled license to their exasperated and revengeful passions. The wrong and injustice of these colonial acts of confiscation, and experience of the evils that grew out of them, unquestionably led to the adoption of the clause of the Constitution prohibiting a like power to Congress. So far from the long array of colonial acts, with which the Senate has been presented, being authority to justify Congress in similar legislation, they are, on the contrary, authority directly against it. While these acts were yet upon the statute-books, and their effects present and palpable all over the country, the very men who were actors in the exciting events out of which they grew, fearing that a time might come when the Congress of the nation, blinded by passion, might venture to follow the bad and dangerous precedents of the colonial Legislatures, took the most effective measures to guard against it by inserting positive prohibitions in the Constitution of the Union.

Still less support is derived from the practice of the English Government. What the British Parliament may have done heretofore affords no safe analogy for the interpretation of the Constitution of the United States. The constitutions of the two countries are widely and essentially different. I institute no comparison of merit between them. The British constitution is unquestionably a magnificent work, perhaps the best that could be devised for the government of the British people. But it is not *our* Constitution. It is not a written constitution. "What Parliament declares to be the constitution of England *is* the constitution of England." Parliament may pass bills of attainder, outlawry, and confiscation, and execute them, and no question of power can be made, for it is omnipotent, and its will the supreme law of the land.

The constitution of England is subordinate to the will of Parliament. The Congress of the United States is subordinate to the Constitution. It is hedged in with restraints which it cannot break over or trample upon without most serious injury to the structure of the Government, and great danger of sapping its foundations.

I therefore put aside, as inapplicable to our condition, all the examples from ancient and modern history. They neither prove nor illustrate any point in this debate. If we have the power to pass the bill before us we derive that power from the Constitution, and from no other source. The practice of other nations, and of the colonies prior to the adoption of the Constitution, can give us no aid. The Constitution, and the practice of our own Government under it, and the expositions of it by the judicial tribunals and by the great men who made it, who had studied it, and understood it, and comprehended the grandeur and harmony of all its principles, should alone be consulted, alone accepted as authority.

The Senator was right when he said, "in every Government bound by a written constitution, nothing can be done which is not in conformity with the constitution." After this announcement we had a right to expect an argument which would uncover and "exhibit clearly" the sources of power in the Constitution itself, instead of a learned and interesting disquisition upon the history of confiscations in other countries, and a deduction of authority from that. I know he claims the power under the Constitution, and cites the provisions from which he derives it; but it is only necessary to analyze his argument, indeed only necessary to call attention to it, to expose its infirmity and to show how far he has permitted his wishes to mislead his judgment.

After stating that "the Constitution has not been silent on this question," he recites the particular provisions which, in his opinion, contain the grant of power to Congress to do all which the bill before us proposes. He says the Constitution "has expressly provided that Congress shall have power, first, 'to declare war.'"

This is undeniably true, and the question arises spontaneously to the lips, is this a bill to declare war? If so, the Senator is right in claiming for Congress the authority to pass it. If it is not, then he gets no support from this provision of the Constitution. He might as well deduce from it the power to charter a national bank as the power to free slaves and confiscate property.

Secondly, "to grant letters of marque and reprisal."

The question again comes, is this a bill to "grant letters of marque and reprisal?" If not, why quote the clause? for, by virtue of it and from it Congress gets no shadow of authority to do any other act whatever.

Thirdly, "to make rules of captures on land and water."

The Senator has, no doubt inadvertently, misquoted the clause. As it stands in the Constitution it is to "make rules *concerning* captures on land and water." But the bill neither makes rules *of* captures, nor *concerning* captures, and does not relate, in the remotest degree, to captures, either on land or water, and it cannot, therefore, lean upon this clause for support, whether we give it the one reading or the other.

Fourthly, "to raise and support armies."

Fifthly, "to provide and maintain a navy."

Will any Senator have the temerity to attempt to point out in what way this bill tends to raise and support an army, or to provide and maintain a navy? Would it not be a mockery of the Senate to ask it to listen to an argument intended for such a purpose?

Sixthly, "to make rules for the government and regulation of the land and naval forces."

There is not one word in the bill that was put there with any expectation of its having the slightest effect on the government and regulation of either the land or naval forces.

Seventhly, "to provide for calling forth the militia to execute the laws of the Union, suppress insurrections, and repel invasions."

There is no invasion to repel, and provision has long since been made and carried into effect for calling forth the militia to suppress the insurrection. No one has yet had the hardihood to assert that this bill is intended for any such purpose. If it is, it would be difficult to imagine one less likely to accomplish the end.

Mr. SUMNER. May I interrupt the Senator?

Mr. BROWNING. Yes, sir.

Mr. SUMNER. I understood the Senator to say that the bill under discussion, which is the House bill, was not founded on the provision of the Constitution concerning captures; that, in short, it did not in any way relate to captures. Now, I have in my hand that bill, and will read the introductory clause. It is as follows:

That all the estate and property, money, stocks, credits, and effects of the persons hereafter named in this section are hereby forfeited to the Government of the United States, and are declared lawful subjects of seizure and of prize and capture wherever found, for the indemnity of the United States against the expenses of suppressing the present rebellion.

The bill, therefore, is derived directly, specifically, unequivocally, in just so many words, out of the positive language of the Constitution of the United States.

Mr. BROWNING. Mr. President, I am replying to the Senator's speech on the basis on which he made it. I am not willing that he shall shift his ground now. At the time he made his speech and gave utterance to the language that I have quoted, the bill from which he now reads had never made its appearance in this body.

Mr. SUMNER. Will the Senator allow me to interrupt him again?

Mr. BROWNING. Yes, sir.

Mr. SUMNER. I had already offered that bill myself. It was on the table of the Senate as my bill, to be voted on at the proper time as an amendment to the Senate bill; and I now read from my own bill which has since been adopted in the other House.

Mr. BROWNING. The bill was not before the Senate at the time the discussion was going on. It may have been on the table.

Mr. SUMNER. The Senator will pardon me. When I rose to make my speech, this bill, in the form of an amendment or substitute, had been already offered by me. It was on the table; and notice was given that at the proper time, when it would be in order, it would be pressed to a vote; and my speech was made to support that bill. Therefore the Senator is entirely mistaken—I know he does not intend to do me injustice—when he says that I change my ground. Sir, I have no disposition to do that. I wish to meet this question frankly under the Constitution of the United States. I know the strength of the position which I occupy, and I know it is only by misunderstanding it that it can be answered.

Mr. BROWNING. Mr. President, I will endeavor not to misunderstand, and am very sure I will not willingly misrepresent the Senator. I desire to understand him distinctly. I am very sure I will not misrepresent him.

Mr. SUMNER. I know that you will not.

Mr. BROWNING. It may be true, as he says—it matters not to me, so far as this discussion is concerned, whether it is or not—that the bill from which he now reads had been presented. Conceding it to be so, I think there is no fair-minded lawyer who will take the pains to examine the constitutional provisions, who is familiar with the law of nations, and who will compare them with this bill, who will not at once concede that the bill, if it does in terms relate to captures, does so in terms only for the purpose of evading a plain constitutional provision; that it does not come at all within the spirit or the letter or the intention of the Constitution.

These, I believe, are the only specific grants of power upon which the Senator relies; these are the only sources from which he draws to justify the bill. What conceivable measure can passion or caprice suggest, that would not find as much support in the provisions referred to as a bill to free slaves and to confiscate property? And if this is the best showing of authority that learning, talent, and ingenuity can make from the Constitution, may we not safely conclude that none whatever is to be found within its lids?

A very important part of the Senator's speech, and which appears to me to be among the most heterodox, and dangerous, and indefensible doctrines he puts forward, are ranged under the inquiry, "what are the rights against enemies which Congress may exercise in war?" To this inquiry the Constitution gives a very explicit answer. They have all already been enumerated. Congress may "declare war, grant letters of marque and reprisal, and make rules concerning captures on land and water." It may "raise and support armies;" "provide and maintain a navy;" "make rules for the government and regulation of the land and naval forces;" "provide for calling forth the militia to execute the laws of the Union, suppress insurrections, and repel invasions;" and "provide for organizing, arming, and disciplining the militia, and for governing such part of them as may be employed in the service of the United States." There is the answer, and there is the whole of it. These enumerations, extracted from the Constitution, declare all the powers "which Congress may exercise in war;" and these it may exercise just as well in peace as in war. Congress has no powers which are peculiar to a state of war—none which are "dormant in peace and aroused into activity only by the breath of war." Yet this I understand to be the view which the Senator takes of the Constitution, and of the powers of Congress under it. I understand him to contend that Congress may exercise powers to-day, because war exists, which it cannot assert to-morrow if peace ensues, and it is from this assumption of a shifting power that he deduces authority to Congress to pass the bill under consideration. I wish to do him no injustice, and therefore quote his own language. He says:

"There is not one of the rights of war which Congress may not invoke. There is not a single weapon in its terrible arsenal which Congress may not grasp."

And again:

"But when claiming these powers for Congress, it must not be forgotten that there is a limitation of time with regard to their exercise. Whatever is done against the rebels in our character as belligerents under the rights of war, must be done during war, and not after its close."

That this is true when spoken of the *Government* I now admit, and always have admitted; but that it is true when spoken of *Congress* I utterly deny. "There is not one of the rights of war which" the *Government* "may not invoke." There are many which *Congress* dare not touch without becoming a usurper. And now I desire, in all kindness, and with all possible respect, to ask the gentleman whether it is his deliberate judgment as a lawyer and a Senator, that *Congress* possesses attributes and may exercise powers in the exigency of war which it does not possess, and may not exercise when peace and tranquillity overspread the land?

Mr. SUMNER. Does the Senator wish an answer?

Mr. BROWNING. I have certainly no objection to an answer.

Mr. SUMNER. I answer most clearly that Congress has powers during war and against public enemies which it has not during peace towards any citizens of the United States. There are rights of war which belong to all nations, and the United States is not without them. Those rights may all be exercised through Congress, but they must be exercised in the time of war. As rights of war, they are limited to war. There are penal statutes, statutes against treason, statutes for the punishment of rebellion, which may be enforced at any time, both in war and in peace; but the rights of war grow out of war, and can be exercised only during war.

Mr. BROWNING. I am happy to find——

Mr. SUMNER. If the Senator will pardon me, to go back to the topic on which we were before——

Mr. BROWNING. I cannot give way for a speech to be interpolated, and I do not wish to go back from the point I am discussing.

Mr. SUMNER. I merely wish to call the Senator's attention to a point on which he differed from me. I stated that the speech I had the honor of making some time ago was made on my own bill.

Mr. BROWNING. I concede it, sir.

Mr. SUMNER. I find that the pamphlet edition, which I have in my hand, but which I had not when the Senator did me the honor to refer to it some moments ago, is entitled as follows: "Speech of Mr. Sumner, of Massachusetts, on his bill for the confiscation of property and the liberation of slaves belonging to rebels." It was from that bill that I read, a bill founded on that provision of the Constitution which confers upon Congress the power to regulate captures.

Mr. BROWNING. I am perfectly willing to concede all that. It neither changes nor modifies any single point in this discussion. I am very happy to find that I had neither misunderstood nor misrepresented the Senator in assuming that he contended that under the Constitution Congress might exercise powers to-day, because war existed, which it could not exercise to-morrow if peace ensued. If this be so, then I desire to know whether all the powers of Congress are not derived from the Constitution; whether it possesses any not granted by the Constitution; and what particular clause or provision of that instrument it is which invests it with authority to do an act to-day which it would not have been equally competent to do at any single hour of the last twenty years? Yet this proposition must be maintained to justify the action which is urged upon us. It must be shown that a state of war enlarges our powers; for the right is claimed to judge of, and decide upon, military necessities; and the Senator truly says this, if done at all, "must be done during war, and not after its close." The reasoning upon this subject proceeds thus: "it is the right of Congress to judge of, determine upon, and order to be executed, all measures demanded by military necessities; but military necessities do not arise when peace prevails, therefore Congress cannot exercise these powers in times of peace, but can when war is raging, and therefore the powers of Congress are augmented and amplified by a state of war."

The premises are false, and all the deductions made from them are likewise false. It is not true that Congress may assume and exercise all the active war powers in the actual prosecution of war. The Constitution invests it with no such prerogative. It is not true that Congress may decide upon the measures demanded by military necessities and order them to be enforced. If it can do so in one instance, it can do so in every instance. If it can grasp and wield this power in one case, it can do so in all cases. I deny that the right exists, in any case, to pass in judgment upon what is properly called a military necessity. It may become a military necessity when an army, with its munitions and supplies, has been transported across a stream, to destroy the bridge that bore them safely over, and leave only the deep and rapid river in the rear. It may be a military necessity to preserve the bridge, that the means of safe retreat may be at hand if adverse fortune should require it. It may become a military necessity, as an army marches through the enemy's country, to waste and devastate it, and leave only ruin and desolation behind to signalize its passage. It may become a military necessity, upon the surrender of a beleaguered city, to give it up to pillage and plunder, or to wrap it in flames and reduce it to a smoldering and blackened heap of ruin. It may become a military necessity, upon the approach of the hostile army, to destroy all the stores and munitions of war, and retreat instead of fighting. It may become a military necessity to refuse quarter in battle, or to put to the sword all the prisoners who may be captured. Some of these, I admit, are extreme cases, and of rare occurrence; but they have occurred, and will occur again, and when they do they must be promptly met and acted upon.

They are all of the class properly called military necessities. And now, I again ask whether it is seriously contended that Congress has either right or power to judge of and determine upon any one of them a month in advance of its occurrence? Whatever the seeming necessity may be now, when the month has elapsed it may no longer exist. May Congress to-day order that upon the capture of a city a week hence it shall, as a military necessity, be sacked and burnt? However great the apparent necessity for such measures now, the events of an hour may so change the face of affairs that the necessity will be found in leniency, forbearance, and protection. May Congress to-day determine that the military necessities of the next battle to be fought will require that no quarter shall be given, and that all prisoners shall be put to the sword? Let us register such an edict, and on the page that chronicles man's deepest and darkest infamy we will outlive the emperor who fiddled by the light of his magnificent capital in conflagration.

These necessities can be determined only by the military commander, and to him the Constitution has intrusted the prerogative of judging of them. When the Constitution made the President "Commander-in-Chief of the Army and Navy of the United States," it clothed him with all the incidental powers necessary to a full, faithful, and efficient performance of the duties of that high office; and to decide what are military necessities, and to devise and execute the requisite measures to meet them, is one of these incidents. It is not a legislative, but an executive function, and Congress has nothing to do with it. Congress can "raise and support," but cannot command armies. That duty the Constitution has devolved upon the President. It has made him Commander-in-Chief, and therefore Congress cannot be. Nor can Congress control him in the command of the Army, for, if it can, then he is not Commander-in-Chief, and the assertion of the Constitution to that effect is a falsehood. And whenever Congress assumes the control of the Army in the field, it usurps the powers of a coördinate department of the Government, destroys the checks and balances provided for the safety of the people, and subverts the Constitution. Legislative encroachment upon the prerogatives of the other departments thus boldly once begun, where will it end? It will go on increasing in strength, and pushing its conquests, till it subordinates the Constitution itself to its will, and becomes as omnipotent as the British Parliament. It is from the legislative department of the Government that danger is to be apprehended, not the executive or judicial. They are inherently weak, and we cannot too carefully guard against encroachments upon their prerogatives by the legislative department. In discussing the distribution of the powers of Government to the three departments, and the danger to be apprehended from them, Mr. Madison, in the forty-eighth number of the Federalist, says:

"It is evident that neither of them ought to possess, directly or indirectly, an overruling influence over the others in the administration of their respective powers. It will not be denied that power is of an encroaching nature, and that it ought to be effectually restrained from passing the limits assigned to it." * * * * "The legislative department is everywhere extending the sphere of its activity, and drawing all power into its impetuous vortex." * * * * "It is against the enterprising ambition of this department that the people ought to indulge all their jealousy and exhaust all their precautions. The legislative department derives a superiority in our Government from other circumstances. Its constitutional powers being at once more extensive and less susceptible of precise limits, it can with the greater facility mask, under complicated and indirect measures, the encroachments which it makes on the coördinate departments."

But to return again for a moment to the question whether Congress can control the President in the supreme command and direction of the Army, I ask attention to the fifty-ninth number of the Federalist, by Mr. Hamilton. He says:

"The President is to be Commander-in-Chief of the Army and Navy of the United States. In this respect his authority would be nominally the same with that of the king of Great Britain, but in substance much inferior to it. It would amount to nothing more than the *supreme command and direction of the military and naval forces, as first general and admiral of the Confederacy;* while that of the British king extends to the *declaring* of war, and to the *raising* and *regulating* of fleets and armies, all which by the Constitution under consideration would appertain to the legislature."

Here the respective powers of the President and Congress, as connected with the Army, are most clearly and distinctly stated. Congress is to *raise* and *regulate* the Army; when raised and regulated, the President is to have the *supreme command* and *direction*.

Again, in the seventy-fourth number, the same distinguished statesman, recurring to the same subject, said:

"The President of the United States is to be Commander-in-Chief of the Army and Navy of the United States, and of the militia of the several States when called into the actual service of the United States. The propriety of this provision is so evident, and it is, at the same time, so consonant to the precedents of the State constitutions in general, that little need be said to explain or enforce it. Even those of them which have, in other respects, coupled the Chief Magistrate with a council, have, for the most part, concentrated the military authority in him alone. Of all the cares or concerns of Government, the direction of war most peculiarly demands those qualities which distinguish the exercise of power by a single hand. The direction of war implies the direction of the common strength; and the power of directing and employing the common strength forms a usual and essential part in the definition of the executive authority."

This was all said before the adoption of the Constitution, and to commend it to the acceptance of the people. At a later day, after it had been adopted, and questions, as now, arose as to the extent of the legislative power under it, Mr. Madison, in discussing a bill before Congress, said:

"He did not accede to the principle of the bill. He did not see any such immediate prospect of a war as could induce the House to violate the Constitution. He thought that it was a wise principle in the Constitution to make one branch of the Government raise an army and another conduct it. If the Legislature had the power to conduct an army, they might embody it for that end. On the other hand, if the President was empowered to raise an army, as he is to direct its motions when raised, he might wish to assemble it for the sake of the influence to be acquired by the command. The Constitution had wisely guarded against the danger on either side."—4 *Elliot's Debates*, p. 444.

Now, hear again the Senator from Massachusetts state the legal proposition from which he deduces the power to Congress to give the sanction of enactment to the measures which he proposes. Overturn his premises, and his conclusions naturally and necessarily fall with them. In stating what he claims to be a grant of power to Congress by the Constitution to control armies and conduct war, he says:

"Language could not be broader. Under its comprehensive scope there can be nothing essential to the prosecution of the war, its conduct, its support, or its success; yes, sir, there can be nothing essential to its success which is not positively within the province of Congress. There is not one of the rights of war which Congress may not invoke. There is not a single weapon in its terrible arsenal which Congress may not grasp."

The great architects of the Constitution, who had studied it profoundly and mastered and comprehended its philosophy, and who could not be driven by popular clamor in after years to mar their majestic work, have placed and left on record, for the admonition and guidance of those who were to come after them, the solemn and authoritative declaration, that it was "a wise principle in the Constitution to make one branch of the Government raise an army and another conduct it." The fathers of the Constitution, whose long experience of the imperfections of existing systems had taught them all the necessities to be provided for by organic laws, distributed the powers of Government to different departments, and to prevent conflicts and collisions, preserve order, and secure harmony in the working of the system, they erected barriers to keep them separate, and to confine each department to its appropriate sphere, and restrain it from encroachments upon another.

The honorable Senator recognizes no such barriers, no such separation of powers, but claims that all executive powers which the President may

exercise in the prosecution of the war are held by him in subordination to the will of Congress, subject to its control and direction, and all of which Congress may exercise concurrently with the President if it so chooses. He puts the matter thus:

"Doubtless there are rights of war, embracing confiscation, contribution, and liberation, which may be exercised by the commanding general in the field, or may be ordered by the President, according to the exigency." * * * * "But all these rights of war which I have reviewed to-day are deposited with the Government of the United States, which means Congress in conjunction with the President."

I will not pause to controvert the very remarkable assertion that the President and Congress constitute the Government of the United States, but take issue at once with the Senator upon the not less extraordinary proposition that the rights of war are deposited with the Government to be exercised by Congress and the President conjointly. There is not, sir, a single power of the Government, so far as I am informed or believe, not one single power which may be exercised either conjointly or concurrently by different departments of the Government. There are certain acts to be performed which cannot be perfected without the assent of both the executive and legislative departments, but the part to be performed by each is clearly and distinctly defined, and neither can trench upon the province of the other. They are separate and distinct acts, to be performed by each department for itself, by its separate action, and not by the conjoint action of both. The part to be performed by the President must be performed by him alone. Congress can neither do nor control the doing of it. If the act is legislative, it must be done by Congress; if executive, by the President, and the President alone.

Mr. SUMNER. May I interrupt the Senator there?

Mr. BROWNING. Yes, sir.

Mr. SUMNER. I should not interrupt him if I did not hope to bring his attention to the precise point. The Senator says that if the act be legislative, it must be by Congress alone; if executive, by the President alone. I would ask the Senator whether every legislative act must not receive the signature of the President? Receiving the signature of the President, does not every legislative act become the conjoint work of the Congress and of the President? That is what I had in view when I said that these rights of war were to be exercised by Congress in conjunction with the President; for nothing done by Congress can receive final effect until it has the signature of the President.

Mr. BROWNING. Mr. President, the language of the Senator upon which I am commenting was, "there is not one of the rights of war which Congress may not exercise; there is not a weapon in its terrible arsenal that Congress may not grasp." Nothing is said about the President.

Mr. SUMNER. And the Senator quoted the words of mine, "in conjunction with the President." An act of Congress becomes a law only through the signature of the President.

Mr. BROWNING. I am as fully aware of that as the Senator can be. As I stated already, there are certain acts which cannot be perfected without the action of both Congress and the President. I stated that, and stated it distinctly; but, sir, do they act conjointly or concurrently? Neither. Congress has its part to perform, and the President has his part to perform; and Congress can no more control him in giving or withholding his approval to a bill, than he can control Congress in giving or withholding its approval. The acts are separate and distinct, to be performed by each department for itself, wholly irrespective of the wishes and wholly emancipated from any restraint by the other.

I say, sir, if the act is legislative, it must be done by Congress; if executive, by the President, and the President alone. Congress cannot act with him either conjointly or concurrently. He is as supreme in his sphere as the legislative department is in its sphere; and in the performance of the duties with which the Constitution has charged him he cannot, without an abnegation of his authority, submit to be controlled by either Congress or the people, they being as completely subject to the Constitution and as much bound to yield to its authority as he is. It is admitted by the Senator that "there are rights of war, embracing confiscation, contribution, and liberation, which may be exercised by any commanding general in the field, or may be ordered by the President according to the exigency." This, sir, is an admission fatal to the claim of power he makes for Congress to exercise the same "rights of war, embracing confiscation, liberation, and contribution;" for to show that the President may exercise them is to demonstrate that Congress cannot. I repeat what I have before said, that there is no single power granted by the Constitution to be exercised indifferently by the President and Congress. The jurisdiction is exclusive in each. If the one possesses it, the other cannot. If this were not so, there would be continual and dangerous collisions between these two departments of Government. One might choose to exercise the power in one way, and the other precisely in the opposite way, and this would result in such fatal antagonisms as would not only retard but absolutely suspend the wheels of Government.

The exercise of the law-making power by the President would be rank usurpation. It is as flagrant usurpation, and far more dangerous to the integrity of the Constitution and the Government, for Congress to assume executive power.

Another error into which zeal for confiscation in this particular mode, and by congressional action, has hurried him, is to be found in the assertion that "it is clear" "that there is no limitation to the amount of fine which may be imposed for crime, so that in its sweeping extent it may practically take from the criminal all his estate, real and personal." Before dogmatizing on the Constitution, it might be well to read it. I quote the eighth article of the amendments:

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

Yet, in the teeth of this, the Senator asserts that "it is clear that there is no limitation to the amount of fine which may be imposed for crime." With this claim of omnipotence for Congress, it ought not to surprise us to hear gentlemen contend that for the very common and not very atrocious offense of assault and battery the whole of a man's estate, real and personal, may be swept from him by confiscation, and his family pauperized, if Congress so wills it, and that all constitutional barriers to a like punishment for treason may be easily surmounted by a resort to the unlimited and illimitable power of imposing fines. What matters it that the Constitution interposes to stay the hand from giving up the estate to absolute forfeiture for treason? We have sworn to support the Constitution, and are troubled with some "compunctious visitings of conscience" when the precise thing which the Constitution, in terms, forbids is proposed; but how easy to calm the moral perturbation by a sneer at constitutional scruples, and reach the same end by the shorter and directer road of a fine whose "insatiable maw" shall incontinently swallow all at a gulp.

Mr. Justice Story, in his Commentaries on the Constitution, says of this clause:

"The provision would seem to be wholly unnecessary in a free government, since it is scarcely possible that any department of such a government should authorize or justify such atrocious conduct. It was, however, adopted as an admonition to all departments of the national Government, to warn them against such violent proceedings as had taken place in England in the arbitrary reigns of some of the Stuarts. In those times, a demand of excessive bail was often made against persons who were odious to the court and its favorites, and on failing to procure it they were committed to prison. Enormous fines and amercements were also sometimes imposed, and cruel and vindictive punishments inflicted. Upon this subject Mr. Justice Blackstone has wisely remarked, that sanguinary laws are a bad symptom of the distemper of any State, or at least of its weak constitution. The laws of the Roman kings, and the twelve tables of the Decemviri, were full of cruel punishments; the Porcian law, which exempted all citizens from sentence of death, silently abrogated them all. In this period the republic flourished. Under the emperors severe laws were revived, and then the empire fell."

It was to prevent a repetition of these oppressions, these atrocities, which, in times of high party excitement and exasperation, had often been perpetrated, and which the convention, judging more correctly than the commentator, feared might be resorted to again, that this provision was inserted. Long experience had already taught the civilized world that undue severity of punishment, instead of preventing and diminishing crime, tended to provoke and increase it. The progress of Christianity had developed a wish to mitigate as far as compatible with the imperfection of human institutions, the rigor of criminal laws which involved the innocent in the punishments due to the gulity; and this provision, as well as that against forfeitures, and the passage of the bills of attainder, was inserted with a view to the accomplishment of that object.

To a greater or less extent, the wife must suffer for the guilt of the husband, and the child for that of the parent; but this should be so only to the extent which is inevitable in God's economy of the world, and human laws should be confined within that limit. It was the purpose of the framers of the Constitution to protect the innocent families of offenders from utter impoverishment and ruin for crime which they had not committed, and could not prevent. It was the intention to leave to such families the means of subsistence and livelihood, after the law had exhausted its power of punishment on the criminal; but this object has not been attained, if the unlimited power of imposing fines exists, as contended for by the honorable Senator from Massachusetts. If the existence of the power can be demonstrated, there is a manifest disposition, in some quarters, to use it to the full extent suggested by him, "so that in its sweeping extent it may practically take from the criminal all his estate, real and personal."

The emergency has come which the Constitution contemplated. The stupendous, unparalleled, and unprovoked crime of the traitors in arms against the Government, has justly exasperated us, and inspired a desire to strip them mercilessly, and with inexorable hand, of all their earthly possessions. Many of them deserve no mercy; and when the necessities of the war demand it, they may be stripped, but not by Congress. Congress can neither judge of and determine military necessities in the field, nor execute military powers. Nor is this what is suggested by this part of the Senator's speech; but to provide by law for sweeping away everything by civil proceedings in the courts. When this is attempted, we must look to the Constitution for the extent of our powers; and when limitations are found, respect and obey them. All limitations in this respect upon the military power are subject to modifications by the exigencies and necessities of the war, to be judged of by the war-executing power; but no such modifications supervene to amplify the authority of Congress. The traitors deserve the severest punishments, and we are anxious to strip them of their estates by absolute forfeiture; but, upon looking into the Constitution, we find our hands are tied; the power to do this is denied us. We are exasperated and restive under the restraint, and seek for some other avenue through which we may reach the same end. We resort to fines which shall be so large as to absorb everything, and practically accomplish the same result which would be attained by forfeitures and confiscations; but the Constitution has hedged against us here by providing that excessive fines shall not be imposed.

Now, in these circumstances, what is the duty of Congress? Clearly, I think, to obey the Constitution, and keep within its limitations, and neither trample upon nor evade them. These restraints were imposed because the experience of centuries had shown that power was always struggling for expansion, for the enlargement of its area of action; and that this was especially true in times of domestic disturbance and strong popular excitement; and it was foreseen that, upon such occasions arising here, it might be deemed a political necessity, by Congress, for the punishment of great offenders, who had committed stupendous crimes, to pass bills of attainder, to confiscate estates forever, or to impose excessive fines, which would practically accomplish the same thing as absolute confiscation. The convention believed the power a dangerous one, capable of great abuses, and sure to be, at such times, so abused as ten times over to counterbalance all possible good that could be attained by its exercise—capable of being used as the instrument of crippling the other departments of the Government, and finally of usurping all their functions; and therefore, in the most emphatic terms, denied the possession of any such powers at all. Congress can exercise no powers not *granted* by the Constitution; but, with respect to those above enumerated, and some others, the convention was not content with simply withholding the grant, but put an express negation upon them all; thus tying the hands of the legislative department of the Government as tightly as it was possible to do by a written Constitution.

And, as has been most clearly and forcibly stated by the able, distinguished, and venerable Senator from Vermont, [Mr. COLLAMER,] the prohibitions were inserted because it was foreseen that occasions would arise when Congress would think it necessary to exercise the forbidden powers; when the strongest temptation to their exercise would exist; when popular clamor might demand their exercise; and when the danger of their possession would be enhanced just in proportion to the intensity of popular feeling and resentments. These restrictions were not provided for periods of tranquillity, when all the departments of Government would be moving smoothly and safely in their legitimate spheres, without temptation to reach for and grasp powers which did not belong to them, but for times of turbulence and danger, when inflamed passion would override reason, and resentment dethrone discretion and justice. It is no answer and no argument to say that it appears to us to be both necessary and just to confiscate, absolutely, the property of traitors, or to impose fines which, "in their sweeping extent, shall practically take all their property, real and personal," in punishment of their great crime. It was for this very reason, that it might seem to us necessary and just, and because the great and wise patriots, sages, and statesmen of the Revolution, who had had practical experience of the effects of such measures through all the stormy years of struggle for independence through which they had just passed, had been taught by that experience that they were neither *necessary nor just*, that the power to adopt them, when we might want to adopt them, was withheld from us. It would have been foolish to forbid a power to Congress which Congress would never want to assert; and it was precisely for the reason that it was believed the time would come when the Congress would want to do the prohibited things that the power to do them was denied.

Now, to assert that this rebellion cannot be suppressed without a resort to measures which we have no power under the Constitution to adopt, is to concede the success of the rebellion, to admit that the Constitution is overthrown, and the Government a failure. It is to admit that the aspirations of our fathers were but the dreams of enthusiasts, and that the institutions they founded, though flourishing for a time while the skies were clear and calm, have been prostrated in ruin by the first storm of faction that broke upon them. This I am not willing to concede. The legitimate and acknowledged powers of the Government, under the Constitution, are fully adequate to all the necessities of self-defense, protection, and perpetuation, if we will only give them fair play—only confine each department to its own orbit, let it work with its own instrumentalities, and prevent collisions which shall disturb and unsettle the delicately adjusted balance. To save the Government we must save the Constitution. When the Constitution is given up and we have to resort to means outside of it, the Government is given up with it. There is an end of it. Some sort of political organization may still exist, some sort of political machinery may take its place; but it will no longer be the Government of our fathers. Its whole essence and structure will be changed. No landmarks, no guides, no guarantees will be left, and no citizen will know his rights or duties, except as they are declared from day to day by the capricious, unsteady, unregulated, and irresponsible will of Congress.

Now, Mr. President, when we shall deliberately have carried into a law the assertion that there is no limitation, except the will of Congress, "to the amount of fine which may be imposed for crime," we have gone far, very far, in the work of demolition. We have thrust one supporting stone from the arch. Segregation will have begun, and all the separate parts of the structure must soon fall asunder. And how easily, how naturally, how necessarily this system of reasoning, when once adopted, leads its votary on, step by step, to the denial or perversion of all that has been regarded as settled by the jurisprudence of the past, and drives him into a legal labyrinth, from which his only guide is the threat of the *in rem!* All proceedings *in rem* for the condemnation of captures have heretofore rested upon the guilt of the *thing* proceeded against. I am not aware of an exception. The honorable Senator admits that this is so, and then, to maintain a show of consistency, proceeds in an effort to prove that all the property of a traitor participates his guilt, and is all, therefore, liable to be proceeded against *in rem*, and absolutely confiscated, wholly irrespective of proceedings *in personam* against the guilty owner.

Mr. President, I certainly intend to treat the distinguished Senator from Massachusetts and his opinions with the greatest possible respect, and trust that I am guilty of no discourtesy when I ask whether anything can be more fallacious or more dangerous than his reasoning upon this subject. He says:

"Through his property the traitor is enabled to devote himself to treason, and to follow its accursed trade, waging war against his country, so that his property may be considered guilty also."

This one brief sentence sweeps away the ancient basis of proceedings *in rem*, and lays a new foundation upon entirely new principles. It is no longer a question of the actual participation of the property in guilt, but the guilt of the property in all cases is to be inferred from the guilt of the owner, however innocent and impassive the property may be, and however far separated from its owner and the theater of his crime. I beseech of the Senator to pause and review his doctrines, and earnestly to contemplate the dangerous issues to which they lead. Is it any more true of the traitor than it is of the thief, the burglar, or the murderer, that his property enables him to devote himself to crime, "and follow its accursed trade?" The man without property may shoulder his musket and levy war against his country. The man of wealth may do the same thing, but his wealth enables him to engage others in the same work. The man without property may devote himself to the work of robbery or assassination. So may the man of wealth, but he has the means of suborning others as confederates in wickedness and crime. There is absolutely and positively no difference in the effect produced by treason upon the property of the offender and the effect produced by any other crime; and if treason subjects all the property of the offender to be proceeded against *in rem* for the punishment of the owner, without any reference to the uses to which the property has been applied, the same effect must be produced, and the same consequences ensue, to all the property of every other public offender, whatever his crime may be. Neither the Constitution nor law recognizes any distinction in this regard between treason and other crimes. If, then, we accept the law as stated by the Senator from Massachusetts, a total revolution is wrought in our criminal jurisprudence, and, in despite of all the safeguards of the Constitution, proceedings *in personam* for the punishment of crime may be totally ignored, and punishment inflicted by proceeding against property alone; or, what is yet worse, by punishing the same act twice, by separate proceedings, either simultaneously or at different times, against both person and property.

Confiscation of property for the *crime of the owner*, cannot be effected by proceedings *in rem*, but can follow only upon the personal conviction of the offender, in punishment of his crime. The law upon this subject is stated with so much force and perspicuity by Judge Sprague, in his opinion recently delivered in the case of the Amy Warwick, that I venture to ask the attention of the Senate to a consideration of his views. He says:

"Another objection to those decisions of the district courts is founded upon the apprehension that they may lead to or countenance cruel and impolitic confiscations of private property found on land. This apprehension is unfounded. No such consequence can legitimately follow. Those decisions undoubtedly assert that the United States have the rights of belligerents. But the extent of those rights on land, or the manner in which they were to be exercised, was not discussed. They were not even adverted to, except to say that enemy's property found by a belligerent on land, within his own country, on the breaking out of a war, will not be condemned by the courts although it would be if found at sea. This distinction, so far as it goes, tends to show that *the doctrine of maritime captures is not to be applied to seizures on land.* But the danger upon which this objection is founded does not arise from the administration of the prize laws by the courts, or the exercise of belligerent rights by military commanders upon military exigencies. The objection really arises *from fear of the legislation of Congress.* It is apprehended that they may pass sweeping or general acts of confiscation, to take practical effect only after the rebellion shall have been suppressed; that whole estates, real and personal, which have not been seized during the war, may be taken and confiscated upon coming within the reach of the Government, after hostilities shall have ceased. This, as we have seen, would not be the exercise of belligerent rights, the war being at an end. Belligerent confiscations take effect only upon property of which possession is taken during the war. As against property which continues under the control of the enemy they are wholly inoperative. If possession be acquired by or after the peace, then pervious legislation may take effect, but it will be by the right of sovereignty, not as an act of war. Under despotic Governments the power of municipal confiscation may be unlimited, but under our Government the right of sovereignty over any portion of a State is given and limited by the Constitution, and will be the same after the war as it was before. When the United States take possession of any rebel district they acquire no new title, but merely vindicate that which previously existed, and are to do only what is necessary for that purpose. *Confiscations of property, not for any use that has been made of it, which go not against an offending thing, but are inflicted for the personal delinquency of the owner, are punitive; and punishment should be inflicted only upon due conviction of personal guilt.*"

Without multiplying authorities, I may safely say that this is undeniably the law. I do not understand the Senator to deny that it is the law. Indeed, he distinctly admits that "the reason for proceedings *in rem* is" "that the *thing* is in a certain sense an offender, or at least has coöperated with the offender, as in the case of a ship in the slave trade." Admitting the law and the restraints of the Constitution, for they cannot be denied, he simply advises that we shall disregard them both.

He spurns everything which stands in the way of his wishes, and boldly and defiantly asserts that the Constitution gives to the citizens of this country no guarantees which Congress is bound to respect. This is his language:

"Glorious as it is that the citizen is surrounded by the safeguards of the Constitution, yet this rule is suspended by war, which brings into being other rights, which know no master."

Among the other safeguards with which the Constitution has surrounded the citizen, are the following:

"Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech or the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances."

According to the Senator these are all suspended; and to-day Congress may pass laws establishing a national religion, prohibiting the free exercise of religion, abridging the freedom of speech and of the press, and punishing the people for peaceably assembling to petition for redress of grievances. If all these safeguards are superseded, why not? What is to hinder if the disposition to do so shall chance to exist? I cannot hear such doctrines deliberately announced upon the floor of the American Senate without the most serious alarm, and being forced to ask myself, where are we drifting?

Mr. SUMNER. Does the Senator attribute any such doctrines to me? They exist only in his own imagination, not in anything I have ever conceived, certainly not in anything I have ever uttered. I have simply said that the rights of war are without any limitations in the Constitution. The rights of the citizen are always under the safeguard of the Constitution; and now that we are engaged in war we have no more power as regards the citizen to establish a national religion or to suspend any of those other safeguards, than we have in time of peace. I never conceived any such idea, nor has anything ever fallen from me which could have given rise to such an idea.

Mr. BROWNING. Mr. President, I read again in the hearing of the Senate and the Senator his own language:

"Glorious as it is that the citizen is surrounded by the safeguards of the Constitution, yet this rule is suspended by war, which brings into being other rights, which know no master."

Mr. SUMNER. That is, the rights of war; I speak only of the rights of war; I do not allude to anything else under the Constitution. The rights of war, I say, know no master.

Mr. BROWNING. "Glorious as it is that the citizen is surrounded by the safeguards of the Constitution, yet this rule is suspended."

And what are these other rights brought into being "which know no master?" And with whom are they deposited, and by whom are they to be exercised? Not the people, for if this new doctrine be true, all the safeguards which the Constitution provided for them are superseded. It is Congress which is to "know no master." It is Congress which is to pursue its objects outside of the Constitution, and to dominate over everything and everybody, with no guarantees for anything or anybody, except its own moderation and forbearance.

May I not conclude that the Senator himself is

convinced that the measures he proposes and the bill he advocates cannot be passed under and in harmony with the Constitution? If he believed that he could accomplish his ends without departing from the Constitution or infringing its provisions, would he ever have ventured to take shelter under the dangerous, radical, and revolutionary doctrine that the safeguards with which the Constitution has surrounded the people are superseded; that other rights, which know no master, are brought into being; and that Congress may pursue its objects outside of the Constitution?

It was not without surprise that I heard the Senator announce the double character of the rebels as a discovery which relieved the subject of all difficulty and embarrassment, and placed the powers which he claims for Congress beyond further question. Who has discussed this question without looking at them in the double aspect of criminals and enemies? He says:

"Regarding the rebels as criminals, you may so pursue and punish them."

This nobody doubts or controverts. But regarding them as *criminals*, how are you to "pursue and punish them?" With sword and musket and bayonet? With measures of "confiscation, contribution, and liberation?" No, sir; but in conformity with the modes prescribed by the Constitution and laws. By indictment, arrest, and trial before a jury of the country; and, when convicted, by inflicting the punishment previously ascertained and denounced by the law. When this is done, the power of punishment of the offender as a criminal is exhausted. As *criminals* you cannot confiscate their property, nor pursue them with bills of attainder and outlawry. And this is all the answer I desire to give to this suggestion. The gentleman proceeds:

"Regarding them as enemies, you may blast them with that summary vengeance which is among the dread agencies of war."

Here I will have no controversy with the Senator. I accept the proposition as sound and true, and in exact harmony with the Constitution and international law. It is precisely what those of us who oppose this bill have contended for from the beginning; and if we will adopt and act upon this principle we will not hesitate to cease the controversy here, and let all these confiscation bills go. For the present we must regard the rebels as enemies, and pursue them with "the dread agencies of war." To enable us to do, and do it most efficiently, no such legislation is demanded.

"The dread agencies of war" already exist. It is only necessary to grasp and wield them; and that is an executive and not a legislative function. I cannot give my assent to the dangerous doctrine, now, I believe, for the first time distinctly put forward, that Congress has coördinate powers with the President in the execution of the laws of war.

It will be observed that the question now made is not as to whether the property of rebels shall be subjected to confiscation, nor to what extent confiscation shall take place, if resorted to at all, but one of far greater magnitude, namely, who shall conduct the active operations of war, and determine upon and enforce military necessities? If the doctrines contended for be true, the President is stripped of his most valuable prerogatives; he ceases to be a check upon legislative power; ceases, in fact, to be a coördinate department of the Government. He will no longer be supreme under the Constitution in his constitutional sphere, but will be reduced to pitiable dependence upon the will of Congress, possessing and exercising only such powers as Congress chooses to concede, and at such time and in such manner as Congress may think proper to prescribe. When this is done the revolution will be complete. The Government will no longer be the Government which was evolved from the convulsions of 1776, and transmitted to us by our fathers, and we will have but little left worth struggling for. In comparison with the triumph of this doctrine, the success of the rebellion would be insignificant in radical, startling, and permanent damage to republican institutions.

The Senator has carefully avoided any discussion, or even expression of opinion upon the question of the relation which the rebels sustain to us during the continuance of the war. We must recognize them in some distinctive character, and deal with them accordingly, conceding to them all the rights which pertain to that character. The Senator felt the embarrassment of this, and struggled with it, I think ineffectually, throughout his speech. If the character of public enemies is conceded, then, while the war lasts, we must pursue them with "the dread agencies of war," and with them alone; and I have endeavored to show, and think I have shown, that the right to use these is deposited in other hands than those of Congress. If the character of enemies is denied, and that of criminals alone accorded, then we cannot pursue them with the "dread agencies of war." We can use no more force against them than is necessary to arrest them and bring them to trial according to the provisions and requirements of the Constitution and laws.

The Senator says:

"Standing, as we do, face to face with enemies who are striking at the life of the Republic, it is painful to find ourselves subjected to all the embarrassments of a criminal proceeding, as if this war was an indictment, and the Army and Navy of the United States, now mustered on land and sea, was only a *posse comitatus*."

This, sir, is precisely the character to which the arguments and measures of the Senator would degrade the Army and Navy. It is, indeed, the exact proposition he makes. In a subsequent part of his speech he says:

"Or, regarding them both as criminals and enemies, you may marshal against them all the double penalties of rebellion and of war, or, better still, the penalties of rebellion and the triumphs of war."

Now, if they are to be dealt with as *criminals*, our only "triumphs of war" must be the triumphs of arrest by the *posse comitatus*, that the offender may be handed over to the judicial tribunals, there to be pursued, according to law, with the penalties of the law.

This cannot be done. It would be a violation of all the laws of civilized warfare. We cannot capture them as *enemies in war*, and proceed at once to punish them as *criminals under the municipal laws*. Would the gentleman himself consent that his theory should be reduced to practice? Will he advise that all those who have been captured on the field of battle, as prisoners of war, shall now, while the war yet rages, be indicted, convicted, and executed as traitors? Does he not know that this is utterly impracticable? Does he not know that one such execution by us would be the signal for retaliation by them upon our own soldiers, who, by the chances and casualties of war, are now prisoners in their hands? And when they had dared to drag one of our brave and patriotic soldiers to the gallows, and hang him up as a felon, could we retrace our steps? Could we tamely submit to the outrage? Would we dare submit? Submission would annihilate our Army, ruin our cause, and bring upon us the deserved contempt of the world. We would be forced by every consideration of self-respect and self-preservation to resent the act by retaliation. The inevitable and shocking result would be the brutal and merciless butchery of all prisoners on both sides, and to intensify the war, and imbue it with a cruelty, vindictiveness, and ferocity surpassing the murderous and bloody warfare of savages, and to make reunion and fraternity among our unhappy people an impossibility in all time to come.

When the war is ended, and the rebellion suppressed, we may then resume dominion over the rebels as citizens, and indict, try, and punish them for their treason to any extent which may be deemed wise and necessary. But then we must abandon the agencies of war. We cannot pursue and capture them as *enemies*, and at the same time try and execute them as *criminals*. We cannot marshal against them at the same time the "double penalties" of war and the criminal code. It is neither lawful nor expedient to do so; and the attempt only embarrasses and bewilders.

The Senator says:

"Dwelling on these things, I feel humbled that the course of the debate has imposed upon me any such necessity."

The necessity referred to is that declared on the threshold of his speech, of opening "the question in such a way as to *exhibit clearly all the points in issue*."

It must be a happy state of mind which enables one to abase himself for the short-comings of his neighbors, and thank God that he is not as other men. He who has attained to such a state of perfection as to justify him in doing so, must be approaching his apotheosis, and rapidly verging to the point when he shall be withdrawn from contaminating contact with the world.

The Senator is *humbled* by the course of debate pursued by his brother Senators in this Chamber, and deplores the necessity imposed upon him of exhibiting "clearly all the points in issue." He speaks *ex cathedra*, and when he has spoken, there is an end of it. The debate is closed. He has "exhibited *clearly all the points in issue*." There is nothing further to be said. Who can have the presumption, the audacity, to doubt as to the course to be pursued, or continue the discussion, after his oracular enunciation of the law? Listen and be enlightened. He says:

"In point of law" * * * * "we may treat the people engaged against us as criminals, or as enemies, or, if we please, as both."

But shall we treat them as criminals or as enemies? That is the question, and the question which remains unanswered by the Senator.

"If we treat them as criminals, then we are under the restraints of the Constitution."

Who has contended for more? Who has asserted more? This is one of the very propositions the advocacy of which by others has so *humbled* him.

"If we treat them as enemies, then we have all the latitude sanctioned by the rights of war."

Of this who has made any question? Who that has taken part in this discussion has not only affirmed it, but earnestly urged the vigorous employment of all the most terrible agencies of war to vanquish our enemies and crush the rebellion? Who has *humbled* him by a denial of this right?

"If we treat them as both, [enemies and criminals,] then we combine our penalties from the double sources."

Here I take issue with the Senator, and deny, in the most emphatic terms, that we may, at the same time, treat them both as enemies and criminals, and "combine our penalties from the double sources."

I have already remarked briefly on this point, and will not now dwell upon it longer. This is the main feature of his theory, and to enable him to attain the object he has most at heart it is necessary that he shall maintain it. His effort to do so was able and ingenious. He will pardon me for saying in my opinion it was far from successful. When we treat the rebels as criminals he admits that we are "under the restraints of the Constitution." If we treat them as enemies then we pursue them with "the dread agencies of war;" but these must be wielded by the Army, and not by Congress. If we elect to treat them as the one or the other, in neither event can the power be claimed for Congress to do the act and reach the end at which the Senator is aiming; and it is to escape this difficulty, and open a new source of power for Congress, that he has taxed his talents and his learning, and been driven, in despite of them both, to the extraordinary proposition to treat them at the same time both as enemies and criminals, and from this makes the illogical deduction that, as in the one character they cannot be pursued with war, and in the other cannot be pursued in the courts, that therefore Congress displaces both the Executive and the judiciary, and acquires absolute and unlimited control over them in both characters, and may proceed to do any and everything which we may suppose to be necessary, whether meeting the sanction of the Constitution or not.

The effort to maintain this proposition has involved the Senator's argument in inextricable confusion. Let me group together a few passages culled from different parts of his speech. These are his words:

"In every Government bound by a written constitution nothing can be done which is not in conformity with the constitution."

"The rebels have gone outside of the Constitution to make war upon their country. It is for us to pursue them as enemies outside of the Constitution, where they have wickedly placed themselves, and where the Constitution concurs in placing them also."

We, sir, are bound by a "a written Constitution," and it is admitted that nothing can be done by us "not in conformity with the Constitution," and yet we are told by the same authority it is our duty to "pursue the rebels outside of the Constitution." Can it be necessary to repeat what has not been denied, and what, I apprehend, will not be denied, that Congress possesses no power, and can exercise no power, not granted by the Constitution? This being true, Congress can pursue no object outside of the Constitution without disregarding the Constitution, and usurping power

which it does not possess. The Senator has a work for Congress to perform which it cannot do within the Constitution, hence his anxiety to prove it right to go outside of it. Even the Army cannot pursue an enemy outside of the Constitution; that is, it can do nothing in such pursuit which is in violation of the Constitution. Our "Government is bound by a written Constitution, and nothing can be done which is not in conformity with the Constitution" by any department of the Government. No one of them, executive, legislative, or judicial, can go outside of it to grasp powers not granted by it. Nor is it necessary that they should. Every power necessary to defense, protection, and preservation is in the Government under the Constitution. All the powers of war are in the Government under the Constitution. All belligerent rights are ours under the Constitution, including every prerogative of capture, "confiscation, requisition, or liberation known in war;" all of which may be asserted by this Government under the Constitution. Every law of nations, with its privileges, protections, and restraints, is ours under the Constitution; and it is not true that any emergency has arisen, or can arise, imposing a necessity to pursue any object outside of the Constitution. This is the completest and grandest and best adjusted scheme of government that was ever devised by the wisdom and patriotism of man. Let us hold it fast to the sure foundations on which its great builders placed it. So long as the different departments of Government are held to their proper orbits, there is no power which can by possibility become necessary for the suppression of the rebellion, the condign punishment of treason, and the reëstablishment of the authority of the Government wherever it has been displaced, that may not be asserted by the Government within the Constitution. It is only where one department invades the prerogatives of another that it becomes necessary for it to go outside of the Constitution.

The Senator wishes to accomplish an object which is now fully within the constitutional power of the Executive. Am I wrong in supposing that he distrusts the Executive, and fears the power will not be pushed to the extremity which he desires? Hence, he claims the power for Congress. But Congress cannot assume and exercise it within the Constitution, therefore he is driven to claim the right for Congress to go outside of the Constitution to reach this particular end.

I again bring together paragraphs from different parts of his speech that their strong antagonisms may be seen at a glance, that it may be perceived at once how utterly irreconcilable they are. He puts the question of slavery thus:

"Congress has no power under the Constitution over slavery in the States." * * * "But there is another power without which, I fear, the end will escape us. It is that of confiscation and liberation, and this power is just as constitutional as the other two." * * * *

"In declaring the slaves free, you will at once do more than in any other way, whether to conquer, to pacify, to punish, or to bless." * * * * * * *

"By the old rights of war, still prevalent in Africa, freemen were made slaves; but by the rights of war which I ask you to declare, *slaves will be made freemen.*"

Is it unjust to the Senator to suppose that, as he approaches this discussion, slavery casts its dark shadow before him, and obscures the light in which he would otherwise read and interpret the powers of Congress? Is it unjust to conclude that he hates slavery more than he loves the Constitution, and that to reach and throttle the one he is willing to march over the prostrate form of the other? Am I mistaken in concluding that he has reached that state of mind which leads him to prefer that slavery and the Constitution shall die together rather than that both shall live?

Sir, my repugnance to this "relic of barbarism" is not less than that of the honorable Senator from Massachusetts. I do not hate slavery less. It would be ungracious to say that I love the Constitution more; but I will say that my veneration for the one transcends my hostility to the other; and that opposed, as every sentiment and instinct of my nature is, to the institution of slavery, and willing as I am to wound it, I yet confess myself afraid to strike it through the Constitution, or to pursue it outside of the Constitution, to wound it there. Why, Mr. President, this impatience to fly from the "ills we have to those we know not of?"

In the legitimate and constitutional prosecution of the war the fetters are falling from the slaves of the South faster than we can provide homes, the means of subsistence, and the means of intellectual and moral culture for the helpless, destitute, and, in many cases, degraded freed men and their families. Already they are beginning to press heavily upon the white population of some localities, and heavily upon the bounty of the Government. Who, sir, will dare to estimate the consequences, moral, political, social, and economical, of precipitating, in one day, as the Senator proposes, four millions of this population upon the white communities of these States? Who can contemplate them without a shudder? Who has the reckless hardihood to venture upon such a solution of this stupendous and oppressive problem of human slavery?

Before adopting the proposition of the Senator, one of two things should be resolved upon. We must either overcome all the repugnances of nature; rase out from our hearts all the sentiments of delicacy and propriety which we have supposed instinctive; roll back the strong current of thought and feeling and habit and education, and admit the negroes to a full, free, and unqualified social equality, or we must separate them from among us, and place them where their country, constitution, laws, customs, society, shall all be their own, and where there shall be a perfect and unrestricted community of legal, political, and social rights.

The first of these can never be done. Heaven has decreed against it; and as easily would the leopard change his spots, or the Ethiopian his skin, as we the firm, strong instincts of our nature. The second, then, is the only alternative; and I look with hope to the coming of the day when the bright vision of universal emancipation shall be realized; when freedom shall rule the spacious world from clime to clime; when civilization and the arts shall penetrate every desert, ride upon every wave, and culture every shore; and when the bond shall go free, and build up for themselves a republic bright and glorious as our own, and press onward with us, side by side, in noble emulation for the universal diffusion of human culture and happiness. But the accomplishment of this requires time and wise caution. It cannot be done in a day. We must make haste slowly. The attempt to do it in a day will prove fatal to it forever. It would be one of those rash and extreme measures which would inevitably defeat its own ends. The power of slavery on this continent is already broken. Its scepter has departed; its dominion is overthrown; it can never regain its lost political, social, and economical importance. It has reached the point where "the public mind rests in the belief that it is in process of final extinction." The question of expansion is conclusively settled against it, and henceforward it will be a

"Scorpion girt with fire,
In circle narrowing as it glows."

Let us be patient, and let us be just, and the storm that now beats upon us will soon have spent its force; the clouds which now so gloomily overhang us will soon be scattered, and calm and sunshine again overspread and bless the entire land. Let us stand by the Constitution and fulfill its pledge to "guaranty to every State in this Union a republican form of government, and to protect each of them against invasion," "and domestic violence." Let us not be seduced "outside of the Constitution" by any temptation, however strong, and thus admit before the nations that it has failed in the purpose of its creation, and that we can no longer govern in accordance with its provisions and requirements. The Senator's proposition is not to defend, maintain, and uphold the Government we have; but to rend its pillars asunder, and reconstruct another from its ruins. In what does this differ from the effort of our revolted and rebellious people but in the means proposed for its accomplishment?

Admitting that in a "government bound by a written Constitution nothing can be done which is not in conformity with the Constitution," the Senator insists that we shall go outside of the Constitution to make his wishes accomplished facts.

Admitting that "no person shall be deprived of life, liberty, or property, without due process of law," which means without presentment or other judicial proceeding, he yet urges upon us, by a simple act of legislation, to sweep millions of property from those over whom, as citizens, we claim and exercise jurisdiction.

Admitting that "no attainder of treason shall work corruption of blood or forfeiture, except during the life of the person attainted," he yet asserts that "there is nothing in the Constitution to forbid an absolute forfeiture" for treason, and urges that Congress shall at once proceed to confiscate all the property, both real and personal, of certain classes of citizens of the United States, and that forever.

Admitting that "the reason for proceedings *in rem* is" "that the *thing* is, in a certain sense an offender, or at least has coöperated with the offender, as in the case of a ship in the slave trade," he yet maintains that proceedings *in rem* may be instituted against all the property of rebels, where ever found, simply because it is their property, without any reference whatever to the uses to which the property has been applied.

Admitting that persons captured in battle "may be detained as prisoners till the close of the war, unless previously released by exchange or clemency," he yet contends that all prisoners taken by our armies may instantly be handed over to the civil authorities, to be pursued and punished as criminals.

Admitting that "Congress has no power under the Constitution over slavery in the States," he yet labors to prove the possession of the power by Congress, and presses upon us to use it, of declaring free all the slaves in all the States of the Union.

Mr. SUMNER. I must correct the Senator. My speech was with regard to the rebel States, not in regard to all the States of the Union. I made no allusion to any State that was not in rebellion.

Mr. BROWNING. Admitting that "Congress has no power under the Constitution over slavery in the States," the Senator yet labors to prove the possession of the power by Congress, and presses upon us to use it, of declaring free all the slaves in all the rebel States of this Union, as he now says.

Mr. SUMNER. The Senator will do me the justice to say that I place it on the rights of war.

Mr. BROWNING. I do not care to hear another speech at present. I care not on what power he places it. I deny and I defy, though I do not like to use that word, any man to point to one single word or letter in the Constitution which confers upon Congress any power to do any act in the exigency of war which it cannot do in times of peace. There, sir, is where the heresy lies. I give the Senator's own words, and while I desire to treat him with every possible respect, and have yielded to him repeatedly—a thing the Senator rarely does for the accommodation of anybody—I feel it incumbent upon me, as an American citizen, to say nothing of my position as a Senator, to enter my most earnest protest against this dangerous and revolutionary heresy that the powers of Congress are enlarged and amplified by a state of war. It overthrows the Government and accomplishes here in this Chamber what the rebels have not accomplished, and never can accomplish.

Such, sir, are the extremities to which the Senator is driven, the inconsistencies in which he is involved, by his effort to compass an object which, in my humble judgment, is not only unconstitutional but which, if successful, will be fatal to the integrity of the Government itself, and change its entire character. Is it uncharitable to say that another object seems to lie much nearer the gentleman's heart than the crushing out of the rebellion and the reëstablishment of the authority of the Government in all the States?

I avow my object to be, with all the terrible enginery of war, to crush down and trample out, at once and forever, this wicked and diabolical rebellion; then to pursue and blast its leaders and fomentors with the severest punishments that can be visited upon this most malignant and unpardonable treason, and to win back the hearts of the deluded masses to the good old Government which protected them through all the past, and which they cannot, even now, remember without a tear of gratitude and a sigh of regret, and from the shelter of which they were cruelly enticed away to be exposed to the pelting of the pitiless storm of treason and rebellion which has wasted their fortunes, desolated their homes, murdered their families, embittered their lives, and darkened all their future. I wish to win them back; and, as the strongest possible inducement to return, I wish them to be fully assured that when

they come they will find the same beneficent Government to which they had proved faithless, as magnanimous in mercy, as bounteous in blessing, as equal in justice, as strong in protection, as when they betrayed it. Through weal and through woe, in the sunshine of peace and amid the storm and tempest of war, I wish to stand by the Constitution. I desire that every battle fought and every victory won, shall be fought and won under the Constitution and for the Constitution, and that every life that is poured out in this terrible strife shall be a libation to its great principles. Let us stand by the Constitution. We shall need its protection hereafter more than we ever have heretofore. We shall need its restraints in the times to come more than we ever have in the times that are past. When, hereafter, this Chamber shall be filled with Senators, fresh from the battle-field, whose laurels are yet green upon their brows, accustomed to command, and impatient of restraint, let there be no act of ours to be drawn into bad precedent in breaking down the bulwarks which the Constitution has erected for the security of the people. Let us leave no record behind to be pointed at as authority for encroachment upon the powers and prerogatives of a coördinate department. Power is always grasping, always struggling for the enlargement of its dominion. If we begin by denuding the Executive, how long will it be before the judiciary is stripped of its ermine, and all power concentrated in the hands of an irresponsible Legislature? When that is done, the history of the Republic is closed and the history of anarchy and despotism begins its melancholy record of tyranny and oppression and confusion and blood.

The beneficence of the Government in peace has been proven; its strength in foreign war has been fully vindicated. Its power to breast internal storms and commotions, and resist and subdue intestine foes, is now, for the first time, subjected to the terrible ordeal of experiment. If we rise to this great occasion, grapple successfully with the momentous events that are upon us, save the life of the nation, reunite it, and reassert its authority, and come from the conflict bringing the Constitution unharmed with us, perfect in its strength, and in the harmony and majesty of its proportions, the page that bears the record of the achievement will be gilded with a brighter glory will glow with a purer ray than any in the annals of our race.

The treasure and the blood we shall have expended will not have been poured out in vain. Our country, now stooping under the chastening rod, but dearer in her afflictions, will rise from her humiliation renewed and reassured in strength and radiant with beauty, to resume her proud place among the nations and blend the triumphs of her future with the glories of her past history.

Mr. DIXON. Mr. President, the Senator from Michigan [Mr. HOWARD] yesterday offered to the Senate an argument which, in my judgment, if not conclusive, was one of great ingenuity and power, the object of which was to prove that the bill offered by the Senator from New Hampshire [Mr. CLARK] as a substitute for that passed by the House of Representatives, and now before us, is unconstitutional. If he did not prove what he attempted, he at least proved how difficult it is to frame a bill of the character of that before us, without coming in contact with the Constitution. I do not propose at this time to consider the precise question of confiscation. In what I have now to say in relation to this bill I propose rather to confine myself to the importance of a strict regard for the Constitution in the present crisis of our history. I offered, some days since, a resolution, which, as I believe, indicates the true doctrine with regard to our present condition, and the policy we ought, in view of it, to pursue. In speaking upon this bill, I propose to make that resolution my text. It is as follows:

Resolved, That all acts or ordinances of secession, alleged to have been adopted by any Legislature or convention of the people of any State, are, as to the Federal Union, absolutely null and void; and that while such acts may and do subject the individual actors therein to forfeitures and penalties, they do not, in any degree, affect the relations of the State wherein they purport to have been adopted to the Government of the United States, but are, as to such Government, acts of rebellion, insurrection, and hostility on the part of the individuals engaged therein, or giving assent thereto; and that such States are, notwithstanding such acts and ordinances, members of the Federal Union, and as such are subject to all the obligations and duties imposed upon them by the Constitution of the United States; and the loyal citizens of such States are entitled to all the rights and privileges thereby guarantied or conferred.

Mr. President, the war in which we are now engaged must soon come to a close. It has already raged long enough to carry lamentation and mourning and woe into every neighborhood—almost into every family in the nation. How much longer its horrors must continue to sadden the hearts, and desolate the homes of our people, is known only to that Being who for his own purposes has permitted it to exist; but its end draws near. The rebellion which has rendered it necessary must be and, at whatever cost of blood and treasure, will be suppressed. The violated majesty of the laws must be vindicated—the supremacy of the constitutional Government of the United States must be restored. As these have been assailed and in some States overthrown by war, so by war they must be reëstablished; and the war will not cease until its object shall be completely accomplished. Should reverses come, they will be calmly met; should disasters befall our cause, they will be patiently endured; but no reverse, however discouraging, no disaster, however terrible, will turn back the people of the United States from the path upon which they have entered. They have counted the cost of the great conflict in which they have engaged; they have said let it be our all, and that shall be freely given; for they have seen without an argument or an illustration—the instincts of the popular heart have taught them—that with the destruction of their Government all is destroyed.

Perplexing as is the question of the conduct of the war, there is another, which, to thoughtful minds, is not less difficult and embarrassing. It is this: when armed resistance to the authority of the Federal Government shall cease, and active rebellion and insurrection no longer exist, what will be our condition and our policy? Will the Government of the United States be reëstablished throughout thirty-four States united under that Government, or will a portion of these States, having shot madly from their spheres, have ceased to be States in the Union, and have become provinces—territorial possessions—to be governed as such by the central power?

This is the question of the day. On this the people of the United States are to act; on this parties are to be formed. On one or the other side of this question the intelligent, thinking people of the United States are to range themselves. The war has now brought them virtually together. On the question of its prosecution, there has been, and is at this moment, really no division of opinion worthy of notice in the loyal States; but when the war shall cease, the question which I have proposed will demand their decision, and the diversity of opinion which will exist may be easily foreseen from that already manifested here and elsewhere. What the final decision of the people will be, in my mind, does not admit of a doubt. It may be given in the terse, expressive, prophetic language of Andrew Jackson: "THE FEDERAL UNION: IT MUST BE PRESERVED."

And what is this Federal Union? What is it that must, at all hazards and at any cost, be preserved? What is it for which more than half a million of volunteers are now under arms, for which thousands of precious lives have been offered up, for which $600,000,000 have, in one brief year, been expended? It is well for us to inquire diligently what that system of Government is for which such sacrifices have been made. The Federal Union! We are to preserve this as the result of the present struggle, or we preserve nothing. If, when the contest shall be over, we find that our present system has perished, or has been seriously impaired, we may, indeed, have still a Government; but it will not be the Government established by the Constitution of the United States. It will not be the Federal Union.

What, then, is this Federal system? I will not attempt to answer this question which lies at the foundation of all our investigations on this subject, in my own language, but will use the words which were given to us by one inspired, we may well believe, by divine wisdom, who, anticipating our present troubles, explored every recess of this vast question, and bequeathed to us what we may now, without irreverence, consult as "lively oracles" of truth. I quote from Mr. Webster's speech in reply to Mr. Calhoun in the Senate of the United States on the 16th of February, 1833. (Works of Daniel Webster, vol. 3, p. 477.)

"The people, sir, in every State live under two governments. They owe obedience to both. These governments, though distinct, are not adverse. Each has its separate sphere and its peculiar powers and duties. It is not a contest between two sovereigns for the same power, like the wars of the rival houses of England; nor is it a dispute between a government *de facto* and a government *de jure*. It is the case of a division of powers between two governments, made by the people to whom both are responsible. Neither can dispense with the duty which individuals owe to the other; neither can call itself master of the other; the people are masters of both. This division of power, it is true, is in a great measure unknown in Europe. It is the peculiar system of America, and though new and singular, is not incomprehensible. The State constitutions are established by the people of the States. This Constitution [of the United States] is established by the people of all the States. How then can a State secede? How can a State undo that which a whole people have done? How can she absolve her citizens from their obedience to the laws of the United States? How can she annul their obligations and oaths? Sir, secession as a revolutionary right is intelligible, as a right to be proclaimed in the midst of civil commotions, and asserted at the head of armies, I can understand it; but as a practical right, existing under the Constitution, and in conformity with its provisions, it seems to me to be nothing but a plain absurdity, for it supposes resistance to Government under the authority of Government itself; it supposes dismemberment without violating the principles of union; it supposes opposition to law without crime; it supposes the violation of oaths without responsibility; it supposes the total overthrow of Government without revolution.

"The Constitution regards itself, sir, as perpetual and immortal. It seeks to establish a union among the people of the States which shall last through all time. Or if the common fate of things human must be expected at some period to happen to it, yet that catastrophe is not anticipated.

"The instrument contains ample provisions for its amendment at all times, none for its abandonment at any time. It declares that new States may come into the Union, but it does not declare that old States may go out. The Union is not a temporary partnership of States. It is the association of the people, under a constitution of government, uniting their powers, joining together their highest interests, cementing their present enjoyments, and blending in one indivisible mass all their hopes for the future. Whatsoever is steadfast in just political principles, whatsoever is permanent in the structure of human society, whatsoever there is which can derive an enduring character from being founded on deep laid principles of constitutional liberty and on the broad foundations of the public will, all these unite to entitle this instrument to be regarded as a permanent constitution of government."

Such is the complex system under which the people of every State of this Union are, by this great authority, declared to live. "They are under," says Mr. Webster, "two governments, to each of which they owe obedience. These governments, though distinct, are not adverse. Each has its separate sphere and its peculiar powers and duties." The sphere of the General Government is clearly defined in the Constitution. That of the State government is equally well understood. All local regulations, all that relates to domestic affairs of the people, everything which does not necessarily partake of a national character and affect the whole people of the United States as well as the people of each community, are left under the entire control of State legislation. The advantages of this plan of local government need not be pointed out, or enlarged upon. They are seen in the wise, peaceful, and beneficent operations of the State governments wherever they continue to act in harmony with the Federal power.

In our present struggle to support and maintain the Government of the United States, we are tempted to forget that the time may come when the just prerogatives of State authority may require defense. The arm of the central Government, when once its control is reëstablished throughout all our domain, will be more powerful than ever. Strengthened by the exercise of its vast and irresistible energies, its imperial mandates will everywhere within its jurisdiction command respect and obedience. What encroachments it may be tempted by power and opportunity to make on the proper sphere of State authority we cannot foresee; but it is certain that for a long period after the rebellion is suppressed, and until its memory shall have in some measure faded from the minds of men, the popular inclination will be to strengthen the Federal at the expense of the State governments. The power which their arms, their treasure, and their blood will have rescued from destruction, will be the favorite power of the people. Its encroachments will be viewed, not as before, with watchful jealousy, but with favor or indifference, while State authority will be viewed as that dangerous and usurping influence that once attempted to overthrow the Government of the

Union. This is a consideration which ought not to be forgotten by the people of the smaller States; and it may be well for them to remember that in the generations to come, through which our Federal system is to endure, their posterity may find in the just rights of the State governments their surest protection against a central despotism.

Having thus briefly hinted at the peculiar character of our Federal system of Government, and the vast importance of its preservation, in its double character of General and State Governments, I now approach the great question which I propose to discuss, namely, the relations of the States to the General Government, as affected by the attempts at secession which have been made in several States.

And here I wish to say, that although the importance of the subject would have justified me in so doing, I have not initiated this discussion. The resolution which I have offered in the Senate, declaring, as I believe it does, truths of immense importance to the nation at this crisis, was not offered by me until the Senator from Massachusetts [Mr. SUMNER] had proposed a series of resolutions declaring an opposite doctrine, in these words:

"Resolutions declaratory of the relations between the United States and the territory once occupied by certain States, and now usurped by pretended Governments, without constitutional or legal right.

"Whereas certain States, rightfully belonging to the Union of the United States, have through their respective governments wickedly undertaken to abjure all those duties by which their connection with the Union was maintained; to renounce all allegiance to the Constitution; to levy war upon the national Government; and, for the consummation of this treason, have unconstitutionally and unlawfully confederated together, with the declared purpose of putting an end by force to the supremacy of the Constitution within their respective limits; and whereas this condition of insurrection, organized by pretended governments, openly exists in South Carolina, Georgia, Florida, Alabama, Mississippi, Louisiana, Texas, Arkansas, Tennessee, and Virginia, except in Eastern Tennessee and Western Virginia, and has been declared by the President of the United States, in a proclamation duly made in conformity with an act of Congress, to exist throughout this territory, with the exceptions already named; and whereas the extensive territory, thus usurped by these pretended governments and organized into a hostile confederation, belongs to the United States, as an inseparable part thereof, under the sanctions of the Constitution, to be held in trust for the inhabitants in the present and future generations, and is so completely interlinked with the Union that it is forever dependent thereupon; and whereas the Constitution, which is the supreme law of the land, cannot be displaced in its rightful operation within this territory, but must ever continue the supreme law thereof, notwithstanding the doings of any pretended governments acting singly or in confederation, in order to put an end to its supremacy: Therefore,

"1. *Resolved*, That any vote of secession or other act by which any State may undertake to put an end to the supremacy of the Constitution within its territory is inoperative and void against the Constitution, and when sustained by force it becomes a practical *abdication* by the State of all rights under the Constitution, while the treason which it involves still further works an instant *forfeiture* of all those functions and powers essential to the continued existence of the State as a body-politic, so that from that time forward the territory falls under the exclusive jurisdiction of Congress as other territory, and the State being, according to the language of the law, *felo de se*, ceases to exist.

"2. *Resolved*, That any combination of men assuming to act in the place of such State, and attempting to insnare or coerce the inhabitants thereof into a confederation hostile to the Union is rebellious, treasonable, and destitute of all moral authority; and that such combination is a usurpation, incapable of any constitutional existence, and utterly lawless, so that everything dependent upon it is without constitutional or legal support.

"3. *Resolved*, That the termination of a State under the Constitution necessarily causes the termination of those peculiar local institutions which, having no origin in the Constitution or in those natural rights which exist independent of the Constitution, are upheld by the sole and exclusive authority of the State.

"4. *Resolved*, That slavery being a peculiar local institution, derived from local laws, without any origin in the Constitution or in natural rights, is upheld by the sole and exclusive authority of the State, and must therefore cease to exist legally or constitutionally when the State on which it depends no longer exists; for the incident cannot survive the principal.

"5. *Resolved*, That in the exercise of its exclusive jurisdiction over the territory once occupied by the States, it is the duty of Congress to see that the supremacy of the Constitution is maintained in its essential principles, so that everywhere in this extensive territory slavery shall cease to exist practically, as it has already ceased to exist constitutionally or legally.

"6. *Resolved*, That any recognition of slavery in such territory, or any surrender of slaves under the pretended laws of the extinct States by any officer of the United States, civil or military, is a recognition of the pretended governments, to the exclusion of the jurisdiction of Congress under the Constitution, and is in the nature of aid and comfort to the rebellion that has been organized.

"7. *Resolved*, That any such recognition of slavery or surrender of pretended slaves, besides being a recognition of the pretended governments, giving them aid and comfort, is a denial of the rights of persons who, by the extinction of the States, have become free, so that, under the Constitution, they cannot again be enslaved.

"8. *Resolved*, That allegiance from the inhabitant and protection from the Government are corresponding obligations, dependent upon each other, so that while the allegiance of every inhabitant of this territory, without distinction of color or class, is due to the United States, and cannot in any way be defeated by the action of any pretended government, or by any pretense of property or claim to service, the corresponding obligation of protection is at the same time due by the United States to every such inhabitant, without distinction of color or class; and it follows that inhabitants held as slaves, whose paramount allegiance is due to the United States, may justly look to the national Government for protection.

"9 *Resolved*, That the duty directly cast upon Congress by the extinction of the States is reinforced by the positive prohibition of the Constitution that 'no State shall enter into any confederation,' or 'without the consent of Congress keep troops or ships-of-war in time of peace or enter into any agreement or compact with another State,' or 'grant letters of marque and reprisal,' or 'coin money,' or 'emit bills of credit,' or 'without the consent of Congress lay any duties on imports or exports,' all of which have been done by these pretended governments, and also by the positive injunction of the Constitution, addressed to the nation, that 'the United States shall guaranty to every State in this Union a republican form of government;' and that in pursuance of this duty cast upon Congress, and further enjoined by the Constitution, Congress will assume complete jurisdiction over such vacated territory where such unconstitutional and illegal things have been attempted, and will proceed to establish therein republican forms of government under the Constitution; and in the execution of this trust will provide carefully for the protection of all the inhabitants thereof, for the security of families, the organization of labor, the encouragement of industry, and the welfare of society, and will in every way discharge the duties of a just, merciful, and paternal government."

This doctrine I consider fatal to our form of Government—destructive of our Federal system—and utterly incompatible with a restoration of harmonious relations between the States in which rebellion now prevails, and the United States.

Whatever I might otherwise have done, I have deemed it my duty to present what seems to me to be the true doctrine, in opposition to the fatal heresy contained in the resolutions of the Senator from Massachusetts.

What, then, are the principles of the resolution which I have proposed and which is now under consideration?

1. It commences with the declaration:

"That all acts or ordinances of secession alleged to have been adopted by any Legislature or convention of the people of any State are, as to the Federal Government, absolutely null and void."

On this point, the legal effect of an act or ordinance of secession, it would seem that there could be no difference of opinion here. I am not aware that any member of this body now holds the doctrine that such acts or ordinances have any binding force whatever as to the Federal Union. They are as laws null and void, and so conceded to be. Yet an effort is made here and elsewhere, to show that, in some way, they have changed or modified the relations of the seceding States to the General Government. If so, this effect is produced not by the acts of secession as binding acts of legislation, but by the hostile revolution in such States, of which they are to be considered the declaration and the commencement. The advocates of the doctrine that the seceded States are out of the Union, speak of an existing state of things, which, whatever we may say of the law of the case, they say cannot be overlooked. Secession, they contend, is a void proceeding; but still certain States have seceded; they are, in point of fact, out of the Union: *de facto*, if not *de jure*, they have withdrawn. But, whether they have in point of fact withdrawn from the Union, depends upon the success of their attempted revolution. Secession does not sever them from the Union. Revolution may do so; but it must be successful revolution. To acknowledge them now out of the Union is to acknowledge the revolution so far successful. If it is crushed and suppressed, then its legal effect is also destroyed; and the State wherein the rebellion was attempted remains, as it was before, a State in the Union. Mr. Webster, in the same great speech from which I have already quoted, says:

"No State authority can dissolve the relations subsisting between the Government of the United States and individuals. Nothing can dissolve those relations but revolution, and therefore there can be no such theory as secession without revolution."

Mr. Webster speaks evidently of successful revolution. Nothing else can dissolve the relations between individuals and the General Government. Attempted revolution cannot do it, for revolution is only insurrection and sedition until it is successful. Hence, those who acknowledge that the revolution which has been begun by secession, and is now upheld by war, takes the States in which it exists out of the Union, acknowledge a result which can be only produced by successful revolution. This attempted revolution, instead of being thus successful, is in many States entirely suppressed. Look at Louisiana. Look at Tennessee. In those States, where the rebellion has been as flagrant and apparently as successful as in any other, armed resistance to the authority of the United States has almost entirely ceased. What force have their acts of secession? What power has their attempted revolution? Yet there are not wanting those who, for a purpose, are ready to admit that these States are, by their own illegal and violent acts, out of the Union in fact, if not by right.

Let us see whether, even in point of fact, this is true. Take the case of Tennessee. She has attempted to pass an ordinance of secession, which has been followed by open rebellion and armed resistance to the General Government. For a long period no loyal citizen could live in peace in that State. Those who held to their allegiance to the General Government were banished. The family of one distinguished patriot, a citizen of Tennessee and a member of this body, were driven from their home, and he was himself exiled. All that was required for the complete dismemberment of Tennessee from the Union had taken place in that State; and if it were possible for any State, by her own act, or the acts of her people, to cease to be a State in the Union, Tennessee ceased to be such. Yet how did the Senate treat the fact? No matter what may be the law, the fact it is said is the test of the true condition of the State; and what was the fact in the opinion of the Senate? Every day the name of ANDREW JOHNSON was called by our Secretary, and as a member of the Senate of the United States he answered to his name as a Senator from Tennessee? Was he a Senator? Was he as such entitled to his seat? Was Tennessee entitled to be represented in the Senate? If so, was she not a State in the Union notwithstanding the prevalent rebellion by which she was overrun and devastated?

So of Virginia. Is she not in rebellion? What secession and revolution could attempt or accomplish has been attempted and accomplished in that State. Look at the two great armies now standing in hostile array, foot to foot, on her soil. Her capital is besieged by the Government of the United States, and will soon be taken and occupied by the Federal power, or the Union forces will be defeated and overthrown by the rebel army. Yet what is the fact as to the *status* of Virginia in the Senate? She is represented here by two loyal citizens, who are as truly Senators of Virginia as we are Senators of the States we represent. She is also, like Tennessee, represented in the House of Representatives. Neither in law, then, nor in fact, has Virginia ceased to be a member of the Union. Her citizens are in rebellion; they are now resisting the authority of the Federal Government by arms. Your officers, civil or military, cannot this day, as enemies or friends, enter her capital city; yet daily she makes laws for the whole people of the United States by her representatives in each House of Congress. Thus is the great fact daily manifested to the whole nation that, notwithstanding the enormity of the crime of which their people have been and still are guilty, Tennessee and Virginia to-day are, and forever must continue to be, till the entire fabric of our Government shall be destroyed, members of the Federal Union, and as such subject to all the obligations and duties imposed upon them by the Constitution of the United States.

Let me state a still more extreme case. Suppose that the late Senators from South Carolina, Messrs. Hammond and Chesnut, had imitated the noble example of ANDREW JOHNSON, of Tennessee, had condemned and spurned the pretended action of their State, had repudiated the ordinance of secession, and had remained here performing their duties as members of this body; would they not, I ask, have continued to be Senators of South Carolina to the end of their respective terms of office? Further, was it not their duty thus to remain and to act as Senators? Who could have questioned their right on the ground that South Carolina was out of the Union? And if they had such right thus to continue to act as Senators, if it was their duty thus to act, then I ask the Senator from Massachusetts if every loyal citizen of South Carolina

had not a right to demand of them the performance of this duty? Be they few or many, the loyal citizens of any seceded State had a right to demand of their Senators and Representatives to remain here and perform their duties as such. If they had so remained, who would have denied that these States were members of the Union? And yet it is nowhere pretended that their relations to the Union can be affected by the refusal of their Representatives in Congress to remain here in the performance of their official duty.

2. The second proposition affirmed in the resolution under consideration is, that the individual actors in the adoption of any alleged acts or ordinances of secession are in consequence of such action subject to forfeitures and penalties; and it is also asserted,

3. That those acts are, on the part of those engaged therein, or giving assent thereto, acts of rebellion, insurrection, and hostility to the General Government.

The alleged acts of the States said to have seceded, being, as to the Federal Union, null and void, and their position as members of the Union being unaffected thereby, it becomes an important question to consider what is the character of these acts in their effects on those individuals engaged in them. And here it is not necessary to inquire how far the State governments are disorganized by the part which the people or Legislatures of such States have taken in the present rebellion. Various interesting questions might be raised to which I may hereafter allude: for example, as to how far the refusal of State Legislatures to take the oath to support the Constitution of the United States, required of them by that instrument, may disfranchise them and render them incapable of acting as a Legislature. But effects of this kind, produced by an act of secession, followed by such recusancy to the Constitution, upon the Legislature guilty of such dereliction of duty, are not properly to be considered under this resolution, which only speaks of the question of the force of an act of secession as to the Federal Government. Whether a Legislature passing it, and acting under and in obedience to it, forfeits its authority as a Legislature, is a question of another character, and foreign to the subject I am considering. As individuals, the members of a Legislature acting in hostility to the Government of the United States certainly might justly be said to forfeit all right to act as legislators, and their places would thus become vacant.

The distinction between the individual obligation of citizens of the United States to obey the laws of the General Government, and the duty of the States in their corporate capacity to yield such obedience, is the main difference between the present constitutional Government and that of the old Confederation. In the Federalist, No. 15, Alexander Hamilton thus lays down this distinction:

"The great and radical vice in the construction of the existing Confederation, [alluding to the state of things existing before the adoption of the present Constitution,] is in the principle of legislating for States or governments in their corporate or collective capacities, and as contradistinguished from the individuals of whom they consist. Though this principle does not run through all the powers delegated to the Union, yet it pervades and governs those on which the efficacy of the rest depends; except as to the rule of apportionment, the United States have an indefinite discretion to make requisitions for men and money; but they have no authority to raise either by regulations extending to the individual citizens of America. The consequence of this is, that though in theory their resolutions concerning these objects are laws constitutionally binding on the members of the Union, yet in practice they are mere recommendations which the States observe or disregard at their option."

Again, in No. 23 of the Federalist, Mr. Hamilton says:

"If we are in earnest about giving the Union energy and duration, we must abandon the vain project of legislating upon the States in their collective capacities; we must extend the laws of the Federal Government to the individual citizens of America," &c.

The fundamental vice of the old Articles of Confederation, then, was the want of power in the Government to enforce its decrees by direct action upon individuals. States were bound to comply with its requisitions; but as this was an obligation not to be enforced, it was merely a moral obligation. States could only be coerced by war, and war dissolved the Confederation. Individuals could not be reached at all. There was no obligation or duty on the part of individuals, as the requisitions of the Government did not take the shape of mandates or decrees, acting with the power and sanction of law, and enforced by penalties; but were, in the language of Hamilton, "mere advice and recommendations."

The Constitution of the United States avoids this great, inherent vice and weakness of the Articles of Confederation. It does not act upon or relate to the States, as communities, as sovereignties, or in any possible condition or capacity, except so far as it restricts their powers. Not from them, but from the people, each individual of the people, it demands obedience. It was a constitution of government adopted by the people, for the people, and over the people. It was not a rival with the State governments for power. Its power was not adverse to though distinct from that of the States; but it was in every sense a government over every individual every where in the United States, without reference to State lines or State authorities. Every individual was subject to its laws, which it had inherent power over every individual to enforce. And that power to enforce its decrees upon individuals, not depending upon State consent, but being derived directly from the people of the United States, exists, and must forever continue to exist, irrespective of State authority. Hence, as Mr. Webster says in the extract I have already made from his works no State can undo what a whole people have done, or absolve her citizens from their obedience to the laws of the United States, or annul their obligations and oaths.

I do not, of course, in saying that the Constitution acted upon individuals and not upon States, mean to express the opinion that under it the States had no duties or obligations. Many such duties and obligations are imposed upon the States by the Constitution; but these are moral obligations. The obligation of choosing electors of President and Vice President is imposed upon the States directly by the second article of the Constitution; yet there is no mode of enforcing the performance of this duty. It is merely a moral obligation, and should any State neglect it, the consequences would be fatal and irremediable. The duty of choosing Representatives and Senators is another moral obligation imposed by the Constitution, the performance of which cannot be enforced, although Congress has power to legislate with regard to it. All the other points in which the Constitution comes in contact with the States, as such, are restrictions and denials of power to the States, merely negative in their character.

But as to individuals, the Constitution, and all acts of Congress enacted under it, apply directly to each inhabitant of the United States or its territory. The laws of the United States come with the power and sanction of a Government able to enforce its authority. Individual actors in any attempt to overthrow this authority cannot plead, in excuse or justification, the act of a State as exempting them from their duty of obedience to the laws of the Federal power. As individuals they are liable; no pretense of State authority can shield them, or give to their acts any semblance of State action. Any decree or law authorizing such action is merely and absolutely void as law. The individuals engaged therein are personally liable to pains, penalties, and forfeitures; and the pretended action of the State is, as a justification, precisely as if it had never been adopted.

If all acts or ordinances of secession are absolutely null and void, it would seem needless further to argue that they cannot have the effect of severing the connection between the Federal Government and the States alleged to have adopted them. There is, as Mr. Webster declared, no possible mode of the secession of a State except by revolution. Successful secession is successful revolution; attempted secession is attempted revolution. So long as the attempt is not yet successful, it has no effect upon the relations of the States to the General Government. When it shall become successful as revolution it may sever those relations; but if it does so, it is by revolution and not by virtue of any potency in the ordinance of secession. The revolution, if successful, accomplishes what the act of secession, as a revolutionary act, began; if the revolution fails of success, the act of secession is void, *ab initio*.

All the seceded States, then, are still members of the Union, and will continue so to be until their attempted secession is consummated by successful revolution. To acknowledge any State out of the Union, is to acknowledge that as to that State the revolution is successful. Instead of acknowledging this, I contend that there are still thirty-four States in the Union. The United States of America include these thirty-four States—and including these, and with their united power as one Government, is engaged in suppressing a rebellion existing in eleven of them, more or less extensively and successfully. The State of Virginia and the State of Georgia are as much bound to engage in suppressing this rebellion as the State of New York, in the eye of the Constitution. The Army of the United States is engaged in suppressing a rebellion in that portion of the United States known as Virginia and Georgia; and as a component part, and a member of the United States, Virginia or Georgia may, in a national sense, as properly be said to be engaged in suppressing this rebellion as any loyal State. All the States, in their corporate and national capacity as United States, are so engaged, and to say that any one State ceases to be a member of the Union, because this rebellion is potent and, perhaps, supreme within its limits, is to say that the Government is disrupted. I do not intend to be driven to this conclusion until the revolution shall be, by the Federal Government, acknowledged to be successful.

4. I think it follows from all this, that the loyal citizens of all the States are entitled to the rights and privileges guarantied and conferred by the Constitution. I know not how such loyal citizens in any State can be deprived of these privileges except by their own act. One privilege guarantied by the Constitution to every State, and to the citizens thereof, is a republican form of Government. How can this right, privilege, or guarantee be forfeited? Can a majority of the people of a State secede from the Union, rebel against the Federal Government, and establish a monarchy? And shall the loyal citizens of the State who remain steadfast to their duty, be told that they do not constitute the State; that their State is out of the Union, and by an act of rebellion and war has deprived the loyal citizens thereof of the privilege of this guarantee under the Constitution? Yet such I understand to be the conclusion to which the territorial theory of the Senator from Massachusetts directly leads, which assumes that the loyal citizens of a State can be deprived of their rights as such by the act of a rebellious, insurrectionary, hostile majority, in severing the connection of a State as a State with the Federal Government.

What, then, is the character of the vast and perplexing complication of troubles in which the Government of the United States now finds itself involved? States have declared themselves no longer members of the Union; the people of these States, with an alarming degree of unanimity, have united in armed resistance to the Federal Government. Vast armies are now in the field contending on the one side for its overthrow, and on the other side for its maintenance and defense. In this vortex of difficulties, it is not strange that different minds seek relief and safety in a great variety of diverse plans, theories, and expedients. The more, however, we pursue this bewildering maze of theories and expedients; the further we wander in the devious labyrinths of political discussion, as to the supposed effect of ordinances of secession, or of rebellion perpetrated by a State, or as to whether or not we shall consider these acts as resulting in a political *felo de se* on the part of the States, the more we shall find ourselves perplexed and embarrassed. One only sure foundation for the edifice of our Government can now be found; and that foundation is the Constitution of the United States. On that basis the Government will stand firmly, safely, and forever. It can, of course, stand on no other; and when its superstructure shall cease to repose on that foundation, it will fall in ruins, involving in its own destruction all that we hold dear in Government or in the structure of society. I look, therefore, with suspicion on the teachings of all those, however wise they may generally be esteemed, or however I may heretofore have given them my confidence, who undervalue or depreciate the Constitution of the United States, or attempt to shake the confidence of the people in that sacred instrument, as the sheet-anchor of their hopes and their destinies. It is not uncommon, even now, in this day of sorrow and perplexity, when a violation of the Constitution by armed rebels has filled the land with distress and mourning, to hear men in high places

speak lightly and sneeringly of constitutional scruples. I hear such observations with inexpressible pain and regret. I trust the popular heart is now more deeply than ever before bound in faithful and affectionate loyalty to the Constitution; and that those who would diminish the reverence of the people for the authority of that great charter of our liberties, will discover that in so doing they have themselves forfeited popular respect and confidence.

To my mind, the difficulty in which we are involved is shrouded in no obscurity, and the remedy is plain and easy to be seen. That this remedy is easy to be applied I do not say, but that it is easy to be decided upon, as a proper remedy, I think cannot be doubted by any one who sees clearly the difficulty. War is the evil, and the remedy for this evil is war.

An attempt has been made, on a vast scale, to overthrow the authority of the Government of the United States by war. This war is now waged, with varying success, in many States, and it is carried on by a majority so large as to include, in several of them, almost the entire population. That this civil strife is actual war cannot for a moment be doubted. Some have spoken of it as not being in every sense war, because it is carried on by our own citizens, against our own Government and on our own soil. A reference to the constitutional definition of treason, however, will satisfy all that the existing rebellion is in every sense actual war. "Treason against the United States shall consist," says the Constitution, "only in levying war against them," &c. Treason can only be committed by a subject; and those subjects now engaged in actual treason are of course engaged in that war which alone, by the Constitution, constitutes treason. War being thus waged against the United States, how shall it be met and resisted except by war? Such, then, is our condition. We are, as a nation, at war with armed rebels, traitors, and insurrectionists. It is in every sense a war, and nothing more or less than war, commenced, it is true, by traitors, but to be concluded as to manner and place and time, by the Government against which it is waged. One party can make war; it requires two parties to make peace. The war, therefore, cannot close till this Government shall see fit to terminate it. It will continue, with all its duties, all the powers it creates or calls from a dormant state into life and action, till this Government sees fit to make and declare peace.

The President is by the Constitution Commander-in-Chief of the Army and Navy of the United States. War exists by the act of traitors in arms, whose treason consists in levying war against the United States. The President at the head of the Army and Navy is engaged in carrying on this war. He prosecutes it as authorized by the direct terms of the Constitution as Commander-in-Chief. In its prosecution he must use all the means of warfare placed under his control, and if he does not make it terrific, overwhelming, irresistible, then he will not accomplish what the people hope and expect from him. But he cannot properly use other than usual and legal methods of warfare. His powers are not increased except as a state of war increases them. Being at war, he may do all that war renders necessary. He may kill, destroy, pursue, and overthrow. Subjugated enemies he may confine as prisoners of war, or he may govern them during the war by military governors. That he is now doing in Tennessee, in Louisiana, in North Carolina. These military governors, though in common parlance somewhat carelessly styled Governors of those States, are not properly such, and should not be so called. Giving them such a title creates confusion. They are military governors *in* those States, not of or over them—placed in authority over subjugated public enemies, and not in any sense over the States. When the war ceases, their authority will cease, and not before, unless they are removed by the appointing power, and then others may be appointed in their places. All this is no interference with State authority. That may exist or it may be in abeyance; but the authority of military governors appointed by the President as Commander-in-Chief of the Army, in time of war, over a conquered enemy, is wholly aside from and irrespective of, and may be in entire harmony with the authority of the State government. I cannot, therefore, acknowledge the correctness of the idea contained in the resolutions of the Senator from Massachusetts, in which he asserts that, in the appointment of military governors, power has been assumed not authorized by the Constitution. His resolutions are in these words:

"Whereas Edward Stanly, assuming to act under a letter from the Secretary of War, calling him military Governor of North Carolina—a post unknown to the Constitution and laws of the Union—has undertaken, by virtue of such military authority, to surrender fugitive slaves, contrary to the intent and meaning of an act of Congress recently adopted; also, to banish an American citizen, in violation of personal rights secured by the Constitution; and also, to close and suppress schools, maintained by the charity of good men, for the education of colored children, in defiance of every principle of morals and religion, and to the discredit of our national character: Therefore,

"*Resolved*, That the President of the United States be requested to cancel the letter of the Secretary of War under which Edward Stanly now assumes to act.

"*Resolved*, That any such letter, assuming to create any person military Governor of a State, is without sanction in the Constitution and laws; and that its effect is to subordinate the civil to the military authority, contrary to the spirit of our institutions and in derogation of the power of Congress, which, where a State government falls into the hands of traitors, can be the only legitimate authority, except martial law."

If the view I have taken of this subject is correct, these resolutions offered by that Senator are of course unsound in doctrine. The States are not destroyed as bodies corporate by the rebellious and hostile attitude of any portion, however large, of their citizens. The rights of those citizens who remain loyal are preserved, and cannot be impaired by acts which have not their coöperation, nor their approval or assent.

But it is said the State Government may be overthrown, disorganized; and if so, it may be asked, how shall it be reorganized? Here may be, it is true, a question of some apparent practical difficulty, but the difficulty will vanish if we suppose the people of a State, wherein rebellion has for a time disorganized the State government, now able and ready to restore their suspended relations with the General Government. In such a State there can be no difficulty in the election of a Legislature and an Executive. The constitutions of all the States fix the time of holding State elections, so that no enabling act is needed to authorize and legalize such an election. On the day fixed by the State constitution, the people in any State in which the State government has fallen into desuetude, the people may meet and choose a Legislature. That Legislature is the judge of the qualifications of its own members, and, when organized, is *de facto* and *de jure* the lawful Legislature of the State. Having taken the oath required by the Constitution of the United States, to support that Constitution, it may choose Senators to represent the State in this body; and if they take a similar oath here, and are by us accepted as loyal and true to the Constitution—a requirement which I hold we are bound to make—they are as truly Senators as yourself, Mr. President, [Mr. DOOLITTLE in the chair,] and as completely as yourself entitled to seats as such.

There is no difficulty, therefore, in the case of a State whose people, in such reasonable numbers as to entitle them to be so considered, are loyal to the Government of the United States and desirous of reëstablishing their relations with the Union. But what shall be said of a State wherein the entire body of the citizens are disloyal and rebellious, as perhaps is the case in South Carolina? The people of such a State can only be said to continue at war with the Union; and they must, therefore, while they so continue, also continue to be treated as public enemies. War persisted in by them must become more terrible in all its consequences, more severe in the mode of its prosecution in proportion to this persistence. What means of warfare may and must finally be resorted to with such a public enemy, I need not indicate; but any and all means which may be required to conquer such a foe would be justifiable. I said on a former occasion that if it should ever appear that slavery or the Union must perish, the voice of a united people would declare, "let slavery perish, and let the Union live forever." I repeat this declaration. As a means of warfare, and in the exercise of his powers as Commander-in-Chief, I entertain no doubt that the President has power to liberate the slaves of public enemies. Whenever he declares it necessary to exercise this power, my confidence in him is such that I shall approve and justify his act. I am willing to leave this matter entirely to his judgment, in view of his superior knowledge of the facts upon which a correct judgment is to be formed. Of his power to act in the premises I have not the slightest doubt. The war has given to the President powers as Commander-in-Chief of the Army and Navy, which he did not possess in time of peace; or, to speak more correctly, the Constitution vests in him powers in time of war which do not exist, or, if they exist, are dormant, in time of peace. He may carry on the war as Commander-in-Chief, and do all acts necessary for that purpose. This, however, is a subject which need not on this occasion be pursued.

My confidence in the President is increased by the wisdom of that scheme of gradual emancipation by State authority which he has proposed. It has my earnest and cordial approbation.

There are those who apprehend that in the event of the restoration of the possession and consequent jurisdiction of the Federal Government in that portion of the Union from which that Government is now excluded by flagrant rebellion and war, and after the rebellion shall be crushed and the war closed, there may be danger of another attempt at secession, and a repetition of the present hostilities. They tell us that unless we now take the ground that the States which have attempted to secede are actually out of the Union, and are only to be readmitted on certain conditions, which shall limit the power of the States, secession and war will again be attempted or threatened. To me such a fear seems utterly absurd in view of the condition to which the war has already reduced its originators, and the salutary dread which they will long cherish of a similar wicked enterprise. I would say of it as Alexander Hamilton said of an equally unfounded terror:

"This apprehension may be considered a disease, for which there can be found no cure in the resources of argument or reasoning."

I have said that I would suppress this rebellion, as it is sustained and upheld, by war—bloody, terrific, energetic, irresistible, overwhelming war. If it cannot thus be suppressed it cannot be suppressed in any manner, or by any means. That it can be triumphantly suppressed—that the authority of the Federal Government can, throughout all our wide domain, be reëstablished and forever maintained, I fully and most confidently believe. This war can be carried on so long as may be necessary for the purposes for which it is prosecuted. One year ago we might have been justified in distrusting the capacity of our Government for a strife of such gigantic proportions. The experience of the year has taught us truths which a lifetime of peace could never have imparted. We now see the immensity of power possessed by a free people determined to sacrifice their all for the defense of their Government. Yet, let us not forget that the work we have undertaken is also immense in the vastness and sublimity of its proportions, and that to insure success it must be prosecuted in accordance with the genius of our Government. It is the Constitution that is to be preserved; it cannot be preserved by being first overthrown. Let us be cautious that in prosecuting this war for the Union, we give no real cause for discontent; that we alienate the regard of no truly loyal portion of our people; that, in short, we do not, by proving faithless to the Constitution we are sworn to support, show ourselves unfit to govern and unworthy of power. When we do so, we may find the task we have undertaken too mighty for our ability to accomplish. Then, perhaps, we may prove true the words of that great statesman and political seer of the Revolution, who, as if gifted with second sight, looked out from the narrow sphere of his day and generation, and saw the great events which were to come in the destiny of his country, as distinctly as we behold what is daily before us. As I read them now, they strike me with awe and with admiration; with awe, lest our own incapacity should prove the correctness of the prediction; with admiration at the superhuman wisdom which inspired it. I can almost fancy as I pronounce these solemn words, that they reverberate mournfully like a funeral knell. It is Alexander Hamilton who speaks:

"As to those partial commotions and insurrections which sometimes disquiet society, from the intrigues of an inconsiderable faction, or from sudden or occasional ill humors that do not infect the great body of the community, the General Government could command more extensive resources for the suppression of disturbances of that kind than would be in the power of any single member. And as to the

mortal feuds, which in certain conjunctures, spread a conflagration through a whole nation, or through a very large proportion of it, proceeding either from weighty causes of discontent, given by the Government, or from the contagion of some violent popular paroxysm; they do not fall within any ordinary rules of calculation. WHEN THEY HAPPEN THEY COMMONLY AMOUNT TO REVOLUTION AND DISMEMBERMENTS OF EMPIRE. No form of government can always either avoid or control them. It is in vain to hope to guard against events too mighty for human foresight or precaution, and it would be idle to object to a Government because it could not perform impossibilities."

Let the people of the United States ponder those words of prophetic wisdom, and remember that if this empire is to be saved from dismemberment, it is to be done by defending and maintaining the Constitution. While they are confident and hopeful, let them not be rash and thoughtless and inconsiderate. Let them not forget that they, too, owe a duty to the Constitution, and are subject to its authority as well as they who are leagued in hostile combination for its destruction. In their zeal for its defense against traitors in arms, let them not forget its restraints nor its requirements; and let them remember that it has other enemies than those who take up arms for its overthrow.

The resolution which I have offered affirms the doctrine that the Union is indissoluble otherwise than by successful revolution; that every State is still, as such, a portion of the United States; that no legislation can sever the connection of the States with the Union, and that the armed rebels are at war with the Federal Government. This is the doctrine of the inaugural address of the President. Upon this doctrine the people have united in suppressing the rebellion. It is the doctrine upon which alone the Federal Union can be preserved. It renders needless all questions of restoration or reconstruction. It recognizes war as the remedy for our national troubles; and when the war shall be over, and the authority of the General Government reëstablished within all our boundaries, it will give assurance to the world that the Federal Union has been preserved.

Mr. HALE. I did not think I should say a word upon these confiscation bills, and I have not thus far, though they have been long before the Senate and have long occupied their attention, and I propose to say but a few words now. But, sir, a doctrine has been advanced on this floor again and again, and reiterated and promulgated, which to my mind, is more fatal in its character, more destructive of the Government, more at war with every principle of the Constitution, than secession itself. It is the doctrine that would concentrate all the executive power of the nation—when I say executive power, I speak of it in its broadest sense, its power of activity, its energy, its power to be something and do something—in the President of the United States, negativing and denying to Congress any power at all. If that doctrine prevails, your Constitution is gone, the dream of your fathers is over, the idea of a republic has vanished like the clouds of the morning before the rising glories of the sun, a practical despotism has stolen in upon us while our guardians have slept, the Constitution is perverted, and we are but a monarchy, having a name to live while we are in fact dead.

I confess, sir, that if that is to be the Constitution we are to have left when the war is over, it is a matter of indifference to me whether the Federal or the confederate States prevail, for either of them will have but an iron despotism. Against this doctrine, I wish to enter my serious and energetic protest here and now, where it is promulgated, and to declare that in my solemn judgment, it is one of the most fatal and dangerous dogmas that have crept into the philosophy of modern times. Where do these men get it? Where do they find this theory that is to subvert everything that has been gained by the blood of the past? In this, as I understand them:

"The President shall be Commander-in-Chief of the Army and Navy of the United States and of the militia of the several States when called into the actual service of the United States."

What does that mean? It means that instead of leaving it to the caprice of Congress, or of any other power, the framers of the Constitution named the man who should be that officer, and that is all. They gave him a name, they gave him an office; but they gave no power over it. That power is to be regulated by what? That did not create a supreme power, and I can find no part of the Constitution referring to any such supreme power except one which confers it on another branch of the Government, and leaves the President out entirely.

Again: it is provided that "the judicial power of the United States shall be vested in one Supreme Court." Will not the same argument apply, and may it not be said that you must not make any law touching their jurisdiction, because the Constitution vests the judicial power in the Supreme Court? God help us when that comes to be the law. But, sir, there is just as much foundation for it, and more too, as there is for that dogma which proclaims that all the war-making power, or all the power of carrying on war, is vested in the President; and yet, notwithstanding this declaration that the judicial power shall be vested in the Supreme Court, Congress, from the very day of the institution of the court up to the present day, have passed acts defining, limiting, restraining, and enlarging the powers of the Supreme Court, and nobody ever dreamed that we were violating any principle of the Constitution in so doing. No, sir, there is no such thing as supreme power in war or peace granted to the President of the United States. There is a supreme power in this Government, and there must be, and where is it? There is only one place that I know of in which the Constitution speaks of it: "This Constitution and the laws of the United States which shall be made in pursuance thereof, and all treaties made or which shall be made under the authority of the United States, shall be the supreme" power. The framers of the Constitution were wise men. They did not mean to confer any supreme power upon the Supreme Court of the United States; they did not mean to confer it anywhere except upon the representatives of the great popular mass of the nation; and when they come together, the representatives from the East and the West, from the North and the South, from the whole land; when that united, energetic voice of the nation is gathered in the only way in which it can be gathered—in a representative assembly, limited, created, measured, and restrained by law—there the fathers of the Constitution said should rest the supreme power, and everybody else and everything should be subject to it. The idea that on the election of a President they were creating a power which should laugh at or defy the power of Congress, which was the supreme power, never entered their heads. All on earth that they did was to say what office he should have, and they left the powers, duties, and responsibilities of that office in a great measure and in a great degree to be conferred and controlled by Congress.

I grant there are some express powers conferred upon the President which we cannot interfere with; but they are measured. He shall have power to grant reprieves and pardons for offenses. They put that in, and I am sorry for it. If I were to make a constitution, I would have nothing of that sort in it. I believe that the power of pardoning belongs to Him that can see the heart, and nobody else, and that in a Government of law a pardoning power should not exist. But, sir, I will not find fault with it; it is there, and while it is there, a part of the Constitution, it must be obeyed. That is a power, I grant you, that is directly conferred upon the President of the United States. It may be that there are some others; I have not looked into that particularly; but the idea, because the Constitution names him to be the Commander-in-Chief of the Army of the United States it confers supreme power on him, is to my mind a perfect *felo de se* of the Constitution. The idea that we are living under a Government of checks and balances vanishes the moment you entertain this idea in your head, and it seems to me—I speak with all deference, because I know I am surrounded by I was going to say older, but I am getting almost too old for that, but vastly better lawyers than myself——

Mr. DIXON. I suppose the Senator attributes no such language to me in anything I said.

Mr. HALE. I am endeavoring to speak the truth, and I want to say, as the apostle said, "no prophecy of the Scripture is of any private interpretation." I do not mean to apply it to anybody, but I have heard it again and again. I was much pleased with the Senator's speech, with the spirit and temper of it. I think it would have been a better speech if he had given us more of his own language and fewer quotations. I like that part which was his own better than the quotations. I do not wish to say anything but what I mean, and when I say I was pleased with his speech, I mean its ability, its temper, and its disposition; it was everything we could expect from a patriot and a Christian.

Now, sir, in regard to this matter, if gentlemen will allow me, I think that a great deal of the error that has crept into the Senate on this subject has arisen out of this, to my mind, most fatal mistake; and assuming such entirely incorrect premises, it is but natural that gentlemen should come to incorrect conclusions. I have not exhausted the books. I trust more to the instinctive sense with which I read the Constitution than any dissertations of any black-letter lawyers of ancient or modern times; and I am free to say I am not one of those who feel bound, because a set of gentlemen with wigs and black gowns on, for five hundred years made fools of themselves, that I am to be a fool in following them ever after. I will give as much respect to the opinions of wise and learned men as anybody; but this doctrine of precedents to be continually followed and never to be improved, is one that is calculated to bind up our energies and restrict and retard our progress.

It was my fortune, the other day, to utter a sentiment which I know the voice of authority in the legal profession is against, which probably the opinions of the majority of this Senate are against; but it is an opinion which I entertain more strongly the longer I think of it; it is in relation to the power of Congress to confiscate the property of traitors. It is said we cannot go beyond the life of the person attainted; we can only take his life estate. Now, sir, I have too much respect for the wisdom of our forefathers who made this Constitution to believe they took it into their heads to provide that Congress, or the Government, or the court, or the judiciary might, confiscate a man's estate for about four days. The common practice of the English, from whom it is said we got our precedents, was that the traitor after he was convicted was generally hung in about four days, and that was the general time when the Constitution was formed. Would our fathers have provided that we might have the almighty power of confiscating the estates of traitors for about four days? No, sir; they meant no such nonsense. They spoke in plain, good English, that this power should not extend beyond the life of the traitor; by which they meant that everything he owned in his own right might be taken; but if there were any estates that were to be created after him that took their origin in or through him, such as estates for life, or remainders, or estates tail, they should not be confiscated, you should not touch the heir in his right, but the estate which the traitor owned and which was his might be taken. That, I believe, is the common sense of it, and I am willing to stand with my constituents and the world with what reputation I shall get for good sense, and put that against what I shall lose as a lawyer in making such a declaration.

Having said this much, hoping that I have not thrown out a text for anybody else to make a speech upon, I resume my seat.

Mr. WADE. I have had my say on this question already, and I did not intend to say another word on the subject. I know very well there is a very deep feeling in the community on the subject of confiscation. I am perfectly persuaded that the people everywhere, so far as I have had any communication with them, expect, and have long expected, a vigorous effective bill on the subject of the confiscation of the property of rebels. I have heard in almost every letter I have received a manifestation of the impatience of those whom I represent that we have not, before this time, perfected and passed a bill which would take the property of the rebels and appropriate it to defray in some measure the expenses of this most unjust war. I know very well that I should never be excused by the people if I should sit here silently and hear it announced that there was no power in Congress by which the property of rebels could be taken and subjected to pay the expenses of this war. That, however, would be but a very poor reason for me to give, provided the Constitution of the country was against it. If the great charter of our liberties, the Constitution of the United States, has proclaimed in thunder tones that, although one third of the people are in rebellion, have risen to overturn the institutions of our

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country, to rob, kill, murder us, yet our hands are tied, and we have no power to reach either their persons or their property, I must submit to it, for I have sworn that I will maintain the Constitution. But, sir, there is nothing in the Constitution that savors of any such pusillanimous and slavish doctrine as this; nor should I have arisen now except to repel the inference that I had stood here assenting to the miserable slavish doctrines that I have heard upon this floor to-day. I could never justify it to the people I represent, that I had sat silent while I heard it rung in my ears from morning until night that the President of the United States was by some mysterious power invested with despotic authority to trample upon the rights of the people and the rights of Congress, and that there was no barrier betwixt him and utter despotism the moment you declare war. I ask of Senators who preach this miserable, slavish doctrine, where they get it. They cannot find it in the English law from which we derived some of our ideas; and much less do they find it in that Constitution which our fathers erected as a barrier against despotism.

Mr. BROWNING. Will the Senator permit me to ask him to whom his interrogatory is addressed?

Mr. WADE. To the Senator from Illinois especially, and to the Senator from Connecticut.

Mr. BROWNING. The only answer I have to make is, that all that the Senator from Illinois has said will be in the public records of the country, and the public can see, and will know, that not one word that is attributed to him has been uttered. That is all the reply I have to make.

Mr. WADE. The world will know the Senator's utterances and mine now, and hereafter we shall stand by the record we make. If I have understood the Senator's argument, it has been here by the hour, yea, three hours in length, little else than to show that whenever war is declared the President is a despotic chief, without the restraint of Congress, or indeed any other restraint. He lays no limitation upon his power.

Mr. BROWNING. I only wish to say that I am in no sense responsible for the Senator's understanding, or want of understanding.

Mr. WADE. No, sir; nor for your own.

Mr. BROWNING. Yes, sir; I hold myself responsible for my own.

Mr. WADE. I am not going to bandy epithets with that Senator or anybody else; but I do not wonder that the hideous doctrines which he has proclaimed on this floor startle him when they are recapitulated. It is what American ears have not been accustomed to hear, that there is somewhere in our institutions a possibility that there may be a magistrate armed with a power that there is no authority to check or control. The Senator says that I overstate his remarks. I do not quote his words; I cannot remember what he said; but I think that I gathered the sense of all that he said. I ask him to state to me now where do you place any limitation upon the power of your Chief Magistrate the moment we are involved in war. The Senator utterly denied that there was any power in Congress to control him.

Mr. BROWNING. The Senator asks me a question. I apprehend he desires an answer.

Mr. WADE. Yes, sir; I should like to hear it.

Mr. BROWNING. I will give an answer with a great deal of pleasure. I stated and I reiterate that the President is under the constraints of the Constitution and the restraints of the Constitution. So is Congress. Congress has no more power to undertake to control the President in the discharge of the duties that are devolved upon him by the Constitution, to control him in the exercise of the authority with which the Constitution has clothed him, than he has to undertake to control Congress in the discharge of its duty. He is independent in his sphere of Congress, and Congress is independent of him in its sphere.

Mr. WADE. That is a mere platitude that a child would not deny. The question is where are the boundaries between these powers.

Mr. BROWNING. In the Constitution.

Mr. WADE. Yes, sir, in the Constitution; but where in the Constitution do you find that the President of the United States may confiscate property and that Congress cannot regulate that power? Everybody consents to what you say about keeping each of the divisions of the Government in its proper sphere; but the question is, where do you find their respective powers? The Senator has contended that the moment war is declared the President has no limit, that Congress loses its power to interpose, and so says the Senator from Connecticut.

Mr. DIXON. I think the Senator entirely misunderstood me.

Mr. WADE. I hope I did.

Mr. DIXON. I intended to express no such opinion, and I am perfectly astonished that the Senator could have so misunderstood me, or that the Senator from New Hampshire should have so misunderstood me if he did. If the Senator from Ohio will allow me, I will state what I intended to say when he is through, or now, as he prefers.

Mr. WADE. Take your choice about it. I am glad to hear the Senator at any time.

Mr. DIXON. I intended to lay down this proposition, that we are now at war in the constitutional sense; that the traitors have levied war against the Government. Treason consists in levying war. If it is not war, it is not treason. If it is not treason, I will not claim that it is war. If they are traitors, they are at war. Otherwise by the Constitution they are not traitors, for treason against the General Government consists only in levying war against it. Then we are at war; war exists. The President by the Constitution is Commander-in-Chief of the Army in time of war as well as in time of peace. I do not claim that he is commander more now than he is in time of peace, of the regular Army. He has a right to go to-day to Richmond and take command of the Army. He may lead that Army in battle in the attack upon Richmond, and if he finds it necessary he may liberate every slave in Richmond, he may take any man's property in Richmond, he may burn every house in Richmond.

That is what I claim. The Senator misunderstands me entirely. I claim that the President, as Commander-in-Chief of the Army in time of war, may exercise these powers against public enemies. That is the ground I take. Now, can Congress do it? That is another question. I said very little about that. I did throw out the suggestion that the power of Congress to legislate as a Legislature was not increased by war. Perhaps some powers spring to life in time of war which Congress may be vested with. Upon that I would not express an opinion without further reflection; but I had not reference particularly to the powers of Congress; I was speaking of the power of the President as Commander-in-Chief of the Army. I do not know that General McClellan has not the same power to-day, if he is commander, if the President allows him to be the commander-in-chief. It is claimed that General Hunter had power to issue an order, inherent in himself as commander-in-chief of the district committed to him, and I have heard it claimed that his proclamation was good, notwithstanding the President had countermanded it. That has been claimed. I do not say what my opinion is in regard to it; but for me to be held up here by the Senator from Ohio as asserting a slavish doctrine because I claim that the President as Commander-in-Chief may seize the property, confiscate if you please, liberate the property of traitors in arms, is to me, I must confess perfectly astonishing, and I can only account for it on the supposition that the Senator entirely misunderstood me.

Mr. WADE. I do not like to say that I fear the Senator did not understand himself. Now he says he did not touch upon the power of Congress to confiscate property, but thought the President had the power as Commander-in-Chief of the Army. The other question he says he did not see fit to touch upon. That is very much like the play of Hamlet, without Hamlet in it.

Mr. DIXON. I said very little about confiscation.

Mr. WADE. But that was the very gist of the subject-matter you were speaking about. Can it be that the Senator made a long speech and never touched the question under consideration? The question was the power of Congress to pass this confiscation bill, and the Senator says he was chary of that; he did not speak upon that subject. It was the very subject he should have spoken upon.

Mr. DIXON. If the Senator had been present when I commenced, he would have known that I apologized to the Senate for making a speech that was, perhaps, not entirely cognate to the bill under consideration.

Mr. WADE. Well, Mr. President, I must take Senators according to their speech, as I understand it. I am very happy to see that the Senator does deny the slavish doctrine that I was disposed to impute to him, or to any other Senator who will rise here in Congress and surrender the power that he has received from the people under the Constitution as being their guardian here in the Senate of the United States—a power which he has no more right to surrender than he has to usurp powers not bestowed upon him. The Constitution has defined our limits, and he is as reckless of his duty under the Constitution, and of the oath he has taken, who will tamely surrender it to another department of the Government, as is he who would arrogate to himself powers that the Constitution has not bestowed upon him. I do not like the idea that of those who sit here that gentleman is the most conservative who will give up the most. Sir, I have rights upon this floor; the people whom I represent have rights upon this floor; they claim them through me as their advocate, and my arm shall fall off before I surrender one jot or tittle of that power which they have conferred upon me and made it my duty to assert on this floor. Therefore, sir, I cannot hear with complacency the doctrine urged that Congress has no power to regulate these rights of war, that the moment war is declared, if I have understood these gentlemen, the moment we are involved in war, Congress loses all power to regulate the rights of war, and they are devolved by the Constitution, *ipso facto*, in all their length, breadth, and depth, upon the Chief Magistrate of the nation, and we cannot modify or control them. That is the gist of the whole argument of the gentlemen. A little reflection would have taught those gentlemen that there is no such thing in the Constitution; and if they had reflected upon that glorious old stock from which they sprung, they would have known that so slavish and despotic a doctrine was never promulgated by our fathers; yea, they would have felt in their bones, in their Anglo-Saxon blood, that such a construction of the Constitution could not be true.

The Senator from Illinois has been arguing here from hour to hour that the President has all power in war, and we none; and he says now that he only argued to preserve the just limitation of powers between the different departments of the Government. Sir, I concede that every tyro in jurisprudence knows that in all limited Governments the powers are guarded by a threefold division—the executive, the legislative, and the judicial—and that they ought to be kept separate and apart. No lengthened argument is required in the Senate of the United States to admonish gentlemen that such is the Constitution of our country, and that it is proper to maintain these powers, each one entire, each without encroachment upon the other. No lengthened speech need be made upon that. Now, sir, what are these powers? That is the question.

Gentlemen argue here, as I said before—and that is why I rise to repel what I call a slavish doctrine, which is unworthy the American Senate—that the President of the United States, the moment that we are involved in a war, is a despotic magistrate, and is subject to no control from any quarter. Sir, the representatives of the people, the Congress of the United States, are the safe depository of power in all these cases, to

limit, modify, and control whatever any magistrate in the nation may see fit to do. There are none that sit above us. Of all the powers in this Government, the framers of it supposed the safest lodgment of a supervisory control over the whole was in the Congress of the United States, deriving at frequent recurrences their power immediately from the people themselves. We are the legislative power. Gentlemen talk of the rights of war and the power of a military commander! Is it not in the power of Congress to prescribe the rules upon which your military chief shall act? Do not Senators know that that whole code of military law called "the Articles of War," is not the dictate of the Chief Magistrate but the legislation of Congress? The Chief Magistrate, the Commander-in-Chief of your Army and Navy, cannot make a single article of war, to regulate the action of your armies even in the field, without the consent of Congress. Sir, during this very session, without objection from any quarter, upon the very subject under consideration, we have superadded to our articles of war another and a new article.

Mr. BROWNING. Will the Senator permit me to ask him a question?

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

Mr. WADE. Of course.

Mr. BROWNING. I wish respectfully to ask the Senator whether, according to his view of the constitutional powers of Congress and the President, Congress may direct and control the President in the exercise of his authority as Commander-in-Chief of the Army and Navy?

Mr. WADE. Undoubtedly we can and undoubtedly we do. What is making an article of war, I would ask the gentleman, but that?

Mr. BROWNING. Allow me another word. Then the Constitution is a falsehood, and the President is not Commander-in-Chief of the Army and Navy.

Mr. WADE. That is a great *non sequitur*. He may be Commander-in-Chief of the Army of the United States; but Congress, the legislative power sitting superior to him or any other magistrate in the nation, may regulate, modify, and direct whatever principles they please their chief commander shall act upon and execute.

Does the Senator intend—he must intend it, because a man must be taken to speak of the subject-matter under consideration, and it is the question of confiscation that is under consideration—does the Senator in his speech, in his plea for despotic power in the Chief Magistrate, intend to contend that the President can take the estate of A and transfer a good title to B, on the principles of confiscation or forfeiture? Can he do it? I ask the Senator again, can he do it? Can your Chief Magistrate do it, and how will the title be made out? I want him to answer that, after his three hours' speech.

Mr. BROWNING. I will answer. The question has no sort of pertinence or signification at all.

Mr. WADE. I think it has. There we differ. We are acting upon a bill to confiscate the property of rebels and transfer it out of their hands into those of the General Government. Who can do it but Congress? Who can prescribe upon what principle it shall be taken? The Senator will not answer me for his venerated chief that is armed with all power! He is too good a lawyer exactly to see how he could transfer a title from a rebel to the General Government, or to anybody else! You see then that your unlimited chief does want a little power when he acts on this question of confiscation. Undoubtedly and unquestionably Congress is not going to interfere with the command of a general in the field before the enemy; they are not going to say to him, you shall march such a brigade to such a place, and you shall countermarch another, and you shall advance and retreat, and you shall intrench, and you shall pull down your intrenchments, you shall assail the enemy to-morrow, and you shall retreat from him the next day. I do not doubt that Congress, if they were foolish enough, have power even to regulate that; but it would be as foolish as anything could be to attempt such an interference with a general, a commander-in-chief in the field. Nobody contemplates any such thing; but we may lay down the principles on which the war shall be prosecuted; we may enact a law to-day, if we will, declaring that the Army shall take no prisoners. Of course the greater includes the less. If we can say to this turbulent war to-morrow, "peace, be still"——

Mr. FESSENDEN. We cannot.

Mr. WADE. Who doubts that we can do it? Does the gentleman say we cannot make peace? Who can, then? Cannot we enact a law that your troops shall all be disbanded to-morrow?

Mr. FESSENDEN. Yes.

Mr. WADE. We can do that. Here is your Commander-in-Chief—your President—proudly strutting at the head of his troops; to-morrow we can take all the troops from his command. That shows a little power in Congress, I should think, over your Commander-in-Chief. We may disband the Army against the positive orders of this potent chief of yours; he cannot resist it. We can make peace also—I mean with the assent of the President; I speak of Congress, the law-making power.

Mr. FESSENDEN. The Senator will not misunderstand me. I agree with him in the main in what he has said; but what I meant to say in my side remarks, which I did not suppose would be answered, was simply that, so far as negotiation was concerned, Congress, as Congress, in the negotiating of peace have nothing to do.

Mr. WADE. I agree to that. It belongs to the President and the Senate to negotiate peace with a foreign Power. It is given in the Constitution of the United States to the treaty-making power. The President, and the Senate concurring with him, can make peace in just such terms as they please; but nevertheless, if we passed a law to-morrow or next week that our armies shall be disbanded, and that there shall be peace, would it not be a good law, so far as we are concerned? Perhaps the confederacy would not regard it; they might assail us still; but the enactment of our law would stand against the world, against the President, and everybody else.

Sir, it is as I said before, and I cannot speak of it in any other terms than a most slavish and un-American doctrine, to contend for this irresponsible power of the Chief Magistrate in time of war. I have as much respect for our Chief Magistrate as has the gentleman from Illinois. I would be as loth to interfere with him in any of his constitutional rights; but when it is set up for him or anybody else that he may be a tyrant, not only trampling upon the people, but their representatives in Congress, overriding all they can do, and endeavoring to prevent their making such laws with regard to the prosecution of this war as in their judgment are right and proper, that this chief is armed with irresponsible power, I, with all my disposition to remain at rest and not talk here, feel that I should be aside from my duty if I saw such doctrines as these, more Asiatic than American, proclaimed in an American Senate and allowed them to pass unchallenged. Sir, they savor of the absolute despotism of the eastern continent, rather than of the stock from which we sprang that go for limited government everywhere. I hope that such doctrines will not ever gain a foothold in America. I do not care how much we think of our Chief Magistrate—and few think more of him than I do—I cannot make an irresponsible despotic chief of him, or anybody else. I cannot do it without surrendering the powers I have received from the people and being derelict in my duty and unconscious of the oath I have taken. Talk here of vindicating your Constitution, and yet talk of a total surrender of that Constitution, breaking down all its barriers, and conferring in the most dangerous times all power upon one man! Why, sir, it is the strangest anomaly, the strangest insanity that ever settled upon the head of a statesman. I believe both the Senators give it up, and admit now that whether we have the power or not, the President cannot confiscate property of his own will and make a good title-deed to anybody else. Congress must do it, or it cannot be done.

Now, sir, what are the rights of war? They are just precisely such as Congress see fit to confer on the Chief Magistrate. He shall be Commander-in-Chief of the Army, says the Constitution; and the Senator from Illinois thinks that in its very terms imports that he is high, exalted over all the branches of the Government, supreme, and despotic. There is nothing in the terms that imports that. There never was a commander-in-chief sent out by any Government in Europe, but what acted in strict subordination to the Government at home. He is nevertheless commander-in-chief, sent out as such; he is invested with all military power, but nevertheless under the control of the legislative power at home. Just so here. We can call the commanders from the field; we may depose them; we may put up or may put down. As I said before, we make the articles of of war, which are nothing more nor less than the laws by which the war shall be conducted. We may say, as I suggested before that every man who is taken with arms in his hands shall be hung or shot as a traitor; or we may enact, on the other hand, that an amnesty shall be given to every man who is taken prisoner, and that immediately he shall be discharged on taking the oath of allegiance, or without taking an oath of allegiance; and that act will be binding upon the President of the United States, and every commander in the field everywhere. There is no doubt of that.

Why, then, in order to resist this confiscation bill, talk of the enormous overpowering despotic authority of the President of the United States? Sir, it has no relevancy to the case. We have full power over the question. This is the proper place where the power should be lodged. In my judgment, it should be promptly executed. While I am up I will say—for I do not intend to argue this confiscation bill over again—I want the people to understand that I am in favor of the bill, and had I the power of Congress, I would take all the property of rebels, and I would appropriate it to the discharge of the enormous debt that we are incurring in defense of this glorious Constitution of ours. I want the people to know that I stand here as the advocate of burdening traitors with the payment and discharge of the enormous debts of this war. I am for it; and if it is not done, I am not responsible. I go for it. I would reduce these aristocratic slaveholders to utter poverty. I know they are conceited; I know they are essentially aristocratic. I am fully persuaded that their minds and their feelings are so in antagonism to republican democratic doctrines that it is impossible to reconcile them, and we never shall have peace until we have reduced the leaders to utter poverty and taken thereby their influence away. I am for doing it. It ought to be done. And I will say here now that upon the principle on which your war is conducted, you never will have peace. You cannot with one hand guard sedulously with your Army the property of rebels and with the other fight them in the field. They construe every such act of lenity into cowardice and pusillanimity, and nothing else. You will get no respect for it. They will treat you with the more contempt. I defy any gentleman upon this floor who contends for this lenient policy, now after more than one year's prosecution of the war, to cite to me a single instance where a rebel has been placated and has come round to the support of the Union cause because you dealt leniently with his person or his property. I have here an order from General McDowell that I ask to have read, just to show the principle upon which this accursed war is prosecuted.

The Secretary read, as follows:

HEADQUARTERS DEPARTMENT OF THE RAPPAHANNOCK,
OPPOSITE FREDERICKSBURG, VA., *May* 26, 1862.

[Special Order No. 68.]

Colonel Meredith, commanding the fifty-sixth Pennsylvania volunteers will furnish from his regiment a guard for the house and property of Mr. L. J. Huffman, who lives near Bell Plain. Colonel Meredith will see that no more corn is taken from Mr. Huffman, and that no more fencing is disturbed. The guard will be so placed as to make this sure, even if it should be necessary to place a sentinel over every panel of fence.

By command of Major General McDowell:
SAMUEL BRECK, *A. A. G.*

Colonel S. A. MEREDITH,
Commanding fifty-sixth Pennsylvania Volunteers.
Sent by Mr. Huffman.

I certify the above is a true copy.
E. P. HALSTED. *Capt., A. A. G.*

Mr. WADE. I am told that that Huffman, whose every panel of fence is to be guarded by a soldier paid for out of our pockets, is as arrant a traitor as there is on the face of God's earth. Now, sir, what say you? Can we reach that property? Can we forage on the enemy? The Senator says no. Restrained by the Constitution, are we? We cannot even take it in the field. If we can, we can confiscate it. If a State has a magazine for the prosecution of this war, our arm is

too short; the Constitution is so weak that we are restrained from taking it to feed a starving soldier. I say you will never bring this war to an end while it is the purpose of your commanders in the field rather to use their soldiers to guard the pigs and the chickens and the fences of your mortal enemies than to fight them in the field. The general who will place his guard so sedulously around the property of a rebel to protect it will not be very likely to fight that rebel in the field. It is idle; it is anomalous; it is not the voice of common sense nor the Constitution of the country. We have the power to defend that Constitution against assaults from all quarters. I have sworn to God that I will support it, and I never was more in the progress of that conscientious duty than when I stand here contending for the prosecution of this war with the utmost vigor, and the prostration of the power of the enemy. I am bound by my oath to be the enemy of the enemies of the Constitution. I have sworn to protect it, which presupposes that I am the enemy of those who assail it. The man who claims that the Constitution itself is a protection for treason is much more likely to violate it than he who stands forth the advocate of a law that shall use this rebel property for the purpose of suppressing the rebellion, and thus maintaining the Constitution of our country. In my heart of hearts I have it in charge more than anything else to maintain and defend the Constitution, the Union, and the old flag; and I will do it, though every slave be free and every rebel loses every cent of property that he ever had or ever will have. Until this spirit actuates the Administration I do not hope for a triumphant conclusion of this great controversy.

Sir, southern traitors may as well learn at first as last that if they will not consent to be our equals they must be our vassals. We offer to treat them as our equals. We have said to them, "you may be our equals on this floor, everywhere;" but they may as well understand that if they cannot consent to be our equals, they must be our vassals. They never can compete with us; they never shall be our masters; and therefore, if they cannot consent to be our equals, but wage war on us, it must end in their vassalage; for the glorious principles of our old Constitution shall never be subverted. We will stand upon this, although we take their property and their lives; and whatever else may come, the war shall be prosecuted with unremitting vigor, and with a resolute determination until treason gives up the ghost, although every cent of property belonging to the rebels be taken, and although their slaves be emancipated.

Mr. DIXON. Mr. President——

The PRESIDENT *pro tempore*. With the permission of the Senator from Connecticut, the Chair will lay before the Senate a message from the House of Representatives, requesting the return of a bill.

The Secretary read it, as follows:

IN HOUSE OF REPRESENTATIVES, *June* 23, 1862.

Resolved, That the Clerk be directed to request the return from the Senate of the bill (H. R. No. 280) to establish and equalize the grades of line officers of the United States Navy, in order that a clerical error in the engrossment of the same may be corrected.

The PRESIDENT *pro tempore*. No objection being made, the Chair will take it to be the will of the Senate that this request be complied with, and accordingly the bill will be returned to the House in compliance with the request.

Mr. HALE. Mr. President——

Mr. DIXON. I have the floor.

Mr. HALE. I rise to a question of order.

Mr. DIXON. I have not yielded the floor.

The PRESIDENT *pro tempore*. The Senator from New Hampshire rises to a question of order.

Mr. HALE. I simply want to inquire——

Mr. DIXON. I object to the Senator proceeding.

The PRESIDENT *pro tempore*. The Senator from New Hampshire is entitled to the floor, rising to a question of order.

Mr. HALE. I simply wanted to inquire, as a matter of order, whether the sending back of that bill supersedes the submission of it to the Committee on Naval Affairs, who have it, and have assigned it specially for to-morrow morning? That is the question of order I wish to submit.

Mr. DIXON. I submit that that is not a question of order. I do not think the Senator can take the floor by submitting such a question as that.

The PRESIDENT *pro tempore*. The question of practice does not submit a question of order for the decision of the Chair as a mere question of order.

Mr. DIXON. Mr. President, there are certain men in every deliberative body who, by reason of their talent, their virtue, their love of freedom, and every good quality which endears a Senator or Representative to the people, have a right to assume magisterial airs. When they do so, it is, perhaps, the duty of others to submit to it. I, for myself, claim no such privilege, and I do not like to submit to airs of that kind; much less do I delight in submitting to persistent misrepresentations, whether intentional or unintentional. Nor is it agreeable to be told, on explaining to a Senator that what he had misrepresented was misunderstood, that I myself did not understand what I had said. Perhaps that is proper; it may be a proper mode of senatorial and deliberative discussion; but if it is, I do not wish to imitate even the illustrious example of the Senator from Ohio in applying to him anything of that sort. It struck me as improper.

Now, sir, I will ask the indulgence of the Senate for a few moments, for this is a matter of some importance to me. I do not like to be placed on record before the country or before my constituents as holding a certain doctrine here which I do not believe. My constituents read what is said by the Senator from Ohio and they read what is said by the Senator from New Hampshire. What have I advocated? Whether my speech might have been made upon another bill is not the question. What have I advocated? I laid down a doctrine and attempted to elucidate it. The doctrine I laid down was this: that in acts of secession the States did not act as such; that they could not act as such; that they had no power to act as such; and I quoted what I considered high authority, and I attempted by reasoning to show that that was correct. I claimed on the contrary that the acts of secession were individual acts of insurrection, rebellion, and hostility, for which the individuals were liable. I thought I used language which showed that I considered them highly criminal, and that they were subject to pains and penalties and forfeitures of a very severe character. I deny that the Senator from Ohio has any greater horror of or aversion to crimes of that character than I have. I do not claim, and I do not understand him to claim, that the State of Virginia has committed treason, or that the State of Tennessee has committed treason. If the Senator claims that, let him say so. If he believes that the State of Tennessee in her corporate capacity has committed treason, why does he allow ANDREW JOHNSON to represent her here?

Mr. WADE. I have not entered on that subject at all.

Mr. DIXON. That is the subject I am upon, and was upon, and the subject that I have a perfect right to be upon, and a subject upon which the Senator had no right to misrepresent me. I said that the State of Tennessee had not committed treason; but that the people of Tennessee, or a large portion of them, I fear a majority, had committed treason, and in committing treason had levied war against the United States; and that the way to put down that treason and that war was by war in return. I am in favor of prosecuting that war with all the energy and zeal, and with, perhaps, all the vindictiveness that the Senator from Ohio is. I have no feelings of kindness, I have no feelings of love for traitors in arms. I do not wish to shield them. I have said nothing which showed a disposition of that kind. I would punish them in every legal manner, and I fear I should not be over scrupulous in inquiring as to what were the legal modes of punishment.

Mr. WADE. If the Senator will allow me a moment——

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

Mr. DIXON. I do.

Mr. WADE. I understood the Senator to argue that Congress had no power to pass a bill of confiscation, but that that power was lodged in the President of the United States, if there was any such power.

Mr. DIXON. I did not use the word "confiscation," except in the commencement of my speech in alluding to the speech of the Senator from Michigan, in which I said that his argument made to show that the bill of the Senator from New Hampshire [Mr. CLARK] was unconstitutional was very powerful; that he almost convinced me that it was unconstitutional, and that his argument showed the great difficulty of passing an act of confiscation that should not be subject to that objection. That is all I said about it. I did not say that Congress had no power to pass an act of confiscation.

Mr. HOWARD. If my friend from Connecticut will allow me, I beg to say simply in reply to the suggestion made by him, that those particular clauses of the bill reported by the select committee of the Senate on which I commented yesterday, and which I treated as unconstitutional and therefore void, are in no sense provisions for the confiscation of enemy's property. The word does not apply to those provisions. I did not treat them as enacting a confiscation, but as declaring something entirely different from confiscation. I desire also to say that I did not deny, and I trust the Senator from Connecticut did not understand me as denying, that Congress has full power of confiscation as a measure of war. I certainly said so repeatedly in my remarks, and have said so heretofore, and I still adhere to the same doctrine, so that it seems to me he could not have drawn such a conclusion from anything that I said.

Mr. DIXON. As to the word confiscation, I spoke of the bill rather in its common acceptation, whatever its title or object may be. The Senator attempted to show, in a most able and ingenious argument, that that bill for confiscation, or emancipation, or whatever may be its character, offered by the Senator from New Hampshire as a substitute for the bill of the House of Representatives, was unconstitutional. He will not deny that he made an argument for that purpose; and I said I thought he went far towards proving it; and I said further, his argument showed the great difficulty of passing any bill of the kind without conflict with the Constitution. I then went on another subject; and that subject was mainly this: whether the States, in what they had purported to do, or the individual actors in secession and rebellion, were simply to be considered as individuals making war against the General Government as traitors and rebels, and as liable, therefore, to punishment. That was the main question which I meant to present.

I did, it is true, take up the question as to whether the President had certain powers. I took the ground that this being now a war, and the President being Commander-in-Chief of the Army and Navy, and having a right to command the Army, he might in a region of country which he had conquered, the individuals of which were at war with the United States, appoint a military Governor over those people. I said I thought he ought not to call that military Governor a Governor of Louisiana or a Governor of North Carolina. He does so, and there I think he is in error; although that is verbal, merely technical. I do not consider Mr. Stanly Governor of North Carolina. I do not think the President had any power to appoint him Governor of North Carolina. I think he has power to appoint him over the subjugated portion of that territory included within those limits. Governor of whom? Governor of the public enemies whom he has conquered. They are at war against the Government in every sense of the word, just as much as if they were foreigners; and he has the same power, I think, to appoint a Governor over them that General Scott had to appoint a Governor over a conquered city in Mexico. If the Senator says I am wrong, I should be likely to submit to his superior knowledge of the Constitution. That was my opinion.

Mr. WADE. If the Senator will allow me, all I intended to say about the Senator from Connecticut was this: I gathered from his speech that he believed that Congress had no power to regulate these rights of war that otherwise devolved on the Commander-in-Chief.

Mr. DIXON. The truth was, the Senator did not listen very much to what I did say. I do not blame him for that.

Mr. WADE. I will ask the Senator now, does he hold that Congress has full power to legislate on that subject? That will end the matter at once.

Mr. DIXON. That is a question which cannot be answered with a yes or no. I think Congress has full power to legislate on every subject where power is granted or implied by the Constitution. If the Senator thinks he is going to bring

me up here to-day to answer that question on a bill that I have not examined, he is mistaken; of course I give no such answer as that. We all know the powers of Congress are those given either expressly or by implication. I think Congress has power, if the gentleman wishes to know, to regulate the President in a certain degree, by regulations and rules made for the Army. I think Congress may have power to pass confiscation acts. I do not deny it. I have never taken ground that they have not. On the contrary, I have taken the ground that they have. I have voted here several times directly and impliedly for a measure of that kind. I should be glad to see it passed. I want the bill to be constitutional. There is a bill which the Senator from New Hampshire [Mr. CLARK] has offered. The Senator from Michigan says it is not constitutional, and he will not vote for it. The Senator has avowed his love for the Constitution, and so has the Senator from New Hampshire, [Mr. HALE,] in language which implied that other Senators had not as great an affection for it. I tell them I would not violate my constitutional oath sooner than they would. If that bill is not constitutional, in my humble judgment, it will never have my vote. I do not claim to be very astute on a constitutional question. Still, I can form some opinion with regard to it; but I repeat, as to being inquired of whether a certain matter is constitutional or not, and I am to say yes or no, I do not think that is a proper way of catechizing.

I said another thing which might possibly be misunderstood, if it was of importance enough to be considered; I said it was just as much the duty of Virginia and Georgia, as a portion of the United States of America, to take part with the General Government, to assist the General Government in putting down this rebellion, as it was the duty of the State of Connecticut. The President of the United States thought so when he issued his call for troops to all the States. He did not suppose that they were out of the Union; and I say to-day that Georgia is as much bound, as a portion of the United States, to assist in suppressing this rebellion as Connecticut, in the eye of the Constitution. The Constitution, the law, does not excuse Georgia. In that sense, therefore, I say Georgia is in the Union. I think as a corporate body, as a body-politic and corporate, she is to-day in the Union. That is my judgment. I believe that the individual citizens of Georgia are guilty of treason, insurrection; and if I had the power I would march an army into the State of Georgia and I would quell that insurrection; I would use means as terrific as those which the Senator from Ohio would use, assuming, as he does, that he acts in a higher sphere on this question than I do. He shall not go to the people and tell them that I am asserting slavish doctrines here; that I am for yielding on this question; that I am not ready to use any means—proper means, of course, for none of us would use barbarous means; we do not intend to relapse into a barbarous state—to suppress this war in the State of Virginia, made upon us by whom? Not by the State of Virginia. She has never declared war; she cannot do it; but by the individual citizens of Virginia, who, as traitors, are levying war against the United States.

Now, sir, I cannot, for my part, conceive what was the cause of the excitement which the Senator from Ohio seemed to be under with regard to the few remarks I submitted, unless it was that they were on this bill, and he thought they must be one side or the other, and rather inferred they were not on his side, and supposed they were against his views, and therefore he must attribute to me those sentiments.

Now, he says the South must be here equals, or one or the other must be masters. I agree to that. If they ever come under this Government and act with us again, as it is their duty to act, it must be as equals, or the one or the other must be masters. I trust I need not tell the Senator from Ohio, who was born within five miles of the spot where I first saw the light, that I am no more ready than he is to admit those people as masters. I agree to the sentiment that if either party are to be masters it will be those north of Mason and Dixon's line. If either party is to be subjugated, to go under the yoke, it shall not be with my consent those whom I represent. That is my feeling with regard to it.

I am ready to take very extreme measures to bring about such a result. Have I not already said so? Need I refer to what I have said on the floor of this Senate before? I might claim, if it were proper for me to refer to what I have before said, that I was the first man in this Senate who said that if the time came that this Union of ours or slavery should perish, I would say, let slavery perish, and let the Union live forever. I say to-day that I would not hesitate a moment if the question were between slavery and the Union. I would emancipate every slave; I do not know but I would go further, and exterminate the white race from the southern soil, rather than consent to a dissolution of this Union. I know not where I would stop. The war should be terrific, overwhelming, devastating, if it swept every man off the face of the country in the rebellious region. That is my feeling with regard to it; but still, while I have that feeling, I claim to cherish some feeling of humanity. I should be glad to see the war brought to a close by milder means than those I have indicated; I do not wish to see the extirpation and the extermination of the white race; but in all that is necesary to sustain and uphold the authority and majesty of the Government of the United States I will go as far as the Senator from Ohio; and he will pardon me for feeling a little unwilling that he should by color of statement represent me as entertaining any other view.

I think the doctrine I asserted was the only correct one. I think it is a fatal heresy to say that these States are out of the Union. It is, to my mind, secession itself. If they are out of the Union, I know not how they can return. If these States have severed their connection with the Government of the United States, I know not how they can be restored. But, sir, my belief is, that they are just as much subject to the Constitution of the United States as they ever were. They cannot throw it off. I never would consent that they should throw it off. To my mind, this opens up a much easier mode of reconciliation, if a reconciliation after public enemies are subjugated ever shall take place. Now, sir, suppose the war is at an end; suppose the rebellion is suppressed, crushed out, and armed resistance to the Federal Government has ceased through all our wide domain. Suppose it shall appear that the loyal citizens of Tennessee—a seceded State, a rebellious State, if a State can secede and rebel; for a majority of that State and their Legislature have voted for secession, and have been in actual, open, flagrant war with the United States—suppose the loyal citizens of Tennessee should be in a majority, should elect a Legislature, and they should send a colleague to ANDREW JOHNSON here; perhaps the present Clerk of the House of Representatives; and he comes in here with his commission as a Senator: shall we then be told that Tennessee is not in the Union; that there must be a reconstruction; that she must be readmitted into the Union? She must be, if the resolution of the Senator from Massachusetts is correct. That I understand to be his doctrine. He says Tennessee is guilty of *felo de se;* that she forfeited her rights as a State. Does the Senator from Ohio believe so? If he does, let him say so. Does the Senator from New Hampshire believe that doctrine? I do not think he does. If he does, I have the misfortune of differing from him. I say Tennessee has not forfeited her rights as a State; that she cannot forfeit them by any act as a corporate body. I might say, perhaps, that she had no rights. Her citizens have rights; and they have a right under and by virtue of the Constitution which created a Government, not of Tennessee, but of all the people of the United States, to all the privileges granted by that Constitution. If their light is extinguished, "I know not where is the Promethean torch that shall that light relume." When that State shall send here a loyal representative, chosen by a loyal Legislature, I shall ask him when he crosses that threshold, as I asked the honorable Senator from Oregon, [Mr. STARK,] whether he was loyal? I had reference to this question then. I never would admit that a Senator could enter this Chamber without having that question put to him; for I think that to be a citizen of the United States, implies a loyal citizen of the United States. If he is not a loyal citizen of the United States, he is no citizen. That is understood and implied in the Constitution. Therefore, I ventured to say, and thereby gave offense to some Senators, that I thought the vote of the Senate was disastrous on that question with regard to the Senator from Oregon. I intended, of course, no disrespect to any individual. I thought I could speak of the vote rather as an abstraction. I thought it was an unfortunate vote, so far as it gave up the doctrine that we might ask a Senator, when he attempted to cross that threshold, whether he were a loyal citizen. If a Senator from Tennessee came here to-day, and in reply to that question should tell me he was loyal, and that he was elected by a Legislature which had taken the oath to support the Constitution of the United States, the question would be, whether he should be admitted here or refused admission because Tennessee was not in the Union?

That is what I intended to talk about when I was up before, and I received a rebuke directly from the Senator from Ohio, and, as I thought, rather impliedly from the Senator from New Hampshire.

Mr. WADE. I did not intend any rebuke. I mistook the gentleman. I thought he was speaking of the bill under consideration; but I now understand that he was speaking on another subject.

Mr. DIXON. The Senator spoke of both Senators giving up to the principle of executive authority. I did say I thought he could free a slave. Does the Senator think so? If he was in command of the Army, and found a slave who, if his liberty were given him, would be useful to the service, would not General McClellan have power to liberate him?

Mr. WADE. Certainly.

Mr. DIXON. But, sir, I have dwelt on this subject too long. I gave my reason for speaking upon it in the outset, and gave it in good faith. What the Senator from Ohio and the Senator from New Hampshire say is read and pondered, marked and inwardly digested in the State from which I come, and therefore I was unwilling even to be misinterpreted by those Senators.

Mr. HOWARD. Now that my friend from Connecticut is on the subject of the seceded States in a condition of actual rebellion, and that he denies so stoutly that a State can commit *felo de se*, as it is called, I ask him what has become of the ancient and respected loyal State of Tennessee, with its State government, its Senate and House of Representatives, its judicial authorities, and all its other State magistrates and functionaries? Where is that loyal State; where are those functionaries, and what are they in law? Do they exist in fact? I desire him to answer that if he pleases, for I regard it as a question of some consequence, and one upon which I shall take the liberty of saying a word at the proper time in the Senate. I want to know what has become of the loyal State of Tennessee?

Mr. DIXON. That is a question on which I have bestowed some thought in the discussion which I have already commenced here, and I will give him my views in regard to it. It is not a question free from difficulty; it is a difficult question; but in the outset I will commence by saying that in considering what has become of the State of Tennessee, we cannot admit that the State of Tennessee is not in existence for the reason which I have indicated already, as a question of fact. ANDREW JOHNSON is to-day a Senator of the United States, and his name is every day called by your Secretary, and he is sometimes wanting here to make a quorum. I think therefore the Senator from Michigan must admit that Tennessee is a State in that case.

Mr. HOWARD. No; it does not follow from that. Mr. JOHNSON was elected while the State of Tennessee was loyal. My question is, what has become of the loyal State of Tennessee?

Mr. DIXON. Very well; that does not affect the question whether Tennessee is in the Union. It affects the question whether Tennessee is loyal to the Union. Disloyal Tennessee, that is, a disloyal Legislature, may not elect a Senator. Now I will tell him what I think of the State. Blackstone says the King of England is a corporation, and can never die. I think the State of Tennessee is a corporation, a body-politic and corporate, and can never die. That is my belief in regard to it. I may be mistaken; but where is the government? Is that disorganized? Very likely. It is possible that a State may be in abeyance; it is possible that the government of a State may be disorganized; it may be disorganized by invasion, or, as in the present instance, by insurrection or war. What then? Has the State ceased to exist as a body-politic and corporate? There may be a practical difficulty as to

electing a Legislature, but I think not, because the constitution of that State, which is still in force, provides that on a given day in October in every year the electors of that State may assemble and choose members of the Legislature. I think under that constitution the people of that State have the power to meet and choose a Legislature and a Governor; and I doubt very much whether the Senator from Michigan would be very particular in his inquiries as to the mode in which it was done, provided he believed that a very large majority of the people of that State had really met for that purpose.

Mr. HOWARD. If the Senator will allow me, I should be very particular as to the quality of persons elected. I should never stand here in the Senate, or in the other House of Congress, and admit the possibility that persons elected by the rebel voters of a rebel State, a State which had repudiated and renounced its loyal Constitution and set it aside by committing an act of secession, could ever be constitutionally members of either of these bodies. I should never admit that the Governor of a State, elected under these circumstances could be treated as the Governor of the State under the Constitution of the United States. There is no use in splitting hairs about it.

Mr. HALE. Mr. President——

The PRESIDENT *pro tempore*. The Senator from Connecticut is on the floor.

Mr. HALE. I thought the Senator from Michigan addressed the Chair, and as soon as he sat down I addressed the Chair.

The PRESIDENT *pro tempore*. The Senator from Michigan obtained the floor through the courtesy of the Senator from Connecticut, who yielded to him.

Mr. DIXON. Now, sir, I too should be very particular, as much so as the Senator from Michigan. I would see to it that no disloyal voters had chosen a Legislature. But I put the case of loyalty. The Senator asked me where was the State of Tennessee? That is the question he asked, and I have been attempting to answer it. I said that, if the people of Tennessee were loyal, a large portion of them, a reasonable portion of them, so that we could in good faith think that Massachusetts and Tennessee now stood in the Union on equal terms in regard to loyalty, then, when those people met and voted for their Governor and their Legislature under the forms of their constitution—let us be particular in inquiring into the mode of that election, whether it was in good faith, whether the voters were loyal and the men chosen were loyal, if they appeared to be loyal—I should hold that they are entitled to representation here. I think they are to-day, as much as Connecticut. I think there is nothing that the corporate body of the State of Tennessee has done which deprives them of that right. Individual citizens of the State may have deprived themselves of all rights. If they were unanimous in it, then they may have deprived themselves perhaps of all rights; but I do not see how loyal citizens of the State are deprived of their rights by the sins of disloyal men.

Sir, this is a question of great importance, and it is becoming every day more and more so. If we put down this rebellion, this question must be discussed and decided. In this shape, I initiated the discussion. The Senator from Massachusetts offered a resolution which I thought unsound. I submitted a proposition embodying the true doctrine, as I thought, and I have endeavored to explain it. I do not like to be misrepresented; I like to be understood as I intend, if possible. The charge of a slavish devotion to despotism is not a very agreeable character to maintain, and I claim that to be held up as in any way yielding to others in a determination to suppress, overthrow, quell by every possible means this war against the Constitution is disgraceful, and therefore I am not willing to submit to it.

Mr. HALE. I am only going to occupy a moment in reply to the Senator from Connecticut, and it is on a personal matter entirely. In the many years that I have been on this floor, if there is one thing that I have prescribed for myself that I would never do, it has been that I would never assail any man, nor attribute dishonest motives to him. I exceedingly regret that a Senator whose relations with me have been so friendly as those of the Senator from Connecticut should have begun a speech vindicating himself from what he conceived to be an unjust charge by attributing dishonorable motives to me.

Mr. DIXON. Allow me to say that I had not the Senator from New Hampshire in my mind at the time. He had said nothing offensive to me, but he said everything most agreeable and even flattering. If he supposes that I alluded to him, I beg to apologize to him for it. I referred to what I thought was an offensive remark of the Senator from Ohio.

Mr. HALE. What I complain of is this: when I got up to ask the Chair a question of order that I thought was necessary for the guidance of the committee over which I preside, that had a bill assigned to them for to-morrow morning, and when I made an inquiry of the Chair in good faith, the Senator from Connecticut accused me of evading the force of his right upon the floor. What I complain of is that he in the very first sentence of his vindication, accused me of dishonesty in the question I proposed to the Chair.

Mr. WRIGHT. I move that the Senate adjourn.

The motion was agreed to; and the Senate adjourned.

HOUSE OF REPRESENTATIVES.

WEDNESDAY, *June* 25, 1862.

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

The Journal of yesterday was read and approved.

EMANCIPATION.

The SPEAKER, by unanimous consent, laid before the House resolutions of the convention of the State of Missouri relative to the resolution of Congress upon the subject of emancipation; which were referred to the select committee on emancipation, and ordered to be printed.

WEST VIRGINIA.

Mr. BROWN, of Virginia, by unanimous consent, introduced a bill for the admission of West Virginia into the Union, and for other purposes; which was read a first and second time, and referred to the Committee on Territories.

TAX ON BANK CIRCULATION.

Mr. LOVEJOY asked leave to introduce the following resolution:

Resolved, That the Committee of Ways and Means be instructed to inquire into the expediency of imposing a tax on the bank circulation of the country, and report by bill or otherwise.

Mr. DAWES objected.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. FORNEY, its Secretary, announced that the Senate had passed, without amendment, bill of the House No. 515, to provide for the appointment of an Indian agent in Colorado Territory; and bill of the House No. 521, for the relief of William B. Dodd and others.

The message further announced that the Senate had passed a bill (No. 346) for the relief of Jane B. Evans; in which he was directed to ask the concurrence of the House.

EMANCIPATION IN THE DISTRICT.

Mr. LOVEJOY asked leave to introduce, for reference merely, a bill explanatory of the act entitled "An act for the release of certain persons held to service or labor in the District of Columbia," approved April 16, 1862.

Mr. JOHNSON objected.

REBELLION LOSSES.

The regular order of business being called for,

The SPEAKER announced the regular order of business to be the consideration of the bill (H. R. No. 401) relating to claims for the loss and destruction of property belonging to loyal citizens, and damages done thereto by the troops of the United States during the present rebellion; upon which the gentleman from New York [Mr. SEDGWICK] was entitled to the floor.

Mr. SEDGWICK. Mr. Speaker, the subject-matter of this bill is one of great importance; the claims arising under it will be very numerous and very large, and it is important that this Congress should settle upon some method by which these claims can be properly and equitably adjusted. It is of course impossible that we should undertake to remunerate citizens for losses not the immediate consequence of warlike operations; but there is a class of claims, and that class a very large one, which will press upon Congress for adjustment; and it is for the purpose of fixing some method of settling and adjusting these claims that this bill is introduced.

I propose to ask the attention of the House for a few moments to an examination of the various provisions of this bill, and to examine and see whether this is not a prudent and safe method of settling these claims. The claimants who are recognized by the terms of this bill are loyal citizens alone. The class of claims which is recognized is specified in the third section of the bill, and I desire to call the attention of the House to the nature of that class of claims. After providing for a court, to which I shall recur in a moment, the commissioners are by the third section of the bill given cognizance of all claims against the United States, which shall be presented to them by any person who during the present rebellion has sustained or may sustain damages, in four separate classes. First, by the loss of any property which has been or may be taken by public authority for the use and occupation of the Army; second, for all property taken or impressed by public authority for the use or subsistence of the Army during the rebellion; third, all claims for damages by the destruction of any house or building while the same is occupied as a place of military deposit for military or naval stores, or as barracks for the military forces of the United States, under the authority of an officer or agent of the United States; and fourth, all claims for losses or damages sustained during the rebellion by any person in consequence of the destruction of his or her real or personal property by troops in the service of the United States by order of the commandant of the corps for whose use the same is occupied, taken, or destroyed. In other words, it provides for settling the claims of persons who have suffered the loss of real or personal property in all cases where, under competent authority, it has been taken for the use of the United States or has been destroyed by order of competent military authority, or occupied or taken by them. It excludes, of course, all cases of private violence or trespass where the parties can have their remedy in the courts of the United States or in the courts of the several States. If the House shall think that these several classes are too extensive and include claims which ought not to be paid by the Government, this bill, of course, is open to amendment and correction in these respects; but it strikes me that unless some valid objection is made to one or the other of these several classes, they are proper subjects for consideration and for remuneration by the public authorities, on the ground that they are the direct consequences of the war and of warlike measures, and that the burdens of the war in this particular should not be thrown wholly upon private individuals, but should be borne or contributed to by the Government.

In the next place, the bill provides in the first and second sections a tribunal to examine such claims. It provides that there shall be a court or commission consisting of three commissioners, to be selected by the President of the United States, with a solicitor, a clerk, and a marshal, and that before those commissioners all claims of private citizens shall be brought for examination. The bill does not contemplate a final decision by these commissioners; but it is rather a commission appointed with power to bring before them witnesses and take testimony and settle the facts in regard to the *status* of the claimant, his loyalty, his loss of property, and the remuneration to which he shall be entitled, and the reports of that commission are to be communicated to the Secretary of War by them, and by him certified to Congress, and Congress is to act upon them and confirm or reject the findings and opinions of the commission, as to them shall seem proper.

There are other tribunals before which these claims could be brought. You may charge the Supreme Court of the United States with the examination of these claims; but gentlemen will recollect that the Supreme Court of the United States is already burdened with its ordinary business, that its calendars are large and continually increasing, that the judges of the circuit and district courts of the United States are fully employed in the ordinary business of the respective circuits and districts, and that it would produce that interminable delay which is the curse of most of our courts, and which is substantially a denial of justice to all who should be driven there with these extraordinary claims.

In the next place, there is the Court of Claims, a tribunal which has been established for the adjustment of certain claims against the Government. We all know that that court has been, and is now, fully occupied and employed by the ordinary business which has fallen into its hands, and that it would be no saving, either of time or of expense, to throw this special and extraordinary business, this class of cases that has arisen out of this war, upon the Court of Claims. We all know that it will be no saving in any way; that it will cost as much, that it will interfere with their other business, and that it will be subject to the same objection which I made to the Supreme Court of the United States; that is, that it will produce very great delay in the settlement of these claims.

In the next place, it has been proposed, by a substitute for this bill, to throw this business upon the State tribunals.

Mr. WICKLIFFE. The gentleman is mistaken. Look at the amendment as printed.

Mr. SEDGWICK. I so understood the amendment when it was read—that the chancellors of the State courts, or commissioners appointed by them, were to perform the work. If I am mistaken on that, of course I have nothing further to say.

Mr. WICKLIFFE. I suppose the gentleman looked at the proposition as it was originally drawn. The commissioners of the Federal courts, who are now charged with the high and important duty of taking depositions, are the persons indicated in the amendment as it now stands.

Mr. SEDGWICK. I had not noticed that such a modification had been made; but that does not improve the proposed tribunal at all, in my judgment; for if there are any tribunals charged with the performance of judicial functions that are meaner than any other in this country, it is these commissioners appointed by the United States circuit courts.

In the next place, there is the tribunal of Congress. I quite agree with my colleague, [Mr. OLIN,] who spoke upon this bill when it was last before us, that it is, if possible, still meaner. The difficulty with Congress is this: that a private claim before it is never determined. A man is sent out of the court, and he appears again at the next session, and reappears from time to time, until, in order to get rid of him, his claim is passed upon favorably. There is no uniform rule in Congress by which claims are determined. They are determined by caprice. They are determined generally upon the standing and character of the committees, or the individual members of the committees who report them. As a general thing, they are not examined by members of Congress outside of the committees to which they are referred, and the committees themselves have no fixed and definite rules of proceeding in the consideration of these claims. The evidence before them is generally upon oral statement, without oath, or upon the statements of interested parties, in the form of memorials or affidavits, and the committees have no opportunity, no time, no inclination to examine witnesses on both sides of a contested claim, in order to find out what the real truth and justice of the matter is; and therefore I object to Congress being charged with the examination of these claims, so far as ascertaining the facts are concerned. In regard to that, when a competent tribunal, under the authority and direction of Congress, has ascertained the facts in a particular case, proceeding upon uniform rules, when they have an opportunity of ascertaining all the facts, with authority of examining witnesses upon both sides of the claim presented, then Congress may act, and may exercise its discretion in rejecting or confirming these claims before they appropriate money.

There remains, then, the mode provided for by this bill—three commissioners, with a marshal, a clerk, and a solicitor, charged with obtaining information in regard to these claims. The objection made to it is to its expense. The whole salaries provided for by this bill amount to $14,600 a year. A clause of the bill, to which I shall refer hereafter, limits the time of presenting of claims to this tribunal to three years. That is the statute of limitations as connected with this bill. These claims will unquestionably be determined by that court, and within that time or within a very limited time thereafter. So that the expenses of the court practically terminate when the claims shall have been passed upon, within the three years provided for by the third section, as amended by the committee. So that upon the subject of expense I apprehend there is no difference against the proposition as between the commission provided by this act and any other tribunal to which it has been proposed to refer these claims. If Congress is to sit here and examine and adjudicate and take testimony upon these claims, I do not think it will be any saving of expense to pay the whole Congress for the time that shall be consumed rather than to pay this commission. If they go to the Supreme Court, or the Court of Claims, or to the tribunal provided by the substitute of the gentleman from Kentucky, [Mr. WICKLIFFE,] I apprehend there will be no saving in the matter of expense as between any of these tribunals and the court provided for by this bill.

Now, the advantages of this court are these: this court is to establish uniform rules of proceeding; they have a right to go upon the place where the injuries are claimed to have been committed, and examine, upon oath, the parties, the claimants. Due notice is to be given of the witnesses to be examined, so that no injustice may be done to the Government or to the claimant. They are to give their whole attention and time to the consideration of these claims, and they will necessarily establish uniform rules; they will acquire experience, and they will be able, in a little time, having established general principles upon which these cases are to be determined, to proceed rapidly and uniformly, with some regard to order and justice in the examination of the various claims presented to them.

If they are competent men, and we have a right to suppose they will be, as selected by the President—if, I say, they are competent men, they will reduce this whole subject to a system, to such a system as shall protect the Government from fraud and imposition, and which shall deal justly and fairly by the claimants, who are entitled to their consideration under the bill which gives them jurisdiction.

Now, this bill has provided various safeguards for protecting the Government against imposition from the claimants. In the first place they require that in every case where a claimant presents himself before them he shall make out the amount of his damages, designating all the items of his alleged losses or damages, with a statement of the circumstances attending the same, and names of the officers who commanded the troops by whom the damages were occasioned, and the time and place where such losses were sustained. The account is to be verified by the oath of the claimant, which shall proceed to state any assignments that have been made of the claim, any vouchers which may at the time have been given by the officers of the Government under whom the claims may have arisen, and any settlement or allowance which may have been made by such officers of the claim. They are further to state whether or not any payment has been received by the claimant, or any person for him, for any part of the claim or damages which he alleges he has sustained. They are also to exhibit proof of title to the property, showing the extent of their interest, separate or joint, which may exist in relation to it. They are to furnish the names of all persons who may have had any share or interest in the property. Besides that, publicity is to be given to the claim. It is not to be a secret matter, known only to the court, as matters pending before a committee in Congress are frequently kept, known only to the committee which has charge of them. Before any such claim is to be considered by the commission the party making it is obliged, by the terms of this act, to publish in such public newspaper in the neighborhood as shall be designated by the commission, once a week for four consecutive weeks, a notice containing a statement of the particulars and grounds of the claim, and that the same will be presented to the commissioners of claims under this act for adjudication.

The bill also requires the claimant to state in his notice, in addition to these particulars, the authority under which the property was taken, damaged, lost, or destroyed, for which the claim is made; so that if a disloyal person undertakes to assert a claim for loss of property, or if a person who has been engaged in the rebellion undertakes to do it, he is obliged to give notice in his neighborhood to persons who know his standing and any course he may have taken in relation to this controversy. The commissioners will therefore be put upon their guard by persons in the neighborhood against any improper claim, or any claim which ought not to be produced.

There is another safeguard contemplated by the bill which I consider of great importance to the Government. By the sixth section it is provided that any person who shall corruptly practice, or attempt to practice, any fraud against the United States, or who shall set up any fraudulent or unjust claim, or who shall in any proof with which he shall accompany it, or in his own statement accompanying it, undertake to impose upon the Government, whether the claim shall of itself be unjust or fraudulent, or shall be prosecuted by fraudulent means, that claimant shall forfeit his claim to the Government absolutely; and it is made the duty of the commissioners in such cases to make a special report of the facts and fraud which were practiced upon the Government to the Secretary of War, and if he shall concur in and approve the finding of the commissioners, the claimant shall be forever barred from prosecuting his claim.

Now, if that rule had prevailed in Congress for the various committees of Congress before whom these claims are brought—if they were required to make such a report, and the claimant were, when convicted of fraud, to be forever barred from again presenting his claim to Congress, we should have had far fewer unjust and wicked claims passing this and the other House of Congress, making us the contempt of the country and of ourselves when we ascertain how we have been imposed upon in regard to old, stale, fraudulent claims which have been forced through Congress.

Beside these guards, this solicitor is appointed by the Government, whose business it is to guard their interest. He is furnished with authority to compel the attendance of witnesses; and wherever the claimant shall disclose, upon his written statement, either the name of the officer under whose authority the loss is claimed to have been sustained, or the names of persons who are claimed to have been cognizant of the circumstances under which the claim is alleged to have arisen, who, in other words, know all about it, the solicitor is entitled to compulsory process to compel the attendance of such witnesses. He can then examine the officer of the Government who is alleged to have authorized the injury of the property, or he may examine the claimant under another provision of the bill, or he may examine the witnesses whose names are disclosed by the written statement of the claimant. And besides this, by the ninth section, the commissioners are authorized to make a personal examination, in their discretion, of any farm or plantation, both in regard to the extent of the loss or damage alleged to have been sustained and the circumstances attending it.

If any gentleman will suggest any other safeguard against fraud or against imposition which this bill has not provided, I have no doubt that it will be cheerfully accepted and incorporated into this bill by the committee which has reported it. The bill provides all the ordinary safeguards, and far more than the ordinary safeguards, that are thrown around individuals against whom claims are presented in courts of justice. The commissioners are authorized to put the party to the test of his oath, to examine his neighbors, to examine Government officers, to examine everybody that can have any knowledge in regard to these claims; and the party attempting imposition on the Government does it at the peril of forfeiting his whole claim. There is nothing there wanting, in my judgment, to guard the Government against fraud and imposition. The business is put into the hands of a tribunal charged with nothing else—having nothing else to interfere with the prompt, thorough, speedy examination of any claims that may be made for losses suffered on the order of a Government officer having competent authority to seize their property or to inflict the loss for which the claim is presented. The tenth section excludes from the consideration of this commission any claim against the United States for the loss, value, or service of any slave or person of color, or for damages or losses arising from his or her escape, capture, or detention.

For any other property, indeed for *any property*, that is taken or lost under the authority and direction of an officer of the Government, the mode of

adjustment is provided for all loyal citizens, and for none other. It is an equitable tribunal, a tribunal not proceeding according to the fixed forms and rules of the common law, but which, on most liberal and equitable principles, guarding against all sorts of imposition and fraud, will make a thorough, careful, particular, and speedy examination of all claims of loyal persons for losses which they have suffered under authority of the Government of the country. I say for *any property*, because I do not consider a slave as *property* in any fair or just sense of the term. My colleague [Mr. OLIN] says that this is an idle and speculative question which should be left for discussion to the pages and employés of the House, and not of sufficient dignity or importance to engage the attention of members of Congress. He expresses his opinion that this is as fair and just a claim as any other; and his objection to the bill rests on what he calls this disgraceful discrimination in it. Now, I do not regard the subject of this controversy as either idle or speculative. The question whether the relation existing between master and slave is a relation of owner and property, or a civil relation between persons, is an important question, because when you admit that a slave is the *property*, the *chattel* of any other man, you yield most of the controversy that has been going on in Congress for the last few years in reference to the rights of southern people to take their slaves into the Territories of the United States. If it is property, and nothing else, it would be very hard, on any logical argument, to exclude them from the right to go into the Territories and occupy them with this property as with all other property. I therefore do not regard the question as a speculative or idle one, because from the proper determination of that starting point very many consequences on one side or the other may be deduced.

Mr. OLIN. Mr. Speaker, I wish simply to call the attention of the gentleman to what I did say, because I desire not to be misrepresented on this subject, and I do not suppose that the gentleman has any wish to misrepresent me. I said, what is obvious to him as a lawyer, and to everybody else who has any claim to the name, that the laws of the slave States created a relation which those who enjoy that relation thought to be a profitable one. Now, I say, that if that relation is recognized by law, not only in the States where it exists, but by the General Government, and by the courts of the General Government, it is idle for us to inquire whether that relation, thus created by law, made a man a chattel or a servant. The laws of my own State authorize a person or corporation to issue bank notes. It is a profitable business, and is regarded and protected as a property interest. Does it follow that therefore you can pack your bank in a one-horse cart and carry it over the whole country on the ground that it is property? Certainly not. Nor can this property interest created by the laws of the slave States, precisely analogous to such property rights as are created by law and do not exist at common law or the law of nature, be taken beyond the local jurisdiction creating it. All I intended to say was that that relation was regarded, not only by the laws of the States where it exists, but by the whole theory of the Federal compact, as a property relation, as an interest to be protected. I recognize thus far that relation, but I recognize it as a relation which exists in a State where it has existence, not to be extended to the Territories or elsewhere beyond the jurisdiction that created it. That is all I say. And I repeat that while I regard such a relation as a bad one, it is a property interest, and good faith demands that it shall receive protection, like any other interest.

Mr. SEDGWICK. The gentleman has repeated the substance of a part of his argument. I will read the conclusion of it in his own language to show that I do not misrepresent him at all:

"Certainly. But I was not commenting upon that feature of the bill. I was commenting upon this disgraceful—and I say it now advisedly and meaningly—I was commenting upon this disgraceful feature of your bill which says that men shall be compensated for one species of property, but shall not be compensated for another."

Now, I do not misunderstand or misrepresent my colleague when I say that he claims that this property in slaves stands on the same footing as any other property, and should be equally entitled to compensation under this bill; and, as he remarks in another place, he dislikes this bill because of that discrimination, whereas I like it because of that discrimination. He says that this idea of property in slaves is according to the theory of our Government. I deny it. I say that the Constitution of this country, when formed, and the proceedings and history of the convention which formed it, show, beyond all possibility of doubt, that our fathers never intended to recognize, and rejected the idea of one man owning another, or that there was such a thing as property or chattelship in a human being. The relation is, in its origin, one of force, not of law. It is a successful piracy which begets the relation of master and slave. From beginning to end, undertake to regulate it as you may by human law, it is the relation of superior to inferior force, and there is no right of property in it. It is the right of the strong man over the weak, and when the weak has acquired the strength to resist and reverse the relation, he has just as good a right to own his master as his master has to own him. He is entitled to the benefit of all the strength and skill and mind and will that he can bring to bear on the question of changing the relation whenever he can. It is a relation of force and not of right. It never was recognized by our fathers. The whole theory of our Government proceeds on the doctrine of equality and justice, and not of iniquity and force and fraud like this. I therefore say that, so far as I am concerned, I never will recognize that one man is the property of any other man anywhere. It is not only folly but it is madness in us to recognize that relation now. It is a theory that has grown up with the attempt to press slavery on an unwilling people within the last few years, and never originated before.

Now, I undertake to say that where this class of persons has been in the service of the Government, or has aided the Government in its time of trouble and rebellion, the Government has a right to such service; and if anybody is to be paid for it, it is the man who performs the service; and I say that the first and amplest reward for all such service should be the freedom of the man who renders it, and of all his family and descendants, forever. It should not be a money reward to the man who claims his service, and claims a right superior to that of the Government, but a reward to the man himself who turns out to defend the liberties of the country; and that is the difference between my colleague and myself. It is a difference that flows from recognizing slavery merely as a civil relation which can be made by the State, but which can also be unmade by the State, or the relationship of chattelship on one side and proprietorship on the other. Now, I am not disposed to deal unjustly toward those States where this relation exists, where it has been established by the State, and where loyal persons are existing in this condition. I am willing, and have expressed that willingness in my vote, that the Government should come in, if they abandon the relation, and enter upon a course of emancipation of the slaves in the States. I am willing, I say, to contribute something to aid them, in a pecuniary way, for any consequential loss which may ensue, not upon the ground that they own the property at all, not upon any such ground, but for the purpose of indemnifying loyal and patriotic citizens, who, for the general good, consent to change a relation which is dangerous to the State and which the Government desires to have changed.

Mr. PHELPS, of Missouri. I hope the gentleman from New York will permit me to propound an interrogatory to him in that connection. If I understand him, he declares that if the States enter upon a system of emancipation, he is willing to compensate loyal men for the loss of the labor of their servants. Now, will the gentleman inform me in what clause of the Constitution of the United States he believes Congress is authorized to make such an appropriation of the revenues of the country, and to tax the people of the United States for that purpose?

Mr. SEDGWICK. That question has been fully discussed in the absence of the honorable gentleman from Missouri, and before we passed the joint resolution authorizing the Government to tender its aid to loyal persons in the States disposed to abandon its relation. It is hardly necessary to go over that argument now.

Mr. PHELPS, of Missouri. My question was merely that the gentleman from New York would tell us from what clause of the Constitution he derives the power of Congress to appropriate money for the purpose specified? It is very easy for him to answer the question if the Constitution confers that power.

Mr. SEDGWICK. There were some elaborate speeches made on that subject while the joint resolution was under consideration, and the gentleman will have no difficulty, if he will go back to the debates, to find the clauses of the Constitution from which this power is claimed. At all events, it has passed. We have determined to lend the aid of the General Government. If the gentleman from Missouri and those interested with him in that relation are disposed to reject the aid, it is a matter for them to decide; the Government is not enjoined to impose its aid upon those who are unwilling to receive it.

Mr. MENZIES. The gentleman from New York has stated that he has, by his vote, shown that he was willing to aid the slaveholding States should they adopt a system of emancipation. Now, can he indicate to the House to what extent he would be willing to give that aid?

Mr. SEDGWICK. I am willing to give them just the aid that the resolution proposes to give, and not one cent more, either by this bill or by any other bill.

Mr. MALLORY. I desire to ask the gentleman from New York, who seems to be very earnest in what he says, whether, if any individual slaveholder in the State of Maryland, or in any of the border slaveholding States, who shall indicate his willingness to liberate his slaves on the condition that he is compensated for those slaves by the General Government, he is willing to vote for a bill to compensate that individual?

Mr. SEDGWICK. I am not. I would not give one shilling to purchase the slaves of any one individual slaveholder, except upon the law of the State which emancipated every slave within it.

Mr. MALLORY. While the gentleman allows me to occupy the floor, I will say to him, under my thorough conviction, that his declaration to-day is based upon the knowledge which he has, and which, at least, I have, that the Legislature of no slaveholding State will pass a bill to emancipate the slaves held in it. The gentleman's philanthropy, therefore, is a cheap philanthropy.

Mr. SEDGWICK. It may be cheap; but the State the gentleman undertakes to speak for as being unwilling to accept the bounty of the Government, may find, in the day of their need, that they have made a very sad mistake.

Mr. MALLORY. The gentleman says that they lie under a very sad mistake.

Mr. FISHER. I ask the gentleman from Kentucky whether he would favor the inauguration of a scheme for the emancipation of the slaves, and whether he would vote for compensation to the slaveholders?

Mr. MALLORY. My name is upon the record against that scheme.

Mr. FISHER. So I observe.

Mr. MALLORY. I believed that it was an interference with slavery in the States, and so believing, I voted against it.

Mr. FISHER. Where does the gentleman get his knowledge that no border slaveholding State will inaugurate a scheme of emancipation?

Mr. MALLORY. I did not state that I had any knowledge, but that the conviction of my mind was that no border slaveholding State would inaugurate such a scheme. I did not have Delaware in view, because I have long since ceased to regard her as a slave State.

Mr. FISHER. I am glad of it.

Mr. MALLORY. There are a few slaves in New York, and I would as soon think of calling New York a slave State.

Mr. SEDGWICK. There are no slaves there; the gentleman is mistaken. We carried out the compromises of the Constitution in good faith by abolishing slavery, and the people of Virginia and Maryland would have emancipated their slaves, if it had not been found more profitable to breed them than to emancipate them.

Now, whatever views gentlemen may entertain in regard to the propriety of accepting the aid of the General Government in the way in which it was offered, I wish, sir, to record my belief that with or without aid from the General Government, emancipation will occur in all of the States of this Union——

Mr. WICKLIFFE. How and when?

Mr. SEDGWICK. How and when! I will answer the gentleman. I hope and believe that

before this war is ended the sun will not shine upon a slave upon all of this continent.

Mr. WICKLIFFE. The gentleman is for freeing the slaves under the war power.

Mr. SEDGWICK. I hope the war and slavery will end together. I have no alarm on the subject.

Mr. MALLORY. The gentleman says that this war will result in the annihilation of slavery. My regret at such a consummation would be lessened if we would secure at the same time his annihilation and that of such as he by hanging.

Mr. SEDGWICK. Ebulitions of impotent passion will not move me on the subject. I hope that the two things will end together. I hope that the end of slavery and of this war will be written together upon the same page of the history of this country.

Sir, I have been drawn out of a fair and legitimate discussion of this bill by these interruptions, but if gentlemen are anxious to obtain my views upon any question connected with slavery, they can be very easily accommodated, for I am not standing here to disguise those opinions, but to proclaim them and defend them openly.

I say there is no reason or justice in striking out the provision of the tenth section, which prohibits these commissioners from taking any cognizance of any claim against the United States on account of losses in this respect. If that is stricken out of the bill, I shall be opposed to the bill. I want it to stand, in this respect, exactly as the committee have reported it, and if gentlemen in the border States, where the claimants for these losses universally reside—because war has not yet made its footprints upon the soil of any free State, and I do not believe it will—if gentlemen residing in the border slave States which are represented here, desire a tribunal calculated to protect them against losses, and to pay for their legitimate losses in the war, excluding this question of slavery, I am ready to give them such a tribunal; but if they want to reject it upon that ground, let them reject it. If they think that hereafter they can do better in Congress; and that we are to admit any claims presented to Congress for losses of this description, they can take their chances. But I think they will be mistaken. All losses of that kind are not hereafter to be paid by Congress, and they are not to be paid by this tribunal.

If gentlemen desire a tribunal fair, just, speedy, and equitable, for the determination of proper claims arising out of the issues of this war, I am disposed to give it to them, and I am not disposed to give anything beyond that. I have been drawn into this discussion by the assertions of my colleague, which I rose to controvert at the time, that there is no difference between these kinds of property. If this provision of the bill is stricken out, I can only say it will not receive my vote.

Mr. NOELL. I regret very much the introduction of this question of slavery into the discussion of this proposition. So far as I am concerned, I can say to the House that I have had no hand whatever in it, and I do not propose to follow the example of other gentlemen in the discussion of a question which has nothing to do with the merits of the proposition before the House.

I desire simply to call the attention of the House very briefly to some few points I propose to make, to show the necessity of the passage of this measure in the present condition of the country. I take it for granted that the sense of justice of this House will see at once that loyal men, wherever they may be found, whether in the free or the slave States, who, in the necessary military operations of the country, have been compelled to bear more than their share of the burdens of putting down this rebellion, ought to be compensated by all classes of our population, and that such losses ought to be shared alike by all loyal classes of citizens of the country.

I take it for granted that this is the principle of justice which lies at the foundation of this proposition. If that be true, then the only question for us to consider is as to the means by which that result may most successfully be accomplished. We have found during the progress of this war that it has become necessary to appoint commissions to investigate claims that have arisen by way of contract. We have had the Holt commission and other commissions to investigate war claims which have arisen during the progress of the war, upon contracts made by public officers, and for property taken in the course of military operations—losses which are within the provisions of existing laws. If that be the case, how much greater is the necessity of providing some means of investigating that class of claims which do not, at present, fall within the provisions of laws we have now upon our statute-books, in order that this great principle of justice may be attained, that is, that the burden of this rebellion may be shared by all people alike.

There are several modes by which this thing may be accomplished, and I propose briefly to call the attention of the House to these different modes. First, these claimants may come before Congress and present their claims as private claims have been presented heretofore for a long series of years.

The SPEAKER. The morning hour having expired, the special order set apart for this day is the consideration of business relating to Territories.

TARIFF BILL.

Mr. STEVENS. I move that the special order be postponed, in order that we may go into committee and take up the tariff bill.

Mr. LOVEJOY. I hope that motion will not prevail, and that we will not postpone the territorial business.

Mr. STEVENS. I move that it be postponed until Friday next.

Mr. LOVEJOY. I much prefer that the tariff bill should be postponed until that time.

Mr. BEAMAN. I move that the rules be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union, for the purpose of taking up bill No. 531.

The SPEAKER. That bill is the special order in committee whenever the House goes into committee.

Mr. BEAMAN. I make that motion.

Mr. COLFAX called for tellers.

Tellers were ordered; and Messrs. COLFAX and FISHER were appointed.

The House divided; and the tellers reported—ayes 89, noes 11.

So the motion was agreed to.

The House accordingly resolved itself into the Committee of the Whole on the state of the Union, (Mr. DAWES in the chair,) and proceeded to the consideration of the special order, being the bill (H. R. No. 531) increasing temporarily the duties on imports, and for other purposes.

Mr. STEVENS. I move that the first reading of the bill be dispensed with.

The motion was agreed to.

The Clerk then proceeded to read the bill by sections for amendments.

The first section having been read,

Mr. STEVENS said: There is a blank in this first section, and I ask that it may be left open until we dispose of the other parts of the bill, as we have not now the data upon which to fill it.

No objection being made, it was so ordered.

Mr. BAKER. I would inquire of the chairman of the Committee of Ways and Means what amount of increase of duties on sugar is proposed in this first section?

Mr. MORRILL, of Vermont. In reply to the gentleman from New York, I have to say that there is no increase whatever, except upon one particular description. This is a reënactment of the present law, with the exception of that which relates to concentrated molasses, or concentrated melado, the tariff on which is put at one half cent per pound lower than it now is. It is not worth quite as much as the lowest quality of sugar. There is a little verbal change also in the description of the Dutch standard, which may make it appear that a change was made; but it is only in appearance, and not in fact. Between No. 15 and No. 20 Dutch standard the rate is, however, raised to the amount of one fourth of one cent per pound.

The Clerk proceeded with the reading of the bill.

Mr. MORRILL, of Vermont. I move to amend in section three, line fifteen, by inserting before the word "exceeding," the word "not;" and after the word "ton," inserting the words "$1 50 per ton; exceeding in value fifty dollars per ton;" so that the clause will read:

And squares (iron) not less than one half an inch, nor more than four inches square, not exceeding in value the sum of fifty dollars per ton, $1 50 per ton; exceeding in value fifty dollars per ton, three dollars per ton.

The object of the amendment is to place a duty equal to the tax laid upon bar iron. As the bill was reported, all bar iron costing less than fifty dollars per ton was excepted from duty. But the tax on this iron is $1 50 per ton, and in addition to that a tax has been levied upon coal, and it takes from four to eight tons of coal to make a ton of iron.

The amendment was agreed to.

Mr. MORRILL, of Vermont. I move to amend in the same section, by inserting, after line twenty-two, the following:

On all iron imported in bars for railroads and inclined planes, made to pattern and fitted to be laid down on such roads or planes without further manufacture, $1 50 per ton.

The amendment was agreed to.

Mr. MORRILL, of Vermont. I move to strike out all after the word "say," in the eighty-eighth line, down to and including the word "manufacture," in the ninety-seventh line, as follows:

Bar iron, rolled or hammered, comprising flats, not less than one inch or more than seven inches wide, nor less than one quarter of an inch or more than two inches thick; rounds not less than one half an inch or more than four inches in diameter; and squares not less than one half an inch or more than four inches square, when valued at fifty dollars or less per ton; all iron imported in bars for railroads, and inclined planes made to patterns and fitted to be laid down on such roads or planes without further manufacture;

So that the proviso will read:

Provided, That the following descriptions of iron, manufactures of iron, and manufactures of steel, shall not be subject to any additional duty or rates of duty under the provisions of this act, that is to say: iron in pigs; cast-iron butts and hinges; old scrap iron; malleable iron, and malleable iron castings, not otherwise provided for; cut tacks, brads, and sprigs; cross-cut, mill, pit, and drag saws.

The amendment was agreed to.

Mr. MOORHEAD. I move to strike out in line one hundred, the words "cut tacks, brads, and sprigs." Those articles are manufactured in this country, and the tax will have to be paid upon them under the tax bill which we have just passed, when manufactured. I move to strike them out of this exception so that the duty may be increased upon them.

Mr. MORRILL, of Vermont. I hope that amendment will not be adopted. There has not been a cut tack, brad, or sprig imported into the United States for twenty years. The duty now is two cents a pound, which is amply sufficient to protect the manufacturers.

Mr. MOORHEAD. I am sorry the gentleman is not as well posted about the manufactures of the country as I supposed he was. There is a large quantity of these articles made in my district.

Mr. MORRILL, of Vermont. That is just what I say.

Mr. STEVENS. If any have been imported, we have overlooked the fact.

Mr. MOORHEAD's amendment was disagreed to.

Mr. SHELLABARGER. I rise to make an inquiry of the chairman or some member of the Committee of Ways and Means as to the correspondence between the additional duties assessed on the articles named in this section and the tax we have put upon them by the tax bill. I would inquire whether the increased duty is larger, in any considerable number of cases, than the tax that we have imposed? This bill has only just been laid upon our tables, and we have not had an opportunity to compare it with the tax bill. Of course, we cannot by recollection recall the relations of these bills to each other.

Mr. STEVENS. Does the gentleman refer to this particular section, or to the entire bill?

Mr. SHELLABARGER. To the manufactures of iron.

Mr. STEVENS. The general principle adopted is the one that was mentioned by us when the tax bill was under consideration. We have laid the additional duty as nearly as possible at the same rate as the tax, except in some cases where it was necessary to correct errors in the present tariff.

Mr. MORRILL, of Vermont. In addition to what the chairman has stated, it is proper to say to the gentleman from Ohio and to the House that on many articles the increase is greater than the excise placed upon the same articles, and for this reason and no other: for the purpose of obtaining more revenue. Take, for instance, the articles of anvils, anchors, cables, and iron wire; it is of very little consequence what duty we put on them. We shall import them because they are not manufactured here to any great extent, and will not be, no matter what duty you may put upon them.

Upon such articles the duties have been raised a little higher, but merely for the purpose of revenue. Upon many articles the duties are not increased at all.

Mr. SHELLABARGER. I wish simply to say that I desire to vote on this bill in such a way that we shall accomplish this result, to wit: leave the present tariff substantially as it is, of course having regard to the imposition of home duties upon these commodities. Wherever, by increasing the tariff, we would increase the revenue during the war, I should be willing to vote for the increase; but I am not willing to increase the tariff on any of these commodities except as a compensation for duties that have been imposed upon them, unless that increase will result in an increase of our war revenue. I am very glad to be informed that the bill is constructed with regard to that.

MESSAGE FROM THE SENATE.

Here the committee rose informally, and the Speaker having resumed the chair, a message from the Senate, by Mr. FORNEY, its Secretary, informed the House that the Senate had passed a bill to provide for additional medical officers of the volunteer service; in which he was directed to ask the concurrence of the House.

The Committee of the Whole on the state of the Union then resumed its session, and proceeded again to the consideration of

THE TARIFF BILL.

The Clerk read the fourth section of the bill.

Mr. MORRILL, of Vermont. On page 11, in line nine, I move to strike out "ten," and insert "five;" so that it will read, "acid, boracic, five cents per pound."

The amendment was agreed to.

Mr. MORRILL, of Vermont. In line eleven, I move to strike out "ten," and insert "twenty;" so that it will read, "tartaric, twenty cents per pound."

The amendment was agreed to.

Mr. MORRILL, of Vermont. I move to strike out all after the word "alum," in line thirteen, and insert in lieu thereof, "patent alum, sulphate of alumina and aluminous cake, sixty cents per hundred pounds."

The amendment was agreed to.

Mr. MORRILL, of Vermont. I move to insert after line twenty-five the words, "borate of lime, five cents per pound."

The amendment was agreed to.

Mr. MORRILL, of Vermont. In lines sixty-five and sixty-six, I move to strike out "seventy-five," and insert "fifty," and strike out "one dollar" and insert "seventy-five cents;" so that the clause will read, "iodine, crude, fifty cents per pound; resublimed, seventy-five cents per pound."

The amendment was agreed to.

Mr. MORRILL, of Vermont. I move to amend, in line sixty-nine, by striking out "three," and inserting "two;" so that it will read, "licorice root, two cents per pound."

The amendment was agreed to.

Mr. MORRILL, of Vermont. I move to amend, in the same line, by striking out "six," and inserting "ten;" so that it will read, "paste or juice, ten cents per pound."

The amendment was agreed to.

Mr. MORRILL, of Vermont. I will say, in respect to this, that it takes four pounds of the root to make one pound of the paste; and the duty recommended is no more than reasonable. I move to amend, in line seventy-seven, by inserting the words "when dry;" so that it will read, "ochres and ochrey earths, not otherwise provided for, when dry, fifty cents per one hundred pounds."

The amendment was agreed to.

Mr. MORRILL, of Vermont. I move to amend, in line ninety-two, by striking out "seventy-five cents," and inserting "one dollar;" so that it will read, "cloves, one dollar per pound."

The amendment was agreed to.

Mr. MORRILL, of Vermont. I move to amend, in line ninety-four, by striking out "fifty cents," and inserting "one dollar;" so that it will read, "cubebs, one dollar per pound."

The amendment was agreed to.

Mr. MORRILL, of Vermont. I move to amend, in line one hundred, by inserting the words "all other essential oils, not otherwise provided for, fifty per cent. *ad valorem*."

The amendment was agreed to.

Mr. MORRILL, of Vermont. I move to amend by inserting, after line one hundred and two, the words, "Paris white, when dry, sixty cents per one hundred pounds; when ground in oil, $1 50 per one hundred pounds."

The amendment was agreed to.

Mr. MORRILL, of Vermont. I move to amend by inserting, after the last amendment, the words "pimento, six cents per pound; when ground, eight cents per pound."

The amendment was agreed to.

Mr. MORRILL, of Vermont. I move to amend in line one hundred and four, by striking out "fifty," and inserting "seventy-five," so that it will read, "hydriodate, iodate, iodide, and acetate, seventy-five cents per pound."

The amendment was agreed to.

Mr. MORRILL, of Vermont. I move to amend, after line one hundred and eleven, by inserting the words "putty, $1 50 per one hundred pounds."

The amendment was agreed to.

Mr. MORRILL, of Vermont. I move to amend, in line one hundred and twelve, by striking out "pure," and inserting in lieu of it the words, "sulphate of, and other salts of quinine;" so that it will read, "quinine, sulphate of, and other salts of quinine, seventy-five cents per ounce."

The amendment was agreed to.

Mr. MORRILL, of Vermont. I move to amend, in lines one hundred and twelve and one hundred and thirteen, by striking out the words "sulphate, fifty cents per ounce."

The amendment was agreed to.

Mr. MORRILL, of Vermont. I move to amend, in line one hundred and nineteen, by inserting the words "saltpeter or nitrate of potash, crude, two cents per pound; refined, three cents per pound."

The amendment was agreed to.

Mr. MORRILL, of Vermont. I move to amend, in line one hundred and twenty-one, by inserting the words "of sixty pounds;" so that it will read, "Canary seed, one dollar per bushel of sixty pounds."

The amendment was agreed to.

Mr. MORRILL, of Vermont. I move to amend by inserting, after line one hundred and thirty-three, the words "Vanilla beans, three dollars per pound."

The amendment was agreed to.

Mr. MORRILL, of Vermont. I move to amend by inserting, after line one hundred and thirty-four, the words "whiting, when dry, fifty cents per one hundred pounds; when ground in oil, $1 50 per one hundred pounds."

The amendment was agreed to.

Mr. MORRILL, of Vermont. I move to amend, in line one hundred and thirty-five, by striking out the word "acetic."

The amendment was agreed to.

Mr. MORRILL, of Vermont. I move to amend, in line one hundred and thirty-six, by inserting the word "glycerine."

The amendment was agreed to.

Mr. MORRILL, of Vermont. I move to amend, in the same line, by inserting the words "sulphate of ammonia."

The amendment was agreed to.

Mr. MORRILL, of Vermont. I move to amend, in line one hundred and forty-one, by striking out the words "borate of lime."

The amendment was agreed to.

Mr. MORRILL, of Vermont. I move to amend, in line one hundred and forty-five, by striking out the words "and vanilla." That has been included in the amendment already adopted.

The amendment was agreed to.

Mr. MORRILL, of Vermont. I move to amend by inserting after line one hundred and forty-six the words "acetic acids, twenty-five per cent. *ad valorem*."

The amendment was agreed to.

Mr. MORRILL, of Vermont. I move to amend by inserting after the last amendment the words "santonin, thirty per cent. *ad valorem*."

The amendment was agreed to.

Mr. CLARK. I move to amend, in line twenty-one, page 11, by striking out "five mills," and inserting "one cent;" so that it will read, "barytes and sulphate of barytes, one cent per pound." This substance is used almost entirely for adulterating white lead. It is produced abundantly in this country; and I do not see why we should not use our own instead of foreign productions.

Mr. MORRILL, of Vermont. We have already put a tax on this substance. It is very cheap, not being worth at the place where it is obtained half a cent a pound. Five mills is amply sufficient.

The amendment was not agreed to.

Mr. BAKER. I move to amend by striking out on page 18, in the twenty-ninth line, the words "when not on the skin;" so that the line shall read, "furs dressed." I think it is a matter of great injustice to discriminate between furs when on the skin, and when removed. We have taxed furs three per cent. in one tax bill, and it is unjust to allow skins dressed to come in free of duty, and to tax cut skins, which is the object of this amendment.

Mr. MORRILL, of Vermont. I oppose the amendment of the gentleman from New York. It is simply a question whether skins shall be imported with the fur on, or whether they shall be carried to England, the fur cut off, and brought here in small packages. I prefer much to keep up the business in New York, as it is done by this bill as it stands, which allows skins to be brought in with the fur on, to be cut off here.

The amendment was not agreed to.

Mr. HOLMAN. I move to strike out, on page 22, lines sixty-one, sixty-two, and sixty-three, as follows:

On garden seeds, and all other seeds for agricultural and horticultural purposes, not otherwise provided for, thirty per cent. *ad valorem*.

Now, sir, I desire simply to say this, that if there is any article of importation which in this country it is desirable should be encouraged by Congress, it is garden seeds for agricultural and horticultural purposes. The appropriation which we annually make of $60,000 for agricultural purposes, is designed to accomplish this very end. Now, the experience of those familiar with this subject is, that as a general thing those seeds brought from abroad which are selected by private capitalists are better articles, better selections, of better quality, and better varieties than those which are selected by the officers of the Government under our annual appropriation.

It seems to me, therefore, that instead of imposing a duty of thirty per cent. upon those importations, if any article at all is to be left upon the free list, it should be this character of seeds.

Mr. MORRILL, of Vermont. Certainly the gentleman from Indiana at this time has come up on the wrong side. Mr. Chairman, in relation to these seeds, our own farmers produce them of an equal quality with anything which we can bring from any country in the world. There was a time, perhaps, years ago, when it might have been an object to encourage an importation of agricultural, horticultural, and garden seeds; but such is no longer the fact. The seeds which are produced by our careful cultivators are equal, and I may say superior, to anything that can be obtained from abroad, unless it be some peculiar rare varieties. I think our own cultivators of the soil should be protected, and I hope, therefore, that the amendment will not prevail.

Mr. HOLMAN. I desire to suggest to the gentleman from Vermont simply this: as I have been assured by gentlemen engaged in the business and by those who live in the section of the country from which I come, this matter has attracted considerable attention among the farmers of the country, and that it does not involve any competition between foreign cultivators of seeds and the producers in our country at all. There is no such competition. These articles of seeds to which we have had our attention especially directed, and which are the principal subjects of importation, are rare articles, are varieties which have not heretofore to any considerable extent been introduced into this country. Those are the varieties of seeds which have induced the annual appropriation of $60,000 for some years past, for the purpose of importation into this country.

Now, I feel confident that it is infinitely better to strike out this duty altogether; it is better in this way to encourage private enterprise than by the appropriation of this large sum of money an-

nually to be expended by agents of the Government who will make their selections with certainly less skill and integrity than if the matter is left in private hands.

The committee divided on Mr. HOLMAN's amendment; and there were—ayes 27, noes 34; no quorum voting.

Mr. MORRILL, of Vermont. I desire to say a word in reply to the last remark of the gentleman from Indiana. I say to him that there are hundreds of acres in this country devoted exclusively to the raising of garden seeds. There are settlements of Shakers near Philadelphia and in various places in the country who make this their sole occupation.

Mr. HOLMAN. Well, sir, there are very few farmers in the House and I suppose this amendment will be voted down.

The CHAIRMAN. No quorum has voted, and the only proceeding in order is the call of the roll.

Mr. MORRILL, of Vermont. I call for the tellers on the amendment.

Tellers were ordered; and Messrs. MORRILL of Vermont, and HOLMAN, were appointed.

The House again divided; and the tellers reported—ayes 31, noes 63.

So the amendment was disagreed to.

Mr. RICE, of Massachusetts. I move to amend, in the twenty-seventh line of page 21, by adding at the end of it, as follows:

Provided, That all imported cotton and linen rags for the manufacture of paper shall be free of duty.

Mr. Chairman, if the House will oblige me by its attention for one moment, I will state some reasons why I propose this amendment. This article of cotton and linen rags—the imported article—is used only in the manufacture of paper. They have been imported free of duty since 1846 until August last, at which time a duty of ten per cent. was imposed.

I believe, Mr. Chairman, that it is a well-settled principle that no duty shall be imposed upon any raw material of foreign origin which does not come into competition with domestic products, and which is used solely as a basis for domestic industry. Such is the fact in reference to this article.

The House will remember that by the tax bill which we have just passed there has been a tax of three per cent. imposed upon paper. This is nothing more nor less than an additional tax upon paper, that is, upon the material out of which paper is to be manufactured; so that, unless the legislation of the special session of Congress be repealed in this respect, there will be a tax upon both ends of this article of paper. A tax upon the raw material has always been considered a tax upon the manufactured article. It will be recollected that at the time the taxation of paper was under consideration here, many arguments were submitted, which I have not time to refer to now, why there should be no tax at all imposed. I will say here that it takes nearly two pounds of rags to make one pound of paper, and that if the duty be ten per cent. upon the raw material, it is in fact an addition of double that amount upon the manufactured; so that it is in fact adding a tax of twenty per cent. to the three per cent. imposed directly upon paper. I think this article should bear no duty whatever, and I trust, therefore, the House will see the justice and propriety of the amendment.

Mr. STEVENS. I trust this amendment will not prevail. We have laid no duty upon rags by this bill, but this is a motion to repeal the old duty of perhaps ten per cent. upon the foreign article. I remember very well it was put in upon the suggestion of the distinguished gentleman who then represented a portion of Boston in this House, (Mr. Appleton.) The tax upon paper is now reduced to almost nothing. It is only a very few items in its production which pay at all. All the lower grades pay no duty whatever.

Now, sir, when this duty of ten per cent. was put on the article of rags, that article was taken from the free list, and one great object in changing the tariff in this respect was to raise revenue. It was necessary to raise a large amount of revenue by taxing what had heretofore been included in the free list.

Now, sir, there is a pretty large interest in this country in rags, [laughter,] and why we are going to disregard that interest I do not know. Those who have rags to sell are a pretty large interest in this country, and when we encourage the introduction from abroad, from Sicily, it may be, of a particular kind of rags, we discourage an interest in this country which ought not to be interfered with.

Now, sir, this amendment starts out with repealing, by an amendment to this bill, a law which we enacted only in August last. If we commence such a system, I do not know where it will end, and I hope we shall not inaugurate it by the adoption of this amendment.

Mr. SHEFFIELD. Mr. Chairman, I hope this amendment will prevail. There is a very great scarcity of the material of which paper is made, arising partly from the present state of the country. Heretofore cotton waste has been used to a considerable extent in the manufacture of paper. From the scarcity of cotton in the market and the difficulty of getting any further supply of cotton, the manufacturers of cotton goods have, in a great degree, made use of the cotton waste, instead of, as heretofore, selling it to be converted into paper. The paper manufacturers, therefore, have mainly to depend upon rags to keep their mills in operation; and this article of rags comes into competition with nothing which is produced in this country. There is a scarcity of articles of all kinds for the manufacture of paper. Rags heretofore imported for the manufacture of paper were of the finest kind. There is a scarcity of that kind in the market, and it seems to me that it is proper that we should admit it duty free. It is well known that paper is the great means for the rapid dissemination of knowledge among all classes of our people; and if we go on taxing all materials used in the manufacture of paper, we certainly impose a tax upon knowledge and its dissemination among the people. I was opposed to the tax upon paper in the first instance. I will vote for the amendment of the gentleman from Massachusetts, and I sincerely hope that it will prevail.

The amendment was agreed to.

Mr. JOHNSON. I move to strike out, in line eighty-seven, page 23, the words "on potatoes, twenty-five cents per bushel."

Mr. MORRILL, of Vermont. I hope that will not be done. The only reason for putting a large duty on potatoes was this: they are brought very early in the season from Bermuda, and bring two or three dollars a bushel, and the committee thought that those who can afford to indulge in expensive tropical fruit, such as potatoes, will not feel themselves at all oppressed by the payment of this duty.

Mr. MAYNARD. I would like to inquire of the gentleman from Vermont whether this tax is confined to Irish potatoes.

Mr. MORRILL, of Vermont. It includes all kinds of potatoes.

The amendment was rejected.

Mr. SARGENT. I move, on page 24, line ninety-seven, to strike out "one cent and a half," and in lieu thereof to insert "two cents;" so that it will read, "on rice, cleaned, two cents per pound."

Mr. Chairman, in support of that amendment I send to the Clerk's desk to be read a communication signed by the East India importers of the city of San Francisco, and by several United States officers employed in the custom-house at that port, which I commend to the attention of members.

The Clerk read, as follows:

SAN FRANCISCO, *January* 1, 1862.

GENTLEMEN: The undersigned, importers of East India goods at the port of San Francisco, in view of a possible change in the tariff during the present session, very respectfully call your attention to the great importance of securing in any new bill the same ratio of discrimination in favor of uncleaned rice as was afforded under the bill which went into operation August 5, 1861. The consumption of rice in California amounts to twenty-five million pounds per annum. The imports consist of clean rice (namely, rice with the inner skin removed) and uncleaned rice, or rice with the outer husk only removed, and paddy.

The clean rice is imported almost exclusively by Chinese; the latter description by American houses, who have it cleaned in our rice mills, in the erection of which a large amount of American capital has been invested.

The cleaned rice at places of export costs more than twice as much as the uncleaned, and a uniform specific duty upon all grades of rice would manifestly be unjust, and would speedily drive the entire business into the hands of the Chinese instead of the American importers, and besides, give to the East India cooly the profits upon cleaning instead of to the laborers of California where it properly belongs.

We therefore respectfully request that you will give this subject your attention should there be any change in the tariff during the present session, and beg you to secure for the American importer and for American labor that protection from their own Government which they have a right to demand.

Importers of uncleaned rice lose from ten to forty per cent. in cleaning here, and it costs on an average fifty cents per one hundred pounds to clean and fit it for consumption; and in the event of the character of the importations being changed, by a proper discrimination in favor of uncleaned rice, the cost of cleaning, amounting to $125,000 per annum, would go into the hands of the American instead of the East India laborer.

We have the honor to remain, very respectfully, your obedient servants,

T. G. CARY,
FALKNER, BELL & CO.,
MACONDRAY & CO.,
McNEIL & CO.,
R. FENERSTEIN & CO.,
W. T. COLEMAN & CO.,
DICKSON, DeWOLF & CO.,
FLINT, PEABODY & CO.,
DANIEL GIBB & CO.,
H. F. EDWARDS,
KOOPMANSCHAP & CO.,
EDWARDS & BALLEY,
ALSOP & CO.,
WM. M. GREENWOOD.

HON. MILTON S. LATHAM, HON. JAMES A. McDOUGALL, *Senators*; HON. A. A. SARGENT, HON. THOS. G. PHELPS, *Members of Congress representing the State of California at Washington.*

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At the solicitation of East India importers, we have carefully examined the annexed memorial to the California delegation in Congress, and fully approve of the same.

C. H. McNULTY,
United States Examiner for East India Goods.
B. W. MUDGE,
United States Appraiser for East India Goods.

Mr. SARGENT. Mr. Chairman, in support of the facts set forth in that communication, I will state that the amount of rice heretofore imported into California has been about twenty-five million pounds a year. That will be the amount imported during the present year; and of that amount twenty-two or twenty-three million pounds are consumed by the Chinese population, residents of that State. In the tariff bill now in operation, a discrimination was made in favor of the importation of uncleaned rice and against cleaned rice. If the committee impose a duty on cleaned rice of one cent and a half per pound, and on paddy and uncleaned rice of one cent per pound, it will, in a manner, legislate to destroy the manufacturing interests for the cleaning of rice which have grown up in California under the late tariff. I think that it should not be the object of the House to destroy the industrial interests which have grown up under the tariffs heretofore enacted, but, on the contrary, to preserve and protect them. Fifty thousand Chinese are now resident in the State of California; and I think that this class of our population, which use rice as a main article of food, ought to be made to pay a percentage towards the support of the Government, as they do in no other way, by the imposition of the increased duty which I propose upon the importation of cleaned rice. They are, as a class, characterized by vicious habits; and the State would be very glad to get rid of them altogether. In smoking opium and in intoxicating themselves with other drugs, they have, by their carelessness, set fire to their own wooden houses, and been the cause of the destruction of many of our towns. In this way they have more than once spread desolation and suffering throughout large communities of our own citizens. As we must have them in our midst, they ought to contribute towards the burden of the Government. I hope the amendment will be adopted, as it is necessary to adjust the pending bill to the scale of discriminations under which the industrial pursuit I have named has grown up. But a reduction of the duty on uncleaned rice would effect the same object, though less to the benefit of the Treasury.

Mr. STEVENS. Mr. Chairman, I would never have believed, but for what has just occurred, that any member would come here upon this floor and ask this House to indorse the legislation towards this class of people which has, I think, disgraced the State of California. We invite emigrants to this country without inquiring from what nation they may come. China has been much oppressed of late by the European nations. It has been forced into ruinous and desolating wars because it has resisted the importunity of England, to consent to the importation of poisonous drugs that demoralize its society and destroy its people. A large number of Chinese have of late years migrated to the State of California to seek their fortunes. They had the right to go there; and I hold it to be in violation of every rule of law

which should have sway in a civilized country to discriminate against them. The State of California in her legislation has constantly discriminated against them. In taking out a license as miners they are compelled to pay, I believe, $2 50 each.

Mr. SARGENT. The law refers to foreign miners.

Mr. STEVENS. Yes, the law may say foreign miners, but the gentleman very well knows that it refers only to these Chinese miners. Nine tenths, I venture to say, of all the foreign miners in the State of California are Chinese, and the discrimination against them in working the mines is thirty or forty dollars a year. If there be any principle upon which this legislation can be justified, I do not know where it can be found. I think that this legislation of the State of California, instead of being approved of by this House, ought to be condemned, and not carried out by the House as is proposed by the pending amendment.

If it is intended to prohibit a particular class of people from coming among us, let them say so at once, and do not let them oppress them by the passage of laws in which you compel them to pay ten times as much as anybody else for the same privilege. Such laws are wholly in conflict with the generous spirit of our free institutions. They are a mockery of the boast that this land is the asylum of the oppressed of all climes. If they are disgraceful, then, to California, how much more disgraceful would it be for Congress to indorse them and to carry them out.

This people live mainly upon rice. It is the principal article of their food, and the gentleman from California very frankly avows that this increased tax upon rice is intended to affect them and nobody else. I do not believe the House will give its approval to any such unfair discrimination.

Now, what I look upon as important in reference to the duty on rice is this: the doubt is whether we ought to lay any tax on imported rice at all. My own judgment is that we ought not, because we have not included it in the tax bill, and it is a violation of the principle upon which we started in making up this tariff bill. I should be glad, therefore, to see the duty on rice stricken out altogether. But the idea of making the duty operate exclusively and oppressively against a particular class of our population is wrong, and ought to have our instant disapproval. The gentleman says that they get drunk. Now, they were never drunkards until England, at the point of the bayonet, compelled them to use opium. They were the most sober and industrious people upon the earth until they had the misfortune to become acquainted with English civilization. I do not know whether they have become worse since they have settled in California. Probably the gentleman can answer. [Laughter.]

Mr. SARGENT. I supposed that in the consideration of the pending amendment it would be proper to discuss the legislation of Congress, and not the legislation of California, or of any other State. The strictures of the gentleman from Pennsylvania relate to some legislation of the State of California, and not to the amendment I propose; and I think that his own good sense will convince him, on reflection, that they were neither germane nor proper.

Mr. STEVENS. Allow me to say that the gentleman admitted that the legislation was intended to affect this class of people alone.

Mr. SARGENT. But I did not say that I was in favor of or against any particular legislation of my own State. I was pointing out the operation of this amendment. The gentleman has properly a great horror of slavery. These Halls have rung with his denunciations of that system. But let me tell the gentleman these Chinese are slaves. These very Chinese are owned by two large companies composed of Chinese themselves. A comparatively few men monopolize those Chinese, and send them over to California by ship loads. These Hong Kong and Canton men who are owned in China are shipped to our State to work in our mines and perform other labor.

Mr. MAYNARD. Do I understand the gentleman to say that these Chinese are held as slaves in our country?

Mr. SARGENT. Yes, sir; they are held as slaves by Chinese masters in California. I know it by my own observation and investigations in California. I merely was wishing to illustrate the argument of the gentleman himself, and if the chairman of the Committee of Ways and Means had not used that argument, I should not have made this explanation. These Chinese are imported into our State and there held as slaves. In morals and in every other respect they are obnoxious to our people. The women are prostitutes, and the men petty thieves. But how can we keep them out?

Mr. STEVENS. I never heard before that they tolerated slavery in California. Worse and worse for the gentleman and for California.

Mr. SARGENT. I speak for California; and I tell the gentleman he now seeks to rivet that system upon us by lessening the price of rice, thereby enabling these slave-masters to import more slaves into California, and make the system profitable. Worse and worse for the gentleman! Our Legislature has endeavored to correct this evil, and practically to expel these slaves from our midst. They have placed restrictions upon them which would tend to make the holding of them unprofitable. We have endeavored to free ourselves of that which has been an incumbrance and loss to California. By smoking opium they get into a state of insensibility, and set fire to their buildings, and thus our towns are destroyed. No matter, they are seeking their fortunes! You have heard of the frequent conflagrations of our cities and towns. Many of them have proceeded from this cause. A people of strange tongue, vile habits, impossible of assimilation, and with customs difficult to penetrate, swarm by thousands to our shores, like the frogs of Egypt, and yet we are upbraided by the intelligent gentleman because we put a State tax on them to discourage their influx. He ascribes all their faults to English oppression. Never was fall so great in so few years if a whole people has so soon and so utterly become corrupted. It needs no English bayonets to promote their use of opium in California. But what shall we do with these people? We cannot put on an importation tax, for, says the gentleman, they have a right of asylum. We cannot expel them from our towns without force, and that we will not use. We may impose taxes on them to make them unprofitable to their masters, and then they will be withdrawn, though this may be the exercise of a questionable right, justified only by self-defense. There is an absolute necessity of protecting ourselves against the men who pour these Chinese into our State in spite of ourselves. And while I myself, had I been a member of the Legislature, might not have voted for the laws in relation to them that have been passed, there was a necessity that something be done to correct this great evil.

The gentleman from Pennsylvania has no right to cry out, shame to California! We are overrun by these pagans, and we are doing what we can to relieve ourselves in the mild form of taxation.

Mr. MAYNARD. I would inquire of the gentleman why they do not emancipate these slaves, and elevate them to an equality with the surrounding population?

Mr. SARGENT. I tell the gentleman from Tennessee I never saw a negro population anywhere which was not infinitely superior to these Chinese in character, morality, and intelligence. It would be an infinite work to elevate them. But our laws do not make them slaves, be they good or bad. No shame clings to our garments. Our laws proclaim freedom to all.

Mr. STEVENS. I desire to inquire of the gentleman whether slavery is tolerated in China.

Mr. SARGENT. I think it is.

Mr. STEVENS. That is new to me.

Mr. SARGENT. It is not new to me. I think I can state that it is spoken of by authors, who have traveled in China, in their writings upon that country. There are degrees of it, and the peculiar form of slavery that exists in the South may not exist there. But there does exist a relationship by which the control of one man belongs to another, independent of the will of the latter, and that they have imported into California.

I was once a prosecuting officer for a county in California, and then there was brought under my observation a great many of the characteristics and habits of these Chinese. I was frequently called upon to sue out writs of *habeas corpus* to liberate Chinese held in restraint by their masters under pretended Chinese laws or customs; and the Chinese masters seemed unable to comprehend why their "rights" could not be sustained in court. Our courts repudiated any such ideas. We did not sustain the system, and the courts, in every case where the parties were brought before them, set the slaves or peons free. But still the system prevails to a great extent, and we cannot get rid of it entirely, as they are incapacitated by dense ignorance from knowing their rights, and seeking redress through the courts.

Mr. PORTER. I would inquire of the gentleman whether these Chinese are held as slaves by virtue of the laws of California.

Mr. SARGENT. They are not, as I have said.

Mr. PORTER. How is it that they can be held as slaves when there is no law authorizing it?

Mr. SARGENT. They cannot be held by virtue of any California law. We declare by our law, and we endeavor to carry it out, that there shall be neither slavery nor involuntary servitude in California, except in punishment for crime. Upon that principle we stand, and it has been our constant endeavor to break down that system whenever we could discover it. The reason why it exists is that these Chinese are ignorant of their rights. They neither read nor write or speak English, and therefore you have no way of explaining to them that no one has a right to hold them as slaves. Only in cases accidentally developed do we reach the system.

Mr. STEVENS. I have understood that the Chinese were almost universally a people that could read and write.

Mr. SARGENT. The Chinese almost universally read and write their own language, but we do not print any books in their language. It is the study of a lifetime to acquire a knowledge of that language. But they do not read our language.

I wish now to speak a moment to the amendment. I stated that my object in moving this amendment was not because it affected one class of our people or another, but because we have certain industrial pursuits which have grown up under former tariffs, and I now ask that the same degree of discrimination shall be kept up between clean and unclean rice as formerly existed. Under former tariffs we were encouraged to go on and invest our capital in mills, and it is capricious upon the part of the Government to say we shall not have the same favor as before. Although I went on and stated that rice was consumed by a particular class of our population when asking that the tax be increased upon a certain article to the extent it has heretofore been, I can see no necessity for interposing this character of discussion. If the Chinese has to pay more for his rice under this amendment, so does the American, and therefore it is not oppressive to that class. If the gentleman does not wish to increase the revenue by taxing an article particularly consumed by an alien population, that part of my suggestion will have no weight with him; but to me it is an important reason, and will continue so so long as I see my State suffering under the influx of a race that is so deeply sunk in barbarism that contact with them is demoralization.

Mr. MORRILL, of Vermont. I desire to call the attention of the committee back to the question before them; for although this discussion about the Chinese in California is exceedingly interesting, it is, perhaps, more important that we proceed with the bill. In relation to the duty on rice proposed here, I will say that the same amount of discrimination is preserved in this bill that was in the last tariff bill. Under the present tariff, the duty upon cleaned rice is one dollar per hundred pounds; and upon uncleaned and paddy, fifty cents per hundred pounds. That difference is preserved in this bill. We have raised both—cleaned rice to $1 50, and uncleaned and paddy to one dollar per hundred pounds. Now, the ordinary value of rice is about four cents per pound; and I submit to the House whether one cent and a half upon four is not enough. It is certainly more extravagant than the duty upon any other article of a similar kind. There are no Representatives from the South here to ask us for any increased protection on rice; and at the present time we are dependent mainly upon India for our whole supply. I hope the amendment of the gentleman from California, without any reference to the Chinese, will not be adopted.

Mr. SARGENT's amendment was disagreed to.

Mr. WARD. I notice, in examining the bill,

that the tariff upon corks is twenty-five cents per pound. I desire to ask the chairman of the Committee of Ways and Means if he has ascertained what advance that will be upon the present tariff.

Mr. MORRILL, of Vermont. That depends upon the character of the corks. Upon fine velvet corks it will be no large advance, but it will be a considerable advance upon ordinary corks.

Mr. WARD. I would ask what will be the advance upon ordinary corks?

Mr. MORRILL, of Vermont. Well, I do not know the precise value at the present time. The increase will be very considerable upon the coarser kinds of corks, but on such as are used in bottling wines and mineral water there will not be much advance, and upon the kind used by apothecaries the duty will be nearly the same as at present.

Mr. WARD. I would ask the honorable member also, whether corks are sold by the pound or by the gross?

Mr. MORRILL, of Vermont. Corks are sold by the gross, as I presume the gentleman understands, and an entire gross of some kinds of corks would not weigh a pound.

Mr. WARD. I move to strike out "twenty-five cents per pound," and to insert in lieu thereof "twenty-five per cent. *ad valorem*."

Mr. Chairman, I understand, although I am not familiar with these subjects, that the rate at present fixed upon corks in this bill raises the duty one hundred and fifty to one hundred and seventy-five per cent., and I am informed by a leading mercantile firm of New York of high character that the placing of the tariff upon the pound, instead of *ad valorem*, has a tendency to conceal the exaggerated increase which is thus created by this bill. I am also informed that a duty of twenty-five per cent. *ad valorem* would afford a fair, just, and proper competition in the domestic market. I hope, therefore, that the House will adopt the amendment, and not place so enormous a tariff upon these articles. This is an absolutely prohibitory tariff. It will yield no revenue whatever to the Government. I do not understand that the object of this bill is to prohibit importations, but rather to impose proper duties that will yield some revenue to the Government. It would have been better, it seems to me, for the committee to have made the duty *ad valorem* instead of placing the tariff at so much per pound, when corks are sold by the gross. There is no earthly reason for this enormous increase of from one hundred and fifty to one hundred and seventy-five per cent., and I hope that the Committee of Ways and Means will make some explanation upon this subject that will be satisfactory, or will permit this amendment, which I am assured will afford adequate protection, to be adopted.

Mr. MORRILL, of Vermont. The purpose of the Committee of Ways and Means, in proposing this duty upon corks, is revenue, and not protection, so far as cork is concerned. There is not a single pound of the bark produced in this country. The duty upon corks can be much more easily levied by the pound than by the gross. As the gentleman from New York is perfectly well aware, these corks come in small bags, and can be much more easily weighed than counted. It is true, that in relation to the lower priced article of corks, those that are really worth very little for use or in value, this will be a very considerable increase upon the present tariff, but upon the higher cost articles, what are called velvet corks, the increase is not too much. The increase will not be a burden upon any portion of the community, and I hope, therefore, that the amendment will not prevail.

Mr. WARD's amendment was disagreed to.

Mr. PHELPS, of California. I move to insert before the word "one," in the ninety-eighth line, the words "three fourths of;" so that the clause will read, "on rice, cleaned, one cent and a half per pound; paddy and uncleaned rice, three fourths of one cent per pound."

Mr. Chairman, I favored the amendment proposed by my colleague, [Mr. SARGENT,] and would quite as soon have had that amendment adopted as this. I regret the unfortunate discussion which arose upon it, for I so consider it. It is necessary for American interests that this discrimination between cleaned rice and uncleaned rice should exist. My colleague had read at the desk a communication signed, I believe, by all the American importers of rice in San Francisco. It is well known, probably, to the House, that the larger portion of all the rice imported into this country, is imported into the harbor of San Francisco.

Mr. STEVENS. Unless the gentleman desires for other purposes to debate his amendment further, I think there is no objection, so far as the Committee of Ways and Means are concerned, to its adoption.

Mr. PHELPS, of California. Very well, sir; I have no desire to detain the committee.

The amendment was agreed to.

Mr. MORRILL, of Vermont. I move to insert, on page 23, after line eighty-five, the following: "On plates engraved on steel, copper, wood, or any other material, twenty-five per cent. *ad valorem*."

The amendment was agreed to.

Mr. STEVENS. In mercy to a very excellent man who has finally convinced me that he is right, I move to strike out "three," in line thirty-four, and insert "two," and to strike out "four," in line thirty-five, and insert "three," so that the clause will read, "on chiccory root, two cents per pound; on chiccory ground, burnt, or prepared, three cents per pound." That will perhaps have the effect of cheapening the price of coffee to those classes of people who use it. The price of ground chiccory, as we learn from a New York importer, is only seven cents per pound, and I think the tax proposed in the bill is perhaps out of proportion. I have thought it right to offer the amendment, and I now submit it to the House. I have no feeling about it, but I think that justice requires it.

Mr. F. A. CONKLING. I supposed, Mr. Chairman, when I heard the section read, that the augmentation of the duty on chiccory root and ground chiccory, had reference to the duty imposed on coffee by the act of 5th August last, and that it was the policy of the Committee of Ways and Means in proposing this increase to prevent this article, which is used to adulterate coffee, and which, as I am informed, is highly pernicious to the human system, from being imported as a substitute for coffee.

Mr. STEVENS. Mr. Chairman, we took some pains to inquire about the health of this question, and I became convinced, as I believe most members of the committee did, that it was not a pernicious adulteration, but a very wholesome one, much more so than many other articles.

Mr. F. A. CONKLING. I suppose this is hardly the place to discuss the subject in its sanitary aspect; but I will say to the gentleman from Pennsylvania that my information is entirely at variance with his, and that this article, which is fraudulently used in place of coffee, is, as I before said, highly injurious to the human system. By the act of 5th August last the duty on coffee was made four cents a pound; on chiccory root a duty of one cent per pound, and on ground chiccory a duty of two cents per pound was imposed. With this large duty on coffee, and with the increased price of it arising from a diminished supply, the importation of chiccory root has been largely increased. I therefore propose to amend the amendment offered by the gentleman from Pennsylvania, by making the duty on chiccory root four cents per pound, and on ground chiccory five cents.

Mr. ODELL. I ask the attention of gentlemen to a letter which I send up to the Clerk's desk to be read, on this subject.

The letter was read, as follows:

NEW YORK, *June* 23, 1862.

MY DEAR SIR: Allow me to call your attention, now that the tariff is again before you for revision, to the article of chiccory, which, since coffee has been made to pay a heavy duty, is largely imported from Germany, and mixed with coffee, to the extent of from twenty-five to seventy-five per cent., and in some cases even more.

This article costs in Europe a mere bagatelle, and though by the papers of this morning it appears that by the bill now under discussion the duty is raised from one and two cents per pound, to three and four cents for unprepared and prepared, respectively, an article so injurious to the revenue of one of the great articles of consumption, and so deleterious to health, ought to be swept out of existence altogether as an article of commerce.

Hon. M. F. ODELL, *Washington*.

Mr. STEVENS. Is the writer of that letter a dealer in coffee?

Mr. MORRILL, of Vermont. I hope the amendment of the gentleman from New York will not prevail. I would prefer to have the original bill remain as it was. I call for tellers.

Tellers were ordered; and Messrs. MORRILL, of Vermont, and F. A. CONKLING, were appointed.

The committee divided; and the tellers reported—ayes sixty-three, noes not counted.

So the amendment to the amendment was agreed to.

The amendment, as amended, was agreed to.

Mr. MORRILL, of Vermont. I move to amend, in the fourteenth line of the 20th page, by adding, after the word "sacks," the words "barrel, or other packages."

The amendment was agreed to.

Mr. STEVENS. We have got along pretty comfortably to-day, and think we can afford to adjourn. I move that the committee rise.

The motion was agreed to.

So the committee rose; and the Speaker having resumed the chair, Mr. DAWES reported that the Committee of the Whole on the state of the Union had had under consideration the special order, being House bill No. 531, increasing temporarily the duties on imports, and for other purposes, and had come to no conclusion thereon.

And then, on motion of Mr. WASHBURNE, (at four o'clock, p. m.,) the House adjourned.

IN SENATE.

THURSDAY, *June* 26, 1862.

Prayer by the Chaplain, Rev. Dr. SUNDERLAND.

The Journal of yesterday was read and approved.

PETITIONS AND MEMORIALS.

Mr. TRUMBULL presented a petition of citizens of Illinois, praying the construction of a ship canal between Lake Michigan and the Mississippi river; which was referred to the Committee on Military Affairs and the Militia.

Mr. TRUMBULL presented a petition of citizens of Ohio, praying for the construction of a ship canal between Lake Michigan and the Mississippi river; which was referred to the Committee on Military Affairs and the Militia.

Mr. TRUMBULL presented the memorial of W. C. Jewett, remonstrating against the passage of the Pacific railroad bill and the tax bill, and against the passage of a bankrupt law without a full representation of the States in Congress; which was ordered to lie on the table.

OATH OF OFFICE.

The PRESIDENT *pro tempore*. The Chair will present two bills which have been acted on by the House of Representatives, and require further action on the part of the Senate. The bill (H. R. No. 371) to prescribe an oath of office, and for other purposes, was amended by the Senate, and returned to the House of Representatives. The House of Representatives disagree to the amendments of the Senate, ask for a conference on the disagreeing votes of the two Houses, and have appointed a committee of conference on their part. The appropriate question is now, "Will the Senate insist upon its amendments, and agree to the conference asked by the House of Representatives?"

The question being put, it was so ordered.

The PRESIDENT *pro tempore*. How shall the committee be appointed?

Mr. TRUMBULL. By the Chair.

The PRESIDENT *pro tempore*. No objection being made, it will be so ordered.

JUDICIAL CIRCUITS.

The PRESIDENT *pro tempore*. The bill (S. No. 89) to amend the act of the 3d of March, 1837, entitled "An act supplementary to the act entitled 'An act to amend the judicial system of the United States,'" was amended by the House of Representatives and has been returned to the Senate for the action of the Senate upon the amendments of the House of Representatives.

Mr. TRUMBULL. Those amendments were referred to the Committee on the Judiciary, and were reported back yesterday with a recommendation that the Senate do not concur in them. Then the matter was laid over. I have no objection to its being taken up now, but the Senator from Indiana desired that it should not come up yesterday.

The PRESIDENT *pro tempore*. The direct question that comes before the Senate is on concurring in the amendments of the House of Representatives. The Senate can concur, or non-concur, or concur with amendments.

Mr. TRUMBULL. The recommendation of

the Committee on the Judiciary is that the Senate do not concur in the House amendments.

The PRESIDENT *pro tempore*. So it appears from the report of the committee. The question is on concurring in the amendments of the House of Representatives. These will be taken up *seriatim*, unless by common consent the question be taken on all the amendments together.

Mr. WRIGHT. The Senate is not full now. I think the matter had better lie on the table for the present.

Mr. TRUMBULL. I do not desire to press it unless Senators are willing that it shall be acted on.

Mr. GRIMES. It had better lie over until the Senate is full.

Mr. WRIGHT. I move that the subject lie on the table for the present.

The motion was agreed to.

REPORTS FROM COMMITTEES.

Mr. FOSTER, from the Committee on Pensions, to whom was referred the bill (H. R. No. 530) granting a pension to Lawrence P. N. Landrum, of Taylor county, Kentucky, reported it without amendment.

He also, from the same committee, to whom was referred the bill (H. R. No. 328) for the relief of Louisa Albert Byrne, reported it without amendment.

Mr. CHANDLER, from the Committee on Commerce, to whom was referred the bill (H. R. No. 290) for the relief of Thomas Young and George Young, owners of the schooner Elizabeth Mary, reported it without amendment.

Mr. FOSTER, from the Committee on Pensions, to whom was referred the petition of Fanny Mactier Smith, submitted a report, accompanied by a bill (S. No. 371) for the relief of Fanny Mactier Smith, widow of Major General Charles Ferguson Smith. The bill was read and passed to a second reading, and the report was ordered to be printed.

CHANGE OF NAME OF A VESSEL.

Mr. TEN EYCK. The Committee on Commerce, to whom was referred the joint resolution (S. No. 94) to change the name of the schooner Sally McGee to that of Ocean Queen, have instructed me to report it back and recommend its passage; and as it is simply to change the name of a rebel vessel that has been seized, I ask that it may now be considered and passed.

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the joint resolution.

The joint resolution was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

NORTHERN PACIFIC RAILROAD.

Mr. DOOLITTLE. I now renew my motion to take up Senate bill No. 360.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill (S. No. 360) to grant the proceeds of the sales of certain public lands to aid in the construction of a northern Pacific railroad.

The PRESIDENT *pro tempore*. The bill will be read at length, unless the reading be dispensed with by unanimous consent.

Mr. DOOLITTLE. The bill is precisely *verbatim* as it was offered by me as an amendment to the Pacific railroad bill, and on its being passed upon by the Senate I introduced it as a separate measure, with the exception of one amendment, which is in Italics on the 3d page. At the time it was before the Senate as an amendment to the other bill I stated its provisions. I ask that the amendment on the 3d page be read, and the other sections can be read if any one desires it.

The PRESIDENT *pro tempore*. This bill has been reported from the committee with an amendment, and that amendment will be read.

The Secretary read the amendment, on page 3, at the end of section two, to add the following:

And provided further, That no money shall be drawn from the Treasury of the United States, to aid in the construction of the said northern Pacific railroad, except such sum as may be realized from the sale of the public lands described in this section.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in. The bill was ordered to be engrossed for a third reading, was read the third time, and passed.

CUSTOMS OFFICERS IN NEW YORK.

Mr. HARRIS. I move that all prior orders be postponed, and that the Senate take up for consideration Senate bill No. 275.

The PRESIDENT *pro tempore*. The Chair directs the officers in charge of the several doors in the galleries to see that order is preserved in all parts of the gallery, and that no audible conversation shall be allowed; and any person disregarding such order shall be removed without further notice. The question is on the motion of the Senator from New York to suspend all prior orders, and proceed to the consideration of Senate bill No. 275, to increase the compensation of the surveyors of the customs at Albany and Troy, in the State of New York, and for other purposes.

The motion was agreed to; and the bill was considered as in Committee of the Whole.

Mr. HARRIS. In printing the bill, the amended bill as reported by the Committee on Commerce is contained in brackets, and is in Roman characters, while the original bill is printed in Italics. They are transposed, and it will only be necessary that the amendment reported by the committee be read.

The Secretary read the amendment of the committee, as follows:

That the compensation of the surveyors of the customs at Albany and Troy, in the State of New York, be, and the same is hereby, increased to the sum of $500 per annum for each of said officers.

SEC. 2. *And be it further enacted*, That any person who may be appointed deputy collector or inspector for one of the said ports may also perform the duties of collector or inspector of the other of said ports under the direction of the collector of New York: *Provided*, That after the passage of this act, there shall be but one deputy collector and inspector for the said ports, who shall be the deputy collector and inspector for the ports both of Troy and Albany, and there shall be two surveyors, one for the port of Albany, and one for the port of Troy.

The amendment was agreed to.

The bill was reported to the Senate, as amended, and the amendment was concurred in. The bill was ordered to be engrossed for a third reading, and it was read the third time, and passed.

CONGRESSMEN INTERESTED IN CONTRACTS.

Mr. POWELL. I move to postpone all prior orders and take up the bill (S. No. 358) to prevent members of Congress and officers of the Government of the United States from taking consideration for procuring contracts from the United States.

The motion was agreed to.

Mr. TRUMBULL. I should like to inquire if the printed bill has come in.

Mr. POWELL. I am not advised whether it has or not.

Mr. TRUMBULL. A substitute was reported yesterday for the original bill.

The PRESIDENT *pro tempore*. The Chair is advised by the chief clerk that the bill has not yet been returned from the office of the printer.

Mr. TRUMBULL. I am for proceeding with it, but if the printed bill is not here, we had better lay it aside.

The PRESIDENT *pro tempore*. It is impracticable to proceed with its consideration at this time.

Mr. POWELL. Of course we cannot proceed with it if it is not here; but when it comes in I shall move to take it up.

SLAVE TRADE TREATY.

On motion of Mr. SUMNER, the bill (S. No. 352) to carry into effect the treaty between the United States and her Britannic Majesty for the suppression of the African slave trade, was read a second time, and considered as in Committee of the Whole.

To carry into effect the provisions of the treaty between the United States and her Britannic Majesty for the suppression of the African slave trade, the President is to nominate, and by and with the advice and consent of the Senate to appoint, a judge and also an arbitrator on the part of the United States to reside at New York; a judge and also an arbitrator to reside at Sierra Leone; and a judge and also an arbitrator to reside at the Cape of Good Hope. The judge at New York is to be paid at the rate of $2,500, and the arbitrator there at the rate of $1,000, the judges at Sierra Leone and the Cape of Good Hope, $2,500 a year, respectively, and the arbitrators at these two places at the rate of $2,000 a year, respectively, the salaries to begin with the acceptance of their commissions by the judges and arbitrators respectively.

The judge of the court at New York is to have power to appoint a clerk or registrar, who shall receive such fees for his services as are allowed by law to the clerk of the court of the United States for the southern district of New York; and the marshal of the southern district of New York is to serve all processes and execute all orders and decrees of the court, for which he is to be allowed fees in the discretion of the judge.

Mr. SAULSBURY. I wish to record my vote against this bill, and my reason for it is this: I do not object to the suppression of the African slave trade, but I do not believe that this Government has the constitutional right to establish any such court. I think the treaty ought not to have been adopted. There is no power under the Constitution for the establishment of such a court outside of the United States. Inasmuch as I entertain that opinion, I simply wish to record my vote against the passage of this bill for that reason, and that reason alone. I ask for the yeas and nays.

The PRESIDENT *pro tempore*. When the bill has reached that stage, the Chair will put the question on the demand for the yeas and nays.

The bill was reported to the Senate without amendment.

Mr. TRUMBULL. It occurs to me that in the third section it may be well to make a slight amendment at any rate. The third section provides for the fees of the clerk to be appointed by the judge of the court at New York, and declares that he shall receive such fees for his services as are allowed by law to the clerk of the court of the United States for the southern district of New York. I suppose that means "such fees as are allowed for similar services." Would it not be well to put in those words, "for similar services?"

Mr. SUMNER. I have no objection.

Mr. TRUMBULL. As it reads, I should hardly know what he would be paid. I move, after the words "allowed by law to the clerk of the court of the United States for the southern district of New York," to insert "for similar services."

The amendment was agreed to.

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

The PRESIDENT *pro tempore*. Upon the passage of the bill the Senator from Delaware called for the yeas and nays.

Mr. SAULSBURY. I withdraw the call for the yeas and nays, so as not to put the Senate to trouble.

Mr. HOWARD. I renew the call for the yeas and nays.

The yeas and nays were ordered.

The question being taken, resulted—yeas 34, nays 4; as follows:

YEAS—Messrs. Anthony, Browning, Chandler, Clark, Collamer, Cowan, Davis, Dixon, Doolittle, Fessenden, Foot, Foster, Grimes, Harlan, Harris, Howard, Howe, King, Lane of Indiana, Lane of Kansas, Latham, Morrill, Nesmith, Pearce, Pomeroy, Sherman, Sumner, Ten Eyck, Trumbull, Wade, Wilkinson, Willey, Wilmot, and Wright—34.

NAYS—Messrs. Carlile, Kennedy, Powell, and Saulsbury—4.

So the bill was passed.

GUN CONTRACTS.

Mr. POWELL submitted the following resolution for consideration:

Resolved, That the Secretary of War be directed to transmit to the Senate the report of Hon. Joseph Holt and Hon. Robert Dale Owen, commissioners to investigate ordnance and gun contracts; and that he transmit to the Senate all the evidence taken by said commissioners touching the contracts investigated by them.

PRINTING OF TAX BILL.

Mr. TRUMBULL. I am constantly written to for copies of the tax bill which has been recently passed, and it is very important that it should be disseminated in the country. I therefore move that five thousand copies of the recent tax bill which has passed both Houses be printed for the use of the Senate.

The PRESIDENT *pro tempore*. That motion goes to the Committee on Printing.

ADMISSION OF WEST VIRGINIA.

Mr. WADE. I move to take up the bill for the admission of Western Virginia into the Union as a State, and I shall ask for its consideration now.

The motion was agreed to; and the bill (S. No. 365) providing for the admission of the State of West Virginia into the Union, was read a second time, and considered as in Committee of the Whole. By an act of the State of Virginia, passed May 13, 1862, entitled "An act giving the consent of the Legislature of Virginia to the formation and erection of a new State within the jurisdiction of this State," the people of that part of the State of Virginia including the counties of Hancock, Brooke, Ohio, Marshall, Wetzel, Marion, Monongalia, Preston, Taylor, Tyler, Pleasants, Ritchie, Doddridge, Harrison, Wood, Jackson, Wirt, Roane, Calhoun, Gilmer, Barbour, Tucker, Lewis, Braxton, Upshur, Randolph, Mason, Putnam, Kanawha, Clay, Nicholas, Cabell, Wayne, Boone, Logan, Wyoming, Mercer, McDowell, Webster, Pocahontas, Fayette, Raleigh, Greenbrier, Monroe, Pendleton, Hardy, Hampshire, and Morgan, did, with the consent of the Legislature of the State of Virginia, form themselves into an independent State, and did establish a constitution for the government of the same. The bill therefore proposes to admit the State of West Virginia into the Union on an equal footing with the original States in all respects whatever, upon the following conditions: that there shall be included within the State of West Virginia, in addition to the counties already enumerated in the preamble, the following counties, as laid off and defined by the Legislature of the State of Virginia: Berkeley, Jefferson, Clark, Frederick, Warren, Page, Shenandoah, Rockingham, Augusta, Highland, Bath, Rockbridge, Botetourt, Craig, and Alleghany; that the convention hereinafter provided for shall, in the constitution to be framed by it, make provision that from and after the 4th day of July, 1863, the children of all slaves born within the limits of the State shall be free.

The second section authorizes and empowers the people of the counties thereinbefore enumerated, qualified under the constitution of Virginia as electors, to vote for and choose representatives to form a convention for framing and adopting a constitution for a State by the name of West Virginia, or any other name the convention may adopt, in accordance with the provisions of this act; and all persons qualified for representatives to the Legislature of Virginia under the constitution thereof are to be qualified to be elected to the convention. The election for the representatives is to be held at such time at the usual places of voting in the several counties as the Governor of Virginia may direct and prescribe, and as soon as may be after the people thereof shall be relieved from the presence of armed insurgents; and the representatives to the convention are to be apportioned among the several counties as follows: Hancock, 1; Brooke, 1; Ohio, 3; Marshall, 2; Wetzel, 1; Marion, 2; Monongalia, 2; Preston, 2; Taylor, 1; Tyler, 1; Pleasants, 1; Ritchie, 1; Doddridge, 1; Harrison, 2; Wood, 2; Jackson, 1; Wirt, 1; Roane, 1; Calhoun, 1; Gilmer, 1; Barbour, 1; Tucker, 1; Lewis, 1; Braxton, 1; Upshur, 1; Randolph, 1; Mason, 1; Putnam, 1; Kanawha, 2; Clay, 1; Nicholas, 1; Cabell, 1; Wayne, 1; Boone, 1; Logan, 1; Wyoming, 1; Mercer, 1; McDowell, 1; Webster, 1; Pocahontas, 1; Fayette, 1; Raleigh, 1; Greenbrier, 2; Monroe, 2; Pendleton, 1; Hardy, 1; Hampshire, 2; Morgan, 1; Berkeley, 2; Jefferson, 2; Clark, 1; Frederick, 2; Warren, 1; Page, 1; Shenandoah, 2; Rockingham, 3; Augusta, 3; Highland, 1; Bath, 1; Rockbridge, 2; Botetourt, 1; Craig, 1; Alleghany, 1.

The third section enacts that the members of the convention elected under the provisions of this act shall meet at such place as the Governor of the State of Virginia shall designate, at as early a day after their election as may be practicable, and shall have power and authority to form a constitution and State government upon the conditions prescribed in this act, and not repugnant to the Constitution of the United States, which constitution so adopted by the convention shall be submitted to the people of the State of West Virginia for their adoption and ratification.

The fourth section enacts that upon the ratification of the constitution framed by the convention, and the public declaration by the Legislature of the State of Virginia assenting to the formation of the State of West Virginia under the provisions and conditions imposed by this act, it shall be the duty of the Governor thereof to transmit official evidence of the same to the President of the United States on or before the —— day of —— next, upon receipt whereof the President, by proclamation, shall announce the fact; whereupon, and without any further proceeding on the part of Congress, the admission of the State into the Union shall be considered as complete.

The fifth section declares that the State of West Virginia shall be entitled, until the next general census, to as many Representatives in the House of Representatives as the population thereof will authorize under the present apportionment.

Mr. SUMNER. The following is among the conditions on which West Virginia is to be admitted into the Union as a new State, viz: "the convention shall make provision that from and after the 4th day of July, 1863, the children of all slaves born within the limits of said State shall be free." Here is a condition; you undertake to impose a condition. This is clear. But, sir, be good enough to observe that this condition proposes to recognize the existence of slavery during the present generation. Short as life may be it is too long for slavery. If this condition be adopted, and the bill becomes a law, a new slave State will take its place in our Union; it may be but a few slaves only, and for the present generation only, but nevertheless a new slave State. That is enough. Sir, we all know that it takes but very little slavery to make a slave State with all the virus of slavery. Now, by my vote no new State shall come into this Union, and send Senators into this body with this virus. Enough have our public affairs been disturbed, and enough has the Constitution been poisoned. The time has come for the medicine. It will be found in the policy of Mr. Jefferson, originally applied to the great Territory of the Northwest. Its application to a portion of his own Virginia seeking to become a new State will be politic, just, and conservative.

I shall now move the honored Jeffersonian ordinance. On page 2, lines sixteen and seventeen of the bill, I move to strike out the words, "the children of all slaves born within the limits of said State shall be free," and insert in lieu thereof, "within the limits of the said State there shall be neither slavery nor involuntary servitude, otherwise than in punishment of crime whereof the party shall be duly convicted;" so that the whole clause will read as follows:

That the convention hereinafter provided for, in the constitution framed by it, make provision that from and after the 4th day of July, 1863, within the limits of the said State there shall be neither slavery nor involuntary servitude, otherwise than in the punishment of crimes whereof the party shall be duly convicted.

And on this question I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. WILLEY. If it is in order, I offer an amendment to that amendment, striking out all after line two in the first section, and all of the bill except the fifth section, and inserting the following——

The PRESIDENT *pro tempore*. The Chair will suggest that the amendment proposed by the Senator from Virginia is an amendment to the bill and not directly to the amendment proposed by the Senator from Massachusetts. Whether the amendment of the Senator from Massachusetts shall be adopted or rejected, it will then be in order to consider and act upon the amendment proposed by the Senator from Virginia. If the amendment of the Senator from Massachusetts shall be adopted, it will be in order to strike out the whole section embracing that amendment.

Mr. HALE. Having been upon the committee that reported this bill, and meaning to sustain the action of the committee, I shall vote against the amendment proposed by the honorable Senator from Massachusetts; and it may be proper even for so humble an individual as myself to make a brief explanation of the motives that operate on me in the vote I shall give——

IMPEACHMENT OF JUDGE HUMPHREYS.

The PRESIDENT *pro tempore*. The Senator from New Hampshire will suspend. The hour of twelve o'clock having arrived, by order of the Senate, of the 9th instant, the Senate of the United States is resolved into a Court of Impeachment for the trial of West H. Humphreys, United States district judge for the several districts of Tennessee, upon the articles of impeachment preferred against him by the House of Representatives. The Secretary of the Senate will administer to the Presiding Officer the prescribed oath.

The Secretary, JOHN W. FORNEY, Esq., thereupon administered to the President *pro tempore*, Hon. SOLOMON FOOT, the oath prescribed by the 11th rule, who was sworn by the uplifted hand.

The PRESIDENT *pro tempore*. If there are any Senators present who have not hitherto been sworn as members of the Court of Impeachment, they will advance to the desk of the Presiding Officer and take the prescribed oath.

Mr. FOSTER. Mr. President, I offer the following order:

IN THE SENATE OF THE UNITED STATES,
June 26, 1862.

Ordered, That the Secretary give notice to the House of Representatives that the Senate are now in their Chamber, and are ready to proceed in the trial of the impeachment of West H. Humphreys, judge of the district court of the United States for the several districts of Tennessee, and that seats are provided for the accommodation of the members of the House of Representatives.

The order was adopted.

Mr. FOSTER. I offer the following motion:

Ordered, That the Secretary notify the House of Representatives, from day to day, that the Senate is sitting as a High Court of Impeachment for the trial of West H. Humphreys, judge of the district court of the United States for the several districts of Tennessee.

The order was adopted.

The PRESIDENT *pro tempore*. Senators will take the seats prepared for them on the benches on either side of the Chair.

The Senators thereupon retired from their desks, and took the seats prepared for them.

The PRESIDENT *pro tempore*. The Sergeant-at-Arms will make proclamation of the opening of the Court.

The SERGEANT-AT-ARMS. Oyez! Oyez! Oyez! Silence is commanded on pain of imprisonment while the Senate of the United States is sitting as a High Court of Impeachment for the trial of West H. Humphreys, judge of the district court of the United States for the several districts of Tennessee.

The Secretary having notified the House of Representatives that the Senate was ready to receive them,

The Sergeant-at-Arms appeared before the bar and announced,

"The honorable the House of Representatives of the United States."

The PRESIDENT *pro tempore*. The managers and members of the House of Representatives will be admitted to the floor of the Senate Chamber. The Sergeant-at-Arms will direct them to the seats prepared for them.

The members of the House of Representatives took the seats assigned them; the chairman of the Committee of the Whole House [Mr. WASHBURNE] occupying a seat in the aisle in front of the President *pro tempore*, and Mr. ETHERIDGE, the Clerk, one near him.

Messrs. BINGHAM, PENDLETON, DUNLAP, and TRAIN, managers on the part of the House, were conducted to the seats assigned to them in the area, in front of the Secretary's desk.

The PRESIDENT *pro tempore*. The Sergeant-at-Arms of the Senate having been directed by precept to proceed to the place of residence, in Tennessee, of West H. Humphreys, with a summons for him, made on the 9th instant a return, which will now be again read by the Secretary of the Senate.

The Secretary read the return, as follows:

UNITED STATES OF AMERICA, *City of Washington, ss:*

I, George T. Brown, Sergeant-at-Arms of the Senate of the United States, in obedience to the within and foregoing writ of summons and precept to me directed, did proceed to the usual place of residence of the within-named West H. Humphreys, in the vicinity of Nashville, in the State of Tennessee, on the 29th day of May, A. D. 1862, and then and there made diligent inquiry for the said West H. Humphreys, but he could not be found. I further certify, that on the same day and year, and at the usual place of residence of the said West H. Humphreys, in the vicinity of Nashville, in the State of Tennessee, I did then and there leave true and attested copies of the within and foregoing writ of summons and precept.

GEORGE T. BROWN,
JUNE 9, 1862. *Sergeant-at-Arms of the Senate.*

The PRESIDENT *pro tempore*. The accused having failed to appear in pursuance of this summons, an order was passed by the Senate directing a proclamation to be published, which will now be read by the Secretary.

The Secretary read, as follows:

The Senate of the United States of America, as the Court of Impeachment, sitting on the case of West H. Humphreys, judge of the district court of the United States for the several districts of the State of Tennessee.

Monday, June 9, 1862.

Ordered, That this High Court of Impeachment stands adjourned till the 26th day of June, instant, at twelve o'clock, meridian; and, as the said West H. Humphreys has failed to make his appearance to answer the said articles of impeachment, though duly summoned, it is further ordered, that proclamation for his appearance on that day be made by publishing this order in the National Intelligencer, National Republican, and Evening Star newspapers, printed in the city of Washington, for at least ten days, successively, before said 26th day of June, instant, and also in the Nashville Union newspaper, printed in the city of Nashville, in the State of Tennessee, at least five several days before said 26th day of June, instant.

Attest: J. W. FORNEY,
Secretary of the Senate.

The PRESIDENT *pro tempore*. The Sergeant-at-Arms will now make proclamation for the appearance of the accused.

The SERGEANT-AT-ARMS. Oyez! Oyez! Oyez! West H. Humphreys, judge of the district court of the United States for the several districts of Tennessee, come forward and answer the articles of impeachment exhibited against you by the House of Representatives of the United States.

No response being made,

The PRESIDENT *pro tempore*. The accused West H. Humphreys being in default, not appearing, in pursuance of the summons or proclamation, the managers on the part of the United States House of Representatives are now at liberty to proceed in support of the articles of impeachment exhibited against him.

Mr. BINGHAM. Mr. President, on behalf of the managers for the House of Representatives, I ask that the returns of the Sergeant-at-Arms to the subpenas issued for witnesses in support of this impeachment may be reported, and the names of the witnesses called over and those present recorded.

Mr. POWELL. Mr. President, I do not know whether it is in order, but I would suggest that there is no proof before the Court of the proclamation which has been read having been published.

The PRESIDENT *pro tempore*. The Presiding Officer will answer, in response to the suggestion of the Senator from Kentucky, that this proclamation was published in three papers designated by the order of the Senate, in the city of Washington, and in a paper in the city of Nashville, designated in the same order. That is the proof of the publication of the proclamation.

Mr. POWELL. That, I think, is a sufficient statement.

The PRESIDENT *pro tempore*. The returns of the officers to whom the subpenas were directed, will now be read by the Secretary.

The Secretary read the returns to the various subpenas.

Mr. BINGHAM. I beg leave to renew my motion to have the witnesses called, that the names of those present may be recorded.

The PRESIDENT *pro tempore*. The Secretary of the Senate will proceed to call the names of the several witnesses who have been summoned to attend upon the trial of this impeachment, and each witness as his name is called will respond in an audible voice from his place, and the presence or absence of the several witnesses will be noted on the proceedings of the Court.

Mr. HALE. Several of the members of the Court were unfortunate in not hearing the response made to the question put by the Senator from Kentucky in regard to the publication of our order for the appearance of West H. Humphreys.

The PRESIDENT *pro tempore*. The production of the papers of the city of Washington and Nashville in which the publication was published by order of the Senate, to which the Senator from Kentucky stated that it was satisfactory. The Secretary will proceed to call the names of the witnesses who have been summoned.

The Secretary called the list of names, as follows: Jacob McGavock, Horace H. Harrison, John Lellíot, Andrew Johnson, John U. Smith, Robert Smith, John Catron, Perez Dickinson, William H. Polk, Connolly F. Trigg, William R. Hurley, Horace Maynard, William G. Brownlow, Alvin Barton, John L. Meigs, John Miller McKee, H. G. Scovil, Herman Bokum, Bailie Peyton, William Hunt, William P. Jones, A. V. S. Lindley, and Isaac Litton.

All the witnesses answered to their names except Andrew Johnson, Robert Smith, John Catron, and Perez Dickinson.

The witnesses were assigned seats on the left of the Chair, in the rear of the seats usually occupied by Senators.

Mr. BINGHAM. I move the Court that Governor Johnson be excused from obeying the process of this Court, as I am advised that duties devolving upon him of a public character render it impossible for him to attend.

The PRESIDENT *pro tempore*. Unless objections be made the Presiding Officer will assume it to be the will of the Court that Governor Johnson be excused from attendance for the reason assigned by the manager.

Mr. TRAIN. Mr. President, the witnesses having answered as they were called, the managers on their part are now ready to proceed with the evidence to sustain the articles of impeachment which have been presented by the House of Representatives; and in the discharge of the duty assigned to me by the House of Representatives I shall have accomplished all I desire when I have in the briefest manner called the attention of the Court to an analysis of the articles of impeachment, with a brief allusion to the character of the testimony upon which we shall rely to substantiate the proof of the articles.

West H. Humphreys was commissioned as a judge of the district courts of the United States for the State of Tennessee, on the 26th day of March, in the year 1853; he was qualified and discharged the duties of that office until the month of April, 1861, at which time he ceased to discharge the functions of his office, and devoted himself to other pursuits until the period when it will appear that he assumed the functions of a judge of the so-called confederate States of America and performed the duties of that office.

An analysis of the articles of impeachment by the Court will show that the charges against him divide themselves, naturally, into two classes. The fifth article charges the respondent with misconduct and malfeasance in his office; and that is the only one of the seven that charges him with malfeasance in office. That will be substantiated by the House of Representatives by proving that in April, 1861, he declined further to hold the court, which, by his commission, he was bound to hold according to the laws of the United States. Having shown that fact, and having cited to the Court the statute under which he was bound by his oath to act, we shall ask the Court to find him guilty upon that charge.

The other articles, although differing somewhat in character, come down to acts of gross misconduct in a judge in common with other parties who have been engaged in a domestic rebellion against the Government of the United States; and here let me suggest to the Court that if the managers shall establish misbehavior on the part of this judge, that of itself limits his judicial career, the Constitution providing that he shall hold his office during good behavior, and his commission providing that he shall hold his office so long as he behaves himself well.

The first article charges the respondent with endeavoring, by public speech, to incite revolt and rebellion within the State of Tennessee against the Constitution and Government of the United States; the second article charges that he openly and unlawfully supported, advocated, and agreed to an act commonly called the ordinance of secession, declaring the State of Tennessee independent of the Government of the United States and no longer within the jurisdiction thereof; and in calling the attention of the Court to these two articles, I beg to say that if they are substantiated by the managers on the part of the House of Representatives, it will take away from this respondent any palliation, any alleviation, which otherwise might be suggested of the grave character of the offenses which he has committed, because we shall find him not one of those men who may have yielded to circumstances, to outside pressure, giving a reluctant adhesion to the rebellion; but we shall find him upon the evidence one of the earliest advocates of the doctrine of the right of the States to secede, one of the most earnest advocates for the adoption of the ordinance of secession, and one of the leaders in the rebellion from its earliest inception down to the time when he has ceased to be within the reach of the United States Government.

The third article charges the defendant with high treason; that within the State of Tennessee he did unlawfully, and in conjunction with other persons, organize armed rebellion against the United States, and levy war against them. To substantiate that article, we do not deem it necessary to call two witnesses to any overt act, because we understand that that rule of law, as applicable to treason, only applies to an indictment for that offense. We shall, however, offer evidence which, I think, will satisfy the Court beyond any question that he participated in the conduct of the rebellion, so as to bring him precisely within the meaning of the terms of "levying war" against the Government of the United States. We shall show that he returned prisoners to the confederate army; we shall show that, acting as a judge of the so-called confederate court, he brought men from prison before him, and offered to release them upon their taking an oath of allegiance to the confederate States, and enlisting in the rebel army; we shall show that he obeyed the order of one Judah P. Benjamin, styling himself secretary of war of the confederate States; and upon that evidence we shall ask the Court to find the respondent guilty of the third article of impeachment.

The fourth article is drawn under the act of the first session of the Thirty-Seventh Congress, which makes it a criminal offense "to oppose by force the authority of the Government of the United States," it being the thirty-third chapter of the acts of the first session, page 284.

To the fifth article I have already called the attention of the Court. The sixth article charges him with unlawfully acting as a judge of an illegally-constituted tribunal within said State, and with exercising assumed powers unlawful and unjust, and under that article there are three specifications which we propose to prove. And the seventh article charges him with acting "without lawful authority, and with intent to injure one William G. Brownlow, a citizen of the United States," by causing him to be unlawfully arrested and imprisoned.

Of these charges, the articles three and four are for offenses which are indictable at common law and by statute; the others, as I suggested in the commencement of my remarks, are for gross misbehavior in his conduct as a judge.

I need not occupy the time of the Court by adding anything further to what I have suggested as the proper analysis of the articles of impeachment, and I have made these suggestions for the purpose of assisting the Court in making the proper application of the proof as it may be offered by my associates in the conduct of the case.

Mr. BINGHAM. I am instructed by the managers to offer in evidence to the Court a message of the President of the United States to the Senate of the United States, of the date of 24th March, 1853, nominating West H. Humphreys judge of the district court of the United States for the eastern, middle, and western districts of Tennessee.

The Secretary read, as follows:

To the Senate of the United States:

I nominate West H. Humphreys to be judge of the district court of the United States for the eastern, middle, and western districts of Tennessee, in place of Morgan W. Brown, deceased.

FRANKLIN PIERCE.

WASHINGTON, *March* 24, 1853.

Mr. BINGHAM. Mr. President, I propose to offer in evidence next, the Journal of the Senate of the United States of the date of 26th March, 1853, consenting to and confirming this nomination.

The Secretary read, as follows:

IN EXECUTIVE SESSION, SENATE OF THE UNITED STATES, THURSDAY, *March* 24, 1853.

The following message was received from the President of the United States by Mr. WEBSTER, his Secretary:

To the Senate of the United States:

I nominate West H. Humphreys to be judge of the district court of the United States for the eastern, middle, and western districts of Tennessee, in place of Morgan W. Brown, deceased.

FRANKLIN PIERCE.

WASHINGTON, *March* 24, 1853.

SATURDAY, *March* 26, 1853.

Mr. BUTLER, from the Committee on the Judiciary, to whom was referred, on the 24th instant, the nomination of West H. Humphreys, reported. Whereupon,

Resolved, That the Senate advise and consent to his appointment agreeably to the nomination.

Mr. BINGHAM. I offer in evidence an authenticated copy of the commission issued by the

President of the United States, commissioning West H. Humphreys as judge of the district court of the United States for the several districts of Tennessee, of date the 26th of March, 1853.

The Secretary read, as follows:

Know ye that reposing special trust and confidence in the wisdom, uprightness, and learning of West H. Humphreys, I have nominated, and by and with the advice and consent of the Senate do appoint him judge of the district court of the United States for the eastern, middle, and western districts of Tennessee, and do authorize and empower him to execute and fulfill the duties of that office according to the Constitution and laws of the said United States, and to have and to hold the said office, with all the powers, privileges, and emoluments to the same of right appertaining unto him, the said West H. Humphreys, during his good behavior.

In testimony whereof I have caused the letters to be made patent, and the seal of the United States to be hereunto affixed.

Given under my hand at the city of Washington, the 26th day of March, A. D., 1853, and the independence of the United States of America the seventy-seventh.

By the President: FRANKLIN PIERCE.

[L. S.] WILLIAM L. MARCY, *Secretary of State.*

Mr. BINGHAM. In support of the third article of impeachment, which alleges the levying of war against the United States as a matter of accusation against the accused, I offer in evidence to the court the respective proclamations of the President of the United States, of date respectively, the 15th of April, 1861; the 19th of April, 1861; the 27th of April, 1861; the 3d of May, 1861; the 10th of May, 1861; the 12th of August, 1861; and the 16th of August, 1861, duly authenticated by the Department of State, to prove the existence of a state of insurrection and war against the United States.

The Secretary proceeded to read, as follows:

To all to whom these presents shall come, greeting:

I certify that the annexed printed proclamations of the President of the United States, dated respectively 15th of April, 1861; 19th of April, 1861; 27th of April, 1861; 3d of May, 1861; 10th of May, 1861; 12th of August, 1861; and 16th of August, 1861, as amended by marks in writing, are true copies of the originals on file in this Department.

In testimony whereof——

Mr. HARRIS. I move that the reading of those proclamations be dispensed with, and that they be considered as evidence before the Court.

The PRESIDENT *pro tempore*. If no objection be made, they will be considered as received as evidence in the case, and the reading will be dispensed with. The Chair hears no objection.

Mr. BINGHAM. I ask that Jacob McGavock may be called to the bar of the Senate, and sworn as a witness.

JACOB MCGAVOCK was called, and the oath prescribed in the 15th rule was administered by the Secretary, as follows:

"I, Jacob McGavock, do swear that the evidence I shall give in the case now pending between the United States and West H. Humphreys, judge of the district court of the United States for the several districts of Tennessee, shall be the truth, the whole truth, and nothing but the truth. So help me God."

The witness was seated in the area in front of the Secretary's desk.

Examined by Mr. BINGHAM.

Question. Mr. McGavock, you will state, if you please, to the Court your residence.

Answer. It is in the city of Nashville, Tennessee.

Question. You will state to the Court, if you please, your occupation there.

Answer. I was clerk of the United States court until the——

Mr. HOWARD. It is impossible for the Senators on this side of the Chamber [the left of the Chair] to hear the witness or the manager. It would be far better if the witness were elevated, so that all the members of the Senate could hear every response and every question. I should like to have an arrangement made to that effect. We must hear the witness—the question, and the answer.

The PRESIDENT *pro tempore*. The Presiding Officer would suggest that, if the witness is physically able, without serious inconvenience, to stand at the end of the desk of the Secretary, as he gives his responses to the inquiries, it may obviate the difficulty.

The WITNESS. I prefer sitting.

The PRESIDENT *pro tempore*. A seat is prepared which the witness can occupy at the end of the Clerk's desk, and make the responses more audible.

The witness was conducted to a seat at the Secretary's desk.

Mr. COWAN. I would suggest that the witness occupy the place that he has just left, and that the manager on the part of the House of Representatives repeat his answer, if he is unable to speak it loud enough so that all can hear. If he is placed at the end of the Clerk's desk, we cannot hear from this side, [on the right of the Chair.] I would suggest that that would be proper for all parties. Let him sit where he was, and let the manager repeat his answers, if they are not loud enough.

The PRESIDENT *pro tempore*. The witness states that the condition of his health requires him to be seated while he is under examination; and that privilege will be extended to him; and he will occupy the seat assigned him, and the manager will repeat his responses agreeably to the suggestions of the Senator from Pennsylvania. Entire silence must be observed in the Chamber.

The witness having been seated near the managers, the examination was resumed by Mr. BINGHAM.

Question. Mr. McGavock, I inquired your residence?

Answer. Nashville, Tennessee.

Question. I inquired your occupation?

Answer. I was clerk of the United States circuit and district court until the establishment of the confederate court.

Question. State how you ceased to be such clerk.

Answer. I never resigned. I still kept the papers and records of the court.

Question. State by whom you were appointed clerk of the circuit and district court in Tennessee for the United States.

Answer. By Judge Catron.

Question. In what district of Tennessee were you clerk of the district court?

Answer. Middle Tennessee.

Question. State, if you please, what became of the records of the circuit and district court of the United States for that district.

Answer. Well, sir, they continued in my possession until Judge Catron returned there, and I resigned, and he appointed Mr. Harrison as clerk, and I delivered them over to him.

Question. State, if you please, what other court, if any, was established in that district in Tennessee, and what it was called.

The WITNESS. Do you mean in that part of Tennessee?

Mr. BINGHAM. Yes, sir; in that part of Tennessee, middle Tennessee, that district.

Answer. It was called——

Mr. BINGHAM. You can look at that paper, as it bears your name, to refresh your recollection. [Handing the witness a paper.]

Answer. It was called the district court of the confederate States of America for the middle division of the district of Tennessee.

Question. When was that court first established in that district?

Answer. I do not recollect the time exactly. It was after April, 1861.

Question. State, if you please, whether it was in the spring of 1861; perhaps in the month of April or May.

Answer. I think probably in May or June, though I am not certain as to the time.

Question. State, if you please, who was judge, and officiating and acting as such, of this district court of the confederate States of America for the middle division of the district of Tennessee.

Answer. Judge Humphreys.

Question. Where did he officiate and act as such judge?

Answer. In Nashville, Tennessee.

Question. When did he hold his first term of said court in said State, at Nashville?

Answer. In October, 1861.

Question. Mr. McGavock, were you acquainted with Judge Humphreys, at one time judge of the district court of the United States—West H. Humphreys?

Answer. Yes, sir.

Question. State whether he was the same person who officiated and acted as judge of the district court of the confederate States of America, in October last, at Nashville.

Answer. The same person.

Question. State whether he was a citizen of the United States, and a resident of Tennessee.

Answer. He was.

Question. State, if you please, what became of the seals of the district and circuit courts of Tennessee.

Answer. The seal of the circuit court remained there, and the seal of the district court was altered for the confederate court.

Question. State by whose order it was altered.

Answer. Judge Humphreys directed a seal to be made, and I took the seal of the district court and had it altered to the confederate court.

Mr. BINGHAM. He says that Judge Humphreys directed a seal to be made for the confederate court; that he thereupon took the seal of the district court of the United States and altered it so as to make it the seal of the confederate court. [To the witness.] Now state, if you please, whether that is the seal so altered of the confederate court. [Exhibiting an impression of a seal.]

Answer. Yes, sir.

Question. Is that your signature to that certificate?

Answer. Yes, sir.

Mr. BINGHAM. The paper in my hand, which I shall offer in evidence in due time to the Court, is of the date of the 7th of October, 1861, a writ of the district court of the confederate States of America, and bears the impress of the seal with the inscription which the witness says was the seal adopted by the district court of the confederate States of America, and that he signed the paper himself in his official capacity as clerk of that court. [To the witness.] Who appointed you clerk of the district court of the confederate States of America?

Answer. Judge Humphreys.

Question. The same judge, West H. Humphreys?

Answer. Yes, sir.

Question. When were you so appointed by him?

Answer. It was some short time before October, 1861. I am not certain, though, of the date. It was May or June, 1861, somewhere along there; I do not remember exactly.

Question. I ask you whether you were sworn into that office? Was an oath administered to you as such clerk?

Answer. Yes, sir.

Question. By whom was that oath administered?

Answer. I cannot recollect exactly; I think it was by a man named Parrish, a justice of the peace of that place.

Question. Who directed you to take the oath?

Answer. Judge Humphreys.

Question. State, if you please, to the Court what the oath was that you were required and directed by Judge Humphreys to take as clerk of the district court of the confederate States.

Answer. I do not believe I can state that.

Question. Can you state the substance?

Answer. I can.

Question. State it, if you please.

Answer. To support the constitution of the confederate States was the substance of it.

Question. Will you state, if you please, to the Court what has become of the records of the confederate court, if any were kept?

Answer. They were taken away by the receiver.

Question. What was his name?

Answer. Cochran.

Question. When?

Answer. I do not recollect the date, but it was the day or the second day after the fall of Fort Donelson.

Question. By whose order were those records taken away?

Answer. Nobody's order that I know of.

Question. I ask you whether any communication was made to you on the subject of their removal by West H. Humphreys?

Answer. A day or two after they were taken away by Cochran, I received a note from Judge Humphreys for me to take the records and papers to Murfreesboro'.

Question. Will you please produce that note?

The witness produced the note and handed it to Mr. BINGHAM.

Question. Is this note in the handwriting of Judge Humphreys?

Answer. Yes, sir.

Question. All of it?

Answer. Yes, sir.

Question. Are you acquainted with his handwriting?

Answer. Yes, sir.

THE CONGRESSIONAL GLOBE.

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

THIRTY-SEVENTH CONGRESS, 2D SESSION. SATURDAY, JUNE 28, 1862. NEW SERIES.....No. 185.

Mr. BINGHAM. I offer this note in evidence, and will read it for the information of the Court:

Mr. JACOB MCGAVOCK:

It is my order that the record-book of the confederate court be carried immediately to Murfreesboro', and other papers at the same time, or as soon thereafter as possible.

W. H. HUMPHREYS.

The paper bears no date, but the witness states he received it some four days after the fall of Fort Donelson.

Mr. DOOLITTLE. Is it in his handwriting?

Mr. BINGHAM. He says that it is in his handwriting, and that he is acquainted with his handwriting. [To the witness.] You will state whether this place called Murfreesboro', to which you were ordered to take the records, was then in the occupation of the troops of the confederate government.

Answer. I think it was.

Question. How far distant is it from Nashville?

Answer. It is about twenty-five or thirty miles, I think.

Question. State what became of Judge Humphreys about that time.

Answer. I do not know. I have not seen him.

Question. Was he there at the time you received this paper?

Answer. No, sir; that was sent to me.

Question. Has he ever been there since?

Answer. I have never seen him since.

Question. Was not that his usual place of residence?

Answer. Yes, in the neighborhood.

Question. Close by the town?

Answer. Yes, sir.

Question. Does not his family reside there?

Answer. He has no family. His wife is dead.

Question. His children reside there at his own house?

Answer. I do not know.

Question. Did they not at that time?

Answer. I am not certain of that.

Question. Do you know whether he kept house or not?

Answer. Yes, he lived there himself.

Question. He disappeared about that time?

Answer. I had not seen him for several days before that.

Question. Have you ever seen him since?

Answer. I have never seen him since.

Question. State whether you have resided there ever since that time until you came here.

Answer. Yes, sir.

Question. In the city?

Answer. Yes, sir.

Question. I will ask you one further question, and that is whether you were subpenaed to bring with you the records and papers of this confederate court?

Answer. No, sir; I think not.

Question. You had notice to bring them, had you not?

Answer. No, sir.

Question. You had not them under your control?

Answer. The subpena is here. It gave me notice to bring that paper, but no other paper.

Question. You can look at this book and state to the Court whether any of the entries are the entries of the proceedings in the confederate court, and by whom they were made [exhibiting a book marked "Issue Docket" to the witness.]

The WITNESS, (after examining the book.) There is part of them in my handwriting, and part of them in the handwriting of my deputy.

Question. What is his name?

Answer. Isaac Litton.

Question. Are these the entries of cases in the confederate court held by Judge Humphreys?

Answer. Yes, sir. These case were suits brought in the United States court, and transferred to the confederate court.

Question. State, if you please, by whose order the cases were transferred from the United States court to the confederate court.

Answer. By the order of the judge.

Question. Judge Humphreys?

Answer. Yes, sir.

Question. State, if you please, whether the causes pending in the circuit court of the United States for that district, and so transferred for the recovery of money, in so far as they were brought by non-residents of the State of Tennessee and of the southern confederacy, were altered in any respect upon the record in the confederate court. Was there a party for use named?

Answer. After the judgment was entered in favor of the plaintiff, it was marked by the receiver for the use of the confederate States.

Question. I ask you whether the order that the judgments or the cases should be entered up for the use of the confederate States of America was made by the judge?

Answer. Yes, sir.

Question. I ask you whether there were many of those cases pending in the United States courts so transferred and so altered in respect of the use for which the suit was being prosecuted?

Answer. I cannot tell exactly; I suppose some sixty or seventy cases, may be.

Question. Where the judgments were so entered upon them?

Answer. Yes, sir; there was no alteration; it was just that insertion. There was no alteration of the record.

Mr. BINGHAM. That is what I mean. He says there was no alteration, but just the insertion of the words, "for the use of the confederate States."

Question. Were they so entered up in the judgments for the use of the confederate States?

Answer. Yes, sir.

Question. State to the Court whether the object and purpose of this, as declared at the time by the receiver in the court, was not to sequestrate the moneys so owing to non-residents of the confederate States, for the use of the confederate States of America.

Answer. I presume it was. I do not know certainly.

Question. Was it not so understood at the time?

Answer. I judge so.

Question. Can you state to the Court about the aggregate amount in money of those sixty or seventy suits that were thus disposed of by this confederate court for the use of the confederate States —about the aggregate amount in money of the whole?

Answer. No, sir; I cannot come any way near it.

Question. State, if you please, to the Court whether they covered large sums of money.

Answer. Yes, sir; there were some pretty large judgments.

Mr. BINGHAM. I am instructed to repeat a question which I believe I asked you before, and which I think you answered; and that is, when Judge Humphreys held the last term of the district court of the United States for the middle district of Tennessee? Was it in April, 1861?

Answer. There was no court held in April, 1861. It must have been the previous term.

Question. When was that?

Answer. In October, 1860.

Question. You say there was no court held in middle Tennessee, in 1861, by Judge Humphreys for the United States?

Answer. The court met, but did no business.

Question. I ask you whether he impanneled a grand jury at that term?

The WITNESS. In April, 1861?

Mr. BINGHAM. Yes, sir.

Answer. No, sir; I think not.

Question. Do you remember whether he charged them?

Answer. He had not them impanneled, and of course he did not charge them.

Question. Did he give any reason for not impanneling the jury, charging them, and proceeding with the business of the court in April, 1861?

Answer. Not that I heard of.

Question. He has never held a court there for the United States since?

Answer. No, sir.

Question. Who appointed this receiver that you speak of?

Answer. I do not know who appointed him. He was not appointed by the judge.

Question. His name was Cochran?

Answer. Yes, sir.

Question. I ask you whether any prosecutions of any kind were brought before Judge Humphreys as judge of the confederate court in October against citizens of the United States; any cases of complaint against citizens?

Answer. I think there were some; but I do not remember the kind of cases.

Question. Does your trial docket show anything about that?

Answer. It shows some cases in favor of the confederate States.

Question. I mean prosecutions against citizens?

Answer. Yes, sir.

Question. Do you remember what any of them were charged with before Judge Humphreys?

Answer. No, sir; it was generally done by Mr. Litton, my deputy.

Mr. BINGHAM. Then I do not seek to inquire of you further about it. We have nothing further to ask the witness.

The PRESIDENT *pro tempore*. The managers having concluded the examination of this witness, it is the privilege of any Senator, if he desires to put a question to the witness, to do so by reducing it to writing and having it read by the Secretary. [After a pause.] The witness can retire.

ISAAC LITTON called, sworn, and examined by Mr. BINGHAM:

Question. You will please state to the Court your residence and occupation.

Answer. I reside near Nashville, Tennessee, within a few miles of it.

Question. What is your occupation?

Answer. I am not engaged at anything particularly now. I was engaged as deputy clerk of the confederate court up to last February, called the district court of the confederate States of America.

Question. Held by Judge Humphreys?

Answer. Yes, sir; Judge West H. Humphreys.

Question. Who appointed you?

Answer. I was appointed by Mr. McGavock, chief clerk.

Question. Who swore you in?

Answer. I was sworn in, in open court, by Judge Humphreys.

Question. When was that?

Answer. I think the 21st day of October, 1861. It was some time in October, and I think the 21st day.

Question. State to the Court the oath that was administered to you.

Answer. The substance of it was, that I would obey the constitution and laws of the confederate States of America, and demean myself as a good citizen of the confederate States.

Question. State to the Court, if you please, Mr. Litton, what was done with the civil actions of non-residents pending in the circuit court of the United States for that district by this confederate court, if anything.

Answer. I was not in the court at its organization. When I was appointed deputy, there were a good many causes on the civil docket pending, and they were entered in the names of the plaintiffs for the use of the confederate States under the sequestration act.

Question. You mean that they were so entered on the trial docket of the confederate court?

Answer. Yes, sir.

Question. Look at that book, and state whether that is the docket to which you refer. [Handing the witness the same book which had been identified by the previous witness.]

Answer, (after examining the book.) There was another docket in addition to this.

Question. You will please mark down the leaves covering the docket, so far as it is the docket of the confederate court, so that we shall be able to designate it in some way.

Answer. It commences on the 60th page, and continues to and includes the 71st page.

Question. You say that is the trial docket of the confederate court of that district.

Answer. This is what we used as a trial docket in the confederate court.

Question. Are any part of these entries made in your own handwriting?

Answer. Yes, sir; I see my handwriting here. The latter part of it is principally in my handwriting.

Question. Did I understand you to say, in answer to one of my questions, that this entry or order "to the use of the confederate States of America," of these civil cases, was made in pursuance of a sequestration act?

Answer. Yes, sir.

Question. Passed by what government?

Answer. The confederate States of America.

Question. What was the nature of that act, or can you produce a copy of it?

Answer. I have no copy of it.

Question. What did it sequester?

Answer. It sequestered the effects of all persons considered aliens——

Mr. HOWARD. I suggest that that is not competent testimony.

The PRESIDENT *pro tempore.* Objection is raised. The question must be decided by the Court whether the interrogation shall be put to the witness.

Mr. HOWARD. I withdraw the objection.

Mr. BINGHAM, (to the witness.) State, if you please, what the nature of that sequestration act was.

Answer. As I understand, the estates and assets of persons who were considered aliens to the confederacy were sequestered for the benefit of the confederate government——

Mr. LANE, of Indiana. I object. Here they are proving by parol the nature of an act of which there is a record.

The PRESIDENT *pro tempore.* Objection being made, the interrogatory must be put in writing, and the question must be decided by yeas and nays whether the interrogatory shall be admitted.

Mr. LANE, of Indiana. I suggest that if such questions are gone into and argued, we shall not get through in a month.

Mr. FESSENDEN. I suggest to the Court and to the managers that it might be sufficient to prove the acts of the respondent, which involve a breach of his allegiance or misconduct on his part, without going into detail, into particulars. I suggest to the managers whether it is worth while to be putting questions as to details which every lawyer is competent to decide upon from hearing the acts testified to.

The PRESIDENT *pro tempore.* By the rule, the interrogatory must be put in writing, and the question will be for the decision of the Court on the yeas and nays, whether the interrogatory shall be put.

Mr. SAULSBURY. If the managers on the part of the House of Representatives will excuse me, I wish to make a suggestion. This trial is to be prolonged for some time if this mode of examination proceeds. If the managers on the part of the House of Representatives are satisfied that they have proved the fact that West H. Humphreys, having the commission of the United States, has presumed to act as a judge of the confederate States of America, or of any other Power, "openly and notoriously," as is suggested by the Senator from Pennsylvania, [Mr. COWAN,] that is a sufficient ground for his conviction. I have no hesitation in saying that if that fact is clearly proved, and I think it has been proved, I would unquestionably vote for his conviction. Perhaps, if we wish to transmit a record in which lawyers may critically examine our proceedings, it may be proper to pursue the course that the managers on the part of the House of Representatives are pursuing; but for our personal satisfaction, if that fact is proved, it is sufficient.

Mr. TRUMBULL. Mr. President, I rise to a question of order. This discussion is entirely out of order; any remarks from Senators are out of order.

The PRESIDENT *pro tempore.* The Presiding Officer understood the Senator from Delaware to rise to submit respectfully a suggestion for the government of the managers of the prosecution.

Mr. SAULSBURY. Pardon me for a moment. In answer to the chairman of the Judiciary Committee of the Senate, I desire to say that while I always wish to pay proper respect to anything falling from a committee so very learned, yet when the gentleman interposes in such a tone as that in which he spoke, it is not very much appreciated by me.

The PRESIDENT *pro tempore.* The Chair will state that by the rules of proceedings of this Court, all collateral questions must be decided without debate, and by the yeas and nays.

Mr. BINGHAM. Mr. President, if the objection be insisted on, by leave of the Court I shall not press the question; stating, however, in justification of the action of the managers on the part of the House of Representatives in this behalf, that we supposed the rule did apply in this case that the best evidence that the nature of the case admits of is admissible, and especially as our question was as to the declared ground of the action of the court in Tennessee at the time. I ask leave to state further to this Court that it must occur to every mind that we cannot be expected to produce the original evidence in the hands of the public enemy, and that this is strictly within the rule of law in our judgment; but we withdraw the question.

The examination of Isaac Litton was resumed by Mr. BINGHAM:

Question. State, if you please, now, in addition to what you have stated about these judgments of sequestration, whether there were any proceedings of a criminal character, or purporting to be of a criminal character, instituted and prosecuted in that confederate court against citizens of the United States?

Answer. There were, sir.

Question. What was the nature and character of those proceedings?

Answer. Parties were arrested, brought before the court on different charges; charges of disloyalty to the government——

Question. What government?

Answer. The confederate government.

Question. What was the specific character of the charge? What was the offense called in that court?

Answer. I think in some cases it was called treason to the confederate government.

Question. Was there any examination had in these cases before that court?

Answer. There was. Witnesses were examined in open court.

Question. In the presence of Judge Humphreys?

Answer. Yes, sir.

Question. What was the testimony brought against them? That is to say, what was proved or attempted to be proved against them specifically?

Answer. In the different cases the testimony was different. Some of them were accused of overt acts against the Government of the confederate States; testimony was introduced——

Question. In what way?

The WITNESS. What testimony?

Mr. BINGHAM. No; what sort of acts? Words?

Answer. Words principally.

Question. What were they charged with saying?

Answer. I do not recollect now the charges that were made against them.

Question. State, if you please, to the Court here, whether the substance of the ruling of Judge Humphreys in those cases, or any of them, was that persons who declared themselves openly in favor of the Government of the United States, and of maintaining its authority, were held responsible to his court, or not?

Answer. Yes, sir; that ruling was held by the court.

Question. By Judge Humphreys?

Answer. Yes, sir, by Judge Humphreys.

Mr. BINGHAM. It was called treason for a man to be faithful to the Constitution of the United States. State what disposition he made of those parties who were charged in this way in his court.

Answer. There were different dispositions made of them. Some of them were required to give bonds for their good behavior; others took the oath of allegiance to the confederate government; some of them entered the army of the confederate States.

Question. State, if you please, to the Court whether these conditions were announced in that court to the parties thus arraigned before it as conditions necessary to be performed on their part in order to secure their release from custody.

Answer. In some cases parties were informed by the court that on taking the oath of allegiance and enlisting in the confederate army, they would be discharged.

Question. State whether, upon that advice of Judge Humphreys to citizens of the United States arraigned before him in that way, any of them did take the oath of allegiance to the confederate States and enlist in the rebel army.

Answer. Some of them did.

Question. When was that?

Answer. It was in October, 1861, I think, or the early part of November; I do not remember the date now; I could not tell without referring to the record.

Question. Now state, if you please, to the Court what disposition was made of those who refused to take the oath, refused to give the bond, and refused to enlist in the rebel army.

Answer. Some of them were remanded to jail.

Question. By order of Judge Humphreys?

Answer. Yes, sir.

Question. In these cases you refer to, was there anything pretended to be alleged against the parties except their adherence to the Government of the United States?

Answer. That was all, and taking up arms, as it was stated in some cases, against the confederate States.

Question. State, if you please, if you know, what has become of the residue of the records of this confederate court.

Answer. I do not know. They were taken from Nashville. I know nothing about them. They were in the custody of the chief clerk, Mr. McGavock.

Question. State what became of the judge.

Answer. He went South.

Question. Where did he go to?

Answer. I do not know where he is. I have not seen him in Nashville since February last.

Question. How long after the fall of Fort Donelson?

Answer. I did not see him at all in Nashville after the fall of Fort Donelson. I have never seen him in Nashville since.

Question. State if you have resided there ever since then.

Answer. Yes, sir; that has been my residence, and I have been there most of the time. I have been absent on different occasions. My residence is there, in the neighborhood.

Question. Now I ask you how those persons, or some of them at least, who were brought before Judge Humphreys were originally arrested; that is, by what authority, whether by the military authority or the civil authority?

Answer. In some cases there were parties brought there who were arrested by military authority, lodged in jail, and then taken from there on an order from Judge Humphreys.

Question. To answer before him?

Answer. Yes, sir, to answer before him. In fact, some of them were brought before Judge Humphreys on petition of the parties themselves by their attorneys.

Question. What military authority was this that you refer to, which arrested these persons?

The WITNESS. Do you mean the general military authority?

Mr. BINGHAM. Yes, sir.

Answer. The confederate States of America.

Mr. BINGHAM. I understood you to say a little while since that some of them were brought directly to the court by military authority. State, if you please, whether soldiers under arms of the confederate forces brought them into court in person; if that is what you meant by that remark.

Answer. They were brought there by soldiers under arms. I have seen persons brought in there in that way.

Question. State, if you can recollect, in any of those instances, of citizens being brought into the court by soldiers of the confederacy under arms, what disposition the judge made of those persons in any one of those instances.

Answer. In some of the cases, I think, the parties were remanded to jail, and afterwards they came forward and took the oath of allegiance to the confederate States, and enlisted in the confederate army. My recollection is that in all cases, when brought there, Judge Humphreys ruled that he had no power to take them from the military, and they were sent to jail and remained there, and then there was a petition filed, possibly, or applica-

tions of the parties themselves, through the jailor, to come into court.

Question. They would be brought into court?

Answer. Yes, sir.

Question. And he would discharge them on their taking the oath of allegiance and enlisting in the rebel army?

Answer. Yes, sir; that was done in several instances.

Mr. BINGHAM. I am instructed by one of my associate managers—I am not advised whether anything of that sort was in your knowledge—to ask whether any persons were executed by either of these authorities, coöperating there in the name of the confederate States of America, by reason of their alleged disloyalty to that confederacy.

Answer. I know nothing of that sort of my own knowledge in our section of country, middle Tennessee.

Mr. BINGHAM. We are through with this witness.

The PRESIDENT *pro tempore.* If no Senator desires to propound an interrogatory to the witness, the witness can retire.

JOHN U. SMITH called, sworn, and examined by Mr. BINGHAM:

Question. State to the Court, if you please, your residence and occupation.

Answer. My residence is in the city of Nashville; occupation a lawyer.

Question. State whether you are acquainted with West H. Humphreys, judge of the district court of the United States for Tennessee.

Answer. Yes, sir; I have known him for fifteen or twenty years.

Question. State if you practiced before him when he exercised the office of judge of the United States for that district in Tennessee.

Answer. Yes, sir.

Question. And knew him to exercise the duties of the office?

Answer. Yes, sir.

Question. State whether he has held any court for the United States in the State of Tennessee, in either of its districts, since the April term, 1861.

Answer. He has not.

Question. I am instructed by one of my associates, before proceeding further, to ask you now whether there was any act of secession, called an ordinance of secession, got up in the State of Tennessee?

Answer. Yes, sir; there was.

Question. By what body was that originated?

Answer. By the Legislature of the State.

Question. When was it acted on before the people?

Answer. I think it was on the 8th of June, 1861.

Question. You say he has held no United States court since that act was adopted, nor for two months before it?

Answer. No, sir.

Question. What do you know, if anything, of West H. Humphreys's participating in any public meeting previous to the action of the Legislature for secession, in Nashville, upon the question of seceding from the Government of the United States and joining the revolt?

Answer. I think on the 29th day of December, 1860——

Question. State whether you are certain as to the date.

Answer. It was the last Saturday in December, 1860.

Question. And you think it was the 29th day of December, 1860?

Answer. Yes, sir.

Question. Very well; what took place?

Answer. There was a public meeting in the county of Davidson, in the city of Nashville, Tennessee, called by citizens for the purpose of taking into consideration the political condition of the country. I attended the meeting. There were two parties in that meeting—a secession party and a Union party. The secessionists who attended the meeting had West H. Humphreys there as one of their spokesmen, and he made a secession speech upon that occasion.

Question. Who did?

Answer. West H. Humphreys.

Question. Well, sir?

Answer. He was interrupted during his speech by Governor Foote.

Question. Formerly a Senator from Mississippi?

Answer. Yes, sir. Governor Foote was then a Union man. He was interrogated how he could, consistently with his oath as a judge of a court of the United States, make the remarks he had; which, in their tendencies, were to excite rebellion against the Government of the United States.

Question. What was his reply?

Answer. His reply was general in its character. There was a good deal of confusion, and he went on and finished his speech without making, according to my recollection, any particular reply to the interrogatory of Governor Foote.

Question. State, if you please, to the Court what he said, if anything on that occasion in his public speech touching the right of the people to secede from the authority of the Federal Government.

Answer. He said that they had the right to secede, and used arguments in favor of their seceding.

Question. What did he say on the subject of a conflict at arms between them and the Federal Government in that speech?

Answer. I do not recollect particularly of his saying anything on that point; but the tendencies of the speech were to bring about that result.

Question. Did you have any conversations with him after this meeting on the subject of secession?

Answer. Yes, sir.

Question. When the ordinance was pending before the people, or before the Legislature, did you have any conversations with him?

Answer. Yes, sir.

Question. What was the tenor of his conversation on that subject? Was he for or against?

Answer. In favor of secession.

Question. What was said then, if anything, between you and him, and by him, on the subject of resisting the authority of the Government of the United States by force of arms?

Answer. I do not recollect, particularly, the very words that he used in any conversation. I had divers conversations with him on that subject.

Question. State the substance of what he said on that subject, for or against that mode of proceeding.

Answer. The substance was, that he was in favor of the State of Tennessee seceding from the Union; he believed in secession as a right, and he believed in the people of Tennessee exercising that right, under the circumstances that surrounded them.

Mr. BINGHAM. I believe that is all.

The PRESIDENT *pro tempore.* Does any Senator desire to propound a question to this witness? If not, he can retire.

H. G. SCOVIL called, sworn, and examined by Mr. BINGHAM:

Question. You will state to the Court where you reside?

Answer. At Nashville, Tennessee.

Question. State to the Court whether you are a citizen of the United States?

Answer. I am.

Question. State to the Court anything you know of the conduct of West H. Humphreys, officiating as judge of the district court of the confederate States at Nashville, in 1861.

Answer. Some time in the month of October——

Question. Make it brief. State whether you were arrested in 1861, and by whose authority or order.

Answer. I had a warrant served upon me sometime in the month of October, 1861, emanating from the so-called great court of the confederate States of America, to appear before Judge Humphreys upon a charge of sedition and rebellion.

Question. Against what authority?

Answer. Against the confederate States of America, by giving aid and comfort to the citizens of the United States, and having said that the stars and stripes would float over the capital of the State of Tennessee, and over all the capitals of the seceded States in some sixty or ninety days.

Question. That was your offense?

Answer. Yes, sir.

Question. Were you arrested?

Answer. I was arrested.

Question. Before whom was you brought?

Answer. Before Judge Humphreys.

Question. What did he say, and what did he do with you?

Answer. The evidence was that I had made statements of that kind; that I had given aid and comfort to the citizens of the United States, and had said that the stars and stripes would float over the capital of the State of Tennessee in some sixty or ninety days, and over the capitals of all the seceded States. The testimony was that I had said that I would give half or all that I possessed to restore the Government of the United States; that I sympathized with the Federal Army; and that I was opposed to the confederate army; that I was hostile to the confederate army; that I was a dangerous man——

Question. That is what the judge said, you say?

Answer. Yes, sir; that I ought to move from that country, as thousands of others had. He decided that I was not an alien enemy; that it was not in the jurisdiction of his court to either expatriate me, fine me, or imprison me; but that he would place me under heavy bonds, inasmuch as I was a dangerous man and sympathized with the United States and with the Federal Army, and had been uttering treasonable and seditious language hostile to the southern confederacy.

Question. State whether you executed a bond or not.

Answer. Yes, sir; I did.

Question. In what sum?

Answer. The amount of $10,000.

Question. Conditioned for your obeying the laws of the confederacy?

Answer. Yes, sir; and upon my informing him of a conversation that I had with a judge in the city of Nashville, who informed me, just after my arrest, that I had not said anything more than he had said a thousand times, he seemed to be very much offended. Said he, "Inform me of the name of that party, and I will have him arrested in twenty-four hours."

Question. What was it you said the judge had said for which he would have him arrested? Did you tell him what the judge had said?

Answer. I informed Judge Humphreys on his bench that one of the prominent lawyers in the city had made this remark to me, on one of the streets of Nashville, that I had not said anything more than what he had said a thousand times. Judge Humphreys seemed to be very much offended at that; and, said he, "Inform me of the name of that party, and I will have him arrested in twenty-four hours;" and, said he, "Sir, I think of increasing your bail to $20,000."

Question. I am instructed to ask you if you know anything about citizens being brought before that court under the guard of soldiers of the confederacy?

Answer. No, sir. I had been made so prominent by my arrest that I kept away from the capital, being threatened with death in a variety of ways.

Mr. BINGHAM. Mr. President, we are through with the witness.

The PRESIDENT *pro tempore.* Unless some Senator desires to propound questions to him, the witness may retire.

WILLIAM G. BROWNLOW called, sworn, and examined by Mr. BINGHAM:

Question. You will state to the Court your residence.

Answer. Well, sir, when I am at home, I reside in Knoxville, East Tennessee.

Question. State to the Court if you are acquainted with West H. Humphreys.

Answer. I know him very well; I have known him about twenty years.

Question. State if you know anything touching the examination before him, as judge of the court of the confederate States of America, at Knoxville, of a Mr. Perez Dickinson.

Answer. I stepped into the court-house at the time Mr. Dickinson was on trial; stood far back in the court-room as a silent observer of things; did not remain long, and did not hear much of the examination. Mr. Dickinson made a short speech, in which he defended himself. I understood him to decline taking the oath of allegiance to the confederacy that was proposed. He was very much affected, and shed tears. The agreement was that he was to go out of the country, and he packed up his trunk with a view to leave if they would let him off, and leave his property, I think making some disposition of it.

Question. What was he charged with?

Answer. Well, sir, being a Union man; being a stubborn, unyielding Union man; a man refusing to surrender——[Manifestations of applause in the galleries.]

The PRESIDENT *pro tempore.* Order!

Question. Was he a man of property?

Answer. Among the wealthiest merchants in Knoxville, belonging to the wealthiest firm; a man of unimpeachable character and veracity, of high standing, much of a gentleman.

Question. Did he leave, or if not, why not?

Answer. They reconsidered the case, as I understood, got ashamed of their proceeding and reconsidered it, and agreed to let him stay.

Question. On what condition?

Answer. That he give a bond and approved security for his good behavior, which his friends entered into. It was not his wish or will, I think, to enter into any bond or take any oath, but his friends did it for him.

Question. That bond was given to the southern confederacy, conditioned that he would behave himself well to that body?

Answer. That was my understanding. I did not hear it read.

Question. Now state, if you please, to the Court if you know anything of Dr. Thornburg, of Tennessee, a citizen of that State.

Answer. Dr. Thornburg was a gentleman to whom I was a good deal attached. He was a strong Unionist. We had battled together in the Clay Whig ranks for years. He had made up a company of cavalry to escape through Cumberland Gap, go into Kentucky, and join the Federal army. He was captured by a Captain Ashby and his company of the rebel army. He was kept several weeks in confinement in the Cumberland Gap in camps, and was driven in by a company of cavalry on foot. He owned the finest saddle horse in that country. They led his horse after him, and refused to let him ride the horse. He came by my house going out to Zollicoffer's camp. I saw him. He was much fatigued and worried down. The next morning when he was marched into the court-room—I think it was in the month of September, 1861, but I shall not be positive about dates; it was after Zollicoffer was encamped in our town in the command of East Tennessee as a brigadier general——

Question. State to the Court how he was marched into that court-room before Judge Humphreys?

Answer. He was marched in between two rows of infantry with muskets and bayonets. They were a respectful distance apart, and he was in the center, the whole constituting, as I would describe it, the letter H. Dr. Thornburg made the cross in the middle that would constitute the letter H. He was carried into the court room between the soldiers with muskets and bayonets. There was quite a crowd, and it was difficult to get a place to stand or sit. I followed as a silent spectator to hear what was to be done. Judge Humphreys made a speech; and while I am aware that I am upon oath, I must characterize his speech as a bitter, vindictive, political stump speech.

Question. From the bench?

Answer. From the bench. He made them frequently; but a part of that one I heard. He had a juror there; there was a good deal of talk in town about a juror from South Carolina, from Charleston. Tom O'Connor had come from Charleston, and had the Palmetto secession badge pinned upon the left luppel of his coat. He sat as one of the jurors. Judge Humphreys, in that stump speech of his from the bench—I recollect the sentiment; the words I cannot agree to repeat *verbatim*—but substantially he said that in the case of Thornburg he would have to have some time to consider the case; that he did not know whether the case would fall under his jurisdiction, the civil code, or whether it belonged to General Zollicoffer's military branch of the government. However, he concluded that he would take charge of him. He said that the military authority must be upheld, and should be sustained, and gave the citizens to understand that he would be backed and sustained in the court by General Zollicoffer; he had bayonets and muskets enough there to sustain one judge, and to prop up one court. There was, perhaps, an excuse for talking in that way, for there was a very strong disposition on the part of the Union men to put him down and his rebel court. I did not remain to hear all that was said and done. I told Thornburg's brother, who was the prosecuting attorney for that district—a very clever man, Colonel Thornburg—that I thought it was a gone case for us; that his brother had no chance. They afterwards sent him on to Nashville, and confined him in the Nashville jail. I do not know how long he was there.

Question. You have made some reference to a charge to the grand jury, as I understood you, in the testimony you have given since you have been upon the floor, at which was present one O'Connor, a member of the jury, from South Carolina?

Answer. Yes, sir, O'Connor was a Tennesseean, but he was anxious to engage in the rebel war, and Tennessee was not moving fast enough for him in the work of rebellion, and he emigrated to Charleston. After remaining with them in camps there as a soldier a while, he came back and was put upon the jury.

Question. Was this the grand jury?

Answer. I do not know whether it was a grand jury or a traverse jury, or what it was, but he was a juror. The jury were impanneled, and he sat as one of them.

Question. Which court was that in, the Federal or the confederate court?

Answer. The confederate court.

Question. At the same time that Thornburg was there?

Answer. Yes, sir. I recollect the occasion, for there was a talk of indicting some of them for treason against the United States, and Judge Humphreys met that in his speech by saying that there could be no treason committed against the United States in times of revolution, that we were in the midst of a revolution, and there could be no such thing as treason against the United States. He took particular pains to say that the usurpations of the Federal Government, and the atrocious conduct of the present President of the United States, altogether, were such as to release Tennesseeans from any obligation whatever to the Government.

Question. This was said by him in September, 1861?

Answer. That was said by the judge on the bench in a stump speech. [Laughter.] It was either September or October.

Question. Eighteen hundred and sixty-one?

Answer. Last September or October.

Question. Now state to the Court, if you please, whether this Judge Humphreys appointed any commissioner under him and his court as a confederate judge.

Answer. He appointed a deputy judge, called a commissioner, to act in his absence and to keep the court sitting all the time, and in fact it did sit all the time, except that at intervals the commissioner was beastly drunk and falling in the gutters in the street, [laughter,] a very fair representative of the southern confederacy, however. [Laughter.]

Question. What was that commissioner's name?

Answer. Robert Reynolds; a large fleshy man and a beastly drunkard. A guard took him out of the gutter into the guard-house. I have him pictured off in a book that I have lately published.

Question. Now state, if you please, Mr. Brownlow, whether you were interfered with by this court, either in the person of its chief justice, Humphreys, or through his deputy, Robert Reynolds, and in what way you were interfered with, and for what you were interfered with.

Answer. I was arrested on the afternoon of the 6th day of December, upon a warrant issued by Commissioner Reynolds, the deputy of Judge Humphreys. The warrant I have here in the city, printed.

Question. You can state substantially what it is.

Answer. Charging me with treason against the confederate government, "in the following editorials, to wit," which are set forth in the warrant.

Question. You were the publisher of a public journal?

Answer. The publisher of a newspaper. That was all the charge that was preferred against me. My friends, without my solicitation, for I did not wish them to do so, volunteered to make up a bond for $100,000 for security for my appearance at the next confederate court.

Question. To stand your trial?

Answer. Yes, sir. The reply of Commissioner Reynolds was, that it was not a bailable case. [Laughter.]

Question. There was nothing of that kind provided for by statute, I suppose?

Answer. No, sir. The deputy marshal, Robert Fox, committed me to jail. While I was in jail, in the month of December, Judge Humphreys came back. I never had any interview with him, but one of the military officers came into jail and told me—if it is not too tedious I will give the whole conversation——

Question. No, sir; just state what it was generally.

Answer. He said that I ought not to be in this place; that this was no place for me. I told him I thought so too, but the authorities of his bogus government—I characterized it as a bogus government—thought differently, and I was there without complaint, and contented to remain. The officer told me that if I would go with him to the court-house where Judge Humphreys was on the bench, and take the oath of allegiance to the confederate government, I would be at once liberated, and my family and myself protected. I replied to him that he had no authority to administer any such oath, that I denied that he had any government, that I maintained that he had organized a southern mob, that I held that they had never been recognized by any civilized Government on God's earth, and never would be, and that I would see the confederacy, and him and myself on the top of it, in the infernal regions before I would take the oath of allegiance to that government. I am giving the whole conversation. They never pestered me any more after that. That was about the last I had to do with them. [Laughter.] Judge Humphreys and his court were a terror to the Union men of East Tennessee all the time. We dreaded to see him come to hold the court. He was always speechifying on the bench, making violent political harangues. I regard him as one of the most violent secessionists we had in the State, cocked and primed on all occasions to deliver speeches.

Question. You will state how long you were kept a prisoner.

Answer. They kept me in the main jail room with my associates—about one hundred and fifty when I went in first—five weeks. I took typhoid fever, and got very bad off, and they took me to a private room, and there doubled the guard around me, and kept me there, they said, for my comfort and protection; but I always believed it was because the Unionists in the jail had ceased to join their army after I got in, and they attributed it to the influence that I exerted over them. I was in from the 6th of December to the 3d of March—lacking three days of three months—in close confinement.

Question. State, if you please, now, to the Court upon whose order you were finally discharged from that imprisonment.

Answer. Upon the order of a Mr. Benjamin, at Richmond, purporting to be the secretary of war under Davis.

Question. Of the confederate States?

Answer. Of the confederate States. He wrote to Attorney Ramsay, and Ramsay read the letter in open court, stating that the honor and faith of the confederate government were pledged to see me out into the old Government among the people with whom I sympathized, and that if I were convicted he would feel bound in honor to intercede with the president for my pardon. He ordered my instant release.

Question. What president did he refer to in that?

Answer. President Davis.

Question. Of the confederate States?

Answer. Of the confederate States.

Question. Jefferson Davis?

Answer. Jefferson Davis. Robert Fox, the deputy marshal, came with an order from the court of Robert Reynolds, stating that a *nolle prosequi* had been entered, and that he was directed to say to me that I was released from the civil arrest and imprisonment. A captain of the rebel army accompanied him. As soon as he released me—the space was about from three to five minutes that I was free, but not out of jail—the captain turns round and says to me, "I am directed by General Carroll to rearrest you, and you will therefore remain as the prisoner of the military authorities."

Question. You got out of Judge Humphreys's possession?

Answer. I got out of Judge Humphreys's possession, and was out about three minutes, I take it.

Question. State, if you please, whether the J. C. Ramsay, to whom you refer, was officiating in this court of Judge Humphreys's on the occasion when you were present—I mean when Dr. Thornburg was before that court and when Mr. Dickinson was arraigned before it. Was Ramsay officiating there in the presence of Judge Humphreys as district attorney of the court for the confederate States of America?

Answer. He was the confederate attorney for the whole State of Tennessee, acting and officiating there and at Nashville in the different confederate courts. He had been four years the Federal attorney under James Buchanan, and then entered into the service under Jefferson Davis. He had on a military suit, and was the captain of a company that he had attempted to raise; he was unpopular, justly so, and got about as high as thirty men, and was drawing rations and clothing for sixty men. They detected him in his personal dishonesty and villainy, and they had him drummed out under Zollicoffer. That, in my judgment, qualified him still more eminently to serve the confederate government. [Laughter.]

Mr. BINGHAM. Mr. President, we have nothing further to ask Mr. Brownlow as a witness.

The PRESIDENT *pro tempore.* Does any Senator propose any question to the witness? [After a pause.] The witness is excused and may retire.

Mr. BINGHAM. I am instructed by the managers to ask of the Court to recall Isaac Litton, for the purpose of putting to him an inquiry with regard to another specific act of the court of which he was deputy clerk.

The PRESIDENT *pro tempore.* The witness will come forward.

ISAAC LITTON recalled, and reëxamined by Mr. BINGHAM.

Question. I am instructed to ask you whether, among those proceedings of sequestration to which you referred before, in this district court of the confederate States by Judge Humphreys, there was an order or decree directed by Judge Humphreys against certain property of John Catron?

Answer. My recollection does not serve me as to the property of Judge Catron. There was a petition, I remember, filed by the next friend of Mrs. Catron. Whether there was any action sequestrating any of the property, I am not positive; but my recollection is that there was some gas stock, possibly, that was sequestered under the decree, but I am not positive about that fact.

Question. Alleged to be the property of Judge Catron?

Answer. Yes, sir; I know a petition was filed. Whether a decree of sequestration was made out as to any estate, except the stock, I am not certain.

Mr. BINGHAM. That is all I desire to inquire of the witness.

The PRESIDENT *pro tempore.* The witness may retire.

Mr. BINGHAM. I am instructed by the managers to offer in evidence the trial docket of the district court, which has been indicated by the witnesses—they who made it—to wit: the clerk and deputy clerk of the confederate court held by Judge Humphreys, as extending from pages 60 to 71, inclusive.

After a pause,

Mr. BINGHAM. Mr. President, on consultation with the managers on behalf of the House of Representatives, I am instructed to say to you and this honorable Court that we do not deem it our duty to offer any further evidence in behalf of the several accusations preferred by the House of Representatives in their own name, and in the name of all the people of the United States, against West H. Humphreys, charging him with high crimes and misdemeanors. In the discharge of the duties which have been assigned us, upon consultation, we have concluded that it will scarcely be expected of us, and it can hardly be accounted our duty, that with a case so plainly made out by the testimony, we should delay this honorable Court with any extended remarks in support of these accusations, or in summing up the testimony by which they are sustained and proved. It only remains, therefore, for me, as one of the managers, in obedience to the order of the House of Representatives, and in the further discharge of the duty assigned me, to respectfully demand of this honorable Court, in the name of all the people of the United States, whose rights have been invaded and outraged by this recusant judge, that there be judgment of conviction against him in the premises by this High Court of Impeachment, in manner and form as prescribed by the Constitution of the United States.

The PRESIDENT *pro tempore.* The Secretary will read each article of the impeachment; and the question of "guilty" or "not guilty," will be taken upon each article separately.

The Secretary read the first article, as follows:

ART. 1. That, regardless of his duties as a citizen of the United States, and unmindful of the duties of his said office, and in violation of the sacred obligation of his official oath "to administer justice without respect to persons," and faithfully and impartially discharge all the duties incumbent on him as judge of the district court of the United States for the several districts of the State of Tennessee, agreeable to the Constitution and laws of the United States, the said West H. Humphreys, on the 29th day of December, A. D. 1860, in the city of Nashville, in said State, the said West H. Humphreys then being a citizen of the United States, and owing allegiance thereto, and then and there being judge of the district court of the United States for the several districts of said State, at a public meeting, on the day and year last aforesaid, held in said city of Nashville, and in the hearing of divers persons then and there present, did endeavor, by public speech, to incite revolt and rebellion, within said State against the Constitution and Government of the United States, and did then and there publicly declare that it was the right of the people of said State, by an ordinance of secession, to absolve themselves from all allegiance to the Government of the United States, the Constitution and laws thereof.

The PRESIDENT *pro tempore.* The Chair will call each Senator in alphabetical order, and he will rise and respond "guilty" or "not guilty."

Mr. SAULSBURY. I only wish to make one remark. I shall vote for the conviction of Judge Humphreys on this distinct ground, that while holding a commission from the United States of America, he assumed to act as a judge of a power antagonistic to the Government of the United States of America. I commit myself to no declarations, no sentiment, in any form of judgment drawn up by the managers or by the Senate. I place my vote upon that distinct ground, and shall vote for his conviction when my name shall be called.

The PRESIDENT *pro tempore* then put the question to each Senator as his name was called, in the following form: "Mr. Senator ——, how say you, is the accused, West H. Humphreys, guilty or not guilty of the high crimes and misdemeanors as charged in this article of impeachment?" And each Senator stood in his place while he was thus addressed by the Chair, and answered "Guilty," or "Not guilty."

Mr. SAULSBURY, (when his name was called.) In the sense in which I have already expressed it, I say "guilty."

The following Senators answered that the accused was guilty of the high crimes and misdemeanors alleged against him in the first article of the impeachment:

Messrs. Anthony, Browning, Chandler, Clark, Collamer, Davis, Dixon, Doolittle, Fessenden, Foot, Foster, Grimes, Hale, Harlan, Harris, Henderson, Howard, Howe, Kennedy, King, Lane of Kansas, Latham, McDougall, Morrill, Nesmith, Pomeroy, Powell, Saulsbury, Sherman, Sumner, Ten Eyck, Trumbull, Wade, Wilkinson, Willey, Wilmot, Wilson of Missouri, and Wright—38.

The PRESIDENT *pro tempore.* On the question, "guilty," or "not guilty," every Senator voting, thirty-eight in number, votes "guilty" of this article of the impeachment. The next article will be read.

Mr. SHERMAN. Unless some Senator desires a division, I hope the question may be taken on all the remaining articles together.

The PRESIDENT *pro tempore.* As that is a mere matter of form, if no objection be made, the question will be taken on all the remaining articles together.

Mr. FESSENDEN. I think we had better take them one by one. I have some doubts whether one or more of them is sufficiently proved.

The PRESIDENT *pro tempore.* The next article will be read.

The Secretary read article two, as follows:

ART. 2. That, in further disregard of his duties as a citizen of the United States, and unmindful of the solemn obligations of his office as judge of the district court of the United States for the several districts of the State of Tennessee, and that he held his said office by the Constitution of the United States during good behavior only, with intent to abuse the high trust reposed in him as such judge, and to subvert the lawful authority and Government of the United States, within said State, the said West H. Humphreys, then being judge of the district court of the United States as aforesaid, to wit: in the year of our Lord 1861, in said State of Tennessee, did, together with other evil minded persons within said State, openly and unlawfully support, advocate, and agree to an act commonly called an ordinance of secession, declaring the State of Tennessee independent of the Government of the United States, and no longer within the jurisdiction thereof.

The roll was called, the President *pro tempore* putting to each Senator the same question, as in regard to the previous article.

Mr. BROWNING, (when his name was called.) In my opinion this charge is not sufficiently proven to warrant me under oath as a judge in the case to pronounce the accused "guilty" upon it. I therefore say "not guilty."

The calling of the roll having been concluded, it appeared that the Senators voted, as follows:

GUILTY—Messrs. Anthony, Chandler, Clark, Collamer, Cowan, Davis, Dixon, Doolittle, Fessenden, Foot, Foster, Grimes, Hale, Harlan, Harris, Henderson, Howard, Howe, Kennedy, King, Lane of Kansas, Latham, McDougall, Morrill, Nesmith, Pomeroy, Sherman, Sumner, Ten Eyck, Trumbull, Wilkinson, Willey, Wilmot, Wilson of Missouri, and Wright—35.

NOT GUILTY—Mr. Browning—1.

The PRESIDENT *pro tempore.* On this article 35 Senators vote the accused "guilty," and one "not guilty." The next article of the impeachment will be read.

The Secretary read article three, as follows:

ART. 3. That in the years of our Lord 1861 and 1862, within the United States and in said State of Tennessee, the said West H. Humphreys, then owing allegiance to the United States of America, and then being district judge of the United States as aforesaid, did then and there, to wit, within said State, unlawfully, and in conjunction with other persons, organize armed rebellion against the United States and levy war against them.

The Secretary proceeded to call the roll.

Mr. FESSENDEN, (when his name was called.) That article of impeachment, in my judgment, is not sufficiently proven. I therefore vote "not guilty."

Mr. HOWE, (when his name was called.) I did not hear part of the testimony, and, in fact, I heard no testimony on that article, and therefore I wish to be excused from voting.

The PRESIDENT *pro tempore.* The Senator from Wisconsin will be excused by unanimous consent. The Chair hears no objection.

The call of the roll having been concluded, the result appeared to be as follows:

GUILTY—Messrs. Browning, Chandler, Clark, Collamer, Cowan, Davis, Dixon, Doolittle, Foot, Grimes, Hale, Harris, Henderson, Howard, Kennedy, King, Lane of Kansas, Latham, McDougall, Morrill, Nesmith, Pomeroy, Sherman, Sumner, Ten Eyck, Trumbull, Wade, Wilkinson, Willey, Wilmot, Wilson of Missouri, and Wright—32.

NOT GUILTY—Messrs. Anthony, Fessenden, Foster, and Harlan—4.

The PRESIDENT *pro tempore.* On the third article of the impeachment, 32 Senators vote the accused "guilty," and 4 "not guilty." More than two thirds voting him "guilty," he is found guilty of that article of the impeachment. The next article will be read.

The Secretary read article four, as follows:

ART. 4. That on the 1st day of August, A. D. 1861, and on divers other days since that time, within said State of Tennessee, the said West H. Humphreys, then being judge of the district court of the United Statesas aforesaid, and J. C. Ramsay and Jefferson Davis and others, did unlawfully conspire together "to oppose by force the authority of the Government of the United States," contrary to his duty as such judge and to the laws of the United States.

The Secretary proceeded to call the roll.

Mr. BROWNING, (when his name was called.) Mr. President, in my opinion this article is not so proven as to justify a judgment of "guilty" upon it; and I therefore vote "not guilty."

Mr. COWAN, (when his name was called.) I agree with the Senator from Illinois. I vote "not guilty."

Mr. SAULSBURY, (when his name was called.) I could not hear the evidence on these distinct specifications; I therefore ask to be excused from voting upon the specifications. I shall vote upon the general result; but I could not hear the evidence from my seat upon any distinct specification.

The PRESIDENT *pro tempore.* The Senator from Delaware asks to be excused from voting on this article of impeachment.

The question being put, Mr. SAULSBURY was excused.

Mr. TEN EYCK, (when his name was called.) I am not satisfied of the proof of this article. I vote "not guilty."

The call of the roll was concluded, and the votes of the Senators were as follows:

GUILTY—Messrs. Anthony, Chandler, Clark, Collamer, Davis, Dixon, Doolittle, Fessenden, Foot, Foster, Grimes, Hale, Harlan, Howard, Howe, King, Lane of Kansas, Morrill, Pomeroy, Sherman, Sumner, Trumbull, Wade, Wilkinson, Willey, Wilmot, and Wright—27.

NOT GUILTY—Messrs. Browning, Cowan, Harris, Henderson, Kennedy, Latham, McDougall, Nesmith, Ten Eyck, and Wilson of Missouri—10.

The PRESIDENT *pro tempore.* On the fourth article of impeachment, 27 Senators vote "guilty," and 10 "not guilty." More than two thirds voting "guilty," the accused is convicted upon that article. The next article will be read.

The Secretary read article five, as follows:

ART. 5. That said West H. Humphreys, with intent to prevent the due administration of the laws of the United States within said State of Tennessee, and to aid and abet the overthrow of "the authority of the Government of the United States" within said State, has, in gross disregard of his duty as judge of the district court of the United States, as aforesaid, and in violation of the laws of the United States, neglected and refused to hold the district court of the United States, as by law he was required to do, within the several districts of the State of Tennessee, ever since the 1st day of July, A. D. 1861.

The Secretary proceeded to call the roll.

Mr. HOWE, (when his name was called.) I ask to be excused from voting on this article for the same reason as in the other case.

The question being put, the Senator was excused.

Mr. SAULSBURY, (when his name was called.) I stated the reason I could not vote on it; I did not hear the evidence.

The question being put, Mr. SAULSBURY was excused from voting.

The call of the roll having been concluded, the votes were as follows:

GUILTY—Messrs. Anthony, Browning, Chandler, Clark, Collamer, Cowan, Davis, Dixon, Doolittle, Fessenden, Foor, Foster, Grimes, Hale, Harlan, Harris, Henderson, Howard, Kennedy, King, Lane of Kansas, Latham, McDougall, Morrill, Nesmith, Pearce, Pomeroy, Powell, Sherman, Sumner, Ten Eyck, Trumbull, Wade, Wilkinson, Willey, Wilmot, Wilson of Missouri, and Wright—38.

The PRESIDENT *pro tempore*. Thirty-eight Senators vote on this article, and unanimously vote the accused "guilty" of the crimes and misdemeanors charged in the fifth article of impeachment. The next article will be read.

The Secretary read article six, as follows:

ART. 6. That the said West H. Humphreys, in the year of our Lord 1861, within the State of Tennessee, and with intent to subvert the authority of the Government of the United States, to hinder and delay the due execution of the laws of the United States, and to oppress and injure citizens of the United States, did unlawfully act as judge of an illegally constituted tribunal within said State, called the district court of the confederate States of America, and as judge of said tribunal last named, said West H. Humphreys, with the intent aforesaid, then and there assumed and exercised powers unlawful and unjust, to wit: 1. In causing one Perez Dickinson, a citizen of said State, to be unlawfully arrested and brought before him, as judge of said alleged court of said confederate States of America, and required him to swear allegiance to the pretended government of said confederate States of America; and upon the refusal of said Dickinson so to do, the said Humphreys, as judge of said illegal tribunal, did unlawfully, and with the intent to oppress said Dickinson, require and receive of him a bond, conditioned that while he should remain within said State he would keep the peace, and as such judge of said illegal tribunal, and without authority of law, said Humphreys then and there decreed that said Dickinson should leave said State. 2. In decreeing within said State, and as judge of said illegal tribunal, the confiscation to the use of said confederate States of America of property of citizens of the United States, and especially of property of one Andrew Johnson and one John Catron. 3. In causing, as judge of said illegal tribunal, to be unlawfully arrested and imprisoned within said State citizens of the United States, because of their fidelity to their obligations as citizens of the United States, and because of their rejection of, and their resistance to, the unjust and assumed authority of said confederate States of America.

Mr. HOWE. I wish to inquire whether the question should not be put on the several specifications separately.

Mr. FESSENDEN. I would suggest that each Senator as his name is called can answer "guilty" on the first and second, and "not guilty" on the third, or anything of that kind.

The PRESIDENT *pro tempore*. The vote will be taken on each separate specification in this article.

Mr. WADE. If he is guilty of one specification, he is guilty of the whole article.

The PRESIDENT *pro tempore*. The question may be taken together on all the specifications of this article by common consent, otherwise the vote must be taken on each specification. A separate vote being called for, the first specification will be again read.

The Secretary read, as follows:

ART. 6. That the said West H. Humphreys, in the year of our Lord, 1861, within the State of Tennessee, and with intent to subvert the authority of the Government of the United States, to hinder and delay the due execution of the laws of the United States, and to oppress and injure citizens of the United States, did unlawfully act as judge of an illegally constituted tribunal within said State, called the district court of the confederate States of America, and as judge of said tribunal last named, said West H. Humphreys, with the intent aforesaid, then and there assumed and exercised powers unlawful and unjust, to wit: in causing one Perez Dickinson, a citizen of said State, to be unlawfully arrested and brought before him, as judge of said alleged court of said confederate States of America, and required him to swear allegiance to the pretended government of said confederate States of America; and upon the refusal of said Dickinson so to do, the said Humphreys, as judge of said illegal tribunal, did unlawfully, and with the intent to oppress said Dickinson, require and receive of him a bond, conditioned that while he should remain within said State he would keep the peace, and as such judge of said illegal tribunal, and without authority of law, said Humphreys then and there decreed that said Dickinson should leave said State."

The roll was called upon this specification.

Mr. GRIMES, (when his name was called.) According to my recollection of the testimony of the witness who swore as to the facts connected with Mr. Dickinson, there was not testimony enough within his own knowledge to justify me in pronouncing the respondent "guilty," and therefore I vote "not guilty."

Mr. LATHAM, (when his name was called.) I did not hear the testimony connected with the case of Mr. Dickinson. I therefore ask to be excused from voting on that specification.

The question being put; Mr. LATHAM was excused.

Mr. SAULSBURY, (when his name was called.) I did not hear the testimony. I ask the Senate to excuse me from voting.

The question being put; the Senator was excused.

The Secretary concluded the call of the roll, and it appeared that the result was as follows:

GUILTY—Messrs. Anthony, Browning, Chandler, Clark, Collamer, Cowan, Davis, Dixon, Doolittle, Fessenden, Foot, Foster, Hale, Harlan, Harris, Henderson, Howard, Howe, Kennedy, King, Lane of Kansas, McDougall, Morrill, Nesmith, Pomeroy, Sherman, Sumner, Ten Eyck, Trumbull, Wade, Wilkinson, Willey, Wilmot, Wilson of Missouri, and Wright—35.

NOT GUILTY—Mr. Grimes—1.

The PRESIDENT *pro tempore*. Upon the first specification in the sixth article of impeachment, 35 Senators vote "guilty," and 1 "not guilty." The respondent is found guilty on this specification of this article. The second specification of this article will be again read.

The Secretary read the second specification, as follows:

2. In decreeing within said State, and as judge of said illegal tribunal, the confiscation to the use of said confederate States of America of property of citizens of the United States, and especially of property of one Andrew Johnson and one John Catron.

The Secretary proceeded to call the roll.

Mr. ANTHONY, (when his name was called.) I think it is proved that property was confiscated, but not proved that the property of Andrew Johnson or of John Catron was confiscated. I therefore vote "not guilty."

Mr. BROWNING, (when his name was called.) In my opinion, this specification is not sufficiently proven. I therefore vote "not guilty."

Mr. COWAN, (when his name was called.) I was necessarily obliged to be absent, and I did not hear all the testimony. I heard no testimony which would authorize me to vote upon this specification otherwise than as "not guilty."

Mr. KING. I suppose there were some notes taken of this testimony, and I ask that it be stated. I think the property of one or more of these parties was taken. I ask that the testimony be referred to. That is my impression of the testimony.

The PRESIDENT *pro tempore*. That proceeding is entirely out of order at this stage.

The Secretary continued the calling of the roll.

Mr. DOOLITTLE, (when his name was called.) I desire to say that I understand the specification to be that he decreed the confiscation of property of citizens of the United States, and it is unnecessary to cover either the one or the other particular case mentioned. I therefore vote "guilty."

Mr. HOWARD, (when his name was called.) I regard the latter part of this specification as being immaterial, and as not constituting any part of the *gravamen* of the accusation contained in the specification. Believing that the material part of the specification is sufficiently proved, I vote "guilty."

Mr. HOWE, (when his name was called.) I heard no testimony that would warrant me in passing judgment. I therefore ask to be excused from voting.

The question being put; the Senator was excused.

Mr. SAULSBURY, (when his name was called.) Allow me to say a word. I did not hear the testimony on this point, but I wish to say that I would vote for the conviction of any man who deliberately voted for the confiscation of property not according to international law, or under the Constitution of the United States; but I vote "not guilty" upon this proposition.

Mr. SUMNER, (when his name was called.) I am not satisfied that the latter part of this specification is proved; therefore I vote "not guilty."

Mr. TRUMBULL, (when his name was called.) I heard no proof that the property of Andrew Johnson or of John Catron was confiscated, but I did hear proof, which satisfied me, that Judge Humphreys, as judge of an illegal tribunal, did decree the confiscation to the confederate States of America of property of citizens of the United States. I regard that as the substance of the offense, and it is unnecessary to prove the particular instances. I therefore vote "guilty."

The call of the roll having been concluded, the votes of the Senators were as follows:

GUILTY—Messrs. Chandler, Dixon, Doolittle, Foot, Howard, King, Pomeroy, Trumbull, Wade, Wilkinson, and Wright—11.

NOT GUILTY—Messrs. Anthony, Browning, Clark, Collamer, Cowan, Davis, Fessenden, Foster, Grimes, Hale, Harlan, Harris, Henderson, Lane of Kansas, Latham, McDougall, Morrill, Nesmith, Saulsbury, Sherman, Sumner, Ten Eyck, Willey, and Wilmot—24.

The PRESIDENT *pro tempore*. On the second specification of this article, 11 Senators vote the accused "guilty," and 24 "not guilty." Two thirds not voting him "guilty," he is acquitted of the charge contained in that specification.

The Secretary read the third specification of the sixth article, as follows:

3. In causing, as judge of said illegal tribunal, to be unlawfully arrested and imprisoned within said State, citizens of the United States, because of their fidelity to their obligations as citizens of the United States, and because of their rejection of, and their resistance to, the unjust and assumed authority of said confederate States of America.

The roll was called upon this specification.

Mr. HALE, (when his name was called.) I vote "not guilty" on that, because I think that allegation, in an indictment, would be bad on general demurrer. It does not describe what States the citizens were of, nor their names, nor anything about them.

The result was announced, as follows:

GUILTY—Messrs. Anthony, Browning, Chandler, Clark, Collamer, Cowan, Davis, Dixon, Doolittle, Fessenden, Foot, Foster, Grimes, Harlan, Harris, Henderson, Howard, Howe, Kennedy, King, Lane of Indiana, Lane of Kansas, Latham, Morrill, Nesmith, Pomeroy, Sherman, Sumner, Ten Eyck, Trumbull, Wade, Wilkinson, Willey, Wilmot, and Wright—35.

NOT GUILTY—Mr. Hale—1.

The PRESIDENT *pro tempore*. On this specification of this sixth article, 35 Senators find the accused "guilty," and 1 "not guilty."

The Secretary read article seven, as follows:

ART. 7. That said West H. Humphreys, judge of the district court of the United States as aforesaid, assuming to act as judge of said tribunal known as the district court of the confederate States of America, did, in the year of our Lord 1861, without lawful authority, and with intent to injure one William G. Brownlow, a citizen of the United States, cause said Brownlow to be unlawfully arrested and imprisoned within said State, in violation of the rights of said Brownlow as a citizen of the United States, and of the duties of said Humphreys as a district judge of the United States.

The question being put, the vote was as follows:

GUILTY—Messrs. Anthony, Browning, Chandler, Clark, Collamer, Cowan, Davis, Dixon, Doolittle, Foot, Foster, Hale, Harlan, Harris, Henderson, Howard, Howe, Kennedy, King, Lane of Indiana, Lane of Kansas, Latham, McDougall, Morrill, Nesmith, Pomeroy, Sherman, Sumner, Ten Eyck, Trumbull, Wade, Wilkinson, Willey, Wilmot, and Wright—35.

NOT GUILTY—Mr. Grimes—1.

The PRESIDENT *pro tempore*. On this article of impeachment 35 Senators vote the accused "guilty," and 1 "not guilty." This concludes the action of the Court upon all the articles and specifications in this impeachment.

Mr. FOSTER. I move that the Court be adjourned until half past four o'clock, when it shall proceed to determine and pronounce its judgment upon West H. Humphreys. ["Four."] Four o'clock is suggested. I move that the Court be adjourned until four o'clock, when the Court shall proceed to pronounce judgment.

The motion was agreed to; and at a quarter past three o'clock the Court adjourned until four o'clock.

The PRESIDENT *pro tempore*. The Senate will resume its functions as a legislative body as soon as practicable. The Senate will come to order. The Chamber will be cleared. The officers will see that the floor of the Chamber is cleared. Senators will resume their seats.

Mr. DOOLITTLE. It is so short a time before the Court meets again that I move that the Senate take a recess until four o'clock.

The motion was declared to be agreed to.

Mr. COLLAMER. I desire to suggest that the passing of judgment in this case is not a matter exactly to be done by vote. It seems to me that the Court should be by itself a limited period for consultation.

The PRESIDENT *pro tempore*. The Chair will suggest that that is required by the rule of proceeding in such cases.

Mr. DOOLITTLE. If it is desired by the honorable Senator from Vermont, I will withdraw the motion for a recess of the Senate, if he desires to make any motion in the Senate.

The PRESIDENT *pro tempore*. The motion for a recess is for the Senate until the meeting of the Court. The Court has adjourned until four o'clock. The Chair declared the motion for a recess until four o'clock carried.

The Senate was again called to order, at thirteen minutes past four o'clock.

The PRESIDENT *pro tempore*. The Senate is again resolved into a Court of Impeachment on the case of West H. Humphreys.

Mr. LANE, of Indiana. I heard the evidence in this case, but was necessarily called away, and did not vote on the first three or four articles. I desire the unanimous consent of the Senate to record my vote of "guilty" on those propositions. I was necessarily compelled to be away, and voted only on the last two propositions.

The PRESIDENT *pro tempore*. If there be no objection, the vote of the Senator from Indiana will be recorded on those several votes, recording his judgment of "guilty" upon the several articles of impeachment.

There was no objection, and the vote was recorded.

The PRESIDENT *pro tempore*. The Court is now ready to proceed with further matter in the impeachment against West H. Humphreys.

Mr. COWAN. It strikes me it would be better that we should have a short secret session, in order to determine upon our judgment in this matter. I do not see how we are to advise and consult with one another in open session; and as we occupy a kind of double relation—that of judge and jury together—I think we should close the doors and determine upon our judgment, then open them and deliver it. I therefore make that motion.

The PRESIDENT *pro tempore*. The Senator from Pennsylvania moves that the Court of Impeachment sit with closed doors, and that the galleries and lobbies be cleared.

Mr. HALE. Is there not one of the rules on that subject.

Mr. FOSTER. It is a rule, I believe, that we sit with open doors while we sit as a Court.

The PRESIDENT *pro tempore*. The Chair was aware of the rule, and was hesitating as to the motion; but the Chair will entertain the motion.

Mr. COWAN. Has that rule been promulged for the government of the Court?

The PRESIDENT *pro tempore*. The Secretary will read the rule.

The Secretary read the 19th rule, as follows:

"19. At all times while the Senate is sitting upon the trial of an impeachment, the doors of the Senate Chamber shall be kept open."

Mr. COWAN. That refers only to the trial. After the trial has been determined, if we have delivered our verdict, of course the rule does not apply. The question now for us to determine is, what judgment we shall pass upon the delinquent.

Mr. WILMOT. Why not determine that with open doors?

Mr. COWAN. It may be done so, of course.

The PRESIDENT *pro tempore*. Does the Senator insist on his motion?

Mr. COWAN. I have no personal desire to insist upon it. If the Senate thinks it may be done with open doors as well as with closed doors, very well. It is of no importance in this case; but at some future time it may be of importance. Should we adopt a different mode as a precedent, is the question.

Mr. TRUMBULL. It seems to me there is no occasion for going into any secret session or any great deliberation. We have rendered our verdict. Judgment follows as a matter of course.

Mr. COWAN. Not the whole.

Mr. TRUMBULL. If anybody ever supposes that a case will arise in this Government where a man is impeached and found guilty, where the Senate will not be then for executing the judgment, it will be a time to go into secret session. I did not expect to see such a time as that in my day. If the Senator from Pennsylvania thinks he can devise some scheme to mitigate the constitutional punishment, I think it ought to be considered in secret. I know of no way of doing it.

Mr. COWAN. I do not suppose there is any mitigation contemplated in this case, but I can very well conceive a case where there might be a mitigation.

Mr. TRUMBULL. I cannot.

Mr. COWAN. I can conceive of a case where the judgment of ouster in the opinion of the Senate would be enough, without imposing the additional disqualification of not being able to hold office.

Mr. TRUMBULL. So that he could be put back the next day?

Mr. COLLAMER. The only judgment ever rendered by the Senate as a Court of Impeachment was rendered to deprive a man of his office, and no more. It did not extend any further. The further question whether the Court will adjudge that the man shall never be eligible to any office is a matter which rests in the discretion of the Court, and I take it is entirely a separate question.

At this point the members of the House of Representatives reëntered the Chamber and occupied the seats prepared for them.

Mr. FOSTER. I offer the following as an interrogation to be put to each member of the Court, in order that judgment may be perfected.

The PRESIDENT *pro tempore*. It will be read by the Secretary.

The Secretary read, as follows:

Is the Court of opinion that West H. Humphreys be removed from the office of judge of the district court of the United States for the districts of Tennessee?

Mr. SUMNER. Is not that open to amendment? I think we had better carry out all that the Constitution allows.

The PRESIDENT *pro tempore*. The other branch of it is contained in a separate proposition.

Mr. SUMNER. If there is another proposition, very well.

Mr. TRUMBULL. I think they had better go together.

Mr. SUMNER. I call for the reading of the whole.

Mr. TRUMBULL. I think it is one judgment, and should be one, and if the other proposition is there I ask for its reading; otherwise I shall move to amend this.

Mr. FOSTER. I have another proposition; but inasmuch as the Constitution divides the punishment, and as I supposed it would be perfectly optional for any member to ask for a division of the question, if it should be put together, I proposed the questions separately the one from the other.

Mr. TRUMBULL. The Constitution does not divide the punishment. "Judgment in cases of impeachment shall not extend further than to removal from office, and disqualification to hold and enjoy any office of honor, trust, or profit under the United States." That is one judgment; that is, that he shall be removed from office and disqualified to hold any other; and if you decide that he shall be removed from office, and then have another judgment for the residue of the punishment there would be two judgments in one case. I do not say that you may not remove him from office, and do nothing more; but there is the end of it. You cannot have two judgments entered up in the case. You might as well say that when a person is convicted of an offense for which he is to suffer fine and imprisonment, you will first enter up a judgment to fine him, and after you get through with that, you will call him again and enter up a judgment to imprison him. It is one judgment upon one finding. We may adopt this resolution and declare that he is removed from office and stop there, but I think it would be a singular proceeding. I have not looked into the precedents, and if the Secretary will read the resolution again, I will move to amend it.

The Secretary read, as follows:

Is the Court of opinion that West H. Humphreys be removed from the office of judge of the district court of the United States for the districts of Tennessee?

Mr. TRUMBULL. I move to add the words, "and that he be disqualified to hold and enjoy any office of honor, trust, or profit under the United States."

Mr. FOSTER. In proposing the question in the form in which it has been read, I followed the precedent in the case of Judge Pickering, a judge of the district court of the United States for the district of New Hampshire, who was impeached before the Senate. Neither of these propositions answered makes the judgment. The judgment follows upon the answer to these two propositions. If only the first question is answered affirmatively by the requisite number, the judgment of the Senate upon that will then be that he be removed from office, and that is all; and that is a constitutional judgment. If on the other hand, the second proposition be answered affirmatively, the judgment will be one as before, that he be removed from office and be disqualified from holding any office of honor, trust, or profit under the United States. It is according to the precedents, and I think it safer to follow precedents than to establish a new one.

The PRESIDENT *pro tempore*. The Senator from Illinois has moved an amendment.

Mr. FESSENDEN. We answer the questions, and then the judgment follows.

Mr. TRUMBULL. Let us put the question in the constitutional form, whether he shall be removed from office and disqualified from holding any other. I prefer putting it in that shape. I think that is the proper shape. As I said, I have not looked into the precedents. There has been but one case of impeachment, I believe, under the Government of the United States where the party has been found guilty. Do I understand the Senator from Connecticut to say that, in that case, the distinct propositions were put separately, or was only one proposition ever put?

Mr. FOSTER. But one was put in that case, as appears by the records, and that was, whether he should be removed from office. That was put by itself.

Mr. TRUMBULL. The other never was put; and they did not intend then to go further. Now, I want to go a little further here, and I want the question to embrace the whole of it. That was the only question put in that case. "On the question, is the Court of opinion that John Pickering be removed from the office of judge of the district court for the district of New Hampshire, it was determined in the affirmative," by the yeas and nays. That is all there was of it. Now, I want to go a little further here. I want the question to be determined whether he shall be removed from office and disqualified to hold any office; and when that is determined, if it is determined affirmatively, the effect will follow. I shall, therefore, insist on the amendment which I have moved to the proposition which is submitted.

Mr. FOSTER. If the Senator from Illinois succeeds in having both these propositions in one, and it is then put to the Senate, it will be at the option of every member of the Senate to say, "I vote 'yea' on the one and 'nay' on the other; or 'yea' on both, or 'nay' on both." It is utterly impossible to compel a man to vote "yea" or "nay" on the whole proposition together, because the Constitution allows him to divide his vote. Therefore, if the Senator should succeed in his effort, it would still be in the power of every Senator to make this distinction which I propose to make in the outset.

Mr. SUMNER. It seems to me, that what we are seeking can be accomplished, if the Senator from Connecticut will make the two propositions at once, and then call for a division in taking the vote. Let us have the two moved at once, and then a division can be had in voting. As it is, moving the one without the other, the Senate has not practically any notice that the other is to follow.

Mr. DOOLITTLE. I desire to say a single word——

Mr. HALE. I rise to a question of order. I want the 14th rule enforced.

The PRESIDENT *pro tempore*. The 14th rule will be read.

The Secretary read, as follows:

"14. All motions made by the parties, or their counsel, shall be addressed to the President of the Senate, and if he shall require it, shall be committed to writing, and read at the Secretary's table; and all decisions shall be had by ayes and noes, and without debate; which shall be entered on the records."

The PRESIDENT *pro tempore*. These are new and rather unfamiliar questions in this body, and the Chair is not inclined to enforce any strict rule that shall debar Senators from a hearing on these questions.

Mr. DOOLITTLE. The Senate thought best to appoint a committee to look into these matters to advise them as to the course of procedure. The honorable Senator from Connecticut was appointed chairman of that committee. I had the honor to be associated with him, with the honorable Senator from Kentucky, [Mr. DAVIS,] and I think it would be advisable for Senators to take somewhat the advice of the honorable Senator from Connecticut as to the mode of proceeding, for you come to precisely the same result. It is a double question, and when presented to be voted upon, any member has a right to demand that it shall be separated, and the vote taken separately upon the two propositions; first, whether the guilty party shall be removed from office; and second, whether he shall be disqualified. The two propositions are in the hand of the honorable Senator to be presented to the Senate to be voted upon separately, first one, then the other. These do not constitute the judgment. We are simply now advising what judgment we will give, and after we have taken the advice of the Court together, we then propose the judgment. If the Court advises both sentences to be pronounced, one of removal and the other of disqualification, your judgment record is already drawn, to be approved by the Court. I feel called upon to say this much, because the matter has been mainly put into the hands of the honorable Senator from Connecticut, who has given his attention to it, and I think it would be well to follow his advice.

Mr. TRUMBULL. I have very serious doubts whether it is a double question, whether the whole is not one judgment. "Judgment in cases of impeachment shall not extend further than to removal from office, and disqualification to hold and enjoy any office of honor, trust, or profit under the United States." I am not sure but that when the Constitution says it shall not extend further than that, it necessarily follows that it shall extend that far. It is not in the alternative, and I am by no means satisfied that that consequence does not necessarily follow the conviction. It is a limitation. As is well suggested by my friend from Pennsylvania, [Mr. WILMOT,] could you impose that latter part without the former? Could you decide that he should be disqualified to hold and enjoy any office of honor, trust, or profit? If each proposition is independent, it must be able to stand by itself without affecting any other. I am by no means satisfied that these are independent propositions. It seems to me that altogether the safer way is to take the question on them together.

The PRESIDENT *pro tempore*. The Chair will suggest that both these propositions be read from the desk, and that the vote be taken on each separate proposition, which will comprehend the amendment moved by the Senator from Illinois. The first proposition will be read.

The SECRETARY. "Is the Court of opinion that West H. Humphreys be removed from the office of judge of the district court of the United States for the districts of Tennessee?"

The PRESIDENT *pro tempore*. Now the second proposition will be read.

The SECRETARY. "Is the Court of opinion that West H. Humphreys be disqualified to hold or enjoy any office of honor, trust, or profit under the United States?"

Mr. TRUMBULL. I am not satisfied with that——

The PRESIDENT *pro tempore*. In the judgment of the Chair these are distinct and separate propositions, and are divisible on the call and as the personal right of any member, and the yeas and nays will be taken on the first proposition.

Mr. TRUMBULL. I shall feel constrained to appeal from the decision of the Chair. I think that they are not independent propositions. Suppose we should reject the first one and adopt the last, what is our condition? He goes out of office when we have rejected it, and say that he shall not go out of office. If you put these propositions separately, it is competent for the Senate to vote against the first proposition, which is that he shall not be removed from office; and when we have said that, then we may adopt the second proposition, which declares that he is forever disqualified from holding an office. That is inconsistent. One involves the other. The Senator from Maine suggests that the last involves the first and not the first the last.

Mr. FESSENDEN. I was not addressing the Senator.

Mr. TRUMBULL. The suggestion was loud enough to be heard, I beg my friend from Maine to remember. It seems to me it is just the same thing. It is just as bad if the last involves the first, as it would be if the first involved the last. I moved as an amendment to the origina l proposition what was stated by the Clerk, and I think that is the proper way to get at it. The separate propostions as they are now offered will necessarily require two votes, and I prefer having it in the shape in which it was first offered with the amendment as I proposed it.

Mr. SUMNER. Allow me to suggest to my friend that, if his amendment should be adopted, I presume it would be within the power of any Senator to call for a division of the question.

Mr. TRUMBULL. Not at all—not in my view of it.

Mr. SUMNER. That is, according to your argument, it would not be within the power; but still it does seem to me that it is a question in its nature divisible.

Mr. TRUMBULL. That involves the whole question. If you can call for a division, you can vote separately. I agree to that. That is the very point.

The PRESIDENT *pro tempore*. The Chair follows the precedent in the only case that has been called to the notice of the Chair.

Mr. TRUMBULL. I will state to the Chair that the precedent goes no further than the first proposition.

The PRESIDENT *pro tempore*. And that is evidence that it was treated as a divisible proposition taken altogether, as the Court adopted but one branch of it.

Mr. TRUMBULL. I have not seen what the judgment was that was entered in that case. Does not the record stop there?

The PRESIDENT *pro tempore*. "On the question, 'is the Court of opinion that John Pickering be removed from the office of judge of the district court for the district of New Hampshire?' the yeas were 20, the nays 6"—precisely in the form which has been proposed here.

Mr. TRUMBULL. There is no judgment behind that, as I understand.

Mr. COWAN. Nobody moved any.

Mr. COLLAMER. Mr. President, I take it the test of the divisibility of a question depends upon whether there can be a vote left after it is divided, let the first be decided as it may. That is the criterion; that, if after you have voted "yea" or "nay" upon the first article of division, there is still a question to be decided if the decision be either way. Now, in this case, suppose the proposition to be that this man be deprived of office, and that he be rendered ineligible, and it is divided, and the vote shall be that he be not deprived of his office: is there anything left? There would be nothing left to vote on, because the rendering him ineligible hereafter is only a consequence of the first, and rests in judicial discretion whether we put it on or not. It is not, in my apprehension, divisible, because a vote in one way on the first branch would render it impossible to get along with the second. I am, therefore, of opinion that, as this matter stands, the honorable Senator from Illinois is right in his proposition. He offers a substitute for the proposition to remove from office. If the Court adopt that substitute, the question will be whether they will vote that as being their judgment, that including both branches. If they do not mean to extend it to both branches, they should reject his substitute and pass upon the proposition of the honorable Senator from Connecticut.

The PRESIDENT *pro tempore*. The Chair is disposed to take the sense of the Senate upon the questions directly, and that may be as well done upon the question of the amendment moved by the Senator from Illinois as upon a more indirect question of the decision of the Chair; and the Chair, therefore, will entertain the motion of the Senator from Illinois.

Mr. TRUMBULL. I prefer that, and withdraw my appeal.

The PRESIDENT *pro tempore*. The first question is on the amendment moved by the Senator from Illinois, and that will test the judgment of the Senate upon the question.

Mr. DOOLITTLE. To that I move as an amendment what is proposed by the honorable Senator from Connecticut, so that both propositions in the language offered by the Senator from Conn——

The PRESIDENT *pro tempore*. The Chair understands that if the amendment offered by the Senator from Illinois be adopted, the proposition as amended will embrace both propositions, and cover the whole penalty provided for in the Constitution.

Mr. BROWNING. I do not attach any importance to the decision that may be arrived at on this question in relation to the case now under consideration. I apprehend there is but one mind among Senators; we shall all arrive at the same judgment ultimately, whether we take the questions separately or together; but in my judgment it is important how we decide the question now submitted. It strikes me as clearly a divisible question, one of two branches. We have the authority of an adjudicated case of the action of the Senate, in which they found a judge guilty upon impeachment, and entered against him a judgment of ouster from his office; going no further. I apprehend it was competent for them to do that. They were not bound to attach to it the other consequence that may be attached to it under the Constitution, of disqualification forever thereafter to hold office. It may frequently occur—it occurred in that case, it may occur again—that a majority of the Senators would feel it their duty to vote for his ouster from office, and would not feel it their duty to vote for his disqualification forever thereafter to hold any other office under the Government, however unimportant. If you are compelled to put the question, and the whole question, as one question, to put it altogether, men who are unwilling to vote to disqualify him forever, disfranchise him forever, will be constrained to vote that he be ousted from office, and also to vote for another proposition, which in their judgments would be unjust. That would follow inevitably; and after you had taken the question on them jointly, I apprehend you could not return and divide them, and take the propositions separately, so as to say whether he should be ousted from office.

I do not perceive any difficulty in arriving at it. It is not two judgments. In a case where fine and imprisonment are to be inflicted as the punishment for an offense of which the accused has been convicted before a court, the court, I apprehend, may to-day determine that it will impose upon him a fine as a part of the punishment, and may hold under advisement until to-morrow the other question as to whether it will follow it likewise with imprisonment, and when it has made up its mind on both propositions it enters the one judgment including them both, and it does not enter it until it has decided finally upon both.

Again: it is said that one of them is the incident and consequence to the other, and if we do not adopt the one we cannot adopt the other. That not unfrequently occurs. It is sometimes, by the law of some of the States I know, provided that the punishment of an offense shall be imprisonment, a portion of the time of which imprisonment may be solitary confinement, but it is not bound to be; the judge is not compelled to affix that as part of the punishment. It may be imprisonment at hard labor, and a part of the time in solitary confinement——

Mr. WADE. I want to know whether this debate is in order. If not, I call to order. We shall never get through if we do not insist on the rules.

Mr. BROWNING. I wait and abide the decision of the Chair and the Senate.

Mr. WADE. So do I.

The PRESIDENT *pro tempore*. If the Chair is called upon to decide on the rule, the rule is very explicit, leaves no room for doubt that these questions are to be decided without debate. That is the language of the rule. The Chair has already said that this being a novel proceeding, unfamiliar to the present members of the Senate, the Chair was not disposed strictly to enforce the rule; but when the Chair is appealed to to enforce the rule he has no discretion left.

Mr. DAVIS. Does the rule touch this stage of the proceeding?

Mr. BROWNING. I cheerfully submit to the ruling of the Chair, only expressing a regret that the Senator from Ohio had not thought proper at an earlier time to put an end to the debate, and not cut it off after perhaps he has heard all he wanted on one side, and does not wish to hear anything on the other.

Mr. WADE. I have heard just about as much on one side as the other, and I thought here was a good place to stop.

The PRESIDENT *pro tempore*. The interrogatory will be read, and the amendment to it will be read.

Mr. DAVIS. I rise to a question of order, and I intend to make the question of order, and I intend to do it in my own time. I think the very point that gentlemen are now debating and that we are about to decide is a matter of very great importance. We have a precedent in which it was decided by the men who made the Constitution, and who sat in the only case that has ever arisen under the Constitution, that this is a divisible question. They have decided that practically, and they have decided it upon sound principle and sound sense, and considerations of justice, too. A case might arise in which the Senate would be willing——

Mr. WADE. I demand to know whether this debate is in order; because if it is, the other decision is nugatory.

Mr. DAVIS. I am debating the question of order.

The PRESIDENT *pro tempore*. The Chair has decided the question, and there is no appeal from the decision of the Chair.

Mr. WADE. There has been no appeal called for. The question now is, whether this debate is in order?

The PRESIDENT *pro tempore*. The Chair decides debate out of order.

Mr. DAVIS. I do appeal, and it is on that appeal that I intend to speak.

Mr. FESSENDEN. I suppose that must be decided, also, without debate. Every question must be so decided; and that rule applies to an appeal, or else we are at sea.

Mr. DAVIS. I submit that question, then, to the Senate——

Mr. FESSENDEN. That depends on the Presiding Officer, whether he submits it to the Senate. I call for the enforcement of the rule.

The PRESIDENT *pro tempore*. The Chair decides all debate out of order on every collateral question, under the express rules covering cases of this character.

Mr. DAVIS. I appeal from the decision of the Chair.

The PRESIDENT *pro tempore*. There can be no appeal from it.

Mr. HALE. I beg to suggest that it may be appealed from; but the appeal is not debatable.

The PRESIDENT *pro tempore*. The Chair does not entertain the appeal.

Mr. BROWNING. I think an appeal cannot be taken from the judgment of the Presiding Officer of a Court.

The PRESIDENT *pro tempore*. The Chair can hear no further debate under the rule. The Chair was inclined to indulge limited debate upon these questions, as eminently proper; but upon the repeated appeals to the Chair for a literal enforcement of the rule, the Chair has no discretion left, and appeals to the generosity of Senators to allow the Chair the exercise of that degree of judgment. The interrogatory, as first proposed, will be read, and then the amendment to it.

The Secretary read, as follows:

Is the Court of opinion that West H. Humphreys be removed from the office of judge of the district court of the United States for the districts of Tennessee?

The PRESIDENT *pro tempore*. To which the Senator from Illinois moves to add the following, by way of amendment:

And that he be disqualified from holding any office of honor, trust, or profit under the United States.

The question is on the amendment, and the Secretary will call the yeas and nays.

Mr. DOOLITTLE. Mr. President——

The PRESIDENT *pro tempore*. Debate is not in order and cannot be entertained, and the Secretary will proceed with the call of the roll.

Mr. DOOLITTLE. I ask for a division of the question.

The PRESIDENT *pro tempore*. It cannot be divided. The question is on the amendment moved by the Senator from Illinois.

The Secretary proceeded to call the roll.

Mr. LATHAM, (when Mr. NESMITH's name was called.) I am instructed by the Senator from Oregon to say that he was called home by sickness, and if he were here he would vote affirmatively on these propositions.

The result was announced—yeas 27, nays 10; as follows:

YEAS—Messrs. Chandler, Clark, Collamer, Cowan, Davis, Fessenden, Foot, Grimes, Hale, Harlan, Henderson, Howard, Howe, King, Lane of Indiana, Lane of Kansas, Latham, Morrill, Pomeroy, Sherman, Ten Eyck, Trumbull, Wade, Wilkinson, Willey, Wilmot, and Wright—27.

NAYS—Messrs. Anthony, Browning, Dixon, Doolittle, Foster, Harris, Kennedy, McDougall, Sumner, and Wilson of Missouri—10.

So the amendment was agreed to; and the question recurred on the proposition as amended.

Mr. DAVIS. I ask for a division of the question.

The PRESIDENT *pro tempore*. From the authority of the Pickering case, the Chair is obliged to say that it is a divisible proposition. Does the Senator from Kentucky demand a separate vote?

Mr. DAVIS. Yes, sir. I have no doubt we shall have a double judgment, but I want the votes to be separate.

The PRESIDENT *pro tempore*. The yeas and nays will be taken upon the first branch of the proposition: "Is the court of opinion that West H. Humphreys be removed from the office of judge of the district court of the United States for the courts of Tennessee?"

The question being taken by yeas and nays, resulted—yeas 38, nays 0; as follows:

YEAS—Messrs. Anthony, Browning, Chandler, Clark, Collamer, Cowan, Davis, Dixon, Doolittle, Fessenden, Foot, Foster, Grimes, Hale, Harlan, Harris, Henderson, Howard, Howe, Kennedy, King, Lane of Indiana, Lane of Kansas, Latham, McDougall, Morrill, Pomeroy, Powell, Sherman, Sumner, Ten Eyck, Trumbull, Wade, Wilkinson, Willey, Wilmot, Wilson of Missouri, and Wright—38.

NAYS—0.

The PRESIDENT *pro tempore*. The yeas and nays will be called on the second branch: "And that he be disqualified from holding any office of honor, trust, or profit under the United States."

The question being taken by yeas and nays, resulted—yeas 36, nays 0; as follows:

YEAS—Messrs. Anthony, Browning, Chandler, Clark, Collamer, Cowan, Davis, Dixon, Doolittle, Fessenden, Foot, Foster, Grimes, Harlan, Harris, Henderson, Howard, Howe, Kennedy, King, Lane of Indiana, Lane of Kansas, Latham, McDougall, Morrill, Pomeroy, Sherman, Sumner, Ten Eyck, Trumbull, Wade, Wilkinson, Willey, Wilmot, Wilson of Missouri, and Wright—36.

NAYS—0.

The PRESIDENT *pro tempore*. Upon the second branch of the interrogatory the yeas are 36, the nays are none. So this Court, therefore, do order and decree, and it is hereby adjudged, that West H. Humphreys, judge of the district court of the United States for the eastern, middle, and western districts of Tennessee, be, and he is hereby, removed from his said office, and that he be, and is, disqualified to hold and enjoy any office of honor, trust, or profit under the United States.

The trial of this case being concluded, the Senate will resolve itself into legislative session.

Mr. FOSTER. I move that the Court adjourn without day.

The PRESIDENT *pro tempore*. The Court stands adjourned without day. The members of the Senate will resume their seats.

Mr. TRUMBULL. I move that the Senate adjourn.

The motion was agreed to; and the Senate adjourned.

HOUSE OF REPRESENTATIVES.

THURSDAY, *June* 26, 1862.

The House met at twelve o'clock, m. Rev. BYRON SUNDERLAND, D. D., Chaplain of the Senate, offered up the following prayer:

O God, the only Jehovah! who among sinful and mortal men shall not fear before Thee? for clouds and darkness are round about Thee, yet justice and judgment are the habitation of Thy throne. In the human soul hast Thou set Thy law, and in the issues of time wilt Thou make inquisition. Help Thy servants now, in this most solemn hour, who are to stand as ministers of Thyself and of all this people, as may best comport with this high day of trial. Be Thy presence all their strength and all their sanction as they prosecute the impeachment on a head once honored with a country's confidence, but now obscured in the pestilent darkness of sedition, treachery, and blood. Guide them to the close of all their labors, and crown their work with the assenting voice of the whole nation; but more than all, with Thy divine and lasting approbation. Amen.

The Journal of yesterday was read and approved.

VOTE RECORDED.

In pursuance of leave granted yesterday, Mr. ANCONA recorded his vote in the negative on the question of the passage of the bill (H. R. No. 187) to authorize the further issue of United States legal tender notes.

SUTCLIFFE AND CASE.

The SPEAKER laid before the House a report from the Secretary of the Treasury on House bill No. 330, for the relief of Sutcliffe & Case; which was referred to the Committee of Claims, and ordered to be printed.

REBELLION LOSSES.

The SPEAKER stated the business in order to be the consideration of House bill No. 401, relating to claims for the loss and destruction of property belonging to loyal citizens, and damages thereto, by the troops of the United States during the present rebellion, on which the gentleman from Missouri [Mr. NOELL] was entitled to the floor:

PUBLIC DOCUMENTS.

Mr. THOMAS, of Maryland, by unanimous consent, introduced the following resolution; which was read, considered, and agreed to:

Resolved, That the Committee on Public Printing be instructed to inquire into the expediency of placing under the direction of the Secretary of the Interior two copies of the Journals of Congress at each and every session, two copies of all laws of Congress, two copies of the annual messages of the President, with accompanying documents, and two copies of all public documents or books which may be printed and bound by order of either House of Congress, to be distributed by order of the Secretary to the clerks of the several county courts of the several States and Territories, and to constitute libraries for the use of the public.

RIFLED CANNON.

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

Resolved, That the Secretary of the Navy be, and is hereby, directed to inform this House what number of rifled cannon are at present in use in the Navy, what their calibers, by whom made and designed, and what means have been taken to improve that branch of the service; what rifle guns have been made or projected at the Government works; and what amounts, if any, have been paid for experiments.

SANITARY COMMISSION.

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

Whereas the United States sanitary commission, by the disinterested benevolence of its friends and patrons, its perfect organization, and the active efforts of its officers, surgeons, and nurses, has contributed largely to the welfare of the Army, and the relief and comfort of our sick and wounded soldiers; and whereas it is understood that said sanitary commission is in need of additional funds to perfect and accomplish its purposes: Therefore,

Resolved, That the Committee on Military Affairs be, and hereby is, instructed to inquire into the financial condition and wants of said association, and to consider the propriety and necessity of an appropriation of money for the purposes thereof; and to report by bill or otherwise.

LIGHT-HOUSE AT EDIZ HOOK.

Mr. WALLACE, of Washington, by unanimous consent, offered the following resolution; which was read, considered, and agreed to:

Resolved, That the Committee of Ways and Means be instructed to inquire into the expediency of making an appropriation to build a light-house at Ediz Hook, and report by bill or otherwise.

PRINTING PACIFIC RAILROAD BILL.

Mr. CLARK, from the Committee on Printing, reported the following resolution:

Resolved, That five thousand extra copies of the Pacific railroad act, as it passed both Houses, be printed in pamphlet form for the use of the members of the House.

Mr. WASHBURNE. I suggest that that is a larger number than we need. I think that one thousand or fifteen hundred copies would be all-sufficient.

Mr. CLARK. The argument used was that a large number would be required.

Mr. WASHBURNE. I know that I shall not want more than eight or ten copies, so far as I am concerned. I move to amend by reducing the number to two thousand five hundred.

The SPEAKER. Does the gentleman from New York yield for that purpose?

Mr. CLARK. Yes, if I have the right, as reporting from a committee.

The SPEAKER. The gentleman may yield the floor to the gentleman from Illinois.

Mr. CLARK. I do so.

Mr. WASHBURNE. Then I offer that amendment.

The amendment was agreed to.

The resolution, as amended, was adopted.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. FORNEY, its Secretary, announced that the Senate insisted upon their disagreement to the third and fourth amendments of the House to the bill of the Senate (No. 171) to reorganize the Navy Department of the United States, and also upon their amendment to the fourteenth amendment of the House to the said bill, agreed to the conference asked by the House on the disagreeing votes of the two Houses thereon, and had appointed Messrs. HALE, GRIMES, and LATHAM, the committee of conference on their part.

The message also returned to the House, agreeably to its request, the bill of the House (No. 280) to establish and equalize the grades of line officers of the United States Navy.

The message also notified the House that the Senate are now in their Chamber, and are ready to proceed on the trial of the impeachment of West H. Humphreys, judge of the district court of the United States for the several districts of Tennessee, and that seats are provided for the accommodation of the members of the House of Representatives.

RECORDING VOTES.

Mr. McPHERSON. I was absent from the House, through sickness, the other day when the Treasury note bill and the tax bill were passed. I should like to have the consent of the House to have my name recorded on these bills.

There was no objection.

Mr. McPHERSON. I vote "ay" on the passage of both bills.

ADDITIONAL MEDICAL OFFICERS.

Mr. OLIN. The Senate has sent to this House a bill (S. No. 370) to provide for additional medical officers for the volunteer service. I desire to ask the consent of the House to have that bill put upon its passage, in order that it may be sent to the President before the bill now before him in reference to the same subject is signed, because that bill would put out of office every brigade surgeon in the Army, and would require formalities to be observed for a reappointment to office.

Mr. HOLMAN. I thought the intention was to dispense with brigade surgeons altogether.

Mr. OLIN. It was the intention so to provide that brigade surgeons might be transferred to any post or position in the Army wherever their services might be required. As the matter now stands, however, brigade surgeons are dispensed with, and they cannot be assigned to other positions without reappointment.

Mr. NOELL. Does this discussion come out of my time?

Mr. OLIN. Of course it does not.

The SPEAKER. It certainly does come out of the time of the gentleman from Missouri, he having yielded to the gentleman from New York, and unanimous consent not having been given to consider the bill indicated.

TRIAL OF JUDGE HUMPHREYS.

Mr. BINGHAM. I object to taking up the bill referred to by the gentleman from New York for this reason: the Senate have just sent to the House a message, in writing, informing us that that body has organized itself into a High Court of Impeachment for the purpose of trying the articles of impeachment against West H. Humphreys by this House. The business of the Senate is now suspended, and that body is waiting for the appearance of the House. I hope that no time will unnecessarily be consumed by the House in complying with the Senate's request. I therefore move that the House resolve itself into a Committee of the Whole House for the purpose of proceeding to the Senate.

The motion was agreed to.

The House thereupon resolved itself into a Committee of the Whole House, and proceeded to the Senate Chamber to attend the trial by the Senate of the impeachment of West H. Humphreys; and, after some time spent therein, the committee returned into the Chamber of the House, and the Speaker having resumed the chair, Mr. WASHBURNE reported that the committee had, according to order, attended the trial by the Senate of the said impeachment, that progress had been made therein, and that the Court of Impeachment had adjourned to meet again at four o'clock this day.

CHARGE OF BRIBERY.

Mr. WALTON. I rise to a question affecting the privileges of this House. I send to the Clerk's desk a copy of the New York Tribune of June 21, and ask him to read the paragraph I have marked.

Mr. OLIN. I believe the contributions in the New York Tribune are not questions of privilege.

The SPEAKER. Not unless the gentleman makes what he proposes to read the basis of privileged action upon the part of the House.

Mr. WALTON. As the article contains the charge of bribery, I propose to make it the basis of an inquiry by the House. I ask the Clerk to read the article.

The Clerk read, as follows:

"THE NATIONAL INTELLIGENCER'S BOOK JOB.—Mr. E. P. WALTON having reported in the House on Thursday, from the Printing Committee, a resolution in favor of paying $35,000 to Messrs. Gales & Seaton for certain books, Mr. ROSCOE CONKLING moved to lay the resolution on the table; which was lost by the following vote:

"YEAS—Messrs. Aldrich, Arnold, Babbitt, Baker, Baxter, Beaman, Bingham, Blake, Buffinton, Burnham, Chamberlin, Clark, Cobb, Colfax, Frederick A. Conkling, Roscoe Conkling, Cutler, Davis, Dawes, Edgerton, Edwards, Fenton, Fessenden, Franchot, Frank, Gooch, Goodwin, Granger, Gurley, Haight, Hanchett, Hickman, Hutchins, Julian, Kelley, Francis W. Kellogg, Lansing, Loomis, Lovejoy, Low, McKnight, Mitchell, Justin S. Morrill, Nixon, Odell, Olin, Pike, Porter, Potter, John H. Rice, Robinson, Edward H. Rollins, Sargent, Sedgwick, Shanks, Sherman, Spaul'ding, William G. Steele, Stratton, Trimble, Trowbridge, Van Horn, Van Valkenburgh, Verree, Wall, Washburne, Wheeler, Wilson, Windom, and Worcester—70.

"NAYS—Messrs. Alley, Baily, Biddle, Jacob B. Blair, George H. Browne, William G. Brown, Calvert, Casey, Clements, Corning, Cravens, Crisfield, Crittenden, Delano, Diven, Dunlap, Eliot, Ely, English, Fisher, Grider, Hall, Harding, Harrison, Hooper, Horton, Johnson, William Kellogg, Killinger, Knapp, Law, Leary, Lehman, McPherson, Mallory, May, Maynard, Menzies, Moorhead, Morris, Noble, Noell, Norton, Nugen, Pendleton, Perry, John S. Phelps, Pomeroy, Price, Alexander H. Rice, Richardson, Riddle, James S. Rollins, Segar, Shellabarger, Shiel, Smith, John B. Steele, Stevens, Benjamin F. Thomas, Francis Thomas, Vallandigham, Voorhees, Wadsworth, Wallace, Walton, Ward, Webster, Whaley, Albert S. White, Chilton A. White, Wickliffe, Wood, and Woodruff—74.

"The question was then taken on agreeing to the resolution, and negatived, as follows:

"YEAS—Messrs. Alley, Baily, Biddle, Jacob B. Blair, George H. Browne, William G. Brown, Casey, Clements, Corning, Cravens, Crisfield, Crittenden, Delano, Diven, Dunlap, Eliot, Ely, English, Fisher, Fouke, Grider, Hale, Hall, Harding, Harrison, Hooper, Horton, Johnson, Law, Leary, Lehman, McPherson, Mallory, May, Maynard, Menzies, Moorhead, Morris, Noble, Noell, Norton, Nugen, Pendleton, Perry, John S. Phelps, Pomeroy, Price, Alexander H. Rice, Richardson, Riddle, James S. Rollins, Segar, Shellabarger, Shiel, John B. Steele, Stevens, Benjamin F. Thomas, Francis Thomas, Vallandigham, Voorhees, Wadsworth, Wallace, Walton, Ward, Webster, Whaley, Albert S. White, Chilton A. White, Wickliffe, and Wood—70.

"NAYS—Messrs. Aldrich, Arnold, Ashley, Babbitt, Baker, Beaman, Blake, Buffinton, Burnham, Campbell, Chamberlin, Clark, Cobb, Colfax, Frederick A. Conkling, Roscoe Conkling, Cutler, Davis, Dawes, Edgerton, Edwards, Fenton, Fessenden, Franchot, Frank, Gooch, Goodwin, Granger, Gurley, Haight, Hanchett, Hickman, Holman, Hutchins, Julian, Kelley, Francis W. Kellogg, Lansing, Loomis, Lovejoy, Low, Mitchell, Justin S. Morrill, Nixon, Odell, Olin, Pike, Porter, Potter, John H. Rice, Robinson, Edward H. Rollins, Sargent, Sedgwick, Shanks, Sherman, Spaulding, William G. Steele, Stratton, Trimble, Trowbridge, Van Horn, Van Valkenburgh, Verree, Wall, Washburne, Wheeler, Wilson, Windom, and Worcester—70. Speaker, 1—71.

"No member of the House had the hardihood to move a reconsideration of the vote by which the resolution was rejected. We have reason to believe, however, that a careful search for a pliable man was instituted, and that some persons were approached ostensibly on behalf of the friends of the resolution with offers of a pecuniary nature. It is too late now to enter a motion for reconsideration."

Mr. WALTON. Mr. Speaker, the reporter of the Tribune, who has a seat in the gallery of this House by the courtesy of the House, has seen fit to characterize a resolution which has been introduced three several times into the House, entertained by the House, and which has received the votes of at least one half the members of the House, as a job. He then proceeds to name me as the reporter of the resolution, and thus identifies me as a friend of it. He then gives the names of members who voted upon it, and among them the names of seventy members of this House who voted for it, thus identifying them as the friends of the measure. He then charges that he has reason to believe that the friends of this measure have resorted to bribery to carry it through the House.

Now, sir, by the rules, bribery is a breach of the privileges of the House, and by the act of 1853 it is a crime punishable with severe penalties. I think it is due to the members of the House who voted upon that resolution, I think it is due to me, that when a charge of this kind is made, and made by one who is in the enjoyment of the courtesy of the House, an investigation should take place, and the truth or falsehood of the charge ascertained. I therefore ask for the adoption of the following resolution:

Whereas the publishers of the New York Tribune, on the authority of one of their correspondents, have declared and published that "offers of a pecuniary nature" have been made, apparently for the purpose of obtaining action of this House improperly, corruptly, and criminally; which charge, if true, involves a breach of the privileges of the House, and, if false in respect to any members of this House or others who are implicated, is a breach of the privileges accorded to reporters by the courtesy of the House: Therefore,

Resolved, That the Committee on the Judiciary be instructed forthwith to inquire by whom and by what authority such charge, and any other contained in the article referred to, has been made, and to make thorough investigation as to their truth or falsity, and report all the evidence to the House, with their opinion thereon, and such resolutions as to them shall seem meet; and that said committee have power to send for persons and papers, and to report at any time.

I have put in the Committee on the Judiciary because I want a committee of sharp lawyers.

Now, sir, I ask the House to adopt that resolution. If any man in this House or out of it has been guilty of offering or accepting a bribe to procure the passage of a measure through this House, or has been guilty of a breach of the privileges of the House, I desire to see due punishment meted out to him.

Mr. Speaker, if no gentleman desires to make this resolution stronger, I will move the previous question on its adoption.

Mr. F. A. CONKLING. I ask the gentleman to yield to me for a moment.

Mr. WALTON. I do not think discussion upon the resolution is desirable. I demand the previous question.

Mr. EDGERTON moved to lay the resolution on the table.

Mr. HUTCHINS called for tellers on the motion.

Tellers were not ordered.

The motion was disagreed to—ayes twenty-five, noes not counted.

The previous question was seconded, and the main question ordered to be put.

Mr. WICKLIFFE demanded the yeas and nays upon the adoption of the resolution.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 102, nays 8; as follows:

YEAS—Messrs. Aldrich, William Allen, William J. Allen, Alley, Ancona, Arnold, Babbitt, Baily, Baker, Biddle, Jacob B. Blair, Samuel S. Blair, Buffinton, Calvert, Campbell, Chamberlin, Clements, Cobb, Colfax, Roscoe Conkling, Corning, Covode, Crisfield, Cutler, Davis, Dawes, Delano, Diven, Duell, Dunlap, Dunn, Edgerton, Edwards, Eliot, English, Fenton, Fessenden, Fisher, Goodwin, Grider, Hale, Hall, Holman, Hutchins, Johnson, Julian, Francis W. Kellogg, William Kellogg, Kerrigan, Knapp, Law, Lazear, Leary, Low, McKnight, McPherson, Mallory, May, Maynard, Menzies, Mitchell, Justin S. Morrill, Nixon, Norton, Nugen, Odell, Olin, Perry, Timothy G. Phelps, Pomeroy, Porter, Potter, Alexander H. Rice, John H. Rice, Edward H. Rollins, James S. Rollins, Segar, Sheffield, Sherman, Shiel, Smith, Stiles, Stratton, Benjamin F. Thomas, Van Horn, Van Valkenburgh, Verree, Vibbard, Wadsworth, Wall, Wallace, Walton, Webster, Whaley, Chilton A. White, Wickliffe, Wilson, Wood, Woodruff, Worcester, and Wright—102.

NAYS—Messrs. Frederick A. Conkling, Ely, Franchot, Frank, Lansing, Lovejoy, Trimble, and Washburne—8.

So the resolution was adopted.

ADDITIONAL MEDICAL OFFICERS.

Mr. OLIN. I ask the consent of the House to take up and put on its passage Senate bill No. 370, to provide additional medical officers for the volunteer service.

Mr. HOLMAN. Let the bill be read for information.

The bill was read.

Mr. HOLMAN. Is it the intention to put that bill on its passage at this time?

Mr. OLIN. Certainly, that is the object; and

if the gentleman will listen to me for one moment he will see the propriety of it.

Mr. HOLMAN. I will suggest that it was the very extraordinary haste with which the other bill was put through that renders this bill necessary.

Mr. OLIN. I know it is. That renders it necessary that this bill should be passed.

Mr. HOLMAN. Is the gentleman certain that this bill is so carefully prepared that further legislation will not be required to correct it again?

Mr. OLIN. It is the request of the War Department that this bill should be passed, to remedy the defect of the other. The bill is in accordance with the recommendation of the Department.

Mr. POTTER. I suggest to the gentleman from Indiana that, if he will hear the explanation of the gentleman from New York, I presume he will not object to the bill.

Mr. HOLMAN. I do not object to it.

Mr. OLIN. The bill which was passed the other day inadvertently put out of office every brigade surgeon now in the employment of the Government. The bill was not designed to accomplish that object, but to authorize the transfer of such brigade surgeons to wherever the condition of the Army requires their service.

Mr. WICKLIFFE. Is that the bill we passed the other day?

Mr. OLIN. It is.

Mr. WICKLIFFE. I take it, the gentleman from New York voted for that bill.

Mr. OLIN. No. I did not vote for it. I was not in the House. I say the design of the bill was not to turn out of office every brigade surgeon in the Army, but simply to transfer the control and assignment of such brigade surgeons to the Surgeon General of the Army.

For instance, if there were surgeons attending to their duties upon a brigade not in battle, not in active service of war, and there should occur, what sometimes happens, a battle elsewhere, it might be desirable to have power to assign such brigade surgeons to another point in order to discharge their duties there. That can be accomplished simply by authorizing the Surgeon General to control the brigade surgeons, and to send them wherever the exigencies of the service at the moment may require. Thus you would be able to get along with a much less number than the exigencies of the service would otherwise require. Now, I hope, without further delay, the House will pass this bill.

No objection being made, the bill was taken up and ordered to a third reading.

The bill was accordingly read the third time, and passed.

Mr. OLIN moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

REBELLION LOSSES.

The regular order of business being called for,

The SPEAKER announced the regular order of business to be the consideration of the bill (H. R. No. 401) relating to claims for the loss and destruction of property belonging to loyal citizens, and damages done thereto by the troops of the United States during the present rebellion; upon which the gentleman from Missouri [Mr. NOELL] was entitled to the floor.

Mr. WICKLIFFE. I do not see the gentleman from Missouri in his place. I do not think it is right for me or for any other member, at this time of the day, to take up the time of the House in the discussion of this bill, which is a very important one. If I can have an understanding that the bill will come up to-morrow as unfinished business, I prefer taking that time to say what I have to say. The object of the bill is to appoint a commission to take evidence in reference to the damage done to the property of loyal citizens during the present rebellion.

The SPEAKER. The Chair would state to the gentleman from Kentucky, that this bill is the morning hour business from day to day until disposed of. Whenever the call of committees is in order, this is the first business.

Mr. WICKLIFFE. I move that the consideration of the bill be postponed until to-morrow.

Mr. FENTON. If there be no objection, it will go over until to-morrow morning as a matter of course, and without any motion to postpone.

The SPEAKER. If there be no objection, the bill will go over till to-morrow.

NAVAL BUSINESS.

Mr. SEDGWICK. This day was assigned by the House for the consideration of business reported from the Committee on Naval Affairs. As, however, the day has been consumed by the trial of the impeachment case before the Senate, I ask the House to assign another early day for the consideration of that business. I would suggest Tuesday next, after the morning hour.

No objection being made, it was ordered accordingly.

REBELLION LOSSES—AGAIN.

Mr. ROSCOE CONKLING. I would inquire what became of bill No. 401?

The SPEAKER. It goes over until to-morrow.

Mr. ROSCOE CONKLING. I did not so understand it. I inquired once before, and I will inquire again, who has the floor on that bill?

The SPEAKER. The gentleman from Kentucky [Mr. WICKLIFFE] will be entitled to the floor.

Mr. ROSCOE CONKLING. I understand, if no objection is made, it goes over until to-morrow; otherwise, to-morrow being private bill day, it goes beyond to-morrow.

The SPEAKER. Its consideration can be postponed by a vote of the House to-morrow.

Mr. ROSCOE CONKLING. Is it in order to-morrow, unless unanimous consent is given now?

The SPEAKER. The Chair once stated to the House that if there were no objection the bill would go over until to-morrow morning after the reading of the Journal. The Chair heard no objection.

Mr. ROSCOE CONKLING. When my colleague [Mr. SEDGWICK] got up to make a suggestion, I did not suppose this matter was disposed of. I think this bill ought to be acted upon at an early day. I do not want to delay it at all, and that is the desire of my colleague [Mr. FENTON] who has it in charge. I desire to be heard on it. Five speeches have been made in its favor and one against it. The gentleman from Kentucky, [Mr. WICKLIFFE,] I suppose, desires to be heard against the bill; and I suggest that instead of having it come up during the morning hour each morning, which subjects members speaking to being broken in upon, it had better be postponed to some day certain when it can be debated and a vote had upon it. I make that suggestion as much for the interest of the gentleman having charge of the bill, as for any other purpose.

Mr. FENTON. Say Monday.

The SPEAKER. The Chair thinks the bill went over until to-morrow by unanimous consent; and the Chair thinks it too late now to raise the question.

Mr. MORRILL, of Vermont. I desire to inquire whether the tariff bill was not made the special order from day to day until disposed of?

The SPEAKER. In Committee of the Whole on the state of the Union; but unless the House go into committee, it would not come up.

PENSIONS.

Mr. HOLMAN. On the 16th of this month the House adopted a resolution directing the Secretary of the Interior to furnish certain information to the House at the next session in reference to the pension laws. I understand from the Commissioner of Pensions that that information cannot be furnished without an extraordinary amount of labor. I ask, by unanimous consent, that a resolution, which I send to the Clerk's desk, may be adopted in lieu of that resolution.

The Clerk read the resolution, as follows:

Resolved, That the Secretary of the Interior be directed to furnish to the House, at as early a day as may be practicable during the next session of Congress, a tabular statement of the number of persons on the pension roll of the United States, at the various rates of pension; the service rendered by such pensioners; whether in the regular Army, militia, volunteer service, or Navy; and the number of applications for pensions pending and undecided at the time of making such report.

No objection being made, the resolution was agreed to, and substituted for the previous resolution.

BOUNTY TO SOLDIERS.

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

Whereas it is just and proper that all those soldiers of the United States Army who have volunteered to serve for three years or during the war, under the act of July, 1861, and who have since been discharged, or may hereafter be discharged, from such service before they shall have served two years, by reason of physical disability incurred while in the service, should be entitled to the same bounty of $100 as provided in said act in behalf of those who may serve for two years, or may die in the service: Therefore,

Resolved, That the Committee on Military Affairs be, and they are hereby, requested to examine into the propriety of granting them such bounty, and that they report by bill or otherwise, as justice shall demand.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. FORNEY, their Secretary, announced to the House that the Senate had passed the following joint resolution and bills; in which the concurrence of the House was requested, namely:

An act to carry into effect the treaty between the United States and her Britannic Majesty for the suppression of the African slave trade;

An act to increase the compensation of the surveyors of customs at Albany and Troy, in the State of New York, and for other purposes;

An act to grant the proceeds of the sales of certain public lands to aid in the construction of a Northern Pacific railroad;

An act for the relief of Jane B. Evans; and

A joint resolution to change the name of the schooner Sally McGee to that of Ocean Eagle.

TAX ON BANK CIRCULATION.

Mr. LOVEJOY asked leave to introduce the following resolution:

Resolved, That the Committee of Ways and Means be instructed to inquire into the expediency of imposing a tax on the bank circulation of the country, and report by bill or otherwise.

Mr. STRATTON objected.

CHANGE OF NAMES OF VESSELS.

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

Resolved, That the Committee on Commerce be requested to inquire into the expediency of vesting in the Secretary of the Navy authority to change the names of vessels on application of the owners thereof, and report by bill or otherwise.

SENATE BILLS REFERRED.

On motion of Mr. ALDRICH, the House proceeded to the business on the Speaker's table; when the following Senate joint resolution and bills were taken up, read a first and second time, and referred as indicated below:

A bill (No. 346) for the relief of Jane B. Evans—referred to the Committee on Patents.

A bill (No. 360) to grant the proceeds of the sale of certain public lands to aid in the construction of the Northern Pacific railroad—referred to the select committee on the Pacific railroad.

Joint resolution (No. 94) to change the name of the schooner Sally McGee to that of Ocean Eagle—referred to the Committee on Commerce.

A bill (No. 275) to increase the compensation of the surveyors of customs at Albany and Troy, in the State of New York, and for other purposes—referred to the Committee on Commerce.

A bill (No. 352) to carry into effect the treaty between the United States and her Britannic Majesty for the suppression of the African slave trade—referred to the Committee on Foreign Affairs.

COMPETENCY OF WITNESSES.

Mr. THOMAS, of Massachusetts. I ask the unanimous consent of the House to report back from the Committee on the Judiciary bill of the House No. 340, in relation to the competency of witnesses in trials of equity and admiralty.

Mr. LOVEJOY. I object.

POST ROUTE BILL.

Mr. COLFAX. I ask the unanimous consent of the House to report from the Committee on the Post Office and Post Roads a bill to establish additional post routes. I will state that the Post Office Department are preparing the advertisements for the new routes authorized by the bill of last month. This bill establishes a few routes which were not included in that bill, but which have come in since. I gave notice to the House at that time that we should report supplemental routes. If this bill is passed, these routes can be advertised so as to go into operation the ensuing year. If it is not passed, they will go over for another year.

There being no objection, the report was received, and the bill was read a first and second time.

Mr. COLFAX. Two or three members of the House desire to put in additional post routes, and I therefore move to recommit the bill, and ask that the motion may go over till to-morrow.

There was no objection.

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

Mr. BINGHAM. I hope that motion will not prevail. The Senate will soon send a message informing the House that they are ready to pronounce judgment in the matter of the impeachment, and it will be necessary for the House to go over to hear that judgment pronounced. They are now deliberating with closed doors on forming their judgment.

Mr. HOLMAN. I withdraw my motion.

JACOB GATES.

Mr. ELY, by unanimous consent, from the Committee on Invalid Pensions, reported back bill of the House No. 39, granting an invalid pension to Jacob Gates, and moved that it be referred to a Committee of the Whole House, and, with the accompanying report, be printed.

Mr. BLAIR, of Pennsylvania. I ask that that bill be put upon its passage. I am sure that if gentlemen will hear the report they will not object.

The bill and report were read.

Mr. PHELPS, of Missouri. I object to the consideration of the bill at this time. Under the rules, it must have its first consideration in a Committee of the Whole House on the Private Calendar.

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

TRIAL OF JUDGE HUMPHREYS—AGAIN.

A message was received from the Senate, by Mr. FORNEY, its Secretary, as follows:

Mr. SPEAKER: I am directed by the Senate to notify the House that the High Court of Impeachment is now ready to pronounce judgment against West H. Humphreys, and requesting the attendance of the House of Representatives.

Mr. BINGHAM moved that the House resolve itself into a Committee of the Whole House for the purpose of proceeding to the Senate to attend the further prosecution of the trial of West H. Humphreys.

The motion was agreed to.

The House thereupon resolved itself into a Committee of the Whole House, and proceeded to the Senate Chamber to attend the further prosecution of the trial by the Senate of the impeachment against West H. Humphreys; and after some time spent therein, the committee returned into the Chamber of the House; and the Speaker having resumed the chair, Mr. WASHBURNE reported that the committee had, according to order, attended the trial by the Senate of the impeachment against West H. Humphreys, judge of the district court of the United States for the several districts of Tennessee, and that the said Judge West H. Humphreys had been found guilty by the Senate of the matters whereof he stood charged by the House of Representatives, as contained in its articles of impeachment exhibited against him.

And then, on motion of Mr. BUFFINTON, the House (at ten minutes past five o'clock, p. m.) adjourned.

IN SENATE.

FRIDAY, *June* 27, 1862.

Prayer by the Chaplain, Rev. Dr. SUNDERLAND.

The Journal of yesterday was read and approved.

OATH OF OFFICE.

The PRESIDENT *pro tempore* appointed Messrs. TRUMBULL, DAVIS, and KING the committee of conference on the part of the Senate on the disagreeing votes of the two Houses upon the bill (S. No. 371) to prescribe an oath of office, and for other purposes.

PETITION.

Mr. HOWE presented a petition of citizens of Wisconsin, praying for the adoption of measures for the enlargement of the locks of the Erie and Oswego canals to a size sufficient to admit the passage of vessels adequate to the defense of the northwestern lakes; which was referred to the Committee on Military Affairs and the Militia.

PRINTING OF DOCUMENTS.

Mr. ANTHONY. The Committee on Printing, to whom was referred the bill (S. No. 336) to provide for further distribution of the public documents, have instructed me to report the same without amendment, and recommend its passage. It is but four or five lines, and will create no opposition. I ask that it be considered at once.

There being no objection, the bill was considered as in Committee of the Whole. It proposes to direct the Superintendent of the Public Printing, under the advice of the Committee on Printing of the two Houses of Congress, to print such an extra number of documents ordered to be printed for either House or the Departments, as may from time to time be deemed advisable, and to sell the same at cost to any person wishing to purchase them.

The bill was reported to the Senate without amendment.

Mr. GRIMES. I should like to have that bill lie over. It is giving very extraordinary powers to the Committee on Public Printing to print anything that a Department may desire for the benefit of anybody who wants to buy books.

Mr. ANTHONY. I will not object to its lying over; but perhaps, if I explain the bill, my friend will withdraw his objection. Our Government is the only one, I believe, where the papers ordered to be printed by the supreme Legislature cannot be purchased. You can buy them in France; you can buy them everywhere. There are many gentlemen who have libraries, and, also, there are a number of public libraries that will be glad to buy sets of these documents for preservation. That is precisely what we would like to have done with them; and our purpose is to allow (under the direction of the Committee on Printing of the two Houses, which we think would be sufficient to prevent any abuse) a few hundred copies to be printed, and to be sold at cost. Still, I would not create any debate, and if the Senator objects, I will consent that it shall lie over.

Mr. SUMNER. I was not aware of this proposition until I listened to the Senator from Rhode Island; but I concur with him entirely. It is within my knowledge that there are libraries, public and private, which are in much want of these documents. I am applied to, I may say very often, by persons seeking sets of these documents, and complaining that they cannot get them in our country, of the booksellers, as they can in Europe, particularly in London and in Paris. It seems to me that it would be a very proper thing for our Government to meet this exigency. That is what the Senator proposes, as I understand.

Mr. HALE. I do not know but it would, and yet I think it would be better to take care of those that are printed. Ever since I have been in Congress these public documents are sold and used as wrapping paper in the grocery and other stores around this city. They are given away in any quantity by anybody and everybody about the Capitol. I think we had better take care of those we do print according to law and not allow them to be used for wrapping paper.

Mr. ANTHONY. That used to be the case, but those members of Congress who were indifferent as to public documents, and whose constituents were indifferent as to them, have mostly left us. I think the documents now are mostly distributed; but it seems to me that when gentlemen, instead of begging us for these documents, which they are very unwilling to do, are willing to pay for them, they ought to be accommodated.

The PRESIDENT *pro tempore*. It is moved that the further consideration of this bill be postponed till to-morrow.

Mr. GRIMES. I would just as lief have the question settled now as at any other time. I do not care about having it postponed. All I desired was to direct the attention of Senators to it. I can see very readily that it may be desirable that some of these books should be published; but the question with me is this: whether we shall intrust this power of publication to the hands of a committee of the Senate and House of Representatives, or whether we shall retain that power in our own hands. It seems to me we should retain it ourselves. If a book is going to be printed that is likely to be of any value, or is of any value, we can direct when it is printed that it shall be reserved; but this gives an unlimited power to the Committee on Printing to print one hundred, or one thousand, or ten thousand; and I do not choose to give them that power.

Mr. HARLAN. It is quite natural perhaps that a committee might deem safe parties to whom such a discretion might be intrusted. The object of the committee, however, was to provide for the publication of documents at cost, to be paid for by the parties that desire them, rather than to publish them at the public expense, to be given away under the frank of members of the Senate and of the House of Representatives. The committee propose to try the experiment, and have a few of these documents published to be sold at cost to those that might desire them, with the view in the end of dispensing altogether with the publication of extra numbers of public documents to be distributed gratuitously. That was the purpose of the committee. If it is deemed, however, too large a discretion to be confided to the Committees on Printing of the two Houses, the bill ought to be modified.

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

AN ERRONEOUS REPORT.

Mr. CHANDLER. I move to reconsider the vote by which Mrs. General Persifer F. Smith was granted a pension yesterday; and I will ask that a letter, which I hold in my hand, be read that it may be placed on the records of the Senate as a warning to traitorous women never to appear here again applying for a pension.

The PRESIDENT *pro tempore*. The Senator from Michigan moves to reconsider the vote by which the bill for the relief of Mrs. Persifer F. Smith was passed.

Mr. CHANDLER. And I ask that this treasonable letter from her to her son may be read.

The PRESIDENT *pro tempore*. The question before the Senate is on the motion to reconsider that vote.

Mr. CHANDLER. I ask that the letter may be read before the vote is taken on the reconsideration.

The PRESIDENT *pro tempore*. The Chair is informed that no such bill has passed the Senate.

Mr. FOSTER. Such a bill was passed some years ago.

The PRESIDENT *pro tempore*. Then, in the judgment of the Chair, it is rather late now to move a reconsideration.

Mr. CHANDLER. I take it from yesterday's proceedings, as reported in the Baltimore Sun. Here it is:

"Mr. FOSTER, of Connecticut, from the Committee on Pensions, reported favorably upon the bill for the relief of Mrs. General P. F. Smith; which was considered and passed.

Mr. FOSTER. No such fact occurred.

The PRESIDENT *pro tempore*. The Chair speaks from the record. No such bill was passed.

Mr. FOSTER. I reported no such bill, and none such was passed.

Mr. CHANDLER. Then this is an error.

Mr. FOSTER. A most decided error.

The PRESIDENT *pro tempore*. This discussion is entirely out of order. There is no question before the Senate.

GUN CONTRACTS.

Mr. POWELL. I move to take up the resolution I offered yesterday, asking the Secretary of War to transmit a certain report to the Senate. It will take but a moment.

Mr. HARLAN. Are not reports in order?

The PRESIDENT *pro tempore*. Reports are in order unless a special motion is interposed. The Senator from Kentucky moves to take up the resolution indicated by him.

The motion was agreed to; and the Senate proceeded to consider the following resolution:

Resolved, That the Secretary of War be directed to transmit to the Senate the report of Hon. Joseph Holt and Hon. Robert Dale Owen, commissioners to investigate ordnance and gun contracts; and that he transmit to the Senate all the evidence taken by said commissioners touching the contracts investigated by them.

Mr. ANTHONY. I believe some time since the Senate decided, although the decision has been varied from repeatedly, that resolutions of this kind should be directed, not to the heads of Departments, but to the President, requesting him, if not incompatible with the public interest, to furnish the information. I presume that this report is on a very important matter, and there may be many things which the Government may require, for the present at least, to keep private. I will therefore move to amend the resolution by striking out the words, "the Secretary of War be directed,"

and to insert the words, "the President of the United States be requested, if in his opinion not incompatible with the public interest." I have no desire, I am sure, to cover up anything that ought to be exposed; but I wish to leave the time and manner in the discretion of the President, in whom I am sure we all have full confidence.

Mr. POWELL. I hope the amendment of the Senator from Rhode Island may not prevail. The report that is asked for is a report made by a commission appointed by the Secretary of War for a specific object, to investigate ordnance and gun contracts. That is all there is of it. I have not read that report; and indeed it is impossible to read a report now, it seems, in that War Office, for the Secretary of War seems to assume a dictatorial power there. He refused to allow me the other day to read a public document of the greatest importance and interest that I wished to read and examine in order to get information as a basis of legislation. This report, I am advised, exposes and brings to light most astonishing frauds upon this Government. I understand that it is completed, and I wish it to be published as speedily as possible. Were it anything that could possibly injure the public interest, it would be right and proper to couch the resolution in the language that the Senator from Rhode Island desires; but the report was made by a commission appointed by the War Department for the specific purpose of examining into these ordnance and gun contracts, and for nothing else. That was the whole scope, tenor, and verge of those who had charge of this commission, whose report I wish to have printed. I wish all the evidence to be laid before the Senate. With great deference to the opinion of the honorable Senator from Rhode Island, I say the customary mode of asking for these reports and for information from the heads of Departments is to direct them to give it to the Senate. I, for one, am heartily sick and tired of this practice, when certain Senators offer resolutions here to require information that will enable the Senate to direct its legislation in such a way as to prevent fraud, pillage, and theft on this Government, or to ask information touching and concerning the constitutional rights of the people of this country; I say I am tired of the practice in such cases of amending such resolutions so as to change them from the proper form of a direction to a head of a Department to a request to the President, leaving it in his discretion, "if it is not considered incompatible with the public interest."

I remember that a few days ago I made an effort to get through a resolution directing the Secretary of State to give certain information that deeply involved the liberties of my constituents. After a long debate it was sent to the President, and what did we get? "Not compatible with the public interest." This, however, is a case different from that. Here is the report of a commission appointed by the War Department to investigate certain contracts, matters that are past, and it cannot be incompatible with the public interest to let us know the practices and the usages of the parties who swarm about here and are hired and take fees to procure offices and contracts.

I hope the Senate will assert its rights, and demand that this report shall be brought here and then printed, and let the people see what kind of practices are resorted to to rob the Treasury of the nation. I ask for the yeas and nays upon the amendment of the Senator from Rhode Island.

The yeas and nays were ordered.

Mr. ANTHONY. All that the Senator from Kentucky has said convinces me of the propriety of addressing this resolution in the usual form. It is very possible that the publication of this report now, which we are told exposes great abuses and corruptions, may have the effect to shield the offenders from punishment. None of us want this report exposed now, unless it is compatible with the public interest. We do not know that it is compatible with the public interest. The resolution does not ask the Secretary to send it if in his discretion it be proper, but directs him imperatively to send us a report that we know nothing about, a report made by a commission not ordered by us, but ordered by him, and which has been made, I presume, to the President of the United States. Now, if it is not incompatible with the public interest, I desire that this report shall be communicated to us, and printed. If it be incompatible with the public interest, I presume no Senator wants it done. As it is impossible for us to judge, I propose to leave that question to the President of the United States.

Mr. POWELL. The report that was made in obedience to a resolution that I offered, Executive Document No. 64, is a fractional portion of this report. Now, as I before stated, I have not read this report, and I should not be permitted to see it if I should go to the War Department. As I am advised and understand—I may be mistaken about that, however—there is nothing in the report that should not be made known to the country, and that instantly.

Mr. ANTHONY. Then we shall get it.

Mr. POWELL. I am not sure that we shall get it. I have not that unlimited confidence in the Executive that the Senator has. I hope I may be pardoned for not having the confidence he has, but I certainly have not that unlimited confidence. I wish the resolution to pass as I have offered it; it is in the usual form; and I want no dodging, and no evasion about this information.

Mr. HALE. In order that we may get through with the morning business, I move to lay this question on the table. It can be called up to-morrow.

Mr. POWELL. I hope it will not be laid on the table. I hope the resolution will prevail without another word.

Mr. HALE. The motion is not debatable.

Mr. POWELL. I demand the yeas and nays on the motion to lay on the table.

The yeas and nays were ordered; and being taken, resulted—yeas 14, nays 24; as follows:

YEAS—Messrs. Anthony, Browning, Chandler, Clark, Cowan, Dixon, Hale, Harlan, Howe, Simmons, Sumner, Ten Eyck, Wilkinson, and Wilmot—14.

NAYS—Messrs. Bayard, Carlile, Collamer, Davis, Doolittle, Fessenden, Foot, Foster, Grimes, Harris, Henderson, Kennedy, King, Lane of Indiana, Lane of Kansas, McDougall, Nesmith, Powell, Saulsbury, Sherman, Stark, Wade, Willey, and Wright—24.

So the Senate refused to lay the resolution on the table.

The PRESIDENT *pro tempore*. The question recurs on the amendment of the Senator from Rhode Island, [Mr. ANTHONY.]

The question being taken by yeas and nays, resulted—yeas 24, nays 14; as follows:

YEAS—Messrs. Anthony, Browning, Chandler, Clark, Collamer, Dixon, Doolittle, Fessenden, Foot, Foster, Harlan, Harris, Henderson, Howe, Lane of Indiana, Lane of Kansas, McDougall, Sherman, Simmons, Sumner, Ten Eyck, Wilkinson, Willey, and Wilmot—24.

NAYS—Messrs. Bayard, Carlile, Davis, Grimes, Hale, Kennedy, King, Latham, Nesmith, Powell, Saulsbury, Stark, Trumbull, and Wright—14.

So the amendment was agreed to; and the resolution, as amended, was adopted.

REPORTS FROM COMMITTEES.

Mr. FOSTER, from the Committee on Pensions, to whom was referred the bill (H. R. No. 438) to grant pensions, reported it with amendments.

Mr. FOSTER. The same committee, to whom was referred the bill (H. R. No. 344) to secure to pilots, engineers, sailors, and crews upon gunboats and war vessels bounty and pensions, have instructed me to report it back with amendments, and to recommend that, as amended, it be annexed to House bill No. 438 to grant pensions, just reported, as an amendment to that bill.

Mr. HARLAN, from the Committee on Public Lands, to whom was referred the joint resolution (H. R. No 83) relative to a certain grant of land for railroad purposes, made to the State of Michigan, in 1856, reported it with an amendment.

He also, from the same committee, to whom was referred the bill (S. No. 208) making a donation of lands to the States of Wisconsin and Michigan to aid them in making a military road and telegraph line in said States, reported it without amendment, and submitted an adverse report thereon, which was ordered to be printed.

Mr. HALE. The Committee on Naval Affairs, to whom was referred the bill (H. R. No. 280) to establish and equalize the grades of line officers of the United States Navy, have had the same under consideration, and instructed me to report it back with several amendments, and I wish to say that I shall endeavor to call it up for consideration as early as Monday next.

Mr. GRIMES. I propose, when the bill just reported by the Senator from New Hampshire, the chairman of the Committee on Naval Affairs, shall come up, to offer an amendment, and I ask that it may be printed. It regulates the pay.

The amendment was ordered to be printed.

IMPEACHMENT OF JUDGE HUMPHREYS.

On motion of Mr. FOSTER, it was

Ordered, That the Secretary lay before the President of the United States an attested copy of the judgment of the Senate as the High Court of Impeachment in the case of West H. Humphreys.

BILL INTRODUCED.

Mr. SHERMAN asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 372) providing for the establishment of a national foundery in the Hanging Rock iron and coal region, upon the Ohio river, in the State of Ohio, and between the junctions of the Big Sandy and Sciota rivers with the Ohio; which was read twice by its title, referred to the Committee on Military Affairs and the Militia, and ordered to be printed.

PUBLICATION OF CONTRACTS.

On motion of Mr. FESSENDEN, the joint resolution (S. No. 93) in relation to contracts with the United States, was considered as in Committee of the Whole. It provides that it shall be the duty of the several Executive Departments of the Government to publish in one of the daily newspapers of the city of Washington, on Tuesday of each week, a list of all contracts which shall have been solicited or proposed to each, respectively, during the preceding week, which list shall state briefly the subject-matter of each contract so solicited or proposed to be made, its terms, the name of the proposed contractor and of all persons known to be interested therein, directly or indirectly, and of all persons who solicit, request, or recommend the making of any such contract. This provision is not, however, to be applicable to bids made in pursuance of advertisements for contracts or purchases made under existing laws, but is to apply to all proposed modifications of existing contracts.

Mr. HALE. As we have already got into some embarrassment by passing an act in relation to these contracts no longer ago than the 2d of June—the present month—I think it would be advisable to take the advice of the Departments that are to be affected by this measure as to its practical operation before it is passed; and I therefore move that the resolution lie on the table. It can be called up at any time; and in the mean time it can be printed.

Mr. FESSENDEN. It has been printed.

Mr. SHERMAN. Has it been referred?

Mr. FESSENDEN. If any committee wants to look into it, I have not the slightest objection to referring it; but I do not know to what committee it could appropriately be referred.

Mr. SHERMAN. I think it ought to be referred to the Judiciary Committee. It may involve a great deal of expense.

The PRESIDENT *pro tempore*. The Senator from New Hampshire moves that the resolution lie on the table.

Mr. FESSENDEN. I think it may as well lie on the table, if any Senator desires to look into it.

The motion to lay on the table was agreed to.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. ETHERIDGE, its Clerk, announced that the House of Representatives having ordered the correction of the error in the engrossment of the bill (H. R. No. 280) to establish and equalize the grades of line officers of the United States Navy, he returned the bill to the Senate for its concurrence.

The message also announced that the House had passed the bill of the Senate (No. 370) to provide for additional medical officers of the volunteer service.

CONGRESSMEN INTERESTED IN CONTRACTS.

Mr. POWELL. I move to postpone all prior orders for the purpose of taking up Senate bill No. 358, to prevent members of Congress and officers of the Government of the United States from taking consideration for procuring contracts from the United States.

The motion was agreed to; and the bill was considered as in Committee of the Whole. As originally introduced by Mr. POWELL, it provided that any member of Congress, or any officer of the Government of the United States, who should

directly or indirectly, by himself or by any other person or persons whatsoever, take, receive, or agree to receive, any money, property, or any consideration whatsoever from any person or persons, to procure any contract from the Government of the United States, or any Department thereof, or from any officer of the United States, for any person or persons whatsoever, should for every such offense, upon conviction before any court of the United States, or of the Territories, having cognizance of such offenses, be adjudged guilty of a high misdemeanor, and be fined in a sum double the amount received or agreed to be received, for procuring the contract; and that every such contract or agreement should moreover be absolutely void and of no effect; and that the member or officer, upon conviction of the misdemeanor, should be disqualified from holding any office of honor, profit, or trust, under the Government of the United States.

The bill was reported by the Committee on the Judiciary, with an amendment, striking out all after the enacting clause, and inserting:

That any member of Congress, or any officer of the Government of the United States who shall, directly or indirectly, take, receive, or agree to receive, any money, property, or other valuable consideration whatsoever, from any person or persons, for procuring, or aiding to procure, any contract, office, or place, from the Government of the United States or any Department thereof, or from any officer of the United States, for any person or persons whatsoever, shall, for every such offense, be liable to indictment as for a misdemeanor in any court of the United States having jurisdiction thereof, and on conviction thereof shall pay a fine of not exceeding $10,000, and suffer imprisonment in the penitentiary not exceeding two years, at the discretion of the court trying the same; and every such contract or agreement, as aforesaid, shall moreover be absolutely null and void; and any member of Congress or officer of the United States convicted, as aforesaid, shall, moreover, be disqualified from holding any office of honor, profit, or trust, under the Government of the United States.

The PRESIDENT *pro tempore*. The question is on the amendment reported by the Committee on the Judiciary.

Mr. POWELL. The Committee on the Judiciary, on examination of the bill, made sundry verbal amendments, and then they enlarged it so as to embrace those who took pay for the purpose of procuring offices under the Government; and to incorporate these amendments, they thought it best to redraw the bill and put it all in one section. I hope the amendment will prevail. It is better than the original bill.

Mr. FESSENDEN. I would suggest an amendment that I think would be advisable. It may be that a contract or agreement procured in this way may be a very valuable contract for the Government, and I would therefore suggest an amendment in the sixteenth and seventeenth lines, so as to make it read, "and the President is hereby authorized to declare such contract or agreement to be absolutely null and void." Let the Government avail itself of it if it so pleases. I suggest to the Senator from Kentucky whether it would not be advisable to leave it at the option of the Government.

Mr. POWELL. I appreciate the suggestion of the Senator from Maine. In ordinary transactions, I think it would be better for the Government to avail itself of any benefit or good that might grow out of a contract thus procured; but the object and tenor of the bill is to brand such contracts with infamy, and I think it would be better to let the bill stand as it is, and let that moral taint be about them, and the contract be utterly void. There is, however, some force in the suggestion of the Senator from Maine.

Mr. FESSENDEN. I suggest that it is merely carrying out a common principle. The principle upon which it is rendered null and void is simply that the using of this kind of influence is really an imposition upon the Government, and the common principle is that the party who is imposed upon may consider the contract void if he pleases. I think that would be a wise provision here.

Mr. POWELL. I see the force of it, and would feel inclined to accept it but that in drafting the bill the committee went upon the principle of stamping such contracts with infamy. I confess the committee have improved the bill.

The PRESIDENT *pro tempore*. Does the Senator from Maine move an amendment to the amendment reported by the Committee on the Judiciary?

Mr. FESSENDEN. Yes, sir.

Mr. TRUMBULL. I would suggest to the Senator from Maine whether his object will not be accomplished by making the clause read, "and every such contract or agreement shall, at the option of the authority of the United States making the same, be absolutely null and void."

Mr. FESSENDEN. "Option of the President of the United States" would be better; otherwise it might be construed to require an act of Congress.

The PRESIDENT *pro tempore*. The Senator from Maine moves the following amendment to the amendment reported by the Committee on the Judiciary: in line seventeen, strike out the words "shall moreover be," and insert "may at the option of the President of the United States be declared;" so as to read, "every such contract, or agreement as aforesaid, may, at the option of the President of the United States, be declared absolutely null and void."

Mr. FESSENDEN. And strike out "every," and say "any."

The amendment to the amendment was agreed to.

The PRESIDENT *pro tempore*. The question now is on the amendment of the Committee on the Judiciary, as amended.

Mr. TRUMBULL. It will be seen that this amendment, which has been reported from the committee, goes a much greater length than the original bill. I have heard, although I cannot say that I have personally known of such cases as I shall allude to, but I have no doubt of the truth of the reports which I have heard, that there have been instances where postmasters have given up their offices and have agreed to recommend certain persons as their successors, on condition that they were to receive a part of the emoluments. It has been reported, also—I trust these are but reports, and that there is no truth in them—that persons connected with the Government here, and high in authority, have received rewards for obtaining offices for men in the service of the Government. I am not aware, and have not heard that in a way that would justify my averring it to be true, that there are such cases; but if there are, the guilty parties certainly deserve to be punished. No man should use his official position for the purpose of recommending another to office when he himself is to be pecuniarily benefited by it. The committee thought proper to ingraft that provision upon the bill as it was originally introduced; and of the propriety of the passage of such a bill as this, to prevent the temptation to which men would be exposed, where pecuniary rewards are to follow their exertions in procuring contracts and places from the Government, I trust there is no sort of question in the Senate. It needs no discussion; and if the bill is so worded as to carry out the object in view, I imagine it will receive the unanimous assent of the Senate.

Mr. HALE. I am willing to pass the bill, and am glad that it is introduced; but I think Congress will not have discharged its whole duty when it has provided penalties against improper practices on the part of its own members. I have heard of improper practices, but as the Senator from Illinois has said, I am not well enough advised of their truth or falsehood to aver before the Senate that they are true or false, but I have no doubt of them myself, not the slightest doubt on earth, that gentlemen who are commonly considered as occupying higher positions than members of Congress—I mean members of the Cabinet, to be plain, because I find that if you mean to be understood you must use plain language—members of the Cabinet have prostituted their places to the grossest favoritism for the purpose of benefiting their friends, in the bestowal of contracts. I have heard, I believe, there have been cases where the head of a Department under this, the purest Administration that has existed since the days of Washington, has ordered contracts to be given to his own particular friends.

The PRESIDENT *pro tempore*. The unfinished business of yesterday's legislative session was the bill for the admission of West Virginia into the Union. The morning hour having expired, that bill comes up as the unfinished business of yesterday.

Mr. HALE. I believe I was broken off in the middle of a speech on that subject yesterday, and if the Senate prefer they can take that up, and I can go on with it.

Mr. TRUMBULL. I move to postpone the consideration of all other questions until we finish this bill, on the assumption, however, that it will lead to no protracted discussion. I imagine we can pass it in a few minutes.

The PRESIDENT *pro tempore*. By common consent, the special order will be suffered to lie over until the conclusion of the bill now under consideration. The Chair hears no objection. The Senator from New Hampshire will proceed.

Mr. HALE. I was going on to say that that is not the only abuse I have heard of being practiced by heads of Departments, and I am indisposed to let Congress be made the scape-goat to carry off all the sins of this Administration or any other. I have heard that there have been cases where written contracts have been made, taken, executed according to the writing, and after it was thus done, an arbitrary increase in the amount to be paid was ordered by the officer at the head of the Department.

Now, sir, what I should like, and I hope the Judiciary Committee, who have this subject before them, will turn their attention to it, is to make it a highly penal offense for any head of a Department to interfere with his subordinates and order them to make a contract. I believe that that is a matter of no uncommon occurrence. I do not believe that the Cabinet is more pure than the rest of mankind; and if it is necessary to fortify our own virtue by the pains and penalties of these penal statutes, and by the terror of imprisonment, I think the same penalties should be held up as a terror to others besides members of Congress; and I do hope and pray that these very abuses of which I am speaking, and which are, as I believe, practiced infinitely more than the one your bill is aimed at, will receive the attention of the committee, and that we shall have a penal statute guarding and protecting the public Treasury and the public interests and public services in that behalf. But, sir, I will not detain the Senate.

Mr. WILKINSON. Mr. President, I am in favor of the passage of this bill, and I am not willing to say anything for or against the measure so as to delay its passage; but I wish simply to allude to a single remark that dropped from the Senator from New Hampshire, and that was that the heads of Departments have been guilty of the grossest favoritism in giving places to their friends.

Mr. HALE. Contracts.

Mr. WILKINSON. Contracts and places. Now, sir, I do not think this Administration can be accused of favoring its friends very much. I do not think that any legitimate charge can be made by the Senator from New Hampshire against this Republican Administration that it has been favoring good straight-out Republicans to any such extent as would require a criminal code to punish it for it, and I doubt very much whether any single head of a Department, if it was a subject of indictment or presentment by a grand jury and of conviction by a traverse jury, could be convicted of having favored any Republicans anywhere in the United States. I wish they were guilty of a little more such malfeasance in office, if it is to be so considered by the Senator from New Hampshire. I think that this war would go on a little better than it is going on now, and I think that in that case we should have a set of men at the head of the war who believed in it, and that we should have contractors who were anxious to furnish the Army in the field to the end that this rebellion should be put down. That is all I have to say. I hope the bill will pass.

Mr. HALE. Let me correct the Senator. I did not say a word about places. It is a good speech that the Senator has made, very good, but it does not apply to any proposition I stated. I spoke of contracts entirely.

Mr. POWELL. I am very much gratified to find that there is no objection to the passage of this bill. As I originally drafted the bill, it was only intended to embrace such persons as received consideration for obtaining contracts. Upon reflection, after it was referred to the committee, I drew up as an amendment a distinct section to apply to those who received money for procuring offices for others. The Committee on the Judiciary, I think, improved the bill very much by putting it all in one short section, making it, as the Senator from Illinois has well said, much more comprehensive. I had heard of various practices of this kind in procuring contracts. I had no personal knowledge that any contract had ever been

procured from the Government by any agency in which money was employed; but I had heard such rumors as the Senator from New Hampshire has stated, except that I did not hear them especially about the heads of Departments. It was matter of common rumor that large sums of money had been received by persons, some of them in high position, but I confess I had not heard that any head of Department had received any money for procuring offices for others. All these things are highly detrimental to the public interest, and there should be severe penal statutes against them.

The amendment, as amended, was agreed to.

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

Mr. TRUMBULL. The Senator from New Hampshire has made a suggestion which, I think, is worthy of some consideration, and I was trying to frame an amendment to meet his view. I will suggest the amendment, but shall not insist upon it if it does not meet the concurrence of the Senate. The bill does not cover the case which he mentions of giving an office, contract, or place. I would punish an officer who had patronage to bestow who gave a contract, office, or place to another, in consideration of any reward or benefit to himself, just as much as the person who assisted in procuring it. I think that amendment could be made by a very slight verbal alteration, but if there is a disposition not to have it incorporated into the bill, I shall say nothing about it.

Mr. COWAN. I think that is provided for now.

Mr. TRUMBULL. The bill does not provide for the case of a person who gives an office or contract.

Mr. COWAN. In the case of a contract, it is already provided for.

The PRESIDENT *pro tempore*. Allow the Chair to suggest that the amendment which is a substitute for the whole bill having been agreed to, it is not now open to amendment without a reconsideration.

Mr. TRUMBULL. Can we not amend it still further, can we not add another provision?

The PRESIDENT *pro tempore*. Additional matter, an additional section, a proviso can be added.

Mr. TRUMBULL. That would be the amendment I was going to suggest.

Mr. SHERMAN. I think if the Senator from Illinois will look at the statutes, he will find that there is a law now punishing any officer for being interested in a contract which he gives out himself. That is my impression.

Mr. COLLAMER. How is it about giving an office and taking pay for it?

Mr. SHERMAN. I do not remember the phraseology of the law; but my impression is that it covers that case.

Mr. POWELL. I think the law goes to the extent stated by the Senator from Ohio, but it does not go to the entire length of covering the ground had in view by the Senator from Illinois, and I suggest that it may be provided for by inserting before the word "take," in the fifth line, the word "give;" so as to read, "give, take, receive, or agree to receive," &c.

Mr. TRUMBULL. That does not meet my view. I will state the idea which I had in view. Suppose, for illustration's sake, that the collector at New Orleans has the appointment of an officer under him with a fixed salary, and he appoints a person with an agreement that the person appointed shall discharge the duties and give him half the fees. I want to meet such a case as that. I do not think this bill would cover it.

Mr. COLLAMER. Permit me to ask whether under the general law about bribery that case is not covered exactly?

Mr. TRUMBULL. I do not think it is. I do not think we have any law that reaches such a case as that. It is not a case of bribery. Suppose that a collector appointed in the city of New Orleans —and I name that by way of illustration merely, because we have no collector there now—has the appointment of appraisers, or the appointment of subordinates in the custom-house there, and he gives one of these appointments, which has a salary of $2,000 attached to it, to an individual in consideration that the man shall discharge the duties and pay him half the salary.

Mr. COLLAMER. He has not the appointment.

Mr. TRUMBULL. He has not the appointment of appraisers, but he has of other subordinates.

Mr. COLLAMER. No; all he does is to nominate them to the Secretary of the Treasury.

Mr. TRUMBULL. There are other cases. The Cabinet officers have the appointments directly, and judges of courts have appointments. There are many officers who have the appointment of inferior officers. Now, suppose they appoint an inferior officer with an understanding that they are to have some benefit themselves from his salary: they ought to be punished. To meet that I would suggest that, in the tenth line, after the word "whatsoever," we insert, "or for giving any such contract, office, or place, to any person whomsoever."

Mr. POWELL. I think that is a good amendment.

Mr. TRUMBULL. I think that will cover the case.

The PRESIDENT *pro tempore*. By unanimous consent the amendment may be made.

Mr. TRUMBULL. I should like to have the section read over with that amendment in it, to see how it will read.

The Secretary read, as follows:

That any member of Congress or any officer of the Government of the United States who shall, directly or indirectly, take, receive, or agree to receive, any money, property, or other valuable consideration whatsoever, from any person or persons for procuring, or aiding to procure, any contract, office, or place, from the Government of the United States or any Department thereof, or from any officer of the United States, for any person or persons whatsoever, or for giving any such contract, office, or place to any person whomsoever, shall, for every such offense, be liable to indictment as for a misdemeanor——

Mr. TRUMBULL. That is sufficient.

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

PRINTING OF TAX BILL.

Mr. HARRIS. I ask the unanimous consent of the Senate to offer a resolution, merely for the purpose of reference.

There being no objection, the resolution was received, and read, as follows:

Resolved, That ten thousand copies of the act for the collection of internal revenue be printed for the use of the Senate.

The PRESIDENT *pro tempore*. The resolution will be referred to the Committee on Printing. A similar resolution for a less number, already introduced, has gone to the same committee.

ADMISSION OF WEST VIRGINIA.

The PRESIDENT *pro tempore*. The bill now before the Senate is the bill (S. No. 365) providing for the admission of the State of West Virginia into the Union; the pending question being on the amendment moved by the Senator from Massachusetts, [Mr. SUMNER,] on which the yeas and nays have been ordered.

Mr. CLARK. I move that the further consideration of that bill and all prior orders be postponed, and that the Senate now proceed to the consideration of the confiscation bill which we had under discussion before the Senate went into the Court of Impeachment.

Mr. FESSENDEN. I shall not oppose the motion of the Senator from New Hampshire; but I desire to give notice to the Senate that I shall very speedily be obliged to call up the Army appropriation bill.

Mr. CARLILE. Would it be in order to amend the motion of the Senator from New Hampshire by making the bill now under consideration the special order for twelve o'clock on Monday?

The PRESIDENT *pro tempore*. That will be a separate and distinct question.

Mr. CARLILE. I desire to address the Senate on the amendment submitted by the Senator from Massachusetts, and it will be convenient for me to do so on Monday.

Mr. CLARK. I suggest to the Senator from Virginia that it will be very easy, as a matter of courtesy to him if he desires to speak upon it, to get this bill up at that time. I desire now to have it postponed, so as to take up the confiscation bill, which has been so long under consideration, and which I wish to finish to-day if possible.

Mr. GRIMES. That there may be no misapprehension, I wish to say to the Senator from Virginia that the Senator from New Hampshire [Mr. HALE] has already given notice to the Senate that he will call up on Monday a bill of considerable importance.

Mr. CLARK. The Senator from Virginia can have almost any time he desires, I suppose.

The PRESIDENT *pro tempore*. The question is on the motion of the Senator from New Hampshire, to postpone the pending and all prior orders, and that the Senate proceed to the consideration of the confiscation bill.

The motion was agreed to.

NAVY DEPARTMENT REORGANIZATION.

Mr. HALE. I wish to make a report from a committee of conference.

The PRESIDENT *pro tempore*. The Chair will entertain it as a privileged question.

Mr. HALE. The committee of conference on the bill (S. No. 171) to reorganize the Navy Department of the United States, are ready to report, and as their report is very brief, I wish that it might be considered now.

The Secretary read the report, as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendments to the bill (S. No. 171) to reorganize the Navy Department of the United States, have met, and after full and free conference have agreed to recommend, and do recommend to their respective Houses, as follows:

That the House of Representatives recede from its third amendment to said bill, on page 1, lines twenty-four and twenty-five, striking out all after the word "engineer," in line twenty-four, to and including the word "Navy," at the end of line twenty-five.

That the House of Representatives recede from its fourth amendment to said bill, on page 1, lines twenty-seven and twenty-eight, striking out all after the word "surgery," to and including the word "Navy."

That the Senate recede from its amendment to the fourteenth amendment of the House of Representatives, and agree to the same with the following amendment, namely, strike out the words, "a captain on other duty," and insert in lieu thereof, "$3,000 per annum;" and that the House of Representatives agree to said amendment to the amendment.

JOHN P. HALE,
JAMES W. GRIMES,
MILTON S. LATHAM,
Managers on the part of the Senate.
C. B. SEDGWICK,
J. K. MOORHEAD,
Managers on the part of the House.

The PRESIDENT *pro tempore*. The question is on concurring in the report.

Mr. HALE. I will explain to the Senate very briefly what it is. The third amendment relates to the appointment of an engineer at the head of the engineer department. The Senate provided that he should be taken from the engineers in the Navy. The House struck that out, leaving it open. They have agreed to recede from that. The fourth amendment relates to the provision that the surgeon to be at the head of the Bureau of Medicine in the Navy should be taken from the naval surgeons. The House struck out that provision; and they now recede from their disagreement to it. The fourteenth amendment of the House provided that the assistant to the chief of the Bureau of Ordnance should receive the pay of a captain on sea duty, which is three thousand five hundred or three thousand six hundred dollars. The Senate struck that out and put in $2,500. The committee of conference split the difference and put it at $3,000. That is the way the bill stands. There were only those three amendments.

The report was concurred in.

CONFISCATION OF REBEL PROPERTY.

The Senate, as in Committee of the Whole, resumed the consideration of the bill (H. R. No. 471) to confiscate the property of rebels for the payment of the expenses of the present rebellion, and for other purposes; the pending question being on the amendment offered by Mr. CLARK as a substitute for the whole bill.

The PRESIDENT *pro tempore*. Upon this question the Senator from Indiana [Mr. WRIGHT] is entitled to the floor.

Mr. WRIGHT. I do not feel able to go on with my remarks this morning. I am not disposed to take up the time of the Senate now, and I shall have an opportunity at another time when I am in better health to make a few remarks. I am more anxious to vote on the measure than I am to talk about it. I may have about a thirty minutes' speech to make on the next bill of the House; but owing to the condition of my health, I yield the floor at present.

Mr. COWAN. I propose to say a few words upon this House bill. I am in favor of the amendment proposed by the Senator from New Hampshire; and I will very briefly give my reasons

why I think the House bill is not only impolitic, but impracticable and impossible.

As I understand it, the authority which is claimed for Congress, and under which it is proposed to pass this bill, is based upon the belligerent rights of this Government. I trust I have not misunderstood those who advocate the House bill. It is not put upon the ground of municipal authority; but that it is a belligerent right, or, in the language of the Senator from Massachusetts, [Mr. SUMNER,] it is a right of war; and the persons whose property is to be taken and confiscated, are belligerents, not criminals, not persons to be punished in the municipal courts of the country. If that is true, and it has been asserted and reasserted here repeatedly, I wish to examine a little further and see how this bill will operate when it comes to be put into actual practice.

In the first place, Mr. President, it seems to me to be utterly impossible to forfeit and confiscate the property of any particular persons as belligerents, and why? Some of the departments of this Government may have the right to confiscate the property of Englishmen or Frenchmen or Germans or Mexicans, or people of any nationality; but I hold it to be utterly impossible that this Government, or any other Government, can, by any machinery known to the law, select out a particular class of Englishmen, Frenchmen, Germans, or Mexicans, and confiscate their property, and for this reason: nations confiscate enemy's property, not because enemies have committed any offense against their municipal laws or regulations, not because enemies have incurred any personal guilt which they desire to punish, but their property is confiscated because of their nationality; it is because they are subjects or citizens of the Power with which war is waged.

Now, let us suppose that this Government—and when I speak of this Government I speak of it as an entirety; I do not propose here to discriminate between its various branches or departments—were to undertake to confiscate the property of the officers of the army at war with us, wherever found. I think that would be totally impossible. It would be impossible that the court could discriminate as to persons, in their proceedings against property, and determine any such question as its ownership. When a sovereign confiscates the property of a belligerent, he confiscates it because the property itself has a criminal character from the place where it was found, from its apparent destination, or from the use in which it is engaged; and no one ever goes further than to inquire as to those particular facts. It is never a subject of inquiry as to who is the owner; as to whether that owner is guilty or whether he be innocent; simply because, if that were the inquiry, then the trial becomes a trial *in personam*, instead of proceedings *in rem*. And in the case I put, the court could not distinguish the property of an officer from that of any other person, and upon the trial the property itself would have no such characteristic marks which would enable them to decide.

It is proposed by this bill to seize and confiscate the property of certain leaders and officers under the government of the confederate States of America. If we suppose for one moment that that property is seized and carried into a prize court to be condemned, what is the question to be tried, Mr. President? I ask honorable Senators upon this floor what that question is? It is not, where did you find the property? it is not, what use it was put to? it is not, as to its destination? but the question is, does it belong to a particular person, and what is the character of that person? Is he a person described in any of the five or six classes in the first section of this bill? If so, that then involves an inquiry as to the person, and not as to the property.

The difficulty that this Government would have in confiscating the property of a rebel—the difficulty, indeed, that any Government would have in confiscating the property of rebel subjects—is the fact that they have no nationality. If South Carolina was a distinct nationality at war with us, we might readily confiscate the property of the people of South Carolina, because we should not be incumbered with the inquiry as to whether the owner of that property was guilty or not guilty; it would be enough for us to know that he was a South Carolinian; but the difficulty is in consequence of the double relation which we hold towards these people. We cannot, of course, confiscate the property of loyal people; nobody pretends we can do that; and if we undertake to discriminate, we must institute an inquiry as to the personal character of the owner of the property seized; or, in other words, we must determine his guilt or innocence. It is not enough to show simply that he is an inhabitant of the State of South Carolina, and that the property belongs to him; but we must go further, and show that he has been a guilty participator in the rebellion which now afflicts the country. That is a personal inquiry and necessitates a trial *in personam*, and the property itself furnishes no evidence whatever of his guilt or innocence. By the terms of the House bill—and this is the point to which I wish to direct the attention of the Senate more particularly—it is provided:

> And the said estate and property and moneys, stocks, credits, and effects of the persons aforesaid, are hereby declared lawful subjects of seizure and of prize and capture wherever found; and the President of the United States shall cause the same to be seized, to the end that they may be confiscated and condemned, as hereinafter provided, to the use of the United States.

That is the proceeding by which this property is to be converted and the proceeds of it put into the Treasury of the nation. In the third section it is provided:

> That to secure possession, condemnation, and sale of any of such property, situate and being in any State, district, or Territory of the United States, proceedings *in rem* shall be instituted in the name of the United States in any district court of the United States, or in any territorial court, or in the United States district court for the District of Columbia, within which the property above described, or any part thereof, may be found, or into which the same, if movable, may be first brought, which proceedings shall conform as nearly as may be to proceedings in prize cases.

Mr. President, the law between belligerents is very well known. If one of them makes a capture, before that capture can be made available and the proceeds of it go into the pockets of the captors or into the treasury of the Government of the captors, it is necessary to carry it into a prize court, that it may be determined whether it was lawful subject of prize and capture or not. If the court decide that question in the affirmative the property is condemned and municipal regulations are made by which it is to be disposed of, and the proceeds carried into the treasury. Now, suppose the President, or his officers, which is the same thing were to seize a quantity of property under this act, and he were to take it into a prize court and libel it there for condemnation; the question I desire to put is, by what law that court will determine whether it be prize or not? That is the vital question arising upon this bill: by what law is that to be determined? If that court determines whether it be a prize or not by municipal law, the advocates of this bill are right; then they have authority under the Constitution and laws to pass the bill; but if that court decides the question by the law of nations, then I ask of what avail and what validity is that law of Congress in this behalf? I put it again, Mr. President. Let us suppose, if you please, that an officer of this Government seizes the property of General Lee, General Johnson, General Beauregard, or Jefferson Davis, if you please—I mean the private property, horses, cows, furniture, money, stocks, &c.—and takes it into a prize court to have it libeled and condemned as prize: by what law does the court decide whether that is prize or not? By a law of Congress? No, sir, not at all, the law by which that is determined is the law of nations; and why? Because these are belligerents; because this bill is set upon the ground that they are belligerents; and that is the *experimentum crucis;* it is the test of the cross; and it establishes beyond all question, in my judgment, and I think the judgment of all others who will examine it calmly and dispassionately, that if this property were libeled to-day in a district court of the United States as prize, that court would be obliged to decide that it was not prize at all. Suppose the judge asks, "by what authority do you bring private property taken upon land to be condemned by law as prize?" The only answer that can be given is, "by virtue of a law of Congress." "But," says the judge, "I do not sit here to administer that law as between belligerents in prize cases; I sit here to administer the laws of nations; and by the laws of nations private property taken upon land is not lawful prize; and I must therefore refuse condemnation here, and direct a return of the property."

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

Mr. COWAN. Yes, sir; half a dozen of them.

Mr. TRUMBULL. It is whether a court of the United States can administer the laws of nations except it is authorized to do so by law of Congress?

Mr. COWAN. The courts of the United States sitting as prize courts and determining between belligerents, are bound to administer the laws of nations; indeed Congress creates these courts for the very purpose of administering the law of nations; and why? To keep us at peace with other nations. It is not only the law, but it is common sense and common reason; and no nation is entitled to the benefit of the protection which the law of nations affords, no nation is entitled to the rights which the law of nations gives to it, unless it establishes these courts, and unless it conforms to those laws in relation to prizes. I will give the honorable Senator from Illinois a very familiar instance. Take the case of letters of marque and reprisal. Let us suppose, if you please, that the Senator from Illinois is injured by the sovereign of Great Britain. He comes to Congress, because Congress is by the Constitution the proper tribunal before whom to present his grievance, and he says, "I have been injured by the sovereign of Great Britain, and I demand redress." He may ask perhaps for a declaration of war against Great Britain to redress him. But suppose Congress decide that they will not declare war for that offense, but say to him instead, "we will give you letters of marque and reprisal, authorizing you to cross the boundary between the two nations; to seize the goods of the subjects of the Queen of Great Britain; to seize the subjects themselves, and also to seize the goods of all temporary sojourners there, and hold them until redress is made." Taking his letters of marque and reprisal, he crosses the border and he makes prize of a temporary sojourner there with his goods, carries them into a prize court, and proposes to have them condemned. The judge says to him, "by what authority did you take this man and these goods?" He replies, "I took them under a letter of marque and reprisal granted to me by the Congress of the United States, which in terms authorizes me to take temporary sojourners." What is the judge bound to tell him in that case? It is this, that "Congress has exceeded its authority; it has a right to grant letters of marque and reprisal under the laws of nations; but those letters must conform to that law. This letter is good so far as it authorizes you to take the goods and the bodies of subjects of the offending sovereign; but in so far as it has authorized you to take the goods and bodies of temporary sojourners it is bad, and we will refuse to condemn the prize." Now, the court is bound thus to decide, for a most potent reason; and if it decided otherwise, the sovereign of the "sojourner" would have good cause of quarrel with us, and instead of having one enemy on hand we would have two; and if we followed in such a course, none could tell how many——

Mr. TRUMBULL. If the Senator from Pennsylvania will allow me, I wish to ask him if any court of the United States can declare a law of Congress void for any other reason under heaven than because it violates the Constitution of the United States. Is there any law of nations above the law of Congress?

Mr. COWAN. I have said, and I say again, that the Government of the United States establishes these courts for this very purpose—not to decide between belligerents according to the laws of Congress, because belligerents are not bound by the laws of Congress. The laws of Congress do not bind the people of Great Britain, nor the people of France, nor the people of any foreign country; nor do the laws of Congress now bind the people in rebellion and at war with us as belligerents. They will bind them in a municipal sense as citizens and as criminals. But remember, this bill is placed upon the ground that they are belligerents, and that we have the right to do this in the exercise of a belligerent right.

Mr. SUMNER. Allow me to ask the Senator if the Constitution of the United States does not expressly declare that all laws passed in pursuance thereof shall be the supreme law of the land?

Mr. COWAN. Yes, sir.

Mr. SUMNER. I presume the Senator will admit that it does. Then I will ask him whether any court would venture to set aside a part of the supreme law of the land unless on the ground of

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unconstitutionality; that is, that it was not passed in pursuance of the Constitution.

Mr. COWAN. That is just my objection to this bill; that it is not "in pursuance thereof."

Mr. TRUMBULL. I hope the Senator will show it in some other way than by undertaking to show that it is not in pursuance of the law of nations.

Mr. COWAN. When I show that it is contrary to the law of nations, I show its unconstitutionality, because there is nothing plainer in the world than that the Congress of the United States, the Government of the United States, the whole people of the United States everywhere are bound by the laws of nations; and if we expect to have national rights and enjoy national privileges in the great family of nations, nothing can be clearer than that we are bound by the law of nations.

Mr. TRUMBULL. As the Senator is assuming his argument upon that ground, I totally deny that the Government of the United States is bound by the law of nations. It may destroy every one of them; and so say the authorities. Nobody supposes we would do it; but we are talking of power. The Congress of the United States may pass a law that every prisoner shall be hung. Would that be in accordance with the law of nations? It would be a valid law. I am not for any such law; but as a question of power, the law of nations cannot control the Government of the United States a moment.

Mr. COWAN. Mr. President, I am as willing as the Senator from Illinois to admit the unlimited extent to which Congress might make a fool of itself. I have no hesitation in the world in asserting that Congress might do as many ridiculous things as the same number of men anywhere else on earth, if they chose to do it; but I do say if they did it they would trample upon the laws which bind and knit together the civilized world everywhere in national brotherhood.

Mr. TRUMBULL. I do not disagree with the Senator about that. I thought he was arguing the question of power, not of policy. If he admits that Congress has power to do these things, that is the point. That I understand to be the basis of his argument.

Mr. COWAN. And I am arguing the question of power, the power of a civilized Government, not that of a barbarian one which would set its feet on the laws of nations, and trample them all to the earth and declare itself out of the pale of civilization.

I will not trouble the Senate with authorities, because perhaps they will be given to the Senate by other gentlemen who have given this subject a more particular consideration than I have; but I have no hesitation in asserting that if this bill were to pass and become a law, that not a single dollar's worth of property could be condemned and confiscated under it in any court of the United States, doing its duty.

But, gentlemen say that the courts are not to declare the laws of Congress null and void. Mr. President, I dissent from that opinion. I say again that the judiciary of this country is coördinate with the legislature, and that for the protection of the citizen, for the protection of us all, for the purpose of establishing human liberty in its perfection, it is right and proper, and it is the duty of the courts when this Congress transcends its constitutional authority, and when it passes laws not warranted by the express grants of power in that instrument, to declare them unconstitutional and void. They have done it repeatedly, and it is one of the bulwarks of the liberty of the citizen wherever human liberty is appreciated by men, that they should do so.

Mr. TRUMBULL. If the Senator will allow me, on that very point, I will read to him what Chief Justice Marshall says on that subject.

Mr. COWAN. From Brown's case?

Mr. TRUMBULL. Yes, sir; Brown's case. He says in so many words——

Mr. COWAN. I would very much prefer if the Senator would read to me what Chief Justice Marshall said in a subsequent case in which he took back all that he said before in Brown's case.

Mr. TRUMBULL. I have not had the pleasure of seeing that subsequent case in which he took it all back.

Mr. COWAN. You will have the pleasure of hearing it pretty soon.

Mr. TRUMBULL. The argument of Chief Justice Marshall, in Brown's case, covers the point the Senator is now pursuing exactly. He says:

"This argument must assume for its basis the position that modern usage"—

The law of nations is made up of usage. The Senator will not deny that—

"This argument must assume for its basis the position that modern usage constitutes a rule which acts directly upon the thing itself by its own force, and not through the sovereign power. This position is not allowed. This usage is a guide which the sovereign follows or abandons at his will. The rule, like other precepts of morality, of humanity, and even of wisdom, is addressed to the judgment of the sovereign, and although it cannot be disregarded by him without obloquy, yet it may be disregarded."

That is what the Supreme Court of the United States says.

Mr. COWAN. Mr. President, take that in its length and breadth, and what is it but simply asserting that which I have just asserted, that if a nation chooses to throw itself without the pale of the civilized world, and to trample modern usages and the laws of nations under foot, and go back into a condition of barbarism—abandon its rights under the law of nations—I suppose it may do so; and the Chief Justice says that it may do so at the expense of incurring the obloquy of the civilized world. Do Senators desire to incur the obloquy of the civilized world? I thought this struggle was to maintain ourselves in the eyes of the civilized world, and to maintain our character and good faith as a civilized people before the world.

Now, let me say with regard to that case of Brown——

Mr. DAVIS. If the gentleman from Pennsylvania will permit me, I will suggest to him that the principle decided in the case of Brown was this: the question there was whether the declaration of war gave the right to citizens of the United States to claim enemy property within the United States or not; or whether a special law of Congress was necessary to assert that right. The court decided expressly that the declaration of war did not authorize the seizure of the property; that that was a right appertaining to the sovereignty of this country, which was necessary to be asserted by a particular law; and that the civil power of this country might or might not assert that right. That is the whole of it.

Mr. COWAN. That is true; and that is a very true statement of the case. The point decided was that enemy's property found within the country at the time of a declaration of war made was not *ipso facto* subject to condemnation as prize property, but that it required an act of the Legislature, of Congress, in order to authorize it.

Mr. SUMNER. That is where the House bill stands. It is that very act of Congress to authorize it.

Mr. COWAN. I am just going to show, if I can, that it does not stand and cannot stand there; that there is no foundation on which it can rest itself, even on that principle.

Mr. President, property within the jurisdiction of the sovereign it is unnecessary to seize; it is there already; and to authorize its condemnation, being in the possession of the sovereign authority, it may require, as was decided in that case, an act of the Legislature in order to warrant its condemnation; but I hold that in this country, and under our present Constitution and form of Government, it would be impossible to confiscate the property of any of the people of the rebellious States in that way, even if it was in the possession of the loyal portion of this Government. I will put a case. Suppose a citizen of South Carolina had property in Pennsylvania, and this Congress were to enact a law by which that property could be seized and taken into the prize courts and condemned; would that be good law? Suppose the owner of that property were to come into court and say, "I am a loyal citizen of these United States:" what answer would any Senator on this floor make; what answer dare the judge make to that? The property of loyal citizens cannot be confiscated. Then I say, if you cannot confiscate the property of loyal citizens in this way, you cannot by these proceedings confiscate the property of anybody; because you can only confiscate on the ground that the owners belong to a particular nationality, not that they have committed a particular crime. To carry it a little further, suppose the judge were to say to this man, "you are a South Carolinian; you are within the terms of the act; but you are also a rebel and traitor." "Very well; then I demand a trial." What trial is he entitled to? He must be presented by a grand jury, and tried by a petit jury of his peers; and there is no authority in the Government to dispose of him or his property in any other way; and then if they took his property, they would take it as a penalty for crime, and not as a war measure because he was a belligerent; two things which are essentially and entirely different.

Now, I will read what Chief Justice Marshall said subsequently in another case.

I was about to say, however, a moment ago, that what he says in the case of Brown is of no binding authority whatever. What a judge says on the way to his conclusion, what he may say by way of episode in arriving at it, or as the honorable Senator from Vermont [Mr. COLLAMER] expressed it, what he slops over, is not law in any court. The question is, what is the point that he decides; and I say that the point he decided here was that that timber sought to be condemned was not the subject of prize and condemnation in the court where the district attorney attempted to condemn it. That was the whole of it. What he said on that which was not in question, what he said upon a question which was not before him and not argued, amounts to nothing; but if that *obiter dictum* is worth anything, here is one I trust equally good. In the case of the United States *vs.* Percheman, decided at the January term, 1833, and which is to be found in 7 Peters's Reports, on the 86th page, the same judge said:

"It may not be unworthy of remark, that it is very unusual, even in cases of conquest, for the conqueror to do more than to displace the sovereign and assume dominion over the country."

It is very unusual even in cases of conquest for the sovereign to do more.

Mr. TRUMBULL. This is an unusual rebellion.

Mr. COWAN. This Congress has solemnly and unanimously decided that this war is not waged for conquest. It cannot be waged for conquest. It is impossible that it could be waged for conquest. How can the sovereignty of the United States make conquest of that of which it is the rightful owner already? Can this Government make conquest of Virginia? Virginia is already its own, and owes to it allegiance; and so it is of every foot of territory within the limits of the Union.

Mr. President, it is utterly useless to attempt to put this war upon the footing of conquest. If that was to be insisted upon to-day on the part of the Congress of the United States, the war would not last twenty days. The people of this country do not desire conquest; they do not desire subjugation; they desire reconciliation, reconstruction; they desire the restoration of the Union and the supremacy of the laws as they were before this disturbance occurred.

Mr. SUMNER. They desire victory.

Mr. COWAN. They desire victory, as the Senator says; but they desire victory for what? To put a feather in their cap? To have it written down that they have overcome their brethren in fight? No, sir, that is a poor, a mean ambition. They desire victory because it brings back safety, and rescues those who have been overrun by the rebellion. They desire victory, but they desire it to another end than victory itself.

Mr. HOWE. Will my friend allow me to make just one suggestion?

Mr. COWAN. Certainly.

Mr. HOWE. It is that we are not fighting our brethren; we are fighting our enemies, as I understand it.

Mr. COWAN. Mr. President, I do not agree to that opinion, and I will give my reasons for it. I am afraid that is a question which is not very well understood as yet; but before this matter is over, it will be understood, and all men will understand it; they will be bound to understand it before we get through with this rebellion. Ninety-nine out of every hundred of these men with whom we are at war to-day are our brethren. Why? Will any gentleman, who has taken the pains to look into the history of rebellions, who knows anything of men or of mankind generally, undertake to assert and say that the masses of the people South are traitors and rebels as against the Government of the United States? If that were true, if that could be true, then our war is worthless. But, Mr. President, it is not true. This rebellion is the work of a few men, and its spread and its enlargement is the fault of the General Government of these United States, not the fault of the people of the southern States. How is it? Who started it? Where did it begin? Does any man believe that at the time this rebellion broke out in South Carolina ten thousand men would not have crushed it at once and shielded everybody from it? I have never heard a man venture a contrary opinion. I do not believe any man entertains a contrary opinion. This rebellion sprung up just as all rebellions do. It is first in the hands of a few bad, desperate men, who overawe the community, and seize, if they can, the insignia of power and establish a *de facto* government; but after that *de facto* government is established, do you expect the people to resist it? Do you expect the ninety-nine men out of a hundred who are non-combatant, who are powerless, weak, and feeble—ignorant, if you please, of constitutional laws, constitutional rights, and constitutional remedies—to resist such a government? What would you have had the poor people of South Carolina to do after this rebellion had been allowed to go on until it seized the government of that State, had its driver seated upon the box, with the reins in his hands and his whip cracking over the backs of the people? What would the people of your State do, Mr. President, if rebels seized upon the State government of Vermont, if they had the Governor, the Lieutenant Governor, the Legislature, and the judges, and if they had the whole machinery of the State government in their hands? Who would resist? You might, sir; your colleague might; strong men might; but would the mass of your people resist? To suppose that they would is to suppose what no people have ever done under the sun, and what no people ever will do until men attain to a stature larger than that to which they have heretofore grown.

Then, to follow on, let us suppose a citizen of South Carolina at the bar of this Senate to-day, arraigned here as a rebel, what would he say to you? What would ninety-nine out of one hundred of those people say to you? They would say to you, "Gentlemen, I was a Union man, I was not a rebel; I had no quarrel with the Government of the United States; it had never injured me; I had always believed it was the best under the sun and I was perfectly content with it." "Well, why did you allow this rebellion to get up?" He retorts the question upon us and says, "Why did you allow it to get up? In and by the Constitution, the General Government guarantied to South Carolina a republican form of government. That General Government guarantied again, and it was part of the consideration upon which the contract was entered into, that it would repel invasion and that it would suppress rebellion." "Now," says he, "did you do it? I never would have thought of going into that rebellion, I do not know any of my neighbors who would have gone into it, because we were all peaceable people; but there were a few hot-headed, desperate men, who determined to withdraw the State from the Union, and they undertook to establish an independent government over us; they had the machinery in their hands, and we were obliged to submit; and what then did you do to discharge your guarantee, how did you relieve yourselves of your constitutional obligations?" I say, Mr. President, that Mr. Buchanan put his hands in his breeches pockets, and said he and the General Government, "we can do nothing, we cannot coerce a State," and all that kind of thing, and the little fire there kindled was allowed to burn and spread by his neglect and that of the General Government, until it overran seven or eight States, and established itself in a great *de facto* government, which is now known as the government of the confederate States of America. The masses of the people were obliged to submit and yield, however unwillingly, and under the circumstances it was all they could do; and, Mr. President, I have not a doubt that if we could rescue them to-morrow from the tyranny of that government which is over them, they would come back gladly to their allegiance, never to leave it again. And our efforts are to be directed, and solely directed, in my judgment, to suppressing that armed rebellion, seizing the men who fomented it, and punishing them by the law and with severity. Let everybody else be treated with kindness and conciliation Let them be brought back, if possible, in that way, and if they are not brought back in that way, I have no hope that they will ever be brought back at all; and I say here, and I say it again, that the fault of this rebellion and its spread, and the fact that it has involved such numbers of people in it, is to be attributed far more to the bad conduct of the General Government of these United States at the time it broke out, than it is to the masses of the people it now affects. True, the latter are now angry and enraged. In war that is always the case; but their resentment against us can have no deep foundation because it is not based upon wrongs unredressed, nor upon injuries which have not been avenged. It is merely the result of the collision; and if the collision were once ended, it would cease to be.

I shall now proceed to read a little further, having been diverted from the quotation:

"The modern usage of nations, which *has become law*"—

That is the language of Judge Marshall—

"would be violated; that sense of justice and of right which is acknowledged and felt by the whole civilized world would be outraged, if private property should be generally confiscated and private rights annulled. The people change their allegiance"—

"The people," mark it, the mass of the people, who in all rebellions of this kind are not half so guilty as they are supposed to be. The guilt rests with the leaders, not with the people—

"their relation to their ancient sovereign is dissolved; but their relations to each other and their rights of property remain undisturbed."—*7 Peters's Reports*, 87.

I might read more, but that is enough for the purpose to show Judge Marshall's opinion in 1833, that we are bound by the law of nations.

Now, Mr. President, I propose to make a few remarks with regard to this proposed law, and to show, I think, that the execution of it is impossible for another reason. The third section provides "that proceedings *in rem* shall be instituted in the name of the United States in any district court of the United States." Now, what are proceedings *in rem*? They are proceedings *in rem* because they enable the court to decide a question and inflict a penalty, because they have in their possession and under their control property which was used, or intended to be used, for some unlawful or belligerent purpose. You cannot institute proceedings *in rem* against property generally, anywhere and everywhere, regardless of its uses or intended uses. Before you can avail yourselves of it, the property itself must have been a guilty instrument, and must itself furnish the evidence upon which its condemnation rests, in all cases where the contest is between belligerents, as in this case.

Now, I say that the property of these persons which is contemplated to be confiscated here in this case, is not of the character indicated in any respect, and can in nowise be distinguished from the property of anybody else. Let us take a case. A loyal man resides upon a certain farm, and his property is there. A disloyal man resides upon one adjoining, and his property is there. Now, what is there in either case that affords you any clue to the character of the owner? And when you bring that property into court it is not a question whether it is guilty property or not; it is not a question *in rem*, but *in personam*. The first inquiry is, and must be, "is this the property of a person described in this law?" And this becomes an inquiry as to him and his identity, and not as to the property taken. And to call this a proceeding *in rem* is to stultify this Congress and this Senate, the great majority of whom are lawyers.

If you find smuggled goods, you can proceed against them *in rem*, because the very fact that the goods are smuggled, and as such are there present, proves all that you want to establish. You can proceed against the ship of a slave-trader, because the use in which you find it establishes the main fact upon which you decide. You do not care where the trader is; you do not care whether he is guilty or not guilty, insane or sane; that is not the question. It is enough for you to know that the ship was engaged in such traffic, and therefore it is lawful prize. The property itself establishes the *factum probandum*. Therefore, to say that proceedings *in rem* can be instituted as against property which you pick up all over the country everywhere, and which is not contra-distinguished from any other property adjoining, is simply to utter absurd legal nonsense. I am inclined to think that the person who drew this bill had some kind of glimmering notion running through his brain that it was necessary to make it a mongrel before it would work—a kind of cross between Mars and Minerva, a hybrid, half belligerent and half municipal—because he says the proceeding "shall conform as nearly as may be to proceedings in prize cases, or cases of forfeiture arising under the revenue laws." Cases of forfeiture under the revenue laws arise by virtue of municipal regulations, not because the person who was defrauding the revenue was a belligerent. The two things are totally and entirely different, and this phrase here demonstrates, better than anything else could do, the utter confusion of ideas which seems to have taken place in the heads of many people with regard to this subject.

Knowing, Mr. President, that we cannot confiscate by mere municipal regulation, the belligerent right is appealed to. Finding that that fails, because it is to be administered under the law of nations, then we are thrown back again upon municipal law, and reasoning back and foward thus between these two powers, it is hoped by its advocates this bill may be got through, though the Constitution should be destroyed in the conflict.

Now, Mr. President, I have not a particle of hesitation in saying that if you pass the bill it will not be worth the paper it is written on; it will never pay the expense of printing; you will never realize a dollar from it. The desperation of the rebel leaders, who overawe the masses and who control them, despite their will and wish, as I believe, is such that you find now you cannot buy cotton; they will not only not allow you to confiscate, but they will not allow you to buy. You are at present in the cotton States trying to buy cotton at a fair price from men who would be willing to sell it. Can you? The horizon is lighted up nightly in the neighborhood of your advancing armies with the glare of burning cotton. They burn it before you seize it, they burn it before you buy it; and do you suppose the people whose property is confiscated here will ever allow it to remain until you get your hands upon it? They would be singularly benignant if they did. When they burn the cotton that you are willing to pay for, much more would they burn and destroy their personal property which you propose to carry off and confiscate in a prize court, as a means of bringing them to terms.

But, Mr. President, suppose you had it, suppose you were enabled to go into the barn-yards and drive away the horses and cows, the oxen, the asses, and the swine, and that you could go into the mansion and gut it of its furniture, carry off its bureau, its bedding, its utensils, and take them into a prize court to be condemned, what a spectacle would you present in this age of the world! How long would it be before they would be condemned? How far is it to the court, or is the court to follow the Army and condemn upon the spot? I suppose that is hardly pretended. If you get your hands upon property, what will be done? We complain of fraud, peculation, and rascality now in the conduct of this war; and if I wanted to establish a method by which all the thieves and plunderers were to have free license upon the territory of the people with whom we are at war, I believe I would pass this act. What an abundant harvest might be gathered by rapacious camp followers under it; and how much of

the proceeds of this legalized plunder would find its way into the Treasury? How keep it till condemnation? I believe there is a provision, however, that perishable articles seized under the act shall be used or sold; but I take it that personal property is not generally considered perishable. "Perishable articles," if I understand the meaning of the phrase, mean those that will not endure for any length of time; but the more permanent commodities are not within that category, and such property would all have to be kept, if once seized, until it was condemned in a prize court, and then sold. Now, by the time it was sold and the expenses paid, I should like to know how much of indemnity there would be as against the losses sustained by loyal men, or as against the losses of the country as sustained by the war.

Mr. President, I am as anxious to have some mode fixed by which the expenses of this war are to be paid as anybody else. I would be very glad if somebody could devise a method by which the guilty instigators of this war should be made to pay for it; but I have no faith in this project, and I think there are many gentlemen upon this floor who are in favor of a confiscation bill, who have openly expressed their belief that they did not think a dollar would ever find its way into the Treasury which had been realized from a measure of this kind. I am very certain of it for my own part. And then the task that would be imposed upon the court would be equivalent to letters of administration upon the estates of these people who are within the purview of the act. Section seven provides:

"That in all cases arising under this act where the proceeds of property sold shall be paid into the Treasury of the United States, a distinct account shall be kept thereof, and any loyal creditor of the former owner of such property may within ninety days, and not thereafter"—

And upon that I believe there is an amendment now pending to make it one year—

"except as herein provided, exhibit his claims to the Secretary of the Treasury, who, upon proof of the loyalty of the claimant and the justice of the claim, shall have power to allow and pay the same out of such proceeds: *Provided*"—

This is a most important proviso—

"That if the several claims exhibited and ascertained shall exceed the amount so deposited in the Treasury, they shall be ratably paid."

Or, in other words, more is not to be paid than is received and in the fund. If anything were to be realized, this might be a very serious objection to this bill. I suppose it is the first time in the history of the world that one belligerent sought to confiscate the property of another as a belligerent, and undertook to pay the liens, incumbrances, and charges upon it, or undertook to pay the debts of the belligerent. Think of it! The sovereign confiscating the property of a belligerent, provides that out of the funds and out of the proceeds of that property he will pay the debts of that belligerent! Why, Mr. President, it is an accumulation of absurdities, and this last clause, perhaps, was only needed to finish the pile.

Mr. President, I am in favor, therefore, of amending this bill as proposed by the Senator from New Hampshire, although I am very free to say that the bill proposed to be substituted is, in my opinion, liable to a great many and serious objections; but it has one redeeming feature about it, that it professes to base itself upon the municipal power of this Government, its right to pass municipal laws and regulations; and it preserves, as far as possible, the rights of the citizen in the application of those laws, which I hold to be of paramount importance. I hope it will be substituted.

Mr. SUMNER. Mr. President, too tardily the house of a rebel general in Virginia has been taken by the Government and set apart as a military hospital for the reception of our soldiers, wounded and maimed in battle. At least three churches here in Washington have been seized and occupied for the same purpose. All applaud these acts, which make the house more historic and the churches more sacred than ever before. But pray, sir, under what authority is this done? Not according to any contract or agreement; not according to any due process of law; not even according to any statute. And yet the language of the Constitution is positive: "no soldier shall, in time of peace, be quartered *in any house* without the consent of the owner; nor in time of war but in a manner to be prescribed by law." If it be time of peace now, then is the Constitution violated by quartering soldiers in these houses without the consent of the owner. If it be time of war now, then is the Constitution violated by quartering these soldiers in a manner not prescribed by law—if, indeed, the provisions of the Constitution are not entirely inapplicable to what is done under the military requirements of self-defense, which is a supreme law above all other laws or constitutions devised by men. But if the Constitution, in a case where it is singularly explicit, can be disregarded without question in the exercise of the rights of war, it is vain to invoke its provisions in other cases, where it is less explicit, in restraint of the rights of war.

It is true that the Constitution ambiguously provides against certain forfeitures as an incident to an "attainder" of treason; it also positively prohibits "*ex post facto* laws," and it nobly declares that "no person shall be deprived of life, liberty, or property, without due process of law." But there is nothing in the House bills for the confiscation of property or the liberation of slaves which is obnoxious to either of these provisions. There is no attainder of treason, no *ex post facto* law, and no taking of property without due process of law; for the judicial proceedings which these bills institute are competent for the purpose. The House bills are not criminal statutes, nor do they institute criminal proceedings. Therefore do I say unhesitatingly that these bills are above constitutional objection. It is not too much to say, sir, that they are as constitutional as the Constitution itself. It was once said of a subtile spirit of criticism that it would find a heresy in the Lord's prayer; and such a spirit, permit me to say, is needed to find anything unconstitutional in these bills.

Of course, in assuming the complete constitutionality of these bills, which already have the sanction of the House of Representatives, I assume as a cardinal principle of constitutional law that, whatever may be the condition of slaves in the States and under State laws, they are, under the Constitution of the United States, *persons*, and not property; so that, in declaring their emancipation, Congress is not constrained by any of the constitutional requirements with regard to property. Whatever may be the claims of property, slaves are men, and I but repeat an unquestionable truth of morals, confirmed by our Declaration of Independence, when I say that there can be no property in men. Mr. Winter Davis, of Baltimore, has reminded the country that Congress, on the motion of Mr. Clay, has already undertaken to declare the freedom of slaves without any "due process of law," and the present Congress, by a bill of the last session, setting free slaves actually employed in the rebellion, has done the same thing, so that the principle is completely established.

But even if the bills seemed obnoxious to certain constitutional provisions—as they clearly are not—this objection and every other objection will be found to disappear when it is understood that they are *war measures*, derived from the capacious war powers of Congress, applicable only to public enemies, and limited in duration to the war. Considered in these aspects, and with these qualifications, these bills are only an agency in the prosecution of the war, and the power to enact them is as clear as the power to raise armies or to levy taxes. An ancient historian, in words adopted by the greatest modern publicist, has told us that "war has its laws, no less than peace." (Grotius, Prolegom., quoting Livy.) These words are placed by Grotius at the head of his great work, and they embody a fundamental principle. The rights of war are not less peculiar than the victories of war, which are so widely different from the victories of peace.

Pray, sir, where in the Constitution is the limitation of the war powers of Congress? Let Senators who would limit them mention a single section, line, or phrase, which even hints at any limitation. If it be constitutional to make war, to set armies in the field, to launch navies, to occupy fields and houses, to bombard cities, to kill in battle—all without trial by jury or any process of law or judicial proceedings of any kind—it is equally constitutional, as a war measure, to confiscate the property of the enemy and to liberate his slaves. Nor can it be doubted on principle that if the latter be unconstitutional, then are all the other agencies of war unconstitutional. You may condemn confiscation and liberation as impolitic, but you cannot condemn them as unconstitutional unless, in the same breath, you condemn all other agencies of war, and resolve our present proceedings into the process of a criminal court, guarded at each step by the technicalities of jurisprudence.

Sir, I speak frankly, according to my convictions, claiming nothing for myself which I do not freely accord to others. In this discussion there is no need of sharp words or of personal allusions of any kind; nor can anything be gained by any misstatement of the position of another. It is easy to say that Senators who insist upon the war powers of Congress are indifferent to the Constitution; but I do not admit that any Senator is more anxious for the Constitution than myself. The war powers of Congress are derived from the Constitution, but when once set in motion, are without any restraint from the Constitution, so that what is done in pursuance of them is at the same time *under* the Constitution and *outside* the Constitution. It is under the Constitution in its beginning and origin. It is outside the Constitution in the latitude with which it may be conducted. But, whether under the Constitution or outside the Constitution, all that is done in pursuance of the war powers is constitutional. It is easy to cry out against it; it is easy, by misapplication of the Constitution, to call it in question; but it is only by such a misapplication, or by a senseless cry, that its complete constitutionality can for a moment be drawn into doubt.

The language of the Constitution is plain and ample. It confers upon Congress all the specific powers incident to war, and then further authorizes it "to make all laws which shall be necessary and proper for carrying into execution the foregoing powers." Here are the precise words:

"The Congress shall have power to declare war, to grant letters of marque and reprisal, to make rules concerning captures on land and water, to raise and support armies"——

Mr. DOOLITTLE. I should like to ask the honorable Senator a single question, if I am not interrupting him, in regard to the clause of the Constitution he has just quoted.

Mr. SUMNER. I have not got through with the quotation.

Mr. DOOLITTLE. I refer to the clause in regard to captures. It is distinct, by itself. Does the Senator think that, under the war power, any capture can be made of property without actually taking it? Can the title to the property be affected until you do take it; make a capture of it? In order to exercise the war power of capture, must you not take it?

Mr. SUMNER. It seems to me that is implied in the very word "capture." "Capture" implies taking——

Mr. DOOLITTLE. Well, if capture——

Mr. SUMNER. Will the Senator allow me to finish the clause I was reading?

Mr. DOOLITTLE. I do not wish to get from the true point, because in discussing this question before with the honorable Senator from Illinois, the Senator stated distinctly that under the bill, as he understood it, there could be no capture of property without the taking of it, no passing of the title without its being actually seized. I only desire to know whether I so understood the Senator.

Mr. SUMNER. When the Senator from Wisconsin interrupted me, I was reading the clause of the Constitution conferring the war powers of Congress.

"The Congress shall have power to declare war; to grant letters of marque and reprisal; to make rules concerning captures on land and water; to raise and support armies; to provide and maintain a navy; to make rules for the government and regulation of the land and naval forces; to provide for calling forth the militia to execute the laws of the Union, suppress insurrections, and repel invasions; and *to make all laws which shall be necessary and proper for carrying into execution the foregoing powers, and all other powers vested by this Constitution* in the Government of the United States, or in any department *or officer thereof.*"

Can language be clearer? There may be other parts of the Constitution open to question; but there is no room for question here The text is full and unequivocal. The powers are enumerated. Without stopping to consider them in detail, it will be seen that the most important are exclusively incident to a state of war, and not to a state of peace. A declaration of war is of course war, and "all laws necessary and proper for carrying into execution" this declaration are called into being by the war. Rules concerning captures, on land and water, are, from necessity, dormant

till aroused by war; but when aroused they are, like the other war powers, without any check from these constitutional provisions, which, just so long as peace prevails, are the boast of the citizen.

The bills now under consideration are obviously founded on the war powers. The first section of the first bill begins as follows:

That all the estate and property, money, stocks, credits, and effects of the persons hereafter named in this section, are hereby forfeited to the Government of the United States, *and are declared lawful subjects of seizure and of prize and capture wherever found, for the indemnity of the United States against the expenses of suppressing the present rebellion.*

Mr. DOOLITTLE. Now, I wish to direct the Senator's attention to the point, whether he understands that any title passes until there is a seizure. I come right to the point.

Mr. SUMNER. I came to the point when I reminded the Senator of the clause of the Constitution out of which the bill is derived, declaring that Congress may make rules concerning captures. What is a capture? A taking. That is my answer. I gave it before.

Mr. DOOLITTLE. If I understand the Senator correctly, I am perfectly satisfied with his answer, that there must be a seizure before the title can be divested.

Mr. SUMNER. Who has ever questioned that?

Mr. DOOLITTLE. I simply desired to know whether that was your understanding, that there must be a seizure of this property before the title can be divested.

Mr. SUMNER. Under the present bill there can be no title which is not founded on the terms of the bill, and the bill starts with declaring that certain property shall be the subject of seizure, prize, and capture wherever found, and capture means taking.

The Senator must be very hardy who denies the power of Congress, in the exercise of belligerent rights, to pass such a bill; and he must be equally hardy when he insists that belligerent rights are impaired by any limitations of the Constitution.

If the enemies against whom we are now waging war were not our own fellow-citizens—if they were aliens unhappily established for the time on our territory—there would be no fine-spun question of constitutional immunities. Such immunities are essentially municipal in their character; but a public enemy can claim nothing merely municipal. The immunities which he enjoys are such only as are conceded by the rights of war; nor more, nor less. As a public enemy, he seeks to subvert our Government, its laws, and its Constitution; and in this warfare he proceeds according to the rights of war, indifferent to any mere local law. But if the war on our part were in accordance with our mere local law, and in subordination to those provisions of the Constitution which were devised for peace, it is evident that our Government would be unable to cope with its enemy. It would enter into battle with its hands tied behind its back. Of course, in warfare with people of another country, Senators would not require any such self-sacrifice.

But the rights of war are fixed, whether against alien enemies or against enemies whose hostility is aggravated by the guilt of rebellion; with this single difference, that against rebel enemies these rights would seem to be more complete and unsparing. Show me any right of war which may be employed against alien enemies, and I now, in the name of the Constitution, insist upon its employment against rebels arrayed as enemies. Because enemies are also rebels, they are not on this account any the less enemies. Because rebels are also enemies, they are not on this account any the less rebels. The double character which they bear increases their liabilities, subjecting them to all the penalties of war enhanced by those personal responsibilities which every partaker in rebellion necessarily assumes.

And yet, sir, the Constitution is cited as a limitation upon these rights. As well cite the Constitution on the field of battle to check the bayonet charge of our armies, or at the bombardment of a fortress to restrain the fiery rain of shells. Or, to adopt the examples with which I began, as well cite the Constitution to prevent the occupation of churches here in Washington as hospitals for our soldiers, or to save the house of General Lee in Virginia from a similar dedication. The Constitution is entirely inapplicable. Sacred and inviolable, the Constitution is made for friends who acknowledge it, and not for enemies who disavow it; and it is made for a state of a peace, and not for the fearful exigencies of war. War, as it comes, treads down within its sphere all rights except the rights of war. Born of violence, and looking to violence for victory, it discards all limitations, except such as are supplied by the rights of war. Once begun, war is a law unto itself; or, in other words, it has a law of its own, which is a part of itself. And just in proportion as you seek to moderate it by constitutional limitations, do you take from war something of its efficiency. In vain do you equip our soldiers with the best of weapons or send into the field the most powerful batteries, the latest invention of consummate science, if you direct them all in full career to stand still for an indictment or other due process of law, or at least for the reading of the riot act. But, sir, if you undertake to limit the rights of war by the Constitution, where are you to stop? If the Constitution can interfere with one, it can interfere with all. If the Constitution can wrest from Government the weapons of confiscation and liberation, there is no other weapon in the whole arsenal of war which it may not take also.

Sir, the Constitution is guilty of no such absurdity. It was made by wise men, familiar with public law, who saw clearly the difference between peace and war, and who established powers accordingly. In circumscribing the peace powers with constitutional checks, they left untouched the war powers. They declared that, in the administration of the peace powers, all should be able to invoke the Constitution as a constant safeguard. But, in bestowing upon the Government war powers without limitation, they embodied in the Constitution all the rights of war as completely as if those rights had all been expressly set down and enumerated; and among the first of these rights is the right to disregard all the rights of peace. Sir, an alien enemy is not even admitted to sue in your courts.

There is a saying of antiquity, already quoted in this debate, *inter arma silent leges*—in the midst of arms the laws are silent. Handed down from distant ages, and repeated by successive generations, this saying may be accepted as the embodied result and very essence of human experience. Had it not been true it would have been forgotten, or at least it would have ceased to be repeated. But it declares a truth to which every war practically testifies, while it is founded in reason and the nature of things, confirmed by centuries as attesting witnesses. But the Constitution itself is only a higher law, nor can it claim to speak in time of war, and within the sphere of war, more than any other law.

How vain, then, to adduce against confiscation and liberation, as war measures, an objection derived from the Constitution, and how vain also to offer a penal statute, under the peace powers of the Constitution, as a war measure. War is war. Better arrest it at once, if it is to be war on the one side and peace on the other; if our enemies are to employ against us all the rights of war, while we can employ against them only the rights of peace. Penal statutes are good for peace, when laws prevail; but in the midst of war and against enemies, when laws are proverbially silent, they are of no avail. What enemy now arrayed in arms can be indicted; or, if indicted, convicted under the most stringent of penal statutes? Not Jefferson Davis himself. Why then painfully construct this legislative verbiage? Why these new penalties for treason, which, from the nature of the case, cannot be enforced in this hour of our need? Why not see things as they are, and do what the moment requires? The war powers of Congress are ample; but in time of war a mere penal statute against a public enemy is not so much as a popgun.

But there are Senators who claim these vast war powers for the President, and deny them to Congress. The President, it is said, as Commander-in-Chief, may seize, confiscate, and liberate under the rights of war; but Congress cannot direct these things to be done. Pray, sir, where is the limitation upon Congress? Read the text of the Constitution, and you will find its powers vast as all the requirements of war. There is nothing which may be done anywhere under the rights of war, which may not be done by Congress. I do not mean to question the powers of the President in his sphere, or of any military commander within his department. But I claim for Congress all that belongs to any Government in the exercise of the rights of war. And when I speak of Congress, let it be understood that I mean *an act of Congress*, passed according to the requirements of the Constitution by both Houses and approved by the President. It seems strange to claim for the President alone, in the exercise of his single will, war powers which are denied to the President in association with Congress. Surely, if he can wield these powers alone, he can wield them in association with Congress; nor will their efficacy be impaired when it is known that they proceed from this associate will, rather than from his single will alone. The Government of the United States appears most completely in an act of Congress. Therefore war is declared, armies are raised, rules concerning captures are made, and all articles of war regulating the conduct of war are established by act of Congress. It is by act of Congress that the war powers are all put in motion. When once in motion, the President must execute them. But he is only the instrument of Congress, under the Constitution of the United States.

It is true the President is Commander-in-Chief; but it is for Congress to make all laws necessary and proper for carrying into execution his powers; so that, according to the very words of the Constitution, his powers depend upon Congress, which may limit or enlarge them at its own pleasure. Thus, whether you regard Congress or regard the President, you will find that Congress is the arbiter and regulator of the war powers.

Of the pretension that all these enormous powers belong to the President and not to Congress, I try to speak calmly and within bounds. I mean always to be parliamentary. But a pretension so irrational and unconstitutional, so absurd and tyrannical, is not entitled to respect. The Senator from Ohio, [Mr. WADE,] in indignant words worthy of the Senate, has branded it as slavish, and handed it over to judgment. Born in ignorance, and pernicious in consequences, it ought to be received with hissings of contempt, and just in proportion as it obtains acceptance, with execration. Such a pretension would change our Government from a Government of law to the Government of a military dictator. It would degrade our proud constitutional Republic, where each department has its appointed place to one of those short-lived vulgar despotisms which have appeared occasionally as a warning to mankind. That this pretension should be put forward in the name of the Constitution is only another illustration of the effrontery with which the Constitution is made responsible for the ignorance, the conceit, and the passions of men. Sir, in the name of the Constitution, which I have sworn to support, and which, according to my ability, I mean to maintain, I protest against this new-fangled effort to foist into it a pretension abhorrent to liberty, reason, and common sense.

At the risk of repetition, but for the sake of clearness, let me now repeat the propositions on which I confidently rest.

1. The rights of sovereignty are derived from the Constitution, and can be exercised only in conformity with the requirements of the Constitution: so that all penal statutes, punishing treason, must carefully comply with these requirements. This is the case of the bill introduced by the Senator from New Hampshire, [Mr. CLARK.]

2. The rights of war are under the Constitution in their origin, but outside the Constitution in their execution. In other words, the Constitution confers the rights of war, but sets no limits to them, so that statutes to enforce them are not to be regarded as mere penal statutes, restricted by the Constitution. But these rights belong to a state of war, and necessarily cease with the war. This is the case of the House bills now under discussion.

3. Rebels in arms are public enemies, who can claim no safeguard from the Constitution, and they may be pursued and conquered according to the rights of war.

4. All rebels are criminals, liable to punishment according to penal statutes, and in all proceedings against them as such, they are surrounded by the safeguards of the Constitution.

5. The rights of war may be enforced by act of Congress, which is the highest form of the national will.

If these conclusions needed the support of au-

thority, they would find it in John Quincy Adams. His words have been often quoted, without perhaps fully considering the great weight to which they are entitled. At an early day, when Secretary of State, under a slaveholding President, with eminent slaveholders in the Cabinet, in the discharge of his official duties, as the advocate of his Government, he had claimed under the treaty of Ghent compensation for slaves liberated by the British armies, and he had argued against any such liberation under the rights of war. A full knowledge of his convictions on this occasion might, perhaps, disclose the repugnance or, to borrow his own words, "the bitterness of heart," with which he discharged this duty. It is known, by avowals afterwards made in the House of Representatives, that on at least one occasion he acted as Secretary of State contrary to his convictions. "It was utterly against my judgment and wishes; but I was obliged to submit, and prepared the requisite dispatches." (Congressional Globe, Twenty-Seventh Congress, second session, 1841–42, vol. 2, p. 424.) Such was his open declaration in the House of Representatives with regard to an important negotiation which he had conducted. But whatever may have been his convictions at that time, it is beyond question, that afterwards, in his glorious career as a Representative, when larger experience and still maturer years had added to his great authority, and he was called upon in Congress to express himself on this important question, we find him reconsidering his earlier diplomatic arguments, and, in the face of the world, defiantly claiming not only for Congress, but for the President, and every military commander within his department, the full power to emancipate slaves under the rights of war. If these words had been hastily uttered, or, if once uttered, they had been afterwards abandoned, or if they could in any way be associated with the passions or ardors of controversy, as his earlier words were clearly associated with the duties of advocacy, they might be entitled to less consideration. But they are among the later and most memorable utterances of our greatest master of the law of nations, made under circumstances of peculiar solemnity, and several times repeated, after intervals of time.

It was on the 25th May, 1836, that John Quincy Adams first expounded in the House of Representatives what he called "the war power, and treaty-making power of Congress." Then it was that he declared:

"From the instant that your slaveholding States become the theater of war, civil, servile, or foreign, from that instant the *war powers of Congress* extend to interference with the institution of slavery in every way in which it can be interfered with, from a claim of indemnity for slaves taken or destroyed, to the cession of the State burdened with slavery to a foreign Power."

Again, on the 7th June, 1841, after many years of reflection and added experience in public life, he shook the House by showing that universal emancipation might be accomplished through this supreme power.

Afterwards, in April, 1842, for the third time, he stated the doctrine in the House of Representatives, and challenged criticism or reply. I forbear to read the whole speech, though considering the circumstances under such it was made, it may be accepted as a final statement of unquestionable law. An extract will suffice:

"I would leave that institution to the exclusive consideration and management of the States more peculiarly interested in it just as long as they can keep it within their own bounds. So far, I admit that Congress has no power to meddle with it. As long as they do not step out of their own bounds, and do not put the question to the people of the United States, whose peace, welfare, and happiness are all at stake, so long I will agree to leave them to themselves." * * * * * * * * *

"I believe that so long as the slave States are able to sustain their institutions without going abroad or calling upon other parts of the Union to aid them or act on the subject, so long I will consent never to interfere. I have said this, and I repeat it; but if they come to the free States and say to them, 'you must help us to keep down our slaves; *you must aid us in* an insurrection and *a civil war*,' then I say, that with that call *comes a full and plenary power to this House and to the Senate over the whole subject.* It is a war power. I say it is a war power; and *when your country is actually in war*, whether it be a war of invasion or *a war of insurrection, Congress has power to carry on the war, and must carry it on according to the laws of war;* and by the laws of war an invaded country has all its laws and municipal institutions swept by the board, and martial law takes the place of them."

And then again he announces, in words further applicable to the present hour:

"Nor is this a mere theoretic statement. Slavery was abolished in Colombia, first by the Spanish General Murillo, and secondly by the American General Bolivar. It was abolished by virtue of a military command given at the head of the army, and its abolition continues to be law to this day." * * * * * * * * *

"I might furnish a thousand proofs to show that the pretensions of gentlemen to the sanctity of their municipal institutions under a state of actual invasion and of actual war, whether servile, *civil*, or foreign, is wholly unfounded, and that the laws of war do, in all such cases, take precedence. I lay this down as the law of nations. I say that the military authority takes for the time the place of all municipal institutions, and of slavery among the rest; and that, under that state of things, so far from its being true that the States where slavery exists have the exclusive management of the subject, not only the President of the United States, but the commander of the Army, has power to order the universal emancipation of the slaves. *I have given here more in detail a principle which I have asserted on this floor before now, and of which I have no more doubt than that you, sir, occupy that chair.*"—*Congressional Globe*, Twenty-Seventh Congress, second session, 1841–42, part 1, p. 429.

The representatives of slavery broke forth in characteristic outrage upon the venerable orator, but nobody answered him. And these words have stood ever since as a landmark of public law. You cannot deny the power of Congress to liberate the slaves without removing this landmark. Vain work. It is not less firm than the Constitution itself.

Thus do I vindicate for Congress all the rights of war. If, assuming the powers of Congress, any further question be raised as to the extent of these rights, I reply, briefly, that there is no right which, according to received authorities, may be exercised against a hostile sovereign or prince, embracing, of course, confiscation of property, real as well as personal, which may not in our discretion be recognized against a rebel enemy; and the reason is obvious. Whatever may be the mitigations of the rights of war introduced by modern civilization, under which private property in certain cases is exempted from confiscation, this rule does not apply to cases where there is a direct personal responsibility for the war; and here is the precise difference between the responsibility of the sovereign or prince and the responsibility of the private citizen: the private citizen is excused, but the sovereign or prince is always held responsible to the full extent of his property, real as well as personal. But every rebel who has voluntarily become a public enemy has assumed a personal responsibility for which, according to acknowledged principles of public law—especially if he has taken high office in the rebel government—he may be held liable to the full extent of his property, real as well as personal. Every citizen who voluntarily aids in armed rebellion is a hostile sovereign or prince. A generous clemency may interfere to limit his liability, but on principles of public law he is in the very condition of Shylock when his cruelty was arrested by the righteous judge.

"If thou dost shed
One drop of Christian blood, thy lands and goods
Are, by the laws of Venice, *confiscate*
Unto the State of Venice."

Mr. President, such are the principles on which we are now to act. In announcing them and reducing them to practice, Congress will enlarge its already accumulated claims to public gratitude.

The present Congress has already done much beyond any other Congress in our history. Measures which for long years have seemed attainable only to the most sanguine hopes, have triumphed. Emancipation in the national capital; freedom in all the national Territories; the offer of ransom to help emancipation in the States; the recognition of Hayti and Liberia; the treaty with Great Britain for the suppression of the slave trade; the prohibition of the return of fugitive slaves by military officers; homesteads for actual settlers on the public lands; a Pacific railroad; endowments of agricultural colleges out of the public lands; such are some of the achievements by which the present Congress will be historic. Besides these measures of unmixed beneficence, the present Congress has created an immense Army and a considerable Navy, and it has provided the means for all our gigantic expenditures by a tax, which in itself is an epoch.

Thus, in the prosecution of the war Congress has already exercised two great powers: first, to raise armies; and secondly, to tax. Both of these powers bear directly upon our loyal fellow-citizens everywhere throughout the country. Sons, brothers, and husbands, are taken from happy homes, and from the concerns of business, leaving vacant places never, perhaps, to be filled again, and hurried away to wage a fearful war. But beyond this unequaled draft upon the loyal men of the country, summoning them to the hazards of battle, there is another unequaled draft upon the loyal property of the country, presenting a combined draft without precedent upon men and upon property. If you would find a parallel to the armies raised, you must go back to the forces marshaled under Napoleon in the indulgence of his unbridled ambition. If you would find a parallel to the tax, you must go back to that early day of which the Gospel, in its simple narrative, says: "And it came to pass about these times that a decree went out from Cæsar Augustus, that *all the world* should be taxed." A similar decree is about to go out from you, not, indeed, to tax all the world, but to tax a large and generous people, who, for the first time, will listen to such an edict. There have been taxes here before; and in other countries there have been taxes as enormous, but there has been no such tax here before; and in no other country has any such tax been levied at once without the preparation and education of long-continued taxation.

Confiscation and liberation are other war powers of Congress, incident to the general grant of such powers, which it now remains for us to employ. So important are they, that without them I fear all the rest will be employed in vain. Yes, sir, in vain do we gather mighty armies, and in vain do we tax our people, unless we are ready to grasp these other means through which the war can be carried to the homes of the rebellion. By the confiscation of property the large rebel estates, where treason laid its eggs, will be broken up, while, by the liberation of slaves, the rebels will be deprived of an invaluable ally, whether in labor or in battle. But let me confess frankly that I look with more hope and confidence to liberation than to confiscation. To give freedom is nobler than to take property, and, on this occasion, it cannot fail to be more efficacious, for in this way the rear-guard of the Rebellion will be surely changed into the advance-guard of the Union. There is in confiscation, unless when directed against the criminal authors of the rebellion, a harshness inconsistent with that mercy which it is always a sacred duty to cultivate, and which should be manifest in proportion to our triumphs, "mightiest in the mightiest." But liberation is not harsh, and it is certain, if properly conducted, to carry with it the smiles of a benignant Providence.

The war began in slavery, and it can end only with the end of slavery. It was set in motion and organized by the slave oligarchy, and it cannot die except with this accursed oligarchy. Therefore, for the sake of peace and in order to restore the Union, every power should be enlisted by which slavery, which is the soul of the war, can be reached. Are you in earnest? Then strike at slavery. Liberation is usually known as a charity; but while none the less a charity, comprehending all other charities, it is now, in the course of events, a necessity of war. Only through liberation can we obtain that complete triumph, bringing with it assured tranquillity, without which the war will stop merely to break forth anew, and peace will be nothing but an uneasy truce. Among all the powers of Congress incident to our unparalleled condition, there is none so far-reaching, as there is none so beneficent; there is none so potent to beat down rebellion, as there is none other by which peace can be made truly secure. Powerful and beautiful prerogative! The language of Chatham will not be misapplied, when I call it the "master feather of the eagle's wing."

The PRESIDING OFFICER, (Mr. ANTHONY in the chair.) The question is on the amendment moved by the Senator from New Hampshire.

Mr. BROWNING. I shall delay the vote only a few minutes, sir. I have no intention of resuming any extended argument on this question; but I do intend to notice a few of the propositions of the Senator from Massachusetts, [Mr. SUMNER.]

A fair example of his construction of constitutional provisions is found in his commentaries upon this clause:

"No soldier shall in time of peace be quartered in any house without the consent of the owner, nor in time of war but in a manner to be prescribed by law."

A custom obtained, a right of war was exercised by the British Government of quartering soldiers in private houses for their maintenance and sup-

port; not putting them in hospitals, sick and wounded, to be cared for; but soldiers who were engaged in the active prosecution of war. They quartered them, without the consent of the owners, upon the families of citizens, to be supported and maintained as long as the Government chose at the cost of the citizen and without his consent. The Senator, to make his construction of the Constitution good upon other clauses as well as this, tortures this into a clause which would prohibit, if it were enforced, the taking of a rebel house to be used for the purposes of a hospital, or the appropriation of the house of any of our own citizens for hospital purposes. Now, sir, if the Senator really believes that the cases he has cited are within the purview of this clause of the Constitution, I certainly shall despair of ever producing any impression upon him by any constitutional argument I could enter into with him. And yet I think it is a fair specimen of his interpretation of all the clauses of the Constitution upon which he relies to establish his claim of despotic power; I will not say "slavish;" I will not, as was said the other day, "bandy words," but I will say a claim of absolute and despotic power for a single department of the Government.

The Senator claims that absolute and despotic power for Congress in the conduct of the war, and calls with something of an air of triumph upon those of us who deny it to point him to the limitation which the Constitution imposes upon the war powers of Congress. Mr. President, I have always understood the Constitution of the United States to be a grant of powers. It is true there are limitations. Its framers were not content with simply withholding grants; but in some cases—and that of confiscation was one—not content with withholding a grant of power, the convention did proceed to impose express limitations, and negatived the possession and use of any such power. It did so in several instances. But, sir, the Constitution instead of being a limitation upon the powers of Congress in the sense in which the Senator speaks of it, is a grant of powers, and Congress can exercise no power relating to war or peace that is not expressly granted to it by the Constitution.

And now, sir, I ask him, when he claims this unlimited and despotic power for Congress on the conduct of the war, to point me to the grant of power in the Constitution, and not content himself by turning with an air of triumph and saying "gentlemen have pointed to no limitation in the Constitution upon the war power." Where is his grant of power? The only place that he professes to find it, I believe, is here:

"Congress shall have power to make all laws which shall be necessary and proper for carrying into execution the foregoing powers"—

The powers previously granted—

"and all other powers vested by this Constitution in the Government of the United States, or in any department or officer thereof."

Mr. President, I ask is it seriously contended that the powers of Congress are one atom greater by the insertion of this provision than they would have been if it had never appeared in the Constitution at all? When the Constitution makes a specific grant of power to Congress, all power incident to that, and necessary to the execution of that, is granted with it; and this was only putting in express language what, by every rule of construction and according to every exposition that has ever been given by any commentator upon the Constitution, was implied before. It enlarges and extends no power of Congress; it gives no new substantive power; but it expresses only what was before implied, that when there had been a grant of power, there went as an incident to it all the powers necessary to its execution; and yet there is the only clause from which, I believe, many of the powers that he claims are sought to be derived.

The gentleman insists that the Constitution confers upon Congress all the rights of war. I think I do not state him too largely. He says, in addition to that, that all the powers that are granted to the President by the Constitution may be used by him in association with Congress; that he has no power which Congress may not, if it chooses, associate itself with him in the exercise of. One of the powers of war is the power to command the Army. Does the Senator intend to be understood as insisting that Congress has the right and power, under the Constitution, to take the actual command of the Army in the field?

Mr. WADE. To whom is that addressed? To me?

Mr. BROWNING. It was intended to be addressed to the Senator from Massachusetts, but he was too much engrossed to hear it.

Mr. SUMNER. I certainly did not hear.

Mr. BROWNING. I am perfectly aware you did not. I will repeat it, for I am anxious that the Senator shall hear it. He asserts that all the rights and powers of war are conferred on Congress by the Constitution. Do I state him too largely? I think not. One of the rights of war and one of the powers of war is the right and power to command the Army in the field in its active operations; and now, sir, I ask him if he intends to be understood as asserting that Congress may, either by itself or in association with the President, take charge of and control the active operations of the Army in the field.

Mr. SUMNER. Is the Senator serious in putting the question?

Mr. BROWNING. Unquestionably I am serious.

Mr. SUMNER. So much of the Senator's arguments, so much of his speeches, seem to run into the impossible, it is so difficult to imagine that any person can have such ideas and be in earnest in urging them, that he must pardon me if I ask him if he is serious when he puts the question. The Senator knows very well that by the Constitution of the United States the President is Commander-in-Chief of the Army; but he also knows very well, or he ought to know, that by the Constitution of the United States, Congress may make all laws to regulate the duties and the powers of the Commander-in-Chief. That is my answer to the question.

Mr. BROWNING. Mr. President, I ask the Senator whether he was serious when he asserted that all the rights and powers of war were conferred by the Constitution upon Congress, whether he was serious when he further asserted that the President possessed no power which might not be used by him in association with Congress. I am serious in asking these questions, for these are doctrines which, in my judgment, are subversive of every principle of free government, which tend to establish, and which, if carried into legislation and into operation, will establish the most odious, despotic tyranny that the world ever saw.

I do not intend to go any further into the argument, Mr. President. The Senator, repeating what had previously been said by another Senator, that the doctrine which had been advocated upon this floor, that the President could not be controlled by Congress in the exercise of the duties peculiarly devolving upon him by the Constitution, has chosen to characterize that as absurd and slavish and deserving only of contempt, and I believe he added, of execration. Mr. President, harsh and vulgar words prove nothing but the passion and malignity of him who uses them. They constitute no argument; they deserve no answer.

Mr. HOWARD. I rise, Mr. President, to detain the Senate for a few minutes in the discussion of one single proposition which has been frequently insisted upon during this debate respecting confiscation that has run through so many weeks of this session—I mean the proposition which asserts the absolute authority of the President of the United States as derived from that provision of the Constitution which declares that he shall be Commander-in-Chief of the Army and the Navy and of the militia of the several States when called into the actual service of the United States. If I understand this proposition correctly, it may be stated briefly thus: that in virtue of the clause of the Constitution which I have recited, the Executive of the nation has the absolute, independent, irresponsible authority to control, use, and employ the Army and the Navy of the United States, and all the implements and instruments of war, as he pleases, not being in these regards subject to the control of Congress in any degree, and not being in any sense or degree responsible to Congress for the exercise of this supposed power, and not being subject to any legislation which the two Houses of Congress may adopt in reference to his authority.

The question which I propose to discuss as connected with this proposition is, has Congress authority under the Constitution to control and direct the President in the application and use of the military force of the nation in carrying on war, and is he bound to apply and employ it as they may direct? It is a simple question of power under the Constitution. All will admit its magnitude and importance. Should it ever become a practical question, it will surpass all others in its bearing upon the rights of Congress and the liberties of the people. And it is therefore of the highest moment that we should settle it, so far as we may settle it, dispassionately and correctly.

The only clause giving the President any authority over the military force, is that which declares that he "shall be the Commander-in-Chief of the Army and Navy of the United States, and of the militia of the several States when called into the actual service of the United States." No other clause vests in him any authority whatever to command the forces, and if this had not been contained in the instrument he could not, without an act of Congress, have taken the command in chief or any command whatever. He would have been as naked of the authority as one of us, or as any private person, to use the military powers of the Government. All his power, in respect to that force, would have been merely the ordinary power of appointing the officers by and with the consent of the Senate; not of controlling, directing, or in any way meddling with them in the performance of their duties. Congress, and Congress alone, would have had the right of command. They could not, indeed, have left their seats to go into the field or on board of the public ships, to exercise their authority; but to them in their seats, as the law-making power, would have pertained the exclusive right to command, control, and direct all the operations of the Army and Navy, by proper acts of legislation and by proper agents. And these acts of legislation must, from the very necessity of the case, from the very necessity of their remaining in their seats while the forces were carrying on military operations by land or sea, have conferred authority upon commanders to wield and direct them. Thus would have arisen, naturally and inevitably, the office of commander, either of the whole force or of parts of it. No one can doubt that in such a state of things the commander would have been perpetually subject to every law or regulation Congress might make respecting his mode of using and employing the forces, for he would be the mere creature of the law, and all his duties, of every description, the mere requirements of the law.

It is no answer to this to say that Congress could not, sitting in their seats, and delayed and embarrassed by debates and parliamentary rules, direct the movements of armies in all their details. Nor is it an answer to say that Congress could not by a statute anticipate and in advance provide for all the minute and unthought-of necessities of a march, a retreat, a battle, a victory, or a defeat. These impossibilities are no answer; have no possible relation to the question whether Congress would, in the absence of the clause, have authority to control all military movements by controlling the agents who made them. It may be safely taken as conceded that, in the absence of that clause from the Constitution, Congress would have the sole right to create the office of commander-in-chief, and that the incumbent of it would be bound to perform whatever Congress should prescribe touching his duties and functions. The proposition is, indeed, self-evident. Congress, in creating the office, as they would be obliged to do in order to carry on war, would necessarily define, in terms more or less general, the functions of the office. Like the office of a marshal or a judge, the duties would be pointed out by law; and though the terms in which the authority was conferred were the most general and comprehensive—such as A B is appointed commander-in-chief of the Army and Navy, with power and authority to prosecute the existing war—yet it is clear that he would be responsible directly to Congress for every act he should perform under the power granted, and would be bound to wage the war according to the recognized laws of war, and by the recognized means of war, in all its details; and for any deviation he would be responsible to Congress.

Such being evidently the relation of a commander-in-chief appointed by Congress in the absence of the clause, we must next inquire whether the expression in the Constitution, "shall be the

Commander-in-Chief of the Army and Navy," imparts to the President an authority independent of Congress, and for the exercise of which he is wholly irresponsible to them, to command, use, and employ those forces. In other words, whether he is in this as free from the legislative power of Congress as Congress is from his orders or instructions in their power to enact laws? Is he sovereign and independent? Has Congress no power over him? Is he in law irresponsible for any act he may do in using the Army and Navy in carrying on war? For this is the plain consequence of the principle asserted, that he has everything and Congress nothing to do in the use and employment of the military force and the means of carrying on war. To establish this conclusion, it must be shown that the word commander-in-chief, as employed in the instrument, was intended to imply this irresponsible, autocratic power. Is that the meaning of the word as there used? for we have seen that without it the President would have had no power. I take issue with the Senator from Illinois, [Mr. BROWNING,] and the Senator from Pennsylvania, [Mr. COWAN,] who hold the affirmative, and mainatin that such is not the meaning of the word as there employed, and such is not the intention of the Constitution. The meaning and intention must be ascertained from the use of the word and what it implied at the time the Constitution was framed. This is a rule of interpretation too well settled to be denied. Without it, no Constitution, no statute, indeed no private instrument can be understood or applied. A court of justice always inquires what was meant by the legislature or by the parties by the particular language at the time it was used and in the place or country where it was used. If it be capable of more meanings than one, owing to changes of time and place, they ever refer to the time and place of the transaction in getting at the intention. This rule of interpretation is fundamental and universal. No Constitution, no statute, no private instrument could be understood or applied without a resort to it.

What, then, were the military functions implied by the term commander-in-chief in this country at the time of the formation of the Constitution; and what were his legal relations to the Congress? I commence with the first use of the term, and at the initiation of the office—at its origin. The commission of General Washington, dated June 17, 1775, was in the following words:

"IN CONGRESS.

"The delegates of the United Colonies of New Hampshire, Massachusetts Bay, Rhode Island, Connecticut, New York, New Jersey, Pennsylvania, the counties of New Castle, Kent, and Sussex, on Delaware, Maryland, Virginia, North Carolina, and South Carolina:

"*To George Washington, Esq.*

"We, reposing special trust and confidence in your patriotism, valor, conduct, and fidelity, do by these presents constitute and appoint you to be general and commander-in-chief of the army of the United Colonies, and of all the forces now raised or to be raised by them, and of all others who shall voluntarily offer their service, and join the said army for the defense of American liberty, and for repelling every hostile invasion thereof. And you are hereby vested with full power and authority to act as you shall think for the good and welfare of the service.

"And we do hereby strictly charge and require all officers and soldiers under your command to be obedient to your orders, and diligent in the exercise of their several duties.

"And we do also enjoin and require you to be careful in executing the great trust reposed in you, by causing strict discipline and order to be observed in the army, and that the soldiers be duly exercised and provided with all convenient necessaries.

"And you are to regulate your conduct in every respect by the rules and discipline of war, (as herewith given you,) and "—

I desire the attention of my friend from Illinois to this clause in Washington's commission—

"*punctually to observe and follow such orders and directions from time to time as you shall receive from this or a future Congress of these United Colonies, or committee of Congress.*

"This commission to continue in force until revoked by this or a future Congress.

"By order of Congress."

Mr. BROWNING. The Senator will permit me to suggest what cannot have escaped his attention, that that can be no possible authority for our proceedings under a Constitution, that having been done at a time when we had no Constitution.

Mr. HOWARD. If the Senator from Illinois will wait until I approach that branch of my subject, he may, perhaps, take occasion to review his opinions upon that particular point.

Mr. BROWNING. I made the suggestion because the Senator called my special attention to the reading of that.

Mr. HOWARD. I am now speaking of the intent and meaning of the words "Commander-in-Chief of the Army of the United States," as used originally by the Continental Congress.

It will be seen from this that though Washington received authority as "Commander-in-Chief," he was expressly subjected to all the orders and directions of the Continental Congress. His authority was simply that of their military agent, liable at any moment to be altered, modified, or revoked. Though they had the utmost confidence in his patriotism, his judgment, and skill as a commander in the field, they still, as the journal of their proceedings shows, continued throughout the war to exercise, by their committees and other agents appointed by them, the right of regulating and controlling the details of the service. And no one can fail to see that every act of the army and of every portion of the army, was by the authority of the Congress, and not by any independent authority of the commander-in-chief. Every movement of the armed force was by and under the authority of the Continental Congress, and the commander-in-chief was perpetually and immediately responsible to them for every act he did, for every order he gave. His commission of course allowed him broad discretionary powers; but this discretion was immediately derived from the Congress, and subject to its control in every particular and at all times. This is undeniable.

It is easy to see from this that the bestowment of the title of commander-in-chief did not and could not in any way affect the power of Congress to control all military operations whenever they might see fit. The power to do so resided in them by the consent of the colonies, and whatever he did was purely by their authority, and was, in a legal sense, their act.

Such was the relation of the commander-in-chief to the Continental Congress. General Washington continued to act under that commission down to the close of the war, in 1783. But in the mean time the Articles of Confederation of 1778 were entered into, and by these the new Congress were expressly authorized to appoint all officers of the land forces, except regimental officers, and all officers of the naval forces; and to commission all officers in the service of the United States; and also to make rules for the "government and regulation of the said land and naval forces, and *directing their operations.*"

So cautious and distrustful were the States, touching the authority of their generals, that although Washington himself was at the head of their armies, they admonished even him in the very commission he bore that he was to observe and follow the orders of the Congress; and when they proceeded, three years afterwards, to establish a more formal and regular Government, in the shape of the Confederation, they, in express terms, retained in Congress the power of directing the operations of all the military forces.

And this caution was salutary; this distrust was characteristic of their love of civil liberty. No men knew better than they the ease with which, in times of public danger and popular commotion, an ambitious military commander breaks away from his duty to the State and slips into the character of a despot, uniting in himself all the functions of the Government. They took good care not to leave to inference or argument the question of the subordination of the commander-in-chief to the Congress in the employment of the armed force, but, from abundant caution, expressed it in plain terms. I say, from abundant caution, on this very point. Article nine of these Articles expressly authorized the Congress to "appoint a commander-in-chief of the Army and Navy." The power granted by this clause was from its very nature the same as that granted by the corresponding clause in the Constitution of the United States framed nine years after. By its very terms it took from each of the States all power to appoint a commander of the Confederate forces and gave it to the Congress. It subjected the troops of every State to the orders of that commander as completely as the present Constitution does. So that it is unnecessary and inapt to refer the clause "directing their operations" to the States, and to treat it as a mere limitation of the power of the States over their quotas of troops, or as being intended to exclude such an interpretation of the Articles as might lead them to dispute the power of the commander-in-chief over their troops when called out. The language is too plain to admit of any such interpretation; for, while the States themselves were expressly prohibited to "engage in war without the consent of the Congress, (except in cases of Indian hostilities or imminent danger from abroad, not admitting of their consulting the Congress,) it is declared in the ninth Article that "the United States in Congress assembled shall have the sole and exclusive right and power of determining on peace and war." The Congress possessed the sole and exclusive war-making power. And the States were, by another Article, plainly deprived of the power of appointing any officers of the Confederate troops, except those of or under the rank of colonel. With these plain provisions in the Articles, no one could have been so blind and perverse as to urge that, if the phrase "directing their operations" had been left out, the States could have set up any claim to interfere with the orders of the commander-in-chief appointed by Congress. It was plainly not its office to exclude such an interpretation, for, with the other clauses in, such an interpretation could not have occurred to the mind of any man of ordinary sense and candor.

The clause must, then, be put to another and a more natural use. It being absurd to treat it as restraint upon the States against intermeddling with the orders of the commander-in-chief, we must look for its application elsewhere. And what more natural and obvious use can we make of it than to treat it as a direct admonition, inserted *ex industria* in the articles addressed to the commander-in-chief, to the people, and to the world, that the Congress still retained in their own hands the power of controlling and directing, whenever they should deem it necessary, every operation of the Army and Navy, however minute; an admonition to the commander-in-chief that they were at all times his masters, that he derived all his authority from them, and that he was directly responsible to them for the use he should make of it on any and all occasions? But whatever may have been the object of inserting this clause in the Articles, the *fact* of its being inserted, the great fact that Congress, by express words, retained the power of controlling the Army still remains; it remains as a remonstrance uttered by the founders of the Republic against a military dictatorship.

In the face of this language, how vain and ridiculous would have been the attempt of the commander-in-chief to set up a claim that, under the title given him by the Articles, of commander-in-chief of the Army and Navy, he possessed, independently of Congress, power to wield those forces in all respects as he should see fit! And what student of our revolutionary history fails to see that but for this stern barrier, erected by our fathers against the ambition of military aspirants, and but for the godlike virtues of Washington and the preservation of his life, our country would have been the theater of military despotism and anarchy? But for that barrier and those high virtues, the whispers of military ambition in the ears of the Conways, the Gateses, the Lees, would undoubtedly have impelled them to undertake the total overthrow of liberty and the ruin of their country. Let not this solemn lesson of history fall unheeded upon our ears. We are now struggling to maintain the rights and the liberties which were then saved from shipwreck by means of the great sheet-anchor of liberty—the subordination of the military to the civil power. Yet, strange to say, we are told by Senators in this Chamber that, under the present Constitution, made only nine years after that language was thus carefully inserted in our political Constitution, that under that Constitution, made by Washington and Madison and Franklin and their compatriots, and approved by the same States, we have installed over us a Commander-in-Chief totally independent of us as to the use he may make of the public forces. We are told that he may use them in any manner, in any place, and for any time he pleases; furnish them with whatever implements, good or bad, he pleases; may order them here or order them there; may enter into any arrangements he pleases with the enemy; may, while in the field, give up any conquest he has made, upon any terms he chooses; may surrender all our forts and strong places; and may, indeed, surrender up to the enemy the whole Army and the whole Navy, should he take the

notion into his head, without any power whatever on the part of Congress to check, restrain, or control him, or to pass any statute designed to arrest his follies or his crimes.

Such, sir, are the monstrous results directly flowing from the monstrous assumption more than once put forth in this debate by the Senator from Illinois, and other Senators claiming to be Republican Senators, that Congress has no power whatever to prescribe to the President the means and instrumentalities of carrying on the present war and the operations of the Army and Navy. Let them, sir, prepare to answer for it to their constituents and to posterity. And while they charge us, who hold the contrary doctrine, who hold that Congress has that right, and ought in this great crisis of our country's destiny boldly to exercise it, who hold that it is the right and duty of Congress to resort to confiscation and all the other recognized means of waging war—while they charge us, as they have often arrogantly done, with violating our oaths, and complacently consign us to the doom of perjurers, let them reflect well upon the justification they are furnishing for the first military monster who may usurp despotic power over our country and disperse Congress at the point of the bayonet. Let them, I say, look well to this. They cannot be too circumspect. Let them carefully perform the task of writing down for history the logical deductions by which their doctrine is justified, so that when the rights of the people shall have been betrayed by their followers into the hands of the successful usurper, and the whole Constitution, for which they affect so tender a regard, is overthrown and subverted, the tombstone of liberty may at least bear their names as its designers and fabricators.

I have shown what use was made of the term commander-in-chief under the Continental Congress and under the Confederation. I now come to consider its use under the present Constitution and under the laws of nations.

Under the present Constitution, on the 2d July, 1798, President Adams, in anticipation of a war with France, recommended to the Senate the appointment of General Washington as "Commander-in-Chief of the Army." Without any act of Congress on the subject, he sent to the Senate a message in which he simply says:

I nominate George Washington, of Mount Vernon, to be Lieutenant General and Commander-in-Chief of all the armies raised and to be raised in the United States.

JOHN ADAMS.

UNITED STATES, July 2, 1798.

On the next day the Senate took the message into consideration, and confirmed the nomination by a unanimous vote. (See Executive Journal, vol. 1, p. 284.)

In communicating this appointment to General Washington, on the 7th of the same month, President Adams remarks:

"The urgent necessity I am in of your advice and assistance, indeed of your conduct and direction of the war, is all I can urge, and that is a sufficient justification to myself and the world. I hope it will be so considered by yourself."

No one will pretend that President Adams, by this appointment, intended to render or could have rendered General Washington independent of his orders, for he could not if he would have divested himself of his functions of Commander-in-Chief under the Constitution; and yet he, as well as the Senate, only ten years after the Constitution went into operation, applied the term commander-in-chief to a confessedly subordinate officer, an officer invested with no authority whatever in opposition to the will of the President. Had the Senate or had President Adams regarded that term as conveying to the President, under the Constitution, an independent, supreme, irresponsible control of the military forces of the nation, and of the means and instruments of waging war, surely we cannot believe they would have established this early precedent to the contrary. They would not thus have prostituted the language of the Constitution From what I have said respecting the use of the term under the Continental Congress, and under the Confederation, it is plain that no such pretense of omnipotent power can be set up for it. So far from this, I have shown that during both those periods the commander-in-chief was in all things subordinate and responsible to the Congress.

I have also taken pains to examine the debates of the constitutional convention of 1787, to ascertain whether the term was employed in the discussions in the enlarged and dangerous sense now claimed for it, or in any sense different from that in which it had been used during that period. Indeed, I have examined, for the same purpose, the debates in the State conventions which ratified the Constitution, but find neither in the Federal convention, nor in any State convention, one word, intimation, or hint, from any speaker in any one of these numerous bodies, affording a shadow of support for the claim now set up. Indeed, the record is completely silent as to the extent of the meaning of the term. And it remains for the advocates of this claim to give to the world some good reason for this silence; it remains for them to show that a meaning of the term so different from the one with which it had just been clothed, so comprehensive in its sweep, and so irresistible and despotic in its tendency and effect, properly pertained to it, and that it was so understood by those who framed or those who ratified the Constitution. This novel and anti-republican import of the word entirely escaped the enlightened minds and keen observation of men then founding a free government, more thoroughly versed in the principles of government than any who have preceded or followed them. They must show why the State-rights men of that day, who opposed the ratification of the Constitution, the Martins, the Henrys, and others who taxed their great minds to discover and enforce objections against it, failed, wholly failed, to discover this, the greatest of all. Surely, sir, new Daniels have come to judgment; surely, compared with the present golden age of constitutional learning, that of Washington and Madison and Franklin was but an age of lead; and we must, under the chastening rod of the modern teachers from Illinois and Pennsylvania acknowledge, with due humility, that our pride in the wisdom and perspicacity of our fathers has very little foundation.

Again: at the time the Federal Constitution was framed, eleven of the old States had adopted permanent, formal constitutions of government, in each of which it was provided that the Governor should be the commander-in-chief of the army and navy; and he was as completely invested with the control of the military forces of the State as is the President with that of military forces of the nation by the Constitution. And yet the history of the times is filled with examples of the State Legislatures directing, in very minute detail, the operations of their militia during the war.

It is almost too much for the most vigorous imagination to picture to itself a controversy between one of those ancient Governors and the Legislature of the State, in maintaining with kingly obstinacy and monarchical strut his exclusive right, under his title of commander-in-chief, to direct all the movements of the militia, the kind of arms they shall use, and all the modes of annoying the British and the Indians, and they on their side insisting upon their right to control and supervise him in those matters. History, I believe, fails to record any such proceeding; even tradition is silent, and the story books of the past age are barren of all accounts of any such romantic struggle between a Governor and a State Legislature—at least the commendable industry of the Senators has not as yet produced any evidence, written or oral, of so remarkable a dispute. The power of the Legislature in such cases was never called in question, because no one ever supposed that a Governor was, by being called the commander-in-chief, released in any particular or degree from his ordinary obligation to obey and execute the orders of the Legislature in reference to the military forces of the State, no matter what those orders might be.

Thus far, in endeavoring to get at the meaning and the extent of the meaning of the term, I have confined myself to the practical precedents afforded by our own history. And these are clear to the point that no such independent power was ever implied, or used, or claimed.

Now, if I go a step further and pass out of and beyond these precedents and our own history for further aid, I do so with a protest that it is unnecessary, and that the American use of the term is the all-sufficient and conclusive test of its meaning and of the extent and nature of the functions it implies.

If we appeal to the established code of war, the *jura belli*, as recognized by civilized nations and taught by the professors of that science, and to the law of nations, we shall find just as little authority for the assumption.

The power to make war is one of the essential sovereign powers of every independent nation. It is in its nature the highest manifestation of sovereignty; it is not of itself sovereignty any more than the right of self-defense is the soul of an intelligent, free man; but it is the means, the instrument of protecting and preserving the sovereignty. A nation deprived of the right or faculty of carrying on war has ceased to be independent. It has lost its sovereignty, its power of self-protection. It is conquered, enslaved, and its place is vacant on the roll of nations. It belongs not to itself, but to another. The right to carry on war is but the right of self-protection, springing from nature; and is as inseparable from an independent nation as a natural person. Without it, neither could exist against any degree of destructive force, however small. Sovereignty is the living body of the State, endowed with the intellectual and moral qualities which form its character, and war is the sword by which it is defended. This sovereignty, however manifested, whether through a single ruler or through several persons authorized to express its will, is the sole and ultimate source of the laws of the State. All statutes, orders, and decrees are but emanations from it. It is in its nature nothing else but the law-making, law-giving power of the community forming the nation, and all these laws are, in theory at least, made to define and protect the rights and interests of the community.

War is waged as an instrumentality to protect and advance the same interests, and often, indeed, to enforce such statutes, orders, and decrees. Hence it is obviously an attribute of the law-making power, one without which that power is illusory, nugatory. It is the will of the lawgiver that causes the transition of the nation from a state of peace to a state of war. That will must necessarily move and, directly or indirectly, control all the instruments and operations of war. If another and a different will may do all this, one beyond the control of the law-making power, then the nation has not the means to defend itself against the violence that may proceed from that other agent, whoever or whatever that agent may be, and is at once enslaved. But it is idle to talk of a war-making power independent of the law-making power. Both are in essence the same—or rather faculties of the same mind, inseparable from each other, and constituting the main elements of the sovereignty of the State. Says Vattel:

"War cannot be made without soldiers, and it is manifest that whoever has the right to make war has naturally that also to raise troops. The right to raise troops pertains especially to the sovereign, and is in the number of the rights of majesty. The power to raise troops, to set an army on foot, is of too great importance in a State to be confided to hands other than those of the sovereign. Subaltern powers are not clothed with it. They exercise it only by the order or the commission of the sovereign."

Again, speaking of the military laws, he says:

"Good order and subordination, everywhere so useful, is nowhere so necessary as among the troops. The sovereign ought to determine exactly the functions, the duties, and the rights of persons engaged in war—soldiers, officers, chiefs of corps, generals. He ought to fix and regulate the authority of the commanders in all the grades, the penalties attached to faults, the form of judgments, &c. The laws and ordinances which concern these different points form the code military."

It may be remarked that the great author from which I quote, published his book almost cotemporaneously with the breaking out of our revolutionary war, and that it was at the formation of the Constitution a book of greater authority in this country upon the laws of nations than any other in use; and it is no extravagance to assume that the framers of the instrument used it as one of their text-books. It regards the powers to raise troops and to make war as sovereign powers of the State, supreme political powers, so momentous and transcendent in their nature as to be in the number of the rights of majesty, and not to be vested in any subordinate branch or department of the Government. And the author, for irresistible reasons, refers to the same high source of political power the right to establish the regulations of the army—the military code.

Now, in entire accordance with these principles, the Constitution, by express terms, gives to Congress, not to the President, the power to involve the nation in war by a declaration; to them and not to him the power to raise and support armies;

to them and not to him the power to make rules for the government and regulation of the land and naval forces; to them and not to him the power to make rules concerning captures on land and water; and, in express terms, to "make all laws necessary and proper for carrying into execution the foregoing powers."

Judge Story and other distinguished commentators on the Constitution treat the power to declare war as identical with the power to make war. Such is at least the received interpretation of the words. If, then, Congress, and not the President, has the power to make war, and Congress has, superadded to this, the power to make all laws necessary and proper for carrying into execution the power to make war, they have in the plainest terms the power to make a law directing in what way the war shall be made, what instruments shall be used, and what shall not be used; when an army shall make an attack and when it shall not; what expeditions shall be undertaken and what shall not; in short, directing everything that shall be done in executing the power to make war. And it would be as plainly the sworn duty of the President to "see that such laws are faithfully executed" as that any other laws are faithfully executed.

Again: the express power given to Congress to make rules for the government and regulation of the forces would be of itself, even in the absence of all other provisions on the subject, an ample and sufficient source of our authority to direct in what manner they shall be employed. It is granted to us in terms of greater latitude and broader signification, if possible, than that to "regulate commerce;" and yet, under the statutes made in pursuance of this power, not a ship goes from our ports upon the high seas without being incumbered with the most minute regulations respecting the duties of the men on board, clearances, manifests, precautions against fire, the bursting of steam boilers, and the like. Indeed, it has been contended by the ablest minds, and I think successfully, that under this power Congress may actually prohibit trade.

But my argument needs no aid from such an analogy. It stands firmly upon the power to make war, and to make all laws necessary to execute that power; that is, all laws necessary in the judgment of Congress, not forbidden by the laws of war, to render the act of war effectual.

Now, the commander-in-chief of an army is but the general employed by the State to command that army; that is, to order and direct its operations as an instrument of making war for the defense and protection of the State. His functions are but those of an agent of the State to promote her interests by fighting her enemies with the warlike means she places in his hands. In their nature those functions are all functions of the State herself, indispensable to the continuance of her being; and not one of them can be claimed as pertaining to him otherwise than as her mere representative. No act of his can bind her without her consent, although there are many acts of his by which, under the law of war and the law of nations, she is held to be bound, upon the presumption that she has already consented to those laws. By those laws none of his acts bind his Government except such as are immediately connected with carrying on the war. A Government may have as many commanders-in-chief as it has armies. Yet, no one of them, nor all combined, can, as such commanders, by the laws of war, enter into any transaction relating to the subject of the war or its consequences. Grotius tells us that—

"The general of an army can do no act regarding the subject of the war and its results, for the power to finish the war is no part of the power conferred to carry it on; and when one has been clothed with this latter power in the most extended manner, it should always be confined to the commander-in-chief and to the conduct of all the affairs of the war."

The general commanding has no power to make peace; that belongs to the State, or to the functionary representing the State. He has no power to dispose of the conquered territory, or of any property or persons he may capture. This power, too, belongs to the State. When Belisarius was asked by the Goths what he purposed to do with them, he replied that he had no authority to dispose of the affairs of the emperor. When a Grecian general was asked by the Persians to conclude a peace, he answered that to make peace was not for him, but for the State. The Roman senate set aside the treaty of peace and transfer of conquered territory entered into by the consul with the Samnites at the affair of the Caudine Forks, where, to save their lives, a whole Roman army submitted to pass under the yoke. And the Roman hostages retained by the victor as a security for the fulfillment of the treaty were given up by him upon the ground that the consul, acting as a mere commander of the army, had transcended his authority in making the treaty, and assumed that which belonged to the senate. When a Roman general had made captive the wife of King Syphax, and had assumed to set her at liberty, Scipio interposed the objection that it was for the senate and Roman people to determine what they would do with her. Grotius remarks that it "does not belong to the generals of an army, not even to the commander-in-chief, to release prisoners acquired by arms, nor to dispose of sovereignties or conquered territories."

Such are some of the many restrictions of the power of a commander in the field, imposed by public law, and growing out of the acknowledged rights of sovereignty of independent States—restrictions admitted by all nations, ancient as well as modern. But they are restrictions only because those functions are of such high importance to the State that the law will not raise a presumption that she has delegated them to a general; while as to the mere operations of the forces under his command in the field, it from necessity, owing to the remoteness and unmilitary structure of the political power, does raise a presumption that for those operations, and all of them, he has authority from the political power. He may assault a strong place; he may intrench; he may fight to-day and grant or accept an armistice to-morrow. As he is to overcome the enemy, he may lay his plan for that purpose, and alter it as he sees fit. All this rests upon the same presumption that the State has given him the authority; and the difference between the Senator from Illinois [Mr. BROWNING] and those who agree with him and myself is simply this, that while they treat this power of the commander as absolute, inherent, indefeasible in him, conclusive in all cases against the State, and beyond its reach, I treat it as a right, a power, in all cases emanating from the State and liable at any moment to be modified in its exercise and operation.

The Senator will not contend that Congress is without any power to order and direct what description of arms shall be used in the land and naval forces; he will not insist that this power pertains to the President in virtue of his being Commander-in-Chief, and allow him to say to Congress, "I will furnish the men you raise, not with the improved fire-arms of the day, but with old flint locks, or guns without any locks; for instance, the ancient Chinese style of musket, which required one man to aim it, resting it on the shoulder of a second, while a third was required to touch it off. I will have no rifled cannon, but only the ancient smooth-bore on the model of the cannon of Agincourt, or the still huger machine of an early Sultan employed in guarding the Dardanelles, and which is said to have hurled a stone bullet that weighed a ton. I will have no iron-clad ships, nor war steamers, but only ships of the excellent model of the May Flower or the Goode Vrow; and with these venerated implements only will I fight the battles of the United States; and you, gentlemen of Congress, cannot help yourselves. You may pass laws and appropriate money to provide other instruments, but you will find me the Commander-in-Chief, and that they shall never be used by the Army or the Navy."

And will that honorable Senator contend for a moment that, should the President, as Commander-in-Chief, undertake an absurd and impracticable expedition against the enemy, one plainly destructive of the national interests and leading to irretrievable disaster, or should he basely refuse to undertake one, or, having undertaken it, insist upon retreating before the enemy, and giving over the war to the manifest prejudice of the country, or should he treacherously enter into terms of capitulation with the manifest intent to give the enemy an advantage, would the Senator rise in his seat here and insist that Congress has no power to interpose by legislation and prevent the folly and the crime? And yet his doctrines as here announced would impel him to exclaim, "the country is without remedy; Congress is powerless; the Constitution furnishes no means to arrest the approaching ruin; we must not travel out of the Constitution; and we must submit our necks to the yoke. It is the will of the Commander-in-Chief, and that, and that only, in such a case is the Constitution."

Sir, this new heresy deserves rebuke. It has been justly characterized by the Senator from Ohio [Mr. WADE] as slavish. And nothing is more certain than that if it shall get a permanent hold on the public mind, we shall, in the no very distant future, lose our liberties or become a conquered people. And I warn the country against the insidious and fatal sophistry as I would warn them against the less insidious and far less fatal doctrine of secession. Secession must and will be refuted and put down by the arms of freemen; but when they, too, have consented to surrender the power of the sword wholly to the President, denying to their representatives all power to control him in the use of it; when Congress shall have abdicated this the highest function of the national sovereignty, Cæsar has no Rubicon to pass; the boundaries of his military command, once fixed by the senate, are blotted out forever. The consular general becomes a military dictator, an *imperator*, and all the powers of the Government, civil and military, pass into his irresponsible hands; his decrees will constitute the laws of the Republic, and his prætorian bands will make the President of the United States.

Mr. BROWNING. I will not occupy the attention of the Senate over five minutes. As my attention was specially invited by the Senator from Michigan to a portion of his speech, to all of which I have listened with interest, I think it proper that I should make a word of reply to that part to which he invited my attention. He, like every other Senator who contends for the new doctrine he advocates, is forced to go outside of the Constitution to find authority to sustain it, and no better authority has been found by the Senator than that of Washington's commission under the Continental Congress, and the practice of the Government under the Articles of Confederation. He says that Washington himself did not assume or pretend to claim any authority independent of the appointing power. Of course he did not; the Continental Congress was the appointing power, and the Continental Congress was competent to impose any conditions, limitations, and restraints it chose to do, and it did impose them; so did the Congress under the old Articles of Confederation. And it was the continued and repeated blundering and bungling of military operations when controlled and governed by Congress that influenced the convention to ignore the doctrine, and separate forever the direction of the Army from the control of Congress. It was the very authority upon which the Senator relies to sustain his doctrine that led to a change of the doctrine, and the clothing of the President of the United States with all the authority of Commander-in-Chief. Now, sir, the Constitution, and not Congress, is the appointing power of the Commander-in-Chief of the Army and Navy of the United States, and he is subject to all the restraints that the Constitution imposes upon him, and he is subject to none others. Congress can impose no restraint upon any power that is necessary to the execution of the office with which the Constitution clothes him.

The gentleman, however, attributes to me a denial of all control by Congress over the Army, or the Commander-in-Chief, I am perfectly willing to stand by my sentiments as I have myself uttered them. I am not willing to have attributed to me absurdities that I never entertained and never expressed, whether they result from a misunderstanding or from a misrepresentation of what I did say. I certainly do not intend to intimate that the Senator makes any willful misrepresentations of my views; but they are upon record; I am willing to abide by them, defend them; but I am not willing to undertake the defense of all the absurdities that he suggests in interrogatories to me. I do not deny the control of Congress, and never have denied the control of Congress over the armies of the United States to the extent that the Constitution gives it control. I admit all the control which the Constitution has given; that is, Congress has power to raise armies and support armies. Congress may refuse to raise armies; it may refuse to support armies; it may

disband armies after they are raised, and to that extent it can control the Commander-in-Chief, and to no other extent than the extent that the Constitution has authorized it to control him.

I read from the Federalist when I had the honor of addressing the Senate a day or two since, for the purpose of showing the understanding of the great statesmen who were instrumental in making the Constitution and commending it to the acceptance of the people for the limitation of powers that there was upon every department of the Government, and the distribution of powers that was to every department of the Government. I will not detain the Senate by repeating what I then read. I read from Mr. Madison what was uttered by him long after the Constitution was made, for the purpose of showing to the Senate what his understanding was of the appropriate powers of Congress and the President in relation to the Army of the United States; and all the arguments that have been made upon this subject this morning, and all the denunciations that have been fiercely hurled at me, have been directed against the doctrines of the great fathers of the Constitution, and against no new evangely of mine. Here is what Mr. Madison said; here is the doctrine which gentlemen expend their ingenuity and their strength in denouncing:

"He thought that it was a wise principle in the Constitution to make one branch of the Government raise an army and another to conduct it. If the Legislature had the power to conduct an army, they might embody it for that end. On the other hand, if the President was empowered to raise an army, as he is to direct its motions when raised, he might wish to assemble it for the sake of the influence to be acquired by the command. The Constitution has wisely guarded against the danger on either side."—*4 Elliot's Debates*, p. 444.

How, sir? By making one department of the Government raise an army and another conduct all its movements after it was raised; and yet for venturing to read in the Chamber of the American Senate these wise and noble words of the father of the Constitution, I am to be subjected to the denunciations that have been hurled at me this morning. Why do not gentlemen assail those who made the Constitution and who expounded it, and not seek to shield themselves by an attack on so humble an individual as I am.

The Senator from Michigan is very much more explicit in his response to a question I asked of the Senator from Massachusetts, than the Senator from Massachusetts himself was. I asked him whether, in his opinion, when he asserted that Congress was clothed with all the powers of war, the command of the Army was one of those powers—the command of the Army in its active operations in the field—and whether, in his opinion, Congress could assume that command, and control and direct the movements of the Army. The Senator gave me no answer, except to say that that was an impossibility, and that he did not mean impossibilities. The Senator from Michigan does not content himself with that answer, but meets the question in the most direct and manly terms, and he asserts boldly that Congress may, if it so chooses, direct when the Army shall advance, and when not; what expeditions it shall undertake, and what not; when it shall attack, and when retreat; and control all its movements, all its operations. I like a man to come out boldly and avow what he means, and I want no other answer to that than the Senator's own speech. Let the doctrine go to the freemen of this nation, and let them pronounce in judgment upon it; and let them understand that this is said in the very teeth of the exposition of the Constitution by Mr. Madison, who declared that it was a wise principle which made one department of the Government raise an army, and another conduct its movements. Why, sir, where are the departments of this Government? According to this doctrine they are all swallowed up, they are all ingulfed in the great maelstrom of legislative power that is now claimed. If this be true, if they may displace the Commander-in-Chief of the Army—for if Congress can do what the Senator claims it can do, the President is not Commander-in-Chief—it is an abuse of the term to say that he is Commander-in-Chief if all his directions may be overruled by Congress——

Mr. HOWARD. Will the Senator from Illinois allow me to put to him a single question?

Mr. BROWNING. Certainly.

Mr. HOWARD. I think before we go any further with this discussion, it is due from the Senator from Illinois to give the Senator or us gentlemen on this side of the Chamber his definition of the phrase "commander-in-chief," and what power it does actually include within its meaning. Then we shall know what we are talking about.

Mr. BROWNING. I undertook to do that when I addressed the Senate the day before yesterday, and no doubt I did it in a very bungling and obscure way. I can repeat in a very few words my view of the subject. By "Commander-in-Chief of the Army and Navy," I understand that authority which is to control all the active movements and operations of the Army and Navy in the prosecution of war, after the Army and Navy shall have been raised; and I understand that when the President is made Commander-in-Chief he is necessarily clothed by the Constitution that invests him with that character with all powers, however great or however minute, that are necessary to the full execution of his office of Commander-in-Chief.

Mr. HOWARD. Does the Senator go further, and include in his definition this: that in the performance of these functions of which he has spoken, the President is absolutely independent of the power of congressional legislation. That is the point to which I desire to call the Senator's attention.

Mr. BROWNING. I will answer that. He is independent of the Congress of the United States, and as much independent of the Congress of the United States as he is independent of a constable in the gentleman's town, only in so far as the Constitution has given Congress control over him, and that control is——

Mr. HOWARD. Very well; then, has the Constitution given Congress any control over him, and if it has given Congress any control, what is that control? Where is the clause in which the Senator from Illinois finds that control expressed or indicated?

Mr. BROWNING. Mr. President, gentlemen must listen very rarely to what I say, or I must express myself in the most ambiguous and unsatisfactory terms imaginable, or they cannot be very willing to understand me.

Mr. HOWARD. I am quite willing to understand you.

Mr. BROWNING. I said in the very beginning of the few remarks I have now submitted that Congress had an absolute control over the President in his conduct of the Army, in this: that it was the function of Congress, and of Congress alone, to raise and support armies; that Congress might refuse to raise an army. In that event, the President would have none to conduct, none to command. It might refuse to support an army after it was raised; and his command would be merely nominal, because the Army must fall to pieces. It might disband the Army after it was raised; and by any one of these acts it may exercise its constitutional and unlimited control over the President and the Army. But, sir, when the Army is raised, when the Army is supported, when it is armed, when we are engaged in war, and it is in the field marshaled for the strife, I deny that Congress, any more than the humblest individual in the Republic, has any power to say to the President, do this or do that; march here or march there; attack that town or attack this town; advance to-day and retreat to-morrow; give up a city to be sacked and burned; shoot your prisoners. Congress has no more power to do that than the humblest individual on this continent has to do it. And, sir, I beg leave to say that, in my humble judgment, those who advocate this doctrine and denounce all who oppose it are the advocates of odious, unlimited, and illimitable despotism and tyranny. There is no such despotism on earth as the despotism of a legislative body.

The Senator asks me, as if I had contended for it, whether the President may say to Congress, "I will not use rifled cannon; I will not use Sharpe's rifles; I will not use improved muskets and bayonets; I will compel my soldiers to fight with old flint-lock muskets, that will do as much injury to the men who fire them as to those they are fired at." He asks me if I contended for that, as if I had given utterance to such sentiments on this floor; for if he did not understand me as contending for such a thing, why ask me the question? Now, sir, let me ask the Senator, does he contend that Congress may to-day pass a law, issue its mandate to the President, telling him to cast into the river all the cannons he has; all the Minie rifles he has; all the muskets and bayonets he has; and arm his men with corn-stalks, and march to the assault of Richmond? Does the Senator contend that Congress can do that? I apprehend not. I should not have insulted his sense by asking such a question, if it were not appropriate to ask it in response to the one he put to me.

The Senator admonishes me to prepare to answer my constituents. Mr. President, there are few men who set more value upon the approval of their constituents and of the public than I do. I go to that tribunal bearing my record with me, without one fear of the consequences that are to ensue to me. But, sir, I desire to say, that anxious as I am for the approval of the American public, there is no amount of popular clamor, there is no amount of incensed prejudice, poured upon me in what torrents it may be, that can or shall control my judgment of my duty under the Constitution, nor swerve me the hundredth part of a hair's breadth from the faithful performance of that duty. If all the people on the American continent should urge upon me to do an act or give a vote which, in my conscience and in my judgment I believed a violation of this sacred charter of our freedom and our rights, I believe—while I claim no more than the most moderate amount of either physical or moral courage—I believe I would surrender myself up to martyrdom before I would be forced to do what I conscientiously believed to be a violation of my oath to support it. The gentleman's threats of popular clamor, his threats of the vengeance of the multitude at home, have no weight, no power in shaping my course in this Senate. I had no intention, Mr. President, of going into any further argument; but there were a few suggestions made to which I thought it necessary that I should make some brief response.

Mr. CLARK. I had purposed to mingle somewhat in this debate; but it is getting to be late in the day, and it is very important this bill should be passed, if it is to be passed at all to-day. I propose, therefore, to defer all argument, and to propose to the Senate, if they will agree to it, to come now to a vote ["Agreed!" "Agreed!"]

The PRESIDING OFFICER, (Mr. ANTHONY in the chair.) The question is on the amendment proposed by the Senator from New Hampshire.

Mr. CLARK. Upon that question I ask for the yeas and nays. I believe they have not been ordered.

The yeas and nays were ordered.

Mr. TRUMBULL. Before the vote is taken on this substitute, it is perhaps due to the Senate that some one should state what the differences are between the amendment and the bill that comes from the House of Representatives; and if no one else proposes to do so, as I have taken some part in these questions, I will try to explain those differences. In doing so, I think it would be well for Senators across the Chamber—who, I understand, have committed themselves in favor of the amendment, not with the view of voting for its enactment into a law, but with a view of getting before the Senate a measure which they hope may be defeated, first voting for the measure as an amendment, and then against the bill—to understand, and that the country should know the character of the measure they propose to vote for as an amendment. They propose to vote for a bill, as an amendment or substitute, entitled "A bill to suppress insurrection and to punish treason and rebellion, and for other purposes." The Senator from Delaware, [Mr. SAULSBURY,] and the Senators from Maryland, probably, though I do not know how the latter intend to vote, will support the amendment which contains a clause for arming the negroes. They certainly do not intend to enact that provision into a law, although they may vote for it as an amendment. The Senator from Delaware, who has spoken with such vehemence against these measures, has no idea of voting to authorize the President of the United States "to employ persons of African descent as he may deem necessary and proper for the suppression of this rebellion, and for this purpose he may organize and use them in such manner as he may deem best for the public welfare." That is a provision in the bill of the Senator from New Hampshire, reported by the special committee of the Senate; and when Senators on the other side of the Cham-

ber vote for it, I want the country to know that they have voted for a measure to arm the Africans.

Mr. WILMOT. They will vote against it afterwards.

Mr. TRUMBULL. Certainly, I expect them to do that. I expect them to vote to put it into the bill, and then vote against it afterwards; but I intend if they do vote for it, that the country shall know that they vote for a measure to arm negroes. There is no such provision as that in the House bill. It proposes to confiscate the property of leading rebels, and nothing else. It does not touch the negro, nor is he referred to in the bill; and those Senators who vote to substitute for that bill a bill that does provide to arm the negroes and to free the negroes under certain circumstances, express their choice by their votes for a bill of that character over the House bill.

I should not have made these remarks but that it seems to be understood that this amendment is be carried by the aid of so-called Democratic votes and the votes of Senators from border States, who are utterly opposed to interfering with the negro.

Another provision of the Senate bill declares:

That the President of the United States, whenever he shall deem it necessary and proper for a speedy and successful termination of the present rebellion, that any personal property, seized by the Army or Navy, and belonging to a person who shall, after the passage of this act, have engaged in rebellion or given aid or comfort thereto, should be confiscated, may cause proceedings *in rem* to be instituted against said property, as in admiralty or revenue cases; and if said property shall be found to have belonged to a person engaged in rebellion, or who has so given aid and comfort thereto, the same shall be forfeited and become the property of the United States, and may be sold or disposed of as the court shall direct.

There, in the eighth section of the Senate bill offered as an amendment is the very proceeding *in rem* to be carried on as in admiralty or revenue cases which the Senator from Pennsylvania [Mr. COWAN] denounced as such a monstrous proposition in the bill from the House; and yet the very clause is in the bill of the Senate. Why, sir, we listened here for half an hour this morning to the Senator from Pennsylvania, not now in his seat, and I am sorry he is not here, denunciatory of this proceeding *in rem* and of its being assimilated to a proceeding in admiralty or revenue cases, and yet winding up with a proposition to vote for the Senate amendment. How is this? We have heard the denunciations of my colleague, the denunciations of the Senator from Wisconsin, [Mr. DOOLITTLE,] and the denunciations of the Senator from Vermont, [Mr. COLLAMER,] against that proceeding *in rem*, which seems to be unobjectionable in the Senate bill. The Senator from Vermont, grave as he is, really made fun of such a proceeding; and yet here is the bill——

Mr. COLLAMER. Is the gentleman making fun of me?

Mr. TRUMBULL. I am replying to the fun of the Senator, not making fun of the Senator certainly. I could not do that. He really made fun and made the Senate laugh about a proceeding *in rem;* and yet, wonderful as it may seem, a committee of which he was a member, whose report I suppose received his indorsement, bring into the Senate a proposition for this very proceeding *in rem.*

Mr. COLLAMER. Not like the other.

Mr. TRUMBULL. Well, it is a proceeding *in rem.* It is like it in that respect. The proceedings are to be as in admiralty or revenue cases, and that is exactly the provision in the other bill. So far as there is any principle in these bills, the principle of authorizing the seizure and condemnation of property by a proceeding *in rem* is as distinctly and clearly in the Senate bill as in the House bill or any bill that has ever been before the Senate.

Now, sir, what is this House bill? I will not read it. I hope Senators have read it. It is a bill relating wholly to the seizure and confiscation of property, and without any reference whatever to slaves, having nothing to do with them. It provides that the property seized shall be condemned by proceedings in the courts. Does not the proposition of the Senate bill do the same thing? All the principle there is in it is, to declare "all the estate and property, money, stocks, and credits and effects of the persons hereinafter named," classifying the persons, shall be confiscated. The bill introduced by the select committee, of which the Senator from New Hampshire has charge, provides for seizing the property of the same classes of persons, in part. They are not altogether the same; and, while I am upon that point, I will mention one particular in which they differ. The Senator from New Hampshire introduces a bill by which he declares that "the property, real and personal, of every kind, including choses in action," of certain classes of persons, is to be confiscated. Among these classes is the following:

Persons hereafter acting as an officer, whether civil, military, or naval, of any *State* or *Territory*, who, by the constitution of the so-called confederate States, is required to take an oath to support said constitution.

I want the Senate to look at that classification. It does not confiscate the property of officers, civil, military, and naval, of the confederate States; but of officers, whether civil, military, or naval, of any State or Territory of the confederate States. I should like to know why that distinction is made. I should like to know why the judge, or the justice of the peace, or the militia captain in Louisiana, under the State of Louisiana, is to have his property forfeited, and why officers under the confederate government, who are fighting you, are not to have their property forfeited. By another clause of the amendment the property of certain of them is to be forfeited, to wit:

Persons hereafter acting as president or vice president, members of congress, head of department, civil officer, judge, foreign minister, or commissioner of the so-called confederate States.

But not the property of persons who act in the military or naval service of the confederate States A captain in the confederate army is not to have his property forfeited by this bill at all. This is the bill that is to be supported in the Senate, and which a combination of extremes—not of extremes, but a combination—is to get voted in as a substitute for the House bill! Is this satisfactory even to the Senator from New Hampshire himself? Does he mean to confiscate the property of a captain in the State of South Carolina, serving in the State service, and not the property of the one serving in the confederate service? I suppose he does, or else he would not have presented the amendment in the shape it is. Is the Senate for it?

There is one other feature that is in the House bill which is not in the Senate bill, and that is the seventh section. That is a section which it seems to me ought to commend itself to the Senator from Kentucky, [Mr. DAVIS,] for he has been contending from the commencement of the session that it was right to take the property of the leading rebels and turn it over to the loyal men. That has been his position, as I understood it. The House bill contains a provision that the property of the leading rebels, which is seized and condemned under it, may be taken to pay the claims of loyal citizens against the disloyal owners of such property.

Mr. SAULSBURY. Will the Senator yield to me a moment?

Mr. TRUMBULL. Certainly.

Mr. SAULSBURY. I was not in the Chamber when the Senator from Illinois commenced his speech, and I have not heard much that he has said; but just coming into the Senate, I have understood that he referred to some remarks of the Senator from Delaware, and that he wants to know whether the Senator from Delaware would vote for the amendment of the Senator from New Hampshire to this original bill; and if so, that before the constituency of the country some responsibility is to be had. I want to say, because I did not hear what the Senator from Illinois said, that if the vote is taken before I am compelled to leave the Senate Chamber, I shall vote for the amendment of the Senator from New Hampshire, not because I approve of the principle of a confiscation bill, for under any and all circumstances I shall vote against any such bill, but because it conforms more to the provisions of the Federal Constitution than the bill of the House of Representatives. I want to ask the Senator from Illinois whether, in the remarks that he made, he meant to say that there was any inconsistency in such a position as I have assumed, and a position which would leave me to vote against any confiscation bill.

Mr. TRUMBULL. I think there is the most glaring inconsistency, and I am very glad to have the Senator from Delaware here. I am obliged to him for asking the question, and except that it will take a little time to repeat, I should be very glad to repeat to him what I said. The bill from the House of Representatives has not a syllable in it about freeing negroes, and does not touch them. The bill of the Senate provides not only for freeing the slaves, but for arming them to fight; and the Senator from Delaware says he votes for it because he prefers it to the House bill.

Mr. KENNEDY. With the consent of my friend, may I ask him a question?

Mr. TRUMBULL. Certainly.

Mr. KENNEDY. I understood the Senator from Illinois to say that the Senators from the State of Delaware and from the State of Maryland had entered into a combination to vote for the amendment, and then against the bill.

Mr. TRUMBULL. The Senator did not understand me correctly. I said I understood the Senator from Delaware would vote for the amendment, and I had not understood how the Senators from Maryland would vote; but I understood, generally, that on that side of the Chamber they would vote for the amendment, and then vote against the bill.

Mr. KENNEDY. With the consent of the Senator, I should like to make a simple remark. As I am about to leave the Chamber, and am obliged to leave for home this evening, I desire to say, in explanation of my vote, that I consider both bills so perfectly odious that, for myself, I have entered into no combination, and shall vote against them both, and all such, and so hope to be recorded.

Mr. TRUMBULL. That is very explicit on the part of the Senator from Maryland, and in my judgment, very consistent.

Mr SAULSBURY. I hope the Senator from Illinois will allow me a moment, because I am circumstanced as my friend from Maryland is—I am going to leave the Chamber. I only wish to put myself right on the record. I shall not trespass more than a moment.

Mr. President, I want every constituent I have in the State of Delaware, whether he is a member of the political party to which I belong or not, whether he is a Democrat, whether he was a Bell and Everett man, or whether he is a Republican, to understand distinctly that I never will vote for the principle of a confiscation bill under any circumstances whatever. I am opposed to every bill that has been introduced into Congress on that subject. But I do say that the bill of the Senate as an amendment to the House bill, is preferable to the House bill, simply for the reason that in its main provisions it conforms to the requirements of the Constitution of the United States, giving trial by jury, and recognizing the issuing of due process according to law. There is the advantage of the bill of the Senate over the bill of the House. If I should be present, I would vote for the bill of the Senate as an amendment; and yet, on the final vote, which ever were adopted, I would vote against any confiscation at all.

I desire to make a remark to the Senator from Illinois. He has appealed to the Senator from Delaware and the Senators from Maryland. I will not say appealed, but he has alluded to them. He says they vote so and so; that the bill of the Senate authorizes the arming of slaves. I want to put a frank question to the Senator. I want to know whether in this great political revolution in which we are engaged he would put arms in the hands of the slaves? Does he make an appeal to the Senators from Maryland and Delaware to vote against the amendment on that ground? Does he mean to say that he is opposed to the principle? I ask the Senator from Illinois to state, in the face of the American Senate, whether, under any circumstances now existing, or, in his imagination, hereafter to take place, he will put arms in the hands of the southern slaves to murder their masters. I wait for an answer.

Mr. TRUMBULL. When I vote in preference and take choice, and say by my vote on the record and to the country that I prefer a bill which has a provision in it to arm slaves, and has the same principle in it in regard to the confiscation of other property as the one I vote to substitute it for, I will stand by my vote and acknowledge that I am in favor of arming slaves. I trust the Senator from Delaware is answered.

Mr. SAULSBURY. I will say to the Senator, I did not hear the answer.

Mr. TRUMBULL. If the Senator asks questions and runs away, I cannot be responsible for his not hearing. I said, when I gave such a vote as he has announced he is going to give, and when

I voted for a proposition as a substitute for another, which substitute had a clause in it to arm slaves, and the bill it was to be substituted for had no such clause in it, I would stand by my vote.

Mr. SAULSBURY. I wish the Senator would allow me one moment in answer to one remark; and I want that distinctly understood. I do not know in what spirit that remark was made. The Senator says if the Senator from Delaware will ask questions and run away, then so and so. I want to assure that Senator that the Senator from Delaware never, under any circumstances, runs away, and if any man thinks so, let him try the experiment.

Mr. TRUMBULL. It seems, unfortunately, I was not heard by the Senator from Delaware. I thought I spoke in an audible tone of voice. I must have been mistaken in supposing the Senator had left the Chamber, then. He was here, but did not hear me. I supposed he had left when he informed me he did not hear my reply.

Now, sir, the House bill, as I have stated, applies only to property, and contains one provision in it not in the Senate bill, in regard to compensation to loyal owners for their losses. The distinguishing feature between the House and Senate bills is this: the House bill provides for confiscating the property of rebels by action directly upon the property. The Senate bill does the same thing in the discretion of the President in certain instances, and in section eight provides for instituting the same proceedings. The Senate bill in that section authorizes the seizing of personal property, and its condemnation by proceedings *in rem*, as in prize or revenue cases, precisely like the House bill, except that it is limited to personal property, and the seizure and condemnation is to be done in the discretion of the President. The House bill acts directly on the property belonging to leading classes. The Senate bill authorizes seizing the property belonging to leading rebels, and then provides for proceeding against the owners of the property seized by bill of indictment, and in case the person indicted cannot be found, then it provides for condemning the property.

The Senator from Michigan [Mr. HOWARD] argued this question so clearly the other day to show that that was unconstitutional, that I need not take up the time of the Senate with it now. I only refer to it to make the point, which is this: that if you treat these persons as rebels, to be tried in the courts according to the course of the common law, you must have the custody of the person before you can try him. He is entitled to a trial by jury, and cannot be proceeded against in his absence. There was certainly great force in the argument of the Senator from Michigan, and I was very much inclined to think that it was unanswerable. It certainly has not been answered as yet. He showed that if you forfeited the property for the non-appearance of the person indicted, it was a clear violation of the Constitution. It will be seen that the Senate bill, in that respect, has nothing to do with the war. The forfeiture is simply by reason of the non-appearance of the defendant. The property is seized for that purpose. The bill makes it lawful "to hold and possess such property for the United States." For what purpose? "To secure the appearance of the offender to take his trial and abide such punishment as shall be adjudged against him." That is the purpose for which the property is seized; to secure the appearance of the offender.

Then the bill provides that if the offender does not appear, the property shall be sold for the benefit of the United States. Now, can you do that? If you can do that in this case, you can do it in any other; no matter whether a rebellion is in existence or not, Congress can provide by law that if any person who is indicted for any criminal offense fails to appear and answer the indictment, they may proceed to condemn his property for his own non-appearance. Is that constitutional? No one has shown that it is; and even if it were constitutional, there is so much machinery about it—in the first place, the necessity for this indictment, which would only be found in few instances—that scarcely any property would ever be reached under this bill. You can only indict a man in the district where the offense is committed. Let me put a case. Under the Senate bill you could not forfeit the real estate of John Slidell in the State of Illinois. He owned a short time ago forty thousand acres of land in my State, worth, perhaps, $100,000. Could you ever reach it under the Senate bill? You cannot indict John Slidell in the State of Illinois. I do not know that he was ever there in his life. How are you going to reach that property? Will you indict him in Louisiana, and have the return of *non est* in that State evidence of the fact in Illinois? That would be very troublesome, if it could be done at all. I doubt whether the bill could bear that construction, and whether you could under its provisions condemn any other property than that situated within the district where the man was indicted; and if so, you never could touch the real estate held by John Slidell in the State of Illinois. Could you do it under the House bill? Clearly you could. You would institute a proceeding against the property under the House bill, and condemn the property on showing satisfactorily to the court that John Slidell was one of the persons designated in the act; that this property belonged to a person who had acted as a foreign minister or commissioner for the confederate government. That would authorize the condemnation; and hence the advantage of the House bill over the Senate bill.

I am aware that the House bill is to be followed by another bill which does relate to the subject of negroes. The bill under consideration does not. The question here is on substituting the Senate bill for the House bill which is now pending. There is another bill on the table relating exclusively to the emancipation of the negroes of rebels, but it is not now under consideration, and it is unnecessary to speak of it. The direct question is between those two bills. Friends around me are urging that we should have a vote; I do not wish to prolong the discussion. I merely wish to say sufficient to show to those who have thought proper to pay attention to what I was saying, the distinction between these bills; and that those Senators and the country might understand the object of Senators, who, like the Senator from Delaware, vote to substitute the Senate bill for the House bill, with the view of defeating any confiscation whatever. That is not my object. I want an efficient confiscation bill. I want to make these traitors contribute to pay the expenses of their treason. I want a bill, too, that will free the slaves of rebels.

If the Senator from Delaware desires to know my views in regard to the employment of negroes, I have no objection to giving them. When a negro rushes in to save the life of my brother or my son from the bayonet of a traitor against this Government, and knocks up the weapon that is aimed at his life, I will say "God speed" to the negro, and I will encourage him to do it again. Sir, no traitor shall come and murder my child or my brother or any soldier of my State or my country, who is fighting for this Union, with my consent. If there is a negro or anybody else in God's world that has got an arm to strike him down, I will say "strike." I care not who it is. If the Senator asks me whether I will arm negroes in insurrection to murder their masters, I say, I will disturb no slave masters at home; but if the master of the slave comes to destroy this Government, to murder Union soldiers, I will put a gun in the hands of his negro to shoot him. That is my feeling about it. I would resort to all the means that God has given us to put down this rebellion.

It was not any appeal to Senators on the other side that I was making. I wanted the country to know why it was that certain Senators proposed to substitute the Senate for the House bill: that they did it in order to defeat confiscation. I wanted to bring it out, as I have brought it out by the avowal of the Senator from Delaware, that his object in substituting the Senate bill was to get something less efficient than the House bill, and that he intended to oppose any and all confiscation. If a majority of the friends of confiscation are for any particular bill, I shall unite with that majority to pass it, unless I believe it unconstitutional.

I wish to say a word on that subject. Those gentlemen who make such loud professions of devotion to the Constitution are no truer friends to the instrument than those who say less about it. There is a difference of opinion in the Senate as to what is constitutional. Senators who have thought proper to denounce the provisions of the House bill as unconstitutional are advocating a substitute which contains precisely the same principle. They seem to arrogate to themselves particular devotion to the Constitution, as if, *par excellence*, they were its only defenders. They tell us they are not to be swerved by the feelings of the people at home or anywhere else. Sir, I have great respect for the opinions of the people. I believe that the judgments of the great mass of the people are apt to be right, upon constitutional as well as other questions; and when I find myself differing with the great body of the people of this American Republic, I am ready to reëxamine my opinions, and see if I myself am not in error. I am moved to a reëxamination of my views when I find I am running counter to the men who have gone before me, to the men who made the Constitution, to the men who have commented upon it, and to the men of my own day. Though I trust I would stand as firmly as any other Senator by what were my fixed and settled convictions of the Constitution, I certainly would reëxamine them when I found that the masses of the people understood the instrument differently from what I did.

In regard to the doctrine which has been advocated here in favor of prerogative, in favor of absolute power in the hands of the President, under the name of Commander-in-Chief, to my mind it is the most dangerous doctrine ever advocated under a constitutional Government. Sir, the opinions that have been advanced here in the Senate are worse by far than those of Hamilton and others of his day, who wanted a monarchy for our executive head. Old Federalism never began to claim for the Executive the powers that have been claimed for him by Senators in this debate. Because he is Commander-in-Chief by the terms of the Constitution, is he therefore Commander-in-Chief to do as he pleases? How is he Commander-in-Chief? Commander-in-Chief to execute the laws as the laws are made. You, sir, [Mr. ANTHONY in the chair,] are now the Presiding Officer of this Senate; the Vice President when here, is, by the Constitution, the Presiding Officer of this body. Can he preside as he pleases? Some one says, "yes; he will preside as he pleases." We can adopt rules to tell him how he shall preside, and he will preside acccording to the rules we prescribe for his government. The President of the United States is Commander-in-Chief of the Army, and we cannot appoint any other than he because the Constitution has appointed him. But, sir, how will he command the Army and the Navy? According to the law that we prescribe. The President of the United States is sworn to see that the laws are faithfully executed. How will he see that a law is faithfully executed? By executing it in the mode and the manner that the law directs. We authorize the borrowing of $100,000,000. We prescribe the terms upon which it is to be borrowed. Has the President of the United States authority to borrow it in any other way? Sir, he is Commander-in-Chief to act according to the regulations prescribed by Congress; and he has the same powers and none others than if he were appointed Commander-in-Chief by act of Congress, except that being appointed by the Constitution he cannot be removed. Suppose there were no Constitution; that we were acting under the old Articles of Confederation, or before the Articles of Confederation were formed, and the Congress of the Colonies appointed a commander-in-chief. He would have the same authority that the President of the United States now has as Commander-in-Chief. The difference would be that the power that appointed him could remove him in that case; we cannot remove the Commander-in-Chief of the Army and Navy, because he is appointed by the Constitution; we cannot substitute another in his place, but he has no greater powers than if we could. That is the only limitation upon us. He is just as much subject to our control as if we appointed him, except that we cannot remove him and substitute another in his place. This question has been so clearly demonstrated by the Senator from Michigan that it would be a work of supererogation for me to add anything to what he has said. I thank him for that speech to-day, for the historical research it displayed, and for the convincing power with which he presented his views to the Senate.

Sir, I repudiate this whole doctrine of uncontrollable power in the President as dangerous to republican institutions. We are in danger from the precedent we are now setting. What was said by the Senator from Michigan may become mat-

ter of history, and I fear will, if we go on as we have been going. Why, sir, what have we seen? We hear of military Governors appointed; and we hear it justified—justified on the floor of the Senate. Are the representatives of States, sent here to look after the interests of the country, and clothed with great powers under the Constitution, to abdicate their powers? The Constitution of the United States says that all officers shall be appointed by the President of the United States, by and with the advice and consent of the Senate, except Congress may by law vest the appointment of inferior officers either in the President or in the heads of Departments; and yet what do we hear? We hear of a military Governor in North Carolina? Has his name been sent to the Senate? Was he appointed by the advice and consent of the Senate? No, sir. Is there any law of Congress vesting the power in the President to appoint a military Governor in North Carolina? I believe it was the Senator from Connecticut [Mr. DIXON] who advocated that right. Sir, the President can no more make a Governor of North Carolina than the Senator from Connecticut; no more than the most obscure citizen in the State of Connecticut. It is wholly without constitutional authority.

Sir, let me not be misunderstood. Where an army marches, the army may exercise control; but how? Through its army officers, appointed by and with the advice and consent of the Senate. General Hunter, as a general constitutionally appointed, may exercise powers where he is. Mr. Stanly, the Governor of North Carolina, if a military officer appointed by the advice and consent of the Senate, may act in keeping order in North Carolina; but, sir, can Mr. Stanly, as a citizen without office, be made a Governor of a State by the President? Does the Senator from Connecticut contend for that? Does the Senator from Connecticut insist that the President can at will, without the consent of the Senate or the sanction of law, create an office so important as that; one which, in its consequences, may shape this whole struggle?

Mr. DIXON. The Senator asks me the question. Does he desire a reply?

Mr. TRUMBULL. I shall be glad, if there is a reply, to hear it.

Mr. DIXON. I am very glad the debate has taken this shape, and in a few moments I will state my peculiar reason for expressing that gratification. What I said was this. Perhaps the shortest way would be to read it. I now read from what I said, as reported in the Globe:

"I took the ground that this being now a war, and the President being Commander-in-Chief of the Army and Navy, and having a right to command the Army, he might, in a region of country which he had conquered, the individuals of which were at war with the United States, appoint a military Governor over those people. I said I thought he ought not to call that military Governor a Governor of Louisiana, or a Governor of North Carolina. He does so, and there I think he is in error; although that is verbal, merely technical. I do not consider Mr. Stanly Governor of North Carolina. I do not think the President had any power to appoint him Governor of North Carolina. I think he has power to appoint him over the subjugated portion of that territory included within those limits. Governor of whom? Governor of the public enemies whom he has conquered."

That was the position I took. Now, it must be understood that this is in the absence of regulation by Congress—not in violation of regulation and law by Congress, but in the absence of regulation.

The Senator from Illinois has, at last, unmasked himself as an opponent of this Administration. I am glad he has done so. I wish him to stand before the people of the United States as an opponent of the Administration of Abraham Lincoln. I have thought for some time that he was an opponent of the Administration. He says that the President of the United States has no power to make this appointment; that he has made an appointment of a military Governor which is an encroachment on the Constitution of the United States. If so, he is liable to impeachment. I take it, that to usurp powers, and to appoint officers not authorized by the Constitution is, possibly, an impeachable offense, at any rate it is a very gross misdemeanor. The Senator says the President has no power to do it; he says, it is true, a military officer may appoint a Governor.

Mr. TRUMBULL. Oh, no.

Mr. DIXON. Did he not say so?

Mr. TRUMBULL. No, sir.

Mr. DIXON. I so understood him. I should like to ask him under what authority General Butler in New Orleans has appointed a Governor of that city, to control it and govern it. How does he justify it? He says that I have advocated the doctrine that the President may appoint a Governor of North Carolina. I expressly said he could not appoint a Governor of the State of North Carolina, but that he might appoint a Governor of that conquered district or territory, or rather of the people, the public enemies who were making war against the Government of the United States. That was the position I took, and now the Senator from Illinois, standing here in the relation he does, takes this position with regard to the Administration of President Lincoln, and I am myself gratified that he does so.

Mr. TRUMBULL. I am always exceedingly sorry to take away the means of gratification from anybody. I like to see people happy and gratified, and the Senator from Connecticut is so rejoiced to find me in opposition to the Administration, that I am almost disposed to be silent and not correct his misapprehension, lest I destroy his satisfaction; but I shall be compelled to do so.

Mr. SHERMAN. Will my friend from Illinois give way to a motion for adjournment?

Mr. TRUMBULL. I shall finish what I have to say in a few minutes. I shall be compelled, although it is a little unpleasant, to disturb the comfortable feeling which the Senator from Connecticut has got into at finding that somebody is against the Administration! How it must delight his honest heart to find opposition to it! He is perfectly rejoiced to find somebody opposed to it. That is the way he manifests his love for it. People who do not understand the Senator as we do, would think he was not much for the Administration when his honest heart was delighted to find somebody against it!

But, Mr. President, I shall not be diverted from the question by any assault of that kind. I am too well understood in the country, by my constituents at least, to make it necessary that I should occupy the time of the Senate in refuting any such assumption. Sir, when it becomes necessary that I should bend the pliant hinges of the knee to anybody, approve everything that is done, whether right or wrong, and play the courtier, my character will have to undergo a transformation. And I know enough of the Chief Magistrate of the United States. I know enough of honest Abraham Lincoln to know that he will not regard as his truest friends men who play the courtier and swear that everything he does is right. He, sir, is honest enough, and great enough, and talented enough, to know that he is not perfect, and to thank his friends, and his true friends, who rally around him in this hour of trial and honestly suggest to him, when they believe such to be the fact, that some measures that he has adopted may not be the wisest. He will think better for a man who has the candor and the honesty to do it, than he will of the sycophant who tells him, "all is right that you do, and you cannot do wrong." Sir, he is no believer in "the divine right of kings," or that a Chief Magistrate can never do wrong. He is a believer in the intelligence of the people, and knowing his own fallibility, is not above listening to their voice.

Now, sir, the Senator from Connecticut, if he had been as ready to understand what I said as to rejoice that I was opposed to the Administration, if his zeal had been as sharp to understand as it was to place me in a false position, would have known that I did not say that a general could make a Governor of a man in civil life who held no office. General Butler in New Orleans may detail a colonel or a captain, or any officer under his command to keep order; President Lincoln may detail Andrew Johnson, a brigadier general in the Army of the United States, to keep the peace of Nashville; but what says the Constitution of the United States? It says that the President "shall nominate, and by and with the advice and consent of the Senate shall appoint, embassadors, other public ministers and consuls, judges of the Supreme Court, and all other officers of the United States whose appointments are not herein otherwise provided for, and which shall be established by law." All not provided for and which shall be established by law are to be appointed by and with the advice and consent of the Senate; "but the Congress may by law vest the appointment of such inferior officers as they think proper in the President alone."

Now, let me put a question to the Senator from Connecticut, and see where he stands, and whether he will stand up here in the American Senate, in the face of the American people, and say that the President has the right to make an officer without the advice and consent of the Senate, or without authority of law? Let him answer it.

Mr. DIXON. When the Senator is through, I will endeavor to answer.

Mr. TRUMBULL. I think he had better wait. I would like an answer to that question.

Mr. DIXON. The Senator asks me, if I understand him, whether the President has power to violate the Constitution. That is the amount of his question, whether he can appoint an officer in opposition to the requirements of the Constitution.

Mr. TRUMBULL. Without the advice and consent of the Senate.

Mr. DIXON. Of course he cannot violate the Constitution. That is the form in which the Senator put his question.

Mr. TRUMBULL. He cannot!

Mr. DIXON. The Senator asked me, if I understood him, whether the President of the United States may appoint an officer, as he read from the Constitution, in express violation of the language of that instrument, and wishes me to answer yes or no. I say no, of course. If he considers that a triumph, he is welcome to it.

Mr. TRUMBULL. Now, I will not rejoice that the Senator is in opposition to the Administration. I do not suppose he is. I think he has evidenced enough that he does not mean to be in opposition to the Administration let what will happen; and I would not rejoice if he was. I want his support.

Mr. DIXON. I have not said that I rejoiced that you were.

Mr. TRUMBULL. Well, I misunderstood the Senator if he did not say that he was rejoiced. I understood him to say so; but if he did not say so, I am very glad of that. Then, sir, I take it, it is admitted even by the Senator from Connecticut that the President has no right to make an officer without the advice and consent of the Senate, except it should be an inferior office which a law of Congress had authorized him to make a without the advice and consent of the Senate; and it is not pretended that there has any advice and consent of the Senate been given to the appointment of Mr. Stanly. It is not pretended that there is any law giving the President authority to appoint Mr. Stanly. The Senator from Connecticut does not pretend it. There is no such statute. If he says there is, let him produce it.

Mr. DIXON. I understand the Senator from Illinois to take the ground that the President has appointed Mr. Stanly military Governor of North Carolina. That I believe he charges. I came into the Senate while the Senator was speaking, and he turned and addressed me, and said that I was the advocate of the doctrine that the President had a right to commit this enormity. He said that the President had appointed a military Governor in Tennessee and a military Governor in North Carolina, and then he went on to read the Constitution to show that it was in express violation of the Constitution. But he says he is no opponent of the Administration; he is a friend of honest Abraham Lincoln, who has committed this vile enormity. He calls me to account here for justifying it; he calls on me to state whether I justify what the President has done; he summons me before the Senate to answer categorically whether I am willing to assume the guilt of justifying that course of conduct, and then——

Mr. HALE. I rise to a question of order. The 2d rule of the Senate provides that "no member shall speak to another, or otherwise interrupt the business of the Senate, or read any newspaper while the Journals or public papers are reading, or when any member is speaking in any debate." I see my friend from Iowa [Mr. HARLAN] reading a newspaper. [Laughter.]

The PRESIDING OFFICER, (Mr. ANTHONY.) The Senator from Iowa will consider himself called to order. The Senator from Connecticut will proceed.

Mr. DIXON. The Senator from New Hampshire the other day complained because I objected that he had raised a point of order with a view of

interrupting proceedings and to evade some other rule. I will not charge him with it now. Whether his course with regard to that was proper is for him to judge. Whether it was proper for him to interrupt me at this time it is not for me to say. The Senator knows how I came to be on the floor. He knows that the Senator from Illinois made a direct appeal to me——

Mr. HALE. I did not call the Senator from Connecticut to order.

Mr. DIXON. I know that; but the Senator rose to a point of order while I was speaking, and read the 2d rule, with what view I leave the Senate to say; I do not wish to say a word about it. He probably thinks it was from a proper motive. If I had done it, I should have said it was improper; but he is so much better a judge of propriety than I am, that I am compelled to suppose it is proper.

Now, sir, let me remind that Senator and the Senator from Illinois how it came that I was addressing the Senate at this time. As I was saying, the Senator from Illinois charged me with being the advocate of the slavish doctrine that the President of the United States could appoint military Governors of the States; he read the Constitution to show that the President had no power to appoint them, and then he called on me to know whether I approved it, to give a categorical answer, "yes" or "no." Although the Senator alludes to my "honest heart" in my gratification at seeing him opposed to the Administration, he says honest Abe has done all this, honest Abraham Lincoln has done all this, and yet he is no opponent of his! Oh, no! Mr. Lincoln likes such attacks as these! It is a proof of friendship to rise in the Senate of the United States and say that he has appointed two or three military Governors of States without the slightest authority in the Constitution—a thing which has excited, I may say, the ire of the Senator from Illinois. He certainly has expressed himself very warmly; he has wrought himself up to a degree of indignation, compared with which the equatorial storms are gentle zephyrs, in denouncing this encroachment of the President of the United States, and denouncing me for sustaining and defending it; and still he says he is the friend of the President in all this, thinks he has done honestly, and I do not know but thinks he has done right.

Now, then, one word more, for I will only take a few minutes' time. The Senator says that I said I was glad that he was in the Opposition. I doubt whether I said that. I am not glad of it. I want the powerful aid of that Senator in support of the Administration. I said, or I meant to say, that I would rather he would be openly in opposition to the Administration than be a secret pretended friend who would stand up here claiming to be a friend of Abraham Lincoln, and at the same time denounce him as having been guilty of this encroachment upon the Constitution. If there is to be an opposition to the Administration, I desire it to be open and manly. I confess I do dislike to see men who pretend to be friends of an Administration attack in violent, angry language the course of that Administration. Why, sir, this is about the most important thing President Lincoln has done. It is a very important step which he has taken. He has taken one of our number, a distinguished patriot—I may call him by name, for his name is historical—Andrew Johnson, of Tennessee; he has taken him from our number and made him military Governor of Tennessee. Sir, if he has done anything since he has been President of the United States for which he has the thanks of the American people, it is that act. I justify it. I will not mouse around in the records of the Constitution, or among dry and dusty law books to see whether that was a justifiable act by constitutional law. Still, I will say that I believe it was; but I am unwilling, and I acknowledge it, to see a Senator stand here, claiming to be a friend of the Administration, and a friend of the President, denouncing those who sustain him as sycophants, and at the same time use the language which he did with regard to this act. Sir, I need not remind the Senate with what fierceness I might almost say ferocity, the Senator attacked this act of the President. When I came in a few moments ago, my attention was aroused by the excited state of that Senator's mind. His gesticulation was violent, his voice was loud, his tones were angry, because the President of the United States had encroached upon the Constitution, had committed acts which he had no right to commit, and had appointed officers, the appointments of whom were acts of usurpation. Well, sir, he then turned upon me, and said that I had defended it. It is true I had. I think it was right. I do justify it. As I have already said, they were acts which the people of the United States will justify. I think the President had the right to do it. I explained in my remarks yesterday that I thought there was possibly a defect in calling him Governor of North Carolina or Tennessee; but I said I thought that was a technical point.

Now, sir, with regard to any feeling upon this subject for myself, I have none at all. The Senator attacked me, as I thought, pretty severely. I defended myself as well as I could. That is all.

Mr. TRUMBULL. I did not expect that the Senator was going to interpolate a speech into what I was saying when I gave him the floor; but I am glad he has talked himself into good humor. So much, at least, has been accomplished.

I alluded to the appointment of a Governor in North Carolina as an illustration of the danger of claiming unwarranted powers for the Executive. If the Senator from Connecticut had listened to me he would have known that I was denouncing this assumption of unlimited power for the President. I was not denouncing what Mr. Lincoln had done. I was endeavoring to show that these advocates for prerogative and despotism in the President were advocating a doctrine dangerous to constitutional liberty. I had said, upon a former occasion, that I apprehended no danger from the present Chief Magistrate of the nation; that he was not a man to assume unwarranted power.

Mr. DIXON. You say he has done it.

Mr. TRUMBULL. By way of illustration, to show the danger of powers being assumed which ought not to be exercised, even by men the least disposed to claim unwarranted authority, I alluded to this instance of the appointment of Mr. Stanly as Governor of North Carolina. I think there is no authority for it. The case of Andrew Johnson is not similar. I have not alluded to it. The Senator must know that he was appointed a brigadier general by the President, and confirmed here in the Senate, for the very purpose of exercising authority in connection with affairs in Tennessee.

Mr. DIXON. Is he not acting as military Governor?

Mr. TRUMBULL. I suppose he is acting as military Governor.

Mr. DIXON. Has he not a commission as such?

Mr. TRUMBULL. I do not suppose he has any other commission than that of brigadier general.

Mr. DIXON. I suppose he has the same as Governor Stanly. In point of fact, I think you will find he has.

Mr. TRUMBULL. Let me not be misunderstood; I do not deny the authority of a commanding general anywhere to assign one of his officers to police duties; but he cannot make an officer out of a person holding no official position; and it was in order to illustrate the danger of this claim set up in favor of presidential prerogative that I referred to the North Carolina case. I do not suppose that Mr. Lincoln nor any other mortal man is omniscient. Omniscience does not belong to mortals. I have no apprehension of getting myself in hostility to the President or raising any unfriendly feeling between him and myself, because I tell him frankly, as I should if I had conversed with him on this subject, that, in my judgment, it was unwarrantable for him to appoint any man to an office when there was no law creating the office, and it was not done by and with the advice and consent of the Senate; but I recognize his right to detail officers already in the public service to perform public duties. I recognize his right to employ marshals to perform duties, but he cannot make a marshal without the advice and consent of the Senate.

Mr. DIXON. If the Senator will permit me a moment, I will correct one error of fact. I am informed that Andrew Johnson has precisely the same commission, in the same language, that has been given to Governor Stanly, and has never qualified under his appointment as brigadier general at all.

Mr. TRUMBULL. If that is so, if he is not acting under the authority that was given here, I think that is a mistake. He ought to act under his authority as brigadier general. He has authority to act as such; he was nominated and confirmed as such. We all know that; and in that capacity he undoubtedly could act.

Mr. DIXON. If it was so proper for the President to do this, why was it so heinous an offense for me to justify it?

Mr. TRUMBULL. The Senator certainly misunderstands me. I do not say it was proper for Andrew Johnson, except in his capacity as an officer in the Army, to do it.

Mr. DIXON. I speak of the President appointing him.

Mr. TRUMBULL. I say that, in my judgment, it was wrong in the President to authorize him to exercise any power as an officer, except by virtue of his office as brigadier general.

Mr. DIXON. The Senator denounces me for justifying what he sustains the President in doing.

Mr. TRUMBULL. I do not justify the President in doing it. Is the Senator from Connecticut not willing to understand me? I say I think it is a mistake on the part of the President and a mistake on the part of the Senator from Connecticut. Can he understand that?

Mr. DIXON. The Senator denounced it as a heinous offense on my part before. Now it is only a mistake.

Mr. TRUMBULL. I denounced it as a heinous offense on the part of the Senator from Connecticut to get up here and justify unwarranted assumptions of power. I think the President himself will be glad to divest himself of the exercise of this power, and I want the Senator from Connecticut to act with me to-morrow, if he will, and pass a law authorizing the President of the United States to appoint governors and judges and the other necessary officers in the rebellious districts that are reduced to subjection to the Constitution and the laws. I want his help to pass the bill introduced by the Senator from New York, [Mr. HARRIS,] and reported, and lying upon your table, to give this authority. I hope, when the bill comes up, we shall not have the Senator rising here and denouncing it as an attack on the President. I have no doubt we shall have the coöperation of the President in passing that law, and I have no doubt, when the bill is passed, he will sign it cheerfully, and regret that it was not passed earlier.

But, sir, I am not to be drawn into a discussion in regard to the President. I did not bring Mr. Lincoln into this discussion; but he has been thrust in by the Senator from Connecticut. My argument, so far as I have made any, has gone to show the danger of claiming these powers for the Executive, without reference to who, for the time being, fills the office. It is just as dangerous to claim these high prerogatives as belonging to the office at one time as another. The principle is as dangerous, though the exercise of the power may be much less likely to occur under one President than under another; and I think it would be very unlikely to occur to any considerable extent under the present Chief Magistrate. I know, sir, and the President will tell the Senator from Connecticut so, if he will ask him, that he was compelled, in the earlier stages of this rebellion, to exercise authority not warranted by law. I justified him. Before Congress got together, it was necessary to do something to save the Government; but when we came together, clothed with power to give him all the authority requisite to administer the Government, and to put down the rebellion, I say the fault is on the Senator from Connecticut, and on myself, and on all of us, if we do not pass the proper laws.

Mr. DIXON. The Senator says that before Congress came together he justified the President in taking certain steps in violation of law, or rather without law, to preserve the country in its then condition. I suppose that was one of the instances in which he showed his—I will not say friendship for the Administration, but that was one of the modes that he adopted in supporting it, for what was one of the first things he did here at the commencement of this session? About the very first thing that Senator did was to introduce a resolution calling on the Administration to inform the country under what law certain acts had been performed which he says now he justified.

Mr. TRUMBULL. No, sir; I did not say I justified them.

Mr. DIXON. The Senator said, within a very

few moments, that up to the session of Congress he justified the President in the course he took without law. I think the record will show it.

Mr. TRUMBULL. The Senator from Connecticut, I suppose, does not mean to misrepresent me.

Mr. DIXON. Certainly I do not.

Mr. TRUMBULL. I did not say that I justified the President in the course that he took. I said that I justified the President in doing certain things, without naming them. But Congress met in July last, and then could give the requisite authority. I never justified the President in doing things that were unnecessary to be done, and I trust the Senator from Connecticut would not.

Mr. DIXON. I think the distinction is not very broad. The Senator said that certain things were done that were in violation of law——

Mr. TRUMBULL. No.

Mr. DIXON. Or rather without law; illegal acts, which he was in favor of up to the session of Congress. That, I think, he has just stated. As I said before, when Congress met, the first thing that Senator did to show how he justified those acts was to introduce a resolution asking the Administration to show under what law these acts had been committed. I took occasion to oppose the resolution of the Senator at the time; I took ground in opposition to his then view; I thought he was wrong then; and if the Senator would not be offended at my saying so—perhaps it would be better not to say it, but I cannot avoid saying that I thought at that time his course was not remarkably friendly, though, perhaps, he so intended it, because he has rather a peculiar mode of showing friendship to an Administration, rather by opposing some of its measures than any sycophancy in approving what it has done.

He says that both he and I have been in fault, that we ought to have acted, that we ought to have passed laws which would have enabled the President to act. Now, I will thank the Senator to confess for himself. I am not chairman of the Judiciary Committee. I do not hold that responsible position. No bill was presented to the Senate and referred to me four months ago for this very purpose. I have not slumbered in quiet four months over a bill which the Senator says he and I ought to have passed. He has had it in his pocket for the last four months. He reported it about a week ago. Has he ever called it up? Has he ever attempted to furnish the President of the United States with the legal means of doing what he now says the President has done illegally. I do think that if any Senator's mouth is closed on this subject, if there is a Senator here who ought not to assail the President of the United States for appointing military governors in any of the States, it is the honorable Senator from Illinois, chairman of the Judiciary Committee, who has had that bill in his pocket for the space of four months past.

But he thinks that this denunciation of his of the course the President has pursued is a mode of showing friendship to the Administration. Well, sir, perhaps I did wrong in alluding to it. As I said before, I have no feeling, certainly none but kindness to the Senator from Illinois; but that Senator, as I have already intimated, as I have thought in an improper, in an angry tone denounced what I had said. Perhaps it was only his manner. I know the Senator is earnest in his talk; perhaps it was only earnestness; but in what seemed to me an angry and offensive manner, turning round and pointing directly to me, he charged me with having justified assumptions of authority not authorized by the Constitution of the United States.

Mr. KING. I move that the Senate adjourn.

Mr. TEN EYCK. I call for the yeas and nays.

The yeas and nays were ordered.

Mr. FESSENDEN. I ask my friend to withdraw the motion for a moment, and I will renew it.

Mr. KING. The hour is late, and we are without a quorum. That is the reason I made the motion to adjourn; but I withdraw it.

Mr. FESSENDEN. I do not design to say anything on this subject; but I wish to say to the Senate and to gentlemen who are desirous of passing the confiscation bill, that I shall be compelled, if this debate goes on, to interrupt it, and move that the Senate proceed to the consideration of the appropriation bills. I shall be obliged to do so for this reason, not that we have fixed a day for adjournment, but because I have become entirely satisfied that unless we finish the absolutely necessary business of the session within a few days, we shall be without a quorum. One of the Senators from Minnesota has left; I believe one of the Senators from California has left; and I am warned by other Senators that they will have to leave before many days. I hope, really, that within a very short period, after the repeated debates we have had on this subject, gentlemen will let us come to a vote pretty soon. It is not, of course, for me to dictate when. I make this suggestion merely with reference to what will be exceedingly unpleasant to me if I am compelled to do it, and that is to interrupt the course of business on this bill by bringing forward another bill. I now renew the motion to adjourn, as I promised to do.

Mr. TEN EYCK. I called for the yeas and nays, because I believe there is a quorum in the Chamber or about the Chamber, and because I want to have a vote on this important measure; and if there be not a quorum here, I want to have it appear on the record who are absent.

The PRESIDING OFFICER. The yeas and nays have been ordered.

Mr. KING. Not on this motion.

The PRESIDING OFFICER. On the motion to adjourn.

Mr. KING. That motion was withdrawn. They may be reordered on this motion.

Mr. LANE, of Kansas. I hope we may reach a vote on the confiscation bill.

The PRESIDING OFFICER. It is moved that the Senate adjourn. It is not debatable.

Mr. LANE, of Kansas. I do not propose to debate it, but merely to notify the Senate that I shall be compelled to leave the city in a very short time, and I do not want to leave the Senate until the confiscation and emancipation bills are passed; and I should like to have a vote this evening if we can get it.

The question being taken by yeas and nays, resulted—yeas 18, nays 13; as follows:

YEAS—Messrs. Anthony, Bayard, Browning, Chandler, Davis, Harlan, Harris, Henderson, Howard, King, Lane of Indiana, Powell, Stark, Sumner, Trumbull, Wade, Wilkinson, and Wilmot—18.

NAYS—Messrs. Clark, Cowan, Dixon, Doolittle, Fessenden, Foot, Foster, Lane of Kansas, Nesmith, Pomeroy, Ten Eyck, Willey, and Wilson of Missouri—13.

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

HOUSE OF REPRESENTATIVES.

FRIDAY, *June* 27, 1862.

The House met at twelve o'clock, m. Prayer by the Chaplain of the Senate, Rev. BYRON SUNDERLAND.

The Journal of yesterday was read and approved.

MESSAGE FROM THE SENATE.

A message was received from the Senate, by Mr. FORNEY, its Secretary, notifying the House that that body had passed a bill (S. No. 336) for the further distribution of public documents; in which he was directed to ask the concurrence of the House; and also that it insisted upon its amendments to bill of the House No. 371, to prescribe an oath of office, and for other purposes, disagreed to by the House, and agreed to the conference asked, and had appointed Messrs. TRUMBULL, DAVIS, and KING the managers of said conference on its part.

LOSS OF UNITED STATES VESSELS.

The SPEAKER laid before the House a communication from the Secretary of the Navy, transmitting, in compliance with a resolution of the House, official reports of the wreck of the transport steamer Governor and of the search for the United States ships Vermont and Sabine; which were laid upon the table, and ordered to be printed.

EXPENSES OF SELECT COMMITTEES.

The SPEAKER also laid before the House reports from the Clerk and Sergeant-at-Arms of the House, transmitting, in compliance with an order of the House, the desired information relative to the expenses of select committees; which were laid upon the table, and ordered to be printed.

CORRECTION OF THE JOURNAL.

Mr. HOLMAN. I rise to a question which affects the Journal of the House. Yesterday a resolution was adopted in reference to certain information to be furnished by the Secretary of the Interior in connection with the pension roll. In order to avoid unnecessary trouble in that Department, that resolution ought to be considered as a substitute for the resolution of the House adopted on the 16th of this month. I move, by unanimous consent, the Journal be corrected in that regard.

Mr. HOLMAN's resolution was then so amended, by unanimous consent, as to provide that the information called for should be in lieu of that desired in the resolution of the 16th of June, 1861.

ADDITIONAL POST ROUTES.

Mr. COLFAX. I now withdraw the motion which I made yesterday to recommit the bill to establish additional post routes, and to ask that it be put on its passage. I have some additional routes to add to the bill which I move as one amendment.

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

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

The latter motion was agreed to.

INDIAN TRUST BONDS.

Mr. EDWARDS. I ask the unanimous consent of the House to report from the Committee on Indian Affairs a bill relating to the trust funds of several Indian tribes invested by the Government in the State bonds abstracted from the custody of the late Secretary of the Interior, in order that it may be ordered to be printed.

Mr. HOLMAN. I do not object to the bill being introduced and referred, with the understanding that it is not to be brought back on a motion to reconsider.

The bill was received, read a first and second time, recommitted, and ordered to be printed.

REBELLION LOSSES.

The regular order of business being called for,

The SPEAKER announced the regular order of business to be the consideration of the bill (H. R. No. 401) relating to claims for the loss and destruction of property belonging to loyal citizens, and damages done thereto by the troops of the United States during the present rebellion; upon which the gentleman from Kentucky [Mr. WICKLIFFE] was entitled to the floor.

Mr. STEVENS. Unless there is some good reason to the contrary, I would like the House to go into the Committee of the Whole on the state of the Union and pass the tariff bill.

Mr. WICKLIFFE. I want the House to consider and pass a bill for the relief of loyal men who have been ruined by the Army. The gentleman from Pennsylvania can get his measure through at any time. The gentleman from Missouri, [Mr. NOELL,] has appealed to me to yield him the floor to finish his argument on this bill, and I very cheerfully do so.

The SPEAKER. The gentleman from Missouri was entitled to the floor, and not being present, the floor was assigned to the gentleman from Kentucky.

Mr. NOELL. Mr. Speaker, when this proposition was under consideration the other day, I remarked that I believed that the sense of justice of the House would secure to the persons for whose benefit this proposition was reported some means of compensation for their more than due proportion of the burdens for suppressing this rebellion. I had also remarked that the question for us now to consider was as to the mode and means of accomplishing this object.

There are several means by which the compensation can be reached. First, as I before remarked, we may consider the means in the committees of Congress and in Congress—that they may pass upon these claims, as has been the practice with all claims ever since the beginning of the Government. To this mode of compensation there are several objections.

First, there never will be an end of these claims against the Government if the claimants are to assert them here, and they are left to the discretion of Congress, with no machinery provided by which the justice of the claims can be ascertained at an early period.

Another objection to this mode of adjusting these claims is this: that the evidence by which committees and the two Houses of Congress are controlled is always *ex parte*. It is brought up here by claimants who have large claims, and with this

testimony on one side, and by other instrumentalities it ends almost uniformly in swindling the Government out of large sums of money. This, then, in my judgment, constitutes an insuperable objection to the old practice of adjusting these claims by committees of the House and the Senate, and by the action of the two Houses on this character of testimony.

Another mode has been suggested for adjusting these claims, and that is by the Court of Claims. The same character of objection exists against that court. The Court of Claims holds its session at the seat of Government. The evidence upon which claims are adjusted is almost entirely *ex parte*, because the claimants reside so far from the place where the court is held that it is beyond the reach of the Government authorities to get at the testimony adverse to the right of the claimant. Another objection to the settlement of these claims in the Court of Claims arises from the fact that claims, small and humble in their character, cannot be presented to that court for adjustment for the reason that the difficulty of getting up testimony and bringing it far away here will prevent them. It affords machinery only for speculative claims.

I therefore conclude that to settle and adjust these claims in Congress or before the Court of Claims, would be substantially to deprive these meritorious claimants of that to which they are justly entitled from the Government, while the Government will be swindled by the heavy claimants, and by those claims which are of a speculative character. If, then, it will not do to have these claims adjusted in Congress and before committees of Congress, for the reasons which I have assigned, and if the Court of Claims can only be the machinery for the settlement of large claims, and from which the smallest and most meritorious claimants are to be excluded, then I take it for granted that the sense of justice and of what is due to these claimants, will preclude either of these means of adjustment.

Mr. HOLMAN. I wish to inquire of the gentleman from Illinois whether, if these claims are to be adjusted at all, it is possible for them to be adjusted through the instrumentality of the Court of Claims? Whether it would be possible to extend its jurisdiction or increase the number of the judges of that court within any reasonable or practicable limits, so as to enable that court to adjust and settle the vast and almost innumerable claims growing out of this war?

Mr. NOELL. In response to the gentleman from Indiana, I will say that I think it can. This commission which we propose to create by this bill is not, strictly speaking, a court. It has no power to decide. It has only power to investigate, to digest evidence, and to report the results of their investigations in a tangible form for the action of Congress to be had hereafter. In my judgment, the tribunal thus organized will have capacity to hear and investigate all these claims within the period of time to which it is limited by the bill, and put them in such shape that really meritorious claimants may afterwards successfully appeal to the justice of Congress, while those claims which are not meritorious in their character will be excluded from the favorable consideration of Congress. Such is my opinion and judgment in regard to this proposition.

Now, I take it for granted that no man in this House, let him hail from what section of the country he may, would be so cruel as to say to those who have had the misfortune to be located on the track of this unfortunate war, that they shall be compelled to submit to the destruction and loss of their property which has occurred during the war, and from military necessity, without affording them a just compensation. Sir, the man whose heart is steeled against the mercy that should be extended to these men, whose soul is so insensible to justice that he will not extend to them the benefit of such a proposition as this, is, in my humble judgment, unfit to be a Representative of the people of the United States. The man who will say that because these claims impose upon the Government a heavy burden, therefore they ought not to be settled and adjusted, is not, in my judgment, such an individual as ought to be charged with the business of this great nation.

Sir, I have been a member of this House some three or four sessions, and it has been my fortune to be placed upon committees where a vast number of claims against the Government of the United States have been pressed for adjustment and settlement. I have found during my experience upon these committees that the claims of wealthy men, large in their character, running up to hundreds and thousands of dollars, where the machinery has been put in motion to press them forward, have been most successful, and I think the Journals of the House will show that heavy and large claims have received more favorable consideration at the hands of Congress than that class of claims proposed to be provided for by this bill. Now, sir, this certainly is not in accordance with right and justice. The men who have had the misfortune to be located in sections of the country where hostile armies have been arrayed against each other, and who have been compelled to sacrifice all they had on earth in order to sustain the Union armies in their progress, certainly ought to be made whole; they ought to be provided for by Congress. And while we are granting every day large sums of money to speculators, to contractors, to men who have undertaken to do work for the Government and have not made fortunes for all the members of their families, while we are undertaking to grant gratuities to them, it seems to me that a sense of justice on the part of the Representatives of the people ought to impel them to seek out means of providing for the poor and humble citizens of the country who have had their property destroyed and devastated—I do not say wrongfully, because it is a matter of public necessity, that when the military authorities have to occupy a section of country they should use the means and property of the citizens of that country as the military exigencies may require. I say, sir, that it will be a burning shame to this great nation if the fact is handed down to posterity that property has been taken by the officers, by the Government, for the public service, and when the Representatives of the people are called upon to make indemnity for the losses so sustained, they have refused.

Many a poor, humble cabin in my section of the country, belonging to true and loyal men, has been desolated, their property all taken for the public service, and they left penniless; and I say if it is right to do justice, a sense of justice and magnanimity ought to compel Congress to adopt some system by which indemnity may be provided for these people. Many loyal men having joined the Union Army have returned but to find their homes desolate, their families, their wives, their fathers, their mothers, their sisters, their children, turned out upon the world in a state of starvation, all taken by our own troops, for their own sustenance and for our country's good. I say if the justice and magnanimity of Congress will not provide for this people it will be a burning shame and disgrace forever.

Now, sir, the disposition upon the part of some gentlemen in this House to vote against this bill, upon the ground that to do justice to these people would swamp the Government, is based upon a false presumption. Sir, doing justice to his fellow-man has never swamped any individual; doing justice has never ruined an individual; and doing justice will never ruin this Government. On the contrary, it is only by this course of justice that you will call forth the love, the energies, and the patriotism of the people to the Government during its hour of trial, as we have seen done during the progress of this war.

I have heard it said that it never will do to allow these claims; it will never do to provide the machinery, and put it into operation for ascertaining and settling them, because it will involve so large an expenditure as to meet it would destroy the Government. Now, sir, put this proposition to a man luxuriating in wealth, riding in his carriage over the streets of the metropolis. Suppose, when an honest creditor presents his claim, he replies, "I cannot pay this debt; it is an honest debt, but to pay it would ruin me, and it will never do to pay it." Such a remark never would come from an honest man. And I say that the rules which apply to an honest man apply equally to an honest Government. When these people have had their property taken from them—loyal men; for this bill provides for compensating nobody else—loyal men from the border States, and from the free States, have had their property taken and used by the troops of the Government for the purposes of this war, and it is the duty of the Government to see that these citizens and their families shall have their claims for such losses ascertained and settled.

Let it be remembered that this bill does not appropriate a dollar of money. It merely provides the machinery by which the justice of these claims can be ascertained. When the machinery has performed its proper functions, when the testimony *pro* and *con* has been taken in reference to the nature and circumstances of these claims, it will be then for the justice and magnanimity of Congress to act upon these claims as they shall be reported, and if any of them are of such a character as to make it proper to discriminate against them, the evidence will be before Congress, and such a course of settlement can be adopted as will be satisfactory to all parties concerned.

But, Mr. Speaker, objections have been made to the details of this bill. Now, sir, I wish to say that to me the question as to details is one entirely immaterial, provided the great object of the measure can be accomplished. I am not so bigoted in my opinion as to believe that I can frame a measure and present it to Congress for its action that shall be superior to another measure which any other gentleman can frame and present for the action of Congress. If any gentleman can point out any difficulty in this measure that can be remedied, if he will present any other system that will be more efficient and less liable to objection, it will have my hearty support.

I am perfectly aware that some of the features of this bill are open to objection. It is said that the machinery will be complicated, and that it will involve a large expense to the Government. Some gentlemen have gone into a calculation to see how much the offices created by this bill will cost the Government. Well, suppose they cost the Government $50,000 per annum, what is that amount? It is a mere drop in the bucket. Five days' work here in Congress in the consideration of private bills will involve a larger cost than the whole expense of this commission for the three years it has to run under the provisions of this bill. The discussion of two days in Congress, which often occurs on a private claim not exceeding $50,000 in amount, would involve more expense than the whole machinery provided by this bill. Again: claims have not unfrequently passed this House taking from the Treasury $50,000, $100,000, or $200,000, which, if the evidence such as this bill provides for furnishing had been before Congress, never would have been passed. I believe it would have saved the Government not only hundreds of thousands, but millions of dollars, which have been paid in the shape of private claims, if evidence such as we now propose to obtain had been before Congress. We have still before us claims growing out of the revolutionary war, the war of 1812, and the Mexican war, and we shall have claims growing out of this war following us down through all time, unless Congress adopts a different system for the presentation of such claims before Congress than has hitherto prevailed. That is what is proposed to be done by this bill. We propose to adopt a system of obtaining evidence for the preparation of claims that are in future to be presented to Congress. We propose to require that all these claims shall first go through this course of preparation, and that they shall come to Congress, if they come at all, accompanied by the vouchers so obtained. We propose hereafter that when a claim is presented before Congress the first inquiry shall be whether it has gone through the regular course of preparation, and if it has not, it is not entitled to a hearing.

Another objection to the bill is that the expense of the machinery of this bill is such as to prevent small claims from being brought before the commission at all. Now, Mr. Speaker, it may be true that hard cases may arise under this bill. It is true that the cost of the advertisement required for small claims of fifty or one hundred dollars will be onerous; but, sir, there is no measure that has been presented here or that ever will be presented, which will not operate unjustly in particular instances. It is not within the power of human wisdom to frame a measure general in its character, which shall not contain more or less imperfections and inequalities. I agree that this bill is not perfect; but, in my judgment, it is as perfect as any bill that can be passed. But, sir, while these difficulties may present themselves, it is nevertheless true that as a matter of economy merely, this bill

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is an important one. I take it for granted that in all trials, to obtain perfect fairness and justice, both the parties to the contest should have fair notice, and an opportunity of being heard. That is precisely what this bill proposes. It gives the Government an opportunity of being heard, and of investigation to prevent imposition; and it also gives the claimant a full opportunity of establishing his claim; and that I regard as one of the best features of the bill.

Mr. THOMAS, of Massachusetts. I would be very glad if the gentleman from Missouri would state to the House what are the classes of claims which are to be embraced by this bill. I think the House will be glad to hear precisely what they are.

Mr. NOELL. I will now endeavor to answer the question of the gentleman from Massachusetts. For subsistence, for quarters, &c., the officers of the United States Army are now vested with complete authority to make arrangements with private citizens. I think there is as much granted on that point as may be desired. For the purpose of subsisting the Army, for obtaining provisions, and for the purpose of obtaining quarters, any of the officers of the Army are now authorized to make contracts with private citizens. They can occupy places, or purchase provisions, or do anything of that kind with private citizens. But this does not cover the damages to which this bill looks. For instance: I own a plantation in Missouri, and a regiment or any portion of the United States forces march into that country. Now, I can make arrangements to furnish them with beef cattle or any forage that may be necessary. They can make arrangements for occupying any portion of my land for the use of the troops, but in making these arrangements they are confined to the use of the premises and the value of what is furnished. If, during that occupation, injury results beyond the price paid for quarters or for the encampment, or the price of the provisions necessary to subsist the Army, there are no means provided by law by which it can be reached. I do not know of any way to make this clear but by giving an illustration from my own State.

I will give an instance which occurred to one of my own particular friends in my own district, a truly loyal man, and I will give his name. He has sent his claim to me. I cannot better explain the claims I refer to than by stating his case. His name is Read, and he resides upon Black river. He has been a Union man from the beginning of this trouble. He is an honest and a thrifty man. He started life as a plowboy, and accumulated in the course of years a little patrimony and fortune of $15,000. He had a good house, good barns, good meadows, and fine stock around him. At the beginning of the trouble he took most decided ground against secession, and in consequence of his taking that ground, the rebels, under Jeff Thompson, made a raid upon him, took away all of his stock, his mules, his horses, and his cattle, and all his corn out of his crib, and drove him and family away from home. Although sixty years of age, he enlisted in the United States Army as a private, and he went to work to help the Union men to restore order by the suppression of the rebellion. After awhile Jeff Thompson was driven out, and he returned to his own home. He went out as a guide and a pilot of General Steele's army, to drive the rebels out. They encamped upon his farm, occupying his broad meadows. They burnt all his fences for firewood when they occupied his premises. The United States officers certify to his having sustained the losses for which he makes claim. They certify to his good conduct. They certify what, as officers of the United States, they have taken, and that this claim is proper and just, but that, under the laws of the land, they are not authorized to make payment. This is an illustration of the cases where men have had damage done to their premises, and from which property was taken, such as fences, because, under the necessities of the times, the soldiers wanted fuel, and must have it. This man's broad meadows were trampled down, and besides all the injury that was done to him by the rebels, this additional injury was done to him by the United States troops. He is left without means of support for himself, his wife, and children, and we propose, in this bill, to provide a remedy for just such cases.

Mr. THOMAS, of Massachusetts. What are the items of damage to be included under this bill?

Mr. NOELL. Damage done by the occupation of United States troops under orders of the commanding officer, General Steele.

Mr. THOMAS, of Massachusetts. Trespass of soldiers?

Mr. NOELL. These were made by the orders of the officers themselves. The fences were used for firewood. It was necessary to have fuel.

Mr. THOMAS, of Massachusetts. That is the question. I want to ask the gentleman whether he supposes by this bill we are to include all cases of trespass of that sort? It is important, and that is the reason of my calling the gentleman's attention to it.

Mr. NOELL. I will answer the gentleman's question.

Mr. THOMAS, of Massachusetts. Let me state it fully. I would distinguish between mere matters of trespass and cases of contract on the part of the Government; but I would not embrace anything in the bill of indemnity for injury sustained by reason of the trespass of the United States troops, or any individual member of a corps.

Mr. NOELL. I supposed my friend was too old and too good a lawyer not to distinguish between a trespass and the class of claims of which I have been speaking. I ask the gentleman from Massachusetts whether he calls it a trespass when a military officer makes his encampment in my meadow, by which it is destroyed? Does the gentleman call that, in time of war, a trespass?

Mr. THOMAS, of Massachusetts. I do not; but the destroying of fences by soldiers may be a trespass. My question is, if you embrace a reasonable compensation for the use of land, you are also going to pay for the burning of fences. If the gentleman had retained his good law, he would have seen what it was.

Mr. DAWES. I will ask my colleague a question. The question is this: inasmuch as it is competent for the next Congress to enlarge or circumscribe the rule by which they mean to make compensation to sufferers, whether it would not be worth while, as a mere matter of self-defense, to preserve in some way the evidence touching particularly the losses and damages which have been sustained, so that when the time comes to make compensation, the Government will have it in its power to discriminate, and to say which belonged to one class and which belonged to another.

Mr. THOMAS, of Massachusetts. My view of that matter is this: that Congress, before it undertakes to settle these claims arising from the war, ought, on the most mature consideration, to settle the principle by which they are to be controlled. It would be an act of no particular justice to any individual to allow him to come before this court, to be at the expense of proving his claim, and then to come to Washington for the purpose of prosecuting that claim again in Congress. You have no assurance beforehand that after the claim shall have been established as to the facts, it shall be held good in law. Therefore, my impression has been that previous to the next session of Congress, or after we shall have seen something of the nature and extent of these damages, we shall be better able to fix a rule. If it were a question of mere law, Congress would of course answer that it would pay every claim which should be advanced, however great the amount; but when we seek to depart from the strict rule of law, and say what we should equitably pay, we ought to have the full facts before us, so as to be able to determine how far indemnity should be made.

Mr. DAWES. I agree with my colleague, and have agreed with him in all that he has advanced from time to time, as to what should be the rule that would govern us at this time if we were fixing the compensation. I do not know of any suggestions that I have heard fall from him on that point from which I differ. If I mistake the spirit and scope of this bill, then the bill ought to be so amended as to be very different from what my colleague thinks it to be. I am not prepared now, and I do not think that either my colleague or myself can be prepared at the next session, to lay down a rule, and to say that all cases which come within that rule shall be compensated, and that those outside of it shall not be compensated. I agree with my colleague that we cannot now, and I do not think that we can next session, ascertain the full length and breadth and magnitude of the damages sustained by good loyal men in the different phases and features of this war. But beyond all that, and of vastly more importance to the Government than all that, is it that the Government shall have on its records in some shape reliable testimony with which it can protect itself against frauds, or against the absence of testimony. In the absence of the true facts in a case, Congress may be deceived, may be mistaken, in particular cases. It is with that view that I am striving to devise some method by means of a bill by which Congress may be protected hereafter from that long line of cases with which it has been pursued from the Revolution and the war of 1812 down to this day. That is my sole purpose and object. I am not devising a means by which to compensate to-day men for the damages that they have sustained. It cannot be done to-day. The Treasury cannot do it, we cannot do it, and this bill, if I understand it right, does not provide that it shall be done.

Mr. NOELL. I do not propose, myself, Mr. Speaker, to say how far Congress should go in the way of compensating claims for damages sustained. I agree entirely with my friend from Massachusetts [Mr. DAWES] that we ought to provide some means of ascertaining the justice of these claims. Congress can, hereafter, when these cases come up legitimately, discriminate, passing such claims as it believes ought to pass, and rejecting such claims as it believes ought not to pass.

I desire, in further response to the gentleman from Massachusetts, [Mr. THOMAS,] to call his attention to this question of trespass which he has raised, and to give to him what I understand to be the distinction between a trespass, such as he speaks of, and the class of claims which we propose to adjust by the machinery of this bill. When an officer in the Army of the United States, in the necessary and proper discharge of his duties as such, goes on the premises of a loyal man, where military operations are being conducted, and takes possession of those premises by virtue of his authority, appropriates everything about them for the use of his army, erects his camps and barracks about those premises, the necessary incidental damages that may be sustained by reason of such occupation are not trespasses. They arise from the very necessity of the case. They are such things as must necessarily occur, and cannot be prevented by the officer or anybody else. For instance, meadow may be of very little value to the Government, but the occupation of a man's meadow land by troops may injure him to the amount of hundreds of dollars. I do not call that trespass. I call it incidental injury arising from the necessary occupation of the premises. Soldiers must have fuel to cook their food, and if fences are taken for the purpose, I do not call that a trespass. It is a necessary and unavoidable injury. Soldiers cannot be sent six or eight miles from their camp to cut down fuel when they can have it near them. When these things occur, justice, generosity, every instinct of right and good feeling, should impel Congress to see that these persons, thus desolated and injured, are righted.

We are all engaged in this great struggle to save the existence of the nation. We have all a common interest in this great struggle, on which human liberty itself is depending. Is it right, is it just, is it generous for us to say to the few individuals who have had the misfortune to reside on the track of this terrible war, that they must sustain all their losses; that we ourselves have suffered nothing; that we have enjoyed our privileges

away from the scenes of danger; that our wives and children have been comfortably provided for, and that these poor sufferers must submit to their hard fortune? Is that the generosity and magnanimity of the people of the United States? I say no. The man who would put on record his vote against indemnity to these persons, would have his name handed down to posterity as an enemy to his race, and not entitled to the sympathy or affection of a great and magnanimous people. I do not pretend to say that all who oppose this bill are in that category. Gentlemen may find causes of objection to this bill. But the men who now take the ground that these claims are not to be adjusted, who will oppose this measure—not proposing any better one in its stead—cannot hereafter, in my judgment and belief, lay claim to the character of just and generous men.

I do not make these remarks on account of the fact that a great many of these depredations have been committed in my own State. I thank God that I have got a soul to feel for my fellow-men wherever they may be. I would extend the same sympathy and justice toward northern men who have suffered as I would to our own people, for I have no sectional feeling.

Mr. SHELLABARGER. The gentleman from Missouri has stated his willingness to extend to every portion of the country the same justice which he claims for what he calls the border States. I have had a very great difficulty, I acknowledge, about this bill. It relates to the same matter to which the gentleman from Massachusetts alludes. It is as to how far this Government is to go in the extension of indemnity to sufferers during the war. By the interdiction of commerce and trade between the two sections of the country which occurred at the commencement of this war, trade was entirely annihilated. The result of that was the destruction of immense property interests in ships, in commerce, in articles of trade provided for southern supplies, and losses of millions of debt, perhaps to the amount of $300,000,000; that, however, not resulting so necessarily and directly from the action of the Government as from causes to which I first referred. Now, will the gentleman from Missouri vote for a bill by which all the ship-owners of Boston, New York, and Philadelphia shall be compensated for the destruction of trade and the destruction of ships which arose out of the interdict of commerce? In other words, how far will the gentleman go to make the indemnity universal?

[Here the hammer fell.]

Mr. WICKLIFFE obtained the floor.

Mr. NOELL. Will the gentleman allow me to answer that question?

Mr. WICKLIFFE. Yes, sir.

Mr. NOELL. With the permission of the gentleman, I will reply to the question of the gentleman from Ohio. I will say to the gentleman that wherever, in the necessary military operations of the country, the property of northern men, whether ships, vessels, or any other kind of property, has been seized upon, occupied, or destroyed for military purposes, I will vote for a bill of indemnity. But I do not ask any man in this House to vote to make up to us the losses sustained in the value of our lands and property which have resulted incidentally from this war. I ask no man to go that far in favor of my constituents. But wherever property, as a military necessity, has been taken for military purposes and occupied, destroyed, or damaged in the prosecution of the war, I will vote for a bill to satisfy northern men for such claims. For incidental losses I claim nothing in behalf of my constituents.

ADJOURNMENT OVER.

Mr. OLIN. I rise to a privileged question. I move that when this House adjourns, it adjourn until Monday next.

The SPEAKER. The gentleman cannot take the floor from the gentleman from Kentucky to make that motion.

Mr. WICKLIFFE. I have no objection to the gentleman making that motion.

Mr. OLIN. I submit that motion.

Mr. STEVENS demanded the yeas and nays.

The yeas and nays were ordered.

The question was put; and it was decided in the affirmative—yeas 61, nays 57; as follows:

YEAS—Messrs. Aldrich, Ancona, Ashley, Baily, Baxter, Beaman, Biddle, Francis P. Blair, Blake, Calvert, Campbell, Casey, Cobb, Frederick A. Conkling, Roscoe Conkling, Cox, Crisfield, Crittenden, Davis, Delano, Delaplaine, Diven, Duell, Dunn, Fenton, Fisher, Fouke, Franchot, Grider, Haight, Hale, Hall, Harding, Holman, Johnson, Kelley, Francis W. Kellogg, Kerrigan, Knapp, Law, Leary, Mallory, Maynard, Menzies, Morris, Noell, Olin, Potter, Sedgwick, Shellabarger, Sloan, Stiles, Benjamin F. Thomas, Francis Thomas, Train, Van Valkenburgh, Vibbard, Voorhees, Wheeler, Whaley, and Wright—61.

NAYS—Messrs. William Allen, Alley, Babbitt, Baker, Jacob B. Blair, Samuel S. Blair, Buffinton, Chamberlin, Clark, Corning, Dawes, Dunlap, Edwards, Eliot, Ely, English, Fessenden, Frank, Hutchins, Lansing, Lazear, Loomis, Lovejoy, Low, McPherson, Mitchell, Justin S. Morrill, Nixon, Norton, Nugen, Patton, Perry, Timothy G. Phelps, Porter, Price, John H. Rice, Edward H. Rollins, Shanks, Sheffield, Sherman, Shiel, Smith, Spaulding, Stratton, Trimble, Trowbridge, Van Horn, Verree, Wadsworth, Wall, Wallace, Walton, Washburne, Chilton A. White, Wickliffe, Windom, and Woodruff—57.

So the motion was agreed to.

During the call,

Mr. COLFAX stated that had he been in his seat when his name was called he would have voted in the negative.

Mr. OLIN moved to reconsider the vote by which the motion was agreed to; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

REBELLION LOSSES—AGAIN.

Mr. WICKLIFFE. I regret very much, Mr. Speaker, that the purposes and objects of this bill seem not to have received that attention which its merits deserve until this discussion commenced. Perhaps I ought to regret more that upon a question of this kind, the right of property in slaves in this country should have been introduced by the gentleman from New York, [Mr. SEDGWICK.] I do not intend to discuss that question with him, for if a man has lived to his age, and attained his position, and has not learned the history of his country judicially, legislatively, and diplomatically, upon the subject of the right of property in slaves; if he is one of those who are governed by a higher law which he himself does not obey, and has not discovered that the right of property in slaves has been recognized by the United States, by all departments of the Government at home and abroad, I know that nothing I can say, or that any other man can say in this House, will have any influence with him.

Mr. MORRILL, of Vermont. I would inquire if the morning hour has expired.

The SPEAKER. It has.

Mr. MORRILL, of Vermont. Then I move that the House proceed to the business on the Speaker's table.

Mr. WICKLIFFE. Then I will hereafter take up the nigger where I leave him.

Mr. STEVENS. I move that the rules be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union.

Mr. FENTON. I submit to the gentleman from Pennsylvania whether it would not be better to proceed with the consideration of this bill until the speech of the gentleman from Kentucky is concluded, and then press the bill to a vote to-day.

Mr. STEVENS. The House does not seem disposed to work on Saturdays, and what little time we have I propose to devote to business.

The motion was agreed to.

TARIFF BILL.

So the House resolved itself into the Committee of the Whole on the state of the Union, (Mr. DAWES in the chair,) and proceeded to the consideration of the special order, being the bill (H. R. No. 531) increasing temporarily the duties on imports, and for other purposes.

Mr. MORRILL, of Vermont. By unanimous consent I desire to offer some amendments to parts of the bill preceding the ninth section, which is the section under consideration now.

After line thirty-four, page 12, I move to insert, "cocculus indicus, 10 cents per pound." I presume there will be no objection to the amendment.

The amendment was agreed to.

Mr. MORRILL, of Vermont. I move to insert, after the word "pound," page 12, line forty-two, the words "Rochelle salts, 15 cents per pound."

The amendment was agreed to.

Mr. MORRILL, of Vermont. I move to insert, page 14, line eighty-four, after the word "gallon," the words "mustard, not salad, 25 cents per gallon; salad, 50 cents per gallon."

The amendment was agreed to.

Mr. MORRILL, of Vermont. I move to insert, after line one hundred and twenty-eight, page 15, the words "sugar of lead, 4 cents per pound; tartar emetic, 15 cents per pound."

The amendment was agreed to.

MESSAGE FROM THE SENATE.

The committee rose informally, and the House received a message from the Senate, by Mr. FORNEY, their Secretary, announcing to the House that the Senate had concurred in the report of the committee of conference upon the bill (S. No. 171) to reorganize the Navy Department of the United States.

Also, that the Senate had passed a bill to prevent members of Congress and officers of the Government from taking a consideration for procuring contracts, office, or place, from the United States; in which the concurrence of the House was requested.

The committee resumed its session.

TARIFF BILL—AGAIN.

Mr. MORRILL, of Vermont. On page 15, line one hundred and twenty-six, I move to amend by striking out "two," and inserting "three;" so that it shall read, "mustard, brown, 3 cents per pound."

The amendment was agreed to.

Mr. MORRILL, of Vermont. In line twenty-six, page 23, I move to strike out "50 cents," and insert "$1;" and in lines seventy-eight and seventy-nine, to strike out "75 cents per cubic foot," and insert "40 per cent. *ad valorem;* on all manufactures of marble, marble paving tiles, and marble dressed or polished, 50 per cent. *ad valorem;*" so that the clause shall read:

On marble, white statuary, in block, rough, squared, or sawed, $1 per cubic foot; veined marble, and marble of all other descriptions, not otherwise provided for, in block, rough, squared, or sawed, 40 per cent. *ad valorem;* on all manufactures of marble, marble paving tiles, and marble dressed or polished, 50 per cent. *ad valorem.*

The amendment was agreed to.

Mr. MORRILL, of Vermont. I desire to say that when this bill was under consideration the last time a mistake was made by placing an amendment in a wrong place. I now move to amend by striking out on page 16, line one hundred and thirty-six, the words "glycerine and sulphate of ammonia," and by inserting after the word "forms," in line one hundred and thirty-eight, the words "ammonia and sulphate and carbonate of ammonia;" so that it shall make the duty on that article 20 per cent. *ad valorem.*

The amendment was agreed to.

Mr. MORRILL, of Vermont. I move to amend by inserting, in line one hundred and forty-six, same page, after the word "santonine," the words, "and glycerine;" so that it will subject both articles to 30 per cent *ad valorem.*

The amendment was agreed to.

Mr. MORRILL, of Vermont. I move to amend by striking out of line eleven, page 17, the words "antimony, tartrate of."

The amendment was agreed to.

Mr. MORRILL, of Vermont. On page 18, I move to strike out line twenty, as follows, "cocculus indicus," it having been inserted at a specific rate.

The amendment was agreed to.

Mr. MORRILL, of Vermont. On page 18, line ten, I move to strike out "and mustard seed," and insert, before "rape seed," the word "and;" so that it will read, "on linseed, flax seed, hemp seed, and rape seed oil, 3 cents per gallon."

The amendment was agreed to.

Mr. MORRILL, of Vermont. I offer the following amendment, to come in on page 21, after line thirty-five:

On acorn coffee and dandelion root, raw or prepared and all other articles used or intended to be used as coffee or a substitute for coffee and not otherwise provided for, 4 cents per pound.

The amendment was agreed to.

Mr. MORRILL. On page 26, in line fifty-three, after the word "worsted," I move to insert "wool, mohair, or goat's hair," and strike out in lines fifty-four and fifty-five the words "and all dress goods composed of worsted and cotton, or wool and cotton;" so that the clause will read:

On all delaines, cashmere delaines, muslin delaines, barege delaines, composed wholly or in part of worsted, wool, mohair, and goat's hair, and on all goods of similar description, not exceeding in value 40 cents per square yard, 3 cents per square yard.

The amendment was agreed to.

Mr. MORRILL, of Vermont. On page 26, line thirty-five, I move to insert after the word "belts," the words "or felts;" so that the clause will read,

"on endless belts or felts for paper, and blanketing for printing machines, 5 per cent. *ad valorem.*"

The amendment was agreed to.

Mr. MORRILL, of Vermont. I move to insert on page 27, after line sixty-three, the words, "on coir flooring and carpeting, 5 per cent. *ad valorem.*"

The amendment was agreed to.

Mr. VALLANDIGHAM. I believe that debate has not been limited on this bill.

The CHAIRMAN. The debate is confined to the bill, but the debate under the hour rule has not been closed.

Mr. VALLANDIGHAM. Mr. Chairman, there is a motion pending to reconsider the vote of the House by which the statement of the Secretary of the Treasury of the 2d of June, in regard to the national debt, was ordered to be printed. That motion to reconsider opens up the whole question of the public debt. The pending bill, now a special order, is a revenue measure, and whatever relates to the revenue, debt, and expenditures of the Government is pertinent to the debate. Instead, then, of calling up the motion to reconsider, I propose now to discuss the question of debt, revenue, expenditure, and liabilities.

Mr. MORRILL, of Vermont. I desire to ask the gentleman from Ohio if he intends to confine the discussion to the present bill.

Mr. VALLANDIGHAM. Certainly; but a revenue measure opens up the whole question of revenue and expenditure.

Mr. MORRILL, of Vermont. I think the discussion ought to be strictly confined to the present bill.

Mr. VALLANDIGHAM. I desire to have this question settled before I proceed, because I have a right, by calling up the motion to reconsider, to occupy the time of the House, but I prefer to discuss the question in Committee of the Whole. It will be precisely the same thing in the end.

Mr. STEVENS. I understand that the gentleman intends to discuss the bill.

Mr. VALLANDIGHAM. In connection with the question I have indicated.

Mr. STEVENS. The gentleman knows what is in order, and I presume he will discuss the bill in order.

The CHAIRMAN. The Chair is of opinion that the rule requiring debate to be strictly confined to the pending question means to the particular items and to the amount to be raised by those items. It hardly opens up the whole question of the public indebtedness or of the public liability. It is a question of how far it can be met by those items.

Mr. VALLANDIGHAM. I desire, first, to suggest that I have an unquestionable right to discuss the expenditures and revenues of the Government upon a bill raising revenue. It is utterly impossible to determine whether the bill ought to pass or not, until you have ascertained the amount of the expenditures of the Government and the amount of revenue needed to meet them.

The CHAIRMAN. The Chair is of opinion that the debate must have reference to the effect of these items upon the public revenue, and how far they will go to meet the public indebtedness.

Mr. VALLANDIGHAM. Does the Chair say that it would not be in order for me to discuss the general question of tariffs for protection or revenue?

The CHAIRMAN. The Chair is of opinion that it would not be in order to discuss it outside of the particular measures proposed in this bill or the particular items.

Mr. VALLANDIGHAM. I have very candidly stated the purpose which I had in taking the floor. It is unnecessary for me to proceed any further under that decision of the Chair; but as soon as the House goes out of committee, I shall call up the motion to reconsider and discuss the whole subject.

The CHAIRMAN. The Chair will read the rule:

"In Committee of the Whole on the state of the Union" * * * * "all debate on special orders shall be confined strictly to the measure under consideration."

Mr. VALLANDIGHAM. That is just precisely what I propose to do.

The CHAIRMAN. The Chair is of opinion that there is some force in these words, "strictly to the measure under consideration." While the Chair would regret exceedingly to have to restrict the gentleman in his remarks, he would feel compelled, if called upon, to rule that he must confine himself strictly to the features of this bill.

Mr. VALLANDIGHAM. Then I surrender the floor.

Mr. WARD. I offer the following amendment to the ninth section of the bill:

Strike out the words "wholly or in part," and insert after the word "worsted," the words "and cotton," in line fifty-three; in line fifty-six, strike out the word "forty," and insert the word "fifteen" in lieu thereof; and in lines fifty-six and fifty-seven, strike out the words "3 cents per square yard," and insert in lieu thereof the words "10 per cent. *ad valorem.*"

Mr. Chairman, I understand from the honorable member from Vermont [Mr. MORRILL] that this is designed to be a tariff for revenue. This tariff bill has been thrown into the House very hastily. I have sought diligently, since it has been before the Committee of Ways and Means, to obtain some information that I might communicate to my constituents, in order that we might have a proper, fair, and just understanding of the subject, but I was utterly unable, until the bill was reported to the House, to ascertain what its provisions were. The consequence is that we are now forced to discuss the points in a very hasty and unsatisfactory manner. The city of New York is largely interested in this question of a tariff, and I should have been gratified to have had some opportunity to carefully examine and digest the various sections of the bill in consultation with those gentlemen who are to be most affected by them. I am, however, obliged to throw myself hastily upon the indulgence of the House in presenting the few propositions, in the form of amendments, which I desire to offer. I do not understand this to be a tariff for revenue, but a tariff of prohibition, and I think most of its provisions indicate that.

Now, the constituency which I represent has a very large interest in this subject. I suppose that not less than 70 per cent. of the importations in 1861 came into the port of New York.

Mr. VALLANDIGHAM. I am obliged to rise to a question of order.

The CHAIRMAN. The gentleman will state it.

Mr. VALLANDIGHAM. The gentleman from New York will pardon me, I know. I understand him to be discussing, not the particular items of the bill, but the subject of revenue and protection. I understood the decision of the Chair to be, that when a bill was made the special order the debate must be confined to the items of the bill.

The CHAIRMAN. The Chair understands the gentleman from New York to be discussing the question whether these particular items are of one class of revenue measures or of another. The Chair overrules the point of order.

Mr. VALLANDIGHAM. Well, I proposed to discuss that myself somewhat, too.

The CHAIRMAN. The Chair understood the gentlemen to propose to occupy a much broader field.

Mr. VALLANDIGHAM. To the decision of the Chair I bow very submissively.

Mr. WARD. I do not propose to discuss any question utside of this bill, and I intend that the tenor of my remarks shall be specifically directed to it. I was merely explaining why the constituency which I represent is very materially interested in the amendments I intend to propose. There is every disposition on the part of the commercial community to submit to a very large increase of duties; but, to my mind, there are many provisions in the bill, among them the one to which I offered my amendment, which are rather prohibitory in their character, and the effect will be to diminish the revenues of the Government. The effect of the tariff bill of March, 1861, was to diminish largely the revenues of the Government in the port of New York. This bill, instead of being a bill to create a revenue, is to prohibit importation. The evil effect of such a measure is not confined to my city, but extends as well to the western section of the country. The continuance of the prohibitive element in this bill will create a complete revolution in public sentiment.

In relation to this amendment I would say that the articles referred to now pay a duty of 30 per cent., and it is proposed to add 3 cents a square yard. As the goods imported now are chiefly of those qualities which cost from 2*d.* to 5*d.* sterling, the additional duty will be equal to from 40 per cent. on the lowest in value to 20 per cent. on the highest, and this, added to the duty now levied will make the rates from 70 per cent. to 50 per cent. according to the cost of the fabric at and between the prices of 2*d.* to 5*d.* sterling. The advance on goods costing over 5*d.* and under the 40 cents a square yard will be 20 per cent., down to 10 per cent.; but as there are very few goods of this class imported which would cost as high 40 cents a square yard, the project would bear mainly on the low cost, and thus our poor and laboring citizens would be compelled to bear the heaviest part of the tax.

My opinion, then, in relation to the goods affected in the lines indicated, is that they will not bear an additional duty of over 10 per cent. *ad valorem* for those which cost less than 10 cents a square yard; and for those which cost above that, 5 per cent. *ad valorem.* Even with this addition, many of the finer grades of worsted and cotton fabrics would be driven out of the market because the duties would be increased by the premium on specie, now 9 per cent., and the cost of the goods enhanced by the exorbitant rates of exchange, now 7½ per cent. above the usual advance taken to establish the cost of goods and which, with the premium on specie, would be equal to about 10 per cent. to add to any duty which may be imposed. This 10 per cent. (about) will operate on all imported goods, and should not be lost sight of. Thus those goods which under this new project would pay 70 per cent. ostensibly, would really have to sustain 80 per cent., besides *all other charges*, which are equal to about 15 per cent. additional, making in all 95 per cent.! These are all *facts*, without a shade of exaggeration, and are deserving of mature consideration.

There is another objection to this. The imposition of the duty on the square yard is objectionable. The 10 per cent. which I propose would, in my judgment, yield a larger revenue than we should have under the proposed section. It would be fair and just, and a sufficient advance on the present duties. I think it is all that this House should ask from the city of New York, which is largely interested in this trade. I therefore hope that the House will agree to my amendment.

Mr. MORRILL, of Vermont. I desire to ask the gentleman from New York whether he knows and will state the duty at present imposed on this article?

Mr. WARD. I have the tariff here.

Mr. MORRILL, of Vermont. It is obvious to the committee that the gentleman from New York does not understand what the present duty on the article is.

Mr. WARD. I presumed the gentleman might himself be informed on the subject.

Mr. MORRILL, of Vermont. I wanted to see whether the gentleman understood the question he was discussing, being curious to know how he made out the aggregate duty these articles are to bear, not knowing what they now bear.

Mr. WARD. I have before me the tariff act of March, 1861.

Mr. MORRILL, of Vermont. I know very well what the present duty is, but I desired to ascertain whether the gentleman from New York understood the subject about which he was talking—this subject of the present duty on delaines. The duty is really less than on almost any other kind of woolen, worsted, or silk goods. On delaines there is but 25 per cent. *ad valorem* on gray, and 5 per cent. more on colored at the present time. We tax the cotton put into these goods one half cent a pound, and we also tax the manufacturers 3 per cent. on their products; and yet last year the manufacturers of muslin delaines in this country, in the absence of all such internal taxes, were not able to realize a single picayune of profit from that branch of business. This class of goods are more largely consumed at present than any other class of dress goods made in the country—calicoes, perhaps, not excepted. It is true that the American manufacturers are only able to make a very few descriptions of this style of goods; but what they do make are of an excellent quality. In the words of the old English novelist, they are made not so much with reference to beauty as to qualities that will wear well, although by no means deficient in style and artistic finish. They cannot be manufactured at the rates for which goods used as substitutes, nominally cheaper but in fact much dearer, are manufactured in England, France, or Belgium. I have on my desk samples of various fabrics which take the place of American goods, and I invite gentlemen to examine them, with the amount at which they were invoiced and imported here, and to judge for themselves whether or not they were properly invoiced, and if so, whether the duty which we now propose, of 3 cents per square yard—which is only 2 cents on the running yard—is more than sufficient as a purely revenue measure. I admit that on those goods which only

cost from 2*d.* and 3*d.* to 5*d.* and 6*d.* per yard, this duty will amount to a large percentage. But the sum total is very small, and no more than reasonable. It is utterly impossible, so small is the actual cost or the invoiced cost, to give any protection to those who manufacture competing American goods except by a square yard duty.

Mr. F. A. CONKLING. I desire to inquire of the gentleman from Vermont, whether he is speaking of muslin delaines or of barege delaines?

Mr. MORRILL, of Vermont. I am speaking of the goods which take the place of dress goods of this description. I had the pleasure to exhibit to one of the gentleman's constituents a sample of a certain description of goods, and perhaps it was the same intelligent gentleman who inspires the gentleman [Mr. WARD] in his remarks, and in his amendment on this subject, as the points made seem a little familiar. He is an eminent merchant, and an expert in the business. I asked him to say what such goods really ought to have been invoiced at. He said that under favorable circumstances, and in the present depressed state of business, they might possibly have been invoiced at 8 cents per yard. I then put the question to him whether, if invoiced at a low rate, it must not have been a fraudulent invoice, or an invoice understated. He stated emphatically that would be the conclusion. The price at which they were, in fact, invoiced was but 5½ cents—the difference being much more than the additional duty we propose. At the present time England produces much the largest portion of these goods.

Mr. WARD. Will the gentleman from Vermont allow me?

Mr. MORRILL, of Vermont. Certainly.

Mr. WARD. I ask the gentleman from Vermont what class of delaines are manufactured in this country?

Mr. MORRILL, of Vermont. If the gentleman from New York will come to my desk I will show him the samples of such as are made here. They are made of worsted and cotton.

Mr. WARD. I can tell the gentleman the duties which these goods pay; but I wanted to ask him the question.

Mr. MORRILL, of Vermont. The whole number of spindles in England is something like 28,000,000, while in all the rest of the world there are only 21,000,000.

Mr. WARD. I do not understand the honorable gentleman from Vermont to answer my question as to what delaines are manufactured in this country.

Mr. MORRILL, of Vermont. I have already stated that.

Mr. WARD. I did not hear the gentleman's answer.

Mr. MORRILL, of Vermont. They are delaines made of woolen, or worsted and cotton.

Mr. WARD. I asked the character of the goods manufactured in this country. We have cashmere delaines, muslin delaines, and barege delaines. Now, I wish to know what description of delaines are manufactured in this country?

Mr. MORRILL, of Vermont. I have already said that no delaines are manufactured in this country composed of silk to any extent whatever—none but the common or cheapest styles. Now, sir, I have a sample here, containing silk in it, which was purchased abroad at 5½*d.* sterling, per yard, and which, therefore, comes seriously into competition with the goods manufactured in this country. I do not suppose it is possible, even were it desirable, to prevent the importation of a large amount of these goods; but I do desire to keep in existence the manufacturing establishments for this description of goods in this country, while we may very properly at the same time obtain a trifle more revenue. Therefore I am in favor of fixing the duty at such a rate as shall prevent the crushing out of our infant establishments, and certainly increase the tax upon foreign capitalists and foreign manufacturers. During the last year these goods have been pressed upon our market from abroad, almost regardless of price, in consequence of the market being overstocked at home. It is well known that in certain classes of manufacturing establishments, when they have made all they can out of the market for the season at fair market prices, they dispose of the stock still on hand for whatever they can sell it for, because if they go over until the next year they go out of fashion. Such goods on hand in large manufacturing establishments are, therefore, frequently sent to this country, to be sold at auction for what they will bring, and whatever they do bring is of less consequence than that they should be out of the way of disturbing the profits of their home market.

I desire to call the attention of the House to the vast amount of woolen and worsted goods which are manufactured abroad and sent to the United States. The total amount of woolens exported to the United States, including flannels, blankets, carpets, and worsted goods, in 1859, from England, was over $4,000,000. In 1860 it was almost $4,000,000. And in respect to such goods about one third the trade of England with the whole world is with this country. Why, sir, we imported in 1859 from England, of mixed stuffs, flannels, blankets, and carpets, 55,607,009 yards, and 143,089 pieces of woolen cloths; and in 1860 the amount imported was 52,537,607 yards, and 127,834 pieces. Since then our disturbed internal affairs have interrupted all descriptions of foreign trade.

England manufactures not only a very large amount of wool, but increases it by 45,000,000 of pounds of woolen rags or shoddy, or an amount nearly equal to the entire clip of wool in the United States; and of such manufactures I suppose we get rather more than our proportion. It must also be remembered that at the present time the English are hardly able to maintain themselves against the rapidly-rising French, Belgian, and German competition in woolen cloths. But she supplies us with cloth and wool, too; our imports from there being 5,966,667 pounds in 1859, and 9,982,755 pounds in 1861. The tables I have show that, for woolen goods, we furnish one of the largest markets in the world.

In relation to the general manufactures of the country, let me say that there is a great error in supposing the manufactures of the United States are confined mostly to New England. I ask the attention of the House to the following table upon this subject, compiled from the census report:

Value of products of industry in the loyal States in the year ending June 1, 1860.

Maine		$36,000,000
New Hampshire		45,000,000
Vermont		16,000,000
Massachusetts		267,000,000
Rhode Island		48,000,000
Connecticut		83,000,000
Total in New England		495,000,000
New York	$398,000,000	
Pennsylvania	285,000,000	
New Jersey	81,000,000	
Delaware	10,000,000	
Maryland	42,975,000	
District of Columbia	4,625,000	
Total in middle States		821,600,000
Ohio	$124,000,000	
Indiana	43,000,000	
Illinois	57,000,000	
Michigan	35,000,000	
Wisconsin	29,000,000	
Minnesota	3,610,000	
Iowa	14,888,000	
Missouri	43,578,000	
Kentucky	36,333,000	
Kansas	1,800,000	
Nebraska	578,000	
New Mexico	996,000	
Utah	846,000	
Total in western States		390,629,000
California	$49,291,000	
Oregon	3,120,000	
Washington Territory	1,360,000	
Total in Pacific States		53,771,000
Aggregate in loyal States		$1,761,000,000

JOSEPH C. G. KENNEDY,
Superintendent.

CENSUS OFFICE, *February* 25, 1862.

Thus it will be seen that the only New England States which can compare with the western States in point of manufacture are Massachusetts and Connecticut. The State of Illinois has more manufactures than any New England State, except Massachusetts and Connecticut. The State of Indiana has as much nearly as New Hampshire or Rhode Island, and more than Maine or Vermont. The State of Ohio has a larger amount of manufactures than any other State in New England, save Massachusetts alone. The State of Kentucky is also a large manufacturing State.

Mr. WARD. The honorable gentleman from Vermont asked me a question in relation to the present rate of duties on delaines. I desire the House to understand that the present rate of duty is, on gray, 25 per cent., and on colored, 30 per cent. *ad valorem*. Now, this bill will add to the present duty some 40 per cent. for the lower grades, and to the higher grades 20 per cent. I submit to the committee whether these are not too high rates, and whether the addition of 10 per cent., which my amendment proposes, is not adequate.

Mr. MORRILL, of Vermont. The gentleman from New York, in stating the present rates of duty, I apprehend, refers to the revised tariff, and not to the law. He will find on reference to the law itself, that the duty is uniform on all grades of delaines at 25 per cent. for the gray or uncolored, and 30 per cent. for the colored or printed.

Mr. WARD. I think the duty is 25 per cent. on one description and 30 on the others.

Mr. MORRILL, of Vermont. Inasmuch as the gentleman has stated the rate of duty, I desire to read the law, which will show that he has stated it incorrectly.

Mr. WARD. I shall be glad to be corrected if I am wrong.

Mr. MORRILL, of Vermont. The gentleman will find the law in article three, section three, of the present tariff, and he will find it as I have stated.

Mr. WARD. The honorable member from Vermont still has not answered the question I put him as to the descriptions of delaines manufactured in this country, whether all the qualities of muslin delaines, cashmere delaines, and barege delaines, or, if not all the descriptions, what descriptions they do not manufacture.

I desire to say a word upon another point. The gentleman has referred to the calicoes and prints manufactured in the East. It reminds me very forcibly of an article I have just seen clipped from a western paper, which is as follows:

"We are here in the Northwest an agricultural people, and if the eastern States persist in their policy of enriching the few at the expense of the masses, you need not be surprised if a revolution is talked of in the Northwest seriously.

"During a large portion of the last six months the farmers have had to give the value of two bushels of corn for a yard of Fall river calico, or three bushels of corn [168 pounds] for 1 pound of coffee. How long do you think our people will remain 'hewers of wood and drawers of water.'"

Now, sir, this House can hardly conceive the injustice which will be effected by these prohibitory duties. It does not effect my city particularly, but it effects the whole country, and especially the West. I submit to this committee whether it is just, either to the revenue or the people who are the consumers of these goods, to place the duties at so high a point as is proposed by the Committee of Ways and Means in this bill, and whether the modification I have suggested of 10 per cent., in addition to the present duty, is not fully adequate, and as high as we are justified in imposing.

Mr. MORRILL, of Vermont, called for tellers on the amendment.

Tellers were not ordered.

The amendment was disagreed to.

Mr. WARD moved to amend the tenth section by striking out from line eight to line thirty-seven, inclusive, as follows:

First, on all manufactures of cotton, bleached or unbleached, not colored, stained, painted, or printed, and not exceeding one hundred threads to the square inch, counting the warp and filling, and exceeding in weight five ounces to the square yard, one fourth of one cent per square yard; on finer or lighter goods of like description, not exceeding one hundred and forty threads to the square inch, counting the warp and filling, one half cent per square yard; on goods of like description, exceeding one hundred and forty threads and not exceeding two hundred threads to the square inch, counting the warp and filling, three fourths of one cent per square yard; on like goods, exceeding two hundred threads to the square inch, counting the warp and filling, 1 cent per square yard; on all goods embraced in the foregoing schedules, (except jeans, denims, drillings, bedtickings, ginghams, plaids, cottonades, pantaloon stuffs, and goods of like description, not exceeding in value the sum of 16 cents per square yard,) if printed, painted, colored, or stained, there shall be levied, collected, and paid, a duty of 1 cent per square yard, in addition to the rates of duty provided in the foregoing schedules: *Provided*, That upon all plain woven goods not included in the foregoing schedules, and upon cotton goods of every description, the value of which shall exceed 16 cents per square yard, there shall be levied, collected, and paid, a duty of 5 per cent. *ad valorem*: *And provided further*, That no cotton goods having more than two hundred threads to the square inch, counting the warp and filling, shall be admitted to a less rate of duty than is provided for goods which are of that number of thread.

And to insert instead thereof as follows:

On all manufactures of cotton, whether bleached or unbleached, printed, painted, colored, or stained, the value of which shall not exceed 16 cents the square yard, 5 per cent. *ad valorem*.

Now, Mr. Chairman, my object in pressing the amendment is this: the additional duties imposed by this section would be equal to only 5 per cent. on some unbleached cottons, and 30 per cent. on

low priced colored or printed cottons or calicoes, making the total percentage of duty which printed or colored cotton fabrics under 16 cents a square yard would pay, equal to from 80 per cent. on the lowest grades, down to 50 per cent. on the highest.

The duty on the article of rolled jaconets, which is largely used in this country by all classes, chiefly by the laboring class, for linings, and of which many thousands of cases are imported and which are not made in this country, would be from 75 to 80 per cent.! This article only is cited, but there are hundreds of others which would pay from 60 to 80 per cent., and which would be prohibited by the application of the proposed duties.

The present duty on cottons, bleached or colored, is much too high, but the system of square yard and *ad valorem* is so complicated that any addition of specific duty would be a deception. All the goods that are referred to pay now from 25 to 50 per cent., and all are under 16 cents the square yard.

Now, upon this article of rolled jaconets to which I have before referred, the duty you have here proposed will be augmented on one class from 46 per cent., the present duty, to 75 per cent., and on another cost and width from 47 per cent. to 80 per cent., nearly doubling the duty upon some of these articles. The following table will show the enormous increase of duties which this bill proposes on the articles named:

Rates of present and proposed duty under section ten.

Article.	Cost per yard.	Present duty per square yard.	Equal to per cent. *ad valorem.*	Proposed duty per ct. equal to *ad val.*
Unbleached sheetings.	3 7-15*d.*	2 cents.	26	32
Printed calicoes	2½*d.*	2 cents. 10 per ct. *ad val.*	35	53
Rolled jaconets col'd..	2½*d.*	2 cents. 10 per ct. *ad val.*	47	75
Dyed cambrics	2 3-16*d.*	2 cents. 10 per ct. *ad val.*	40	62
Ginghams ..	3*d.*	2 cents. 10 per ct. *ad val.*	34	58

These prices are derived from invoices of goods imported, and the statement based on facts. Goods of the same description are imported at lower cost, and the percentage of duty imposed by the bill before the House would be still higher on those, amounting, as these quoted do, to prohibition. I appeal to gentlemen to consider the interests which I represent. Our merchants have come nobly to the support of Government, and are entitled to consideration. They are not opposed to any increase in the tariff for revenue, but desire that such duties will not be levied as would prove a prohibition. By the amendment I propose, goods of the kinds mentioned, which now pay the rates I have given, will be subject to an additional duty of 5 per cent. on bleached and unbleached cottons, and on dyed, colored, stained, or printed, equal to an *ad valorem* duty on cotton fabrics of from 30 per cent. up to 52 and 55 per cent., quite as much as any manufacture of cotton should be subject to in order not to expose it to prohibition. Under any circumstances they should not be subject to such rates as we imposed, and which vary from 32 per cent. up to 80 per cent., the greatest proportion of such as we now import being subject, by the bill, to rates varying from 60 per cent. up to 80 per cent.

Mr. MORRILL, of Vermont. I trust the amendment of the gentleman from New York will not prevail. This section corresponds with the present tariff. The amendment as proposed by the gentleman will make it more complicated by proposing, in addition to a specific duty, an *ad valorem* duty on all these goods. The duty which is proposed by the bill as it stands, if the gentleman will look at it, is simply one in proportion to the value of the articles. It will be remembered that we have levied a duty of half a cent per pound on cotton, and an additional tax of 3 per cent. on cotton when manufactured. I very much doubt whether there will not be some ordinary coarse cotton goods which can be manufactured in England and sent here at a profit, even with additional duty proposed; and such a fact has been of rare occurrence for years.

In reference to sarsenets, it is an article extensively used for the lining of dresses, and cost, according to the gentleman, 2½*d.* sterling abroad, which would be 5 cents here. They are retailed from 12½ cents to a shilling. All the difference will be to reduce to some small extent the profits of the retail dealer.

Now, a word in reference to the general question of importation. While I would not propose any additional duties in time of peace, and they only grow out of the extreme necessity of the hour—a necessity for more revenue—yet I would be willing, and I am willing to avow it, if necessary to husband our resources in order to support the Government, to go back to the Jeffersonian doctrine, and impose an embargo on foreign goods entirely, except such as might be necessary for the life of the people and the support of the Army and Navy. In this crisis it is important we should keep all our gold and silver at home. Our own salvation demands on our part that we should practice, as a nation and as individuals, the sternest economy, and buy nothing we do not want or can do without; save the money in the country in that way, if we cannot do it in any other, to carry us through the most expensive war the world has yet seen. I would be willing for one, in order to keep the gold and silver in the country, if it could not be accomplished in any other way, to prohibit the importation of all articles except those which are an extreme necessity to us.

Mr. LOVEJOY. If I understood the gentleman from Vermont, this tariff is for the purpose of protection, and not for the purpose of revenue.

Mr. MORRILL, of Vermont. Certainly not, as I have already said in relation to this amendment. I only stated what my own private feeling is. I say, on this particular article, that the duty to which the gentleman objects will enable us to raise more revenue, and that it was for that purpose it is proposed to be levied. We do not make the article, and shall not. At the same time it is obvious that we are at present in no condition to indulge in the luxury of large foreign importations. I will say in reference to the change the gentleman proposes, that, so far as I am concerned, I will not further argue it. The bill, however, has been prepared for the purpose of making additional revenue, and for the purpose when it is possible of giving compensation for the internal tax bill; and therefore I am opposed to the amendment.

Mr. WARD. Mr. Chairman, the gentleman from Vermont has, in the avowal of his individual opinions, gone to show, I think, very clearly, as I have already alleged, that this bill is based upon the prohibitory principle. In order to show what effect the tariff of 1861 has had upon the commerce of the country, and especially upon the commerce of New York, I propose to give some figures:

Foreign Commerce of the State of New York and the United States, for the year ending June 30, 1861.

	Imports.	Exports.	Total trade.
New York State.....	$237,402,726	$98,247,427	$335,650,153
All other States.....	98,247,427	90,738,395	188,985,822
Total United States.....	$335,650,153	$249,344,913	$584,995,066

Foreign Commerce of the State of New York and the United States for the five years ending June 30, 1860.

	State of New York.	Other States.	Total.	Per cent.
Imports	$1,102,800,901	$556,376,696	$1,769,077,597	66.40
Average five years for each year..	220,560,180	111,275,339	331,315,519	
Exports.....	635,351,996	1,246,130,772	1,771,481,768	
Average five years for each year..	125,070,199	249,226,154	384,296,353	35.28

The relative proportions of the foreign trade of the State of New York, and the other States, for 1861, exceeds the previous average—

	Imports.	*Exports.*	*Total trade.*
New York State....	70.73 per ct.	63.61	67.61
All other States.....	29.27 "	36.39	32.39
	100.00	100.00	100.00

	Receipts of Customs at New York.	*All the States.*
1859.....	$38,834,242	$49,565,824
1860.....	36,027,481	53,187,511
1861.....	21,714,981	39,582,125

Mr. MAYNARD. Was it not to the advantage of the country that importations fell off to that extent?

Mr. WARD. I am very willing to concede that there was, to a certain extent, an advantage gained by the country in this decrease of imports. I make this admission, although I am strongly inclined to free trade, so far as practicable. The benefit which has been secured is that it has prevented gold from being taken out of the country. But the point which I am making is this: that this bill which we have now under consideration is really a prohibitory tariff, and that, being a prohibitory tariff, it must certainly be meant as a measure of protection, and not as a revenue measure. In order to be satisfied of its prohibitory character we have only to look to the increase of duties to 65, 75, and 80 per cent. It is proposed to raise a duty on gingham from 55 to 65 per cent., an article which is used very largely by the less affluent classes of our people. I think all such increase of duties uncalled for and unnecessary. I have no objection to fixing high duties on spices. If people are willing to submit to such a high tariff I have no objection. But I really hope that the bill will be so altered as to take away the prohibitory character which it now has. I do not believe that it is politic or wise for us at this time to pass a prohibitory tariff, and I therefore hope that my amendment will be adopted.

Mr. MORRILL, of Vermont. I move, on page 28, line forty-three, after the word "all," to insert the word "cotton;" so that it will read:

"Fourth. On all cotton jeans, denims, drillings, bedtickings, ginghams, plaids, cottonades, pantaloon stuffs, and goods of like description, not exceeding in value the sum of 16 cents per square yard, 2 cents per square yard."

The amendment was agreed to.

Mr. SEDGWICK. I move, on page 25, line sixteen, to strike out "2 cents," and insert "1 cent;" so that it will read, "on hemp or jute carpeting, 1 cent per square yard." I have explained the amendment to the Committee of Ways and Means, and they are willing that it should be adopted.

The amendment was disagreed to.

Mr. WARD. I move, on page 29, after line fifty-nine, to insert the following as an additional section:

SEC. 11. *And be it further enacted*, That from and after the day and year aforesaid, in lieu of the duties heretofore imposed by law on all manufactures of silk not otherwise provided for herein, there shall be levied, collected, and paid a duty of 33⅓ per cent. *ad valorem*.

Mr. Chairman, my object in proposing this new section to the bill is this: the present law provides a duty of 30 per cent. where the value is of $1, and 40 per cent. where it is over $1. The object of the amendment is to prevent what is of frequent occurrence in these importations. A large amount of the silks imported into the United States range in the vicinity of $1 to $1 10 the square yard. It will be seen at once that there is a temptation, where the silk has a value of any sum near $1, to take it off and make it under $1 a square yard, thus saving 10 per cent. in the duty, and equal, as I understand, to a large profit for importers. My amendment will prevent all such transactions, because it makes the duty 33⅓ per cent. on all silks. In my judgment, it would yield a much greater revenue than is now received by the Government upon the same article, as fully two thirds of the whole importation of silks are ordinarily below the value of $1 per square yard; it will be readily seen that the revenue will be materially benefited. The present amendments do not touch silks of that description and to which this amendment will apply. I believe my amendment will take away any inducement to reduce the cost in order to profit by the discrimination the present law makes, and thereby defrauding the Government, while it will serve to protect the honest merchant from the acts of his

less scrupulous neighbor, in addition to insuring a much greater revenue.

Mr. MORRILL, of Vermont. I trust the amendment will not be adopted. The duties at present levied on silks have been carefully arranged, and I believe are generally satisfactory. Of course it is understood that in this country we neither grow silk nor manufacture it to any great extent. The present law in relation to the subject is to admit raw silk free; and to levy a duty upon silk as reeled from the cocoons into one, two, and three strands, at 25 per cent. *ad valorem;* and then upon silk, costing less than $1 per yard, a duty of 30 per cent. That allows the lower qualities of silk to be purchased at only 30 per cent. duty. But when you reach dress silks, which are sold at from $50 to $150 a dress, the duty is 40 per cent. *ad valorem.* The duty is also 40 per cent. upon silk fringes and trimmings. That is not too much, and I trust the House will be content to let the duty stand as it is, and not lower it.

The amendment was not agreed to.

Mr. MORRILL, of Vermont. I move to insert, after the word "sheetings," page 30, line twenty-seven, the words, "made of flax or hemp," so that the clause shall read, "on Russia and other sheetings made of flax or hemp, brown and white, 5 per cent. *ad valorem.*"

The amendment was agreed to.

Mr. STEVENS. By unanimous consent I desire to go back to page 23, and move to amend by striking out "forty," in line eighty-two, and insertin "fifty;" so as to make the duty on manufactures of India-rubber and silk 50 per cent. *ad valorem.*

The amendment was agreed to.

Mr. MALLORY. I move to strike out from lines ten and eleven of section eleven, the words "except flax, tow of flax, Russia and Manilla hemp, and codilla, or tow of hemp," which embrace articles to be exempted from the tariff of $5 per ton. I wish to inquire of the gentleman from Vermont, why it is that Russia and Manilla hemp and codilla, tow of flax, and tow of hemp are exempted from the operation of the duty provided in this portion of the section? I would say that it is out of this Russia hemp, as I understand it, imported into this country, from which the cordage is made which we think ought to be manufactured entirely from hemp grown in America. I hope it is not the object of the gentleman from Vermont to except that sort of hemp from the operation of the duty which is imposed upon other kinds.

Mr. MORRILL, of Vermont. In response to the gentleman from Kentucky, I desire to say that in reference to hemp, as in reference to several other articles, the duties were raised during the last session of Congress. Upon wines, upon sugars, and upon Russia and Manilla hemp, the duty was then raised, while it was not raised upon other classes of hemp. We thought it justice to the hemp interest of Kentucky that all other kinds of hemp which competed with her should be raised to a proportionate standard of duty.

Mr. MALLORY. I withdraw my amendment.

Mr. LOVEJOY. I ask unanimous consent to go back to page 15, and move to amend by striking out from lines one hundred and fifteen and one hundred and sixteen, the words "*Provided*, That rhubarb imported from beyond the Cape of Good Hope shall be subject to pay a duty of 30 cents per pound;" thereby leaving the duty on all rhubarb 50 per cent.

The amendment was not agreed to.

Mr. LOVEJOY. I move to amend, by inserting between lines and ten, page 17, the word "indigo;" so that it shall be placed in the list of articles paying 10 per cent. *ad valorem.*

Mr. STEVENS. I object to going back to that page. The omission there was entirely designed. It was one of those articles which we thought best to leave entirely untaxed.

Mr. MALLORY. Coming back to the section under consideration, I move to amend by adding at the end of line thirty-five, page 30, this proviso:

Provided, That all hemp, or preparations of hemp, used for naval purposes by the Government of the United States, shall be of American growth and manufacture.

Mr. WRIGHT. I desire to ask the gentleman a question. I want to ask the gentleman from Kentucky if the stock of American hemp runs out in hanging these rebels, whether we are to let those unhung go scot free?

Mr. MALLORY. I will say to the gentleman from Pennsylvania that we can supply enough to hang all the rebels ten times over, and that the stock can by no possibility run out.

Mr. WRIGHT. And all the abolitionists, too?

Mr. MALLORY. Yes; including all the abolitionists.

I was pleased with the remark of the gentleman from Vermont, a few moments ago, and I moved this proviso in accordance with the views expressed by him. He stated that his object, especially during the continuance of this war, was to look for supplies for the Army and the Navy, and all that is needed by them, to this country alone, and not to foreign countries. And I say to the gentleman from Vermont that we now prepare in this country an article of dew-rotted hemp which is better for all purposes of cordage than any which can be imported, and that we only need some encouragement in the way I propose by that proviso to enable us to make a full and ample supply for commercial and naval purposes. This is a matter of great importance to us at the West. You know that by the operation of this tariff bill we are oppressed to a great extent. Our interests are different from the interests of that section of the country from which the gentleman comes. We are an agricultural people, and we claim that in the preparation of a bill of this sort, wherever our interest can be looked to, it should be looked to. This is a matter which has engaged the attention of the country and of Congress for a long time, and I believe it is a matter which interests the manufacturers of New England as much as it does the producer of hemp in the western country. Both interests will be promoted by the adoption of the proviso, and I suggest to the gentleman from Vermont, who has in charge this bill, that he accept the proviso, and allow us to have no difficulty in inserting it.

Mr. MORRILL, of Vermont. I suppose the gentleman from Kentucky has accomplished his purpose by moving the amendment to let his constituents know that he is wide awake to the interests of Kentucky.

Mr. MALLORY. The gentleman is very much mistaken. I want the amendment adopted, and I believe it will be adopted. My only surprise is, that the gentleman himself has not seen the cogency of the reason for it, and given me his influence in favor of it.

Mr. STEVENS. I desire to ask the gentleman a question. Does not the gentleman know that the Navy Department are of opinion that, in the way that American hemp is prepared, there are certain things connected with the Navy that American hemp will not answer for, and that they have uniformly used another hemp, prepared and rotted in a different way?

Mr. MALLORY. I assert that there can be prepared from American hemp an article fitted for every purpose for which hemp is used in the Navy, and as good as any foreign article.

Mr. STEVENS. The gentleman has not answered my question, which was, whether the Navy Department were not of a different opinion, and that therefore they have bought foreign hemp for certain things?

Mr. MALLORY. Oh, yes; and I know the Navy Department is generally presided over by some gentleman from New England—from that region of country where these tariff bills are generally prepared with so much care, and we look in vain for the action of that Department in our favor.

Mr. ENGLISH. I simply desire to say that I suppose this is a bill for revenue, and not for the purpose of protecting any interest of our country.

Mr. MALLORY. I understand that protection is looked to in this bill.

Mr. ENGLISH. If the gentleman's amendment is adopted, it will be inconsistent with the object of the bill.

Mr. MALLORY. I know when the subject of manufactures of other descriptions comes up, we hear the gentleman from Connecticut enlarging extensively on the protective character of the bill.

Mr. ENGLISH. Oh, no.

Mr. MALLORY. When the subject of the manufacture of hemp comes up, he tells us that it is a revenue bill.

Mr. WALL. The gentleman from Kentucky tells us that we have now in this country, and have had, for all purposes of manufacturing cordage, as good an article of hemp as the Russia hemp. I will admit, for I know the fact, that they can raise as good hemp in Kentucky and Missouri as grows anywhere, and they do raise the staple, but they destroy the hemp in preparing it after it is grown. I speak from experience, and when gentlemen talk about the protection of hemp, I say they have now abundant protection. All this year, you could buy what is called rough American hemp at St. Louis for from $50 to $60 a ton, when Russia hemp was bought by the hundred tons in New York at $220 and $230 a ton. I know this to be the fact. I have been a dealer in hemp for forty years. I bought two or three thousand tons of hemp in St. Louis this winter, or rather my sons bought it there, for $60 and $70 a ton, when we were paying by the hundred tons $220 a ton for Russia hemp. Well, the difference in value is because they do not prepare their hemp properly in this country. Now, I say that when there is a set of people in any State who have not the enterprise to try to prepare their article in the proper way, when there is a difference of more than $120 against the foreign article, I do not see how we can help them as manufacturers.

Mr. MALLORY. In answer to what has fallen from the lips of the gentleman from New York, who seems to be a manufacturer of cordage and hemp, I will send to the Clerk's desk, for exhibition, a specimen of dew-rotted hemp, and also a letter of May 27, addressed to a friend of mine by a gentleman in Boston, Massachusetts, upon this subject, which I think is a complete answer to what the gentleman has said:

The Clerk read the letter, as follows:

"With this you have a sample of the best kind of dew-rotted American hemp, such as should be used by our Navy. I am surprised that the western members do not compel the Government to use it. It is much preferred for most kinds of cordage, particularly where great strength is required. The Secretary of the Navy has a document, signed by all the principal rope-makers and riggers, with many merchants, recommending its use. I want you to try to interest the members to bring in a bill or resolution, framed to compel the Secretary of the Navy to buy American hemp. Why should we, at this crisis in our country's history, spend money for a foreign inferior article, when a better can be found from our own soil? My interest, it may be, would lead me to prefer the imported article, but my judgment would not. I have no hesitation in saying that the Government should never purchase another ton of foreign hemp; but depend on it, the Department will have to be instructed, or it will go on in its usual way. Benton brought in a bill or resolution prohibiting the purchase of Russian hemp imported. I am not aware that it has been abrogated; but it applied to water-rotted hemp. Since that period dew-rotted hemp has been thoroughly tested, and found to be equally as durable. I know of guys and rigging sixteen or twenty years in constant use."

Mr. MORRILL, of Vermont. I desire to say to the gentleman from Kentucky, that I have noticed that the great security for protection under revenue laws of the Government, is in the men that administer the law, rather than in the law itself. Now, I believe th gentleman is a supporter of the present Administration, as I am, and I think he should be willing to trust them in relation to this matter; I feel sure they will use Kentucky hemp when it will answer the purpose. It is well known that the production of hemp in Kentucky and Missouri has greatly decreased. Certainly in Kentucky it is no longer a leading crop.

In relation to putting in a proviso of this sort, if the gentleman will offer it to some confiscation bill, or in relation to the hanging of rebels, I will unite with him in endeavoring to have it adopted. for if any inferior sort of hemp should be used for that purpose, and the rope should break once or twice, I should have no sort of objection.

Mr. MALLORY. I will state, in relation to what fell from the gentleman from New York [Mr. WALL] a few moments ago, that I was somewhat surprised to hear of his purchasing a good article of hemp, either in Missouri or Kentucky, for fifty dollars a ton. I have been somewhat familiar with the sale of the article for years past, and I have never known any description to sell for that price, unless it had been destroyed in the process of rotting or was tow or refuse hemp. I had the letter which has been read at the Clerk's desk read for the purpose of showing the gentleman from New York that it is becoming the settled conviction of gentlemen of experience in the eastern States that the dew-rotted hemp prepared in the United States can be used for all the cordage required in our Navy, and I wish to secure its adoption and use for all those purposes.

I will say to my friend from Vermont [Mr. MORRILL] that when we come to the subject that he adverted to—the preparation of rope for the hanging of traitors—I will, at the end of the confiscation bill, or to any other bill which he may indicate as being the proper one for the purpose, offer a proviso that all the rope used in hanging traitors, whether secessionists or abolitionists, shall be made of hemp raised and manufactured in America. I will give them the benefit of that proviso. If they prefer to be hung by rope made of American hemp, I am disposed to gratify them in that sort of taste.

Mr. LOVEJOY. I desire to say, in reply to the observation which just fell from the gentleman from Kentucky, that there is not an abolitionist in the country that is a traitor—not one.

Mr. WALL. The gentleman from Kentucky is mistaken in supposing that I said I had bought good Kentucky or Missouri hemp for $50 a ton. My statement was that I had bought, or that my sons had bought, rough hemp to make bale rope of, for fifty, sixty, seventy, up to a hundred dollars a ton. What I meant was, that $80 or $90 a ton was a good price for it, and I have bought thousands of tons. Now, when Russia hemp sells for $230 a ton, that is large protection. I will go as far as the gentleman from Kentucky in providing for the exclusive use of American hemp, and protecting every branch of American industry, but we cannot get a sufficient supply of the American article like the sample which the gentleman has exhibited. That is an excellent article, and would be worth $220 a ton. It has been dressed by some ropemaker who knew how to handle hemp. I have dressed American hemp that was not worth 60 cents a ton, at the time of the war of 1812–14. I was but a boy then, but I knew it.

I agree with the gentleman that the staple is as good as any Russia hemp that grows, but they do not—they can do it, but they do not prepare it—they do not furnish enough of the finer article to supply the market.

Mr. MALLORY. I subscribe, to some extent, to the truth of the remarks of the gentleman from New York; but I will tell him that the time was when Pennsylvania, having the largest supply of iron ore that is to be found, perhaps, in the world, in the same compass, did not prepare an article of iron half as good as that prepared in England; but we instituted a system of protection and encouraged them to open their mines and to erect furnaces, and they have, under that encouragement, produced an article equal to any produced now on the face of the globe. All I ask of the gentleman from New York, and of others, is that, as they know a staple can be produced by our farmers equal to any raised anywhere, they will afford us the encouragement I now ask for the preparation of this hemp, that we may make it equal and superior to any brought from Russia or any foreign country. We will then have, in all contingencies, under all circumstances, and at all times, when war comes, which interrupts our intercourse with foreign nations, a material which will enable us to supply the wants of our Navy. I hope there is not a gentleman on this floor who will not join with me in the expression of the wish that we may put ourselves in a position in which we may, in case of a foreign war, be entirely independent of foreign nations.

Mr. STEVENS. Mr. Chairman, while I am willing now to vote for protection to hemp, as I have done before now, I desire to say that there is a very great difference between laying an additional duty on hemp and compelling our Navy to use American hemp, whether it be good or bad. There is a very great difference between the two propositions. I am willing to assist the gentleman from Kentucky in protecting hemp. I believe it is pretty well protected now. But I rose to ask that the committee rise for the purpose of closing debate, in order that we may get through this bill to-day.

Mr. MALLORY. I desire to remark to the gentleman from Pennsylvania that he ought to recollect that when we chartered the Pacific Railroad Company, we had not the same regard which he seems now to have to the exigencies to which he alludes, as we absolutely and peremptorily required that company to lay down its rails composed of American iron, and no other kind. He did not then stop to inquire whether a sufficient supply could be obtained in America. He took for granted it could be, just as I take for granted that a sufficient supply of hemp can be obtained. He proceeded on that postulate as I wish to proceed on this postulate now. The gentleman from Pennsylvania has expressed his readiness to concur with me in my efforts to get this article of hemp protected. Now, without trespassing upon the patience of the committee, I simply wish to inquire of the gentleman from Pennsylvania whether he will so aid me, as he has indirectly promised to do, for I know his influence is powerful on that side of the House.

Mr. LOVEJOY. I rise to a question of order. I understand debate is exhausted on this amendment.

The CHAIRMAN. Debate is not closed.

Mr. STEVENS. The gentleman from Illinois has not paid attention to the proceedings.

Mr. MALLORY. I now ask the gentleman from Pennsylvania whether he will aid me in an effort to get the duty upon hemp increased in every instance where I think it needs that increase to furnish us with the protection we desire, and which I think we ought to have for that article?

Mr. STEVENS. I have always gone with the gentleman from Kentucky to protect hemp, an article which I think ought to be protected. I will go with him again in all reasonable efforts to that end. In answer to what he said in reference to American iron, I desire to say that if anybody had doubted that American iron was as good as any other for the purpose, I should not have asked it to be used. There is some doubt—I cannot altogether settle that—in the mind of the Department as to whether American hemp, as now prepared, is safe to use in our Navy——

Mr. MALLORY. The gentleman's doubt was as to the quantity, not as to the quality.

Mr. STEVENS. I think it is the duty of the Department to use American hemp, instead of going abroad for it, if it can do so properly. I hope it will do so. I should vote a censure upon it if it did not. Hemp is an article which ought to be protected, and I hope it will be. I now renew my motion that the committee rise.

The motion was agreed to.

So the committee rose; and Mr. WASHBURNE having taken the chair as Speaker *pro tempore*, Mr. DAWES reported that the Committee of the Whole on the state of the Union had had under consideration the special order, being House bill No. 531, increasing temporarily the duties on imports, and for other purposes, and had come to no conclusion thereon.

Mr. STEVENS. I move that when the Committee of the Whole on the state of the Union shall resume the consideration of the special order, all further debate on the bill be closed in five minutes.

The motion was agreed to.

Mr. STEVENS. I move that the rules be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union.

The motion was agreed to.

The rules were accordingly suspended; and the House resolved itself into the Committee of the Whole on the state of the Union, (Mr. DAWES in the chair,) and resumed the consideration of the special order, being the bill (H. R. No. 531) increasing temporarily the duties on imports, and for other purposes, on which general debate was closed in five minutes.

Mr. SHELLABARGER. I move to amend the amendment of the gentleman from Kentucky by adding the following proviso:

Provided further, The same can be obtained of as good quality and at as low a price.

I think there is much force in the suggestion of the gentleman from Kentucky, and that we ought to adopt his amendment if it be consistent with the exigencies of the public service at this time. Such an amendment as I propose to it will obviate all the difficulties suggested by the gentleman from New York [Mr. WALL] and others. If we can obtain the American commodity of equal quality, and equally suitable to the service, and at as low a price, we certainly ought to give it the preference.

Mr. MALLORY. If the gentleman from Ohio will withdraw that portion of the proviso relating to price, I will accept the rest of it.

Mr. SHELLABARGER. I prefer my amendment as I offered it. I think that when the same commodity grown at home is offered to the Government, equally good and at as low a price as that produced abroad, the Government should always give the preference to the American product. But I am not in favor, particularly at this time, of adding anything for the mere purpose of protection to the expenditures of the Government.

The question was taken on Mr. SHELLABARGER's amendment to the amendment, and it was agreed to.

The question recurred on Mr. MALLORY's amendment as amended, and it was agreed to.

Mr. KELLOGG, of Illinois. I move to amend, at line eighteen, page 31, by striking out "thirty-five," and inserting in lieu thereof "forty," so that it will read:

On China and porcelain ware, plain white, and not decorated in any manner, and all other earthen, stone, or crockery ware, white, glazed, edged, printed, dipped, or cream-colored, composed of earthy or mineral substances, and not otherwise provided for, 40 per cent. *ad valorem*.

The duty will then be the same as is provided in the preceding lines for decorated ware.

Mr. MORRILL, of Vermont. I trust that that amendment will not be adopted. This is an article from which we can, of course, receive increased revenue by increasing the rates of duties. Very little of it is produced in this country. We have raised the duty on all descriptions 10 per cent., whether China or common ware. I trust the paragraph will be allowed to remain as it is. It makes no distinction between ordinary ware, China ware, and common or queensware.

The amendment was rejected.

Mr. WALTON. I move to amend by inserting, between the nineteenth and twentieth lines, the following:

Slates, roofing slates, slate pencils, slate chimney-pieces, mantels, slabs for tables, and all other manufactures of slates, 40 per cent. *ad valorem*.

Mr. Chairman, this amendment proposes to raise the duty on these articles from 30 to 40 per per cent. The words "chimney pieces, mantels, slabs for tables, and all other manufactures of slates," in this paragraph include descriptions which are as much articles of fancy or luxury as are China and porcelain ware, when gilded or decorated in any manner. I propose to put precisely the same tax on these articles as is put on China ware of this character.

Now, Mr. Chairman, in relation to the other articles of manufacture which are not articles of luxury, it strikes me that any person who would go to Wales, to Europe, or anywhere else than our own country, for them—when an abundance can be procured from our mountains—will be as likely to go there and get them, paying 40 per cent. duty as he would with 30 per cent.

Mr. MORRILL, of Vermont. I desire to call my colleague's attention to the fact that this bill, on page 38, raises the duty on all these articles 5 per cent. I, however, have no remark to make upon the amendment. I am willing that the House should decide it.

Mr. WALTON. I have already stated that the bill raises the duty on these articles to 30 per cent., but I think the bill does not go far enough. In articles of mere fancy, like these enameled slates, I think 40 per cent. is not too high.

Mr. MORRILL, of Vermont. Does the gentleman include roofing slates?

Mr. WALTON. I do.

Mr. F. A. CONKLING. I move to strike from the amendment of the gentleman from Vermont the article of "roofing slate."

I will only say in support of this amendment that I think no one who has listened to the argument of the gentleman from Vermont will hesitate a moment in striking out this article, for by no possibility can it come within the range of articles which he describes.

The committee voted on the amendment to the amendment, and there were—ayes 25, noes 40; no quorum voting.

Mr. WALTON. Rather than break up the quorum, I will accept the amendment of the gentleman from New York.

The amendment, as modified, was then adopted.

Mr. STEVENS. I move to add at the end of the section what should properly have been inserted in another place. Rather than go back, I prefer to insert it here. I move to insert it, as follows:

On soaps, fancy, scented, honey, cream, transparent, and all descriptions of toilet and shaving soap, 2 cents per pound in addition to the present duty.

Mr. LOVEJOY. I move to amend the amendment by inserting after the articles indicated, "indigo, 10 cents per pound."

I will say in support of the amendment that this article is grown to some extent in the western States, and could be grown much more extensively than it now is; and as we get only 8 cents a bushel for corn, and have to pay our taxes in gold, worth 10 per cent. more than the currency of the Committee of Ways and Means, I think we ought to have this protection.

The question was put on the amendment to the amendment, and fourteen voted in the affirmative.

Mr. LOVEJOY called for tellers.

Tellers were not ordered.

The amendment to the amendment was disagreed to.

Mr. KELLOGG, of Illinois. I move to amend the amendment of the gentleman from Pennsylvania by adding: "Madder, 5 cents per pound." I do not know why there should not be a duty levied on this article. If this bill is merely for revenue, then certainly the proposition I have submitted should not be objected to. If the object of the bill is to afford protection to home industry, then my proposition should certainly be adopted, because the article of madder is raised to some extent in the country, and could be raised to a much larger extent in all the western and middle States if this protection is furnished. In view of these facts, therefore, I can see no reason why this duty should not be imposed.

The only objection I can imagine it possible to raise is that it might, to a certain extent, operate prejudicially to the interests of the manufacturers in the eastern portion of our Confederacy, but I take it for granted that those members of the House who are somewhat in favor of western interests will vote for this amendment.

Mr. LOVEJOY. I merely wish to add to what I said upon my amendment, that if the duty I proposed on indigo had been adopted, it would have produced revenue to the extent of $250,000.

Mr. SHEFFIELD. I rise to a question of order. The gentleman is not discussing the amendment.

The CHAIRMAN. The question is upon madder.

Mr. LOVEJOY. All I have to say is that this duty of 10 cents a pound upon indigo would produce a revenue of $250,000.

Mr. MALLORY. I rise to a point of order. The gentleman is not discussing the question before the House.

The CHAIRMAN. The Chair sustains the question of order.

Mr. LOVEJOY. Well, sir, I have said all I intended to.

Mr. SHEFFIELD. I am surprised at the amendment of the gentleman from Illinois. Indeed, I can account for it upon no other theory than that he has been imposed on by some madder speculator, who desires to have the duty imposed in order to realize the profit on the stock he has on hand.

Mr. Chairman, I hope this amendment will not be adopted. This article is a raw material which enters into the manufactures of the country. I think it was a mistake in taxing any of the raw materials in this bill, and especially such as do not come into competition with the products of this country. I am not aware that a single pound of madder is raised in this country for sale. If there is, it is not to any considerable amount.

Mr. KELLOGG, of Illinois. I will state to the gentleman that madder is grown to a very considerable extent in this country, though not to the extent it might be if the production were properly encouraged.

Mr. SHEFFIELD. I am not aware that there is any madder which enters as an element into the manufactures of the country which is grown in this country. I am very happy, however, to hear that some of the western people are embarking in this enterprise. When we have the evidence that they have embarked in it to any considerable extent, if the gentleman will come here and propose a protective duty upon it, if am here I will sustain the proposition.

But, sir, at this time, the manufactures of the country are heavily taxed, and as any tax upon the raw material is just to that extent an additional tax upon the manufacturer, I hope that madder, which enters as an element into the manufacture of calico and other cotton prints, will not be taxed so long as it is not raised to any extent in this country. I am in favor of protecting American industry. I am in favor of the protective feature of this bill. I am in favor of keeping up the currency of the country; and I am in favor of the protective feature of the bill, because it keeps the gold and silver in the country, and I would be in favor of protecting the production of madder, if there were any general manifestation of disposition to go into its culture; but under the existing circumstances, I see no reason why the amendment should be adopted.

The amendment to the amendment was disagreed to.

Mr. MORRILL, of Vermont. I suppose it is hardly necessary to discuss this measure.

The CHAIRMAN. Does the gentleman propose an amendment?

Mr. MORRILL, of Vermont. Yes, sir. I move to amend the amendment by striking out the last word. Now, sir, by the terms of the Clay and Calhoun tariff of 1825——

Mr. LOVEJOY. I call the gentleman to order. He is not speaking to his amendment.

Mr. MORRILL, of Vermont. I am speaking to my amendment, which was to strike out the last word of the amendment pending, the effect of which would be to spoil it.

Mr. LOVEJOY. Well, sir, the Chair will decide that.

The CHAIRMAN. The Chair overrules the question of order.

Mr. MALLORY. I raise the question of order that the gentleman must confine himself to the last word, which he moves to strike out.

The CHAIRMAN. The Chair has already overruled that question of order.

Mr. MORRILL, of Vermont. I will only say that, by the Clay-Calhoun tariff, dye-stuffs were admitted duty free, and it was not until the Walker tariff of 1846 that any duty was levied upon them. A duty was then levied of 5 per cent. The tariff of 1857 reduced the duty, and the tariff of 1861 admitted them duty free. The bill which is before the House places a duty upon every article that is manufactured. When madder is in the extract, or when madder is assorted under the name of garacine, a duty is levied on it. A duty is also proposed on the extract of indigo. I believe this Congress has already imposed sufficient burdens on the manufacturers, and I do not, for one, propose to impose anything more. I now withdraw my amendment.

Mr. STEVENS's amendment was agreed to.

Mr. LOVEJOY. I move to insert, on page 31, between lines twenty-one and twenty-two, the words, "on indigo, 10 per cent. *ad valorem.*" I want to say, if I understood the remarks of the gentleman from Vermont, that this bill is constructed on the basis of revenue.

The CHAIRMAN. The Chair is advised that the amendment moved by the gentleman is the same that was voted down by the committee only a short while ago, and it is therefore not in order.

Mr. LOVEJOY. It was offered before as an amendment to an amendment. It is now offered simply as an amendment.

The CHAIRMAN. That does not make any difference. The amendment is not in order.

Mr. LOVEJOY. I will alter the amendment so that it will be in order. I move that the duty on indigo shall be 9 per cent. Now, so far as I have been able to judge in reference to the principles upon which this bill has been constructed, it is intended for protection and not for revenue. The whole arrangement of the bill is in the hands of those who are in favor of a protective policy. The gentleman from Rhode Island [Mr. SHEFFIELD] says that if any of these articles could be produced in this country to any extent, he would go for protecting them. Now, sir, the very plea for a protective policy, by imposing heavy duties upon foreign importations, is, that manufactures might spring up under that protection, which they certainly cannot do without it. Let gentlemen apply the same reasoning to those agricultural products. If you protect them they will spring up and increase in the land; but if you do not protect them they will not spring up. There is no reason why $250,000 should not be raised on this article of indigo.

The amendment was rejected.

Mr. MORRILL, of Vermont. I move, on page 31, lines twenty and twenty-one, to strike out the words, "on unwrought clay, kaoline, and fuller's earth, $3 per ton;" and in lieu thereof to insert, "on pipe clay, fire clay, and kaoline, $5 per ton, and on fuller's earth, $3 per ton."

Mr. LOVEJOY. It would be very beneficial to the country, I think, if a very heavy tax could be imposed upon pipe-laying. [Laughter.]

The amendment was agreed to.

Mr. STRATTON. On page 32, line thirty-two, after the word "glass," I move to insert the words, "not including crown, cylinder, broad, or common window glass;" so that it will read:

On fluted, rolled, or rough plate glass, not including crown, cylinder, broad, or common window glass, not exceeding ten by fifteen inches, 75 cents per one hundred square feet; above that, and not exceeding sixteen by twenty-four inches, 1 cent per square foot; above that, and not exceeding twenty-four by thirty inches, 1¼ cent per square foot; all above that, and not exceeding in weight one pound per square foot, 2 cents per square foot: *Provided*, That all fluted, rolled, or rough plate glass, weighing over one hundred pounds per one hundred square feet, shall pay an additional duty on the excess at the same rates herein imposed.

The amendment was agreed to.

Mr. WARD. I move, on page 31, line thirteen, to strike out "forty," and in lieu thereof to insert "fifty," so that it will read:

On China and porcelain ware, gilded, ornamented, or decorated in any manner, 50 per cent. *ad valorem.*

Mr. Chairman, inasmuch as the tendency of this bill is more for protection than revenue, and it seems to be so understood all over the House, I have moved this increase of duty from 40 to 50 per cent. on China and porcelain ware. There is an effort now being made in this country to manufacture porcelain of the finest quality, and if other manufacturing interests are to be protected, I do not see why this interest should be excluded. I have no doubt that those who indulge in this article of luxury will not object, under all the circumstances, to the imposition of this increased tax.

Mr. MORRILL, of Vermont. I will say, on this subject of crockery, that the committee were induced to put a heavy duty on it because we were told that there was a very large amount on hand; and that it was absolutely necessary that the duty should be increased.

Mr. DELANO. I move, on page 37, line ninety-seven, after these words, "manufactures of cotton, linen, silk, wool, or worsted, if embroidered or tamboured, in the loom or otherwise, by machinery or with the needle or other process, not otherwise provided for," to insert these words: "silk twist and sewing silk," so that a duty of 5 per cent. *ad valorem* will be imposed upon those articles, as well as upon the articles indicated in the paragraph referred to.

Mr. Chairman, if I can get the attention of the House, I think the reasonableness of this proposition will be at once seen. Under the tariff of 1861, silk thread and twist were placed on the same footing with linen thread, cotton thread, and woolen yarns. They all stand on the footing of 30 per cent. *ad valorem.* It must be obvious to the Committee of Ways and Means, and to everybody else, that much more capital is required to engage in the manufacture of silk thread and twist than is required to engage in the manufacture of any other articles embraced with them in the act of 1861. Now, when the internal revenue bill was before us, it was proposed to continue these various articles in the same category, and they were accordingly assessed at 3 per cent. *ad valorem.*

If there is anything the Committee of Ways and Means have endeavored to inculcate in the House, it was that where internal tax was imposed to raise internal revenue, they would make it up or compensate for it by a corresponding duty on foreign importations. They have done it on every article except silk thread and twist. My constituents are deeply interested in the manufacture of silk thread and twist. I believe there is only one other constituency in the United States which is engaged in this manufacture and which helps to supply the demands of the American market. They have gone on for twenty-five years until now, they have been able to compete most successfully with the foreign manufacturer and importer. They have for a few years past produced a better article than any which can be imported. They ask to be dealt with as other manufacturers have been dealt with under this bill. They ask that silk thread and twist shall be placed on the list of those articles upon which are imposed a duty of five per

cent. *ad valorem*. They have the right to ask it, and as it is a fair and just proposition, I hope the committee will not hesitate a moment in adopting it.

Mr. BIDDDE. I presume, Mr. Chairman, that even if this bill is to be founded upon a protective policy, it is not the intention to so arrange the duties as to prohibit the importation of articles which are not produced in this country. Under the tariff of 1857, when a duty of twenty-four per cent. was imposed upon silks, it excluded almost all of the foreign article from the market. At the present time, when the protection amounts to forty per cent., it excludes from the market everything except some fine Italian sewing silks, which I am informed are not produced in this country. And to raise the tariff still higher would make it simply a tariff for the prohibition of such articles as are not produced here at all. For that reason I am opposed to the amendment suggested by the gentleman. There is no duty whatever upon raw silk. I had occasion to call the attention of the committee to that matter myself, though it did not receive their favorable consideration. Still, raw silk remaining entirely free of duty, I should be sorry to see an advanced duty put upon the manufactured article.

Mr. MORRILL, of Vermont. I move to amend the amendment by striking out "twist." I move the amendment merely to give me an opportunity to explain and justify the action of the committee. I do not desire to interfere with the proposition of the gentleman, but to leave it to the sense of the committee to decide as they see fit.

In reference to his statement that the duty on all other articles of manufacture has been increased by this bill, I will say he is very much mistaken. There are some kinds of iron, the duties on which have not been increased. The duty on window glass, molasses, and sugar, has not been increased. The duty on no manufactures of silk have been increased; for the reason that, at the last session of Congress, we increased the duty on all descriptions of silk ten per cent. Raw silk is admitted free; and if sewing silk and twist are manufactured here from the raw article, or silk as reeled from the cocoon, the manufacturers have a protection of 40 per cent. If they manufacture silk from singles, tram, thrown, or organzine, the manufacturer has a protection of 15 per cent.

We have an article of silk velvet manufactured in this country, a fact of which I was not aware until to-day. We also have ribbon manufactures, but we do not give even them any higher duty than 40 per cent. for revenue or protection.

Mr. TRAIN. I would like to ask the gentleman a question.

Mr. MORRILL, of Vermont. Certainly.

Mr. TRAIN. I would inquire of the gentleman from Vermont whether it has not been the understanding of the Committee of Ways and Means all along that wherever a manufactured article was affected by the excise bill, that article should be protected by this bill correspondingly?

Mr. MORRILL, of Vermont. That has been our idea.

Mr. TRAIN. If that is so, why should this article be omitted?

Mr. MORRILL, of Vermont. For the reason that the duty now existing is utterly prohibitory, and it makes no sort of difference whether you make the duty 40 or 50 per cent. The article has not been or will not be affected at all.

Mr. DELANO. I ask the gentleman to give way to allow me to read an extract from a letter in reference to silk manufacture.

Mr. MORRILL, of Vermont. I will.

Mr. DELANO. It is from a letter which was laid before the committee when the tax bill was under consideration by them. The writer says:

"It is a business requiring the movement of very much more capital to produce a fair income than almost any other of the country, and we think should be favorably considered in comparison with the others which produce an equal income from one quarter to one half the amount of business and a like proportion of tax. Whatever tax is assessed, also lessens our protection from the tariff."

Mr. MORRILL, of Vermont, by unanimous consent, withdrew his amendment.

The amendment introduced by Mr. DELANO was agreed to.

Mr. SHELLABARGER. I move to amend by striking out from line six, section thirteen, the word "five," and inserting "three," thereby reducing the duty from 5 to 3 per cent. upon all the articles enumerated in that section. The amendment would be a very important one if adopted, and I have no expectation, of course, that it will be adopted unless it meets the favor of the Committee of Ways and Means. I move the amendment for the purpose of obtaining information in reference to this duty of 5 per cent. upon this list of articles, when the internal revenue bill only imposed a home tax of 3 per cent. We have been repeatedly informed that this bill was constructed for the purpose of compensating our home manufacturers for the internal tax, and in order that they might be put upon a level in competition with foreign producers. That is right if our tariff was right before we entered into this war.

Mr. HOOPER. I hope the amendment will not be adopted; and I think if the gentleman will look at the matter for a moment, he will see that his amendment does not accomplish the purpose he has in view. The 3 per cent. of the tax bill is proposed on a home valuation, on the sale of the article in the market here, whereas this 5 per cent. upon the imported article is put upon the cost of the article abroad. That does not exceed, and in many cases it will not equal, 3 per cent. on the whole valuation.

The amendment was not agreed to.

Mr. KELLOGG, of Illinois. I propose to strike out from line twenty-nine, page 34, the word "leggins." I do it out of the great regard I have for my friend from Minnesota, [Mr. ALDRICH,] believing that his people would bear, by this duty, more than their proportion of taxes. [Laughter.]

Mr. MORRILL, of Vermont. I will state to the gentleman that his friend from Minnesota is not present to appreciate his kindness.

The amendment was not agreed to.

Mr. BAKER. In order to protect the interests of the distinguished gentleman who represents the settlements of the Red River of the North, I would ask the chairman of the Ways and Means if he will allow me to insert as an amendment on page 36, between lines sixty-three and sixty-four, the words "furs dressed;" that would bring them within the 5 per cent. schedule, while cut furs pay 10 per cent.

Mr. STEVENS. It is impossible for me to resist so polite an appeal as the gentleman makes.

The amendment was agreed to.

Mr. MORRILL, of Vermont. I move to strike from lines one hundred and one and one hundred and two, page 37, the words "manufacturers of marble, marble paving tiles, and marble dressed or polished," those words having been incorporated into another section.

The amendment was agreed to.

Mr. MORRILL, of Vermont. I move to insert after line one hundred and eighteen, page 38, the words "roofing slates," and to strike out of lines one hundred and twenty-three, one hundred and twenty-four, and one hundred and twenty-five, the words, "slates, roofing slates, slate pencils, slate chimney pieces, mantels, slabs for tables, and all other manufactures of slate."

The amendment was agreed to.

Mr. MORRILL, of Vermont. I move to insert after the word "material," line one hundred and twenty-eight, page 39, the words "not otherwise provided for;" so that the clause will read, "twines and packthread, of whatever material, not otherwise provided for."

The amendment was agreed to.

Mr. WINDOM. For the benefit of the gentleman from the State of Illinois, [Mr. KELLOGG,] and his constituents, I move to strike out of line forty-five, page 35, the words "combs of all kinds." [Laughter.]

The amendment was not agreed to.

Mr. GOOCH. I move to amend by inserting after the word "watches," in line one hundred and thirty-seven, page 39, the words "in addition to the duties heretofore imposed by law, a duty of ten per cent. *ad valorem*." The duty upon watches now is fifteen per cent., and the additional duty will make it twenty-five per cent., which does not seem to me to be too much duty to be imposed upon that article. It is true, there are not many watch factories in this country, but there are two or three, and they make watches said to be as good, if not superior, to any manufactured in the world.

The men who are engaged in the manufacture of these watches desire this increase of duty; and I understand the only objection which can be urged to it is that a high duty may cause a greater amount of watches to be smuggled into the country. It seems to me there are no men so well able to judge in relation to this matter as the men who are engaged in the business, and are to be affected by it. They desire this increase, because they feel that, with the arrangements which are now made for the detection of smuggling of watches, they will be benefited instead of injured by an increase of duties; and I apprehend that no man will say that 25 per cent. is too great an amount of duty to collect on watches, provided that it be collected.

The amendment was disagreed to.

Mr. HOOPER. I move to amend the fourteenth section by filling the blank in line two with the words "31st day of December, 1862," and by striking out the word "next," in line three, so that it will read:

SEC. 14. *And be it further enacted*, That upon all ships, vessels, or steamers, which, after the 31st day of December, 1862, shall be entered at any custom-house in the United States from any foreign port or place, or from any port or place in the United States, whether ships or vessels of the United States, belonging wholly or in part to subjects of foreign Powers, there shall be paid a tax or tonnage duty of 10 cents per ton of the measurement of said vessel, in addition to any tonnage duty now imposed by law, &c.

The amendment was agreed to.

The Clerk read the sixteenth section, as follows:

SEC. 16. *And be it further enacted*, That from and after the —— day of ——, no goods, wares, or merchandise subject to *ad valorem* or specific duty, whether belonging to a person or persons residing in the United States or otherwise, or whether acquired by the ordinary process of bargain and sale, or otherwise, shall be admitted to entry, unless the invoice of such goods, wares, or merchandise be verified by the oath of the owner or one of the owners, or of the person or one of the persons of whom they were purchased, or from whom they were obtained, certifying that the invoice annexed contains a true and faithful account, if subject to *ad valorem* duty and obtained by purchase, of the actual cost thereof, and of all charges thereon, and that no discounts, bounties, or drawbacks are contained in the said invoice but such as have actually been allowed on the same; and when consigned or obtained in any manner other than by purchase the actual market value thereof, and if subject to specific duty, of the actual quantity thereof; which said oath shall be administered by the consul or commercial agent of the United States in the district where the goods are manufactured, or from which they are sent: *Provided*, That if there be no consul or commercial agent of the United States in the said district, the verification hereby required shall be made by the consul or commercial agent of the United States at the nearest point, or at the port from which the goods are shipped, in which case the oath shall be administered by some public officer, duly authorized to administer oaths, and transmitted with a copy of the invoice to the consul or commercial agent for his authentication: *Provided, further*, That the consul or commercial agent, as aforesaid, shall be entitled to receive as fees one dollar for each and every invoice verified, as hereinbefore mentioned, from the party so submitting the same, and shall account for all such fees in such manner as is now required by law regulating the salaries and fees of consuls and commercial agents.

Mr. HOOPER. I move to amend the sixteenth section by striking out, in the eighth and ninth lines, the words "or of the person or one of the persons of whom they were purchased or from whom they were obtained," and inserting in lieu thereof "or, in the absence of the owner, one of the parties who was authorized by the owner to make the shipment and sign the invoice of the same;" so that it will read:

SEC. 16. *And be it further enacted*, That from and after the — day of ——, no goods, wares, or merchandise subject to *ad valorem* or specific duty, whether belonging to a person or persons residing in the United States or otherwise, or whether acquired by the ordinary process of bargain and sale, or otherwise, shall be admitted to entry, unless the invoice of such goods, wares, or merchandise be verified by the oath of the owner or one of the owners, or, in the absence of the owner, one of the parties who was authorized by the owner to make the shipment and sign the invoice of the same, certifying that the invoice annexed contains a true and faithful account, &c.

The amendment was agreed to.

Mr. HOOPER. I move to fill the first blank in line two with the word "1st," and the second blank with "November, 1862."

The amendment was agreed to.

Mr. HOOPER. I offer the following proviso, to come in at the end of the section:

Provided, That for all places beyond the Cape of Good Hope and Cape Horn, this act shall not take effect until April 1, 1863.

The amendment was agreed to.

Mr. SHEFFIELD. For the purpose of making a suggestion, I offer the following proviso, to come in at the end of the section as amended:

Provided further, however, That nothing herein contained

shall be construed to require any other consular certificate than what is now required by law for goods imported under the Canadian reciprocity treaty.

The House passed the other day a bill doing away with the requirement of a consular certificate for goods imported under the Canadian reciprocity treaty, and it seems to me that this exception is necessary for the purpose of meeting that act.

Mr. STEVENS. Has that bill become a law?

Mr. SHEFFIELD. Not yet; but it probably will before the session closes.

Mr. HOOPER. I see no objection to the amendment.

The amendment was agreed to.

Mr. WARD. I move to strike out the entire section, as amended. It enacts that certificates of the value of all imported merchandise must be verified by the oath of the owner, administered by the consul or commercial agent of the United States, in the district where such merchandise is made, or from whence it is sent, or by some public officer duly authorized, and transmitted with a copy of the invoice to such consul or commercial agent, for his authentication, as may be nearest to such point or district.

What is a purchaser and owner who lives in New York to do if he buys goods in Paris or Havana? According to the section, he must make the required oath, apparently in France or Cuba; and if no consul or commercial agent resides in or near the place where the purchase is made, a yet more circuitous course must be taken.

If this section is to be literally understood and carried into effect, no American citizen residing in his own country can purchase merchandise abroad, and the business must be thrown into the hands of foreigners or Americans residing abroad.

The section is also liable to the objection that it requires oaths to be made in countries over which we have no jurisdiction, and no means of our own, except through the local laws therein prevailing, of punishing those who make false oaths. At many ports, also, there is no consul or commercial agent of the United States. By this section all our trade with these places in dutiable articles would be subject to such restrictions as would in many cases seriously injure or annihilate it.

On other grounds, it seems to me that this section is very objectionable. As I understand it, goods arriving in this country are entered upon the oath of the owners, and where they are consigned a consular certificate is required. Now, it seems to me that this additional provision conveys a sort of imputation upon merchants who are importing goods into the city of New York. It adds an additional and very unnecessary expense, and I cannot see what possible good can result from such a system. We should make this act as little burdensome as possible, and it seems to me that the main object of this provision is merely to give to some consuls and commercial agents this fee of $1. I am utterly opposed to any further restrictions being imposed upon merchants in the entry of goods. There are undoubtedly frauds perpetrated, but I see no reason why merchants of high character should be reflected on by the legislation of this Congress merely because some frauds are committed. I therefore hope the section will be stricken out.

Mr. MORRILL, of Vermont. This section is an amendment to the present law, which only requires an invoice to be certified by a foreign owner when the goods are subject to *ad valorem* duties. Since the law in relation to these verifications was passed, we have changed the tariff so as to provide for specific duties on a great many articles. Now, unless we have a provision somewhat similar to this, goods which are subject to specific duties can be imported by a foreign owner without this verification. It is well known also that in some districts in foreign countries almost all the goods sent hither are made expressly for the American market, and are invoiced at the cost of the raw materials and labor only—in fact, come under fraudulent invoices, or by a systematic evasion, which furnishes no market value by which you can ascertain the true market value of the merchandise in the principal ports of the country from whence exported upon which the duties should be levied. Our own merchants are not treated fairly by such a system. The Committee of Ways and Means thought it was no hardship and no imputation upon any class of merchants to require that every invoice shall be properly certified, whether of a foreigner or of an American.

In relation to the fees, I desire to say to the gentleman from New York that most of our principal consuls and commercial agents receive salaries fixed by law—fees are accounted for—and where it is otherwise, this provision will increase their fees only to a small extent, and not beyond what is reasonable, perhaps, for the service, and the Government will receive at least three fourths of all the fees that will be collected on these consular certificates, as they are required to render an account of every dollar.

Mr. ODELL. I move *pro forma* to strike out the last word of the section, for the purpose of asking the gentleman from Vermont if I understood him to say that the oath required by the present law regulating the importation of foreign goods is confined to those paying *ad valorem* duties?

Mr. MORRILL, of Vermont. I so understand the law so far as foreign shippers are concerned.

Mr. ODELL. That is a mistake. If I understand the law correctly, the present law provides for all that is provided for in this section. In all cases where goods are owned in this country the oath may be administered here. The oath of the owner is requisite for the entry of the goods; the consul has nothing to do with it. But in all cases where the goods are owned abroad, the consular certificate is required for which the consul is entitled to a fee of $2.

Now, I agree entirely with my colleague that the effect of this law will be merely to put fees into the pockets of these consuls and commercial agents. I do not say that that is the intention or object of the Committee of Ways and Means, but the effect of it will be to add largely to their fees and add nothing to the revenue, while it will embarrass very much the operations of our merchants in purchasing their goods abroad. I hope the whole section will be stricken out.

Mr. MORRILL, of Vermont. I have conferred with the largest importing merchant in New York, and he thinks it a most excellent provision.

Mr. ODELL withdrew his amendment to the amendment.

Mr. WARD's amendment was rejected.

Mr. STEVENS. The next section of the bill will require some time to read, and there may be diversity of opinion about it. It is now near five o'clock; and as members have voted to adjourn over to-morrow, they must have time enough. I move that the committee do now rise.

The motion was agreed to.

So the committee rose; and the Speaker having resumed the chair, Mr. DAWES reported that the Committee of the Whole on the state of the Union had had under consideration the special order, being House bill No. 531, increasing temporarily the duties on imports, and for other purposes, and had come to no conclusion thereon.

REORGANIZATION OF NAVY DEPARTMENT.

Mr. MOORHEAD, from the committee of conference on the disagreeing votes of the two Houses on Senate bill No. 171, to reorganize the Navy Department of the United States, reported that the committee had met, and after full and free conference had agreed to recommend to their respective Houses as follows:

That the House recede from its third and fourth amendment to the bill, and that the Senate recede from its amendment to the fourteenth amendment of the House, and agree to the same with the following amendment: Strike out the words "captains on other duty," and insert in lieu thereof the words "$3,000 per annum;" and that the House agree to the said amendment to the amendment.

Mr. MOORHEAD demanded the previous question on agreeing to the report.

The previous question was seconded, and the main question ordered, and under its operation the report was agreed to.

Mr. WASHBURNE moved to reconsider the vote by which the report of the committee of conference was agreed to; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

TEMPERANCE LECTURER.

Mr. RICE, of Maine, asked unanimous consent to offer the following resolution:

Resolved, That the use of this House be, and hereby is, granted to Rev. J. B. Marvin, in which to deliver a lecture upon the subject of temperance, on Sunday next, at four o'clock, p. m.

Mr. JOHNSON objected.

RECUSANT WITNESS.

Mr. BINGHAM, by unanimous consent, offered the following resolution:

Whereas Michael C. Murphy, of the city of New York, was on the 23d instant duly served in person by order of this House, and by its Sergeant-at-Arms, with subpena to appear and testify before the Judiciary Committee, in the matter of inquiry referred to it in reference to Hon. BENJAMIN WOOD; and whereas the said Michael C. Murphy has refused to obey the order of the House in the premises, and is in contempt of the House: Therefore,

Resolved, That the Sergeant-at-Arms be, and he is hereby, directed to arrest the said Michael C. Murphy, and bring him forthwith before this House, to answer for his contempt in the premises, and to subject himself to its order.

Mr. HOLMAN. I inquire whether the facts recited in the resolution are correctly stated?

Mr. BINGHAM. The original subpena is here, with the return of the Sergeant-at-Arms upon it, as stated in the resolution. I may say, in addition, that I learned from the Sergeant-at-Arms that the witness told him contemptuously he would not attend. I move the previous question.

The previous question was seconded, and the main question ordered; and under its operation the resolution was adopted.

REBELLION LOSSES.

Mr. FENTON. I ask the consent of the House to make the rebellion losses bill a special order for Thursday next.

Mr. LOVEJOY. I move that the bill be postponed.

The SPEAKER. The gentleman from Illinois is not entitled to the floor.

Mr. LOVEJOY. Then I object to the bill being made a special order.

FURLOUGHS TO SICK SOLDIERS.

Mr. BLAKE. I ask leave to offer the following resolution:

Resolved, That the Secretary of War be instructed to inquire into the propriety and expediency of granting furloughs to all sick and wounded soldiers now in the hospitals in and about Washington, who may desire it, and who the proper officers of the medical department of the hospitals will certify are so disabled from sickness or wounds as to be unable to perform military duty for several weeks, but who are able to return to their homes without injury to their health, and communicate to this House his action therein as speedily as possible.

Mr. MAYNARD objected.

And then, on motion of Mr. LOVEJOY, (at four o'clock and forty-five minutes, p. m.,) the House adjourned till Monday next.

IN SENATE.

SATURDAY, *June* 28, 1862.

Prayer by the Chaplain, Rev. Dr. SUNDERLAND.

The Journal of yesterday was read and approved.

EXECUTIVE COMMUNICATION.

The PRESIDENT *pro tempore* laid before the Senate a communication from the Secretary of War, transmitting, in answer to a resolution of the Senate of the 9th instant, copies of official reports from the officers in command relating to the recent battles of Pittsburg Landing.

Mr. WADE. I move that it be referred to the Committee on Military Affairs and the Militia.

The motion was agreed to.

Mr. POWELL. And printed.

The PRESIDENT *pro tempore*. That motion has not been made.

Mr. POWELL. I make it.

The motion to print was agreed to.

PETITIONS.

Mr. KING. I present a petition from volunteers who have been honorably discharged from the service of the United States, setting forth that when they enlisted they expected to fulfill their duties as soldiers for the full term of their enlistment, but they have been discharged on account of disabilities arising while in actual service from sickness, wounds, and other causes incidental to the service, and unavoidable; and that they are informed the bounty authorized is not allowed them, which they expected to receive when they enlisted. They ask that the bounty of $100 may be extended to them. A very large list of discharged soldiers sign the petition. I move that it be referred to the Committee on Pensions.

The motion was agreed to.

Mr. WADE. I have a petition numerously signed from citizens of Ohio, setting forth that they view with astonishment and feelings of deep

humiliation the tender regard shown by the military authorities of the Federal Government for the property of notorious traitors in arms against the United States, and praying that more energetic and stringent measures may be adopted by the Government. I move that it be referred to the Committee on Military Affairs and the Militia.

It was so referred.

Mr. HOWE presented the petition of the Milwaukee and Rock River Land Company, remonstrating against the payment to the State of Wisconsin of the five per cent. fund which has accumulated on sales of public lands in that State before a final adjustment of the claims of the company; which was referred to the Committee on Claims.

PAPERS WITHDRAWN.

On motion of Mr. GRIMES, it was

Ordered, That the petition of John McCutcheon be withdrawn from the files of the Senate, and delivered to Ann McCutcheon, his widow.

NOTICE OF A BILL.

Mr. POWELL gave notice of his intention to ask leave to introduce a bill to punish persons who give, or offer to give, members of Congress and officers of the Government of the United States consideration for procuring contracts, office, or place from the Government of the United States.

REPORTS FROM COMMITTEES.

Mr. ANTHONY, from the Committee on Printing, to whom was referred the resolution to print one thousand copies of the act for the collection of internal revenue for the use of the Senate, reported in favor of printing the same; and the report was agreed to.

Mr. ANTHONY, from the Committee on Printing, reported the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That there be printed in addition to the usual number, twenty-five thousand copies of the report of the Commissioner of Patents on agriculture, for the year 1861, twenty thousand of which for the use of the Senate, and five thousand for distribution by the Interior Department.

Mr. COLLAMER, from the Committee on the Post Office and Post Roads, to whom was referred the memorial of Marshall O. Roberts and others, trustees of A. G. Sloo, submitted a report, accompanied by a bill (S. No. 373) for the relief of the trustees of A. G. Sloo. The bill was read, and passed to a second reading, and the report was ordered to be printed.

Mr. WRIGHT, from the Committee on Public Lands, to whom was referred the bill (S. No. 318) for relief in the land claims in California, known as claims of Francisco Soberanes to a tract of land known as "Sanjon de Santa Rita," and of Joseph S. Alemany, to the mission "San Francisco Solano," reported it with an amendment, and submitted a report; which was ordered to be printed.

Mr. SHERMAN, from the Committee on Finance, to whom was referred the joint resolution (S. No. 84) for the relief of the State of Wisconsin, asked to be discharged from its further consideration, and that it be referred to the Committee on Claims; which was agreed to.

Mr. FESSENDEN, from the Committee on Finance, to whom was referred the bill (H. R. No. 187) to authorize an additional issue of the United States notes, and for other purposes, reported it with amendments.

PANAMA RAILROAD COMPANY.

Mr. HALE. The Committee on Naval Affairs, to whom was referred the House bill for the relief of the president and directors of the Panama Railroad Company, have had the same under consideration, and instructed me to report it back, with the recommendation that it pass, and I am also instructed to ask for its present consideration; and if the Senate will give me their ear for a moment, I think it will pass without a division.

There being no objection, the bill (H. R. No. 428) for the relief the president and directors of the Panama Railroad Company, was considered as in Committee of the Whole. It provides for the payment to the president and directors of the Panama Railroad Company of $7,475, in full of all claims of that company on the United States for the transportation of certain persons from Panama to New York by agreement with Commodore Mervine.

Mr. HALE. I desire to read, for the satisfaction of the Senate, the recommendation of the Secretary of the Navy on this subject, made some time ago. It is very short. Certain persons engaged with Walker in Nicaragua were captured. The Secretary says:

"The whole number of men surrendered and carried to Panama was about three hundred and sixty-four. Commodore Mervine finding his squadron suddenly incumbered with these men, in the most wretched condition, suffering for the want of everything, and endangering the health of those under his command, had no mode of relief except by turning them adrift, which was impossible, or sending them by the railway to Aspinwall. Adopting the latter alternative, he was under the necessity of drawing on the Department, in favor of the railway company, for $7,475, being the amount which would be due for transporting them across the Isthmus at the usual rate of charge. This bill has neither been paid, accepted, nor protested. The company voluntarily relinquished the personal responsibility of Commodore Mervine, and put the bill at the disposal of the Government. I submit it, with an expression of my conviction that Congress should make reasonable provision for it."

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

LAND OFFICE IN NEVADA.

Mr. HARLAN. I move that the Senate take up the bill (H. R. No. 442) to establish a land district in the Territory of Nevada, and for other purposes. It will take but a moment.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill. It enacts that the public lands of the United States in the Territory of Nevada shall constitute a land district, to be called the district of Nevada, the office for which shall be established at such place within the district as the President of the United States may from time to time direct, and that the preëmption laws be extended to the Territory. The President is authorized to appoint, by and with the advice and consent of the Senate, a register and receiver for the district, who will be required to reside at the site of the office, and have the same powers and perform the same duties as are now and may hereafter be prescribed by law for other land officers, and whose compensation will be the same as allowed to such officers by the act approved April 20, 1818, entitled "An act for changing the compensation of receivers and registers of the land offices." When the settlers in any township or townships, not mineral or reserved by Government, shall desire a survey made of the same under the authority of the Surveyor General of the United States, and shall file an application thereof in writing, and deposit in a proper United States depository to the credit of the United States a sum sufficient to pay for such survey, together with all expenses incident thereto, without cost or claim for indemnity on the United States, it will be lawful for the Surveyor General, under such instructions as may be given him by the Commissioner of the General Land Office, and in accordance with existing laws and instructions, to survey such township or townships, and make return thereof to the general and proper local land office, provided that the townships so proposed to be surveyed are within the range of the regular progress of the public surveys embraced by existing standard lines or bases for the township and subdivisional surveys.

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

NATIONAL ARSENALS.

Mr. WADE. I move to take up Senate bill No. 342.

The motion was agreed to; and the bill (S. No. 342) for the establishment of certain national arsenals was considered as in Committee of the Whole. It proposes to establish a national arsenal at Columbus, Ohio; at Indianapolis, Indiana; and at Rock Island, Illinois, for the deposit and repair of arms and other munitions of war; and for the purpose of carrying this act into effect, it appropriates the sum of $100,000.

Mr. GRIMES. I move to strike out the word "at" before the words "Rock Island," and insert "on;" so as to read, "on Rock Island, in the State of Illinois."

Mr. WADE. I consent to that.

The amendment was agreed to.

Mr. BROWNING. I move to amend the second section of the bill by striking out the words "on Rock Island," and inserting "at Quincy." If an arsenal is to be established in Illinois or upon the Mississippi river, I think Rock Island would be very far from being the most appropriate place at which to locate it. If it should ever become a point of attack, so that it would become necessary to defend the place, I know of no place that would be less defensible than Rock Island, situated in the river, with bluffs on each side from which it might be very readily assailed—points from which it could easily be commanded by batteries or troops that might approach the river. But the principal objection to it is its inaccessibility by the river. If we need an arsenal on the Mississippi river, we need it much further south than Rock Island. Rock Island is, perhaps, some one hundred and fifty miles above the Des Moines rapids of the Mississippi river.

Mr. GRIMES. About one hundred and twenty miles.

Mr. BROWNING. I was thinking that it was about two hundred miles from Quincy. It is one hundred and twenty miles from the upper end of the rapids, I presume the Senator means. I suppose it is nearly one hundred and fifty; it is one hundred and thirty or one hundred and forty at any rate, from the foot of the Des Moines rapids; and one hundred and twenty, probably, from the head of the Des Moines rapids. Those rapids cannot be passed by steamboats; boats cannot ascend them without being lightered over them on an average of three months in the year, on account of the stage of the water. There is a portage of twelve or fifteen miles from Keokuk to Montrose, on the west side of the river. That portage has always to be made. The boats that pass the river, except when the water is in very high stages, have to lighter over and transport their freight in lighters; and very frequently, for months and months together, they cannot pass the rapids at all, even at that cost of time and labor. In the winter season it is completely shut out; and the winter season there embraces, I suppose, on an average, from the 1st of November until near the 1st of May—certainly until some time in April. During that period navigation is totally obstructed on that part of the river by ice, so that there are not more than three months in the year, and perhaps not three months in the year, on an average, when it is easily accessible by the river.

If it were, however, easily accessible, you would still have to transport your arms a great distance. Where you want arms now, and always will want them, probably, if you need them at all, will be very much south of Rock Island on the river, and you will have to transport them hundreds of miles from the place where they are needed for use, to Rock Island for repair, and transport them back again when you want them for use. Quincy is situated forty miles below the foot of the Des Moines rapids, where there is an uninterrupted navigation all the year by the river, as good navigation as there is in the valley of the Mississippi river, with the exception of a very short period in winter when the navigation is sometimes interrupted by ice; but there is rarely a month in the year, even in the winter months, when navigation is not open as far up as Quincy. If any one will take a map and put his finger upon Quincy, or put one foot of the compass there and sweep around, it will be found to be as nearly central of the three States of Iowa, Illinois, and Missouri as you can possibly select a place. It includes the major part of all these three States as a central point around which they collect and lie. It is directly on the only railroad route of communication that now exists between the Atlantic coast and the Missouri river, and precisely in the line of the great Pacific railroad, or one branch of it, for which we passed a bill in this body a few days ago. It is on the same parallel of latitude, as I had occasion once before to mention, beginning east with the cities of Philadelphia, Pittsburg, Columbus, Indianapolis, Springfield, then Quincy, St. Joseph, and Denver City. They are all on the same parallel of latitude; a few miles north and south will cover and include the whole of them. It is situated in the heart of what it is perhaps not extravagant or unreasonable to say is the richest portion of the valley of the Mississippi, in every direction from it to almost an unlimited extent. It is separated by the river only from the richest portion of Missouri. It is within forty miles of the southern boundary of Iowa, and as directly central in the State of Illinois upon its western border as you can get a place. It is pre-

cisely central on the western border of the State of Illinois, and lying in the tier with Ohio and Indiana, right in the same range. It has around it every possible facility and convenience for such an establishment as this, if it becomes necessary to manufacture arms. I believe there is a good deal of walnut timber used in the manufacture of arms for stocks of guns, &c., and there are exhaustless quantities of the very best quality around Quincy. There is no finer coal in all the valley of the Mississippi than there is around it in exhaustless quantities. Material of every description for building of every kind that can be used is as cheap and as easily procured there as at any other place that can be named in the entire regions of the West.

Taking all these things into consideration, it is unquestionably in my judgment an immensely preferable position for the location of such an institution as this, if it is deemed necessary to establish one, to Rock Island. Rock Island is away toward the northern part of the State, upon the extreme northwestern border of the State, and is, as I have already remarked, cut off from communication by river for more than three quarters of the year, and such an establishment could not be erected there, and could not be maintained after it was erected, without incurring a great deal more expenditure than would be necessary at the place I have indicated, and without being subjected to a great many more inconveniences in every way in the distribution of arms when they were needed and when they had them, than would be encountered at the other point, and if this is to be done at all, I trust the amendment I have suggested will prevail.

The PRESIDENT *pro tempore*. The question is on the amendment proposed by the Senator from Illinois, which is to strike out "on Rock Island," and insert "at Quincy."

Mr. GRIMES. It is the most natural thing in the world that the Senator from Illinois should be partial to the point that he has indicated. I presume that I could make remarks in behalf of the town in which I live that would be at least as satisfactory to myself, to convince the Senate and the country that that is exactly the point for this arsenal, and that a line running through that point will strike the most important cities in the country; but I think I can convince the Senator himself, at any rate all those who are not influenced by any local considerations, that Rock Island is of all other points the very point where this arsenal should be located.

In the first place, Mr. President, in the early days of this Government the principle was settled that arsenals should be established in the centers of population—that is, that there should be arsenals dotted over the surface of the country so that the people could be armed in an emergency without incurring too great an expense in supplying them with arms. Hence it was that they established one called the Kennebec arsenal, at Augusta, in Maine; another in Watertown, in the State of Massachusetts; another at Watervliet, in the State of New York; another at Frankford, in the State of Pennsylvania; another, one of small dimensions, somewhere I believe in the State of New Jersey; another one at Pittsburg, in the State of Pennsylvania. West of that, and after a long time of peace, and the West was developed, they did not pursue that policy, and did not continue it except at certain points. They established a small one at Dearborn, in the State of Michigan.

Mr. HOWARD. A mighty small one.

Mr. GRIMES. I know it was small, but they had one there, and it was considered of some importance when Michigan was a frontier State. Then they established one at Leavenworth, in Kansas, and another at Jefferson City. Those were established when they were frontier States. The occurrences of the last year have demonstrated that the policy of the founders of the Government was right; that these arsenals ought to be established at certain points in every State.

Mr. TEN EYCK. Will the Senator be kind enough to inform me where there is an arsenal in New Jersey?

Mr. GRIMES. I think there was one at Trenton. I am not certain about it; but I think there was one established there.

Mr. TEN EYCK. You would have to go with a search warrant to find it.

Mr. GRIMES. There was one there. Perhaps, because of its proximity to the arsenal at Frankford, near Philadelphia, and the Watervliet and Springfield arsenals, it may have been abolished. There used to be one there, I know.

I say, the occurrences of the last year have demonstrated that it is essential these armories should be in the centers of large States or in proximity to densely populated States, in order to arm the citizens of those States when they are called into service. Now, look at Rock Island as compared with these other places. The Senator says it is above the Rock river rapids in the Mississippi river. That is true, and that is the very reason why it ought to be established at Rock Island. The people of that portion of Illinois in which the Senator resides have uninterrupted water communication, as he has already told you, with the arsenal at St. Louis. The people of Illinois north of the rapids of Rock river have not that communication. There is an extent of country north of those rapids, from Keokuk up to the north line of his State, of two hundred and fifty miles, I think; and yet, according to the Senator's own argument, they are cut off from the ability to supply themselves with arms by the inaccessibility of the arsenal at St. Louis in consequence of these very rapids to which he has referred us.

Then again, sir, that part of Missouri that lies on the Hannibal and St. Joseph road can be supplied from the arsenal at Leavenworth. There is another arsenal at Liberty, Missouri, I think. I do not know whether that is used or not. They used to have one at Liberty, Missouri.

Mr. WILSON, of Missouri. It is not used now for that purpose.

Mr. GRIMES. It may not be used, but there is one there. That portion of the country may be supplied from the arsenal at Liberty or Leavenworth; and hence the whole argument of the Senator from Illinois, so far as position is concerned, falls to the ground.

This arsenal at Rock Island is designed not for the accommodation of Illinois alone. Here is an island embracing some five hundred acres of land. It belongs to the Government of the United States. It has been reserved for this specific purpose. The Government has refused to part with its title with a view of using it for this specific purpose and for no other. If you locate the arsenal at any other place, the Government will be compelled to purchase the land, which will cost as much as the appropriation that is asked for in this bill to erect an arsenal. Then, again, it is on an island in the Mississippi river, and will be more accessible to the people of the western half of Wisconsin, and to the people of Minnesota, than it would be at Quincy, or at any other point below, and more accessible to the people of Iowa and two thirds or one half of the people of Illinois, than at any other point.

There are other great advantages in this place. There is a water power there unequaled by any on this continent, unless it be that of Niagara Falls. The whole volume of the current of the Mississippi river can be used for mechanical purposes if the Government sees fit to use it for those purposes; and that was one of the reasons why it was originally reserved by the Government for these specific purposes of an arsenal and armory.

Mr. DAVIS. I move to amend the amendment of the Senator from Illinois by striking out "Quincy," and inserting "Keokuk." I think Keokuk one of the most eligible positions in the whole Northwest. I think naturally it is the finest position upon the upper Mississippi, between the mouth of the Ohio and the sources of the Mississippi. I think it is the finest position upon that stream. It is at the mouth of the Des Moines. The valley of the Des Moines is the best and largest section of agricultural land in the United States. It would average a width of sixty or seventy miles.

Mr. GRIMES. Is this motion in order?

The PRESIDENT *pro tempore*. It is in order. The proposition of the Senator from Illinois is to amend the bill by striking out the words "on Rock Island," and inserting "at Quincy." It is a proposition to strike out and insert. Either the matter proposed to be stricken out, or the matter proposed to be inserted, may be modified before the question of striking out and inserting shall be taken. The Senator from Kentucky moves to amend the matter proposed to be inserted, by striking out the word "Quincy," and inserting "Keokuk." If that is adopted, the question will recur on striking out the words "on Rock Island," and inserting "at Keokuk."

Mr. DAVIS. I had hoped this motion would meet not only the acquiescence but the cordial support of the honorable Senator from Iowa. It is a motion made in favor of his State, and it is a motion made in favor of the best position upon the upper Mississippi. I do not hesitate to say that in my judgment, as a natural position for a city and for an institution of this kind, Keokuk is a superior position to St. Louis. We are informed that there is a railroad now under construction from Keokuk up the Des Moines to Des Moines city, and on to the northwest until it reaches the extreme northwestern border of Iowa, and it is designed to go further west and penetrate that indefinite northwestern region so far as it may be eligible to carry such a work. Keokuk is at the foot of the lower principal rapids in the Mississippi river. There are two great rapids in the Mississippi river. The one is the Rock river rapids, and the other is the Des Moines rapids. They are both rapids in the Mississippi river; and each takes its name from the contiguity of tributary streams, one called the Rock river and the other the Des Moines river.

The very forcible objection urged by the Senator from Illinois to the extreme northwestern position of Rock Island as the situation for this arsenal does not apply of course to Keokuk as a position for the same institution, because that is in the extreme southeastern corner of the State of Iowa. It is therefore more central in its position. It would be more contiguous, and more tributary as a matter of convenience in the supply for all that great region of country, both west and east of the Mississippi river. His other formidable objection, that before you can reach Rock Island you have to pass the falls of the Des Moines river, would be obviated by making Keokuk the location. As the honorable Senator says, there is a fall there of about fourteen feet in some twelve miles in the Mississippi river. This fall constitutes a very great and available water power; and by proper appliances in the way of blasting, &c., a water power might be obtained at that point sufficient to drive all the machinery that would be necessary in connection with such an institution.

As I before stated, it is in the very center of the finest agricultural region, I suppose, upon the face of the earth. Here is the State of Iowa. Will the honorable Senator be kind enough to inform me of the number of square miles in the State of Iowa? I have forgotten.

Mr. GRIMES. About fifty-six thousand.

Mr. DAVIS. I venture to affirm that there is in no community on this continent an equal amount of as fertile land as there is contained in the boundaries of the State of Iowa. There is no State in the Union, according to my information and researches, that has a less quantity or so small a quantity of refuse land. In point of salubrity of climate, fertility of soil, and rolling face of country that drains well, and a supply of springs and fountains for the use of man, of the most salubrious water, there is no State in the Northwest or anywhere in the United States that can compete with Iowa. If you take the country in the angle between the Des Moines river and the northern Missouri line and the upper tier of counties in Missouri bordering upon her line, they constitute a very magnificent and most expansive region of the finest agricultural country upon the continent. The water communication that exists to that point, and the railroad communications that have already been constructed and are in operation, and others that are designed and are in the course of construction, will give it facilities of access that will not be surpassed by any point upon the continent; and every material necessary for such manufactures as would be entered upon at a United States arsenal, and every facility for those manufactures could be obtained there with as much facility and as much cheapness, and in as high a degree of excellence there as they could be obtained anywhere. I am no machinist, and I know very little of machinery or of the power necessary for driving machinery; but I presume that where water power can be obtained, it is the best, it is the cheapest, and it is the most uniform in its action. All the water power that is necessary for any purposes of machinery connected with an arsenal, can be obtained there at a very moderate expense.

It seems to me that that position is eminently the one which invites the location of an arsenal, and I still hope that the Senator from Iowa will withdraw his support and advocacy from Rock Island, and that he will unite with me and give his effective and almost controlling assistance in this body in favor of Keokuk as the site for this arsenal.

Mr. GRIMES. I have only one word to say. I appreciate the sentiment by which the Senator was actuated when he offered this amendment, and I know it will be gratifying to him for me to tell him that the people of my State have settled this question for themselves, and have instructed their members in this body to go for Rock Island. They have decided it upon national principles, and we have been twice instructed to vote for Rock Island in preference to any other point. I have no doubt that will be exceedingly gratifying to the Senator from Kentucky.

Mr. DAVIS. It is not very gratifying; but it is satisfying.

Mr. WADE. I do not wish to speak on this subject. This bill has received the approbation of the Military Committee after mature deliberation. I believe every member of the committee has assented to it. They have deliberated upon the location. Now, much might be said upon all these localities; and every gentleman that is pleasantly and agreeably situated in a State may, if he will, find very good reasons why an arsenal should be established there. Much has been said about the soil and climate, its fertility, and all that. That is a characteristic of the whole West; at all events it will be difficult to find a place there where the soil would not be sufficiently good to establish an arsenal, I presume. Indeed we have made very good guns at Harper's Ferry, where you cannot raise potatoes. [Laughter.] I do not think all these considerations have much to do with it. I am anxious that the bill should pass. I am perfectly aware, as were the committee, that the Government, now having so many soldiers in the field, has to transport arms to Springfield, or some distant point, to have them repaired, and has to return them; and this is really costing the Government more than it would cost to establish those arsenals nearer home. As the committee have deliberated on all these places and fixed the locations, I hope the Senate will stand by what they have done, and give us the bill.

Mr. HARLAN. I hope that my colleague, and I know he will, in fact, vote for Keokuk; that is, for the amendment to the amendment suggested by the Senator from Kentucky. Although we are instructed to vote for Rock Island on the final vote, we are not instructed to vote for Quincy in opposition to Keokuk; and while I am up I will indorse every word the Senator from Kentucky has said in relation to the eligibility of Keokuk. There is a water power there that is almost absolutely without limit. The entire bed of the Mississippi may be brought to bear on machinery at that point, as well as at Rock Island. The bed of the river is rocky, and the banks are rocks on both sides, and there is a fall to the extent stated by the Senator from Kentucky; and if Rock Island shall not be settled on as the point, I know of no other better point than Keokuk.

The PRESIDENT *pro tempore*. The question is between Keokuk and Quincy, on the amendment to the amendment moved by the Senator from Kentucky.

Mr. BROWNING. With all deference to the opinion of the Senator from Ohio, I think that some of the considerations suggested are pertinent to the question under consideration. They were not suggested by him, it is true; but still I think they have some relation to the question, and some pertinence to it. It appears to me that accessibility is a question very well worthy of being considered in connection with the location of an arsenal. It is an argument which he himself urged in favor of the establishment of arsenals as proposed by him, because he said Springfield was so inaccessible from the seats of war, and the places where arms are being used. Sir, Springfield to-day is more accessible than Rock Island to all the seats of war, and it will cost less to transport arms from any of the seats of war to Springfield than to Rock Island.

Mr. WADE. I mean Springfield, Massachusetts.

Mr. BROWNING. I know you do.

Mr. GRIMES. Does the Senator think it is the policy of the Government to send its troops to the seats of war before arming them?

Mr. BROWNING. No, sir.

Mr. GRIMES. Should they not be armed where they are raised?

Mr. BROWNING. I was appropriately, I think, replying to the suggestion of the Senator from Ohio, that a reason for establishing these arsenals, and the force of which I fully appreciate, was, that the present arsenals were so inaccessible to the seats of war where we were using arms, and from which they had to be sent to the arsenals for repair. Rock Island to-day would be less accessible, I believe, even to the army of the Mississippi, than Springfield, Massachusetts would; it is not quite so far off, but there are not such facilities for reaching it.

The Senator from Kentucky is, perhaps, not as familiar with either the geography or the topography of the States and places indicated as some of the rest of us are. I know some of his immediate constituents have large interests at Keokuk, and would be glad to have anything located there that would tend to advance the prosperity of that place. I have nothing to say in depreciation of either Keokuk or the State of Iowa, and I enter into no comparisons of wealth, of fertility, of resources, or anything of the sort, between Illinois and any other State. Illinois needs no eulogy from me, or anybody else. As far as all these things are concerned, she can proudly stand in competition with any other country on earth. It does not require elaborate eulogies to enforce her claims in all the particulars to which the Senator from Kentucky refers as enhancing the claims of Keokuk for the location of this arsenal.

The Senator from Iowa insists upon Rock Island as a center of population. It is hard to put your finger down upon any point of this continent that is not a center of some population.

Mr. GRIMES. The Senator misapprehends me. I said it was the policy of the original founders of the Government, those who first commenced to administer it, to establish arsenals at the centers of given areas of population; and hence it was upon that principle that they established all the arsenals in the eastern and in the southern States, but that for the last thirty years this rule had been departed from. I said that Quincy appropriately came within the area of the arsenal at St. Louis, with which it had uninterrupted communication.

Mr. BROWNING. But it does not——

The PRESIDENT *pro tempore*. The morning hour having expired the consideration of the bill now before the Senate gives way to the special order of the day.

Mr. WADE. I hope we shall pass over the special order, by common consent, and take a vote on this bill. I am anxious that it should pass. I do not know how near the end of the session we are; but this is an important measure, and I wish to have it disposed of.

Mr. BROWNING. I want to say something before the vote is taken; not much.

Mr. WADE. Does the Senator propose to occupy any considerable time?

Mr. BROWNING. No, sir.

The PRESIDENT *pro tempore*. It is moved to postpone the special order and continue the consideration of the bill relating to the location of certain national arsenals.

Mr. CLARK. I hope the special order will not be postponed; but if anything is to be done, it may give way by unanimous consent, if this bill will not take time.

The PRESIDENT *pro tempore*. If there be no objection it will be passed over for the time being informally, subject to be called up by any member of the body.

Mr. LANE, of Kansas. I object. I want to proceed with the confiscation bill.

PUBLICATION OF CONTRACTS.

The PRESIDENT *pro tempore*. The special order of the day is before the Senate, and it can be postponed only by a vote of the Senate.

Mr. HALE. There was a resolution introduced the other day by the chairman of the Committee on Finance relating to contracts. It was of some importance, and on my motion it was postponed for the purpose of inquiring whether it would not impede the action of the Departments, and I addressed a line to the War Department and Navy Department. I have got an answer from the Secretary of War, who says it will not only not impede but will be beneficial to have it passed, and he wants it passed, and I hope by unanimous consent that it will be taken up and passed.

Mr. CLARK. I hardly think we had better take up any other matter when we cannot go along with this, unless it is a matter of very great importance.

CONFISCATION OF REBEL PROPERTY.

The Senate, as in Committee of the Whole, resumed the consideration of the bill (H. R. No. 471) to confiscate the property of rebels for the payment of the expenses of the present rebellion, and for other purposes, the pending question being on the motion of Mr. CLARK to amend the bill by striking out all after the enacting clause, and inserting as a substitute:

That every person who shall hereafter commit the crime of treason against the United States, and shall be adjudged guilty thereof, shall suffer death, and all his slaves, if any, shall be declared and made free; or, at the discretion of the court, he shall be imprisoned for not less than five years, and fined not less than $10,000, and all his slaves, if any, shall be declared and made free; said fine shall be levied and collected on any or all of the property, real and personal, excluding slaves, of which the said person so convicted was the owner at the time of committing the said crime, any sale or conveyance to the contrary notwithstanding.

SEC. 2. *And be it further enacted*, That if any person shall hereafter incite, set on foot, assist, or engage in any rebellion or insurrection against the authority of the United States, or the laws thereof, or shall give aid or comfort thereto, or shall engage in, or give aid and comfort to, any such existing rebellion or insurrection, and be convicted thereof, such person shall be punished by imprisonment for a period not exceeding ten years, or by the forfeiture of all his personal property of every kind whatsoever, including choses in action, and by the forfeiture of his life estate in any real property of which he may be the owner, wherever situated within the United States, and by the liberation of all his slaves, if any he have; and all such property, excluding slaves, shall be forfeited to the United States, or by both of said punishments, at the discretion of the court.

SEC. 3. *And be it further enacted*, That every person guilty of either of the offenses described in this act shall be forever incapable and disqualified to hold any office under the United States.

SEC. 4. *And be it further enacted*, That this act shall not be construed in any way to affect or alter the prosecution, conviction, or punishment of any person or persons guilty of treason against the United States before the passage of this act, unless such person is convicted under this act.

SEC. 5. *And be it further enacted*, That to insure the more speedy termination of the present rebellion, and the apprehension, conviction, and punishment of the persons engaged therein, the President is hereby authorized, and it shall be his duty, by the marshals of the respective districts, or such commissioners or other officers as he may appoint for that purpose, to seize and sequester the property, real and personal, of every kind, including choses in action, of such persons as shall have been actively and notoriously engaged in said rebellion, and especially of persons hereafter acting as officers of the army or navy of the rebels, now or hereafter in arms against the United States; persons hereafter acting as president or vice president, member of congress, head of department, civil officer, judge, foreign minister, or commissioner of the so-called confederate States; persons hereafter acting as an officer, whether civil, military, or naval, of any State or Territory, who, by the constitution of the so-called confederate States is required to take an oath to support said constitution; persons who, having held an office of honor, trust, or profit under the United States, shall hereafter take up arms against the United States; persons who, owning property in the loyal States or Territories, or the loyal portions of the disloyal States, shall hereafter assist or give aid and comfort to the present rebellion; and to hold and possess such property for the United States, to secure the appearance of the offender to take his trial and abide such punishment as shall be adjudged against him. No slave shall be seized under this act; but the United States shall have a lien on all the slaves of the persons herein described, to answer such order as may be made in regard to them for their liberation; and no sale thereof shall be of any force or effect after the commission of said offense.

SEC. 6. *And be it further enacted*, That the property so seized and sequestered shall be held, possessed, occupied, or rented by the officers aforesaid, until the owners thereof can be proceeded against by legal prosecution; and if convicted, until the property can be levied upon, or be declared forfeited to the United States as herein provided. And all such personal property as shall be so taken, which is perishable, or expensive in keeping, may be sold by said officers in the same way and manner that goods and chattels taken in execution can be sold in the same State; and said officers shall keep and render full accounts of all the receipts and avails of said property so sold, let, or occupied, and pay over the same, deducting the necessary expenses, to the Treasury of the United States. And if the owner of said property shall be discharged on trial, or sooner, by order of the court, said property, or the proceeds thereof, if the same shall have been sold, shall be returned to said owner.

SEC. 7. *And be it further enacted*, That if the owner of any property which may be seized as aforesaid, shall flee from justice so that he cannot be brought to trial upon indictment found, and a return upon the process for his arrest that he cannot be found, an order shall be made by the court where said indictment is pending requiring such per-

son to appear before said court at such time as may be fixed therein, and take his trial upon pain of forfeiture of all his property, and the liberation of all his slaves if he shall fail to do so; which said order shall be published in such manner and for such time as the court may determine; and if such person shall not appear and take his trial as required, such person shall be taken and deemed to have renounced all claim to any property which may have been seized as aforesaid, or of which he shall be the owner, and he and his heirs shall be forever barred from making any claim or maintaining any action for the recovery thereof, but the same shall be forfeited and become the property of the United States, and his slaves, if any, shall be free.

SEC. 8. *And be it further enacted*, That the President of the United States, whenever he shall deem it necessary and proper for a speedy and successful termination of the present rebellion, that any personal property, seized by the Army or Navy, and belonging to a person who shall, after the passage of this act, have engaged in rebellion, or given aid or comfort thereto, should be confiscated, may cause proceedings *in rem* to be instituted against said property, as in admiralty or revenue cases; and if said property shall be found to have belonged to a person engaged in rebellion, or who has so given aid and comfort thereto, the same shall be forfeited and become the property of the United States, and may be sold or disposed of as the court shall direct.

SEC. 9. *And be it further enacted*, That at any time after the passage of this act, whenever the President of the United States shall deem it necessary for the suppression of this rebellion, he shall issue his proclamation commanding all persons immediately to lay down their arms and to return to their allegiance to the United States; proclaiming that if any person within any State or district declared by him in a state of insurrection shall be found in arms against the Government of the United States, thirty days after the date of such proclamation, or giving aid and comfort to the present rebellion, the slaves of all such persons, within such State or district, shall be made free, and thereupon the slaves of all such persons, at the expiration of said thirty days, shall be free and forever discharged from any and all claim to their labor or service, any law or custom of any State to the contrary notwithstanding.

SEC. 10. *And be it further enacted*, That no slave escaping into any State, Territory, or the District of Columbia, from any other State, shall be delivered up, or in any way impeded or hindered of his liberty, except for crime, or some offense against the laws, unless the person claiming said fugitive shall first make oath that the person to whom the labor or service of such fugitive is alleged to be due, is his lawful owner, and has not borne arms against the United States in the present rebellion, nor in any way given aid and comfort thereto; and no person engaged in the military or naval service of the United States shall, under any pretense whatever, assume to decide on the validity of the claim of any person to the service or labor of any other person, or surrender up any such person to the claimant, on pain of being dismissed from the service.

SEC. 11. *And be it further enacted*, That the President of the United States is authorized to employ as many persons of African descent as he may deem necessary and proper, for the suppression of this rebellion, and for this purpose he may organize and use them in such manner as he may judge best for the public welfare.

SEC. 12. *And be it further enacted*, That the President of the United States is hereby authorized to make provision for the transportation, colonization, and settlement, in some tropical country beyond the limits of the United States, of such persons of the African race, made free by the provisions of this act, as may be willing to emigrate, having first obtained the consent of the Government of said country to their protection and settlement within the same, with all the rights and privileges of freemen.

SEC. 13. *And be it further enacted*, That the President is hereby authorized, at any time hereafter, by proclamation, to extend to persons who may have participated in the existing rebellion in any State or part thereof, pardon and amnesty, with such exceptions and at such time and on such conditions as he may deem expedient for the public welfare.

SEC. 14. *And be it further enacted*, That the courts of the United States shall have full power to institute proceedings, make orders and decrees, issue process, and do all other things necessary to carry this act into effect.

Mr. CLARK. Mr. President, I have been solicited by different individuals in the Senate to make some remarks upon this bill. Perhaps for some considerations I ought to do so; but if I open the debate, it may continue an indefinite time; and if we can have a vote now, if there is no other person desirous to speak, I will forbear now for the sake of coming to a vote. ["Vote."]

Mr. WILKINSON. I will inform the Senator that before the vote is taken, I have some remarks to submit.

Mr. CLARK. Very well. I hope the courtesy will be indulged me, if I have anything to say, of closing the debate; and if the Senator wishes to go on, I cheerfully give way.

Mr. WILKINSON. Mr. President, I have not the vanity to suppose that I can add anything to what has already been said in the Senate upon the right or duty of Congress to pass a law providing for the confiscation of the property of the wicked men who are laboring to destroy this Government, nor shall I attempt it. The question has been exhausted already, and I would not venture to say anything upon it were it not for the persistent and extraordinary course pursued by the Senators claiming to be Republicans, ardent advocates of the war, and devoted friends of the Union, who have evinced so much feeling, and have manifested such bitter hostility to all measures which look to the confiscation of the property of men in arms against the constituted authorities of the Government.

Sir, I cannot understand this. Why is it that the Senator from Illinois, on the other side of the Chamber, [Mr. BROWNING,] while his own constituents, his neighbors, and his friends who have gone forth to defend and uphold the Government, are wasting away like snow before the influences of an April sun, and while those who are left behind are being taxed to support this war to an extent never before known in this country, stands here and exhibits such unmistakable hostility to a measure which is calculated to make the guilty authors of all this suffering and of all this crime bear some portion of the burdens which he is so ready to place upon the shoulders of the liberty-loving citizens of the loyal States of the Union? Why is it that he is so sensitive when the interests of traitors are attacked, and yet so ready to pour out the property and the blood of Union men like water to save this Union?

Sir, we are expending $2,000,000 a day, and giving two thousand lives a week, in the cause of the country and yet, all this money and all these lives are furnished by the loyal people of the Union. The men in arms against the Government do not participate in this terrible sacrifice, and yet they have caused it. They have wickedly imposed this terrible necessity upon the country, and yet, when we seek by this bill to disarm them, when we make an effort to take out of their hands the weapons which are raised against our people, when we wish to take away from them the sinews of war, when we ask them to repair the injuries of the past, and to give securities against any wrong threatened by them to be committed in the future, when we endeavor to make traitors pay their portion of the expenses of this war, when we attempt by the exercise of the right of confiscation, to force the justice which we cannot otherwise obtain, gentlemen are found here in the Senate, who seemingly close their eyes to the monstrous wrong of this rebellion, and the terrible sacrifices of our people in their efforts to suppress it, and they seem anxious to avail themselves of all excuses and subterfuges in order to evade or defeat such a result.

Mr. President, it seems to me to be a clear and obvious duty, and one which we cannot properly ignore or shuffle off, to employ all the means which are placed in our hands to suppress this wicked and barbarous rebellion. We are bound to avail ourselves of all legal means, of every constitutional prerogative, of every extraordinary right which a state of war places at our command, to punish traitors, and to trample treason and rebellion under our feet. No matter how severe the penalty; no matter how terrible the visitation may be upon the heads of the vile conspirators who are to-day stabbing at the heart of the nation; no matter how many estates may be forfeited, how many fields may be laid waste, how many bondmen shall be set free, it is our duty to avail ourselves of any or all these rights if the interests of our country require it, or the support of our Army on the bloody battle-field demands it.

Mr. President, without attempting to argue the constitutional right of Congress to pass a law confiscating the property of rebels and traitors, I will simply content myself by stating my views upon this question, and by giving the principles by which my action will be governed in this matter.

Our Government is engaged in war, gigantic, desperate, bloody war—a war which, in its proportions, has had no parallel in the present century, and which, in its vastness, is not likely soon to be equaled by any of the nations of the earth. It is idle for us to call it anything but war. However pleasant and agreeable it might be to characterize the present conflict in our country by some other name, still we are forced (no matter how reluctantly) to admit that we are in the midst of actual war. This being our situation, the Government of the United States may, and rightfully should, exercise all the rights of war which, in the law of nations, are laid down as belonging to and proper to be exercised by independent Governments. The rights of war are peculiar to a state of war, and cannot fully be exercised by any nation in times of peace. Nor is the Government of the United States, while engaged in the terrific, deadly struggle for its own life, to be hedged around and chained down by those purely constitutional restrictions which were intended only for the government of our people in times of peace. Were not the powers of the Government enlarged in times of national hostilities, it would be in vain for us to attempt to carry on a war. Under our Constitution, as under the common law, the house of the humblest citizen is his castle; and so fully is he secured in its enjoyment that even the President himself, in times of peace, dare not unbidden enter it. But, sir, war comes, and with it its accumulated horrors, its sick, its wounded, and its dead. War comes, bringing with it an entire revolution in the necessities of the country; and also a corresponding change in the laws by which the nation is governed. The residence which to-day cannot be entered or trespassed upon, except by the authority of judicial process, to-morrow is at the mercy and control of a single officer, who may, without any charge against its owner, turn him out, in order that his mansion may be made a hospital for the sick and weary soldier.

But I need not further allude to this point, for its simple statement carries with it the conviction of its truth. Were this not so, no nation upon the earth could wage a successful war.

Now, sir, what are the rights of war, and for what is war waged? The rights of war are all deduced from a single principle, and that is the end of a just war. When the end for which the war is prosecuted is just, the rights of war grant to him who is waging it all necessary means to attain this end. The rights of war go hand in hand with necessity, and with the exigency of the case. Sir, I claim in defense of the right of confiscation, that it is necessary to compel the guilty authors of this rebellion to indemnify the loyal people of the country for the suffering and expense to which they have been subjected, in consequence of this rebellion.

The nation has the undoubted right to indemnify itself for the great wrongs which it has suffered, and that indemnity may rightfully be demanded of those who have forced the nation into this war. The people upon whom the confiscation act will operate, are those who have forced us into this war. They are the authors of all this violence. They have compelled the nation to use force, to raise armies, to build ships of war, to expend marvelous amounts of money and oceans of blood to preserve the rights of this nation; and they have no right to complain if things proceed so far that they shall lose either their lives or their fortunes in the struggle.

Another right which the nation has in war is that of weakening the enemy, of taking away from him the means of maintaining war, and weakening him from supporting an unjust and wicked violence. An able author upon the law of nations says:

"A nation has a right to deprive the enemy of his possessions and goods, of everything which may augment his forces and enable him to make war.

"This every one endeavors to perform in the manner most suitable to him. A nation on every opportunity lays its hands on the enemy's goods, appropriates them to itself, and thereby, besides weakening the adversary, strengthens itself, and at least, in part, procures an indemnification, an equivalent, either for the very cause of the war, or for the expense and losses resulting from it. A nation here does itself justice."

I admit that violent remedies should not be wantonly used, that there should be a great necessity for the exercise of them before they should be resorted to. But, Mr. President, does not that necessity exist here, and now?

Let the Senators from Illinois [Mr. BROWNING] and Pennsylvania [Mr. COWAN] go home to their constituents, where there is a sepulcher in every garden, over which the grass has not yet grown, and in the midst of the gloom and desolation and mourning that surround them, propound to them the questions: is it right, is it just, is it necessary that the authors of all this mourning and desolation and gloom should be compelled to indemnify the nation, in some degree at least, for all the terrible sacrifices which have been made? And, sir, what will be their reply? What will be their indignation when you argue to them as you have argued here in the Senate that it is not right, nor just, nor necessary, and that there is no power in Congress to compel the guilty murderers of their husbands, their fathers, and their sons, to make indemnity for the sufferings and the wrongs which have been borne by our people?

What will they say, if you argue to them as it has been argued here that we must be kind and tender and conciliating with our southern neighbors; that we must win them back by kindness; and that the Constitution, which they have wantonly violated and outraged, extends to these rebels and traitors the same protection which, in times of peace, it extended to the whole people of the country? Why, sir, it would be an insult to the understanding of the suffering, mourning people represented by those honorable gentlemen. It would be an insult to their humanity.

Mr. President, while the Senator from Illinois strenuously opposes all bills confiscating the property of rebels as entirely unconstitutional, I understand that he admits that in time of war the rights and powers of the Government are, and necessarily must be, greatly enlarged from the necessities of the case. I understand him to admit that in times of war, if the necessity exists, private property may be taken and appropriated by the Government without due process of law; that the country through which our Army passes may be laid waste; that we may raze every house, burn every blade of grass, and utterly devastate the country, if the military necessity for such procedure exists; indeed, that we may free every slave and confiscate the entire property of the enemy; but he denies entirely that Congress has any power whatever to exercise any of these rights of war. These powers, he claims, must be exercised by the President alone; and that neither the people themselves, nor their representatives in Congress, have any voice whatever in regulating or providing the way and manner in which the war shall be conducted. I understand him to declare that the power of Congress is limited to raising and equipping armies, and to providing money for the conduct of the war. This being done, he contends that the representatives of the people have no more voice or authority in the matter, and that it would be an assumption of power on their part if they should attempt to inquire even as to the disposition which is being made of the troops which have been raised and the money which has been appropriated to carry on the war. This vast power, he contends, rests entirely in the arbitrary control of one man, and Congress cannot direct, in the slightest manner, as to the exercise of that high prerogative. The money which the people have appropriated may be squandered in fruitless and unwise campaigns, our Army be employed in defending the property of rebels, and in catching and returning runaway slaves to their rebel masters; the property of rebels may be guarded by Union soldiers, while our sick and wounded may be crowded upon the deck of a narrow dirty schooner, as was the case at the White House, with nothing but the dirty, brackish water of the river to drink, while but a few rods distant Union soldiers were guarding, with their bayonets, the sparkling silver spring of a rebel general; and yet the representatives of the people have no right to complain of these things, and have no power to provide against their recurrence in the future!

Mr. President, I rejoice with exceeding joy that these are not the views of the President of the United States. I rejoice that the warm republican heart of our worthy Chief Magistrate is closed against any such despotic, monstrous doctrine as this. We are not in doubt as to the views of the President touching the authority of Congress in exercising and carrying out the war powers of the Government. He has placed himself upon the record, not in favor of the obnoxious doctrines of the Senator from Illinois, but in favor of the rights and authority of Congress. He places himself, in regard to the legitimate prerogative of Congress, on the platform where every man who was acquainted with him knew he would stand.

No man knows better than Mr. Lincoln that it is *not* the peculiar province and duty of the President to defend the liberties of the American people; and no man would feel more reluctant than he to array himself against the representatives of the people and the representatives of the States in Congress assembled.

Sir, it is fortunate indeed that in this trying hour we have a President who is content with the exercise of his simple constitutional prerogatives. With an army of half a million subject to his order, and with untold millions of money at his disposal, were he more ambitious and less honest than he is, and did he entertain the views advocated by the Senator from Illinois, as to the powers and prerogatives of Congress, we should have a military dictator at once, and that would be an end of constitutional liberty and of representative government on this continent. But, sir, Mr. Lincoln advocates no such doctrines; he has no such ambition. I said that he had placed himself upon the record on the question of the right and power of Congress to confiscate the property of rebels. On the 6th of August last, Congress passed, as a war measure, a law confiscating the property and setting free the slaves of certain rebel masters, and the President at once approved that act. Had he entertained the sentiments of the Senator from Illinois he would have returned that bill to the House in which it originated, with a message declaring that Congress was usurping prerogatives which were, by the Constitution, vested in the President alone, and that it would be dangerous to the liberties of the people were he to permit such an unwarrantable exercise of power on the part of Congress. But, sir, Mr. Lincoln did no such thing; he gave the measure his ready and earnest support.

But, sir, this is not all. Not many weeks after the approval of this act by the President, General Frēmont, then being in command of the Western department, issued a proclamation broader in its terms than the act of Congress, and which, I confess, suited me much better than that act, because it proclaimed freedom to all the slaves of rebel masters, while the law of Congress was limited to the slaves actually employed in the rebel army. Well, sir, what was the course of the President touching that proclamation? I regret that he did not entirely approve it, because, as I said, the proclamation suited me better than the act of Congress. But Mr. Lincoln modified that proclamation, and he based his action entirely and solely upon the fact that it did not conform to the law of Congress upon that subject. This is the order:

WASHINGTON, D. C., *September* 11, 1861.

SIR: Yours of the 8th, in answer to mine of the 2d instant, is just received. Assuming that you, upon the ground, could better judge of the necessities of your position than I could at this distance, on seeing your proclamation of August 30th, I perceived no general objection to it.

The particular clause, however, in relation to the confiscation of property and the liberation of slaves, appeared to me to be objectionable in its non-conformity to the act of Congress, passed the 6th of last August, upon the same subject, and hence I wrote you, expressing my wish that the clause should be modified accordingly.

Your answer, just received, expresses the preference on your part that I should make an open order for the modification, which I very cheerfully do. It is therefore ordered, that the said clause of said proclamation be so modified, held, and construed, as to conform to and not to transcend the provisions on the same subject contained in the act of Congress entitled "An act to confiscate property used for insurrectionary purposes," approved August 6, 1861, and that said act be published at length with this order.

Your obedient servant, A. LINCOLN.

Major General JOHN C. FRĒMONT.

The language of the order is: "that the said clause of said proclamation be so modified, held, and construed, as to conform to and not to transcend the provisions of an act of Congress, entitled 'An act to confiscate property used for insurrectionary purposes, approved August 6, 1861.'" What was President Lincoln about if the Senator from Illinois is correct when he declares that Congress has no constitutional right to confiscate the property of rebels?

Sir, Mr. Lincoln entertained no fears that Congress would attempt to usurp the constitutional prerogatives of the executive department of the Government; but he did fear that the executive officers might not always conform their action to the strict letter of the law. He knew well that the struggle had been long and severe to rescue liberty from the grasp of executive power; and he also knew that the safest and best rule was to follow the strict letter of the law. Not so with the Senator from Illinois. His great fear is that Congress will pass some law confiscating the property of rebels, and that by such unwarrantable assumption of power, which belongs to the President alone, the liberties of the people will be endangered!

In his speech in answer to the argument of the Senator from Massachusetts, the Senator from Illinois said, speaking of that Senator's position:

"I understand him to contend that Congress may exercise powers to-day, because war exists, which it cannot assert to-morrow if peace ensues, and it is from this assumption of a shifting power that he deduces authority to Congress to pass the bill under consideration. I wish to do him no injustice, and therefore quote his own language. He says:

"'There is not one of the rights of war which Congress may not invoke. There is not a single weapon in its terrible arsenal which Congress may not grasp.'

"And again:

"'But when claiming these powers for Congress, it must not be forgotten that there is a limitation of time with regard to their exercise. Whatever is done against the rebels in our character as belligerents under the rights of war, must be done during war, and not after its close.'

"That this is true when spoken of the *Government* I now admit, and always have admitted; but that it is true when spoken of *Congress* I utterly deny. 'There is not one of the rights of war which' the *Government* 'may not invoke.' There are many which *Congress* dare not touch without becoming a usurper. And now I desire, in all kindness, and with all possible respect, to ask the gentleman whether it is his deliberate judgment as a lawyer and a Senator, that *Congress* possesses attributes and may exercise powers in the exigency of war which it does not possess and may not exercise when peace and tranquillity overspread the land?

"Mr. SUMNER. Does the Senator wish an answer?

"Mr. BROWNING. I have certainly no objection to an answer.

"Mr. SUMNER. I answer most clearly that Congress has powers during war and against public enemies which it has not during peace towards any citizens of the United States. There are rights of war which belong to all nations, and the United States is not without them. Those rights may all be exercised through Congress, but they must be exercised in the time of war. As rights of war, they are limited to war. There are penal statutes, statutes against treason, statutes for the punishment of rebellion, which may be enforced at any time, both in war and in peace; but the rights of war grow out of war, and can be exercised only during war."

I agree with these words of the honorable Senator from Massachusetts; but according to the honorable Senator from Illinois it would be extremely dangerous for these "shifting powers" to be lodged in the hands of the immediate representatives of the people, but it is all right and wise and constitutional and consistent with liberty for the President to possess them, and to exercise them whenever he thinks proper so to do.

But, sir, the Senator again contends, that because the command of the Army is lodged in the hands of the President, therefore Congress has no power to make any law regulating the government of the Army. While I shall not stop now to answer this, in my judgment, absurd and monstrous proposition of the Senator from Illinois, for it was fully and clearly answered and refuted by the Senator from Michigan [Mr. HOWARD] yesterday, I will content myself with entering my most solemn protest against this abominable heresy. It is a doctrine which, if permitted to become fixed as the policy of the nation, will sweep away at once every principle of constitutional liberty on this continent, and with it every feature of representative government. As a member of the Senate, I will never give up the right of this body carefully to watch over and defend every interest of the whole country, and to resist attacks, coming from whatever quarter they may, which tend to remove the ancient landmarks of the Constitution.

Sir, if the Congress of the nation surrenders its right to watch over and protect every interest of the whole country; if it gives up its right to be heard upon all great questions of public interest, in the language of Mr. Webster "it is a representative body no longer; it has broken the ties between itself and its constituents, and henceforth is fit only to be regarded as an inert, self-sacrificed mass, from which all appropriate principle of vitality has departed forever." When the people of my State are upon "the tented field," neither the Senator from Illinois nor the Senator from Pennsylvania, nor any other power, can compel me, as a Senator, to surrender the right which I possess as a representative of a sovereign State to demand that the troops which go forth from Minnesota to maintain the honor and glory of the nation, shall go forth under proper regulations, marked out and defined by a proper and well defined law of the land.

Mr. President, the Senator from Illinois, in his speech the other day, used this remarkable language, speaking of the danger of legislative encroachment upon the other departments of the Government: "thus boldly begun, where will it end?" Sir, when was it boldly begun? At the extra session of Congress, last summer, they begun this system of usurpation, as it is denounced by the Senator, in the passage of the confiscation law, which Mr. Lincoln approved, and which he required to be enforced to the letter. Is that a usurpation of legislative power, when the Executive joins with the law-making power of the land to enforce and carry out the strict letter of that law? The Senator from Illinois said further:

"It is from the legislative department of the Government that danger is to be apprehended, not the executive or ju-

dicial. They are inherently weak, and we cannot too carefully guard against encroachments upon their prerogatives by the legislative department."

When General Jackson sent his protest to this body against the action of the Senate in a certain case, Daniel Webster and Henry Clay did not talk as the Senator from Illinois talks about the encroachments of the legislative power of this Government. They declared that the liberties of this country, if they were defended at all, must be defended by the immediate representatives of the people. The sovereignty of this nation lies buried with the people of this country. It is not in the President, nor is it in the judicial department of the Government. It rests with the people. They select their immediate spokesmen; they send their representatives to the great council of the nation. Those representatives come with their charter and their commission from the people themselves; they get it not from any other power; and it is an absurdity for the Senator from Illinois, or the Senator from Pennsylvania, to declare that there is danger of encroachment upon the rights of the people from their immediate and chosen representatives.

Perhaps, sir, I have consumed more time in alluding to this obnoxious, this offensive doctrine promulgated by the Senator from Illinois, than its importance really demands. Were there any great number of members in the Senate Chamber or in the other House who advocated such a doctrine, perhaps it would be proper to consider it more at length.

These being my views, I believe in the right and power of Congress to pass the bill as it came from the House of Representatives, confiscating the property of rebels and traitors who are in arms against the Government. Believing that Congress has the right to exercise this power, I am in favor of its immediate exercise by Congress; and I am therefore opposed to the amendment of the Senator from New Hampshire. I do not regard the bill of the Senate select committee which he has moved as an amendment, as efficient as the one that has been sent to us from the House of Representatives.

And now, Mr. President, permit me to say that if we leave this Chamber, if we adjourn this Congress and go home to our people who are borne down with grief and sorrow, holding the tax bill in our hands, and say to them, "you must mourn in silence over the graves of your children, you must pay the enormous taxes necessary to carry on this war; but the necessity did not exist for us to compel your wicked enemies to contribute their portion of the vast expense; do not give vent, good people, to your sufferings; pay your money; we must be kind and merciful and conciliatory to these murderers, traitors, and worse than criminals; but you must suffer and submit in silence." The Senators from Illinois and Pennsylvania may go to their constituents with these words of consolation upon their lips, but I declare I never will. I am for stripping these rebels of everything they possess, and I am for turning it over to indemnify our people in some degree for the terrible sufferings which they have sustained. We cannot give them back the lives of their children, of their brothers, and of their husbands; but we can do something to convince them that we, at least, sympathize with them in the conflict in which they have been engaged.

Mr. COWAN. I had not intended to say a single word further in this debate, but I cannot allow the remarks which have fallen from the honorable Senator from Minnesota to go to the country without at least a denial as to the general views they contain. I am as much interested in suppressing this rebellion, and I should say perhaps five or six times as much interested in relieving my people from the taxes which they must necessarily pay in order to carry on this war, as the Senator from Minnesota, because they will pay five or six times as much as his people.

Mr. HARRIS. Fifty times as much.

Mr. COWAN. Perhaps fifty times as much, as suggested by the Senator from New York. But, Mr. President, while I am thus interested, it strikes me it is not a question as to our motives. I am perfectly free to admit that the Senator from Minnesota is governed by as honest and as just motives as any other Senator on this floor; but I deny that his method of suppressing this rebellion is, in my opinion, the best one. He says that we are in favor of dealing leniently with traitors. Why, sir, I have not heard a word of that kind uttered upon this floor on the part of any Senator whatever. The Senator from Illinois, [Mr. BROWNING,] and myself, have insisted strenuously and I think fairly that the loyal people of the southern States ought to be dealt with leniently; that they ought not to be classed as traitors, and that they ought not to be visited with the punishments which are due only to traitors.

There are but two methods of dealing with this rebellion. One of them is to proceed against it without any regard whatever to the wishes, feelings, or opinions of the people of the border States within which slavery prevails, who have representatives on this floor; the other is to endeavor, if possible, to build up and establish and strengthen a Union party in those States—indeed in all the slave States—which, when its efforts are seconded by ours, and by the military force of the country, we may be able to suppress the rebellion. I believe in that latter doctrine. I believe that this rebellion can only be suppressed, and successfully suppressed, by our joining hands with the Union men of the southern States, by consulting them, and their advice and their opinions, as to the best methods of achieving this great result. As I understand the Senator from Minnesota, and the school to which he belongs, he asserts that their opinions are of no value; that we have followed in their lead too long, &c.

Mr. WILKINSON. I do not know by what authority the Senator from Pennsylvania states that I hold that we are not to pay any attention to the wishes of the Union men of the South. If the Senator will permit me, I will relate a circumstance that occurred in one of these rebellious States, as told me the other day by a gentleman from Knoxville, Tennessee. He was taken, with thirty other persons, private citizens, placed under the boiler-deck of one of the little stern-wheel river steamboats, where the hold was but three feet, where they could not sit upright, even, kept four or five days in that situation, taken down South, put in prison, and that it cost him and two other men $2,500 to obtain their release at Richmond. Now, the point which he made to me was this: said he, "if you do not punish these rebels by some bold, decisive act on the part of the Government, it is useless for us to attempt to remain in the country; we shall have to leave it." That man was a brother-in-law of Mr. Brownlow.

Mr. SUMNER. I have letters to the same effect.

Mr. WILKINSON. Sir, we do sympathize with the Union men of that country.

Mr. COWAN. True, Mr. President; and the bold, decisive strokes which we are in favor of making in behalf of that gentleman and others in like situation, is to employ the military force of this country in war to suppress this rebellion; and so far as the municipal power of this Government is concerned, we intend to hang on a gallows, if you please, as high as Haman's, all those who are convicted and are really guilty of instigating it.

Mr. WILKINSON. I do not desire to interrupt the Senator, but I wish to state another thing that gentleman told me. He was a very intelligent gentleman. He said they wanted a Tennessee man to command the forces in Tennessee, and he gave this as a reason: "your officers will not punish these guerrillas as they ought to be punished, but if you will give us one of our men and let our Union men who have been robbed and plundered take up their muskets against them, we will see that they are taken care of as they ought to be." The difficulty is that our soldiers in the field do not punish traitors; and that is what we are complaining about. They protect them; they guard their property; they shield them from harm, while they leave the Union men to be robbed and plundered by the traitors who are in arms against the Government.

Mr. COWAN. I do not understand it to be proposed as the effect of this bill that it will correct that mischief. That, if it be a mischief at all, is to be corrected in an entirely different quarter. I do not suppose honorable Senators here think that we have any power to compel the commander of our armies to do the things which are required to be done by these people who have been injured. That is all regulated by law, and a law which is as well fixed, as well settled, as any law can be in the world; a law which is in war operative upon both belligerents, paramount, far paramount, to any law we could pass on the subject.

But to come back, the Senator from Minnesota says——

Mr. SHERMAN. I do not intend to mingle in this debate; but I should like to ask my friend a question.

Mr. COWAN. Certainly.

Mr. SHERMAN. I will ask him whether there is not in war a law of retaliation; whether he does not know that the enemies of this country now in arms against it have not only seized the property of Union men, and confiscated and sequestered, but imprisoned and robbed them; and whether we can wage war against such enemies with such mild implements as my friend would use? It is impossible; and therefore—and for that reason alone—as an element of warfare against men who have resorted to every means of warfare, I will resort to confiscation or any other measure of warfare. That is my ground.

Mr. COWAN. That question has been answered at least twenty times upon this floor. I am not so certain whether this will not be the third or fourth time that I myself have answered it. I say that in war we have a right to retaliate. If the rebels will murder prisoners, we have a right to murder prisoners, too—not to establish the murder of prisoners as a rule of war, but to prevent them from making it one. If the rebels will take and destroy private property in this war, then we have a right to retaliate and destroy private property for the same reason. But, Mr. President, the true question lies beyond all that. Who is to determine that? Who is to determine when this retaliatory law is to come into play? This Congress? Sir, it is absurd.

Mr. SHERMAN. I will ask my friend another question.

Mr. COWAN. Perhaps the Senator had better wait until I answer the first one.

Mr. SHERMAN. I wish to ask him if this question, whether Congress or the President has this power, has not been discussed in the Senate by every member of the Senate, and every opinion expressed upon it that possibly could be? I ask him whether, that being the only question in dispute between Senators voting on these different propositions, it has not already been discussed not only five or six times, but fifty or sixty times?

Mr. COWAN. I claim the right to retaliate on my honorable friend the Senator from Ohio, that if it has been discussed so often and so frequently, and everybody has expressed his opinion upon it, why did he ask me the question?

Mr. SHERMAN. Simply to remind the Senator that it was not a new question. I was very desirous of getting a vote; and that was really my motive.

Mr. COWAN. Then I simply desire to remind the Senator of the answer that has been so often given to him; and his memory may be presumed to be as good as mine, and I have no doubt it is.

But, to come back to the question: some of us are arraigned here because it is alleged we do things which are calculated to encourage this rebellion, and add to its strength. That I utterly deny. I suppose no man will be bold enough to say, or even to hint—he ought not, at least, in fairness—that we intend to do any such thing. We all desire to put down the rebellion. I am charitable enough to suppose that desire exists with all loyal men everywhere. The question is, how is it to be done? Some of us think, as I said before, that it is to be done by conciliating the people of the States within which the rebellion prevails in order to achieve our purpose. What do we want for that purpose? Is it not friends? The more friends we have, the more friends we make, are we not the more certain at last to succeed in our enterprise? Would gentlemen be willing to avow that they desired to make enemies in the border States? Certainly they would not. There is no man but would say that he desires to have all Maryland, all Kentucky, all Tennessee, and all Missouri upon our side. I think no man will deny but that they are essential to our success. How, then, are we to get Tennessee, Missouri, Kentucky, Maryland, Western Virginia, and North Carolina upon our side? Are we to do it by violating the will and the wish of the people of those States? Surely not; no one can

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think so. Why, sir, any man, who understands the great fundamental principle which underlies all republican government, knows that to follow the will and consult the wish of the people upon whom we wish to operate is the true rule which ought to guide the legislator to the end he desires.

Mr. SUMNER rose.

Mr. COWAN. One minute, if the Senator pleases. I will give him an opportunity presently. I do not wish to break the thread of my argument now.

That, I think, is the fundamental mistake into which some of our friends have fallen. It is not the question whether that people are of our opinion or whether they are not. It is not the question whether they believe the same things we do, or whether they do not. The question is, what do they believe in this contingency? If the people of those border States are of opinion that these measures of confiscation, emancipation, and all others that have been started here are calculated to multiply our enemies in those States and in the States further south, then I say it is our business, it is our duty, to listen to their counsels, to take heed of their admonitions, and not insist upon our peculiar notions or the peculiar notions of our people upon that subject; and if we do not do so we may regret when it is too late that our self-opinionated obstinacy has cost us our country, and lost us that which above all things we most desired to save.

Mr. President, I represent Pennsylvania, and when the interests of Pennsylvania are intimately concerned, and when her people are to be affected by a measure, and they have an opportunity to know their true position in regard to it, I bow humbly to their will; but when the question arises as to what will be the practical operation of a law in Kentucky, then, sir, I take the opinion of the people of Kentucky; I am guided by their will and their wish; and why? Because they know a great deal more about it and are bound to know it far more correctly than the people of Pennsylvania are. I would resist, to the death, here and everywhere, if Senators from Kentucky or Maryland should undertake to dictate to me against the wish and the will of the people of Pennsylvania, or undertake to pass a measure through this body which was hateful to my people. While I claim for myself the right to determine as to what is best for them, or what they want, I am perfectly free and willing to accord to the representatives of the people of all other States the right to determine the will of their people. Nor am I asserting too much, I think, when I say that it is only by observing that rule that the Union can be preserved. When the measure is to affect all, let all be consulted, when it is partial and to affect only a part, then let that part be consulted, and, if possible, gratified. Let the rule be violated by imposing obnoxious laws upon any given locality and we cannot expect its people to be loyal in return for our injustice.

Mr. SUMNER. This bill, as I understand it, founded on the war powers, is to operate in the rebel States. The rebel States are not represented here. There are no persons here to speak for them. The Senator says that he wishes to follow their will. The will of the rebel States? Of the people of the rebel States? It seems to me the Senator errs when he says he is, as a Senator, to carry out the will of the people of the rebel States. I take it that it is our duty to put down the rebel people in the rebel States; and so far as we can obtain information with regard to opinions there, I believe it all tends to show that only through these agencies and instrumentalities can that rebel people be put down.

Mr. COWAN. Mr. President, I have said nothing about the opinion of the rebel people in the rebel States. I have no respect whatever for the opinion of the true rebels of any State, whether they exist North or South; but what I want to get at is the true opinion of the loyal people of the slave States; because, after all, that is the line of distinction which is drawn between the two classes of States. There are but two kinds of States: free States and slave States. Some of the slave States are in rebellion; some of the people of the slave States are involved in this rebellion; and the question is, how shall we put it down? There is a certain school here who decide that it shall be put down by main force, and by an utter disregard of the will of the whole people of the slave States, and measures are introduced here day after day and insisted upon by that school which are utterly obnoxious and distasteful to every member who comes here from the slave States. Now, sir, is that wise? As I asked before, is that injuring our friends, or is it injuring our enemies? The only men in the world from whom we can get a rational answer to the question is from the border State men. What do they say? They stand here as a unit on this floor, and they protest against these measures and beg us to desist. All that I ask for them in joining with them is fair dealing. Suppose the rebellion were prevailing in the North, in the free States, and the southern people were endeavoring to suppress it, and we were here as loyal men from the North, what would we think if they persisted in attempting to resort to measures which we on our part protested against from the beginning to the end?

Mr. President, I am willing to go home to Pennsylvania to stand over the graves of her fallen children, whether they would be yet fresh, or whether the grass has yet grown upon them, and I am willing to lay my hand upon my heart, and meet the question whether I have done what was my duty in endeavoring to suppress this rebellion. I came here with the firm conviction that it was the duty as well as the policy of the Republican party, the majority upon this floor, to take by the hand every loyal man who came from a southern State, to forget any differences that we might have had before upon the territorial question of slavery, (which was really settled by the election of Mr. Lincoln to the Presidency,) to let that all be past and bygone, and all, unitedly as brothers, stand together shoulder to shoulder, in order to suppress this rebellion. Could we have done this earnestly and heartily, confining our legislation solely to such laws as were necessary to raise and support our armies in the field, we should, in my judgment, have saved life and treasure, and we should have been nearer the end than we are to-day. But what has been the course of the school to which I have alluded? Why, sir, hardly a day has elapsed here that some measure was not introduced relating to slavery, and which was calculated to irritate, to wound, and to alienate those loyal and willing friends from us. How is it now? The gulf which separates the loyal men from the border States and the ultra school of the Republican party, is nearly as wide on this floor as that which separated the secessionists and the Republicans of former times. Mr. President, is that the way to suppress the rebellion? Never, never. Do the Senators from the slave States say you are making friends for them by your projects of emancipation and confiscation, and all that kind of thing? They will tell you, and have told you, one and all, that instead of so doing you are weakening them at home, and multiplying enemies against the Republic. Let the Senator from Minnesota go home and count his dead—and he has not one for every twenty that I have—and let him ask himself whether this unrelenting bitterness towards a whole people because they happen to live in slave States, whether this fierce denunciation of that whole people at all times, and upon all occasions, without regard to their loyalty or disloyalty, whether the measures insisted upon here daily, and which were obnoxious to them, whether all that can be reconciled with an honest and sincere desire to put down this rebellion? I hope he may be satisfied with his answer; but if I were in his case, thinking as I do, I could not.

Mr. President, there is another and a great mischief resulting from such measures, and the angry and exciting debates which are made upon them. These go out among the people to excite and inflame them, so that they are not always in a fit temper to judge of the propriety of that which is best to be done in troublous times like these. It often happens, too, that the more violent and dangerous the counsel, the more likely it is to find favor, especially if those who offer it are also rash enough to denounce everybody who differ from them as really opposed to everything salutary. I lament this, because I think we cannot succeed in restoring the country to peace unless we consider our true position in a different temper. We must not confound zeal with wisdom, nor forget that great heat by no means qualifies any to give good advice. What we need now is cool, calm consideration on the part of all, with a proper sense of our great responsibilities.

The honorable Senator from Minnesota has said, and I have no doubt honestly said, that he is willing to take into our councils the loyal men from the slave States. But, Mr. President, look at the record of this Senate, and you will find that upon almost every occasion, I may say every occasion, when there was a question as to the best method of dealing with the people who are in rebellion, and of which, as I said before, these border State men have a better right to know than we have, all of them will be found unanimously voting against the projects which are supposed by the Senator and his school to be so potent in putting down this rebellion. How is that to be explained except upon the hypothesis that the Senator will not take counsel of them? I think, too, that it shows, if anything can show, the impolicy—nay, I had almost used a harsher term—of all such measures. For my part, sir, I hardly ever think of one of them which is calculated to run counter to the will of the southern people, and to contravene their fixed beliefs, but I see before me, in my mind's eye, the dead from the ranks of countrymen falling because of the introduction of such measures. Now, instead of such a course, which alienates our friends, encourages our enemies by making them more desperate, I would conciliate every man who is loyal and who is not a traitor in the actual legal sense of the word. I would conciliate every man who, if he had not been overawed and dragooned into the rebellion, would have remained as he was before, a loyal citizen of the United States. Sir, if you give me to-day all of such men, and I think in all honesty and sincerity I will have ninety-six out of every hundred all over the rebel States everywhere. Those are the men whom I wish to make friends with us; not rebels, not traitors, for whom I propose even a severer punishment than I have heard hinted at from the other side. I propose to take the actual rebel, the actual traitor, the man who fomented this rebellion and who got it up, and try him by the law, and inflict the highest punishment known to the law upon him. I would go further than any bill before the Senate yet has gone, unless it be the one I offered myself. I would go further to forfeit his property, or at least as far as anybody has offered to do according to methods known to the law; but I will not lend myself to schemes which are of no value as against the rebels, while they are a source of scandal and mortification to our friends.

Mr. WILKINSON. I wish to ask the Senator a question. He has said in his speech that he wished to conciliate the Union men of the South. I wish to ask him whether the bill which has passed the House, and is now before us, provides for taxing or punishing in any wise the Union men of the southern States? Is it not confined in its application strictly to rebels and traitors?

Mr. COWAN. I suppose it is; but the objection that I have to it I stated at large yesterday: that it can have no practical operation upon the persons on whom it is intended to operate; it puts nothing into the Treasury, and it violates a fundamental principle of our law, even if it did, in this: that it does not allow to the person charged with the offense and whom it proposes to punish, that trial to which every American citizen is entitled at all times, whether the country is at war, or whether it is not at war, and when he is to be punished for having violated his allegiance.

Mr. WILKINSON. I have the misfortune to

represent a small State. I have heard the Senator from Pennsylvania, in every speech which he has made here for some two or three weeks past, boast of the size of his State and the number of troops she has sent into the field. The State of Minnesota is very small, but I wish to inform the Senator from Pennsylvania that her troops have been in every battle which has been fought east of the Mississippi river. Can the Senator from Pennsylvania say as much as that——

Mr. COWAN. I have made no reflection upon Minnesota or her troops, or the size of the State, or anything of that kind. I merely alluded to it because the Senator alludes to me and my State, and makes a personal reference in regard to what I and others shall do when we go back to the people of our States.

Mr. DOOLITTLE. I will ask my friend from Minnesota and my friend from Pennsylvania to allow me to say a single word in relation to this matter.

Mr. WILKINSON. I have but a word to say, and then I will give way. The Senator has alluded, in almost every speech he has made, to the size of the State of Pennsylvania. Everybody knows it is a great State. But, sir, does that give the Senator any more importance here than if he represented a small State? Does it make his views any more correct and right, or any more just, than if he represented the little insignificant State of Minnesota? I tell that Senator the people whom I represent have been in every battle fought east of the Mississippi river, and I apprehend they will be in every battle which will be fought hereafter. They have come west of the Mississippi river, and have stayed here on the banks of the Potomac for over a year. They have been in pretty much every battle, with the exception of two or three, which has been fought since this war commenced, and they will continue there. I do not claim any credit for this. I did not make the remarks I made because I was a representative of Minnesota, but a representative of a State in the Congress of the United States. I speak as much for the people and the soldiers of Pennsylvania as for the soldiers of Minnesota; and I will say here, and now, when he assumes to represent the soldiers of Pennsylvania, that, in my humble judgment, nineteen twentieths of those soldiers repudiate his doctrine. If the question could be tested, the result would be similar to the recent election taken on the constitution of the State of Illinois, where the troops from Egypt, even, as it is called in that State, turned around and repudiated the men who advocate the doctrine of the Senator from Pennsylvania.

Mr. COWAN. I am responsible for keeping in line with the soldiers from Pennsylvania, and I shall not inquire of any other gentleman as to whether I am strictly in that line or not. I will take the responsibility myself. I think I know what those soldiers mean, and what they intend; and I think I know, besides, what the people of Pennsylvania mean and what they intend; and I shall do my best to represent them. I have no reflection to make upon the gallant little State which the gentleman represents, or her soldiers, because I believe they are as brave men as there are in the Army. I have not a doubt of it; and I would not have thought of alluding to it at all if he had not invited me to go home and meet my people, as if he expected that there I would be encountered with the ghosts of the slain upon our fields of battle, which I by my policy had contributed to bring about. I have only to say, let the Senator go to his home and meet the spirits of his departed dead, and ask himself honestly, upon his conscience, whether the measures which he advocates to put down this rebellion—and I have no doubt he does it as honestly as I advocate mine—whether they are better than mine, or whether mine are not such as could be advocated by honest and true men, as honest and true as himself. That is all I ask.

Mr. DOOLITTLE. The suggestion I desired to make was this: after what we heard yesterday from the honorable Senator who has charge of the financial measures of the country, and the imminent danger that in a few days we shall be without a quorum in the Senate, I rose to appeal to our friends all around the Chamber that we might come to a vote on this question. For myself I should be very glad to join in this debate; there are many things I should like to say; but I forbear entirely from doing it. It is usual for the debate on a question to be concluded by the chairman of the committee having it in charge, and it has been suggested to me that the Senator from New Hampshire might desire to occupy a brief time, perhaps half an hour, to present his views on this question. I hope that after he has done so, the debate will be closed, and that then we shall take the vote. That is the suggestion I desired to make.

Mr. CLARK. I will say what I have said two or three times, that I had prepared myself, as anybody may see, with an infliction on the Senate; and I may say, as Sam Weller said, "if this goes on much longer, I shall feel myself called upon to rise and address the cheer." [Laughter.] But I do appeal to our friends that we may be permitted to come to a vote. If I may be permitted a moment longer, I will state that a friend called at my room this morning, and inquired, "what are you going to have up to-day, Mr. Clark?" "The same subject we had up yesterday, and we were divided." "Yes," he replied, "I saw that you were; you were contending there in the Senate whether the President had all power or whether Congress had all power." "No," said I, "we were debating the subject of confiscation." "Why," said he, "I did not hear the word uttered; I did not know you had the subject up." We have gone on with pretty much the same debate this morning. Of course Senators have the right to pursue it, as far as they choose; but I suggest that we be allowed to come early to a vote.

Mr. BROWNING. It will be for a very brief time indeed that I shall delay a vote; but when a persistent effort is made to induce the Senate and the country to believe that the Senator from Pennsylvania and myself are in sympathy with treason and the advocates of rebels, I do not feel like quietly submitting to the imputation. There is very little in what the Senator from Minnesota said that I care to take any notice of; but he asserts in very distinct terms that we are in sympathy with treason and the advocates of rebellion. There is one good purpose the Senator from Pennsylvania and myself have subserved by being here: but for our presence there would have been a very sad destitution of materials for speeches in some quarters on this floor.

Now, sir, as to all this talk of Senators about paying the expenses of the war by this bill, or that we are opposed to any measures that are calculated to inflict injury on the rebels, to cripple them in their means of prosecuting the war, and to increase our own means, every speech that either of us has made has been to urge upon the Senate and the country the use of all the most powerful and efficient means that are placed at our command for the purpose of putting down the rebellion, punishing treason, and, if necessary, for the purpose of stripping them of all the property they possess. Are paper manifestoes the Senator's mode of fighting the war? Does he expect to march against the rebels with his paper bullets that he manufactures here, alone? He speaks of our being in gigantic war. Are we to put down that war by paper bulletins that we issue here; or are we to do it by the strong arm of the military and naval power of the Government? Why, sir, when we march our armies, wherever we march them, we may take without stint or limitation all property of every kind and character that is subject to seizure and confiscation under the law; and when we have done it, we do not need your paper bulletins to aid us; and unless we do march and take it, all that you put upon paper is a nullity. They laugh you to scorn, if that is the best showing of power that you can make against them. As to paying the expenses of the war, pass this bill, put it in execution as far as you can, and you will never realize from it enough to pay the expenses of its administration.

Now, sir, when the Senator from Minnesota charges that the Senator from Pennsylvania and myself are in sympathy with treason, and advocate the rebellion, I am bound, in candor and in fairness, to suppose that he believes it.

Mr. WILKINSON. The Senator does not mean that I said so.

Mr. BROWNING. I do not profess to use your words. You said it substantially.

Mr. WILKINSON. I said no such thing.

Mr. BROWNING. Well, you believe no such thing, I apprehend.

Mr. WILKINSON. No, sir; I did not mean to say that I believed it; for I do not believe that, in the common acceptation of the term, either the Senator from Illinois or the Senator from Pennsylvania is in sympathy with this rebellion; nor did I say any such thing.

Mr. BROWNING. Does the Senator mean to be understood that either the Senator from Pennsylvania or myself is less determined in hostility to treason and rebellion, and less earnest in purpose to suppress them than he is?

Mr. WILKINSON. The Senator asks me the question. I suppose he wishes me to answer. I will state that I cannot say that they are; but they have a very curious way of showing their earnestness.

Mr. BROWNING. Yes, sir; in his opinion. In my opinion he has a most fantastic mode of showing his earnestness. That is the only difference. But, sir, that constitutes no basis for an imputation on our motives; none at all. The gentleman is beatified at the thought that I do not utter the sentiments of the President of the United States on this floor. I never assumed to utter the sentiments of the President, I profess to speak my own sentiments, and my own sentiments only. The Senator does assume to be the mouthpiece of the President; and I deplore, and the country will deplore, to be convinced that he speaks by authority. I have no authority, and I assume none, to express the sentiments of the President, or of any other person upon the floor of this Chamber, except my own.

Mr. WILKINSON. I cannot submit to the Senator making such a remark about me as that. I do not assume to be the mouthpiece of the President. I did not say anything further in my remarks than that the President had pronounced his opinion in a formal paper issued by him, and I have a right to judge of that paper and no further; and I demur now entirely and object to the Senator's right to accuse me of pretending to speak for the President. I did no such thing.

Mr. BROWNING. The Senator said he rejoiced with exceeding joy that the sentiments I had uttered upon this floor were not in harmony with the sentiments of the President.

Mr. WILKINSON. Exactly; and I based that upon the proclamation of the President written and published to the world.

Mr. BROWNING. I had a right to infer from the manner in which he said it, that he was authorized to say my sentiments were not in harmony with those of the President. I never inquired whether they were or not; but judging from his public course, judging from all that he has said on the subject, I am authorized to infer that his sentiments are in perfect harmony with my own; and I believe the country would rejoice to know that there was more of sympathy between the Administration of the country and myself than there was between the Senator from Minnesota and the Administration.

Now, he infers from the approval of the bill that was passed in last July the assent and indorsement of the Administration to the bill now before us; and he is prompted by the Senator from Massachusetts, [Mr. SUMNER,] to say that the principle of the two bills is the same, and thereupon he says it. The bill of July last, to the extent that it went, was simply declaratory of what the law before was. It introduced no new principle and no new rule. It was only declaratory of what the law of nations before was, and it did not attempt or purport to interfere with the President's authority in the control of the Army and the conduct of the war. It only declared that property used for the purposes of the rebellion should be subject to confiscation. It was no more the law after it had passed here and received the sanction of the President than it was the law before. As I have already said, while I know it would be vain and utterly useless to do it, it would amount to nothing, I am still willing, if it is thought necessary to do so, to reënact every single law of nations that is applicable to our present condition. But, sir, it puts us in no better position than we are in now. It does not increase our powers; it does not increase our means; it gives us no new facilities for the prosecution of the war, and no new aids for the successful termination of the war. There was not the remotest analogy between the bill of July and the bill now under consideration, either in principle or in detail.

The Senator, as some others have done, deplores the unhappy condition in which I may find myself when I appear before my constituents. Mr. President, I am happy to believe that my constituents have intelligence enough to understand what I have said upon all these subjects and to appreciate it, and too much candor to misrepresent it.

Mr. CLARK. I hope we shall come to a vote. I do not propose to address the Senate. I desire a vote.

The PRESIDING OFFICER, (Mr. HOWARD in the chair.) The question is on the motion of the Senator from New Hampshire, to substitute a certain bill as an amendment to the one now before the Senate.

Mr. SUMNER. Of course, that substitute is open to amendments, and before the vote can be taken on it, those amendments must be passed upon. I have several to move. I send one to the Chair, to insert at the end of the fourteenth section the following:

And in all proceedings under this act there shall be no exclusion of any witness on account of color.

Mr. CLARK. I desire to say that this substitute was matured by a committee of the Senate. When that committee were in session, the subject presented by that amendment came before the committee, and was carefully considered; and while they had no hostility to the general principle of the amendment, they thought it was better not to ingraft it upon this bill, and did not; and I hope it will not be now.

Mr. SUMNER. This bill, if it has any operation—and I have my doubts whether it will have any operation anywhere—is to operate in the slave States. Now, if the rule of evidence which prevails there is recognized, there will be insuperable difficulties in the way of securing a conviction. I think it belongs to Congress, if in good faith, as I do not doubt on the part of Senators who sustain this bill, they choose to establish criminal proceedings against the rebels, that they should establish such rules of evidence as will not render all such proceedings entirely nugatory.

Mr. CLARK. I have a suggestion to make to the Senate which influenced the committee in rejecting such a provision in this bill. By the first section of the bill it will be seen that if the master is convicted of treason, every slave he has will be forfeited and set free. We thought it would look a little like inducing the slave to come forward and swear against the master to have him convicted in order to procure his freedom, if we put such a provision in the bill and we rejected it on that ground.

Mr. SUMNER. But the Senator will bear in mind that there are other slaves besides the slaves of that special master, and there may be colored persons who are not slaves; but whether slaves or not, even if they are freemen, the Senator knows well there is one cruel rule of evidence which prevails everywhere in the rebel States excluding the testimony of colored men.

Mr. CLARK. I agree to what is said by the Senator from Massachusetts; and while many of the committee were desirous that such a change of the rule of evidence should be made, we thought it best not to put it upon this bill. If the Senate choose to pass a separate bill they can do so; but we thought it had better not be here and connected with these other provisions.

Mr. LANE, of Kansas. I should like to ask the Senator from New Hampshire a question: whether he would believe the loyal slave or the disloyal white man?

Mr. CLARK. I do not hesitate for a moment in saying I would believe the loyal slave.

Mr. LANE, of Kansas. So would I, and I want to give him a chance.

Mr. CLARK. I want to give him a chance on some other bill.

Mr. LANE, of Kansas. All we desire is to allow the loyal slave to testify against the traitor white man.

Mr. CLARK. Let me say to the Senator from Kansas that in committee I proposed this very provision myself, because I desired that such a principle should be enacted; but I found myself overborne by the committee as a matter of discretion in putting it on this bill.

Mr. LANE, of Kansas. I desire to say that I, for one, do not believe this rebellion will ever be crushed out until we raise up the loyal black men of the rebel States against disloyal white men of the rebel States.

The PRESIDENT *pro tempore*. The question is on the amendment to the amendment.

Mr. SUMNER called for the yeas and nays; and they were ordered; and being taken, resulted—yeas 14, nays 25; as follows:

YEAS—Messrs. Chandler, Grimes, Harlan, Howard, Howe, King, Lane of Kansas, Morrill, Pomeroy, Sumner, Trumbull, Wade, Wilkinson, and Wilmot—14.

NAYS—Messrs. Anthony, Browning, Carlile, Clark, Collamer, Cowan, Davis, Dixon, Doolittle, Fessenden, Foot, Foster, Harris, Henderson, Lane of Indiana, Nesmith, Pearce, Powell, Sherman, Simmons, Stark, Ten Eyck, Willey, Wilson of Missouri, and Wright—25.

So the amendment to the amendment was rejected.

The PRESIDENT *pro tempore*. The question recurs on the amendment moved by the Senator from New Hampshire.

Mr. WILKINSON. I wish to ask whether, if this substitute be adopted, it will be open to amendment by adding additional sections.

The PRESIDENT *pro tempore*. The amendment, if agreed to, is not afterwards open to amendment, except by way of addition. Additional sections may be added. If the question of congruity arises, that is a question for the Senate to decide, not a question of order for the Chair. It is not in the province of the Chair to decide a proposition out of order for want of congruity.

Mr. SUMNER. I have another amendment, to insert as a new section, after section three of the amendment, the following:

And be it further enacted, That any citizen of the United States bearing arms against the United States during the present or any future rebellion shall forfeit his citizenship, and be forever incapable of being or becoming a citizen of the United States.

Mr. SHERMAN. I simply desire to say that, as a friend of the House bill, I shall vote against all amendments to the proposition of the Senator from New Hampshire, especially amendments of such a character that they might be offered as amendments if his proposition should be adopted. It would be perfectly competent for the Senator from Massachusetts, for instance, to offer this as an addition to the proposition, after the vote had been taken on the amendment of the Senator from New Hampshire. I suggest that it would be much better to take that vote. If the proposition of the Senator from New Hampshire be adopted, it will be against my vote, and I will then coöperate in adding such sections as, in my judgment, will make it better; but it seems to me it would be much wiser, much more in accordance with the rules, to take the question on the proposition of the Senator from New Hampshire as a whole. It has been matured in all its parts by a committee of the Senate, and probably, so far as it goes, it is as perfect as it can be made. You may add additional sections to the bill without any difficulty or without interfering with the body of the bill. I suggest, therefore, in order to avoid the unnecessary consumption of time, that we should not vote on these various amendments now, because if the amendment of the Senator from New Hampshire should fail, as a matter of course all the labor in perfecting that bill is lost, while if it should succeed we may, by adding new sections, change somewhat the character of the bill. I shall therefore vote against all amendments to the proposition offered by the special committee. I think they are entitled in justice and fairness to a fair vote on the proposition as framed by them. If it is defeated, as a matter of course the House bill will be open to amendment. If it be adopted it can be amended to some extent by adding new sections.

Mr. SUMNER. As I understand the rules of the Senate, the proposition I have now moved in the place that I have moved it—and if the Senator looks at the bill he will find it is the natural place in the bill for that section—would not then be in order. I submit the question to the Chair that it would not be in order after the substitute has been adopted to move a section that should go into the body of the substitute, as the amendment I have now moved will. It was on that account that I made the motion at this stage, feeling that if I did not make it now I should be cut off from making it.

The PRESIDENT *pro tempore*. The Chair will ask the Secretary to read the rule of parliamentary law and practice on questions of this kind.

The Secretary read, as follows:

"When it is proposed to amend by inserting a paragraph, or part of one, the friends of the paragraph may make it as perfect as they can by amendments, before the question is put for inserting it. If it be received, it cannot be amended afterwards, in the same stage; because the House has on a vote agreed to it in that form. In like manner, if it is proposed to amend by striking out a paragraph, the friends of the paragraph are first to make it as perfect as they can by amendments before the question is put for striking it out. If on the question it be retained, it cannot be amended afterwards, because a vote against striking out is equivalent to a vote agreeing to it in that form.

"If an amendment be proposed inconsistent with one already agreed to, it is a fit ground for its rejection by the House; but not within the competence of the Speaker to suppress it as if it were against order. For were he permitted to draw questions of consistence within the vortex of order, he might usurp a negative on important modifications, and suppress, instead of subserving, the legislative will."

Mr. SUMNER. Do I understand, then, that this amendment of mine would be in order when the substitute is adopted?

The PRESIDENT *pro tempore*. It would not be in the province of the Chair to rule it out of order.

Mr. SUMNER. It would not be?

The PRESIDENT *pro tempore*. It would not be in the province of the Chair to rule it out of order as an additional section.

Mr. SUMNER. Very well, sir, I will not press it now. I most cheerfully follow the suggestion of the Senator from Ohio. I am very anxious myself for a vote on this question.

The PRESIDENT *pro tempore*. The Senator will understand, as an additional section it is not in the province of the Chair to rule it out of order. Whether it be consistent, whether it be congruous, or inconsistent and incongruous with what has been previously agreed to, is a matter that the Senate must decide. It is not in the province of the Chair to rule a proposition out of order for want of congruity. The Chair understands the Senator from Massachusetts to withdraw his amendment.

Mr. SUMNER. Yes, sir; for the time being.

The PRESIDENT *pro tempore*. The question then recurs on the amendment moved by the Senator from New Hampshire, to strike out all the original or House bill after the enacting clause and insert what has been denominated the committee's bill, by way of amendment, as a substitute for the original bill.

Mr. WILMOT. I have not participated in this debate, nor do I propose now to inflict a speech upon the Senate. On this subject of confiscation I have said all that I desire to say. I have presented my views at length touching this question of the confiscation of rebel property. Now, sir, we are about to come to a vote on the substitute which has been offered by the gentleman from New Hampshire. I have no doubt that those who vote for this substitute will do so in good faith; but my own convictions are that it is utterly worthless, that it will utterly and wholly fail of the purpose of an efficient confiscation bill. To my mind it amounts to just nothing at all. We have had sent to us from the House of Representatives a bill which commanded nearly two thirds of the votes of that body. It is not as stringent and as effective a bill as the one originally introduced from the Committee on the Judiciary in the Senate. It has commanded a strong support in the House of Representatives, and in my judgment it will command the support of the whole country. Nine tenths of the people of the northern States will stand by the bill which has been sent to us from the House of Representatives. We have it in our power to-day by the votes which we shall cast to adopt a bill which is an efficient confiscation bill, which goes to the extent of reaching the property of those now in actual rebellion against the Government. It proposes to touch no other man's property.

Sir, I would not attempt to speak with great confidence as to the opinions of Pennsylvania; yet, with due respect to my colleague, I represent the State of Pennsylvania as well as he. While I have no doubt as to the sincerity and integrity of his motives, while I have no question that he is pursuing a line of conduct here which, in his judgment, is best calculated to produce auspicious results to the country, I must take the privilege to differ with him wholly and entirely. I believe the course of policy that he pursues is calculated to give strength to this rebellion. I do not believe you can take your armies into the field and there effectually meet these rebels in combat, while, at

the same time, you are dealing so tenderly with them with respect to their property and their property interests. So long as the great slaveholding interest of America shall retain in its hands its immense estates, so long it will have power to do mischief in this country. We can never crush this rebellion except by laying our hands on the property of these slaveholders, by driving them into exile, by pauperizing them, so to speak. Property is power. They control the whole property interests of the South. They constitute to-day one of the most formidable aristocracies on the face of the earth, and they will ever be formidable so long as they retain their immense property interests.

This bill proposes to reach a class of open, notorious rebels, men who have been actively engaged in this rebellion, men who occupy positions under this confederate government, and the Senate of the United States hesitate as to whether they will reach that property or not; not, to be sure, out of tenderness to the rebels, but out of tenderness to the loyal men of the border States. I have my opinions as to the sentiments of the loyal men of the border States, and I believe to-day that the loyal men of the border States would carry this measure of confiscation further than we carry it. That is my opinion. I believe that four fifths of the people of Pennsylvania would sanction the bill which the House of Representatives has sent to us. It is true that in Pennsylvania, as in other portions of the North, there is a party that has from the beginning sympathized with this rebellion, that has been averse to taking any efficient steps against it. Armies have been called into the field and there is no voice raised openly in the country against the marching of our armies, or at least we hear of none; but we hear from certain sources, from a party in Pennsylvania and throughout the North, that they are opposed to any effective measures which shall reach and cripple this slave power. They hope again to form an alliance with it and to control the Government through it. Sir, I am for the House bill.

Mr. SUMNER. Before the vote is taken I wish to read some testimony which I have in my hand, from the loyal men of the slave States. I have kept it till this moment, and I do not know that I should adduce it now but for what I have heard to-day from the Senator from Pennsylvania, [Mr. COWAN,] who undertook to speak for the loyal people of the slave States. I can make no such pretense. I shall simply read the words of at least two. The Senator from Pennsylvania alluded particularly to the loyal men of Tennessee; he said he was anxious that their desires should be carried out. Now, sir, I have in my hand a letter from a gentleman known to many Senators here; I know that he was well known to Andrew Johnson, for Mr. Johnson has spoken to me about him. I shall not mention his name for the reason which he gives in the postscript to his letter, which I read first:

P. S.—I am sorry to have to mark this letter *private*. But I hope the day will come when a man in the South can afford to speak without the fear of a pro-slavery vigilance committee before his eyes. If this war bring not that day, then it is being fought in vain. Use my letter, but suppress my name and locality from the papers.

The letter is dated May 17, 1862. I have had it in my drawer ever since, thinking there might be a moment for reading it. It is as follows:

MAY 17, 1862.

SIR: The signs of the times indicate that the North is to subdue the rebellion and then surrender to Kentucky, which now aspires to take the place of Virginia, that so long assumed to dictate the national policy.

The most impudent of all the demands of pro-slavery men is this last—that rebels shall not lose their negroes, which by their treason they have forfeited. I have some reason to fear that the too lenient North will courteously concede that point. You northerners consult your pockets while the South grabs for empire. That is our history and your history in Congress the last fifty years.

The confiscation bills, the most radical of them, should pass, so framed as to reach every negro belonging to every man in arms against the Government. It is now plead on behalf of the common soldiers that they were "deluded" into rebellion. Let them be taught to cultivate a better judgment, or they may be deluded into rebellion again. The too susceptible North is believing the war nearly ended. It is not so. The South must and will yet fight. I know these rebels and their surroundings, and in my opinion they will prolong the war. And the military necessity may speedily arise (probably at Corinth) that will justify the decree of emancipation which, if I am correctly informed, Mr. Lincoln has, in that event, promised. Let it come! And then let Kentucky rebel, * * * * while we have the vantage ground. * * * * I am with you, believing, as I do, that the greatest kindness that can be offered my native section is to rid it of slavery and negroes.

Let us have no more pro-slavery Democratic generals made.

And let the Yankee soldier who has entered Tennessee, to relieve Union men, refuse to lay down his arms until he be guarantied the right of Yankee free speech on the soil of Tennessee henceforth forever.

Why, sir, we had a grand Union meeting at Nashville last Monday, and its members, while avowing themselves for the Union, took most deliberate pains to show they have no more fellowship with Lincoln and abolitionists than have the rebels! And in their resolutions I fail to find a vote of thanks to northern men for coming to their relief! Will you and Senator WILSON please make a note of it?

I have been wondering if Mr. Seward has forgotten what he so earnestly promised in Ohio: "Slavery can and must be abolished, and you and I can and must do it." My judgment is it will be abolished, if ever, by a military decree, and that the necessity for such decree will soon present itself. Congress already has the occasion for freeing fully one third of the negroes who are involved in the rebellion. Let that be done to begin with. Yesterday's telegrams announced that General Hunter has proclaimed free the negroes in South Carolina and Georgia. I hope it is true, and that it will not be "modified."

Who so blind as not to see that there cannot and will not be peace in the United States as long as there shall be a slave in it? It is a terrible contemplation, and let the fact be faced by men "terribly in earnest."

If the military necessity be *clear*, Union men South will submit, so bitter is their hatred of their life-long political antagonists, the Democrats, who got up the rebellion.

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It occurs to me that a discreet pressure may be brought to bear now, such as to forever rid these States of "the everlasting curse of human bondage." Let it be done, Mr. SUMNER. If the North let this opportunity slip, she will deserve to have the past repeat itself upon her.

I am, sir, with sincere and profound respect, your friend and obedient servant,

——— ———, *of Tennessee.*

Hon. CHARLES SUMNER.

The letter was, however, written in Kentucky, where the gentleman was for the moment. I have also another letter which I believe I received yesterday, dated at Memphis, Tennessee, June 21, 1862, as follows:

"DEAR SIR: For the sake of our children and of future generations, do not permit the horrors and sorrows of another civil war, similar to that from which we are now emerging, to be inflicted upon our devoted country. This can only be effected, and the benefits of the present war made permanent, by doing away with the cause of all our troubles, slavery. I am a southerner, and much as I love the South, my children, and my slave property, I am willing to part with the latter for the common good of our whole country, North and South. I see that slavery must eventually disappear from this continent, and that we as a people, whether united or divided, can have no peace or prosperity so long as it exists among us. I am therefore advocating the bests interests of the South when I favor the most sure and speedy mode of doing away with slavery.

"I have long opposed you politically, because my interests were opposed to your principles, yet I have always believed you to be an honest man, and in heart I have felt as you have. I am now willing to forget my own and advocate my country's cause. My idea of the best mode of emancipation is this: let the Government provide a line of steamers to take the liberated negroes out of the country."

This will have the sympathy of my friend from Wisconsin.

Mr. DOOLITTLE. That meets my sympathy precisely, and I noticed in the other letter which the honorable Senator read, that there was an expression that a great blessing to the country would be to get rid of slavery and the negroes.

Mr. SUMNER. I read it all.

Mr. DOOLITTLE. And when my honorable friend will get to the point that he will see that question and appreciate it, I have hopes that the whole question is to be settled. I presume he is coming to the point; he is taking good evidence.

Mr. SUMNER. I am now reading the letter. It proceeds:

"Let it also pay $100 per head to the owners (*bona fide*) of slaves who shall present them on board of these Government vessels for transportation. And let the Government then declare that on and after the 1st day of January, 1864, slavery shall not exist within the limits of the United States. This or anything similar that will insure a speedy and practicable emancipation, will please me and thousands of others in the South. If the Government is determined on confiscation of rebel property, let the proceeds be applied to the good of the South as well as North, by carrying out this plan."

I have nothing to add to these letters.

The PRESIDENT *pro tempore*. The question is on the amendment of the Senator from New Hampshire.

Mr. POWELL. It is not my purpose to enter into this debate; but the Senator from Massachusetts has chosen to read letters without giving us the names of the parties who undertake to represent the sentiments of the people of the border States and the southern States. I think it my duty to say to the Senate, knowing the feelings of those people, that the sentiments expressed in these letters will not meet the approval of one man in five thousand in any slave State of the Union. That is all I wish to say.

Mr. LANE, of Kansas. I do not pretend to speak for the loyal men of Kentucky; but I do know that so far as came within my observation in the State of Missouri, the sentiments expressed in those letters are true, that with one accord they desire the property of rebels to be confiscated and the slaves of rebels emancipated.

Mr. POWELL. What may be the fact in Missouri I am not particularly advised, but I think it is not the case in my State.

Mr. SUMNER. This letter speaks for Tennessee, not for Kentucky.

Mr. HENDERSON. I do not desire to take any part further in this debate. I have given my views and my opinions upon this subject and I am ready to vote, and I hope sincerely that the Senate will proceed immediately to a vote on this question, and all the questions involved in the confiscation measure. In reference to the views entertained by the people of Missouri, I do not deem it necessary to say anything at the present time. I have attempted here in my course upon this question to represent all the loyal people of Missouri, and I have no doubt that my votes will represent the loyalty of that State. Inasmuch as I have been sent here to represent that people, I am willing to let those votes and my action here go before them as the true index of the sentiments of the loyal people of that State.

The PRESIDENT *pro tempore*. The question is on the amendment of the Senator from New Hampshire, upon which the yeas and nays have been ordered.

Mr. SUMNER. Before the vote is taken I desire to state that my colleague, Mr. WILSON, is absent from his place, being very unwell. Were he here, he would vote in the negative.

The question being taken by yeas and nays, resulted—yeas 21, nays 17; as follows:

YEAS—Messrs. Anthony, Browning, Clark, Collamer, Cowan, Davis, Dixon, Doolittle, Fessenden, Foot, Foster, Harlan, Harris, Henderson, Howe, Nesmith, Rice, Simmons, Stark, Ten Eyck, and Willey—21.

NAYS—Messrs. Chandler, Grimes, Hale, Howard, King, Lane of Indiana, Lane of Kansas, Morrill, Pomeroy, Sherman, Sumner, Trumbull, Wade, Wilkinson, Wilmot, Wilson of Missouri, and Wright—17.

So the amendment was agreed to.

Mr. WILKINSON. I offer an additional section as an amendment:

SEC. —. *And be it further enacted*, That the President of the United States is hereby authorized to negotiate for the acquisition, by treaty or otherwise, of lands or countries in Mexico, Central America, or South America, or in the islands of the Gulf of Mexico, or for the right of settlement upon the lands of said countries; and whenever any lands shall have been so acquired, or whenever the right of settlement shall have been so secured in any of said countries, then the President shall cause all the persons who shall have been liberated under the provisions of this act, to be removed, with their own consent, at such times and under such regulations as he may deem expedient, to the countries so acquired, or in which the right of settlement has been so secured, and shall cause a reasonable quantity of land, not exceeding forty acres to any individual, or eighty acres to the head of a family, to be set apart for the use of such liberated persons, and shall guaranty to all such persons so removed, all the civil and political rights secured to all other citizens in said countries; and for the purpose of paying the expense of the purchase of such lands or countries as aforesaid, and the removal of said persons, the President shall use such sum or sums, not exceeding $500,000, from moneys in the Treasury not otherwise appropriated, as may be necessary therefor; and the amount so used shall be returned to the Treasury as Congress may from time to time direct, from moneys arising out of the sales of the property formerly owned by rebels and which shall have been confiscated to the use of the United States.

I merely wish to state that this is the sixth section of the House bill with an amendment, and the amendment is that the President may use $500,000 for this purpose, and that the money shall be returned to the Treasury out of the proceeds arising from this confiscation, if there be any.

Mr. CLARK. I hope the amendment will not be adopted. Whoever has perused the bill of the Senate will see that that matter came under the consideration of the committee, and they have provided for it in section twelve as far as they thought they ought to go. That section is in these words:

SEC. 12. *And be it further enacted*, That the President of the United States is hereby authorized to make provision for the transportation, colonization, and settlement, in some tropical country beyond the limits of the United States, of such persons of the African race, made free by the provisions of this act, as may be willing to emigrate, having first obtained the consent of the Government of said country to

their protection and settlement within the same, with all the rights and privileges of freemen.

That is as far as the committee thought they should go. They do not provide for negotiation to acquire territory, but to settle these persons in some other country where they can be under the protection of the local Government.

Mr. WILKINSON. I ask whether to make that section effective it will not be necessary that some provision should be made supplying the President with the means to accomplish it. I do not know but that the section as it stands is broad enough to enable the President to accomplish what is desired; but it seems to me there should be some money appropriated.

Mr. CLARK. The committee did not think proper to put any appropriation of money in the bill, because it will be time enough to put that in when the President has occasion for it, and finds that these people are desirous to emigrate; and again if we put it here, I am told it will have to go to the Committee of the Whole in the House of Representatives, and it may embarrass the passage of the bill. I think the provision as it stands a wise one. It was maturely considered, and I hope it will not be interfered with by the Senate.

Mr. WILKINSON. I offer this amendment as a measure of economy. It is well known to Senators that the Government is now feeding at an immense expense a large number of negroes on account of the present condition of things growing out of this war, and I suppose it will be really a matter of economy if this appropriation should be made. I have offered the amendment in good faith, and with that view.

Mr. CLARK. I have not the least idea that the Senator has not offered it in good faith. I have never had occasion to find fault with the faith of that Senator, and I do not believe I ever shall. I do not mean to impugn his motives here or elsewhere. But let me say that though it is very true that the Government may be feeding some of these men, there are people ready to take them out of the country when they are ready to go. It may not be within the knowledge of Senators, but still it is a fact that within a month a vessel load has gone from this very Potomac river, taken away by people interested, without any expense to the Government. It is hardly worth while to appropriate money so long as that is done.

Mr. POMEROY. I had prepared an amendment which I was going to offer to this section of the bill. I suppose it is not really in order to offer it at this time. Can an amendment be offered to the amendment of the Senator from Minnesota? Is the amendment of the Senator from Minnesota susceptible of being amended?

The PRESIDENT *pro tempore*. It is open to amendment. That being an amendment, an amendment to the amendment would be in order.

Mr. FOSTER. The original bill, I beg to suggest, stands as an amendment now; and the proposition of the Senator from Minnesota is an amendment to an amendment.

The PRESIDENT *pro tempore*. The amendment of the Senator from New Hampshire has become part of the bill, the principal bill now before the body, and no amendment can be made modifying or with reference to a modification of that already adopted; but additional sections are treated as independent amendments, in the view of the Chair.

Mr. POMEROY. I am not disposed to resist the colonization of colored persons who may be emancipated under the provisions of this bill, if any should be, although I do not intend to advocate it. I do not believe it is a good policy; but I do think that there is a class of persons whom we can safely colonize, and who, with a due regard to the public interests, should be colonized. We cannot kill everybody. There is a class of persons that are very dangerous to the liberty of the country, who get up rebellions, who are not producers; and they are so assimilated with this class of slaves that gentlemen desire to colonize, they have been so loving in their lives, that I would not divide them in their deaths. [Laughter.] My amendment is to add to the amendment of the Senator from Minnesota——

The PRESIDENT *pro tempore*. The Senator from Kansas will suspend. The Chair is inclined, on consideration, to concur with the Senator from Connecticut. The amendment of the Senator from New Hampshire has been adopted as an amendment in Committee of the Whole, and is open as an amendment to another vote when the bill shall be reported to the Senate. It does stand yet in the nature of an amendment. So the proposition of the Senator from Minnesota, although an additional section, is nevertheless in the nature of an amendment to an amendment; and being an amendment to an amendment, it is not open to further amendment.

Mr. POMEROY. Then I will only state the amendment; and if when we come into the Senate it be in order to move it, I shall move it at that time. I was stating that the class of persons that this bill proposes to colonize are not the class, in my opinion, that it is expedient to colonize as a class. They are laborers; they are producers; they are loyal citizens; they are not dangerous. I never knew of their getting up rebellions, and rarely ever an insurrection. They have been from the foundation of the Government, as far as I know, supporters of the Government and faithful to their duties. But there is a class of slave-masters that have been more or less connected with this rebellion, that were the getters up of it, and I am told and have been told by some Senators here that they cannot live without their slaves; I have been told that there is a strong affection existing between the master and his slave; and my amendment would go to heal, in some measure, that difficulty by keeping them together.

The Senator from Wisconsin [Mr. DOOLITTLE] is earnest and eloquent on the subject of colonizing the blacks. They are not offensive to any body that I know of in their slavery, but the moment they are free they have all the difficulties about them, and I do not know but even all the diseases, that could come from Pandora's box. So, to obviate the difficulty that seems to exist in the minds of men, when they become free, I, in my amendment, propose to colonize them all together, rebel masters and their slaves. If they are so lovely together, if one cannot exist without the other, for I am assured on all hands that the slaves cannot take care of themselves and that the masters cannot take care of themselves, I think that is a good reason why, when we undertake a system of colonization, we should keep them together. They were born together, they have been bred together, they have been rocked in the same cradle, they have been nursed by the same mothers, and there is every consideration, in my opinion, why they should be kept together, if we are going, as a nation, to adopt this system of colonization.

Besides, as I have said, these slave-masters as a general thing are not producers; they are not laborers. The financial resources of the country would not suffer in their absence, as they will if you take away the laboring class. At the proper time I think I shall introduce and urge an amendment for the colonization of all slave-masters who are rebels, and who have been convicted under the provisions of this bill, and not sentenced to be executed, because it must come home to the heart of every man that a large class, an immense class, of citizens cannot be executed. This bill proposes to convict them, but you cannot hang them. The heart of the civilized world would come up against us if we should undertake to hang by thousands and tens of thousands. There is not hemp enough in the market, or rope enough, with which to hang these men by classes, and I think that we should substitute the milder punishment of colonization. The English Government have done that. They have had a Van Dieman's Land. We might purchase an island to take that class of citizens to who are dangerous to the Republic, and who get up rebellions. If the committee are really in earnest in proposing to colonize any class, let them take the class we can spare, take the class that are dangerous to us, not think of slaughtering them by thousands, but remove them to some island; and if gentlemen insist upon it, remove them with their slaves. As I said, as they have been lovely together in life, let us not divide them in death.

Mr. CLARK. I suggest to the Senator from Kansas, if he is serious, that to expatriate one of those persons it must be in pursuance of a sentence for crime.

Mr. POMEROY. I provide that they are first to be convicted.

Mr. GRIMES. That amendment is not before us.

Mr. CLARK. I beg pardon; I forgot the decision of the Chair.

The PRESIDENT *pro tempore*. The question is on the amendment of the Senator from Minnesota to add an additional section.

Mr. SHERMAN. I should like to have the section of the bill that relates to colonization read, and then the amendment of the Senator from Minnesota. As we have not got them in print before us, I should like to have the two read, to see whether they are consistent with each other, and can both be put together in the same bill.

The Secretary read the amendment, and the twelfth section of the bill.

Mr. DOOLITTLE. I suggest to the Senator from Minnesota that if his amendment be adopted there is a defect in it in one particular, that may have escaped his attention. After the words "Gulf of Mexico," the words "or the Caribbean sea," ought to be inserted. The Caribbean sea, perhaps, might be regarded as containing the island of Hayti.

Mr. WILKINSON. I will insert those words. I so modify my amendment.

Mr. ANTHONY. There is one very grave difference between the two propositions. The amendment of the Senator from Minnesota guaranties, on the part of our Government, all the rights of citizens to the expatriated persons, whereas, as the twelfth section is in the bill, it merely provides that the Governments under whose jurisdiction they settle shall guaranty them all those rights. We shall involve ourselves in the chance of a war with any Government to which these people may be sent according to this amendment.

Mr. WILKINSON. Not at all. The President of the United States will see that this law is faithfully executed, and he will not send or suffer them to be transported until the provisions of this amendment are carried out in advance.

Mr. ANTHONY. But I understand the amendment guaranties to them all the rights of citizenship on the part of the President.

Mr. SHERMAN. I see no occasion for this amendment. The act abolishing slavery in the District of Columbia confers on the President authority to negotiate for a proper place to colonize free negroes. The amendment, as already adopted, provides for the principles of colonization, that all persons who are emancipated by the bill may, at their own pleasure, be colonized. The only difference is that the amendment contains an appropriation. I do not think that in a bill of this character any appropriation should be made except simply to carry into effect incidental expenses. Any appropriation bill could provide for the proper sums of money to carry into operation the law when it is passed. I think, therefore, it would be idle to put two sections on this bill relating to colonization. They would be to some extent inconsistent with each other; they would not be in harmony with each other; and I think, therefore, that the amendment ought not to be adopted.

Mr. WILKINSON. I do not think the two sections are necessarily inconsistent with each other. This section is more in detail than the one in the bill; that is all there is about it.

Mr. WILLEY. I think there is an inconsistency, as suggested by the Senator from Ohio, between the section already in the amendment as voted upon a while ago, and that proposed by the Senator from Minnesota. There seems to me to be an incongruity. I think the section in the bill reported by the committee is sufficient, and I move to strike out all the amendment proposed by the Senator from Minnesota after the enacting clause, and insert the following.

The PRESIDENT *pro tempore*. The Chair has already had occasion to rule that, inasmuch as this is an amendment to an amendment, another amendment cannot be entertained. The question is on the amendment moved by the Senator from Minnesota.

Mr. WILLEY. Before the vote, then, I will say that, if it shall not pass, with a view of indicating what my purpose is, I will offer the following as an independent section:

And be it further enacted, That the sum of $1,000,000 is hereby appropriated, out of any moneys in the Treasury of the United States not otherwise appropriated, to be applied by the President in carrying into effect the provisions of the ——— section of this bill.

I forget the number of the section in regard to colonization.

The PRESIDENT *pro tempore*. The question is on the amendment moved by the Senator from Minnesota.

The amendment was rejected.

Mr. WILLEY. I offer this amendment:

And be it further enacted, That the sum of $1,000,000 is hereby appropriated, out of any money in the Treasury not otherwise appropriated, to be applied by the President in carrying into effect the provisions of the twelfth section of this act.

Mr. WILKINSON. As according to the decision of the Chair in regard to an amendment under the rule, that amendment cannot be further amended, I suggest to the Senator from Virginia that he change the sum and make it $500,000. I should be glad to support it in that shape.

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

The amendment was rejected.

Mr. SUMNER. I desire to move an amendment. It is the section I proposed some time ago, and withdrew at the suggestion of the Senator from Ohio. I now move it, to insert as an additional section:

And be it further enacted, That any citizen of the United States bearing arms against the United States during the present or any future rebellion, shall forfeit his citizenship and be forever incapable of being or becoming a citizen of the United States.

The object of that is precisely and with the strictness of law, to prevent any rebel from hereafter holding any office under the Constitution of the United States.

Mr. COLLAMER. It is in the bill now.

Mr. SUMNER. The Senator from Vermont says it is in the bill; but suppose, for instance, one of the rebels presents himself in this body as a Senator or in the other body as a Representative. The Senator knows very well that it would be within the competency of the Senate, if it be here, or for the House, if it be there, to determine the question of his qualification; we have had a lesson this session on that point; and in determining his qualification, each body may undertake to say that such a law as this is unconstitutional; that is, that it is not within the competency of Congress to add another qualification to those required by the Constitution. That is an argument that we are very familiar with on this floor. The Constitution does confer upon Congress the power of determining who shall be citizens.

Mr. COLLAMER. I ask where is that provision in the Constitution?

Mr. SUMNER. It is in the general powers of Congress.

Mr. COLLAMER. Will the gentleman allow me a moment?

Mr. SUMNER. Certainly.

Mr. COLLAMER. In the convention that formed the Constitution they got into a discussion on that point and found great difficulty with it. The qualifications of the different States were so very different that they finally dropped it altogether. There is no such power in the Constitution. It only provides that the qualification of a voter, for instance, for presidential electors shall be the qualifications required by the Constitution of any State for a citizen to vote for the members of the largest body of the Legislature. That is all the definition there is, and there is no power in Congress to define the citizenship of the United States. It is not in the Constitution. They tried to make it and could not.

The PRESIDENT *pro tempore*. The question is on the amendment moved by the Senator from Massachusetts.

The amendment was not agreed to.

The bill was reported to the Senate as amended.

The PRESIDENT *pro tempore*. The question is on concurring in the amendment made as in Committee of the Whole.

Mr. TRUMBULL. I suppose it is now competent to amend that amendment before it is concurred in.

The PRESIDENT *pro tempore*. It is competent to amend it. The Senate may concur in the amendment as it stands, or concur in it with an amendment as in other cases.

Mr. TRUMBULL. Before the amendment is concurred in, I move to strike out the whole of it after the word "that," and to insert what I send to the Chair.

The PRESIDENT *pro tempore*. The Senator from Illinois moves that the Senate concur in the amendment made as in Committee of the Whole with the following amendment——

Mr. TRUMBULL. It is the House bill to emancipate the slaves of rebels.

Mr. SUMNER. To strike out the whole of the amendment?

Mr. SUMNER. To strike out the whole of the bill reported by the Senator from New Hampshire, which has been adopted as an amendment, and to insert in lieu of it the bill which has passed the House of Representatives to emancipate the slaves of rebels.

The PRESIDENT *pro tempore*. The amendment will be read, if required by any member.

Mr. TRUMBULL. I think it had better be read. It has never been read in the Senate.

Mr. SHERMAN. I will ask the Senator from Illinois whether that would not leave us entirely without any provision relating to the property of rebels?

Mr. WADE. We have none now.

Mr. TRUMBULL. If this amendment should be adopted, striking out all of the Senate proposition after the word "that," the question would arise in the Senate on adopting it as a substitute for the other bill from the House of Representatives; and then, instead of adopting it as a substitute for that bill, I should be in favor of adding it to it, so that we would pass the House bill. The Senate now has it in its power to make a law confiscating the property of rebels. By the course that the Senate has adopted, some few of the friends of confiscation, acting with the enemies of all confiscation, have substituted another bill.

Now, it is very manifest that the twenty-three Senators who voted a few minutes ago for a substitute to the House bill will never pass any confiscation bill. If it depends upon their votes no confiscation bill will be passed, although they are quite willing to strike out a confiscation bill. The Senate has it in its power to make a law. The House has passed two bills. The Senate has the power to pass the bills of the House and they are laws. The Senate also has it in its power to disagree with the House, and probably defeat any confiscation whatever. If some of the friends of confiscation think proper to unite with the enemies of all confiscation and disagree with the House and defeat any measure, that cannot be helped. Every Senator votes in view of his own responsibility, and if he thinks that the best course, he will of course pursue it. It is not my province to say anything about that for any other Senator than myself. I think that the wise policy would be, now that the House has passed measures, even if they were not quite satisfactory, to take them and enact them at once into laws. I think now it would be better to take up the other branch of the subject relating to emancipation, and substitute it if the Senate would do so, in lieu of the amendment that the Senate proposes to adopt here; because then we shall adopt a measure that the House has agreed upon; that will be a law. But who supposes that the House will agree to the amendment that has been adopted here by the enemies of all confiscation aiding a few of its friends? Probably many persons do not want them to adopt it. That is the very thing they desire, to defeat any action. But I am for some action. I want something practical; and hence I want to agree to one of the House bills, if I cannot agree to the other, I would agree to both if I could, although they are not just such bills as I would prefer, particularly the confiscation bill. I like what is called the emancipation bill. I think it contains very excellent provisions. I think there are some excellent provisions in the Senate bill. I wish I could think as well of all of them. There are some things in it for which I should be glad to vote. Now the amendment that I have moved is to strike out all of what is known as the select committee bill of the Senate after the word "that," and insert the bill that has already passed the House of Representatives.

The PRESIDENT *pro tempore*. The Chair begs leave to state that the reading of the amendment being required, it must be read, and should be read and must be read before debate is in order upon it. The Chair, perhaps, ought to have made the suggestion before the Senator from Illinois proceeded with his remarks.

Mr. COLLAMER. I wish to raise a question of order. The Senate, in committee, adopted an amendment making a whole bill. We are now in the Senate, and the question is on concurring in the amendment adopted by the committee. That is the question that arises.

The PRESIDENT *pro tempore*. On concurring in the amendment. It is the same thing.

Mr. COLLAMER. The question is, whether we will adopt the committee amendment; and on that a proposition is made by the Senator from Illinois to strike it all out and substitute another House bill. I submit whether that can be done. Can an amendment which has been adopted be amended in the Senate by striking it out and substituting back the bill before voted on, or another, if you please? Can it be amended in that way? I know he can move an amendment in the Senate to an amendment of the committee's recommendation which they adopted; but an amendment to get rid of it altogether seems to me very irregular.

The PRESIDENT *pro tempore*. The Senate has the same power over the bill that they had in committee. A question of order cannot be raised upon the extent of the amendment. It is certainly competent for the Senate to concur in the amendment made as in Committee of the Whole, with an amendment. It is an every-day practice.

Mr. COLLAMER. Striking it all out?

The PRESIDENT *pro tempore*. It never presents a question of order as to the extent of the amendment. It is quite as competent to move an amendment striking out all of a bill in the Senate as it is in Committee of the Whole. The question is on concurring in the amendment made as in Committee of the Whole with the amendment moved by the Senator from Illinois, which will now be read before debate ensues upon it.

Mr. CLARK. Cannot the reading be dispensed with by unanimous consent?

The PRESIDENT *pro tempore*. The Chair put the question and the reading was required. The Senator from Illinois required the reading of the amendment.

Mr. TRUMBULL. I will state why I do not withdraw the call for the reading. Senators have voted here to-day and told me they had never read either bill, and I think they ought to be read.

The PRESIDENT *pro tempore*. The amendment will be read. It is the personal right of every member to have a proposition once read.

The Secretary read the amendment to the amendment, to strike out all of the amendment adopted as in Committee of the Whole after the word "that," and to insert the following in lieu thereof:

All right, title, interest, and claim whatever, of every person comprehended within the following enumerated classes, in and to the service or labor of any other person or persons held to service or labor in any State, under the laws thereof, is hereby declared forfeited; and such persons so held to service or labor, commonly called slaves, are hereby declared forever discharged from such service or labor, and to be freemen, to wit: First. Of every person who shall hereafter act as an officer of the army or navy of the rebels in arms against the Government of the United States. Secondly. Of every person who shall hereafter act as president, vice president, member of congress, judge of any court, cabinet officer, foreign minister, commissioner, or consul of the so-called confederate States of America. Thirdly. Of every person who shall hereafter act as Governor of a State, member of a convention or Legislature, or judge of any State court, of the so-called confederate States of America. Fourthly. Of every person who, having held an office of honor, trust, or profit in the United States, shall hereafter hold any office in the so-called confederate States of America. Fifthly. Of every person who shall hereafter hold any office or agency under the government of the so-called confederate States of America, or under any of the several States of the said confederacy, or the laws thereof, whether such office or agency be national, State, or municipal in its name or character: *Provided*, That the persons thirdly and fifthly above described shall have accepted their appointment or election since the date of the pretended ordinance of secession of the State, or shall have taken an oath of allegiance to the so-called confederate States. Sixthly. Of every person, not embraced in the foregoing classes, who, after the passage of this act, being actually, willfully, and without coercion or compulsion, engaged in armed rebellion against the Government of the United States shall not, within sixty days after public warning and proclamation duly given and made, at his discretion, by the President of the United States, lay down his arms and return to his allegiance to the United States.

SEC. 2. *And be it further enacted*, That the President shall appoint one or more commissioners for each State, by whose laws persons are held to service or labor for life, to make a list of the names and residences of the persons in the States respectively held to service and labor by any person or persons described in the foregoing section and in the fourth section of an act entitled "An act to confiscate property used for insurrectionary purposes," approved August 6, 1861, and of the names of the persons claiming to be entitled to such service or labor, which list shall be returned as speedily as may be to the district court of the United States for the district where the persons so held to service or labor may reside; and immediately on such return the district court shall publish the said list of names, and an order requiring all persons claiming the service or labor of any of

the persons named in the list to appear and show cause why the person or persons owing labor or service should not be discharged therefrom, under this act, at the next term of said court; and on failure of any one to appear and claim the service or labor of any of the persons reported to owe the same, such person or persons shall be declared free by the court; and on appearance the claimant shall file with his application an affidavit that he has not belonged and does not belong to any of the classes of persons specified in the first section of this act; and that he will forever bear true faith and allegiance to the United States; and if not being comprehended in either of the classes specified in the first, second, third, fourth, or fifth specifications of the first section of this act, he shall have been engaged in armed rebellion against the Government of the United States, after having received sixty days' warning by proclamation of the President, as above provided, and shall allege that he has been so engaged under compulsion, he shall, in addition, state in his affidavit the fact and the manner of compulsion, and prove the same, *prima facie*, to the satisfaction of the court; and upon such affidavit having been filed and proof made, the attorney for the United States, or any one on behalf of the person held to service or labor, must prove to the satisfaction of the court that the claimant did so engage in armed rebellion, without the compulsion alleged, and on failure of such proof the person whose service or labor is claimed shall be restored to the claimant; but on the failure or refusal of any claimant to take any affidavit above required, or to prove the compulsion when it is alleged as an excuse, the court shall declare the person whose service or labor is claimed free from such service or labor; but upon the affidavit and proof (as the case may be) required by this section having been exhibited by the claimant, the person so held to service or labor shall be declared free, where, upon the weight of evidence which shall be adduced, it shall satisfactorily appear to the court that the claimant has belonged or does belong to any of the six classes of persons specified in the first section of this act. Upon the hearing of this question neither party shall be permitted to testify, and the court shall cause process to be issued for witnesses on behalf of either party and compel their attendance, and shall hear the testimony of all witnesses, as well on behalf of the person held to service or labor of the claimant; and the court shall give every person so declared free a certificate of the fact under the seal of the court; and such certificate shall be conclusive evidence of the freedom of such person from all service or labor against all persons whatsoever, and in all courts of the States or of the United States; and any person so declared free, if thereafter seized or imprisoned or held in duress in any way by any person under a claim to such person's service or labor, shall be forthwith discharged, on *habeas corpus*, by any court or judge of the United States; and the court or judge acting on said writ shall commit for trial for kidnapping the person so holding the said freed man; and on conviction of seizing or holding the said freed man, knowing him to have been declared free by a court of the United States, the person so convicted shall be sentenced to be confined to hard labor in the penitentiary for not less than one year nor more than five years; and any person corruptly swearing falsely in any proceeding under this act shall be guilty of perjury, and liable, on conviction, to the penalties thereof.

SEC. 3. *And be it further enacted*, That any person or persons held to service or labor by persons embraced in the classes specified in the first section of this act, if omitted from the commissioner's list, may, on summary application to the district court of the United States for the district in which he resides, be placed on the list, and shall be entitled to the same proceedings and benefits, and subject and entitled to the same judgments, and to be dealt with in the same manner as if his name had been placed on the list by the commissioners; and if the commissioners cannot complete their lists prior to the first term of the district court of the United States for any district, they shall be allowed to continue and pursue their investigations till they shall be completed and ended; and the compensation of each shall be not more than $2,000.

SEC. 4. *And be it further enacted*, That no person discharged under this act or the act entitled "An act to confiscate property used for insurrectionary purposes," approved August 6, 1861, nor the descendants of any such person, shall ever be reduced to involuntary servitude by any law or regulation of any State; and every such person shall always be entitled to be discharged by any court or judge of the United States, on *habeas corpus*, from any such servitude.

SEC. 5. *And be it further enacted*, That whenever any person or persons claiming to be entitled to the service or labor of any other person or persons, commonly called slaves, shall seek to enforce such claim, he or they (as the case may be) shall, in the first instance, and before any order shall be made for the surrender of the person, establish, not only a legal and valid claim to such service or labor, but also make and file an affidavit that he or they have not belonged and do not belong to any of the classes of persons specified in the first section of this act; and it shall be a sufficient defense to any such claim that the claimant has belonged or does belong to either of said classes.

SEC. 6. *And be it further enacted*, That the President of the United States is hereby authorized to negotiate for the acquisition, by treaty or otherwise, of lands or countries in Mexico, Central America, or South America, or in the islands of the Gulf of Mexico, or for the right of settlement upon the lands of said countries; and whenever any lands shall have been so acquired, or whenever the right of settlement shall have been so secured in any of said countries, then the President shall cause all the persons who shall have been liberated under the provisions of this act to be removed, with their own consent, at such times and under such regulations as he may deem expedient, to the countries so acquired, or in which the right of settlement has been so secured, and shall cause a reasonable quantity of land, not exceeding forty acres to any individual, or eighty acres to the head of a family, to be set apart for the use of such liberated persons, and shall guaranty to all such person so removed all the civil and political rights secured to all other citizens in said countries; and for the purpose of paying the expense of the purchase of such lands or countries as aforesaid, (if the same cannot be acquired by treaty,) and the removal of said persons, the President shall use such moneys as Congress may from time to time direct, arising out of the sales of the property formerly owned by rebels, and which shall have been confiscated to the use of the United States.

SEC. 7. *And be it further enacted*, That every person embraced in any of the classes specified in section one of this act shall forever hereafter be incapaple of holding or exercising any office of honor, trust, or profit under the Government of the United States.

Mr. SHERMAN. Mr. President, the motion of the Senator from Illinois, if persisted in, will open the debate we have had on confiscation, as well as the whole question of emancipation. It is an unusual motion; perhaps strictly parliamentary, but unusual. It seeks to substitute for a bill which we have been discussing for months another bill lying on the table. Now, if he will look a moment at the practical effect of his motion, I think he will see that it will defeat his own object. The Senator is certainly a friend of confiscation, and a friend of the emancipation of the slaves of rebels. If his proposition should be adopted, what would be the effect of it? You would send back to the House as an amendment to a confiscation bill another bill that has no reference to confiscation, but to emancipation. You will be no nearer a conclusion upon any subject than you were when you commenced; you will involve yourself in a dispute with the House which, on its face, is an absurdity. You reject one of their bills by sending them another, which they have passed. It is an absurd proposition.

Mr. President, I desire to secure the strongest measure of confiscation that this Congress will pass. So far as the emancipation of slaves is concerned, I am probably far behind the great majority of my political friends. I do not look upon immediate and general emancipation as a result to be desired. If I had the power to emancipate all the slaves in this country, I should hesitate very much to do it until I had some provision for their government, for their education, for their protection, and for their colonization. But upon the question of confiscation, I have clear convictions that it is our right and our duty to seize the property of all the leading rebels, and apply it for the use of the Government in suppressing the rebellion. I therefore desire, by some practical proposition, to get the largest measure of confiscation which the majority of this Senate and of the other House is willing to extend. The bill that has been adopted as an amendment is a bill which has been framed by a select committee, and it has been considered fully and fairly. It is not such a measure as I prefer. I have voted against it, and I shall continue to vote against it, as an amendment to the House bill; but when it appears to be the strongest measure of confiscation a majority of this body are willing to adopt, then I shall vote for it. It contains many excellent provisions. Gentlemen who favor other measures of confiscation are very much mistaken if they say this bill now adopted as an amendment will be nugatory. If they will read it, and carefully examine it, they will see that it will be almost as effective a measure of confiscation as any other, if the President of the United States will perform what I conceive to be his duty under it. It confers upon the President of the United States discretionary power to do all and more than is required to be done under the House bill; far more.

Mr. TRUMBULL. The Senator certainly has not examined it. The bill that has been adopted as an amendment does not forfeit the property of a single officer in the rebel army.

Mr. CLARK. The Senator is entirely mistaken.

Mr. SHERMAN. The amendment that has been adopted goes upon the principle which has been thoroughly discussed here, that no property shall be taken and confiscated finally until there is a judicial trial. That is the basis on which it is framed.

Mr. TRUMBULL. Oh, no; it does not provide for a trial at all.

Mr. HOWARD. Did I understand the Senator from Ohio properly when I thought he remarked that the property of no rebel was to be taken or confiscated under the bill until there was a judicial sentence against him?

Mr. SHERMAN. Mr. President, I suppose the Senator from Michigan and myself are perfectly familiar with both bills, because we have read them and conned them over. I say the bill as now amended requires the President to seize the property of the rebels and hold it until a trial can be had.

Mr. HOWARD. With great respect, if the Senator will allow me, such is not the provision of the bill at all. The property is confiscated and the title declared to be absolutely forfeited, although no trial may ever take place, and although no party may ever be brought into court, and although the party, when brought into court and tried ultimately, shall turn out to be absolutely innocent.

Mr. SHERMAN. I will not go over that. It has been sufficiently gone over in the Senate.

Mr. HOWARD. I wish the bill to be clearly understood. That is the object of my rising. I wish to have it understood; so that, when gentlemen come to vote, they shall vote intelligently, so far as my humble efforts can enable them to do so.

Mr. GRIMES. I hope the Senator from Ohio will allow me to suggest that I trust he will not be restrained from going over the discussion again.

Mr. SHERMAN. I do feel myself restrained, although I have not taken any time heretofore, from going over the discussion again. I will not follow the remark of the Senator from Michigan. What I have stated in regard to the bill of the Senator from New Hampshire is true. I have read it over and over again; and the Senators here who framed it, and who know all about it, say that that is the legal principle upon which it is founded.

Mr. HOWARD. If the Senator will pardon me a moment——

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

Mr. SHERMAN. I do not yield. I would do it in any other case; but I do not wish to reopen the debate.

Mr. HOWARD. I assert that that is not the principle of the bill. It is a misapprehension.

The PRESIDENT *pro tempore*. The Senator from Ohio, declining to yield the floor, will proceed without interruption.

Mr. SHERMAN. I do not wish to go into the dispute which we have had here for three or four days between the opponents and friends of this bill. I simply desire to give the reasons why I shall vote against this motion to prevent a practical result of this controversy. Sir, I am sick and tired of this debate. There has not been a single argument on this subject of confiscation but what was exhausted in the first month of the discussion. I believe the argument against the doctrine of confiscation was substantially exhausted by the Senator from Pennsylvania, [Mr. COWAN,] in his first very able speech. I therefore do not wish to reopen the discussion; nor will I stand in the way of any practical solution of this difficulty. It is as plain as day that there is a difference between the Republican members on this floor on the subject. Probably a majority of them desire a proposition at least as stringent as that contained in the House bill. A minority of them desire only a bill like that which has now been adopted as an amendment. As a matter of course, those who are opposed to all confiscation measures will vote with those who favor the least and the smallest confiscation measure. Because they have succeeded in carrying a majority of the Senate in favor of their views, I will not stand in the way of some practical bill, even if it does not go far enough. It is always better, in a legislative body, when you cannot have your own way, to do the best you can. It is a principle by which I have always been governed; and I will not resort to any other. If the motion of the Senator from Illinois prevails, all this debate will be opened again; and then, if he should succeed in carrying his proposition, you have no practical results. You send back to the House of Representatives, as an amendment to one bill, another bill which they have passed; and you have the dispute over again.

Now, Mr. President, it seems to me the best way to get along with this matter would be this: every Senator has made up his mind upon it; let us have as many votes as may be desired, (and under parliamentary law you can get three or four,) to test the sense of the Senate as to which of these two bills they prefer; and if a majority of the Senate are in favor of the bill as framed by the Senator from New Hampshire, let us pass it, and send it to the House. If the House agree to it, then we have a modified *quasi* confiscation bill at any

rate. If they disagree to it, it goes to a committee of conference, where there can be another opportunity to obtain a more stringent bill. That is the way it appears to me; and upon that principle I shall vote against all the dilatory motions and all side issues.

Mr. TRUMBULL. I deny most emphatically that the vote taken shows that a majority of the Senate are in favor of this substitute; and I say to the Senator from Ohio, although it has yet to occur, that there will not be a majority of the Senate voting for this bill made up of those who voted for the substitute. I venture to say that that assertion will be verified when the yeas and nays are called.

Mr. SHERMAN. I think I said substantially the same thing by stating that the minority of those in favor of confiscation were in favor of this bill; that they would be naturally aided by those who were opposed to all confiscation measures. I have no doubt the remark of the Senator from Illinois is true; but yet a majority of this body have the right, even against the opinion of the Senator from Illinois, to pass a law; and because we are in a minority, we ought not to stand in the way of the passage of any law which receives the judgment of a majority of the Senate, whether they are of one party or another, whether they are our friends or foes, or the friends or foes of confiscation. We ought not to stand in the way of the recorded judgment of a majority of this body upon any bill that may stand before us.

Mr. TRUMBULL. Undoubtedly, Mr. President, a majority of this body can adopt any measure they please, and it is competent for a few Senators, or a portion of the Senate who favor confiscation, to unite with the enemies of confiscation and dilute a bill until it amounts to very little, and prevent the Senate coming to a direct vote on a confiscation bill that really amounts to something, and I shall acquiesce in it as cheerfully as the Senator from Ohio; that is, I will acquiesce in it because I am obliged to acquiesce in it. There are some features in the bill which is thus diluted that I think will be of value, and I would vote for those features. There is a provision in it which I think very valuable, in regard to proceedings under the fugitive slave law. There is a proceeding *in rem* in it. I think that may be worth something. The tenth section of the bill I think is a very valuable section, and I should be glad to have it enacted into a law. I am not going to discuss the matter in regard to the principle at all; but I should like very much if I can get the attention of the Senator from Ohio, [Mr. SHERMAN,] and the attention of my friend from New York, [Mr. HARRIS,] who I know is for confiscation, and of several other Senators who have voted for this substitute, for a few moments, to call their attention to the great value of the House bill over the Senate bill.

The question has been often asked me by Senators who desire to pass a confiscation bill and an emancipation bill, "how are you going to have the evidence that the negro is free? How are you going to accomplish anything practical? You declare him free; but he has no evidence of it; and you have got no machinery to carry out the law." That objection applies with all its force to the Senate bill as it stands. The Senate bill on this subject of freeing slaves authorizes the President of the United States, when he deems it necessary for the suppression of the rebellion, to

> Issue his proclamation commanding all persons to lay down their arms and to return to their allegiance to the United States; proclaiming that if any person within any State or district declared by him in a state of insurrection, shall be found in arms against the Government thirty days after the date of such proclamation, or giving aid and comfort to the present rebellion, the slaves of all such persons, within such State or district, shall be made free, and thereupon the slaves of all such persons, at the expiration of said thirty days, shall be free and forever discharged from any and all claim to their labor or service, any law or custom of any State to the contrary notwithstanding.

Now, who is to carry that out? Allow me to ask my friend from New York, who is to determine that? Practically, how is that to be carried out? The House bill provides the machinery for it. It appoints commissioners and sends them into the region of country where slaves are owned; requires a register to be made of all these slaves, and then goes into the court, and a publication——

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

Mr. TRUMBULL. Yes, sir.

Mr. DOOLITTLE. It is this: whether we send any commissioners into the country before we take it?

Mr. TRUMBULL. Of course not; but cannot you send them as you do take it?

Mr. DOOLITTLE. The Senate bill deals with it as fast as you take it.

Mr. TRUMBULL. It makes no provision for dealing with the slave whatever.

Mr. DOOLITTLE. Certainly it does.

Mr. TRUMBULL. If the Senator from Wisconsin would calm his excited feelings down so as to look at the law, he will find there is no such provision whatever.

Mr. DOOLITTLE. Will the Senator indulge me a moment?

Mr. TRUMBULL. Certainly.

Mr. DOOLITTLE. The Senator refers to me and tells me to calm down my feelings. Mr. President, I claim to be a friend of a confiscation measure, one which will be efficient and constitutional and worth something after it has passed. Here, when we are anxious to take a vote, the pretended friends of confiscation rise up day after day and we sit here and make no reply. Why? Because we want to get a vote and have practical action on this subject. Because, after the Senator has been heard probably fifty times on this question, I express a little impatience that we should come to a vote, so that we could dispose of this measure before we lose a quorum of this body, the Senator undertakes to reprove me for it. Now, Mr. President, I understand the Senator from Illinois and the course that he has pursued on this subject from the beginning. Assuming to be, as he undoubtedly is, one of the leaders of the Republican party, he has undertaken to manage this affair as General Shields pursued Jackson. He followed him with such hot pursuit that his army was strung out forty miles long. Jackson ascertained it, turned round and whipped the head off of his army and afterwards whipped off the tail. That is the kind of generalship by which the honorable Senator from Illinois undertakes to manage affairs here on this subject.

Mr. WADE. Jackson has beaten you.

Mr. DOOLITTLE. Jackson has beaten you, and will beat you again, and your enemies will beat you, unless you can stand together on this measure, and go for the bill which the Senate has adopted through its committee; go for a bill which will stand investigation before the courts of the country. I tell you, if you do not do that, you will be beaten. There is no doubt about it.

Mr. President, I did not intend to be drawn into the discussion of this matter, but I do not intend to sit quietly to be reproved by the Senator from Illinois if I express a desire, and an anxious desire, that we should come to a vote.

Mr. TRUMBULL. Mr. President, it seems that I was quite right in supposing that the Senator from Wisconsin was very much excited, and having given expression to the ebullition of his feelings, I hope he will now be considerate enough to look at the bill. I stated that there was no machinery in the Senate bill whatever for the purpose of declaring the freedom of these slaves, except simply the law. Does the Senator from Wisconsin pretend there is any such thing? Instead of answering it, he goes off and compares me and the friends that are acting with me to the Union armies badly managed; and I suppose he compares himself, uniting with the opponents of the measures of confiscation, to the rebel Jackson. He says we are beaten; that Jackson beat Shields, and cut off the head and the tail of his army, just as he and those coöperating with him who are enemies to confiscation are defeating the measure here.

Mr. DOOLITTLE. Mr. President——

Mr. TRUMBULL. The Senator will be quiet and take his seat. I have given way to him once.

Mr. DOOLITTLE. If the Senator will allow me——

Mr. TRUMBULL. The Senator need not interrupt me. I will not be interrupted at present.

Mr. DOOLITTLE. The Senator should not misrepresent me.

The PRESIDING OFFICER, (Mr. FOSTER in the chair.) The Senator from Illinois is entitled to the floor.

Mr. TRUMBULL. I trust the Senator from Wisconsin will be called to order by the Chair, if his sense of respect will not of itself induce him to keep order. I gave him the floor very courteously when he asked for it, although, on former occasions, the Senator has not thought proper to allow me to interrupt him; and I should have been justified in not allowing his first interruption.

I said, sir, that I thought his comparison was a very striking one. It showed that, as the enemies of the Union and of the Union armies had gained some advantages over the soldiers fighting in the cause of the Republic, so the enemies of confiscation and the punishment of traitors had gained a triumph here by the bad generalship, if you please, of those who are for confiscation. Sir, I do not pretend to any skill as a general in the field or in the Senate. I know no way to present a question except to try to present it clearly and distinctly to the judgments of Senators.

I said, and I repeat now again, that the Senate bill does not provide for going into the courts to determine who are free or who are not free of the slaves that it provides for discharging from servitude. It merely declares that they shall be free. I said—perhaps the Senator from Wisconsin disagrees with me on that—that I thought the House bill was better in that respect because it contains the machinery. He then wanted to know if we could do anything until we got possession. Certainly not; but when we do get possession the Senate bill provides no machinery for ascertaining who are the slaves of rebels at all. The House bill does. It contains a provision directing the appointment of commissioners to go along as we get possession, and take a register of all the persons held to service or labor, and then provides that a proceeding shall take place in court and a publication shall be made, and those who claim a right to hold any of those registered persons as slaves are notified to appear in court and establish their right to hold them and their loyalty, and then they are allowed by the bill to own them. If they fail to do that, they are declared free, and receive the evidence of their freedom. This is to be done after we get possession of the country. The bill reported in the Senate contains no such provision. I should be exceedingly glad if the Senator from New Hampshire would adopt this machinery as connected with his substitute, if it is to be adopted by the Senate. I cannot see any objection to it. I think it very valuable, and I should be glad if the provision could be incorporated here.

Now, as to what the Senator from Ohio has said, that we shall have a dispute with the House, why, sir, there will not be much of a dispute with the House if we pass the very bill which the House has passed. We pass it, it is true, in a different form; that is, we do not enact the bill as they sent it here, but they will find no difficulty in concurring with the very same bill which they have passed. If, however, we adopt a substitute of a different character from anything they have passed, and which they have voted down by a two-thirds vote in the House when distinctly presented, it is not as likely that we shall get a concurrence as it is if we adopt a bill which they have once passed, although we adopt it on another bill, if you please.

Now, I do think that these detailed provisions are altogether better on this subject. In fact, there are none in the Senate bill. I do not know but the better motion for me to make would be to incorporate the sections of the House bill upon the substitute, so as to provide, for these negroes who are made free, some mode of establishing the evidence of the fact. I should be very glad if some friend of that bill would move it.

Mr. WADE. Mr. President, I have witnessed with a great deal of pain the scenes that have been presented before us to-day in the Senate. I feel that the eye of the civilized world is upon us, and that on the Republican party of this continent now rests the question of free government throughout the world. It seems so to me; and I say I am pained the more, because it seems to me that here is a radical division that has elicited a manifestation of some degree of feeling which may tend, not only on this important question, but on others, to divide that party on whom the hopes of the whole world must rest. We have stood together, shoulder to shoulder, upon the great questions which have come before us during this session, and never, in any legislative assembly, has so much been accomplished for the welfare of mankind, for the hope of the world, as has been accomplished thus far by the action of the Republican party in this Congress. Sir, posterity, will be amazed at

the great work we have performed thus far. I implore my friends not to separate now. Everything that is opposed to free government in Europe, the aristocracies and the monarchies of the world, are banding together to put down the free Government of America. Every paper that comes to our hands from abroad, tends more and more to convince us that all that is aristocratical, all that is opposed to the common rights of man, is concentrating for the overthrow of the glorious institutions of America; and it always has appeared to me, and does now, that the great barrier against their success is the strong arms and the united purpose of the great Republican party. In the last arrivals from Europe I see that aristocracies are banding together, and monarchies are meditating the overthrow of the liberties of this country. Their purpose is a common purpose; they are actuated by the same principles; they are opposed to the common rights of man. You will find them, whenever they are banded together, arrayed against the rights and against the principles of this great Republic.

Look at France, look at England; notwithstanding all their animosities engendered by prescription, though they were hereditary enemies until lately, they have formed an alliance and are able now to unite; and with whom do they unite, and what causes them to unite, notwithstanding all their private animosities, at this particular period? It is nothing else than the grand example of America, its free institutions, its regard for the rights of man, its strong and potent arm that threatens with utter destruction the aristocracies that have so long trampled upon the rights of man. They see in our prosperity the sure precursor of their own doom, and they are now uniting their strength to overthrow us; and I ask with whom do they unite, and with whom do they sympathize? Not with us. All the pretensions of Great Britain heretofore have been that they were friends of America, that we had a common blood and a common civilization that would naturally band us together like brothers; but the very moment that they have been able to believe that our free institutions were involved in difficulty and had become vulnerable, we see them with a malice and a vindictive spirit heretofore unknown, banding together against us, and uniting all the aristocracies and all those opposed to the rights of man upon the continent, for our overthrow. Enemies heretofore can unite now, because common despotism is threatened by our success. I say it here, and I am proud to say it, that all they look to with jealousy is the great Republican party of this continent now controlling the power of the United States with seven hundred thousand men in the field—embodied for the overthrow of aristocracy—fighting for the rights of man. Though the English have heretofore professed great anti-slavery principles and sympathy with those who are battling against the slave aristocracy, the very moment they see, or think they see, that we are vulnerable, they unite against us. Let them find a divided Republican party, let them perceive that the Administration of this Government is divided against itself and thereby weakened so that there is hope for their interference, my word for it, it will not be delayed a month.

I know, sir, that this is not very relevant to the question under consideration; but I am sorry to see such a spirit manifested as I fear I have seen here in the Senate to-day, against some of those who have traveled thus far together in honor and in triumph, and have made their names historical with the great achievements they have won in legislation. I am sorry that they should part here upon a great measure involving the same principles in which they have been engaged during the session. It is to me a mortification. I am willing to sacrifice anything but principle in order to unite us. Now, sir, are we divided upon any principle? Is there anything in these two propositions that divide us, involving a radical principle upon which honest men cannot unite? If there is, I am the last man to find fault with anybody, because when conscience and principle intervene, honest men must differ; but let not our transient passions and animosities overrule the great principles which should unite us as a band of brothers, forever battling in the great cause of republican and limited government. [" Oh, let us vote."] My friends behind me may mutter as they please. I very rarely speak here, and I am conscious that when I do, it is not very much to the purpose; but those whose privilege it is to speak often should indulge one who is not much gifted when he thinks there is a great occasion for his saying something.

Now, Mr. President, why do we differ on this question, and where do we differ? I regret exceedingly that we differ at all, and I have heretofore attempted to show that we do not really differ on principle, because, as to any question involving constitutional principles, there is really no difference between the House bill and the bill of the Senate committee. The bill of the committee has a very little of exactly what the House bill has a great deal. You cannot name a single principle in the bill of the House that you will not find in the bill of the Senate. It is as to the extent and the vigor of the measures proposed that they differ; and I regret to hear that among Republicans there is a particle of difference in sentiment as to how far we should go in putting down this rebellion, and punishing the authors of it. I am, perhaps, unfortunate; I live in a region of country where there is but one opinion that makes itself manifest to me; and that is, an admonition that I should exert myself upon this floor to the utmost of my power to see that the Administration enter upon and carry out the most vigorous prosecution of this war, especially that the property of those in rebellion against the United States shall be taken wherever it may be found, and appropriated to the purpose of prostrating the rebellion and paying the expenses of the war. I am sorry to find that that sentiment is not universal. Other Senators not so prompted by their constituents, perhaps not so inspirited with the idea that it is essential to put down this rebellion, do not seem to entertain so strong an idea on this subject as I do. I regret it, sir.

If there has been anything of personal feeling in this matter, I have made the sacrifice. I do not ask my brethren here to go any further than I do. There was a favorite bill emanating from a very honorable source; your Judiciary Committee reported it early in this session. It had their sanction. It was vigorous; it was masculine; it dealt not in sentiment for rebellion, but it approached it as a reality. It sought the destruction of rebels, the confiscation of their property, the emancipation of their slaves. It strove to remunerate the nation for the sacrifices she made; it sought to remove the cause of this accursed rebellion by emancipating the slaves of rebel masters. I loved the bill for that. My constituents approved it; they warned me to maintain it with whatever influence and power I had upon this floor. I advocated that bill with all the powers that I could exercise in its behalf. I was overruled. That bill, with everybody else's project, went to a special committee which I felt conscious would not be prepared to go as far on this subject as I was, and therefore I resisted it; but being beaten in that, and endeavoring to get the next best measure, I cast around to know what I should do. I studied the bill of the special committee, I think with no prejudice, with no predisposition to find fault with it; but as I looked it over, I could not see that it would have much practical effect upon the great question that I had most of all at heart. I wanted to lay hold at once of the property of rebels and appropriate it to the payment of the expenses of this war. I thought the measure fell vastly short of that. What then?

My own party, advocating the bill of the Judiciary Committee, being overpowered and beaten in the Senate, the whole subject being referred to a special committee, and they reporting this less vigorous bill, the Senate proceeded to consider other matters. In the mean time the House of Representatives took the subject under consideration. They, in their wisdom, meditated upon the question of a confiscation bill; and they, the immediate representatives of the people, accountable to them within a few short months for what they do, passed a bill which was not as vigorous, did not go the length that the bill of our Judiciary Committee went. I read the House bill carefully, and I was rejoiced to see that pretty much all that was essential was summed up in it. I did suppose that all of us who were anxious for confiscation, anxious for vigorous measures, would not be slow to take this middle ground, which had been sanctioned by the authority of the House of Representatives. I did suppose that respect for them, where we had fatally differed, would have induced every man here to quit his own particular project and take theirs. I thought that Senators who had got up a special project of their own, would not be so wedded to it that they would be willing to hazard a division of the Republican party on a great measure of this kind, by standing bigotedly and doggedly to their own bill at all hazards. I was not, however, unaware of the advantage they had over us, because in this Senate, as everybody knows, whoever goes for the weakest measure of confiscation is sure to have the support of every man who wants no confiscation at all. I could readily see that they who would condescend to join with the common enemy of their principles could triumph upon this floor. I knew they had an advantage over us. I knew that the earnest men here who wished to go the most vigorously into confiscation would be beaten if those from whom we divide on this question would condescend to court the support of our mortal enemies. Perhaps that term is too harsh; when I say "enemies," I only mean opponents; because when I disagree with Senators, I do it with no want of respect to their opinions, but conceding that they have the same right to entertain and maintain their opinions on this floor that I have. Therefore, if "enemies" is too strong a term, as perhaps it is, I wish it to be understood that I mean those who do not believe with us, those who uniformly oppose us on this floor upon these subjects, and who we all know as well as we know our A B C, are against us upon this confiscation question.

Sir, I had hoped, for the sake of peace in our own party, for the vigor of this measure of emancipation if they really believed in it, and I suppose they do, rather than embarrass the House of Representatives, rather than embarrass a large majority of their brethren upon this floor, that when they had whipped us out from our darling project, they would gracefully concede and surrender their own and act with us upon the middle ground of this great bill of the House of Representatives. The House have passed two bills upon the same subject; they are undoubtedly wise, well considered. No man upon this floor has stood up and found fault with the bills of the House of Representatives, either upon this question or upon the other.

These measures that we had joined together in the same bill they saw fit to present to us in two bills, just about as efficient as our original bill would have been. Who, then, could have apprehended that this great measure would have been absolutely jeopardized and probably rendered null, shall I say by the bigoted stickling of some gentlemen to a project of their own, as though there was nothing else on God's earth that could satisfy them but that which was the creation of their own hands? I do not want to find fault with their bill, particularly now, although I have studied it, and I believe it is utterly inefficient to work out even that meed of confiscation which they themselves wish to obtain.

But, sir, we are beaten. That fatal vote has been taken. I do not want to be misunderstood. I know the temper and disposition of men. I have seen too many controversies to be misled. I know that we, and the country through us, are to be amazed and disappointed by our shortcomings and by our bickerings here. I regret it; I lament it; and I regret it the more for the reason which I have already stated, that we have traveled so far together shoulder to shoulder, and have performed so much. I am sorry that we should disappoint the country in what we are yet to do. I did hope that we could take these measures of the House of Representatives and pass them without any attempt to improve them. I do not say they are perfect; for nothing is perfect in this world. No man can get up a complicated law upon any difficult question that another man may not criticise, and for some reason find fault with it; but these measures of the House of Representatives, all things considered, seem to afford us a place where we can meet upon middle ground. They have not the apparent asperity of the bill of the Judiciary Committee. They do not go that length. That is a great concession to those who believed that bill went too far; and yet they are determined to drag us down to another bill, in which they know we do not believe, although we may be mistaken about it. It may be that we are utterly mistaken, and that their bill, after all, is the best; but they know that a majority of their brethren upon this floor do not so view it. Could they not make a

little concession even to weak brethren on this subject? They had beaten us once. Then why not exercise the magnanimity to meet us upon a middle ground? Or will they, following up their triumph, which they have obtained by a combination with their opponents as well as ours, just drive us to the wall upon the subject? Sir, it is not magnanimous, it is not generous. It does not comport with the best interests of the country to be disclosing our bickerings here in a way that I would be glad to avoid before the world. I want Europe to know, I want the rebels to know, that on the subject of punishing their rebellion, in the Republican party there is but one voice, one view, and that that is, that rebellion is to find no quarter at our hands.

But, Mr. President, I know gentlemen are impatient, and I am undoubtedly tiresome and prolix.

Mr. SUMNER and others. Go on.

Mr. WADE. No, sir; I will not go on at length. I am not accustomed to it. I only speak from the occasion and from the feelings that prompt me to speak at the moment. I did not intend to say a word on this subject. I flattered myself that we should pass this House bill. I have written to my constituents, who felt all anxious on this subject, "we shall pass a confiscation bill; I think we shall be able to take the bills of the House and pass them into laws." My disappointment is bitter. It is a humiliation to me, not that my favorite measure is beaten, but that it is a question in which the people to-day feel more interest than in any other. I feel as strongly as any one of my constituents the absolute necessity that this war shall be prosecuted in all its parts in a different spirit from that in which it is now prosecuted.

It has been asked, "how do our Union brethren in the seceded States view these things?" A general officer from Kentucky—I believe he was such from the insignia that he wore; or perhaps he was an aid to some general—came to my room this morning to see me on this very subject. He told me that he was assured we could have no peace until slavery was abolished; and he was a great slaveholder. He said that he was entirely satisfied that these half-way measures of ours would never lead to a favorable result. I told him my convictions on the subject. I told him how much I regretted that the Administration did not view it in the light I did, and had not taken more resolute and determined measures to trample this rebellion under foot; and he said he agreed with me in every word and sentence; he knew the southern people, and he believed it never would be done. He said it was an insult to the Union men of the South that the rebels fared just about as well or a little better under our Administration than did the true Union men. "Why," said he, "you cannot conceive the deprivations and the indignities to which we are subjected every where; and do you suppose we view them with patience?" They are infinitely mistaken who believe that the Union men of the South are for your temporizing measures. I should know from the common operations of the human mind, without ever going to the South or hearing from southern men, that it was not so. We feel indignant, living in the calm dignity of the free States, where we never saw the smoke of an enemy's camp, and where our women and children are safe wherever we may go; and from that we may judge a little of the vindictive feelings that are engendered in the hearts of those who live in constant insecurity and alarm, those who inhabit a region where predatory bands visit their houses, insult their women, and rob the men of their property. Do you believe that they who do these accursed things are the men whom these Union people look upon with complacency? Sir, it is a great mistake. It is a mistake as to the constitution of the human mind. It has no element to side with these men. I tell you, and I am borne out even by the testimony of the officer to whom I have referred, who knows of what he speaks, that the severer we handle these rebels the better it will suit the true Union men of the South. Sir, it is due to them; it is what the General Government owes to those men, at all hazards and at any sacrifice, to maintain their rights intact.

Sir, I feel for the Union men of the South. I always wish to be understood as limiting my remarks, when I appear to be severe to the men in rebellion against the best Government on God's earth, not to the men who, subjected to every peril, appealed to by every motive that could swerve the human mind, still stand fast by their integrity. My sympathies are with them, and therefore I want a severe measure. Like that great officer to whom I have referred, who knows them well, who is "to the manner born," I want their slaves confiscated, I want their great aristocratic estates brought low, I want their slaves sent away. You talk about colonization. I am with you on that. I want these men deprived of this property that ministers to their insolence, to their arrogance, that renders it impossible that they can remain with us in a true democratic Government.

Sir, we must put them down. To talk of peace with the causes of this war outstanding, is arrant nonsense. You must deprive them of their property. This bill of the House of Representatives is well calculated to effect that; it is not quite as well calculated to do it as I wish it was; but in my judgment it is infinitely better than the bill you have substituted for it. I ask these Senators, can you not concede something to a majority of your fellows who have worked with you through good report and through evil report? Suppose we are a little wrong; suppose we are a little headstrong; suppose we have got some crotchets in our heads that you do not believe in; can you not concede anything to two thirds of the old soldiers who have borne the brunt of battle with you?

Mr. CLARK. Permit me to interrupt the Senator a moment. I have heard considerable said by the Senator from Ohio in regard to the vote of the Republicans on the amendment offered by me. If he will examine the yeas and nays, he will find that fifteen Republicans voted one way, and fifteen the other. Now, why cannot you concede as well as we?

Mr. WADE. I cannot understand how that vote could have stood so.

Mr. CLARK. The record shows it.

Mr. WADE. I understood that the vote stood 17 to 24.

Mr. SUMNER. It stood 17 to 21.

Mr. WADE. And the Senator from Indiana [Mr. WRIGHT] and the Senator from Missouri [Mr. WILSON] voted with us.

Mr. FESSENDEN. That left you only fifteen Republican votes.

Mr. WADE. Very well then; we had that class of men from the slave States of whom I have been speaking, men who want vigorous measures adopted. These are the men that voted with the earnest, up and down, through thick and thin Republicans of this body. Sir, I honor them for it. And whom did you join with?

Mr. HENDERSON. I will state to the Senator from Ohio, as my colleague is not in his seat, that he voted against the amendment upon the ground, as he stated to me, that he was opposed to both the bills, and did not desire that his name should be found recorded in favor of either of them, under any circumstances whatever. I deem it but just to him to state that fact in his absence.

Mr. WADE. I do not believe you left him as well as you found him. [Laughter.] But if he voted with us, all honor to him, without regard to his motives. There he stands. He who is not against us, is for us. There is our vote; and you talk of your vote as being swelled up to that. How long have you labored to make it so? How anxiously and unwearedly have you labored upon this great issue to defeat your brethren not only here but in the other House, where I understand this bill was passed by about a two thirds vote? That is the voice of the people in the House of Representatives, whose members represent the will of their immediate constituents; and their voice thus manifested on a subject like this is to me the voice of God, and I wish we would respect it. Would not that course consist most with the harmony of the body? What do you contend for in your bill that you stickle for, that is not in our bill? Not a man of you can tell us. Not a single man in the Senate during this whole debate has risen to tell us what insuperable objection there is in the House bill that does not apply to your own. Can you be justified when you "go it blind," and differ from the whole Republican party?

It is true I heard the Senator from New Hampshire the other day, before the question was discussed—he has not said a word about it since—declare with some considerable degree of spirit that he never would vote for the House bill. Why would he not vote for it? Could he not turn away the offspring of his own mind long enough to do simple justice to another measure? Is he so wedded to the workmanship of his own hands that he cannot consider anything else? He did not tell us the reason why he could not vote for it. He did not tell us what objectionable clause there is in the House bill which induces him to join with his enemies instead of with us his friends. Why invoke the aid of your enemies to defeat your own friends who have been with you the whole session, participating with you in the glorious history we have made; for never since the Constitution was formed has there been a session that will go down to posterity reflecting more honor upon Congress than will the doings of this very session. No, sir; there is not a Congress that has done one hundredth part as much for which it will be remembered hereafter. Still, as I stated at first, we are standing in peril of our enemies watching and triumphing over every division that may weaken us. This very debate to-day, and the vote defeating the bill of the House of Representatives will ring through all the slave regions of the South as with a perfect yell of triumph, like a great victory. Sir, it is a victory for them; a greater victory than though they captured your army at Richmond, and they will view it so. When you look at the southern papers and see their response to your doings to-day, what will you see? When they behold how the Democracy and a portion of the Republicans are joining hands, with a kind of vindictive feeling engendered by a division arising from no difference of principle, they will say, "let us hold out a little longer; division is sown in the ranks of the Union; the old flag that has been so formidable to us is now divided against itself; in their attempts to put down our treason the American Senate are divided; not only are we supported by most of the border States and all the Democratic members, but the Republican members themselves are divided." Sir, I regret that we have given them any such cause of triumph; there was no difference between us that should have led to giving them such a triumph.

Now, sir, between these measures, if I cannot have the bill of the House which I want, I shall go over to your measure, believing at the same time that it is of little efficiency, and is made just weak enough to attract the opposition. I regret it. I wish we could have a more vigorous measure. But, Mr. President, I have detained the Senate longer than I intended. No man regrets this division more than I do; no man will go further to heal it than I will. You have beaten me on one principle, you have beaten me on another, both by your joining with your enemies and mine; if you beat me again, still, as long as your measure has one scintilla of truth and justice in it, I will be with you on the final vote; but I shall be dissatisfied, as my constituents will be. They will regret that it is not more efficient, and they will regret this division so manifest in the Republican party.

Mr. CARLILE and Mr. FESSENDEN addressed the Chair.

The PRESIDENT *pro tempore*. The Senator from Virginia.

Mr. FESSENDEN. I hope the Senator from Virginia will yield me the floor.

Mr. CARLILE. Certainly, sir.

Mr. FESSENDEN. This seems to be, in the present aspect of it, rather a family quarrel, and therefore I thought I might appeal to the honorable Senator from Virginia to give me the floor for a few minutes. I am very sorry, sir, that I feel compelled, by what has fallen from the Senator from Ohio, to do what I had resolved not to do, and that is take a part in this discussion before we come to a final vote. The Senator is well aware that I have taken no part in it heretofore, and my reason has been that I thought my final vote would very well show my opinions in relation to the subject. I have been excessively occupied with other matters, and I knew, from the ability of Senators all about me, that the question would be so thoroughly and ably discussed that I could add nothing whatever to the discussion. I felt, therefore, at liberty to refrain entirely from entering into the debate, being fully occupied with matters pressing upon my attention, and to leave it to my vote to show what my opinion was in relation to it. But, sir, that I find is not enough.

I have had the misfortune to differ in my opinions with the Senator from Ohio and the Senator from Illinois, with whom, permit me to say, I am always exceedingly sorry to be obliged to differ, especially upon a matter which is deemed of vital importance, as this is. But, sir, I must be allowed, in the exercise of my judgment, to differ with them, high as their authority is, and to express my own opinion by my own vote; and I deem it hard that for having done so I am denounced substantially as having gone off from what are called the true, straight forward, out and out Republicans, for that is the language of the honorable Senator from Ohio. Virtue, it seems, dwells with him and those who think with him, and all who have the temerity to differ with them have departed from the line of virtue and truth, and can no longer be reckoned among the faithful. Sir, it is a misfortune. If we could have a revelation from Infinite Wisdom, to which we all bow submissively, announcing that His authority was delegated to the Senator from Ohio, that He had made that Senator His vicegerent on earth to proclaim what truth and justice and righteousness are, I should receive the decree with unquestioning faith and profound humility; but so long as no such revelation has been made by Him, so long as we have no other evidence of such a delegation of authority than the assumption of the Senator from Ohio himself, I must be allowed to exercise my own judgment still, especially upon measures of such great importance, upon which I am called to vote under the sanctions of an oath. I cannot be told that all righteousness dwells in any member or any set of members of this body; and because I have the misfortune to differ from them, therefore I am not true and honest, and not disposed to do my duty as much as they are.

Mr. WADE. If the Senator will allow me, once and for all, I am perfectly willing that he should make an image of his own to controvert, but I have said no such thing as that he is not honest, and nothing of the kind can be inferred from what I did say.

Mr. FESSENDEN. The Senator is mistaken. The Senator cannot be aware of the force of his own language when he says that. Whatever he may think, whatever he may feel, the speech that he has made to-day, if it goes out to the country, goes out as a direct, positive imputation upon the integrity of those who have not voted with him. No one who heard can doubt that that is the effect, although I should be very happy to believe that that was not the design.

Now, sir, what has been the course of proceeding in relation to this matter? I feel bound to speak of the history of this very measure, for I have had something to do with it. I remarked before that I had nothing to do with it in this Chamber; but I have had something to do with it out of this Chamber; and what has been done out of this Chamber in relation to the matter has been alluded to before. Sir, when the Senate bill was brought into the Senate, when it was here before us, the original bill of which the Senator spoke, he knows well that more than once, time after time, gentlemen strongly in favor of it were warned that there were provisions in that bill which gentlemen acting with them could not sustain, that their views of the unconstitutionality of its provisions were such that they could not sustain it; and what was the appeal made to them? The appeal made to them was, "appoint a committee of our friends, and let it be examined, let the obnoxious features be modified, put it in such a condition out of this Chamber that we can all vote for it, do not carry it into the Chamber to make a wrangle and a disturbance between friends of the same creed; let us consider it aside by ourselves, and reconcile our jarring opinions." That was the appeal made. It was rejected over and over again, and it was insisted that it should come into this Chamber, and that the matter should not be settled out of it. Can any gentleman deny that statement? Is there any man who hears me who knows what took place, who can deny for a single instant that that appeal was made over and over again that we should not exhibit ourselves here thus, and that it was forced on us that it should come here, and that we should put ourselves before the country, and more than one intimation made that it should come here for the purpose of putting us before the country and seeing if we dared to vote against it? Can gentlemen deny that? That is conciliation; that is accommodation to friends; that is a regard for constitutional scruples! One would think that that would hardly be the proper course to take under such circumstances, even if there was a small minority of a party who, being men of truth and of integrity and men of respectable standing in that party, said "we have difficulties; the difficulties go beyond mere forms; they go to a question of constitutional right; consider then, do not compel us to act against you by obliging us to come to that point exactly; see if it cannot be modified." On a mere point of detail, on a mere point of form, unquestionably the minority should yield to the majority; but when you come to a question which involves a man's view of what is his obligation under the oath he has taken, no majority that ever existed on the face of the earth has a right to say "you shall yield to the majority."

No concession was made. The original measure was insisted upon. What was the result? As I have said before in this place, the result was what I anticipated. Men cannot be compelled to yield their views of the Constitution. I am not speaking of my own; I am speaking of those of other men. The result was that the trial failed, and when it failed, what did it come to? It came somewhere near the point that should have been come to in the first place. A select committee of this body was appointed to examine all the bills, and report something that might be a compromise. The selection was made by the Chair; the committee had a majority of what were called the friends of a stringent confiscation bill upon it.

Mr. TRUMBULL. Oh, no.

Mr. FESSENDEN. It had. That question has arisen once before, and I have appealed to the record and proved that a majority of the committee were admitted to be so. The Senator from Illinois was offered a place on that committee, and he refused it for his own reasons. The compromise bill came into this body, and what does the vote to-day show? I ask the honorable Senator from Ohio, [Mr. SHERMAN,] who was a member of that committee, and the honorable Senator from Massachusetts, [Mr. WILSON,] who was a member of that committee, and who agreed to that report——

Mr. TRUMBULL. His colleague stated here to-day, by authority, that, if he were present, he would vote against it.

Mr. FESSENDEN. I am not speaking of what he would do to-day; but I say he was a member of that committee, and agreed to that report. Take these two who have chosen to vote for the House bill for their own reasons, and add them to the fifteen gentlemen on this side who voted against the House bill, and it makes a majority of the Republicans on this floor; it makes seventeen of the Republican members opposed to the House bill. And yet the Senator from Illinois talks about the few Republicans who join with the enemies of all confiscation; and the Senator from Ohio about those Republicans—not, it seems, straight and true, out and out Republicans—who are joining with the enemies of confiscation to defeat the friends of the country *par excellence!*

Mr. WADE. That is your own language, not mine.

Mr. FESSENDEN. I take what was the manifest inference and impression upon the mind of every man who heard the Senator from Ohio, if it was not his language. I will give a little account of this thing. I say, take the two gentlemen who promised to support the compromise bill by their votes, and who reported it, and add them to the fifteen votes to-day and it makes a majority of Republicans of this body in favor of it. What are the gentlemen talking about? The Senate bill was reported from the select committee. These gentlemen had been pressing action, pressing a vote, determined to have it, to bring us to a vote, and what did they do? When they found that the report of the committee thus agreed upon, a compromise thus calculated to heal all difficulties, was likely to be adopted, the next thing was to put it over and keep it out of the way, and the Senator from Massachusetts avowed that to be his wish, until the House of Representatives acted. Who was factious? Who was disposed to control?

Mr. WADE. I think the gentleman is under a great mistake.

Mr. FESSENDEN. Not at all. The Senator will not deny it.

Mr. WADE. I thought the Senator himself crowded it out for his tax bill.

Mr. FESSENDEN. Did I crowd it out? Did I not allow it to go on and on and on? Had I not before given notice that the tax bill must be taken up? Did I not allow all the time which gentlemen asked? I came to the time when the Senator from Massachusetts, the great leader on this subject, avowed that he no longer wished for it, and I would no longer delay the important business of the country intrusted to me. That was the desire, and a large majority voted for it.

Mr. WADE. I am not blaming the Senator for pressing his tax bill, but he says we delayed this bill factiously when he himself crowded us out from considering it.

Mr. FESSENDEN. The Senator knows better than that. He knows that his own friends, when they found that they would be beaten, desired, and avowed their desire, to have it go over until the House of Representatives acted. They avowed it publicly here upon this floor. It was not for me, under such circumstances, to delay longer the important interests committed to my hands. Then what is the next step? The other House passes a bill which is satisfactory to the Senators, though not so satisfactory as the other. It comes in here and they are willing to take it up; and now, forsooth, because we will not yield at once our assent to that bill which they waited for and which suits their views, but prefer to vote for the proposition reported by the select committee of the Senate, and which presents a fair test, what do gentlemen do? Contest it through and through and through again, and not satisfied with that, with all the regard they have for their friends, and all the wish they have to keep the Republican party together, they tell us, substantially, "take this or you get nothing so far as we are concerned; and if you do not take it you are a few members of the Republican party who are uniting with the enemies of the country, or with the enemies of all confiscation, to defeat the true out and out Republicans!" Are not we fifteen as good as you fifteen any day in the week?

Mr. WADE. I think not.

Mr. FESSENDEN. You think not?

Mr. WADE. Not on this question.

Mr. FESSENDEN. That is precisely the thing; we get at the bottom of the Senator's heart; he thinks, and he says he thinks that we are right so long as we follow him; but the moment we choose to follow our own views, we are wrong, and we are to be denounced before the country as he has denounced us to-day.

Now, sir, the view which I was trying to take of this matter was an entirely different one. I have not quarreled with gentlemen; I have found no fault with their views upon this subject. They are at liberty to entertain them. I have expressed no opinion with reference to their views; I have merely indicated by my vote that I cannot agree with them. Now, what is the objection which some of us make to this bill coming from the House of Representatives? It is the same that was made before. I am not arguing that it is right. I am not arguing that those who make the objection are right in the view they take of it. I am merely stating what the fact is. My friend from New Hampshire has avowed that he thinks the bill is not founded on constitutional principles, and he cannot vote for it. What is the answer? The answer is "can you not come over to your friends, the true straight-out Republicans, and support the bill of the House?" Why may we not as well say "can you not come over to your friends, the true straight-out Republicans, and support the compromise bill of the Senate which we agreed upon?" Does the Senator from Ohio claim to be a truer or a better or a more straight-out Republican than my friend from New Hampshire? If he does, he will allow me to say with all respect that he claims for himself what the country will not be ready to concede to him. The country will concede that he is as good a Republican as can be made, and I think it will concede the same to my friend from New Hampshire.

Mr. President, the Senator has talked about the spirit which has been manifested. I have not liked the spirit that has been manifested by some gentlemen on this floor toward those who are not able to take the views of this measure which they do. I am not afraid of my friend and colleague who sits before me. We differ on this question. I have not the slightest idea at this moment that

he thinks he is a better Republican than I am, or that he will ever intimate to any man of our constituents that I am not as honest and as devoted to the cause of the country according to my best ability as he is; and God knows I think he is in all respects quite as good, to say the least, as I am upon all these points. But, sir, has it been so; has that feeling been manifested by certain gentlemen; has it not been one constant sneer, both in public speech and in side remarks, with reference to those who have not voted for this House bill, but have been for the bill of the committee? I ask gentlemen to answer for themselves. Has there not been a constant imputation of motives, or of a want of that sort of regard for the interests of the country which should be manifested by gentlemen who differ with them? Can the Senator from Ohio plead "not guilty" to that?

Mr. WADE. I can.

Mr. FESSENDEN. Then, the Senator, I am afraid, would be convicted if he were put on his trial.

Mr. WADE. Where and when have I said any such thing?

Mr. FESSENDEN. I shall not repeat it, but you may ask gentlemen all around this Chamber who heard your remarks.

Mr. WADE. I am not going to ask gentlemen.

Mr. FESSENDEN. Now, let us go back a little. I have seen no occasion for all this trouble—not the slightest in the world. I see no occasion for the extreme heat that my friend from Ohio has manifested, and for the fears that he has expressed. I fear no disruption of the Republican party on this question, or on any other. There will be none unless he, and such as he—and there are none better—try to make it, I assure him. There will be none unless gentlemen choose to carry out the idea of trying to make the country believe they are better than other men in relation to this thing, and that men who happen to differ from them are not quite as honest and true, and as devoted to the interests of the country and to the suppression of the rebellion and the punishment of rebels as they are.

Sir, it is natural that there should be a difference of opinion, perfectly natural.

This is a great measure; it involves great constitutional questions; it has excited the interest of the country, largely excited the interest of the country. Is it strange that gentlemen in considering questions of this importance should differ, that they should come to entirely opposite conclusions in some particulars with reference to the powers of Congress? Not at all. What should be the course pursued with regard to it? Perfect liberality of feeling and an honest endeavor, if possible, to reconcile jarring opinions and bring us all to the same point, to some common ground on which we could stand? I have had no disposition to oblige any man to vote for anything. I do not wish to see a disposition manifested to oblige me to vote for anything that I cannot conscientiously vote for; but, at the same time, when the vote is over, if I am in a minority it will be what I have often been in before, and borne without complaint; and if other gentlemen are in a minority they must bear it too. If we have committed an error of judgment would it not be more kind to leave the country to judge us without our friends here undertaking to do so? I can defend my vote before my constituents to my own satisfaction if they call on me for a defense; and if I do not defend it to their satisfaction the result is that I am in their hands, and they must do what seems good to them. If gentlemen have been so excited on this matter as to wish, or express the wish, that I or any gentleman who has acted as I have, may be defeated by our constituents and overthrown because we happen to differ with them on this question, I trust that we shall meet, at all events, ordinary justice.

Now, Mr. President, I hope that this matter will be settled here. I see no disruption of the Republican party. I fear none. We are engaged in a great cause; we all have it deeply at heart; none more so than the honorable Senator from Ohio and the honorable Senator from Illinois, none more truly and more justly and more honestly; but I claim to have it at heart too, and if I differ with them upon an important point and cannot see my way clear to vote as they do, am I to be deprived of the common justice which is dealt out to all men of its being believed that I have good and sufficient reasons for it? Has my conduct, or the conduct of the friends around me, the honorable Senators from Vermont, for instance, been such in connection with the public affairs of this country in this great crisis, as to entitle any man or any set of men to say, on account of the position which they assume in regard to this matter, that they are not as good as any other men, and as true? I trust not. Then let me say to my friends, and I hope we all stand in that relation, judge us as we judge you. If we have not your ardor and your zeal, it is a difference of temperament. If we have not your sound judgment, it is our misfortune, and the misfortune of our constituents to be so represented, but if we have honest intentions, and are true to the cause, and act according to the best of our judgment, it is all that can be demanded of anybody. It is the last thing I would desire to do to feel the slightest emotion of triumph because I am in the majority and my friends in the minority. I never felt it in my life, and I never shall.

Mr. President, there is one thing to which my honorable friend alluded in which I entirely agree with him, and if the Senate will pardon me for a few moments, I will state it. I believe that all this might have been saved. I never believed that there was a necessity that Congress should act upon this question. I believe in the entire power of Congress. I believe in a constitutional oversight by Congress of the war and all that pertains to it, the President included, as my friend does; but in the conduct of the war, had it been from the start the policy of the Administration to conduct it upon strict principles, upon the principles on which we have been speaking, to go into the country of the rebels, as we call them, as into an enemy's country, and to avail itself of all the powers under the Constitution which it possessed, until we interfered with it for the suppression of the rebellion, much more might have been done with reference to these great questions than has been done. But, sir, I find no fault; that is to say, I am not here to judge the executive department. They are in the same discharge of a constitutional duty that I am; they are sworn officers of the Government; they have great responsibilities; and I hope and trust that they administer their duty with integrity and honor. Because they differ with me or I with them, it is not for me to denounce them either as incapable or as dishonest.

In some things I do differ with the Administration in its views in regard to the conduct of the war; but it is not for me, therefore, to say that I am right and that the Administration is wrong. Sir, I have not the opportunity to judge upon that matter that the President has, for the reason that I have other duties that are peculiar to me, and he has duties peculiar to himself. I may differ with him. The first effect upon my own mind of finding myself so differing would be to induce me to reëxamine my own judgment, and see if probably I was not wrong. If I came to the conclusion that I was not, I should adhere to my opinion; but I am not to make a stir about that matter; the thing must all go on, and we must all go on together. There is a great object to be accomplished. It cannot be accomplished by wrangling. We all have an honest intention to put down this rebellion, punish the rebels, and bring back this country to the condition in which it stood before, as fast and as well as we can. It is not to be done by quarreling among ourselves as to the mode. If we have any difference of opinion to express, it must be expressed calmly and coolly, with the deliberation becoming Senators and men who have the great interests of the country in their keeping, and not as hot-headed partisans or boys. That is my view of it. Had it been in my power to conduct this war, I might have come nearer to the principles and belief of my honorable friend from Ohio; but it was not put upon me, and all I can do is to add my humble aid in the position in which I have been placed, and to do the best I can.

Enough upon that subject. Let us settle this question, and let us settle it with the House of Representatives. The members of the House and the members of the Senate are friends. They are looking to a common end; they are conducting a common war; they are all interested in bringing it to a successful termination. If we differ, are we enemies? If we have some differences of opinion as to the mode and the best manner, must we therefore wrangle and quarrel? Not at all. I respect the opinions of the House as expressed in their bill; if we differ from them, let them respect the opinions of the Senate as expressed in our bill; but if they cannot yield and we cannot yield altogether, let us come together as upon other bills, and see if we cannot agree. There is no need of heat about it. Of all others it is a subject on which there should be no excitement, and upon which we should deliberate calmly and coolly, and come to that conclusion which we can arrive at in the exercise of the powers conferred upon us, and I trust that conclusion will be satisfactory to the country.

Sir, one word more and I have done. I believe in the bill of the committee. Gentlemen have denounced it; I differ with them. I think it is the best bill of the two and the most effective; but I am not going to stop and argue the matter and say why I believe so. It has been argued before; but while saying that I have all respect for my honorable friends around me, and I concede to them the same privilege of judging for themselves that I claim for myself; and if they do not think well of it as I do, I hope it will not follow that they think the less of me because I happen to have the misfortune to differ with them.

Mr. WADE. Mr. President——

Mr. SHERMAN. I hope my colleague will allow me now to correct a mistake which I understand was made just now while I was out of the Chamber.

Mr. WADE. Certainly.

Mr. SHERMAN. I am told that the Senator from Maine said that I concurred in the report of the committee, and that the Senator from Massachusetts did.

Mr. FESSENDEN. I understood it to be so.

Mr. SHERMAN. The Senator was misinformed. I desire simply to correct that statement. I was on a special committee with the Senator from Massachusetts, and we were known to have definite opinions on the subject. Indeed I had so far committed myself as to frame a bill substantially like the House bill now. When a proposition was made by the Senator from New Hampshire to amend the substitute as framed by the Senator from Vermont, we voted for our proposition, but a majority of the committee were against us. A majority of the committee were in favor of the proposition of the Senator from New Hampshire. I voted against it in the only way in which I had an opportunity of voting against it, and that was by voting for an amendment which, if adopted, would have superseded it. Afterwards I made no objection to reporting the bill which the committee reported. I thought much better of it indeed than many of my friends, but I never voted for it. I never supported it; on the contrary, when the House bill came here, I informed the Senator from New Hampshire that I preferred the House bill, and would vote for it.

The Senator from Maine is misinformed. I have always preferred the House bill. I think it is a simple, effective measure; but at the same time I do not think there is such a radical difference between the two measures that friends, Republicans, should either quarrel with each other or think hard of each other. I am perfectly willing to vote for either bill, although as the House bill is imperative, and leaves less discretionary power with the President, I prefer the House bill to the Senate bill; but I believe that if the President will infuse into this war a little more of the activity and energy that is necessary in order to carry it on successfully, he can make the bill framed by the Senator from New Hampshire even more effective than the House bill. That is my conviction.

Mr. WADE. I dislike to argue this matter over again; but my friend from Maine most assuredly mistook altogether the spirit of what I was saying, for he has replied to a fancy of his rather than to anything I said or thought. He supposes that I arraigned his motives, and that I accused him of some sort of dishonesty in the course he had taken. He does not say that I said any such thing; but he inferred it from the manner in which I spoke, or from something else. He is altogether mistaken.

Mr. FESSENDEN. My friend will allow me to remind him that he called on us to know why we did not come over to the true straight out and out Republicans, and act with them.

Mr. WADE. I did say that the House bill was more satisfactory to the straight-out, up and down,

high and low Republicans than this bill—a good deal more so. I think so now. That is one thing, and to accuse a gentleman of dishonesty is, I think, a very different thing. I have not impugned or attempted to impugn any man's motives. I have regretted that we should differ, and differ so spiritedly that it almost seems to be vindictive, upon a matter where it has not been shown or attempted to be shown that there is really any difference in principle. The difference is only as to the extent to which the measure goes. To be sure, the Senator has told us now that he had constitutional scruples as to the House bill. Those of course he may entertain, but I do not see how there can be any difference between the two bills on any ground of constitutional principle. I have not impugned his motives. In tracing the history of this difference between us, I did not like to go back into a Republican caucus, and I did not, and I will not now. With all my warmth, I did not begin quite as far back as he began.

Mr. FESSENDEN. It has been talked of before here in the Senate.

Mr. WADE. It may have been, but I never talk of such things, although I may be excited; I always wash my linen in private. [Laughter.] I know very well the origin of this bill, and of the differences upon it. Some of us could not yield to others; but I do not impugn any man's motives because we differ, and I never have. I have regretted that we could not agree, especially when the House bill is a middle measure, and there is really no difference in principle between it and the Senate bill. I had hoped that we having been beaten on our favorite measure, the Senators might be content to be beaten on their favorite measure, and let us meet upon the middle ground of the House bill. I wish we could, and, in my judgment, we ought to do so; but that is for the Senators to judge for themselves. I wish to have it understood, however, that I have impugned no man's motives because he does not agree with me or chooses to take a different course. I know that that may well occur. I do not pretend to claim more for myself than I award to others. It is very true that when the Senator puts it to me whether I am a better Republican on this bill than he is, I think I am.

Mr. FESSENDEN. I did not ask you on this bill.

Mr. WADE. I limited my answer to this bill. I do think so; I have no doubt of it. Still I agree that I should make a great deal of concession, as I said before, even to weak brethren on that subject.

I do not wish to say any more about this matter. I do not want to leave the impression on the minds of friends here that I am actuated by any vindictive spirit or have expressed any opinion against their motives, for I certainly have not, and I do not like to have a gentleman get up here and put words into my mouth or construe my language to mean something I have not said. I have acted in conjunction with that Senator almost ever since I have been here, and at this late day to have him get up and say that I have impugned his motives is more than the world will believe anyhow.

Mr. FESSENDEN. My friend will recollect that I was replying to what I thought would be the effect out of doors of what he said. I am perfectly willing to take his disclaimer, for I cannot believe that he intended any such thing.

Mr. WADE. Then why say it? I have no feeling only this, that I am mortified that we differ on such slender grounds, and that this difference should lead probably to the utter, total defeat of a great measure on which the people have set their hearts more than on anything else, and which I believe is a more efficient agency to conquer this rebellion than almost any other that we could conceive of. I regret that we should be beaten upon it finally, and the great measure overthrown, and the country suffer on account of these little differences of ours. I told the Senator that I should not differ upon it, because, if you will have it so, I shall vote for this bill, though I have no assurance that it will ever see daylight, and I fear it will not. We have the power in our hands to make "assurance doubly sure" by concurring with the House of Representatives, passing their bill, and gratifying the country at once with the harmony of our councils, giving them at once an efficient bill. I regret that we have seen fit to substitute a thing of our own, certainly no better than that, and I think not as good. That is all I wish to say.

Mr. CLARK. The Senate will bear me witness, Mr. President, that, though representing the committee who reported the Senate bill, I have forborne debate upon this measure. I do not propose now to enter into the debate. I am as anxious at this moment as I ever have been to get a vote. I am going simply to say to the Senator from Ohio, if he will lend me his ears——

Mr. WADE. Yes, sir; you have got both my ears.

Mr. CLARK. When he proposes that the Republican party should keep together and not be divided, I have only to say to him, in all kindness, that we can accomplish that by not being denounced; and though, Mr. President, I sat here, and in the speech which the Senator has made this afternoon, heard myself and friends denounced as bigoted and dogged—those were the expressions the Senator used—I assure him I will lay up no unkindness. It is his zeal, his warmth, and earnestness, that betrayed him into using those expressions; and I will make no reply, but ask the Senate to come to a vote.

The PRESIDING OFFICER, (Mr. FOSTER in the chair.) The question is on the proposed amendment to the amendment.

Mr. TRUMBULL. Mr. President, I consider it proper that there should be no misapprehension in regard to the facts in reference to this question. I said that a minority of the friends of confiscation, uniting with its enemies, were placing an amendment before the Senate. That has been controverted by the Senator from Maine; and he has undertaken to make it appear that a majority of the Republican Senators, changing the statement a little from what I made it, which was a minority of the friends of confiscation——

Mr. FESSENDEN. The Senator will pardon me; his language was not "a minority;" he said "a few."

Mr. TRUMBULL. The Senator may have it "a few," if he prefers it; a few of the friends of confiscation—I repeat, for there are some Republican Senators who are not the friends of confiscation, and they have so avowed it upon this floor—it is a few of the friends of confiscation, uniting with the avowed enemies of confiscation, that have placed this amendment before the Senate; for there are Republican Senators that have averred time and again that they were opposed to confiscation; and there are, let me tell the Senator from Maine, members of the very committee that reported this bill, who boast that there is no confiscation in it. I might, therefore, adhere to that proposition; but the Senator thought proper to change it, and to speak of a majority of Republican Senators. Sir, I meet him upon that issue, and I say that the amendment offered as a substitute to-day in this Senate would have failed but for the votes of Senators not Republicans.

Mr. FESSENDEN. The Republicans themselves have not a quorum.

Mr. TRUMBULL. It would have failed if there had been none but Republican Senators here. Take out of the Senate every one who voted except a Republican, and the amendment would have failed to-day. Then how was it carried? Let there be no misapprehension in the country. The Senator thought proper to claim the Senator from Ohio and the Senator from Massachusetts, who was not present, as friendly to the Senate bill. The Senator from Ohio has corrected that personally; the Senator from Massachusetts now present has answered for his colleague that he was authorized to say that he would have voted against its substitution for the House bill. They were on the committee.

Mr. FESSENDEN. The Senator will excuse me for a moment. I do not know how my friend's mind is constituted, but it seems to be very difficult for him to state a Senator as he says. I did not claim to say how those gentlemen were to-day. All I said about them was that they agreed—and I understood they did—to the report of the committee which was made of this bill that was offered by the Senator from New Hampshire. They were members of the committee, and I understand it to be a unanimous report. I understand now that they agreed that it should be reported. What might have been their feelings outside, I do not pretend to say. I said that if you added their votes to the others, there was a majority of Republican Senators for the bill. I did not claim that they would vote for it to-day. I knew in fact that the Senator from Ohio had voted the other way to-day.

Mr. TRUMBULL. The Senator must have known——

Mr. DIXON. I think the Senator from Massachusetts, in point of fact, did not state that he was authorized by his colleague to say that he would vote against the amendment. He stated that in his opinion he would vote that way, as I understood it. He did not say that he was authorized to make that declaration.

Mr. SUMNER. I did not wish to state all that passed between my colleague and myself last evening, as he lay on his bed.

Mr. DIXON. I referred to what the Senator said. I recollect what he said.

Mr. SUMNER. My colleague's statement was much stronger than I chose to give to the Senate.

Mr. DIXON. Perhaps I was mistaken.

Mr. TRUMBULL. I do not wonder at the sensitiveness of gentlemen here. I do not wonder at the irritation which certain Senators have manifested, and at the zeal with which they spring to their feet when the history of this matter is alluded to. The people of this country are in earnest in this war. I will not undertake to speak of the people of Maine or the people of Connecticut, but the people of my State are in earnest; they are for putting down this rebellion; they believe that a war exists, a wicked, unrelenting, causeless war, urged on by bad and wicked men. They have suffered. Thousands, yea more than ten thousand, and I do not know but twenty thousand, of loyal soldiers from Illinois have been buried since this war began, and since they entered the public service. Hundreds of their bodies have been borne back and deposited in the soil of the State whence they went forth to maintain the Constitution and the Union.

We are now assessing heavy taxes to pay the expenses of maintaining our armies, and in my own State there are hundreds of thousands of dollars' worth of property held by traitors in arms against the Government, and I receive letters almost daily, inquiring why it is that some law is not passed to appropriate this property to the payment of the expenses of the war that these traitors have brought upon the country. And when a bill is substituted in the Senate of the United States by the votes of a minority of the Republican Senators, who are held responsible for the administration of the Government, uniting with those opposed to the present Administration of the Government, which bill is believed by a majority of the Senators friendly to the Administration to be inefficient, and which will not answer the purposes the country expects, it is no wonder that those who have united to bring about this result should feel a little sensitive.

Mr. CLARK. Is there no sensitiveness on that side of the House?

Mr. TRUMBULL. No, sir; I feel no sensitiveness; I feel no malignity. Now, I will answer the appeal of the Senator from Maine. He wants to know why we cannot come in and take the compromise bill of the Senate. The compromise bill of the Senate! A compromise to whom? A compromise to the men who want no confiscation bill? The Senator from Maine thought proper to say that those of us who oppose this substitute, said "take the House bill or take nothing, so far as we are concerned." Ah! sir, have we said that? Has the Senator from Ohio said it? Have I said it? It is in our power, if we act upon your principle, to defeat this bill. We can vote it down the moment the vote is taken, if we act upon the principle that seems to actuate certain other Senators. It would be easy to defeat it, for we all know that Senators over the way, who vote for it as a substitute, will be very far from voting for it as a law. If we thought proper to unite with the enemies of confiscation, who will vote against any bill, it would be easy to defeat this; and if we do not do so, is it is not because there is more magnanimity on the part of those who are acting in opposition to the substitute, than on the part of those who insist upon that and nothing else?

Sir, the substitute is no compromise bill. It does not come here as a compromise bill. It never has had the assent of a majority of the friends of confiscation. It has not at this hour. It never has had the assent of a majority of the Republican Senators. It has not at this hour. How then will it be passed? If passed at all, it will be

passed by those of us who think there are some provisions in the bill that are of value; that it is better to have this than to have nothing; and if we substitute it for the bill which has passed the House of Representatives, it will go back to the House for concurrence, and the question there will be whether the House will concur; and if they refuse to concur, as we have reason to suppose they will, they having by a vote of more than two to one voted down this proposition when there offered, it will lead to a committee of conference, and possibly some compromise may take place, though I know not whether any compromise is to be expected. There is, then, some hope of having something even better than the Senate bill as it is; and therefore, when I cast my vote for its passage, I do it because there is a chance to get something better than that is; and even if we do not do that, we get something, some provisions of value in the bill as it is.

The Senator from Maine speaks as if there was some feeling, some attempt to drive Senators; and he says that it was announced that a bill should be brought into the Senate to see if Senators dared to vote against it. Why, sir, I never heard any such suggestion. I take it, Senators vote against anything that they think they ought not to vote for. I should hope there was no Senator here who ever cast his vote through apprehensions of fear, and I think it is only in the imagination of the Senator that he has conjured up any such idea.

Mr. FESSENDEN. The Senator has no right to say any such thing. I repeated substantially his own words.

Mr. TRUMBULL. Well, sir, I do not know what the Senator has heard. I have heard of no such insinuation; and I should hope the Senator from Maine would be governed by no such insinuation as that, and that if somebody had made such a remark it would neither drive him against a bill nor for a bill; neither excite his prejudice nor alarm his fears.

But, sir, I shall not detain the Senate. I am not going to take up time. The Senator from New Hampshire need not be uneasy about that. I have said nearly all I intended to say.

Mr. CLARK. I made no allusion to the Senator's stopping or anything of the kind. A Senator near by me asked me if I expected to get a vote, and I replied to him that I hoped so.

Mr. TRUMBULL. I hope we may have a vote. I entertain the same feeling with the Senator in that respect.

The PRESIDING OFFICER, (Mr. FOSTER.) The Chair will put the vote as soon as the debate ceases.

Mr. TRUMBULL. The Senator is not more anxious than I am to have this matter disposed of. In regard to the amendment which I have offered, I will state that I should be very glad if the friends of this bill would incorporate into it the details for establishing the evidence of the freedom of such persons as may become free under the substitute of the Senate, and I will withdraw the proposition as I have offered it, if some of those friends will offer the second and third sections of that bill as additions to the Senate bill. I think they are valuable, and there is certainly no constitutional objection to them. They would carry out the details.

The PRESIDING OFFICER. Does the Chair understand the Senator from Illinois to withdraw his amendment?

Mr. TRUMBULL. I make that suggestion.

The PRESIDING OFFICER. Is the amendment withdrawn?

Mr. TRUMBULL. No, sir; I have not withdrawn it.

The PRESIDING OFFICER. The question is on the amendment of the Senator from Illinois.

Mr. GRIMES. If the Senators have relieved themselves from all their constitutional and personal suggestions, I should like now to know something about the order of business. I understand we are now in the Senate.

The PRESIDING OFFICER. We are.

Mr. GRIMES. We are out of committee. We have adopted, as a substitute for the House bill, the Senate bill, and now it is proposed by the Senator from Illinois to add another bill to that.

The PRESIDING OFFICER. The bill in committee was amended by striking out all after the enacting clause and inserting what has been denominated the Senate bill. The bill was reported to the Senate with that amendment; and the question first in the Senate was, "Will the Senate concur in the amendment made as in Committee of the Whole?" To that amendment, thus made in committee, the Senator from Illinois moves this amendment, and the question now is upon the amendment to the amendment made in committee, it being competent for any member to move an amendment in the Senate to an amendment made in committee.

Mr. GRIMES. What I want to get at is this: I want——

Mr. TRUMBULL. If the Senator from Iowa will allow me, I will relieve him of his difficulty. I will withdraw the amendment I have offered, at this stage, and let the vote be taken directly, so far as I am concerned, on the question of concurring with the Committee of the Whole in adopting the substitute; and on that I ask for the yeas and nays.

Mr. GRIMES. Then I am satisfied.

The PRESIDING OFFICER. The amendment of the Senator from Illinois is withdrawn. The question now is, "Will the Senate concur in amending this bill as it was amended in committee?" On this question the yeas and nays are demanded.

The yeas and nays were ordered; and being taken, resulted—yeas 19, nays 17; as follows:

YEAS—Messrs. Anthony, Browning, Clark, Collamer, Cowan, Dixon, Doolittle, Fessenden, Foot, Foster, Harlan, Harris, Henderson, Howe, Nesmith, Simmons, Stark, Ten Eyck, and Willey—19.

NAYS—Messrs. Chandler, Davis, Grimes, Hale, Howard, King, Lane of Indiana, Lane of Kansas, Morrill, Pomeroy, Sherman, Sumner, Trumbull, Wade, Wilkinson, Wilmot, and Wright—17.

So the amendment was concurred in.

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

Mr. POWELL. I ask for the yeas and nays on the passage of the bill.

The yeas and nays were ordered.

Mr. SUMNER. On the final passage, I shall vote for this bill, not because I believe it is much in itself, but because I believe, if adopted now by the Senate, it must be returned to the other House, and through the firmness of that body, we shall have a chance yet of having a bill that will be a reality.

Mr. DOOLITTLE. I hope the Senate will now bear witness that there is another threat from the Senator from Massachusetts.

Mr. SUMNER. In what is it a threat, Mr. President?

Mr. DOOLITTLE. In the language itself.

The PRESIDING OFFICER. The Chair will take occasion to remark, that allusions to the other House, according to parliamentary rule, are not in order.

Mr. HOWARD. On the final passage of this bill I wish simply to say that I shall vote against it, because my conviction is very strong that the main provisions of this bill are in direct conflict with the Constitution of the United States, because in those provisions it undertakes to initiate a criminal prosecution in a court of justice for the commission of the crime of treason, and, without trying the offender, without bringing him into court, it proceeds to strip him of his property, to sell it, and place the proceeds in the public Treasury of the United States. All this is to be done without a trial, without calling a jury, or resorting to any of those proceedings which, in my judgment, the Constitution of the United States imperatively demands in all criminal prosecutions. I regard this as being in direct conflict with that clause of the Constitution which provides that in all criminal prosecutions no man shall be deprived of life, liberty, or property without due process of law. I therefore vote against the bill.

The Secretary proceeded to call the roll.

Mr. CHANDLER, (when his name was called.) I wish simply to say that I vote "nay," because I do not believe the bill is worth one stiver. It is utterly worthless as a bill to confiscate property. ["Order!"]

The PRESIDING OFFICER. Debate is not in order during the calling of the roll.

The result was announced—yeas 28, nays 13; as follows:

YEAS—Messrs. Anthony, Clark, Collamer, Cowan, Dixon, Doolittle, Fessenden, Foot, Foster, Grimes, Hale, Harlan, Harris, Howe, King, Lane of Indiana, Lane of Kansas, Morrill, Pomeroy, Sherman, Simmons, Sumner, Ten Eyck, Trumbull, Wade, Wilkinson, Willey, and Wilmot—28.

NAYS—Messrs. Bayard, Browning, Carlile, Chandler, Davis, Henderson, Howard, Nesmith, Pearce, Powell, Stark, Wilson of Missouri, and Wright—13.

So the bill was passed.

On motion of Mr. CLARK, its title was amended to read "An act to suppress insurrection and to punish treason and rebellion, and for other purposes."

EXECUTIVE SESSION.

Mr. WADE. I move that the Senate adjourn.

Mr. KING. I hope not. I hope we shall have a short executive session.

Mr. WADE. I withdraw the motion.

On motion of Mr. KING, the Senate proceeded to the consideration of executive business; and after some time spent therein, the doors were reopened, and the Senate adjourned.

IN SENATE.

MONDAY, *June* 30, 1862.

Prayer by Rev. T. H. STOCKTON, Chaplain to the House of Representatives.

The Journal of Saturday last was read and approved.

PUBLICATION OF CONTRACTS.

Mr. HALE. I move to postpone all prior orders and take up the joint resolution reported the other day from the Committee on Finance, which was laid on the table at my request.

The motion was agreed to; and the consideration of the joint resolution (S. No. 93) in relation to contracts with the United States was resumed as in Committee of the Whole. It proposes to make it the duty of the several Executive Departments to publish in one of the daily newspapers of the city of Washington, on Tuesday of each week, a list of all contracts which shall have been solicited or proposed to each, respectively, during the preceding week, which list shall state briefly the subject-matter of each contract so solicited or proposed to be made, its terms, the name of the proposed contractor and of all persons known to be interested therein, directly or indirectly, and of all persons who solicit, request, or recommend the making of such contract. The act is not to apply to bids made in pursuance of advertisement under existing laws, but it will apply to proposed modifications of them.

Mr. HALE. I had that resolution laid on the table for the purpose of ascertaining what its practical operation would be, and I inclosed a copy of it to the Secretary of War and the Secretary of the Navy, and asked them their opinion about it. I have received no answer from the Secretary of the Navy; but from the Secretary of War I have received an answer, which is brief, and I will read it to the Senate:

WAR DEPARTMENT,
WASHINGTON CITY, D. C., *June* 27, 1862.

SIR: The Secretary of War directs me to acknowledge the receipt of your letter of this date, inclosing a "joint resolution in relation to contracts with the United States," now pending in the Senate, and inquiring whether the passage thereof "will interfere with the operations of the War Department, or be in any way prejudicial to the public service."

In reply to this inquiry I am further directed to say, that the effect of the resolution, if adopted, will not merely be altogether unobjectionable, but that it will, in the opinion of the Secretary, affirmatively and largely contribute to the economical administration of this Department and generally to the advancement of the public welfare.

I have the honor to be, very respectfully, your obedient servant,

C. P. WOLCOTT,
Assistant Secretary of War.

HON. JOHN P. HALE, *Senate.*

The joint resolution was reported to the Senate, ordered to be engrossed for a third reading, read the third time, and passed.

COMPENSATION OF MEMBERS.

Mr. HARRIS. I move to postpone all prior orders and take up Senate joint resolution No. 76, relating to the compensation of Senators elected or appointed to fill vacancies.

The motion was agreed to; and the joint resolution was considered as in Committee of the Whole. It provides that in all cases of a vacancy in either House of Congress, by death or otherwise, of any member elected or appointed thereto after the commencement of the Congress to which he shall have been elected, each person afterwards elected or appointed to fill such vacancy shall be

compensated and paid from the time that the compensation of his predecessor ceased.

The Committee on the Judiciary reported the following amendment:

Provided, That no member shall receive for his compensation more than $3,000 for any one year.

Mr. HARRIS. I will simply state, in order that the Senate may understand the effect of this resolution, that by the practice, as it has already been established by the Senate, in the case of the death of a member, his successor receives compensation from the time of his death—from the time the pay of his predecessor ceased. The object of this resolution is to extend the same rule to cases like that of the Senator from Kentucky, [Mr. DAVIS,] where his predecessor has been expelled. It is to extend the same rule that now prevails in a case of death to a case where the seat is otherwise vacated.

The amendment was agreed to.

The joint resolution was reported to the Senate as amended, and the amendment was concurred in. The joint resolution was ordered to be engrossed for a third reading; was read the third time, and passed.

BILL INTRODUCED.

Mr. POWELL, in pursuance of previous notice, asked and obtained leave to introduce a bill (S. No. 374) to punish persons who give or offer to give members of Congress and officers of the Government of the United States consideration for procuring contracts, office, or place from the United States; which was read twice by its title, referred to the Committee on the Judiciary, and ordered to be printed.

SALVAGE FOR RECAPTURES.

Mr. MORRILL. I ask the Senate to proceed to the consideration of the bill (S. No. 349) in addition to "An act providing for salvage in cases of recapture," approved March 3, 1800.

Mr. GRIMES. I trust that bill will not be taken up, unless it be to make it the special order for some other time. The questions that are involved in it are of very great magnitude. I understand it is a proposition virtually to take away, in a great many instances at any rate, the prizes which have been captured by our naval forces during this war. I have had no opportunity to examine the bill; but as I understand it from a casual reading, it directs that all vessels which have been captured at any time during this war that are claimed to have been owned by loyal people, although used in a belligerent character against us, shall be returned to those loyal people, thus depriving the sailors and officers of the Navy in a great many instances of prizes which are considered as property belonging to them, and which do belong to them if this is really a war that is existing and the parties opposed to us have belligerent rights. I want an opportunity to look into the bill and see what are the merits of it, and examine the authorities on the subject.

Mr. MORRILL. I hope the Senate will take it up and consider it at the present time. I agree with the Senator that the bill is important; but it is not important in the sense in which he understands it. It is only important because according to the practice there may be some trouble growing out of the want of a settled rule on the question. The Senator misapprehends entirely the scope of the bill. It contains no provision such as he supposes, and is not intended to apply to the class of cases he suggests. It is applicable only to the vessels of persons residing in portions of the country not in a state of insurrection; and the bill declares that as to the vessels of persons residing in that section of the country, which may have been taken by the rebels and retaken by our own vessels, they shall not be considered prize of war. That is all there is of it. That is the upshot of the whole thing.

Mr. GRIMES. That is not the way it is, as I understand it.

Mr. MORRILL. I think it is substantially so, as the bill was reported. It relates to "vessels, goods, or merchandise of citizens of the United States, or of persons resident within or under the protection of the United States," provided they are loyal citizens; but to make the bill entirely specific, at the suggestion of other Senators I have concluded to make it precisely what I have stated, to make it applicable only to persons resident in districts not declared in a state of insurrection; so that the bill, if passed, will simply declare that the property of persons who are citizens of the United States, resident in that section of the United States which has not been declared by the President to be disloyal or in a state of insurrection, shall not be regarded as prize of war. I do not suppose my honorable friend will dissent from that proposition. I do not suppose anybody will dissent from it to that extent. If the bill comes up, my first object will be to make that amendment to make the bill entirely specific and bring it within that principle. If, then, there should be any objection to it, it will be considered a matter open for consideration. I therefore hope my honorable friend will allow the bill to come up and allow me to make that amendment, and then we will consider whether there is any objection to it. I do not suppose my friend will have any objection to the bill, that amendment being made.

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

The motion was agreed to; and the bill (S. No. 349) in addition to "An act providing for salvage in cases of recapture," approved March 3, 1800, was read a second time, and considered as in Committee of the Whole. It directs that vessels, goods, or merchandise of citizens of the United States, or of persons resident within or under the protection of the United States, which have been, or which hereafter, during the present rebellion, shall be taken by assumed or pretended authority of "the confederate States," so-called, and retaken by any vessel acting under authority from the Government of the United States, or in the service thereof, or by any person acting under such authority, shall be restored to the former owner or owners without charge or rates of salvage, if such owner or owners have not been engaged in the rebellion, nor, directly or indirectly, aided or encouraged the same; and the President is authorized and required, upon satisfactory proof of such ownership, and of the loyalty and fidelity of the owner or claimant, to cause the same to be restored to the owner thereof.

Mr. MORRILL. I move to amend, in the fourth line, after the word "of," by inserting the word "other;" so that it will read:

That vessels, goods, or merchandise of citizens of the United States, or of other persons resident within or under the protection of the United States, &c.

The amendment was agreed to.

Mr. MORRILL. After the words "protection of," at the end of the fourth line, I move to insert the words "that part," and after the word "States," in the fifth line, to insert the words, "the inhabitants whereof have not been declared in a state of insurrection;" so that it will read:

That vessels, goods, or merchandise of citizens of the United States, or of other persons resident within or under the protection of that part of the United States the inhabitants whereof have not been declared in a state of insurrection, which have been, or which hereafter, during the present rebellion, shall be taken by assumed or pretended authority of the confederate States, so-called, and retaken by any vessel, &c.

The amendment was agreed to.

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

Mr. MORRILL. I move to strike out in the fourth line, after the word "within," the words "or under the protection of;" so as to read:

That vessels, goods, or merchandise of citizens of the United States, or of other persons resident within that part of the United States, the inhabitants whereof have not been declared in a state of insurrection, &c.

The amendment was agreed to.

Mr. TEN EYCK. This is a very important bill, and I call for the reading of the report.

The Secretary read the report made by the Committee on Commerce, to whom were referred a resolution of the Senate and the memorial of the owners of the ship John H. Jarvis, praying that provision may be made by which the vessel, captured by the rebels and recaptured by the United States, may be restored to the owners. The petition of the owners is in these words:

To the Senate and House of Representatives of the United States:

The owners of the ship John H. Jarvis, of Boston, respectfully represent, that soon after the breaking out of the present rebellion, said ship, then bound from New Orleans for Liverpool, was seized in the Mississippi river, near its mouth, by a privateer of the so-called confederate States, and taken back to New Orleans by her captors, where they believe she now is, in company with many other vessels belonging to northern owners; that said ship was then, and still is, owned wholly by loyal citizens of the northern States; that they have made every effort to get possession of the vessel, by sending an agent thither to attend to the business, but the regulations of the Navy and Army, as they are advised, are such as to prevent any such agent going with the troops or in any national vessel on such errand, while the blockade equally prevents access in any other way.

The undersigned therefore prays that such regulation or provision may be made, either by Congress or by the appropriate Department, as may secure to the owners full possession of their said property and the return thereof to them; also, that such provision may be made as will admit of such owners passing to New Orleans and other places where such property may be, in order to regain possession of their property and take charge thereof. SYLVANUS RICH,

for himself and other owners.

BANGOR, MAINE, *May* 3, 1862.

By resolution of the Senate, the committee were instructed to inquire whether any legislation was necessary in relation to vessels belonging to loyal American citizens which have heretofore been seized and confiscated by rebels, and which have been recaptured at New Orleans and other places, and to report by bill or otherwise, and from their report it appears that the case presented is this: that sundry vessels belonging to citizens of the United States, while being employed in lawful commerce in the ports and harbors thereof, the owners in all respects conforming to the regulations of such commerce, had been seized by assumed authority of the self-styled "confederate States," claimed as prizes of war, condemned in self-constituted courts of admiralty, within our limits and jurisdiction, as captures *jure belli*, and sold as prize property; that these ports, having been theretofore closed by authority of the United States, the vessels remained at the places of seizure, and fell into the possession of our naval forces when they came to occupy those ports, and are now held by them either as prizes of war, or for restoration to their owners, as the rights of all concerned may be determined. If, under these circumstances, these vessels are to be treated as prizes of war, the question, it is said, is one of a judicial character, and the rights of parties are to be determined in the courts of the country, according to the principles of international jurisprudence, in which event it is not apparent that additional legislation is required. If, on the contrary, property of the citizen thus circumstanced is to be held to be in friendly and domestic ports, and the rights of property therein to be so under the protecting ægis of the Constitution, as that hostile acts of those owing a common allegiance to that Constitution are to be regarded acts of hostility between citizens of the same Government, in that event, it is believed, the question becomes a political one, is not judicial in its character, but is to be determined by, and provided for, by the Government; and in such event, as the condition of the nation and the relation of the parties are novel and extraordinary, additional legislation may be found to be necessary.

It is believed there is little pretense for treating "vessels belonging to loyal American citizens, which have heretofore been seized and confiscated by the rebels, and which have been recaptured at New Orleans and other places," as prizes of war. The principles of the law of nations in respect to recaptures, as ordinarily administered in prize courts, by which property of the subject, taken by the public enemy and recaptured, was held to be prize of war, has been changed or greatly modified by the legislation of most modern nations, and the right of restitution to the original owner of property so recaptured generally adopted. The English statute provides that "any ship, vessel, goods, or merchandise belonging to any of her Majesty's subjects, captured by any of her Majesty's enemies, and afterwards recaptured from the enemy by any of her Majesty's ships or vessels of war, shall be adjudged by the decrees of the court of admiralty to be restored to the owner or proprietor thereof, upon payment for, and in lieu of, salvage of one eighth part of the true value of such ship, vessel, goods, or merchandise, respectively; and such salvage of one eighth shall be divided and distributed in such manner and proportion as is hereinbefore directed in cases of prizes," &c. (43 George III, chap. 160.) The American statute upon the subject is not dissimilar. It provides "that when any vessel, other than a vessel-of-war or privateer, or when any goods which shall hereafter be taken as prize by any vessels acting under authority of the Government of the United States, or under authority, or pretense of authority, from any prince,

Government, or State, against which the United States have authorized, or shall authorize, defense or reprisal, such vessels or goods not having been condemned by competent authority before recapture thereof, the same shall be restored to the former owner or owners, he or they paying for, and in lieu of salvage, if retaken by a public vessel of the United States, one eighth part, and if taken by a private vessel of the United States, one sixth part of the true value thereof." (Act March 3, 1800, chap. 14.) Thus it will be seen, from the provisions of the statutes of this country and England, that if a vessel be retaken from the public enemy it is not to be regarded as good prize to the recaptor, but is to be restored to the original owner, he being a subject or citizen of the Government, on payment of salvage, unless such vessel falls within the exceptions of the provisions.

The first question that necessarily arises in the discussion of questions of this nature is the national character of the act of capture. The right of maritime capture in independent sovereign nations making war is undoubted. But this right is founded upon well-defined principles of national law, and the validity of such capture is, in all cases, to be determined upon those principles. It is essential to the validity of a capture that it should be authorized by the recognized supreme power of the State or nation, as contradistinguished from the assumption of mere military occupation or possession of insurgents. It is a right inherent in the Government of independent nations, is part of the war-making power of Government, and can only be exercised by established sovereign authority. The question then naturally arises, have the self-styled "confederate States" succeeded in acquiring and establishing a national character, as against the established Government of which they were component parts? It is sufficiently specific to assert that the present state of affairs originated in the conspiracy of a faction, in a section of the nation, to subvert the Constitution and overthrow the established Government. This conspiracy was, of course, a crime against the nation; the insurrection which followed, and organized rebellion which succeeded, gave no color of right; and each successive step in the foul plot against the public liberties and the constituted authorities, from incipient disloyalty to armed revolt and military occupation and usurped civil jurisdiction, are tainted with crime, and, upon principle, confer no right on the insurgents, and are of no legal force or effect against the established Government. The national character is wholly unaffected, unchanged, by any one or all these acts of a rebellious people combined, and individual rights of citizens unimpaired, or rebellion must be conceded to have been consummated and revolution effected.

The war, on the part of the "confederate States," it cannot be controverted, is a war of a revolting people against the established Government, in which, as against that Government, they do not acquire the rights of belligerents until they successfully establish their independence; and especially they do not acquire one of the principal belligerent rights, that of destroying the commerce of the enemy. On this principle is the distinction recognized by international law, that a contest by force between different members of the same Government is public war on the part of the established authority, and private on the part of those who resist such authority. The general principle contended for has always been recognized in the British admiralty courts and by the court of appeals. It was fully considered in the case of the Manilla, in 1807. (Edwards's Adm. Rep. 1.) The question arose upon the national character of St. Domingo, then under the dominion of France. The peculiar circumstances of the island were these: several parts of it had been wrested from the mother country of France by the insurgent negroes; had been in their actual possession; and had been detached from the parent nation and its authority; and they had maintained within these parts an independent government of their own. It was contended, therefore, that St. Domingo could not be considered as a colony of France. The court of appeals held that, inasmuch as the British Government had done nothing to recognize the independence of the island, it must still be held to be the colony of France. Mr. Halleck, in his treatise on international law, says, "revolution or possession by insurgents cannot be regarded by a prize court as changing the national character of the territory so occupied or possessed, until the fact has been recognized by the political authority of the Government to which the court belongs. It always belongs to the Government of the country to determine in what relation any other country stands towards it; that is a point upon which the courts of justice cannot decide." (Pellican 1, Ed. Appd. D.)

In a late case in England, Yrisarri *vs.* Clement, (3 Bing., 439,) where the national character of Chili and Buenos Ayres was put in issue, the court say: "the existence of an acknowledged State must be proved by evidence. The proof necessary to establish the fact of the existence of such States is, that they are associations formed for mutual defense, who acknowledge no other authority but their own Government, observe the rules of justice to the subjects of other States, live friendly under their own laws, and maintain their independence by their own force." The same principle was recognized by the Supreme Court of the United States in the case of Gelston *vs.* Hoyt, (3 Wheat., 323.) It arose on the statute of 1794, the provisions of which inflict a forfeiture of the ship, &c., when fitted out and armed with the intent to be employed "in the service of any foreign prince or State, to cruise or commit hostilities upon the subjects, citizens, or property of another foreign prince or State with whom the United States are at peace." The proof offered was to show that the ship was attempted to be fitted out and armed, and was fitted out and armed, with intent that she should be employed in the service of that part of the island of St. Domingo which was then under the government of Petion, to cruise and commit hostilities upon the subjects, citizens, and property of that part of the island of St. Domingo which was then under the government of Christophe. No evidence was offered to prove that either of these governments was recognized by the Government of the United States, or of France, the mother country, as a foreign Power or State. "No doctrine is better established," say the court, "than that it belongs exclusively to Governments to recognize new States in the revolutions that may occur in the world; and that until such recognition, either by our own Government or the Government to which the new State belonged, courts of justice are bound to consider the ancient state of things as remaining unaltered."

The question was again before the court in Kennett *et al. vs.* Chambers, in 1852, upon facts involving the then recent relations of Texas and Mexico. The former had declared itself independent of the latter, had achieved its independence in fact, and was maintaining a separate Government, but the established Government of which it was an integral part had not acknowledged its independence, nor had the Government of the United States acknowledged Texas as an independent State. The court used this language: "it belongs exclusively to the political department of the Government to recognize or to refuse to recognize a new Government in a foreign country, claiming to have displaced the old and established a new one; until the political department of the Government acknowledged the independence of Texas, the judiciary were bound to consider the old order of things as having continued." The executive department of the Government held similar views as to the relations between Mexico and Texas, and the duty of our own Government as to both. The President, in a message to Congress in December, 1836, in relation to the conflict between Mexico and Texas, said: "all questions relative to the Government of foreign nations, whether of the Old or New World, have been treated by the United States as questions of fact only, and our predecessors have constantly abstained from deciding upon them until the clearest evidence was in their possession to enable them to decide correctly." "The acknowledgment of a new State as independent and entitled to a place in the family of nations, is at all times an act of great delicacy and responsibility, but more especially so when such State has forcibly separated itself from another of which it formed an integral part, and which still claims dominion over it. It is true, with regard to Texas, the civil authority of Mexico has been expelled, its invading army defeated, the chief of the republic himself captured, and all present power to control the newly-organized Government of Texas annihilated within its confines," yet the Federal Executive cautioned the Congress against the recognition of its independence, and denied it all rights as an independent State.

But it was deemed needless to accumulate authorities upon this point. However other nations or States may choose to treat this most causeless rebellion, the established Government must necessarily regard the self-styled "confederate States" as having established no national character or rights of dominion over territory within its limits. Nor will it be influenced by that factitious exhibition of power which seems to induce favorable notice from foreign nations, which, to the people of the United States is evidence only of the singular forbearance of the national Government, not of the real strength of the insurrection. It is said that these States are entitled, for the time being, at least, to the rights of lawful belligerents, that they may rightfully capture and confiscate vessels of our citizens, without subjecting the captors to the penalties of piracy under the laws of the United States. Against such view of the subject it is submitted that the Government is fully committed, and has been from the beginning, and must needs adhere to its position, as it would respect its own authority and the rights of its loyal citizens. In his proclamation of the 19th of April, 1861, the President of the United States denominated the disturbance then existing in these States "an insurrection against the Government of the United States," and declared that the persons engaged therein had, "by a most unwarrantable assumption of the rights of lawful belligerents, threatened to issue letters of marque, authorizing them to whom granted to assault the persons and seize and confiscate the vessels and property of citizens of the United States engaged in commerce upon the high seas;" and further, "that if any person, under the pretended authority of said States, or under any other pretense, should molest a vessel of the United States, or the persons or cargo on board of her, such person would be held amenable to the laws of the United States for the prevention and punishment of piracy.

The citizen whose rights of property have been violated by force of this most "unwarrantable assumption of the rights of belligerents," and whose property has been retaken, and is detained by the agents of the Government, may well crave that security which this most salutary decree of the Chief Executive of the nation seemed to promise. That proclamation is a solemn and impressive notice to the nation and the world of the purpose and policy of the Government, and of what was expected of the people. It was a fresh pledge of the national faith to each citizen that the law of piracy would be enforced against the domestic enemy, and that property and the rights of property would be protected to the loyal citizen. It was a high official affirmation for the integrity of the nation and the enforcement of the laws for the protection and security of the rights of person and property of all the citizens, and not a sounding and ineffectual menace of the enemies of the domestic peace. But the citizen whose appeal is to his own Government may properly invoke in his behalf that fundamental principle of the social compact which enjoins upon civil society the duty to protect its members in the enjoyment of their rights of property. It can never be conceded by the Government of the United States that the property of its citizens within its limits and jurisdiction, employed in lawful trade, in conformity to prescribed commercial regulations, may become prize of war by the acts of its own citizens.

It is difficult to perceive how a claim which divests the loyal citizen of his rights of property while pursuing an authorized employment under the established regulations of the supreme power through the intervention of a self-constituted and usurped authority within the national jurisdiction can be made, except upon the assumption that the established nation may lose its general character as a Government over a portion of its territory by a temporary uprising of its parts, be deprived of that dominion which is the essential trait of sovereignty, and the insurgents thereby invested with a divided sovereignty. Such concession, as the result of domestic violence, would be a grant of a fatal change in the national character, and revolution accomplished. That a large section of the country had been in the actual possession of the insurgents; that they had temporarily overthrown the Federal authority in several States, and set up a government of their own, is not decisive or im-

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portant upon the question of the right of legal authority. A mere sudden uprising of portions of a nation, a temporary occupancy of a country, or parts of it, by insurgents, or an absolute military possession of it upon sudden revolt, is not understood to confer any rights as against the established Government or its citizens. The conclusion arrived at is, that all claims for prizes or salvage, on "vessels of citizens retaken from the rebels" by public vessels of the United States, or of vessels acting under authority thereof, and detention of such vessels, is unauthorized; that the question presented by the resolution and accompanying papers is one exclusively for the political department of the Government, and not aware of any provision of law applicable to the case, the committee submitted the bill under consideration.

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

Mr. GRIMES. On the passage of the bill I call for the yeas and nays.

The yeas and nays were ordered.

Mr. GRIMES. Mr. President, I cannot help regarding this bill, no matter how favorable a gloss may be put upon it by the Committee on Commerce or any of its members or by its report, as an attempt at one fell swoop to take away from all our naval officers and seamen the prizes that they have captured or may capture during this war. I apprehend that there is not a single vessel that has been captured or that will be captured that there will not be found some man in some one of the loyal States who will claim an interest in some degree in that vessel, and if so, under the provisions of this bill, if I understand it correctly, that vessel will not be subject to either prize or salvage. Take any of the cases of the lines of steamers that formerly ran between Savannah and Charleston and New York. If those vessels were captured in Charleston and converted into war steamers, or if they were converted on the high seas, and were afterwards captured by any of the armed vessels belonging to the United States, under the provisions of this bill the person who claimed either the whole or a partial interest in those vessels, residing in the city of New York or in any loyal State, would be permitted to come in and reclaim the vessel, and take it out of the hands of our naval officers and seamen who had captured it, although it was being used at the time of the capture by the enemy for belligerent purposes against us and against our flag.

Sir, I protest against the passage of such a bill as that. To decide questions of this kind there is a proper tribunal. If a person residing in any of our northern cities has a *bona fide* legal title to a vessel or a part interest in her, the moment she is brought into a loyal port, or carried into a neutral port, that moment he has his action against the parties who claim the title. Now, instead of allowing these questions to go before the judicial tribunals there to be settled, this bill proposes to erect a new kind of tribunal, and that a tribunal unknown to the Constitution and unknown hitherto to the laws of the country, and a tribunal which, however much I am willing to respect, and however much I regard it as authoritative in political questions and in executive questions, I am not willing to intrust great judicial questions to. The bill provides:

> And the President is hereby authorized and required upon satisfactory proof of such ownership and of the loyalty and fidelity of the owner or claimant, to cause the same to be restored to the owner thereof.

This bill erects the President of the United States into a judicial tribunal; it makes him the adjudicator of the rights of parties, and not the constitutional tribunals of the country. I protest, sir, against the passage of such a bill. I protest against it as an infringement of the Constitution, and I protest against it as a manifest, palpable violation of the rights of the seamen of the country.

Mr. HALE. I have not directed particular attention to this bill, but I hope the Senator from Iowa will be good enough to state what he means by saying that as the law now is, when a vessel that belongs to a loyal citizen of the United States has been captured by the rebels, and then recaptured by us and brought into a loyal port, the citizen has a remedy by applying to the courts. Is there any law which divests the captors of the right that they would have growing out of the fact of the ownership of the loyal citizen? I understood that the object of this bill was to remedy that very thing, and to give the remedy which the Senator from Iowa says now exists.

Mr. GRIMES. It goes far beyond that.

Mr. HALE. I am not conversant with the principles of the bill, but I understood the Senator to state the law to be substantially what I understand the framers of this bill intend to make it. For instance, if the Senator from Iowa owns a ship, and she is captured by the rebels and our forces recapture her, the equity, the common sense of the thing is that they recapture her, not for the United States Government, but for the Senator from Iowa, who never has lost his right in her. There is no principle of law better settled on land and sea than that an illegal taking, or a stealing, or a trespass of property by one person does not vest the title in him or anybody else. A man's horse may be stolen, and sold in open market, but wherever he can find the horse it is his, anywhere, and it seems to me the same principle applies at sea. If vessels are taken by rebels, by pirates, as we have declared them to be, we certainly can never admit that by that act of illegal capture, not by a foreign enemy but by our own rebellious citizens, the legal title of the rightful owner is divested and placed in anybody else. If that is the object of the bill I think it is a meritorious one, and I think it ought to receive the sanction of the Senate, and I do not think that the Government ought from any desire to reward private soldiers, to give sanction to a practice that would divest a loyal owner of a vessel of his right of property in it, simply by reason of its having been captured by rebels and pirates. As I said, I have not examined the details of the bill; but for that principle I am content to go.

Mr. TEN EYCK. This bill owes its origin, among other things, to this state of facts. Prior to the breaking out of the rebellion, a vessel owned by a citizen of Maine in the pursuit of her lawful business, was in the port of New Orleans, and while lawfully there in the way of trade, an ordinance of secession was passed, the rebellion broke out, she was seized by the rebels, used for their purposes, and subsequently captured by our naval forces. Now, why should our naval officers, under those circumstances, deprive the owner of his right to that vessel? Why should not the owner, trusting to the Government for his protection in his person and his property, have that vessel restored to him in the same condition in which she was when taken, or as nearly so as possible, and without charges or incumbrance? I know the Navy are entitled to all merit and to all praise and to all glory for their heroic deeds and conduct; but are they entitled to strip the owner of his right to the vessel, in order that her value may be distributed among them as prize? This is the simple statement of the case. The rebels acquired no right or title to her by her seizure—no right of property such as a foreign enemy or a belligerent could acquire. They were trespassers or wrong-doers who, in the prosecution of an act of robbery, seized the vessel; and now, when our Navy has recaptured her, instead of the vessel being returned under the authority of the Government to her owner, as she ought to have been, she is held to be divided piecemeal between the officers of the Navy in the way of prize money, salvage, &c. Of what benefit will the prosecution of the war be to this loyal citizen, if this be so?

Mr. GRIMES. I concede the merit of the case the Senator puts, and if he will allow me——

Mr. TEN EYCK. I am done. I simply say I can see no more reason why our naval officers, under these circumstances, should be entitled to divide the proceeds of this vessel among them as prize, than our soldiers, who day after day are risking their lives for thirteen dollars a month, are entitled to any articles of property they may capture in the progress of the war. It seems to me the owner of the ship should have her returned to him entirely free from any claim whatever. If the Navy are entitled to any further consideration or reward, let them have it out of a general fund, and not strip the owner, who may have lost for months the use of his vessel and all the profits which might have accrued from her ordinary use. The object of the Navy, as well as the Army, in this war, is to regain and restore to their owners all the places and things which have been occupied and seized by rebels and insurrectionists in the prosecution of their unholy purposes.

Mr. GRIMES. I can see, and I presume everybody will at once comprehend, the merit of the case that was put by the Senator from New Jersey, but that is not the case that is here. This is a general law. It applies as well to the vessel that has been captured under the authority of the confederate government, and converted into a war vessel and used for the destruction of our flag upon the high seas, as it does to the case to which the Senator from New Jersey has referred.

Mr. COLLAMER. And captured at sea.

Mr. GRIMES. And captured at sea. That is my objection to it. If they will bring in a bill to cover the case which the Senator has stated, the case of the ship from Maine, I am content; but this bill goes far beyond that. It covers the whole case. It settles a rule for all coming time, and that is the objection I have to it. I am unwilling that that rule shall be decided upon a given case, the most meritorious that can be found.

Mr. TEN EYCK. It was owing to the very great importance of this matter that I asked to have the report read, in order that the Senate might look at the case and we might have the benefit of the experience of Senators here and their reflection upon this subject.

Mr. SUMNER. I understood the Senator from Iowa to argue that this bill was unconstitutional. I should like to appeal to him to know in what it is unconstitutional.

Mr. GRIMES. I do not propose to engage in a constitutional argument.

Mr. SUMNER. I ask the question in entire good faith. I really wish to know in what point it is unconstitutional. I do not see that it is. I will make one further observation in regard to it. I take it, the policy of allotting to officers and sailors prize money has always been open to question. It has been handed down, I know, from past times; but I take it that in proportion as nations have become more civilized and more refined, it is a policy that has been drawn into doubt.

Mr. GRIMES. I will ask the Senator whether, under the law as it now exists, our officers and sailors have not certain vested rights. This bill is retrospective as well as prospective.

Mr. SUMNER. The Senator says they have certain vested rights; but those vested rights, as I understand, only apply as regards foreign enemies. Here is the precise question: certain property is taken, not by foreign enemies, but by persons whom we regard as rebels; afterwards it comes into our possession; and the question is, precisely, whether this old, rigid rule of war, which, as I have already remarked, has been drawn in question by the maturer civilization of our times, shall be extended to the case of property which has been taken by rebels, and afterwards recaptured by us. It seems to me it ought not to be extended to such a case. I should be disposed to go still further, and to reconsider the old law, and to call in question the policy of allowing any prize money in any case. I do not wish to raise that question now; I merely present it to exhibit what seems to me to be the question in the present case.

Mr. MORRILL. I desire to say one word, because there seems to be a little confusion as to what this bill is, originating principally in the suggestions of the honorable Senator from Iowa. The bill grows out of the necessity presented to the Senate, first, by the memorial in the case stated by the Senator from New Jersey, and afterwards, a resolution of the Senate directed to the Committee on Commerce to inquire into the general state

of facts applicable to this species of property. It is found that there is a practice prevailing in the Navy of regarding vessels of citizens of the United States found in the ports which have been blockaded and recently opened, and mainly in the port of New Orleans, as captures, prizes of war; and when those ports are opened to the citizens who had taken their vessels into those ports in due course of trade, and paid the regular duties and charges under the regulations prescribed by Congress in the commerce of the country, and they go there to recover this property, they find this claim upon them. They apply to the War Department, and the War Department can give no direction on the subject. The Secretary of War very properly says it does not belong to him; the War Department makes no captures, and the War Department claims no interest in the prizes. If you apply to the Secretary of the Treasury, he will very properly say, we will give you clearance if you present your vessel; but we can settle no questions as to whether you have got a vessel. If you do not control it, of course we can give you no clearance. If you apply to the Secretary of the Navy he declines to give any direction; very properly, because he says it does not belong to him to say whether the Navy, under any existing law, has or has not got rights in this property. Hence it becomes the absolute necessity of the Government under this state of facts to pass its judgment upon it.

Now, sir, what is the law upon this general subject? Under the rigid principles of international law, all captures of the enemy's property are prizes of war; but that principle only applies to external nations, foreign nations. That principle was never applied, in any instance that I have been able to discover, to a domestic enemy. It is a principle of international law, not a principle of municipal law. That settles that question, and that meets precisely the objection raised by the honorable Senator from Iowa.

Pursuing the subject a little further, we find that that general rule of international law, under the influences alluded to by the honorable Senator from Massachusetts, has undergone a radical change, and nowhere now in any civilized nation is it held to be good law, equity, or justice, that the property of the citizen taken by the enemy and recaptured by the nation of the citizen should be held to be a prize of war and subjected to the jurisdiction of a prize court. Consequently, you find in the legislation of Great Britain, long back in the last century, that Parliament enacted a law that property thus situated, thus taken and retaken, should not be held to be prize of war, but should be returned to the owner.

Mr. GRIMES. The Senator will allow me to ask him, do they not require that salvage shall be paid?

Mr. MORRILL. I will state the whole of it if the Senator will give me time. They annulled the doctrine of prize of war. That is what I mean.

Mr. GRIMES. What about salvage?

Mr. MORRILL. I was going to tell you about that, if you will be patient. They declared it should not be held to be prize of war, though taken from a foreign enemy. Although the principle under which this doctrine of prize of war originated, to stimulate and encourage enterprise in the Navy in making captures, applies in this case as well as in the other, yet the duty and the obligation of the State to protect the property of the citizen overrides that, and I take it the law of Great Britain is founded on that principle. They, therefore, say it is not prize of war, but that it is proper enough that the Government should provide for the expense of taking it, and they therefore provide salvage. One eighth of the value of the vessel is to be distributed and regarded as salvage. This Government, following the same principle, I think in 1800 enacted a similar principle, changing entirely this international principle of prize, so that to-day, as the law stands in regard to foreign nations, if we were at war with Great Britain, and Great Britain were to take a vessel, and we were to retake it, it would not be held to be prize of war, but the doctrine would be that it must be restored to the owner, the owner paying salvage.

Mr. COWAN. The Senator will allow me to ask him: suppose it had been condemned in a British prize court and retaken after that, would it not be prize of war?

Mr. MORRILL. There is that exception in the statute. The principle is as I have stated, provided that if it had been condemned in a court of admiralty, then this principle does not apply; and then the court say the principle of international law applies between the two cases. Now, it will be seen that none of these principles applies to this case; and that in this case a very much more equitable principle may fairly be invoked. Here, sir, the facts are that our citizens are still entering our ports with their vessels. In the case on which this question arises, a citizen of the United States in that portion of the United States which has not been declared in insurrection, in due course of law, in regular pursuit of commerce under such regulations and restrictions as Congress has provided, enters one of your domestic ports; he pays the duties, and he conforms to all the rules and regulations of that commerce; and while there this domestic insurrection arises, and this domestic enemy captures and detains the vessel. When your port is reopened by your own authority the vessel is there found. This bill proceeds on the idea that the insurrection has not changed the title to the property; that the insurrection is irregular; it is not a foreign enemy. If it were a foreign nation, by the legislation to which I have already referred, you have seen it would not be prize of war; it would still be returned to the owner; but as the insurrection is altogether irregular, it stands precisely on the principle of stolen property. The Government is not pursuing an enemy within its own limits, that is, a public enemy, in the sense in which prize laws regard a belligerent nation as a public enemy. The report proceeds upon the idea that all the doings of the so-called confederate States are irregular and must be held to be irregular. They do not touch the rights of property; they do not change the rights of property in any manner whatever; and when the Government sends its Navy to reopen its own ports, the circumstances under which they are reopened repel the idea that they are making captures. They are simply enforcing the laws within their own limits and within their own jurisdiction. To concede any other doctrine, to concede the doctrine that these belligerents have the right to change that title is to concede everything; it is to concede that a temporary insurrection in the country may absolutely change the character of your Government.

Now, in regard to one other suggestion made by the honorable Senator from Iowa, he starts this query, and thinks there is a difference and makes a distinction. He says that will do very well as applied to the ordinary class of vessels captured by the rebels, if they have not been used against us; if they have not, for instance, been changed to war vessels and so used against us. Pray, sir, does that change the principle? Does the fact that the rebel within our own limits and jurisdiction has chosen to change the character of the vessel, change the title? Does that affect the title or the principle in any way whatever? Mr. President, from the best consideration I have been able to give this bill, I do not believe it is liable to any of the objections or difficulties suggested by the honorable Senator from Iowa. I believe it is eminently just and wise that it should be passed.

The PRESIDENT *pro tempore*. The question is on the passage of the bill, on which the yeas and nays have been ordered.

The question being taken by yeas and nays, resulted—yeas 25, nays 12; as follows:

YEAS—Messrs. Anthony, Clark, Collamer, Davis, Dixon, Fessenden, Foot, Foster, Hale, Harris, Henderson, Howard, Howe, King, Lane of Indiana, Lane of Kansas, Morrill, Nesmith, Simmons, Stark, Sumner, Ten Eyck, Trumbull, Wade, and Wilkinson—25.

NAYS—Messrs. Browning, Cowan, Grimes, Harlan, Kennedy, Pomeroy, Powell, Saulsbury, Sherman, Willey, Wilson of Missouri, and Wright—12.

So the bill was passed.

PETITION.

Mr. GRIMES presented a petition of citizens of Alexandria, Virginia, praying for the passage of the bill providing for the extension of the charter of the Alexandria and Washington Railroad Company; which was referred to the Committee on the District of Columbia.

REPORTS FROM COMMITTEES.

Mr. CLARK, from the Committee on Claims, to whom was referred the petition of W. A. Evans, reported a bill (S. No. 375) for the relief of W. A. Evans; which was read, and passed to a second reading.

He also, from the same committee, to whom was referred the bill (H. R. No. 272) for the relief of Brigadier General Joseph G. Totten, reported it without amendment.

He also, from the same committee, to whom was referred the petition of John Walters, a messenger at the headquarters of the Army, praying for additional compensation, asked to be discharged from its further consideration, and that it be referred to the Committee on Military Affairs and the Militia; which was agreed to.

Mr. POMEROY, from the Committee on Claims, to whom was referred the bill (H. R. No. 297) for the relief of J. W. Nye, reported it without amendment.

JOINT RESOLUTION INTRODUCED.

Mr. WILKINSON asked, and by unanimous consent obtained, leave to bring in a joint resolution (S. No. 95) to repeal a certain provision in the act approved May 7, 1860, entitled "An act for the relief of Mrs. Anne M. Smith, widow of the late brevet Major General Persifer F. Smith; Mrs. Harriet B. Macomb, widow of Major General Alexander Macomb, and Mrs. Arabella Riley, widow of brevet Major General Bennet Riley;" which was read twice by its title, and referred to the Committee on Pensions.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. ETHERIDGE, its Clerk, announced that the House of Representatives had agreed to the report of the committee of conference on the bill (S. No. 171) to reorganize the Navy Department of the United States.

ENROLLED BILLS SIGNED.

The message further announced that the Speaker of the House of Representatives had signed the following enrolled bills; which thereupon received the signature of the President *pro tempore:*

A bill (S. No. 242) changing the name of the American-built schooner Tom Dyer to that of Dolphin;

A bill (S. No. 243) changing the name of the American-built schooner Curtis Mann to that of Supply;

A bill (H. R. No. 312) to provide internal revenue to support the Government and pay interest on the public debt;

A bill (H. R. No. 364) to aid in constructing a railroad and telegraph line from the Missouri river to the Pacific ocean, and to secure to the Government the use of the same for postal, military, and other purposes;

A bill (H. R. No. 391) to punish and prevent the practice of polygamy in the Territories of the United States and other places, and disapproving and annulling certain acts of the Legislative Assembly of the Territory of Utah;

A bill (H. R. No. 425) to incorporate the Guardian Society and Reform Juvenile Offenders in the District of Columbia;

A bill (H. R. No. 515) to provide for the appointment of an Indian agent in Colorado Territory; and

A bill (H. R. No. 521) for the relief of William B. Dodd and others.

WIDOW OF GENERAL CHARLES F. SMITH.

Mr. FOSTER. There are three little private bills upon the Calendar that were reported by the Committee on Pensions during the last week, two of them in favor of two widows, whose husbands, officers of the Army, have recently died in the public service, and the third in favor of a private soldier who has been very severely, and, I may say, very desperately wounded in battle. The committee have not been disposed to recommend to Congress to open the public Treasury very freely to applications of this description, for I believe these three are the only cases that have been reported favorably. I hope, therefore, the Senate will be disposed to consider them. The first one which I will move that the Senate take up for consideration is the bill (S. No. 371) for the relief of Mrs. Fanny Mactier Smith, the widow of General Charles Ferguson Smith, late of the Army. I move to take up that bill for consideration——

Mr. HALE. I believe that is the bill that the Senator from Michigan, not now in his seat, [Mr. CHANDLER,] had some written evidence respecting that he wanted to read to the Senate.

Mr. GRIMES. No.

Mr. FOSTER. The bill he had reference to was a bill that passed the Senate some half a dozen years ago.

Mr. HALE. Then I have nothing to say about that; but I have something else to say. I gave notice some time ago that the Naval Committee would move at this time to take up a bill from the House of Representatives, a bill of very great consequence, and I will state, as a reason for taking it up that, at the commencement of this session, Congress passed a bill for retiring certain officers of the Navy, and making it the duty of the Secretary of the Navy to fill up vacancies created by their retirement, which he has not done to this date, waiting, as I have understood, though I have it not from him directly, for the action of Congress on this bill passed by the House of Representatives, and reported last week to the Senate. I shall vote against taking up any other bill until that bill in regard to the grade of naval officers is taken up.

The motion of Mr. FOSTER was agreed to; and the bill (S. No. 371) for the relief of Fanny Mactier Smith was read a second time, and considered as in Committee of the Whole. It proposes to require the Secretary of the Interior to place the name of Fanny Mactier Smith, widow of the late Major General Charles Ferguson Smith, of the United States Army, on the pension roll, at the rate of fifty dollars per month, from the 1st day of May, 1862, for and during her widowhood.

Mr. FOSTER. Mr. President, unless it shall be wished for by some member of the Senate, I will not occupy the time of the Senate by stating the reasons why the committee report the bill. General Charles F. Smith is certainly well known to the Senate and to the country as an officer of the highest merit, who lost his life, it may be said, directly in the service of his country. His widow is left in very limited, I may perhaps say destitute circumstances, with three minor children. The committee thought, and we trust that the Senate will agree to it, that the bill certainly ought to pass.

Mr. TRUMBULL. Mr. President, it is a very ungracious duty to oppose a bill of this character. I do not know that I shall oppose it, but I wish to make a suggestion to the Senate before it passes. We are now engaged in a very great war, and we have a great many generals and high officers in the field, and if the widows of such of them as lose their lives by disease or in battle are to be pensioned, it seems to me that it should be done by a general law; and we are now opening a door that will give us infinite trouble, if we are to legislate upon each individual case. I have in my mind now, as this bill is called up, a general of my own State, General Wallace, who distinguished himself at Fort Donelson by his gallantry. He led a brigade upon that occasion, though only a colonel. His own regiment suffered more than any other regiment upon that bloody field. He paraded his men the day after the battle, and as he walked along their shattered ranks the tears ran down his cheeks. He was promoted for his gallantry upon that occasion. At Pittsburg Landing, or the battle of Shiloh, as it is called, he performed a distinguished part, and fell mortally wounded. He leaves a widow and children, I think. Now, if we are to adopt this system, I think it ought to be made general, and apply to all officers who have distinguished themselves and have fallen in battle. General Smith fell by disease, and not in battle I believe; but that would probably not alter the case; he was in the line of his duty.

I do not wish to be understood as opposing the granting of a pension in this particular case, if it is to be granted in other cases; but we are opening a door which will lead to infinite trouble, if we are to take up each separate case and pass upon it. I know not how many cases there will be before this war is over. I know that we have heretofore pensioned the widows of certain officers. There has always been some contest about it in the Senate, but I know that many bills of that character have been passed. I am requested by a Senator near me to inquire what the law now is, what pension this lady would receive under the existing law, and also what amount of pension she will receive by the bill, as it is left indefinite.

Mr. FESSENDEN. No; fifty dollars per month is fixed.

Mr. TRUMBULL. Does it state fifty dollars a month?

Mr. FOSTER. Yes, sir. The allowance for widows of officers by law is one half the pay proper, not exceeding half the pay of a lieutenant colonel in any case. One half the pay proper of an officer in the grade in which he was, not exceeding that of a lieutenant colonel, is allowed. The widow of a major general would get thirty dollars a month; and that is the provision made by a bill which has come to us from the House, and is reported back from the committee—a general law, which has not been acted on by the Senate. That is in conformity to previous laws, and this action of the committee was taken by them in view of the fact of the general law, and that this was more than the amount granted by the general law, because such appears to have been the action of Congress during the whole existence of the Government. The widows of officers of less rank than major general have been, in divers cases, pensioned by special act, and are now receiving pensions from the Government of this amount. Under such circumstances it seemed to be unjust to set aside the widow of Major General Smith, standing in the relation that she did to the Government—her husband having served most efficiently and gallantly for forty years, and not dying entirely of disease contracted in the service, as the honorable Senator from Illinois says, for I believe and apprehend that the Senator from Iowa can furnish evidence that his death was in part occasioned, not perhaps by a direct wound in battle, but by an injury in battle which may be considered a wound, and which was really among the efficient causes of his death. To have his widow, under these circumstances, stand on the pension roll with the simple pension of thirty dollars a month, when there were a large number of other cases where widows were drawing fifty dollars, seemed to the committee to be ungracious and unjust, and they therefore reported this bill, subject, of course, to the opinion of the Senate and of Congress, whether it shall pass or not.

Mr. HALE. I know as well as the Senator from Illinois that it is an ungracious task to oppose any bill of this sort; but it is to be remembered that the special bills which we have passed heretofore have been passed at a time when we had few pensioners and a good deal of money. Now, sir, day by day, the enemy and disease are increasing fearfully the list of those who will have to be supported by contributions from the public Treasury in the way of pensions, and I think it is well at the beginning that we act in reference to what we know must be the necessities of the Treasury under the operation of a general law. I have not the slightest feeling of opposition or unkindness to this widow. If the necessities of the Treasury would warrant it, with all my heart I would give her $100 a month; but, sir, we must act with reference to what we know is the condition of the country, and what will be the condition of the country and the condition of the Treasury. The chairman of the Committee on Finance, in a very able speech that he gave to the Senate at the close of the debate on the tax bill, estimated the expenses of pensions to be a pretty large sum. I do not remember the exact amount; will he state it?

Mr. FESSENDEN. I thought it would be at least twenty million dollars.

Mr. HALE. I think there is no doubt of it; and, indeed, I think it will be larger than that. Now, sir, let us learn a little wisdom by the course that we pursued in the beginning of this session in regard to general officers. We went on confirming major generals and brigadier generals every day almost, and some of the wise and sagacious of our members—the honorable Senator from Iowa particularly—cautioned the Senate against being too hasty in making so many brigadiers, because we should want to reserve these appointments for those who might distinguish themselves in battle; but we went on and filled them up until we have no place left for those who have distinguished themselves. Now, sir, it is a good time to begin on this matter; I think we had better adhere to the law as it is, and if the pension of thirty dollars a month is not enough, let us raise it. I have in my mind quite a number of other widows of generals for whom we shall have to provide, quite as meritorious as General Smith. General Baker and General Lander fell honorably discharging their duty, and if we step from the law in this instance, we shall have to step from it in those; and then, after we have set these three precedents, we shall have to allow fifty dollars a month in every case where the law says thirty. I have not only no objection to this lady, but I know her; I have been acquainted with her for years, and know her very well, and it is with the utmost reluctance that I say a word against the passage of this bill. I feel impelled, very reluctantly, by a sense of duty to interpose this objection.

Mr. FESSENDEN. I believe that I have nothing to lay to my own charge since I have been in Congress in reference to passing pension bills for these large amounts. I protested against the precedents at the time they were made, and voted against the passage of several of them. I thought that, although we had a full Treasury and could afford to do it, it was a very bad precedent, and in the individual cases there did not seem to me to be much reason for any great liberality, but it was at a time when gentlemen were disposed to be liberal. I therefore feel under no sort of obligation to vote for this on that account; and I must warn the Senate, as they have been warned by two of the gentlemen who have spoken, that if they begin this there is no knowing where it will stop. This is a most meritorious case. I am glad that the question is presented in this form and at this time. There cannot be one better. I think there was no man more entitled to consideration while he lived for his services, and whose death could afford a stronger claim for his family, than General Smith, and I dare say the lady is very well worthy of attention, so far as she is concerned; certainly I know nothing to the contrary. I only rose for the purpose of letting the Senate understand my own opinion, that we must begin somewhere to have a regard to the condition of the Treasury, and we may as well begin here. If the Senator from Connecticut will bring in a general law increasing these pensions we may consider the whole subject. The danger of the individual case is that it prevents consideration in all other cases. Men may very well argue in favor of the widow of a friend, but the question is whether we can set this precedent now with safety and with a proper regard to our duty. That question, of course, every Senator must judge for himself.

Mr. GRIMES. I should do injustice to my own feelings, and to the gallant men of my own State who composed a part of General Smith's division, and who were led so valiantly by him in action, if I did not say a single word in advocacy of this bill. The law as it now stands grades the pensions as it grades the pay of officers of the Army, up to the time that they reach the grade of lieutenant colonel; but there is no ascending scale from that rank up; and therefore the widow of a colonel and of a brigadier general and of a major general receive no higher pension than the widow of a lieutenant colonel.

Mr. FESSENDEN. It costs them just as much to live.

Mr. GRIMES. We might as well say that it costs the lieutenant colonel just as much to live as a major general.

Mr. FESSENDEN. It does not.

Mr. GRIMES. It is supposed that each has been accustomed to move in a certain ascending scale socially, and that as their life has increased and their years have increased, their responsibilities to their families and their connections have been increased. I suppose that is the theory on which these grades have been established, and on which we have heretofore raised up the pensions as you proceeded up in rank. As the law now stands, Mrs. Smith would be entitled to only thirty dollars a month, or the pension to which she would be entitled if she was the widow of a lieutenant colonel. Being the widow of a major general, it is proposed to give her a pension of fifty dollars a month, the same pension that has been given by this Senate since I have been a member of it to four different widows of officers, some of them only colonels in lineal rank, no one of whom died in battle, and not one of whom died until some considerable time after he had been engaged in actual service.

Now, it is said that this will establish a precedent. I do not think it will. I am willing, at any rate, to trust myself to decide every individual case that may be presented upon its merits, and not to be led off to grant to every major general's widow or every brigadier general's widow the pension that I would grant to one who is the widow of

one of the most meritorious officers in the public service.

Mr. President, General Smith, as has been said by the Senator from Connecticut, was nearly forty years in the service of the United States. He was recognized everywhere by everybody, and at all times, as one of the most skillful, one of the bravest and most gallant men we ever had. I have heard officers say that it seemed to them, who had seen him in action in Mexico and in this country, that when the action came, and he saw powder burning, he had a divine inspiration upon him. The Senator from Connecticut has also alluded to the fact that he did not die from disease alone. I have the evidence in my possession from members of his staff that at Donelson he was wounded by a ball hitting him on his person, and that inflammation proceeding from that wound was the cause of his death. Yet so anxious was he that his officers and men should not know that he had thus been wounded, that he carefully concealed it from all of them, and it was not known except to a few men until after his death, and even his widow was not made conscious of it until weeks after he had died. It is to the widow of that man who has led your soldiers for forty years, who has exhibited such bravery upon every field, who was breveted three times in Mexico for his gallantry, who was everywhere considered one of the most skillful and accomplished officers the public service had, that I desired to give this pension, even if it may be considered a little more liberal than we can afford to give to the widows of all our brigadier and major generals hereafter; for I apprehend there will be very few cases so meritorious in themselves presented to us as the one now under consideration.

Mr. POWELL. I do not know this lady, but I did know General Smith. A more gallant and a more accomplished officer this country never had in its service, and I do hope the Senate will pass this bill and give this little pittance to the widow of so meritorious an officer. If we want to retrench, let us take something else. In God's name do not let us go to cutting off the slender amount of fifty dollars from the widow and children of one of our bravest officers, who died of disease contracted at the head of its columns.

Mr. TEN EYCK. The difference between the sum proposed to be allowed by this bill and under the general law is twenty dollars a month, only $240 a year; and yet we stand here resisting an appropriation of $240 a year to the widow of Major General Smith! The statement of the fact is sufficient. This widow is left with three children, with scarce a dollar, perhaps, to buy decent mourning in memorial of his gallantry and his death!

The bill was reported to the Senate, and ordered to be engrossed for a third reading.

Mr. HALE. I ask for the yeas and nays on the passage of the bill.

The yeas and nays were ordered.

Mr. TRUMBULL. I wish just to say one word. I protest against putting any opposition to granting this pension upon the ground that General Smith was not a worthy officer. The Senator from New Jersey and other Senators rise here and tell us what a distinguished man he was. There is no controversy about that; that is not the point. The question is whether we shall pension the widows of officers who fall during the war from disease or in battle, who are deserving men. If that principle is established, General Smith's widow should certainly receive a pension.

Mr. HALE. The Senator from Illinois does not state it exactly right. It is not a question whether they shall be pensioned. She shall be, she ought to be pensioned; but the question is, whether this lady should be pensioned beyond what the others are, beyond what the general law of pensions allows. I protest against being considered as saying a word against General Smith. I have as high a regard for him as for any general that ever lived. I presume that he was gallant and without reproach. I presume his widow is as meritorious a lady as lives. I assume that, and I do not wish to be understood as denying it by the vote I shall cast.

Mr. TEN EYCK. I have not heard any one say a word against the gallantry of General Smith, but we ask for this pension because General Smith went into the service of his country at a critical time, and was instrumental in gaining a most important victory——

Mr. FESSENDEN. He was in the regular service.

Mr. TEN EYCK. But he went in under circumstances of peculiar gallantry, and behaved, if I am to be allowed the expression, like the very "fiery god of war;" he marched on Fort Donelson, led his men through deadly hail, and nothing served to stop or baulk him. He did that service and risked his life when he, perhaps, had not an extra dollar in his purse, and by his death, crowning a gallant life, a widow and several orphan children are left without protection and support. They will need this additional sum to enable them to live in a manner suitable to his character and his memory. His loss to them is crushing; his love for them was great. I have heard that while in active service during his last campaign, he wrote a daily letter to his wife. His tenderness was equal to his courage. He gave them up to save the country; shall not the country be their kind protector and their friend?

Mr. HOWE. Mr. President, as the yeas and nays are to be called on the passage of this bill, and as I was a member of the committee from which the bill was reported, I beg to say that, while I was not in favor of the bill in committee and cannot support it here, my reasons for not giving to it my support are far different from the reason which has been suggested, that we are not inclined to appreciate the military services of General Smith. That he was in the line of his duty and that he served the country gallantly, faithfully, there is no manner of doubt. But we are providing at this very session, almost at this very time, by a general law, the measure of support that we will afford to the families of the whole class of officers who die in the line of their duty and serving their country. Now, the effect of the two measures seems to me to be just this: that to the families of the class who thus die in the service of their country and in the line of their duty, we give thirty dollars a month, but to the family of this individual, who could not have done anything more than spend his life in the line of his duty, we give fifty dollars a month. My trouble is not in assigning reasons why the country could not afford to pay the family of General Smith fifty dollars a month; but if we say that, my difficulty will be in assigning a reason why we do not give to the families of other officers of the same rank, and falling in the same line of duty, the same rate of compensation.

The question being taken by yeas and nays, resulted—yeas 24, nays 11; as follows:

YEAS—Messrs. Anthony, Browning, Carlile, Clark, Collamer, Davis, Dixon, Foot, Foster, Grimes, Harris, Henderson, Howard, Kennedy, Lane of Indiana, Lane of Kansas, Nesmith, Pomeroy, Powell, Simmons, Stark, Ten Eyck, Willey, and Wilson of Missouri—24.

NAYS—Messrs. Fessenden, Hale, Harlan, Howe, King, Morrill, Sherman, Sumner, Trumbull, Wade, and Wright—11.

So the bill was passed.

DISTRIBUTION OF THE BIENNIAL REGISTER.

Mr. FOSTER. I move that House bill No. 328 be taken up.

Mr. COLLAMER. The gentleman claims attention to matters of great consequence. I want a moment's attention to a matter of small consequence.

Mr. FOSTER. I give way.

Mr. COLLAMER. I am directed by the Committee on the Library to report back a joint resolution (H. R. No. 71) providing for the distribution of surplus copies of the Blue Book for 1861 among the several bureaus in the Executive Departments. The members of the House of Representatives seem very desirous to have it passed, and I think there will be no objection to it. I desire, therefore, that it be put on its passage at once.

By unanimous consent the joint resolution was considered as in Committee of the Whole. It proposes to direct the Secretary of the Interior to distribute to each of the several bureaus in the Executive Departments one or more copies of the Blue Book for 1861-62, from the surplus copies now deposited in the Interior Department; but the number of copies delivered to any one bureau is not to exceed two.

Mr. HALE. I should like to know if there is any sanction in law for calling this work "the Blue Book." The name of it is "the Biennial Register." I move to amend the resolution by striking out "Blue Book," and inserting "Biennial Register." There is no meaning or sense in the phrase "Blue Book." It is a cant name.

Mr. COLLAMER. I do not think it of consequence enough to amend the resolution and send it back to the House of Representatives merely on account of the name.

Mr. HALE. I do not like to see these cant phrases introduced into legislation.

Mr. FESSENDEN. Names are things.

Mr. HALE. Yes; names are things. I move to strike out "Blue Book," and insert "Biennial Register."

The amendment was agreed to.

The joint resolution was reported to the Senate, and the amendment was concurred in. The amendment was ordered to be engrossed, and the resolution to be read a third time. The joint resolution was read the third time, and passed.

The PRESIDING OFFICER, (Mr. SHERMAN.) The title of the resolution will be amended to correspond with the amendment in the text.

J. W., A. L., AND W. W. DYER.

Mr. FESSENDEN. There is only one private bill in my charge, and as it has passed the Senate once and there can be no objection to it, I should like to be indulged by having it taken up and passed now. I move to take up Senate bill No. 338.

The motion was agreed to; and the bill (S. No. 338) for the relief of Joseph W. Dyer, Ansel L. Dyer, and William W. Dyer was read a second time, and considered as in Committee of the Whole. It is designed to authorize the Secretary of the Treasury to pay to Joseph W. Dyer, Ansel L. Dyer, and William W. Dyer $549 60, being for tonnage duties wrongfully collected from the ship Corinthian by the collector of the port of New Orleans in 1858.

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

OATH OF OFFICE.

Mr. FOSTER. I renew my motion.

Mr. TRUMBULL. I desired to make a report from a committee of conference.

The PRESIDING OFFICER. The Chair will receive the report.

Mr. TRUMBULL. The report is upon House bill No. 371, prescribing an oath of office, and for other purposes. The Senate made a number of amendments to the bill, and the House of Representatives disagreed to all the amendments. The committee of conference have agreed to recommend that the House recede from its disagreement to all the amendments of the Senate except the first, and that the Senate recede from its first amendment, and agree to the following substitute in lieu thereof, "except the President of the United States;" so that it will leave the oath to be prescribed to all officers except the President.

The PRESIDING OFFICER. The report will be read.

The Secretary read the report, as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendments to the bill (H. R. No. 371) to prescribe an oath of office, and for other purposes, have met, and after full and free conference have agreed to recommend to their respective Houses as follows:

That the Senate recede from its first amendment to said bill, on page 1, in line four, and agree to the following substitute in lieu thereof, "excepting the President of the United States."

That the House of Representatives recede from its disagreement to all the other amendments of the Senate to the said bill, and agree to the same.

LYMAN TRUMBULL,
PRESTON KING,
Managers on the part of the Senate.
JAMES F. WILSON,
JOHN A. BINGHAM,
JOHN S. PHELPS,
Managers on the part of the House.

Mr. DAVIS. I did not agree to the report, and I move that its consideration be postponed until to-morrow. I feel indisposed. I want to oppose it, because I think it is in flagrant conflict with the Constitution.

Mr. TRUMBULL. I hope it will not be postponed. The Senator from Kentucky has made two or three speeches upon this question. Everybody in the Senate understands it and knows that he takes the ground that you cannot administer an oath to members of Congress. We may as well settle the matter now. If it were a new question, I certainly, as a matter of courtesy to the Senator from Kentucky, would not object, but he has

presented his views, If he puts it on the ground that he is unwell and desires still to argue it, I of course shall give up; but I hope he will not persist in having it go over. I would rather appeal to him than object. If he insists on his motion that it shall go over, and assigns as his reason that he is indisposed, I of course shall give way; but I hope he will not persist. I trust we shall dispose of the question now.

Mr. DAVIS. I will not ask the postponement, but I will say a word or two now, and it will be mainly a repetition of what I have previously said.

The PRESIDING OFFICER. The motion to postpone being withdrawn, the question is on agreeing to the report of the committee of conference.

Mr. DAVIS. I will occupy the attention of the Senate but a few moments. I think plainly and palpably this is nothing more nor less than an attempt on the part of Congress to prescribe additional qualifications for members of the Senate and House of Representatives. I need not recur to the provisions of the Constitution which prescribe the qualifications of members of the Senate and of the House of Representatives. They are well remembered by the members of the Senate present. This bill, though, proposes an oath, and provides that every officer before he shall be permitted to enter upon the duties of his office shall take that oath. The question is this: is it competent for Congress to pass such a law? By the Constitution, every officer of the Government is required to take an oath to support the Constitution. When a member of the Senate presents himself here to take his seat, he is required by the Constitution to take that oath. He is required by the Constitution to have three qualifications; and what are those qualifications? He must in the first place be a citizen of the United States; he must in the next place be thirty years of age; and in the third place he must be an inhabitant of the State from which he is elected. If a member claiming a seat in the Senate presents himself with these qualifications and offers to take the oath to support the Constitution, has the Congress of the United States the power by its legislative act to require another qualification of him, in the form of taking an oath in addition to that which is prescribed in the Constitution? I will read a clause from Judge Story's Commentaries on the Constitution that treats upon the subject of the qualifications of members of the two Houses of Congress:

"It would seem but fair reasoning upon the plainest principles of interpretation, that when the Constitution established certain qualifications as necessary for office, it meant to exclude all others as prerequisites. From the very nature of such a provision, the affirmation of those qualifications would seem to imply a negative of all others; and a doubt of this sort seems to have pervaded the mind of Mr. Jefferson."

Now, sir, in relation to members of the two Houses, the Constitution prescribes the qualifications to which I have adverted, and it is a reason of constitutional interpretation and of sound logic that the enumeration of these qualifications, according to the language of the commentator, Justice Story, excludes all others. The simple attempt of this act in relation to members of Congress is to introduce another qualification. If Congress has power to introduce another qualification, it has power to introduce a dozen or a hundred. It is a very dangerous precedent that is being attempted to be introduced; it is a very dangerous innovation, I think, upon constitutional principle, and one that the Senate ought to reject. I shall not add anything further now.

Mr. HOWE. I understood there were two propositions reported from the committee. I did not understand what they were.

Mr. TRUMBULL. The report is that the House of Representatives recede from its disagreement to all the amendments of the Senate except one, and as to that one that the Senate recede from its amendment and adopt a substitute in lieu of it.

Mr. HOWE. I have no fault to find with the report. I understood the question was stated to be upon agreeing with the report. That question was under consideration the other day before the Senate in another case, and it was then held to be the usual practice of parliamentary bodies to submit that question upon the report of a committee of conference, and it was then said that there could be no division, there could be no two questions arising upon a report from a committee of conference, no separate votes taken. I thought that doctrine at the time a dangerous one. I was not prepared to controvert it. I shall not controvert it now at any length; but I understand the true doctrine to be wholly different from that.

In the first place, I have obtained but very little light upon this subject from an examination of the English works upon parliamentary law, and the reason is very obvious. Conferences, as they are managed by the two Houses of Congress, and as I understand very generally by legislative bodies in this country, are almost universally what are known as free conferences, while conferences as they are managed by the two Houses of the British Parliament are almost never free conferences. There are to be found in the last five centuries, I am told, but two or three free conferences between the Houses of the British Parliament. When a conference is agreed upon there, the matter to be submitted is agreed upon in the respective Houses, and when the managers of the two Houses meet together, the managers upon the part of the disagreeing House present its reasons for the disagreement, which reasons are previously agreed upon by the Houses, and submitted to the managers. The managers then receive from the managers on the part of the other House their reply. Then the two Houses separate. We never have any such conferences. We have what are called free conferences. The two Houses here may disagree upon one or upon a hundred, or, as happened here in the case of a recent bill, upon several hundred votes, and the committees of the two Houses meet, not to present the reasons which sway the respective Houses, but to present such reasons as occur to themselves, to argue the whole question in dispute upon every proposition with the committee from the other House.

If the disagreement be upon a single proposition I understand that there are three questions which may be put to the House before which the report is considered. The first proposition that may be submitted is to agree to the amendment adopted by the other House, and from which the dissenting House has disagreed. If the House is prepared to recede, or if the committee reports that the House should recede from its disagreement, then it agrees. If the House is not prepared to agree, but does not wish to cut off further consultation, the question to be submitted to the House is, will it insist? That is a continuance of the disagreement, but does not close the door to further consultation between the two Houses. If the House will not agree to the amendment, and does not care to have any further consultation, the motion to be submitted is, to adhere to its original vote, and after it has voted to adhere, no further conference can be had and the House cannot recede.

I think this is a very essential rule to be observed. It seems to me I can see as clearly as I can see anything, that the contrary rule will in a great many cases defeat the most necessary measures of legislation, and I affirm to-day that it is one of the greatest miracles to be found in the history of legislation that the tax bill which passed the Senate the other day upon the report of a committee of conference, did pass under the rule which was laid down. There were between twelve and twenty votes which the Senate had taken from which that committee reported that the Senate should recede. Some members of the Senate were very much inclined to insist upon some of these amendments, others upon other amendments, and others upon still others of these amendments, each one being regarded more important to the representative of some section or of some interest, than any of the others. The rule which was prescribed for the action of the Senate was that the Senate must agree to recede from all or from none, and I say it was a most miraculous incident in legislation, that each one of the Senators inclined to insist upon those several amendments was made to abandon the whole of them upon the report of a committee. If the other rule had obtained, the rule, which I submit with all the deference in the world to the opinions of those who think otherwise, has obtained heretofore in parliamentary bodies, and is recognized by writers on parliamentary law, that is, that the vote should be put on each distinct amendment, will the House recede from this, or will it not, then you would have got a distinct vote of the Senate upon each one of the amendments, as you obtained it in the first place. You adopted each one of the amendments separately; the committee reported that you should recede from each one of them, and you ought to put the question separately. Now, it may be that while certain representatives are very urgent that one amendment shall obtain, they are not anxious about the others, and by this method of procedure you get a vote of the Senate upon each amendment; but by the method of procedure which was adopted you combine necessarily, and as the direct and inevitable effect of the rule of procedure enforced, you combine by a rule of parliamentary law the friends of each amendment from which the committee reports that the House should recede. You force them to combine and to act together. If they combined voluntarily, you would say it was dishonorable legislation; every one would so hold it; and yet it was said here that the rule of parliamentary procedure compelled them to combine and act together. Even under that rule, I say that bill passed, and that it did pass was a most extraordinary event; and why was it? I can account for it upon no hypothesis in the world other than that the Senate, the whole Senate, felt that some measure of taxation was of such immense importance to the country that every objection should give way before it. But I do not think this can often happen, I do not think you have seen a Senate here since the Constitution was adopted which could have passed that bill under such a rule as was prescribed the other day. It seems to me it could not.

I had not an opportunity the other day to submit these views to the Senate. I attempted it, and was cut off by a question of order. I think them important for the consideration of the Senate. Mr. Cushing, whose work upon parliamentary law and legislative proceedings I have before me, expressly declares the law to be that not only may different votes be taken upon different propositions reported by the committee, but that the House or Senate, as the case may be, may agree to one amendment at one time and another at another time upon different reports. They may agree to one of the amendments upon one report, and upon the report of a further conference may agree to others, and so on as long as there is any proposition in dispute between the two Houses. So he lays down the law to be. That that is the safe rule, it seems to me should be manifest; and as this is the first time since the question arose that a report has been presented from a committee of conference, I have felt it partly my duty and partly my privilege to call the attention of the Senate again to this question. I am told that the universal practice of these Houses has been to the contrary. Of course I cannot controvert that statement. I do not know that it has not been. I suppose every member of the Senate will bear witness to the fact that a great many usages obtain, not only in this instance but in all bodies, as mere matter of convenience and expedition, which are not sanctioned by strict law. For instance, I see it almost invariably the case here that without asking any consent of the Senate, a bill receives its second reading at the same time that it receives its first reading. I do not recollect of but a single instance in which the House has been appealed to for its consent to the second reading of a bill at the time it receives its first reading. There are a great many such instances; but because, as a matter of convenience, the House has followed a particular practice, that is a very poor reason for its insisting upon a particular rule of law if that rule is dangerous; and for the reasons which I have set forth, I think the rule heretofore insisted upon is very dangerous.

The PRESIDING OFFICER. The Chair does not understand the Senator from Wisconsin as rising to a question of order or calling for a division.

Mr. HOWE. No, sir; I shall not call for a division because I am not interested.

Mr. FOSTER. It has become of importance latterly, Mr. President, that the reports of our committees of conference should be somewhat scrutinized, and that they should be in accordance with parliamentary law and usage. I notice that the organization of the committee, the report of whose doings is now before us, has not been in accordance with parliamentary law. The principle of that law, I believe, where there are votes of disagreement between the two Houses, is that persons should be appointed upon the committee who represent the views of their respective Houses. Senators should be appointed on the committee who were in the vote of the Senate,

members of the House who were in the vote of the House, and thus the members of the committee represent their respective Houses. Now, I notice that the committee in this case has not been appointed in accordance with that rule. The honorable Senator from Illinois, the chairman of the committee, was not in the vote of the Senate, and did not represent the vote of the Senate. Of course it is very easy for members who are not in a vote to agree to waive it. It is agreeing that they will abide by their votes, and that the Senate shall give up theirs; but that is not the principle on which a committee of conference is organized. As I before remarked, the committee is supposed to represent the votes of the respective Houses, and not to be appointed in opposition to the votes of the respective Houses. Had the appointment been in accordance with parliamentary law, I will not say it is very clear but it is quite probable that the report of the committee would have been otherwise, for we have now not a unanimous report. Two out of the three members of the committee agree, and the third dissents. Those two would perhaps represent the vote of the Senate if they had been in the vote of the Senate, but not having been in it, they do not represent the vote of the Senate.

Mr. TRUMBULL. I do not wish to go into this matter with the Senator from Connecticut. He is evidently very sore, as well as the Senator from Wisconsin, over some action which the Senate thought proper to take in regard to a report of a former committee of conference. There are some seven or eight, I do not know but more, amendments made by the Senate to the House bill in this case. The Senator thinks proper to say that I was not in the vote of the Senate. I voted for the bill in the Senate; I voted for nearly all the amendments, and we have succeeded in saving every one of the amendments except one. It may be the case that there is not a Senator here who voted for all the amendments. I suppose you could not raise any committee on that principle. However, as this evidently arises out of a little soreness on the part of my friend from Connecticut in regard to another matter, I will not indulge in any remarks.

The PRESIDENT *pro tempore*. The question is on agreeing to the report.

Mr. POWELL. I ask for the yeas and nays.

The yeas and nays were ordered.

The Secretary proceeded to call the roll.

Mr. COWAN, (when Mr. DOOLITTLE's name was called.) I beg leave to state to the Senate that the Senator from Wisconsin is ill and confined to his room.

The result was announced—yeas 27, nays 8; as follows:

YEAS—Messrs. Anthony, Browning, Clark, Collamer, Cowan, Dixon, Fessenden, Foot, Foster, Grimes, Hale, Harlan, Harris, Howard, Howe, King, Lane of Indiana, Lane of Kansas, Morrill, Pomeroy, Sherman, Simmons, Sumner, Ten Eyck, Trumbull, Wade, and Wright—27.

NAYS—Messrs. Bayard, Carlile, Davis, Henderson, Nesmith, Powell, Saulsbury, and Stark—8.

So the report of the committee was concurred in.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives by Mr. ETHERIDGE, its Clerk, announced that the House had passed a bill (No. 553) to establish additional post routes; in which the concurrence of the Senate was requested.

HOUSE BILL REFERRED.

The bill (No. 553) to establish additional post routes was read twice by its title, and referred to the Committee on the Post Office and Post Roads.

LOUISA ABERT BYRNE.

Mr. FOSTER. I now move to take up House bill No. 328.

The PRESIDING OFFICER, (Mr. SHERMAN in the chair.) The question now is on the motion of the Senator from Connecticut to postpone all prior orders and take up the bill indicated by him.

Mr. SAULSBURY. Would it be in order to move to postpone all prior orders and take up the resolution passed by the House of Representatives to adjourn to-day with a view of changing the day? If it is, I make that motion.

The PRESIDING OFFICER. There is a motion pending, made by the Senator from Connecticut, to postpone all prior orders and take up a certain bill, and the question must first be put on that motion.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. No. 328) for the relief of Louisa Byrne, which directs the Secretary of the Interior to place the name of Louisa Abert Byrne, widow of the late Surgeon Bernard M. Byrne, of the United States Army, on the pension roll, at the rate of forty dollars per month, from the 6th day of September, 1860, for and during her natural life.

The Committee on Pensions reported the bill with an amendment, to strike out the words "natural life," and to insert "widowhood."

Mr. KING. Is there a report in that case?

Mr. FOSTER. There is a report which was made in the House of Representatives.

Mr. KING. Let it be read.

The Secretary read the following report, made in the House of Representatives on March 5, by Mr. STEVENS, from the Committee on Invalid Pensions:

The Committee on Invalid Pensions, to whom was referred the petition of Louisa A. Byrne, asking for a pension, having had the same under consideration, report:

It appears that the petitioner is the widow of Bernard M. Byrne, who was a surgeon in the regular Army, and who died of yellow fever at Fort Moultrie in 1860, while in the discharge of his duty; that she has three young children, and asks a pension of the Government. The certificates are ample to the above facts, and the committee unanimously ask the passage of the accompanying bill.

Mr. FOSTER. I will state that the amendment recommended by the committee of the Senate was to strike out the words "natural life" and to insert "widowhood," to make the bill in accordance with the general law. While I am up, I will only say further, that the bill now provides the same pension that will be provided by the general law if it passes; but this bill having passed the House, and it being a case which we thought entitled to relief, we thought it would be too rigorous to compel the party to go through the same again at the Pension Office. It gives her no more than she would be entitled to if our general law passes.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in, and ordered to be engrossed, and the bill to be read a third time. It was read the third time, and passed.

LAWRENCE P. N. LANDRUM.

Mr. FOSTER. There is one other bill which, while the Senate are on this subject, I ask to have considered, and that is House bill No. 530.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. No. 530) granting a pension to Lawrence P. N. Landrum, of Taylor county, Kentucky. It directs the Secretary of the Interior to place the name of Lawrence P. N. Landrum, of Taylor county, Kentucky, on the roll of invalid pensions of the United States, and to pay to him ninety-six dollars per annum, to be computed from the 23d day of March, 1862.

Mr. FOSTER. There is no written report in this case, and I will say a very few words—it will take but a very few—to explain the facts on which it rests.

Mr. Landrum enlisted into the service of the United States as a private in the Army, in Kentucky, in the month of October last, for the period of the present war. About twenty-five had thus enlisted to make up a company which was to be under the command of a Captain Taylor, and the regiment to which this company was to be attached was to form a part of the brigade of General Ward, of Kentucky. In the neighborhood where these men were, where they had enlisted, before the company was filled up, there was a man residing, by the name of Hutchinson, who was a notorious secessionist, and whose house was the resort of the marauding secessionists of Kentucky who were disturbing the peace of the neighborhood and warring upon the Government. General Ward directed Captain Taylor to take a party of forty men of his recruits and go to Hutchinson's house and arrest him, in order that this secession den might be broken up. Landrum was one of the men who went with Captain Taylor for that purpose. They came in the neighborhood of the house about two o'clock in the morning, and found a party of secessionists, some seventy-five or one hundred, there in arms defending the house. Captain Taylor's party was fired upon by them and Landrum had eight balls shot through him. His left leg was broken in three places, his shoulder was broken, and he was left upon the ground for dead. After lying, however, from that time almost until the present, he has so far recovered as that he is able to go upon crutches and will probably live a period at least, a cripple, maimed for life. He had not been mustered into the service, and his company in consequence of this transaction—or at all events it has not since been mustered in. He has not been mustered, and under the law, therefore, is not entitled to a pension; but the committee thought it was as clear a case as could be that the party was entitled to relief. The only question with the committee was whether they should recommend an increase of the pension; for this man enlisted under the belief, and with good reason to suppose that he would be a lieutenant in the company, and would have been a lieutenant if the company had been organized and he had not thus been so terribly wounded. Under these circumstances, his pension would be fifteen instead of eight dollars per month. The committee thought that for a young man as he is, with all his prospects for life destroyed, fifteen dollars a month would be little enough. They did not, however, recommend the amendment; and it stands, therefore, as it came from the House at eight dollars per month.

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

NATIONAL ARSENALS.

Mr. WADE. I move to take up Senate bill No. 342, for the establishment of certain national arsenals, which was the unfinished business of the last session of the Senate.

Mr. HALE. I am satisfied that this bill will give rise to some discussion. There were speeches of several hours made on it on previous occasions, and undoubtedly they will all have to be repeated to-day; and I feel it my duty again to ask attention to the consideration of the bill which I gave notice I should move to take up to-day. It is a bill from the House relating to the Navy.

The PRESIDENT *pro tempore*. The question is on the motion of the Senator from Ohio to proceed to the consideration of the bill indicated by him.

Mr. WADE. I hope the Senator will permit this bill to pass. This is a Senate bill; and as we are getting towards the end of the session, it becomes important that those bills should be put on their passage, if they are going to be passed at all. The bill which the Senator desires to take up is a House bill, and that, of course, will pass. It will go through of its own weight. I hope the Senator will not make any objection to this bill. I do not think it is going to be debated.

The motion was agreed to; and the Senate, as in Committee of the Whole, resumed the consideration of the bill (S. No. 342) for the establishment of certain national arsenals.

The PRESIDENT *pro tempore*. When this bill was last under consideration, the Senator from Illinois [Mr. BROWNING] moved to amend by striking out the words "on Rock Island," and inserting "at Quincy." The Senator from Kentucky [Mr. DAVIS] moved to amend the amendment by striking out "Quincy," and inserting "Keokuk." The direct question before the Senate is on the amendment to the amendment, being a question of choice between those two localities.

The amendment to the amendment was rejected.

The PRESIDENT *pro tempore*. The question recurs on the amendment moved by the Senator from Illinois, to strike out the words "on Rock Island," and insert "at Quincy."

Mr. BROWNING. I will add only a word to what I said on this subject the other day when this bill was under consideration. Among other reasons urged why Rock Island ought to be selected as the place, if an arsenal is established on the Mississippi river at all, was the fact of a reservation of land there by the Government of the United States for such purposes. I have received during the present session several communications from a number of persons who claim that land, and who are prosecuting their claims, I believe, for it. I think it has all been preëmpted or settled upon, and the whole of it will have to be litigated before the question of ownership can be decided. The papers that have been sent me upon that subject, giving evidence of the character of the claims, I have not with me at present, but can at any time produce them, if it shall be deemed necessary to

examine them. If an arsenal were located there, the right and title to the property would be involved in litigation, I apprehend, for a long time. I do not desire to detain the Senate with any argument in regard to it.

Mr. HARLAN. I think the Senator from Illinois is in error. So far from this land having been preëmpted, the parties who have applied to preempt have on every occasion been rejected, on the ground that this land was not public land, but a part of a military reservation. The parties who desired to squat on it appealed to Congress, and the subject was before the Committee on Public Lands, some four or five years ago, and has been, I think, mentioned several times since; but, after a thorough examination of the subject, the committee believed they had no grounds for a claim to preëmpt whatever; so that they have not preempted, and cannot preëmpt, as the land is not public land but a part of a military reservation.

Mr. BROWNING. I did not intend to assert that it had been preëmpted, but that it was either preëmpted or settled upon, and that preëmptions were claimed; and if that is the fact, that it is settled upon and preëmption rights are claimed, those claims will be a subject of litigation. They are not, perhaps, actual litigations now pending, but it will be a subject of contest and controversy. Those claims are being urged by the settlers upon the land, and they will have to be disposed of before we can get it for public use, if it were determined to establish an arsenal upon it.

Mr. HARLAN. The Senator knows as well as any other Senator that parties are incapable of bringing a suit against the United States for this land. Such a thing is unheard of.

Mr. BROWNING. And I know tolerably well parties are capable of presenting claims to Congress, and continuing them from year to year, perhaps even fifty years. It would be one of those perpetual, unceasing causes of controversy, and of continued claim and application to Congress, and is involved in a great deal of difficulty and trouble, as all lands that are so situated are.

Mr. TRUMBULL. I should have been content to leave the bill as the Senate committee reported it, after the committee had agreed upon a place where this arsenal was to be located; and knowing the great diversities of interests in the State of Illinois, and the number of places that were insisting upon having the arsenal established in their particular locality, as a representative of the State, after the matter had been investigated by the committee, I should not have made a motion to change the location; but my colleague has thought proper to move to insert Quincy in the place of Rock Island. Now, if a change is to be made, Quincy is not the place. The city in which I reside, Alton, has altogether superior advantages over the city of Quincy. It is situated within twenty-five miles of the city of St. Louis; it is on the Mississippi river; it is a point where boats run nearly the entire year, while there are months in the year that you cannot get to Quincy. The river is frozen up at Quincy for months. Alton is upon the high bluffs of the Mississippi river, near the mouth of the Missouri river, at a point which could be easily defended. It is a place where property is cheap, where there are large founderies, where coal is abundant—dug right under the city, I may say, and all about it. Coal is as cheap there as at any point in the State of Illinois. It is contiguous to St. Louis, and steamboats are plying daily on the river, backwards and forwards. All the material and everything could be procured there at any season of the year, and at very cheap rates. It is a natural point, where our troops have been fitted out. Why, sir, in the Mexican war, when the State of Illinois sought a rendezvous for her troops to be organized and marshaled before they should go to join the armies that were to march to Mexico, Alton was selected as a place of rendezvous. Our troops were mustered into service there. During the present war a number of regiments have been stationed at Alton, not for the purpose of protecting the town of Alton, but as the most convenient point in the State to organize troops. Alton was the place of deposit for the arms of the State for many years. All the State arms we had were kept there because it was the most convenient place.

How is it with Quincy? Quincy is on the Mississippi river, at a point where the river freezes over. It is not at a point where troops would be assembled for the purpose of being armed and fitted out, unless they are sent there for the very reason that the arsenal is located there. At the present time, most of our troops have been mustered into service at the capital, Springfield, the seat of government, and it would have been more convenient to have had the arms there. A great portion of the arms that were taken to Springfield were taken through the city of Alton. The first twenty thousand arms distributed among our troops came up from Alton, landed there from steamboats, and taken up to the city of Springfield, and there distributed to the troops. There is not a point in the State of Illinois where property so accessible can be purchased at more reasonable prices than in the city of Alton. It is a healthy location, and there is everything to recommend it.

But, sir, the Committee on Military Affairs had agreed upon Rock Island. I know the island of Rock Island had been reserved for many years as a suitable situation for an armory; but so far as the State of Illinois is concerned, if we were looking to that alone, Rock Island is surely not the place for Illinois, nor Quincy either. But if you look to the whole Northwest, to the States of Minnesota, Wisconsin, Iowa, and Kansas—if you look to that whole country, Rock Island becomes accessible to other States. If, however, each State was to have an arsenal of its own, or a place for fitting up arms, repairing them, and manufacturing them, Rock Island certainly would not be the point for the State of Illinois. I think Alton would be as good as any point in the State, for our State simply; but when you look to the whole Northwest, I agree that Rock Island is a very good location. Now, sir, inasmuch as a motion has been made to strike out Rock Island and insert Quincy, I must insist, if there is to be a change, that it shall be to the town of Alton; and I move to strike out Quincy and insert Alton.

Mr. WADE. I do not desire to take up any time in arguing this question. I will barely repeat what I said before, that the Committee on Military Affairs have had this whole subject under consideration. I have no doubt they took into consideration all the advantages and disadvantages of these several locations. Those things did not escape their observation; and I believe now that it cannot be shown that they did not select, under all the circumstances, the best locations that could be found. I have listened to all these arguments, and I have no doubt there are many good places at which we might establish these arsenals; but when we want to accommodate the whole public, I do not believe we shall better the bill by attempted alteration. I hope we shall stand by the doings of the committee.

The PRESIDENT *pro tempore*. The question is on the amendment to the amendment, to strike out Quincy and insert Alton.

Mr. BROWNING. There is not an argument urged by my colleague in favor of Alton that does not exist just as strongly in favor of Quincy as it does in favor of Alton, with the exception that there are perhaps two or three weeks more in the year of open navigation to Alton than there is to Quincy. My colleague is exceedingly mistaken when he supposes that the river is frozen over at Quincy for a considerable portion of the year. There is very rarely a month in the year—there sometimes is perhaps two months consecutively—when navigation is not open to Quincy; but it is a very rare occurrence. In a majority of the years there is not one month passes without navigation being open there, and boats of large size arriving and departing from that place. The question of navigation is one of only two or three weeks' difference between the two places.

I do not suppose we need two arsenals on the Mississippi river within twenty-five miles of each other. There is one at St. Louis, and Alton lies right in the shade of St. Louis; or rather, as I suppose my colleague and some others would think, St. Louis lies right under the shade of Alton. Every advantage that would accrue to any other portion of the country from having an arsenal at Alton is already secured by having one at St. Louis.

The objections he urges against Quincy, arising from the intensity of the cold that sometimes prevails, exists in a tenfold degree against Rock Island, which he thinks is a remarkably suitable place for it. Navigation is open to Quincy almost the entire year round. Unobstructed navigation is not open to Rock Island upon an average of exceeding three months when there are not obstructions either from the state of the water upon the rapids or from the ice in the river; and yet when applied to Quincy, the fact that there is sometimes an obstruction of ice is insurmountable, and it is no objection whatever when it exists in a tenfold greater degree to Rock Island. Now, sir, in regard to position, the Senator says that Alton is a natural point. I was of the impression that Quincy and Rock Island were natural points also. I apprehend nature had just as much to do with the one as it had with the other. It located them all. There is as great an abundance of material of every character that can be required for the construction and maintenance of an arsenal at Quincy as at any other place. I do not say there is more. I do not put it upon the ground that there is any very preeminent advantage in Quincy over many other places that might be selected in Illinois; but if you locate it at all, it must be located at some one place, and I venture to say there is no one place that you can name that combines more advantages than Quincy does. As I said on a former occasion, it is precisely on the parallel due east and west with a number of important places that I named. Kansas and all our western possessions are accessible by that point alone at present by railroad communication. There is at present a railroad from Chicago to Quincy; and when you get to Chicago, you have communication everywhere else. That road intersects and bisects quite a number of other reads running east and west across that region of country. There is another road from Toledo, Ohio, to Quincy, making two direct connections with the Atlantic coast. From Quincy west there is a road that penetrates Kansas, and the only one which from any point on the Mississippi does penetrate the States or Territories west of us. Quincy is as nearly a central point for the three States of Iowa, Missouri, and Illinois as could be selected. You perhaps could not select any other one point that would be so nearly central for those three States, taking them together in one body, as this point is. Kansas lies due west of it; Missouri lies due west of it; and Colorado also. Denver City is precisely on the same parallel due west from Quincy, with a road projected, though not yet constructed, across the continent to the Pacific coast. For the purposes of convenience and accommodation of a large region of country and an immense mass of population, I venture to say—not claiming anything very peculiar for Quincy at all—there is no other point that combines to as great an extent as this does all the advantages we ought to seek in the location of an arsenal.

Now, I am not fully satisfied of the propriety of locating these arsenals at present at all. I am by no means satisfied that it is expedient and proper for the Government, at this time, to be establishing an additional number of arsenals at a considerable cost. But, sir, if they are established, I certainly have a choice as to the place of location of that one which it is intended shall be placed in the State of Illinois. It may be—gentlemen who have examined this matter are more competent to judge of it than I am—that it is wise and expedient to provide for their establishment now. I am not satisfied upon that subject. The Senator from Ohio says that the Committee on Military Affairs had this matter, and all these places, under consideration, and have, no doubt, selected the best. I never knew that the committee was investigating this subject at all. It was not necessary that I should know it; but if they were investigating the relative claims of different places in Illinois, I might possibly have been able to give that committee some information, if they had thought proper to afford me the opportunity of doing so. I think it likely that other places may have been represented before the committee. I do not know that they were; and I make no complaint at all that I was not afforded an opportunity of presenting the claims of this place. I only say, in reply to the suggestion, that the committee have investigated the claims of all these places, that it would have been nothing more than courteous in the committee, while they were doing so, to afford me an opportunity of giving them information that I know they did not possess, and could not possess. I do not want Quincy to be foreclosed by the suggestion of the Senator from Ohio that it has already had a hearing, and its claims been ignored.

Mr. WADE. I did not intend to intimate any such thing. I had nothing to do with these locations. I did not have any more notice than the Senator had.

Mr. BROWNING. I suppose not——

Mr. WADE. I only presumed that the committee would, on an important subject like this, investigate the whole matter.

Mr. BROWNING. I intended nothing unkind towards the Senator from Ohio in my remarks. I know he is not on the committee; and I make no complaint of the committee at all for not giving me notice. What I said was in reply to his suggestion; that it might not be supposed that any one presented the claims of Quincy before the committee, and that they were investigated and rejected. That is all I desired to do.

Mr. LANE, of Indiana. As I had the honor to report this bill from the Committee on Military Affairs, I wish to say a very few words, for I am much more anxious to have a vote than I am to make a speech.

This subject of arsenals was before the committee, and although they were not unanimous in the report, still they ordered the bill to be reported, and I think have selected the proper points. I am not going into any lengthy argument to show that the points selected were the most proper points to be selected. I think it will be safer, at least on the part of the Senate, to follow the report of the committee rather than any outside suggestions made by gentlemen who confess that they have not had their attention directed particularly to the subject. We selected first the city of Columbus, a railroad center in a very rich agricultural country, of fine water powers, where the means of living and cost of labor are perhaps as cheap as at any other point in the United States. Then we selected the city of Indianapolis, having all the advantages, and in about an equal degree, of the city of Columbus; and in addition to that, having a splendid arsenal already in operation. We have at Indianapolis an arsenal in operation which cost the State $79,000. They have been furnishing almost all the fixed ammunition and the smaller ammunition for the army in Tennessee for at least six or eight months. Then we selected Rock Island, not with a particular view, I admit, to accommodate the State of Illinois; but with no possible feeling of unkindness towards that State, supposing that Illinois and her troops would be very properly supplied either from St. Louis immediately upon her western border, or from Indianapolis, which is very accessible to all the central portions of Illinois; or from Rock Island, which by its railroad connections, it seems to me, would accommodate a great portion of the State of Illinois. If these arsenals are established as provided for in this bill, Illinois will be accessible to the arsenal at Indianapolis by direct railroad communications, accessible to St. Louis, and accessible to Rock Island upon the northwestern border; and I think no possible wrong can be inflicted upon that State by this location.

As to the necessity for these arsenals, the committee, I believe, had no kind of doubt. I have no doubt, if these arsenals shall be established, that every month there will be saved in transportation alone to the Government, and also in the cost of furnishing this ammunition, more than the whole amount provided to be appropriated by this bill. I have no doubt for every single month out of twelve months the money will be more than repaid to the Government in the increased facilities, in the cost of transportation, and in the cheapness of production; for we have a report now in the Auditor's office that the ammunition furnished at the arsenal in Indianapolis is of a better quality and cheaper than that furnished at any arsenal in the United States. In addition to that, we cut off the transportation of some thousand miles by having it accessible to our western troops. I will not detain the Senate, but I hope the bill will pass as reported from the committee.

Mr. TRUMBULL. I wish to say but a word. My colleague criticised my remark that Alton was a natural place. He thinks they are all natural places. What I mean by that was simply this: that without any artificial causes coöperating to bring it about, other than that it being the most convenient point, our troops had rendezvoused at Alton heretofore; that in the Mexican war it was made the place of rendezvous for our soldiers, and in the present war it has been so to some extent. That is what I meant; that it was a point, which for the convenience of the State, had been selected without any adventitious efforts being made in its behalf; that it recommended itself by its position and location on the Mississippi river. Its advantage over Quincy is that it is a point on the river where there is scarcely any obstruction from ice and never from low water. We all know that the larger class of boats cannot go to Quincy in low water. I do not think the New Orleans boats ever go there, while they do come to the landing at Alton whenever there is any business requiring their coming, and are frequently there.

In what I have said, I did not mean to say that Quincy would not be a desirable place for an arsenal. I know that it would be; I know that it has many advantages; but it is inferior in the particular points I have mentioned in regard to navigation and water. So far as railroads are concerned, Alton is approached as well as Quincy by two great lines of railroad one through the center of the State. It lies just about on this parallel of latitude. The Baltimore and Ohio railroad and the Pennsylvania railroads connect through Indianapolis and Terra Haute direct to Alton, almost a straight line. There is another line of railroad running through Alton direct to Chicago connecting with all the lines through the States; so that in that respect there is no place which has superior advantages over it.

Mr. KING. It is due to the friends of this bill and to the Committee on Military Affairs that I should state that it is not a bill which originated in that committee, nor are they responsible either for the bill or for the locations. It is a bill introduced by an individual Senator upon leave from the Senate, and referred to that committee, whose business it was to consider it and to report the bill to the Senate. Undoubtedly the Senator who drew the bill and originated it consulted with others about these locations; but, at any rate, the committee did not make the locations nor originate the proposition to construct these arsenals at this time; so that they have no responsibility for the bill. There has been considerable discussion in the Senate on the subject of the construction of arsenals, armories, and founderies; and it will be recollected by the Senate that a special committee was appointed to which these subjects were referred. That committee proceeded to make some inquiries that have not yet been reported to the Senate. The bill came to the Committee on Military Affairs. Different opinions were entertained in the committee as to the propriety of passing any bill on the subject; but it was deemed to be due to the Senate by gentlemen who favored it that the bill should be returned to the Senate as it was, with the consent of the committee, by the Senator from Indiana, who was upon the committee and within whose State one of these locations is fixed, with the statement to the Senate that the committee were divided in their opinion about it, but deemed it their duty to return it to the Senate, as I think the rule required them to do, so that the Senate might act on it upon its own judgment of what was best and proper.

Mr. LANE, of Indiana. If the Senator will pardon me a moment, there was no diversity, I believe, in the committee as to these points being the proper points.

Mr. KING. No, sir; there was no discussion on that point. While I doubted the propriety of the passage of the bill at all, I will say, for myself, that I regard the points named in the bill as very good and suitable points for the location of arsenals; but I have no doubt there are half a dozen others equally good in those States. That subject was not specially investigated, nor was any notice given that the committee intended to consider them or determine them, so that those who were interested in them might appear and make any presentations that they pleased on the subject.

My own opinion is that it is not best to pass the bill at this time. We have no recommendation from the Departments on the subject. We have had various propositions for the establishment of a national foundery. My State had a proposition; Pennsylvania had another; and the Senator from Ohio [Mr. SHERMAN] introduced one in relation to a foundery for Ohio; but I understand that neither the Navy nor the War Department regard this proposed construction of a foundery as one from which any present use can be made for the present exigencies of the country, and they decline to make any recommendation on that subject. I do not know what their opinions may be about arsenals. We all know that their location is a matter of great convenience; but we also know that these constructions to be now commenced can hardly be brought into use during our present troubles. My own opinion is that it is better to defer fixing them, either in their locations or their character, until the next session, at least.

I have deemed it due to say this much, as this bill was referred to the Committee on Military Affairs, and its authority quoted in relation to these locations. I will say further that I think these locations are very good locations, but, as I said before, I think there are others equally good.

Mr. GRIMES. I am anxious that there should be a vote, but I wish to say one word. I think my friend from New York is not quite accurate in saying the subject of arsenals was referred to that select committee. The resolution authorizing the appointment of the select committee was drawn by myself, and it includes founderies and armories, but not arsenals. I understand that the War Department does not recommend the establishment of founderies; but it has given, so far as I know, no opinion on the subject of arsenals, but left that to the discretion of Congress. I am told—I do not know how accurate the statement may be—that in the army of the Mississippi, or the army of General Halleck—I do not know what its proper designation is—there are not less than one thousand muskets that get out of repair in the course of a week. We have nowhere west of the Alleghany mountains any place where they can be repaired. The question then is whether those arms shall be transferred to our shops in the East to be repaired, or whether they shall be repaired somewhere in the valley of the Mississippi, or whether you shall let these men be without arms until you can send to the East to get the proper muskets to put in their hands.

The PRESIDENT *pro tempore*. The question is on the amendment to the amendment to strike out "Quincy" and insert "Alton."

The amendment to the amendment was rejected.

The PRESIDENT *pro tempore*. The question recurs on the amendment, which is to strike out "on Rock Island," and to insert, "at Quincy."

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

The yeas and nays were ordered; and being taken, resulted—yeas 9, nays 28; as follows:

YEAS—Messrs. Browning, Cowan, Davis, Dixon, Kennedy, Lane of Kansas, Pomeroy, Saulsbury, and Wilson of Missouri—9.

NAYS—Messrs. Anthony, Bayard, Clark, Collamer, Fessenden, Foot, Foster, Grimes, Hale, Harlan, Harris, Howard, Howe, King, Lane of Indiana, Morrill, Nesmith, Powell, Sherman, Simmons, Stark, Sumner, Ten Eyck, Trumbull, Wade, Wilkinson, Willey, and Wright—28.

So the amendment was rejected.

Mr. HOWE. I move to amend the first section by striking out in the sixth line, after the word "deposit," the words "and repair;" so that it will read:

That there shall be, and hereby is, established a national arsenal, &c., for the deposit of arms and other munitions of war.

I do not know but one of these places which have been suggested by those different amendments is just as good for the deposit of arms as another. There are means of communication both by water and land to each one of them; and so far as a mere deposit of arms is concerned, I suppose that is all you want, except you want it in a dry locality where the arms can be kept from rusting; but to provide a place for repairing arms is a very different question. That should be done where your arms are manufactured. That seems to me to be evident. Putting up a building in which to deposit arms is comparatively an unimportant matter. Putting up a building to manufacture or to repair arms, and putting in the machinery necessary to do it is a very different matter. There is no manner of necessity for having the repairs made or the arms manufactured where they are deposited. The manufacture and the repair go on at all times, in times of peace as well as in times of war; and all you want is deposits of them in the neighborhoods where you are likely to use them.

The one reflection I have had which has given me more pain than any other, is the astonishing preparations you seem to be making to take care of the State of Illinois. I should judge from the preparations being made that you are expecting a

good deal of trouble from that State. You provide already an arsenal at St. Louis, and another one at Indianapolis, I am told. This bill provides one there at all events, and provides another in the northeastern part of Illinois, so that you surround it with arsenals; and if you only have guns enough and men enough to use them, I should think Illinois might be made to keep the peace hereafter.

Mr. President, there has been a general feeling throughout the country that there ought to be some place provided in the western country for the manufacture of arms. A great many places have been named for that purpose, and I have no doubt they all have a great many advantages, and I have been a little at a loss to know whether it was safe to deny that each one of them had not more advantages than all the rest, from the zeal with which their respective merits have been commented upon. But I suppose it is not the purpose of this bill to establish an armory, it is not avowed, and if it be not the purpose of the authors of the bill to establish an armory, then it seems to me you had better strike out these words which provide for putting up machinery to repair your arms. Whenever you have established an armory anwhere in the western country, there your arms can be repaired, and when they are repaired, they can be transported to your several arsenals, deposited there, and are ready for use whenever you want them.

This bill provides, I see, for three arsenals: one in the State of Illinois, one in the State of Indiana, and another in the State of Ohio. I suppose no two of those places are more than from twelve to sixteen hours apart. When the country was new, when the means of communicating between its different parts were very different from what they are now, when you had few steamers and no railroads, there was manifestly a necessity for having these places of deposit more thickly scattered over the country; but now when railroads traverse the country in every direction, it seems to me these deposits might very properly be less numerous, that we can get along with fewer of them, and I am sorry that the Senate are disposed to encourage the building of so many arsenals at the present time. I think we can get along with fewer of them, and I think we need money more than we need arsenals.

If it be the purpose of the framers of this bill, contrary to my supposition, to lay the foundation for establishing an armory at each or all of these points, the matter becomes a much graver one, and it demands the serious consideration of the Senate whether you are now prepared to initiate, to use a very popular term, a system of armories throughout the several States. If the Senate is willing to do that, if the Senate is willing to commence the erection now of three armories, another serious question to which the Senate ought to give its attention is, whether they know enough at present to determine which are the best points for manufacturing arms. The question, which one of two places is the best for the deposit of arms, is a very different one from the question which is the best place to manufacture them; and if this question really be under consideration by the Senate, I cannot allow a vote to be taken without saying a few words in reference to a point which has been named, and different from either of those which have been mentioned during this debate.

The State of Wisconsin has sent here petitions signed by many thousands of her citizens, asking that an armory might be established at some point upon the Fox river in that State. The State of Michigan, or that portion of it known as the peninsula, bordering on Lake Superior, has also sent here many petitions, asking the same thing, and the Legislature of the State of Wisconsin has asked the same thing. In view of this general demand, both on the part of the people and the Legislature of that State, I ought to say in support of their proposition that I should feel very sorry to have the Senate, or any committee of the Senate, come to the conclusion that there is a better point for the manufacture of arms than the one indicated by these petitions. I should be very sorry, and I should be very slow to come to such a conclusion myself, except upon the testimony of competent persons, who had made an actual examination of the different points mentioned. If you look at your appropriation bills, you will see that the manufacture of arms by the United States is a pretty grave business; it is a pretty expensive business at all the points where you have undertaken it heretofore. If the Government can save from ten to forty per cent. of the cost of manufacturing by a judicious selection of the point at which it is to be carried on, it is the first duty of the Government to do it. That one place affords greater facilities than another for manufacturing, my friend from Rhode Island, [Mr. SIMMONS,] and everybody else, will admit, whether the manufacture be of cotton or woolen goods, or wooden ware, or anything else. I suppose what you want to manufacture arms, or to manufacture anything else, is a combination of advantages. You want building material to put up your buildings. You want a place accessible to labor. You want it in a neighborhood where you can feed your operatives. You want every variety of building material, whether of stone, brick, or timber. If you are manufacturing arms, you want coal; you want wood; you want iron, and you want hydraulic power, better than anything else; and therefore it ought to be sought, to the exclusion of everything else.

Let me say, Mr. President, I do not live at any point on the Fox river where an armory could be located; but it is in the State of Wisconsin, and I know the stream. It is the largest one that feeds the St. Lawrence on the American side. It furnishes any required amount of hydraulic power. It falls in the course of thirty miles one hundred and eighty-odd feet. It is already gathered up into dams for the purpose of creating slack-water navigation, with a system of canals and locks around them, so that steamboats pass to and fro constantly, and that whole power is there ready for use. Thirty-five miles from the mouth of the river is Lake Winnebago, a large basin which takes up all the surplus water, prevents any freshets, prevents any rapid rise in the river, and makes the hydraulic power furnished by that stream the most abundant and most even of any stream I ever knew in my life. The river from its mouth up to the first fall has a depth of thirty feet in the channel. It is twelve or fourteen hundred feet broad. Steamers of the largest size which traverse the lakes go up it. Of course they cannot go up above the first fall. So much for the water power.

Coal will cost delivered on that river something like fifty cents a ton more than it will in the city of Chicago or Rock Island. Either of those points would have the advantage over Fox river in the matter of coal. In the matter of timber, the neighborhood of Fox river furnishes a large proportion of the timber used in every part of Illinois. Iron is not found there, but is as accessible to that place as to Rock Island, or to any point which has been named in the course of this debate. The climate is good; and there is raised a large part of the grain and the breadstuffs which make up the great deposit of the city of Chicago. It is as accessible to labor as any other place; and so, if I am not grievously mistaken, you have there a conjunction of more of the essentials for a manufacturing point than at any point I have heard named in this discussion. That is my opinion; but I should be unwilling to have the Senate act upon my opinion or upon my judgment.

I am unwilling to have the Senate act at all in the selection of a place to manufacture arms until they have appointed a committee of competent and impartial men to examine the different localities, to tell the Legislature upon their responsibility what facilities are required for manufacturing, the different kinds of facilities, and which of the different localities presents the most of them. If any committee shall be appointed, and shall make a report upon their responsibility, I shall acquiesce in that report, or I shall undertake to contradict it by the most indubitable testimony; because every one of these facilities is capable of measurement, and there need not be any mistake about it; there need not be different opinions about it. It ought to be a matter of actual survey and estimate; and when that comes to be the case, you can very shortly determine whether the report is true absolutely, or false absolutely. There need not be any blundering about it. A manufacturer who goes to manufacture on his own account does not make any blunders. If, however, the amendment which I have proposed should be adopted, you will strike out those words which call upon you to make provision for repairing arms at all these places, and which you can only do by establishing incipient armories at least; and then I shall consider that the Senate has abandoned the project of providing for armories in this bill, and is only seeking to provide what they propose to provide, arsenals, or places of deposit for their arms; and I shall have no very weighty reasons for opposing the passage of the bill. I shall still have to regret that the Senate does not content itself with one place of deposit rather than with three.

Mr. WRIGHT. I have a remark to make, particularly as the Senator from Wisconsin has referred to the bill itself. I have nothing to say about the locations, but I ask the ear of the Senate for a moment to the great importance of this measure. It is a singular historical fact, not generally known, that when this rebellion broke out there were not, among the nine million people inhabiting the great Northwest, arms and accouterments enough to equip one regiment for the field.

Mr. SUMNER. One regiment?

Mr. WRIGHT. Yes, sir; not arms and accouterments enough to supply one regiment. We have school-houses and we have people there, but the legislation of this country seemed to be diverted in another direction. In anticipation of the present state of things, the Department has established an arsenal in my town and one in Columbus. Two thirds of all the ammunition and cartridges that were used by our forces at the battle of Shiloh were made in Indianapolis, and cheaper, as the Department tells me, than they could be made anywhere in the United States, on account of the abundance of water power and coal, the cheapness of labor, and its being the center of the railroads of the great West. The Committee on Military Affairs, after considering all these things, recommend the location of arsenals at the three points named in the bill. Now, the Senator from Wisconsin proposes to strike out the words "and repair." If a lock is broken off a gun, is it to be sent five hundred miles before it can be repaired, or be sent still further to Springfield, Massachusetts? I know our eastern friends will not be so illiberal.

Mr. LANE, of Kansas. Or to Harper's Ferry, to be stolen.

Mr. WRIGHT. Or to Harper's Ferry, to be stolen, as my friend from Kansas says. This matter has been settled by the committee. They looked over the Northwest, laid down the map, and took the centers of Ohio and Indiana and of the great Northwest—Rock Island—as the proper locations, and I trust the Senate will pass the bill as it came from the committee. It is the natural order of things; and the whole Northwest, with its nine million people, demand that these arsenals should be located as they now are in this bill. If you had half a dozen committees and they were to investigate a thousand places, they could not find any more central positions than those now selected, where the Department has them now, where the interests of the country demand them, where the great mass of the people are loyal and devoted to the Union and expect this bill to pass. I shall not detain the Senate, but hope we shall have a vote.

Mr. HOWE. The Senator from Indiana complains with a good deal of justice, I suppose, of the scarcity of arms which were found available for the uses of the Government on the breaking out of this rebellion. No doubt there was a great deficiency, and there would have been, if you had had an arsenal in every town of the United States, still a great deficiency. I say this because it is well known that although you had really but one manufactory of small arms in the United States, that was not run up to one tenth of its capacity. It has been making within the last eight months as many arms in every month as it made in a year before the war broke out, so that it was not because you needed more factories that you had not more arms. The Government never expected to need more arms, and therefore did not run the machinery to its full capacity.

Mr. GRIMES. We have appropriated the sum of $1,000,000 to enlarge the establishment, and that is the reason we are making so many more arms now.

Mr. HOWE. I am told that the Government has appropriated $1,000,000, and extended that armory at Springfield. That is true, but in July last I was told at the armory itself, before your appropriation was made, that they were enabled then, or would be the next month, to manufacture as many arms in a month as they had been manufacturing before the war broke out in a year.

Mr. GRIMES. But it was by the use of new machinery which has been erected, and which they had not at that time.

Mr. HOWE. You have been adding to the machinery at Springfield I think during every Congress since the armory was established—very nearly every Congress, if not every one. You will find that appropriations, and very large appropriations, have been made for adding to the machinery at Springfield, but the Senator from Iowa will not pretend that the machinery at Springfield was run to its capacity before this war broke out, or anything like its capacity. I conclude, therefore, that if you had had ten times the number of armories, you would not necessarily have had the Government better provided with arms. But I am led to infer from this remark made by the Senator from Indiana, that it is the purpose of the friends of this bill to inaugurate armories, manufactories of arms at these different points, and I ask if the Senate is prepared to do it. The appropriation named in this bill is a small one. The first appropriation for the armory at Springfield was equally small, and yet I am told the total of your expenditure at Springfield equals $4,500,000. From the smallest beginnings you can get up to such expenditures as I have named; and although you commence here with an appropriation of $100,000, inaugurating three manufactories with that, I leave it to the judgment of every Senator here to determine for himself how long it will be before the total of your appropriations for these works will amount to millions.

Now, if the necessities of the Government require these appropriations, I shall not resist them a moment; but I ask two things: first, that you shall take pains to inform yourselves that these expenditures ought to be made before you make them, and then that you shall take pains to inform yourselves how much additional machinery, what additional facilities you want to enable the Government to keep itself supplied with arms hereafter. I think the capacity of the armory at Springfield now is equal to ten thousand a month. That is my impression about it. It is equal to one hundred and twenty thousand a year. You will not want a great many manufactories of that capacity, I trust, to supply your armies hereafter; for I have an humble sort of hope that we are not going to be compelled to keep seven hundred thousand men in the field a great many years.

The PRESIDENT *pro tempore*. The question is on the amendment moved by the Senator from Wisconsin, which is in line six of the first section, after the word "deposit," to strike out the words "and repair."

Mr. WADE. I did not intend to say a word on this subject; I want to come to a vote; but the Senator from Wisconsin has entirely misapprehended the real necessity of this proposition. He wants to strike out the words "and repair." There is a great necessity for these establishments for the repair of arms. I do not believe the Senator has investigated that subject much, or he would know something of the immense waste of the arms that are furnished to our soldiers. I would hardly dare to state what I am informed at the Department is the waste of these arms. I had no idea of it myself, nor of the necessity of places proximate, and as near as possible for their constant repair. The State of Ohio has nearly eighty thousand men in the field, and nearly that number of arms, and they are returned in vast numbers. I suppose as often as twice a year every musket has to be repaired. The loss, I believe, is even more than that. The members of the Military Committee could tell me better about it; but I have been surprised at the amount of waste.

The Senator says that all the arms we are using west of the Alleghanies must be sent down to Springfield to be repaired, and then brought back, perhaps a thousand miles. Does not the Senator know that the transportation of these arms back and forth, for this purpose, will cost more than these additional establishments that we ask for? It is not a very extensive establishment that we ask for these arsenals, and it is principally for the purpose of repairing the arms that are used, as I understand it. I know that we might, undoubtedly, make a great giant establishment, where all the arms in the United States might be made; but the country is so very large that I do not believe it would be right, or just, or proper that they should all be manufactured in one particular place, for if they were, the transportation of them from the East to the extreme West would cost nearly as much as the manufacture; and besides, as is suggested to me, an insurrection might destroy the whole of them. Prudential reasons—a thousand reasons—are against any such thing.

Now, when you talk of establishing armories, they are exceedingly expensive affairs; it takes a great while to put them in operation; and therefore it is that there is hesitation and doubt as to the propriety of commencing immediately on that subject, as I suppose; but these arsenals for the repair of arms are a necessity. Indiana has a vast army in the field; so has Illinois, and so have all the northwestern States; and yet we that furnish one half the troops of the United States must send all our arms a thousand miles to be repaired, and then have them sent back again to be used! I do not think it is right, just, or proper, and I think that the committee were right in reporting this bill, and I hope it will be passed; but I will not take time on this subject.

Mr. HOWE. Allow me just to correct myself in the estimation of the Senator from Ohio. I do not insist on the policy that these arms shall be all transported to Springfield to be repaired, or to any other point. I can see with the Senator from Ohio and with others, that there ought to be a new manufactory established somewhere in the Northwest; and I say that wherever that manufactory is, there the repairs should be made, and there is no propriety in requiring that every place of deposit should be made a place of repair. There is no necessity for it. But I say before you undertake to decide where that manufactory should be, you should undertake to know by competent evidence where it can be done the cheapest.

Mr. KING. The subject of the repair of these arms is not, I apprehend, fully understood. As I understand, every regiment has, or ought to have, with it in the field an armorer, or a person who has charge of their repairs, and who there, when any little difficulty occurs with an arm, puts it in order; and when a musket or rifle is so injured as to require the repair that would be necessary to send it to an armory to be repaired, it is so sent. The very best arms should be put in the hands of our troops; and I apprehend there are not many of these arms sent to the armories to be refitted and repaired; but in the field all little irregularities of locks, and matters of that sort, are attended to in the camp, and when it goes beyond that the arm is generally useless, so that there is not a great deal in that any way. But these works are not called for by the War Department, and I do not think this is the time when they should be constructed. It is true that arsenals, places for the deposit of arms, ought to have existed anterior to our present disturbances, and if they had been, our people would have been able to get their arms at once; and what we want now is arms in the hands of men in the field, and not in places of deposit. If these arsenals existed now, there would be no very large number of arms put in them; they would be wanted to be distributed about as fast as they could be put there.

Mr. GRIMES. What is done with those arms that are disabled in the hands of the soldiers? Are they thrown away, or are they sent to places of deposit?

Mr. KING. Many are lost in the field. Those that are seriously injured are good for nothing anywhere, and never ought to be used by the soldiers again; but slight difficulties are repaired on the spot, and some are sent to the armories. It depends on the extent of the injury, but there are times when considerable quantities are sent to the armories.

Mr. GRIMES. Is it not the instruction of the officers who have command of the Army that when these arms are disabled they shall be put in places of deposit, to be returned to the armory?

Mr. KING. They are required to keep everything safely, and waste nothing.

Mr. GRIMES. With a view to future repair?

Mr. KING. To any use they may be put to. Of course, there are some that are susceptible of repair.

Mr. GRIMES. Arms used in remote sections of country must, under the present condition of things, be sent to Massachusetts for repair.

Mr. KING. The fact is, that the gist of this bill is that it provides for the repair of arms, and it is intended to be the inception of armories; and so far as that is concerned perhaps it might be well enough to establish another armory; but my objection is to instituting it now when we do not want to use them.

The PRESIDENT *pro tempore*. The question is on the amendment moved by the Senator from Wisconsin.

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

The yeas and nays were ordered.

Mr. KING. I propose to make a motion to commit this bill, which I believe is now in order. I move that the bill be referred to the select committee on armories and founderies, that it may be there better considered, and the information required be brought before the Senate when it comes to act on the bill.

The PRESIDENT *pro tempore*. The motion of the Senator from New York is in order, and the question is on his motion to refer the bill to the select committee indicated by him.

Mr. SHERMAN. The continued opposition to this bill induces me, contrary to my intention, to say a few words. What is the object of this reference? I ask the Senator from New York, is there any good to result from it? Does not the Senator know enough about the geography of our country to know that Columbus is the best place in Ohio for this purpose? There is no difference of opinion among the Representatives and Senators from Ohio as to that question. It is there within easy access of the coal region and the iron region, and a large amount of manufacture is being there done now of this particular character—the manufacture of arms and implements of this kind. There is no object for information, to refer it to a committee, because everybody who knows anything about the Northwest would select that place of all others on account of its convenient access, its railroad facilities, its nearness to coal and iron. I do not live within seventy or eighty miles of it; but I readily acknowledge that it is the proper place.

So with Indianapolis. There is only one place in Indiana so large and accessible that anybody would think of selecting it for an arsenal. Besides it is the State capital, and that should be a reason. I have no doubt that if we had had arsenals at Columbus and Indianapolis at the beginning of this war, Washington would have been reinforced before the mob at Baltimore occurred. There were two regiments in Ohio ready to march to this city at once, and to my knowledge they were detained in Harrisburg until they could send to Massachusetts and get arms. I was there with them, and know the fact. If they had had arms at the time they left Columbus, they would have been in Washington probably before the mob rose in Baltimore, or in time to have aided in suppressing it.

The importance of these arsenals is so obvious that I should think Senators on all sides would see the necessity of them. In regard to that at Rock Island, I know something of the geography of that country, though not so much as the local representatives, of course. I have been at each of the places named—Quincy, Alton, and Rock Island—and each of them is good enough; and so would be Keokuk. All are important large towns along the Mississippi; but as we own the land at Rock Island, as we have the title to it, and as that is the only place where there is a bridge across the Mississippi, as it is convenient to Davenport, and has, at the same time, important railroad connections with Chicago, I believe the committee have wisely selected Rock Island, though I do not care which of the places is selected.

It seems to me important now to have these arsenals fixed. The amount of wastage of arms at the West is very large indeed, and we shall save a great deal in transportation by having convenient places where they can be repaired. It is true, we do not need places where all the parts of a gun can be manufactured, but we want places where arms can be repaired and put into service. The loss of a screw sometimes necessitates the repair of the arm. In some cases, the turn of a screw would be all that would be required to put a Springfield musket into the most efficient state. Is it necessary to transport the arm all the way to the armory at Springfield in order to put it into good condition? I think not.

I say there is no object in referring the bill. We want at least three arsenals in the western country, and I believe the places agreed upon are the best. I therefore can see no object in delay; but

I hope Senators will be willing to give these arsenals to the western country, as there is no difference among us as to locality, and will pass the bill. I believe its passage will save the Government fully $1,000,000 in repairing and preserving arms, which I trust will in a short time be laid aside from the active use in which they have been employed. It is said that two hundred thousand men have probably been under arms in the valley of the Mississippi during the last six months. I have no doubt that that amount of guns has been in the hands of our troops, probably more, probably a quarter of a million, and that many are there now. They have all to be repaired to some extent; they will be all more or less disabled. In some cases the stock will be broken. The armorer that is attached to a regiment cannot repair a stock. If they were sent to an arsenal, new stocks might be taken from the armory at Springfield and they might be repaired with a very little cost. Probably a dollar might repair a musket so as to make it perfectly good—a repair that could not be made by the armorer with the regiment. That armorer is only intended to supply a screw or some little thing. He may have an extra number of some parts of the gun which he can supply; but when the stock is broken, when a valve is bent, when a lock is broken, so that the parts of the gun may require a little work before they can be attached together, you must have recourse to some arsenal or armory where it may be repaired. Now, the question is whether you will take it all the way to Springfield where it was made in order to have a few repairs made. The cost of repairing would be probably not one half the cost of transportation.

Whether these arsenals shall be extensive or not is left to the War Department. They may go on and hire a building in Columbus at a cost of $1,000 a year, or they may establish an arsenal there on a small scale, or they may establish one at a cost of $100,000. All that must necessarily be left to the War Department, and this money cannot be expended without the assent of the War Department. The amount for each place is not definitely fixed. It is true, there is an appropriation here of a certain amount, but they need not go up to that amount. It seems to me, therefore, that on the score of economy and expediency, it is better to settle this question now, and as these places are substantially agreed upon, reported by the committee, and as Senators cannot point out any substantial objection to the places named, I think we had better at once agree upon them and pass the bill.

The PRESIDENT *pro tempore*. The question is on the motion of the Senator from New York to refer this bill to the select committee raised on the subject of a national foundery and armory.

Mr. KING. I do not propose to refer it for the purpose of obtaining information as to locality, and still some information might be received from a committee on that subject which would be useful to the Senate when they determine, not only the fitness of the localities, but as to the number of them and their arrangement. The reason why I have made the motion is that we have no information as to the necessity of these arsenals, except such as exists in our own general knowledge of the condition of things in the country. The War Department does not ask for this, and in my opinion, notwithstanding these are useful establishments, as they cannot be brought into use during the present difficulties, I would wait until those difficulties are over.

I differ with the Senator from Ohio upon one point. He suggests that there is nothing definitely fixed, so that this matter is all left to the discretion of the Secretary of War. Why, sir, the bill appropriates $100,000 to each of those localities, which is an entirely sufficient sum to build up a heavy establishment. For aught I know, large establishments of this kind, in these various localities, may be useful and beneficial to the country, but that they cannot be made valuable now we all know; and, in my opinion, when an appropriation is made by Congress for a specific purpose of this sort, to be carried into effect by an executive officer of the Government, the Secretary at the head of one of the Departments, he is not at liberty to disregard the law. In my judgment, he ought to execute the law of Congress as it goes to him; and this doctrine that Congress merely makes a law which the Executive Departments of the Government are to observe or not, at their pleasure, is one that I hope never to see established or grow up in this country.

Mr. SHERMAN. In reply to the observations of the Senator from New York, I will say that it has been settled for many years, by probably a hundred cases, that a mere appropriation of money is simply a discretion placed in the hands of the Executive to be used. I could name very many appropriations that have been made for the upper lakes for a great variety of cases; appropriations made in just this language, where the money has not been used, and where nobody has found fault on that account. Where money is directly and explicitly appropriated for a particular purpose, and a direction is made that it shall be expended, the officer is then bound to carry out the direction; but where money is simply set apart for special objects, the executive officer is at liberty to expend the money or not, as he deems expedient; and the law provides what shall be done with money appropriated for special purposes that is not used for those purposes.

Mr. KING. I have no question that cases have occurred where money has been appropriated and the Departments have not used it; and I know instances where they were directed to use it where they did not do so; but in my opinion that practice is entirely wrong, and it is not justified by any sound principle.

Mr. GRIMES. I hope this motion will not prevail. I can see no practical good that can result from it. There was great propriety in referring the question of a foundery to a select committee; and for this reason: the Government does not possess a foundery now; we never have had one; we have never cast our cannon for ourselves; we buy them in blocks, turn them out, and then bore them. It was proposed by the chairman of the Committee on Military Affairs that we should go into that manufacture. Then the question that was to be determined was, whether it was most advisable for us to go into that manufacture ourselves, or whether we had better continue the course we had pursued, and in order to enable us to determine that, it was necessary for us to take some testimony. Now, we do not want to ascertain anything about the character of arms, as we did in that case. Again, another question arose as to the location of the foundery. One set of Senators said that it ought to be located in the vicinity of coal and iron; that there was the place where cannon should be cast. Another set said it ought to be located in the vicinity of tide-water, where ships could come up to receive cannon from the foundery. That was another question legitimate for a committee to investigate, and they proposed to take testimony on that subject, and would have done it if they had not been informed by the Secretary of War, or if the Senator from New York had not been informed by the Secretary of War, that he did not desire a foundery, but chose to continue to contract for the manufacture of cannon as has been the case heretofore.

Mr. KING. The Senator there goes a little further than the statement. The point was, that it could not be made use of during the present difficulties; and the opinion of the Secretary was, that inasmuch as the appropriation could not be made available for the present difficulties, it was not desirable, however much he might wish such an establishment, to incur the expense now.

Mr. GRIMES. It was understood that it was not deemed desirable at this time. That, however, is not the case here. We all know, we are just as competent to decide that there ought to be an arsenal for the reception of arms to arm our fellow-citizens, as the Secretary of War or any witness who may come before the select committee. We know that there ought to be an arsenal in the central State of Ohio, with her two million people, where they can be readily armed to put down a domestic insurrection, or to march against a foreign enemy, if one should invade our soil. We know that, and we do not need the testimony of anybody to convince us of that, or the authoritative opinion of the head of the War Department to convince us that there should be an arsenal in the midst of that gallant people, the Indianians, for the same reason.

Mr. LANE, of Indiana. So far as the action of the War Department is concerned, I beg leave to say that Indianapolis has already been adopted by the War Office. For some months past we have had an arsenal there in fact, and have furnished ammunition for the armies of the West, and have been repairing arms, and all that. So far as the argument goes that the Secretary of the War Department has not demanded it, I say, on the contrary, that he has demanded it in the strongest terms by establishing an arsenal there in fact.

Mr. SHERMAN. The same remark applies to Columbus.

Mr. TRUMBULL. It is precisely the same at Springfield, Illinois. Thousands of arms have been repaired there, and large quantities of ammunition made. A great many persons have been employed there.

Mr. KING. That has been done not only at these places, but at a great many other places, and is the very reason why we want no specific places pointed out by law. It is done now under sufficient authority of law.

Mr. GRIMES. It is not more than ten minutes, by the clock, since the Senator from New York was contending for a strict construction of laws by the Secretary of War and everybody else, and arguing where a specific appropriation of $100,000 was made, the full $100,000 should be expended; and yet now, when the question is, whether we shall have an arsenal, whether we shall have our arms repaired under law, or by authority of law, or without any law at all, but upon the mere *dictum* of the Secretary of War, at such place as he shall select, the Senator says that he prefers that they should be repaired exactly where the Secretary of War chooses. Now, sir, I do not agree with him in that. The question is, in reality, whether we shall allow the Secretary of War to repair his arms, to store his arms, to deposit them where he chooses, or whether we shall exercise the prerogative that is intrusted to us by the States of this Union, and declare that certain points which we believe and know are the most accessible and convenient and the safest, shall be the points of deposit for these arms. That is the question. I prefer to exercise that power myself.

Mr. KING. There is no room for any misunderstanding between the Senator from Iowa and myself as to the operation of the law and the authority of the Secretary. I said that where a specific appropriation was made, it was in my judgment obligatory on the Secretary to carry it out. He has the authority now to repair arms and distribute them, and of all the regiments in our whole Army, regular or volunteer, there is probably not a single regimental camp in which arms are not repaired. It is proper that it should be so. There is no specific act of Congress on that subject, but these are temporary arrangements, and I would not now give the Secretary of War authority to establish these permanent depots of arms or arsenals; that should be done by law, but I would not pass the law at this time.

Mr. WADE. I did not expect that this proposition would meet with so formidable an opposition as it seems to have encountered, and much less did I expect that opposition would be started by and come from a western man. Now, sir, beyond the Alleghany mountains there is a very large extent of country and a very numerous people that have no establishments of this kind, and it is not to be supposed that that people will be entirely contented with being informed that they are safe enough, and that they can be armed from Springfield, in Massachusetts, and that that is near enough for them, and that they ought not to concern themselves much about it; that the Government can make gigantic establishments down there, and that they ought to be satisfied with that. I do not think we should be satisfied with it upon general principles. The fact is that it is not sufficient for the purposes of the Government. So necessary are these establishments in the Northwest to the carrying on of this war that we are compelled to intrust the Secretary of War with a kind of ambulatory authority to perform just what we want now to regulate by law.

The Senator from New York says that these establishments cannot be brought into use soon enough to answer any beneficial purpose during the progress of this war. I hope the war will be honorably ended so soon that we shall have no occasion for them, but I see nothing in present circumstances that warrants the Senator from New York in supposing even that. Arms are wanted constantly by your armies in the field, and just so long as they remain in the field their arms will re-

quire repair, and it must be attended to, and it must be done on a large scale. It is no small business. The Senator talks of each regiment having a little establishment that repairs arms. That is very true, but those establishments amount to scarcely anything. The fact is that arms are constantly receiving injuries which require them to be laid aside and new ones substituted. Arms are now sent to Springfield in large numbers to be repaired, and then sent back again to be used, and I understand this transportation in six months costs more than would be required to erect these establishments.

That is not the only consideration which should be borne in mind. Here is the State of Ohio, as has been well said, with more than two million people, and there is all of western Pennsylvania——

Mr. COLLAMER. Allow me to ask what will the regiments do with their arms when they return home? When the regiments of Ohio return home where will they put their arms?

Mr. WADE. I do not know that there is any very definite regulation about that.

Mr. LANE, of Indiana. The regulation is that they turn them over to the regimental quartermaster, and he to some brigade quartermaster, who takes charge of them and places them in some established arsenal of the United States for repair or safe-keeping.

Mr. WADE. I know that the arms which were received under the old law of distribution were almost entirely lost, because the Federal Government had no establishment where care was bestowed upon them. Our State had a kind of establishment where they were placed, but they paid no particular attention to them; and when the nation was called upon, as has been already said, the nine million people in the Northwest found themselves utterly and totally destitute of arms. Now, I ask again, is it to be supposed that one half of this great Republic will be entirely satisfied with the fact that the General Government has no depository of arms in their midst, and takes not the least care to see that that people can be furnished with arms in an emergency? I think that is very desirable. It seems to me the proposition commends itself to anybody who will take into view the circumstances of the case. The cost of these establishments is not great. I do not believe you can expect that this great people will be satisfied with anything less than this, and I did not suppose there would be the least objection to the bill. The Military Committee reported the bill; I do not know how they stood among themselves; but I stated before that they were unanimous. I did not know anything to the contrary, but the Senator from New York says they were not.

Mr. KING. I spoke of the report as made to the Senate.

Mr. WADE. I think there is no occasion for referring the bill to any other committee. We know very well that a majority of the select committee in regard to a national armory and foundery are opposed to all these things; at least so I hear and believe, and therefore I hope it will not be referred to them. Those who are opposed to these arsenals may vote to send the bill into that gulf, hoping by that means to kill the bill. I would rather see it killed off directly, for that will be the end of it if you send it to that committee; it will not come back again this session, and it will be lost. Now, let us march right up to the question directly. If gentlemen believe it is not proper and right that the people of the Northwest should have a depository or place where their arms can be repaired, say so. I shall give my vote the other way, believing that I vote in accordance with the will of the people whom I represent, and their just and proper expectations. I do not believe the Government is secure, or that the people are secure without some such prudential provision. I hope the Senate will not kill the bill by this indirect motion to refer. I trust the motion will be negatived, and the vote taken directly on the passage of the bill. I expect and wish that the bill may pass.

The PRESIDENT *pro tempore*. The question is on the motion to refer the bill to the select committee raised on the question of a national foundery and armory.

Mr. HOWE. The Senator from Ohio has made rather a vigorous appeal to me as a western man to desist from any opposition to this bill. I do not think the appeal is well taken. I do not believe I am unmindful of western interests, and I am a little surprised that the Senator should still affect to understand me as opposing the location of an armory in the western country. I have believed from the beginning that there ought to be, somewhere in the Northwest, a manufactory established for the construction of arms. I said so distinctly. I will support such a measure. But look at it. Will any Senator stand here and contend that each place in the West, or in the East, has equal facilities for manufacturing arms? You have heard a debate here, and an able one, from two Senators upon this floor from the same State, as to which of three or four points within their individual particular State had the most facilities for this business. Can the Senate undertake to know, definitely, which is right of the propositions upon which those two Senators differ so widely? I say once more, if you will take the pains to be informed which of all the points named is the best one for manufacturing arms, I will support an appropriation to establish the business at that point. I feel as confident as any Senator here that the point which the State of Wisconsin has indicated, and which I indicated when I first took the floor, is the best one for the Government of the United States—better than any of those which have been proposed here. What consideration, then, calls upon me to ignore that fact simply because I live in the West? I cannot say what might have been the effect upon my action and upon my vote if this omnibus bill had seen fit to include the State of Wisconsin in it, and to have established an arsenal or an incipient manufactory in it. I might have been as loud in praise of Columbus and Indianapolis and Rock Island, as other Senators are, if I could have had their praises in behalf of Wisconsin. I say I might have been; I do not say I should have been. My judgment is that the Government of the United States, and it is on its behalf I am speaking, requires but one manufactory, and that we should take pains to know where that should be, and I have not pretended for one moment that we should confine the manufacture of arms to the State of Massachusetts or the town of Springfield or any other point.

I think this bill had better be committed, and I shall vote for the commitment, not for the purpose of killing the project of an armory in the West, for in spite of that committal, and indeed through that committal, I shall hope to secure that measure; but if it kills this bill, I shall be rejoiced at it, for I do not believe we ought to establish three arsenals or three armories for the repair of arms. There was a project introduced into the Senate early in the session providing for an armory at Rock Island, and appropriating, I think, $100,000 for one armory at Rock Island. What has become of that bill I am not prepared to say. Somehow or other it has got metamorphosed, by what agency I know not, by what necromancy I know not, but it seems to have been the transformed project now before the Senate to establish three arsenals for the repair of arms and appropriating $100,000 to each of them. I do not like this sort of legislation. I think every project should stand upon its own merits, and not stand upon the strength of any combinations that may be formed.

The PRESIDENT *pro tempore*. The question is on the motion to refer this bill to the select committee on the subject of a national armory and foundery.

Mr. HOWE. I ask for the yeas and nays on that motion.

The yeas and nays were ordered; and being taken, resulted—yeas 18, nays 19; as follows:

YEAS—Messrs. Anthony, Bayard, Browning, Carlile, Clark, Cowan, Davis, Fessenden, Foster, Hale, Henderson, Howe, Kennedy, King, Powell, Saulsbury, Ten Eyck, and Wilson of Missouri—18.

NAYS—Messrs. Collamer, Dixon, Foot, Grimes, Harlan, Harris, Lane of Indiana, Lane of Kansas, Morrill, Nesmith, Sherman, Simmons, Stark, Sumner, Trumbull, Wade, Wilkinson, Willey, and Wright—19.

So the motion did not prevail.

The PRESIDENT *pro tempore*. The question recurs on the amendment moved by the Senator from Wisconsin, upon which the yeas and nays have been demanded.

The question being taken by yeas and nays, resulted—yeas 13, nays 25; as follows:

YEAS—Messrs. Anthony, Bayard, Carlile, Davis, Dixon, Foster, Henderson, Howe, Kennedy, King, Powell, Saulsbury, and Ten Eyck—13.

NAYS—Messrs. Browning, Clark, Collamer, Cowan, Fessenden, Foot, Grimes, Hale, Harlan, Harris, Lane of Indiana, Lane of Kansas, Morrill, Nesmith, Pomeroy, Sherman, Simmons, Stark, Sumner, Trumbull, Wade, Wilkinson, Willey, Wilson of Missouri, and Wright—25.

So the amendment was rejected.

Mr. BROWNING. I move to amend by striking out "on Rock Island," and inserting "at Springfield." The objects of this bill being as they are stated by those who have it in special charge, it seems to me that it would be very appropriate to make this amendment. I have no hostility to Rock Island; it is a part of our country, and of my own State, the interests of which I am as willing to advance as much as those of any other portion of the State; but if the purpose of the bill is to provide facilities for repairing arms during the progress of this war, as it is stated to be, at places to which they can be easily transported for that purpose, and from which they can be easily and readily returned to the places of use, it would be somewhat difficult to find a place in Illinois less accessible for that purpose than Rock Island. Springfield is right in the center of the State, and it is also to some extent a railroad center. There is already a very considerable amount of that business done at Springfield; there is machinery there, as I learn from my colleague, and as I think is the fact, which is now being used for that purpose. Arms are being repaired and ammunition manufactured there, and this perhaps has been going on constantly since the commencement of the war. It could at once be adapted to the purpose; you would not have to create everything before you commenced doing any valuable work in the repairs of injured arms, but the Government could at once adapt the establishment and machinery that are at present engaged in precisely this class of work. Springfield is easily reached from the seat of war in the West, from any part of the army of the Mississippi. Rock Island cannot be less, if it is not more, than five hundred miles from any place where our armies are being employed. It would be attended with a vast deal of expense and cost to carry arms to Rock Island and carry them back again to where they were needed, even after incurring all the expense of creating establishments and providing machinery for doing the work necessary to be done with the arms after they were taken there. If it is proper for us to put one of these arsenals in the center of Ohio, and another in the center of Indiana, the reason would seem to be equally urgent for putting another in the center of Illinois, in addition to the reasons which I have already stated. If the bill is passed, I think this amendment ought certainly and unquestionably to be made. As we have a quorum present, I ask for the yeas and nays on this amendment.

The yeas and nays were ordered.

Mr. TRUMBULL. I concur with my colleague that so far as Illinois is concerned, if this arsenal is for the benefit of Illinois, it would be more convenient to have it at Springfield in the present emergency than at Rock Island. I think he is right in that. That is a central location, the capital of the State, and the arsenals in the other States are at the capital. Simply for our State, it would be better to have it there; but if it is for the Northwest, for Iowa and the other States on the upper Mississippi, other considerations would govern. On the same principle, however, I think they would be entitled to one located at the seat of government in those States. I am not aware but that there ought to be an arsenal established at the capital of each of our States. Every southern State prior to this rebellion had an arsenal within its limits, and some had two or three.

Mr. MORRILL. Of the Government of the United States?

Mr. TRUMBULL. Yes; the Government of the United States had an arsenal in every southern State prior to the breaking out of this rebellion, and there was not one west of the Alleghany mountains in the Northwest. The Government of the United States had its arsenal at Augusta, in Georgia; at Baton Rouge, in Louisiana; at Fayetteville, in North Carolina; at Charleston, in South Carolina; at Richmond, in Virginia; at Newport, in Kentucky. I am not sure about Tennessee, but there was certainly a large deposit in Arkansas, and there was one in Texas. I think it would be proper that there should be arms at the capital of every State. As a mere arsenal for the deposit of arms and simply putting them in repair for use,

I think so far as the State of Illinois is concerned, the location would be better at Springfield than at Rock Island. I concur with what my colleague says, and shall vote for this amendment for that State; but on general grounds for the Northwest, it would not be as convenient for Iowa and the other States.

Mr. KENNEDY. I desire to vote understandingly on this question. If I am called upon simply to vote for an arsenal, a mere place of deposit of arms, my views may be different from what they would be if I were called upon to vote for an armory for the manufacture of arms. As I understand, an arsenal is a mere place of deposit, where arms are brought together, where no machinery is employed. For instance, we had one in the State of Maryland, where I am sure the whole cost of the building did not exceed twenty-five or thirty thousand dollars at the outside; that would accommodate a large amount of arms. The charge of the arms there is a very delightful retiring place for some wounded officer or gentleman on the retired list, with some seven or eight or ten men under him to keep the arms in order. That is simply an arsenal, a place of deposit for arms. But a place to repair arms or make arms, requiring machinery, involves a different view. If you begin to establish machinery for the repair of arms, it is an endless thing; you will have to go on almost *ad infinitum*, until you come to have an establishment where you may repair cannon, and then you may be required to cast cannon, and it may grow into an immense armory, such as we had at Harper's Ferry, in Virginia, and now have at Springfield, in Massachusetts, that involves an enormous expense; and I should like to understand what I am voting for, whether it is simply a place to keep guns under the charge of a few men about a magazine built fire-proof in the woods, or whether it is to be a place for the manufacture and repair of arms which may grow into an immense and almost illimitable armory. I heard gentlemen use the argument that these are suitable places for machinery. I know that the arsenal at Harper's Ferry, in Virginia, had no connection with the armory and required no machinery, and there were only three or four men employed there to keep the arms free from dust.

Mr. GRIMES. The Senators from Illinois are, of course, more capable of judging as to the point that would be most convenient and accessible for the location of an arsenal for the people of that State than I should be; but if I had not heard the expression of opinion they have already made, I should say that Rock Island was the most convenient place to supply the people of that State, taking into consideration the fact that there is already an arsenal at St. Louis, right on the border of the State, within a mile of it, and another one proposed to be established by this bill at Indianapolis, not more than sixty or seventy miles from it. Rock Island would be infinitely the most accessible and convenient point. Rock Island is about one hundred miles south of the north line of the State, the north part of the State having become the most populous in the last ten years, much more populous than a corresponding number of acres in the southern part. But whether that be so or not—and I am willing to admit that the Senators understand that better than I do—I wish to remind the Senate that by placing it at Springfield they place it in a more inaccessible position, so far as my State is concerned, than almost any other place in Illinois. There is hardly any position in that State which would not be more accessible to us than Springfield. This particular arsenal, I understand, is proposed to be located for the benefit of the States on the upper Mississippi. We do not ask for an arsenal in Iowa. We expect to be sufficiently benefited by the establishment of an arsenal on Rock Island, in the State of Illinois. I think the people of the western portion of Wisconsin will be sufficiently convenienced by the establishment of one there, and a very large portion of the State of Illinois. Right across the Mississippi river, near St. Louis, is a very large arsenal, where all the lower part of the State of Illinois can secure their arms; but by the change of location from Rock Island to Springfield it will necessitate either the establishment of another, or else it will bereave those States on the upper Mississippi entirely of all the conveniences they otherwise would have.

Mr. BROWNING. I understand the purpose of the establishment of these arsenals at this time, and the reason urged for it, is to afford facilities for the repair of arms and the manufacture of ammunition, for the benefit of the Army during this rebellion. If they be so, we ought to put them where they can get it.

Mr. GRIMES. That is one purpose.

The question being taken on the amendment by yeas and nays, resulted—yeas 5, nays 32; as follows:

YEAS—Messrs. Browning, Dixon, Lane of Kansas, Saulsbury, and Trumbull—5.

NAYS—Messrs. Carlile, Clark, Collamer, Cowan, Davis, Fessenden, Foot, Foster, Grimes, Hale, Harlan, Harris, Henderson, Howard, Howe, Kennedy, King, Lane of Indiana, Morrill, Nesmith, Pomeroy, Powell, Sherman, Simmons, Stark, Sumner, Ten Eyck, Wade, Wilkinson, Willey, Wilson of Missouri, and Wright—32.

So the amendment was rejected.

The bill was reported to the Senate without amendment, and ordered to be engrossed for a third reading. It was read the third time.

Mr. CARLILE. I have been of opinion that there ought to be an armory somewhere in the West, and I would vote for the establishment of one. This bill provides for three arsenals, and appropriates $100,000 for the construction of one at each of three different points. The passage of this bill will result either in the establishment of three armories in the same vicinity, or it will result in preventing the establishment of an armory at all, by the conflicting claims of these three different points. I shall, therefore, vote against the bill, and upon its passage I ask for the yeas and nays.

The yeas and nays were ordered; and being taken resulted—yeas 31, nays 8; as follows:

YEAS—Messrs. Anthony, Clark, Collamer, Cowan, Dixon, Fessenden, Foot, Foster, Grimes, Hale, Harlan, Harris, Henderson, Howard, Howe, Lane of Indiana, Lane of Kansas, Morrill, Nesmith, Pomeroy, Sherman, Simmons, Stark, Sumner, Ten Eyck, Trumbull, Wade, Wilkinson, Willey, Wilson of Missouri, and Wright—31.

NAYS—Messrs. Bayard, Browning, Carlile, Davis, Kennedy, King, Powell, and Saulsbury—8.

So the bill was passed.

NAVAL ACADEMY.

Mr. HALE. I offer a resolution; and I will state that it is founded on some information which has lately come to my possession:

Resolved, That the Committee on Naval Affairs be instructed to inquire if the superintendent of the Naval Academy, or any of the officers connected with the government or instruction thereof, have allowed or countenanced in the young men under their charge any manifestation or exhibition of feelings or sentiments hostile to the Government of the United States, and whether any of the officers of said academy have manifested any sentiments of a like character.

The resolution was considered by unanimous consent, and agreed to.

SMALL BANK NOTES—VETO MESSAGE.

The PRESIDENT *pro tempore*. The Chair begs leave to submit a question to the Senate. The Chair feels it incumbent to call to the consideration of the Senate a bill which some days ago was returned to the Senate, where it originated, by the President, with his objections. It falls among the class of privileged questions, and the return of the bill with the objections of the President presents it directly to the Senate for reconsideration; and the direct question is, "Will the Senate pass the bill, the objections of the President to the contrary notwithstanding?"

Mr. SHERMAN. If a motion to postpone is in order, I will submit that motion.

The PRESIDENT *pro tempore*. It can be postponed or disposed of as the Senate sees fit.

Mr. SHERMAN. If it is not unusual, I move to refer it to the Committee on Finance who have charge of the subject. It is about small notes. I move to postpone it until to-morrow, and I move also to postpone all prior orders with a view to take up the resolution in regard to fixing a quorum. I think I can demonstrate the necessity of it.

Mr. TRUMBULL. I was under the impression that a motion was made when the objections of the President were read, referring the message and the bill.

Mr. SUMNER. I thought it was referred to the Committee on the District of Columbia.

Mr. TRUMBULL. That is my recollection.

The PRESIDENT *pro tempore*. The Chair must appeal to the record for that, the present occupant not having been in the chair when it was brought up.

Mr. FESSENDEN. I think it was laid on the table.

The PRESIDENT *pro tempore*. The Chair has been informed that the motion then was to lay on the table and print the message.

Mr. SHERMAN. I move that that and all prior orders be postponed with a view to take up the resolution in regard to a quorum.

The PRESIDENT *pro tempore*. The Senator from Ohio moves to postpone this bill and all prior orders with a view to proceed to the consideration of the resolution indicated by him. The latter part of the motion is merely assigned as a reason for the first part of the proposition. The question is on postponing this bill and all prior orders with a view to proceed to the consideration of the resolution indicated by him.

Mr. HOWE. Would it be in order to move to proceed to the consideration of executive business?

The PRESIDENT *pro tempore*. That is a separate motion. This one is now pending, and the question is on the motion of the Senator from Ohio.

The motion was agreed to.

CONSTITUTIONAL QUORUM.

Mr. POWELL. I wish to inquire if that resolution is not still before the Judiciary Committee? It has been referred to them, and I do not think the committee have reported.

Mr. TRUMBULL. Yes, sir; it was reported back.

The PRESIDENT *pro tempore*. The resolution is before the Senate, and will be read.

Mr. HALE. I understood the Chair to say that the latter part of the motion was simply indicating what the Senator would move, that the vote itself did not take up the resolution.

The PRESIDENT *pro tempore*. The Chair will state that it is usual in making these motions to move to postpone the pending and all prior orders—that is, all orders standing prior to the bill that the Senator desires to bring to the consideration of the Senate; and he generally assigns that as a reason for the motion that the pending and all prior orders be postponed with a view to take up a certain bill. It is unnecessary as part of the motion, for if all orders standing before a particular bill are postponed, that comes up, of course, in order upon the Calendar.

Mr. HALE. I move, then, to postpone this also, for the purpose of taking up the Navy grade bill.

The PRESIDENT *pro tempore*. The Chair was calling for the reading of the resolution for information, that the Senate may understand what is before it.

The Secretary read the resolution, as follows:

Resolved, That a majority of the Senators duly elected and entitled to seats in this body is a constitutional quorum.

The resolution was referred to the Committee on the Judiciary on the 11th of April, and on the 23d of May it was reported back with the accompanying resolution:

Resolved, That it is inexpedient at the present time to take action on the question involved in the resolution, and the same is hereby indefinitely postponed.

The PRESIDENT *pro tempore*. The report of the committee is that the consideration of this resolution be indefinitely postponed.

Mr. SHERMAN. There was no action on that report. It was simply made as a recommendation; but the circumstances are now different, and I think the Judiciary Committee would agree with me that it is now necessary to decide this question. The condition of the Senate is such that I am satisfied any casualty would prevent us doing business under the present practice. There are but thirty-seven Senators, I am told, who are accessible; two or three are sick, several have gone away, and others desire to go. Now, I think that if Senators will give their attention a little while, I can satisfy them that it is not necessary, according to the Constitution of the United States, to have more here than a majority of those legally elected, to constitute a quorum. That is the decision of the House of Representatives on the same constitutional point. I think that is clearly the true solution of the Constitution. The Constitution requires a majority to constitute a quorum, but does not say a majority of what.

Mr. CLARK. A majority of each House.

Mr. SHERMAN. Another provision of the Constitution declares that the number of members of the House of Representatives shall be fixed in

a certain way, and the law now fixes the number at two hundred and thirty-three. The Constitution fixes the number of Senators at two from each State. With thirty-four States we should have sixty-eight Senators. In each case, therefore, the number is fixed by law. The number of the House of Representatives is fixed by a law passed in pursuance of an express provision of the Constitution, the number being based upon the census. By the Constitution the number is fixed that may come here, but that does not settle the question as to what constitutes a quorum. In both cases, as I have said, the number of each House is fixed by law. The House of Representatives, at the beginning of the extra session, decided that a quorum should consist of a majority of those entitled to come and take their seats in the House, and that was acquiesced in by all parties. The same rule, under precisely the same circumstances, would make twenty-five a majority of the Senate and a quorum to do business.

I looked up all the precedents, as it was a matter in which we ought not to act without an examination of precedents, and I find that it has been ruled both ways in the Senate and in the House of Representatives; but I believe generally and almost universally it has been considered that a majority of those fixed by law would be necessary to constitute a quorum. It has been decided both ways in the House of Representatives after debate. In one case, when the State of Wisconsin was admitted, it added two to the number of Representatives, and consequently increased the quorum. The subject was then discussed there, and Howell Cobb decided—and it was acquiesced in without a division—that as the number of members was increased two by law, it required one more to constitute a quorum. There was a decision directly adverse to that, however, at another period in the House of Representatives. These decisions were brought before the House of Representatives last summer, when the present Speaker decided that a majority of those entitled to come and take their seats, a majority of those of whose election there was evidence before the House, would constitute a quorum; and he gave his reasons for it, and it seems to me those reasons are conclusive. If you adopt any other principle you acknowledge the worst feature of secession. Take now the case in which we are placed with thirty-seven Senators here; two are sick, one from Massachusetts, [Mr. WILSON,] and one from Wisconsin, [Mr. DOOLITTLE,] and several are absent. Four or five Senators from two or three States by staying away might break up this Congress.

Is that the true construction of the Constitution? According to my judgment, the Constitution is a machine intended to be perpetual, and it is not in the power either of a minority of the States or a minority of the people of the States to break up this Government. A very small minority of the people of the United States might break up the Government, if it required thirty-five Senators always to be here to constitute a quorum. Take the representatives of the small States; two or three of them withdrawing now would break up a quorum, and consequently prevent us from doing business. If it is absolutely necessary to have a majority of all the Senators who could be elected to make a quorum, the effect would be that two or three States now might by withdrawing break up a quorum.

This is a question that I would not press were not the necessity imminent, and if it were not important. I have no doubt about the question, and therefore I think it is one that is proper to be presented to Senators. If Senators are not ready to vote on the question without reflection, and a reference to the Constitution, I will refer to the various cases which have been decided. I had them hunted up. I had them carefully selected in the office of the Secretary of the Senate; though perhaps I may not be able now to lay my hands on them all. It all turns on the question whether or not a majority of all the Senators that might by possibility be elected—that is, a majority of sixty-eight—or whether a majority of those who have been elected, and are entitled to take seats—that is, a majority of forty-nine—constitutes a quorum. In my judgment, if you recognize the doctrine that it requires a majority of all who might constitute the Senate, two from each State, to make a quorum, you will break up the Senate, as you certainly would have broken up the House of Representatives. That doctrine was fairly presented there; it was presented by Mr. VALLANDIGHAM; the point of order was raised, and after a slight discussion, even he abandoned it on the simple ground of absolute necessity, and on the ground that the provisions of the Constitution of the United States, when you take them all together, and consider them fairly, justify that construction. When the two provisions that I have mentioned are considered together, the question is left, I think, with but very little doubt, that a majority to constitute a quorum is a majority of those who are entitled to come here and take their seats. There are but two classes of Senators mentioned in the Constitution; those who are present, and those who are absent. Those who are present, even when a minority, can compel the attendance of absentees. Can we compel the attendance of men who are not elected? Many of those States have no Senators. They have not been elected. They have failed to elect them for reasons that we know very well. How can we who are here, compel their attendance? Certainly we cannot; and yet there are only two classes of Senators referred to in the Constitution: those who are present, and those who are absent. Those who are present, if less than a quorum, cannot transact business, but may compel the attendance of those who are absent. It seems to me that we have arrived at such a stage of the session, and the Senate is in such a condition, that we ought to decide this very important question. If the Senate wish to look at the various precedents, I will hunt them up, bring them here, and read the cases.

Mr. BAYARD. I do not desire to debate this question now, because I did not know it was coming up; but it is entirely contrary to what I have always understood since I have been a member of this body, to be the settled construction of the Constitution, that unless precedents are given showing me that the Senate has varied at different times in its decision, I cannot support the resolution. It strikes me as manifestly wrong. I do not think it has anything to do with the question of secession. I do not see that it has the remotest connection with it, though that may be a very available argument, if you can make that impression on the Senate, for the purpose of creating a fluctuating quorum in the body, because the principle of the honorable Senator's argument would go to this: that the quorum of the Senate depends not only upon the action of the States in electing; but if accidentally a vacancy occurs before a State has time to elect, when her rights may be affected, the quorum is to fluctuate and to vary from day to day. That is the necessary result of his doctrine.

Mr. DAVIS. I think it will be time enough to meet the question raised by this resolution when it becomes necessary to meet it. It is not necessary to make it and decide it now; it is a question that is decided by the Constitution, and it will be just as competent for it to be decided by the number of Senators which the Senator from Ohio would contend to be a quorum, as by the number that is now present. I therefore move that the resolution be laid upon the table for the present, and that we go into executive session.

The PRESIDENT *pro tempore*. The Chair cannot entertain both motions at once.

Mr. SUMNER. I suggest to the Senator from Kentucky that he had better move the executive session alone; he cannot move the two motions together.

Mr. DAVIS. I move that the Senate proceed to the consideration of executive business.

Mr. SHERMAN. I do not know whether Senators are prepared to vote on this resolution, but I think we might as well decide it now. I fear we shall be very much embarrassed, unless we pass the resolution, and I am therefore inclined to ask for the yeas and nays on this motion. I am willing to have this question decided without any further debate.

Mr. COLLAMER. I submit to the honorable Senator from Ohio whether our voting alters the question. It is a question to be decided by the Constitution.

Mr. SHERMAN. I take it that the Chair, the officer who presides over this body, on a question of order, because it would be raised on a question of order, would follow the general practice. For instance: according to the common practice, we have acted on the idea that thirty-five is a quorum, and the Chair, no doubt, would follow that precedent, unless the Senate, by a solemn vote, declared that a less number was a quorum; and therefore I wish to have the question settled by the Senate.

Mr. DAVIS. Is this debate in order, pending the motion I have made?

The PRESIDENT *pro tempore*. A motion to proceed to the consideration of executive business is not a very debatable question, if the Chair may use that expression. Some brief reasons may be assigned for or against going into executive session.

Mr. FESSENDEN. Unless gentlemen want to consider this question longer, I think we may as well take the vote now. I made up my mind some time ago to vote for the resolution of the honorable Senator from Ohio. It may save us a great deal of inconvenience and much time. I think that unless some Senator desires time to consider it, we may as well take the vote now.

The PRESIDENT *pro tempore*. Reference having been made to the probable decision of the Chair, in case a question of order should arise, as to what should constitute a quorum for the transaction of business, the Chair feels bound to state that he would deem himself obliged to follow the precedent, the uniform practice since he has been a member of this body for the last eleven years. The Chair will further state, as a member of the body, and in his right as a Senator, that some ten or eleven years ago this very question was debated at length, and with great ability, by many of the oldest and ablest members of the body, by Mr. Clay, by Mr. Berrien, by Mr. Underwood, by Mr. Badger, and others, and it was decided by an emphatic vote that it required a majority of the whole number entitled to seats in the body to constitute a quorum. The Chair would follow that emphatic decision of the body since the present occupant of the Chair has been a member of it.

Mr. SHERMAN. Allow me to say that I believe that is the true rule; a majority of those entitled to seats constitute a quorum.

The PRESIDENT *pro tempore*. The Chair, perhaps was misunderstood, or unfortunate in his expression. The decision was that it required a majority of the whole number to which the body would be entitled, in case it was full; every State represented. The question is on the motion of the Senator from Kentucky, that the Senate proceed to the consideration of executive business.

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

["Oh, no!"] I withdraw the call.

The motion was agreed to.

Mr. HALE. Before the doors are closed, I wish to give notice that I have tried all day to get up a public bill, and have not succeeded, but I shall try to-morrow again, and so on until the private bills are disposed of.

After some time spent in the consideration of executive business, the doors were reopened, and the Senate adjourned.

HOUSE OF REPRESENTATIVES.

MONDAY, *June* 30, 1862.

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

The Journal of Friday last was read and approved.

PRISONERS OF THE VELMA.

The SPEAKER laid before the House a communication from the Secretary of War, in answer to a resolution of the House of 28th April last, relative to the release of the prisoners taken on the sloop Velma; which was laid on the table, and ordered to be printed.

ENROLLED BILLS.

Mr. GRANGER, from the Committee on Enrolled Bills, reported as truly enrolled bills of the following titles; when the Speaker signed the same:

An act (H. R. No. 425) to incorporate the Guardian Society and Reform Juvenile Offenders in the District of Columbia;

An act (H. R. No. 312) to provide internal revenue to support the Government and pay interest on the public debt;

An act (H. R. No. 521) for the relief of William B. Dodd and others;

An act (H. R. No. 515) to provide for the ap-

pointment of an Indian agent in Colorado Territory;

An act (S. No. 243) changing the name of the American-built schooner Curtis Mann to that of Supply;

An act (S. No. 242) changing the name of the American-built schooner Tom Dyer to that of Dolphin;

An act (H. R. No. 391) to punish and prevent the practice of polygamy in the Territories of the United States and other places, and disapproving and annulling certain acts of the Legislative Assembly of the Territory of Utah; and

An act (H. R. No. 364) to aid in constructing a railroad and telegraph line from the Missouri river to the Pacific ocean, and to secure to the Government the use of the same for postal, military, and other purposes.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. FORNEY, their Secretary, informed the House that the Senate had passed the following bill and joint resolutions; in which the concurrence of the House was requested:

An act (No. 349) in addition to an act providing for salvage in cases of recapture, approved March 3, 1800.

A joint resolution (No. 93) in relation to contracts with the Government.

A joint resolution (No. 76) relating to the compensation of Senators elected or appointed to fill vacancies.

PUBLIC DEBTS AND EXPENDITURES.

Mr. VALLANDIGHAM. I call up the motion to reconsider the vote by which the letter from the Secretary of the Treasury on the public debts and expenditures was ordered to be printed.

The SPEAKER. There is a special order for to-day.

Mr. VALLANDIGHAM. I understood the Chair to say, on Friday, that a motion to reconsider took precedence of other business.

The SPEAKER. Not of a special order.

Mr. VALLANDIGHAM. So I understood the Chair to decide.

The SPEAKER. In what case was that decision made?

Mr. VALLANDIGHAM. In the case of a motion made by the gentleman from Indiana, [Mr. COLFAX.]

The SPEAKER. In that case there was not a motion to reconsider pending. It was a motion to recommit this bill.

Mr. VALLANDIGHAM. Very true, but the gentleman from Indiana announced that he rose to a motion to reconsider, and the Chair recognized him and made that decision. It then turned out that there was no motion to reconsider pending.

The SPEAKER. The business of the gentleman from Indiana was all done by unanimous consent.

Mr. VALLANDIGHAM. I only wanted to know whether the motion to reconsider takes precedence of other business.

The SPEAKER. The Chair thinks not of a special order.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. FORNEY, their Secretary, informed the House that the Senate had agreed to the report of the committee of conference on the amendments to the bill of the House (No. 371) to prescribe an oath of office, and for other purposes.

Also, that the Senate had passed the following bills, in which the concurrence of the House was requested:

An act (No. 371) for the relief of Fanny Mactier Smith.

An act (No. 338) for the relief of Joseph W. Dyer, Ansel L. Dyer, and William W. Dyer.

Also, that the Senate had passed the following joint resolutions and bills of the House, the first two with amendments and the latter without amendment:

Joint resolution No. 71 providing for the distribution of surplus copies of the Blue Book for 1861, among the several bureaus in the Executive Departments.

An act (No. 328) for the relief of Louisa Abert Byrne.

An act (No. 530) granting a pension to Lawrence P. N. Landrum, of Taylor county, Kentucky.

CHARGE OF BRIBERY.

Mr. HICKMAN. I ask leave to make a privileged report.

Mr. VALLANDIGHAM. I object to everything except the regular order of business.

Mr. HICKMAN. I rise to make a privileged report from the Judiciary Committee in a matter in which it is authorized to report at any time.

The SPEAKER. The Chair does not see how that would supplant a special order.

Mr. HICKMAN. The committee is authorized to report at any time.

The SPEAKER. "At any time" means when the House has not before it any business of higher privilege.

Mr. HICKMAN. Then I trust I will have unanimous consent to make this report.

Mr. ARNOLD. I must insist on the regular order of business.

Mr. HICKMAN. I trust the gentleman will withdraw his objection. The matter will not require one minute to dispose of it. It is only to ask that the Judiciary Committee be discharged from a matter referred to it, and that it be referred to another committee.

Mr. ARNOLD. If it will not take time, I will withdraw my objection.

Mr. HICKMAN. It will take but a moment. I am instructed by the Judiciary Committee to ask that it be discharged from the consideration of the matter referred to it by a resolution of the House—that is, an investigation as to the truth or falsity of the charge contained in the Tribune in regard to the Gales & Seaton resolution.

Mr. WASHBURNE. On what ground does the committee ask to be discharged?

Mr. HICKMAN. On the ground that it has other investigations to make, which render it impossible for the committee to attend to this matter.

The SPEAKER. Is there objection to the Judiciary Committee being discharged from this matter?

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

SHIP CANAL.

The SPEAKER. The regular order of business is the special order, being a bill (H. R. No. 288) to construct a ship canal for the passage of armed and naval vessels from the Mississippi river to Lake Michigan, and for other purposes.

Mr. BLAIR, of Missouri. Mr. Speaker, the amendments proposed to this bill have been already printed, and are upon the desks of members. One limits the amount of expenditure upon the Illinois and Michigan canal to $10,000,000, and it requires the State of Illinois to assume the excess beyond $10,000,000, and requires that this $10,000,000 shall only be expended as fast as the tolls shall pay the interest upon the amount expended. Another provides for the expenditure of $3,500,000 for the enlargement of the Erie and the Oswego canals, of New York.

Now, Mr. Speaker, I consider this bill, with the proposed amendments, as the twin measure to that which has been passed by Congress for the construction of a Pacific railroad. It is for the defense of a portion of our country, which is in itself as important, if not greatly more important than that which we propose to defend by the construction of a Pacific railroad, and I believe that the beneficent effects of these measures, if they both shall be passed by this Congress, will repay the country for the devastations which have followed upon this war, and will prevent in the future a war as disastrous to the great interests of the country as that in which we are now engaged. It is well known to this House and to the country that the whole lake coast is totally undefended, that, so far the expenditure of the Government for the defense of the lake coast has not exceeded $800,000, while it has expended $34,000,000 upon the present system of sea-coast fortifications. There is an additional and unexpended balance for our lake-coast defense of $800,000, making all of the appropriations expended and unexpended for that immense line of coast not to exceed $1,600,000.

Although we made a treaty with Great Britain in 1817, by which both parties engaged there should be no fleets of war kept up upon these northern lakes, yet, sir, the British Government, feeling and knowing the importance of commanding these great lakes, has taken steps which will enable it at this moment, or within thirty days from this time, to place upon those lakes an armed fleet against which we would have no sort of defense. I refer to the canal which has been built from the St. Lawrence to Lake Ontario, and from Lake Ontario to Lake Erie, thus giving to the fleets of Great Britain an entrance into our upper and lower lakes, while we have not a gun upon those lakes, and while we have not the power to put a single gun upon them for the defense of our immense commerce, and for the defense of the great cities which have grown up upon the borders of those lakes.

Recently, during the discussion of the Trent affair, when it was thought that hostilities were imminent between the Government of Great Britain and our own Government, it was announced in the English newspapers that as soon as navigation would permit they could, by means of their canals, enter in force into the lakes and lay waste our whole northern frontier as far as Lake Superior. They proclaimed and they boasted then that the lakes were all within their power, and that this Government could not put a gunboat upon those lakes, and that it had no power to construct a battery upon the shore or to enter upon any system of defense. They boasted, and we know it to be true, that the whole northern lake coast of the United States would be undefended against the power which Great Britain could have brought to bear against us. It is very well known that the Ottawa canal is in process of construction from Montreal, by the way of the Ottawa river into Georgian Bay, and thence to Lake Huron. Suppose that we should by a sudden dash destroy the Welland canal, and that from the St. Lawrence to Lake Ontario, and prevent their use for the naval purposes of England, yet it has the means by the way of the Ottawa canal of filling our upper lakes with their gunboats; it has the means of doing that by a route beyond the reach of our armies. Under these circumstances, I think, it becomes the honor of the United States to arouse from the lethargy which has held us so long, and not longer to be blinded to the dangers which threaten us from the boundless ambition of Great Britain, our political and commercial rival, who has so long been preparing for the invasion by means of these canals, not only of the northwestern frontier but your whole northern frontier. After she has done this, and after she has made the boast that our lake coast is within her power whenever she may determine to assail it, I think that we will be wanting in our duty to the country if we hesitate to make the small expenditure now asked for the enlargement of these two canals so as to unite the Hudson river with the lakes and the lakes with the Mississippi river.

The Government, by the enlargement of these canals, will be enabled to concentrate its whole power upon the lakes to resist the power of our ancient enemy. We cannot calculate upon the good feeling of Great Britain. We have had during this rebellion ample evidence that if we rely upon her peaceful disposition we shall be sadly mistaken. I do not refer to the people of Great Britain, but to the Government of Great Britain. It is moved by a rivalry against our form of Government, and it will lend itself to any effort to assail us. That Government regards this country as its commercial and political rival, and it will strike us the moment it can do so with success. If gentlemen are not satisfied of that from what has already transpired, if they are not satisfied from the unmistakable evidence which has been given to us, that notwithstanding the loud outcry England has made for so many years against slavery, she is ready to strike hands with the slave oligarchy of the South for the destruction of this Government, I think recent events should satisfy them.

If it has been supposed by some of our friends that our recent victories will prevent the great Powers of Europe from intervening in the affairs of this continent; if that has been their hope, I think they will now be convinced that it is fallacious. They only need a pretext to strike the blow, and from late advices we cannot expect that the blow will be much longer deferred. I do not, in the remarks I have made, refer to the English people. I believe the commons of England—the people of England—in their heart sympathize with

us and with our Government in this contest. Yet the Government of England and the other Governments of the great Powers of Europe are resolved upon the destruction of our vast commerce and of our free institutions.. I am as well convinced of that as I can be of another fact. Why, sir, in a recent debate in Parliament which has been published in this country, the prime minister has seized the opportunity to denounce "as infamous" an order made by General Butler against the lewd women of New Orleans; I say against the lewd women, because the indecorum denounced by General Butler could not be practiced by any other than lewd women. And the prime minister and minister of foreign affairs of Great Britain have themselves undertaken to become the defenders of these lewd women, simply because they are actuated by the same lewd desire to destroy our Government and institutions.

I say I point to the indication of this debate in the British Parliament, so recently, with no intention to enter upon any defense of the manner in which this Government has carried on the war, and with no hope of reaching those who are so prejudiced as to hear nothing but the misrepresentations of the conduct of our armies in the field, which come from the rebels, of whom they have shown themselves to be the allies; but to convince our people, if possible, that Great Britain is animated by a feeling of such intense hostility to us and to our institutions that they await only a pretext and an opportunity to assail us; and that it becomes us, if we intend to be true to ourselves, if we intend to be true to our republican form of government, not to rely upon the liberality or friendship of any European Power, but to rely upon our own preparations and our resources alone.

Mr. Speaker, in order to complete the Illinois and Michigan ship canal, so that gunboats of the largest class that can float upon the Mississippi river can be carried from the Mississippi river into the northern lakes, will require an expenditure of about thirteen million dollars. That would open a water communication from the lakes to the Illinois river of sufficient capacity to float gunboats drawing six feet of water.

Before entering upon the expenditure of this fund for the object contemplated by the bill, the Legislature of Illinois is required, in the first place, to make a deed of the existing canal, which has cost $6,000,000, and from which the annual income is $220,000. The State is required to execute a deed of cession of that canal to the General Government, which is then to expend $10,000,000, only so fast as the tolls on the canal, with its present income, and the tolls on the Illinois river, when improved, will repay the interest upon the amount advanced and expended by the General Government.

Now, sir, everybody knows the experience we have had with the Erie canal, in New York. The tolls upon that canal for this year will reach $4,000,000. That work, if I am correctly informed, has cost about $40,000,000, and the tolls upon it for the present year will more than pay the interest upon the entire expenditure of $40,000,000. If such be the case, and we know it to be true, and if these tolls are increasing rapidly every year upon this canal, what would be the returns in tolls from a canal of equal length from Lake Michigan to the Mississippi river, over three hundred miles in length, a canal of the capacity contemplated by this bill, one hundred and fifty feet in width, with locks seventy-five feet wide by three hundred and fifty feet in length, capable of carrying steamers of twelve hundred tons burden—what I say would be the returns from such a canal connecting, as it would, the commerce of the Mississippi river and the commerce of the great northern lakes. Why, sir, I do not hesitate to say that in my opinion, after the experience we have had, after the report which has been made to the public of the result of the operations on the Erie canal of New York, that man must be blind indeed, that man must stop his ears against the truth, who would assert that this canal between Lake Michigan and the Mississippi river will not pay the interest upon $10,000,000 and sink the principle in a very few years.

Therefore, what is asked on behalf of the Illinois and Michigan canal is only that this Government should extend its credit, should aid this enterprise which has already cost the State of Illinois $6,000,000, should extend its credit to this great work and unite the commerce of the river with the commerce of the lakes. It is demanded that this Government shall grant its credit to the extent of $10,000,000, with the certainty, the absolute certainty, that the principal and interest of that amount will be paid within a very few years. I do not believe it will take ten years to repay the entire sum; and we depend upon it that in a very few years, certainly not much beyond the period of ten years, the returns of the work will not only repay the amount for which the Government pledges its credit, but the amount also advanced by the State of Illinois, which under this bill that State is bound to advance for the completion of the work.

The canal will then become a great highway of the nation, without tolls of any kind to be imposed upon commerce. I do not conceive that in such a work, with such an object before us, the Congress of the United States ought to hesitate an instant in regard to it. Its military necessity is apparent to every one who has at all examined the defenses of the lake cities. That without it we are perfectly in the power of our oldest and worst enemy; that without it we cannot lift our hands in defense of our great rising cities on our lake coasts, is apparent. The honor of the nation, as well as its safety; the vast interest at stake; the $400,000,000 of annual commerce upon the lakes demanding defense, demanding security from the the Government; a commerce equal to all our foreign commerce; a fleet that costs as much in money and is as valuable as are the fleets of this nation sent out upon the ocean—these fleets, this commerce, and these cities all demand at your hands that you should provide an adequate defense; and we know that the only adequate defense for any coast, and especially of these lake coasts, is that of gunboats. You cannot defend them by stone walls.

Now, sir, the other measure contemplated in this same connection, the enlargement of the Erie canal, commends itself as strongly to the judgment and the favorable consideration of Congress as that for completing the water communication between the Mississippi river and the lakes. That canal, at a cost of $3,500,000 by actual calculation, by the enlargement of one set of locks from the Hudson river to Buffalo, and from Syracuse to Oswego, will enable a vessel made upon the plan of the Monitor, two hundred feet in length, drawing six and a half feet of water to enter the lower lakes; a vessel which, as has been proven by actual experiment in the case of one a little larger at Hampton Roads, will enable us to defend our lake coasts from any foe which can enter from the Welland canal or to the canal through the St. Lawrence and Lake Ontario.

I do not believe that it has ever been in the power of any nation to fortify such defenses, so complete for so large an extent of coast as that to which I have pointed, at so small an expense as provided in this bill. We have before us estimates of men intimately acquainted with the subject, and whose testimony can be vouched for any where before any audience as to its accuracy, that the expenses will not exceed the figures given.

Then for $13,500,000—$10,000,000 of which is to be repaid to the public Treasury—we may place our fleets in a position where we may possess the dominion of the great lakes; because, it must be understood that for one month before the navigation of these Canadian canals opens, the navigation of the Illinois and Michigan canal will be open, and it will remain open for one month after the Welland canal has closed, thus affording the opportunity of commanding the entrance to these lakes for two months of the year, when it will be closed to our enemy.

Now, sir, we have no difficulty when called upon to vote annually six or seven million dollars for sea-coast defenses. We have voted this year such a sum to construct stone walls which, themselves, require a continuous and unceasing expenditure, which are never finished and which are always to be repaired and improved. For such fortifications and such defenses of the commerce of the country, we have annually, for the last thirty or forty years, made appropriations which have increased in amount from year to year. The completion of these fortifications and defenses, to which I have referred, do not terminate the expenses, but they are continuous expenses, because they have to be kept in repair and improved according to the new improvements which are constantly being developed in the art of defense. But these canals, while costing little more than double the appropriation which we have this year made for these stone-wall defenses, so far from being a continued expense to our people, will, perhaps, repay us all we have lost during this devastating war, as they would bring prosperity to our people, by greatly extending the commerce of the nation, and they would repay, in actual tolls, an amount largely beyond the amount which it will cost to create and construct them.

It is not my intention to detain the House longer upon this proposition.

Mr. MALLORY. Will the gentleman from Missouri inform us before he resumes his seat, what amount of money is appropriated by this bill, and to what extent the credit of the Government is loaned.

Mr. BLAIR, of Missouri. I stated that the limitation upon the expenditure for the Lake Michigan canal was $10,000,000, for which the Government is to have the canal by deed of cession from the State of Illinois—a canal which has already cost the State of Illinois over six million dollars—and which the Government is to retain until the tolls received from the canal shall repay both the principal and interest. And this amount of $10,000,000 is to be expended only in such sums as the tolls will keep down the interest upon. And as to the Erie and the Oswego canals the expenditure is to be $3,500,000 at the outside.

Mr. ARNOLD. In the name of the great and patriotic people living upon the shores of the great lakes and rivers of the Northwest, I ask the attention of the House to the most important work in a national point of view ever presented to the consideration of Congress: the opening of a ship or steamboat canal from the lakes to the Mississippi. This work can be realized without serious cost to the nation; only requiring the advance in bonds of such an amount as the tolls of the present canal, and the increased tolls as the work progresses, will pay the interest upon. It is no experiment which Congress is asked to make; the plan is based upon no untried theory, but is embodied in a simple proposition of the State of Illinois asking the national Government to aid with her credit, so far, and so fast as the tolls of the canal will meet the accruing interest.

Illinois, by her State convention, has made this proposal to the Federal Government:

STATE OF ILLINOIS CONSTITUTIONAL CONVENTION, SPRINGFIELD, *March* 17, 1862.

Preamble and Resolutions.

Whereas the Committee on Military Affairs of the House of Representatives of the Congress of the United States have made a report in favor of the enlargement of the Illinois and Michigan canal, and the improvement of the Illinois river, so as to allow steamboats and vessels of war to pass from the Mississippi river to Lake Michigan, and have introduced a bill to carry into effect their recommendation; and whereas this improvement is not only a work of national importance, but one in which the State of Illinois is directly interested: Therefore,

Be it resolved, That in the judgment of this convention, the improvement contemplated would not only be of great utility to the State of Illinois, but of paramount importance in time of war, either foreign or domestic, to the defense and preservation of the Union, and that this State will cooperate with the General Government in any plan for its speedy construction.

Illinois and the Northwest *promptly* placed their all of men and money at the disposal of the Administration. Illinois alone has more than sixty-five thousand of her gallant sons in the field. They have been heard from in every fight, in Missouri, in Kentucky, Tennessee, and, indeed, on every battle-field in the valley of the Mississippi. The bones of her children, freely offered to uphold your Government, are at Fredericktown, at Belmont, at Fort Donelson, at Island No. 10, at Shiloh, at Corinth, and everywhere from the Ohio to the Gulf. Every school district mourns its dead, generously offered for the glorious flag of our fathers. Illinois has impoverished herself in means and in men in the cause of our country.

Sir, you will remember—none of us will ever forget—the gloom which hung over our country before the taking of Fort Henry and Fort Donelson. The condition of our affairs was critical. Those successes, won by western valor, were the beginning of that series of brilliant victories which have resulted in the clearing of the Mississippi valley of every hostile flag. The Northwest has opened the Mississippi, and she will keep it clear of traitors. Sir, I shall never forget the generous

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greeting of Maine to Illinois, on the fall of Fort Donelson:

MAINE TO ILLINOIS.

AUGUSTA, MAINE, *March* 22, 1862.

DEAR SIR: The East sends greeting to the West, and Maine assures Illinois that she rejoices in her glory.

I have the pleasure to transmit to you a copy of a resolution which has passed both Houses of the Legislature of this State by a unanimous vote. It is in reference to our recent victories in the West, and speaks with the voice and from the heart of the loyal people of Maine.

I have the honor to be, with the highest respect, your excellency's obedient servant,

ISRAEL WASHBURNE, jr.

His Excellency RICHARD YATES, *Governor of Illinois.*

State of Maine.

Resolves in reference to our victories in the West.

Resolved, That the people of Maine have witnessed with patriotic pride the triumph of the Union armies in the valley of the Mississippi, and they hereby extend their congratulations to their loyal brethren of the West, upon the undying laurels they have won in the rapid and splendid succession of victories achieved by them. To the troops of Illinois especially, for their heroic conduct at Fort Donelson, the country owes a debt of gratitude which cannot be too heartily acknowledged and which can never be repaid.

Resolved, That a copy of the foregoing be sent to the Governor of Illinois and other western States.

In the House of Representatives, March 19, 1862. Read and passed. J. G. BLAINE, *Speaker.*

In the Senate, March 19, 1862. Read and passed.

JOHN G. GOODENOW, *President.*

March 19, 1862. Approved.

ISRAEL WASHBURNE.

STATE OF ILLINOIS, EXECUTIVE DEPARTMENT, SPRINGFIELD, *April* 5, 1862.

DEAR SIR: I send back to Maine the thanks of the loyal hearts of Illinois, for the kind greeting and the warm approval, contained in the letter of her able Executive and in the resolutions of her General Assembly.

The gallant sons of Illinois and of other western States who have endured so much and won so many brilliant victories, will have ample returns for all they have suffered and all they have achieved, by such grateful approval from her patriotic sister State. Your cheering words will fire their patriotic hearts for additional triumphs over the enemies of our common country.

It is a cheering thought that, though long distance intervene between Illinois and Maine, the glory of the one is the glory of the other, and the same success which thrills the hearts of the denizens of the prairie finds instantaneous and sympathetic response in all the dwellers upon the eastern shore, and from all your pine-covered hills. There is a holy bond of "union." May that bond be forever unbroken and perpetual, and our distant people long be under one flag, one Constitution, and one nationality, and forever linked together by the same undying affection for the principles of civil and religious liberty.

I have the honor to be, with the highest consideration,

RICHARD YATES.

His Excellency ISRAEL WASHBURNE, jr.,
Governor of Maine.

The following is the response of Governor Andrew, of Massachusetts, to the proposition embodied in this bill:

NEW YORK, *June* 23, 1862.

* * * * * * * * * * * *

I wish my humble power could give you any valuable coöperation. Even if the argument on the facts were far less convincing than it is, I would promote this measure, as an earnest of our unconquerable will to live and thrive as a continental, independent, and beneficent Power; on the one hand, planting the seeds of a richer and greater life, both moral and material, even in the midst of war; and on the other hand, as an earnest of the cordial confidence and faithful trust entertained by the heart and brain of New England in our brethren of the imperial West.

To refuse aught, which, uniting by artificial conveniences of commercial or military communication the West and the East, serving also to bind our hearts and mold our interests in more intimate union, would be narrow, even to selfishness, and selfishness is always narrow and always blind. Whatever makes man happy, prosperous, hopeful, and free, is a blessing to us all. Spend whatever you wisely may for the development of the West, the industry, patience, and skill of the New England people will know how to reap their share of the benefits of the expenditure.

I am, with great respect and regard, your faithful and obedient servant, JOHN A. ANDREW.

Illinois and the Northwest, in a spirit of fraternal feeling, now appeal to Congress for aid to a work, national in its character, and as important to the East as to the West itself. We present for your consideration a proposition which has been carefully examined by three committees of this House and received the sanction and approval of each, to wit: the Committee on Military Affairs, the Committee on Roads and Canals, and the select committee on the defense of the great lakes and rivers.

WHAT IS THIS PROPOSITION?

It is quite simple, and I beg your attention to it, because I am confident, if you will hear me, you will vote for it.

1. The State of Illinois has already a canal across the portage, from Lake Michigan to the Illinois river.

I ask permission to read from the report of the select committee on defense of the great lakes and rivers:

"Reference to the advantages growing out of the Canadian canals brings us to the consideration of the importance of *the enlargement of the Illinois and Michigan canal for military purposes.* It will be observed that while we are prohibited from placing vessels of war on the lakes, Great Britain can accumulate gunboats at her pleasure on the St. Lawrence, and by her canals bring them into Lake Erie. We must remedy this by widening the Illinois and Michigan canal. As early as 1822 Congress authorized the State of Illinois to open a canal through the public lands to connect the Illinois river with Lake Michigan. In 1827 a quantity of land was granted to the State of Illinois for the purpose of aiding in opening this canal.

"The work was surveyed and commenced in 1836. It begins at Chicago and runs to La Salle, the head of navigation on the Illinois river, a distance of ninety miles. It was originally designed to make what was called the deep cut, which was to use Lake Michigan as a feeder. The work was more than half completed on this basis, but owing to financial difficulties, the original plan was postponed, and it was completed in 1848 on the high level, and fed by the Calumet, Chicago, Desplane, Kankakee, and Fox rivers.

"The realization of the grand idea of a ship canal from Lake Michigan to the Mississippi for military and commercial purposes is the great work of the age. In effect, commercially, it turns the Mississippi into Lake Michigan, and makes an outlet for the great lakes at New Orleans, and of the Mississippi at New York. It brings together the two great systems of water communication of our country. The great lakes and the St. Lawrence, and the canals connecting the lakes with the ocean on the east; and the Mississippi and Missouri, with all their tributaries on the west and south. This communication so vast can be effected at small expense, and with no long delay. It is but carrying out the plan of nature. A great river, rivaling the St. Lawrence at no distant day, was discharged from Lake Michigan, by the Illinois, into the Mississippi. Its banks, its currents, its islands and deposits can still be easily traced, and it only needs a deepening of the present channel for a few miles to reopen a magnificent river from Lake Michigan to the Mississippi.

"Had this ship canal been open, its cost would have been nearly or quite saved during the past year, in the saving of the expenses of the expeditions on the Mississippi. The gunboats for the Mississippi expeditions could have been readily and cheaply obtained at the great ship-building ports on the lakes. This canal opened, and instead of two fleets of gunboats, one for the defense of the western rivers, and the other for the defense of the lakes, you may make one fleet answer both purposes, as necessity may require. It would enable the Government to concentrate the military resources of the great lakes and the Mississippi and its tributaries on either, or anywhere, as occasion might require. The opening of this canal would place us on an equality with Great Britain, in enabling us to bring from the Atlantic even the means of defending the lakes and rivers. Great Britain, with a wise sagacity, expended many millions on her Canadian canals. The enlarging of the Illinois and Michigan canal will give us equal advantages at far less cost."

The Committee on Military Affairs having carefully considered this subject, say—(pages 9 and 10:)

DEFENSES OF THE NORTHERN FRONTIER.

"How can the northern or lake frontier be successfully defended, especially as the United States are prohibited by treaty from building war vessels on the lakes? On the shores of these lakes the United States have many cities and villages, and upon their waters an immense commerce; these are unsheltered by any defenses worthy of special notice, but they are as open to incursion as was Mexico when invaded by Cortez. A small fleet of light-draught, heavily-armed, iron-clad gunboats could in one short month, in despite of any opposition that could be made by extemporized batteries, pass up the St. Lawrence into the lakes and shell every city and village from Ogdensburg to Chicago. At one blow it could sweep our commerce from that entire chain of waters. Such a fleet would have it in its power to inflict a loss to be reckoned only by hundreds of millions of dollars, so vast is the wealth thus exposed to the depredations of a maritime enemy. To be able to strike a blow so effective, Great Britain constructed a canal around the great falls of Niagara. By this single work the entire chain of lakes was opened to the entrance of all British light-draught ocean vessels. Perceiving our ability to erect fortifications on the St. Lawrence that might command its channel, and thus neutralize all they had done, Great Britain dug a canal from the foot of Lake Ontario, on a line parallel to the river, but beyond the reach of American guns, to a point on the St. Lawrence below, beyond American jurisdiction, thus securing a channel to and from the lakes out of our reach.

"Occupied by our own vast commercial enterprises and by violent party conflicts our people failed to notice at the time that the safety of our entire northern frontier had been destroyed by the digging of two short canals. Near the head of the St. Lawrence, (at the foot of Lake Ontario,) the British, to complete their supremacy on the lakes, have built a large naval depot for the construction and repair of vessels, and a very strong fortress to protect the depot and the outlet of the lake—a fort which cannot be reduced, it is supposed by them, except by regular approaches. They have also strong defenses of the St. Lawrence at Montreal, Quebec, &c., to make the all-important channel as safe as possible to the ingress and egress of their fleets. As things now are, a British fleet could sail from the ocean into the lakes, devastate the cities upon the shores, seize the commercial vessels on their waters, and then, in a few days, appear off Boston, New York, or New Orleans, to aid in operations against us on the ocean frontier. To place our frontier in like good condition, the United States must possess as good an inlet to the lakes, and must possess the means to follow an enemy's fleet from one lake to another with like certainty. We must have a naval depot of corresponding extent, as well secured and as judiciously located for commercial as well as warlike purposes."

The Committee on Military Affairs thus enumerate the advantages of the Illinois and Michigan canal *enlarged*, as proposed by this bill, (page 12:)

"The first advantage of these canals to the United States would be, then, the avoidance of those otherwise unavoidable evils. A second advantage would be found in our ability to make one fleet answer for two. A third advantage would be that we could build on the Ohio, Mississippi, Missouri, Illinois, Hudson, and along the lines of the canals, free from all danger of attacks, and where labor and materials would be abundant and cheap. A fourth advantage would be equally decided: instead of being useless to the United States, except on the lakes where built, the digging of the canals would enable our vessels on the lakes, in ten days after the receipt of orders, to make their appearance at New Orleans or Mobile for naval movements in the West Indies, or at New York to operate in the North Atlantic, two thousand miles further to the northeast. The possession of a power to transfer a blockaded fleet by a safer inland route from New York to New Orleans, or from New Orleans to New York, is of itself an incalculable advantage in times of war with a strong maritime Power. A fifth advantage might arise in this wise: should the British fleet winter at the naval depot, under the protection of the fortress, as its safety and convenience would dictate, our fleet, long after the British fleet was ice-bound, could pass down the Mississippi, and aid our forces in the Gulf of Mexico and Caribbean sea a third of the year, and yet be back to its station before the enemy could sail from its ice-bound harbor.

"The last advantage which your committee will name at this time is the facilities the canals would afford, in times of peace, to agriculture, commerce, manufactures, and the mechanic arts. Practically the navigable channel of the Hudson is extended to the Mississippi. The steamship loaded at St. Paul, Omaha, St. Louis, Louisville, Memphis, or Chicago, would transport its thousand, fifteen hundred or two thousand tons of produce to New York, Boston, or Philadelphia, or any other port on the entire coast, at the pleasure of its owners, and exchange it for every fabric known to the merchant and artisan. This would infuse new vigor into all industrial pursuits, and benefit all portions of this great country. It is believed that if eighty-ton horse boats can afford to pay tolls high enough to support shallow canals, two thousand-ton steamboats, being subjected to less expense per ton, can afford to pay enough higher to support deeper canals of greater cost; especially considered in connection with the far larger amount of business the deep canal could transact. They ought within a reasonable time to reimburse their first cost. Hence no reason is perceived from the money point of view, why these exceedingly important military channels should not be dug."

The commerce and tonnage of the Mississippi nearly or quite equals that of the lakes, and each is estimated at from three hundred to five hundred millions. Open this steamboat canal, and you bring these great commercial interests together, mutually benefiting each other, and enriching our common country. You thus place us on an equality with Great Britain on the lakes. You connect the eighteen thousand miles of the network of the navigable waters of the Mississippi and its tributaries with the great inland seas, the St. Lawrence and the Atlantic. Did I then exaggerate its magnitude when I characterized this bill as one of the most important which ever engaged the attention of Congress?

Mr. WICKLIFFE. I would inquire of the gentleman at what point the Michigan canal strikes the Illinois river?

Mr. ARNOLD. At present it strikes it at La Salle, ninety miles from Chicago. The proposed canal will strike what is termed Lake Joliet, near the junction of the rivers which form Illinois river, at a distance of thirty-six miles from Lake Michigan.

Mr. WICKLIFFE. Is it contemplated to deepen the channel of the Illinois river, to make it equal to the contemplated navigation?

Mr. ARNOLD. Yes, sir, by locks and dams; so that the steamers of the Mississippi may sail within thirty-six miles of Chicago, where they will enter this canal and proceed to the lakes.

Mr. WICKLIFFE. What portion of the year is that river frozen up?

Mr. ARNOLD. Not exceeding three or four months.

Mr. WICKLIFFE. What proportion of the year is it dry?

Mr. ARNOLD. None at all. It has always plenty of water.

Mr. WICKLIFFE. What is the depth of the water?

Mr. ARNOLD. I would answer with great pleasure any inquiries in regard to this proposed work. What information I have I will willingly communicate to any gentleman; but I cannot permit my time to be consumed by questions not springing from a desire to obtain information, but from a desire to impair this measure.

Mr. F. A. CONKLING. If the gentleman will permit me, I will avail myself of his offer a moment since to inquire the size of the present channel of the Illinois and Lake Michigan canal, its depth and width?

Mr. ARNOLD. If the gentleman will look at the report of the Committee on Military Affairs, he will find an answer to his interrogatories. That committee has made a full report upon this subject, and, without taking up the time of the House, I will refer the gentleman to that document for the information he desires. The Committee on Military Affairs has made a report upon that canal, in which its importance, as a military measure, is strikingly presented to the consideration of the House. I will not consume the time of the House by recapitulating the reasons why, as a military measure, they ask the Government to construct this canal. The great fact is obvious to every intelligent mind that while our side of the frontier of the lakes is utterly defenseless, with all its vast commerce and agricultural products, Great Britain has the means of throwing into the lakes a fleet of gunboats, within the short period of ten days, to desolate and lay waste that commerce, and to bombard and destroy those cities and towns which line their entire southern shore. And I want to place upon record here to-day the statement, which I firmly believe, that in the event of difficulties with Great Britain, which is not so very improbable, in ten days she can destroy property enough to build this canal, and hundreds of millions more.

I ask gentlemen, in view of these facts, when the State of Illinois comes forward and proposes that all this work shall cost not exceeding ten million dollars, and when she only asks your credit to the amount that the tolls received will pay the interest upon, how it is that gentlemen who desire that frontier protected and defended, can vote against this proposition.

HOW CAN THIS WORK BE ACCOMPLISHED, AND AT WHAT COST?

There is a portage of about thirty-six miles from Lake Michigan to that point on the head-waters of the Illinois, where it can be made navigable; by cutting through this portage and improving the river you have a steamboat canal from the lakes to the Mississippi. By these means, by this canal, all that portion of the continent lying east of the Mississippi and south of the great lakes and river St. Lawrence becomes an island.

This work has been already more than half accomplished by the State of Illinois, aided by a small land grant from Congress, made as early as 1827. Illinois has expended over six million dollars on this work, which was completed in 1848. It now yields an annual revenue of from two hundred thousand to two hundred and fifty thousand dollars. This would be very largely increased by the improvement of the Illinois river. Illinois offers this canal and its revenue to the United States on condition that Congress will provide the means of enlarging it so as to pass gunboats and vessels of war from the lakes to the Mississippi and the ocean, and from the Atlantic to the lakes.

This, as has been clearly shown by the Military Committee, is necessary as a military measure to place us upon an equality with Great Britain. That power has already constructed canals which enable her to pass gunboats from the ocean and the St. Lawrence to the lakes. We are to-day utterly defenseless against iron-clad gunboats, which she could bring from her navy-yards in England through these canals; and thus the vast commerce of the lakes, and the great agricultural products of the West, and the wealth of the lake towns, would be at the mercy of these gunboats. We are prohibited by treaty from constructing gunboats or armed vessels on the lakes. Enlarge the Illinois and Michigan canal as proposed, and the gunboats and mortar boats, which have contributed so greatly to the success of our arms in the valley of the Mississippi, could be transferred in case of need at once to the lakes.

Had this canal been enlarged at the breaking out of the rebellion, the naval resources and power of the country would have been far greater than it was. The twelve hundred steamers, tugs, and vessels, and fifteen thousand sailors now locked up on the great lakes, would have been at the disposal of the Government. With the mechanical and manufacturing facilities of the lake cities, with the ship timber, iron, and other materials on the lakes, gunboats would have been made ready months earlier than they were, and long ere this the same skill and valor which have won the great victories at Fort Donelson, Island No. 10, and Pea Ridge, would have carried our flag in triumph over New Orleans. The valley of the Mississippi would have been long since entirely reclaimed and the rebellion suppressed.

The Committee on Roads and Canals state that from a careful consideration they are clear in their judgment that had this ship and steamboat canal been in existence during the past year, it would have saved to the Treasury, in the transportation of troops, arms, ordnance, and munitions, and in cheapening and facilitating the building of gunboats, and in enabling the armies to have commenced operations in the field earlier, more than one hundred million dollars. The value of this work, in a military and commercial point of view, can scarcely be exaggerated; and its value will be constantly increasing with the progress of our country in population, agriculture, commerce, and manufactures.

The committee add that this work may now be properly characterized as a military, commercial, and political necessity. It will benefit every section. To New England it will lessen the price of food; to New York and Pennsylvania it will give increased trade and commerce; and to the West it will cheapen every article of domestic or foreign manufacture. It will bind still closer the lakes and the valley of the Mississippi, and make the East and West one in destiny forever.

The only objection which has been suggested to this work is its supposed draft upon an already overburdened Treasury. This objection the committee report they have carefully considered, and believe that the interest on its cost will be promptly paid by the tolls of the canal, and that such tolls will provide a sinking fund which will, at an early day, discharge the principal, and thus this great national work, free always for the military purposes of the Government, having paid for itself, would become free to the vast and constantly increasing commerce of the lakes and the Mississippi. It would save to the Northwest, every year, in lessening the cost of transportation of its staples, more than its entire cost. It would, the day it was completed, add to the taxable property of the nation an amount the taxes upon which, under the present tax law, would more than pay the interest on its cost. These were some of the reasons which secured for this bill the cordial approval of the Committee on Roads and Canals.

WE, AS A NATION, HAVE BEEN ASLEEP WHILE ENGLAND HAS BEEN WIDE AWAKE AND SAGACIOUS.

It will, perhaps, astonish some to be told that Great Britain to-day has as perfect command of the lakes as she has of the British channel. If she is mistress of the ocean, she is also emphatically mistress of the lakes. She has secured by her canals ready access to them, while we are prohibited, by treaty, from building gunboats to meet her.

The enlargement of the Illinois and Michigan canal has, by the conduct of Great Britain, been rendered a clear, absolute, military necessity. A failure on our part to construct it would now be sheer stupidity. England has, by her canals, made the lakes as free to her navy as the ocean.

"Her path is on the ocean wave,
Her home is on the deep;"

may, ere we are aware of it, be changed to—

"Her path is on the ocean wave,
Her home is on the *lakes*."

She to-day regards her supremacy there as absolute. So say her public men in Parliament. So say her press.

We are forewarned; let us be forearmed. I appeal to New York to secure, by this canal, her great cities of Rochester, Buffalo, and Dunkirk, the termini of her vast railroads, and that immense commerce which has placed the crown of empire on her brow. Buffalo and Black Rock were burned in 1812. Make this canal, and the outrage will never be again repeated. I appeal to Pennsylvania in behalf of Erie, and to Ohio in behalf of Cleveland, Sandusky, and Toledo, and her other lake towns.

JUSTICE TO THE NORTHWEST DEMANDS THE ENLARGEMENT OF THIS CANAL.

The northwestern States embrace one half the loyal people of the Union. While Congress has appropriated at this session nearly fifty millions for forts, ships, &c., on the Atlantic, not one million has been given to the Northwest. Your great naval depots, ship-yards, arsenals, armories, at the East have received large appropriations. There is no depot nor armory nor ship-yard nor foundery on all the northern lakes. I beg the attention of the House to the following table, prepared by the Secretary of the Treasury in July last:

Statement showing the amount of money expended by the Government of the United States from the adoption of the Constitution to the 30th of June, 1860, in each State and Territory of the Union, for navy yards, custom-houses, court-houses, and other public buildings; for the improvement of rivers and harbors, and for the construction of forts, arsenals, and armories.

Maine	$2,680,243 59
New Hampshire	2,372,058 11
Vermont	413,449 57
Massachusetts	11,026,625 34
Rhode Island	2,176,082 39
Connecticut	898,843 25
New York	17,366,240 88
New Jersey	684,184 74
Pennsylvania	4,140,330 43
Pennsylvania and Delaware	38,413 00
Delaware	3,852,341 78
Maryland	3,444,464 63
Virginia	12,820,990 52
North Carolina	2,483,853 60
South Carolina	3,782,630 40
Georgia	2,213,426 86
Florida	10,372,185 63
Alabama	2,581,398 52
Mississippi	354,388 51
Louisiana	8,973,875 68
Texas	241,031 77
Arkansas	353,611 22
Missouri	953,717 57
Kentucky	388,589 23
Kentucky and Tennessee	155,000 00
Tennessee	70,616 02
Ohio	1,651,783 78
Indiana	351,567 46
Illinois	961,728 78
Michigan	1,470,557 30
Wisconsin	421,513 14
Iowa	499,817 04
Minnesota	110,561 18
Kansas	55,744 84
California	7,854,659 55
Oregon	118,624 31
Territory of Nebraska	49,996 34
Territory of New Mexico	91,798 53
Utah Territory	64,998 90
Washington Territory	164,041 73
Expenditures for improvements of the western rivers, chargeable to the States through which the rivers pass	2,068,000 00
	$111,773,986 12

F. BIGGER, *Register.*

TREASURY DEPARTMENT, REGISTER'S OFFICE,
April 16, 1861.

Illinois, the fourth State in the Union, out of $111,773,986, has received less than one million dollars.

Florida, with a white population of less than that of the congressional district I have the honor to represent, has received $10,372,185 63.

Louisiana, with a relatively small population, has received $8,973,875 68.

I appeal to the justness and fairness of our friends in the older States to help us. The West has borne the brunt of this war, and received very few of its immediate advantages growing out of the expenditure of money. Pennsylvania, I think, can afford to be liberal. We ask nothing for our immediate local advantage, but when we ask aid for a work so national, so necessary to national

defense and security, so beneficial to every section, I trust we shall not ask in vain.

WILL THIS CANAL, WHEN COMPLETED, PAY INTEREST ON ITS COST?

The present canal is about ninety miles long, and, owing to the low water in the Illinois river, there is not ordinarily more than three or four months of full navigation to the Mississippi. The cost of improving the Illinois, so as to furnish at all times a full supply of water and good steamboat navigation to within thirty-six miles of Chicago, is estimated at $1,600,000. This estimate, by Messrs. Gooding and Preston, State engineers, and after careful survey, is perfectly reliable. Yet the canal pays now about $200,000 per annum. Improve the Illinois river, and you have a distance of a little over three hundred miles of canal and river navigation from which to derive tolls. Instead of three months yearly navigation, you have eight. You have in addition to the present local business the Mississippi and its tributaries. You have an interchange of commerce by steamboat, of the lakes, and the great Father of Waters, reaching together, at a low estimate, $500,000,000. You have this, with less than one tenth of the land contributing to that commerce under cultivation. Who can tell the future of this commerce? There is not on this earth a position where the same amount of money expended will accomplish such vast commercial results.

Recall the history of the New York canal. See its rise in revenue from almost nothing to an annual revenue of $3,800,000; its tonnage rising from 387,500 in 1837, to 2,456,625 in 1861. The wheat and corn carried from the West increasing from 284,902 barrels in 1837, to 13,498,523 in 1861.

Looking at these and other statistics, no sensible man will doubt but this Illinois canal will, in a short time, pay for itself, and become, as it ought to be, free as the great waters it will unite. Thirty-six miles of cutting, already more than half done, is the only obstacle to letting a Niagara of waters from the lakes into the Mississippi, a Niagara of trade from the valley of the Mississippi to the Atlantic. The military necessities of the country, and the wants of commerce alike demand that this work be done. These are too strong to be resisted. He who stands in the path of these improvements, to hinder or delay them, will be swept away.

Mr. ELY. Mr. Speaker, not many days since this House received the agreeable intelligence that one of our brave generals, coming fresh from the field of his renown, had arrived at Norfolk, and that he came through the Chesapeake and Albemarle canal, after clearing the obstacles by which the enemy sought to obstruct his passage. Sir, he came not only through the canal, but in a gunboat, an armed vessel of war, as if to show to the country, and afford a practical proof to Congress, when most needed, that canals had now become necessary naval channels of war.

The object of the present bill is to utilize this important truth without delay, and to adapt to the purposes of war and of the public defense, the capacious navigable channels provided by the canals of the State of New York, needing not exactly the removing of obstacles, but the substituting of locks of adequate size for those which are now insufficient for naval purposes. Can this Government do this work; ought they to do it; and will they do it? These, Mr. Speaker, are the questions to which I shall briefly call the attention of the House. Reversing this order, however, I shall begin by asking whether they ought to do it.

I shall not occupy much of the time of the House in explaining the value of the commerce of the lakes, which is so fully before the House in the various reports and documents, that very little is left to be said by way either of explanation or argument.

The great and pressing question before this House is, will the proposed enlargement of the canals furnish adequate means of defense? Will the proposed channels suffice to pass vessels of sufficient size? While the enlargement of the canal will almost of necessity enhance commerce, I do not urge it on that ground, although it may very well be done for that purpose alone. Living as I do upon that great stream of commerce, and in my daily sight, it would not be surprising if I should indulge somewhat at large on this branch of the subject; but my motives are of a much higher aim. And knowing, as I do from personal observation, that the vast commerce of the lakes is entitled to the fostering care and protection of the Government, and knowing that at this moment the lakes float more than thirteen hundred American vessels, manned by at least ten thousand hardy seamen, I would speak. Is there any man in this House who will not join me in defending these seamen, and this vast amount of property now floating upon these mighty lakes? If so, let him rise, and let me see his face. Do not gentlemen know that we waged a bloody war with Great Britain on account of the impressment of a few hundred, perhaps a few thousand seamen, and that it was not only for free trade, but for sailors' rights this war was waged? Shall we now sit stupidly by and allow the same domineering Power to proclaim through their journals that they are ready at any moment to pour into these lakes squadrons of iron-clad gunboats, not only to devastate our commerce, but to capture and imprison our seamen, the hardy mariners who buffet the wild storms of the boisterous lakes?

I wish any gentleman representing maritime districts of this country on this floor to tell why protection is due to American seamen on the Atlantic, and none to those upon the lakes; and, when up, I wish him, also, to tell me why our maritime cities are encircled by vast and costly fortifications, and our long line of thriving cities and villages, stretching fifteen hundred miles—from Ogdensburg to Chicago—should be left to insult, sack, and pillage. Have not the British journals expressly and insolently proclaimed that when spring shall open, remote Milwaukee and Chicago would be exposed to "the assaults of their squadrons"—not single gunboats or straggling marauders, but whole squadrons pouring into these waters from the British navy.

[*London Times, January* 7, 1862.]

"Many people may be surprised to learn that, in the event of an American war, the safety of Canada is likely, in the first instance, to be threatened by water and not by land. Such, however, in some sense, is really the fact, and a glance at any ordinary map of North America will show from what geographical conditions the anomaly arises. The richest and most populous territories of Canada lie on the banks of a mighty river and the shores of vast inland lakes.

"It was found, in the campaign of 1813, that these lakes became the scene of the most decisive conflicts, and two victories which were successively gained by the American flotillas, led, not indeed to the meditated conquest of Canada, but to the temporary ascendency of our enemies in these internal waters." "It was not until we acquired a superiority on Lake Ontario that the Americans relinquished these hopes of Canadian conquest. At the conclusion of the war both belligerents were busily engaged in building ships for future battles, so that great naval arsenals were actually established in the middle of a continent, and at a great distance from the sea. The treaty of peace, however, terminated this rivalry, and a principle, which has vainly been recommended in European negotiations, was practically recognized in the case before us. The two rival Powers, on the two shores of the lakes, instead of running a race against each other, decided that there should be no race at all. Instead of building ship against ship, and frigate against frigate, they agreed to build, in time of peace, no vessels of war whatever; and, at this moment, there lies in one of the American harbors an eighty-four gun ship, which, after being commenced in 1844, was left, in virtue of these stipulations, to remain unfinished up to the present day.

"In the event, however, of a renewal of such hostilities as were terminated by the treaty of Ghent, there would be a renewal, of course, of operations on these inland seas; for the command of the water which separates Upper Canada from the Federal territories would be equivalent to a command of the field. It becomes a question, therefore, of great interest to ascertain how this superiority is likely to be determined, and we publish this evening a detailed statement of the various conditions by which the result will be governed. It will be seen that the matter divides itself into two periods, of which the first would be the most critical for England. Up to the month of April next, the lakes may be regarded as inaccessible from the sea, and therefore whatever force is created there must be created on the spot. The Americans would build and launch their gunboats and their rafts, and so could we. Not much could be done probably on either side, as all the vessels must be extemporized from materials actually at hand. On both shores there are railways leading up to the water's edge, but the Americans have the advantage in population and resources at the critical points, and Sackett's Harbor, their arsenal on Lake Ontario, is an establishment for which we have no match. Still, timber is plentiful; guns, munitions, and steam machinery could be transported by railway; and so widely has the country been civilized since the last war that some of the most important towns of the Federal States, such as Milwaukee and Chicago, have risen on the shores of these once remote waters, and are consequently exposed to the attacks of our squadrons. The risks, therefore, are divided, and the opportunities for inflicting mischief are divided also. It may, perhaps, be admitted that for the next three months the Americans, being more numerous and powerful than the Canadians, might succeed in placing on these inland seas a larger flotilla than could be launched in the same time by the colonists, but it must be remembered that this flotilla must, in any case, be rudely extemporized, and that earthworks, judiciously constructed and well armed, would suffice for the effectual protection of the menaced points against such feeble assailants.

"As soon, however, as the St. Lawrence is opened again, there will be an end of our difficulty. We can then pour into the lakes such a fleet of gunboats and other craft as will give us the complete and immediate command of these waters. Directly the navigation is clear, we can send up vessel after vessel without any restrictions, except such as are imposed by the size of the canals. The Americans would have no such resource. They would have no access to the lakes from the sea, and it is impossible that they could construct vessels of any considerable power in the interval that would elapse before the ice broke up. With the opening of spring the lakes would be ours, and if the mastery of these waters is indeed the mastery of all, we may expect the result with perfect satisfaction. On the whole, therefore, the conclusion seems clear that three months hence the field will be all our own, and that in the mean time the Americans, if judiciously encountered, would not be able to do us much harm."

I presume no gentleman of this House has failed to read the interesting historical exposition of the long cherished and carefully matured designs of the British Government to secure the naval command of the lakes, commencing with the Duke of Wellington in 1814, and steadily prosecuted under the advice and direction of that eminent military chieftain. They will find it all condensed in the admirable memorial of the State of New York, presented by one of its able and distinguished public servants, who having ardently devoted his life and talents to the great object of expanding our vast internal commerce, now employs his riper years in earnest and patriotic efforts to secure from the Government prompt and adequate defenses of that same commerce from hostile aggression. I am proud to call him my personal friend. I know him well, and I now say, in the presence of this House, and to the country, that the man does not now live who has done so much for the internal commerce of the American Union as Samuel B. Ruggles, the official and legitimate successor of De Witt Clinton, not alone the Governor, but the great Canal Commissioner of the State I have the honor in part to represent. I further affirm that of the long series of his numerous expositions, equally accurate and eloquent, of the priceless national value of our lake commerce, not one approaches the document now laying on our table. With the hand of a master he now teaches, lays bare before the nation the vital secret of the nation's strength. It was not possible for him to demonstrate the necessity of adequate lake defenses without exhibiting the vast extent and fundamental national importance of the commerce to be defended. Fortified at every step by official tables, the demonstration is complete. Let them answer it who can.

I would ask, then, with such facts before us, what infatuation can induce us for a moment to leave this great field of commerce undefended? In the striking language of the report from the Military Committee, this great chain of waters, with all its teeming commerce, "is now as open to incursion as was Mexico when invaded by Cortez."

The attention of this House has been much occupied with military affairs. Among its students of military history, who will point out in the annals of human warfare any military or naval movement more extensive and destructive than the sudden capture of the whole line of coast of these vast interior regions, so well denominated the common granary of the Union? What was the capture of Vienna or the march to Moscow in comparison to this? Under wise diplomacy the danger may not be immediate, but it is enough for me to know that is even *possible*. I trust we may live for many years on friendly terms with our powerful neighbor; but I, for one, do not relish the menaces in which he is so quick to indulge on very inadequate provocation. The paw of the British lion is rather too plainly in sight on these peaceful lakes.

In urging upon Congress the necessity as well as the justice of the very moderate appropriation required by this bill for defending the frontier of New York, which adjoins no less than three of the six great northern lakes, I contend first, that this peculiar extent of exposure entitles her to ask for prompt and adequate national protection; second, that the duty of affording this protection is one she cannot discharge for herself, but is emphatically and exclusively national, required by the most solemn obligations of the Constitution, under which the General Government expressly assumed the sovereign obligation of providing for the common defense of the States. So exclusively national is this obligation; that the States are expressly prohibited from keeping ships of war in

time of peace. With what reason, then, can you ask any State to construct a naval channel for ships of war, when you expressly prohibit the States from keeping the ships themselves? My State has already expended $43,575,000 in providing these very channels, which she happened to need for purposes of commerce. Her present locks are now large enough for any existing requirements of her local commerce. The enlargement of the locks proposed by this bill is now needed only by the General Government to enable it to discharge its solemn obligation to secure the public safety. New York, by her legislative act of April 22, 1862, duly transmitted to the President, places her $43,575,000 of property at the disposal of the General Government, free from toll or charge. Cannot the Government afford to expend the slender pittance of $3,500,000 needed to preserve the national commerce, the national safety, and national honor; or will you leave her wholly defenseless, with her citizens and communities under the menaces of a Power ready at any moment to precipitate her hostile squadrons into the lakes?

Sir, I maintain that such a neglect of duty would be neither just nor generous towards the State. She has a right to remind the General Government that when she entered the Union she surrendered all claim to foreign imposts, which her geographical position made peculiarly her own. She then gave up the very resources which would have enabled her fully to discharge the duty of defending herself; and she may now rightfully ask that you expend this very slender percentage of $3,500,000 in protecting from foreign invasion, not only her citizens and property, but those of a long line of loyal States now seated around the lakes.

New York sincerely cherishes and will ever cherish these great internal communities. Their interests are identical with her own, and she asks quite as much for them as for herself. It is not for herself alone that she seeks protection, but for that grand division of the American Republic lying beyond her western limits. In this feeling of true nationality she rejoices to perceive that she has the sympathy of enlightened New England. In proof of this I need only adduce the evidence furnished by a letter, which I hold in my hand, from Governor Andrew, the chief magistrate of patriotic Massachusetts. Governor Andrew, in a patriotic letter, which does equal honor to his head and to his heart, speaks to the West and to the nation, as follows:

BOSTON, *June* 23, 1862.

MY DEAR SIR: I find it utterly out of my power to secure any half hour in which to write you an intelligent word in reference to the very important and weighty matter of your memorial, concerning the adaptation of the canals of New York and Illinois to the defense of the lakes. Nor, indeed, shall I find opportunity until I reach home, which I hope to do to-morrow night. But I need not assure you that you have my sincere good wishes and entire sympathy. I wish my humble power could give you any valuable cooperation. Even if the argument on the facts were far less convincing than it is, I would promote this measure, as an earnest of our unconquerable will to live and thrive as a continental, independent, and beneficent Power; on the one hand, planting the seeds of a richer and greater life, both moral and material, even in the midst of war; and on the other hand, as an earnest of the cordial confidence and faithful trust entertained by the heart and brain of New England in our brethren of the imperial West.

To refuse aught, which, uniting by artificial conveniences of commercial or military communication the West and East, serving also to bind our hearts and mold our interests in more intimate union, would be narrow, even to selfishness, and selfishness is always narrow and always blind. Whatever makes man happy, prosperous, hopeful, and free, is a blessing to us all. Spend whatever you wisely may for the development of the West, the industry, patience, and skill of the New England people will know how to reap their share of the benefits of the expenditure.

I am, with great respect and regard, your faithful and obedient servant, JOHN A. ANDREW.

SAMUEL B. RUGGLES, Esq.

I have said, sir, that New York does not need the enlargement of these locks for any local purpose of her own, however much she needs them as part of one great undivided nation. I repeat, sir, her local commerce does not need them, and I refer to the triumphant demonstration afforded by the statistics now on your table, proving that of the total commerce of these canals the local portion furnished by the State of New York is but one in thirteen. Yes, sir, of the 14,454,000 barrels of flour, wheat, and corn transported on her canals during the last season, only 955,000—less than 1,000,000—came from her borders. The immense residue of 13,498,000 was poured into this great national channel by the States lying west of Buffalo. Sir, I am not pleading for the safety of the scanty cargoes of New York, for they are all safe within her borders; but I do plead for protection for this enormous mass of vegetable wealth of our sister States, necessarily exposed on their widespread waters to maritime assault and devastation; whose road to market lies through these waters menaced by a foreign Power.

Have the members of this House any adequate idea, not merely of the value but of the actual mass of the property thus exposed to capture? Let them turn to the statistics of the New York memorial, and compute from that the linear extent of 20,363,000 barrels at two feet to the barrel, and then tell me how much it falls short of seven thousand seven hundred miles. Does not the New York memorial truly state that it would span the American continent from New York to San Francisco, with a remnant nearly long enough to cross the Pacific? By the time gentlemen have completed this calculation, they will begin to comprehend the extent of the American fleets which carry these enormous cargoes. They will then begin to feel the transcendent necessity of protecting not only the thousands of seamen who navigate these waters, but of preventing the vessels themselves from being carried down to the sea as prizes of war through the canals of Canada, now opened wide to receive them.

Mr. Speaker, the American Union cannot afford to lose these cargoes or to expose them to any needless hazard whatever, for I affirm, and now challenge any member of this House to deny the statement, that these very cargoes now furnish almost exclusively the means for foreign export, by which alone we purchase the duty-paying imports from which the national Treasury derives its revenue.

Again, sir, I invoke the unquestionable evidence of our official statistical tables, and the proof they so strikingly furnish, that our exports of breadstuffs and provisions during the last year of commerce and navigation have been $93,969,000, while the exports of cotton during the same year were but $34,510,000. I freely admit—nay more, confidently expect—that the time will come, sooner or later, when we shall recover a portion, at least, of our former exports of cotton; but until that time arrives, on the food of the lakes you must rely to yield the revenues which alone can pay the expenses of the Government.

I beg gentlemen to reflect that every $10,000,000 of increase in our exports, purchasing an equivalent amount of duty-paying imports, will yield, even at the low tariff of twenty-five per cent., $2,500,000, a sum exceeding the annual interest of near $42,000,000 of expenditure. Cannot the United States at least afford to expend the $3,500,000, which, by cheapening transportation of these great products of the West, will immediately and inevitably cause this very increase? It is no answer to say that we are in the midst of war of an exhausting character; for I deny, sir, that our resources are exhausted. My own State has poured out more than a hundred thousand men and a hundred millions of money, but she is not exhausted. She is ready and willing to double the amount if you require it. She asks you only to discharge your constitutional duty to provide for the common defense of herself and her numerous sister States not less loyal and patriotic than herself, and alike entitled to protection. You are now fully apprized of their danger. It is not only brought distinctly before you, but as if to stimulate our lagging, it is haughtily proclaimed by the British press. The country and the world are looking on, and expect us to discharge our duty, and our whole duty, with a due regard for the present and a just comprehension of the future.

Mr. POMEROY. Mr. Speaker, I desire to submit some considerations specially upon the political bearings of the bill under consideration, and particularly of the amendment proposed by the committee relative to the canals of New York in its connection with the unity of the Republic, our geographical location, territorial extent, continental position, and international relations.

We who have known only the benefits arising from the adoption of the Federal Constitution realize little of the difficulties, opposition, and jealousies among which it was established. Had the sentiments of nationality which now pervade the country been then anticipated, the jealousy of State pride would have defeated it altogether. Had it then existed, the triumph of its adoption would have been an easy one. It was through a fearful struggle and by a happy combination of temporary influences that the Constitution was adopted at all, and there has been no time during the past half century when the same States could have been organized under the same Federal Government. Such an organization could not be accomplished now, *ab initio*, even by the States still loyal. Strangers to our political system are fast learning that this seeming element of weakness is seeming only, and that from the consciousness of the danger of attempting reconstruction the impulse to preservation becomes irresistible. Conflicting as were opinions respecting even Federal unity, no developed purpose of giving birth to a nation of continental proportions then existed, none such was incorporated into the Constitution. They were content with the express provisions for national expansion, through the incorporation of the existing Territories into future States, contained in the written instrument, though thereby the nation, when fully grown, should be flanked by the Mississippi, and though the Florida Keys, the mouths of the Mississippi, and the whole Pacific coast should be the inheritance of strangers.

Since that day a new and dominant principle has grown up out of our political life, that of continental national unity, of which the acquisition of Louisiana, Florida, Texas, and California, and the promulgation of the Monroe doctrine were, in their order, but successive stages of development, of which the magnificent army now in the field is the ripening fruit. This principle, feeble, if existing at all in the minds of those who founded our Government, is to-day the motive power on which depends its preservation. It forms the principal element in the great current of national feeling which uplifts and bears onward the enthusiastic tide of patriotism before which debt and death are nothing in comparison with national dissolution. It is no blind adoption of a belief in a manifest destiny, it is a proud consciousness of an accomplished fact. I refer to this national sentiment in this connection, and only incidentally, because while the body of the Constitution remains the same and the purposes of its creation unchanged, the maintenance of the one and the accomplishment of the other may and do come to depend, from time to time, upon other new and not inconsistent principles developed by our own growth and the shifting circumstances of other nationalities. The ties which bind us to the Constitution, the lofty purposes which we desire it to subserve, the spirit in which its powers shall be exercised, may to-day be very different from those which surrounded its adoption. It would present a singular fact in history if the most susceptible people in the world, with the most susceptible form of Government, had quadrupled its territorial possessions, trebled the number of its States, doubled its population with every generation in geometrical progression, made a progress unexampled among nations in material, moral, and educational enterprise, harnessed steam to its industry and lightning to its thought, and yet had awakened no new ambition and stamped no new ideas into the spirit of its Government, however unchanged it might remain in form. The difficulties that environ our national pathway attest that such is not the fact. They spring from no difference of opinion as to form of government, but from radical differences as to underlying principles and interests which have been evolved, strengthened, and antagonized with the vigorous growth of our seventy years of national life, and the alternate triumph of which, in the administration of the country, is for the time being equivalent to an adoption of them into the fundamental law.

Whatever violence may have been inflicted upon the letter of the law by the successive acquisitions of foreign territory without express constitutional power has been more than compensated by the new sentiments of nationality which will hold the Florida Keys, the Delta of the Mississippi, and the Golden Gates of the Pacific with the same tenacity as the Atlantic coast and the harbor of New York. Florida was purchased not for her swamps inhabitants, or slaves, but because her coasts commanded the Gulf and Gulf stream, and were necessary to protect the common commerce of the Union; and whatever becomes of her swamps, negroes, and traitors, her coasts will be held for that common purpose. The existence

of constitutional government has become inseparably interwoven with the preservation of national unity. However honest in intent, the man is in the act a traitor who consents to part with either; and to-day he best defends the Constitution who strongest cements the Union. The fact of Federal Union gave to the United States the leading position as a nationality on the North American continent, and stupidity alone would have failed to exercise the power thereby acquired to attain by all honorable means the continental proportions indicated to them by the geography of the country. Nature had already designed what man has accomplished. Our mission, almost divine, is to bind together this great empire which has been committed to us, so that its protected frontiers shall henceforth offer no inducement to foreign aggression, and its social and material interests no bribe to individual ambition or domestic insurrection.

We have nearly the whole temperate zone of the North American continent washed on each side along two thousand miles of coast by the waves of either ocean, the half of its southern line resting on the Gulf of Mexico, and the half of its northern bounded by the greatest connected chain of inland waters in the world. The Alleghanies running parallel with and near to the Atlantic on the east, and the Rocky mountains in the same relative position to the Pacific on the west, pour down their steep ocean slopes innumerable and perpetual streams, the waste water from which, after supplying the utmost need of our own continent, might drive the stationary machinery of the world. Midway between, the Mississippi starting its navigable waters in the extreme north, traverses a valley of a thousand miles in width by two thousand in length, and more wonderful for its fertility than for its size, while its tributaries, the Illinois, Ohio, Tennessee, and Cumberland on the one hand, and the Missouri, White, Red, and Arkansas on the other, float toward it from the very gorges of the great mountains their freights of agricultural and mineral wealth. Excepting the peninsula of Upper Canada, the possession of which is in all respects desirable to the United States, there is no portion of the continent without our limits which even covetousness should desire. It was never designed, however, that the almost boundless cereal productions of the Northwest should be borne to market through the torrid heat of the Mexican Gulf and the middle ocean. Were that the only outlet, a hundred million bushels of growing corn would be shut out from market, and become worthless except for fuel. The course of the great lakes commencing within a few miles of the headwaters of the Mississippi, and stretching with their rivers easterly to the Gulf of St. Lawrence, complete the want without which the rich granary of the Northwest would but mock the hunger of the world. Did the isothermal lines running easterly from the Pacific correspond with the parallels of latitude, Great Britain, in the possession of the river and Gulf of St. Lawrence, would hold the natural outlet of this inland commerce to the ocean. The climate of the Atlantic coast, however, drives this commerce down to the latitudes of Portland, Boston, and New York, the waters of whose bays scarce maintain a victory over the frosts of winter, in the line of which the plateau of central New York invites art to unite the waters of the lakes with the tide waters of the Hudson. As if not content with these all-sufficient and unmistakable evidences of adaptation to the uses of a great and united people, nature has provided a second coast line within the shifting sands of the outer Atlantic shore, by various gulfs and bays, so that with an aggregate of sixty miles of artificial channel, connecting New York, Delaware, and Chesapeake bays with Currituck, Albemarle, and Pamlico Sounds, the whole coasting trade of the Atlantic may be done upon the waters of the ocean without exposure to the ocean itself.

The necessities of commerce, without one dollar of expenditure by the general Government, has already compelled the enterprise of individuals and of the individual States, without reference to any question of public defense, to construct every one of these artificial channels, thus plainly indicated upon the map of the country, so that for purposes of trade, direct inland communication exists excepting Maine, South Carolina, Georgia, and Florida, between each of the States and every other east of the Rocky mountains, and with the improvements contemplated by the pending bill each may in the same manner be reached from every other by efficient gunboats for purposes of defense. The operations of the present year demonstrate the important part our rivers are to bear in internal military operations hereafter. Europe was startled a few years ago by a clearance presented at Liverpool from the port at Chicago. It has been equally startled by victories won by flotillas in inland Alabama, Mississippi, and Tennessee. The importance of our lakes and rivers not only for purposes of commerce but as military highways for purposes of war must receive attention.

Whatever prominence the cheap labor of slaves and the constantly stimulated demand for cotton may have given during the first half of this century to the cotton fields of the South, the census tables establish the fact that the agricultural wealth of the nation has already centered among the free homes and the broad corn fields of the Northwest. Comparatively undeveloped as are the resources of that section of the country, these statistics show that for the year preceding the census of 1860 the production of the lake States of Ohio, Michigan, Indiana, Illinois, and Wisconsin, was in wheat and corn alone seventy-eight million bushels of the former and two hundred and seventy-five million bushels of the latter, of which more than one hundred million bushels are annually exported in the shape of flour and grain, aside from the large amount further exported in the shape of beef, pork, tallow, lard, and oil, and more than two thirds of which is conveyed to tide water through the Erie and Oswego canals.

The numerous fleet engaged upon the lakes in this transportation of breadstuffs, and the corresponding return of merchandise and other equivalents, was shown in the able report submitted by the honorable gentleman from Illinois, [Mr. ARNOLD,] early in the session, in connection with the bill introduced by him relative to lake and river defenses, and to which I take the liberty to refer. Forty miles of canal boats are employed throughout the season of navigation, mainly to connect this lake commerce with the eastern States and the ocean. The demand for grain for foreign exportation is not an accidental or factitious one, but permanent, and steadily increasing, and which the policy of the manufacturing countries of the Old World in removing the obstructions to the importation of corn, must continually increase. I will detain the House with no statistics upon this point, nor will I dwell upon the varied industries of our own country, the dependence of each upon the other, and primarily of all upon the region about the lakes for food, and the dependence of that again upon the lake transportation, and the Erie and Oswego canals, for delivery at tide water. I refer simply to the census tables and to the official and reliable statistics, in part compiled from that source, contained in the valuable paper prepared in behalf of the State of New York by Hon. Samuel B. Ruggles, accompanying the message of the President, which was communicated to the House on the 13th instant.

Great Britain at an early day, with a view to the aggrandizement of her colonial possessions through the carrying trade of this rising commerce, and with a prudent foresight to a naval supremacy upon the lakes, entered upon a system of improvements designed to accomplish both purposes, by which the outlays for defense were to be remunerated in the profits of trade. While our own Government was refusing even the few thousands necessary to keep open safe and sufficient communication through the St. Clair flats, Great Britain, at an expense of millions, had constructed the Rideau canal, connecting Lake Ontario with the Ottawa river, and thus opening communication through an interior channel between Kingston and Montreal, the canal being five and a half feet in depth and with locks thirty-three feet wide by one hundred and forty-two feet in length. She had also opened communication between the ocean and Lake Ontario by canals around the falls of the St. Lawrence, eight feet deep, and with locks forty-five feet in width by two hundred feet in length; and had connected Lakes Erie and Ontario by the Welland canal, seven feet in depth, with locks twenty-six feet in width and one hundred and fifty feet in length. She had also projected, though not completed, a ship canal to connect Lake Ontario and Georgian Bay through Lake Simcoe, and also another to connect the Ottawa river with the Georgian Bay through Lake Nississing, so as to open much shorter communication with the lakes above the St. Clair river, and avoid all danger of impediment from the St. Clair flats. Without reference to any question of defense or naval supremacy, New York, for purposes of commerce alone, has connected the Hudson river with Lakes Erie and Ontario by canals seven feet in depth by seventy in width, with locks one hundred and ten feet in length by eighteen in width, at a cost of nearly $45,000,000, and abundantly sufficient for all present purposes of trade. These are the only canals we have connecting tide water with either of those lakes of sufficient capacity to float a gunboat. They are upon the only route practicable for that purpose. These canals have long since ceased to be a local improvement. Already only one thirteenth of the grain transported upon them is of the produce of New York, and only one third of the productions of the forest. Michigan and the peninsula of Canada have long raised the wheat from which the bulk of the Genesee flour is manufactured. Old and New England and the States north of the Ohio river are in fact the proprietors of the business upon the canals of New York.

No person can give even a casual attention to the resources and multiplied statistics of the country and its inland transportation without conviction of the importance of protection proportioned to the interests at stake, nor without becoming insensibly disrobed of all prejudice against the pending measure as one of local concern. Investigation but swells the magnitude of the proportions of the subject. We hesitate at facts, and shrink from estimating the probabilities of the future by the certainties of the past.

The hard concussions of civil war are, through much patient suffering and great temporary loss, happily knocking us loose from the contracted platforms and policies of old organizations, and setting us adrift upon a new and open sea of political inquiry. An empire is being saved—when saved, it is to be developed and defended. The struggle for national salvation compels us, for the time, to subordinate abstract principles of constitutional law and political science, to the practical investigation of the sources of national wealth and strength, and to an immediate realization of our formidable power. It is a happy circumstance that the expenditure provided for by this bill, though furnishing the most economical means possible for defense, is of itself the most judicious means of development for the material resources of the country. Every dollar of the millions expended upon your fortifications is, except for the one purpose of defense, a dollar thrown away. It never contributes to plow a field, propel a ship, turn a spindle, or weave a woof of interest into the great webs of national capital. Every dollar expended upon this work is a dollar at compound interest through all coming time, not only as regards the general wealth of the country, but also in its direct effect upon the Treasury through the duties levied upon imports, which can only be received in return for our exportations. Let it not be argued then as an objection to the pending measure that, incidentally, industry and commerce reap from it all the advantages of an expenditure for purposes of purely internal improvement, but rather rejoice that so much of the taxes wrung from us by the hard necessities of war, may thus be returned as a willing and perpetual tribute to the industries of peace.

Nor let it be supposed that the State of New York is to be the recipient of Federal bounty in the expenditure of that portion of the moneys which will become necessary in widening the locks of the Erie and Oswego canals. The record of New York is not certainly such, in the past or present, as to make it an objection to a great national work that it cannot be accomplished without incidental benefit to her. She comprehends her position as the carrier of the industrial products of the country. She has made wise provision to secure that carrying trade. She has secured it and will forever retain it. Whenever the time comes, as in the not distant future it may, when enlarged capacity is required upon her canals, it will be furnished as in time past it has been. Until her statesmanship becomes dwarfed to proportions unbecoming the State, the requirements of commerce will be met. And they will be met in the same spirit as in the past, not merely for the purpose of revenue, but for the development of that

individual wealth and prosperity which should be the end and aim of all municipal government. New York as a State cheerfully bears the burden of $30,000,000 canal indebtedness that the hum of industry may increase along the great avenues of her improvements, and the alluvial deposits of the great West be transformed into food for the million.

The question presented to us is this: can the nation's safety be allowed to follow in the wake of even the expanding development of the Empire State? She has already expended $45,000,000 upon these works purely for purposes of commerce and trade. Every dollar of that expenditure can be made immediately and profitably available for purposes of national defense. It is all offered freely. The proposition is simply to avail ourselves of all that expenditure without remuneration, if by so doing we can better than otherwise subserve our own purpose of defense. If, by an expenditure of $3,500,000, we accomplish a ship canal through which gunboats can be floated from the ocean to the great lakes, and from the lakes back to the ocean, the result will be a work worthy of the age and of the genius of our people, costing $48,500,000, of which the State of New York alone will have contributed $45,000,000, and yet as complete for our purpose as if we had furnished the whole. Locally, it is a matter of comparatively small concern to the State of New York; nationally, it is a matter of equal concern to her, the great West, and all New England.

We know what the interests are to be protected. Nobody will deny the necessity and duty of rendering that protection. How shall it be done?

Laying aside all considerations arising from a condition of internal insurrection, such as is now raging in our midst, and looking only to case of foreign aggression, and that from the only Power collision with which would affect the lakes, and collision with which Power can in no manner be averted so thoroughly as by careful preparation, I ask, candidly and seriously, how is our northern frontier to be protected in case of a war with England? I trust that day of destructive war may never come; but if it ever does, God grant that a prudent foresight may have enabled us in time of peace to make that preparation through which we may obtain indemnity for the insults of the past century, and security against insult for a century to come. The people of this country will not consent that the exposed cities of the northern frontier and the vast and unprotected, and at present defenseless commerce of the lakes, shall forever invite aggression from a Power the thunders of whose press but give vent to the unkindness of its Government, whose ambition is bound up in its material interests, and whose late attitude of defiance sprung wholly from a consciousness of ability to harm. Protected on the lakes, there is not a nation in the world so invulnerable from foreign attack; unprotected there, not one to which the first clash of arms would result in such overwhelming loss.

By treaty stipulations those lakes are open to commerce only. With the faith becoming a great nation we have observed the stipulations of that treaty in letter and spirit, England in letter only. What is it to her that by the provisions of that treaty neither nation can maintain ships of war upon the lakes when, through the instrumentality of her canals, it is immaterial whether her armored boats are riding at anchor before Portsmouth or Toronto? Paper blockades have been long since discarded. In case of war with England, we shall find poor protection in our paper defense. Ten days from the entry of her fleet into Lake Ontario would suffice to lay a thousand miles of frontier at her mercy, to place Ogdensburg, Oswego, Buffalo, Erie, Cleveland, Detroit, Milwaukee, and Chicago under contribution, to strike with paralysis our whole inland commerce, and to sweep from existence a lake marine the source at once of our national wealth and national life. The friends of this bill ask from the national Government only what they have a right to demand—national protection. I repeat the question, how shall that protection be accorded? Pending the existence of the treaty, there is no possible mode except as provided by this bill.

But we will suppose that, untrammeled by special treaty stipulations, we are legislating without regard to temporary impediments, with a sole view to the most permanent, efficient, and economical defense. The theories of naval warfare are at present almost lost to view in the smoke of modern invention and practical experiment. Whether wooden ships, by reason of greater size and speed, shall be able to maintain a permanent position in future navies, is immaterial. One thing is settled: that armored boats will. The single experiment in Hampton Roads has established that fact. Nor is it material to what extent, if at all, the system of land fortifications may be affected by this change in the capacity for resistance developed by iron-clad boats. I anticipate no considerable disturbance in the relations heretofore existing between batteries afloat and ashore, inasmuch as the capacity of the former for resistance can be indefinitely compensated for by the enlarged projectiles of the latter. I shall assume, therefore, that in any event the necessary fortifications are to be constructed and strengthened to meet the requisitions of modern naval construction. But our commerce is still afloat and every city upon the frontier exposed to destruction in spite of impregnable fortifications, without a coöperating fleet. So far as the lakes are concerned, whatever may be the result upon the ocean, the character of their naval marine is forever settled. No wooden frigate will ever be built to fight or rot upon their fresh shore-bound waters. England has already fixed the character of her means of warfare, by canals uniting the St. Lawrence with the whole tier of lakes, capable of floating a gunboat of one hundred and fifty feet in length, thirty in width, and drawing seven feet of water. They are substantially sufficient in draught for any boat that can pass through the St. Clair river. So that practically, without an expenditure of a dollar otherwise than would have been prompted by ordinary statesmanship, for the development of the material resources of her great colonial empire, her western colonies are at all times upon a war footing, impossible to have been obtained by any outlay which the possession of the colonies would have warranted, had such expenditure been confined to the construction of navies upon the individual lakes.

In what condition are we to meet this politic and thorough armament? Take, for instance, Lake Ontario. The Falls of Niagara cut it off from all communication with the upper lakes on the west; the St. Lawrence in the hands of a foreign nation shuts it off from all communication with the ocean on the east. Within a day's march of its southern shore, and along its entire length, floats a continuous line of boats bearing through the Erie canal the productions of the fertile West, and close by it is the line of the New York Central railroad, the principal line of travel and business communication for those engaged in this carrying trade. To England it is but an arm of the sea; to us a land-locked lake, where the increase of our commerce and the growth of our cities in time of peace but invite aggression in time of war.

Aside from the plan proposed, there is but one possible mode for defense, and that is to build a special navy for that particular lake. I leave gentlemen for themselves to calculate the cost of the erection of the necessary workshops, and of the expenditure requisite for the construction and maintenance of a fleet of even tolerable proportions for the purpose designed. But we must further bear in mind that insufficient preparation is worse than none. In such case, when the anticipated crisis comes, not only is the whole venture lost but individual interests, which had relied upon the appearance of public protection, are taken unawares and swept away also. Unless we can make an efficient defense we had better make none, and that is efficient only which can cope with the whole marine of England capable of passing through the locks of the St. Lawrence. To state the proposition, then, of such an undertaking, is to compel its abandonment. While England relied upon the navy-yards of Canada, we could afford to rely upon those of our own frontier. When she opened an access to the ocean, and to the navy-yards of Plymouth and Portsmouth, she compelled us to follow her example, or abandon forever the claim to equality upon that great sea of trade, except by sufferance in time of peace.

Let us not deceive ourselves, nor attempt to deceive others, respecting so vital an interest, by any catch-words of the past relative to internal improvements. If the work proposed by the pending bill, by the necessities of its own condition, inures as a work of improvement to the industry of the country, it is purely but happily incidental. If any Representative upon this floor can show that in any other manner the same result can be produced by the same expenditure, so that the money, as regards industrial pursuits, shall be thrown away, and no incidental benefit be in any way possibly derived from it to the business interests of the country, I will cheerfully vote with him to enact his proposition into law, provided a majority of this House refuse to sustain the recommendation of the Committee on Military Affairs for the reason that their scheme involves such great advantages. I seek only military protection. I am entirely opposed to any general or special expenditure of the national resources within any State for the purposes of its internal improvement. Such projects are utterly foreign to the purposes of our General Government, and when entered upon tend to demoralization and corruption. No dollar of the public funds, directly in money, or indirectly in the shape of public lands, has ever contributed to the great works of improvement of New York. She asks none now. She simply offers us the full benefit of all she has so wisely accomplished. We can avail ourselves of it, or let it alone. Resting, as all her institutions do, upon the firm foundation of a free, educated labor, with ample provisions for intellectual education and moral advancement, with facilities for foreign and inland commerce commensurate with the advantages of her geographical position, she asks but the protecting shield of the Federal Union to rise still higher in the scale of empire.

We are reduced then to the simple extremity of an abandonment of all attempt at an ascendency upon Lake Ontario, or to an acceptance of the provisions of this bill.

The importance of maintaining an equality at least upon that lake may be best illustrated by the importance attached to it by our Canadian neighbors. The Toronto Globe, in an issue during the excitement of the Trent affair, says:

"The Duke of Wellington has recorded it as his opinion that unless we [meaning Great Britain] retain possession of Lakes Champlain, Ontario, and Erie, the best laid plans for the defense of the provinces may fail."

The Globe then remarks:

"What can be done at this season of the year to place a fleet of gunboats on Lake Champlain, we leave it to our friends below to say. We have very considerable facilities for the western lakes. Kingston is fortified sufficiently to resist any attack the Americans can make, and under cover of their guns, before spring opens, we might have boats enough, which, together with those we shall receive from England, would sweep everything before them on Lake Ontario."

The very truth here stated imposes upon us a double duty for immediate and efficient action. If the possession of the lakes be, as it obviously is, so necessary to England that without it the best laid plans for the defense of the provinces may fail, then to us not only is such possession equally important to carry out the best laid plans for the protection of our commerce and frontier, but by laying the provinces thus at our mercy, we reverse the existing order of things, and place ourselves relatively in the position now occupied by England.

I have referred specially to Lake Ontario not because of its greater importance in a general point of view—for commercially it is less so than those which lie beyond it—but because it is to England, through the St. Lawrence and the Welland canal, the key to the whole chain of lakes, and therefore its possession, in a military point of view, a primary consideration. There is this further reflection, that in case of war with England, the Welland canal and the St. Lawrence being in the possession of the enemy, there is no escape for whatever shipping we may have on Lake Ontario, and it must be defended there or abandoned. The duty of providing for Lake Erie and the upper lakes is of course increased in proportion to the magnitude of the interests at stake, and neither has a separate interest as against the other. Their importance is a common one, and is derived mainly from their connection with the agricultural productions of the West.

That, through the operation of the pending bill not only equality upon the lakes, but absolute supremacy for many years to come, may be secured at a trifling outlay will be admitted by any candid man upon a moment's reflection. The marine of England is an ocean marine. Her commerce is a foreign, and not an inland one. Her armored

ships are mainly, and must ever continue to be by the necessities of her condition of a tonnage and draught excluding them from the lakes. While we are second in the amount of our ocean tonnage, our inland commerce is unequaled. There is not a State or Territory east of the Rocky mountains not bounded by or penetrated with navigable lakes or rivers. Aside from this commercial fleet, which in case of emergency might be extemporized into a formidable engine of war, and a large part of which is of a size admitting its conveyance through the proposed locks, the pending rebellion has compelled us to construct, and is now compelling us to construct, for special use upon our inland waters, a large fleet of gun and armored boats and rams, just such as the exigencies of the case require for the northern lakes, and which, at the expiration of the pending war, will be left upon our hands comparatively worthless, unless this new field of utility is opened to them. No nation is likely to have such a fleet of powerful and light-draught gunboats as will soon be at our disposal. Through the means now proposed this can be concentrated as the exigency may require, and be transferred from the Hudson river to the delta of the Mississippi, free from the great expense of accompanying transports, with all the safety of a holiday excursion, without risk from elements or enemy upon the ocean. This whole proposition does seem to me too plain and simple for argument, both as regards its efficiency and economy.

But I anticipate that last objection, so fatal to action, with which the reason, when convinced, so frequently consents to be lulled into activity. We shall be told, however meritorious the scheme, however necessary under ordinary circumstances to avail ourselves of its benefits, that now is not the time, that we must wait for a more convenient season. To my mind the embarrassments of the time only enhance the necessity for action. The greatness of England was evinced not by her ability to increase her indebtedness $3,000,000,000 to prosecute thirty years of war, but in that great statesmanship which brought her forth at the peace with her credit unimpaired, her resources expanded in proportion to her liabilities, and her position first among the nations of the earth. The time has come when we must take our position as an equal with the leading Powers of the world, not only in the industries of peace, but also in the enginery of war, or cower away into a secondary position. Our geographical extent, material growth, continental proportions, liberal institutions, and future aspirations win not for us the world's love, and must be made to command its respect. The premature obituaries pronounced over our supposed fallen democracy by European Governments, contain incentives to action, as well as food for thought.

We are to live henceforth in our national integrity by our own wisdom and strength, and not through sufferance from other nationalities. It is evident now that over confidence alone in the speedy disintegration of our Union prevented intervention in the opening months of our revolution. Foreign Courts are now fretting over neglected opportunities and the unexpected embarrassments occasioned to their plans by our military success. No opportunity, like that of July, 1861, will be again neglected.

The question presented to us to-day is much less one as to the smallness of the debt we can bring out of the war with us, than one as to the greatness of the resources which shall then be at our disposal, and as to the solidity of union which shall make those resources formidable. The veriest fool will risk his wealth to save his life; ay, his life also if necessary to save it. We have intended to vote all the men and money necessary to bring this war to a successful termination. We have known, we intend to know, no limit to the supply other than the necessities of the demand, and yet when all is over, magnificent as those appropriations seem in their proportions when contrasted with our former experience as a nationality, posterity will think but little of it. We shall simply have met manfully and resolutely an imperious necessity. Our sacrifices are yet slight as compared with those of Peter the Great, Frederick I, William of Orange, the French Directory, or the Continental Congress; slight, even, as compared with our own adversary. The Thirty-Seventh Congress will be gratefully remembered, not so much for these vast preparations for war as for those few measures the utility of which will only become matured with peace, and which are passing quietly upon your statute-books, almost unnoticed by cotemporaneous history amid the wild din of civil commotion. I speak not specially of the great bills declaratory and preservative of personal liberty within the District of Columbia and the unborn States of the West. What was done in this respect was well done; but the gratitude of coming generations will hardly attach to so obvious rights so tardily accorded.

I refer, first, to the wisdom that, in the midst of such vast expenditures, could withhold from the Treasury the prospective proceeds of its public land, and without money and without price convert it into homes for freemen; that could still recognize it, in war as well as in peace, as the first duty of the nation to raise up men and encourage labor. I refer, again, to another measure, almost ripened into law, and worthy the imperial genius of Russian statesmanship which, under the same seemingly unfavorable circumstances, recognizing the continental proportions of our country, the necessity for unity, and the demand for protection to every portion of the Union, hesitates not amid the conflict of revolution to enter upon the construction of the greatest railway of the world, connecting the Pacific coast with the valley of the Mississippi. Aside from the acts in maintenance of personal liberty, these acts, and such as these, will, more than all others, evince their justice and win the approbation of coming time; for in peace, as well as in war, they contain elements of national wealth and solidarity.

The proposed measure, in its beneficent tendencies in favor of human industry and individual wealth, is, as compared with the requisite outlay, greater in its proportions and more immediate in its returns than any adopted by or pending before this Congress; while in point of actual necessity nothing short of the maintenance of military operations in the field can be compared with it.

To say that at this time this work shall not be done is simply to say that for the present we abandon all efforts for the possession of the lakes and the protection of a thousand miles of our richest frontier. To say that while it should be done we have not the resources, is to confess that we have become so poor that we can no longer afford to be economical, which is the last stage of national as well as individual decay and insolvency.

In the pending measure there will also be done an act of justice to the West. Ten years ago a revolution of the violence of this might have succeeded. That it has not succeeded now is due less to the accumulated wealth and population of the middle and eastern States than to the gold of California and the agricultural productions of the States bordering on Lake Michigan and the upper Mississippi. The credit of the country has been sustained by these two sources of active production more than by the whole mass of accumulated capital. To these two sources of production the homestead bill and Pacific railroad are tributes of justice. We shall have fitly consummated a work so well begun, when, by this necessary and economical expenditure, protection to person, production, and exportation, shall be carried to this source of our future wealth—the granary of the world.

Mr. VALLANDIGHAM and Mr. OLIN addressed the House. [Their speeches will be published in the Appendix.]

ENROLLED BILLS.

Mr. GRANGER, from the Committee on Enrolled Bills, reported that the committee had examined and found truly enrolled bills of the following titles; which thereupon received the signature of the Speaker:

An act (S. No. 370) to provide for additional medical officers of the volunteer service;

An act (H. R. No. 442) to establish a land district in the Territory of Nevada, and for other purposes;

An act (H. R. No. 530) granting a pension to Lawrence P. N. Landrum, of Taylor county, Kentucky; and

An act (H. R. No. 428) for the relief of the president and directors of the Panama Railroad Company.

SHIP CANAL—AGAIN.

Mr. VAN HORN. Mr. Speaker, I shall be brief in stating some of the reasons that ought to govern Congress in its action upon the propositions now under consideration. I cannot now and shall not discuss fully all the bearings of this proposed legislation, but leave that duty to others who may desire to go at length into the details pertaining to it. This bill to enlarge the locks of the New York canals is intended as an amendment to one previously presented for the improvement of the Illinois canal and river, so as to open up and make serviceable the now incomplete connection with the Mississippi river. Had that proposition stood alone, I should have given it my support upon the broad ground of its being a great public improvement and a work of national importance and defense. Upon the general subject of improvement and defense the General Government should, so far as it has the power under the Constitution, encourage and aid all such works calculated to develop the wealth and resources of the country, and lift up and elevate the enterprise and industry of our people. The policy that has marked past administrations of the Government, of withholding the sympathy and aid necessary to encourage and foster great and wise works of internal improvement, while the energies and strength of the Government, as well as its resources, have been used to forward schemes of personal and political advantage, has been an unwise policy, and ruinous to the best interests and prosperity of our people. For years past the resources of the nation have been abundant, our people prosperous, every branch of industry in a healthy condition, and it has been in the power of the Government to aid without any loss or detriment to itself the various works that have been pressing upon its consideration. The weak condition of our northern frontier to-day is an evidence of the want of care of the past to the interests of our people. No people more intelligent, more industrious, doing more for the prosperity and elevation of the country; while none less cared for in their commercial interests by suitable works of defense and protection. Right upon our borders, subject to invasion should a war spring up, and no means adequate to protect themselves against such invasion, either upon the land or water.

This neglect or state of things is wholly inexcusable. The nation ought to have looked after the interests of our people in these regards long ago; and that they have not done it, is the strong reason why it should not be delayed longer. In protecting such portions of our country, and providing against a destruction of the great interests of our people, the nation protects itself, and makes itself secure. However great the resources of the nation may be, and the energy to bring them out and apply them to weak and unprotected points, our experience demonstrates that we fail, in sudden emergencies, to meet the demands upon us, and provide that protection which commerce and our people have a right to demand and expect. When so much is at stake, the greater the necessity of timely preparation to render it amply secure, and beyond a doubt. In view of these considerations, the neglect of past Administrations is without any excuse, and will receive the censure that our present weak and unprotected condition will warrant. Such works of public improvement are calculated to bind together our people, and unite them in a common purpose to protect and save what is a common interest. In the great struggle in which we are now unfortunately involved, our loyal people, and they are a great majority of the whole, are bound together by a high and common purpose to save and protect our Union.

There are several considerations that enter into and make up this noble purpose; but not insignificant among them are those of a physical nature, and the magnificent works of art which skill and labor have wrought out and made serviceable to our people, and bound them together. Our lakes, rivers, roads, and canals, that run through our land, and form channels of communications for our people, have brought us together as one people, and made our interests one. To draw a line between the North and the South, the East and the West, and compel communication and intercourse to cease, would dry up the fountains of our prosperity, and turn back the overflowing tide of our progress. Hence, our loyal people say there can be no division of our territory; hence the demand and struggle for the freedom of the Mississippi river, one great outlet for both sections of the country.

So is it with the great works that have been projected in times past, and had but little if any encouragement, and no material aid, from the Government. No system of public improvement has been in favor with our Government, as it has been conducted and controlled, and now we are reaping the evils of such a gross neglect of public duty. No greater public service could have been performed than to have given encouragement and aid to harbor and river improvements, and projecting and completing those lines of internal communication so often asked for and so necessary to promote the efficiency of commercial transactions, and develop the resources of our country. By the adoption of such a policy, the public defense is secured, for by the multiplication of facilities for communication, and rendering accessible all parts of our country as far as may be, the means of defense are at hand, and can be most successfully employed. By such a policy we make accessible both to our foreign and domestic commerce all our agricultural and manufacturing districts, as well as the localities of our valuable mines, rocks, and earths, all of which contribute to the industry and wealth of our people. Government can do nothing that will so readily and effectually develop the entire wealth of our country as creating and carrying out a liberal scheme of internal improvements. Large districts of country, several of which are underlaid with rich mineral ores, will remain undeveloped for the want of that aid which would bring them to maturity and usefulness. When this is done, an incalculable amount will be added to the wealth of the nation.

In the light of these suggestions, the Pacific railroad, which is now to be constructed, has received the encouragement and material aid from this Congress which ought to have been given to it long ago. While it will be a great convenience to our western coast and all its people; while it will be the means of affording protection to them from the home Government, in case such protection be needed, it is at the same time such a means of development to the vast country intervening that, in this regard alone, it is a work of great merit and paramount importance. No measure of legislation, not directly connected with the war and the preservation of our country and its liberties, can be proposed, so fraught with blessings to our whole land, and calculated to bind together our people, and increase their constantly accumulating wealth and importance. On this general principle of action, and for these general considerations, I deem it my duty to support all these beneficent and reasonable projects for bringing out the wealth of our country, and strengthening the arm of our national defense.

I stated that, disconnected with the proposition to enlarge the locks of the New York canals to open a passage to our lakes and rivers west, I should give the original proposition my support. The two united will also receive my approbation. The expenditure required to accomplish this last mentioned undertaking, especially, will be small comparatively, while the benefits resulting from its completion will be very great and general. We are apt sometimes in reference to measures like this, to charge the whole asked to the locality or State where the work is located, and under this narrow and contracted view to give the project our opposition. Some, I fear, base their objection to this measure upon such a consideration. This is no local improvement, designed to inure to the advantage of and enrich the States in which they are located. Action in favor of this measure is asked upon higher and more general grounds. If the State of New York desires a local improvement that she has not got, and it will add to her advantage and the welfare of her people to have it, she will be very apt to secure it, to do which she is most abundantly able and willing. With her present resources, she never would be found coming here begging at the doors of Congress for benefits to carry on her works of local interest and local benefit, but do herself, as she always has, what is necessary to accomplish her cherished purposes. For purposes of commercial transaction the locks of her canals are sufficient; no addition is required.

To make opposition to this work on the ground of local benefit to New York betrays a disposition, in view of the necessity that requires it to be done, by no means commendable, and unworthy a liberal and wise statesmanship. Were New York to derive any benefit from such a work, demanded entirely by considerations of national importance and for military purposes, there would be no reason or fairness in mentioning it by way of opposition to a just and necessary measure, and one of purely military and national necessity. New York has expended more in her works of improvement, in the construction of her roads and canals, than several of the other large States together, and never has asked a dollar for such works from the General Government. Her great avenues of trade, constructed by her own energy and means, have developed the vast resources of the West, the producing regions of our country, and given a new impetus to the rich mines of Pennsylvania and other sections. An expenditure of $150,000,000 has accomplished this great result, and the West, the East, and all sections of our country, are reaping the great and common benefits of such a magnificent accomplishment. The wealth of this great nation has been largely increased by the works projected and completed by the Empire State, and to her to-day the nation owes more for such improvements and commercial facilities than it can ever pay. Her lines of communication are in fact national highways. They have lost their local character and importance in the national character and utility that now attaches to them. And I will say here that when the country again settles down in peace, union, and prosperity, and can lift itself up to that high degree of nationality it should occupy, it should wipe out every incumbrance that attaches to all such great public benefits, and declare them free to all without restriction save what the works themselves would impose.

But this measure is demanded by a necessity that cannot well be avoided. Under the treaty now existing with Great Britain, both parties are prohibited building and keeping vessels of war on the lakes and rivers of our frontier, and a violation of that treaty would of itself be a declaration of war on our part. In this respect Great Britain has the advantage of us. Always wise and foreseeing in her policy, she has constructed, and is constructing and enlarging communications between the lakes and around the rapids of the St. Lawrence, so that she will be, and is now, in fact, prepared to throw upon our northern lakes, in a very short and incredible time, every means of defense and attack necessary to crush us before we could put ourselves in a position to successfully resist. This state of things exists at this moment, and we dare not construct or keep a single gunboat or war vessel upon our lakes where we might use them in case of an emergency. This condition of things is also recognized by the London Times of the 27th of December last, when affairs looked so threatening between the two countries. It says:

"Of these lakes, the British Government, with its large fleet of heavily-armed gunboats, which can be introduced by the St. Lawrence and Ottawa rivers and the Rideau canal, into Lake Ontario, and thence by the Welland canal into Lake Erie, ought, the moment navigation is open, to obtain *at once* the undisputed command."

And nothing could prevent such a result. We would be obliged to construct our boats on those lakes to meet the emergency and after it appeared, and would doubtless find ourselves wanting in time to successfully meet it. This work completed, we could pass gunboats of sufficient size, as shown by skillful estimate, from the Hudson river to the lakes in a very short time, and thus be prepared to meet and resist any force that might be brought to attack our frontier. The necessity of this work and the one connected with it to connect the Mississippi with the lakes, is seen more clearly when we take into the account what is to be lost by neglect or saved by timely preparation. The commerce of these lakes is immense, and the property of our citizens engaged in service and carrying on business upon them is of so great an account that the Government is under every obligation of good faith to use every means to protect and save it. Along this whole line of communication have sprung up great towns and large cities, the outlets or markets of the finest and most extensive produce-growing regions of our country, and all unprotected. All might be laid waste in a very short time in case of an invasion by water as before shown, and we would be entirely unprepared to resist it and save this vast interest, unless by timely preparation we use the means at hand to put ourselves in readiness for any emergency. This work will relieve us to a very great extent. If, in addition, a canal was constructed around the Falls of Niagara on the American side, the work of defense, so far as water facilities are concerned, would be complete; and then the whole force of the upper lakes could be thrown on the lower waters or back again without any delay, and with great effect. This latter work embraces in its construction so many and in some respects more important considerations than the one under discussion, that it is not now presented, but will be placed before the House upon its merits as an independent proposition in due time by the select committee having that subject in charge.

Let this House look at and act upon this measure in the light of true nationality, governed by the considerations that ought to influence and control faithful conservators of the public welfare, and those intrusted with the duty of providing for the "common defense." Let no narrow and ungenerous spirit dictate to our action in a question involving to such an extent the welfare and interests of so large a portion of our citizens, who are struggling with every privation and sorrow to maintain the Government, from which they ask in return the protection such sacrifices make it able to confer. From this northern and western frontier have come a great majority of the strong arms and brave hearts that now guard our liberties from the hand of rebellion, and to them in a very great measure will be due the honor of saving in this dark hour of its peril the wisest and best Government ever devised by man, and preserving to future time the rich legacy of a redeemed and purified land. I mention this merely to show the obligation that the Government is under to protect the people that sacrifice for its preservation and perpetuity. I have no desire to press any unreasonable burden upon the people now, while vital questions are imposing heavy loads upon them, for their interests are my interests, and their burdens my burdens. I am, on the other hand, just as ready now to do all that necessity requires and the general welfare demands as ever, and urge as strongly and as cheerfully the prosecution of all works of public utility and advantage as when war is not upon us. We are not poor. We are, in fact, just beginning to understand our vast resources and wealth, and to learn that the former are inexaustible and the latter unfailing. As exercise strengthens and clothes with power the physical arm, so does this great struggle in which we are now engaged, which brings into requisition the energies and vital powers of our Government and the people, exhibit to our great astonishment the fact that heretofore our strength and resources have been unknown. We are richer to-day than when this war commenced, from the fact that our energies and resources have become known. Our credit is better and stands better in the market while we have depended entirely upon our own resources—the faithfulness and patriotism of our people. We have the wealth within ourselves to save this nation, and the resources and industry to bring it out and apply it. This effort has developed this fact and shown us our strength and power, and who does not know that no one or no people are so strong and powerful as those who, having the resources, know and feel it, and have, above all, the patriotism and willingness to apply them to such noble ends.

Such works as these propositions contemplate, asking only the faith or credit of the Government for the present, until an over abundant prosperity will make it easy to meet its obligations, directed, as they are, towards the protection of our people and the development of national security and prosperity, will be hailed with a cheerful acquiescence by all the people, and bind them closer, if possible, to the Government that thus protects them. According to present estimates and present prospects, with the measures passed by this Congress, all the burdens this war will impose will fade away in a few years, and not be the perpetual load upon us that some have supposed. The resources and wealth of our country properly applied, by skill, economy, and industry, will soon lift us above all embarrassment, and our nation, regenerated and strengthened by the trial it has endured, will bound into a higher life and a more perfect union and prosperity. Aid, given with a wise discrimination to such works of general utility and protection as these measures contemplate, is the evidence of this inexhaustible vitality and promise of this glorious destiny. Every effort to save in our present strug-

gles but strengthens, and every disbursement of means gives life to a thousand more energies to supply. Aid to such worthy objects as now ask it, by which the people will feel they are remembered and their interests guarded, will stir deeper the popular heart, and create more and greater resources by doubling the energy, economy, and, above all, the willingness of the people.

Sir, this measure is just, demanded by the best interests of our people, and I hope it will receive the sanction of the House.

Mr. MORRIS addressed the House on the subject of the bill. [His remarks will be published in the Appendix.]

Mr. STEVENS obtained the floor.

Mr. MOORHEAD. I hope my colleague will give way to permit me to offer an amendment.

Mr. WASHBURNE. I object to the gentleman from Pennsylvania yielding for that purpose.

Mr. STEVENS. I move the amendment which I send to the Clerk's desk as an additional section to the original bill.

Mr. ARNOLD. I rise to a point of order. I submit that there are two amendments pending, and that no further amendments can be received.

The SPEAKER. The Chair will say that there are three or four amendments pending to the substitute, but none to the original bill. The amendment of the gentleman from Pennsylvania is therefore in order.

Mr. STEVENS. I offer the following as an additional section to the original bill:

SEC. —. *And be it further enacted*, That there be appropriated $100,000,000 to slackwater the Susquehanna river from its mouth to its source, in New York, and then for constructing a ship canal to Lake Erie at or near Buffalo.

I offer that amendment for the purpose of showing that we are not selfish, that we are willing to take our full share of the many millions which these internal improvements will cost. But, sir, to say nothing of that, I believe this is the most feasible scheme that has been offered. The Susquehanna river has water in it, whereas the Illinois river has sometimes only, and I have great fears that if you open a communication to it from the lake to furnish water for the river, you will drain the lake and find nothing but dry land. [Laughter.]

But if you slackwater the Susquehanna a few hundred miles up into New York, and then build a canal to Lake Erie, you will have navigation for your gunboats all the year round, except a short time in the winter when it will be frozen over. To be sure the cost may be considerable, but in a matter of this kind $200,000,000 is nothing. At any rate, I should judge so from the number of gentlemen who have gravely discussed this question as if they were in earnest. I did not at first suppose it would be possible to get as many votes for this project as we have had speeches for it to-day; but, sir, recollecting that an election is close at hand, and that such a measure would be very useful in navigating the shoals that may lie in the channels of some of these gentlemen, I am very glad they have gone to work to clear them out.

Now, Mr. Speaker, look at the absurdity of the statements you have heard on this floor to-day. In the first place gentlemen are to have a war with Great Britain in sixty or at furthest ninety days. We are sure there will be war, because Great Britain has taken up the cause of the light women of New Orleans. [Laughter.] I remember to have read some time since that woman was *causa belli ante Helenam*, but I had no idea that those females were going to be the cause of the war. [Renewed laughter.] I think all this is done as an embellishment to the canals which these gentlemen are so industriously digging through this House.

Now, sir, in these sixty days, or ninety days at furthest, you will have war with Great Britain, and these gunboats will be needed on the northern lakes. Well, my friend from New York [Mr. OLIN] says it will take five years to construct this Illinois and Michigan canal. My friend thinks it will take four years and a half instead of five; and we are to go to work and dig this canal instead of building them on the lake shore, or buying them and fitting them up, which can be done at any time on sixty days' notice.

Mr. ARNOLD. I suppose it is the policy of the gentleman to misrepresent what is said. If it is not, I beg to say that the gentleman does not report me correctly.

Mr. STEVENS. I shall be very glad to give the gentleman an opportunity of correcting himself.

Mr. ARNOLD. I said nothing about its taking four years and a half to construct the Illinois and Michigan canal.

Mr. STEVENS. The gentleman from New York said it would take five years to complete it. The gentleman from Illinois replied that it would not take quite that.

Mr. ARNOLD. I said it would require less time than that.

Mr. STEVENS. The gentleman said it would take less time, and as four years and a half was a little less time, I thought it was perhaps that period which the gentleman intended to indicate, [laughter,] and until the gentleman names some other period, I shall suppose my statement was correct.

Mr. FOUKE. I ask the gentleman to give way to permit me to offer an amendment in connection with his, which he may have the benefit of in his comments on the bill.

Mr. STEVENS. When I have finished what I have to say, the gentleman may offer it. If the gentleman's amendment, however, is offered as a speech, I will give him a chance to make a speech.

Mr. FOUKE. Not at all.

Mr. STEVENS. The great argument in favor of this bill in favor of constructing these canals, is to get the gunboats into the lakes because Great Britain is about to declare war. If Great Britain is to wait four years and a half for this Michigan and Illinois canal to be finished, her heat about these New Orleans women will have cooled off, [laughter,] and the gunboats may not be wanted after all.

But suppose Great Britain does declare war; I admit she might send her gunboats in about sixty days into the lakes through the Welland canal. But, in the mean time, ten thousand of the men we are now wasting and destroying could go there and blow up and destroy the Welland canal so that England's gunboats could no more get round the falls than we could. There would be an end to that argument.

Now, then, if you want to send a flotilla of gunboats from New York or Boston to the lakes—and there is the place to bring them—I admit that the enlargement of the Erie canal is the proper means of accomplishing it. Let me suggest, however, that when you have reached Rochester you are within nine miles of Lake Ontario. You may then enlarge the Erie canal to Rochester, and by digging a canal to Lake Ontario, float your gunboats into Lake Ontario, which is below the falls; then complete the enlargement to Buffalo, and you may float them into Lake Erie, which is above the falls. You will then have access to both lakes at once. But when you bring your gunboats into the lakes at Chicago, you will have no way of getting them into Lake Ontario except to run the falls, which is said to be a little perilous in the spring of the year. [Laughter.] Another argument in favor of this scheme, if you are to accomplish this purpose at all, is that upon the Erie canal you have only to enlarge the locks and nine miles of new canal to dig, against the long distance of new canal in Illinois.

Mr. OLIN. Mr. Speaker, if the gentleman from Pennsylvania were a little better acquainted with the geography of New York than he seems to be, he would see that a canal from Rochester to Lake Ontario, and from Rochester to Buffalo, would not avail for the purpose which we have in view; for neither of those places would give us a suitable outlet to the ocean.

Mr. STEVENS. I proposed that if they would enlarge their water communications from New York up to that point, it would be the better plan. That by itself would have something in it, and would answer all the purposes which both these impracticable projects propose. I admit that I am not so well acquainted with New York as the gentleman. Perhaps it would be cheaper to enlarge the canal already made; but I do not know how far, in these times, I should be disposed to favor it.

But the other is a project which it will take years to finish, and which will cost millions upon millions of dollars. It is much easier to go up the Susquehanna according to my plan than to go three thousand miles up the Mississippi river, then up the lake, and then to make a river to the upper lakes. I am aware that my project is not sufficiently appreciated by the House at this time; that it will require three or four months to have it printed and properly digested; and I move, therefore, that the further consideration of this subject be postponed until the first Monday in January next, and on that motion I demand the previous question.

Mr. WASHBURNE. I ask the gentleman to withdraw the demand for the previous question.

Mr. STEVENS. It seems to be the desire of those around me that I should insist on the demand for the previous question; and therefore I decline to withdraw it.

Mr. LOVEJOY demanded tellers on the previous question.

Tellers were ordered; and Messrs. STEVENS and WASHBURNE were appointed.

The previous question was seconded, the tellers having reported—ayes 61, noes 42; and the main question was then ordered to be put.

Mr. WASHBURNE demanded the yeas and nays on the motion to postpone.

The yeas and nays were ordered.

The question was taken, and it was decided in the negative—yeas 57, nays 58; as follows:

YEAS—Messrs. William Allen, Alley, Ancona, Babbitt, Baily, Biddle, Bingham, Samuel S. Blair, Cobb, Frederick A. Conkling, Cravens, Crisfield, Crittenden, Cutler, Davis, Dunlap, Dunn, Edgerton, Edwards, English, Fisher, Gooch, Goodwin, Grider, Harding, Holman, Johnson, Law, Loomis, McKnight, McPherson, Mallory, Maynard, Menzies, Mitchell, Justin S. Morrill, Morris, Nixon, Nugen, Patton, Alexander H. Rice, John H. Rice, Edward H. Rollins, Sheffield, William G. Steele, Stevens, Stiles, Stratton, Train, Trimble, Vallandigham, Verree, Wadsworth, Wallace, Webster, Wilson, and Worcester—57.

NAYS—Messrs. Aldrich, William J. Allen, Arnold, Ashley, Baker, Baxter, Beaman, Francis P. Blair, Jacob B. Blair, Blake, George H. Browne, Buffinton, Casey, Chamberlin, Clark, Colfax, Roscoe Conkling, Dawes, Delano, Duell, Eliot, Ely, Fenton, Fessenden, Fouke, Franchot, Frank, Granger, Julian, William Kellogg, Knapp, Lansing, Lovejoy, Odell, Olin, Timothy G. Phelps, Pomeroy, Potter, Riddle, James S. Rollins, Sargent, Sedgwick, Shanks, Shellabarger, Sherman, Spaulding, John B. Steele, Benjamin F. Thomas, Van Horn, Van Valkenburgh, Wall, Walton, Ward, Washburne, Wheeler, Whaley, Albert S. White, and Wood—58.

So the motion to postpone was disagreed to.

During the vote,

Mr. MOORHEAD stated that he was paired with Mr. SHIEL.

Mr. PENDLETON stated that he was paired with his colleague, Mr. GURLEY; that he was against the bill, while his colleague was for it; and that while he would have voted for the postponement, his colleague would have voted against it.

Mr. BLAIR, of Missouri, stated that his colleague, Mr. PRICE, who was for the bill, had paired with his colleague, Mr. NORTON, who was against it.

Mr. TROWBRIDGE stated that he was paired with Mr. SLOAN, who would have voted for the postponement, while he would have voted against it.

Mr. JOHNSON announced that his colleague, Mr. WRIGHT, had just gone home on account of injuries which he had received several days ago.

Mr. COLFAX announced that his colleague, Mr. PORTER, was confined to his room by illness.

Mr. FOUKE announced that his colleagues, Messrs. RICHARDSON and ROBINSON, were detained from the House by illness.

Mr. DAVIS stated that his colleague, Mr. LEHMAN, was still sick in Philadelphia.

Mr. RIDDLE said that his colleagues, Messrs. NOBLE and EDGERTON, were paired.

Mr. ODELL stated that his colleague, Mr. HAIGHT, was detained from the House by sickness.

The vote was announced as above recorded.

Mr. BLAIR, of Missouri, demanded the previous question on the bill.

Mr. HOLMAN moved that the House do now adjourn.

Mr. WASHBURNE hoped that the previous question would be seconded, so as to keep the bill alive before the motion to adjourn was agreed to.

On a division on the motion to adjourn, there were—ayes 60, noes 42.

Mr. FOUKE demanded the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 57, nays 59; as follows:

YEAS—Messrs. William Allen, Alley, Ancona, Babbitt, Baily, Biddle, Bingham, Jacob B. Blair, Samuel S. Blair, Cobb, Frederick A. Conkling, Roscoe Conkling, Cox,

Crisfield, Crittenden, Cutler, Davis, Dunlap, English, Fisher, Gooch, Goodwin, Grider, Harding, Holman, Johnson, Kelley, Law, Loomis, McKnight, McPherson, Mallory, Maynard, Menzies, Mitchell, Moorhead, Justin S. Morrill, Morris, Nixon, Nugen, Odell, Alexander H. Rice, Edward H. Rollins, Sheffield, John B. Steele, William G. Steele, Stevens, Stiles, Stratton, Train, Trimble, Vallandigham, Verree, Wadsworth, Wallace, Webster, and Worcester—57.

NAYS—Messrs. Aldrich, William J. Allen, Arnold, Ashley, Baker, Baxter, Beaman, Francis P. Blair, Blake, George H. Browne, Buffinton, Casey, Chamberlin, Clark, Colfax, Dawes, Delano, Duell, Dunn, Edwards, Ely, Fenton, Fessenden, Fouke, Franchot, Frank, Granger, Hutchins, William Kellogg, Knapp, Lansing, Lovejoy, Low, Olin, Patton, Timothy G. Phelps, Pomeroy, Potter, John H. Rice, Riddle, James S. Rollins, Sargent, Sedgwick, Shanks, Shellabarger, Sherman, Spaulding, Benjamin F. Thomas, Van Horn, Van Valkenburgh, Wall, Walton, Ward, Washburne, Wheeler, Whaley, Albert S. White, Wilson, and Wood—59.

So the House refused to adjourn.

Mr. HOLMAN moved that there be a call of the House.

On a division, there were—ayes forty-three, noes not counted.

Mr. HOLMAN demanded the yeas and nays.

The yeas and nays were ordered.

Mr. TRAIN moved that the House do now adjourn.

Mr. WASHBURNE demanded the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 55, nays 58; as follows:

YEAS—Messrs. William Allen, Alley, Ancona, Babbitt, Bally, Biddle, Bingham, Samuel S. Blair, Cobb, Frederick A. Conkling, Roscoe Conkling, Cox, Crisfield, Crittenden, Cutler, Davis, Dunlap, English, Fisher, Gooch, Grider, Harding, Holman, Johnson, Kelley, Law, Loomis, McKnight, McPherson, Mallory, Maynard, Menzies, Mitchell, Anson P. Morrill, Justin S. Morrill, Morris, Nixon, Nugen, Patton, Alexander H. Rice, Edward H. Rollins, Shanks, Sheffield, William G. Steele, Stiles, Stratton, Train, Trimble, Vallandigham, Verree, Wadsworth, Wallace, Webster, Wilson, and Worcester—55.

NAYS—Messrs. Aldrich, William J. Allen, Arnold, Ashley, Baker, Baxter, Beaman, Francis P. Blair, Jacob B. Blair, Blake, George H. Browne, Buffinton, Casey, Chamberlin, Clark, Colfax, Dawes, Delano, Duell, Dunn, Edwards, Eliot, Ely, Fenton, Fessenden, Fouke, Franchot, Frank, Granger, Hooper, Hutchins, Julian, William Kellogg, Lansing, Lovejoy, Low, Olin, Timothy G. Phelps, Pomeroy, Potter, Riddle, James S. Rollins, Sargent, Sedgwick, Shellabarger, Sherman, Spaulding, John B. Steele, Benjamin F. Thomas, Van Horn, Van Valkenburgh, Wall, Walton, Ward, Washburne, Wheeler, Whaley, and Albert S. White—58.

So the House refused to adjourn.

Mr. BLAIR, of Missouri. If the previous question be seconded, will this bill come up regularly in order to-morrow?

The SPEAKER. It will come up regularly whether the previous question is seconded or not.

Mr. HOLMAN withdrew the motion that there be a call of the House.

And then, on motion of Mr. WASHBURNE, (at half past five o'clock, p. m.,) the House adjourned.

IN SENATE.

TUESDAY, *July* 1, 1862.

Prayer by the Chaplain, Rev. Dr. SUNDERLAND.

The Journal of yesterday was read and approved.

PETITION.

Mr. HARLAN presented a petition of citizens of Iowa, praying for the establishment of a mail route from Des Moines to Dalmanutha in that State; which was referred to the Committee on the Post Office and Post Roads.

WITNESSES IN THE IMPEACHMENT CASE.

Mr. FOSTER submitted the following resolution; which was read twice, and referred to the Committee to Audit and Control the Contingent Expenses of the Senate:

Resolved, That the Secretary of the Senate be directed to pay to William H. Polk, Ballie Peyton, and C. F. Trigg, witnesses subpenaed in the case of West H. Humphreys before the High Court of Impeachment of the United States, the same amount of mileage as has been allowed and paid to other witnesses subpenaed at Nashville, Tennessee.

RESCUE OF THE TRANSPORT GOVERNOR.

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

Resolved, That there be printed for the use of the Senate two thousand copies of the report of the Secretary of the Navy to the House of Representatives, in relation to the rescue of the steamer Governor and the discovery and relief of the ship Vermont by the United States ship Sabine.

CONSULAR COURTS.

Mr. SUMNER. The Committee on Foreign Relations, to whom was referred the bill (H. R. No. 490) to amend the act of Congress approved June 22, 1860, entitled "An act to carry into effect provisions of the treaties between the United States, China, Japan, Siam, Persia, and other countries, giving certain judicial powers to ministers and consuls or other functionaries of the United States in those countries," and for other purposes, have had the same under consideration, and direct me to report it back with the recommendation that its further consideration be postponed until the first Monday of next December.

The motion was agreed to.

ADMISSION OF WEST VIRGINIA.

Mr. WILLEY. I move to take up Senate bill No. 365, for the admission of West Virginia into the Union.

The motion was agreed to; and the consideration of the bill (S. No. 365) providing for the admission of the State of West Virginia into the Union, was resumed as in Committee of the Whole, the pending question being on the amendment of Mr. SUMNER, in section one, lines sixteen and seventeen, to strike out the words "the children of all slaves born within the limit of said State shall be free," and to insert in lieu thereof, "within the limits of the said State there shall be neither slavery nor involuntary servitude, otherwise than in the punishment of crime whereof the party shall be duly convicted."

Mr. SUMNER. Before the vote is taken, I wish that the Senate should understand the precise state of the question. The bill for the admission of West Virginia provides that on and after the 4th of July, 1863, all children born of slaves shall be free, leaving the existing generation in slavery. It appears from the statistics furnished by the honorable Senator from Virginia, [Mr. WILLEY,] in his elaborate speech the other day, that there are now twelve thousand human beings in West Virginia held in slavery.

Mr. WILLEY. That was in 1860; but it is not so now.

Mr. SUMNER. There may be fewer now; call the number ten thousand. There are ten thousand slaves there. Those slaves, according to the bill, are to continue in bondage during their lives. Thus, for one whole generation, shall we be afflicted by another slave State, with two slaveholding representatives in this body.

I mean to speak of the question with all possible respect for the Senators on the other side. I do not wish to introduce any topic that shall be otherwise than agreeable to them, but I must discharge my duties as a Senator. I cannot by my vote consent that there shall be two additional slaveholding Senators for another generation in this body, and when I say that, I wish to make no argument, but I shall simply quote the words of Mr. Webster in this body. In his speech of the 22d of December, 1845, on the admission of Texas, he used this language:

"In the next place, sir, I have to say, that while I hold, with as much integrity, I trust, and faithfulness, as any citizen of this country, to all the original arrangements and compromises under which the Constitution under which we now live was adopted, I never could, and never can, persuade myself to be in favor of the admission of other States into the Union as slave States, with the inequalities which were allowed and accorded by the Constitution to the slaveholding States then in existence. I do not think that the free States ever expected, or could expect, that they would be called on to admit more slave States, having the unequal advantages arising to them from the mode of apportioning representation under the existing Constitution.

"Sir, I have never made an effort, and never propose to make an effort; I have never countenanced an effort, and never mean to countenance an effort, to disturb the arrangements as originally made, by which the various States came into the Union. But I cannot avoid considering it quite a different question, when a proposition is made to admit new States, and that they be allowed to come in with the same advantages and inequalities which were agreed to in regard to the old. It may be said that, according to the provisions of the Constitution, new States are to be admitted upon the same footing as to the old States. It may be so; but it does not follow at all, from that provision, that every Territory or portion of country may at pleasure establish slavery, and then say we will become a portion of the Union, and will bring with us the principles which we have thus adopted, and must be received on the same footing as the old States. It will always be a question whether the other States have not a right (and I think they have the clearest right) to require that the State coming into the Union should come in upon an equality; and if the existence of slavery be an impediment to coming in on an equality, then the State proposing to come in should be required to remove that inequality by abolishing slavery, or take the alternative of being excluded."

Afterwards, in his famous speech of the 7th of March, 1850, he reaffirmed these principles. His language was as follows:

"It has happened that, between 1837 and this time, on various occasions, I have expressed my entire opposition to the admission of slave States, or the acquisition of new slave Territories, to be added to the United States. I know, sir, no change in my own sentiments or my own purposes in that respect."

He then proceeded in that very speech to quote an extract from another speech made by himself at a Whig convention in Springfield, Massachusetts, where he used this language:

"We are to use the first and the last and every occasion which offers to oppose the extension of slavery."

Now, sir, there is the whole argument. In the admission of West Virginia, with a constitution that recognizes slavery for a full generation, we introduce into this Chamber two additional slaveholding votes, and thus give a new lease of power to slavery in the councils of the country. I cannot consent to it, sir.

Mr. HALE. I believe I was entitled to the floor on this question; but I was willing to waive the privilege of saying anything or detaining the Senate a moment if a vote could be taken; but as the Senator from Massachusetts has seen fit to address to the Senate some considerations based entirely or almost entirely on the authority of Mr. Webster, I will say a word. I have not Mr. Webster's speeches with me, but I know that at a later and probably a wiser period of his life he repudiated every word that he said there.

Mr. SUMNER. The last speech I read from was the 7th of March, 1850.

Mr. HALE. He voted against imposing any restriction upon any Territory coming into the Union with a slaveholding constitution, and voted expressly against applying the Wilmot proviso to the new States.

Mr. FESSENDEN. He abandoned it in that very speech.

Mr. HALE. I know he did; and in all the latter part of his life he continually avowed the doctrine of opposition to that proviso; avowed it here on this floor, and voted repeatedly, as you know, sir, against its application. Now, I am not going to vote on this question either because Mr. Webster did or did not do anything on this subject. But I will say this: it will be a remarkable fact in the history of this Government if, from the beginning up to the present time, it has admitted without controversy slaveholding States that had in their constitutions a provision forbidding the Legislature from abolishing slavery, and they were admitted notwithstanding that, and this Republican Congress should refuse to admit the very first State that ever applied with slaves, having in her constitution a condition that she would immediately enter upon the system of prospective emancipation. I say it would be a singular fact if, after having always received slaveholding States with constitutions making slavery perpetual and eternal, the first time a slave State applied for admission with a clause in her constitution looking to the ultimate and entire overthrow of slavery, we should turn our backs upon her, and refuse to receive her.

I am one of those who, since I did not make the world, am content to rely upon the wisdom of Him that did make it, and take things as He has made them, rather than as I, in my weakness and folly, would have had them. This institution, for good or for evil, is amongst us. I believe (as everybody who takes any interest in the opinions of so humble an individual as myself knows) that it is an evil; but I want to get rid of it in some practical form, in some practical way. I want to carry out the recommendation of the President—which we have adopted, I think, almost unanimously—tendering our aid and support to those States that will inaugurate a system of gradual emancipation. For myself—and I only speak for myself—I should brand myself as a hypocrite before God and man if, having voted that I would give the aid of this Government to every State that would inaugurate a system of gradual emancipation, I turned my back upon the first one that came to our doors with gradual emancipation inscribed on her constitution, and tell her I would not have her.

I have stated, and I need not repeat, that I regard slavery as an evil, perhaps not with such intense philanthropy as my friend from Massachusetts; but I hope I do, though, with, if not as refined, as honest an abhorrence of slavery as any man. I

desire to see it ended; but, sir, I must deal with it as I deal with all other social, moral, and political evils, as an admitted fact, and take it as a fact and deal with it as wisely as I can. I know there are some very eminent men—there is in my State one of the most eminent theologians we have, a man holding the highest literary, social, and religious position in the State—I mean Dr. Lord, the president of Dartmouth college—who, if I understand him, and I believe I do, thinks honestly and maintains zealously and ably that slavery is a divine institution; that, inasmuch as government is ordained of God, and government cannot go down into all the interstices of society, slavery is a sort of subdivision of government intended by God to go down into those lower interstices where the great political and municipal organizations of the State cannot reach. I do not believe it; but as long as there are men, and men of high culture and high social, literary, moral, and religious position and education that do believe that, it is not for us in our dogmatic wisdom and philanthropy to set ourselves doggedly and obstinately against the convictions of a great many men who possibly may be as wise and as good as we are. I think they are mistaken, totally mistaken; but, sir, when I come to deal with this practical fact I want to deal with it in a practical way. I should hail the advent of a slave State into this Union with a clause in her constitution for a gradual emancipation and abolition—I hail the admission of such a State more gladly, with more satisfaction and more gratification than I would a free State outright. Why? I will tell you why: because there is joy among the angels of God over one sinner that repenteth, more than over ninety-nine that need no repentance. [Laughter.] Therefore it is that I would hail the advent of such a State into the Union with more satisfaction than I would a free State outright.

When my friend from Massachusetts, for whom I have the highest regard, both for his head and his heart, his powers and his culture, introduced this amendment, I sent for the Life of Dr. Franklin for the purpose of reading an old fable of the doctor's couched in scriptual language, which I think has a good deal of instruction in it; but the volume I have got has not got the fable in it. I think I can tell it, though. The story was, that Abraham one day sat in his tent, and an old man came along and Abraham invited him in, and gave him water to wash and food to eat, killed the calf, baked cakes, and gave him milk. The old man ate without doing what Abraham had been accustomed to do, asking a blessing over his food. Abraham was exceeding wroth with the old man, and got up, and drove him out of his tent; and God came and made requisition to Abraham, and said, where is the old fellow that was eating in your tent a little while ago? And Abraham said, because he gave not thanks I turned him out. And God said to Abraham, have I borne with you these fourscore years and canst thou not bear with him one night who art thyself a sinner? Sir, in exactly the spirit inculcated by that fable I would deal with slavery, and I would listen to-day as it were to the voice of God, who asks us, have I borne with this thing so many generations and cannot you bear with it dying, when it begins on the next 4th of July; cannot you bear with it to that time, who are yourselves sinners? In this spirit I would deal with it, and I rejoice that the constitution of West Virginia has this provision in it.

Mr. COLLAMER. Mr. President, I have read this bill; and the motion of amendment which is now proposed and about which we are called to vote by yeas and nays, calls my attention more particularly to it. I have entertained some sentiments upon this subject for many years, applicable to the present question, which I feel it my duty briefly to present.

Mr. President, I have no doubt that Congress has the power and the right, in the exercise of its discretion, to admit a State or reject it. I think that in the exercise of that discretion, every member of the Senate may have his own reasons for his vote, which he is at liberty to disclose or to conceal, and he will judge according to his view of public expediency as to the course in this respect which he should take. There has long been very much agitation in Congress at different periods of our history as to whether the free States, having the majority in the two Houses, should say that they never would admit any more slaveholding States. The southern people have long told us that that thing, if declared, might produce a separation unavoidably. I do not think Congress are ever bound to state, even if they reject the admission of a State on that account, that to be their reason. One man may have one reason for rejecting it, another man may have another reason for rejecting it. They do not become the reasons of the body, they are only those of the individuals. I have always supposed that when a State was admitted into the Union, it should be admitted upon the same footing as the original States. This bill says so; this very bill declares in so many words that this State of West Virginia shall be admitted on the same footing as the other States. Now, what is admitting a State upon the same footing as the other States? What is implied in this? That it is a State, and a sovereign State, as much so as it can be, subject to the Constitution of the United States. Well, what is implied in being a sovereign State and a State of this Union? A State with the power to regulate its own internal concerns in its own way, including the relation of master and slave, and if the State is shorn of that power, if it is stated that that shall be a condition precedent, a prerequisite to their being a State, they are not admitted on the footing of the other States; they are shorn of their power. However we may consider it a reprehensible power, it is still a sovereign power which other States possess and that does not. Therefore I say, Mr. President, it has ever been my opinion that when we admit a State, we must admit it sincerely to be what we declare it to be, on the same footing as other States, and hence I say we cannot make such prerequisites and conditions precedent to the right of admission that they shall exclude slavery or prohibit it, or prohibit common schools or any other thing that the other States at large have a right to do.

There have been two different sorts of acts in the admission of States; and there is a broad distinction between them, very important in practice. One is an enabling act, and the other is the act of admission. They are distinct things entirely. Until the Michigan case, the States that were admitted always had enabling acts first passed by Congress to authorize them to call a convention and form a constitution, with a view to admission, and present it to Congress, and then Congress passed upon it when it was thus presented, and that last act admitted them. When the application of Michigan came here, it was the first case where a Territory called a convention, formed a State constitution, and presented it for admission without any enabling act. It occasioned a great deal of debate, but upon the whole resulted in the admission of Michigan. I know there was some difficulty about sending it back afterwards, but Michigan was admitted without an enabling act, upon the presentation of a constitution formed by a convention called in the Territory, and adopted by the people there.

Now, Mr. President, let us inquire how it is about this case. The bill we have before us is an enabling act, if I read it aright. It is an act authorizing the calling of a convention within certain limits and counties named, all put down. It authorizes them to hold a convention and form a constitution. It provides that there shall be contained in that constitution a provision that children born after the adoption of the constitution shall be free. I think that is the substance of it.

Mr. SUMNER. Born after the 4th of July, 1863.

Mr. COLLAMER. It fixes a time and declares that those born after that time shall be free. This is an enabling act, authorizing these people to call a convention and form a constitution to be admitted as a State, provided they shall put into that constitution this provision about children born after such a day being free. This is the first instance in our history in which an enabling act was ever passed that made any kind of condition prerequisite as to what that constitution should contain. To be sure, it is always implied that it must be a republican form of government, but even that has never been put in, because that is open to subsequent inspection of the constitution when it shall be presented.

In the next place, there is another feature to be observed in this bill: that when they have formed their constitution with that in it, without saying anything about what else shall be in it, and the people have ratified that constitution, and the Governor has informed the President of it, the President is to issue a proclamation, and thereupon they are to be admitted as a State. That, I believe, is the provision.

Mr. WADE. Substantially.

Mr. COLLAMER. That is another new feature in our history. There never was a State admitted in that way yet, and the reason is this: the Constitution provides that Congress shall guaranty to every State a republican form of government, and it has always been holden that when a new State is admitted under an enabling act, or without one, the constitution which it forms shall be presented to Congress, that Congress, upon inspection of it, may see that it is a republican form of government. They never have delegated that power to the President or anybody else. Nor does this bill even provide that the President shall find it to be a republican form of government.

Mr. WADE. We have the constitution here.

Mr. COLLAMER. But that constitution is not provided for or recognized in this bill. I have been led to make these remarks because the Senator from New Hampshire suggested what their constitution contained. The bill that we have before us makes no mention of that constitution. It provides for their getting together some more counties besides those that were in before, and for that whole body to make a constitution; and then when that is ratified, they are to be admitted by a proclamation, without Congress ever having seen the constitution. Such a thing as that was never known in our history before. I am aware that constitutions have been presented here several times, which have been recommitted on certain terms and conditions for the people to agree to. For instance, in the case of Missouri, the constitution was presented after an enabling act, but there was a provision in it which Congress thought somehow recognized the idea that the State might make laws to prevent free black people from settling there; and in those days we all thought free black men were citizens, and I believe we always thought so until Judge Taney thought otherwise, and I do not know that many of us have altered our opinions since, even in consequence of that. But in order to provide for that, Congress declared that they should be admitted, provided nevertheless that their Legislature should pass an irreversible act providing that the State never should make a law to prohibit citizens coming in there to settle without regard to their color. They did do it, but there was nothing altered in the constitution; the constitution on which they were admitted was the one which they had passed, and which Congress inspected and found to be a republican form of government.

So, too, I might mention the case of Kansas. A constitution was presented from Kansas and a sort of vote of ratification by various hocus-pocus contrivances. It was recommitted to that people, saying to them, "if you will, with a certain amount of land grants which we offer, agree to this constitution, you may be admitted;" but still it was a constitution we had inspected; and the act went on further to provide that if they rejected that constitution they might make another, but not that they should be admitted under that other constitution until it was presented here and we had examined it and then admitted them. Nowhere in our history can be found an instance where any State has ever been admitted but upon a constitution which they had made and presented to Congress, and Congress had inspected and were satisfied with as being a republican form of government; nor has Congress ever attempted to delegate this power of inspecting the constitution and decide upon that question to any other department of the Government.

Mr. President, these are my views. They may be all wrong, and I am perfectly willing to hear any argument about them; but with these views, with this long train of our history and example, following the precedents, I cannot see how this bill can be passed. One word more in relation to the amendment proposed. I do not know that I should have any particular objection to voting for that amendment. The provision which is in the bill now, for which the amendment is proposed as a substitute, involves the same question in principle. If there can be made a condition precedent binding upon a State, not leaving that State to form its institutions in its own way as others have, it may as well be put in the form fixed by the amendment as in the form in which the committee have pre-

sented it. I do not think it any more objectionable on that score than the provision already in the bill, and therefore there would be no particular objection to voting for the amendment.

I want to be distinctly understood on another point. I do not say that if this State, or any other State, under an enabling act, should form a constitution, at this juncture of the country, after all we have now experienced, and should send us a constitution which permitted slavery, I would not vote against it. I say I would not put it in as a condition precedent and as a preliminary that we had authority to make, but I would exercise my discretion upon the question of admission, and that would depend on the constitution they presented and the inspection which I gave it under the light of modern history and after the experience of all the history we have had. I do not say I would reject it. It might have qualified forms in it of gradual emancipation that would commend it so much to me that I would accept it; but if it was left naked and open, without any provision on this subject by which we could fairly pursue at least a progressive emancipation in it, or authorized under it, I should be very much inclined to reject it. Still I would not put it in the enabling act as a condition precedent.

Mr. WILLEY. Mr. President, the objections suggested by the honorable Senator from Vermont had presented themselves to my mind, and I had prepared an amendment with a view of obviating those objections; an amendment, however, which has a wider scope in its operation than merely to obviate the objections suggested by the honorable Senator from Vermont. I have very great doubts whether Congress would have a right to pass this bill, refer it back to the people to ordain an entirely new constitution, and in the same bill at this time virtually admit the State into the Union with that constitution which the Senate had had no opportunity of ever seeing, thus virtually admitting it before the constitution was ordained and adopted by the people who were to be governed by it. I question very much whether Congress would have the power, whether it would not be a violation of the constitution, to admit a State under conditions of that character. And under the influence of my apprehensions in this respect, and for other reasons which I shall mention in due time, I had prepared an amendment striking out all after the word "that," in the first section, down to the last section of the bill; and as I have the highest confidence in the legal judgment of the honorable Senator from Vermont, I would be very glad to have his ear. The very objection so clearly stated by him to the admission of the State by the provisions of this bill had suggested itself to my mind, and under the influence of my apprehensions in that respect, I had prepared an amendment, not only with a view of obviating that objection, but also other objections which I have to the bill, and I now wish to read it, by way of argument, that I may get the judgment of the honorable Senator from Vermont on it, in whose judgment I have the highest confidence. I shall, when it is in order, propose to strike out all after the word "that," in the third line of the first section, down to the last section of the bill, and insert the following:

West Virginia is hereby admitted into the Union on an equal footing with the original States in all respects whatever, and upon the fundamental condition that from and after the 4th day of July 1863, the children of all slaves born within the limits of said State shall be free, and that no law shall be passed by said State by which any citizen of either of the States in this Union shall be excluded from the enjoyment of any of the privileges and immunities to which such citizen is entitled under the Constitution of the United States.

Mr. COLLAMER. Will the gentleman read that last clause again?

Mr. WILLEY. It is the clause in the Missouri resolution word for word. It is:

And that no law shall be passed by said State by which any citizen of either of the States in this Union shall be excluded from the enjoyment of the privileges and immunities to which such citizen is entitled under the Constitution of the United States.

Mr. COLLAMER. I do not think a law would be good for much if it did that.

Mr. WILLEY. I do not think so either. I did not think so in the Missouri case from which I quoted this provision. It is only ordaining what the Constitution guaranties. My amendment proceeds:

Provided, That the convention that ordained the constitution as aforesaid, to be reconvened in the manner prescribed in the schedule thereto annexed, shall by a solemn public ordinance declare the assent of the said State to the said fundamental condition, and shall transmit to the President of the United States on or before the 15th day of November 1862, an authentic copy of said ordinance, upon the receipt whereof the President by proclamation shall announce the fact; whereupon, and without any further proceeding on the part of Congress, the admission of said State into this Union shall be considered as complete.

Now allow me to state that this is an admission of the State with the constitution now presented to Congress and before the Senate, with this fundamental condition.

Mr. COLLAMER. I suggest to the gentleman that always in these cases, if he will look to the precedents, he will find that acts admitting States begin with stating that they have formed a constitution, that it has been presented to Congress, that Congress have found it to be a republican form of government, and that the same has been ratified by the people; and thereupon Congress do so and so. What the Senator has read I understand is to be the whole bill.

Mr. WILLEY. No, it is not; here is the preamble:

Whereas, by an act of the State of Virginia, passed May 13, 1862, entitled "An act giving the consent of the Legislature of Virginia to the formation and erection of a new State within the jurisdiction of this State," the people of that part of the State of Virginia including the counties of Hancock, Brooke, Ohio, Marshall, Wetzel, Marion, Monongalia, Preston, Taylor, Tyler, Pleasants, Ritchie, Doddridge, Harrison, Wood, Jackson, Wirt, Roane, Calhoun, Gilmer, Barbour, Tucker, Lewis, Braxton, Upshur, Randolph, Mason, Putnam, Kanawha, Clay, Nicholas, Cabell, Wayne, Boone, Logan, Wyoming, Mercer, McDowell, Webster, Pocahontas, Fayette, Raleigh, Greenbrier, Monroe, Pendleton, Hardy, Hampshire, and Morgan, did, with the consent of the Legislature of said State of Virginia, form themselves into an independent State, and did establish a constitution for the government of the same.

I intend to make an amendment to that preamble to cover the very grounds suggested by the honorable Senator, and I have a note of it here, "and that it is republican in form," &c., so as to meet that objection, "therefore, be it enacted," &c., and then comes in my amendment. That was the object I had in view, so that the objection suggested by the honorable Senator from Vermont is obviated by the fact that here is a constitution presented to the Senate, recognized and certified to be republican in form, all that the constitutional obligations resting on the Senate could require it to be upon their part, and the amendment which I propose to offer is for the admission of the State with that constitution so recognized and so certified and so before the Senate, upon the fundamental condition expressed in the amendment which I have just read. That is the scope of the amendment which I propose to offer, with a view in point of fact to obviate the difficulty which had presented itself to my mind as well as to that of the honorable Senator from Vermont.

And now, sir, the reason why I wish to get rid of the provisions of the bill reported is this: the people of Northwestern Virginia, as is well known to the Senate and to the whole people of the United States, have been exceedingly harassed. The war has been in their midst, the people have been kept from their farms and from their daily avocations. Notwithstanding all that, they have sent ten thousand men from their midst into the field, the living of whom are still there and at their posts. They have had guerrilla and domestic warfare to encounter, and they have already convened a convention and a Legislature and paid the great expenses incurred by the assembling of their convention and their Legislature.

The PRESIDING OFFICER, (Mr. CLARK in the chair.) The Senator will suspend. It is the duty of the Chair to call up the unfinished business of yesterday, being the resolution of the Senator from Ohio [Mr. SHERMAN] in regard to a quorum.

Mr. FESSENDEN. I move that that be postponed.

Mr. SHERMAN. I hope it will be postponed to a day certain, so that it may be taken up at a certain time.

Mr. FESSENDEN. There will be no difficulty in taking it up; a majority can take it up any time.

Mr. SHERMAN. Very well, let it go over if Senators wish; but I think we had better have a vote on it.

Mr. WILLEY. If agreeable to the Senate, I hope it will be postponed.

The PRESIDING OFFICER. It is moved to postpone the resolution until to-morrow.

The motion to postpone was agreed to.

Mr. FESSENDEN. I made the motion, I will state, not with a view of going on with this bill, for I shall take the earliest opportunity to call up the Army appropriation bill when the Senator gets through.

The PRESIDING OFFICER. The Senator from Virginia will proceed.

Mr. WILLEY. I was adverting to the necessity of pointing out some mode by which the people of Northwestern Virginia could be relieved of the trouble and expense, under the extraordinary circumstances in which that people are now placed, of convening another constitutional convention, making another constitution, submitting it again to the people, recalling the Legislature, and sending an act of assent again to the Congress of the United States. They have incurred all this expense already; they have had their convention; they have ordained a constitution; it has been submitted to the people; it has been ratified with almost entire unanimity; it has been sent here; it is republican in form; and now, if it be practicable, in consistence with the Constitution and with the views of the Senate on the subject, I hope it may be the pleasure of the Senate to adopt my amendment, that we may avoid all this unnecessary trouble and additional expense.

While I am up I wish to notice briefly some of the remarks of the honorable Senator from Massachusetts. I am perfectly aware of the opinion of Mr. Webster which he has read from his speeches, but I beg leave to suggest to that honorable Senator whether there be not a difference growing out of the fact that Mr. Webster made those speeches no doubt in reference to States which were to be erected and established out of Territories of the United States. His remarks were made in reference to the establishment of States from our Territories. They were not made under circumstances and in reference to a state of facts such as those which we now present to the Senate. While I appreciate the kindness and the many kind suggestions the honorable Senator has made to me during the progress of the efforts of the people of Northwestern Virginia to erect themselves into a new Commonwealth, I suggest to him whether in point of fact we are not really acting in the manner best adapted to the accomplishment of the end, and best adapted to secure both the interests and welfare of the slaveholder and the slave himself; whether we are not proceeding in that manner which will best accomplish the purpose. He says he wishes a free State. Do we not, by this fundamental condition which I propose, and by the condition as contained in the bill, present to him an opportunity of securing to the Federal Union one third of the territory of the State of Virginia which is now slave territory? And, sir, allow me to make another suggestion to that honorable Senator. Suppose his amendment prevails. I beg to know what will be the result on that class of population which he proposes to benefit by his amendment. I beg to know in what manner they are to be provided for. And allow me to say that at this day the majority of the eight or nine thousand slaves remaining within the limits of the proposed new State consists of old family servants, who have good homes, who have the love and attachment of their masters, or they consist of very young slaves. The slaves that labor, the slaves that have been valuable in the market, the slaves that have been valuable to masters who held to the right and believed in the expediency of making sale of them, have either already been sold to the South, or they have been carried over within the lines of the enemy. What will be the practical result, then, of the Senator's amendment if it should prevail, and the State should be admitted according to the provisions of the bill now before the Senate? It would be to cast houseless and homeless upon the community old family servants, without any provision for them in their old age; for, by the laws of Virginia, every slaveholder is bound to provide for his slave in his old age; and it would be casting upon the community without guardianship or protection a considerable number of young slaves that are incapable of self-protection. It seems to me the suggestions of humane policy would indicate to the honorable Senator the propriety of allowing those slaves to remain in the custody and under the guardianship of their humane masters,

because all those who own slaves remaining there are humane.

Again, sir, suppose this State cannot be admitted if that amendment be incorporated in the constitution: what will be the result? Why, sir, not only will all the living slaves within the proposed limit of the new State be slaves during their lives, but their offspring will be slaves forever. Did not that suggest itself to the honorable Senator from Massachusetts?

Again, sir, I refer to the policy which has been adopted by his own State, perhaps by all the States north of Mason and Dixon's line. I know of no single State, although there were fewer slaves existing in them than exist in this new State, that did not adopt a system of gradual emancipation originally when slaves were emancipated.

Mr. SUMNER. Not Massachusetts.

Mr. WILLEY. Well, sir, almost every State. Pennsylvania adopted a gradual system; and so far as my recollection extends, every State that had slaves adopted a system of gradual emancipation, although there were very few slaves existing among them. New York did so; New Jersey did so; and I believe the last slave in New Jersey, perhaps, if not still living, only died a few years ago. The experience of mankind has shown that for the benefit of the slave, as well as for the benefit of the community where he lives, gradual emancipation is the plan.

Now, sir, we present, especially with the amendment which I had the honor to suggest to the Senate, a project for the introduction into this Union, in point of fact, of a new free State. We secure by the bill as it is reported, and by amendment as I propose to offer it, the freedom of all the slaves that shall be born after the 4th of July, 1863; and I am exceedingly obliged to the honorable Senator from New Hampshire for the very forcible and pointed remarks that he made in reference to this matter.

I will make a few more remarks on this part of the subject, and then take my seat. I say to that honorable Senator, and I say it here as a Senator from Virginia, sustaining a relation to all parts of that State, that, under the obligations which I feel resting on me as a Senator from Virginia, I should not, whatever my personal and local interests and feelings might be, feel myself authorized to do or to agree to anything that would be prejudicial to the eastern section of the State of Virginia. Sir, if I understand my own heart and the feelings of obligation resting on me in the relation that I sustain to Virginia, I would not do aught that would interfere with the rights or the best interests of the eastern section of that State. However much I might personally desire it, however much I might be disposed personally to urge the division of the State, so far as my individual interests are concerned, yet sustaining the relation of Senator to all the State of Virginia, I would not feel myself authorized here to urge upon the Senate anything that would be seriously prejudicial or detrimental to the eastern section of the State of Virginia. But I say to that Senator, I say to the Senate, and I say to all Virginia, that the God of nature has ordained with His own omnipotent hand that Western Virginia must ever necessarily be free territory. The slave cannot live there; he cannot exist there; and Eastern Virginia can find no argument against me to say that I am not true to her interests when I vote in favor of this gradual emancipation of slavery in the west.

Why, sir, what is the fact? The census shows that within the last ten years, the very era of slavery propagandism, the number of slaves within the limits of those counties which we propose to erect into a new State had decreased upwards of two thousand before the war commenced, and I am authorized to say to the Senate to-day that there are not now, perhaps, exceeding eight thousand slaves within the limits of the proposed new State. The kind of labor we have there is not the kind of labor that is profitable for the employment of slaves. Our geographical location, lying between the State of Ohio, with two hundred and fifty or three hundred miles of free territory, from Wayne county, at the Kentucky line, almost to Pittsburg on the one side, and again down on the Pennsylvania line on the other side, renders it almost impossible to retain in our midst any slave who wishes to escape. The knowledge of that fact has caused many of the slave-owners to sell their slaves South; a great many have run off, and there is not there, to-day, what may be really and truly called involuntary servitude. We are cut off from the eastern section of the State by the impassable barrier of the Alleghany mountains. We have no trade, no intimate social relations with the eastern section of the State. We have no identity of interest in any respect, and especially we have no identity of social relations so far as slavery is concerned. This bill does Eastern Virginia no injustice. It does the slaveholder in Eastern Virginia no injustice. It interferes with no right or interest which he could not exercise, provided the west should remain one State as heretofore.

Mr. President, I say again in the utmost sincerity of my heart that I verily believe the admission of this new State, and the introduction of this clause of gradual emancipation, is not affecting, practically, a solitary right of Eastern Virginia; that it is doing her no injury whatever in any sense of the term. Here is an opportunity presented to the Senate to erect Northwestern Virginia into a free State, a condition for which she was designed by the God of nature—the richest portion of this broad land in mineral resources, with inexhaustible marble quarries equal to those of Egypt and very similar; rich in inexhaustible fountains of salt and of oil, and forests exceeding any of those that ever waved upon Mount Lebanon itself, that have remained from the foundation of the government of the State of Virginia undeveloped, useless, valueless, simply because we have not been able to organize improvements within and under the control of the western section.

But perhaps this course of remark and argument is traveling a little from the purport and object of the amendment now under consideration. I hope therefore the amendment of the Senator from Massachusetts [Mr. SUMNER] may not be adopted; and, in my view of the subject, designing to strike out the whole, it is a matter of indifference whether it be adopted or not; but I trust it will be the pleasure of the Senate to strike out all of the bill that I have indicated, and insert my amendment. I suppose, if it be not out of order, I might just as well while I have the floor, as it will take less of the time of the Senate, say not only why I think the Senator's amendment should not prevail, but also why I think the section he proposes to amend with all the other sections I have indicated should be stricken out of the bill.

I confess that I was infinitely surprised when the committee reported to the Senate a bill including fifteen counties within the valley of Virginia in the proposed new State. What are the facts on this subject. The people of Northwestern Virginia had looked over all this ground; they had considered where the line of demarkation should go; they had considered it well; and they fixed the Alleghany mountains as the natural barrier. They were willing to agree to that; not only were those mountains the natural barrier, because they divided the commercial, industrial, and social relations of the State, but they were the natural barrier between the desire of the people who wished to be erected into a new State, and the desire of those people who were opposed to being included within the new State.

These additional counties in the valley, which have been added by this bill to the boundaries prescribed by the constitutional convention at Wheeling, and by the Legislature who gave its assent, contain 140,409 white inhabitants, and 31,937 slaves. It is proposed by this bill to incorporate in the State of West Virginia, not only 140,409 white persons, who are almost a unit against being included within it, but also to incorporate in the new State 31,937 additional slaves. I ask my honorable friend to consider, taking into view the fact (of which he must be cognizant) of the secession element against whom we have been fighting in our midst, whether they, with a united phalanx of 140,000 additional inhabitants, whom it is proposed to include in our midst, if a convention were called at all, would not ordain a constitution which would never be accepted by this body; a constitution different in its fundamental principles from that which is now presented; whether it would not, in point of fact, forever preclude the people of Western Virginia from making any application to be admitted as a separate State into this Union. Sir, I speak of what I know; I speak of what I am fully advised by hundreds of letters received during the last ten days, that the people of Northwestern Virginia are utterly and irreconcilably opposed to any connection with these people in the valley. They are opposed to it because they have no commercial relations with them; they have no industrial interests in common; they are disconnected by impassable mountain barriers. They have no close social relations with them. They are different in interests, different in social habits, different in feelings, different in desires in this respect; and I venture the assertion that out of the 140,000 inhabitants proposed to be included in the new State from the counties of the valley, there are not 5,000 that desire any union with us. As was forcibly remarked by one of my colleagues the other day, in reference to this matter, if we were thus united in the same State organization, it would be like tying two cats by the tail; we should be forever fighting each other. They are utterly and irreconcilably hostile in social relations and hostile in feeling.

What is the position we now occupy? Upon those mountain barriers these two sections, which it is proposed to unite, have been engaged in battle, and there they stand, with hands dripping in each other's blood; and it is proposed by this bill to unite them in one State municipality! The people of the valley do not desire it. Why do they not desire it? Look upon the map. Why, sir, one of the counties named in this addition to the new State is cut by the Tennessee railroad passing through it for several miles. They have convenient eastern markets in that section entirely different from those markets in which Western Virginia is interested, and with which Western Virginia has connection. Then there is the Central railroad, piercing the Blue Ridge, running up into Augusta county, and thence up the valley. Then there is the Manassas Gap railroad, running up to Strasburg, and projecting a connection with the Central railroad at Staunton. They have all markets in different directions from the natural markets of West Virginia. They have made connections in different directions. They do not wish any union with us on this account. They have separate interests; their markets are different; and all their commercial connections are different; and I say I was exceedingly astonished that it should be proposed to include these counties with the counties of Northwestern Virginia, within the same State municipal regulations.

I have said about all that is proper for me to say on that subject at this time. I merely desire to suggest these considerations to the Senate. I hope they will be favorably received; and I trust it will be the pleasure of the Senate not only to vote down the amendment of the Senator from Massachusetts, but to strike out all of the bill that I have indicated, and insert my amendment. By so doing you secure a new State, that will be perfectly homogeneous and identical in interests with the great States of Ohio and Pennsylvania; the great breakwater which the selfish policy of the eastern government of Virginia has always interposed between those connections across West Virginia will be swept away, and the people of Ohio, Pennsylvania, and West Virginia will be one people in interest, living together harmoniously; and the great resources of that section of the State will no doubt be speedily developed; while all this can be done without detracting one iota from the interest, the welfare, the rights, or the privileges of the eastern section of the State.

Mr. WADE obtained the floor.

Mr. FESSENDEN. I will ask the honorable Senator whether he will not yield to me a moment.

Mr. WADE. Yes; if you have a motion to make.

Mr. FESSENDEN. I move that this subject be postponed. I make the motion in order, if the Senate should agree to it, to move to take up for consideration the Army appropriation bill.

Mr. WADE. I want to say a few words on this subject. I am not going to make a speech.

Mr. FESSENDEN. I yield. The Senator yielded to me.

Mr. WADE. I am not going to take time on it now, but I wish to say that this printed bill reported from the committee, I believe, did not receive the formal assent of the committee. For myself, I was much more in favor of a bill embracing the principles of the amendment which the Senator from Virginia now offers than the one now before the Senate. This was rather a new propo-

sition and was not very well considered, but it was as good to bring the question before the Senate as any other. This bill is open to many, if not all the objections, in my judgment, that were urged against it by the Senator from Vermont. The proposition that has been offered by the Senator from Virginia, with some modifications, it seems to me, I might be in favor of.

Mr. President, I have thought a great deal on this subject, and it is a great subject. It is the initiation of a new principle that probably will have to be repeated often before we get through with the great controversy in which we are engaged; and there is much that may be said on the subject on both sides. I have no fears, whatever, that my position on the subject of slavery will be misunderstood. I have no doubt that I have sufficient capital invested on that subject to draw very liberally upon on any occasion that may come up; and therefore I feel entirely unembarrassed upon these questions. I am a practical man. I care very little about theories. I go for practice. I have looked at the condition of things in Western Virginia, and I have come to the conclusion that it is impossible for the people of Eastern and Western Virginia to live together in harmony and peace. It is not a new controversy among these people. When I come to investigate it, I find that it has existed for a long period of years; much of it probably growing out of the entire isolation of the two sections; for there is really no communication between the east and west. As Governor Pierpont remarked to me, "we have no communication whatever, except it be furnishing a few members of the Legislature, and a few inmates of their penitentiary." In other respects, in commercial feeling, in political feeling, in association, they are entirely isolated. On this subject of slavery they feel entirely different. There is an animosity between them that is more intense, I believe, from what I gather from the best men of that section, than that which exists between any of the northern and southern States. Under these circumstances the question is, shall they be compelled to be joined with the other portions of the State where they will undoubtedly be put under the ban of a hostile legislation for years? They complain that they have been heretofore. It is a standing complaint with them that while taxes and burdens have been imposed upon them by the vast majorities of the eastern section, for internal improvements and the like, they have been awarded no benefit from them whatever, and this has aggravated the difference between them. They have no interest in this institution of slavery. As I understand it, they feel no interest in it; and now, when I say that I do not feel any very great objections to the constitution they propose, it is on the ground that it is all a slave country, and it is not spreading slavery abroad; for it is my purpose, so far as my acts can go, to limit that institution. If this constitution is adopted, it does not add a single inch to slave territory; but, on the other hand, it prepares slave territory immediately for freedom.

Mr. SUMNER. My friend will allow me to suggest that it adds to the slave representation. We shall have two slave Senators in this body.

Mr. WADE. I was about to speak of that, and I do not know but that constitutes a real objection. I know very well it takes but a very few slaves, as we have experienced here, to give color to the views of men, and their political sentiments seem to be entirely changed by a very little slavery. But, sir, we have no slave State conditioned as this new State would be after this constitution shall be adopted. It could look to nothing else but the final extirpation of slavery at a very proximate period. In all the other States where they have but few slaves there seems to be no disposition manifested to get rid of the institution. On the other hand, their members advocate eternal slavery, and lay down the principle that it ought to be cherished, that it ought to be maintained, and they expect to maintain it forever. How is it in a slave community who come up to the principle of giving their assent to its final abolition, and that only depending on the progress of time? Can you find any other slave community that will voluntarily come to Congress and pray you to permit them to come in with a constitution that shall finally wipe out slavery in a few years?

I do not like the proposition as it stands, because it is very objectionable to me to say that a man born on the 4th day of July, 1863, shall be free, and one born the day before shall be forever a slave. I do not like that provision. I should much prefer to have it graduated so that all born after the adoption of this constitution shall be free, and that all between certain ages shall be free at a certain period. That would be more in accordance with those principles of gradual emancipation by which slavery has been abolished in most of the old thirteen States. I wish that that same principle might be adopted here, whereby these people could rid themselves of their connection with the other portions of the State of Virginia, and rid themselves at the same time of this accursed institution of slavery. They propose to do that. Is it wise for us to reject their proposition? I like the sound of the phrase that my friend from Massachusetts seeks to adopt, that there shall be neither slavery nor involuntary servitude in the State. I am the strongest advocate for placing that restriction on every Territory, because without it slavery can spread over the continent; but when a slave State says to me, "let me into the Union under a reformed constitution that shall extirpate slavery within a very few years," it presents a very different state of things. Nor can I believe that that would not influence the members who may come here. They will come from a State where slavery is under the ban; where it is marked for destruction; where everybody knows there would be no motive to cherish it, because it is waning away, and must disappear very soon.

Mr. SUMNER. Look at Delaware now.

Mr. WADE. Yes, sir; but I have attempted already to make the distinction. Delaware has but very few slaves, and she is tenacious, above all things, to continue what she has, and, if possible, of having more. If Delaware, with a reformed constitution, should knock at our doors and say, let us into the Union on this reform principle, putting slavery under the ban, declaring that it shall be extirpated as unfit to live, and be done as early as it can be done, as they propose in this case, you would find after that no representative from Delaware on this floor who would stand forth as an advocate of an institution branded with the mark of Cain by his constituents, and about to die away. I think that makes a distinction. It seems to me that a State cherishing slavery, refusing and resisting every attempt to do away with it in any manner, treating every proposition to that effect with indignation, scorn, and contempt, will be actuated, and its representatives will be actuated by very different principles from a community who have come up, as I said before, and voluntarily fixed the mark of degradation, of extermination upon the institution. I think they are different cases. Therefore, knowing that this community of Western Virginia have no interest in it, and, as I have been assured by the principal men whose influence is all potent there, that their Legislature or the first convention will repeal it, I do not think it is a dangerous thing. I do not think I am stepping aside from the great principles on which I have stood so firmly when I let in a State that comes here saying, we will extirpate slavery, and when their principal men, their Governor has said to me over and over again, the first Legislature that convenes will do away with this thing; that is, as fast as it can be done, considering the propriety of all things.

My friend from Massachusetts, by his proposition, strikes this institution down at one dash. I should like to see it go; but I must look a little to see what its effect will be, after all. Considering that for years past there has been such a fine market for slaves, and everybody that owned them has been tempted to sell them away, who does not suppose that the remnant that is left in this community are mostly old worn-out men and women, who probably would not find their condition bettered by the operation of the clause that my friend seeks to put in here. They are undoubtedly past the prime of life, and they would be thrown, in their old age, on their own resources, when, in fact, those for whom they have labored all their lives ought to be compelled to maintain them throughout; and probably their condition will not be improved if you adopt such a provision. Then there are, undoubtedly, many younger ones; and I want a provision that shall not be quite so abrupt as this, which says that a person born one day shall be a slave forever, and one born the next shall be free. I think there ought to be some provision made for them. As I have already intimated, I should like to see an amendment providing that all the children who, at the time this constitution takes effect, are fifteen or sixteen years old shall be free at such an age—twenty-one, or thirty-five, or something like a gradual emancipation. That has been found to work very well in the old thirteen States, and I do not think the people of Western Virginia would object to it.

But I do not propose now to argue this question. I do not wish to argue it any more than simply to express my desire that the people in that region, all anxious as they are for this law, may be gratified. I do not want this bill as it stands. It takes part of the valley of Virginia, where there are pro-slavery men enough to give color to the whole of it, and overrule it, for aught I know. They are entirely different from the people on the other side of the Alleghany mountains. There there is no violent feeling in favor of slavery. Down in the valley they are as pro-slavery as they are on the sea-coast, or anywhere else. I do not think it is wise to put them in. I never did assent to take those counties in; although if it were known that they would harmonize with the others, I should not have any objection; but my opinion is they would not.

Now, sir, it is said here by many that this bill cannot become a law at this session. I would endeavor to show, if we were not pressed for time, that it was constitutional; but I know that my friend from Maine desires to get up an appropriation bill, and I do not like to stand in his way. I believe some of the best lawyers in the Senate believe that the project of admitting this State is entirely in accordance with the Constitution of the United States. That it is expedient, that the people require it; nay, that they are all anxiety for it; that they are alarmed for fear they will be left in the hands of the old State, I know; and I think we ought to relieve them from that condition. I think justice requires it; I think good policy of free State men requires it; and, as a citizen of the State of Ohio, adjoining these people, I infinitely prefer having in my own neighborhood a good free State to a pro-slavery State. That is all I wish to say about it now.

Mr. FESSENDEN. With reference to the question before the Senate, I wish to say that I feel very favorably to the admission of this proposed State. I have not, however, been able to examine the question myself, and I shall want to be satisfied on one or two points. I make this remark at this time simply to excuse myself for making the motion that I shall make. I wish to be satisfied, in the first place, that we can constitutionally admit the State—not that I am ready to express doubts on the subject, but that my mind is yet uninformed in that particular; and I am glad to hear my friend from Ohio say that some of the best lawyers in the Senate, who have examined this question, have no doubts about it. I presume, if that is the case, that I shall come at the proper time to the same result.

There is one other thing I wish to say, sir, and to say it now, in connection with what has been said by my honorable friend from Virginia: that, considering the position of this State, the small number of slaves there is in it at the present time, and the feelings of the people in regard to that subject, I think it is not only our duty, but we have the entire right to prescribe before the State comes in that she shall put herself in a proper position and an irreversible position on that subject; I mean with reference to the gradual abolition of slavery. I agree with my friend from Ohio that when it is once fixed in such a manner as to be irrevocable that slavery is to terminate in a given time from the time it is so fixed, it becomes a free State in point of fact. People look at the future condition, and they are willing to accept the future condition if within a reasonable time, if it is fixed in such a manner as in no way to be altered by any authority without the assent of Congress, and without the assent of the General Government. To that, I understand my honorable friend to say, the people of Western Virginia will have no objection. I am very glad to hear it; but it should be placed in such a position that no change of opinion on that subject should enable the State to reverse that agreement which has been made, and which bears with it two considerations: not only the interests, or supposed

interests of the State itself; but the interests of all the States of the Union as a party to that agreement thus made. That, sir, would be in my mind a matter under existing circumstances that ought to be fixed, especially it being in accordance with what are the wishes and opinions of the people of Virginia herself.

Saying these things, not proposing to make any argument on the subject, but simply to state my general good wishes and good feelings on a subject which has so much interest to the people of Western Virginia, I will now make the motion which I propose to make; and that is, that this matter be postponed with a view to take up the Army appropriation bill, which is pressing upon me at present.

The PRESIDING OFFICER. It is moved that the further consideration of this bill be postponed until to-morrow, and that the Senate now proceed to the consideration of the Army appropriation bill.

The motion was agreed to.

Mr. WILLEY. With the leave of the Senate, I will move that the amendment I propose to offer be printed.

The PRESIDING OFFICER. That order will be made if there be no objection. The Chair hears no objection.

BILL INTRODUCED.

Mr. HENDERSON asked, and by unanimous consent obtained, leave to bring in a bill (S. No 376) to allow and pay to the State of Missouri the amount of money expended by said State in the arming and paying of troops employed in the suppression of insurrection against the laws of the United States; which was read twice by its title, and referred to the Committee on Military Affairs and the Militia.

ORDER OF BUSINESS.

Mr. HARRIS. With the consent of the Senator from Maine, I desire to bring the attention of the Senate to a bill that is pending before the Senate—the bill reported by the Committee on the Judiciary to establish in certain cases provisional governments. It is a bill of considerable importance, and if it is to be passed by the Senate at all, it ought to be passed at an early day, so that it can be acted on by the House of Representatives. I do not desire to press it on the attention of the Senate so as to interfere with other important questions, and yet I desire very much that an early day may be fixed for the consideration of that bill; and if the Senate will agree to it, I will name Thursday, at twelve o'clock. I make that motion.

The PRESIDING OFFICER. The motion can only be entertained by common consent.

Mr. HALE. I am sorry to antagonize with the Senator from New York——

Mr. HARRIS. I am willing to fix any other time, only I want some time fixed.

Mr. HALE. I have two public bills that I have been charged with for a week, and I have not been able to get them in on account of private bills.

The PRESIDING OFFICER. Objection being made, the motion cannot be entertained.

ARMY APPROPRIATION BILL.

The bill (H. R. No. 450) making appropriations for the support of the Army for the year ending the 30th of June, 1863, was considered as in Committee of the Whole.

The PRESIDING OFFICER, (Mr. CLARK.) The bill will be read by items, if there be no objection, and the amendments of the Committee on Finance considered as each item is read.

The Secretary proceeded to read the bill, as follows:

Be it enacted, &c., That the following sums be, and the same are hereby, appropriated, out of any money in the Treasury not otherwise appropriated, for the support of the Army for the year ending the 30th of June, 1863:

For expenses of recruiting, transportation of recruits, and compensation to citizen surgeons for medical attendance, $180,000.

In this clause the Committee on Finance propose to strike out the words "for expenses of recruiting, transportation of recruits, and compensation to citizen surgeons for attendance," and in lieu thereof to insert:

For the recruiting service of the Army, namely: for the enlistment of recruits, for quarters, fuel, stationery, straw, postage, bunks, compensation to citizen surgeons for medical attendance, transportation from rendezvous to depots, and all other expenses until put in march to join regiments.

The amendment was agreed to.

The Secretary read the following items, to which no amendment was reported:

For purchase of books of tactics and instructions for volunteers, $50,000.

For pay of the Army, $8,905,318.

For commutation of officers' subsistence, $1,574,186 50.

For commutation of forage for officers' horses, $283,414.

For payments to discharged soldiers for clothing not drawn, $150,000.

For payments in lieu of clothing for officers' servants, $71,630.

The next item was read, as follows:

For pay of volunteers under acts of 22d and 25th of July, 1861, $226,283,282.

The Committee on Finance proposed to amend the clause by striking out "$226,283,282," and in lieu thereof inserting:

One hundred and fifty million dollars: *Provided*, That the President shall not be authorized to increase the force of volunteers beyond the number of seven hundred and fifty thousand men, rank and file; nor to appoint more than —— major generals, nor more than —— brigadier generals. And all acts and parts of acts authorizing a larger force, or a greater number of major and brigadier generals than are above provided for, are hereby repealed.

Mr. KING. In the Committee on Military Affairs, when this bill was considered, that committee deemed this limitation unadvisable, and agreed to express that conviction to the Senate, and to oppose the adoption of the amendment. I think there can be no doubt as to the propriety of omitting to adopt the limitation as to the number of the rank and file, and the committee were disposed to resist the adoption of any portion of the clause. I am presenting their views to the Senate.

Mr. HALE. I propose to amend the amendment before the vote is taken on rejecting it, if the Senate will give me their attention. I move to strike out after the word "authorized," in the thirty-fourth line, all the rest of the line, and in the thirty-fifth line, to strike out all the words in the thirty-sixth line, and in the thirty-eighth line the words "a larger force or a," and to fill the first blank with "fifty" and the second with "two hundred;" so that, if the proviso is amended as I propose, it will read:

Provided, That the President shall not be authorized to appoint more than fifty major generals, nor more than two hundred brigadier generals. And all acts and parts of acts authorizing a greater number of major and brigadier generals than are above provided for, are hereby repealed.

I have received from a distinguished officer in the Army a letter giving some account of the situation of things, and he says, most earnestly, "for God's sake, send us no more brigadier generals." I want to make the provision simply a restriction limiting the major generals to fifty, which is more than we ought to have, and more than we want, no doubt, and the brigadier generals to two hundred, which has already received the sanction of the Senate.

Mr. FESSENDEN. Why not put the major generals at forty?

Mr. HALE. I should be glad to have it at forty, and I will put it at forty. I move to fill the blank in the thirty-sixth line with "forty," and the other blank with "two hundred." The rest of my amendment is as I have stated it.

The PRESIDING OFFICER. The question is on the amendment of the Senator from New Hampshire to the amendment of the Committee on Finance.

Mr. ANTHONY. I wish to inquire if we have not already passed an act to this effect.

Mr. HALE. The Senate has, but the House of Representatives has not.

Mr. TRUMBULL. The House of Representatives has not acted on it.

Mr. ANTHONY. But if the House do not agree to it, we ought not to force them to do so on an appropriation bill.

Mr. FESSENDEN. We can propose it.

Mr. ANTHONY. Very well.

Mr. FESSENDEN. The Secretary of War, in making out his estimates for the next year, put the number of volunteers that might be needed at seven hundred and fifty thousand, and the appropriations in the bill are predicated on that number of men. Inasmuch as the authorized number was carried above five hundred thousand, rather by accident than otherwise, and as seven hundred and fifty thousand was the largest number the Secretary of War thought it necessary to appropriate for before the next meeting of Congress, it seemed to be as well to fix that number by law as the limit. It is better that the law should fix definitely the number of troops, and, indeed, everything should be fixed upon a proper system. Since then, however, as I understand from the Committee on Military Affairs and other sources, the condition of things has somewhat changed. At the time this amendment was proposed it was not proposed as expressing the definite views of the Committee on Finance with reference to the number of men to be raised, because of that they did not assume to judge; it was not within their province, and they would of course in a very great degree be guided by the opinion of the Committee on Military Affairs, who have that subject in charge. I understand that the Committee on Military Affairs think that this is not advisable at the present time, and I can readily conceive the reason. It is known that we have a great many soldiers sick, and a great many wounded and disabled from service, and we may have more in the same condition. If, therefore, the number of seven hundred and fifty thousand men, or thereabouts, should be needed for actual service, it is very plain that if we limit the number in that way the Government may find itself without the number of men needed, on account of the great proportion of sick and disabled temporarily. I suppose that is the reason that influenced the Committee on Military Affairs, and I can readily understand that that reason may very probably exist.

It was not the design, in any shape or form, of the Committee on Finance, in proposing this amendment, to do anything more than suggest that it was well to have a legal limitation. As the law now stands, a million of men may be called out. It may be that we may have suddenly to raise a considerable number of men more than we now have; and if the Government is limited to seven hundred and fifty thousand men whose names are borne on the rolls, those who may be sick and those who may be wounded and unfit for service necessarily make part of the number, and continue under pay, and that being the case the Government may find itself in a condition where it wants more men for actual and efficient service, and may be unable to procure them as the law will stand. I understand that to be the reasoning of the Military Committee. I yield to the suggestion; in fact I have nothing to yield, because this amendment was nothing but a suggestion on the part of the Committee on Finance; and as the Committee on Military Affairs, on consultation with the War Department, think differently, and I can readily see why they should think differently, I do not feel disposed to press the amendment fixing the number of men at seven hundred and fifty thousand.

The PRESIDING OFFICER. The question is on the adoption of the amendment proposed by the Senator from New Hampshire to the amendment of the Finance Committee.

Mr. FESSENDEN. I have a word or two more to say, and I will say it now, in reference to this matter, because that will save me the trouble of saying it hereafter. The Senate will notice that the Committee on Finance also recommended a diminution of the appropriations, not to the extent of one half, but perhaps more than one third. The appropriations were founded on the estimates for the year, and I will state the reason why we proposed to reduce them, because I am about to say that we shall not insist upon those amendments. As we are to meet again in December, it was supposed, on general principles, that in appropriating a very large amount of money, hundreds of millions of money, it would be wise for Congress to keep the matter in its own hands; that is to say, to appropriate all that could be required by any possibility before that time, and to leave the rest to be made up at that time.

I wish to say, sir, that that was not founded upon any distrust or any disposition to express distrust in the administration of the money, but upon what we believed to be a safe and wise principle in republican government, and that is, that while liberal and proper appropriations are made for all the purposes of the Government, especially at a time like this, yet that where it can be done as well as not, the whole subject of expenditure should be kept at all times within the control of Congress; and therefore while we allowed to the military department very much more than on their own estimates was necessary to carry the Government safely into the month of January, to say the least, and perhaps through that month, it was deemed

wise to reserve future appropriations within the control of Congress, and I repeat that this was not done from any sort of distrust of the Government, because if there is any one man in whose entire integrity and devotion to the country and ability to manage the affairs intrusted to him I have confidence, it is in the Secretary of War. I have had from the beginning, and I have no doubt that I always shall have.

Now, inasmuch as it is found that it is unwise to make this limitation of seven hundred and fifty thousand men, inasmuch as there may be a state of things which may necessarily oblige us to raise two hundred and fifty thousand men more and come up to the limit on account of the condition of the Army, it seems unwise to impose this limitation on the appropriations, for we do not know, in the existing state of things we cannot know, what amounts of money may be necessary before we meet again, and are able to make a further appropriation. For that reason, and inasmuch as the Committee on Military Affairs have decided that the limitation of seven hundred and fifty thousand men is unwise, and that it may be necessary to raise a considerable force in addition, which must be paid, as well as all the wounded and all the sick, I am instructed that it is not advisable to press the limitation upon the amount of money for the year, but to let it stand upon the original estimates; and therefore I give notice that if this amendment is rejected by the Senate, as I suppose it will be, I shall not press the other amendments reducing the appropriations.

Mr. KING. There are two distinct provisions in this amendment. One is limiting the number of the rank and file, and the other is limiting the number of major generals and brigadier generals. In all Army appointments, the number of officers is appropriately limited by law to some ratio or proportion to the number of men of whom they have command, and I suggest to the Senator from New Hampshire the propriety of so modifying his amendment as to say that not more than one major general shall be appointed for each division of not less than three brigades, and not more than one brigadier general for each brigade of not less than four regiments. There would then be a reasonable limitation.

Mr. FESSENDEN. Forty major generals would not come up to that.

Mr. KING. I make the suggestion. That gives us a limit which will be in proportion to the number of men in the field. The present law, in my opinion, may fairly be construed, so far as brigadier generals are concerned, to allow one for each brigade; yet that is not the settled and fixed construction of the present law, but a vague idea I know prevails with some that the number of generals is entirely unlimited. If the Senator from Maine thinks it better to limit the number of major generals by an arbitrary number, I shall not interpose; I only make this suggestion to the Senator from New Hampshire as to the propriety of a different rule.

Mr. GRIMES. I understand the proposition to be to strike out this amendment that is proposed by the Committee on Finance——

Mr. KING. Not to agree to it.

Mr. GRIMES. It is an amendment which limits the number of men. I trust that the amendment will be adopted, although I presume it will not be. I intend to vote for it. I intend to vote to keep the amendment in, as submitted by the Committee on Finance. I understand from the best information we can get, that we have somewhere between five hundred thousand and six hundred thousand men in the service. I think the chairman of the Committee on Military Affairs, not now in his seat, said there were not exceeding five hundred and sixty thousand men the last time he addressed the Senate on this subject. That includes everybody; it includes the sick and disabled as well as those who are well and who are efficient combatants. It may be necessary that this number should be increased, and I am willing to say that it shall be increased to seven hundred and fifty thousand men; I am willing to say that it shall be increased to eight hundred thousand men; but I do say that it is the duty of Congress to maintain control over this subject, and not to allow an entirely unlimited number to be called for by the Secretary of War.

Mr. FESSENDEN. The law limits it to a million now.

Mr. GRIMES. The law, by a forced construction—a construction which I understood the Senator the other day, when this subject was under consideration, to say he did not put upon the law, and which the chairman of the Committee on Military Affairs said he did not put upon the law, and which we all know, at the time it was passed no member of that committee put upon the law—has been held, in the opinion of the War Department, to authorize one million men. If it be necessary that a larger number of men shall be called into the service of the United States, it is the duty of Congress to furnish them, and I shall be willing to vote that authority; but I am unwilling now to strike out this limitation of seven hundred and fifty thousand. We all understand that by the actual construction put upon the laws of July last a million men can be called out, and if we do not limit it now, knowing that the necessity is upon us, under the present condition of things, we shall lead the Department and the country to believe that we entertain the opinion that they really have the authority to call out a million men in place of five hundred thousand. If they want any more men, it is the duty of Congress to give them. I am willing to vote for them. I am willing to stay here until December and vote for them as needed. I am willing to be called back, upon five or ten days' notice from the President of the United States, to give all the additional men or money that may be desired; but I do say that, in my opinion, it is the duty of the Congress of the United States, the representatives of the States and the people, to keep the control of the number of men and of the amount of money that shall be voted for war purposes, as well as for any other purposes. I acknowledge that it is impossible for us to ascertain anything about the number of men or the number of officers. I am sorry to say that I have not such unlimited confidence in the management of the War Department as my friend the Senator from Maine has; and why? I will illustrate my reason of a want of confidence.

At the July session we passed an act authorizing the President of the United States to appoint additional aids-de-camp on the recommendation of major generals in the regular Army. Very few of us comprehended the full import of that law when it was passed. We all, at the commencement of this session, believed it to be a mistake, and by an almost unanimous vote we repealed it in this body, and sent the act to which that was attached as an amendment to the House of Representatives. It has not passed that body. At that time there had been some forty-eight or forty-nine additional aids-de-camp appointed. The members of this body were astonished; they thought it was impossible that such a number should be required in addition to the extraordinary number that we had already given to major generals and to brigadier generals. Brigadier generals and major generals in our service have more aids and a larger staff than the generals of any other Government in the world assigned to them properly, belonging to them legitimately.

About eight weeks ago I introduced in this body a resolution calling for information, directing the Secretary of War to inform us who have the control of these matters, who furnish the means for paying these additional aids-de-camp, as to the names of the persons appointed, at the instance of what generals they were appointed, and to the staff of what generals they had been assigned. I happen to know that at least six weeks ago that information was made out in the Adjutant General's office, and laid upon the desk of the Secretary of War. Why has it not been furnished to us? Why is such information denied to us? Why cannot we obtain the names of the public employés who are paid from our Treasury? Why is it that the War Department excludes from us the facts that properly belong to us, and which we ought to have upon our tables as the basis for our legislation?

Mr. President, various circumstances are daily occurring which show to me that it is the imperative duty of Congress to exercise a watchful care and supervision over the management of the Executive Departments of this country. I am not disposed to ignore my rights or my duties. I want to give to the Government all the support that it needs, but I want to vote that support. I am disposed to give it in a constitutional, legitimate, and legal way, and in no other

Mr. FESSENDEN. The remarks that I made were predicated upon the opinion of the Committee on Military Affairs. As I said before, the Committee on Finance, as a committee, did not undertake to judge upon this subject, because it was not within their proper sphere; and this amendment, as I before said, was introduced rather by way of suggestion. I say now, if the Senate should adopt the opinion of the Committee on Military Affairs, and refuse to adopt the amendment suggested by the Committee on Finance, the proposition to strike down the appropriations should be rejected; but if the Senate act contrary to the advice of the Committee on Military Affairs, and adopt the amendment which was suggested by the Committee on Finance, I shall adhere to my original amendments in regard to the amount of appropriation, because, on the basis of seven hundred and fifty thousand men, the amounts that I have proposed, by direction of the committee, will be ample, more than sufficient to meet the expenditures up to a time in the next session of Congress when we can make additional appropriations if we deem them necessary. I believe, and everybody believes, that seven hundred and fifty thousand efficient men, or that number of men efficient to an ordinary degree, making the usual allowance for sick and wounded and those unable to perform service, would be sufficient for all our purposes. But it is suggested that there is such a condition of the Army now, from the great number of sick persons and the great number of wounded persons, that it may be necessary that the whole number should be greater, in order to meet the wants of the service. Of that I do not pretend to judge. I have not examined the subject sufficiently to be able to judge.

The Senator from Iowa is mistaken in one thing. I never said or supposed that the construction of the Government, that they had authority to raise by law a million men, was a forced construction. As the laws stand, they have that authority. What I said was that the authority was given by mistake in drafting the second bill; that is to say, a proviso was put in which was intended, as I understand, to limit the number, to confine it to the original five hundred thousand, but it was so worded that it absolutely conferred authority to raise an additional five hundred thousand. That was the amount of it. The chairman of the Committee on Military Affairs has explained it once or twice in the Senate, and explained also that he stated to the Government what the meaning of the act was, and notified them more than once that it was not intended to confer authority to raise more. After we adjourned, the Government understood what the meaning of Congress was; but by the law as it now stands, I think they have the clear authority to raise a million men, whatever might have been the meaning of Congress; and therefore in drafting this amendment, having satisfied myself that a larger number than five hundred thousand should be raised, I fixed the amount at what the Secretary himself supposed was the number necessary to be kept in service, judging from the estimates that he had sent to Congress. That is the simple truth with regard to it.

Now, sir, this idea of making an appropriation for a part of the year is a new one. It has never been done heretofore. There would be no reason why it should be done here if we were going on with the ordinary appropriations in time of peace; but it occurred to the Committee on Finance that in the present state of things, when the appropriations made were so enormous, and as it was highly probable that before we met again a state of things might exist which would render so large an amount of appropriation unnecessary, as Congress is to meet again so soon, it is the duty of Congress to keep the matter within its own hands upon general principles. We hold the purse strings, and should take care of the appropriations made for the support of Government. I adhere to that opinion, and under such a state of things, to whatever extent my confidence in an administration might go, I would always proceed upon that principle. The Constitution limits these appropriations to two years. You cannot make them for the Army for more than two years. Now a different state of things presents itself. The opinion of the Committee on Military Affairs is that the limitation of seven hundred and fifty thousand should not be made; that the Government should have authority, if they pleased, to raise more men.

THE CONGRESSIONAL GLOBE.

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that is, to have more in pay, for the reason that they cannot keep the requisite number of efficient men in service. If that necessity exists, the other consequence follows, that the limitation which the Committee on Finance have put upon the appropriations would be an improper one, for more money might be necessary before we met, and therefore I stated that if the Senate was of opinion that the judgment of the Committee on Military Affairs was to be followed, (and it certainly is better than that of the Committee on Finance, I agree, because it is their appropriate matter for consideration,) then the other consequence must follow also. Of that the Senate will judge.

I did not state, as my friend from Iowa supposes, that I had unlimited confidence in the Secretary of War. I have unlimited confidence in no man on the face of the earth, for I believe that the best men are liable to errors in judgment and may commit very serious mistakes. What I meant to say was—and indeed it is not necessary I should say it, for I presume nobody doubts it—that in the entire integrity of the Secretary of War, in his devotion to the best interests of the country, and in his devoted unceasing desire to end this war, and to bring it to a speedy and as good a termination as possible, by the most stringent means in his power to exercise, I could have no more confidence in any man than in him who is at the head of the administration of that Department. I thought it was only advisable for me to say it because I had proposed a change in the ordinary course of proceedings in regard to appropriations. That the Secretary of War may be liable to commit errors, that he may make mistakes, is only saying of him what I should say of any man, especially a man burdened as he is with such immense cares and responsibilities. I know nothing of my own knowledge in reference to the facts stated by my friend from Iowa. Of course I take everything that he says as gospel. I knew that a resolution was introduced of the character he has stated, and I do not understand that it has been answered. Whatever my friend says as coming within his own knowledge, I take for absolute verity, as I have every reason to take it; but I am free to say that if that resolution has not been answered and that information has not been communicated to Congress, it is a very improper thing and it ought to be done at once. We ought to know, we have every right to know, when we are obliged to make appropriations to pay our Army, whether the laws have been complied with, and what is the real and true state of facts; and I see no reason, and can imagine no reason, why that reply has not been made, but it is perfectly within the competency of the Senator from Iowa to move an amendment to this bill, if he sees fit, with reference to that matter.

I do not feel disposed to prolong the debate on this subject. The Senate will act according to its own judgment with reference to this matter.

Mr. KING. When Congress met last July, the President called for four hundred thousand men. The Military Committee at that time thought it proper to give him a margin beyond that, and brought in a bill to authorize the raising of five hundred thousand men. It was understood, as I supposed until we reassembled here in December, that the number of volunteers authorized was limited to those figures—five hundred thousand men; but there was in a subsequent act a clause, a repetition of the first, which has received a construction authorizing another five hundred thousand troops to be raised; and this last construction is to be found in the Army Register. I read from the Register:

"By section one of the act of July 22, 1861, and section one of the act of July 25, 1861"—

Three days' difference—

"it will be observed that the President is authorized to call out a million of men. By section two of the act of July 22, 1861, it is provided that the proportion of cavalry and artillery shall not exceed one company of each of those arms to every regiment of infantry. The authorized proportion of cavalry and artillery, then, to four hundred and thirty regiments of infantry, would be thirty-five regiments of each."

They construe the law as thus limiting their numbers, but it is twice the amount which I am sure was the judgment of the Military Committee as to what would be sufficient, though I am free to say, from expressions made by members of that committee and my own opinion, that if it had been deemed by the Executive that more than the number of five hundred thousand was wanted, it would have been cheerfully granted. The opinion existed then that the number should be fixed and limited by law. That, undoubtedly, is the proper mode by which armies should be raised, and the money raised to pay them. The number of men should be fixed by law, and the amount of money which they are to be paid should be fixed by law. There should be nothing, if it is possible to avoid it, left to discretion, either as to the number or the pay of the troops.

The construction given to these laws—and I am not prepared to say that the language of the laws does not justify this construction—amounts to what is, in fact, an unlimited discretion as to the number of persons to be called out, because a million is a larger number than it is at all probable will at any time be accepted. For that reason, this would, in fact, be no limit at all. I have no idea that we shall ever reach that; I have no idea that there is any expectation anywhere that we shall reach that number. At any other time I could have assented, and I should do so now but for the reasons which have been presented to the Military Committee recently, to this amendment proposed by the Committee on Finance limiting the number. There was at one time a suggestion to limit the number to five hundred thousand, thus correcting what was supposed to be a loose construction of the acts of Congress of last year; but we did not interfere, inasmuch as we did not have the information as to how many troops we had in the field; but from the best information we could get it was very certain that there was a larger number than five hundred thousand; and we have hoped constantly that a condition of things would come when by some decisive success this matter might be terminated. We are hoping and looking for that; I am now hoping and looking for a gathering of our force that shall strike the head of this rebellion and crush it. When that is done, in my judgment a much smaller amount of force will be necessary at any time thereafter; but I have been indisposed, without a better knowledge than any of us here could have, to diminish or to limit by a single soldier the force that has been called out until that decisive blow was struck.

It is not necessary now to recur to the condition of things as they exist in the country, and as they exist with our armies. All those matters are known alike to all, and I am not going to make them a subject of argument here; but from such suggestions as have been made from the War Department my own judgment is entirely satisfied, and so was that of the committee, that it would not be wise and discreet, and that there was no necessity at this time to impose this limitation. I am very happy to find the chairman of the Committee on Finance takes the view he does of it. I believe he has all the information which I have upon the subject, and on that matter, as I understand, there is no difference of opinion between us. I think it would be well to omit this limitation in this bill.

The Military Committee were disposed to strike out the whole of this amendment, but for myself, I will say that I have no objection to a limitation as to the number of general officers. The limitation of the rank and file was the chief topic of discussion among us. I have no objection to the amendment of the Senator from New Hampshire, if it were limited not by an arbitrary number. I think it would be better to limit the number of major generals and brigadier generals by the number of divisions and brigades in the service. If there are more brigades and divisions than the number of generals given in his amendment, there is a necessity for more of these officers; if less, so many as he names are not wanted. The number of brigades and of divisions that we have in the field requires these officers, and it is usual to allow them. The Senator from Maine suggests that a major general commands more than three brigades. There may be sometimes half a dozen brigades in a division, or perhaps a larger number. Then let the number be decided by the divisions without describing their size. Each division ought to have a major general. There should be some mode of designating the number, and I think it would be better to have them designated by reference to the number of regiments, brigades, or divisions, rather than by an arbitrary number. I make the suggestion to the Senator from New Hampshire, who moved this amendment.

Mr. HALE. The amendment as I have moved it, will make the proposition of the committee read thus:

Provided, That the President shall not be authorized to appoint more than forty major generals, nor more than two hundred brigadier generals, and all acts and parts of acts authorizing a greater number of major and brigadier generals than are above provided for, are hereby repealed.

That leaves out the limitation as to the number of the rank and file. I should be willing to fix the number of general officers with relation to the number of brigades and divisions if I knew exactly how to do it; but we are acting entirely in the dark. In a communication which we have received from the Secretary of War, he says that one hundred and eighty-five brigadier generals are all he wants. He gives us that in figures.

Mr. FESSENDEN. He says that is all that is authorized by the law as it stands, and the additional number to bring it up to two hundred was intended to provide for emergencies. As to major generals, I think we have not got thirty at the present time. I think these facts show they are not needed in that proportion, and there ought to be some limitation.

Mr. HALE. I think so too; at any rate, we shall meet pretty soon again, and if this limit should be found to be inconvenient and impracticable, the Secretary could tell us so next December, and we could then alter it.

Mr. TRUMBULL. I entirely agree with the chairman of the Committee on Finance, that the Committee on Military Affairs more appropriately has charge of limiting the number of troops to be called for, and the number of generals to be appointed; but I was very glad indeed to see this amendment in the bill, and I regret that it is to be stricken out. I regret that the Committee on Military Affairs should desire to strike it out, and I regret, too, that when this question comes up there is brought into the discussion the question of confidence, or want of confidence, in the Administration. That embarrasses very much the action of the Senate.

Mr. FESSENDEN. Let not the Senator misunderstand anything that I said upon that subject. That was not brought into the discussion. I simply said with regard to the Committee on Finance and myself that we had proposed what was unusual in striking down the appropriations, not to make the appropriations for the whole year, but for only part of the year; and in order that that might not be misunderstood, I wanted to say that they did not make that proposition from a want of confidence in the Administration, but on general principles. That is the only way which it was brought into consideration. It was lest I might be misunderstood, or the Committee on Finance might be misunderstood.

Mr. TRUMBULL. I had no particular allusion to the Senator from Maine, but in the discussion by different Senators the question of confidence in the Administration or the Secretary of War had been spoken of. It was the other day in another discussion. The Senator from Connecticut brought it in then. Congress has a duty to discharge, and it embarrasses members of Congress if they are to look in their action to the question of what the Administration may think about it, one way or another. The power to raise and support armies is unquestionably in the Congress of the United States. That is a duty incumbent upon us. The Constitution has placed it there,

and for us by a general law to allow an indefinite number of men to be raised by the Executive is not discharging our duty properly. I do not think we thereby show any greater confidence in the Administration; but I do not wish to be embarrassed with that question one way or the other. Whether it is showing a greater confidence or less confidence in the Administration, I trust we all have sufficient confidence in it to discharge our duty in such a way as shall enable it to crush out this rebellion.

The question for us is, what is our duty? Is it our duty to divest ourselves of our prerogative? Can we do it? Can we discharge our duty properly when we in fact abdicate our authority and give up control over the Army by passing a law which authorizes the President to call out just as many troops as he pleases, for the Senator from New York admits that that is the present condition of things. He says the limitation of a million is no limitation at all practically, for nobody supposes we shall ever call out a million of men. Then, practically, we are divesting ourselves of what it is our duty to do. We are breaking the Constitution of the United States to that extent. Instead of holding in Congress the power to raise armies and defining how large an army shall be raised, we surrender that power to the Executive. That I am not for doing. If the limitation of seven hundred and fifty thousand is too small a number, limit it to eight hundred or nine hundred thousand. Limit it somewhere; but are seven hundred and fifty thousand too few troops? We have tried here time and again to ascertain how many troops we have in the field. I should like to inquire of any member of the Military Committee if we have five hundred thousand men in the field.

Mr. KING. I will reply to the Senator that our information is not definite as to the number; but from what I have understood we probably have that number.

Mr. TRUMBULL. Five hundred thousand in the field?

Mr. KING. Not in the field by any means.

Mr. TRUMBULL. Including the sick and the disabled soldiers?

Mr. KING. As to how many are sick and disabled, and how many are in garrison, not in the field, we have not definite information ourselves, and, of course, cannot communicate it.

Mr. GRIMES. How near can you approximate?

Mr. KING. Our best information is that the whole number is between five and six hundred thousand, varying considerably. My information is that we have had over six hundred thousand in all.

Mr. TRUMBULL. We have had as many as six hundred thousand recruited. We can supply the places of those killed in battle without any increase of the Army. The places of those who have been discharged by reason of sickness can be supplied. Now, can it be that we want more than half a million of men in the field? We have a general knowledge of armies, all of us, and we know well that we have and can have no use for five hundred thousand men in the field, in the present contingency. We cannot manage them. A much less number of men would be just as efficient. Can it be possible that the Committee on Military Affairs are providing for more than a quarter of a million of sick and disabled soldiers? That will not include those who are dead, or who die in battle, because their places can be supplied; but can it be possible that seven hundred and fifty thousand men is not enough? Is not five hundred thousand efficient men enough? Does anybody suppose that two hundred and fifty thousand are going to be sick and unable to discharge their duty at any time? It seems to me almost incredible that seven hundred and fifty thousand should not be enough; but if it is not, I say then put the limit somewhere else; but I do trust some limit will be imposed. I am for keeping in the limit of seven hundred and fifty thousand. The Committee on Military Affairs have given us no specific information about it. They simply say that they think it is not best to limit it. They do not show us why. They give no reason for this. I cannot conceive what is to be done with more than seven hundred and fifty thousand men. The reason which they give is that some of them will be sick, disabled. How many? Will one hundred thousand be sick and disabled? That number would fill all the hospitals in the land with troops, and then you would have six hundred and fifty thousand left.

Mr. NESMITH. I do not know the aggregate number of troops that have been enlisted, but sickness and casualties, it is apparent, have diminished the number, whatever it may be.

Mr. TRUMBULL. How many does the Senator understand to have been disabled?

Mr. NESMITH. I do not undertake to say what number has been disabled and rendered unfit for service.

Mr. TRUMBULL. It may be that some statements which we have heard of the number of effective men in the field are in excess of the real numbers. I do not wish, however, to prolong this discussion; but I think it is proper that we should impose some limit; and I think it is more particularly proper, when we reflect that we have had so much difficulty in ascertaining how many men there are in the field. Strange as it may seem, we have never been able to know within one hundred thousand the number of men we have. It has been stated as high as three quarters of a million; and a lower estimate has been given. I hope this limitation will be retained; and also the limitation in regard to the generals.

Mr. DIXON. Mr. President, the Senator from Illinois who has just taken his seat, has stated to the Senate that the Senator from Connecticut, meaning myself, I suppose, brought before the Senate the question of a want of confidence in the Administration. Now I am unwilling that the Senator from Illinois should make that statement without a contradiction from me. I have brought no such question before the Senate. I think the Senator must forget the circumstances of the debate last Friday. He himself brought the question before the Senate. He assailed the President, and assailed me directly for sustaining the President, in certain appointments which he had made. I will refresh his memory in regard to it. The Senator said:

"We hear of a military Governor in North Carolina. Has his name been sent to the Senate? Was he appointed by the advice and consent of the Senate? No, sir. Is there any law of Congress vesting the power in the President to appoint a military Governor in North Carolina? I believe it was the Senator from Connecticut [Mr. DIXON] who advocated that right. Sir, the President can no more make a Governor of North Carolina than the Senator from Connecticut; no more than the most obscure citizen in the State of Connecticut. It is wholly without constitutional authority."

Then he went on to address himself to me:

"Does the Senator from Connecticut insist that the President can at will, without the consent of the Senate or the sanction of law, create an office so important as that, one which, in its consequences, may shape this whole struggle?

"Mr. DIXON. The Senator asks me the question. Does he desire a reply?

"Mr. TRUMBULL. I shall be glad, if there is a reply, to hear it."

Then I went on to reply, and in that reply I stated that I justified the action of the President in this precise particular, and I said that I thought the Senator from Illinois in assailing this act was assailing the Administration. He argued at great length, as he had before and has since done, against the power of the President to appoint any such officers, and he stated in the course of his remarks that the appointment of Governor Stanly was wholly different from that of Governor Johnson. I will barely call the attention of the Senate to what is stated in the response of the Secretary of War to a resolution of inquiry passed by the Senate:

"The appointment of Hon. Andrew Johnson as military Governor is the same in its terms as that of Mr. Stanly."

I justified that appointment, but I repel the charge of justifying and upholding unauthorized assumptions of authority. That was all I said, and yet the Senator now says that I brought up the subject before the Senate. I desired merely to correct him.

Mr. TRUMBULL. The Senator from Connecticut seems to be either not capable of, or not willing—I do not know which—to understand the difference between a general argument against claiming for the Executive of the nation unlimited powers, and an attack on the President for a particular act. The question under discussion the other day was as to where the war power was—whether it was in Congress or in the Executive. I contended that it was in Congress. I was arguing that question; and for the purpose of showing the danger of allowing assumptions of power, and the danger of powers being improperly assumed, unless Congress asserted its own authority, I referred to the case of the appointment of Mr. Stanly, which was one without authority of law; and did not the Senator admit that it was without authority of law?

Mr. DIXON. No.

Mr. TRUMBULL. Did I not read him the Constitution, and ask him if there was any authority to make the appointment, and did he not say, "the Senator reads me the Constitution, and asks me if there is any authority to violate it?" And he admitted there was none, and yet he said he justified the appointment. Does the Senator from Connecticut now say there is any authority to appoint a military Governor, or any other officer, by the President, except by and with the advice and consent of the Senate, or where he is authorized by a specific law?

Mr. DIXON. I prefer to answer the Senator when he gets through. He draws certain inferences from my reply, which makes it more convenient for me to answer when he is through.

Mr. TRUMBULL. I presume it will be more convenient for the Senator to answer after I get through. He understands the position I take.

Mr. DIXON. I will endeavor to answer you, sir, when you are through.

Mr. TRUMBULL. What I deprecated was—and it was the only allusion I made to-day—that in discussions of this kind, as to how many men should be raised, anything should be said about having confidence, or a want of confidence, in the Administration of the country. I say we have our duties to perform, and we should perform those duties which the Constitution imposes upon us irrespective of the person who is Chief Magistrate of the nation; and it is embarrassing to Senators to have such questions brought in here, and to have it supposed that our legislation is had with reference in the least degree to the person who is the incumbent for the time being of the presidential chair, so far as constitutional questions are concerned. Where a discretionary power was to be vested, we might be more willing to vest it in one President than in another, but as far as constitutional questions are concerned, the Senate, as it appears to me, ought not to be influenced in the least by considering for one moment who the person is who fills the Executive chair for the time being. As I said the other day—and I am not going over it again—I understand the Constitution as requiring that all officers shall be appointed by and with the advice and consent of the Senate, unless an inferior appointment where a law of Congress authorizes the President to make it without the advice and consent of the Senate; but all officers must be appointed in pursuance of some law, and the President has no power any more than any other person to make any officer without authority. The Senator from Connecticut says he justifies a particular appointment. Well, let him justify it; he may do it, but that will not alter the fact whether it was made in accordance with law or not. I understood him the other day to admit that there was no constitutional authority to make this particular appointment; but if he now says that there is, I should like him to produce it.

Mr. DIXON. The Senator says that I am either unwilling or incapable of understanding the distinction which he draws between assailing a particular act and assailing a general principle. I confess I am incapable of understanding the distinction which he draws in this particular case. He says he was only illustrating a principle; his charge of assumption of powers was by way of illustration. We must not violate the Constitution; and by way of illustration he mentioned the instance in which it had been done. The Senator specified the particular case. He said here is an instance of a violation of the Constitution of the United States by the appointment of an officer unauthorized by that Constitution. A military Governor of North Carolina, and a military Governor of Tennessee have been appointed; and does the Senator from Connecticut justify that? calling on me to answer. I said that I justified that particular thing. He said that he did not approve that particular thing, and he then went on in what he considered a very ingenious method of reading to me a clause of the Constitution, and asking me if I would oppose it. I told him I of course was in favor of abiding by that clause in the Constitution. But what was the question? Whether

the appointment of these particular officers was justifiable or was not justifiable. The Senator assailed it with all the language of vituperation which he could use. If the English language contained any expression stronger than those he used in condemnation, I am not aware of it. I said I justified those acts. The Senator turned upon me and condemned me for doing it. At the same time if I understood him, he rather justified the President for doing that particular thing, but he thought the general abstract idea wrong, "by way of illustration!" I cannot, I confess, understand that distinction, but I desire to ask the Senator if he denies totally the power of the President as Commander-in-Chief of the Army and Navy to appoint a military Governor of a conquered territory. If the Senator will answer me that question, we can perhaps see where the difference is between us. Do I understand the Senator to say there is no power to appoint a military Governor in the President, under the Constitution, in any event?

Mr. TRUMBULL. Do you want me to answer?

Mr. DIXON. I would like to have the Senator answer the question.

Mr. TRUMBULL. I say there is no power to make any officer except in a constitutional mode, whether a military Governor or not.

Mr. DIXON. The Senator asked me to make a direct answer. Why will he not answer me, whether as Commander-in-Chief, the President has power to appoint a military Governor?

Mr. TRUMBULL. I have said that he cannot do it, except by and with the advice and consent of the Senate, and in pursuance of law.

Mr. DIXON. Although the Senator is a lawyer and chairman of the Judiciary Committee, the Supreme Court of the United States has had the misfortune of differing from him, and, of course, must be supposed by the people of the United States to be in the wrong.

Mr. SUMNER. The Senator will pardon me for suggesting that the decision was not in regard to our own territory.

Mr. DAVIS. Fair play! Let the Senator from Massachusetts keep out of this controversy. Let it be settled by the Senator from Connecticut and the Senator from Illinois.

Mr. DIXON. I have no objection to the interference of the Senator from Massachusetts in aid of the Senator from Illinois. The case to which I referred is the case of Cross *et al. vs.* Harrison, to be found in 16 Howard's Reports, p. 164. Here is the statement of the case and the decision of the court:

"In the war with Mexico, the port of San Francisco was conquered by the arms of the United States, in the year 1846, and shortly afterwards the United States had military possession of all of Upper California. Early in 1847, the President of the United States, as constitutional Commander-in-Chief of the Army and Navy, authorized the military and naval commanders of the United States forces in California to exercise the belligerent rights of a conqueror, and to form a civil and military government for the conquered territory, with power to impose duties on imports and tonnage for the support of such government and of the army which had the conquest in possession.

"This was done, and tonnage and import duties were levied under a war tariff which had been established by the civil government for that purpose, until official notice was received by the civil and military Governor of California that a treaty of peace had been made with Mexico, by which Upper California had been ceded to the United States.

"Upon receiving this intelligence the Governor directed that impost and tonnage duties should thereafter be levied in conformity with such as were to be paid in the other ports of the United States by the acts of Congress; and for such purpose he appointed the defendant in this suit collector of the port of San Francisco.

"The plaintiffs now seek to recover from him certain tonnage duties and imposts upon foreign merchandise paid by them to the defendant as collector, between the 3d of February, 1848, (the date of the treaty of peace,) and the 13th of November, 1849, (when the collector appointed by the President, according to law, entered upon the duties of his office,) upon the ground that they had been illegally exacted.

"The formation of the civil government in California, when it was done, was the lawful exercise of a belligerent right over a conquered territory. It was the existing government when the territory was ceded to the United States, as a conquest, and did not cease as a matter of course or as a consequence of the restoration of peace; and it was rightfully continued after peace was made with Mexico, until Congress legislated otherwise, under its constitutional power, to dispose of and make all needful rules and regulations respecting the Territory or other property belonging to the United States.

"The tonnage duties, and duties upon foreign goods imported in San Francisco, were legally demanded and lawfully collected by the civil Governor while the war continued, and afterwards, from the ratification of the treaty of peace until the revenue system of the United States was put into practical operation in California under the acts of Congress passed for that purpose."

Mr. TRUMBULL. I never contended that a governor might not be appointed in any of the Mexican provinces, or in any portion of a conquered foreign country.

Mr. DIXON. The question was whether the appointment must be confirmed by the Senate. That was what the Senator said. He did not apply it to a foreign country or limit it to our own country. And what difference would that make? A consul is appointed for a foreign country; a minister is appointed for a foreign country. Here was an act performed by the President, an officer appointed claiming power over a conquered territory even after it was a part of our own country. Judge Wayne, in the case to which I have referred, said:

"California, or the port of San Francisco, had been conquered by the arms of the United States as early as 1846. Shortly afterward the United States had military possession of all of Upper California. Early in 1847 the President, as constitutional Commander-in-Chief of the Army and Navy, authorized the military and naval commanders of our forces in California to exercise the belligerent rights of a conqueror, and to form a civil government for the conquered country, and to impose duties on imports and tonnage as military contributions for the support of the government and the army which had the conquest in possession. We will add, by way of note to this opinion, references to all of the correspondence of the Government upon this subject; now only referring to the letter of the Secretary of War to General Kearny, of the 10th of May, 1847, which was accompanied with a tariff of duties on imports and tonnage, which had been prepared by the Secretary of the Treasury, with forms of entry and permits for landing goods, all of which was reported by the Secretary to the President, on the 30th of March, 1847. (Senate Document No. 1, first session, Thirtieth Congress, 1847, pp. 567, 583.) No one can doubt that these orders of the President, and the action of our Army and Navy commanders in California, in conformity with them, was according to the law of arms and the right of conquest, or that they were operative until the ratification and exchange of a treaty of peace."

It is to be observed that none of the officers thus appointed had been nominated to and confirmed by the Senate. The case will be found not materially to differ from that before us. Let the Senator show the difference if he can do so.

Mr. FOSTER. This inquiry in regard to the amount of force which we have in the field is not a new one. It has been made and made over and over so many times that it seems to me rather apparent that the inquiry is made more for the pleasure of making it than with a view of having it answered, because it has been answered within a few weeks in the Senate, and answered with great minuteness. It was answered by the honorable chairman of the Committee on Military Affairs, to whom this question was thrust, I will not say in an offensive way, but in a very pertinacious way, until he procured an answer which gentlemen seem to have forgotten or never to have noticed. That answer came from the office of the Adjutant General, and was dated the 21st of May, 1862, and gave the amount of the volunteer force from twenty-four States of the Union, five Territories, and the District of Columbia, divided thus: regiments of cavalry; aggregate of men in cavalry; regiments of artillery; aggregate of artillery; regiments of infantry; aggregate of men; aggregate of regiments; total aggregate of men. The aggregate of men, as thus stated, was five hundred and ninety-nine thousand seven hundred and fifty-eight, as comprised in regiments. The account then goes on to specify various companies of cavalry and infantry and artillery, and the aggregate of men in those companies. These foot up seventeen thousand eight hundred and six, to be added to the five hundred and ninety-nine thousand seven hundred and fifty-eight, which makes a total of six hundred and seventeen thousand five hundred and sixty-four men certified by the Adjutant General of the Army, and said to be made up from the latest rolls and returns on file in the Adjutant General's office. I cannot vouch for the accuracy of this statement, but it is certainly minute. The Senator from Illinois asks me what it is as though there was something strange about it. I had a presentiment that the inquiry was made more with reference to making the inquiry and showing an eagerness for knowledge, than really to obtain it, and so I cut it out of the paper a day or two after the speech of the honorable Senator from Massachusetts had been published, and laid it in my desk for future reference when the inquiry should be made again, for I was then persuaded, as subsequent events have demonstrated, that it would be soon made as a perfectly new and unanswered inquiry!

The amendment to the amendment was agreed to.

The PRESIDING OFFICER. The question now is on the amendment as amended.

Mr. KING. I desire to have the clause read as it will stand if that amendment be adopted.

The Secretary read, as follows:

For pay of volunteers under acts of 22d and 25th of July, 1861, $150,000,000: *Provided*, That the President shall not be authorized to appoint more than forty major generals, nor more than two hundred brigadier generals; and all acts and parts of acts authorizing a greater number of major and brigadier generals than are above provided for are hereby repealed.

Mr. FESSENDEN. Considering that the Senate have refused to insert the limitation of seven hundred and fifty thousand men, I move further to amend the amendment by striking out "$150,000,000," and inserting "$226,283,282," the amount named in this clause of the bill originally.

The amendment to the amendment was adopted; and the amendment, as amended, was agreed to.

The Secretary read the next item, as follows:

For subsistence in kind for regulars and volunteers, $78,386,640 80.

The Committee on Finance proposed to reduce this appropriation to $45,000,000.

Mr. FESSENDEN. That should not be agreed to.

The amendment was rejected.

The next item was read, as follows:

For the regular supplies of the quartermaster's department, consisting of fuel for the officers, enlisted men, guard, hospitals, storehouses, and offices; of forage in kind for the horses, mules, and oxen, of the quartermaster's department at the several posts and stations, and with the armies in the field; for the horses of the several regiments of cavalry, the batteries of artillery, and such companies of infantry as may be mounted, and for the authorized number of officers' horses when serving in the field and at the outposts, including bedding for the animals; of straw for soldiers' bedding, and of stationery, including blank-books for the quartermaster's department, certificates for discharged soldiers, blank forms for the pay and quartermaster's departments; and for the printing of division and department orders and reports, $36,912,000.

The Committee on Finance proposed to reduce this appropriation to $20,000,000.

The amendment was rejected.

The Secretary read the next item, as follows:

For the incidental expenses of the quartermaster's department, consisting of postage on letters and packets received and sent by officers of the Army on public service; expenses of courts-martial and courts of inquiry, including the additional compensation of judges-advocate, recorders, members, and witnesses, while on that service, under the act of March 16, 1802; extra pay to soldiers employed, under the direction of the quartermaster's department, in the erection of barracks, quarters, storehouses, and hospitals; in the construction of roads, and on other constant labor, for periods of not less than ten days, under the acts of March 2, 1819, and August 4, 1854, including those employed as clerks at division and department headquarters; expenses of expresses to and from the frontier posts and armies in the field; of escorts to paymasters and other disbursing officers, and to trains where military escorts cannot be furnished; expenses of the interment of officers killed in action, or who die when on duty in the field, or at posts on the frontiers, or at other posts and places when ordered by the Secretary of War, and of non-commissioned officers and soldiers; authorized office furniture; hire of laborers in the quartermaster's department, including the hire of interpreters, spies, and guides for the Army; compensation of clerks of the officers of the quartermaster's department; compensation of forage and wagon masters, authorized by the act of July 5, 1838; for the apprehension of deserters, and the expenses incident to their pursuit; and for the following expenditures required for the several regiments of cavalry, the batteries of light artillery, and such companies of infantry as may be mounted, namely, the purchase of traveling forges, blacksmiths' and shoeing tools, horse and mule shoes and nails, iron and steel for shoeing, hire of veterinary surgeons, medicines for horses and mules, picket ropes, and for shoeing the horses of the corps named; also, generally, the proper and authorized expenses for the movements and operations of an army not expressly assigned to any other department, $20,836,750.

The Finance Committee proposed to reduce this appropriation from $20,836,750 to $12,000,000.

The amendment was rejected.

The Secretary read the next item, as follows:

For the purchase of cavalry and artillery horses, $5,400,000.

The Committee on Finance proposed to reduce this appropriation from $5,400,000 to $3,500,000.

The amendment was rejected.

The next item, to which no amendment was proposed, was read as follows:

For mileage, or the allowance made to officers of the Army for the transportation of themselves and their baggage, when traveling on duty without troops, escorts, or supplies, $1,291,600.

The Secretary read the next item, as follows:

For transportation of the Army, including the baggage of the troops when moving, either by land or water; of clothing, camp and garrison equipage, from the depots at Philadelphia and New York to the several posts and Army depots, and from those depots to the troops in the field; and subsistence from the places of purchase and from the places of delivery under contract, to such places as the circumstances of the service may require them to be sent; of ordnance, ordnance stores, and small arms, from founderies and armories to the arsenals, fortifications, frontier posts, and Army depots; freights, wharfage, tolls, and ferriages; for the purchase and hire of horses, mules, oxen, and harness, and the purchase and repair of wagons, carts, and drays, and of ships, and other sea-going vessels, and boats required for the transportation of supplies and for garrison purposes; for drayage and cartage at the several posts; hire of teamsters; transportation of funds for the pay and other disbursing departments; the expense of sailing public transports on the various rivers, the Gulf of Mexico, and the Atlantic and Pacific; and for procuring water at such posts as, from their situation, require that it be brought from a distance; and for clearing roads, and removing obstructions from roads, harbors, and rivers, to the extent which may be required for the actual operations in the field, $40,000,000.

The Finance Committee proposed to reduce the appropriation to $25,000,000.

The amendment was rejected.

The Secretary read the next item, as follows:

For hire or commutation of quarters for officers on military duty; hire of quarters for troops; of storehouses for the safe-keeping of military stores; of grounds for summer cantonments; for the construction of temporary huts, hospitals, and stables; and for repairing public buildings at established posts, $4,234,000.

The Committee on Finance proposed to reduce this appropriation to $3,000,000.

The amendment was rejected.

The Secretary read the following items:

For heating and cooking stoves, $90,000.
For gunboats on the western rivers, $1,000,000.

The Committee on Finance propose to strike out the words, "for gunboats on the western rivers, $1,000,000," and to insert:

For maintenance of gunboat fleet proper, $2,160,000.
For maintenance of steam rams, $180,000.

The amendment was agreed to.

The Secretary read the next item, as follows:

For contingencies of the Army, $500,000.

The next item was read, as follows:

For clothing for the Army, camp and garrison equipage, and for expenses of offices and arsenals, $39,322,513 25.

The Committee on Finance proposed to reduce this appropriation to $25,000,000.

The amendment was rejected.

The next item was read, to which no amendment was reported, as follows:

For constructing and extending the telegraph for military purposes, and for expenses in operating the same, $500,000.

The following items were read:

For the medical and hospital department, $5,705,984.
For pay of private physicians, purchase and repair of surgical instruments, purchase of extra hospital bedding, clothing, ice, and other necessary comforts for the sick and convalescing in the various military hospitals, including $125,000 for the months of May and June of the current fiscal year, $625,000.

The Committee on Finance proposed to strike out these items and insert:

For the medical and hospital department, including pay of private physicians, purchase and repair of surgical instruments, purchase of extra hospital bedding, clothing, ice, pay of male citizens as hospital attendants; the maintenance of sick and wounded soldiers placed in private houses or hospitals, and other necessary comforts for the sick and convalescing in the various military hospitals, $5,000,000.

Mr. FESSENDEN. That amendment is a change of language, and I propose to let it stand in that way, but restoring the amount of the appropriation. I move to amend the amendment by fixing the appropriation at $5,705,984.

The amendment to the amendment was agreed to; and the amendment, as amended, was adopted.

The following items were read, to which no amendment was proposed:

For contingent expenses of the Adjutant General's department at department headquarters, $2,000.
For compensation of the clerk and messenger in the office of the commanding general, $2,000.
For contingent expenses of the office of the commanding general, $300.

Mr. HALE. I wish to inquire of the Committee on Finance what they mean by "the commanding general." Is there any such officer besides the President? There is no such officer that I know of.

Mr. FESSENDEN. I suppose it must mean the commanding general of the army of the Potomac. These provisions were in the House bill, and we did not see fit to alter them.

Mr. HALE. I object to them. It may be an evil example in us to recognize an officer who has no existence.

The PRESIDING OFFICER. The Chair will state that the usual course is to act on the amendments reported by the committee, and then any further amendments can be considered.

Mr. HALE. Very well.

The PRESIDING OFFICER. The reading will be continued.

The Secretary read the following items; to which no amendment was reported:

For supplies, transportation, and care of prisoners of war, $3,373,728.
For armament of fortifications, $1,062,500.
For the current expenses of the ordnance service, $732,600.
For ordnance, ordnance stores, and supplies, including horse equipments for all mounted troops, $7,380,000.
For the manufacture of arms at the national armory, $1,800,000.
For repairs and improvements and new machinery at the national armory at Springfield, Massachusetts, $150,000.
For the purchase of gunpowder and lead, $1,100,000.
For additions to and extension of shop room, machinery, tools, and fixtures at arsenals, $500,000.

The next item was read, as follows:

For the purchase and manufacture of arms for volunteers and regulars, and ordnance and ordnance stores, $13,000,000.

The Committee on Finance proposed to reduce this appropriation to $10,000,000.

The amendment was rejected.

The remaining items in the first section of the bill, to which no amendment was proposed, were read, as follows:

For surveys of military defenses, $150,000.
For purchase and repairs of instruments, $10,000.
For printing charts of lake surveys, $10,000.
For continuing the survey of the northern and northwestern lakes, including Lake Superior, $105,000.
For completion of Fort Clinch, Amelia Island, Florida, $150,000.
For secret service fund, and to reimburse the contingent fund of the Army, $150,000.
For payment of bounty to volunteers, and to the widows and legal heirs of such as may die or be killed in the service of the United States, authorized by the fifth and sixth sections of an act entitled "An act to authorize the employment of volunteers to aid in enforcing the laws and protecting public property," approved July 22, 1861, $20,000,000, or so much thereof as may be found necessary.

The following amendment was proposed by the Committee on Finance, to come in as section two of the bill:

SEC. 2. *And be it further enacted*, That the following sums be, and the same are hereby, in like manner, appropriated, out of any money in the Treasury not otherwise appropriated, for the service of the year ending the 30th of June, 1862:

For the construction and maintenance of the gunboat fleet proper, $400,000.
For purchasing, construction, and maintenance of steam rams, $400,000.
For pay of private physicians, purchase and repair of surgical instruments, purchase of extra hospital bedding, clothing, ice, and other necessary comforts for the sick and convalescing in the various military hospitals, $125,000.
For compensation of chaplains of hospitals, from the date of the commencement of their service to the 30th of June, 1862, $12,000.

The amendment was agreed to.

The Secretary read the second section of the House bill, as follows:

SEC. 2. *And be it further enacted*, That the Secretary of War be authorized to commute the Army ration of coffee and sugar, for the extract of coffee, combined with milk and sugar, to be procured in the same manner and under like restrictions and guarantees as are preserved meats, pickles, butter, and desiccated vegetables, if he shall believe it will be conducive to the health and comfort of the Army, and not more expensive to the Government than the present ration, and if it shall be acceptable to the men.

The Finance Committee propose to amend this section by making it section three; by inserting after "sugar," in the third line, the words "in regiments and corps where he shall believe it will be acceptable to the men;" by striking out "are" before "preserved," in line six; by inserting after "vegetables," in line seven, the words "are procured for the Navy:" and by striking out the words "and if it shall be acceptable to the men," at the close of the section; so as to make it read:

SEC. 3. *And be it further enacted*, That the Secretary of War be authorized to commute the Army ration of coffee and sugar, in regiments and corps where he shall believe it will be acceptable to the men, for the extract of coffee, combined with milk and sugar, to be procured in the same manner and under like restrictions and guarantees as preserved meats, pickles, butter, and desiccated vegetables are procured for the Navy, if he shall believe it will be conducive to the health and comfort of the Army, and not more expensive to the Government than the present ration.

The amendments were agreed to.

Mr. GRIMES. I now move to strike out that section.

Mr. FESSENDEN. I should like to hear the reasons for that.

Mr. GRIMES. I will state one or two reasons. In the first place, I have tried this stuff, and I think it is very vile stuff, although on that subject perhaps the Senator from Maine will disagree with me. I am satisfied that the men themselves infinitely prefer coffee either in its burnt state or to have the privilege of burning it themselves. I know that that is the case with men who are in the habit of camping out in civil life, and I understand it is so with the soldiers. In the next place, this section as it is leaves the thing entirely in the hands of the Secretary of War, and not optional with the men themselves. If it was provided that if the regiments saw fit to have this extract of coffee in place of such coffee as has been heretofore furnished to them, there would be some reason in it, but this leaves it entirely with the Secretary of War to determine whether they shall have this kind of coffee or the pure stuff that they have heretofore had. The language of the section is, that the Secretary of War is authorized to furnish it to such "regiments and corps where he shall believe it will be acceptable to the men."

Another objection is that the section requires this article to be procured in the same way that the Navy Department procures preserved meat, pickles, butter, and desiccated vegetables for the Navy. You have a different system for procuring these things in the Navy from what you have in the Army. You are going to introduce a new set of forms and regulations and proceedings to secure to somebody the advantages that may be derived from a contract for furnishing the extract of coffee to a few regiments. Such articles as these are procured under different circumstances and in a different manner in the Navy from what they are in the Army.

Mr. FESSENDEN. If the Senator objects to the form of the proposition, he can easily propose to amend it by striking out the words, "where he shall believe it will be acceptable to the men."

Mr. GRIMES. Mine is not only a special demurrer, but a general demurrer to the whole section.

Mr. FESSENDEN. Try your special one first.

Mr. HALE. I think if this section were left as it was before the committee amended it, it would be better, and I move to reconsider the vote by which the Senate agreed to strike out the latter clause "and if it shall be acceptable to the men," and to insert, "where he shall believe it will be acceptable to the men" in a previous part of the section. That will obviate one of the objections of the Senator from Iowa. In regard to this extract of coffee, I confess that I have come to a different opinion about the value of it from that which has been stated by the Senator from Iowa. I have drank it several times.

Mr. GRIMES. Which kind? There are three kinds.

Mr. HALE. I drank that kind which was furnished by Mr. Bridge.

Mr. GRIMES. I thought that was Tilden's extract of coffee.

Mr. HALE. I recollect that we had several bottles of it at the National Hotel when I was boarding there, and it was drank by a whole company, and pronounced better coffee than is got on the average at hotels. I believe it is a good thing. If the Senate will leave the section as the House passed it, so that this extract shall be furnished if acceptable to the men, and striking out the discretion of the Secretary, I think the section would be better. I move, therefore, to reconsider that vote.

Mr. GRIMES. I am perfectly content it should be reconsidered, but I wish to call the attention of the Senate to a fact. I have looked into the subject of this milk and coffee business, and we have some very valuable information on this subject furnished to us on some one of the early days of the session from the War Department, growing out of some transactions in connection with the furnishing of coffee to certain regiments in the Army. There are three kinds of coffee furnished in this way, and one of them has milk combined with it. There is a dispute as to which of these is the most valuable. I am rather inclined to think, from the testimony I have seen, that this is the

most valuable. I think it is; but it will be observed that this section, if we pass it into a law, confines the Secretary of War to a particular kind, and does not give him the privilege of selecting whichever of these three kinds he may judge, after having tasted them, that it is most advisable to use, or which will be most acceptable to the men. I wish to suggest to the Senator from New Hampshire if we had not better amend this section so as to allow the Secretary of War a wider discretion than he will have by the section as it is, and let him select any of these extracts of coffee. Then there are some gentlemen here who have friends who are in the ground coffee business, and I should like to have them included.

Mr. HALE. I am willing.

Mr. GRIMES. With that amendment I am content.

Mr. HALE. Let us reconsider this first.

The PRESIDING OFFICER. The question will be on reconsidering the vote by which the Senate adopted the amendment of the committee to this section.

The motion to reconsider was agreed to.

The PRESIDENT *pro tempore*. The question now is on adopting the amendment proposed by the committee.

Mr. FESSENDEN. I will state to the Senate all that I know about this. A Mr. Bridge from my State, a highly respectable gentleman, came to me some time ago and exhibited specimens of this particular preparation. He is a gentleman in whose word I have very great confidence. I have no reason to have any other than entire confidence in him. He stated that this was the best preparation, and my friend from Iowa says he believes it is.

Mr. GRIMES. I thought it was Tilden's, but I am not certain.

Mr. FESSENDEN. It is known that before, when two or three kinds were exhibited, and it was left open, the worst one was chosen.

Mr. GRIMES. The most worthless and the most expensive.

Mr. FESSENDEN. As this is considered the best, and is the best, I suppose that that influenced the committee and they adopted this. It was thought better to do that than to leave any officer at liberty to take the poorest article and pay the highest price. This gentleman came to me and stated his wishes, and he gave me a bottle of the preparation. I tasted it, and so did my friend from Iowa, and I thought better of it than he did; and the Senator from New Hampshire tasted it. I knew nothing more about it until I found a provision of this kind was put into the Navy bill, and passed without objection. Then it seems that the Committee of Ways and Means, or some other committee, I do not know who did it, had this provision inserted in this bill. As the bill came to the Senate we found this provision, and we adopted it upon the same ground, supposing there was no objection to it, as it had already been adopted in the Navy bill.

The amendment we have put into the section in regard to the Navy was simply to provide that this article should be obtained in the same manner, and under like restrictions and guarantees, as preserved meats, pickles, butter, and desiccated vegetables are procured for the Navy, because they are not procured for the Army, and it was necessary to make this amendment in order to make out the sense of the sentence.

In regard to the other amendment that was made, I am perfectly willing that the clause shall be left as it was before. If it is to be left to the decision of the men, I am satisfied; but I supposed the thing could not be decided by the men but by the Department, and, therefore, the amendment was proposed in the shape in which it was presented. I have no attachment to the form in which this proposition may be adopted. I do not see any harm in adopting the clause. It has been stated to me, and I suppose it to be true, that much of the coffee used in the Army when they are on marches is necessarily made badly, and it would be a matter of great convenience to the troops when on forced marches, if they could carry this valuable preparation which may be so easily converted into coffee for drinking purposes. All they have to do is to boil water and then mix a teaspoonful of this extract with it and it makes, I think, very respectable coffee, sweetened and milked in the proper proportions. Whether there would not be cheating in it afterwards, I cannot tell.

Mr. GRIMES. That is the trouble.

Mr. FESSENDEN. But I suppose proper regulations would be adopted on that subject so far as the Department could. I am very certain that the gentleman who came to me about it would be a party to no fraud of any kind or description. I have known him ever since he was a boy, and I am perfectly sure that nothing of that kind would come from him. Under these circumstances, the Committee on Finance had no sort of difficulty in adopting this section, and I think still it will be a very good provision, and will be found in many cases, when the troops are on a hurried march, to be exceedingly useful and beneficial.

Mr. GRIMES. I do not remember the phraseology that was adopted in the naval appropriation bill intending to cover a case somewhat similar, but I think it was different from this. My impression is, that that left a discretion with the chief of the Bureau of Provisions and Clothing to select any of these preparations. Now, the great objection I have to this proposition is, that it confines the selection to one preparation which I admit from all the testimony before me I think now is a great deal the best; but will it always remain the best? Having the monopoly under a law of Congress, will it not, after a while, deteriorate and the others become the best?

Mr. FESSENDEN. It is within our power at any time.

Mr. GRIMES. But we have got to come here and solemnly enact a law of Congress on the subject. If we leave the Secretary of War to select either of these preparations, he can take whichever he sees fit. I am satisfied that this preparation is the best at this time, if there can be any best in such a matter as this. It does not suit my taste, but it does others. I think the Department ought not to be confined to one preparation of these extracts, if we are going to furnish them at all.

The PRESIDING OFFICER. The question is on agreeing to the amendment which has been reconsidered.

The amendment was rejected.

Mr. FESSENDEN. The question just taken, I understand, was on the first amendment to the section. The amendment in the seventh and eighth lines, inserting the words "are procured for the Navy," is necessary in order to make sense.

The PRESIDING OFFICER. That amendment has not been reconsidered.

Mr. GRIMES. I move to strike out the whole section.

The motion was not agreed to.

Mr. HALE. Now I move to strike out lines one hundred and seventy-four, one hundred and seventy-five, one hundred and seventy-six, and one hundred and seventy-seven, in these words:

For compensation of the clerk and messenger in the office of the commanding general, $2,000.

For contingent expenses of the office of the commanding general, $300.

General Scott had his headquarters here, where he has left a clerk and a messenger that he did not carry with him; and this is the clerk and the messenger of the commanding general that we are to pay for. There is no commanding general there, and it is simply keeping up a sort of—if we were in the classics of antiquity I would say, to represent the shade or shadow of somebody that was there some time ago. I hope it will be stricken out.

Mr. FESSENDEN. At the time these estimates were made there was a commanding general, and he had a clerk and a messenger in his office. He had for several months afterwards, up to a particular time. How the office remained after the commanding general went to Richmond or near Richmond, I do not know. I suppose there ought to be some appropriation to pay these officers while they continue in office. Whether they now remain there or not, I am unable to say.

Mr. HALE. This is for next year; the year that begins to-day.

Mr. FESSENDEN. Yes.

Mr. HALE. I guess we had better cut it out.

Mr. FESSENDEN. I shall not object to it.

The amendment was agreed to.

Mr. FESSENDEN. I will state that I have a communication from the Paymaster General, saying that the small appropriation for contingent expenses in his office for the last year has not been made. He desires that the sum of $1,000 may be appropriated to pay certain bills there which are absolutely necessary. I move this amendment, to come in at the end of section two:

For the contingent expenses of the Paymaster General's office for the year ending the 30th of June, 1862, $1,000.

The amendment was agreed to.

Mr. KING. I am instructed by the Committee on Military Affairs to move to amend the bill in lines two hundred and ten and two hundred and eleven of the first section, page 10, by striking out "one hundred and fifty," and inserting "five hundred," so that instead of $150,000, it shall read $500,000. The clause will then read:

For secret service fund, and to reimburse the contingent fund of the Army $500,000.

Mr. SHERMAN. I should like to hear an explanation of that.

Mr. KING. If any explanation is necessary I will state that this amendment is offered in pursuance of a request contained in a letter from the War Department, stating that some time since an appropriation was recommended by the Department of $150,000 for a secret service fund, and to reimburse the contingent fund of the Army; and in pursuance of that recommendation this item was inserted in the bill, but recent experience has shown this amount to be inadequate and far below the necessities of the service. The expenditure for secret service is found to be necessary in every city that is captured in the insurgent States; $500,000 at least will be required to meet the wants of the Army for secret service during the next fiscal year, and the Secretary of War earnestly recommends that the appropriation for that purpose be increased to that amount. The Military Committee were satisfied, upon sufficient information, of the necessity for the use of this money, and they unanimously agreed to grant the amount.

The amendment was agreed to.

Mr. KING. I am also instructed by the Military Committee to offer as an addition to the first section, to come in after line two hundred and nineteen, the following amendment:

For providing for the comfort of discharged soldiers who may arrive in the principal cities of the United States so disabled by disease or by wounds received in the service as to be unable to proceed to their homes, and for forwarding destitute soldiers to their homes, $2,000,000, to be expended under the direction of the President of the United States.

A similar provision was made for the return home of the disabled soldiers of the Mexican war, and for this we have a recommendation of the War Department.

The amendment was agreed to.

Mr. KING. I am also instructed to move to add another clause to follow the one just adopted:

For enlarging, repairing, and furnishing the Northwest Executive Building, $20,000.

I will state that the object of this is to add a story to the building now occupied by the War Department, and increase the number of rooms for the clerks, which is deemed necessary. The Department, as we all know, now has to hire a good many buildings outside. This, also, is specially recommended by the Secretary.

Mr. POWELL. I did not hear the Senator; I do not know what is meant by "Northwest Executive Building."

Mr. KING. I stated to the Senate that the object was to add a story to the building used for the War Department now.

The amendment was agreed to.

Mr. KING. I am also instructed to move to add to this section the following clause, to come in after the amendment just adopted:

For grading and improving that part of Judiciary square, in the city of Washington, upon which the general hospital of the United States is located, $4,000, to be expended under the direction of the Surgeon General.

We have a letter from the Surgeon General recommending this. It is to improve the grounds in the Judiciary square, and is necessary for the health of soldiers in the hospital there. I am told, though I have not seen them myself, that there are depressions, hollows, in which water stands below the gutter, and cannot be drained off. It is necessary, as a sanitary measure, that something of this sort should be done.

The amendment was agreed to.

Mr. KING. I am also instructed to move as an additional section to the bill:

And be it further enacted, That so much of the seventh section of the act, approved the 3d of March, 1851, entitled

"An act to found a Military Asylum for the relief and support of invalid and disabled soldiers of the Army of the United States," as requires that "all moneys, not exceeding two thirds of the balance on hand of the hospital fund, and of the post fund of each military station, after deducting the necessary expenses," shall be set apart to support the Military Asylum, be and the same is hereby repealed.

This proposition meets the approval of the board who now have charge of this asylum, known as the Soldiers' Home, here. By the law passed some years since, establishing the institution, it was provided, for the purpose of creating a fund for the Soldiers' Home, that a certain portion of the moneys collected at each military post throughout the country should be given to this asylum. The asylum fund is now sufficient, and the contribution is no longer necessary, and it is recommended that this money should be left at the posts where it is collected; and that is the provision of the amendment. It is simply to change the law so as to leave the posts the use of the money they collect.

Mr. HALE. I should like to understand the reason for this amendment.

Mr. KING. I stated a moment ago that this contribution from every station in the country was required by law at the time this asylum was founded, deemed to be necessary to give a sufficient fund for the support of the establishment. It has been found that the other provisions for the support of this establishment are sufficient, and these are funds collected at the several stations which are used there for their sick and disabled, and the asylum is willing to relinquish it to them again.

Mr. NESMITH. If the Senator will permit me, I will suggest that there is another reason for this amendment now. At the time the act was passed appropriating a certain portion of the funds of post hospitals for the purpose of this Soldiers' Home, it was a time of peace, when there were accumulations at different post hospitals that might be dispensed with. Now there being a war, and a great many sick and wounded in all the post hospitals, and in the field, all this hospital fund is required for the comfort of the soldiers who are sick and wounded in the hospitals; and it is thought that it will be better to apply it to their benefit there than to divert it for the purpose of supporting the Soldiers' Home, which is amply provided with funds.

Mr. HALE. I am satisfied with that statement; but while I am up I will say a word in regard to this Soldiers' Home. There is no fund collected by this Government that has been so abused and misappropriated as this.

Mr. NESMITH. I will state to the Senator from New Hampshire that, a month or six weeks since, I introduced a resolution calling for all the information in relation to the financial condition of the institution and its resources, the sums derived from each resource, and the application or expenditure of it, the amount on hand, where deposited, and under whose control. A report, in answer to that resolution, I understand, has been made, and is now in the hands of the printer, and will be printed in a few days.

Mr. HALE. I wish the Military Committee had gone further than that. I was on a select committee that examined the concern a few years ago, and we suggested a great many improvements that were made; but the fact is that there has been a great perversion of this fund that is collected out of the small wages of the soldiers. Instead of building a soldiers' home with it, they built a large palace, and then built another similar one on a smaller scale. Instead of spending the money for the benefit of the soldiers, it was made a comfortable country seat for the President of the United States and the Secretary of War, &c. I called attention to it once before, and Mr. Buchanan thought that I did him injustice. I endeavored to do him justice afterwards. I believe Mr. Buchanan did pay his own bills while he was there. He said he did, and I think he did. But I say (and I say it without any reference to the present President, because he only continues a bad precedent which his predecessors began) it is a gross perversion to collect twenty cents a month out of the soldiers' wages, and then, instead of devoting it to the soldiers' comfort, using it to build splendid palaces for officers of the General Government to go out there and spend their summers. It is a very great abuse, and it is practiced to-day. Further than that, I have heard—and I call the attention of the Military Committee to it—that some of the officers of the Government have let their own houses to the Government at a very high price and gone out to live at the Soldiers' Home for nothing. I do not know whether that is true or not, but it has been so stated.

The amendment was agreed to.

Mr. KING. I offer the following amendment as a new section:

And be it further enacted, That the enlisted men of the ordnance department, now designated as master workmen, shall hereafter be designated and mustered as sergeants; those now designated as armorers, carriage-makers, and blacksmiths, shall be designated and mustered as corporals; those now designated as artificers, shall be designated and mustered as privates of the first class; and those now designated as laborers, shall be designated and mustered as privates of the second class: *Provided*, That the pay, rations, and clothing now authorized by law to the respective grades, of enlisted ordnance men shall not be changed.

I will say one word to the Senator from New Hampshire in relation to the other question. The sum is twelve and a half cents that is paid by the soldiers for the Soldiers' Home.

Mr. FESSENDEN. What about this?

Mr. KING. This amendment, it will be perceived from the reading of it, does not affect the pay or emoluments of those persons; it merely gives them a military designation, which is the object, so as to give them a rank and a place in the Army, so that bills, which properly ought to apply to them and which would apply to them if they were designated as sergeants and corporals belonging to the Army, may be applied. Many of the military laws do not designate the persons to whom they shall be applicable by the name of workmen and mechanics, as these persons are. This gives them a military name and designation, and a place in the Army.

The amendment was agreed to.

Mr. KING. I am also instructed to offer the following as an additional section:

And be it further enacted, That in all cases where recruiting officers have, in good faith, paid the two dollars for bringing accepted recruits to the rendezvous before receiving notice of the repeal of the regulation allowing the same, the account of such officer shall be allowed in settlement by the Treasury Department.

This is a subject on which the War Department has been consulted. It will not amount to a great deal, but they do not know precisely to what sum. Formerly two dollars was allowed to the person who brought in a recruit for the regular Army. That provision was repealed by a law of the last session, I think; but before notice of that repeal reached the different recruiting stations, some recruits had been brought in, and the officers had, in good faith, paid the amount allowed by law. The object of this amendment is to allow, in such cases in settling their accounts, the allowance to be made.

Mr. FESSENDEN. I think that would be attended with some difficulty. I know the fact that in many cases officers very anxious to raise companies chose to disregard the law, and pay out of their own pockets the two dollars.

Mr. SHERMAN. This applies only to regulars.

Mr. FESSENDEN. Very well, I am speaking of the regulars. Some officers appointed in the new regular regiments, anxious to raise their companies and get into the field, having some means of their own, chose to pay for the sake of getting into the field early, a sum of money, two dollars generally, and sometimes more, for each recruit. I am told that in one particular case a colonel, who was a rich man, and anxious to fill his regiment, authorized his recruiting officer to pay the two dollars, and it is said that he has paid a considerable amount of money. He wanted to be at the head of his regiment and he got it very nearly full. How are you going to establish the fact that they paid the money, failing to get notice of the law? All they will do will be to come forward and say that they paid the money; but how can it be established that it was paid without notice? That does not seem to be provided for. If there was a case where they really did it in the way the amendment supposes, it ought to be paid, but I think it will reach a good many other cases where they made advances for their own purposes.

Mr. KING. I call the attention of the Senator from Maine to the manner in which the amendment is framed. I ask that it be read.

The Secretary read the amendment.

Mr. KING. There is no requisition for proof to be presented to the Department, but the language of the amendment was designed, and if the accounting officer of the Treasury does his duty he will require a voucher for each payment. The money can only have been paid for a recruit brought in; and it must be shown to the satisfaction of the accounting officer, and it would be his duty to inquire and see that reasonable proof was made of the fact, that the money was paid by the recruiting officer before information of the repeal of the regulation had reached him. If it be proper to make this allowance, and I am inclined to think it is, where in good faith the recruiting officer has paid the money, with fair accounting officers there will be no difficulty in guarding the Treasury. This allowance was made by a regulation having the force of law, and the officer was not only authorized to pay the money, but the person bringing in the recruit had a right to demand this sum. I was informed that the amount was not large, but made a difficulty in the settlement and closing of a good many accounts which they thought at the Department should be closed. If the Senator from Maine thinks of any words which will make it more certain that the money shall not be paid except in cases where it ought to be, I shall be content to accept any amendment. The words "in good faith" were inserted with a view to secure that object.

The amendment was agreed to.

Mr. KING. I am instructed also to offer as an additional section the following:

And be it further enacted, That there shall be added to the clerical force of the Surgeon General's office one clerk of class one, and one clerk of class two; and there shall be added to the clerical force of the Paymaster General's office three clerks of class four, six clerks of class three, eleven clerks of class two, and twenty clerks of class one; and that there shall be added to the clerical and other force of the Adjutant General's office two clerks of class four, two clerks of class three, six clerks of class one, and ten other clerks at a monthly compensation of sixty dollars each; and the Adjutant General may detail ten more non-commissioned officers of the Army as clerks in his office.

These additional clerks have been recommended to the Secretary by the different departments of the War Office; and in a communication from him they are declared to be absolutely essential to the performance of the business of the office.

Mr. FESSENDEN. I suggest that the amendment should be amended by adding an appropiation for that purpose.

Mr. SHERMAN. I trust another modification will be made, and that all these clerks will be made first class clerks, so as to receive $1,200 a year. They will be new clerks, as a matter of course. There were very few in those offices before; and I see no reason for promoting those who are there. We might as well employ first class clerks at $1,200, as second class clerks at $1,400, and so on.

Mr. KING. The Senator from Ohio is aware that this is an amendment agreed to by the Military Committee, and is presented in the form in which it was agreed to by them. It was agreed to by them in the form in which it was submitted, and asked for by the War Department.

Mr. SHERMAN. The heads of Departments like always to have the appointment of $1,600 and $1,800 clerks, but they can get as many as they want for $1,200.

Mr. FESSENDEN. I would suggest to my friend from Ohio, that perhaps he may be somewhat mistaken as to this matter. As to the general rule, he is no doubt correct. It will do in a large establishment like the Treasury Department, when new clerks are given, to put them all on the lowest salary, but in providing new clerks for the Pension Office, a few days ago, the Senator will remember that we made them all clerks of class one, and the House of Representatives disagreed to that amendment, and on a conference the committee of conference became satisfied that it was necessary to have some of a different class, how many I do not remember; but it was stated by the Secretary of the Interior that it was absolutely necessary, and he gave reasons which were satisfactory to the committee.

I do not know how far this matter has been investigated; but it requires a different class of clerks. The new clerks, those that come in as new men, should be probably of class one; but suppose you raise the clerks now in office to class two, class three, and class four, and fill their places. It would be necessary, on the principles that have

been adopted of classification of clerkships, to have some men of different and higher qualifications, and requiring more pay. Although the new men appointed will probably all be of class one, it will be necessary to raise other clerks to higher positions, and they may require clerks of greater intelligence and who, of course, would require greater pay. I should think that might be so from the operation of it in the other case. Take the Surgeon General's office, for instance. He only wants two new clerks, and he wants them of rather higher qualifications than we ordinarily get in the lowest class.

Mr. SHERMAN. He asks for clerks of class one.

Mr. FESSENDEN. He wants one clerk of class one and one clerk of class two. The Paymaster General's office desires three clerks of class four, six of class three, eleven of class two, and twenty of class one. You see there is a large number of clerks undoubtedly necessary. The Paymaster General's office is suffering exceedingly. There is no doubt about that, and the public interest is suffering in the same ratio for this reason: that the Government is likely to lose a good deal of money, and individuals perhaps more. With the small force they have there, they cannot settle or keep anywhere near the necessary settlement of the accounts of paymasters of the Army. They are piled up there in heaps as high as the ceiling. I was surprised to see them. There is an absolute want of power in the office to examine them. What is the consequence? The consequence is that the paymasters are not able to settle their accounts as they ought to be settled very often. They make their payments, and if they were settled immediately, where they have made any errors, they can be corrected while the soldiers are to be found; but if you put it off a year the soldiers are all gone, and the paymasters must be responsible for all the errors they have made, and there is no power left to correct them or for them to regain their money in any possible way. That is one difficulty. They are subjected to difficulties of that sort, losing large sums of money, which may lead to failures of their own which will result in the Government losing large sums.

Under these circumstances, I am perfectly satisfied that a very large increase of force is necessary in the paymaster's department. From the nature of the business they have to perform, the careful examination of paymasters' accounts, and everything connected with them, they do require a certain number of clerks of considerable experience, and a greater than ordinary degree of attainment in the business in which they are respectively engaged. Therefore, although I have generally adopted the principle suggested by my friend from Ohio, I should not be willing to say that I would not allow them any increase of clerks of a higher capacity than class one, because I think it most likely that they need them there; that they must raise the few clerks there are there to positions which will in ordinary justice to them require a greater amount of pay. How much it may be, I do not know.

As to the Adjutant General's office, I am not at all familiar with that, and I do not know what may be necessary there.

Mr. SHERMAN. We have increased the number of clerks in that office already.

Mr. FESSENDEN. I know we have increased it; but I suppose there is the same necessity in that office as in others, and it requires a good deal of increase in the force. I have no doubt the War Department has suffered exceedingly from its want of clerical force. I have it from one of the officers of that Department who has a great deal to do with it, in whose judgment I have entire confidence, and I believe my friend from Iowa [Mr. GRIMES] has also, that it is necessary; how much, however, I am unable to say.

Mr. KING. The designation of the classes was made by the Departments themselves. The Surgeon General only asks for clerks of the two lower classes. He asks for one of class two, that a person of some experience in the office may be promoted, and thus continue the gradations in his office. These classifications were made some years since with a view to give compensation according to the capacity required for the different places to which these clerks were assigned; and the committee were disposed unanimously to assent to the request of the Department and allow them to have clerks as they asked for them.

I will call the attention of the Senate to the last class of clerks asked for; and that is, ten who shall be compensated at the rate of sixty dollars per month; showing that the Department in making this arrangement and calculation have designed to ask for what would give them the force they require at the least expense. They suppose that ten of these clerks may be employed at a compensation less than that of class one, or the lowest class of regular clerks. It is also proposed to detail ten non-commissioned officers, who will receive their ordinary pay in the Army as if they were in camp, for services as clerks in that Department; and from that class of persons in the service, undoubtedly young men can be found entirely competent to fill those stations, and who would prefer being so engaged.

Mr. GRIMES. I will inquire if it costs the clerks any more to live than it does the private soldiers.

Mr. KING. I would refer the Senator to the gentlemen themselves, and compare their report. He must know as well as I.

Mr. GRIMES. Private soldiers get thirteen dollars a month, about one hundred and sixty dollars a year, and rations, equivalent to thirty cents a day. The whole amount would be less than four hundred dollars; and yet it is said that $1,200 is not sufficient compensation for a clerk.

Mr. KING. Ten of these clerks are to be paid sixty dollars per month. Non-commissioned officers, when employed on other duty receive, I believe, by the regulations, forty cents in addition to their wages. These salaries of the officers of the Government are unequal from top to bottom; and the Senator from Iowa may make any suggestion as to amendment that he chooses on that subject.

Mr. GRIMES. I am in favor of putting them all as first-class clerks.

The PRESIDING OFFICER. The question is on the adoption of the amendment proposed by the Senator from New York.

Mr. KING. The Senator from Ohio moved to amend the amendment, I think.

Mr. GRIMES. I understand the amendment to the amendment is to reduce them all to first-class clerkships.

The PRESIDING OFFICER. The Senator from Ohio suggested such a modification. The question is on the amendment of the Senator from New York.

Mr. FESSENDEN. The Senator from Ohio and myself are making a calculation as to the sum necessary to be appropriated.

The PRESIDING OFFICER. That can be adopted afterwards without delaying this amendment.

Mr. KING. I wish to inquire of the Senator from Ohio whether he intends by his amendment to make the ten transient clerks, or sixty dollars a month clerks, clerks of the first class.

Mr. SHERMAN. If the Senator will pause a moment, we will estimate the amount necessary, and draw the proper amendment.

Mr. FOOT. While the Senators from Maine and Ohio are preparing amendments to the pending amendment offered by the Senator from New York, I will ask that the consideration of that amendment be passed over for the present, that I may offer an amendment by direction of the Committee on Public Buildings and Grounds.

The PRESIDING OFFICER. The Chair will receive the amendment.

Mr. FOOT. By direction of the Committee on Public Buildings and Grounds, I offer the following amendment as an additional section:

And be it further enacted, That the restriction or limitation contained in the proviso to the joint resolution approved April 16, 1862, transferring the superintendency of the Capitol extension from the War Department to the Department of the Interior, shall not be so construed or applied as to prevent the completion of, and the payment for, the painting now in progress on the wall over the stairway on the western side of the south wing, agreeably to the terms of the contract made between General M. C. Meigs, on behalf of the Government, and Mr. E. Leutze, the artist, on the 9th day of July, 1861.

Mr. President, on the 9th of July last General Meigs, then superintendent of the Capitol extension, entered into a written contract with the artist, Mr. E. Leutze, for a painting upon the western wall of the southern wing of the Capitol, of which the following is a copy. I will ask that it be read.

The Secretary read it, as follows:

Contract for painting a picture on the wall of the southwest staircase of the Capitol extension.

It is agreed this 9th day of July, 1861, at Washington, District of Columbia, between C. Leutze, artist, of the first part, and General M. C. Meigs, superintendent of the Capitol extension for the United States of the second part, that Mr. Leutze shall paint upon the western wall of the western stairs of the Capitol extension, a picture of "Emigration," the size, including the ornamental border, to be twenty feet by thirty feet, to be finished within two years from date, and that for this work Mr. Leutze shall be paid by the United States a total sum of $20,000, deducting any sum he may have already received towards paying for the design. Said sum to be paid in installments, as follows: for completing the design, deducting the sum already received, $3,500. In equal installments, during the progress of the study and execution of the work, at the end of each month, $500 until the total sum paid shall amount to $15,000; the remaining sum of $5,000 to be paid upon completion of the work.

[Signatures.]

Mr. FOOT. Under that contract the artist Leutze prosecuted the work until it was arrested by order of the Secretary of the Interior after the transfer of the superintendency from the War to the Interior Department, in accordance with the proviso of the joint resolution making that transfer, which inhibited the expenditure of any portion of the unexpended appropriations for the Capitol extension for works of art and ornament. About five sixths of the work has been done, leaving one sixth yet remaining. The artist has been paid the sum of $8,000, and is now entitled to $7,000 more, $5,000 being reserved as a pledge or guarantee for the completion of the work. It is desirable that that work should be completed. As it is, it is altogether useless, a marplot rather than an ornament to the building. Besides, it would be a waste of all the money expended, and which is due to him, some sixteen or seventeen thousand dollars, to leave it in its present condition. As a matter of economy, as well as a matter of taste and a matter of justice to the artist, he should be authorized to go on and complete the work, the little that remains. I will ask that the letter of the Secretary of the Interior in this connection be read, and that will explain the whole.

The Secretary read it, as follows:

DEPARTMENT OF THE INTERIOR, WASHINGTON, *May* 30, 1862.

SIR: I have to acknowledge the receipt of your letter of the 26th instant, in relation to the amount due upon your contract for painting a picture upon the stairway of the Capitol.

The joint resolution of Congress, approved April 16, 1862, which transferred the supervision of the Capitol extension to this Department, provides "that no money heretofore appropriated shall be expended upon the Capitol until authorized by Congress, except so much as is necessary to protect the building from injury by the elements, and to complete the dome."

This positive prohibition places it out of my power to make any payments on account of the work in which you are engaged, without the sanction of Congress.

I am inclined to believe that Congress, upon being informed of the condition in which you are placed, would remove the restriction so far as it affects your work, and which I recommend.

I am, sir, very respectfully, your obedient servant,

CALEB B. SMITH,
Secretary of the Interior.

E. LEUTZE, Esq., *Artist Capitol Extension.*

Mr. HALE. I have no objection to paying this amount; I think we ought to pay it; but I desire to ask the chairman of the Committee on Public Buildings and Grounds if the superintendent had any authority of law to make such a contract? Was it within the rightful power of the superintendent to go on, without a vote of Congress, and contract for pictures at $20,000 a piece to be painted on any part of the walls of this building? If General Meigs had that power, the present superintendent has it; and I should like to know of the chairman of the Committee on Public Buildings and Grounds whether General Meigs had any authority of law to make any such contract.

Mr. FOOT. I am not prepared to answer that question categorically. The superintendent did make that contract, and the contract was approved by the Secretary of War, Mr. Cameron, at the time. As a matter of justice to the artist as well as of economy to the Government, as it is brought near to a conclusion, I have no doubt about the expediency of completing it.

Mr. HALE. I have no doubt either on that point. I am in favor of finishing it, and in favor of paying the artist; but I want to protest here and now that neither the superintendent, nor the Secretary of War, nor anybody else under God's heaven except this Congress, has a right to order such decorations of this Capitol.

The PRESIDING OFFICER. The question is on the amendment of the Senator from Vermont.

The amendment was agreed to.

Mr. SHERMAN. I will now submit an amendment to the amendment proposed by the Senator from New York. It is, in lines four and five of the amendment, to strike out the words, "three clerks of class four, six clerks of class three," and to insert, "nine clerks of class two;" in lines seven and eight, to strike out the words "two clerks of class four, two clerks of class three," and to insert, "four clerks of class two;" and at the end of the amendment to add the following:

And the sum of $51,200 is hereby appropriated, out of any money in the Treasury not otherwise appropriated, to pay the salaries of the clerks hereby authorized.

The amendment to the amendment was agreed to.

The PRESIDING OFFICER. The question recurs on the amendment of the Senator from New York as amended.

Mr. GRIMES. Is it in order now to move to reduce them all to first class clerks?

Mr. SHERMAN. We have reduced them now.

Mr. GRIMES. To first and second class clerks.

Mr. SHERMAN. We have reduced all of the third and fourth class to the first class, leaving, however, a few second class clerks that may be necessary.

Mr. GRIMES. If the Senator from Ohio, who is an economist, consents to these clerks being retained as second class clerks, I shall not make any motion on the subject; but I know it to be a fact that there are thousands of men, as competent as any men there are in any of the bureaus of this Department, who are not only willing, but anxious to take all these places at $1,200 a year.

The amendment, as amended, was agreed to.

Mr. KING. I am instructed by the Committee on Military Affairs to offer another amendment as an additional section:

And be it further enacted, That section five of the "Act to authorize the employment of volunteers to aid in enforcing the laws and protecting public property," approved July 22, 1861; and section five of the "Act to increase the present military establishment of the United States," approved July 29, 1861, shall be so construed as to allow twenty-five dollars of the bounty of $100 therein provided to be paid immediately after enlistment to every soldier of the regular Army and volunteer forces hereafter enlisted during the continuance of the existing war; and the sum of $7,500,000 is hereby appropriated for such payments.

The amendment was agreed to.

Mr. KING. I am also instructed by the committee to offer another amendment, as an additional section to this bill:

And be it further enacted, That all the aids-de-camp appointed by authority of the act approved August 5, 1861, entitled "An act supplementary to an act entitled 'An act to increase the present military establishment of the United States,' approved July 29, 1861," shall be nominated to the Senate for its advice and consent.

This is a provision requiring that the aids of major generals shall be hereafter nominated to the Senate.

Mr. SUMNER. I should like to inquire of the Senator from New York whether that would act upon those who are already in the service?

Mr. KING. It is not my opinion that it would; but that is a matter of construction of the language.

Mr. COLLAMER. It would.

Mr. KING. I ask that the amendment be read again. That is a matter for the Senate to determine, whether it shall or shall not.

The Secretary again read the amendment.

Mr. SUMNER. I move to insert the word "hereafter" before "appointed," so that it shall not be retroactive.

Mr. HALE. I hope not. It ought to be retroactive.

Mr. SHERMAN. I should like to have a list of them at any rate.

Mr. SUMNER. That we can have at any time.

Mr. FESSENDEN. We have asked for it for months together and have not got it.

The PRESIDING OFFICER. The question is on the amendment to the amendment, to insert the word "hereafter" before the word "appointed."

Mr. SHERMAN. I trust that amendment to the amendment will not be adopted. I believe the Constitution of the United States requires the President to send these appointments, without any express provision of law. These are not of that inferior class of officers described in the Constitution, the appointment of whom may not be sent to the Senate. I think they are clearly officers of such a grade and character that their appointments should be sent here. I do not doubt the Senate would readily confirm all those who are now actually employed; but it is well enough to have a list of them, and I think it just as well to have them sent to the Senate.

Mr. SUMNER. But, I take it, the Senator does not desire to legislate these men out of office.

Mr. SHERMAN. I say I have no doubt that the Senate would confirm all the gentlemen appointed and now in the service. At least, I would not interpose an objection if I had any, to a confirmation, under those circumstances; but I think it well enough to have a list of the names of those appointed.

Mr. SUMNER. The Senator's desire can be accomplished any day by a call on the Department for that list. It seems to me he takes rather a strange way of getting his list by supporting a provision that is going to legislate them out of office.

Mr. GRIMES. Does not the Senator from Massachusetts know that at least eight weeks ago I introduced a resolution calling for this specific information; and have I not stated here to-day that I have information on which I can rely, that that list was made out and put upon the table of the Secretary of War at least six weeks ago, and has never been sent here?

Mr. SUMNER. I was not aware of that.

Mr. GRIMES. Why then say we can procure this information, when we have already called for it, and it is denied to us?

Mr. SUMNER. Mr. President, I think Senators are really making too much of it in insisting that this shall be retroactive. It is contrary to the spirit of our institutions; and there is something of harshness in it; something almost ungenerous. I think the better way would be to insert the word "hereafter," so that it shall not act back. I have no doubt the Senator will get his information by a personal call, and by renewing his call from the Senate Chamber he would make assurance doubly sure. I have no doubt he can get it; but it seems to me this is a very strange way of getting information.

Mr. KING. General Order No. 63 gives us a full list of all these appointments up to June 10. I have it here. It has been printed; but I believe the appointment of such officers has been continued since.

Mr. GRIMES. Do I understand the Senator to say that that is a full list?

Mr. KING. I understand it is full up to June 10. It is an official list, and ought to contain them all. I have no information that it does not contain them all. Indeed, my information is that it does. It was furnished to the committee as the list of these officers, and contains a pretty large number of them; but the number is not limited by the law. It was my opinion, on examining the law which authorizes these appointments, that it did not require them to be sent to the Senate, because the Constitution authorizes Congress to determine by law the manner in which certain officers may be appointed, and provides that they may be appointed by the President or other authorities. It was stated in the law which authorized the appointment of these additional aids-de-camp that they might be appointed by the President without the additional words, which are customary, though not always used, to send them to the Senate for its advice and consent. That construction of the law has been acted upon, and they have gone on and appointed a considerable number of these aids. Some of them, perhaps, have been appointed on solicitation. There have been different opinions what the number should be. It was the opinion of the committee that the matter should be determined by law, and that there would be no impropriety in requiring them to be sent in to the Senate. The amendment, as it is reported, requires all the nominations of these aids which have been made, or may hereafter be made, to come to the Senate. It will then be for the Senate to determine whether those now in commission should continue. I will ask the Senator from Iowa, as he made the suggestion, if he supposes there are other officers than those named in this list? I know nothing of any such thing.

Mr. GRIMES. I can only state what I know of my own knowledge. I was at the Adjutant General's office and one of the assistant adjutants general put in my hand a transcript of that book which the Senator holds in his hand, and he told me that that did not contain all the aids; but whether additional ones had been appointed since the 10th of June, when that purports to have been issued, or whether some other gentlemen had been appointed, of whom the Department were perhaps a little ashamed and did not desire to make public proclamation, is not for me to say.

Mr. KING. Then I have no doubt they were additional appointments made subsequent to that day.

Mr. GRIMES. That is the only information I have officially.

Mr. KING. I have no doubt, from what the Senator says, that this is an accurate report. It certainly should be, coming from the Department as an official document.

Mr. GRIMES. I concur in that suggestion, that it certainly should be.

Mr. KING. And I have no reason to doubt that it is. It is very likely that additional appointments have been made since the 10th of June. However, in my judgment, all the facts concur in the propriety of the amendment that has been offered by the Committee on Military Affairs.

Mr. SUMNER. If there has been any mistake, it is obvious that the Senate is as much a party to it as the Department of War. It will be remembered that at an early period of the session these nominations were sent in to us, and they were returned to the President with a declaration of opinion that, in the view of the Senate, it was not necessary that they should be confirmed. After that communication from the Senate, what was more natural than that the President should proceed with these nominations without sending them to the Senate? I must submit to my friend from Iowa that it is a little hard if we should undertake by positive legislation to oust all these persons from their commissions, when the President has been proceeding in granting those commissions in pursuance of a resolution of the Senate itself.

Mr. GRIMES. The amendment is not mine. I never heard it read.

Mr. SUMNER. But the Senator opposes my amendment to prevent this proposition from being retroactive.

Mr. GRIMES. The Senator says that the Senate is as much to blame as the War Department in regard to the appointment of aids-de-camp. Now, let us look at it. When we met here at the commencement of this session, we found that forty-eight or forty-nine additional aids had been appointed. We had provided a large number of aids for each major general and brigadier general by the law of July last. We found that forty-eight or forty-nine of these additional aids had been appointed. It struck every man in this Senate as being an enormous number of aids; and we had an expression of sentiment on that subject, and it was universal. We passed, I think, at least three sections repealing that law, and attached them to three different bills, certainly by an almost unanimous vote. It was well understood in this body, all over the city, and in the country, what was the view of the Senate on that subject. But they have gone on and appointed one hundred and twenty more. I counted the additional aids of that order that was issued on the 10th of June, and I think, if my recollection serves me right, there are one hundred and sixty-three of them; and that does not include all. It seems to me it is time for us to stop. I know of young gentlemen who are acting as aids who are attaches of this Capitol in various capacities.

Mr. SUMNER. The Senator says it is time to stop. We propose to stop. My proposition is simply, that in stopping now, we should not go backwards on those who hold these commissions.

Mr. KING. The Senator from Iowa, although he is in favor of this amendment, and has at different times expressed himself in favor of the proposition which it is intended to enact into a law, is not responsible for this amendment, as he says. This is an amendment from the Committee on Military Affairs, and one which, on full consideration, they think it very proper should be adopted, and they are willing to take the responsibility of

recommending it to the Senate for adoption. The regular number of aids allowed by the law to a major general is three; to a brigadier general, two.

Mr. GRIMES, In time of peace two for a major general, and one for a brigadier.

Mr. KING. The Senator from Iowa changes the number. However, it was deemed necessary there should be a larger number of these officers in the services in which they were engaged during the war, and it was said they needed more; and the Senate responded at the July session of 1861 to the suggestion by authorizing the President to appoint such a number as in his discretion he should deem necessary. The number has been largely extended, and it has been apprehended that some have been appointed upon the solicitation of parties who desired places as well as upon the recommendation of the generals who needed their services. There is, at any rate, no impropriety in the amendment; and I feel authorized to say that the Executive has no objection that this amendment should be adopted; they are not only willing, but desire the advice and consent of the Senate upon all such questions. Although I have not conversed with the President on the subject, I have no doubt, from my knowledge of him, he would prefer it rather than have the entire disposition of this matter himself. It certainly is a very proper thing that officers of this important character, charged with responsible duties, as they often are, under the direction of the officers to whom they are aids, should be persons whose qualification and character should be submitted to the Senate for their examination and consideration, so that they may at least have a negative upon them. The proposition has been discussed in the Senate at considerable length at different times as to the validity of the construction which has been given to this law, and upon which the Executive has acted. It has been proposed to change this practice in another form; but this amendment accomplishes the purpose, and it seems to me it had better be adopted. I do not think there is any objection to letting it stand as it is reported by the Committee on Military Affairs. I have no idea any injustice will be done to any of the persons now in commission.

Mr. SUMNER. Why not accept my amendment?

Mr. KING. The Senator from Massachusetts asks me if I will accept his amendment. I have no authority to accept it; and I do not know that I should be inclined to do so if I had. I am inclined to the opinion that the amendment, as it stands, is in the best form, and that there is no impropriety in the submission of all these appointments to the Senate. I would not ask for this simply for the purpose of knowing who these persons are, unless there was really a substantial purpose in it in the opportunity it will afford to the Senate to determine upon the propriety of the different nominations. The list which has been talked about is here in print, up to the 10th of June; and I have not the slightest doubt that it is an accurate list of all the appointments made. Indeed, I was surprised to hear its accuracy questioned. The declaration of the Senator from Iowa, who alluded to it, shows that his inquiry at the Department was made subsequent to that date. Any additional persons there spoken of were undoubtedly nominated after that list was made up. The entire accuracy of the list is, therefore, perfectly consistent with the suggestion he made that that list might not contain them all. I suppose it does not contain them all, though I do not know that it does not. Nominations may have been made since the 10th of June, and if so, they are not upon this list. I have not the least doubt that it is an accurate list of all the nominations made prior to that date.

The PRESIDING OFFICER. The question is on the adoption of the amendment proposed by the Senator from Massachusetts to the amendment of the Committee on Military Affairs.

The amendment to the amendment was not agreed to; there being, on a division—ayes twelve, noes not counted.

The amendment was agreed to.

Mr. FESSENDEN. If the Senator from New York has got through with his amendments, I move to add at the end of the first section these words:

For collecting, organizing, and drilling volunteers, in addition to any sums heretofore appropriated for that purpose, $5,000,000.

The amendment was agreed to.

Mr. KING. I have an amendment which was sent to the committee room so late that there was no opportunity to submit it to the committee; but it is one which they desire at the Department, as I understand:

That the President of the United States be, and he hereby is authorized, by and with the consent and advice of the Senate, to appoint as many military storekeepers in the quartermaster's department of the Army as the exigencies of the service may require: *Provided*, The whole number of military storekeepers in that department shall not exceed twelve.

There are seven now, so that this amendment authorizes an increase of five.

The amendment was agreed to.

The bill was reported to the Senate as amended,

The PRESIDING OFFICER. The question is on concurring in the amendments made as in Committee of the Whole. Does any Senator desire a separate vote on any amendment? ["No."] If not, the question will be taken on all the amendments together.

The amendments were concurred in.

The amendments were ordered to be engrossed, and the bill to be read a third time. It was read the third time, and passed.

The title was amended so as to read:

A bill making appropriations for the support of the Army for the year ending 30th of June, 1863, and additional appropriations for the year ending 30th of June 1862, and for other purposes.

CAPTAIN A. H. FOOTE.

The PRESIDENT *pro tempore* laid before the Senate the following message from the President of the United States:

To the Senate and House of Representatives:

I most cordially recommend that Captain Andrew H. Foote, of the United States Navy, receive a vote of thanks of Congress for his eminent services in organizing the flotilla on the western waters, and for his gallantry at Fort Henry, Fort Donelson, Island No. 10, and at various other places while in command of the naval forces, embracing a period of nearly ten months. ABRAHAM LINCOLN.

WASHINGTON, D. C., *July* 1, 1862.

On motion of Mr. GRIMES, the message was referred to the Committee on Naval Affairs.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. ETHERIDGE, its Clerk, announced that the House had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the bill (H. R. No. 371) to prescribe an oath of office, and for other purposes.

The message also announced that the House had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the bill (H. R. No. 260) making appropriations for the current and contingent expenses of the Indian department and for fulfilling treaty stipulations with various Indian tribes for the year ending June 30, 1863.

ENROLLED BILLS SIGNED.

The message further announced that the Speaker of the House of Representatives had signed the following enrolled bills; which thereupon received the signature of the President *pro tempore:*

A bill (S. No. 370) to provide for additional medical officers of the volunteer service;

A bill (H. R. No. 428) for the relief of the president and directors of the Panama Railroad Company;

A bill (H. R. No. 442) to establish a land district in the Territory of Nevada, and for other purposes;

A bill (H. R. No. 530) granting a pension to Lawrence P. N. Landrum, of Taylor county Kentucky;

A bill (S. No. 298) donating public lands to the several States and Territories which may provide colleges for the benefit of agriculture and the mechanic arts; and

A bill (H. R. No. 371) to prescribe an oath of office, and for other purposes.

RAILROADS IN MICHIGAN.

Mr. HARLAN. I move that the Senate now proceed to the consideration of House joint resolution No. 83. It will occupy but a few moments.

Mr. HALE. I have been trying for something like a week to get the Senate to consider a public bill which is very important, and of which I have given notice day by day. I hope the Senate will consent at this time, if they ever mean to take it up, to take it up now. I refer to the bill in relation to grades in the Navy.

Mr. HARLAN. I will state in explanation that this joint resolution proposes to permit the State of Michigan to relocate a railroad. It makes no new grant of land, and is a matter of interest to the State of Michigan alone. Congress has, during the present session, permitted the State of Wisconsin to relocate a part of the same road to extend up to a line between the two States, and this is necessary in order to keep the line of the road, as I understand, according to the original design, and make the work practical.

Mr. HALE. I can only say I have no more interest in this public bill than anybody else has, and if the Senate see fit to devote their attention to private bills at this session I shall have discharged my duty when I have laid the responsibility on the Senate.

The PRESIDING OFFICER, (Mr. CLARK in the chair.) The question is on proceeding to the consideration of the resolution indicated by the Senator from Iowa.

The motion was agreed to; and the Senate as in the Committee of the Whole proceeded to consider the joint resolution (H. R. No. 83) relative to a certain grant of lands for railroad purposes made to the State of Michigan in 1856. It directs that the words "Wisconsin State line," in the first section of an act entitled "An act making a grant of lands to the State of Michigan, in alternate sections, to aid in the construction of railroads in said State," approved June 3, 1856, shall, without forfeiture to the State or its assigns of any rights or benefits under the act, or exemption from any of the conditions or obligations imposed thereby, be construed to authorize the railroad provided for in the act from Marquette, on Lake Superior, to the Wisconsin State line, upon any eligible route from the township of Marquette to a point on the Wisconsin State line, near the mouth of the Menomonee river, and touching at favorable points on Green Bay, with a view of securing a railroad available for military purposes from Green Bay to the waters of Lake Superior. And the line of railroad as now located in pursuance of the act from Marquette to the Wisconsin State line, according to the records of the General Land Office, is authorized to be changed so as to conform to the route above indicated; which line, when surveyed and the maps and plans thereof filed in the proper office, as required under the act of June 3, 1856, is to confer the same rights upon and benefits to the State of Michigan and its assigns in the new line as though the same had been originally located under the act.

The second section extends the provisions of an act of Congress, approved August 4, 1852, entitled "An act to grant the right of way to all rail and plank roads and macadamized turnpikes passing through the public lands belonging to the United States, so as to be applicable to the new line of railroad so as above to be located; but it is to be commenced within two years from the 4th day of August, 1862, and is to be completed within five years thereafter.

The third section authorizes the Secretary of the Interior to cause all even sections or parts of even sections of public lands that may be brought within six miles of the new line of railroad, as herein provided for, to be sold at the same price and in the same manner those have or might have been, according to the act of June 3, 1856, upon the originally located route of railroad. And all purchasers, or their heirs or assigns, within the six-mile limits of the originally located route, who shall be more than six miles from the new line of route hereby authorized, and who have paid the sum of $2 50 an acre, are to have the right either to exchange their locations upon the line as first established, to the new line upon the same terms, in like quantities, and in the same manner as on the line first established, or at their option to enter, without further payment, anywhere within the Marquette land district, in the State of Michigan, or that of the Grand Traverse land district, in that State, lying north or west of Lake Michigan, an additional quantity of public lands subject to private entry, at $1 25 an acre, equal to the quantity entered by them at $2 50 per acre, so that the lands originally entered by them shall be thus reduced to the rate of $1 25 an acre.

The fourth section enacts that the even sections of public lands reserved to the United States by the act of June 3, 1856, along the originally located route of the Marquette and Wisconsin State Line Railroad Company, except where such sections shall fall within six miles of the new line of road proposed to be located, and along which no railroad has been constructed, shall hereafter be subject to sale at $1 25 per acre.

The fifth section provides that upon the filing in the General Land Office of the lists of the railroad lands, in whole or in part, as now selected and certified in the General Land Office, with the certificate of the Governor of the State of Michigan, under the seal of the State, that the State and its assigns surrender all claim to the lands set forth and described in the lists thereof thus certified, and that the same have never been pledged or sold or in anywise incumbered, then the State of Michigan or its assigns is to be entitled to receive a like quantity of land, selected in like manner, upon the new line of road as thus surrendered upon the first line, and to the extent of six sections per mile in the aggregate for every mile of the new line, according to the general provisions of the act of June 3, 1856; and it will be the duty of the Commissioner of the General Land Office to reoffer for public sale, in the usual manner, the lands embraced in the lists of surrendered lands when duly filed in his office, as required by this act.

The Committee on Public Lands reported the bill, with an amendment, to insert before the word "railroad," in the tenth line, of the first section, the words "location of the line of;" so that it will read:

Shall, without forfeiture to said State, or its assigns of any rights or benefits under said act, or exemption from any of the conditions or obligations imposed thereby, be construed to authorize the location of the line of railroad provided for in said act, from Marquette, on Lake Superior, to the Wisconsin State line, &c.

The amendment was agreed to.

The joint resolution was reported to the Senate, as amended, and the amendment was concurred in, and ordered to be engrossed. The resolution was ordered to be read a third time; and it was read the third time, and passed.

GRADES OF NAVAL OFFICERS.

Mr. GRIMES. I move to take up House bill No. 280, to establish and equalize the grades of line officers of the United States Navy—the bill which the Senator from New Hampshire attempted to get up a few moments ago.

The motion was agreed to.

Mr. SHERMAN. I move that the Senate adjourn. I think we are all too wearied to consider that bill, which is a very important one now.

Mr. COLLAMER. I hope the gentleman will allow me to make a report.

Mr. SHERMAN. Certainly.

REPORT FROM A COMMITTEE.

Mr. COLLAMER, from the Committee on the Post Office and Post Roads, to whom was referred the bill (H. R. No. 392) to establish certain post roads, reported it with amendments.

PAPERS WITHDRAWN AND REFERRED.

On motion of Mr. SHERMAN, it was

Ordered, That the petition of the heirs of Captain Joseph Biggs be withdrawn from the files of the Senate and referred to the Committee on Private Land Claims.

ARREST OF CHARLES C. FULTON.

Mr. WILKINSON. I offer the following resolution, which I should like to have considered now:

Resolved, That the President be, and he is hereby, requested, if not incompatible with the public interest, to communicate to the Senate whether Mr. Charles C. Fulton, one of the editors and proprietors of the Baltimore American newspaper, has been arrested and confined in prison, and if so, upon what charges and for what reasons; and whether any charges have been preferred against him, and if so, what are those charges, by whom preferred, and the evidence upon which they are based.

Mr. KENNEDY. I will ask if it is in order to move to amend that resolution?

The PRESIDING OFFICER. If the consideration of the resolution is not objected to, it is.

Mr. HALE. Let it lie over.

The PRESIDING OFFICER. Objection being made to its present consideration, it will lie over.

Mr. WILKINSON. I am sure the Senator from New Hampshire will withdraw that objection when I tell him that I think there is a mistake about this arrest, and when this resolution is submitted to the President it will be set aside. I hope the Senator will not persist in his objection.

Mr. HALE. I withdraw the objection.

Mr. KENNEDY. I desire to offer an amendment to the resolution, to extend the same inquiry as to the arrest of Judge Bartol, a judge of the court of appeals of the State of Maryland, and also the arrest of Judge Richard Carmichal, of the Eastern Shore of Maryland.

Mr. WILKINSON. If the Senator insists on that amendment, I shall let it lie over.

Mr. COLLAMER. Let that resolution be passed over.

The PRESIDING OFFICER. It will lie over, objection being made.

Mr. SHERMAN. Unless Senators desire to do some further business, I renew my motion that the Senate adjourn.

Mr. KING. If the Senator will allow me, I desire to have an executive session.

Mr. SHERMAN. I have no objection to that.

EXECUTIVE SESSION.

Mr. KING. I move that the Senate proceed to the consideration of executive business.

The motion was agreed to; and after some time spent in the consideration of executive business, the doors were reopened, and the Senate adjourned.

HOUSE OF REPRESENTATIVES.

TUESDAY, *July* 1, 1862.

The House met at twelve o'clock, m. Prayer by Rev. BYRON SUNDERLAND.

The Journal of yesterday was read and approved.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. FORNEY, their Secretary, informed the House that the Senate had passed an act (No. 342) for the establishment of certain national arsenals; in which the concurrence of the House was requested.

ORDER OF BUSINESS.

The SPEAKER. The Chair asks consent to have the 56th rule read.

The Clerk read the rule, as follows:

"The consideration of the unfinished business in which the House may be engaged at an adjournment shall be resumed as soon as the Journal of the next day is read, and at the same time each day thereafter until disposed of; and if, from any cause, other business shall intervene, it shall be resumed as soon as such other business is disposed of. And the consideration of all other unfinished business shall be resumed whenever the class of business to which it belongs shall be in order under the rules."

The SPEAKER. Under that rule the unfinished business is the consideration of House bill No. 288, to construct a ship canal for the passage of armed and naval vessels from the Mississippi river to Lake Michigan, and for other purposes.

OATH OF OFFICE.

Mr. WILSON. I rise to a privileged report. I desire to make a report from a committee of conference.

The report was read, as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendments to the bill (H. R. No. 371) to prescribe an oath of office, and for other purposes, have met, and after full and free conference have agreed to recommend to their respective Houses as follows:

That the Senate recede from its first amendment to said bill, on page 1, in line four, and agree to the following substitute in lieu thereof: "excepting the President of the United States."

That the House of Representatives recede from its disagreement to all the other amendments of the Senate to the said bill, and agree to the same.

LYMAN TRUMBULL,
PRESTON KING,
Managers on the part of the Senate.
JAMES F. WILSON,
JOHN A. BINGHAM,
JOHN S. PHELPS,
Managers on the part of the House.

Mr. WILSON. I call the previous question upon the adoption of the report.

The previous question was seconded, and the main question ordered to be put; and under the operation thereof, the report was agreed to.

Mr. WILSON moved to reconsider the vote by which the report was agreed to; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

INDIAN APPROPRIATION BILL.

Mr. ALDRICH. I rise to a privileged question. I desire to submit a report from the committee of conference on the Indian appropriation bill.

Mr. WASHBURNE. I hope the gentleman will postpone that matter until we dispose of the matter which was under consideration when the House adjourned last evening.

Mr. ALDRICH. This will only consume a minute or two. There is no necessity for any discussion.

The report was read, as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendments to the bill (H. R. No. 260) making appropriations for the current and contingent expenses of the Indian department, and for fulfilling treaty stipulations with various Indian tribes, for the year ending June 30, 1863, having met, after full and free conference, have agreed to recommend, and do recommend, to their respective Houses as follows:

That the Senate recede from their second amendment.

That the House recede from their disagreement to so much of the Senate's third amendment as proposes to strike out the matter contained in lines eleven hundred and twenty-five, eleven hundred and twenty-six, and eleven hundred and twenty-seven, inclusive, and agree to the same.

That the Senate recede from their disagreement to the amendment of the House to their sixth amendment, and agree to the same.

That the Senate recede from their disagreement to the first amendment of the House to the Senate's seventh amendment, and agree to the same.

That the House recede from their second amendment to the Senate's seventh amendment, and agree to the same with the following amendment: in line four, section two, of said amendment, strike out the word "two," and insert "three;" and in the same line strike out the words "five hundred;" in line two, of section three of said amendment, strike out the word "fifty," and insert "forty;" and after the word "dollars," in the second line, insert "or so much thereof as may be found necessary."

That the House recede from their disagreement to the eighth amendment of the Senate, and agree to the same with the following amendments: strike out all after the enacting clause down to, and including, the word "appropriated," in the sixty-fourth line, page 56, and insert in lieu thereof the following:

"That the following sums be, and the same are hereby, in like manner appropriated, out of any money in the Treasury not otherwise appropriated, for the Indian service in California."

Strike out all after the word "dollars," in the sixty-ninth line, and in lieu thereof insert:

"For the same service for the fiscal year ending June 30, 1863, at $1,500 per annum, $3,000. For compensation of five supervisors for the reservations in California to instruct the Indians in husbandry, for the fiscal year ending June 30, 1863, authorized by the act of June 19, 1860, $9,000.

"For the purchase of cattle for beef and milk, together with clothing and food, teams and farming tools for the Indians for the fiscal year ending June 30, 1863, for the northern district of California, $25,000.

"For the same for the southern district of California for the fiscal year ending June 30, 1863, $15,000: *Provided*, That the Secretary of the Interior is hereby authorized and directed to inquire into the expediency of reducing the Indian reservations in California to two in number; the proper places for the same; the probable expense thereof; the propriety of disposing of any of the reservations and the value thereof, and of the property thereon; of the manner and terms of such disposal; and in what manner, in his judgment, the expenses of the Indian department in that State can be reduced and its system simplified without injury to the same, and report thereon to the next regular session of Congress."

J. R. DOOLITTLE,
JOHN SHERMAN,
W. SAULSBURY,
Managers on the part of the Senate.
CYRUS ALDRICH,
THOS. M. EDWARDS,
A. A. SARGENT,
Managers on the part of the House.

Mr. ALDRICH. I move the previous question upon agreeing to the report.

The previous question was seconded, and the main question was ordered to be put; and under the operation thereof, the report was agreed to.

Mr. ALDRICH moved to reconsider the vote by which the report was agreed to; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

TARIFF BILL.

Mr. STEVENS. I move that the rules be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union, for the purpose of taking up the tariff bill.

Mr. WASHBURNE. I rise to a question of order. It is that the first business in order is the unfinished business under consideration when the House adjourned last evening, upon which the gentleman from Missouri, [Mr. BLAIR,] demanded the previous question.

The SPEAKER. It is at any time in order to move to go into the Committee of the Whole on the state of the Union, unless the previous question has been seconded.

Mr. MAYNARD. I ask the gentleman from Pennsylvania to give me a moment to bring a local bill before the House?

Mr. WASHBURNE objected.

Mr. MALLORY. I ask the gentleman from Pennsylvania, before he insists upon his motion, to permit me to report a bill and report, in order that they may be printed and referred to the Committee of the Whole?

Mr. STEVENS. I am very anxious to dispose of the tariff bill. There is but one section of it remaining undisposed of.

Mr. WASHBURNE. I object. I think the first business should be the disposal of the business before the House yesterday.

The question being on the motion of Mr. STEVENS,

Mr. WASHBURNE demanded the yeas and nays.

The yeas and nays were ordered.

The question was put; and it was decided in the affirmative—yeas 64, nays 54; as follows:

YEAS—Messrs. William Allen, Alley, Babbitt, Baily, Biddle, Bingham, Calvert, Campbell, Cobb, Frederick A. Conkling, Corning, Crisfield, Crittenden, Cutler, Davis, Delano, Dunlap, Dunn, Edwards, Eliot, English, Goodwin, Hall, Holman, Hooper, Johnson, Kerrigan, Law, Loomis, McPherson, Mallory, Maynard, Menzies, Mitchell, Moorhead, Justin S. Morrill, Morris, Nixon, Nugen, Patton, Pendleton, Perry, John S. Phelps, Porter, Alexander H. Rice, Edward H. Rollins, Shanks, Sheffield, Shellabarger, Shiel, Stevens, Stiles, Stratton, Train, Trimble, Trowbridge, Yerree, Vibbard, Wallace, Walton, Webster, Chilton A. White, Windom, and Woodruff—64.

NAYS—Messrs. Aldrich, William J. Allen, Arnold, Ashley, Baker, Beaman, Francis P. Blair, William G. Brown, Buffinton, Casey, Chamberlin, Clark, Clements, Colfax, Delaplaine, Diven, Duell, Ely, Fenton, Fessenden, Fouke, Franchot, Frank, Granger, Gurley, Haight, Francis W. Kellogg, William Kellogg, Knapp, Lovejoy, Low, Noell, Olin, Timothy G. Phelps, Pomeroy, Potter, Richardson, Riddle, Sargent, Sherman, Sloan, Smith, Spaulding, John B. Steele, Benjamin F. Thomas, Van Horn, Van Valkenburgh, Wall, Ward, Washburne, Wheeler, Whaley, Albert S. White, and Wilson—54.

So the motion was agreed to.

During the call of the roll,

Mr. OLIN stated that Mr. HICKMAN was detained from the House by illness.

Mr. DAWES stated that he had paired with Mr. WORCESTER, who was necessarily absent from the House.

Before the result was announced—

Mr. FOUKE moved that there be a call of the House.

The SPEAKER decided the motion out of order during the call of the roll.

The result was announced as above recorded.

So the rules were suspended; and the House accordingly resolved itself into the Committee of the Whole on the state of the Union, (Mr. DAWES in the chair,) and resumed the consideration of the special order, being bill of the House (No. 531) increasing temporarily the duties on imports, and for other purposes.

Mr. MORRILL, of Vermont. I move to insert, upon page 3 of the printed bill, after line forty-six, the following:

Provided, That paper cigars or cigarettes, including wrappers, shall be subject to the same duties imposed on cigars.

The amendment was agreed to.

Mr. MORRILL, of Vermont. On page 6, line forty-seven, after the word "rods," I move to strike out the words "under one half of one inch and;" so that it will read:

On chains, trace chains, halter chains, and fence chains, made of wire or rods, not under one fourth of one inch in diameter, one fourth of one cent per pound; under one fourth of one inch in diameter and not under No. 9 wire gauge, one half of one cent per pound; under No. 9 wire gauge, 5 per cent. *ad valorem*.

The amendment was agreed to.

Mr. MORRILL, of Vermont. On page 10, line seventeen, after the word "brass," insert "fit only to be remanufactured;" so that it will read, "on brass, in bars or pigs, and old brass, fit only to be remanufactured, 5 per cent. *ad valorem*."

The amendment was agreed to.

Mr. MORRILL, of Vermont. On page 11, in line thirty-two, I move to strike out "six," and insert "eight;" so that it will read, "black pepper, 6 cents per pound."

The amendment was agreed to.

Mr. MORRILL, of Vermont. On page 12, line thirty-three, I move to strike out "eight," and insert "ten;" so that it will read, "ground pepper, 10 cents per pound."

The amendment was agreed to.

Mr. MORRILL, of Vermont. In the same line I move to strike out "six," and insert "eight;" so that it will read, "white pepper, 8 cents per pound."

The amendment was agreed to.

Mr. MORRILL, of Vermont. In line thirty-four I move to strike out "eight," and insert "ten;" so that it will read, "ground white pepper, 10 cents per pound."

The amendment was agreed to.

Mr. MORRILL, of Vermont. On page 15, line one hundred and twenty-eight, I move to strike out "twenty-five," and insert "fifty;" so that it will read, "castor seeds or beans, 50 cents per bushel."

The amendment was agreed to.

Mr. MORRILL, of Vermont. On page 17, in line seventeen, I move to strike out the words "chromate of lead," it being inserted in another place under a different name.

The amendment was agreed to.

Mr. MORRILL, of Vermont. On the same page, in line nineteen, I move to strike out "cobalt, oxyd of cobalt and," for the purpose of inserting those words in another place.

The amendment was agreed to.

Mr. MORRILL, of Vermont. I move to insert the same words on page 16, after the word "for," in line one hundred and forty-one.

The amendment was agreed to.

Mr. MORRILL, of Vermont. On page 13, after the word "pound," in line thirteen, I move to insert "on caustic soda, half a cent per pound."

The amendment was agreed to.

Mr. MORRILL, of Vermont. On page 21, in line thirty-seven, I move to strike out the word "four," and insert "five;" so that it will read, "on cork wood unmanufactured, 5 cents per pound."

The amendment was agreed to.

Mr. MORRILL, of Vermont. On the same page, in line thirty-eight, I move to strike out the word "five;" so that it will read, "on corks, 20 cents per pound."

Mr COLFAX. I suggest to the gentleman from Vermont whether that would not still leave the tariff too high. He and I have seen some figures in regard to the importation of corks, and it would appear, if those statements are correct, that this tariff would be from 100 to 200 per cent. on the cost. Now, is not that too high a tax? I confess that I have very little familiarity with this subject, except from letters which I have received; but I had supposed that the Committee of Ways and Means would probably consent to a tax of 15 cents per pound.

Mr. MORRILL, of Vermont. There will be no difficulty in collecting the duty on these articles, whether it is high or low. The article costs $30 or $40 by the bale of 15,000 corks, and everybody will have his whisky jug corked, no matter what the duty may be. I suppose it possible that the duty upon low-priced corks will be rather high, but on the article generally it will be no more than what we can collect. The only objection to the duty is that there may be a large supply of the article in the country, and it may be some time before we shall collect any revenue from this source.

Mr. COLFAX. I concur with the gentleman from Vermont in desiring to put a tax upon whisky corks, but unfortunately a great many corks are used for other purposes than corking whisky jugs and bottles. Corks are used in all the various branches of trade and commerce, in drugs, and everything of that sort; and while I am in favor of as high a tariff as we can levy on importations for the sake of revenue, this seems to me to be too largely in excess of the duty now levied. The present duty, under the tariff of 1861, is 20 per cent. *ad valorem*. This would increase it some 500 per cent., and that seems to be a very large increase. I am also informed that there are one or two firms in New York who have a sufficient supply of these articles now on hand to supply the trade for a whole year, which would, of course, give them a very large profit. I move to amend the amendment so as to make the duty 15 cents per pound.

Mr. MORRILL, of Vermont. Perhaps the gentleman from Indiana would better accomplish his purpose by proposing an *ad valorem* duty at a higher rate. I understand that manufacturers would not object to even 100 per cent. on these articles, but they prefer it in the *ad valorem* shape. The corks used for vials for drugs do not cost more than 10 or 15 cents a gross, and the rate of duty proposed here would amount to almost nothing on that class of articles.

The amendment to the amendment was agreed to.

Mr. MORRILL's amendment was then adopted.

Mr. WARD. Is a further amendment in order at this point in the section?

The CHAIRMAN. In the regular consideration of the bill, this section has been passed, but the Committee of Ways and Means by general understanding, or by unanimous consent, have been allowed to go back. If the gentleman from New York desires to offer an amendment to a section which has been gone through with, the Chair will ask the consent of the committee to entertain it.

Mr. WARD. I will ask the consent of the gentleman from Vermont to make an explanation only.

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

Mr. WARD. I stated, Mr. Chairman, on a former occasion that this duty of 25 cents per pound upon corks would increase the duty from 150 to 175 per cent. I have since received more accurate information on the subject, and I am satisfied that I made too low an estimate. The honorable member from Vermont stated the other day that the tariff on velvet corks would be very little increased, but that the increase upon the coarser kind of corks would be considerable.

Now, Mr. Chairman, I submit that upon velvet corks, in reference to which the gentleman stated the other day the present rate of duty was not increased by this bill, I find, from accurate information which I have received, that the bill, as it stands, will raise the duty 150 per cent., and that upon the coarser description of corks to which I referred, the increase will be 300 per cent. on the present duty. There are but two qualities of corks, though there are various grades of the coarser quality.

Now, sir, the market price at this time, duty paid, is, first quality, per bale of fifteen thousand corks, equal to one hundred and four and one sixth gross, at 32 cents, $33 33; second quality, per bale of fifteen thousand corks, equal to one hundred and four and one sixth gross, at 13 cents, $14. The duty per bale at 25 cents per pound is $31, almost equal to the present selling price of the first, and more than double that of the second quality.

The trade must have been misrepresented to the committee by persons interested in the article, as I am informed that a house has bought up the entire stock, which, at the proposed duty of 25 cents per pound, will enable them to realize large profits from the increased duty alone, and having machinery to cut corks from the wood, which is only to pay a duty of 4 cents per pound, will effectually monopolize the trade, and pay comparatively no duty to the Government, not even what it receives under the present tariff.

This branch of business is principally represented by men of limited means, who will by the proposed change be seriously prejudiced, and the Government left without revenue from this source. A duty, *ad valorem*, of 30, 40, or even 50 per cent. would be better for the trade, and would pay much more money into the Treasury.

It seems to me all that is necessary is to call the attention of the committee to the extraordinary advance in the duty which this bill imposes—the effect of which will be to break up an important branch of business. It is unjust, it is unprecedented; and I hope, therefore, the chairman of the Committee of Ways and Means, or the honorable member from Vermont who has charge of this bill, will himself move an amendment fixing the duty at 40 per cent. *ad valorem*. I would even be willing that it should be made 50 per cent. *ad valorem*, which would be an increase of 150 per cent. on the present rate of duty. I appeal to this committee to allow at least this measure of justice. I suppose that unless the honorable member from Vermont will either propose this amendment or allow me to propose it, it will be too late for me to offer it under the rules. I suppose the gentleman from Vermont himself has no desire to fix any other than a proper rate of duty, and if he will allow me, I will test the sense of the House by moving that in lieu of the duty of 25 cents per pound the duty shall be fixed at 50 per cent. *ad valorem*. That will be an increase of 150 per cent. upon the present rates.

The CHAIRMAN. There being no objection, the amendment will be received.

Mr. WALL. I object.

The CHAIRMAN. The Chair thinks the objection comes too late.

Mr. WARD. I have explained to the committee the object and the necessity there is for the adoption of the amendment. I should be gratified to hear any remarks the gentleman may be pleased to make upon it.

Mr. MORRILL, of Vermont. It seems to me that this is an article upon which we may very properly collect a considerable amount of revenue. I am in favor of doing it, and I am in favor of beginning now. If, however, it shall be ascertained that the duty fixed in the bill is too high, the Senate can change it. I hope, therefore, the amendment of the gentleman from New York will not be adopted.

The amendment was disagreed to.

Mr. MORRILL, of Vermont. I move to amend in line nine, page 29, by striking out, after the word "enumerated," the words "used for cordage;" so that the clause will read:

On jute, sisal grass, sun hemp, coir, and other vegetable substances not enumerated, (except flax, tow of flax, Russia and Manilla hemp, and codilla, or tow of hemp,) $5 per ton.

The amendment was agreed to.

Mr. MORRILL, of Vermont. I move to amend in lines sixty-nine and seventy, page 33, by striking out, after the word "preserves," the words "or other articles;" so that the clause will read:

On porcelain and Bohemian glass, glass crystals for watches, paintings on glass or glasses, pebbles for spectacles, and all manufactures of glass, or of which glass shall be a component material, except crown, cylinder, and other window glass, not otherwise provided for, and all glass bottles or jars filled with sweetmeats or preserves, 35 per cent. *ad valorem*.

The amendment was agreed to.

Mr. MORRILL, of Vermont. I desire to submit another amendment, and to explain why it is necessary. The other day the chairman of the Committee of Ways and Means proposed an amendment which was inserted in the wrong place in the bill. The amendment was also imperfect in the fact that it did not embrace all that was intended to be enumerated. The amendment which I send to the Clerk's desk, therefore, is intended as a substitute for that offered by the gentleman from Pennsylvania the other day, and to be inserted in the proper place in the bill. I move the following:

On soaps, fancy, scented, honey, cream, and transparent, and on all descriptions of toilet and shaving soaps, 2 cents per pound; on all other soap 5 per cent. *ad valorem*.

The amendment was agreed to.

Mr. MORRILL, of Vermont. I move to amend, after line one hundred and two, page 37, by inserting the words "medicinal preparations not otherwise provided for" in the clause of the bill for which an addition of 5 per cent. is imposed upon the present duty.

The amendment was agreed to.

Mr. MORRILL, of Vermont. I move to amend by adding after the following clause:

Provided, That if there be no consul or commercial agent of the United States in the said district, the verification hereby required shall be made by the consul or commercial agent of the United States at the nearest point, or at the port from which the goods are shipped, in which case the oath shall be administered by some public officer, duly authorized to administer oaths, and transmitted, with a copy of the invoice, to the consul or commercial agent for his authentication,

As follows:

And this act shall be construed only to modify and not repeal the act of March 1, 1823, entitled "An act supplementary to and to amend an act entitled 'An act to regulate the collection of duties on imports and tonnage,' passed 2d March, 1799, and for other purposes," and the forms of the oaths therein set forth shall be modified accordingly.

Mr. WARD. I will ask the member from Vermont what are the provisions of the acts referred to, and what is the form of oath prescribed?

Mr. MORRILL, of Vermont. It is almost too long to read. I have the statutes here and will show the chapter to the gentleman if he desires to read it.

Mr. WARD. I have no time to read it. I put the inquiry because I regard the whole section as very objectionable. I moved the other day to strike out the whole section. I believe it will be very oppressive to the commercial interest of the country. I desire, therefore, to understand what will be effected by the amendment which the gentleman now proposes.

Mr. MORRILL, of Vermont. The effect of it is to require all importers, whether at home or abroad, to have their invoices authenticated.

Mr. WARD. The effect, as I understand it, is just this: that the owner who, perhaps, resides in New York, must have his oath authenticated abroad, either through himself or his agent, before the proper officers. Now, sir, it is well known by every gentleman interested in commerce that there are many importing merchants in New York of very high character who have no agents in foreign countries. They send their orders to persons residing abroad without the intervention of any intermediate person. The effect of this section, as I understand it, is to impose upon every importing merchant in New York and elsewhere the necessity of having an agent abroad, or he must impose upon the seller the duty of making this oath and obtaining a certificate.

Now, Mr. Chairman, there are many points from which importations are made, that are too unimportant for the Government to employ a consular agent therein. In such cases the necessity would be involved of sending the oath to some distant point for verification, causing great delay, although it may be of the utmost importance that there should be none.

There is another suggestion which I presented the other day, in connection with this subject, to which I again ask the attention of the committee. It is, that the requirement of this provision will add no force to existing regulations in respect to authentication in New York or at the point to which the goods are shipped. It is true an oath may be made by a person abroad and not within the jurisdiction of any of the United States, which may be false; but it will be utterly out of our power to inflict any punishment for that false oath. You will thus perceive that no practical good can result from the adoption of this section, even as it is proposed to be amended, but great injury and embarrassment will result to the importer in New York from its adoption. It is now required that the owner shall make his oath, or if the goods are consigned, the certificate of the consular agent is required; and it seems to me that that is all that is needed.

If the honorable gentleman from Vermont, who is so fearful lest false oaths may be made abroad, could bring such persons within the jurisdiction of the United States there might be some good reason for the amendment. It is true beyond question that frauds are sometimes committed, but it is also true that it is almost impossible to punish them under the existing or any other law. Frauds will be committed upon the Government. It is our duty to prevent them if we can, but it is not our duty to impose such onerous restrictions upon commerce as this section of the bill imposes without accomplishing that end. It seems to me that the honorable member from Vermont cannot defend this section on any grounds beneficial to the United States. It is said that it imposes an additional oath; but of what good is that? The oath is taken abroad, and gives no additional security to the Government, while it will prove a great embarrassment and inconvenience to the mercantile interest. In my judgment there is no section in the bill which, while so unimportant and useless to the Government, inflicts so much injury on the importer.

Mr. MORRILL, of Vermont. Mr. Chairman——

The CHAIRMAN. Debate is exhausted on the amendment.

Mr. MORRILL, of Vermont. Then, for the purpose of saying a word in reply to the gentleman from New York, I move to amend my amendment by striking out the last word. The argument of the gentleman from New York goes to the extent of the policy of the entire section rather than to the amendment proposed by me. As I stated on a former occasion, the application of the law of 1823 applies only to *ad valorem* goods. Goods imported under specific duties are not embraced at all in that act of Congress. It is therefore necessary to have some provision of this sort. The section, as drawn up, has been submitted to the Department and approved by it. The Department has constant complaints of the practice almost generally followed by foreign manufacturers and foreign consignors of goods, of underrating them. I believe that this section will be hailed with general approval by the gentleman's own constituents. I know that one of the most respectable merchants of the city of New York, and as largely engaged in the importation of foreign goods as any other man there, approves of it cordially.

Mr. MAYNARD. I do not see that there is any means of inflicting a penalty for the crime of perjury.

Mr. MORRILL, of Vermont. That is an argument which goes against the practice of administering oaths at all; and I do not see that it has the slightest application to this matter.

Mr. MAYNARD. In most cases there is a punishment provided for violation of oaths. My objection to this amendment is, that the oath provided for is to be taken abroad, and there is no tribunal by which a penalty can be imposed. That is the objection to it.

The amendment to the amendment was rejected.

The amendment was agreed to.

Mr. HOOPER. I desire to propose some amendments, recommended by the Committee of Ways and Means, in regard to sugars, and I will first explain them. The amendments are, to strike out "two and three quarters," in the fifteenth line of page 2, and insert "three;" so as to make the duty on all sugar above No. 12 and not above No. 15, Dutch standard in color, 3 cents per pound; to insert after the word "fifteen," in the seventeenth line, the words "not stove dried," and to strike out "three," in the eighteenth line, and insert "four;" so as to make it read, "on all sugar above No. 15, not stove dried, and not above No. 20, Dutch standard in color, 4 cents per pound."

The object of inserting the article of sugar in this bill is not to increase the duties on it, but to change the wording of the law so as to conform to the actual conditions of trade. In previous tariffs the old wording has been followed, which made three divisions only in sugar; the raw sugar, the clayed sugar, and the refined sugar; but in the progress of science, the preparation of sugar has improved and changed so much that to conform to the actual conditions of the trade this different wording is necessary.

The amendments were agreed to.

Mr. MORRILL, of Vermont. In order to make the duty on spices correspond, I move to amend by striking out "six" and inserting "eight," and by striking out "eight" and inserting "ten;" so as to make the clause read, "pimento, 8 cents per pound; when ground, 10 cents per pound."

The amendments were agreed to.

Mr. HOOPER. I move to amend by inserting, at the close of the thirteenth section, the following new section:

SEC. 14. *And be it further enacted*, That from and after the day and year aforesaid, there shall be levied, collected, and paid, on all goods, wares, and merchandise of the growth or produce of countries beyond the Cape of Good Hope, when imported from places this side of the Cape of Good Hope, a duty of 10 per cent *ad valorem*, and in addition to the duties imposed on any such articles when imported direct from the place or places of their growth or production.

I will only remark, in respect to this amendment that such a provision has been always in the tariff law.

The amendment was agreed to.

Mr. STEVENS. I move to fill the blank in the 1st page of the bill by inserting "1st day of August" as the day on which the law is to go into effect.

Mr. SHEFFIELD. I hope the time will not be postponed till the 1st of August. Persons may order goods and procure their arrival before that time, thereby evading the payment of additional duties. It seems to me that the time ought not to be so far distant as that merchants can order goods from abroad and have them brought in under the present tariff. I should think that twenty days after the passage of this act would be sufficiently long.

Mr. STEVENS. I suspect that the 1st of August will not be more than twenty days after the passage of this bill. The tax bill goes into operation on the 1st of August, and I think the same date had better be fixed for this bill.

Mr. SHEFFIELD. I move to amend the amendment by inserting "the 20th of July," instead of "the 1st of August."

The amendment to the amendment was rejected.

The amendment was agreed to.

Mr. LOOMIS. I desire to inquire of the Committee of Ways and Means whether the first amendment proposed to the act of March 2, 1861, in section eighteen, is designed to reduce the duty on wool where the value at the port of exportation is below 18 cents per pound?

Mr. MORRILL, of Vermont. It unfortunately happens, Mr. Chairman, that it is very difficult to have a bill correctly engrossed when there are a large number of amendments to it. Last session we passed an act to amend the act of March 2, and in the article of imported wool there was no provision made for duty on wool costing exactly 18 cents per pound. We had struck out the words "or less" after wool at 18 cents per pound, and neglected to strike out the words "less than" before that, as was intended to be done. This does not change the duties on wool at all, but is merely carrying into effect that act correctly.

Mr. LOOMIS. With great deference to the opinion of the Committee of Ways and Means, I submit that, unless another amendment be adopted, the effect of that amendment will be to subject unmanufactured wool less than 18 cents per pound to the duty imposed by section twenty-four of the act of March 2, 1861.

The CHAIRMAN. Debate is not in order, except by unanimous consent.

Mr. LOOMIS. Then I offer the following amendment:

Section eighteen, page 42, at the end of the eighth line, add these words:

And at the end of section twenty-three of said act, insert, "Wool, unmanufactured, and all hair of the goat, alpaca, and other like animals, unmanufactured, the value whereof at the last port or place from whence exported to the United States shall be less than 18 cents per pound."

These words were in the act of March 2, 1861, as it was first passed, but were subsequently stricken out by a joint resolution passed during the same session of Congress. If section twelve of the act referred to be amended as proposed in the bill before us, it will read as follows:

On all wool, unmanufactured, &c., the value whereof at the last port or place from whence exported to the United States shall be 18 cents per pound, 5 per cent *ad valorem*.

So that there will be no express provision left in said act concerning unmanufactured wool below 18 cents per pound in value. It therefore leaves it subject to the duty provided for in section twenty-four, which imposes upon all raw or unmanufactured articles not enumerated or provided for, a duty of 10 per cent. *ad valorem*.

I read the section I refer to in the act of March 2, 1861:

"SEC. 24. *And be it further enacted*, That from and after the day and year aforesaid, there shall be levied, collected, and paid on the importation of all raw or unmanufactured articles not herein enumerated or provided for, a duty of 10 per cent. *ad valorem*."

The committee will therefore see that all raw or unmanufactured articles imported, and not otherwise provided for in that act, are subject to a duty of 10 per cent. *ad valorem*, and wool under 18 cents per pound would come under this section.

But if the amendment I propose is adopted, it will cure the difficulty which now exists, and leave the bill just as the committee, I suppose, intended it should be.

Mr. MORRILL, of Vermont. I desire that the House should properly understand this matter. At the last session of Congress, we altered this section so as to read, "on all wool unmanufactured, and on all hair of the goat, &c., the value of which shall be less than 18 cents." We inserted, after the words "less than 18 cents," the words, "or less." If it be made to read "18 cents or less," it will answer the purpose we have in view. It will then make the language read properly.

Mr. LOOMIS. I do not find the act the gentleman from Vermont refers to. It seems to me that, if you simply strike out the words "less than," the effect would be that wool of a value less than 18 cents per pound will have to pay 10 per cent.; while wool at just 18 cents will only have to pay 5 per cent.

Mr. BINGHAM. Such will not be the effect of the amendment, as the committee will see by looking at the amendment.

The CHAIRMAN. Debate is not in order.

The amendment was disagreed to.

Mr. MORRILL, of Vermont. I move the following amendment:

Page 43, section twenty, line two, after the word "stores," insert "or bonded warehouses;" in line three, after the word "subject," insert "to the same and;" in line four, after the word "entry," insert "or withdrawal;" and in line eight, after the words "United States," insert the words "or exportation therefrom;" so that the paragraph will read:

SEC. 20. *And be it further enacted*, That all goods, wares, and merchandise, which may be in the public stores or bonded warehouses on the day and year aforesaid, shall be subject to the same and to no other duty upon the entry or withdrawal thereof than if the same were imported respectively after that day: *Provided*, That all goods which now are or may be deposited in public store or bonded warehouse after this act takes effect and goes into operation, if designed for consumption in the United States or exportation therefrom, must be withdrawn therefrom, or the duties thereon paid in three years after the same are deposited, and goods designed for exportation and consumption in foreign countries may be withdrawn by the owner at any time before the expiration of three years after the same are deposited, such goods, if not withdrawn in three years, to be regarded as abandoned to the Government, and sold under such regulations as the Secretary of the Treasury may prescribe, and the proceeds paid into the Treasury: *Provided further*, That merchandise upon which duties have been paid may remain in warehouse in custody of the officers of the customs at the expense and risk of the owners of said merchandise, and if exported directly from said custody to a foreign country within three years, shall be entitled to return duties, proper evidence of such merchandise having been landed abroad to be furnished to the collector by the importer, 1 per cent. of said duties to be retained by the Government.

Mr. HOOPER. I move to amend the amendment by substituting for the words "or withdrawals" the words "for consumption."

Mr. MORRILL, of Vermont. I accept that as a modification of my amendment.

Mr. MORRILL's amendment was agreed to.

Mr. WARD. I move the following amendment:

Strike out all after the word "enacted" and before the word "provided," in the first five lines of section twenty, and insert in lieu thereof the following:

That all goods, wares, and merchandise actually on shipboard and bound to the United States, and all goods, wares, and merchandise on deposit in bonded warehouses or public stores, on the day and year aforesaid, shall be subject to pay such duties as provided by law before and at the time of the passage of this act.

Mr. Chairman, if I understand this subject, it has been customary in all the tariff laws heretofore enacted by Congress to insert a provision like that of the amendment which I have just submitted. It seems to me just and proper that such a provision should be made, and I do not see the reason for its omission from this bill. If I am not very much mistaken, this is the first time that it has not been included in a tariff bill.

Now, sir, I hold that the Government of the United States is under the same obligation as an individual to act in good faith, and to carry out the contracts into which it has entered. That every member must admit; yet, notwithstanding that obligation which rests upon the Government, here is a proposition to violate every just, equitable and honorable principle of public policy. It is the first attempt ever made to have adopted such a proposition like that reported to this House by the Committee of Ways and Means. I hope that my amendment will be adopted, and that the House will adhere to the unvaried precedents of the past.

It is well known that when goods are entered for consumption, or entered and placed in bonded warehouses, bonds are given. If I understand it, there is, to a certain extent, an implied contract between the Government of the United States and the importer, and therefore I believe that we have not the right to violate that contract by the adoption of the provision which is now in the bill, and which I move to strike out. It is proposed, notwithstanding the importer has given his bond and passed through all of the preliminary stages except the mere payment of the duty, to be paid when the goods are withdrawn, that he shall pay an additional duty before he can withdraw them. It is proposed, although he may now have his goods upon the way to this country, or in the bonded warehouses or public stores, and in violation of the existing law, that when he takes them out he shall have to pay an additional duty. It violates the law under which the goods were imported, and is, I think, an act of bad faith on the part of the Government. I only move to correct this manifest injustice by inserting in this bill a similar provision to that contained in the act of March 2, 1861. I move that all goods, wares, and merchandise on shipboard, or in the bonded warehouses or public stores, shall pay only the duties existing at the time when they were imported. It is, palpably, a just provision.

This part of the bill is objectionable in other respects. But we ask only justice. We ask that the Government of the United States shall act in good faith; that it shall not only carry out the letter of the law, but the spirit and intention of the law; that, in other words, these additional duties shall not be imposed against existing law.

There is another serious objection to this matter, and an argument in favor of the adoption of my amendment: men of large wealth can command, of course, large sums of money, and they will withdraw their goods before the 1st of August; but there will be many who will be put to great inconvenience to do that. If, however, the less wealthy of the merchants do not withdraw their goods from the bonded warehouses before the 1st of August, they will have to pay additional duty. It will be seen that it will make an unfair discrimination between the rich importers and those who are not so rich. One may be able to withdraw his goods, and the other may not be able to withdraw them. For one, I should be very reluctant to believe that the Government of the United States, even in a crisis like this, would violate its good faith. I hope, therefore, that my amendment will be adopted. The Government will derive very little benefit from this provision in the bill, because there will be but a small amount of goods that will not be withdrawn from the bonded warehouses before the 1st of August. It will not leave importers upon a fair ground of competition, and it ought to be modified. And I will state further that our faith is engaged not only between our own citizens and the Government, but between the Government and the merchants of friendly nations. Many foreign dealers have consigned their goods to this country, and they have done so under the provision of the existing law which this bill proposes, as I have shown, to violate. I do not believe that this House will consent to adopt any such unjust proposition, and in that confidence I leave the question.

Mr. STEVENS. I hope that the amendment of the gentleman from New York will not prevail. We have gone on the principle of imposing taxes from the 1st day of August.

As long ago as three months, perhaps, when the tax bill was reported to this House, the Committee of Ways and Means distinctly stated, and it went forth to the country through all the papers, that we intended to impose an additional duty upon imports equal to the tax which they had put upon the domestic article. It was done by way of compensation to domestic manufactures against foreign importers. Now, that was known to all the merchants, and they have no doubt made their arrangements according to that announcement. They have indeed had too long a time in which to bring in goods under the old tariff, which goods they now have in their own houses, and which will be exempt from the equivalent tax which our people are to pay upon the same articles on the 1st of August next.

But there is no reason why goods on shipboard should be exempt from this tax, nor why goods in the bonded warehouses should be exempt. Goods brought into this country and put into our warehouses have paid no duty whatever. They were deposited there without the payment of a cent of duty, and at any moment between this time and the last day of this month they can all be withdrawn. They can be withdrawn upon the payment of the old duty.

But if the owners prefer to allow such goods to remain in the warehouses and not pay the customs to the Government when the Government is in need of it as much as it is now, they ought to pay what the new duty shall be when this act goes into effect. Now, I know very well that the law of England for a great many years has been that all goods in bonded warehouses and public stores shall pay the new duty which is imposed, no matter what it be. And, sir, on everything which we export to Great Britain we pay cash duties now. We export hardly anything but grain, but all that pays cash duty. Neither grain nor any of our exports are subject to the warehouse system at all. We have none of the advantages which we have given to foreigners in regard to goods which are brought into this country and put into our bonded warehouses. I can therefore see no reason why these goods should not pay the duties imposed upon them at the time this act goes into effect. The only question is whether we have not given these importers too long a time by extending it to the 1st of August, for they might now send to any

foreign country, purchase goods and have them on shipboard before the time prescribed for this act to go into effect.

Mr. ENGLISH. I desire to ask the gentleman from Pennsylvania a single question. I would like to know whether the provisions of the tax bill, as reported by the committee of conference, in relation to manufactures, are not precisely the same as the provisions of this bill, to wit: that all goods in the hands of the manufacturers on the 1st day of August shall pay the tax imposed?

Mr. STEVENS. That is so.

Mr. ENGLISH. And this bill provides a like provision in reference to goods which may be in the public stores at that time?

Mr. STEVENS. We have made this bill conform to the tax bill; and when we reported the tax bill to the House on the 3d of March last, it was accompanied with the declaration from the Committee of Ways and Means that we would bring in just such a bill as this. So you see the importers have had all this notice; and I have no doubt they have imported very largely for the purpose of evading this very duty. I can see no justice in the amendment of the gentleman from New York, and I hope it will not be adopted.

Mr. WARD. I desire to ask one question of the chairman of the Committee of Ways and Means. It is, whether he does not consider that when an importer places goods in the bonded warehouse, the transaction is one in the nature of a contract between the Government and the importer; and if so, whether it is just to change the conditions upon which such deposit was made?

Mr. STEVENS. The gentleman knows, I suppose, that whenever any goods are imported into this country they are imported with the implied understanding that they are to be subject to the legislation of the country. There is no contract at all. It is a simple question of legislation, and those who act under the law do so subject to the future legislation of the country.

Mr. HOLMAN. I wish to suggest that the importer has the privilege of withdrawing his goods at any time, and there can scarcely be any such thing as a contract growing out of the warehouse system.

Mr. BAKER. I move to strike out the last word of the amendment of the gentleman from New York. I assert most distinctly that when goods are bonded a regular contract is entered into between the Government and the importer, and that to approve of this section as proposed by the Committee of Ways and Means would be a violation of that contract. The Government exacts from the importer a bond, in which it is stipulated that if within the limited period fixed by the law the importer shall pay a certain sum, which has been duly calculated, he shall receive his goods. Now it is proposed by the committee, in violation of that contract, to very nearly double the amount which is specified in the bond.

Mr. MORRILL, of Vermont. The only limitation to the power of Congress in reference to the collection of revenue is the reciprocity treaty; and that, I understand, is the only contract which prevents our altering or changing the tariff just as we please.

But to show the injustice of not having precisely such a provision as this, I will state that persons who are so fortunate as to get their goods on board, though they cannot get them into port, would have the advantage of our market, which will necessarily be raised by the tariff, and they would, therefore, obtain upon their goods a profit which they would not otherwise realize. I can see no justice in the amendment, and hope it will not be adopted.

Mr. BAKER. The amendment proposed by the gentleman from New York is just such a provision as has been inserted heretofore in all the tariff acts passed by Congress. Now, then, suppose it had been the purpose of Congress to reduce the tariff upon foreign importations; would such a proposition as this have been presented to or adopted by the House?

The question recurring on the amendment to the amendment,

Mr. BAKER, by unanimous consent, withdrew his amendment.

The question recurring on the amendment offered by Mr. WARD,

Mr. WARD demanded tellers.

Tellers were ordered; and Messrs. WARD, and MORRILL of Vermont, were appointed.

The committee divided; and the tellers reported—ayes 54, noes 46.

So the amendment was agreed to.

MESSAGE FROM THE PRESIDENT.

The committee here informally rose, and the House received from the President of the United States, by Mr. NICOLAY, his Private Secretary, a message in writing.

The committee resumed its session, and proceeded to the consideration of the

TARIFF BILL.

Mr. HOOPER moved to amend section twenty in line eight, by striking out the words "if designed for consumption in the United States."

The amendment was agreed to.

Mr. STEVENS moved the following amendment:

Strike out in lines nine and ten, page 43, the words "in three years," and insert "within one year," and strike out all after the word "deposited," in the tenth line, page 43, section twenty, down to and including the word "abandoned," in line fourteen, page 44, and insert in lieu thereof the following:

But may be withdrawn by the owner for exportation to foreign countries, or may be transhipped to any port of the Pacific or western coast of the United States at any time before the expiration of three years after the same are deposited. Such goods on arrival at a Pacific or western port as aforesaid, to be subject to the same rules and regulations as if originally imported there. Any goods remaining in public store or bonded warehouse three years, shall be regarded as abandoned.

Mr. WARD. I desire to ask the chairman of the Committee of Ways and Means if the amendment he now proposes does not reach the one just adopted?

Mr. STEVENS. No; it does not touch the one just adopted.

Mr. WARD. Then I would ask the honorable gentleman whether the effect is not to substitute one year for three years?

Mr. STEVENS. Yes, sir.

Mr. WARD. That is the principal object of the amendment?

Mr. STEVENS. Yes, sir; where it is for consumption. Where it is for exportation, or goes to the Pacific coast, it leaves it the same as it is now—three years.

Mr. CAMPBELL. I move to amend the amendment by striking out "one year" and inserting "six months." I cannot give my consent to any legislation which I believe to be intended for the benefit of foreign manufacturers as against the industry of my own country. Therefore, by no silence, as by no consent of mine, shall any change of existing laws be made by which the time shall be extended to the importer of foreign goods for the payment of duties beyond the period fixed by the present law. Under the present tariff, adopted in 1861, importers of foreign goods are allowed three months in which to pay the duties, and it was not proposed by the legislation of this session to remodel the tariff laws, but simply to add to the existing rates the amounts made necessary by the increased taxation. Any change beyond that takes the House by surprise. I hold that it is impolitic and against the object which we had in view to change the tariff further than to add the taxes to the existing duties. I am opposed to extending the term of three months to one year, for the reason that it is a measure in favor of the foreign manufacturer as against the manufacturers of our own country, and for this, among other reasons: the foreign manufacturer, under this law, is able to place his goods in bond, and to watch the changes in the market; when the price goes up in the market, he can immediately withdraw his goods from the bond and throw them upon the market and glut it with foreign goods, and thus reap the whole profit before our manufacturers can make and place in market goods that may come in competition with them.

The manufacturers of England and France, and of the German States, as a general thing, have more capital invested in manufactures than we have; they can make their goods cheaper, because labor is cheap and capital abundant; they are able to place their goods in warehouses here, and the moment there is an increase of price, those goods are withdrawn, and the market is glutted, and the American manufacturer loses the whole of the profit. For this and other reasons this is legislation against the interests of this country, and in favor of the foreign manufacturer. While we propose to tax the manufacturers of this country to a large amount, we are legislating here to strike them down! Is this wise? Is this patriotic? I hold that it is unwise and unpatriotic. I am sorry to see any feeling of hostility manifested here towards the manufacturers of any one of these States. The people of my State will pay all just taxes cheerfully. You have placed a tax upon our coal and iron, as well as upon manufactures of all kinds, and we will pay the taxes cheerfully to put down this infamous rebellion and preserve the Union. All we ask of you is that you shall not legislate so as to strike down our industry, and give the whole advantage in the market to the foreign manufacturer. We want fair protection and fair play. There is no interest here which advocates an extension of time in which to pay duties on imported goods but the *importers themselves*, who represent a *foreign interest*, an English interest, now hostile to the perpetuity and best interests of this country, as well as generally hostile to the life of the Union. I say it is a foreign interest which crawls into these Halls, and demands that the industry of the country shall be stricken down. We cannot err if we stand by our own labor and our own capital. This matter was carefully considered in the session of 1861, and the gentleman from Vermont, [Mr. MORRILL,] who now advocates this change in the warehousing system, then gave his unqualified approbation to the period of three months, as applied to the warehouse system.

Mr. MORRILL, of Vermont. I have not advocated anything of the kind.

Mr. CAMPBELL. I judge by the bill which the gentleman has reported. I do not wish to do him injustice.

Mr. MORRILL, of Vermont. I shall vote with the gentleman from Pennsylvania on this question.

Mr. STEVENS. I beg leave to say that this bill was reported by myself, under the orders of the Committee of Ways and Means.

Mr. CAMPBELL. I am glad to find that my colleague reported it by *order* of the committee. I know it is not in accordance with the judgment of my colleague.

Mr. STEVENS. I do not undertake to state how any member of the committee voted.

Mr. CAMPBELL. I am not a member of the Committee of Ways and Means, and I am not referring to anything that occurred there. I know of their action only from the bill. But I take the bill as I find it sanctioned by the Committee of Ways and Means. The existing law declares that the foreign manufacturer shall pay the duty on his goods in *three months*, and a majority of the Committee of Ways and Means recommend that the time shall be extended to three years, and now my colleague moves to reduce it to one year. I consider that legislation extending the time as unwise. Why should the foreigner have a year to pay the duties in when the American manufacturer is obliged, under this onerous tax bill, to pay his taxes as soon as the articles are manufactured? Why should any time be granted to the foreign manufacturer? My people, as soon as they forge out a ton of iron, or manufacture a yard of woolens, are obliged to pay the taxes upon those articles, but the Birmingham or Lyons manufacturer, under the provisions of this bill, can place his goods in a bonded warehouse, and like a spider take his own time to watch the market, reap the profit, and defraud the Government of the amount of the duties, and now it is proposed to give him one year to pay those duties in. Sir, it is unwise. Are we legislating for our own land, or legislating for the benefit of England with the hostile front which she now presents to us? I ask gentlemen who represent the State of New York here to forget that they are representing to-day importers, who are the representatives of foreigners, and to stand by the industry of the country. I hope that my amendment will be adopted. I am aware that it doubles the time under existing laws, but it is a reduction on the time fixed by the committee. An importer now has but three months to pay the duties in. Under my amendment he will have six months; I would not give him three days; but six months is better than one year. I hold that it is unwise and unpatriotic to change the law in this regard, and it shall never be done at least with my silence or consent.

Mr. LOVEJOY. Then the gentleman wants to make this bill an embargo, so that when our vessels go out to Europe with produce, they will

have to return without any cargoes, and our produce will be worth nothing.

Mr. CAMPBELL. There is no danger of that; we import too much. Let me say to the gentleman from Illinois that when his western produce goes to England or France, he has not the privilege of placing it in bonded warehouses; he must *pay the duties in cash*. Does he want to give the Liverpool merchants or the manufacturer of Birmingham or Sheffield six months or one year to pay their duties in, when his constituents are obliged to pay down their taxes and duties?

Mr. LOVEJOY. That is all buncombe.

Mr. CAMPBELL. That answer is easy—there is no buncombe about it. It is the fact.

Mr. MORRILL, of Vermont, demanded tellers on the amendment to the amendment.

Tellers were ordered; and Messrs. KERRIGAN and CAMPBELL were appointed.

The committee divided; and the tellers reported—ayes 49, noes 56.

So the amendment to the amendment was disagreed to.

The question recurred on Mr. STEVENS's amendment.

Mr. ODELL demanded tellers.

Tellers were not ordered.

The amendment was agreed to.

Mr. STEVENS. I move to amend by adding the following proviso to the twentieth section:

And provided further, That the third or last proviso to the fifth section of the act entitled "An act to provide increased revenue from imports, to pay interest on the public debt, and for other purposes," approved the 6th day of August, 1861, be, and the same is hereby, repealed; and no return of the duties shall be allowed on export of any merchandise after it has been removed from the custody and control of the Government.

The proviso which this proposes to repeal was one which I was astonished to find in the act.

Mr. WARD. Will the honorable gentleman allow me to make an inquiry?

Mr. STEVENS. Certainly.

Mr. WARD. What is to be the effect of this amendment?

Mr. STEVENS. I was just going to explain it. The act of 1861, contrary, as I suppose, to anybody's intention, contains a clause providing not only that goods shall remain in bonded warehouses paying duty when they are taken out, but also that goods taken out of bonded warehouses and put into private stores may at any time within three years, when reëxported, have the duties that were paid on them refunded by the Government. I suppose that there never was such a provision known before in any country. The temptations to fraud are large enough while the goods are in the custody of the Government officers. But to allow goods once taken out, put into private stores, and offered for sale for two years and a half, to be reëxported, and the duty to be refunded, is an anomaly in the legislation of any country.

I submit to the committee whether, under such circumstances—the goods having been taken out for home consumption, and the duty paid, the goods being entirely withdrawn from the custody of the Government—the merchant should be at liberty to pick up the odds and ends of these goods, reëxport them, and call upon the Government to refund duty paid two years and a half before. Take, for instance, a cargo of brandy, which has been in the hands of the merchant for two years and a half: how much of it is brandy, and how much of it is something else on his entering it for reëxportation? The law passed last year provides that the Government shall refund the duty paid on that brandy. It is a most monstrous provision. How it got into the bill none of us who had anything to do with reporting the bill can imagine. I think it must have got in in transcribing it. I think, therefore, that no fair-minded person can object to its repeal.

The amendment was agreed to.

Mr. POTTER. I move an amendment to come in as an additional section:

SEC. 22. *And be it further enacted*, That all acts and parts of acts providing for the issue of land scrip to the States, and the distribution of the proceeds of the sales of public lands be, and the same are, suspended until the amount of annual revenue that shall be derived under this act shall reach the sum of $100,000,000.

Mr. MORRILL, of Vermont. I raise the point of order that the amendment is not germane to the bill.

The CHAIRMAN. The Chair sustains the point of order.

Mr. POTTER. I observe that the twenty-first section contains a provision that "all acts and parts of acts repugnant to the provisions of this act be, and the same are hereby, repealed." I have no doubt myself that a fair construction of that section would repeal the very act referred to in my amendment; but lest there might be some question about it, I propose this amendment in order to make the matter perfectly plain.

The CHAIRMAN. Does the gentleman appeal from the decision of the Chair?

Mr. POTTER. Has the Chair decided that my amendment is out of order?

The CHAIRMAN. The Chair has so decided.

Mr. POTTER. Then I raise the point of order that section twenty-one is out of order.

The CHAIRMAN. It is too late to raise that point of order, as the section has been passed.

Mr. STEVENS. I move that the committee rise and report the bill.

The motion was agreed to.

So the committee rose; and the Speaker having resumed the chair, Mr. DAWES reported that the Committee of the Whole on the state of the Union had had under consideration the special order, being House bill No. 531, increasing temporarily the duties on imports, and for other purposes, and had instructed him to report the same back with sundry amendments.

Mr. STEVENS. Unless separate votes be required on some of the amendments, I ask that a vote may be taken on all the amendments together. I will ask for a separate vote on the amendment offered by the gentleman from New York, [Mr. WARD,] in reference to goods on shipboard.

Mr. ARNOLD. I rise to inquire whether it is not in order to proceed to the unfinished business of yesterday, in preference to the report of the Committee of the Whole on the state of the Union? If so, I insist on the regular order of business.

The SPEAKER. The Chair thinks it is not.

Mr. HOLMAN. I wish to inquire whether the amendment to the twentieth section is to be voted on separately?

The SPEAKER. The gentleman from Pennsylvania [Mr. STEVENS] has demanded a separate vote on it.

The question was taken on all the other amendments, and they were agreed to.

The question recurred on the following amendment to the twentieth section:

Strike out the words "that all goods, wares, and merchandise, which may be in the public stores or bonded warehouses on the day and year aforesaid, shall be subject to no other duty upon the entry or consumption thereof than if the same were imported respectively after that day;" and insert in lieu thereof the following:

That all goods, wares, and merchandise actually on shipboard and bound to the United States, and all goods, wares, and merchandise on deposit in bonded warehouses or public stores on the day and year aforesaid, shall be subject to pay such duties as provided by law before and at the time of the passage of this act.

Mr. STEVENS. The House understands what I have asked a separate vote upon. The amendment allows goods on shipboard when the act goes into operation to come in under the old duties, not paying the additional taxes which we have laid on some articles in our tax bill. Anybody can see that between this time and the time when the bill goes into effect, orders may be sent out for any amount of goods to be put on shipboard, if that has not already been done in anticipation. However, I need not speak on this point. I move the previous question.

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

Mr. STEVENS. I call for the yeas and nays on the amendment.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 54, nays 78; as follows:

YEAS—Messrs. William Allen, William J. Allen, Alley, Arnold, Baker, Francis P. Blair, Clark, Cobb, Frederick A. Conkling, Corning, Cox, Cravens, Dawes, Delano, Diven, Fenton, Fisher, Fouke, Franchot, Frank, Gooch, Goodwin, Haight, Kerrigan, Knapp, Law, Leary, Low, Noell, Norton, Nugen, Odell, Olin, Pendleton, Perry, Timothy G. Phelps, Potter, Price, Alexander H. Rice, Segar, Shiel, Smith, William G. Steele, Benjamin F. Thomas, Train, Van Horn, Van Valkenburgh, Vibbard, Voorhees, Wall, Ward, Webster, Wood, and Woodruff—54.

NAYS—Messrs. Aldrich, Ancona, Ashley, Baily, Baxter, Beaman, Bingham, Jacob B. Blair, Samuel S. Blair, Blake, George H. Browne, William G. Brown, Buffinton, Campbell, Chamberlin, Clements, Colfax, Roscoe Conkling, Cutler, Davis, Duell, Dunlap, Dunn, Edwards, Eliot, Ely, Fessenden, Granger, Grider, Gurley, Hall, Hanchett, Holman, Hooper, Hutchins, Johnson, Julian, Kelley, Francis W. Kellogg, William Kellogg, Lansing, Lazear, Loomis, Lovejoy, McKnight, McPherson, Mallory, Maynard, Moorhead, Justin S. Morrill, Nixon, Patton, Pomeroy, Porter, John H. Rice, Riddle, Edward H. Rollins, James S. Rollins, Sargent, Sedgwick, Shanks, Sheffield, Shellabarger, Sherman, Sloan, Spaulding, Stevens, Stiles, Stratton, Trimble, Trowbridge, Verree, Wallace, Walton, Washburne, Wheeler, Wilson, and Windom—78.

So the amendment was rejected.

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

Mr. STEVENS moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider upon the table.

The latter motion was agreed to.

ENROLLED BILLS.

Mr. GRANGER, from the Committee on Enrolled Bills, reported that the committee had examined and found truly enrolled a bill (S. No. 298) donating public lands to the several States and Territories which may provide colleges for the benefit of agriculture and the mechanic arts, and a bill (H. R. No. 371) to prescribe an oath of office, and for other purposes; to which the Speaker thereupon affixed his signature.

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

SHIP CANAL.

The SPEAKER. The regular order of business is the special order, being a bill (H. R. No. 288) to construct a ship canal for the passage of armed and naval vessels from the Mississippi river to Lake Michigan, and for other purposes, upon which the gentleman from Missouri demands the previous question.

Mr. RIDDLE. I ask the gentleman from Missouri to withdraw his demand for the previous question.

Mr. BLAIR, of Missouri. I withdraw it for the present.

Mr. RIDDLE addressed the House upon the subject of the bill. [His remarks will be published in the Appendix.]

Mr. BLAIR, of Missouri, renewed the demand for the previous question.

Mr. HOLMAN. I move that there be a call of the House.

The House divided; and there were—ayes 38, noes 36; no quorum voting.

Mr. HOLMAN. No quorum having voted, I suppose it is the duty of the Chair to order a call of the House.

The SPEAKER. The Chair will say that it does not require a quorum to order a call of the House.

Mr. HOLMAN. I rise to a question of order. I submit that it is not in order to proceed with any business except to call the House, no quorum having voted.

The SPEAKER. The Chair will remark that a call of the House not being in itself business no quorum is required. It would not, of course, be in order to proceed with business without a quorum. It is like the ordering of the yeas and nays for which one fifth of those present are required, whether that number is a quorum or not.

Mr. HOLMAN. I call for the yeas and nays upon the motion that there be a call of the House.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 47, nays 86; as follows:

YEAS—Messrs. Aldrich, William J. Allen, Alley, Ancona, Babbitt, Biddle, Bingham, Samuel S. Blair, William G. Brown, Calvert, Campbell, Frederick A. Conkling, Crisfield, Davis, Dunlap, Dunn, English, Fouke, Goodwin, Harding, Hutchins, Johnson, Kelley, Kerrigan, Law, McKnight, McPherson, Mallory, Maynard, Moorhead, Nixon, Nugen, Perry, Porter, Edward H. Rollins, Shanks, Stevens, Stiles, Stratton, Train, Trimble, Trowbridge, Voorhees, Wadsworth, Wallace, Webster, Wilson, and Wood—47.

NAYS—Messrs. William Allen, Arnold, Ashley, Baily, Baker, Baxter, Beaman, Francis P. Blair, Jacob B. Blair, Blake, George H. Browne, Buffinton, Casey, Chamberlin, Clark, Clements, Cobb, Colfax, Roscoe Conkling, Corning, Cutler, Dawes, Delano, Diven, Duell, Edwards, Eliot, Ely, Fenton, Fessenden, Franchot, Frank, Gooch, Granger, Grider, Gurley, Haight, Hall, Hanchett, Hooper, Francis W. Kellogg, William Kellogg, Knapp, Lansing, Lazear, Loomis, Lovejoy, Low, Mitchell, Noell, Norton, Olin, Pendleton, Timothy G. Phelps, Pomeroy, Potter, Price, Alexander H. Rice, John H. Rice, Riddle, James S. Rollins, Sargent, Sedgwick, Sheffield, Shellabarger, Sherman, Shiel, Sloan, Smith, Spaulding, John B. Steele, William G. Steele, Benjamin F. Thomas, Van Horn, Van Valken-

burgh, Vibbard, Wall, Ward, Washburne, Wheeler, Whaley, Albert S. White, Windom, Woodruff, and Worcester—86.

So the motion that there be a call of the House was disagreed to.

Before the vote was announced,

Mr. HOLMAN stated that on preliminary questions relative to this canal bill, he was paired with Mr. RICHARDSON, otherwise he would vote in the affirmative.

Mr. CAMPBELL stated that Mr. HICKMAN had left for home quite unwell.

The question recurred on seconding the demand for the previous question.

Mr. HOLMAN. Is it in order to move that this bill be postponed until the first Monday in January next?

The SPEAKER. It is not, pending the demand for the previous question.

Mr. HOLMAN. I move to lay the bill on the table.

Mr. WASHBURNE. I call for the yeas and nays upon that motion.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 65, nays 63; as follows:

YEAS—Messrs. William Allen, Alley, Ancona, Babbitt, Baily, Biddle, Bingham, Samuel S. Blair, William G. Brown, Calvert, Campbell, Cobb, Frederick A. Conkling, Cravens, Crisfield, Crittenden, Cutler, Davis, Dunlap, Edwards, English, Fisher, Gooch, Goodwin, Grider, Harding, Holman, Hutchins, Johnson, Kelley, Law, Lazear, Loomis, McKnight, McPherson, Mallory, Maynard, Mitchell, Moorhead, Justin S. Morrill, Nixon, Nugen, Pendleton, Perry, Porter, Alexander H. Rice, Edward H. Rollins, Shanks, Sheffield, Shellabarger, Stevens, Stiles, Stratton, Train, Trimble, Trowbridge, Verree, Voorhees, Wadsworth, Wallace, Walton, Webster, Wilson, Woodruff, and Worcester—65.

NAYS—Messrs. Aldrich, William J. Allen, Arnold, Ashley, Baker, Baxter, Beaman, Francis P. Blair, Blake, George H. Browne, Buffinton, Casey, Chamberlin, Clark, Clements, Colfax, Roscoe Conkling, Dawes, Delano, Delaplaine, Diven, Duell, Eliot, Ely, Fenton, Fessenden, Fouke, Franchot, Frank, Granger, Gurley, Haight, Hanchett, William Kellogg, Knapp, Lansing, Lovejoy, Low, Noell, Olin, Timothy G. Phelps, Pomeroy, Potter, Price, Riddle, James S. Rollins, Sedgwick, Segar, Sherman, Shiel, Sloan, Spaulding, John B. Steele, Benjamin F. Thomas, Van Horn, Van Valkenburgh, Wall, Ward, Washburne, Wheeler, Whaley, Albert S. White, and Wood—63.

So the bill was laid on the table.

Before the vote was announced,

Mr. BINGHAM stated that Mr. HICKMAN was absent, and paired on this question with Mr. PATTON; he being for the bill and Mr. PATTON against it.

Mr. WINDOM stated that he had paired with Mr. WICKLIFFE upon this bill.

Mr. BLAIR, of Virginia, stated that he had paired with Mr. RICHARDSON.

Mr. HOLMAN moved to reconsider the vote by which the bill was laid on the table; and also moved to lay the motion to reconsider on the table.

Mr. WASHBURNE demanded the yeas and nays upon the latter motion.

The yeas and nays were ordered.

Mr. HOLMAN. I withdraw the motion to reconsider.

Mr. MORRILL, of Vermont. In connection with the bill which has just been laid on the table, I ask the consent of the House to offer the following resolution, which I ask to have read for information.

The Clerk read the resolution, as follows:

Resolved, That a board, composed of five engineers, be appointed by the President to make a survey of the New York and Erie canal and of the Illinois canal, with a view to ascertain the practicability of enlarging those works to the capacity of transporting gunboats from the Mississippi river and the Atlantic to the lakes, together with the probable cost of doing the same, and the length of the time which will be required to complete the work.

Mr. JOHNSON objected.

TENNESSEE COURTS.

Mr. MAYNARD. I ask the permission to introduce and have put on its passage a bill to change the place of holding the circuit court and the district court of the United States for the district of Western Tennessee. I ask that the bill may be read, and I think if gentlemen will listen to it there will be no objection to putting it on its passage. It merely proposes to change the place of holding one of our district courts in Tennessee to a more healthy location.

The bill was read. It provides that the district court of the United States for Western Tennessee shall hold its sessions in October and April in Huntington instead of Jackson, Tennessee, and makes the necessary provisions for the transfer.

Mr. JOHNSON. I object to the introduction of the bill at this time.

NAVAL APPROPRIATION BILL.

Mr. STEVENS. I ask the consent of the House to take up and dispose of the amendments of the Senate to the naval appropriation bill.

Mr. FENTON. I must object at this time, and call for the regular order of business.

REBELLION LOSSES.

The SPEAKER. The regular order of business is the consideration of House bill No. 104, relating to claims for the loss and destruction of property belonging to loyal citizens, and damages thereto by the troops of the United States, during the present rebellion.

Mr. ROSCOE CONKLING obtained the floor.

Mr. SEDGWICK. Has the morning hour expired?

The SPEAKER. The morning hour commenced only one minute ago.

Mr. FENTON. I ask my colleague to yield the floor for a moment.

Mr. ROSCOE CONKLING. For what purpose?

Mr. FENTON. To move that the further consideration of the bill be postponed until Monday next, and that it be made a special order for that day.

Mr. ROSCOE CONKLING. I yield for that purpose.

Mr. STEVENS. I object to its being made a special order.

Mr. FENTON. I shall be compelled to move to postpone it to a day nearer at hand, unless the House will give its consent to make it a special order for Monday.

Mr. LOVEJOY. I object.

Mr. FENTON. I move that the consideration of the bill be postponed until to-morrow. I make this motion in accordance with an agreement with the gentleman from Kentucky, [Mr. WICKLIFFE,] who was entitled to the floor.

Mr. ROSCOE CONKLING. What do I understand the gentleman to say in reference to the gentleman from Kentucky being entitled to the floor?

Mr. FENTON. I understand that my colleague will be entitled to the floor when the consideration of the bill shall again be resumed. I move to postpone the bill until to-morrow.

Mr. BINGHAM. I move to amend the motion by inserting "after the morning hour."

Mr. FENTON. I have no objection to that, if the bill can then be made a special order.

Mr. STEVENS. I object.

Mr. LOVEJOY. I move to amend the amendment so as to postpone the bill until the second Wednesday of December next.

Mr. FENTON. Upon that motion I demand the yeas and nays.

Mr. ROSCOE CONKLING. I desire to suggest to the gentleman from Illinois that I am in favor, as he is, of postponing this bill until December next, unless it can be indefinitely postponed or laid on the table; but the suggestion I make is whether it is better to take the sense of the House on the motion at this moment, or give time for some further discussion as to the merits of the bill. There have been, if I mistake not, some eight speeches made upon this bill, of which only one has been against it, the speech of my colleague, [Mr. OLIN,] and his opposition was not confined strictly to the merits of the bill itself. For myself I am ready to vote at this time.

Mr. NOELL. I rise to a point of order. The gentleman from New York [Mr. ROSCOE CONKLING] yielded the floor to his colleague to make a specific motion, and I hold that it is not now in order to move a postponement of this question until next session, which would deprive the gentleman from New York of his opportunity to be heard on this question before it is determined.

Mr. FENTON. I have no objection to the question being now taken on the motion to postpone until next session, if it be the intention of gentlemen to press that question upon the consideration of the House. I should much prefer, of course, that the consideration of the bill should be resumed, and that it should be acted upon before we adjourn. Inasmuch, however, as the House will not make it a special order, if gentlemen contemplate making a motion to postpone until next session, at any time, I am willing that the question on that motion shall be taken now. I hope that it will not prevail.

Mr. WASHBURNE. I demand the previous question on the motion of my colleague, that the further consideration of this question shall be postponed until the second Wednesday in December next.

Mr. ROSCOE CONKLING. How did the gentleman get the floor to demand the previous question?

The SPEAKER. The gentleman from New York yielded to his colleague to make a motion, and the Chair does not understand that he has since claimed it.

Mr. ROSCOE CONKLING. I yielded to my colleague for a special purpose, and I hold that I now occupy the floor.

The SPEAKER. The gentleman from New York held the floor to discuss the merits of the pending proposition, and he yielded to his colleague to move the postponement of the further consideration of the bill. Other motions to postpone have been made, and the gentleman from New York could not hold the floor while those motions were being made, unless it was for the purpose of discussing them. The Chair does not understand that he has any such purpose; and the demand for the previous question is therefore in order. If the motion to postpone be voted down, the gentleman from New York will, of course, still be entitled to the floor to discuss the merits of the measure.

The previous question was seconded, and the main question ordered to be put.

The question recurred on the amendment of Mr. LOVEJOY that the further consideration of the subject be postponed until the second Wednesday of December next.

Mr. FENTON demanded the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 64, nays 62; as follows:

YEAS—Messrs. William Allen, Ancona, Beaman, Biddle, George H. Browne, Campbell, Clark, Cobb, Colfax, Frederick A. Conkling, Roscoe Conkling, Corning, Cutler, Davis, Delano, Delaplaine, Dunn, Edwards, Eliot, Ely, English, Fisher, Gooch, Granger, Gurley, Hanchett, Johnson, Lazear, Lovejoy, Low, McKnight, McPherson, Moorhead, Nixon, Olin, Patton, Pendleton, Perry, Timothy G. Phelps, Pomeroy, Porter, Alexander H. Rice, John H. Rice, Edward H. Rollins, Sargent, Shanks, Sheffield, Shellabarger, Sherman, Spaulding, William G. Steele, Stevens, Stiles, Stratton, Benjamin F. Thomas, Train, Trimble, Trowbridge, Verree, Ward, Albert S. White, Wilson, Windom, and Worcester—64.

NAYS—Messrs. Aldrich, William J. Allen, Baily, Bingham, Francis P. Blair, Jacob B. Blair, Samuel S. Blair, Blake, William G. Brown, Buffinton, Calvert, Casey, Chamberlin, Clements, Cox, Cravens, Crisfield, Crittenden, Dawes, Duell, Dunlap, Fenton, Fessenden, Fouke, Frank, Goodwin, Grider, Hall, Harding, Holman, Hutchins, William Kellogg, Knapp, Lansing, Law, Loomis, Mallory, Maynard, Mitchell, Noell, Norton, Nugen, Potter, Price, Riddle, James S. Rollins, Sedgwick, Segar, Shiel, Sloan, John B. Steele, Van Horn, Van Valkenburgh, Voorhees, Wadsworth, Wall, Wallace, Walton, Washburne, Webster, Whaley, and Wood—62.

So the amendment was agreed to.

The question then recurred on Mr. FENTON's motion as amended by the motion of Mr. LOVEJOY.

Mr. NOELL demanded the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 69, nays 65; as follows:

YEAS—Messrs. William Allen, Ancona, Ashley, Beaman, Biddle, George H. Browne, Campbell, Clark, Colfax, Frederick A. Conkling, Roscoe Conkling, Corning, Cutler, Davis, Delano, Delaplaine, Dunn, Edwards, Eliot, Ely, English, Gooch, Granger, Gurley, Hooper, Johnson, Francis W. Kellogg, Lazear, Lovejoy, Low, McKnight, McPherson, Moorhead, Justin S. Morrill, Nixon, Olin, Patton, Pendleton, Perry, Timothy G. Phelps, Pomeroy, Porter, Alexander H. Rice, John H. Rice, Edward H. Rollins, Sargent, Shanks, Sheffield, Shellabarger, Sherman, Spaulding, William G. Steele, Stevens, Stiles, Stratton, Benjamin F. Thomas, Train, Trimble, Trowbridge, Verree, Vibbard, Wall, Ward, Washburne, Albert S. White, Wilson, Windom, Woodruff, and Worcester—69.

NAYS—Messrs. Aldrich, William J. Allen, Baily, Baker, Baxter, Bingham, Francis P. Blair, Jacob B. Blair, Samuel S. Blair, Blake, William G. Brown, Buffinton, Calvert, Casey, Chamberlin, Clements, Cox, Cravens, Crisfield, Crittenden, Dawes, Diven, Duell, Dunlap, Fenton, Fessenden, Fouke, Franchot, Frank, Goodwin, Grider, Haight, Hall, Harding, Holman, Hutchins, William Kellogg, Knapp, Lansing, Law, Loomis, Mallory, Maynard, Mitchell, Noell, Norton, Nugen, Potter, Price, Richardson, Riddle, James S. Rollins, Sedgwick, Segar, Shiel, Sloan, John B. Steele, Van Horn, Van Valkenburgh, Voorhees, Wallace, Walton, Webster, Wheeler, and Whaley—65.

So the motion, as amended, was agreed to.

THE CONGRESSIONAL GLOBE.

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

THIRTY-SEVENTH CONGRESS, 2D SESSION. THURSDAY, JULY 3, 1862. NEW SERIES.....No. 192.

Mr. LOVEJOY moved to reconsider the vote by which the further consideration of the bill was postponed until the second Wednesday of December next; and also moved that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

ILLINOIS SHIP CANAL, ETC.

Mr. SHEFFIELD. At the request of several gentlemen I ask to have entered a motion to reconsider the vote by which the House laid upon the table the Illinois canal bill, with a view to move that the further consideration of the subject be postponed until the next session.

The SPEAKER. The motion will be entered.

THE NAVY APPROPRIATION BILL.

Mr. STEVENS. I report from the Committee of Ways and Means the amendments of the Senate to House bill No. 423, making appropriations for the naval service for the year ending 30th of June, 1863, with the recommendation of concurrence in some and non-concurrence in others, and I ask that they be now considered.

First amendment:

Add the following:

Provided, That the preserved meat forming part of the Navy ration may be prepared and packed under the direction of the Secretary of the Navy, if he shall deem it advisable; and that the cattle or fresh beef therefor may be purchased under his directions, and from this appropriation; and that he be authorized to do whatever else may be necessary for the procuring, preparing, and packing said preserved meat in the most approved and advantageous manner; the expense for machinery and tools to be defrayed from the last named sum, and not to exceed $5,000.

The Committee of Ways and Means recommended concurrence.

The amendment was concurred in.

Second amendment:

On page 4, at the end of the sixty-third line, strike out "three," and insert "six;" so that it will read:

For clothing for the Navy, $600,000.

The Committee of Ways and Means recommended non-concurrence.

The amendment was non-concurred in.

Third amendment:

In line eighty, 4th page, insert the following:

For repairs, painting, and raising the roof of the Navy Department building, finishing and furnishing the same, $20,000.

The Committee of Ways and Means recommended concurrence.

The amendment was concurred in.

Fourth amendment:

After line eighty-nine, on page 5, insert the following:

For the support of five hundred and eighty men authorized to be enlisted for the marine corps, by the President of the United States, on the 22d of November, 1861, $74,767 40.

The Committee of Ways and Means recommended non-concurrence.

The amendment was non-concurred in.

Fifth and sixth amendments:

On page 6, line one hundred and thirty, strike out "fifty" and insert "one hundred;" and, in line one hundred and thirty-three, strike out "ninety-three" and insert "thirty-two," and after the word "thousand" insert "thirty-two;" so that it will read:

Navy-yards.

Portsmouth, New Hampshire:

For machine shop and smithery, fitting and furnishing the same, reservoir, capstan for sheers, quay wall near landing, extension of storehouse No. 11 one hundred feet, repairs and increase of ordnance machinery and shops, and repairs of all kinds, $232,032.

The Committee of Ways and Means recommended concurrence.

The amendments were severally concurred in.

Seventh and eighth amendments:

Page 6, line one hundred and thirty-four, insert, after the word "mill," "and building," and strike out the words: "*Provided*, That the patentee shall not receive more than ten per cent. on the cost of the aforesaid mill for the use of the patent, not to exceed $1,000;" so that it will read:

For futtock saw-mill and building, $10,000.

The Committee of Ways and Means recommended concurrence.

The amendments were severally concurred in.

Ninth and tenth amendments:

Page 7, lines one hundred and thirty-nine, one hundred and forty, and one hundred and forty-one, strike out the words "spinning machinery, boiler house, and chimney for ropewalk and yarn mill;" in line one hundred and forty-four, strike out "one," and insert "two;" in line one hundred and forty-five, strike out "seventy-nine," and insert "fifty-three;" and in line one hundred and forty-six, strike out "seven," and insert "five;" and strike out "and forty-eight;" so that it will read:

Boston:

For paving and draining at new shops; coal house for foundery, smithery, and for other purposes; reservoir and steam pump, or pipes for Cochituate water; water closets; repairs and increase of ordnance machinery and shops, and repairs of all kinds, $253,500.

The Committee of Ways and Means recommended concurrence.

The amendments were severally concurred in.

Eleventh amendment:

On page 7, strike out the following:

For the purchase of land and wharf adjoining the navy-yard at Charlestown, Massachusetts, owned by Oakman & Eldridge, and extending from Charles river to Water street, and containing about one hundred and twenty thousand square feet, $123,000.

The Committee of Ways and Means recommended concurrence.

Mr. SEDGWICK. In the absence of the gentleman representing the district in which Charlestown is located, I desire to say that the chief of the Bureau of Yards and Docks insists that the yard at Charlestown is necessary, and that the amendment ought to be sustained. The question was considered when it was before the House, and it was stated that unless this extension was made, vessels cannot be launched from that yard without trenching upon the premises proposed to be purchased. If it be intended to build vessels at this yard, this purchase ought to be made.

Mr. GOOCH. I understand that the committee recommend a concurrence in striking out the appropriation for the purchase of this property.

The SPEAKER. That is the recommendation of the committee.

Mr. GOOCH. I understand, Mr. Speaker, that this property is needed in order that we may be able to use some portion of the yard which we now have. It will be a great saving of expense to the Government if this property is purchased. The wharf lays at a point where the vessels of the Government can be coaled at a very much less expense if we have this property than they can now be coaled; for they are now obliged to transport the coal from one point of the yard to another in consequence of a deficiency in wharf room. I understand, also, that the property is offered at a fair price; that it is offered for what it is worth, which I consider to be a somewhat remarkable fact considering that it is the Government that is about to purchase. I know it is the opinion of many persons well acquainted with this property that it is really worth more for private use than the price fixed upon by the owners as that at which they are willing to sell it to the Government.

I know, still further, that the chief of the Bureau of Docks and Yards feels that it is very necessary that the Government should make this purchase at this time. The Government are today actually in the use of it. They have found themselves obliged to have it for use, and they have, for the last six months, been using it constantly. I hope the House will not concur in the recommendation of the Committee of Ways and Means.

The amendment was non-concurred in.

Twelfth amendment:

Page 7, line one hundred and fifty-five, insert after "saw-mill," the words "and building;" so as to make the clause read:

For futtock saw-mill and building, $10,000.

The Committee of Ways and Means recommended concurrence.

The amendment was concurred in.

Thirteenth amendment:

Immediately following the clause last quoted, strike out the following proviso:

Provided, That the patentee shall not receive more than ten per cent. on the cost of the aforesaid mill for the use of the patent, not to exceed $1,000.

The Committee of Ways and Means recommended concurrence.

The amendment was concurred in.

Fourteenth amendment:

Page 17, line one hundred and sixty-two, strike out the words "addition to office building, quay walls."

The Committee of Ways and Means recommend concurrence in the amendment, with an amendment to strike out only the words "addition to office building;" so that the clause shall read:

For dredging channels, building and repairing scows, rebuilding long dock, repairs to ship houses, quay walls, extension of sewers, &c.

The amendment was concurred in, as modified upon the recommendation of the Committee of Ways and Means.

Fifteenth amendment:

Page 8, line one hundred and sixty-three, strike out the words "yard drainage."

The Committee of Ways and Means recommended concurrence.

The amendment was concurred in.

Sixteenth amendment:

Page 8, line one hundred and sixty-six, strike out the words "extension of smithery."

The Committee of Ways and Means recommended concurrence.

The amendment was concurred in.

Seventeenth amendment:

Page 8, lines one hundred and sixty-nine and one hundred and seventy, strike out "$35,322," and insert "$20,846," reducing to that extent the appropriation for various repairs at the New York navy-yard.

The Committee of Ways and Means recommended concurrence.

The amendment was concurred in.

Eighteenth amendment:

Page 8, line one hundred and seventy-one, strike out the following appropriation for the New York navy-yard:

For a cylinder for roasting coffee, $400.

The Committee of Ways and Means recommended concurrence.

The amendment was concurred in.

Nineteenth amendment:

Page 9, lines one hundred and eighty-nine and one hundred and ninety, strike out, in reference to appropriation for Mare Island, "$196,352," and insert "$230,985."

The Committee of Ways and Means recommended non-concurrence.

The amendment was non-concurred in.

Twentieth amendment:

Page 9, immediately following the last amendment, strike out the following proviso:

Provided, That no expenditure for completing officers' houses shall be incurred until complete plans and specifications, with estimates of cost in detail, shall be furnished to and approved by the Secretary of the Navy, and the work shall be done by contract after due and public advertisement for proposals; but no portion of this appropriation shall be expended unless the work can be completed for the sum hereby appropriated.

The Committee of Ways and Means recommended non-concurrence.

The amendment was non-concurred in.

Twenty-first amendment:

Page 9, line two hundred and five, strike out the words "twenty-seven and three hundred and fifty-five thousandths acres of land on;" so as to make the clause read:

For purchase of Seavey's Island, adjacent to the Kittery navy-yard.

The Committee of Ways and Means recommended non-concurrence.

The amendment was non-concurred in.

Twenty-second amendment:

Page 9, line two hundred and seven, immediately following the above amendment, strike out "$14,500," and insert:

Provided, The Secretary of the Navy can procure a satisfactory title to the whole thereof, $65,000.

Mr. ROLLINS, of New Hampshire. I move to amend the amendment of the Senate by adding thereto this proviso:

And provided further, That if a satisfactory title to the whole of said island cannot be secured for said sum of $65,000 within three months from the passage of this act, then the Secretary of the Navy may proceed and purchase such parts of said island as can be purchased for fair proportional parts of said sum.

Mr. STEVENS. I am not quite satisfied with that.

Mr. WASHBURNE. I would like to understand about this. This is spending a great deal of

money. The question now is upon concurring in the Senate amendment, which is to strike out the $14,500 which the House agreed to pay, and to put in its place $65,000. I understand that to be the effect of the amendment upon which we are called to vote, and I think it is very well for us to consider a little, in the present state of the Treasury, whether this large appropriation should be made.

No appropriations can be made for any western interests, while we are called upon continually to make appropriations for the eastern States. I have never been in favor of this discrimination, but when I see what we have seen to-day, it is time that western men should come forward and oppose themselves to these appropriations to some extent.

Mr. STEVENS. I like the spirit of the gentleman from Illinois very well. Now, sir, we do not make many appropriations for the West. To be sure, there has been authorized the construction of a small railroad or two, which of course has not cost the Government anything, only a few hundred millions of bonds. That I voted for because it was a western measure almost exclusively.

But in reference to this $65,000, it seems necessary that it should be appropriated this season. The House appropriation was some fourteen thousand dollars to purchase six or seven acres, but it was found that the whole of the island could be bought, and that it could be had most reasonably, and upon consultation with the chief of the Bureau of Docks and Yards, Commodore Smith, and with others, who were better informed in reference to the matter than we were, we came to the conclusion that this was a proper amendment. But now I confess that my faith is somewhat staggered as the gentleman from Illinois differs with me, and especially as the reason he gives for it is that he did not get the canal. If there be any demerits in this appropriation, then let it be voted down. I am not quite sure that the amendment of the gentleman from New Hampshire ought to prevail. The amendment is to authorize the Secretary to purchase a part, if he cannot obtain the whole. Now, there are a large number of proprietors. I am not sure that it is best to purchase of some, and thereby create a mixed proprietorship, as hereafter, if you should want to buy the remainder, the proprietors would charge whatever they chose.

Mr. ROLLINS, of New Hampshire. I have said to the House that nearly all the proprietors of the land on this island have consented to sell to the Government at a fair price. Two or three only have refused. If this amendment is adopted I have no doubt the Government will be able to procure all the island at a reasonable price.

Mr. SHANKS. How many acres are there on the island?

Mr. ROLLINS, of New Hampshire. Something more than one hundred acres of land in all.

Mr. SHANKS. I thought it was only twenty-seven acres.

Mr. ROLLINS, of New Hampshire. The original proposition was to purchase only twenty-seven acres. I ask to have the letter of the commandant of the navy-yard read.

The Clerk read, as follows:

NAVY-YARD, PORTSMOUTH, NEW HAMPSHIRE,
June 23, 1862.

* * * * * * * * * *

I think if the House would pass a bill to purchase the whole island for $65,000, provided it could be purchased for that sum and clear titles be rendered, or if otherwise, to purchase the lots along the water and next to the navy-yard at the prices now asked for them, the whole matter might be easily settled.

I look upon this shore of Seavey's Island as highly important to this yard for the landing of coal, for placing stationary anchors for mooring ships at the navy-yard wharves, and indeed for the purpose of landing any heavy articles near the water and in places where they can be received at high water in scows and be conveyed in them to ships at the yard.

The hospital should also be placed on Seavey's Island, and I think if this land was now purchased that all the remainder of the island could soon be had at the prices named in the papers herewith forwarded by Dr. Wentworth.

With regard, &c., G. F. PEARSON.

BUSINESS OF THE NAVAL COMMITTEE.

The SPEAKER. The morning hour having expired, it is the duty of the Chair to call up the special order for to-day, which is the business reported from the Committee on Naval Affairs.

Mr. SEDGWICK. The day having been consumed with other matters, I ask that the special order may be postponed and assigned for to-morrow at two o'clock.

There being no objection, it was so ordered.

CHARGE OF BRIBERY.

Mr. KELLOGG, of Illinois. On yesterday the Committee on the Judiciary was discharged from the further consideration of the matter referred to it by a resolution of the House directing an investigation into the charge contained in the Tribune in regard to the Gales & Seaton resolution, and the matter was referred to a select committee, but the number of the committee was not named. I now ask that the committee shall consist of five members.

It was so ordered.

NAVAL APPROPRIATION BILL—AGAIN.

The House then resumed the consideration of the amendments of the Senate to the naval appropriation bill.

Mr. WASHBURNE. Mr. Speaker, I wish merely to call the attention of the House to the merits of this proposition as it appears here upon the face of this bill. The gentleman from Pennsylvania undertakes to laugh my opposition to it down; but I wish, gentlemen, first to examine it for a moment, and see whether they are prepared to concur in the amendment. The Committee of Ways and Means, upon examination and upon consultation with the Secretary of the Navy, brought in a proposition to appropriate $14,000 to buy twenty-seven acres on this island which they considered an all-sufficient quantity and the appropriation for which they considered sufficient. Now, the Senate has put in an amendment to buy the whole island, for which we have no earthly use, and the gentleman from New Hampshire does not even know the number of acres in the island.

Mr. ROLLINS, of New Hampshire. I suggest to the gentleman, that the gentleman from New Hampshire does know the number of acres in the island.

Mr. WASHBURNE. I understand that he did not till the gentleman from Massachusetts came there and told him. It is proposed now by the Senate that we shall add an appropriation of $51,000 to the sum which the House considered amply sufficient when the subject was up before, and purchase the entire island.

Now, apart from the considerations which I felt myself authorized to dwell upon for a moment, I think the appropriation is too large. I do not see any necessity for legislation upon the subject at all. I believe that the navy-yard at Kittery is now sufficient for all practical purposes. There was very great doubt about the propriety of voting an appropriation for the purchase of the twenty-seven acres, but now the Senate propose to buy the whole island and pay speculators whatever they may demand, without knowing anything about the number of acres, and without knowing from competent authorities whether this thing is needed or not.

I am opposed to this proposition, then, on general principles as well as on the particular grounds that I have referred to, and which I do not disavow, and never will disavow. I will stand up for the interests of my own section, while I am willing to yield everything to the interests of other sections.

Mr. POTTER. I wish to ask the gentleman from Illinois a question. I wish to ask him if he did not vote for that stupendous humbug, the agricultural colleges bill, [laughter,] and if he did not vote for it for the purpose of securing votes for this other project, in which he takes so much interest, and I wish to ask him also if he was not tremendously cheated in the end? [Renewed laughter.]

Mr. WASHBURNE. I did vote for the bill to which the gentleman refers, but I did not vote for it with any understanding in regard to the canal measure or any other measure. I will confess, however, that I was surprised when I saw the gentleman from Vermont and his friend, after we of the West had generously came forward and voted for his measure, slaughtering us in the West, slaughtering the farmers of my own State, and whistling us down the wind.

Mr. DAWES. Will the gentleman from Illinois tell us what are the "general principles" on which he opposes this appropriation?

Mr. WASHBURNE. The general principle is that we do not want this island, that there is no necessity for it, and that in voting this additional $51,000 we should be voting money unnecessarily out of the Treasury, which has been already too much depleted.

Mr. ROLLINS, of New Hampshire. I suggest that the gentleman made that discovery quite late in the day, not until he was defeated on a pet measure of his own. I do not understand that our legislation here is to be governed by any such principles; at least I hope not. But I desire to state to the House that this island contains one hundred acres of land, that the owners of more than ninety acres of that land already consent to sell it to the Government, and that if this amendment shall be adopted, the Government will be able to purchase the entire island for the sum named in the bill.

I suggest also to the gentleman from Illinois that we have abundant reasons for the purchase of this island. It has been recommended by the head of the Navy Department and by Commodore Smith, and if the gentleman will take the trouble to read the papers on file in the Department, and to examine the question thoroughly, he will find that this island ought to be purchased, and that it is necessary for the navy-yard and for the Government.

I do hope that gentlemen here in the House will not vote against a measure of this kind merely because the gentleman from Illinois has been defeated in a pet measure of his. I think we ought to let each measure stand upon its own merits. I do not intend to oppose any measure that the gentleman from Illinois may present, because he may have voted against some measure that I have advocated. I do not think that considerations of that kind ought to govern us in our action here, or to control our legislation upon important questions. I will give way now to the gentleman from Massachusetts, [Mr. DAWES,] who desires to occupy the floor for a few moments.

Mr. DAWES. I want merely to say that I voted for the scheme which the gentleman from Illinois has just alluded to. I voted in favor of that bill, but I do not wish to remain silent here under the imputation that I voted for it as a donation to any particular section of the country. I have not been governed here by any such principle in legislation since I have held a seat upon this floor. I have not felt it my duty to ask how much I can get in aggrandizement of, or of donations from, the Treasury for any particular section. I had not heard, until this moment, the measure alluded to advocated upon any such ground. I listened to the advocacy of that measure as a great national scheme. I found no other foundation for its support except in that; and I am not to be put down as one of the advocates of it on any such principle as is suggested by the gentleman from Illinois. If it is not a national scheme, if it is not a bill to develop the resources of the whole country and to protect it from foreign invasion, it does not deserve the consideration of this House for one hour. If we are to divide ourselves off into sections and see which can most successfully plunder the Treasury by bills and legislation here, we had better abandon this place and go home. Unless we can look to the whole country, and to the development and protection of the whole country, we do not become the seats we hold here.

Mr. POTTER. I ask the gentleman from Massachusetts whether he did not vote for that stupendous fraud—the agricultural college bill—that cheat upon the West?

Mr. HOLMAN. Mr. Speaker, it is a well-known fact that when this subject first came to the attention of the House it was through the instrumentality of a gentleman from New Hampshire, who is not now on the floor, and I am informed that the amount which was then proposed to be appropriated was between twelve and fourteen thousand dollars. The subject was then considerably discussed, and the sum has gradually increased, till now we are asked to appropriate $65,000 for this purpose.

Mr. STEVENS. The gentleman will recollect that the proposition made at first, and to which he refers, proposed the purchase of only twenty-seven acres of land. The yard was examined, and it was found that although it was possible to get along for a time with that quantity of ground, it was not all that was desirable. I may say while I am up, that last fall Commodore Smith examined this place, and gave us the assurance that it

was very important, if not absolutely necessary, for the profitable working of the yard. I make this statement to show why the appropriation has been increased.

Mr. HOLMAN. I understand the transaction exactly as the gentleman from Pennsylvania has stated it. It was thought at that time that twenty-seven acres of that ground would be sufficient and that this part of it could be conveniently purchased, while the remainder of it could not be. It is now proposed to purchase the whole island for $65,000. When the subject was first brought before the attention of the House, it was not even suggested, nor did the letters from the Navy Department that were read, intimate, that there was any necessity to purchase more that the twenty-seven acres. I have made this statement for the purpose of asking whether the reason for this remarkable state of things and for this subject being pressed so pertinaciously upon the House, and the reason why so many letters have been written about it by gentlemen connected with the Navy Department, is not that some person prominently connected with the Navy, either in the Navy Department or Government service, has either directly or indirectly some interest in the island and is interested in the sale of it to the Government? I am informed that such is the case. If so, the fact ought to be made known to the House, and if not, it is due to the gentlemen connected with the matter, that the insinuation should be repelled.

Mr. SEDGWICK. I desire, Mr. Speaker, to make a statement with regard to this matter as I understand it. The Surveyor General of the Navy, Dr. Whelan, in an examination of the navy-yards along the coast last fall, recommended certain appropriations for hospitals, and among the rest an appropriation of $20,000 for the erection of a hospital at the Portsmouth navy-yard. That was the original proposition on which all the discussion has arisen. When the question came up on the first appropriation bill, the gentleman representing the district in which that navy-yard is situated, on representations and suggestions of a committee of citizens of Portsmouth who came on here, introduced a proposition to purchase these twenty-seven and three hundred and fifty-five thousandths acres of land on Seavey's Island, which is the land referred by the gentleman from Indiana, and which is owned by the wife of an officer in the Navy. This land adjoins a creek dividing the navy-yard from Seavey's Island.

In an examination of all the navy-yards some years ago by a board appointed for that purpose, the advantages of the purchase of Seavey's Island were set forth and were strongly insisted upon, so that this is not a new project, nor is it one not considered by the Navy Department. On a former occasion I had that report here, and I am sorry I have it not here now. It set forth sundry strong advantages for purchasing this Seavey's Island; among the rest, that the island is divided from the navy-yard by a very narrow channel; that the storehouses and fixtures of the yard are on the channel, and that by erecting buildings from the opposite shore to the center of the stream, there would be much danger from fire and various other causes to the storehouses and buildings of the navy-yard. On these representations, the House agreed to purchase these twenty-seven acres of land for $14,500. They were led to this very much by the consideration that it was improper to place an hospital on the grounds of the navy-yard, for the reason that if the hospital should be occupied by patients having any dangerous or contagious disease, all operations in the yard would be at once suspended, and the Government could not continue work in the yard however needful it might be. Placing a hospital there would very seriously embarrass the operations of the yard. It was stated and shown, on that occasion, that there was no navy-yard in this country, and probably none in any other country, that had an hospital situated within its walls, and that it would be dangerous and improper to have it so.

For that reason among others—that one operating very strongly upon me—the Committee on Naval Affairs agreed to recommend the purchase of this land. The proposition was agreed to by the House, but the Senate has amended it by providing for the purchase of the whole island, for this reason among others, that by an act of Congress, passed a few years ago, the inhabitants of the island have secured a right of way across the navy-yard grounds, with a bridge across this creek or channel; and that it is very desirable the Government should be at liberty to put an end to that. Gentlemen have purchased property on the island and built houses on it. The property is yearly increasing in value, and by and by the continuance of this bridge and right of way will be a serious annoyance to the Government. The chief of the Bureau of Docks and Yards, as has been said here by a gentleman of the Committee of Ways and Means, examined it last fall. There is correspondence on the subject from various officers connected with the Navy, and from former superintendents of the yard, all advising very strongly the propriety of purchasing this island, or at all events of purchasing such part of it as adjoins the navy-yard premises.

The Naval Committee of the Senate, after a full consideration of this matter, came to the conclusion that it would be wiser and better to purchase the whole island, rather than purchase this part of it. The sum agreed to be paid for this part of it was $14,500; but the person owning it has agreed, with the other owners of the island, to reduce his price proportionately. The offers obtained amounted in the aggregate to seventy-four or seventy-five thousand dollars, but the owners, with the exception of two gentlemen, have agreed to reduce their prices proportionately, so that the island can be purchased for $65,000. In that estimate are included the prices of the two who are not willing to sell—$2,000 for the one and $1,500 for the other—and the object of the amendment offered by the gentleman from New Hampshire is to enable the Government to purchase the island, with the exception of these two lots, at a proportionate price, which brings it to something like sixty-two or sixty-three thousand dollars.

It strikes me, Mr. Speaker, that it would be wise to agree to this amendment, and that it would be also wise to concur in the amendment of the Senate; for if you refuse to concur in the Senate amendment, you are still, by the bill as it passed the House, and which cannot be altered, compelled to purchase the twenty-seven acres at the sum of $14,500, and but a short time will elapse before Congress will be called upon to assent to the propriety of purchasing the residue of the island at a very greatly enhanced price. That is my judgment concerning it.

Mr. HOLMAN. I ask the gentleman from New York if it is made imperative on the Secretary of the Navy to make this purchase, and I also ask him what officer of the Navy it is who is interested in this island, and to what extent?

Mr. SEDGWICK. I understand that the wife of one of the officers of the Navy is the owner of these twenty-seven acres, or of the principal part of that land.

Mr. HOLMAN. Who is that officer?

Mr. SEDGWICK. That officer is the chief of the Bureau of Provisions and Clothing. I now move the previous question.

Mr. KELLOGG, of Illinois. I hope the previous question will not be moved until there has been a little more consideration of this amendment.

Mr. SEDGWICK. I think it has been discussed sufficiently.

Mr. KELLOGG, of Illinois. That may be the opinion of the gentleman who has just addressed the House. It is usually the opinion of a gentleman at the close of his own speech.

Mr. MORRILL, of Vermont. I ask the gentleman to withdraw the demand for the previous question for a minute or two.

Mr. SEDGWICK. I will withdraw the demand and yield to the member of the Committee of Ways and Means who desires it.

Mr. KELLOGG, of Illinois. I object to that. I object to a gentleman holding the floor, and then farming it out to whoever he pleases.

Mr. SEDGWICK. I yield the floor to the gentleman from Vermont, nevertheless.

Mr. KELLOGG, of Illinois. I claim the floor.

The SPEAKER. The Chair had recognized the gentleman from Vermont before the gentleman from New York moved the previous question.

Mr. MORRILL, of Vermont. It is not, perhaps, important to notice the remarks of the gentleman from Illinois, [Mr. WASHBURNE.] But I can hardly conceive why I should have been so specially referred to by him in connection with the vote I gave upon the bill which was recently laid on the table by a vote of the House, for which a majority of the House voted.

Sir, I am in the habit of voting upon every measure here strictly upon its merits, without reference to the merits or disposition of any other measure whatever, and without reference to the way or manner the votes of other gentlemen may have been given. I am not in the habit of calling members to account for their votes, for I suppose such votes always to be given in good conscience, and that those who give them understand the merits of questions which may for the time be under consideration, quite as well as myself. I arraign nobody. Each member is accountable to himself and his constituents.

In my judgment, the reference which has been made to this canal question by the gentleman from Illinois in connection with the amendment before us, is not specially in good taste; nor is it marked by the usual good judgment of the gentleman from Illinois; and the remark of the gentleman from Wisconsin, [Mr. POTTER,] it seems to me, comes with still less grace. Why, sir, the measure to which he alluded passed the other branch of Congress by a vote of thirty-two to seven, and passed this House by a majority of ninety to twenty-five; and it appears to me that it is not altogether modest for the gentleman from Wisconsin to suppose that he has more wisdom than three quarters of one House and four fifths of the other. It is my practice to submit when there is a majority of even one or two or three against me; and when the majority is three or four to one, it is hardly respectful to seek repeated occasions to curse the decision of the House.

Mr. POTTER rose.

Mr. MORRILL, of Vermont. I must decline to yield the floor. I am merely replying to what the gentleman said. I have no objection that gentlemen shall take any course in debate they may see fit.

Mr. WASHBURNE. I ask the gentleman to yield to me for a moment.

Mr. MORRILL, of Vermont. I must decline for the present.

Mr. WASHBURNE. The gentleman speaks of my impugning his motives. I wish to disclaim any such intention.

Mr. MORRILL, of Vermont. I must decline to yield the floor. I was proceeding to say, in reference to the remark of the gentleman from Wisconsin, that I do not see any particular wit in repeating three or four times what has no wit in it when it is repeated once alone. [Laughter.]

Now, in relation to the measure which has recently been defeated in this House, I desire to say that I was not committed against the ultimate passage of such a bill by this House; but I am in favor of an investigation of the facts preliminary to entering upon a work of so much magnitude, so that we may know whether the thing is practicable or not; so that we may know how much money it will cost, and in what time the work can be completed. I am unwilling to support the measure under any other circumstances, and cannot vote now for any proposition going beyond the procurement of such facts as I have indicated.

Now, sir, the idea of voting for the purchase involved in the amendment under consideration because it is for the benefit of New Hampshire is utterly preposterous. It is not so much for the benefit of New Hampshire as it is for the benefit of Illinois, because there are not so many people in New Hampshire as there are in Illinois. I am for it because it is a national matter; and if it is not a national matter it ought not to pass. I am not for it because it is for the benefit of Kittery or Portsmouth, but because it is for the benefit of the nation at large.

Mr. KELLOGG, of Illinois. The only consideration that will govern my vote in this matter, is whether the appropriation proposed is necessary and proper, whether it is necessary and proper to purchase this island for the use of the navy-yard, and other considerations I think ought not to influence the vote of any gentleman present.

I have listened with some degree of attention to ascertain whether any reason could be given for the increase of the appropriation which was originally passed by the House for this purpose, and I confess that I have failed to hear anything which has satisfied my mind that there is any state of facts existing now which did not exist, which could not have been fully considered, and which,

I doubt not, was fully considered at the time this matter was originally before the House. If it is necessary to purchase one hundred acres as an addition to the navy-yard indicated in the bill, I do not think we should hesitate as to the price. Whether the price indicated is too much for the land proposed to be purchased or not, I do not know. That I shall leave to the consideration of the Committee on Naval Affairs. But it does seem to me that if there is a necessity of purchasing one hundred acres of land as an addition to the navy-yard at Kittery, there should be some gentleman, some friend of the bill, who can make it apparent to the House. I have listened to the chairman of the Naval Committee, and the only reason that he has assigned, so far as I have understood him, is this: that the island is fast settling up, and that by the present law there is a necessity for granting persons who reside there the right of transit through the grounds of the navy-yard. If we buy this island, that objection will be removed. That is the only reason I have heard assigned for purchasing this one hundred acres of land, and for appropriating this additional $51,000. The only reason assigned is, that it will avoid the necessity of the transit of the few persons who live on the island across the grounds now belonging to the navy-yard, and of avoiding the necessity of keeping up a bridge for their accommodation.

Mr. Speaker, it seems to me we are not in a condition to throw away money for a trifling purpose, and if there is no other reason, it is throwing away more than fifty thousand dollars. There must be some motive above and beyond all this. I impugn no man's motive. If the gentleman from New Hampshire can give to the House a reason why we should purchase this one hundred acres of land for the enlargement of this navy-yard, I will vote for the amendment. It is not with me a mere matter of dollars and cents per acre, for I know nothing about the value of it. I repeat that the only matter I desire to know is the reason or necessity there is for this addition of a hundred acres of land.

It is said there is a communication from some officer of a bureau in the Navy Department upon the subject. If he has given a reason for it, I think it has not been communicated to the House.

Mr. Speaker, this matter does savor to me somewhat of speculation in the sale of the land. I am afraid there is very little speculation in the purchase of it. Whether it is in the East or West is a matter of no importance to me. The building of a Navy is a national concern, and if the land is purchased at all, it should be because it is wanted for the use of that navy-yard, because it involves a national defense. It matters not a straw to me, whether it is in Maine or Wisconsin, and, in my judgment, it ought not to matter to any one. If we have got to that sad, lamentable condition, where the location of a navy-yard or hospital is to meet the approbation or disapprobation of members from any State because it is or is not in their vicinity, it is time that we should cease to talk about the Union and the general interests of the country. Sir, I have not given, and I trust in God I will never give a vote upon such considerations. I cannot but remember the bond that unites us and makes us one people. The blood that circulates through the physical system, no less in principle and analogy circulates through the great system of States of this Union. And he who strikes down but one limb strikes at the heart of the Union, at the vital principle of our Confederacy.

It has been said in this discussion that the question of western improvements is concerned in this matter. Two or three gentlemen have alluded to it. Sir, I do not say how justly some gentlemen voted against a certain measure for western improvement. I have no right to say that; but I will say in reference to my own vote upon that measure, that it was not controlled by considerations of a sectional nature. I believe it to be a national improvement. I believe it to be an improvement which concerns the whole nation; an improvement of so great, paramount, and palpable importance that this House, that the country, will come to see it in such magnitude that they will come so to see its importance to every portion of the country as providing a great artery of commerce and trade which shall bind us together and develop, to an almost untold extent, the resources of the country, that when we meet here next winter there will be little or no opposition to the measure if it shall be properly arranged, properly guarded, and properly presented to the House in all its bearings. I am confident of such a result, because its merits are so great that when they are fully considered, and thoroughly known, its opposition will fall.

Mr. Speaker, let me say that in the combinations that are sometimes formed, a just and proper measure loses strength in the end. When the great Pacific railroad was on its passage here——

Mr. HOLMAN. I rise to a point of order. I insist that the gentleman from Illinois shall not be permitted to discuss anything but the question before the House.

Mr. KELLOGG, of Illinois. The gentleman need not get scared, for I do not propose to tell tales on my western neighbors.

The SPEAKER. The Chair sustains the point of order.

Mr. KELLOGG, of Illinois. I wish the Chair had given his attention to that subject a little earlier.

The SPEAKER. The question of order was raised, and the Chair has decided it.

Mr. HOLMAN. If there have been any combinations formed to log-roll measures through the House, this is not the time to consider that subject.

Mr. KELLOGG, of Illinois. I have been speaking of the propriety of the purchase of Seavey's Island. I have heard arguments on that question, which I supposed it was in order for me to reply to.

The SPEAKER. The point of order has been made, and the gentleman from Illinois is not in order in replying to what was said out of order.

Mr. KELLOGG, of Illinois. Will the Chair suggest the argument that I propose to reply to?

The SPEAKER. The gentleman will confine his remarks to the subject under consideration.

Mr. KELLOGG, of Illinois. It has been urged that the purchase of Seavey's Island was a question of great national moment, reaching, in its influence, to the State of Illinois; that it was of more importance to the State of Illinois than to the State of New Hampshire, because we have more people and a greater State. I infer that it will be equally as important to Oregon, as a portion of this Union, as it will be to Illinois.

Now, Oregon is about to be connected with Illinois and New Hampshire by means of the great artery of the Pacific railroad. This matter of a public defense on the sea-coast becomes important, and the construction of a Pacific railroad, as a measure of public defense being connected with it, may, I think, be incidentally considered. Now, in reference to the action of this House on the Pacific railroad bill, inasmuch as it has not yet become law, and as it is intimately connected and blended with the purchase of this island——

The SPEAKER. The gentleman cannot discuss the merits of the Pacific railroad on the pending question.

Mr. KELLOGG, of Illinois. I have concluded my remarks on that subject, with this exception: that when we come finally to develop the resources of the country——

Mr. SHANKS. By the Oswego canal?

Mr. KELLOGG, of Illinois. I have nothing to do with that just now. We have passed a bill for a Pacific railroad, and after we build the Illinois canal to the lakes, and develop still further the resources of the country, it may be important for the Government to purchase Seavey's Island. I ask the gentleman from New Hampshire, therefore, to help us to build that canal. The members from Pennsylvania readily went for the Pacific railroad bill, when it was proposed that the road should be built of Pennsylvania iron, and I have no doubt that we can get them to go for the Illinois ship canal scheme if we propose that the locks shall be sheeted with Pennsylvania iron. [Laughter.]

Mr. STILES moved that the House do now adjourn.

The motion was disagreed to.

MEETING AT ELEVEN, A. M.

Mr. STEVENS. I move that the meeting of the House to-morrow shall be at eleven, a. m., instead of at the usual hour.

The SPEAKER. That can only be done by unanimous consent.

Mr. STEVENS. I propose it for only a single morning, and there are important reasons for it.

Mr. PENDLETON. I object until I know what important reasons there are for our meeting to-morrow at eleven o'clock. If there be any good reason, I will withdraw my objection.

ADJOURNMENT OVER.

Mr. JOHNSON. I ask leave to offer the following resolution:

Resolved, That when this House adjourns on Thursday next it shall stand adjourned until the following Monday.

Objection was made.

Mr. BLAIR, of Virginia. I ask the gentleman from New Hampshire, [Mr. EDWARDS,] who holds the floor on the Navy appropriation bill to yield to a motion to adjourn.

Mr. EDWARDS. I yield for that purpose.

And then, on motion of Mr. BLAIR, of Virginia, (at five o'clock, p. m.,) the House adjourned.

IN SENATE.

WEDNESDAY, *July* 2, 1862.

Prayer by the Rev. T. H. STOCKTON, Chaplain of the House of Representatives.

The Journal of yesterday was read and approved.

PETITIONS AND MEMORIALS.

Mr. SUMNER presented a memorial of William Ropes and others, of Boston, engaged in the Russia trade, and importers of polished Russia sheet iron, praying that provisions may be made in the proposed new tariff for an allowance on damaged goods; which was referred to the Committee on Finance.

Mr. TRUMBULL presented a petition of citizens of St. Mary's, Illinois, praying for the passage of the bill reported in the House of Representatives by Hon. F. P. BLAIR, jr., for the construction of a ship canal between the waters of Lake Michigan and the Mississippi river; which was referred to the Committee on Military Affairs and the Militia.

PROPOSED NAVY-YARD AT NEW LONDON.

Mr. FOSTER. I offer resolutions of the General Assembly of the State of Connecticut on the subject of a navy-yard at New London, which I ask may be read.

The Secretary read them, as follows:

At a General Assembly of the State of Connecticut, holden at New Haven, in said State, on the first Wednesday in May, in the year of our Lord, 1862.

Whereas the Secretary of the Navy has recommended the establishment of one or more new navy-yards on the Atlantic coast; and whereas the harbor of New London, in this State, stands second to none on the Atlantic coast, in depth of water, capacity, and central location, and is in all respects well adapted to the purposes of a navy-yard:

Resolved by this Assembly, That the interests of Connecticut will be greatly promoted by the introduction of a navy-yard within this State.

Resolved, That our Senators and Representatives in Congress be requested to use every exertion to secure the location of a navy-yard at New London.

Resolved, That a copy of these resolutions be forwarded to each of our Senators and Representatives in Congress.

House of Representatives, June 25, 1862—Passed.
COOKE LOUNSBURY, *Clerk*.

Senate June 25, 1862—Passed.
CYRUS NORTHROP, *Clerk*.

Approved, June 27, 1862.

STATE OF CONNECTICUT, *ss.*,
OFFICE OF SECRETARY OF STATE.

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

In testimony whereof I have hereunto set my hand, and affixed the seal of said State, at New Haven, this 28th day of June, A. D. 1862. [L. S.] J. H. TRUMBULL,
Secretary of State.

Mr. FOSTER. Mr. President, by these resolutions it is made the duty of those who represent the State of Connecticut here to do what they can properly in aid of the object proposed in them for our consideration. It will be a pleasure to me to do so, but I do not deem it necessary at the present time to make any extended remarks, and I would say nothing were it not for the fact that a bill is before the body reported by the Committee on Naval Affairs, to which the honorable Senator from Iowa [Mr. GRIMES] addressed himself the other day, proposing to establish this navy-yard on League Island, near the city of Philadelphia. The honorable Senator from Iowa, with his usual research and ability, examined the general subject of an additional navy-yard upon the Atlantic coast, and urged reasons why, in his judgment, it was desirable that it should be established on League Island. I will not go into an examination of the

subject. The reasons, however, which he urged for giving a preference to that locality, I think can be answered, and more than answered, by showing that New London has advantages greatly superior to the location proposed by him. The single objection which can be made I think very effectively to League Island, of the unhealthiness of the locality, would more than counterbalance any of the advantages which perhaps may belong to it. The additional fact that during the period of severe frost in winter it would be almost inaccessible from the ocean is another most decided objection. The advantages which were alluded to, particularly that of fresh water, scarcely belong to it beyond what may be claimed for New London and the river a few miles above the city of New London. The fact adverted to by him that iron vessels corrode much more rapidly in salt water than in fresh, and that salt water is much more prejudicial in producing rust and destruction to iron vessels, can scarcely be claimed, as it seems to me, as a very great advantage to any locality. Our vessels, whether iron or wood, are not built to be laid up in navy-yards, but to go to sea. They must therefore be in salt water, and any advantage derived from the fact that they are built in fresh water, or that fresh water is better for building them, seems to me to be far more imaginary than real. The objection is really to the character of the ocean itself.

I am aware that we are all disposed to feel a strong partiality for our own localities, and think the harbors of our own State possess advantages greatly superior to others. This consideration should of course modify the weight of any opinion which I might entertain in regard to the advantages of New London. I will only say that our people feel so perfectly confident of being able to show to any competent committee or board of nautical men that the harbor of New London is really to be preferred on account of its decided advantages to any locality now unoccupied, for a naval station on the Atlantic coast, that they are disposed cheerfully to submit the question to the examination of any committee, to be appointed by Congress or by the Navy Department for report and decision. If they, on full examination, do not give a preference to that locality, we shall utter not one word of complaint, but will cheerfully acquiesce in the result. I move that the resolutions be printed and laid upon the table.

The motion was agreed to.

PROPOSED EXPULSION OF MR. SIMMONS.

Mr. WRIGHT. I desire to offer the following resolution, and I will state, as I do not see the Senator to whom it has reference in his seat, that I shall call it up to-morrow morning:

Whereas, by a report made to the Senate of the United States, by the Secretary of War, Hon. E. M. Stanton, bearing date, June 21, 1862, it appears that the Senator from the State of Rhode Island, JAMES F. SIMMONS, gave and exercised his official influence over certain of the heads of the Departments of our Government in procuring for one C. D. Schubarth an order dated October 11, 1861, authorizing the said Schubarth, in behalf of the Government, to manufacture for the use of the Army and Navy fifty thousand breechloading rifles; and further, that the said Senator did agree to receive as a compensation for services rendered in such procurement the sum of $50,000, and did subsequently accept two several promissory notes from certain parties in New York, one payable in August and one in September next, both amounting to ten thousand dollars, in payment for procuring said order: Therefore,

Resolved, That the said JAMES F. SIMMONS be, and is hereby, expelled from the seat he holds in this Senate.

The PRESIDENT *pro tempore*. The resolution will lie over at the suggestion of the mover.

GENERAL TOTTEN.

Mr. CLARK. There are one or two little bills upon the Calendar which will take no time, which I think might be taken up conveniently at this time. I move to take up the House bill for the relief of General Totten.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill, which directs that there be paid to Brigadier General Joseph G. Totten the sum of $200 in full for so much advanced by him for the benefit of the United States in the purchase of certain land of William Aspinwall, for fortifications on Staten Island, in the harbor of New York.

Mr. CLARK. I will state briefly what this bill proposes to do. It proposes to pay General Totten the sum of $200. General Totten negotiated for some property for the United States in New York which cost $42,500. By a mistake in the appropriation, there was appropriated $42,300, which was $200 less than was necessary to pay for the property. General Totten directed the disbursing officer to pay the whole sum, $42,500; and when the accounting officers came to settle his account, as a matter of course they refused to allow him the $200. Thereupon General Totten paid the $200 out of his own money to the disbursing officer, and now asks Congress to reimburse him those $200 which went to pay for property of the United States. There can be no doubt about it. It is a House bill, and there is a report made in the House accompanying the bill.

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

FINES PAID TO DISTRICT MAGISTRATES.

On motion of Mr. GRIMES, the Senate, as in Committee of the Whole, proceeded to consider the bill (S. No. 316) to provide for the payment of fines and penalties collected by or paid the justices of the peace in the District of Columbia under the acts of Congress approved the 3d and 5th of August, 1861, and for other purposes. It directs that the several justices of the peace of the District of Columbia who have imposed fines under the acts of Congress approved the 3d and 5th days of August, 1861, shall, on or before the 15th day of July, 1862, make a full and faithful report of their doings in that behalf, stating the name of the party, the amount of fine imposed, and the names of the witnesses examined in each case, to the superintendent of metropolitan police, and shall pay over all moneys in their hands arising from such fines to the superintendent; and such of the justices as shall fail by the time specified to make such report, and comply with the other provisions of this law, are to be liable to a fine of not less than $300 nor more than $500, to be collected by prosecution in the criminal court in the District of Columbia; and it is to be the duty of the superintendent of metropolitan police to inspect the dockets kept by the justices of the peace, for the purpose of ascertaining the amount so collected by them; and the justices are to submit their dockets to the inspection of the superintendent; and failing to do so, to pay a fine of not less than fifty nor more than $100.

The Committee on the District of Columbia reported the bill with an amendment, to add the following as an additional section:

SEC. 2. *And be it further enacted*, That said justices of the peace shall, on or before the 15th day of July in each and every year, make a full and faithful report of their doings as aforesaid, for the preceding year, to the superintendent of metropolitan police, and shall pay over all moneys in their hands arising from such fines to the said superintendent; and if any justice of the peace of the District of Columbia shall fail to comply with the provisions of this law, he shall be liable to a fine of not less than $300 nor more than $500, to be collected as provided in the first section of this act.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in. The bill was ordered to be engrossed for a third reading, was read the third time, and passed.

WILLIAM A. EVANS.

Mr. CLARK. I move that the Senate proceed to the consideration of Senate bill No. 375, for the relief of William A. Evans.

The motion was agreed to; and the bill was read a second time, and considered as in Committee of the Whole. It directs the Secretary of the Treasury to pay to William A. Evans the sum of $144 12, as compensation in full for his services as acting Second Comptroller of the Treasury from the 14th of September to the 17th of October, 1852.

Mr. CLARK. It appears he was appointed to that duty by President Fillmore, and that he performed it for the length of time for which he asks pay. It is within the precedents of the Senate.

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

REPORTS FROM COMMITTEES.

Mr. POWELL, from the Committee on the Judiciary, to whom was referred the bill (S. No. 374) to punish persons who give or offer to give members of Congress or officers of the Government of the United States consideration for procuring contracts, office, or place from the United States, reported it without amendment.

Mr. WILKINSON, from the Committee on Revolutionary Claims, to whom was referred the memorial of Haym M. Salomon, submitted a report accompanied by a bill (S. No. 377) for the relief of Haym M. Salomon. The bill was read, and passed to a second reading; and the report was ordered to be printed.

Mr. SIMMONS, from the Committee on Patents and the Patent Office, to whom was referred the joint resolution (H R. No. 62) requiring an index of the names of adult males, or heads of families, embraced in the census, reported it without amendment.

Mr. TRUMBULL, from the Committee on the Judiciary, to whom was referred the bill (H. R. No. 525) in relation to the election of Representatives to Congress by single districts, reported it with an amendment.

J. W. NYE.

Mr. POMEROY. I move that the Senate take up House bill No. 297, for the relief of J. W. Nye, reported from the Committee on Claims.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill. It requires the Secretary of the Treasury to pay to J. W. Nye the sum of $1,444 84, for balance due for furnishing horses and carryalls, and hauling boxes and other articles, for the use of the House of Representatives for the Twenty-Eighth Congress, under a written contract with the Postmaster of the House of Representatives, dated January 5, 1854, and approved by the House of Representatives.

It further directs the Secretary of the Treasury to pay J. W. Nye the sum of $3,432 44, for balance due for improvements made on the botanical garden lot, and for damages sustained by him in being deprived of the use and occupation of the lot according to the terms and conditions contained in a lease from the President of the United States to him.

Mr. HALE. Is there a report in that case?

The PRESIDENT *pro tempore*. There is. Does the Senator call for its reading?

Mr. HALE. Yes, sir.

The Secretary proceeded to read the following report made in the House of Representatives February 25, 1862, by Mr. CALVERT, from the Committee for the District of Columbia:

The Committee for the District of Columbia, to whom was referred the memorial of J. W. Nye, submit the following report:

That there are three distinct claims presented against the Government by this claimant, which will be described in the order in which they appear to have originated. These claims have been so long before Congress, and have been so frequently and thoroughly examined and reported upon by our predecessors, that it is not deemed necessary to enter into a minute examination of all the items of each, but simply to state the general principles and evidence upon which they are founded.

In 1832 contracts were entered into by the Commissioner of Public Buildings, by virtue of an act of Congress, with Peter Bargy, jr., and Hugh Stewart, for macadamizing Pennsylvania avenue, and the contractors entered vigorously upon their work, as they were limited to a certain period for the completion of the same. In a very short time after commencing operations the Asiatic cholera broke out in Washington, and raged to such an extent as to alarm and drive off many of the laborers engaged on the work. Under these circumstances the contractors applied to the Commissioner to be allowed to suspend the work until this scourge should subside.

Mr. POMEROY. That report relates to another claim and not the claim contained in this bill. The report the Secretary is reading does not refer to this bill.

The PRESIDENT *pro tempore*. It is headed, "J. W. Nye, (to accompany bills H. R. Nos. 297 and 298,) February 25, 1862, ordered to be printed." The Chair supposes it must have some relation to the bill now under consideration.

Mr. CLARK. That is the right one undoubtedly.

The PRESIDENT *pro tempore*. The Secretary will proceed with the reading.

The Secretary continued the reading as follows:

The commissioner not only refused this reasonable request, but he went much further and interfered with the rights of the contractors by employing a physician to go among the laborers to advise them not to perform the usual amount of labor required of them. In consequence of this advice, it is proved by Mr. Ford that the contractors were compelled to nearly double the amount of wages paid the men, at a time when they were not obtaining more than half the amount of labor from them.

After several favorable reports of committees of both Houses of Congress on this claim, it was submitted, in 1841, to the Committee on Public Buildings and Grounds, and elicited a very able report from Mr. Leonard, of that com-

mittee, which, after reviewing the whole case, adopted the principle that the contractors were equitably entitled to a full allowance of all that they had lost by the refusal of the commissioner to allow them to suspend the work during the prevalence of the cholera, and his further interference with the labor of the men. This report has been furthermore sustained by that of Mr. Cobb, in 1844, from a select committee appointed to investigate the same claim, and again, in 1858, by the report of Mr. E. Joy Morris, from the Committee for the District of Columbia.

Mr. Nye was a sub contractor under Bargy & Stewart, and brought suit against those parties to recover the large amount of their indebtedness to him; but at the instance of several members of Congress who had investigated their claim, he was induced to release them and take their assignment of this claim in full satisfaction of the debt due him.

Mr. CLARK. There is clearly a mistake here. Even if the report is numbered to accompany this bill, it relates to another claim, of which I have some knowledge, and does not relate to this bill.

The PRESIDENT *pro tempore*. It is very evident to the Chair that the bill should lie over.

Mr. CLARK. I think it should lie over until we get the right report.

The PRESIDENT *pro tempore*. By common consent, the bill will lie on the table for the present.

FINAL ADJOURNMENT.

Mr. SHERMAN submitted the following resolution; which was referred to the Committee on Finance:

Resolved, (the House of Representatives concurring,) That the President of the Senate and the Speaker of the House of Representatives do adjourn their respective Houses *sine die*, on Monday, the 14th of July, instant, at twelve o'clock, meridian.

INDIAN APPROPRIATION BILL.

Mr. SHERMAN. The committee of conference on the disagreeing votes of the two Houses on the Indian appropriation bill have agreed upon their report. I will make a brief explanation of it. The only serious matter of disagreement was the appropriations for the Indian service in California. It will be remembered that the Senator from California [Mr. LATHAM] was very desirous to institute a new system for the government of Indian affairs in that State, from which the delegation in the House dissented. They were very much opposed to any change at present. After fully considering it, the committee agreed unanimously that the Senate ought not to compel a change of the general law in an appropriation bill, and should not compel the House to take this new system at the risk of defeating the appropriation bill. The Senate conferees, therefore, agreed to recede from that amendment and agree to an amendment which appropriates simply enough to carry into execution the existing law, making some deductions from the pay of certain officers, with a proviso directing the Secretary of the Interior to inquire into the expediency of making the proposed alteration. With this explanation, I submit the report to the Senate.

The Secretary read the report, as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendments to the bill (H. R. No. 260) making appropriations for the current and contingent expenses of the Indian department, and for fulfilling treaty stipulations with various Indian tribes, for the year ending June 30, 1863, having met, after full and free conference have agreed to recommend, and do recommend, to their respective Houses as follows:

That the Senate recede from their second amendment.

That the House recede from their disagreement to so much of the Senate's third amendment as proposes to strike out the matter contained in lines eleven hundred and twenty-five, eleven hundred and twenty-six, and eleven hundred and twenty-seven, inclusive, and agree to the same.

That the Senate recede from their disagreement to the amendment of the House to their sixth amendment, and agree to the same.

That the Senate recede from their disagreement to the first amendment of the House to the Senate's seventh amendment, and agree to the same.

That the House recede from their second amendment to the Senate's seventh amendment, and agree to the same with the following amendment: in line four, section two, of said amendment, strike out the word "two," and insert "three;" and in the same line strike out the words "five hundred;" in line two, of section three of said amendment, strike out the word "fifty," and insert "forty;" and after the word "dollars," in the second line, insert "or so much thereof as may be found necessary."

That the House recede from their disagreement to the eighth amendment of the Senate, and agree to the same with the following amendments: strike out all after the enacting clause down to, and including, the word "appropriated," in the sixty-fourth line, page 56, and insert in lieu thereof the following:

"That the following sums be, and the same are hereby, in like manner appropriated, out of any money in the Treasury not otherwise appropriated, for the Indian service in California."

And strike out all after the word "dollars," in the sixty-ninth line, and in lieu thereof insert:

"For the same service for the fiscal year ending June 30, 1863, at $1,500 per annum, $3,000. For compensation of five supervisors for the reservations in California to instruct the Indians in husbandry, for the fiscal year ending June 30, 1863, authorized by the act of June 19, 1860, $9,000.

"For the purchase of cattle for beef and milk, together with clothing and food, teams and farming tools for the Indians for the fiscal year ending June 30, 1863, for the northern district of California, $25,000.

"For the same for the southern district of California for the fiscal year ending June 30, 1863, $15,000: *Provided*, That the Secretary of the Interior is hereby authorized and directed to inquire into the expediency of reducing the Indian reservations in California to two in number; the proper places for the same; the probable expense thereof; the propriety of disposing of any of the reservations and the value thereof, and of the property thereon; of the manner and terms of such disposal; and in what manner, in his judgment, the expense of the Indian department in that State can be reduced and its system simplified without injury to the same, and report thereon to the next regular session of Congress."

J. R. DOOLITTLE,
JOHN SHERMAN,
W. SAULSBURY,
Managers on the part of the Senate.
CYRUS ALDRICH,
THOS. M. EDWARDS,
A. A. SARGENT,
Managers on the part of the House.

The report was concurred in.

THE TARIFF BILL.

A message from the House of Representatives, by Mr. ETHERIDGE, its Clerk, announced that the House had passed a bill (H. R. No. 531) increasing temporarily the duties on imports and for other purposes, in which the concurrence of the Senate was requested.

The bill was read twice by its title, and referred to the Committee on Finance.

BILLS BECOME LAWS.

A message from the President of the United States, by Mr. NICOLAY, his Secretary, announced that the President had approved and signed on the 1st instant the following acts:

An act (S. No. 242) changing the name of the American-built schooner Tom Dyer to that of Dolphin;

An act (S. No. 243) changing the name of the American-built schooner Curtis Mann to that of Supply;

An act (S. No. 298) donating public lands to the several States and Territories which may provide colleges for the benefit of agriculture and the mechanic arts; and

An act (S. No. 370) to provide for additional medical officers of the volunteer service.

ISAAC R. DILLER.

Mr. SUMNER. I move to take up Senate bill No. 356, to provide for the settlement of the accounts of Isaac R. Diller, late consul at Bremen.

The motion was agreed to; and the bill was read a second time and considered as in the Committee of the Whole. It proposes to direct the Secretary of State to audit and settle the accounts of Isaac R. Diller, late consul at Bremen, upon the principles of justice and equity, for the expenses incurred by him for extra clerk hire in his office and for necessary traveling expenses beyond the limits of the consulate, and for moneys advanced to destitute American citizens, and to pay the amount, not exceeding the sum of $3,000.

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

Mr. HALE. Is there a report in that case? It is for the payment of a pretty large sum.

Mr. SUMNER. Only if it shall be found by the Department to be due on principles of justice and equity.

Mr. HALE. Let the report be read.

The Secretary read the report made by Mr. SUMNER, from the Committee on Foreign Relations.

It appears that Mr. Diller was appointed by the President of the United States, and confirmed by the Senate, as consul to Bremen, in the year 1857; that he took possession of the consulate on the 1st day of August of that year, and that he continued to perform the duties thereof until September 20, 1861. During this period he received as compensation for his services the sum of $2,000 per annum, as provided by the act of August 18, 1856, which was not sufficient to defray his personal expenses, and he was also called upon to expend his private funds for clerk hire, fuel, and lights, traveling expenses on official business, and the relief of destitute seamen, to the amount of $4,380 55, a reimbursement of which he asks.

The inadequacy of the salary which Mr. Diller received, and the necessity for employment by him of clerks, in order to properly perform his official duties, is set forth in a letter from Hon. Lewis Cass, Secretary of State, to Hon. G. W. Hopkins, chairman of the Committee on Foreign Affairs of the House of Representatives, dated January 12, 1859:

"The compensation attached to the consulate at Bremen is $2,000 per annum, and the consul is not permitted to transact business. The consular fees, which in 1857 amounted to $1,177 27, are, under existing provisions of law, paid into the United States Treasury. A large number of American vessels are constantly arriving in Bremen, requiring the immediate attention not only of the consul himself, but one or two clerks, and since the establishment of a line of steamers between New York and Bremen, the consular duties have been largely increased by the number of American travelers arriving and departing. The Bremen office is also made, to some extent, a distributing office for parcels and letters transmitted from the Department to the United States consular and diplomatic officers residing on the continent, the rate of postage being about fifty per cent. less upon mail matter sent directly to Bremen than if forwarded via Liverpool. Bremen is also the principal port from which emigrants take their departure to the United States, the number thus leaving amounting in the first ten months and a half of 1858 to 22,522, and for the first nine and a half months in 1857 to 44,951. It will be readily seen that the time of an intelligent consul must be much occupied in furnishing emigrants with information and in attending to their wants. A competent clerk cannot be obtained for less than $600 per annum, which, in consequence of the repeal of the seventh section of the act of August 18, 1856, regulating the diplomatic and consular systems of the United States, must be paid from the compensation provided for the consul. The cost of living in Germany has also, within a few years, largely increased, as will be seen by reference to the accompanying extracts from dispatches of the United States minister at Berlin, and the consul general at Frankfort, relating to the consulate at Bremen."

Governor Wright, minister at Berlin, informed the Department, in a dispatch, dated September 18, 1858, that the consul at Bremen "cannot, with the most rigid economy, live upon his present salary;" and S. Richer, Esq., consul general at Frankfort, said, in a dispatch, dated October 12, of the same year, that, for reasons which he gave at length, it was his "entire conviction that $4,000 salary and $1,000 for office expenses would be no more than a reasonable compensation" for Mr. Diller.

The memorialist states that to procure the services of an American citizen as consular clerk, in accordance with the "regulations," who was acquainted with the language of the country, he was compelled to pay his first assistant $600 a year, which he did actually pay during the four years that he held the office, and that the German correspondence, relating to emigration, occupied nearly the whole of this individual's time during that period. To a second clerk he paid $200 a year, which, he represents, was not a remuneration commensurate with the amount of labor performed, but as much as the memorialist was able to pay under the circumstances. The total amount paid by him for clerk hire is shown to have been $3,305 55.

The memorialist further represents that he was obliged to expend $120 for fuel and lights for the consular office; that he paid $350 for the relief of destitute American citizens, many of them sent to him by United States consuls in the interior of Germany, that they might be sent home; and that his traveling expenses on official business during the period of his consulate were $605. These journeys were to Berlin, to consult with the American minister there in relation to the compulsory enlistment of American citizens; to Frankfort, to consult with the United States consul there on the transfer of German vessels to the American flag during the Italian war; and to the port of Bremen, to ascertain the real nationality of vessels for which United States papers were asked to render them neutrals.

The committee having requested the opinion of the Department of State, in regard to the above items of expenditure by the memorialist, received in reply a letter from Hon. William H. Seward, Secretary of State, dated April 12, 1862, in which he said:

"In regard to office expenses 'for fuel and lights,' I have to state that the Department has never authorized any consul to charge such expenditures to the Government.

"Neither are consuls allowed to charge the Government their 'traveling expenses,' unless, which is very rarely the case, they are traveling on public business under the special orders of the Department, or of a United States legation.

"There is no appropriation subject to the disposition of the Department to enable it to refund to ministers and consuls the donations which they may make in charity to destitute American citizens other than seamen. On two occasions a bill for this purpose has passed the Senate, but

been lost in the House of Representatives after debate, on the ground that it would lead to a large and constantly increasing expenditure. In this view of the subject the Department fully concurs. Special appropriations have been occasionally made by Congress, from time to time, for the relief of the consuls at Panama, Havana, Hong Kong, and Mauritius, for the relief thus afforded to American citizens; at the two places first named, American citizens are often overtaken with sickness, and thrown destitute upon the charity of the consul and his countrymen.

"At Bremen, also, a port from whence a large part of the emigration to the United States takes its departure, and where naturalized American citizens constantly arrive, there is a large and frequent call upon the consul for his charity.

"Should it appear that such charitable gifts have been judiciously made, and the proof be such as has been accepted by the accounting officers in adjusting the claims of consuls under similar appropriations, to which I have referred above, the Department is of opinion that an appropriation under this head for the relief of Mr. Diller might justly and equitably be made.

"In regard to clerk hire, I have to state that the repeal of the seventh section of the diplomatic and consular act of August 18, 1856, has operated very severely upon many of the consulates at which the consular business is such as to require the employment of clerks, whose compensation must be defrayed by the consul himself from his salary."

* * * * * * * * *

"The opinions of the Department in regard to the inadequacy of the compensation heretofore paid to the United States consul at Bremen have received confirmation during the present session of Congress, by which it has been increased to $3,000 per annum.

"The circumstances of the case, in view also of the precedents to which I have referred, are such, in the opinion of the Department, as to warrant the recommendation, which is now made, of an appropriation for the relief of the petitioner."

The committee were unwilling to recognize the claim for fuel and lights; nor could they recognize the claim for travel, except beyond the limits of his consulate. But taking into consideration the inadequacy of his compensation and the meritorious character of much of the services for which the memorialist now seeks remuneration, they thought it advisable that the Secretary of State should be directed to audit and settle his accounts on principles of justice and equity, within the limits of $3,000. They reported a bill accordingly, and recommended its passage.

Mr. HALE. I think this bill involves a new principle, and a very dangerous one; and I think it will be the first time that ever a principle of that kind was sanctioned by the Government.

Mr. SUMNER. The Senator is very much mistaken.

Mr. HALE. You will know whether I am mistaken after I have stated the point. It is new in this: that it makes the inadequacy of a salary the ground of a special appropriation. I have listened to these papers very attentively; and I have no doubt that a portion of the subjects embraced in the report are proper subjects for which he should be compensated. Where he has paid money for the relief of meritorious and indigent American citizens, and where he has traveled, under the suggestions made by the Secretary of State, by direction of the Government, or of the diplomatic representative in the country, he should be compensated; but to go on and mix them all together with considerations of the inadequacy of his salary, which the papers expressly recognize, and appropriate $3,000 in gross, seems to me to be a dangerous precedent. I think that the bill should be recommitted to the committee, and that they should state the sums he has paid, and what travel he has performed, within the distinction that is laid down by the Secretary of State; and to that extent he should be paid, but beyond that I think he should not be paid.

Mr. CLARK. I would suggest to the Senator from Massachusetts that this bill is contrary to the system of legislation which we have been trying to inaugurate for two or three years, in directing the Department to audit and settle and pay. For two or three years past we have been directing the Department to audit and state, and then report to Congress. I think this bill should be amended in that way, so as to direct the Secretary of State to audit the account, and state it to Congress upon the principles laid down in the report; so that we may have the account before us, and then appropriate the exact amount that we think should be paid. There was a little bill from the Committee on Commerce, this very session, which directed a sum not exceeding $500 to be paid in that way; and the Senate refused to do it, and recommitted it to the committee for the purpose of ascertaining the exact sum, which they did. It is very easy to have this account settled at the Department of State; and then let it be reported here, and we can pay the exact sum. If it be agreeable to the Senator from Massachusetts, I will move to amend the bill in that way, by striking out the word "settle," and inserting "state," and then striking out the word "to," in line nine, and adding, "report the amount found by him to be due to said Diller to Congress:" and then we can act on it intelligently.

Mr. SUMNER. I think the Senator is going to take too much of a burden on himself and impose too much on Congress, needlessly, and I submit also contrary to the precedents. I say too much of a burden, for even if there were no precedents on the subject, I think, in a matter of this amount, upon the whole it would be the best way for us to refer it to the Department that is familiar with the transaction to be settled on principles of justice and equity. I say, according to my idea that would be advisable even in the absence of any precedents, but the Senator is mistaken in regard to the precedents. This very bill was drawn according to the precedents. I offered it as an amendment, as the Senator may recollect, to an appropriation bill, and it was then ruled out of order. In offering it then, I founded it on the Havana case of Charles J. Helm, and in drawing it up I followed as nearly as possible the words of that case. The two cases are not precisely identical, but they are nearly so, so much so that by leaving out a few words in that case, I found the language employed entirely applicable here. I have to submit, therefore, to my friend that in making his amendment he is only going to protract the settlement of this case, to cause two acts of legislation instead of one, and to take from the Department most familiar with the matter what I would call the natural jurisdiction.

With regard to the other Senator from New Hampshire, [Mr. HALE,] the criticism he makes is applicable to the reasons assigned by the Secretary of State and not to the reasons assigned by the committee. If the Senator had done the committee the honor of listening carefully to the report which was read at the desk, he would have seen that whatever reasons the Secretary of State assigned, the committee assigned no such reasons as he supposed. The committee naturally cite from the letter of the Secretary of State, but at the conclusion of their report they give their own reasons for the recommendation, and they were, in brief, that extra service had been performed, that there had been travel outside of the limits of the consulate and on public service, and that money had been supplied to destitute American citizens. All that seemed to the committee to be meritorious, and the committee did not think that one of the servants of our country abroad ought to be expected to do these things at his own charge, and they therefore have proposed in the simplest and easiest way possible to relieve him of that responsibility. In the bill which they have reported, as I have already said, they undertook to follow the precedents and to put the matter in the simplest form.

Mr. CLARK. Mr. President——

The PRESIDENT *pro tempore*. The Chair will suggest that the bill is upon its passage, and at this stage is not open to amendment, as the Senator from New Hampshire is quite aware, except by unanimous consent; but a motion to reconsider the vote ordering the bill to a third reading will reach the object.

Mr. CLARK. I did not know that the bill had passed to that stage; but I will submit the remarks I have to make, which will be very few, in regard to it; and perhaps I can accomplish my purpose, if there is any objection to amending the bill, by a motion to recommit it to the committee. I am not particular which course it takes, whether the account goes to the Department and is there stated, or whether it goes back to the committee, and is by them reported here; but what I object to is that we should authorize the Department to state the account and pay it, without our knowing what the amount is.

I did not say that this was contrary to precedents. The Senator misunderstood me. I said it was contrary to the system we had been trying to inaugurate for two or three years past. The Senate will remember cases that we had here not two years ago, where we reported a bill precisely like this, directing the Department of War to state a man's account, where we thought the amount would not be $40,000, and that Department allowed $150,000; and the Senator from Rhode Island [Mr. SIMMONS] will recollect very well the case of Fisher, reported by him, where it was stated that the amount was about $3,000, and the Secretary of War allowed over $60,000; and we had to repeal both of those resolutions in order to get rid of the claim.

Mr. SUMNER. But my friend will see that under this bill any such outrage, if I may so call it, is rendered impossible by the provision that the allowance shall not exceed the sum of $3,000.

Mr. CLARK. I understand all that very well; but I am contending for the principle that you shall not pass a bill here until you know the amount, whether it is small or large, if you can possibly ascertain it. It can be ascertained by the committee what is the amount that ought to be paid. We recommitted a bill to the Committee on Commerce in precisely the same way at this session, where the amount was limited to $500, directing them to state the exact amount, and it ought to be done in all cases. We had a little bill in the Committee on Public Lands not amounting to $500, this session, to which the same objection was made, and there the amount was stated. I think we had better adopt that principle, and have the amount fixed before we pass upon the bill. It is the principle that I contend for. I do not care whether it is done by the Secretary of State or the Committee on Foreign Relations; only let the amount be fixed.

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

Mr. CLARK. I move to recommit the bill to the Committee on Foreign Relations.

Mr. HALE. I think that is the better course.

Mr. SUMNER. I really hope it will not be recommitted. The bill was most faithfully considered in committee. It was not hastily acted on. It was the subject of correspondence between the committee and the Department of State, and also of conversation between myself and the Secretary of State and the chief clerk. I believe the committee, when they directed the report of this bill, were as well instructed on the facts as they can expect to be; but they felt that these matters of detail came specially within the knowledge of the Department of State, and they had confidence that that Department would not, under such a bill as this, direct the payment of any of these items, unless they were properly vouched. The committee did not feel that they were in a position to sit in judgment on these details. They had not the precise evidence before them, as to how much in each case, how much for clerk hire, how much travel outside of the limits of the consulate, how much for moneys paid to destitute American citizens, should be allowed. They were satisfied that moneys were due on these several accounts, and they were perfectly willing to leave it to the judgment of the Secretary of State.

GRADES OF NAVAL OFFICERS.

The PRESIDENT *pro tempore*. The morning hour has passed, and the consideration of the bill passes with it. The special order of the day, the unfinished business of yesterday, being the bill (H. R. No. 280) to establish and equalize the grades of line officers of the United States Navy, is now before the Senate as in Committee of the Whole, and will be read.

The Secretary read the bill.

The active list of line officers of the United States Navy is to be divided into nine grades, taking rank according to the date of their commissions and warrants, as follows: 1, admirals; 2, commodores; 3, captains; 4, commanders; 5, lieutenant commanders; 6, lieutenants; 7, masters; 8, ensigns; 9, midshipmen. The number of officers allowed to each grade is not to exceed nine admirals, eighteen commodores, thirty-six captains, seventy-two commanders, one hundred and forty-four lieutenant commanders, one hundred and forty-four lieutenants, one hundred and forty-four masters, and one hundred and forty-four ensigns. The vessels of the United States Navy are to be divided into four classes, to be commanded, as near as may be, as follows: first rates, by commodores; second rates, by captains; third rates, by commanders; fourth rates, by lieutenant commanders. Lieutenant commanders may be assigned as first lieutenants of naval stations and vessels not commanded by lieutenant commanders. The Secretary of the Navy is to appoint an

advisory board of officers, senior to those to be reported upon, who shall carefully scrutinize the active list of line officers above and including the grade of masters in the line of promotion, and report to him in writing those who, in the opinion of the board, are worthy of further promotion or otherwise, in the following words: We hereby certify that —— has the moral, mental, physical, and professional qualifications to perform efficiently all his duties, both at sea and on shore, of the grade to which he is to be promoted, and recommended him for promotion; or, —— is not recommended for further promotion. If, in the opinion of the board, the disability is purely physical, they will so report to the Department, when three naval surgeons will be directed to examine the officer, and their report will annul or confirm that of the board.

All officers who are not recommended by the board for further promotion, upon the approval of the finding of the board by the President will be placed upon the retired list. The officers recommended will be immediately commissioned according to their present seniority, in the following grades and numbers, namely: eighteen commodores, thirty-six captains, seventy-two commanders, one hundred and forty-four lieutenant commanders, one hundred and forty-four lieutenants, one hundred and forty-four masters, and one hundred and forty-four ensigns, if that number of officers remain upon the active list after the action of the board, otherwise so soon as the graduates from the Naval Academy are available for promotion. The next one hundred and forty-four graduates from the academy, after making the above promotions, will be commissioned according to merit as ensigns, by and with the advice and consent of the Senate, taking rank according to the date of their commissions. A similar advisory board is to be appointed at least once in every three years; but the same officers are not to be eligible for two successive terms. Nine admirals may be commissioned, to be selected, during war, from those officers, not below the grade of commanders, who shall most eminently distinguish themselves by courage, skill, and genius, in their profession; but no officer is to be promoted to this grade, unless, upon recommendation of the President, by name, he has received the thanks of Congress for distinguished service. During times of peace vacancies to this grade will be filled by regular promotion from the list of commodores, subject to examination as before prescribed. Whenever, upon the recommendation of the President of the United States, any officer of the Navy has received, or shall receive, by name, during the present war, a vote of thanks of Congress for distinguished service in conflict with the enemy, such officer is not to be retired until he has been sixty years in the naval service of the United States. Any line officer of the Navy or marine corps may be advanced one grade, if, upon recommendation of the President, by name, he receives the thanks of Congress for highly distinguished conduct in conflict with the enemy, or for extraordinary heroism in the line of his profession.

Any person who shall have received a temporary appointment as acting volunteer lieutenant, or acting master in the Navy, from civil life, authorized by the act of Congress of July 24, 1861, may be confirmed in that appointment in the Navy, and placed in the line of promotion from the date of his confirmation, if, upon the recommendation of the President, he receives the thanks of Congress for highly meritorious conduct in conflict with the enemy; but the number of officers allowed in each grade by this act is not to be exceeded. Seamen distinguishing themselves in battle, or by extraordinary heroism in the line of their profession, may be promoted to forward warrant officers, or acting masters' mates, as they may be best qualified, upon the recommendation of their commanding officer, approved by the flag officer and the Department. Upon such promotion they will receive a gratuity of $100 and a medal of honor to be prepared by the Navy Department. The students at the Naval Academy are to be styled midshipmen until their graduating examination, when, if successful, they will receive commissions as ensigns, to take position according to merit. The number of midshipmen allowed at the Naval Academy is to be two for every member and delegate of the House of Representatives, to be appointed in the same manner as appointments are now made at the Naval Academy, two from the District of Columbia, and ten from the States and Territories at large. All appointments are to be made between the 5th of March and the 1st of August of each year. Each candidate is to be between the ages of fourteen and seventeen, physically sound, of robust constitution. The examination will be conducted according to regulations to be prescribed by the Secretary of the Navy. The appointments from the District of Columbia and the ten at large will be made by the President, and those appointed by the President must possess the same qualifications as are prescribed for those to be appointed from the congressional districts. Any midshipman who shall be dismissed upon the recommendation of the academic board is not to be reinstated in the Navy; nor will any officer dismissed by the sentence of court-martial ever again become an officer of the Navy. The three senior admirals are to wear a square blue flag at the mainmast head; the next three at the foremast head, and all others at the mizzen.

The relative rank between officers of the Navy and Army is to be as follows, lineal rank only to be considered: Admirals with major generals; commodores with brigadier generals; captains with colonels; commanders with lieutenant colonels; lieutenant commanders with majors; lieutenants with captains; masters with first lieutenants; ensigns with second lieutenants. There may be allowed upon the retired list nine admirals and eighteen commodores. The admirals will be selected by the President, by and with the advice and consent of the Senate, from those captains who have given the most faithful service to their country. The eighteen commodores will be recommended from the list of captains by an advisory board of admirals. No officer will be promoted except those whose record in the service and at the Department is without reproach. After the above numbers are commissioned, promotion to those grades upon the retired list will be by seniority, subject to an advisory board. The Secretary of the Navy is to be directed to prepare a graduated schedule of pay of the line officers promoted and established by this act, so as not to increase the pay in the aggregate, and submit the same immediately to Congress.

The PRESIDENT *pro tempore*. The amendments reported from the Committee on Naval Affairs will now be read in their order.

The first amendment was in line four, of section four, after the word "of," to insert the word "three;" so that it will read:

That the Secretary of the Navy shall appoint an advisory board of three officers senior to those to be reported upon, &c.

The amendment was agreed to.

The next amendment was in line three, of section four, after the word "upon," to insert the words "and two eminent civilians;" so that it will read:

Three officers senior to those to be reported upon and two eminent civilians, who shall carefully scrutinize the active list of line officers above and including the grade of masters in the line of their promotion.

The amendment was agreed to.

The next amendment was in line six, of section four, after the word "promotion," to insert the words "and shall be governed by the laws and regulations which now govern courts of inquiry."

Mr. HALE. That is a mistake. That amendment was not agreed to, and I hope the Senate will vote it down.

The amendment was rejected.

The next amendment was in line nine, of section four, after the word "promotion," to strike out the words "or otherwise."

The PRESIDENT *pro tempore*. That is a mere verbal amendment, and will be considered as agreed to, if there is no objection.

The next amendment was, after the word "promotion," in line thirteen, of section four, to strike out the following words:

Or —— is not recommended for further promotion. If, in the opinion of the board, the disability is purely physical, they will so report to the Department, when three naval surgeons will be directed to examine the officer, and their report shall annul or confirm that of the board.

The amendment was agreed to.

The next amendment was to strike out section five, in the following words:

SEC. 5. *And be it further enacted*, That all the officers not recommended by the board for further promotion shall, upon the approval of the finding of the board by the President, be placed on the retired list.

The amendment was agreed to.

The next amendment was in section six, line eleven, after the word "promotion," to strike out the following words:

The next one hundred and forty-four graduates from the academy, after making the above promotions, shall be commissioned according to merit as ensigns, by and with the advice and consent of the Senate, taking rank according to the date of their commissions.

The amendment was agreed to.

The next amendment was in section seven, line two, after the word "every" to strike out "three," and insert "two;" so that it will read:

That a similar advisory board shall be appointed at least once in every two years.

Mr. HALE. Upon advisement since that amendment was made in committee, I have come to the conclusion that it is an injudicious amendment, and that "three" had better be changed to "four," instead of "two." It constitutes an advisory board which goes over the whole *personnel* of the Navy, and it is thought that if that occurs as often as two years, instead of settling anything, it will keep the whole Navy unsettled. I think it had better be as seldom as once in four years, instead of two. I wish the Senate would reject the amendment of the committee, and then I shall move to insert "four," instead of "three."

The amendment of the committee was rejected.

The PRESIDENT *pro tempore*. The Senator from New Hampshire now moves to strike out "three," and insert "four."

Mr. GRIMES. I wish to state to the Senate what will be the effect of that amendment if it is adopted. Under the bill as it now stands, there will be no promotions except on the recommendation of this board. Here is a man who is made a commander to-day. The board adjourns. The day after to-morrow the man who is senior to him in rank on the captain's list, dies; but he cannot be promoted to this place until he has gone before this board; and hence he must remain in his grade of commander until the board meets, four years afterwards. I think it ought to be two.

The amendment was agreed to.

The next amendment of the committee was in section eight, line three, after the word "officers," to insert the words "upon the active list;" so that it will read:

That nine admirals may be commissioned, who shall be selected, during war, from those officers upon the active list, not below the grade of commanders, &c.

The amendment was agreed to.

The next amendment was in section nine, line six, after the word "been," to strike out "sixty," and insert "fifty-five;" so that it will read:

That whenever, upon the recommendation of the President of the United States, any officer of the Navy has received, or shall receive, by name, during the present war, a vote of thanks of Congress for distinguished service, such officer shall not be retired until he has been fifty-five years in the naval service of the United States.

The amendment was agreed to.

The next amendment was in section ten, line two, to strike out the word "advanced," and insert "brevetted;" so that it will read:

That any line officer of the Navy or marine corps may be brevetted one grade, &c.

The amendment was agreed to.

The next amendment was in section ten, line six, to strike out the word "heroism," and insert "excellence."

The amendment was agreed to.

The next amendment was in section eleven, line two, after the word "received," to insert the words "or shall hereafter receive;" so that it will read:

That any person who shall have received, or shall hereafter receive, a temporary appointment as acting volunteer lieutenant, &c.

The amendment was agreed to.

The next amendment was in section eleven, line thirteen, to strike out the word "heroism," and insert "excellence."

The amendment was agreed to.

The next amendment was to strike out section twelve, in the following words:

SEC. 12. *And be it further enacted*, That the students at the Naval Academy shall be styled midshipmen until their graduating examination, when, if successful, they shall receive commissions as ensigns, to take position according to merit. That the number of midshipmen allowed at the

Naval Academy shall be two for every member and delegate of the House of Representatives, to be appointed in the same manner as appointments are now made at the Naval Academy, two from the District of Columbia, and ten from the States and Territories "at large." All appointments shall be made between the 5th of March and the 1st of August of each year. Each candidate shall be between the ages of fourteen and seventeen, physically sound, of robust constitution. The examination shall be conducted according to regulations to be prescribed by the Secretary of the Navy. The appointments from the District of Columbia and the ten "at large" shall be made by the President, and those appointed by the President shall possess the same qualifications as prescribed for those to be appointed from the congressional districts. Any midshipman who shall be dismissed upon the recommendation of the academic board shall not be reinstated in the Navy; nor shall any officer dismissed by the sentence of court-martial ever again become an officer of the Navy.

And to insert in lieu thereof the following:

SEC. 12. *And be it further enacted*, That the students at the Naval Academy shall be styled midshipmen and acting midshipmen until their final graduating examination, when, if successful, they shall be commissioned as ensigns, ranking according to merit. The number allowed at the academy shall be two for every member and delegate of the House of Representatives, two for the District of Columbia, and ten at large. They shall be between the ages of fourteen and seventeen, physically sound and well formed, and of robust constitution. They shall be examined for admittance into the academy according to the regulations which shall be issued by the Secretary of the Navy, and if rejected, shall not have the privilege of another examination, unless recommended by the board of examiners. The President shall select the two from the District of Columbia and the ten at large. The latter shall be the sons of officers, petty officers, seamen, or marines, who have served in the Navy at sea, or sons of officers or soldiers who have served in the armies of the United States: *Provided*, That the President shall also be allowed three yearly appointments of midshipmen, who shall be not over seventeen years of age, who shall be selected from boys enlisted in the Navy, and who have been at least one year in the service, six months of which shall have been sea service. All other appointments shall be between the 5th of March and 1st of August, upon recommendation of the member or delegate, from actual residents of his district. And it shall be the duty of the Secretary of the Navy, as soon after the 5th of March as possible, to notify, in writing, each member and delegate of any vacancy that may exist in his district; and if said member or delegate neglects to recommend a candidate by the 1st of August in that year, then it shall be the duty of the Secretary of the Navy to fill the vacancy. Midshipmen or acting midshipmen deficient at any examination shall not be continued at the academy, or in the service, unless upon recommendation of the academic board; nor shall any officer of the Navy who has been dismissed by sentence of a court-martial, or suffered to resign to escape one, ever again become an officer of the Navy.

The PRESIDENT *pro tempore*. This is a motion to strike out one section, and insert another section in lieu of it. The section proposed to be stricken out, and the section proposed to be inserted, are both open to amendment before the question on striking out and inserting shall be taken.

Mr. HARRIS. I desire to amend the section proposed to be inserted by the committee. I desire to strike out the sentence beginning at the end of the fifteenth line, down to the word "States," in the nineteenth line, in the following words:

The latter shall be the sons of officers, petty officers, seamen, or marines who have served in the Navy at sea, or sons of officers or soldiers who have served in the armies of the United States.

I concur entirely in the object sought to be obtained by this provision. I have no doubt that it is very proper that the young men contemplated by this proposition should have the preference that is here sought to be given; but unless I am greatly mistaken, this very proposition will have the effect to defeat the object sought to be attained in this way. Here is a member of Congress who has the appointment of one or two cadets from his district. An application is made to him to appoint the son of an Army officer, or the son of a naval officer. He is willing to appoint him; he knows he ought to be appointed; but he says, "go to the President; he has ten appointments at large; and he is required to appoint just such persons as this; he is restricted to that. I will appoint another young friend, and you may get your appointment from the President." That will be the operation of it all over the country; and the object of this proposition will be thus defeated by the very means that it was intended to secure. I am satisfied this will be the practical effect of it. I have no doubt that more sons of officers in the Army and the Navy—threefold more—will be appointed to the Naval School, if this proposition is stricken out, than if it is suffered to remain in. That is my deliberate judgment. I agree that it is right that these young men should have the preference over the sons of civilians; but you will not secure it by this provision. How is it now? In nine cases out of ten, for the last ten years, the appointments at large in the Military School have been given to the sons of officers voluntarily. It has come to be a usage with the President to do that. Now and then there is an exception; but, as a general thing, the sons of officers are preferred. It will be so here. But, if you undertake by legislation to restrict the President to this class of appointments, the effect will be to prevent members of Congress from appointing this class of persons. That is my judgment.

Mr. SHERMAN. I am opposed to the amendment of the Senator from New York; and I simply desire to say that it was the purpose and intention of the law in regard to West Point to reserve the ten appointments at large by the President for the sons of officers of the Army or Navy, especially officers who were engaged in such service that they substantially lost their State connection. That has been violated in many instances. The appointments made last winter were made in utter disregard of the purpose of the law; and unless this clause is kept in here it is probable that there would be no sons of officers of the Army or Navy appointed. They are generally removed to distant points, and have no influence over local members. The appointments made by local members are almost always the sons of political friends and persons who have some local influence in the district, and therefore it would be very rare that a member of Congress would appoint the son of an officer of the Army and Navy, and especially of the regular Army. They have no political influence whatever, and cannot generally control these appointments. Unless these appointments are specially reserved, these young men who are generally by education and association the best fitted for the service, will not get any chance at all. I hope, therefore, that this reservation will be made for their benefit.

Mr. GRIMES. I am not prepared to say how the appointments have been made in the Military Academy heretofore; whether they have been appointed from the sons of officers of the Army or not. This proposition is to make these appointments in the Navy not from the sons of officers of the Army and Navy alone, but from the sons of officers and seamen, marines and soldiers in the Army and Navy of the United States. The purpose is principally on account of the effect that it is calculated to have upon the men. I know a great many likely young boys, sons of boatswains, carpenters, forward officers, about your navy-yards. It would be a consolation to those officers to know, when they go into battle, to uphold the flag of the country, that there is a provision in the law by which these sons of theirs may secure an appointment, and finally become officers, and that the bestowment of these places is not going to be restricted entirely to the sons of politicians. If the effect of this measure should be what the Senator from New York apprehends, I should regret it, and there is not a man here who would be more anxious to repeal it if it should be found to work in that way. I trust that it will not so operate; and I hardly think it will; certainly such is not the design. The purpose of the committee was to encourage, so far as such a provision as this would encourage, the men in both of the services of the country, the military and the naval, by holding out to them this inducement, saying to them, "we will not only take care of your widow, but we will educate your boy." And then we have gone on and provided that the President shall have three appointments to the Naval Academy from the boys who have enlisted as boys in the naval service, to be conferred on such youths as the one who distinguished himself on board the Varuna at the mouth of the Mississippi, and another little boy who distinguished himself on the Cumberland when she went down in Hampton Roads.

It is a very small boon, Mr. President. We have now in the service of the United States thirty thousand seamen, and I do not know how many soldiers—five hundred thousand, perhaps—and we merely by this bill authorize the President to select ten from the sons of those men, and agree that they shall have an education at the Naval Academy. I trust that the amendment of the Senator from New York will not prevail.

The PRESIDENT *pro tempore*. The question is on the amendment moved by the Senator from New York to the amendment.

The amendment to the amendment was rejected.

The PRESIDENT *pro tempore*. The question now is on the amendment as reported by the committee.

Mr. HARRIS. I move to strike out the word "seventeen" where it occurs in two or three places in this section, and insert "eighteen" as the maximum of the age of admission. I know it is a little unfashionable to stand by old things and old rules. Hitherto the limit in the Naval School has been between the ages of fourteen and eighteen. It has worked very well. I know that "young America" is very precocious, and that seventeen is a pretty great age now-a-days; but after all I think eighteen will do, and I think it will be better to leave well enough alone. It has worked well thus far, and why change? It seems to be the order of the day; but I think it will be better really to leave the thing as it is, leave the limit where it always has been since the Naval School was established, between the ages of fourteen and eighteen. I can see no reason why this innovation should be made on that rule.

Mr. GRIMES. I can only say that this was adopted upon the suggestion of those who are very familiar with the service, and who think that seventeen is the proper limit. They wanted to have it fixed at sixteen; and it was extended to seventeen by the committee in opposition to the wishes of the Department.

Mr. HARRIS. There are a great many country boys who cannot get there before seventeen or eighteen.

Mr. GRIMES. I am aware of that; but in the English service they allow no boy to enter over fifteen, and it is stated to be the fact that no man makes a good officer or a good sailor who enters after he is sixteen years of age.

The amendment to the amendment was agreed to.

Mr. HARRIS. There is a little phraseology in the second line that seems to me to need some alteration. I do not know why this language is adopted, and perhaps it is right:

That the students at the Naval Academy shall be styled midshipmen, and acting midshipmen.

Which, or both? What is to be the style of them? It seems to me it should be either midshipmen or acting midshipmen; one or the other of these phrases should be stricken out. They are now called acting midshipmen, and as I like to stick by old things when they have proved good, I move to strike out the words "midshipmen and," leaving it to stand as it is now.

Mr. HALE. I think the Senator is mistaken.

Mr. HARRIS. They are called acting midshipmen now.

Mr. HALE. There are midshipmen and acting midshipmen now.

Mr. HARRIS. Not in the school.

Mr. HALE. Those in the school are called acting midshipmen at one period, and midshipmen at another.

Mr. HARRIS. The Senator will observe that the language is:

The students at the Naval Academy shall be styled midshipmen and acting midshipmen until their graduating examination.

Now, which shall it be? I do not care which.

Mr. GRIMES. The Senator from New York understands it, I suppose. Who is he going to have for midshipmen, then, under this bill?

Mr. HARRIS. I do not know, and do not care; only these students should be named. They should be midshipmen or acting midshipmen; I do not care which.

Mr. GRIMES. As it is now organized, the young men at the Naval Academy, while they remain there on shore are acting midshipmen; but when they go afloat, and before they are passed, they are midshipmen. It is proposed under this bill to call them acting midshipmen up to a certain time, until they shall have passed their two years' examination, and after that they shall be midshipmen.

Mr. HARRIS. I do not see that.

Mr. HALE. That is the discipline.

The amendment to the amendment was rejected.

The PRESIDENT *pro tempore*. The question is on the amendment reported by the committee, to strike out the twelfth section, and insert a new

section as amended by striking out "seventeen" and inserting "eighteen."

The amendment was agreed to.

The Secretary read the next amendment, to strike out section sixteen, in the following words:

SEC. 16. *And be it further enacted*, That the Secretary of the Navy be directed to prepare a graduated schedule of pay of the line officers promoted and established by this act, so as not to increase the pay in the aggregate, and submit the same immediately to Congress.

The amendment was agreed to.

Mr. HALE. That completes the recommendations of amendment by the Naval Committee. They did not agree altogether, and the Senator from Iowa will submit his own views in amendments that he will offer, and I have one or two amendments to offer myself. I move, on the 2d page, to sirike out, in the thirteenth line, the word "ensign," and to insert in lieu of it "passed midshipman;" and if that is adopted, I shall move the same amendment wherever the word "ensign" appears in the bill. I do not know how that word "ensign" got into this bill. It is not an English word, and it has no meaning with reference to the Navy. I will read the definition of it, as it is given in the dictionary, to show how entirely out of place the term "ensign" is in this bill. It is copied, I understand, from the French navy list. The definition of "ensign" as a military term is, "the lowest commissioned officer, who is subordinate to the lieutenants in infantry, and who carries the colors or ensign." That is the only meaning there is to it as a military word. It is used in the French navy, I know, and I am told it was once used in ours, but I think the term "passed midshipman" will express the idea a great deal better, and it has the advantage of being good plain English.

The amendment was agreed to.

Mr. HALE. Now, I move that wherever the word occurs in the bill, the same modification be made.

The PRESIDENT *pro tempore*. That will be done. The word "ensign" will be stricken out and "passed midshipman" inserted in its place wherever it occurs.

Mr. GRIMES. I move to amend the fifth line of the first section, by striking out the words "and warrants," and inserting "in each grade," so as to read, "rank according to the date of their commissions in each grade." The bill relates only to commissioned officers and does not apply to warrant officers.

The amendment was agreed to.

Mr. GRIMES. In the next line, before the word "admirals," I move to insert "rear," and I propose the same amendment in the second line of the second section, in the first line of the eighth section, and the second line of the fifteenth section.

The PRESIDENT *pro tempore*. The proposition is to insert the word "rear" before "admiral," wherever it occurs.

Mr. GRIMES. We have adopted this title from the services of France and England, and in fact they have it in all other services. As the bill stands now, we make nine full admirals, and it would be rather an anomalous and rather an extraordinary leap for us to go through so many grades as we should go from captain to a full admiral, if we regarded the corresponding ranks in the English and French service. In the English service next after that of captain comes the rank of rear admirals. They are divided into three different grades, the lowest being rear admirals of the blue, of whom there are seventeen in the British service; the next above that class are the rear admirals of the white, of whom there are seventeen; and next are the rear admirals of the red, of whom there are seventeen. Then the next grade above rear admiral is the grade of vice admiral, the junior being the vice admiral of the blue, of whom there are nine; the next the vice admiral of the white with the same number, and next the vice admiral of the red with the same number. Then comes, ascending the scale, the grade of admiral —that is what we propose to make here—the admirals of the blue, seven in number, admirals of the white, seven in number, and admirals of the red, seven in number; and then comes the admiral of the fleet, one. Under this bill we go up through all of these grades, nine of them, from a captain, at one leap. I think it would be wise for us to confine it to rear admirals, and then if ever a great exigency arises when the Government may need an officer of a higher grade, or when any of these rear admirals may act so as justly to entitle them to the compliment of a higher grade, we shall have it in our power to give them a higher grade.

Mr. HARRIS. What rank have they corresponding to our commodore?

Mr. GRIMES. In the English service?

Mr. HARRIS. Yes, sir. Would not a commodore, under this bill, correspond with the English rear admiral?

Mr. GRIMES. The vice admirals correspond with lieutenant generals; the full admiral corresponds with a marshal; an admiral of the fleet corresponds with a field marshal, in the British service.

Mr. HARRIS. The point I want to bring to the attention of the Senator from Iowa is this: as I understand the arrangement of the English navy, there is no grade between a captain and a rear admiral. Here we are making the grade of commodore above captain, and that would correspond with the rear admiral in the English service.

Mr. GRIMES. That is true. We make two grades, and the question is whether we should jump over nine corresponding grades in the English service, or whether we should take the next above what we have instead of going up to that of admiral. It is the same case with the French service. They have in the French service only two full admirals, which we propose to make here. Then they have thirteen vice admirals and twenty-two rear admirals, besides their admirals on the reserve list. We give these officers higher rank; we give them the compliment; we profess to give them proper pay; and I think we had better reserve the highest ranks for some future emergency.

Mr. HALE. I confess I do not feel any great interest in this division, but it strikes me as not exactly the thing. The Senator from New York is mistaken; they have the rank of commodore in the English navy, and they have more than one grade of commodores. I find, by looking at the British Register, they have commodores of the first class, who are paid with rear admirals, and then they have commodores of the second class.

Mr. GRIMES. If the Senator will turn to his Naval Register, page 8, he will see that there is no such rank as commodore in the British service; it is a mere temporary compliment, as it is in our service. It is not recognized by law as a rank. They merely call a man commodore when he is temporarily in charge of a fleet.

Mr. HALE. I believe it is temporary; but they give him pay according to it.

Mr. GRIMES. So we give a fleet captain higher pay.

Mr. HALE. But when you put in the word "rear," it implies that though the man is an admiral, he is subject to some other admiral; and as long as he is to be the highest officer you make in the Navy, and as you are conferring nothing but a title on them, I think it would be as well to stick to the bill as it is reported, rather than put the word "rear" in, which has no meaning here. It is a mere honorary appointment, and while you are about it you may as well call them admirals as rear admirals.

The amendment was rejected.

Mr. GRIMES. I do not know that it is a matter of any consequence, but I have got before me a statement of the relative rank of these officers. An admiral of the fleet in the British service ranks with a field marshal; an admiral with a general, that is, a full general; a vice admiral with a lieutenant general; a rear admiral with a major general; a captain of the fleet with a brigadier general, and so on. We give our highest officer by this bill a corresponding rank with a field marshal, and yet say in another place that he shall only have the rank of a major general.

The PRESIDENT *pro tempore*. The Senator from Iowa submitted an amendment to the bill, to add some additional sections, which will be read.

Mr. GRIMES. I now offer that amendment.

The amendment was read, as follows:

Add after section fifteen of the bill:

SEC. —. *And be it further enacted*, That from and after the passage of this act the annual pay of the several ranks and grades of officers of the Navy on the active list hereinafter named shall be as follows, namely: admirals, when at sea, or attached to a sea-going vessel, shall receive $5,718; when on shore duty, $4,575; when on leave of absence or waiting orders, $3,660. Commodores, when at sea, or attached to a sea going vessel, shall receive $4,575; when on shore duty, $3,660; when on leave of absence or waiting orders, $2,928. Captains, when at sea, or attached to a sea-going vessel, shall receive $3,660; when on shore duty, $2,928; when on leave of absence or waiting orders, $2,343. Commanders, when at sea, or attached to a sea-going vessel, shall receive $2,928; when on shore duty, $2,343; when on leave of absence or waiting orders, $1,875. Lieutenant commanders, when at sea, or attached to a sea-going vessel, shall receive $2,343; when on shore duty, $1,875; when on leave of absence or waiting orders, $1,500. Lieutenants, when at sea, or attached to a sea-going vessel, shall receive $1,875; when on shore duty, $1,500; when on leave of absence or waiting orders, $1,200. Masters, when at sea, or attached to a sea-going vessel, shall receive $1,500; when on shore duty, $1,200; when on leave of absence or waiting orders, $960. Ensigns, when at sea, or attached to a sea-going vessel, shall receive $1,200; when on shore duty, $960; when on leave of absence or waiting orders, $768. Midshipmen shall receive $500.

SEC. —. *And be it further enacted*, That all officers, while at sea or attached to a sea-going vessel, shall be allowed one ration.

SEC. —. *And be it further enacted*, That admirals, commodores, lieutenant commanders, lieutenants, masters, and ensigns, on the retired list of the Navy, shall receive the same pay and rations as authorized to the officers of the Army (according to their respective ranks) by the act of Congress approved August 3, 1861, that is to say: admirals the same as major generals; commodores the same as brigadier generals; lieutenant commanders the same as majors; lieutenants the same as captains; masters the same as first lieutenants; and ensigns the same as second lieutenants in the Army.

The PRESIDENT *pro tempore*. This amendment will be considered all together, though it contains a variety of propositions, and each proposition may be amended.

Mr. SHERMAN. I should like to ask the Senator from Iowa why he has not scaled the pay of surgeons and assistant surgeons and other officers of the Navy in the same way.

Mr. GRIMES. I will answer that in a moment.

Mr. HALE. I have an amendment to propose to the amendment, and I hope I shall get the attention of the Senate, though I hardly expect to do so. The sixth and seventh lines of the amendment of the Senator from Iowa, read thus:

Admirals, when at sea, or attached to a sea-going vessel, shall receive $5,718.

I move to amend by striking out, "when at sea or attached to a sea-going vessel," and insert, "when commanding squadrons," also, by striking out "$718;" so that the clause, if amended as I propose, will read:

Admirals, when commanding squadrons, shall receive $5,000.

And upon that I desire to say a few words to the Senate. I confess that while I am entirely willing, and have been anxious to adopt some legislation which shall recognize the extraordinary merit and service of our naval commanders, I have all along felt embarrassed with the conviction that the emergencies of war, operate but a poor occasion for establishing a permanent peace establishment either of the Army or Navy; and I take it for a certainty that what we do to-day, what we do in this Congress on this bill, will be permanent. I have known something of the history of the legislation of Congress in regard to the pay of the Navy for a good many years. It has always been up, and never down. The officers of the Navy, particularly the younger ones, have been continually asking for increased pay and increased rank. That is human nature. I do not blame them for that. But the general line of argument has been that the real effective part of the Navy, the junior officers, were inadequately paid, while it has been generally conceded that the senior or higher officers of the Navy were paid enough.

Up to 1830, when the Navy had performed some of the most glorious feats that adorn our history, the highest pay that such heroes as Decatur, and Perry, and Bainbridge, and MacDonough, received was $1,920. That was the highest pay allowed to any officer of the Navy. But in 1835 the subject was pretty thoroughly examined and reëxamined in Congress, and a pay bill was then passed by the Congress of the United States, giving to officers in the Navy of the United States higher pay than was paid to officers of the same grades in any navy of the world. We had not the higher grades, to be sure, but the grades that we had were paid higher than any navy in the world. The number of captains in 1830 was thirty-seven, not so many, by a good deal, as we have placed upon the retired list at this present session of Congress. After Mr. Tyler came into power in 1841, there being at that time no limitation by law upon the number of officers, and no limit but his nomination

and the confirmation of the Senate, he largely increased the number of the several grades of officers, and the result was that Congress passed an act in 1842 limiting the number of the several grades. The pay then of a captain, the highest pay in the Navy, was raised from $1,920 to $3,572. The thing went on in that way, until this complaint, of which I speak, that the junior officers who did the work and were really the right arm of the service, were not paid enough, was brought before the attention of Congress; and about two years ago the Naval Committee took up the whole subject, prepared a bill, and reported it to the Senate, raising the pay of the junior officers, but leaving the captains as they then were, on a very liberal pay. What took place? Just exactly what always will take place. The Naval Committee were besieged; the wives of the captains came to the Senate; they called upon the members of the Naval Committee; they addressed themselves and brought all the considerations they could urge to the committee; and finally the committee got the bill recommitted, and then reported it back again, raising the pay of captains from what it then was, up to what it now is, to wit: that of senior flag officer, to $4,500, and of captains, when commanding squadrons at sea, to $5,000, and when on other service, $4,200. In that way, the argument which had been used to induce Congress to pass the bill, to wit: that the junior officers were not well enough paid, had the effect to raise the pay of captains, contrary to the first opinion of the committee, up to what it subsequently became and as it now stands, so that the senior flag officer receives $4,500, and a captain when commanding a squadron at sea receives $5,000 a year.

Now, sir, in my humble judgment, when the country is suffering as it is, and we are put to such straits to raise money as we are, it is a bad time to create at once, as you do by this bill, two higher grades than that of captain, and raise the pay of the highest officer, who is now a captain, from $5,000, which is the highest sea pay that he gets, to $5,718. I think that the best course for the Navy is at this time not to ask for additional pay for these high officers.

It may be said, and I have no doubt the Senator from Iowa will say, for he lets nothing escape his astute observation which he thinks he can bring to bear on his propositions, that the aggregate pay is not increased by his amendment; but let me ask him, if it be so, is it wise to take away from the junior officers of the Navy the pay which they now receive for the purpose of swelling the amount which is to be paid to admirals? This office of admiral, you may make more or less of it, as you please, is really nothing but a title, a title of honor, a title of distinction; and I am perfectly willing to confer it, if it will gratify the men who have so nobly sustained the honor of the flag and the interests of the country in the proud battles in which they have illustrated their valor. I am willing to give it, but let me ask you, sir, in your judgment, in the judgment of every observing mind, will it not detract something from the value of the compliment that we are to bestow upon these officers by the creation of the rank of admiral, if we are to couple with it additional pay? I do not believe these gentlemen themselves ask it; I do not believe they want it. I believe they will be satisfied if you give them that which is now the highest pay that is allowed to any officer in the Navy. The pay that the Senator proposes to give to these admirals that you are going to create, or to rear admirals as he would have them, is a higher compensation than is paid to-day to the rear admirals of the British navy. It is proposed here at this time to create these officers, and to confer upon them a higher salary than is paid to officers of a like grade in the British navy, the rear admirals, their pay being £1,095, which being reduced to dollars and cents, is a very small fraction over $5,300 per annum. You propose now to put our admirals up above the commodores of the first class, captains of the fleet, and rear admirals, to bestow upon them at this time a higher salary than is paid to either of these grades in the British navy. I think it unwise and injudicious to make such an advance in their pay at this time. If the amendment which I now propose shall be adopted, reducing the admirals from $5,718 to $5,000, I shall then offer some amendments that will apportion the pay of the other officers to correspond with that.

I hear it frequently said that we have done nothing for the Navy. Sir, we have done something; we have done a good deal; and we have done a good deal to satisfy this demand for promotion. What have we done? A few years ago we created by law a retiring board; they retired a great many officers. Not satisfied with that, at the beginning of this session of Congress we passed a retiring bill which by one fell swoop cut off everybody that had been forty-five years on the Register or was sixty-two years old; and what do you suppose the effect of it was? Of a list of sixty-eight captains it took forty-nine and put them on the retired list. You have now to pay on your retired list, by the law of this session, about fifty captains, which is considerably more than the whole number of captains we had no longer ago than 1830, when we had but thirty-seven. Now we have fifty on the retired list——

Mr. GRIMES. That is a mistake.

Mr. HALE. I have the Register here marked, as I got it from the Department.

Mr. GRIMES. A great many of those fellows have deserted the service.

Mr. HALE. That may be; but I understand that there are forty-four captains' places to be filled in consequence of that law.

Mr. GRIMES. Yes; but a great many of them are to supply desertions from the public service.

Mr. HALE. If they had not deserted they would have been retired. The Register that I have got from the Navy Department has a large mark drawn against those to be retired for having been forty-five years in the service. At any rate, I think it did not leave twenty on the list of captains.

I know there is a great pressure to get this bill passed, and to have a pay bill passed like that proposed by the Senator from Iowa. The retiring bill to which I have alluded was passed last December, and by it the Secretary of the Navy was to fill the vacancies thereby created; but there has not been a single appointment made. Not one of the gentlemen who, under that law, passed six months ago, was entitled to promotion has received it; and what is the reason they have not received it? Because the Navy Department have withheld these promotions which ought to have been made, and which the law six months ago required to be made, for the purpose of bringing that state of things to bear on Congress to induce us to pass this grade bill. I am willing to pass the bill; I am willing to give these officers the honors which they ask; but it will be seen that by this bill we propose not only to create nine admirals, (although they have only got twenty-one admirals in the whole British service on the active list,) but we propose to create nine more admirals and eighteen commodores to go on the retired list. I think this unwise and injudicious. I hope that the amendment which I have proposed will prevail.

Mr. GRIMES. The Senator from New Hampshire was very correct in saying that the gentlemen who were connected with the Navy, or those whom he supposes would be made admirals have no expectation or desire, so far as I know, or at any rate, have used no influence to secure an increase of pay. He has made a good many statements, however, in the course of his argument that are quite erroneous. In the first place, in regard to admirals in the British service, the Senator will permit me to say that there are exactly one hundred admirals in the British service on the active list, as will be seen by their Naval Register in my hand. There is one admiral of the fleet; there are twenty-one full admirals; there are twenty-seven vice admirals; seventeen rear admirals of the red; seventeen rear admirals of the white, and seventeen rear admirals of the blue; making one hundred, besides those on the reserve list.

Mr. HALE. I said twenty-one admirals.

Mr. GRIMES. But there are one hundred admirals.

Mr. HALE. I do not see but twenty-one on my book.

Mr. GRIMES. There are one hundred admirals, graded as rear admirals, vice admirals, admirals of the fleet, and these subdivided into admirals of the blue, red, and white.

If the Senator had looked into the amendment a little more closely, he would have discovered that it diminishes the pay of the Navy, rather than increases it. The aggregate saving to the Government, if it should be adopted, would be $174,047 a year. That is shown by the following tables:

Table showing aggregate sums required to pay officers of the line of the Navy under proposed rates.

ACTIVE LIST.

Rank.	No.	Mean average pay.	Total aggregate
Admirals	9	$4,550	$40,950
Commodores	18	3,700	66,600
Captains	36	2,960	106,560
Commanders	72	2,347	168,984
Lieutenant com'ders	144	1,906	274,464
Lieutenants	144	1,575	219,600
Masters	144	1,220	175,680
Ensigns	*	976	
Midshipmen	.....	500	
			$1,052,838

Table showing aggregate sums required to pay officers of the line of the Navy under existing laws.

ACTIVE LIST.

Rank.	No.	Mean average pay.	Total aggregate.
Captains	68	$3,950	$268,600
Commanders	97	2,722	264,034
Lieutenants com'g	60	2,550	153,000
Lieutenants	267	1,793	478,731
Masters	60	1,042	62,520
Passed midshipmen	*	816⅔	
Midshipmen	.....	500	
			1,226,885
Proposed rates	.....	.....	1,052,838
Difference	.....	.....	$174,047

I will state very briefly how this amendment was got up. In the first place we took the pay of an ensign who under the bill has the relative rank and position of a second lieutenant in the Army. Now, take the Register, published annually by order of the Government, and you will find that the largest pay allowed to any second lieutenant in the Army is $1,890; the lowest amount is $1,448. We took the mean of these amounts and the mean was $1,669. We had to take some positive absolute sum to start with in the Navy, and we fixed it at $1,200, instead of taking the amount of $1,669, which is the pay of the Army. Then, as we ascended in rank, we added twenty-five per cent. to that. That is the sea pay. Then we deduct twenty per cent. in each grade for the "other duty" pay, and twenty per cent. from that for the leave of absence pay, making it stand thus:

	Sea pay.	*Other duty.*	*Leave or waiting orders.*
Ensign	$1,200	$960	$768
Master	1,500	1,200	960
Lieutenant	1,875	1,500	1,200
Lieutenant commanding	2,343	1,875	1,500
Commander	2,928	2,343	1,875
Captain	3,660	2,928	2,343
Commodore	4,575	3,660	2,928
Admiral	5,718	4,575	3,660

The officer in the Navy who corresponds with a first lieutenant in the Army, under this bill, is a master. The highest pay allowed to a first lieutenant in the Army is $2,410, the lowest $1,448, and the mean pay $1,929. The sum allowed under this amendment would be, for sea pay $1,500, for other duty pay $1,200; for leave of absence pay $960, making the mean pay $1,220. Now look at it. The mean pay of the officer of the Army with a corresponding rank with master is $1,929, whereas we propose to give the Navy officer only $1,220. It will be understood that I show now the comparison between the Army pay and this proposed measure, and then I will show what it is between the present pay bill of the Navy and the amendment I have proposed, in a few moments.

The next rank is that of a captain. In my list I did not include his commutation for fuel or quarters or lights of any Army officer, which a Navy officer does not get. The highest pay of a captain in the Army is $2,865; his lowest pay $1,622; and the mean pay therefore is $2,244. The rank corresponding to that of captain in the Army is lieutenant in the Navy. Under my proposition a lieutenant in the Navy, for sea duty, would get $1,875, for other duty $1,500, for leave-of-absence pay $1,200, making a mean of $1,525, instead of $2,244,

*The number of "passed midshipmen" or "ensigns" (as now proposed) varies, but as the number must always be small, the slight mean average increase of their pay cannot affect the aggregate pay materially.

as is now allowed to a captain in the Army. The mean of a major's pay in the Army, according to the Register published at our instance, is $2,940. The officer who corresponds with him in rank in the Navy is a lieutenant commander, and his pay is $1,906, under this proposition, or $1,000 less than the officer of the Army of corresponding rank. The mean pay of lieutenant colonels in the Army is $3,242. Under this bill a commander in the Navy will have relative rank with a lieutenant colonel in the Army, and his sea pay, under this bill, will be $2,928, his other-duty pay $2,343, and his leave-of-absence pay $1,875, making his mean pay $2,347. A captain of the Navy corresponds in rank with a colonel. A colonel's pay is $3,663. The mean pay of a naval captain, under this amendment, is $2,960; about seven hundred dollars less than an officer has in the corresponding rank in the Army. A brigadier general's mean pay in the Army is $4,551; a commodore's mean pay I propose shall be $3,700, or $800 less than the Army officer's pay. A major general's is $6,536; the admiral's mean pay, under this amendment, is $4,650, or $2,000 less than the mean pay of an officer of the Army ranking with him. It is shown better perhaps by presenting it in tabular form:

Table showing relative rank and pay of officers of the line in the Army and Navy.

ARMY PRESENT PAY.				NAVY PRESENT PAY.					NAVY PROPOSED PAY.			
Rank.	Highest pay.	Lowest pay.	Mean average.	Rank.	Sea pay.	Other duty pay.	Leave or waiting orders' pay.	Mean average pay.	Sea pay.	Other duty pay.	Leave or waiting orders' pay.	Mean average pay.
Lieutenant general	$12,561	$9,336*	$10,448	None.								
Major general	7,348	5,724	6,536	Admiral					$5,718	$4,575	$3,660	$4,550
Brigadier general	5,148	3,954	4,550	Commodore	$5,000‡				4,575	3,660	2,928	3,700
Colonel, (mean)	4,542	2,784	3,663	Captain	4,200	$3,600	$300	$3,600	3,660	2,912	2,343	2,960
Lieutenant colonel, (mean)	3,948	2,736	3,342	Commander	2,825 3,150	2,662 2,825	2,250	2,743	2,928	2,343	1,875	2,347
Major, (mean)	3,612	2,268	2,940	Lieutenant commander,	2,550				2,343	1,875	1,500	1,906
Captain, (mean)	2,865	1,622†	2,244	Lieutenant	1,500 1,700 1,900 2,100 2,250	1,500 1,600 1,700 1,800 1,875	1,200 1,266 1,333 1,400 1,450	1,638	1,875	1,500	1,200	1,525
First lieutenant, (mean)	2,410	1,448†	1,929	Master	1,200	1,100	825	1,042	1,500	1,200	960	1,220
Second lieutenant, (mean)	1,896	1,448†	1,669	P'd mid'n or ensign	1,000	800	650	816⅔	1,200	960	768	976
Cadets				Midshipman	550	500	450	500	500	500		500

That is the relative pay between the corresponding ranks of the Army and Navy; and now I ask the attention of the Senate for a few minutes while I show what is the comparison between the rates now allowed to officers of the Navy and what is proposed to be allowed. At present the mean pay of a captain is $3,600. Under this proposition his mean pay will be $2,960.

Mr. COLLAMER. The Senator passes over admirals.

Mr. GRIMES. We have no admirals now. I am now comparing the proposed pay of officers of the Navy with the pay under the law as it now stands to officers of the same title and rank in the service.

Mr. COLLAMER. The highest pay we now allow is to captains.

Mr. GRIMES. Yes, sir.

Mr. COLLAMER. Now, all the admirals are above that.

Mr. GRIMES. Certainly. We create the new grade, and I am comparing the pay of officers of the Navy as they now exist with the pay as I proposed. We have no pay to compare with that of the new grades, as a matter of course. I am stating the pay of a captain as it now is and under the proposition I have submitted.

Mr. COLLAMER. But our captains will now be made into admirals, and their pay will be increased.

Mr. GRIMES. Other officers come up and take their places, and we make only nine admirals. The mean pay of a captain now is $3,600. As I propose, it will be $2,960. A captain under this bill will perform precisely the same duties that he does now; but the saving to the Treasury is, that we cut down his pay while he is on shore doing nothing, and give in each of the grades a higher pay while the officer is afloat serving the country. The trouble with the present pay bill is, that too high pay is allowed to officers on leave. The Senator from New Hampshire knows perfectly well how that was done. He has already stated that it was at the instance of officers and their families quartered about in this neighborhood, who came here and insisted that it was the home captain who should have the pay, and not the officer afloat. I propose by my amendment to change that order of things—to cut down the pay of the men who are living ashore and doing nothing, and give an extra amount of pay to officers who are afloat. Hence it is that I propose to allow to a captain, while at sea, $3,660. He now gets $3,600. But when we put him ashore, instead of his getting $3,600 as he does now, I propose to give him only $2,343, and that is plenty when he is doing nothing. I make a corresponding saving throughout the entire grades.

I now show how this amendment will affect officers on the retired list, and the relative pay that will be allowed to officers of the Army and Navy of corresponding grades by the following table:

Table showing relative rank and pay on the retired list of officers of the Army and Navy, as authorized by the act of Congress approved August 3, 1861.

ARMY.				NAVY.				
Rank.	Retired pay.	Commuted rations.	Total amount.	Rank.	Retired pay.	Commuted rations.	Total amount.	Proposed retired pay for naval officers.
Lieutenant general	Full pay	and all allowances.		None.				
Major general	$2,640	$438	$3,078	Admiral				Same as major general.
Brigadier general	1,488	438	1,926	Commodore				Same as brigadier general.
Colonel	1,320	438	1,758	Captain	$1,300	$438	$1,738	
Lieutenant colonel	1,140	438	1,578	Commander	1,100	438	1,538	
Major	960	438	1,398	Lieutenant commander				Same as major.
Captain	840	438	1,278	Lieutenant	1,000	438	1,438	Same as captain.
First lieutenant	640	438	1,078	Master	400	438	838	Same as first lieutenant.
Second lieutenant	640	438	1,078	Ensign and passed midshipman	350	438	788	Same as second lieutenant.

The point which the Senator makes is that we should not pay these nine admirals any more than we are now paying a captain or a commodore who is afloat. I suppose it will be the policy of the Government to give these admirals a pay corresponding to their rank. We are going to impose new duties on them. They will have very grave responsibilities resting on them. We all know that an admiral who is in command of a squadron on a foreign station is obliged to incur a great many expenses which are not incident to the captain of the ship; and as you furnish him an additional rank, you ought to furnish him additional means to support that rank respectably in foreign countries whither he may be sent by the Government of the country. The officers that are to be retired will not be any more extensively retired, or impose additional burdens upon us, as admirals, than if retired in their present capacity. Except of the nine admirals, there will be, comparatively, no increase of expense, and that is only a few hundred dollars.

Mr. HALE. Eighteen commodores.

Mr. GRIMES. But they do not get any additional pay. The nine admirals are the officers who get additional pay, and that is a very small amount. It does not amount to $900, and they are old worn-out men who have served the country faithfully, and I do not begrudge them that small pittance.

Under this proposition, as I have already stated, the aggregate saving to the Treasury over the pay bill as it now stands will be $174,047 in a year. Unless some more substantial reason shall be assigned against it than has been assigned thus far, I trust it will be adopted, or unless some uniform, tangible substitute shall be presented in its stead.

The PRESIDING OFFICER, (Mr. KING in the chair.) The question before the Senate is on the amendment of the Senator from New Hampshire, to strike out the words "at sea, or attached to a sea-going vessel," in line six of the amend-

* The sums in the column of "lowest pay" are exclusive of fuel and quarters.

† All officers in command of companies are allowed ten dollars per month additional.

‡ All officers in the Navy, while attached to a sea-going vessel, are entitled to one ration in kind, or commuted at the rate fixed by the Department. The present rate of commutation is twenty-five cents per day—ninety dollars per annum.

ment of the Senator from Iowa, and to insert, "commanding squadrons;" and to strike out "seven hundred and eighteen," in line seven; so as to allow to admirals $5,000 a year when commanding squadrons.

Mr. SUMNER. I hope that amendment will prevail. For years we have been asked to make admirals in our Navy. Congress have refused—partly, perhaps, from motives of economy, and partly also because they hesitated to create officers with that rank and with that title. Now, sir, I am willing, considering the increase of our Navy, to create officers with that rank and with that title. In giving them that rank and that title, we confer upon them additional honor and consideration; we give them what it is known military and naval officers very much covet—fame. Wherever they go, they will be addressed as admiral; and that with naval men will be much. Sir, I believe it will be more than money. But giving them that addition of rank, I hesitate to increase largely—particularly at this moment of our history—their emoluments. It costs us nothing to confer rank, but it will cost our Treasury much if we commence this new scale of prices. I therefore go along with the Senator from New Hampshire in his proposition to reduce this salary. Let us create the admirals; let us give them this new title, this consideration, this introduction wherever they go—this equality, if you please, with the admirals of other nations in other fleets, but let us not at this moment undertake to vie with those nations in our salaries. I think it unwise. I think, therefore, that we shall do our duty on the present occasion by the Navy, and we ought to have their sympathy in what we do, if we confer this title, but be very cautious in the salary which we allow them.

Mr. COLLAMER. I desire to inquire of the Senator from New Hampshire how his amendment will make the admirals' salary compare with that of captains?

Mr. HALE. It will make their salary higher than that of captains; but if this amendment be adopted, there will have to be one or two other amendments made to make it conform.

Mr. COLLAMER. The commodores will run over the admirals.

Mr. HALE. No, sir; I do not think so. It will not amount to more than a trifling odds.

Mr. SUMNER. I inferred that the Senator from New Hampshire would go on with his amendments, and make the bill harmonious.

Mr. HALE. That will be necessary, but it will not be necessary to go very far in it. As the Senator from Iowa has said, and I have listened with deference to him because he has examined the subject, it will not want much alteration on the subject of pay, but it will want some more alteration than will be made by my amendment.

The amendment to the amendment was agreed to.

Mr. HALE. Now I move, in the eighth and ninth lines, where it is provided that admirals when on shore duty shall receive $4,575, to strike out "five hundred and seventy-five," and insert "two hundred," so as to read, "when on shore duty, $4,200," which is the highest pay now paid to captains.

Mr. SHERMAN. I trust the Senator from New Hampshire will make it approximate to the pay of the head of a bureau, $3,500. There is no propriety, it seems to me, in paying any officer on shore duty a higher rate than the head of a bureau—$3,500 is fixed by law. I think that is enough for any naval officer who is not on duty at sea.

Mr. HALE. If it could be done, I should be willing that this bill should be recommitted. As the Senate have adopted my first amendment, and have shown a disposition not to increase the pay of admirals, it would be well if this bill were recommitted to the committee with instructions to report a pay bill corresponding with that amendment which has been adopted. I think it would want but very little alteration; and it could be done better in committee than it could be on debate in the Senate.

Mr. SHERMAN. With the consent of my friend, I will state further that the Naval Committee did prepare very carefully a pay bill, on which, I believe, nearly all of us agreed. In some respects the proposition of the Senator from Iowa is even better than that agreed on by the Naval Committee; but at the same time this amendment does not extend to all the officers of the Navy. Surgeons, paymasters, and a number of other officers are not affected by this amendment. I think the suggestion of the Senator from New Hampshire is very good, to let the bill, with the amendments, be referred to the Naval Committee, and it can be taken up any day. I think probably we can agree there on a complete pay bill. This scheme is impracticable as it now stands; it does not embrace all the officers of the Navy. I think, as the Senate have shown a disposition not to increase the pay of officers in the Army, we can probably make a pay bill that will not only save $170,000, but will save $1,000,000 without really affecting injuriously any of these officers. They can bear a little reduction because all of them are actually engaged in service and are receiving more or less prize money; some of them, according to the newspaper reports, are receiving very large sums.

Mr. HALE. There are one or two small amendments that I want to propose, that I hope will receive the sanction of the Senate, and of my friend from Iowa, before the recommitment. In the fifteenth section there is a provision "that no officer shall be promoted as above, except those whose record in the service, and at the Department, is without reproach." A thing may happen like this: there may be on record in the Department the fact that, some thirty or forty years ago, when a young man, one of the most distinguished and valuable officers was subjected to some trial. I have in my mind now some that I know were censured by sentence of court-martial for some delinquency. If forty years ago a man was censured on the records of the Department, and ever since that has maintained an irreproachable character, I think it would not be well to set an eternal ban against him, because once in his life he was subjected to censure. There would be restrictions enough in the supervision of the President and Secretary to prevent worthless men being promoted if that were stricken out. I therefore move to strike out these words, "no officer shall be promoted as above, except those whose record in the service, and at the Department, is without reproach." I think such a provision would operate unjustly.

The PRESIDING OFFICER. Does the Senator withdraw his amendment to the amendment of the Senator from Iowa?

Mr. HALE. I was going to take the suggestion of the Senator from Ohio as to that. I move to strike out in the eighth, ninth, and tenth lines of the fifteenth section of the bill, the words I have stated.

The PRESIDING OFFICER. The Senator from New Hampshire withdraws his amendment to the amendment of the Senator from Iowa, and moves to strike out the words stated from the bill.

The motion to strike out was agreed to.

Mr. KENNEDY. I should like to offer an amendment if this bill is about to pass. I think there is one grade of officers who are entitled to the consideration of the Senate in regard to this advanced grade, and that is the class of fleet surgeons. I see no reason why they should not come under the same rules with the rest of these gentlemen. They rank now, I believe, simply with commanders. I propose by the amendment which I have in my hand to make that grade a permanent grade in the service, to be taken from a certain number of the senior fleet surgeons, without any increase of pay, simply making it a permanent grade to be appointed by the President, and confirmed by the Senate. I beg to offer that as a separate section.

The PRESIDING OFFICER. There is before the Senate now an amendment offered by the Senator from Iowa which it is in order to amend before it shall be adopted. A distinct amendment to the bill would not be in order.

Mr. SHERMAN. I move that the bill and amendments be referred to the Committee on Naval Affairs, with instructions to report a pay bill for the Navy as an amendment to this bill; and the Senator from Maryland can have an opportunity to present his amendment to the Naval Committee.

Mr. GRIMES. I am not going to oppose that motion; but I want to remind the Senate that if this bill is recommitted, there is no earthly probability of its coming before the Senate again for action.

Mr. SHERMAN. I do not think there will be any difficulty on that score.

Mr. GRIMES. I understand the Naval Committee about as well as anybody. The Senator from New Hampshire has announced that he is at heart opposed to this bill.

Mr. HALE. I did not say so.

Mr. GRIMES. I think that was the purport of what the Senator said. That is the inference to be drawn from what he said here to-day. To be sure, he said he was still willing to allow it to pass, if he could get certain amendments adopted. The Senator from Ohio insists upon it that very great deductions shall be made from the pay, and assigns as one reason that the officers and men of the service are getting large amounts of prize money. If the Senator had made inquiry he would have discovered that there has not been one dollar, not a cent, paid to any officer or man in the service for prize money up to this time; and if he had taken the pains to inquire into the history of such matters, he would have found that it is very seldom that any prize money is realized. Lord Cochrane, notwithstanding all the captures he made on the Spanish coast, was actually brought in debt. Although he captured prizes to the value of several million pounds, the prize courts ate them all up. Besides, we passed a bill the other day, the effect of which, in my opinion, will be to take a very large portion of the prize money away from the service. If the Senate choose to send this bill to a committee, be it so. If they are opposed to the passage of any such bill, this is an excellent way to get rid of it. I am content that it shall go in that way, if the Senate so decide.

Mr. SHERMAN. I have no desire to defeat this bill, although I am not very much in love with it. I do not care much about making admirals and commodores and a great variety of new grades at a period when the country is struggling for existence; but at the same time I cheerfully say to the Senate that I have no particular opposition to it. If it is necessary or convenient in the Navy to have these additional ranks, in order that the officers of the Navy may have a fair share of consideration with the officers of the Army, I am willing that the bill shall pass; but it is quite a different question when you propose to make a pay bill, increasing the pay of all these officers. The pay now of the highest officer in the Navy is $5,000 a year. Here we are to have nine admirals, whose pay is proposed to be fixed at a considerable sum over that; and we are to have quite a number of commodores, and there is a number of other officers whose pay is to be increased by this proposition. It is a very important proposition. It is true, as the Senator from Iowa says, that in the aggregate it does not increase the amount of pay, but it takes from the lower grades and increases the higher. That is not exactly in accordance with my notions. I would prefer rather to raise the lower grades and pay less to the higher. It seems to me that $5,000 a year is enough for the pay of any officer of the Navy, for any kind of service.

Mr. GRIMES. There is only one grade that is to get any more than that under my proposition, and that is an admiral when afloat, and we probably should not have two of them. The amount he is to get over $5,000 is only $700.

Mr. SHERMAN. That is true.

Mr. GRIMES. The whole amount that would probably be saved would be $1,400 or $2,100 by this reduction.

Mr. SHERMAN. The pay of quite a large number of these officers is to be increased. A commodore's pay is put at $4,575.

Mr. GRIMES. When afloat. How much does he get now? Is it not more than that?

Mr. SHERMAN. It is true he gets $5,000 now, when he commands a squadron, and so a man who now performs the duty of admiral gets $5,000, but that would be very rarely the case.

Mr. GRIMES. This gives him only seventy-five dollars a year more than he gets now.

Mr. SHERMAN. If we are to revise the pay bill we ought to revise it in such a way that we can stand upon it. I move that the bill be recommitted, and I have no objection to reporting it back promptly, and I will aid the Senator in keeping it before the Senate, so far as my vote will go, at any time that he desires to present it.

Mr. HALE. I simply want to say that the Senator from Iowa does me injustice when he says that in my heart I am opposed to this bill. I feel some degree of indifference about it, but I am

willing to give these gentlemen this rank if it is thought best. This $718 is a small sum in itself, but multiplied by nine it is a considerably larger sum. Then, when you have put admirals at $5,718, very soon will come your commodores and captains, and they will complain that the relative proportion is not preserved; and then you will be called upon to increase the pay of the lower officers, so as to correspond with the pay of the captains and commodores; and then when you have done that, the admirals' wives will be on hand, saying that they must be raised, that it is unfair to raise the lower officers without raising the higher ones. I think $5,000 is a liberal salary, and I know some of the highest and best officers in the Navy do not ask for this increase of pay; they do not want it.

The Senator says that this is a way to kill the bill. I will only say that such is not my intention. I am willing to meet with the committee early and late, and perform the duty that the Senate devolves upon us. It was simply and solely because we have been unable thus far to agree in committee on a pay bill, that it was not reported with this bill; we tried hard to do it, but we could not do it, and then the Senator from Iowa, in the exercise of his right and duty, unquestionably, prepared a pay bill which he has offered as an amendment to this bill. I thought that it was deficient; that it was vicious; and the Senate, by a vote, have agreed with me that $5,718 is too much. Now, all I want is to make the other grades correspond with that.

Mr. HARLAN. Is it in order now to move an amendment?

The PRESIDING OFFICER, (Mr. KING.) No, sir. A motion to commit takes precedence of a motion to amend; there is a motion to amend pending also.

Mr. FOSTER. It is claimed that the vote we passed in respect to the motion of the Senator from New Hampshire is indicative of the sense of the Senate that we are opposed to any increase of pay to any officers in the naval service. Now I confess that I think that is an unwarrantable inference from any vote which has been passed here. In the first place, the Senate was very thin; very few persons voted either way, and I think it would be altogether unwarrantable to assume from that vote that we are opposed to any increase of pay to any officers of any rank. I, for one, must say that I am ready to vote for an increase of pay, as much as is recommended by the honorable Senator from Iowa, and I am prepared to vote for it now, notwithstanding what the honorable Senator from Ohio says in respect to the present condition of the country, and the grave objections which he says exist to increasing the pay of officers in the service at the present time. It seems to me, notwithstanding all that he has said, that now is the time to increase the pay, the very time. The reason urged by the Senator from Ohio is a reason not that we should not increase it, but that we should. One of the reasons suggested by him was that officers were now obtaining a considerable amount of prize money. That was answered by the honorable Senator from Iowa, that none such had been received as yet, but if there be an amount received, it gives the national Treasury also an increase, and enables us to pay the men who have thus procured money from the enemies of the country for the Treasury of the country; and shall we say to these men, because they are thus enabled to procure money from the public enemies, that we will be stingy in meting out to them their monthly or yearly pay, and that we will make their own gallantry, their own devotion to duty, a reason for not increasing their pay, and even perhaps for diminishing it? It would go really to this if we carried out the principle that we call on our officers to earn their own living; and if they succeed in earning it by capturing the property of the enemies of the country, we will diminish their pay in proportion to the amount of service rendered and the success of that service. I think this is wrong in principle and wrong in policy, and unjust in every way.

Another notion in respect to the bill is that it may be well enough to increase the rank and create the office of admiral, but that we should make no addition to the pay. It seems to me that that is but half justice, and justice in such a way as to work injustice to the service and impose a burden on officers which they will not have to bear if we leave them as they are. Comparison is made between our officers and officers in the English service. It should be remembered that officers in the English service having command of a fleet, whether they are commodores or admirals, always have an allowance made to them for what is called table money, which is unknown in our service, and the foundation of the increase of expense to an officer commanding a fleet is his expense in foreign ports in entertaining his brother officers and entertaining public functionaries on board his ship while in port. This, I say, is what creates the heavy expense of the commander of a fleet, and for that a large allowance is made in the English service. The necessity for an increase of rank in our service by creating admirals is because, according to the etiquette of the service abroad, our post captains, which is the highest rank known to our service, are not recognized by English admirals or the officers of other countries where they have admirals, as of the highest rank, but however long they may have been in the service, they are considered juniors to those officers in foreign services, who may be younger men, having less experience and less fame as naval men. Now, sir, to create the grade and at the same time make no increase of pay, is imposing upon the officer a burden without really any corresponding benefit. If we are not prepared to do justice, it is better to let the whole matter pass. If we are prepared to do it, let us do it fully; not do it by halves.

Mr. CHANDLER. May I inquire if it be in order to move an amendment at this time to the motion to refer? I desire, if it be in order, to move that the committee be instructed to report a bill allowing the same pay that is allowed on an average in the services of England, France, and Russia.

The PRESIDING OFFICER. The Chair thinks a motion to instruct will be in order to go with the motion to recommit; but the Senator from Michigan will permit the Chair to state that the Senator from Maryland submitted an amendment to the original bill which the Chair will have read for the information of the Senate, and then the motion to commit takes precedence of it. The Chair will have the amendment of the Senator from Maryland read, that the Senate may know what it is.

The Secretary read the amendment of Mr. KENNEDY, as follows:

And be it further enacted, That the grade of fleet surgeon be made permanent in the Navy, and shall consist of twenty senior surgeons on the active list, who shall be commissioned by and with the advice and consent of the Senate as fleet surgeons, and they shall have the rank of captain, and discharge the duties hitherto performed by surgeons of the fleet, and such other service as may be assigned by the Department.

The PRESIDING OFFICER. This is offered as an additional section, but the motion of the Senator from Ohio to commit the bill takes precedence, and a motion of instructions to go with that commitment is in order, in the impression of the present occupant of the chair.

Mr. CHANDLER. I move to instruct the committee to report a proposition that in no case shall the same rank be paid a higher compensation than is paid in the English service.

Mr. HALE. I hope my friend from Michigan will not insist on that; if he does, I hope the Senate will vote it down. I should be very sorry to see our naval officers reduced so low as that would reduce them. The pay of a lieutenant in the British service is £200 15s., less than a thousand dollars a year; less than half what we pay ours. Perhaps it may not be known to the Senate generally, but it is a fact, that the officers of our Navy get higher pay than the officers of any navy in the world. I am not in favor of reducing it much, but I want to say a word to the Senator from Connecticut, who has stated that all the officers in the British service have table money. That is a very great mistake.

Mr. FOSTER. I did not say they all had.

Mr. HALE. When in command of fleets, and there are very few of them, the admirals have table money. I will read the direction: "Under the head of admiral of the fleet, admiral, vice admiral, rear admiral, and commodore of the first class, table money to these"—that is, from admirals down to commodores of the first class—"in addition, when commanding in chief, and while their flag is flying within the limits of their station." That is the only time when they are allowed table money. Captains of the fleet are not allowed it, or, at least, are not so reported in the Register. But very few of their officers get this table money. It will not do to make this analogous to the British service, because in the British service a man whom we have put down below our lieutenants is an officer above a lieutenant. In their service the master is above a lieutenant. Their captains are divided into classes, and we pay our captains higher than they do many of their classes.

Mr. GRIMES. The Senator has the British Naval Register before him, and is able to answer the question which I shall put. He has insisted on having these officers named full admirals, instead of rear admirals as I proposed. Will he be kind enough to state to the Senate what is the pay of a full admiral in the British service?

Mr. HALE. Eighteen hundred and twenty-five pounds.

Mr. GRIMES. That is about ten thousand dollars, besides table money.

Mr. HALE. Not quite nine thousand dollars.

Mr. SHERMAN. Do you want to give them that?

Mr. GRIMES. No, but the Senator from New Hampshire has stated that the pay in the British service is less than ours, and yet in this very grade that we are talking about the British officer gets nearly seventeen thousand dollars, table money and all, as I understand.

Mr. HALE. Captains of the first class in the British service only get £701, a little over three thousand dollars. We pay our captains on shore or other duty more than the first-class captains of the British navy are paid in service. Captains of second class, when employed, receive £574, and the third class of captains receive £450, so that we pay to our captains on shore duty more than is paid to first-class captains of the British navy at sea. I do not think, then, it can be said with any justice or propriety that we pay niggardly or small sums. The country will not be subject to any reproach such as has been attempted to be thrown on it for refusing to raise these salaries at this time.

Mr. GRIMES. The Senator ought to remember, as he is chairman of the Naval Committee, that a captain in the naval service of Great Britain does not correspond with a captain in our service under this bill, and hence there is no analogy between the pay of the two grades.

The PRESIDING OFFICER. Does the Senator from Michigan desire to have his amendment acted on? If so, he will submit it in writing.

Mr. CHANDLER. No, sir; I withdraw it, acting on the suggestion of the chairman of the Naval Committee.

The PRESIDING OFFICER. The question is on the motion of the Senator from Ohio, that the bill, with the amendments, be recommitted to the Committee on Naval Affairs, with instructions to report an amendment regulating the pay of officers of the Navy.

Mr. HARRIS. I do not wish to take up the time of the Senate a minute, but I desire to say that I concur entirely with the views that have been expressed by the Senator from Connecticut. I believe that this bill is right; I believe the public interest will be promoted by its passage. I fear very much, if it is recommitted, that the bill will be lost. I agree, too, that the vote that has been passed is no indication of the sense of the Senate. It is my conviction that not half a dozen Senators voted upon that question. I do not believe there were half a dozen who knew the question was being put at the time, and I should be glad in some way to have an expression of the sense of the Senate on the proposition of the Senator from New Hampshire.

Mr. HALE. I should be very glad, indeed, to have it, and if the Senator will withdraw his motion for a moment, I will move to reconsider that, and call for the yeas and nays, because I do not want to have it said that the Senate voted not knowing what they were doing.

Mr. SHERMAN. I withdraw the motion to recommit for that purpose.

Mr. HALE. That being withdrawn, I move to reconsider the vote by which the Senate agreed to amend the amendment of the Senator from Iowa by reducing the pay of admirals to $5,000; and on that I ask for the yeas and nays.

The PRESIDING OFFICER. The question,

then, is on the motion of the Senator from New Hampshire to reconsider the vote by which the amendment proposed by him to the amendment of the Senator from Iowa was agreed to.

Mr. HALE. I ask for the yeas and nays on the motion to reconsider only because I want an expression of the sense of the Senate.

The yeas and nays were ordered; and being taken, resulted—yeas 16, nays 19; as follows:

YEAS—Messrs. Anthony, Browning, Cowan, Davis, Dixon, Fessenden, Foot, Foster, Grimes, Harris, Henderson, Howe, Kennedy, Lane of Indiana, Morrill, and Nesmith—16.

NAYS—Messrs. Chandler, Clark, Hale, Harlan, Howard, King, Lane of Kansas, Pomeroy, Powell, Saulsbury, Sherman, Stark, Sumner, Ten Eyck, Trumbull, Wade, Willey, Wilson of Missouri, and Wright—19.

So the motion to reconsider was not agreed to.

Mr. SHERMAN. I now renew my motion to recommit the bill, with the amendments, to the Committee on Naval Affairs, with instructions to report an amendment regulating the pay of the officers of the Navy.

Mr. HARLAN. I think it is in order to present a motion to amend. If I understand the motion, it is that the bill and the proposed amendments be referred. I propose to amend the bill by adding a new section, to go with the bill, should this motion of the Senator from Ohio prevail.

The PRESIDING OFFICER. It is not in order to move to amend the bill.

Mr. KENNEDY. There has been no vote taken on the amendment I proposed.

The PRESIDING OFFICER. It is not in order to amend the bill now; but the suggestion that this amendment may go with the bill to the committee, will be assented to, and it will be read for the information of the Senate.

The Secretary read Mr. HARLAN's amendment, as follows:

And be it further enacted, That the President of the United States be authorized to appoint six additional chaplains for the United States Navy.

Mr. HARLAN. I will state in explanation that I understand the number now allowed by law is twenty-four. That number was fixed when the number of men employed in the Navy amounted to about eight thousand. There are now about thirty-five thousand men, as I understand, employed in the naval service, and there has been no increase of chaplains. Those who are familiar with the organization of the Navy say to me that they think the number ought to be increased even more than this, but this number has been suggested.

The PRESIDING OFFICER. By unanimous consent, the proposition of the Senator from Iowa may be considered as an amendment pending at the time the motion to recommit was made, and thus go with the bill on that motion; and it will be so considered unless objection be made. The question is on the motion of the Senator from Ohio, to recommit the bill with the instructions stated.

The motion was agreed to.

ADDITIONAL ISSUE OF TREASURY NOTES.

Mr. FESSENDEN. I move that the Senate take up the bill (H. R. No. 187) to authorize an additional issue of United States notes, and for other purposes.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill. It will authorize the Secretary of the Treasury to issue, in addition to the amounts heretofore authorized, on the credit of the United States, $150,000,000 of United States notes, not bearing interest, payable to bearer at the Treasury of the United States, and of such denominations as he may deem expedient; but no note is to be issued for the fractional part of a dollar, and not more than $50,000,000 be of lower denominations than five dollars. Such notes are to be receivable in payment of all loans made to the United States, and of all taxes, internal duties, excises, debts, and demands of every kind due to the United States, except duties on imports and interest, and of all claims and demands against the United States, except for interest upon bonds, notes, and certificates of debt or deposit; and they are also to be lawful money and a legal tender in payment of all debts, public and private, within the United States, except duties on imports and interest, as aforesaid. Any holder of these United States notes depositing any sum not less than fifty dollars, or some multiple of fifty dollars, with the Treasurer of the United States, or either of the Assistant Treasurers, will receive in exchange therefor duplicate certificates of deposit, one of which may be transmitted to the Secretary of the Treasury, who will thereupon issue to the holder an equal amount of bonds of the United States, coupon or registered, as may by the holder be desired, bearing interest at the rate of six per cent. per annum, payable semi-annually, and redeemable at the pleasure of the United States after five years, and payable twenty years from the date thereof. And the Secretary of the Treasury may exchange for such notes, on such terms as he shall think most beneficial to the public interest, any bonds of the United States bearing six per cent. interest, and redeemable after five and payable in twenty years, which have been or may be lawfully issued under the provisions of any existing act; he may reissue the notes so received in exchange; may receive and cancel any notes heretofore lawfully issued under any act of Congress, and in lieu thereof issue an equal amount in notes such as are authorized by this act; and may purchase, at rates not exceeding that of the current market, and cost of purchase not exceeding one eighth of one per cent., any bonds or certificates of debt of the United States as he may deem advisable.

The Secretary of the Treasury is also to be authorized, in case he shall think it expedient, to cause the notes to be engraved and printed by contract, or to be engraved, printed, and executed, in such form as he shall prescribe, at the Treasury Department, in Washington, and under his direction; and he is to be empowered to purchase and provide all the machinery and materials, and to employ such persons and appoint such officers as may be necessary for this purpose.

The limitation upon temporary deposits of United States notes with any Assistant Treasurer or designated depositary authorized by the Secretary of the Treasury to receive such deposits to $50,000,000, is to be repealed; and the Secretary of the Treasury is authorized to receive such deposits, under such regulations as he may prescribe, to such amount as he may deem expedient, not exceeding $100,000,000, for not less than thirty days, in sums not less than $100, at a rate of interest not exceeding five per cent. per annum; and any amount so deposited may be withdrawn from deposit, at any time after ten days' notice, on the return of the certificate of deposit. But United States notes to an amount not less than one third of the aggregate sum of the deposits is at all times to be reserved in the Treasury of the United States, or from issue under this act, for the purpose of securing prompt payment of such deposits on demand. And certificates of deposit and of indebtedness issued under this or former acts may be received on the same terms as United States notes in payment for bonds redeemable after five and payable in twenty years.

The Secretary of the Treasury may, at any time until otherwise ordered by Congress, and under the restrictions imposed by the "Act to authorize a national loan, and for other purposes," borrow, on the credit of the United States, such part of the sum of $250,000,000 mentioned in that act as may not have been borrowed under its provisions within twelve months from the passage thereof.

Any part of the appropriation of $10,000 for the detection and bringing to trial of persons engaged in counterfeiting the coin of the United States, made by the act entitled "An act making appropriations for the legislative, executive, and judicial expenses of the Government for the year ending 30th June, 1861," approved June 23, 1860, may be applied in detecting and bringing to trial and punishment persons engaged in counterfeiting Treasury notes, bonds, or other securities of the United States, as well as the coin of the United States. And to carry into effect these sections the sum of $300,000 is to be appropriated.

All the provisions of the act entitled "An act to authorize the issue of United States notes, and for the redemption or funding thereof, and for funding the floating debt of the United States," approved February 25, 1862, so far as the same can or may be applied to the provisions of this act, and not inconsistent therewith, are to apply to the notes now to be issued.

The Committee on Finance reported the bill with various amendments. The first amendment was in section one, line ten, to strike out "fifty," and insert "twenty-five;" so that the clause will read:

Provided, That no note shall be issued for the fractional part of a dollar, and not more than $25,000,000 shall be of lower denominations than five dollars.

The amendment was agreed to.

The next amendment of the committee was in section three, after line thirteen, to strike out the following proviso:

Provided, however, That United States notes to an amount not less than one third of the aggregate sum of said deposits shall at all times be reserved in the Treasury of the United States, or from issue under this act, for the purpose of securing prompt payment of such deposits on demand.

And to insert in lieu thereof:

And of the amounts of the United States notes authorized by this act not less than $75,000,000 shall be reserved for the purpose of securing prompt payment of such deposits when demanded, and shall be issued and used only when, in the judgment of the Secretary of the Treasury, the same, or any part thereof, may be needed for that purpose.

Mr. FESSENDEN. The word "amounts" in the matter proposed to be inserted should be "amount." I desire that change to be made.

The PRESIDING OFFICER. That modification will be made, if there be no objection. The question is on the amendment as modified.

The amendment, as modified, was agreed to.

The next amendment was in lines twenty-four and twenty-five, to strike out the words "provided further, that."

The amendment was agreed to.

The next amendment was to insert as an additional section the following:

SEC. 7. *And be it further enacted*, That the Secretary of the Treasury be, and he is hereby, authorized, under such regulations as he may prescribe, to make any officer or depositary designated to receive and keep any moneys collected under and by virtue of an act entitled "An act to provide internal revenue to support the Government and pay interest on the public debt" a disbursing agent of the Treasury for the payment of all interest due to the citizens of any State where such place of deposit may be established, upon Government securities issued by authority of law.

The amendment was agreed to.

Mr. FESSENDEN. The Committee on Finance have directed me to offer another amendment, to insert in section one, line thirty-one, after the word "thereof," the following:

Provided, however, That any notes issued under this act may be paid in coin instead of being received in exchange for certificates of deposit as above specified, at the discretion of the Secretary of the Treasury.

The amendment was agreed to.

Mr. SHERMAN. I desire to offer an amendment on which I shall ask a vote of the Senate. I move to insert as an additional section the following:

And be it further enacted, That there shall be paid annually by each person, corporation, or association, which, under the laws of any State, shall issue notes and bills for circulation as money, the duty of two per cent. of the largest amount of such bills and notes of such person, corporation, or association that shall be outstanding during the quarter part of the year preceding such payment. Such duties shall be paid quarterly; the first payment to be on the 1st day of October, 1862; and shall be ascertained, assessed, and collected in the mode provided by law for the assessment and collection of taxes levied upon corporations: *Provided*, That the bills or notes of such person, corporation, or association held by such person, corporation, or association, and not in circulation within the quarter preceding, shall not be included in said amount.

Mr. President, if I can obtain for a short time the attention of the Senate on this important proposition, I shall endeavor to present the reasons for the adoption of this amendment. In the annual report of the Secretary of the Treasury, he submitted the proposition to Congress to tax the circulation of bank paper, not only with a view to revenue, but with a view of withdrawing from circulation local bank paper. In justice to him, probably, I ought to have what he says upon the subject read before I proceed to make my remarks. I will ask the Secretary to read an extract from his annual report of last December.

The Secretary read, as follows:

"The circulation of the banks of the United States, on the 1st day of January, 1861, was computed to be $202,000,767. Of this circulation $150,000,000, in round numbers, was in States now loyal, including West Virginia, and $50,000,000 in the rebellious States. The whole of this circulation constitutes a loan without interest from the people to the banks, costing them nothing except the expense of issue and redemption and the interest on the specie kept on hand for the latter purpose; and it deserves consideration whether sound policy does not require that the advantages of this loan be transferred, in part at least, from the banks, representing only the interests of the stockholders, to the Government, representing the aggregate interests of the whole people.

"It has been well questioned by the most eminent statesmen whether a currency of bank notes, issued by local institutions under State laws, is not, in fact, prohibited by the national Constitution. Such emissions certainly fall within the spirit, if not within the letter of the constitutional prohibition of the emission of bills of credit by the States, and of the making by them of anything except gold and silver coin a legal tender in payment of debts.

"However this may be, it is too clear to be reasonably disputed that Congress, under its constitutional powers to lay taxes, to regulate commerce, and to regulate the value of coin, possesses ample authority to control the credit circulation which enters so largely into the transactions of commerce and affects in so many ways the value of coin.

"In the judgment of the Secretary the time has arrived when Congress should exercise this authority. The value of the existing bank note circulation depends on the laws of thirty-four States and the character of some sixteen hundred private corporations. It is usually furnished in greatest proportions by institutions of least actual capital. Circulation, commonly, is in the inverse ratio of solvency. Well-founded institutions, of large and solid capital, have, in general, comparatively little circulation; while weak corporations almost invariably seek to sustain themselves by obtaining from the people the largest possible credit in this form. Under such a system, or rather lack of system, great fluctuations, and heavy losses in discounts and exchanges, are inevitable; and not unfrequently, through failures of the issuing institutions, considerable portions of the circulation become suddenly worthless in the hands of the people. The recent experience of several States in the valley of the Mississippi painfully illustrates the justice of these observations; and enforces by the most cogent practical arguments the duty of protecting commerce and industry against the recurrence of such disorders."

Mr. SHERMAN. The proposition to tax the circulation of bank notes is new in the Senate, but is not new among the financial men of the country. The proposition has been discussed in many of the leading commercial papers. It has been discussed among bankers and persons whose business it is to deal in money. It is therefore not a new question. It has been the frequent subject of conversation in the Committee on Finance. My own convictions are clear and decided. I believe the time has arrived when it is an imperative necessity for the Government of the United States to gradually drive out of circulation the local bank paper. The right to issue paper money is a franchise or property, liable like other property to taxation. It should bear its full share of the burden of taxation; and yet it is the only species of property that I know of in this country that now escapes taxation. The franchise, or the right to issue paper money, is just as much an article of property as a horse or cow, a farm, a distillery, or a railroad; and yet this franchise, this exclusive right, granted only to a few corporations in this country, is the only property that I know of that is free from all taxation, except the tax upon the income derived from it. I do not know any element of taxation that is better able to pay. What is the condition of the banks of this country? They issue $150,000,000 of notes which is virtually money. Every citizen is compelled to take it, not by law, it is true, but by the necessity of business operations. Upon this a profit is derived to the banks of at least six per cent., or $9,000,000. There is no corresponding burden thrown upon the banks for this circulation. If they redeemed this paper in coin at their counters, then, as a matter of course, there would be no propriety in taxing them to this extent, at least. But they have this exclusive privilege, and they do not comply with the condition upon which they have the right to issue, and that is the condition of redeeming their notes in coin. It is a valuable privilege to them; it is worth to them at least $9,000,000, and for which they pay no consideration whatever, either to the State or to the General Government. As they do not now comply with the conditions of their charters to redeem their notes in gold and silver, they substantially have a franchise from the people of the United States worth to them $9,000,000 without taking upon themselves any burden whatever.

Mr. CLARK. The Senator will allow me to inquire whether he has well considered what he is saying.

Mr. SHERMAN. That is a question I do not want to answer. It is rather a peculiar question.

Mr. CLARK. The banks of my State do pay to the Legislature, out of which we make up a literary fund to support our schools in part. We have not large grants of land in New Hampshire; but we do from this very source, of which the Senator speaks, get a fund of $60,000 a year for the support of our schools.

Mr. SHERMAN. The Senator will find that he does not know as much about it as he thinks. The tax to which he alludes is a tax on the capital employed in the banks, not upon the circulation. There is not in the United States, so far as my knowledge goes, a tax upon the circulation of bank paper. The Senator is mistaken.

Mr. CLARK. No; I am not mistaken.

Mr. COLLAMER. He is right.

Mr. SHERMAN. Is there a tax on circulation?

Mr. COLLAMER. We do not call it by that name.

Mr. SHERMAN. There is a tax on the capital of the bank. That is property. The right to issue bank paper is a franchise, a property, just as distinct as the ownership of the capital, and they are as distinct as any two species of property can be. The owners of the bank own the capital, and upon that they pay a tax.

Mr. FESSENDEN. The Senator is mistaken, for this reason: the banks pay to the State so much for the privilege of banking. The stockholders pay taxes like everybody else on the stock owned in the banks, and the property pays besides. It is a special tax for the privilege of circulating notes.

Mr. SHERMAN. I do not think there is, in the part of the country in which I reside, a tax of this kind.

Mr. FESSENDEN. In all New England there is.

Mr. SHERMAN. There may be in New England. I do not question that. The Senator says it is a tax on circulation. My impression is it is a tax on the property invested in the corporations.

Mr. CLARK. Not at all. Let me inform the Senator it is a distinct tax levied on all banking institutions for the privilege of this circulation.

Mr. SHERMAN. How much?

Mr. CLARK. One half of one per cent.

Mr. SHERMAN. Then the Senator, by showing that this franchise is taxed in New England, shows clearly that among the New England people, where the subject of taxation is well understood, it is a proper element of taxation. If the State can tax this franchise, why shall not the General Government tax it now in its need? We are taxing many things we never taxed before; and why should not this important property be taxed? You must remember, sir, that this franchise is worth to the banks of the United States not less than $9,000,000; that it is a franchise that brings with it no corresponding burdens; that not one of them redeems—there may be a few cases, but the great body of them do not redeem—their paper in gold and silver; they are relieved by the state of affairs from many of the burdens of a bank issue; they own this important franchise, and that franchise escapes taxation by the General Government, at least. Now, there are other taxes imposed on other corporations. Take railroad corporations. They pay the income tax; they pay the tax on the interest of their bonds; they pay all the taxes that are assessed on banks; and in addition there is a tax imposed on railroads of three per cent. on the receipts from passengers, which is even a higher rate than is proposed by this amendment. In like manner, insurance and various other companies pay a tax of this kind, besides the tax on their income, and on their property. But the banking franchise escapes taxation. I hope Senators will keep in mind that the franchise, the right to issue notes, is a property distinct from the capital employed in the bank. They may lose their franchise, and yet their capital is preserved. Each are different elements of taxation. If a lawyer practices his profession, you tax him on his employment, and yet tax his income. Here is an exclusive employment from which large profits are derived directly from the people. I submit if it does not present a proper subject of taxation which we would not act wisely in entirely ignoring.

I have thus far discussed this proposition simply as a question of taxation of property to be taxed; but there is another view, much stronger, in my judgment, why this tax should be imposed, and imposed now. I frankly acknowledge that the chief purpose in levying this tax is to induce the withdrawal from circulation of local bank paper. Suppose that all the bank paper of the United States were now withdrawn from circulation. That would not destroy a single item of property. The capital of all these banks would be intact. They could make their legitimate profit on their capital. They could engage just as other banks do in banking business. They could carry on their business of receiving deposits, of issuing bills of exchange, and all the ordinary functions of banking business, except only this peculiar franchise which is regarded everywhere as a Government franchise—the right to make money. This would not impair the value of their property. Indeed, several gentlemen engaged in the business of banking have said to me that if this privilege was denied to all the banks so that they would be put on the same footing with other banks, they had no objection to it, because they could use their capital in ordinary and legitimate banking business without any loss. They could carry on their operations with and upon the demand notes now furnished by the United States. Why, sir, the largest banking establishments in this country do not issue notes to any considerable extent; and many of the ablest men engaged in this business do not desire to issue notes. Their credit can be made available in a different form.

Suppose the purpose I avow is accomplished: what then is the condition of our currency. We have then but one kind of paper money—that issued directly by the United States, and based upon the public credit. It would be of uniform value throughout the United States. Exchanges between different parts would never exceed the cost of transferring the paper; a cost very trifling with our excellent system of transportation by express companies. The amount might be limited by the national Legislature so as to prevent the danger of expansion and contraction. Such a currency would then be invaluable as a medium in war of borrowing money on the bonds of the United States, and in time of peace of paying the public debts. All loss from counterfeiting could be carefully guarded against; broken and depreciated bank paper, defaced and worthless rags, would no longer inflict a severe loss upon those who are compelled by the usages of trade to take it or get nothing. A national currency based upon all the property of the United States would give security and uniformity to the circulating medium of the country.

But if, on the other hand, you continue to issue United States demand notes, without taking measures to retire the bank paper in circulation, you will find that the banks, no longer restrained by the necessity of paying gold and silver, will make your issues the basis of the issue of at least as much more bank paper. The rivalry for two systems not connected with each other will produce inflation and derangement in all the business relations of the country. A system of finance like this must in the end produce disaster and ruin.

Experience has fully proven that some form of paper money will be used in all commercial nations. By adopting the sub-Treasury bill we did not get rid of paper money. We only got rid of the use of it by the Government. From the time the sub-Treasury bill was passed until this hour, the amount of paper money has been gradually changing and increasing, although not always uniformly. It has always existed, and has been the basis of the operations of the business of the country. Although the United States received only gold and silver coin, yet paper money was the basis of circulation in all the northern States, and I believe in nearly all the States, with the exception of California and perhaps Louisiana, where they have but very little bank paper.

There are radical objections to the present banking system of the United States. There are one thousand three hundred and ninety-six banks in twenty-nine States and one Territory. Their systems of banking are as diverse as anything can possibly be. In some States they are governed by a general banking law; in others by corporate charters. In some States they are based upon stock securities; in some upon the capital stock paid in or secured. In some States they are regulated by a State bank and branches, and in others each bank is separate and independent from the others. We have a complex system of bank notes. It requires an expert to judge of the validity or correctness of a bank note. Your ordinary bank note reporters and detectors contain an infinite variety of descriptions to tell the value of a bank note, and whether it is counterfeit. It is a complex system. The loss by counterfeiting, and the loss by bad notes of various kinds in this country, is estimated by gentlemen who are engaged in the business as nearly equal to the interest on the whole circulation; that is, $9,000,000 is lost the people of the United States by counterfeiting, by bad notes, by lost notes, by bank failures, and in various ways. The people, therefore, are not only compelled to

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use this money, and substantially give to the banks a profit of the interest on the whole circulation, but in addition to that they lose fully $9,000,000 in the form of defaced notes, counterfeit notes, &c. At least, that is the estimate made by persons who are familiar with the subject, and I have no doubt it is correctly made.

Then you must remember that every year more or less of these banks break. There is no stability about them; there is no common regulator; there is no system about them. Why, sir, they are like a regiment without an organization. They are like a thousand men without colonel or captains. They have no common bond of organization; any important event that disturbs the money market of the world makes a greater flutter among them than a shot among a bevy of partridges. The failure of a single bank in Ohio in 1857, the place of business of whose leading officers was in New York, started the whole bevy of banks. It came very near bringing on—yes, it did bring on—a financial disaster, at a time, too, of general prosperity. The wisest men could not state any cause of that disaster, except that it grew out of a sudden panic, breaking banks, bankers, merchants, and traders. There is no system of organization in these banks. They do not support and sustain each other. In case of failure or stringency of any kind they rather tend to pull down each other, than to help each other.

I do not think it necessary for me to spend time here to convince Senators that this system of banking is not wise. The uncertain rate of exchange between the different States grows out of the multitude and diversity of the banks. The bank paper of States adjoining each other has varied in value as much one year's interest of money. An intelligent foreigner who desired to travel over this country with the bank paper of the United States, would have to take with him a counterfeit detector and the laws of all the States, in order to tell whether or not he would be safe in taking bank paper. It seems to me it requires no argument to prove that this system of banking is not a wise one, and ought to be dispensed with.

In times of peace the Government of the United States was not seriously disturbed by this system of paper money, because under the sub-Treasury law all the operations of the General Government were carried on in gold. The General Government very properly left all local matters and local organizations and local banks to the States; although it has been the opinion of some of the ablest lawyers in this country that bank bills come within the meaning of bills of credit, and that their issue by a State, or by the authority of a State, or by a corporation under the laws of a State, is prohibited by the Constitution. I do not choose to discuss that question, because it has been settled and decided by the practice of the country. I say in times of peace the Government felt no source of embarrassment from this diverse paper money; but now it does. The existence of this paper money is the chief embarrassment in managing the finances of the United States. Every person familiar with the operations of the Treasury knows and feels it. When you issue your paper money now, as you are compelled to issue it, it becomes the basis of other issues by the banks, and the inflation which you are compelled to give becomes a double inflation, from its consequences on the banks of the United States. When the Government of the United States issued $150,000,000 of notes, if there had been no depreciated bank paper money in the United States, that $150,000,000 would this moment have been at par with gold; but the issue by the Government was made the basis of other issues by local banks. These local banks do not pay their paper in gold and silver. It was depreciated; and it is a financial rule that when there are two classes of currency open in the market, the poorer class will always drive out the best. Every man knows very well that if he has two notes, and one is a little worse than the other, he will try to pass off the inferior note. That is the ordinary operation, the guiding motive of self-interest which actuates the conduct of men. Where there are two classes of notes in circulation, the inferior will always take the place of the superior.

It is difficult, under the operation of our system, for the Secretary of the Treasury to carry on the large operations of the Government necessary to convert notes into bonds. The notes are now held and hoarded. The first issue of $60,000,000 of notes were issued with the right of being converted into six per cent. twenty years bonds, and with the privilege of being paid for duties in customs. They are now far above par, and are hoarded. They are no longer in circulation. This is the chief reason given why it is necessary to issue a greater amount. Why are they hoarded? Simply because they have certain privileges and certain advantages which the bank paper of the United States has not. They are better than the local bank circulation, and therefore are driven out of circulation by being held in the banks, by being held for conversion into bonds, by being held in such a way that they do not enter into the ordinary circulation of the country, and in their place is issued, in still larger amounts than before, the paper money of the banks. The consequence is, the Government of the United States is either compelled to receive this bank paper, in violation of the sub-Treasury law, or it is compelled to issue a new emission of paper money, and thus depreciate and break down the whole. The Secretary of the Treasury is just in that position that he has either to ask Congress to suspend the sub-Treasury law, which forbids the receipt by an officer of the Government of other paper money than Treasury notes, or he has to issue more demand notes. If Congress allows the issue of the paper money provided for in this bill, what is the consequence? The banks will take it, and issue other paper money on the basis of it. Most of their charters require them to keep one third specie in their vaults; but under the operation of existing laws, instead of that specie they will now keep one third paper money. Every new issue of Treasury notes is only a bid for a new inflation by the banks, and thus the better money of the United States is hoarded and laid away, and the paper money which is issued on the credit of it is thrown on the country, producing inflation and derangement of our monetary system, and I believe in the end will produce disaster. Therefore we are now compelled either to suspend the sub-Treasury law, and authorize the Secretary to receive bank bills as money in the sale of bonds, or you must induce its withdrawal and redemption by taxation, and such other measures of legislation as the wisdom of Congress may devise.

Mr. President, I do not wish at this period of the session to dwell on this subject, although there are very many facts and statistics that I should like to present if I had more leisure; but I know the matter is pressing. I am sure our national paper money cannot run a rivalry with bank paper; we must choose between the one and the other. With my settled convictions I cannot vote for the issue of any more national currency unless it is upon the basis of the retirement of the existing paper money in the country. If you issue United States Treasury notes, and simply make that the basis of future issues by banks, you will be compelled either to take the local paper money in the Treasury of the United States, or you will be compelled to issue again and again and again. The consequence is already felt. Exchange on England is now worth about ten per cent. above the usual premium. Gold is worth between nine and ten per cent. premium. Yet the credit of the United States is perfectly good, its bonds being par with gold. I have no doubt that were it not for the bank circulation the issue of $300,000,000 of Treasury notes would have a healthy and beneficial effect. The Government might issue that amount, and receive or borrow from the people of the United States, without interest, this large sum of money; but when you do it upon the present system, you only encourage a like issue by the banks, and thus inflate more and more, decrease the value of the paper by raising the value of gold, and create embarrassment and, I think, disaster. The operations of the Treasury Department cannot be carried on on this double and complex system.

I say, therefore, Mr. President, that whether you view the franchise granted by the States to issue bills simply as a property right, or whether you view it as a national question affecting the national currency of the United States, my proposition is entirely defensible. If this right to issue paper money is a franchise or property, as it is claimed to be, and as I believe it is, it should be taxed, and it ought to bear a heavy taxation. If, on the other hand, it is a privilege that ought to be discouraged, one that tends to impede and affect injuriously the public interests, it ought to be controlled by such measures as the wisdom of Congress may devise. The power to tax is clear; and I think the expediency of the tax can be easily demonstrated.

Mr. COLLAMER. Mr. President, I do not suppose that anything I or any man on earth could say in this state of our body and at this period of the session and in the present condition of the country, would be of any practical use, or have any effect; but after all, I am unwilling to sit here and have Senators who really believe that this is an expedient measure, suppose that nothing can be said on the other side.

I believe that the gentleman is entirely mistaken in this financial policy now proposed. I desire that we should go on, in the condition of the country, as far as we can, with our institutions as they are. Indeed, I am not prepared to believe that the condition of our affairs, as a nation, has become so desperate that it requires the whole upturning of society at this moment; that all the institutions sanctified by the course of years should be utterly destroyed to-day. It is insisted that the experience of more than half a century, the whole of the existence of this Government, on this question of banks, and on the subject of the right of the State to make banks of issue, shall now be upturned, because it is suggested by the Secretary that some time or other there was a doubt about it, and he wants to avail himself of the benefit of that doubt to upturn society; in short, that the pecuniary condition of this country has become such that nothing that has been sanctified by the use of seventy or eighty or ninety years, can be endured to-day. Sir, I do not believe it.

I know that an attempt of that kind is very much assisted by some contingent circumstances which are rather fortuitous in their nature. I am sensible that the convulsion of the country has, if you please, weakened and destroyed many of the banks, especially in the western country, whose circulation and capital were based upon the stocks of the States that have seceded. They failed to pay, and therefore the banks failed. Is there anything peculiar in that? Not at all. It is the same thing that shakes the existence of the nation and jeopardizes the continuance of all our institutions. It is part and parcel of that same evil. There is nothing in the nature of the thing itself; but because that has happened there, and has happened as part of the fortuitous circumstances of our unfortunate affairs, an attempt is now made to make war upon all the other banks of the country; and it is openly professed that we intend to end the bank circulation of this country. That is what is intended. In the first place, why? Because, it is said, they sometimes fail; that those banks which were based upon the stocks of the seceded States have failed. That constitutes no reason at all.

Again, it is said—and great stress is laid upon that in the beginning, the middle, and the end of the gentleman's remarks—that these banks do not redeem in specie. Why do they not redeem in specie? The banks of the North and East, connected with the banks of the large cities, with whom their associations lead them to be constantly connected, having taken some $50,000,000, and, I believe, $150,000,000 of public stocks for the benefit of the United States; having taken all they could carry, the United States and they stopped pay-

ment together; and now it is proposed that the Government shall make war on those banks, who stood by it while they could, because they do not pay specie. We are to say to them, "we will war on you; you shall go under; we will put your head under the war, and trample on it, because we have the greater power; and you shall be the scapegoat of this evil of not reedeeming in specie."

The gentleman seems to dwell a great deal on the idea that the bank's right of issue is a franchise and a property, and he says we get nothing for it as a nation as a subject-matter of taxation. I say we do. In New England, New York, Ohio, and Pennsylvania, the great body of the business of the country is done upon the paper of the local banks; it is on their circulation, and the body of the country bank charters in that part of the United States are valuable only for their circulation. I know it is not so with the large city banks. I know in the western country, even as far as on the Ohio, and in western Pennsylvania also, a great deal is done by those banks by way of discount, discounting paper, &c. Mr. President, outside of the city of Boston, and two or three other cities, there is not in the whole of New England—there is not such a thing in the State of Vermont, there is not such a thing in the State of New Hampshire—as a broker or banker doing business on the discounting of paper; not one. I doubt very much whether there are many to be found except in the large cities. There may be some in Ohio. I am not very well acquainted with the business there. But, sir, the whole value of the banks in that portion of the country, in which the people who know the banks perfectly have the utmost confidence and reliance to-day and every day—the whole value of their charters, of their franchise, consists in the right of circulation. Now, how do we get anything from that? We have just passed a tax bill, by which we take, I believe, three per cent. on the dividends of the profits of those banks. They are to take that percentage out of all they make and pay it to the United States Government, before they make their dividends among the stockholders. Every cent of that money that they make, they make by the value of their circulation. We tax it; we put it into our bill; and raise money on it. Now, I am told that the Government does not get anything for the exercise of that franchise of circulation. I say they do; and I think the gentleman will find before he gets through with it, it will be one of the most successful incomes which he has in his bill. Besides that, every man who is a stockholder in that bank is bound to pay a percentage on his income; and it is this very circulation that enables him to make an income; and thus we get a tax from it twice.

But, Mr. President, there is another more serious matter at issue. I desire to know whether any man considers we have already gone so far down hill with this experiment as to say he does not expect this country ever again to return to a specie redemption; that he does not expect this Government ever again in its history to pay anything but paper; that there is never to be again such a thing in the country as a redeemable paper, redeemable in gold and silver. Senators, are you prepared for that? Are you ready for that? This proposition says that, substantially. It is proposed to annihilate the bank circulation; to have the whole field to ourselves for the issue of this paper which we will not redeem. If we do that, I should like to have some man tell me how we are ever to redeem again? We are to have a circulation peculiar to this nation, which can buy nothing abroad, which cannot go in the commerce of the world, which excludes us from connection with the commerce of the world, and we are to be an isolated people in relation to our pecuniary affairs forever. If we come to that, we may, perhaps, redeem this paper that we issue by issuing new paper; but as to ever redeeming it in any other way, it is not to be expected.

Now, sir, I hope gentlemen will reflect on this proposition to drive out the circulation of the banks because they do not redeem in specie. Let us take a bank situated in central New York or New England. They have issued some paper. They have lent it out to their people, and taken security for it, notes, bills, &c. It circulates. By and by this note or security, for which they gave their property, falls due. The owners of that paper take the United States notes, carry them to the bank, and tender them in payment of that debt. The bank is bound to take them. They are tenderable upon every dollar of debt that is due to the bank. We have so provided in the law passed at this session. Now, we propose to say to the banks, "we are going to annihilate you; we are going to close you up." "What for?" "Because you do not redeem the notes that you have paid out, in specie." They say, "have you not made a law that compels us to receive your paper in payment?" "Yes; we have compelled you to take this paper in lieu of gold, and now we break you up because you do not pay in gold." There is the plain English of it. Anybody can understand that. I know that it is not every man in the community, however it may be with the honorable Senator from Ohio, who can blink it and argue it out of sight. All I can say is, that anything that does it is sophistry. It may be very ingenious, but it cannot be sound. A man may believe it to be; but if he does, he is the dupe of his own sophistry. Clear it is that in our progress here, we have made laws and are making laws to-day to compel these banks to take this paper, and they get nothing else; and because they use our paper to pay their notes with, we are to say to them, "you shall go down, and shall not have your notes at all, because you do not pay specie that we will not let you have." That is all there is about it.

Mr. President, I had hoped, after all the trouble that has been on this subject, that I could see through these banks, ultimately, a use by which we may come at last at some time to be again a specie-paying nation and people. These banks, so far as I know them as they exist in the country portion of the United States, are well founded, secure, reliable. The whole community view them to be so; and they redeemed in specie till we compelled them by our laws to take paper, so that they could not get specie to redeem with.

Mr. SHERMAN. I do not wish to interrupt my honorable friend, but I will ask him why they suspended specie payments before the legal tender clause went into effect.

Mr. COLLAMER. If the gentleman would elaborate the suggestions I made half as ingeniously as he does his own ideas, I have made suggestions enough to answer that question. The reason was this: the banks of the cities of New York, Philadelphia, and Boston united together in the exercise of their patriotism——

Mr. SHERMAN. Will my friend allow me to state that the majority of the banks, or the banks having the largest amount of capital, that made those heavy loans, were those which issued very little, if any, paper money. The banks that issued the large amount of paper money, the country banks and western banks, furnished scarcely anything at that time.

Mr. COLLAMER. Mr. President, those banks of the cities and the banks of the country work together in the moneyed world. They perfectly understand each other. There is no such antagonism as the gentleman seems to suppose. They understand each other. They arrange all that matter between themselves. I grant you when those large city banks, with the largest investments, fail to redeem in specie, the country banks fail with them. They did so fail, but it was because the concern is a united one and constitutes a unit and a whole. It does not matter where these banks are situated, whether in villages in New York or in New Hampshire, or Maine or Pennsylvania, or in the city of New York, or Philadelphia, or Boston, they all perfectly understand the operations of each other, and work together for their common purpose. Of course, the country banks have not taken so many of these Treasury notes. The banks of the cities took them all. They all understood that, and arranged their business accordingly; and when they stopped payment of specie, they stopped payment because they had taken this load on them, to be sure, through the active instrumentality of the large institutions, but it was operating on them all, all the while. They all went together. All went up together and all went down together, and they will all redeem together when they can, whenever things can be so arranged that they may do so, unless, indeed, they are throttled and strangled by this great institution here, and the very ingenious gentlemen who sustain it.

Now, Mr. President, this undertaking to tax bank circulation with the avowal of enmity and a determination to destroy them, seems to me to be a very bad return for the patriotic exertions of these institutions to help the country along; a very hard return, a very unkind return. I do not know but it is best for this Government to have it distinctly understood that we will declare war on all the moneyed institutions of the country; but, sir, I do not see the soundness of its patriotism, nor do I see the soundness of its financial principles.

I will not add more words on this subject now, because all gentlemen who know anything about my views, know that I cannot vote for the issuing of tenderable paper, calling it gold and silver. I think in so doing we have transcended our power. I think we should have done just as well without that clause. I think the country in the end would have done infinitely better without it; but I was out-voted, and I am not going to argue that over. That policy has been entered upon. It is a settled system. I suppose it will go on. It can go on without my feeble vote just as well as with it. It is, therefore, a matter of no consequence how I may vote about it. But, Mr. President, when I predicted, and predicted it merely from the lessons of history, that if you began the making of paper money, and making it a tender, you would go on in it rapidly until it must ultimately go down, I did not think we should realize so much of history in so short a time. I did not think we should so soon have such a great increase. Do gentlemen tell me we are encouraged to go on increasing, because it goes well? Does it go well? We are told by the honorable Senator from Ohio, to-day, that gold is nine per cent. above par. What do you mean? Above what? Above these tender notes. Is it not about as good English to say that the notes are nine per cent. below par? Taking a common-sense view of it, should we not say our paper is nine per cent. below par to-day, instead of saying gold is nine per cent. above? Gold and silver are the standard, the coin of the commercial world; and anything that cannot go current with them is below par; and you cannot get rid of that by blinking it out of sight, and saying gold and silver are above par. It is nothing more nor less than an attempt to evade the true character of the transaction. The paper is below par.

I do not say it has got below par quite as rapidly as might be expected; but the more you push out, the more it goes below; and as the history of the world shows, by and by you will feel it in the price of property for which you receive it. Every time it depreciates it demands more money. If gentlemen are to guide themselves in their course of duty as Senators by what is called ascertaining the ulterior bias of public opinion; if that is the guide of duty; if you are to ascertain what you had better do by ascertaining what the people call for, instead of asking yourself what they ought to call for; if you are to look about to see whether the people demand such a thing, instead of seeing what they ought to demand, I believe they will always demand an increase of paper. We have the experience of France and other Governments in issuing paper in this way. They will go on, and demand more of it as they require more to buy the same amount of property. They will, from time to time, demand more of it as the necessity arises, and the necessity grows out of the very nature of the thing. I believe, in the case of the Continental paper, it continued until it was seventeen hundred to one, and it was a little over three thousand to one before they called it no money at all. When it required four times as much of this money to buy a barrel of flour as it ordinarily would in gold, then they would require four times as much to get along with. They always have demanded it, and they always will demand it, and in the very nature of things they must demand it. I did not think it would come quite so quick as it has, that we should have a proposition to increase it by doubling it in less than four months. Going on at the same rate, in ten years we shall have——

Mr. FESSENDEN. If my friend had made a calculation about it and read this bill carefully, he would see that he is mistaken in regard to the facts as they exist. In the first place, we intended to authorize an issue of $150,000,000 of Treasury notes. That was the sum fixed. Sixty millions of dollars of those notes were receivable in payment of customs; these are not. The result has been that up to this time there are $50,000,000 of those notes out. They have not come in.

Mr. COLLAMER. Not so much as that.

Mr. FESSENDEN. I think that $10,000,000 have come in. The result has been, in fact, to give the Secretary the use of only about $100,000,000 instead of $150,000,000 of these notes. They are in the people's pockets. Many people have laid them aside as sure at any time, as good as gold and perhaps better. The result is, instead of giving the Secretary the use of $150,000,000 by the first issue, we have given him but $100,000,000. Now, it is necessary, or supposed to be necessary, that we should enable him to have $50,000,000 to meet that difficulty. He also desires—and on consideration I see no reason why he should not have it—the use of $25,000,000 of small notes for many purposes, especially for the payment of soldiers and things of that sort. The only question was whether we should strike that out; but being entirely satisfied that that amount would be absorbed immediately and would not add materially to the circulation, we were willing to add it. That is all that is in fact to be used; for the Senator will observe that $75,000,000 of the amount proposed in this bill are only to be used in a certain contingency; and that is, in case these thirty days' deposits, which may be withdrawn at any time on giving ten days' notice, should be called for unexpectedly and there are no funds to meet it, the Secretary is to have power to issue as many of these notes as may be necessary for that purpose. It is really and truly an addition of $75,000,000.

Now, let me remark to the Senator that these notes are absolutely out of use, and cannot be had. Where they are gone, we cannot tell. Many of them are on deposit in the sub-Treasury at four and five per cent. Many of them are in circulation abroad. Many of them are in the banks, and are used for the purpose of forming a basis of issue and circulation. Many of them are used in large sums instead of checks in the cities. The result is they cannot be had. When a man goes to a bank to withdraw his money, he cannot get the Treasury notes; he only gets bank notes. I do not think, therefore, that this bill, guarded as it is, will materially affect the circulation of these notes.

Mr. COLLAMER. I am much obliged to the gentleman for his interruption; but if he had noticed my former expression he would have found that my objection was not so much to the bill as he has amended it, as it was to the claim made upon us by the Department. I said they claimed of us to issue $150,000,000.

Mr. FESSENDEN. But it was predicated on a letter from Mr. Chase, desiring it and explaining the reasons for it, and now I only give the reasons.

Mr. COLLAMER. I understand that. The only reason given by the Department for desiring the issue of more notes was the fact that the first issue of between fifty and sixty millions being receivable in payment of customs, was kept to be used for that purpose, and was now out of circulation. That is the statement on which the substance of the letter is founded. That may furnish a good reason for the Department to ask us to let them fill up the gap caused by these other notes being kept out of circulation for that purpose, and there it should have ended. But so far from limiting his claim to make up that amount of between fifty and sixty millions, under the color of the necessity for between fifty and sixty millions more, we are asked for $150,000,000. That is the situation of the letter; that is the situation of the claim. He gave, to be sure, as a reason, that it was necessary temporarily on account of those notes which are receivable in payment of customs being kept out of circulation. He wanted a supply to meet that; but that issue is good just for that amount, and no more. It is used, however, not merely to ask for that amount, but double that amount, triple that amount. That does not explain it, does not meet it. It does not show a case covering the extent of the claim, nor a third of it.

In the next place, Mr. President, I do not profess to be skilled in the formula of financiering; but there is to me something very strange about this deposit. When this subject of the issue of Treasury notes was upbefore, it was provided that they might take in on deposit Treasury notes of people who chose to deposit them, and allow interest on them not exceeding five per cent. when they would deposit them, with the right to demand them in ten days. It was said that that was borrowing money cheap; that all of these notes deposited there the Treasury could take and use, and as they used them and paid but five per cent., and afterwards reduced it to four, it was borrowing money at a comparatively low rate. Those people who had quantities of these Treasury notes, and had not any occasion for their use in the embarrassed condition of commerce and the country, put them on deposit and received this four per cent., subject to their claim that they might demand them at any day, and very considerable sums came in in that way. I remember when that subject was up before, I asked the honorable chairman of the Committee on Finance, our chancellor of the exchequer, if the notes were deposited, and he was subject to be called upon in ten days for them, what he was going to pay them with when called on. The honorable Senator said he was not prepared to answer. Afterwards I got a sort of answer in his remarks on another day, that the Treasury, by experience, would know how much would probably be demanded each day and would keep so much ready. That the said would be the way, just as banks issue on deposit subject to draft. They know what the average of deposits is and the drafts going out, and issue on them, and he supposed this would be assimilated to that. Now, suppose it were necessary to keep one third of these notes on deposit for the purpose of meeting the demand. One hundred millions are deposited under this bill. He keeps $33,000,000 of it in hand, and uses $66,000,000. He pays four per cent. upon $100,000,000 and gets the use of but $66,000,000. Is that getting it cheap? Would it not be better to let them take the bonds of the Government, a permanent loan of twenty years, and not be subject to be called on every ten days, and keep money on hand to deal with?

I do not know but that is wise policy and fine financiering and making money, but the difficulty is I cannot comprehend it. That may be infirmity, and not the defect of the system; but it looks very much like that to me. If a man undertakes to convince me that when he takes $100,000,000, keeps $33,000,000 in his pocket to meet demands, and uses two thirds, and pays interest on the whole amount, he is doing business at a cheap rate, I do not know but that, with my understanding of things, I shall finally be befogged in it, just as the old story relates that a man was in selling whisky and crackers. A fellow came in his store and got a glass of rum. He then called for half a dozen crackers; but he concluded, on the whole, he had better take another glass of rum, instead of the crackers, which he returned. "Now," said the man, "I want you to pay me for the rum." "Why," said he, "I paid you in crackers." "Then pay me for the crackers." "You have got them in your drawer." "Well," said the landlord, "I don't know but it is all right; but it don't seem to me as if I was paid, after all." [Laughter.] This proposition does not seem to me to be right, after all, take it just as you please.

If you turn to this bill, it grants the right to issue $150,000,000 of Treasury notes; then it provides that $75,000,000 of them shall be kept back, and shall not be used until such a demand shall come as I have mentioned on the deposits, which are put there when the men have no means of using the money. To my mind it makes no sort of difference whether, when the $100,000,000 is deposited, he keeps back $75,000,000 of it to redeem them with, and uses $25,000,000, or whether he takes the $100,000,000 and uses them, and keeps back $75,000,000 of the amount allowed in this bill. It is just as broad as it is long, unless it is the expense of making the paper. Money cannot be made by any such contrivance of financiering as that; it is impossible.

I have said this much, not so much in relation to the bill itself, which I suppose will pass, of course, but I was induced to make these remarks upon it in answer to this acknowledged, open, and declared war upon the banks of my country.

Mr. SHERMAN. Mr. President, we always receive instruction from the Senator from Vermont, and in much that he has said, I agree. As to the deposit system on which he comments, I agree with him perfectly. I believe it is a very bad system, and I thought from the beginning that it was a very absurd mode of financiering. It was adopted after considerable debate in the Senate. I believe now it is unwise, and ought to be abandoned. But there is this about it: under the previous law, various parties have deposited in New York and other cities about fifty million dollars at between four and five per cent. Now, suppose some sudden event should occur by which these depositors, like all other depositors in a safety fund, should have a panic, and make sudden demands for this money, how shall they be paid? There is no provision to pay them. The Government must pay them in some way, and it has stipulated that it will pay them. It is a deposit, payable on demand at the end of ten days, and the Government must pay them. As a matter of course, it is the duty of the Government to do the best it can. If it cannot pay in gold and silver, it must provide Treasury notes. Seventy-five millions of the $150,000,000 authorized by this bill are not to be issued at all, except they are called for to pay those deposits. That is the best feature of the bill. In this way we provide a mode of paying for those deposits; but if no bill is passed on the subject, and the Secretary is suddenly called upon to refund this money, he cannot do it.

By the provisions of this bill, as it is now amended, $75,000,000 of the $150,000,000 are not to be issued except in a certain contingency. That contingency, in my judgment, is not likely to happen, because the depositors themselves are interested against the issue of more Treasury notes; and rather than recall their deposits, unless they are very much pressed, they will not call for the issue of these additional Treasury notes. But in case the deposits shall be called for, the Secretary should have some means on hand to meet the calls. That was the view which inflenced the committee in recommending this change, and reserving $75,000,000, instead of one third of the whole deposit, or $30,000,000, as the House proposed.

As to what the Senator says about the danger of increasing the amount of Treasury notes, I agree with him. I see no immediate and pressing necessity for the issue of these additional $150,000,000 of Treasury notes, and therefore I have felt inclined to oppose the bill; but as I have stated, $75,000,000 are not to be issued unless to meet the deposits, so that the increase provided for by this bill is really only $75,000,000. Now, it was said to us by the Secretary of the Treasury that $50,000,000 of the old demand notes are hoarded, and are, therefore, not in circulation; but I have no doubt, and I can assure him that they will come in very soon. They are receivable in payment of duties. No specie is received for duties, and these notes will be paid in from time to time as merchants require them to pay duties, and they will be bought up by banks and speculators and merchants, and be held for the payment of duties. It may take a year to exhaust them in that way; but they will come in.

There is another important privilege attached to the old demand notes: they are fundable at any time in twenty years six per cent. bonds; and a twenty years six per cent. bond is now worth par in specie, or some ten per cent. premium above the legal tender Treasury notes. I have no doubt that the whole of the old issue of the demand notes will be converted in a very short time, either in the payment of duties or in the long twenty years bonds. Having these important privileges, and being for this reason better than the recent issue of Treasury notes, they are withdrawn from circulation, and are not now a part of the actual currency of the country; so that what the chairman of the Committee on Finance says is true, that, instead of $150,000,000 being now in circulation, we have at most but $90,000,000 in circulation; and these notes are actually kept out of circulation by the depreciated bank paper of the country; and every issue you make increases that tendency. Here comes the point where my friend from Vermont and I separate. He is in favor of keeping up the local bank paper and not issuing any more United States paper. Now, suppose that course should be adopted: what would be the result? If the course recommended by the Senator from Vermont should be adopted, we should soon be in the same difficulty that we were in three or four months ago, when he opposed the issue of all United States paper money; that is to say, we should have no money whatever to pay the current demands of the Government.

When the honorable Senator opposed the first issue of legal tender notes, he did not provide any other remedy, and if his advice had been followed, the Government, within ten days from that time, would have been unable to pay its current ex-

penses, even your salary, Mr. President, because it had no sources of income; it was receiving nothing from customs; the outstanding Treasury notes were being paid in for custom-house duties; it could not sell its bonds because there was nothing in which it could receive pay but gold and silver, which were out of circulation; its bonds were then ten per cent. under par. Under those circumstances, I say, that if the advice of the honorable Senator from Vermont had been adopted a few months ago, when we provided for the first issue of legal tender notes, I do not see how the Secretary of the Treasury could have paid the current expenses even of the civil list.

Mr. COLLAMER. The Senator will indulge me in asking him a question. Does the Senator think that, because the Government cannot get along in any other way, they have a right, notwithstanding the Constitution, to steal?

Mr. SHERMAN. No, sir; I am not in favor of stealing.

Mr. COLLAMER. Do the necessities of the Government, however hard or pressing they may be, alter our constitutional power? I opposed making the notes a legal tender, because I thought it unconstitutional.

Mr. SHERMAN. That still does not answer the difficulty. I say that if the advice of the honorable Senator, however distinguished, had been followed, the Government would have been left without the means of support. I do not, therefore, say that the Secretary ought to have stolen money. The advice of the Senator and of Congress, wisely, in my judgment, was that the Secretary should issue the credit of the Government in the form of Treasury notes. That was done, and I think wisely done, and I believe there are but few men in the country who do not consider that the necessity justified the experiment.

Now, the only question with us—and there is where I differ from the Senator—is whether the Government should go on issuing paper money in competition with the bank paper of the country. The Senator seems to think I am hostile to banks. The fact is that I have always been a bank man, and am now. I have always been disposed to favor them, and regard them as useful institutions, and I believe now that the banks will be benefited rather than injured by this system. Banks ought to represent capital, and capital is injured by the inflation of prices and by the derangement of the currency. All the banks ought to be owned by men who have money to lend, who have a surplus of money on hand which they desire to lend and put out on interest, and these are the very men whose business is destroyed and deranged by the derangement of the currency. So far from injuring the banks, I think it will benefit the banks. Take any bank in the State of Vermont for instance, I am not familiar with their local bank system, but I take it that if the banks of Vermont are authorized to issue paper money, they are authorized to issue it upon capital paid in; money paid into the bank. Now, suppose they are compelled to withdraw their circulation, and to use circulation furnished by the United States, is their capital impaired; is their property destroyed; can they not use that money as other banking operations are carried on; can they not loan that capital; can they not make it the basis of the issue of certificates of deposit, of bills of exchange, and of all the various forms of commercial paper? Is it absolutely necessary that they should have the legislative franchise to issue paper money upon their capital stock? Not at all; and I have it from some of the leading banking men of the United States, as I stated in the outset, that they will not be injuriously affected by this proposition. For a time, they no doubt would pay the tax of two per cent, but they would gradually withdraw their circulation; it would be done slowly as debts were paid in in paper of the United States, in the mode pointed out by the Senator from Vermont; they would withdraw their circulation rather than pay the tax. Very many of them perhaps would prefer to pay the tax, because on account of the suspension of specie payments, they are actually getting a profit of six per cent. on their circulation without a corresponding burden being thrown upon them.

But the Senator says the banks were compelled to suspend by the United States. What of it? I do not question the loyalty or patriotism of the banks; on the contrary, I believe the commercial men of the country, the financial men, the bankers of New York and all the leading cities, displayed the greatest amount of patriotism. They did their duty well; I never found any fault with them; but that does not answer the argument. We are now compelled to legislate for the general good of the whole people of the United States. We see their interests and their business about to be affected by a paper currency inflated and beyond our control, issued by fourteen hundred banks, not governed by any general system, but governed by a great variety of local laws. Now if, in the opinion of Congress, it is right and expedient to tax that franchise, they must submit to it. If they think the tax is excessive and oppressive, they will gradually withdraw their circulation; and as they withdraw it, it will give place to a better circulation.

So far, then, from being opposed to the local banks, or desiring to injure them, or affect their capital, I say the system I have proposed will be a benefit to them, because it will check the excessive issue of paper money. The banks will, to avoid this tax, gradually withdraw their circulation. I think it will work beneficially. I regard it as simply a contest between two rival systems of paper money which cannot exist together. You cannot issue three hundred millions of United States paper money, and upon that base the issue of three hundred millions more by the banks. One or the other must be driven out of existence. The paper of the banks being a depreciated, inferior paper money, will drive out of circulation the United States notes. That has been done already, and it will be done; and the more notes you issue, the more they will issue, and the more the business of the country will be deranged.

Mr. President, if we could accomplish the purpose that I seek to accomplish, the gradual and slow withdrawal of the paper money issued by the local banks, we could then resort to a reasonable amount of demand notes as the necessities of the Government compel us to do. That amount ought to be fixed by some law, to which the assent of Congress should be given, in such a way that it should not be subject to repeal or modification. I admit that if the amount of United States demand notes is to be fluctuating, sometimes $100,000,000, sometimes $300,000,000, and to be increased on any special occasion, there will be no end to the whole system of inflation; but if you would issue, say $300,000,000 of Treasury notes, and let it be understood by all the commercial men of the country that that is the ultimate point, beyond which you will not go, and make that a national currency, I do not believe there is a country in the world that will have a better currency. The paper money of every other commercial country is founded on the public credit; this country alone is the exception. In England the issues of the Bank of England amount to about one hundred million dollars, and the amount of Government securities held by the Bank of England is $150,000,000. So in France, and in every commercial country the bank circulation is based on the national public credit, and it is the only sure basis of bank circulation. I do not know any better system of paper money in this country than that which may be furnished by the United States demand notes, if the amount is fixed by law beyond a reasonable danger of change or modification.

That money will pass all over the United States. The only difference between the value of money in California and New York will be the expense of expressing it from California to New York. The only difference between money in Ohio and New York will be about one third of one per cent., or perhaps less. There will be no large sums made by exchanges covered up in the form of usury by banks in their loans to the people. The currency will be uniform, certain, based upon the public credit, a mortgage upon all the property of all the people of the United States. If you had this form of currency, the effect would be at once beneficial. As this currency swelled upon the public and became somewhat inflated, it would be converted into bonds, and thus assume the form of a permanent investment for the Government and for the people, and the amount of stocks could be regulated by law.

I have no doubt that if all the paper money of the banks was now driven out of existence and we had only the basis of three hundred million of United States paper money, the bonds of the United States would rise in value at once and be above par; the difference between gold and paper would disappear. So long as the people of this country had confidence in the existence of the Government, all the surplus capital of the country would be gradually invested in United States securities, because they are the best in the world; but so long as the paper money of the United States is to come into competition with the circulation of the banks, or is made the basis of bank issues, tending to disarrange and demoralize and disorganize the currency of the country and the exchanges of the country, we cannot carry on any sound financial system. Now, the difference between paper money in one part of the country and another is two or three per cent., making a loss at every exchange between the different sections of the country. It is impossible, I say, to carry on business on this system.

Now, sir, this tax is not going to be oppressive to the banks. A bank with $100,000 of circulation would pay $2,000; and why not? They draw from the people, by a forced loan, which they do not pay on demand, $6,000, and if they pay $2,000 of that into the Treasury of the United States, it will not be oppressive; but if the tax should induce them to withdraw their circulation from the ordinary channels of business, so that the United States paper money might take its place, nothing but blessings to the people of this country would result. No damage would be done to the owner of the bank, because he still has his capital, all that he is entitled to have; he simply loses for a time the benefit of a franchise, the exercise of which is now injurious to the public credit. The people of the United States would in this way obtain a sure and stable national currency, which, without change or loss, would always give them a medium of exchange between the East and the West, the North and the South. There would be no longer any depreciated notes; no longer any broken banks; no longer any counterfeit notes, because the notes now issued by the Treasury of the United States are substantially beyond the power of counterfeiting, or, if they are counterfeited, the imposture can be at once detected. The eye of every business man will be at once impressed with the form and shape and character of all the United States demand notes, and any attempt at counterfeiting would be at once detected by eyes constantly on the watch. It seems to me that nothing but good can result from this measure; and if it should accomplish my object, which I boldly and openly declare to be to drive out all the circulation of the local banks, it would be a source of greater benefit and advantage to this country than any measure that has been proposed. I think the Secretary of the Treasury has acted judiciously and wisely in proposing this measure to Congress. I have differed from him very often in regard to his propositions, but this, at least, meets my hearty approval.

Mr. SIMMONS. I do not exactly understand the drift of the argument of the Senator from Ohio, or rather how he puts the two branches of his argument together. He thinks that the circulation of Government notes will do away with all difference of exchange, and retire all the notes of the local banks, and he bases this on the idea that the banks now circulate their paper predicated on their holding United States demand notes to redeem it. That is the way I understand the Senator. If a man has a $1,000 note of any bank in the West, and there is a great discount on the paper of that bank, or if exchange on New York is very high, what is to prevent the man who has that note, and wants to make a remittance, going to the bank and demanding a United States note for it, and thus have something upon which the Senator says there will be no discount?

Mr. SHERMAN. Every person in business receives a great variety of bank notes; he cannot assort them all, and he employs a broker to do it at a cost of one per cent.

Mr. SIMMONS. As a general rule, it is not likely there will be any difference between the United States notes and the circulating notes of the country. I should not think there would be much difference if the United States notes could always be got on demand for bank notes, for the same reason that there is no great difference between bank notes and gold and silver, when you can command gold and silver on demand.

I do not understand, either, the Senator's reasoning about the ultimate security of the people having a safe currency. He says that if the Government were permitted to issue $300,000,000 of those notes for a currency, the people would always be accommodated with a sound circulating medium; and yet in the same breath he tells us that if such an issue was made, the stocks of the United States would rise above par. Now, the probability is that if men could change this currency into paper that was above par, they would do so; and thus it would be taken out of circulation, and be immediately converted into bonds and twenty years bonds, those bonds being above par. That kind of paper would be worth more in the market than the notes themselves, according to my understanding of the course of currency. If people can buy anything worth $105 for $100, they will do it; and if this paper which we are issuing can be converted into a twenty years six per cent. stock at par, there will soon be none of it in circulation—it will be very readily converted into stocks. The stocks into which these notes may now be converted are called five-twenties; that is to say, they are not payable under twenty years, but the Government has the right to redeem them in five years. That is one reason why people deposit these notes temporarily; they cannot put them into a permanent investment; and partly on account of that there has been a distinction between the old Treasury notes and the new demand notes. The old notes can be converted into a twenty years stock; and that is one reason why they are above the new notes. They are about equal to gold and silver because they have two uses which the new notes have not—they can be paid for duties, and they can be converted into a twenty years stock, which is itself above par.

The Senator says that it will not injure the banks to be deprived of the right to issue circulation. If it had not been supposed to be an advantage to them, they would not have issued it, that is certain. It is undoubtedly an advantage and an accommodation to the people. I do not say it is the best species of currency in the world. I think a national bank currency, based upon deposits of Government stocks like the Bank of England, would be very much better; but the people can get the money of the local banks rather more easily than they can get any other kind. If a man from the East is going into one of the western States to buy stock, it is easier for him to make a negotiation with a bank that he will circulate the paper of that bank in making his purchases, and a part of the inducement for making him a loan at a low rate of interest, is that the money may be kept out. In their relations to the people, everybody must know that the banks are the creditor class in a community, and that is one reason why their circulating notes always keep current. The mass of the people are in debt, and if they can get anything to pay their debts with, it answers their purposes. In that way the bank circulation accommodates the people, but I see no way that the people can be accommodated by these notes. Nobody has got them to lend, unless it is capitalists.

The Senator from Ohio has stated that the banks were the cause of the revulsion of business in 1857, or rather that the failure of one bank was the cause of that revulsion. That was one argument which he used against allowing them to issue circulation. According to my recollection the Ohio Life and Trust Company was not a bank of circulation, and I believe it was its failure that produced the first panic in the money market at that time. The Senator's argument against the issues of banks is not supported by the fact which he has adduced to sustain it, because the institution which he says failed and crippled all others in 1857, was not a bank of circulation.

Mr. SHERMAN. It had circulation, but it also was a trust company.

Mr. SIMMONS. I understood it was not a bank of circulation.

Mr. SHERMAN. It had circulation, but not a very large amount according to its capital.

Mr. SIMMONS. I never knew a trust company authorized to issue and circulate notes.

Mr. SHERMAN. It was called the Ohio Life Insurance and Trust Company, but it had circulation, and also had a large amount of money loaned out.

Mr. SIMMONS. It had a great many deposits. It was the agent of many of the States to pay the interest on their debt. It failed to pay at a certain time, and I know that produced a great panic in the money market. Our banks, I believe, are one of the most ingeniously devised systems for credit which we have had in modern times. They perform the office of enabling the labor of the country to anticipate its distant returns. That is their effect, as far as my knowledge extends. I do not see any necessity for us to tax their circulation so as to drive it out of existence. The Government comes in a fair competition with them. The only question to my mind is, whether we are not authorizing the issue of too much paper for the business of the country. My recollection is, that we have generally had about from two hundred and twenty-five to two hundred and fifty million dollars of bank bills in circulation as currency. To increase the Government issue to $300,000,000, as the Senator from Ohio suggests, in my opinion would produce an inflation in prices, if it was suddenly done. If this is a better circulation than that of the banks, the people will soon find it out, and it is unnecessary for us to adopt any untried measure to compel them to take this in lieu of their paper money.

Besides, in many of the States, considerable local revenue is derived from a tax on the banks in one form or other, and they are taxed to as great an extent perhaps as many of them will bear. The States need some sources of income as well as the United States. They have local governments to support, and I think we might as well leave them this resource.

I am not much interested in this sort of property, and do not speak from any particular knowledge about it, or any particular regard to the effect it will have upon the men of wealth who are stated to be engaged in these banks. I am only looking at the effect upon the business men of the country. I think it will be injurious to have a large amount of these facilities withdrawn from the business community at this time, especially in the western country. I have never considered that it was any fault of the banking institutions of the West that their credit was impaired at the commencement of this rebellion. It may have been the effect of their laws not requiring the banks of each State to base their circulation upon the credit of their own State. If the banks of the western States had had their own State stocks where the banks were located as the basis of their circulation, as the banks in the State of New York had, the people would never have suffered much by it, because the whole property of the State would have been held for the redemption of their notes, and there could not have been any great depreciation. There might have been some temporary depreciation, but where the banks have issued paper on the strength of the stocks of their own State I have never known them to depreciate much. When the stocks of the States that seceded went down one half in the market, I understand the Illinois banks were required to place just as much more in the hands of the State, so that the actual market value of the stocks pledged for the redemption of their notes should be equivalent to what it was when they were at par. That I suppose the banks were unable to do, and they had to withdraw their circulation or go into liquidation, which produced great disaster in those States; but from whatever cause the circulation has to be withdrawn, it produces disasters in the community from which it is withdrawn. There is one peculiarity about the circulation of the banks that does not attach to the circulation of these United States notes. I do not know of any State yet, notwithstanding the suspension of specie payments, that has passed any laws to prevent the holders of the currency furnished by the banks from collecting it in gold and silver if they see fit to resort to their legal rights. I suppose that if the holder of any bank note in the western country demanded its payment in gold or silver, and it was refused, he could have a summary method to compel payment. I know it is so with us, and I dare say it is in all the States that have banks. The people who hold the bank paper have a remedy for its collection that they do not have in regard to this United States paper.

I concurred with the Senator from Vermont, when the Treasury note bill was up before, in the impropriety of making these notes a legal tender; and I have not altered my opinion about it, although I agree with the Senator from Ohio that it has given great practical relief to the country; and inasmuch as it has done so, I was induced to give my consent to authorize a further issue. It is not exactly an irredeemable paper in the form in which it is now issued. I then preferred to give a place to retire it at a better rate of interest than was proposed, in order that it might find a resting place, if people got more of it than they could conveniently use in their business; but the Senate did not choose to adopt that method. My opinion is, that the better we can make it, the better the interests of the Government will be subserved; and therefore I should have no objection to having it convertible into a twenty years six per cent. stock. This bill provides that $75,000,000 shall not be issued except in the single contingency of its being necessary to meet the deposits which may be withdrawn on ten days' notice; and with that modification, I thought there could be no very great injury from giving him this source of supply in case he met with a sudden call. Practically, therefore, this allows a circulation of about two hundred and twenty-five million dollars at most. I do not know that these two questions are mixed up together—they have been argued as if they were—or whether this proposition to tax the banks two per cent. is an amendment to the bill. I do not see what particular connection it has with the subject of authorizing the issue of notes, except to make a place for them by dividing out the other circulation. I hope the Senate will consider carefully before adopting any such proposition.

Mr. FESSENDEN. I would suggest to my honorable friend from Ohio, my colleague on the Finance Committee, whether on the whole it would not be advisable to withdraw this amendment at the present time. I am satisfied that the Senate is not now exactly prepared to consider it, and it comes with some surprise upon the country. It is in reality a tax in addition to the tax bill we have passed. I acknowledge that there is a great deal of force in his views, and I do not say that at some future time, in connection with some other proposition, I might not be able to give more consideration to his measure than I can at the present time; but the matter has not been considered by a committee formally; it comes upon the Senate on a sudden, and at the close of a session, and I think it had better be considered in connection with some proposed bank bill, which I understand has been under consideration in the other House, than as a separate and distinct measure on this Treasury note bill. If we were not so much pressed for time, I should not ask it of him; but we are drawing very near to the close of the session, it is a very important matter, it involves very great interests to important institutions of the country, and I am not prepared at the present time, whatever I may do in the future, to give my assent to it standing in connection with this bill, and I think a majority of the Senate are in the same position. That is the disposition even among gentlemen who are disposed to agree with him in many of the views he has expressed in relation to this matter. I do not feel disposed to go into a discussion of the subject and make an argument, if I was capable of making one at the present time. I merely suggest on the whole the action which I think advisable. I hope the Senator will not attempt to press it on the bill now before the Senate.

Mr. SHERMAN. I have felt disposed to withdraw this amendment, as I became satisfied a majority of the Senate was not now prepared to take this step; but on conferring with two or three others, they thought it better to have a vote. I told the Senator a few moments ago, that I was willing, so far as I was concerned, to withdraw it, having satisfied myself that a majority were unwilling to adopt it; but on conference with others who will probably vote for the proposition, I am told it is best to insist on a vote; therefore, I shall not withdraw it.

The PRESIDENT *pro tempore*. The question is on the amendment moved by the Senator from Ohio.

Mr. DAVIS. I understand that the amendment proposed by the Senator from Ohio is not withdrawn.

The PRESIDENT *pro tempore*. The question now before the Senate is on that amendment.

Mr. DAVIS. Mr. President, one of the earliest lessons that I learned in relation to currency was, that there was no proper basis for the cur-

rency of any nation except the precious metals, and that if a mixed currency was indulged, and paper was to be received as part of the circulation, it should be, as a general rule, always a convertible paper; that any bank, or other institution issuing a paper as currency, should always be in the immediate presence of responsibility, by being required at all times to redeem its paper in gold and silver. I hold that these are the just and proper, and the only safe principles of currency; and if there is any exception to the existence and operation of these principles allowable, the exception should be temporary, and should be produced by an extraordinary necessity. I voted for the first bill to issue the demand notes upon the recommendation of the Secretary of the Treasury. I shall vote against the present bill, and against all efforts to continue that system of policy, and I will state one or two reasons why I will give this vote.

I had the greatest doubt in my mind whether it was not unconstitutional to make the demand notes a legal tender; and it was with exceeding difficulty that I at length came to the conclusion that I would consider that objection as overruled by the pressing and immediate demand for money, and the inability to raise it in time for the great exigence in any other mode, without enormous discount. That state of things does not now exist, as the Government can raise money without impressing on its paper the prestige of legal tender.

But, Mr. President, I also voted for that bill as a single and isolated measure. I did not vote for it to inaugurate a permanent system of policy. What is the remarkable announcement from the Treasury Department in relation to such an issue of Government paper as a permanent system of policy on the present occasion? It is complained that the State banks do not redeem their paper in gold and silver, that they are in a state of suspension. Is not the Government in the same condition? Does it become the Government to make that complaint in the nature of a charge of grievance and wrong perpetrated by the banks upon the Government and the country, when the Government itself is in the same default, and when the example of the Government and the necessary consequences have been so potential in producing and continuing this state of suspension by the banks? And what now is the system of the Secretary of the Treasury which is about being developed in this Chamber? It is this: that the circulation of the Government itself shall not be convertible into gold and silver at the pleasure of the holder, and that, notwithstanding this want of convertibility, the Government shall have the privilege of issuing a circulation that will be equal to all the commercial demands of the country, and that this inconvertible circulation of the Government, issued to such an enormous amount, shall take the place of and expel the whole circulation of the State banks. I hold that a more bold and mischievous project was never conceived than that the Government should have, without limit, the power of issuing an irredeemable paper circulation with the avowed policy and object of excluding from circulation and annihilating all the issues of the State banks. A more gigantic scheme for the purpose of increasing the power of the Government and enabling it to dominate absolutely over the whole pecuniary concerns of the country, never was suggested. Are gentlemen prepared to give any countenance to such a grand and encroaching scheme? For myself, sir, at the threshold, in its germ, and before it has commenced its development in fulfilling the financial designs of the present Secretary of the Treasury, I will protest against it, and will vote against it in every phase in which it may come up in the Senate.

What were we told when the first bill authorizing these demand notes, and making them a legal tender, was passed? That it was not to inaugurate a policy. Gold was then at a premium of four or five per cent. An honorable Senator from Michigan [Mr. CHANDLER] proclaimed from his seat, a few days ago, in remonstrance against this measure, that the effect of the proposition itself would be to greatly enhance the price of gold, and such has been the result. When this second legal tender bill from the Treasury Department was first talked of in the Senate, gold I believe was worth five per cent. It is worth now eight, nine, or ten per cent.; and what is it that has produced this depreciation of paper and this enhancement of the price of gold? It is simply the prospect of greatly enlarging the issue of the paper currency. The issue of this paper is just like that of all other irredeemable paper. The effect is to increase the price of gold, and increase the price of property generally, and to diminish the value of the paper; and it consequently takes a larger and a still increasing amount of the paper to answer the ordinary commercial transactions of the country; and they who have any property to sell raise a cry for more paper, because of the enhanced price of their property, the paper being the medium by which the value of the property is to be measured. The more such paper is augmented the effect is to increase the appetite which it feeds. The more paper that is issued the more is required to answer the business transactions of the country, until the currency becomes utterly vicious. The Secretary avows this to be his policy for the establishment of a great absorbing national currency; at least such I understand to be the declaration of the Senator from Ohio: he will go on developing his system, gradually increasing the issue of this Government paper, irredeemable in gold and silver, until it reaches a point that will annihilate and exclude from circulation all the issues of State banks. Is that the character of the war of hostility that the Secretary intends to make upon the State banks? Is it in this way that he intends to create for the United States Government a great controlling fiscal enginery that would enable it to crush all State banks, and give to itself indefinite facilities and power?

I am glad that this scheme has been revealed to the Senate so early. It will be notice to Senators and to the country of what is to be expected from the financial scheme of this vaulting Secretary of the Treasury, and what extensive hostility he meditates upon the interests of the State banks, and upon the owners of stock in them, by his future financial policy. I think that the country and the State banks will take the alarm; that the Senate will take the alarm, and they will meet at the onset this announced hostile project on the part of the Secretary of the Treasury against their interests. I think they ought to do so.

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

Mr. CARLILE. I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. HOWE. I do not feel content to let this amendment go to a vote without saying a word against it; and yet I am not prepared to debate it at length. I am very sorry to have the proposition pressed at this time. It seems to me very clear that the country at large is not prepared for it. I do not think it has been generally anticipated. I am very well satisfied that many portions of the country must be very ill prepared to meet this tax.

Mr. SHERMAN. I will state to the Senator and to others, because he is aware of it, that this proposition was first directly made by the Secretary of the Treasury in his annual report; it was talked of before; and it was discussed in the public prints. The reason why I did not offer it as an amendment to the tax bill was because the same proposition was contained in a banking bill pending in the House of Representatives; but that will not be passed this session, and I therefore desire to press this as an independent proposition.

Mr. HOWE. Although the fact is as the Senator from Ohio states it, that does not controvert the truth of the remark I just now made, that the country is not prepared for a measure of this kind. It has not been expected, it has not been looked for, it has not been discussed as one of the series of Government measures by which the exigencies of these times are to be met. I am a little at a loss now to know precisely what the purpose of the Senator from Ohio is in pressing it. I did understand from one portion of the argument he employed in support of the amendment, that his design was to drive out of circulation the notes of local banks, and that therefore he did not intend this as a revenue measure; that his purpose was not to get a revenue from this circulation, but to drive this paper out of circulation and substitute for it the notes of the United States; and yet in another portion of his argument I understood him to insist that the effect would not be to drive the notes of the local banks out of circulation; that the tax itself as now proposed would not be oppressive upon them. I understood him to argue that they could well afford to pay it, that really a bank which circulates $100,000 of notes was levying upon the community $6,000, and could well afford to pay to the Government $2,000 as a portion of its revenue. If that proposition be true, the effect of this tax, if levied, will not be to drive them out of circulation—because if the banks can make money in spite of the tax the notes will still continue in circulation—you have not done anything to prevent an inflation of the currency; you have not done anything to improve or to change the character of the currency; it will remain the same. It then becomes a revenue measure, and not a measure to affect the character or quantity of the currency.

Mr. President, there are some reasons, I think perhaps peculiar to the financial policy of the State of Wisconsin, which induce me to hope that this measure will not be adopted at this time, whether the purpose of it be to increase the revenues or to change the currency of the country. If the purpose be to increase the revenues by laying this tax upon the banks, I have to say, on behalf of the banks of the State of Wisconsin, that they cannot afford it; it would be ruinous to them. It is one third, thirty-three and one third per cent. on the income of their business; and that is a tax that you lay upon no other kind of business. It is a tax that no business, whether bank business or any other, can stand. If the purpose of the amendment be to change the character of the currency, it would operate very disastrously not merely on the banks of the State of Wisconsin, but upon the people of that State, and upon the State itself. The bank circulation of the State of Wisconsin is all secured upon the stocks of the Government of the United States, or of some State. It is required by law to be so secured. For every dollar of paper in circulation, there must be deposited with the comptroller of the State stocks worth a dollar in the market. The disturbed condition of the currency, and of the business of the country during the last two years, has operated most disastrously on the bankers of that State, and very disastrously upon the people of the State among whom their paper is circulated.

At the commencement of these difficulties, the circulation of that State was secured upon the stocks mostly of southern States, which were declining rapidly in price. The State of Wisconsin was not permitted, by her constitution, to issue her own stocks exceeding $100,000, except in case of war. She had a funded debt of $100,000, that was held, I believe, by the banks, and to that extent was the basis of circulation; the deficiency was made up by the stocks of southern States; they depreciated; depreciated rapidly; and the banks had to make them good as fast as they fell in the market; had to increase their account with the comptroller's office. That proved beyond the ability of a great many of the banks; those had to be closed up, and to that extent the people suffered in the circulation. To meet the exigencies of war, the State was authorized by its constitution to increase its funded debt, and it did issue stocks to the amount of $1,000,000. So far as those stocks have been sold, they have been purchased by the banks of that State, and are now held by the comptroller as security for the circulation of those banks. The effect, therefore, of a measure of taxation which would drive that circulation out of the market, as you see, would be to diminish the value of those stocks; they would be thrown upon the market at once, and the credit of the State would suffer; the present holders of the stocks would suffer, by having them forced upon the market at once, and of course their business, so far as it relates to the issuing of notes for circulation, would be at an end.

It is a disaster that I would extremely regret to have imposed upon that State at the present time; it is a disaster that I would regret to have imposed upon it at any time; but to have it imposed suddenly and on the heels of all that we have suffered heretofore, would be, not to say ungenerous, very hard. Undoubtedly the people of that State have lost within the last eighteen months, in the depreciation of their circulation, $500,000; the bankers, in the depreciation of their stocks, have lost at least $1,000,000, and in the depreciation of property consequent upon this, $20,000,000 at a modest calculation, and I would sooner say $40,000,000. Indeed, my judgment is, that Wisconsin could have been bought sixty days ago for fifty per cent.

of what she would have sold for two years before that; and we are not in a condition to have any such burden, as is proposed by this amendment, imposed on the State at this time. I really hope the amendment will not be adopted; I am very sorry to have it voted upon.

Mr. GRIMES. I promised the Senator from Maine that I would not make a speech, and I will not. I have just three reasons why I am going to vote against this proposition. First, it is a tax if anything, and does not appropriately belong on this bill; the Senator should have offered it on the tax bill. Second, if it is not a tax bill, it is a bill of pains and penalties and does not belong properly here, but should be in the criminal code. In the third place, the effect of it will be to shut up all the small banks, and it will operate to the advantage of the city banks, if it operates to the advantage of any class of banks. It will throw the money transactions into the hands of the city banks and take them away from the country banks.

The PRESIDENT *pro tempore*. The question is upon the amendment of the Senator from Ohio, upon which the yeas and nays have been ordered.

The question being taken by yeas and nays, resulted—yeas 10, nays 27; as follows:

YEAS—Messrs. Browning, Chandler, Harlan, King, Lane of Indiana, Lane of Kansas, Sherman, Trumbull, Wade, and Wright—10.

NAYS—Messrs. Anthony, Carlile, Clark, Collamer, Cowan, Davis, Dixon, Doolittle, Fessenden, Foot, Foster, Grimes, Hale, Harris, Henderson, Howard, Howe, Morrill, Pomeroy, Powell, Saulsbury, Simmons, Stark, Sumner, Ten Eyck, Wilkinson, Willey, and Wilson of Missouri—27.

So the amendment was rejected.

Mr. CARLILE. I move to amend the bill by striking out, in lines nine and ten of the first section, the words, "for the fractional part of a dollar and not more than $25,000,000 shall be," and after the word "of" in line ten, by inserting "a," and striking out the letter "s" at the end of the word "denominations," so as to make the clause read, "that no note shall be issued of a lower denomination than five dollars." I have too much respect, sir, for the character and dignity of my Government to want it to go into an issue of what have heretofore been termed "shinplasters." I do not think there is any actual necessity for it. I believe that the wants of the Treasury and the demands upon it can be met without resorting to the issue of these small notes, and it is a fact that the banking institutions of the country are now limited almost exclusively in their circulation to notes of a less denomination than five dollars. Your legal tender notes have gone in and supplied the wants of the community from five dollars upwards, and I think it is but proper that we should adhere to the policy adopted by Congress when it authorized the first issue of these notes.

The amendment was rejected.

Mr. WILKINSON. I move, in line nine of section one, to strike out the words "for the fractional part of a dollar," and to insert "of a different denomination than is now issued in current gold coin." I offer this amendment at the suggestion of the Treasurer of the United States, who mentioned to me that it would be a better provision than that contained in the bill in this respect, so as to allow, if the necessity existed, the issue of such denominations of notes as are now issued in current gold coin. They probably would find it more convenient.

The PRESIDENT *pro tempore*. The clause, if amended as proposed, will read, "that no note shall be issued of a different denomination than is now issued in current gold coin."

Mr. FESSENDEN. Do I understand that this was requested by the Treasurer of the United States?

Mr. WILKINSON. It was suggested to me by General Spinner yesterday when I was up there. He handed me a bill with the amendment in it, and thought it would be more convenient for all the purposes of the Government.

Mr. FESSENDEN. The Secretary can direct just what he pleases about that.

Mr. HALE. As I understand this amendment, it will forbid the issuing of three dollar bills.

Mr. FESSENDEN. Not three dollar bills; we have three dollar gold coin.

Mr. WILKINSON. We have one dollar, two and a half dollar, three dollar, and five dollar gold coins. He thought these were the most convenient denominations for the use of the Government.

Mr. HALE. I do not care anything about it.

The amendment was agreed to.

The bill was reported to the Senate, as amended, and the amendments were concurred in, and ordered to be engrossed, and the bill to be read a third time.

Mr. POWELL. I ask for the yeas and nays on the passage of the bill.

The yeas and nays were ordered.

Mr. COWAN. I would suggest to the Senator from Minnesota whether he has not by this amendment prevented the issuing of any notes of a greater denomination than twenty dollars. That is the way I understand the amendment.

Mr. FESSENDEN. We might have to issue them to the amount of $1,000.

Mr. COWAN. This amendment requires the notes to be of the same denomination as the current gold coin.

Mr. FESSENDEN. I think it had better be reconsidered.

Mr. WILKINSON. If we can reconsider and strike out the word "different" and insert "less," it will do.

The PRESIDENT *pro tempore*. The amendment can be altered by common consent in the present stage.

Mr. WILKINSON. I suggest that the word "different" be changed to "less."

Mr. FESSENDEN. That will not meet it.

Mr. HALE. I move to reconsider the vote by which we adopted that amendment. I think it a very foolish amendment anyhow.

The PRESIDENT *pro tempore*. The vote ordering the bill to a third reading must first be reconsidered.

The vote by which the bill was ordered to a third reading, was reconsidered.

The PRESIDENT *pro tempore*. The Senator from New Hampshire moves now to reconsider the vote agreeing to the amendment which was moved by the Senator from Minnesota.

The motion was agreed to.

The PRESIDENT *pro tempore*. The question now recurs on the amendment of the Senator from Minnesota.

Mr. WILKINSON. I ask the consent of the Senate to modify the amendment by inserting the word "less," in place of "different."

Mr. FESSENDEN. It is evident that there is no necessity for the amendment. It is only a question whether notes shall be issued for $2 50, and that cannot be of consequence enough to put in the amendment. I hope it will not be adopted.

Mr. TRUMBULL. Let the amendment be read as modified.

The PRESIDENT *pro tempore*. If the clause be amended as proposed, it will read, "that no note shall be issued of a less denomination than is now issued in current gold coin."

The amendment was rejected.

The amendments were ordered to be engrossed, and the bill to be read a third time. The bill was read the third time; and the question on its passage being taken by yeas and nays, resulted—yeas 22, nays 13; as follows:

YEAS—Messrs. Anthony, Browning, Chandler, Clark, Dixon, Foot, Hale, Harris, Henderson, Howard, Howe, Lane of Indiana, Lane of Kansas, Morrill, Pomeroy, Simmons, Sumner, Ten Eyck, Wade, Wilkinson, Willey, and Wilson of Missouri—22.

NAYS—Messrs. Carlile, Collamer, Cowan, Davis, Foster, Harlan, King, Powell, Saulsbury, Sherman, Stark, Trumbull, and Wright—13.

Mr. FESSENDEN. Some of my friends find fault with me for not voting on the bill. I ask unanimous consent to be allowed to record my vote in the affirmative.

The PRESIDENT *pro tempore*. If there be no objection, the name of the Senator from Maine will be entered as requested. The Chair hears no objection; the Senator's vote will be recorded. The Chair will take the occasion here to state that an express rule of the Senate requires every member in his seat to respond when his name is called. The Chair has called the attention of Senators to that rule, as we are frequently left without a quorum. The Chair will leave it to Senators, and the sense of every Senator, to act in compliance with this rule or not.

NAVAL APPROPRIATION BILL.

A message from the House of Representatives, by Mr. ETHERIDGE, its Clerk, announced that the House of Representatives had agreed to some and disagreed to other amendments of the Senate to the bill of the House (No. 423) making appropriations for the naval service for the year ending 30th of June, 1863; and had agreed to other amendments of the Senate to the said bill, with amendments; in which it requests the concurrence of the Senate.

The Senate proceeded to consider its amendments to the bill (H. R. No. 423) making appropriations for the naval service for the year ending 30th of June, 1863, disagreed to by the House of Representatives; and,

On motion of Mr. HALE, it was

Ordered, That the Senate insist on its amendments disagreed to by the House of Representatives, disagree to the House amendments to its amendments, and ask for a conference on the disagreeing votes of the two Houses.

Mr. HALE, Mr. GRIMES, and Mr. POWELL were appointed the committee of conference on the part of the Senate.

ENROLLED BILL SIGNED.

The message further announced that the Speaker of the House of Representatives had signed an enrolled bill (H. R. No. 272) for the relief of Brigadier General Joseph G. Totten; and it was signed by the President *pro tempore*.

VOLUNTEER MEDICAL FORCE—VETO MESSAGE.

The PRESIDENT *pro tempore* laid before the Senate the following message from the President of the United States:

To the Senate of the United States:

I herewith return to your honorable body, in which it originated, an act (S. No. 343) entitled "An act to provide for additional medical officers of the volunteer service," without my approval.

My reason for so doing is that I have approved an act of the same title passed by Congress after the passage of the one first mentioned, for the express purpose of correcting errors in, and superseding the same, as I am informed.

ABRAHAM LINCOLN.

EXECUTIVE MANSION, *July* 2, 1862.

The PRESIDENT *pro tempore*. The question is, "Shall the bill pass, the objections of the President to the contrary notwithstanding?" and upon this question the yeas and nays must be taken.

Mr. KING. The message itself states the reason for the rejection by the veto of the bill, and we may as well take the question at once. The bill is superseded by a subsequent one which was passed, and which corrects an error in the old bill. That bill is therefore returned.

Mr. SAULSBURY. I understand from the message that a bill substantially the same has been passed by Congress, and met the approval of the President, and that he refuses his signature to this bill simply for that reason. I do not know myself what the facts are, and I should like the Senator from New York, or some other gentleman, to give me some information on the subject.

Mr. KING. The facts stated in the message are correct.

The question being taken by yeas and nays, resulted—yeas 0, nays 37; as follows:

YEAS—0.

NAYS—Messrs. Anthony, Browning, Carlile, Chandler, Clark, Collamer, Cowan, Davis, Dixon, Fessenden, Foot, Foster, Grimes, Hale, Harlan, Harris, Henderson, Howard, Howe, King, Lane of Indiana, Lane of Kansas, Morrill, Pomeroy, Powell, Saulsbury, Sherman, Simmons, Stark, Sumner, Ten Eyck, Trumbull, Wade, Wilkinson, Willey, Wilson of Missouri, and Wright—37.

So the bill was rejected.

Mr. SHERMAN. I move that the Senate adjourn.

The motion was agreed to; and the Senate adjourned.

HOUSE OF REPRESENTATIVES.

WEDNESDAY, *July* 2, 1862.

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

The Journal of yesterday was read and approved.

THANKS TO COMMODORE FOOTE.

The SPEAKER laid before the House the following message from the President of the United States:

To the Senate and House of Representatives:

I most cordially recommend that Captain Andrew H. Foote, of the United States Navy, receive a vote of thanks of Congress for his eminent services in organizing the flotilla on the western waters, and for his gallantry at Fort Henry, Fort Donelson, Island No. 10, and at various other places, while in command of the naval forces, embracing a period of nearly ten months.

ABRAHAM LINCOLN.

WASHINGTON, D. C., *July* 1, 1862.

Mr. WASHBURNE. I move that that message be referred to the Committee on Naval Affairs, with leave to report at any time, and that it be ordered to be printed.

The motion was agreed to.

SOLDIERS' BOUNTY BLANKS.

The SPEAKER also laid before the House a communication from the Secretary of the Treasury in regard to blanks for the procurement of soldiers' bounty, &c.; which was referred to the Committee on Military Affairs, and ordered to be printed.

MILITARY RESERVE AT FORT LEAVENWORTH.

Mr. WASHBURNE. Mr. Speaker, the Secretary of War has sent to me a communication, asking that an investigation may be made in regard to the issue of more patents for the military reserve at Fort Leavenworth, Kansas. He sent it to me as the chairman of the committee on Government contracts, in order that that committee might investigate the subject; but we have no authority to investigate it without the order of the House. I ask, therefore, the unanimous consent of the House to introduce the following resolution:

Resolved, That the committee on Government contracts be directed to make full investigation into the alleged issue of patents for land included within the military reserve at Fort Leavenworth, and all the circumstances connected therewith; and also in relation to the present situation of the reserve at Fort Snelling, and report to this House.

Mr. ROSCOE CONKLING. I call for the regular order of business.

The SPEAKER. Does the gentleman object to the resolution?

Mr. ROSCOE CONKLING. I do.

WASHINGTON PASSENGER RAILWAY.

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

Resolved, That the Committee for the District of Columbia be directed to inquire what legislation, if any, is necessary to protect the interest of the United States in the use of the street railroads in the cities of Washington and Georgetown authorized by act of Congress of 17th of May, 1862; and whether the Washington and Georgetown Railroad Company are so constructing the track of said road as to admit the running of ordinary freight cars over the same roads connecting therewith; and that said committee report by bill or otherwise.

PITTSBURG AND CONNELLSVILLE RAILROAD.

Mr. MALLORY, by unanimous consent, from the Committee on Roads and Canals, reported a bill to aid in the completion of the Pittsburg and Connellsville railroad; which was read a first and second time, referred to the Committee of the Whole on the state of the Union, and, with the accompanying report, ordered to be printed.

UNITED STATES COURTS FOR WEST TENNESSEE.

Mr. MAYNARD, by unanimous consent, introduced a bill to change the place of holding the circuit and district courts of the United States in the district of West Tennessee; which was read a first and second time, and referred to the Committee on the Judiciary.

MILITARY OCCUPATION OF WHITE HOUSE.

Mr. BLAIR, of Missouri, by unanimous consent, introduced the following resolution; which was read, considered, and agreed to:

Resolved, That the Secretary of War be directed to communicate to the House any communication or explanation received by the Government from Major General George B. McClellan on the subject of the occupation by the troops under his command of the White House, Virginia.

NAVY APPROPRIATION BILL.

The SPEAKER stated the question in order to be the consideration of the amendments of the Senate to House bill No. 423, making appropriations for the naval service for the year ending the 30th of June, 1863; on which the gentleman from New Hampshire [Mr. EDWARDS] was entitled to the floor.

ARMY APPROPRIATION BILL.

Mr. STEVENS. I ask the gentleman to yield to me that I may move to take up the amendments of the Senate to the Army appropriation bill, which have come from the Senate since yesterday, and which it is essential the House should consider at once. The Committee of Ways and Means, in advance of their being sent in here, considered the amendments and are ready to make their report. It is deemed necessary that they should pass immediately, unless there is some serious objection, in order to facilitate the raising of more troops, now deemed necessary because of the condition of our army of the Potomac. The Committee of Ways and Means have carefully considered the amendments, and recommend a concurrence in them all.

There being no objection, the amendments were taken up and severally concurred in.

Mr. STEVENS moved to reconsider the vote by which the amendments were concurred in; and also moved that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

NAVAL APPROPRIATION BILL—AGAIN.

The House resumed the consideration of the bill (H. R. No. 423) making appropriations for the naval service for the year ending June 30, 1863, the following amendment, offered by Mr. ROLLINS, of New Hampshire, being under consideration:

Add to the twenty-second amendment of the Senate, authorizing the purchase of Seavey's Island, the following:

And provided further, That if a satisfactory title to the whole of said island cannot be secured for the said sum of $65,000 within three months from the passage of this act, then the Secretary of the Navy may proceed to purchase such parts of said island as can be purchased for fair proportional parts of said sum.

Mr. EDWARDS. I have never known before this morning the full value of having the floor, which has now given me the privilege of obliging so many of my friends. It is, however, my purpose to occupy it but a brief time, and if the House had been full, perhaps I might not have felt justified in being so accommodating, as I could have disposed of what participation I was entitled to in this matter in a very few moments.

If one had listened to the debates yesterday as an auditor I think he would have come to the conclusion that it is expected here that every member of the House will support all measures which are calculated to promote the local interests of the constituency he may represent, and from the motives imputed, to oppose all measures which are calculated especially to benefit anybody else. But, sir, I have not learned legislation in that school, and let me say here that the State which we of New Hampshire represent here in this branch of Congress do not desire that the House shall concur in the amendments of the Senate upon any considerations of extending a benefit to our State. And I trust that the gentlemen from Maine, who are quite as much interested in this matter, do not ask or expect any favor upon that ground.

Sir, if this yard is not of national interest, if the proposed addition to its accommodations is not called for by requirements of the naval service of the Government, we have no desire that the amendment should be adopted. In relation to the bill as it passed the House, for the purchase of twenty-seven acres of land, it has been demonstrated to the House, not only at this session, but heretofore, that this quantity of land was required for the service at that point, and the House has given its sanction to that view of the matter.

Then the only question before the House now is whether they will extend that purchase to the entire island that they may have its control both now and hereafter for purposes connected with the navy-yard at that point. Now, sir, it is well known to the country that that harbor is one of the most importance to the country, and that for safety of position, capaciousness, and depth of water, it is inferior to no naval station upon the Atlantic coast, and if looking to the future, it shall be considered a wise policy to secure at this time the additional advantages of this entire tract of land, I trust the House will give to this amendment their support.

In relation to this matter, the only evidence I have is the evidence before the House, and that is the recommendations before it, and representations of gentlemen better acquainted with that locality than myself; and if these shall be satisfactory, undoubtedly the House will agree to the amendment.

But without pursuing this matter further than to express these general views in relation to it, and to say that we do not stand here as suppliants in behalf of the State, that we do not ask this, that we would not ask anything for the State except what shall at the same time be believed to be conducive to the general interest, and that we do not expect that we can compel anything for the interest of the State by any strength we have, or by any associations or combinations we could make. We are content, therefore, that the measure should be decided upon its merits, as every other measure should be that is brought before us. With these remarks I pass the subject over to my colleague, who offered this pending amendment to the Senate's amendment, and who will dispose of it as he thinks proper.

Mr. FESSENDEN. With respect to the amendment proposed by the gentleman from New Hampshire, it must be perfectly obvious, after the remarks which were made by the chairman of the Naval Committee, that the amendment should pass. The honorable gentleman from Illinois [Mr. WASHBURNE] said that no reason had been given, as he could perceive, why the amendment should prevail. I ask if a letter was not read recommending the purchase of this land, and presenting the most important considerations in reference to it—reasons such as should induce this House to vote for the appropriation.

But, sir, I rise to say particularly that I very much regret the course which the honorable gentleman from Illinois [Mr. WASHBURNE] took in opposition to this amendment. I wish to ask if this is the way in which he requites his friends? Why, sir, was it for the reason that he could not carry his point here in regard to a movement which he made a few days since, and which was so ably argued on this floor, that he opposed this bill? I regret that he did not make some discrimination; I regret that he should have classed us all among those who were opposed to that very important measure.

Why, sir, if the statement of the gentleman from New York, [Mr. OLIN,] a few days since, was correct, there is not a fortification upon the whole coast of Maine that is of any account whatever as against armored ships. If that be true, the whole sea-board is at this moment undefended if there should be an attack from any foreign Power. What are we to do upon that sea-coast? We are at the mercy of our enemies, and still gentlemen from the East came forward and supported the very large appropriation to accomplish the object which the gentleman from Illinois proposed, and of which the gentleman from New York was in favor. I repeat, we are to know upon this floor, as has been well said, no North, no South, no East, no West; we are to know the whole country in all the votes which are cast here; and, sir, I supported that measure because I felt it to be an important measure; and because I feel this to be a very important measure, so far as relates to our sea-board, I urge gentlemen to give it their support, and let the amendment prevail.

Mr. ROLLINS, of New Hampshire. Yesterday, after consultation with the chairman of the Committee on Naval Affairs, and also with members of the Committee of Ways and Means, I proposed the pending amendment to the Senate amendment. I supposed the amendment would meet the approbation of every member of the House, and now think there are very few, indeed, who would object if the proposition was allowed to stand upon its own merits. I see, however, that this amendment is likely to array against us, in, perhaps, a hostile attitude, under the leadership of my friend from Illinois, [Mr. WASHBURNE]—who, I think, by the way, has manifested too much excitement on this matter—the Representatives, to some extent, of the great Northwest. I therefore, if I may be allowed the privilege, withdraw the amendment.

No objection being made, the amendment was withdrawn.

Mr. STEVENS. I move the previous question upon the Senate amendments.

Mr. MALLORY. Allow me to ask, for information, what kind of land it is which is proposed to be purchased at the price of $500 an acre? Is it not composed of rock and sand exclusively?

Mr. STEVENS. In order to answer the question, I withdraw the demand for the previous question. I do not know what the quality of the soil is. We intend to purchase it for naval purposes alone.

Mr. MALLORY. My object is to get at the value of the land for farming purposes.

Mr. STEVENS. I do not understand that any lands in that neighborhood are good for farming

purposes, but they are very good for building purposes.

Mr. MALLORY. It is understood, then, that the lands are nearly valueless, and yet it is proposed to give $500 an acre for land intrinsically worth nothing. Now, why we cannot get it cheaper is a matter which I do not understand.

Mr. STEVENS. We had this matter before us at the extra session, and Commodore Smith visited this place last summer, and he informed us that it was very important for naval purposes that we should have the whole island. It was not recommended on account of the quality of the soil—for New England is not fit for farming purposes—but if it were fit for farming purposes, I do not suppose it would be worth twenty dollars an acre. It is recommended for purposes of a navy-yard, and for such purposes it is very valuable.

Mr. MALLORY. I simply intended to intimate how very fortunate these men are who hold land in the vicinity of Portsmouth, which, though worth but little for farming purposes, for the convenience of the Government is worth $500 an acre.

Mr. STEVENS. The man who owns corner lots in San Francisco is a very happy man, and yet his land is not worth fifty dollars an acre for farming purposes. [Laughter.] I move the previous question on the remaining amendments.

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

Mr. MALLORY demanded the yeas and nays on agreeing to the amendment of the Senate.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 36, nays 87; as follows:

YEAS—Messrs. Aldrich, Ashley, Baker, Baxter, Biddle, Blake, Corning, Delano, Delaplaine, Edwards, Fessenden, Goodwin, Haight, Hale, Hooper, Kelley, Lovejoy, Low, McPherson, Moorhead, Justin S. Morrill, Nixon, Patton, Timothy G. Phelps, Pomeroy, Potter, Alexander H. Rice, John H. Rice, Edward H. Rollins, Sargent, Sedgwick, Sheffield, Spaulding, Stevens, Stratton, and Verree—36.

NAYS—Messrs. William Allen, William J. Allen, Alley, Arnold, Babbitt, Baily, Bingham, Jacob B. Blair, Samuel S. Blair, William G. Brown, Buffinton, Calvert, Campbell, Casey, Chamberlin, Clark, Clements, Cobb, Colfax, Frederick A. Conkling, Roscoe Conkling, Cox, Cristield, Crittenden, Davis, Dawes, Diven, Duell, Dunlap, Dunn, Eliot, Ely, Fenton, Fisher, Fouke, Frank, Granger, Hall, Harding, Holman, Hutchins, Johnson, Julian, William Kellogg, Killinger, Knapp, Law, Leary, Loomis, Mallory, Mitchell, Morris, Norton, Nugen, Odell, Pendleton, John S. Phelps, Porter, Richardson, Riddle, James S. Rollins, Segar, Shanks, Shellabarger, Sherman, Shiel, Sloan, William G. Steele, Stiles, Benjamin F. Thomas, Train, Trimble, Trowbridge, Van Horn, Van Valkenburgh, Vibbard, Voorhees, Wallace, Ward, Washburne, Webster, Wheeler, Albert S. White, Wilson, Windom, Woodruff, and Worcester—87.

So the twenty-second amendment of the Senate was not concurred in.

Twenty-fourth amendment:

In the clause in relation to the hospital at Portsmouth, New Hampshire, on page 9, line one hundred and ten, strike out the words, "building coal wharf and coal shed, and for fencing the grounds, $5,500."

The Committee of Ways and Means recommended concurrence.

The amendment was concurred in.

Twenty-fifth amendment:

On page 10, in the same clause, strike out the following proviso:

Provided, That no building shall be erected or extended until complete plans, and specifications, and estimates of cost in detail shall be furnished to and approved by the Secretary of the Navy, and contracts therefor shall be let upon due and public advertisement.

The Committee of Ways and Means recommended concurrence.

The amendment was not concurred in.

Twenty-sixth amendment:

On the same page, in the clause appropriating $71,500 for extension of hospital and repairs of buildings at Boston, strike out the following proviso:

Provided, That no building shall be erected or extended until complete plans, and specifications, and estimates of cost in detail shall be furnished to and approved by the Secretary of the Navy, and contracts therefor shall be let upon due and public advertisement.

The Committee of Ways and Means recommended non-concurrence.

The amendment was non-concurred in.

Twenty-seventh amendment:

On the same page, in the clause providing for repairs and improvements at the hospitals at New York, strike out "$7,500," and insert in lieu thereof, "and house for surgeon and director of the laboratory, $21,500."

The Committee of Ways and Means recommended concurrence.

The amendment was concurred in.

Twenty-eighth amendment:

On page 11, under the heading "magazines," after line two hundred and forty-six, insert the following:

Philadelphia:

For repairs of wharf and magazine at Fort Mifflin, $1,500.

The Committee of Ways and Means recommended concurrence.

The amendment was concurred in.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. FORNEY, its Secretary, announced that the Senate had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments to the bill (H. R. No. 260) making appropriations for the current and contingent expenses of the Indian department, and for fulfilling treaty stipulations with various Indian tribes, for the year ending June 30, 1863.

NAVAL APPROPRIATION BILL—AGAIN.

Twenty-ninth amendment:

On page 12, in line two hundred and sixty-six, strike out "forty," and insert in lieu thereof "sixty;" so that the clause will read:

For the purchase of nautical instruments, repairs of the same, and of astronomical instruments, and for the purchase of nautical books, maps, and charts, and for backing and binding the same, $60,000.

The Committee of Ways and Means recommended non-concurrence.

The amendment was non-concurred in.

Thirtieth amendment:

Strike out "for rent of quarters for the Naval Academy at Newport, wages, furniture, and contingent expenses therefor, $48,047," and insert in lieu thereof, "for wages of watchmen and contingent expenses of the Naval Academy, $32,797."

The Committee of Ways and Means recommended concurrence.

The amendment was concurred in.

Thirty-first amendment:

Insert the following as an additional clause:

For repairing and refitting the buildings and grounds of the Naval Academy at Annapolis, $25,000.

The Committee of Ways and Means recommended non-concurrence.

The amendment was non-concurred in.

Thirty-second amendment:

Insert the following as an additional clause:

For the pay of mileage of the visitors to the academy, $1,000.

The Committee of Ways and Means recommended concurrence.

Mr. LOVEJOY. There is no law for that item. I ask for a division on it.

Mr. MORRILL, of Vermont. It is a matter that ought to be provided for.

Mr. ELIOT. It is always paid.

The SPEAKER. Debate is not in order.

The question was put on concurring in the amendment, and no quorum voted.

Mr. LOVEJOY called for tellers.

Tellers were not ordered.

Mr. WASHBURNE. I hope the Chair will exercise his authority and order tellers.

The SPEAKER. The Chair cannot exercise that authority. The rule does not give him that right.

Mr. WASHBURNE. Where the Chair is in doubt he has a right to order tellers.

The SPEAKER. When the Chair is in doubt the rules give him that authority. When there is no doubt, as in this case, he has no such authority.

Mr. DUNN. I suppose it is not too late to call for the yeas and nays, and I demand them.

The yeas and nays were ordered.

Mr. MORRILL, of Vermont. I hope that the call for the yeas and nays may be withdrawn, and that a recount may be had.

Mr. DUNN. I will gladly withdraw the call for the yeas and nays if there is any way of getting out of this difficulty.

The SPEAKER. If there is no objection, the Chair will again put the question to the House. The Chair hears no objection.

The question was again put, and the amendment of the Senate was concurred in.

Thirty-third amendment:

In line two, section two, strike out "commissioned officers," and insert "captain" in lieu thereof, so that it will read:

That the pay of any captain of the Navy who shall, in pursuance of law, perform duty as chief or assistant of a bureau in the Navy Department, shall be the pay of a captain of the Navy "on other duty," &c.

The Committee of Ways and Means recommended concurrence.

The amendment was concurred in.

Thirty-fourth amendment:

In lines three and four of the same section strike out the words "or assistant."

The Committee of Ways and Means recommended concurrence.

The amendment was concurred in.

Thirty-fifth amendment:

In the same section strike out the words "not, however, exceeding the sum of $3,500 per annum," and insert in lieu thereof, "to take effect from the date of the act regulating the pay of the Navy, approved June 1, 1860;" so that the section will read:

SEC. 2. *And be it further enacted*, That the pay of any captain of the Navy who shall, in pursuance of law, perform duty as chief of a bureau in the Navy Department, shall be the pay of a captain in the Navy "on other duty," to take effect from the date of the Act regulating the pay of the Navy, approved June 1, 1860.

The Committee of Ways and Means recommended concurrence.

Mr. MORRILL, of Vermont, demanded tellers.

Tellers were ordered; and Messrs. HOLMAN and BABBITT were appointed.

The House divided; and the tellers reported—ayes sixty, noes not counted.

So the amendment was concurred in.

Thirty-sixth amendment:

Page 13, line four, strike out "$1,500," and insert in lieu thereof "$2,000," so as to make the pay of one clerk to Navy agent $2,000 per annum.

The Committee of Ways and Means recommended concurrence.

The amendment was concurred in.

Thirty-seventh amendment:

Page 13, line five, strike out "$1,200," and insert in lieu thereof "$1,500," so as to make the pay of another clerk to Navy agent $1,500 per annum.

The Committee of Ways and Means recommended concurrence.

Tellers were ordered; and Messrs. ROLLINS, of New Hampshire, and THOMAS, of Massachusetts, were appointed

The House divided; and the tellers reported—ayes 55, noes 44.

So the amendment was concurred in.

Thirty-eighth amendment:

Page 13, line six, strike out "twelve," and insert in lieu thereof "fifteen;" so as to make the pay of clerk to the commandant $1,500 per annum.

The Committee of Ways and Means recommended concurrence.

The amendment was concurred in.

Thirty-ninth amendment:

Page 13, line seven, strike out "nine," and insert in lieu thereof "fifteen;" so as to make the pay of clerk of the yard $1,500.

The Committee of Ways and Means recommended concurrence.

Mr. MORRILL, of Vermont, demanded tellers.

Tellers were ordered; and Messrs. FENTON and CRISFIELD were appointed.

The House divided; and the tellers reported—ayes 57, noes 38.

So the amendment was concurred in.

Fortieth amendment:

Page 13, line nine, strike out "nine," and insert in lieu thereof "fifteen;" so as to make the pay of clerk to the paymaster and inspector of provisions, &c., $1,500 per annum.

The Committee of Ways and Means recommended concurrence.

Mr. HOLMAN called for the yeas and nays.

The yeas and nays were not ordered.

Mr. MORRILL, of Vermont, called for tellers.

Tellers were ordered; and Messrs. ELY and DUELL were appointed.

The House divided; and the tellers reported—ayes 62, noes 31.

So the amendment was concurred in.

Mr. F. A. CONKLING. I rise to a point of order. The gentleman from Kentucky [Mr. MALLORY] has not voted on any of these divisions.

Mr. MALLORY. That is a fact. I have not voted on these amendments.

The SPEAKER. The gentleman's point seems to be more a point of fact than a point of order.

Mr. MALLORY. I acknowledge the point of fact.

The SPEAKER. It is not for the Chair to decide about it.

Forty-first amendment:

Strike out "$750," and insert in lieu thereof "$1,000;"

so as to make the pay of steward to paymaster $1,000 per annum.

The Committee of Ways and Means recommended concurrence.

The amendment was non-concurred in.

Forty-second amendment:

Add the following new section:

SEC. 3. *And be it further enacted*, That from and after the 1st day of September, 1863, the spirit ration in the Navy of the United States shall forever cease, and thereafter no distilled spirituous liquors shall be admitted on board of vessels of war except as medical stores, and upon the order and under the control of the medical officers of such vessels, and to be used only for medical purposes. From and after the said 1st day of September next, there shall be allowed and paid to each person in the Navy now entitled to the spirit ration five cents per day in commutation and lieu thereof, which shall be in addition to their present pay.

The Committee of Ways and Means recommended concurrence, with the following amendment:

Strike out the words "and thereafter no distilled spirituous liquors shall be admitted on board of vessels of war except as medical stores, and upon the order and under the control of the medical officers of such vessels, and to be used only for medical purposes."

The amendment to the amendment was agreed to; and the amendment, as amended, was concurred in.

Forty-third amendment:

Add the following new section:

SEC. 4. *And be it further enacted*, That each assistant paymaster attached to any vessel of war shall be authorized to appoint a clerk in lieu of the steward heretofore allowed, subject to the approval of the commanding officer of such vessel, and such clerk shall have the privileges of a paymaster's clerk, and his yearly compensation shall be $400 and one ration per day.

The Committee of Ways and Means recommended concurrence.

Mr. SEDGWICK. I ask leave to offer a proviso.

Mr. HOLMAN. Let it be read for information.

The amendment was read, as follows:

Provided, That no paymaster or assistant paymaster shall be allowed a clerk on board of any vessel whose complement is less than one hundred persons.

Mr. STEVENS. I must object, the previous question being pending.

The question was taken on the Senate amendment; and it was non-concurred in.

Forty-fourth amendment:

Add the following new section:

SEC. 5. *And be it further enacted*, That the orders, regulations, and instructions heretofore issued by the Secretary of the Navy be, and they are hereby, recognized as the regulations of the Navy Department, subject, however, to such alterations as the Secretary of the Navy may adopt, with the approbation of the President of the United States.

The Committee of Ways and Means recommended concurrence.

The amendment was concurred in.

Forty-fifth amendment:

Add the following new section:

SEC. 6. *And be it further enacted*, That the pay of a secretary of a commander of a squadron shall hereafter be $1,500 a year and one ration.

The Committee of Ways and Means recommended concurrence.

Mr. HOLMAN. I desire to ask the chairman of the Naval Committee as to what extent this amendment increases the pay of the officer referred to, what is his present salary, and what is the increase.

Mr. SEDGWICK. I am not able to say. This bill has not been referred to the Naval Committee.

Mr. HOLMAN. Then I put the same question to the chairman of the Committee of Ways and Means.

Mr. STEVENS. Mr. Speaker, we had better either vote or give up voting. Go on with the business.

Mr. MORRILL, of Vermont, demanded tellers.

Tellers were ordered; and Messrs. POTTER and VOORHEES were appointed.

Mr. JOHNSON. I call for the yeas and nays, as the chairman of the Committee of Ways and Means does not choose to answer a proper question.

The yeas and nays were not ordered.

The House divided; and the tellers reported—yeas 62, nays 34.

So the amendment was concurred in

Forty-sixth amendment:

Add the following new section:

SEC. 7. *And be it further enacted*, That chaplains in the Navy shall be not less than twenty-one nor more than thirty years of age at the time of their appointment as such.

The Committee of Ways and Means recommended non-concurrence.

The amendment was non-concurred in.

Forty-seventh amendment:

Add the following new section:

SEC. 8. *And be it further enacted*, That hereafter minors, not under the age of eighteen years, may be enlisted in the naval service without the consent of their parents or guardians.

The Committee of Ways and Means recommended non-concurrence.

The amendment was non-concurred in

Forty-eighth amendment:

Add the following new section:

SEC. 9. *And be it further enacted*, That the President of the United States be, and he is hereby, authorized to annually appoint ten acting midshipmen for education at the Naval Academy, who shall be selected from the sons of officers or soldiers who distinguished themselves in the service of the United States, or from the sons of officers or men in the naval or marine service of the United States who have thus distinguished themselves.

The Committee of Ways and Means recommended concurrence, with an amendment, as follows:

Strike out the words "who shall be selected from the sons of officers or soldiers who distinguished themselves in the service of the United States, or from the sons of officers or men in the naval or marine service of the United States who have thus distinguished themselves."

The amendment to the amendment was agreed to; and the amendment, as amended, was concurred in.

Forty-ninth amendment:

Add the following new section:

SEC. 10. *And be it further enacted*, That the District of Columbia shall be regarded for all the purposes of appointment to the Naval Academy as a congressional district, their appointment thereto to be designated by the President of the United States from residents of the District.

The Committee of Ways and Means recommended concurrence.

The amendment was concurred in.

Fiftieth amendment:

Amend the title by adding, "and for other purposes;" so that it will read:

An act making appropriations for the naval service for the year ending 30th of June, 1863, and for other purposes.

The Committee of Ways and Means recommended concurrence.

The amendment was concurred in.

Mr. MORRILL, of Vermont, moved to reconsider the several votes by which the amendments of the Senate were concurred or not concurred in; and also moved to lay the motion to reconsider on the table.

Mr. HOLMAN. Is that motion in order?

The SPEAKER. Only by unanimous consent.

Mr. HOLMAN. I believe I do not consent to it, unless votes be allowed on the several amendments increasing salaries.

Mr. MORRILL, of Vermont. I withdraw the motion.

SHIP CANAL.

Mr. SHEFFIELD. I rise to a privileged question. I call up the motion to reconsider the vote whereby the bill (H. R. No. 288) to construct a ship canal for the passage of armed and naval vessels from the Mississippi river to Lake Michigan, and for other purposes, was laid on the table yesterday. If reconsidered, I will move to postpone its further consideration till the first Wednesday in December next.

Mr. MORRILL, of Vermont. I ask the gentleman from Rhode Island to allow me to offer an amendment to his proposition to postpone.

Mr. SHEFFIELD. I will certainly allow it to be voted on by the House.

Mr. HOLMAN. I rise to a question of order. The only motion pending at this time on this subject is the motion to reconsider. A motion to postpone to a future day is not in order now. When the motion to reconsider comes up, I will seek the floor to move to lay the motion on the table.

The SPEAKER. The gentleman from Rhode Island stated that he rose to call up a motion to reconsider. Does the gentleman from Indiana make a motion?

Mr. HOLMAN. My motion is that the motion to reconsider be laid on the table.

Mr. WASHBURNE. I demand the previous question on the motion to reconsider.

The SPEAKER. As the motion to reconsider would not of itself be debatable, the motion for the previous question is unnecessary.

The question was taken on Mr. HOLMAN's motion; and on a division, there were—ayes 54, noes 46.

Mr. WASHBURNE demanded the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 56, nays 71; as follows:

YEAS—Messrs. William Allen, Alley, Ancona, Babbitt, Baily, Biddle, Bingham, Samuel S. Blair, William G. Brown, Calvert, Campbell, Frederick A. Conkling, Covode, Cravens, Crisfield, Crittenden, Cutler, Davis, Dunlap, Dunn, English, Gooch, Goodwin, Hale, Harding, Holman, Johnson, Kellinger, Law, Lazear, Leary, McKnight, McPherson, Mallory, Maynard, Moorhead, Morris, Nixon, Nugen, Pendleton, Perry, Porter, Alexander H. Rice, John H. Rice, Edward H. Rollins, William G. Steele, Stevens, Stiles, Stratton, Train, Trimble, Trowbridge, Verree, Wallace, Webster, and Woodruff—56.

NAYS—Messrs. Aldrich, William J. Allen, Arnold, Ashley, Baker, Baxter, Beaman, Francis P. Blair, Jacob B. Blair, Blake, George H. Browne, Buffinton, Casey, Chamberlin, Clark, Colfax, Roscoe Conkling, Dawes, Delano, Diven, Duell, Edwards, Eliot, Ely, Fenton, Fessenden, Fouke, Frank, Granger, Gurley, Haight, Hutchins, Julian, Francis W. Kellogg, William Kellogg, Knapp, Lansing, Loomis, Lovejoy, Low, Mitchell, Justin S. Morrill, Odell, Olin, Timothy G. Phelps, Pomeroy, Potter, Price, Richardson, Riddle, James S. Rollins, Sargent, Sedgwick, Segar, Shanks, Sheffield, Shellabarger, Sherman, Shiel, Sloan, Spaulding, Benjamin F. Thomas, Van Horn, Van Valkenburgh, Walton, Ward, Washburne, Wheeler, Albert S. White, Wood, and Worcester—71.

So the motion to reconsider was not laid on the table.

Before the vote was announced,

Mr. PATTON stated that on all questions relating to this bill he had paired with his colleague, Mr. HICKMAN, who was absent on account of sickness.

Mr. KELLEY stated that he had paired with Mr. FRANCHOT on this vote.

Mr. MALLORY stated that Mr. MENZIES and Mr. GRIDER were detained from the House in consequence of indisposition.

The question recurred on the motion to reconsider.

MESSAGE FROM THE PRESIDENT.

A message was received from the President of the United States, informing the House that he had approved and signed bills of the following titles:

An act (H. R. No. 312) to provide internal revenue to support the Government, and to pay interest on the public debt;

An act (H. R. No. 304) to aid in the construction of a railroad and telegraph line from the Missouri river to the Pacific ocean, and to secure the Government the use of the same for postal, military, and other purposes;

An act (H. R. No. 391) to punish and prevent the practice of polygamy in the Territories of the United States, and other places, and disapproving and annulling certain acts of the Legislative Assembly of the Territory of Utah;

An act (H. R. No. 515) to provide for the appointment of an Indian agent in Colorado Territory;

An act (H. R. No. 425) to incorporate the Guardian Society to Reform Juvenile Offenders in the District of Columbia;

An act (H. R. No. 521) for the relief of William B. Dodd and others;

An act (H. R. No. 442) to establish a land district in the Territory of Nevada, and for other purposes;

An act (H. R. No. 371) to prescribe an oath of office, and for other purposes;

An act (H. R. No. 530) granting a pension to Lawrence P. N. Landrum, of Taylor county, Kentucky; and

An act (H. R. No. 248) for the relief of the president and directors of the Panama Railroad Company.

NAVAL AFFAIRS.

The SPEAKER. The morning hour having expired, it is the duty of the Chair to call up the business of the Naval Committee, which was assigned as a special order for to-day after the morning hour.

Mr. SHEFFIELD. I ask the consent of the House to postpone the special order for half an hour.

Mr. HOLMAN. I object.

Mr. WASHBURNE. I move to postpone the special order for half an hour. The motion, I believe, is in order.

The SPEAKER. The gentleman from New York is entitled to the floor on the special order. If the gentleman yields, the motion is in order.

Mr. SHEFFIELD. I ask the gentleman from New York to yield for me to make that motion.

Mr. SEDGWICK. I yield for that purpose.

Mr. HOLMAN. I object to the gentleman yielding the floor unless he yields altogether.

Mr. SEDGWICK. I have yielded the floor to the gentleman from Rhode Island to make the motion.

Mr. HOLMAN. I rise to a question of order. I submit that the gentleman from New York has no right to yield the floor to a particular gentleman if objection be made.

The SPEAKER. The Chair thinks that could be done.

Mr. HOLMAN. The gentleman must yield unconditionally, if he yields at all.

The SPEAKER. If the gentleman yields the floor, the motion to postpone the special order is in order.

Mr. HOLMAN. Has he the right to yield for that particular purpose? Does he not lose his right to the floor?

The SPEAKER. The Chair thinks he has the right to yield; and courtesy will give him the right to the floor, when the special order shall again come up for consideration.

Mr. HOLMAN. I submit that if the gentleman from New York yields the floor, any other gentleman has as much right to obtain it as the gentleman from Rhode Island.

The SPEAKER. The gentleman from Rhode Island was recognized by the Chair and appealed to the gentleman from New York to yield the floor. If the gentleman yields, therefore, the gentleman from Rhode Island is entitled to the floor.

Mr. SHEFFIELD. I desire to have the motion to reconsider taken up, and the subject postponed until December next.

Mr. ROSCOE CONKLING. I desire to move to amend the motion to postpone.

Mr. WASHBURNE. I rise to a question of order. I demanded the previous question on the motion to reconsider.

The SPEAKER. The motion to reconsider is not debatable, and therefore the previous question will not apply to it.

Mr. SHEFFIELD. I ask for a vote upon the motion to reconsider.

Mr. F. A. CONKLING. I rise to a question of order. I submit that no other business is in order except to proceed with the special order.

The SPEAKER. The Chair sustains the question of order, unless the gentleman from New York yields for the motion to postpone to be made.

Mr. SEDGWICK. I have yielded for that purpose.

Mr. F. A. CONKLING. I call for the regular order of business.

Mr. SHEFFIELD. I move that the special order be postponed for half an hour.

Mr. F. A. CONKLING. I call for the yeas and nays on the motion to postpone.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 71, nays 53; as follows:

YEAS—Messrs. Aldrich, William J. Allen, Alley, Arnold, Ashley, Baker, Baxter, Beaman, Francis P. Blair, Jacob B. Blair, Blake, George H. Browne, Buffinton, Casey, Chamberlin, Clark, Colfax, Roscoe Conkling, Dawes, Delano, Diven, Duell, Edwards, Eliot, Ely, Fessenden, Fouke, Frank, Gooch, Granger, Gurley, Haight, Hooper, Hutchins, Julian, Francis W. Kellogg, William Kellogg, Knapp, Lansing, Loomis, Lovejoy, Low, Justin S. Morrill, Noell, Odell, Olin, Perry, Timothy G. Phelps, Pomeroy, Potter, Richardson, Riddle, James S. Rollins, Sargent, Sedgwick, Segar, Sheffield, Shellabarger, Sherman, Sloan, Spaulding, Benjamin F. Thomas, Van Horn, Van Valkenburgh, Vibbard, Walton, Ward, Washburne, Wheeler, Albert S. White, and Woodruff—71.

NAYS—Messrs. William Allen, Ancona, Baily, Biddle, Bingham, Samuel S. Blair, William G. Brown, Calvert, Campbell, Frederick A. Conkling, Covode, Cravens, Crisfield, Crittenden, Cutler, Davis, Dunlap, Dunn, Goodwin, Hale, Harding, Holman, Johnson, Kelley, Killinger, Law, Lazear, Leary, McKnight, Mallory, Maynard, Moorhead, Nixon, Nugen, Patton, Pendleton, Porter, Alexander H. Rice, John H. Rice, Edward H. Rollins, John B. Steele, William G. Steele, Stiles, Stratton, Train, Trimble, Trowbridge, Verree, Wallace, Webster, Wilson, Wood, and Worcester—53.

So the special order was postponed for half an hour.

SHIP CANAL—AGAIN.

The SPEAKER stated that the question recurred again upon the motion to reconsider the vote by which the bill (H. R. No. 288) to construct a ship canal for the passage of armed and naval vessels from the Mississippi river to Lake Michigan, and for other purposes, was laid on the table.

Mr. HOLMAN. I move to lay the motion to reconsider on the table.

The SPEAKER. The Chair doubts whether the motion can be made, no business having intervened since the same motion has been decided.

Mr. HOLMAN. Other business has intervened.

The SPEAKER. Nothing in relation to this bill.

Mr. HOLMAN. The motion to postpone the special order has been decided.

The SPEAKER. The motion to reconsider remains in precisely the same condition in which it was when the other motion to lay on the table was made and decided. The Chair decides the motion is not in order.

Mr. HOLMAN. I appeal from the decision of the Chair.

The SPEAKER. The Chair will direct the following paragraph from Barclay's Digest to be read.

The Clerk read, as follows:

"Where a motion has already been made and negatived to lay a bill on the table, and no change or alteration has been made in the bill, or no proceeding directly touching its merits has since taken place, the motion to lie on the table cannot be repeated."

The SPEAKER. The Chair thinks that is this case.

Mr. ALLEN, of Ohio. I move to lay the appeal on the table, and upon that motion I demand the yeas and nays.

Mr. ROSCOE CONKLING. I appeal to the gentleman from Indiana to withdraw his appeal to enable me to submit an amendment to the motion to postpone.

Mr. WASHBURNE. I object.

The SPEAKER. The gentleman has the right to withdraw his motion to lay the appeal on the table.

Mr. ALLEN, of Ohio. I decline to withdraw the motion.

The yeas and nays were not ordered.

Mr. HOLMAN. I withdraw the appeal.

Mr. ROSCOE CONKLING. I move now an amendment to the motion of the gentleman from Rhode Island.

The SPEAKER. No debate is in order, and no amendment is in order except by unanimous consent. The question is on the motion to lay on the table the motion to reconsider.

Mr. HOLMAN. I ask the Chair if the half hour for which the special order was postponed has not expired?

The SPEAKER. The Chair will keep the time.

Mr. HOLMAN. I move that the House adjourn.

Mr. ALLEN, of Ohio, demanded tellers.

Tellers were ordered.

The House divided; and the tellers reported—ayes 9, noes 74.

Mr. HOLMAN demanded the yeas and nays upon the motion.

The yeas and nays were ordered.

The question was put; and it was decided in the negative—yeas 5, nays 112; as follows:

YEAS—Messrs. Cravens, Holman, Johnson, Stiles, and Webster—5.

NAYS—Messrs. Aldrich, William Allen, William J. Allen, Alley, Ancona, Arnold, Ashley, Babbitt, Baily, Baker, Baxter, Beaman, Biddle, Bingham, Francis P. Blair, Jacob B. Blair, Samuel S. Blair, Blake, Buffinton, Calvert, Campbell, Casey, Chamberlin, Clark, Clements, Cobb, Colfax, Frederick A. Conkling, Roscoe Conkling, Corning, Covode, Crisfield, Cutler, Davis, Dawes, Diven, Duell, Dunlap, Dunn, Edwards, Eliot, Ely, English, Fessenden, Fouke, Frank, Gooch, Goodwin, Granger, Gurley, Haight, Hale, Harding, Hooper, Hutchins, Julian, Kelley, Francis W. Kellogg, Killinger, Knapp, Lansing, Law, Lazear, Leary, Loomis, Lovejoy, McKnight, McPherson, Mallory, Maynard, Mitchell, Moorhead, Justin S. Morrill, Nixon, Noell, Nugen, Odell, Patton, Pendleton, Perry, Timothy G. Phelps, Pomeroy, Potter, Riddle, Edward H. Rollins, James S. Rollins, Sargent, Sedgwick, Segar, Shanks, Sheffield, Shellabarger, Sherman, Sloan, William G. Steele, Stratton, Benjamin F. Thomas, Trimble, Trowbridge, Van Horn, Verree, Wallace, Walton, Ward, Washburne, Wheeler, Albert S. White, Wilson, Windom, Woodruff, and Worcester—112.

So the House refused to adjourn.

The question recurred upon the motion to reconsider the vote by which the bill was laid upon the table yesterday.

Mr. HOLMAN. The previous question has not been called, I believe?

The SPEAKER. The question is not debatable. The previous question does not apply to a motion to reconsider a vote and to lay it upon the table.

Mr. HOLMAN. I would inquire if this bill is now properly before the House?

The SPEAKER. The time limited will not expire until three minutes hence.

Mr. HOLMAN. I call for a division on the question.

A division being had, the Chair announced 55 votes in the affirmative, and 46 in the negative, whereupon

Mr. HOLMAN demanded tellers.

Tellers were ordered; and Mr. TRAIN, and Mr. BLAIR of Missouri, were appointed.

The House divided; and the tellers reported—ayes 65, noes 31.

Mr. HOLMAN demanded the yeas and nays.

ENROLLED BILL.

Mr. GRANGER, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled an act (H. R. No. 272) for the relief of Brigadier General Joseph G. Totten; when the Speaker signed the same.

NAVAL COMMITTEE BUSINESS.

The SPEAKER. The time having expired, the special order is again before the House, being the business from the Naval Committee.

Mr. OLIN. I rise to a question of order. I suggest to the Chair that it is not in order to take notice of the time when the House is dividing upon a vote.

The SPEAKER. The House is not voting.

Mr. OLIN. I suggest that they were voting.

The SPEAKER. The House had divided, and the tellers had announced the result. That completed that vote.

CREW OF THE VARUNA.

Mr. SEDGWICK, from the Committee on Naval Affairs, reported back, with a recommendation that it do pass, a resolution (S. No. 85) to compensate the crew of the United States steamer Varuna, for clothing and other property lost in the public service.

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

Mr. SEDGWICK moved to reconsider the vote by which the resolution was agreed to; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

D. G. FARRAGUT.

Mr. SEDGWICK, from the same committee, reported back, with a recommendation that it do pass, a bill (S. No. 303) for the relief of D. G. Farragut.

The bill, which was read, directs the proper accounting officer to allow to Captain D. G. Farragut, in the settlement of his account, $407 19, being the amount paid by him as wages to two master's mates on board the United States ship Warren, employed at Mare Island, California.

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

Mr. SEDGWICK moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

OFFICERS, ETC., OF THE GOVERNOR.

Mr. SEDGWICK, from the same committee, reported back, with a recommendation that it do pass, a joint resolution (S. No. 77) for the relief of the officers, non-commissioned officers and privates of the battalion of marines on board the transport Governor on the 3d of November, 1861.

The bill was read.

Mr. HOLMAN. I desire to make an inquiry of the gentleman from New York. I understand this appropriation to be to pay for losses sustained by certain officers and marines while on their way to Port Royal in November last. It is to pay for equipments, clothing, and things of that kind. My question is, whether it has been the practice of the Government, not only in connection with the Navy, but also in connection with the Army, to pay for losses sustained in this way? The practice ought to be uniform. If it is the practice in the Army to pay for such losses, a corresponding course should be adopted in reference to the Navy.

It seems to me the principle is right, and the question I ask is, whether it is one of general application, or whether in fact it is not being applied exclusively to the Navy, and not to the Army?

Mr. SEDGWICK. This bill is in favor of marines, and the only difference between it and the bills which have heretofore passed this House is, that it includes the personal effects of the officers, as well as of the petty officers and marines. The bill just passed in regard to the crew of the Varuna, and one or two other bills lately passed, include only the seamen and petty officers.

The ground on which this bill was put is, that the steamer Governor, upon which these officers and marines were embarked, was entirely unseaworthy; that after it had been condemned by the Navy Department, and refused to be chartered by them, it was chartered in the hurry and confusion of affairs by the War Department. It was condemned by officers competent to survey the vessel, and it was lost, as everybody ought to have known that it would be.

Mr. HOLMAN. What officer of the War Department chartered this vessel?

Mr. SEDGWICK. I am not prepared to give the names of either. I merely know the fact that the vessel had been examined and rejected by surveyors upon the part of the Navy Department, and that it was afterwards chartered by the War Department. The question of seaworthiness is one over which the officers and crew had no control. It is upon that ground that the Senate passed the bill, and upon which the House committee, after considerable discussion, agreed to report back the bill for relief, and for paying for the personal effects both of officers and men.

Mr. HOLMAN. That would embrace money.

Mr. SEDGWICK. The bill is not intended to embrace money.

Mr. HOLMAN. For the purpose of making this bill correspond with the general legislation upon this subject, I move to amend so as to confine the provisions of the bill to the classes of persons who have heretofore been the recipients of this kind of legislation.

Mr. LOVEJOY. I would inquire if the gentleman from New York is not upon the floor? If he is, the gentleman from Indiana has no right to occupy the floor.

The SPEAKER. The gentleman from New York yielded to the gentleman from Indiana.

Mr. DAWES. With the permission of the gentleman from New York, I wish to say that I hope the amendment of the gentleman from Indiana will not prevail, for I think the Government ought to indemnify every man they put on board the steamer Governor and sent upon that mission to Port Royal. A vessel that had been condemned by the Navy Department as utterly unseaworthy, was chartered by an agent of the War Department, and men put on board of it, and their lives and all they had with them periled. The ship went down, and they were taken prisoners, and are now held as such, because of a dereliction of duty of an agent of the Government. I hold that the Government ought to indemnify every man they put on board of such a vessel.

Mr. HOLMAN. Who was that agent of the Government?

Mr. DAWES. I understand, further, that the men and officers put on board of that vessel protested against their lives and effects being periled by being put on board of a steamship which had been pronounced by the Navy Department unseaworthy; and the man who would jeopardize the lives of the officers and men of the Army or Navy in that way, ought to be impeached at the bar of the Senate, I care not who he is.

Mr. HOLMAN. My question is, who was the agent who chartered that vessel?

Mr. DAWES. I am not able to say positively. I believe it was John Tucker, employed as agent of the War Department for that business. It was either he or some sub-agent of his. I think it one of the strangest operations of any Department of this Government.

There were three vessels chartered at the same time, the Governor, the Union, and the Winfield Scott. The Union went down, too, and hundreds of thousands of dollars of property were lost in consequence. The Winfield Scott was totally disabled, and was pronounced unseaworthy when it reached Port Royal. All three of these vessels had been condemned by a board of survey of the Navy Department, and that fact was known to the agent of the War Department before they were chartered.

Mr. HOLMAN. Mr. Speaker, this case well illustrates the absence of wisdom on the part of the Government in employing irresponsible persons to enter into contracts of this character, not only involving vast expense to the Government but also the loss of valuable lives. It was for the purpose of elucidating and bringing forward these facts that I made the motion, which I now withdraw.

Mr. SEDGWICK. I move the previous question on the third reading.

The previous question was seconded, and the main question ordered; and under its operation the bill was read the third time, and passed.

Mr. SEDGWICK moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

CREWS OF THE CUMBERLAND AND CONGRESS.

Mr. SEDGWICK, from the Committee on Naval Affairs, reported back, with a recommendation that it do pass, an act (S. No. 256) for the relief of the widows and orphans of the officers, seamen, and marines of the United States ships Cumberland and Congress.

The bill provides that the widows, children, parents, brothers, or sisters of the officers, seamen, and marines, and others in service who were lost in the United States ships Cumberland and Congress, including captains' clerks, shall be entitled to and shall receive a sum equal to twelve months' pay of their respective deceased relatives, in addition to the pay due at the time of the loss of said vessels.

The bill was read the third time, and passed.

SECOND LIEUTENANTS OF MARINES.

Mr. SEDGWICK, from the same committee, reported back, with a recommendation that it do pass, an act (S. No. 306) regulating the appointment of second lieutenants in the marine corps.

The bill directs that hereafter second lieutenants in the United States marine corps shall be taken, by selection of the President, from the graduates of the United States Naval Academy.

Mr. HOLMAN. Will the gentleman from New York allow me to inquire of him in what manner these appointments are now made?

Mr. SEDGWICK. They are scrambled for now by members of Congress.

Mr. HOLMAN. Does not the Secretary of the Navy make the appointments now?

Mr. SEDGWICK. Yes; they are made from the community at large, just as he chooses.

Mr. HOLMAN. Then I understand that at the present time these second lieutenants are not chosen from graduates of the Naval Academy.

Mr. SEDGWICK. They are not. They are made from civil life.

Mr. HOLMAN. And the question now is whether these appointments shall be limited to the graduates of the Naval School?

Mr. SEDGWICK. Yes; this limits it to them.

Mr. HOLMAN. And in the event of the passage of this bill, can any appointments at all in the Navy be made from civil life?

Mr. SEDGWICK. We have provided by a bill of this session that acting masters from civil life may, upon certain conditions, be put into the line of the Navy. Hitherto there has been no such authority.

Mr. HOLMAN. What are those conditions?

Mr. SEDGWICK. The conditions are that they distinguish themselves by good conduct.

The bill was read the third time.

Mr. SEDGWICK demanded tellers.

Tellers were ordered; and Messrs. FESSENDEN and WOODRUFF were appointed.

Mr. CALVERT. I should like to know whether it is obligatory on young gentlemen who are graduates of the Naval Academy to serve in the marine corps. I doubt whether they can be got to serve; and unless it is obligatory on them, I am opposed to the bill.

Mr. SEDGWICK. It is not obligatory. It is hardly necessary in this country to pass a law compelling persons to take offices, civil or military.

Mr. CALVERT. The marine corps is not a desirable place for graduates of the Naval Academy. If they can get into the Navy, they will not go into the marine corps.

The House divided; but before any report was made by the tellers,

Mr. SEDGWICK withdrew his demand for tellers.

The question was taken; and the bill was rejected.

RESOLUTIONS OF THANKS.

Mr. SEDGWICK, from the same committee, reported back, with the recommendation that it do pass, a joint resolution (S. No. 83) of thanks to Captain David G. Farragut, of the United States Navy, and to the officers and men under his command.

The resolution, which was read, tenders the thanks of the people and of the Congress of the United States, to Captain David G. Farragut, of the United States Navy, and to the officers and men under his command composing his squadron in the Gulf of Mexico, for their successful operations on the lower Mississippi river, and for their gallantry displayed in the capture of Forts Jackson and St. Philip and the city of New Orleans, and in the destruction of the enemy's gunboats and armed flotilla. It further directs the Secretary of the Navy to communicate this resolution to Captain Farragut, and through him to the officers and men under his command.

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

Mr. SEDGWICK, from the same committee, reported back, with the recommendation that it do pass, joint resolution S. No. 66, expressive of the thanks of Congress to Lieutenant J. L. Worden, of the United States Navy, and to the officers and men under his command on the Monitor.

The resolution tenders the thanks of Congress and of the American people to Lieutenant Worden, and the officers and men under his command, in the iron-clad gunboat Monitor, for the skill and gallantry exhibited by them in the late remarkable battle between the Monitor and the rebel iron-clad steamer Merrimac, and requests the President to cause this resolution to be communicated to Lieutenant Worden, and, through him, to the officers and men under his command.

Mr. MALLORY. Mr. Speaker, I wish to amend that resolution so as to include the name of Lieutenant Pendergrast, who fought the Congress so gallantly upon that occasion, and only surrendered his ship when all hope of defense was gone.

Mr. SEDGWICK. This is a Senate resolution. If the gentleman will draw up a resolution for that purpose, it will unquestionably pass. I hope he will not embarrass this resolution.

Mr. MALLORY. Very well, sir; I will pursue that course.

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

Mr. SEDGWICK, from the same committee, reported back, with a recommendation that it do pass, joint resolution S. No. 61, tendering the thanks of Congress to Captain Louis M. Goldsborough, and the officers, petty officers, seamen, and marines under his command, for the victory at Roanoke Island.

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

Mr. SEDGWICK, from the same committee, reported a joint resolution tendering the thanks of Congress to Captain Samuel F. Du Pont for his services and gallantry in action; which was read a first and second time.

The joint resolution was read. In pursuance of the recommendation of the President of the United States, it tenders the thanks of Congress to Captain Samuel F. Du Pont for his services and gallantry in action against the enemy.

Mr. HOLMAN. I wish to suggest to the gentleman from New York that, although these resolutions are from the Senate, and there is a particular object in enacting them, there is certainly something calculated to excite a little annoyance upon the part of an American citizen, in such a striking discrimination being made between the officer who happens to command and the body of seamen or of other citizens, whoever they may be, who may be under his authority in actions in which they, as well as himself, have periled their

lives in the defense of the country. It seems to me that all resolutions which ignore the existence of the men who have fought bravely and well, and point alone to the officers in command, are contrary to the genius of a Government like ours. If any class of men deserve the praise of the Government and special consideration, it is those who, for trivial compensation, without much chance of fame or reputation, with no other motive for great exertions except that of patriotism and to deserve well of their country, imperil their lives in its defense.

I do not know if it is inconsistent with the policy, in passing resolutions which are to be made the basis of promotion, to extend these resolutions so as to embrace the brave men who have fought upon the slippery decks, as well as the men who accidentally had command; and if it is, I do not desire to remain in my seat when a resolution is being passed complimentary to this commander, or any other commander in the Navy, while the humble sailor who has sacrificed all in the contest is entirely ignored and forgotten.

Mr. SEDGWICK. Mr. Speaker, in December last an act was passed by Congress to promote the efficiency of the Navy, and among other provisions contained in that act, was this, that the President of the United States should have authority to detail from the list of retired officers, retired by a previous law, any officer he chose to command a ship or squadron, and that if after such selection the retired officers thus called into service should distinguish themselves by gallantry in action, the President of the United States might recommend them by name for votes of thanks by Congress, and that the result of such votes should be to restore them, for the time being, to the active list.

Now, the President has sent in a message recommending a vote of thanks to the officer who is named in this resolution, and I hope that that will be a satisfactory reason to the members of the House for not including the officers and men under his command in this resolution. If the gentleman, as a compliment to the other officers and men who have served in any action, and served creditably, desires to bring in a resolution of thanks, I have no doubt it will meet with the hearty concurrence of the House, and will be passed unanimously. It is not for the purpose of making any distinction—certainly not any invidious distinction—between the officers and men, that this resolution is offered. It is for a specific purpose, and because, in this particular case, it accords with the act of Congress to which I have referred, and will restore this very useful and gallant officer to the active list of the Navy.

Mr. HOLMAN. I desire simply to say, that whatever may be the intention of Congress, there is in the estimation of the country an invidious discrimination in all of these resolutions. It is impossible that every citizen should be as familiar with the reasons for a resolution like this as is the gentleman who is at the head of the committee which reports it; indeed I have heard the inquiry made by members upon this floor, how it happened that such resolutions were confined to a single officer and did not include those who happened to be subject to his orders.

Mr. SEDGWICK. It is suggested by a gentleman on my right, and I believe that such is the fact, that a general resolution of thanks to Commodore DuPont and all the officers and men under his command, has already passed this House. That certainly must remove the objection in the mind of the gentleman from Indiana. This resolution is for a specific purpose, and is well deserved by this distinguished officer.

Mr. HOLMAN. It would certainly be infinitely better, if instead of making this discrimination, the President had simply been directed to promote for these gallant services. The President will never have occasion to send in such messages as this to Congress, unless it has happened that the men under the command of the officer whom it is proposed to thank have laid the foundation upon which the resolution is to be based. It is their gallantry, as much as his own skill and courage, which gives him a claim to this promotion.

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

Mr. SEDGWICK also, from the Committee on Naval Affairs, reported a joint resolution tendering the thanks of Congress to the several captains and commanders of the naval forces of the United States in the squadron commanded by Flag-Officer Farragut; which was read a first and second time.

The resolution was read. In pursuance of the recommendation of the President of the United States, it tenders the thanks of Congress to the below-mentioned officers for their distinguished services and gallantry in their several positions in the squadron commanded by Flag-Officer Farragut, which resulted in the capture of Forts Jackson and St. Phillip and the city of New Orleans, and the destruction of the rebel gunboats, rams, &c., in April, A. D. 1862, namely: Captains Theodorus Bailey, Henry W. Morris, and Thomas T. Craven; and Commanders Henry H. Bell, Samuel Phillips Lee, Samuel Swartwout, Melancton Smith, Charles Stewart Boggs, John DeCamp, James Alden, David D. Porter, Richard Wainwright, and William B. Renshaw. The resolution further directs the Clerk of the House to forward a copy of the resolution to each of said officers.

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

Mr. McPHERSON. I would like to ask the gentleman from New York one question. If I heard the resolution aright, it only contains the names of a certain number of the officers commanding, and does not contain the names of any lieutenants commanding gunboats.

Mr. SEDGWICK. It contains the whole list of captains and commanders, but not of the lieutenants or lower officers.

Mr. McPHERSON. If there be any reason why commanders should be publicly thanked in this way, the same reason must certainly apply to the lieutenants who were in command of gunboats, and who rendered service quite as distinguished and important as any other person in the fleet. I think that the resolution, as originally introduced, contained the names of these lieutenants.

Mr. SEDGWICK. Not the Senate resolution.

Mr. McPHERSON. The President, in his message, I believe, recommended a vote of thanks to every officer commanding gunboats in that action.

Mr. SEDGWICK. Does the gentleman from Pennsylvania propose any amendment?

Mr. McPHERSON. I have not an amendment drawn up, but if the gentleman from New York will allow the resolution to stand over for the present, I will draw up one. It is but just to these lieutenants that their names should be included in this vote of thanks.

Mr. SEDGWICK. I should like to accommodate the gentleman, but I wish to have this business closed.

Mr. McPHERSON. I appeal to the gentleman from New York as an act of justice to these men.

Mr. SEDGWICK. I have offered the gentleman from Pennsylvania that if he will draw up a resolution of this kind, I will have it put upon its passage to-morrow, if possible; but I cannot have this resolution embarrassed.

The question was taken on the passage of the joint resolution; and it was passed.

LAWS RELATING TO THE NAVY.

Mr. SEDGWICK, from the Committee on Naval Affairs, reported the following resolution; which was read, considered, and agreed to:

Resolved, That the Committee on Naval Affairs be instructed to inquire into the expediency of revising and codifying the laws of the United States relating to the Navy and marine corps, and report thereon to the House at its next session.

IRON FOR SHIP-BUILDING.

Mr. SEDGWICK, from the same committee, reported the following resolution; which was read, considered, and agreed to:

Resolved, That the Committee on Naval Affairs be, and it is hereby, authorized to inquire into the expediency of procuring a suitable site and machinery for the manufacture of iron to be used in ship-building, and report thereon to this House at its next session.

SITE FOR NAVAL ACADEMY.

Mr. SEDGWICK, from the same committee, reported the following resolution:

Resolved, That the Committee on Naval Affairs be instructed to inquire as to a proper and permanent location for the Naval Academy, and report thereon to this House at its next session.

Mr. HOLMAN. I believe there has been an appropriation made by the Senate for repairing the Naval Academy buildings at Annapolis, and unless it be the determination of Congress to seek another location, it seems to me that there is no reason for this resolution. It is therefore well enough to postpone this resolution till it is ascertained whether Congress will make the appropriation for repairing the buildings at Annapolis.

Mr. WASHBURNE. This resolution implies that the Naval School is not to be located at Annapolis, and I am therefore opposed to it.

Mr. SEDGWICK. It does not imply any such thing. It is to institute an inquiry as to a proper permanent location for it.

Mr. HOLMAN. It certainly implies a change of location.

Mr. LOVEJOY. It seems to me to be a very proper resolution.

Mr. HOLMAN. I move to lay it on the table.

The question being on the motion to lay the resolution on the table, the House divided, and there were—ayes 34, noes 62.

Mr. CALVERT called for the yeas and nays.

Mr. HOLMAN asked for tellers on the yeas and nays.

Tellers were ordered; and Messrs. Low and CRISFIELD were appointed.

The House divided; and the tellers reported twenty in the affirmative; a further count not being demanded.

So the yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 46, nays 57; as follows:

YEAS—Messrs. William Allen, Ancona, Baily, Beaman, Biddle, Jacob B. Blair, William G. Brown, Calvert, Clements, Corning, Cox, Crisfield, Crittenden, Delano, Diven, Dunlap, Dunn, Fenton, Hall, Harding, Holman, Hutchins, Killinger, McPherson, Mallory, Maynard, Justin S. Morrill, Morris, Norton, Pendleton, Perry, Porter, Richardson, Riddle, James S. Rollins, John B. Steele, Stiles, Benjamin F. Thomas, Train, Trimble, Vibbard, Wallace, Ward, Washburne, Webster, and Wilson—46.

NAYS—Messrs. Aldrich, Arnold, Ashley, Babbitt, Baker, Baxter, Bingham, Samuel S. Blair, Blake, George H. Browne, Buffinton, Campbell, Chamberlin, Colfax, Frederick A. Conkling, Roscoe Conkling, Covode, Davis, Dawes, Duell, Edwards, Eliot, Ely, Fessenden, Frank, Gooch, Goodwin, Granger, Gurley, Haight, Julian, Francis W. Kellogg, Knapp, Loomis, Lovejoy, Low, McKnight, Mitchell, Moorhead, Nixon, Patton, Timothy G. Phelps, Pomeroy, Potter, John H. Rice, Edward H. Rollins, Sedgwick, Sheffield, Shellabarger, Sherman, Stratton, Trowbridge, Van Horn, Van Valkenburgh, Verree, Walton, and Windom—57.

So the resolution was not laid on the table.

Mr. CALVERT. I move to amend the resolution by striking out "the Committee on Naval Affairs," and inserting "three officers of the Navy to be appointed by the President of the United States."

I think they would be much more capable of deciding the question properly than the Committee on Naval Affairs.

The SPEAKER. The Chair thinks it would require a joint resolution to detail officers under the control of the executive department.

Mr. CALVERT. Then I will make it a joint resolution and move it as a substitute for the resolution under consideration.

The SPEAKER. That would not be in order.

Mr. CALVERT. I move, then, to strike out "the Committee on Naval Affairs," and insert instead thereof, "a special committee of five." I have no idea of instructing a committee to inquire who have already made up their minds on the subject.

Mr. CRISFIELD called for tellers on the amendment.

Tellers were appointed; and Messrs. CALVERT and SEDGWICK were appointed.

The House divided; and the tellers reported—ayes 59, noes 39.

So the amendment was adopted.

Mr. HUTCHINS. I move to lay the resolution on the table.

The motion was agreed to.

Mr. LOVEJOY moved to reconsider the vote by which the resolution was laid on the table; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

MRS. S. T. E. WILLIAMSON.

Mr. SEDGWICK, from the Committee on Naval Affairs, reported back House bill No. 347,

for the relief of Mrs. Susan Ten Eyck Williamson, widow of Lieutenant Charles L. Williamson, deceased, with the recommendation that it do not pass.

The bill was laid on the table.

WILLIAM WHEELER HUBBELL.

Mr. MOORHEAD, from the same committee, reported back a joint resolution relative to the claim of William Wheeler Hubbell.

The joint resolution was read. It refers the claim of William Wheeler Hubbell for compensation for the use of his alleged patent for the thunderbolt shell and fuse to the Court of Claims, with instructions to report what amount is due to the claimant for the use of his patent, including the relinquishment of the patent to the United States, and directs the Secretary of the Treasury to pay the amount so reported.

Mr. LOVEJOY. I move to lay the resolution on the table.

The SPEAKER. The gentleman from Pennsylvania is entitled to the floor.

Mr. MOORHEAD. The object of the resolution is to give the Court of Claims jurisdiction over this claim. As the preamble to the resolution states, there is a large amount of testimony, some of it conflicting, in relation to this case, which the Committee on Naval Affairs have not the time nor the means and appliances of investigating.

Mr. WASHBURNE. I rise to a question of order. I submit that the resolution makes an appropriation, and must be first considered in Committee of the Whole.

Mr. MOORHEAD. It does not make an appropriation, unless the Court of Claims report that something is due.

The SPEAKER. The Chair decides that the joint resolution does make an appropriation within the meaning of the rule. It provides for the payment of money, if found due, out of the Treasury, without the necessity of further action by Congress.

Mr. MOORHEAD. To relieve the resolution from that difficulty, I will move to strike out the clause which makes an appropriation.

The SPEAKER. That could not be done, for the reason that the action on such an amendment would be consideration, which, under the rules, must be in Committee of the Whole.

Mr. MOORHEAD. I will then withdraw the report.

Mr. F. A. CONKLING. I rise to a question of order. I desire to know whether the gentleman from Pennsylvania, having been instructed to make this report to the House, and having made it, can withdraw it without the consent of the committee?

The SPEAKER. The Chair thinks the gentleman having made his report, cannot withdraw it without the consent of the House. The Chair therefore sustains the question of order, and decides that the gentleman has not the power to withdraw his report.

Mr. F. A. CONKLING. I wish to inquire, then, whether the joint resolution must have its first consideration in a Committee of the Whole House? I simply desire to understand its position.

The SPEAKER. The Chair supposes that the question of order raised upon it, that it makes an appropriation, would carry it to a Committee of the Whole House.

Mr. MOORHEAD. I move to recommit the resolution to the Committee on Naval Affairs.

Mr. F. A. CONKLING. I rise to a question of order. I wish to know whether I understood the Chair in his statement in reference to the position of this bill. I understood the Chair to sustain the point of order that the resolution must have its first consideration in a Committee of the Whole House. If that be the fact, I suppose the motion to recommit to the Committee on Naval Affairs is not in order.

The SPEAKER. The first statement of the gentleman is correct. The bill, if the attempt be made to consider it in the House, would of necessity go, under the rules, to a Committee of the Whole House. The Chair thinks, however, on the point being raised, it would be in order to move to recommit the bill to the Committee on Naval Affairs. Such a motion would not involve a consideration of the bill within the meaning of the rules. If the House had passed to any other business after the question of order had been raised, the Chair would not receive the motion to recommit; but the Chair at first received the proposition to withdraw the resolution, no objection having been made, and he thinks that, under the circumstances, the gentleman should be permitted to make the motion to recommit.

Mr. F. A. CONKLING. I make the point that having been instructed by the Committee on Naval Affairs to report the resolution to the House, he is neither at liberty to withdraw it nor to move to recommit it, without the consent of the committee.

The SPEAKER. The Chair sustains the first point of the gentleman, but decides that he has the right to move to recommit.

Mr. F. A. CONKLING. I move to amend the motion of the gentleman so as to provide that the resolution be referred to the Committee of the Whole on the state of the Union.

The House divided on the amendment; and there were—ayes 8, noes 40; no quorum voting.

Mr. MOORHEAD. I am willing the joint resolution shall be referred to the Committee of the Whole on the state of the Union.

The joint resolution was so referred.

W. MAXWELL WOOD.

Mr. MOORHEAD, from the Committee on Naval Affairs, reported a joint resolution relative to the claim of W. Maxwell Wood, which was read a first and second time.

The joint resolution was read at length. It instructs the Secretary of the Navy to reopen and examine the claim of Fleet Surgeon W. Maxwell Wood, for duty, pay and traveling expenses on his return from the East Indies, by order of Commodore Armstrong in 1858, until he reported himself for duty at the Department in this country.

Mr. HOLMAN. Is there a report in that case?

Mr. MOORHEAD. There is a letter from the Secretary of the Navy on the subject, which I will ask the Clerk to read.

The Clerk read the letter, as follows:

NAVY DEPARTMENT, *June* 18, 1862.

SIR: I have the honor to acknowledge the receipt of your letter of the 13th instant, inclosing papers in relation to a claim of Surgeon William M. Wood, of the Navy, and desiring that the Department will "report the facts, together with such views as occur" to it in regard to the claim.

The facts upon which the claim is based appear to be correctly stated in the report of the Committee of the House of Representatives, in May, 1860, which is among the papers presented. Commodore James Armstrong, while commanding the United States squadron in the East Indies, being in bad health, ordered the fleet surgeon to accompany him on his return to the United States by the overland route. On their arrival, the Department refused to allow the traveling expenses of Surgeon Wood or the duty pay claimed by him.

The reasons of my predecessor for his decision do not appear on record. They must have related to the merits and equity of the claim, for he had legal authority to allow it.

From a letter of the Fourth Auditor of the Treasury, October 13, 1858, which is among the papers, it appears that the charge for Surgeon Wood's traveling expenses "was embraced in the account presented by Commodore Armstrong." They are now claimed by Surgeon Wood, showing that the latter has relieved Commodore Armstrong of his pecuniary liability to the Government incurred by his payment of the traveling expenses. If this was done in consequence of any previous understanding between those officers, the inference would be that the order for Surgeon Wood's return was issued, partly, at least, "for his own convenience or accommodation," in which case the Department would not consider him as equitably entitled to the traveling expenses or duty pay claimed.

The papers are herewith returned.

I am, respectfully, your obedient servant,

GIDEON WELLES.

Hon. JAMES K. MOORHEAD, *House of Representatives.*

Mr. FENTON. With the permission of the gentleman from Pennsylvania, I desire to submit the motion to refer this case to the Committee of Claims.

Mr. MOORHEAD. I will not yield for that purpose at present. A very few words in explanation of this resolution will, I think, satisfy the House of its propriety. This Surgeon Wood was ordered by Commodore Armstrong, then in India in ill health, to return home with him, which he did, coming overland through Europe; and having acted in accordance with the orders of his superior officer, he asks that his traveling expenses may be paid. The late Secretary of the Navy examined the claim, and improperly, as I think, decided against it. The present Secretary, in consequence of a regulation of the Department not to take up for reëxamination any case decided by a predecessor without the direction of Congress, does not feel authorized to reopen the case. This gives him that authority, and that is all there is of it.

Mr. HOLMAN. I wish to ask the gentleman if there was not a report made upon this case in 1860?

Mr. MOORHEAD. There was, and it is upon the Clerk's desk; but it is very long, and only states substantially the facts I have given.

Mr. BABBITT. I will observe that this bill has been a long time pending. It is a small claim. It was submitted to the Thirty-Sixth Congress, and a report was made in favor of directing a reexamination of the case in the Navy Department. But it failed to be passed by Congress for want of time. It was not voted down. Now, why refer it to the Committee of Claims, where it will not be acted on at all? The object of this bill is to refer this claim to the proper accounting officer, in the same manner as if it had not been acted on, and nothing more. If there is nothing due Dr. Wood, nothing will be paid. If there is something due him, the Department will pay.

The sum and substance of the matter is simply this: he was away in the East Indies, and was commanded by his commanding officer to accompany him home. In accordance with the command of his superior officer he did accompany him home. He could do nothing else, unless he would subject himself to the liability of being charged with mutiny. He could do nothing else, unless he would set up his own judgment against the judgment of his superior officer—a thing not to be allowed under any aspect of the question. He obeyed the order, and all he now asks is that his account for traveling expenses on that journey home may be submitted to the adjudication of the proper Department. To refer the case now to the Committee of Claims is to exclude the claimant entirely and forever.

Mr. F. A. CONKLING. The party for whose relief this bill is introduced was the fleet surgeon of the East India squadron, commanded by Commodore Armstrong. It is in evidence before the House that Commodore Armstrong became sick, and determined to return home. Without any authority of law, and, so far as I am informed, without any precedent in the past practice of the Navy, he ordered the fleet surgeon to accompany him as his private physician. Wood did so, and the claim before the House is for the payment of his traveling expenses by the overland route from India to this country, and, if I am not mistaken, for his pay during the time consumed by the journey.

Mr. BABBITT. For the difference between shore pay and duty pay.

Mr. F. A. CONKLING. The case was brought to the notice of the late Secretary of the Navy, and he refused to allow this compensation. It has likewise been brought to the notice of the present Secretary of the Navy, and those who have attended to the reading of the communication of that officer, I think, must be satisfied that in his judgment there is no justice or propriety in paying this money. He says if there was any understanding between Commodore Armstrong and Surgeon Wood that the latter should be permitted to go home with him, then the amount ought not to be paid; and the intimation is clear and distinct to my mind that there was such an understanding and concert between them.

In my judgment the House is as well qualified to determine this case now as it will be at any future time, and I prefer to have the question on the merits taken now, to having the matter referred to the Committee of Claims. I am clear in the opinion that it should be voted down. The precedent is one which ought not to be established, and I would go to the extent of passing a vote of censure upon Commodore Armstrong for bringing the fleet surgeon back to this country. He should at least be left to defray the expenses of Surgeon Wood, incurred for his individual benefit.

Mr. BABBITT. I ask the gentleman from New York whether he holds that Dr. Maxwell Wood ought to have disobeyed the order of the commodore, and remained in India, when he was ordered by his superior officer to accompany him home? I ask whether the true question is, did the commodore exceed his authority, or whether Dr. Wood should obey his superior officer? Certainly the latter. He obeyed, and in that he did right. He came home according to orders.

If, as has been suggested, it was by virtue of some private arrangement or understanding between the commodore and Dr. Wood that he came home, then he will get no pay. I beg the House

to understand that this bill does not propose to pay Dr. Wood a cent; but merely proposes to submit again the question, which has once been decided unjustly, to the proper accounting officer, and if it appears that nothing is due, nothing will be given. Now, I hope this resolution will pass, and not be referred again to a committee.

Mr. FENTON. I move the previous question upon the motion to refer.

Mr. ALDRICH. I would like to ask a question or two.

Mr. FENTON. I think we had better have a vote upon the question.

Mr. F. A. CONKLING. The gentleman from Pennsylvania, who last spoke, made several inquiries which I would like to answer, for the purpose of putting the House in possession of the real state of the facts.

Mr. FENTON. I must insist upon the previous question.

The previous question was seconded; and the main question ordered to be put.

The question was put on the motion to refer, and, on a division, no quorum voted.

Mr. PHELPS, of Missouri, moved to adjourn.

The motion was not agreed to.

The SPEAKER. The question recurs on the motion to refer, on which no quorum voted.

EXECUTIVE COMMUNICATION.

Mr. STEVENS. I ask the gentleman to yield that I may have a communication from the Secretary of War read.

Mr. MOORHEAD. I will give way for that purpose.

The SPEAKER, by unanimous consent, then laid before the House a communication from the Secretary of War, in further answer to the resolution of the House of Representatives of the 9th of June, calling for information in respect to the organization, by General Hunter, of the department of South Carolina, of a regiment of volunteers composed of black men, fugitive slaves, and containing a copy of a communication just received from General Hunter, furnishing information touching his action in reference to the various matters contained in said resolution.

The communication of General Hunter was read, as follows:

HEADQUARTERS DEPARTMENT OF THE SOUTH,
PORT ROYAL, SOUTH CAROLINA, *June* 23, 1862.

SIR: I have the honor to acknowledge the receipt of a communication from the Adjutant General of the Army, dated June 13, 1862, requesting me to furnish you with the information necessary to answer certain resolutions introduced in the House of Representatives June 9, 1862, on motion of Hon. Mr. WICKLIFFE, of Kentucky—their substance being to inquire:

1. Whether I had organized, or was organizing a regiment of "fugitive slaves" in this department;
2. Whether any authority had been given to me from the War Department for such organization; and
3. Whether I had been furnished, by order of the War Department, with clothing, uniforms, arms, equipments, &c., for such a force.

Only having received the letter covering these inquiries at a late hour on Saturday night, I urge forward my answer in time for the steamer sailing to-day (Monday)—this haste preventing me from entering, as minutely as I could wish, upon many points of detail such as the paramount importance of the subject calls for. But in view of the near termination of the present session of Congress, and the wide-spread interest which must have been awakened by Mr. WICKLIFFE's resolutions, I prefer sending even this imperfect answer, to waiting the period necessary for the collection of fuller and more comprehensive data.

To the first question, therefore, I reply that no regiment of "fugitive slaves" has been or is being organized in this department. There is, however, a fine regiment of persons whose late masters are "fugitive rebels"—men who everywhere fly before the appearance of the national flag, leaving their servants behind them to shift as best they can for themselves. So far, indeed, are the loyal persons composing this regiment from seeking to avoid the presence of their late owners, that they are now, one and all, working with remarkable industry to place themselves in a position to go in full and effective pursuit of their fugacious and traitorous proprietors.

To the second question, I have the honor to answer that the instructions given to Brigadier General T. W. Sherman by Hon. Simon Cameron, late Secretary of War, and turned over to me by succession for my guidance, do distinctly authorize me to employ all loyal persons offering their services in defense of the Union and for the suppression of this rebellion in any manner I might see fit, or that the circumstances might call for. There is no restriction as to the character or color of the persons to be employed, or the nature of the employment, whether civil or military, in which their services should be used. I conclude, therefore, that I have been authorized to enlist "fugitive slaves" as soldiers, could any such be found in this department. No such characters, however, have yet appeared within view of our most advanced pickets—the loyal slaves everywhere remaining on their plantations to welcome us, aid us, and supply us with food, labor, and information. It is the masters who have, in every instance, been the "fugitives," running away from loyal slaves as well as loyal soldiers, and whom we have only partially been able to see—chiefly their heads over ramparts, or, rifle in hand, dodging behind trees in the extreme distance. In the absence of any "fugitive master law," the deserted slaves would be wholly without remedy had not the crime of treason given them the right to pursue, capture, and bring back those persons of whose protection they have been thus suddenly bereft.

To the third interrogatory, it is my painful duty to reply, that I never have received any specific authority for issues of clothing, uniforms, arms, equipments, &c., to the troops in question—my general instructions from Mr. Cameron to employ them in any manner I might find necessary, and the military exigencies of the department and the country being my only, but, in my judgment, sufficient justification. Neither have I had any specific authority for supplying these persons with shovels, spades, and pickaxes, when employing them as laborers, nor with boats and oars when using them as lightermen; but these are not points included in Mr. WICKLIFFE's resolution. To me, it seemed that liberty to employ men in any particular capacity implied with it liberty, also, to supply them with the necessary tools; and acting upon this faith, I have clothed, equipped, and armed the only loyal regiment yet raised in South Carolina.

I must say, in vindication of my own conduct, that had it not been for the many other diversified and imperative claims on my time and attention, a much more satisfactory result might have been hoped for, and that, in place of only one, as at present, at least five or six well-drilled, brave, and thoroughly acclimated regiments should by this time have been added to the loyal forces of the Union. The experiment of arming the blacks, so far as I have made it, has been a complete and even marvelous success. They are sober, docile, attentive, and enthusiastic, displaying great natural capacities for acquiring the duties of the soldier. They are eager, beyond all things, to take the field and be led into action; and it is the unanimous opinion of the officers who have had charge of them, that, in the peculiarities of this climate and country, they will prove invaluable auxiliaries, fully equal to the similar regiments so long and successfully used by the British authorities in the West India Islands.

In conclusion, I will say it is my hope—there appearing no possibility of other reinforcements, owing to the exigencies of the campaign in the peninsula—to have organized by the end of next fall, and to be able to present to the Government, from forty-eight to fifty thousand of these hardy and devoted soldiers.

Trusting that this letter may form part of your answer to Mr. WICKLIFFE's resolutions, I have the honor to be, most respectfully, your very obedient servant,

D. HUNTER,
Major General Commanding.

Hon. EDWIN M. STANTON,
Secretary of War, Washington, D. C.

The communication was laid on the table, and ordered to be printed.

Mr. ARNOLD moved that ten thousand extra copies be printed.

Mr. BLAKE. I hope the gentleman will make it a hundred thousand.

The resolution was referred, under the rules, to the Committee on Printing.

MAXWELL WOOD—AGAIN.

The question recurred on the motion to refer the resolution to the Committee of Claims.

Mr. MOORHEAD. I move the previous question.

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

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

The SPEAKER. The motion to adjourn overrides all special orders.

Mr. MOORHEAD. I was on the floor, and how could the gentleman take it from me to make that motion?

The SPEAKER How was the gentleman on the floor?

Mr. MOORHEAD. I moved the previous question.

The SPEAKER. How long could the gentleman hold the floor after demanding the previous question? A motion to adjourn is in order.

Mr. DUNN. I ask my colleague to give way a moment, and allow me to offer a resolution?

Mr. HOLMAN. I withdraw my motion for that purpose.

Mr. SEDGWICK. I object to the introduction of any resolution until it is in order.

Mr. HOLMAN. I renew my motion.

The motion was not agreed to.

Mr. MOORHEAD. I call for tellers on the motion to refer.

Tellers were ordered; and Messrs. KELLOGG of Illinois, and DAWES, were appointed.

The House divided; and the tellers reported—ayes 34, noes 57; no quorum voting.

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

The motion was agreed to.

The House accordingly (at four o'clock and forty-five minutes, p. m.) adjourned.

IN SENATE.

THURSDAY, *July* 3, 1862.

Prayer by Rev. T. H. STOCKTON, D. D., Chaplain to the House of Representatives.

The journal of yesterday was read and approved.

LOSS OF BAGGAGE BY INDIANA VOLUNTEERS.

Mr. LANE, of Indiana. I ask the consent of the Senate to postpone all prior orders, and take up Senate bill, No. 321, for the relief of certain companies of Indiana volunteers, who lost their baggage and other property at Hatteras Inlet. I am satisfied it will excite neither opposition nor debate. Every item is certified by the officers, and sworn to by the men claiming them. The baggage was lost for want of transportation at Hatteras Inlet, and all the items are sworn to. It is getting late in the session, and I ask what I have never done before, that it may be taken up out of its order and passed, with an amendment embracing one other company, the vouchers for which were not before the committee. Every voucher is now on file with the bill. I ask that it be taken up and passed this morning. Since the bill was reported the regiment has been twice in battle, and more than one third of the men for whose benefit the bill is claimed are now killed or wounded, and beyond the justice or mercy of Congress.

The PRESIDENT *pro tempore*. The Senator from Indiana moves to postpone all prior orders and proceed to the consideration of the bill (S. No. 321) for the relief of certain companies of Indiana volunteers who lost their baggage and other property at Hatteras Inlet.

The motion was agreed to; and the bill was read a second time and considered as in Committee of the Whole. It proposes to appropriate $1,723 89, to reimburse the officers and men of companies C, D, E, F, H, and I, of the twentieth regiment Indiana volunteers, for losses sustained by them at Hatteras Inlet, in October, 1861, in consequence of their being obliged to abandon their baggage and other property for want of proper transportation.

Mr. LANE, of Indiana. I move to amend the bill by inserting:

And $84 30 for Alfred Reed, company K, captain; and $404 69 for non-commissioned officers and privates of company K.

Here are the sworn vouchers for every article.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in. The bill was ordered to be engrossed for a third reading, was read the third time, and passed.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. MORRIS, Chief Clerk, announced that the House had passed the following joint resolutions, in which it requested the concurrence of the Senate:

A joint resolution (No. 93) tendering the thanks of Congress to Captain Samuel F. Du Pont, for his services and gallantry in action.

A joint resolution (No. 94) tendering the thanks of Congress to the several captains and commanders of the naval force of the United States in the squadron commanded by Flag-Officer Farragut.

The message further announced that the House had passed the following bills and joint resolutions of the Senate:

An act (No. 256) for the relief of the widows and orphans of the officers, seamen, and marines of the United States ships Cumberland and Congress.

An act (No. 303) for the relief of D. G. Farragut.

A joint resolution (No. 61) tendering the thanks of Congress to Captain Lewis M. Goldsborough and officers, petty officers, seamen, and marines under his command, for the victory at Roanoke Island.

A joint resolution (No. 66) expressive of the thanks of Congress to Lieutenant J. L. Worden, of the United States Navy, and to the officers and men under his command in the Monitor.

A joint resolution (No. 77) for the relief of the officers, non-commissioned officers and privates of the battalion of marines on board the transport Governor on the 3d of November, 1861.

A joint resolution (No. 85) to compensate the crew of the United States steamer Varuna for clothing and other property lost in the public service.

A joint resolution (No. 83) of thanks to Captain David G. Farragut, of the United States Navy, and to the officers and men under his command.

The message also announced that the House of Representatives had rejected the bill of the Senate (No. 306) regulating the appointment of second lieutenants in the marine corps.

BILLS BECOME LAWS.

The message also announced that the President of the United States had approved and signed, on the 2d instant, the following acts:

An act (H. R. No. 312) to provide internal revenue to support the Government and pay interest on the public debt.

An act (H. R. No. 364) to aid in the construction of a railroad and telegraph line from the Missouri river to the Pacific ocean, and to secure to the Government the use of the same for postal, military, and other purposes.

An act (H. R. No. 391) to punish and prevent the practice of polygamy in the Territories of the United States, and other places, and disapproving and annulling certain acts of the Legislative Assembly of the Territory of Utah.

An act (H. R. No. 515) to provide for the appointment of an Indian agent in Colorado Territory.

An act (H. R. No. 425) to incorporate the Guardian Society to Reform Juvenile Offenders in the District of Columbia.

An act (H. R. No. 521) for the relief of William B. Dodd, and others.

An act (H. R. No. 442) to establish a land district in the Territory of Nevada, and for other purposes.

An act (H. R. No. 371) to prescribe an oath of office, and for other purposes.

An act (H. R. No. 530) granting a pension to Lawrence P. N. Landrum, of Taylor county, Kentucky.

An act (H. R. No. 428) for the relief of the president and directors of the Panama Railroad Company.

PROPOSED ADJOURNMENT OVER.

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

Mr. HALE. I ask for the yeas and nays on that.

The yeas and nays were ordered; and being taken, resulted—yeas 8, nays 27; as follows:

YEAS—Messrs. Browning, Chandler, Grimes, Kennedy, King, Pomeroy, Sumner, and Trumbull—8.

NAYS—Messrs. Anthony, Carlile, Clark, Collamer, Davis, Fessenden, Foot, Foster, Hale, Harlan, Henderson, Howe, Lane of Indiana, Lane of Kansas, Morrill, Nesmith, Powell, Saulsbury, Sherman, Simmons, Stark, Ten Eyck, Wade, Wilkinson, Willey, Wilson of Missouri, and Wright—27.

So the motion was not agreed to.

Mr. GRIMES. I move that when the Senate adjourns to-day it adjourn to meet on Saturday.

Mr. HALE. I ask for the yeas and nays on that.

The yeas and nays were ordered.

Mr. HALE. I do not want to make a speech, but I simply desire to say, that at this, the most critical period of our nation, when the heart of the nation is throbbing with intense anxiety as to the condition of our great Army, I think it ill becomes me—other gentlemen will judge for themselves—to take a holiday.

The yeas and nays were taken; and the vote disclosed the want of a quorum.

The PRESIDENT *pro tempore*. While business is suspended for the time being on this call, the Chair will lay before the Senate two bills from the House of Representatives, with a view to reference.

The joint resolution (H. R. No. 94) tendering the thanks of Congress to the several captains and commanders of the naval forces of the United States in the squadron commanded by Flag-Officer Farragut, was read twice by its title, and referred to the Committee on Naval Affairs.

The joint resolution (H. R. No. 93) tendering the thanks of Congress to Captain Samuel F. Du Pont, for his services and gallantry in action, was read twice by its title, and referred to the Committee on Naval Affairs.

Mr. KING. With this reference I propose to inquire of that committee, or else to move instructions in addition to this, unless the information shall be such as I think will inform the Senate what is to be done, what that committee has done with the message of the President referred to them recommending a vote of thanks to Captain Bailey and various other officers. I hope the chairman of the committee will answer the question.

The PRESIDENT *pro tempore*. The Senate is now dividing on a motion that when the Senate adjourns to-day it be to meet on Saturday.

Mr. KING. I was not aware that the Senate was dividing.

Several Senators entered the Chamber and voted in the negative.

Mr. SHERMAN, (who had voted in the affirmative.) As Senators seem to desire to sit here to-morrow and work, I change my vote and vote "nay."

Mr. TEN EYCK, (who had voted in the affirmative.) I desire to change my vote. I vote "nay."

Mr. SUMNER. I voted "yea," but certainly I follow the Senator from Ohio. If the Senate is willing to sit here and work to-morrow, I shall be one of the most willing; but my own conviction was that there would not be a quorum here, and that therefore it was better for us to adjourn over. Still, if the Senate is disposed to sit here, I vote "nay."

Mr. SHERMAN. That was my impression also, but I see that the Senate——

Mr. HALE. Debate is out of order.

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

The result was announced—yeas 14, nays 22; as follows:

YEAS—Messrs. Browning, Chandler, Foot, Grimes, Harlan, Henderson, Kennedy, King, Morrill, Pomeroy, Trumbull, Wade, Wilkinson, and Wright—14.

NAYS—Messrs. Anthony, Carlile, Clark, Collamer, Cowan, Davis, Dixon, Fessenden, Foster, Hale, Howe, Lane of Indiana, Lane of Kansas, Nesmith, Powell, Saulsbury, Sherman, Simmons, Stark, Sumner, Ten Eyck, and Willey—22.

So the motion did not prevail.

THANKS TO NAVAL OFFICERS.

The PRESIDENT *pro tempore*. While the Senate was dividing, the Chair asked consent to present two House joint resolutions, which were read a first and second time, and according to the usual custom where objection is not interposed, referred to the Committee on Naval Affairs. The Chair understands the Senator from New York to object to that reference.

Mr. KING. Yes, sir.

The PRESIDENT *pro tempore*. The reference by the Chair, assuming the consent of the Senate, will be regarded as not having been made, and those resolutions as now before the Senate, having been read a first and second time, and open to a motion for reference.

Mr. KING. It is not that I design to prevent or obstruct the reference of these joint resolutions when we get the information I desire; but I hope, as the question is now before the Senate, that we may have some information from that committee as to the position, and their intention, relative to the joint resolution which includes the name of Captain Bailey, and quite a list of others, referred to that committee.

Mr. HALE. If it be the pleasure of the Senate to hear it, I have not the slightest objection to giving the information desired, and with their consent I will do it. The sense of the Committee on Naval Affairs has been against the passage of that resolution, for the reason that the message of the President recommends that the thanks of Congress be tendered to about thirty officers by name who were in the fight at the mouth of the Mississippi river, at New Orleans, under Commodore Farragut. By a bill which has passed the Senate, every one of these men, some of whom are as low as lieutenants, by this single vote will be prolonged upon the active list of the Navy ten years. Now, a House bill comes in with another lot, and I apprehend, if we adopt this precedent, we shall have to thank by name at least one hundred officers, which will substantially repeal the retiring bill. The Senate have already passed, in conjunction with the House, a bill tendering the thanks of Congress to Commodore Farragut and the officers and men under his command, which is the usual course, without giving them all by name. The committee of course will be happy to act as the Senate may desire; but that is the judgment of the committee.

Mr. KING. It was from the long delay in the action of the committee, and conversation with the committee, that I ascertained there was some indisposition to report on it, and I have asked for this information in order that it might come before the Senate. I have no doubt myself that Captain Bailey and the other officers who were in that gallant action at New Orleans are entitled to thanks. At any rate, being in favor of it myself, I desired to express that opinion, and to give my vote for it. My object in calling attention to the subject now is, that we may have that resolution returned to the Senate for the action of the Senate, and that it may not be decided by delay in the committee. I think a suggestion of this sort will be enough for the committee to return us that resolution at an early day, that the Senate may act upon it, whatever their opinion may be; and with that suggestion, I consent to this reference; but if the reference was to give these resolutions a quietus, to dispose of them, I should be unwilling to have them referred.

The PRESIDENT *pro tempore*. The question is on referring the joint resolutions to the Committee on Naval Affairs.

Mr. GRIMES. I want to say one word. There seems to be a good deal of apprehension, both in the Senate and out of it, as to what will be the effect of the passage of that resolution. As the law now stands, it will have no effect whatever. The law that was passed last December says, in effect, that when an officer who has already been retired—which none of these officers are—shall be called into service, and shall perform such gallant actions as, in the opinion of the President and of Congress entitle him to a vote of thanks, then he may be put on the active list and remain on the active list. Hence, the Senator from New York, and his friends whom he represents, will perceive that the passage of this resolution will have no effect; and that is one reason, I apprehend, why the Naval Committee have had no action on it, because it will be merely nugatory without legislation, and therefore I know some were anxious to secure the passage of the bill, which was under consideration in the Senate yesterday, which would affect these officers if it was enacted into a law. Another reason why the Naval Committee has not acted upon it is, that here a general batch came in of thirty officers—I think just thirty. The official reports accompanying Commodore Farragut's report, that is, the reports of the commanders of the vessels to him, have not yet been published. I understand they are printed and are now being bound and will be laid on our tables in the course of the next forty-eight hours, and it was deemed advisable to see exactly what each one of those thirty men had done, and how far the recommendation of the President of the United States was borne out by the official facts that might be submitted to us in those reports; but I think that no member of the Naval Committee was indisposed to award that meed of praise to which any one of these officers was entitled, and no one was indisposed to restore to the active list the persons whom the Senator from New York especially desires should be returned. We want some way of getting them back there, but there are a good many difficulties surrounding this question. If you establish the principle that you will thank everybody from eighteen years old up to eighty, if he happened to be in the command of a vessel in time of action; in other words, if you thank these thirty men, there is no reason why you should not thank every officer who is in command of a vessel in time of action. If you thank these thirty men, there is no reason why you should not thank every officer who is in command of a vessel in Du Pont's squadron, and there is no reason why we should not thank every one in command of a vessel in Foote's or Davis's squadron; and the same reason would apply to every officer commanding a vessel in the squadron of Commodore Goldsborough; and hence the law of Congress would, by the operation of this universal rule, if it was applied to everybody, be entirely overborne. The committee have let it lie in their hands thus far, in order that they might discover some way in which they might be extricated from the labyrinth of difficulties in which they find themselves surrounded.

The PRESIDENT *pro tempore*. The resolutions are referred to the Committee on Naval Affairs.

JUDICIAL CIRCUITS.

The PRESIDENT *pro tempore*. The Chair

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presents to the Senate a bill in which the House of Representatives have concurred, with certain amendments; and on those amendments being returned to the Senate, and referred to the Committee on the Judiciary, that committee reported them back with a recommendation that the Senate disagree to the House amendments. The amendments of the House of Representatives to the bill (S. No. 89) to amend the act of the 3d of March, 1837, entitled "An act supplementary to the act entitled 'An act to amend the judicial system of the United States,'" will be read.

The Secretary read the amendments, as follows:

1. At the end of the seventh line of section one, after the word "Arkansas," insert the word "Kentucky."

2. Strike out, in section one, the whole of lines ten, eleven, and twelve, and all of line thirteen except the last word, and insert in lieu thereof, "the districts of Ohio and Michigan shall constitute the seventh circuit; the districts of Indiana, Illinois, and Wisconsin shall constitute the eighth circuit; the districts of Minnesota, Iowa, Missouri, and Kansas shall constitute the ninth circuit.

3. After the word "districts," in the twenty-second line of section one, insert, "except in the district of Iowa, in which the circuit court shall be holden at the capital of the State on the second Tuesday in May and November of each year, at which times and places terms of the district court shall be holden: *Provided*, This act shall not interfere with the terms of said district court now provided by law for said district."

4. At the end of line four, in section two, insert "Kentucky."

5. In line nine, of section three, page 2, strike out "April" and insert "October."

Mr. GRIMES. I move that the Senate concur in the amendments of the House of Representatives.

Mr. SHERMAN. I have not had time to consider this question, and I feel very much interested in it.

Mr. GRIMES. The amendments fix it the way you wanted it before.

The PRESIDENT *pro tempore*. The Chair would suggest that the proper course of proceeding would be to read the amendments in order and take the question whether the Senate will concur in the amendments; or, as recommended by the Committee on the Judiciary, to take the question on a motion to disagree to the House amendments, would be the more ready and perhaps more proper course of proceeding, if that is intended to be followed by a motion for a committee of conference.

Mr. SHERMAN. I should like to have the first amendment read.

The Secretary read the first amendment, at the end of line seven, in section one, after the word "Arkansas" insert "Kentucky;" so as to make the bill read, "the districts of Louisiana, Texas, Arkansas, Kentucky, and Tennessee shall constitute the sixth circuit."

Mr. TRUMBULL. If the members of the Senate will give me their attention for a few moments, I think I can explain, so that all will understand what the difference is between the bill as it passed the Senate and the bill as it will stand if amended in the manner proposed by the House of Representatives. I will state as preliminary to that, that the first, second, third, fourth, and fifth circuits are the same by the Senate bill and by the bill as amended by the House of Representatives. The House agree to the Senate bill so far as those circuits are concerned. The first difference between the two Houses arises in the sixth circuit. The sixth circuit, as the bill passed the Senate, embraces the States of Louisiana, Texas, Arkansas, and Tennessee, with a population of 2,856,966. The House change that circuit by adding to it the State of Kentucky, which would give the circuit a population of 4,012,709. The House amendment puts the States of Kentucky, Tennessee, Arkansas, Texas, and Louisiana into Judge Catron's circuit. Every Senator is sufficiently acquainted with the geography of the country to know what a circuit that would be, running from Kentucky over into Arkansas, and through Louisiana into Texas, with a population of upwards of four millions.

To divide the population of the United States equally into nine circuits would give to each circuit about three million three hundred thousand in round numbers, so that the southwestern circuit, by annexing Kentucky to it, is made very much larger than it was by the Senate bill. The seventh circuit, as the bill passed the Senate, was composed of Ohio and Kentucky, which, together, have a population of 3,495,312. The House amendments make the seventh circuit to consist of Ohio and Michigan. These States together have a population of a little over three millions, which would make about a fair circuit in point of population. The eighth circuit, by the arrangement of the Senate bill, consisted of Indiana, Michigan, Wisconsin, and Minnesota, which together have a population of 3,047,948. The House changed the eighth circuit so as to make it consist of Indiana, Illinois, and Wisconsin. These three States have a population of about three million eight hundred thousand. The ninth circuit, by the Senate bill, is made to consist of Illinois, Missouri, and Iowa, with a population of 3,676,128. The ninth circuit, as the House of Representatives amended the bill, consists of Minnesota, Iowa, Missouri, and Kansas, the four States west of the Mississippi river.

The PRESIDENT *pro tempore*. The question will be taken on each of the House amendments separately.

Mr. TRUMBULL. The difference in principle is this: the Senate bill is based upon population, and equalizes the different circuits as nearly as it could be done without dividing States and making them very ill shapen. The House bill departs from this principle. We have nine Supreme Court judges in the United States when the bench is full. Three, Clifford, Nelson, and Grier, are in the northern and middle States, and the northern and middle States have a population of about ten millions, entitling them to three judges. As the bill passed the Senate the three southern circuits, presided over by Taney, Wayne, and Catron, would have about ten million population; and the three northwestern circuits, including Missouri and Kentucky, would have about ten millions; but by placing Kentucky south, in Judge Catron's circuit, and running it down to Louisiana and Texas, you leave only about nine million population in the three northwestern circuits, and you make the three southern circuits consist of some eleven millions.

I have, myself, no sort of feeling about the bill. So far as the State of Illinois is concerned, I am indifferent whether it is in a circuit with the State of Missouri, Kansas, and Iowa, or with Indiana and Wisconsin. It was only upon principles of equality that the Judiciary Committee came to the conclusion that the Senate bill was fairer than the amendment adopted by the House of Representatives.

The PRESIDENT *pro tempore*. The question is on concurring in the first amendment of the House of Representatives. The Senate Committee on the Judiciary recommend that the Senate do not concur in that amendment.

Mr. WRIGHT. I desire the attention of the Senate for a moment, as this is a matter in which my people feel a great interest. I am opposed to concurring in the amendment of the House of Representatives; I am likewise opposed to the bill as it passed the Senate. I have drawn up an amendment that I shall offer at the proper time, and I desire now to read it that the Senate may know what I have to submit, and I will state the population of the respective divisions according to my amendment.

The bill, as it passed the Senate, put into one circuit Iowa, Michigan, Minnesota, and Wisconsin. As it is amended by the House of Representatives it places Illinois and Iowa together in one circuit. I am aware, as the Senator from Illinois says, that there is some trouble in making the various circuits equal in population, but there are other interests that the Senate ought to look at. There are questions independent of the population of each of those circuits. For instance, my State has always been connected with Ohio in one circuit, and I believe that in the amendment which I propose to offer I have the concurrence of the Senators from Ohio and Michigan. I present my amendment now as an argument in favor of not concurring in the amendment of the House of Representatives.

The PRESIDENT *pro tempore*. The Senator from Indiana, as the Chair understands, proposes to move an amendment to the House amendments.

Mr. WRIGHT. But not to this amendment of the House. I am opposed to concurring in this amendment of the House, and I shall offer my amendment to their next amendment, and I desire now to present my reasons against concurring in the first amendment, looking to the whole bill, and to give my views on what I think ought to be the action of the Senate. If the Senate do not concur in the first amendment of the House, I shall propose to amend the second amendment so as to provide "that the districts of Ohio, Michigan, and Indiana shall constitute the seventh circuit; the districts of Kentucky, Illinois, and Wisconsin shall constitute the eighth circuit, and the districts of Missouri, Iowa, Kansas, and Minnesota shall constitute the ninth circuit."

The population of the three districts of Ohio, Michigan, and Indiana is 4,439,000 and their territory contains 130,000 square miles. The next circuit as proposed by me, Kentucky, Illinois, and Wisconsin, has a population of 3,642,000 and 147,000 square miles. The proposed ninth circuit, Missouri, Iowa, Minnesota, and Kansas, has a population of 2,117,397 to 800,000 square miles.

I think that no Senator who will take the map and plat off the States that are to form these three circuits, could form three better suited to the people and do more even justice. Kentucky, by this arrangement, falls with Illinois and Wisconsin. By this arrangement, the districts of a circuit are all contiguous. By the original bill as it passed the Senate, Indiana, Michigan, Wisconsin, and Minnesota were put together. The distance from the south end of my State to the northern end of Wisconsin or Minnesota is greater than the distance from Michigan to the Gulf of Mexico. The people have no intercourse. A judge in my State, as the bill passed the Senate, could not get into another State in his circuit without traveling over other territory. We have no community of interest with the northern part of Wisconsin and Minnesota, a distance of twelve hundred miles from the southern part of my State.

The people of Indiana, from the time they have been a State, have been connected with Ohio. Their judge has been ours. The judge of the circuit of Ohio can go to my city in four hours; he can go to Michigan in five hours. I am now speaking for the Senators from Michigan and Ohio and Indiana. They all agree that this is the proper circuit. We want neither the Senate bill nor the House amendments. I am aware that the circuit which I propose for these three States contains half a million more population than the adjoining circuit, and a million and a half more than the new circuit west of the Mississippi; but instead of one hundred and thirty thousand square miles as we have, the new circuit has eight hundred thousand. I might further show the percentage of increase of population in the western States, but the Senate is aware of it.

The people of Ohio, Indiana, and Michigan, are one people. They have grown up together. Their legislation and policy are very similar. It is now proposed by the Senate bill to throw Indiana into a circuit twelve or fifteen hundred miles in length. The House amendment throws us with Illinois, and takes us away from Ohio; and you thus associate us with a people with whom we have never had any intercourse, so far as judicial proceedings are concerned. As I have said, I speak for four and a half million people in the three States of Ohio, Indiana, and Michigan, in desiring that the House amendment should be voted down, and the circuits arranged as I propose.

I am aware that the Senator from Iowa [Mr. GRIMES] is opposed to the arrangement which I propose. He wants the House amendments adopted. If I had to take a choice between the bill as amended by the House and as it passed the Senate,

I should take the House bill; but I want neither. When the six Senators from Ohio, Indiana, and Michigan agree to be together, do not wish to be separated, why separate their people who have always been together? The judge of that circuit is willing to take a population of four million and a half, or his representatives here are. Why not allow us, then, to be together in one circuit? We have a judge there that we are satisfied with. I presented the other day the petition of members of the bar from every county in my State, desiring Judge Swayne to be their judge. As an individual Senator, I am willing that you should fix your circuits in any way, if you will just let Michigan, Ohio, and Indiana be together. That is what we desire. These are the sentiments of my people.

The PRESIDENT *pro tempore*. The question is on concurring in the first amendment of the House of Representatives.

Mr. DAVIS. I am against that amendment. Kentucky is very friendly and very sociable; she is willing to go with Virginia; she is willing to go with Tennessee; she is willing to go with Indiana, Illinois, or Ohio; and she is willing to agree to any of the *projets* of circuits except that offered by the House bill. That would throw Louisiana, Texas, Arkansas, Tennessee, and Kentucky together. I wish I had a map of that circuit that I might hold it up to the Senate for their inspection. It gives a territory a little larger than the Russian empire if possible, without the least regard for the convenience and feelings of our judge. We do not expect in any reasonable time to have one from Kentucky, and we are willing to receive any of the judges that are around us; but we do not want the judge of our district to be required to go to the source of the St. Francis and the Arkansas rivers and the Rio Grande and to come up to the mouth of the Big Sandy, and up that river to the top of the Cumberland mountains. I think it is asking too much of us to consent to take that district.

The PRESIDENT *pro tempore*. The question is on concurring in the amendment of the House of Representatives.

Mr. HOWARD. I desire that the amendment may be again reported.

The Secretary again read it. In section one, line seven, after the word "Arkansas," to insert "Kentucky;" so that it will read:

The districts of Louisiana, Texas, Arkansas, Kentucky, and Tennessee shall constitute the sixth circuit.

The amendment was non-concurred in.

The next amendment of the House was in section one, lines nine to thirteen, to strike out the following words:

The districts of Ohio and Kentucky shall constitute the seventh circuit; the districts of Indiana, Michigan, Wisconsin, and Minnesota shall constitute the eighth circuit; the districts of Illinois, Missouri, Kansas, and Iowa shall constitute the ninth circuit.

And to insert in lieu thereof:

The districts of Ohio and Michigan shall constitute the seventh circuit; the districts of Indiana, Illinois, and Wisconsin shall constitute the eighth circuit; the districts of Minnesota, Iowa, Missouri, and Kansas shall constitute the ninth circuit.

Mr. WRIGHT. I move to amend that amendment of the House of Representatives by striking out all after the word "the" in the first line, and inserting the following:

Districts of Ohio, Michigan, and Indiana shall constitute the seventh circuit; the districts of Kentucky, Illinois, and Wisconsin shall constitute the eighth circuit; the districts of Missouri, Iowa, Kansas, and Minnesota shall constitute the ninth circuit.

Mr. COLLAMER. I understand that is merely changing Indiana from one circuit to another.

Mr. WRIGHT. Yes, sir.

Mr. COLLAMER. It does not alter anything else.

Mr. GRIMES. It changes Kentucky, but is satisfactory to Kentucky.

Mr. WRIGHT. It changes Kentucky, but there is no objection to it, I understand, from my friend from Kentucky.

Mr. DAVIS. I will answer in a word, if the Senator pleases. We are very well satisfied with that circuit. We do not want to obtrude ourselves upon any company, and the State that is most willing to take us, and is contiguous to us, we prefer to go to.

Mr. WRIGHT. There is no State south or north of us that we would sooner have with us than Kentucky. I need not tell the Senate of the difficulty about Judge Catron holding courts. I hope affairs are in such a condition now in Tennessee that Judge Catron has a place at home to hold court. By my proposition, Kentucky, Illinois, and Wisconsin, three adjoining States, are put in one circuit. To be sure the circuit is not as compact as we would desire to make it, but I wish the Senate to bear in mind this fact: Indiana has been a State over forty years, and during all that time we have been connected with Ohio. Our bar and our people want to remain so. So far as I am concerned, I am willing that gentlemen should make the other circuits as they please, if they will only consent to allow Ohio, Indiana, and Michigan to remain together as one circuit. Although our population is over the average number, yet the judge and people are willing to be thus situated, the people desire it; and I understand the representatives from those States are anxious to have it. I am aware that some objections are made to this, looking at the population, looking at the number of square miles and the increase of the population. I need not tell the Senate that the northern part of my own State is very different from the southern, and still more so the people of my State from the people of Wisconsin and Minnesota. My friend from Vermont [Mr. COLLAMER] well knows his people never go south. They take a bee line west and very seldom come as far south as the southern part of Indiana. They go west, but never go south of that district.

The people of the three States mentioned in the amendment I propose, are one in legislation and in judicial proceedings; and there is another advantage that would be attained by it that ought not to be overlooked. You have in that circuit Chicago, Cleveland, Cincinnati, Indianapolis; and if my amendment should be adopted, you will have a judge within three or four hours' distance of every one of those great cities. Questions frequently arise there growing out of this war; and how important it is to have a gentleman of the character of Judge Swayne, who can be called for at any time to grant an injunction or anything of that sort. The Senate certainly would not throw us in a circuit twelve hundred miles long, with people with whom we have never been associated in our judicial system. I am aware that our population in this proposed circuit is very large; but at the same time I think I have shown that it would be far better to have these three States together than otherwise. To be sure, one of these circuits at present has only about half our population; but in a short time Nebraska will be knocking at our door, and Colorado also. I cannot see how my friend from Iowa can be much opposed to this thing. He will have a circuit composed of the States west of the Mississippi.

Mr. GRIMES. I have not said a word against it. I intend to vote for it when you give me an opportunity.

Mr. WRIGHT. I shall be very glad to do so. I trust the Senate will adopt this amendment to the amendment of the House. I shall say no more about it, unless I hear some objection to it.

Mr. TRUMBULL. That it may be understood, I will state that the Senate bill has two of these States together. By the Senate bill, Indiana and Michigan are together, exactly as the Senator wants them. The only trouble is, he wants Ohio instead of Wisconsin and Minnesota. He thinks that is a very bad circuit. Why, sir, it would be one of the most delightful circuits in the Union. As to the idea that you cannot get from one State into another, Michigan lies along the whole width of Indiana, right on it. You can go from Indianapolis to Michigan, and from Michigan across to Wisconsin and Minnesota, just as easily as you can go from Columbus, in the State of Ohio, to Indianapolis. There is no trouble about that. But as I said, I have no feeling about it; and if the Senate think it best to put four and a half million people into one district, and two millions into another, when the principle of the bill is to equalize the circuits, I shall acquiesce, of course.

The PRESIDENT *pro tempore*. The question is on agreeing to the amendment of the Senator from Indiana to the amendment of the House of Representatives.

Mr. HENDERSON. I will not take up any time of the Senate; but I rise simply for the purpose of expressing the desire that the amendment offered by the Senator from Indiana may be adopted; and especially if this amendment is at all satisfactory to the Senators from Ohio, Indiana, and Kentucky. If I understand the amendment of the Senator from Indiana, it is simply this: in the House amendment, the seventh circuit proposed is Ohio, Kentucky, and Michigan.

Mr. TRUMBULL. No; Ohio and Michigan are together by the House bill. Kentucky is sent the other way by the House amendment.

Mr. HENDERSON. The House amendment is Ohio, Kentucky, and Michigan, is it not?

Mr. TRUMBULL. No, sir; Kentucky is not in that circuit.

Mr. HENDERSON. Ohio and Kentucky alone.

Mr. TRUMBULL. No, sir; Ohio and Michigan alone.

Mr. HENDERSON. I understand the proposition made by the Senator from Indiana is to take Ohio, Indiana, and Michigan, and make them the seventh circuit.

Mr. LANE, of Indiana. Yes, sir.

Mr. HENDERSON. The proposition, however, is to take Kentucky, Illinois, and Wisconsin and make that the eighth circuit, leaving Iowa, Minnesota, Missouri, and Kansas, the four States west of the Mississippi river, to constitute the ninth circuit. I sincerely hope that that proposition may be adopted, especially if it be at all acceptable to the Senators representing the States to be affected by it. It most assuredly will suit our section of country, I think, especially the States of Minnesota, Iowa, Missouri, and Kansas; and if it suits Indiana, Ohio, and Michigan, as I understand the Senator from Indiana to state, I sincerely hope it may be adopted.

Mr. LANE, of Kansas. I desire to say that I think it will meet the wishes of my constituents to have a circuit made west of the Mississippi, with Iowa, Missouri, and Minnesota.

Mr. GRIMES. I concur in that opinion so far as the sentiments of the State of Iowa are concerned. It will suit us admirably and is what we desire.

Mr. POWELL. I prefer the Senate bill to any bill that has been presented. I think geographically, and taking into consideration the amount of population and everything of that sort, it is decidedly the best bill. Consequently, I shall vote to maintain the Senate bill as far as I can.

The PRESIDENT *pro tempore*. The question is on the amendment of the Senator from Indiana to the amendment of the House of Representatives.

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

The yeas and nays were ordered; and being taken, resulted—yeas 29, nays 7; as follows:

YEAS—Messrs. Anthony, Browning, Carlile, Chandler, Clark, Collamer, Davis, Dixon, Foot, Grimes, Hale, Harlan, Henderson, Howard, Howe, Kennedy, Lane of Indiana, Lane of Kansas, Morrill, Nesmith, Pomeroy, Sherman, Stark, Sumner, Wade, Wilkinson, Willey, Wilson of Massachusetts, and Wright—29.

NAYS—Messrs. Cowan, Foster, Harris, Powell, Saulsbury, Ten Eyck, and Trumbull—7.

So the amendment to the amendment of the House was agreed to.

The PRESIDENT *pro tempore*. The question recurs on the amendment of the House as amended on motion of the Senator from Indiana.

The amendment, as amended, was concurred in.

The next amendment of the House was, after the following clause in the first section of the bill:

And the circuit courts in the districts heretofore included within any circuit of the United States which by this act are attached to a different circuit shall be held at the same times and places as are now prescribed by law, and the circuit courts in districts which by this act are for the first time attached to circuits shall be held at the same times and places as are now prescribed by law for holding the district courts in said districts,

To insert the following:

Except in the district of Iowa, in which the circuit court shall be holden at the capital of the State on the second Tuesday in May and November of each year, at which times and places terms of the district court shall be holden: *Provided*, This act shall not interfere with the terms of said district court now provided by law for said district.

The amendment was concurred in.

The next amendment of the House was in section two, line four, after the word "Kansas," to insert "Kentucky."

Mr. WRIGHT. It is necessary to disagree to that amendment to make the bill conform to the amendment which has been adopted on my motion.

The amendment was non-concurred in.

The next amendment of the House was in section three, line nine, to strike out "April," and insert "October."

Mr. HOWE. Is it in order to move an amendment to that amendment?

The PRESIDENT *pro tempore*. That is in order. This being an amendment from the House of Representatives, it is competent for the Senate to amend the amendment.

Mr. HOWE. I am not sure whether the proposition I wish to move is really an amendment to the amendment. I want to amend that clause so as to continue process. I wish to amend at the end of the seventh line of the third section, by striking out the word "on," and inserting "shall be continued in said courts until;" so that it will read:

That all actions, &c., shall be continued in said courts until the 1st day of October next, and shall be, and are hereby, declared to be respectively transferred, &c.

The PRESIDENT *pro tempore*. The Chair desires to understand the Senator from Wisconsin, and understand his proposition distinctly. Is the Senator from Wisconsin moving an amendment to the amendment of the House of Representatives, or an amendment to the text of the bill independent of the amendment of the House of Representatives?

Mr. HOWE. It will amend the text.

The PRESIDENT *pro tempore*. It is not competent for the Senate to interfere with the text. There is nothing now before the Senate but the amendments sent to us from the House of Representatives. It is competent for the Senate to amend the amendment of the House, but not to amend its own text.

Mr. HOWE. I had grave doubts whether the proposition would come within the line of an amendment to the amendment. Could this amendment, however, be adopted by the unanimous consent of the Senate?

The PRESIDENT *pro tempore*. The text has been concurred in by the House of Representatives except so far as it is affected by the amendments they have sent us. Therefore it becomes incompetent for the Senate to modify the text of its own bill. There is nothing before us but the amendments sent to the Senate by the House of Representatives. The question is on concurring or non-concurring in those amendments, or concurring in those amendments with amendments.

Mr. HOWE. I believe it would be in order to move to commit the bill for the purpose of inserting that amendment.

The PRESIDENT *pro tempore*. That does not change the power of the Senate over the text of the bill. Nothing can be amended by the Senate now except the amendments sent to us by the House.

Mr. HOWE. I was under the impression we had an express rule to that effect.

The PRESIDENT *pro tempore*. The Senate cannot amend its own text after it has been concurred in by the House.

Mr. HOWE. If there is no possible way in which this can be reformed, it is useless for me to state the necessity for the reform. My attention has been called to it by one of the judges, and it seemed to be important to have it made; but if it cannot be made, that is the end of it.

The PRESIDENT *pro tempore*. The question is on concurring in the amendment of the House of Representatives, striking out "April," and inserting "October."

The amendment was concurred in.

The PRESIDENT *pro tempore*. That disposes of the bill. It came back to the Senate with amendments. The Senate disagree to one of the amendments, and concur in another amendment with an amendment, and concur in the others.

PETITION.

Mr. SUMNER presented a petition of disabled soldiers from the State of Massachusetts, honorably discharged from the Army of the United States, praying a bounty of $100; which was referred to the Committee on Pensions.

PAPERS WITHDRAWN AND REFERRED.

On motion of Mr. SUMNER, it was

Ordered, That the memorial of dealers in and publishers of books in New York, on the files of the Senate, be referred to the Committee on Finance.

GRADES OF NAVAL OFFICERS.

Mr. HALE. The Committee on Naval Affairs, to whom was recommitted last evening the bill (H. R. No. 280) to establish and equalize the grades of line officers of the United States Navy, with several amendments, have had the subject under consideration, and have, in obedience to a vote of the Senate, prepared a pay roll, and have instructed me to report the same back, rejecting the amendments and reporting a new section. I move that the new section be printed, so that it may be before the Senate to-morrow.

The PRESIDENT *pro tempore*. That order will be made.

Mr. GRIMES subsequently said: There was an order made to print the amendment reported from the Committee on Naval Affairs to the Navy grade bill. I have an amendment which I intend to propose, which I desire may be printed also, giving a rank to the civil branch of the service corresponding with the elevation of rank in the military branch.

The PRESIDENT *pro tempore*. It will be considered as a part of the other order.

BILL INTRODUCED.

Mr. HALE asked, and by unanimous consent obtained, leave to bring in a bill (S. No. 378) for the relief of Tilton, Wheelwright & Co.; which was read twice by its title, and referred to the Committee on Naval Affairs.

PROVISIONAL GOVERNMENTS.

Mr. HARRIS. I move that all prior orders be postponed, and that the Senate proceed to the consideration of the bill (S. No. 200) to establish provisional governments in certain cases.

Mr. SUMNER. I think the Senator had better make that a special order.

Mr. FESSENDEN and others. Let us go on with it now.

Mr. WILLEY. I move to take up Senate bill No. 365.

The PRESIDENT *pro tempore*. There is a similar motion pending. The Senator from New York moves to postpone all prior orders, and that the Senate proceed to the consideration of the bill indicated by him.

Mr. WILLEY. I suggest to the Senator from New York whether the passage of my bill might not disembarrass his bill of some difficulties that perhaps now surround it.

Mr. HARRIS. What bill is that?

Mr. WILLEY. A bill for the admission of West Virginia into the Union. It might more properly define and limit the operations of his bill.

Mr. HARRIS. I should be happy to oblige the Senator; but I cannot yield.

The PRESIDENT *pro tempore*. The question is on the motion of the Senator from New York.

Mr. POWELL. On that motion I ask for the yeas and nays.

The yeas and nays were ordered.

The Secretary proceeded to call the roll.

The PRESIDENT *pro tempore*. The vote falls far short of a quorum, and the business of the Senate is arrested for the want of a quorum.

Mr. DAVIS. I move that the Senate adjourn.

The PRESIDENT *pro tempore*. No quorum being present, the Senator from Kentucky moves that the Senate do now adjourn.

The motion was not agreed to.

Mr. TEN EYCK. I was not in the Chamber when my name was called. I vote "nay."

The PRESIDENT *pro tempore*. There is still no quorum, and no motion can be entertained except to adjourn or send for absent members.

Mr. POWELL. During the pause of business, I take this occasion to notify the Senate that five or six months ago I introduced a bill for the purpose of abolishing the bounties on the tonnage of vessels engaged in the Bank and other cod fisheries, and had it referred to the Committee on Commerce, where it has slept ever since. I have on three or four occasions respectfully called the attention of the chairman of the committee to it, and requested a report either favorably or adversely; but it seems the committee will take no action upon it. I merely desire now to notify those interested that when the tariff bill comes up I shall offer it as an amendment to that bill. I wish further to notify the Senate that unless the bill to abolish the franking privilege is taken up and acted upon, I shall also move that as an amendment to the same bill.

Mr. COWAN. I believe there is a vote pending to take up a bill. I vote "nay."

The PRESIDENT *pro tempore*. There is no quorum yet present.

Mr. TEN EYCK. May I not make a report from a committee?

The PRESIDENT *pro tempore*. It cannot be received. No business can be done in the absence of a quorum.

Mr. SUMNER. As there is no quorum present, I move that the Senate do now adjourn. ["Oh no!"] Well, I will not press it.

Mr. SHERMAN. Will it be in order to take an appeal from the decision of the Chair as to the fact of a quorum not being present? I think we may as well decide that question now. We can decide that question as well by an appeal; and I think I shall take an appeal, with perfect respect to the Chair.

The PRESIDENT *pro tempore*. The question of what constitutes a quorum is a constitutional question, and is not an appropriate one for the Chair to decide as a mere question of order. The Chair decides, however, in accordance with practice and with the assent of the Senate regularly and uniformly, that a majority of a full Senate is requisite for a quorum to do business.

Mr. HALE. Is there a quorum present on this vote?

The PRESIDENT *pro tempore*. There is not.

Mr. SHERMAN. I do not appeal from the decision of the Chair, because I do not like to have a decision against the Chair on a question of that kind when the Chair follows precedent, although it is wrong; at least I think that is not the constitutional construction. I think, therefore, as soon as we have a quorum we had better settle that question. I have deferred it heretofore at the request of Senators who are older and more familiar with the practice of the Senate than I am.

Mr. NESMITH. I desire to have my vote recorded. I vote "nay."

The result was announced—yeas 24, nays 11; as follows:

YEAS—Messrs. Browning, Clark, Collamer, Dixon, Fessenden, Foot, Foster, Grimes, Hale, Harlan, Harris, Howe, King, Lane of Indiana, Lane of Kansas, Morrill, Pomeroy, Sherman, Simmons, Sumner, Trumbull, Wade, Wilkinson, and Wright—24.

NAYS—Messrs. Cowan, Davis, Henderson, Howard, Kennedy, Nesmith, Powell, Saulsbury, Stark, Ten Eyck, and Willey—11.

So the motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill (S. No. 200) to establish provisional governments in certain cases.

The bill was read.

The first amendment reported by the Committee on the Judiciary was, in line three, after the word "of," to insert "any of;" so as to read, "that wherever within the territorial limits of any of the United States," &c.

The question being put; it was declared that the amendment was agreed to.

Mr. DAVIS called for a division; and a division being had, the ayes were 5, and the noes 3.

Mr. HALE. I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. SHERMAN. Is it in order pending that question to move to postpone this bill with a view to settle the question of a quorum?

The PRESIDENT *pro tempore*. It is. The call of the yeas and nays has not commenced.

Mr. SHERMAN. I move to postpone this bill with a view to settle the question of a quorum.

The motion to postpone was agreed to.

Mr. SHERMAN. I now move to take up the resolution in regard to a quorum.

Mr. FOSTER. I hope the Senator from Ohio will not press the motion to take that matter up now. It would, of course, produce discussion, and probably lengthened discussion, and the result would be that there would be no quorum of the body when we came to a vote, if we came to one to-day. I suggest that it is better, certainly for to-day, to go on with any business which we can take up and pass without very much division of opinion in the Senate.

Mr. SHERMAN. I think it is important to have this question settled now. I have deferred it at the request of Senators from time to time, and now, I think, at this period of the session we must decide it. Even when we are acting on so important a bill as this, we cannot maintain a quorum here, we have so few members in the city. I will not detain the Senate long in discussing the resolution.

The PRESIDENT *pro tempore*. The Senator from Ohio moves to postpone all prior orders and proceed to the consideration of a resolution indicated by him in relation to a quorum of the body.

Mr. SHERMAN. That question was carried, and the Chair announced that the bill was postponed, and I rose to address the Chair on the resolution.

The PRESIDENT *pro tempore*. The Chair is advised that the motion of the Senator from Ohio embraced only the postponement of the bill under consideration, being Senate bill No. 200.

Mr. SHERMAN. Then I submit the motion to take up the resolution I have indicated.

Mr. TRUMBULL. Is it not better to have a division on the question postponing the other bill? It was not understood. The Senator from New York did not understand that it had been postponed.

The PRESIDENT *pro tempore*. The question was put upon the motion of the Senator from Ohio to postpone the consideration of the bill then before the Senate—the bill taken up on the motion of the Senator from New York. The question was distinctly put and declared carried.

Mr. HARRIS. Will it be in order now to move a reconsideration?

The PRESIDENT *pro tempore*. Certainly it will.

Mr. HARRIS. I move a reconsideration of that question.

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

Mr. DAVIS. Mr. President——

The PRESIDENT *pro tempore*. The Chair begs Senators to allow the Chair an opportunity to present the question to the Senate, that it may be understood what is before the body. The Senator from New York now moves to reconsider the vote by which the Senate postponed the consideration of Senate bill No. 200 until to-morrow.

Mr. DAVIS. I was about to inquire if the Senator from New York was in a position to make that motion.

The PRESIDENT *pro tempore*. Unless the question is raised, unless the point is made, the Chair always assumes that the Senator moving to reconsider a vote is competent to do so by the vote he had previously given; that is, that he voted with the majority.

Mr. TRUMBULL. There was no division.

Mr. HARRIS. I did not vote at all.

The PRESIDENT *pro tempore*. Where a Senator gives no vote at the time, and sits by without voting, it is assumed that he votes with the majority; that is, he assents to the majority vote, and is competent to make the motion to reconsider.

Mr. HALE. I want to ask if it is not competent now to move to postpone the bill and this motion and all prior orders, for the purpose of taking up the resolution proposed by the Senator from Ohio. If it is, I make that motion to postpone all prior orders for the purpose of taking that up.

The PRESIDENT *pro tempore*. The bill is not before the Senate. The motion of the Senator from New York is to reconsider the vote by which the bill was postponed until to-morrow.

Mr. SHERMAN. The question of postponement, I think, takes precedence of a motion to reconsider; otherwise the Senate may be occupied in discussing questions of reconsideration all the time.

The PRESIDENT *pro tempore*. That would be the rule but for the fact that a motion to reconsider is a privileged question of higher order than a motion to postpone.

Mr. HALE. Let me suggest that so far as the privilege is concerned, the Senator has got his privilege when the motion is entered upon the Calendar; but the consideration of a motion to reconsider is not a privileged subject. The Senator has made his motion, and he has secured everything he can secure by the privilege. Then it is subject to the order of the Senate to postpone.

The PRESIDENT *pro tempore*. That has been the practical construction given by the Senate to that motion. The privilege is exhausted upon making and entering the motion. The Senator from New Hampshire moves to postpone the motion of the Senator from New York——

Mr. HALE. And all prior orders.

Mr. COLLAMER. Permit me to inquire whether, if that motion is postponed it can ever come up again. It is a motion made now in relation to the relative position of business. That relative position of business will have passed away by to-morrow. I think, therefore, it is not a motion that is subject to postponement.

The PRESIDENT *pro tempore*. It is simply a motion which, if carried, will bring business before the Senate. There is no practical business before the Senate now, and this motion is a mere naked motion, as much so as a motion to adjourn, and a mere motion is not the subject of postponement; that is, it is not the subject of another motion. Piling motion upon motion is not in order, because it is impracticable, it carries nothing with it. The question recurs on the motion of the Senator from New York to reconsider the vote by which the Senate postponed the consideration of Senate bill No. 200.

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

Mr. TRUMBULL. I merely wish to say that I hope this vote will be reconsidered. The bill is a very important one; we are approaching the close of the session; and if it is to be acted upon at all, it ought to be acted on speedily. It certainly is a bill that should have the consideration of the Senate, and I hope it will not be postponed for any other subject. Therefore, I trust we shall reconsider the vote and proceed at once to act upon the bill and dispose of it.

Mr. SHERMAN. I am in favor of this bill; but there are quite a number of important amendments, raising important questions, upon which the yeas and nays will be called, and I do not believe we can pass the bill with the number of Senators that can attend to-day. The effect will be to waste the day in wearisome motions, calling for yeas and nays, and sending for absent Senators. I think, therefore, as we must meet the question of a constitutional quorum, we had better settle it now. Senators have made up their minds upon that point, or can do so after a brief debate; and if my resolution shall prevail, the Senate can then take up this bill and pass it. I am in favor of the bill, and I do not wish to obstruct it; but I really believe my motion will tend to facilitate business, and facilitate the passage of this important bill.

Mr. SUMNER. I agree with the Senator from Ohio; I am in favor of this bill; I think it ought to be passed; this Congress ought not to separate without its passage; but then I am too familiar with this Senate not to see that it cannot be considered to-day. I see that there are several points in it on which there will necessarily be divisions; and it is with difficulty, and only, if I may so say, by drumming up Senators, that we get a quorum. I think, therefore, the best economy would be that this bill should be postponed, as I tried to suggest to the Senator from New York when he first moved it, to another day; I would say the earliest day next week, when we may expect a quorum; for I do not expect a quorum to-morrow or Saturday; and I think, therefore, it would be better if this bill were directly postponed until next Monday, or allowed to go over informally until next Monday, or made the special order, with the understanding that it then be proceeded with until it is settled one way or the other. The Senator from Ohio does not exaggerate its importance; it is as important as any bill on which the Senate has acted this session; and there ought to be a full Senate when we act upon it.

Mr. TRUMBULL. I do not agree that we shall be relieved of the difficulty by altering the number which is required to constitute a quorum. It will be found, if the resolution of the Senator from Ohio shall prevail, that Senators, understanding that a less number will constitute a quorum, will not attend. Now, if it is understood to-day that the Senate is prevented from doing business by reason of the non-attendance of Senators, they will soon be here. We have a quorum in the city, a quorum about the building; we have had several calls of the yeas and nays to-day, and a quorum has voted; and surely Senators will not neglect the public business, and absent themselves, when they know that their presence is absolutely necessary to any action being taken in the Senate. I think we shall have no great difficulty about a quorum; but if you say that thirty is a quorum of this body, or that twenty-five is a quorum, you will have the same difficulty. I know Senators who are staying here, as they say, to make a quorum. How long will they stay when you change the rule, and declare that half a dozen less shall constitute a quorum? They will leave; you will have about the same difficulty; and, in my experience in the Senate, there is as little difficulty in keeping a quorum of the Senate now as there was when the Senate was full. When every one of the thirty-four States was represented, it was frequently the case that the Senate found itself without a quorum; and I think we had as much trouble at former sessions as we have had at the present one on that subject. We have forty-nine Senators; and surely, if Senators will attend to their duties, we can keep thirty-five of them here.

Mr. SUMNER. I do not wish now to go into the question of a quorum. If that question is taken up, it will be then time to discuss it, but I wish to appeal to my friend from Illinois to allow the other question to be made the special order for Monday next, when we have reason to believe we shall have a full Senate. Let there be an understanding that it shall be taken up then, and be proceeded with until it is settled. As it is now, evidently there was a surprise; Senators were not prepared on so important a bill.

Mr. TRUMBULL. Why should they not be?

Mr. SUMNER. That I cannot answer. The fact is they were not, and as we are on the eve of one of the holidays of the country, some Senators have doubtless left for their homes; other Senators are unhappily ill, not able to be here. We must see things as they are; and under the circumstances of the case I think if the Senator from New York, who has the bill in charge, will ask to have it made a special order for Monday next, say at twelve o'clock or one o'clock, as he may select, the Senate will consent to it, and we can then proceed with that business.

Mr. HARRIS. I regard this bill as one of very great importance in reference to the future condition of our country, and I have been seeking for the last two weeks to bring it to the attention of the Senate, but other business of a pressing character has prevented me from getting it before the Senate. I have succeeded now in getting it before the attention of the Senate. I have no anxiety as to the particular time when it shall be considered, but it is apparent to Senators that we are approaching the close of the session. It is an important bill, on which there will no doubt be a considerable diversity of opinion. It will excite some debate. If it passes the Senate, it must be discussed in the other House in order to become a law. My fear is, that these delays will result in a defeat of the measure; but if the Senate think that by making it the special order for to-morrow or Monday it can be then taken up by the general consent of the Senate, and acted upon without further delay, I shall have, personally, no objection to that arrangement. Perhaps it would be better. I do not want to press the bill on the attention of the Senate when there is a disinclination to consider it. If, therefore, by general consent, it can be made a special order for Monday at twelve o'clock, I shall not oppose that arrangement.

The PRESIDENT *pro tempore*. The Secretary will call the roll on the motion to reconsider the vote postponing this bill until to-morrow.

Mr. HARRIS. I withdraw that motion if the disposition I have indicated can be made.

The PRESIDENT *pro tempore*. The call for the yeas and nays can be withdrawn by general consent. The Chair hears no objection.

Mr. HARRIS. I move now to make the bill the special order for Monday.

The PRESIDENT *pro tempore*. The first question is on reconsidering the vote postponing the bill till to-morrow.

Mr. DAVIS. I ask for a division on that question.

The PRESIDENT *pro tempore*. Does the Senator object to the withdrawal of the call for the yeas and nays?

Mr. DAVIS. I do not object to the withdrawal of the call for the yeas and nays. I merely want the Senate to divide on the question of reconsideration.

Mr. SUMNER. Mr. President——

The PRESIDENT *pro tempore*. The Chair must obey the motions of Senators and put them in their order. The Senator from Kentucky demands a division.

The question being put, the ayes were twenty-two.

The PRESIDENT *pro tempore*. Does the Senator from Kentucky demand a further count?

Mr. DAVIS. No, sir.

The PRESIDENT *pro tempore*. The motion is agreed to. The bill is now again before the Senate.

Mr. HARRIS. Now I move that the bill be postponed until Monday next, and made the special order for twelve o'clock on that day.

Mr. COLLAMER. There was a misunderstanding between the Senator from Kentucky and the Chair about requiring a count.

Mr. DAVIS. I understood the question which the Chair submitted to the Senate to be this, "Will the Senate postpone until Monday the motion to reconsider the vote upon the bill as moved by the Senator from New York?"

The PRESIDENT *pro tempore*. The Chair stated the question, and will restate it; and if there was a misunderstanding on the part of the Senator from Kentucky, the division will be carried through. The Chair announced the affirmative vote to be twenty-two, and asked the Senator from Kentucky if he demanded a further count. The Chair understood the Senator from Kentucky as answering in the negative. The Chair then announced the vote to be carried, and that the motion to postpone the bill until to-morrow was reconsidered. That brought the bill again before the Senate, upon which the Senator from New York moved that its further consideration be postponed until Monday next, and made the special order of the day for twelve o'clock of that day.

Mr. DAVIS. The question upon which I asked for a division of the Senate was the question upon a reconsideration of the vote.

The PRESIDENT *pro tempore*. That was the question upon which the division was taken.

Mr. DAVIS. Yes, sir; but I understood the Chair, when the question was submitted to the Senate, to announce it in this form: "Will the Senate postpone the motion to reconsider until Monday?"

The PRESIDENT *pro tempore*. The Chair has put no such question; and no such question would be in order.

Mr. DAVIS. That was my understanding.

The PRESIDENT *pro tempore*. Does the Senator now demand a further count on the motion to reconsider the vote postponing this bill until to-morrow?

Mr. DAVIS. I should like to have that count.

The PRESIDENT *pro tempore*. Twenty-two voted in the affirmative. Those in the negative will rise and stand to be counted.

Those in the negative having stood in their places and been counted,

The PRESIDENT *pro tempore*. There are seven votes in the negative, no quorum voting, which is the usual result of a division. There is no quorum present and the business of the day is suspended.

Mr. HARRIS. I ask for the yeas and nays on the motion.

The yeas and nays were ordered; and, being taken, resulted—yeas 28, nays 10; as follows:

YEAS—Messrs. Browning, Chandler, Clark, Collamer, Cowan, Dixon, Foot, Foster, Grimes, Harlan, Harris, Henderson, Howe, King, Lane of Indiana, Lane of Kansas, McDougall, Morrill, Pomeroy, Sherman, Simmons, Sumner, Ten Eyck, Trumbull, Wade, Wilkinson, Willey, and Wright—28.

NAYS—Messrs. Davis, Fessenden, Hale, Howard, Kennedy, Nesmith, Powell, Saulsbury, Stark, and Wilson of Missouri—10.

So the motion to reconsider the vote ordering the consideration of the bill to be postponed until to-morrow was agreed to.

Mr. HARRIS. I now move that the bill be made the special order for Monday next, at twelve o'clock.

The motion was agreed to, (two thirds of the Senate concurring therein.)

CONSTITUTIONAL QUORUM.

Mr. SHERMAN. I move now to take up the resolution in regard to a quorum.

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

The resolution was read, as follows:

Resolved, That a majority of the Senators duly elected and entitled to seats in this body is a constitutional quorum.

The resolution was referred to the Committee on the Judiciary, who reported the following resolution:

Resolved, That it is inexpedient at the present time to take action on the question involved in the resolution, and the same is therefore hereby indefinitely postponed.

The PRESIDENT *pro tempore*. The resolution reported by the committee is a mere motion for the indefinite postponement of the resolution. The question now before the Senate is on taking up this resolution for consideration.

Mr. DAVIS. I move to postpone the resolution indicated——

The PRESIDENT *pro tempore*. The resolution is not yet before the Senate.

Mr. SHERMAN. Let us take it up and act upon it.

The PRESIDENT *pro tempore*. The question is whether it shall be brought before the Senate.

Mr. FOSTER. I hope it will not be taken up. As I suggested to the Senator from Ohio before, it is very manifest that we cannot after a debate get a vote on it to-day. I think it is demonstrable from all our experience to-day that before we have finished debating this resolution we shall have no quorum. I think there are a number of bills lying on the table that could be taken up and acted on without a division and without trouble, and we should thus get rid of a considerable amount of business, and do a great deal of good. I trust that the Senator from Ohio will not press this resolution now, for although it is important, I agree, it will result in nothing; it will come to nothing in the end.

Mr. SHERMAN. I trust we shall have a vote on this resolution. I will not detain the Senate myself more than ten minutes. I think we can have a vote, and we now have a quorum. I ask for the yeas and nays.

The yeas and nays were ordered; and being taken, resulted—yeas 16, nays 22; as follows:

YEAS—Messrs. Chandler, Clark, Fessenden, Hale, Harlan, Henderson, Howe, Lane of Indiana, Lane of Kansas, Morrill, Pomeroy, Sherman, Simmons, Sumner, Wade, and Wright—16.

NAYS—Messrs. Browning, Carlile, Collamer, Cowan, Davis, Dixon, Foot, Foster, Grimes, Harris, Howard, Kennedy, King, McDougall, Nesmith, Powell, Saulsbury, Stark, Ten Eyck, Trumbull, Willey, and Wilson of Missouri—22.

So the Senate refused to take up the resolution for consideration.

PACIFIC RAILROAD.

Mr. McDOUGALL. I ask leave to introduce a little bill to amend the Pacific railroad act, and I desire to have it passed at once. It is simply an amendment as to the time of meeting of the commissioners at Chicago, which is indefinite in the law.

There being no objection, leave was granted to introduce a bill (S. No. 379) to amend an act entitled "An act to aid in the construction of a railroad and telegraph line from the Missouri river to the Pacific ocean, and to secure to the Government the use of the same, for postal, military, and other purposes," approved July 2, 1862, and it was read the first time by its title.

Mr. KING. I do not know that there is any objection to the bill, but I ask that it be read through that we may see what it is.

The PRESIDENT *pro tempore*. The bill will have its second reading at length.

The bill was read a second time, and considered as in Committee of the Whole. It provides that the first meeting of the commissioners named in the act entitled "An act to aid in the construction of a railroad and telegraph line from the Missouri river to the Pacific ocean, and to secure to the Government the use of the same for postal, military, and other purposes," approved July 2, 1862, and of the five commissioners directed by the act to be appointed by the Secretary of the Interior, shall be held at Bryant Hall, in the city of Chicago, Illinois, on the second Thursday of August next, at twelve o'clock, noon. A notice of the meeting, to be signed by at least ten of the commissioners named in the act, is to be published once a week, during the six successive weeks commencing on the 12th of July, 1862, in one daily newspaper in each of the cities of Boston, New York, Philadelphia, Cincinnati, Chicago, and St. Louis, and no other notice is to be requisite.

Mr. HALE. It strikes me, as I heard the bill read, that there is not time enough for the publication within the period prescribed. Let that part of the bill be read again.

The Secretary read the portion of the bill indicated.

Mr. HALE. There are not six weeks between the 12th of July and the second Thursday of August.

Mr. McDOUGALL. I propose to amend the bill by fixing the first Tuesday of September as the day.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in. The bill was ordered to be engrossed for a third reading, was read the third time, and passed.

TERRITORY OF ARIZONA.

On motion of Mr. WADE, the Senate resumed the consideration of the bill (H. R. No. 357) to provide a temporary government for the Territory of Arizona.

The PRESIDENT *pro tempore*. This bill has been acted upon as in Committee of the Whole and reported to the Senate and the amendments disposed of. It is still open to amendment.

Mr. CARLILE. Is it in order to have the bill read as it now stands amended?

The PRESIDENT *pro tempore*. It may be read again at length if a majority of the Senate so order. The bill having been once read, it is not the privilege of every individual member to have it read again. That is a matter within the control of a majority.

Mr. CARLILE. I should like to hear the bill read, as it has been amended. I cannot get it in print as it has been amended.

The PRESIDENT *pro tempore*. If there be no objection, the Chair will take it to be the sense of the Senate that the bill be read, as amended, before the vote is taken on ordering it to a third reading.

The Secretary read the bill as amended, as follows:

An act to provide a temporary government for the Territory of Arizona.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That all that part of the present Territory of New Mexico situate west of a line running due south from the point where the southwest corner of the Territory of Colorado joins the northern boundary of the Territory of New Mexico to the southern boundary line of said Territory of New Mexico be, and the same is hereby, erected into a temporary government, by the name of the Territory of Arizona: *Provided*, That nothing contained in the provisions of this act shall be construed to prohibit the Congress of the United States from dividing said Territory, or changing its boundaries, in such manner and at such time as it may deem proper: *Provided further*, That said government shall be maintained and continued until such time as the people residing in said Territory shall, with the consent of Congress, form a State government, republican in form, as prescribed in the Constitution of the United States, and apply for and obtain admission into the Union as a State, on an equal footing with the original States.

SEC. 2. *And be it further enacted*, That the government hereby authorized shall consist of an executive, legislative, and judicial power. The executive power shall be vested in a Governor, who, in addition to his other duties, shall be *ex officio* superintendent of Indian affairs, but shall receive no additional salary therefor. The legislative power shall consist of a Council of nine members and a House of Representatives of eighteen. The judicial power shall be vested in a supreme court, to consist of three judges, and such inferior courts as the Legislative Council may by law prescribe; there shall also be a secretary, a marshal, a district attorney, and a surveyor general for said Territory, who, together with the Governor, and judges of the supreme court, shall be appointed by the President, by and with the advice and consent of the Senate, and the term of office for each, the manner of their appointment, and the powers, duties, and the compensation of the Governor, Legislative Assembly, judges of the supreme court, secretary, marshal, district attorney, and surveyor general aforesaid, with their clerks, draughtsman, deputies, and sergeant-at-arms, shall be such as are conferred upon the same officers by the act organizing the territorial government of New Mexico, which subordinate officers shall be appointed in the same manner, and not exceed in number those created by said act; and the act amendatory thereto together with all legislative enactments of the Territory of New Mexico not inconsistent with the provisions of this act, are hereby extended to and continued in force in the said Territory of Arizona, until repealed or amended by future legislation: *Provided*, That no salary shall be due or paid the officers created by this act for more than three months before they have entered upon the duties of their respective offices within the said Territory. And, until otherwise provided by the Legislature thereof, the seat of government of said Territory shall be at Tucson: *And provided further*, That no one session of the Legislative Assembly shall exceed forty days in duration.

SEC. 3. *And be it further enacted*, That there shall neither be slavery or involuntary servitude in the said Territory, otherwise than in the punishment of crimes, whereof the parties shall have been duly convicted; and all acts and parts of acts, either of Congress or of the Territory of New Mexico, establishing, regulating, or in any way recognizing the relation of master and slave in the said Territory, are hereby repealed.

The PRESIDENT *pro tempore*. The question is, "Shall the amendment be engrossed and the bill read a third time?"

Mr. TRUMBULL. I do not intend to detain the Senate at any length in regard to this question;

but it seems to me that it is wholly unnecessary to create this new Territory of Arizona. After the former discussion on the subject, I sent to the census office to ascertain the population in the Territory, and I find that the population of the county of Arizona in the Territory of New Mexico, and there is no other county within the limits of the proposed new Territory in which there is any white population, is six thousand four hundred and eighty-two. It seems to me that this is not the time to be establishing a territorial government down in Arizona for six thousand people, with a Governor, a secretary, judges, marshals, and a Legislature, all to be paid by the United States. It looks to me like a bill to provide places for a number of persons. We have not possession there at this time. It is now a part of the Territory of New Mexico. I see no necessity for dividing that Territory. It will be said, perhaps, that it is a Territory of large extent. Why, sir, only a few years ago all the region of country beyond Iowa was in one territorial government. The Territory of Dakota now is large enough for several States, but it is uninhabited to a great extent except by Indians; and so with the Territory of New Mexico, and in that part of it which is now proposed to be organized into a separate territorial government there are but six thousand people. I cannot see the necessity for creating this territorial government, unless it is to find places for officers who are to be paid, according to the provisions of this bill, three months before they enter upon the discharge of their duties.

Mr. McDOUGALL. Allow me to ask the Senator how he ascertains six thousand to be the number of the population.

Mr. TRUMBULL. The population of Arizona is six thousand four hundred and eighty-two.

Mr. McDOUGALL. That is the county.

Mr. TRUMBULL. There is not a white inhabitant in any portion of what is embraced in your Territory of Arizona that is not in that county.

Mr. McDOUGALL. That is a mistake.

Mr. TRUMBULL. I am informed by residents of New Mexico, who have lived there for years, that the entire white population that is embraced within the proposed limits of the Territory of Arizona is in the county of Arizona.

Mr. McDOUGALL. It is a mistake.

Mr. TRUMBULL. I may be misinformed, but I should like to know what other county is in it. If the Senator from California says I am misinformed, will he tell me any other county in the present Territory of New Mexico that is embraced within the limits of the proposed Territory of Arizona, which has any white inhabitants in it? I derive my information on this point from a gentleman from New Mexico who has been there for years, a gentleman of high intelligence who has traveled all over the country and knows it well, who is at this time a resident there, but happens to be here temporarily.

I do not propose to take up the time of the Senate. I do not know that there is much more to be said about this bill. If the Congress of the United States is prepared to create a Territory for six thousand inhabitants, when there is no special urgency for it, be it so. I can see no occasion for it. What is the demand for it? It has been hinted by some one that it is necessary to secure our authority there. Civil officers cannot establish our authority. If the authority of the United States is not recognized in Arizona, the appointment of a Governor and judges and marshals and clerks, and paying them three months' salary before they enter on the discharge of their duties, will not establish the authority of the United States. That is to be done by force of arms, and you may as well do it by force of arms without your Governor and judges as with them. But you have got a Governor in New Mexico already. You have judges in New Mexico enough to do the business, as I understand; but if they are not enough, you can add another, and assign him, if you please, to that portion of the Territory of New Mexico embraced within the proposed limits of Arizona; but surely there can be no necessity at this time, so far as I am informed, to establish a government, with all its machinery and all the expenses that it incurs. At the suggestion of the Senator from New York, [Mr. KING,] I move that the further consideration of this bill be postponed until the first Monday in December next.

Mr. WADE. I am very indifferent about this motion, but I will say that the argument which the Senator from Illinois has made against the organization of this Territory, might have been made against any Territory we have ever organized, because when we undertake to organize a Territory, it always imposes upon the Government some few officers who would not have been under the pay of the Government without it. That is about the only reason he urges against it. The organization of the Territory of Arizona has been a matter of constant importunity upon this Government for more than seven years to my certain knowledge, and there has always been an uneasiness among that people about their being attached to New Mexico. When you look at the map, you will find that this Territory is of vast extent and the settlements are widely apart. The principal settlement in Arizona, as I understand, is seven hundred miles from Santa Fé, the capital of New Mexico. It is found exceedingly inconvenient for the officers in New Mexico to do business there. There is almost a blank desert between the two of some two hundred or three hundred miles wide, that has to be passed, as I understand, and the people there ever since I have been upon the Committee on Territories have been urging Congress to organize this Territory. That may have arisen in some measure from the importunity of those who expect to be officers there. I do not know how that is. I presume, however, there never was a Territory organized where there was not somebody who urged it upon Congress for the purpose of getting into office there. That I presume is always an element in all these applications, but nevertheless we must proceed upon higher principles entirely. If it is necessary to organize a civil government there, the fact that some persons will be appointed to office does not form a very formidable objection against the proposition.

The Senator says there are about six thousand five hundred inhabitants in this Territory. I know very well that in these troublesome times many of the inhabitants have temporarily left there. But from the best information that can be had on the subject, I know that Arizona is a country exceedingly rich in gold and silver, and other minerals; it has attracted great attention in various parts of the Union on that account, and many emigrants have gone there. Doubtless the only reason it does not settle up as fast as almost any part of our new Territories is the insecurity of the people who go there. They are driven out every little while by marauding bands of Indians. That renders the settlements exceedingly insecure. The Department of State that takes the principal cognizance of the Territories has urged it upon me as absolutely necessary, to secure a good government there, that it should be organized into a Territory. You may send a military governor there, if you will; you may invest him with power, and he may reign there like a prince despotically; but I am not for that. I am very little in favor of that mode of governing a Territory. If it were an imperious necessity, I might be willing to submit to it; but wherever it can be shown that government can be carried on through civil authorities, it is much more in accordance with our ideas, than to invest a military chief with despotic power to govern just as he pleases.

The Senator says we have no hold in this Territory. I believe that is a mistake. Some time ago it was pretty much overrun; but, as I understand, we now have possession substantially of the whole of the Territory, and we expect to have possession of it all very soon, if we have not now; and whenever we have it, we shall want to establish a civil government there, so that the people can feel some degree of security that their rights may be adjusted without a drum-head court-martial; that their mining rights can be recognized, their titles to land investigated, and all those questions that interest men in the civil state be attended to.

If these do not constitute reasons why this Territory should be organized, let it go. It was the judgment of the other House that it ought to be organized. The Committee on Territories of this body took up the question, obtained all the information they could find on the subject, and had before them intelligent men who were of opinion that the organization was necessary for the welfare of the people inhabiting that region. I believe it was the unanimous opinion of the Committee on Territories that, under all the circumstances, this Territory ought to be promptly organized. I know it was strongly urged on us by the Secretary of State; but I leave it to the Senate; I am not going to make an elaborate argument upon it. I am convinced that it will be for the best interests of this country, and the people living there, that we should organize it.

Mr. McDOUGALL. Mr. President, it is perhaps my duty to say something on this question, as I think I am the only Senator who knows anything personally of the country proposed to be organized into a Territory. I have traveled all over that country, and I understand its necessities. The Rio Grande goes down to the Gulf of Mexico, the Gila goes into the Colorado and down the Gulf of California. They drain different sections of country.

It is, as has been stated by the Senator from Ohio, seven hundred miles from Santa Fé to Tucson, the place named as the capital town of the Territory to be organized. It is not seven hundred miles by railroad; it is not seven hundred miles by stages; it is seven hundred miles, much of it a desert and uninhabited country. They are distinct parts of the world. New Mexico is not as important to this Government as Arizona is. The large mining interests of Arizona and its fine agricultural advantages also, induced a great many enterprising men of our own people to go into that country some years since. They have been partly driven out, it is true. The population cannot be enumerated now as large as it should be enumerated. It is one of the finest parts of the world, rich in mineral wealth, rich in agricultural resources. It is our southern frontier which we acquired with great care, and I think with some wisdom. Thousands of our people who adventured their fortunes there have been driven out. That is their misfortune and the nation's loss. It would be wise if at all times we had maintained our frontier, and particularly our southern frontier in relation to Mexico. The country which is proposed to be organized now would be worth three times New Mexico if there was a government there; but the Government of New Mexico at Santa Fé has no strength at Tucson. It would take fast riders from Santa Fé a fortnight to find Tucson. The judges of the courts in New Mexico cannot get to Tucson without guards and escorts. They are distinct portions of the country. Arizona should be organized; and I say this, not by way of argument, but by way of expressing an opinion, an informed opinion, having been through all that country, that it is due to that country and to the people who have gone to inhabit it and who have millions invested there, that they should have a form of government, and I trust the Senate will concur in passing the bill.

The PRESIDENT *pro tempore*. The question is on the motion to postpone the further consideration of this bill until the first Monday of December.

Mr. LANE, of Kansas. I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. LANE, of Kansas. This is a question in which our people feel a great deal of interest, and I hope no Senator will be influenced in casting his vote by the statement made by the Senator from Illinois that there are but six thousand inhabitants in this Territory. It is true they may not be there now, but the same remark holds good as to Missouri, Kentucky, and Virginia. The people of Arizona have been driven out of Arizona by the confederate armies. It is true—I suppose known to the Senator from Illinois—I have heard it, and never heard it contradicted, that the confederate government have framed a territorial government for Arizona and have appointed their own officers. Our people think that such a movement should be made on our part that citizens may return to the country, may be invited to return, and to have security for their civil rights.

Mr. TRUMBULL. That there may be no misunderstanding in regard to the population, I will say that I have before me a list of the population taken in 1860 before this rebellion broke out, before anybody was driven from Arizona by the rebels, and the population at that time was but six thousand four hundred and eighty-two.

Mr. POMEROY. I suppose the Senator from Illinois must be aware of the manner in which a

census is taken in a Territory. Our State was a Territory at that time; and the officers received specific instructions in our Territory not to count the inhabitants west of a certain meridian. They did not pretend to take the census of the Territory, either of Kansas or New Mexico, but took the inhabitants up to a certain meridian, and the census was confined to the population east of the sixth principal meridian. The Senator from Illinois also ought to bear in mind that the boundaries of the present Territory of Arizona, as contained in this bill, were not the boundaries specified in the census before. It embraces a larger scope of country and more population; and the census has never yet been taken in a Territory, excepting in one or two counties where the majority of the people happen to reside.

Mr. LANE, of Kansas. I desire to make a statement to the Senate. The Treasury Department some two or three years ago, perhaps it was longer, appointed a custom-house officer for this Territory, and he is still continued in office, showing the necessity of a government, I think. You will never settle up a Territory if you wait to get population. Government should go before. If you expect to settle up these new countries you must send government as the frontiersman. When we get one hundred thousand population, we establish a State government; in Kansas, I believe, the population was less than that. The argument with me has no force. I am one of the men who believe that the question of population should not be asked at all, even as to a State government. The only question we should ask is, are the people of the Territory willing to take upon themselves the burdens of a State government? The argument here has less force.

The question being taken by yeas and nays, resulted—yeas 25, nays 13; as follows:

YEAS—Messrs. Carlile, Clark, Davis, Dixon, Fessenden, Foster, Grimes, Hale, Harlan, Harris, Henderson, Howard, Kennedy, King, Lane of Indiana, Morrill, Nesmith, Powell, Saulsbury, Sherman, Stark, Ten Eyck, Trumbull, Wilson of Missouri, and Wright—25.

NAYS—Messrs. Anthony, Browning, Chandler, Cowan, Foot, Howe, Lane of Kansas, McDougall, Pomeroy, Simmons, Sumner, Wade, and Wiley—13.

So the consideration of the bill was postponed until the first Monday of December next.

DES MOINES RIVER LAND GRANT.

On motion of Mr. CLARK, the Senate, as in Committee of the Whole, proceeded to consider the bill (S. No. 119) confirming a land claim in the States of Iowa and Minnesota, and for other purposes; the question being upon the amendment reported by the Committee on Public Lands, to strike out all after the enacting clause of the bill, and insert:

That the grant of lands to the then Territory of Iowa for the improvement of the Des Moines river, made by the act of August 8, 1846, is hereby extended so as to include the alternate sections (designated by odd numbers) lying within five miles of said river, between the Raccoon fork and the northern boundary of said State; such lands are to be held and applied in accordance with the provisions of the original grant, except that the consent of Congress is hereby given to the application of a portion thereof to aid in the construction of the Keokuk, Fort Des Moines, and Minnesota railroad, in accordance with the provisions of the act of the General Assembly of the State of Iowa, approved March 22, 1858. And if any of said lands shall have been sold or otherwise disposed of by the United States before the passage of this act, the Secretary of the Interior is hereby directed to set apart an equal amount of lands within said State to be certified in lieu thereof: *Provided*, That if the said State shall have sold and conveyed any portion of the lands lying within the limits of this grant the title of which has proved invalid, any lands which shall be certified to said State in lieu thereof, by virtue of the provisions of this act, shall inure to and be held as a trust fund for the benefit of the person or persons, respectively, whose titles shall have failed as aforesaid.

Mr. CLARK. I move to amend the amendment of the committee by inserting after the word "act," in the seventeenth line, the words, "excepting those released by the United States to the grantees of the State of Iowa under the joint resolution of March 2, 1862;" so as to make it read:

And if any of said lands shall have been sold or otherwise disposed of by the United States before the passage of this act, excepting those released by the United States to the grantees of the State of Iowa under the joint resolution of March 2, 1862, the Secretary of the Interior is hereby directed to set apart an equal amount of land, &c.

The amendment to the amendment was agreed to; and the amendment, as amended, was adopted.

The bill was reported to the Senate as amended, and the amendment was concurred in. The bill was ordered to be engrossed for a third reading, was read the third time, and passed. Its title was amended so as to read, "A bill confirming a land claim in the State of Iowa, and for other purposes."

ANDREW TEN BROECK.

Mr. HARRIS. I move that prior orders be postponed, and that the Senate take up for consideration the bill for the relief of Andrew Ten Broeck.

The motion was agreed to; and the bill (S. No. 368) for the relief of Andrew Ten Broeck was read a second time, and considered as in Committee of the Whole. It provides for the payment to Andrew Ten Broeck, late consul of the United States at Munich, for extraordinary services rendered by him under instructions from the Secretary of State, $2,666 66.

Mr. GRIMES. Let the report be read.

The Secretary read the report made by Mr. HARRIS, from the Committee on Foreign Relations, by which it appears that on the 12th of March, 1859, Mr. Ten Broeck, then being the consul of the United States at Munich, with a salary of $1,000 per annum, was instructed by the Assistant Secretary of State to make certain representations to the Bavarian Government in relation to the compulsory enlistment of American citizens who had emigrated from Bavaria, upon their return to that country. From that time until the 14th of November, 1861, embracing a period of two years and eight months, a diplomatic correspondence, both voluminous and important in its character, and successful in its result, was carried on between Mr. Ten Broeck and the Bavarian authorities. The correspondence itself occupies nearly two volumes of the documents in the State Department. In view of these facts the committee are of opinion that the salary received by Mr. Ten Broeck, as consul, is an entirely inadequate compensation for his valuable and laborious services, and they recommend that an additional allowance be made to him at the rate of $1,000 per annum for the period of two years and eight months, the time during which he was engaged in these duties.

Mr. HALE. I hope the bill will not be passed. I think it would be a dangerous precedent, worse than the one my friend from Massachusetts had up yesterday, altogether worse. This man did not travel, did not go out of his place. He was simply the accredited consul there, and the Government corresponded with him.

Mr. WRIGHT. I ask the Senator from New Hampshire to wait a moment now and look at this matter. I know something about it. I have in my hand the correspondence of Mr. Ten Broeck upon the subjects referred to in this report of the Committee on Foreign Relations; but before I call the attention of the Senate to that, I want to state a fact. The population of Bavaria is between six and seven millions. The salary of our consul there was $1,000 a year. Mr. Ten Broeck was sent out as consul under that salary. Commencing at the time mentioned in the report, diplomatic communications were forwarded to him from the Department of State by General Cass, involving questions of the liberty of American citizens, involving marriage rights, involving questions of commerce, for our commerce with Bavaria is immense. In the single article of looking-glasses, it is over a million dollars a year. I have here the first dispatch of General Cass, covering three pages. We have but one consul receiving a salary of $1,000 a year in this kingdom of six or seven million people. Among other things, during my service abroad, I was authorized by the Department to visit there on a question affecting the liberty of citizens. I found there Mr. Ten Broeck and his family. I found that he had conducted the business very well. It is nothing but right, in the language of this report, that he should be paid an additional sum from the time he commenced diplomatic correspondence. His correspondence is more voluminous than that of many ministers to whom you pay $7,000 a year. He represented this country in a kingdom containing more people than many to whom we pay $7,000. This is simply a proposition to allow a compensation of $1,000 a year for two years and a few months while he conducted diplomatic correspondence. It was impossible for him to live at the salary allowed him.

Gentlemen may say, as they said yesterday in regard to another case somewhat similar, that the officer went out under a law fixing a certain salary. That is true; but gentlemen should look at the actual condition of things. In the case of Bremen, which was up yesterday, we increased the salary $1,000 a year. In this case you must increase the salary or give up all communication with Bavaria. How can you expect that in a country of seven millions of people, with a commercial intercourse with this country amounting to millions, the whole of the official duties shall be put in the hands of a consul at a salary of $1,000 a year? There are important questions arising affecting the liberty of citizens, because there are naturalized citizens who emigrated from Bavaria to this country, who are going back there continually. I went there myself, as I have said, under instructions of this Government, and spent a week with this gentleman, and with the minister of foreign affairs of Bavaria in regard to matters involving the liberty of three of our citizens. They had some very rigid and barbarous laws, and this gentleman succeeded very well, and I undertake to say that his correspondence covers more ground than that of your ministers at Denmark, at Sweden, and at the Hague, with Switzerland thrown in; he had more duties to perform; they were more multifarious; he had larger responsibilities on his hands. Our committee now have finally agreed, I understand, with the sanction of the State Department, simply to make him compensation at the rate of $1,000 a year for the time he discharged diplomatic duties. I would respectfully refer the Senator from New Hampshire to his correspondence which I have in my hand; he has not examined it.

Mr. HALE. I would not read it for $1,000 a year. [Laughter.]

Mr. FOSTER. I suggest to the Senator from New York whether, there being manifest opposition to this bill, so that there will necessarily be a division upon it—I do not say the opposition is well founded—it would not be better to let it be laid aside, that we may proceed with something else.

Mr. SUMNER. Need there be a division?

Mr. FOSTER. I do not say that there need be, but it is manifest that there will be.

Mr. SUMNER. I have not seen that yet.

Mr. HALE. I will state my reasons for opposing the bill. The suggestions made by the Senator from Indiana would go to show either that we ought to have a diplomatic representative at Bavaria, or that we ought to pay a higher salary to the consul; but this matter of patching up these jobs, and paying a consul extra compensation on account of his duties is of evil example. If the salary is inadequate, raise it; if you want a diplomatic representative there, provide for one by law; but do not go on and hold out to the world that here is a consul with a salary of $1,000 a year, and that if he does anything you will give him another $1,000. Make the salary $2,000, $3,000, or $10,000, if the emergencies of the public service demand it; or provide for a diplomatic representative; but do not adopt this mode. I am decidedly opposed to it.

Mr. GRIMES. My great objection to it is that the idea upon which it is asked is that Mr. Ten Eyck [Ten Broeck] as our consul has published a very voluminous book, and because of that we are asked to give him an additional salary. The result will be that all our consuls will get into extended correspondence with foreign Courts and municipal authorities where they are located, and we shall have imposed upon us the burden of publishing just such books as the Senator from Indiana holds in his hand, emanating from each one of our consuls.

Mr. HALE. And extra numbers will be printed.

Mr. GRIMES. It will cost us millions of dollars in public printing on the principle upon which the Senator from New York in his report puts it, and that is, because the officer carried on a much more extensive correspondence than it was expected he would, or than consuls were in the habit of carrying on. We have no commerce with Munich; and I suppose this consul was sent there for this very purpose of doing the duty which he has performed—looking after the personal and political rights of returned emigrants. No doubt he performed his duties very well; but as the Senator from New Hampshire has said, all this may prove that we ought to give the officer an additional salary in the future, but I do not think it is proper for

us to go back and patch up the salaries of men who have been in office. I have applications; I have letters in my desk now from our consuls at Baden and other places, asking for precisely just such compensation as this, but I have not chosen to present them.

Mr. WRIGHT. The Senator from Iowa misunderstood me if he supposed that I said this book was got up by the consul in Bavaria. I have already remarked to the Senate that these communications were in response to applications for information from this Government. A diplomatic correspondence was opened in compliance with the request of our Government. The duties of a consul are not of a diplomatic character. The extra duties performed in this case justly entitle the officer to compensation. The Senator says that he was representing us before a small people with whom we have but little trade. Sir, the fact is that our trade in Bavaria is over $10,000,000 a year, and, as I have already remarked, in the single article of looking glasses it is over $1,000,000. We have but one consul in Bavaria, to whom we pay a salary, while we are paying salaries of $7,000 a year to diplomatic representatives to countries with not half so much population. What were the duties which this man discharged? I have shown to the Senate that at the time mentioned by the Committee on Foreign Relations, he was instructed by the Government, through General Cass, to open correspondence with the Government of Bavaria, and to undertake not only questions affecting the liberty of citizens, but questions affecting marriage, and others of great importance. Such questions arose in consequence of emigrants from that country to this returning to their native country. Many of the wealthiest men we have had from the old country came from Bavaria. Having this consul there, new duties were placed in his hands of a diplomatic character.

Mr. GRIMES. They were not new duties.

Mr. WRIGHT. Yes; new duties, because they did not belong to his duties as consul. He did not go there for the purpose of opening and carrying on diplomatic correspondence with his own Government and the Government of Bavaria. He went there to discharge the duties of consul. The committee, I apprehend, understand the case. They have examined the action of Congress, and have simply reported that this gentleman shall be paid $1,000 a year for his extra services, from the time these new duties were put into his hands. It may be said that this is a new way of patching up claims, but I ask is it possible that you can send a gentleman abroad, of the character of Mr. Ten Broeck, and expect him to live there with his family on a salary of $1,000 a year? It would not support him. There is no other method of compensating him for these additional duties. Your committee has adopted this mode, after consultation with the Department of State. I cannot conceive of a more just and equitable claim which can be presented to the Senate than this claim of Mr. Ten Broeck; and there is no more deserving or worthy man. His correspondence is voluminous. It was conducted between him and the Bavarian Government in accordance with instructions to him from the Department of State. It involved more correspondence on his part than that of many of your resident ministers abroad. This is simply a just compensation to him for the time he discharged these additional duties, and it seems to me the bill ought to commend itself to the favorable attention of the Senate.

Mr. HARRIS. The Senator from Iowa evidently misunderstands the character of this bill. Mr. Ten Broeck was consul of the United States residing at Munich, the capital of Bavaria. He was charged with commercial duties as a consul. He was the commercial agent of this country there, and as such, for his services was entitled to a salary of $1,000 a year. As consul, he was not charged with any diplomatic duties. We have no diplomatic relations directly with Bavaria. We have no minister there. If we had had a minister there, and he had been absent or by any means had been unable to discharge the diplomatic duties of his office, and this same consul had performed those duties, he would have been entitled by law, by an act of Congress, to compensation as a secretary of legation. In presenting his memorial, he claims that he performed the duties that would have devolved upon a secretary of legation in the absence of a minister.

He was a mere consul. Under these circumstances, the Secretary of State directed him to enter into a diplomatic correspondence not belonging to his office at all. It is unlike the case that the Senator from Iowa has put. He was ordered by the Government at home to enter into a diplomatic correspondence in relation to the compulsory enlistment of our citizens there. He went on to act, not as a consul, but as a diplomatic representative of this Government, as a minister, and he carried on a very voluminous correspondence, and was obliged to carry it on in the German language.

The Senator has spoken of the books he has made. The books consist of the correspondence that he has sent home, the correspondence between him and the Bavarian Government, and between him and our own Government, under the supervision and direction of the Secretary of State, not published by him; it is the written correspondence bound up in volumes, as all such correspondence is in the office of the Secretary of State. He has not published it; the Secretary of State has bound it up, and it comprises about two volumes. That correspondence, as has been well said by the Senator from Indiana, is more voluminous, and evidently has cost this gentleman more labor, than the correspondence of the minister at Denmark and the minister to Sweden put together; and it was no part of his official duty as consul. The whole of it had to be carried on in the German language; and he was obliged to translate his communications to the Bavarian Government, and then the communications from the Bavarian Government to him. It was a very laborious work; and he carried it on with great success and great satisfaction to the Government; and now, to say that this consul shall not be paid for these extraordinary services, services that do not pertain to his office, and for which he has received no pay, would be unjust and severe; and I do not think this Government is prepared to be so unjust as to deny this little compensation. He ought to have had, in my judgment, the compensation that he would have had if he had performed the same services in the place of a diplomatic officer who represented the Government there. In that case, he would have been entitled, by statute, to the pay of a secretary of legation.

Mr. GRIMES. Perhaps I ought not to trench on this ground that belongs to the field of foreign affairs of the Senator from Massachusetts and the Senator from Indiana.

Mr. SUMNER. You are always welcome anywhere.

Mr. GRIMES. But I must be permitted to say that I do not see exactly the strength of the argument in this case. It is said that Mr. Ten Eyck [Broeck] did not go to Bavaria as a diplomatic agent. He certainly did. He was a consul. He was appointed through the office of the Secretary of State. Every one of your consuls is *ad interim* in a great many instances called upon to act in a diplomatic character. The Government reserves its right to impose upon each one of your consuls diplomatic duties whenever your minister is absent, or your chargé, or the secretary of legation. In that event, you impose upon the consul the performance of any duties that emanate from the Secretary of State's office.

Mr. COLLAMER. If the minister is sick, has to go away, and deposits the papers with him; not otherwise.

Mr. GRIMES. That is where the power is conferred on the minister himself; but the Government here, if the minister is absent and there is no secretary of legation, directs the leading consul of that country to perform the duties which would be performed by a chargé if one was there.

Mr. SUMNER. So the Secretary of State may direct any private citizen to do the same.

Mr. GRIMES. We had in this case no diplomatic agent at Bavaria; we had this man there, who had up to this time always performed just such duties as these, I am told.

Mr. SUMNER. No.

Mr. HARRIS. Only when directed by the Secretary.

Mr. GRIMES. Here is a difference of opinion. The Senator from New Hampshire says he had always done such duties; the Senator from New York says he had not.

Mr. HARRIS. The Senator from New Hampshire I think will not say it.

Mr. SUMNER. He will not say it of his own knowledge.

Mr. GRIMES. I understand that to be so; at any rate, there is no evidence in the report that it was not the case; but whether it was or not, I suppose that when this Mr. Ten Eyck [Broeck] went to Munich as consul, he went there to perform the duties this Government might impose on him.

Mr. COLLAMER. I understand that he was under no more obligation to do these duties as consul than my honorable friend from Iowa would have been if he had been residing there.

Mr. GRIMES. The Senator may understand it a great deal better than I do.

Mr. COLLAMER. The Secretary might have called on you to do this business if you had been there, and this gentleman was under no more obligation to do it than you would have been.

Mr. GRIMES. I have been told that consuls are required to perform these duties in the absence of any superior diplomatic or commercial agent.

Mr. COLLAMER. It is true they are required; but they are required by the Secretary of State sending to them, but in no other way; there is no legal obligation.

Mr. GRIMES. Then I would like to ask if it is usual to pay them in addition?

Mr. COLLAMER. We have paid them very often, quite repeatedly, in particular cases.

Mr. WRIGHT. There are twenty precedents now on record of this kind, where gentlemen who have been abroad have come here and claimed the pay of a resident minister for such services; and appropriations have been made as high as $10,000 for less service than this man has rendered of a diplomatic character.

Mr. GRIMES. That may be; I do not pretend to know what has been the legislative history of the country upon this subject; but I cannot conceive how it was any more expensive to Mr. Ten Eyck [Broeck] to perform these duties than it would have been if he had been sitting still and performing no duties at all. What I object to is not the $2,000 that are involved in this case, but I know that you will be overwhelmed in consequence of the precedent you now establish by the number of consuls that will come in and claim that their cases are precisely similar or so nearly similar that this ought to be used as a precedent to carry their cases through. That is the objection I have to it, not to the $2,000.

Mr. SUMNER. I think the honorable Senator from Iowa need not be anxious. Each case must stand on its own merits. If another petitioner comes here, I presume the Senate will look into all the facts and see whether the case is meritorious; if it is not meritorious, the claim will be rejected; if it is meritorious, we owe it to ourselves, as well as to him, to recognize it.

Now, sir, the Senator from Iowa, if this were a question with regard to the Navy, would be very earnest; indeed, he would not hesitate a moment. If it were on the pay of an admiral or a commodore, he would turn around and look very sternly at all of us who presumed to propose any reduction of the pay. But it is not in his department; it does not concern the sea; it concerns a very meritorious gentleman once appointed consul of the United States, as the Senator from New York has said, at Munich in Bavaria. He was appointed consul with a small salary of $1,000 a year to perform the consular duties. I need not remind the Senate that a consul is a commercial agent of the Government. He has nothing to do with diplomatic questions; and if any such duties are imposed upon him, they are all extraordinary and outside of the ordinary course of his life. That is precisely the present case. Mr. Ten Broeck did have there, by the instructions of the Department of State, diplomatic duties imposed upon him. The Senator from Indiana, who was in Europe officially at the time, has testified personally to the ability and fidelity with which he performed these duties. Some of us who have had occasion to inquire at the Department of State, know by the records, the fidelity with which they were performed. I have said they were duties outside of the ordinary line of his life. They did not belong to the office which he held under our Government; nevertheless he performed them excellently and laboriously, and he comes before the Senate for some recognition of these services.

Now, sir, the laborer is worthy of his hire, and

I do not think it is becoming in the Government of the United States to employ the services of its citizens abroad without giving them a proper compensation. Let them have what the lawyer knows as *quantum meruit*, and that is all that we undertake now to allow. I may say that in the committee the question was considered whether he should be allowed full compensation as a diplomatic agent. The committee concluded against that, on the ground that it would be a dangerous precedent; but while concluding against that, they were constrained from the facts before them to recognize the meritorious character of the services, to regard them as extraordinary, out of the ordinary line of his duties, and therefore proper to be recognized by the Senate; and it was on that ground that they instructed the Senator from New York to report the bill which is now under consideration.

I think the Senator from New Hampshire is entirely wrong when he says there are only two ways of dealing with such a case. He says you must either raise the salary of the consul or appoint a diplomatic agent. Why, sir, there is a third way, which is the very way now under consideration; and that is, if extra services are performed, to pay for them. You pay them, if I may use a familiar phrase, by the job. The Senator from New Hampshire, according to his principle, would fasten upon the country a permanent salary of a higher grade for the consul, or another permanent salary for a diplomatic agent. Now we propose no such thing. We do not propose to have a diplomatic agent there, nor do we propose to raise the salary of the consul there; we simply propose to pay for the extra services which have been rendered by the consul there, and of which the country has already had the benefit.

Mr. TEN EYCK. May I inquire the name of the person in whose favor this bill is framed?

Mr. SUMNER. Ten Broeck.

Mr. TEN EYCK. I thought there was some mistake about it when the Senator from Iowa called him Mr. Ten Eyck, for I was not aware that a gentleman of that name had ever held such a position as this, and I was about making up my mind, if that were his true name, that I should be compelled to go for the bill; but as I discover that that is not the case, I wish simply to say that if Senators who are so anxious for the passage of this bill and for this allowance, had happened to have the honor of being upon the Committee on Commerce, and had seen how ready men are almost to break their necks to get these appointments, and then, after they have got them, how ready they are almost to break their necks over again to get increased salary and increased pay, and break the Treasury besides, as the Senator from Connecticut [Mr. FOSTER] suggests, they would pause; and no other consideration than the fact of the name being somewhat similar to their own, would perhaps induce them to go for the bill.

Sir, it is a crying evil in this country, and I lament to see my fellow countrymen who are so desirous of securing these positions of profit and trust, after they have obtained them, immediately set themselves to work to procure extra allowances. It is with them as it is with contractors under the Government. As soon as a contract is obtained, the next step is to get an extra allowance in some way, and there is almost as much pains taken to try and effect ways and means to accomplish that object as to obtain the original appointment or contract. I have not heard that this gentleman worked at unusual periods, at unseasonable hours, at nights, or on Sundays, that he was driven to such an extreme that, after having exhausted himself in the public service as consul, he was compelled to perform these other extra, onerous, and very important duties. I say, however, sir, that if his name were Ten Eyck, I might feel compelled to go for the bill.

Mr. HALE. I want to say that I am not mistaken about a side remark that I made a few minutes ago, and which Senators seemed to think I was very much mistaken about, and that was, that these consuls are called upon constantly to perform diplomatic duties, or those that relate to diplomatic service. Our consul at Havana has been constantly called on to act in such matters. I trust I may be allowed to mention a fact that occurred which the Senator from Massachusetts knows something about; I shall not say in what nation it occurred, whether at Rome or the United States; but it is a fact, that two Senators once called upon a Secretary of State, or some officer holding that position, in relation to the appointment of a consul simply, and they were entertained with a very learned dissertation on the peace of Europe, and the importance to the peaceable relations of countries of having a certain consul remain where he was; so that the Secretary of State looked upon the character of a consul as one involving the very highest considerations of national peace and national honor.

Look at your consul in Canada. Do you suppose he is not called upon every day to perform diplomatic duties? Every one of your consuls in large cities where the Government of the country does not reside is constantly called upon to perform such duties; and if you pass this bill, you will have opened a floodgate through which claims for additional compensation to consuls will come from every quarter of the world.

I have no doubt that this was a highly respectable, intelligent, well educated gentleman—probably a man of wealth who went out there to reside; and to give him additional consequence and position there was conferred upon him the office of consul, so that when he wrote his name in German he had something that sounded very large; and he was called upon, no doubt unexpectedly, to do something, and as that was not a part of the consideration on which he went, he calls upon the Treasury for additional compensation. I trust it will not be granted.

Mr. SUMNER rose.

Mr. HALE. Wait, my friend. It is rarely that I trouble the Senate, and when I do my remarks are very short, and I think gentlemen ought to sit still until I get through. However, I have nothing more to say at present. [Laughter.]

Mr. SUMNER. The Senator certainly is very unfortunate in his illustration, though he is always very agreeable in his speech.

Mr. HALE. That is very well said. [Laughter.]

Mr. SUMNER. In order to show that consuls may have diplomatic duties, the Senator has referred to our consul at Havana, and to our consul at Montreal. It is impossible for the consul at Havana or the consul at Montreal to discharge diplomatic duties. Diplomatic duties can only be discharged with the government of the country to which the party is accredited, either directly with the Government or with the foreign minister. There is no foreign minister or sovereign resident at Montreal, nor is there at Havana. In short, the functions of the consul at Havana and the consul at Montreal are simply consular; but both of these posts being of signal importance, it is unquestionably necessary that our representative there should be a gentleman of perfect discretion, who, in his intercourse with the world, with merchants, and in the conduct of the extensive business which he has in charge, shall conduct with proper prudence and discretion. Therefore, in the conversation to which the Senator refers sometime in our history with a Secretary of State, in which it was affirmed that it was very important that our consul at a particular place should be a gentleman of singular discretion, the Secretary was right; but certainly that is no argument for attributing to the Secretary so great an ignorance of his duties as to suppose that he intended to lay upon that consul diplomatic functions. The Senator from New Hampshire is mistaken; and that brings me back to the precise case here, that there were diplomatic duties laid upon the consul at Munich. It is now proposed to give him a compensation for extra labor rendered by him in the discharge of duties which were not incident to the office he held.

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

Mr. HALE. I ask for the yeas and nays on the passage of the bill.

The yeas and nays were ordered.

Mr. HARRIS. I am inclined now to regard the suggestion made by the Senator from Connecticut with reference to the number of Senators present, and I am willing that this bill should be informally passed by for the present.

Mr. HALE. There is a quorum present.

The PRESIDENT *pro tempore*. The Secretary will call the roll.

Mr. DAVIS. I am satisfied there is not a quorum present, and I therefore move that the business in hand be laid aside, and I ask leave to offer a resolution.

The PRESIDENT *pro tempore*. The Senator from Kentucky moves to postpone the bill before the Senate.

The motion was not agreed to.

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

The PRESIDENT *pro tempore*. By common consent the resolution will be read for information.

The Secretary read it, as follows:

Resolved by the Senate and House of Representatives, That the President of the Senate and the Speaker of the House of Representatives do adjourn their respective Houses, without day, on Thursday, the 10th instant, at twelve o'clock, meridian.

Mr. SUMNER. Let that lie over.

Mr. DAVIS. I ask to suspend all further business, and take up that resolution.

The PRESIDENT *pro tempore*. It goes over on a single objection under the rule of the Senate. The question is on the passage of the bill for the relief of Andrew Ten Broeck.

The question being taken by yeas and nays, resulted—yeas 13, nays 22; as follows:

YEAS—Messrs. Browning, Collamer, Davis, Dixon, Foot, Harris, Lane of Kansas, Pomeroy, Powell, Simmons, Sumner, Wade, and Wright—13.

NAYS—Messrs. Anthony, Carlile, Clark, Cowan, Fessenden, Foster, Grimes, Hale, Harlan, Henderson, Howard, Howe, Kennedy, King, Lane of Indiana, Morrill, Nesmith, Saulsbury, Sherman, Stark, Ten Eyck, and Willey—22.

So the bill was rejected.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. MORRIS, Chief Clerk, announced that the House had passed the following bills of the Senate:

A bill (No. 307) to grant the right of preëmption to settlers on certain lands in Wisconsin; and

A bill (No. 362) in relation to the Post Office Department.

The message also announced that the House had passed the joint resolution of the Senate (No. 80) authorizing the State of Minnesota to change the line of certain branch railroads in said State, and for other purposes, with an amendment; in which it requested the concurrence of the Senate.

The message also announced that the House of Representatives had agreed to the amendment of the Senate to the resolution of the House (No. 83) relative to a certain grant of land for railroad purposes made to the State of Michigan in 1856.

The message further announced that the House had passed the following bills and joint resolutions; in which it requested the concurrence of the Senate:

A bill (No. 496) to enlarge the Lake Superior land district, in the State of Michigan;

A bill (No. 529) concerning certain lands heretofore granted to the State of Iowa;

A bill (No. 543) relating to schools for the education of colored children, in the cities of Washington and Georgetown, in the District of Columbia;

A bill (No. 556) to change the place of holding the circuit and district courts of the United States for the District of west Tennessee;

A joint resolution (No. 96) relative to the claim of W. Maxwell Wood; and

A joint resolution (No. 97) explanatory of "an act for the survey of grants or claims of land," approved June 2, 1862.

J. W. NYE.

Mr. POMEROY. Yesterday a bill for the relief of J. W. Nye was before the Senate, read at length, and laid aside temporarily during the reading of the report. I should like the Senate to dispose of that bill now. I move to take it up.

The motion was agreed to; and the Senate, as in Committee of the Whole, resumed the consideration of the bill (H. R. No. 297) for the relief of J. W. Nye.

Mr. POMEROY. The reading of the report was suspended yesterday, the Secretary not having the right report before him. That is now in the hands of the Secretary, and if any gentleman desires it, it can be read. I believe the Senator who suggested yesterday that the report should be read, does not care for the reading of it now.

Mr. KING. I should like to have it read.

The PRESIDENT *pro tempore*. It will be read at the Senator's request.

The Secretary read, as follows:

The second claim of J. W. Nye for damages and losses sustained by being deprived of a lease is founded on a lease obtained in 1843 from the President of the United States for a certain piece of ground, being the lot on which the botanic garden is located.

The conditions of this contract required a very heavy outlay in making certain improvements, which were not completed until three years of his lease had expired. The terms were fully complied with to the satisfaction of the commissioner under whom the contract was made; but in one year after the completion of these improvements a new commissioner was appointed, by whom Mr. Nye was forcibly ejected from the premises. His crops were harvested and sold for the benefit of the United States; and by these illegal acts of a Government official, he was deprived of his property and the profits arising from it, for six out of the seven years that it would have been productive.

To substantiate this claim, Mr. Nye produces a certified copy of the lease, executed by John Tyler, President of the United States in 1843, with an indorsement made by the same party in 1856, declaring that the act of the commissioner in dispossessing Mr. Nye was in defiance of law and justice. In making these improvements, Mr. Nye never supposed for a moment that he could have any future claim against the Government for the cost thereof, as he could not foresee any such injustice as a forcible ejection from the premises before the termination of his lease, when the property reverted back to the Government, with the improvements, and therefore he never kept a strict account of the cost thereof.

In the Thirty-Fourth Congress a bill passed the House of Representatives awarding him $3,200 on account of this claim, being a liquidation of so much of the cost of these improvements as he had vouchers to sustain; but when it was taken up in the Senate, it was insisted that these improvements required further investigation, and a sworn measurer was employed to make a report on the value of the same. This estimate, which is made a part of Mr. Nye's memorial, shows that these improvements were worth $7,982 84. As it was late in the session when this report of the measurer was received, it was feared, if the Senate should amend the bill by putting in the full amount thus found to be justly due Mr. Nye, it could not become a law at that session, and therefore Mr. Nye was advised to take the bill as it stood, and make another application the next session for the residue. Each succeeding Congress has recognized his right to the balance of this claim by reporting bills for his relief, but at so late a period of the session that they have failed to become laws.

Your committee therefore make the following statement of his account, and recommend the passage of the accompanying bill for his relief:

The United States to J. W. Nye, Dr.

To value of improvements by report of sworn measurer		$7,982 84
Cr.—By use of ground for one seventh of time he was entitled to same after making the improvement	$1,140 40	
By cash from sale of materials	210 00	
By cash received	3,200 00	
		4,550 40
To balance due J. W. Nye		$3,432 44

A contract was entered into on the 15th of January, 1844, between John M. Johnson, Esq., (Postmaster of the House of Representatives,) and Mr. J. W. Nye, which received the unanimous approval of the Committee of Accounts. It is stipulated in that contract that the said Nye should furnish "three horses and three one-horse carriages for the use of the House of Representatives for the remainder of the Twenty Eighth Congress, and hauling all the boxes and other articles for the use of the House of Representatives for the remainder of the Twenty-Eighth Congress, and to pay unto the said party of the second part $1 70 per day for the use of each horse and carriage, or the same paid therefor during the Twenty-Seventh Congress; also the same prices for the boxes and other articles as were paid for the same during the last Congress.

It is proved by the affidavit of Mr. Hill, assistant Postmaster of the House, (taken before the Committee of Accounts of the Twenty Eighth Congress,) that Mr. Nye entered faithfully on the work, and both he and his son rendered very valuable assistance to the office, gratuitously, outside of his contract; "that he never heard any complaint from Mr. Johnson, or any of his messengers, of Mr. Nye or any of the property until Mr. Nye complained of the abusive and destructive manner in which his property was used. Mr. Nye frequently complained to Mr. Johnson of the abusive and destructive manner in which they were using his property, both verbally and in writing; to any of which, as far as I have any knowledge, Mr. Johnson never paid the least attention; always found Mr. Nye very kind and accommodating in rendering us any assistance, marking boxes, or anything we might want of him; always found a horse and cart at the stables, and a person ready to drive whenever wanted to do the hauling. Until the chairman of accounts called on Mr. Johnson and informed him that the hauling belonged to Mr. Nye and he must have it, Mr. Johnson preferred to let John Lee do it; heard Johnson say he would take the contract from Nye if he could; that Nye should have nothing to do about the Capitol if he could prevent it."

Hon. George B. Rodney, of the House of Representatives, proves that the Committee of Accounts examined the condition of Mr. Nye's horses and carryalls, and pronounced them sufficiently good for the service.

It is proved by the affidavits of a number of respectable witnesses before the Committee of Accounts that Mr. Nye suffered great loss from the neglect of Mr. Johnson to employ proper persons as messengers; that his horses were killed and his carryalls and harness destroyed by the neglect and carelessness of the messengers employed by Mr. Johnson.

The report of B. B. French, Esq., shows that during the years 1844 and 1845, there was paid to others than J. W. Nye the amount due for nine hundred and fifty-eight days' use of carryall and horse, which, at the contract price of $1 70, amounts to $1,628 60, and that there was also paid to other parties for hauling boxes and other articles the sum of $351 24, which, with the $1,628 60 previously mentioned, makes the gross sum of $1,979 84, all of which rightfully belonged to the claimant, J. W. Nye, under his contract.

From all the evidence it is perfectly clear that J. W. Nye complied with his portion of the contract, and that he suffered great loss and injury from the failure of an officer of the Government to protect him in his just rights. It was as much the duty of Mr. Johnson, under that contract, to see that the property of Mr. Nye was not unnecessarily abused or injured as it was the duty of Mr. Nye to furnish the property, and his neglect to do so, and his employment of others to do the work that Nye was ready and willing to do, in violation of the contract made with Nye, imposes not only an equitable but a legal obligation on the Government to pay this sum of $1,979 84, less $525 already paid. This sum only includes the amount which should have been received by Mr. Nye under his contract, but which was paid to other parties, and does not embrace a just claim which he has for damages on account of the wanton destruction of his property for at least as much more. In consequence of not receiving the amount of this claim in 1845, when it became due, Mr. Nye's property was all seized for debt and sold at a ruinous sacrifice, as shown by the evidence of Mr. Kimmele.

Your committee would therefore, for the foregoing reasons, recommend the passage of the accompanying bills.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed; there being, on a division—ayes twenty-four, noes not counted.

HOUSE BILLS REFERRED.

The following bills from the House of Representatives were severally read twice by their titles and referred as indicated below:

A bill (No. 496) to enlarge the Lake Superior land district, in the State of Michigan—to the Committee on Public Lands.

A bill (No. 529) concerning certain lands heretofore granted to the State of Iowa—to the Committee on Public Lands.

A bill (No. 543) relating to schools for the education of colored children in the cities of Washington and Georgetown, in the District of Columbia—to the Committee on the District of Columbia.

A bill (No. 556) to change the place of holding the circuit and district courts of the United States for the districts of West Tennessee—to the Committee on the Judiciary.

A joint resolution (No. 96) relative to the claim of W. Maxwell Wood—to the Committee on Naval Affairs.

A joint resolution (No. 97) explanatory of "An act for the survey of grants or claims of land," approved June 2, 1862—to the Committee on Public Lands.

RULES OF PRACTICE IN FEDERAL COURTS.

Mr. FOSTER. I move that the Senate take up for consideration Senate bill No. 113. It is a little bill reported from the Committee on the Judiciary in regard to legal proceedings, which I think will not occupy time or create division. If it does, I will not ask the attention of the Senate upon it, but let it be postponed.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill (S. No. 113) relating to the judiciary.

The Committee on the Judiciary reported the bill, to strike out all of the bill after the enacting clause, in the following words:

That the laws of the several States, except where the Constitution, treaties, or statutes of the United States shall otherwise require or provide, shall be regarded as rules of evidence, practice, and decision, in all trials at common law in equity, and in admiralty, in the courts of the United States, in cases where they apply.

And to insert in lieu thereof:

That the laws of the several States, except where the Constitution, treaties, or statutes of the United States shall otherwise require or provide, shall be regarded as rules of decision in all trials at common law in the courts of the United States, in cases where they apply; also in all trials in equity in all States having courts of equity, either separate from courts of law or where the courts of law are vested with equity powers.

Mr. SUMNER. To that amendment of the committee, I desire to move an additional amendment, as follows:

And there shall be no exclusion of any witness on account of color.

Mr. FOSTER. Of course, as that will produce discussion and division, and defeat the bill, I waive it.

Mr. DAVIS. This is a very necessary bill in the State of Kentucky, and I do think the Senator from Massachusetts——

Mr. SUMNER. Let the amendment be reported from the desk, if the Senator pleases.

Mr. DAVIS. Certainly.

The Secretary read the amendment.

Mr. SUMNER. I did not suppose that that bill would be called up to-day. I had noticed it among our bills on the Calendar, but I was not prepared for it to-day.

Mr. FOSTER. I will move, if the Senator will allow me, to lay it on the table. I do not wish to take up time on a matter that is perfectly futile, perfectly idle.

Mr. SUMNER. If the Senator will allow me, I wish to finish what I have to say. I have regarded it from the first moment it was introduced as an important bill; but it was a bill that I thought Congress ought not to act upon at this session, unless it was prepared to associate with it the amendment which I have now introduced; and in order to illustrate the importance of it, I had myself gone through the statutes of the different States, in order to exhibit to the Senate what I would call the imperative necessity for such a provision. The Senator from Connecticut shows some impatience because I have ventured to make this amendment to his bill.

Mr. FOSTER. If the Senator will allow me, it is not impatience at all. There are several other bills here which I am desirous of passing; and I do not wish either to have this or any other matter got up before the Senate that would create division, produce a lengthy discussion, and end in no quorum. I can assure the Senator I have no other impatience than a desire to get some of the bills which are on the table through to-day, if I can, without having the day wasted.

Mr. SUMNER. I sympathize with the Senator, but I venture to say that in his desire to get at other bills which he proposes to take up, he should not—he will pardon me if I say it—do injustice to the motives with which I make this proposition. I wish the passage of the bill that he has reported as amended by me, but I do not think it would be creditable to the legislation of the country for us now to pass the bill without the amendment which I have proposed. If the Senator from Connecticut had been at the trouble to go over the legislation of the slave States on this subject, and had seen the crying injustice which is sanctioned by that legislation, and which my amendment will at once remove within the Federal jurisdiction, I believe I should have his most hearty support.

Mr. FOSTER. The Senator from Massachusetts is wholly unwarranted in supposing that I do not support his amendment as heartily as he does—wholly unwarranted in drawing any inference from anything I have said, that I entertain an opinion that is in the slightest degree at variance with his. All I meant to say was that it was apparent we could not have a vote on that amendment and pass this bill to-day—that is all. If the Senator will wait for a few moments he will see, I think, very clearly that I am right in that opinion, at all events, however erroneous I may be in others.

The PRESIDENT *pro tempore*. The question is on the amendment of the Senator from Massachusetts to the amendment of the Committee on the Judiciary.

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

The Secretary proceeded to call the roll.

The PRESIDENT *pro tempore*. The Senate is again without a quorum.

Mr. POWELL. I move that the Senate adjourn.

Mr. LANE, of Kansas. I ask for the yeas and nays on that motion.

The yeas and nays were ordered; and being taken, resulted—yeas 10, nays 23; as follows:

YEAS—Messrs. Browning, Foot, Harris, Henderson, Howe, Lane of Indiana, Pomeroy, Powell, Sumner, and Wright—10.

NAYS—Messrs. Anthony, Chandler, Clark, Collamer, Davis, Dixon, Fessenden, Foster, Hale, Harlan, Howard, King, Lane of Kansas, Morrill, Nesmith, Saulsbury, Sherman, Simmons, Stark, Ten Eyck, Wade, Willey, and Wilson of Missouri—23.

The PRESIDENT *pro tempore*. The Senate refuse to adjourn, but there is no quorum to do business.

Mr. CLARK. I move that the Sergeant-at-Arms be directed to request the attendance of absent Senators.

The motion was agreed to.

The PRESIDENT *pro tempore*. The Sergeant-at-Arms will perform that duty.

Mr. WADE. I hope the absentees will be called. Let us see who they are that are absent.

The PRESIDENT *pro tempore*. That course will be taken. The absent Senators will be again called on the motion to adjourn.

The Secretary proceeded to call the absentees, as follows: Mr. BAYARD, Mr. CARLILE, Mr. COWAN, Mr. DOOLITTLE——

Mr. HOWE. I beg to say on behalf of my colleague, [Mr. DOOLITTLE,] whose name appears among the absentees, and who has been absent for several days, that he has been detained from the Senate by illness; and it is due to him that that fact should be known to the Senate and the country.

The Secretary next called the name of Mr. GRIMES.

Mr. GRIMES. I was present, and believe I voted before. I am for an adjournment as there is no quorum. I vote "yea."

The Secretary continued the call of the absentees, as follows: Mr. JOHNSON, Mr. KENNEDY, Mr. LATHAM, Mr. McDOUGALL, Mr. PEARCE, Mr. RICE, Mr. THOMSON, Mr. TRUMBULL——

Mr. TRUMBULL. I vote "nay."

The Secretary continued the call of the absentees, as follows: Mr. WILKINSON, Mr. WILMOT, Mr. WILSON of Massachusetts.

The PRESIDENT *pro tempore*. A quorum has voted. On the motion to adjourn the yeas are 11, the nays 24. The Senate refuse to adjourn, and a quorum is present. Previous to the motion to adjourn the Senate were dividing on the amendment of the Senator from Massachusetts. The Secretary will again call the names of the Senators who did not answer.

The Secretary again called the roll, and Mr. FOSTER and Mr. TRUMBULL voted in the negative.

The result was then announced—yeas 14, nays 21; as follows:

YEAS—Messrs. Chandler, Collamer, Foot, Grimes, Harlan, Harris, Howard, Howe, King, Lane of Kansas, Morrill, Pomeroy, Sumner, and Wade—14.

NAYS—Messrs. Anthony, Browning, Clark, Davis, Dixon, Fessenden, Foster, Hale, Henderson, Lane of Indiana, Nesmith, Powell, Saulsbury, Sherman, Simmons, Stark, Ten Eyck, Trumbull, Willey, Wilson of Missouri, and Wright—21.

So the amendment was rejected.

The PRESIDENT *pro tempore*. The question recurs on the amendment reported from the Committee on the Judiciary.

The amendment was agreed to.

Mr. FOSTER. I am instructed by the committee to offer the following as an additional section to the bill:

And be it further enacted, That so much of section twenty-nine of an act entitled "An act to establish judicial courts of the United States," approved September 24, 1789, as requires, in cases punishable with death, twelve petit jurors to be summoned from the county where the offense was committed, be, and the same is, hereby repealed.

Mr. SAULSBURY. I ask for the yeas and nays on that amendment.

The yeas and nays were ordered.

Mr. SAULSBURY. I should like to hear from the Senator from Connecticut some reason for the repeal of this provision of the existing law. My object in calling for the yeas and nays on the amendment is to hear a reason assigned for it.

Mr. FOSTER. By the act of 1789, it was provided:

"That in cases punishable with death the trial shall be had in the county where the offense was committed, or where that cannot be done without great inconvenience, twelve petit jurors, at least, shall be summoned from thence."

That has been construed by the courts not to require the trial of a capital offense within the county where it was committed, and there have been divers decisions on that point. The statute, however, as it now stands, requires twelve petit jurors, at least, to be summoned from the county where the offense was committed. The committee thought that that law at the present time, and indeed for many years, had entailed an unnecessary expense upon the United States. The law now requires trials to be had in the district where the offense is committed. We do not propose making any alteration in that, but not to require jurors to be summoned from the county. Take as an illustration some cases which I believe were alluded to by our chairman, the Senator from Illinois, [Mr. TRUMBULL.] He alluded to cases that were tried, perhaps, in the southern section of the State when the crime was committed, perhaps, in the northern section, but of course tried in the district. To summon jurors from the county where the offense was committed, subjected the Government to what seemed to be a needless expense. Of course the provisions of the law in regard to jurors are not restricted. If it should seem necessary in the discretion of the court, the court have a discretion in regard to the locality from whence jurors shall be summoned in cases of that sort. If there were no inconveniences, and if it seemed that it would promote the ends of justice, it is presumed the court would take proper measures in regard to the summoning of jurors; but to make it imperative in all cases that so many jurors shall be summoned from the county, when they come from a very distant and remote portion of the district made a very great expense, which the committee were desirous of saving, inasmuch as we did not see that the liberty or the rights of the citizen, or the ends of justice, would be at all injured by making the change.

Mr. SAULSBURY. I only wish to say that in these times of change and innovation I prefer standing by the old landmarks of the law, and giving the party accused a trial by his peers, and therefore I must record my vote against this proposition.

The Secretary proceeded to call the roll.

The PRESIDENT *pro tempore*. The Senate is again without a quorum.

Mr. CLARK. I move that the Sergeant-at-Arms be directed to notify the absent Senators that their attendance is required to constitute a quorum to conduct the business of the Senate.

The motion was agreed to.

Mr. HALE. I move that the Senate adjourn.

The motion was not agreed to.

Mr. HOWARD entered the Chamber.

Mr. FOSTER. There is a quorum now present.

Mr. HOWARD. I vote "yea."

The result was then announced—yeas 32, nays 3; as follows:

YEAS—Messrs. Anthony, Browning, Chandler, Clark, Collamer, Davis, Dixon, Fessenden, Foot, Foster, Grimes, Hale, Harlan, Harris, Henderson, Howard, Howe, King, Lane of Indiana, Lane of Kansas, Morrill, Nesmith, Pomeroy, Sherman, Simmons, Sumner, Ten Eyck, Trumbull, Wade, Willey, Wilson of Missouri, and Wright—32.

NAYS—Messrs. Powell, Saulsbury, and Stark—3.

So the amendment was agreed to.

Mr. KING. I will ask the Senate now to proceed to the consideration of executive business.

Mr. FOSTER. Let us finish this bill first.

Mr. KING. Very well.

The bill was reported to the Senate as amended.

Mr. SUMNER. I do not wish to debate the bill now. It is a very important bill. It relates to the judiciary.

The PRESIDENT *pro tempore*. The question is on concurring in the amendments made as in Committee of the Whole.

Mr. SUMNER. So I understand. It relates to the judiciary of the country. The Senate is now making rules for the courts of the United States, and one of the rules which, by its vote it has just sanctioned, is, that a witness shall be excluded from giving his testimony, or, in other words, be rendered incompetent on account of color. The practical effect of such an exclusion of testimony is, that any outrage perpetrated by a white man on a negro may go unpunished; and the Senate of the United States has refused to interfere to overturn the rule by which such a cruelty may be perpetrated. I must say, sir, that I lose my interest in this bill when it is associated with such wickedness, for such it is unquestionably. If there is any outrage at this moment in this country, it is that which I now hold up to the indignation of the country and of mankind. To think that human beings shall be placed thus defenseless by an act of Congress; that persons who may call themselves overseers or masters simply because they are white, may, when surrounded by colored persons, offer them any offense, any brutality, and the testimony of those persons, merely because they are colored, shall be excluded absolutely! That, sir, is what the Senate by its vote to-day has recognized. To such base cruelty the Senate is now before mankind a party. The Senator from New Hampshire [Mr. HALE] has voted to sustain this cruelty. Other Senators have voted to sustain it. It is their privilege. Each Senator votes, I know, according to his conscience; but, sir, I now call attention to the vote that has been taken. Formerly when I have moved this proposition, it has been opposed because it was not pertinent to the bill under consideration. When I moved it the other day to what was known as the confiscation bill, the other Senator from New Hampshire [Mr. CLARK] mildly suggested that, on a proper occasion, on a proper bill, he would be ready to support my motion. I know that the motion must have the approbation of that excellent Senator. He is too just and too humane not to support such a measure. And now, sir, the time has come. Here is a bill which proposes to regulate the evidence in the courts of the United States—not in the courts of the States, but in the courts of the United States. The whole subject is directly before you. It is within your province now to decide. And yet, sir, you have chosen to recognize this inhuman cruelty.

I shall vote for the bill on its final passage, because, in other respects, I think it ought to be a law; but I enter my protest against the conclusion to which the Senate has already come. It is melancholy, disastrous, discreditable.

Mr. HALE. Mr. President——

The PRESIDENT *pro tempore*. The Chair will suggest to the Senator from New Hampshire to let the vote be taken on concurring in the amendments made in committee, where there is no disputation, and debate will more properly come up on the question of ordering the bill to be engrossed and read a third time, or on some amendment that may be moved, as the bill will still be open to amendment.

Mr. HALE. Very well.

The amendments made as in Committee of the Whole were concurred in.

The PRESIDENT *pro tempore*. The bill is still open to amendment, and if no further amendment be offered the question is, "Shall the bill be engrossed and read a third time?"

Mr. HALE. It is unquestionably the province of every Senator not only to vote as he pleases, but to construe the intent and motive and effect of his vote. That is legitimate; but when he goes beyond that and undertakes to explain the motives or the purposes or the effect of another man's vote, it seems to me, with all deference, he goes a little mite further than he is entitled to go. He can weigh his own vote and his own actions.

Now, sir, I am one of those who look upon this rule of law with as much abhorrence as the Senator from Massachusetts does; and early in the session I introduced into the Senate a measure which struck at the very root of the evil—whether I got the vote of the Senator from Massachusetts to cooperate with me or not I do not know; I know I got but very few—and that was to abolish by statute the Supreme Court of the United States, which has made the rules, and which administers the law, and which has made a decision which will make the Senator's amendment perfectly nugatory when it is adopted; and I will tell you why. They have decided that those men are not citizens, and therefore they cannot, as the law now stands, bring a suit in the Federal courts for anything. If you alter the rule of law, it is perfectly idle, perfectly nugatory, and has no operation at all; because not one of those men can bring a suit in the Federal courts; they cannot go into the Federal courts. The Senator says that any outrage may be perpetrated on them and they have no remedy. They must go into the State courts; they have no remedy at all in the Federal courts and never had; and the alteration of the law in this respect would produce not the slightest practical effect except this——

Mr. GRIMES. I wish to ask the Senator a question. Does he say that the Supreme Court has decided that no colored person can testify in the court because he is not a citizen?

Mr. HALE. No, sir.

Mr. GRIMES. That was the proposition of the Senator, I believe.

Mr. HALE. No, sir. I said he could not bring a suit there; he has no remedy in the Federal courts. That is what I said.

Mr. SUMNER. Now you carry it one knot further, and say he shall not testify.

Mr. HALE. I do not say any such thing; but I do say this: I do not want to make any legislation which will be perfectly inoperative. The only remedy those men now have is in the State courts, and we cannot interfere with the rules of evidence there. Their sole remedy must be in the State courts; they cannot go into the Federal courts;

and therefore it is idle for us to undertake to say what the rule of evidence shall be in a court they cannot go into.

Mr. GRIMES. But they may be brought into the Federal courts, by parties who are citizens, and made defendants; and yet you deny them the power to call upon those who are of the same complexion with them to give testimony in their behalf.

Mr. HALE. How are they brought into the Federal courts?

Mr. GRIMES. They can be sued.

Mr. SUMNER. Free colored persons can be sued for crimes, of course.

Mr. HALE. They cannot bring them into the Federal courts, and, practically, they are never brought in. The only remedy in the Federal courts is in cases of suits between the citizens of one State and the citizens of another State. They may try them for crimes there; but the list of crimes for which they can be tried is very small; and I apprehend they are very rarely brought in there. The practical operation of this rule——

Mr. DAVIS. Will the Senator from New Hampshire permit me to make a suggestion to him? In every prosecution of a negro for a crime or misdemeanor in Kentucky it has to take place in the State tribunals, and those of his own color are witnesses in his behalf in every such prosecution for crime or misdemeanor.

Mr. HALE. Well, sir, I am glad to hear it; and I have no doubt that this thing, if left where it is, will reform itself; but I was going to tell you of a case where this rule of law operated in favor of the criminal. It was my lot once to act as counsel for several colored men who were indicted in the city of Boston for an offense against the Federal law—the fugitive slave law. A great many of those transactions took place in the presence of colored people. The colored defendants brought witnesses of their own color into court, and they testified without exception; but there was a democratic colorphobia—as I believe it is described in some of our abolition prints—prevailing in the mind of the prosecuting attorney for the Government, and he would not contaminate his own political standing with the Government by summoning colored witnesses to rebut what took place in the presence of colored people, and was testified to by colored witnesses for the defense; and in that case the practical operation of the rule was for the benefit of those who were indicted.

Mr. DAVIS. He was more squeamish than we are in Kentucky.

Mr. HALE. I have no doubt of it; and we have got more squeamish slave-upholders in the New England States, or we had when slavery was the corner stone of the Democratic party, than you ever had in any of the southern States, and who would preach more obnoxious doctrines in favor of slavery than any one in Kentucky or any other southern State. I have no doubt that what the Senator from Kentucky says is strictly and literally true.

Now, sir, the great evil of this matter lies in the decision of the Supreme Court. That court has decided, not that the rights of testifying, but that the rights of citizenship, the rights that white men are bound to respect, and all the rights which make human life worth anything, are denied to colored people; and we sit here and tolerate that Supreme Court. You have gone on passing a great many laws in favor of the principles of civil, political, and personal liberty. What are they worth? So long as the Supreme Court, like Mordecai the Jew, sits in the king's gate, your laws will be of no avail; not the slightest; and they will declare them repugnant to the Constitution whenever they are brought before them. You have got the idea that you are going to fill up this Supreme Court with Republicans. I vote against any man going on that bench. Why? I have sometimes attended common school exhibitions and debating exhibitions in my country, and I have thought I would propose for debate there this question: "which does a man lose first when he goes on the bench of the Supreme Court, his common honesty or his common sense?" Some of the late appointments you have made would not enable us to settle that question, because they have not enough of either to be measured. [Laughter.] Now, sir, you may go on and fill up this court—I do not care with whom you fill it up—just so soon as they get there, there will be a mold settle upon their consciences and their intellects; there is something hanging around the room they sit in; and they will become as conservative and as pro-slavery as the Chief Justice, or any of the rest of them. That has been the history of the court from the beginning.

Mr. SUMNER. I hope my friend will not allow any of that mold to settle upon him now; for it seems he has got a crust of it.

Mr. HALE. I do not yield the floor. Mr. President, I could point to an instance occurring in the State of Massachusetts. Many years ago, as late as the last war with Great Britain, there was a young man there, one of the most radical Democrats in the whole land; so radical that when he went into some Federal towns of Massachusetts to deliver a Democratic speech, he was actually mobbed. For his Democratic doctrines proclaimed in every place where he had occasion to speak, he was put on the Federal bench as a representative of New England Democracy to expound constitutional law. What was the result? He became the most latitudinarian, broad-construction judge of the old Federal school that ever sat on the bench. I refer to Judge Story, an honest, honorable, high-minded, kind-hearted man, but as ultra in all these obnoxious doctrines of Federal power as any judge that ever sat on the bench. As it has been in the past so it will be in the future. If you take even some of the very distinguished, refined, educated, liberal, broad-hearted men that surround me here in the Senate, and put them on the bench, the mold will begin to grow over their hearts before they have taken the oath to support the Constitution, and in a little while you will find them nothing more than Chief Justice Taneys of a smaller caliber; that is all. [Laughter.] That has been so heretofore, and it will be so in the future. I voted against Judge Swayne, who I believe is an upright, honest man, and a good judge; but he made a very foolish decision as soon as he got on the bench; a very foolish one indeed, in my humble judgment; and that was in regard to the provision of the Constitution as to who are enemies. I think he decided that these rebels whom we are fighting, and whom we are straining our blood and treasure to put down, were not enemies; I suppose only a sort of angry cousins, or something of that kind.

Mr. WADE. You have misunderstood him. That was only as to the form of indictment.

Mr. HALE. Sir, forms are substance in such a case as that. I read it, and understood it, and, I think, appreciated it. That was the decision, and that will be the character of the decisions that Judge Swayne will make from this time forward. I look upon him as a lost man—utterly lost. I should look upon any other friend that I saw taking a place there as lost. I would rather go to his funeral than follow him to the bench of the Supreme Court, [laughter,] for then I could cherish his memory, revere his virtues, and mourn over his fate.

Mr. DAVIS. Which fate would the honorable Senator prefer for himself?

Mr. HALE. When the Senator from Kentucky gets in a position to propound that question to me with authority, I will answer him; not before. [Laughter.] Now, I say to my friend from Massachusetts, if he is in earnest, if his eloquence is the ebullition of his heart, and he means what he says; if he wants to lay the ax at the root of the tree; if he wishes to make this fight, and make it to the death; if he wishes to be in earnest; if he wishes to let the world know that his warfare against slavery does not consist in bringing in some of these amendments about colored persons every time a bill is up, and that he is really in earnest; if he wants to go into a campaign, into a crusade—I am with him, and for him; he shall be the captain, and I will be an humble private. But do not let him stop to browse on this small fodder by the wayside, but march up to attack the enemy, and cut down the great tree from its roots. Let him do that, sir; and I tell you you never can do it, and you never will do your duty until you do the very first duty of the Constitution—which is from time to time to establish a Supreme Court and such inferior tribunals as you in your wisdom may determine. You have not performed the duty of the Constitution when you have established one court. When that has become incompetent to the purpose for which it is created, the Constitution calls upon you to abolish it, and from time to time—those are the words of the Constitution—establish a Supreme Court and such inferior courts as the public good may require.

These are my views; and this was the reason why I did not vote for the Senator's amendment. I am too much in earnest in this matter to vote for any humbugs that may be introduced. I do not mean that the Senator intended it for that; but that is it practically. It will have no sort of effect; it will do no sort of good; and therefore I do not want it on this bill.

Mr. SUMNER. The Senator from New Hampshire criticises very severely a decision of the Supreme Court which declares that colored persons are not citizens, and have no rights which white men are bound to respect; and he then proceeds forthwith, himself, to sustain a principle which is every way as bad. He condemns Chief Justice Taney because he declares that colored persons are not citizens; and then, with marvelous logic, he proceeds to say that he will not interfere to overturn the wicked rule by which the testimony of colored persons is excluded from our courts. Sir, I do not know which is most open to condemnation, the Supreme Court or the Senator from New Hampshire. I am against the decision of the Supreme Court. The Senator knows it well. I am not one whit behind him in condemnation of that atrocious infamy, which must forever stand forth as one of the crying inhumanities of this generation. But permit me to remind the Senator from New Hampshire that the rule which he now sustains is not less inhuman than the rule for which he condemns the Supreme Court. There is not a word which he can launch against that court which must not rebound upon himself. To me it is as unintelligible as it is painful that the Senator should appear as the apologist for any such atrocity. I use strong language; but it is only in this way that I can fitly characterize the doctrines of the Supreme Court and of the Senator from New Hampshire. The Supreme Court has erred—infinitely and wretchedly; but the Senator now errs in the same way.

But the Senator is entirely mistaken when he says that the rule which I seek to overturn proceeds from the Supreme Court. It is no such thing; and if I can have his attention one moment, I can make him understand it. The rule by which the testimony of colored persons is excluded stands on the local law of the States, and not on any decision of the Supreme Court of the United States. The court cannot interfere with it one way or the other. Congress alone, when it legislates for its own courts, can interfere with it; and I entreat the Senate now, as it is about to legislate for the Federal courts, to interfere with it. The proposition of the Senator from Connecticut, which I have in my hand, is as follows:

"That *the laws of the several States*, except where the Constitution, treaties, or statutes of the United States shall otherwise require or provide, shall be regarded as *rules of decision in all trials at common law* in the courts of the United States, in cases where they apply."

That is, the laws of the several States shall be regarded as rules of decision in the United States courts. That is what we are about to declare. I simply propose to add that those laws shall not be regarded as rules of decision in the United States courts, so far as they undertake to exclude testimony on account of color. The Senator from New Hampshire comes forward to oppose this just, humane, and irresistible proposition; and his argument is, that instead of doing this by legislation we must overturn the Supreme Court. Sir, permit me to say his argument is entirely inapplicable; his whole philippic against the Supreme Court is out of place. Whether I agree with him or not, let me say this is not the time to enter into any such discussion; and I must confess that I like to see things in their proper place. The question now is much more simple, more direct. Why go into the ample, illimitable debate which the Senator had opened? Why consider the Supreme Court of the United States and its relations to our country; whether it shall be overturned; whether it shall be reformed; whether it shall be modified? All this has nothing to do with the question; and the Senator, when he introduced these topics, simply diverted attention from the precise question on which we are to vote. I do not know that he did it purposely. Indeed, I rather suspect the ardor of his nature, which has led him for the moment into this utterly irrele-

vant amplification, the only effect of which will be to present a new question instead of that on which we are to vote.

But the Senator says that the cases in which colored persons are interested arise in the State courts and not in the United States courts, and that therefore my proposition is entirely inapplicable. The Senator is entirely mistaken again. The United States courts have jurisdiction of crimes without reference to color. They also have civil jurisdiction in other cases which do not depend upon citizenship. The Senator as a lawyer knows this very well; and yet deliberately by his vote, and now by his speech, he upholds the cruel rule by which the testimony of persons is excluded on account of color. Sir, I do not know which was worse, the vote or the speech of the Senator, although the latter was in harmony with the former. I was astonished at his vote. I am now astonished at his speech, which is as illogical in argument as it is bad in principle. Most kindly but most earnestly do I dissent from it. Sir, I do not wish to take up time. The question is of transcendent importance. You will pardon my frankness if I add that the vote already taken will do no honor to Congress. I am sure that it will be recorded in judgment against us, and deservedly too. Civilization will blush at the record. God save us!

Mr. DAVIS. Mr. President, I have been very much amused by the discussion between the two honorable Senators; and it seems to me I have never seen two gentlemen more befogged in relation to any subject. The Senator from Massachusetts is deeper and more thoroughly in the fog than the honorable Senator from New Hampshire. The complaint of the Senator from Massachusetts, when he was first up, was that this bill, if it became a law, would work the greatest wrong and oppression upon the colored race, because it would introduce a rule of evidence that would debar them of the privilege of calling upon their own color for what they knew in relation to questions of crime charged against them or wrongs of which they made complaint. The Senator from New Hampshire answered that very correctly.

Mr. SAULSBURY. I wish to ask my friend from Kentucky a question, and it is this: what does he mean when he speaks of the "colored race?" Who are embraced in the term "colored race?" How long has that term been known in this or any other country? Does he mean the negro race? If so, I can understand what my friend means; but when he speaks of the colored race, I should like him to explain what he means by the use of such a term.

Mr. DAVIS. I will answer the question. I was only using the phrase which had been used by the other gentlemen, not one that I would have adopted myself. The terms that I use are "negro" and "slave."

Mr. SAULSBURY. Then I will simply say to my friend, I am for calling things by their right names.

Mr. DAVIS. I will proceed. Now, the paroxysm in which the Senator from Massachusetts found himself involved was altogether needless, I think, because this bill will not concern the negro at all practically. As was well said by the Senator from New Hampshire, all controversies in which the rights of the negro are involved necessarily are confined to the State courts. I speak of them as subject to a general rule. I have been many years a practicing lawyer, and I never knew a suit to be brought in the Federal court in the State of Kentucky in which a negro was either a party or a witness, or any way connected with the suit or its subject. Why? Because the Federal courts had no jurisdiction of cases in which negroes would be interested or involved. Here is the clause in the Constitution which vests the judicial power:

"The judicial power shall extend to all cases in law and equity arising under this Constitution, the laws of the United States, and treaties made, or which shall be made, under their authority; to all cases affecting embassadors, other public ministers, and consuls; to all cases of admiralty and maritime jurisdiction; to controversies to which the United States shall be a party; to controversies between two or more States; between a State and citizens of another State; between citizens of different States; between citizens of the same State claiming lands under grants of different States; and between a State, or the citizens thereof, and foreign States, citizens, or subjects."

The jurisdiction of the Federal courts embraces no other matters; and it is obvious that a case could scarcely arise with which a negro, free or slave, could have any relation, either as party or witness.

Now, Mr. President, I venture this proposition, that there never has been a case of a suit or grievance arising in the State of Kentucky, in which, under this provision of the Constitution, a negro was or could be a party witness in a suit in the Federal courts. Then all this denunciation because of the injustice it would work upon the negro, is imaginary. It arises only in the heated and prolific imagination of the Senator from Massachusetts. The Senator from New Hampshire is mistaken in this respect. He attributes the ills to the negro, of which the Senator from Massachusetts complains, to a decision of the Supreme Court.

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

Mr. DAVIS. I am always gratified to hear the gentleman.

Mr. HALE. I did not say any such thing. The Senator from Massachusetts made the remark, and I said that he must go further, and that the foundation of these distinctions was in that decision of the Supreme Court. I did not say this rule was laid down by the Supreme Court.

Mr. DAVIS. I am gratified that my honorable friend, the Senator from New Hampshire, is correcting one of his mistakes, and I hope that now he will correct another. The origin of the mischief, if it be a mischief, is not in the Supreme Court or any of its decisions; it is not in the laws of Congress; it is in the peculiar structure of the Federal and State governments, and the judicial power created by the Federal Constitution and its investment; which creation of judicial power, and the investment of it, necessarily exclude from the Federal courts all the controversies, either civil or criminal, in which negroes might be involved. It is the State courts alone that have jurisdiction of them as matters of local and domestic concernment. The only decision that the Supreme Court has made in relation to the negro, according to my recollection, that involves his rights essentially, is the one in the Dred Scott case, where the principle is decided that a free negro cannot be a citizen of the United States, and in my judgment a more correct decision never was rendered.

The honorable Senator from New Hampshire adverts, in mingled terms, to Justice Story. He does nothing but sheer justice to the learning and ability of that distinguished jurist; but when he charges that Justice Story allowed the mole to grow over his intellect and his conscience when he was transferred from the political hustings to the bench, I think he does the judge injustice. I think that great judge illustrated a very common case. There is hardly any politician but what is a demagogue. I do not know that I ever knew a politician in my life that was not more or less a demagogue; and since I have been a member of this body at the present session that conclusion of my mind has been very greatly strengthened. My experience is this: a man of intellect, of fine moral and intellectual structure becomes ambitious; he is fond of popularity and distinction, and covets place and power; he declares himself a candidate for office, and he takes to the hustings, and he immediately resorts to all the arts and the strategy of a stump orator and of a political demagogue in a greater or less degree. But so soon as a gentleman of that mold is transferred from the arena where his success depends upon his adroitness in playing the demagogue, and is placed in an office where his reason and conscience, his moral and intellectual faculties can have fair play, he begins to look at principle and truth and facts just as they are. The consequence is that he disrobes himself of the demagogue, he becomes conservative and judicial, and his effort, instead of catering to the passions and the vanity of the multitude, beguiling their judgment, is simply to ascertain where the truth and the principle lie, and so to decide. When a gentleman is appointed a judge, and undergoes that transmutation, I think it is a very proper one, and I think that is the identical transmutation that Justice Story went through, and none other, and so of most great and upright judges. While a member of Congress he was appointed to the supreme bench.

I do not think, Mr. President, there was any need for sticking the perpetual, the all-pervading, the everywhere-to-be-found, the ever-in-the-way negro to this bill. I hope and trust that the Senate and the Congress of the United States will be allowed to mature and perfect some few bills in which the interests and the business of the white man are involved, without having this ever-present negro stuck upon them by the Senator from Massachusetts. If he desires to bring up this matter of the negro in connection with the rules of proceeding in the Federal courts, let him introduce a distinct bill, and not make everything odoriferous of his friend.

Mr. SUMNER. I think, after the debate, it is my duty to make this proposition in the Senate. Several Senators have expressed a desire to vote upon it again, and I therefore move the proposition again in the form of a proviso:

Provided, That there shall be no exclusion of any witness on account of color.

Mr. KING. I asked the Senate, a little while ago, to proceed to the consideration of executive business, but gave way at the suggestion of the Senator from Connecticut, that the question might be taken on the passage of this bill. Other questions are coming up, and I trust that he will make no opposition to my motion that the Senate go into executive session.

Mr. FOSTER. Certainly, I make no objection now.

EXECUTIVE SESSION.

On motion of Mr. KING, the Senate proceeded to the consideration of executive business; and after some time spent therein, the doors were reopened, and the Senate adjourned.

HOUSE OF REPRESENTATIVES.

THURSDAY, *July* 3, 1862.

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

The Journal of yesterday was read and approved.

APPOINTMENT OF SELECT COMMITTEE.

The SPEAKER announced that he yesterday appointed Mr. CLARK, Mr. JOHN H. RICE, Mr. BAILY, Mr. WINDOM, and Mr. GRIDER, the select committee on the subject of certain charges contained in a recent article of the New York Tribune.

ADJOURNMENT OVER.

Mr. STILES. I rise to a privileged question. I offer a resolution which I send to the Clerk.

The resolution was read, as follows:

Resolved, That when the House adjourn to-day, it stand adjourned until Monday next.

Mr. DAWES. I move to amend by inserting "Saturday" in lieu of "Monday."

Mr. THOMAS, of Massachusetts. I move to amend by making the time to-morrow at twelve o'clock, m.

The SPEAKER. That amendment is not in order.

The House divided on the amendment of Mr. DAWES, and no quorum voting,

Mr. WASHBURNE demanded tellers.

Tellers were ordered; and Mr. STILES and Mr. DAWES were appointed.

The House divided; and the tellers reported—ayes 65, noes 22; no quorum voting.

Mr. ELIOT demanded the yeas and nays.

The yeas and nays were ordered.

Mr. BLAIR, of Virginia. I move to lay the resolution on the table, and upon that I demand the yeas and nays.

The yeas and nays were ordered.

The question was then put; and it was decided in the affirmative—yeas 74, nays 38; as follows:

YEAS—Messrs. Aldrich, William Allen, Ashley, Babbitt, Baker, Baxter, Beaman, Bingham, Jacob B. Blair, Blake, William G. Brown, Buffinton, Campbell, Casey, Chamberlin, Clark, Roscoe Conkling, Corning, Cravens, Davis, Dawes, Delano, Duell, Dunlap, Dunn, Edwards, Eliot, English, Fessenden, Frank, Granger, Grider, Hutchins, Jackson, William Kellogg, Knapp, Lansing, Loomis, Lovejoy, Low, McKnight, McPherson, Mitchell, Moorhead, Anson P. Morrill, Justin S. Morrill, Norton, Patton, Pendleton, Pomeroy, Porter, Robinson, Edward H. Rollins, Sargent, Sedgwick, Sheffield, Sherman, Sloan, Spaulding, John B. Steele, William G. Steele, Stevens, Benjamin F. Thomas, Trimble, Trowbridge, Van Horn, Vibbard, Walton, Washburne, Wheeler, Windom, Wood, Woodruff, and Worcester—74.

NAYS—Messrs. Alley, Arnold, Baily, Biddle, Calvert, Colfax, Frederick A. Conkling, Cox, Crisfield, Crittenden, Diven, Fenton, Fisher, Fouke, Gurley, Haight, Hall, Harding, Holman, Francis W. Kellogg, Mallory, May, Maynard, Menzies, Olin, Timothy G. Phelps, Richardson, Segar, Shellabarger, Shiel, Stiles, Train, Van Valkenburgh, Verree, Voorhees, Whaley, Wickliffe, and Wilson—38.

So the resolution was laid on the table.

CHARLES HENRY FOSTER.

Mr. FESSENDEN. I rise to a question of privilege. I offer the following resolution:

Resolved, That Charles Henry Foster be admitted to a seat as a Representative from the second congressional district of North Carolina, and that he be permitted to address the House upon the merits of his claim.

The SPEAKER. The Chair has once decided this question.

Mr. FESSENDEN. I was not aware of it.

The SPEAKER. Unless a new case be made out, the resolution is not a question of privilege.

Mr. MAYNARD. I hope the resolution will be permitted to come in.

The SPEAKER. The gentleman from Maine can ask the unanimous consent of the House to introduce the resolution; but it is not a question of privilege. [Cries of "Object!"]

Mr. DAWES. I would like to say a word upon this subject, if the Chair has no objection.

The SPEAKER. The Chair has no objection.

Several MEMBERS objected.

The SPEAKER. The Chair decides that the resolution is not a question of privilege.

MOTIONS TO RECONSIDER ENTERED.

Mr. ALLEN, of Ohio. I desire to enter a motion to reconsider the vote by which the House on yesterday ordered the report of the Secretary of War, accompanied by a communication from General Hunter, to be printed.

The motion was entered.

Mr. MAYNARD. I desire to enter a motion to reconsider the vote by which the bill to change the place of holding the circuit and district courts of the United States in the district of West Tennessee was yesterday referred to the Committee on the Judiciary.

The motion was entered.

GENERAL HUNTER'S LETTER.

Mr. LOVEJOY. Inasmuch as the gentleman from Kentucky [Mr. WICKLIFFE] was absent attending a secession meeting when General Hunter's reply to his resolution was received, I wish to ask the consent of the House that that reply may be read again this morning. [Laughter.]

Mr. WICKLIFFE. I do not want it read for my benefit. I intend to answer it at the proper time.

W. MAXWELL WOOD.

The House then resumed the consideration of the unfinished business of yesterday, being a joint resolution (H. R. No. 96) reported from the Committee on Naval Affairs, relative to the claim of W. Maxwell Wood, the pending question being on Mr. FENTON's motion to refer the said joint resolution to the Committee of Claims.

Mr. FENTON, by unanimous consent, withdrew his motion.

The question recurred on ordering the joint resolution to be engrossed and read a third time.

Mr. HOLMAN. The previous question being pending, this subject is not open to debate, but I ask that the report in this case made to the last Congress and the letter of the Secretary of the Navy may be read.

The SPEAKER. The report is in the nature of debate, and after the main question has been ordered it can only be read by unanimous consent.

Mr. HOLMAN. I ask that the letter of the Secretary of the Navy may be read.

The SPEAKER. If there is no objection it will be read.

Mr. BABBITT. I object. It has been read once. It was read yesterday.

Mr. HOLMAN. Then, since the gentleman objects to the reading of the report, I move to lay the joint resolution upon the table.

Mr. BABBITT. I object merely because it has been read once.

The SPEAKER. The report accompanying the resolution made to the last Congress has not been read.

Mr. BABBITT. I have no objection to the reading of that.

Mr. HOLMAN. Then I withdraw my motion.

The report was read.

Mr. HOLMAN. I now ask for the reading of the letter of the Secretary of the Navy.

The Clerk read the letter.

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

Mr. HUTCHINS demanded the yeas and nays on the passage of the joint resolution.

Mr. WASHBURNE called for tellers on the yeas and nays.

Tellers were not ordered.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 61, nays 50; as follows:

YEAS—Messrs. Aldrich, Allen, Alley, Arnold, Babbitt, Baily, Biddle, Bingham, Samuel S. Blair, Blake, Buffinton, Crisfield, Cutler, Dawes, Duell, Edwards, Eliot, Ely, Fessenden, Fouke, Goodwin, Granger, Haight, Hale, Kelley, William Kellogg, Kerrigan, Law, Loomis, Lovejoy, Low, McPherson, May, Maynard, Moorhead, Anson P. Morrill, Justin S. Morrill, Norton, Nugen, Patton, John H. Rice, Richardson, Robinson, Sargent, Sedgwick, Segar, Shanks, Sherman, Shiel, Sloan, Stevens, Train, Trimble, Trowbridge, Verree, Vibbard, Voorhees, Washburne, Albert S. White, Wickliffe, and Wood—61.

NAYS—Messrs. Baker, Beaman, William G. Brown, Calvert, Campbell, Casey, Chamberlin, Clark, Clements, Cobb, Colfax, Frederick A. Conkling, Roscoe Conkling, Corning, Cravens, Davis, Diven, Dunlap, English, Fenton, Fisher, Frank, Grider, Gurley, Harding, Holman, Hutchins, Julian, Francis W. Kellogg, Lansing, Mallory, Menzies, Morris, John S. Phelps, Pomeroy, Porter, Potter, Shellabarger, Spaulding, John B. Steele, William G. Steele, Stiles, Van Horn, Van Valkenburgh, Wall, Walton, Wheeler, Wilson, Windom, and Woodruff—50.

So the joint resolution was passed.

During the roll-call,

Mr. McPHERSON stated that Mr. DUNN was absent from the House, in attendance upon a committee of conference.

The result of the vote having been announced as above recorded, the Speaker proceeded to call the committees for reports.

ADVERSE REPORT.

On motion of Mr. BABBITT, the Committee on Commerce was discharged from the further consideration of the memorial of Charles Henry Foster, commissioner from loyal citizens of North Carolina, praying the passage of a bill providing for the immediate resumption, under suitable regulations, of commercial intercourse between the people of the North Carolina coast which is within the national military lines, and the people of the northern States; and the same was laid on upon the table.

HARBOR OF ERIE, PENNSYLVANIA.

Mr. BABBITT, from the Committee on Commerce, reported back, with a recommendation that it do pass, bill of the House (No. 169) making an appropriation for the preservation and improvement of the harbor of Erie, in the State of Pennsylvania; which was referred to the Committee of the Whole on the state of the Union, and, with the accompanying report, ordered to be printed.

PREËMPTION RIGHTS IN WISCONSIN.

Mr. POTTER, from the Committee on Public Lands, reported back, with a recommendation that it do pass, Senate bill No. 307, to grant the right of preëmption to settlers on certain lots in Wisconsin.

The bill was read. It directs the Commissioner of the General Land Office to cause a survey to be made of that portion of lots numbered ten and eleven, lying east of the river Au Diable, in township twenty-three north, of range twenty-one east, in the State of Wisconsin, and which portion was not embraced by the confirmatory provisions of the act of Congress approved February 21, 1823, entitled "An act to revive and continue in force certain acts for the adjustment of land claims in the Territory of Michigan."

The bill was read the third time, and passed.

PUBLIC LANDS IN IOWA.

Mr. POTTER also, from the same committee, reported back, with a recommendation that it do pass, House bill No. 529, concerning certain lands heretofore granted to the State of Iowa. The bill directs that the five sections of land granted to the State of Iowa by the third subdivision of section six of the act supplemental to the act for the admission of the States of Iowa and Florida into the Union, approved March 3, 1845, shall be released and discharged from the limitation contained in said section; and permits the General Assembly of the State of Iowa to make such disposition of said lands as may be deemed best for the interests of said State.

Mr. HOLMAN. Will the gentleman from Wisconsin inform the House what is the limitation in the act referred to?

Mr. POTTER. In reply to the gentleman from Indiana, I desire to state that at the time of the admission of Iowa, a grant of five sections of land was made to enable the State to erect public buildings at the capital. The public buildings of the State of Iowa have been erected at other places besides the capital, and now it is desired on the part of the State that the limitation shall be removed in order that it may avail itself of the benefit of the grant. These are the facts in regard to the matter.

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

Mr. POTTER moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

PREËMPTION CLAIMS.

Mr. POTTER also, from the same committee, reported a bill in relation to preëmption claims, and for other purposes; which was read a first and second time.

The bill directs that as prerequisites for the admission of entry or location under the preëmption laws it shall be shown by proof, to the satisfaction of the register and receiver, that the preemptor's settlement, cultivation, and residence, had continued for twelve months from the date of such settlement; and a party desiring to take an appeal from the decision of the Commissioner of the General Land Office, is required to take such appeal within twelve months from the date of the reception of such decision at the district land office, and such appeal must be accompanied by the affidavit of the appellant showing that it is not made for delay or vexation, and stating the alleged errors of law, or of fact. The third section provides that no public lands shall be exposed for sale by proclamation of the President, unless the same has been surveyed, and the survey has been duly filed for six years or more before such sale, provided that whenever the President ascertains that any township or townships of the public lands are mineral or pine-timbered lands, he may at his discretion proclaim such township of land for sale as now provided by law.

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

Mr. POTTER moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

RAILROADS IN MINNESOTA.

Mr. POTTER also, from the same committee, reported back joint resolution (S. No. 80) authorizing the State of Minnesota to change the line of certain branch railroads in said State, and for other purposes, with a substitute.

The substitute provides that, in lieu of that part of the railroad grant to Minnesota Territory by act of Congress approved March 3, 1857, which extends northwestwardly to the intersection of the tenth standard parallel with the fourth guide meridian, there shall be granted to the State of Minnesota the alternate sections within six miles of the line having its southwestern terminus at any point of the existing line between the falls of St. Anthony and Crow Wing, and extending to the waters of Lake Superior.

Mr. HOLMAN. I desire to ask the gentleman from Wisconsin whether the amount of public lands inuring to the benefit of the State for this particular railroad will be increased or diminished by this act?

Mr. POTTER. The amount of land will be diminished, as the distance by the new line is thirty miles less than by the old one.

The substitute was agreed to; and the bill, as amended, was read the third time, and passed.

Mr. POTTER moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

LAND DISTRICT IN MICHIGAN.

Mr. POTTER, from the same committee, reported back, with a recommendation that it do pass, House bill No. 496, to enlarge the Lake Superior land district, in the State of Michigan.

The bill attaches to the Lake Superior district all that portion of the present Sheboygan district,

in the State of Michigan, lying west of Lake Michigan and south of the line dividing townships forty-one and forty-two north, including St. Martin's and the adjacent islands, now forming part of the Sheboygan district, and subject to sale at Traverse City, in said State. The second section provides that the act is not to take effect until three months after the date of its approval.

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

Mr. POTTER moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

SURVEY OF PUBLIC LANDS.

Mr. POTTER also, from the same committee, reported a joint resolution explanatory of a certain resolution approved June 2, 1862; which was read a first and second time.

The joint resolution enacts that the act of Congress, approved June 2, 1862, for the survey of grants or claims of land, shall be construed as extending only to such grants or claims as have been finally confirmed under the authority of the United States, and that in the case of any such confirmed grant now unaided by survey, the same shall be held complete only after the *locus* shall have been ascertained by actual survey made and approved under existing laws and regulations.

Mr. POTTER. The original resolution was a Senate resolution, which also passed the House. The construction which the Committee on Public Lands put upon it, was the construction as stated in this resolution; but the Commissioner of the General Land Office was fearful that it might bear another construction, and might cause conflicts of title under certain circumstances. He therefore recommended the passage of this explanatory resolution.

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

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

The latter motion was agreed to.

MICHIGAN RAILROAD GRANT.

Mr. TROWBRIDGE. I ask the consent of the House to have the joint resolution (H. R. No. 83) relative to a certain grant of land for railroad purposes, made to the State of Michigan in 1856, taken from the Speaker's table, in order to have a verbal amendment of the Senate concurred in.

There being no objection, the joint resolution was taken up, and the amendment concurred in.

CARMACK & RAMSEY.

Mr. COLFAX, from the Committee on the Post Office and Post Roads, reported back Senate joint resolution No. 89, in relation to the claim of Carmack & Ramsey, with the following amendment:

Strike out all after the resolving clause, and insert as follows:

That the First Comptroller of the Treasury having, on the 11th of August, 1858, decided that nothing was due to Carmack & Ramsey under the conditional contract referred to in the sixth section of the act making appropriations for the service of the Post Office Department, approved August 18, 1856, and the said Carmack & Ramsey having no claim in law or equity for damages under said alleged conditional contract, the said sixth section of the act approved August 18, 1856, is hereby repealed.

Mr. COLFAX. As this joint resolution involves a very large amount of money, the Committee on the Post Office and Post Roads have given it the gravest consideration at several meetings held by them; and, for the purpose of enabling the House to act intelligently upon the subject, I propose to make a brief statement of the facts out of which the claim has arisen.

The joint resolution of the Senate authorizes an appropriation not exceeding $180,000. The amount originally claimed by the parties was nearly two million dollars.

Mr. HOLMAN. Will my colleague state under what law the claim of these parties arises?

Mr. COLFAX. If my colleague will permit me, I will state the whole matter in detail. If gentlemen will send for volume five, Executive Documents of 1858-59, they will find all the papers of this case, covering some two hundred printed pages.

Mr. Speaker, a very large number of persons seem to be interested in this claim, a larger number, judging from the persons who have called on various members of the Post Office Committee in reference to it, than often occurs in reference to any private claim; and this induced the committee to give to it even more than their usual consideration. The facts are these: by the act of March 3, 1851, the Postmaster General was authorized to make arrangements for transporting, through any foreign country, mails of the United States running from and to any point in the United States. The act authorized the Postmaster General to select the speediest, safest, and most economical route, subject to revocation when a better route should be found, with fair indemnity to contractors.

Under this act, in 1852, under Mr. Fillmore's administration, Postmaster General Hall, after examining into the various routes proposed across the continent to the Pacific, was inclined to favor a route across the central portion of the republic of Mexico, from Vera Cruz, via Acapulco, to San Francisco, and advertised for proposals, under which a conditional contract was subsequently made with Carmack & Ramsey to transport the mails by this route for four years. I am endeavoring to state these facts with perfect impartiality both to the claimants and to the Government, so that the House may have correct information as to the nature and circumstances of the claim.

Before any contract had been made, Mr. Hall went out of office, having been appointed United States district judge, and was succeeded by Mr. Hubbard, of Connecticut, as Postmaster General. Mr. Hubbard accepted the proposal of Carmack & Ramsey, and made a conditional contract with them to carry the mails from Vera Cruz, via Acapulco, to San Francisco twice a month for four years, at $424,000 a year, amounting to $1,696,000 in the aggregate. The contract, however, contained this condition:

"And it is hereby further expressly understood that this contract is to have no force or validity until it shall have received the sanction of the Congress of the United States by the passage of an appropriation to carry it into effect."

On the 15th of February, 1853, the contract was dated, and signed by Postmaster General Hubbard on the 3d of March, the last day of his term. He, however, continued to act as Postmaster General until the 7th or 8th of March, when Mr. Campbell, his successor, took possession of the office under Mr. Pierce's administration.

On the 15th of June, the Mexican Ocean Mail Company notified Postmaster General Campbell that Carmack & Ramsey had assigned the contract to them:

"The position that our company sustains to the Government (*as the real parties by contract*) to execute the mail contracts with Ramsey & Carmack, renders it proper that the Post Office Department should be advised of the state of forwardness on the part of the contractors to fulfill these contracts."

On the 9th of July, before any session of Congress had convened, and before any opportunity, therefore, had occurred for Congress to approve the contract, Postmaster General Campbell replied to these parties that he entirely disapproved the contract. He says:

POST OFFICE DEPARTMENT, *July* 9, 1853.

SIR: Your letter of the 15th ultimo came duly to hand. My attention having been specially called to the circumstances connected with the contemplated line of the Pacific, via Vera Cruz and Acapulco, I feel it my duty, after due deliberation, to inform you that the conditional contract entered into between my predecessor, Mr. Hubbard, and Messrs. Ramsey & Carmack, for the conveyance of the mails over this line to San Francisco, does not meet with my approbation.

In the first place, as at present advised, I consider the route impracticable for mail purposes.

In the second place, the sums of money yearly drawn from the Treasury for contracts, which have for several years been, and are still in force, for the transportation of the mails between the Atlantic and the Pacific, are very considerable, amounting to about seven hundred and thirty-one thousand eight hundred and sixty-eight dollars. In view of these facts, and of the many sections and neighborhoods in the different States which are either greatly restricted in, or deprived altogether of mail facilities, it appears to me both inexpedient and unjust to go into the expenditure of a still further sum of $424,000 for the service in question.

Moreover, I disapprove of the principle upon which this contract is made. In my opinion, if the Postmaster General has the right to make such a contract at all, it ought to be made without the restriction or limitation contained in yours, by which its force or validity is made to depend upon the passage of an appropriation by Congress to carry it into effect. I am unwilling to recognize any contingency of this kind, because, although the contractors may, under such conditional arrangement, establish no legal claim for compensation, they may, nevertheless, go on and incur expenses, in the expectation that they will be paid, and Congress, more from private sympathy than from public policy or right, be at length induced to yield to a measure to which its prior sanction never could have been obtained.

I am, respectfully, your obedient servant,

JAMES CAMPBELL,
Postmaster General.

ROBERT G. RANKIN, Esq., *President of the Mexico Ocean Mail and Inland Company, New York.*

This of course arrested the performance of the terms of the contract, which was conditional upon the approval and ratification of Congress by an appropriation for that purpose, and Congress subsequently making no appropriation, the contract failed entirely. Thus matters remained, Mr. Carmack and the Mexican Mail Company protesting, until 1856, when a provision was passed in the Senate as an amendment to the Post Office appropriation bill, which I will now read, and I ask the House to pay especial attention to it, as it is upon the reading of this provision of the law of 1856 principally that the present claim to damages, as a recognized fact, is based. Congress, in the opinion of the committee, by this section authorized an examination of the claims of these parties for damages, and authorized the payment of such sum as might be found due to these parties by the Government; but the claimants insist that the true construction of it is, that Congress settled that there had been damages, and had imperatively directed the payment of whatever damages the parties had sustained. The section was carefully worded, I think, by the friends of the claimants, and upon it they base their strongest claims for damages. The following is the section which was adopted as an amendment to the Post Office appropriation bill of 1856:

"SEC. 6. *And be it further enacted*, That the First Comptroller of the Treasury be, and he is hereby, required to adjust the damages due to Edward H. Carmack and Albert C. Ramsey on account of the abrogation, by the Postmaster General, of their contract to carry the mail on Vera Cruz, Acapulco, and San Francisco route, dated the 15th of February, 1853; to adjudge and award to them, according to the principles of law, equity, and justice, the amount so found due; and the Secretary of the Treasury is hereby required to pay the same to the said Carmack & Ramsey out of any money in the Treasury not otherwise appropriated."

This amendment was adopted in the Senate by a majority of one vote. It went to the House of Representatives, where it was non-concurred in in gross, with all the other Senate amendments to the bill. It went then, with these other amendments of the Senate, to a committee of conference. The committee reported in favor of the amendment, and the action of the committee on this and other amendments was adopted without division or debate in this House, and thus became a law.

Mr. MAYNARD. I wish to ask the gentleman if this is the only recognition that Congress has given to the validity of the claim?

Mr. COLFAX. This is the only recognition of Congress upon which the claim is based.

Under this law the First Comptroller of the Treasury was directed to examine the claim. But Postmaster General Brown, finding that a very large amount was likely to be involved, referred the matter to Attorney General Black, who made an argumentative report upon the subject, in which he decided that these parties had no claim at all upon the Treasury, and therefore ruled it out entirely. On the other hand, Mr. Whittlesey, then First Comptroller of the Treasury, who during all his connection with that Department of the Government has been regarded, I am glad to say, as a most careful guardian of the Treasury, felt himself bound by his construction of the action of Congress to recognize damages as due to these parties. I now read from the report of Attorney General Black, April 7, 1857:

"It seems that Messrs. Carmack & Ramsey, on the 15th of February, 1853, made a contract with the Postmaster General for carrying the mail from Vera Cruz to San Francisco, by way of Acapulco, at the sum of $424,000 per annum, for four years, 'commencing *from the time that Congress shall ratify this contract.*' The contract further stipulates that it is 'to have no force or validity until it shall have received the sanction of Congress by the passage of an appropriation to carry it into effect.' Congress has never, down to the present time, made any such appropriation. It does not appear that the contractors carried the mails under this contract, or incurred any expense in preparing to do so. But it is not material whether they did or not, since they were distinctly warned that the Government would not be liable until the sanction of Congress should be given, and they themselves admitted that they so understood their rights and obligations. Your immediate predecessor, Mr. Campbell, did not approve of the contract. He so stated in his report and in his correspondence with the contractors; but he never declared that he had any intention not to carry it out if Congress would ratify it by an appropriation."

* * * * * * * * *

"The Postmaster General claimed nothing for the Govern-

ment beyond what he bargained for. He warned the contractors against making any effort to bind upon the back of the Government a burden which it was expressly agreed that no hand except that of Congress should presume to fasten there. He stood upon the very terms of the contract, and only asked of the other parties that they, too, would observe them with equal good faith. He did not change the schedule of other routes in connection, nor order the postmasters to let Carmack & Ramsey have the mails. It was not his duty to do so; for, as those persons had no contract which compelled them to carry a mail, it would have been wrong to let them have it in their charge. Upon the whole, I am very clear in the opinion that the contract in question never was abrogated, annulled, rescinded, or violated by the Postmaster General, in letter or spirit.

"But on the 18th of August, 1856, Congress passed a law requiring the Comptroller of the Treasury to adjust the damages to Carmack & Ramsey on account of the abrogation of this same contract, and award them, according to law, equity, and justice, what he should find to be due. Does this compel you and the Comptroller to ignore the truth, and shut your eyes upon the fact that the contract never was abrogated at all? Undoubtedly Congress may order the money in the Treasury to be paid to a person who has no claim upon the Government, as well as to a just creditor. If Congress had chosen to say that Carmack & Ramsey should have $500,000 as a gracious gift, the Executive could not refuse to pay it, no matter how clear the proof might be that the law was unadvised and wrong.

"A recital in such a law that the sum to be paid was intended as compensation for damages which never occurred, would not take away the right of the party to receive what was given. The legislative will, expressed in the constitutional form, is enough, without more, to avouch a legislative act. But here is a law which does not give to the claimants any specified sum of money. The amount which they may lawfully demand is to be ascertained by the Comptroller. To enable him to do this, a standard or rule is furnished to him, and upon that he must base his calculation. He shall allow them the damages due to them on account of the abrogation of their contract. He violates his duty if he allows them what is not due on that particular account. In other words, he can do no more than make them a just compensation for the injury which they have suffered in direct consequence of the abrogation of their contract by the Postmaster General.

"Now, if the contract was never abrogated, its abrogation never occasioned any damage, and, of course, it follows that they have no claim under this law. This view of the subject is made still plainer by reference to another clause, which declares that the Comptroller shall award and adjudge to the claimants the amount found due *according to law, equity, and justice*. The obvious meaning of this is, to give the claimants what they might recover if the United States were suable in a court where justice is administered according to the rules of law and equity. In court they would have no case; for no judicial tribunal would give a party damages for a wrong that was never inflicted.

"The duty of the Comptroller is very plain. He cannot know what damages are due on account of the abrogation of the contract without inquiring when, how, in what manner, and to what extent it was abrogated. If this inquiry shall lead him to the conclusion that the contract never was abrogated at all, he will have reached the limits of his power; for he is not authorized to award them compensation for a loss they may have sustained in any other way."

The Postmaster General had submitted the matter to the Attorney General on the 28th of March, 1857. On the 7th of April the report of the Attorney General was submitted, and the Postmaster General, on the 11th, notified Mr. Whittlesey that he declined being a party to the investigation. On the 1st day of May, 1857, Mr. Medill was appointed First Comptroller of the Treasury, in place of Mr. Whittlesey. The claim was again submitted to him, with the Attorney General's decision; and he made, on the 11th of August, 1858, a decision upon it, under this sixth section of the act of August 18, 1856, covering sixteen printed pages, concluding as follows:

"Nor can I understand how the actual expenditures incurred in the preparation and stocking of the road can be viewed in the light of damages under the contract. It provides for no such expenditures until after the contract shall have gone into effect. Every dollar thus expended was paid, if paid at all, before there was even an opportunity afforded for the approval of the contract by Congress. Was it contemplated at the time they were incurred that they would be paid by the Government in case the contract should not be approved? Surely not. They were incurred at the risk of the contractors, who well knew they had no contract at the time, and might never have any.

"If they had incurred all of these expenses before they had entered into any contract at all with the Department, and then had succeeded in obtaining the absolute, unconditional contract which was afterwards really annulled by the Postmaster General, I do not understand that in such a case they would be entitled to damages for the money so expended *prior* to the making of the contract. The Government did not ask such preparation to be made; and if a person sees fit to invest his means in a certain description of property, with a view of using the same to execute a Government contract, which he may never obtain, or, obtaining, have taken away from him, he certainly does it at his own risk, and cannot claim that his loss on that account was a necessary consequence of the violation of the contract.

"If Messrs. Carmack & Ramsey assumed the risk of preparing to execute a contract which might never be called into existence, they did it knowingly and at their own peril, and I cannot discover how the risk ever passed from them to the Government.

"I have not attempted to notice many of the arguments advanced and points made by the claimants and their attorneys, because my conclusions were reached without any necessary reference to them. The determination of a single question disposed of the whole matter, and put an end to the investigation. Repudiating the idea that Congress had determined by law the facts in this case, or intended to do so, it was my duty, first, to inquire whether the contract referred to in the law was so abrogated by the Postmaster General as to make the United States liable to the contractors in damages for such abrogation, and that being decided in the negative, I had no further investigation to make; and it remains for me only to decide that I find nothing due from the United States to Messrs. Carmack & Ramsey under the contract aforesaid."

Mr. Medill, on looking into the claim, found that it embraced not only the amount alleged to be expended by these parties in preparation for executing the work, being $113,000, but also the entire amount of money they would have received under the contract for the whole four years, namely, $1,696,000, making a total of over $1,800,000. The parties submitted a statement showing that, according to their estimates, if the contract had been executed, they would have received a profit from passengers and freight alone of $31,000 a month, (though if this is correct I cannot see why they did not open the route without the mails,) and that the whole amount of subsidy to be paid by the Post Office Department, therefore, would have been profit. They therefore claimed that they were entitled to that amount under the sixth section of the Post Office appropriation bill of 1856.

Mr. Medill decided in this elaborate and exhaustive report against their claim; and he quotes in his report from the remarks of the Senators when they introduced this section into the Senate, and when it passed by one majority. Mr. Durkee, who moved the amendment, said:

"The amendment proposes to authorize the Comptroller of the Treasury to *examine fully into the nature and extent of this claim, and to settle it upon principles of law and equity.* Since that office has won the confidence of the Government and people, and that deservedly, I hope the amendment will be adopted."

Mr. Houston, who likewise favored the amendment, said:

"I think that when, by *this amendment*, the subject shall be referred to an intelligent and competent officer to *ascertain whether they have sustained injury, and whether it is right to make reparation for that injury*, it is a sufficient check against any *imposition* on the Government. It is placing it in the hands of one competent to render justice."

From this, it appears that Congress understood that the question of damages was not foreclosed in favor of the claimants, but that the whole question was intended to be submitted.

Now the practice of the Executive Departments is, that whenever an Executive Department has examined, by authority of Congress, a claim, and have decided upon that claim, all their successors are precluded from a further examination of the case, unless it is submitted to the Department by Congress.

Mr. Whittlesey lately again becoming Comptroller, and again feeling that he was bound by this sixth section of the act of 1856, sent to Postmaster General Blair the following letter on the 12th of April, 1862, four years after Medill decided adversely to this claim:

TREASURY DEPARTMENT, COMPTROLLER'S OFFICE,
April 12, 1862.

SIR: I transmit to you herewith the copy of a notice left with me to-day, to take depositions in New York on the 22d of this month, by Hon. Reverdy Johnson, attorney and counsel for Carmack & Ramsey, in a matter referred to this office by the sixth section of an act approved on the 18th of August, 1856. (Statutes at Large, vol. 11, p. 95.)

As the subject referred to arose out of a contract with the Postmaster General, I deem it to be proper to furnish you with a copy of said notice.

Most respectfully yours, ELISHA WHITTLESEY.

Hon. MONTGOMERY BLAIR, *Postmaster General.*

Mr. Kasson, by instruction of the Postmaster General, on the 15th day of April, 1862, replied as follows:

POST OFFICE DEPARTMENT,
WASHINGTON, *April* 15, 1862.

SIR: I am instructed by the Postmaster General to acknowledge the receipt of your letter of the 12th instant, inclosing copy of a notice left with you on that date, "to take depositions in New York on the 22d of this month, by Hon. Reverdy Johnson, attorney and counsel for Carmack & Ramsey, in a matter referred to this (your) office by the sixth section of an act approved on the 18th of August, 1856," &c., and to say:

The extraordinary claim to which your attention is thus again called was presented under the sixth section of the act of August 18, 1856, to Mr. W. Medill, then Comptroller of the Treasury. After a careful and able review of the questions involved, he decided, under date of the 11th of August, 1858, against this claim for damages. The Postmaster General therefore regards it as *res adjudicata*, and under the practice of the Executive Departments not to be reopened; and it only remains for him, so far as his Department is concerned, to protest against giving a new status to an exorbitant claim heretofore rejected by every Department of the Government, to which it has been presented, and especially rejected upon careful investigation and final decision by your predecessor in office, Mr. Medill.

The Postmaster General further instructs me to request of you information of the fact if you determine to set aside the former decision and reopen the case in order to proceed in the inquiry for damages.

I am, very respectfully, your obedient servant,
JOHN A. KASSON,
First Assistant Postmaster General.

Hon. ELISHA WHITTLESEY,
First Comptroller of the Treasury, Washington, D. C.

To this last letter, I understand, the Post Office Department has received no reply. On the 9th of May, the Post Office Department submitted to Congress a statement in relation to this case, stating that it was pending, and that if Congress did not desire to hazard this amount being awarded, it was their duty to act. Postmaster General Blair states in Executive Document No. 47:

"The claim is very large in amount, being nearly two million dollars. I have recently received a letter from the First Comptroller, inclosing a notice signed by Reverdy Johnson, of Maryland, as attorney for the claimants, indicating that they are about to proceed to take testimony in the case for the purpose of reopening it, and pressing the demand upon the Treasury. Copies of this late correspondence are inclosed, marked A, B, C. To the last letter I have received no reply.

"They now claim that the sixth section of the appropriation act of August 18, 1856, itself settled the fact that there was an abrogation of the contract by the Postmaster General, as a fact found by Congress, and that there were damages, leaving to the Comptroller solely the question how much. Mr. Comptroller Medill decided that there were no damages on account of abrogation of contract, as their contract, by its own terms, never went into effect and never was abrogated.

"If Congress intended by that section to find the three facts, that there was a contract, that there was an abrogation of it by the Postmaster General, and that there were damages due on account thereof, then it leaves only the question whether the decision of Mr. Medill, as made, is binding on his successor as a settlement of the claim. If Congress did not intend to find those facts, then it is clear Mr. Medill's decision against it is binding on the present Comptroller, and the case cannot be reopened. If the latter view is entertained by Congress, I respectfully call attention to the propriety of repealing the sixth section of the act aforesaid, and thus preventing the reconsideration of a case already rejected by both the executive and legislative branches of Government, before whom it has been presented in different forms since the date of the act on which it rests.

"The claim originated in a private speculation of Carmack & Ramsey, unprompted by any department of Government, and wholly for their own profit, and without even an invitation, so far as known, from any Department, and it seems to me to furnish no greater occasion for indemnity for losses incurred than would any other individual speculation in the country."

I wish to say here that I disagree with the Postmaster General in what he states upon that point. The contract was awarded conditionally after public advertisement; and it is but just to Carmack & Ramsey to say that they put in bids in compliance with a public advertisement inviting proposals.

The Postmaster General continues:

"There is danger, however, from the manner in which the affair has been managed, that the Treasury may be mulcted in a very large sum of money, when no department of the Government, legislative or executive, entertains a different opinion from that herein expressed. For it is scarcely possible, in face of the facts above referred to, that Congress did intend to assume that this contract had been made and violated by Government, and yet it is apparent that Mr. Whittlesey, one of the most honest men in the executive offices, assumes that to be the effect of the legislation of Congress, and on that construction he may probably go on to assess a large amount of damages against the Government, which would become a judgment and involve a vested right to payment out of the Treasury.

"I think the nature of this case would at any time justify Congress in giving great attention to it, but in the present circumstances of the country and condition of the Treasury, I feel called upon to invite their attention to it in the most earnest manner."

On the 11th of June, 1858, Mr. Billinghurst made a report to the House in this case, insisting that the claim should be paid, but upon that report Congress took no action, and there it has remained unacted on until the present time.

I have thus given an analysis of the case, to show what is the claim, what is the history of the case, and out of what it has grown. It only remains to relate what claims were made by Carmack & Ramsey for damages, under the act of the 18th of August, 1856.

The paper setting forth the claim is dated Philadelphia, November 13, 1856:

"We claim, as we are advised we may claim, lawfully, equitably, and justly, our contract price for the term of the contract, subject only to such abatement or deduction as may be shown, the burden of proof of such abatement, if any, resting on the Government. We need not here recite the consideration agreed upon, as that is already of record in your office.

THE CONGRESSIONAL GLOBE.

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

THIRTY-SEVENTH CONGRESS, 2D SESSION. MONDAY, JULY 7, 1862. NEW SERIES.....No. 195.

"Otherwise, we claim, as we are advised we may claim, lawfully, equitably, and justly, the full value of our contract—what it would have been worth to us had we been permitted to give effect to it according to its intent.

"The papers herewith submitted exhibit a fair view of the proportions of our claim. We also claim the amount of the account of outlays and expenses in Mexico, as given by Mr. Marsh. EDWARD H. CARMACK.

"ALBERT C. RAMSEY.

"The papers accompanying the above statement and demand are a *pro forma* account of estimated receipts and expenditures for their line under the contract, showing that they expected, by receipts from passengers and freights alone, to pay all the expenses of the route, and clear in that way, per month, $31,705 33, and thus making all that would be received under the contract clear profit. Also, an account of expenses incurred in Mexico, amounting to $113,117 54. The demand of the claimants may, therefore, be formally stated thus:

Compensation for four years, at $424,000 per year	$1,696,000 00
Expenses incurred, &c.	113,117 54
Entire damages claimed	$1,809,117 54"

The House will see from that that they claimed the entire amount of $1,800,000 in all, and the burden of proof as to any abatement they contended was to rest on the Government. The claim is very large and very extraordinary. The Senate of the United States finally passed a bill, which is now upon your table, limiting the operation of the act of August 18, 1856, to $180,000. They arrived at this amount by putting in the claim for amount expended in the purchase of coaches, mules, and other things, $113,000. Though Congress never ratified this contract, they claimed that they had made these expenditures in contemplation that Congress might ratify it and allow them to go on. Estimating the interest upon this amount from the time these expenses were incurred to the present time, $180,000 would cover the amount.

When this question was taken up in the Committee on the Post Office and Post Roads, I confess that my feelings and my prejudices were in favor of the claimants. I had heard much about the claim, and supposed they had a legal and an equitable claim, but the more I examined the official correspondence and the official papers, the more my mind came to the conclusion that the claim had no foundation either in law or equity. It was only a conditional contract at first, subject to ratification by Congress, and not to have any validity or binding force on either party till thus ratified by an appropriation; and when the claimants notified the Department, during the recess, that they wished to go on with the contract, the Postmaster General notified them that he disapproved of the contract as inexpedient and unjust to other sections of the country, and that he regarded the route itself as impracticable. But in spite of that they went on, and afterwards came to Congress, claiming not only that they should be indemnified for all these expenses, but also claiming compensation for performing the service for the entire four years.

In November, 1854—over eighteen months after the conditional contract was made, and sixteen months after Postmaster General Campbell had repudiated it—Carmack & Ramsey notified him that they had expended under it $98,000. But on the 27th of November, 1856, after the passage of the sixth section in their favor, S. Wilmer Marsh, on their behalf, files a sworn statement of $113,117 54.

I must not omit to state that in the very month that this sixth section passed, various stockholders of the Mexican Ocean Mail Company filed liens at the Treasury for any amount allowed under it, alleging that that company was the proprietor of the contract by assignment, and on October 1, 1856, the receiver of the company, which was then insolvent, claimed that the contract was for the sole use and benefit thereof. He also filed the assignment made on the 17th of March, 1853, (fourteen days after Postmaster General Hubbard signed the contract,) in which Carmack & Ramsey assigned it, and all payment received under it, to the company, and the company bound themselves to protect them from any loss or damage for nonperformance of the contract. Another paper attached to it declares that the contract was, in fact, "procured for the benefit of, and the sole enjoyment and profit of the Mexican Ocean Mail Company."

Now, sir, there is something in this case which does demand sympathy. I have heard that these claimants are in poor circumstances, and if I could conscientiously stand here and ask Congress to make an appropriation for their relief, I would do it, for I would rather report in their favor than against them. When we first discussed the matter in committee, my colleagues knew that my mind was biased in their favor, but every additional examination and reperusal of the papers, and I have gone over them laboriously, voluminous as they are, several times, convinced me of its injustice; and the enormous amount they claimed destroyed the sympathy I otherwise should have felt for them.

In reference to the $113,000 which they claim to have expended for coaches, horses, mules, &c., it seems to me strange and singular that they should have made this preparation in the face of the Postmaster General's repudiation of the contract, and before it became a contract at all by the necessary appropriation, and when they found that the contract was not to go into operation, that they could not have sold these coaches, horses, and mules for something, crediting it on their claim. They say nothing in regard to that, but claimed the entire amount so expended and compensation for four entire years' service.

For these various reasons the Post Office Committee have instructed me, I may say by a unanimous vote, to report a substitute for the joint resolution, declaring that as the First Comptroller of the Treasury had, in accordance with law, examined this claim and reported against it, the sixth section of the act of August 18, 1856, shall be, and is hereby, repealed.

The question was taken on agreeing to the substitute reported by the Committee on the Post Office and Post Roads; and it was agreed to.

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

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

The latter motion was agreed to.

POST OFFICE DEPARTMENT.

Mr. COLFAX, from the Committee on the Post Office and Post Roads, reported, with a recommendation that it do pass, a bill (S. No. 362) in relation to the Post Office Department.

The first section of the bill provides that the time fixed for the limitation of suits against the sureties of postmasters, by the third section of the act of Congress, entitled "An act to reduce into one the several acts establishing and regulating the Post Office Department," approved March 3, 1855, shall not be construed to run in any State or part thereof, the inhabitants whereof have been, by the proclamation of the President, declared in a state of insurrection, during the time the insurrection shall continue. The second section makes provision for administering the oath to various employés of the Post Office Department.

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

Mr. COLFAX moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

EDUCATION OF COLORED CHILDREN.

Mr. FESSENDEN, from the Committee for the District of Columbia, reported back, with a recommendation that it do pass, bill of the House No. 543, relating to schools for the education of colored children in the cities of Washington and Georgetown, in the District of Columbia.

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

Mr. FESSENDEN moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider upon the table.

The latter motion was agreed to.

COLORED PERSONS IN THE DISTRICT.

Mr. ROLLINS, of New Hampshire. I am instructed by the Committee for the District of Columbia to report back bill of the House No. 394, to repeal certain laws and ordinances in the District of Columbia relating to persons of color. As we have already passed a similar bill, I move that it be laid upon the table.

The motion was agreed to.

UNITED STATES COURTS IN TENNESSEE.

Mr. BINGHAM, from the Judiciary Committee, reported back, with a recommendation that it do pass, bill of the House No. 556, to change the place of holding the circuit and district courts of the United States for the district of west Tennessee.

The SPEAKER. There is a motion pending to reconsider the vote by which the bill was referred to the Committee on the Judicary.

Mr. MAYNARD. I withdraw that motion.

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

Mr. MAYNARD moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider upon the table.

The latter motion was agreed to.

HON. C. L. VALLANDIGHAM.

Mr. BINGHAM. I am instructed by the Committee on the Judiciary to report back the petition of sundry citizens of Cincinnati in relation to Hon. CLEMENT L. VALLANDIGHAM, and to ask that the committee be discharged from the further consideration thereof and that it lie upon the table, for the reason that there were no facts stated in the petition or before the committee on which it could act.

The petition was laid upon the table.

DISCHARGE OF STATE PRISONERS.

Mr. BINGHAM, from the Committee on the Judiciary, reported back bill of House No. 362, to provide for the discharge of State prisoners and others, and to authorize the judges of the United States courts to take bail or recognizance to secure the trial of the same, with sundry amendments, and with the recommendation that it do pass.

The bill, as proposed to be amended by the Committee on the Judiciary, was read, and is as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of State and the Secretary of War be, and they are hereby, directed forthwith or as soon as practicable to furnish to the judges of the circuit and district courts of the United States and of the District of Columbia a list of the names of all persons, citizens of States in which the administration of the laws has continued unimpaired in the said Federal courts, who are now, or may hereafter be held, as prisoners of the United States in any fort, arsenal, or other place, as State or political prisoners, or otherwise than as prisoners of war; the said list to contain the names of all such who reside in the respective jurisdictions of said judges, or who may be deemed by the said Secretaries, or either of them, to have violated any law of the United States in any of said jurisdictions, and also the date of each arrest. And in all cases where a grand jury having attended said courts, or either of them having jurisdiction in the premises, since the arrest of said persons, has terminated its session without finding an indictment, or presentment, or other proceeding against such persons, and in cases hereinafter provided for, it shall be the duty of said judges forthwith to order the discharge of such prisoner from said imprisonment, and every officer of the United States having custody of such prisoner is hereby directed immediately to obey and execute said judge's order, and in case he shall delay or refuse so to do, he shall be subject to indictment for a misdemeanor, and be punished by a fine of not less than $500, and imprisonment in the common jail for a period not less than six months, in the discretion of the court.

SEC. 2. *And be it further enacted*, That in case any of such prisoners shall be under indictment or presentment for any offense against the laws of the United States, and by existing laws bail or a recognizance may be taken for the appearance for trial of such person, it shall be the duty of said judges at once to discharge such person upon bail or recognizance for trial as aforesaid. And in case the said Secretaries of State and War shall for any reason refuse or omit to furnish the said list within five days from and after the passage of this act, any citizen may, by a petition alleging

the facts aforesaid touching any of the persons so as aforesaid imprisoned, supported by the oath of such petitioner or any other credible person, obtain and be entitled to have the said judge's order to discharge such prisoner: *Provided, however*, That the said judge shall be satisfied such allegations are true, and shall also, in all cases included in this bill, or if the public safety shall require it, have power and be required to take a recognizance or bail from such prisoner to keep the peace and be of good behavior toward the United States, and also to appear before the proper court, if he shall deem the same necessary after due examination of the case. And it shall be the duty of the district attorney of the United States to attend at such examination by said judge.

SEC. 3. *And be it further enacted*, That it is, and shall be lawful for the President of the United States, whenever, in his judgment by reason of "rebellion or invasion the public safety may require it," to suspend, by proclamation, the privilege of the writ of *habeas corpus* throughout the United States or in any part thereof, and whenever the said writ shall be suspended as aforesaid, it shall be unlawful for any of the judges of the several courts of the United States, or of any State, to allow said writ, anything in this or any other act to the contrary notwithstanding.

Mr. PHELPS, of Missouri. I desire to make an inquiry of the gentleman who has reported this bill. If I understand the reading of that last section, in the event of the proclamation being made by the President, the writ of *habeas corpus* will be suspended in all cases.

Mr. BINGHAM. Within the territorial limits prescribed in the proclamation.

Mr. PHELPS, of Missouri. I was about to inquire of the gentleman from Ohio whether a distinction cannot be made. Persons may be unlawfully detained who are not accused of any offenses against the State, or of anything like political offenses, and it might be proper in such cases that a writ of *habeas corpus* should be issued. Cannot that distinction be drawn?

Mr. BINGHAM. I do not know but that it might be possible to draw such a distinction, but it did not occur to me, nor did it occur to any member of the Judiciary Committee, that any such line of distinction could well be drawn. I suppose myself, that it ought to rest in the discretion of the Executive, and doubtless it would under such a law as this, to make such exceptions as he supposes the public interests may require.

But the gentleman will observe that the power which he is authorized to exercise in the proposed cases follows the exact language of the Constitution itself, and it does seem to me that when no exception is made in that instrument, when it was hardly supposed compatible with the public safey that there should be an exception made, it was not to be expected that we should undertake such a task as that in a mere statute enacted under the Constitution, and following its express provisions. I am free to say, however, that it is one of those powers, pass the law in what form you may, which is subject to great abuse, but, on the other hand, with an honest Executive, careful and jealous of the rights of the citizen, it does seem to me that this bill is just as well guarded as it could be; certainly quite as well guarded as the constitutional provision itself, as the gentleman doubtless well enough remembers. I have no desire to press this bill to an immediate vote, though it does seem to me that, after all that we have heard, on every side of the House, it is desirable that some such law as this should pass, as well for the protection of the Executive as for the protection of the citizens of the United States. It does seem to me proper that the people, through their Representatives, should act in this matter.

Mr. BIDDLE. I desire to inquire whether the bill as now read has been printed, and is upon our files? If not, I should be sorry to see action taken upon it before its provisions have been carefully scanned.

Mr. BINGHAM. The original bill was printed on the 13th of March, 1862, by order of the House, and referred to the Judiciary Committee. The chief change in this bill is the striking out of what relates to persons held and charged for military offenses, and the appending to the bill of an additional section, which has relation to the suspension of the privilege of the writ of *habeas corpus*, and which is very easy of comprehension.

Mr. BIDDLE. It is an important enactment, and is yet in manuscript.

Mr. BINGHAM. I admit that the amendment is an important one, but I ask the gentleman to consider that the amendment is in the very words of the Constitution itself, and that is the reason why I think it ought to receive the approval of the House. I have no desire to press this bill hastily on the consideration of the House. I think, myself, and I have always thought—and it may not be improper that I should say so here now—that the Government of the United States is eminently a Government of law, and that all the powers to be exercised by it, both in peace and in war, are subject to the control of the people of the United States, speaking through their Representatives and Senators in Congress assembled. At our first meeting, in the midst of this tumult and conflict between the different sections of the Union, I expressed myself as favorable to just such legislation as this. I am sorry that it was not before the House long ago and enacted. I think it is essential to the defense of the citizens, and to the defense of the Executive as well. He ought to act under the sanctions and proceedings of law, and under the restraints of law as well. On the other hand, the citizens of the United States must know, wherever they may be, that both in war and in peace, they are the subjects of consideration and of care on the part of their Representatives in Congress. The session is well nigh its close, and any delay in this matter may prevent action on it this session. If the bill be passed now, any proper amendments can be made to it in the Senate.

Mr. ELIOT. Has the morning hour expired?

The SPEAKER. It has.

Mr. ELIOT. I move to proceed to the business on the Speaker's table.

Mr. PHELPS, of Missouri. I ask that the bill and amendments be ordered to be printed.

It was so ordered.

Mr. PHELPS, of Missouri. I call for the yeas and nays on the motion to proceed to the business on the Speaker's table.

The yeas and nays were not ordered.

Mr. PHELPS, of Missouri. I move that there be a call of the House.

The motion was not agreed to.

The question recurred on Mr. ELIOT's motion; and it was agreed to.

CONFISCATION.

The House accordingly proceeded to the business on the Speaker's table, and took up the act (H. R. No. 471) to confiscate the property of rebels, for the payment of the expenses of the present rebellion, and for other purposes; the question being on the Senate amendment, to strike out all after the enacting clause, and to insert the following as a substitute:

That every person who shall hereafter commit the crime of treason against the United States, and shall be adjudged guilty thereof, shall suffer death, and all his slaves, if any, shall be declared and made free; or he shall be imprisoned for not less than five years and fined not less than $10,000, and all his slaves, if any, shall be declared and made free; said fine shall be levied and collected on any or all of the property, real and personal, excluding slaves, of which the said person so convicted was the owner at the time of committing the said crime, any sale or conveyance to the contrary notwithstanding.

SEC. 2. *And be it further enacted*, That if any person shall hereafter incite, set on foot, assist, or engage in any rebellion or insurrection against the authority of the United States, or the laws thereof, or shall give aid or comfort thereto, or shall engage in, or give aid and comfort to, any such existing rebellion or insurrection, and be convicted thereof, such person shall be punished by the forfeiture of all his personal property of every kind whatsoever, including choses in action, and by the forfeiture of his life estate in any real property of which he may be the owner, where ever situated within the United States, and by the liberation of all his slaves, if any he have; and all such property, excluding slaves, shall be forfeited to the United States.

SEC. 3. *And be it further enacted*, That every person guilty of either of the offenses described in this act shall be forever incapable and disqualified to hold any office under the United States.

SEC. 4. *And be it further enacted*, That this act shall not be construed in any way to affect or alter the prosecution, conviction, or punishment of any person or persons guilty of treason against the United States before the passage of this act, unless such person is convicted under this act.

SEC. 5. *And be it further enacted*, That to insure the more speedy termination of the present rebellion, and the apprehension, conviction, and punishment of the persons engaged therein, the President is hereby authorized, and it shall be his duty, by the marshals of the respective districts, or such commissioners or other officers as he may appoint for that purpose, to seize and sequester the property, real and personal, of every kind, including choses in action, of such persons as shall have been actively and notoriously engaged in said rebellion, and especially of persons hereafter acting as officers of the army or navy of the rebels, now or hereafter in arms against the United States; persons hereafter acting as president or vice president, members of congress, head of department, civil officer, judge, foreign minister, or commissioner of the so-called confederate States; persons hereafter acting as an officer, whether civil, military, or naval, of any State or Territory, who by the constitution of the so-called confederate States is required to take an oath to support said constitution; persons who, having held an office of honor, trust, or profit under the United States, shall hereafter take up arms against the United States; persons who, owning property in the loyal States or Territories, or the loyal portions of the disloyal States, shall hereafter assist or give aid and comfort to the present rebellion; and to hold and possess such property for the United States, to secure the appearance of the offender to take his trial and abide such punishment as shall be adjudged against him. No slave shall be seized under this act; but the United States shall have a lien on all the slaves of the persons herein described, to answer such order as may be made in regard to them for their liberation; and no sale thereof shall be of any force or effect after the commission of said offense.

SEC. 6. *And be it further enacted*, That the property so seized and sequestered shall be held, possessed, occupied, or rented by the officers aforesaid, until the owners thereof can be proceeded against by legal prosecution; and, if convicted, until the property can be levied upon, or be declared forfeited to the United States as herein provided. And all such personal property as shall be so taken, which is perishable, or expensive in keeping, may be sold by said officers in the same way and manner that goods and chattels taken in execution can be sold in the same State; and said officers shall keep and render full accounts of all the receipts and avails of said property so sold, let, or occupied, and pay over the same, deducting the necessary expenses, to the Treasury of the United States. And if the owner of said property shall be discharged on trial, or sooner, by order of the court, said property, or the proceeds thereof, if the same shall have been sold, shall be returned to said owner.

SEC. 7. *And be it further enacted*, That if the owner of any property which may be seized, as aforesaid, shall flee from justice so that he cannot be brought to trial upon indictment found, and a return upon the process for his arrest that he cannot be found, an order shall be made by the court where said indictment is pending requiring such person to appear before said court at such time as may be fixed therein, and take his trial upon pain of forfeiture of all his property, and the liberation of all his slaves if he shall fail to do so; which said order shall be published in such manner and for such time as the court may determine; and if such person shall not appear and take his trial as required, such person shall be taken and deemed to have renounced all claim to any property which may have been seized as aforesaid, or of which he shall be the owner, and he and his heirs shall be forever barred from making any claim or maintaining any action for the recovery thereof, but the same shall be forfeited and become the property of the United States, and his slaves, if any, shall be free.

SEC. 8. *And be it further enacted*, That the President of the United States, whenever he shall deem it necessary and proper for a speedy and successful termination of the present rebellion, that any personal property, seized by the Army or Navy, and belonging to a person who shall, after the passage of this act, have engaged in rebellion or given aid or comfort thereto, should be confiscated, may cause proceedings *in rem* to be instituted against said property, as in admiralty or revenue cases; and if said property shall be found to have belonged to a person engaged in rebellion, or who has so given aid and comfort thereto, the same shall be forfeited and become the property of the United States, and may be sold or disposed of as the court shall direct.

SEC. 9. *And be it further enacted*, That at any time after the passage of this act, whenever the President of the United States shall deem it necessary for the suppression of this rebellion, he shall issue his proclamation commanding all persons immediately to lay down their arms and to return to their allegiance to the United States; proclaiming that if any person within any State or district declared by him in a state of insurrection, shall be found in arms against the Government of the United States thirty days after the date of such proclamation, or giving aid and comfort to the present rebellion, the slaves of all such persons, within such State or district, shall be made free, and thereupon the slaves of all such persons, at the expiration of said thirty days, shall be free and forever discharged from any and all claim to their labor or service, any law or custom of any State to the contrary notwithstanding.

SEC. 10. *And be it further enacted*, That no slave escaping into any State, Territory, or the District of Columbia from any other State shall be delivered up, or in any way impeded or hindered of his liberty, except for crime or some offense against the laws, unless the person claiming said fugitive shall first make oath that the person to whom the labor or service of such fugitive is alleged to be due is his lawful owner, and has not borne arms against the United States in the present rebellion, nor in any way given aid and comfort thereto; and no person engaged in the military or naval service of the United States shall, under any pretense whatever, assume to decide on the validity of the claim of any person to the service or labor of any other person, or surrender up any such person to the claimant, on pain of being dismissed from the service.

SEC. 11. *And be it further enacted*, That the President of the United States is authorized to employ as many persons of African descent as he may deem necessary and proper for the suppression of this rebellion; and for this purpose he may organize and use them in such manner as he may judge best for the public welfare.

SEC. 12. *And be it further enacted*, That the President of the United States is hereby authorized to make provision for the transportation, colonization, and settlement in some tropical country beyond the limits of the United States of such persons of the African race made free by the provisions of this act as may be willing to emigrate, having first obtained the consent of the Government of said country to their protection and settlement within the same, with all the rights and privileges of freemen.

SEC. 13. *And be it further enacted*, That the President is hereby authorized, at any time hereafter, by proclamation, to extend to persons who may have participated in the existing rebellion in any State or part thereof, pardon and amnesty, with such exceptions, and at such time, and on such conditions, as he may deem expedient for the public welfare.

SEC. 14. *And be it further enacted*, That the courts of the United States shall have full power to institute proceedings, make orders and decrees, and do all other things necessary to carry this act into effect.

Mr. ELIOT. This amendment is very well

known, Mr. Speaker, as the Clark bill. I move that the House non-concur, and on that I move the previous question.

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

Mr. PHELPS, of Missouri, called for the yeas and nays on concurring in the amendment.

The yeas and nays were ordered.

Mr. CRISFIELD. I move to lay the amendment on the table, and on that I call for the yeas and nays.

The yeas and nays were ordered.

Mr. HOLMAN. I desire to ask the effect of this motion. If agreed to, does it lay the bill on the table?

The SPEAKER. The laying an amendment on the table carries the bill with it.

The question was taken; and it was decided in the negative—yeas 48, nays 81; as follows:

YEAS—Messrs. William Allen, William J. Allen, Baily, Biddle, Calvert, Cobb, Corning, Cox, Cravens, Crisfield, Crittenden, Diven, Dunlap, English, Granger, Grider, Haight, Hall, Harding, Holman, Jackson, Kerrigan, Law, Mallory, May, Maynard, Menzies, Norton, Nugen, Odell, Pendleton, John S. Phelps, Price, Richardson, Robinson, James S. Rollins, Segar, Shiel, John B. Steele, William G. Steele, Stiles, Benjamin F. Thomas, Voorhees, Webster, Wickliffe, Wood, and Woodruff—48.

NAYS—Messrs. Aldrich, Alley, Arnold, Ashley, Babbitt, Baker, Beaman, Bingham, Francis P. Blair, Jacob B. Blair, Samuel S. Blair, Blake, Buffinton, Campbell, Chamberlin, Clark, Colfax, Frederick A. Conkling, Roscoe Conkling, Covode, Cutler, Davis, Delano, Duell, Dunn, Edwards, Eliot, Ely, Fenton, Fessenden, Fisher, Frank, Gooch, Goodwin, Gurley, Hale, Hanchett, Hutchins, Julian, Kelley, Francis W. Kellogg, William Kellogg, Lansing, Loomis, Lovejoy, Low, McKnight, McPherson, Moorhead, Anson P. Morrill, Justin S. Morrill, Noell, Olin, Patton, Timothy G. Phelps, Pomeroy, Porter, Potter, John H. Rice, Riddle, Edward H. Rollins, Sargent, Sedgwick, Shanks, Shellabarger, Sherman, Sloan, Spaulding, Stevens, Train, Trimble, Trowbridge, Van Horn, Van Valkenburgh, Wallace, Walton, Washburne, Wheeler, Wilson, Windom, and Worcester—81.

So the House refused to lay the amendment on the table.

During the call of the roll,

Mr. TRAIN stated that his colleague, Mr. RICE, was paired off with Mr. WADSWORTH.

Mr. STEELE, of New York, stated that Mr. FRANCHOT was paired off with Mr. SMITH.

Mr. WEBSTER stated that his colleague, Mr. THOMAS, was detained at home by sickness, and that his other colleague, Mr. LEARY, was unavoidably absent.

Mr. RICE, of Maine, stated that Mr. PIKE was paired off with Mr. FOUKE.

The result was announced as above recorded.

Mr. WICKLIFFE. Does the previous question prohibit the right of a member to ask for separate votes on the several clauses of the amendment?

The SPEAKER. The Chair does not know of any rule allowing the division of an amendment. This is all one amendment.

Mr. WICKLIFFE. Yes; but it contains a dozen sections.

The SPEAKER. It is all reported as one amendment. The Clerk will read the rule on the subject.

The rule was read, as follows:

"Any member may call for the division of a question before or after the main question is ordered, which shall be divided if it comprehend propositions in substance so distinct that, one being taken away, a substantive proposition shall remain for the decision of the House. A motion to strike out and insert shall be deemed indivisible; but a motion to strike out being lost, shall preclude neither amendment nor a motion to strike out and insert."

The SPEAKER stated the question to be on agreeing to the amendment of the Senate, on which the yeas and nays had been ordered.

Mr. THOMAS, of Massachusetts. I rise to a question of order. I submit that my colleague's motion was to non-concur in the Senate amendment.

The SPEAKER. The question is, "Will the House agree to the amendment?"

Mr. THOMAS, of Massachusetts. I understood the other to be the motion of my colleague.

The SPEAKER. The motion has nothing to do with the parliamentary language.

The question was taken; and it was decided in the negative—yeas 8, nays 124; as follows:

YEAS.—Messrs. Jacob B. Blair, Casey, Delano, Diven, Fisher, Maynard, Sheffield, and Train—8.

NAYS.—Messrs. Aldrich, William Allen, William J. Allen, Alley, Arnold, Ashley, Babbitt, Baily, Baker, Baxter, Beaman, Biddle, Bingham, Francis P. Blair, Samuel S. Blair, Blake, George H. Browne, Buffinton, Calvert, Campbell, Chamberlain, Clark, Cobb, Colfax, Frederick A. Conkling, Roscoe Conkling, Corning, Covode, Cox, Cravens, Crisfield, Crittenden, Cutler, Davis, Dawes, Duell, Dunlap, Dunn, Eliot, Ely, English, Fenton, Fessenden, Frank, Gooch, Goodwin, Granger, Grider, Gurley, Haight, Hale, Hall, Harding, Holman, Hutchins, Johnson, Julian, Kelley, Francis W. Kellogg, William Kellogg, Kerrigan, Lansing, Law, Loomis, Lovejoy, Low, McKnight, McPherson, Mallory, May, Menzies, Mitchell, Moorhead, Anson P. Morrill, Justin S. Morrill, Noell, Norton, Nugen, Odell, Olin, Patton, Pendleton, John S. Phelps, Timothy G. Phelps, Pomeroy, Porter, Potter, Price, John H. Rice, Richardson, Riddle, Robinson, Edward H. Rollins, James S. Rollins, Sargent, Sedgwick, Segar, Shellabarger, Sherman, Shiel, Sloan, John B. Steele, William G. Steele, Stevens, Stiles, Benjamin F. Thomas, Trimble, Trowbridge, Van Horn, Van Valkenburgh, Verree, Voorhees, Wallace, Walton, Washburne, Webster, Wheeler, Albert S. White, Chilton A. White, Wickliffe, Wilson, Windom, Wood, and Worcester—124.

So the amendment was non-concurred in.

Mr. EDWARDS (not having been within the bar when his name was called) asked leave to vote.

Objection was made.

Mr. EDWARDS stated that he would have voted "no."

The question recurred on the following amendment to the title:

Strike out all after the word "to," and insert as follows: Suppress insurrection, punish treason and rebellion, and for other purposes.

Mr. ELIOT. I move to disagree to the amendment of the Senate.

The amendment was disagreed to.

Mr. ELIOT moved to reconsider the vote by which the amendments of the Senate were non-concurred in; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

SHIP CANAL.

Mr. SHEFFIELD. I rise to a question of privilege. I call up the motion to reconsider the vote by which House bill No. 288, relative to the construction of a ship canal between the Mississippi and Lake Michigan was laid on the table, which was undisposed of yesterday when superseded by a special order.

Mr. HOLMAN. I wish to suggest to the gentleman from Rhode Island whether time cannot be saved by moving to postpone the motion to reconsider until the 18th day of December next, if that is the day to which the gentleman proposes to postpone the bill.

Mr. SHEFFIELD. I propose to move to postpone the bill until that day, if the motion to reconsider shall be agreed to.

Mr. HOLMAN. I suggest that the same object will be accomplished with less consumption of time by simply postponing the motion to reconsider.

Mr. WASHBURNE. I understand the motion now is to reconsider the vote by which the bill was laid on the table.

The SPEAKER. It is.

Mr. WASHBURNE. That the vote by which the bill was laid on the table has not been reconsidered?

The SPEAKER. It has not.

Mr. WASHBURNE. And that the object of the gentleman from Rhode Island, if the vote shall be reconsidered, is to move to postpone the bill until the 18th of December, to which the friends of the bill, as I understand, have agreed.

Mr. HOLMAN. My motion is to postpone the motion to reconsider until that day.

The SPEAKER. The Chair hardly thinks a motion to postpone a motion to reconsider the vote by which a bill was ordered to lie on the table would be in order. A motion to lay the bill on the table could not be postponed, and the motion to reconsider a vote relative to a motion to lay on the table would be subject to the same limitations as the motion to lay on the table itself. The Chair therefore decides that this motion to reconsider is not subject to postponement.

The motion to reconsider was agreed to.

The question recurred on the motion to lay the bill on the table.

Mr. HOLMAN. The motion to lay the bill on the table was made by me, and inasmuch as the purpose is to postpone the bill until the next session of Congress, with the consent of the House I will withdraw the motion.

No objection was made.

Mr. SHEFFIELD. I move to postpone the bill until the 18th of December next, and on that motion I demand the previous question.

Mr. MORRILL, of Vermont. I ask the gentleman to withdraw the demand for the previous question to enable to submit an amendment to the motion.

Mr. SHEFFIELD. I will withdraw it for that purpose.

Mr. HOLMAN. I object.

The SPEAKER. Objection being made the gentleman cannot withdraw the demand for that purpose, unless he gives the floor altogether.

Mr. SHEFFIELD. I withdraw the demand, then, and yield the floor.

Mr. MORRILL, of Vermont. I move to amend the motion to postpone by adding to it as follows:

And that a board, composed of five persons, not less than three of whom shall be practical engineers, be appointed by the President of the United States to make surveys, or examine such as have been made by State authority, of the Erie, Oswego, Champlain, and Illinois canals, with a view to ascertain the practicability of enlarging those works to the capacity of transporting gunboats from the Hudson and Mississippi rivers to the lakes, and a survey of a route for a ship canal from Lake Ontario around the falls to Lake Erie, together with the probable cost of doing the same, and the length of time which will be required to complete the work, and report the facts and conclusions thereon to Congress on the first day of the next session thereof.

Mr. HOLMAN. I rise to a question or order. I submit that the amendment is not germane to the motion, and that it is not in order.

The SPEAKER. The Chair sustains the question of order.

Mr. WASHBURNE. I demand the previous question on the motion to postpone.

The previous question was seconded and the main question ordered to be put.

The motion to postpone was agreed to.

Mr. SHEFFIELD moved to reconsider the vote by which the motion to postpone was adopted; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

ADJOURNMENT OVER.

Mr. CASEY. I move to reconsider the vote by which the House, this morning, refused to order that when it adjourned to-day it adjourn to meet on Saturday next.

The SPEAKER. The motion to reconsider a negative vote on adjournment is hardly in order, as it is a motion which can be repeated as often as gentlemen see fit.

Mr. CASEY. I move then that when the House adjourns to-day it adjourn to meet on Monday next.

The motion was not agreed to—ayes 44, nays 66.

Mr. KNAPP. I move that when the House adjourns it adjourn to meet on Saturday next.

Mr. BROWN, of Virginia. Would it be in order to move to amend that motion so as to say that the House meet on Saturday at eleven o'clock?

The SPEAKER. It is not in order to move to change the hour of meeting, except by unanimous consent.

Mr. KNAPP called for the yeas and nays upon his motion.

The yeas and nays were not ordered.

The motion was disagreed to—ayes 34, noes 68.

CIVIL APPROPRIATION BILL.

On motion of Mr. MORRILL, of Vermont, by unanimous consent, the House proceeded to the consideration of House bill (No. 393) making further appropriations for sundry civil expenses of the Government for the year ending the 30th of June, 1863, and additional appropriations for the year ending the 30th of June, 1862, with the amendments of the Senate thereto.

First amendment:

Page 1, line eight, insert as follows:

To pay the amount provided for under an act entitled "An act to facilitate communication between the Atlantic and Pacific States by electric telegraph," or so much thereof as may become payable under said act, $40,000.

The Committee of Ways and Means recommended concurrence.

Mr. HOLMAN. I suppose these amendments are not before the House except by unanimous consent.

The SPEAKER. The Chair asked distinctly whether there was objection; and he thinks it is too late to raise it after the House has proceeded with the consideration of the bill.

Mr. MORRILL, of Vermont. I will suggest to the gentleman that debate upon the amendments is not cut off.

Mr. HOLMAN. I understood the gentleman to say that the amendments of the Senate were unimportant. Here is an amendment, the first one, which makes an appropriation of $40,000.

Mr. MORRILL, of Vermont. It is required by contract to be appropriated. I will remark that there is a great deal of business yet to be disposed of; and I know of no better time to consider the present bill than the present. I do not propose to call the previous question nor to cut off debate. If gentlemen desire to oppose amendments, of course they have the right to do it here as well as in the Committee of the Whole.

Mr. HOLMAN. I wish to inquire whether the amount appropriated by this bill is the amount contemplated by the act providing for the construction of this telegraph line to the Pacific ocean?

Mr. MORRILL, of Vermont. I so understand it.

Mr. HOLMAN. It did not strike me so large an amount was provided for. If that was the sum named I suppose it will have to be appropriated.

Mr. MORRILL, of Vermont. I will ask the Clerk to read the latter part of the communication from the Secretary of the Treasury, upon this subject.

The Clerk read, as follows:

"By the terms of the contract the first payment for the fractional part of the first quarter was to be made on the 18th of January last, and quarterly on the 1st of April, July, October, and January thereafter. To meet the requirements of law and the contract, I request an appropriation as above stated."

Mr. PHELPS, of Missouri. I understand this to be in pursuance of the law enacted at the last session of Congress. There are one or two other matters, however, in this connection, which I may as well take this occasion to allude to. This line of telegraph passes through the territory of Utah. The newspapers of this morning bring us the intelligence that that line has been cut in two or three places. We have already a military force upon the line to prevent it from being interfered with by Indians or others.

It will be recollected that this House recently concurred with the Senate in a bill affecting certain institutions in the Territory of Utah. It has been very convenient in the last two years, whenever an emigrant train was robbed anywhere in the Territory of Utah or vicinity, to charge that the depredations had been committed by the Indians, when, in fact, nine times out of ten, those depredations have been committed by the people of Utah. And I have no doubt now that in consequence of the legislation of this Congress, which was precipitated upon us, these depredations upon the line of telegraph have been committed by citizens of Utah, or by persons employed by citizens of Utah, and I believe they will continue during the residue of this year, and as long as the people of Utah shall consider the legislation of this Congress hostile to them. I stand here, therefore, to defend the Indians against this charge made upon them, that they are the persons who destroyed the line of telegraph. I believe it has been done in consequence of a bill which passed this House prohibiting one of the institutions of Utah.

The amendment was concurred in.

Second amendment:

Immediately after the previous amendment, insert the following:

For the purpose of enabling the Committee of Public Buildings and Grounds to remove the Army bakery from the basement floor of the Capitol, and to repair the damages caused by said bakery, the sum of $8,000, or so much thereof as may be necessary.

The Committee of Ways and Means recommended a concurrence.

No quorum voting on a division,

Mr. WEBSTER called for tellers on the amendment.

Tellers were ordered; and Mr. HOLMAN, and Mr. MORRILL of Vermont, were appointed.

The House divided; and the tellers reporting no quorum voting and a confusion in the count, by unanimous consent a recount was ordered.

The House again divided; and the tellers reported—ayes 45, noes 38; no quorum voting.

ENROLLED BILL.

Mr. GRANGER, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled a bill (S. No. 171) to reorganize the Navy Department of the United States; when the Speaker signed the same.

CIVIL APPROPRIATION BILL—AGAIN.

Mr. MORRILL, of Vermont. As a misunderstanding may exist upon the part of the House as to the purport of this amendment, I will say that it is merely to remove the bakeries from the basement of the Capitol, which are damaging the building and seriously damaging the library of Congress. The amendment proposed upon the part of the Senate is objected to by some for the reason that the amount appropriated is too large, and more than the work will cost.

Now, I desire to say that not a dollar more will be expended than what is necessary. It will be expended under the proper officers of the law.

Mr. WICKLIFFE. I would like to know what authority there was for establishing those bakeries there, and how much it cost to put them there? I would like to know how much it will cost to remove the rubbish? Is it in contemplation to put up another bakery? The troops are all gone from here except a few of the provost guard, and they might as well be at home. I have no objection to the removal of the bakery, but what is there to take away? All you have got to do is to stop baking. Take down your chimneys and stop baking, and all will be right. Why appropriate eight or ten thousand dollars for the purpose of removing the bakery? The man who put up the chimneys can take them down. The officers of this House have a right to put a stop to this baking, unless the military power interfere to prevent. I cannot see the necessity of making such an appropriation as this. Eight thousand dollars to take down one bakery and build another! Whom are you going to bake for? Who is to superintend the building of the new bakery, and where is it to be built? I do not wish to be understood as being opposed to all proper, legal, and fair expenditures of money, great or small, which may be proper for carrying on this war, but I do not see the necessity for this appropriation.

Mr. COX. Let me say to the gentleman that he misunderstands the amendment. It does not propose to appropriate $8,000 to remove this bakery, but only so much thereof as may be necessary.

Mr. WICKLIFFE. That just covers the whole amount. I give up the whole $8,000 if the House adopts the amendment.

Mr. ROSCOE CONKLING. I have no objection to the House voting this $8,000, "or so much thereof as may be necessary"—which I think means the whole $8,000—provided a sufficient reason can be given for doing so. But I hope it will not be voted upon the suggestion of the gentleman from Vermont, [Mr. MORRILL,] that, in refusing it, we do not know what we are about, and do not understand the nature of the proposition. I remind the gentleman and the House that this same project has been considered before, talked about before, understood before; it has been proposed several times to appropriate different large sums to remove the bakery from the Capitol; and the House deliberately, knowingly, and, as I think, very properly and decidedly, on a call of the yeas and nays, I think—if not by yeas and nays, voting by tellers—rejected the proposition.

I hear a friend near me say this was at an earlier time. So it was; and at a time, for that very reason, when much stronger reasons existed for doing it than can be found now. As the gentleman from Kentucky says, the army which made it necessary to use this bakery has gone, probably not to return at any period of this war; and therefore, there is far less excuse for expending money than there was then in order to restore things at once to their former position in the basement story of this building.

I do not think the proposition is to be assented to the more because it originates this time in the Senate, or because it comes in upon an appropriation bill.

Mr. THOMAS, of Massachusetts. I wish to make a suggestion. The Senate some time since sent a resolution to this House, substantially informing us that the existence of this bakery was a personal inconvenience to the Senate in the transaction of their business. I do hold, I beg leave to suggest to my friend from New York, that, in the exercise of the very least ordinary courtesy to that body, we ought to have removed that bakery the first moment they asked us to. I shall vote for it now, as I voted for it then, upon the simple suggestion of that body that it is a practical inconvenience and discomfort to them.

Mr. MAYNARD. With the permission of the gentleman from New York, who holds the floor, I wish to say to the gentleman from Massachusetts, that I do not understand the Senate to put the removal of this bakery upon the ground of personal inconvenience to them. The ground upon which the Committee of Ways and Means put it is, that it is an injury to the building, and especially to the Library. That was stated at an early period of the session. I have attempted to inform myself on the subject, and I was unable to find any place where gentlemen were inconvenienced, unless it was in passing from one end of the building to the other through the basement, or how it injured the Library. It seems to me that the only inconvenience which has been experienced has been through the effluvia of a fair article of bread—an inconvenience, I confess, we do not often meet with in this great city.

Inasmuch as the bakery is there, and it is necessary it should be continued for Army purposes, and as we have had it there for twelve months, I think, perhaps, we had better leave it there until the necessity for it entirely ceases.

Mr. ROSCOE CONKLING. I have heard, during this session, an infinite variety of modes suggested for spending money. I have heard many reasons assigned for spending money—as many, apparently, as any one could think of from time to time, for making away with some thousands in destroying one bakery and erecting another; but until now, when I hear it from the distinguished gentleman from Massachusetts, I have never heard such a suggestion on the subject as the one he makes.

Mr. THOMAS, of Massachusetts. Allow me to inquire if the gentleman has read the debates upon that subject which took place in the Senate before that resolution came to this House. It was therein stated that the Senate were inconvenienced by the effluvia. If he had read them, he would have known that the Senate had to adjourn one day on that account.

Mr. ROSCOE CONKLING. Without having noticed the debate referred to, I have no doubt the gentleman from Massachusetts has good reasons for saying what he does; nevertheless I have never heard the suggestion made before, although I have heard gentlemen labor a great deal to convince themselves and each other that this appropriation was proper. Nor can I see how the bakery can be an inconvenience to the Senate or to any member of the Senate, or to any member of the House, except so far as it intercepts the passage from one wing of the Capitol to the other through the crypt or along the basement halls. Gentlemen around me say they understand it no better than I do. I have heard that there was fear that smoke might injure the books of the Library. The answer to that is, that whenever the process of baking is stopped, the smoke will not be there, and baking can be stopped without any appropriation.

I have heard it said that you cannot, at times, walk along under the archway outside, that you cannot walk along inside, over the ground floor, from one part of the Capitol to the other. This is hardly a reason for interfering with the practice of baking; but if its use interferes in any way with the comfort of the body sitting in the other end of the Capitol, that is a reason which ought, of course, to be respected. The remedy is simply to leave off the use of the bakery, as far as that use incommodes the Senate, but not to appropriate $8,000 for the indefinite purpose of "removing the bakery."

Mr. WICKLIFFE. I would suggest, that if it is an inconvenience to the Senate, they can order their Sergeant-at-Arms or Doorkeeper—as I shall move a resolution to-morrow, if I can get the floor, to order our Sergeant-at-Arms to do—to go and take it down. They have a right to have it removed. Let them remove it.

Mr. ROSCOE CONKLING. I rose to express my non-concurrence in the suggestion of the gentleman from Vermont, that the House did not know what it was about. I take it we are to be here but a short time longer now in any event, and the idea that at the end of seven months' experience of the bakery, we cannot endure it a week or two longer, reminds me of the case of the squaw who explained her boisterous grief and lamentation for the death of her husband, by saying that he had been dead fourteen years, and she had kept

still all that time, and she could not hold in any longer.

I hope the amendment of the Senate will not be concurred in, and that this money will not be expended; but that the nuisance, if there be any, will, by direction of one House or of both, be abated, as suggested by the gentleman from Kentucky.

Mr. MOORHEAD. In regard to the point of the inconvenience of these bakeries to the Senate, I desire to say that I have just been told by a member of the Senate from Pennsylvania that the Senators consider this a nuisance and wish it removed. I have opposed the removal heretofore, but upon this information, I shall change my course and vote to sustain the amendment of the Senate.

Mr. MORRILL, of Vermont. I desire to say, in response to the gentleman from New York, [Mr. ROSCOE CONKLING,] that the reason why I supposed the House did not understand the question was that I happened to be one of the tellers, and I found that gentlemen would about as soon vote upon one side as the other, and on the recount something like fifteen members changed their votes, and they all seemed to be utterly careless how they did vote. That was the only reason for it.

Let me say further, in response to the gentleman from Kentucky, [Mr. WICKLIFFE,] that when this bakery was first established, it was on account of the necessity—the pressing necessity that we should have some place wherein to bake bread for our soldiers. That necessity, as he has suggested, no longer exists, and if, as has been very properly stated by the gentleman from Massachusetts, [Mr. THOMAS,] it is a nuisance to the Senate, I think we ought to remove it.

The sum proposed to be appropriated by this amendment may or may not be more than enough to remove the bakery and repair the damage done. I have not particularly investigated that subject, but it is known to the members of the House that not only do bakeries exist outside of the building, but that rooms in the basement story have been occupied for the same purpose, and that considerable damage, which is constantly increasing, has been inflicted on the building in consequence of the smoke, not only to the library, but to this whole building, which cost millions of dollars. I leave it, sir, to the judgment of the House whether the Capitol of the nation is a proper place to have half a dozen bakeries in or round about the base of. I move the previous question.

WAR NEWS.

Mr. COLFAX. I hold in my hand a dispatch from the army of the Potomac, which will doubtless be interesting to members of the House. I will read it:

WAR DEPARTMENT, *July* 3—1.25, P. M.

A dispatch from General McClellan, just received at the War Department, dated from Berkeley, Harrison's bar, July 2, 5.30, p. m., states that he has succeeded in getting his army to that place, on the bank of the James river, and had lost but one gun, which had to be abandoned last night, (Tuesday,) because it broke down. That an hour and a half ago the rear of the wagon train was within a mile of camp, and only one wagon abandoned. That we had a severe battle yesterday (Tuesday) and beat the enemy badly, the men fighting even better than before. The men are in good spirits. The reinforcements sent from Washington have arrived.

E. S. SANFORD, *M. S.*

The reading of the dispatch was followed by much applause on the floor and in the galleries.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. FORNEY, their Secretary, informed the House that the Senate had passed a bill (H. R. No. 297) for the relief of J. W. Nye, without amendment; and a bill (H. R. No. 187) to authorize an additional issue of Treasury notes, and for other purposes, with amendments; in which the concurrence of the House was requested.

Also that the Senate have passed bills of the following titles; in which the concurrence of the House was requested:

An act (No. 379) to amend an act entitled "An act to aid in the construction of a railroad and telegraph line from the Missouri river to the Pacific ocean, and to secure to the Government the use of the same for postal, military, and other purposes," approved July 2, 1862;

An act (No. 321) for the relief of certain companies of Indiana volunteers who lost their baggage and other property at Hatteras Inlet; and

An act (No. 119) confirming a land claim in the State of Iowa, and for other purposes.

Also, that the Senate have agreed to some, disagreed to others, and agreed with amendment to another of the amendments of the House to the bill of the Senate (No. 89) to amend the act of the 3d of March, 1837, entitled "An act supplementary to the act entitled 'An act to amend the judicial system of the United States.'"

Also, that the Senate have disagreed to the amendments of the House to the amendments of the Senate to the bill of the House (No. 423) making appropriations for the support of the Army for the year ending June 30, 1863, insisted on their amendments disagreed to by the House to the said bill, asked a committee of conference with the House on the disagreeing votes of the two Houses thereon; and have appointed Mr. HALE, Mr. GRIMES, and Mr. POWELL the committee of conference on their part.

ADJOURNMENT OVER.

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

Mr. COX. I move that when the House adjourns it adjourn to meet on Saturday next. [Cries of "Oh, no!"] I think we can afford to adjourn after that news.

Mr. ROSCOE CONKLING. I rise to a question of order. I inquire of the Chair whether, when the House has voted repeatedly on this proposition to adjourn over, in both forms—to Saturday and to Monday—it is in order to repeat it?

The SPEAKER. It has always been held to be in order after intervening business of any kind.

Mr. COX called for tellers on his motion.

Tellers were ordered; and Messrs. Cox and LOVEJOY were appointed.

The House divided; and the tellers reported—ayes 59, noes 48.

Mr. ASHLEY demanded the yeas and nays.

The yeas and nays were ordered.

Mr. CRISFIELD. I move to amend the motion of the gentleman from Ohio, by striking out "Saturday," and inserting "Monday" in lieu thereof.

Mr. SPAULDING. I ask the consent of the House that the Treasury note bill, which has been returned from the Senate with amendments, may be taken up now with a view to the appointment of a committee of conference.

The SPEAKER. The Chair thinks that until this question of adjourning over is disposed of, that is hardly in order.

Mr. SPAULDING. Very well, sir, I withdraw the request.

The SPEAKER. The Chair will submit the gentleman's request to the House when the pending propositions shall have been disposed of.

Mr. DAWES demanded the yeas and nays on Mr. CRISFIELD's amendment.

The yeas and nays were ordered.

The question was taken on Mr. CRISFIELD's amendment; and it was decided in the negative—yeas 41, nays 73; as follows:

YEAS—Messrs. Arnold, Babbitt, Biddle, Francis P. Blair, Samuel S. Blair, George H. Browne, Calvert, Frederick A. Conkling, Cravens, Crisfield, Crittenden, Fenton, Fouke, Goodwin, Granger, Gurley, Haight, Hale, Hall, Harding, Holman, Law, Mallory, Maynard, Menzies, Morris, Olin, John S. Phelps, Potter, James S. Rollins, Segar, Shellabarger, John B. Steele, Train, Van Valkenburgh, Voorhees, Washburne, Webster, Wickliffe, Wood, and Worcester—41.

NAYS—Messrs. Aldrich, William Allen, William J. Allen, Alley, Ashley, Baker, Baxter, Bingham, Jacob B. Blair, Blake, William G. Brown, Buffinton, Campbell, Chamberlin, Clark, Colfax, Roscoe Conkling, Corning, Covode, Cox, Cutler, Dawes, Delano, Dunlap, Dunn, Edwards, Eliot, Ely, English, Fessenden, Frank, Gooch, Grider, Hutchins, Julian, William Kellogg, Loomis, Lovejoy, Low, McKnight, McPherson, May, Mitchell, Moorhead, Anson P. Morrill, Justin S. Morrill, Nugen, Odell, Patton, Pendleton, Timothy G. Phelps, Pomeroy, Porter, John H. Rice, Richardson, Riddle, Edward H. Rollins, Sargent, Sedgwick, Shanks, Sheffield, Sherman, Spaulding, Stevens, Benjamin F. Thomas, Trimble, Trowbridge, Van Horn, Walton, Wheeler, Albert S. White, Wilson, and Windom—73.

So the amendment was rejected.

The question recurred on Mr. Cox's motion to adjourn over till Saturday, on which the yeas and nays had been ordered.

Mr. ROSCOE CONKLING. I move to lay the motion on the table.

The SPEAKER. A motion to adjourn over is not susceptible of a motion to lay on the table.

Mr. ROSCOE CONKLING. A similar motion was entertained this morning.

The SPEAKER. If so, it was done inadvertently. If the attention of the Chair had been called to it, the motion would not have been entertained.

The question was taken on Mr. Cox's motion; and it was decided in the affirmative—yeas 58, nays 50; as follows:

YEAS—Messrs. Arnold, Baxter, Biddle, Francis P. Blair, Samuel S. Blair, George H. Browne, Buffinton, Colfax, Frederick A. Conkling, Cox, Cravens, Crisfield, Crittenden, Dunlap, Dunn, Eliot, Ely, Fenton, Fouke, Goodwin, Granger, Grider, Haight, Hale, Law, Lovejoy, McKnight, Mallory, May, Maynard, Menzies, Mitchell, Justin S. Morrill, Morris, Olin, John S. Phelps, Timothy G. Phelps, Potter, Richardson, James S. Rollins, Sargent, Sedgwick, Segar, Shellabarger, John B. Steele, Benjamin F. Thomas, Train, Van Valkenburgh, Voorhees, Walton, Washburne, Webster, Albert S. White, Wickliffe, Wilson, Windom, Wood, and Worcester—58.

NAYS—Messrs. Aldrich, William Allen, Ashley, Baker, Bingham, Jacob B. Blair, Blake, William G. Brown, Calvert, Chamberlin, Clark, Roscoe Conkling, Corning, Covode, Cutler, Dawes, Delano, Diven, Edwards, English, Fessenden, Frank, Hall, Harding, Holman, Hutchins, Julian, Francis W. Kellogg, William Kellogg, Loomis, Low, McPherson, Moorhead, Nugen, Patton, Pendleton, Pomeroy, Porter, John H. Rice, Riddle, Edward H. Rollins, Shanks, Sheffield, Sherman, Spaulding, Stevens, Trimble, Trowbridge, Van Horn, and Wheeler—50.

So the House decided, when it adjourns to-day, to adjourn till Saturday next.

NAVAL APPROPRIATION BILL.

Mr. STEVENS. The Senate has returned the naval appropriation bill, and has asked for a committee of conference. I move that the House insist on its disagreeing votes, and agree to a committee of conference.

The motion was agreed to.

TREASURY NOTE BILL.

Mr. SPAULDING. I ask to take up the Senate amendments to House bill No. 187, "to authorize an additional issue of United States notes, and for other purposes," non-concur in them, and ask for a committee of conference.

Mr. PHELPS, of Missouri. I must object. I prefer to have those amendments considered in the House. Some of them are important, and perhaps the House may concur in them and dispense with the necessity of referring them to a committee of conference.

Mr. SPAULDING. Then I move that the amendments be referred to the Committee of Ways and Means.

The motion was agreed to.

HOUR OF MEETING.

Mr. BLAIR, of Virginia. I ask consent to offer the following resolution:

Resolved, That on and after Monday, the 7th day of July, the hour of meeting of the House shall be eleven o'clock, a. m., of each day, till the close of the session.

Mr. WASHBURNE objected.

FURLOUGHS TO SICK SOLDIERS, ETC.

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

Resolved, That the Committee on Military Affairs be instructed to inquire what legislation, if any, is necessary to facilitate the granting of furloughs or discharges to sick or wounded soldiers; and that the same committee also be instructed to inquire and report as to the manner in which soldiers who die in this city or vicinity are buried; and that said committee be at liberty to report at any time, by bill or otherwise.

RESOLUTIONS OF CONNECTICUT LEGISLATURE.

Mr. LOOMIS, by unanimous consent, presented joint resolutions of the Legislature of Connecticut, in favor of the location of a navy-yard at New London, Connecticut; which were referred to the Committee on Naval Affairs, and ordered to be printed.

GENERAL HUNTER'S LETTER.

Mr. DUNLAP asked consent to offer the following resolution:

Resolved, That the sentiments contained in the paper read to this body on yesterday approving the arming of slaves, emanating from Major General D. Hunter, clothed in discourteous language, are an indignity to the American Congress, an insult to the American people and our brave soldiers in arms, for which sentiments, so uttered, he justly merits our condemnation and censure.

Mr. WASHBURNE. I object; and move that the House do now adjourn.

The motion was agreed to; and thereupon (at four o'clock and fifteen minutes, p. m.,) the House adjourned to Saturday next.

IN SENATE.

FRIDAY, *July* 4, 1862.

Prayer by Rev. T. H. STOCKTON, Chaplain of the House of Representatives.

The Journal of yesterday was read and approved.

PETITIONS AND MEMORIALS.

Mr. SUMNER. I offer the memorial of Simeon Palmer, of Milton, Massachusetts, in which he asks Congress to consider whether it is not the duty of the President of the United States to command the immediate return of all persons to their allegiance, whether slaves or others, by abstaining from whatever acts may give aid and comfort to the rebellion, and by reporting themselves, whenever practicable, within the lines of the United States troops for the performance of any service which the Government may require. I ask that the memorial lie on the table.

It was so ordered.

Mr. HENDERSON presented the petition of Washington Crosland, of Missouri, praying that he be paid for damages arising from the destruction of his buildings and the occupation of his lands in the city of St. Louis by the military authorities in the construction of railroads in that city; which was referred to the Committee on Military Affairs and the Militia.

REPORTS FROM COMMITTEES.

Mr. NESMITH, from the Committee on Indian Affairs, to whom was referred the petition of J. B. Chapman, praying remuneration for expenditures and services rendered the Osage nation of Indians in organizing a civil government, asked to be discharged from its further consideration; which was agreed to.

Mr. STARK, from the Committee on Indian Affairs, to whom was referred the bill (H. R. No. 516) to provide for the appointment of Indian agents in the Territory of New Mexico, reported it back with the recommendation that its consideration be postponed until the first Monday of December next; which was agreed to.

Mr. ANTHONY. I am instructed by the Committee on Printing, to whom was referred a resolution to print two thousand copies of the report of the Secretary of the Navy in relation to the rescue of the steamer Governor and the discovery of the ship Vermont by the United States ship Sabine, to report it back without amendment and recommend its passage. I ask its present consideration.

Mr. RICE. I object.

The PRESIDENT *pro tempore*. Objection being made, it lies over.

CAMPAIGN IN NEW MEXICO.

Mr. GRIMES. I offer the following resolution, and ask for its present consideration:

Resolved, That the Secretary of War be directed to communicate to the Senate, if not deemed incompatible with the public interest, the report of General Canby of the military operations in New Mexico, and particularly his report of the 1st of March last, of the battle of Valverde.

Mr. RICE. I object.

The PRESIDENT *pro tempore*. Objection being made, it lies over.

FRANKING PRIVILEGE.

The PRESIDENT *pro tempore*. The unfinished business of yesterday is the bill (S. No. 113) relating to the judiciary.

Mr. POWELL. I move to postpone all prior orders for the purpose of taking up the House bill abolishing the franking privilege.

Mr. COLLAMER called for the yeas and nays; and they were ordered; and being taken, resulted—yeas 14, nays 15; as follows:

YEAS—Messrs. Anthony, Carlile, Davis, Dixon, Foot, Howe, King, Lane of Indiana, Powell, Rice, Sherman, Sumner, Trumbull, and Wade—14.

NAYS—Messrs. Browning, Clark, Collamer, Cowan, Doolittle, Foster, Grimes, Hale, Harlan, Harris, Henderson, Morrill, Nesmith, Simmons, and Stark—15.

The PRESIDENT *pro tempore*. The vote is short of a quorum.

Mr. SUMNER. I move that the Senate adjourn.

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

The yeas and nays were ordered.

Mr. LANE, of Kansas. My colleague [Mr. POMEROY] desires me to say to the Senate that he will be necessarily absent on public business to-day and to-morrow.

The question being taken by yeas and nays, resulted—yeas 13, nays 18; as follows:

YEAS—Messrs. Anthony, Browning, Cowan, Doolittle, Grimes, Harris, King, Lane of Indiana, Powell, Rice, Sumner, Trumbull, and Wade—13.

NAYS—Messrs. Carlile, Clark, Collamer, Davis, Dixon, Fessenden, Foot, Foster, Hale, Harlan, Henderson, Howe, Lane of Kansas, Morrill, Nesmith, Sherman, Simmons, and Stark—18.

The PRESIDENT *pro tempore*. The Senate refuses to adjourn, but the division still shows the want of a quorum in the body.

Mr. CLARK. I make the usual motion that the Sergeant-at-Arms be directed to notify the absent members that their attendance is wanted in the Senate for the transaction of the public business.

The motion was agreed to.

Mr. SHERMAN. I desire to state that the Senator from New Jersey [Mr. TEN EYCK] has been called home; and the Senator from Kansas, [Mr. POMEROY,] I believe, has gone to New York. That accounts for the absence of two of the Senators who were here yesterday.

Mr. KING. I think it very evident that we shall not have a quorum here, and that it is better for us to adjourn on this day than to occupy our time with useless efforts to bring in absent members. I move that the Senate adjourn.

Mr. BROWNING. I ask for the yeas and nays on that motion. ["Oh, no."] I will vote for it, but I mean to ask for the yeas and nays on every motion to-day.

The yeas and nays were ordered; and being taken, resulted—yeas 23, nays 7; as follows:

YEAS—Messrs. Anthony, Browning, Carlile, Clark, Cowan, Davis, Doolittle, Foot, Foster, Grimes, Harris, Henderson, Howe, King, Lane of Indiana, Lane of Kansas, Powell, Rice, Sherman, Simmons, Sumner, Trumbull, and Wade—23.

NAYS—Messrs. Collamer, Dixon, Hale, Harlan, Morrill, Nesmith, and Stark—7.

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

IN SENATE.

SATURDAY, *July* 5, 1862.

Prayer by Rev. THOMAS H. STOCKTON, Chaplain of the House of Representatives.

The Journal of yesterday was read and approved.

CAMPAIGN IN NEW MEXICO.

Mr. GRIMES. I move to take up the resolution that I offered yesterday, calling for the official report of General Canby. I suppose there is no objection to it.

The motion was agreed to; and the resolution was taken up and adopted, as follows:

Resolved, That the Secretary of War be directed to communicate to the Senate, if not deemed incompatible with the public interest, the report of General Canby of the military operations in New Mexico, and particularly his report of the 1st of March last of the battle of Valverde.

RESCUE OF THE TRANSPORT GOVERNOR.

The PRESIDENT *pro tempore*. There was another resolution laid over under objection yesterday from the Committee on Printing, and it will now be considered.

The resolution was read, as follows:

Resolved, That there be printed for the use of the Senate, two thousand copies of the report of the Secretary of the Navy in relation to the rescue of the steamer Governor, and the discovery and relief of the ship Vermont by the United States ship Sabine.

The resolution was agreed to.

TILTON, WHEELRIGHT AND CO.

Mr. HALE. The Committee on Naval Affairs, to whom was referred the bill (S. No. 378) for the relief of Tilton, Wheelright & Co., have had the same under consideration, and report it back with several amendments. As the amendments are merely verbal, I wish that the bill may be considered so far as to adopt the amendments, and then let it be printed, and I will call it up in the early part of the week.

The PRESIDENT *pro tempore*. If no objection be made the amendments will be read.

The bill was read. It provides that the Secretary of the Navy be directed to audit and settle the reservation accounts of Tilton, Wheelright & Co., of Boston, if in his judgment their failure to furnish certain classes of their contract, to wit: naval stores, paints, oils, &c., arose from the delay of the United States Government in settling for what had been delivered; and that he pay them the same out of any moneys in the Treasury not otherwise appropriated.

The amendments reported by the committee are to strike out in line four the word "reservation;" in line six add the word "and" at the beginning of the line; and after the word "furnish," strike out "certain classes of their contract," and insert "any portion of what they had contracted to deliver," and strike out the words "to wit: naval stores, paints, oils, &c.;" in line eight, after "Government," strike out "in settling," and insert "to pay;" and after "delivered," strike out "and;" in line nine, after the word "them," strike out "the same," and add at the end of the bill:

The amount reserved from the several payments heretofore made to them, agreeably to said contract, or so much thereof as in his judgment may be justly and equitably due them.

The amendments were agreed to.

Mr. HALE. I suppose the bill will be printed without any vote.

The PRESIDENT *pro tempore*. It will lie over and will be printed under the general rule, without a special motion, being reported from a committee.

BONDS OF PAYMASTERS IN NAVY.

Mr. HALE. I ask unanimous consent to introduce a bill of which no previous notice has been given.

There being no objection, leave was granted to introduce the bill (S. No. 380) repealing the law requiring bonds of paymasters and assistant paymasters to be approved by the judge or attorney of the district in which such paymaster or assistant paymaster shall reside; and it was read the first time by its title.

Mr. HALE. If the Senate will indulge me, I will say that this is necessary to be passed for the public service. I can explain in two minutes the nature of it, and I ask the consent of the Senate to pass it at once. When the Secretary of the Navy appoints a paymaster, no matter what amount of bonds he may give, the Secretary is debarred from accepting them unless they are approved by the judge or district attorney of the district in which he resides. It is frequently found embarrassing. Sometimes he may appoint a paymaster here from California, and he has to wait to send his bonds to be approved by the judge of the district in which he lives. This bill simply repeals that provision, and authorizes the Secretary of the Navy to accept the bonds upon such evidence as to his judgment is satisfactory. That is the whole of it, and I hope the Senate will put it upon its passage.

The bill was read the second time, and considered as in Committee of the Whole. It proposes to repeal the law requiring the official bond of a paymaster or assistant paymaster in the Navy to be approved by the judge or attorney of the United States for the district in which such paymaster or assistant paymaster shall reside, and to provide that such bonds shall be deemed and taken to be satisfactory and sufficient whenever the Secretary of the Navy shall be satisfied on such evidence as he shall consider proper that such bond ought to be approved and accepted.

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

DEPUTY COLLECTOR AT CHINCOTEAGUE.

Mr. CHANDLER. The Committee on Commerce, to whom was referred the bill (H. R. No. 545) to authorize the Secretary of the Treasury to appoint a deputy collector of the customs at Chincoteague island, in the State of Virginia, have directed me to report it back with the recommendation that it pass, and I ask for its immediate consideration.

There being no objection, the bill was considered as in Committee of the Whole. It provides that the Secretary of the Treasury may appoint, according to law, a deputy collector of customs to reside on Chincoteague island, in the State of Virginia, and to exercise such powers, under the revenue laws, as the Secretary may prescribe; the compensation of the deputy collector to be the legal fees on the business he may transact, and no more.

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

ABOLITION OF PORTS OF DELIVERY.

Mr. CHANDLER. The same committee have directed me to report back House bill No. 549, to

abolish certain ports of delivery in the Mississippi valley. I make the same request as to that. It will save expense to the Government, and I hope it will be passed at once.

Mr. GRIMES. I should like to hear it read first.

The PRESIDENT *pro tempore*. The bill will be read for information.

The bill was read. It proposes to repeal the several laws constituting Hannibal, in the State of Missouri; Hickman and Columbus, in the State of Kentucky; Chattanooga and Knoxville, in the State of Tennessee; Tuscumbia, in the State of Alabama; and Shreveport, in the State of Louisiana, ports of delivery.

There being no objection, the bill was considered as in Committee of the Whole. It was reported to the Senate, ordered to a third reading, read the third time, and passed.

REVENUE REGULATIONS.

Mr. CHANDLER. The same committee have directed me to report back the bill (H. R. No. 550) to further provide for the collection of the revenue upon the northern, northeastern, and northwestern frontier, and for other purposes, with an amendment. I make the same request as to that bill.

There being no objection, the bill was considered as in Committee of the Whole. It provides that from and after the 1st day of October next the master or manager of every vessel which is enrolled or licensed for carrying on the coasting trade on the northern, northeastern, and northwestern frontiers of the United States, shall, before the departure of his vessel from any port, file a manifest of his cargo with the collector and obtain a clearance; and if the vessel shall touch at any of the ports of the United States, and there receive on board any goods, wares, or merchandise, or discharge any portion of her cargo, the master or manager shall report to the collector such arrival and produce his manifest, and it shall be the duty of the collector to indorse thereon, certified by himself, a description of the goods, wares, or merchandise so taken on board or unladen, and return the same to the master or manager, who shall deliver to the collector of the port at which the unlading of the cargo is completed the manifest to be placed on file in his office. And the owner or owners of every vessel whose master or manager shall neglect to comply with the provision of this section shall forfeit and pay to the United States the sum of twenty dollars for each and every offense, one half for the use of the informer, and for which sum the vessel shall be liable, and may be seized and proceeded against summarily by way of libel in any district court of the United States having jurisdiction of the offense.

The second section provides that collectors and surveyors of the collection districts on these frontiers are to be authorized to keep on sale, at their several offices, blank manifests and clearances required for the business of their districts, and to charge the sum of ten cents and no more for each blank which shall be prepared and executed by them.

The third section provides that goods imported under the reciprocity treaty with Great Britain may be entered at any port on the northern, northeastern, and northwestern frontiers of the United States, upon satisfactory evidence being given to the collector at the port where such goods are offered for entry, that they are of the growth or production of Canada, without the consular certificate now required.

The fourth section provides that for every entry of goods at any custom-house on the northern, northeastern, and northwestern frontier of the United States, a fee of forty cents shall be charged by the collector, and accounted for to the Government.

And the fifth section provides that so much of the act entitled "An act to exempt canal boats from the payment of fees and hospital money," approved July 20, 1846, as exempts the owner or owners, master or captain, or other persons employed in navigating canal boats without masts or steam power, now by law required to be registered, licensed, or enrolled and licensed, from the payment of fees or compensation for such register, license, or enrollment and license, shall be repealed.

The amendment of the Committee on Commerce is to strike out the third, fourth, and fifth sections, and to insert the following as section three:

And be it further enacted, That the Secretary of the Treasury be, and he is hereby, authorized in all cases where ports may be opened within the limits of insurrectionary States during the existing rebellion, to appoint special agents to perform the functions of the ordinary officers subordinate to the Treasury Department at such ports: *Provided*, That the compensation to be allowed such temporary officers shall not exceed that paid to permanent officers of the same position during the year 1859, nor exceed the compensation ordinarily allowed to such official agents.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in and ordered to be engrossed. The bill was ordered to be read a third time; and it was read the third time and passed.

LAND CLAIM OF FRANCISCO SOBERANES.

On motion of Mr. WRIGHT, bill S. No. 318, for relief in the land claims in California, known as claims of Francisco Soberanes to a tract of land known as "Saujon de Santa Rita," and of Joseph S. Alemany to the mission "San Francisco Solano," was taken up and considered as in Committee of the Whole.

As introduced by Mr. LATHAM, the bill provided that in the cases of the claims of Francisco Soberanes to a tract of land known as "Saujon de Santa Rita," and of Joseph S. Alemany to the mission "San Francisco Solano," the mere fact of the final confirmation in the judicial district not having by law cognizance of the same, should not work a forfeiture of confirmation; and that in like cases, in which, in the opinion of the Attorney General, the error of jurisdiction should not be fatal, it should be lawful to recognize the judicial act as binding upon the Government as a confirmation.

The Committee on Public Lands reported an amendment, to strike out all after the enacting clause, and insert:

Whereas in the district court of the United States for the southern district of California, in the case of Francisco Soberanes *vs.* The United States, for the rancho lying in the State of California, known by the name of Saujon de Santa Rita, a decree filed on the 9th day of February, 1858, was entered, confirming to the said Soberanes the said tract of land known by the name of Saujon de Santa Rita; and whereas, on the presentation of the mandate of the Supreme Court of the United States dismissing the appeal to the said Supreme Court of the United States in said cause, the said decree was made final by a decree of said district court, rendered on the 1st day of November, 1860; and whereas the land confirmed as aforesaid lies in the northern district of California, as ascertained by a final survey of the same: Therefore,

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the said decrees of the district court of the United States for the southern district of California shall be, and they are hereby declared to be, as valid and effectual as if the same had been rendered by the district court of the United States for the northern district of California.

The bill was reported to the Senate as amended, and the amendment was concurred in. The bill was ordered to be engrossed for a third reading, was read the third time, and passed.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives by Mr. MORRIS, Chief Clerk, announced that the House of Representatives had passed a bill (H. R. No. 557) in relation to preëmption claims, and for other purposes; in which it requested the concurrence of the Senate.

The message further announced that the House had disagreed to the amendments of the Senate to the bill of the House (No. 471) to confiscate the property of rebels for the payment of the expenses of the present rebellion, and for other purposes.

The message also announced that the House of Representatives had passed the resolution of the Senate (No. 89) in relation to the claim of Carmack & Ramsey, with an amendment, in which it requested the concurrence of the Senate.

ENROLLED BILLS SIGNED.

The message further announced that the Speaker of the House of Representatives had signed the following enrolled bills and joint resolution; which thereupon received the signature of the President *pro tempore:*

A bill (S. No. 171) to reorganize the Navy Department of the United States;

A bill (H. R. No. 260) making appropriations for the current and contingent expenses of the Indian department, and for fulfilling treaty stipulations with various Indian tribes for the year ending June 30, 1863;

A bill (H. R. No. 297) for the relief of J. W. Nye;

A bill (H. R. No. 450) making appropriations for the support of the Army for the year ending the 30th of June, 1863, and additional appropriations for the year ending the 30th of June, 1862, and for other purposes; and

A joint resolution (H. R. No. 83) relative to a certain grant of land for railroad purposes made to the State of Michigan in 1856.

BRIDGE ACROSS THE OHIO RIVER.

Mr. WADE. I now move to take up House bill No. 392.

The motion was agreed to; and the Senate, as in Committee of the Whole, resumed the consideration of the bill (H. R. No. 392) to establish certain post roads. The Committee on the Post Office and Post Roads, to whom the bill had been recommitted, reported it with various amendments. The first amendment was in line ten of section one, after the word "hundred" to insert "and seventy;" so that the clause will read:

Provided, That when completed, if constructed without a draw, it shall leave an unobstructed headway in the channel of the river of not less than ninety feet above low water mark, and such channel or water-way shall have an unobstructed width of not less than two hundred and seventy feet between the piers next to said channel or water-way.

The amendment was agreed to.

The next amendment was in section one, line eleven, to add after the word "water-way" the words, "and one of the spans next adjoining thereto shall not be less than two hundred and twenty feet in length."

Mr. COWAN. I have just got a copy of the bill this moment. I was desirous of amending the amendment which has just been agreed to, and I will therefore move that the vote agreeing to that amendment may be reconsidered in order to enable me to do so.

The PRESIDENT *pro tempore*. The Senator expressing a wish to amend it, it will be regarded as still open.

Mr. COWAN. I move, then, in the tenth line, to strike out "two hundred and seventy," and to insert "three hundred" in lieu thereof.

The PRESIDENT *pro tempore*. The question is on that amendment to the first amendment reported by the committee.

Mr. WADE. I hope that amendment to the amendment will not be adopted, because, if it should be, I believe it will be fatal to the project for bridging the Ohio river. I do not propose to argue this question over again. I discussed it at some length on a former occasion. This bill, in the first place, was founded upon a water-way of two hundred feet, and that was thought to be sufficient. That, however, was objected to by the Senator from Pennsylvania. He contended that it would not be sufficiently wide to pass, especially rafts and coal boats. It was contended so stoutly that the persons interested in this road, and several of those interested in the navigation of the Ohio, got together, after we had debated it here, and they came to the conclusion that two hundred and seventy feet would be satisfactory. I have their agreement here, and I urged that also upon the Senate before, and thought it was no more than reasonable that we should accept it. However, it was an important subject. The Senate were cautious about it; and they recommitted the bill to the Committee on the Post Office and Post Roads, with the supposition that we would go on and inquire as far as we could, and get what light we could on the subject from those experienced persons who were acquainted with the navigation. Colonel Long was called in. He is an old gentleman. He thought the water-way, the span, should be three hundred feet. That was his opinion; but I will say in regard to him, although he is a very intelligent man, he has had no experience whatever about building railroad bridges. It seems from his testimony that, some thirty years ago, he invented a species of bridge for turnpikes and other roads, and of course he now thinks, undoubtedly, that that is the way to build all bridges. He thought bridges could be built with as wide a span as that and be safe, and I do not know but on a turnpike road they might.

But then next came before the committee Professor Felton, who seems to have had very great experience in this matter of building bridges and roads and the like of that. He is a railroad man and an engineer, having great experience in that

business. He informed us that he knew of only one bridge in the United States that had a draw of the width of two hundred and seventy feet. He said there was one bridge over the Connecticut river, near Northampton, the draw of which was of that width; but it was the very extreme, and it was understood so by engineers and by the profession. They believe that you cannot go further than that safely, if I understood him aright.

Mr. COLLAMER. Mr. Felton said that he did not know a bridge that had a continuous span of three hundred feet. He thought there was none in America; but there was one of two hundred and fifty feet span across the Connecticut river at Bellows's Falls. That was the first bridge ever put up in America with a continuous span of two hundred and fifty feet.

Mr. WADE. That was his statement. That bridge has not so wide a span as I stated; it is only two hundred and fifty feet; and he thought it would not be safe to build a bridge of wider span than that, as I understood.

Mr. COLLAMER. He expressed the opinion that it would not do to undertake to build a bridge of three hundred feet span at any rate; but this was put at two hundred and seventy feet by agreement of the parties. He said he knew that bridge of two hundred and fifty feet span, and he thought it was possible one might be made two hundred and seventy feet.

Mr. WADE. He knew, then, of no bridge with a span so wide as we propose. It was the opinion of the persons most interested in this river, and in the railroad, who have an interest in both, and of course want to preserve both, and do not want to destroy either, that this was as far as we could or ought to go, and they settled down upon it. The railroad men reluctantly agreed to go to this width, and it is wider than the span of any bridge in America, and yet the Senator is not content with that any more than he was with two hundred feet. He says it is too narrow; coal boats will be obstructed, rafts upon the river will be obstructed, and there will be some difficulty in the navigation.

I have already said nearly all I wish to say; but I would admonish Senators to look at other interests along this river, and other people than those who raft logs and dig coal. Down below this point on the Ohio river we have the finest beds of coal that there are in the whole world, and I have no doubt that after our railroads shall be built, it will not be very important that they bring much more coal down from the Alleghany or Monongahela, or anywhere in that part of the country. I think the completion of these roads may have the effect to do away in a great measure with the coal trade from Pittsburg; but we do not intend to impede the navigation of the river on that account. We want to make it so that it shall reasonably accommodate both; and we have gone to the extreme, and it now brings us to the question, shall the Ohio river be bridged for the purpose of transportation by railroad? That is all there is about it.

This bill provides for two species of bridge. Where the bridge is to be built ninety feet above low water mark, it does not contemplate a draw, because vessels can go under the bridge whenever they please; and this, I will remark, is the height of bridge that was judicially determined upon as being no obstruction, no nuisance, in the great Wheeling bridge case. We propose to take the height that was settled upon by that adjudication as being proper, reasonable, and right for that species of bridge. I do not know that there is any complaint about it. Then there are places on the river where the banks are comparatively low, and where it is absolutely or next to impossible, impracticable at all events, to build a bridge with that height above low water. This bill provides that in all such cases the bridge shall be built forty feet above high water, wherever the bridge is built. It was contended, on a former occasion, that at some places in the river the water rises much higher than others. Of course it does. If it is impinged on by the banks, and has to run through a narrower channel, of course it rises higher. It was objected then that no specific number of feet above low water or above high water ought to be fixed, because that ought to depend upon the rise of the water at the place where the bridge is built. These amendments obviate that, because they require them to be so many feet above high water wherever they are built.

Now, this objection is a little singular to a man that has traveled through Pittsburg on the Alleghany river. I believe they cross it on railroad, and I think I counted four bridges across that stream; and when you look through these piers they may be said to obstruct the navigation; they are not set parallel with each other; as we say, they break joints in every possible form, and they are put close together. There is no complaint about that. Most of the lumber comes down the Alleghany river, and comes through those bridges, which are, some of them, not more than one hundred and forty feet span, and one right above the other, and sometimes one of the piers right opposite the center of the water-way in the next. There is no trouble about them; but when you come down the Ohio and have one bridge, you cannot get it wide enough; it obstructs the navigation of these lumber men and coal men so that they cannot get through! It is singular, but I do not want to dwell upon that. I do not wish to obstruct this navigation. It is not the purpose of the railroad company to obstruct it. It is the opinion of engineers that this will not obstruct it, I mean practically and seriously obstruct it, for I know very well that if you go to theorizing you may say that you cannot put anything into a river that does not in some way impede it. You cannot build one pier but what a man might say, speculating on the subject, "that is an obstruction." It is not an appreciable one, it is not attended with practical difficulties; but whatever you put into the water there will obstruct the course of the stream. What we mean by it is, that we do not intend so to obstruct it as seriously to affect the navigation. The parties themselves have settled upon it, those that are as much in interest as anybody else, men who use the river, men who have an interest in the railroad, altogether balancing equitably between all these interests. They say a two hundred and seventy feet span is enough. They are willing to have it so, but the Senator is not. The fact is, if you take some of the boatmen there, they would say it ought to be four hundred feet wide, and some perhaps six hundred feet. You cannot satisfy them at all; but when we take the experience of the craft, when we take the great commercial cities of Pittsburg and Philadelphia, who want this bridge to be built, they are satisfied with two hundred and seventy feet. The Boards of Trade of both those cities have unanimously petitioned us to build these bridges. They must understand the commercial interests of those great cities, whose commerce they superintend, whose business it is to look into it in every possible shape. I have here now—but I will not produce them again because they were read at the desk on the former occasion—the memorials of the Board of Trade of Philadelphia and the Board of Trade of Pittsburg unanimously praying us to build these bridges, and they think of course they will be no obstruction. I have a long petition of the business men of Pittsburg praying for this same thing to be done, but I know that you cannot start any such thing but objections will be made.

But, Mr. President, look at the interest. The people on the upper Ohio, I grant, have valuable interests in this river. They ought not to receive any injury; they ought to have a reasonable way of getting out to market their commodities, lumber, coal, or anything else. I grant that; but I say at the same time that infinitely more numerous class of men, the great farming interests of Ohio and Western Virginia, should also have some little facility for getting out to market with their produce. The coal men of our coal regions have some interest also, as well as those of the Alleghany and Monongahela. They have interests ten times as great as those men, and yet the gentleman asks you to shut your eyes to any interest that these farmers and owners of coal and lumber and everything else that wish to cross this river to get to market, and to lock up the river to some little trade in lumber and coal. I do not think it is reasonable. I think that we should adopt this compromise that the parties have made, squaring with the experience and opinion of the best engineers in the country. I know that Professor Felton did say that it is the opinion of engineers that a draw as wide as that was the very extreme that could be safe. I now wish to leave the subject, for I want the bill to pass, and I do not desire to take time.

Mr. COLLAMER. I merely wish to explain to the Senate the condition of this bill, what the bridges were by the original bill and are now by the amendments of the committee, without entering into the merits of the controversy.

The original bill as it came from the House of Representatives authorized the bridging of the Ohio river, where necessary for railroad use, by either of two kinds of bridges. The first kind was a continued bridge without any draw, and the bill provided that any such bridge should be erected ninety feet above low water mark, and that the middle span over the main channel should be two hundred feet wide. The second kind of bridge was one with a draw, and the bill required that that class of bridge should be built with a span of two hundred feet; the draw, however, without designating precisely where that draw should be, to be one hundred feet on each side of the center pier on which the draw turned.

The committee's amendments required that bridges across the Ohio river, when continuous, without a draw, shall be ninety feet above low water mark and forty feet above high water mark to the bottom chord of the bridge, and that over the main channel it shall be ninety feet above low water mark and forty feet above high water mark, that it shall have a span of two hundred and seventy feet, and besides that on one side of this there shall be two hundred and twenty feet, so as to leave a space to go under when the river is low. The amendments further provide that when the bridge is built with a draw, the span over the main channel of the river shall be two hundred and seventy feet wide, and shall be seventy feet above low water mark, and that on one side of it there shall be a draw which shall be at least one hundred feet in the clear upon the center pier.

I have now stated the substance of the difference between the original bill and the bill as proposed to be amended by the committee. The first great question that arose was, how long a wooden bridge for railroad purposes could be built. Colonel Long expressed the opinion that such a bridge could be built with a span of three hundred feet. Mr. Felton was of opinion that such a bridge of that span could not be built and used with safety. When we came to inquire whether there were any such bridges, we found that there were no such wooden bridges of three hundred feet span. There is a bridge of two hundred and fifty feet span across the Connecticut river, of which Mr. Felton spoke, and with which I am acquainted. Up to the time that bridge was built, it was very questionable among engineers whether one could be built to be two hundred and fifty feet span; but that one span has been built, and has been standing there for fourteen years, I should think, and is a good serviceable railroad bridge. All the engineers we examined agreed that there was a point beyond which a wooden bridge could not be made strong enough for railroad use; but exactly where that point was, experience had not positively shown. Mr. Felton was of opinion that two hundred and seventy feet was the utmost that could be ventured upon with any degree of safety. Colonel Long was of opinion that three hundred feet would do.

Mr. COWAN. Mr. President, it will be remembered that this bill——

Mr. DAVIS. Will the gentleman allow me to make a suggestion to him?

Mr. COWAN. Certainly.

Mr. DAVIS. I propose to offer an amendment to this bill, that the bridge to be constructed shall be a suspension bridge not less than ninety-five feet above low water mark, with at least three hundred feet between the piers. I think if the honorable Senator from Pennsylvania will permit the vote to be taken upon that amendment of mine it will decide whether it will be necessary to offer his or not.

Mr. COWAN. That may be a separate amendment as to the nature of the bridge; mine goes to the width of the channel between the piers.

Mr. DAVIS. My proposition will be simply this, that the bridge to be erected by this railroad company shall be a suspension bridge, with at least three hundred feet between the piers, and ninety-five feet above low water mark. If the Senate shall decide that such a bridge as that should be built, I presume no proposition on the part of the Senator from Pennsylvania would be necessary, and then the Senate may accept or reject the proposition which I design to make. If

they reject it, the Senator of course will bring in his amendment. I propose, if it is agreeable to him, that he withdraw his amendment and I offer mine, that we may take the sense of the Senate on my proposition first.

Mr. COWAN. I have no objection.

The PRESIDING OFFICER, (Mr. ANTHONY in the chair.) The Chair will suggest that the amendments reported by the committee are first in order, and no other amendment now is in order unless an amendment to an amendment reported by the committee.

Mr. COWAN. Mr. President——

Mr. HALE. A single word to the Chair on that question of order. I believe that the usual course, and almost the uniform course, is to pass upon the amendments of the committee first; but it is not absolutely a question of order that they shall be so. The Senate may entertain others.

Mr. COLLAMER. In order to aid gentlemen about the order of business, I desire to suggest that the present motion is to amend an amendment reported by the committee.

Mr. COWAN. That is my proposition.

Mr. COLLAMER. The suggestion of the Senator from Kentucky is to amend the bill itself. Now, after this amendment of the committee is adopted, if it shall be adopted, fixing the span at two hundred and seventy feet, it will still be in order for the Senator from Kentucky to propose to amend the bill itself in the mode he suggests.

Mr. DAVIS. Acting on that suggestion, I will not offer my amendment now.

Mr. COWAN. That is just what I was about to state. The Senator from Kentucky may move his amendment as to the character of the bridge to be built. This only goes to the width of the channel desired on the part of the people who navigate the river.

Mr. President, it has been urged here repeatedly that the people in interest have met together and have decided as to what would be satisfactory to those whom I represent in this matter. I beg merely to state how that agreement was made. Three gentlemen were sent here by the Board of Trade of Pittsburg in order to see to the interests of that city in this matter. The Board of Trade itself at first recommended that the bill before the Senate, which came from the other House, should be passed. On discovering, however, what the bill was, they never having seen it when they made the first recommendation, they immediately instructed me to oppose it; and they sent these gentlemen here in order that they might confer with us and endeavor to correct the difficulty. They came here, one of them representing the coal interest of that region, another representing the railroad interests of the city of Pittsburg—and I beg here to state in justice to Mr. Van Bonhorst who is the postmaster of the city of Pittsburg, that although I stated in the Senate before that he was the representative of the railroad interest, he informs me that he was the representative of the railroad interests of the city of Pittsburg, and that was what he meant in his statement to me, and I presume that is correct, and I desire to do him the justice to state him fairly. The other person who came was a very respectable lawyer of that city, who came to represent its interests generally.

A proposition was made on the part of the railroad company that they would make this bridge two hundred and seventy feet, and to that proposition Mr. Von Bonhorst, the agent of the railroad interests of the city of Pittsburg, and the general agent, Mr. Shinn, agreed; but Mr. Jones, who represented the coal interest utterly dissented; and I being of his opinion, went with the minority of these three men. I then directed attention to this matter throughout western Pennsylvania to some extent, and particularly at Pittsburg, and along the line of the Monongahela river, among those engaged in the coal trade, and I have here the affidavits, the sworn testimony, of some fifteen of the leading practical pilots of the Ohio river. They swear distinctly, positively, that a bridge of three hundred feet span will be an actual obstruction in the Ohio river, and ruinous to their trade. There is none of them who put the span under four hundred feet, and they give most elaborate reasons for this opinion, and reasons which, in my judgment, cannot be gainsayed. I have also a remonstrance against the construction of any bridge with less than a four hundred feet span over the Ohio river, signed by about two hundred and forty persons, the most of whom I know are engaged in this trade. Under these circumstances the question is, what shall the Senate do? By whose opinion shall they be governed in this behalf? The bill was referred back to the committee who reported it originally, in order to take testimony, and ascertain whether a bridge could be built of three hundred feet span. The testimony of Colonel Long, chief of the topographical engineers, was mentioned as being invaluable on a subject of that kind, he having the largest experience, perhaps, of any man in the country. Colonel Long appeared before that committee. I believe he was not sworn; I believe nobody was sworn; but the statements of the persons were taken. Colonel Long said that he had not a doubt about the fact that a bridge of three hundred feet span could be built; and from his knowledge of the Ohio river, and its position, he was further of opinion that any less than that would be ruinously injurious to the navigation upon that river. It is said that afterwards Professor Felton—Professor Felton! I think it is a misnomer. Was it not President Felton?

Mr. COLLAMER. He is the president of the Philadelphia and Baltimore Railroad Company.

Mr. COWAN. I know the gentleman very well.

Mr. COLLAMER. The way he came to be called professor, I suppose, was the association of the name with that of his brother, the recent president of Cambridge.

Mr. COWAN. He is then not a professor himself, but the brother of a professor, and therefore of large learning, of course! The statement of Mr. Felton, the president of the Philadelphia and Wilmington Railroad Company, is taken in opposition to that of Colonel Long, and made the rule of action for the committee. Mr. Felton may be right, and Colonel Long may be wrong; but I would ask whether the statement of Colonel Long, being unbiased, without any interest in this matter, is not a better guide to us than that of a railroad man whose whole interests lie in the other direction, and who, they lying in that direction, is unable to see the magnitude and importance of the stakes of those who resist this proceeding.

I say again, as I stated before in the Senate a few days ago, that, upon my own judgment, I never would agree that the span of a bridge over the channel of the Ohio river should be shorter than four hundred feet; but I want a bridge; I think everybody wants a bridge; and I think nobody wants it at the expense of the river; and I was willing to consent to a clear water-way of three hundred feet. If at that time I had had this testimony before me, I acknowledge that I should not have agreed to it, but I should have felt called upon to resist it at any and at all hazards.

I desire that the Senate shall protect the interests of these people, who are not able, as a general rule, to protect themselves. They are not men who are accustomed to come here and exercise that kind of influence which is so potent to attain its end. They are not, as railroad presidents, railroad engineers, railroad directors, accustomed to come to large cities, and operate upon gentlemen who are chosen here to attend to the interests of the whole country, nor can they do it so adroitly.

I trust that the amendment I have proposed will be sustained, and I trust, too, that the opinion of Colonel Long, the oldest engineer perhaps in the country, and as I have understood one of the oldest experience on the subject of bridge building, will be taken in preference to that of the president of a railroad company, who would like of course to have the bridges over navigable rivers as short as possible, because it is better for his own interests that they should be.

Mr. WADE. The Senator speaks about those who are unable to protect themselves, and he says that railroad men can come around here and get an influence that those men cannot. Nobody has been around here; there has been no attempt on the part of those who want to construct these bridges to force the proposition through. The Senator talks about those who are in interest or fancy themselves in interest. I have no kind of doubt or question that if these men had resorted to the same means that have been resorted to on the other side, instead of getting fifteen affidavits they might have got an innumerable number. They are worth but little.

But the Senator speaks of Colonel Long. Colonel Long is a very respectable man; he is an honorable man; but he has had nothing to do with railroads in the whole course of his life. Some thirty years ago, as I said before, Colonel Long was the inventor of a peculiar kind of a bridge that he thinks now is one of the best in the world; and that it can be built strong enough for railroad purposes, and that, too, with a span of three hundred feet. All that I can say of him is that he does not profess to have any experience on the subject. He lived in the time of turnpikes and mud roads, when a bridge did not require one twentieth, perhaps not the hundredth part of the strength requisite for a railroad bridge. He knows nothing about this subject. He does not profess to be skilled in the manner in which they are built. He did not profess to be to us, at all events. He has not been in the business since railroad construction has become a science.

Mr. GRIMES. Colonel Long was the engineer assigned to duty to build the Portage road in Pennsylvania.

Mr. WADE. I do not know but he has built railroads. He speaks of his own bridge, and where it was built. He says he has had nothing to do with it for thirty years.

Mr. COWAN. If the Senator will allow me, Colonel Long's reference in that instance was to show the advantage of the bridge which he built—not to show when he constructed it, but how long the timber endured.

Mr. WADE. But he did not profess to have any idea of the manner in which railroad bridges were constructed. He was a bridge builder.

Mr. COWAN. I should like to get his testimony.

Mr. WADE. It is here somewhere in writing.

Mr. COWAN. I should like to see it.

Mr. WADE. The Senator has undertaken to make merry over "Professor" Felton, because I called him by that title. I did so because others did. But he is an engineer, one of the best and most scientific engineers in the country; and probably has had more to do with constructing railroad bridges than any man you can find. He is perfectly familiar with almost all the bridges that have been built in New England. He is acquainted with all your railroad men and engineers, and he knows their opinion. He spoke of their opinion, not of his own more than others. They had meditated long as to the length of span with which a railroad bridge could be built safely; and he informed us, as the Senator from Vermont has already said, that perhaps the exact point where, by strengthening the bridge, you would strengthen it more than you could weaken it by its weight, had not been exactly attained; but it was the opinion of the profession that two hundred and fifty feet was the ultimatum to which you could go; and, acquainted as he was with all the roads in the country and all the bridges in the country, he said he knew of but a single instance of a bridge where the span was two hundred and fifty feet, and that was at Hadley Falls, on the Connecticut river.

As to obstructing the navigation, I ask what kind of an obstruction would a span of two hundred and seventy feet make? Everybody who has ever sailed up and down the Ohio river knows full well that in navigating the stream in ordinary low stages of water, the pilots are obliged to run between distances not half, not one third this width; and yet the Senator says this will be an obstruction. Why, sir, they frequently come to a place not twice the width of their boat and they have to go through there; and yet here is a draw of two hundred and seventy feet, and it is said they cannot go through it.

Mr. COWAN. If the gentleman will allow me, I desire to read a portion of the testimony of Andrew McCartney, who has been following the business of pilot on that river for twenty years, as to the description of flats they use. He says:

"I have navigated upon coal boats from Pittsburg to New Orleans, and the difficulty in managing them is greatly decreased from Steubenville to Cairo. From that to New Orleans, on account of snags and storms, there is more danger. About ten years ago the coal men commenced towing their coal in such boats as I have described, and barges of various sizes, from one hundred and twenty to one hundred and seventy-five feet in length, by twenty to twenty-five feet wide. At first the barges were smaller than one hundred and twenty feet by twenty feet. At the present time the largest-sized boats and barges are used, drawing from seven to eight feet, and containing about the same quantity of coal as the common coal boats, called flat-boats or 'broad-horns.'—

That is, about twenty-five thousand bushels—

"We make up a tow of these boats and barges in the following way: we lash them end to end, from five to seven boats abreast in front of the tow-boat, with two pairs alongside of the boat—that is, one pair on each side, extending back alongside of the boat from fifty to seventy-five feet, and the tow-boats or steam-tugs measure in length from one hundred and eighty feet to three hundred feet by from thirty to fifty feet in width, including tow boats used on the Ohio and Mississippi rivers. The largest-sized boats have heretofore been used from Louisville to New Orleans, but when the canal at Louisville is enlarged according to the plan they are now improving it upon, these larger-sized towboats will tow coal from Pittsburg to New Orleans. The old canal could pass boats one hundred and eighty feet long, and curtailed the size of our tow-boats above the falls of the Ohio. We commenced towing coal first to Cincinnati and Louisville, but for several years past we have been towing from Louisville to New Orleans. We ran boats by hand and towed them to Louisville to supply the tow-boats that towed from Louisville to New Orleans. And this was done on account of the canal being too small to pass the largest-sized tow-boats up, a difficulty that will be obviated by the enlargement of the canal as mentioned."

That shows the size of the boats that are to go through this opening of two hundred and seventy feet.

Mr. WADE. Mr. President, if anything were wanting to show the absurdity of this claim to me, it would be just such an affidavit as that. It does not say that it will make any obstruction to the steamboat navigation. It would only obstruct the peculiar manner in modern days of carrying coal down the river. They must have three of these boats lashed together side by side. I suppose there is no other way to do the business. I ask the Senate is it reasonable, rational, and right, that, for the purpose of lashing these boats together so as to block the whole river, all the vast interests of Ohio and Western Virginia shall be deprived of the privilege of getting their coal to market? The affidavit just read shows well enough that they might lash their boats in a different manner, and there would be no obstruction. I know, without an affidavit, that they may lash coal boats enough side by side so that they cannot sail the river, or so that they cannot go between any piers at all; but they did not do that formerly; it is a practice that has grown up very recently. That furnishes no argument why the people of Ohio and Pennsylvania—I say Pennsylvania, because they are as anxious for this as the people of Ohio—should be deprived of any way whatever of getting out to market with our produce, our coal, lumber, and everything else; because this witness, for instance, cannot attach his boats together in exactly the same way if we build this bridge as though we did not. That is the argument; not that it obstructs the navigation of your steamboats, not that it interferes with anything except the peculiar manner of lashing these boats together. If our bridge is built, you cannot lash together more than two hundred and seventy feet of them side by side, and get through; but, sir, there is no imperious necessity that compels you to do that. I should think you might add a little to their length, and make them somewhat narrower. I should say—and I hope the Senate will say—that it would be most unreasonable to deprive us of all the interests we have in getting our produce to market in order that these coal men on the upper Ohio may construct their flat-boats in a particular manner to get to market. It is all wrong, sir. The fact is, the objection probably lies a little deeper than that; for my word for it, when you give us these roads from the great coal fields in the State of Ohio and Western Virginia, the lower Ohio will be furnished with coal without having the monopoly of that trade on the upper Ohio. I think that idea has, perhaps, as much to do with these objections as the manner of lashing these boats together.

Now, sir, I ask the Senate to take up this question as rational men, and to deal with us as we wish to deal with the navigators of the river. We do not propose any serious impediment to the navigation. We are willing to go to the extreme to accommodate them; and when we go there, we are assured by scientific men that it will be no obstruction to steamboats, and nothing but a fancied one to coal boats and to rafts, which constitute but a very small interest on that river, when compared with the vast interests of the people of Ohio in getting their produce, their coal, their lumber, and all their commodities to market. The Senator seems to forget that we have any interests or any rights there. While we do not wish seriously to obstruct their rights, we ask that they shall yield a little to accommodate us. I think it is reasonable, rational, and right that we should agree to this width to which the parties in interest, as the gentleman says, have agreed. I do not call them in interest. They are those who were sent here by boards of trade, enlightened men, whose business it is to have their eye on all these things; and when those delegated to come down here have agreed; when they sent their petitions here to facilitate the making of this bridge, and when we go to the very extreme and comply with what they say we must do, it seems to me to be wrong that we should be obstructed and prevented from making this great public improvement.

Why, sir, the use of these navigable rivers has ceased to be as important as it was before railroads were constructed. It is not to be supposed that you can impede the crossing of the Ohio river in its course of six hundred miles between the east and west the north and the south; that there shall be an eternal gulf separating us, because coal boats cannot get through lashed in the way in which they have been in modern times, within three or four years. It is sacrificing the greater to the lesser interest. It is sacrificing the interest of my constituents and of the people of Western Virginia, and even of Pennsylvania, who ask that this be done, to a mere fancied interest and nothing more. This bridge will not seriously impede the navigation of the river. We have all sailed the river; and, as I began to say before, we all know that between the piers of this draw there is infinitely more width than you can get in the Ohio river in an infinity of places in common, ordinary low water navigation. You have to run crooking about in channels not thirty feet frequently, with piers of stone built up to give a greater depth of water, and go through there. They are not half as wide as this draw will be. They do not impede navigation, but were put there to help it; and yet we are told that with two hundred and seventy feet you cannot traverse it—the Senator does not say with steamboats; nobody says their navigation will be impeded; but the coal boats, three or four of them lashed side by side cannot go through there. I suppose, if they choose, they can put so many of them together that they could not go through, even if it were four hundred feet. I know that may be done; but I know it would be unreasonable to say that they shall not alter the construction of these boats and especially of their rafts, to accommodate us. Because they have a fancy that they must be built in a certain way, are the people to be deprived of the vast interests of commerce and navigation from that portion of Ohio, Pennsylvania, and Virginia? It is all wrong; and I hope the Senate will not judge this thing upon such narrow and illiberal principles.

Mr. COWAN. I should not have said a word further, except that my honorable friend is either totally unacquainted with the subject, or (which I cannot think he would do) has totally misrepresented it. Why, sir, of what possible use can this railroad be to the coal fields of Western Virginia, or to the coal fields of Ohio? Of no more use than if it led to the moon. The railroad runs down the bank of the Ohio river, on the left hand side, till it comes to the bridge. The greater portion of that distance is in Pennsylvania, and through Pennsylvania coal fields; and if it was of any use to anybody for coal purposes, it would be of use to Pennsylvania for those purposes. But every man cognizant of the subject, who knows anything about it, knows that coal is that kind of a commodity which, when it can be carried upon a river, is never carried upon a railroad. That is what occasions the great price of bituminous coal upon the Atlantic coast. It is because it lies west of the crest of the Alleghanies, and has to be carried over them upon railroads. The coal fields along the Ohio river empty themselves out into the river, not upon railroads. Railroads are used for short distances sometimes at a time when the river is very low, but at no other time. Then, again, this railroad is to cross the Ohio river, and go directly away from that river; it does not follow it; it is not continuous with it, and could not be of any possible use to anybody for coal.

Again, with regard to the danger of Pennsylvania competing with the coal fields of Ohio, I have only to say that that betokens as little knowledge of the character of the coals as the former statement that the bridge would be used to carry them away. Pennsylvania coals competing with Ohio coals! Why, sir, if Ohio coals were in Pennsylvania, no vein of them would ever be opened. In the face of our coals they are utterly and totally useless. Nobody burns them, and nobody buys them, they are of such inferior quality. That coal which comes nearest to Pennsylvania coal, in any market, is the coal from the pine land of Western Virginia. Every man who knows anything about coal, and has ever seen a couple of boats lying alongside, will detect at once the difference. The one is radiant with the hues of the rainbow, black, bright, and shining; the other is dull as lead; and there is a difference in the Cincinnati market between Wheeling coal and Pittsburg coal at all times. Ohio coal, however, is still inferior. It is very good for country purposes, but of no kind of account in the market.

I wish to state again, too, that my friend does not seem to be much of a navigator. He says one of these flats would block up the Ohio river. The Ohio river is from one thousand to fifteen hundred yards in width in flood time; and it is only in flood time that these boats can go at all. At the season of the year he speaks of, when the channel is narrow and tortuous, and people are seeking for it, and picking it out as they can, there is no craft on the river drawing more than eighteen inches or two feet of water. There is no such thing as piers in the channel. There are wings thrown up in the channel, and between the wings little piles of stone, so as to throw this body of two feet of water, perhaps, into a contracted space in order to enable the boat to go through. Even there, the channel is at least two hundred feet between these wing walls everywhere. The smallest rise in the river covers these wing walls, and there will be months of the year when you never see them.

The advantage of this railroad to the people of Pennsylvania, and particularly to the people of eastern Pennsylvania, is perhaps great. The honorable Senator himself stated it more distinctly than anybody could state it, I think, except that in that case it was exaggerated. He says it saves three hours in time of travel east and west. By going down the right bank of the Ohio river you have to go, in order to get to Steubenville, perhaps about eighty miles; by going down the left bank of the Ohio river, if you go by the old road, I think thirty-nine miles was the distance; but by the railroad, I suppose it will be about forty miles. Forty miles of distance is saved in travel between the East and the West. That is the whole advantage of the Steubenville railroad; and if you were to ask anybody in western Pennsylvania whether the outlay would ever be compensated by the advantages, they would all unanimously tell you that it never could. As a question of economics, I have no doubt in the world that hundreds of thousands of dollars have already been thrown away upon that Steubenville railroad from Pittsburg to Steubenville, which will never be realized to the country. There are ample facilities to-day, as every gentleman traveling west knows, by which you can get from Pittsburg to Steubenville, or to any place in Ohio, if you desire to go by railroad, without resorting to this route. The only possible advantage that it could be to the country would be that it would carry passengers east and west by a route forty miles shorter than they now travel. It will be an advantage to a man shipping light goods, light freight, to have them by a route which is forty miles shorter. There is the whole of it, and all that there can be. These are the facts. Here is this Ohio river running from Pittsburg to Steubenville, and it has two banks. Along the right hand bank a road is now made already, and in actual running order, and has been for some years. On the other bank, there is a road located and a very considerable amount of money expended on it, until the company is bankrupt, and until it has almost bankrupted the city of Pittsburg and the county of Alleghany. The fact is, she was almost obliged to repudiate in order to save her very existence from the fate which, by these bonds, was impending over her.

Nobody objects to the construction of this road. Everybody would like to see it done. We are as desirous to save forty miles distance between east and west as anybody else, and are as anxious to have it; but we are not desirous to have it at the expense of that great highway made by God himself, which belongs to all the people, and which is not the property of any corporation. We do not desire that that shall be sacrificed; that that river, one of the great arteries of the commerce of the

country, shall be girdled and tied with a band about it. We are not satisfied that that shall be done for the sake of the advantage to be gained by this bridge. Much as we want the bridge, and much as the people clamor for the bridge, particularly the people of Pittsburg, who, like all other people, are expecting great results to come from railroads, about all the result they have found from them as yet, is that the freight which formerly stopped there and paid them a commission for reshipping it down the Ohio river, now runs through by railroad without paying any tax for their benefit; but they realize advantages otherwise, I have no doubt.

The question is not whether this river shall be bridged or not bridged. That is not the question. I know there is an attempt made here, and it is industriously circulated by all those who desire this scheme to succeed, that unless we accept this proposition, forsooth the Ohio river will never be bridged. Is there no way of getting over it except by a two hundred and fifty feet span? There is not a river in the world that is more worthy to be spanned from end to end if it were possible. There is not a river in the world that carries more commerce upon its bosom than the Ohio river is destined to carry some day; and I say it behooves this Senate, the representatives, the guardians of the people and their rights in this behalf, to be used, in the language of the law, as they were wont to be used, that this be preserved. No corporation has a right to come here and say to a million of people who have been enjoying their rights upon a great highway of this kind, and enjoying them from time immemorial, which have been sacredly guarded in every direction, "you must put on crimping irons; you must straighten yourselves and accommodate yourselves to my measures in this behalf; you must cut down your rafts and flats and boats and all this kind of thing to accommodate me." Who? The country? The people? No, sir; a corporation, and one of a class which as I say is swallowing up to-day more of the political privileges of the people and exercising a more dangerous and deleterious influence over the politics of the country and the legislation of the country, than all other interests and all other mischiefs combined. The very same men, sir, that are charged with purchasing Legislatures wholesale, charged with buying them for a price like oxen in the shambles, are here and were here to get this bridge fixed to suit their particular notions. Whether these men are guilty or not, I know not; I know nothing about them; but I say it is broadly, openly charged; and when an investigation is ordered, I say these people cannot be by any kind of process dragged forward to the stand to testify as to how the matter was. These are the people who come and ask for these special privileges to be given to a corporation.

Mr. WADE. I wish the gentleman would be more specific. What does he mean by that? Who is it that has been bribed? Let us know, and not deal in wholesale charges.

Mr. COWAN. It is not necessary to particularize. There are a great many people who will know exactly how to understand me, and what I mean.

Mr. WADE. I want to understand you, for one.

Mr. COWAN. Now, sir——

Mr. SHERMAN. I ask my friend from Pennsylvania to give way. It is manifest we cannot get a vote on this bill, and there are one or two important appropriation bills that ought to be passed immediately. I ask him, therefore, to give way for a motion which I will now submit.

Mr. WADE. I hope not. I want to reply to some of the statements that have been made by the Senator from Pennsylvania.

Mr. SHERMAN. We cannot get a vote on this bill now. I only want to save time. I do not desire to interpose any delay to the passage of the bill.

Mr. COWAN. I have no disposition to urge it.

Mr. CLARK. I hope Senators will allow me to call up the confiscation bill, so as to have a committee of conference appointed.

Mr. SHERMAN. I should object to that at present. I desire to take up the House bill making appropriations for the payment of soldiers' bounties. It will not take five minutes, and then we can go on with the other business. I am informed it is very important to have that bill acted upon; and I ask that the pending order may be postponed with a view to take up that bill.

The PRESIDING OFFICER, (Mr. ANTHONY in the chair.) It is moved that the pending order be postponed with a view to take up the bill indicated by the Senator from Ohio.

The motion was agreed to.

APPROPRIATIONS FOR VOLUNTEERS' BOUNTY.

On motion of Mr. SHERMAN, the Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. No. 540) making appropriations for the payment of the bounty authorized by the sixth section of an act entitled "An act to authorize the employment of volunteers to aid in enforcing the laws and protecting public property," approved July 22, 1861, and for other purposes.

The bill appropriates for payment of the bounty to widows, children, fathers, mothers, brothers, and sisters of such volunteers as may have died or been killed, or may die or be killed, in service, authorized by the sixth section of an act entitled "An act to authorize the employment of volunteers to aid in enforcing the laws and protecting public property," approved July 22, 1861, $5,000,000, or so much thereof as may be found necessary. The bounty is to be paid to the following persons, and in the order following, and to no other person, to wit: first, to the widow of such deceased soldier, if there be one; second, if there be no widow, then to the children of such deceased soldier, share and share alike; third, if such soldier left neither a widow or child or children, then, and in that case, such bounty shall be paid to the following persons, provided they be residents of the United States, to wit: first, to his father; or if he shall not be living, or has abandoned the support of his family, then to the mother of such soldier; and if there be neither father nor mother as aforesaid, then such bounty shall be paid to the brothers and sisters of the deceased soldier, resident as aforesaid.

It also appropriates for compensation of twenty additional clerks to be employed in the office of the Commissioner of Pensions, to wit: for fifteen clerks of the first class, $18,000; for five clerks of the second class, $7,000. The sum of $3,000 is also appropriated, or so much thereof as may be found necessary for the expenses of the [POTTER] committee on disloyal employés of the Government, appointed by resolution of the House of Representatives, July 8, 1861.

It also provides that that part of the sixth section of the "Act to authorize the employment of volunteers to aid in enforcing the laws and protecting public property," approved July 22, 1861, which secured to the widow, if there be one, and if not, the legal heirs of such volunteers as die or may be killed in service, in addition to all arrears of pay and allowances, a bounty of $100, shall be held to apply to those persons who have enlisted in the regular forces since the 1st day of July, 1861, or shall enlist in the regular forces during the year 1862, and be paid to the heirs named in this act.

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

Mr. SHERMAN. In order to dispose of this subject, as this bill disposes of the other bill which had been referred to a committee of conference, I move that the report of the conference committee be laid on the table.

The motion was agreed to.

BRIDGE ACROSS THE OHIO RIVER.

The Senate as in Committee of the Whole resumed the consideration of the bill (H. R. No. 392) to establish certain post roads.

Mr. WADE. I did not intend to say anything more about this bill, and I am not going to take time on it now, because it is said there is no quorum here and we cannot proceed further; but some extraordinary statements of the Senator from Pennsylvania ought not to go, perhaps, without a passing notice. In the first place, in order to make out his case, he says during low water they do not profess and never pretend to pass these rafts and coal boats; it is only in high water. Well, sir, that is but a very small part of the year, and shows how insufficient the river is for continuous navigation. I wish it was better; but it is notorious that it is one of the most uncertain streams in the country. It has been said that it was frozen half the year and dry the other half; but that is an exaggeration.

Mr. COWAN. That is a statement that a representative from Ohio ought never to indulge in, I think.

Mr. WADE. I think as much of the Ohio river as the Senator does; but I ask whether five million people, who are vitally interested in crossing this river at the point where we propose to cross it, shall have all their interests stricken down and rendered entirely null through a mere fancy? As I have already said, there are infinitely greater interests connected with these roads than there can be in the navigation of this river. The gentleman argues in opposition to this question as if we were really going to destroy the navigation of the Ohio river. I have endeavored to show, from scientific men, that the bridge will not interrupt it at all. Why then does he continue, not to meet the argument of how far the river will be obstructed, but to assume that we are destroying the river, and destroying the interests of all those above? No such thing, sir. We do not intend to interfere seriously, or to any appreciable degree, with the interest of navigation; and more than five times the number of people are interested in these roads than can be interested in this navigation of which he speaks.

The Senator in one breath tells us that these railroad companies are the most dangerous monopolies there are in this country; that they threaten to swallow up your Government and render it a despotism; and in the next breath he tells us that all these railroads are nearly bankrupt, without interest, and that this road will never be worth a cent, but will bankrupt those who undertake it. Those two statements do not hang together at all.

Mr. COWAN. Will the honorable Senator allow me to say a word of explanation?

Mr. WADE. Yes, sir; it wants explanation.

Mr. COWAN. The Steubenville Railroad Company is utterly, totally bankrupt; but certain other companies which are not bankrupt—I think, perhaps, the Pennsylvania Central; I do not know whether there are others with them or not—have taken a lease of it for a long term of years, and they propose to go on and finish the superstructure. That is the way the thing is to be done.

Mr. WADE. So far from these railroads being a detriment to the great mass of the community, there is nothing that I know of from which the great mass of the people derive more benefit. The mercantile, agricultural, and every other interest in our western country are indebted more for their prosperity to these great railroad companies than to anything else in the world. Sir, without them the West to-day would be a wilderness. So far from what the Senator says about these great aristocratic institutions that are going to swallow up the country being true, while the great mass of the people have derived such untold benefits from these roads, the stockholders have almost universally sunk and sacrificed all that they put in. That has been the history of these roads. They have contributed more to the building up and prosperity of the West than all other things together, while the stockholders and the companies have in almost every instance sunk nearly the whole capital that they have invested. So far, therefore, from their being any such corporations as the Senator says, they are the most beneficent and least profitable to the holders of any I know of. So much for that.

I was in hopes the Senator would explain one remark, and not have left the impression, to the detriment of those who are seeking to make these roads, by what he said, in general terms, that men guilty of bribery and corruption are endeavoring to get these roads through. I wish the Senator would be specific, and tell us exactly what he means by it. If the Senator intended to charge anybody I know anything about with corruption, I want to know it.

Mr. COWAN. As the honorable Senator will recollect, I was drawing a parallel between two classes of people who were interested in this matter. On one side here were people in the enjoyment of a right which they had been wont to use from time immemorial, and I said that ought to be protected; it was the prior right, and stronger in law; that, on the other hand, we had a corporation—not a public corporation, but a private one—and one of a class of corporations which were dangerous to the political liberties of the country, if they chose to exercise their power; that these corporations had been charged with doing that, and

that some of the persons who had been charged had been here in and about the District. I did not desire to insinuate, even most remotely, that any such attempt was made in this body. I should be the last person in the world to say that there had been the use of any improper means here. I merely said that to induce a proper caution on our part, so as to preserve the rights of the people as against these monopolies and corporations.

Mr. WADE. I am very glad to hear that explanation; for I know the gentlemen who have been here, who are interested in having these roads, are among the most respectable in our country. I do not know more than two or three of them, and they stand higher for integrity, honor, and everything that tends to make a man's character valuable than almost any men I know of in Ohio. I am very glad to hear that the Senator was only stating in general terms his apprehension of danger from these corporations. To that I have no objection.

There was one thing more which I did not like to hear from the Senator, and that was that Ohio coal was so much inferior to that of Pittsburg. He charged me with ignorance in that respect. I know all about your Pittsburg coal. I know it has been analyzed, and I know the coal fields of Ohio have been analyzed; and, sir, you cannot show specimens of such coal as we have got in inexhaustible quantities in Ohio. For the purpose of smelting iron ore, or for any other purpose, ours is unrivaled by any in the world, and Pittsburg cannot approach it anyhow. Look at Ironton, Lawrence county, and that region. Why, sir, the coal of the inexhaustible fields along the Ohio is as much preferable to your Pittsburg coal as anybody can imagine.

Mr. COWAN. Do you mean Lawrence county, Pennsylvania?

Mr. WADE. No, sir; Lawrence county, Ohio, the Hanging Rock institution, and the Ironton mines, and all through there; and in northern Ohio it stands so preëminent that ore is brought from Lake Superior to be smelted by the coal that we have in northern Ohio; and yet the Senator tells me that Ohio coal is of inferior quality.

Mr. COWAN. Will the Senator allow me to ask him why the ore is brought from Lake Superior? Is it brought to meet that particular kind of coal, or is it brought to commingle with other and different ores, and from that commingling to extract a finer quality of iron? I think the last is the fact.

Mr. WADE. I mean just this, that in northern Ohio you smelt that ore with the nearest coal you can find, and that is sufficient for the purpose. You find there the very best coal in North America for the purpose of smelting iron, and that is the nearest place, and consequently vast amounts of it are brought there. I know they commingle their ore with the ore of our country to make a peculiar species of iron; and according to the test of scientific men our iron is as much superior to yours as is our coal; and right there, in the county of Lawrence, probably more of the elements of benefit come together—coal, iron, pipe-clay, and everything of the kind—than meet in any other place in the world. Your scientific men have tested it, and they find that our iron is more than thirteen per cent. better, stronger, and firmer, than your best Juniata.

Mr. COWAN. If the Senator will allow me to interrupt him, I will give it up now.

Mr. WADE. Well, sir, I should think you might as well give it up. You never would have asserted it if you had looked at these tests, and the world will know it very soon. Whenever these railroads are constructed, your business in lower Ohio will very soon cease. That is all I wish to say about it.

Mr. MORRILL obtained the floor.

Mr. COWAN. If the Senator from Maine will allow me one moment, I desire to present a remonstrance and affidavits that I have received on this subject, in order that they may be printed for the use of the Senate. They are the testimony of men experienced upon this river as pilots, and will, I have no doubt, be interesting to a great many gentlemen who will not have an opportunity otherwise of knowing the facts they contain. They were too long to read. I hope the Senate will make that order.

The PRESIDING OFFICER. That order will be entered, if there be no objection.

Mr. MORRILL. Although this question by the title of the bill would seem to be of a general character, I am constrained to believe from examination of it somewhat, and particularly from the discussion between the two honorable Senators, that there are local considerations which lend it an interest here; and yet there is a general principle which addresses itself to the Senate so far as to authorize me, I think, to say a word or two in regard to it.

This conflict, it is very apparent, springs up between two interests, one which relates to the river, the great natural and common highway, and the other, which has reference to the local or artificial highway, designed to be constructed in connection with it, and somewhat in conflict with it. In all these questions, the great and perplexing difficulty is the question of fact, which always arises in this class of cases. I maintain that the right of the common highway, the right which pertains to the great water-courses of the country, is always superior. It is the natural highway; it is the perpetual highway; it is the common highway for the country, and in its general features and general characteristics, it is superior to the artificial. It is for all time; it is for all people; it is common; and it has many characteristics about it that distinguish and make it, in my judgment, as a highway superior; and I will always give it in the legislation of the country that preëminence over the local and the special.

Here is an attempt to bridge this stream; and it is not only a provision to bridge this stream at a single point, but as I read the bill, it is a bill which provides for the bridging of this highway at an indefinite number of places. It authorizes every company now chartered, or which may hereafter be chartered through all time, which may be authorized to construct its road to a point on this river, to cross it, and to cross it at any of these points where it is authorized to approach it, in the particular way indicated in this bill. This feature, above all, it seems to me, renders this bill extremely important. Are we prepared in the Senate to-day to say that any number of railroad charters between the mouth and the sources of the Ohio river may cross this river in the manner indicated in this bill. Ordinarily, when a fact of this kind occurs, and is brought to the action of a legislative body, giving authority to triumph over the rights common to the river, and to hold the rights common to the river in subjection, they do to some extent—the honorable Senator from Ohio shakes his head. The fact that you apply for a charter is to put the rights of the river in subjection to the rights of the corporation to some extent. Whether you will do it or not in a given case depends upon the facts. Now, if the committee have investigated the facts, and are satisfied it is safe to cross the river at this point in the manner indicated in the bill, that is one thing; but have they examined the whole length of the river, and can they say that it is practicable, that it is consistent with the interests of the public and with the interests of those who have rights upon the river, to cross it at any other point and at all other points in the manner indicated in this bill? It seems to me that is a very grave consideration.

Mr. WADE. I will state that this one bridge will determine the whole. It is to be so high over high water and so high over low water and so wide anywhere. The river may rise more in one place than another; but the bill provides for that; so that if one bridge is safe, they all are anywhere.

Mr. MORRILL. That is an answer to some extent; but it may be proper to pass this river in this particular way at one point and it may accommodate at that particular point the travel upon the river when the same construction at another point would not accommodate it. It seems to me, therefore, this general character of the bill is objectionable; but I did not rise to argue the question or to do anything more than to suggest this difficulty.

But there is one other point I desire to suggest. It seems to me in settling this question between the general rights on the river and the special rights asked for by the railroad, this rule always ought to prevail: that the rights on the river, being, as I have assumed, the superior, always ought to be respected just so far as they can be; and if you will authorize the superficial or the local, if you authorize a railroad company to pass a river, you must require them to cross the river, in such a manner as to secure all the rights upon the river that are practicable. Now upon this point it is said that two hundred and seventy feet will be reasonable accommodation. How is that? It is quite impossible for us to judge. It is very possible the committee had such information before them as authorized them to infer that two hundred and seventy feet will give the necessary accommodation; but for myself I have this rule: I will require those who attempt thus to cross a navigable river, particularly a river of this class, to give all the facilities that are practicable.

Mr. COLLAMER. If the gentleman will indulge me one moment, from the best showing before the committee, the committee were of opinion that two hundred and seventy feet span was the most that could be made, and make a bridge at all. As to building a suspension or wire bridge, the expense would be such that no railroad could sustain it; and, therefore, as it must be a wooden bridge, that that was the utmost span with which it could be made with any safety.

Mr. MORRILL. If that were so, that would be quite conclusive for my action. I maintain that that this railroad, desiring to cross this river, should cross it in a manner to give the utmost facilities to the navigation of the river.

Mr. COLLAMER. And for a bridge?

Mr. MORRILL. And for a bridge.

Mr. COLLAMER. That is what we have gone upon.

Mr. MORRILL. I think that is the practical test. I understand the honorable Senator from Pennsylvania to say that the evidence he has adduced here shows that a much longer span is practicable. If so, I am disposed to vote for the longest span in this river that is practicable.

Mr. COLLAMER. Colonel Long, as the gentleman says, expressed the opinion to the committee that a wooden bridge with three hundred feet span could be built, not that there had ever been any built; for there has not been any. From the statement of the other engineer, the committee found that none but bridges of two hundred and fifty feet span had been built, but these people were willing to undertake to make one two hundred and seventy feet; they say they believe it can be done. The committee, putting the whole testimony together, came to the conclusion that two hundred and seventy feet was as wide a span as a wooden bridge could be built with, in safety. Colonel Long was the only person who expressed the opinion that a three hundred feet one could be built.

The PRESIDING OFFICER. The question is on the amendment proposed by the Senator from Pennsylvania to the amendment of the committee, to strike out the words "two hundred and seventy," and insert "three hundred."

Mr. FOSTER. I would suggest to the friends and the opponents, if there are opponents to the bill, whether it is advisable to press the matter to a vote now. We can foresee the result, probably.

Mr. WADE. I doubt whether there is a quorum here, and, of course, I do not want to test that so as to interrupt business.

Mr. COLLAMER. Postpone it to some day.

Mr. WADE. I move to postpone it to say Tuesday, and make it the order of the day for one o'clock on that day.

Mr. TRUMBULL. I hope it will not be made a special order. There will be no difficulty in getting it up; but if it is made a special order, it will override other business which we may then have in hand. I think there will be no difficulty in getting it up.

The PRESIDING OFFICER. Does the Senator from Ohio insist on his motion to make it a special order?

Mr. SHERMAN. I suggest to the Senator from Ohio to make it the special order for the morning hour.

Mr. WADE. I have no objection to that. I have got through arguing it. I suppose it will not take long. I move that it be made the special order for Tuesday at half past eleven o'clock.

The motion was not agreed to.

Mr. HARLAN. I move that the further consideration of this subject be postponed until to-morrow, with the view of taking up House bill No. 529.

The motion was agreed to.

IOWA LAND GRANTS.

Mr. HARLAN. This bill is a House bill which

has been referred to the Committee on Public Lands, but it has passed the Senate twice heretofore. I move that the committee be discharged from the further consideration of the subject, and that the bill be put on its passage.

The motion was agreed to; and the bill (H. R. No. 529) concerning certain lands heretofore granted to the State of Iowa was considered as in Committee of the Whole. It provides that the five sections of land granted to the State of Iowa by the third subdivision of section six of an act entitled "An act supplemental to the act for the admission of the States of Iowa and Florida into the Union," approved March 3, 1846, be released and discharged from the limitation contained in that section; and the General Assembly of the State of Iowa may make such disposition of the land as may be deemed best for the interests of the State.

The bill was reported to the Senate, ordered to a third reading, read the third time, and passed.

EDUCATION OF COLORED CHILDREN.

Mr. GRIMES. I am instructed by the Committee on the District of Columbia, to whom was referred the bill (H. R. No. 543) relating to schools for the education of colored children in the cities of Washington and Georgetown, in the district of Columbia, to report it back, and recommend its passage. It is a matter of very small consequence to the Senate, but I should like to have it taken up now if there be no objection.

The motion was agreed to; and the bill was considered as in Committee of the Whole. It provides that the duties imposed on the board of trustees of the public schools in the cities of Washington and Georgetown, in the District of Columbia, by virtue of an act entitled "An act providing for the education of colored children in the cities of Washington and Georgetown, District of Columbia, and for other purposes," approved May 21, 1862, be transferred to Daniel Breed, Sayles J. Bowen, and Zenas C. Robbins, and their successors in office, who are now to be created a board of trustees of the schools for colored children in those cities, who are to possess all the powers and perform all the duties conferred upon and required of the trustees of public schools in Washington and Georgetown by the act referred to.

These trustees are to hold their offices for the respective terms of one, two, and three years, to be determined by lot, and it is to be the duty of the Secretary of the Interior, on the 1st day of July, 1863, and annually on that day thereafter, to appoint from among the residents of these cities a trustee in place of the one whose term has expired or is about to expire. And the Secretary of the Interior is also to be authorized to fill vacancies in the board of trustees whenever, from any cause, such vacancies may occur.

The bill was reported to the Senate, ordered to a third reading, read the third time, and passed.

MONEYS DUE TO KANSAS.

Mr. LANE, of Kansas, submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the President of the United States be requested to communicate to the Senate the amounts due the State of Kansas in the several Departments, with a view of applying the same upon the taxes due from said State to the General Government.

COURT OF CLAIMS—ADVERSE DECISIONS.

Mr. CLARK. The Committee on Claims to whom were referred the joint resolution (H. R. No. 90) to confirm the adverse decision of the Court of Claims in the case of Abraham King, administrator of John Mandeville; the joint resolution (H. R. No. 89) to confirm the adverse decision of the Court of Claims in the case of the executor of Lewis Warrington and others; the joint resolution (H. R. No. 87) to confirm the adverse decision of the Court of Claims in the case of Dennis Cronans; the joint resolution (H. R. No. 88) to confirm the adverse decision of the Court of Claims in the case of T. S. J. Johnson; the joint resolution (H. R. No. 91) to confirm the adverse decision of the Court of Claims in the case of Richard Ervin, trustee of the Mechanic's Bank, New York; the joint resolution (H. R. No. 92) to confirm the adverse decision of the Court of Claims in the case of C. J. Jenkins and W. W. Mann, assignees of John McKinney, report them back to the Senate, with a recommendation that they pass. These are all adverse decisions of the Court of Claims, and I desire that they may be passed upon now, and the whole batch disposed of. There will be no objection.

The joint resolutions were severally ordered to a third reading, read the third time, and passed.

ELECTION OF REPRESENTATIVES.

On motion of Mr. TRUMBULL, the bill (H. R. No. 525) in relation to the election of Representatives to Congress by single districts, was considered as in Committee of the Whole. It provides that in each State entitled in the next and any succeeding Congress to more than one Representative, the number to which such State is or may be hereafter entitled shall be elected by districts composed of contiguous territory, equal in number to the number of Representatives to which such State may be entitled in the Congress for which the election is held, no one district electing more than one Representative. The provisions of this act are not to apply to the State of California so far as it may affect the election of Representatives to the Thirty-Eighth Congress.

The Committee on the Judiciary reported the following amendment:

And provided further, That in the election of Representatives of the Thirty-Eighth Congress from the State of Illinois the additional Representative allowed to said State by an act entitled "An act fixing the number of the House of Representatives from and after the 3d of March, 1863," approved March 4, 1862, may be elected by the State at large, and the thirteen Representatives to which the State is entitled by the districts as now prescribed by law in said State, unless the Legislature of said State should otherwise provide before the time fixed by law for the election of Representatives therein.

The amendment was agreed to.

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

Mr. MORRILL. I should like to inquire of the chairman whether, by any possibility, this bill in its provisions can effect districts already made by the States.

Mr. TRUMBULL. Not in the least. It is a bill providing that each State entitled to more than one Representative in Congress shall elect its Representatives by single districts. That is the whole bill. Every State in the Union does elect by single districts now, except California. But the law which required the election by single districts was a temporary law. It applied only to one census. This bill reënacts it, and makes it a permanent law that in each State entitled to more than one Representative, the number to which the State is entitled shall be elected by districts composed of contiguous territory, no one district electing more than one Representative. That is the general feature of the bill. Then there is an exception as to California, and an exception as to Illinois, she having already made out her apportionment before the last member was added, and the exception is put in to avoid the necessity of convening her Legislature in order to redistrict the State. It having been redistricted under the late census, and we having passed a law subsequently which gave to Illinois another member, it would involve the necessity of convening the Legislature unless this proviso be adopted. That is the object of the proviso.

The amendments were ordered to engrossed, and the bill to be read a third time. It was read the third time.

Mr. HENDERSON. I desire to ask the chairman of the Committee on the Judiciary, the Senator from Illinois, what effect this bill, if passed, will have upon the Representatives sent, for instance, from the State of Tennessee. I desire to inquire whether, if Representatives were sent from the State of Tennessee to the next Congress, under the laws as they now exist, or by the general ticket system, the State not having been redistricted, those members would be entitled to their seats or not?

Mr. TRUMBULL. That would be for the House of Representatives to determine. The law requires the election by single districts, and I suppose they would be required to be elected by single districts in the State of Tennessee, the same as in other States. I do not remember now whether the new apportionment changes the number in Tennessee. If it does not, the old districts would fit.

Mr. HENDERSON. I do not remember in reference to that.

Mr. TRUMBULL. I do not recollect whether the number was added to or diminished in the State of Tennessee. The Senator from Kentucky [Mr. DAVIS] thinks it was diminished one, and if so, it would probably require new districting. The law is a general one, and requires that in all the States the Representatives shall be elected by single districts. It is what we have been practicing all over the Union. It is manifestly proper, I think, that it should be so.

Mr. CLARK. I will say to the Senator from Missouri that there is a precedent on this subject, though I think it is a very bad one. After the passage of the old law requiring members to be elected by single districts, the State of New Hampshire refused to comply with the law, and elected all her members by general ticket, and they were all admitted by the House of Representatives. I thought the precedent wrong at the time.

Mr. HENDERSON. There is a similar precedent from my own State, I think. The Legislature of Missouri refused, under the first act on that subject, to district the State. I have not had time to examine this bill, but I will state that I do not desire that any act shall be passed which will interfere with the representation of the southern States, as soon as that representation can be received in Congress. I am aware that very serious difficulties will be placed in the way of legislation in those States, in order to prepare the districts according to the apportionment for representation in the next Congress; but I do not desire to tie up our hands in the future, so that it will be required that this law shall be set aside by one of the branches of Congress in order to admit that representation. My impression is that no State elects now by general ticket.

Mr. TRUMBULL. California does, and always has.

Mr. HENDERSON. Has California never districted?

Mr. TRUMBULL. Never.

Mr. HENDERSON. There seems to be an exception made in this bill in favor of California.

Mr. TRUMBULL. For the next Congress only. It is made for the reason that California has not districted, and I understand her Legislature does not convene in time. It would require an assemblage of her Legislature, just as it would in my State, for the additional member. The last Legislature which convened in Illinois apportioned the State and laid out the districts on the apportionment of 1861; but at the present session we have passed a supplemental bill, giving the State of Illinois an additional member, making fourteen, instead of thirteen. To avoid convening the Legislature for that express purpose, this proviso was put in, the State not being in fault, she having laid out her districts on the law as it stood, and unless there should be a special session of the Legislature, our election taking place in November, we should be very much embarrassed.

Mr. HENDERSON. I really can see no very great good to result from this bill. If I understand the object of it, it is merely to require that members of Congress shall be elected by districts. There cannot be any other object. Every State in the Union has already adopted the district system, as I understand, except the single case of California, and an exception is made in this very bill in that particular case. Now, if the States have already adopted that system, had we not better refuse the passage of this bill, because nothing can be accomplished by it except to compel that which has already been adopted by the different States, and put an additional obstacle in the way of the admission of members from those States where very great difficulties will exist in the districting in order to get members here. I know very well the difficulties that will be presented in the way of getting a new district system up in those States. There are a great many difficulties in the way; and in the confused state of affairs there, if some districts can send members here, it would be infinitely better that we should admit those members. It would be extremely difficult, perhaps, in every portion of the State to get members elected, and, in fact, it might be almost impossible to convene a Legislature previous to the time of the election in order to district anew as required by this bill. Under these circumstances, as nothing is to be accomplished except that which is already accomplished, I feel inclined not to support the bill.

The PRESIDING OFFICER. The question is on the passage of the bill.

Mr. FOSTER. With the consent of the Senator from Illinois, I move that this bill be postponed for the present.

Mr. TRUMBULL. If there is opposition to it, I have no objection to that motion. If the Senator from Missouri designs calling for a division or making any particular opposition to the bill, I shall consent that it go over.

Mr. HENDERSON. I prefer that it should lie over. I have not examined the bill.

Mr. FOSTER. By unanimous consent, it may be laid aside.

The PRESIDING OFFICER. That will be done, there being no objection.

PETITIONS.

Mr. HARRIS presented a petition of importing merchants in the city of New York, praying that, in the proposed increase of the duties on imports, merchandise in bond or on shipboard on the 1st day of August next, may not be affected; which was referred to the Committee on Finance.

PENSION BILL.

Mr. FOSTER. I move to take up for consideration the bill (H. R. No. 438) to grant pensions. It was referred to the Committee on Pensions in this body, and reported back some time since with amendments. It will take some time to read the bill and go over the amendments; and I hope the Senate will be willing to go over the bill in that way, and, unless there should be objection, pass the bill. At all events, we may go over a considerable amount of detail at this time, and thus get the bill in a condition to be passed early in the week; there being, I am persuaded, no bill which will commend itself to the Senate more generally than this. It interests more persons whom we all feel interested in than any other bill before us.

The motion was agreed to; and the bill was considered as in Committee of the Whole.

The PRESIDING OFFICER, (Mr. ANTHONY in the chair.) The bill will be read.

Mr. FOSTER. I think it would be better to read the bill by sections, as there are amendments more or less important in nearly all the sections.

The PRESIDING OFFICER. The bill will be so considered. The first section will be read.

The Secretary read section one, as follows:

That if any officer, non-commissioned officer, musician, or private of the Army, including regulars, volunteers, and militia, or any officer, non-commissioned officer, musician, seaman, ordinary seaman, flotilla man, marine, clerk, landsman, pilot, or other person in the Navy or marine corps, has been, since the 4th day of March, 1861, or shall hereafter be, disabled by reason of any wound received or disease contracted while in the service of the United States, and in the line of duty, he shall, upon making due proof of the fact according to such forms and regulations as are or may be provided by or in pursuance of law, be placed upon the list of invalid pensions of the United States, and be entitled to receive, for the highest rate of disability, such pension as is hereinafter provided in such cases, and for an inferior disability an amount proportionate to the highest disability, to commence as hereinafter provided, and continue during the existence of such disability. The pension for a total disability for officers, non-commissioned officers, musicians, and privates employed in the military service of the United States, whether regulars, volunteers, or militia, and in the marine corps, shall be as follows, namely: lieutenant colonel, and all officers of a higher rank, $30 per month; major, $25 per month; captain, $20 per month; first lieutenant, $17 per month; second lieutenant, $15 per month; and non-commissioned officers, musicians, and privates, $8 per month. The pension for total disability for officers, non-commissioned officers, and others employed in the naval service of the United States, shall be as follows, namely: captain, commander, lieutenant commanding, and master commanding, $30 per month; lieutenant, chief engineer, surgeon, and passed assistant surgeon, $25 per month; professor of mathematics, assistant surgeon, chaplain, paymaster, and master, $20 per month; first assistant engineers, pilots, and assistant paymasters, $15 per month; teacher, schoolmaster, passed midshipman, midshipman, captain's and paymaster's clerk, second and third assistant engineer, master's mate, and all warrant officers, $10 per month; all other petty officers, and all other persons before named employed in the naval service, $8 per month; and all commissioned officers, of either service, shall receive such and only such pension as is herein provided for the rank in which they hold commissions.

The first amendment of the Committee on Pensions was, in line five, to strike out the word "non-commissioned," and to insert the words "warrant, or petty."

Mr. FOSTER. That is rather a verbal amendment than otherwise. The term "non-commissioned" does not apply to naval officers according to the usage of that service. What in the land service are called non-commissioned officers, in the naval service are termed warrant or petty officers. The amendment merely proposes to use the terms recognized in each service as appropriate to it. I hope there will be no objection to it.

The amendment was agreed to.

The next amendment was, in line thirty, to strike out the word "non-commissioned," and insert "warrant, or petty."

Mr. FOSTER. That is simply to correspond with what I have before suggested.

The amendment was agreed to.

The next amendment was, after line thirty-two, to insert the words "surgeon, paymaster, and chief engineer, respectively, ranking with commander by law."

Mr. FOSTER. That amendment changes slightly the position in which surgeons, paymasters, and chief engineers stand in the House bill. These officers by the House bill are all placed in one grade, and a pension granted to them corresponding to that grade. In the naval service, surgeons, paymasters, and chief engineers, after a certain period of service, rank with commanders; previous to that time they rank with lieutenants. The committee thought that these officers, when they ranked with commanders in consequence of their length of service, should be entitled to the pension of commanders. They therefore took them from the fixed position in which they were put by the House bill and divided them, putting those who by law rank with commanders in the list with commanders, and granting them a pension accordingly; when they rank with lieutenants, put them in that list, and grant a pension according to their rank by law in the service. It seemed to be just to give them corresponding pensions with officers of their rank.

The amendment was agreed to.

The next amendment was, in lines thirty-five and thirty-six, to strike out the words "chief engineer, surgeon," and to insert, "surgeon, paymaster, and chief engineer, respectively, ranking with lieutenant by law."

Mr. FOSTER. This is the same that I before suggested.

The amendment was agreed to.

The next amendment was in line thirty-nine, after the word "mathematics," to insert "master," and after the word "surgeon," to insert "assistant paymaster and."

Mr. FOSTER. These officers were omitted in the House bill, and we have placed them in the position where by law they rank.

The amendment was agreed to.

The next amendment was in line forty, to strike out the words "paymaster and master."

Mr. FOSTER. It becomes necessary to have these words stricken out, because they are inserted at an earlier stage of the section.

The PRESIDING OFFICER. Being a verbal amendment, it will be regarded as agreed to.

The next amendment was in line forty-one, after the word "engineers," to insert the word "and," and after the word "pilots" to strike out the words "and assistant paymaster;" and after the word "month," in the forty-second line, to strike out the words "teacher, schoolmaster."

Mr. FOSTER. The first portion of the amendment is necessary to make the bill correspond with itself; and striking out "teacher, schoolmaster," is necessary because those officers are now unknown in the naval service. Other officers are sometimes detailed for duties that were formerly performed by teachers and schoolmasters, but if so, they would be provided for by the bill in other portions of it.

The amendment was agreed to.

Mr. FOSTER. One other amendment should be made in that section. In the forty-sixth line, I move to strike out the word "other," the first word in the line. It now reads:

And all warrant officers, ten dollars per month; all other petty officers, and all other persons before named employed in the naval service, eight dollars per month.

It should read:

And all warrant officers, ten dollars per month; all petty officers, and all other persons before named, &c.

The PRESIDING OFFICER. That verbal amendment will be made.

The Secretary read section two, as follows:

SEC. 2. *And be it further enacted*, That if any officer or other person named in the first section of this act has died since the 4th day of March, 1861, or shall hereafter die, by reason of any wound received or disease contracted while in the service of the United States, and in the line of duty, his widow, or if there be no widow, his child or children under eighteen years of age, shall be entitled to receive the same pension as the husband or father would have been entitled to had he been totally disabled, to commence from the death of the husband or father, and to continue to the widow during her widowhood, or to the child or children until they severally attain to the age of eighteen years, and no longer.

The PRESIDING OFFICER. It is proposed to amend this section by striking out in the seventh line and in the thirteenth line, respectively, the word "eighteen," and to insert "sixteen."

Mr. FOSTER. The object of this amendment is to limit the period to which the children of those entitled to pensions should receive them to sixteen, instead of extending the period to eighteen years of age. Existing laws where pensions are granted to children, restrict them to the period of sixteen years of age. We thought that at the present time we certainly ought not to enlarge this period. The country was not in a condition to extend this bounty, and the committee thought, in order to make this bill in harmony with previous laws, it should be confined to the age of sixteen, and not extended to eighteen.

The amendment was agreed to.

The Secretary read section three, as follows:

SEC. 3. *And be it further enacted*, That where any officer or other person named in the first section of this act shall have died subsequently to the 4th day of March, 1861, or shall thereafter die, by reason of any wound received or disease contracted while in the service of the United States, and in the line of duty, and has not left or shall not leave a widow nor legitimate child, but has left or shall leave a mother who was dependent upon him for support, in whole or in part, the mother shall be entitled to receive the same pension as such officer or other person would have been entitled to had he been totally disabled; which pension shall commence from the death of the officer or other person dying as aforesaid: *Provided, however*, That if such mother shall herself be in receipt of a pension as a widow, in virtue of the provisions of the second section of this act, in that case no pension or allowance shall be granted to her on account of her son, unless she gives up the other pension or allowance: *And provided further*, That the pension given to the mother on account of her son shall terminate on her marriage: *And provided further*, That nothing herein shall be so construed as to entitle the mother of an officer or other person dying, as aforesaid, to more than one pension at the same time under the provisions of this act.

The PRESIDING OFFICER. No amendment is proposed to this section.

The Secretary read section four, as follows:

SEC. 4. *And be it further enacted*, That where any officer or other person named in the first section of this act shall have died subsequently to the 4th day of March, 1861, or shall hereafter die, by reason of any wound received or disease contracted while in the service of the United States, and in the line of duty, and has not left or shall not leave a widow, nor legitimate child, nor mother, but has left or may leave an orphan sister or sisters, under eighteen years of age, who were dependent upon him for support, in whole or in part, such sister or sisters shall be entitled to receive the same pension as such officer or other person would have been entitled to had he been totally disabled; which pension to said orphan shall commence from the death of the officer or other person dying as aforesaid, and shall continue to the said orphans until they severally arrive at the age of eighteen years, and no longer: *Provided, however*, That nothing herein shall be so construed as to entitle said orphans to more than one pension at the same time, under the provisions of this act.

The first amendment of the committee was in lines nine and sixteen, respectively, to strike out "eighteen" and insert "sixteen."

Mr. FOSTER. That amendment is on the same principle that the period was limited to sixteen years of age in children. It was extended to eighteen where sisters were concerned, and the amendment ought to be made to make the bill consistent with itself.

The amendment was agreed to.

The next amendment was to insert at the end of the section the following:

And provided further, That no moneys shall be paid to the widow, or children, or any heirs of any deceased soldier on account of bounty, back pay, or pension, who have in any way been engaged in or who have aided or abetted the existing rebellion in the United States; but the right of such disloyal widow or children, heir or heirs of such soldier, shall be vested in the loyal heir or heirs of the deceased, if any there be.

Mr. FOSTER. It is presumable that no person can be opposed to that proviso. It simply provides that no persons who are disloyal shall receive the bounty of the Government.

The amendment was agreed to.

The fifth section was read, as follows:

SEC. 5. *And be it further enacted*, That the widow of any volunteer who shall hereafter be killed, or die of wounds received or disease contracted while in the military service of the United States during the present rebellion, and before receiving the bounty herein provided for, and if no widow, the minor child or children, if any there be, and if no minor child or children, then the mother, and if no

mother, then the father, of such deceased soldier, shall receive in addition to all arrears of pay and allowances, the bounty of $100, authorized by the sixth section of an act entitled "An act to authorize the employment of volunteers to aid in enforcing the laws and protecting public property," approved July 22, 1861, and such bounty shall, in the order above named, be paid to such heirs only of said deceased. And no moneys shall be paid to such or to any heirs of any deceased soldier on account of bounty, back pay, or pension, who have in any way been engaged in or who have aided or abetted the existing rebellion in the United States; but the right of such disloyal heir or heirs of such soldier shall be vested in the loyal heir or heirs of the deceased, if any there be, in the order above named.

The PRESIDING OFFICER. The committee propose to strike out this section.

Mr. FOSTER. The committee were disposed to strike out that section, because it is connected mainly with the construction of the sixth section of the act of 22d of July last, in relation to which a bill was brought before the Senate this morning by the honorable Senator from Ohio, [Mr. SHERMAN,] and passed, providing for the mode in which that bounty should be distributed among the heirs of those entitled to it. This section would be in conflict with that, and the committee had previously thought it advisable that this bill should be confined to pensions and not apply to the construction of the law giving bounty, and they therefore recommended that the section be stricken out.

The motion to strike out the section was agreed to.

The Secretary read section six, as follows:

SEC. 6. *And be it further enacted*, That pensions which may be granted, in pursuance of the provisions of this act, to persons who may have been, or shall be, employed in the military or naval service of the United States, shall commence on the day of the discharge of such persons in all cases in which the application for such pensions is filed within one year after the date of said discharge; and in cases in which the application is not filed during said year, pensions granted to persons employed as aforesaid shall commence on the day of the filing of the application.

The PRESIDING OFFICER. No amendment is proposed to this section.

The Secretary read section seven, which the committee proposed to strike out, as follows:

SEC. 7. *And be it further enacted*, That the fees of agents and attorneys for making out and causing to be executed the papers necessary to establish a claim for a pension, bounty, and other allowance, before the Pension Office under this act, shall not exceed the following rates: for making out and causing to be duly executed a declaration by the applicant, with the necessary affidavits, and forwarding the same to the Pension Office, with the requisite correspondence, five dollars. In cases wherein additional testimony is required by the Commissioner of Pensions, for each affidavit so required and executed and forwarded, (except the affidavits of surgeons, for which such agents and attorneys shall not be entitled to any fees,) $1 50.

Mr. FOSTER. The object of that section is certainly a very laudable and most desirable one; and that is to prevent extortionate charges on the part of those who may perform the clerical duty and the attorney's duty of making application at the Department for pensions under the act. There have been, no doubt, a great many cases of gross imposition practiced by agents upon persons thus applying; and if we could remedy it by law it would be our duty as well, I am sure, as our pleasure to do it. The committee, however, thought it would be impracticable to remedy the evil in this manner. In the first place, there is a difficulty which we felt in establishing a tariff of fees for services of this sort, either professional or otherwise, as between party and party. It is taking, to some extent, the overseership of individuals, and seems to imply that they are not competent to take care of themselves, and make their own contracts. That is an assumption which Congress should be slow to take upon itself in regard to the citizens of the country.

Again, fixing as this section does, a maximum sum, it of course fixes a sum less than which will not be charged in any case, even although it might be too high. It would, therefore, if carried out, do injustice in cases where the charge was too much, and the committee are not prepared to say but that under some circumstances it would be too little. Indeed, everybody must see, that to fix a precise sum which shall do anything like exact justice in all cases is out of the question, for the amount of service to be rendered must vary with each case, and to fix a given price is arbitrary, and must be unjust. We did not believe that we should really promote public justice by fixing a given rate, but thought it better to leave it to parties to make their own contracts. If, after all that has been said, people will not be on their guard and employ proper persons at proper rates, the fault is not in Congress. The cases must be very few where persons entitled to pensions under this act will not know that if they employ strangers, persons unknown to them, they will be in danger of being fleeced out of their hard earnings. They will have an opportunity to employ persons whom they do know, and who will charge reasonable fees if they charge anything for their services. We thought it better, therefore, to make no provision in the bill on this point, and to recommend that the section be stricken out.

The motion to strike out was agreed to.

The Secretary read the eighth section, which the committee proposed to strike out, as follows:

SEC. 8. *And be it further enacted*, That any agent or attorney who shall, directly or indirectly, demand or receive any greater compensation for his services under this act than is prescribed in the preceding section of this act, or who shall contract or agree to prosecute any claim for a pension, bounty, or other allowance under this act, on the condition that he shall receive a per cent. upon, or any portion of the amount of such claim, or who shall wrongfully withhold from a pensioner or other claimant the whole or any part of the pension or claim allowed and due to such pensioner or claimant, shall be deemed guilty of a high misdemeanor, and upon conviction thereof shall, for every such offense, be fined not exceeding $300, or imprisoned at hard labor not exceeding two years, or both, according to the circumstances and aggravations of the offense.

Mr. FOSTER. A portion of the section, of course, must be stricken out, in order to make the bill in harmony; but a portion of the section, I think, notwithstanding the committee propose to strike out the whole, had better stand. I think that part of the section which makes it penal for an agent wrongfully to withhold from a pensioner or other claimant the whole or any part of the pension or claim allowed and due to such pensioner or claimant, should stand; for it is certainly possible that there may be cases where the agent will receive the money; and if he is a totally irresponsible person, if he fails to pay it over, it will be lost to those entitled to it, and there will be nothing left but the ordinary action to recover money received to the use of the party, which, if the agent were dishonest and worthless, he would laugh at. I think, therefore, there ought to be a provision making the withholding of the money under such circumstances a misdemeanor, and punishable. I propose, then, instead of striking out the whole section, to strike out all after the word "shall," in the second line, down to and including the word "shall," in the eighth line; so that the section will then read, "that any agent or attorney who shall wrongfully withhold from a pensioner or other claimant," &c.

The PRESIDING OFFICER. The question is on the amendment now proposed by the Senator from Connecticut to the section.

The amendment was agreed to.

The PRESIDING OFFICER. The question now recurs on striking out the section, as amended.

Mr. FOSTER. It should not now be struck out.

The motion was not agreed to.

The Secretary read the ninth section, as follows:

SEC. 9. *And be it further enacted*, That the Commissioner of Pensions be, and he is hereby, empowered to appoint, at his discretion, civil surgeons to make the biennial examinations of pensioners which are or may be required to be made by law, and to examine applicants for invalid pensions, where he shall deem an examination by a surgeon to be appointed by him necessary; and the fees for each of such examinations, and the requisite certificate thereof, shall be $1 50, which fees shall be paid to the surgeon by the person examined, for which he shall take a receipt, and forward the same to the Pension Office; and upon the allowance of the claim of the person examined, the Commissioner of Pensions shall furnish to such person an order on the pension agent of his State for the amount of the surgeon's fees: *Provided, however*, That all examinations of applicants for pensions, and of pensioners of whom medical examinations are necessary or required by law, shall be made by a surgeon of the Army or Navy, if one is stationed or resides within ten miles of such applicant or pensioner.

The committee proposed to amend the section by striking out the proviso in these words:

Provided however, That all examinations of applicants for pensions, and of pensioners of whom medical examinations are necessary or required by law, shall be made by a surgeon of the Army or Navy, if one is stationed or resides within ten miles of such applicant or pensioner.

Mr. FOSTER. The committee thought it impolitic to insist upon that proviso, which would make it the duty of an Army or Navy surgeon, if he resided within ten miles of the place, to attend to this examination, perhaps to the exclusion or neglect of other more pressing and more important duties; and under these circumstances, although no doubt the surgeons of the Army and the Navy would be applied to and would perform the duty in all cases where they were accessible, and where they could properly do it, the committee thought it would be injurious to insist in all cases on their doing it, if they chanced to be within ten miles of the place, and therefore recommended the striking out of the proviso.

The motion to strike out was agreed to.

The Secretary read section ten, as follows:

SEC. 10. *And be it further enacted*, That the Commissioner of Pensions, on application made to him in person or by letter by any claimants or applicants for pension, bounty, or other allowance required by law to be adjusted and paid by the Pension Office, shall furnish such claimants, free of all expense to them, all such printed instructions and forms as may be necessary in establishing and obtaining said claim; and in case such claim is prosecuted by an agent or attorney of such claimant or applicant, on the issue of a certificate of pension or the granting of a bounty or allowance, the Commissioner of Pensions shall forthwith notify the applicant or claimant that such certificate has been issued or allowance made, and the amount thereof.

The PRESIDING OFFICER. No amendment is proposed to this section. The committee propose at this point to insert two new sections, which will be read.

The Secretary read, as follows:

SEC. —. *And be it further enacted*, That the pilots, engineers, sailors, and crews upon the gunboats and war vessels of the United States, who have been regularly mustered into the service of the United States, shall be entitled to the same bounty allowed to persons of corresponding rank in the naval service, provided they continue in service to the close of the present war; and all persons serving as aforesaid, who have been or may be wounded or incapacitated for service, shall be entitled to receive for such disability the pension allowed by the provisions of this act, to those of like rank, and each and every such person shall receive pay according to corresponding rank in the naval service: *Provided*, That no person receiving pension or bounty under the provisions of this act shall receive either pension or bounty for any other service in the present war.

SEC. —. *And be it further enacted*, That the widows and heirs of all persons described in the last preceding section who have been and may be employed as aforesaid, or who have been or may be killed in battle, or of those who have died or shall die of wounds received while so employed, shall be paid the bounty and pension allowed by the provisions of this act, according to rank, as provided in the last preceding section.

Mr. FOSTER. These two sections comprise the substance of a House bill which was passed and sent to us, and we thought that instead of being in a separate bill it had better be attached to this bill by way of amendment.

The amendment was agreed to.

The Secretary read the eleventh section of the bill, which the committee propose to strike out, as follows:

SEC. 11. *And be it further enacted*, That hereafter all claims for pensions, bounties, and other allowances in the Army and Navy of the United States, other than arrears of regular pay, shall be filed and adjudicated in the Pension Office in the same manner as invalid pensions are adjudicated therein, and none of said claims, except those for arrears of regular pay, shall be adjudicated by the Second Auditor of the Treasury Department.

Mr. FOSTER. This section proposes to make a change in the office where this business is done, and it would induce a considerable amount of difficulty and confusion, and besides, as there are already a large number of claims filed in the office which is here proposed to be changed, it would make it necessary for all those persons, now amounting to some thousands, to file new applications in the new office which this bill would make the proper one for receiving them. The committee did not think it advisable under these circumstances, and, indeed, for other reasons, to make any change, but to leave the law on that subject as it is.

The amendment was agreed to.

The Secretary read the twelfth section, which the committee propose to strike out, as follows:

SEC. 12. *And be it further enacted*, That so much of the sixth section of said act of July 22, 1861, and all other laws, as may be inconsistant with the provisions of this act, shall be, and they are hereby, repealed.

The amendment was agreed to.

The thirteenth section was read, as follows:

SEC. 13. *And be it further enacted*, That the Commissioner of Pensions be, and he is hereby authorized, to appoint a special agent for the Pension Office, to assist in the detection of frauds against the pension laws, to cause persons committing such frauds to be prosecuted, and to discharge such other duties as said Commissioner may require him to perform; which said agent shall receive for his services an annual salary of $1,200, and his actual traveling expenses incurred in the discharge of his duties shall be paid by the Government.

The committee propose to amend the section by striking out in lines one and two "Commissioner of Pensions," and inserting "Secretary of the In-

terior;" and by substituting "Secretary" for "Commissioner," in line six.

Mr. FOSTER. The reason for making this change is the clause of the Constitution which gives the President the power to appoint all officers by and with the advice and consent of the Senate, except inferior officers, in regard to which it is expressly provided that Congress may confer the power upon some head of Department; but there is no power given to Congress to enable a subordinate to a head of Department to appoint an officer. For this reason we propose to change the appointing power from the Commissioner of Pensions, who is a subordinate officer in the Department of the Interior, to the Secretary of the Interior, who is the head of the Department, and to whom we can by law, under the Constitution, give authority to make the appointment.

The amendment was agreed to.

The committee proposed to add to the bill the following as an additional section:

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

The amendment was agreed to.

The bill was reported to the Senate; and the amendments were concurred in.

Mr. TRUMBULL. This bill is somewhat important. I do not know that I have any objection to it; but the Senate is very thin, and I think it is in a very good stage now. We can take a vote on it in a moment when the Senate shall be fuller, and it seems to me it is improper that we should pass bills of importance with so thin a Senate. I move that the Senate adjourn.

Mr. FOSTER. Will the Senator from Illinois permit me to move that this bill be printed, as amended, so that if any questions should be asked in regard to it we may be able to answer them?

Mr. TRUMBULL. I withdraw the motion for that purpose.

The motion to print was agreed to.

REPORTS FROM COMMITTEE.

Mr. FOSTER. The Committee on Pensions, to whom was referred the bill (H. R. No. 429) granting a pension to Herman J. Ehle, have instructed me to make an adverse report. I will say one word in regard to the report. The petitioner is an old man who served in the last war with Great Britain as a lieutenant in a company of cavalry. His period of service was very short, extending only from the 7th of September, 1814, to the 20th of September, 1814, when he was taken sick and went home. His claim is that his disease, which has continued upon him more or less from that time, was occasioned by his exposure to wet and cold at Sackett's Harbor, where he was stationed during this time. The petitioner is, I believe, a very meritorious man, he is a poor man, and an old man, and he writes very pitcous letters to the committee; and I felt, and the other members of the committee did, that it was a very ungracious thing to refuse granting the prayer of the petitioner, and passing the bill, after it had been passed by the House of Representatives. Still the committee did not feel that at this period of our country's history we could with propriety pay a bounty to a meritorious man for service in any war in which this country had previously been engaged, where it was not already provided for by law. The act of 1816 granted pensions to men who served in the war, and would grant a pension to this petitioner if his case came within the provisions of the act; but the Commissioner of Pensions has adjudged against him, and that is the reason of his coming to Congress. I confess it is somewhat a hard case, but the committee thought we ought not and could not pass it.

The same committee, to whom was referred the bill (H. R. No. 431) for the relief of Zina Williams, which is almost identical with the case of Mr. Ehle, came to the same result, and for the same reason, recommending that the bill do not pass.

The same committee, to whom was referred Senate joint resolution No. 58, to regulate the compensation of agents for paying pensions, have instructed me to report it back without amendment, and recommend its passage.

ANDREW TEN BROECK.

Mr. CLARK. I desire, at the request of the Senator from Indiana, to enter a motion to reconsider the vote by which the Senate rejected the bill for the relief of Andrew Ten Broeck. I have not changed my opinion in regard to the measure, but I am desired to enter the motion to reconsider, which I do.

Mr. TRUMBULL. I renew my motion that the Senate adjourn.

The motion was agreed to; and the Senate adjourned.

HOUSE OF REPRESENTATIVES.

SATURDAY, *July* 5, 1862.

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

The Journal of Thursday last was read and approved.

The SPEAKER stated the business in order to be the unfinished report of the Committee of Ways and Means on the Senate amendments to the civil appropriation bill.

LAND CLAIM IN IOWA.

Mr. WILSON. I ask the unanimous consent of the House to have taken from the Speaker's table, and referred to the Committee on Public Lands, Senate bill No. 119, confirming a land claim in the State of Iowa, and for other purposes.

There being no objection, it was so ordered.

BUSINESS ON SPEAKER'S TABLE.

Mr. PHELPS, of Missouri. I suggest that we take up all the bills on the Speaker's table, and let them be referred.

Mr. WASHBURNE. I object to that.

GENERAL HUNTER'S LETTER.

Mr. WICKLIFFE. I rise to a question of order. I have a privileged motion pending which I call up this morning. That is the motion to reconsider the vote of the House ordering a certain report to be printed.

The SPEAKER. The gentleman cannot interrupt pending business to call up a motion to reconsider.

Mr. WICKLIFFE. There is no pending business.

The SPEAKER. The Chair will decide that. The business at the last adjournment was an unfinished report from the Committee of Ways and Means, which comes up after the reading of the Journal, and is now before the House for its action.

ENROLLED BILLS.

Mr. GRANGER, from the Committee on Enrolled Bills, reported as truly enrolled bills of the following titles; when the Speaker signed the same:

An act (H. R. No. 260) making appropriations for the current and contingent expenses of the Indian department, and for fulfilling treaty stipulations with various Indian tribes for the year ending June 30, 1863;

An act (H. R. No. 450) making appropriations for the support of the Army for the year ending the 30th of June, 1863, and additional appropriations for the year ending 30th of June, 1862, and for other purposes;

Joint resolution (H. R. No. 83) relative to a certain grant of land for railroad purposes, made to the State of Michigan in 1856; and

An act (H. R. No. 297) for the relief of J. W. Nye.

CIVIL APPROPRIATION BILL.

The SPEAKER stated the business in order to be the unfinished report of the Committee of Ways and Means on the Senate amendments to the civil appropriation bill, on which the gentleman from Pennsylvania [Mr. STEVENS] had demanded the previous question.

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

Second amendment:

For the purpose of enabling the Commissioner of Public Buildings and Grounds to remove the Army bakery from the basement floor of the Capitol, and to repair the damages caused by said bakery, the sum of $8,000, or so much thereof as may be necessary.

Mr. WICKLIFFE. Were not the yeas and nays ordered on that amendment?

The SPEAKER. The Chair thinks not.

Mr. PHELPS, of Missouri. Let the amendment be non-concurred in, and let it go to a committee of conference.

Mr. STEVENS. I think we had better have tellers at once.

Tellers were ordered; and Messrs. GURLEY, and MORRILL of Vermont, were appointed.

Mr. MORRILL, of Vermont. As far as I am concerned, I have no objection to have the amendment non-concurred in, for I presume there is no quorum present.

The question was taken; and the amendment was non-concurred in.

Third amendment:

Add as follows:

For constructing burglar-proof vaults for the Assistant Treasurer at New York, and fire-proof file cases for the collector at New York, and for the incidental expenses of a change of location of these offices, $100,000.

The committee recommended concurrence in the amendment.

The amendment was concurred in.

Fourth amendment:

Insert as follows:

For annual repairs to custom-houses, including a new roof for the Milwaukee custom-house, and repairing the damage by fire, $10,000.

The committee recommended concurrence.

The amendment was concurred in.

Fifth amendment:

Insert as follows:

For repairing the Government warehouses, wharves, and fences at Staten Island, $15,000.

The committee recommended concurrence.

The amendment was concurred in.

Sixth amendment:

Insert as follows:

For salary of commissioner and consul general to the republic of Hayti, $7,500.

The Committee of Ways and Means recommended concurrence in the amendment.

The amendment was concurred in.

Seventh amendment:

Insert as follows:

For salary of commissioner and consul general to the republic of Liberia, $4,000.

The Committee of Ways and Means recommended concurrence in the amendment.

The amendment was concurred in.

Eighth amendment:

Insert as follows:

For compensation of four additional draw-keepers for the two draws at Potomac bridge $3,066.

The Committee of Ways and Means recommended concurrence in the amendment, with the following amendment:

Add at the end of the amendment, as follows:

SEC. —. *And be it further enacted*, That the compensation of the Treasurer of the United States shall be the same as that of the Assistant Treasurer at New York, said salary to commence with and be paid for the last fiscal year.

The amendment to the amendment was agreed to.

The amendment of the Senate as amended was concurred in.

Ninth amendment:

Page 1, after line sixteen, insert as follows:

And the act incorporating the Washington Gas Light Company is hereby so amended as to prohibit the said company from receiving, after the 1st day of July, 1862, more than twenty-five cents per hundred cubic feet of gas furnished by it to the Government, and twenty-eight cents to other customers, subject to a discount of not less than ten per cent. on all bills for gas, if paid at the office of said company within five days from the rendition thereof: *Provided*, All arrears shall have been previously paid.

The Committee of Ways and Means recommended non-concurrence.

Mr. MALLORY. I should like to know what has become of the amendment making an appropriation to pay two additional draw-keepers for the Long Bridge?

The SPEAKER. It was concurred in.

Mr. MALLORY. I desire, with the consent of the House, to ask the chairman of the Committee of Ways and Means why those additional draw-keepers are needed.

Mr. STEVENS. They are obliged now to attend the draws day and night, and there have therefore been appointed two additional draw-keepers.

Mr. MALLORY. How many are there now?

Mr. STEVENS. Eight, I think.

Mr. MALLORY. Eight in addition to these two?

Mr. STEVENS. No, sir; including them.

Mr. CALVERT. I would like to ask the chairman of the Committee of Ways and Means why that committee recommend non-concurrence in the amendment in regard to the Washington Gas Light Company.

Mr. STEVENS. I will say that I do not

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think this is the proper place to alter the charter of a company. The committee thought at any rate that the rate fixed in the amendment of the Senate was too low; and if there is to be another company incorporated, it had better be done by a separate bill.

The ninth amendment was non-concurred in.

Tenth amendment:

Strike out all after line nineteen, page 1, to the end of the bill, as follows:

For compensation to Henry K. Brown, James R. Lambdin, and John F. Kensett, for thirteen months' service, as art commissioners, appointed by the President of the United States, under acts of Congress, of June 12, 1858, and March 3, 1859, $9,000.

The committee recommended non-concurrence in the amendment.

The amendment was non-concurred in.

Eleventh amendment:

Page 2, after line five, insert:

To pay the amount due under and by virtue of the act entitled "An act to facilitate communication between the Atlantic and Pacific States, by electric telegraph," for the period embraced between November 1, 1861, and June 30, 1862, $26,630 40.

The Committee of Ways and Means recommended concurrence in the amendment.

The amendment was concurred in.

Twelfth amendment:

Insert as follows:

To supply deficiency in the appropriation for incidental and contingent expenses, including wastage, at the Mint of the United States at Philadelphia, $23,643 84.

The Committee of Ways and Means recommended concurrence in the amendment.

The amendment was concurred in.

Thirteenth amendment:

Insert as follows:

For additional expenses in transportation of bullion and coin between the assay office and the Mint for the year 1861, $21,000.

The Committee of Ways and Means recommended concurrence in the amendment.

The amendment was concurred in.

Fourteenth amendment:

Insert as follows:

For compensation of Assistant Secretary of the Interior from the 14th of March to the 30th of June, 1862, $875.

The Committee of Ways and Means recommended concurrence in the amendment.

The amendment was concurred in.

Fifteenth amendment:

Insert as follows:

For compensation to Assistant Secretary of the Interior during the fiscal year ending June 30, 1863, $3,000.

The Committee of Ways and Means recommended concurrence in the amendment.

The amendment was concurred in.

Sixteenth amendment:

Insert as follows:

For compensation of four additional draw-keepers for the two draws on the Potomac bridge, from the dates of their several appointments to the 30th of June, 1862, $395 40.

The Committee of Ways and Means recommended concurrence in the amendment.

The amendment was concurred in.

Seventeenth amendment:

Insert as follows:

To supply a deficiency in the appropriation for the contingent fund of the Senate for furniture, fitting of rooms, gas fitting, repairing, painting, painting materials, and other miscellaneous items, $10,000.

The Committee of Ways and Means recommended concurrence in the amendment.

The amendment was concurred in.

Mr. MORRILL, of Vermont, moved to reconsider the several votes of the House relative to the amendments of the Senate; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

GENERAL HUNTER'S LETTER.

Mr. WICKLIFFE. I call up the motion to reconsider the vote by which the communication from the Secretary of War, transmitting an answer to a resolution of this House upon the subject of the enlisting, arming, and mustering slaves into the Army of the United States was ordered to be printed.

Mr. Speaker, it is with great reluctance that I desire the attention of the House of Representatives of the United States at the present time. I do not feel in a humor this morning for indulging in some remarks which an occasion of this nature would justify. The news from our army, true or false, has depressed me.

It will be remembered that some time in the month of April, the gentleman from Ohio before me, [Mr. Cox,] introduced a resolution calling upon the Secretary of War for certain information, which resolution is in these words:

"*Resolved*, That the Secretary of War inform this House what has delayed his reply to the resolution of this House calling for information as to the age, sex, condition, &c., of the Africans employed in General Wool's department. 2. What number of slaves have been brought into this District by the Army officers or other agents of the Government, from the State of Virginia, since the enemy abandoned the possession of Manassas and their lines on the Potomac. 3. What number of fugitives from Maryland and Virginia are now in the city of Washington, their sex and probable ages. 4. What number is now at or has been sent to Frederick, Maryland. 5. How many are now fed and supported by the money of the United States appropriated by Congress to prosecute the war. 6. By what authority negroes, old and young, male and female, were sent from Virginia to Philadelphia; and at whose expense, the amount of expense, and the purposes for which they were sent. 7. If he has not the means to answer these inquiries, that he take the necessary steps to obtain the desired information."

The majority of this House refused to adopt this resolution.

The resolution of this House adopted upon my motion looked to and desired information upon a question of fact of grave and vital importance. The resolution is in these words:

"*Resolved*, That the Secretary of War be directed to inform this House if General Hunter, of the department of South Carolina, has organized a regiment of South Carolina volunteers for the defense of the Union, composed of black men, (fugitive slaves,) and appointed the colonel and other officers to command them. 2. Was he authorized by the Department to organize and muster into the Army of the United States, as soldiers, the fugitive or captured slaves? 3. Has he been furnished with clothing, uniform, for such force? 4. Has he been furnished, by order of the War Department, with arms to be placed in the hands of these slaves? 5. To report any orders given said Hunter, and correspondence between him and the Department."

It sought to ascertain if an officer of the Army (General Hunter) had been authorized to enlist, arm, and equip slaves, captured or runaway slaves, in South Carolina, and muster them into the Army of the United States.

It sought to know if this man had, upon his own responsibility or by the order or consent of the Department, without law and against law, undertaken to disgrace this nation by arming runaway slaves, to use them as soldiers of the American Army in the present war.

I have said here and everywhere, that such an act would call down the condemnation of all Christendom upon the authors and advocates of such a measure, and would furnish an excuse for the interference of all civilized Governments in this domestic contest. Such a force would stamp this war with infamy and stain with disgrace our national escutcheon. Such an arm of offense, in a war with an alien Government, resorted to by an invading army, cannot meet the approbation of any nation, of any man who is worthy of the name.

To arm the negroes of the South, while we are invading the territory with our Army to reach and overcome a rebel army, is an admission that the power of the United States, the Army and the Navy of twenty million white men, is not equal to subdue and overthrow the army of the rebellion, and therefore we will seduce the slave of the master to run away under the promise of freedom, and then force him into the Army as a soldier, armed and equipped, and ready and willing to excite the slaves of the rural districts to a servile war.

When I saw the fact announced in the Tribune that such negro force was organized by General Hunter, I was unwilling to believe it. When the Secretary of War, Mr. Cameron, withdrew from the Cabinet in obedience to public sentiment, which condemned him mainly upon the ground that he had, in a clause in his report, recommended the equipment and employment of slaves in the Army, and compelled by this weight of public sentiment he sought retirement in the climate of Russia, I did not believe that another Secretary of War, or any officer of the Army, would dare thus to outrage that sentiment. I did not believe there could be found, in either branch of Congress, a man worthy to be called by that name, who would give or sanction such authority, or advocate the employment of negroes as soldiers in this war. When I saw the fact announced in the Tribune, I felt it a duty which I owed to the Secretary of War personally, respectfully to address him, not an official, but a private note, inclosing that paper to him, hoping I might be authorized by him to say that the statement was not true. I received no answer. I addressed a second one; and I received an answer from the Assistant Secretary of War, stating that my two notes were carefully filed among the private correspondence of the Secretary of War, and would be attended to in due season.

I had obtained information which left no doubt upon my mind that General Hunter was guilty of a violation of law and of his instructions. I did not rely upon rumor, but upon information from individuals who had been at Port Royal, and had seen that of which they spoke. The statement was, that Hunter was engaged in the process of enlisting into the Federal Army those of this unfortunate race whom they found upon the plantations at Port Royal. I felt it my duty to present a respectful resolution in this House, asking the Secretary of War to give information whether such fact did exist, and, if it did exist, whether it was by authority of the Secretary of War.

The answer of the Secretary of War came, and in substance it is that he had no *official* information—I emphasize that word—of such fact, and that he had sent a copy of the resolution of the House of Representatives to the commanding general, Mr. Hunter, for his report upon it, and that when the answer came he would communicate it to the House. I moved to suspend the printing of that answer, in order to await the coming of further information.

During my absence, that additional information was presented to this House. I have read it, and others have read it, and it presents one remarkable feature which the annals of your Congress, from the days of Washington to the present time, do not present, and that is, it was returned here as an answer to Mr. WICKLIFFE's resolution, instead of being returned as an answer to the resolution of the House of Representatives.

I mention this fact, not because it is a matter personal to myself; not that I care a straw in reference to the opinion of Mr. Hunter in relation to my course, or of the judgment and opinion of the Secretary of War; but to say that the resolution, when passed, was no longer my resolution, but the resolution of the House, and that the answer ought to have been decent, and respectfully addressed to the House of Representatives. There seems to be a proclivity in the action of public functionaries, in the present circumstances which surround us, to disregard not only the higher obligations imposed upon us by the Constitution, but to contemn the precedent of our fathers. The object must have been in this case to direct the public attention from the main question involved in this resolution to the humble individual who originated it. My name is heralded before Congress and the world by the report of this commander of the department in South Carolina, in language and manner and terms unbecoming a gentleman or a public officer. It is in the following words:

WAR DEPARTMENT, WASHINGTON, *July* 2, 1862.

SIR: On reference to the answer of this department of the 14th ultimo, to the resolution of the House of Representatives of the 9th of last month, calling for information respecting the organization by General Hunter, of the department of South Carolina, of a regiment of volunteers for the defense of the Union, composed of black men, fugitive slaves, &c., it will be seen that the resolution had been referred to that officer with instructions to make an immediate report thereon. I have now the honor to transmit herewith the copy of a communication just received from General Hun-

ter, furnishing information as to his action touching the various matters indicated in the resolution.

I have the honor to be, very respectfully, your obedient servant, EDWIN M. STANTON,
Secretary of War.

Hon. G. A. GROW, *Speaker of the House of Representatives.*

HEADQUARTERS DEPARTMENT OF THE SOUTH,
PORT ROYAL, SOUTH CAROLINA, *June* 23, 1862.

SIR: I have the honor to acknowledge the receipt of a communication from the Adjutant General of the Army, dated June 13, 1862, requesting me to furnish you with the information necessary to answer certain resolutions introduced in the House of Representatives, June 9, 1862, on motion of Hon. Mr. WICKLIFFE, of Kentucky, their substance being to inquire—

1. Whether I had organized or was organizing a regiment of "fugitive slaves" in this department?

2. Whether any authority had been given to me from the War Department for such organization? and

3. Whether I had been furnished by order of the War Department with clothing, uniforms, arms, equipments, &c., for such a force?

Only having received the letter covering these inquiries at a late hour on Saturday night, I urge forward my answer in time for the steamer sailing to-day (Monday)—this haste preventing me from entering as minutely as I could wish upon many points of detail, such as the paramount importance of the subject calls for. But, in view of the near termination of the present session of Congress, and the wide-spread interest which must have been awakened by Mr. WICKLIFFE's resolutions, I prefer sending even this imperfect answer to waiting the period necessary for the collection of fuller and more comprehensive data.

To the first question, therefore, I reply that no regiment of "fugitive slaves" has been or is being organized in this department. There is, however, a fine regiment of persons whose late masters are "fugitive rebels," men who everywhere fly before the appearance of the national flag, leaving their servants behind them to shift as best they can for themselves. So far, indeed, are the loyal persons composing this regiment from seeking to avoid the presence of their late owners, that they are now, one and all, working with remarkable industry to place themselves in a position to go in full and effective pursuit of their fugacious and traitorous proprietors.

To the second question I have the honor to answer that the instructions given to Brigadier General T. W. Sherman, by Hon. Simon Cameron, late Secretary of War, and turned over to me by succession for my guidance, do distinctly authorize me to employ all loyal persons offering their services in defense of the Union and for the suppression of this rebellion in any manner I might see fit, or that the circumstances might call for. There is no restriction as to the character or color of the persons to be employed, or the nature of the employment, whether civil or military, in which their services should be used. I conclude, therefore, that I have been authorized to enlist "fugitive slaves" as soldiers, could any such be found in this department. No such characters, however, have yet appeared within view of our most advanced pickets; the loyal slaves everywhere remaining on their plantations to welcome us, aid us, and supply us with food, labor, and information. It is the masters who have in every instance been the "fugitives," running away from loyal slaves as well as loyal soldiers, and whom we have only partially been able to see—chiefly their heads over ramparts, or, rifle in hand, dodging behind trees – in the extreme distance. In the absence of any "fugitive master law," the deserted slaves would be wholly without remedy, had not the crime of treason given them the right to pursue, capture, and bring back those persons of whose protection they had been thus suddenly bereft.

To the third interrogatory it is my painful duty to reply that I never have received any specific authority for issues of clothing, uniforms, arms, equipments, &c , to the troops in question—my general instructions from Mr. Cameron to employ them in any manner I might find necessary, and the military exigencies of the department and the country being my only, but, in my judgment, sufficient justification. Neither have I had any specific authority for supplying these persons with shovels, spades, and pickaxes when employing them as laborers, nor with boats and oars when using them as lightermen; but these are not points included in Mr. WICKLIFFE's resolution. To me it seemed that liberty to employ men in any particular capacity implied with it liberty also to supply them with the necessary tools; and acting upon this faith I have clothed, equipped, and armed the only loyal regiment yet raised in South Carolina.

I must say, in vindication of my own conduct, that had it not been for the many other diversified and imperative claims on my time a much more satisfactory result might have been hoped for; and that in place of only one, as at present, at least five or six well-drilled, brave, and thoroughly acclimated regiments should by this time have been added to the loyal forces of the Union.

The experiment of arming the blacks, so far as I have made it, has been a complete and even marvelous success. They are sober, docile, attentive, and enthusiastic, displaying great natural capacities for acquiring the duties of the soldier. They are eager beyond all things to take the field and be led into action; and it is the unanimous opinion of the officers who have had charge of them, that in the peculiarities of this climate and country they will prove invaluable auxiliaries, fully equal to the similar regiments so long and successfully used by the British authorities in the West India Islands.

In conclusion, I would say it is my hope—there appearing no possibility of other reinforcements owing to the exigencies of the campaign in the peninsula—to have organized by the end of next fall, and to be able to present to the Government, from forty-eight to fifty thousand of these hardy and devoted soldiers.

Trusting that this letter may form part of your answer to Mr. WICKLIFFE's resolutions, I have the honor to be, most respectfully, your obedient servant, D. HUNTER,
Major General Commanding.

Hon. EDWIN M. STANTON,
Secretary of War, Washington.

But I throw him overboard, and hold the Secretary of War responsible for this breach of ordinary courtesy between the head of a Department of the Government and this House. He has indorsed it, and it is now for the House to say whether we have arrived at a time in the history of legislation for the last twelve or eighteen months, under the influence of circumstances which brought us together, when the House of Representatives is willing to accept a deliberate insult in response to a respectful and legitimate call.

I desired not to have the necessity imposed upon me to make this call. My acquaintance and personal relations with the Secretary of War were such that I felt it my duty not to act upon rumor, and especially upon anything I saw in the columns of the Tribune which would imply his sanction of such a movement, and therefore I desired to have formal information in relation to the fact whether they were true or false. It turns out to be true that the process of organizing the slaves of this country as soldiers of the American Army has been resorted to. These slaves were found upon the plantations of their masters, the owners having fled, dreading, perhaps, the power of the Army or personal violence. I pass over the question of the right of capture. I do not condemn their use as laborers in the Army in any way when such labor was useful.

This is not the only objection to the negro military force. I do not know whom to blame, or whom to hold to account. I see one branch of the Government, headed by the Secretary of the Treasury, engaged in large, I was about to say extensive, I will certainly say expensive, farming in that country. I say he is there engaged, or pretends to be engaged, in raising cotton with about nine thousand slaves, old, young, and decrepid. I find that he has there what is called in that country an overseer, but I think he is dignified by the name of agent of the Treasury, Mr. French. I have before me Mr. French's report, and I will dispose of the farming department before I come to the military operations of the Government or the action of the officers of the Government there. Allow me to read one section of Mr. French's report for the benefit of the country people, as John Randolph used to say, because I want the country to understand these operations; they are interested in them. They have to foot the bill, and should be entitled to the profits.

My own opinion is, as Congress has established a Department of Agriculture, and if they are determined to continue the operation of growing cotton in that country, Congress had better, by some resolution, instruct the Secretary of the Treasury to hand that matter over to the bureau of farming operations; for I think, so far as I can judge, that the Secretary of the Treasury will have his hands full to guard the finances of the country, and he will not have time to attend to the business of raising, packing, and selling cotton.

Now, as to Mr. French; he gives a long and interesting detail of his operations there, and the difficulties he encountered. He said he made one discovery, and that was that it made no difference whether the superintendent and the men who had charge of the business knew anything about the growing of cotton or not, for he found the negroes understood it much better, they said, than their masters understood it. Having divided off the slaves and allotted them to certain plantations, he speaks of the planting season coming upon him, of the difficulties he encountered, and then he comes to his great master and head of farming operations here, with his complaint. He is not the first man who has complained of the improper interference of the military power with the civil authority. He says:

"The order of Major General Hunter compelling the able-bodied men to go to Hilton Head on May 12, where a proportion of them still remain against their will, produced apprehension among these people as to our intentions in relation to them, and disturbed the work on the plantations, the force of which has been greatly reduced, leaving the women and children over twelve years of age as the main reliance on many plantations. The special agent entered a protest against the order and its harsh execution, and the retention of any not disposed to enlist; but the civil being subordinate to military power, no further action could be taken.

"The cases of discipline for idleness have been very few, and cannot have exceeded, if they have equaled, forty on the islands. These have been reported to the military authorities and been acted upon by them.

"It is not pretended that many of these laborers could not have done more than they have done, or that in persistent application they are the equals of races living in colder and more bracing latitudes. They generally went to their work quite early in the morning and returned at noon, often earlier, working, however, industriously while they were in the field. Late in the afternoon they worked upon their private patches. They protested against working on Saturdays. A contrary rule was, however, prescribed and enforced, and they did double work on Saturday in order to secure for themselves the day following. As they were making themselves self-supporting by the amount of work which could be obtained from them without discipline, it was thought advisable, under the present condition of things, not to exact more, but to await the full effect of moral and material inspirations, which can in time be applied."

Ah! these are the very negroes who, Hunter says, were so anxious to get at their masters that he could scarcely restrain them.

I read this for the purpose of showing that this man Hunter does not speak too truly when he says *these men entered* the service with *alacrity* and with an anxious desire to be led in pursuit of their "fugacious masters." When he said that, he did not obey one of the chief of the commandments, "Thou shalt not bear false witness against thy neighbor."

Now, sir, I have not done with this man's false representations to this nation and to this House upon this subject. I have not been idle in reference to his management of affairs at Port Royal; I felt a deep and solicitous desire that the Army, having struck the rebellion in its stronghold, should succeed; and while General Sherman, whom I do not know, was permitted to remain there, I had hopes of his ultimate success in striking down the rebellion in its stronghold. I do not know Mr. Sherman. I have never seen him; but I tell you what I believe—for I have it from information that I cannot doubt—that, as a soldier, he would not waste the energies of the Army or the means of the nation put under his care to feed and clothe the Army and advance the cause of the country in that section; that he would not spend his time or the means of the Government in feeding these negroes found upon their master's plantation, and for that cause he was removed, and for no other reason, so far as I have any information on the subject. Some one, in making a speech in the earlier part of the session, said that if John Brown was alive he ought to take command of the southern army, and he would soon end the war. Well, they could not get John Brown, but they got another man who promises to play out John Brown's raid. But, sir, to the point: when this man says these negroes entered into the service with alacrity, with zeal, with patriotism, and that they have improved, and are susceptible of receiving military instruction beyond his sanguine expectations; and that, if he is permitted to and has the means, he will have an army of forty or fifty thousand of them before the fall season opens. I hold in my hand a letter written by an officer of the Army—I presume a member of a Michigan regiment—that was addressed to the editor of the Detroit Free Press. I know nothing of the politics of the paper. Some one told me that it was Republican in its character.

A MEMBER. That is a mistake. It is Democratic.

Mr. WICKLIFFE. Well, so much the better. It is more likely to tell the truth. [Laughter.] Here is the letter. I will read it, or let the Clerk read it for me.

The Clerk read the letter, which is as follows:

"Since my last, matters both of a grave and comical nature have taken place in our division. Abolitionism is running rampant. In the first place, our brigade was electrified with an order that there were to be two regiments of negroes raised and armed, and our regiment was honored with an order to furnish non-commissioned officers who were willing to take the position of officers in one of the regiments. To the everlasting honor of the regiment there was but one man found who would allow himself to be used for any such purpose. After recruiting for two weeks and only getting but twenty or thirty negroes, it was found that it would not work. General Hunter then comes out with a proclamation declaring every negro in the States of South Carolina, Georgia, and Florida free, and entitled to all the rights of free men—with one stroke of his pen accomplishing that which the Government itself has no right to do under the Constitution. The next morning after the order for freeing the negro, came one from the same source, ordering every able-bodied negro within the lines of our brigade to be collected together and sent under guard to Hilton Head, to form the grand negro army. It was a military order, and had to be obeyed, and such scenes as were enacted in our midst are a disgrace to any civilized people, and far outstrip any real or fancied description of the negro traders in 'Uncle Tom.'

"What has probably taken place in individual instances under their former masters, now took place by wholesale under the present one, although the negro was free, be it remembered. As the negroes would not go willingly, patrols

were sent out through the town, and negroes were caught wherever they could be found, and taken to a place of rendezvous, in many instances being driven at the point of the bayonet, bellowing lustily, the tears streaming down their cheeks. In other cases, they were found secreted under their beds, and had to be taken out and forced from the arms of their screaming companions. The same scenes were enacted on almost every plantation on the island. Some three or four hundred being collected, they were driven on board a transport at the wharf to leave their homes, many of them, no doubt, forever, the women in many cases praying God to send them back to their old masters, as they were much less cruel than their present ones. If the negro in this country has a greater horror for one thing than another, it is a gun. You ask them if they do not want to help to put down their old masters, and they tell you, 'fore God, massa, we can't shoot—gun make we faint; can't stand 'fore white man, no how, he shoot us 'fore we see him; we brake for the swamp sure, massa.' No pen or sketch can give you a true idea of the scenes we saw, and I will not try. The artists of the New York illustrated papers were on the ground taking sketches, as also the reporters of the press generally, and every word that they may say will be true, for the scene cannot be painted up to the reality.

"Tell the friends of the Constitution in Michigan, if this war is to be turned into a crusade against any part of our country, and if we are asked or expected to stand shoulder to shoulder on an equality with the negro, as a soldier, the regiment here may be reckoned out; for every officer, from the highest to the lowest, will throw up their commissions and retire from the service. There is such a storm brewing here that I think the whole thing will be abandoned, and the negro be again used as he has been—to do the drudgery in the Army, unloading vessels, making breastworks, in short, using him anywhere to save a white man's muscle, except with a gun. Thirty thousand of them would be whipped by five hundred white men."

Mr. LOVEJOY. I ask for the name of the writer of that letter.

Mr. WICKLIFFE. I do not know his name. Perhaps General Hunter could give it to the gentleman. It is not in the paper from which that letter is taken. The letter was written to the Detroit Free Press, and it purports to come from an officer in a Michigan regiment, and I take it to be *prima facie* evidence of the fact, because the same thing has been communicated to me verbally by gentlemen.

Mr. TROWBRIDGE. The gentleman from Kentucky stated that he did not know what were the politics of the Detroit Free Press. I desire simply to inform him.

Mr. WICKLIFFE. I reckon it was opposed to you. I know nothing about its politics, and I do not care.

Mr. TROWBRIDGE. In the exposé of the designs of the "order of the Knights of the Golden Circle," which was published in Kentucky last winter, and has been furnished me by a member of the delegation from that State, the Detroit Free Press is put down as one of the northern papers upon which they relied.

Mr. WICKLIFFE. My dear sir, I have not yielded the floor to you to make that statement. I want order here, Mr. Speaker. [Laughter.] The gentleman cannot wedge a speech into mine. I do not want it put down by the reporter. I protest against it.

I am very happy to find that gentlemen opposite are not quite as well pleased now as I am told they were when John Brown's, I mean Hunter's letter was read. I beg his pardon, but I keep calling him John Brown. What is his name?

A MEMBER. David.

Mr. WICKLIFFE. Now, sir, while I am upon the subject of the recruiting service, I desire to present, for the examination of the House and the reflection of the Secretary of War, the list of officers appointed by this man of Port Royal; and I want to know of this House by what authority he had the right to appoint colonels, majors, captains, &c., and to muster them into the service of the United States. I ask the Clerk to read the list which I send up.

The Clerk read, as follows:

Colonel—Arthur M. Kinsey, of Chicago, Illinois, a nephew of General Hunter, and one of the lieutenants of his staff.

Adjutant—Thomas K. Dunham, of New York, recently adjutant's clerk in the volunteer engineers.

Quartermaster—Henry West, quartermaster sergeant in the one hundredth Pennsylvania.

Captain of Company A—Charles Trowbridge, sergeant in the volunteer engineers. Second lieutenant—J. A. Trowbridge.

Captain of Company B—John D. B. Goddard, sergeant in the engineers. First Lieutenant—R. M. Gaston, sergeant in the one hundredth Pennsylvania. Second Lieutenant—E. F. Oliver, private in the one hundredth Pennsylvania.

Captain Company C—James Harold, sergeant in the engineers. First Lieutenant—William Danielson, sergeant in the fifty-eighth New York. Second Lieutenant—George D. Walker, corporal in the engineers.

Captain of Company D—W. J. Randolph, sergeant in the one hundredth Pennsylvania. Second Lieutenant—J. F. Johnson, private in the one hundredth Pennsylvania.

Captain of Company E—R. W. Weller, sergeant in the one hundredth Pennsylvania. First Lieutenant—Luther J. Riggs, private in the first Connecticut battery.

Captain of Company F—Robert Hamilton, sergeant in the one hundredth Pennsylvania.

Captain of Company G—W. B. Churchill, sergeant in the engineers.

Captain of Company H—William James, sergeant in the one hundredth Pennsylvania. First Lieutenant—Charles S. Vehon, corporal in the one hundredth Pennsylvania. Second Lieutenant—James Pomeroy, private in the one hundredth Pennsylvania.

Captain of Company I—E. H. Case, sergeant in the engineers. First Lieutenant—I. F. Stickle, sergeant in the engineers.

Captain of Company K—Joseph Brown, sergeant in the seventy-sixth Pennsylvania. First Lieutenant—Thomas L. McGlathery, private in the seventy-sixth Pennsylvania.

Mr. ENGLISH. Only one of these officers is from New England.

Mr. WICKLIFFE. Only one from New England! Well, I do not care where they are from. They have no business there. [Laughter.] Nor had the man who appointed them any business where he is. He had better have been preparing his men to prevent the defeat of the arms of the United States and the retreat from James Island than tinkering with negro regiments. He paraded them as a splendid exhibition before the crew of a captured French ship—captured in an attempt to run the blockade. They were brought forth in uniform, and exhibited as an evidence of the great strength and power that this Government possessed, and could and would wield to put down this rebellion. Sir, I have said here, and I have said elsewhere, that if the white man is not able to protect his Government, if the twenty million freemen are not able to put down this rebellion, make the acknowledgment at once, and let us understand what you intend to do; let it be understood that for want of sufficient power on the part of the white men of this country, they have to resort to the miserable policy of taking runaway negroes, and forcing them at the point of the bayonet into the military service. Let it be understood abroad that the bright escutcheon of power and glory and patriotism and valor which has covered this Republic for more than half a century, is stained with black.

I take occasion to answer here what I hear floating about in some circles, that General Jackson employed negroes in his army at New Orleans. There is a population of quadroons there who are not Africans. They form a distinct order of society in that city, possessing estate, education, property, and civil rights. He employed that class and they fought like freemen, but he had no negroes as soldiers. He impressed some with their wagons and carts to aid in making breastworks and hauling bales of cotton from the warehouses; and during the siege one negro man, driving a cart and belonging to an old French lady, whose name I do not recollect, and if I did could not pronounce, was killed, and this Government was guilty of the sin of recognizing that negro as property pressed into the service and paid for it accordingly. That was the extent of General Jackson's employment of negroes.

Mr. Speaker, we were asked for four hundred thousand volunteers in July last. We gave five hundred thousand, and an increase of twenty-five thousand to the regular Army, if I recollect the number aright. If the Administration had asked for double the number they would have been granted by law, and if now more are needed and asked for, they would be granted. All necessary to maintain the dignity and power of this Government and restore it to its wonted union and happiness will be freely voted by Congress. When, early in December last, I applied at headquarters, desiring to have organized what I believed was absolutely necessary for the quiet and safety of the State of Kentucky after the army should move, a home guard to watch the passes between Virginia and Tennessee and Kentucky, I was told that I would have to come to Congress; I did come to Congress, but I did not know then that, instead of having five hundred thousand volunteers in the field and upon the pay roll, we had a much larger number—six hundred and ninety-two thousand. I take it for granted that the Constitution, among its grants, gives to Congress the exclusive power of making war, of providing the material, and organizing or providing the number of soldiers that shall be employed and constitute the Army. I was therefore utterly astonished when the chairman of the Committee of Ways and Means presented a bill here at this session making an appropriation, I think, of about thirty million dollars deficiency for the payment of volunteers, and when I inquired of him the reason of this great deficiency, he produced a statement showing that there were six hundred and ninety-six thousand volunteers in the service, one hundred and ninety-six thousand more than the law authorized. I do not say that the President has called out too many, for I learn that he wants more, and that we shall need more. I think that this idea of inviting the border States to free their negroes has not scared the South. I do not think your confiscation bill has freed the negroes, or scared the South. I wish we had more troops at this time, and that they could be placed where I think they ought to be, and thus we might save much of human life and end this war. But, sir, I fear the policy of dividing General McClellan's command has proved fatal to complete success. When I see a violation of the Constitution in the enlistment of an army of one hundred and ninety-six thousand more men than Congress has authorized, I am bound to condemn it. Gentlemen say that perhaps I am not right. I will put myself right upon the record.

The bill approved on the 22d of July authorized the reception of five hundred thousand volunteers only, in corps such as the President might direct, and provided that they were to be drawn from the States according to population. After the passage of that bill, the disaster occurred at Bull Run. On the 31st of July a bill to provide for the payment of the musicians in the volunteer regiments came up before this House. The House will recollect that when the disaster at Bull Run occurred the time of many of the regiments had expired. It was thought that if the system provided in the first bill was observed, the delay in organizing the Army might prove dangerous. It would be well to furnish the President with an opportunity of receiving from all or any of the States, without waiting for their apportionment, such volunteers as might rush to the relief of the country at that time of need. Hence the provision was incorporated in the bill authorizing the President, in accepting and organizing volunteers—what volunteers? "Such volunteers, without previous proclamation, and in such numbers from any State or States, as in his discretion the public service may require." Any State might furnish more than its quota, and the President was authorized to accept the troops furnished. But neither he nor any other member of the Government was authorized by that or by any other law, to accept more than five hundred thousand men as volunteers. I felt it a duty which all owe to the country and to the Executive not to censure or condemn the act, but so far as we could by legislation to legalize it. I drew up a bill to that effect, as we had received them, and paid them, and now needed them. I proposed that they should remain as a part of the volunteer force, thus legalizing the act by approbation on the part of the law-making power. But I provided in that bill that the force of the volunteer corps should be limited to the number then in service, unless further authority from the Congress of the United States was given by legislation. That bill was referred to the Committee on Military Affairs, but I have not heard of it since, and I suppose I never shall. I was prepared to vote for it. If the Government wanted more volunteers than the six hundred and ninety-two thousand then in service, I was then willing to vote for their acceptance; but I am unwilling to see violated the Constitution which I have taken an oath to support. I am unwilling to see the military arm of the country strengthen itself by its own power in violation of the Constitution. I would not do it even if George Washington was alive and at the head of the Government. If I were myself qualified and the President, I would not exercise such power if Congress did not give me authority. The Constitution cannot be preserved if we violate it and protect its violation by others who are responsible. It is our province to see that the Constitution is obeyed by all who have taken an oath to support it.

I understand that it has been decided that under this law the Government has a right to receive a million of soldiers—that each bill gives authority to raise five hundred thousand men. I do not know who gave the construction; it could not be the

President; he is too good a lawyer. If there is a tyro of a law student in the office of any lawyer who would give such a construction to these bills he should be advised to turn his attention to some other business.

I will read the two acts, and the only acts of Congress upon this subject, that I may be judged fairly, and that others shall in like manner be judged:

"An act to authorize the employment of volunteers to aid in enforcing the laws and protecting the public property, approved July 22, 1861.

"*Be it enacted, &c.*, That the President be, and is hereby, authorized to accept the services of volunteers, either as cavalry, infantry, or artillery, in such numbers not exceeding five hundred thousand, as he may deem necessary, for the purpose of repelling invasion, suppressing insurrection, enforcing the laws, and preserving and protecting the public property," &c.

Other sections of this act direct the mode and manner of its execution, and direct that that call shall be made of each State for its quota, according to population, &c.

Upon the 31st of July we have, in Congress, apprehending that some of the States might fail to furnish their proportion of volunteers in time to meet the exigencies of the country, added a section to the bill, the title of which was "An act authorizing the Secretary of War to reimburse the volunteers for expenses incurred in employing regimental and other bands." That section is in these words:

"*Be it enacted, &c.*, That the President, in accepting and organizing volunteers, under the act entitled 'An act to authorize the employment of volunteers to aid in enforcing the laws and protecting the public property, approved July 22, 1861,' may accept the service of *such* volunteers, without previous proclamation, and in such numbers, from any State or States, as in his discretion the public service may require."

Is there a member of this House that voted for this section who believed it authorized the acceptance of five hundred thousand volunteers beside the five hundred thousand authorized by the first act cited?

The question of construction and meaning of the two acts is too plain, too palpable, to require argument.

The other act gave only the right to accept the volunteers "during the war," instead of the periods fixed in the first act, if the President deemed it best. No one at the session of July ever thought that they had authorized a greater number of volunteers than five hundred thousand to be accepted.

You have no law now which authorizes the increase of volunteers. As they are needed, and have been called for by the President, I hope those of this House who wield its power will provide by law for this new call of three hundred thousand men.

One object I have in referring to these acts is to prove that a subordinate officer has no legal power to increase the corps of volunteers by accepting the service of white men—certainly not by forcing runaway slaves into that arm of the service.

The Secretary of War should have returned General Hunter's letter, with an order removing him from his position, for having undertaken to enlist soldiers of any color in his army, without authority of law and without the legislation of Congress.

Mr. MALLORY. Will my colleague yield to me for a moment?

Mr. WICKLIFFE. Certainly, sir.

Mr. MALLORY. Mr. Speaker, I wish at this point of discussion, not intending to trouble the House hereafter in relation to it, to say a word in regard to this matter. I beg leave to dissent from my colleague most respectfully.

Mr. WICKLIFFE. If that is the gentleman's object, he may dissent after I am done. I do not like to have another gentleman's speech printed as part of mine when it is against me.

Mr. MALLORY. My colleague has yielded the floor.

Mr. WICKLIFFE. I yield the floor.

Mr. MALLORY. I was about to remark that I concur in the main with what my colleague has said, but that, on one point, I beg leave to dissent from him. That is, as to the extent of the culpability of the Secretary of War in this matter.

Mr. WICKLIFFE. If that is the gentleman's object, I withdraw my assent.

Mr. MALLORY. Be good enough to let me get through.

Mr. WICKLIFFE. No, sir; I will not.

Mr. MALLORY. Then I hope to get an opportunity after the gentleman is done.

Mr. WICKLIFFE. After I am done, sir, you can talk about it as long as you please. But I have no idea of the gentleman making a speech to be printed in mine. Let him do it separately.

Mr. MALLORY. I certainly would not have trespassed on the House if it had not been for the assent of my colleague. I have submitted quietly to the withdrawal of that assent, but I do not intend to assent quietly to his commenting on my position.

Mr. WICKLIFFE. Mr. Speaker, if the gentleman had waited a little longer he would have had a chance to enter upon the defense of the Secretary of War. I do not make any charge against the Secretary, except so far as his official conduct in communicating to this House the letter of General Hunter without any expression of disapprobation of it is concerned. He entered that office, so far as I had any feeling on the subject, not knowing him personally, with my hearty concurrence. Nor do I desire to make any comment on the administration of the War Department outside of this particular affair. I might, perhaps, like my colleague, beg leave to differ with the Secretary of War in relation to the management of some portion of the operations of the Army. That is not the question that I am here to discuss. I am here to call on the Secretary of War to perform his duty to this House, and not to become the agent and instrument of covering, under his message—to be placed on the journal of the nation—a letter which I will venture to say my colleague himself will admit is disrespectful to this House. He should have weighed and examined that well.

But, sir, perhaps it was thought that, as the resolution was designated as Mr. WICKLIFFE's resolution, the answer would pass off as a matter of course, and that I had got a very full answer. I did receive this morning from some anonymous scoundrel by mail a copy of this letter of Mr. Hunter's, with an advice to put it in my pipe and smoke it. I want my brother members of the House to take a whiff at that pipe. It is the duty of every head of a Department to see that no subordinate shall, in making out a report of matters of fact, indulge in argument, in remarks, in criticism unjust and insulting to members who may have voted for or against the resolution. That is my complaint. I suppose that General Hunter has a right to do as he pleases in his own command. My object and purpose were to know whether there is a purpose in any part of the Army of the United States, or in any Department of the Government, to arm the negro to aid and assist in carrying on this war. I am afraid there is a strong party in this House and out of it who think that they can use negroes profitably in war; but you cannot get a man who is acquainted with the character of the African, domesticated as he is, to agree on that point with gentlemen on the other side of the House. It is true, as the writer of the letter which I have read says, a negro is afraid, by instinct or by nature, of a gun. Give him a bowie-knife or a John Brown pike if you want to get up a servile war, of murder, conflagration, and rapine. Let Mr. Hunter have the appropriate arms. I have got one of John Brown's pikes. I intended to have brought it to the House as a specimen for Mr. Hunter.

The instructions of Mr. Secretary Cameron to General Sherman, upon which General Hunter bases his authority to force slaves into the Army of the United States, and appoint the field, staff, and company officers of the regiment, were of record. The present Secretary is presumed to have made himself acquainted with all orders under which divisions of the Army had been placed by his predecessor. It was especially his duty, when General Hunter justified his conduct under those instructions, to have looked at it and sent a copy to the House.

A copy of these instructions I have obtained. They read as follows:

WAR DEPARTMENT, *October* 14, 1861.

SIR: In conducting military operations within States declared by the proclamation of the President to be in a state of insurrection, you will govern yourself, so far as persons held to service under the laws of such States are concerned, by the principles of the letters addressed by me to Major General Butler on the 30th of May and the 8th of August, copies of which are herewith furnished to you. As special directions, adapted to special circumstances, cannot be given, much must be referred to your own discretion as commanding general of the expedition. You will, however, in general avail yourself of the services of any persons, whether fugitives from labor or not, *who may offer them to the national Government.* You will employ *such persons* in such services as they may be fitted for, either as ordinary employés, or, if special circumstances seem to require it, in any other capacity, in such organization, in squads, companies or otherwise, as you may deem most beneficial to the service. *This, however, not to mean a general arming of them for military service.* You will assure all loyal masters that Congress will provide just compensation to them for the loss of the services of the persons so employed. It is believed that the course thus indicated will best secure the substantial rights of loyal masters and the benefits to the United States of the services of all disposed to support the Government, while it avoids all interference with the social systems or local institutions of every State beyond that which insurrection makes unavoidable, and which a restoration of peaceful relations to the Union, under the Constitution, will immediately remove.

Respectfully, SIMON CAMERON,
Secretary of War.

This order to General Sherman, so far from an authority to receive and organize, arm and equip slaves into the Army, forbids it. General Sherman, so far as I have been able to judge of his conduct in the field, is a gentleman and a gallant soldier. His instruction bears date 14th October, 1861, before the fell spirit of abolition had thrust itself into the conduct and management of this war, and into the deliberations and actions of Congress. I have some facts and reasons for his being superseded in his command by this abolition General Hunter.

In conclusion, I would with all the fervor of supplication implore the President and his advisers to pause in this mad and impolitic scheme of emancipation, by Congress or by the Army, and adhere to the original purposes for which the Army was called to the field. All who are for preserving the Constitution as it is and restoring the Union as it was, will give to his efforts for these objects a firm, united, and patriotic support. And I say to the abolitionists, if they are not in favor of such a result and such a Union, whether in the field or the councils of the nation, get out of the way, and we, the true Union men in the States and in the field, under the providence of God, will save the Constitution and the Union without your aid.

[Here the hammer fell.]

Mr. McKNIGHT. Deeply regretting that the venerable gentleman from Kentucky has seen fit to bring the negro again into this House, and believing the discussion or agitation of the negro question at this critical juncture of our national affairs to be pernicious, I move to lay the motion to reconsider on the table.

Mr. COX. Then the gentleman should keep his negro bills out of the House.

Mr. MALLORY. I hope the gentleman will withdraw his motion to lay on the table. I will renew it. I will occupy the time of the House but for a minute or two.

Mr. McKNIGHT. I yield to the gentleman on that condition.

Mr. LOVEJOY. I object to that.

The SPEAKER. Objection being made, the gentleman from Pennsylvania cannot yield the floor unless he yields it unconditionally.

Mr. McKNIGHT. If that be the fact, I prefer not to yield. I do not think a general discussion upon this subject would be at all profitable at this time.

Mr. MALLORY. I ask the gentleman to withdraw his motion, and yield the floor unconditionally. I will renew his motion to lay on the table.

Mr. McKNIGHT. Very well. I withdraw the motion, and yield the floor unconditionally.

Mr. MALLORY obtained the floor.

Mr. LOVEJOY. I rise to a question of order. I submit that the floor having been assigned to the gentleman from Pennsylvania, he has no right to yield it in such a way that one gentleman shall get it, and another gentleman shall not.

Mr. MALLORY. The gentleman from Pennsylvania has yielded the floor unconditionally.

Mr. LOVEJOY. I make the point of order, and ask the Chair to decide it.

The SPEAKER. The Chair does not see that the gentleman makes any point of order. The gentleman from Kentucky is entitled to the floor.

Mr. MALLORY. I shall redeem my implied pledge to the House not to take up much of their time upon this matter. I merely wish to put myself right in regard to a statement made to my venerable colleague who has just addressed the House.

I cordially concur in most of the sentiments expressed by my colleague in regard to this letter of General Hunter, which a few days since was read from the Clerk's desk. Neither he nor any other man can condemn in severer terms than I do the whole spirit of that letter and its whole style. No man can disapprove more strongly the system of arming slaves, which that general has sought to inaugurate in the South, as shown by his letter to the Secretary of War. I believe, as my colleague does, and as I hope many gentlemen of the Republican party in this House believe, that it is contrary to the rules that should govern a civilized nation in conducting a war.

I shrink from arming the slave, using him to shoot down white men, knowing his depraved nature as I do. I would as soon think of enlisting the Indian, and of arming him with the tomahawk and scalping knife, to be let loose upon our rebellious countrymen, as to arm the negro in this contest.

But I recollect, and I shall continue to do so as long as I live, the scene which occurred in this Hall when that memorable letter was read at the Clerk's desk. Many things have been said here, many statements have gone the rounds of the public press about the indecorum and disorder which prevail in this Hall, that, in my opinion, were calumnies upon the character of this House; but none of them can overdraw the picture which was presented here the other day when that letter was read. The scene was one of which I think this House should forever be ashamed.

We were here in the consideration of questions the most solemn and grave that ever claimed the attention of an American Congress. Grave consideration, calm and deliberate reflection, should have characterized the proceedings of this body on that occasion. But, sir, when that letter was read at the Clerk's desk, a spectator in the gallery would have supposed we were here witnessing the performance of a buffoon or of a low farce actor upon the stage. And the reading of the letter on that occasion, containing, as it did, sentiments calculated to shock humanity, written in a style showing the contempt of the writer for this House, was received with loud applause and boisterous manifestations of approbation by the Republican members of the House. I never witnessed a scene more deeply mortifying. I shall not lose the memory of it while I live. It was a scene, in my opinion, disgraceful to the American Congress.

Mr. COLFAX. I rise to a question of order.

Mr. MALLORY. I beg pardon for having violated the rule of the House. I perceive that I was out of order.

I remarked to the House, when I sought to interrupt my colleague while he was on the floor, that I did not concur with him in his expression of censure upon the Secretary of War. My reason for that was, that I have a well-founded confidence that the Secretary of War will disapprove the conduct of General Hunter. I have good reason to believe that this action of General Hunter will bring down upon him the censure of the Secretary of War.

I believe that the confidence I have thus expressed is not misplaced; and I think so for this reason: on one occasion, some two or three weeks since, while attending to some matters of business at the office of the Secretary of War with two or my colleagues, as we were leaving, the Secretary called me back and exhibited a letter so folded that neither the name nor date was visible, saying, "here is a letter from an officer of the Army, asking authority to raise and arm a regiment of negroes for the military service of the United States. I have called you back to ask you what answer I ought to give him." I replied: "Mr. Secretary, if you will allow me to dictate your answer, it will be *no;* and I would make that no as emphatic as the English language would enable me to make it." He then remarked that he had done more than that; he had not only refused, but had ordered the arrest of the officer asking the authority.

Now, sir, after this conversation with the Secretary of War, in the presence of two of my colleagues, who I know concur in my recollection of the matter, I thought I had reason to believe that my colleague was mistaken in supposing and assuming that the Secretary of War approved and sanctioned the arming of negroes.

Mr. ASHLEY. I wish to ask the gentleman from Kentucky if he means to say that the Secretary of War ordered the arrest of this officer for making the suggestion?

Mr. MALLORY. He made the remark as I have stated it.

Mr. ASHLEY. What I desired to know was, whether his remark left upon the mind of the gentleman the impression that the Secretary of War had ordered the arrest of this officer for making the suggestion he has named?

Mr. MALLORY. The Secretary stated that he had refused the authority, and the impression left upon my mind was that he had ordered the arrest of this officer because he had made this proposition to him. I think he said there were other reasons for ordering his arrest, but the Secretary of War, so far as I recollect, did not state them. There are others present who heard the conversation who could corroborate the statement I have made, but I have no idea that the Secretary of War will deny the correctness of it.

Mr. RICHARDSON. I desire to ask the gentleman whether, in his judgment, if the Secretary of War arrested this man for such a proposition, consistency would not have required him to arrest General Hunter for this letter which has been read?

Mr. MALLORY. I desire to utter no words of censure against the Secretary of War in connection with this letter of General Hunter. He may make it the basis of further inquiry, on which his action will be taken; and inasmuch as the Secretary of War had given me reasons to believe he had refused the authority asked for, and censured and punished that officer for proposing to him the enlistment of a negro regiment, he would certainly give us an expression of his disapprobation of this conduct of General Hunter. And I want to wait until he has had time to say to us whether or not he approves of the letter. I think that letter disgraceful to General Hunter; and I hope never to be called upon to say I consider it disgraceful to the Secretary of War because he has indorsed it. He has not done it yet, and I hope he never will; and I think I have good ground for that hope.

In accordance with my implied understanding with the gentleman from Pennsylvania, I now move to lay the motion to reconsider on the table.

Mr. McKNIGHT. As the gentleman from Kentucky has not, as I understood he would, confined himself to a personal explanation, but has gone into a general discussion, I think it right now to allow a reply by the other side. I therefore will allow the House to decide the question.

The motion to lay on the table was not agreed to.

Mr. STEVENS. I did not design to agitate a question of this kind at this time, and I do not know that I should if it had not been for the supplemental speech of the gentleman from Kentucky [Mr. MALLORY] last upon the floor. But, sir, I do design now to say a few words, and but a few words—being quite out of health this morning—expressive of my sentiments upon this subject. I do not know whether or not anybody will agree with me. The gentleman from Kentucky, who opened this debate, found fault with the Administration in reference to the conduct of the war. Sir, there we happen to agree. There are many things in the conduct of this war of which I cannot approve. I cannot approve of setting generals who sympathize with slavery at the head of our armies, or setting our generals, under express orders, to pursue and return fugitives from traitors. I cannot consent to that portion of the conduct of the war which sets our armies to watch the property of rebel soldiers in arms against us, rather than allow it to be occupied by our own troops, while, in the mean time, our soldiers, sick and wounded, are placed in swamps filled with deadly miasma, which destroys health and unfits our men to meet the enemy.

Mr. KELLOGG, of Illinois. I would inquire of the gentleman from Pennsylvania, when he makes these charges against the conduct of the war, whether he applies them to the President and Secretary of War, or merely to the generals in the field?

Mr. STEVENS. I intend it shall apply where ever it belongs. I am no sycophant, no parasite. What I think I say. These acts have been perpetrated over and over again by our generals, and without rebuke from the appointing power; and I leave the House and the world to determine where the responsibility rests.

Mr. KELLOGG, of Illinois. Will the gentleman be frank enough to state whether he charges that upon the Administration?

Mr. STEVENS. I charge it upon the management of the war and upon the different branches of the Administration. I believe the President—and I do not mean to flatter—is as honest a man as there is in the world; but I believe him to be too easy and amiable, and to be misled by the malign influence of Kentucky counselors, and, following that advice, that he has permitted the adoption of the policy which I have just stated without rebuke.

Mr. MALLORY. May I ask the gentleman from Pennsylvania if he is attempting to ridicule the delegates from Kentucky, or what is he doing?

Mr. STEVENS. I have not said one word about the delegates from Kentucky, nor do I allude to any gentleman in this House.

Mr. MALLORY. Then it seems to me that the gentleman must be attempting to perpetrate a joke upon the House.

Mr. STEVENS. It is no joke at all; there are powers behind the throne greater than the throne itself as well in this country as elsewhere. To no member of the House from Kentucky or elsewhere do I say any word of disrespect, nor do I wish it understood that I am speaking of them at all. Sir, so far, I have the pleasure, if pleasure it be, to concur with gentlemen from Kentucky in condemning that part of the conduct of the war to which I have alluded.

Sir, I go further; I agree with the gentleman in not liking the answer of the Secretary of War to the resolution which was sent to him by this House, at the suggestion of the distinguished gentleman from Kentucky. I did not think it, at the time, quite ingenuous. I had had some communications, which I will not relate now, with the Secretary of War, and I did not think until this morning—when I am convinced from what has been said by the gentleman from Kentucky that I am wrong in my ideas of his opinions—that he held any such doctrine as that stated by the gentleman. I thought the Secretary of War held a different doctrine. Hence, I thought his answer not quite ingenuous.

Mr. MALLORY. I would not have alluded to what I stated to the House this morning if there was a possibility of supposing that the communication made to me by the Secretary of War had been confidential or private. I stated to the House that those remarks were made by him in his public office in the presence of two of my colleagues, and with his officials around him. I supposed the declaration was a public one, and that he intended it *pro bono publico.* I have used it elsewhere than in this House.

Mr. STEVENS. I do not doubt this communication or censure its promulgation here; but I am giving the reason why I, at the time that communication was sent into the House, thought it not quite ingenuous; for I had conceived the idea that his sentiments were different from what I now find them to be. In accordance with what I then thought to be his views, I expected he would answer that communication by saying "that he had sent arms and clothing to our generals in the South, with orders to use them, and put them into the hands of all loyal men who were ready to defend the Union." If he had given that answer, it would have been in accordance with what, up to that time, I had supposed to be his sentiments and opinions. I regret to find that I was mistaken.

Now, sir, with regard to the policy which has been so much condemned, of arming negroes in this war. The gentleman last up says it is against the usage of civilized nations. I deny it. I say it is in exact accordance with the usages of all civilized nations, and no word in history can be found in any single publicist to the contrary. It is the usage of every nation at war with another to liberate their slaves and take them into the service to war with their former masters. It was the practice in the revolutionary war in this country, on both sides. The British, by proclamation, held out inducements and armed them. Rhode Island, by her decree, armed them, gave them liberty, and took them into the service of the United States; and I venture to say that in the last war General Jackson did the same thing. His proclamation shows that he called upon them, offered them their liberty, and those, too, not the slaves of rebels, but the slaves of loyal men, and they fought the enemies of their country.

Mr. WICKLIFFE. Does the gentleman say that Jackson issued a proclamation at New Orleans?

Mr. STEVENS. Yes, sir.

Mr. WICKLIFFE. Have you a copy of it, and can I see it?

Mr. LOVEJOY. I have a copy, and I will read it. First I will read the law of Rhode Island, which has been cited:

"Whereas, for the preservation of the rights and liberties of the United States, it is necessary that the whole powers of Government should be exerted in recruiting the Continental battalions; and whereas his Excellency, General Washington, hath inclosed to this State a proposal, made to him by Brigadier General Varnum, to enlist into the two battalions raising by this State such slaves as should be willing to enter into the service; and whereas history affords us frequent precedents of the wisest, the freest, and bravest nations having liberated their slaves and enlisted them as soldiers to fight in defense of their country; and also whereas the enemy, with a great force, have taken possession of the capital, and of a great part of this State, and this State is obliged to raise a very considerable number of troops for its own immediate defense, whereby it is in a manner rendered impossible for this State to furnish recruits for the said two battalions, without adopting the said measure so recommended:

"*It is voted and resolved*, That every able-bodied negro, mulatto, or Indian man slave in this State may enlist into either of the said two battalions, to serve during the continuance of the present war with Great Britain; that every slave so enlisting shall be entitled to and receive all the bounties, wages, and encouragements, allowed by the Continental Congress to any soldier enlisting into their service.

"*It is further voted and resolved*, That every slave so enlisting shall, upon his passing muster before Colonel Christopher Greene, be immediately discharged from the service of his master or mistress, and be absolutely *free*, as though he had never been incumbered with any kind of servitude or slavery; and in case such slave shall, by sickness or otherwise, be rendered unable to maintain himself, he shall not be chargeable to his master or mistress, but shall be supported at the expense of the State."

During the reading of the above, the following proceedings tooks place:

Mr. STEVENS. Oh, that is not Jackson's proclamation. The other is not denied.

Mr. LOVEJOY. This is the Rhode Island case.

Mr. STEVENS. Ah, well, that is familiar to all readers of history.

Mr. LOVEJOY. It does not necessarily follow that it is familiar to gentlemen upon the other side of the House.

The SPEAKER. Does the gentleman from Pennsylvania yield to the gentleman from Illinois?

Mr. STEVENS. Yes, sir; I do not like to refuse.

Mr. LOVEJOY then finished the reading of the above.

Mr. STEVENS. The gentleman from Ohio [Mr. HUTCHINS] furnishes me with General Jackson's proclamation, which is as follows:

HEADQUARTERS, SEVENTH MILITARY DISTRICT,
MOBILE, *September* 21, 1814.

To the free colored inhabitants of Louisiana:

Through a mistaken policy you have been heretofore deprived of a participation in the glorious struggle for national rights in which our country is engaged. This no longer shall exist.

As sons of freedom, you are now called upon to defend our most inestimable blessing. As Americans, your country looks with confidence to her adopted children for a valorous support, as a faithful return for the advantages enjoyed under her mild and equitable government. As fathers, husbands, and brothers, you are summoned to rally around the standard of the eagle to defend all which is dear in existence.

Your country, although calling for your exertions, does not wish you to engage in her cause without remunerating you for the services rendered. Your intelligent minds are not to be led away by false representations. Your love of honor would cause you to despise the man who should attempt to deceive you. With the sincerity of a soldier and the language of truth I address you.

To every noble-hearted freeman of color volunteering to serve during the present contest with Great Britain, and no longer, there will be paid the same bounty, in money and lands, now received by the white soldiers of the United States, namely, $124 in money, and one hundred and sixty acres of land. The non-commissioned officers and privates will also be entitled to the same monthly pay, daily rations, and clothes, furnished to any American soldier.

On enrolling yourselves in companies, the major general commanding will select officers for your government from your white fellow citizens. Your non-commissioned officers will be appointed from among yourselves.

Due regard will be paid to the feelings of freemen and soldiers. You will not, by being associated with white men in the same corps, be exposed to improper comparison or unjust sarcasm. As a distinct, independent battalion or regiment, pursuing the path of glory, you will, undivided, receive the applause and gratitude of your countrymen.

To assure you of the sincerity of my intentions, and my anxiety to engage your invaluable services to our country, I have communicated my wishes to the Governor of Louisiana, who is fully informed as to the manner of enrollments, and will give you every necessary information on the subject of this address. ANDREW JACKSON,
Major General Commanding.

Mr. LOVEJOY. And now, if the gentleman will allow me, I will read the address of General Jackson to his colored soldiers.

Mr. STEVENS. Very well.

Mr. LOVEJOY. I read it from the Life of Jackson:

"Soldiers! from the shores of Mobile I collected you to arms; I invited you to share in the perils and to divide the glory of your white countrymen. I expected much from you, for I was not uninformed of those qualities which must render you so formidable to an invading foe. I knew that you could endure hunger and thirst, and all the hardships of war. I knew that you loved the land of your nativity, and that, like ourselves, you had to defend all that is most dear to man; but you surpass my hopes. I have found in you, united to those qualities, that noble enthusiasm which impels to great deeds."

And now, if the gentleman will allow me, I want to add that Niles, in his History of the War of 1812, states that fully one fourth of the men who fought the battle of Lake Erie, under Commodore Perry, were negroes.

Mr. WICKLIFFE. The gentleman is mistaken in that.

Mr. STEVENS. This is common history; the history of the world, and the history of our country; and I was astonished, therefore, at the remark of the gentleman who last addressed you from Kentucky. I again assert, there is no record to the contrary in the history of nations everywhere; nations have always employed colored men when it became necessary, and colored slaves where it was necessary—liberating them.

Mr. SEDGWICK. Will the gentleman yield to me for a moment?

Mr. STEVENS. Certainly.

Mr. SEDGWICK. I desire to read a paper which has been furnished me by the librarian of the State of New York upon the subject of the employment of colored men in the armies of other countries:

"NEGROES UNDER MONARCHICAL GOVERNMENTS.—The monarchical Governments of Europe and America, those that tolerate slavery and those that do not, alike agree in employing negroes armed for the public defense. They find that the burdens of war, and the sacrifice of life it occasions, are too great to be borne by the white race alone. They call upon the colored races therefore to share in the burden and to encounter, in common with the whites, the risks of loss of life.

"Thus we find that in the Spanish colony of Cuba, with a population one half slaves and one sixth colored, a militia of free blacks and mulattoes was directed by General Pezuela (Governor General) to be organized in 1854 throughout the island, and it was put upon an equal footing with regard to privilege with the regular army. This measure was not rescinded by Governor General Concha in 1855, but the black and mulatto troops have been made a permanent corps of the Spanish army. (Condensed in the very phrases of Thrasher's preface to his edition of Humboldt's Cuba.)

"In the Portuguese colonies on the coast of Africa, the regiments are chiefly composed of black men. At Prince's island the garrison consists of a company of regular artillery of eighty, and a regiment of black militia of ten hundred and fifty-eight rank and file, of which the colonel is a white man. At St. Thomas's there are two regiments of black militia. In Loando, the Portuguese can, on an emergency of war with the natives, bring into the field twenty-five thousand partially civilized blacks armed with muskets. Successful expeditions have actually been made with five thousand of them accompanied with three or four hundred white soldiers. (From Valdez's Six Years on the West Coast of Africa. London: 1861. Two vols. 8vo.)

"In the Dutch colony of the Gold Coast of Africa, with a population of one hundred thousand, the garrison of the fortress consists of two hundred soldiers, whites, mulattoes, and blacks, under a Dutch colonel.

"In the capital of the French colony of Senegal, on the same coast, at St. Louis, the defense of the place is in the hands of eight hundred white and three hundred black soldiers. (The preceding facts are also from Valdez.)

"In the Danish island of St. Croix, in the West Indies, for more than twenty-five years past, there have been employed two corps of colored soldiers, in the presence of slaves. (From Tuckerman's Santa Cruz.)

"In Brazil, notwithstanding its three million slaves, its monarchical Government employs all colors and races in the military service, either by enlistment or forcible seizure. The police of the city of Rio de Janeiro is a military organization composed mostly of colored men, drilled and commanded by army officers. The navy is principally manned by civilized aborigines. (Hidder; Ewbank.)

"The course pursued by the British Government in Jamaica, Sierra Leone, and Hindostan, is so notorious as simply to need to be mentioned.

"In Turkey, no distinction of color or race is made in the ranks of the regular army. Distinction is made, however, on the ground of difference of faith. The army is composed of Mohammedans. Christians and Jews are never recruited. The result is one which the Government of Turkey to-day contemplates with alarm. For the last two hundred years, having been frequently engaged in war, her Mohammedan population has been greatly reduced thereby, while her Christian population, at one time greatly inferior in numbers, has now by peace so extraordinarily increased as to bid fair soon to divide the empire. And she dare not now, in their strength, arm them as her soldiers as conscripts, notwithstanding her desire to do it."

Mr. STEVENS resumed the floor.

Mr. DIVEN. Will the gentleman yield to me for a moment?

Mr. STEVENS. I cannot refuse.

Mr. DIVEN. I wish to take this opportunity, by the indulgence of the gentleman from Pennsylvania, to say that I have regarded as one of the most important measures of legislation that has been neglected by this House a provision for mustering black men into our service. I have had a bill in my desk for the last two weeks, which I have sought an opportunity to introduce, prepared with as much care and deliberation as I could devote to it, providing for the mustering of black men into our service, and employing them in those regions where white men, until they are acclimated, cannot be successful during the hot season; and, in my judgment, every hour that Congress neglects to provide such a force of acclimated men for the defense of the country which we have wrung from the rebels of the South, they are living in criminal neglect of the lives of white men.

Mr. BINGHAM. I would inquire of the gentleman whether his bill provides for the enlistment of the slaves of runaway rebels?

Mr. DIVEN. It provides for the enlistment of all, whether the slaves of rebels or not.

Mr. BINGHAM. I am glad to know it.

Mr. STEVENS. I thank the gentleman from New York for reading that portion of history which many of us knew, but which many did not. I have just been told by a distinguished Senator from Vermont that during the last war he himself saw a regiment of colored soldiers—the tenth regiment. I was not myself aware that there was any such regiment, but there is no doubt of the fact. I repeat again, therefore, that no variation from this policy can be found in the history of the world.

I thank the gentleman from New York [Mr. DIVEN] for the bill which he intended to introduce. I should have brought forward one before this if I could have afforded it, but I was not a "conservative," and it would have been called abolitionism. [Laughter.] Hence it would have been defeated. I did suggest the idea to a member of the Cabinet five months ago, and he was afraid of the same thing, although he approved of the employment of colored soldiers. I say that it is the duty of this Government to follow out the policy which has been inaugurated by that gallant and sagacious soldier who now commands our army in South Carolina. I said at the opening of this session, and I repeat it, that you will never put down secession until you take that course. You cannot conquer the South so long as you leave them their slaves to cultivate the soil through the hot months, when that awful god with the silver bow shoots his fiery arrows to the very heart of every white man who goes into the South. Until you adopt that policy, even if you were to overrun all the cotton States, you must give them up in the summer, for you could not hold them. An overseer, as we all know perfectly well, on the rice plantations of South Carolina, dare not, although acclimated, stay outside his house after nightfall; but he goes within it, and the black man does the work. You must put acclimated soldiers, men whose peculiar constitutions will bear the climate, to be your sentinels amid the fogs and damps of the southern summer nights. If you put a white man to stand sentinel there for a single night, it is certain death to him. If there be any who hate this more than the rebellion, let them say so; those who desire that every northern volunteer shall fall a victim to the pestilential miasmas of the South, and that there shall then be a disgraceful submission to triumphant traitors, had better follow the course of our friends across the way, for I believe, as God is my judge, that such will be the inevitable result of their policy.

Mr. Speaker, I will tell you my whole policy, for it amounts to nothing, I suppose, in practice. No man will listen to it, either in the Cabinet council or here, and therefore it can do no harm, not even to the new "conservative" party, made up of the old Democratic party, of the border State Whigs, who are now Democrats, and other sprinklings. They will not, I am sure, be corrupted by what I say. The evil will only fall upon myself. I am for sending the Army through the whole slave population of the South, and asking them to come from their masters, to take the weapons which we furnish, and to join us in this war of freedom against traitors and rebels. And until that policy is adopted, I again repeat, I have no

hope of success. I do not view it as an abolition or as an emancipation question. I view it as the means, and the only means, of putting down this rebellion; and if in doing that we extinguish the cause of the rebellion, I shall not mourn for it—I say the cause of the rebellion, which is slavery. Do we not all agree to that except slaveholders and a few other gentlemen who sympathize with them, whom I could name? Every religious denomination in the free States has within the last six months so pronounced it. The Methodists, that most numerous and not least pious of sects, have in their association, borne decided testimony that slavery is the real cause of this rebellion.

Mr. MALLORY. I wish to say just here that I am as anxious as the gentleman from Pennsylvania can be, and I think from a stronger motive than self-interest, to put down this rebellion.

Mr. STEVENS. I have no doubt of it. I do not doubt it.

Mr. MALLORY. Let me say one word.

Mr. STEVENS. We differ in opinion as to the mode. That is all.

Mr. MALLORY. I believe that the slaves of southern rebels should be used by our Army as our Army advances. I believe that they should be taken and used for all the menial services of the camp, and to work upon fortifications and everything of that sort. I consider their uses for such purposes legitimate; but I object to arming them for two reasons which I want to state to the gentleman for the purpose of putting myself right. The first of these reasons is, that when armed, they will be turned loose against those who have been heretofore their masters, and that when they get the ascendency their practice will be the indiscriminate slaughter of men, women, and children, wherever they go.

The second objection that I have is this: that you cannot for your life make of the slaves of the southern States an army whose services in the field will pay for the expenses of organizing them. One shot of a cannon would disperse thirty thousand of them.

Mr. STEVENS. Then they will do no injury to the rebels who fight them. Why, then, object to them as a savage and barbarous race, if one gun will disperse an army of them?

Mr. MALLORY. I have just stated the reason.

Mr. STEVENS. I know, Mr. Speaker, that the gentleman from Kentucky is sincere. He and I only differ about the mode. That is all. I say that I am in favor of employing slaves against their former masters. I am glad that the gentleman from Kentucky is for employing them for some purpose. For what purpose? Why, for some menial purpose. I suppose they would be kept employed till after peace is made, and then sent back to their masters unhurt, under the fugitive slave law. In the mean time I am for putting them in the front rank of this battle. I would raise a hundred thousand of them to-morrow, and have them drilled. History tells us that they make the best and most docile soldiers in the world. They are not barbarians in nature. They are a people as well calculated to be humanized as any other. From the time of Homer to the present time, the "blameless sons of Ethiopia" has been a proverb. It is false to say that they are not capable of being made good soldiers and humane soldiers. In St. Domingo the slaves, while fighting for liberty, saved their white masters, and sent off many who escaped. Where they could not help it, they killed their masters, as they had a right to do. Sir, I would put these slaves in the front of the battle. I would take away all those who help the rebels to raise grain through the heats of summer, and then the rebels would starve. I would put these slaves where they could fight their former masters. If men are to be shot in this war, let it not be our cousins, relatives, and friends. Let it be the slaves of those traitors who have caused this war. I would to God that a hundred thousand of them had been at Richmond to receive the first fire of their villainous masters. Instead of that, the policy which this Government has pursued, and which this Congress has pursued—compelled to it by such sentiments as I hear on that side—has desolated Pennsylvania. The flower of our people are moldering in the swamps of Virginia because we will not employ those who ought to be fighting this battle. New England in every hamlet mourns her dead. So do the middle and western States. And I am to stand here and to be told that it will not do to let black men shoot and be shot instead of white men! I abhor the doctrine, and I abhor and despise the policy which has murdered my neighbors and my friends. The blood of thousands and tens of thousands of freemen who, throughout this land, are moldering in untimely graves, is upon the souls of this Congress and Cabinet. ["Hear!" "Hear!" from the gallery.] God forbid that I should withhold this expression of sentiment.

I was going on to say that slavery was the cause of this war. I have said that one religious sect, which I have named, had so decided. I have looked into the matter, and I see that the Baptists, the next most numerous sect, the lineal descendants of the Puritans and the inheritors of their stern and honest principles, have proclaimed that slavery is the sole cause of this war. The Lutherans and German Reformed, who met recently in synod in my own town and in Allentown, came to the same resolution. Those benevolent sects, the Universalists and Unitarians, have lately passed the same decree. The New School Presbyterians most emphatically, and the Old School Presbyterians, that powerful church under the lead of that noble son of Kentucky, that eloquent divine, Robert J. Breckinridge, have passed a decree as emphatic as language could make it, that slavery is the cause of this war. The United Presbyterian church, embracing the Associate and the Associate Reformed churches, have announced it as their judgment that slavery is the cause of the war.

I have lately read the pastoral letter, written in Passion week, of the Bishop of Orleans, in France—a great and good and wise bishop—in which he takes up the question of this insurrection and of slavery, condemns the insurrection and slavery as the sole cause of it, and enjoins on those who believe in that church to follow his example. He sets forth as a dogma of the church, which is not to be disputed, the unity of the human family. His letter contains as follows:

"That is the pure spirit of the Gospel and of Jesus Christ; is it not thus that the divine Redeemer of mankind announced his mission to the world? 'The Spirit of the Lord is bestowed on me,' said he, 'to teach the Gospel to the poor, to console those who weep, to cure the broken-hearted, to preach deliverance to the captives, and to those who are in bondage, liberty.'

"And, after the divine Master, is it not Saint Paul, one of his most fervent disciples, who shouted forth to the Pagan world the sublime outcry, 'There exist no longer either masters or slaves, for we all are brothers in Jesus Christ.' Well, even at this day, in Christian lands, after eighteen centuries of Christianity, after those words of Jesus Christ, after that cry of Saint Paul, there still are slaves!

"Gentlemen, it is for this miserable and cruelly-oppressed portion of humanity that I come to ask your prayers. Yes, let us pray; let us pray for those poor slaves. And if I feel myself impelled, at this hour, to commend to you this sad and holy cause, and to beg your prayers, it is because of the holy season in which we are, and also of news recently received from distant countries, where this grave question is sorely agitated, and toward which the attention of all Europe is directed.

"The truth is, that the old and the new continents are disturbed. Politicians harangue for and against; trade is interrupted; blood flows in civil war. We, gentlemen, pray. In great social crises, in which we cannot remain indifferent lookers-on, it is prayer alone that becomes our great duty.

"Do not suppose, sirs, that I may take part in the lamentable quarrel which divides the United States of America. I am told the North merits little more of sympathy than the South; that questions of commercial tariffs, or of political predominance, have had more influence than the question of slavery on the secession out of which the civil war has issued. I am assured that the abolition party has rendered itself odious by its extravagances, while the slave-owners often are men of good faith and of good hearts. I am told of more Catholics at the South than at the North, and of citizens enlisted in both armies, animated by equal patriotism, who, on either side, sincerely believe that they are acting justly.

"It is said if the Union be reconstructed the emancipation of the slaves is not certain, and if the separation becomes complete, that emancipation is not impossible. It is wished to persuade me that the interests of our manufacturers are with the South, of our commerce with the North; that we ought to desire the upholding and the union of a people whom we aided to set free, and which serves to counterpoise other nations; or, on the other side, that we should fear the aggrandizement of a people whose example and encroaching spirit menaces the world.

"I do not know all that. But what I do know is, that there are still four million slaves in the United States, two million in the rest of America, together six million slaves in Christian countries eighteen hundred years after the crucifixion. *What I do know is, that the horrors of civil war have been let loose by this fearful question, and that the peace of the world is threatened, and is already disturbed.*"

* * * * * * * * *

"I understand the objections of those who plead for slavery; I do not desire to discuss them at length. Not that they do not tell me that slaves are happy, and besides that established facts become lawful through duration of time. Slaves are happy. Yes, perhaps, under good masters; they eat, they sleep, they have some hours of repose, perhaps even may be dissipated at pleasure; but have they the domestic hearth, have they the family, have they freedom? Poor disinterested ones of the human family, they have lost not only the right of primogeniture, but all rights, and because they are sometimes allowed a plate of lentils, proclamation is made that they are happy!"

None but heretics will deny these truths, for they but expose the well-known sentiments of the Holy Father.

Now, sir, I say that General Hunter has done that for which, if this Administration rebuke him, it would deserve to be driven out—not as some gentlemen in this House would drive them out, at the point of the bayonet, but it would deserve to be driven from its position, and another Cabinet taken which would save the white man's life, end this war, and, if it must be, as a consequence, extinguish the cause of it.

Sir, I can no longer agree that this Administration is pursuing a wise policy. I am sorry to be obliged to agree with the gentleman from Kentucky in condemning the policy of the Administration, although it is for a different cause entirely. I cannot agree to the policy which is forbidding the employment and liberation of these men. Its policy ought to be to order our Army wherever they go, to free the slaves, to enlist them, to arm them, to discipline them, as they have been enlisted, armed, and disciplined everywhere else, and as they can be here, and set them to shooting their masters if they will not submit to this Government. Call that savage, if you please. Sir, I can hardly desire to see more of my countrymen called into this war to help to shoot these masters and be shot themselves, until this policy is adopted, and until the South shall have rendered up her full share of men—freed men—ere others can be expected to fight for the liberties of the country, and shall have rendered up her full share of life and treasure. I would not only liberate them, but I would seize every foot of land, and every dollar of their property as our armies go along, and put it to the uses of the war and to the pay of our debts. I would plant the South with a military colony if I could not make them submit otherwise. I would sell their lands to the soldiers of independence; I would send those soldiers there with arms in their hands to occupy the heritage of traitors, and build up there a land of free men and of freedom, which, fifty years hence, would swarm with its hundreds of millions without a slave upon its soil.

Mr. LOVEJOY. I demand the previous question.

Mr. HUTCHINS. I ask the gentleman to yield until I can offer a resolution.

Mr. THOMAS, of Massachusetts. Oh! we have fought this war with resolutions long enough. For God's sake let us stop that mode.

Mr. MAYNARD. We have heard enough of this on both sides. I hope the demand for the previous question will not be withdrawn.

The House divided; and the Speaker announced—ayes 61, noes 36.

Mr. WASHBURNE. I move to lay the motion to reconsider on the table.

Mr. WICKLIFFE. I raise the question of order that the motion to lay on the table could not be made while the House was being divided.

The SPEAKER. The Chair thinks that the motion to lay on the table is in order.

Mr. WICKLIFFE. While the House is dividing on the pending question?

The SPEAKER. Not until the count is completed, but the House was not dividing at that time. The Chair overrules the point of order.

Mr. WICKLIFFE. Oh! I knew you would.

Mr. LOVEJOY. I call for the yeas and nays on the motion to lay on the table.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 74, nays 29; as follows:

YEAS—Messrs. Aldrich, Alley, Ashley, Babbitt, Baker, Baxter, Beaman, Bingham, Jacob B. Blair, Samuel S. Blair, Blake, Buffinton, Campbell, Chamberlin, Clark, Colfax, Roscoe Conkling, Cutler, Dawes, Diven, Dunn, Edwards, Eliot, Ely, Fessenden, Frank, Granger, Gurley, Hale, Hanchett, Hutchins, Julian, Francis W. Kellogg, William Kellogg, Lansing, Loomis, Lovejoy, Low, McKnight, McPherson, Maynard, Moorhead, Anson P. Morrill, Justin S. Morrill, Olin, Patton, Pike, Pomeroy, Porter, John H. Rice, Riddle, Sargent, Sedgwick, Shanks, Sheffield, Shellabarger, Sherman, Sloan, Spaulding, Stevens, Benjamin F. Thomas, Train, Trimble, Trowbridge, Van Horn, Van Valkenburgh, Wallace, Walton, Washburne, Wheeler, Albert S. White, Wilson, Windom, and Worcester—74.

NAYS—Messrs. William Allen, William J. Allen, George

H. Browne, Calvert, Corning, Cox, Cravens, Crisfield, Crittenden, Dunlap, Grider, Harding, Holman, Knapp, Law, Mallory, Menzies, Morris, Norton, Pendleton, John S. Phelps, Robinson, James S. Rollins, Shiel, William G. Steele, Voorhees, Ward, Webster, and Wickliffe—29.

So the motion to reconsider was laid on the table.

Before the vote was announced,

Mr. RICHARDSON said: Mr. Speaker, I am paired off with my colleague, Mr. ARNOLD, on all subjects relating to the negro; otherwise I should upon this question vote in the negative.

Mr. TRAIN stated that Mr. RICE, of Massachusetts, was paired with Mr. WADSWORTH.

Mr. STEELE, of New York, stated that Mr. FRANCHOT had paired with Mr. SMITH.

Mr. DAWES stated that Mr. DELANO was absent on account of sickness.

Mr. McPHERSON stated that his colleagues, Mr. BAILY and Mr. COVODE, had paired.

Mr. WINDOM stated that Mr. POTTER was necessarily absent from the House.

Mr. PENDLETON stated that his colleagues, Mr. VALLANDIGHAM and Mr. WHITE, were both absent, and paired with some gentlemen, he had forgotten with whom.

MESSAGE FROM THE SENATE.

A message was received from the Senate by Mr. HICKEY, their Chief Clerk, informing the House that the Senate had passed joint resolutions and bills of the House of the following titles:

Joint resolution (No. 87) to confirm the adverse decision of the Court of Claims in the case of Dennis Cronans;

Joint resolution (No. 88) to confirm the adverse decision of the Court of Claims in the case of T. S. J. Johnson;

Joint resolution (No. 89) to confirm the adverse decision of the Court of Claims in the case of the executor of Lewis Warrington and others;

Joint resolution (No. 90) to confirm the adverse decision of the Court of Claims in the case of Abraham King, administrator of John Mandeville;

Joint resolution (No. 91) to confirm the adverse decision of the Court of Claims in the case of Richard Irwin, trustee of the Mechanics' Bank, New York;

Joint resolution (No. 92) to confirm the adverse decision of the Court of Claims in the case of C. J. Jenkins and W. W. Mason, assignee of John McKinnie;

An act (No. 529) concerning certain lands heretofore granted to the State of Iowa;

An act (No. 543) relating to schools for the education of colored children in the cities of Washington and Georgetown, in the District of Columbia;

An act (No. 545) to authorize the Secretary of the Treasury to appoint a deputy collector of the customs at Chincoteague island, in the State of Virginia;

An act (No. 549) to abolish certain ports of delivery in the Mississippi valley; and

An act (No. 540) making appropriations for the payment of the bounty authorized by the sixth section of an act entitled "An act to authorize the employment of volunteers to aid in enforcing the laws and protecting public property," approved July 22, 1861, and for other purposes.

The message further announced that the Senate had passed a bill (H. R. No. 550) to further provide for the collection of the revenue upon the northern frontier, with amendments; in which he was directed to ask the concurrence of the House.

The message further announced that the Senate had passed bills of the following titles; in which he was directed to ask the concurrence of the House:

A bill (No. 318) for relief in the land claim in California, known as the land claim of Francisco Soberanes, to a tract of land known as Saujon de Santa Rita; and

A bill (No. 380) repealing the law requiring bonds of paymasters and assistant paymasters to be approved by the judge or attorney of the district in which such paymaster shall reside.

ENROLLED BILLS.

Mr. GRANGER, from the Committee on Enrolled Bills, reported that the committee had examined and found truly enrolled bills of the following titles; to which the Speaker thereupon affixed his signature:

Joint resolution (S. No. 83) of thanks to Captain David G. Farragut, of the United States Navy, and to the officers and men under his command;

Joint resolution (S. No. 66) expressive of the thanks of Congress to Lieutenant J. L. Worden, of the United States Navy, and to the officers and men under his command in the Monitor;

A bill (S. No. 256) for the relief of the widows and orphans of the officers, seamen, and marines of the United States ships Cumberland and Congress;

A bill (S. No. 303) for the relief of D. G. Farragut;

Joint resolution (S. No. 61) tendering the thanks of Congress to Captain Louis M. Goldsborough and officers, petty officers, seamen, and marines under his command, for the victory at Roanoke Island;

Joint resolution (S. No. 77) for the relief of the officers, non-commissioned officers, and privates of the battalion of marines on board the transport Governor, on the 3d of November, 1861;

A bill (S. No. 362) in relation to the Post Office Department;

A bill (S. No. 307) to grant the right of preemption to settlers on certain lots in Wisconsin; and

Joint resolution (S. No. 85) to compensate the crew of the United States steamer Varuna for clothing and other property lost in the public service.

TREASURY NOTE BILL.

Mr. STEVENS. I ask the consent of the House to report back from the Committee of Ways and Means, House bill No. 187 to authorize an additional issue of United States notes and for other purposes, with the amendments of the Senate thereto.

No objection was made.

Mr. STEVENS. I have not been instructed by the Committee of Ways and Means to make any recommendations to the House relative to these amendments, but in accordance with my own views, and at the request of the Secretary of the Treasury, I will move to non-concur in all the amendments, and call the previous question upon the motion.

Mr. PHELPS, of Missouri. I hope the gentleman will not call the previous question at this time. I hope the amendments of the Senate will be concurred in.

Mr. STEVENS. I suppose these amendments are well understood. I do not propose myself to discuss them at all.

The previous question was seconded, and the main question ordered to be put.

Mr. HOLMAN. I wish to suggest that as the amendments are all somewhat similar in character, a single vote be taken upon all of them, and that it be taken by yeas and nays.

Mr. PHELPS, of Missouri. I will merely say in respect to one of the amendments, that it limits the issue of Treasury notes of a less denomination than five dollars to $25,000,000, and that many gentleman believe that amount to be as large as we ought to authorize.

Mr. STEVENS. If the gentleman desires, he has the right to call separate votes upon the several amendments.

Mr. PHELPS, of Missouri. I will not insist upon separate votes. I shall, however, vote in favor of concurring in the amendments of the Senate.

No objection being made, the proposition that the amendments of the Senate be disposed of by a single vote was assented to.

The amendments of the Senate were read, as follows:

First amendment:

Page 1, line seven, strike out "fifty," and insert "twenty-five," so as to make the clause read as follows:

Provided, That no note shall be issued for the fractional part of a dollar, and not more than $25,000,000 shall be of lower denominations than five dollars.

Second amendment.

Page 2, line eight, after the word "thereof," insert as follows:

Provided, however, That any notes issued under this act may be paid in coin instead of being received in exchange for certificates of deposit, as above specified, at the discretion of the Secretary of the Treasury.

Third amendment:

Page 3, strike out after the word "deposits," in line eighteen, to the word certificate, in line twenty-four, as follows:

Provided, however, That United States notes to an amount not less than one third of the aggregate sum of said deposits shall at all times be reserved in the Treasury of the United States, or from issue under this act, for the purpose of securing prompt payment of such deposits on demand.

And insert instead thereof as follows:

And of the amounts of United States notes authorized by this act not less than $75,000,000 shall be reserved for the purpose of securing prompt payment of such deposits when demanded, and shall be issued and used only when, in the judgment of the Secretary of the Treasury, the same, or any part thereof, may be needed for that purpose.

Fourth amendment:

Add at the end of the bill as follows:

SEC. 7. *And be it further enacted*, That the Secretary of the Treasury be, and he is hereby, authorized, under such regulations as he may prescribe, to make any officer or depositary designated to receive and keep any moneys collected under and by virtue of an act entitled "An act to provide internal revenue to support the Government and pay interest on the public debt," a disbursing agent of the Treasury for the payment of all interest due to the citizens of any State where such place of deposit may be established, upon Government securities issued by authority of law.

Mr. HOLMAN called for the yeas and nays on concurring in the amendments of the Senate.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 36, nays 58; as follows:

YEAS—Messrs. William Allen, Baker, George H. Browne, Buffinton, Calvert, Roscoe Conkling, Corning, Cox, Cravens, Diven, Eliot, English, Fouke, Goodwin, Grider, Holman, Knapp, Law, Mallory, Menzies, Justin S. Morrill, Morris, Olin, John S. Phelps, Pike, Porter, Richardson, Robinson, Edward H. Rollins, John B. Steele, Benjamin F. Thomas, Voorhees, Walton, Webster, Wickliffe, and Wilson—36.

NAYS—Messrs. Aldrich, Alley, Ashley, Babbitt, Baxter, Beaman, Bingham, Samuel S. Blair, Blake, Campbell, Chamberlin, Clark, Colfax, Cutler, Dunlap, Dunn, Edwards, Ely, Frank, Granger, Hale, Hutchins, Francis W. Kellogg, William Kellogg, Loomis, Lovejoy, Low, McKnight, McPherson, Maynard, Moorhead, Morrill, Patton, Timothy G. Phelps, Pomeroy, John H. Rice, Riddle, James S. Rollins, Sargent, Sedgwick, Segar, Shanks, Sheffield, Shellabarger, Sherman, Sloan, Spaulding, Stevens, Train, Trimble, Trowbridge, Van Horn, Van Valkenburgh, Wallace, Washburne, Wheeler, Albert S. White, and Worcester—58.

So the amendments of the Senate were non-concurred in.

Before the vote was announced,

Mr. HUTCHINS stated that Mr. KELLEY had paired with Mr. STILES upon this question.

Mr. HOLMAN stated that Mr. STEELE, of New Jersey, had paired with Mr. VERREE.

Mr. STEVENS moved to reconsider the vote by which the amendments were non-concurred in; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

PACIFIC RAILROAD.

Mr. CAMPBELL. I ask the consent of the House to take from the Speaker's table Senate bill No. 379, for the purpose of putting it on its passage. It merely makes provision for the first meeting of the corporators of the Pacific Railroad Company.

There being no objection, Senate bill No. 379, to amend an act entitled "An act to aid in the construction of a railroad and telegraph line from the Missouri river to the Pacific ocean, and to secure to the Government the use of the same for postal, military, and other purposes," approved July 2, 1862, was taken from the Speaker's table, and read a first and second time.

The bill was read. It provides that the first meeting of the commissioners named in the act entitled "An act to aid in the construction of a railroad and telegraph line from the Missouri river to the Pacific ocean, and to secure to the Government the use of the same for postal, military, and other purposes," approved July 2, 1862, and of the five commissioners directed by the act to be appointed by the Secretary of the Interior, shall be held at Bryant Hall, in the city of Chicago, Illinois, on the 2d Thursday of August next, at twelve o'clock, noon. A notice of the meeting, to be signed by at least ten of the commissioners named in the act, is to be published once a week, during the six successive weeks commencing on the 12th of July, 1862, in one daily newspaper in each of the cities of Boston, New York, Philadelphia, Cincinnati, Chicago, and St. Louis, and no other notice is to be requisite.

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

Mr. CAMPBELL moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

SICK AND WOUNDED SOLDIERS.

Mr. HALE, by unanimous consent, introduced a joint resolution authorizing the Secretary of War to furnish extra clothing to sick and wounded soldiers; which was read a first and second time.

The joint resolution was read at length. It authorizes the Secretary of War to furnish extra clothing to sick and wounded soldiers, and others who may have lost the same by the casualties of war, under such rules and regulations as the Department may prescribe, during the existence of the present insurrection.

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

Mr. PHELPS, of Missouri. I move to reconsider the vote by which the last joint resolution was adopted. I desire to move a slight amendment, in order to make the resolution more definite.

The motion was agreed to.

Mr. PHELPS, of Missouri. I now move to amend by adding the word "soldiers" after the word "other;" so that it shall read, "sick and wounded soldiers, and other soldiers," &c.

The amendment was agreed to.

The resolution was then passed.

ENROLLED BILL.

Mr. GRANGER, from the Committee on Enrolled Bills, stated that the committee had examined and found truly enrolled an act (H. R. No. 540) making appropriation for the payment of the bounty authorized by the sixth section of an act entitled "An act to authorize the employment of volunteers to aid in enforcing the laws and protecting public property," approved July 22, 1861, and for other purposes; when the Speaker signed the same.

CONTRACTS WITH THE GOVERNMENT.

Mr. BINGHAM. I am instructed by the Committee on the Judiciary to ask consent to take from the Speaker's table Senate bill No. 358, to prevent members of Congress and officers of the Government of the United States from taking consideration for procuring contracts, office, or place from the Government, for the purpose of having it referred to the Committee on the Judiciary.

Mr. WASHBURNE. I object to its being taken up for that purpose. I want to put it upon its passage now.

Mr. BINGHAM. I have no objection to having it taken up and put upon its passage.

Mr. STEVENS. I object to its being taken up for consideration at this time.

SOLDIERS IN THE PENITENTIARY.

Mr. BINGHAM. I am directed by the Committee on the Judiciary to report back, with sundry amendments, the bill (H. R. No. 524) prohibiting the confinement of persons in the military service of the United States in the penitentiary of the District of Columbia, except as a punishment for certain crimes, and to discharge therefrom certain convicts by sentence of courts-martial. The bill was referred to the committee, with leave to report at any time.

The amendments reported from the committee were reported.

The first amendment was, to insert, in line ten, section one, after the word "mutiny," the words "or desertion or attempt to incite a mutiny."

The second amendment was, to insert, in the fourth line of section two, after the word "mutiny," the words "or desertion or attempt to incite a mutiny."

The third amendment was, to insert, in the fifth line of the third section, after the word "mutiny," the words "or desertion or attempt to incite a mutiny."

The fourth amendment was, to strike out in line six, section three, the word "so," and insert, after "punishable," the words "imprisonment in the penitentiary."

Mr. PHELPS, of Missouri. I will say to the gentleman from Ohio that I have not examined this bill, as I desired to. When the matter was under discussion some time ago, I thought there was no necessity for this legislation. But the bill, in the main, will accomplish the purpose which is desired by those who differ with me, and is not objectionable.

There is one other matter which has occurred to me. The crime of forcing a safe-guard is punishable with death or such other punishment as a court-martial shall inflict. Forcing a safe-guard is one of the offenses which ought to be added to this bill, after "attempting to incite a mutiny," because a court-martial might, instead of inflicting death, subject the offender to imprisonment.

Mr. BINGHAM. As this is not one of the indictable offenses under the laws of the United States in the civil tribunals of the country, and inasmuch as it was the intention and purpose of the Committee on the Judiciary to conform the bill to the express will of the House, I have no objection to the gentleman having an opportunity to offer the amendment. Let the question, however, be first taken upon the amendments reported by the committee.

Mr. PHELPS, of Missouri. Certainly.

The several amendments reported from the committee were adopted.

Mr. PHELPS. I will not move the amendment I indicated, because on reference to the articles of war I find the punishment of that offense is death. I had the impression that it was death or confinement in the penitentiary—in the alternative. Therefore a court-martial has no discretion.

Mr. DAWES. I would inquire of the gentleman what particular philosophy there is in prohibiting these persons from being confined in the penitentiary in the District of Columbia? If there is any reason for the passage of this bill, that reason would apply in favor of their not being confined in any penitentiary.

Mr. BINGHAM. I have not been informed that persons convicted by court-martial have been imprisoned in any penitentiary except the one in the District of Columbia. There are about a hundred in the penitentiary here. We were advised by the House that it was advisable to have such persons discharged from the penitentiary, in all cases where they were sent there for offenses which were not punishable under the civil laws of the land by a like imprisonment.

Mr. DAWES. It will follow, if this bill pass, that all that is necessary to be done, will be to erect a penitentiary in some State, or in some other Territory under the exclusive jurisdiction of Congress, and confine these offenders there; and that will follow very soon.

I do not advocate the bill, because I had no objection to using the penitentiary in the District of Columbia; but I have objection to confining men, for certain offenses, in any penitentiary. It is true, I think, as stated by the gentleman from Ohio, that until the present time, it has not been the custom to confine such offenders in any penitentiary; but the moment this bill is passed, I think they will be confined in other penitentiaries.

Mr. PHELPS, of Missouri. When this bill was under consideration sometime since the attention of the House was called to the fact that a chaplain of the Army of the United States was confined in the penitentiary of this District. Since then I have been credibly informed that that chaplain was imprisoned because he had been convicted of the crime of mutiny, or inciting a mutiny in the face of the enemy.

Mr. DAWES. To whom does the gentleman allude?

Mr. PHELPS, of Missouri. I do not know the individual's name. I understood that at the time this matter was under consideration before, some gentleman who engaged in that discussion—I do not know who he was—referred to that fact, and it was thought by some a great disgrace that a man of his cloth should be sent to the penitentiary. As I am informed, that chaplain was convicted by a court-martial for the crime of mutiny when the Army was in the face of the enemy and a battle imminent. He who at such a time incites a mutiny ought to have his life taken upon the spot.

Mr. DAWES. I am confident that during that debate, at least, no one stated that a chaplain was confined in the penitentiary.

Mr. PHELPS, of Missouri. I understood that such was the statement.

Mr. WICKLIFFE. It was a minister of the Gospel belonging to a company.

Mr. PHELPS, of Missouri. When this question was under consideration before, I took occasion to express my views in opposition to the legislation, because I believed the courts-martial ought to have jurisdiction, and had jurisdiction of offenses committed in the Army. And now, while I have some doubts in relation to this matter, I do not feel disposed to offer any opposition to it.

Mr. DAWES. The gentleman from Missouri should not undertake to put the advocates of this bill in the light of attempting to weaken the discipline of the Army, or of attempting to incite mutiny or to countenance it, whether it be in chaplains or in anybody of any cloth. No man who advocates this bill advocates it from any such motive, but from a desire that, while proper punishment, such as the articles of war may prescribe, shall be visited upon any such offenses as that, the power which attaches incidentally to courts-martial shall not be abused against the liberties of the citizen. That is all, and the gentleman's attempt to put those who advocate this bill in the position of seeking to weaken the discipline of the Army is entirely gratuitous.

Mr. PHELPS, of Missouri. I am making no imputation of that kind at this time. I believe I did some time ago say that I thought these discussions unfortunate, and that they would lead to the weakening of the discipline of the Army. I still believe that the passage of this measure will have that effect. The punishment of a sentinel for sleeping on his post, for instance, is death, or such other punishment as the court-martial may see fit to inflict. Under the present rules and articles of war a sentinel found guilty of so doing may be sentenced to imprisonment in the penitentiary; but as sleeping on his post is no offense against the criminal code of this District, or of any of the States, nothing will be left to the court-martial, if this bill shall pass, but to find the man guilty, and sentence him to be shot. You are making the rules and articles of war more rigorous than they now are, because you leave no discretion to the court-martial, and the only way in which a man can avoid the sentence is by addressing the President of the United States, who has the power of pardon; and if the offense is committed in the State of Tennessee or elsewhere where it may be difficult to communicate with the President, the sentence of the court-martial would be executed before there would be an opportunity to appeal to the clemency of the Executive.

Mr. BINGHAM. The Committee on the Judiciary, in reporting this bill, confined themselves to the instructions of the House. The first purpose seemed to be to relieve from imprisonment in the penitentiary soldiers of the United States committed for six months or a year or more, not charged with indictable offenses, or with any offenses known as crimes under the laws of the United States. Among the list of prisoners in the penitentiary returned to this House by the Secretary of the Interior, are those who have been committed for six months or a year, and the charges against whom are "unknown," according to the report of the Secretary of the Interior. To relieve those persons from this unjust imprisonment was one of the purposes the House had in view in referring this matter to the Committee on the Judiciary. The committee have fully met that requirement of the House in the second section of this bill, but the committee believed that for such high offenses against military law and discipline as mutiny, desertion, or an attempt to incite to mutiny, although not indictable at law, the parties ought to be subjected to imprisonment in the penitentiary, because, as the law stands, courts-martial have the right of imprisoning in some other mode, or of condemning them to death.

Mr. DAWES. I ask the consent of the gentleman to offer the following amendment, for the purpose of securing the aim of the bill:

SEC. 3. *And be it further enacted*, That no person hereafter upon the decision of a court-martial shall be confined in any penitentiary in the United States, except under the conditions of this act.

Mr. BINGHAM. I see no objection to that amendment. If the bill is right for the District of Columbia, it is right for every State and Territory in the United States.

Mr. DAWES's amendment was agreed to.

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

Mr. BINGHAM moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider upon the table.

The latter motion was agreed to.

Mr. BINGHAM moved to amend the title of the bill by adding thereto the words "and for other purposes."

The amendment was agreed to.

NATIONAL ARMORY.

Mr. PORTER. I ask the unanimous consent of the House that Senate bill No. 342, in relation to a national armory, be taken from the Speaker's table and considered now.

Messrs. MOORHEAD, and KELLOGG of Illinois, objected.

Mr. PORTER. I move, then, to go to the business on the Speaker's table.

The SPEAKER. That motion is not now in order. There has been no morning hour.

CONGRESSMEN INTERESTED IN CONTRACTS.

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

Resolved, That the Secretary of War is hereby directed to communicate to this House all the evidence on file in his Department that relates to the question whether any member or members of Congress have or have had any interest in contracts since the 1st day of April, 1861.

Mr. EDWARDS. I wish to ask the unanimous consent of the House to report a short bill in relation to the Indian trust bonds.

Mr. DUNN. I must object, and call for the regular order of business.

Mr. HOLMAN moved that the House do now adjourn.

The motion was disagreed to—ayes fifteen, noes not counted.

Mr. STEVENS moved that the rules be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union.

The motion was agreed to.

So the rules were suspended; and the House accordingly resolved itself into the Committee of the Whole on the state of the Union, (Mr. ASHLEY in the chair.)

Mr. STEVENS. I ask that by unanimous consent we pass over the first three bills upon the Calendar, and take up bill No. 242, in relation to the establishment of a national foundery. I do not mean to ask any action upon it to-day, but there is a gentleman here who desires to make a speech.

Mr. WASHBURNE. I object to that. We had better go on in the regular order.

SANDERSON'S BREECH-LOADING CANNON.

The committee then proceeded to the consideration of the first business upon the Calendar, being a joint resolution of the House, authorizing the Secretary of War to test Sanderson's breech-loading cannon.

Mr. HUTCHINS. Mr. Chairman, my colleague [Mr. Cox] from the Columbus district, on the 6th of June, in the Committee of the Whole, made a most extraordinary speech, intending thereby to damage the fair reputation of the Thirty-Seventh Congress, whose epitaph, after a fashion, he took the pains to write out. The most cruel epitaph he could have written would have been the following, inserted at the close of his speech: "This speech was listened to with patience by the House." In justice to the House, it should be stated that during its delivery there were but few members present, and most of them his political friends. There is one other fact that it may be important to notice in connection with this speech: that it was delivered late Friday evening, and that it was distributed in pamphlet form early the next morning, and consequently, I suppose, most of it must have been in type before it was delivered, and this will account for "laughter" coming in *very* frequently, and at proper places. It is sometimes difficult to get the laugh in when one wants it, for it will not always come at a speaker's bidding, and this mode of my colleague supplies this defect, and shows when the auditors should have laughed, if they did not. I will briefly notice some points of this carefully written out speech. I cannot consent to follow his *style* of argumentation, for I cannot do it without getting into the muddy element in which he delights to sport. He takes to the turbid waters of low ridicule as naturally as the polliwog does to the dirty waters of the ditch. In these riled waters he swims without a rival, and is unquestionably without a peer in the Thirty-Seventh Congress. He arraigns this Congress before the grand inquest of the nation, and the gravamen of his charge is, that the interest of the white man is neglected for the benefit of the negro; that Congress puts in peril the Constitution and the Union to carry out the Utopian idea of negro equality. My colleague this session has introduced and spoken upon the negro question oftener than any member on this side of the House. Negro equality seems to disturb his meditations by day and his dreams by night. Can it be that he fears the competition of negro equality? The bitterness of some men towards a rival is measured by their fear of that rival. I will not say this is the case with my colleague, but a circumstance to which I will soon refer gives *color* to the suspicion.

My colleague takes special pains and peculiar delight, on all occasions, to prejudice and slander colored men, and to ridicule all men who are disposed to do them simple justice. He is quick to take advantage of a prejudice which the accumulated oppressions and wrongs of ages have created against the African to crush him still lower in the scale of degradation. He ridicules all efforts to better his condition by low appeals to a prejudice which slavery has intensified, if it did not create. His speech shows him to be in favor of the perpetual slavery of the African. He is opposed to colonization or the liberation of the slaves of rebels, fearing it may result in general emancipation. He fears that unless enslaved and held in the degradation of caste, Africans will somehow or other work themselves into dangerous competition with the Anglo-Saxon. The justice and the logic of his position are on a par. The bitterness and the meanness of his attack upon the colored race will appear in a few characteristic extracts from his recent speech, which I will denominate, by the use of one of his *classic* expressions, the "cesspool of iniquity."

Speaking of the colored people of Ohio, he said, "as a general thing they are vicious, indolent, and improvident."

After quoting from a speech of Senator SHERMAN, my colleague said:

"If the Senator could visit Green's Row, within the shadow of this Capitol, henceforth 'Tophet and black Gehenna called, the type of hell,' and note the squalor, destitution, laziness, crime, and degradation there beginning to fester; if he could visit the alleys in whose miserable hovels the blacks congregate, he would hardly be reminded of the paradise which Milton sang, with its amaranthine flowers, [laughter,] its blooming trees of life, its golden fruitage, its amber rivers rolling over elysian flowers, its hills and fountains and fresh shades, its dreams of love, and its adoration of God. Alas! he would find nothing here to remind him of that high estate in Eden, save the fragrance of the spot and the nakedness of its inhabitants. [Laughter.]

"If the rush of free negroes to this paradise continues, it would be a blessing if Providence should send Satan here in the form of a serpent, and an angel todrive the descendants of Adam and Eve into the outer world. If it continues, you will have no one here but Congressmen and negroes, and that will be punishment enough. [Laughter.] You will have to enact a fugitive law to bring the whites to their capital. [Laughter.]"

Referring to another colleague, [Mr. EDGERTON,] he said:

"It is recorded that in his county a white woman of Akron sued out a *habeas corpus*, (for the writ runs there yet, at least where there is *color* of right,) to take a mulatto baby from a Mrs. Jones, a negro woman, under whose care it had been placed by its white mother, and who had become attached to the pickaninny. In the course of the discussion, Mrs. Jones told the white woman that she thought, 'if the white folks were mean enough to have negro babies, they ought to be willing to let colored people bring them up.' [Laughter.] So the judge decided. These little straws show how to account for the preponderance of mulattoes North."

Speaking of his new congressional district and the Western Reserve, he said:

"This new district, sir, is rich in colored materials. A very pretty mosaic! A sweet, fragrant nest! And this is the Afric's coral strand to which my missionary labors are to be directed. [Laughter.]

"One would suppose that, in the Western Reserve, where the profession of philanthropy is ever arising in prayer, in speech, and in print, where for years they cultivated no civil discipline which interfered with their notions of slavery, there would be throngs of blacks. Is it so? Thou iron-tongued census, speak!

Colored persons in Ashtabula	95
Cuyahoga (Cleveland)	894
Lake	36
Mahoning	61
Portage	76
Trumbull	80
Geauga	7
Loraine (Oberlin)	549
Medina	58
Summit	88
Total	1,854

"So that, in these ten counties of the Western Reserve, there are but a few more Africans than in one county of my district! Why they especially avoid Ashtabula I cannot say. Is it the prodigal profession and scant practice of humanity? [Laughter.] Or has Giddings, with a view to protect property and keep up its price, coaxed them into Canada, where happily he is now domiciled? And there is Geauga, with not as many negroes as Fulton county has Indians! What a commentary on representative fidelity is here! The member from Ashtabula, Mahoning, and Trumbull, [Mr. HUTCHINS,] speaks for one hundred and sixty-six negroes; but from his piteous ado, one would suppose that he represented at least as many Africans as the king of Dahomey. [Laughter.] And there is my smiling colleague from the northwest, [Mr. ASHLEY,] whose rotund form is ready to become, like Niobe, all tears by his grief for the poor negro, [laughter;] whose gushes of eloquence in their behalf remind one of the Arab lyrics in praise of the dark maidens of Abyssinia when they sung: 'Oh! the black amber! the black amber! Its perfume, by far, is sweeter than all else on earth or in star; the lotus of Nile, the rose of Cashmere, my senses enthrall, when thou art not here.' [Great laughter.] Yet, from the whole eleven counties of his district he cannot count as many negroes, by half, as live in my own county.

"I am not particularly proud of representing a greater number of Africans than my colleagues. I think, so far as the chattering goes about their inalienable rights and everlasting wrongs, I am entirely unsuited to represent them."

Upon the principle by which his political action is controlled, my colleague [Mr. Cox] cannot understand why it is that a Representative should strive to do an act of common justice or an office of common humanity to a class of human beings who do not happen to be his immediate constituents. The whole secret of his abuse of the negroes is, that they cannot vote. Had they the right of suffrage, I have no doubt he would sit up nights to compose peans to their praise.

My colleague at the extra session took occasion to unjustly reproach the Western Reserve for not raising its proportion of troops for this war. Statistics from authentic sources show that Ashtabula county, with a population of 31,814, has sent over fourteen hundred men. Trumbull county, with a population of 30,656, has sent nearly, if not quite the same number, and this does not embrace some companies made up, and now in the service, under the recent call of the Governor, in response to the Government at Washington. I have not seen the statistics from Mahoning county, but I believe she has sent as many men in proportion to her population as either Trumbull or Ashtabula county. The same is true of the other counties of the Reserve. Franklin county, in which my colleague [Mr. Cox] resides, and in which is situated Columbus, the capital of the State, with a population of 50,361, according to a recent statement has only sent between nine hundred and a thousand men. This may be accounted for, in part, from a fact stated in my colleague's speech, that there are in his county many more mulattoes and negroes than in the counties of the Reserve, and when the Government is willing to receive such aid, very likely his county will furnish her quota.

My colleague has been some time before the public as a politician, and he has figured somewhat in other departments of human enterprise. He has traveled, and added to the contributions of literature by making a note of his travels. In other words, he has written a book. There was wisdom in Job's desire that his "adversary had written a book." I quote from the title-page of my adversary's book: "A Buckeye Abroad, or Wanderings in Europe and in the Orient, by SAMUEL S. COX." This is grandiloquent and euphonious. I make no criticisms upon the book or the subject-matter of it. In sentiment it is average, and in literary execution it is respectable. The first chapter shows a turn of sea-sickness, but this is said to be good for the stomach. A turn just before my colleague composed his speech might have relieved it of much foul matter. To show the House and the country the difference between "A Buckeye Abroad" and a Buckeye at home, I will ask the Clerk to read a passage from my colleague's book, in which he described the Pope at service, in Sistine chapel.

The Clerk read the following:

"While waiting the entrance of his Holiness, the mind can find delight in examining the 'last judgment of Angelo frescoed upon the wall of the chapel.' Every variety of hope, doubt, despair and beatitude, beam upon us from the figures upon the wall. Within a sacred inclosure, over which tip-toed curiosity can barely peep, is a green carpeted floor and tapestry hangings, with an altar and a throne. Seats are arranged for the cardinals, who soon begin to pour in, dressed in great red gowns and scull-caps, attended by servants in purple. After bows and crosses the servants proceed to unroll the trains and seat the cardinals. A very hearty array of old Romans they seem, with their arms under cover, their gaudy hair shining, their lofty brows and intel-

ligent faces bespeaking good living, as well as study and reflection. Most of them kept up an inaudible prayer. One fine, old, tremblingly fat gentleman seemed to be beyond the age of piety, but his habitual prayerfulness still played upon his lips. He reminded me of Chaucer's monk, who repeated all his terms,

'That he had learned out of some decree,
No wonder was he heard it all the day.'

"Directly, buff soldiers, with gilt helmets and drawn swords, rush in to guard the door. I thought at first that there was a sudden insurrection, knowing that in matters of power, as poor Pius has learned, 'there is but one step from the Capitol to the Tarpean Rock.' But no; the choir strike the high notes, the doors beyond open, and 'Viola,' the vicegerent of God appears in his tiara and cloth of gold. Around him swarm ministers of every degree and shade of color. He kneels; the rustle of red cardinals shivers in the hallowed air, and all kneel. Then he ascends to the throne, a fine looking, full-faced man, graceful and dignified in his bearing. Power he seems to wear as a familiar garment. How graciously he extends to the cardinals, who severally leave their seats, attended by their attendants in purple, carrying their trains. They, bowing, kiss the hand, or, as I was informed, the diamond brilliant upon the Pope's ring, as a token of reverence. An inferior order prostrate themselves, and tip their labia at the shoe of his Holiness, upon which is a cross of silver. In the mean time seraphic music from the Pope's select choir ravishes the ear, while the incense titilates the nose. Soon there arises in this chamber of theatrical glitter a plain, unquestioned African, and utters the sermon in facile latinity with graceful manner. His dark hands gestured harmoniously with the rotund periods, and his swart visage beamed with a high order of intelligence. He was an Abyssinian.

"What a commentary was here upon our American prejudices! The head of the great Catholic Church, surrounded by the ripest scholars of the age, listening to the eloquence of the despised negro, and thereby illustrating to the world the common bond of brotherhood which binds the human race." * * * * "The sermon of the Abyssinian, in beautiful print, was distributed at the door. I bring one home as a trophy and as a souvenir of a great truth which Americans are prone to deny or condemn."

Mr. HUTCHINS. This Abyssinian admiration of my colleague, which he has so graphically described, may have suggested to him the propriety of having his speech mostly in type, ready for distribution as soon as delivered.

The quotations from my colleague's speech which I have read show "the Buckeye" at home. The extracts just read by the Clerk show the "Buckeye abroad." This Buckeye shrub flourishes best in exotic soil. There it grows to respectable height, and its foliage is quite beautiful; but at home it grows low and scrubby, and its foliage is scabby. I would suggest to my colleague to become not a "wandering Jew," but a wandering "Buckeye abroad." In his case, "distance lends enchantment to the view." In justice to my colleague, I will state that these quotations from his recent speech are taken from the "sunset" side of his political life, when he is in "the sere and yellow leaf." A few words in reply to his indictment against this Congress. The events which have occurred up to this time during the life of the Thirty-Seventh Congress, are the most eventful in our history. The Government, of which the Congress is a part, since the 4th of March, 1861, the day on which Mr. Lincoln was inaugurated President, has had forced upon it perplexing questions and embarrassing duties to a greater extent than in the same length of time during any former period since the adoption of the Federal Constitution. This Congress, as the legislative branch of the Government, has had to meet those questions and discharge those duties, and history will record in the main that it has met its responsibilities and performed its duties wisely and well. From the persistent opposition of my colleague [Mr. Cox] and those who act with him politically, this Congress has failed to do some things which it should promptly have done, and what he most complains of will live on the historic page as among its most noble and beneficent acts.

This Congress found the Government in debt $120,000,000, caused by the frauds, stealings, and imbecility of a Democratic Administration, which my colleague helped to elect, and which he supported. It found its Navy scattered to distant seas by the orders of that Democratic Administration. It found its munitions of war, arms, and ordnance, and most of its treasure, in the hands of traitors and rebels by the connivance and treachery of the members of the Cabinet of that Administration. It found many of the Government forts, arsenals, dock-yards, navy-yards, custom-houses and mints in possession of armed rebels, a large majority of whom were members of the party to which my colleague belongs. The Government securities were selling at a discount of sixteen per cent.; public confidence abroad in the integrity and stability of the Government was gone, and at home it was materially weakened and well nigh destroyed, and nearly all the Democratic party in the slave States, and many of its members in the free States, were openly or secretly conspiring to overthrow the Government and destroy the unity of the nation. A majority of the Army officers who were Democrats had turned traitors and had basely deserted their flag, and were in arms against the Government which had educated them.

The foregoing is a general and brief statement of the condition of affairs when the Thirty-Seventh Congress, on the call of the President, on the 4th day of July last, was summoned to a discharge of its duties. So energetic, prompt, and thorough was the action of the Thirty-Seventh Congress at the extra session, that it inspired hope and revived confidence throughout the loyal sections of the country. Laws were promptly passed, on the recommendation of the Executive and his Cabinet, to provide ways and means to raise an Army and provide a Navy; and forthwith, in response to these measures, six hundred thousand citizen soldiers were in the field, armed, equipped, and supplied with all requisite munitions of war. The scattered Navy was collected as soon as possible; new and improved vessels of war were built; the Navy was reorganized, and its glorious achievements at Hatteras, Roanoke, Forts Henry, Donelson, Pulaski, Phillips, Jackson, at Island No. 10, at New Orleans, at Memphis, and at other places, in coöperation with the Army, are the grand results. The action of Congress was but the echo of the patriotic voice of the people. On the authority of law money flowed into the Treasury at the call of its Secretary sufficient to meet all those extraordinary expenses, and to-day the Government securities are selling at a premium. So far as the raising of money, means, materials, and munitions of war is concerned, the success in the same length of time is without a parallel in the history of any nation. The Government of England, in 1796, under the administration of Mr. Pitt, effected a loan, known in history as the "Loyalty Loan," being raised by the voluntary subscription of loyal persons, of £18,000,000. This fact has been proudly chronicled by English writers as a remarkable instance of the patriotism and of the exhaustless resources of the English people. The loyal American capitalists as quickly responded to the amount of $150,000,000! Napoleon, in the zenith of his power, and in the pride of his military success, and in the height of his military glory, never raised and put into the field an army of six hundred thousand men as promptly as did the President of the United States on the authority of the legislation of the Thirty-Seventh Congress.

The nations of Europe have beheld these results with wonder and amazement, and some of them with chagrin. Our national symbol, the American flag, with no star obscured and no stripe erased, will soon float in triumph over every rood of the Republic, and it will again command respect on every sea and at every port where commerce, enterprise, and civilization have a habitation and a name. Whatever has been found defective in the legislation of the extra session has been corrected, and is being corrected, at the present session. Congress has matured a system of taxation commensurate with the high duties which it has been compelled to discharge. This has been a most arduous and difficult task. There are, doubtless, defects in this system which experience will develop and which future legislation will correct. The patriotism of the people has been tested in surrendering the flower of its population for the defense of the Government, and the croakings of demagogues and traitors at the tax bill will not swerve them from their integrity or frighten them from their patriotism. The soldiers must be paid —their families must be provided for. This Congress has had to act upon embarrassing questions, some of them without precedent in the history of the Government. There has been occasion for honest difference of opinion among loyal and patiotic men as to the legality and policy of certain measures. Upon many questions each member, in obedience to the judgment of the whole, has been obliged to yield up, to some extent, his individual opinions; and the individual ideas of members of what is right and proper cannot always be carried out.

In discharge of those high duties which this rebellion has devolved on this Congress, it has freed the capital from the disgrace and the crime of slavery; and looking upon slavery in the States as the immediate cause of this wicked war against the Government, on the recommendation of the President, Congress, in a liberal and friendly spirit, has proposed to aid by pecuniary compensation such States as may desire to rid themselves of this terrible incubus. As a punishment for crime, as means of putting down the rebellion, Congress is proposing to confiscate the property of rebels, and to deprive them of their slaves. Following the teachings of Jefferson, and the example of the Congress of 1787, this Congress has forever prohibited slavery in the Territories acquired and to be acquired.

Against these and other kindred measures of obvious policy and justice my colleague of the Columbus district protests by voice and vote, and because Congress entertains them, he hurls at it his bitterest denunciations. I am grateful to my constituents for an opportunity to vote for and advocate such measures. Few men in any age have had, or will have an opportunity to do so much good in a public way as the members of the Thirty-Seventh Congress. These measures, against which my colleague wags his tongue with such hatred and bitterness, will be regarded in history as the noblest acts of the Thirty-Seventh Congress. They recognize the inalienable right of man to life, liberty, and justice. One cannot fail, in reading my colleague's tirade against these acts, to be reminded of the burning words of Mark Antony over the dead body of Cæsar:

"Oh judgment! thou art fled to brutish beasts,
And men have lost their reason."

History will be true to justice, and will not "own such judgment" as my colleague has pronounced. He interposes against these measures with all his powers of ridicule "the raw-head and bloody bones" of negro equality. These measures have no relation to political or social equality, and have no tendency to regulate the one or to interfere with the other. Because we are willing to do justice to the humblest in society, does it follow that we are bound to extend to them the same social and political privileges which we enjoy? Because my colleague is disposed to pay his humble washerwoman a just compensation for her labor, shall I reproach him with the *inclination* to marry her, or to invite her to his table? The right of suffrage is a political right, and a State or political community may withhold it from a class of persons without an interference with their natural rights. It is withheld in most of the States from foreigners till they have resided in the country five years. It may be granted conditionally to, or withheld entirely from, colored persons, without injustice to their natural rights. The people of each State are entirely competent to regulate that matter, and most people are competent to control their social relations. Should the gradual emancipation plan be carried out in the States, and should confiscation liberate the slaves of rebels, if my colleague really fears he shall be brought down or up to a social equality with liberated Abyssinians, such as he saw at Sistine Chapel, or if he fears any tendency to amalgamate with that race which he so despises in this country, but which in Rome so charmed him, I will not object to a special law for his benefit. Such a bill would be in order on private bill day, if no objection is made, and I am sure no one on this side of the House will be so unkind as to interpose an objection. My colleague seems to have but little prejudice against the society of traitors, and from his votes here he would seem desirous of cultivating it. This may be attributed to the fact that his system is so full of prejudice against the negro that there is no room for justice to traitors. The space is limited.

A bill passed the House, a few days since, entitled "An act to prescribe an oath of office." This bill provided in substance that all United States officers shall take an oath that they have not voluntarily engaged in this rebellion, or borne arms against the United States. Without such a law, at the close of the war this House might be mainly filled, from the States now in rebellion, with traitors. My colleague showed by his vote that he was willing, as a member of this body, to set alongside of traitors, whose hands are red with the blood of his murdered constituents. My colleague, and all his Democratic associates, voted against this bill. They do not object to the society of traitors, but they do oppose acts of com-

mon justice and humanity to loyal colored persons. My colleague throws out in his speech the pro-slavery argument that emancipation in the West Indies has been a failure. This is untrue. Emancipation nowhere has been a failure, politically, morally, or pecuniarily; for the reason that freedom is better than slavery for all parties concerned; and because right is always productive of good, and wrong is always productive of evil. This is part of the economy of Providence in the government of this world. Emancipation in the West Indies has been a great success, and as an example we should profit by it. Pro-slavery writers and speakers have seized upon isolated facts, and in ignorance of the real condition of the island before and since emancipation, or willfully blind to it, have used these facts to the prejudice of emancipation. An able writer in the Edinburgh Review for April, 1859, in an article entitled "West Indies as they were and are," used the following language:

"Never was a more radical revolution made in the fortunes of a whole people than when eight hundred thousand British negroes stepped from slavery into freedom. When the clock began to strike twelve on the night of July 31, 1834, they were, in the eye of the law, things, chattels, beasts of burden, the mere property of others. When it had ceased to sound, they were, for the first time, not only freemen, but *men* standing on the same level as those who had formerly owned them."

The negroes were everywhere jubilant when their birthright of freedom was restored to them. Rev. James Phillipo, Baptist missionary in Jamaica, in describing the state of things when the slaves were released from their apprenticeship in 1838, uses the following language:

"In front of the Baptist chapel were three triumphal arches decorated with leaves and flowers, and surrounded by flags with inscriptions, 'Freedom has come!' 'Slavery is no more!' 'The chains are broken; Africa is free!' The enthusiasm of the multitude was aroused up to the highest pitch. They wanted to greet all the flags, many of which bore the names of their benefactors, 'Sturge, Brougham, Sligo,' &c. The flags were unfurled, and for nearly an hour the air rang with exultant shouts, in which the shrill voices of the two thousand children joined; 'We're free!' 'We're free!' 'Our wives and our children are free!'"

Could emancipation to such people be a failure? The real condition of the West Indies has been misunderstood or grossly misrepresented. What has been quoted as a failure of emancipation is attributable to other causes, and emancipation is in nowise responsible for it. The principal fact relied upon to show that the islands were injured by emancipation is the fact that in some years since emancipation the exports have been less than before.

The chief end of man in society is not to raise produce to export, and this fact is not the best criterion of the prosperity of a country. When all things are taken into the account, the facts on this head are against slavery, as I will hereafter briefly show. The bad economy of slavery in the West Indies had well nigh bankrupted and ruined them, as it always does any State or country where it is tolerated. The population returns from the islands, made to the British Parliament prior to emancipation, showed that in eleven islands (the only ones from which returns were made) "the slaves had decreased in twelve years by no less than 60,219; namely, from 558,194 to 497,975." According to the estimate of the Edinburgh Review, "had similar returns been procured from the other seven colonies, (including Mauritius, Antigua, Barbadoes, and Grenada,) the decrease must have been little, if at all, less than 100,000." What an appalling fact was this—one hundred thousand human beings slaughtered in twelve years, that a few privileged slaveholders might become rich in exporting rum and sugar! A few may be pecuniarily benefited by such a state of things, but everything valuable and desirable in society must go to decay. This damning fact was enough, in the estimation of the British public, to destroy slavery. Emancipation came, and in the next twelve years from ten colonies (no returns were made from the others) there was an increase of 54,076 colored persons. This may be set down to the credit of freedom. Increase of population is always regarded as an evidence of prosperity in a State or community.

Under the demoralizing influences of slavery the West Indies, prior to emancipation, were rapidly going to decay in commerce and in everything that concerns the well-being of society. In Jamaica, for the ten years prior to 1830, the decrease in sugar was no less than 201,842 hogsheads from the amount produced for ten years prior to 1820. Lord Chandos, in 1830, presented a petition from the West India merchants and planters, setting forth the extreme distress under which they labored, and he declared in his speech, in substance, that it was impossible for them to bear up against such pressure any longer. He said, "they are reduced to a state in which they are obliged earnestly to solicit relief from Parliament." Mr. Bright said, "the distress of the West India colonial body is unparalleled in the country." A report on the commercial state of the West Indies, as copied in the West India Reporter, contains this language:

"There are the strongest concurrent testimony and proof that unless some speedy and efficient measures of relief are adopted, the ruin of a great number of the planters must inevitably very soon take place."

This was under the halcyon rule of slavery. The planters were overwhelmed with debt; their estates were mortgaged to English capitalists for large amounts. In 1833, in the little island of St. Lucia, estates were mortgaged to the amount of over $5,000,000 for debts incurred under that delightful state of slavery which my colleague [Mr. Cox] is so solicitous to perpetuate in this country.

Mr. Bigelow, of the New York Evening Post, whose intelligence and integrity will not be questioned, as the result of his careful observations in visiting the islands, as to their condition prior to emancipation, says:

"The island of Jamaica was utterly insolvent; nearly every estate was mortgaged for more than it was worth, and was liable for more interest than it could possibly pay—bankruptcy was inevitable. I have given my reasons for believing that the emancipation act *did not cause*, but only *precipitated* a result which was inevitable. It compelled a balance to be struck between the debtors and creditors, which revealed rather than begat the poverty which no effort can conceal."

Other proof equally satisfactory might be cumulated on this point, but it is unnecessary. The fact is established beyond controversy or doubt that it was slavery which, in 1830, was ruining the West Indies. The cotton States at the commencement of this rebellion were in a similar condition. I have no doubt that their indebtedness to the commercial States accelerated the rebellion, and added fuel to the flame which slavery had kindled. This indebtedness probably was not less than two hundred and fifty or three hundred millions. This was quite a motive power to a revolution which would wipe it out by repudiating it. Southern rebel conventions and Legislatures were quick to confiscate this indebtedness to loyal people; but my colleague [Mr. Cox] is as quick to oppose the confiscation of rebel property for the benefit of loyal men, fearing it will irritate those *dear* traitors whose company he is so desirous of keeping. He imitates some generals in the field, who are more energetic in protecting rebel property than in suppressing the rebellion.

It is perfectly natural, yes, inevitable, that such a change in the social and political condition of a people, as from slavery to freedom, should produce temporary confusion and inconvenience. This will apply to business or political affairs. It takes time for society to adapt itself to the new condition of things. It does not, therefore, follow that the change is not a wise one and should not have been made. The former slaveholders tried to avoid, by all means in their power, "the dreadful necessity of treating with respect, and alluring by wages, those whom not long before they could order to be put down and flogged for the least indolence." "Very many of the planters also gave their negroes notice to quit their cottages and grounds, under the idea that by such a threat they would force them to work for less wages. The result was, to make the negroes shift elsewhere."

An able article in the February number (1853) of the Westminster Review asserts that "the diminution of labor was the direct and immediate consequence of the mismanagement of the planters." Other causes not directly attributable to slavery or freedom contributed to bring about in the West Indies that "dreadful crash in 1847, which has since resounded through the world," and the main cause of the falling off of exports was the fall of the price of sugar. In 1840 sugar sold for 49*s.* per cwt.; in 1848 it sold for only 23*s.* 5*d.* Sugar in the eight years ending with 1846, averaged 37*s.* 3*d.* per cwt., and in the eight following years it averaged only 24*s.* 6*d.* per cwt. In the first eight years the amount produced was 20,000,000 cwt.; in the second eight years it had increased to 24,500,000 cwt. The sugar planters realized for their sugar $15,000,000 less than they would have realized at the old prices. Sugar being the principal article of export, such a falling off would, of course, cause great commercial embarrassment; but pro-slavery writers and orators have charged this embarrassment to the account of emancipation. The evidence from reliable sources is overwhelming, that the West India Islands, under free labor, are rapidly recovering from the insolvency which slavery had caused. Wealth is increasing, crime diminishing, and the material and social condition of the people rapidly improving. I might multiply evidence upon these points to almost any extent. I quote a few statements from colonial reports made to Parliament, as quoted in the April number, 1859, of the Edinburg Review:

"*Barbadoes.*—In ten years, 'between 1842 and 1852, increase of sugar exported is 27,240 hogsheads.' The report for 1851, states, 'There has been more sugar shipped from this island this year than in any one year since it has been peopled; and it is a remarkable fact that there will be more *laborers'* sugar made this year than previously. By laborers' sugar is meant that raised by the negroes on their own patches of ground, and sent to the proprietor's mill for manufacture.' The report for 1853 announces 'vast increase in trade. So far the success of cultivation by free labor is unquestionable.' Report for 1858: 'A great increase in the value of the exports.' 'The large proportion of land acquired by the laboring classes furnishes striking evidence of their industry.'

"*Bahamas.*—In 1851, the Governor reports, 'a great and important change for the better' in the condition of the people; which he mainly attributes to 'improved education.' The rapidity with which these islands are advancing is indicated by the fact that the exports and imports increased in one year, from 1854 to 1855, £102,924, ($498,666 78.)

"*Grenada.*—Returns in 1851 and 1852 show an increase of trade, amounting to £88,414, ($428,355 83.) Report of 1858: 'Contentment appears to pervade all classes of the community.' 'A proprietary body, of considerable magnitude and importance, has already risen from the laboring class.' 'State of the finances most satisfactory.' 'A greatly extended surface is covered by sugar cultivation.' A considerable increase is noted in the exports of sugar, rum, and cocoa. Some remarks on the want of labor.

"*Antigua.*—Reports for 1858: 'Satisfactory evidence is afforded, by the revenue returns, of increase of trade and mercantile business, consequent upon the revival of agricultural prosperity.' (There had been a depression in consequence of a great fall in the price of sugar in 1847.)

"*Dominica.*—Report for 1853: 'The steady maintenance of production is full of promise as to the future.' Report for 1857: 'The exports show a considerable increase.' 'Very considerable increase in revenue, and an equally marked improvement in the amount of imports.' In the report for 1858, the Governor speaks of the growing independence of the laborers, manifested 'in the small patches of canes, and little wooden mills here and there dotting the plains around.'

"*Guiana.*—In 1852, the Governor reports that the fall in the price of sugar, in 1847 and 1848 (owing to the repeal of the tariff) was 'so sudden and enormous as to have almost annihilated the colony at that crisis.' But he goes on to state that 'the revenue is now flourishing, population augmenting, education spreading, crime diminishing, and trade increasing.'

"*Montserrat.*—In 1853, the Governor reports 'increase of confidence, enterprise, and industry.' 'The improved and improving state of the community is allowed on all hands.' 'No island in these seas exhibits a more decisive tendency to social and moral regeneration and improvement. The rural population are quiet, contented, and orderly.'

"*Nevis.*—Report for 1857: 'The roads appear as if the greater part of the population had new clothed themselves; and in the harbor, so often deserted, I now count ten ships of considerable burden.' 'There appears now to be at work an industrious spirit of improvement.'

"*St. Kitts.*—Report for 1856: 'A larger quantity of sugar is produced now than in the time of slavery,' (though on a smaller area.) Report for 1858: 'The agricultural prospects of the island are most encouraging. Its financial condition continues satisfactory; so do the education returns. Attendance in schools is steadily increasing. Crime is steadily diminishing. In one year, from 1856 to 1857, trade increased £106,233,' ($514,642 88.)

"*St. Lucia.*—Report for 1853: 'At no period of her history has there been a greater breadth of land under cultivation than at the present moment.' Between the four years ending 1842, and the four years ending 1855, the increase of sugar exported was 1,803,618 pounds.

"*St. Vincent.*—In 1857, the Governor describes 'a really sound and healthy state of the colony at present, and a cheering and promising prospect for the future.' He describes the rising villages, the growing number of freeholders and leaseholders, and the steady progressive increase in the value of imports. In one year, from 1856 to 1857, imports and exports increased £156,633, ($758,886 88;) and he expressly attributes it to 'increased cultivation and prosperity.' In 1858, he describes the colony as 'in a most satisfactory state.' 'Agricultural operations largely extended.' 'Anticipations of continued progress and prosperity fully realized.'

"*Tobago.*—The accounts had been dismal in 1852 and 1853; but an improved financial system was adopted in 1856, the result of which was a report in 1858 announcing a 'marked improvement in the revenue returns.' The Governor describes the laborers as 'well-behaved and industrious.'

"*Tortola.*—This island, under slavery, exported 15,559 hundred weight of sugar. Now it exports none at all. But the change is wholly an advantage. It is remarkably well adapted for raising stock. 'The people, with few exceptions, are owners of cattle, which they dispose of to great

advantage.' 'The laborers appear fully sensible of the advantages of education to their children, and the latter manifest a great desire to benefit by the opportunities offered them.'

"*Trinidad* is highly flourishing. In 1852, the crop was the largest ever shipped from the island; and it has been extending since. The whole trade greatly increased since slavery. The report for 1853 speaks of 'marked improvement in the cultivation of the sugar estates.' Export of sugar rose from an average of 310,797 cwt., under slavery, to 426,042 cwt. in the seven years ending 1854."

Do these official statements show that emancipation was a failure? On the contrary, they show, beyond cavil or doubt, that in the West Indies it has been a glorious success.

I will quote from a speech made in the House of Commons by Mr. C. Buxton in 1859:

"Because labor is free and trade is free the West Indies are now rising to a pitch of wealth and happiness unknown before. It would be impossible for me to lay before the House the immense mass of evidence which demonstrates that fact. I am assured of it by mercantile men; I find it strongly set forth in the reports from the Governors of the islands, and in the statistics furnished by the Board of Trade. In the four years between 1853 and 1857, there has been an increase in the exports and imports of the West Indies and Guiana of £4,500,000 ($21,802,500.) Considering what mere specks these islands look on the map of America, it is astonishing that their trade to and fro, in the year 1857, should actually amount to £10,735,000 ($52,011,075.) It is altogether absurd to suppose this prosperity is owing to the immigration of a few thousand laborers; and in fact the islands which have received no immigrants are quite as flourishing as those that have. Interested parties describe the negroes as barbarous and idle; but I find ample evidence that they are living in a high degree of industry and comfort; though I admit that they somewhat prefer working on freeholds they have purchased to laboring for hire."

I have briefly referred to the success of emancipation in the West Indies to refute the intimation of my colleague, and because the people of this country, in some form, must meet the fact of emancipation. The necessity of it is every day being made more and more apparent. The soldiers in the field see this more clearly than the citizen at home. We cannot expect permanent peace if the *status* of slavery is to remain the same as before the war. No man, unless his wish is father to the thought, can entertain any other opinion. Events beyond the control of the President, of the Cabinet, and of Congress, are irresistibly forcing the nation to that opinion. The question for the Government to determine is, whether it will lead this opinion or be led by it. "God is just, and His justice will not sleep forever." My colleague and those like him need not expect to stay the current of events by pronouncing the African "ignorant, idle, and vicious." Intelligent and just men know that the surest way to relieve him from that ignorance and degradation is to take from him that load of oppression which crushes out all motive for improvement, and honest men will act upon it. It is not singular that men who are in favor of keeping Africans in ignorance and slavery should oppose all efforts for their moral and intellectual instruction. History will pronounce all such men tyrants and oppressors. If Edward Stanly is permitted to carry out what report says he has commenced, to wit, the breaking up a school established and sustained by philanthropic persons for the purpose of educating colored children, he will be regarded as infamous in history as a Jeffreys or a Haynau.

I advise my colleague [Mr. Cox] to look well to his own epitaph. That he may see himself as history will regard him, unless he mends his ways, I suggest the following:

Here lies the Buckeye at home.
"The evil that men do lives after them;
The good is oft interred with their bones."
In case of this Buckeye, would that this maxim might be reversed; if not, little would be found here *but bones*.
He expired with the Thirty-Seventh Congress;
He died of Negro-phobia, babbling against the Negro.
His ability fitted him for a higher mission, but his sun went down in a *colored* "sunset."
Requiescat in pace!

Mr. MORRIS obtained the floor.

Mr. COX. If my colleague does not desire to speak to-night, I will, with his consent, occupy the floor for a few moments, as I desire to pay my respects to my colleague over the way, [Mr. HUTCHINS.]

Mr. MORRIS. I have no objection, if the committee has none.

Mr. COX. It will take me but two minutes.

Mr. HUTCHINS. I yield, of course, to my colleague.

Mr. COX. No, sir; I do not ask any favors from that gentleman. I never give him any, and I want none from him.

Mr. HUTCHINS. Very well.

Mr. COX. Mr. Chairman, the gentleman [Mr. HUTCHINS] has taken this occasion to rake up a great deal of stale vulgarity upon me. I believe we are in the Committee of the Whole on a bill to test a breech-loading piece. His speech is very appropriate, for all that my colleague has fired off seems to have been fired from the breech. The indecency of bringing here old political campaign garbage, which has been explained and refuted, year after year in my own district, I will leave to the taste of the gentleman. He has the benefit of my opinion as to his vulgarity and indecency. The speech he proposed to answer, was made against measures and not men. His personalities are not called for by anything in it.

But I intended simply to refer to two or three matters of his speech, and to put myself right as a member of this body. The gentleman insinuated that my speech was printed when it was delivered. That is not true. It was printed the next morning. Members will recollect very well that there was a great many speeches handed in at the Globe office at that time. I chose to have my speech set up at another office where I was to have it printed in pamphlet form. After the printer had set it up, I came and delivered it with the manuscript copy before me. I requested the reporter to put in the interruptions. He did so, and some days afterwards the Globe copied from the pamphlet. The gentleman will see from this statement, that in his insinuation that I had got up that speech in pamphlet form, with the interruptions inserted beforehand, he is mistaken—as much so as when he says that there was a small House and all my colleagues absent when it was delivered. Knowing this, he ought to leave that out of his printed remarks, or else be marked as a dishonorable member of the House.

But, Mr. Chairman, it is not for the gentleman to read lectures as to the mode of making speeches here, whether they be printed or otherwise. He reads to-day a *printed* speech, and in it conveys the impression that I read from a printed speech, which latter is not true. I am perhaps not always as well prepared as other members in discussion; but when gentlemen make attacks upon me, I can reply, as I do now, without much preparation. The gentleman has revamped from the dead past something written eleven or twelve years ago in a book while I was traveling abroad. He read it for the purpose of exciting the risibilities of the House about the description I gave of an Abyssinian whom I saw at Rome. The gentleman knows better than to suppose that the Abyssinian is an African in the sense in which that word is used here.

Mr. HUTCHINS. The gentleman speaks of him in his book as a real, unquestionable African.

Mr. COX. Certainly. An Abyssinian is an African, but the negroes in this country are not Abyssinians. They are a different race of men. Abyssinians have not the same flat nose, the same elongated heels, the same peculiarities of cranium, or the same quality of hair.

Mr. HUTCHINS. Will my colleague explain what he meant by the phrase "a plain, unquestionable African?"

Mr. COX. I used that expression because an Abyssinian is an African; but the Africans we have here are of a different type altogether, and the gentleman ought to have known it. But all that is no matter.

I recall now, very distinctly, that Abyssinian whom I saw before the Pope, and as I look at the gentleman I am strongly reminded of him, especially in the "crispness of the Numidian hair," but I am not reminded of him by any special intelligence of countenance, for the African was far my colleague's superior, both in elocution and in decency.

But, sir, I made a remark in that book about the African race, and the "prejudices" of this country toward it; and in the remarks which I made the other day I referred again and again to the same ineradicable prejudices. I based part of my argument upon the existence of these prejudices.

It did strike me—an American, going from one of the northern States—then a young man, imbued more or less with such prejudices, going right into St. Peter's, seeing all these grand rites, and observing a person, perhaps about the color of my colleague, rising up in that place and delivering a Latin oration; it did strike me as a strange spectacle. The scene would naturally excite surprise in me. The Abyssinian was a curiosity, a monstrosity, if you please. I could not help recording it; just as I might record the unusual fact of seeing a calf with five legs, or with two legs, if my colleague pleases, or an abolitionist pretending to be a Union man, or any other such sport of nature. I would naturally make a note of it; and that is the way it got into my book. That is all. The gentleman does not even do the justice to give my narration of that matter. He has the indecency to garble it, while he had the whole narration in the book before him. He gave no explanation of the phenomenon, such as I gave there, and such as I give here. I have not read the book for years, and have not looked at the passage, except when I have seen it in the newspapers of my district, garbled, with stars, as the gentleman will doubtless fix it in his speech.

But I remember that I stated in the book that I was so much surprised at that peculiar scene in the Sistine chapel that I inquired into the philosophical reason for it; and turning to Macaulay's history, I found the explanation. There I learned that the Catholic church had never, from the beginning of its spiritual rule down to the present time, made any distinction, except between the priesthood, who represented God, and the people; that before God all men of all castes were regarded as equal. That is her creed. She carries it out in this country—carries it out in the South, where negroes are slaves, as well as in the North, where they are not. Go into any Catholic church South, and you will find bowing at the same altar the negro and his master; and in the North, too, you will find the negro and the white man bowing at the same altar in the Catholic church. But you will not find it in your hypocritical puritanical churches. Even in the church of your model preacher, Cheever, some time ago a negro was removed from his church for sitting in a pew with a white family. Oh! you miserable hypocrites, who go about talking of the rights of black men, and their equality with whites, while you do not in fact treat them with the same kindness or respect as they are treated by their owners in the South. Go into a Catholic church in New Orleans, and you will find black and white, slave and free, worshiping in the same church, and bowing before the same Presence. The gentleman from Ohio and the honorable chairman of this committee, [Mr. ASHLEY,] perhaps will never be caught in that predicament, if they ever bow at all, of which I am not advised.

But, Mr. Chairman, Macaulay gave the proper elucidation of this matter. He says that, in the middle ages, the Church of Rome was the great barrier between a feudal aristocracy and the people. She protected the people against the encroachment of the powerful. She stood up against all distinctions of caste and color, because she held that all men were equal before God and the priesthood. She even held, says Macaulay, that the hereditary slave, or serf, or villein, might attain to the priesthood and become the spiritual master of the hereditary master.

This Abyssinian student of the Propaganda, educated at Rome, to return to his own people and there to preach the Gospel, was but an illustration of the historic truth which Macaulay states, and which I stated in my book, but which the gentleman did not give.

I say, that explanation of this matter the gentleman does not give; but he tries to draw the inference, from his partial extract, that because I referred to the prejudice against blacks in America, I am in favor, or was then in favor, of negro equality in civil or social matters. No such inference as that can be drawn from what I said. I never favored any such equality at any period of my life. Never. From the time I could think I have always been a Democrat, and from that time I have always perceived and held the negro to be an inferior race of men to the white.

I have always maintained that this Government was intended as a white man's Government. It was formed by white men and for white men. Our laws and institutions were framed for them alone. Because I recognize the fact that negroes have souls to be saved, even as white men, or be-

cause I stated their equality in the spiritual sense, as it is recognized by the Catholic church, it does not follow that I favor or that any Catholic favors the doctrine of the political and social equality of the negro in this country as my colleague tried to infer. Such an inference is utterly unwarranted. I never would deprive the negro of his right to worship God as he pleases. No constitution, North or South, ever pretended to place him under any spiritual disability. Our fathers are responsible for placing him under civil disabilities; and the Puritan slave traders of the past century are in part responsible for placing him under the social ban; and continuing that ban to the present hour.

So much for that. It is a trifling business, but it seems to have been a matter of great importance in the mind of my colleague. He has spent three or four weeks in getting up this reply, and he comes here to deliver it when we are in the last days of the session, and while we are seeking to draw the public business of Congress to an end. He gets his colleague [Mr. ASHLEY] into the chair so that he may get the floor to deliver a printed speech, made out of the miserable forgotten stuff of Ohio personal politics in years gone by. He lugs into his speech a phrase about "Sunset," in connection with myself, which was never applied to me opprobriously, but which, at home, has long ago become obsolete among the lowest scavengers of his own party. I refer to it to show the animus of his speech and the slang of its style. No Republican in my district but will be ashamed of such an attack upon me. The gentleman ought to be ashamed of himself. He ought to hide his head. He ought not to come here again standing in the attitude of a man. He is beneath even the negro whom he strives to place on an equality with himself. He deserves no consideration among gentlemen. No man does, who by such means seeks to place another in a false position. You ought to be ashamed of yourself, sir! [Laughter.] But when resort is had to such personal scandal, it shows that the member has about got to the end of his yarn. He reminds me a little of a story of an old Yankee lady, who, as she went to bed one evening, was so thirsty that she drank from a cup in which, by some accident, a ball of woolen yarn had fallen; and in the dark she drank yarn and all, but left a little of the wool sticking to her teeth. After retiring she began to pick at the wool, and in removing it, she began to draw out the yarn. In a state of great alarm, as she continued pulling and pulling out the yarn, she called out, "husband! husband! get up, for the love of God; I believe I am raveling and raveling rëight ëout." [Laughter.] That is about the conditon of my colleague. He is "raveling out" on this negro business. This attack on my book and his "Sunset" epithets show that he is hanging to the last hair at the end of the tail of the abolition animal.

Mr. HUTCHINS rose.

Mr. COX. No, sir; I do not yield to that gentleman. He declined to yield to me to make a correction as to a fact about printing my speech, which, if he had permitted me to make, I should have taken no further notice of him.

Now, one word as to what my colleague says of my being for this Union. I want to set that matter right between us. I can prove from the record that he has always been against this Union. He has always been a revolutionist, and so have his people revolted against the Federal authority. In times past who came to Cleveland for the rescue of parties who had defied the Federal authority? Who marched through the streets of Cleveland with a banner on which was this inscription: "Ashtabula. The revolution of 1776 and the revolution of 1859. Down with the fugitive slave act!" I saw it printed in your Republican papers at Cleveland and Columbus. No one dare deny it.

It was his people, whom he correctly represents, who concealed the scoundrelly confederates of John Brown. They have always contemned and opposed the Federal authority. Yet he talks to me about my consorting with traitors and rebels! The gentleman knows very well that in this he did not state the truth. He knows that from the time I first entered these Halls until the present, I have been standing by this Federal Government, when he was against it and for revolution. He knows very well that the statement he made about my having supported Mr. Buchanan, or any of his Cabinet, in any secession sympathy or act, is not true. He knows that I stood by Stephen A. Douglas; that during many long contests here I fought with him and for his principles. He knows that I hold my seat in this House in consequence of having beaten a Breckinridge man and a Republican, who, it was believed, were allied to defeat me, because I was a Democrat of the Douglas stamp. He knows that I never supported Mr. Buchanan or his Cabinet in any disunion schemes; but that, from beginning to end, I have been loyal and true to my oath and to my country.

Mr. Chairman, if I consort in this House with traitors, I cannot help it; but the traitors are not on this side of the House. Now, let us see who is the loyal Union man, the member or myself? On the 9th of February, 1861, in a discussion between us on this floor, my colleague said:

"Now, this is all that I desired to say. I am willing that my constituents shall stand by their record, shall stand by their position. I will stand by mine. I am in favor of the Union as it is, and as our fathers gave it to us; but I do not think it can be preserved by sacrificing those very principles on which it is based. If the cause of liberty is to be betrayed and crucified in the year of grace 1861, I trust that there will not be found among its apostles a betrayer and crucifier."

He says he is "for the Union, *if* liberty is not 'crucified.'" What does he mean by that? We know what he means. We understand the kinks of these gentlemen. He means *if* liberty is given to the negro; he is not for constitutional freedom as our fathers established it. No, sir, he is not for this Union except on conditions. He is for it with an "if" and a "but." He might as well say he is for the Union *if* Frëmont is retained in command, or that he is for the Union *if* there is a tariff on wool. He is for the Union *if* so and so is done. He is not an unconditional Union man. I am.

Now, hear my answer to the gentleman on that occasion:

"The last remark of the gentleman shows just where he is. He says he is for the Union, but with an 'if and and;' qualifying his remark with the phrase that he is only for the Union, 'if *liberty* be not crucified.' He knows, or ought to know, that the Union is the only shield of liberty. But he means, if he means anything, that, if there be power in the Government to crush out slavery, either in the Territories or in States, then he is for the Union; but he is not for it if it does not give that power. He is not for it unless he can make it the instrument of his fanaticism. I say that I am for the Union, without qualification or condition, now and all the time. I will do what the gentleman will not—yield and compromise much for its salvation. The gentleman said in his speech, a while ago, that I would be for the Union, provided the Republican party should be crushed out. I do not know, Mr. Speaker, but that it may be necessary to roll the Juggernaut car over this Republican party to save the Union; but I would even be willing to give a lease of power for fifty years to that party, if I could see that it would conduct the Government on principles like those of my colleague, [Mr. Corwin,] which would preserve the Union. I would be willing to surrender party supremacy, if thereby we could keep the old stars and stripes floating over the national Congress. [Applause.]"

Now, there is this difference between the gentleman and myself. When he talks about my sympathy with traitors, about my support of Mr. Buchanan in his traitorous schemes, he *knows that he does not speak the truth*, for here is my record taken from my own lips. My speech against secession in December, 1860, and my recorded votes ever since, attest the truth of my statement, and my unwavering fidelity to my oath and duty.

But I have already taken up too much time upon this personal question. The gentleman has made it personal. In conclusion, I say that a man who can stand up in this Congress and say that he is for the Union conditionally, whatever condition it may be, or who would place the destruction of slavery above the Union, as the Abolitionists here do, is a man who would *commit an overt act of treason at any time*, and he deserves just what the traitors at the South deserve. He deserves conviction, judgment, and execution.

Mr. MORRIS resumed the floor, but yielded it to

Mr. PENDLETON, who moved that the committee rise.

The motion was agreed to.

So the committee rose; and the Speaker having resumed the chair, Mr. ASHLEY reported that the Committee of the Whole on the state of the Union had, according to order, had the Union generally under consideration, and particularly a bill in reference to Sanderson's breech-loading cannon, and had come to no conclusion thereon.

And then, on motion of Mr. WEBSTER, (at half past four o'clock, p. m.,) the House adjourned until Monday.

IN SENATE.

MONDAY, *July* 7, 1862.

Prayer by the Chaplain, Rev. Dr. SUNDERLAND.

The Journal of yesterday was read and approved.

PETITIONS.

Mr. WILMOT presented the petition of Thomas W. Braidwood, praying for a donation of public lands to such States as may establish schools of design for the industrial education of women; which was referred to the Committee on Public Lands.

Mr. CLARK presented the petition of Mary C. Fitzpatrick, praying compensation for extraordinary services rendered by her late husband, John C. Fitzpatrick, as an officer of the Senate; which was referred to the Committee to Audit and Control the Contingent Expenses of the Senate.

Mr. HARRIS presented a petition of importing merchants of New York, praying that the act temporarily increasing duties on imports may be so amended as not to affect merchandise in bond or on shipboard on the 1st day of August next; which was referred to the Committee on Finance.

REPORTS FROM COMMITTEES.

Mr. FESSENDEN. The Committee on Finance, to whom was referred the bill (H. R. No. 531) increasing temporarily the duties on imports, and for other purposes, have instructed me to report it back with amendments. I wish the bill, with the amendments, to be printed at once, so that we may have it to-morrow, and I give notice to gentlemen that to-morrow I shall move to take it up.

The PRESIDENT *pro tempore*. The bill and amendments will be printed, as a matter of course.

Mr. TEN EYCK, from the Committee on Commerce, to whom the subject was referred, reported a bill (S. No. 382) in addition to the act entitled "An act to amend an act entitled 'An act to provide for the better security of passengers on board vessels propelled in whole or in part by steam, and for other purposes,'" approved 30th of August, 1852; which was read, and passed to a second reading.

Mr. SIMMONS, from the Committee on Patents and the Patent Office, to whom was referred the memorial of Thatcher Perkins and William McMahon, submitted a report, accompanied by a bill (S. No. 381) for the relief of Thatcher Perkins and William McMahon; which was read, and passed to a second reading.

ARMY OF THE POTOMAC.

Mr. CHANDLER submitted the following resolution:

Resolved, That the Secretary of War be directed to furnish, for the use of the Senate, all orders of the Executive to Major General George B. McClellan, relative to the advance of the army of the Potomac upon Richmond, and all correspondence between the said General George B. McClellan and the Executive, from the date of the President's order to the said General McClellan to advance upon Manassas on the 22d of February, 1862, and the 1st day of May, 1862; likewise the numerical force of the army of the Potomac, as shown by the morning rolls on the first days of November and December, 1861, and January, February, and March, 1862; the number of troops which General McClellan took to Fortress Monroe, the number at Fortress Monroe, and the number of reinforcements supplied him up to and including the 25th day of June, 1862.

The PRESIDENT *pro tempore*. Is there any objection to the present consideration of this resolution?

Mr. HARRIS and Mr. BROWNING. Let it lie over.

The PRESIDENT *pro tempore*. It will lie over under the rule.

ADMISSION OF WEST VIRGINIA.

Mr. WILLEY. I desire to throw myself on the indulgence of the Senate this morning and ask them to postpone all prior orders with a view of taking up Senate bill No. 365, providing for the admission of the State of West Virginia into the Union.

Mr. TRUMBULL. I hope that bill will not be taken up. It seems to me that we are not prepared to act definitely on that subject now. At any rate there is much other important business, and we are approaching what seems to be considered by most members of Congress the close of the session, and it seems to me we should not take up a bill of that character which will certainly lead to very protracted debate before it can be passed,

if it can be passed at all. I hope the Senate will not consent to postpone all other business, and employ its time in discussing that question at present. We may as well have the test question upon taking it up. If that bill is to be taken up and other business postponed—if that is the sense of the Senate—the sooner we know it, and are prepared to decide upon it definitely, perhaps the better. I ask for the yeas and nays on taking up that bill, and I hope that may be regarded as decisive of our disposition to go on with it.

The PRESIDENT *pro tempore*. The Senator from Virginia moves to postpone all prior orders, and that the Senate proceed to the consideration of the bill for the admission of West Virginia into the Union, and upon this motion the yeas and nays are demanded.

The yeas and nays were ordered.

Mr. WILLEY. I regret very much that the Senator from Illinois takes the view of the subject he has expressed. This matter comes before the Senate, not merely by the certification of the assent of the Legislature of Virginia, one of the States of this Union, but it comes with the language of request and memorial upon the face of the act of assent itself, soliciting Congress to admit this new State as one of the United States. It comes, then, with all the authority of the legislative voice of one of the States of this Union. It has been presented here for several weeks; six weeks ago I submitted it; the report of the committee has been on the table for some time; the amendments proposed by that report have been printed, and Senators have had ample time to look into the question and form a judgment on the subject. It seems to me that the Senate ought not to disregard, especially under the circumstances, the voice of the Legislature of one of the States of this Union; and that section of the State which is most interested in this matter, which it is proposed to erect into a separate State of the Union, makes an appeal to the Senate of the United States under circumstances which it seems to me ought not to be disregarded at this day. She stands here with her heart bleeding; with all her industrial interests and and commercial interests prostrate. She comes here with her fields desolated, with a heart that has never flinched in the contest for this Union, keeping her internal foes, as well as her external adversaries, at bay. From every quarter and section of this new State, I receive letters by the dozen daily that unless some relief is given to that section, the Union men must take their families and find homes in the West. That will be the result of the denial of the petition of this State. I say what I know, and I say it with no view of influencing the Senate by any words of menace. Far be it from me to use words of menace, if I had the power so to do towards a body like this; but I say the result will be—I have the best evidence in the world of it—that the leading Union men and all who are able to get out of that State, for which we have been fighting and bleeding and standing firm to this day, will inevitably be compelled to leave their homes and their firesides and seek as best they may an asylum somewhere else. That, sir, is the fact, and there is another fact I will mention——

The PRESIDENT *pro tempore*. The Senator from Virginia will pardon the Chair. It is with great reluctance the Chair feels bound to interpose and to say that these collateral questions to take up, or postpone, or refer, at this stage of the session, do not open the question to general debate. Therefore the Chair would respectfully suggest for the government of Senators, every member being governed by his own sense of propriety under all circumstances, to confine the discussion to the appropriate and direct collateral question before the body.

Mr. WILLEY. I have no desire to enter into a general discussion. I was only suggesting reasons which were forcible to my mind showing the necessity for immediately acting upon this subject. I do not wish to take up the time of the Senate in discussing the general question. I wish to have it taken up and acted upon and settle this question. The people who have suspended their business in that section of the State awaiting the result on this issue will then know what to do. If they have to leave, they had better leave soon than late; and if they remain, they can go to work. I do trust that the Senate will take it up and act upon it in some form or other.

Mr. WADE. I am in no condition to argue this matter, even if it were in order; but I wish that we might act definitely on this subject now, because I know the people of West Virginia believe that it is vitally important that this question should be acted upon at this session. They fear if it is not, the time will go by. I do not think there is anything in it which would lead to protracted discussion. Every Senator has made up his mind whether he will go for it or not, and I wish we would take it up and decide it. My opinion is, we ought to pass it.

The PRESIDENT *pro tempore*. The Secretary will call the roll on the motion of the Senator from Virginia.

Mr. FOSTER. I suggest that, by unanimous consent, the call for the yeas and nays might be withdrawn, and a division asked, and if a majority of a quorum vote "ay," that then the question be given up, and the vote taken in that way. I think we shall save ourselves a great deal of trouble if we consent to that arrangement.

The PRESIDENT *pro tempore*. The yeas and nays have been ordered, and the Secretary will call the roll.

The question being taken by yeas and nays, resulted—yeas 17, nays 18; as follows:

YEAS—Messrs. Carlile, Clark, Collamer, Doolittle, Foot, Grimes, Harlan, Harris, Henderson, Howe, Lane of Kansas, Nesmith, Sherman, Sumner, Wade, Willey, and Wright—17.

NAYS—Messrs. Anthony, Browning, Chandler, Cowan, Davis, Fessenden, Foster, Kennedy, King, McDougall, Morrill, Powell, Rice, Simmons, Ten Eyck, Trumbull, Wilkinson, and Wilson of Massachusetts—18.

So the motion was not agreed to.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. MORRIS, Chief Clerk, announced that the House of Representatives had passed the following bill and joint resolution; in which it requested the concurrence of the Senate:

An act (No. 524) prohibiting the confinement of persons in the military service of the United States in the penitentiary of the District of Columbia, excepting as a punishment for certain crimes, and to discharge therefrom certain convicts by sentence of courts-martial, and for other purposes; and

A joint resolution (No. 98) authorizing the Secretary of War to furnish extra clothing to sick, wounded, and other soldiers.

The message also announced that the House of Representatives insisted upon its disagreement to certain amendments of the Senate to the bill of the House (No. 423) making appropriations for the naval service for the year ending 30th of June, 1863, and upon its amendments to other amendments of the Senate, disagreed to by the Senate, agree to the conference asked by the Senate on the disagreeing votes of the two Houses thereon, and had appointed Mr. THADDEUS STEVENS of Pennsylvania, Mr. C. B. SEDGWICK of New York, and Mr. E. B. WASHBURNE of Illinois, managers at the same on its part.

The message also announced that the House of Representatives had agreed to some and disagreed to other amendments of the Senate to the bill of the House (No. 393) making appropriations for sundry civil expenses of the Government, for the year ending 30th June, 1863, and additional appropriations for the year ending 30th of June, 1862, and had agreed to the eighth amendment of the Senate, with an amendment; in which it requested the concurrence of the Senate.

The message further announced that the House had passed the bill of the Senate (No. 379) to amend an act entitled "An act to aid in the construction of a railroad and telegraph line from the Missouri river to the Pacific ocean, and to secure to the Government the use of the same for postal, military, and other purposes," approved July 2, 1862.

ADDITIONAL TREASURY NOTES.

The message also announced that the House of Representatives had disagreed to the amendments of the Senate to the bill of the House (No. 187) to authorize an additional issue of the United States notes, and for other purposes, ask a conference on the disagreeing votes of the two Houses thereon, and has appointed Mr. THADDEUS STEVENS of Pennsylvania, Mr. E. G. SPAULDING of New York, and Mr. JOHN S. PHELPS of Missouri, managers at the same on its part.

The Senate proceeded to consider its amendments to the bill of the House (No. 187) to authorize an additional issue of United States notes, and for other purposes, disagreed to by the House of Representatives; and,

On motion of Mr. FESSENDEN, it was

Resolved, That the Senate insist upon its amendments to the said bill disagreed to by the House of Representatives, and ask a conference on the disagreeing votes of the two Houses thereon.

Ordered, That the committee of conference on the part of the Senate be appointed by the President *pro tempore*.

The PRESIDENT *pro tempore* appointed Mr. FESSENDEN, Mr. SHERMAN, and Mr. WRIGHT.

CARMACK AND RAMSEY.

The Senate proceeded to consider the amendment of the House of Representatives to the resolution of the Senate (No. 89) in relation to the claim of Carmack and Ramsey; and

On motion of Mr. RICE, it was

Ordered, That it be referred to the Committee on the Post Office and Post Roads.

ADDITIONAL CIVIL APPROPRIATIONS.

The Senate proceeded to consider its amendments to the bill of the House (No. 393) making further appropriations for sundry civil expenses of the Government for the year ending 30th June, 1863, and additional appropriations for the year ending 30th of June, 1862, disagreed to by the House of Representatives, and the amendment of the House to the eight amendment of the Senate to the said bill; and

On motion of Mr. FESSENDEN, it was

Resolved, That the Senate insist upon its amendments to the said bill, disagreed to by the House of Representatives, disagree to the amendment of the House to the eighth amendment of the Senate thereto, and ask a conference on the disagreeing votes of the two Houses thereon.

Ordered, That the committee of conference on the part of the Senate, be appointed by the President *pro tempore*.

The PRESIDENT *pro tempore* appointed Mr. COLLAMER, Mr. SHERMAN, and Mr. CLARK.

ENROLLED BILLS SIGNED.

The message further announced that the Speaker of the House of Representatives had signed the following enrolled bills; which thereupon received the signature of the President *pro tempore:*

A bill (S. No. 256) for the relief of the widows and orphans of the officers, seamen, and marines of the United States ships Cumberland and Congress;

A bill (S. No. 303) for the relief of D. G. Farragut;

A bill (S. No. 307) to grant the right of preemption to settlers on certain lots in Wisconsin;

A bill (S. No. 362) in relation to the Post Office Department;

A joint resolution (S. No. 61) tendering the thanks of Congress to Captain Louis M. Goldsborough and officers, petty officers, seamen, and marines under his command, for the victory at Roanoke Island;

A joint resolution (S. No. 66) expressive of the thanks of Congress to Lieutenant J. L. Worden, of the United States Navy, and to the officers and men under his command in the Monitor;

A joint resolution (S. No. 77) for the relief of the officers, non-commissioned officers, and privates of the battalion of marines on board the transport Governor, on the 3d of November, 1861;

A joint resolution (S. No. 83) of thanks to Captain David G. Farragut, of the United States Navy, and to the officers and men under his command;

A joint resolution (S. No. 85) to compensate the crew of the United States steamer Varuna for clothing and other property lost in the public service;

A bill (H. R. No. 540) making appropriations for the payment of the bounty authorized by the sixth section of an act entitled "An act to authorize the employment of volunteers to aid in enforcing the laws and protecting public property," approved July 22, 1861, and for other purposes;

A bill (H. R. No. 529) concerning certain lands heretofore granted to the State of Iowa;

A bill (H. R. No. 543) relating to schools for the education of colored children in the cities of Washington and Georgetown, in the District of Columbia;

A bill (H. R. No. 545) to authorize the Secretary of the Treasury to appoint a deputy collector of customs at Chincoteague Island, in the State of Virginia;

A bill (H. R. No. 549) to abolish certain ports of delivery in the Mississippi valley;

A joint resolution (H. R. No. 87) to confirm the adverse decision of the Court of Claims in the case of Dennis Cronans;

A joint resolution (H. R. No. 88) to confirm the adverse decision of the Court of Claims in the case of T. S. J. Johnson;

A joint resolution (H. R. No. 89) to confirm the adverse decision of the Court of Claims in the case of the executor of Louis Warrington and others;

A joint resolution (H. R. No. 90) to confirm the adverse decision of the Court of Claims in the case of Abraham King, administrator of John Mandeville;

A joint resolution (H. R. No. 91) to confirm the adverse decision of the Court of Claims in the case of Richard Irwin, trustee of the Mechanics' Bank, New York; and

A joint resolution (H. R. No. 92) to confirm the adverse decision of the Court of Claims in the case of C. J. Jenkins and W. W. Mann, assignees of John McKinnie.

EMANCIPATION IN THE DISTRICT.

Mr. GRIMES. I move to take up the bill (S. No. 351) supplementary to the "Act for the release of certain persons held to service or labor in the District of Columbia," approved April 16, 1862.

The motion was agreed to; and the bill was considered as in Committee of the Whole. The first section of the bill provides that the oath or affirmation required by the second section of the "act for the release of certain persons held to service or labor in the District of Columbia," to verify the statements or petitions in writing before the commissioners of persons holding claim to service or labor against persons of African descent, freed and discharged therefrom under that act, may in all cases in which the persons holding claims are infants or minors, be made by the guardian or by any other person, whether separately or jointly, having the custody, management, or control by law of the person and property of such infants or minors; and in all cases in which the persons holding claims are non-residents of the District of Columbia, or resident absentees, the oath or affirmation may be made by their attorney or agent; and in all cases in which the statements or petitions of persons in the military or naval service of the United States shall have been or may be hereafter verified before any commander of any military post, or of any officer having separate command of any military force in the field, or before any captain, commander, or lieutenant commanding in the Navy, they are to be received and deemed valid, to all intents and purposes, as fully as if the verification had been or were made before any officer competent by law to take and administer oaths and affirmations; but the commissioners are to be satisfied that, at the time of the verification, the person making the same was employed in the military or naval service of the United States, within the jurisdiction of a rebellious State or Territory, and unable to make the oath or affirmation required, before any officer authorized by law to take or administer the same, holding allegiance to the United States.

The second section declares all persons held, by virtue of the laws of the District of Columbia, to service or labor as slaves by persons actually resident within the District on the 16th of April, 1862, or since that day, to be declared free and forever released from such servitude, whether the persons so held to service or labor were, by the act of their respective claimants, required to perform service or labor within the District, or elsewhere within the United States.

The third section declares free all persons held to service or labor under the laws of any State, and who at any time since the 16th of April, 1862, by the consent of the person to whom such service or labor is claimed to be owing, have been actually employed within the District of Columbia.

The fourth section proposes to authorize the President of the United States to appoint, by and with the advice and consent of the Senate, a solicitor of the commission appointed under the act approved April 16, 1862, with a compensation at the rate of $2,000 per annum.

Mr. GRIMES. The Senator from Vermont [Mr. COLLAMER] has asked me what is the purpose and scope of the bill under consideration. It will be remembered that, when the President of the United States notified the Senate of his approval of the act of the 16th of April last, emancipating slaves in this District, he stated that he had some objections to it, on the ground that the rights of *femes covert*, absent persons, minors, &c., were not saved. The first section of this bill is designed to cover cases of that kind; and it provides that where persons were out of the country, officers of the Army or Navy, or idiots, or minors, or persons who are laboring under any disability of that kind, shall have an opportunity to come in and prove their claims to property of this description within a time limited.

The second section of the bill, as the committee propose, is intended to cover cases of this kind: it has been discovered that there are some persons who have been held as slaves whose owners are in arms against the country; there is nobody here to represent those owners; and it is impossible, therefore, for those colored persons to get any evidence of their manumission or their emancipation; and it is provided that, if any person having claim to the service or labor of any person or persons in the District of Columbia, by reason of African descent, shall neglect or refuse to file with the clerk of the circuit court the statement or schedule required by the ninth section of the act of April 16, 1862, it shall be lawful for the person or persons whose services are claimed to file such statement in writing or schedule, setting forth the particular facts mentioned in the ninth section of that act, and the clerk is to record the same; and the clerk is then to prepare, prescribe, and deliver the certificates, as described in the tenth section of that act, to such persons as shall file their statements. I understand that there are several cases—I am so informed by one of the commissioners—where this description of persons are claimed by persons now in rebellion and beyond our reach.

The next section declares that all persons who are held to service under the laws of any State, and who at any time since the 16th of April have, by the consent of the persons who have held them, been forced to labor in this District, shall be free. I suppose that is the common law at any rate.

The PRESIDENT *pro tempore*. The Committee on the District of Columbia propose to amend the bill by striking out the second section.

Mr. WILSON, of Massachusetts. I see that the committee have inserted two very excellent sections, but they propose to strike out the second and fourth sections of the original bill. I do not see the necessity of that. The second section of the bill was intended to cover the cases of persons who were held to service or labor in this District, resided here with their masters, but have been recently hired out in the neighboring States, especially the State of Maryland. There are cases of such persons whose names have not been returned by their masters, and who have no remedy unless we give it to them. I presented a petition a short time ago in relation to one case of this kind—the petition of a person born in the District, held here to service, who had always lived here until recently, and was hired out over the line a few months ago. I think the commissioners ought to construe the law to cover those cases, for in my judgment the law should be construed in favor of personal rights; but there is some doubt about it, and hence the necessity for legislation on the subject. I have talked to some of the commissioners in regard to it, and find that there is doubt on the question. I think that section of the bill ought to stand, notwithstanding the dissent of the report of the committee. The fourth section of the bill provided for the appointment of a solicitor, with a compensation at the rate of $2,000 per annum.

My own opinion is that a good solicitor would save to the Government of the United States fifty or one hundred thousand dollars under this act. I have not a doubt about it. There is already evidence of the fact that the Government is being cheated. There will be a great deal of cheating of the Government, and some cases will be paid for that ought not to be paid for; and a good, active, thorough-going solicitor would defeat those cases. I believe that is so; still I am not strenuous about that section; but it does seem to me, unless the committee have excellent reasons for it, that the second section should be retained.

Mr. GRIMES. I will state the reason why the committee recommend the striking out of that section. As I understand it, the purport of that section was this: that if a person had been held to slavery in the District of Columbia prior to the emancipation act, and had been sent by the man who claimed to be his master out of the District prior to the passage of that act, then under the law he should become free. We did not believe we had that power. He was held as a slave under the law of the State of Maryland, to which he had been sent, and we did not suppose we could legislate for the State of Maryland.

The PRESIDENT *pro tempore*. The question is on striking out the second section.

The amendment was agreed to.

The PRESIDENT *pro tempore*. The committee further propose to amend the bill by adding the following new section:

SEC. —. *And be it further enacted*, That if any person having claim to the service or labor of any person or persons in the District of Columbia by reason of African descent, shall neglect or refuse to file with the clerk of the circuit court of the District of Columbia the statement in writing or schedule provided in the ninth section of the act approved April 16, 1862, to which this is supplementary, then it shall be lawful for the person or persons, whose services are claimed, as aforesaid, to file such statement in writing or schedule setting forth the particular facts mentioned in said ninth section; and the said clerk shall receive and record the same as provided in said section on receiving fifty cents each therefor.

Mr. COLLAMER. I wish to make an inquiry about this matter of the chairman of the committee. If I understand it aright, the former act provided, by a provision inserted on my motion, that the owners of slaves should have no claim unless they filed a descriptive list, and thereupon, on the filing of that list, the certificate of manumission should be issued by the court. If the masters fail or neglect to do that, they can have no claim; they do not make any, and the proposition is that in such a case the colored person may file the descriptive list, and thereupon shall have a manumission certificate.

Mr. GRIMES. That is the purpose of it.

Mr. COLLAMER. I suggest to the chairman whether this provision would not enable any fugitive slave from abroad coming into this District, to file this certificate, pretending he was owned by a person in this District, when he never had been, and obtain a certificate of manumission without the court ever passing on the subject at all, or knowing anything about it, and thus create trouble for them and for other people, and do them no good. To guard against that, ought there not to be a provision that when the blacks file these descriptive lists, saying that they belong to A, B, and C, that those should be passed upon by the commissioners in some way or other; that they should decide whether these people ought to receive manumission papers or not, and not make it the duty of the clerk, with nobody to check it whatever. Colored people from all parts of the United States may get here and obtain certificates from the clerk. They may claim to belong to John Stokes, or somebody else, when there never was such a person here, perhaps, or if there was, he never owned them.

The PRESIDENT *pro tempore*. The question is on agreeing to the amendment to insert this section.

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

Mr. GRIMES. Do the Senate vote to strike it all out?

Mr. COLLAMER. I so voted, perhaps mistakenly, and I will state the ground on which I did it. If the committee will arrange this section in some way so that the commissioners shall pass upon these certificates of manumission, it is all right; but if they do not arrange it in that way, I do not want that section. It will do harm, and no good.

Mr. WILSON, of Massachusetts. In order to give the chairman of the committee a little time to consider this matter, I should like to make a report from a committee of conference. It will take but a few moments to have it acted upon, and will give gentlemen a little opportunity to arrange this bill so as to make it satisfactory.

The PRESIDENT *pro tempore*. The Chair will receive a report from a committee of conference as a privileged question.

PAY OF ARMY OFFICERS.

Mr. WILSON, of Massachusetts. I submit the following report, which I ask may be read.

THE CONGRESSIONAL GLOBE.

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

THIRTY-SEVENTH CONGRESS, 2D SESSION. TUESDAY, JULY 8, 1862. NEW SERIES.....No. 197.

The Secretary read it, as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendments to the bill (S. No. 175) to define the pay and emoluments of certain officers of the Army, and for other purposes, having met, after full and free conference have agreed to recommend, and do recommend, to their respective Houses as follows:

That the Senate adhere to their disagreement to the amendments of the House to the said bill; and that the House adhere to its disagreement to the Senate's amendments to the House amendments to said bill.

Mr. WILSON, of Massachusetts. I will explain the condition of this bill. It will be remembered that the Senate passed the bill some three or four months ago. The House added several sections as amendments to the bill, and sent it back to the Senate. We agreed to some, and disagreed to others; but it was found that we had in the body of the bill, to which both Houses had agreed, one or two provisions which, owing to the change of affairs in the country, and owing to various circumstances, it was important should not be enacted into a law. In order to have the bill corrected, made perfect, and in accordance to the general wishes of the two Houses as nearly as possible, we had a committee of conference, and we agreed to disagree, and we have framed a bill nearly every provision of which has received the sanction of both Houses, with one or two slight modifications. We have framed a bill that the committee has unanimously agreed to. We have reported a disagreement on the old bill, with a view of letting it drop out of the way, and of passing the bill which I hold in my hand as a substitute. We are anxious to have it passed to-day to reach the House, as it is Monday, a day on which they can get it up easily, and pass it without any opposition. I think they can; and I think we can pass the bill here. It is a bill that I think we shall all agree to.

Mr. McDOUGALL. Has it been printed?

Mr. WILSON, of Massachusetts. It only contains the provisions agreed to by both Houses in the other bill, leaving out certain provisions.

Mr. SHERMAN. I should like to have the Senator state what provisions were left out.

Mr. WILSON, of Massachusetts. One section of the old bill contained a limitation in regard to the number of paymasters, which was sent here early in the session at the urgent request of the Paymaster General, who stated that he had one hundred and forty-nine paymasters, and wanted to reduce them to one hundred and twenty-five. But by the passage of a bill facilitating the sending home of the pay of the soldiers, we have imposed upon the paymasters nearly a double amount of work, and they have been compelled to add twenty-five to the number. That section is stricken out.

Then we had in the bill another section which both Houses had agreed to, and which a committee of conference, of which the Senator from Ohio was a member, have agreed to on another bill in regard to pensions. It was very important to pass it, and at the time we thought it important to put it on this bill; but as it is in another bill, and in the same form, we do not want to pass it in this bill.

Then there was another section of the bill in which both Houses agreed in regard to the standard for the raising of volunteers, requiring the same standard they have in the Army; but we thought, under the present circumstances of the country, when it is very important to get volunteers, that it was not best to insist upon that standard. We have stricken that out also, and a few other little things of that kind; but the bill contains twenty-two sections, embracing provisions that we have generally agreed to, and I think it ought to be passed immediately.

Mr. CLARK. The Senator will allow me to inquire if there is anything in this bill that was not in the other.

Mr. WILSON, of Massachusetts. There is but one section that we have any dispute or doubt about; and that was the section in regard to the Adjutant General's office, which the House passed by a very strong vote, and insist very strongly upon. The Senate did not express its opinion about it, though it was discussed here, and there was some difference about it; and as we had a separate bill on that subject, rather than embarrass this bill, we consented to let it go by. When it went back to the House, they were very strenuous in retaining it. I believe it is a good provision, and that it ought to pass.

Mr. GRIMES. That raises the rank of twelve officers, and increases the number.

Mr. WILSON, of Massachusetts. It increases one or two; but I will say to the Senator that in the present condition of the Army it is impossible to fill that office up properly from lieutenants. We have used up nearly all of our lieutenants by their having been made into captains, and this requires the taking hereafter of captains instead of lieutenants.

Mr. GRIMES. You make majors of some.

Mr. WILSON, of Massachusetts. We take captains and make majors of them, instead of taking lieutenants and making them captains.

Mr. TRUMBULL. I should like to inquire if there is any limit on the number of paymasters now?

Mr. WILSON, of Massachusetts. There is no limitation in this bill.

Mr. TRUMBULL. Is there in any bill?

Mr. WILSON, of Massachusetts. I do not know that there is.

Mr. TRUMBULL. I would prefer that there should be a limit. We know how it has been generally——

Mr. WILSON, of Massachusetts. The laws of the country limit them now. The laws authorize the appointment of one paymaster for every two regiments; and they have not that number nor half of it, and they can get along without going to the extent of the law.

Mr. TRUMBULL. As I understand the Senator from Massachusetts, the House and Senate both agreed to limit the number of paymasters to one hundred and twenty-five. That is found to be too few. Would it not be best to limit it somewhere, not to leave it so as to have as many as one for every two regiments? It seems to be conceded that that number is not needed. I wish the Senator would put in the bill a provision limiting them to say two hundred, or any number.

Mr. WILSON, of Massachusetts. We shall have two other bills on which we can put a provision of that kind if it is thought best to do so on reflection; but I think it had better not be put on now, because this bill has been generally agreed to, and I would prefer that it should not be amended.

The PRESIDENT *pro tempore*. The question is on concurring in the report of the committee of conference. The bill alluded to, and under discussion, is not yet before the Senate.

Mr. WILSON, of Massachusetts. The committee have disagreed on this subject; and I move to lay the report of the committee of conference on the table.

Mr. SHERMAN and Mr. FESSENDEN. The report had better be adopted.

The PRESIDENT *pro tempore*. The Chair would suggest that the proper course is to concur in the report of the committee of conference.

Mr. WILSON, of Massachusetts. That abandons the bill, does it not?

The PRESIDENT *pro tempore*. That ends the bill.

The report was concurred in.

Mr. WILSON, of Massachusetts. I now ask leave to introduce the bill of which I have spoken.

The PRESIDENT *pro tempore*. The Senator from Massachusetts asks the unanimous consent to introduce a bill.

There being no objection, leave was granted to introduce the bill (S. No. 383) to define the pay and emoluments of certain officers of the Army, and for other purposes; and it was read twice by its title.

Mr. WILSON, of Massachusetts. I move that the bill be considered. It has had the unanimous sanction of the committee, who studied it, and nearly every provision in it has had the sanction of both Houses of Congress.

The PRESIDENT *pro tempore*. It can be done only by unanimous consent.

Mr. HALE. I have consented two or three times to such things being done and always regretted it. The bill can be passed just as well to-morrow as to-day.

The PRESIDENT *pro tempore*. It is the duty of the Chair to announce the special order of the day, being the bill (S. No. 200) to establish provisional governments in certain cases. It was assigned as a special order for this day at twelve o'clock.

Mr. FESSENDEN. I move that that be postponed for the purpose of considering the bill of the Senator from Massachusetts. It is a very important bill, and it has been passed upon by both Houses.

Mr. TRUMBULL. I hope not. The special order is a very important bill, and I hope we shall dispose of it.

Mr. FESSENDEN. It will only take a short time to get through with the other bill.

Mr. TRUMBULL. I think that bill had better be printed. There will be probably no objection to passing it, and I think we can do it to-morrow.

Mr. FESSENDEN. They can pass it in the House to-day.

Mr. TRUMBULL. And so they can to-morrow.

Mr. FESSENDEN. Not so well under their rules.

Mr. TRUMBULL. If they are unanimous for it, there can be no trouble in passing it at any time.

The PRESIDENT *pro tempore*. The question is on postponing the special order for this hour. It is under the control of a majority of the Senate.

Mr. FESSENDEN. I withdraw that motion if the Senator from Illinois means to object to this bill, because it is unwise to postpone the special order for it when one objection will carry the other bill over.

Mr. TRUMBULL. Why cannot the House pass it without waiting for us?

Mr. WILSON, of Massachusetts. They have not got the bill to act upon. We have the bill, and can pass it to-day; but if it does not pass to-day, I fear there is an end of it.

Mr. TRUMBULL. Oh, no; it is not an end of it.

Mr. WILSON, of Massachusetts. I have been working a fortnight trying to get this bill through, when I ought not. There is but one section on which there is a dissenting voice in the Senate, and on that I have no doubt that Congress is four fifths one way, the House of Representatives being almost unanimous on that point.

Mr. FESSENDEN. I insist on my motion to postpone if there is to be no objection to that bill.

Mr. DAVIS. I desire to inquire what is the question before the Senate.

The PRESIDENT *pro tempore*. The question before the Senate is the special order of the day, which is the bill (S. No. 200) to establish provisional governments in certain cases, and the Senator from Maine moves to postpone the consideration of that subject.

Mr. DAVIS. I merely wanted to ascertain if there was any question before the Senate.

Mr. TRUMBULL. I cannot consent that that bill shall be passed until it has been printed.

Mr. FESSENDEN. Then I withdraw my motion.

Mr. TRUMBULL. Let the bill be printed.

Mr. WILSON, of Massachusetts. I hope the bill will be printed.

The PRESIDENT *pro tempore*. That order will be made. The bill presented by the Senator from Massachusetts will be printed.

HOUSE BILLS REFERRED.

The following bills and joint resolution from the House of Representatives were severally read twice by their titles, and referred:

A bill (No. 557) in relation to preëmption claims, and for other purposes—to the Committee on Public Lands.

A bill (No. 524) prohibiting the confinement of persons in the military service of the United States

in the penitentiary of the District of Columbia, excepting as a punishment for certain crimes, and to discharge therefrom certain convicts by sentence of courts-martial, and for other purposes—to the Committee on Military Affairs and the Militia.

A joint resolution (No. 98) authorizing the Secretary of War to furnish extra clothing to sick, wounded, and other soldiers—to the Committee on Military Affairs and the Militia.

BILL BECOME A LAW.

A message from the President of the United States, by Mr. NICOLAY, his Secretary, announced that the President had approved and signed, on the 5th instant, an act (S. No. 171) to reorganize the Navy Department of the United States.

EMANCIPATION IN THE DISTRICT.

Mr. GRIMES. I desire to be informed whether the bill I called up is still on the President's table.

The PRESIDENT *pro tempore*. It was before the Senate, and is superseded by the special order of the day.

Mr. GRIMES. I move to suspend that for ten minutes. I do not think there will be any controversy about this bill. I have drawn up an amendment which will cover the objection of the Senator from Vermont.

The motion was agreed to.

The PRESIDENT *pro tempore*. The question is on agreeing to the amendment reported by the Committee on the District of Columbia, to insert a new section as section two, on page 3.

The amendment was agreed to.

Mr. GRIMES. I move to amend the next amendment reported by the District Committee as the third section. The previous section merely allows a person who has been claimed as a slave to file his own petition, in case that no one should present a claim for him as a slave, in order to get the benefit of the act now. I move to insert in the first line of section three, after the word "that," these words:

Whenever the facts set forth in said statement or schedule shall be found by the commissioners to be true.

The PRESIDENT *pro tempore*. The Senator from Iowa proposes to amend the amendment reported by the committee.

The amendment to the amendment was agreed to, and the amendment as amended was adopted, as follows:

Insert as a new section:

And be it further enacted, That whenever the facts set forth in said statement or schedule shall be found by the commissioners to be true, the said clerk and his successors in office shall prepare, sign, and deliver certificates, as prescribed in the tenth section of the act to which this is supplementary, to such person or persons as shall file their statements in pursuance of the foregoing section, in all respects the same as if such statements were filed by the person having claim to their service or labor.

The next amendment reported by the committee is in section three of the bill, line six, after the words "District of Columbia," to insert "or who shall be hereafter thus employed;" so as to read:

By the consent of the person to whom such service or labor is claimed to be owing, have been actually employed within the District of Columbia, or who shall be hereafter thus employed, are hereby declared free.

The amendment was agreed to.

The next amendment of the committee was to strike out section four in these words:

SEC. 4. *And be it further enacted*, That the President of the United States be, and he hereby is, authorized to appoint, by and with the advice and consent of the Senate, a solicitor of the commission appointed under the act approved April 16, 1862, entitled "An act for the release of certain persons held to service or labor in the District of Columbia;" and the compensation of said solicitor shall be at the rate of $2,000 per annum.

The amendment was agreed to.

Mr. SUMNER. I offer an additional section:

And be it further enacted, That in all the judicial proceedings in the District of Columbia there shall be no exclusion of any witness on account of color.

Mr. POWELL. I ask for the yeas and nays on that amendment.

The yeas and nays were ordered; and being taken, resulted—yeas 25, nays 11; as follows:

YEAS—Messrs. Anthony, Chandler, Clark, Collamer, Doolittle, Fessenden, Foot, Foster, Grimes, Hale, Harlan, Harris, Howe, King, Lane of Kansas, Morrill, Sherman, Simmons, Sumner, Ten Eyck, Trumbull, Wade, Wilkinson, Wilmot, and Wilson of Massachusetts—25.

NAYS—Messrs. Browning, Carlile, Cowan, Davis, Henderson, Kennedy, McDougall, Powell, Rice, Willey, and Wright—11.

The bill was reported to the Senate as amended; and the amendments were concurred in. The bill was ordered to be engrossed for a third reading, and was read the third time.

Mr. POWELL. I ask for the yeas and nays on the passage of the bill.

The yeas and nays were ordered; and being taken, resulted—yeas 29, nays 6; as follows:

YEAS—Messrs. Anthony, Browning, Chandler, Clark, Collamer, Cowan, Doolittle, Fessenden, Foot, Foster, Grimes, Hale, Harlan, Harris, Henderson, Howe, King, Lane of Kansas, McDougall, Morrill, Sherman, Simmons, Sumner, Ten Eyck, Trumbull, Wade, Wilkinson, Wilmot, and Wilson of Massachusetts—28.

NAYS—Messrs. Carlile, Davis, Kennedy, Powell, Wilson of Missouri, and Wright—6.

So the bill was passed.

PENSION BILL.

The PRESIDENT *pro tempore*. The special order is now before the Senate, which is the bill (S. No. 200) to establish provisional governments in certain cases.

Mr. FOSTER. Before proceeding with that bill, I have the consent of the honorable Senator from New York, and I hope to have the consent of the Senate, to take up House bill No. 438, to grant pensions. It was gone over very fully on Saturday, and the amendments were concurred in, so that the bill now stands on its third reading. It will, I think, meet with no opposition; and as there are a good many amendments, it is very desirable that the bill should be sent back to the House of Representatives as soon as possible.

The PRESIDENT *pro tempore*. The Senator from Connecticut moves to postpone all prior orders, and take up the bill indicated by him.

The motion was agreed to; and the Senate resumed the consideration of the bill (H. R. No. 438) to grant pensions. The amendments were ordered to be engrossed, and the bill to be read a third time. The bill was read the third time, and passed.

CONSTITUTIONAL QUORUM.

Mr. SHERMAN. I desire now to have a definite vote on the question of a quorum. I move to postpone all prior orders that we may vote on and settle that question. ["Oh, no."] I hope the Senate will determine that matter, as after to-morrow probably we shall not have the requisite number. Unless it is acted upon definitely to-day, the Senate may not be able to act upon it at all.

Mr. HARRIS. I hope that that motion will not prevail. I really desire that the bill which has been made the special order for to-day, after so long a delay, may now be acted upon. The friends of the bill already think that I have been too indulgent in giving way for other measures. I desire now very much that the bill shall be acted on.

The PRESIDENT *pro tempore*. The question is on the motion of the Senator from Ohio to postpone the special and all other orders, and proceed to the consideration of the resolution indicated by him.

The motion was not agreed to.

ADDITIONAL TREASURY NOTES.

Mr. FESSENDEN. The committee of conference on the disagreeing votes of the two Houses upon the amendments to the bill (H. R. No. 187) to authorize an additional issue of United States notes have agreed to recommend that the House of Representatives recede from their disagreement to the first amendment of the Senate, and agree to the same with an amendment striking out "twenty," and inserting "thirty." That is a compromise, and allows $35,000,000 of small notes instead of $25,000,000. The House recede from their disagreement to the second amendment of the Senate, and agree to the same. The House recede from their disagreement to the Senate's third amendment, and agree to it with an amendment, striking out "seventy-five," and inserting "fifty." That requires $50,000,000 to be retained for the purpose of meeting the deposits instead of $75,000,000. The Senate recede from their fourth amendment, which was in regard to appointing places for the payment of interest.

The report was concurred in.

PROVISIONAL GOVERNMENTS.

The Senate, as in Committee of the Whole, proceeded to consider the bill (S. No. 200) to establish provisional governments in certain cases. The bill proposes to give authority wherever, within the territorial limits of the United States, the constitutional authority and laws of the United States are or may be resisted by arms during the present rebellion, except in the States of Kentucky, Missouri, Maryland, and that portion of the State of Virginia the inhabitants of which now acknowledge the authority of the United States, to the President of the United States, by proclamation or order, to establish a provisional government, and to exercise the powers granted by this act, within such district or districts as he may, in like manner, determine, and the limits of any district so established are to be subject to such modifications as may be found to be necessary and expedient by him.

The executive power of every government so established is to be exercised by a Governor, the judicial power by three judges, or a majority of them, who shall constitute the provisional court of the district, and the legislative power by a Legislature, consisting of the Governor and three judges, and the Governor and judges are to be appointed by the President, by and with the advice and consent of the Senate, and receive for their services respectively—the Governor $2,500, and each judge $2,000, per annum.

The executive power is to extend to all such acts as may be necessary for the due enforcement of the laws; the legislative power to all subjects of rightful legislation not inconsistent with the Constitution and laws of the United States; and the judicial power to all causes usually heard and determined in courts of law.

There is also to be appointed, within each district so organized, a secretary, a marshal, and a district attorney, who are to exercise the powers usually vested in like officers by acts of Congress establishing territorial governments, and receive, respectively, a compensation of $1,500 per annum.

The court thus authorized is to hold such terms as it may order, or as Congress or the provisional Legislature shall direct; appoint its own clerk and ministerial officers other than marshal; establish and modify rules of practice applicable to proceedings within its jurisdiction; and hear and determine all such causes and matters as are by law cognizable by the circuit and district courts of the United States, or the supreme or superior territorial courts, and also such as may, by act of the provisional Legislature of the district, be made cognizable by such court. And the several judges of the court are to exercise such jurisdiction as may be exercised by the several judges of circuit, district, or territorial courts, or as may be conferred by Congress or the provisional Legislature; and the final judgments or decrees of the court are to be subject to reversal, affirmation, or revision, on appeal and writs of error, by the Supreme Court of the United States, in like manner and to the same extent as judgments or decrees of the circuit, district, or territorial courts now existing are or may be.

The President may, by proclamation or order, establish ports of entry and delivery within the limits of any provisional government thus authorized as he may deem necessary; appoint collectors and other needed officers, who are to have the same powers as like officers in other ports, and receive such compensation as the President may direct, not exceeding $1,500 per annum to any one officer, or in the aggregate $10,000 a year; and all provisions of law relating to other ports of the United States are to be applied, so far as applicable, to the ports thus authorized.

The execution of this act, or any of its provisions, may, at any time, be suspended by proclamation of the President of the United States; and it is not to be held to be operative in any district within which it may have gone into effect for a period longer than three months from the commencement of the session of Congress next succeeding the termination of the insurrection now existing in the United States.

The first amendment of the Committee on the Judiciary was in section one, line three, after the word "of," to insert "any of;" so as to read, "that whenever within the territorial limits of any of the United States," &c.

The amendment was agreed to.

The next amendment was in line six, after the word "rebellion," to strike out "except in the States of Kentucky, Missouri, Maryland, and that portion of the State of Virginia the inhabitants of which now acknowledge the authority of the United States;" so that the clause will read, "that

wherever, within the territorial limits of any of the United States, the constitutional authority and laws of the United States are or may be resisted by arms during the present rebellion, the President of the United States may," &c.

The amendment was agreed to.

The next amendment was in line ten, after the word "government," to insert "for such State."

The amendment was agreed to.

The next amendment was in line twelve, after the word "such," to strike out the words "district or districts as he may in like manner determine, and the limits of any district so established shall be subject to such modifications as may be found necessary and expedient by him," and in lieu thereof to insert, "State, as hereinafter provided;" so as to read, "establish a provisional government for such State, to exercise the powers granted by this act within such State, as hereinafter provided."

The amendment was agreed to.

The next amendment was in section two, to strike out, after the word "them," the words "who shall constitute the provisional court of the district."

The amendment was agreed to.

The next amendment was in section three, line five, after the words "United States," to insert:

And not interfering with the laws and institutions existing in such State at the time its authorities assumed to array the same against the Government of the United States further than shall be necessary to carry into effect the provisions of this act.

Mr. SUMNER. I cannot consent to that amendment. It seems to me that that is going very far. A government organized by Congress, and appointed by the President, is practically to enforce laws and institutions, some of which are abhorrent to civilization. For instance, I have before me an extract from the Revised Code of North Carolina; and I will read one of the provisions which the Governor, under this act, will be called upon to enforce. I say called upon to enforce. The language of this amendment is, that there shall be no interference with the laws and institutions existing in such State at the time its authorities assumed to array the same against the Government of the United States. Of course, therefore, the Government must enforce these laws and institutions. Here is one of them:

"Any free person who shall teach, or attempt to teach, any slave to read or write, the use of figures excepted, or shall give or sell to such slave any book or pamphlet, shall be deemed guilty of a misdemeanor, and upon conviction thereof, if a white man or woman, shall be fined not less than $100 nor more than $200, or imprisoned; and if a free person of color, shall be fined, imprisoned, or whipped, not exceeding thirty-nine nor less than twenty lashes."

Sir, that atrocity will be found set forth in the Revised Code of North Carolina, chap. 34, sec. 82. But, sir, lest this law should be of no effect by employing slaves as school teachers, we have the following additional:

"It shall not be lawful for any slave to teach, or attempt to teach, any other slave or free negro to read or write, the use of figures excepted."—*Chap.* 107, *sec.* 31.

The punishment of slaves for the above offense is whipping repeated for every act. Then, sir, here is another section which the Government enforces under this statute:

"If any person shall willfully bring into the State, with an intent to circulate, or shall willfully circulate or publish within the State, or shall aid or abet the bringing into, or the circulation or publication of, within the State, any written or printed pamphlet or paper, whether written or printed in or out of the State, the evident tendency whereof is to cause slaves to become discontented with the bondage in which they are held by their masters and the laws regulating the same, and the free negroes to be dissatisfied with their social condition and the denial to them of political privileges, and thereby to excite among the said slaves and free negroes a disposition to make conspiracies, insurrections, or resistance against the peace and quiet of the public, such person so offending shall be deemed guilty of felony, and on conviction thereof shall, for the first offense, be imprisoned not less than one year, and be put in the pillory and whipped, at the discretion of the court; and for the second offense *shall suffer death.*"—*Chap.* 34, *sec.* 16.

Here is another provision:

"If any free person of color shall preach or exhort in public, or in any manner officiate as a preacher in any prayer meeting, or other association for worship, where slaves of different families are gathered together, he shall be deemed guilty of a misdemeanor; and on conviction, shall, for each offense, receive not exceeding thirty-nine lashes on the bare back."—*Chap.* 107, *sec.* 59.

Then here is another:

"If any person shall willfully carry or convey any slave, the property of another, without the consent of the owner, or the guardian of the owner, with the intent and for the purpose of enabling such slave to escape out of this State from the service of his owner, the person so offending shall suffer death."—*Chap.* 34, *sec.* 11.

I have read enough, sir. This will show you the statutes which, under the amendment now moved by the Judiciary Committee, are to be enforced in the name of the Republic of the United States by its constituted authorities in courts organized by Congress.

Sir, the bare statement of the case is enough. It is impossible to consent to any such thing. In organizing these governments, all that we can do is to protect life and property, and generally to conduct the machinery of government. We cannot go further, and protect institutions which are already an outrage to civilization. I therefore move to strike out the words "laws and institutions," and insert simply the word "constitution;" so that the clause will read, "and not interfering with the constitution existing in such State at the time its authorities assumed to array the same against the Government of the United States."

The PRESIDENT *pro tempore*. The Senator from Massachusetts moves to amend the amendment reported by the committee, by striking out of that amendment the words "laws and institutions," and inserting in lieu thereof the word "constitution." The question is on the amendment to the amendment.

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

Mr. HARRIS. Mr. President, the object of the bill is not to change the legislation of the States. It is to establish a temporary government, to execute the constitution and laws of the rebel States during the interval that may occur between the time when the rebellion shall be suppressed, and when those States shall be able to reorganize themselves and shall be restored to their proper position in the Union. The bill contemplates a simple, efficient, temporary government. For that purpose it is necessary that there should be some legislative power conferred upon these officers; but I should be very unwilling to clothe these officers with power to change the entire body of laws of those States. I think it would be very improper, and I think it would be very pernicious in its effect. While I should be glad to see slavery abolished, while I expect to see slavery abolished, I do not want to see it abolished by any such system of legislation as this amendment contemplates, for it really goes to that. I am not in favor of it. I do not think it is the mode of abolishing slavery.

Mr. SUMNER. Whether slavery shall be abolished, is one question; this is quite another.

Mr. HARRIS. The Senator from Massachusetts will notice the fact that the provision to which he objects in this section of the bill relates only to the legislative power conferred on the Governor and judges. There is nothing in the bill that requires the executive power conferred upon the Governor by this bill to execute those obnoxious laws to which he has been referring. This refers exclusively to the legislative power conferred on the Governor and judges, and provides that they shall not have power to alter the laws and institutions of these States. It refers exclusively, as I have said, to the legislative power conferred. There is nothing in the bill that requires the executive power conferred by this bill on the Governor to execute these obnoxious laws. He may execute them, perhaps, as it is said the military Governor of North Carolina is doing, but if a proper man be appointed, he will not execute them. So far as this bill is concerned, it leaves that an open question. There is nothing in the bill, I repeat, that requires the Governor to execute these obnoxious laws.

Mr. SUMNER. The argument of the Senator from New York is very precise. He says there is nothing in the bill that requires the Governor to execute these obnoxious laws. Now, if I can have the attention of the Senator one moment, he shall see whether he is right in that statement. The language of the bill is "that the executive power shall extend to all such acts as may be necessary for the due enforcement of the laws." Then in this same section the Senator from New York representing the committee proposes to add "not interfering with the laws and institutions existing in such State at the time its authorities assumed to array the same against the Government of the United States." Thus, sir, according to the very amendment of the Senator from New York, the laws and institutions existing in such State at the time its authorities assumed to array the same against the Government of the United States are embraced among the laws of the State, and the executive is bound to the due enforcement of the laws. I wish I could see this otherwise. The Senator from New York knows very well that I am friendly to the bill, that I want it to pass. I believe it important that it should pass.

Mr. COLLAMER. I ask the Senator, whether striking out the words which he proposes to strike out will alter the effect in the direction which he aims at?

Mr. SUMNER. That question has occurred to me.

Mr. COLLAMER. This clause is about legislative power. The executive power will remain the same if these words are out.

Mr. SUMNER. I understand that; but my object is, if possible, to prevent any words from being introduced into the bill that shall, as it were, step out of the way to confer on the executive this extraordinary power.

Mr. COLLAMER. These words do not relate to the executive.

Mr. SUMNER. I know that they do not relate to the executive in form; they relate to the legislative power. The Senator is right; but they do enumerate laws, they specify laws, and they add the word "institutions" also. I may be mistaken in the interpretation which I put upon the clause. I do not wish to exaggerate it. I should rather see it as Senators see it if I could; but looking at it most carefully, and with a desire to perfect the bill, I do think that we shall err if we introduce those words into the amendment as moved by the Senator from New York.

Mr. HARRIS. If the Senator from Massachusetts will allow me, I will make a suggestion which has been made to me by the Senator from Ohio, [Mr. SHERMAN.] It may obviate his difficulty if we insert in the third line, after the word "laws," the words "of the United States;" so as to read, "the executive power shall extend to all such acts as may be necessary for the due enforcement of the laws of the United States."

Mr. SUMNER. That is a very important suggestion.

Mr. HARRIS. And then there is a clause that "the legislative power" shall extend "to all subjects of rightful legislation not inconsistent with the Constitution and laws of the United States." The Senator has overlooked that provision.

Mr. SUMNER. Not at all. I am aware that this amendment is strictly applicable to the legislative power; but my idea is that when it undertakes to use the language "laws and institutions," those words would relate back to the word "laws" in the third line, with reference to the executive.

Mr. HARRIS. Add there the words "of the United States."

Mr. SUMNER. Adding the words "of the United States" would perfect the section very much. I hope these words may be added.

Mr. HARRIS. I shall move that at the proper time.

The PRESIDENT *pro tempore*. The question now is on the amendment moved by the Senator from Massachusetts, to the amendment of the committee to strike out the words, "laws and institutions," and insert "constitution," upon which the yeas and nays have been ordered.

Mr. SUMNER. I will withdraw that amendment, and let the Senator from New York move his.

The PRESIDENT *pro tempore*. The Senator from Massachusetts may withdraw his amendment if there be no objection. The amendment is withdrawn.

Mr. HARRIS. Then, before we proceed with the other amendments, I move to insert the words "of the United States" after the word "laws," in the third line; so as to read, "the executive power shall extend to all such acts as may be necessary for the due enforcement of the laws of the United States."

Mr. TRUMBULL. I think it will not do to insert those words. That would limit the executive simply to the enforcement of the laws of the United States. We want him to do something more than that.

The PRESIDENT *pro tempore*. The Chair will suggest that the proposition of the Senator from New York is not yet in order. The question before the Senate is on the amendment reported by the committee; and any amendments proposed now must relate to that. The Senator proposes another amendment, in another clause of the section, which is not in order while the amendment reported by the committee is before the Senate and under consideration.

Mr. TRUMBULL. I will say a word in regard to the committee's amendment. I think we had best not adopt it in the shape it is, although I agreed to the amendment in committee. I was for it in the committee; but since I have seen the operation of these laws in the southern States, and the manner in which persons acting in behalf of the United States undertake to execute them, I have changed my opinion in regard to the propriety of such a clause as this, and I agree with the Senator from Massachusetts. I cannot consent by my vote, and I never will consent by my vote, to give sanction to a law that punishes a man for teaching another to read the word of God. We know that in the southern States they have laws making it a penal offense for any person to teach a negro, free or slave. We know that recently in the State of North Carolina schools have been suppressed. We know that within a few years past persons have been imprisoned in the southern States for no other offense in the world than undertaking to teach human beings how to read. I am not for interfering with the general laws in the southern States; but in adopting this provisional government, made necessary by the peculiar condition of things, and to exist only so long as the people in those States refuse to organize a government in obedience to the Constitution of the United States, I do not wish to be made a party to the enforcement of any laws of the character indicated by the Senator from Massachusetts. I think it would be well not to interfere with the general laws of these States, or the general administration of justice in these States, with the general habits and customs of the people; I think it would be very desirable that the officers who shall be sent temporarily to exercise authority in those localities which shall be brought under the jurisdiction of the United States by the force of our arms, should conform, so far as possible, to the settled habits and customs and laws of the people; but still, to insert a clause here which shall prohibit this provisional government for the time being from doing anything that may interfere with such inhuman and barbarous laws as those we have been referred to, I cannot agree to.

It will not do to say that this is a legislative authority. It is the duty of the executive to execute all laws. That is what he is for; and it is advocating, in my judgment, a very dangerous doctrine to say that the officer charged with the execution of the laws may himself disregard them. I think the safety of our institutions and the safety of our Government depend on our respect and reverence for the law, and that the executive officer should be required to execute a law as it is written. It is not for him to dispense with the execution of one law and rigidly execute another. The executive power should be exercised for the purpose of executing fairly all laws, and he is as much bound to execute those to which reference has been made as any other, if the section stands as it is. I think it would not do to limit the executive to the execution only of the laws of the United States, because, in order to preserve the peace of society, in order to carry out the purpose of this bill, you must have some other laws than the laws of the United States. The bill itself provides for a legislative power with authority to pass laws which shall extend to all subjects of rightful legislation. The laws which this legislative power enacts will not be the laws of Congress, and shall not the executive enforce them? They will not be the laws of the United States, and it would be inconsistent to provide in the bill for a legislative body with authority to enact laws, and then provide that no law should be executed which the legislative body enacted. I hope that the amendment of the committee will be disagreed to, unless it can be framed in a way that will exclude the particular class of laws to which allusion has been made, although I was friendly to the provision originally, and am friendly now to a provision which shall require the execution generally of the laws which were in existence at the time that the rebellion broke out.

Mr. TEN EYCK. I am opposed to the amendment, and I think the difference of opinion which we have already seen manifested here goes very far to establish the fact of the impolicy of the bill, altogether. I myself doubt the expediency of this bill. I think it will do more harm than good, and am inclined to vote against it on its final passage; and I shall avail myself now of a few minutes of the time of the Senate to put upon record the views which influence my action and will determine my course when I come to vote on the bill finally.

In my judgment we cannot so amend this bill as to steer clear of the embarrassing difficulties that rise up in our path as we progress. In endeavoring to do one thing which is to be for the benefit of the country, we are stumbling into errors which will result to its disadvantage and injury. I think the whole policy of the bill is upon a false basis. In my view, States in rebellion, as the southern States now are, are still States of this Union, as much to-day as they were when they became so by their admission into the Union; and that no act of insurrectionists or rebels can change the legal character or status of these States from that which they were entitled to and enjoyed prior to the commencement of the rebellion; and that to recognize any other doctrine acknowledges at least the power, if not the right, of secession. It is against this very heresy, or against this enormous crime, that we are now expending hundreds of millions of dollars and offering up hundreds of thousands of precious lives. Under our frame of government there can be no such thing as secession. The Union was meant to be perpetual, and if such a thing as secession *in fact* exists, it is because the Federal Government has not sufficient force to compel obedience to its powers.

In my view the people of a State constitute the State; that the State is not constituted by a mere ideal outline or boundary of territory; for if the territory be devoid of people, it surely cannot be a State. The people, then, constitute the State; and I hold that if there be one hundred or ten true and loyal Union men in one of these insurrectionary States, although all the rest are rebels and deserve destruction, they constitute the State and are entitled to all the blessings and all the immunities of their State governments under the Constitution; nay, more, the Government of the United States, by the Constitution, is bound to protect them in their State government and to maintain them in a republican form of government. This can be done; and by the course which may be pursued, and has already been pursued, we steer clear of all these constitutional and other difficulties, all these difficulties respecting policy, all these matters which affect our feelings, our sympathies, and our sense of justice and of right. We may establish temporary or local control over these insurrectionary States, as we have already begun to do and are now successfully doing in the State of Tennessee, by the appointment of a military Governor, who, armed with the whole power of the General Government, as the agent of that Government puts down rebellion and enforces the laws, so far as they can be enforced under such an anomalous state of things.

This bill, as proposed by the Senator from New York, and as it is reported by the Committee on the Judiciary, merely contemplates a temporary necessity. Sir, the remedy should be summary, speedy, and also temporary in its character. This bill provides for a provisional government in a State, as against the State government. It frames and organizes an antagonistic government to the State government which the true and loyal people living in these insurrectionary States have the right to have maintained for their protection and benefit. I cannot see my way clear in voting for a bill, or to pass a bill establishing a separate, independent, distinct, and an antagonistic government to the one established by the people themselves, and which the Government of the United States has guarantied to perpetuate and maintain for the benefit of the people living within those States; and so far as I know and believe, there is not a single State in the Union now in the rebellion—not even the State of South Carolina herself—where there are not hundreds, and perhaps thousands, of Union-loving people who desire to return to their allegiance, and will hail the day and the hour when the power of the General Government shall be so far established over them as to protect them in their rights and protect them from the wrongs and aggression which have been heaped upon them to the scandal of a Christian people, and to the great scandal of the civilized world.

This bill, as reported by the Committee on the Judiciary, involves all the machinery of a territorial government, and in fact reduces these States to a territorial condition. It implies permanency, the establishment of a permanent government, not for all time, but a government with all the machinery of an executive branch, a judicial branch, and a legislative branch. Although there are certain guards and restrictions attempted to be thrown over the different departments of this new kind of government by the bill as reported, yet Senators want to change it and vary it and modify it to suit their own purposes, all of which may be very humane, just, honorable, and beneficent, but all of which bring us into difficulty, and will bring the people—the true and loyal people who constitute the State, and who are entitled to the protection of their State government—into difficulty and confusion. It contemplates a Governor, a judiciary, and a Legislature, all strangers to the district, to enact, decide upon, and execute laws without responsibility to any one or any power, not even to Congress itself, as is generally the case with territorial governments.

I do not mean to occupy much time on this question. I merely wish to submit my views about it. According to my notion, this kind of government sought to be established by this bill is altogether unnecessary, uncalled for, and unasked for. Whenever the Federal Government is sufficiently strong and shall have advanced its power within the limits of the districts now in rebellion so as to maintain the authority of the territorial government that we are seeking by this bill to establish, then the power of the Federal Government will be sufficiently strong in those localities to maintain the State government which those people are entitled to and which they have established for themselves. There can be no necessity for the passage of a bill of this kind, I repeat, for as soon as the power of the Federal Government is established within those districts to such an extent as that they may maintain a government and Legislature and judges there, they may maintain and support the State power there. They will doubtless find enough Union-loving people there of whom to make Governors, judges, and members of the Legislature, in the regular and usual way.

My advice is not of much importance, I know; but I would ask the Senate and Congress to leave this matter to work out its own cure. The condition of affairs is novel, anomalous. The rebellion, although things look a little blue sometimes, is being put down; the authority of the United States is being reëstablished over these insurrectionary and rebellious districts; and as our arms progress, if some little machinery of Government should be put on foot and established while the State government is in abeyance, let that government be one established under the military power, by the Executive, such as has been established in the State of Tennessee by the appointment of Andrew Johnson as Governor of that State. I apprehend the example furnished us by the course of things in the State of Tennessee will be an apt illustration of what we have a right to expect in other States, and will justify us, too, in relying upon that course of procedure in order to establish a government for the protection of the people thus circumstanced; and by leaving things to take such a course as that, we get rid of all the difficulty, all the controversies, all the evils, all the errors, and all the bad consequences which must necessarily flow from our attempting to follow a path which is untrodden and untried in the midst of scenes and circumstances such as have appalled the world and shocked the common sense of all mankind.

I have maintained the same opinion now upon this subject that I did in the Committee on the Judiciary. I am opposed to any attempt to tinker with a bill of this kind, and I am opposed to any bill of the kind, because I think it is unnecessary, and that it will do far more mischief than any good that can be realized from it.

Mr. POWELL. I was very much pleased with the general tone of the speech of the Senator from New Jersey. I heartily concur with him in the

position he takes, that this bill should not become a law. There was one sentiment that fell from the lips of the Senator from Illinois that I most heartily approve; and that was, that we should reverence the law. I have been taught to believe that there was no liberty save in the supremacy of the laws; and I will now ask the honorable Senator from New York, who introduced this bill, to show me the clause in the Constitution that will warrant or authorize its passage. The Constitution is the fundamental law which we are all bound by solemn oath to support; and if that Senator will allow me, I will say that in my judgment there is no clause of the Constitution that will authorize the passage of this bill. We certainly cannot exercise, in a legislative body, any powers that are not conferred upon us by that instrument. The very first article of the Constitution declares that "all legislative powers herein granted shall be vested in a Congress of the United States." We then have no legislative powers except such as are granted by that instrument; and I hold that whenever the legislative department or the judicial department claim the exercise of power, and they are challenged, they must show their warrant in the Constitution, or a law made in pursuance of the Constitution. I trust the honorable Senator from New York will give me his ear, and that he will not attempt in any way to avoid the point that I make, but will come up and show us the clause in the Constitution that authorizes the passage of this bill.

Mr. President, in my judgment this bill in every feature of it is unconstitutional. There is no power vested in Congress to declare sovereign States provinces. This bill does that virtually. There is no power in this Congress to declare that the people of a State of this Union shall not govern themselves in all matters touching their local and domestic affairs in their own way by Legislatures elected by themselves, and by Governors and judges chosen by themselves. There is certainly no authority under the Constitution for us to do these things. Why, sir, this bill absolutely reduces States in this Union to provinces, as has been well said by the Senator from New Jersey; it overthrows, so far as legislation can do it, the whole State machinery; it governs them by an executive and legislative department, and sends them judges not chosen by themselves, not appointed in pursuance of their constitution or their laws, but appointed by the President of the United States, by and with the advice and consent of the Senate. I would ask my worthy friend from New York what he would do with the clause of the Constitution which says that the United States shall guaranty to every State in this Union a republican form of government? Does this bill do that? No, sir; it divests them of every possible form of republican government. I hope we all understand what is meant by this clause in the Constitution. A republican form of government is one in which the people shape their own domestic policy in a manner that suits them, so that it is not in contravention of the Constitution of the United States. There are some limitations and restrictions in the Constitution on the States; but save and except the restrictions in the fundamental law of the land, the people of every State of this Union have a right to govern themselves just as they please, subject always, as I have before stated, to the limitations of the national Constitution.

But, sir, what does this bill do? It clothes the President of the United States, by and with the advice and consent of the Senate, with the power to send a Governor and two judges to any State of this Union where this rebellion exists, and that they shall become the executive and the law-making power for those people. Yes, sir; it clothes the Executive with the power, with the advice and consent of the Senate, to send Wendell Phillips, the man who has preached and prayed and spoken for a dissolution of the Union for nineteen years, Lloyd Garrison, and another of the vilest abolitionists that you might mention, to the State of South Carolina for instance, or any other State in this Union, and clothe them with the power to make laws and execute them on that people in derogation of all their local rights. I know the Senator may meet that part of the proposition by saying if his amendment be adopted it will cause them to be subject to the local law; but there is a clause in that amendment that will utterly repudiate that idea. In the eighth line you find these words: "further than shall be necessary to carry into effect the provisions and purposes of this act." That clothes them with the power to judge of the necessity; and you know, sir, what kind of judgment you will have in a slaveholding community if such men are appointed as I have indicated.

But, sir, the bill goes further. It does not even deign and condescend to give to those people the three separate departments of the Government as they are provided for in the constitutions of all the States. It sends an executive and judicial authority, and clothes that executive and judicial authority with the law-making power. That is a most astounding heresy, a thing unknown to our system of Government, which has never been practiced, save and except in some of the very earliest territorial governments, and which has long since been repudiated even in the Territories. The Senator, so far from allowing these States a republican form of government, breaks down all the barriers that mark the sphere in which these separate departments should revolve. That watchful and guardian care which the three departments of government, the executive, legislative, and judicial, necessarily bear towards each other, is all thrown down by the Senator's bill. He sends three rulers to what was a sovereign State—one the Executive and the two others his judiciary, appointed without the will, without the consent, or without the approbation of those people. You may take them from Maine and send them to Florida, if you please; and when your Executive and judiciary get there, instead of exercising executive and judicial functions, as is provided in the constitutions of the States and of the nation, he clothes them with legislative power.

Sir, let me tell the Senator from New York that this bill of itself is disunion, disunion of the most gross and flagrant kind. There is no form of disunion worse than this bill. It is contended here every day, and those who advocate this war proclaim that this is a Union of sovereign States. Thirty-four sovereign States, they claim, now compose the Union of these States, the Union as formed by the Constitution, or at least guarantied by the Constitution. But the Senator from New York now comes in and asks for the passage of a law that absolutely temporarily blots out of existence those sovereign States and reduces them to provinces, to a condition worse than the provinces of Rome when they were governed by their worst proconsuls; and he calls that republicanism! I ask those who advocate this bill to point me to the clause in the Constitution that will authorize it. There is no such clause. I boldly proclaim it, and challenge and defy controversy upon the subject. You do it all in the name of the Union. Under that profession you destroy the Union. No longer is it a Union composed of sovereign States when you send three persons, alien to the domestic institutions of a State and clothed with the power to overthrow them, to govern a State. Under this clause, on which they will claim the authority to judge of the necessity, if it exists, they can torture and will torture it into a power to overthrow every vestige of the existing domestic institutions, if you send men there who are hostile to them.

But, apart from matters of detail, it is wrong in principle. It subverts the Government; it destroys the Union of the States; it overthrows the Constitution which we are all sworn to support, because there is no warrant in that instrument to authorize its passage. I opposed this bill in the Judiciary Committee. I oppose it here. I will oppose it in every form; for you cannot shape a bill by any art or by any contrivance that reduces a State to a province, and sends a trio composed of a Governor and two judges to make the laws and then to administer them, that will receive my vote. I wish the Senators who advocate this bill to come up boldly and fearlessly to the issue and show us the clause of the Constitution that authorizes this procedure. It is well enough to talk about necessities; but no Senator will claim that we have any power to sit here and make laws, except that which is derived from the Constitution.

At the outset I merely wished to express my general disapproval of the bill without going into its details. Instead of fixing up the little details I think we had better see first whether we have authority to pass the bill or not; and when that is settled, we can improve it. In order to test the whole question, after the debate shall close upon this matter, I shall move to postpone this bill indefinitely, and on that motion I shall ask for the yeas and nays. I think that is the best way to dispose of it.

Mr. HARRIS. This bill contemplates certainly an anomalous state of things. The Constitution provides that the United States—the General Government—shall guaranty to every State in the Union a republican form of government. It contemplates that all the States are in the Union, that they are to be governed in the Union, and that the General Government are to see that they remain in the Union, and that they are governed in the Union, and that they are governed by a republican form of government. All that is clearly implied in this provision of the Constitution. Now, sir, what have we before us? Here are some of the States that declare they are not in the Union, that they will not be governed in the Union, that they will not regard the Constitution of the United States as their Constitution; they will not be governed by the United States; they repudiate the Government of the United States. We set about as a Government to subdue those States, to suppress the rebellion, and as fast and as far as we succeed in that, we undertake to enforce the Constitution and laws of the United States. With that view, military Governors are appointed. Two have already been appointed, one in Tennessee and one in North Carolina. Where is the provision in the Constitution that authorizes the appointment of military Governors? It is difficult to find it. It is only under this provision to which I have alluded, that any authority can be found. The United States are bound to see that these States are governed in the Union. A military government implies that the provinces governed are conquered provinces. The States where these military Governors are appointed are in some sort prisoners of war, and we hold them as conquered States, as prisoners, and undertake to govern them by the arbitrary government of military law.

Now, sir, this bill contemplates another step in this process: that after these States shall be conquered, after the rebellion shall be suppressed, after the rebels shall be subdued, then, before those States can be brought back into the Union, before the people of those States thus subdued are ready to reorganize themselves and to come back into the Union as loyal States, governing themselves under the Constitution of the United States, the Government of the United States shall provide that they be governed in the manner contemplated by the Constitution. See the anomaly that is presented: here is a State, the State of North Carolina or South Carolina; it has a constitution under the United States in the United States; it has a body of laws; but its constitution and laws are unexecuted, and the people refuse to execute them. What is to be done? You have either to appoint a military Governor to govern them by arbitrary law and military rule, or else, in order to enforce this provision of the Constitution guaranteeing to them and the other States that they shall be governed in the Union by a republican form of government, you are compelled to resort to some such expedient as this: they have the machinery; they have a constitution; they have laws; but they will not execute them. The people will not organize a State government. They do not. What are you to do? In my judgment, it is the province and the duty of the General Government to see that their own Constitution and laws are executed until they themselves will voluntarily organize themselves into a State government and proceed, as was contemplated by the framers of the Constitution, to govern themselves; in other words, it is the duty of the General Government to see that these rebel States are governed as States under the Constitution in the General Government of the United States, and not to allow them to remain as outside of the Government. This can be effected, in my judgment, in no other way, certainly in no other way so well and so much in accordance with the spirit and provisions of the Constitution of the United States, as by a bill framed in some such way as this. It is a bill to govern these States *ad interim* during the interval that shall elapse between the time when the rebellion is subdued and the States are conquered, and when they shall be willing to reorganize themselves and come back and

govern themselves in the Union under their own constitution and laws.

The object of the bill is to provide for this temporary condition of things. Short, I hope it will be; but we may all suppose that there will be a period in the history of each one of these rebel States, after the rebellion is subdued, before the people will be ready to reorganize themselves and come back into the Union. There will be some very important things to settle as to the relations between these rebel States and the General Government when they come to be restored to the Union, and to govern themselves and take their position in the Union as they occupied it before the rebellion broke out.

This is the general object of this bill. I apprehend there is no difficulty in finding authority for it in the Constitution. I find my authority for it in that general provision of the Constitution which, in my judgment, contemplates a state of things like this: that the United States shall guaranty to every State and to all the States—guaranty to the northern States as well as to the rebel States—guaranty to every State in the Union a republican form of government. That contemplates a government in the Union; and if the State will not govern itself, if it will not organize itself and come in under the provisions of the Constitution of the United States, I believe it is the duty of the General Government to provide for that case.

Mr. COWAN obtained the floor.

Mr. POWELL. I hope the Senator from Pennsylvania will yield to me a moment.

Mr. COWAN. Certainly.

Mr. POWELL. I regret that my friend, the Senator from New York, did not give us the authority in the Constitution for this bill. He sets out by stating the general object of the bill, and it was very lucidly stated. He then says this is for the purpose of carrying out that provision of the Constitution guaranteeing to every State a republican form of government; and the object, as I understand from the Senator, is to govern those States and have their own laws executed upon them while engaged in this rebellion. If that be the case, why clothe these persons with any legislative power? If the sole object is to execute the laws of those States as they were, why not clothe the Executive and the judges alone with the power to execute the laws that are there? This bill proposes to do more than that. It proposes to clothe the Governor and the judges with legislative power. If the object is to have the laws of those people executed as they were before the rebellion broke out, why not clothe your officers with executive and judicial power only? Why clothe them with legislative power?

The Senator from New York rests his case on this provision of the Constitution:

"The United States shall guaranty to every State in the Union a republican form of government, and shall protect each of them against invasion, and, on application of the Legislature, or the Executive, (when the Legislature cannot be convened,) against domestic violence."

I put it to that Senator, if he thinks this bill that sends two judges and a Governor to one of these States, clothes them with the power to make laws, and to exercise the judicial functions, and to execute the laws, is in the meaning of a republican form of government as contemplated by that clause of the Constitution of the United States. No, sir; it is the very converse of it. It absolutely overturns every vestige of republican form of government, and takes from the people residents of that State who are to be governed, all the privileges of having a voice in their affairs; and to these outsiders, if you please, people who live remote and have no interests or sympathies with them, are intrusted all these powers; and as I before said, not content with that, you make the Executive and the judicial the law-making power. The Senator I suppose could not have been in earnest. He is too good a lawyer to imagine that he could rest his case under that clause of the Constitution. In my humble judgment, it is the very clause that will be grossly violated by the passage of the bill.

Sir, there is no necessity whatever for this bill. In my judgment, the object, the scope, and the intention of it is to send judges and a Governor there for the purpose of indirectly abolishing the institution of African slavery, and overthrowing the domestic institutions of those States under the apparent shield and panoply of the law. That, in my judgment, is the sole object of the bill. I speak plainly. It can have no other effect, no other object, and it is of itself a dissolution of the Union. It destroys a part of the States that compose the Union, reduces them to provinces; and ranker disunion never was uttered, and never existed in any form on earth, in my judgment, than is presented in this bill. I am obliged to the Senator from Pennsylvania for yielding the floor.

Mr. COWAN. I have sometimes been of opinion that there was danger that we would depart, very materially depart, not only from the great principles which were established by the Revolution, but from the principles which were declared by ourselves at the time we undertook this war to suppress the rebellion. Sir, what is a republican form of government? Is it not a government formed by the people by their own free consent? The government of North Carolina, before the rebellion, was a government formed by her people, and it was recognized by this Government; and, as was said by the honorable Senator from New York, the Government was bound by its guarantee to sustain and support that government; and if it was overturned by any accident, the guarantee extended to its restoration. Now, sir, a rebellion takes place. If that rebellion involves the whole people in it, that people, by a fundamental principle of our Government and our policy, have a right to establish such form of government as they choose; and if it had been established to the satisfaction of this Congress and of this Government, that the whole people of the States in which the rebellion prevailed had been involved in that rebellion, and were anxious to sever their connection with this General Government, and establish a form of government such as they desired, I suppose nobody would have undertaken to put down the rebellion. I suppose no Democrat would have undertaken it; I suppose no Republican would have undertaken it; I suppose no man who understood the theory which underlies our Government and our institutions would have ever undertaken it.

What, then, was the theory upon which we inaugurated this war, and upon which we have expended some seven or eight hundred million dollars, and poured out the blood of, perhaps, one hundred thousand brave men? It was because we decided all the people of the rebellious States were not in favor of this rebellion. It was because we believed it was confined to a few. I had no doubt of it. I have no doubt of it now, if the truth could be known. In the discharge of our guarantee, and in the performance of our solemn pledges in the Constitution, we went to war to rescue the many as against the few—to rescue the loyal as against the disloyal. That was the theory; and upon no other theory can this war be justified or the Government be sustained; because no one then suggested conquest, and all denied it.

In pursuance of our design not to make a conquest, not to subjugate, but to rescue and restore, we invade a particular State, and we put down the rebellion. What is next to be done? Guaranty to them a republican form of government. What republican form of government, I ask? The republican form of government which they made for themselves? The republican form of government which had been recognized by this Government? Unquestionably. What other one? Who dares propose another one? And yet the Senator from Massachusetts would discharge that guarantee to support and maintain that republican form of government by taking it away and substituting one of his own in its stead. That is most extraordinary Democracy, and most extraordinary Republicanism. But he says some of these laws are atrocious, and are abhorrent to the civilized world. Very well; whose business is that, according to our theory? The business of the Senator from Massachusetts, or of the people of Massachusetts, or of the people of North Carolina, who had the right to make them? I suppose I am as much in favor of teaching little children to read as the honorable Senator, and I suppose I have taught a great many more to read than he has; but that is not the question. The question is whether we will stand upon a great truth taught us in the Revolution, whether we will give to the people—not the rebellious people, but the loyal people—of North Carolina, if there are such there, the government which they established; and it is not our province here to say whether its laws are atrocious, or whether they are abhorrent to the civilized world or not. The question is, are they the laws of North Carolina? Perhaps if Pennsylvania were to criticise the laws of Massachusetts, she might, forsooth, find some of them abhorrent to civilization. She might find some of them which, to her nicer and more delicate sense of right and wrong, were atrocious. Such a thing might be; but, I ask, would that give Pennsylvania the right to interfere and to change them, because she so decided? Surely not. If this is a republican form of Government, if it is democratic at its base, then the people who are to be governed by the laws are to form them, and not other people. I thought that right was the very thing which was achieved by the Revolution. Before that Revolution, gentlemen of large acquirements, of fine tastes, and of large political skill, fabricated governments for the people; but in this country it was decided that the people should fabricate them for themselves, especially as they were to be affected by them, and nobody else.

Well, sir, we have taken possession of a State, if you please; we have put down the rebellion; what is next to be done? Establish a government. What government? A provisional government. Establish a government different from that which the people had established, or which they could establish. Mr. President, I say, and I think nobody can gainsay it, that the only government which can be established there is the government which that loyal people will set up again, having been temporarily thrown down by the accident of the rebellion. And when they set it up again upon its original basis and carry it on upon its first footing, we are done. That is all we can do, if we pretend at all to carry out the doctrines upon which we entered upon the war—namely, that a State could not go out of the Union, and that, therefore, we could not make a conquest of her as if she were out.

But it is said there will be an interregnum, and the people must have a little time to reinstate the old order of things. That is all true, but who is clothed with the power to maintain that condition of things which will enable the people to set up that fallen government? Is it this Congress? Our Government is one of delegated powers, and the man who asserts a power in it must put his finger upon the place where it is delegated. It will not do to show that it would be convenient to have that power. That is not the question. It must be shown in the Constitution to be conferred upon Congress. But to show that we guaranty a republican form of government will not warrant us in making such government as we choose and establishing that—it must be one already made by the people of the State which we are to guaranty. What, then, can Congress do? I answer, nothing. But the President, or his generals acting under his direction, after the rebellion is subdued, can preserve order by military rule until the old government resumes its wonted action. This is a military function, requiring military force, and is therefore peculiarly within the province of the general. That is my view of it, and I am opposed to establishing provisional governments, unless they are purely military in their character, and if that is all this bill contemplates, it gives the President no power that he has not now. He is bound to do the same thing now that he would be bound to do if the bill should become a law. He has to hold the State by military occupation and to preserve it by military rule until the loyal people take possession of the reins of power which the rebellion had put into other hands, or had obliged them to throw down.

Mr. HOWARD. I do not wish to interrupt the speech of the Senator from Pennsylvania, but I was about to ask him a question.

Mr. COWAN. Certainly.

Mr. HOWARD. I wish to ask him what he would do in case it should turn out that the rebel States had no loyal people at all? How is he going to govern them, and how are they going to govern themselves?

Mr. COWAN. Will the honorable Senator allow me to ask him that question? I have stated distinctly that unless we contemplate conquest it is one of the fundamental principles of this Government, one of the fundamental principles of our policy, that the people, the people of a State, if you please, have a right to form their own government; or, in other words, it is the right of revolution, if they can make it good, which we have

asserted, and which all freemen have asserted for the last eighty years. Are governments to be perpetual; and if they are not, where is the power to change them, if not in the people? By what power did we determine in the Revolution to sever the connection between this country and Great Britain? Was it not because of the inherent virtue in the people, as set forth in the Declaration of Independence? I never heard it denied or questioned; and to say now that that power is not in the people is to say that this experiment is a failure, is to admit it, is to admit that men have been leaning upon a broken reed. Who has the right to-day under the Constitution to make a government for North Carolina as against the will of the people of North Carolina; or for Michigan as against the will of the people of Michigan?

Mr. HOWARD. Does the Senator wish an answer?

Mr. COWAN. Certainly I do.

Mr. HOWARD. The United States of America in Congress assembled have the right to make that government and enforce it.

Mr. SUMNER. Beyond all question.

Mr. COWAN. Then you must proceed against them precisely as though you proceeded against a foreign State in case of conquest, but that is not under the Constitution.

And this doctrine of the right of conquest is precisely the doctrine which was held by the Parliament and King of Great Britain in our Revolution. It is the doctrine which has been held by all tyrannies from the time the world began, that when a government is once established there is no right to change it; but we proclaimed the right of successful revolution from the first. If this Government becomes a tyranny, how is it to be changed, unless there is some such right of revolution somewhere? Mr. President, I hold that this war is a war of rescue; for the restoration of power to the hands of the loyal people within the rebellious States; and it is not a war for the subjugation or conquest of any State, to take it and hold it as such, and was never so intended. This Congress solemnly and unanimously resolved that it was not, and it is too late now to assert the contrary doctrine, however convenient it may be.

Mr. CARLILE. Mr. President, when the proposition was first introduced into the Senate by the Senator from Massachusetts, which I take it gave rise to this bill, it met with the universal condemnation, so far as I am advised, of the entire press of the country. It is true the Senator from Massachusetts, with his usual boldness and frankness, which no one admires more than I do, called his proposition by the right name. He intended by that resolution to assert the power in Congress to reduce States of this Union to a territorial condition; and that is what will be effected by this bill, although it comes to us under the name of provisional governments. I confess I am surprised that as good a constitutional lawyer as we know the Senator from New York to be, should have contented himself with the argument which he has addressed to the Senate in favor of this proposition. He derives the power from the clause in the Constitution making the United States the guarantor for the States to secure to them a republican form of Government. Perhaps no one in this Senate understands better than the Senator from New York what is the undertaking of one who guaranties the performance of an act. He is not the principal; he does not make the Government any more than the guarantee upon a note makes the note. The Government is formed by the principal. The principal in this case is the people of the States. They have formed their government. There is not a single rebellious State to-day that has not a State government, and that State government a republican form of government, and a republican form of government, as has been well said, recognized by the Constitution of the United States and all the departments of the Government created under it. That State government is for the time being in abeyance by virtue of the rebellion. It has been unable to execute its office. The guarantee that you have given them in the Constitution of the United States is that you will remove this obstacle to the successful operation of that State government. That is your duty; that is your power; nothing more, nothing less.

But the Senator from Michigan puts to the Senator from Pennsylvania a question: what will you do if there are no loyal people in any of these States; if they are all disloyal? I understand from the Senator from New York that it is not proposed to exercise the power under this bill until after the rebellion shall have been suppressed in the State. If there are no loyal people left in the State after the suppression of the rebellion, I take it there will be no people in the State to govern; for as long as the people are disloyal the rebellion continues, and in the case put by the Senator from Michigan, when the rebellion is suppressed there are no people left to govern. You will have exterminated them, and it will be a vast wilderness so far as population is concerned, to be repeopled, and when repeopled to have a government established by the people inhabiting the limits of the State.

Mr. HOWARD. I will ask my friend from Virginia whether he expects the rebels are to "die in the last ditch," and leave the country totally depopulated, or whether there is to be a residuum of human beings after the war is over?

Mr. CARLILE. I have proceeded always upon the theory that there would be a residuum, and a very large one, a loyal population left in each and all of these States. It is the theory upon which we have proceeded, and the only theory that we can go on in the name of the United States and wage this war. If it is waged under any other theory, it can only be justified upon the ground that rebellion has dissolved the Union, and that this is a war on the part of the non-seceded States against the seceded States for the purpose of compelling the seceded States to regard their contract which they entered into with the non-seceded when they adopted the Constitution of the United States. It is the only theory by which the power claimed for the Congress of the United States by the Senator from Michigan can be exercised or can be justified; and then the Senator is untrammeled by constitutional obligations. Sir, this is a Government composed of States. It is the State governments that are the support of the Government of the United States, and when the State governments cease to exist the United States Government ceases to exist.

But, sir, the Senator from New York talks of conquering States. Where does he derive the power, under the Constitution of the United States, to conquer a State and hold it as a conquered State, territory, or province? Are the powers of the creature greater than the powers of the creator? Is a limited Government formed by these States, with certain specified powers, greater than the governments forming it with powers unlimited, save and alone where they have been limited by each State for itself in its own organic act. The very instant you suppress the rebellion, the State governments spring again into full vigor and life; and the reason assigned by the Senator from New York that there may be a period of time—short, however, he supposes it will be, between the suppression of the rebellion and the organization of a State government, when this bill is to operate—never can exist, because State governments are in existence. Each one of these States has its own State government. It is rendered ineffective and powerless by virtue of the rebellion. The instant you suppress the rebellion—and it is only when the rebellion is suppressed that you propose to execute the powers under this bill—the instant, *eo instanti*, that you suppress the rebellion, the government of that State springs into life and full vigor again, and goes on operating as it did before, and as if no rebellion had ever occurred.

But, sir, it is too warm to-day to make anything like a speech. This is a proposition that I think cannot command a majority of this body.

Mr. HARRIS. The Senator from Pennsylvania, for whose ability and judgment I entertain the most profound respect, has started with a proposition which to my mind is a political heresy under our system of Government. It is this, and his argument is based upon it: that where the people of a State are unanimous in repudiating the Government of the country we have no right as a General Government to suppress that rebellion; that it is only where they are divided upon the question, where some of the people want to remain in the Union and some want to go out of the Union, the United States Government have authority to hold them in the Union. I regard that doctrine as a heresy and a most dangerous heresy. Sir, how does that Senator know, how does any Senator know, that there is a loyal man in South Carolina? The presumption is against it; and according to the doctrine of the Senator from Pennsylvania, unless it happens that there is some loyal man or woman in South Carolina, the war as against South Carolina is unjust.

Mr. COWAN. If the Senator will allow me to make a remark just here, is not that the very thing we are now endeavoring to ascertain?

Mr. HARRIS. I do not think it is.

Mr. COWAN. Is not the very thing we are trying to discover whether there are enough loyal people in the South to maintain a government with our help against the rebellion? If they cannot, the rebellion succeeds, and then, instead of being a rebellion, it is a revolution, legitimate, and goes on.

Mr. HARRIS. I do not so understand it. My idea of this thing is this: that, assuming every man, woman, and child in South Carolina to be hostile to the Government of the United States, it is our duty, under the Constitution of the United States, and as citizens of the United States, to put down that rebellion, to suppress it; and having done that, what follows? The people of South Carolina say, "you have conquered us; you have by physical strength suppressed our determination to go out of the Union; we admit that we are subdued, but you shall never hold us in the Union notwithstanding; we have formed a constitution for ourselves out of the Union; we have organized a government for ourselves outside of the Union, and though you have conquered us, you may hold us by main force of strength; but as for our ever coming back into the Union as a State, we never will."

Now, what is to be done? What will the Senator from Pennsylvania do in that case? Why, sir, we cannot make those people organize themselves into a government. We cannot force them to hold a convention and form a new constitution and apply to be readmitted into the Government. We cannot force them to hold elections and elect members of Congress and members of a Legislature. We cannot do that; but we can do this—and that is the object of this bill—we can say to them, "until you do that, we will enforce as against yourselves your own constitutions and laws; we will execute upon yourselves the laws you have made and the constitutions you formed when you were in the Union."

That is the object of this bill, and nothing else. Whenever, being conquered, rebellion being suppressed, they are ready to hold a convention, organize themselves, and come back into the Union, we are ready to receive them, and then this law will have spent its force. It will be no longer operative as a law. But this contemplates that temporary state of things, and, as I said before, it will be very short in its duration, when the State is subdued, and yet the people are not ready to surrender their present form of government under an alien power, but choose to say to us, "though you have conquered us, still we belong to another kingdom; we do not belong to the United States, we belong to the confederate government; and if you will let us have our way, we will stay there; we will not go back into the Union."

Mr. COWAN. Mr. President, suppose the case as put by my honorable friend should occur; suppose that we succeed in suppressing the rebellion in South Carolina, and after we have done so, everybody is quiet and submits, but they take no steps whatever to resume their old State government or to establish any government in subordination to ours, then I ask the honorable Senator what is he to do? Is this provisional government to remain over the State of South Carolina forever? Is it to be permanent? And if it is to be permanent, I ask whether that is not conquest and subjugation? What is conquest; what is subjugation? Conquest simply means the overrunning of a country and the assumption of its political power on the part of the conqueror, and maintaining it as against the will of the people. What is subjugation? Making that people go under the yoke, after the fashion of the ancients, who made the yoke the symbol of subjection. As I understand, and as I thought we all understood, that is not our object. Why did we invade Tennessee? Because when the will of the people of Tennessee was fairly expressed according to the laws then prevailing and under our Constitution, there was a majority against the rebellion. So it was in Maryland; so it was, I believe, in North Carolina; so it was in Kentucky;

and so it would have been in Louisiana, if the poll had been fair. Then we were in duty bound to inaugurate this war; we were in duty bound to go to the rescue of those loyal people, and we so decided it at first. They might not have been combatants, but they were loyal people, and we had guarantied to them a republican form of government. We have gone there; I trust we have gone there as men ought to go, in pursuance of the stipulations of our Government, and if it turns out by some accident or other that in the meanwhile they have all changed their minds and are all now unanimously against us, then our labor is lost. We cannot subjugate any people who are unanimously against us, particularly under circumstances of this kind. If that be so, as I said before, our labor is lost, because we have no constitutional machinery by which to seize upon and take hold of an exterior province and govern it by virtue of our conquest. No man desires it, no man wishes it, because that itself would be the overthrow of our Constitution—by the admission that the seceded States had gone out, were out; and that being out we could make a valid conquest of them.

I have no doubt there are gentlemen here in favor of subjugation, and were from the very first, because almost everything that they have done since then has indicated that that was their original idea; but I say that was not the original idea of the American people; it was not the original idea of the American Congress, because they declared otherwise; and if they declared what was not their real opinion at that time, so much the worse for those who did so, and it will come to naught. We, as a nation, are responsible before God and before the world and to ourselves for the honesty of our motives and the correctness of our intentions. If we expect that we can violate the right, trample it under foot, regardless of anything except our own desire for vengeance, we shall be taught bitterly and mournfully the truth of the text: "Vengeance is mine, saith the Lord; I will repay." And that text is not only a revealed truth, it is a truth in nature that he who seeks any advantage, whether an individual or a nation, for the mere purposes of revenge, will fail; he will never get vengeance; the recoil will be upon himself; it will be "engineer hoist by his own petard." The world is full of examples of it. It is not an arbitrary law because it was revealed, but it was revealed because it was in nature from the beginning. The experience of every man in private life who has ever tried an experiment of that kind ought to have taught him so. Trample upon the weakest for purposes of vengeance, and he who undertakes it will find that he has sown the sorrow and reaped the produce of it.

Mr. WILKINSON. I should like to ask the Senator from Pennsylvania a question, and that is, whether the Government of the United States has not the right, and whether it is not its duty, to prevent any separate and independent government from being established within its borders, even if the whole people within a certain area determined so to do?

Mr. COWAN. That is another and entirely different question, not a question of constitutional law, but a question of policy; and how far it can ever be a question in this country is yet to be determined, because it has never arisen. It cannot arise readily, according to the principles upon which we established our Government, and I am very free to say that, guided by those principles, it would be a violation of them upon our part to seize upon any contiguous territory, or even to subjugate and make conquest of territory within our own borders, because we believed it would add to our security or our convenience. It is the doctrine of European politics unquestionably, and it has been attempted to be established as the doctrine in this country on the part of the southern secessionists, that if Cuba was necessary to our safety, and if it would contribute to our defense in the future, we ought to seize it, right or wrong.

Mr. WILMOT. Will my colleague answer this question: have we a right to preserve the integrity of the Republic against all enemies?

Mr. COWAN. My whole speech has been to answer that very question. We have a right to maintain the integrity of the Republic, of course, under certain conditions; but as nobody supposes the Republic will be eternal, that it will last always, and that it can last as against the will of the people who created it, my colleague will have to consider the question as answered.

Mr. WILKINSON. If I have understood the Senator from Pennsylvania correctly, his argument is this: that if all the people of South Carolina choose to go out of this Union, and to set up a separate and independent government, the Government of the United States has no right to prevent them. My question was, whether the Government of the United States was justified in permitting a separate and independent government to be established within its borders, although the entire people of a certain area determined to do so, and that leads directly to the argument in the case. If every man, woman, and child, within the borders of the State of South Carolina, should determine to set up a separate and independent government antagonistic to that of the United States, is this Government justified in sitting down quietly and permitting it to be done?

Mr. COWAN. We have solemnly and unanimously decided here that we were not seeking to conquer and subjugate the people of the southern States, but to rescue and restore to them the Government displaced by the rebellion. That we do by virtue of the Constitution and of our rights under it. My honorable friend from Minnesota, however, goes further, and asks, in the case he puts, if the whole of the people of South Carolina were to refuse obedience to the Government of the United States, whether we would be justified in permitting them to establish an independent government for themselves? I answer that is a question of policy, to be determined after we had put down all armed resistance, and found the unanimity of her people against us. We would then consider the necessity of holding her as a conquered province; and I should say that it ought to be a most pressing necessity which would justify us if we did do so; however, we would, by that act, virtually admit her out of the Union, and hold her the same as a foreign State which was ours by the fortune of war. This we would do by virtue of the laws of nations, and not by virtue of our constitutional authority over her, and here lies the difference: we might have chosen at the outset of this war to consider the seceded States out of the Union, and we might have determined to conquer them—not to restore them again as States in the Union, but to hold them at our will—this would have been conquest, subjugation. On the other hand, we had a right to consider the rebellion as only partial, and not involving the whole people, and that we would suppress it, and restore the Union as before, and we took the question distinctly as to which of the two modes we would adopt—when it was decided that we would not conquer or subjugate, but restore. And, Mr. President, I am for standing there, and under that hypothesis, I hold it utterly impossible to succeed if the whole people are against us, because we can only adopt the other mode of conquest by going back now, and admitting what we at first denied on all hands, namely, that the seceded States were actually out of the Union, and to be dealt with wholly under the laws of nations, and not under the Constitution. Are we ready to do that? I think not; but that we must go on as we have started, and maintain ourselves upon it consistently till the end; and then if such an extraordinary unanimity of the people is found against us as has been predicated here, it will be time enough to settle and determine the question of policy, of conquest.

Mr. WILKINSON. The Senator tries to dodge the issue a little. He supposes the case of Cuba. That is not a parallel case. We do not propose to go outside of the limits of the United States. The question that I propounded to him is as to the duty of this Government to maintain its integrity over its own territory and within its own border. It is not as to our going to Cuba. I do not base my question upon the doctrines of the Ostend manifesto. I ask whether it is not the bounden duty of this Government, as an independent, separate nation, to maintain the integrity of every inch of its territory within its limits, no matter what the people of a certain district may say or do or decide in regard to it. I do not want the Senator to go off and try to draw me on to the platform of James Buchanan and Mr. Soulé in their Ostend manifesto.

Mr. COWAN. I have said, Mr. President, as a matter of constitutional law, that there was no authority, but that it was a question of policy; and as that question had not been settled in this country, as it had not arisen for the consideration of our statesmen, I have no opinion to express upon it, except the one I have expressed, that nothing but the most pressing necessity to enable us to secure ourselves would authorize us to do it under our form of Government.

Mr. DAVIS. I consider the question of the honorable Senator from Minnesota to be abstract; but I will answer it, although I so conceive it to be. I say that it is the right and the duty of the Government of the United States to assert its authority and its laws to the utmost limits of the territory of the United States at all times and on all occasions. But that is a point not at all material to the matter now in issue. The questions that come up under this bill are two: first, is it proper at this time, and has Congress the power to pass a bill for provisional governments of the seceded States as proposed by the Senator from New York?

Mr. CARLILE. Will the Senator from Kentucky allow me to interrupt him for a moment?

Mr. DAVIS. You know what I am at; and when I get along a little further I shall be happy to hear you.

Mr. CARLILE. I merely wish to understand the Senator's position as to the question of the Senator from Minnesota.

Mr. DAVIS. Very well.

Mr. CARLILE. I understand the Senator from Kentucky to say that it is the duty of the Government of the United States to assert its authority everywhere within the limits of the United States.

Mr. DAVIS. Yes, sir.

Mr. CARLILE. If I understand the Senator correctly, I concur with him; but it must assert that authority in pursuance of the Constitution, and I deny that it has any authority to reduce States.

Mr. DAVIS. Now, if you had just heard me a little, you would have understood what I was at, Mr. Senator from Virginia; and I think you would find that there was no difference in principle between us.

Mr. CARLILE. That is what I supposed. I wanted to give the Senator an opportunity to show it.

Mr. DAVIS. This is what I assert as a broad proposition, that it is the duty of the General Government to assert the authority and execute the laws of the United States everywhere within their boundaries, at all times and under all circumstances. The laws of Congress it is the duty of this Government to execute in all the States and Territories. If there are any treaties which are to have operation in any part of the United States, they being part of the supreme law of the land, made under the authority of the United States Government, that Government is to see that those treaties are executed wherever it is necessary and proper that they should be executed. But I come now to the question: has Congress the power to pass the bill under debate? I hold that it has not, and I will endeavor to state an argument or two to sustain that position. The United States are required by the Constitution to guaranty to every State in the Union a republican form of government, and from that provision the power to pass this bill is deduced by the honorable Senator from New York. To answer the question whether it does authorize Congress to pass such a law, we must understand what that provision of the Constitution means. It consists of two branches: first, the form of government must be republican; and, secondly, Congress shall guaranty such a government to every State in the Union. We all understand what a republican form of government is, I presume. A government formed by the people and in which the principal officers and agents are selected by them, is a republican form of government, and no other form of government is republican.

The fundamental law of the government, to constitute it a republican form of government, must be made by the people, and the agencies by which that government is carried on and operated must be appointed or elected by them. According to this definition, no intelligent man will maintain that the governments provided for in this bill would be republican. They would not be such governments as Congress is authorized to guaranty to the people of a State. The other question arises, what is meant by the term "guaranty?" The honorable Senator from Virginia gave

a most succinct and clear and undeniable definition of that term. It does not mean that Congress shall make a government for a State, but that it shall assure it, shall maintain and uphold for the people of every State a republican form of government. I will illustrate the case by the example of the State of Kentucky. That State has a republican form of government. Its form of government was submitted to the Congress of the United States when that State was admitted into the Union, and it received the sanction of Congress as a republican form of government in such admission. Since this insurrection and trouble broke out, a faction in the southern part of the State of Kentucky attempted to set up a provisional government in opposition to the real constitutional government of that State, with which to overthrow it. There was a case for the interposition of Congress under this clause in the Constitution. It was the duty of Congress then to interpose between these conflicting systems of government in the State of Kentucky, the one legitimate and republican, the other spurious and invalid, and to uphold and guaranty to the people of the State of Kentucky their true constitutional republican government against that spurious government which was sought to be set up in its stead and to be made to supersede it. It is in that way that Congress guarantied to the people of the State of Kentucky a republican form of government.

Now, sir, how is it in relation to this matter with the State of Tennessee? At the beginning of the struggle made by the United States Government to put down this insurrection, we found the State of Tennessee subjugated by the insurgents and altogether under their military power; and a pretended confederate government claimed to exercise authority over the whole State. What has been done? The Government of the United States has marched its armies into Tennessee. It has to a considerable extent met and overthrown the insurgent armies. It has reconquered most of that State to the possession and to the jurisdiction and authority of the United States. It is the duty of the United States Government to go on with this work of expelling the insurrectionary government from Tennessee until the work is completely accomplished. Then what is its further duty? It is to set up, to reassert, to guaranty to the people of the State of Tennessee their republican and constitutional State government, which was overthrown by the insurgents in the beginning of their war of rebellion; and that is all the duty of the Congress of the United States in the premises.

Well, suppose that the whole of the State of Tennessee cannot for the time, or for a considerable time, be occupied by the authority of the United States as it is carried into that State by our armies, and that a portion of that State was still held by the insurgent armies, and therefore could not be brought in obedience to the laws of Congress and the authority of the General Government, what would be the duty of the Congress of the United States? It would be to guaranty, to uphold, and to enforce the former constitutional State government of the State of Tennessee to the loyal people of that State so far as it had power to do so; and that would be the exercise of the whole of the legitimate and constitutional power of Congress—as at present in Virginia.

Mr. CLARK. Will the Senator in a friendly way allow me to state a case and get his opinion upon it?

Mr. DAVIS. Certainly.

Mr. CLARK. Take an extreme case; I will put an extreme case for the purpose of consideration. Suppose that the State of South Carolina, by a unanimous vote of all its people, should set up a monarchical form of government, would it not be the duty of the Government of the United States, in regard to itself and in regard to all the other States which have republican forms of government and desire to maintain them, to overthrow that monarchical form of government and set up a republican form of government?

Mr. DAVIS. Most certainly it would. It would do it precisely in this way: it would march our armies for the purpose of asserting and upholding the authority of the United States into the State of South Carolina. It would, if necessary, occupy every foot of territory within the State, and whenever it did so, there would be found to be a large portion of loyal men true to the Government of the United States in that State; and whether they constituted the majority or the minority, it would be the duty of the United States Government, and of Congress, to set up the old State government which had been wrongfully subverted, and guaranty it there, in the territory of the State of South Carolina, to and for the benefit, protection, and government of the loyal people of the State.

Mr. CLARK. The Senator will bear in mind that I put a case where a monarchical government was set up by the vote of everybody in the State, so that there were no loyal people there.

Mr. DAVIS. It is a very handsome thing to put extreme and impossible cases——

Mr. CLARK. But it sometimes tests principle.

Mr. DAVIS. But an extreme and impossible case more frequently is no test at all. The only true mode of testing a principle and ascertaining its soundness, is by the presentation of a reasonable and practical case.

Mr. CLARK. The Senator will hear me one moment. I did not put an impossible case, but I put one that may be somewhat improbable.

Mr. DAVIS. I think it is impossible.

Mr. CLARK. Will the Senator allow me, if it does not interrupt him, to call his attention to an actual case. Take for instance the State of Florida, a State which asserts that it is out of the Union. In the easterly part of Florida there is a very large Union population; in the westerly part there is a large secession element, largely predominant, and they control the Legislature, which is at Tallahassee. Now has not this Government the power in order to restore that State to the Union, to form a nucleus of a new State government by a provisional government, around which the citizens in the easterly part and all the Union citizens may rally?

Mr. DAVIS. Not at all; and I will now proceed with the argument. I think the case under consideration depends upon and involves a very plain principle. It seems so to my mind. I will take the case presented to me by the Senator from New Hampshire; the case of Florida. We find Florida, if you please, to be in this condition: the authority of the United States Government is wholly overthrown in it, and a spurious and usurped government is set up in its stead. What, then, is the duty and business of the Government of the United States? It is to overthrow this spurious and usurped government, and to reassert in Florida the authority and jurisdiction of the United States Government, and to enforce the laws of Congress within the State to its utmost limits. Whenever that is done in relation to Florida, or any other State, a large portion, and I believe in every State with the exception of South Carolina a majority of the people, will be found giving their adherence to the United States Government and in the discharge of their duty and their loyalty, and for these people it is the duty of the United States to set up and guaranty the State governments which they had formed before this trouble. In relation to South Carolina itself, it is the duty of the United States Government to require obedience to it of every citizen of the United States in the State of South Carolina, but before, or at the same time that she demands this obedience from the citizen, it is their duty to protect that citizen, and to place him in such a position of security and defense, that he may peacefully and safely perform his duty to the General Government. The obligations of protection and loyalty are reciprocal. The United States Government has no right, and it is unjust and absurd that it should claim loyalty and obedience on the part of the citizen without affording safety and protection to that citizen in the discharge of that duty to the Government.

Now, sir, whenever the United States Government performs its duty to the citizens in any of the States, even in South Carolina, I hold and maintain, and I am authorized to assume that position by the example of Tennessee and North Alabama and Florida, that there will be found a large party loyal to the Government of the United States, whose voice has been subjugated and silenced by the presence of a military power that has displaced the legitimate Government. It is the duty of the United States Government to extend to them its protection, to give them peace and perfect security, and to enable them—without military execution, without having the halter put around their necks by usurpers—to perform their obligation of obedience and loyalty to their own Government. The Government of the United States must place itself in that position before it can rightly and justly demand obedience from any citizen whatever.

But while the United States is putting down insurrection in a State, their armies may, for a time, hold only a part of its territory, and the other insurgents may occupy the other portion. The President may, in such a state of case, appoint a military Governor, and authorize him to establish a *quasi* government to maintain order and protect the people in the part of the State occupied by our Army. Stanly and Johnson are setting up those necessary military governments in North Carolina and Tennessee, as General Scott did in Mexico when the United States were at war with that country.

The PRESIDING OFFICER, (Mr. ANTHONY.) The question is on the amendment proposed by the committee to the third section.

Mr. SUMNER. Mr. President, I move to amend the amendment by striking out the words "and institutions," so that it will read, "not interfering with the laws existing in such State." These words, "and institutions" there, are mere surplusage; I take it that they really add nothing to the word "laws;" I think, therefore, that there can be no objection to their being struck out; but being there I think that they are somewhat offensive. In this country there is but one "institution." All the world knows that; and when that phrase is carefully introduced, "and institutions," it means only one institution. I think therefore the phrase had better go out, so that the section shall read, "not interfere with the laws existing in such State;" and if that be adopted, I shall have still another amendment to move in regard to the laws; but I believe that the Senator from New York will not object to the amendment which I now move.

Mr. HARRIS. I am in favor of that amendment. I do not like the word "institutions" as it appears in this section. I do not think it adds anything to the effect of the section, and I agree with the Senator from Massachusetts that it may be misinterpreted. I am in favor of his amendment.

Mr. CARLILE. I do not see the Senator from Kentucky in his seat, who indicated an intention of submitting a motion; and in order to test the sense of the Senate, and to save the time of the Senate if a majority of the body shall be disinclined to pass the bill, I submit the motion that the Senator from Kentucky said he would submit after the discussion had closed, and that is to indefinitely postpone the bill.

Mr. SUMNER. I would remind the Senator that we have not yet gone through the bill. Let the bill be perfected. Let the different propositions be offered in regard to it that Senators have to offer; and then, if the Senator wishes it, he may bring forward his motion.

Mr. CARLILE. The object I have is to save the time of the Senate. If the Senate shall be against the principle of this bill, it cannot be so amended as to secure its passage, unless it be entirely changed. I make the motion for the purpose of saving the time of the Senate. It is not worth while to have the Senate occupied with amendments when the principle of the bill is obnoxious to a majority of the body. I therefore submit the motion that the bill be indefinitely postponed, and I ask for the yeas and nays on it.

Mr. DOOLITTLE. I desire to say but a single word. So far as the creation of a judicial tribunal of some kind is concerned, it is necessary. The Constitution in express language authorizes Congress to create it. The creation of the office of marshal to enforce the decrees of this judicial tribunal is also necessary and proper. Beyond that, in my opinion, it is not necessary to go in the present state of the country. I do not deem it necessary to provide for the creation of a legislative tribunal, or the creation of a Governor to execute the laws in those States; but that there should be courts to administer laws and to redress private grievances, and that we should have marshals to enforce their decisions; and that the Constitution clearly gives us that power, is, it seems to me, beyond question. I simply hope that this matter may lie over until to-morrow, and with this suggestion I think the bill may be so framed as to obviate any serious objection, and retain all there is that is valuable in it, and provide for the necessity which arises in these insurrectionary

districts. As our armies march through these insurrectionary districts, society is more or less broken up and destroyed. It is necessary that we should send along with the armies which destroy, a reconstructing power which is necessary to all societies where men exist.

But, sir, I do not feel inclined, nor do I feel able at the present moment, to go into a discussion of this grave question. I believe it to be one of the gravest questions that was ever presented in this body, and it ought not to be hurried through in a single moment. I hope that, instead of being postponed indefinitely, it may lie over until to-morrow; and if no other Senator should offer any amendments, I desire myself to make some suggestions; and I have no doubt that the honorable Senator who has charge of the bill, after hearing the debate of to-day and the suggestions which have been made, can put the bill in such a shape that it will meet the almost unanimous support of the Senate.

Mr. CARLILE. I certainly have no objection to the suggestion of the Senator from Wisconsin, and will not press a vote this evening on my motion, but will allow the bill to go over informally, as he desires. I think it is but due to him that that should be done. I will reply, however, in a word, to the remarks of the Senator, in relation to the necessity of this Government establishing a judicial system for the States. So far as the laws of the United States are concerned, we have judges; we have laws providing for their appointment; and if the offices are vacant now by the resignation or the traitorous conduct of those who have filled them, we have nothing in the world to do but to fill them, and all the judicial power, in my humble opinion, that the Constitution confers upon the Congress of the United States can be exercised now under the laws as they exist, wherever the rebellion is suppressed. I do not think it ever was the purpose of the founders of this Government that matters of civil government within a State, municipal regulations, and all the various transactions that occur between man and man in a State, should be provided for by the Government of the United States; but the State itself was expected to take care of all matters of internal concern. I am perfectly willing that the suggestion of the Senator from Wisconsin, that the bill go over until to-morrow, shall be acted upon.

Mr. HARRIS. There is much force in the suggestion made by the Senator from Wisconsin. I appreciate what he has said. So far as the bill provides for the exercise of legislative power, I am free to say that I am not very strongly attached to the provision. I do not suppose that it will be very important or very valuable; and if the bill can be modified in that respect so as to secure a greater number of votes, secure the approbation of the Senate more generally and fully, I should not struggle much against striking out that provision in the third section. So far, however, as it relates to the provision for the exercise of executive power, the appointment of a Governor, I regard that as important, indeed, necessary to carry out the purposes of the bill. I think a provision for the appointment of Governor and judges, clothing those judges with power to perform the duties of judges of the United States courts, as well as of the State courts of the State for which they are appointed, will make the bill a very efficient and useful bill. So far as the legislative power is concerned, I do not care a great deal about it.

I should have no great objection to postponing the bill until to-morrow were it not for the fact that the chairman of the Committee on Finance has already given notice that to-morrow he will call up the tariff bill, and in all probability that will be allowed to have a precedence over this, and in that way this bill will be crowded out. As we are approaching the close of the session, are probably in the last week of the session, my fear is that even if the bill shall pass the Senate, we may not be able to get it through the other House. Under these circumstances, I do not like to consent to the postponement of the bill. Still, if Senators prefer that it shall go over until to-morrow, I will not struggle against it.

Mr. SUMNER. I suggest, then, to the Senator that he make it the special order for to-morrow, at twelve o'clock.

Mr. HARRIS. I fear that may be voted down.

Mr. SUMNER. If we do that, the Senator from Maine will probably postpone his tariff bill until the next day. The debate to-day has been instructive. Attention has been given to all the points.

Mr. HARRIS. I will consent that it be made the special order for to-morrow, at twelve o'clock.

Mr. TRUMBULL. I am very sorry to see this bill get the go-by. I am earnestly for some bill of this kind, and exceedingly regret that the Senator having charge of it should consent that it go over until to-morrow. It is very manifest that that is the most efficient way to defeat a bill of this kind, by delay. Why cannot we dispose of the bill to-day as well as any day? If a majority of the Senate are for postponing it indefinitely, and no one wishes to speak, why not take that question?

Mr. HARRIS. I see no objection to taking that question.

Mr. TRUMBULL. It is said that the Senate is thin. The reason of that is that we are approaching the close of the session. It will be thin to-morrow, and thin whenever a bill comes up for discussion. At this stage of the session it is almost impossible to keep members in their seats. I think this is the very time to go on with the bill. Still, if its own peculiar friends postpone it, I cannot help it.

The PRESIDING OFFICER. It is moved that the further consideration of this bill be postponed until to-morrow, at twelve o'clock, and that it be then made the special order, which requires a vote of two thirds.

Mr. HARRIS. I suppose to ascertain the fact whether two thirds are for the motion, it will require a call of the yeas and nays. Under these circumstances, especially as I see that Senators who are most friendly to the bill are in favor of going on with it, I should prefer now to go on with it.

The PRESIDING OFFICER. The question is on the motion that the bill be postponed and made a special order for to-morrow at twelve o'clock.

Mr. TRUMBULL. I hope that motion will not be pressed. Let us take the yeas and nays on the motion of the Senator from Virginia; that is a test question.

Mr. CLARK. I cannot find anybody who made a motion to postpone. All seem to deny it; and I think it falls by general consent.

The PRESIDING OFFICER. The motion was submitted by the Senator from Wisconsin, and at the suggestion of the Senator from New York it was amended so as to make the bill the special order for to-morrow. So the Chair understood.

The question being taken by yeas and nays, resulted—yeas 17, nays 20; as follows:

YEAS—Messrs. Anthony, Browning, Carlile, Collamer, Cowan, Davis, Doolittle, Henderson, Howard, Howe, Kennedy, McDougall, Nesmith, Powell, Simmons, Ten Eyck, and Willey—17.

NAYS—Messrs. Chandler, Clark, Fessenden, Foot, Grimes, Hale, Harlan, Harris, King, Lane of Indiana, Lane of Kansas, Morrill, Stark, Sumner, Trumbull, Wade, Wilkinson, Wilson of Massachusetts, Wilson of Missouri, and Wright—20.

So the motion did not prevail.

Mr. CARLILE. I renew the motion to postpone the bill indefinitely for the purpose of taking the sense of the Senate upon the principle involved in it, and with the indulgence of the Senate I desire for a moment the ear of the Senator from Wisconsin. That Senator intimated that the bill might be so framed as to organize a judicial power in these States for the purpose of affording the citizens there, as the rebellion is suppressed, the protection of the courts. Now, sir, I desire to call his attention to the second section of the third article of the Constitution of the United States, limiting the power of the Government of the United States to exercise judicial authority in the States; and expressly, in words not ambiguous or doubtful, defining the extent of the power that shall be exercised through the judicial department of this Government. The first section of this article declares that "the judicial power of the United States shall be vested in one Supreme Court and in such inferior courts as Congress may from time to time ordain and establish." The second section goes on and defines the judicial power of the United States thus:

"The judicial power shall extend to all cases in law and equity, arising under this Constitution, the laws of the United States, and treaties made, or which shall be made, under their authority; to all cases affecting embassadors, other public ministers, and consuls; to all cases of admiralty and maritime jurisdiction; to controversies to which the United States shall be a party; to controversies between two or more States; between a State and citizens of another State; between citizens of different States; between citizens of the same States claiming lands under grants of different States; and between a State, or the citizens thereof and foreign States, citizens, or subjects."

In only one instance can the judicial power of the United States be used in a State between the citizens of a State, and that is where they claim lands under grants of different States. Now, sir, have we not a judicial power? Has not Congress already provided by law for the exercise of all the judicial power conferred upon this Government by the Constitution of the United States through the courts already created and in existence; and how can the object which I understand the Senator to desire be accomplished in pursuance of the Constitution, and in the face of the limitations contained in it which I have read? Sir, you have no power to create State courts for the determination of questions arising between the citizens of the same State, within that State, other than in the instance specified and enumerated in this second section of the third article of the Constitution, or authorizing the organization of a judicial department.

Now, sir, I imagine that the fact that the President of the United States as Commander-in-Chief, not as the civil head of this nation, but as the head of the military power of this Government, has found it to be convenient, right, and proper, in a faithful and merciful discharge of the duty which is imposed upon him to protect and defend the Constitution, to send into each of the States of North Carolina and Tennessee a gentleman whom we have chosen to call a military Governor, has given rise in the minds of Senators to a necessity to provide for such an appointment by law. You have no such power. General Johnson and Mr. Stanly are no more Governors in the legal, constitutional sense of the term to be used and exercised by the Congress of the United States, than they are judges, or marshals, or district attorneys. We have dubbed them "military Governors;" and because the President has, in the exercise of such a power as I have referred to, sent these gentlemen out there as adjuncts to the Army, to mitigate, if possible, the rigors and the horrors and the severities of this war, by exercising, as far as they can in a civil capacity, civil jurisdiction, as adjuncts, I repeat, to the military power of the Government, Senators have supposed that it was infringing upon the prerogatives of the Senate, who have the right to be consulted, and to pass upon the nomination and the confirmation of every person selected by the President to fill a position under this Government.

The President is not under the Constitution required to consult the Congress of the United States as to the manner in which this war shall be conducted. He is not compelled to send a civilian to aid the military in the discharge of the great duty which he has to perform, which is to suppress this rebellion. As the head of the military power of this Government, he is not required to consult the Senate in any appointment that he may make. Appointment really is not the proper term to be used. He has selected an agent. He does not choose to call him a brigadier general or a major general, a captain or a corporal. He sends him there to exercise, in obedience to the military power and in aid of the military power, certain civil duties for the purpose of mitigating, if possible, the horrors of the war and of winning back those who for a time have been deprived of the protection which their ordinary State governments gave them. That is the whole reason in my humble opinion that has suggested to many Senators the necessity of regulating by law the power of the President in the selection of these adjuncts to his military operations, which he has made, I repeat, as the head of the military power of the Government, and not as the head of the civil power of the Government. I submit the motion that the bill be indefinitely postponed.

Mr. HARRIS. We can sometimes test the value of an argument by the consequences of the position assumed. Now if the argument of the Senator from Virginia be sound, we may as well surrender at once, and let the rebellious States go. If he is right in his position, we stand in this predicament. We may conquer every rebel State, we may suppress the rebellion; we may by the strong arm of military power destroy every rebel

in arms, but that being done, each of these States would be at liberty to say to us, "we will not come back into the Union; we will not be governed under the Constitution of the United States, and you have no constitutional power to send us a Governor or send us judges; we will govern ourselves as we please under the confederate constitution, and your Constitution is so imbecile, is so imperfect, that it is impossible for you under that Constitution to help yourself to send us ever any government to enforce our own laws, and we repudiate your Constitution and laws, and we shall be governed as we please under this confederate government." That is the consequence of the argument.

Mr. CARLILE. Will the Senator allow me to interrupt him for a moment?

Mr. HARRIS. Certainly.

Mr. CARLILE. I do not wish to detain the Senate by replying; but I would inquire of the Senator, as an answer to his argument, whether, if these people in the seceded States never form a State government, never have State courts, it will prevent this Government from the execution of its judicial power, of all its laws within their limits?

Mr. HARRIS. Certainly it will, according to the argument of the Senator from Virginia.

Mr. CARLILE. Certainly not.

Mr. HARRIS. My doctrine is this: that your glorious little State, sir, [Mr. ANTHONY in the chair,] or my State, any State, however small or however large, in this Union, has a right to demand of the General Government that each State in the Union shall be governed under the Constitution of the United States in a republican form of government; and that it means that the laws of that State shall be executed, and that the Government of the United States shall see that they are executed. I understand that the Constitution of the United States has that vigor in it, and that it is not so perfectly powerless as gentlemen here have seemed to suppose; and that when we have subdued this rebellion, if the States will not organize themselves under the Constitution of the United States, and return to their allegiance to the Government of the United States, the Government of the United States has a right to send the proper officers there to see that the Constitution and the laws of those States are executed among their own people. I understand that that is the power, that that is the duty of this Government; and if I did not, I should be disposed to let them go.

Mr. CARLILE. One word in reply. Have we not, sir, within the last fortnight, exercised our constitutional power of impeachment and removal of a judge of the United States court in the State of Tennessee? Is it not in our power, if it has not already been done, upon the President sending us in a name, to confirm a successor to the party removed, and shall we not through his court, and through the other Federal tribunals within these States, the very instant that you have suppressed the rebellion, be enabled to execute all the laws under the Constitution, as passed in pursuance thereof by the Congress of the United States? And if the people of those States choose beyond that to forego the blessings of a State government, if they prefer anarchy to a republican government, they cannot put themselves beyond the power of this Government to execute within their respective limits all the provisions of the Constitution of the United States, and all the laws made in pursuance thereof, I think that that is a sufficient answer to the Senator; and the fallacy of the position assumed by him is admitted by himself when he puts the question, can we not upon demand of a State, at the request of a State, do thus and so? Sir, have those States made this demand of you? Have they requested you to deprive them of the highest distinguishing characteristic of the people of this country, the right to frame their own government for themselves, to determine for themselves who are to be their State officers? Have they not this right under our form of government? And have you, under the assumption that they come and ask you to do it for them, the right to assume, in the face of the fact, that they have made any such request, and that if they were to make it, the exercise of such a power, and the granting of such a request on the part of this Government, would be a virtual abrogation of all the limitations of the Constitution, of all the rights of the people under it, and a blotting out of all State lines?

Mr. WILKINSON. It is not to be supposed, I apprehend, that a South Carolinian will ever come to the Congress of the United States to request that the laws and Constitution of the United States shall be enforced within their borders.

Mr. CARLILE. That is not the question I put; if the Senator will allow me, it was whether they had come with the request that you shall make a State government and State laws for them. I say you can enforce your own laws.

Mr. WILKINSON. Nor, sir, as it is propounded by the Senator from Virginia, is it likely that they will ask the Congress or the Government of the United States that any laws shall be made to be enforced within their borders. The Senator from Virginia propounds the question, is not the judiciary of the United States in full operation in South Carolina? Let me ask that Senator a question. Suppose he, as a loyal citizen of the United States, should be found within the State of South Carolina, and should be robbed; they repudiating all obligations to citizens of any other State in the United States under the Constitution, would the Federal judiciary have any control over such acts? Would the Federal judiciary protect the rights of citizens within that State? As I understand our judicial system, there must be a legal power and legal authority to protect the rights of citizens within each State and within each Territory of this Union.

The arguments of the Senator from Virginia, and of the Senator from Pennsylvania, amount to an acknowledgment *in toto* of the doctrine of Jefferson Davis; it is the doctrine of secession, and nothing else; it is the doctrine that, if one State of this Union proposes to separate itself from the authority of the General Government, it may do so, and there is no constitutional power within this Government to prevent its doing so. I thank the Senator from New York for the zeal he has manifested in favor of this bill, and for the arguments he has adduced in its support. In my judgment, it is the bounden duty of this Government to provide for the protection of every citizen of the United States anywhere and everywhere within the constitutional limits of the United States; and if the people of the State of South Carolina rise up in rebellion against the constituted authorities of the Government, and if the people of that State refuse absolutely to protect the rights and the interests of the people of the several States of the Union whenever they happen to go into and tarry in that State, it is the bounden and solemn duty of the Federal Government to see that those people are compelled to do it; and if they refuse, it is the duty of this Government to provide that the interests and the rights and the liberties of every American citizen who happens to tread his foot within the limits of South Carolina shall be protected. Now, this sophistry of the Senator from Virginia and the Senator from Pennsylvania, that we have no power to establish a system which shall protect the rights of American citizens in South Carolina, because the people there are all opposed to the Federal Government, is the doctrine of secession, of nullification, of every heresy which would destroy this Government.

The Senator from Virginia, in a boastful way, inquires if these States have asked for any such law. Sir, they are criminals against the law, and until they lay down their weapons of rebellion, they have no right to be heard in court or in the Congress of the United States. They are in open rebellion, and the Senator from Virginia is pleading for them here. They are murdering the loyal people of the United States. What right have they to be heard? When we talk of enforcing the Constitution and the laws of the Government what right have these rebels and traitors to be heard? When we are framing a judicial system that shall enforce the Constitution and the laws of the Government, and enforce the rights of every citizen of the Government, by what philosophy, by what legal right does the Senator from Virginia ask that these men shall be heard?

Mr. CARLILE. The Senator, I see, certainly misunderstood what I said, or he would not put the question he does to me. I never asked any such thing; I never said any such thing; I merely called the attention of the Senate to the remark of the Senator from New York, who said that if a State demanded thus and so, the Congress of the United States had the right to do certain things. I am not pleading, and never expect to plead in this body or any other, for secession or secession States; but I do feel it a duty incumbent on me to stand by the Constitution of my country, and to protect all its people in all their constitutional rights; and when I deny the exercise of its power, I am denying it for the benefit as much of the Senator's constituents in his own State of Minnesota as for the constituents that I represent upon this floor.

Mr. WILKINSON. I understood the Senator to ask the question, if these States had requested the passage of any such law.

Mr. CARLILE. No sir, I did not ask the question. I merely quoted the remark of the Senator from New York.

Mr. WILKINSON. I understand the object and purpose of this bill to be a declaration on the part of the General Government that the constitutions and the laws, made in pursuance and in subordination to the Constitution of the United States, should be enforced in all the States of this Union. That is the explanation that is given by the Senator from New York, and that is the reason why I am in favor of it.

I hold that the Constitution and the laws of the United States, and all State laws that have been made in pursuance thereof, should be enforced by this Government, if it has the power to do so, in every State of this Union. I hold, furthermore, that if any State sets itself up in rebellion against the Government of the United States, and if every man within its limits should declare that he will have nothing more to do with the Government, but all array themselves in a hostile attitude against it, it is the duty and the right of the Government of the United States to make temporarily provision for the government of the people that happen to be within the limits of such revolting States, and it is grounded upon the great law of necessity, which is higher than the Constitution.

Mr. CLARK. It is on the Constitution itself.

Mr. WILKINSON. It is a law which, as the Senator from New Hampshire says, rests on the Constitution itself. Sir, John C. Breckinridge stood on the other side of this Chamber at the extra session of Congress opposing every act which was presented here and was under discussion in this body for the preservation of the Union, opposing every one upon constitutional grounds. His argument was that when you undertook to maintain this Government you were trenching upon the Constitution; and every time that any act which had a tendency to uphold and maintain the Government has been introduced from that day to this, some man has arisen here or in the other end of this Capitol to oppose it on the ground that it was trenching upon the Constitution. There have been arguments promulgated here to-day by the Senator from Pennsylvania, which, if they be true, if he maintains the correct constitutional ground, show that we are wrong, that this Government is guilty of the most wholesale murder and cruelty that any nation in the world ever practiced. Sir, if the doctrines of the Senator from Virginia, and if the other and worse doctrines of the Senator from Pennsylvania are correct, every man who gives his vote to prosecute this war is imbruing his hands clear up to his shoulders in human blood. It is the wickedest war that was ever waged upon the face of the earth if the Senator from Pennsylvania is correct. If the State of South Carolina has a right to go out whenever her people say so, then Mr. Lincoln, in carrying on this war against the State of South Carolina, is worse than Nero, and he may well sit and fiddle while this carnage is going on in front of Richmond. If, as the Senator from Virginia says, we have no right to establish any system by which civil rights shall be protected in the State of South Carolina, the quicker we abandon this war the better. If these theories are correct, I am guilty for every dollar that I have voted to carry on this war, and for every vote that I have given to raise soldiers to defend the Constitution and laws of the country. I hope that this bill will not be indefinitely postponed, because if there is power to maintain the authority of the Government in the revolted States, there must be some law to prevent local anarchy and confusion in their midst.

Mr. COWAN. The doctrines which I have asserted here are thought by the Senator from Minnesota to be most extraordinary and most mischievous. I am sorry that he takes that view of them, but at the same time I desire to say that it is because he and many other people have over-

looked these doctrines that we find ourselves surrounded to-day by such an unfortunate state of affairs. We never shall maintain this Union or this Government unless we pay a careful and strict regard to the will of the people everywhere who are to be obedient to that Government and its laws. To violate and to trespass upon their will, no matter how much they may differ from us in opinion, is to insure ruin and disaster. In my humble judgment, it was the duty of this Congress when it first assembled, instead of disregarding the will and wishes of the people of the slave States, violating all their notions of their peculiar institutions, and going on in our own way, according to what we thought the better way, to have paid the strictest regard to their views, and I think that it is partly because we have disregarded them that we have come to where we are now. I am exceedingly sorry for it, Mr. President, and I hope that there may yet be time to retrace our steps. I think I have never met a wise, true, sensible man who supposed we could succeed in suppressing this rebellion by arming against us the whole of the people of those States. I think everybody who was capable of looking calmly and coolly upon the question must have acknowledged that fact at the outset. Certainly, we started upon the supposition that we were going down there to reëstablish the State governments as they were before, and to put the loyal people of those States in power instead of the rebels, and thereby to restore the Union. That was the idea which animated the nation at the beginning of the war; perhaps the resentment which has been the consequence of the protracted nature of the struggle may have changed their opinions, and if so, I think that change most mischievous. Certainly, nobody can hope for a successful result unless its effect is counteracted in some way. Unless we can by some means satisfy the people of those States that we do not mean to violate their rights or overturn their institutions, but to carry out in good faith the guarantees of the Constitution, and to restore over them the laws as they were before, are we not wasting our blood and treasure in vain?

I think that the country is now in that crisis when it behooves us all to stop and consider. If the Union is to be preserved at all, it is only to be preserved upon the basis that all the different parts of it are to enjoy freely their rights under the Constitution. I look upon the madness of the attempt to thrust emancipation down the throats of seven or eight million people in the South just precisely as I looked upon the attempt on the part of the southern people to thrust slavery down the throats of the twenty millions of the North. When they had the power, they would push slavery in upon the free Territories of the North whether we would or not. They were defeated. And now, when we have the power, can we not stop at the constitutional line and avoid all measures which, as they believe, tend to the destruction of slavery, rather than the restoration of peace? Cannot we avoid giving them that offense—I mean those of them who are loyal? Cannot we so frame our laws and so fashion our legislation as not to put weapons in the mouths of the rebels to enable them to consolidate the people in a mass against us?

The Senator from Minnesota laments the slaughter of our friends. Will he reflect that these measures may have produced and brought about that slaughter? What is it that has brought that great army of rebels now to the vicinity of Richmond? Is not the very soul which animates them "death to the abolitionists and those who invade us with that view?" What is it that puts courage in their hearts and strength in their arms? When one finds eighty-four dead rebels around a single battery in the endeavor to take it, is it not idle that we should balk the great fact that they are in earnest in resisting us? Now, what I want is simply to make friends among the people from whom they come. If we are to preserve union with them, I think that is indispensable. We are not to multiply our enemies there.

Mr. WILKINSON. I should like to ask the Senator whether there is any measure that he thinks he could propose which would conciliate these southern citizens of the United States; and if there is, I should like to have him name it.

Mr. COWAN, (pointing to southern Senators.) There they are; ask them. Every measure that you propose they oppose; and what have you gained by it? Have you made friends by despising the counsel of Senators from Maryland, Senators from Missouri, Senators from Kentucky, and Senators from Virginia? I ask the question again, in all seriousness, whether that is the way we are to lock shields to defend the country, and to stand up all together for the Union?

Mr. WILKINSON. I am not satisfied that either in Maryland, or in Delaware, or in Western Virginia, we have lost any friends by opposing some of the positions assumed by those Senators here.

Mr. COWAN. It is to be presumed that the gentlemen who represent those States on this floor represent their constituents truly, when they say you have. They may not think as we do; they do not think on all subjects as I do; and yet for the sake of the Union, for the sake of the country, for the sake of stopping this slaughter——

Mr. CHANDLER. Oh, yes, they think with you.

Mr. COWAN. It is hardly four o'clock yet. For the sake of stopping this slaughter, I would adopt their opinions in that behalf, and give up my own views as to the best mode of satisfying and conciliating their people; and if they have not told us what we ought to do, they have most emphatically advised us what we ought not to do in these times. I would not yield a fundamental right, as for instance, the sovereignty of the nation over the Territories of the United States, which was the right in dispute in the contest of 1860. I would agree to yield, for the sake of peace, all minor differences to strengthen ourselves in the southern States, make friends there, endeavor to divide, to weaken, and to distract the rebellion; in short, I would endeavor to make ourselves successful. I know I should feel the mortification and the humiliation of a failure here as deeply as any other man. I have as much at stake as any other man; and we all have stakes. Feeling thus, I think at this juncture, when we cannot all agree upon a measure, we ought to lay it aside, even though it might be safe enough in time of peace. In time of war, when the very foundations of the Republic seem to crumble beneath our feet, is it the time to divide, to exasperate, and to irritate? I put it seriously, honestly, and fairly.

A provisional government is contemplated by this bill: are the men who know about what its probable operation will be, in favor of it? If they are not, why should we thrust it upon them? If they are in favor of the President exercising that power by virtue of his commission as Commander-in-Chief of the Army, is it not better to let it be so? Do we gain by forcing it upon them? He has not abused the power; nor will he abuse it.

Mr. HOWARD. I would ask the Senator from Pennsylvania what authority he has for the intimation which he has flung out, that if we pass this bill it will meet with the veto of the President. It seems to me that this is riding a pretty high horse in this body.

Mr. COWAN. I am utterly astonished to hear that I have flung out such an intimation. I said nothing about the President's veto, or his intention to veto, or what his opinions are. I know nothing about them so far as this bill is concerned.

Mr. HOWARD. I understood the Senator to say that in case we passed this bill it would probably receive the President's veto.

Mr. COWAN. I have said nothing of the kind; the gentleman must be dreaming.

Mr. HOWARD. No, sir; my ear is always attentive to my friend from Pennsylvania.

Mr. COWAN. I said was it not better to allow the President to exercise this power as he had been exercising it, than to introduce here a measure which is calculated to distract and to divide and to put us in antagonism with our friends from the border States who are so necessary to us now, and when we are to gain nothing by it. The President will go on and exercise the power under the bill very much as he is doing now I suppose. He has appointed a Governor in Tennessee, he has appointed a Governor in North Carolina, he has held and is now holding large territory by virtue of his military authority in the premises. Why not allow it to go on? Where is the necessity for introducing this superfluous measure when it is in opposition to the wishes of those who understand and represent the feelings of those to be affected by the law. If there is to be government down there, let it be a military government, and it will be obeyed all the better—because it arises out of the necessities of the war; but do not let us undertake to assume the power of providing provisional governments which cannot be justified on the ground of necessity.

Now, everybody knows that the honorable Senator from Massachusetts [Mr. SUMNER] has a scheme by which he proposes to turn all these States, in case they could be conquered, into Territories, that they shall be governed by the United States as Territories, and then, when their people come to their senses—this is the language of the advocates of the scheme—they are to be readmitted into the Union upon terms. Mr. President, I do not know anybody hardly who has not deprecated that as a most mischievous scheme to agitate just at present, and the mistake of this bill is that it looks to that and is calculated to give color to the idea that we favor that doctrine. I think it is our duty, when it is in our power, to remove any false impression calculated to injure our cause by dropping any measure not absolutely necessary and which we can get along very well without. We are not now in an arena with a party on each side of gladiators to play before the people, and seek to win distinction by what are called political manœuvers. We are here with the country almost in its death throe, and it behooves us, with the responsibilities upon us, now to endeavor to reconcile our differences, and save it if we can. How is it to be saved? Not by legislation, not by irritating legislation, not by this provision and that provision for the benefit of the negro, but it is to be saved by war and by war alone, war against the rebellion, kindness towards the loyal people of the South, multiplying them if we can, inspiring them with confidence if we can, and in that way, and that way only, can the fabric of this Government and of this Union be restored as it was before.

Mr. President, that is why I deprecate this bill, and all bills of the kind. We had a little measure here this morning of no use to anybody, providing that negroes should be allowed to testify. In time of peace, I should have no objection to discuss that question and talk about it by the hour, because I do not think it would hurt anybody; but now, in the excited condition of the public mind, especially in the border States, I hold that nothing more mischievous and more ruinous to the Union cause could be mooted than a subject of that kind. We have no objection in the North to allowing negroes to testify, but people in the South have very great objections to it, and we ought now to respect these objections for our own sake.

Mr. SUMNER. That provision was only offered in relation to the District of Columbia, right under our own eyes.

Mr. COWAN. Right under our own eyes, if you please, but in the midst of a population who have been slaveholding up to this time, and whose sentiments and opinions on that subject are utterly and entirely in antagonism with the Senators who framed the provision, and yet that law is imposed upon them, and they are to submit to it. Why? Because the Senator, and some of the people he represents, have a fancy that it ought to be so. At other times, perhaps, I should have no objection to it, but now, at this time, just in the crisis of our affairs, cannot we forego a reform of that kind until things are restored again as they were before? That is the reason why I oppose, and have opposed, all these measures of every shape and kind, and I am sorry to say that I think they have had a very great influence in producing the disasters which now surround us. What does Jefferson Davis want? What is he anxious to impress on his people? That we are friends of his, or enemies of his?

Mr. CHANDLER. Friends!

Mr. COWAN. I suppose, if Senators want to make speeches, there will be an opportunity. It is not necessary to say in an undertone that which cannot be very well answered; that which is, in itself, a violation of all propriety, and of all good manners, and which, in the answer, begets a like violation. I trust my friends will abstain, and when their time comes, they will have an opportunity of being heard.

But, Mr. President, is it not a notorious fact, and does not everybody know it, that this rebellion based itself upon the assumption that if the Republican party came into power, if it got the reins in its hands, it would do—what? Assail

slavery in every direction; that it would be an abolition party. Is not that it? Was not that the catch-word which inflamed the South? Was it not that which gave heart to the rebellion? Was it true, is it true, that the people of the North are abolitionists; that they desired to invade the rights of the people of the South the moment they got the General Government into their hands; that they desired to assail this institution of slavery, and overthrow it at all hazards? If it be true, I never heard it asserted in the world before a northern audience—never! On the contrary, I have always heard it nailed to the counter as a slander. "We do not mean that we have any right, or any intention, to abolish slavery in the States; but we contended the nation was sovereign over the Territories. If we have a majority in Congress, we asserted the right to declare those Territories free, and we will go there and put white men there instead of black men." That was the sentiment of the Republican party in 1860. Well, the rebels took advantage of this dispute, and to charge the abolition slander upon the North; because, I say yet, it is a slander on the people of the North. They never did care whether the southern people had slaves or had not slaves, in a political point of view. All they wanted was that the southern people should respect their rights, and they meant to respect theirs. I say the rebels seized upon this slander by circulating it industriously, and by alleging that the Senator from Massachusetts and his compeers was the head and front of the Republican party, and that they were abolitionists, and that they would carry it out. They then got up this rebellion. Why? Because they were assailed? No; but because they expected to be assailed. Good men bade them "hold, wait till you are assailed, wait till your rights are invaded." "No; we will take advantage of this particular contingency; we will not wait till we are assailed; we will rebel first." Then what was our duty in the premises? I think, with all deference to the opinions of everybody else, our duty was to endeavor to demonstrate to them that that was a slander; to endeavor to show them that instead of attempting to assail their rights, to overturn their institutions, or to do anything at all in a spirit of revenge, but that we would administer the Constitution and the laws strictly; and stand upon them, and not put into their mouths the evidence by which to support their allegation, as we have been doing.

Now, sir, what is the effect of all these measures which contain in them provisions in regard to this most irritating and unfortunate subject of slavery upon the loyal people of these States? Ask any of them. And yet that effect has been disregarded, and we are told day after day that it does not matter what it may be likely to be, it does not matter what those people say or do, that we have been following their lead too long, we have been listening to their counsels too long; and if we expect to succeed, we must utterly and totally disregard them! That is the language we hear on the part of excessive and radical men, here and elsewhere; but is that likely to succeed? Are we to put down this rebellion in the present shape which it assumes if we discard our friends in Maryland, our friends in Virginia, Kentucky, and Missouri? Without their aid cheerfully given, where are we to-day? Where is our Army to-day, that grand, proud Army which we thought almost shook the earth with its tread; which we should have been willing to match against even the most numerous and most powerful of Europe? Where is it to-day? It is only necessary to count the graves of those who have fallen out of its ranks; only necessary to number the wounded who come home carried in its ambulances; and yet are we to go on waging this war as if the country was at peace, as if the abolitionists on one side were a little party struggling against pro-slavery men on the other side? I hope we shall postpone these things to a fairer and better day, and that we shall endeavor to avoid all subjects which are calculated to alienate and divide us, and that we shall stand together, as we must stand if we expect to succeed, shoulder to shoulder, presenting an unbroken front to the enemy, and that we shall not furnish any more material for the rebels to disseminate among their people to give them token that we intend to do the very things which they warned them we would do.

Mr. HARRIS. Mr. President, nothing has surprised me more than to witness the opposition which the bill has met, the bitterness with which it has been assailed. There is no person who is more jealous of the rights of every rebel State than I claim to be myself. I do not desire to impair in the least degree, much less disregard or annihilate, the constitutions or the laws of those States. If there is any one thing that I desire more than anything and everything else besides, it is to see every one of those States come back into the Union, with all its dignity, all its equality, all its unimpaired rights, as they existed before this wretched rebellion presented itself.

Now, sir, what is the object of this bill, what is to be the effect of this bill? It is certainly not to defeat any of those desired objects. On the contrary I supposed, I now suppose, that its direct tendency and effect will be to promote this desirable end, an end that we all unite in desiring. One of two things must happen. All will agree we must have a military government or a government of law in these States. What surprises me most of all is that these Senators, jealous as they profess to be for the rights of these States, prefer a military government to a government of law—a government of arbitrary power, a government of unlimited discretion. What is the government that is now being executed in North Carolina? What is the restriction on the power of Governor Stanly? No more than there is on the power of the veriest despot in Europe. Suppose you want to prosecute a criminal there, what is the law under which that is to be done? What is the government now being executed under that excellent man Governor Johnson, of Tennessee? Have they any laws there? Have they any courts there? How are the laws executed? The Governor is a military officer, vested with absolute power and unrestrained discretion.

Now, sir, I thought that it was safer, that it was wiser, that it was better in such a case as that, after the rebellion was suppressed, and before these States were ready to return again into the Union to assume the functions of independence for themselves, during that interval to provide for a government of law, that there should be officers sent there by this Government in the exercise of its paternal benignant power under the Constitution, to enforce those laws in a mild and equal manner, that its citizens should know what their rights were, and how to redress themselves when their rights were invaded. It seemed to me that this was far better; and I repeat the surprise that I felt when I found this bitter hostility against a provision so well intended, so benign in its effect. I cannot suppose that Senators really appreciate the object, the effect, the intent and purpose, of this proposition. If I supposed it was to have the effect to deprive these States of a single right, subject them to the least degree of humiliation I would be the last to urge the passage of the bill. I supposed the contrary to be the effect. I suppose that those States are to be protected by this law, not to be treated as Territories. Senators have argued this question as though the operation of this law was to treat these States as subjugated Territories, as a sort of military prisons. I regard this law as securing to them their rights as States in this Union, as protecting them in their enjoyment of their privileges as individuals or citizens of those States, and as preserving their equality and dignity as members of the Union. Unless I have greatly mistaken the provisions of this law, such will be its benign effect.

Mr. CHANDLER. The Senator from Pennsylvania says, in substance, our Army is *in extremis*, and he asks who placed it there. I introduced a resolution this morning, the object of which was to elicit some information on that point, and I intended to explain why I introduced it; but the Senator from New York objected to the resolution, and while I was upon the floor I found myself without a status; that is to say, I had no foundation, I was down, I was taken off my feet. I do not complain of the celerity with which the Senator deprived me of the opportunity to make a few remarks, especially as an opportunity has so soon been presented to me to say what I wished to utter when I submitted my resolution.

The army of the Potomac, when it moved upon Manassas had two hundred and thirty thousand men in its ranks, and the enemy had less than thirty thousand at Manassas and Centreville. My friend from Maine [Mr. FESSENDEN] assured me the day before it marched that the enemy had one hundred and sixty thousand men, and he gave me the name of one of General McClellan's staff as his authority.

Mr. FESSENDEN. What I said I believe I said in private conversation.

Mr. CHANDLER. I beg the Senator's pardon; I will take it back, then. I misunderstood him, and I will say nothing about the one hundred and sixty thousand. But, passing that, I said to that Senator that they had not had forty thousand men in two months, and that there would not be a gun fired at Manassas. I think my friend will indorse that. Well, sir, our army of two hundred and thirty thousand men marched upon Manassas, and they found thirty-two wooden guns and eleven hundred dead horses as trophies, and they marched on towards Gordonsville. Those two hundred and thirty thousand men could have marched to Richmond in fourteen days, and they would not have lost a thousand men in taking that city; and yet the Senator from Pennsylvania asks who put them in the condition in which they are now? Who put them there? Mr. President, the answer to the resolution which I offered this morning will show who put them there, if the Senate of the United States will pass it. The press, the politicians, and the traitors of the country have declared that E. M. Stanton put them there. Sir, I declare that E. M. Stanton had no more to do with putting the army of the Potomac in the marshes of the Chickahominy than you had. This is a matter of criminality. I admit that there is criminality, and gross criminality, and criminality that, in my opinion, will consign the criminal to eternal detestation and condemnation. The country demands a sacrifice for this crime to-day. The press demands the sacrifice of a mere clerk, an agent of your Commander-in-Chief, the President of the United States. Will it help your Commander-in-Chief if the man who simply registers his decrees shall be sacrificed? No, sir. E. M. Stanton, Secretary of War, is merely the clerk of the President of the United States, writes his dispatches, and obeys his orders. Sacrifice him, and what do you gain? Nothing. It comes back to this: there is a criminal, and a criminal who deserves to be sacrificed; and who is the criminal? Sir, it is reduced to one of two; and fortunately for the country the record is made, it is written, and it is at hand.

Sir, the army of the Potomac, as I have said, numbered two hundred and thirty thousand men by the morning roll of the day when it marched upon Manassas to meet twenty-six thousand ragged rebels and no more. I have the evidence. Those rebels ran without firing a gun, as I knew they would, and as I told my friend from Maine they would; but he says our conversation was a private one, and I shall say no more on that subject; but I will repeat that that army of two hundred and thirty thousand men could have marched to Richmond in fourteen days and not have lost a thousand men. If landed on the shores of France it could have marched to Moscow; no army on the continent of Europe could have detained it ten hours. From Manassas it could have marched to Charleston and New Orleans. At that time there was no force to oppose it, and the war could have been ended in two months. But that army was divided, and broken up, and sacrificed, and that is the crime. Who is the criminal? The answer to my resolution will show that it is either Abraham Lincoln, President of the United States and Commander-in-Chief of the armies of the United States, or it is George B. McClellan, commander of the army of the Potomac. It is one of those two, and no third man; and I say to you, sir, now and here, that in my estimation, that criminal should not only be deprived of his office, but, in my humble opinion, he should suffer the extreme penalty of the law, for this nation has been disgraced by the division and loss, virtually, not really, of the army of the Potomac. If the army of the Potomac had been commanded by the arch rebel and traitor, Jefferson Davis, there has not been a movement made which he would not have ordered since the 1st day of December. And I say to the press, and to the men all over this Union who are denouncing Edwin M. Stanton, Secretary of War, that he has protested from first to last against the division, demoralization, and destruction of the army of the Potomac.

I will ask the Secretary to read an article from the Detroit Free Press of July 3, 1862, a paper

which was compelled to raise the flag of the Union by a demand of the Union men of that city. My colleague knows that.

The Secretary read, as follows:

"THE NEWS.—Never, during our career as journalists, have we performed a task that grieved us more than the presentation of the news of the partial defeat of McClellan's left wing that we lay before our readers this afternoon.

"Not only was an attack made on the right wing, but it now appears that one was also made on Sunday upon the left wing, which has fallen back from the vicinity of Fair Oaks to Turkey Bend, on the James, a distance of seventeen miles.

"The combined rebel forces of Johnson, Beauregard, and Jackson have been hurled in irresistible fury upon the unaided and unsupported forces of McClellan. Gathered from the East and West, from the swamps of Mississippi, and the mountains of Virginia, the rebels have come, and we behold the result.

"We will not recite the particulars. The telegraphic columns point them out with terrible distinctness.

"For this result the Secretary of War, Edwin M. Stanton, and the abolition politicians, are alone responsible. It has come solely from the mean partisan hatred of McClellan. Let the people place the responsibility where it belongs.

"Stanton and Wade and Chandler, and their aiders and abettors, great and small, must answer at the bar of the people for the blood of the martyred sons of the land who have so lavishly poured out their life to no avail.

"McClellan has fallen back. The abolitionists rejoice. The prayers of the crazy morning sheet of this city are answered. But so sure as there is a just God, we believe that the machinations of these vilest of traitors will yet be thwarted, and that the cause of the Union will yet rise triumphant."

Mr. CHANDLER. That is from a sheet that was compelled to raise the flag of the United States by a mob in my city. Traitors throughout the land advocate the policy of this division of the army. The paper from which those paragraphs have been read was the paper, and the only paper in the State of Michigan, which advocated a fire in the rear upon the forces which went forth from Michigan to put down and crush out and utterly destroy this rebellion.

And now, sir, what is to be done? Are we to sit quietly when traitors declaim and say that this is all right, and justify the destruction of this army of two hundred and thirty thousand men? No, it is not destroyed; we have fragments left. If we can bring them back to the position from which they moved when they went to Yorktown, we have almost men enough to-day in the army of Potomac to crush out this rebellion and march to Charleston. Are the men who stand up and say this is strategic, the traitors like the editor of the paper from which I read, to say that such men as Edwin M. Stanton—a patriot among patriots, a man who has stood up for the Union, right or—no, not wrong, never wrong, but for the Union in any event, through blood and through carnage, and through everything but treason—should be stricken down?

Mr. President, the country is in peril, and from whom, by whom, and who is responsible? As I have said, there are but two men to-day who are responsible for the present position of the army of the Potomac. The one is the President of the United States, Abraham Lincoln, whom I believe to be a patriot, whom I believe to be honest and honestly earnest to crush out and put down this rebellion; the other is George B. McClellan, general of the army of the Potomac, of whom I will not express a belief. But to the reporters, to the press, to the Senate, to the country, I say cease your foolish charges upon a clerk; come out at once and denounce the one of these two men who is responsible, for they are the only two men upon whom the responsibility can be fixed; either denounce Abraham Lincoln, President of the United States, whom I believe to be a pure and honest man, or George B. McClellan, who has defeated your army. He took it to Fortress Monroe, used it in guarding rebel property, sacrificed the half of it in the swamps and marshes before Yorktown and the Chickahominy, and finally brought up the right wing with only thirty thousand men and held it there until it whipped the overwhelming forces of the enemy, repulsed them three times, and then it was ordered to retreat; and after that the enemy fought like demons, as you and I know they would, a retreating defeated army. Tell me where were the left and the center of our army. Tell me where were the forces in front of our left and the center. Sir, twenty thousand men from the left and the center to reinforce Porter on the morning after his savage and awful fight, would have sent the enemy in disgrace and disaster into Richmond. An advance would have sent the left and the center into Richmond; but there was a feint. The left and the centre were attacked by a few men, a feint evidently, no serious attack, and the right was repulsed and driven back without a single man to reinforce them, except perhaps a division that was sent after they were ordered to retreat, and when they were in confusion. Aside from that single division, not a man was sent to reinforce them, but the left and center were ordered to leave their intrenchments, where we had lost more than ten thousand men in digging them, without firing a single gun—not a gun; and they retreated.

Sir, permit me to say I have some feeling on this subject. Michigan had six full regiments there. They left Alexandria with over nine hundred men on an average when General McClellan moved to Fortress Monroe. We had one regiment already at Fortress Monroe. Michigan had seven regiments then in General McClellan's army. They numbered as nearly as it can be figured seven thousand men. Sir, the State of Michigan needs no defense. At Williamsburg Michigan regiments saved the day. The Michigan fifth entered the rebel intrenchments and carried them, and left sixty-three rebels killed by the bayonet. That regiment came out with less than three hundred and fifty men. They fought their way through. Have you heard anything about Michigan regiments from official reports? Have you heard any justice done to Michigan from any report that you have received from the general-in-chief? The second and third were not behind the fifth. They were there and were decimated by the bullets and the bayonets and the disease in front of Yorktown, and the swamps of the peninsula. To-day the seven regiments of Michigan which have been in that peninsula since the army landed there, cannot bring to parade three thousand five hundred men out of their seven thousand. Last night I talked with a major from one of the Michigan regiments who had a bullet in one arm, and it went around his breast and came out on the other side—as brave and gallant a man as God ever made. Said he: "Mr. CHANDLER, our regiment has been in every fight that has occurred since we landed at Yorktown; they were in the most exposed position at Yorktown; they were at Williamsburg and at Fair Oaks, and they have been in every fight until Heintzelman's last charge, and I pledge you my word, sir, that we have lost more men by disease and the spade, although in every fight, than we have lost by the bullets and bayonets of the enemy." Have you heard anything of Michigan regiments? If you have, I have not. The general-in-chief does not know, as far as you and I can see, that there is a Michigan regiment there. Sir, I demand that Michigan regiments shall receive their full award of praise. They are heroes among heroes. I mean no disparagement to other States, no disparagement to any State; but they have won for themselves and their State a name which will stand high on the pillar of fame for all time.

Mr. FESSENDEN, and Mr. LANE of Kansas, addressed the Chair.

The PRESIDING OFFICER, (Mr. ANTHONY in the chair.) The Senator from Maine.

Mr. FESSENDEN. I move that the Senate proceed to the consideration of executive business.

Mr. LANE, of Kansas. Was I not entitled to the floor? I believe the President recognized me.

Mr. FESSENDEN. I thought I was recognized by the Chair.

The PRESIDING OFFICER. The Chair recognized the Senator from Maine. Both Senators rose together.

Mr. LANE, of Kansas. I should like to say a word.

Mr. FESSENDEN. I think we had better proceed to the consideration of executive business.

Mr. LANE, of Kansas. I should like to say a few words now on this subject.

Mr. FESSENDEN. I do not waive my motion.

Mr. LANE, of Kansas. I think the Chair recognized me.

The PRESIDING OFFICER. The two Senators rose together, and the Chair recognized the Senator from Maine.

Mr. LANE, of Kansas. I think it a very good time now to say what I have to say, and I should like to have the privilege of doing so. I shall not detain the Senate more than ten minutes.

Mr. FESSENDEN. I do not waive my motion.

The PRESIDING OFFICER. The question is on the motion of the Senator from Maine.

Mr. TRUMBULL. I call for a division on that motion.

Mr. FESSENDEN. Then we might as well have the yeas and nays; otherwise we shall not get a quorum.

The yeas and nays were ordered.

Mr. TRUMBULL. I called for a division because I understand the Senator from Kansas desires particularly to make some remarks at this time, and I trust the Senate will allow him to do it.

Mr. LANE, of Kansas. I do desire to say what I have to say at this time. I do not like to have this discussion go to the country as it has gone. It will have a bad effect.

Mr. FESSENDEN. If it is the general wish that I should withdraw the motion, certainly I will do it.

Several SENATORS. Withdraw it.

Mr. LANE, of Kansas. I shall not detain the Senate long.

Mr. FESSENDEN. I withdraw it.

The PRESIDING OFFICER. As the yeas and nays have been ordered, it can only be withdrawn by general consent. The Chair hears no objection, and the motion is withdrawn.

Mr. LANE, of Kansas. Mr. President, I have never listened to a discussion that agonized me as much as the one which has taken place to-day between the Senator from Virginia, the Senator from Pennsylvania, and the Senator from Michigan. This is no time for crimination or recrimination. We must stand by the Government if we are to save the country. We must stand by our commanders if we are to save the country. Volunteering is now in progress. The speeches of those gentlemen, in my opinion, are calculated to discourage enlistments, and without enlistments the country is endangered. I am not indorsing the course pursued by our officers in the present war in all things. I think that perhaps they have erred in their system of strategy, but nothing criminal should be alleged against them at this time. Napoleon, at Ulm, undertook the system of bagging, and with three hundred thousand men he succeeded in bagging Mack with thirty thousand men. I am apprehensive that our misfortunes have arisen from that system of strategy. General McClellan openly declared that he did not desire to drive the enemy from Manassas, but that he intended to assemble such an army as that he could "bag" them. It was an error of judgment.

General Halleck undertook to "bag" the rebels at Corinth; the same strategy was pursued in the valley towards Jackson; and also in front of Richmond. There, instead of marching upon the enemy *en masse*, that mistaken policy was pursued, and it afforded the rebels an opportunity to concentrate their masses upon our extended lines, that were weakened by being extended, and they overwhelmed our army in detail.

But there was nothing criminal in all this; it was a mere error of judgment, which I doubt not has been seen, and in future it will not be repeated. If a repulse has induced Republican Senators to proclaim to the country that we must cease to give offense to the rebels, what would a defeat prompt the same Senator or Senators to say?

Mr. COWAN. The gentleman looks at me. Does he mean to say I said that?

Mr. LANE, of Kansas. I do.

Mr. COWAN. I have said no such thing. I said we should cease to give offense to loyal men.

Mr. LANE, of Kansas. Mr. President, the Senator from Pennsylvania spent perhaps half an hour in endeavoring to prove that this Senate, that this Congress had, by their acts, massed our enemies and increased them in the rebellious States. When that Senator makes a statement of that kind, does he forget that the representatives of the rebellious States declared in Europe that they knew the institution of slavery was not to be endangered by the Republican party? Does that Senator mean to declare before the country that his colleagues in the Senate have been encouraging treason by massing the enemies of the Government? I say to that Senator, and to every other Senator, and to the country, that every speech such as he has delivered to-day, every meeting such as was recently held in the city of New York by the apologists of traitors, under the name of Democracy, does more to mass and encourage the enemies of this Government than all the acts that the Congress of the United States can pass. It is food for the enemies of the country; it gives them encour-

agement when they are able to point to a faltering on the part of the North, or to divisions among us. It is inspiriting to the enemies of the country in the rebellious States when we not only refuse to accept those loyal men whose skins are not as white as ours, but drive them from our lines.

Sir, the abolition party of which you speak have desired, have prayed, that there may be called into this war, in aid of the Government, the loyal people of the confederate States without reference to their color. We have the word of the Senator from Illinois [Mr. TRUMBULL] that General Halleck sacrificed twenty thousand—I believe the Senator said fifty thousand—white troops in the swamps of Corinth in constructing bridges and roads, every one of whom could have been saved had he permitted the loyal people of the confederate States, without reference to color, to come within his lines and build the bridges and the fortifications. General McClellan has sacrificed thousands of lives in the swamps of the Chickahominy and upon the fortifications of Yorktown, because he would not permit the loyal men of the rebellious States, without reference to color, to come within his lines and do the work for which they were better adapted than his white soldiers. We radicals, abolitionists if you please, have asked that the white soldier shall be kept for battle, and that the loyal black men of the confederate States may be permitted to do necessary work, and be armed for the perpetuating of this Union. If that had been done at first, in the opinion of your speaker this war would have been closed within ninety days after its commencement. Could that policy be inaugurated to-day, before the ides of October this Government would be extended over every foot of land over which the flag has heretofore waved. You denounce us as radicals and abolitionists when we desire to do what England did in her Asiatic colonies. The native troops were called to the field, armed, and employed to put down the insurrection against English authority. Without them the attempt to reduce India would have failed.

If to oppose the using of American volunteers for the protection of rebel property; if to favor the confiscation of rebel property constitutes radicalism, then, Mr President, I am a radical. If opposing the use of American soldiers for the return of fugitive slaves to rebel masters; if opposition to the policy of driving from our lines the loyal men of the rebellious States because of their color renders me an abolitionist, then, Mr. President, I am one. Radical and abolitionist, Mr. President, I say crush out this rebellion, even if human slavery should perish in the land.

Mr. COWAN. If the gentleman will allow me to make a short statement, I wish to make it just here for the purpose of setting myself right. I wish to remind the Senator that I myself laid down very distinctly the rule which governed me upon the subject of arming negroes. I did it twice. I stated, and I believe I first stated in this body, that to my mind the true rule was, when a general came into a country and met a negro, the question was not whether he was a slave or no; but the question was, whether he was an enemy or a friend. I laid down the rule that if he were an enemy, he should be treated as an enemy; if a friend, he should be treated as a friend. He cannot determine the question of slavery. It sometimes takes a court two or three days to determine that question, and it cannot be expected that a general could do it on the instant.

As to arming the negroes, I have taken the ground that that is a question entirely for the President to determine. The law does not declare what kind of men the President shall enlist; but he is bound to enlist a man, a civilized man whom he can restrain within the rules of civilized warfare, in order to carry on civilized war. If he can take a negro and put him to that use, I have no objection in the world. What I object to is, that this subject is brought in Congress where we have no authority to decide it, and where it is published in the debates, and goes abroad all over the country to bewilder men and to agitate them uselessly for no cause at all. The President can judge of that question and determine it. That is my doctrine. I have not given any opinion about it.

Mr. LANE, of Kansas. The Senator distinctly denounced the radicals and abolitionists of Congress.

Mr. COWAN. I do.

Mr. LANE, of Kansas. What is the distinction between the radical men on this floor and those who claim to be conservative? We desire this war to be waged vigorously, earnestly, without reference to slavery, leaving that institution to take care of itself. We desire that the armies of the Union shall maintain themselves in the country of the rebels. We desire that the soldiers shall not be used for the purpose of protecting rebel property or for restoring runaway slaves. We desire the loyal men of the slave States, without reference to color, to be called into the service and armed. Those are the only distinctions between us, who are denounced as radicals and abolitionists, and you, gentlemen, who claim to be conservatives. We believe sincerely, earnestly, that rebel property should bear its proportion of the expenses of the war; and therefore we vote for a confiscation bill. We believe that the slaves of traitors should be emancipated, and that they should be allowed to come into our lines, and be armed to work and fight for the country, instead of against the country; that they should be permitted to change sides.

Mr. President, so far as I am concerned, radical if you please, and abolitionist, if you please, I stand here in my place in the Senate to sustain the Government, the President, the Secretary of War, who I believe to-day is one of the bulwarks of this nation, one of the live men of this Administration, to stand by him, to stand by the commanders of our armies, to stand by the officers of the Government, until victory is won and the country restored; and then I will go with the Senator from Michigan and other Senators in holding them to a strict accountability for errors committed or crimes perpetrated; but while the war is upon us, let us stand by each and every one of them, for it is necessary to save the country. Let us not attempt to change front in the face of the enemy; disaster always attends such strategy.

Mr. FESSENDEN. I move that the Senate proceed to the consideration of executive business.

Mr. CARLILE. Allow me to say just one word.

Mr. FESSENDEN. I cannot give way further.

Mr. CARLILE. I am not going to make a reply. I only desire to make a short statement.

Mr. FESSENDEN. I make the motion for an executive session.

Mr. CARLILE. It is a mere personal remark, and is the only one I desire to make.

The PRESIDING OFFICER. Does the Senator from Maine yield the floor?

Mr. CARLILE. I ask but a moment; nothing more. I am not going to participate in this discussion; but I know how we are misrepresented, and I desire to say a word in justice to myself.

The PRESIDING OFFICER. The Senator from Maine is entitled to the floor.

Mr. FESSENDEN. I yield it for a personal explanation merely.

Mr. CARLILE. That is all. I merely wish to say to the Senate, so that it may go abroad with the remarks of the Senator from Kansas, that I uttered not one word to discourage enlistments, and that the Senator did me great injustice when he made that reference to me. The reporters will give to the country in the morning, I presume, what I did say, as they know it is not my habit ever to revise what I say in the Senate.

Mr. LANE, of Kansas. I rise to a personal explanation, and I believe that is a privileged question. I believe that, unless it is heralded to the country that there is to be a change of policy in the management of this war, enlistments will fail. The remarks of the Senator from Virginia went to prove to the country that the policy of protecting slave property, returning runaway slaves, and fearing to give offense to the rebels, or hurting some of them——

Mr. CARLILE. If the Senator will allow me to interrupt him, I did not use the word "slave" once.

Mr. LANE, of Kansas. The argument was that there was to be no change of policy.

Mr. CARLILE. The country will see what I said.

Mr. LANE, of Kansas. That was the tendency of it.

COMMITTEE ON CONTINGENT EXPENSES.

Mr. CLARK. Before proceeding with other business, I desire to move that the Committee to Audit and Control the Contingent Expenses of the Senate, have a member added to it in the place of Mr. JOHNSON. By the absence of Mr. JOHNSON and Mr. DIXON, I am left entirely alone, and therefore cannot act.

The motion was agreed to; and Mr. HOWE was appointed.

EXECUTIVE SESSION.

Mr. FESSENDEN. I move that the Senate proceed to the consideration of executive business, and I give notice that I will not yield to anybody.

The motion was agreed to; and after some time spent in the consideration of executive business, the doors were reopened, and the Senate adjourned.

HOUSE OF REPRESENTATIVES.

MONDAY, *July* 7, 1862.

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

The Journal of Saturday was read and approved.

The SPEAKER announced the regular order of business to be the call of committees for reports, for reference only.

FANNY MACTIER SMITH.

Mr. LOVEJOY. I ask the unanimous consent of the House to take from the Speaker's table the bill of the Senate (No. 371) for the relief of Fanny Mactier Smith, the widow of General Smith.

Mr. HOLMAN. How large a pension does it give?

Mr. LOVEJOY. Fifty dollars a month during her widowhood.

Mr. HOLMAN. There are quite a number of such cases pending. I call for the regular order of business.

Mr. LOVEJOY. I hope the gentleman will not object.

Mr. HOLMAN. I must insist upon my call.

CONFIRMATION OF A LAND CLAIM.

Mr. WILSON. I move to reconsider the vote by which Senate bill No. 119, confirming a land claim in the State of Iowa, and for other purposes, was referred to the Committee on Public Lands.

The motion to reconsider was entered.

The SPEAKER then proceeded to call the committees for reports.

LIGHT-HOUSE AT MAUMEE BAY.

Mr. WASHBURNE, from the Committee on Commerce, reported a bill for the erection of a light-house at the mouth of the Maumee river and Maumee bay; which was read a first and second time, and referred to the Committee of the Whole on the state of the Union, and ordered to be printed.

Mr. WASHBURNE. I ask leave to introduce a bill, that it may be referred to the Committee on Commerce.

The SPEAKER. This call is only for reports for reference only, and the Chair cannot receive applications for unanimous consent for any other purpose while the regular order of business is insisted on.

HALF PAY FOR WIDOWS AND ORPHANS.

Mr. DUELL, from the Committee on Revolutionary Claims, reported a joint resolution giving a construction to the second section of the act of February 3, 1853, to continue half pay to certain widows and orphans; which was read a first and second time, referred to the Committee of the Whole on the state of the Union, and ordered to be printed.

MILITARY RESERVE AT FORT SNELLING, ETC.

Mr. WASHBURNE. I am directed by the committee on Government contracts to report a resolution.

The resolution was read, as follows:

Resolved, That the Committee on Private Land Claims be directed to make full investigation into the alleged issue of patents for land included within the military reserve at Fort Leavenworth, and all the circumstances connected therewith; and also in relation to the present situation of the reserve at Fort Snelling, and that they be authorized to send for persons and papers and examine witnesses under oath.

Mr. ROSCOE CONKLING. I rise to a question of order. My point is that this is not an appropriate subject to report from that committee. It relates to nothing that was ever given in charge

of that committee. The subject never having been referred to the committee, they cannot report on it.

The SPEAKER. The Chair decides that the report cannot be made at this time if the subject has never been referred to the committee.

Mr. WASHBURNE. I rise to a privileged report. I am directed by the committee on Government contracts to make a report in relation to the entry of certain lands upon the military reservation at Fort Leavenworth, and as part of that report I submit a letter from the Secretary of War, and a resolution which I send to the Clerk's table, and upon that I demand the previous question.

Mr. ROSCOE CONKLING. I raise a point of order upon that report. I repeat the point I made before. I understand that the gentleman proposes to report, from the committee on Government contracts, something in relation to the issue of patents for land at Forts Snelling and Leavenworth. My point is, that the subject never has been referred to that committee, and is covered by no instruction which the House has given to that committee; and therefore it cannot be the subject of a report by that committee under the permission given to report at any time upon the subjects committed to it.

The SPEAKER. If the subject has not been referred to the committee, the Chair sustains the point of order.

Mr. WASHBURNE. The Chair will hear the letter of the Secretary read in order to be advised whether the subject was referred to the committee or not.

Mr. ROSCOE CONKLING. I object to having the letter read.

The SPEAKER. The point of order turns upon the fact whether the letter or the subject was referred to the committee.

Mr. WASHBURNE. I will state to the House upon what the report is based. The Secretary of War has sent to the committee on Government contracts the letter which I have sent to the Clerk's desk.

Mr. ROSCOE CONKLING. I call the gentleman to order.

The SPEAKER. The gentleman has a right to make a statement upon the point of fact.

Mr. ROSCOE CONKLING. The gentleman has a right to make a statement upon the point of fact; but he has no right to state what the Secretary of War has said, or what he has sent to him.

The SPEAKER. The gentleman has a right to make a statement of the facts.

Mr. WASHBURNE. The Secretary of War, in a communication to me as chairman of the committee on Government contracts, states that there have been lands patented upon the military reserve at Fort Leavenworth, and that there are some matters connected with the issuing of these patents, and that the lands which have thus been——

The SPEAKER, (interrupting.) The Chair will state to the gentleman from Illinois that the only question is one of fact as to whether this subject has been referred to the committee.

Mr. WASHBURNE. This is the fact I am stating. I ask that the letter may be read.

The SPEAKER. It cannot be read upon a point of order. The Chair sustains the point of order, unless something has been referred to the committee by the House relating to this subject.

Mr. WASHBURNE. Then I ask that the resolution may be referred to the committee on Government contracts.

The SPEAKER. That cannot be done during this call, which is for reports from committees for reference only. The point of order was that the subject not having been referred to the committee on Government contracts, the committee have no power to report upon it. The Chair sustains the point of order.

The committees having been called through,

The SPEAKER commenced the call of States for resolutions, as being the next business in order.

LEAVE OF ABSENCE.

Mr. DIVEN. I desire to move for leave of absence for my colleagues, Mr. VAN VALKENBURGH, Mr. POMEROY, and myself, from this Congress, and in doing so I desire to make a statement to the House.

No objection being made to the statement,

Mr. DIVEN said: I wish to say in relation to the absence of my colleagues, and the contemplated absence of myself, that I ask it at the solicitation of the Executive. He has desired that we should go to our districts and use our influence in aid of raising troops for the service of the country.

Mr. EDWARDS. Is it too late to object to the statement?

The SPEAKER. The Chair thinks it is.

Mr. DIVEN. And, sir, in taking leave of this House, if the application should be granted, for this session, and perhaps forever, I desire to say a few words to my fellow Representatives here, and I will trespass but a moment upon the patience of the House in what I may say.

Sir, it has been my effort in the brief time that it has been my privilege to occupy a seat in this House to discharge my duty to my country; and among the unpleasant duties that I have been called upon to perform was that of differing with many of my associates. Whenever that difference has arisen, it has been a question between my duty to my country and my duty towards and respect for my fellow Representatives. Sir, in this crisis of the country, when, in my judgment, the only hope lies in the strong arm of the military force of the nation, the man who lends his aid and influence to strengthen the military power of the country comes to her assistance in the hour of her peril and of her need; but the men who sit here in council, debating and discussing abstract questions of Government, in my judgment are neglecting their country in the great peril in which it is now laboring. Sir, if this Republic is saved, if this nation with its Constitution and Union is saved, it can only be done by the strong arm upon the battle-field; and in taking leave of the House for this session, I invite those that remain here to devote their energies to procuring arms and armies, and to leave to a future time those questions upon which we are divided, and about which we differ. I think, sir, that this Congress has committed a mistake. Honestly, I think, they have done it. I think they have erred in introducing measures and discussing measures that can be of no avail until after this rebellion shall be crushed out and put down. I think it was a mistake to revive party differences in this Congress, or in the nation, when there is a single point about which the nation is agreed.

Mr. HUTCHINS. I rise to a question of order. I inquire whether it is in order, under the permission granted to the gentleman, for him to go on and lecture this House?

Mr. DIVEN. Oh, sir, I am not lecturing this Congress. I do not mean to lecture this Congress.

The SPEAKER. The gentleman will suspend until the question of order is decided.

Mr. WALL. I think it is entirely out of order. If the gentleman wants to leave let him go and do all he can, but he has no right to censure this Congress.

The SPEAKER. The Chair has repeatedly stated that when the House gives unanimous consent to a gentleman to make remarks of a personal character, the Chair cannot determine how far his remarks may go.

Mr. DIVEN. I have no doubt that I have committed mistakes here, and that we have all committed mistakes here, and I hope that I can acknowledge my mistakes and suggest the mistakes of others without incurring the censure of reading a lecture to members. Far be it from me to read any such lecture. Far be it from me to arrogate to myself any superior wisdom. I was only offering an excuse for such differences as have existed between us here, and I was only intending to declare that so far as I was concerned, I had been honest in my difference with my fellow Representatives around me, and to give them credit for honesty in their differences with me. That was the extent to which I intended to go.

Now, sir, I want to advert to one other thing, because it is known that in my course in this Congress I have desired that the whole Union sentiment of the country should be concentrated at a given point; that in my earnest desire for this, I have differed with some of my political friends, and that the subject of difference has been in regard to the course that has been pursued toward the border States men, and the Union men in the slave States whom the Government has been unable to protect in their Union proclivities. And, sir, I will undertake to say that it is the first time I have talked about the negro in this House. I ventured to suggest on Saturday last, that I had had in my desk for a long time a bill that I was desirous to introduce here for the employment of negroes in the southern States in the defense of the Government of the United States; and inasmuch as in my course here I have agreed generally with the border States men, and inasmuch as the introduction of this measure is calculated, perhaps, to alienate me from them, as they may differ from me in regard to it, I wish briefly to say why I think the negroes in the southern States ought to be thus employed. Sir, I know it to be the fact that this Government is to-day supporting over ten thousand black men at the expense of its Treasury. Those black men are rendering no equivalent for that support. Their masters have left them upon their estates in the South, and where our armies have been successful and have occupied these estates, they have come to our camps for support, and we have taken them under our protection and are affording them sustenance and protection. I say that we ought to make them render an equivalent. I say that we ought to muster them into our service, and employ them in our trenches and in our batteries, and instruct them in siege duty, so that they may help to maintain the conquests that we have made.

Mr. PHELPS, of Missouri. I desire to propound a question to the gentleman from New York.

Mr. McPHERSON. I object.

Mr. DIVEN. If my friend will wait till I get through perhaps I will answer him.

Mr. McPHERSON. I object to any interruption.

Mr. DIVEN. I will detain the House but a few moments longer. I say that it is the duty of the Government to employ these men, because we are affording them protection and sustenance. I say that it is the duty of the Government to employ them, because unless they are organized and brought into a state of systematic discipline, very soon they will become disorderly, and band themselves together, and no one can foresee what outrages they will perpetrate upon the country which is left to them. For that reason they should be organized and disciplined. There is this further reason: that the season is approaching when white men cannot exist in these torrid latitudes, and they should be trained to defend and protect the positions that we have taken, under the guidance of Army officers, and under the rules and discipline of war. The bill which I have prepared provides that they shall be thus employed.

Mr. CAMPBELL. I desire to make an inquiry of the gentleman from New York.

Mr. McPHERSON. I object.

Mr. DIVEN. My bill provides that these men shall receive the same pay as common soldiers; but, in the discretion of the officers in command of them, a portion of that pay may be taken for the support of the women and children who have been brought into camp and who are dependent on them for support. The bill further provides that when they have rendered these services and come to be dismissed, instead of receiving the bounty which we pay to our soldiers, an amount equal to the bounty shall be expended in transporting these men with their families to such colony as they shall select, and supporting them for six months in such colony. I propose that, if they are willing to do so, means shall be provided for their emigration. I make no provision for compelling them to go, only they get no bounty if they do not go.

Now, a single word as to the propriety of training black men to the use of arms, and, after you have thus trained them, leaving them in a country where they are more numerous than the white race. I submit to the judgment of any man if he thinks common humanity and wisdom would justify such a course? And can the negro complain if, after we have employed him, we place him in a country where we know—whatever he may think—he will be better off than if he remains at home where he can never overcome the prejudice against color?

Now, sir, I make this explanation of my intentions in introducing, or trying to introduce, this bill, simply to show that I never entertained the idea of an indiscriminate arming of black men, without putting them in ranks and subjecting them to control. I think there could be no inhumanity greater than that of placing arms in the hands of men who are in the condition of the blacks of the

THE CONGRESSIONAL GLOBE.

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South, and letting them roam over the land, committing indiscriminate murder and desecration. It is to avoid that very state of things, which must otherwise inevitably come to pass, that I would have the negroes mustered into service and employed. No man can look into the future, and see the success of our arms in the southern States, where black men outnumber the white men; no man can look to the prospect of the eradication of white men from that section and leaving the blacks in possession of the land, without seeing, if he has any power at all to look into the future, that these blacks will fall into excesses, which we will be called upon to correct by the strong arm of the country. I never thought, I never dreamed, that we could fight the battles of this country by black men. Any man who indulges the belief that this rebellion can be put down by the employment of black men as soldiers, while white men rest from the labor of arms—any man who is hugging that idea is hugging a delusion. No, sir, this rebellion must be put down by the best blood of the country. The blood of white men must flow, and flow in rivers, before the rebellion is put down. The little that is circulating in my own veins may go to swell the current as soon as the opportunity is offered to shed it profitably. I invoke men who want to see an end to the rebellion to put their whole energies to the work of enlisting soldiers to fight the battles of the country. And I hope that Congress will soon feel that, after they shall have passed two or three necessary measures, they cannot better do their duty to their country than by adjourning, going home, resolving themselves into recruiting officers, and coming back to the battlefield, leading their constituents, or following in the lead of their constituents.

Having said thus much, I desire to ask leave of absence for my colleagues, Messrs. VAN VALKENBURGH, POMEROY, and myself during the remainder of the session.

Leave was granted.

NEGROES IN GOVERNMENT WAGONS.

The SPEAKER stated that the business in order was the preamble to the resolution offered by the gentleman from Indiana [Mr. VOORHEES,] on the 16th ultimo, as follows:

Whereas the following statement appears in a public journal which is worthy of confidence: "The New Albany Ledger says a Union man, a citizen of the valley of Virginia, the scene of the recent conflicts, who was compelled to abandon his home and accompany the Union army on its retreat across the Potomac, is now on a visit to some of his relatives in Harrison county. Having suffered much, and been imprisoned more than once on account of his Union sentiments, which he never attempted to conceal, and being now an exile, he, of course, feels exceedingly bitter towards the rebels, and hopes for their speedy and thorough subjugation and the punishment of the leading traitors. One circumstance occurred during Banks's retreat, which he states caused much hard feeling, not only among the loyal Virginians, but among the Union soldiers also. This gentleman says that in the retreat, General Banks furnished Government transportation for negroes who accompanied our army, while the white people—men, women, and children—who were fleeing from their homes, were compelled to walk; and he saw stout negroes riding in Government wagons, while sick and wounded soldiers were walking:" Therefore.

Mr. LOVEJOY. I move to lay the preamble on the table.

Mr. GOOCH. I beg leave to read an extract from a letter from General Banks in relation to this subject.

Mr. VOORHEES. If letters are to be read, I have got a few which I wish to have read.

The SPEAKER. If it give rise to debate, it must go over. Debate is not in order.

Mr. GOOCH. I ask the gentleman from Illinois to withdraw his motion to lay on the table.

Mr. LOVEJOY. I will do so, if the gentleman will renew it.

Mr. VOORHEES. I object, unless this matter can be made general.

Mr. RICHARDSON. I call for the yeas and nays on the motion.

The yeas and nays were ordered.

Mr. LOVEJOY. At the request of several gentlemen, I withdraw the motion to lay on the table.

Mr. WASHBURNE. I renew it.

Mr. GOOCH. I ask the gentleman from Illinois to withdraw the motion for a moment.

Mr. PHELPS, of Missouri. I ask the Chair whether this matter is subject to debate now?

The SPEAKER. That is not a question for the Chair.

Mr. WASHBURNE. For what purpose does the gentleman from Massachusetts ask the withdrawal of the motion?

Mr. GOOCH. I state the purpose to be this——

The SPEAKER. The gentleman from Massachusetts cannot state the purpose. It would be in the nature of debate.

Mr. WASHBURNE. If the gentleman does not want to make a speech, I will withdraw the motion.

Mr. GOOCH. I do not desire to make a speech.

Mr. WASHBURNE. Then I withdraw the motion.

Mr. GOOCH. I ask consent of the House to have an extract read in reference to this subject.

Mr. PHELPS, of Missouri. I object, unless both sides are heard.

Mr. VOORHEES also objected.

Mr. GOOCH. Then let it go on the record that the gentleman who offered the resolution objected to the reading of a letter on the subject.

Mr. VOORHEES. I do object, unless I have the same privilege. I have letters also which I ask to be read.

Mr. LOVEJOY. I renew the motion to lay the preamble on the table.

Mr. RICHARDSON. On that I call for the yeas and nays.

The yeas and nays were ordered.

Mr. GOOCH. I ask the unanimous consent of the House now to permit me to have read an extract from a letter which I have, and that the gentleman from Indiana shall also be permitted to have read anything he may desire to have read.

Mr. ALLEN, of Ohio. I object.

The question was taken; and it was decided in the affirmative—yeas 71, nays 42; as follows:

YEAS—Messrs. Aldrich, Alley, Ashley, Babbitt, Baker, Baxter, Beaman, Bingham, Francis P. Blair, Samuel S. Blair, Blake, Buffinton, Chamberlin, Clark, Colfax, Frederick A. Conkling, Roscoe Conkling, Covode, Cutler, Diven, Dunn, Edwards, Eliot, Fenton, Fessenden, Frank, Goodwin, Hale, Hutchins, Julian, Kelley, Francis W. Kellogg, William Kellogg, Lansing, Loomis, Lovejoy, Low, McKnight, McPherson, Maynard, Mitchell, Moorhead, Anson P. Morrill, Justin S. Morrill, Patton, Timothy G. Phelps, Pike, Porter, Potter, John H. Rice, Riddle, Sargent, Sedgwick, Shanks, Sheffield, Shellabarger, Sherman, Sloan, Spaulding, Stevens, Benjamin F. Thomas, Train, Van Horn, Wall, Wallace, Washburne, Wheeler, Albert S. White, Wilson, Windom, and Worcester—71.

NAYS—Messrs. William Allen, William J. Allen, Biddle, Jacob B. Blair, George H. Browne, Calvert, Corning, Cox, Cravens, Crisfield, Dunlap, Fouke, Granger, Grider, Haight, Hall, Harding, Holman, Kerrigan, Knapp, Law, Mallory, May, Menzies, Morris, Noell, Norton, Nugen, Pendleton, John S. Phelps, Richardson, Robinson, Shiel, John B. Steele, William G. Steele, Stiles, Francis Thomas, Voorhees, Ward, Webster, Wickliffe, and Wood—42.

So the preamble was laid on the table.

Pending the call of the roll,

Mr. TRAIN stated that Mr. RICE, of Massachusetts, was paired off with Mr. WADSWORTH.

Mr. STEELE, of New Jersey, stated that Mr. ARNOLD was detained in Philadelphia on account of sickness in his family.

ENROLLED BILLS.

Mr. GRANGER, from the Committee on Enrolled Bills, reported as truly enrolled bills of the following titles; when the Speaker signed the same:

Joint resolution (H. R. No. 91) to confirm the adverse decision of the Court of Claims in the case of Robert Irvin, trustee of the Mechanics' Bank, New York;

Joint resolution (H. R. No. 87) to confirm the adverse decision of the Court of Claims in the case of Dennis Cronans;

Joint resolution (H. R. No. 92) to confirm the adverse decision of the Court of Claims in the case of C. J. Jenkins and W. W. Mann, assignees of John McKinnie;

An act (H. R. No. 543) relating to schools for the education of colored children in the cities of Washington and Georgetown, in the District of Columbia;

An act (H. R. No. 529) concerning certain lands heretofore granted to the State of Iowa;

Joint resolution (H. R. No. 89) to confirm the adverse decision of the Court of Claims in the case of Lewis Warrington and others;

Joint resolution (H. R. No. 88) to confirm the adverse decision of the Court of Claims in the case of T. S. J. Johnson;

An act (H. R. No. 549) to abolish certain ports of delivery in the Mississippi valley;

Joint resolution (H. R. No. 90) to confirm the adverse decision of the Court of Claims in the case of Abraham King, administrator of John Manderville; and

An act (H. R. No. 545) to authorize the Secretary of the Treasury to appoint a deputy collector of the customs at Chincoteague island, in the State of Virginia

PAY OF MEMBERS.

Mr. BLAIR, of Missouri. I rise to a question of privilege. I ask leave to introduce a joint resolution concerning the pay of Senators and Representatives in Congress belonging to the Army.

Mr. WASHBURNE. That is not a question of privilege.

The joint resolution was read. It directs the Secretary of the Senate and the Sergeant-at-Arms of the House of Representatives to pay to such members of either House of Congress as have held or may hold positions in the Army of the United States during the present rebellion, their monthly pay and mileage as members of either House of Congress during their term of service in the Army; provided, that such members may elect to receive their pay as members or as officers, but shall under no circumstances receive the pay of member of Congress and that of an officer in the Army for the same period of time.

The SPEAKER. The Chair thinks that that is not a question of privilege.

Mr. BLAIR, of Missouri. Then I ask leave to introduce it.

Mr. WASHBURNE. I am in favor of it, but not now. I will assist the gentleman from Missouri in getting his resolution before the House at a proper time, but for the present I want the regular order of business proceeded with.

INTRODUCTION OF RESOLUTIONS.

The SPEAKER. The regular order of business is the call of States for resolutions, and the introduction of bills for reference.

EDIZ HOOK LIGHT-HOUSE.

Mr. WALLACE, of Washington, introduced the following resolution; which was read, considered, and agreed to:

Resolved, That the Committee on Commerce be instructed to inquire into the expediency of making an appropriation to construct a light-house at Ediz Hook, in the Territory of Washington.

RAILROAD TO POINT OF ROCKS.

Mr. WALLACE, of Washington, also introduced a bill to authorize the construction of a railroad from Washington city to Point of Rocks; which was read a first and second time, and referred to the Committee on Military Affairs.

HOMESTEAD AND PREËMPTION LAWS.

Mr. CRADLEBAUGH introduced a bill limiting the operation of the homestead and preëmption laws; which was read a first and second time, and referred to the Committee on Public Lands.

TEXAN DEPREDATIONS IN NEW MEXICO.

Mr. WATTS submitted the following preamble and resolution; which was read, considered, and agreed to:

Whereas the United States have faithfully complied with the conditions and stipulations contained in a joint resolution for the annexation of Texas, approved March 1, 1845, and the conditions and stipulations of said joint resolution have been, without cause, violated by the State of Texas; and whereas the State of Texas has taken and converted to her own use wrongfully the money, arms, and other property of the United States of great value; and whereas the State of Texas has, without cause and of her own wrong, invaded

the Territory of New Mexico, and captured and destroyed, and caused to be destroyed, large quantities of the public property of the United States, and of the private property of the people of New Mexico; and whereas the said State of Texas has, by force, illegally taken and converted to her own use large sums of money of the United States, of the Territory of New Mexico and of the citizens of the United States residing in said Territory; and whereas the said State of Texas is the owner of large quantities of unsold and unoccupied lands: Therefore,

Resolved, That the Committee on the Judiciary be instructed to inquire into the expediency of ascertaining the amount so due the United States, the Territory of New Mexico and its citizens, by the State of Texas, and inquire into the expediency and legality of confiscating so much of the public lands of the State of Texas as may be sufficient to pay the amount so found and owing, and report by bill or otherwise.

CIRCUIT COURT ON THE PACIFIC.

Mr. SARGENT submitted the following resolution, which was read, considered, and agreed to:

Resolved, That the Committee on the Judiciary be instructed to inquire into the expediency of increasing the number of judges of the Supreme Court to ten, and of establishing an additional circuit court of the United States court to be called circuit No. 10, and to be composed of the States of California and Oregon, and that they have leave to report by bill or otherwise.

CUSTODY OF MINERALOGICAL SPECIMENS.

Mr. WATTS submitted the following resolution; which was read, considered, and agreed to:

Resolved, That the Committee on Agriculture be instructed to inquire into the expediency of providing in the Patent Office suitable cases in which to be deposited the mineralogical specimens from the different States and Territories contributed by Senators, members of the House of Representatives, and Delegates in Congress, and report by bill or otherwise.

PAY OF CHARLES HENRY FOSTER.

Mr. MORRILL, of Maine, submitted the following resolution:

Resolved, That the Sergeant-at-Arms be directed to pay to Charles Henry Foster his compensation as a claimant of a seat as Representative from the second congressional district of North Carolina in the Thirty-Seventh Congress.

Mr. BLAKE. I object.

The SPEAKER. The resolution is in order.

Mr. F. A. CONKLING. I call for the yeas and nays upon its adoption.

Mr. BLAKE. I move to lay the resolution on the table.

The motion was agreed to.

Mr. BLAKE moved to reconsider the vote by which the resolution was laid on the table; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

DISTRIBUTION OF BOOKS.

Mr. WALTON introduced the following joint resolution; which was read a first and second time, and referred to the Committee on the Library:

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the books and public documents now in the Department of the Interior, subject to distribution according to the order of members of both Houses of Congress, under the act of March 2, 1861, shall be distributed to such incorporated colleges, public libraries, athenæums, and literary and scientific associations as shall be designated in each State by the Senators and members of the present Congress; and in case of failure to designate by such members in any State or district, then to such institutions before mentioned as shall be designated by Senators and members for such State or district in the next or any succeeding Congress.

Mr. MOORHEAD. Has the morning hour expired?

The SPEAKER. It has.

NATIONAL FOUNDERY.

Mr. MOORHEAD. I ask the consent of the House to discharge the Committee of the Whole on the state of the Union from the further consideration of House joint resolution No. 42, providing for the establishment of a national foundery east of the Alleghany mountains, and a national foundery, a national armory, and a manufacturing arsenal west of that line and in the valley of the Ohio and Mississippi.

Mr. DAWES. I object.

Mr. MOORHEAD. I move to suspend the rules.

Mr. HOLMAN. I submit the question of order that, even if the resolution is brought before the House, it must be first considered in Committee of the Whole, as it makes an appropriation.

The SPEAKER. The House, by a two-thirds vote, may suspend that rule.

The rules were not suspended—only twenty-two members voting therefor.

MILITARY RESERVATIONS.

Mr. WASHBURNE submitted the following resolution; which was read, considered, and agreed to:

Resolved, That the Committee on Private Land Claims be directed to make full investigation into the alleged issue of patents for lands included within the military reservation at Fort Leavenworth, and all the circumstances connected therewith; and also to inquire in relation to the present situation of the military reservation at Fort Snelling; and that they be authorized to send for persons and papers and to examine witnesses under oath.

On motion of Mr. WASHBURNE, certain papers relating to the subjects of the resolution were also introduced, referred, and ordered to be printed.

MESSAGE FROM THE SENATE.

A message was received from the Senate, by Mr. FORNEY, their Secretary, notifying the House that the Senate have passed, without amendment, a bill of the House (No. 438) to grant pensions.

The message further announced that the Senate had passed a bill (No. 351) supplementary to the act for the release of certain persons held to service in the District of Columbia, approved April 16, 1862; in which he was instructed to ask the concurrence of the House.

The message further announced that the Senate had agreed to the report of the committee of conference on the bill of the Senate (No. 175) to define the pay and emoluments of certain officers of the Army, and for other purposes; and adhered to their disagreement to the amendments of the House to the said bill.

The message further announced that the Senate disagree to the amendment of the House to their eighth amendment, and insist upon their second, ninth, and tenth amendments, disagreed to by the House, to the bill of the House (No. 393) making further appropriations for sundry civil expenses of the Government for the year ending 30th of June, 1863, and additional appropriations for the year ending the 30th of June, 1862; ask a conference with the House on the disagreeing votes of the two Houses thereon; and have appointed Mr. COLLAMER, Mr. SHERMAN, and Mr. CLARK the committee of conference on their part.

The message further announced that the Senate insist upon their amendments, disagreed to by the House, to the bill of the House (No. 187) to authorize an additional issue of United States notes, and for other purposes; agree to the conference asked by the House on the disagreeing votes of the two Houses thereon; and have appointed Mr. FESSENDEN, Mr. SHERMAN, and Mr. WRIGHT the committee of conference on the part of the Senate.

MARGARET BAILEY.

Mr. TRIMBLE. I ask the consent of the House to permit the Committee on Military Affairs to report back House bill No. 527, to secure one month's pay and pension to Margaret Bailey, widow of George B. Bailey, lieutenant colonel in the ninth regiment of Virginia volunteers. I have not asked many favors of the House, and hope I may be indulged in the appeal which I wish now to make.

The SPEAKER. No debate is at this time in order.

Mr. TRIMBLE. I ask that the bill may be read.

The bill was read. It directs that there be paid to Margaret Bailey, widow of George B. Bailey, late acting lieutenant colonel in the ninth regiment of Virginia volunteers, one month's pay of a lieutenant colonel for services rendered by her husband as lieutenant colonel and surgeon, prior to November 10, 1861, when he was killed in battle at Guyandotte, Virginia.

The bill also directs the Commissioner of Pensions to place the name of Margaret Bailey on the pension roll, and that she be allowed and paid the same pension that she would have been entitled to had her husband been regularly mustered into the service of the United States service as a lieutenant colonel of infantry at the time of his death.

Mr. HOLMAN. I do not propose to object to the bill, but I wish to suggest that the law, as it is in force to-day, is somewhat different in regard to pensions from that which the House has proposed to provide for the future. I desire that our legislation may be uniform.

Mr. TRIMBLE. It is the object of this bill to conform to the existing legislation.

Mr. HOLMAN. I wish to suggest, therefore, that the pension be fixed at thirty dollars a month, which is the rate we have proposed to fix in such instances.

Mr. TRIMBLE. I ask that the report in the case may be read.

The report was read, from which it appears that George B. Bailey was acting lieutenant colonel in the ninth regiment of Virginia volunteers; that Hon. K. V. Whaley, who had been authorized by the Governor of Virginia to raise the ninth Virginia regiment, selected George B. Bailey as his second in command because of his character, military education, and practical experience in the field as captain of a company in the first regiment of Ohio volunteers in the three months service; that Guyandotte, Virginia, was made the recruiting station for the ninth Virginia regiment, and Acting Lieutenant Colonel Bailey put in sole charge of it; that from about the 1st of October George B. Bailey was zealously engaged in organizing the ninth Virginia regiment, and in giving such protection to that part of the border as his force would admit of; that he also performed the duty of surgeon to the ninth Virginia regiment; that on the night of the 10th of November an attack was made on the town of Guyandotte by a cavalry force of twelve hundred, under command of the notorious rebels Jenkins and Clarkson, in which Acting Lieutenant Colonel Bailey and eight others were killed, six wounded, and sixty, including Colonel K. V. Whaley, were taken prisoners, the enemy losing in killed seventeen men and sixteen horses; that the ninth Virginia regiment was filled up by consolidating with it the tenth Virginia regiment; that all of the officers and privates belonging to the regiment at the time of the attack on Guyandotte have been paid, and those who were killed, having been mustered into service, will be entitled to pension; that Acting Lieutenant Colonel Bailey, as appears by letter from Governor Pierpont, would have received his commission but for his untimely death; that Acting Lieutenant Colonel Bailey leaves a widow and five small children without any means of support.

Mr. TRIMBLE. I have several letters, and a petition signed by all of the Virginia State officers, many officers of the army in Western Virginia, and a large number of citizens in the valley of the Ohio, asking that Congress will perform this act of justice to the widow of Lieutenant Colonel Bailey.

I now send to the Clerk's desk a letter from Colonel Whaley, the member from the twelfth district of Virginia, which I ask may be read.

The letter was read, as follows:

WASHINGTON, *June* 17, 1862.

SIR: I am requested by the friends of Captain George B. Bailey, of Portsmouth, Ohio, to give a statement concerning the services rendered by him in assisting to organize the ninth Virginia regiment at Guyandotte. I will state I was authorized by Governor Pierpont, of Virginia, to organize the ninth Virginia regiment, he giving me the privilege of selecting all the regimental officers of said regiment, stating that he would commission them upon my recommendation. I selected Captain Bailey as lieutenant colonel; he had the military discipline of said regiment under his control for one month, also attended the sick in hospital, being a physician by profession. He was killed on the 10th of November, 1861, while bravely doing his duty in that desperate contest at the time one hundred raw recruits were attacked by twelve hundred and ten cavalry under the rebel colonels Clarkson and Jenkins. Had he lived he would have been commissioned as lieutenant colonel in a few weeks. His death has left a very destitute family, and the loyal people of that portion of Virginia are anxious that they should be provided for the same as his services would have entitled him to had he lived to have obtained his commission.

Respectfully yours, K. V. WHALEY.

Hon. W. MCKEE DUNN.

Mr. HOLMAN. I would inquire whether the amendment I suggested has been made to the bill?

The SPEAKER. The Chair has not received any amendment.

Mr. TRIMBLE. I have no objection to the amendment.

Mr. HOLMAN. Then I move to insert "thirty dollars per month," in lieu of the language used in the bill.

The bill was so amended by unanimous consent.

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

ESTABLISHMENT OF GOVERNMENT ARSENALS.

Mr. PORTER. I ask the unanimous consent of the House to take from the Speaker's table, that

it may be acted on at this time, the bill of the Senate No. 342, for the establishment of certain national arsenals.'

Mr. WALLACE, of Pennsylvania, objected.

Mr. PORTER. Then I move to suspend the rules for that purpose.

Mr. WASHBURNE demanded the yeas and nays on the suspension of the rules.

The yeas and nays were ordered.

The bill which, was read, directs that there shall be established a national arsenal at Columbus, in the State of Ohio; at Indianapolis, in the State of Indiana; and at Rock Island, in the State of Illinois, for the deposit and repair of arms and other munitions of war.

The bill also appropriates, for the purpose of carrying the act into effect, $100,000 for each arsenal named in the first section.

The question was put; and there were—yeas 84, nays 16; as follows:

YEAS—Messrs. Aldrich, William Allen, William J. Allen, Alley, Ancona, Ashley, Baxter, Beaman, Bingham, Blake, George H. Browne, Buffinton, Calvert, Chamberlin, Clements, Colfax, Cox, Cravens, Crittenden, Cutler, Dawes, Diven, Duell, Dunlap, Dunn, Edwards, Eliot, Ely, English, Fouke, Gooch, Goodwin, Granger, Grider, Gurley, Haight, Harding, Holman, Julian, Kerrigan, Knapp, Law, Leary, Loomis, Lovejoy, Low, May, Anson P. Morrill, Morris, Noell, Norton, Nugen, Odell, Olin, Pendleton, Timothy G. Phelps, Porter, Richardson, Riddle, Edward H. Rollins, James S. Rollins, Sargent, Sedgwick, Segar, Shanks, Sheffield, Shellabarger, Sherman, Shiel, John B. Steele, William G. Steele, Stiles, Benjamin F. Thomas, Francis Thomas, Train, Trimble, Voorhees, Wall, Washburne, Webster, Albert S. White, Wickliffe, Wilson, and Wood —84.

NAYS—Messrs. Babbitt, Samuel S. Blair, Campbell, Frederick A. Conkling, Roscoe Conkling, Covode, Fenton, Frank, Granger, Kelley, Lansing, Lazear, McKnight, McPherson, Moorhead, and Wallace—16.

So (two thirds voting in favor thereof) the rules were suspended.

The bill was accordingly taken from the Speaker's table, and brought before the House for its action.

Mr. PORTER obtained the floor.

Mr. BAKER. I ask the gentleman from Indiana to allow me to offer an amendment.

Mr. PORTER. I desire to have this bill passed as it came from the Senate, and I therefore move the previous question.

Mr. LOVEJOY. I hope the gentleman will allow me to move to insert Peoria, Illinois.

Mr. WASHBURNE. If my colleague insists upon that, I shall want to move to put in Galena. [Laughter.]

Mr. COLFAX. And I, South Bend.

Mr. PORTER. I will withdraw the demand for the previous question for the purpose of making a statement. This is a Senate bill, which passed that body almost unanimously, for the establishment of three arsenals: one at Columbus, in the State of Ohio; one at Indianapolis, in the State of Indiana; and one at Rock Island, Illinois.

I will state, in reference to Indianapolis, that at the commencement of the war the State of Indiana established an arsenal, for which she has now paid $79,000. That arsenal has been engaged in the manufacture of ammunition and the repair of arms, and it supplied nearly all the ammunition which was used at the battle of Shiloh.

At Columbus, Ohio, a like arsenal has been established; and from the State of Iowa, by a nearly unanimous vote of her Legislature, a petition has been presented to Congress for the establishment of an arsenal at Rock Island. That island is owned by the Government.

I will state, that in the matter of repair of guns alone, perhaps more will be saved than the whole appropriation proposed here, because the transportation of a gun from the army of the West to the eastern manufactories is almost equal to its value.

As I see that the House is quite ready to pass this bill, this is all I deem it necessary to state upon this subject.

Mr. HOLMAN. I would inquire of my colleague whether, for the limited purposes mentioned in this bill, a much less sum than $100,000 would not be sufficient?

Mr. PORTER. No, sir; we have already established an arsenal at Indianapolis which has cost the State $79,000, and for the future purposes of the war it is indispensable that there should be at least an appropriation of $100,000 for each of these arsenals. I now renew the demand for the previous question.

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

Mr. COX moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

SUPPRESSION OF THE SLAVE TRADE.

Mr. GOOCH. I ask the unanimous consent of the House to permit me to report back from the Committee on Foreign Affairs the bill of the Senate No. 352, to carry into effect the treaty between the United States and her Britannic Majesty for the suppression of the African slave trade.

The bill, which was read, provides that for the purpose of carrying into effect the provisions of the treaty between the United States and her Britannic Majesty for the suppression of the African slave trade, the President be authorized to nominate, and by and with the advice of the Senate to appoint a judge, and also an arbitrator, on the part of the United States, to reside at New York; a judge, and also an arbitrator, to reside at Sierra Leone; and a judge, and also an arbitrator, to reside at the Cape of Good Hope.

It also provides that the judge at New York shall be paid at the rate of $2,500, and the arbitrator there at the rate of $1,000 a year; and the judges at Sierra Leone and the Cape of Good Hope shall be paid at the rate of $2,500 a year, respectively, and the arbitrators at the last two places named, $2,000 a year, respectively, the said salaries to begin with the acceptances of their commissions by the said judges and arbitrators.

It is also provided further that the judge of the court at New York shall have power to appoint a clerk or registrar to the said court, who shall receive such fees for his service as are allowed by law to the clerk of the court of the United States for similar services; that it shall be the duty of the marshal of the southern district of New York to serve all processes, and execute all orders and decrees of the said court, for which he shall be allowed fees in the discretion of the judge of said court.

The bill further repeals all acts and parts of acts of Congress inconsistent with the aforesaid treaty, and with the act itself.

No objection being made, the Committee on Foreign Affairs were discharged from the further consideration of the bill, and it was brought before the House for consideration.

Mr. GOOCH. I desire only to state that the provisions contained in this bill are necessary to carry into effect the treaty recently made between this country and Great Britain for the suppression of the slave trade.

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

Mr. GOOCH moved to reconsider the vote by which the bill was passed, and also moved to lay the motion to reconsider upon the table.

The latter motion was agreed to.

MRS. FANNY MACTIER SMITH.

Mr. LOVEJOY. I ask the unanimous consent of the House that the bill from the Senate, for the relief of Fanny Mactier Smith, be taken from the Speaker's table, and considered now.

The bill was read. It directs the Secretary of the Interior to place the name of Mrs. Fanny Mactier Smith, widow of the late Major General Charles F. Smith, of the United States Army, on the pension roll, at the rate of fifty dollars per month, from the 1st of May, 1862, for and during her widowhood.

Mr. HOLMAN. I believe that, according to the law of the land, this lady is entitled to a pension of forty-five dollars a month.

The SPEAKER. Debate is not in order at this time.

Mr. F. A. CONKLING. I object to taking up the bill.

Mr. LOVEJOY. I move a suspension of the rules for the purpose of taking up the bill.

The question was taken; and there were—ayes 20, noes 8.

Mr. WASHBURNE. I ask for the yeas and nays. This lady is the widow of General Charles F. Smith, who died in consequence of wounds received at Fort Donelson.

The SPEAKER. Debate is not in order, as the gentleman well knows, and the Chair appeals to gentlemen to observe the rules of the House. A motion to suspend the rules is not a debatable question.

Mr. WASHBURNE. Is it in order to ask for the reading of the report?

The SPEAKER. There is no report accompanying the bill.

Mr. WASHBURNE. Is it in order to ask that a statement may be made in justice to this widow?

The SPEAKER. Debate is in order by unanimous consent, but not otherwise.

Mr. WASHBURNE. I hope the House will have magnanimity enough to hear a brief statement.

There was no objection.

Mr. WASHBURNE. I am much obliged to the House, and will make the statement very brief. Mrs. Smith is the widow of Major General Charles F. Smith, the man who led that brilliant charge at Fort Donelson, and there he received a wound in the leg which superinduced the disease of which he afterwards died. He has left a widow and three children, and I am told that she is absolutely penniless. I hope the House will suspend the rules and pass the bill at once.

Mr. HOLMAN. This lady, of course, receives a pension under the general law. How much is it?

Mr. WASHBURNE. I understand that under the law as it now exists she receives no pension at all.

Mr. HOLMAN. No pension at all?

Mr. WASHBURNE. No pension at all.

Mr. HOLMAN. Can the gentleman state why?

Mr. WASHBURNE. I cannot; but I understand that to be the fact. The bill was fully discussed in the Senate, and I believe there was no opposition to its passage.

Mr. HOLMAN. My friend from Illinois will remember that a bill has passed this House fixing the pensions of all persons above the rank of major at $30 a month.

Mr. WASHBURNE. That bill has not yet become a law.

Mr. HOLMAN. This bill fixes the pension of this lady at $50. I understand that the Senate has passed the House bill.

Mr. FENTON. It passed the Senate to-day with a slight amendment.

Mr. WASHBURNE. It has nothing to do with this case. Thirty dollars a month would be utterly insufficient.

Mr. FOUKE. At what rate does this bill fix the pension?

Mr. WASHBURNE. At fifty dollars a month.

Mr. FOUKE. That is not half enough.

Mr. WASHBURNE. I think it unjust and ungracious, after the services which this distinguished man rendered to his country, that we should leave his widow a beggar.

Mr. HOLMAN. All I ask is that there should be uniformity in these pensions.

Mr. F. A. CONKLING. I move that the bill be referred to a Committee of the Whole House.

The SPEAKER. The bill is not before the House. The motion is to suspend the rules to bring it before the House, and on that motion the yeas and nays are demanded.

The yeas and nays were ordered.

The question was taken; and there were—yeas 92, nays 7; as follows:

YEAS—Messrs. Aldrich, William Allen, William J. Allen, Alley, Ancona, Ashley, Babbitt, Baker, Beaman, Biddle, Bingham, Jacob B. Blair, Samuel S. Blair, Blake, William G. Brown, Buffinton, Calvert, Campbell, Chamberlin, Clements, Colfax, Cutler, Dawes, Diven, Duell, Dunlap, Dunn, Edwards, Eliot, Ely, English, Fessenden, Fouke, Gooch, Granger, Grider, Gurley, Haight, Hale, Julian, Kelley, William Kellogg, Kerrigan, Knapp, Law, Leary, Loomis, Lovejoy, Low, McKnight, Maynard, Menzies, Moorhead, Anson P. Morrill, Morris, Noell, Nugen, Odell, Olin, Patton, Timothy G. Phelps, Pike, Potter, Richardson, Riddle, Robinson, Edward H. Rollins, James S. Rollins, Sargent, Sedgwick, Segar, Shanks, Sheffield, Shellabarger, Sherman, John B. Steele, Stiles, Benjamin F. Thomas, Francis Thomas, Train, Voorhees, Wallace, Walton, Ward, Washburne, Webster, Whaley, Albert S. White, Wilson, Windom, Wood, and Worcester—92.

NAYS—Messrs. Frederick A. Conkling, Fenton, Goodwin, Lansing, Sloan, Van Horn, and Wheeler—7.

So (two thirds voting in favor thereof) the rules were suspended.

The bill was then taken from the Speaker's table, received its several readings, and was passed.

Mr. LOVEJOY moved to reconsider the vote

by which the bill was passed; and also moved to lay the motion to reconsider upon the table.

The latter motion was agreed to.

PAY OF THE CLERK OF A COMMITTEE.

Mr. ASHLEY. I ask the unanimous consent of the House to offer the following resolution:

Resolved, That the Clerk of the House be and he is hereby ordered to pay to the clerk of the Committee on Territories the usual *per diem* allowance for services during the present Congress.

There was no objection, and the resolution was received.

Mr. ASHLEY. I desire to make a very brief statement. The Committee on Territories have always had a clerk. At the commencement of the session I was called home, and during my absence a resolution, authorizing the employment of clerks by committees, was offered by the gentleman from Illinois, [Mr. WASHBURNE.] The gentleman had promised me that he would include in his resolution all the committees heretofore authorized to employ clerks, but forgot to do so. The Committee on Territories employed a clerk, and he has never been able to get any pay in consequence of that omission. I ask the previous question on the resolution.

The previous question was seconded, and the main question ordered; and under the operation thereof, the resolution was agreed to.

Mr. ASHLEY moved to reconsider the vote by which the resolution was adopted; and also moved to lay the motion to reconsider upon the table.

The latter motion was agreed to.

EXTRA PAY TO CHAPLAIN.

Mr. BINGHAM. I ask the unanimous consent of the House to offer the following resolution:

Resolved, That there be paid to Rev. Thomas H. Stockton, out of the contingent fund of this House, an additional compensation of $500 for his services as Chaplain to this House.

Mr. F. A. CONKLING. I object to that.

Mr. BINGHAM. Then I move that the rules be suspended, in order that the resolution may be received and adopted.

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

The yeas and nays were ordered.

Mr. MALLORY. May I ask what the compensation of the Chaplain is now?

Mr. BINGHAM. Only $750 a year, and he is taken away from his charge.

Mr. ENGLISH. As a new member, I would like to ask the gentleman from Ohio if there is any precedent for this.

Mr. BINGHAM. There are many precedents in the history of the Congress of the United States.

Mr. DAWES. Precedents of what kind?

Mr. BINGHAM. For making additional compensation to Chaplains.

Mr. DAWES. In such times as these?

Mr. BINGHAM. It is a very trifling sum.

The question was taken; and it was decided in the negative—yeas 53, nays 48; as follows:

YEAS—Messrs. Aldrich, Babbitt, Baker, Baxter, Beaman, Bingham, Samuel S. Blair, William G. Brown, Buffinton, Campbell, Chamberlin, Covode, Crisfield, Crittenden, Cutler, Diven, Duell, Eliot, Fessenden, Fouke, Gooch, Goodwin, Granger, Grider, Haight, Hale, Julian, Kelley, William Kellogg, Kerrigan, Leary, Menzies, Moorhead, Anson P. Morrill, Noell, Odell, Timothy G. Phelps, Potter, Sargent, Sedgwick, Segar, Sherman, John B. Steele, Francis Thomas, Train, Van Horn, Wallace, Walton, Washburne, Webster, Wheeler, Albert S. White, and Windom—53.

NAYS—Messrs. William Allen, William J. Allen, Alley, Ancona, Ashley, Biddle, Jacob B. Blair, Blake, Calvert, Clark, Clements, Colfax, Frederick A. Conkling, Roscoe Conkling, Corning, Dawes, Dunlap, Dunn, Edwards, Ely, English, Gurley, Hanchett, Law, Lazear, Loomis, McKnight, Mallory, May, Maynard, Justin S. Morrill, Nugen, Porter, Richardson, Robinson, Edward H. Rollins, James S. Rollins, Shanks, Sheffield, Shellabarger, Shiel, William G. Steele, Stiles, Benjamin F. Thomas, Trimble, Wickliffe, Wilson, and Worcester—48.

So (two thirds not voting in favor thereof) the rules were not suspended.

REVENUE CUTTER SERVICE.

Mr. WASHBURNE, by unanimous consent, introduced a bill in relation to commissioned officers in the United States revenue cutter service; which was read a first and second time, and referred to the Committee on Commerce.

SALVAGE.

Mr. ELIOT asked and obtained unanimous consent to have taken from the Speaker's table Senate bill No. 349, in addition to "An act providing for salvage in cases of recapture," approved March 3, 1800.

The bill was read a first and second time, and referred to the Committee on Commerce.

INDIAN BONDS.

Mr. EDWARDS asked and obtained unanimous consent to have the Committee on Indian Affairs discharged from the further consideration of the bill (H. R. No. 554) relating to trust funds of several Indian tribes invested by the Government in certain State bonds, abstracted from the custody of the late Secretary of the Interior.

The bill was read. It directs the Secretary of the Treasury to cause to be entered upon the proper books of his Department the following credits to the Indian tribes herein named, namely: to the Delawares the sum of $423,990 26; to the Iowas the sum of $66,735; and to the confederate bands of Kaskaskias, Peorias, Piankeshaws, and Weas, the sum of $169,686 75; which said amounts are for and in place of the same amounts heretofore invested by the Government, under treaty stipulations with said tribes, in the bonds of the States of Missouri, Tennessee, and North Carolina, which were stolen while in the custody of Jacob Thompson, late Secretary of the Interior, in whose Department they had been deposited for safe keeping.

The second section enacts that such entries shall be and remain evidence that the United States holds the said several sums named in trust for said tribes, respectively, and the Treasurer of the United States is authorized and directed to pay to said tribes, respectively, on requisitions by the Secretary of the Interior, interest on the sums credited as aforesaid, at the rate of five per cent. per annum, in semi-annual payments, on the 1st days of January and July in each year, the first of said payments to be on the 1st day of January, 1863.

The third section terminates all interest which said tribes may have had in said bonds, as aforesaid, and vests the same in the United States; and any recovery or reclamation of the same, or any part thereof, shall be for the use and benefit of the United States.

The fourth section appropriates $50,066 64 for the payment of interest to the tribes aforesaid on the sums invested in the bonds aforesaid from the date of the last payment of interest on said bonds to the 1st day of July, 1862, to wit: the sum of $32,307 91 to the Delawares, $5,032 23 to the Iowas, and $12,726 50 to the confederate bands of Kaskaskias, Peorias, Piankeshaws, and Weas.

The fifth section provides that this act shall take effect and be in force only in relation to such of the tribes aforesaid as shall file with the Secretary of the Interior their assent, in writing, to so much thereof as relates to them respectively.

Mr. EDWARDS. Mr. Speaker, I desire to make a brief statement in explanation of this bill. It is well known to the House that bonds of the States of Missouri, North Carolina, and Tennessee, to the amount of $870,000, were abstracted from the Interior Department of this Government under the last Administration.

Mr. HOLMAN. Before the gentleman begins his statement, will he allow me to ask him whether his bill provides for crediting these Indian tribes with the nominal value of these bonds, or with their actual value in the market at the time they were stolen?

Mr. EDWARDS. I will answer the gentleman's inquiry. It does not propose to credit them with either. The nominal value of these bonds that were abstracted was $870,000, as I have stated. The amount actually invested in them by the Government for the benefit of the Indian tribes, for whom this bill provides, was $660,421. This amount, with other amounts not so invested, was stipulated to be paid by the Government by treaties for certain cessions of territory of these Indians; but it was deemed for the interest of the Indians themselves, and was in accordance with the settled policy of the Government, that it should not be paid to the Indians, but invested by the Government, and its annual proceeds only paid to them. The stipulations in the treaties with each of the tribes were, "that all money not necessary for the reasonable wants of the Indians should, from time to time, be invested by the President of the United States in safe and profitable stocks, the principal to remain unimpaired, and the interest to be applied annually for the civilization, education, and other purposes of the Indians." The Indians had no option in regard to the matter. The United States made its terms, and chose to withhold the money as guardians of the Indians. The investment was made in these particular bonds without consultation with the Indians and without their assent, and the bonds have been stolen. The Committees on Indian Affairs of the two Houses conferred on this subject, and heard the representatives of the Indian tribes. It was first a question with the committee whether the Indians should be allowed the market value of the bonds at the time they were abstracted, or whether they should be allowed simply the amount originally invested, which was less than the market value at that time. The committee came to the conclusion that the Government was only bound to make and keep good the investment, and it is this amount which the bill proposes to have carried to the credit of these Indians, and to remain at an annual interest of five per cent.

It was thought better, Mr. Speaker, by the committee that this sum should be credited to them on the books of the Treasury rather than be again invested in any stocks or securities, subject to be abstracted as opportunities might offer, and it is now placed by the bill beyond any such contingency. There is also a provision made for the payment of interest at five per cent. on the amount invested since the last payment of coupons on these bonds. This arrear of interest amounts to about fifty thousand dollars.

There is a great necessity, Mr. Speaker, for the immediate passage of this bill, so that the Indians may receive this sum; for it is represented and was made perfectly apparent to the two committees, that these Indian tribes are suffering greatly from the withholding of their annuities, they having no other means to meet their necessary expenses. The bill contains a further provision that all interest of the Indians in the bonds abstracted shall cease, and that the same shall be vested in the United States, and that any recovery of the same shall be for the benefit of the United States.

There is but one other provision, Mr. Speaker, on which I propose to remark. The bill contains a section that the benefits of the bill shall only apply to such of the tribes as assent to its provisions. It was questionable whether there was an absolute necessity for this, but still it was thought better to incorporate it, so that there should be no controversy or annoyance in regard to this adjustment of the loss hereafter. The Commissioner of Indian Affairs said that it was entirely convenient to procure their assent at this time, as the bill was just and equitable and would relieve the Indians from the uncertainty and doubt now existing as to whether the Government would have the magnanimity to assume this loss, or would attempt to throw on these poor and ignorant people the consequences of the act of the Government's and of its own faithless agents. It is certainly to be regretted if there is anything in the past history of the transactions of the Government with this ignorant and powerless race to render such an alternative supposable or possible.

These are all the provisions of the bill. It relates only to the bonds abstracted, although a question may hereafter arise in regard to the investments in other bonds which are greatly depreciated, and on which interest has ceased to be paid. However this may be, there can be no question, upon any fair interpretation of the existing treaties, as to the responsibility of the Government for the bonds abstracted while in its custody. I hope, therefore, that the bill will be passed without objection, and with entire unanimity.

Mr. OLIN. Mr. Speaker, the principle on which this bill is framed involves the Government in liabilities to a very great extent. In my judgment, there is a question of law involved in this bill which the House would do well to consider. I do not think that any serious injury would result if this measure were delayed for a short period. I am very certain that if this bill be passed, it will be referred to as a precedent showing the obligation of this Government to indemnify every individual who happened to hold these bonds for their losses in consequence of this fraudulent transfer by officers of the Government. In my judgment, the consideration of this bill had better be postponed until the principle shall be settled as to how far the Government should assume to pay these bonds.

Mr. EDWARDS obtained the floor.

Mr. OLIN. I move to postpone the further consideration of this bill till the first Tuesday in December.

Mr. EDWARDS. I do not yield for that purpose now. It quite often happens when a new subject comes up, to which members have not given much attention, that some gentleman is anxious to postpone it to a more convenient time, under some supposed necessity of further investigation. But let me say to the gentleman from New York that the provisions of this bill are simple. The facts are not complicated at all, are undisputed, and have been fully investigated by both the House and Senate committees, and there is no difference of opinion in regard to them. The provisions of the treaty are plain and distinct. This measure, too, has been pressed upon our attention in the annual report of the Commissioner of Indian Affairs, who says that the Indians are actually suffering for the necessaries of life in consequence of the withholding of their annuities, waiting the action of Congress.

MESSAGE FROM THE PRESIDENT.

A message from the President of the United States was received, by Mr. NICOLAY, his Private Secretary, informing the House that he had approved and signed bills and a joint resolution originating in this House of the following titles:

An act (No. 260) making appropriations for the current and contingent expenses of the Indian department and for fulfilling treaty stipulations with various Indian tribes for the year ending June 30, 1863;

An act (No. 450) making appropriations for the support of the Army for the year ending the 30th of June, 1863, and additional appropriations for the year ending the 30th of June, 1862, and for other purposes;

An act (No. 297) for the relief of J. W. Nye;

An act (No. 272) for the relief of Brigadier General Joseph G. Totten; and

Joint resolution (No. 83) relative to a certain grant of land for railroad purposes made to the State of Michigan in 1856.

INDIAN BONDS—AGAIN.

Mr. ROSCOE CONKLING. With the permission of the gentleman from New Hampshire, I would like to ask him a question. I inquire, as I have not read this bill, whether it does directly or by implication recognize as valid the title of those who claim to hold and own the bonds which were stolen?

Mr. EDWARDS. In answer to the gentleman from New York, I will say that there is nothing in the bill that makes any such recognition. In the first place, it only provides that the amount originally invested for the Indians shall be credited to the Indians on the books of the Treasury Department. It then provides that any interest on the bonds which the Indians may have had shall cease and shall be vested in the Government of the United States. There is no recognition of the rights of any party in the bonds after their abstraction. It simply goes back to the time when the bonds were stolen, and guaranties the original investment, according to the stipulations of treaties, and five per cent. interest on the same from the time payment of interest had ceased. The Commissioner on Indian Affairs thought the rate of interest ought to be six per cent., but inasmuch as we had agreed to keep the principal good, and to save the Indians from any loss or care of the principal, the Committee on Indian Affairs concluded to fix the rate at five per cent. I do not think the bill at all interferes with the rights of the present holders of the stolen bonds, nor with the rights of those from whom they have been stolen.

Mr. ROSCOE CONKLING. The general subject to which the bill relates involves in its various branches, as I understand, nearly two millions of money.

Mr. ALDRICH. Oh, no. Six hundred and forty thousand dollars.

Mr. ROSCOE CONKLING. The gentleman from Minnesota says $640,000; and in the hearing of that statement, I repeat that the whole subject-matter to which the bill belongs involves nearly two million dollars.

Mr. ALDRICH. I deny the statement, and call for the proof. [Laughter.]

Mr. ROSCOE CONKLING. If my facetious and impetuous neighbor will not be agitated, I will explain to him what I mean.

According to my recollection, the amount of bonds stolen from the custody of the Secretary of the Interior was $870,000. There were put out, in one way and another, by the aid of the bonds, acceptances of John B. Floyd to a vast amount, the bonds being used to procure extensions and effect negotiations. Some of this class of acceptances are floating yet, and the amount was more than equal to the total of the bonds. I do not now refer to acceptances of the Secretary of War which were negotiated without any connection with the stolen bonds. I refer to those acceptances which were used in some way in connection with bonds belonging to the Indian trust fund, and delivered by Godard Bailey, a clerk in the Interior Department, to a member of the firm of Russell, Majors & Waddell, to the amount of $870,000. I may therefore add to the $870,000 of stolen bonds whatever amount of acceptances of the Secretary of War connected with them are to be disposed of, when the question arises whether or not the Government is bound by that act of the Secretary of War. Connected with this aggregate, whatever it may be, a question will arise as to the rights of the holders of these bonds, payable, as they were, to bearer, and therefore negotiable without indorsement simply upon delivery. One question will be, how many of the bonds are really in the hands of innocent holders?

Upon this statement it will be seen, I think, that I am borne out in saying that the whole subject-matter involves a very large amount of money, probably not much short of $2,000,000.

Mr. EDWARDS. I wish to ask the gentleman from New York how he gets the sum of $2,000,000. The bonds stolen from the Interior Department amount at their full sum upon their face to $870,000. Now, the acceptances of the Secretary of War, outstanding, have been reduced to between eight and nine hundred thousand dollars.

Mr. MAYNARD. Eight hundred and six thousand dollars.

Mr. EDWARDS. That, I believe, is the exact amount. All the others have been canceled. Admitting, however, the amount, if you please, I do not see how it is involved in this bill. It seems to me this matter stands entirely clear of these questions. This is simply a question between us and the Indians. They are no parties to Floyd's acceptances, nor to the abstraction of these bonds. Those are matters that we have to settle among ourselves.

Mr. ROSCOE CONKLING. I am afraid the gentleman from New Hampshire and the gentleman from Minnesota will convince themselves that I am opposed to their bill before I can get an opportunity to make myself understood. "Lo the poor Indian!" is, I know, the question before us, and I was going to speak to that; but my vivacious friend here on my right [Mr. ALDRICH] called me off to follow up a mere preliminary statement. I was about to remark in reference to the particular matter before us, and premised by saying that about two million dollars, more or less, as I understand it, are involved in the whole subject in its various branches.

The gentleman from New Hampshire still insists that he does not understand what I mean by that statement, and although it will consume a little time and seems hardly necessary, I will explain further, out of respect to the gentleman.

According to my recollection, the special committee appointed to investigate the theft of these bonds reported about four million dollars of acceptances outstanding, floating somewhere unaccounted for. The memorial which has recently been presented to the House states, truly for aught I know—I do not mean to controvert the fact—that although the statement of the special committee was true at the time it was made, a large amount of those acceptances have been in reality, though not in form, since retired; that they have been gathered up, so that at this time there remain but $806,000 outstanding.

I can understand how the statement in the memorial may be true, and I think it very likely, aside from the evidence furnished by the memorial, that the drawers of the drafts have paid and arranged them to a large amount. They made an assignment, by which a large amount of property was divided between creditors of various descriptions, a preferential assignment, as I understand it, and I have no doubt that, in one way or another, a considerable amount of indebtedness was missed out. The fact, however, remains that enormous claims have been entailed upon the Government. There is a deficit amounting to $870,000, arising from the theft alone. There are also acceptances of the late Secretary of War, connected with this firm of Russell, Majors & Waddell, having relation to the transactions connected with the theft and wrongful negotiation of the bonds, amounting to $806,000, making a total, in the two items, of $1,676,000, no part of which has been liquidated. The acceptances have nothing to do with the matter as between us and the Indians—far from it; they are wholly distinct, and ought to be kept so. A part of these acceptances are held by the firm of Pierce & Bacon, of Boston. Others are held by them for others whom they represent, as middle men of some sort. How many more acceptances will turn up in the future nobody can say, except as a matter of mere conjecture.

The gentleman will thus see that large sums connect themselves more or less remotely with the theft of the Indian bonds and the use made of them. All this, however, is preliminary to what I proposed to say directly upon the merits of the bill, and it belongs to the subject only so far as it is necessary to see to it that nothing creeps into the bill which can be claimed to work any change of rights in respect to matters in which the Indians have no interest.

As to the considerations urged by the gentleman from New Hampshire, demanding the passage of the bill, I do not take issue with him. I agree that these Indians ought to be fully indemnified. The *cestui que trust*, who has been robbed by his trustee, ought to be reimbursed. I do not mean to take issue with that at all, and I beg leave to assure the gentleman from Massachusetts, [Mr. TRAIN,] who I see has risen to interpose, of that fact.

Mr. TRAIN. I desire to ask the gentleman how he connects this bill with the acceptances of Floyd upon the drafts of Russell, Majors & Waddell.

Mr. ROSCOE CONKLING. The two things are distinct for one purpose and in one view, and connected closely in another. The question is presently to be presented to us whether the Government will pay $800,000 of acceptances issued by Floyd to Russell——

Mr. TRAIN. Less than four hundred thousand dollars.

Mr. ROSCOE CONKLING. Less than four hundred thousand dollars to some parties, and more than four hundred thousand dollars to others. The whole amount is more than eight hundred thousand dollars. Pierce & Bacon, of Boston, represent a certain amount themselves; they represent for a New Hampshire bank a certain other amount; for another bank still another amount; and they state in their memorial that eight hundred thousand and odd dollars are outstanding in the hands of *bona fide* holders, as they claim.

The two things are different parts of a series of transactions which took place between the firm of Russell, Majors & Waddell and the War Department, and between Godard Bailey, a clerk in the Interior Department, and this firm. I beg, however, to assure the gentleman from Massachusetts, who asked me what this bill had to do with the acceptances of Floyd upon the drafts of Russell, Majors & Waddell, that I do not mean at all to prejudice the claim of Pierce & Bacon, by referring to this subject now. I only say that the whole subject, both branches of it—the sum due to the Indians and the sum claimed by citizens and banks, together with the rights and interests of the Government in all respects of the case, require prudent and cautious action; but I do not deny that the Massachusetts claimants are honorable men; I do not deny at this time that they are *bona fide* holders, without notice, for value paid, before due.

The present bill should be confined carefully to the one purpose now in view, namely, to do justice to the Indians. If it is so restricted, I see no objection to it.

The gentleman from New Hampshire says it is thoroughly guarded, and I vote with him upon that assurance.

Mr. EDWARDS. I shall not fatigue the House by going over any ground that has already been gone over. I will merely say that I do not see—I do not know what other gentlemen may do—

how, by passing this bill, we are going to prejudice our position in relation to these acceptances.

Mr. HUTCHINS. Would it not be well to insert in this bill a proviso that nothing herein contained shall be construed to recognize the validity of those acceptances?

Mr. EDWARDS. I have no objection to that.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. FORNEY, its Secretary, announced that the Senate had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the bill of the House (No. 187) to authorize an additional issue of United States notes, and for other purposes.

INDIAN BONDS—AGAIN.

Mr. EDWARDS. Other gentlemen may be more astute than I am, but I am unable to see that we in any way prejudice the Government in resisting, if they choose to resist, the claim for these fraudulent acceptances by the passage of this bill. If we are under treaty obligations to pay this money to the Indians, or to hold it for them and pay them interest on it, we shall be bound to do it even if we have to pay these acceptances. Unless, therefore, gentlemen can show that we shall be in a better condition to defend ourselves against that claim if we fail to act in this matter, the argument is entitled to no weight.

Mr. THOMAS, of Massachusetts. There is this consideration, that when a man resists one honest debt, he is in a better condition to resist a second.

Mr. EDWARDS. I do not know about the other claim being honest or dishonest.

Mr. MAYNARD. I would ask the gentleman if the claim of these Indians is not distinct from and essentially different from the claim of the holders of the acceptances?

Mr. EDWARDS. Entirely so.

Mr. MAYNARD. The claim of the Indians depends entirely on treaty stipulations, as I understand it.

Mr. EDWARDS. Yes, sir; I stated what the treaty with the Delawares was. I ask the Clerk now to read the article in the treaty with the Iowas; and it is the same as that with the other tribes with unpronounceable names.

The Clerk read the fifth article of the treaty with the Iowas of May 17, 1854, which provides that as the receipts from the sales of the lands cannot be determined, the whole subject shall be referred to the President of the United States, who shall, from time to time, prescribe how much of the receipts thereof shall be paid to the Iowas, and the time and mode of such payments; and also how much shall be invested in safe and profitable stocks, the principal of which shall remain unimpaired, and the interest to be applied to the civilization, education, and religious culture of the Iowas, and such other objects of a beneficial character as may be proper and essential to their well-being and prosperity; provided that, if necessary, Congress may, from time to time, by law make such regulations in regard to the funds arising from the sale of the lands and the application thereof to the benefit of the Iowas as may in the wisdom of that body seem just and expedient.

Mr. EDWARDS. I now move the previous question.

Mr. WICKLIFFE. Will the gentleman from New Hampshire allow me a moment? I am inclined to vote for this bill if I understand it aright. I want to see if I understand it.

Mr. EDWARDS. I will withdraw the previous question to answer any questions the gentleman may desire to ask.

Mr. WICKLIFFE. I understand that these Indian bonds, as they are called, were taken by virtue of a treaty, and the United States was made trustee for the Indians, to hold the bonds and pay over the interest, and that one of the agents of the United States connived at the stealing of the bonds. As trustee I have no doubt that the United States is bound to indemnify the Indians. As to these acceptances, I have no doubt about them; they were not negotiable paper, and were not assignable, and the assignees have no claim against the Government.

Mr. THOMAS, of Massachusetts. I differ with the gentleman there. I think they have a perfectly good claim. It is a question of law.

Mr. EDWARDS. We are not now trying the question of the acceptances. I will say further that these Indians are all loyal to the Government. There is one tribe that owned a portion of these lost bonds that is now disloyal, and we have made no provision for them in this bill.

Mr. MAYNARD. Do not say disloyal, but unfriendly.

Mr. EDWARDS. Well, unfriendly. I now renew the demand for the previous question.

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

Mr. F. A. CONKLING moved to lay the bill upon the table.

The motion was not agreed to.

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

Mr. EDWARDS moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider upon the table.

The latter motion was agreed to.

Mr. TRAIN obtained the floor.

COLORADO DESERT.

Mr. CRISFIELD. I ask the gentleman from Massachusetts to yield me the floor for a moment that I may ask the unanimous consent of the House to discharge the Committee of the Whole on the state of the Union from the further consideration of the bill of the House (No. 417) granting to the State of California the tract of land known as the Colorado desert, for the purpose of introducing a sufficient supply of fresh water thereon.

Mr. TRIMBLE. I object to that.

Mr. CRISFIELD. I ask a suspension of the rules.

OPENING OF SIXTH STREET WEST.

Mr. TRAIN. I cannot yield for that purpose. I am instructed by the Committee on Public Buildings and Grounds to ask that Senate bill No. 226, authorizing the opening of Sixth street west, be taken from the Speaker's table and put upon its passage.

Mr. PHELPS, of Missouri. I object to that.

Mr. TRAIN. I move a suspension of the rules.

Mr. PHELPS, of Missouri. It is a bill to remove the penitentiary.

Mr. TRAIN. It has nothing to do with the penitentiary.

Mr. PHELPS, of Missouri. I think Sixth street goes through the penitentiary grounds.

Mr. TRAIN. No, sir, it does not go within a mile of them.

The SPEAKER. Debate is not in order.

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

The bill was read. It provides that Sixth street west, from the canal to Maine avenue, may be opened, and a bridge constructed across the canal on said street, under the direction of the corporation of the city of Washington, in accordance with the plan approved in May, 1822, by James Monroe, then President of the United States.

Mr. TRAIN. I call for the yeas and nays on the motion to suspend the rules.

The yeas and nays were not ordered.

The question was taken, and the rules were not suspended, only eight members voting in favor thereof.

Mr. OLIN. I am about to make a motion that the House resolve itself into the Committee of the Whole on the state of the Union, for the purpose of taking up and considering House bill No. 211. It is a bill——

The SPEAKER. The motion is not debatable.

Mr. OLIN. Is it not permissible to state what bill I propose to take up before the motion is put?

The SPEAKER. It is not. The committee will have to lay aside all the bills on the Calendar that precede the one that the gentleman desires to take up. It is not in order to move to go into the Committee of the Whole on the state of the Union to take up a particular bill, unless it is a special order.

Mr. OLIN. Well, I submit the motion.

The motion was agreed to.

So the rules were suspended, and the House accordingly resolved itself into the Committee of the Whole on the state of the Union, (Mr. KELLOGG, of Illinois, in the chair.)

SANDERSON'S BREECH-LOADING CANNON.

The CHAIRMAN stated that the first business on the Calendar was the joint resolution authorizing the Secretary of War to test Sanderson's breech-loading cannon, on which the gentleman from Ohio [Mr. MORRIS] was entitled to the floor.

Mr. OLIN. Will the gentleman permit me to make a motion to lay aside that bill and take up another one?

Mr. MORRIS. I do not like to yield lest I may lose my right to the floor.

Mr. OLIN. The gentleman can get the floor on the next bill.

The CHAIRMAN. The Chair is of opinion that if the gentleman yields he will lose his right to the floor.

Mr. MORRIS. I do not like to be discourteous, and therefore I yield.

Mr. OLIN. Then I move to lay aside joint resolution No. 30, authorizing the Secretary of War to test Sanderson's breech-loading cannon, to be reported to the House.

Mr. HOLMAN. The resolution is subject to amendment, and I therefore object.

Mr. OLIN. I want to get up the bill in relation to Congress—a reform measure; but if this great reformer from Indiana wants to embarrass that measure, I withdraw the motion.

Mr. HOLMAN. Yes; I am opposed to this mode of doing business.

Mr. OLIN. My object was to get up the bill to reduce the expenses of Congress; and I wish it noted by the reporters that it is the reformer from Indiana who interposes an obstacle.

Mr. HOLMAN. And I wish it noted that that statement is not true, but is, on the contrary, false.

Mr. OLIN. What do you mean by that?

Mr. HOLMAN. I mean just what I say.

The CHAIRMAN. This is all out of order.

Mr. MORRIS. Mr. Chairman, at no time during this session have I contemplated addressing the House at length upon any of the great questions which have come before it for consideration and discussion; and I would not now, save only that I feel myself constrained to do so because of the speeches of gentlemen, delivered on this floor, attacking the motives and conduct of some gentlemen on this side of the Chamber for matters not connected with legislation, or at least not occurring in this Hall. The people, sir, as well as this Congress, are aware of the magnitude of the questions upon which we have been called to act, and whether that action shall be for weal or woe to the country time alone can determine. So far as my own record is concerned, I have made it up under a full sense of my responsibilities to the Constitution, to my constituents, and to the country. When I came here one year ago, I came with the open and avowed determination of supporting this Administration in the use of all constitutional and legitimate means for the suppression of this rebellion, and not one jot or tittle of that determination have I abated. During the gubernatorial contest of 1861, in Ohio, I ignored mere partisan politics. True, sir, I supported the straight Democratic ticket, and my own county gave Hugh J. Jewett, the Democratic candidate, 1,355 majority over David Tod, the Republican or fusion candidate, in a total vote of 2,911. I made many speeches and wrote many letters urging our gallant men to rally to the support of the Government; and so well satisfied were the people with my action that resolutions indorsing my course at the extra session were passed by a Republican or "unconditional Union convention," as it was called, in one of the counties of my district. Notwithstanding I have voted for all supplies of men and money, I now find myself arraigned by gentlemen on this floor as disloyal and a foe to the Government. This will, indeed, be news to the people of the seventeenth congressional district of Ohio.

That I may not misrepresent gentlemen I intend reading, in the course of my remarks, some extracts from the remarkable speech of my colleague from the eighteenth district, [Mr. EDGERTON]—remarkable in nothing save in its abuse of men of purer patriotism than himself; and I regret exceedingly that he is not now in his seat. He says:

"It will be apparent, Mr. Chairman, from what we have seen for the last few weeks, and more especially from what we witnessed on this floor yesterday, that while the Government of the United States is engaged with a powerful enemy in the field, it has also here an organized foe to contend with. While this Government is exerting all its powers to crush out this rebellion, attacks are to be made upon it at home to weaken its power and paralyze its arm in crushing out the treason that stalks abroad in the land. That effort has taken form and organization. I find it in the form of an address issued by certain men in this House."

Here the charge is distinctly made that the gentlemen signing that address are foes to the Government; or, in other words, that they are disloyal. Sir, I could not find words sufficiently strong, were I to try, to express my feelings for those who make these charges of disloyalty.

"'Tis impudently, basely done;
They had been in a mean man lies, and foul ones."

But many persons, as well in this House as out of it, confound the Administration and the Government. They speak of them as synonymous or convertible terms. Such a position is not tenable. President Lincoln and his Cabinet are not the Government of the United States. We may oppose the policy of the Administration, and yet not oppose the Government. I may be a true and loyal citizen of the United States and faithful to the Constitution, and at the same time oppose certain measures of the Administration as unwise and impolitic. In so far as this Administration has sought to suppress the rebellion, restore the Union, and uphold the Constitution, I accord it every meed of praise. About the policy and means used for that purpose, men may well differ, without subjecting themselves to the charge of disloyalty by every corner-grocery politician in the land.

Sir, I have never held a sentiment in the least degree recognizing the doctrine of secession, or the right claimed by politicians, in certain sections, to withdraw from the Union, whenever their rights, in their own judgment, are infringed. I have always opposed, and expect ever to oppose the disruption of a Government—properly and constitutionally administered—the purest and best ever devised by the wisdom of man. But, sir, it has been left for gentlemen of the dominant party in this Congress to make the grand discovery that that man is disloyal who happens to differ with the Administration as to the proper policy to be pursued in administering the Government in this hour of its greatest peril. Have we, indeed, arrived at that period in our national history when it is treason to utter a sentiment in opposition to the policy of the party in power? Never before, save perhaps during the administration of the elder Adams, were men held responsible for their opinions and language. No overt act is charged upon the authors of that address, no furnishing information to the rebels, no giving aid and comfort; but simply because they happen to differ with the majority of this House as to the proper policy to be pursued to restore the Union, and because they adhere to the proper and original objects of the war, they are denounced as disloyal. Sir, I trust in God that the day has not gone by when an American citizen dare express his opinions of the measures of the Administration, either in or out of this Capitol. If so, for what are all these armies and navies, this marshaling of men in hostile array, this arming and equipping of six hundred thousand of our citizen soldiery? I had supposed it was for the perpetuation of that Constitution which guaranties a free Government, free speech, and a free press in this land of liberty. I trust the sequel will not prove that I was mistaken. And, Mr. Chairman, once for all, permit me here to say that no gentleman shall denounce me either as disloyal to the Government or as a sympathizer with secessionists and rebels.

This Democratic address seems to give some of my colleagues great trouble—considerably more than it gives those who have signed it. Even some gentlemen from the great State of Pennsylvania have seen fit to make it the text of a speech in defense of the Administration. But "the unkindest cut of all" is that the gentleman from the Wayne district in Virginia, [Mr. WHALEY,] should have added the weight of his influence in censuring us for maintaining the organization of the Democratic party, which he does in a speech published in the Globe a few days since.

My colleague, from whose speech I have before quoted, says:

"If I am correctly informed, I may state, too, that the meeting at which this address was adopted was not of the most harmonious character. If reports have not been incorrectly sent forth, there was discord and contention there."

Now, sir, I confess this is news to me. "If I am correctly informed, I may state, too," that I never knew that a meeting was called or held for the purpose of adopting or considering that address. No such meeting was ever held to my knowledge. The gentleman, however, may be better informed on the subject than I am. If no such meeting was held, there could not have been much "discord and contention there." Again, he says:

"My colleague from the Dayton district, [Mr. VALLANDIGHAM,] is the author of this address and the father of this movement, the leader in this assault upon the Government."

Here, again, I have to confess to the superior knowledge of my colleague. That address came to me under the auspices of the life-long and bosom friend of Stephen A. Douglas, the gallant and patriotic gentleman from Illinois, [Mr. RICHARDSON.] I believe that where he dare tread I need not fear to follow. But of its author I must confess my ignorance. So that the gentlemen who are finding so much fault with it, and with those who signed it, have been giving themselves more trouble than it has given me. It will not trouble the fifteen hundred thousand Democrats of the North. It suits them, and that is all they want to know about it.

I read again from my colleague's speech:

"I find not the name of that loyal Democrat from Indiana [Mr. HOLMAN] affixed to it. I fail to discover the name of my loyal Democratic colleague from the district adjoining my own [Mr. NUGEN] attached to it."

If my "loyal" friend from Indiana [Mr. HOLMAN] is satisfied with the compliment, I certainly have no right to complain, nor do I. But my colleague [Mr. EDGERTON] surely had not read the speech of my other colleague [Mr. NUGEN] when he complimented him for not having signed that address. For his benefit, therefore, I propose to read a paragraph or two:

"The late local elections throughout the country, and particularly in the great West, in which the Democracy and other conservative men of the country have achieved the most complete and in many instances unexpected victories, are but the mutterings of a storm of indignation which will sweep over the entire country, hurling from place those who persist in using this Government for their personal interest and political preferment, while the public Treasury is bleeding to the amount of millions per day, (and which is to be replenished by an exorbitant and oppressive system of taxation,) and while thousands of our brave countrymen are laying down their lives upon the battle-field, leaving homes desolate and friends disconsolate, to restore the Government as it was prior to the election of the present Chief Magistrate.

"Sir, I indulge in no idle prediction when I say that the people neither East or West will much longer be made the dupes of politicians and speculators, for the pitiful consideration of a little worn-out 'twaddle about the negro' and 'negro slavery,' and for the still less beneficial consideration of having their fertile and beautiful country overrun by an ignorant and vicious population of worthless negroes, to annoy and disturb society, driving from employment white persons who rely on daily labor for their support."

I now read another extract from the remarkable speech of the gentleman from the Summit district:

"It will not do for them to urge the loyalty of the Democratic party when there are none, in this House or out of it, so ignorant as not to know that it was that party which gave rise to this rebellion, and which all along has strengthened the hands of traitors. Yes, sir, I do doubt these men. I doubt them when they come before this House and avow their fidelity to the Constitution. I doubt any man who prates so much about the Constitution."

Sir, I can speak knowingly of my own county, and I believe I speak what I do know when I say that of the many hundreds of gallant soldiers who volunteered in that county, fully three fourths of them are Democratic voters or the sons of Democratic fathers. And yet a gentleman from the Western Reserve would denounce them as disloyal should they see proper still to support the Democratic party and its organization—as they undoubtedly will do, in preference to the abolition measures of the Republican party. My colleague "doubts any man who prates so much about the Constitution." Who made him "a judge in Israel?" or gave him authority to say "stand back! I am holier than thou?" The sentiment he utters is worthy of his colleague in the other end of the Capitol, [Mr. WADE,] who also "doubts the man who prates so much about the Constitution," and stigmatizes him as a sympathizer with rebels. I am happy to know that the verdict of the people does not depend upon the judgment or opinion of these gentlemen. My colleague asks:

"Who, sir, are the leaders of the armed rebellion against the Government, which has threatened its overthrow? They were Democrats—they were members of the Democratic party. Who was Jefferson Davis? Who was Barnwell Rhett? Who was John C. Breckinridge? Who, in fine, were the whole crew of conspirators against this Republic? They were leading members of the Democratic party, which it is now proposed to resurrect."

This, in western parlance, may be denominated the *knock-down argument*. Sir, is it fair, is it legitimate for gentlemen to name leading rebels in the South, and call them Democrats, and hold the Democracy of the North responsible for their acts? Does he not know that the Democracy of the North and these southern rebels parted company first at Charleston, and again at Baltimore? I have no sympathy with secession, or with the leaders of this rebellion. For twenty years have the Democracy of the North stood up for what they believed to be the constitutional rights of the South; for twenty years have they been denounced by that gentleman's party as dough-faces and slavery propagandists for so doing; and now these same southern men, on the first plausible occasion, abandon those in the North who had been standing by them, and that, too, at a time when both Houses of Congress and the Supreme Court would have been against the Administration of President Lincoln, had he sought to trespass upon their constitutional guarantees. They abandoned us to the tender mercies of the abolition party, many of whom, with them, desire the dissolution of the Union. Therefore, I claim the Democratic party, of all others, have least cause of sympathy with secessionists and rebels.

But why not name others of the Breckinridge party who labored to bring this trouble upon us by the destruction of the Democratic party—for it had its beginning at Charleston? Why not name Benjamin F. Butler and Daniel S. Dickinson and John A. Dix and Edwin M. Stanton? These men are now high in the confidence of the Administration, and I think it will not be denied that some of them contributed all in their power to break up the Charleston and Baltimore conventions. It would seem that there is a natural affinity between the Republican and Breckinridge parties, or rather the leaders. I think it will not be denied that but for the disruption of the convention at Charleston, Mr. Lincoln would not have been elected President of the United States; and the northern Breckinridge men, who aided so materially in accomplishing that work, have had their reward in places of honor and profit under this Administration. All attempts of gentlemen to stigmatize the signers of that address, or those from whom it originated, as of the Breckinridge party, fall harmless.

Sir, in the campaign of 1860, I was honored by being handbilled by this Republican party for being *too much* of an abolitionist to suit them. I hold here in my hand a copy of that handbill, headed, in flaming capitals, "Footprints of an Abolition Negro-Worshiper!" And first among the *sins* imputed to me is, "He votes for Salmon P. Chase!" I refer to this for the purpose of making this extract:

"A CARD.—We the undersigned, citizens of Woodsfield, hereby certify that we were present at the Douglas ratification meeting in said town on the evening of the 26th day of June, 1860; that we heard the speech of James R. Morris; that it breathed the utmost defiance and contempt for his fellow Democrats who refused to support Mr. Douglas; that Mr. Morris characterized them as a set of mad fanatics, fire-eaters, and disunionists; said they and the Republicans had one common end—a dissolution of the Union; and wound up his speech by saying: 'If the devil don't get such men, there is no use in keeping up a devil.'"

This card is signed by six very respectable Republicans, and, had they used the terms disunionists of the South and abolitionists of the North, would have pretty nearly represented what I did say on that subject. But the distinction between abolitionism and Republicanism is fast dying out; they are now nearly synonymous terms. I do not claim to be a prophet, but I very nearly *guessed* the objects of these two parties as certified to in this card. It has been but a few weeks since Wendell Phillips stood up in one of the public buildings in this city, surrounded by a majority of the Republican members of this Congress, and was applauded to the echo for the sentiments he then uttered. In that speech he used this language:

"I have labored nineteen years to take nineteen States out of the Union, and if I have spent any nineteen years to the satisfaction of my Puritan conscience, it was those nineteen years. The child of six generations of Puritans, I was taught at a mother's knee to love purity before peace. And when Daniel Webster taught me that the Union meant making white men hypocrites and black men slaves; that it meant lynch law in the Carolinas and mob law in Massachusetts; that it meant lies in the pulpit and gags in the Senate; when I was told that the cementing of the Union was returning slaves to their masters; in the name of the God that I loved and had been taught to honor, I cursed the Constitution and the Union, and endeavored to break it, and thank God it is broken."

This man is now one of the bright and shining lights of the abolition or Republican party, and I verily believe that he has not advocated a measure for "nineteen years" but what will be carried out by the legislation of the Thirty-Seventh Congress.

Mr. Chairman, why did not my colleague tell this House and the country that the very men of the South whom he arraigns, and for whose present misdeeds he tries to hold the Democracy of the North responsible, were ready to accept the Crittenden compromise as a full and final adjustment of the difficulties that then threatened to disturb the peace of the country?

I take the following from the speech of Senator Douglas, from whom certain gentlemen now frequently quote, delivered in the Senate, January 3, 1861:

"In the committee of thirteen, a few days ago, every member from the South, including those from the cotton States, [Messrs. Toombs and Davis,] expressed their readiness to accept the proposition of my honorable friend from Kentucky [Mr. CRITTENDEN] as a final settlement of the controversy, if tendered and sustained by the Republican members. Hence, the sole responsibility of our disagreement, and the only difficulty in the way of an amicable adjustment, is with the Republican party."

Does not my colleague know that that proposition was never accepted? Does he not know that all this misery and ruin and suffering and bloodshed and death could have been avoided by the adoption of those propositions? Does he not know that all the homes made desolate by this terrible conflict, that all these cries of woe and agony of the countless widows and orphans, would not have been, if those compromises had been passed? And yet, sir, to carry out the opinion of a gentleman in the other end of the Capitol, [Mr. CHANDLER, of Michigan,] that "this Union, without a little blood-letting would not be worth a rush," this adjustment was refused. In God's name have they not been gratified? Has there not been "*a little* blood-letting?" Under the delusive cry that "there's nothing wrong," and "nobody hurt," this sore calamity has come upon us, and the bones of thousands and tens of thousands of our fathers and brothers and sons are now bleaching upon a hundred battle-fields, and all to gratify the stubbornness and devilishness of the secessionists and abolitionists. Sir, the secessionists are most fearfully guilty. Guilty in placing their acceptance of the compromise upon the contingency of the support of the Republicans. Guilty for their attack upon Fort Sumter, and thus plunging the country into this terrible civil war.

But a few weeks have elapsed since the committee on the conduct of the war gave us a detailed report of the horrible barbarities and atrocities committed by the rebels, at which the soul shuddersand the heart sickens. One would scarcely credit that such enormous wickedness could be perpetrated in a civilized country. Such things, in a war like this, may be looked for. Even our own Republican papers are publishing items from the seat of war scarcely credible. The State Journal, the Republican organ of Ohio, publishes the following from a correspondent in the Mountain department:

"We had one of our men taken prisoner after being decoyed into a house by the guerrillas, and then murdered. His brains were beaten out with rocks. His enraged companions made a descent upon the house and seized the man—took him out and shot him. They then carried out the wife, lately confined, and not yet able to leave her bed, and laid her and her baby upon the ground, and fired the miserable cabin. The next day some of our scouts found the poor woman in a dying condition, her baby dead; for they had been exposed all night to a hard, cold rain storm. The scouts built a shed over her, and sent to camp for an ambulance and surgeon. She asked them if her husband would not soon be released, so he could help her. Poor woman, she did not know that he had been shot, and his body left lying within a hundred yards of her. What makes the affair more horrible is, that, on investigation, it turns out that the man was not a bushwhacker; on the contrary, a good Union man—nowise concerned in the murder of our soldier."

From a letter of a soldier in the thirty-sixth Ohio regiment, published in the Marietta Intelligencer, another Republican paper, and the home organ of my colleague, [Mr. CUTLER,] I extract the following:

"The captain, at one place, sent me down to a house with three men, with orders to search the house, fire the outhouses, and bring off all the cattle that were fat enough to kill. I got the woman to talking with one of the men, and seizing a brand from the fire-place, set a barn full of wheat afire. I took off two horses, but left her three lean cows. There was a hive full of beautiful white honey, which the men opened, though they were already surfeited. If she had not been a widow, it would have been my duty to shoot the cows, calves, and sheep, and leave them to rot upon the ground, if I could not drive them off.

"At the place where we staid over night there were two barns full of hay and grain, two haystacks, two strawricks, and a large shed, burning at once. A grand spectacle! But it made me feel sort of sneaking to destroy property in that way, when there was none to defend it. At two or three places, where we burned property, the women thought that I was an officer, and came to me and plead for their only cow, or an old family horse, and when I referred them to the captain, upon whom they had already exhausted their entreaties, they begged me to use my influence to have them left. One kind-looking woman, whose barn had been set afire, came to me while I had stopped a moment to fix my accouterments, after the rest of the company had gone after her cattle, and offered to do anything in the world for me if I would only use my influence to have her cattle left. But I had to hurry off, thinking, as I did so, what I would do to an enemy that would treat my mother and sisters in that way. Would that the vengeance could descend upon the heads of those men that left their families to the mercy of an invader!"

The following is an extract from a letter received by me from a field officer, dated "Camp near Mount Jackson, Virginia, June 15, 1862," and who is one of the most gallant men in the Army:

"The most provoking and unendurable thing is the outrages committed upon the defenseless inhabitants along the line of march by Blenker's division. They justify and exceed anything that any of the foul-mouthed traitors have ever said or thought of our soldiers. We need no such soldiers. We have lost the consciousness that the rebel stories of our ruffianism were lies. We are ashamed and disgusted."

From General Frémont's address to his troops, after the battle of Cross Keys, the following is extracted:

"The general commanding congratulates his troops, but at the same time regrets that he finds it necessary to call their attention to the many disorders and excesses and wanton outrages upon property which have marked the line of march of this army from Franklin to Port Republic. There seems to be an organized band of stragglers and plunderers who precede and follow the army, having outrage and plunder for their special occupation. The commanding general feels perfectly assured that no disposition will be attributed to him to require unreasonably severe punishment. But the magnitude of this evil requires that it be summarily and severely checked."

From the letter of a brave and gallant officer, a Republican, from my own town, of the thirty-sixth regiment, dated at Summerville, Virginia, the following is extracted:

"According to positive instructions, I was to lay waste and destroy the country. This was an unpleasant but necessary part of the warfare; consequently, for a distance of sixteen miles, there was not left a vestige of forage or a habitable building, and as we ascended the mountain, I could trace our path for miles by the cloud of black smoke that showed itself in the distance. War is, indeed, a terrible thing."

Mr. Chairman, I have not made these extracts with any view to find fault with the brave soldiers in the field. Such things will follow advancing or retreating armies. They seem to be a part of warfare. Would they could be avoided. But, sir, I quote them for the purpose of showing gentlemen of the last Congress, now members of this, what might have been avoided by adopting the compromises of the venerable statesman of Kentucky, [Mr. CRITTENDEN,] who sits near me. Surely what Republicans write and Republican papers print I may read here in my place without subjecting myself to be denounced as disloyal. The privilege of fault-finding may, however, be confined to the Republican side of the House. Said a Republican member in conversation a few days ago, "it is one of the blessed privileges we Republicans have to say what we please of the President and the Cabinet without our loyalty being called in question." This may be true, and the privilege has been enjoyed to the full by some gentlemen on this floor. I shall exercise the same privilege, nevertheless, should occasion offer, and should I deem it my duty to do so. I have referred to the report of the committee on the conduct of the war, and made the extracts I have quoted only to say, had I been a member of the last Congress and refused the compromises then tendered, as did the radical men of the North and South, the groans of the dying soldier and the shrieks of the widow and the orphan would forever haunt my waking hours and nightly dreams. That "dying woman," that "dead baby," that "Union" husband, lying dead "within a hundred yards of her," and to whom she cried for help, and that soldier murdered by the guerrillas, would continually stalk beside me hissing in my ears, "this is some of your handiwork."

"In sorrow for a heaven lost, in horror of an approaching hell,
I'd meet the ghosts of these our murdered men,
a num'rous train who frown like furies."

I had supposed, sir, when this war began, that it was to be waged for the purposes avowed in the Crittenden resolution passed at the extra session by an almost unanimous vote, and which has since been so frequently quoted, and which reads as follows:

"*Resolved by the House of Representatives of the Congress of the United States*, That the present deplorable civil war has been forced upon the country by the disunionists of the southern States, now in arms against the constitutional Government, and in arms around the capital; that in this national emergency, Congress, banishing all feelings of mere passion or resentment, will recollect only its duty to the whole country; that this war is not waged on their part in any spirit of oppression, or for any purpose of conquest or subjugation, or purpose of overthrowing or interfering with the rights or established institutions of those States, but to defend and maintain the *supremacy* of the Constitution, and to preserve the Union with all the dignity, equality, and rights of the several States unimpaired; and that as soon as these objects are accomplished the war ought to cease."

The Republican convention of Ohio, which nominated Tod for Governor, made this resolution the only plank in its platform. But events have proved that that resolution does not now declare the objects of the war, for the same body that passed it has since repudiated it; and the Legislature of Ohio, elected on that platform, at its recent session, also repudiated it. What, then, are the objects of this war? I will quote from the speech of the gentleman from Indiana, [Mr. HOLMAN,] and that of my colleague from the Coshocton district, [Mr. NUGEN,] whose names my colleague from the Summit district "fails to discover" attached to the Democratic address. They may give us some light on the subject, and will certainly be received as evidence by my colleague, [Mr. EDGERTON:]

"But fanaticism seeks to pervert the war to the purposes of its own gratification. The restoration of the Union as it was under the old constitutional guarantees is no longer the leading motive of many gentlemen on this floor. The consolidation of the Government is not a new idea. Every triumph of your Army develops still stronger the encroachments which are intended to be made on the original form of the Government. The leading idea must prevail, if the nation shall perish. Sir, the people who love the old Government of their fathers must awake to its dangers. Let them declare that their Army in the field and their Representatives in council shall harbor but one thought—the overthrow of the rebellion and the restoration of the Union as it was—and all will be well."—*Hon. W. S. Holman, of Indiana, May* 23, 1862.

"Another, and to my mind most probable motive in sending to Congress the message alluded to, was to inaugurate a policy looking to an ultimate separation of the Gulf States from the Confederacy, and to enlarge the area of a northern confederacy of free States. I have ever been satisfied that, with all the pretenses of the leading members of the Republican party of devotion to the Union, a majority of them do not in reality desire to see the Union exist as it was, but desire that slavery should either be abolished in all the States, or that a northern confederacy of free States shall be established, in which they may rule supreme. The latter result would be the most acceptable to the capitalists of the eastern States, to whom we of the West are made tributaries in all things. If a southern confederacy should maintain control, as it would, of the Mississippi river, that great natural outlet for our commerce, this would force us for all time to come, as it has since the rebellion, to find an outlet to the eastern cities for our trade, and thus become tributaries to their commercial interests upon their own terms."—*Hon. R. H. Nugen, of Ohio, May*, 1862.

Here my colleague charges that the "probable motive" of the emancipation message of the President is "to inaugurate a policy looking to an ultimate separation of the Gulf States from the Confederacy," and that "a majority of the leading members of the Republican party do not in reality desire to see the Union exist as it was." Well, if my colleague from the Summit district is satisfied with the sentiments contained in these extracts, I certainly cannot complain. But I desire to make some other extracts from the speeches of a number of gentlemen in this House, to show the aims and tendency of this war, and the object the Republican party have in view in its prosecution:

"We believe that the initiation of emancipation, of full and complete emancipation, will put an end to this civil war. After slavery is abolished, or put in process of ultimate extinction, there will be nothing left for traitors to fight for."—*Hon. John A. Bingham, of Ohio, March* 12, 1862.

"The forces now moving the profound depths of our political compact will themselves, ere they are spent, work its [slavery's] demolition."—*Hon. A. G. Riddle, of Ohio, January* 27, 1862.

"This war, without compromise or cessation, will go forward till its beneficent end [the end of slavery] is accomplished through its own appointed means."—*Hon. A. G. Riddle, April* 11, 1862.

"There can be no Union till slavery is destroyed." * * * * "I say you cannot put down the rebellion and restore the Union, without destroying slavery."—*Hon. Owen Lovejoy, of Illinois, April* 24, 1862.

"Slavery is at war with us, and slavery *must* die."—*Hon. William M. Davis, of Pennsylvania, March* 6, 1862.

"And these three—tax, fight, and emancipate—shall be the trinity of our salvation. In this sign we shall conquer."—*Hon. F. A. Pike, of Maine, February* 5, 1862.

"Slavery—a public enemy, and ought, therefore, to be destroyed; a nuisance that must be abated." * * * * "I reiterate the words used by the honorable gentleman from Pennsylvania, [Mr. STEVENS,] in the preamble to his bill now under consideration, 'slavery has caused this present rebellion, and there can be no permanent peace and Union in this Republic so long as that institution exists.' Everybody knows this to be true." * * * * "Shall we occupy the ridiculous position of having well nigh exhausted the blood and treasure of a nation to suppress a rebellion, and leave the admitted cause of it untouched?"—*Hon. W. P. Cutler, of Ohio, April* 23, 1862.

"In my judgment, an enduring peace can be secured only by conquering the rebels, confiscating their property, and emancipating their slaves."—*Hon. J. M. Ashley, of Ohio, May* 23, 1862.

I would like to know how many more lives of northern soldiers than have already been sacrificed does my colleague [Mr. ASHLEY] suppose it will take to suppress this rebellion, when the southern people come to know and realize that our object is to take the life of every rebel, to confiscate every dollar of rebel property in the rebel States, and emancipate every slave, and *then* restore the Union and maintain the supremacy of the Constitution and the laws? Surely my colleague values the lives of our soldiers and the misery and distress of their widows and orphans as of little worth. I, sir, claim to have more regard for the lives of my fellow-citizens, and more sympathy for human suffering and woe, than to prosecute this war for any other purpose than that avowed in the Crittenden resolution.

"This is the time of all others to release the slaves of rebels. Such law could only be enforced by the Army. Hence the Army would be on the spot to quell any possible outbreak."—*Hon. J. P. C. Shanks, of Indiana, May* 24, 1862.

Mr. HALE introduced a bill in the Senate, June 18, providing that whenever the public service requires further enlistment of recruits for the Army, either of regulars or volunteers, the President of the United States be authorized and directed to issue his proclamation to the people of the United States, inviting enlistments from all the people, without distinction of race, color, or condition.

Section two enacts that every slave that shall enlist by virtue of this act, or the proclamation of the President issued in pursuance thereof, and shall be received into the military service, shall be immediately and absolutely free from all claim of service, except that which he submits himself to by such enlistment.

Section three provides that every person, bond or free, who shall enlist into the military service of the United States shall be entitled to all the wages, bounties, and privileges allowed by law to any soldier enlisted in the Army.

"All slaveholders and those who sympathize with the institution of slavery, more or less, sympathize with this rebellion. I say that this is the cause of the whole difficulty now, and I think that this nation is false to its own interests, false to humanity, false to the claims of justice, if it does not destroy the institution on the occasion now presented.

"I believe we have the constitutional right to put an end to slavery in the States in rebellion, and in fact the President intimates pretty strongly in his recent proclamation modifying or repealing General Hunter's, that the time may soon arrive, in the progress of this war, when, in the exercise of the power which he unquestionably possesses as Commander-in-Chief, he will declare the slaves of all rebels free."—*Hon. John Hutchins, of Ohio, May* 24, 1862.

"I rejoice that, while the President saw fit to revoke the recent sweeping order of General Hunter, he took pains to couple that revocation with words of earnest warning, which have neither meaning nor application if they do not recognize the authority of the Executive, in his military discretion, to give freedom to the slaves. That this authority will be executed at no very distant moment I believe most firmly. The language of the President obviously implies it, and foreshadows it among the thick coming events of the future. Conservatives and cowards may recoil from it, and seek to postpone it; but to resist it, unless Congress shall assume it, will be to wrestle with destiny."—*Hon. George W. Julian, of Indiana, May* 23, 1862.

Mr. Chairman, my colleague [Mr. HUTCHINS] and the gentleman from Indiana [Mr. JULIAN] have undoubtedly given the proper interpretation of the President's proclamation, if it has any meaning or application at all. The following letter from Senator SUMNER seems to speak by authority, and I therefore quote it as expressing the views of President Lincoln:

SENATE CHAMBER, *June* 5, 1862.

MY DEAR SIR: Your criticism of the President is hasty. I am confident that, if you knew him as I do, you would not make it.

Of course, the President cannot be held responsible for the misfeasances of subordinates, unless adopted or at least tolerated by him. And I am sure that nothing unjust or ungenerous will be tolerated, much less adopted by him.

I am happy to let you know that he has no sympathy with Stanly in his absurd wickedness, closing the schools, nor again in his other act of turning our camp into a hunting ground for slaves. He repudiates both—positively. The latter point has occupied much of his thought; and the newspapers have not gone too far in recording his repeated declarations, which I have often heard from his own lips, that slaves finding their way into the national lines are never to be reënslaved. This is his conviction, expressed without reserve.

Could you have seen the President, as it was my privilege often, while he was considering the great questions on which he has already acted—the invitation to emancipation in the States, emancipation in the District of Columbia, and the acknowledgment of the independence of Hayti and Liberia—even your zeal would have been satisfied, for you would have felt the sincerity of his purpose to do what he could to carry forward the principles of the Declaration of Independence. His whole soul was occupied, especially by the first proposition, which was peculiarly his own. In familiar intercourse with him, I remember nothing more touching than the earnestness and completeness with which he embraced this idea. To his mind, it was just and beneficent, while it promised the sure end of slavery. Of course, to me, who had already proposed a bridge of gold for the retreating fiend, it was most welcome. Proceeding from the President, it must take its place among the great events of history.

If you are disposed to be impatient at any seeming shortcomings, think, I pray you, of what has been done in a brief period, and from the past discern the sure promise of the future. Knowing something of my convictions, and of the ardor with which I maintain them, you may perhaps derive some assurance from my confidence. I say to you, therefore, stand by the Administration. If need be, help it by word and act, but stand by it and have faith in it.

I wish that you really knew the President, and had heard the artless expression of his convictions on those questions which concern you so deeply. You might, perhaps, wish that he were less cautious, but you would be grateful that he is so true to all that you have at heart. Believe me, therefore, you are wrong, and I regret it the more because of my desire to see all our friends stand firmly together.

If I write strongly, it is because I feel strongly; for my constant and intimate intercourse with the President, beginning with the 4th of March, not only binds me peculiarly to his administration, but gives me a personal as well as a political interest in seeing that justice is done him.

Believe me, my dear sir, with much regard, ever faithfully yours, CHARLES SUMNER.

"This is the immense sacrifice we are making for freedom and Union; and yet, is it all to be squandered on a subterfuge and a cheat? For one, I shall not vote another dollar or a man for the war until it assumes a different standing, and tends directly to an anti-slavery result."—*Hon. M. F. Conway, of Kansas, December* 12, 1861.

"We will break it [slavery] down, destroy it, and overthrow the institution, if the laws of war, under the Constitution of the country, give us the authority, as I most solemnly believe they do. I will have no disguise of my opinions or intentions. My stand upon the subject is open to all observation. *I am for destroying this hostile institution in every State that has made war upon this Government;* and if we have military strength enough to reduce them to possession, I propose to leave not one slave in the wake of our advancing armies; not one."—*Hon. C. F. Sedgwick, of New York, May* 23, 1862.

"I would reduce these aristocratic slaveholders to utter poverty. I know they are conceited; I know they are essentially aristocratic. I am fully persuaded that their minds and their feelings are so in antagonism to republican democratic doctrines that it is impossible to reconcile them, and we never shall have peace until we have reduced the leaders to utter poverty and taken thereby their influence away. I am for doing it. It ought to be done."—*Senator Wade, of Ohio, June* 25, 1862.

I quote again from the gentleman from New York, [Mr. SEDGWICK:]

"Now, whatever views gentlemen may entertain in regard to the propriety of accepting the aid of the General Government in the way in which it was offered, I wish, sir, to record my belief that with or without aid from the General Government, emancipation will occur in all of the States of this Union——

"Mr. WICKLIFFE. How and when?

"Mr. SEDGWICK. How and when! I will answer the gentleman. I hope and believe that before this war is ended the sun will not shine upon a slave upon all of this continent.

"Mr. WICKLIFFE. The gentleman is for freeing the slaves under the war power.

"Mr. SEDGWICK. I hope the war and slavery will end together. I have no alarm on the subject.

"Mr. MALLORY. The gentleman says that this war will result in the annihilation of slavery. My regret at such a consummation would be lessened if we would secure at the same time his annihilation and that of such as he by hanging.

"Mr. SEDGWICK. Ebullitions of impotent passion will not move me on the subject. I hope that the two things will end together. I hope that the end of slavery and of this war will be written together upon the same page of the history of this country."—*Hon. C. F. Sedgwick, June* 25, 1862.

"By the laws of peace, it [slavery] was entitled to protection, and had it. By the laws of war, it is entitled to annihilation. In God's name, let it still have its rights."—*Hon. John H. Rice, of Maine, May* 24, 1862.

"The rebels have demanded a 'reconstruction' on the basis of slavery; let us give them a 'reconstruction' on the basis of freedom. Let us convert the rebel States into conquered provinces, remanding them to the status of mere Territories, and governing them as such in our discretion."—*Hon. G. W. Julian, of Indiana, January* 14, 1862.

"Sir, I can no longer agree that this Administration is pursuing a wise policy." * * * * "I cannot agree to the policy which is forbidding the employment and liberation of these men. Its policy ought to be to order our Army, wherever they go, to free the slaves, to enlist them, to arm them, to discipline them, as they have been enlisted, armed, and disciplined everywhere else, and as they can be here, and set them to shooting their masters if they will not submit to this Government. Call that savage, if you please. Sir, I can hardly desire to see more of my countrymen called into this war to help to shoot these masters and be shot themselves until this policy is adopted, and until the South shall have rendered up her full share of men—freed men—ere others can be expected to fight for the liberties of the country, and shall have rendered up her full share of life and treasure. I would not only liberate them, but I would seize every foot of land and every dollar of their property as our armies go along, and put it to the uses of the war and to the pay of our debts. I would plant the South with a military colony if I could not make them submit otherwise."—*Hon. T. Stevens, of Pennsylvania, July* 5, 1862.

Mr. Chairman, I might string out these quotations to very great length; but as time will not permit, I will not pursue this branch of the subject further. I have shown what the leaders here desire to accomplish in prosecuting this war, and what interpretation they give to the acts and messages of the President, whom the gentleman from Pennsylvania [Mr. STEVENS] thinks entertains honest and patriotic views—

"If these might only sway him: but 'tis most certain,
So many new-born flies his light gave life to
Buz in his beams—flesh-flies, and butterflies,
Hornets and humming scarabs—that not one honey bee,
That's loaden with true labor, and brings home
Encrease and credit, can 'scape rifling;
And what she sucks for sweet, they turn to bitterness."

The action of a majority of the dominant party on this floor clearly demonstrates that this war is not to be prosecuted for the restoration of the Union as it was, and the Constitution as it is, as the primary object, but for SUBJUGATION, CONFISCATION, and EMANCIPATION; and when these objects are accomplished, then the Union may be restored, and the Constitution allowed to resume its wanted sway, if, in prosecuting the cherished measure of these gentlemen—giving liberty to the slave—*we shall not have lost our own.* It is even now claimed by many gentlemen, and had I the time I would read many extracts from their speeches, to prove that they maintain the doctrine that we must have "provisional governments over the districts of country now in rebellion against the lawful authority of the United States," [Mr. BEAMAN;] that "the rebel States are but organized conspiracies, not constitutional States, nor entitled to State rights"—[Mr. BINGHAM;] and that "when the people of these States, by permission of the military power, and not before, shall form *new* constitutions and governments, and ask again to be represented in the councils of the nation, which they have so basely abandoned and so traitorously betrayed, *it may be in the power of Congress to impose the terms on which they shall be admitted*"—[Mr. SEDGWICK.] This doctrine only paves the way for that other monstrous doctrine avowed by the chairman of the Ways and Means Committee, [Mr. STEVENS,] and which I find in his speech delivered in this Hall on the 22d day of January last:

"If no other means were left to save the Republic from destruction, I believe we have power, under the Constitution and according to its express provision, to declare a dictator, without confining the choice to any officer of the Government. Rather than the nation should perish, I would do it; rather than see the nation dishonored by compromise, concession, and submission; rather than see the Union dissevered; nay, rather than see one star stricken from its banner, all other things failing, I would do it now. Oh, for six months' resurrection in the flesh of stern old Jackson!"

I can heartily join in this prayer for a "resurrection in the flesh of stern old Jackson!" But I would not like to stand in the shoes of the gentleman, and others I might name—North as well as South—were the prayer granted.

I now read some extracts showing, not perhaps with whom the odious and baneful doctrine of secession originated, but who were some of its earliest advocates:

"Any people, anywhere, being inclined and having the power, have the right to rise up and shake off the existing government, and form a new one that suits them better. This is a most valuable, a most sacred right—a right which, we hope and believe, is to liberate the world. Nor is this right confined to cases in which the whole people of an existing government may choose to exercise it. Any portion of such people that can may revolutionize and make their own of so much of the territory as they inhabit. More than this: a majority of any portion of such people may revolutionize, putting down a minority intermingled with or near about them, who may oppose their movements. Such minority was precisely the case of the Tories of our own Revolution. It is a quality of revolutions not to go by old lines or old laws, but to break up both and make new ones."—*Extract from President Lincoln's speech in the House of Representatives, January* 12, 1848. *See Appendix to Congressional Globe, first session, Thirtieth Congress,* p. 94.

"If the cotton States shall become satisfied that they can

do better out of the Union than in it, we insist on letting them go in peace. The right to secede may be a revolutionary one, but it exists nevertheless." * * * *

"We must ever resist the right of any State to remain in the Union and nullify or defy the laws thereof. To withdraw from the Union is quite another matter; and whenever a considerable section of our Union shall deliberately resolve to go out, we shall resist all coercive measures designed to keep it in. We hope never to live in a republic whereof one section is pinned to another by bayonets."—*New York Tribune*, November 9, 1860.

"If the cotton States unitedly and earnestly wish to withdraw peacefully from the Union, we think they should and would be allowed to do so. Any attempt to compel them by force to remain would be contrary to the principles enunciated in the immortal Declaration of Independence, contrary to the fundamental ideas on which human liberty is based."—*New York Tribune*, November 26, 1860.

"If it [the Declaration of Independence] justified the secession from the British Empire of three million colonists in 1776, we do not see why it would not justify the secession of five million southrons from the Union in 1861."—*New York Tribune*, December 17, 1860.

"We have repeatedly said, and we once more insist, that the great principle embodied by Jefferson in the Declaration of American Independence, that Governments derive their just power from the consent of the governed, is sound and just; and that, if the slave States, the cotton States, or the Gulf States only, choose to form an independent nation, they have a clear moral right to do so." * * * *

"Whenever it shall be clear that the great body of the southern people have become conclusively alienated from the Union, and anxious to escape from it, we will do our best to forward their views."—*New York Tribune*, February 23, 1861.

Views similar to these were entertained and advocated by the State Journal and Cincinnati Commercial, leading Republican papers in my own State; and when the Tribune, in February, 1861, declared that "we will do our best to forward their [the secessionists] views," we here to-day, in view of the measures advocated by that Journal, and passed and sought to be passed by this Congress, can say that the *best* has been done by them "to forward the views" of the rebels that could be done under the circumstances.

I desire to make one other extract from the speech of my colleague, [Mr. EDGERTON,] and then I close with his dissertation on the Democratic address:

"Who knows the exultation and the joy with which this Democratic address was read in the camps of the secessionists? Who can describe the thrill of delight which ran through the ranks of the followers of Jeff Davis when they read that address, and found, while there was no condemnation of the rebellion, there was a bitter denunciation of the true men of the North and of Mr. Lincoln's administration? Who can tell how that address animated the hearts and strengthened the arms of the rebels to strike another and a more deadly blow at the hearts of our brothers and sons? Who can deny that the whole tenor and effect of this address, instead of striking at the traitors, is to bolster up their cause, and to strengthen their hands against the Government?"

The gentleman has drawn upon his imagination for a number of questions, to which he has vouchsafed no answers, well knowing he could give none satisfactory to himself without gathering them from the same fruitful source—his imagination. I could say, with much more truth and force, that in that address the leaders of the rebels see the downfall of their mad and wicked schemes, for it says to all their deluded followers, as well as to all the people, North and South, there is a party in the country who desire the restoration of the Union as it was, and the maintenance of the Constitution as it is; who say "that this war is not to be waged on the part of the Government in any spirit of oppression, nor for any purpose of conquest or subjugation, nor for the purpose of overthrowing or interfering with the rights or established institutions of the States, but to defend and maintain the supremacy of the Constitution, and to preserve the Union with all the dignity, equality, and rights of the several States unimpaired, and that as soon as these objects are accomplished the war ought to cease." When the masses of the southern people become satisfied that these are the objects of the war and of the northern people, then, indeed, may Jeff Davis and the leaders of the rebellion tremble; then will his deluded followers hurl from power their wicked leaders, and return to their allegiance beneath the ample fold of the stars and stripes.

Sir, let me propound a few interrogatories. "Who knows the exultation and joy with which" abolition speeches are "read in the camps of the secessionists," enabling their leaders to say to the soldiery, "here is foreshadowed the policy to be pursued by the Republican party?" "Who can describe the thrill of delight which runs through" the hearts of Jeff Davis and his rebel congress when they hear of our emancipation acts and say, "this is but the beginning of that general emancipation which legitimately follows Republican rule?" "Who can tell how" the declaration of Republican members, that "*either slavery or the Union must perish*," "animates the hearts and strengthens the arms of the rebels to strike another and more deadly blow at the hearts of our brothers and sons?" "Who can deny that the whole tenor and effect of" our legislation, "instead of striking at the traitors, is to bolster up their cause and strengthen their hands against the Government," by enabling them to say, "in this or that speech or resolution or bill or law, is it boldly claimed that we of the South are to be utterly subjugated, held and governed as conquered provinces, the lives of all our male citizens sacrificed upon the gallows, all our property of every kind and description confiscated, and our wives and children to become vagabonds, houseless and homeless, wanderers upon the face of the earth?" Is not this a fascinating picture for the philanthropist and the Christian to contemplate? Sir, am I not justified in thus stating these propositions and propounding these interrogatories when my loyalty is called in question because I differ with the dominant party in its abolition measures and policy?

Mr. Chairman, this attack comes with an ill grace from my colleague. His memory has certainly played him false or he would never have made charges of disloyalty upon a member of this House. The editor of the Norwalk (Ohio) Experiment, in a late number of that paper, says:

"We will give a short 'speech' that this same Congressman from the Summit district made to us, in Washington, a little more than two years ago. Mr. EDGERTON being from the same town, in the State of New York that we came from, and a boyhood acquaintance, we called upon him at the capital, and in the course of a conversation on 'matters and things in general,' he thus defined his position concerning the Union: '*I tell you there is going to be a dissolution of this Union, and I do not care how quick it comes; all I want is to give those fellows* [meaning the South] *a good licking, and then kick them out.*' We have given his exact language."

So much for the gentleman's loyalty and devotion to the Union.

One year ago, Mr. Chairman, perhaps the Republican party were in earnest when they adopted the Crittenden resolution, and perhaps they intended to carry it out in good faith. I was disposed to believe them when, here and in my own State, they declared that party platforms and party issues must be ignored until the close of the great struggle in which we are engaged, and that everything must give way to the suppression of the rebellion and the supremacy of the Constitution and laws. But, sir, one short year has developed the fact that the wildest scheme of the maddest fanatic of this or past years can find his wildest dreams realized in the acts and resolutions of this Congress. And must the Democratic party be told that they are disloyal if they seek to maintain their organization, elect their own men to office, and stand faithfully by the Crittenden resolution of July last; while the Republican party is carrying out every resolution of the Chicago convention, and, indeed, urging and passing measures here never dreamed of by the great body of that party; measures that only had an existence in the distempered brain of some abolitionist of New England or the Western Reserve? I for one do not think I am called to partake of any such feast. The legislation of the State of Ohio furnishes further evidence that, notwithstanding their professions and promises, they are determined to show no favors to the Democratic party. An instance of it may be cited in the act redistricting the State for congressional purposes, and by which they have attempted to disfranchise two thirds or three fourths of the Democratic voters, as the only means of carrying the next congressional delegation. Their cry of "no party" has been the sheerest deception, and was only inaugurated that certain politicians might ride into office.

Mr. Chairman, what would have been thought if a Democratic member of this House had introduced a resolution declaring that the appointment of a military Governor by the President "is without sanction in the Constitution and laws, and that its effect is to subordinate the civil to the military authority, contrary to the spirit of our institutions and in derogation of the powers of Congress?" The least punishment he could have expected would have been to be denounced as disloyal and a traitor; yet it can be done in the other wing of the Capitol by a Republican Senator [Mr. SUMNER] and nothing wrong is thought of it. It only verifies what I have before said, that Republicans are privileged to say what they please of the Administration, and their loyalty is not to be called in question. Let the same thing be said by a Democrat, and he will raise an overwhelming storm of indignation about him. It would seem, sir, that the Constitution is now only to be invoked when certain measures are proposed or adopted which run counter to some favorite abolition project.

Notwithstanding my colleague "doubts any man who prates so much about the Constitution," and it may be, at this day and at this time, looked upon as old fashioned and out of place, still, at the risk of being thought behind the age and of using an oft-repeated quotation, I here pledge my fealty and devotion to that sacred instrument anew, and say, in the language of Ruth to Naomi:

"Entreat me not to leave thee, *or* to return from following after thee: for whither thou goest I will go: and where thou lodgest I will lodge: thy people *shall be* my people, and thy God my God: where thou diest, will I die, and there will I be buried: the Lord do so to me, and more also, *if aught* but death part thee and me."

Mr. Chairman, my whole heart is devoted to a restoration of this Union. Politically we have nothing else worth living for; and the brave and gallant men who have gone forth to battle have thought it worth dying for. Let us not, then, say to them, we have sent you forth, not to fight for the Union and the Constitution, but for some ideal scheme of some mad fanatic, who thinks he sees in the present unhappy condition of our country the time and the opportunity to carry out his Utopian views. Let us rather say, your mission is a lofty and a noble one—*to restore the Union and to defend and maintain the supremacy of the Constitution and the laws.* When this good work shall be accomplished we will welcome you to your homes and firesides with shouts of joy that your mission is fulfilled; and with tears of sadness for your brave comrades sacrificed at the shrine of the accursed spirit of fanaticism and sectionalism North and South.

Mr. Chairman, my only hope that this good work will ever be accomplished is in the conservative men of the great West and the border slaveholding States. Let them arise in the majesty of their strength and exclaim, in language not to be misunderstood, to the secessionists of the South and the abolitionists of the North:

"Up! people of the States, who love your homes;
Up! gallant hearts, that throb with pure disdain
Of traitorous arts. Up! flaming souls of fire;
Build ye a Haman's gallows for the knaves [whether North or South]
That dare to raise a voice or hand to break
The sweet relationship our fathers left
To bind us all, cemented with their blood.
Oh! North and South, two brothers of one birth,
Meet ye again, as they at Penuel met,
Jacob and Esau thinking each of strife,
Yet when they came anearer, wept with pure love
Upon each other's neck, that both may say,
'Keep that thou hast, for God hath dealt
Most graciously with each; and thus we see
Each other's face, as 't were the face of God,
Shining with blessings; and the Lord of Hosts
Watch between thee and me forevermore!'"

Mr. VAN HORN. Mr. Chairman, before this session closes, on behalf of the select committee appointed by this House to consider the propriety of the construction of a ship canal around the Falls of the Niagara, upon the American side, and the friends of the measure generally, I wish to throw out a few considerations for Congress and the country to reflect upon. For good and sufficient reasons, this House will not be asked to act upon this question at the present session. It requires great care and deliberation to mature and bring out a measure best adapted to secure the end to be attained, and to render it an object desirable, and as little objectionable as possible. When so matured and developed, and properly before the House and the country, it is expected that it will meet, as it justly deserves, the candid and favorable consideration and support of Congress. This body has earned too high a character already for its devotion to the great interests of our people, its desire to advance their prosperity, develop and expand their great wealth and resources, and lift up to a higher usefulness and grandeur the labor and enterprise of the country, to expect other than a favorable action towards this, a kindred and scarcely less important project than the great measure of improvement already passed. The construction

of a Pacific railroad, which is now certain, will bear no insignificant part in making this Congress what it really is, the conservator of the highest welfare of our people, and the depository of great trusts faithfully kept and executed. In view of this record, and the known purposes and patriotism of this House, the friends of the measure of which I speak will, early in the next session, ask for it and expect a prompt, liberal, and just consideration. There is no desire to crowd upon this session an unreasonable amount of labor and legislation; besides we prefer to place such a project as this upon its own merits, disconnected with any other, however important or necessary.

The enlargement of the locks on the New York canals, and the improvement of the Illinois river and canal, upon which I took occasion to express my views, are meritorious projects, as I believe; but upon them the House has already acted. A ship canal around the falls of Niagara, in very many respects, is above and higher in importance, and involves considerations of far greater magnitude. Invaluable to the commerce of our northern frontier in its regular and ordinary transactions, a great means of protection and defense in time of war, it, at the same time, involves high considerations of national prosperity and independence, which we cannot, especially at the present juncture of affairs, afford to overlook and set entirely aside. It is a shame to our nation that this great work has not been constructed long ago. The English Government has expended already over thirty million dollars in constructing communications within her borders between the rivers and lakes along over common frontier, while we have done comparatively nothing in this direction; while, at the same time, our Treasury has been unembarrassed, and at times overflowing. Hers has been a wise policy, and as a result of it she can command the whole line of our frontier, and draw largely upon our commerce and detract from the sum of our prosperity.

It is no argument against this work that if constructed it would draw from the great lines of communication through New York, upon which large sums have been expended and in which large interests are involved, for all the lines of communication that now exist and that hereafter may be constructed will find their energies taxed to their utmost to meet the constantly increasing demands upon them from the great producing West, now but partially developed and but little improved. It is already proposed, and it will be done, to enlarge the Welland canal between the two lakes it connects, so as to meet this great and growing demand of our lake commerce, so that if our ship canal be not constructed, our lines of commerce above referred to will not be benefited, as they have not been, by that portion of our trade that seeks tide water, and that can make it profitable to use as much natural or lake transportation as possible. It is, then, a question who shall command this vast trade, ourselves and our people, or a foreign nation, and those whose recent insults and outrages upon decency and good neighborhood have gone very far, to say the least, to make us believe they are our enemies, and desire a disruption and a failure of our Government? If we look into the amount of business a canal of sufficient capacity between the lakes would do, as the Canadian canal will do when enlarged, we can then comprehend the importance of the construction of one within our own lines, and for our own benefit. It must be remembered that about five sixths of the tonnage of the Welland canal is American, and consequently a very large proportion of the proceeds of its business is from the enterprise and commercial transactions of our own people. The ratio of increase is constantly in favor of our tonnage, and it is safe to say that as our vast country west opens up and sends out the amount of products which the future will develop, our enterprise and our resources will constitute nearly the sum total of its future proceeds. With its present dimensions and facilities it is not unfrequently the case that five hundred vessels pass through it in a single month, and the proceeds of its business, by the last reports, are very great.

The following statement from the last census will give some idea of the immense business that is to employ our thoroughfares to tide water, and of that portion of it which will crowd this canal; at all events if ours is not constructed. The eight States which would be most benefited by a ship canal, and are tributary more or less, to the East, contain an aggregate of over 271,000,000 acres of land. Of this over 56,000,000 acres are now improved and over 46,000,000 acres unimproved. The balance, over 169,000,000 acres, are not yet at all in use. They produced in 1860, of wheat, over 101,000,000 bushels; of rye, over 9,000,000; of corn, over 347,000,000; and of oats, over 86,000,000 bushels; making, to state it accurately, a total of 544,946,254 bushels. Since the last census, in a period of ten years, the amount of products of these States has nearly doubled; it being, in 1850, a total of 326,246,468 bushels. Who can anticipate the great abundance of the products of this vast region during the next generation? When its enterprise shall be fully developed and given scope, and its vast domain filled with busy and industrious millions, who shall limit its resources and set bounds to its enterprise and wealth? With this state of facts before us, it is very easy to see that such a work as even now exists will draw largely upon the business which is legitimately and ought to be kept our own, for our own benefit, and under our own control. When enlarged it will draw more largely upon us, and in proportion to its increased facilities and capacity. In a commercial point of view, it is important and imperative that this great work should be constructed. In the light of the commercial interests of our own people, and the care and development of commercial facilities and benefits to which our Government should always give its attention and favor, this work indeed is a commercial necessity. It is a short-sighted policy that provides only for the present, and leaves the great future coming on apace with its foreshadowings already in our view, and its wonderful realities demanding of us to prepare for their approach. It is a wise policy, on the other hand, to see in the present what the future will require, and so shape our action and legislation as that the greatest development will be secured and the greatest good achieved.

But, sir, other considerations press the importance of this work upon us. It is also, to a great extent, a military necessity. We must have a direct water communication between our lakes, in order to be in readiness to protect and defend our commerce. Whatever may become eventually of the project to enlarge the locks of the New York canals, which work ought to be done, their enlargement is no argument against the military necessity of this work. In case of a war it would of itself be a great harbor of refuge to our commerce; at the same time, a substantial means of defense, by furnishing a speedy and complete communication through which troops, stores, and means of war could be thrown at any point, above or below, with great celerity and effect. It has been argued against this view of the subject that, in case of a rupture between us and England and Canada, our policy must be to immediately seize hold of the borders upon the Canada side, and thus control her canals and lines of communication for our own benefit, and, at the same time, prevent their use by any one else. This would undoubtedly be good policy and a great object gained; but it is by no means a reason why we should not also be prepared with resources independent and of our own, and not depend upon such contingencies and the uncertain fortunes of war. It would be the purpose of our enemy, in the event of a war, and to that object every means would be turned, to hold these lines of communication as against us, and it would be then no excuse for a failure on our part to prepare defenses of our own that the fortunes of war were against us. I admit no superiority of arms, skill, or bravery over American arms or American valor, but I would counsel preparation and defenses of our own.

But, sir, I intended only to throw out a few ideas upon this question at this time, in justice to the friends of this measure, for the reflection of Congress and the country, leaving a more careful and minute discussion of it until the next session, when the select committee having it in charge will be prepared to make a report in full upon it, and present a bill calculated to accomplish the end desired.

I will add, before concluding, that this project has at different times in our history claimed and had the attention of the Government, as one of conceded public utility and closely connected with the prosperity of the country. In 1808, the Secretary of the Treasury, in obedience to a resolution of the Senate, submitted an elaborate report on public improvements, which embraced this project, and which was represented as both practicable and of primary importance and deserving the attention and aid of the General Government. In 1835 the Executive ordered a survey to be made in view of the construction of this work, which was done under the supervision of Captain Williams, a most skillful and competent officer and engineer. His extensive report and maps are on file, and present most clearly and ably the entire feasibility and the great importance of such a work. Various routes were surveyed near and more remote from the river, each one of which is carefully estimated and set forth in his report. It is not my purpose, neither will it be the purpose of the committee to locate this work, but leave it where it properly belongs, to the President, to settle it through disinterested commissioners or otherwise, in a way to best promote the great objects of commercial importance and military defense, which combined make its construction a necessity. On a great national question like this, no local or selfish considerations should come in to interfere with the execution of so great a purpose as is here sought, but all minor things, views, feelings and local interests, all should be subordinate to the great objects to be attained, and which form the basis upon which this great enterprise is projected and the ground upon which the aid of Government will be asked. No sectional prejudices or jealousies that are incident to location should operate to influence any one from the high and honorable position all should occupy, which is to leave the question of route to be determined alone by the considerations that make the work desirable and necessary.

It will cost but a small sum to aid effectually in securing the construction of this canal, while it would add largely to the facilities of commerce, greatly benefit our own people, and keep within ourselves our own resources. Our loyal people would feel that their interests were cared for and protected, while it would be another bond with which to bind our people closer, if possible, to the Government that is their protector. Our ability and resources being unquestioned, national pride and independence should induce us to aid this proposed work. The course pursued by our Canadian neighbors during the civil war in which we are now engaged, ought to lead us not to depend upon them for commercial facilities any longer than it will take us to furnish them for ourselves. Our whole policy and conduct towards them have been to elevate and benefit them, and bring them under the strongest obligation of friendship towards us. When will Americans forget the insults they tried to heap upon us, and their efforts to bring us and our cause into contempt and weakness? Never, so long as we have any regard for our honor and good name as a people, who never struggle but to save, vindicate, and protect the right!

As expressive of the views of the engineer who made the survey above referred to, and the reports upon the same, I conclude with a few lines from his report, made in 1835. At this still later day it has additional force. He says:

"Indeed, it cannot fail to excite astonishment when the reflection is once led to the subject, that up to this epoch of an age resplendent with improvements in all that relates to the melioration of commerce and the advancement of civilization, this work, upon our own soil and on a scale commensurate with its importance, should still remain to be executed. It needs not the aid of demonstration to prove its utility. It is one of those objects that strike us with instinctive conviction, and we are intuitively impelled to the belief of its comprehensive usefulness, even if abstraction be made of everything but the general position, that it would connect two bodies of water leading to the most remote regions, and capable of bearing upon their deep and expansive bosoms the navies of the world in five seas which are yet essentially separated by reference to the scale of commercial enterprise that legitimately belongs to such a vast extent of geographical limit." * * * * "If I have shown more interest in the question than is usually looked for at the hands of an engineer, it is that I have felt the strongest conviction of the grandeur, even sublimity, of the enterprise, combined with its general usefulness to the country and the facility of its execution."

Mr. RICHARDSON obtained the floor.

Mr. SARGENT. Will the gentleman from Illinois yield to a motion that the committee rise?

Mr. RICHARDSON. I desire to submit a few remarks to the committee, but if it be its pleasure to rise now, and let me have twenty minutes to-morrow, I have no objection to that.

Several MEMBERS. No, no; go on now.

Mr. RICHARDSON. A short time ago, some fifteen gentlemen issued an address over their own signatures through the public press to the people of the United States. That address has provoked a great deal of controversy and has been assailed with great violence. It has disturbed the peace of mind of many gentlemen upon this floor, caused them sleepless nights. They have fretted away their hours here in assaults upon it. Their assertions in opposition to that address do not rise to the dignity of reason, but descend to the contemptible resort of those who cannot reply to an argument, and, therefore, are driven to ribaldry and abuse.

In this case, members in opposition to the doctrines contained in that address have singled out some one whose name is attached to it; find fault with some opinion which he does or does not entertain, or some pretended speech of his, swear he is the author; that all of his speech which was never made or these opinions that were never entertained are covertly and secretly in that address, and that the public should be guarded against it, because of these supposed things.

That address is nothing more or less than a compilation of the opinions and views of some of the most eminent men that have adorned this country. For the arrangement of these views, I am responsible.

In the anxiety of the "shoddy" politicians to assail that address, one other objection to it is that it does not denounce the rebellion and abuse the rebels. Each thought and sentence of that document is for the preservation of the Constitution, for the maintenance of law, for constitutional liberty. If the Constitution is preserved and the law maintained the rebellion will be put down, for it is in violation of both, and destructive of each.

If the rebellion could be put down by denunciation, the abolitionists and those who are engaged in plundering the Treasury in and out of Congress, would have accomplished that work long ago. They have exhausted the vocabulary of invective, and exhausted the subject, but by these means have won no victories nor accomplished any beneficial results. They have done no more towards success, but as much, I grant, as the Chinese do towards victories when in war they beat gongs to scare and make faces to terrify their adversaries. The plunderer of the public Treasury is the loudest in words to denounce rebellion and the boldest in professions of loyalty. It is cheap and safe service, and in every country he is ready to perform it.

The walls of Jericho were overthrown by the blowing of rams' horns, but history furnishes no other instance of warfare carried successfully on by such means. Certain it is, this rebellion cannot be put down by denunciation. It cannot be bellowed down. It must be put down by armies, with the sword, by the bayonet, by battles, and by siege. Skill in the officers, endurance, courage, drill, discipline among the men, are necessary to its overthrow. All the men, all the money that were asked for, and more, have been freely given to the President. He has had millions of men from whom to select commanders. He has the power to make and unmake generals. If the rebellion has not been crushed sooner the misfortune is not chargeable to the failure of the Democratic address to denounce the rebellion and the rebels.

But, sir, another objection is made of a very singular character. A gentleman from Massachusetts objects to any restoration of the Democratic party to power because he says it would bring back the Buchanan men into place, and they have been condemned by a strong and correct public opinion. (I quote from memory, and not the words of the gentleman, but the substance and meaning.) I propose to look a little into this matter. Elsewhere it has been said that this address was a Buchanan movement. During the canvass of 1860, the supporters of Lincoln and Breckinridge were very complimentary, if not cordial towards each other. The Lincoln man said, "I am a Republican, and consequently I am opposed to both wings of the Democracy; but the true Democratic ground is that slavery has the right to go everywhere, if the Constitution protects it anywhere. You Douglas men are wrong in calling yourselves Democrats at all, for you do not pretend to defend slavery; and to be a Democrat is to be in favor of slavery." The Breckinridge man would say, "there are but two parties, the Democratic and the Republican; the Administration and those opposed to it. If we ever quit the Democratic party, we go into the Republican; we oppose all such doctrines as those advocated by Mr. Douglas." And if the speaker happened to live a little south of Mason and Dixon's line, he would go into a glorification of the beauties and glories of slavery, and denounce Douglas as a worse abolitionist than Hale, or Sumner, or Giddings. Thus things stood at the election of 1860. We were routed at every point; Mr. Lincoln was triumphantly and constitutionally elected. The camp followers of Buchanan, of course, looked out for themselves. They were not Democrats from conviction. They are the "place men," waiters on Providence. The great body of the Breckinridge party North never intended to be betrayed into hostility to the Democratic organization. The leaders intended otherwise. But, sir, it is strange to hear this objection come from any Republican, that Buchanan men should never again be called to office. Who is the present Secretary of War, and what have been his political associations and antecedents? Fresh from Buchanan's Cabinet, he has been called into that of Mr. Lincoln, next to the President, the most important position now in this country. With energy, and doubtless some ability, he sets himself rapidly to work to scatter our armies under different commanders, so that a massed corps of rebels under Jackson of twenty-five or thirty thousand men defeats three divisions of our Army under as many generals, holds in check sixty thousand men, and then aids in defeating a fourth division at Richmond.

Mr. CAMPBELL. I would inquire what four armies have been whipped?

Mr. RICHARDSON. Frémont, Banks, Shields, and I fear McClellan's army had the worst of the fight before Richmond. The Secretary introduces the Austrian war tactics which Napoleon exploded long ago, and made their failure so plain that every school-boy had learned it. These four divisions of our Army were and are so scattered that no two of them can coöperate together, and when the great battle at Richmond took place, three divisions which should have aided to win it were inactive and not in a situation to aid in any particular. The future may reveal the wisdom of this strategy, at present it is not perceptible. The rebel commander could not have arranged more advantageously for himself, and more disadvantageously for us, these divisions of the Army than was done. Another of Buchanan's Cabinet, and one of the best, too, General Dix, has a division of the Army intrusted to his management. One of the most servile of Buchanan's followers, and one of the most ardent of the supporters of Breckinridge, General Butler, has had intrusted to him another division of the Army. He has gained more notoriety by his order at New Orleans than he has won fame by his sword. This general cast his vote forty-nine times at Charleston to make Jefferson Davis a candidate for the Presidency of the United States, and by his course there did more than any one else—Caleb Cushing always excepted—to induce the southern leaders to take the first step in rebellion by leaving that convention. General Shields, but recently in command of a division in Virginia, was another of Breckinridge's supporters. The chairman of the Breckinridge central committee during the contest of 1860, has an important command in the army in South Carolina. During that political contest, Judge Douglas, satisfied that he had no chance for success, and that Mr. Lincoln would be elected, took the stump for a single purpose; that purpose was to produce accord and unanimity among the people everywhere, that the person elected according to the Constitution should be inaugurated and administer the Government. His canvass during 1860 had this purpose and none other. For the utterance of these sentiments, Mr. Chairman Stevens characterized Judge Douglas as a "mountebank."

Two provisional Governors have been appointed. One of them, Governor Johnson, was a warm, decided, unbending Breckinridge supporter; and for his election traversed the State of Tennessee. The Administration does not indorse the sentiment that Breckinridge men may not and should not be called to place and power. During the last campaign, in the State of New York, Daniel S. Dickinson was nominated and elected attorney general by the Republican party. He was one of the genuine Buchanan and Breckinridge men. It is true he never held office by appointment from Buchanan, but that was not his (Dickinson's) fault. He was, in days gone by, a great worshiper of those now in rebellion. He has expressed regret that he was not born in Virginia; and if you can call to a place so responsible as that of attorney general of New York, such a man, I think it does not become you to speak or write about Buchanan and Breckinridge men here or elsewhere being called to power. You would not hesitate a moment to call Buchanan himself to any position in this country, if thereby you could advance your own selfish ends and purposes.

I have not alluded to these appointments to civil and military offices, and to the election of an attorney general in New York for the purpose of finding fault. I have no complaint to make; none whatever; and if I had, it would be unavailing and useless. I do not complain and shall not. I have called attention to these appointments to relieve the address from an unjust imputation sought to be cast upon it. Sir, it is said the address meets with but little public favor; that it is not popular. About that we will see hereafter. It is what I conceived, as did each one who signed it, to be right and proper; that it asserted correct principles to guide our course. It is the path of duty, and I shall endeavor to walk it, though I have to trudge it alone.

Popular favor generally comes to correct conclusions, sooner or later. On its march it often consigns the hero of to-day to exile to-morrow. In passion it sometimes condemns to the block or scaffold the guilty and the innocent. Reparation for the wrong done to innocence is made in the page of faithful history.

One other ground of objection is urged: that the address is guilty of the treasonable act of calling attention to the necessity of economy in public expenditures. It is true this is more by insinuation than by direct charges. It is intimated or insinuated, here and elsewhere, that no man is loyal who complains of peculation or extravagance in the expenditure of public money. I had supposed that the reports of the committee of this House, of the Senate, of the commission appointed by the President, composed as it was of men eminent for ability, integrity, and patriotism, were intended to suppress peculations upon the Treasury, and that all men were doing a public service who aided in bringing the public mind to condemn such practices. From the course of debate here, and from the tenor of newspaper articles from the press in your interest, it seems that doubts are entertained of the loyalty of men who expose and denounce larcenies from or frauds upon the public Treasury. My young and eloquent friend from Indiana has been suspected because he had the audacity to charge that thefts had been committed upon the Treasury, and that our expenditures were enormous each day. Neither the Democratic address nor the speech of Mr. VOORHEES charges one half of what is alleged by the Holt commission, the Van Wyck committee, by Republican members upon this floor, and in the Senate. Both here and in the Senate it has been said by Republican members and Republican Senators that we were in more danger from those who were plundering the Treasury than from the rebels in arms.

Believing that it was wrong to plunder the public money in this hour of my country's need, and that economy was necessary, I have said so, and still adhere to that opinion.

I am grieved to think that all this ado on the part of Republicans about prodigality and to prevent fraud was a mere sham to deceive the public. I confess I do not comprehend how we can embarrass the Administration by exposing and denouncing fraud and peculation upon the Treasury, by bringing the Government back to rigid economy. I had supposed, until recently, that this was the proper way to aid the Administration, to help them to put down the rebellion and preserve the Government. I am mistaken if you do not find this the true and indispensable policy to control your actions in future.

There is one single other point to which I wish to allude, and I will then take my seat. It is said, both here and elsewhere, that no member is loyal who did not support the tax bill as it passed this House. I am ready to defend that vote here or elsewhere; I feel no uneasiness upon that point.

To-day I might content myself in defense by saying that, if the statements as to our indebtedness and expenditure as made by the Secretary of the Treasury, by the gentlemen [Mr. DAWES and Mr. MCPHERSON] are true, we do not need the vast amount that will be raised under this bill. If the Secretary of the Treasury has not made a truthful statement in this regard, he should not have control of the amount, vast as it will be, which you propose to raise.

But, sir, there existed reasons that were satisfactory to my mind for the vote given that I shall hereafter elaborate and only briefly allude to now. The amendments made by the Senate in some respects greatly improved the bill, in others made it more objectionable. The principle upon which the bill is based is erroneous and wrong. By your tariff as now arranged, and your tax bill as it passed this House, the support of the Government falls mainly and heavily upon the laborer and the producer, not upon capital, which is capable to pay and should be made to pay. Under the operation of the tariff as it now exists, the poor laborer, with a dozen persons in his family, pays into the Treasury, indirectly it is true, more than the richest man in New England. Under the tax bill as it passed this House, and against which I cast my vote, some persons in my district will pay three times as much into the Treasury as the man worth his many millions in the city of New York. Wealth, in great emergencies like this, should pay the taxes; individuals fight the battles.

Mr. HOLMAN. I ask my friend from Illinois to allow me to make this single suggestion: the tendency of his remarks would seem to array parties against each other upon the tax bill. I trust he will not forget a majority of the Democratic party in this House voted for the tax bill.

Mr. RICHARDSON. I am giving the reasons why I voted against it, not assailing any Democrat or Republican who voted for the bill.

The burdens of the tax bill fall most heavily upon the section from which I come, and unequally upon persons residing there. The tax bill, as it passed this House, levied a tax on each hog slaughtered often cents; head of cattle, fifty cents; sheep, five cents, unless killed for domestic use. The census does not show the number killed, but the value. In 1860, in Illinois alone, the value of animals slaughtered was over fifteen millions. In the six New England States together the value was less than fifteen millions and one half. The entire tax upon this head would come from the Northwest and none from the East. Under the bill as it passed this House, the tax upon policies of insurance falls heavily upon us. Upon transfers of real estate, as that changes hands frequently in new settled countries—and in old settled communities the changes are but seldom—the burden again is with us. I might occupy the House in citing similar cases; one other is deemed sufficient at this time. Under the bill, as it passed this House, you levied a duty of fifteen cents upon each gallon of whisky manufactured without regard to its value when manufactured. In Illinois, we raise of corn nearly six times as many bushels as you raise in all New England together, and nearly three times as much as the six New England States together with New York; in the six northwestern States of Indiana, Illinois, Michigan, Iowa, Wisconsin, and Minnesota, about six times as much. A part of this is manufactured into whisky, and it finds a market at home and abroad; it is a cheap article, selling usually at from twelve to twenty cents per gallon. By the bill as it passed the House, no drawback was allowed for that sent abroad. The tax as fixed by this House destroyed the manufacture in the Northwest, and would have driven into Canada every manufacturer from that section.

Sir, in the six northwestern States that I have already named, with a population of over five million people, we have no member upon the Committee of Ways and Means, while New England, with a population of a little over three millions, has two members; New York, with a population of less than four million people has two members on that committee. The Committee of Ways and Means originate and report the tax and tariff bills, and I venture the assertion that where any tax is assessed upon an article manufactured in New England, a duty equal to the tax is placed in the tariff bill, so that the price may be increased to the consumer, and thus the New England manufacturer be safe. I will add, sir, one thing more: all of New England's interests are particularly guarded; when tax is to be laid upon things in which they are particularly interested it is lightly touched. For instance, you levy a duty of three per cent. upon the dividends of insurance companies, bank dividends, &c., and by your tax every hundred dollars' worth of tallow candles pays to the Government $4 50 tax, while one hundred dollars' worth of diamonds pay only three dollars. Upon lager beer, as the bill passed the House, there was a tax of a dollar per barrel; upon piano fortes, four dollars apiece. A barrel of beer is worth about four dollars. The tax was twenty-five cents on the dollar; on the piano forte one per cent. on the dollar, upon the average. As the law now exists, there is no duty upon pianos and fifty cents upon the dollar's worth of lager. I might run this parallel through. It is not important I should do so now. It is said we can remedy whatever of wrong there is in this bill at the next session of Congress. Indeed this is the prompt and ready reply when any measure is urged or passed to which objection is made. If wisdom in legislation is exercised, if just and necessary acts are, and unjust and unequal ones are made just and equal, we must look to some future Congress. For one, I have no hope from the present Congress, who have done so much mischief to the country, to civilization, and to mankind.

I hope, I trust, I believe there is public virtue and intelligence enough among the people to repair in some degree the errors and follies this Congress has committed. If there is not, the future of our country is dark and gloomy enough.

Mr. HOLMAN obtained the floor, but yielded to Mr. MORRIS, who moved that the committee rise.

The motion was agreed to.

So the committee rose; and the Speaker having resumed the chair, Mr. KELLOGG, of Illinois, reported that the Committee of the Whole on the state of the Union had, according to order, had the state of the Union generally under consideration, and especially joint resolution H. R. No. 30, in relation to Sanderson's breech-loading cannon, and had come to no conclusion thereon.

MISCELLANEOUS APPROPRIATION BILL.

Mr. STEVENS. I move that a committee of conference be appointed, according to the request of the Senate, upon the bill of the House No. 393, known as the miscellaneous appropriation bill.

The motion was agreed to.

JACOB GATES.

Mr. BLAIR, of Pennsylvania. I ask the unanimous consent of the House to discharge the Committee of the Whole from the further consideration of the bill granting a pension to Jacob Gates.

Mr. F. A. CONKLING. I move that the House do now adjourn.

Mr. BLAIR, of Pennsylvania. Let the bill and report be read, and then I am sure the gentleman from New York will make no objection to it. It is one of the most meritorious cases ever presented to this House.

Mr. F. A. CONKLING. I insist upon my motion.

CONTRACTS FROM THE GOVERNMENT.

Mr. PENDLETON. I ask the gentleman from New York to waive that motion for a moment.

Mr. F. A. CONKLING. I will.

Mr. PENDLETON. I ask that Senate bill No. 358, to prevent members of Congress and officers of the Government of the United States from taking consideration for procuring contracts, office, or place from the United States, may be taken from the Speaker's table and referred to the Committee on the Judiciary.

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

Mr. F. A. CONKLING. I renew my motion.

The question was put; and decided in the negative.

Mr. SHERMAN. I ask leave to introduce a bill.

Mr. F. A. CONKLING. I rise to a point of order. No business is in order, there being no quorum present, as appeared upon the motion to adjourn. I move there be a call of the House.

Mr. KELLOGG, of Illinois. I move that the House do now adjourn.

The motion was agreed to.

The House accordingly (at five o'clock, p. m.) adjourned.

IN SENATE.

TUESDAY, *July* 8, 1862.

Prayer by the Chaplain, Rev. Dr. SUNDERLAND.

The Journal of yesterday was read and approved.

PETITION.

Mr. SUMNER presented a petition of citizens of Massachusetts, praying for the abolition of slavery under the war power; which was ordered to lie on the table.

REPORTS FROM COMMITTEES.

Mr. SUMNER, from the Committee on Foreign Relations, to whom was referred a memorial of the Representative Meeting of the Society of Friends, in behalf of the Western Yearly Meeting of Friends of western Indiana and eastern Illinois, praying that peace and order may be established among the nations in such way as to secure the natural rights of all men, asked to be discharged from its further consideration; which was agreed to.

He also, from the same committee, to whom were referred a petition of citizens of New York, praying for the abrogation of the reciprocity treaty between the United States and Great Britain, and a memorial of the Chamber of Commerce of St. Paul, Minnesota, remonstrating against the abrogation of that treaty, asked to be discharged from their further consideration; which was agreed to.

Mr. NESMITH, from the Committee on Indian Affairs, to whom was referred a petition of officers of the Methodist Episcopal Church, Wyandotte and Quindaro Mission, Kansas Conference, praying indemnity for the destruction of their church property during the troubles in Kansas in 1856, reported adversely thereon.

Mr. KING, from the Committee on Military Affairs and the Militia, to whom was referred the bill (S. No. 74) for the relief of Charles McCormick, assistant surgeon in the United States Army, reported adversely thereon; and, on his motion, the bill was postponed indefinitely.

Mr. KING, from the Committee on Military Affairs and the Militia, to whom was referred the bill (S. No. 79) for the relief of Assistant Surgeon Edward P. Vollum, of the United States Army, reported adversely thereon; and, on his motion, the bill was postponed indefinitely.

Mr. WILSON, of Massachusetts, from the Committee on Military Affairs and the Militia, to whom was referred the bill (H. R. No. 524) prohibiting the confinement of persons in the military service of the United States in the penitentiary of the District of Columbia, except as a punishment for certain crimes by sentence of courts-martial, and for other purposes, reported it with amendments.

PAY OF FIRST MINNESOTA SENATORS.

Mr. WILKINSON. I move that the regular order be postponed, and that the resolution relating to the pay of the first Senators from the State of Minnesota be taken up.

The motion was agreed to; and the Senate proceeded to consider the following resolution, which was submitted by Mr. WILKINSON on the 27th of May:

Resolved, That there be paid out of the contingent fund of the Senate, to the Senators first elected by the State of Minnesota, compensation, as such, from the commencement of the session at which they were admitted to their seats.

Mr. FESSENDEN. Has it been referred to the Committee on Contingent Expenses?

Mr. WILKINSON. It has been referred, and reported back by the committee.

Mr. FESSENDEN. I should like to hear the resolution.

The Secretary read the resolution.

Mr. SHERMAN. Is it proposed to pay money out of the contingent fund by a simple resolution of the Senate?

Mr. WILKINSON. Yes, sir.

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

Mr. FESSENDEN. I should like to hear the reasons for this payment.

Mr. RICE. I did not know that the resolution would be called up this morning. I move that it lie on the table. I am a party interested.

Mr. WILKINSON. Mr. President——

The PRESIDING OFFICER, (Mr. FOSTER in the chair.) The motion is not debatable.

Mr. WILKINSON. I hope it will not be laid on the table.

Mr. FESSENDEN. I want to know what it means.

Mr. WILSON, of Massachusetts. Let it lie over for a little while.

The PRESIDING OFFICER. The motion is to lay the resolution on the table.

Mr. WILKINSON. I wish to say a word in explanation.

The PRESIDING OFFICER. The motion is not debatable.

Mr. FESSENDEN, (to Mr. RICE.) Withdraw the motion.

Mr. RICE. I withdraw the motion at the suggestion of the Senator from Maine.

Mr. WILKINSON. I do not wish to press this resolution improperly. It was before the Senate some time ago, and I will state its precise condition. Originally this proposition was contained in a joint resolution which was referred to the Committee on the Judiciary. That committee recommended the payment of the amount provided for in this resolution, and it was passed by the Senate unanimously. The joint resolution went to the House of Representatives, and the Committee on the Judiciary of the House decided against it upon the ground, as I learn from some members of the committee, that they regarded it as a matter which was properly under the control of the Senate. They take the ground that each House has the control of the compensation of its members, or at least compensation of this character. After that action in the House, this resolution was introduced here. The Senator from Illinois, [Mr. TRUMBULL,] who reported the joint resolution from the Committee on the Judiciary, opposed it the other day when it was called up; but in conversation with me he said that he would see the chairman of the House Committee on the Judiciary, and if he agreed to it, he would waive all objection to the passage of this resolution. I am anxious that the resolution should pass. I believe every Senator agrees that this money ought to be paid. If the Treasury Department do not see fit to pay the money under the resolution, that will be the end of it. If they pay it, it will be all right. I understand the precedents have been various on this point. It will be left with the proper accounting officers of the Treasury. Everybody admits that the subject-matter of this resolution is right and just. If the Senate, however, does not wish that the vote should be taken now, I will not press it.

Mr. FESSENDEN. You had better withdraw it for a litle while.

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

Mr. SHERMAN. I understood the matter was postponed.

Mr. WILKINSON. I am willing to consent that it be laid aside for the present.

The PRESIDENT *pro tempore*. That will be taken to be the sense of the Senate, if there be no objection.

CONFISCATION OF REBEL PROPERTY.

Mr. CLARK. I move that the Senate now proceed to the consideration of the bill (H. R. No. 471) to confiscate the property of rebels for the payment of the expenses of the present rebellion, and for other purposes, to which the Senate made an amendment.

The motion was agreed to.

Mr. CLARK. I now move that the Senate insist upon its amendment, and ask for a committee of conference.

Mr. SHERMAN. I desire to submit, I suppose, a privileged motion. I move that the Senate recede from its amendment.

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

The PRESIDENT *pro tempore*. The bill is before the Senate, and the Senator from New Hampshire moves that the Senate insist upon its amendment, disagreed to by the House of Representatives, and ask for a committee of conference. The Senator from Ohio moves that the Senate recede from its amendment, and that motion takes priority of a motion to insist. So the question before the Senate is on the motion that the Senate recede from its amendment to the House bill.

Mr. CLARK. On that question I desire the yeas and nays.

The yeas and nays were ordered.

Mr. CLARK. I simply wish to say I do not propose to debate it at this stage of the session and after the long debate we have had heretofore; but I hope the Senate will insist upon its amendment, and let it go to a committee of conference and see if some agreement may not be had.

Mr. SHERMAN. I have but a word to say in regard to it. This is a radical difference between the Senate and the House of Representatives. Many of us desire to see the House bill adopted, which would settle the whole controversy. If the Senate recede from its amendment, as a matter of course the House bill becomes a law. That bill has been amply discussed and has been fully considered in both Houses. The amendment of the Senate was carried by a very small majority. I desire to have a confiscation bill passed and have the controversy ended. The quickest way, and I think the wisest way, would be to pass the House bill. If it is sent to a committee of conference, we know, from the decided vote of the House, that there will be a disagreement, and we shall have the question before us again. I think, therefore, we had better settle it now.

Mr. CLARK. I agree it may be well enough to settle it, but I hope the Senate will insist on the amendment. There is a radical difference, and as I understand the Senator from Ohio to state that if the Senate recede the House bill becomes a law, I hope the Senate will not recede.

Mr. TRUMBULL. I concur entirely with what the Senator from Ohio has said, and should be very glad, indeed, if the Senate would recede from its amendment to this bill. This is a subject we have had under consideration for a long time. It has been discussed with a great deal of warmth and some feeling; but it is sometime since we have had it before us; we are in a condition now to pass a law, not as efficient as some of us desire, but still a law that would be satisfactory to the great mass of those who favor a measure of confiscation. This bill has passed the House with singular unanimity. The Senate bill had very few votes in the House. A very large proportion of the Senate are in favor of the House bill. If the friends of the Senate bill could concede something, and not insist upon that bill, it seems to me we might have a law at once, and be rid of this question.

I do not wish to say anything that shall excite a reply or lead to another controversy in the Senate; but it is known to every one here that the Senate amendment was adopted, not by a majority of those who favor confiscation, because out of the votes which adopted it in the Senate there were only fourteen of those who adopted the Senate amendment that voted for it as a bill, and that would not have carried it. I voted for the Senate bill on its passage, and I shall vote for a committee of conference if we cannot adopt the House bill, because I should hope to get something from that. But in the situation in which we are now placed, near the close of the session, I ask the friends of the Senate bill if they must insist upon that particular bill. I appeal to our friends around us here who are in favor of some kind of confiscation, if they must insist upon that very bill and hazard everything unless we get it. I know that some Senators think there is a radical difference in principle in the two bills. I think all the principle which is in the House bill is in the Senate bill also. I do not think it is as efficient. Some think the Senate bill more efficient than the House bill, and Senators have told us so. But now, in the present condition of things, it does seem to me that those who have insisted on this Senate bill and have succeeded in passing it here, not by the vote of those who preferred it exclusively, but by aid from others who did not prefer it; and although the Senate bill passed by a decided majority here it received the votes of nearly all those who were friendly to the House bill. We can close this matter up in a few minutes, and advance the business of the session very much by receding, and I trust that the Senate will recede and that we may finish at once this troublesome question.

Mr. CLARK. I desire simply to say in answer to the question propounded by the Senator from Illinois, will not the Senate recede, will they not yield something from the Senate bill, that we are willing to let it go to a conference, and let it be adjusted by a committee of the two Houses; but on the other hand they insist that the House bill exactly as it is shall be adopted. We are willing to yield by a committee of conference, if a committee of conference think we should, but they are not willing.

Mr. COLLAMER. I merely wish to inquire, if the Senate recede will the House bill be open to amendment?

The PRESIDENT *pro tempore*. It will not. If the Senate recede from its amendment, that is the last action of either House; the House bill becomes a law so far as the action of either House is concerned.

Mr. COLLAMER. It becomes a law, and no further action can be had upon it.

The PRESIDENT *pro tempore*. No further legislative action can be had upon it by either House.

Mr. POWELL. I will ask, shall we not have to take a vote on the House bill afterwards?

The PRESIDENT *pro tempore*. The Chair has just stated it is final action on the bill. A motion to recede carries the House bill.

Mr. POWELL. I so understood the Chair, but I thought probably I was mistaken.

The PRESIDENT *pro tempore*. The Secretary will call the roll on the motion to recede.

The question being taken by yeas and nays, resulted—yeas 14, nays 23; as follows:

YEAS—Messrs. Chandler, Grimes, Hale, Harlan, Howard, King, Lane of Indiana, Lane of Kansas, Morrill, Sherman, Sumner, Trumbull, Wilkinson, and Wright—14.

NAYS—Messrs. Anthony, Browning, Carlile, Clark, Collamer, Cowan, Davis, Doolittle, Fessenden, Foot, Foster, Harris, Henderson, Kennedy, McDougall, Nesmith, Powell, Rice, Simmons, Stark, Ten Eyck, Willey, and Wilson of Missouri—23.

Mr. CLARK. The question is now on my motion, I suppose.

The PRESIDENT *pro tempore*. The question recurs on the motion of the Senator from New Hampshire, that the Senate insist on its amendment, and ask for a committee of conference.

Mr. TRUMBULL. I ask for the yeas and nays on that, with a view of having the Senate full. There are several Senators who did not answer to their names on the last vote, I perceive, who would like to have their names recorded. ["Oh, no."] I know there are several Senators absent who desire to have their names recorded on this question. I hope the yeas and nays will be called, and then they will have an opportunity to come in.

The yeas and nays were ordered; and being taken, resulted—yeas 28, nays 10; as follows:

YEAS—Messrs. Anthony, Browning, Chandler, Clark, Collamer, Cowan, Doolittle, Fessenden, Foot, Foster, Grimes, Hale, Harlan, Harris, Henderson, Howard, King, Lane of Kansas, McDougall, Morrill, Nesmith, Rice, Sherman, Simmons, Sumner, Ten Eyck, Willey, and Wilson of Massachusetts—28.

NAYS—Messrs. Carlile, Davis, Kennedy, Lane of Indiana, Powell, Stark, Trumbull, Wilkinson, Wilson of Missouri, and Wright—10.

The PRESIDENT *pro tempore*. How shall this committee of conference be appointed?

Several SENATORS. By the Chair.

The PRESIDENT *pro tempore*. If no objection be interposed, the Chair will appoint the committee.

Messrs. CLARK, HARRIS, and WRIGHT were appointed the committee on the part of the Senate.

PAY OF ARMY OFFICERS.

Mr. HALE. I move that the Senate postpone all prior orders for the purpose of taking up the bill in regard to the grades of the Navy.

Mr. WILSON, of Massachusetts. I hope the Senator will allow me to take up the bill which was laid over yesterday morning.

Mr. HALE. I give way.

Mr. WILSON, of Massachusetts. I move to proceed to the consideration of the bill (S. No. 383) to define the pay and emoluments of certain officers of the Army, and for other purposes.

The motion was agreed to; and the bill was considered as in Committee of the Whole.

The PRESIDENT *pro tempore*. The bill will be read at length if required by any member.

Mr. WILSON, of Massachusetts. I hope the bill will not be read at length. It is not necessary to take up time in that way.

The PRESIDENT *pro tempore*. The reading will be dispensed with unless it be demanded by a member.

Mr. TRUMBULL. I should like to have the new sections read.

The PRESIDENT *pro tempore*. The Senator from Massachusetts will indicate those sections.

Mr. WILSON, of Massachusetts. Section twenty-two is the only one on which there can be any difficulty.

The Secretary read section twenty-two, as follows:

SEC. 22. *And be it further enacted*, That there shall be added to the Adjutant General's department, by regular promotion of its present officers, one colonel, two lieutenant colonels, and nine majors; and that the grade of captain in said department shall thereafter be abolished, and all vacancies occurring in the grade of major shall be filled by selection from among the captains of the Army.

Mr. WILSON, of Massachusetts. I will simply say, in regard to that section, that the House of Representatives had expressed a very decided opinion upon it, put it in the bill, and adhered to it, and the committee on the part of the House were exceedingly strenuous about it, and we consented to put it in the bill. I believe nearly every section of this bill is a proposition to reduce emoluments and expenses, and it is a bill that will save a great deal of money. This is the only section that adds anything, and it adds but little. We consented to have it here in this bill, and I hope the Senate will allow it to go.

Mr. GRIMES. I move to strike out the twenty-second section, and I ask for the yeas and nays. It is a section which raises all the officers of the Adjutant General's corps who are now captains, up to the rank of major.

The yeas and nays were ordered; and being taken, resulted—yeas 15, nays 20; as follows:

YEAS—Messrs. Cowan, Davis, Grimes, Harlan, Henderson, Kennedy, Lane of Kansas, McDougall, Powell, Sherman, Stark, Trumbull, Willey, Wilson of Missouri, and Wright—15.

NAYS—Messrs. Anthony, Browning, Carlile, Chandler, Clark, Collamer, Doolittle, Fessenden, Foot, Foster, Hale, Harris, Howard, King, Morrill, Nesmith, Simmons, Sumner, Ten Eyck, and Wilson of Massachusetts—20.

So the motion to strike out was not agreed to.

Mr. HALE. I want the Senator from Massachusetts to state the reason for the fourteenth section. It strikes me to be an unnecessary embarrassment upon contractors, altogether needless.

Mr. WILSON, of Massachusetts. The section simply provides:

SEC. 14. *And be it further enacted*, That no contract or order, or any interest therein, shall be transferred by the party or parties to whom such contract or order may be given to any other party or parties, and that any such transfer shall cause the annullment of the contract or order transferred, so far as the United States are concerned: *Provided*, That all rights of action are hereby reserved to the United States for any breach of such contract by the contracting party or parties.

This section was put in for the purpose of protecting the United States. There are a class of professional contractors who manage to get contracts and then sell them out, peddle them about the country. The object was to encourage real contractors and discourage this class of men. These restrictions were put on for the security of the Government of the United States. I believe the provision will work well.

Mr. HALE. It strikes me that in endeavoring to protect the Government the committee have gone altogether too far. If a man comes on here and takes a contract, I do not see any harm in allowing him when he gets home to take in one of his neighbors to help him to perform it. It is often done, and I do not see the slightest harm in it. I do not see the policy of making it illegal. Suppose a *bona fide* manufacturer comes on here and gets a contract and takes in as partner a man who has capital, he himself being the mechanic who does the work. It seems to me that that, instead of being a crime, is praiseworthy and should not subject the party to the annullment of the contract. I think the provision is wrong; but as the gentlemen around me, who know so much more than I do, say it is right, I give up as usual.

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

PROPOSED EXPULSION OF MR. SIMMONS.

Mr. HALE. I move now that the Senate proceed to the consideration of the naval grade bill.

Mr. WRIGHT. I object to that; I rise to a privileged question. I move to take up the resolution I offered the other day in relation to the Senator from Rhode Island.

The PRESIDENT *pro tempore*. That is a motion which will take priority of the motion of the Senator from New Hampshire. The Senator from Indiana moves to postpone all prior orders, and that the Senate proceed to the consideration of the resolution submitted by him for the expulsion of the Senator from Rhode Island.

Mr. FESSENDEN. I should like to know the state of that question.

The PRESIDENT *pro tempore*. The motion is to take up the resolution. According to the ruling of the Vice President, it requires a motion to take up even a privileged question.

Mr. FESSENDEN. I hope it will not be taken up. I gave notice yesterday that I should be obliged at twelve o'clock to-day to move that the Senate proceed to the consideration of the tariff bill. It is very necessary to act upon it promptly.

The PRESIDENT *pro tempore*. The Senator from Indiana moves to postpone the prior orders, and proceed to the consideration of the resolution which has been indicated.

Mr. WRIGHT. I ask for the yeas and nays.

Mr. FESSENDEN. If the resolution is not to be debated, I withdraw my objection, and the Senator may as well withdraw his call for the yeas and nays.

Mr. WRIGHT. Very well, sir.

Mr. TEN EYCK. I hope the resolution may be taken up, with a view of having it referred. It is of great importance, and the facts should be investigated.

The motion of Mr. WRIGHT was agreed to.

The PRESIDENT *pro tempore*. The resolution is before the Senate, and it will be read at length.

The Secretary read the resolution which was submitted on the 2d instant, as follows:

Whereas, by a report made to the Senate of the United States, by the Secretary of War, the Hon. E. M. Stanton, bearing date June 21, 1862, it appears that the Senator from the State of Rhode Island, JAMES F. SIMMONS, gave and exercised his official influence over certain of the heads of the Departments of our Government in procuring for one C. D. Schubarth an order dated October 11, 1861, authorizing the said Schubarth, in behalf of the Government, to manufacture for the use of the Army and Navy fifty thousand breech-loading rifles; and further, that the said Senator did agree to receive as a compensation for services rendered in such procurement the sum of $50,000, and did subsequently accept two several promissory notes from certain parties in New York, one payable in August and one in September next, both amounting to $10,000, in payment for procuring said order: Therefore,

Resolved, That the said JAMES F. SIMMONS be, and is hereby, expelled from the seat he holds in this Senate.

Mr. TEN EYCK. I move that the resolution be referred to the Committee on the Judiciary.

Mr. WRIGHT. I hope it will not be referred. I ask for the yeas and nays on that motion.

The yeas and nays were ordered; and being taken, resulted—yeas 31, nays 7; as follows:

YEAS—Messrs. Anthony, Browning, Carlile, Chandler, Clark, Collamer, Cowan, Davis, Doolittle, Fessenden, Foot, Grimes, Hale, Harlan, Harris, Howard, Howe, Kennedy, Lane of Kansas, McDougall, Morrill, Rice, Sherman, Stark, Sumner, Ten Eyck, Wilkinson, Willey, Wilmot, Wilson of Massachusetts, and Wilson of Missouri—31.

NAYS—Messrs. Foster, Henderson, King, Nesmith, Powell, Trumbull, and Wright—7.

So the resolution was referred to the Committee on the Judiciary.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. MORRIS, Chief Clerk, announced that the House insisted upon its disagreement to certain amendments of the Senate to the bill (H. R. No. 393) making further appropriations for sundry civil expenses of the Government for the year ending 30th of June, 1863, and additional appropriations for the year ending 30th of June, 1862, insisted on by the Senate, and upon its amendment to the eighth amendment of the Senate to the said bill disagreed to by the Senate, agreed to the conference asked by the Senate on the disagreeing votes of the two Houses thereon, and had appointed Mr. THADDEUS STEVENS of Pennsylvania, Mr. J. H. CAMPBELL of Pennsylvania, and Mr. EDWARD HAIGHT of New York, managers at the same on its part.

The message also announced that the House had passed the following bills of the Senate:

A bill (No. 342) for the establishment of certain national arsenals;

A bill (No. 352) to carry into effect the treaty between the United States and her Britannic Majesty for the suppression of the African slave trade; and

A bill (No. 371) for the relief of Fanny Mactier Smith.

The message further announced that the House had passed the following bills; in which it requested the concurrence of the Senate:

A bill (No. 527) to secure one month's pay and pension to Margaret Bailey, widow of George B. Bailey, lieutenant colonel in the ninth regiment of Virginia volunteers; and

A bill (No. 554) relating to trust funds of several Indian tribes invested by the Government in certain State bonds abstracted from the custody of the late Secretary of the Interior.

TARIFF BILL.

The PRESIDENT *pro tempore*. The hour of twelve o'clock having arrived, the unfinished business of yesterday, as a special order, is now before the Senate.

Mr. FESSENDEN. I move to postpone all prior orders, for the purpose of taking up the tariff bill.

Mr. HALE. I am not going to make any argument. I will simply say that I shall vote against the motion, because I think the Navy grade bill ought to pass, and ought not to give way to anything.

Mr. FESSENDEN. I can only say that this bill is a very long one, and it is necessary to act on it to-day. It must go back to the House of Representatives, and finally go to a committee of conference. If we lose to-day, it may delay the Senate very much.

The PRESIDENT *pro tempore*. The question is on the motion of the Senator from Maine to postpone the special and all prior orders, with a view to proceed to the consideration of the tariff bill.

Mr. SUMNER. I would remind the Senator from Maine that we have not had the advantage of reading this bill. It has been laid on our tables for the first time this morning.

Mr. FESSENDEN. The bill without the amendments has been on the table before, and the amendments are easily understood.

Mr. SUMNER. I have not had an opportunity to look at it.

The motion of Mr. FESSENDEN was agreed to; and the Senate proceeded to consider, as in Committee of the Whole, the bill (H. R. No. 531) increasing temporarily the duties on imports, and for other purposes.

The PRESIDENT *pro tempore*. The bill will be read at length, with the amendments reported by the Committee on Finance. The Chair would suggest to the Senator from Maine whether each section shall not be considered by itself as the reading of the bill progresses, pursuing the same course with this as was pursued with the tax bill?

Mr. FESSENDEN. If that is agreeable to the Senate, I have no objection.

The PRESIDENT *pro tempore*. That course will be pursued, if there be no objection. The first section will be read.

The Secretary read the first section, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That from and after the 1st day or August, A. D. 1862, in lieu of the duties heretofore imposed by law on the articles hereinafter mentioned there shall be levied, collected, and paid, on the goods, wares, and merchandise herein enumerated and provided for, imported from foreign countries, the following duties and rates of duty, that is to say: on sirup of sugar, or of sugar cane, or concentrated molasses, or concentrated melado, 2 cents per pound; on all sugar not above No. 12, Dutch standard in color, 2½ cents per pound; on all sugar above No. 12, and not above No. 15, Dutch standard in color, 3 cents per pound; on all sugar above No. 15, not stove-dried, and not above No. 20, Dutch standard in color, 4 cents per pound; on all refined sugar in form of loaf, lump, crushed, powdered, pulverized, or granulated, and all other sugar above No. 20, Dutch standard in color, 5 cents per pound: *Provided*, That the standards by which the color and grades of sugars are to be regulated shall be selected and furnished to the collectors of such ports of entry as may be necessary, by the Secretary of the Treasury, from time to time and in such manner as he may deem expedient; on sugar candy, not colored, 6 cents per pound; on all other confectionery, made wholly or in part of sugar, and on sugars, after being refined, when tinctured, colored, or in any way adulterated, 10 cents per pound; on molasses, 6 cents per gallon: *Provided*, That all sirups of sugar or sugar cane, concentrated molasses, or concentrated melado, entered under the name of molasses, or any other name than sirup of sugar, or of sugar cane, concentrated molasses, or concentrated melado, shall be liable to forfeiture to the United States, and the same shall be forfeited; on cigars of all kinds, valued at $5 or less per thousand, 35 cents per pound; valued at over $5 and not over $10 per thousand, 60 cents per pound; valued at over $10 and not over $20 per thousand, 80 cents per pound; valued at over $20 per thousand, $1 per pound; and in addition thereto on all cigars valued at over $10 per thousand, 10 per cent. *ad valorem*: *Provided*, That paper cigars, or cigarettes, including wrappers, shall be subject to the same duties imposed on cigars; on snuff, 35 cents per pound; on tobacco, in leaf, unmanufactured and not stemmed, 25 cents per pound; on stemmed, and tobacco manufactured, of all descriptions, not otherwise provided for, 35 cents per pound.

The PRESIDENT *pro tempore*. The Commit-

tee on Finance recommend two amendments to this section, which will be read and considered in their order.

The Secretary read the first amendment, which was in line fifteen, to strike out the word "three," and insert "two and three fourths;" so as to read, "on all sugar above No. 12 and not above No. 15, Dutch standard in color, 2¾ cents per pound."

The amendment was agreed to.

The Secretary read the next amendment, which was in line eighteen, to strike out the word "four" and insert "three;" so as to read, "on all sugar above No. 15, not stove-dried, and not above No. 20 Dutch standard in color, 3 cents per pound."

The amendment was agreed to.

The Secretary read section two, as follows:

SEC. 2. *And be it further enacted*, That from and after the day and year aforesaid, in addition to the duties heretofore imposed by law, on the articles hereinafter mentioned, and included in this section, there shall be levied, collected, and paid on the goods, wares, and merchandise herein enumerated and provided for, imported from foreign countries, the following duties and rates of duty, that is to say: on brandy, for first proof, 25 cents per gallon; on other spirits, manufactured or distilled from grain or other materials, for first proof, 25 cents per gallon; on cordials and liquors of all kinds, and arrack, absynthe, kirschenwasser, ratafia, and other similar spirituous beverages not otherwise provided for, 25 cents per gallon; on bay rum, 25 cents per gallon; on ale, porter, and beer, in bottles or otherwise, 5 cents per gallon; on all spirituous liquors not otherwise enumerated, 16⅔ of 1 per cent. *ad valorem: Provided*, That no lower rate or amount of duty shall be levied, collected, and paid, on brandy, spirits, and all other spirituous beverages, than that fixed by law for the description of first proof, but shall be increased in proportion for any greater strength than the strength of first proof; *And provided further*, That bottles containing wines subject to *ad valorem* duties shall be liable to and pay the same rate of duty as that fixed upon the wines therein contained.

The PRESIDENT *pro tempore*. The Committee on Finance propose to amend this section in line ten, by striking out "twenty-five," and inserting "fifty;" so as to read, "on other spirits, manufactured or distilled from grain or other materials, for first proof, 50 cents per gallon."

The amendment was agreed to.

The next amendment was in line twenty, to strike out after the words "two thirds," the words "of one;" so as to read, "on all spirituous liquors not otherwise enumerated, 16⅔ per cent. *ad valorem*."

The amendment was agreed to.

The Secretary read section three, as follows:

SEC. 3. *And be it further enacted*, That from and after the day and year aforesaid, in addition to the duties heretofore imposed by law on the articles hereinafter mentioned and included in this section, there shall be levied, collected, and paid, on the goods, wares, and merchandise, herein enumerated and provided for, imported from foreign countries, the following duties and rates of duty, that is to say: on bar iron, rolled or hammered, comprising flats not less than one inch or more than seven inches wide, nor less than one quarter of an inch or more than two inches thick; rounds not less than one half an inch nor more than four inches in diameter; and squares not less than one half an inch nor more than four inches square, not exceeding in value the sum of $50 per ton, $1 50 per ton; exceeding in value the sum of $50 per ton, $3 per ton; on bar iron, rolled or hammered, comprising flats less than one quarter of an inch thick or more than seven inches wide, rounds less than one half an inch or more than four inches in diameter, and squares less than one half an inch or more than four inches square, $5 per ton; on all iron imported in bars for railroads and inclined plains made to patterns and fitted to be laid down on such roads or plains without further manufacture, $1 50 per ton; on boiler plate iron, $5 per ton; on iron wire, drawn and finished, not more than one fourth of an inch in diameter nor less than No. 16, wire gauge, $1 per one hundred pounds; over No. 16 and not over No. 25, wire gauge, $1 50 per one hundred pounds; over or finer than No. 25, wire gauge, $2 per one hundred pounds; on hollow-ware, glazed or tinned, one half cent per pound; on sadirons, tailor's and hatter's irons, stoves, and stove plates, one quarter of one cent per pound; on band and hoop iron and slit rods, and all other descriptions of rolled or hammered iron, not otherwise provided for, $5 per ton; on cut nails and spikes, one quarter of one cent per pound; on iron cable or cable chains, or parts thereof, 75 cents per one hundred pounds: *Provided*, That no chains made of wire or rods of a diameter less than one half of one inch shall be considered a chain cable; on anvils, 75 cents per one hundred pounds; on anchors, or parts thereof, 50 cents per one hundred pounds; on wrought board nails, spikes, rivets, bolts, bed screws, and wrought hinges, one quarter of one cent per pound; on chains, trace chains, halter chains, and fence chains, made of wire or rods, not under one fourth of one inch in diameter, one quarter of one cent per pound; under one fourth of one inch in diameter and not under No. 9, wire gauge, one half of one cent per pound; under No. 9, wire gauge, 5 per cent. *ad valorem;* on blacksmith's hammers, and sledges, and axles, or parts thereof, one half of one cent per pound; on horseshoe nails, 1 cent per pound; on steam, gas, and water tubes, and flues of wrought iron, one quarter of one cent per pound; on wrought iron railroad chairs, and wrought iron nuts and washers, ready punched, $5 per ton; on smooth or polished sheet iron, by whatever name designated, one half cent per pound; on sheet iron, common or black, not thinner than No. 20, wire gauge, $2 per ton; thinner than No. 20, and not thinner than No. 25, wire gauge, $2 50 per ton; thinner than No. 25, wire gauge, $3 per ton; on tin plates galvanized, galvanized iron, or iron coated with zinc, one half cent per pound; on locomotive tire, or parts thereof, 1 cent per pound; on mill-irons, and mill-cranks of wrought iron, and wrought iron for ships, steam-engines, and locomotives, or parts thereof, weighing each twenty-five pounds or more, one quarter of one cent per pound; on screws, commonly called wood-screws, 1½ cent per pound; on screws, washed or plated, and all other screws of iron, except wood-screws, 5 per cent. *ad valorem;* on manufactures of iron, not otherwise provided for, 5 per cent. *ad valorem;* on cast-iron steam, gas, and water pipes, 25 cents per one hundred pounds; on all other castings of iron, not otherwise provided for, nor exempted from duty, 5 per cent. *ad valorem: Provided*, That the following descriptions of iron, manufactures of iron, and manufactures of steel, shall not be subject to any additional duty or rates of duty under the provisions of this act, that is to say: iron in pigs; cast iron buts and hinges; old scrap iron; malleable iron, and malleable iron castings, not otherwise provided for; cut-tacks, brads, and sprigs; cross-cut, mill, pit, and drag saws; on steel in ingots, bars, sheets, or wire not less than one fourth of an inch in diameter, valued at 7 cents per pound or less, one quarter of one cent per pound; valued at above 7 cents per pound and not above 11 cents per pound, one half cent per pound; valued above 11 cents per pound, and on all steel wire and steel in any form, not otherwise provided for, 5 per cent. *ad valorem;* on skates valued at 20 cents or less per pair, 2 cents per pair; when valued at over 20 cents per pair, 5 per cent. *ad valorem;* on iron squares, marked on one side, 2½ cents per pound; on all other squares made of iron or steel, 5 cents per pound; on files, rasps, and floats, of all descriptions, 2 cents per pound, and, in addition thereto, 5 per cent. *ad valorem;* on all manufactures of steel, or of which steel shall be a component part, not otherwise provided for, 5 per cent. *ad valorem: Provided*, That no allowance or reduction of duties for partial loss or damage shall be hereafter made in consequence of rust of iron or steel, or upon the manufactures of iron or steel; on bituminous coal, 10 cents per ton of twenty-eight bushels, eighty pounds to the bushel; on all other coal, 10 cents per ton of twenty-eight bushels, eighty pounds to the bushel; on coke and culm of coal, 5 per cent. *ad valorem*.

The first amendment of the committee was, in line sixty-seven, to strike out "two" and insert "three," so that the clause will read, "on sheet iron, common or black, not thinner than No. 20, wire gauge, $3 per ton."

The amendment was agreed to.

The next amendment was, in line sixty-nine, to strike out "two" and insert "four," and after the word "dollars" to strike out the words, "and 50 cents," so that the clause will read, "thinner than No. 20, and not thinner than No. 25, wire gauge, $4 per ton."

The amendment was agreed to.

The next amendment was, in line seventy-one, page 7, to strike out "three" and insert "five," so that the clause will read, "thinner than No. 25, wire gauge, $5 per ton."

The amendment was agreed to.

The next amendment was, in line seventy-three, to strike out the word "zinc," and insert, "any metal by electric batteries," so that the clause will read, "on tin plates galvanized, galvanized iron, or iron coated with any metal by electric batteries, one half cent per pound."

The amendment was agreed to.

Mr. FESSENDEN. It is suggested to me that the word "plains," in lines twenty-four and twenty-six of that section, page 5, should be spelled with an *e* before the *s*—plaines. If that is so, that correction had better be made. It is a mere matter of orthography.

The PRESIDING OFFICER, (Mr. ANTHONY in the chair.) That correction will be made.

Mr. FESSENDEN. After the word "steel," at the end of the one hundred and nineteenth line, page 9, I move to insert the words, "except on polished Russia sheet iron," so that the clause will read:

Provided, That no allowance or reduction of duties for partial loss or damage shall be hereafter made in consequence of rust of iron or steel, or upon the manufactures of iron or steel, except on polished Russia sheet iron.

The amendment was agreed to.

Mr. TEN EYCK. I hope I shall have the consent of the Senator from Maine to propose a small amendment to this section now. It is in line forty-seven, page 6, in relation to the duty on anvils.

The PRESIDING OFFICER. The Senate are now considering the amendments reported from the Committee on Finance. After those have been considered, others will be in order.

Mr. TEN EYCK. I shall not insist on it if it is objected to; but I thought I might perhaps get the consent of the Senator from Maine to propose it now.

Mr. FESSENDEN. I have no objection personally at all.

Mr. TEN EYCK. It is simply to propose a change of the duty on anvils from 75 cents to $1. I understand that is indispensably necessary for the protection of our own manufacturers. I have letters on the subject, but will not read them. I move that amendment in line forty-seven, page 6, to strike out "75 cents" and to insert "$1," so that the clause will read: "on anvils, $1 per hundred pounds."

The amendment was agreed to.

The Secretary read section four, as follows:

SEC. 4. *And be it further enacted*, That from and after the day and year aforesaid, in addition to the duties heretofore imposed by law on the articles hereinafter mentioned and included in this section, there shall be levied, collected, and paid on the goods, wares, and merchandise herein enumerated and provided for, imported from foreign countries, the following duties and rates of duty, that is to say: on copper rods, bolts, nails, spikes, copper bottoms, copper in sheets or plates, called brazier's copper, and other sheets and manufactures of copper, not otherwise provided for, 5 per cent. *ad valorem;* on zinc, spelter, and teutenegue, unmanufactured, 50 cents per one hundred pounds; on zinc, spelter, and teutenegue, in sheets, three fourths of one cent per pound; on lead, in pipes or shot, three fourths of one cent per pound; on brass, in bars or pig, or old brass, fit only to be remanufactured, 5 per cent. *ad valorem*.

The first amendment of the committee was, in line thirteen, to strike out "fifty" and insert "fifteen," so that the clause will read, "on zinc, spelter, and teutenegue, unmanufactured, in blocks or pigs, 15 cents per one hundred pounds."

The amendment was agreed to.

The next amendment was, in line fourteen, to strike out the words "three fourths," and to insert "one fourth," so that the clause will read, "on zinc, spelter, and teutenegue, in sheets, one fourth of one cent per pound."

The amendment was agreed to.

The Secretary read section five, as follows:

SEC. 5. *And be it further enacted*, That from and after the day and year aforesaid, in lieu of the duties heretofore imposed by law on the articles hereinafter mentioned, and on such as may now be exempt from duty, there shall be levied, collected, and paid on the goods, wares, and merchandise enumerated and provided for in this section, imported from foreign countries, the following duties and rates of duty, that is to say: acid, boracic, 5 cents per pound; citric, 10 cents per pound; oxalic, 4 cents per pound; sulphuric, 1 cent per pound; tartaric, 20 cents per pound; gallic, 50 cents per pound; tannic, 25 cents per pound; alum, patent alum, alum substitute, sulphate of alumina, and aluminous cake, 60 cents per hundred pounds; argols, or crude tartar, 6 cents per pound; cream tartar, 10 cents per pound; asphaltum, 3 cents per pound; balsam copaiva, 20 cents per pound; Peruvian, 50 cents per pound; tolu, 30 cents per pound; blanc fixe, enameled white, satin white, or any combination of barytes and acid, 2½ cents per pound; barytes and sulphate of barytes, 5 mills per pound; burning fluid, 50 cents per gallon; bitter apples, colocynth, or coloquintida, 10 cents per pound; borax, crude, or tincal, 5 cents per pound; refined, 10 cents per pound; borate of lime, 5 cents per pound; buchu leaves, 10 cents per pound; camphor, crude, 20 cents per pound; refined, 30 cents per pound; cantharides, 50 cents per pound; cloves, 10 cents per pound; cayenne pepper, 8 cents per pound; ground, 10 cents per pound; black pepper, 8 cents per pound; ground, 10 cents per pound; white pepper, 8 cents per pound; ground, 10 cents per pound; cocculus indicus, 10 cents per pound; cuttle-fish bone, 5 cents per pound; cubebs, 10 cents per pound; dragon's blood, 10 cents per pound; emery, ore or rock, $6 per ton; manufactured, ground, or pulverized, 1 cent per pound; ergot, 20 cents per pound; Epsom salts, 1 cent per pound; Glauber salts, 5 mills per pound; Rochelle salts, 15 cents per pound; essence or oil of myrrbane, or nitro benzole, 30 cents per ounce; fruit ethers, essences or oils of apple, pear, peach, apricot, strawberry, and raspberry, made of fusil oil or of fruit, or imitations thereof, $2 50 per pound; French green, Paris green, mineral green, carmine lake, wood lake, dry carmine, Venetian red, vermilion, mineral blue, Prussian blue, chrome yellow, rose pink, Dutch pink, and paints and painters' colors, (except white and red lead and oxyd of zinc, dry,) dry or ground in oil, and moist water colors used in the manufacture of paper hangings, and colored papers and cards, not otherwise provided for, 25 per cent. *ad valorem;* on gold leaf, $1 50 per package of five hundred leaves; on silver leaf, 75 cents per package of five hundred leaves; gum aloes, 6 cents per pound; benzoin, 10 cents per pound; sandarac, 10 cents per pound; shellac, 10 cents per pound; mastic, 50 cents per pound; copal, kowrie, damar, and all gums used for like purposes, 10 cents per pound; honey, 15 cents per gallon; iodine, crude, 50 cents per pound; resublimed, 75 cents per pound; ipecacuanna, or ipecac, 50 cents per pound; jalap, 50 cents per pound; licorice root, 2 cents per pound; paste or juice, 10 cents per pound; litharge, 2½ cents per pound; magnesia, carbonate, 6 cents per pound; calcined, 12 cents per pound; manna, 25 cents per pound; nitrate of soda, 1 cent per pound; morphine and its salts, $2 per ounce; ochers and ochery earths, not otherwise provided for, when dry, 50 cents per one hundred pounds; when ground in oil, $1 50 per one hundred pounds; oils, fixed or expressed, croton, 50 cents per pound; almonds, 10 cents per pound; bay or laurel, 20 cents per pound; castor, 50 cents per gallon; mace, 50 cents per pound; olive, not salad, 25 cents per gallon; salad, 50 cents per gallon; mustard, not salad, 25 cents per gallon; salad, 50 cents per gallon; oils, essential or essence, anise, 50 cents per pound; almonds, $1 50 per pound; amber,

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crude, 10 cents per pound; rectified, 20 cents per pound; bay leaves, $17 50 cents per pound; bergamot, $1 per pound; cajeput, 25 cents per pound; caraway, 50 cents per pound; cassia, $1 per pound; cinnamon, $2 per pound; cloves, $1 per pound; citronella, 50 cents per pound; cognac or œnanthic ether, $2 per ounce; cubebs, $1 per pound; fennel, 50 cents per pound; juniper, 25 cents per pound; lemons, 50 cents per pound; orange, 50 cents per pound; origanum, or red thyme, 25 cents per pound; roses, or otto, $1 50 per ounce; thyme, white, 30 cents per pound; valerian, $1 50 per pound; all other essential oils, not otherwise provided for, 50 per cent. *ad valorem;* opium, $2 per pound; paraffine, 10 cents per pound; Paris white, when dry, 60 cents per one hundred pounds; when ground in oil, $1 50 per one hundred pounds; pimento, 8 cents per pound; when ground, 10 cents per pound; potash, bichromate, 3 cents per pound; hydriodate, iodate, iodide, and acetate, 75 cents per pound; prussiate, yellow, 5 cents per pound; prussiate, red, 10 cents per pound; chlorate, 6 cents per pound; petroleum and coal illuminating oil, crude, 10 cents per gallon; refined, or kerosene, produced from the distillation of coal, asphaltum, shale, peat, petroleum, or rock oil, or other bituminous substances, used for like purposes, 20 cents per gallon; putty, $1 50 per one hundred pounds; quinine, sulphate of, and other salts of quinine, 75 cents per ounce; rhubarb, 50 cents per pound: *Provided*, That rhubarb imported from beyond the Cape of Good Hope shall be subject to pay a duty of 30 cents per pound; rose leaves, 50 cents per pound; rum essence or oil, and bay rum essence or oil, $2 per ounce; saltpeter, or nitrate of potash, crude, 2 cents per pound; refined, 3 cents per pound; seeds, anise, 5 cents per pound; star anise, 10 cents per pound; canary, $1 per bushel of sixty pounds; caraway, 3 cents per pound; cardamom, 50 cents per pound; cummin, 5 cents per pound; coriander, 3 cents per pound; fennel, 2 cents per pound; fenugreek, 2 cents per pound; hemp, one half cent per pound; mustard, brown, 3 cents per pound; white, 3 cents per pound; rape, 1 cent per pound; castor seeds or beans, 50 cents per bushel; sugar of lead, 4 cents per pound; tartar emetic, 15 cents per pound; varnish valued at $1 50 or less per gallon, 50 cents per gallon, and 20 per cent. *ad valorem;* valued at above $1 50 per gallon, 50 cents per gallon, and 25 per cent. *ad valorem;* vanilla beans, $3 per pound; verdigris, 6 cents per pound; whiting, when dry, 50 cents per one hundred pounds; when ground in oil, $1 50 per one hundred pounds; acetous, benzoic, muriatic, and pyroligneous acids, cutch or catechu, orchil and cudbear, safflower and sumac, 10 per cent. *ad valorem;* arsenic in all forms, ammonia, and sulphate and carbonate of ammonia; bark, cinchona, Peruvian, Lima, Calisaya, quilla, and all other medicinal barks, flowers, leaves, plants, roots, and seeds, not otherwise provided for; cobalt, and oxyd of cobalt; gums, amber, arabic, jedda, senegal, tragacanth, myrrh, and all other gums, and gum resins, not otherwise provided for; quassia wood; smalts; sarsaparilla; tapioca; tonqua beans, and sponges, 20 per cent. *ad valorem;* santonin and glycerine, 30 per cent. *ad valorem;* on all pills, powders, tinctures, troches or lozenges, sirups, cordials, bitters, anodynes, tonics, plasters, liniments, salves, ointments, pastes, drops, waters, essences, spirits, oils, or other medicinal preparations or compositions, recommended to the public as proprietary medicines, or prepared according to some private formula or secret art as remedies or specifics for any disease or diseases or affections whatever affecting the human or animal body, 50 per cent. *ad valorem;* on all essences, extracts, toilet waters, cosmetics, hair oils, pomades, hair dressings, hair restoratives, hair dyes, tooth washes, dentifrices, tooth pastes, aromatic cachous, or other perfumeries or cosmetics, by whatsoever name or names known, used, or applied, as perfumes or applications to the hair, mouth, or skin, 50 per cent. *ad valorem.*

The PRESIDING OFFICER. The committee propose sundry amendments to this section, which will now be considered in their order.

The Secretary read the first amendment of the committee, which was in line twenty-nine, to strike out "twenty," and insert "thirty;" and in line thirty, to strike out "thirty," and insert "forty," so as to make the clause read, "camphor, crude, 30 cents per pound; refined, 40 cents per pound."

The amendment was agreed to.

The next amendment was in line thirty-two, after the word "cloves," to strike out "ten," and insert "fifteen;" and, after the word "pound," insert "cassia, 15 cents per pound; cassia buds, 20 cents per pound; cinnamon, 25 cents per pound," so as to read, "cloves, 15 cents per pound; cassia, 15 cents per pound; cassia buds, 20 cents per pound; cinnamon, 25 cents per pound."

The amendment was agreed to.

The next amendment was in line thirty-five, after the words "cayenne pepper," to strike out "eight," and insert "twelve;" in the same line, to strike out "ten," after "ground," and insert "fifteen;" in line thirty-six, after "black pepper," to strike out the word "eight," and insert "twelve;" in line thirty-seven, after the word "ground," to strike out "ten," and insert "fifteen;" in line thirty-eight, after the words "white pepper," to strike out "eight" and insert "twelve;" and in the same line, strike out the word "ten," after the word "ground," and insert "fifteen;" so as to make the whole clause read, "cayenne pepper, 12 cents per pound; ground, 15 cents per pound; black pepper, 12 cents per pound; ground, 15 cents per pound; white pepper, 12 cents per pound; ground, 15 cents per pound."

The amendment was agreed to.

The next amendment was to strike out lines forty-nine and fifty, in the following words, "essence or oil of myrrbane, or nitro benzole, 30 cents per ounce."

The amendment was agreed to.

The next amendment was in line fifty-six, after the word "pink," to insert the words "extract of resin, or analine colors."

The amendment was ageeed to.

The next amendment was in line twenty-eight, after the word "zinc," to strike out the word "dry."

The PRESIDING OFFICER. That is a mere verbal amendment, which will be agreed to if there be no objection.

The next amendment was, after line sixty-two, to insert "ginger, root, 10 cents per pound; ginger, ground, 15 cents per pound."

The amendment was agreed to.

The next amendment was in line seventy-one, after the word "pound," to insert "gum arabic and gum jedda of all kinds, crude, 5 cents per pound; when assorted, picked, or selected, 10 cents per pound; gum amber, senegal, myrrh, tragacanth, and all other gums and resins not otherwise provided for, 10 cents per pound."

The amendment was agreed to.

The next amendment was in line eighty-eight, to insert "mace and nutmegs, 30 cents per pound."

The amendment was agreed to.

The next amendment was in line one hundred and twenty-three, after the word "pimento," to strike out "eight," and insert "twelve;" and in line one hundred and twenty-four, to strike out "ten," and insert "fifteen," so as to read, "pimento, 12 cents per pound; when ground, 15 cents per pound."

The amendment was agreed to.

The next amendment was in lines one hundred and thirty-five and one hundred and thirty-six, after the word "quinine," to strike out "75 cents per ounce," and insert "45 per cent. *ad valorem*," so as to read, "quinine, sulphate of, and other salts of quinine, 45 per cent. *ad valorem.*"

The amendment was agreed to.

The next amendment was in line one hundred and thirty-seven, after the word "pound," to strike out the following proviso:

Provided, That rhubarb imported from beyond the Cape of Good Hope, shall be subject to pay a duty of 30 cents per pound.

The amendment was agreed to.

The next amendment was in line one hundred and fifty-three, to strike out "fifty" and insert "twenty-five," so as to read, "castor seeds or beans, 25 cents per bushel."

The amendment was agreed to.

The next amendment was in lines one hundred and seventy-three, one hundred and seventy-four, and one hundred and seventy-five, to strike out the words "gums, amber, arabic, jedda, senegal, tragacanth, myrrh, and all other gums and gum resins not otherwise provided for."

The amendment was agreed to.

The next amendment was in line one hundred and seventy-seven, to strike out "20 per cent. *ad valorem.*"

The amendment was agreed to.

Mr. McDOUGALL. I move to amend this section on page 15, between lines one hundred and eighteen and one hundred and nineteen, by inserting "opium, prepared for smoking, 80 per cent. *ad valorem.*"

The PRESIDING OFFICER. The Senate is now considering the amendments of the Committee on Finance, and it is not usual to consider other amendments until afterwards.

Mr. McDOUGALL. This amendment is moved with the assent of the committee. It is an article that has been omitted because it is not known as an article of commerce on this coast. It will pay that duty, as I am advised by the person who has charge of the appraisement of our China goods, and it will add to the revenues about $300,000 a year.

The amendment was agreed to.

The Secretary read section six, as follows:

SEC. 6. *And be it further enacted*, That from and after the day and year aforesaid, in addition to the duties heretofore imposed by law on the articles hereinafter mentioned, and on such as may now be exempt from duty, there shall be levied, collected, and paid, on the goods, wares, and merchandise enumerated and provided for in this section, imported from foreign countries, a duty of 10 per cent. *ad valorem*, that is to say: antimony, crude; assafœdita; beeswax; blacking of all descriptions; building stone of all descriptions, not otherwise provided for; calomel; catsup; civit, oil of; cobalt ores; extract of indigo; extract of madder; extract and decoctions of logwood, and other dyewoods; flints, and flint, ground; flocks, waste or shoddy; furs, dressed, when not on the skin; garancine; ginger, preserved, or pickled; green turtle; grindstones, unwrought or wrought or finished; gutta-percha, unmanufactured; isinglass or fish glue; japanned ware of all kinds, not otherwise provided for; lastings, mohair cloth, silk, twist, or other manufacture of cloth woven or made in patterns of such size, shape, and form as to be fit for shoes, slippers, boots, bootees, gaiters, and buttons, exclusively, not combined with India-rubber; mats of cocoa-nut; matting, China, and other floor matting, and mats made of flags, jute, or grass; manufactures of gutta-percha; milk of India-rubber; music, printed with lines, bound or unbound; musical instruments of all kinds, and strings for musical instruments of whipgut or catgut, and all other strings of the same material; nickel; osier or willow, prepared for basket makers' use; philosophical apparatus and instruments; plaster of Paris, when ground; quills; strychnine; staves for pipes, hogsheads, or other casks; teeth manufactured; thread lace and insertings; woolen listings.

The PRESIDING OFFICER. The first amendment to this section is in line thirty-two, after the word "form," to insert "or cut in such manner."

The amendment was agreed to.

The next amendment was, in line thirty-nine, to insert "medicinal preparations not otherwise provided for."

The amendment was agreed to.

The Secretary read section seven, as follows:

SEC. 7. *And be it further enacted*, That, in addition to the duties heretofore imposed by law on the articles hereinafter mentioned and provided for in this section, there shall be levied, collected, and paid, on the goods, wares, and merchandise herein enumerated, imported from foreign countries, the following duties and rates of duty, that is to say: on chocolate and cocoa prepared, 1 cent per pound; on copperas, green vitriol, or sulphate of iron, one fourth cent per pound; on linseed, flax-seed, hemp-seed, and rape-seed oil, 3 cents per gallon; on saleratus and bicarbonate of soda, one half cent per pound; on caustic soda, one half cent per pound; on salt, in sacks, barrels, or other packages, or in bulk, 6 cents per one hundred pounds; on soap, fancy, scented, honey, cream, transparent, and all descriptions of toilet and shaving soap, 2 cents per pound; all other soap, 5 per cent. *ad valorem;* on spirits of turpentine, 5 cents per gallon; on starch of all descriptions, one half cent per pound; on white and red lead and oxyd of zinc, 25 cents per one hundred pounds.

The PRESIDING OFFICER. The committee propose, in line twenty-two of this section, to strike out the words "twenty-five," and insert "dry or ground in oil, fifteen," so as to read, "on white and red lead and oxyd of zinc, dry or ground in oil, 15 cents per one hundred pounds."

The amendment was agreed to.

The Secretary read section eight, as follows:

SEC. 8. *And be it further enacted*, That from and after the day and year aforesaid, in lieu of the duties heretofore imposed by law on the articles hereinafter mentioned, and on such as may now be exempt from duty, there shall be levied, collected, and paid on the goods, wares, and merchandise enumerated and provided for in this section, imported from foreign countries, the following duties and rates of duty; that is to say: on anchovies, preserved in salt, 30 per cent. *ad valorem;* on andirons, made of cast iron, 1½ cent per pound; on barley, pearl or hulled, 1 cent per pound; on bonnets, hats, and hoods for men, women, and children, composed of straw, chip, grass, palm-leaf, willow, or any other vegetable substance, or of silk, hair, whalebone, or other material, not otherwise provided for, 40 per cent. *ad valorem;* on braids, plaits, flats, laces, trimmings, sparterre, tissues, willow sheets and squares, used for making or ornamenting hats, bonnets, and hoods, composed of straw, chip, grass, palm-leaf, willow, or any other vegetable substance,

or of hair, whalebone, or other material, not otherwise provided for, 30 per cent. *ad valorem;* on books, periodicals, pamphlets, blank-books, bound or unbound, and all printed matter, engravings, bound or unbound, illustrated books and papers, and maps and charts, 20 per cent. *ad valorem: Provided*, That all imported cotton and linen rags for the manufacture of paper, shall be free of duty; on bristles, 10 cents per pound; on candles and tapers, stearine and adamanthe, 5 cents per pound; on spermaceti, paraffine and wax candles and tapers, pure or mixed, 8 cents per pound; on all other candles and tapers, 2½ cents per pound; on chiccory root, 4 cents per pound; on chiccory, ground, burnt, or prepared, 5 cents per pound; on acorn coffee and dandelion root, raw or prepared, and all other articles used or intended to be used as coffee, or a substitute for coffee, and not otherwise provided for, 4 cents per pound; on coloring for brandy, 50 per cent. *ad valorem;* on cork wood, unmanufactured, 5 cents per pound; on corks, 20 cents per pound; on cotton, one half cent per pound; on feathers and downs for beds or bedding, of all descriptions, 30 per cent. *ad valorem;* on ostrich, vulture, cock, and other ornamental feathers, crude or not dressed, colored, or manufactured, 20 per cent. *ad valorem;* when dressed, colored, or manufactured, 40 per cent. *ad valorem;* on feathers and flowers, artificial and parts thereof, of whatever material composed, not otherwise provided for, 40 per cent. *ad valorem;* on fire-crackers, 50 cents per box of forty packs; on fruit, shade, lawn, and ornamental trees, shrubs, plants, and bulbous roots, and flower seeds, not otherwise provided for, 30 per cent. *ad valorem;* on gloves, made of skins or leather, 40 per cent. *ad valorem;* on gunpowder, and all explosive substances used for mining, blasting, artillery, or sporting purposes, valued at less than 20 cents per pound, 6 cents per pound; valued at 20 cents or over per pound, 6 cents per pound, and 20 per cent. *ad valorem* in addition thereto; on garden seeds, and all other seeds for agricultural and horticultural purposes, not otherwise provided for, 30 per cent. *ad valorem;* on hides, raw, and skins or all kinds, whether dried, salted, or pickled, 10 per cent. *ad valorem;* on hollow-ware and vessels of cast iron, not otherwise provided for, 1½ cent per pound; on hops, 5 cents per pound; on human hair, raw, uncleaned, and not drawn, 20 per cent. *ad valorem;* when cleaned or drawn, but not manufactured, 30 per cent. *ad valorem;* when manufactured, 40 per cent. *ad valorem;* on lead ore, $1 25 per one hundred pounds; on marble, white, statuary, in block, rough, squared, or sawed, $1 per cubic foot; veined marble, marble of all other descriptions, not otherwise provided for, in block, rough, squared, or sawed, 40 per cent. *ad valorem;* on all manufactures of marble, marble paving tiles, and marble dressed or polished, 50 per cent. *ad valorem;* on manufactures of bladders, 30 per cent. *ad valorem;* on manufactures of India-rubber and silk, or of India-rubber and silk and other materials, 50 per cent. *ad valorem;* on mustard, ground, in bulk, 12 cents per pound; when inclosed in glass or tin, 16 cents per pound; on plates engraved, of steel, copper, wood, or any other material, 25 per cent. *ad valorem;* on plumbago or black lead, $10 per ton; on potatoes, 25 cents per bushel; on percussion caps, fulminates, fulminating powders, and all other articles used for like purposes, not otherwise provided for, 30 per cent. *ad valorem;* on playing cards, valued at 25 cents or less per pack, 15 cents per pack; valued at above 25 cents per pack, 25 cents per pack; on pens, metallic, 10 cents per gross; on pen-holder tips, metallic, 10 cents per gross; on pen-holders, complete, 10 cents per dozen; on rice, cleaned, 1½ cent per pound; paddy, and uncleaned rice, three quarters of one cent per pound; on sago and sago flour, 1½ cent per pound; on sheathing copper, and sheathing metal or yellow metal not wholly of copper nor wholly or in part of iron, ungalvanized, in sheets forty-eight inches long and fourteen inches wide, and weighing from fourteen to thirty-four ounces per square foot, 3 cents per pound; on tin in pigs, bars, or blocks, 10 per cent. *ad valorem;* on tin in plates or sheets, and tagger tin, 20 per cent *ad valorem;* on oxyd, muriatic, and salts of tin and tin foil, 30 per cent. *ad valorem.*

The first amendment to this section was to strike out the following proviso in lines twenty-seven, twenty-eight, and twenty-nine:

Provided, That all imported cotton and linen rags for the manufacture of paper shall be free of duty.

The amendment was agreed to.

The next amendment was, in line thirty-six, to strike out "four" and insert "two," and in line thirty-seven to strike out "five" and insert "three;" so as to read, "on chiccory root, 2 cents per pound; on chiccory, ground, burnt, or prepared, 3 cents per pound."

The amendment was agreed to.

The next amendment was in line forty to strike out "four" and insert "three," so as to read, "on acorn coffee and dandelion root, raw or prepared, and all other articles used or intended to be used as coffee, or a substitute for coffee, and not otherwise provided for, 3 cents per pound."

The amendment was agreed to.

The next amendment was in line forty-three to strike out "5 cents per pound," and insert "20 per cent. *ad valorem;*" and in lines forty-four and forty-five strike out "20 cents per pound," and insert "50 per cent. *ad valorem*," so as to read, "on cork wood, unmanufactured, 20 per cent. *ad valorem;* on corks, 50 per cent. *ad valorem.*"

The amendment was agreed to.

The next amendment was in line fifty-six, after the word "packs," to insert "not exceeding eighty to each pack, and in the same proportion for a greater number," so as to read, "on fire-crackers, 50 cents per box of forty packs, not exceeding eighty to each pack, and in the same proportion for a greater number."

The amendment was agreed to.

The next amendment was, in line eighty-one, to strike out "one dollar and twenty," and insert "seventy;" so as to make the clause read, "on lead ore, 75 cents per one hundred pounds."

Mr. GRIMES. I should like to inquire of the chairman of the Committee on Finance for some explanation in regard to this matter. I confess that I am not very conversant with this lead business, although I am one of the representatives of one of the three States that principally produce it. I observe that here is a proposition to reduce the duty upon lead ore from $1 25 to 75 cents per one hundred pounds; and I notice that upon page 21 of the bill, in line twenty-two, we have already agreed to an amendment by which we reduce the duty on white lead, which is manufactured from this lead ore, from 25 cents, at which it was fixed by the House of Representatives, to 15 cents per one hundred pounds. This was done upon the suggestion of the Committee on Finance. Reducing both of these duties will be regarded, I am fearful, as rather a blow at the producers of lead. I understand from those who are conversant with the subject, and particularly from one of the members of the Committee of Ways and Means of the House of Representatives, that these duties ought to stand as they were fixed by that House.

Mr. FESSENDEN. I think it likely that this duty ought to be $1 instead of 75 cents; but it was too high as it was fixed before. I am perfectly willing that it should be amended by fixing it at $1 per one hundred pounds.

Mr. GRIMES. I move that amendment.

Mr. HENDERSON. I see that it is rather a general thing in this bill that the duty upon the manufactures of lead is not increased, while, if I understand the bill, the object of it is to increase the duties. The chairman of the committee will find by examining the law as it now stands, the act of 1861 that lead ore is put at 1½ cent a pound.

Mr. FESSENDEN. That is a mistake in the book which the Senator has in his hand. There are two different constructions. Some say it comes under one clause, and some another. We examined it carefully the other day. It is doubtful whether it comes under the 10 per cent. clause or the 20 per cent. clause. This is a very large increase of the duty.

Mr. HENDERSON. Is it also a mistake in the book in regard to the duties that were levied under the acts of 1842, 1846, and 1857? I find that under the act of 1842 this duty was 4 cents.

Mr. FESSENDEN. All the duties now stand far below the duties of 1842. They are, however, an increase on the duties of 1846 and 1857, particularly over those of 1857.

Mr. HENDERSON. I do not think this duty ought to be changed.

Mr. FESSENDEN. It is too high as it stands in the bill in comparison with the duty on pig lead, which is only $1 50. Its operation would be bad. Some kinds of lead ore must be imported for certain purposes. This duty in my judgment will not interfere with the lead ore produced in this country.

Mr. McDOUGALL. I regret that the chairman of the committee should accept the suggestion of the Senator from Iowa. The duty upon lead ore amounts to about the same charge with the duty upon pig lead, owing to its greater bulk, being in a crude state, making a great deal more measurement than when the article is reduced. Besides that, we import a lead ore which we cannot get supplied in the country here for a great many manufacturing purposes. A certain quality of it is even used here for the purpose of reducing the lead of the Wisconsin and Illinois mines. It is employed in the manufacture of our own native lead. It is employed extensively in our silver and copper mining establishments; they require a quality of lead ore that is not native, and has to be brought from abroad. A tax of $1 25 per hundred pounds, as proposed by the House of Representatives, would exclude the foreign article required for this business. We have to use it in extracting gold as well as silver throughout our gold and silver mining regions. This quality of lead has to be used for other manufacturing purposes, and has to be used for the purpose of extracting certain qualities of lead in the lead mines of this country. I trust that the amendment as it was proposed by the committee will be adopted. It is a very heavy tax then upon the article, and whether it will bear it or not it is difficult to say. It is the opinion of persons who are well advised in regard to its uses that it is a large and heavy charge.

Mr. FESSENDEN. I would suggest to the Senator from Iowa, as there is a difference of opinion between the Senate and the House of Representatives on this point, whether it would not be as well to let this matter stand as the committee reported it, and arrange it on a further consultation with a committee of conference. At the same time, I will not strenuously object to putting it at a dollar.

The PRESIDING OFFICER. The Senator from Iowa moves to amend the amendment by striking out "75 cents," and inserting "$1."

Mr. McDOUGALL. I hope the Senator from Iowa will yield to the suggestion of the Senator from Maine, and not insist upon his amendment.

Mr. GRIMES. I have offered my amendment, and I want a vote upon it, but I shall not call for a division.

The amendment to the amendment was rejected.

The amendment of the committee was agreed to.

Mr. SHERMAN. I am directed by the Finance Committee to offer an amendment to the next clause of this section, and I prefer to move it now in its order.

Mr. COLLAMER. I cannot but say that it is a little surprising to the Senate to have members of the committee get up and say that they move amendments by authority of the committee, which the committee never thought proper to present and have printed.

Mr. FESSENDEN. They are mere slight amendments, which have been agreed upon since. If the Senator from Vermont objects, it would be perhaps better to wait until we get through with the reported amendments.

The PRESIDING OFFICER. It is customary and orderly to proceed with the amendments presented by the committee.

Mr. SHERMAN. This is presented by the committee.

The PRESIDING OFFICER. The Chair will entertain it.

Mr. SHERMAN. I have no choice as to when it is offered.

Mr. FESSENDEN. I think it is better to go through with the printed amendments first.

Mr. SHERMAN. Very well; then I withdraw this for the present.

The next amendment proposed by the committee was, in line one hundred and nine, after the word "paddy," to insert "three quarters of one cent."

Mr. FESSENDEN. I move to amend that by inserting "per pound."

The PRESIDING OFFICER. That amendment will be made unless there be objection, it being merely verbal.

The next amendment was, in line one hundred and ten, to strike out "and," and after "rice," strike out "three quarters of;" so that the whole clause will read, "on rice, cleaned, 1½ cent per pound; paddy, three quarters of a cent per pound; uncleaned rice, 1 cent per pound."

The amendment was agreed to.

The next amendment was, in line one hundred and eighteen, to strike out "ten," and insert "fifteen;" so as to read, "on tin in pigs, bars, or blocks, 15 per cent. *ad valorem.*"

The amendment was agreed to.

The next amendment was, in line one hundred and twenty, after the word "tin," to strike out "twenty," and insert "twenty-five;" so as to read, "on tin in plates or sheets, and tagger tin, 25 per cent. *ad valorem.*"

The amendment was agreed to.

The Secretary read the ninth section, as follows:

SEC. 9. *And be it further enacted*, That, in addition to the duties heretofore imposed by law on the articles hereinafter mentioned and included in this section, there shall be levied, collected, and paid on the goods, wares, and merchandise herein enumerated and provided for, imported from foreign countries, the following duties and rates of duty, that is to say: on Wilton, Saxony, and Aubusson, Axminster, patent velvet, Tournay velvet, and tapestry velvet carpets and carpeting, Brussels carpets wrought by the Jacquard machine, and all medallion or whole carpets, 5 cents per square yard;

on Brussels and tapestry Brussels carpets and carpeting, printed on the warp or otherwise, 3 cents per square yard; on all treble-ingrain and worsted chain venetian carpets and carpeting, 3 cents per square yard; on hemp or jute carpeting, 2 cents per square yard; on all other kinds of carpets and carpeting, of wool, flax, or cotton, or parts of either or other material, (except druggets, bockings, and felt carpets and carpetings,) not otherwise provided for, 5 per cent. *ad valorem: Provided*, That mats, rugs, screens, covers, hassocks, bedsides, and other portions of carpets or carpeting, shall pay the rate of duty herein imposed on carpets and carpeting of similar character; on all other mats, screens, hassocks, and rugs, 5 per cent. *ad valorem*. On woolen cloths, woolen shawls, and all manufactures of wool, of every description, made wholly or in part of wool, not otherwise provided for, a duty of 6 cents per pound, and, in addition thereto, 5 per cent. *ad valorem;* on goods of like description, when valued at over $1 per square yard, or weighing less than twelve ounces per square yard, a duty of 6 cents per pound, and, in addition thereto, 10 per cent. *ad valorem;* on endless belts or felts for paper, and blanketing for printing machines, 5 per cent. *ad valorem;* on flannels, of all descriptions, 5 per cent. *ad valorem;* on hats of wool, 10 per cent. *ad valorem;* on woolen and worsted yarn, of all descriptions, 5 per cent. *ad valorem;* on clothing ready-made, and wearing apparel of every description, composed wholly or in part of wool, made up or manufactured wholly or in part by the tailor, seamstress, or manufacturer, 6 cents per pound, and, in addition thereto, 5 per cent. *ad valorem: Provided*, That Balmoral skirts, or goods of like description, or used for like purposes, made wholly or in part of wool, shall be subjected to the same duties that are levied upon ready-made clothing; on blankets of all kinds, made wholly or in part of wool, 5 per cent. *ad valorem;* on all delaines, cashmere delaines, muslin delaines, barege delaines, composed wholly or in part of worsted, wool, mohair, or goats' hair, and on all goods of similar description, not exceeding in value 40 cents per square yard, 3 cents per square yard; on bunting, worsted yarns, and on all other manufactures of worsted or of which worsted shall be a component material, not otherwise provided for, 5 per cent. *ad valorem;* on oilcloth for floors, stamped or printed, of all descriptions, 5 per cent. *ad valorem;* on coir floor matting and carpeting, 5 per cent. *ad valorem*.

The committee proposed to amend in line fifty-five, by striking out "forty," and inserting "twenty-five;" and in line twenty-six, by striking out "three," and inserting "two;" so as to make the clause read, "on all delaines, cashmere delaines, muslin delaines, barege delaines, composed wholly or in part of worsted, wool, mohair, or goats' hair, and on all goods of similar description, not exceeding in value 25 cents per square yard, 2 cents per square yard."

The amendment was agreed to.

The Secretary read section ten, as follows:

SEC. 10. *And be it further enacted*, That from and after the day and year aforesaid, in addition to the duties heretofore imposed by law on the articles hereinafter mentioned and provided for in this section, there shall be levied, collected, and paid, on the goods, wares, and merchandise herein enumerated, imported from foreign countries, the following duties and rates of duty, that is to say: First. On all manufactures of cotton, bleached or unbleached, and not colored, stained, painted or printed, and not exceeding one hundred threads to the square inch, counting the warp and filling, and exceeding in weight five ounces per square yard, one fourth of one cent per square yard; on finer or lighter goods of like description, not exceeding one hundred and forty threads to the square inch, counting the warp and filling, one half cent per square yard; on goods of like description, exceeding one hundred and forty threads and not exceeding two hundred threads to the square inch, counting the warp and filling, three fourths of one cent per square yard; on like goods, exceeding two hundred threads to the square inch, counting the warp and filling, 1 cent per square yard; on all goods embraced in the foregoing schedules, (except jeans, denims, drillings, bed-tickings, ginghams, plaids, cottonades, pantaloon stuffs, and goods of like description, not exceeding in value the sum of 16 cents per square yard,) if printed, painted, colored, or stained, there shall be levied, collected, and paid, a duty of 1 cent per square yard, in addition to the rates of duty provided in the foregoing schedules: *Provided*, That upon all plain woven cotton goods not included in the foregoing schedules, and upon cotton goods of every description, the value of which shall exceed 16 cents per square yard, there shall be levied, collected, and paid, a duty of 5 per cent. *ad valorem: And provided further*, That no cotton goods having more than two hundred threads to the square inch, counting the warp and filling, shall be admitted to a less rate of duty than is provided for goods which are of that number of threads. Second. On spool and other thread of cotton, 5 per cent. *ad valorem*. Third. On shirts and drawers, wove or made on frames, composed wholly of cotton and cotton velvet, 5 per cent. *ad valorem*. Fourth. On all cotton jeans, denims, drillings, bed-tickings, ginghams, plaids, cottonades, pantaloon stuffs, and goods of like description, not exceeding in value the sum of 16 cents per square yard, 2 cents per square yard; and on all manufactures composed wholly of cotton, bleached, unbleached, printed, painted, or dyed, not otherwise provided for, 5 per cent. *ad valorem*. Fifth. On all brown or bleached linens, ducks, canvas paddings, cot-bottoms, burlaps, drills, coatings, brown hollands, blay linens, damasks, diapers, crash, buckabacks, handkerchiefs, lawns, or other manufactures of flax, jute, or hemp, (or of which flax, jute, or hemp shall be the component material of chief value,) 5 per cent. *ad valorem;* on flax or linen threads, twine, and packthread, and all other manufactures of flax, or of which flax shall be the component material of chief value, and not otherwise provided for, 5 per cent. *ad valorem*.

The PRESIDING OFFICER. The committee propose an amendment in line thirty-eight, to strike out "five," and insert "ten;" so that the clause will read, "on spool and other threads of cotton, 10 per cent. *ad valorem*."

The amendment was agreed to.

The Secretary read section eleven, as follows:

SEC. 11. *And be it further enacted*, That from and after the day and year aforesaid, in addition to the duties heretofore imposed by law on the articles hereinafter mentioned and provided for in this section, there shall be levied, collected, and paid, on the goods, wares, and merchandise herein enumerated, imported from foreign countries, the following duties and rates of duty, that is to say: on jute, Sisal grass, sun hemp, coir, and other vegetable substances not enumerated, (except flax, tow of flax, Russia and manilla hemp, and codilla, or tow of hemp,) $5 per ton; on jute butts, $1 per ton; on tarred cables, or cordage, one fourth of one cent per pound; on untarred manilla cordage, one fourth of one cent per pound; on all other untarred cordage, one half cent per pound; on hemp yarn, 1 cent per pound; on coir yarn, one half cent per pound; on seines, one half cent per pound; on cotton bagging, or other manufactures not otherwise provided for, suitable for the uses to which cotton bagging is applied, whether composed in whole or in part of hemp, jute, or flax, or any other material valued at less than 10 cents per square yard, three fourths of one cent per pound; over 10 cents per square yard, 1 cent per pound; on sail duck, 5 per cent. *ad valorem;* on Russia and other sheetings, made of flax or hemp, brown and white, 5 per cent. *ad valorem;* and on all other manufactures of hemp, or of which hemp shall be a component part, not otherwise provided for, 5 per cent. *ad valorem;* on grass cloth, 5 per cent. *ad valorem;* on jute yarns, 5 per cent. *ad valorem;* on all other manufactures of jute or Sisal grass, not otherwise provided for, 5 per cent. *ad valorem: Provided*, That all hemp, or preparations of hemp used for naval purposes by the Government of the United States, shall be of American growth or manufacture: *Provided further*, The same can be obtained of as good quality and at as low a price.

The PRESIDING OFFICER. The committee propose no amendment to this section.

The Secretary read section twelve, as follows:

SEC. 12. *And be it further enacted*, That from and after the day and year aforesaid, in lieu of the duties heretofore imposed by law on the articles hereinafter mentioned, and on such as may now be exempt from duty, there shall be levied, collected, and paid, on the goods, wares, and merchandise, enumerated and provided for in this section, imported from foreign countries, the following duties and rates of duty, that is to say: on all brown earthenware and common stoneware, gas retorts, stoneware not ornamented, and stoneware above the capacity of ten gallons, 20 per cent. *ad valorem;* on China and porcelain ware, gilded, ornamented, or decorated in any manner, 40 per cent. *ad valorem;* on China and porcelain ware, plain white, and not decorated in any manner, and all other earthen, stone, or crockery ware, white, glazed, edged, printed, painted, dipped, or cream-colored, composed of earthy or mineral substances, and not otherwise provided for, 35 per cent. *ad valorem;* slates, slate pencils, slate chimney pieces, mantels, slabs for tables, and all other manufactures of slate, 40 per cent. *ad valorem;* on unwrought clay, pipe clay, fire clay, and kaoline, $5 per ton; on fuller's earth, $3 per ton; on white chalk, $5 per ton; on red and French chalk, 10 per cent. *ad valorem;* on chalk of all descriptions, not otherwise provided for, 25 per cent. *ad valorem;* on all plain and mold and press glassware, not cut, engraved, or painted, 30 per cent. *ad valorem;* on all articles of glass, cut, engraved, painted, colored, printed stained, silvered, or gilded, not including plate glass silvered, or looking-glass plates, 35 per cent. *ad valorem;* on fluted, rolled, or rough plate glass, not including crown, cylinder, broad, or common window glass, not exceeding ten by fifteen inches, 75 cents per one hundred square feet; above that, and not exceeding sixteen by twenty-four inches, 1 cent per square foot; above that, and not exceeding twenty-four by thirty inches, 1½ cent per square foot; all above that, and not exceeding in weight one pound per square foot, 2 cents per square foot: *Provided*, That all fluted, rolled, or rough plate glass weighing over one hundred pounds per one hundred square feet, shall pay an additional duty on the excess at the same rates herein imposed; on all cast polished plate glass, unsilvered, not exceeding ten by fifteen inches, 3 cents per square foot; above that, and not exceeding sixteen by twenty-four inches, 5 cents per square foot; above that, and not exceeding twenty-four by thirty inches, 8 cents per square foot; above that, and not exceeding twenty-four by sixty inches, 25 cents per square foot; all above that, 50 cents per square foot; on all cast polished plate glass, silvered, or looking-glass plates, exceeding ten by fifteen inches, 4 cents per square foot; above that, and not exceeding sixteen by twenty-four inches, 6 cents per square foot; above that, and not exceeding twenty-four by thirty inches, 10 cents per square foot; above that, and not exceeding twenty-four by sixty inches, 35 cents per square foot; all above that, 60 cents per square foot: *Provided*, That no looking-glass plates, or plate glass silvered, when framed, shall pay a less rate of duty than that imposed upon similar glass, of like description, not framed, but shall be liable to pay, in addition thereto, 30 per cent. *ad valorem* upon such frames; on porcelain and Bohemian glass, glass crystals for watches, paintings on glass or glasses, pebbles for spectacles, and all manufactures of glass, or of which glass shall be a component material, except crown, cylinder, and other window glass, not otherwise provided for, and all glass bottles or jars filled with sweetmeats, preserves, 35 per cent. *ad valorem*.

The committee reported an amendment in line twenty-six, to strike out "five," and insert "four," so that the clause would read, "on white chalk, $4 per ton."

The amendment was agreed to.

The Secretary read section thirteen, as follows:

SEC. 13. *And be it further enacted*, That from and after the day and year aforesaid, in addition to the duties heretofore imposed by law on the articles hereinafter mentioned, there shall be levied, collected, and paid, on the goods, wares, and merchandise enumerated and provided for in this section, imported from foreign countries, a duty of 5 per cent. *ad valorem*—that is to say: argentine, alabatta or German silver, manufactured or unmanufactured; articles embroidered with gold, silver, or other metal; articles worn by men, women, or children, of whatever material composed, made up, or made wholly or in part by hand, not otherwise provided for; Britannia ware; baskets, and all other articles composed of grass, osier, palm leaf, straw, whalebone, or willow, not otherwise provided for; bracelets, braids, chains, curls or ringlets, composed of hair, or of which hair is a component material; braces, suspenders, webbing, or other fabrics composed wholly or in part of India-rubber, not otherwise provided for; brooms and brushes of all kinds; canes and sticks for walking, finished or unfinished; capers, pickles, and sauces of all kinds, not otherwise provided for; caps, hats, muffs, and tippets of fur, and all other manufactures of fur, or of which fur shall be a component material; caps, gloves, leggins, mits, socks, stockings, wove shirts and drawers, and all similar articles made on frames, of whatever material composed, worn by men, women, and children, and not otherwise provided for; card cases, pocket books, shell boxes, souvenirs, and all similar articles, of whatever material composed; carriages and parts of carriages; clocks and parts of clocks; clothing, ready-made, and wearing apparel of whatever description, of whatever material composed, except wool, made up or manufactured wholly or in part by the tailor, seamstress, or manufacturer; coach and harness furniture of all kinds, saddlery, coach and harness hardware, silver plated, brass plated, or covered, common tinned, burnished, or japanned, not otherwise provided for; combs of all kinds; compositions of glass or paste, when set; composition tops for tables, or other articles of furniture; comfits, sweetmeats, or fruits preserved in sugar, brandy, or molasses, not otherwise provided for; cotton cords, gimps, and galloons; cotton laces, cotton insertings, cotton trimming laces, and cotton braids, colored or uncolored; court plaster; cutlery of all kinds; dolls and toys of all kinds; encaustic tiles; epaulets, galloons, laces, knots, stars, tassels, tresses, and wings, of gold, silver, or other metal; fans and fire screens of every description, of whatever material composed; frames and sticks for umbrellas, parasols, and sunshades, finished or unfinished; furniture, cabinet and household; furs, dressed; hair pencils; hat bodies of cotton or wool, or of which wool is the component material of chief value; hair cloth, hair seatings, and all other manufactures of hair not otherwise provided for; ink, printers' ink, and ink powder; japanned, patent, or enameled leather, or skins of all kinds; jet and manufactures of jet, and imitations thereof; leather, tanned, of all descriptions; maccaroni, vermicelli, gelatine, jellies, and all similar preparations; manufactures of bone, shell, horn, ivory, or vegetable ivory; manufactures of paper, or of which paper is a component material, not otherwise provided for; manufactures of the bark of the cork tree, except corks; manufactures, articles, vessels, and wares, not otherwise provided for, of gold, silver, copper, brass, iron, steel, lead, pewter, tin, or other metal, or of which either of these metals, or any other metal, shall be the component material of chief value; manufactures not otherwise provided for, composed of mixed materials, in part of cotton, silk, wool, or worsted, hemp, jute or flax; manufactures of cotton, linen, silk, wool, or worsted, if embroidered or tamboured, in the loom or otherwise, by machinery or with the needle or other process, not otherwise provided for; silk twist and sewing silk; manufactures of cedar wood, granadilla, ebony, mahogany, rosewood, and satin wood; manufactures and articles of leather, or of which leather shall be a component part, not otherwise provided for; manufactures, articles, and wares, of papier mache; manufactures of goats' hair or mohair, or of which goats' hair or mohair shall be a component material, not otherwise provided for; manufactures of wood, or of which wood is the chief component part, not otherwise provided for; medicinal preparations not otherwise provided for; Morocco skins; muskets, rifles, and other fire-arms; needles, sewing, darning, knitting, and all other descriptions; oil-cloth of every description, of whatever material composed, not otherwise provided for; paper boxes, and all other fancy boxes; paper envelopes; paper-hangings, and paper for screens or fire boards; paper, antiquarian, demy, drawing, elephant, foolscap, imperial, letter, and all other paper not otherwise provided for; pins, solid head or other; plated and gilt ware of all kinds; prepared vegetables, meats, fish, poultry, and game, sealed or unsealed, in cans or otherwise; ratans and reeds, manufactured or partially manufactured; roofing slates; scagliola tops for tables or other articles of furniture; sealing wax; side-arms of every description; silver-plated metal, in sheets or other form; stereotype plates; still bottoms; twines and packthread, of whatever material composed, not otherwise provided for; type metal; types, new; umbrellas, parasols, and sunshades; velvet, when printed or painted; wafers; water colors; watches and parts of watches, and watch materials, and unfinished parts of watches; webbing, composed of wool, cotton, flax, or any other materials not otherwise provided for.

The first amendment of the committee was in line ninety-two, to strike out the words "silk twist and sewing thread."

The amendment was agreed to.

The next amendment was in line one hundred and three, to strike out the words "medicinal preparations not otherwise provided for."

The amendment was agreed to.

The Secretary read section fourteen, as follows:

SEC. 14. *And be it further enacted*, That from and after the day and year aforesaid, there shall be levied, collected, and paid on all goods, wares, and merchandise of the growth

or produce of countries beyond the Cape of Good Hope, when imported from places this side of the Cape of Good Hope, a duty of 10 per cent. *ad valorem*, and in addition to the duties imposed on any such articles when imported directly from the place or places of their growth or production.

The PRESIDING OFFICER. The committee propose, in lines three and four, to strike out the words "all goods, wares, and merchandise of the growth or produce of countries beyond the Cape of Good Hope," and to insert the word "tea."

The amendment was agreed to.

The PRESIDING OFFICER. The committee further propose, in line six, after the words "*ad valorem*," to strike out the word "and."

The amendment was agreed to.

The Secretary read section fifteen, as follows:

SEC. 15. *And be it further enacted*, That upon all ships, vessels, or steamers, which after December 31, 1862, shall be entered at any custom-house in the United States from any foreign port or place, or from any port or place in the United States, whether ships or vessels of the United States, or belonging wholly or in part to subjects of foreign Powers, there shall be paid a tax or tonnage duty of 10 cents per ton of the measurement of said vessel, in addition to any tonnage duty now imposed by law: *Provided*, That the said tax or tonnage duty shall not be collected more than once in each year on any ship, vessel, or steamer having a license to trade between different districts of the United States, or to carry on the bank, whale, or other fisheries, while employed therein, or on any ship, vessel, or steamer to or from any port or place in Mexico, the British provinces of North America, or any of the West India islands: *Provided also*, That nothing in this act contained shall be deemed in anywise to impair any rights and privileges which have been or may be acquired by any foreign nation under the laws and treaties of the United States, relative to the duties on tonnage of vessels.

The PRESIDING OFFICER. The committee propose to add the following as an additional proviso to the section:

Provided further, That so much of the act of August 18, 1856, entitled "An act to authorize protection to be given to citizens of the United States who may discover deposits of guano," as prohibits the export thereof, is hereby suspended for two years from and after the passage of this act.

The amendment was agreed to.

The Secretary read section sixteen, as follows:

SEC. 16. *And be it further enacted*, That from and after the passage of this act the allowance for tare on all chests, boxes, cases, casks, bags, or other envelop or covering of all articles imported liable to pay any duty, where the original invoice is produced at the time of making entry thereof, and the tare shall be specified therein, it shall be lawful for the collector, if he shall see fit, and for the collector and naval officer, if such officer there be, if they shall see fit, with the consent of the consignees, to estimate the said tare according to such invoice; but in all other cases the real tare shall be allowed, and may be ascertained under such regulations as the Secretary of the Treasury may from time to time prescribe; but in no case shall there be any allowance for draft.

The PRESIDING OFFICER. The committee propose, in the second line of this section, after the word "act," to insert the words "in estimating."

The amendment was agreed to.

The Secretary read section seventeen, as follows:

SEC. 17. *And be it further enacted*, That from and after the 1st day of November, 1862, no goods, wares, or merchandise, subject to *ad valorem* or specific duty, whether belonging to a person or persons residing in the United States or otherwise, or whether acquired by the ordinary process of bargain and sale, or otherwise, shall be admitted to entry, unless the invoice of such goods, wares, or merchandise be verified by the oath of the owner or one of the owners, or in the absence of the owner, one of the party who is authorized by the owner to make the shipment and sign the invoice of the same, certifying that the invoice annexed contains a true and faithful account, if subject to *ad valorem* duty and obtained by purchase, of the actual cost thereof, and of all charges thereon, and that no discounts, bounties, or drawbacks are contained in the said invoice but such as have actually been allowed on the same; and when consigned or obtained in any manner other than by purchase the actual market value thereof, and if subject to specific duty, of the actual quantity thereof; which said oath shall be administered by the consul or commercial agent of the United States in the district where the goods are manufactured, or from which they are sent: *Provided*, That if there be no consul or commercial agent of the United States in the said district, the verification hereby required shall be made by the consul or commercial agent of the United States at the nearest point, or at the port from which the goods are shipped, in which case the oath shall be administered by some public officer, duly authorized to administer oaths, and transmitted with a copy of the invoice to the consul or commercial agent for his authentication; and this act shall be construed only to modify and not repeal the act of March 1, 1823, entitled "An act supplementary to and to amend an act entitled 'An act to regulate the collection of duties on imports and tonnage,' passed March 2, 1799, and for other purposes," and the forms of the oaths therein set forth shall be modified accordingly: *Provided further*, That the consul or commercial agent, as aforesaid, shall be entitled to receive as fees $1 for each and every invoice verified, as hereinbefore mentioned, from the party so submitting the same, and shall account for all such fees in such manner as is now required by law regulating the salaries and fees of consuls and commercial agents: *Provided*, That for all places beyond the Cape of Good Hope and Cape Horn, this section shall not take effect until April 1, 1863: *Provided, however*, That nothing herein contained shall be construed to require any other consular certificate than what is now required by law for goods imported under the Canadian reciprocity treaty.

The PRESIDING OFFICER. The committee propose to strike out the whole of this section after the enacting clause, and to insert the following in lieu thereof:

That from and after the 1st day of November next, 1862, all invoices of goods, wares or merchandise, shipped at any foreign port or country for any port in the United States for importation into the United States, shall be deposited by the person or persons selling said goods, wares, or merchandise, if the same have actually been sold, or by the manufacturer or owner thereof, if the same have been procured otherwise than by purchase, or by the duly authorized agent of such seller, manufacturer or owner, with the consul, vice consul, or commercial agent of the United States nearest the place of shipment, for the use of the United States, and the said seller, manufacturer, or owner, or their duly authorized agent depositing such invoice, shall thereupon sign the said invoice, and shall make and subscribe upon said invoice a declaration setting forth that the said invoice is in all things true; that it contains a true and faithful account, if subject to *ad valorem* duty and obtained by purchase, of the actual cost of the goods, wares, or merchandise mentioned therein, and of all charges thereon, and that no discounts, bounties, or drawbacks are contained in the said invoice but such as have actually been allowed on the same; and when consigned or obtained in any manner other than by purchase, the actual market value thereof, and if subject to specific duty, of the actual quantity thereof; and that no other and different invoice of the goods, wares, or merchandise mentioned in the invoice so produced and deposited has been furnished to any one. If said goods, wares, or merchandise have been actually purchased, said declaration shall also contain a statement that the currency in which said invoice is made out is the currency which was actually paid for said goods, wares, or merchandise by the purchaser. There shall also be delivered to the said consul, vice consul, or commercial agent, a duplicate of said invoice, upon which duplicate said consul, vice consul, or commercial agent, shall certify, under his hand and official seal, that the same is a duplicate of an original invoice deposited by or in behalf of the person or persons signing the same, in his office, for the use of the United States, with the date of the receipt of said invoice by him, which duplicate invoice, with said certificate thereon, shall be delivered to the person or persons signing the same, or his or their duly authorized agent, to be used in making an entry of the goods, wares, or merchandise therein mentioned in the United States. And no goods, wares, or merchandise imported into the United States from any foreign place or country after the 1st day of November, 1862, shall be admitted to an entry unless the invoice presented to the collector shall be signed by the seller of the goods, wares, or merchandise therein mentioned, if the same have been purchased, or by the manufacturer or owner thereof if the same have been procured otherwise than by purchase, and shall have thereon the certificate of the consul, vice consul, or commercial agent, hereinbefore specified. And there shall be paid to the said consul, vice consul, or commercial agent, by the person or persons by or in behalf of whom the said invoices are presented and deposited, one dollar for each and every invoice verified, which shall be accounted for by the officers receiving the same, in such manner as is now required by the laws regulating the fees and salaries of consuls and commercial agents: *Provided*, That nothing herein contained shall be construed to require any other consular certificate than is now required by law for goods imported under the reciprocity treaty with Great Britain, signed June 5, 1854: *And provided further*, That the provisions of this section shall not apply to invoices of goods, wares, and merchandise imported into the United States from beyond Cape Horn and the Cape of Good Hope, until the 1st day of April, 1863.

The amendment was agreed to.

The PRESIDING OFFICER. The committee also propose to insert the following as a new section, at this point:

SEC. —. *And be it further enacted*, That the invoices so deposited with said consuls, vice consuls, or commercial agents, shall be transmitted by them to the Secretary of the Treasury at such time and in such manner as the said Secretary may from time to time direct; and on the receipt thereof by him, they shall be deposited in the office of the Solicitor of the Treasury; and the Solicitor of the Treasury, in addition to the duties now imposed on him by law, shall take charge of said invoices, and shall cause the same to be carefully filed and proper indices thereof prepared, and shall establish such rules and regulations as he may deem necessary for the safe-keeping thereof. And the said Solicitor shall take cognizance of all frauds or attempted frauds upon the revenue which may come to his knowledge. And it shall be the duty of the collectors at the several ports in the United States, as soon as practicable after seizures are made by them, to report all seizures of merchandise to him, with written statements of the facts upon which such seizures are based, and he shall give the said collectors such advice and assistance in the discovery and prevention of frauds upon the revenue, and in the prosecution of persons charged with the commission thereof, as the public interests may require. And, for the purpose of more effectually carrying out the provisions of this act, and of preventing and detecting frauds upon the revenue, committed by means of forged or false invoices, undervaluations, or otherwise, he is hereby authorized to employ three clerks in addition to those now assigned to his office by law, and for such time, and at such rate of compensation, as he may deem for the interest of the United States, subject to the approval of the Secretary of the Treasury, and the compensation allowed to said clerks shall be paid in the same manner as other expenses of collecting the revenue.

The amendment was agreed to.

The Secretary read section eighteen, as follows:

SEC. 18. *And be it further enacted*, That from and after the date aforesaid, it shall be the duty of consuls and commercial agents of the United States, having any knowledge or belief of any case or practice of any person or persons who obtain or should obtain verification of invoices as described in the preceding section, whereby the revenue of the United States is or may be defrauded, to report the facts to the collector of the port where the revenue is or may be defrauded, or to the Secretary of the Treasury of the United States.

The PRESIDING OFFICER. The committee propose no amendment to this section.

The Secretary read section nineteen, as follows:

SEC. 19. *And be it further enacted*, That from and after the passage of this act, the act entitled "An act to provide for the payment of outstanding Treasury notes, to authorize a loan, to regulate and fix the duties on imports, and for other purposes," approved March 2, 1861, be, and the same is hereby, amended as follows, that is to say: first, in section twelve, before the word "eighteen," where it first occurs, strike out "less than;" second, in section twenty-first, before the word "diamonds," strike out "copper ore and;" third, in section twenty-three, after the words "artists residing abroad," strike out "provided the same be imported in good faith as objects of taste and not of merchandise," and insert "provided the fact, as aforesaid, shall be certified by the artist, or by a consul of the United States;" and in the same section, before the word "orpiment," insert "ores of gold, silver, and copper."

The PRESIDING OFFICER. The Committee on Finance propose to amend this section by striking out, in lines nine and ten, the words, "in section twenty-first, before the word 'diamonds,' strike out 'copper ore and;' third."

The amendment was agreed to.

The PRESIDING OFFICER. The committee also propose, in lines fifteen and sixteen, after "United States," to strike out the words, "and in the same section, before the word 'orpiment,' insert 'ores of gold, silver, and copper.'"

The amendment was agreed to.

The Secretary read section twenty, as follows:

SEC. 20. *And be it further enacted*, That the sixth section of an act entitled "An act to extend the warehousing system by establishing private bonded warehouses, and for other purposes," be, and the same is hereby, amended so that the additional duty of 100 per cent. shall not apply to the invoice or appraised value of the merchandise withdrawn, but shall be so construed as to require for failure to transport and deliver within the time limited a duty to be levied and collected of double the amount which said goods, wares, and merchandise would be liable upon the original entry thereof.

The PRESIDING OFFICER. No amendment is proposed to this section. The next section will be read.

The Secretary read section twenty-one, as follows:

SEC. 21. *And be it further enacted*, That all goods, wares, and merchandise, which may be in the public stores or bonded warehouse on the day and year aforesaid, shall be subject to the same and no other duty upon the entry for consumption thereof than if the same were imported respectively after that day: *Provided*, That all goods which now are or may be deposited in public store or bonded warehouse after this act takes effect and goes into operation, must be withdrawn therefrom, or the duties thereon paid within one year after the same are deposited, but may be withdrawn by the owner for exportation to foreign countries, or may be transhipped to any port of the Pacific or western coast of the United States at any time before the expiration of three years after the same are deposited; such goods on arrival at a Pacific or western port, as aforesaid, to be subject to the same rules and regulations as if originally imported there; any goods remaining in public store or bonded warehouse three years shall be regarded as abandoned to the Government, and sold under such regulations as the Secretary of the Treasury may prescribe, and the proceeds paid into the Treasury: *Provided further*, That merchandise upon which duties have been paid may remain in warehouse in custody of the officers of the customs at the expense and risk of the owners of said merchandise, and if exported directly from said custody to a foreign country within three years, shall be entitled to return duties, proper evidence of such merchandise having been landed abroad to be furnished to the collector by the importer, 1 per cent. of said duties to be retained by the Government: *And provided further*, That the third or last proviso to the fifth section of an act entitled "An act to provide increased revenue from imports, to pay interest on the public debt, and for other purposes," approved the 6th day of August, 1861, be, and the same is hereby, repealed; and no return of the duties shall be allowed on the export of any merchandise after it has been removed from the custody and control of the Government.

Mr. SHERMAN. I am directed by the Committee on Finance to offer an amendment to this section, and as I am called out upon a committee of conference, I trust the Senate will act upon it now. The amendment is to strike out, after the enacting clause of the section, down to the pro-

viso in line six, and in lieu of the words stricken out to insert:

That all the goods, wares, and merchandise which may be in bonded warehouse on the 1st day of August next may be withdrawn within the time now fixed by law, upon the payment of the present duties; and all goods, wares, and merchandise on shipboard or in the public stores on the 1st day of August next, or which shall remain in bonded warehouse after the expiration of the time fixed by the bond, shall be subject to the duties prescribed by this act.

Mr. SUMNER. Do I understand from the Senator from Ohio that if the goods are on shipboard before the 1st of August these duties are not applicable?

Mr. SHERMAN. By the terms of the bill as sent to us from the House of Representatives, all goods, whether in warehouse or public stores or on shipboard, are subject to the new duties. It was believed that as to those goods that were now under bond it would not be right or fair to change the duty, and therefore it is proposed to provide that they shall be entitled to all the advantages which their bonds secure them; but as to the goods on shipboard or in public stores, the new duties will apply. We do not change the House bill in that respect. All that are on shipboard or in public stores on the 1st of August are to pay the new duties; they are different from those in warehouse.

Mr. SUMNER. Now I understand.

Mr. SHERMAN. In relation to all that are in bond, in all cases in which bonds have been given for the payment of duties, the duties now in force will be collected, and no more.

Mr. SUMNER. No matter how long since they were placed on shipboard?

Mr. SHERMAN. No, sir.

The amendment was agreed to.

The PRESIDING OFFICER. The committee propose to amend the section by adding, after the word "Government," at the end of the second proviso, the following:

And provided further, That all drugs, medicines, and chemical preparations, entered for exportation and deposited in warehouse or public store, may be exported by the owner or owners thereof in the original packages, or otherwise, subject to such regulations as shall be prescribed by the Secretary of the Treasury.

The amendment was agreed to.

The PRESIDING OFFICER. The committee also propose to amend this section by adding at the end of it:

But nothing herein contained shall be held to apply to or repeal section thirty of the act entitled "An act to provide for the payment of outstanding Treasury notes, to authorize a loan, to regulate and fix the duties on imports, and for other purposes," approved March 2, 1861.

Mr. FESSENDEN. I move an amendment to that amendment by adding the following words:

Or section four of an act entitled "An act to provide increased revenue from imports, to pay interest on the public debt, and for other purposes," approved August 5, 1861.

Mr. GRIMES. I want to know what this means.

Mr. FESSENDEN. It is merely to prevent the doing away of certain drawbacks now allowed. It is supposed the bill may affect those drawbacks which we wish to remain. Section thirty of the act of March 2, 1861, was a drawback on manufactures of hemp.

The amendment to the amendment was agreed to; and the amendment, as amended, was adopted.

The PRESIDING OFFICER. The committee propose at this point to insert as a new section:

And be it further enacted, That the privilege of purchasing supplies from the public warehouses duty free, be extended to the vessels of war of any nation in ports of the United States, which may reciprocate such privilege towards the vessels of war of the United States in its ports.

The amendment was agreed to.

The Secretary read section twenty-two, as follows:

SEC. 22. *And be it further enacted*, That all acts and parts of acts repugnant to the provisions of this act be, and the same are hereby, repealed: *Provided*, That the existing laws shall extend to, and be in force for, the collection of the duties imposed by this act, for the prosecution and punishment of all offenses, and for the recovery, collection, distribution, and remission of all fines, penalties, and forfeitures, as fully and effectually as if every regulation, penalty, forfeiture, provision, clause, matter, and thing to that effect, in the existing laws contained, had been inserted in and reënacted by this act.

The PRESIDING OFFICER. The committee propose no amendment to this section. The committee propose here to add a new section, which will be read.

The Secretary read, as follows:

SEC. —. *And be it further enacted*, That the ninety-third section of the act entitled "An act to provide internal revenue to support the Government and pay interest on the public debt," approved July 1, 1862, be so amended that no instrument, document, or paper made, signed, or issued prior to the 1st day of January, 1863, without being duly stamped, or having thereon an adhesive stamp to denote the duty imposed thereon, shall for that cause be deemed invalid and of no effect: *Provided, however*, That no such instrument, document, or paper shall be admitted or used as evidence in any court until the same shall have been duly stamped, nor until the holder thereof shall have proved to the satisfaction of the court that he has paid to the collector or deputy collector of the district within which such court may be held the sum of $5 for the use of the United States.

The amendment was agreed to.

The PRESIDING OFFICER. The committee also propose to insert an additional section.

The Secretary read it, as follows:

SEC. —. *And be it further enacted*, That no part of the act aforesaid, in relation to stamp duties, shall be held to take effect before the 1st day of September, 1862. And all of said act, except so much thereof as relates to the appointment of a Commissioner of Internal Revenue, shall be held to take effect on the 21st day of July, 1862, instead of from and after its approval by the President.

The amendment was agreed to.

The PRESIDING OFFICER. The amendments reported by the committee are now disposed of, and the bill is still open to amendment.

Mr. COWAN. I am instructed by the Committee on Finance to offer the following amendments: on page 5, line eleven of section three, strike out "one quarter" and insert "five eighths;" in line twelve strike out "one half" and insert "seven eighths of;" in line thirteen strike out "four" and insert "two;" in line fourteen strike out "one half" and insert "seven eighths of;" in the same line strike out "four" and insert "two;" so that the clause will read:

On bar iron, rolled or hammered, comprising flats not less than one inch or more than seven inches wide, nor less than five eighths of an inch or more than two inches thick; rounds not less than seven eighths of an inch nor more than two inches in diameter; and squares not less than seven eighths of an inch nor more than two inches square, not exceeding in value the sum of $50 per ton, $1 50 per ton; exceeding in value the sum of $50 per ton, $3 per ton.

The amendments were agreed to.

Mr. COWAN. In line nineteen, I move to strike out "one quarter" and insert "five eighths;" in line twenty, to strike out "one half" and insert "seven eighths of;" in line twenty-one to strike out "four" and insert "two;" in the same line to strike out "one half" and insert "seven eighths of;" in line twenty-two to strike out "four" and insert "two;" so that the clause will read:

On bar iron, rolled or hammered, comprising flats less than five eighths of an inch thick or more than seven inches wide, rounds less than seven eighths of an inch or more than two inches in diameter, and squares less than seven eighths of an inch or more than two inches square, $5 per ton.

The amendments were agreed to.

Mr. COWAN. On the same page, in line twenty-eight, I wish to insert after the word "boiler" the words "and other;" so as to read, "on boiler and other plate iron, $5 per ton."

The amendment was agreed to.

Mr. COWAN. I am also instructed by the committee to offer the following amendment: at the foot of page 24, in line eighty-four of section eight, strike out the words "$1 per cubic foot," and insert "and on;" so as to read:

On marble, white statuary, in block, rough, squared, or sawed, and on veined marble, and marble of all other descriptions, not otherwise provided for, in block, rough, squared, or sawed, 40 per cent. *ad valorem*.

The amendment was agreed to.

Mr. SUMNER. There are one or two propositions on which the Senate has voted in committee, that I should like to have a vote on in the Senate, but I presume this is not the time to allude to them.

The PRESIDING OFFICER. They can be excepted when the bill shall be reported to the Senate.

Mr. SUMNER. I wish to except them at the proper time, but I wish to ask a moment's attention to the proposed tax on books, periodicals, &c., in the eighth section on the 22d page. It is proposed to raise this tax from 15 per cent. to 20 per cent. If that is done with a view to increase the revenue, I have one word to say. If we can place any reliance on the evidence before us, it will not increase the revenue. The amount of books imported each year during the last four years, conclusively shows that 10 per cent. on foreign books will yield more revenue than any higher rate of duty. No tax has been placed on the manufacture of books in this country, and therefore there can be no reason for increasing the duty on books in our tariff bill. The effect of the increase of the duty on books in our last tariff bill has been disastrous to the book trade. Several booksellers, I am informed, who have been large importers of books, are now withdrawing from the business, because the present rate of duty, 15 per cent., renders it unprofitable.

Then, again, sir, there are no interests requiring protection which demand a high rate of duty on books, as is proved by the memorial to the Senate of the publishers as well as importers of books, which was presented last year, praying that the duty on books may be made 10 per cent., and during the last few days I am told that a memorial has been presented to the Finance Committee by the importers of books in New York, praying that the proposed increase of 5 per cent. on books may be struck out of the tariff bill, and that the duty in future may be made 10 per cent., as their business has seriously suffered since the duty was made 15 per cent.

I need not add that this proposed duty is a tax on knowledge, and as such it is to be opposed; but I wish to rest my argument precisely on the ground that it will not add to the revenue of the country. If it would at this moment add to the revenue of the country, much as I should regret the necessity of such a duty, I should not oppose it; but I can show that such will not be the result by the following statistics: the total of books imported in 1858, under the duty at 10 per cent., amounted to $530,000 in value—I do not give the odd figures. The total amount of books imported in 1859, with the duty at 8 per cent., went up to $777,000. The total of books imported in 1860, under the duty at 8 per cent., was $734,000. The total of books imported in 1861, with the duty at 15 per cent., went down as low as $346,000.

It will be seen from these statistics that a high duty on books has always retarded importations and reduced the revenue derived from them. It seems, therefore, to be clear that any addition to the duty is open to the twofold objection of depriving the importer of his business, while it diminishes the revenue. If the duty on books was 10 per cent., the revenue derived from them would show an increase, and the importers would be greatly relieved.

Now, sir, the case seems to me to be perfectly clear. By imposing this increased duty you do not add to the revenue, while you interfere with an important business and impose a tax on knowledge. I do not know a case in which a stronger argument can be made. I hope that the tax will be reduced; and I move, in line twenty-seven of the eighth section, on the 22d page, to strike out the word "twenty" and insert "fifteen." I prefer "ten;" indeed, I will try it on ten. I move to strike out "twenty" and insert "ten."

Mr. FESSENDEN. I will only say in reference to that matter that the duty is now 15 per cent. by the tariff as it exists. The Senator proposes to reduce it. We put a very slight additional tax on books.

Mr. SUMNER. But the Senator will bear in mind that my argument was that we do not add to our revenue by raising that duty.

Mr. FESSENDEN. There is a very good reason for that. Last year was a time when we had not many importations of any kind.

Mr. SUMNER. But all the statistics seem to go to one point, that 10 per cent. is the highest duty that books will bear and pay a good revenue to the country. If you go above that, your revenue diminishes. The facts that I have adduced already prove that.

The PRESIDENT *pro tempore*. The question is on striking out "twenty" and inserting "ten."

Mr. FESSENDEN. If the Senator will put it at 15 per cent. I shall not object, and then we can consider it in a committee of conference, though I think myself the duty ought to be 20 per cent.

Mr. SUMNER. Very well, then; I will put it at fifteen.

The PRESIDENT *pro tempore*. It is moved to strike out "twenty," and insert "fifteen."

Mr. FESSENDEN. I consent to that, simply for the reason that I want to get through with this bill without having the trouble of having the yeas and nays called. If gentlemen will be content with an expression of the opinion of the Senators pres-

ent without calling for the yeas and nays, and perhaps carrying us over another day, I shall be satisfied with almost anything.

Mr. SUMNER. Very well, then; call it fifteen.

The PRESIDENT *pro tempore*. The amendment is to strike out "twenty," and insert "fifteen."

The amendment was agreed to.

Mr. HENDERSON. I wish to move an amendment on page 13, in line eighty-one of section five. I move to strike out "two" and insert "one," and in the same line to strike out "ten" and insert "five," so as to make the clause: "liquorice root, 1 cent per pound; paste or juice, 5 cents per pound."

The amendment was agreed to.

Mr. HARRIS. On page 6, at the end of line thirty-five of section three, I propose to insert the following amendment:

Wire covered with cotton or silk to pay the same duty as the same number of iron or copper wire of which it is made.

Mr. FESSENDEN. I should like the Senator to explain what his object is.

Mr. HARRIS. There is an article of wire in the market covered with silk or cotton which it is supposed will escape paying duty under the provisions of the bill as it stands; and it is intended that it shall pay the same duty as though it were not covered. That is all there is about it.

The amendment was agreed to.

Mr. HARRIS. On page 7, from lines sixty-six to seventy-one of that section, are provisions in relation to sheet iron. I understand, from gentlemen who are familiar with that matter—and I should have stated it to the committee if I had had my information in time—that the superior qualities of sheet iron will bear a higher duty than even the committee have put upon them. I see they have raised the quality mentioned in line sixty-nine, from $2 to $4, and in line seventy-one they have raised the duty from $3 to $5. I move that the "four" be made "eight," and the "five," "ten." I understand the article will bear that duty well enough, and it will favor the manufacturers of this country.

The PRESIDENT *pro tempore*. The Senator will allow the Chair to suggest that that proposition is not in order at this time. After the bill shall be reported to the Senate and the question comes upon concurring in the amendments made as in Committee of the Whole, the Senator's proposition will be in order. It is a proposition now to change an amendment already agreed to.

Mr. HARRIS. I rather wanted to bring the matter to the attention of the committee than to seek to change the duty.

Mr. POWELL. I offer the following amendment as an additional section:

And be it further enacted, That from and after the 1st day of November, 1862, all acts and parts of acts granting allowances or bounties on the tonnage of vessels employed in the bank or other cod fisheries, be, and the same are hereby, repealed.

Mr. FESSENDEN. I hope the Senator will not insist upon that. If it is sought to put it into this bill, it will give rise to a debate in this body and in the other House, which will entirely prevent us from adjourning at the time at which we expect to adjourn. It cannot be expected that such a proposition will be suffered to pass in silence. It always occasions debate, and I do not want to enter into it now. The Senator will embarrass the whole bill exceedingly if he insists upon pressing it at this period of the session. If he wants to bring it up, let him do so at the next session.

Mr. POWELL. It would afford me great pleasure to defer to the suggestion of the Senator from Maine if I could properly do so. It is not my fault that this question is brought up here now. I presented a bill to the Senate to effect this very object in the early part of the session, and had it referred to the Committee on Commerce. I requested the chairman of that committee some half a dozen times to take action on the bill, and report it either favorably or adversely. They did not choose to do so. I regard this bounty to vessels engaged in these fisheries as a thing that ought not to exist. In my judgment all these bounties are wrong, and have been wrong from the beginning. If any reason ever did exist for them it has certainly long since passed, and at this time when the people are being taxed to their utmost capacity of endurance, I think all these drains upon the Treasury ought to be put an end to.

I know this thing is not very large in these times; the saving of five or six hundred thousand dollars to the Treasury in a year when we have such large expenditures as we have now, looks rather small; but I am confident no greater evil in a small way has existed for years in this Government than this bestowal of bounty upon the vessels engaged in the cod fisheries. The officers of the Treasury have reported that it is a nursery more for fraud and perjury (which is the language of one of the reports I have before me) than for encouraging and training of seamen. If I possibly could, through any organized committee of the Senate to which this subject would properly go, get separate action on it, I most certainly would not have incumbered this or any other bill with it. I offered it at the last session as an amendment to one of the revenue bills, and the objection was made that it was at the wrong time and the wrong place. Availing myself of the decision of the Senate, which thought that was the wrong time and place, and many Senators having said they would vote for it as an independent proposition, I presented it early in the session, and I have asked the committee to report it, but I can get no response from them. I notified the Senate that I would bring the subject up, and move it as an amendment to this bill; and I must, with the greatest possible desire to accommodate the Senator from Maine, insist upon it. If the Committee on Commerce would report the bill, so that I could get a vote on it, I should be satisfied. I said to them, "report it adversely, if you are against it, and I will move to reverse your decision." That committee know well that I have talked with them for months upon the subject; but I did not like to get up in the Senate, make a public clamor, and offer a resolution to compel them to report. It seems that I cannot get action on the subject. If I offer an independent bill, it is buried in committee for six months, notwithstanding my efforts to get it back. When I offer it as an amendment to a revenue bill, it is out of time and out of place. After having been pendulated between revenue bills and committees for such a length of time, I must insist upon a vote.

Mr. FESSENDEN. I do not feel disposed to argue the matter; but if Senators think of passing such a proposition, they must make up their minds not to talk about any day of adjournment being fixed at present.

The question being put, there were, on a division—ay 1, noes 13.

The PRESIDENT *pro tempore*. The vote is very far short of a quorum.

Mr. POWELL. If there is not a quorum present, I will not embarrass the body by pressing the amendment now. I withdraw it for the present; I can move it again in the Senate.

Mr. TEN EYCK. I propose to amend the bill on page 42, line twenty-seven of section fifteen, by striking out the word "two" and inserting "one."

Mr. FESSENDEN. That cannot be done in committee; it can be done in the Senate.

The PRESIDENT *pro tempore*. The Chair understands that the amendment proposed by the Senator from New Jersey is to amend an amendment already agreed to.

Mr. TEN EYCK. So it appears.

The PRESIDENT *pro tempore*. It is not now in order.

The bill was reported to the Senate as amended.

The PRESIDENT *pro tempore*. The question is on concurring in the amendments made as in Committee of the Whole, and this question will be put on all the amendments in the aggregate, except such as may be designated for a separate vote.

Mr. SUMNER. I wish to reserve the amendment made on the 22d page.

Mr. POWELL. Allow me. I wish to make a proposition to the Senator from Maine who has charge of this bill. If the amendment which I have offered will embarrass it very much——

The PRESIDENT *pro tempore*. That subject is not now in order.

Mr. POWELL. I know it is not in order; but to facilitate matters, if the Committee on Commerce will report the bill to repeal the fishing bounties to-morrow morning, and let me have the yeas and nays on it, I will not insist on that amendment to this bill.

The PRESIDENT *pro tempore*. Does any Senator desire a separate vote on any of the amendments agreed to in committee?

Mr. SUMNER. I was about to state when interrupted a moment ago, that I wish a separate vote on the amendment made on page 22, line twenty-seven of section eight, which relates to the duty on rags.

The PRESIDENT *pro tempore*. That will be reserved for a separate vote. Does any Senator desire any other amendment reserved?

Mr. GRIMES. I desire a separate vote on the subject of white and red lead on page 21, lines twenty-two and twenty-three of section seven.

The PRESIDENT *pro tempore*. That will be the subject of a separate vote.

Mr. SUMNER. I desire also a separate vote on the amendment moved by the Senator from Ohio, relating to goods water-borne and in warehouse.

The PRESIDENT *pro tempore*. That will be reserved for a separate vote.

Mr. TEN EYCK. I wish to reserve for a separate vote the amendment of the committee on page 42, line twenty-seven, which relieves the prohibition on the export of guano for two years. I wish to make an amendment restricting it to one year.

The PRESIDENT *pro tempore*. That will be reserved for a separate vote. The question is on concurring in the amendments made as in Committee of the Whole, except such as have been designated for separate votes.

Mr. ANTHONY. Was it not understood by the Senator from Massachusetts that the amendment as to the duty on books was to be reserved? I wish it to be reserved.

The PRESIDENT *pro tempore*. Let the Chair understand the Senator from Rhode Island. Does he designate a particular amendment for a separate vote?

Mr. ANTHONY. The duty on books.

The PRESIDENT *pro tempore*. Will he designate the page and line.

Mr. ANTHONY. Page 22, line twenty-four, of section eight.

The PRESIDENT *pro tempore*. The question is on concurring in the amendments made as in Committee of the Whole, except such as have been reserved for a separate vote.

The amendments were concurred in.

The PRESIDENT *pro tempore*. The first reserved amendment is to strike out the following proviso, commencing in line twenty-seven of section eight, on page 22:

Provided, That all imported cotton and linen rags for the manufacture of paper shall be free of duty.

Mr. SUMNER. I think the Senate were rather hasty when they struck those words out. They come to us from the other House, and it is understood that they were introduced, after some discussion, on the proposition of a gentleman of the House who is very familiar with the subject. On the face of it it is obviously another tax on knowledge. It is a tax on rags; but the only object of rags when imported is to make paper, and therefore a tax on rags is virtually a tax on paper; and as a tax on paper, it is a tax on knowledge.

By the tax bill which we have already passed, paper is taxed 3 per cent.; but if you impose an additional duty on the rags which enter into the manufacture of paper, you tax it double. In point of fact, I believe it is more than double. It requires nearly two pounds of rags to make one pound of paper, and hence a duty of 10 per cent. on each pound of rags is equal to nearly 20 per cent. on each pound of paper, in addition to the 3 per cent. tax imposed by the tax bill. I am told that the business of paper making, for the last few years, has been very much depressed, and that there are now many mills wholly idle.

As I said in the beginning, I think the Senate acted hastily when they struck out this provision, which has come to us from the House of Representatives. I hope now that by their vote the Senate will restore the bill in this respect to the condition in which it was as it came to us from the other House.

Mr. FESSENDEN. That provision was not recommended originally by the Committee of Ways and Means, but was inserted by the House of Representatives upon the suggestion of one of the Representatives from Boston, who is said to be engaged very largely in the paper business. I

do not know but that he is right about it; I cannot say that he is not; but the matter was not well understood, and I can say that since this provision was so put in by the other House the appeals to our committee, both by letter and verbally, from a great many quarters, have been very strong to retain this duty, which is now very trifling. They say they do not see any reason why the rag collectors in our country should not be protected to a certain degree as well as anybody else. As to exempting, according to the notions of the Senator from Massachusetts, all foreign importations of books, and of everything which goes into the manufacture of books, simply because they are books or go to make books, it does not strike me as very sensible. I see no reason why they should not pay a duty as well as other things. The conclusion which the Committee on Finance came to was, that as the matter was not well understood, they would strike out this clause, not with a view to make that action final, but if there was a mistake about it, as there was supposed to be, to leave it to a committee of conference to settle the question, when it can be settled understandingly. If we now retain the clause, that action is final, and we cannot hereafter change it or amend it, or hear the reasons on the other side. I believe the argument in the other House was, that it was a small matter of rags, and it was not worth while to tax them; but I do know that the protests against this proviso on the part of a great many men, and particularly from one of the constituents of the Senator, are very strong and very general. I do not know that he is not right; I do not know that the clause ought to be stricken out; I will not undertake to give an opinion on that point, for I am not sufficiently posted up in the matter; but I suggest that we had better strike out the clause, and have the whole matter understood properly and investigated before a committee of conference. I hope the amendment will be retained, and the clause stricken out.

Mr. FOSTER. I hope certainly that this clause will not be stricken out. So far as the literary and scientific part of the argument is concerned, I leave that to the Senator from Massachusetts; but so far as the question of protecting home labor is concerned, my constituents have as great an interest as his. In the town in which I live, one single mill manufactures over seven tons of rags per day, and a tax of 23 per cent., which will be laid on this operation and on the paper, is one which we cannot bear; it will destroy the business.

As it regards the protection of rags at home, the home interest is so very trifling that it is hardly worth taking into account. The great bulk of the paper that is manufactured in the country is manufactured from foreign rags that are imported. They are a raw material in the strictest sense, and they go into manufacture here under American hands, being made into valuable products by American labor. They ought not to pay a duty unless to relieve exigencies which can be relieved in no other way; but instead of that, it will be laying an additional burden on the labor of the country which is now really taxed, I fear, more than it can bear. I hope the clause will not be stricken out.

Mr. KING. I have received several letters on this subject from persons concerned in this business who desire the present duty imposed by the previous laws to remain, and whose interests will be promoted by striking out these words. They say that this proposition—I do not know where it came from—was moved by a gentleman who is interested in the importation of rags, and therefore it is a simple proposition to promote individual interests.

Mr. FESSENDEN. He says not.

Mr. KING. I only state what letters to me say. I do not know where the proposition came from. Those persons say that a very large quantity of rags is collected in our country. They are of little value by the pound; but if foreign rags can come into the country free of duty, the greater economy practiced in the older countries is such that it is probable it would prevent the gathering and the saving of rags in this country altogether, and what we save from that is pretty much all clear gain. Those concerned in the manufacture of paper from straw and various other substances, also have their advantage in this, that the duty is slight and certain, and the taxation which we impose had better be borne equally. I would not ask for an increase of this duty, but I have several letters protesting very strongly against the repeal of the present duty on rags, and insisting that those who use them shall pay the duties imposed by previous laws as an equal distribution of the burdens, and I hope, therefore, that the amendment of the committee will be concurred in.

The PRESIDENT *pro tempore* put the question on concurring in the amendment made as in Committee of the Whole, and declared that the noes appeared to have it.

Mr. KING. I call for a division.

The question being put, on a division there were fourteen in the affirmative.

The PRESIDENT *pro tempore*. Less than a majority of a quorum vote in the affirmative. Is a further count demanded?

Mr. KING. Yes, sir; I persist in the division, because I am unwilling that this amendment should be stricken out.

The question being put, there were five in the negative.

Mr. KING. Now, if the other side will give it up, I am content. The preponderance is largely on our side.

The PRESIDENT *pro tempore*. The business of the Senate is arrested for the want of a quorum.

Mr. FOSTER. It is given up, Mr. President.

The PRESIDENT *pro tempore*. The Chair is not advised of it by the mover. Does the Senator from New York withdraw the call?

Mr. KING. I do not, unless it is conceded that the amendment of the committee stands. We had nearly three to one of all who are present in the Senate. I am content that it should stand, and a subsequent vote may be taken if gentlemen choose to renew it by and by; but I cannot give up the amendment with the sense of the Senate so strongly in favor of it.

Mr. FESSENDEN. Leave it to the committee of conference. We will consider it there.

Mr. SUMNER. An appeal is made to me. Senators say I am to give it up. I made the motion——

The PRESIDENT *pro tempore*. It is too late for any parleying on the subject. The division was insisted upon, a vote taken on both sides, and the want of a quorum announced by the Chair.

Mr. HALE. I ask for the yeas and nays.

Mr. SUMNER. I am ready to do anything——

Several SENATORS. Withdraw the amendment.

Mr. SUMNER. After what has been said by the Senator from Maine that in the committee of conference this matter can be looked into and arranged, I will withdraw the objection to the amendment.

The PRESIDENT *pro tempore*. The Chair wishes to be heard a moment. All this debate is now out of order. When a division is insisted upon to its consummation, and the result is announced by the Chair that there is no quorum, no further business can be done or motion entertained until it shall be ascertained that a quorum of the body is present.

Mr. HALE. Then I ask for the yeas and nays on that motion.

The PRESIDENT *pro tempore*. Upon what motion?

Mr. HALE. The motion we have just divided upon.

The PRESIDENT *pro tempore*. A vote has been taken, a division had, and the result announced.

Mr. HALE. But I thought that the result announced was that there was no quorum.

The PRESIDENT *pro tempore*. It was.

Mr. HALE. Then, can we not take another vote on that by yeas and nays? Has not that been the practice?

The PRESIDENT *pro tempore*. It cannot be taken except by special indulgence or acquiescence.

Mr. FESSENDEN. It can be done by unanimous consent, I suppose.

Mr. HALE. But I want to ask, as a matter of practice, whether a vote cannot be had by yeas and nays, when a division discloses a want of a quorum.

The PRESIDENT *pro tempore*. If the Senator desires to ascertain whether there is a quorum present, it is proper to be done on a motion to adjourn; and that is the only motion that can be made, except to request the attendance of absent Senators.

Mr. GRIMES. I make that motion to adjourn, although I am going to vote against it, in order to test the question whether there is a quorum present; and upon that I ask for the yeas and nays.

The yeas and nays were ordered.

The Secretary proceeded to call the roll.

The PRESIDENT *pro tempore*. The vote discloses the want of a quorum by one.

Mr. DOOLITTLE. I suggest the calling of the names of the absentees. The name of some one may occur who is present and may not have voted.

The PRESIDENT *pro tempore*. The Secretary will again call the names of those who have not answered.

The Secretary called the names of the absentees as follows: Messrs. BAYARD, CARLILE, CHANDLER, DIXON, JOHNSON, KENNEDY, LATHAM, NESMITH, PEARCE, POMEROY, RICE, SAULSBURY, WADE, and WILKINSON.

Mr. WILKINSON. I vote "nay."

Mr. SHERMAN. I am informed that my colleague, Mr. WADE, is detained from the Senate by sickness.

The result was then announced—yeas 0, nays 36; as follows:

YEA—0.

NAYS—Messrs. Anthony, Browning, Clark, Collamer, Cowan, Davis, Doolittle, Fessenden, Foot, Foster, Grimes, Hale, Harlan, Harris, Henderson, Howard, Howe, King, Lane of Indiana, Lane of Kansas, McDougall, Morrill, Powell, Sherman, Simmons, Stark, Sumner, Ten Eyck, Thomson, Trumbull, Wilkinson, Willey, Wilmot, Wilson of Massachusetts, Wilson of Missouri, and Wright—36.

The PRESIDENT *pro tempore*. The Senate refuses to adjourn, and the vote shows the presence of a quorum of the body. The question before it, upon which a division is demanded, is on the following amendment in the twenty-seventh line of page 22, striking out the proviso in these words:

Provided, That all imported cotton and linen rags for the manufacture of paper shall be free of duty.

The Committee on Finance moved an amendment to the bill, recommending the striking out of these words. The Senate, as in Committee of the Whole, agreed to that amendment of the committee, and did strike out the words. The bill has been reported to the Senate, and a separate vote has been demanded upon this amendment, and a division upon the vote is demanded. The question is, and it will be again taken, "Will the Senate concur in the amendment adopted in Committee of the Whole, striking out these words?"

Mr. FESSENDEN. I hope the Chair will excuse me if I suggest to gentlemen, as we have got a bare quorum, that they sit here until we finish this bill. It will take but a few minutes, if they will only be present in the Chamber and vote, and it is very important to finish it to-day.

Mr. SHERMAN. In regard to the pending amendment, I was not in when it was first offered, and do not know whether there has been any debate upon it; but I will inform the Senate that the present duty on rags is 10 per cent. Now, I ask whether to protect a small, narrow interest you would dispense with a mere revenue duty of 10 per cent. This bill proposes to increase the duty to 30 per cent.

Mr. FESSENDEN. No; it does not increase it at all. It simply allows it to stand at 10 per cent.

Mr. SHERMAN. Then the bill does not change the duty. The present duty is 10 per cent., and this bill does not increase it. There is not a very large amount of these rags brought into this country, I am informed by gentlemen who are interested. Sometimes they are needed and are brought here. Why should they not pay a duty? I cannot see any reason for it. It seems this proviso was not reported from the Committee of Ways and Means in the House, but was stuck on by some party in interest. I have not looked at the record. At any rate, I think it is a mere proviso stuck on here to reduce a duty that is not affected by this bill.

Mr. SUMNER. The Senator says it is a mere proviso. Of course it is a mere proviso, because that is the most practical way of carrying out the idea of the gentleman who moved it, which was to exempt rags from the duty; and it was on the ground that rags were imported for the simple purpose of being made into paper, and that paper is already taxed 3 per cent. in our tax bill; and why, it was asked, should you put another tax on paper because the tax on rags is a tax on paper.

Still further, the rags are in the nature of a raw material; and it is according to the principle of our system of taxation to exempt the raw material. Why do you make an exception in this case? I think the argument is unanswerable.

Mr. SHERMAN. I will simply reply that a tax of 10 per cent. was put on by the tariff bill passed a year ago, one of the most protective that was ever passed in our Government. Now, simply to ease off a little interest, a small tax, it is proposed at the present time, when we want to raise more revenue, to repeal this little tax on rags. I think we had better let it alone.

The PRESIDENT *pro tempore*. The question is on concurring in the amendment agreed to in Committee of the Whole.

The amendment was concurred in.

Mr. POWELL. If it is in order, I will now renew the amendment I offered before.

The PRESIDENT *pro tempore*. It is not now in order, the Senate not yet having considered all the amendments made in Committee of the Whole. The next amendment which was reserved for a separate vote will be read.

The Secretary read the amendment, which was on page 21, in line twenty-two, to strike out "twenty-five," and insert the words, "dry or ground in oil, fifteen," so that the clause will read, "on white and red lead and oxyd of zinc, dry or ground in oil, 15 cents per one hundred pounds."

Mr. GRIMES. From the fact that this duty upon white lead is coupled with oxyd of lead, of the properties and preparation of which and the use of which I know nothing, at the suggestion of the Senator from Maine, I have agreed to withdraw my objection, and let it go to the committee of conference that will be appointed to adjust this matter.

The PRESIDENT *pro tempore*. The question, then, is on concurring in the amendment made in Committee of the Whole.

The amendment was concurred in.

The next amendment, reserved for a separate vote, was in section twenty-one, pages 50 and 51, to strike out all after the enacting clause down to the proviso in line six, in the following words:

That all goods, wares, and merchandise, which may be in the public stores or bonded warehouse on the day and year aforesaid, shall be subject to the same and no other duty upon the entry for consumption thereof than if the same were imported respectively after that day.

And to insert the following in lieu thereof:

That all the goods, wares, and merchandise which may be in bonded warehouse on the 1st day of August next may be withdrawn within the time now fixed by law upon the payment of the present duties; and all goods, wares, and merchandise on shipboard, or in the public stores on the 1st day of August next, or which shall remain in bonded warehouse after the expiration of the time fixed by the bond, shall be subject to the duties prescribed by this act.

Mr. SUMNER. I excepted that amendment, and it was in order to call the attention of the Senate to the condition of goods on shipboard at the date of the passage of the act. It seems to me that it is inequitable that such goods should be compelled to pay the new duties imposed by this act; and I will propose an amendment which shall relieve them of that burden. I think that this burden is especially hard on goods that come from a distance; for instance, around Cape Horn or around the Cape of Good Hope, and which have been ordered months ago. The orders for such goods have been so long outstanding that it has been impossible for the merchants to make any change with regard to them in anticipation of this statute; and it seems to me hard that they should be obliged to bear this burden.

Now, sir, as I understand our legislation, one of its cardinal principles is this: to interfere as little as possible with the business of the country. Of course there can be no change in legislation that will not interfere to a certain extent; but the object is to have that extent as little as possible, and that it shall not interfere, if possible, in special cases; the special cases shall be saved. I take it, the reason is this: that every man in the conduct of his business has a right, if possible, to know in advance the laws by which his business is to be governed. When merchants send an order a long way, to Calcutta, or China, if you please, under existing statutes, I ask if it is not hard that on the way home a statute should be passed which shall affect all the goods thus waterborne, in pursuance of an order issued in advance of this legislation, with a new duty. I wish to meet that precise case; and I therefore move, as an amendment to the proposition of the Senator from Ohio, to insert in the first clause of his proposition, after the words "bonded warehouse," the words, "or on shipboard," so that the clause will read: "that all the goods, wares, and merchandise, which may be in bonded warehouse, or on shipboard, on the 1st day of August next," &c.

Mr. SHERMAN. That would not be consistent with the balance of the amendment. You would have to make further modifications in order to make it consistent.

Mr. SUMNER. I have drawn some specific words that cover the case precisely; but I think those words would perhaps interfere with the amendment of the Senator.

Mr. SHERMAN. Let the whole amendment, as it would be if amended, be read, and then the Senator will see that the phraseology will not be correct.

The Secretary read, as follows:

That all the goods, wares, and merchandise which may be in bonded warehouse or on shipboard on the 1st day of August next may be withdrawn within the time now fixed by law upon the payment of the present duties; and all goods, wares, and merchandise on shipboard or in the public stores on the 1st day of August next, or which shall remain in bonded warehouse after the expiration of the time fixed by the bond, shall be subject to the duties prescribed by this act.

Mr. SUMNER. I shall carry out my idea better by moving a supplementary proposition as an amendment to the amendment.

The PRESIDENT *pro tempore*. The Senator from Massachusetts withdraws his first amendment to the amendment, and proposes to amend the amendment made as in Committee of the Whole by inserting the following as a proviso:

And provided, That the duties imposed by this act shall not apply to goods actually loaded on board any ship bound to the United States at the date of this act.

Mr. HARRIS. I hope that amendment will be adopted. It seems to me to involve the most obvious justice. It seems to me that good faith on the part of the Government towards its citizens requires that it should be adopted. Here is a merchant. He makes an order for goods in Paris or in England or anywhere else. He makes it in view of the law as it exists. He expects to conform to the law when he orders his goods. Before the goods reach here, Congress see fit to pass an act charging him with additional duties. It changes his whole plans. He may or may not have been willing to order the goods under such circumstances. It seems to me obviously unjust towards the merchant that he should be charged with an additional duty on goods that he has already ordered expecting to pay duties according to the existing law. I hope that this principle, a new principle as I understand, one never before adopted in the history of our Government, will not prevail here, and that we shall except from the provisions of this bill goods that are actually on their way to this country, having been ordered before the passage of the bill.

Mr. FESSENDEN. Mr. President, there is a great deal of humbug about this thing, and we might just as well have it understood. It is a simple question whether the money that is added to the price of goods by our tariff shall be put into the pockets of the persons who have ordered the goods before the passage of the act, or whether it shall be paid into the Treasury. That is the whole question, and all those remarks about "good faith," &c., amount to nothing. Why, sir, if, while the goods were on the way to this country, we had reduced the duty 20, 30, or 50 per cent., as we have done before, would these gentlemen have thought it right that they should pay the old duties? We should not have heard a word from them about paying the old duties in that case.

This question arose here once before within my experience. It arose with regard to the article of teas, at the last Congress. We had no idea of putting the duties upon the teas that were actually in bonded warehouses; but the act was so framed that the Secretary of the Treasury construed it that he was obliged to exact those duties. Considerably large amounts of money were to be made, and the question then was where the million or half million of increase in the price of the goods in the bonded warehouses at that time should go. There was an outcry on the subject, and we had this talk about "public faith" as we have now; and on the whole, the Secretary recommended, and on the whole, the Congress concluded to agree that, in that particular instance, as they so intended in the first place, they would exempt those goods, although there was a very strong representation that there was no reason why, inasmuch as the Government had increased the prices of those teas largely, that increased price should go to swell the fortunes of the tea importers, and should not go into the Treasury of the United States; but, sir, we did so. I gave public notice at that time here in the Senate that, although I would agree to it then, I never would agree to it again.

I have been obliged to modify my views to a certain extent with relation to it here. As this bill came from the House of Representatives, it put a duty on all goods in bonded warehouses, in the public stores, no bonds being given, and on shipboard; but representations were made to us that with regard to those goods in bonded warehouses there was a contract. They had been entered under existing laws; the rates of duty had been estimated and bonds had been given to pay those duties, with leave to take them out from time to time on payment of those duties. On examining it thoroughly, I came to the conclusion that it might be considered a contract, and the committee came to that conclusion; and for that reason they thought, as they designed to keep contracts at all events, that they would except the goods in bonded warehouses.

But with regard to these others, they never have been entered at all. No contract has been made; no bond has been given; nothing has been done. We pass this tariff bill by which we increase the duties. Those increased duties are added to the prices of the articles; and the question is, simply, whether, because gentlemen have these goods on the way here, or happen, before this bill passes into a law, to have them put on shipboard in China, therefore they shall come in free of duty because we have changed this law. It is the old question whether they shall have the advantage of that fact. There is nothing else about it. Why, sir, they knew from the state of the country, and have known for months, that this tariff bill was to be passed, and orders were sent out in consequence of it in the hope that this thing would be done, and goods have actually been imported in a hurry in order to be in advance of this tariff. Communication is now very rapid. Men send their orders very quickly from here, owing to the great extension of telegraphic communication over the world. The question, therefore, simply is whether we shall deprive ourselves of what we have a right to, and what the people, the consumers, must pay, or whether it shall go into the pockets of those men who happen to get their goods on board their ships before a given time. That is just the amount of the whole thing.

Now, sir, why make that distinction? Why not exempt also from the duties, goods orders for which have been sent out, but they are not on board? What is there so magical in the fact that they have actually got them on board ship? Suppose an order went yesterday, and a gentleman says: "I have sent out an order; I did it under existing laws; I cannot recall that order in time; it has got over the wires; yesterday the duties were so and so, and I sent my order; I had a right to conclude they would stay so; and it is a breach of faith, bad faith, to oblige me to pay these increased duties." Why not just as well extend it to the case of goods where orders are sent prior to the passage of this bill? Why draw the line simply upon the fact whether the goods were put on board yesterday before the bill passes to-day? There is no more sense in that than in the other view of the subject; and there is nothing, to my mind, in the whole of it. As I stated before, the question comes to this, whether, under this mere pretense, the increased price which the people will pay for these goods on account of these duties shall be paid to a few individuals who happen to import them, in consequence of the tariff, or shall be paid to the Government? That is the question and the whole of it.

Let me say further, that I am informed by a gentleman of experience in mercantile matters, and it was told to me in my seat, that in Great Britain they have a standing law on the subject that the increased rates of duty apply to the goods in bonded warehouses, where bonds have been given as well as to others, to everything that is not taken out, and where the duties have not been actually

paid. It is time for us to begin to consider whether the increased rates paid by the people in consequence of our tariff should not go to the Government, and thereby save them from increased taxation, instead of going into the pocket of the lucky man who happens to have goods on the way at the time. As I said before, nobody pretends that if the duty were reduced while the goods were on the way, he would think himself bound to pay the old duty. I hope, therefore, it will stand as it is.

The PRESIDENT *pro tempore*. The question is on the amendment moved by the Senator from Massachusetts to the amendment agreed to in Committee of the Whole.

The amendment to the amendment was rejected.

The PRESIDENT *pro tempore*. The question recurs on concurring in the amendment made as in Committee of the Whole.

Mr. SUMNER. I now propose to offer my amendment in a modified form so as to meet the argument of the Senator from Maine:

And provided, That the duties imposed by this act shall not apply to goods on shipboard on the 1st day of June last past.

My object in that is to exempt those goods which will be exposed to a special hardship if they are bought under this new tariff. I feel the pressure of the argument of the Senator from Maine. I do not say that it convinced me, but I say candidly I feel its pressure. I have no purpose in this amendment except to secure what, all things considered, will be the best interests of the Government; but those best interests are associated also with the best interests of the merchants, and you cannot do injustice to the merchants without suffering. I do not suppose that the Senate would—I know the Senate would not—willingly do injustice to any class of merchants; but it does seem to me that you make your laws needlessly harsh upon this special interest which has embarked its goods on shipboard so long a time in advance of your new law. The Senator from Maine says that the merchants have expected this change. Did they anticipate a change long enough ago to modify their orders in China, in Calcutta, around the Cape of Good Hope, or around Cape Horn? That I doubt.

Now, sir, for a case in hand: I have a letter before me giving me an account of a cargo of nitrate of silver which was ordered some time ago from the East Indies; was expected to arrive this month; it has not arrived; it is on the way. By the existing tariff, I believe, there is no duty on nitrate of silver. The cargo is valued at $25,000. Add to that various other expenses incident to it; then add a duty of 75 per cent., which would be $15,000 in addition to the original cost and to the other expenses, and all that addition comes subsequent to the original order for the goods. I must say that it does not seem to me to be fair that the Government, knowing such a case, should not, if possible, by its legislation, seek to provide against such an injustice. The object of the amendment which I have sent to the Chair is to meet just such a case as that. It is to prevent these duties from being brought to bear on goods on shipboard so long ago as the 1st of June last.

Mr. ANTHONY. It seems to me that by the bill we are passing we are to increase this man's nitrate of silver in value by all the duties we impose upon it; and the only question is whether the additional value shall go to the Government or go to him. The persons who purchase it pay precisely the same price in either case.

The PRESIDENT *pro tempore*. The question is on the amendment of the Senator from Massachusetts to the amendment agreed to in Committee of the Whole.

The amendment to the amendment was rejected.

The amendment made as in Committee of the Whole was concurred in.

The next reserved amendment was on page 42, to add the following as an additional proviso to the fifteenth section:

Provided further, That so much of the act of August 18, 1856, entitled "An act to authorize protection to be given to citizens of the United States who may discover deposits of guano," as prohibits the export thereof, is hereby suspended for two years from and after the passage of this act.

The PRESIDENT *pro tempore*. The Senator from New Jersey [Mr. TEN EYCK] moves to amend the amendment made in Committee of the Whole, by striking out the word "two" before "years," and inserting "one."

Mr. FESSENDEN. There is no objection to that.

The amendment to the amendment was agreed to.

The PRESIDENT *pro tempore*. The question recurs on concurring in the amendment made as in Committee of the Whole, as amended.

Mr. SUMNER. The Senator from Maine said there was no objection to the amendment to the amendment. My own idea was that two years is little enough for that.

The PRESIDENT *pro tempore*. Does the Senator move a reconsideration?

Mr. SUMNER. No; I do not; but the question is still open on adopting the amendment as amended. I merely wish to understand the precise bearing of it.

Mr. FESSENDEN. I understood from the Senator from New Jersey that it was agreed to on all sides, and therefore I said there was no objection to it.

The amendment, as amended, was concurred in.

The next reserved amendment was in line twenty-seven, page 22, to strike out "twenty," and insert "fifteen;" so that the clause will read, "on books, periodicals, pamphlets, blank-books, bound or unbound, and all printed matter, engravings, bound or unbound, illustrated books and papers, and maps and charts, 15 per cent. *ad valorem*."

The amendment was concurred in.

The PRESIDENT *pro tempore*. All the amendments made in Committee of the Whole, reserved for a separate vote, are now disposed of.

Mr. FESSENDEN. I wish to make a few verbal amendments which have been suggested to me, in the twenty-first section, page 51. In the tenth line, I move to strike out the words, "after the same are deposit," and insert "from the date of original importation."

The amendment was agreed to.

Mr. FESSENDEN. I move the same amendment in line fourteen, to strike out the words, "after the same are deposit," and to insert, "from the date of original importation."

The amendment was agreed to.

Mr. FESSENDEN. After the word "warehouse" in the eighteenth line, I move to insert the word "beyond;" so that it will read, "any goods remaining in public store or bonded warehouse beyond three years shall be regarded as abandoned," &c.

The amendment was agreed to.

Mr. COWAN. I desire to offer an amendment, to which I think there will be no objection. It is after line one hundred and eight, on page 25, to insert "on lead pencils, $1 per gross."

The amendment was agreed to.

Mr. POWELL. If it is in order, I will now renew the amendment I offered some time since to insert as a new section:

And be it further enacted, That from and after the 1st day of November, 1862, all acts and parts of acts granting allowances or bounties on the tonnage of vessels employed in the bank or other cod fisheries, be, and the same are hereby, repealed.

On that amendment I ask for the yeas and nays.

The yeas and nays were ordered; and being taken, resulted—yeas 12, nays 24; as follows:

YEAS—Messrs. Grimes, Harlan, Henderson, Kennedy, Lane of Indiana, Lane of Kansas, McDougall, Powell, Sherman, Stark, Wilson of Missouri, and Wright—12.

NAYS—Messrs. Anthony, Browning, Chandler, Clark, Collamer, Cowan, Davis, Doolittle, Fessenden, Foot, Foster, Hale, Harris, Howard, Howe, King, Morrill, Simmons, Sumner, Ten Eyck, Wilkinson, Willey, Wilmot, and Wilson of Massachusetts—24.

Mr. FOSTER. I wish to say in regard to my colleague [Mr. DIXON] that he is necessarily absent from the Senate on public business.

Mr. HENDERSON. I will offer an amendment to insert, after the word "pound," in line sixteen, page 10, the words "and on all manufactures of lead, or of which lead is a component part, not named in this act, 5 per cent. *ad valorem;*" so that the clause will read, "on lead, in pipes and shot, three fourths of one cent per pound, and on all other manufactures of lead, or of which lead is a component part, not named in this act, 5 per cent. *ad valorem*."

The amendment was agreed to.

The amendments were ordered to be engrossed, and the bill to be read a third time. It was read the third time, and passed.

Mr. FESSENDEN subsequently said: I have received a communication from the Secretary of the Treasury, suggesting two or three alterations in the tariff bill, which are somewhat important with reference to the efficiency of the bill, and to which there will be no sort of objection. As our amendments are now in process of being engrossed, I ask that these alterations be made by unanimous consent.

The PRESIDENT *pro tempore*. It requires unanimous consent to consider it while another subject is before the Senate; but to have amendments made to that bill regularly and orderly, it will require a motion to reconsider the vote by which the bill was passed.

Mr. FESSENDEN. By unanimous consent, I suppose, these amendments can be made.

The PRESIDENT *pro tempore*. The bill cannot be amended after it is passed.

Mr. KING. I hope the Senator from Maine will move a reconsideration, so as to preserve the proper course of proceeding.

Mr. FESSENDEN. I move that the vote on the passage of the bill be reconsidered.

The motion was agreed to.

Mr. FESSENDEN. I now move to reconsider the vote ordering the bill to a third reading.

The motion was agreed to.

The PRESIDENT *pro tempore*. The bill is now before the Senate, and open to amendment.

Mr. FESSENDEN. I propose to amend the bill on the 29th page by inserting after the word "stained," in line twenty-five of section ten, the words "they shall be considered to have been bleached goods and." In the twenty-ninth line of the section, I propose to strike out the words "the foregoing schedules," and insert "for bleached goods." Then, in lines forty-two and forty-three, of the twelfth section, on page 34, I move to strike out the words "and not exceeding in weight one pound per square foot," and to strike out the proviso commencing at line forty-four in these words:

Provided, That all fluted, rolled, or rough plate glass, weighing over one hundred pounds per one hundred square feet, shall pay an additional duty on the excess at the same rates herein imposed.

The amendments were agreed to.

The amendments were ordered to be engrossed; and the bill to be read a third time. It was read the third time, and passed.

PENSION BILL.

On motion of Mr. FOSTER, it was

Ordered, That the Secretary request the House of Representatives to return to the Senate the bill of the House (No. 438) to grant pensions, for the purpose of correcting errors in engrossing the amendments made thereto by the Senate.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives by Mr. MORRIS, Chief Clerk, announced that the House of Representatives had concurred in the report of the committee of conference on the bill (S. No. 175) to define the pay and emoluments of certain officers of the Army, and for other purposes.

The message further announced that the House had agreed to the report of the committee of conference on the bill (H. R. No. 187) to authorize an additional issue of United States notes, and for other purposes.

The message also announced that the House had passed the bill of the Senate (No. 102) to amend an act entitled "An act to divide the State of Illinois into two judicial districts," approved February 13, 1855.

The message also announced that the House had passed a bill (No. 362) to provide for the discharge of State prisoners and others, and to authorize the judges of the United States courts to take bail or recognizances to secure the trial of the same; in which it requested the concurrence of the Senate.

ENROLLED BILLS SIGNED.

The message further announced that the Speaker of the House of Representatives had signed the following enrolled bills; which thereupon received the signature of the President *pro tempore:*

A bill (S. No. 379) to amend an act entitled "An act to aid in the construction of a railroad and telegraph line from the Missouri river to the Pacific ocean, and to secure to the Government the use of the same for postal, military, and other purposes," approved July 2, 1862; and

A bill (H. R. No. 187) to authorize an addi-

tional issue of United States notes, and for other purposes.

HOUSE BILLS REFERRED.

The following bills from the House of Representatives were severally read twice by their titles, and referred as indicated below:

A bill (No. 554) relating to trust funds of several Indian tribes invested by the Government in certain State bonds abstracted from the custody of the late Secretary of the Interior—to the Committee on Indian Affairs.

A bill (No. 362) to provide for the discharge of State prisoners and others, and to authorize the judges of the United States courts to take bail or recognizances to secure the trial of the same—to the Committee on the Judiciary.

The bill (H. R. No. 527) to secure one month's pay and pension to Margaret Bailey, widow of George B. Bailey, lieutenant colonel in the ninth regiment of Virginia volunteers, was read twice by its title.

Mr. SHERMAN. With the consent of the Senate I should like to have that bill acted upon now.

Mr. FESSENDEN. I object to passing any pension bill without a reference.

The PRESIDENT *pro tempore*. The bill will be referred to the Committee on Pensions.

BILLS INTRODUCED.

Mr. FOSTER asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 385) to amend an act entitled "An act to amend an act entitled 'An act in addition to the act prohibiting the slave trade;'" which was read twice by its title, referred to the Committee on the Judiciary, and ordered to be printed.

Mr. WILSON, of Massachusetts. I ask the unanimous consent of the Senate to introduce a bill with a view to have it printed, so that we can call it up early in the morning. I introduce it on the authority of the Committee on Military Affairs and the Militia.

There being no objection, the bill (S. No. 384) to amend the act calling forth the militia to execute the laws of the Union, suppress insurrection, and repel invasions, approved February 28, 1795, was read a first time, and passed to a second reading.

Mr. WILSON, of Massachusetts. I suppose an order will be made to have the bill printed.

The PRESIDENT *pro tempore*. The order to print will be entered. Does the Senator move a reference of the bill?

Mr. WILSON, of Massachusetts. I introduce it on the authority of the Committee on Military Affairs; so that it is not necessary to refer it.

Mr. GRIMES. I have an amendment, which I propose to offer to the bill introduced by the Senator from Massachusetts by authority of the Committee on Military Affairs. I move that it be printed to accompany the bill, if there be no objection.

The PRESIDENT *pro tempore*. The order to print will be made, no objection being interposed.

RAILROADS IN MINNESOTA.

The Senate proceeded to consider the amendment of the House of Representatives to the joint resolution (S. No. 80) authorizing the State of Minnesota to change the line of certain railroads in said State, and for other purposes.

The amendment of the House was to strike out all after the resolving clause of the joint resolution, and insert in lieu thereof the following:

That in lieu of that part of the railroad grant to Minnesota Territory by act of Congress, approved 3d March, 1857, which extends northwesterly from the intersection of the tenth standard parallel with the fourth guide meridian, there shall be granted to the State of Minnesota the alternate sections within six mile limits of such new branch line of route as the authorities of the State may designate, having its southwestern terminus at any point on the existing line between the falls of St. Anthony and Crow Wing, and extending in a northeasterly direction to the waters of Lake Superior, with a right of indemnity between the fifteen mile limits thereof: *Provided*, This resolution shall take effect from the filing in the General Land Office of the acceptance by the authorities aforesaid of such substitution, whereupon the land north of the intersection aforesaid in the grant as authorized by the said act of March 3, 1857, being by said acceptance disincumbered of the railroad grant, shall be dealt with as other public lands of the United States.

The amendment was concurred in.

VETO MESSAGE—SMALL NOTES.

The PRESIDENT *pro tempore*. The Chair will again call the attention of the Senate to the bill returned with the objections of the President, the question being, "Shall the bill pass, the objections of the President to the contrary notwithstanding?"

Mr. GRIMES. I understand that in such cases a vote must be taken by yeas and nays, and I doubt if there is a quorum here present at this time.

The PRESIDENT *pro tempore*. The vote must be taken by yeas and nays, requiring a two-thirds vote to carry it.

Mr. HALE. I move that it be postponed until to-morrow.

The PRESIDENT *pro tempore*. That will be taken to be the sense of the Senate, if there be no objection; and the further consideration of the bill will be postponed until to-morrow.

MESSAGE FROM THE HOUSE.

A message was received from the House of Representatives, by Mr. MORRIS, Chief Clerk, returning, in compliance with the request of the Senate, the bill (H. R. No. 438) to grant pensions.

The message further announced that the House of Representatives had insisted upon its disagreement to the amendments of the Senate to the bill of the House (No. 471) to confiscate the property of rebels to pay the expenses of the present rebellion insisted on by the Senate, agreed to the conference asked by the Senate on the disagreeing votes of the two Houses, and had appointed Mr. THOMAS D. ELIOT of Massachusetts, Mr. JAMES F. WILSON of Iowa, and Mr. ERASTUS CORNING of New York, managers at the same on its part.

GRADES OF NAVAL OFFICERS.

Mr. HALE. I move that the Senate postpone all prior orders for the purpose of taking up the naval grade bill.

Mr. SUMNER. I hope that nothing will be done to displace the bill that was under discussion yesterday, which has not yet been finally acted upon.

The PRESIDENT *pro tempore*. The question is on the motion of the Senator from New Hampshire.

The motion was agreed to; and the Senate, as in Committee of the Whole, resumed the consideration of the bill (H. R. No. 280) to establish and equalize the grades of line officers of the United States Navy, the pending question being on the following amendment reported by Mr. HALE from the Committee on Naval Affairs, to insert as a new section:

SEC. 16. *And be it further enacted*, That from and after the passage of this act the annual pay of the several ranks and grades of officers of the Navy on the active list, hereinafter named, shall be as follows: Admirals, when at sea, shall receive $5,000; when on shore duty, $4,000; when on leave of absence, or waiting orders, $3,000. Commodores, when at sea, shall receive $4,000; when on shore duty, $3,200; when on leave of absence, or waiting orders, $2,400. Captains, when at sea, shall receive $3,500; when on shore duty, $2,800; when on leave of absence, or waiting orders, $2,100. Commanders, when at sea, shall receive $2,800; when on shore duty, $2,200; when on leave of absence, or waiting orders, $1,680. Lieutenant commanders, when at sea, shall receive $2,343; when on shore duty, $1,875; when on leave of absence, or waiting orders, $1,500. Lieutenants, when at sea, shall receive $1,875; when on shore duty, $1,500; when on leave of absence, or waiting orders, $1,200. Masters, when at sea, shall receive $1,500; when on shore duty, $1,200; when on leave of absence, or waiting orders, $960. Passed midshipmen, when at sea, shall receive $1,200; when on shore duty, $960; when on leave of absence, or waiting orders, $768. Midshipmen and acting midshipmen shall receive $500. Fleet surgeons shall receive $3,000. Surgeons, when at sea, shall receive, for the first five years after date of commission, $2,000; for the second five years after date of commission, $2,200; for the third five years after date of commission, $2,400; when on shore duty, for the first five years after date of commission, $1,800; for the second five years after date of commission, $2,000; for the third five years after date of commission, $2,400; when on leave of absence, or waiting orders, for the first five years after date of commission, $1,400; for the second five years after date of commission, $1,550; for the third five years after date of commission, $1,700. Passed assistant surgeons, when at sea, shall receive $1,350; when on shore duty, $1,200; when on leave of absence, or waiting orders, $1,000. Assistant surgeons, when at sea, shall receive $1,100; when on shore duty, $950; when on leave of absence, or waiting orders, $720. Paymasters, when at sea, shall receive, for the first five years after date of commission, $1,800; for the second five years after date of commission, $2,000; for the third five years after date of commission, $2,200; when on shore duty, for the first five years after date of commission, $1,600; for the second five years after date of commission, $1,800; for the third five years after date of commission, $2,000; when on leave of absence, or waiting orders, for the first five years after date of commission, $1,200; for the second five years after date of commission, $1,400; for the third five years after date of commission, $1,600. Chaplains, when on duty, shall receive $1,500; when on leave of absence, or waiting orders, $1,000. Professors of mathematics shall receive $1,500. Chief engineers, when on duty, shall receive, for the first five years after date of commission, $1,600; for the second five years after date of commission, $1,800; for the third five years after date of commission, $2,000; when on leave of absence, or waiting orders, for the first five years after date of commission, $1,000; for the second five years after date of commission, $1,100; for the third five years after date of commission, $1,200. First assistant engineers, when on duty, shall receive $1,100; when on leave of absence, or waiting orders, $800. Second assistant engineers, when on duty, shall receive $900; when on leave of absence, or waiting orders, $750. Third assistant engineers, when on duty, shall receive $675; when on leave of absence, or waiting orders, $500.

Mr. GRIMES. I move to strike out all of that amendment after the forty-ninth line, commencing with the words, "fleet surgeons shall receive $3,000."

The PRESIDENT *pro tempore*. The Senator from Iowa moves to amend the amendment which has just been read by striking out all after the forty-ninth line.

Mr. GRIMES. I do not care to take up the time of the Senate; but I will observe that the bill under consideration only relates to what are known as the line officers of the Navy. It gives those officers an additional rank and grade. It seems to me that there is no propriety in attaching to this bill, that relates solely to the line officers, provisions that relate to the staff officers of the Navy, and especially provisions that reduce their pay very materially from what it now is, I think about twenty per cent. It seems to me that it is a very inopportune time for us to attempt to reduce the pay of the Navy. If there is any branch of the public service that deserves well of the country at this time, it is that branch. It is but a little while ago since I heard the distinguished Senator from Ohio [Mr. SHERMAN] expatiating very ably to the Senate upon the fact that in consequence of the immense emission of Treasury notes that were being thrown on the country, the price of everything that would be necessary to support one's family is going to be increased.

Mr. DOOLITTLE. Ten per cent.

Mr. GRIMES. Yes, sir; twenty per cent; and yet when these officers leave their families, and make provision for their support at home, and are compelled to support themselves upon shipboard, the proposition is to be made, when they are away and cannot attend to their own interests, to cut down their salaries twenty per cent. I think it is hardly fair or just.

Mr. HALE. As this amendment is reported from the Committee on Naval Affairs, I will state the circumstances under which it was reported, and I will remark that I shall not oppose the motion of the Senator from Iowa. This bill, as he states, relates entirely to the line officers, and the committee, in carrying out the instructions of the Senate, endeavored not to lower the salary of those officers, but reserved it substantially as it was, as nearly as we could, with the additional grades that were introduced. We endeavored to do that, and I think we have done it pretty tolerably satisfactorily. This other part of the bill, I may state, was prepared principally by the honorable Senator from Ohio, [Mr. SHERMAN,] in connection with another member of the committee not now present, and when it was prepared, it was understood to be one of a series of bills reducing the pay of the Navy, of the Army, and of members of Congress; and I trust I am not violating any of the confidence of the committee-room when I say it was understood that no motion was to be made in this direction, cutting down the pay of officers of the Navy, until after we had reduced our own pay and the pay of the Army also. When it was committed to us, this bill, substantially as it has been agreed upon, under these circumstances was introduced, and as Congress have not seen fit to reduce their own pay, nor to reduce the pay of the Army, but rather to increase it, I have not a word to say, but leave it to the judgment of the Senate.

The PRESIDENT *pro tempore*. The question is on the amendment of the Senator from Iowa, to strike out all of the amendment of the committee after the forty-ninth line.

Mr. SHERMAN. The portion of the section the Senator proposes to strike out relates simply to non-combatants, paymasters, surgeons, engineers, professors of mathematics, and chaplains. Now, the question is, shall we reduce the pay of the line officers, and leave these non-combatants with their old high pay? That is about the prop-

osition. The Senator from Iowa claims that his bill makes a reduction, as it does make a reduction on the lower grades of line officers; and yet he leaves the pay of the non-combatants, who can be hired in the city of New York to fill your Navy at two thirds of the price fixed by this bill, as it now is. It seems to me, if we strike off the pay of any portion of the Navy, it should be of this class of officers. I will venture the assertion that the paymasters of the Navy are now paid fully fifty per cent. more than persons as competent, as well able to discharge the duties, could be hired for in the city of New York at this time. They are officers for life; they are officers whose duties are easily learned; simply those of a clerk or paymaster.

The position of a surgeon also is one that is merely professional. I believe they cut off the leg of a naval officer on precisely the same principles that they would cut off the leg of an Army officer or a civilian in private life. A surgeon in private life could be employed in the city of New York for less than the rates provided for in this bill.

Mr. GRIMES. How much do you suppose you could employ a competent man for?

Mr. SHERMAN. I have no doubt the pay here provided is ample for the purpose:

Surgeons, when at sea, shall receive, for the first five years after date of commission, $2,000; for the second five years after date of commission, $2,200; for the third five years after date of commission, $2,400.

They also receive one ration; and it being an office for life, I have no doubt you would have more than fifty applications of intelligent surgeons, who have their diplomas in their pockets, for every surgeon you have to appoint.

Now, in regard to the other measures of reduction, I did, at an early period of the session, introduce several bills, and tried to pass them, but failed. The proposition to reduce all salaries ten per cent. failed also. In my judgment, this Congress would have done itself credit if it had assumed a portion of the burdens that we must all share alike; and if we had made some self-sacrifice, it would have been to our credit; but I despair of that. Every proposition of that kind failed directly or indirectly, and, as a matter of course, we must abandon that; but I do not think that therefore we ought to abandon any effort honestly made to reduce or equalize the pay of the officers of the Government. Here is a proposition to reduce the pay of the non-combatants of the naval service, to give them a pay amply sufficient to procure suitable persons for the offices, and I hope the Senate will adhere to it. This amendment, I will say, has been fully considered. It was acted upon first by the Senator from New Jersey, [Mr. THOMSON,] who is not now in his seat, and myself, and submitted to the Naval Committee. It has borne the test of every person interested, who has examined it, and they are familiar with its provisions. I believe the grade of officers has been fairly rated, so that their relative proportions are preserved. I have no doubt the amount of pay prescribed by the bill would be ample; and there is not a single paymaster, or surgeon, or any officer here named, who would resign in consequence of this deduction.

Mr. GRIMES. There is no very great propriety in comparing the proposition of the Senator from Ohio with the proposition that I submitted, because that is not now under consideration. The question now is upon the amendment submitted by the Committee on Naval Affairs through its chairman. It is true that the amendment I submitted the other day, and which did not meet the approbation of the Senate, did reduce the pay of officers of the Navy when they were ashore and doing nothing; but it increased their pay when they were afloat and were serving the country, and were not only compelled to support themselves afloat, but to maintain their families ashore. It seemed to me there was an evident propriety in increasing their pay while they were away from home bearing up the flag of their country, and reducing it while they were at home and doing nothing.

Now, sir, the Committee on Naval Affairs have changed the proposition in regard to the sea pay of line officers, and I am going to acquiesce in it for the sake of getting the balance of the bill, because I think it of very great importance to the country and to the service that the bill should pass; but I do not think there is any propriety in attaching to it this proposition of the Senator from Ohio. If the Senator from Ohio will examine his proposition, he will observe that he includes some of the most important officers in the Navy. There is no pay at all fixed for assistant paymasters, and yet they are really a very efficient and important class of officers.

Mr. SHERMAN. They are left with the present pay, I think, $1,300.

Mr. GRIMES. They are not named in the bill at all.

Mr. SHERMAN. And therefore they remain with their present pay.

Mr. GRIMES. Under the present organization of the Navy, the most important under some circumstances certainly, and the third most important officer on board a ship under any circumstances, is the engineer. They compose a class of persons whom it is the duty of this Government to uphold and to sustain. It is the civil branch of the Government; and yet, under this bill, you do not give as good pay to your lower grades of engineers as you give to your petty officers, your boatswains, carpenters, gunners, and sailmakers. Third assistant surgeons when on duty—that is at sea, compelled to support their families on shore and themselves on shipboard—under this provision are to receive $675 a year.

Mr. SHERMAN. The third assistant engineers are generally boys.

Mr. GRIMES. They are young men who have been thoroughly educated, and have passed a thorough examination before they can receive their commissions. They cannot go in the service until they have reached a certain period of life, and that years of maturity.

Mr. HARRIS. The Navy Department cannot get enough of them now to supply the demand in the present crisis.

Mr. GRIMES. Your engineers would all resign if this bill should be enacted into a law. They are getting more pay on merchant steamers and in the factories that are propelled by steam engines. Your second assistant engineer, a man who has passed his second examination under this bill, only receives $900. A first assistant engineer only receives $1,100. He is a man who is pretty well advanced in life. He is a man who has passed through three grades, undergone three several separate examinations, and passed them all satisfactorily to the board that examined him; and yet after having done all that, and after having served the country ten or fifteen years, you only give him $1,100 to support himself on shipboard and his family on shore. It is just so with your surgeons. This bill gives to an assistant surgeon, an educated man, $1,100. In other words, the whole of these propositions just take off about twenty per cent. from the present pay of the Navy, and the present pay of the Navy is twenty-five per cent. less than that paid to the relative grades in the Army. I think it is manifestly unjust to the Navy, and will be such a blow as ought not to be struck at them.

Now one word in regard to these officers being non-combatants. They are non-combatants; that is to say, they have not a military position on board of a ship; but I apprehend there are no more important officers on board your ship than your paymaster, your surgeon, and your engineer. The engineer is the most important of all. Many of them are men of eminence in their profession; many of them are as scientific men as can be found anywhere. It is said you can get a clerk to perform the duties of paymaster for less than we pay a paymaster, which is $1,200. A paymaster is obliged to give a large bond to the Government to indemnify it against any losses which may be sustained by his malfeasance in office. He has the custody of the public money; he has the custody of an immense amount of public property. All the stores of the ship are in his hands. In addition to the value of his service, I think he ought to have something for the risk that he incurs; and yet we only pay him $1,200. If there is any class of officers that are paid less than their services are worth, it occurs to me it is these very officers whose salaries it is proposed to reduce by this proposition.

The PRESIDENT *pro tempore*. The question is on the amendment moved by the Senator from Iowa to the amendment reported from the Committee on Naval Affairs.

The amendment to the amendment was agreed to.

The amendment, as amended, was agreed to.

The next amendment of the Committee on Naval Affairs was to add as a new section:

SEC. 17. *And be it further enacted*, That whenever any officer of the Navy, of a class subject by law or regulation to examination before promotion to a higher grade, shall have been absent on duty at the time when he should have been examined, and shall have been found qualified at a subsequent examination, the increased rate of pay to which he may be entitled shall be allowed to him from the date when he would have received it had he been found qualified at the time when his examination should have taken place.

The amendment was agreed to.

The next amendment of the committee was to add the following as an additional section:

SEC. 18. *And be it further enacted*, That in calculating the graduated pay of boatswains, gunners, carpenters, and sailmakers in the Navy, as established by the act above mentioned, the sea service shall be computed from the dates of their appointments or entry into the service in their respective grades in lieu of the dates of their warrants.

The amendment was agreed to.

The PRESIDENT *pro tempore*. The amendments reported from the committee have all been considered. The bill is still open to amendment.

Mr. GRIMES. I offer the following amendment as an additional section:

SEC. —. *And be it further enacted*, That all officers, while at sea, or attached to a sea-going vessel, shall be allowed one ration.

The amendment was agreed to.

Mr. GRIMES. I offer another amendment to insert as a new section:

SEC. —. *And be it further enacted*, That admirals, commodores, lieutenant commanders, lieutenants, masters, and ensigns, on the retired list of the Navy, shall receive the same pay and rations as authorized to the officers of the Army (according to their respective ranks) by the act of Congress approved August 3, 1861, that is to say: admirals the same as major generals, commodores the same as brigadier generals, lieutenant commanders the same as majors, lieutenants the same as captains, masters the same as first lieutenants, and ensigns the same as second lieutenants in the Army.

Mr. HALE. The amendment that has been proposed by the Senator from Iowa, to my mind introduces a very vicious system into the Navy that used to exist, and which was abolished by the law of 1835, and has never prevailed in the Navy since. It is a system that has prevailed in the Army, and which, in my humble sphere, I have fought against ever since I have had the honor of a seat in either House of Congress. My effort has constantly been to put in a fixed sum what the officer shall receive; that these allowances of double rations, forage, commutation, servants, and everything of that sort should be stricken out, and the officers of the Navy should receive a fixed sum, which we should know how to pay and know what we pay, and not have it covered up in this way. As I said, this system was abandoned in the Navy in 1835, and never has prevailed since, except simply the allowance of a single ration. The argument may be that these officers that you now create have rank given them by this bill with the officers by whose rations it is now proposed to measure the rations which Navy officers are to receive. To my mind, the argument has no force. We ought to get rid of it in the Army instead of introducing it into the Navy, and if you introduce this system into the Navy, you will have a new fortification to an old abuse, and it will go on increasing.

Now, sir, this whole system of paying retired officers, I am not going to say a word about or against; but it is a species of pensions and nothing else. It is based upon the idea that the officer has faithfully served his country as long as he can serve it, and then the Government retire him upon honorable pay; and the pay is honorable and liberal. Instead of introducing this system into the Navy, and paying these old retired admirals and commodores rations measured by what the officers of the Army receive, the true system is to cut the whole thing up by the roots, and not allow it to a single officer; but pay your officer as you pay your President, as you pay other employés of the Government, a fixed sum, and not do it in this indirect way. I should regret, more than any act that has been passed since I have been a member of Congress, the introduction of this system into the Navy. It is going backward. It is like the shadow on the dial-plate, turning back instead of going forward, and I do hope it will not be adopted by the Senate.

Mr. GRIMES. I do not think the Senator from New Hampshire will find a great deal of difficulty

in being able to compute the precise pay of any of these officers. The speech he has made would have been a very good one if it were applied to any act in regard to the military branch of the public service, where they have commutation for fuel, and lights, and quarters, and servants, and horses, and various things of that kind.

Mr. HALE. It is all wrong.

Mr. GRIMES. But because it is wrong there, that is no reason why the Senator should bring in the speech he has been in the habit of making as applicable to Army rations, commutation, &c., and apply it to this proposition which I have submitted to the Senate. By a law passed nearly a year ago, each retired Army officer is to have four rations a day, and the price of the ration is fixed by law at thirty cents, so that there is no difficulty in computing it. The provision which I have offered is that where a retired officer of the Navy ranks relatively with an officer in the Army, the Navy officer shall receive the same pay as the officer of corresponding rank in the Army, and no more. That is all there is of it. The law of Congress says that a major shall receive a certain sum, and four rations a day at thirty cents apiece. We know how much that amounts to.

Mr. HALE. How is it with a major general?

Mr. GRIMES. A major general receives $2,640 a year and four rations a day; a brigadier general, $1,488; a colonel, $1,326; a lieutenant colonel, $1,140; a major, $960; a captain, $840; a lieutenant, $640. Their rations, besides, amount to $438 a year. There is not an infinite deal of trouble in computing that. The law specifies what the positive pay is, and then we all know that the commutation of four rations a day for three hundred and sixty-five days, at thirty cents a ration, amounts to $438 a year. This is intended to apply to a class of very meritorious and worthy officers who have been in service more than forty-five years, and some of whom helped to defend the country in the last war with Great Britain. It is believed that something is due to them from the country. It is proposed simply to give them the same pay that is given to an officer in the Army of a corresponding rank.

The PRESIDENT *pro tempore*. The question is on agreeing to the amendment

The question being put, there were eight votes in the affirmative.

Mr. GRIMES. I have only to say that the whole interior life of the bill is knocked out of it if we do not adopt this. We have provided for the retirement of certain aged officers in other provisions of the bill, upon retired pay.

The PRESIDENT *pro tempore*. The Chair will inquire if a further count is demanded.

Several SENATORS. Oh, no.

The PRESIDENT *pro tempore*. The amendment is rejected.

Mr. SHERMAN. I do not think there is any objection to giving to retired officers of the Navy the same pay and allowances that are given to retired officers of the Army except the rations. Why not leave the rations out and repeal that provision of law which allows rations to officers of the Army? I think it ought to be repealed. It was reported by a committee of conference, I think against the sense of the Senate, because the Senate had directly voted it down. I remember the provision very well. There was a difference between the two Houses as to the rates of pay that should be awarded to retired officers. The Senate had its proposition and the House of Representatives had its proposition; and finally a committee of conference split the difference in some way and gave four rations in addition, which really made the pay higher than either proposition when the aggregate was footed up. If the Senator from Iowa will offer a proposition to give the corresponding ranks of the Army and Navy the same retired pay, leaving off rations, I think the Senator from New Hampshire will have no objection.

Mr. HALE. I think that would be high enough.

Mr. GRIMES. I think the proposition would be very fair, if stated in this way: that we should incorporate these rations into the bill, and whenever the Senator from Ohio or anybody else introduces a bill to repeal that provision both as to the Army and Navy, I shall go with him.

Mr. SHERMAN. Let us do it now.

Mr. GRIMES. This is not the kind of bill for it.

Mr. SHERMAN. I am willing to do it here; say that these officers shall have the same pay with retired officers of the Army, who shall have the pay now fixed by law, without the rations.

Mr. GRIMES. All I want is a condition of equality existing between the two services in corresponding ranks.

Mr. HALE. I want to say, though I do not know that it will have any great weight with the Senate, that this proposition was considered in the Naval Committee when they were fixing this pay, and the committee were unanimously against it. When I say that, I need not add that the Senator from Iowa was not present.

Mr. GRIMES. Do I understand that my amendment was rejected?

The PRESIDENT *pro tempore*. The Chair so understood it.

Mr. HARRIS. I wish to offer a verbal amendment. On page 5, in line twelve of section eleven, I move to strike out the word "exceeded," and insert "increased thereby." It is equivocal as it is now expressed.

The PRESIDENT *pro tempore*. If there be no objection, that verbal amendment will be made.

Mr. HARRIS. I wish to call the attention of the committee to the phraseology of section eleven:

That any person who shall have received or shall hereafter receive a temporary appointment as acting volunteer lieutenant or acting master in the Navy, from civil life, authorized by the act of Congress of July 24, 1861, may be confirmed in said appointment in the Navy.

I do not know what that means. I cannot give a construction to it. "May be confirmed" by whom? Is he to be appointed upon nomination by the President and confirmation by the Senate? If so, it ought to be stated. I do not know what this means.

Mr. SHERMAN. I submit an amendment as a new section:

And be it further enacted, That admirals, commodores, captains, commanders, lieutenant commanders, lieutenants, masters, and ensigns on the retired list of the Navy shall receive the same pay as authorized to the officers of the Army (according to their respective ranks) by the act of Congress approved August 3, 1861; that is to say: admirals the same as major generals, commodores the same as brigadier generals, captains the same as colonels, commanders the same as lieutenant colonels, lieutenant commanders the same as majors, lieutenants the same as captains, masters the same as first lieutenants, and ensigns the same as second lieutenants in the Army; and no rations shall hereafter be allowed to retired officers of the Army or Navy.

Mr. HALE. I suggest to my friend that we have amended the bill by striking out "ensign" and inserting "passed midshipman."

Mr. SHERMAN. I took the language of the Senator from Iowa. It can be modified in that way.

The PRESIDENT *pro tempore*. That modification will be made. "Ensigns" will be stricken out, and "passed midshipmen" inserted where ever it occurs, to conform with other portions of the bill.

Mr. FOSTER. I certainly cannot consent for one to cut down the pay of officers of the Army and Navy at the present time, either directly or indirectly.

Mr. SHERMAN. This applies to retired officers.

Mr. FOSTER. I do not care whether they are retired or not, if they are Army and Navy officers. I do not believe there is any law at present which gives them more pay than they earn. If they are entitled to hold their places in the service, we do not pay them too much; and it is our fault if we keep them in when they ought not to be there. If they are not fit for their places, they should be stricken off; but if they honor their places, we do not honor ourselves by reducing their pay, and we do them injustice. I am not disposed to prolong the discussion or take any factious part about it, but if it is pressed I must ask for the yeas and nays on the adoption of this amendment.

Mr. SHERMAN. If this amendment is not adopted they will receive no retired pay, and the only question is, whether they shall have none at all or what is given by this amendment. Unless the Senate designs to frame another proposition in antagonism to this, giving them more, there will be no pay given to a retired admiral unless this proposition be adopted.

Mr. GRIMES. I will state that I intend to offer, when we get into Senate, and call for the yeas and upon, my original proposition.

Mr. SHERMAN. The only difference is simply the qualification about the rations.

The PRESIDENT *pro tempore*. The question is on the amendment moved by the Senator from Ohio.

The amendment was agreed to.

Mr. FOSTER. I move to strike out all of the ninth section after the word "that," and insert:

The President of the United States, by and with the advice and consent of the Senate, may restore to the grade on the active list from which he was retired, any officer of the line who has been thus retired on account of age or length of service, and not for any personal or professional inability or delinquency, to the active list, and such officer shall not be again retired until he has been fifty-five years in the naval service of the United States.

The amendment was rejected—ayes nine, noes not counted.

Mr. HALE. I want to make a verbal amendment in the second line of the eighth section, by striking out the word "commissioned," and inserting "appointed by the President, by and with the advice and consent of the Senate."

The amendment was agreed to.

Mr. HARRIS. In section nine, line three, after the word "Navy," I move to insert the words "above the grade of commander," so that the section will read, "that whenever, upon the recommendation of the President of the United States, any officer of the Navy above the grade of commander, has received, or shall receive," &c.

Mr. HALE. Let me ask the Senator if he will not be content to say, "not below the grade of commander," so as to include commanders.

Mr. HARRIS. I have no objection.

Mr. HALE. I think that would be better.

Mr. HARRIS. I accept that modification of the amendment.

The PRESIDENT *pro tempore*. The amendment now reads as follows: after the word "Navy," insert "not below the grade of commander."

The amendment was agreed to.

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

Mr. GRIMES. I now renew my motion to insert the word "rear," before "admiral," where ever it occurs in the bill, so as to make the highest officers rear admirals, instead of full admirals.

The amendment was agreed to.

Mr. GRIMES. I now renew the amendment I offered a little while ago in regard to the retired officers of the Navy, to insert as an additional section:

And be it further enacted, That admirals, commodores, captains, commanders, lieutenant commanders, lieutenants, masters, and passed midshipmen, on the retired list of the Navy, shall receive the same pay and rations as authorized to the officers of the Army (according to their respective ranks) by the acts of Congress approved August 3, 1861; that is to say: admirals the same as major generals, commodores the same as brigadier generals, captains the same as colonels, commanders the same as lieutenant colonels lieutenant commanders the same as majors, lieutenants the same as captains, masters the same as first lieutenants, passed midshipmen the same as second lieutenants in the Army.

Mr. SHERMAN. The section I offered was adopted, and agreed to in the Senate. This is inconsistent with that.

Mr. GRIMES. I did not understand that the amendment of the Senator from Ohio was concurred in.

The PRESIDENT *pro tempore*. All the amendments made as in Committee of the Whole have been concurred in in the Senate.

Mr. GRIMES. With the provision repealing the ration of the Army officers, too?

Mr. SHERMAN. Yes.

The PRESIDENT *pro tempore*. Whatever amendments were made in the Committee of the Whole have been concurred in in the Senate.

Mr. GRIMES. The result is, that we shall have the bill hung up, and it will not pass.

The PRESIDENT *pro tempore*. The Senator from Iowa can move to reconsider the vote concurring in that amendment.

Mr. SHERMAN. We may as well let it go to the House of Representatives, and I think they will agree to it. If they do not like it, they can amend it.

Mr. ANTHONY. I hope that, by unanimous consent, that amendment will be considered as excepted. It was by inadvertence that the Senator from Iowa did not except it.

The PRESIDENT *pro tempore*. It is competent for the Senator to move to reconsider the vote concurring in that amendment. No such motion being made, the question recurs on the amendment

moved by the Senator from Iowa, which is now before the Senate.

Mr. GRIMES. I will state to the Senator from Ohio what will be the effect of his proposition, if it is passed. Take, for instance, the gentleman who is at the head of the Bureau of Yards and Docks, who distinguished himself as a lieutenant in the battle on Lake Champlain, under McDonough, and who received a silver medal from this Government. At this time, if he was not in the public service, he would on the retired list receive a pay of $1,738 a year.

Mr. SHERMAN. The difference is about $400.

Mr. GRIMES. As it now stands, he would receive pay to the amount of $1,738 a year. With the Senator's amendment, promoting him one grade and making him a commodore, what would he receive? He would receive $1,488, or $250 less than he is entitled to receive now. If the Senate are willing to adopt an amendment which will have such an effect as that on all that old class of men who have distinguished themselves in the public service for fifty years, and will not, just as they are about to leave the public service, honor them with a little bit of promotion which the country has been so charry of during the whole time of its history, I have nothing to say.

Mr. SHERMAN. I do not think it will be any hardship to the bravest and noblest man that ever lived, who has served his country for forty-five years, and received during all that time for his services the pay fixed by law, to retire him when he is unable to render further service. Men in all employments in life are retired, and after an officer of the Army or Navy has served forty-five years of the most diligent service, and been well paid for it all that time, he ought to have such habits of economy and industry as to have laid up enough for his old age. This habit of pensioning people only induces the officers of the Army and Navy to be entirely reckless and careless about their savings. I believe the whole system is vicious; if I had the power, I would not give a dollar; but I say, taking an officer who has arrived at the age of seventy years, and giving him for life a pension of thirteen or fourteen hundred dollars a year, even in the case of Commodore Smith, is no great hardship. He has been paid all his life-time the salary fixed by law, and he should have laid up during his manhood enough to carry him to his grave without suffering from poverty. If he has not, then the Government gives him not a very large pittance to be sure, but not an unreasonable one, and I think he ought to be satisfied with it. The difference between the proposition of the Senator and mine is that he gives to each of these officers, without regard to merit or grade, $400 a year more than the proposition I submit. I think either of them is high enough.

Mr. FESSENDEN. The difference between our service and that of England, for instance, where officers distinguish themselves is, that when they become distinguished and get to a certain age, they are promoted; and if they are quite distinguished, they have estates granted to them, are made peers, and their oldest sons succeed to the title, and they have enough to make them honorable and establish a family. With regard to us, we give a little higher pay in the minor grades than they do; but we have no rewards of any kind. Our form of Government does not allow it. We neither have titles, nor anything in the shape of pensions unless they are wounded, and then the pension allowed is not very large. Now, the question to be considered by the Senate is, whether, when a man has got to be seventy years of age, and has been all his life serving the Government, receiving certainly not enough to enable him to lay up much for his old age, and for those whom he may have to support, $1,400 a year is enough for the few remaining years of his life, in the condition in which he is placed as a distinguished officer, obliged to live as other people in a corresponding position live, to a certain extent?

Now, with regard to us who are in the civil service, we do not make a business of it, we are here for a little time, we come away from our professions, but we give all the best part of our lives to our own private affairs. We have a chance to make money. Some of us do and some do not. We come here for a few years and we go back again to our professions, and we take the fortunes of life; but officers of the Navy are upon a fixed pay. Now, I am not in favor of paying them very high or very extravagantly; but when such men get to be old, after spending their lives in the public service, as many of these gentlemen in the Army and Navy have, and we find it necessary to retire them, they should not be left to live meanly and in a way entirely disproportionate to their position in life and to what they have been in the habit of doing. If we retire them, I think we should give them a decent sum at least, and not say, by implication, as my honorable friend does, "if you have not saved enough money by habits of economy, you ought to suffer." Why, sir, a sailor is proverbially, as a general rule, a careless man in money matters. He does not have much opportunity to learn economy or to learn to make money. I would not give a large sum, but it does really strike me, knowing what the expenses of living are in our country in a decent style anywhere, that to retire a man who has arrived at the highest honors of his profession as a sea officer, on the sum of $1,400 a year, is entirely too niggardly.

Mr. SHERMAN. Twenty-six hundred dollars a year to an admiral.

Mr. FESSENDEN. Take a man like Commodore Smith.

Mr. SHERMAN. He would be appointed an admiral, probably, under the law.

Mr. FESSENDEN. Perhaps not; perhaps there is no reason why he should be. He has got very nearly to the end of his period of service. I confess that since Commodore Smith has been named, I feel a little more interest in the matter perhaps than I should otherwise, for he is about the only officer of that grade with whom I have personal acquaintance, and I have such an entire respect for the integrity of the man, for his long devotion to the public service, for his great care of the interests of the Government, for his personal character and everything about him which attracts my respect and my esteem, that when his name is mentioned, I do take an interest on his account in a matter of this kind. I confess to it, and I should be sorry if I could not even in my public capacity recognize high merit and worth wherever it may appear. Now, to take such a man as that, who at the time when we pass this bill making higher grades has got to a period of life when perhaps he cannot reasonably expect to be one that shall be so advanced, and who may be left in the medium grade, and to be retired in a short time, and to leave him as he is, and others like him, at the paltry sum of fourteen or fifteen hundred dollars a year to live upon and support those of his family who may be dependent upon him—and there are always some—I think it is a very small business for a Government like ours. That is all I have to say. I should feel inclined to go for the higher sum, rather than the lower.

Mr. HALE. I know Commodore Smith, and I have as high a regard for him as the Senator from Maine has. When Commodore Smith was in peril, when Commodore Smith had been ruthlessly stricken from his place by one of the most disgraceful proceedings that ever disgraced the annals of civilized Government, I manifested my regard for him by denouncing the action of the men who did it, and the law under which it was done; and I exerted the humble powers that I have to right him, to bring him back to the place where he belonged, and from which he had been degraded. I rejoice that I did it, not that I had any particular feeling for him personally, but I thought that in his person the first principles of civil government had been outraged.

The honorable Senator is mistaken in his reference to the English service, and there is nothing on the earth that I think there is a more general misapprehension about than there is about the pay of English officers. Do you know what the pay is of a captain of the first class retired?

Mr. FESSENDEN. I did not speak about the pay, but about the rewards for eminent services.

Mr. HALE. Those are poorer than the pay. You will find here and there one very eminent and distinguished man, like Lord Nelson, one in a thousand or ten thousand, that gets promoted in that way, but very seldom. The pay of a captain of the first class in the English navy, on the retired list, is £264 per annum, less than $1,500 per year considerably—about twelve hundred dollars a year. That is the pay of a retired captain of the first class in the British navy. What is it with these rear admirals that we are making? Four hundred and fifty-six pounds. That is the highest for a rear admiral on the retired list.

Mr. FESSENDEN. How much does that amount to?

Mr. HALE. About twenty-two hundred dollars.

Mr. FESSENDEN. Does anybody doubt that if we had had such a grade as rear admiral, Commodore Smith would have been a rear admiral long ago? He has been recognized as one of the first officers in the Navy. The difficulty is that we have had no higher grade than that of captain.

Mr. GRIMES. What has the Senator from New Hampshire been quoting from?

Mr. HALE. The two hundred and twenty-third page of the British Royal Navy List of 1859.

Mr. GRIMES. What does the Senator say their pay is?

Mr. HALE. The pay of a captain of the first class on the retired list is £264; of a rear admiral, £456. The pound is about four dollars and eighty-six cents.

Mr. GRIMES. Five dollars.

Mr. HALE. I know that in common parlance it is called five dollars; but I have inquired of commercial and financial men, and they tell me the present value of the English pound is from $4 84 to $4 86. All your officers are paid much higher than those in the English navy, with the exception of the very high ones—the admirals. I hope the amendment will not be adopted.

Mr. GRIMES. I would not say a word on this matter, if it were not that the Senate might be misled by the reference of the chairman of the Committee on Naval Affairs to the Navy List of Great Britain. The trouble is that a captain in the navy of Great Britain does not correspond with a captain in the Navy under this Government; he is ten grades below. There are three classes of admirals, and each of these classes is subdivided into three more, and then they have flag officers, and then come captains. In our service, as it is now organized, a captain is the highest officer. We propose to make two grades above that by this bill. Now, take the corresponding grade of the person who has been alluded to, an admiral, or a vice admiral, or a rear admiral, or a flag officer—his retired pay in the British service is fifty per cent. more than we propose to allow by this bill. That of an admiral of the fleet is £1,148, about $5,500; an admiral £706, $3,500; a vice admiral £593, nearly $3,000, and so on.

Mr. HALE. How is it with rear admirals?

Mr. GRIMES. A retired rear admiral gets £456, about $2,300; and what it is proposed to give him here is $1,300! The analogy does not hold out between a captain in the British service and a captain in our service, because the rank of captain in our service is the highest grade, and in the British service it is the eleventh grade from the top.

Mr. SHERMAN. I would not say a word more, but for the very feeling appeal made by the Senator from Maine in behalf of a distinguished officer.

Mr. FESSENDEN. I did not name him. He was named, and therefore I took him as an illustration. I do not suppose that he is better than many others. I make no appeal for him. I only take him as one of a class.

Mr. SHERMAN. I wish to illustrate the liberality of our Government to even Commodore Smith. He is not retired by this bill or affected by this bill. Commodore Smith holds the position of head of one of the bureaus in the Navy Department, and is receiving $3,500, and has for years, and probably will until he dies or resigns. All officers who receive a vote of thanks by name will not be retired; they, as a matter of course, will be kept at full pay until they arrive at not less than seventy or from seventy to eighty years of age. All who distinguish themselves so as to excite the attention of Congress will thus be kept at full pay until they arrive at from seventy to eighty years of age. Besides that, if any of them are of full health and vigor, there are various employments open to them. They can serve the Government as the head of a bureau in the Navy Department, or in the navy-yards, or in other employments on shore. They are simply retired from active service at sea, where an old man cannot endure the hardships of the service. This retired list only applies to those who have not distinguished themselves so much as to receive the

thanks of Congress, who are not fit for duty at a navy-yard, who are not of sufficient importance to be put at the head of a bureau, old officers who are simply retired from inability to do duty. It seems to me that the rate of pay fixed by the section already in the bill is enough. If you adopt now the amendment offered by the Senator from Iowa you will have two sections in the bill entirely inconsistent with each other. If the House of Representatives make a point on this, if they are not satisfied with it, they can make an amendment, and then will be the time to present this question, not now. It seems to me, therefore, it is rather absurd for us to adopt two sections in the bill inconsistent with each other.

The PRESIDENT *pro tempore*. The question is on agreeing to the amendment moved by the Senator from Iowa.

The amendment was rejected.

Mr. GRIMES. I move in the third line of section four to strike out the words "and two eminent civilians;" so that the clause will read:

That the Secretary of the Navy shall appoint an advisory board of three officers, senior to those to be reported upon, who shall carefully scrutinize, &c.

It now provides that he shall appoint three officers and two eminent civilians "who shall carefully scrutinize the active list of line officers," and who shall certify as to the moral, mental, physical, and professional qualifications of every officer to perform efficiently all his duties. I do not think that any civilians whom we shall probably get, would be very likely to know much about the professional qualifications of anybody to perform sea duty.

Mr. HALE. That subject was very carefully considered in the committee, and I think the provision will commend itself to the judgment of everybody who reflects on it. Those who remember the debates and discussions which took place upon the action of the retiring board that was established some eight or nine years ago, I think will recognize the necessity of having somebody else besides Navy officers to advise them in this most important proceeding. You see that it is in the power of this board to block the way of promotion to every officer of the Navy. Questions of reputation, worth to an officer more than his life, will come before the consideration of this board. The committee thought, and I think wisely, and hope the Senate will so decide, that it was important to have one or two gentlemen upon the board to advise the naval officers in regard to what was the character of the evidence upon which they might act—gentlemen that were not connected with any clique in the Navy. The difficulty in this Navy of yours, sir, has been for the last twenty-five years that it has been governed by a clique, a sort of mutual admiration society, who made it their special business to puff one another up quite as much as they had to fight an enemy. You never can meet one of them without hearing a great eulogium on some other of the mutual admiration society of the Navy. It was these gentlemen who procured a retiring board that went on and found everybody on the list of the Navy incompetent to discharge his duties until they got down to the head officer of the board, and they found him eminently fit. It is a matter within my knowledge that men were dropped by that naval board on evidence something like this: letters were written to members of that board saying that the writers knew such a man to be a sneak or unfit for association with gentlemen; and upon evidence thus written behind their backs, vague and indefinite, men's rights of reputation were sacrificed, and they were turned out of the Navy.

The PRESIDENT *pro tempore*. If the Senator from New Hampshire will suspend, the Chair will suggest that, since this amendment was moved by the Senator from Iowa, the attention of the Chair has been called to the fact that the amendment proposes a modification of what has already been agreed to as an amendment. The words which he proposes to strike out were reported as an amendment to the bill by the Committee on Naval Affairs, agreed to as an amendment in the Committee of the Whole, and concurred in by the Senate. It is not now open to further modification. So the amendment proposed is not in order.

Mr. FOSTER. I now move, in the Senate, the amendment which I before moved in committee; but there was so thin a Senate then that I did not ask for a division upon it.

Mr. HALE. Let the amendment be read.

The amendment was read, as follows:

Strike out all of section nine, after the word "that," and in lieu thereof insert:

The President of the United States, by and with the advice and consent of the Senate, may restore to the grade on the active list from which he was retired, any officer of the line who has been thus retired on account of age or length of service, and not for any personal or professional inability or delinquency, to the active list; and such officer shall not be again retired until he has been fifty-five years in the naval service of the United States.

Mr. HALE. I will state the objection I have to that, and I think the Senate will sustain it. I think it is well that personal rights and official rights, wherever it is possible, should be measured by law and should not be left in the arbitrary discretion of anybody. If the law that you have passed retiring these gentlemen is an unwise one—and I am not prepared to say that it is not—repeal it; but while you have a general law upon your statute-book that retires men of a certain class, I would not give to the whim or caprice of anybody the right of saying to this man, "you may be exempt from the operation of this law," and to that, "you shall not be." My objection to this amendment of the Senator from Connecticut is, that it places this arbitrary power in the hands of the President.

Mr. FOSTER. It is very certain, Mr. President, that in respect to every general law, however wise it may be, there will be cases where it will operate rigorously and unjustly, and where the law-making power would desire to relax its operation. This amendment provides for such a case. The general law retires men after a certain period. The Senator from New Hampshire and everybody else will agree that in many cases under the operation of that general law, men may be retired whom it would be very desirable to retain. Shall we, for the sake of consistency, to carry out rigorously a given principle, abide by it instead of modifying it when there is occasion?

The Senator speaks of the arbitrary whim or caprice of some one to interfere with the law. Why, sir, the amendment provides that the President, by and with the advice and consent of the Senate, may save a man from the operation of this law. Well, sir, we have all the wisdom, or all the whim and caprice, if the gentleman pleases, in that, which we have in making the law; and if we are wise enough to make a general law, are we not wise enough under the circumstances to modify its operation when, as we agree, it may work injustice? That is all there is about it.

Mr. HALE. I want to remind the Senator that the President now has the power of giving service, and honorable service, to every one of these retired officers. He may appoint them to the navy-yards; he may appoint them to bureaus; he may appoint captains and commanders on the retired list to command navy-yards; and when they perform distinguished service, the President will not be slow to appreciate them, and give them these rewards. There were Commodore Paulding and Commodore Pendergrast; for their gallant exploit in burning the Norfolk navy-yard they were assigned to the command of the Philadelphia and New York navy-yards! It shows that this power is wisely lodged and will be discreetly exercised, and I hope there will be no further latitude given.

Mr. GRIMES. I think the President has this power now; I think he can restore anybody to active service; at any rate he is exercising it. Unless I have been misinformed, persons have been sent to the Senate for confirmation, at some period of the history of the country, and put into other grades, those of commanders and lieutenants; and if they can be thus confirmed in those grades, they can in the grade of captains. If he can take a man who is entirely out of service, surely he can take a man from the retired list and put him in. I am content to say that he shall have the power to do it. I am willing to say that the President shall have the power to restore a man, with my approbation and the approbation of my peers here on this floor, to the grade whence he was taken, and that I understand to be the proposition.

The question being taken, there were, on a division—ayes 16, noes 13; no quorum voting.

Mr. COLLAMER. I move that the Senate adjourn.

The motion was agreed to; and the Senate adjourned.

HOUSE OF REPRESENTATIVES.

TUESDAY, *July* 8, 1862.

The House met at twelve o'clock, m. Prayer by the Chaplain of the Senate, Rev. BYRON SUNDERLAND, D. D.

The Journal of yesterday was read and approved.

TREASURY NOTE BILL.

Mr. STEVENS. I submit a report from the committee of conference on the disagreeing votes of the two Houses on House bill No. 187, to authorize an additional issue of United States Treasury notes, and for other purposes.

Mr. Speaker, I will make a few words of explanation, and the House can then dispose of the matter at once. The Senate cut down the number of small notes from $50,000,000 to $25,000,000. The committee of conference agreed to a compromise by fixing the number at $35,000,000.

The Senate made a modification of the bill in allowing the Treasury notes to be paid in gold rather than in bonds, if the Government chose to do it. This is a great privilege which we thought ought to be allowed on the part of the House.

In the next place, of the $150,000,000, the Senate required $75,000,000, just one half of it, to be kept in the vaults of the Government, to meet deposits under some regulation we had allowed by act of Congress. They required that $75,000,000 should be kept on hand, whereas the bonds never amounted to more than $50,000,000. They required when we borrowed $50,000,000, that we should deposit $75,000,000, thus paying interest twice. The committee of conference have reduced it from $75,000,000 to $50,000,000. The last section was deemed unnecessary, as it had been provided for in a former bill, and is therefore recommended to be stricken out. I demand the previous question on the adoption of the report of the committee of conference.

The previous question was seconded, and the main question ordered; and under the operation thereof the report was adopted.

Mr. STEVENS moved to reconsider the vote by which the report of the committee of conference was adopted; and also moved that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

NAVAL APPROPRIATION BILL.

Mr. STEVENS. I do not rise for the purpose of submitting any report from the committee of conference on the disagreeing vote between the two Houses on the naval appropriation bill, but for the purpose of asking the unanimous consent of the House to put right wherein the Journals are now wrong. I want the action of the House to appear as it is intended it should be, and not as it really is by some inadvertence on the part of the House itself.

It will be recollected that this House made an appropriation of $14,000 to buy twenty-seven acres of an island—Seavey's Island—to be attached to the Portsmouth navy-yard for the purpose of giving us command of the channel. When it went to the Senate, they struck out the twenty-seven acres and inserted a provision for the purchase of the whole island, amounting to a hundred and odd acres, and increasing the appropriation from $14,000 to $65,000. The Committee of Ways and Means recommended a concurrence in the whole arrangement, treating it as one amendment of the Senate. The House concurred in the recommendation of the committee, so as to strike out the twenty-seven acres, and on the next day when there came to be a discussion of the whole matter, they non-concurred in the purchase of the hundred acres. It seems the Senate treated the matter as embracing two amendments, whereas we treated it as but one amendment. It will be very plainly seen how the matter now stands. We agreed to striking out the provision for the purchase of twenty-seven acres, and we non-concurred on the proposition to insert a provision for the purchase of a hundred and odd acres. When the committee of conference came to act on it, they agreed that the bill of the House should stand, but on looking at it they found that the action of the House in striking out twenty-seven acres and refusing to insert a hundred acres, there is nothing left for the appropriation to apply to. In order to make the Journal intelligible when it comes to be printed, it will be necessary to reconsider the vote by which the House agreed to strike out the

provision for the purchase of twenty-seven acres. I know that it requires unanimous consent to do this thing, but as it is necessary to make this amendment conform to the rest of the record, I hope there will be no objection to it. I move, therefore, that the House reconsider the vote striking out the provision for the purchase of twenty-seven acres of Seavey's Island.

Mr. F. A. CONKLING. If I understand the gentleman, he proposes to reinstate the appropriation of $14,000 for the purchase of twenty-seven acres of Seavey's Island.

Mr. STEVENS. The effect of my motion will be to restore the bill in this particular to what it was when it went to the Senate.

There was no objection, and Mr. STEVENS's motion was agreed to.

DISCHARGE OF STATE PRISONERS, ETC.

The SPEAKER stated the question in order to be the consideration of bill (H. R. No. 362) to provide for the discharge of State prisoners and others, and to authorize the judges of the United States courts to take bail or recognizances to secure the trial of the same, which was reported from the Committee on the Judiciary, with a substitute, on which the gentleman from Ohio [Mr. BINGHAM] was entitled to the floor.

Mr. TRAIN. I ask the gentleman from Ohio to yield to me to take up and pass Senate bill No. 226.

Mr. BINGHAM. I cannot permit any of the morning hour to be lost.

Mr. TRAIN. It will not take a moment.

Mr. BINGHAM. I cannot yield. I have submitted all I desired to say on the bill pending before the House, and I therefore propose to demand the previous question on its passage.

Mr. BIDDLE. I hope the bill will not be pressed to its passage under the operation of the previous question, without permitting us an opportunity to offer amendments.

Mr. BINGHAM. The session is drawing rapidly to a close, and if we are going to pass a bill of this character, I do not presume that any material changes will be made in the pending proposition. If there are any verbal inaccuracies, or if gentlemen desire to make verbal amendments, they can easily accomplish their purpose in the Senate. I would remind the gentleman that with the expiration of the morning hour we close the consideration of this bill, and I think it proper, therefore, to demand the previous question.

Mr. BIDDLE. I appeal to the gentleman from Ohio not to press his demand for the previous question.

Mr. BINGHAM. I suppose if this bill meets the approval of the House at all, that no amendment will be offered except such as is verbal in its character. I can imagine that verbal amendments may be made improving the text of this bill; yet such amendments can easily be made in the Senate, if we pass the bill as it now is.

Mr. BIDDLE. I am diffident of my power to procure amendments in the Senate. My function as a member of the House is to offer them here, and to have them voted on. If my friend from Ohio will yield to me, I will propose an amendment, and state with brevity the motives which induce me to offer it. I have no desire to enter into a general discussion of the question.

Mr. BINGHAM. Let the gentleman send up his amendment, and let us hear what it is.

Mr. BIDDLE. This is as important a bill as can be passed upon by this House. I presume the liberty of the citizen under the *habeas corpus* is as momentous a question as any which can be brought before the House, and I want to submit one or two suggestions, not in the way of a speech, in reference to the precedent which it is proposed that we shall establish for ourselves and our children, perhaps, for generations to come. The second section of this bill proposes to restore the judicial tribunals of the country to the exercise of their functions over cases which have already occurred. I do not see that a man who is imprisoned to-day is more worthy of our solicitude than the man who may be imprisoned to-morrow; and, above all, I desire, in a bill of this character, to provide not only indemnity for the past but security for the future. And my amendment does not exclude or forbid future arrests without appeal to the judicial tribunals, in those States and those districts where the judicial tribunals are not in the uninterrupted exercise of their functions. I, of course, concede that there are many districts, whole States indeed, where you cannot resort to the judicial tribunals because they are silenced or controlled by the enemy; that men may be necessarily deprived of their liberty there, without a hearing before a judicial tribunal, I admit. But I cannot conceive that in the district I represent, or in any district in Pennsylvania, or in New York, or in Massachusetts, there can be any public necessity for depriving the citizen of those common guarantees of liberty which we have been bred to believe were absolutely essential for its preservation.

Now, sir, the amendment which I propose is to the first part of the third section. I do not intend to criticise the first and second sections. They are intended to relieve the persons now in confinement. If they accomplish that object without throwing upon the community any dangerous persons, I shall be content. I should have preferred, however, the ordinary and due course of law to what is here provided.

The SPEAKER. Does the gentleman propose an amendment?

Mr. BIDDLE. I do.

Mr. BINGHAM. I did not yield for any such purpose. I yielded to hear what the gentleman had to say, and how he proposes to amend.

Mr. PENDLETON. I desire to call the attention of the gentleman to the provision in the ninth line of the first section, which contains the remedial process of this bill, and which applies to those cases in which the party is already confined and those cases in which the party may be hereafter confined.

Mr. BIDDLE. That is not a good substitute for *habeas corpus* nor for the principles contained in the amendment which I desire to insert in the third section, so that it will read:

That it may and shall be lawful for the President of the United States whenever, in his judgment, by reason of rebellion or invasion the public safety may require it, to suspend by proclamation, for the period of twelve months, or until the next meeting of Congress, the privilege of the writ of *habeas corpus* in any of the United States, or in any part thereof, wherein the laws of the United States are by force opposed, and the execution thereof obstructed.

Mr. BINGHAM. The gentleman will bear with me while I make a suggestion which shows that he has overlooked a very important matter connected with this legislation. One of the difficulties under the present laws of the United States to be remedied was the imperative requirement upon every judge of the United States to issue the the writ of *habeas corpus* upon an application made in due form by an imprisoned citizen. The gentleman's proposed amendment does not, in any way, suspend the provisions and requirement of that statute. The proposed amendment of the gentleman would therefore, if adopted in form and manner as presented here, simply leave the same conflict between the executive and judicial departments of this Government, arising under the legislation of Congress, which exists this day.

Mr. BIDDLE. The gentleman is mistaken; I do not propose to interfere with, or strike out, any of the other provisions of the bill, but simply to insert my amendment in the third section, which will then conclude as in the printed draft.

Mr. BINGHAM. Then the amount of it is this, that the only difference he proposes between this bill as it now stands reported by the Judiciary Committee, and what it will be with his amendment, is that the suspension shall only operate for the period of twelve months. Now, I desire to say to the gentleman, in all candor, if Congress sits within twelve months it has it in its power, upon the gentleman's views of this question, to repeal the law itself, and thereby put an end to the proclamation of suspension of the privilege of the writ. And I beg the gentleman to consider if the liberty of the people of the United States can with safety be reposed in any branch of this Government, it can be reposed at any time safely in the hands of the Representatives of the people.

The gentleman strangely misconceives this bill if he supposes there is anything in this legislation which puts it out of the power of the Congress of the United States, within twelve months after such proclamation may be made, to put an end to the law itself. The bill, as it now stands, impliedly and expressly upon its face, is a declaration that this whole matter, in so far as it can be effected by legislation, is in the power of the Representatives of the people. I ask the gentleman to consider that. I do not desire to delay the House with any discussion about the general question of the power. I supposed myself, that as to the form of the bill, there might be some disagreement among gentlemen. As to the intent and purpose of the bill, I did not suppose there would be any, and I am pleased to discover that all agree with the principle, purpose, and intent of the bill; and I only repeat to the House now—doing no kind of injustice to the gentleman from Pennsylvania—that the only change suggested upon this bill is that the proclamation shall expire by its own limitation within twelve months. Every gentleman knows that the Congress of the United States must assemble within twelve months after the proclamation shall have been issued. Therefore, without further remark, I beg leave to call the previous question upon the bill.

Mr. BIDDLE. I hope not. The gentleman has not correctly presented my amendment, and I beg him to bear with me two or three minutes longer upon this most important measure. I hope that nothing which has fallen from the gentleman from Ohio is meant to convey the impression that this body will not adjourn for twelve months. I hope it will soon adjourn till December next, and my amendment will cover that interval of time. I object to an unlimited concession of this power to the Executive.

Mr. BINGHAM. Congress will meet in twelve months.

Mr. BIDDLE. It will certainly meet in twelve months, and therefore my amendment will give to this proclamation the effect of suspending the writ of *habeas corpus* in those sections where it may be deemed expedient and necessary to suspend it until the next meeting of Congress. My amendment goes further than that, however; it limits the right of suspension to those districts where the judicial tribunals are interrupted in the due course of the administration of justice.

Mr. BINGHAM. That is what the bill does.

Mr. BIDDLE. No, sir; up to the present time there has been a pretension made in behalf of executive power that the President alone has the right arbitrarily to imprison any American citizen without giving reasons to him or to any judicial tribunal whatever. I do not discuss that question, because this bill itself, I am happy to see, denies that right. By this bill Congress now gives a general power to the President to suspend the writ of *habeas corpus*, and by necessary implication we may thence infer that he does not possess it of his own power or prerogative, and that is one of the reasons why I could very cordially support this bill, desiring, however, to amend it in the way I have indicated, so as to put certain limitations on the power we grant.

Mr. BINGHAM. Well, it seems to me that after the gentleman's speech, this bill ought to receive his vote as it is, and therefore I feel disposed to call the previous question, and test the sense of the House.

Mr. BIDDLE. I ask that my amendment may at least be voted on by the House.

Mr. MALLORY. I wish the gentleman from Ohio to allow me to ask him a question.

Mr. BINGHAM. What does the gentleman wish?

Mr. MALLORY. Simply to propound a question.

Mr. BINGHAM. I will hear the gentleman's question.

Mr. MALLORY. I understood the gentleman to remark—and it is a matter in which I felt some interest—that he believed the whole power of suspending the writ of *habeas corpus* was in the Representatives on this floor. I understood the gentleman to state that the right or power is conferred upon the Congress of the United States by the Constitution; and if so, I should like to know of the gentleman from Ohio whence he derives the authority to transfer a right conferred on this body by the Constitution to the President of the United States? That is the difficulty that suggests itself to my mind in relation to this bill. It authorizes the President of the United States to do what the gentleman from Ohio, as I understood him, thinks that Congress alone is authorized by the Constitution to do.

Mr. BINGHAM. I can answer the gentleman satisfactorily to myself I know, and I hope to the

gentleman also. There are two classes of persons in this country who have given utterance to their opinions upon this great question of the suspension of the privilege of the writ of *habeas corpus*. They are both agreed—because they could not differ about it—that there must be power in this Government to suspend the privilege of the writ in times of invasion or rebellion, because the Constitution expressly so declares. One class, however, assert that the power necessarily exists in the Executive because he is charged with the duty of enforcing the execution of the laws. The other class insists that he ought to be authorized to exercise that power, as he is authorized to exercise most of his other powers, by the law-making power of the Government. A very elaborate paper has been given to the public, by a very learned and profound jurist, Mr. Horace Binney, of Philadelphia, who, after exhausting the whole argument in favor of the general power in the Executive without congressional interference, makes the remark, which would justify this legislation on the part of Congress, that the enactment of such a law by Congress at most could only be called *supererogatory* legislation.

Now, what I desire further to say upon this subject in reply to the gentleman from Kentucky [Mr. MALLORY] is this: that if, according to the one class, the Executive has the power, this legislation can do no harm and no wrong to any man, living or dead; if, on the other hand, the other class are right in their judgment that there is power reposed in the Representatives of the people to empower the Executive in the execution of the laws in time of rebellion or invasion to interfere summarily with the person and liberty of the citizen, then it is of the first moment that the law be passed. In either view of the subject, no matter on which side of this question gentlemen may range themselves, this legislation, even in the light of that great argument of the distinguished lawyer of Philadelphia, resolves itself simply into this: that it can do no harm or wrong to any one, and, on the other hand, if it be passed, it may in some sort sanction the action of the Executive and silence complaint.

Mr. COLFAX. I should like to say a single word.

Mr. MALLORY. Will the gentleman from Ohio yield to me for a moment?

Mr. COLFAX. The gentleman from Ohio has answered the gentleman from Kentucky.

Mr. MALLORY. The gentleman has not answered my question.

Mr. BINGHAM. I supposed I had.

Mr. MALLORY. He has not answered the most important part of my inquiry. I asked the gentleman, if he believes that the Constitution confers upon the Congress of the United States the power to suspend the writ of *habeas corpus*, where does Congress get the right to transfer that power to the President?

Mr. BINGHAM. It is very extraordinary that a gentleman so familiar with legislation as the gentleman from Kentucky should ask me a question of that sort.

Mr. MALLORY. Can these powers be shifted?

Mr. BINGHAM. The powers are not shifted. That is my answer to the gentleman. I say that this form of legislation is not new, that our statute-books abound in precedents of this sort, which leave the exercise of a discretion in the Executive of the United States; and I take it that if the gentleman looks carefully to his record, he will find that more than once he has recorded his vote directly in favor of precisely such legislation. I yield now to the gentleman from Indiana.

Mr. COLFAX. Mr. Speaker, I wish to say, for one, that if the implication from this bill is, as stated by the gentleman from Pennsylvania, that the President has not the power himself to suspend the writ of *habeas corpus* in case of insurrection or invasion, I will not vote for it. I read with great care the elaborate argument of the distinguished citizen of Philadelphia, Mr. Horace Binney. I read also the speech of the gentleman from Ohio, [Mr. SHELLABARGER,] who is near me, and who, I think, as well as Mr. Binney, settled the question in favor of the right of the President to suspend the writ of *habeas corpus*, and all in this brief, compact summing up, that the Constitution says that the writ of *habeas corpus* shall not be suspended except during insurrection or foreign invasion; and if Congress is not in session at such a time, for the salvation of the country, somebody must have the power to suspend it.

Mr. BIDDLE. The President can call Congress together; my amendment, too, provides for the interval while we are not in session.

Mr. COLFAX. If by voting for this bill we imply that the President has not the power, for the salvation of the country, to suspend the writ of *habeas corpus*, I will not vote for it. I believe he has the power and has exercised it fearlessly. I believe that he can meet his accountability before the country for the exercise of that power in this hour of national peril; and I will not vote for any bill which indirectly assumes that he has not the power.

Mr. BINGHAM. The gentleman from Indiana may quiet his fears. I am very much surprised that a gentleman of his intelligence should suppose that his vote is to be interpreted by anybody's strictures on the bill. The bill, neither directly nor indirectly, implies any such thing. As I said before, by the common judgment of everybody who has spoken on this question, the bill can do no harm if Congress has no power to meddle with the matter at all; if it has, it covers the Executive as with a shield. That is all there is of it. I call the previous question.

Mr. BIDDLE. Do I understand that my amendment cannot come before the House?

The SPEAKER. The Chair does not understand the gentleman from Ohio to yield for the amendment.

Mr. BINGHAM. I do not.

Mr. BIDDLE. It is the most extraordinary way of settling a great constitutional question that I ever heard of. Neither free discussion nor the offer of an amendment is permitted.

The SPEAKER. Debate is not in order.

Mr. BINGHAM called for tellers on the previous question.

Tellers were ordered; and Messrs. BINGHAM and BIDDLE were appointed.

The House divided; and the tellers reported—ayes 65, noes 29.

So the previous question was seconded.

Mr. BINGHAM called for tellers on ordering the main question.

Tellers were ordered; and Messrs. MITCHELL and COBB were appointed.

The House divided; and the tellers reported—ayes 66, noes 24; no quorum voting.

Mr. BINGHAM. I move that there be a call of the House.

Mr. SHEFFIELD. I move that the bill be laid on the table; and on that I call for the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 29, nays 89; as follows:

YEAS—Messrs. William Allen, William J. Allen, Biddle, George H. Browne, Chamberlin, Clements, Colfax, Corning, Cox, Cravens, Dawes, Ely, Haight, Hale, Kelley, Law, Loomis, Maynard, Mitchell, Nugen, Perry, Potter, Riddle, Sedgwick, Sheffield, Shellabarger, William G. Steele, Train, and Washburne—29.

NAYS—Messrs. Aldrich, Alley, Ancona, Ashley, Babbitt, Baxter, Beaman, Bingham, Jacob B. Blair, Samuel S. Blair, Blake, William G. Brown, Bufflnton, Calvert, Campbell, Casey, Cobb, Frederick A. Conkling, Roscoe Conkling, Crisfield, Crittenden, Cutler, Duell, Dunlap, Dunn, Edwards, Eliot, English, Fenton, Fessenden, Frank, Grider, Hanchett, Harding, Hutchins, Jackson, William Kellogg, Lansing, Lazear, Lehman, Lovejoy, McKnight, McPherson, Mallory, May, Menzies, Anson P. Morrill, Morris, Noell, Odell, Olin, Patton, John S. Phelps, Timothy G. Phelps, Pike, Porter, Alexander H. Rice, John H. Rice, Richardson, Robinson, Edward H. Rollins, James S. Rollins, Sargent, Segar, Sherman, Shiel, Sloan, Spaulding, John B. Steele, Stevens, Stiles, Stratton, Benjamin F. Thomas, Trimble, Trowbridge, Van Horn, Verree, Voorhees, Wall, Wallace, Ward, Webster, Wheeler, Whaley, Albert S. White, Wickliffe, Wilson, Windom, and Worcester—89.

So the House refused to lay the bill on the table.

During the call of the roll,

Mr. MCPHERSON stated that Mr. KILLINGER was detained at home by sickness.

The question recurred on ordering the main question.

The tellers resumed their places.

Mr. BIDDLE. I desire to know whether the vote cannot be taken separately on the sections.

The SPEAKER. The Chair does not know any way of dividing a bill except it be appropriations for internal improvements.

The House divided; and the tellers reported—ayes 69, noes 25.

So the main question was ordered.

The question was first on the substitute reported from the Committee on the Judiciary, as follows:

Strike out all after the enacting clause, and insert:

That the Secretary of State and the Secretary of War be, and they are hereby, directed forthwith, or as soon as may be practicable, to furnish to the judges of the circuit and district courts of the United States and of the District of Columbia, a list of the names of all persons, citizens of States in which the administration of the laws has continued unimpaired in the said Federal courts, who are now, or may hereafter be, held as prisoners of the United States in any fort, arsenal, or other place, as State or political prisoners, or otherwise than as prisoners of war; the said list to contain the names of all such who reside in the respective jurisdictions of said judges, or who may be deemed by the said Secretaries, or either of them, to have violated any law of the United States in any of said jurisdictions, and also the date of each arrest. And in all cases where a grand jury, having attended said courts, or either of them having jurisdiction in the premises, since the arrest of said persons, has terminated its session without finding an indictment or presentment, or other proceeding against such persons, and in cases hereinafter provided for, it shall be the duty of said judges forthwith to order the discharge of such prisoner from said imprisonment, and every officer of the United States having custody of such prisoner is hereby directed immediately to obey and execute said judge's order; and in case he shall delay or refuse so to do, he shall be subject to indictment for a misdemeanor, and be punished by a fine of not less than $500, and imprisonment in the common jail for a period not less than six months, in the discretion of the court.

SEC. 2. *And be it further enacted*, That in case any of such prisoners shall be under indictment or presentment for any offense against the laws of the United States, and by existing laws bail or recognizance may be taken for the appearance for trial of such person, it shall be the duty of said judges at once to discharge such person upon bail or recognizance for trial as aforesaid. And in case the said Secretaries of State and War shall for any reason refuse or omit to furnish the said list within five days from and after the passage of this act, any citizen may, by a petition alleging the facts aforesaid touching any of the persons so as aforesaid imprisoned, supported by the oath of such petitioner or any other credible person, obtain and be entitled to have the said judge's order to discharge such prisoner: *Provided, however*, That the said judge shall be satisfied such allegations are true, and shall also in all cases included in the provisions of this bill, or if the public safety shall require it, have power and be required to take a recognizance or bail from such prisoner to keep the peace and be of good behavior towards the United States, and also to appear before the proper court, if he shall deem the same necessary after due examination of the case, and it shall be the duty of the district attorney of the United States to attend at such examination by said judge.

SEC. 3. *And be it further enacted*, That it is and shall be lawful for the President of the United States, whenever, in his judgment, by reason of "rebellion or invasion, the public safety may require it," to suspend by proclamation the privileges of the writ of *habeas corpus* throughout the United States, or in any part thereof; and whenever and wherever the said writ shall be suspended as aforesaid, it shall be unlawful for any of the judges of the several courts of the United States or of any State to allow said writ, anything in this act or in any other act to the contrary notwithstanding.

The substitute was agreed to.

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

Mr. BINGHAM. I move the previous question on the passage of the bill.

Mr. OLIN. I desire to move to strike out the third section of the bill. With that exception I desire to see it passed.

The SPEAKER. The motion is not in order at this time.

Mr. OLIN. Then I object to the engrossment of the bill.

The SPEAKER. The bill is already engrossed.

Mr. BINGHAM called for tellers on the previous question.

Tellers were ordered; and Messrs BLAKE and MORRIS were appointed.

The House divided; and the tellers reported—ayes 66, noes 30.

So the previous question was seconded, and the main question ordered, and under its operation the bill was passed.

Mr. BINGHAM moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

ENROLLED BILL.

Mr. COBB, from the Committee on Enrolled Bills, reported as truly enrolled an act (S. No. 379) to amend an act entitled "An act to aid in the construction of a railroad and telegraph line from the Missouri river to the Pacific ocean, and to secure to the Government the use of the same for postal, military, and other purposes," approved July 2, 1862; when the Speaker signed the same.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. FORNEY, its Secretary, announced that the Senate insists on

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its amendments disagreed to by the House to the bill (H. R. No. 471) to confiscate the property of rebels for the payment of the expenses of the present rebellion, and for other purposes, asks a committee of conference, and has appointed Messrs. CLARK, HARRIS, and WRIGHT, managers on the part of the Senate; also, that the Senate had passed an act (No. 383) to define the pay and emoluments of certain officers of the Army, and for other purposes; in which he was directed to ask the concurrence of the House.

ILLINOIS JUDICIAL DISTRICTS.

Mr. KELLOGG, of Illinois, from the Committee on the Judiciary, reported back, with a recommendation that it do pass, an act (S. No. 102) to amend an act entitled "An act to divide the State of Illinois into two judicial districts," approved February 13, 1855.

The bill detaches the counties of Hancock and McDonough, in the State of Illinois, from the northern district of Illinois, and attaches them to the southern district of Illinois, of which they shall constitute a part of the same as if they had originally belonged to said southern district.

Mr. WASHBURNE. I appeal to my colleague not to press the matter to-day. The gentleman from the Chicago district [Mr. ARNOLD] is absent on account of sickness in his family. He is very much opposed to this bill, and desires to be heard upon it.

Mr. KELLOGG, of Illinois. The bill only proposes to detach two counties from the northern judicial district of the State of Illinois and attach them to the southern district. It is certainly not of such importance to my colleague, [Mr. ARNOLD,] or any other member, that it should be postponed on account of his absence. The northern judicial district of Illinois, while it has not an amount of territory equal to that of the southern district, has vastly more business. These two counties are so situated that their transfer from the northern to the southern district would be attended with convenience to suitors. The Judiciary Committee has had the question before it, has heard the statements of gentlemen from both districts, and has come to the conclusion that the bill should pass.

Mr. RICHARDSON. Will my colleague yield to me?

Mr. KELLOGG, of Illinois. Certainly.

Mr. RICHARDSON. Mr. Speaker, this bill proposes to change from the northern to the southern district two counties in my congressional district. Every member of the bar in both these counties, of all political parties, has signed a petition in favor of this measure. Neither the gentleman from the Chicago district, nor his constituents, can have any interest in the matter.

Mr. WASHBURNE. I trust that my colleague [Mr. KELLOGG] will not press this matter, for the reason which I have stated. The entire bar of Chicago has protested against this measure; and I have filed remonstrances for more than two hundred and fifty citizens of those two counties against it. I have never heard any complaint against the present apportionment, and I see no reason for the proposed change. I trust that, under the circumstances, my colleague will not press this bill to a vote now. If he does, I will feel it my duty to move to postpone its consideration to some subsequent time or to the next session of Congress. I am opposed to it myself, as one of the Representatives from Illinois. My colleague [Mr. RICHARDSON] speaks of lawyers petitioning for it. Sir, it is not the interest of lawyers that is represented here. It is the interest of suitors, and of the people generally, and two hundred and fifty of these have remonstrated against this bill. And if the wish of lawyers is to have any influence here, I may cite the fact that the entire bar of Chicago is opposed to this bill. I know no reason why, under this state of facts, this legislation should be had. I trust my colleague will let the matter go over till the gentleman from the Chicago district comes back.

Mr. RICHARDSON. For the first time, I learn that there is opposition in my district, in these two counties, to the proposed change. It may be so.

Mr. WASHBURNE. Yes, sir; that is so.

Mr. RICHARDSON. I know the fact, and I state it upon my responsibility, that there are not in these two counties, having a voting population of some eight or ten thousand, to be had, upon a fair presentation of the case, one hundred voters opposed to the change. I stated the fact that the petition came up here, and that upon that petition was the name of every member of the bar of every political party in these two counties.

Now, I suppose the members of the bar residing in these two counties would be quite as likely to understand the interests of the suitors there as those who live two hundred and fifty miles away from them. What interest is it to the members of the bar in Chicago that they should control the business convenience of the people who live two hundred and fifty miles away from them?

It is true, as my colleague who is on the Judiciary Committee [Mr. KELLOGG] says, that the cases taken to Chicago, where there is a large amount of business in court, are not attended to, and cannot be so properly attended to, as they can be in the southern district. That is one of the motives which prompt the members of the bar living in these two counties to desire this change in their place of doing business.

It may be, and I doubt not is, the interest of the members of the bar at Chicago to exclude from those living in this remote part of the district the power of the prompt transaction of their business. That they are opposed to this change, I entertain no sort of doubt. But it is a question that concerns the convenience and interest of my constituents, and I speak for them here when I say that ninety-nine out of every hundred of them desire the change to be made. I am very thankful, certainly, to my colleagues coming from another quarter of the State for looking so much to the welfare of my constituents. I am very much obliged to my colleague.

Mr. WASHBURNE. I only state the fact of this remonstrance of two hundred and fifty of the gentleman's constituents against the bill. My colleague cannot divest himself of that fact. He can see the petition itself by referring to the files of the Judiciary Committee. I desire to say in reply to the last remark of my colleague, that my constituents have the same right, if they deem their interest to be affected, or if they deem a bill to be against the public interest, to be heard as the constituents of the gentleman.

Mr. RICHARDSON. I do not deny that.

Mr. WASHBURNE. I know the gentleman does not deny it; but I say if he does, I claim the same right for my constituents that he does for his. I repeat, that I do not know what interest can be subserved by setting off these two counties, and especially when there is a remonstrance of two hundred and fifty of the citizens of these counties against it.

ENROLLED BILLS.

Mr. GRANGER, from the Committee on Enrolled Bills, reported that the committee had examined and found truly enrolled an act (H. R. No. 438) to grant pensions, and an act (H. R. No. 187) to authorize an additional issue of United States notes, and for other purposes; to which the Speaker thereupon affixed his signature.

ILLINOIS JUDICIAL DISTRICTS—AGAIN.

Mr. KELLOGG, of Illinois. I do not think this little matter should have taken up as much time as has already been consumed upon it. I further do not think there is anything in it that could properly elicit any exhibition of feeling upon the part of my colleagues.

Now, sir, in reference to the suggestion of my colleague [Mr. WASHBURNE] that the bill be postponed, I have to say, that when this matter was before the Judiciary Committee, I procured the consent of the committee that the gentleman from the Chicago district [Mr. ARNOLD] and the gentleman from the Quincy district, [Mr. RICHARDSON,] who seemed to have special interest in the matter, should be heard. The matter was delayed from time to time, and these gentlemen were heard before the committee. Afterwards I was directed to report to the House, and the bill has lain upon my desk ready to report for more than a month. From day to day, as there was a prospect of the Judiciary Committee having the opportunity to report, I notified gentlemen upon both sides that I was directed to report it. I have done what it seemed to me my duty and the duty of the committee in this matter, and I shall not consent to the postponement, and I hope the House will dispose of the matter finally at this time.

Mr. WASHBURNE. I ask my colleague to allow me to make a motion to postpone.

Mr. KELLOGG, of Illinois. No, sir; I desire to finish this bill now, if I can.

Mr. LOVEJOY. I simply desire to suggest that, as I understand this bill, if it is passed, it will become necessary ultimately, in order to make the district square, to cut off a row of counties all the way across the State; and in that way it may affect the districts of several of us.

Mr. KELLOGG, of Illinois. In relation to this configuration of districts, that is all a matter of moonshine. The facts in relation to the condition of these counties are simply these: they are in the extreme southwestern portion of the northern district, and a very considerable distance from Chicago further than they are from Springfield. A few years ago it was more convenient for that part of the State to go to Chicago than it was to Springfield, because there was a communication by railroad to Chicago, while there was not to Springfield. Since that time, however, railroad communication has been completed to Springfield, and it is now as convenient to go to Springfield as it is to Chicago.

Mr. RICHARDSON. And cheaper.

Mr. KELLOGG, of Illinois. And cheaper, probably, because it is nearer. That portion of the State which includes these two counties is in the central division of our State for judicial purposes. The session of our supreme court that has cognizance of the business of these two counties sits in Springfield. Hence it is very convenient for lawyers and suitors to do their judicial business now in Springfield rather than at Chicago.

Now, sir, in relation to this bill I have not the slightest interest in it or feeling about it. One of the counties adjoins the county in which I live; the other adjoins that county on the west. So far as the feeling of the lawyers are concerned, I must say in truth, that they make up most of the feeling in the case. The Chicago lawyers desire the business done at Chicago. The lawyers of these two counties desire to do their business where it is most convenient to them and to the suitors to do it. I think they should be gratified rather than the lawyers of Chicago.

It is said there is a petition of two hundred and fifty persons from the county of McDonough. I have never seen that petition, but I presume it is, as my colleague states, on the files of our committee.

Mr. WASHBURNE. I did not say there was no such a petition from the county of McDonough. The petition was signed by citizens of both counties. It was before the gentleman's committee, and I am surprised my colleague has not seen it.

Mr. KELLOGG, of Illinois. My colleague says there is such a petition. I have not seen it, but I doubt not he states correctly. There are the petitions of the lawyers and leading men of these two counties, pretty unanimous in favor of the change to the southern district. Yesterday, I think it was, I saw a distinguished gentleman from McDonough county, standing among the first in the bar of that county. I conversed with him in relation to it, and he said there was little feeling among the people upon the subject, that he had signed the petition in favor of the transfer of these two counties, and that the bar of the two counties were nearly unanimous. He thought it was just to do so; and that the more confirmed me, if it was necessary, in my opinion of the justness of this measure.

Now, Mr. Speaker, I will not detain the House longer.

Mr. RICHARDSON. Permit me to inquire if that was not a gentleman from McDonough county?

Mr. KELLOGG, of Illinois. Yes, sir.

Mr. RICHARDSON. Who stands opposed to my political sentiments.

Mr. KELLOGG, of Illinois. I presume he does, *slightly*. But I do not at all consider this as a political question.

Mr. RICHARDSON. Of course not; neither do I.

Mr. KELLOGG, of Illinois. If it is a political question I do not know it. My action is governed entirely by this consideration: knowing the locality of the two counties, I do know that it is quite as convenient, and I think a little more convenient, for the inhabitants to do their business at Springfield than it is at Chicago. I think the members of the bar pretty generally desire the change, and I think there is no objection to this measure, substantially, except from the lawyers in Chicago. With this statement to the House of facts, I move the previous question upon the passage of the bill.

Mr. WASHBURNE. I appeal to my colleague; I know his courtesy, and I only ask him to mete out to our colleague, who is absent, the same courtesy he would ask to have extended to himself. I know the gentleman from the Chicago district spoke to me in relation to this matter, that he felt a great interest in it, and he expressed the hope that it would not be brought up in his absence.

Mr. KELLOGG, of Illinois. I know the interests of the Chicago district will not suffer in the hands of my colleague from the Galena district. If I thought it of very great importance to the country that the gentleman from Chicago should be here, I should be disposed to postpone this matter; but when I see that interest so fully represented by my colleague upon the left, I cannot see that the country demands that more time should be taken up upon this subject.

Mr. WASHBURNE. If my colleague insists upon that, I hope the House will not second the demand for the previous question, but will postpone the consideration of this bill.

Mr. KELLOGG, of Illinois. I move the previous question upon the third reading of the bill.

On a division, there were—ayes 45, nays 27; no quorum voting; whereupon,

Mr. WASHBURNE demanded tellers.

Tellers were ordered; and Messrs. WASHBURNE and RICHARDSON were appointed.

The House divided; and the tellers reported—ayes 50, noes 28; no quorum voting.

Mr. RICHARDSON moved that there be a call of the House.

The motion was agreed to.

The roll was then called, when the following members failed to answer to their names:

Messrs. Arnold, Baily, Francis P. Blair, Burnham, Campbell, Conway, Covode, Delano, Delaplaine, Diven, Edgerton, Fenton, Fisher, Franchot, Gooch, Haight, Hale, Hanchett, Harrison, Hickman, Horton, Johnson, Julian, Francis W. Kellogg, Kerrigan, Killinger, Leary, McKean, Marston, Nixon, Noble, Norton, Odell, Pomeroy, Price, James S. Rollins, Smith, Stevens, Francis Thomas, Vallandigham, Vandever, Van Horn, Van Valkenburgh, Van Wyck, Vibbard, Wadsworth, Chilton A. White, Wood, and Woodruff.

A quorum having answered to their names,

Mr. MORRIS moved to dispense with all further proceedings under the call.

The motion was agreed to.

The question recurring upon seconding the demand for the previous question, the tellers resumed their places; and the House having divided, the tellers reported—ayes 65, noes 37.

So the previous question was seconded.

The main question was ordered to be put, and under the operation thereof the bill was ordered to be read a third time; and it was accordingly read the third time.

Mr. WASHBURNE demanded the yeas and nays upon the passage of the bill.

The yeas and nays were ordered.

The question was put; and it was decided in the affirmative—yeas 80, nays 37; as follows:

YEAS—Messrs. Aldrich, William Allen, William J. Allen, Ancona, Baker, Biddle, Bingham, Jacob B. Blair, George H. Browne, William G. Brown, Calvert, Casey, Chamberlin, Clements, Cobb, Roscoe Conkling, Corning, Cox, Cravens, Crisfield, Crittenden, Cutler, Dunlap, Dunn, Edwards, English, Fouke, Goodwin, Grider, Harding, Jackson, William Kellogg, Knapp, Lansing, Law, Lazear, Lehman, Loomis, Low, McKnight, Mallory, May, Menzies, Mitchell, Morris, Noell, Nugen, Patton, Pendleton, Perry, John S. Phelps, Timothy G. Phelps, Porter, Richardson, Robinson, Edward H. Rollins, Segar, Shanks, Shellabarger, Sherman, Shiel, Sloan, John B. Steele, William G. Steele, Stiles, Stratton, Benjamin F. Thomas, Francis Thomas, Train, Trimble, Voorhees, Wall, Wallace, Ward, Webster, Whaley, Albert S. White, Wickliffe, Wilson, and Wood—80.

NAYS—Messrs. Ashley, Babbitt, Baxter, Beaman, Samuel S. Blair, Blake, Buffinton, Clark, Colfax, Frederick A. Conkling, Duell, Eliot, Ely, Granger, Hooper, Hutchins, Kelley, Lovejoy, McPherson, Moorhead, Anson P. Morrill, Justin S. Morrill, Olin, Pike, Alexander H. Rice, John H. Rice, Riddle, Sargent, Sedgwick, Sheffield, Trowbridge, Van Horn, Verree, Walton, Washburne, Windom, and Worcester—37.

So the bill was passed.

Mr. KELLOGG, of Illinois, moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

PERRY E. BROCCHUS.

Mr. PORTER. I am instructed by the Committee on the Judiciary to report back, with a recommendation that it do pass, House resolution (No. 80) for the relief of Perry E. Brocchus.

The bill, which was read, authorizes the Secretary of the Treasury to pay to Perry E. Brocchus, out of any appropriation for the payment of the salaries of the judicial officers of the United States for the Territory of New Mexico, the sum of $664, being the amount of his salary as associate justice of the Territory of New Mexico, from the 24th day of January, 1861, to the 30th of April, of the same year.

Mr. HOLMAN. Is there any report accompanying that resolution?

Mr. ELIOT. Has the morning hour expired?

The SPEAKER. It has.

Mr. ELIOT. I move that the House proceed to the business upon the Speaker's table.

Mr. PORTER. I hope the gentleman will allow me to proceed with this matter, as it will consume but a few moments.

Mr. ELIOT. I will withdraw my motion.

Mr. PORTER. Judge Brocchus, for whose relief this resolution was introduced, was appointed and confirmed as judge of the supreme court of the Territory of New Mexico, in January, 1861. His appointment came from Mr. Buchanan. He did not receive his commission until about the middle of February, 1861, in consequence of its being in the possession of Mr. Otero, Delegate from New Mexico, who neglected to hand it to him. He accepted the appointment early in March, 1861, and was preparing to go to the Territory of New Mexico to assume the duties of judge, when he was superseded by the appointment of a successor.

The reason, it is believed, why he did not go to the Territory of New Mexico and assume the duties of his office until thus superseded, was that the winter was so excessively severe as to prevent persons from crossing the country. I am so informed by the Delegate from New Mexico.

By the law establishing the Territory of New Mexico it is provided that the chief justice and the associate justices, and all other officers of the Territory, before they act, shall take an oath or affirmation before certain specified officers, all of whom are residents within the Territory. Judge Brocchus, therefore, could not assume the functions of his office until he had been qualified as judge in the Territory of New Mexico, and in consequence of not having been qualified in the Territory, the payment of his salary, from the time of his appointment until the time he was superseded, was refused at the Treasury Department. They admit that the claim is an equitable one, but they say, in consequence of his not having taken the oath in the Territory of New Mexico, he cannot, under the strict letter of the law claim compensation from the time of his appointment to the time he was superseded.

Mr. HOLMAN. I understand the gentleman from Indiana to state that he regards this claim as an equitable one. Now, let me ask him a question. Did this claimant leave the State from which he was appointed, and go out to the Territory of New Mexico to discharge the duties of judge in that Territory?

Mr. PORTER. I have already stated that he did not go there.

Mr. HOLMAN. If he never went there, then, and never rendered any service to the Government, what equity is there in appropriating this money for his benefit?

Mr. PORTER. This claimant had made all his preparations to leave for New Mexico; and gentlemen will remember that traveling to that Territory is a very costly undertaking. He had provided himself with everything that was necessary, and he was about to proceed to the Territory of New Mexico to enter upon the discharge of the duties of his office, when he was superseded by the appointment of a successor. He alleges that the expense which he was put to in making preparations was more than the salary which it is now proposed to pay him.

Mr. F. A. CONKLING. What is the amount that is proposed to be paid to him?

Mr. PORTER. Six hundred dollars.

Mr. HUTCHINS. I understand that this judge never went to the Territory, and never rendered any services at all; and I do not see, therefore, why we should appropriate this money for him, unless as a gratuity.

Mr. F. A. CONKLING. I make the point of order that the bill makes an appropriation, and must, therefore, under the rules, have its first consideration in a Committee of the Whole House.

The SPEAKER. The bill provides for money to be paid out of an appropriation already made, and the Chair has frequently decided that such are not appropriation bills under the provision of the rule referred to by the gentleman from New York.

Mr. MAYNARD. Did this claimant leave for the Territory of New Mexico when he was appointed?

Mr. PORTER. He did not; but he had prepared to go, and was just ready to proceed at the time he was superseded by a successor.

Mr. McPHERSON. Did the commission ever come into his hands?

Mr. PORTER. He was appointed on the 24th of January, 1861. His commission did not reach him until the middle of February, and soon afterwards, on the 1st of March, he accepted it. He was about to proceed to the Territory of New Mexico, when, on the 30th of April, he was notified that a successor had been appointed.

Mr. TROWBRIDGE. Is it the practice of the Government to pay officers before they accept their commissions?

Mr. PORTER. It is the uniform practice of the Government to pay them from the time of their appointment and confirmation. It has been decided at the Department that he cannot be paid, simply from the fact that he could not take the oath of office here, but had to go to the Territory of New Mexico to take it, and that, until he took the oath of office, he could not execute the functions of the office. They admit, if he had taken the oath of office, that he would have been entitled to salary from the time of his appointment and confirmation. I now demand the previous question.

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

Mr. BLAKE moved to lay the bill upon the table.

On a division, there were—ayes thirty-two, noes not counted.

Mr. PORTER demanded tellers.

Tellers were ordered; and Messrs. BINGHAM and F. A. CONKLING were appointed.

The bill was laid upon the table; the tellers having reported—ayes sixty-two, noes not counted.

PAY OF ARMY OFFICERS, ETC.

Mr. ELIOT. I move that the House proceed to the consideration of business on the Speaker's table.

The motion was agreed to.

The SPEAKER laid before the House a message from the Senate notifying the House that it had adopted the report of the committee of conference on the disagreeing votes between the two Houses on Senate bill No. 175, to define the pay and emoluments of certain officers of the United States Army, and for other purposes.

Mr. OLIN. I wish to state, in reference to that report, that the committee of conference, in considering bill of the Senate No. 175, and the amendments proposed to it by the House, were entirely agreed as to the modification of the bill, which was demanded by the present condition of the country; but there were certain provisions in the bill which the Senate had enacted that it was found

absolutely necessary to change. I will call the attention of the House to those sections of the bill which the Senate agreed to, and which it was found indispensably necessary to change.

We had agreed upon amendments in controversy between the two Houses, but it had nevertheless left the bill in a situation in respect to certain provisions which would render it necessary, in drawing up the bill, to repeal sections enacted by common consent of both Houses. It was agreed by the committee that the House should adhere to its amendments, and that the Senate should adhere to its amendments to the amendments of the House. The effect would be to kill the bill if the House concurred in the report of the committee. It was then agreed that the Senate should immediately draw up a bill proposing mostly the provisions which the Senate and House had agreed to, with the exception of one or two sections of the bill, which it was found to be absolutely necessary to repeal. One section was in reference to the number of paymasters in the Army of the United States, volunteer and regular. The Secretary of War wrote a letter to the Military Committees of both Houses, asking that the number of paymasters should be limited. A bill, in pursuance of that recommendation, was reported limiting the number of paymasters, and was concurred in by both Houses. But before that concurrence was perfected, the Paymaster General and the Secretary of War found that they had made an egregious mistake; and they asked that it might be remedied in the best way possible. They had asked both Houses of Congress to reconsider the vote increasing to a considerable extent the number of paymasters in the Army, and it had been found by actual experience that the number of paymasters then existing was unable to discharge the duties imposed upon them. This is one of the cases in which both Houses of Congress concurred, when it was found absolutely necessary to alter the provisions of the existing bill.

The other was in reference to chaplains in the volunteer service. We have agreed to certain measures in regard to that branch of the service that it was thought desirable on the whole to alter. The provisions of the bill agreed upon by the committee, and, I think, concurred in by the votes of both Houses of Congress, would reduce the pay and emoluments of the chaplains in the volunteer service and in the regular Army to a considerable amount. This question involves a great deal of embarrassment. Chaplains who entered the volunteer service, entered it under the act of August last, which made the pay and emoluments of a chaplain in the volunteer service about equal to the pay and emoluments of a captain of cavalry in the regular Army, amounting to something like eighteen hundred dollars per annum. Under the provisions of that bill, whoever went into the service as a chaplain went into it under the implied promise of the Government that he should be paid that amount per annum. I ask the attention of the House for a moment to this question. A great many good men volunteered their services, irrespective of considerations of pay and emolument.

But it is also true that a very considerable number of men have entered the service of the Army as chaplains who are no credit to the service, either in the character of chaplains or in any other capacity. The bill as agreed upon by both Houses reduced the pay of chaplains in the volunteer service from $1,800 to $1,200 a year; but as experience has demonstrated the fact that some men have entered the volunteer service as chaplains who would serve the country better in any other capacity than that of clergymen, it was thought desirable that that section should be so amended as to provide that an examination shall be had of the volunteer chaplains now in the service as to their standing and character, and as to the manner in which they have performed their duties; and if it be found that any of them have not been regularly ordained, or cannot procure a certificate or indorsement of five respectable clergymen of the denominations to which they belong, or if they have neglected their duties, they are to be forthwith discharged from the service. The House knows, or ought to know, how much the Government is paying for the services of these chaplains. For every volunteer regiment in the service, a chaplain has been appointed, who is drawing something over eighteen hundred dollars a year; and although I know that some men have engaged in this service who have commanded a compensation equivalent to that from the congregations which they have left, yet I do affirm that not one out of ten of them ever received, or ever expected to receive, or ever would receive in any other capacity than that of chaplain in the volunteer service, a compensation of $1,800 a year.

Now, I do not wish to go into details in reference to the substitute which is recommended by the committee of conference. A bill embodying, with the two exceptions I have named, all the provisions agreed upon by the committee of conference, has been passed by the Senate and sent to the House. It will be found as Senate bill No. 383. Will gentlemen send for it, and look at it? It is the result of the agreement of the committee of conference upon the two bills which have been so long before the House.

Mr. WICKLIFFE. What did the committee of conference do with that beneficent provision cutting men off as unfit for service at sixty years of age?

Mr. OLIN. That has been adopted, with a provision that an officer may be restored to the service on account of his capacity and ability to serve the country. I was not originally in favor of that provision, knowing, as I did, that some officers of that age, both in the Army and in the Navy, were as capable of serving the country as some men of fewer years; yet it has been found by experience to be an act of necessity, in order to rid the service of men who are wholly incompetent for the positions they occupy, but who have nevertheless been retained in the service by the various examining boards before whom they have appeared, and which have passed upon their cases. The Senate and House have, with great unanimity, retained that provision in the bill, and although it may seem to operate with severity in particular cases, it is deemed an act of necessity, and of the gravest importance.

Mr. FESSENDEN. I desire to ask the gentleman a question.

The SPEAKER. The gentleman is discussing a bill which is not before the House. The report of the committee of conference must be acted on before the bill from the Senate can be taken up. If the report shall be agreed to, it will defeat the original bill. The Senate has already agreed to the report. The question is, will the House agree to the report?

The report of the committee of conference was agreed to.

By unanimous consent, bill of the Senate No. 283, to define the pay and emoluments of certain officers of the Army, and for other purposes, was taken from the Speaker's table, and read a first and second time.

The bill was then read in full.

Mr. OLIN. Mr. Speaker, I will state now, without going into particulars, that this bill is in substance the one which was prepared by the joint commission created by the act of August last, who, among other things, looked into the Army regulations and the provisions in reference to the pay and emoluments of officers of the Army to see wherein it was possible to reduce the expenses of the Government. The substance of the bill drawn up by that commission has been incorporated in this bill.

There is not a provision in the whole bill, with the exception of two sections, that has not met the approbation of both Houses of Congress substantially, and every section of it has been discussed here with as much ability as the House could bring to the consideration of the subjects involved. The two sections I have already adverted to. The first is in reference to the number of paymasters in the volunteer service. The bill originally imposed a limitation upon the number to be appointed, and the Department finds it absolutely necessary that the number should be increased. The other is the provision in reference to chaplains. Both Houses had agreed to the reduction of the salary of chaplains in the volunteer service to $1,200, but they had not made that provision which the committee of conference agreed ought to be inserted in this bill, and which is in this bill—a provision for an examination of the men now acting as chaplains, so that the services of those who are found to be engaged in playing cards and drinking whisky shall be dispensed with.

Now, I might go into details to inform the House how the various amendments proposed by the House to the original Senate bill were disposed of, but I think that in every instance where any question of any considerable interest was involved, the Senate committee gave way and agreed to the provisions of the bill as the House passed it. I may mention one instance. The original Senate bill provided that whenever an officer holding brevet rank in the Army should be assigned to duty corresponding to his brevet rank, he should not receive the pay and emoluments that he would be entitled to if exercising a command corresponding to his brevet rank; in other words, they left in force the system of conferring brevet rank for distinguished services in the field, but took away the pay and emoluments of brevet rank when the officer was assigned to duty corresponding with his brevet rank. The House with great unanimity rejected that provision. The Senate recedes from that.

Mr. COLFAX. I suggest to the gentleman from New York that he move the previous question on the bill, and let us pass it.

Mr. OLIN. I will do so. I only wish to say further that the bill, if enacted, will save the Government, if this war continues, something more than eleven million dollars. I now move the previous question.

Mr. WICKLIFFE. Oh, no; no one is opposed to this bill. Let us pass it without the previous question. I want to see one bill pass this Congress without the previous question.

Mr. OLIN. Very well, sir.

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

Mr. SHERMAN. I demand the yeas and nays on the passage of the bill. I consider it a nefarious bill.

The yeas and nays were not ordered.

The bill was passed.

Mr. McPHERSON moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider upon the table.

The latter motion was agreed to.

CONFISCATION.

House bill No. 471, to confiscate the property of rebels for the payment of the expenses of the present rebellion, with the Senate amendments thereto, was taken from the Speaker's table.

Mr. ELIOT. I move that the House insist upon its disagreement to the Senate amendments, and agree to the committee of conference.

Mr. PHELPS, of Missouri. I move that the House do now adjourn.

The motion was not agreed to.

No quorum voting on Mr. ELIOT's motion,

Mr. ELIOT moved that there be a call of the House.

Mr. WASHBURNE. On that I call for the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 62, nays 50; as follows:

YEAS—Messrs. Aldrich, Alley, Ashley, Babbitt, Baxter, Beaman, Bingham, Jacob B. Blair, Samuel S. Blair, Blake, Buffinton, Casey, Chamberlin, Clark, Colfax, Covode, Crisfield, Davis, Dawes, Duell, Dunlap, Dunn, Eliot, Ely, Fessenden, Fisher, Grider, Hooper, Hutchins, Julian, Kelley, William Kellogg, Lovejoy, Low, McKnight, Mitchell, Anson P. Morrill, Noell, Olin, Perry, Timothy G. Phelps, Pike, John H. Rice, Sargent, Shanks, Shellabarger, Sloan, Spaulding, Stevens, Stratton, Francis Thomas, Trowbridge, Van Horn, Verree, Wall, Walton, Webster, Wheeler, Albert S. White, Wilson, Windom, and Worcester—62.

NAYS—Messrs. William Allen, William J. Allen, Ancona, Biddle, George H. Browne, Calvert, Clements, Cobb, Frederick A. Conkling, Roscoe Conkling, Corning, Cravens, Edwards, Fouke, Frank, Goodwin, Haight, Hale, Hall, Holman, Kerrigan, Knapp, Law, Lehman, Loomis, McPherson, May, Maynard, Menzies, Morris, Odell, John S. Phelps, Potter, Alexander H. Rice, Richardson, Robinson, Edward H. Rollins, James S. Rollins, Segar, Sheffield, John B. Steele, William G. Steele, Stiles, Benjamin F. Thomas, Train, Voorhees, Ward, Washburne, Wickliffe, and Wood—50.

So a call of the House was ordered.

During the call of the roll,

Mr. TROWBRIDGE stated that his colleague, Mr. GRANGER, was absent on public business.

Mr. MOORHEAD (having been absent when his name was called) asked leave to vote.

Mr. PHELPS, of Missouri, objected.

Mr. ELIOT. I move to dispense with all further proceedings under the call.

Mr. PHELPS, of Missouri, demanded the yeas and nays.

The yeas and nays were not ordered.

Mr. ALLEN, of Ohio. I move that the House do now adjourn; and on that I call for tellers.

Tellers were ordered; and Messrs. ALDRICH and CRISFIELD were appointed.

The House divided; and the tellers reported—ayes 43, noes 67.

Mr. ALLEN called for the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 29, nays 78; as follows:

YEAS—Messrs. William Allen, Biddle, Jacob B. Blair, George H. Browne, Cobb, Corning, Dunlap, English, Fessenden, Grider, Hall, Holman, Law, Lehman, May, Maynard, Menzies, Mitchell, Odell, Olin, Perry, James S. Rollins, Sherman, John B. Steele, Stiles, Train, Voorhees, Webster, and Wickliffe—29.

NAYS—Messrs. Aldrich, Alley, Ashley, Babbitt, Baxter, Beaman, Bingham, Samuel S. Blair, Blake, William G. Brown, Buffinton, Campbell, Casey, Chamberlin, Clark, Clements, Colfax, Frederick A. Conkling, Roscoe Conkling, Crisfield, Cutler, Dawes, Duell, Dunn, Eliot, Ely, Fenton, Fouke, Gooch, Goodwin, Granger, Gurley, Hooper, Hutchins, Julian, Kelley, Knapp, Lazear, Loomis, Lovejoy, Low, McKnight McPherson, Moorhead, Anson P. Morrill, Justin S. Morrill, Nugen, Patton, Timothy G. Phelps, Pike, Porter, Potter, Alexander H. Rice, John H. Rice, Riddle, Edward H. Rollins, Sargent, Sedgwick, Shanks, Sheffield, Shellabarger, Sloan, Spaulding, Stevens, Stratton, Benjamin F. Thomas, Trimble, Trowbridge, Van Horn, Verree, Wall, Walton, Washburne, Wheeler, Whaley, Albert S. White, Wilson, and Windom—78.

So the House refused to adjourn.

During the roll-call,

Mr. NOELL stated that his colleague, Mr. NORTON, had paired off with Mr. POMEROY.

Messrs. COX, JACKSON, and MALLORY (not having been within the bar when their names were called) asked leave to vote.

Objection was made.

The motion of Mr. ELIOT was agreed to, and all further proceedings under the call were dispensed with.

The question recurred on Mr. ELIOT's motion to insist on the disagreement of the House to the Senate amendments, and to agree to the committee of conference asked for.

The motion was agreed to.

Mr. ELIOT moved to reconsider the vote by which the motion was agreed to; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. FORNEY, its Secretary, requested the return to the Senate of House bill No. 438, granting pensions, for the purpose of correcting errors in engrossing amendments. The request of the Senate was complied with.

DISTRIBUTION OF DOCUMENTS.

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

Mr. McPHERSON. I ask the gentleman to yield that I may make a privileged report.

Mr. COX. Certainly.

Mr. McPHERSON. I am directed by the Joint Committee on the Library to report back joint resolution (H. R. No. 100) providing for the distribution of certain books and public documents now in the Department of the Interior.

The SPEAKER. That is not a privileged report.

Mr. McPHERSON. Then I ask unanimous consent to report it back.

Mr. TRAIN. I object.

CIVIL APPROPRIATION BILL.

Mr. STEVENS. Will the gentleman from Ohio withdraw his motion to adjourn till I make a report from a committee of conference?

Mr. COX. Certainly. I will yield for anything that will expedite the closing of this session.

Mr. STEVENS, from the committee of conference on the disagreeing votes of the two Houses to House bill No. 393, making further appropriations for sundry civil expenses of the Government for the year ending June 30, 1863, reported that, after full and free conference, the committee had agreed to recommend that the House recede from its disagreement to the second amendment of the Senate, and agree to the same; that the House recede from its disagreement to the Senate's ninth amendment, and agree to the same with an amendment to strike out, in line five, the word "twenty-five," and insert, in lieu thereof, the word "twenty-eight;" and to strike out, in line seven, the word "twenty-eight," and insert, in lieu thereof, the word "thirty;" that the Senate recede from its tenth amendment, and from its disagreement to the amendment of the House to its eighth amendment, and agree to the same with an amendment, striking out all after the word "be," in line five, and inserting in lieu thereof the words "$4,000 a year, to commence on the 1st day of January, 1862."

The question was taken; and the report of the committee of conference was agreed to.

Mr. WICKLIFFE moved to reconsider the vote by which the report was agreed to; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

FINAL ADJOURNMENT.

Mr. WICKLIFFE asked unanimous consent to offer the following resolution:

Resolved, (the Senate concurring,) That this Congress will adjourn on the 14th of July, at twelve o'clock, m.

Objection was made.

And then, on motion of Mr. WASHBURNE, (at three o'clock and forty-five minutes, p. m.,) the House adjourned.

IN SENATE.

WEDNESDAY, *July* 9, 1862.

Prayer by the Chaplain, Rev. Dr. SUNDERLAND.

The Journal of yesterday was read and approved.

COURTS IN WEST TENNESSEE.

Mr. FOSTER. The Committee on the Judiciary, to whom was referred House bill No. 556, to change the place of holding the circuit and district courts of the United States for the district of West Tennessee, have instructed me to report it back without amendment, with a recommendation that it pass. It is merely for the purpose of changing the place of holding the courts of the United States within that district, and is I suppose somewhat important in consequence of the difficulties in that State. The committee instruct me to ask that the bill be put upon its passage.

There being no objection, the bill (H. R. No. 556) to change the place of holding the circuit and district courts of the United States for the district of West Tennessee was considered as in Committee of the Whole. It provides that hereafter the circuit and district courts of the United States for the district of West Tennessee, shall be holden on the first Mondays in April and October, in the town of Huntingdon, in the county of Carroll, instead of the town of Jackson, the place heretofore fixed by law. All process, civil and criminal, which may have been, or hereafter may be, issued, returnable to the courts at Jackson, is to be returned at Huntingdon; and all books and records of every kind, pertaining to the courts, are to be transferred from Jackson to Huntingdon.

The bill was reported to the Senate, ordered to a third reading, read the third time, and passed.

SETTLEMENT OF NEGROES IN WEST INDIES.

Mr. FOSTER. The same committee, to whom was referred the bill (S. No. 385) to amend an act entitled "An act to amend an act entitled 'An act in addition to the acts prohibiting the slave trade,'" have instructed me to report it back without amendment, and to recommend that it do pass.

This bill, Mr. President, has reference to granting authority to the President of the United States to make contracts with foreign Governments in regard to recaptured Africans taken on the high seas, with a view of having them transported to any of the West India islands, or other tropical regions where the foreign Governments owning the islands are disposed to receive and provide comfortably and properly for these recaptured Africans for a period of time to be agreed upon. The present law on the subject authorizes the President to make this arrangement with the American Colonization Society, and to transport them to Liberia for this purpose. It entails upon the Government a very great amount of expense, and sometimes great delay. This bill has reference to entering into an arrangement with the Government of Denmark, through their minister here, and having these persons under certain circumstances sent to the island of Santa Cruz. It is believed that they will be in all respects as well received and provided for there as any where that the Government can dispose of them, and it is thought it will save the Government a very great amount of expense. The bill has been prepared under the eye of one of the Departments. It is short; it is important that it should be passed before the next session, because if recaptured Africans are thrown upon our hands, it will be very desirable to have this additional power given to the President in respect to disposing of them. It does not repeal existing laws, and if, in the judgment of the Executive, it shall be deemed best to continue the arrangement with the Colonization Society, and send them to Liberia, this bill will not interfere with it. It will enlarge his powers. I think it is desirable that it should pass. I ask for its consideration at this time.

Mr. KING. I should like to hear the bill read.

Mr. FOSTER. Of course it will be read.

The PRESIDENT *pro tempore*. It will be read as a matter of course. The Chair asks if there be unanimous consent to its consideration at this time.

Mr. KING. I suppose that involves the question of acting on it finally now, and I desire to hear it before I give that consent.

The PRESIDENT *pro tempore*. The bill will be read for information.

The Secretary read the bill. It provides that it may be lawful for the President of the United States to enter into arrangement, by contract or otherwise, with one or more foreign Governments having possessions in the West Indies or other tropical regions, or with their duly constituted agent or agents, to receive from the United States, for a term not exceeding five years, at such place or places as shall be agreed upon, all negroes, mulattoes, or persons of color, delivered from on board vessels seized in the prosecution of the slave trade by commanders of United States armed vessels, and to provide them with suitable instruction, and with comfortable clothing and shelter, and to employ them, at wages, under such regulations as shall be agreed upon, for a period not exceeding five years from the date of their being landed at the place or places agreed upon; but the United States is to incur no expenses on account of the negroes, mulattoes, or persons of color, after having landed them at the place or places agreed upon. Any arrangement thus made may be renewed by the President from time to time, as may be found necessary or desirable, for periods not exceeding five years on each renewal. The President may issue instructions to the commanders of the armed vessels of the United States, directing them, whenever it shall be practicable, and under such rules and regulations as he shall prescribe, to proceed directly to such place or places as shall have been agreed upon with any foreign Government, or its duly constituted agent or agents, under this provision, and there deliver to the duly constituted authorities, or agents of such foreign Government, all negroes, mulattoes, or persons of color, delivered from on board vessels seized in the prosecution of the slave trade, afterwards taking the vessel and persons engaged in prosecuting the slave trade to the proper place for trial and adjudication.

Mr. CARLILE. I object to the consideration of the bill.

The PRESIDENT *pro tempore*. It will lie over under the rules.

WAR SERVICES OF NEGROES.

Mr. KING. I am instructed by the Committee on Military Affairs and the Militia to report a bill (S. No. 386) to provide for receiving into the service of the United States persons of African descent for work on intrenchments and other war services.

The bill was read the first time by its title.

Mr. KING. I ask that the bill be now read a second time at length, as I design to request that it be put upon its passage.

The PRESIDENT *pro tempore*. If there be no objection, the bill will be read the second time.

Mr. CARLILE and Mr. POWELL. I object.

Mr. COLLAMER. If the bill is to be referred to a committee, I think it ought to be read twice.

The PRESIDENT *pro tempore*. It is usual, when bills are introduced, to have them read a first and second time with a view to reference; but if objection be made to the second reading of a bill, it passes over under the rules of the Senate. No bill can be read twice on the same day except by unanimous consent.

Mr. COLLAMER. If this bill has been reported by a committee I have no objection to its going over without a second reading.

Mr. KING. This is a report from a committee. The committee were unanimous, except that one member had some doubts as to one section. I ask that the bill be printed.

The PRESIDENT *pro tempore*. The bill being reported by a committee, will be printed, as a matter of course.

ARMY CORPS AND STAFFS.

Mr. WILSON, of Massachusetts. The Committee on Military Affairs and the Militia direct me to report a bill which I wish to have put upon its passage now.

The bill (S. No. 388) providing for the organization of army corps, and of staffs attached to corps and divisions of the army of the United States, and for other purposes, was read the first time by its title.

The PRESIDENT *pro tempore*. By unanimous consent the bill will be read the second time at length.

The Secretary read the bill.

It proposes to authorize the President to establish and organize army corps according to his discretion. Each army corps is to have the following officers attached thereto, who are to constitute the staff of the commander thereof: one assistant adjutant general, one quartermaster, one commissary of subsistence, and one assistant inspector general, who shall bear, respectively, the rank of lieutenant colonel, and who shall be assigned from the army or volunteer force by the President; also three aids-de-camp, one to bear the rank of major, and two to bear the rank of captain, to be appointed by the President, by and with the advice and consent of the Senate, upon the recommendation of the commander of the army corps.

Each division of the forces of the United States, consisting of two or more brigades, is to have the following officers attached thereto, who are to constitute the staff of the permanent commander thereof: one assistant adjutant general and one assistant inspector general, who shall bear, respectively, the rank of major, and who shall be assigned from the Army or volunteer forces; also three aids-de-camp, to bear the rank of captain, to be appointed by the President, by and with the advice and consent of the Senate, upon the recommendation of the commander of the division. Any officers of the regular Army assigned and detached to staff duty, as thus provided, are, upon the cessation of such service, to resume their position in the regular Army, with the same rank and promotion as if they had continued to serve in their own regiments or corps. The senior officer of artillery in each army corps or division is, in addition to his other duties, to act as chief of artillery and ordnance at the headquarters of the corps or division.

The bill further provides that the cavalry forces shall hereafter be organized as follows: each regiment of cavalry shall have one colonel, one lieutenant colonel, three majors, one surgeon, one assistant surgeon, one regimental adjutant, one regimental quartermaster, one regimental commissary, one sergeant major, one quartermaster sergeant, one commissary sergeant, two hospital stewards, one saddler sergeant, one chief trumpeter, and one chief farrier or blacksmith. Each regiment is to consist of twelve companies or troops; and each company or troop is to have one captain, one lieutenant, one second lieutenant, one supernumerary second lieutenant, one first sergeant, one quartermaster sergeant, one commissary sergeant, five sergeants, eight corporals, two teamsters, two farriers or blacksmiths, one saddler, one wagoner, and seventy-eight privates. The regimental adjutants, the regimental quartermasters, and the regimental commissaries are to be taken from their respective regiments. The vacancies caused by this organization are not to be considered as original, but are to be filled by regular promotion.

The bill further provides that the President shall appoint, by and with the advice and consent of the Senate, a judge-advocate general with the rank, pay, and emoluments of a brigadier general. Into his office the records and proceedings of courts-martial and military commissions are to be returned for revision; and he is to keep a record thereof and of the proceedings thereon; and no sentence of death or imprisonment in the penitentiary is to be carried into execution until it shall have been approved by the President. It is further provided that there may be appointed by the President for each army in the field a judge-advocate, with the rank, pay, and emoluments of a colonel.

The PRESIDENT *pro tempore*. The bill is before the Senate as in Committee of the Whole.

Mr. SHERMAN. Has that bill been read the second time?

The PRESIDENT *pro tempore*. It has just been read the second time.

Mr. SHERMAN. I shall object to its being read the third time.

The PRESIDENT *pro tempore*. That will carry it over.

Mr. HALE. That, I suppose, will not prevent an amendment being made.

Mr. SHERMAN. As the bill has been read twice, I have no objection to its being considered now.

The PRESIDENT *pro tempore*. The bill is open to amendment.

Mr. HALE. I observe that the last section of the bill provides for the appointment of judges-advocate by the President. I move to amend it by inserting after the word "President," the words "by and with the advice and consent of the Senate."

Mr. WILSON, of Massachusetts. It is so now.

Mr. HALE. I do not understand it so. Let the Secretary read the last section about the judge-advocate.

The Secretary read, as follows:

And be it further enacted, That there may be appointed by the President for each army in the field a judge-advocate, with the rank, pay, and emoluments of a colonel, who shall perform the duties of a judge-advocate for the army to which he belongs, under the supervision of the judge-advocate general.

Mr. HALE. I move to insert after the word "President," the words "by and with the advice and consent of the Senate."

Mr. SHERMAN. I should like to inquire of the chairman of the Committee on Military Affairs whether a bill to organize division and brigade corps was not passed.

Mr. WILSON, of Massachusetts. We passed it here, but they have not passed it in the other House. It is mixed up with some other things, and it cannot get through there. After consultation with some members of the House, it is thought we can get this bill through there. I have taken out of it everything that I supposed anybody could oppose. There were two or three sections in the bill as we passed it which I have taken out.

The PRESIDENT *pro tempore*. The question is on the amendment proposed by the Senator from New Hampshire.

Mr. WILSON, of Massachusetts. Personally I have no objection to that amendment. On consultation with the Secretary of War in regard to it it was objected to, and it was said there was a reason why this section should be different from the other in that respect. However, if it is the Senator's desire to insert that amendment I do not object to it. I do not see how it can do any harm to have it in.

Mr. HALE. It cannot do any harm.

The amendment was agreed to.

Mr. GRIMES. I should like to hear the next section read.

Mr. HALE. That was the last.

Mr. GRIMES. There is one section there, if I am not mistaken, that raises the judge-advocate general, who has now the rank, pay, and emoluments of a major, up to a brigadier general, three grades higher. I want to move to strike that out. I have not heard of any necessity for such a change. I believe, so far as I know, the duties of that office are satisfactorily discharged by the person there with the rank of major.

The PRESIDENT *pro tempore*. The Senator from Iowa moves to strike out the following section which will be read, and will then be open to amendment.

The Secretary read the section proposed to be stricken out, as follows:

And be it further enacted, That the President shall appoint, by and with the advice and consent of the Senate, a judge-advocate general, with the rank, pay, and emoluments of a brigadier general; that the records and proceedings of courts-martial and military commissions shall be returned to the office of the judge-advocate general for revision, and the judge-advocate general shall keep a record thereof, and of the proceedings had thereon; and no sentence of death or imprisonment in the penitentiary shall be carried into execution until the same shall have been approved by the President.

Mr. GRIMES. That section merely reënacts what is already the law, with the exception that it fixes the rank of the judge-advocate general.

Mr. WILSON, of Massachusetts. I hope the Senate will not adopt that amendment. If they do, I would just as soon abandon the bill. The truth is, I was sent for to go to the War Office yesterday to have a consultation on that very point, and the importance of it is beyond all my power of expression. I cannot state its importance to the Senate. The intention is to reform abuses that exist in the Army, and to put a man in there of unquestioned capacity and loyalty, to whom is to be intrusted the very high and important duties of revising and looking over what is done in the field. The abuses existing in the Army with regard to these courts-martial, the inconsistencies and the want of system among them are very marked, and the object of this section is to make a reform. It may add a very few dollars to the expenses of the office; but I do not believe that it will add to the expenses of the country in the general administration of the Army. I know the Government is very anxious and desirous to have it passed.

Mr. HALE. The reforms that have been introduced, such as the honorable Senator from Massachusetts proposes to introduce here, have been to raise the rank, pay, and emoluments of the officer holding the position. That is the whole of it.

Mr. WILSON, of Massachusetts. No, sir.

Mr. HALE. I am not going to say how it will be in the future. I am only speaking of what has been in the past. That has been the past experience of the Government. Now, sir, I think the judge-advocate should not be an officer of the Army. He should neither have the pay nor the emoluments nor the feathers of a brigadier general; but he should be what the law contemplates his being, a legal character, a legal mind, to preside at the courts, and advise them as to what the law is. I hope the amendment of the Senator from Iowa will prevail. The whole idea of connecting a judge-advocate with military rank, position, and emolument, is totally wrong. There ought not to be any such thing. I hope the amendment will prevail.

The amendment was agreed to.

Mr. SHERMAN. I move that the bill lie on the table for the present.

Mr. WILSON, of Massachusetts. I have no objection to let the bill lie on the table after the vote that has been just taken. There are some very important provisions in it, but I suppose it is impossible to get any reform in this branch.

The PRESIDENT *pro tempore*. A single objection to the third reading of the bill to-day, carries it over.

CONSTITUTIONAL QUORUM.

Mr. SHERMAN. I move to take up the resolution in regard to a quorum. I desire simply to have a vote by yeas and nays upon it. It is very important that that question should be determined now, in order to enable the Committee on Finance to report on the question of the final adjournment, if that resolution should be adopted.

Mr. DOOLITTLE. I desire to make a report.

Mr. SHERMAN. I hope that now, while the Senate is full, we may take up that resolution, and if I have the floor I will move to postpone all prior orders, with a view to take it up. I simply desire to state that, if that resolution be adopted, I am authorized to report the resolution fixing the day of adjournment; but if it is not, we cannot fix the day of adjournment, when the sickness of a single member or any casualty may terminate the deliberations of the body, and place it beyond our power to continue the session or protract the time. I hope, therefore, we shall have action upon it now. It will take but a moment. I do not want to discuss the question, except simply to read the provisions of the Constitution which relate to it. I hope, therefore, we shall have a vote on the resolution. I move to postpone all prior orders, and that the Senate take up that resolution for consideration.

Mr. WILKINSON. I am in favor of that resolution; but I ask the Senator to give way to enable me to call up a resolution that I offered yes-

terday morning, and which will give rise to no debate.

Mr. SHERMAN. By arrangement I cannot give way to anything. This resolution will take but a moment.

Mr. DAVIS. I will ask the Senator from Ohio to allow me to introduce a bill simply with a view to reference.

Mr. SHERMAN. It will take but a few moments to dispose of this matter, and I hope it will be taken up and disposed of now while we have a full Senate.

The PRESIDENT *pro tempore*. The question is on the motion of the Senator from Ohio to postpone all prior orders, and take up the resolution in relation to a quorum of the body.

Mr. COLLAMER. I wish to ask, as a question of order, if that is not a privileged question, as it relates to the business of the body, and whether it would not come up without a vote.

The PRESIDENT *pro tempore*. Upon the question being raised, the Chair would feel bound to rule that it was among the class of privileged questions. Upon the other suggestion now made by the Senator from Vermont, the Vice President has ruled that a privileged question even requires a vote upon a motion to take it up. The present occupant of the chair, as a temporary occupant, does not feel at liberty to reverse any decision of the Vice President, especially when those decisions have been acquiesced in by the Senate. The question is on the motion of the Senator from Ohio.

The motion was agreed to; and the Senate resumed the consideration of the following resolution:

Resolved, That a majority of the Senators duly elected, and entitled to seats in this body, is a constitutional quorum.

Mr. SHERMAN. This question turns upon the construction of two clauses in the Constitution, which I will read. The first clause of the third section of the first article provides:

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

Under that provision of the Constitution each State, whether great or small, has the same representation in this body, has the right to send two Senators here. Section five of the same article provides:

"Each House shall be the judge of the elections, returns, and qualifications of its own members, and a majority of each shall constitute a quorum to do business."

Each House shall be the judge of the elections, returns, and qualifications of its own members. No man is a member of the Senate unless he is duly elected, duly returned, and duly qualified; and the Senate judges of the election, return, and qualification. Then he is sworn in and becomes a member of this body. "A majority of each"—that is, a majority of those who are entitled to be members here, according to my construction of the Constitution, a majority of those whose qualifications have been passed upon and are entitled to take seats here—shall constitute a quorum of this body. Then the same section provides:

"But a smaller number may adjourn from day to day, and may be authorized to compel the attendance of the absent members in such a manner and under such penalties as each House may provide."

The second clause of this section divides the members of the Senate into two bodies or classes; those are who present and those who are absent. After they are duly elected, returned, and qualified, then there are two classes of Senators; those that are present and those that are absent. If a majority of those thus elected are present, they can go on and transact the business intrusted to them. If some of them are absent, those who are present can compel the attendance of the absentees, and as soon as there is a majority of those elected present, they can go on and transact the business of the body. That is my plain reading of the Constitution of the United States, and that construction has been adopted by the House of Representatives under the circumstances by which we are surrounded. The question was made at the beginning of this Congress; and I will state that the number of members of the House of Representatives is fixed by law and by the Constitution just as imperatively as the number of Senators is fixed by the Constitution. The law fixes the number of members of the House of Representatives at two hundred and thirty-three; so that the same question was presented in the House as in the Senate. It came up in the House at the beginning of this Congress at a time when the question was very important, but no more important than it has always been in the Senate; and there it was decided that a majority of those entitled to take their seats constituted a quorum; and that decision was acquiesced in by all parties, and by all the members of the House. Indeed, its very necessity compelled acquiescence in it.

A remark made by the honorable Senator, the Presiding Officer of this body, that this question had been up, and had been settled, struck me with great force, especially in a body like this, where the Senate, from its nature, is conservative of its own rules and anything that affects its own organization. But this question has never been presented to this body in the form in which it is now presented. Heretofore there never has been more than two or three difference between the whole number of Senators; that is, twice the number of States, and the number of those entitled to take seats here. The question has never been presented in precisely its present form. The Secretary always fixes the number of the quorum at the commencement of the session, taking the whole number who could be possibly elected, and taking the majority of that number; and that has been acted upon rather by consent, by silence, as the quorum. But this particular question was not presented in any case that I could find in any of the precedents that I have looked at. I looked at all the precedents; and I find it has been decided both ways in the House of Representatives. In the Senate it has been simply acquiesced in. The arbitrary rule fixed by the Secretary of the Senate in the beginning of the First Congress has been acquiesced in and has never been changed; but I cannot find any case in which the point was deliberately decided that it must require more than a majority of those legally elected. Usually, I believe, it has almost always been the case, that the number of persons legally elected equaled the number of members to which the States were entitled in the Senate, and consequently the question could not be raised except where there was an accidental vacancy in a State, and where a State, on account of some political divisions, had neglected to elect a Senator. Then there was a difference between double the number of States and the number of those elected; but the case has never occurred as it has now.

Now, let me show the Senate the necessity of this. If we do not adopt this rule, any accident whatever may leave us without a quorum, and may defeat all the pending business. The very necessity of the case is an argument for the adoption of this rule. If this rule is not adopted, either now or at some future time the smallest State in the Union, although it may contain less than one hundred thousand inhabitants, may break up this body. The opposite doctrine to that for which I contend, is the doctrine of secession, the right of a majority of the States, or a number of the States to break up the Government. Take the smaller States of this Union, the New England States for instance, where their number of Senators is very large in proportion to their population. They might at any time break up the Government by withdrawing from this body. The three great States of New York, Pennsylvania, and Ohio, with some seven or eight million people, have but six Senators here, and yet their Government may be destroyed at any time, at the will of Delaware and Rhode Island, as we are now situated; and any two or three Senators may, if they oppose any particular bill, by simply being absent from this body, break us up and leave us without a quorum for the transaction of the business of the body. It seems to me the rule is very simple when you come to analyze and look at it. It is simply a constitutional question, and nothing can be added to these two sections of the Constitution; so that I do not think it necessary to discuss it further. If we can adopt the resolution, as a matter of course we can very easily dispose of the business of the session by next Monday; and I am authorized, if the resolution is adopted, to report back a resolution fixing the adjournment at next Monday; but until it is done, it would not be safe for the Senate to fix any day of adjournment, because if we shall fix next Monday as the day of adjournment, while important bills are pending, and any accident should occur; if two or three Senators should become sick, or any Senators desire to break up the quorum, they would have it in their power to do it; and it would not be safe for the country while there is a single bill of importance pending, for us to fix a day of adjournment, leaving it in the power of a very small minority to prevent us from transacting any more business.

Mr. CARLILE. Mr. President, the prospect of an early adjournment is a very forcible argument in favor of the resolution introduced by the Senator from Ohio; and were the question one merely of expediency, it would have so much force with me as to induce me to support his proposition. But I think a graver question probably has never been presented to this body for its determination than the one involved in the resolution of the Senator from Ohio. He says it may be in the power of two of the smaller States in the Union to deprive the three larger States of the benefits resulting from the Constitution. Now, sir, if you adopt his resolution, you put it in the power of Delaware and Rhode Island to legislate for the entire thirty-four States of this Union. If the other thirty-two States shall fail to elect Senators to this body, and Delaware and Rhode Island shall send their four Senators to this body, three of those Senators will constitute a Senate within the meaning of the Constitution, under the resolution of the Senator from Ohio. That will enable them to legislate for the entire thirty-four States composing this Union.

Mr. SHERMAN. That is upon the supposition that the other States refuse to elect Senators.

Mr. CARLILE. Upon the supposition that the other States fail to elect Senators. That is the effect of his resolution. Now, sir, I think it is only necessary to state that such will be the effect of the passage of his resolution, to satisfy the Senate that such a contingency never could have been contemplated by the wise men that formed the Constitution under which we are professing to legislate. The very clauses of the Constitution which the Senator read, I think, are conclusive upon this subject. The third section of article one says that "the Senate of the United States shall be composed of two Senators from each State." It is imperative. The language does not admit, it seems to me, of doubt or of misconstruction. "Two Senators from each State" in the Union; each State that composes the Government. "The Senate of the United States shall be composed of two Senators from each State, chosen by the Legislature thereof for six years; and each Senator shall have one vote."

Now, sir, what constitutes a House? Not what composes the Senate; but what constitutes a House for the transaction of business? "A majority of each." A majority of the States represented in the Senate constitute a House competent for the transaction of business:

"Each House shall be the judge of the elections, returns, and qualifications of its own members, and a majority of each shall constitute a quorum to do business."

A majority of the Senate is competent to do business; but when there is less than a majority the power is conferred upon those present to send for the Senators that are absent. It is no argument, and cannot be used to the Senate to govern it in its determination upon this resolution—which is to be decided under the Constitution that each Senator has sworn to support—that a different construction may have been placed by the House of Representatives upon this section of the Constitution.

Why, sir, if the Senator's resolution shall be adopted, and Delaware and Rhode Island alone are represented in the Senate, two Senators from one of the States and one from the other may do business. Why the necessity of ever sending for absent Senators to constitute a quorum to do business? It seems to me that the adoption of this resolution would look as if this Senate itself viewed the seceding States as no longer in the Union, as if it had come to the conclusion that the Union and the Constitution which forms it, are alone applicable to the States that are yet in the Union with an acknowledgment of their loyalty, and that have never arrayed themselves against the Constitution of the country.

I think, sir, that this resolution is of too much importance to be decided without a consideration much greater than can be given to it at this time, and I trust that it will be the pleasure of the Senate to postpone it until December next.

I move that it be postponed until the first Monday of December next.

The PRESIDENT *pro tempore*. The Chair will appeal to the favor and indulgence of the Senate, having given some consideration to this question as Presiding Officer, to have the following paper read as expressing the views of the Chair on this question, not only as Presiding Officer, but as a member of the body.

The Secretary read, as follows:

The subject of the formation of a quorum in the Senate of the United States being of vital importance, demands a serious examination.

From the body which in many respects is the prototype of the American Congress, the British Parliament, no principle or practice can be drawn upon the subject, both of its Houses appearing to be governed by an arbitrary rule founded upon despotic principle, for "the upper House may proceed with business if only three Lords be present; but the Commons require as many as forty, including the Speaker, to enable it to sit."

These limited numbers have no reference either to the numbers that have been, or may be elected, or returned as members, and therefore bears no analogy to the American principles or practice upon this subject.

The definition of the word "quorum," according to Worcester, is, "such a number of an assembly, committee, or other body of men, as is sufficient to transact business, and give validity to their acts." And according to Webster: "Quorum, with reference to a complete body of persons, *of whom* those who are assembled are legally sufficient to the business of the whole;" "a bench of justices, or such a number of officers or members as is competent by law or constitution to transact business; as a *quorum* of the House of Representatives—a constitutional *quorum* was not present," &c.

There is no need, however, to have recourse to the definitions of lexicographers, or the arbitrary rules or practice of other legislative assemblies, if there can be found in our own paramount and fundamental law any provision or prescription upon the subject.

We then turn to the Constitution, and find in article one, section five, that—

"A majority of each [House] shall constitute a *quorum* to do business; but a smaller number may adjourn, from day to day, and may be authorized to compel the attendance of absent members, in such manner and under such penalties as each House may provide."

The expression, "a majority of each House," renders it necessary to inquire whether the Constitution defines what "each House" shall consist of; and we find in section two of the first article that—

"The House of Representatives shall be *composed* of members chosen every second year by the people of the several States," &c.

"Representatives and direct taxation shall be apportioned among the several States which may be included within this Union, according to their respective numbers," &c.

"The number of Representatives shall not exceed one for every thirty thousand, but each State shall have at least one Representative, and until such enumeration [or census] shall be made," &c.

Here the Constitution goes on to prescribe how many Representatives each State, by name, shall be entitled to choose, making in all sixty-five members. This "House," therefore, would consist of sixty-five members, when the States enumerated should ratify the Constitution, and did, at its first meeting, adopt and act upon this principle by proceeding, as recorded in its own Journal, with "a quorum consisting of a majority of the whole number," that number "being present." The Constitution, therefore, is sufficiently plain and explicit as to the number of members the House of Representatives shall be *composed* of, and declares that a *majority* thereof shall constitue a *quorum* to do business; and a deviation from this paramount law, by the House itself, in two or three instances, only shows a violation of that law, which, in its general practice is acknowledged by its own pervading declaration, as found upon its Journals, by proceeding to business with "a quorum, consisting of a majority of the whole number of the members of the House, being present."

The next point in which we are immediately concerned, is to inquire what the Constitution declares in reference to the House to which we belong.

By the third section of the first article it expressly declares—

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

And it particularly and expressly provides for filling all vacancies that might happen by resignation or otherwise in this body; and the Constitution also provides, in its fifth article "that no State, without its consent, shall be deprived of its equal suffrage in the Senate." These words could not have been made more plain, to show how this House, the Senate of the United States, is constituted, or the number of members of which it is "composed;" and no State in the Union can be deprived of its equal representation in this body, whenever it chooses or is in a condition to fill the vacancies existing in the body.

To admit or declare a different state of things by which the number of members of the body could be constitutionally reduced, would be to admit or declare that certain States are out of the Union; but is there any power in this body or anywhere else under the Constitution to destroy a State or declare it out of the Union? And if there is, would its exercise not be an acknowledgment of the independence of such States, out of the Union, or the destruction of all the attributes and framework of those States forever, and their reduction to the condition of common conquered territory, should the power of the Government be able to effect that object?

Fortunately, however, our noble and unparalleled Constitution solves this solemn and distracting question by giving ample powers to the Government which sustains it, and by which it is supported, to "suppress insurrection," however extensive, with all the power and means of the whole nation, and "the United States shall guaranty to every State in the Union a republican form of government," and which can alone be done within, and by keeping them within, the Union.

This constitutional course meditates a restoration of all the States to their former accustomed position, purged of treason and rebellion, and standing on the platform of the Constitution, with all their rights guarantied to them; and prominent among those rights will be that of a full representation upon the floor of the Senate, by good and loyal men chosen by those States themselves.

The twelfth amendment of the Constitution, providing under a certain contingency for the election of a Vice President, declares that—

"A *quorum* for the purpose shall consist of two thirds of the whole number of Senators; a majority of the whole number shall be necessary to a choice."

This definition is very plain and cannot be mistaken; "the whole number of Senators" being two for each State then in the Union, and the *quorum* here referred to being two thirds of that whole number. An election could not take place by a majority of that quorum, but only by a majority of the whole number of Senators.

No other conclusion can be deduced from this statement of facts than that the Senate—called a "House" by the Constitution—means all the Senators to which all the States in the Union at the time are entitled to send to the Senate, and that the quorum referred to in the Constitution is a majority of that whole number. What regularity, certainty, or safety would there be in any other conclusion? Suppose, for instance, that the expression "whole number" meant the whole number elected and qualified. This would render the formation of a quorum very uncertain, and the number would have to be varied according to circumstances which would not be known at the time to the Senate, and would leave it in doubt whether a quorum was present or not. It is only necessary to trace this idea to its natural and inevitable conclusion to show its entire fallacy. It would have no limit as to number, as the only rule would be "the number of elected and qualified members," and more or less of such class might be wanting. Should this idea be correct, then what number would form a quorum should one third of the Senators, whose terms expire every two years, not be elected, and should several vacancies exist in the other two classes? For instance, the whole number now is sixty-eight; one third off would reduce the number to forty-six, and the quorum would be twenty-four; but the uncertainty as to the election and qualification of that third of the Senators, and as to vacancies in the other classes, would render it uncertain what would be at the time a true quorum. How would the definition of such a Senate or House stand the test of the Constitution, which expressly declares that "the Senate of the United States *shall be composed* of two Senators from each State," and that a quorum shall be constituted of a majority of that House?

The general practice of both the Senate and House of Representatives (with very few and detached exceptions, which should have no consideration or value in view of the general practice) confirm the conclusion *that the House or the Senate, as bodies, are composed or constituted of the whole number of members to which the several States may or shall be entitled to have in those bodies respectively.*

The PRESIDENT *pro tempore*. Several precedents are cited which will now be read.

The Secretary read, as follows:

Memoranda relative to the formation of a quorum in the Senate.

March 4, 1789.—There being eleven States in the Union entitled to send twenty-two members to the Senate, of whom only twenty members had been elected by the States—New York not having elected them until the 15th of July, 1789—the Senate not having formed a quorum at the time appointed, continued to meet and adjourn from day to day until 28th March, 1789, when eleven members appeared, and although but twenty had been elected as above stated, they were still considered as less than a quorum. On the 6th April, 1789, twelve members attended and were considered a quorum.

January 4, 1790.—There being twelve States entitled to twenty-four members, of whom twelve appeared on 6th January; and were considered a quorum. In this case all the members had been elected by the States. But it is supposed that the seat of one of the Senators of Virginia (Mr. Grayson) had been vacated by his death, the date of which is not stated, but his successor was appointed 31st March, 1790.

November 3, 1794.—There being fourteen States entitled to twenty-eight members, of whom fourteen attended on the 17th November, the Vice President also being present—still not considered a quorum—but on the 18th November another member appeared and made a quorum.

November 13, 1797.—There being sixteen States entitled to thirty-two members, of whom sixteen attended on the 21st November, but were not considered a quorum.

December 3, 1798.—There being sixteen States entitled to thirty-two members, of whom fifteen attended on the 5th December, but were not considered a quorum. On the 6th December seventeen attended and were considered a quorum.

November 17, 1800.—There being sixteen States entitled to thirty-two members, of whom fifteen attended on 20th November; no quorum.

November 21.—Nineteen attended, and the business proceeded.

Mr. SHERMAN. As these are a portion of the remarks of the Chair, I would ask the Chair whether at that time there were any vacancies so that the question could possibly arise. I found most of those precedents, but I found also that there were no vacancies. The first case mentioned was such a case.

The PRESIDENT *pro tempore*. In some of the cases it was so, and there it is so noted.

Mr. SHERMAN. There were no vacancies in some of the cases, and therefore there could have been no departure from the rule I propose.

The PRESIDENT *pro tempore*. Where there were vacancies, the fact is noted. The Secretary will proceed with the reading.

The Secretary read, as follows:

December 6, 1802.—There being sixteen States entitled to thirty-two members, and no quorum found until seventeen attended.

November 5, 1804.—There being seventeen States entitled to thirty-four members, on that day the Vice President and thirteen Senators appeared; no quorum.

On the 6th November, seventeen members attended, and although one of the members had just resigned and his successor was not elected until the 13th November, this number (seventeen) was not considered a quorum, but on the 7th November eighteen members attended and were considered a quorum.

November 2, 1812.—There being eighteen States, entitled to thirty-six members, of whom eighteen attended on that day but were not considered a quorum. In this case one of the Senators of Louisiana had resigned some time previous to the session, and his place was not supplied until 1st

December, 1812. On the 3d November twenty members appeared and the business proceeded.

Memoranda relative to the formation of a quorum in the House of Representatives.

At the commencement of the Government, the House of Representatives was formed under that provision of the Constitution which specifies the number of Representatives to which each State shall be entitled; and the whole number to which the thirteen original States were entitled amounted to sixty-five.

But at the meeting of the First Congress only eleven States had ratified the Constitution; and these eleven were entitled to send fifty-nine members to the House of Representatives. It was not until thirty members had appeared that the House was considered as being formed—"a quorum consisting of a majority of the whole number being present."

At the second session there were twelve States entitled to sixty-four members; "and a quorum of the whole number being present," the House proceeded to business. At the third session the same.

At the second session of the Seventh Congress, there were sixteen States entitled to one hundred and forty members; of whom there appeared, on the 7th December, 1802, sixty-seven members, which number was considered "a quorum," being "a majority of the whole number of *qualified* members;" and the House proceeded to business. In this case, seventy-one would have been a majority of the whole number.

November 13, 1804.—The House met pursuant to adjournment. "But a quorum of the whole number not being present," the House adjourned, &c.

Tuesday, February 21, 1805.—The House met. "But a quorum of the whole number not being present," the House adjourned, &c.

Tuesday, February 28, 1805.—Ditto.

December 7, 1808.—A question arose on which the yeas and nays were taken, and it appearing that only forty-four had voted, it was determined that a "quorum consisting of a majority of the whole number of members was not present." But a call of the House having been ordered, the question was again put, and fifty-nine members having voted, they were considered "a sufficient number of members to form" the same, "having appeared and taken their seats in the House."

At this time the whole number to which all the States were entitled in the House of Representatives was one hundred and forty; and a *quorum* or a *majority* of the whole number would have been seventy-one; yet fifty-nine, as above stated, were considered a quorum—being, it is presumed, although not so stated, a *majority* of the *qualified* members.

June 27, 1809.—A question arose on which the yeas and nays were taken, and sixty-eight members having voted, the following entry was made on the Journal, viz:

"It having appeared by the foregoing vote that a quorum, consisting of a majority of *the whole number of members*, not being present."

In this case, as in the last mentioned, the whole number of Representatives was one hundred and forty, and a majority seventy-one, which majority, it would seem, in this case, (contrary to the last,) was considered a quorum.

June 28, 1809.—A question being taken, "it appeared that a quorum, consisting of a majority of the whole House, was not present;" whereupon a call of the House was made.

"Pursuant to the above order, the Clerk proceeded to the said call, when it appeared that seventy-five members, exclusive of the Speaker, were present, and answered to their names," and the business proceeded—seventy-one still being a majority of the whole number.

February 3, 1810.—"The House met pursuant to adjournment; when a quorum, consisting of a majority of the whole House, not being present," the House adjourned.

February 26, 1811.—A question being taken, and a quorum not appearing, "the names of the members were called over by the Clerk, for the purpose of ascertaining those present; when the following members, exclusive of the Speaker, answered to their names," &c. Seventy members answered; "and a quorum not being present," the House adjourned. The whole number was still one hundred and forty, and seventy-one a majority, and although seventy-one were present, *including* the Speaker, they were not considered a quorum. This brings a new point into view, namely, that when a Representative was elected Speaker of the House, his presence, as such, would have no influence in the formation of a quorum. On the next day, seventy-eight members appeared, and the business went on.

The foregoing are the only cases calculated to test the practice of the House of Representatives regarding the formation of a quorum; it may be proper to state, however, that on the annual meeting of the House, the terms generally used upon the Journal, to show that a sufficient number of members had appeared, were "a quorum, consisting of a majority of the whole number of members of the House, being present," &c.

Mr. McDOUGALL. Mr. President—

The PRESIDENT *pro tempore*. The Senator from Virginia moves to postpone the further consideration of this resolution until the first Monday of December next. It is, perhaps, proper the Chair should suggest that he has not, under the rule, called for the consideration of the unfinished business of yesterday, as the special order, treating the question now under consideration as a privileged one. If it be the pleasure of the Senate to proceed with the special order, the Chair will entertain a motion to that effect, to postpone the further consideration of the present resolution, although the question now before the Senate is on postponing it to the first Monday of December.

Mr. GRIMES. I hope that motion will prevail. I do not believe there is any use in spending the whole day in discussing this question of a quorum. The bill we had under consideration when the Senate adjourned yesterday can be disposed of, I apprehend, in a very few minutes; and as there may be a committee of conference upon it, it may be important that it be acted on speedily.

Mr. SHERMAN. I do not want to discuss this question any further.

The PRESIDENT *pro tempore*. The Senator from California has the floor on the question under discussion.

Mr. GRIMES. There are several gentlemen who propose to discuss it—the Senator from Connecticut and others. I do not think there is any necessity for having any apprehension on the subject of a quorum. We have forty-two Senators here now. We had forty yesterday; and I see the Senator from Kansas [Mr. POMEROY] in his seat, who was then absent, and the Senator from Ohio, [Mr. WADE,] who was then absent; so that I think there are forty-two now here.

Mr. SHERMAN. The Senator from Oregon [Mr. NESMITH] has gone, I am told.

Mr. GRIMES. Then we have forty-one; and only thirty-five are required.

Mr. McDOUGALL. I am not disposed to pursue this argument, particularly as I think there is very little necessity for it, as suggested by the Senator from Iowa; but, as the matter is up——

Mr. CARLILE. At the request of the Senator from California, I withdraw the motion to postpone.

Mr. McDOUGALL. This is a pure question of constitutional law, as to the construction of an article in the Constitution, which is to be construed like any other law, not subject to the action of this Senate; and the question is simply this: what is the true construction of the law? We have the precedents in this body and in the House of Representatives; but we have what is more authoritative. This provision of the Constitution, in terms, has been adopted in all the States of the Union. They use the exact phraseology, and they use the same phraseology when by law they incorporate an inferior municipality, as a city or town; they use the same phraseology in regard to a quorum when they incorporate business corporations—"a majority of the members shall constitute a quorum for the transaction of business." In a multitude of instances the question has come before our various courts, whether the majority spoken of was a majority of the members elected and having at the time the right to a place, or a majority of the full body. The acts of city corporations, town corporations, business corporations, are all the subject of legal inquiry; and the sufficiency of their action, in particular instances, has been tested by the courts, and the same rule of construction in those instances obtains as should obtain in this case as to what this term of constitutional law means. I had occasion at one time to maintain the position assumed by the Senator from Ohio, in a case of great importance, involving large interests, and it went to the supreme court of the State; it was elaborately argued; the authorities were collected from Great Britain and all parts of the Union; and I became not only of the opinion, but altogether satisfied, that there was no room for doubt as to what the true construction of these words was.

The position assumed by the Senator from Ohio would make the competent body to legislate a changeable body from day to day; it would be in the power of any member, by resigning, to change the number of persons sufficient to make a law; there would be no rule as to the sufficiency of the body for the purposes of legislation. The Constitution designed and all this legislation designed a certain fixed rule as to who shall have sufficient power to legislate for this Government, to legislate for a State, to legislate for a town or city, or to legislate for a private corporation. I say this has been a matter of inquiry in the highest courts of the country, and it has been long and I may say uniformly determined that it requires a majority of the persons who may, under the organic law, fill the office, not those who may actually fill the office at the time. Before even the business of a private corporation can be transacted, there must be a majority of the board of directors of a full board. Suppose a board of directors is composed of eleven in a private corporation, and there are five vacancies, four cannot legislate for that corporation; the vacancies must be filled, or there must be a quorum voting in favor of the proposition; that is, if there were six remaining, the six could act, but it would take their joint act. Suppose there were only five remaining, would three constitute a sufficient number to make a law? It would not, as a matter of course, and people in business transactions would not hazard their property in private corporations in this manner. The same rule obtains there that obtains here, because it is simply the construction of a law, and the law of a private corporation is as much a law as this, only not of the same dignity. It is to be construed by the same rules; and we have had the experience of England and of this country and for a long time the practice in public legislative bodies and in private legislative bodies, because you may call the business of a private corporation, to a certain extent, legislative, and we have had the opinion of the ablest courts in England and the United States upon the subject. I do not think it a matter now open to question.

The PRESIDENT *pro tempore*. The question is on agreeing to the resolution.

Mr. FOSTER. I regret, Mr. President, that this matter is pressed upon the Senate at this time. I believe it to be unnecessary, because I believe there will be no difficulty in keeping a quorum of the body present, or one readily at hand, if we proceed, as it is our duty to do, with the legitimate business of the Senate now before us. There need be no difficulty in getting a majority of the members of the Senate, as it is legally constituted, to vote on every such question readily and promptly. The difficulty, as I apprehend, is that matters are brought here that are not legitimate, or else that legitimate matters are debated until everybody is tired, worn out, and then members go away. If we would, in the first place, bring forward nothing but what was legitimately proper for our action, and if, after it had been thoroughly debated, we would allow it to come to a vote, there would be no trouble about a quorum.

I do not propose at this stage of the session to argue this question at any length, but simply to enter my protest against any decision which this body can make or attempt to make in violation of the Constitution. The proposition before us is, in effect, a call upon the Senate to establish a rule in utter disregard of the text of that Constitution. The Constitution declares that—

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

Mark the phraseology, "*the Senate of the United States shall be composed of two Senators from each State.*" We ascertain, then, the number of States in the Union; we double that number, and we have the Senate. There are thirty-four States in the Union, and with two Senators from each

State we have sixty-eight members, and they are the Senate of the United States. There can be no question about that. Everybody agrees that sixty-eight men, being properly elected by the thirty-four States, are entitled to sit to-day in this body. They compose the Senate. To repeat the words of the Constitution, the Senate shall be composed of these men.

Well, sir, does the Constitution provide for any less number than those sixty-eight to transact business here as a Senate? Yes, sir; it does. It says, in section five of article one—

"Each House shall be the judge of the elections, returns, and qualifications of its own members, and a majority of each shall constitute a quorum to do business."

"A majority of each;" that, as applicable to this body, is a majority of the Senate. Now, what is the Senate? The Senate consists of sixty-eight members as I have just shown. A majority of the Senate then is thirty-five men; they constitute a quorum to do business, and less than thirty-five men no more make this Senate than one man makes it, unless we make a Senate outside of the Constitution of the United States of America. The proposition of the Senator from Ohio goes to the extent, I think, of making a Senate out of two members, for if but one State elects and sends its two members here, they are the Senate under his resolution. The Senator from Virginia, when he took the case of two States, made the Senate twice as large as the resolution of the Senator from Ohio may make it, for that resolution does not require two States to elect, but a majority of those who have been elected and are entitled, in consequence of their election, to seats. Therefore, if one State elects its two members, and they come here, one may be the Presiding Officer and the other may make motions, and if he votes for them they are passed, unless the Presiding Officer chooses to differ; and there being but one vote, he may make a tie, and thus prevent the passage of laws. The two members from the State of Rhode Island, or the State of Connecticut, in that case, are just as much the Senate under this resolution as any other number less than thirty-five.

Mr. President, there is nothing in the Constitution, perhaps, which reflects light upon this question beyond the article in the amendments, which was alluded to and very clearly stated in the paper of the Presiding Officer that was read at the desk, which defines the powers of the House of Representatives and the mode in which they shall proceed in electing a President, if the electors in the electoral colleges fail to elect; and there the first requisite is that there shall be two thirds of all the States represented in the House of Representatives. I read the words of the article:

"But in choosing the President the votes shall be taken by States, the representation from each State having one vote; a quorum for this purpose shall consist of a member or members from two thirds of the States."

Now, the claim is that the word "quorum," elsewhere used in the Constitution, means the number of persons who are actually elected to seats, not the number by law entitled to sit; when in the only part of the Constitution where the quorum is defined, so that the specific number required is pointed out, it requires two thirds of the States to be present, and then "a majority of all the States shall be necessary to a choice." When the House of Representatives is in its capacity representing States, a majority of States is required to be present, and the election of President is the only instance in which the House of Representatives may be considered as representing States. It is worthy of remark that where the House of Representatives is thus made the representative of States, the express terms of the Constitution require that there shall be a majority of the States necessary to make a choice, and two thirds of all the States shall be present by one or more members. Mr. President, this body represents the States always, not once as in the case of the House of Representatives, but always. We are here as representatives of States. That is our constitutional function.

Now, sir, can less than a majority of the States be present here, and yet this body be the Senate? No, sir; there must be a majority of the States present, by their Senators, to make a Senate. That is the case always, because doubling the number of States, a numerical majority must, of course, always be one more than exactly half the number of States. It is mathematically true, in all cases, that in order to make the constitutional majority a quorum of the Senate, there must always be a majority of the States present.

The Senator from Ohio, however, says that we may be broken up; Senators may be absent or sick; we are near the constitutional point; and if members are away, we may be in difficulty, and cannot go on. So in the House of Representatives, if two thirds of the States do not appear there when it becomes necessary to elect a President there, or if a majority of the States fail to vote for a given individual for President, the Union is gone, because there is nobody to be the President. I think that the Constitution throughout, from the beginning to the end, recognizes the necessity of a representation from a majority of the States; and when a majority of the States cease to appear in Congress, the Union is gone. We may as well look that fact in the face first as last. If a majority of the States do not appear, the Union has departed.

Mr. WILSON, of Massachusetts. Why should that be so?

Mr. FOSTER. The Senator from New Hampshire [Mr. HALE] expresses alarm that the question shall be answered. It will not be answered to satisfy him. I will say to the Senator from Massachusetts that it is so because the Constitution makes it so. It makes it so expressly where the House of Representatives is called upon to elect a President, which is certainly an important function, but no more important than many other functions which they are called to perform. When they are called to perform that, the Constitution requires that two thirds of the States shall be present, each State shall have one vote, and a majority of all the States shall be necessary to make a choice. If that be so, when they define a quorum literally in the Constitution, I ask how it can be that it requires less than a majority to make a quorum at any time? Why should it? When a quorum is defined in one part of the instrument, what right have we to say that less than the defined number is a quorum anywhere else in the instrument? It is a familiar principle, applicable, I believe, everywhere to all statutes and all documents, that wherever a term, either technical or otherwise, is used, and that term in the instrument is anywhere defined, it shall be taken to have the same meaning when it is used elsewhere. Here this provision requiring two thirds to be a quorum in the House of Representatives in a certain case is manifestly a departure from the general rule, it ordinarily requiring simply a majority to make a quorum; but in that case, in order that there shall be more than a majority present, the Constitution says that two thirds of the States shall be necessary to make a quorum, and a majority of all the States shall be necessary to make a choice.

Allusion was also made in the paper read at the desk to the constitution of the British Parliament, where the rules are arbitrary and not founded upon any particular principle. Three members in the House of Lords and forty in the House of Commons are considered as a sufficient number in order to proceed with business; but all the text writers say that unless there had been such arbitrary rules adopted, it would require a majority of the whole body to do business. A majority of the whole six hundred and fifty-eight members of the House of Commons would be necessary to pass a bill, but for that rule. If the constitution of the House of Commons had declared that a majority of the House should constitute a quorum to do business, who would suppose that a quorum meant the number that happened to be present, or that happened to be elected, and be casually there? Where is there an instance in any State Legislature in this country, or any tribunal in the world, where, when the constitution of the body speaks of a quorum, it means anything less than a majority of those who are entitled to sit in the body? I challenge the production of any precedent where a quorum has been held to be less than a majority of all those entitled to sit in the body, be it legislative or judicial, public or private.

Mr. SUMNER. Massachusetts is an exception to that rule.

Mr. FOSTER. There are reasons for that; the constitution of that State varies from the Constitution of the United States.

Mr. SUMNER. The constitution fixes a quorum at sixty.

Mr. FOSTER. And so, of course, the constitution takes the question of a quorum out of the hands of the body. Gentlemen should understand me as alluding to cases where the word "quorum" was subject to general definition and had not been defined in the constitution of the body that was organized under it, because, if so defined, that constitutes no exception. Massachusetts is no exception, because the Senator admits that the constitution of the State fixes the number which may do business. What I say is, that where under any instrument a certain number of persons have a right to sit in a body, whether a legislative, judicial, or other body, a quorum of that body is a majority of all those entitled to sit, and so it must be, or we have no rule which will be other than vague, uncertain, and unknown from day to day. For instance, a Senator from the far-off State of Oregon resigns his seat to-day. That affects the quorum of the body in the view of the Senator from Ohio, and one less may be necessary after that to make a quorum. How long will the requisite number continue to be one less, after that resignation? It will continue so until the place of the Senator thus resigning has been filled by competent authority. Then we shall require one more member here. How shall we know? If the Senator from Oregon resigns his seat to-day, the Governor will have power to appoint, if the Legislature be not in session, until the Legislature shall next sit. How shall we know when that Governor makes the appointment? We cannot know it until sometime after, perhaps weeks after the appointment is made. In the mean time the question of quorum here depends on one; and not recognizing the fact that the vacancy has been filled, not counting the new appointment, we pass a law, when if we counted the new appointment it would require one more for a quorum, and our majority being short the bill which we passed would not be a law. The quorum would fluctuate from day to day in that manner.

Can it be that under these circumstances there is no legal mode of determining what our quorum is? That is the result of the proposition of the Senator from Ohio. The suggestion which I have just made is not a fanciful idea. The Senators from California and Oregon are so far off that if they should resign, or, in the course of Providence they should die, it would be weeks before we could know whether their seats were filled or not, and it would probably be weeks after they were filled before we knew the fact; and in the mean time, when the question is, what is a quorum of the body, it is past finite wisdom to tell, on the principle of the Senator from Ohio. He would not undertake to tell; nobody could tell. The business of the Senate must be suspended until we hear from those States; or if we think proper to go on, we pass bills subject to be considered nullities if the appointments have been filled, but which may turn out to be valid laws if the appointments have not been filled. It is thus a matter of entire uncertainty whether a bill that we pass is a law or no law at all. To just that result this doctrine leads.

Now, I say a rule so perfectly uncertain and vague as that, is not a rule fit to be considered a rule in a legislative body. What is a rule? Something fixed, definite, positive, something that, when applied to a state of facts, determines and answers the interrogations made, something, as the Senator from Kentucky [Mr. DAVIS] suggests, that is certain; but this, in every-day practice, would be as uncertain, as vague, as indefinite as though we had no rule at all; we would be left to conjecture what our quorum was.

I am in favor, Mr. President, of standing by the rule, certainly one under which we have lived for many years, certainly one which, during the legislative proceedings of this session, has occasioned us less difficulty than at any other session as long as this since I have been a member of the body. We have been compelled to adjourn less frequently for want of a quorum, and we have been delayed less for want of a quorum during this session than at any session of this body for seven years; and I repeat that there will be no difficulty and no inconvenience now if we take up the business legitimately before us, and do not talk each other and the subject also to death before we vote upon it.

Mr. GRIMES. I move to lay the resolution on the table.

Mr. SHERMAN. On that I ask for the yeas and nays. I trust my friend will allow me a few moments to reply.

Mr. GRIMES. A dozen gentlemen here want to speak, and we shall take up the whole day instead of going on and transacting business.

Mr. SHERMAN. I think it is very important to have this question settled. I call for the yeas and nays on the motion to lay on the table.

The yeas and nays were ordered; and being taken, resulted—yeas 19, nays 18; as follows:

YEAS—Messrs. Anthony, Browning, Carlile, Clark, Cowan, Davis, Foster, Grimes, Henderson, Kennedy, McDougall, Powell, Saulsbury, Stark, Ten Eyck, Willey, Wilson of Massachusetts, Wilson of Missouri, and Wright—19.

NAYS—Messrs. Collamer, Fessenden, Hale, Harlan, Harris, Howard, Howe, King, Lane of Indiana, Lane of Kansas, Morrill, Pomeroy, Sherman, Sumner, Wade, Wilkinson, and Wilmot—18.

So the resolution was ordered to lie on the table.

MEMORIAL.

Mr. KENNEDY presented a memorial of the Merchants' Exchange Company of Baltimore, Maryland, praying that their claim for loss of rents on their building sold to the Government for a post office, and for repairs upon said building, may be referred to an officer of the Treasury Department for adjustment; which was referred to the Committee on Finance.

REPORT FROM A COMMITTEE.

Mr. HOWARD, from the Committee on Military Affairs and the Militia, to whom was referred the bill (S. No. 376) to allow and pay to the State of Missouri the amount of money expended by said State in the arming and paying of troops employed in the suppression of insurrection against the United States, reported it with an amendment.

BILL INTRODUCED.

Mr. DAVIS asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 387) to declare another punishment for the crime of treason against the United States, and for other purposes; which was read twice by its title, and referred to the Committee on the Judiciary.

GRADES OF NAVAL OFFICERS.

The PRESIDENT *pro tempore*. The special order of the day is the bill (H. R. No. 280) to establish and equalize the grades of line officers of the United States Navy. The question before the Senate is on the amendment moved by the Senator from Connecticut, [Mr. FOSTER,] which will be read.

The Secretary read the amendment, which is to strike out all of the ninth section after the enacting clause, in the following words:

That whenever, upon the recommendation of the President of the United States, any officer of the Navy not below the grade of commander has received, or shall receive, by name, during the present war, a vote of thanks of Congress for distinguished service, such officer shall not be retired until he has been fifty-five years in the naval service of the United States.

And to insert in lieu thereof the following:

The President of the United States, by and with the advice and consent of the Senate, may restore to the grade on the active list from which he was retired, any officer of the line who has been thus retired on account of age or length of service, and not for any personal or professional inability or delinquency, to the active list; and such officer shall not be again retired until he has been fifty-five years in the naval service of the United States.

Mr. HALE. I simply want to state to the Senate the difference between the proposition of the committee and the proposition of the Senator from Connecticut, and then I shall leave it.

The bill as reported by the committee, gives to the President the power, whenever he sees any officer who has distinguished himself enough to receive a vote of thanks, to recommend such a vote, and if Congress grant it, that lengthens his term of service on the active list ten years; but the proposition of the Senator from Connecticut simply makes that, instead of being a power which the President may exercise for distinguished service, a power that he may arbitrarily exercise at his mere whim and caprice, without any reason. The committee confine it to those who have distinguished themselves so as to receive the thanks of Congress; and I will repeat what I said last night, when there was a thin Senate, that I think it of vast moment that rights, personal rights, official rights, should be measured by law where they can be, and not left to the arbitrary discretion of anybody.

Mr. FOSTER. If the Senator from New Hampshire would confine himself to a fair construction and explanation of the meaning of the section reported by the committee and show its superiority over the one presented by me, he would do, I think, better than to attack the amendment which I offered and charge upon it that which it seems to me it is not chargeable with. I have just as good a right to say that the President on mere whim or caprice will send an officer's name to this body for brilliant service and ask us to give him a vote of thanks, and that the Senate from mere whim and caprice will give it, as he has to say that the President, by and with the advice and consent of the Senate, will put a man back upon the active list who does not deserve to be put back. Whim and caprice are just as likely to govern the same tribunal in the one case as in the other. The tribunal is the same; and if whim and caprice are their ruling passions, it does not become the Senator from New Hampshire to say that when they act upon a proposition submitted by him, they will use judgment and discretion, and use their whim and caprice when they act on a proposition submitted by somebody else.

The Senator proposes to allow the President to send men here for votes of thanks for brilliant service. Very well, that is very right and proper; but there may be men in the naval service whom the President might not think and whom we might not think were entitled to a vote of thanks for brilliant service; that ordinarily refers to gallant service in action in time of war or public danger, and we might not think that certain men were entitled to votes of thanks for that class of service who were equally meritorious, and who were equally useful, permit me to add, and as essential in the public service as though they had performed brilliant service, for it is not in all cases the brilliant service of fighting a battle either afloat or ashore that constitutes distinction in an officer and distinction that ought to be rewarded. There is a great amount of labor that is not performed before the public eye, not dazzling, not brilliant, that is entitled to consideration; and if it does not receive it, injustice will be done. It is for that class of officers that this amendment is intended, and where men under these circumstances are entitled to the grateful remembrance of their country, it gives the President power, by and with the advice and consent of the Senate, to continue them in service, and I think there is no danger in giving the power to the President and the Senate.

Mr. HALE. A single word. Everybody who has been in executive session knows that when a nomination is sent in a majority of the Senate, and a large majority—I am not of that number; I never agreed to it—say "the President having nominated him, we will not inquire as to the propriety of that nomination." The President having the power of nomination, and having selected a man, they will not question it, although they would not have selected him in the first place; they are not at liberty to reject him.

Mr. COLLAMER. Does not the gentleman allude to some remark of mine? That is not the view of it. The view taken of it is that when the President has made a nomination we will not inquire into the cause of the removal of another person, but always inquire into the propriety of the nomination and suitableness of the candidate himself.

Mr. HALE. I did not refer particularly to the Senator from Vermont; but I think I have heard the Senator from Vermont say that with the nomination we had nothing to do.

Mr. COLLAMER. I never said so. I said with the removal we had nothing to do; but we have to do with the propriety of advising that this man be appointed as a suitable man.

Mr. HALE. I think I have heard the Senator from Vermont state—and I think I cannot be mistaken about it—that the power of nomination belonged to the President, and we had nothing to do with it; and if the President selected one man, if he was a fit man, although we might think there were a great many better men whom he might have nominated, we have nothing to do with it.

Mr. COLLAMER. Your statement in the beginning was that we had nothing to do with the suitableness of the man nominated.

Mr. HALE. No, we have nothing to do with the nomination.

Mr. COLLAMER. But we have with the appointment.

Mr. HALE. If the President nominated a man, although the Senate might believe there were a hundred others who had better have been nominated than that man, yet as the President has the power of nomination, and has nominated him——

Mr. COLLAMER. And he is a suitable man.

Mr. HALE. And he is a suitable man, we must confirm him, though we may think there are a hundred men more suitable that he has not nominated, the result of which is, that in nine cases out of ten the nomination does succeed, and we practically, in my judgment—though I do not mean to lecture the Senate—forget that the form in which the question is proposed is not, will the Senate consent, but will they advise and consent.

The bill as framed has not been carelessly prepared, for it was prepared in the House, and has undergone some revision. There is in the eighth section a provision to meet the case of those not distinguishing themselves in battle, and it is as follows:

That nine admirals may be commissioned, who shall be selected, during war, from those officers *upon the active list* not below the grade of commanders, who shall most eminently distinguish themselves by courage, skill, and genius in their profession.

It does not require them to have been upon the field of battle; but I will not detain the Senate.

Mr. HARRIS. I do not propose to debate this question, yet I want to suggest that, in my judgment, this is a much fairer and more just proposition than that contained in the bill. As the law now stands, a naval officer after he has been in the service forty-five years, I think, is retired; he must step aside. If it happens, however, that he has been in a situation where he has had the good fortune to perform some gallant act, some distinguished service, then, if the President recommends him for a vote of thanks, and he receives it, he goes back on the active list for ten years longer. Now, whether or not he has been enabled to perform such a service, is perhaps in a majority of cases a mere chance; and here you may have two naval officers of precisely equal merit who have during a long career performed every duty to the satisfaction of the Government and the people; men in the full vigor of manhood, whose natural force is not abated; one of them happens to get a vote of thanks, he goes on to the active list for ten years longer; the other one is not so fortunate, and he steps aside as superannuated. That is not fair. The fair thing is that proposed by the Senator from Connecticut: if these men are equally capable of serving the country, equally vigorous in their physical constitution, equally able to perform any duty assigned them in their profession, and there are no charges against them, they have a clean record in the Department, there is no reason in the world why one of them should be continued in the service, and the other not. The proposition goes just to that: it is submitted to the President first, and then to the examination of the Senate, whether they are thus competent; and if they are I should like to have the chairman of the Committee on Naval Affairs say why this broad discrimination should be made between two such men. I cannot see it.

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

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

Mr. HALE. I move to amend the amendment by striking out "five," after the word "fifty." If you pass a retiring bill, and then place it in the power of the President to put everybody back, I think five years is long enough to saddle him on the Treasury after he has been retired by law. Instead of allowing such a man to remain in the service fifty-five years, I move to make it fifty.

The amendment to the amendment was agreed to.

Mr. HALE. I move further to amend the amendment by inserting the words "except for cause," so as to make it read, "shall not be again retired except for cause." I suppose the Senator from Connecticut will not object to that.

The amendment to the amendment was agreed to.

The PRESIDING OFFICER, (Mr. CLARK in the chair.) The question recurs on the amendment as amended, and on that question the yeas and nays have been ordered.

The question being taken by yeas and nays, resulted—yeas 18, nays 18; as follows:

YEAS—Messrs. Anthony, Browning, Clark, Davis, Foot, Foster, Grimes, Harris, Howe, King, McDougall, Morrill,

Pomeroy, Rice, Stark, Ten Eyck, Wilson of Massachusetts, and Wilson of Missouri—18.

NAYS—Messrs. Carlile, Cowan, Fessenden, Hale, Harlan, Howard, Kennedy, Lane of Indiana, Lane of Kansas, Powell, Saulsbury, Sherman, Sumner, Wade, Wilkinson, Willey, Wilmot, and Wright—18.

So the amendment, as amended, was rejected.

Mr. HALE. In order to make the bill perfect, I wish to propose an amendment in the eighth section, to insert after the word "who," in the fourth line, the words "have heretofore distinguished themselves, or hereafter;" so that the section will read:

That nine rear admirals may be commissioned, who shall be selected, during war, from those officers upon the active list not below the grade of commanders, who have heretofore distinguished themselves, or hereafter shall most eminently distinguish themselves by courage, skill, and genius in their profession.

The amendment was agreed to.

Mr. GRIMES. I move to add at the end of the twelfth section, the following:

Provided, however, That no greater number of midshipmen shall be appointed by the President at large, under this or any other law of Congress, than shall be allowed by the provisions of this section.

I will state to the Senate that, in the naval appropriation bill there is a clause authorizing the President of the United States to select and appoint ten midshipmen at large. We have put the same provision into this bill, and allowing him, also, in addition to those ten, to appoint three to be selected from the boys who have been recruited into the service. When the committee of conference had the naval appropriation bill under consideration, it was the understanding, as it was not designed to give the President the appointment of twenty or twenty-three midshipmen, that we should attach some provision to this bill so as to let the two laws, if read together, convey an idea of what was the intention of Congress in that behalf.

The amendment was agreed to.

Mr. GRIMES. I offer another amendment, as an independent section:

And be it further enacted, That the Secretary of the Navy be authorized to assign clerks and laborers attached to one bureau to duty in another; and also to detail a surgeon or passed assistant surgeon, or assistant surgeon, to the Bureau of Medicine and Surgery, who shall receive the highest shore pay of his grade.

A few days ago the two Houses agreed upon a bill reorganizing the bureaus of the Navy Department; and in that bill they undertook to assign the clerks and the grades of the clerks to the different bureaus as well as the laborers. By some misarrangement too many clerks have been added to one bureau, and some have been taken from others; and the same is the case with the laborers. In one instance, a laborer has been taken from an important bureau and given to another, so that that bureau has two. This merely authorizes the Secretary of the Navy to detail these clerks from one bureau and attach them to others, as the public interest may require.

The second clause of the amendment applies to the assistant surgeon, who has heretofore been connected with the Bureau of Medicine and Surgery, but whom we inadvertently had ignored in that bill. I will state, that the Senate may understand exactly how it is, that this proposition is to give him $400 a year larger salary than he is now getting, which would make his salary not so much by $600 as we are giving to the assistant in the Bureau of Ordnance. He is a very worthy officer, performing very important duty, and certainly deserves this slight increase.

Mr. ANTHONY. What officer is it?

Mr. GRIMES. The assistant surgeon in charge of the Bureau of Medicine.

The amendment was agreed to.

Mr. GRIMES. In line nine of section three, I move to insert the word "of" before the word "vessels;" so that the clause will read:

Lieutenant commanders may be assigned as first lieutenants of naval stations and of vessels not commanded by lieutenant commanders.

The PRESIDING OFFICER. That verbal amendment will be made, if there be no objection.

The amendments were ordered to be engrossed and the bill to be read a third time. It was read the third time, and passed.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. MORRIS, its Chief Clerk, announced that the House had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the bill (H. R. No. 393) making further appropriations for sundry civil expenses of the Government for the year ending June 30, 1863, and additional appropriations for the year ending June 30, 1862.

The message also announced that the House of Representatives had passed the bill (S. No. 383) to define the pay and emoluments of certain officers of the Army, and for other purposes; and

A bill (H. R. No. 562) for the relief of the estate of Lieutenant Joseph Wheaton, deceased.

ENROLLED BILLS SIGNED.

The message also announced that the Speaker of the House of Representatives had signed the following enrolled bills; which thereupon received the signature of the President *pro tempore:*

A bill (S. No. 102) to amend an act entitled "An act to divide the State of Illinois into two judicial districts," approved February 13, 1855;

A bill (S. No. 342) for the establishment of certain national arsenals; and

A bill (S. No. 352) to carry into effect the treaty between the United States and her Britannic Majesty for the suppression of the African slave trade.

BILLS BECOME LAWS.

The message further announced that the President of the United States had approved and signed, on the 5th instant, the following enrolled bills and joint resolution:

A bill (H. R. No. 260) making appropriations for the current and contingent expenses of the Indian department and for fulfilling treaty stipulations with various Indian tribes, for the year ending June 30, 1863;

A bill (H. R. No. 450) making appropriations for the support of the Army for the year ending the 30th of June, 1863, and additional appropriations for the year ending 30th of June, 1862;

A bill (H. R. No. 297) for the relief of J. W. Nye;

A bill (H. R. No. 272) for the relief of Brigadier General Joseph G. Totten; and

A joint resolution (H. R. No. 83) relative to a certain grant of land for railroad purposes, made to the State of Michigan in 1856.

ADDITIONAL CIVIL EXPENSES.

Mr. COLLAMER. I hope gentlemen will indulge me in considering, at this time, a report of a committee of conference which has just been agreed to by the House. I send the report to the Chair.

The PRESIDING OFFICER. It will be taken up as a privileged question.

The Secretary read the report, as follows:

The committee of conference on the disagreeing votes of the two Houses on the bill (H. R. No. 393) making further appropriations for sundry civil expenses of the Government for the year ending June 30, 1863, and additional appropriations for the year ending June 30, 1862, having met, after full and free conference have agreed to recommend, and do recommend, to their respective Houses, as follows:

That the House recede from their disagreement to the second amendment of the Senate, and agree to the same.

That the House recede from their disagreement to the Senate's ninth amendment, and agree to the same, with an amendment, as follows: strike out, in line five of said amendment, the words "twenty-five," and insert "twenty-eight;" and in line seven of said amendment, strike out "twenty-eight," and insert "thirty."

That the Senate recede from their tenth amendment.

That the Senate recede from their disagreement to the amendment of the House to their eighth amendment, and agree to the same, with an amendment, as follows: strike out all after the word "be," in line five of said amendment, and insert in lieu thereof the following: "$4,000 a year, to commence on the 1st day of July, 1862."

J. COLLAMER,
DANIEL CLARK,
JOHN SHERMAN,
Managers on the part of the Senate.
THADDEUS STEVENS,
JAMES H. CAMPBELL,
EDWARD HAIGHT,
Managers on the part of the House.

The report was concurred in.

BRIDGE ACROSS THE OHIO RIVER.

Mr. WADE. I move now to take up House bill No. 392 to establish certain post roads, known as the bridge bill. I do not suppose there will be any more debate upon it.

Mr. WILSON, of Massachusetts. I hope that bill will not be taken up at this time. There are one or two important bills that should be got through with to-day. Every time this bridge bill has been brought up, we have had a long debate over it, and I do not believe it can be passed now without further debate. There are two bills that I think we can pass in fifteen minutes, and it is very important that they should be acted upon, and I hope this other matter will lie over to enable us to dispose of them. I am confident if this bridge bill is taken up we shall spend three or four hours upon it and probably not pass it in that time. It is very important for us to act on one or two other bills to-day, and I hope we will do it.

Mr. WADE. The Senator makes a very extraordinary argument. He says there are two bills here that can be passed in fifteen minutes, and yet he is so afraid they cannot pass at all that he does not want my bill to be taken up, because it may take three or four hours.

Mr. WILSON, of Massachusetts. Your bill has passed the House; these others have not.

Mr. WADE. I suppose there will be no debate on this bill. I do not propose to debate it any more, and I understand the Senator from Pennsylvania [Mr. COWAN] who has contested this matter with me, does not wish to say anything more about it. I believe the Senate are in possession of all the facts on the subject, and I desire to have a vote upon it.

Mr. HARRIS. I hope this bill will not be taken up now, and that the Senate will allow the bill to establish provisional governments to be taken up and disposed of. That, as the Senate well knows, was made a special order, and was crowded out before it was completed by taking up the tariff bill. I am exceedingly desirous to have that bill acted upon and disposed of now, and therefore hope that this bill will not be taken up until that one is disposed of.

Mr. DOOLITTLE. Reports from committees have not been gone through with this morning. They were crowded out by the resolution in regard to a quorum; and I have one that I desire to make. It is in relation to the trust funds belonging to the Delaware, Kaskaskias, and other Indians. I desire to report a bill on that subject and to put the bill on its passage.

The PRESIDENT *pro tempore.* The Chair will receive the report, if there is no objection.

Mr. WILSON, of Massachusetts. I think it is more necessary to take care of the country.

The PRESIDING OFFICER. Objection is made. The question is on the motion of the Senator from Ohio.

Mr. WILSON, of Massachusetts. I hope we shall not take up that bill, but shall take up the bill (S. No. 384) to amend the act calling forth the militia to execute the laws of the Union, suppress insurrections, and repel invasions, approved February 28, 1795. I think it is important that that bill should pass this morning and go to the House of Representatives to-day.

Mr. WADE. I hope my bill will be taken up. There is no disposition to debate it in any quarter, and we should have disposed of it by this time if we had not been interrupted.

Mr. WILSON, of Massachusetts. We have lost any quantity of time on it already.

Mr. WADE. We have not lost any more than its importance demanded. It is quite as important as many other bills.

The PRESIDING OFFICER. The question is on the motion of the Senator from Ohio.

The motion was agreed to; and the Senate, as in Committee of the Whole, resumed the consideration of the bill (H. R. No. 392) to establish certain post roads, the pending question being on the amendment of Mr. COWAN to the amendment reported by the Committee on the Post Office and Post Roads. The amendment of the committee was, in line ten of section one, after the word "hundred," to insert "and seventy;" so that the clause will read:

Provided, That when completed, if constructed without a draw, it shall leave an unobstructed headway in the channel of the river of not less than ninety feet above low water mark, and such channel or water way shall have an unobstructed width of not less than two hundred and seventy feet between the piers next to said channel or water way.

Mr. COWAN. I move to amend the amendment by striking out "two hundred and seventy," and inserting "three hundred." I think that amendment ought to be agreed to, and I think it is better for all parties that it should. There is a very large and respectable delegation now here in the city alarmed by the prospect of bridges being erected across the Ohio river. These men are in the coal trade on that river, and they are very much

opposed to even three hundred feet; but as I agreed to that some days ago and moved that amendment, I feel bound still to vote for it. I am very free to say, however, that it will be a restriction that I have no doubt will be very cumbersome upon the trade of that river, and that any less than that would be to some extent ruinous. I have every reason to believe, too, that that would be satisfactory to the railroad. I am not at liberty to state what information I have received privately; but I have no doubt of the feasibility of building a bridge with a span of three hundred feet—not a particle; and I have no doubt that would secure the bridge, and perhaps secure it satisfactorily. I hope, therefore, the amendment will be adopted. It at least saves the river, and the river is the primary object to be saved. I had hoped that by this time all would have agreed to that proposition.

Mr. WADE. I said I would not argue this question, and I shall not. I should be perfectly willing to agree to that amendment if I supposed the bridge could be made safe with such a span as that; but the engineers made the committee believe that it could not safely be done. This bill was recommitted to the Committee on the Post Office and Post Roads, to have evidence taken and to report over again to the Senate; and two hundred and seventy feet was the extreme that was supposed to be safe. I could not, therefore, give it up, because I suppose this amendment would destroy the bridge.

The PRESIDING OFFICER. The question is on the adoption of the amendment to the amendment.

Mr. COWAN. On that I ask the yeas and nays.

The yeas and nays were ordered.

Mr. LANE, of Kansas. Before the vote is taken I should like to ask the Senator from Ohio a question. If my memory serves me right, I understood him to say that a bridge was commenced, and that it could not be made with this three hundred feet span. Did I understand him correctly?

Mr. COLLAMER. I will answer the gentleman about that point. There has been no such progress made in this bridge as to prevent it. The reason that it could not be made at three hundred feet is, that that is too long a span for a bridge to be made anywhere of wood. A bridge cannot be made of wood safely with that length of span. Otherwise, there has been nothing done with the bridge to prevent it being done.

The question being taken by yeas and nays, resulted—yeas 20, nays 17; as follows:

YEAS—Messrs. Browning, Cowan, Davis, Doolittle, Foot, Grimes, Harris, Henderson, Howe, King, Lane of Indiana, Morrill, Powell, Simmons, Ten Eyck, Wilkinson, Wilmot, Wilson of Massachusetts, Wilson of Missouri, and Wright—20.

NAYS—Messrs. Anthony, Chandler, Clark, Collamer, Foster, Harlan, Kennedy, Lane of Kansas, McDougall, Pomeroy, Rice, Saulsbury, Sherman, Stark, Sumner, Wade, and Willey—17.

So the amendment to the amendment was agreed to.

Mr. GRIMES. I move to strike out the whole of the bill after the first two sections. The first two sections, as I understand it, apply solely to the bridge at Steubenville. Then the remaining sections of the bill authorize any railroad companies that are now organized, or may hereafter be organized——

The PRESIDING OFFICER. The Chair will suggest that the question now is on agreeing to the amendment of the committee as amended.

Mr. GRIMES. Well, sir, I will go on and state what I was going to say.

Mr. SHERMAN. I propose to offer an amendment that will obviate the Senator's objection.

Mr. GRIMES. If any amendment is to be made in that respect I will give way.

The PRESIDING OFFICER. The Senate has just agreed to an amendment to an amendment reported from the Committee on the Post Office and Post Roads fixing the width of the bridge.

Mr. COLLAMER. In the original bill it was two hundred feet deep; the amendment of the committee was to make it two hundred and seventy feet; and the amendment to the amendment was to make it three hundred feet.

The PRESIDING OFFICER. The Chair so understands it. The question now is on agreeing to the amendment of the committee as amended.

Mr. COLLAMER. The Senator from Kentucky [Mr. DAVIS] proposed an amendment the other day, and I suggested to him that it was an amendment to the bill and not to the amendment which was then under consideration. If we now adopt the amendment as amended, it will supersede his amendment, but he may move his amendment to the bill before this amendment as amended is adopted. I mention it now that there may be no misunderstanding about it. If the gentleman chooses to insist on his amendment, I take it he must make it now, before this amendment as amended is made part of the bill, because after that his amendment would be out of order.

The amendment as amended was agreed to.

Mr. SHERMAN. I propose to offer an amendment which obviates the objection of the Senator from Kentucky, and I will offer it now if it be in order. I move to insert in the third section, after the words "Ohio river," in the fourth line, the words, "above the Big Sandy;" so that this will apply only to the Ohio river above the Big Sandy.

Mr. COLLAMER. Where is that?

Mr. SHERMAN. Above the boundary line between Virginia and Kentucky. It will then apply only to the three roads now being constructed, and obviate the objection of the Senator from Kentucky.

The PRESIDING OFFICER. There are various other amendments reported from the Committee on the Post Office and Post Roads, and if it is agreeable to the Senate, the Chair will pursue the ordinary course of considering the amendments of the committee first.

Mr. SHERMAN. Certainly; I have no objection to that.

The PRESIDING OFFICER. The next amendment of the committee will be read.

The next amendment was in section one, after line eleven, to insert the words "and one of the spans next adjoining thereto shall not be less than two hundred and twenty feet in length."

The amendment was agreed to.

The next amendment was in line fourteen of section one, after the word "same," to insert the word "to."

The amendment was agreed to.

The next amendment was in line fourteen of section one, after the word "constructed," to strike out the words "as provided in the fourth section of this act, as to the elevation of draw and width of channel, said draw shall remain open except as in said section provided;" and to insert in lieu thereof "under the limitations and conditions provided in the fourth section of this act."

The amendment was agreed to.

The next amendment was in line two of section two, to strike out the word "is," and to insert, "and Holliday's Cove railroad are;" so that it will read, "that the said bridge and Holliday's Cove railroad are hereby declared a public highway, and established a post road," &c.

The amendment was agreed to.

The next amendment was in section two, line eight, to strike out the word "have," and to insert "complete;" and in line nine, before the word "bridge," to insert the words "road and."

The amendment was agreed to.

The next amendment was in section two, line eleven, after the word "notwithstanding," to strike out the following words:

And the officers and crews of all vessels and boats navigating said river are required to regulate the use of their said vessels and boats, and of any pipes or chimneys belonging thereto, so as not to interfere with the elevation, construction, and use of said bridge.

The amendment was agreed to.

The next amendment of the committee was in section four, to strike out all of the section after the word "river," in the ninth line, in the following words:

Nor shall the piers of the same be of less distance apart than two hundred feet: *And provided also*, That if any bridge built under the provisions of this act shall be constructed as a drawbridge, the same may be constructed with piers not less than two hundred feet apart, except that at the interval designated for the draw the space of clear water way may be reduced to, but shall not be less than, one hundred feet on each side of the pivot or central pier of the draw; and that said draw shall be located immediately over the channel of the said river as understood at the time of the erection of the bridge: *And provided also*, That both spans of said draw shall at all times remain open for the passage of boats, except when required to be closed for the passage of engines or trains, and for ten minutes preceding the time any such engines or trains may be due.

And to insert the following in lieu thereof:

Nor in any case less than forty feet above extreme high water, as understood at the point of location, measuring for such elevation to the bottom chord of the bridge; nor shall the span of such bridge, covering the main channel of the river, be less than two hundred and seventy feet in length—

Mr. COLLAMER. Before proceeding further with the reading, in accordance with the recent vote of the Senate that should be made three hundred feet.

The PRESIDING OFFICER. Does the Senator make a motion to amend?

Mr. COLLAMER. I do.

The PRESIDING OFFICER. It is moved to amend the amendment by striking out "two hundred and seventy," and inserting "three hundred," to make it correspond with the other amendment which has been adopted.

The amendment to the amendment was agreed to.

The Secretary continued the reading of the matter proposed to be inserted, as follows:

With also one of the next adjoining spans of not less than two hundred and twenty feet in length, and the piers of said bridge shall be parallel with the current of the river, as near as practicable: *And provided also*, That if any bridge built under this act shall be constructed as a drawbridge, the same shall be constructed with a span over the main channel of the river, as understood at the time of the erection of the bridge, of not less than two hundred and seventy feet in length—

Mr. COLLAMER. That should be changed to three hundred feet also.

The PRESIDING OFFICER. That amendment will be made if there be no objection.

The Secretary continued the reading of the matter proposed to be inserted, as follows:

And said span shall not be less than seventy feet above low water mark, measuring to the bottom chord of the bridge, and one of the next adjoining spans shall not be less than two hundred and twenty feet in length; and also, that there shall be a pivot draw constructed in every such bridge, at an accessible and navigable point, with spans of not less than one hundred feet in length, on each side of the central or pivot pier of the draw: *And provided also*, That said draw shall always be opened promptly, upon reasonable signal, for the passage of boats whose construction may not, at the time, admit of their passing under the permanent spans of said bridge, except that said draw shall not be required to be opened when engines or trains are passing over said bridge, or when passenger trains are due, but in no case shall unnecessary delay occur in the opening of said draw after the passage of such engines or trains.

The PRESIDING OFFICER. The question is on the adoption of the amendment as amended.

The amendment, as amended, was agreed to.

The next amendment of the committee was to add at the end of the fifth section the following:

And the officers and crews of all vessels, boats, or rafts navigating the said Ohio river are required to regulate the use of the said vessels and of any pipes or chimneys belonging thereto, so as not to interfere with the elevation, construction, or use of any of the bridges erected or legalized under the provisions of this act.

The amendment was agreed to.

The PRESIDING OFFICER. The amendments reported from the committee are now disposed of.

Mr. SHERMAN. I move to insert in the fourth line of the third section, after the words "Ohio river," the words "above the mouth of the Big Sandy river," so that it will read:

That it shall be lawful for any other railroad company or companies, whose line or lines of road may now or shall hereafter be built to the Ohio river, above the mouth of the Big Sandy river, in accordance with the terms of the charter or charters of such company or companies, to build a bridge across said river for the more perfect connection of any such roads and for the passage of trains thereof, under the limitations and conditions hereafter provided.

I am perfectly willing to have the terms of this bill apply to the whole of the Ohio river to its mouth; but other Senators seem to object to it, and I offer this in order to satisfy them, especially the Senators from Kentucky, who think that in certain parts of the river it might be necessary to have a different kind of bridge. This will accomplish the purpose.

The amendment was agreed to.

The bill was reported to the Senate as amended.

The PRESIDING OFFICER. The question is on concurring in the amendments made as in Committee of the Whole, and the question will be taken on all the amendments together, unless some Senator desires a separate vote on an amendment.

Mr. CARLILE. We desire a separate vote upon those amendments.

The PRESIDING OFFICER. All of them?

Mr. CARLILE. The principal amendment is the one increasing the width of the bridge between the spans from two hundred and seventy to three hundred feet.

The PRESIDING OFFICER. That amendment will be reserved. Does any other Senator desire a separate vote on any other amendment? The question then will be on concurring in the remaining amendments to the bill.

The remainder of the amendments were concurred in.

The PRESIDING OFFICER. The question now is on concurring in the amendment indicated by the Senator from Virginia.

Mr. CARLILE. I am informed by those who are competent to know, that no substantial bridge with a greater span than two hundred and seventy feet, and even that is an experiment, can be constructed. This is a proposition in which the people of northwestern Virginia are very deeply interested as well as the people of the State of Ohio, and I may say the people of the whole country; for every man in New England who has a pound of flour to buy is interested in the cheap transportation from the grain-growing States of that article to his home. It enables him to purchase it at a less sum; and by the aid of these bridges across the Ohio, you can have a direct communication from the great grain-growing interest of the West to the entire country East; you reduce the cost of transportation, and as a matter of course you reduce the cost of the article. Now, I understand that the widest span probably of a bridge over which a railroad has passed is two hundred and fifty feet. As I understand, this width of two hundred and seventy feet was agreed to by the parties in interest in this matter; and I think, with all respect for the honorable Senator from Pennsylvania, that the little inconvenience of taking their boats down the Ohio river as they bring them out of the Alleghany and Monongahela into the Ohio river, certainly ought not to outweigh the great benefits that are to result to the entire country by the construction of these bridges, and enabling these roads to pass without interruptions that there are now between the various lines running from the East to the West. I hope the proposition as it came from the Committee on the Post Office and Post Roads will not be amended by the Senate, but that the Senate will non-concur with the Committee of the Whole in increasing the width of this span; and upon that I ask for the yeas and nays.

The PRESIDING OFFICER. The question is on concurring in the Senate in the amendment made as in Committee of the Whole, striking out "two hundred and seventy," and inserting "three hundred;" and on that question the yeas and nays are demanded.

The yeas and nays were ordered; and being taken, resulted—yeas 22, nays 15; as follows:

YEAS—Messrs. Browning, Cowan, Davis, Doolittle, Fessenden, Grimes, Hale, Harris, Henderson, Howard, Howe, King, Lane of Indiana, McDougall, Morrill, Powell, Simmons, Ten Eyck, Wilmot, Wilson of Massachusetts, Wilson of Missouri, and Wright—22.

NAYS—Messrs. Anthony, Carlile, Chandler, Clark, Collamer, Foot, Kennedy, Lane of Kansas, Pomeroy, Saulsbury, Sherman, Stark, Sumner, Wade, and Willey—15.

So the amendment was concurred in.

The amendments were ordered to be engrossed, and the bill to be read a third time. It was read the third time.

Mr. POWELL. I call for the yeas and nays on the passage of the bill.

The yeas and nays were ordered; and being taken, resulted—yeas 36, nays 2; as follows:

YEAS—Messrs. Anthony, Browning, Carlile, Chandler, Clark, Collamer, Cowan, Davis, Doolittle, Fessenden, Foot, Hale, Harlan, Harris, Henderson, Howard, Howe, Kennedy, King, Lane of Indiana, Lane of Kansas, Morrill, Pomeroy, Rice, Saulsbury, Sherman, Simmons, Stark, Sumner, Ten Eyck, Wade, Willey, Wilmot, Wilson of Massachusetts, Wilson of Missouri, and Wright—36.

NAYS—Messrs. Grimes and Powell—2.

So the bill was passed.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. MORRIS, its Chief Clerk, announced that the House had disagreed to the amendments of the Senate to the bill (H. R. No. 531) increasing temporarily the duties on imports, and for other purposes, and asked a conference on the disagreeing votes of the two Houses, and had appointed Mr. THADDEUS STEVENS of Pennsylvania, Mr. JUSTIN S. MORRILL of Vermont, and Mr. E. B. WASHBURNE of Illinois, managers at the same on its part.

The message also announced that the House of Representatives had disagreed to the amendments of the Senate to the bill (H. R. No. 438) to grant pensions, and asked a conference on the disagreeing votes of the two Houses, and had appointed Mr. WILLIAM S. HOLMAN of Indiana, Mr. JOHN N. GOODWIN of Maine, and Mr. REUBEN E. FENTON of New York, managers at the same on its part.

The message also announced that the House of Representatives had insisted on its amendments to the bill (S. No. 89) to amend the act of March 3, 1837, entitled "An act supplemental to the act entitled 'An act to amend the judicial system of the United States,'" disagreed to by the Senate, disagreed to the amendment of the Senate to the second amendment of the House to said bill, and asked a conference on the disagreeing votes of the two Houses thereon, and had appointed Mr. JAMES F. WILSON of Iowa, Mr. JOHN A. BINGHAM of Ohio, and Mr. ROBERT MALLORY of Kentucky, managers at the same on its part.

The message also announced that the House of Representatives disagreed to the amendments of the Senate to the bill of the House (No. 550) to further provide for the collection of the revenue upon the northern, northeastern, and northwestern frontiers and for other purposes, and asked a conference on the disagreeing votes of the two Houses thereon, and had appointed Mr. WILLIAM P. SHEFFIELD of Rhode Island, Mr. SCHUYLER COLFAX of Indiana, and Mr. SAMUEL S. COX of Ohio, managers at the same on its part.

The message further announced that the House of Representatives had agreed to the amendments of the Senate to the joint resolution (H. R. No. 71) providing for the distribution of surplus copies of the Blue Book for 1861 among the several bureaus in the Executive Departments.

The message also announced that the House of Representatives had agreed to the amendments of the Senate to the bill of the House (No. 328) for the relief of Louisa Abert Byrne.

NAVAL APPROPRIATION BILL.

Mr. HALE. I desire to submit a report from a committee of conference:

The committee of conference on the disagreeing votes of the two Houses on the bill (H. R. No. 423) "making appropriations for the naval service for the year ending June 30, 1863," having met, after full and free conference have agreed to recommend, and do recommend, to their respective Houses as follows:

That the House recede from their disagreement to the Senate's second, fourth, twenty-ninth, forty-second, and forty-eighth amendments, and agree to the same.

That the Senate recede from their eleventh, nineteenth, twentieth, twenty-first, twenty-fifth, twenty-sixth, thirty-first, thirty-fourth, forty-first, forty-third, and forty-seventh amendments.

That the Senate recede from their disagreement to the amendment of the House to their fourteenth amendment, and agree to the same.

That the House recede from their disagreement to the Senate's forty-sixth amendment, and agree to the same with an amendment as follows: after the word "thirty," in line three of said amendment, add the word "five."

That the House recede from their disagreement to so much of the Senate's twenty-second amendment as proposes to insert the words, "*Provided*, The Secretary of the Navy can procure a satisfactory title to the whole thereof, sixty-five thousand," and agree to the same, with the following amendment: strike out the words proposed to be inserted, and after the word "dollars," in line twenty-four, insert, "*Provided*, That the chief of the Bureau of Docks and Yards be, and he is hereby, authorized to purchase that portion of Seavey's Island lying east of the road, for such sum as to him may seem reasonable and advantageous to the Government."

In explanation of this, I will say that several of these amendments are unimportant. I will state the principal items of dispute. The first was as to the Naval Academy at Newport; and as to that, very much to your regret, sir, undoubtedly, (Mr. ANTHONY in the chair,) the Senate recede, leaving the academy at Newport for the present. Another disagreement was in regard to the purchase of Seavey's Island, adjoining the Portsmouth navy-yard. The House of Representatives proposed to buy twenty-seven acres and a fraction, and the Senate to buy the whole island. We finally compromised by buying what the House proposed, the twenty-seven acres, and authorizing the chief of the Bureau of Yards and Docks, if he can purchase it for a reasonable sum, to buy all that lies east of the road, which is the most valuable part of the island. The price has been agreed upon, but we leave that to the chief of the Bureau of Yards and Docks. The Senate recede from their opposition to the House amendment in regard to the Charlestown yard; so that yard is to have the addition. There was a difference in regard to the age of chaplains when appointed. We put it at thirty years; the House disagreed to it, and we have compromised on thirty-five. The House recede from their opposition to the abolition of the spirit ration, and also to the addition of $300,000 to the clothing fund for the Navy. I believe I have now stated all the amendments that are of any consequence.

The PRESIDING OFFICER, (Mr. ANTHONY.) Has the Senator from New Hampshire the bill with him?

Mr. HALE. No, sir. I am told that the papers belong to the other House, but we asked for the conference.

The PRESIDING OFFICER. If the bill is in the House of Representatives, the report must first be acted on there.

Mr. HALE. Does the Chair decide that this report cannot be acted on without the bill?

The PRESIDING OFFICER. It must first be acted on in the House where the papers are.

TARIFF BILL.

The Senate proceeded to consider its amendments to the bill of the House (No. 531) increasing temporarily the duties on imports, and for other purposes, disagreed to by the House of Representatives, and,

On motion of Mr. FESSENDEN, it was

Resolved, That the Senate insist upon its amendments to the said bill disagreed to by the House of Representatives, and agree to the conference asked by the House on the disagreeing votes of the two Houses thereon.

Ordered, That the committee of conference on the part of the Senate be appointed by the President *pro tempore*.

Messrs. FESSENDEN, SIMMONS, and HOWARD, were appointed.

JUDICIAL CIRCUITS.

The Senate proceeded to consider the amendments of the House of Representatives to the bill (S. No. 89) to amend the act of the 3d of March, 1837, entitled "An act supplementary to the act entitled 'An act to amend the judicial system of the United States,'" disagreed to by the Senate, and the amendment of the Senate to the second amendment of the House to the said bill; and,

On motion of Mr. WRIGHT, it was

Resolved, That the Senate insist upon its disagreement to the amendments of the House of Representatives to the said bill, disagreed to by the House, and upon its amendment to the second amendment of the House thereto, insisted on by the House; and that it agree to the conference asked by the House of Representatives on the disagreeing votes of the two Houses thereon.

Ordered, That the committee of conference on the part of the Senate be appointed by the President *pro tempore*.

The PRESIDENT *pro tempore* appointed Mr. COLLAMER, Mr. WRIGHT, and Mr. TEN EYCK.

PENSION BILL.

The Senate proceeded to consider its amendments to the bill of the House (No. 438) to grant pensions, disagreed to by the House of Representatives; and,

On motion of Mr. FOSTER, it was

Resolved, That the Senate insist upon its amendments to the said bill disagreed to by the House of Representatives, and agree to the conference asked by the House on the disagreeing votes of the two Houses thereon.

Ordered, That the committee of conference be appointed by the President *pro tempore*.

The PRESIDENT *pro tempore* appointed Mr. FOSTER, Mr. COWAN, and Mr. HOWE.

TERM OF SERVICE OF MILITIA.

On motion of Mr. WILSON, of Massachusetts, the bill (S. No. 384) to amend the act calling forth the militia to execute the laws of the Union, suppress insurrections, and repel invasions, approved February 28, 1795, was read a second time and considered as in Committee of the Whole. It provides that whenever the President of the United States shall call forth the militia of the States, to be employed in the service of the United States, he may specify in his call the period for which such service will be required; and the militia so called shall be mustered in and continue to serve for and during the term so specified, unless sooner discharged by command of the President. So much of the fourth section of the act to which this is an amendment as conflicts with this act, and all acts and parts of acts conflicting with this act, are to be repealed. The organization of the militia, when so called into service is to be conformed to the organization prescribed by the Constitution and laws for volunteers.

Mr. WILSON, of Massachusetts. By an amendatory act to the act of 1795, approved July 29, 1861, the fourth section of the act of 1795, to which reference is made in the first section of this bill, was repealed, and therefore I move to strike out the last sentence of the first section, in these words:

So much of the fourth section of the act to which this is an amendment as conflicts with this act, and all acts and parts of acts conflicting with this act, are hereby repealed.

The amendment was agreed to.

Mr. WILSON, of Massachusetts. In order to reach that point, it will also be necessary to amend the title of the bill by adding the words, "and the act amendatory thereof, approved July 29, 1861."

The PRESIDING OFFICER. That amendment will be made.

Mr. GRIMES. I offer an amendment to the bill to add the following as additional sections:

And be it further enacted, That there shall be no exemption from the performance of military duty under this or under any of the militia laws of the United States on account of color or lineage; but whenever the militia shall be called into service, all loyal able-bodied male persons between the ages now fixed by the laws of the United States shall be called to the defense of the country.

And be it further enacted, That when the militia shall be called into the service of the United States, under this or any other law of the United States, the President of the United States shall have full power and authority to organize them into battalions, regiments, brigades, and divisions, according to their race or color, as he shall believe that the public interests may require.

And be it further enacted, That the provisions of the two preceding sections shall be construed so as to apply to and include volunteers who may hereafter be called into the service of the United States, and all persons who have been or who may be hereafter enrolled in the service of the United States as volunteers, or as militia, shall receive the pay and rations of soldiers as now allowed by law according to their respective grades.

The PRESIDING OFFICER. The question is on the adoption of the amendment proposed by the Senator from Iowa.

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

The yeas and nays were ordered.

Mr. SAULSBURY. If anything has contributed more than another to the disasters which have followed the Federal arms, it has been, in my judgment, the persistent attempt to bring about the state of affairs contemplated by this amendment. It would have been utterly impossible, had this war been really prosecuted for the maintenance of the Constitution as our fathers made it, and the restoration of the Union as it was, for the people of this country ever to allow this Union to be dissolved. The patriotic spirits of the North and the South would have risen up, and said that the Federal Union should be preserved, and the Federal Constitution maintained. But no sooner are we engaged in civil war, notwithstanding the Administration and Congress announced that the object should be simply for the preservation of the Constitution and the restoration of the Union, than an attempt is made on every occasion to change the character of this war, and to elevate the miserable nigger, not only to political rights, but to put him in your Army, and to put him in your Navy; and while this policy is pursued, the Union never will be restored, because you can have no Union without the preservation of the Constitution.

But, sir, I will not detain the Senate with any remarks. I have said enough on this subject in the present Congress. I have a right, however, as a representative of a State which I expect always to remain in this Union, to see the Constitution of my country preserved, and the Union, if possible, restored, and to see that this attempt which is so persistently made for the elevation of the negro to the level of the white man on all occasions shall not be accomplished, at least so far as my vote can tend to any such result.

Mr. CARLILE. I desire to inquire of the Senator from Iowa if negroes constitute a part of the militia of his State. I know they do not constitute a part of the militia of the State in which I live; and I am not aware that they constitute a part of the militia of any State in this Union. The President has the power to call out the militia of the States to suppress insurrection; and he is made Commander-in-Chief of the Army and Navy of the United States, and of the militia of the several States when called into the actual service of the United States. As I caught the reading of the amendment, it provides for enrolling as a part of the militia the negroes of the country. Now, sir, who constitute the militia is settled by the laws of the several States; and I hold that the Congress of the United States has no power to determine who shall compose the militia of a State in this Union. That is a subject of State regulation; and the power of the Commander-in-Chief, the President of the United States, does not extend, under the Constitution, beyond the calling out of the militia of the several States, and the States themselves determine who shall compose that militia. I am not aware of any State of the Union—and I put the inquiry to the Senator from Iowa for the purpose of information—where the negro constitutes a part of the militia of that State; and if he does not by virtue of the State laws, the Congress of the United States surely has no power under the Constitution to determine who shall compose the militia of a State in the Union. I differ with the Senator from Delaware. I do not think it is an effort to elevate the negro to an equality with the white man; but the effect of such legislation will be to degrade the white man to the level of the negro.

Mr. SAULSBURY. I accept that suggestion.

Mr. KING. I wish to suggest to the Senator from Iowa a modification of his amendment. I will ask him to take the three sections which I will send to the Chair, and ask to have read, or I will move that the first two sections of the amendment offered by him be stricken out, and these three sections be substituted in their place.

The PRESIDING OFFICER. The Senator from New York moves to amend the amendment of the Senator from Iowa by inserting, instead of the first two sections, the following——

Mr. KING. I will ask the Senator from Iowa to accept it.

Mr. GRIMES. I accept it, if it is within my power.

Mr. KING. I will ask the Senator from Iowa to accept these propositions instead of the amendment as he offered it, if there is no objection to it in the Senate.

Mr. SHERMAN. Let it be read first.

The Secretary read the proposed amendment, to add the following as new sections:

And be it further enacted, That the President be, and he is hereby, authorized to receive into the service of the United States, for the purpose of constructing intrenchments, or performing camp service, or any other labor, or any war service for which they may be found competent, persons of African descent, and such persons shall be enrolled and organized under such regulations, not inconsistent with the Constitution and laws, as the President may prescribe, and they shall be fed and paid such compensation for their services as they may agree to receive when enrolled.

And be it further enacted, That when any man or boy of African descent shall render any such service as is provided for in the first section of this act, he, his mother, and his wife and children shall forever thereafter be free, any law, usage, or custom whatsoever to the contrary notwithstanding.

And be it further enacted, That $10,000,000 be, and the same is hereby, appropriated out of any money in the Treasury not otherwise appropriated to carry the provisions of this act into effect.

Mr. GRIMES. I accept as a part of the proposition I offered the first two sections of the amendment of the Senator from New York in lieu of those I offered.

Mr. KING. I hope the Senator will accept the first two. The vote may be taken separately, if it is desired.

Mr. GRIMES. I do accept them if I have the power to do so.

The PRESIDING OFFICER. It may be done by unanimous consent. Is there any objection? The Chair hears none.

Mr. SAULSBURY. I wish to know what is the question before the Senate?

The PRESIDING OFFICER. The Senator from New York proposes to strike out the first two sections of the amendment of the Senator from Iowa, and insert what has just been read. The Senator from Iowa accepts the amendment as a part of his amendment.

Mr. CARLILE. Let the amendment be read as it now stands.

The PRESIDING OFFICER. The amendment, as modified by the Senator from Iowa with the assent of the Senate, will be read.

The Secretary read the amendment, as modified, to add the following as additional sections:

And be it further enacted, That the President be, and he is hereby, authorized to receive into the service of the United States, for the purpose of constructing intrenchments or performing camp service, or any other labor, or any war service for which they may be found competent, persons of African descent; and such persons shall be enrolled and organized under such regulations, not inconsistent with the Constitution and laws, as the President may prescribe, and they shall be fed and paid such compensation for their services as they may agree to receive when enrolled.

And be it further enacted, That when any man or boy of African descent shall render any such service as is provided for in the preceding section of this act, he, his mother, and his wife and children shall forever thereafter be free, any law, usage, or custom whatsoever to the contrary notwithstanding.

And be it further enacted, That the provisions of the preceding sections shall be construed so as to apply to and include persons of African descent who may hereafter be called into the service of the United States; and all persons who have been or who may be hereafter enrolled in the service of the United States as volunteers or as militia shall receive the pay and rations of soldiers as now allowed by law according to their respective grades.

Mr. SAULSBURY. The propositions heretofore made, I believe, have generally been to authorize the President of the United States to call into the service free negroes. This is a wholesale scheme of emancipation. Under this proposition, the President of the United States can go into the State of Maryland or any other State and call into service every slave, every man and every boy, and your act declares that, if the President chooses to do that, these persons and every one dependent upon them shall thereupon be free. The Constitution declares that if a slave runs away from his master, you shall deliver him up to his master on proof that he owes service or labor; but, in the face of that provision of the Constitution, you propose to pass an act to allow the President of the United States to declare every negro slave in the whole of the United States free, first having called him into the military service of the country. "The work goes bravely on," sir. Here is the most magnificent scheme of emancipation yet proposed. How long will you keep the Army in the field after adopting such a policy? Do you believe that the free white soldiers of this country will fight side by side with negroes? Do you believe that free white soldiers, when they see that the Congress and the President of the United States have no regard for the constitutional rights of the white citizens of this country, will continue to fight your battles? You have had enough of disaster already from the attempt to inaugurate such a policy as this. Its full inauguration will have one effect at least—you will have no armies in the field, in my judgment.

Mr. SHERMAN. This proposition is one of the most important that has been presented to Congress, and the times are meet for its consideration. The question must be decided whether the negro population of the United States shall be employed only to aid the rebels. Hitherto they have been the mainstay of this rebellion. Their labor has furnished food; they have built intrenchments; they have relieved the rebel soldiers of the burdensome duties of the camp, and have left their masters free to perform simple military duty. Now, the question arises whether the people of the United States, struggling for national existence, should not employ these blacks for the maintenance of the Government. It is a question whether the rebels alone shall have the benefit of slavery, without feeling its weakness, or whether the United States shall employ the labor of a race of men whose interests, whose sympathies, whose whole hearts are with the loyal people of the United States in suppressing this rebellion.

I, perhaps, have been as indisposed to avail myself of the labor of slaves, or to interfere with slavery, as any other Senator; but the time has arrived when, in my judgment, the military authorities should be compelled to use all the physical force of this country to put down the rebellion. The policy heretofore pursued by the officers of the United States has been to repel this class of people from our lines, to refuse their services. They would have made the best spies, and yet they have been driven from our lines. They would have relieved our soldiers from many a hard task, many an irksome duty; but instead of that our soldiers have been required to guard the property of the owners of those slaves. The slaves have been employed to uphold the rebellion, and our soldiers have been put as guards around the houses of rebels while the rebels have thus been engaged in war against the Government. Cases have occurred where our men have been shot down while they were guarding the property of rebels. This must no longer be.

Gentlemen from the slave States ought not to feel so sensitive about this matter. We have come to that condition when we must employ these negroes, not probably as soldiers, but as laborers,

as servants, as guards, and spies. Senators seem to think they are not fit for soldiers. It is said that white men will not fight side by side with them. In the South rebels fight side by side with them. In the South the negroes do the labors of the camp. They do all the hard work. Why shall we not avail ourselves of their services to perform the same class of duties for us? I do not believe that the whites and the blacks will ever mingle together on terms of equality. My notions on that subject have been defined often enough. I think the law of caste is the law of God; you cannot change it. The whites and the blacks will always be separate, or where they are brought together, one will be inferior to the other. That, however, is not the question now. Here the blacks are in our country—four millions of them. They are, from their very position, character, and interests, our natural friends in subduing this rebellion. They would aid us heartily. As soon as their limited understanding and information enables them to comprehend this contest, they will aid us the more heartily. Now, shall we avail ourselves of their services, or shall the enemy alone use them? That is the question.

Mr. SAULSBURY. I wish to ask the Senator from Ohio whether it is his opinion that it is within the constitutional competency of Congress by passing this bill to direct the President to enroll every negro slave in the State of Maryland, and whether the President, by enrolling them in the form of military service, either as laborers or soldiers, can give them freedom as against their masters. I take the State of Maryland simply because it has not presumed to secede.

Mr. SHERMAN. I have no doubt that it is within the constitutional power of Congress in raising armies to enroll whites and blacks, free and slaves. And it is equally clear that Congress may, when military service is required, deprive a father of his right to the labor of his son, and the master of the services of his slave. But this right is measured by the military necessity, and when exercised against a loyal citizen should be accompanied by full compensation. A different rule applies to the property of an enemy. It is not probable that the President will enlist the slaves of Maryland unless the vicissitudes of war compel him to defend that State. Then surely the Senator from Delaware would not object to the employment of their slaves. And it is very sure that if the slaves of loyal citizens are employed in loyal States compensation will be made.

But, sir, this provision is intended to apply to other States where loyalty is crushed under the despotism of rebels. The slaves employed will be the slaves in South Carolina, Louisiana, and similar States. It is of these we are legislating. I desire to give the President of the United States ample power to employ the negroes of these States and all free negroes for all purposes for which they may be usefully employed, either as servants or laborers. I would authorize every company to employ eight or ten of them as servants to perform the drudgery of camp life, and especially such labor as must be performed under exposure to the sun and heat of the cotton States.

How far emancipation should be extended to these slaves who render faithful service to the country is a more difficult question—but upon a few propositions we certainly can agree. Who would surrender to his rebel master the heroic slave pilot, who, by his courage and sagacity, added a vessel to our Navy? Who would surrender to a rebel master the slave who, amid heat and storm and battle, fed and cared for and waited on our officers and soldiers? Who would give up to perpetual slavery the very many negroes who, during this war, have risked their lives to convey us important intelligence? Sir, whatever vagaries and prejudices may cling to us, I trust no one among us would consent to reward the services of loyal slaves by perpetual and hopeless bondage to rebel masters. Such a policy would be far more infamous than the rebellion itself. Without further defining my views upon this subject at this time, I am willing to affirm for myself that never will I consent to surrender a slave who has rendered any service, however menial, to our Army to the custody of a rebel master; nor will I deprive a loyal master of his interest in the services of his slave without full compensation.

The only doubt I have about this proposition is how far it will affect the loyal people of the southern States. I do not wish to throw a straw in their way. I do not wish to impair their rights. As by their local law they have the right to hold slaves, I do not wish to affect that right; or, if I am forced to do it, I wish to give them the full compensation provided for by the Constitution of the United States; but as to those men who are now seeking to subvert the Government, who are using slaves for that purpose, who are arming their sons and dependents to fight us, I would employ their slaves and make them free. The objection to the proposition as it now stands is, that it affects all alike. Therefore it is unjust, and I trust will be modified.

Mr. President, in my judgment this war will never successfully end until the people of the United States are thoroughly alive to the situation and condition of the country. By conscription laws the rebels have united the whole physical power of the rebel States in their army. They seize all kinds of men, white and black, and force them into an involuntary service, whether they are loyal or disloyal. Some gentlemen here are very much afraid that we will employ black men and allow them to do loyal service. While these gentlemen are continually arraigning the Administration and Congress and all who desire to put down the rebellion, for doing any act that would not be justified in time of peace, they never say one word about those who are seeking to subvert the Government by means that we dare not resort to. We have heretofore resorted only to volunteers; we have appealed to the patriotic people of the United States to volunteer and engage in this war, and nobly have they responded; but, sir, I take it, if it be necessary in order to subdue this rebellion, we will resort to all the power given us by the Constitution of the United States. I have no hesitation in saying myself, that rather than see this country broken up, rather than bequeath to the next generation a broken Union and interminable war and anarchy, I would vote for a general conscript bill; and, sir, I think the necessity now exists for such a law. I would unite the whole physical power of this country, white and black; and, if necessary to preserve the Union, would desolate every rebel State. The object is too great for us to stand upon trifles. We all know and feel that if this war ends upon the basis of a dissolution of the Union, we bequeath to generations yet unborn interminable war. You cannot have two nations of the same race side by side with each other, with a boundary of two thousand miles, without interminable war. There will be causes of jealousy springing up between them that you cannot now foresee; and if you would divide the country, or allow these men to divide it, there would soon be internal commotions in the southern and in the northern confederacy. The East and the West would quarrel. Factions, embittered by local interests, would destroy all that two generations of men have accumulated. To avoid such calamities I am willing to resort to extraordinary measures; and if the appeal now made for volunteers, if the arming of the militia, if the employment of negroes is not sufficient, then I would do what every other Government has done under like circumstances; what our fathers did in the war of 1812; I would, by a fair law, unite and combine together, in one great army, the whole physical force of this country, and, if necessary, I would desolate every State that stands in the way.

I assure Senators here that, although the people of this country are somewhat saddened by recent disasters, although the whole country is now a scene of mourning, yet the spirit and the determination of the people is not checked in the least. I know how it is among my constituents. There is no wavering. I notice, and it is a healthy sign, that even under these defeats the Democratic convention in my State, composed of men who held off from the war, have uttered more patriotic sentiments in view of these defeats than they did before. I consider it a good sign, that old politicians, whose whole heritage of patriotism consisted in a party name to which they cling, while their old associates are in armed rebellion, have now advanced a few steps. They have announced their position that never, under any circumstances, whatever measures may be necessary, will they consent to a dissolution of the Union. If they will only stand upon that ground, I heartily welcome them to patriotic association. I have no doubt that we shall be able to fight this war to a successful termination.

I know it is sometimes said that we do not sufficiently consider the wishes of the loyal people in the southern States, and that the discussions of Congress add to the difficulties of their position. This is hardly just. Without surrendering the right of free discussion it is impossible, even if desirable, to check debate upon any question affecting the public interests.

Nor is it true that we affect the rights and interests of loyal men in the South. Their services have been and are highly appreciated. Such patriots as Johnson, Holt, Stanly, Crittenden, and hosts of others, whose courage and patriotism are worthy of the highest praise, have always received and ought to receive the aid, sympathy, and support of our people. I would not exchange our true loyal southern men for many loyal northern men; simply because in their loyalty they are surrounded with many difficulties and dangers that we do not feel. It has been chiefly through their influence that our generals have heretofore repelled the services of slaves or negroes. The chief argument has been that a different policy would excite the rebels or make us new enemies from among the indifferent or neutral in the South. I now appeal to their candor to say if this policy has not been sufficiently tried and has not failed. While we have been forbearing and kind, our enemies have by violence forced into their ranks many of the men whose favor we have sought to win by kindness.

We cannot hope to satisfy those who carp and complain at all that is done. They are enemies none the less for pretending to be Union men. It is for the really loyal men of the South I would defer on all questions affecting slavery, until yielding would endanger the great object of the war—the preservation of the Union. Their feeling against the employment of slaves in the war grows out of the legal condition of the slave in a slave State, where, by the local law, they are regarded simply as property. We cannot view them in this light when legislating here. By the Constitution of the United States they are regarded as persons. As such they are represented here. We have the same right to call upon this class of persons for military duty that we have to call upon the white men of the country. If you should pass a conscript law, you have the same right to draft negroes into the service of the United States as white citizens; but I agree that your draft would not deprive the owner of his right to the service of his slave after your need of his service had ceased.

It is true that by the militia laws of Ohio, and perhaps of all the States, negroes do not muster with the white people. They are not enrolled as part of the militia; and why? Because the prejudices of caste separate the white man from the black man, and always will; but in a time of necessity, when their services are needed either as servants or laborers, you have the same right to call on the free negro or the slave negro as you have to call on the Senator from Delaware or myself.

Mr. COLLAMER. I desire to suggest to the gentleman that our State laws on the subject of the militia, confining the enrollment to white men, are as directed by the United States statute. The United States, under the Constitution, have the right to organize the militia, and Congress in 1793, passed an act for organizing the militia, and confined it to white people, and that is the reason our State laws exclude negroes. The judges of the supreme court of Massachusetts decided that the State could not enroll in the militia any others than those authorized by the act of Congress.

Mr. SHERMAN. That is another explanation; but even in the absence of any law excluding black men from the militia, I know that naturally the prejudice of caste is so strong as to separate the white and black; and even this proposition, as framed by the Senator from Iowa, recognizes that distinction, because it requires white and black to be organized into regiments according to race and color, thus separating them. But that the black man of this country owes military service just as much as the white man, I do not think any one can gainsay. The fact that he is held to service does not relieve him. The apprentice is liable to military duty; and yet he is held to service within the meaning of this clause of the Constitution. A lawyer who is hired to defend or prosecute a case, is held to service; and he is bound by the law to perform that service, if he agreed to do so. So with a preacher; so with a doctor; so

with any man in any employment, if he agrees to render service to another, that person has a right to his service, and can enforce that right in the courts of law; but that does not discharge the debtor from military duty. The slave, the free negro, as well as the white man of this country, are bound, when our necessities require them, to render military service. It is no question of constitutional right and power; it is, after all, a question of policy, of expediency. Ordinarily to arm negroes would be shocking to our sense of humanity, for the reason that, from the history of slave insurrections, we associate negro warfare with the burning of houses and all those scenes of desolation attendant upon savage warfare. I certainly would not employ them unless disciplined and under complete control, and never as armed men, until I had to choose between their employment and the destruction of the country. When our enemies employ them against us, we certainly have the right to do it.

Mr. President, until we learn a little energy from those desperate men who are engaged in this warfare against us, we cannot expect to succeed. We must follow, to some extent, their bad example. It is true, that the best mode to conduct war is to regard all persons and all property as exempt except the armed forces of the enemy. Such examples of warfare we read of in the days of chivalry or in foreign wars, where personal enmities do not mingle in the strife. History furnishes examples where, by courtesy, the first fire was yielded to the enemy. But, sir, these rebels do not carry on war in that way. I read but yesterday a touching account of a scene in Arkansas, where loyal men, who had never taken up arms to support the Government, but had simply fed our soldiers when in that State, were, soon after our armies were compelled to retreat, hung up as traitors to the confederate government. If we should hang up a guerrilla or desperado who had burned the house of a loyal citizen, or who, under cover, had shot one of our soldiers, we should never hear the end of it. Declamation about barbarity would be rung in our ears, and yet no rebuke for the barbarities practiced by our enemies. They seize loyal people who have not even fought with us, but simply have fed our soldiers, and hang them as traitors. Sir, if they can hang loyal people, I ask you if we should not hang traitors? I am not in the habit of criticising our military authorities, but it seems to me they ought to be infused with a little more energy and earnestness in conducting this war. If they had availed themselves of the physical power at their command, of all those resources which our people have so generously placed under their care, I have no doubt this rebellion could have been put down long ago.

The Senator from Delaware seems to think that the harangues, as he calls them, the abolition movements that have been made in Congress, have had some effect on this war. Sir, they have not had the slightest impression. All that may be said by all the orators in this and the other branch of Congress does not reconcile or excite a single rebel. What is done here is scarcely known there, much less cared for. No, Mr. President, these men have united together in a conspiracy, determined to break down this Government. They know very well that if they fail their lives are forfeit, or they will at least be driven in disgrace from this country and be compelled to wander over the world. They therefore resort to all desperate expedients. They do not stand paltering and demagogoing about working side by side with negroes. Their regiments march up side by side with black men. They make use of black men in all the purposes of warfare. They do not stand upon a narrow prejudice of caste. They make negroes work for them, they make negroes fight for them, they make negroes do all that is necessary to be done in warfare, to kill, to burn, to slaughter. I ask you when that is done by the enemies of the Government, shall not we employ these negroes for service in which they may be made useful and beneficial. And, sir, for every loyal man that Hindman—who is a barbarian, every inch of him—for every loyal man that Hindman would hang in the State of Arkansas or anywhere else, I would hang some rebel or traitor who had been taken in arms against the Government. The law of retaliation is the only law that will bring these men to their senses. Our authorities seem to think that all these abuses, all these extraordinary exercises of power, may be carried on by the rebels day after day, and still our Government must go on dealing with them with a gloved hand, touching them lightly, protecting the property and houses of men who are fighting against us. With that kind of warfare we never shall end this contest.

While I have no sympathy with the general policy of the emancipation of slaves, or any interference with the rights of the southern people, and especially with the rights of the loyal people of the southern States, I think the time has come when we must seize the slaves of the disloyal; when we must seize their property; when, if necessary, we must inaugurate their system of warfare, and array the whole physical power of this country and enter into the war in earnest. If we do that, we need not fear foreign intervention or domestic discord. We can array in arms a million men; we can employ thousands and tens of thousands of slaves. If it were necessary in order to put down the rebellion, I would put them all under arms and let them march and live upon the enemy wherever they go. Suppose Jeff Davis with his army should get up into Maryland or Pennsylvania, do you suppose they would pay the farmers of Pennsylvania and Maryland dollar for dollar for everything they might take? Is that their mode of warfare? No, sir; they rob and desolate even their own friends, even those who have not taken up arms against them. If they now were the invaders and should reach a region of country which does not recognize their authority, they would burn and desolate and rob and plunder and murder. There would be no end to such scenes.

I tell you, Mr. President, you cannot conduct warfare against savages unless you become half savage yourself. Our forefathers never fought the Indians successfully except by resorting to some mode of Indian warfare. I dislike this mode of warfare as much as any living man; but rather than see this country broken up, rather than see the Republic fail, and have us hand down to those who come after us eternal war and anarchy, a disgraced name and a dishonored Government, I would practice every mode of warfare that is prescribed in either ancient or modern history; I do not know any other way to bring the war to an end.

Mr. President, I have already said a great deal more than I intended. My purpose was simply to say, that while I thought the amendment as framed went a little too far, and ought to be modified, yet the general spirit of it, the necessity of availing ourselves of all the weakness of the enemy, and all the physical strength of this country, I heartily approve and shall vote for.

Mr. FESSENDEN. I wish to say a few words upon this bill before the vote is taken on it, or rather upon subjects partly collateral to it, and I shall endeavor to occupy but a very few minutes in saying what I have to say.

The bill is thought to be a necessity. We may as well tell the truth about it here, and have it understood by the country. The bill is designed, as I understand, to meet a possible contingency. It is supposed that in the present necessities of the country for raising more troops, owing to the fact that our forces have been much thinned by death caused by sickness, wounds, &c., we may find it difficult at once and as soon as the necessities of the case require, to raise, by enlistment, the number of troops necessary to make up what we want; and therefore it is proposed to enlarge the power the President now has to call out the militia by allowing him to call them out for a greater length of time. The bill is unlimited in that particular, and perhaps it would be better to limit it to some time. If the militia are called out involuntarily, or without their will, it might be well to fix a reasonable time as the limit of their service. I merely suggest that for the consideration of the committee; they have considered the matter more than I have. The time should be long enough to enable the militia to make their services available by receiving the requisite instruction and drill, and to render service after they have been thus instructed. A militia called out for three months is generally of very little use as I understand.

I am in favor of this bill, if it is thought advisable by the Committee on Military Affairs, and those having the conduct of these things, to pass it. I do not know but that it may be necessary to go a step further, and to provide specifically for calling out men in the ordinary form by draft. I am ready to do that if it is thought advisable. It is not advisable at this moment; but we are about to adjourn, and as I understand this bill, it is proposed to meet a contingency that may happen during the adjournment of Congress, and may not happen, because it may be, and I hope it will be, that sufficient numbers of men will enlist themselves. I think it a wise precautionary measure; but while avowing that I think it a wise precautionary measure, and that I shall give my support to it cheerfully, in whatever form it may be presented with reference to the matters of which I have spoken, it is worth while for us to inquire why even the contingency occurs, whence comes the possibility that the President may have occasion to resort to this call of the militia for a greater length of time than was originally fixed? We may as well look that matter in the face. It is because apprehensions are entertained that there will not be that readiness to volunteer that there has been heretofore. It may be so, and I am perfectly ready to say that; from information received from my own State, there is not that readiness to enlist that there was; there is not that enthusiasm with regard to enlistments; men do not rush forward and tender their services as they did awhile ago. Have they lost any interest in the war? Not a particle. Have they lost anything of that determination, which existed formerly, to do anything and everything which might be necessary to put down this rebellion? Not in any shape or form; but the people in my State, and I dare say in other States, feel that the war must be conducted on some different principles from those upon which it has been conducted hitherto; that is to say, that there shall not be on the part of the military authorities of the country that extreme tenderness and delicacy with regard to men who have no tenderness, except that of the wolf for the lamb, towards us, the people they are fighting; that they shall be met, if not in the same spirit, in a spirit that is able to resist a determination and a feeling of that description.

Sir, our soldiers do not like it; they do not feel easy that they are called upon, when it is not necessary, to stand guard over enemy's property, to protect, as has been well said, the families of men who are fighting against us, and be shot down by concealed traitors while they are doing it. They do not feel that they should stand protecting a traitor who is sleeping quietly in his bed, when they need repose themselves. They do not feel that it is just that they, who have volunteered to fight the battles of their country, should be employed in digging ditches and throwing up intrenchments, exposed to all the miserable consequences of such a life in the swamps about the Chickahominy river and elsewhere, when, at the same time, there are numbers, an abundance of men, acclimated, who are ready to volunteer their services, and who could be employed for the same purpose without danger to life, and save our soldiers for the purposes for which they went into battle. I speak this as a truth that is well understood; and the Government of the United States may just as well understand—the military authorities of the United States may just as well understand, that if this policy is to be followed, if we are not to avail ourselves of the services of men who are ready to render them for all these things which are so necessary to be done—and which they can do, and are eager to do—out of tenderness for rebels and traitors and murderers, the people hesitate at least to come forward, and will hesitate until they know and feel that they are no longer to be exposed to that kind of life.

Sir, why is it so? What do we owe these traitors? What makes some gentlemen on the other side of the Chamber so sensitive the moment that you speak of employing negroes, the slaves of rebels, in the service of the country; gentlemen who profess to feel, and who I am willing to believe do feel, the deepest interest in the success of the country in putting down this rebellion? Why do they jump to their feet the moment the idea is suggested here of employing men who are ready and able to perform this service, and save the lives of their own soldiers from their own States, as well as those from mine and other States? What violation of the principles of warfare is it that is proposed? Why should we not weaken the enemy, and attack him in his weakest point? Do

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you say that we are proposing abolition by it, or emancipation? Not at all. We are proposing simply to use those arms that are presented to us for accomplishing a needful purpose, and which are most necessary and can be best used for that purpose, and nothing more nor less than that. Did ever any nation hear of a people who went to war with another and marched into their country who would dispose of their armies and sacrifice their men in performing service which endangered their lives, when there were all about them friends ready and willing and anxious to relieve them of that burden? And out of what consideration? I have been utterly at a loss to imagine any. I cannot find the slightest ground or reason for it. Why should men who come to our camps in the enemy's country tendering service, tendering information, tendering their hands, their arms, their lives to aid us, be repelled and driven out, and our own soldiers sacrificed in performing the duties that they are so ready to perform? It is contrary to every principle of warfare. I am no soldier; but I undertake to say that a general who conducts a campaign upon such principles is no general at all. He has forgotten or never knew the very first principle on which to conduct a campaign, and that is to weaken the enemy if he can, and strengthen himself to the utmost of his ability.

I have talked about this matter quite as long as I feel inclined to do so. I do not feel disposed to throw blame upon anybody. I am not here to quarrel or wrangle. I have no doubt, not the slightest in the world, that everybody feels as anxious as I do to close this war and to close it effectually; but I do say that a mistake has been made in this respect; too great tenderness has been used under the delusive idea that these men were to be coaxed back by tenderness. Sir, you cannot deal with savages in that way. The man who deliberately sets himself to overthrow the institutions and interests of his own country for the purpose of selfish ambition is worse than a savage. Such is the description of the leaders; and the great mass of their followers, everybody knows, are uneducated, and are willing to take the color of those above them.

Now, sir, are we to go on this way? If we do, the conseqences must be well understood by gentlemen; they must be well understood by the Government, by the President and the Cabinet, and the generals, and whoever else sanctions this mode of proceeding. They must reverse their course, or let me say, however public opinion may sustain the war, public opinion will not sustain them. And, sir, not from any feeling of abolition, not from any feeling of emancipation, not from any of that sort of peculiar sentiment which gentlemen are so fond of attributing to others upon this side of the Chamber and in and out of this Chamber, but from the absolute necessity of the case, from the common sense of the thing. I might address myself to my friend from Delaware or my friend from Virginia, and ask them what would you do in a like case; if you were about to meet an enemy, if you were to march at the head of an army into an enemy's country, and your own existence was periled upon the issue, and the servants of your enemy should come and tender you aid, saying "we will give you information; admit us within your lines; we will dig trenches, we will fight for you, we will do anything for you if you will accept our services;" would you repel them? Would you say "no, I choose to sacrifice my friends, let my friends expose their lives, let them perform this service for which they are unfit; go back; I will not even take your information; do not come near me?" The man that acts thus has not even common sense; he has not common discretion. If he acts thus from reason, he has not capacity to conduct his own private affairs.

I have said thus much simply to illustrate my idea, which is that if we expect the people of this country to come forward willingly under any pressure except that of absolute necessity with their whole hearts and souls to fight this battle out, I tell the President, from my place here as a Senator, and I tell the generals of our Army, they must reverse their practices and their course of proceeding on this subject. I agree fully with what was said by my friend from Kansas [Mr. LANE] the other day on this point. I believe that in some quarters, by some men, I am called a conservative. I believe I am one; that is, I am a tolerably prudent, cautious man; I do not say things here in my place except on deliberation, and I do not do things unless on great consideration, especially in important matters; but I say this upon full reflection, deliberately, because I think it ought to be said, and to be said in public, that this mode of white kid-glove warfare will not do. We must act upon common sense principles, we must do as all other men would do and ought to do in such a case, avail ourselves of all the means which the great Ruler of the Universe has placed in our power in order to overwhelm the wretches who are thus making war upon us and upon humanity and upon civilization. I would not employ any men that I could not control; I would not employ savages; I would not do anything contrary to the usages of civilized warfare; but I would do all within those limits, that I had the power to do. I would not employ even these men if I could not control them; but I am speaking now not so much of what I would do with them as soldiers, or whether I would use them as soldiers, but I am speaking of availing ourselves of the means which they offer us for a thousand other things which are necessary to be done and which they can do better than we can.

There is undoubtedly great force in what has been said by my friend from Ohio. Why should we hesitate when our adversaries do not hesitate in relation to these matters? Sir, I would do nothing that a Christian nation ought not to do; I would do nothing that a civilized people ought not to do; I would employ no barbarians; I would not bring back the days of the tomahawk and scalping knife; but anything within the rules of civilized warfare that it is in my power to do, I would do, and it ought to be done.

Now, sir, one thing more I wish to say—and I wish to say it deliberately—I do not approve of the idea which seems to have sprung up that the people of the country are not wise enough to be informed of what takes place every day, that there is any necessity for concealing from the people of the United States a disaster or placing a different face upon it, of calling a defeat a great strategic movement, of giving false names to things under the idea that it will not do to tell the people plainly and to their faces precisely what the truth is. Sir, it is just the thing in all cases that ought to be done; tell the people the truth; resort to no artifice, to no concealments. I do not speak of course of those concealments that are necessary in order to keep facts and movements from the enemy; but the idea of hesitating to inform the free intelligent people of this country, who sustain this war, precisely what the state of things is, and what is wanted and what is needed to effect their purpose, is a delusion and a folly. I know the people of my own State. They are as intelligent, to say the least of it, as any other people on the face of the earth. There are very few men there who cannot judge of facts before them as well as most of us. Men have different degrees of education and intelligence, but our people are a reading people; they understand things, and they support this war; their hearts are in it as much as ours. Let them know, then, plainly what your necessities are.

I was very much amused by seeing in the papers the other day an address from the Governors of different States to the President, requesting him to call out three hundred thousand men. They thought they might be necessary, and therefore they advised him to call them out and have them ready. What does that mean? It means that the President and Government thought that they needed more troops; that to carry on this war we must have them; that our ranks have been thinned by disease, by death, by wounds. Do we not know it? Do not the enemy know it to-day as well as we? Does not everybody know it? We have got enough to defend ourselves. If anybody doubts that, the thing can be settled by trying; it has been within a few days; but we want more men for the purposes of this war. Why not say so at once, tell the truth why we want them, and how soon we want them; appeal to the people; let them know what is required for the purposes of the country, frankly and plainly and honestly, as equal deals with equal, as man with man. It will meet with a response in every true northern heart—in every northern heart; no, not every one, I am sorry to say, but almost every northern heart is true.

Mr. WILSON, of Massachusetts. Every loyal heart, you mean.

Mr. FESSENDEN. Yes, every loyal heart, and with but few exceptions, all in the North are loyal. Sir, I put the case to myself: if I was at home a private individual and appealed to, I should want to know the truth, I should want respect paid to my intelligence, I should want proper respect paid to my patriotism, I should want to be treated as a man, as a sovereign, for here the people are sovereigns. That is the appeal to make to me, and I would respond to it; and as I judge myself from the beatings of my own heart, so I judge my neighbors and my friends and my fellow-citizens. Therefore, sir, I hope the existing policy will be abandoned, and that we shall be in the habit hereafter of speaking the truth.

Gentlemen will bear me witness that I have not stood up here to condemn men, to quarrel with men, with this general or that general, with this Secretary or that Secretary, or with the President. I respect the President of the United States; he is my chosen President; I have stood by him, and I shall stand by him and by those who aid him in the administration of his Government, and by the generals in the field, and our armies in the field. I have done all I could and contributed all I could to their support. I shall continue to do so. If they make mistakes I can forgive them. Men are not always wise; men are not always able to do the very best thing that can be done. Men are all feeble. So long as they do the best they can we can forgive them errors; I can forgive them mistakes; I would strengthen the hands of many again, and bid them God speed, go on, fight and conquer in this great battle of civilization and truth, and I stand by you to the last; but tell me the truth always, let me know what you want, what you desire, what you advise, and we are ready to contribute; and at the same time that you do this let me advise you one thing, and I advise it here from my place, treat your enemies as enemies, as the worst of enemies, and avail yourselves like men of every power which God has placed in your hands to accomplish your purpose within the rules of civilized warfare. The man who tampers with this question, who makes a talk about employing negroes for services which they can well render and which they are able to render and ready to render, and which can save the lives of our friends and brothers; the man who hesitates because they are negroes—let me say, it makes me feel sometimes a doubt whether there is not something wanting after all in the heart of such a man.

Mr. President, I rose to state these two points, not with any feeling, although my manner may be a little excited. I have held back a great while; I have kept to myself all the words that I was prompted to utter on these points until sometimes the struggle has been rather more severe than I liked to have it; but I could not consent to let this question go without saying something upon it. The people are called upon now substantially by this bill to contribute more men. They are ready to do it. You may put it in any form that you please; but if you wish them to come with hearts in their bosoms, as I said before, you must show that you have some sympathy for them, and that when you send them forth to battle, you will spare them every pain, every suffering, every annoyance, that you can possibly spare them. God knows they have enough in the ordinary course of human events when engaged in warfare, and in warfare with such an enemy as we have opposed to us.

Now, sir, with regard to the proposition of my honorable friend from New York, all I have to say is, that in my judgment not one word can be said against the first section of it. That section is so plainly, palpably right, that it strikes me that nobody can object to it. With regard to the second section, I agree with my friend from Ohio that if it could be modified so as not to go quite so far, I should like it better. For instance, I do not want the inference drawn that I would willingly interfere with what is called the property, and is by the State laws the property, of a loyal man; but there is one consolation about that; if we are obliged to do it, every man knows that if a loyal citizen suffers in the cause of his country he must be paid; if a rebel suffers, we owe him nothing; God knows these men cannot suffer so much as they deserve.

Mr. RICE. I have only a few words to say on this subject. I have not been present in the Senate Chamber during the whole debate, and, of course, I cannot follow it throughout, but I wish in a few words to express my own views. It has now become a certainty with all reasonable men, with all men, in short, who have thought upon this subject at all, that not many days can pass before the people of the United States north must decide upon one of two questions: we have either to acknowledge the southern confederacy as a free and independent nation, and that speedily, or we have as speedily to resolve to use all the means given us by the Almighty to prosecute this war to a successful termination. The necessity for action has arisen. To hesitate is worse than criminal. We are expending the money of our citizens; we are almost daily losing by sickness and otherwise thousands of lives, and at the rate at which that has been going on for the last few months, it will take but a few months longer to reduce our Army so that it will be worthless, and to reduce the wealth of the country to such an extent that our credit will be worthless also.

I admit that at one time I was not in favor of employing the blacks. I did not believe it was good policy; but I had no conscientious scruples on the subject. But, sir, the example was set us long ago and has been continued for years by Great Britain. She has kept in the Canadas one or more regiments of blacks for years, upon our frontier, in sight of the American flag; and who, north or south, has ever raised a question as to her right to do so, or as to the moral effect it had upon the community? We all acquiesced in it; no one said it was wrong; and if it was not wrong for Great Britain to have regiments of armed blacks to protect her frontier against us, is it wrong for us to employ the same means to put down rebels? Especially when they resort to infernal machines, to torpedoes, to assassinations, to poison, shall we, from any sickly motives of delicacy and mistaken tenderness, hesitate? We have not men enough on the Potomac to authorize an advance, and unless we get them soon we must cease our exertions to maintain the integrity of the Union. God knows we can employ no means worse than the rebels have employed; but I would not follow their bad example; I would, however, resort to all the means that are known in civilized warfare to suppress this rebellion and punish the rebels. I would not hesitate for a moment. I will vote for any measure to that end.

Mr. WILSON, of Massachusetts. Mr. President, the Senator from Maine has said justly that this bill contemplates drafting from the body of the militia of the country a force to support the country. This bill contemplates calling out the militia in case we fail to obtain the number of men required by the present system of volunteering. In the present condition of the country, with the great material prosperity now pervading the country, and with the wrecks of humanity that are floating over the land ruined in health in the military service, or who have been wounded in the field, in view of the fact that death has entered so many families, I believe it will be very difficult at this time to raise, by volunteering, the number of men necessary to support the cause of the country. It seems to me that we need men at once, at the earliest possible moment, and I doubt if we can raise men for the next forty days any faster than will be necessary to supply the actual loss that will take place during those forty days. I believe the bill, therefore, to be necessary. It simply provides that the President of the United States, if he calls out the militia, shall not be limited to the time specified in existing laws, but that he may fix the time in the call during which the militia shall serve, and he can discharge them sooner if the exigencies of the country will permit. The second section simply provides that when the militia is called into the field, its organization shall be the same as is now provided for the volunteer forces. I think that a necessary provision.

It may be asked why it is that we need at this time to call for this largely additional force. It will be remembered that at the called session of Congress last summer we authorized the Government to raise half a million of men. An amendment was put in a subsequent bill, intended to limit the number raised to half a million, but it could be construed and was construed by the Government so as to give the privilege to raise half a million more men. When Congress assembled in December, the Secretary of War reported that the Government had raised six hundred and eighty thousand men, one hundred and eighty thousand more than was provided for by the acts of Congress, construed as Congress intended they should be.

It will be remembered that we were often called upon here to state the number of troops enlisted by the Government. The best examination that I could give it led me to believe that the Government had over-estimated by at least one hundred and fifty thousand the forces they professed to have raised, and here in the Senate I maintained that the number of troops raised did not exceed five hundred and twenty-five or five hundred and fifty thousand. I maintained that five hundred or five hundred and fifty thousand well-organized and active men were, in my judgment, a sufficient force for all the needs of the Government, and that, if the Government had six hundred and eighty thousand men in the field, it had more men than were necessary, although I denied that we had so many men by at least one hundred and fifty thousand. I never believed that the Government had an effective force in the field larger than five hundred and twenty-five thousand men, and I now believe that it did not have even that force; that the number of effective men did not exceed half a million. I did not then believe, I do not now believe, that the Government had actually raised more men than it needed, and I am sure I never said so. I have not turned back to read what I have said. Words have seemed to me, amid these great events, to be of such little account, and deeds so important, and I have been so pressed with work, that I have seldom undertaken to revise the report of anything I have said in the Senate, or even to read what I have said or what other Senators have said. The Senate will bear me witness, the Senator from Minnesota upon the Committee on Military Affairs will bear me witness, that whenever the Government or the generals in the field have asked of Congress or of the Military Committee anything to carry on this war, I have been swift to obey their wishes.

Mr. RICE. That is so.

Mr. WILSON, of Massachusetts. Every Senator, I am sure, will most cheerfully respond to the words of the honorable Senator from Minnesota. Every Senator will, I am confident, bear witness that I have ever been prompt to raise, organize, and press into action the military resources of the nation. And yet, sir, while upon a bed of sickness, I had the mortification of seeing in a leading press in the country a statement holding me personally responsible for the Government's not having more troops in the field. It was said that I had maintained that we had more troops than we wanted. I have never maintained that we had more effective men than we wanted. I maintained that the Government had not as many men as it professed to have by at least one hundred and fifty thousand, and that if it had as many as it claimed, it had more than was absolutely necessary at that time. That is the distinction I made; and Senators will all remember that was my position, and the distinction I made. I have ever pressed upon the Administration the importance of giving to General McClellan and other generals all the forces required to meet and crush the enemy. Now, sir, a word in regard to the action of the Government in stopping recruiting. The fact is, that for thirty days before the order was issued closing up the recruiting stations, the recruiting had ceased altogether, and we had not raised five hundred men for a month before that order was issued; but the machinery existed, the recruiting stations existed, the expense existed, and it was necessary to close them up, and to devise a system of recruiting less expensive to the country; for, in carrying on this war, every man of intelligence knows that while we are calling men and arming men, we must keep our eyes upon the expenditures of the Government, and guard the credit of the nation.

The Senator from Maine has spoken, and I was glad to hear him speak, of the manner in which we have carried on this war. I trust that the experience of the last few weeks has taught the Government and taught our military leaders a lesson, and that they will be swift to comprehend that lesson. Sir, the country is flooded to-day with the letters of your brave volunteers, men among the living and the dead, depicting their sufferings in swamps and ditches, toiling to build up fortifications, and their sufferings in guarding rebel property and protecting those who were ready to assassinate them or smite them down at any hour. I say that the Government of the country and many of the leaders of our armies, in their excessive zeal to conciliate rebels and to protect the property of rebels, have dealt hardly with the brave soldiers who are upholding the cause of the country. I hold in my hand a letter written to a member of the other House, placed in my hand to-day—a letter from a gentleman whom I well know. He says, writing to a member of the House of Representatives:

"Tell Senator WILSON that if he will look into the matter, he will find his regiment using cow sheds and pig styes for hospital purposes, while large buildings filled with rebels are protected by them, thus degrading our own men below traitors. I have seen four of the soldiers of that regiment die in these places, when there were residences all around them where they could have had comfortable quarters."

Sir, I would not allow our volunteers to steal rebel property. Their own good requires that order and discipline should prevail in the Army, even in rebel regions; but I would take and use for the comfort of our gallant soldiers rebel property.

I have in my possession a correspondence between a Mr. Brodhead, a quartermaster appointed in the volunteer service, and a quartermaster over him, in regard to the White House, of which so much has been said. Mr. Brodhead said that the White House and the grounds about it ought to be used for our sick and wounded soldiers, and not be guarded as the property of rebels, and he said further that he was glad that the Government had taken the matter in hand, and intended that it should be so used, and he thanked God for it. For writing that letter he received a stinging rebuke for having censured those who had the control of affairs, and he was removed from his place and banished to a little station. Sir, this generosity to rebels only excites their contempt.

Sir, I am for raising voluntarily every man we can; I am for drafting the last man that can carry a musket to uphold the cause of the country. I am for fighting this battle out to a successful issue, cost what of blood or treasure it may; but I agree with the Senator from Maine that the rose-water way of carrying on the war must cease; Congress ought to demand that it shall cease. I agree with him in another thing, and that is the necessity of telling the truth and not deceiving the people. We have had a censorship of the press during the last few weeks that I believe has been most disastrous to the interests of the country, and so it has been always. It would have been better to allow the press to speak freely, and let the men who conduct the press be held by the people to a just responsibility; better let the whole truth go to the nation and not undertake to deceive them, for as I say to you to-day, the American people by this process are greatly deceived with regard to the real operations of the country in regard to the conduct of the war. It was a saying in the days of Napoleon that a person would lie like a French bulletin. Sir, it appears to me that we have an organized system of lying in this country that is calculated to degrade and deceive and delude the American people. I hope that this is to be changed, and that we are to deal frankly with the people, and that the truth and the whole truth in regard to men and to measures will come before them, and in their sober second thought I have the fullest confidence.

Now, sir, a word in regard to the amendment

which has been proposed—to use the loyal colored men to uphold the cause of the country. The Senator from Delaware, as he is accustomed to do, speaks boldly and decidedly against the proposition. He asks if American soldiers will fight if we organize colored men for military purposes? Did not American soldiers fight at Bunker Hill with negroes in the ranks, one of whom shot down Major Pitcairn as he mounted the works on the heights of Bunker Hill? Did not American soldiers fight at Red Bank with a black regiment from your own State, sir? [Mr. ANTHONY in the chair.] Did they not fight on the battle-field of Rhode Island with that black regiment, one of the best and bravest that ever trod the soil of this continent? Did not American soldiers fight at Fort Griswold with black men? Did they not fight with black men in almost every battle-field of the Revolution? Did not the men of Kentucky and Tennessee, standing on the lines of New Orleans, under the eye of Andrew Jackson, fight with colored battalions whom he had summoned to the field, and whom he thanked publicly for their gallantry in hurling back a British foe?

Sir, it is all talk, and idle talk, to say that the volunteers who are fighting the battles of this country are governed by any such narrow prejudice or bigotry. These prejudices are the results of the teachings of demagogues and politicians who have for years undertaken to delude and deceive the American people, and to demean and degrade them.

Mr. SAULSBURY. I desire to ask the Senator from Massachusetts if he makes any reference to me in those remarks?

Mr. WILSON, of Massachusetts. I certainly did not think of the Senator when I used the terms to which he alludes.

Mr. SAULSBURY. The Senator's language was rather strong, and I did not know to whom it referred.

Mr. WILSON, of Massachusetts. I certainly would not say anything offensive to the Senator; and if he so construes what I have said, I will most cheerfully withdraw the words.

Mr. SAULSBURY. Oh, no. You used strong language, and I only wanted to know whether it applied to me.

Mr. WILSON, of Massachusetts. I spoke in general terms. What I meant to say was this: we have had in a portion of the American press, and among some of the public men of the country, especially in the free States, (I hardly ever think of men in the slave States in that connection, for I pay great deference to their birth, their education, and their associations,) these phrases about negro equality, which are intended to excite prejudice against a wronged race; phrases which I believe are degrading to our common humanity. I believe these appeals to be unworthy of intelligent American citizens, and I trust the day has passed by forever when they can be used as they have been with effect.

In my judgment we ought to use the loyal colored men for such purposes as they can be used advantageously to the country. It is said that General Halleck built two hundred miles of corduroy road, and forty-five miles of fortifications; that hundreds and thousands of men under his command, by toiling on that work in swampy regions, have been sent home out of the Army broken down in health and spirits. Everybody knows the awful burden that has been put upon the army of the Potomac—the labors at Yorktown, the ditchings upon the banks of the Chickahominy, the fortifications thrown up that in the hour of trial proved of no value, for we abandoned them; everybody knows that thousands of men who went down there in the bloom and pride of health, ready to meet the enemies of the country, have been worn out and broken down by such employment. The shovel and the spade and the ax have ruined thousands of the young men of the country, and sent hundreds of them to their graves.

In making these statements I do not intend to utter any censure of the military operations in the field. What I mean to say is that we could have employed thousands of colored men at low rates of wages to do that ditching, and thus save the health, the strength, and the lives of our brave soldiers.

Then, sir, we have many of the southern ports, places that are and will be unhealthy. I think that those people who are acclimated, who are ready to give their labor and their blood, if need be, to the cause of our country, should be employed. I should like a modification of one section of this amendment. While I would free the slaves of rebels without any consideration, and do it at once, as a military necessity; while I would take away from them all their means of power, I would pay and pay generously if I took and used the slave of a man who was loyal and faithful to his country. We have been taught to believe that slavery was a weakness, but as we have managed this war, it has been the strength of the rebels; the slaves have been to them worth more than four million white people. They have used the slaves for the purpose of carrying on the war. They have used them in the field, they have used them in the various modes of their productive industry. They are the men who bear the burdens of that southern confederacy to-day, while they relieve the white men there, who throng to the battle-field to achieve what they call southern independence.

Sir, I must confess that I look with something of admiration upon the mode in which those southern traitorous leaders have carried on this war. They commenced the war by taking humanity by the throat, by putting under their feet every moral sentiment, every law of Almighty God. They planted themselves in defiance of God and of man upon the foundation of eternal slavery in their confederacy. Standing before the nations in that position, in defiance of all that is sacred, pure, and holy on earth, they have appealed to their people, to their passions, to their prejudices, to their hate; they have organized their people; they have issued their conscriptions, using every man who could do anything, no matter how halt or maimed he might be, if he could strike a blow; they have carried on their Government and their military operations with great ability, and shown vast powers and great administrative ability, and great military ability. It is mortifying to me to say that in four fifths of the contests on the battle-field in which we have been engaged there have been blunders on our side which they have not failed to take advantage of. Such is their position. It is of no use to despise them. We are, I think, in one of the darkest periods of this contest, and we had better look our position in the face, meet the responsibilities of the hour, rise to the demands of the occasion, pour out our money, summon our men to the field, go ourselves, if we can do any good, and overthrow this confederate power that feels to-day, over its recent magnificent triumphs, that it has already achieved its independence. It is our duty to act promptly, and I trust this bill will hardly become a law before the President of the United States will call under it at least two hundred thousand into the field instantly, and that the policy of the Government will be such, and that the action of our military leaders will be such, that these men will be led to victory, and that the cause of our country will achieve a permanent and enduring triumph. Bold and decisive action alone, in the Cabinet and in the field, can retrieve our adverse fortunes, and carry our country triumphantly through the perils that threaten to dismember the Republic.

Mr. SHERMAN. I send up three amendments to this proposition. The first is a mere verbal amendment.

Mr. GRIMES. I am not disposed to occupy the time of the Senate in any general discussion on the subject now before it. All the views that I have expressed upon that subject I had the honor to present to the Senate some weeks ago, and I am now more anxious to vote than to speak. I propose to the Senate to take up each of these sections, which have been submitted, and act upon them separately. I have no doubt that the second and third sections need some modifications, and some to which I should be willing to assent, but I propose that the vote shall be taken upon the first section; and I ask that that may be read.

The PRESIDING OFFICER. The first section will be read.

The Secretary read, as follows:

And be it further enacted, That the President be, and he is hereby, authorized to receive into the service of the United States for the purpose of constructing intrenchments, or performing camp service, or any other labor, or any war service for which they may be found competent, persons of African descent; and such persons shall be enrolled and organized under such regulations, not inconsistent with the Constitution and laws, as the President may prescribe; and they shall be fed and paid such compensation for their services as they may agree to receive when enrolled.

Mr. GRIMES. I move to strike out the word "war" before "service," and insert "military or naval."

Mr. SHERMAN. That was my first amendment.

The PRESIDING OFFICER. That verbal amendment will be made.

Mr. SHERMAN. The last clause of the first section had better be omitted, I think, and leave the question of pay open.

Mr. DAVIS. Mr. President, I am in favor of the original bill that is under consideration, and I think that it ought to pass; but I will suggest to the Senate that if the term of service of the militia, after they are called into service by the President of the United States, was limited to twelve months, I think the operation of the law would be better than to leave the term wholly indefinite. Early in February a bill passed the House of Representatives authorizing twenty thousand volunteers to be raised in the State of Kentucky for the term of twelve months, who should be subject to be called into the service of the United States out of the State of Kentucky whenever the President deemed it proper. If that bill had passed the Senate, I have no doubt that there would have been at least ten thousand men in that State enrolled under it, and who would have been undergoing discipline and learning the military art for the last two or three months; and if such an organization of volunteers had taken place, and they had been ordered to the defense of this city, or to the assault on Richmond, or to any other field of service in the United States, they would have gone with as much alacrity and promptitude as any soldiery in the service. I think that the Army and the country are in a considerable exigence, as has been stated by gentlemen who have taken part in this debate. I think that exigence ought to be met, and met promptly, with all the energies of the country, or at least with a sufficiency of those energies to bring this contest to a speedy and successful close. I have myself never considered secession a remedy for any evil. I do not now consider it a remedy for any evil, but to have brought upon the country all existing evils; and that, if an accomplished fact, it would prove the fruitful mother of many other evils, of which we have yet had no experience. For my own State, for the South, for the North, for the East, and the West, I have no hope, if secession is triumphant and permanent dissolution takes place. I am for a reconstruction of the Union. I believe the only principle and means by which that reconstruction is possible, is by the employment of the full, legitimate military power of the country, and not by arming slaves and attempting to form a military force of them.

If the southern confederacy, to the number of eleven States, or any other number of States, should be recognized as an independent Power, it would only be the introduction of further dismemberment, and that further dismemberment would go on until the whole thirty-four States were disrupted and were formed into little petty Commonwealths that would be perpetual enemies of each other, and have interminable collisions and wars, and all of them would be but the dependencies and the scoff of foreign Powers, and would be kicked by them at their pleasure.

Mr. President, there is nothing which I have more at heart than a reconstruction of the Union; but I want this work effected without destroying or crippling the Constitution, without one of its principles being eradicated or weakened, and with all the rights which it secures to the citizens and to the States perfectly preserved. To carry on this war to this truly patriotic end, in subordination to the Constitution, with a view to its maintenance and to bring the seceding States and every portion of the people of the United States to obedience to it, I for one, as a citizen and a Senator, would be willing to prosecute this war, if necessary, for twenty years or indefinitely. There is no resource which my State possesses, there is none which I myself possess, that I would not be willing to bring to the contest and to offer cordially and cheerfully to the Government of the United States in prosecuting the war to that end, for a restoration of the Union as it was, and for the Constitution as it is.

From the debate that has sprung up in this Chamber on this subject, it appears to me that there are

only two principal matters in the measure proposed about which there is much difference of opinion. The one is the employment of the negro in all camp and military labor, and the other is placing arms in his hands, and forming him into a portion of the soldiery of the United States in the war. To the first proposition I have no objection, and never had any, but to the second I am utterly opposed, and will ever be opposed. If as humble an individual as myself might be allowed to imagine that I was a general in the field, and if my field of service was where there were slaves, and the labor of slaves could be made advantageous to the army of which I was in command, one of my first thoughts would be to employ it to the full extent that it was necessary. What do we learn is going on now opposite Vicksburg, on the Mississippi river? Vicksburg is located at the extreme northern position of a peninsula made by a great bend in the river. Around the bend is some twenty miles, and across it only four hundred or five hundred or six hundred yards. We read in the newspapers that the commander of the army there has employed one thousand or two thousand negroes to cut a ditch across the head of that peninsula, with a view to change the channel of the Mississippi river from Vicksburg, and throw it off south four or five miles.

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

Mr. DAVIS. Certainly.

Mr. RICE. I wish to know if General Washington did not put arms into the hands of negroes, and if General Jackson did not, and if the Senator has ever condemned either of those patriots for doing so?

Mr. DAVIS. I will treat of that point presently, Mr. President. I have heard no objection on the part of any Union man to the employment of negroes to dig a canal that shall change the channel of the Mississippi river. I never heard any Union man in my State or out of it object to the use and the appropriation of negroes by the United States Government, just as other property is applied to their military purposes. The whole of their remonstrance and protest has been against making a discrimination between that and other property by the laws of Congress or by the policy of the war, as the President or his generals might carry it on. When a general is commanding in the field, and he has occasion for the labor of horses and oxen, what does he do? He impresses them into the service of the Army of the United States, and nobody objects. Just so, if that general may need the services of negroes for the purpose of fortifying, or ditching, or rendering any other labor in his camp, or any service whatever, especially that kind which would shield and protect and save the life of the white soldier, I think that general in command would be perfectly authorized so to employ the negro, and I have never heard any man object to such employment; certainly I never made any such objection as that myself. And all this would be done by order of the President, or by our generals commanding, without any act of Congress to authorize it. But when the general has done with the negro, and the negro is no longer useful in his camp for the purpose of labor, or for any other useful purpose, let him be discharged, sent away like other property. I protest against placing arms in his hands and making a soldier of him; and to that line of policy I never will give my consent; nor will my people, although it may be regarded as a matter of very little importance in this Senate what they or I think in relation to this or any other measure of policy of the dominant party. If the State of Kentucky was polled upon the proposition of placing arms in the hands of negroes, I have no doubt to-day that nine hundred and ninety-nine out of every thousand, yea, I believe the thousandth man would vote against it, and enter up his most solemn remonstrance against it.

Has it come to this, Mr. President, that we cannot command white soldiers enough to fight our battles to put down this rebellion? Whenever we authorize by law of Congress the enrollment of negro soldiers for that purpose, we admit that the white man is whipped in the contest, and that he cannot come out conqueror without making an auxiliary of the negro. I protest against any such degrading position as that. Our country men are not reduced to it; and sooner than the white men, the citizens and sovereigns of the United States, would submit to so humiliating an admission as that, one million of additional soldiers would be ready to rush to the battle-field. I believe that if this measure was passed it would weaken our Army; it would weaken the cause of the Union and of the legitimate Government in this contest tenfold as much as it would strengthen it.

Sir, I know the soldiery of the Northwest. They want no negro auxiliaries in this war; they would feel themselves degraded fighting by their side. They feel that the white race are amply strong in numbers, in courage, in all the elements of a martial people, to bring this contest to a close without the ignominy of enlisting the negro as a fellow-soldier. I deny that in the revolutionary war there ever was any considerable organization of negroes. I deny that in the war of 1812 there was ever any organization of negro slaves. I admit that through both those wars, and in the Mexican war, and also in the present war, there have been negro slaves that were waiters upon masters in the armies in whose hands in battle arms have been placed, and who used those arms; but they were in only a very few and exceptional cases an organized soldiery. In the battle of Wild Cat, the first battle that was fought in the State of Kentucky, there were three or four officers there who had their body servants with them—negroes. It was a severe little skirmish, and our troops were hard pressed to beat back the foe, and arms were placed in the hands of three or four negroes, and they took part in the battle. If I had been there, the commander, I would have put arms in their hands for the same purpose under that exigency, but not that they should continue to hold them.

I know the negro well; I know his nature. He is, until excited, mild and gentle; he is affectionate and faithful, too; but when his passions have been inflamed and thoroughly aroused, you find him a fiend, a latent tiger fierceness in his heart, and when he becomes excited by a taste of blood he is a demon. Such is the nature of the race; and there never was a servile insurrection in the world where it did not manifest that nature. In the Southampton insurrection a few years ago in Virginia the negroes displayed the nature which I have imputed to them. I admit that they do not spring to acts of cruelty and ferocity at once. They have to be schooled awhile to prepare them; they come to such acts step by step, as they did in the island of St. Domingo. When the French philosophers and philanthropists interfered in the affairs of that island, under the teachings of the Abbé Gregoire, it was first for the mulattoes of the island, who were about equal to one third of the African race. The entire African and mixed race, and especially the slaves, were peaceful, placable, manageable, and manifesting no inclination to deeds of violence and blood.

Mr. WILKINSON. As the Senator from Kentucky talks of the inhumanity of the negro, I wish to remind him of the proclamation which General Jackson issued after the battle of New Orleans, complimenting his negro soldiers for the manner in which they had conducted themselves. The Senator from Kentucky seems to think that negroes are inhuman and barbarous when they once smell blood. General Jackson disagreed with him radically on this point, and General Jackson, I think, had more experience in this matter than the Senator from Kentucky.

Mr. DAVIS. Or you either.

Mr. WILKINSON. On this point.

Mr. DAVIS. Or any other.

Mr. WILKINSON. I send to the desk and ask to have read, first the proclamation of General Jackson to the negroes, calling for their services, and then the proclamation that he issued to them afterwards, in which he complimented them.

The Secretary read, as follows:

HEADQUARTERS, SEVENTH MILITARY DISTRICT,
MOBILE, *September* 21, 1814.

To the free colored inhabitants of Louisiana:

Through a mistaken policy you have been heretofore deprived of a participation in the glorious struggle for national rights in which our country is engaged. This no longer shall exist.

As sons of freedom you are now called upon to defend our most inestimable blessing. As Americans, your country looks with confidence to her adopted children for a valorous support, as a faithful return for the advantages enjoyed under her mild and equitable government. As fathers, husbands, and brothers, you are summoned to rally around the standard of the eagle to defend all which is dear in existence.

Your country, although calling for your exertions, does not wish you to engage in her cause without remunerating you for the services rendered. Your intelligent minds are not to be led away by false representations. Your love of honor would cause you to despise the man who should attempt to deceive you. With the sincerity of a soldier and the language of truth I address you.

To every noble-hearted freeman of color volunteering to serve during the present contest with Great Britain, and no longer, there will be paid the same bounty, in money and lands, now received by the white soldiers of the United States, namely, $124 in money, and one hundred and sixty acres of land. The non-commissioned officers and privates will also be entitled to the same monthly pay, daily rations, and clothes, furnished to any American soldier.

On enrolling yourselves in companies, the major general commanding will select officers for your government from your white fellow-citizens. Your non-commissioned officers will be appointed from among yourselves.

Due regard will be paid to the feelings of freemen and soldiers. You will not, by being associated with white men in the same corps, be exposed to improper comparison or unjust sarcasm. As a distinct, independent battalion or regiment, pursuing the path of glory, you will, undivided, receive the applause and gratitude of your countrymen.

To assure you of the sincerity of my intentions, and my anxiety to engage your invaluable services to our country, I have communicated my wishes to the Governor of Louisiana, who is fully informed as to the manner of enrollments, and will give you every necessary information on the subject of this address. ANDREW JACKSON,
Major General Commanding.

The following was issued after their service had been rendered:

"Soldiers! from the shores of Mobile I collected you to arms; I invited you to share in the perils and to divide the glory of your white countrymen. I expected much from you, for I was not uninformed of those qualities which must render you so formidable to an invading foe. I knew that you could endure hunger and thirst, and all the hardships of war. I knew that you loved the land of your nativity, and that, like ourselves, you had to defend all that is most dear to man; but you surpass my hopes. I have found in you, united to those qualities, that noble enthusiasm which impels to great deeds."

Mr. DAVIS. Now, Mr. President, we see to whom they were addressed. Not to slaves, but to free colored people, and they were colored people because they were principally mulattoes. New Orleans and a great part of Louisiana, we know, at that time, abounded in a French population, and there a large element, particularly in New Orleans, partly negro and partly French, and many of those people were well educated, many of them were engaged in mercantile business, in mechanic arts, and in other industrial pursuits, and were men of thrift and had acquired property. They were men of intelligence and consideration in Louisiana. What did Old Hickory do? When he was there with an army of some five or six thousand men to defend "the beauty and booty" of New Orleans against twelve thousand of Wellington's veterans who had come flushed from the conquest of Spain, ready, as they thought, to take possession of Louisiana, Jackson acted just as any sensible man would under the circumstances. He saw that the host that was opposed to him numbered two or three times his own army, and for the purpose of strengthening himself, he called upon the free negroes and free mulattoes of the city of New Orleans and of the State of Louisiana to rally to his standard to aid in repelling the invading foe from the common homes of themselves and the white race; and after they had given gallant assistance, he had, not the magnanimity, but the simple justice, to make a proper acknowledgment of their services.

Mr. WILKINSON. Mr. President——

Mr. DAVIS. No, sir; excuse me if you please. Let me make my remarks now, and you can follow me when I get through. I have given you time to read two proclamations, and I think that is as much courtesy as ought reasonably to be asked.

In the extreme stress that was then upon Louisiana, the commanding general did not propose a conscription for all the slaves, or any of them, much less to emancipate them, but summoned the free colored people to assist in beating back a common foreign foe.

Now, sir, I consider that the Union and the Constitution have three deadly enemies, and I am for making war upon them in the order in which I name them. The first are the secessionists of the South; the second are the abolitionists of the North, who would emancipate the slaves, regardless of the Constitution, and though that was sacrificed to enable them to effect their object; the third is John Bull. I want first to fight the secessionists at the South, and to compel them to a proper obedience to the Consiitution and the laws, and afterwards to hold out to them such a just and liberal policy as will create a Union party in the southern States, not hoping to draw to it any of

their leaders. Is there a man in the Senate of the United State but what hopes and desires to bring back these States? Can you get them to return into the pale of the Union with every heart in their whole land burning with deadly hate against the northern States and against the United States Government? If you force them back, and cannot change that heart, they will only be a source of unceasing trouble, expense, disturbance, and war to the rest of the nation. If the work is to be done at all, and especially if it is to be properly done, you must create a Union party in the southern States; you must adopt a line of policy that will build up such a party; you must demonstrate your ability to subjugate them, and to keep them subject to the Constitution and the laws without the aid of the negro; and you must hold up to them that Constitution whole and unbroken, with all their liberties, rights, and property to be inviolably possessed and enjoyed under it as aforetime. But the measures that have been passed and proposed at the present session of Congress, and this crowning one of placing arms in the hands of slaves, will never effect that work.

So far from conciliating and luring back to fraternity and loyalty any of the disaffected population of that section, such a policy will drive those who have a lingering affection for the old Union and the old Government and the old flag, not only in the seceding States, but in every slave State in the Union, every man, to take ground against you. Such a policy as has been marked out in the present Congress, in relation to the slaves and the treatment of the disloyal whites, fraught with nothing but ruin, ruin hopeless and irretrievable to the whole southern country, confiscating the estate of every person there that participates in the rebellion, without regard to the grades of guilt, freeing three million slaves, permitting those slaves to remain in a country where they would be as numerous, in the aggregate of four or five States, as the white population themselves—such a policy would be simply nothing more nor less than giving up those States to the slaves themselves, for the white population would flee from the country to some asylum. Such would be the consummation of your policy. And do you expect the people of Missouri, of Tennessee, of Western Virginia, of Kentucky, of Maryland, and of Delaware, who own slaves, to fraternize with you, and to cheer you on to enforce such measures and such policy? In my own State, I have no doubt that there are from eighty to one hundred thousand slaves that belong to disloyal men. You propose to place arms in the hands of the men and boys, or such of them as are able to handle arms, and to manumit the whole mass, men, women, and children, and leave them among us. Do you expect us to give our sanction and our approval to these things? No! No! We would regard their authors as our worst enemies, and there is no foreign despotism that could come to our rescue that we would not joyously embrace before we would submit to any such condition of things as that. But before we had invoked this foreign despotism, we would arm every man and boy that we have in the land, and we would meet you in a death struggle to overthrow together such an oppression and our oppressors. But we expect to effect our deliverance peacefully at the ballot box; but we know, if it comes to the trial of arms, we will have the support of the great body of the American people. Why, sir, there is not a secessionist in the State of Kentucky but what is greatly and sincerely gratified at your measures, and who will not be more gratified when he hears of the propositions that have been presented to-day, and the speeches that have been made in relation to the arming of negroes. There is not a rebel in all secessia whose heart will not leap when he learns that the Senate of the United States are originating such a policy. It will strengthen his hopes of success by an ultimate union of all the slave States; and by a perfect union of all their population of the slave States to fight such a policy as that to the death. They will count that interference by foreign Powers will then be certain and speedy.

Sir, there is not a man in this body nor in the land that is more deeply devoted to the restoration of the Union than I am, or one who is more attached to the Union and to the Constitution which forms the Government of the United States. But when you offer to me and my people a policy and ask us, will you take our measures; will you take general confiscation of the property of all the disloyal; abolition of slavery, the slaves to remain in their localities; will you agree to our arming them and making them soldiers to fight the battle of the Constitution, which Constitution guarantied them as property to their owners; will you take all these atrocities? We answer, never! never! never! All we ask is, that the just power of the Government of the United States shall be brought into full requisition to suppress this rebellion. The Union men of the slave States are as ready to cooperate in that just and constitutional war as are the Union men of the free States; but they require that the Constitution—the bond of our Union, the ark of our liberties, without which there can be no freedom in this land—shall be held intact and religiously preserved throughout all the storms of the conflict. They ask no exemption of their property from the same law, the same policy, and the same military measures that you would deal out to any other property. I have a few slaves, and my county possesses upwards of seven thousand. If it were necessary to-morrow, to prevent the consummation of this revolution and the disruption of the Union, that those seven thousand slaves should be manumitted, there is not one of them belonging to a Union man who would not be surrendered just as cheerfully as sacrifice for so great an end ever was made by a loyal heart to the cause of his country. But we believe and know that there is no such necessity; there is no such sacrifice required at our hands. On the other hand, we believe and know that the policy so madly urged in the two Houses of Congress by some of the extreme men is fatal, or eminently mischievous to the purposes they profess to have in view. Instead of weakening and subduing the rebels, it would strengthen them. As I said in a former speech, if this Congress had got together and had not introduced the negro at all, had passed laws necessary to conduct the nation triumphantly and speedily to the subjugation of the rebellion, and had confined its action and its legislation to those subjects alone, had not legislated on the subject of property at all, or had legislated in relation to property generally by laws that would have included the slave and all other description of property, we long since would have brought this war to a close; we would have saved millions of treasure, and the lives of thousands whose heart's blood has been poured out on the battle-field, or who have perished in the camp. There is no manner of doubt about it in my mind. But you would introduce the slave, the apple of our discord. The consequence is jarring views and fierce criminations and recriminations among the friends of the Union in the two Houses. The press is divided in relation to the course of Congress and the ends to which the war is and should be prosecuted. The Army is not assured on this latter point, and is discontented. The session of Congress is unreasonably prolonged, and its debates needlessly increase and keep up public excitement; the councils of the Executive are feeble, vacillating, and conflicting; the energies and heart of the nation are weakened; the spirits and hopes of the rebels are strengthened; the war is protracted with its volume of expenditure of treasure fearfully swelling as it rolls on.

My honorable friend from Minnesota [Mr. WILKINSON] requested the Secretary to read something on the subject of negroes in arms. I will read a little myself. Some of us here remember the time of the Southampton insurrection. We remember the ferocity and cruelty of the negro in that servile uprising. We remember the dismay and the terror it spread throughout that county and the neighboring counties of Virginia. The agonizing shrieks of wives and children, whose houses were menaced by that insurrection have hardly yet died upon the gale. How was it in St. Domingo? How was it four or five years ago on the whole line of the Tennessee and Cumberland rivers? There had been an extensive negro plot there to rise upon the whites. It had come to a head at various points, and it was threatening to break out into open servile insurrection with all its horrors. I remember the deep agitation of the men and the agony of all the women of the border, both in Tennessee and Kentucky, at the prospect of that servile insurrection. Why, sir, in all the forms of warfare, there is nothing so cruel, nothing so savage, nothing that carries such misery and woe and horrors in its track as a negro insurrection. Let me read a little of its doings in the island of St. Domingo. Here is an extract from an oration delivered by Edward Everett on the occasion of the anti-John Brown meeting in the city of Boston. What does he say?

"In the town itself [that is, St. Domingo] the general belief for some time was, that the revolt was by no means an extensive one, but a sudden and partial insurrection only. The largest sugar plantation on the plain was that of Monsieur Gallifet, situated about eight miles from the town, the negroes belonging to which had always been treated with such kindness and liberality, and possessed so many advantages, that it became a proverbial expression among the lower white people, in speaking of any man's good fortune, to say, *il est heureux comme un negre de Gallifet*, (he is as happy as one of Mr. Gallifet's negroes.) M. Odelue, an attorney or agent for this plantation, was a member of the General Assembly, and being fully persuaded that the negroes belonging to it would remain firm in their obedience, determined to repair hither to encourage them in opposing the insurgents; to which end he desired the assistance of a few soldiers from the town guard, which was granted him. He proceeded accordingly, but on approaching the estate to his surprise he found all the negroes on the side of the rebels, and, horrid to tell, *their standard was the dead body of a white infant, which they had recently impaled on a stake!* M. Odelue had advanced too far to retreat undiscovered, and both he and a friend who had accompanied him, with most of the soldiers, were killed without mercy. Two or three only of the patrol escaped by flight, and conveyed the dreadful tidings to the inhabitants of the town.

"By this time, all or most of the white persons who had been found on the several plantations being massacred or forced to seek their safety in flight, the ruffians exchanged the sword for the torch. The buildings and cane-fields were everywhere set on fire; and the conflagrations, which were visible from the town in a thousand different quarters, furnished a prospect more shocking, and reflections more dismal than fancy can paint or the powers of man describe."

I have here, also, an extract from Brown's History of San Domingo; and I ask the attention of Senators, and especially of the Senator from Minnesota, [Mr. RICE,] to it. I am sorry that he has become a convert to this atrocious idea. I lament it. I have a profound personal respect for the honorable gentleman, and still entertain it; but it gives me great pain to find him adopt such a cruel and merciless mode of warfare. I should not be surprised at all at some gentlemen, who for long years have inured themselves in their imagination and fancy to such a war, and the horrors it might bring, adopting such a policy. But, sir, here is what the historian Brown says:

"The triumphant negroes refined upon the tortures of the Inquisition in their treatment of prisoners taken in battle. They tore them with red-hot pincers; sawed them asunder between planks; roasted them by a slow fire; or tore out their eyes with red-hot corkscrews. A negro named Lannot was, of all their chieftains, the most ferocious. Suspecting the fidelity of a negro under his orders, who was also accused of having saved his master from the knives of the insurgents, the monster ordered that he should be cut in pieces and thrown into the fire. Other acts of cruelty still more revolting are related of this rebel chief. The plantation of Mr. Paradole suffered an attack from the insurgents, in which the proprietor himself was made a prisoner. Some of his children, who in the first moments of their panic had fled to places of concealment, came to implore the chief to save their father. This filial devotion, which was interpreted as defiance by the demon black, irritated him to fury. He ordered that the four young men should be slain separately before the eyes of their parent, who was then himself put to death, the last victim in this tragedy."

That is the condition of things to which your counsels and your policy are luring the southern States; and the man who does not recoil in horror from its contemplation is a monster, and is fit to be a prince among the damned.

Mr. WILKINSON. You are getting theological.

Mr. DAVIS. Yes, I am so theological to abhor all such scenes as that, and to condemn and denounce on the threshold the policy that will lead to them. Ah! gentlemen, you can smile derisively and very securely—you who inhabit the regions of the North where there is no danger of servile war, where the secessionists will never tread your sacred homesteads; but we on the borders, we in the State of Kentucky, with between two and three hundred thousand slaves and as many in the State of Tennessee, are exposed to all these dangers, liable to be set upon by the secessionists themselves, and then of the upheaving of this domestic foe, demoniac in its character when it has once tasted blood, as I have said, and ready to indulge in all the cruelties that the most savage and ferocious nature can devise, cruelties that are here depicted by the historian in giving an account of the insurrection in San Domingo—we are to be exposed to these horrible calamities and probably be overwhelmed by them; our homes and hearthstones, our wives and children are threatened by such consequences as these; and it is no time to

laugh sardonically at our complaints of such an impending state of things. There is nothing that could possibly be more serious to us.

You, sir, (Mr. ANTHONY in the chair,) on the borders of the Atlantic, in the midst of your own ocean-girt home, may be safe from this horrid storm and all its fury. The gentleman from Minnesota [Mr. WILKINSON] is safe; the Senator from Michigan [Mr. HOWARD] is safe; and I rejoice that it is so with them and their people. I wish it were so with us; but it is not. We have to take things as they are. We cannot change them. We have to act as best we can in view of all the facts that surround us. We are the most deeply interested in all these questions, much more so than the gentleman from Minnesota, [Mr. RICE;] and I tell him when he proposes to put arms in the hands of the negro, he oppresses many a manly heart, and drives to despondency and despair many women and children who inhabit the border slave States, who are as loyal to the Union as he is, or any other man. To us this insurrectionary war is a practical question; to you, gentlemen, it is not so. Will you not put any trust whatever in sensible, true, Union men in the slave States, or do you adopt the dishonoring position that there is no loyalty in the slave States? If there is not,

"Cry havoc, and let slip the dogs of war."

If there is, why do you not take counsel from those Union men? Aside from the negro, you have no purpose that they have not. They are as devoted to the Government as you are. They are as devoted to the Union as you are. They would make as much sacrifice, short of a sacrifice of the Constitution, to restore the Union, to reassert the supremacy and power of the Constitution and laws as you would. The measures that you would adopt come home to them, to their immediate country, and their families. Not so with you. Why then will you madly, in a spirit of resentment, of vengeance, urge on a series of measures that are to result in nothing but mischief to our common country, and overwhelm our portion of it in hopeless ruin? It is a subject we are familiar with; you are not. We know more about it than you do. We know better how to treat it than you do. Why, then, in the name of fraternity, of humanity, of patriotism, with a view to the success of this war, and the reëstablishment of the Union in peace and good will, and moving it on again to the consummation of its grand and glorious destiny—why do you not give some heed to us and take counsel from us in relation to the character of the measures that you pass?

You seem bound in the spell of some sinister and fatal delusion in relation to the slave. You seem to think that arming and freeing him will create some great and mysterious force that will in a great degree prevent our soldiers from perishing by disease in camp, from being slain or wounded in battle, confound and overwhelm the rebels, bring sudden and overwhelming victory everywhere to our standard, close the war in glory, indemnify the nation for its expenses, appease the manes of the dead, assuage the anguish of their surviving friends, give a new dispensation and law for the Constitution bequeathed to us by our fathers, bring together and reconstruct the fragments of a broken Union, increase the production of cotton, and restore order, fraternity, and peace between the people of the southern and northern States. What a delusion! It would bring down upon the country the reverse of all this. "Whom God would destroy, He maketh mad." Such seems to be the condition equally of secessionists and abolitionists.

When we offer you counsel in the best spirit of patriotism and with the lights of experience and of truth, we meet with nothing but taunts and rebuffs and denunciations. If we dare to get up and contend for our constitutional rights in relation to our property and as to the manner in which this war should be conducted, we have scorn and opprobrium thrown at us; we are told that we are sympathizing with the rebellion, and that no slaveholder is or can be loyal to the Government. Sir, this does us grievous wrong. I do not denounce gentlemen. I do not quarrel with them. I want to have no differences with them. I am no partisan. I have no party but my country; no creed but the Constitution. I am struggling for the restoration of the Union and the enforcement of the Constitution and the law, and for no other purpose under heaven. That policy which is best adapted to these great ends, and those men who labor with more justice, wisdom, vigor, and truth to bring about these ends, will have all the feeble support that I can give them; but I tell you, Mr. President, I tell this Senate, I tell my countrymen that whenever they agree to organize and arm the slaves, they admit that they cannot conquer the rebellion; foreign nations will interpose and recognize them; you will lose ten times as much sympathy and support at home as you will gain by such an atrocious measure; and the days of this crumbling Union of thirty-four States will have been numbered and it will soon topple to its fall in irretrievable ruin.

If this Union cannot be preserved by the white man, making him the soldier and the hero of the battle for the Union, there are no conditions upon which it can be saved. But, sir, it can be rescued upon that noble condition; it ought not to be attempted on any other. If you put arms in the hands of the negroes and make them feel their power and impress them with their former slavery, wrongs, and injustice, and arm them, as Hunter promises, to the number of fifty thousand, you will whet their fiendish passions, make them the destroying scourge of the cotton States, and you will bring upon the country a condition of things that will render restoration hopeless. There is no necessity for it; there can be none. Exhaust the energies, the patriotism, and the resources of the white man; at least tax them further, and yet further, and whenever the time comes and you demonstrate to slaveholding Union men that by the sacrifice of their slaves the Union can be restored and the Constitution can be preserved, and that there shall be but one American empire whose arch shall span the continent from ocean to ocean, and that sacrifice will be unhesitatingly made.

But there is no such stress upon us. It is an inglorious, ignoble, and a cowardly admission that there is any such stress or necessity as that. Why, sir, do you not perceive that the Englishman, the Frenchman, and the Spaniard are already beginning to contemn and spit upon you? Yesterday, or before this rebellion, the name of American might have stood against the world; now it is so poor that none will even do it reverence. That contempt and degradation of our country, that ignoble impress will go on rapidly increasing—yes, sir, it will go on irretrievably to its miserable, degrading consummation, whenever you agree to call in regiments, brigades, divisions, and army corps of negroes into the field. I implore you to use the negro for no such purpose. Wherever you can make him labor, wherever you can make him useful without putting arms in his hands, employ him; there can be no just objection to it. In a particular state of the case, where there was a small corps or a large corps hard pressed, and there were negroes about, and they could be made to swab the cannon, to load the cannon, or fire guns, and to use the cutlass, or any other weapon, in such an emergency, use him; but do not make occasion to use him. Do not organize him as a part of our Army.

Mr. RICE. Mr. President, I deeply regret that I should have said anything to pain the honorable Senator from Kentucky. Whenever I address the Senate I endeavor to express my sentiments with a due regard to the feelings and principles of others; but I must be permitted to say that the Senator has traveled far over this continent to hunt up precedents to show the barbarities of the negro. I regret that he did not confine his remarks to occurrences nearer home. I regret that he did not expend his eloquence in condemnation of the leaders of the southern confederacy in arming Indians and bringing them into battle at Pea Ridge, where they not only committed the most atrocious outrages on the Union troops, but in their frenzied madness turned upon the rebels themselves. I regret that he did not come down to a still later period, to the last battle near Richmond, where the confederates filled the canteens of the privates with powder and bad whisky to make them worse than fiends. There was a field in which the honorable Senator could have dilated; there he could have used his eloquence to an advantage that would have awakened every loyal man in the North and induced him to spring forth and seize a musket in defense of the Union.

Mr. DAVIS. Will the honorable Senator allow me to ask him one question?

Mr. RICE. Certainly.

Mr. DAVIS. If the confederates violate the usages and customs of civilized warfare, does he therefore want our Government and our armies to be guilty of the same violation?

Mr. RICE. I will answer that question in a very few words. If a stranger to our present difficulties had been here and listened to the remarkable speech of the Senator, he would have supposed that he was an embassador from the southern confederacy speaking in their behalf.

Mr. DAVIS. Mr. President——

The PRESIDING OFFICER. The Senator from Minnesota is entitled to the floor.

Mr. DAVIS. I say to the honorable Senator there is nothing that I have said that authorizes him to make any such assertion.

Mr. RICE. The Senator has spoken as though the people of the North were warring upon him and upon his people.

Mr. DAVIS. It is not so, Mr. President.

Mr. GRIMES. I call the Senator to order.

Mr. DAVIS. Let the gentleman protect himself, sir.

Mr. GRIMES. I insist upon order being preserved.

The PRESIDING OFFICER. The Senator from Minnesota is entitled to the floor.

Mr. RICE. I have no objections to the Senator expending his feelings in any manner he sees fit. He will not discompose me nor disconcert me in the least.

Mr. DAVIS. I hope the Senator will not misrepresent me.

Mr. RICE. I say the Senator's whole argument has gone to show that we of the North were making war upon the border States, upon the Union men of the border States, and he has held up to us the atrocities that will be committed upon his family and upon the families of the Union men of the border States. Who is it, sir, that has defended the Union men in the border States and those pretending to be Union men? It has been the North. Our troops were mustered into service and sent into the border States at their request. They have defended them from the beginning, and they will do so to the end, and not an atrocious act have they committed. They have saved their wives and children, they have saved their property. Not only have they done so heretofore, but they are still ready and willing to do it, and will continue to do it to the bitter end.

I want to see the arguments and speeches on this question of the war confined to the facts. I am not in favor of massing the negroes and putting arms into their hands; but I am in favor of employing them in this war. If you look at the history of it, you will find that three hundred thousand confederate soldiers, admitting man for man to be equal, are worth as much as five hundred thousand of ours. Why is it so? All the building of roads and bridges, all the camp duty, all the menial service among them is performed by the negroes, and when a battle is about to take place, the confederate army is able to bring every white man into the field, fresh and ready for the contest. How is it with us? When our Army goes into battle the men are fatigued, worn out with building bridges and roads and performing other services too numerous to mention, which the negroes perform in the South. Again, in the North every man that we employ we pay; everything we purchase we pay for. How is it in the South? All that is raised there to support their army is raised by the negroes, and not a dollar is necessary to be paid. The honorable Senator said that the negroes might be useful in loading and swabbing and firing cannon. If that be the case, may not some of them be useful in loading, swabbing, and firing the musket?

Sir, the question must be met, and it must be looked to practically. The Senator says that northern men do not look upon it in a practical sense. I admit that we have not heretofore, but I hope the time has come when we will, and rather than be whipped out as we have been recently, I would say good bye to the southern confederacy, and tell them to take all they wanted, and even give them more. They hesitate at nothing. There are no means that God or the devil has given them that they do not use. Why should we stop and higgle at a proposition which is merely carrying out not only the views but the practices of all nations from the beginning of time down to this moment? They have forced into their service their

own men, and they are to-day stripping the southern States of every white man capable of bearing arms for the final contest. They have not discriminated in favor of the Union man of the North who was temporarily residing there. They have drafted him into their service and made him fight against his brother. They have made no distinction between the free negro and the slave, except that in the one case they have, by mere word of mouth, brought the slave into the service, and in the other they have forced the free negro in to fight against his will.

I was much gratified at one remark the Senator made, so truthfully and eloquently; and that was that if the southern States were successful, it was not the end of secession. That I believe. If they were successful in this contest, the northern States, the free States, would soon divide: first, the West from the East; and eventually mountain range and every lake and principal river would form the boundary line of some petty principality; and we would be helpless among ourselves, in eternal turmoil, a laughing-stock and a disgrace throughout the world. Such being the case, I deem the Union is worth saving, and if worth saving, every loyal man should be willing to contribute his last dollar and his last meal in its defense.

Mr. WILSON, of Massachusetts. I move that the Senate proceed to the consideration of executive business.

Mr. BROWNING. I will ask the Senator if he will not give way to a motion to have the amendments to this bill printed.

Mr. WILSON, of Massachusetts. Certainly.

Mr. BROWNING. I should be glad to have the amendments now pending printed. This is a very important subject, and we ought to have them before us.

The PRESIDING OFFICER. It is moved that the amendments to this bill be printed.

The motion was agreed to.

EXECUTIVE SESSION.

On motion of Mr. WILSON, of Massachusetts, the Senate proceeded to the consideration of executive business; and after some time spent therein, the doors were reopened, and the Senate adjourned.

HOUSE OF REPRESENTATIVES.

WEDNESDAY, *July* 9, 1862.

The House met at twelve o'clock, m. Prayer by the Chaplain of the Senate, Rev. BYRON SUNDERLAND.

The Journal of yesterday was read and approved.

CASE OF JUSTUS McKINSTRY.

The SPEAKER laid before the House a letter from the Secretary of War, transmitting, in compliance with a resolution of the House, the proceedings of the court of inquiry in the case of Justus McKinstry; which were laid upon the table, and ordered to be printed.

WHITE HOUSE HOSPITAL.

The SPEAKER also laid before the House a letter from the Secretary of War, transmitting, in compliance with a resolution of the House, copies of letters from Major General George B. McClellan, of the 22d of June, and E. P. Vollum, medical inspector, of the 24th of June, in reference to the occupation by the troops of the army of the Potomac of the White House, Virginia, as a hospital.

Mr. WASHBURNE. I ask that the letter of General McClellan be read.

The SPEAKER. It is very long.

Mr. SHEFFIELD. I object.

On motion of Mr. WASHBURNE, the papers were laid upon the table, and ordered to be printed.

DISTRIBUTION OF BOOKS.

Mr. McPHERSON. I ask the unanimous consent of the House to report back from the Joint Committee on the Library, House joint resolution No. 100, providing for the distribution of certain books and public documents now in the Department of the Interior, in order that it may be put on its passage.

Mr. ROSCOE CONKLING. I object to that resolution.

ESTATE OF LIEUTENANT JOSEPH WHEATON.

Mr. DUELL, from the Committee on Revolutionary Claims, reported a bill for the relief of the estate of Lieutenant Joseph Wheaton, deceased; which was read a first and second time.

The bill, which was read, provides that the Secretary of the Interior shall settle and adjust the claim of the administratrix of Lieutenant Joseph Wheaton, deceased, upon principles of equity and justice, and pay whatever may be found to be due to her on the part of the Government.

Mr. DUELL. I ask the Clerk to read a letter from the Secretary of the Interior in support of this claim.

The Clerk read, as follows:

DEPARTMENT OF THE INTERIOR,
WASHINGTON, *March* 27, 1862.

SIR: I have the honor to acknowledge the receipt of a resolution of the House of Representatives adopted on the 14th instant, referring to this Department for adjustment the claim of Mary A. Berault, administratrix of the late Joseph Wheaton.

Upon an examination of the papers referred to me, I am fully satisfied of the justice of this claim, and concur in the report of the Committee on Revolutionary Claims in its favor. The services of Lieutenant Wheaton were of a highly meritorious character, and continued from a time anterior to the passage of the act of Congress of October, 1780, promising half pay for life to those who should serve until the end of the war, until the final and successful termination of the revolutionary struggle.

The principle upon which the claim is based has been recognized and sustained by the Court of Claims in the case of Dr. Baird, and the decision of that court has received the sanction of Congress.

I should not hesitate to adjust and allow the claim, as recommended by the resolution of the House of Representatives, if any fund were placed at my disposal from which it could be paid; but no appropriation has been made which is applicable to the payment of claims of this character.

I therefore return the papers, with a recommendation that an appropriation be made by Congress for its payment.

I am, sir, with great respect, your obedient servant,
CALEB B. SMITH,
Secretary of the Interior.

Hon. GALUSHA A. GROW,
Speaker of the House of Representatives.

Mr. LOVEJOY. There was a very meritorious claim similar to this before that committee, and I understood, after having considered it, that they had come to the conclusion to allow no such claims. I do not object to this particular case, but I do object to a discrimination in favor of one case and against another, although it may be founded upon the same condition of facts.

Mr. DUELL. The rule adopted by the committee, in the case to which the gentleman refers, was upon the recommendation of the Secretary of the Interior, who believed that claims of heirs of revolutionary soldiers for pensions due to their ancestors, ought not to be allowed. This case differs from the one referred to by the gentleman from Illinois. It is for the half pay promised by resolution of the Continental Congress of 1780. Nearly all such claimants have been already paid under different acts of Congress.

Mr. LOVEJOY. The claim I have referred to has equal merit.

Mr. DUELL. I will say to the gentleman from Illinois, that if the case is of this character, it will not be cut off by the joint resolution passed at this session of Congress. It can then be considered and passed at any time.

Mr. LOVEJOY. I do not object to this claim.

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

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

The latter motion was agreed to.

ADVERSE REPORTS.

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

Petition of the administrator of Richard Wood, for allowance of half pay as surgeon's mate during the revolutionary war;

Petition of Lewis Marnay's heirs, praying for half pay, &c.; and

Petition of Nathaniel Head's heirs, praying for compensation for property destroyed during the revolutionary war.

DE GROOT CLAIM.

Mr. DUELL, from the Committee of Claims, reported a joint resolution regarding the adjustment of a certain claim therein mentioned; which was read a first and second time, and, with the accompanying report, ordered to be printed, and then recommitted to the same committee.

SURVEY OF LANDS IN NEW MEXICO.

Mr. BLAIR, of Pennsylvania, from the Committee on Private Land Claims, reported back House bill No. 511, to amend an act entitled "An act to reduce the expenses of the survey and sale of the public lands of the United States," approved May 30, 1862, with the recommendation that it do pass, with the following substitute:

That so much of the third section of the act entitled "An act to reduce the expenses of the survey and sale of the public lands in the United States," approved May 30, 1862, as provides that patents shall not issue for private land claims until the costs of the survey and platting have been paid into the Treasury of the United States by the claimants, shall be and the same is hereby repealed, so far as it refers to the Territory of New Mexico: *Provided, however*, That this repeal shall not apply to any surveys of any private land claims made prior to their confirmation.

SEC. 2. *And be it further enacted*, That the eighth section of the act aforesaid, transferring the duties of register and receiver of New Mexico to the surveyor general of that Territory, is repealed with the same force as though the said eighth section had not become a law.

Mr. BLAIR, of Pennsylvania. Mr. Speaker, the third section of the act proposed to be repealed by this bill provided that no patent should be issued unless the patent fees were first paid. Now, those who know anything of the private land claims in the Territory of New Mexico, know that these surveys are as much required by the interests of the Government as they are required by the interests of the claimants themselves. These claimants received their titles from the Government of Mexico before we acquired jurisdiction over this territory. Their titles are complete and perfect, and these surveys are quite as essential to the Government as they are to the claimants. It would be almost an act of confiscation, in many instances, to require these parties to pay for the survey of these lands. We repeal the section so far as it requires owners of confirmed claims to pay for these surveys, leaving the owners of unconfirmed claims to pay for the survey of those lands.

In regard to the eighth section, proposed to be repealed, I will say that that section devolves certain duties of the register and receiver of the Territory of New Mexico upon the surveyor general of that Territory. As the law stood the receiver was made the depositary of the public funds under the Secretary of the Treasury; but the eighth section of the law, which is proposed to be repealed, transferred those duties to the surveyor general. I ask the Clerk to read the letter of the Secretary of the Treasury on this subject.

The Clerk read, as follows:

TREASURY DEPARTMENT, *June* 30, 1862.

SIR: Your letter, stating that a bill has been introduced and referred to the Committee on Private Land Claims, to repeal the eighth section of "An act to reduce the expenses of the survey and sale of public lands in the United States," and asking my opinion of the bill, has been received.

The section which the bill proposes to repeal provides that, from and after July 1, 1862, "the duties of the register and receiver of New Mexico shall be transferred to and devolved upon the surveyor general of that Territory."

Mr. Greiner, the receiver of New Mexico, had been designated a depositary of the United States before the passage of the act, and large sums have been sent to him as such. To change this designation and deposit, at this time, would be very inconvenient, if not seriously prejudicial to the public interest. I think, therefore, that, for the present at least, the office should be suffered to remain in existence; and I recommend the repeal of the section referred to, and the revival of the former provisions with the same force and effect as if no legislation, transferring the duties of register and receiver to the surveyor general, had taken place.

With great respect, S. P. CHASE.

Hon. SAMUEL S. BLAIR, *Chairman, &c.*

Mr. BLAIR, of Pennsylvania. A large sum of money has been deposited by the Secretary of the Treasury with the register and receiver of the Territory of New Mexico. I believe that the troops there have not been paid, and if these duties of the receiver are devolved upon the surveyor general, no payment will be made in a long time to come. I understand that all of these facts are within the knowledge of the Delegate from the Territory of New Mexico.

Mr. LOW. I do not see why the private land claims of New Mexico shall be more considered than the private land claims of California. It is proposed here that the Government shall bear the expense of the survey of these lands in New Mexico, while, at the same time, these surveys in California are compelled to be at the expense of the claimants. Why is this?

Mr. BLAIR, of Pennsylvania. I can only speak of the bill as it was sent to the committee. It provided merely for the repeal of the eighth section

so far as the Territory of New Mexico is concerned. I understand that there are about one thousand private land claims in New Mexico. I do not know the condition of the claimants of private lands in California. I presume, if they are in the same condition as those in New Mexico, that there would be no reason why the law should not extend to them.

Mr. LOW. I have no objection to the bill as reported by the gentleman from Pennsylvania, but I certainly can see no reason why there should be any distinction made. If it is applicable at all, it is certainly applicable to all parts of the United States where there are private land claims outstanding.

Mr. WATTS. So far as land titles in New Mexico are concerned, I am familiar with them, as my attention has been particularly directed to them. As to land titles in California, I am not able to speak. But I do say this: that whenever a Mexican citizen or anybody else has purchased and paid a foreign Government for his land, and received a perfect title to it, the Government of the United States ought not, either in common justice or common honesty, impose any tax or contribution whatever on that citizen for the purpose of perfecting that title. It is already perfect. You might just as well require the people of New Mexico to take the coin out of their pockets because it has the Mexican stamp upon it, and send it to the United States Mint to have it recoined. It is an injustice and a wrong that ought not to be perpetrated on any people. It is the business of the Government to separate the public lands in that Territory from the private lands, and it is for the interest of the Government that it should be done. What better titles do the people of New Mexico want to their land than they have? Their titles run back to 1680. Their ancestors cultivated these lands for years before the Pilgrim Fathers landed on the rock of Plymouth; and it would be the rankest injustice to say to them that they must now perfect their titles. I agree with my friend from California, that it is equally unjust to require his constituents to pay the expenses of survey.

I could not in justice to myself or to my constituents—having drafted a bill to meet the particular case of the people of New Mexico, to be considered on its merits—step out of the way for the purpose of including California land claims or the claims of anybody else. I have no doubt the gentleman is right in his views in regard to California, but that is no good reason why this bill should be embarrassed with the claims of his constituents.

Mr. LOW. If the gentleman is not willing to include California, I propose then that the provision shall be made general, and for that purpose I move to amend, by striking out the words "so far as they apply to the Territory of New Mexico."

Mr. TRIMBLE. I desire to ask whether this bill has been printed?

The SPEAKER. The Chair is informed that it has not been printed.

Mr. WASHBURNE. This bill, as I understand it from its reading, proposes to repeal what seems to me to be a very wise provision of law, that these men who have private land claims shall have their claims surveyed at their own expense before patents are issued for them.

The SPEAKER. The bill provides for repealing a provision of law passed in May last.

Mr. NOELL. I desire to say in regard to this proposition, that the practice has been to order these private land claims surveyed before the patent issues, at the expense of the Government, and without cost to the claimant. The object of this bill is to place those claimants in New Mexico upon the same footing as those in the States. I know in Missouri the land claims of citizens under old French grants have always been surveyed at the expense of the Government.

Mr. WASHBURNE. The provision of law that the Government shall pay for surveying the land claims in Missouri, where the lands in dispute are in small parcels, may have been very well, but the same reason does not apply to New Mexico, where the claims embrace immense amounts of land. I do not think it is any great hardship there to require that the claimants shall pay for the survey of their own lands.

Mr. NOELL. I will say to the gentleman from Illinois, that I do not understand that the extent of the claims alters the justice of the practice in any way whatever. Before the intervention of the United States Government, the title of these parties to their lands was perfect. But this Government has established a system under which it is incumbent upon them to procure the recognition of their title by the United States. Now it seems to me, after requiring these parties to establish the validity of their claims to the satisfaction of the United States, it is hardly just to require that they shall incur the further expense of having their lands resurveyed.

Mr. WASHBURNE. I desire to ask what were the reasons urged for the passage of the law which it is now sought to repeal?

Mr. POTTER. If the gentleman will allow me, I will state the reasons why that bill was passed. If the gentleman will refer to the report of the Secretary of the Interior and the report of the Commissioner of Public Lands, he will learn why Congress passed the act to which he has referred. It is stated there that a very large amount has hitherto been paid by the Government of the United States for the survey of private land claims. The bill passed in May provided that in future when these private lands are surveyed by the Government, it shall be at the expense of the claimant. This bill repeals that provision of the act of May last leaving the requirement still that the land shall be surveyed before a patent issues, but that it shall be done at the expense of the Government.

MESSAGE FROM THE SENATE.

A message was received from the Senate, by Mr. FORNEY, their Secretary, notifying the House that the Senate have agreed to the joint resolution of the Senate (No. 80) authorizing the State of Minnesota to change the line of certain branch railroads in said State, and for other purposes.

The message also announced that the Senate have passed a bill of the House (No. 556) to change the place of holding the circuit and district courts of the United States for the district of West Tennessee, without amendment.

The message further announced that the Senate have passed bills of the House of the following titles, with amendments; in which he was directed to ask the concurrence of the House:

An act (No. 531) increasing temporarily the duties on imports, and for other purposes; and

An act (No. 438) to grant pensions.

PRIVATE LAND CLAIMS—AGAIN.

Mr. NOELL. I desire to call the attention of the gentleman from Wisconsin to the fact that the expense of which he has spoken is incurred for the survey of private land claims in California and New Mexico which have once been surveyed, and their titles have once been perfected, and now when the question of their title is reopened by the Government, and when after the claim has again been perfected, the Government still requires that the land shall be resurveyed before the patent can issue, the claimant ought not to be burdened with the expense.

I ask the gentleman to remember that the surveys which are intended to be included in this bill only apply to land the title of which has been confirmed, and that these surveys are needed for the protection of the Government for the purpose of ascertaining what land is and what is not open for public sale. The requirement has therefore been made that the resurvey shall take place before the patent issues. It is not proposed that surveys shall be made of lands the private title to which has not been confirmed at the expense of the Government. It would not be proper that it should be done at the expense of the Government; but it is certainly unjust to these private claimants to provide that after their titles have been confirmed, their lands shall be surveyed at their own expense.

Mr. POTTER. I do not think there is any great hardship in requiring those parties holding immense tracts of land in California and New Mexico to pay for the expense of surveying their own lands.

Mr. BLAIR, of Pennsylvania. The injustice of requiring these claimants to pay for their surveys is obvious. They are the grantees of these lands from the Government of Mexico. They hold their titles by virtue of grants made by that Government. Before the acquisition of the territory from Mexico these parties were in the enjoyment of their lands, having a title thereto which was recognized by their own Government as perfect and absolute. But it became necessary, after the acquisition of the territory, that the Government should separate the lands held by private individuals from the public domain, so that the Government might know what portion of the public domain was liable to appropriation for other purposes. The Government, therefore, required these claimants to bring in their claims, and file their titles in the archives of the Government, in order that they might be surveyed, and separated from the public domain.

Now, sir, this Government has stipulated by treaty to guaranty the titles of persons holding them under the grants of the Government of Mexico. It is, therefore, not with us a question of what is just, but it is a question of good faith upon the part of the Government. We are bound by treaty stipulations to see that they are so protected in the possession of their lands. We cannot, therefore, properly subject them to the expenses of surveying their lands.

Mr. WASHBURNE. Is not this a mere question of marking the boundaries of the private claims of these parties. Now, if these persons want the boundaries of their claims marked, let it be done at their own expense.

Mr. WATTS. These parties do not want their claims resurveyed, nor their boundaries marked. That was all done one hundred and fifty years ago.

Mr. WASHBURNE. Then what else is required?

Mr. WATTS. These surveys have been ordered by the Government itself, and I think it is but right and proper that the Government shall pay for it.

Mr. BLAIR, of Pennsylvania. The Government has decided that it is necessary that these lands shall be resurveyed.

Now, sir, one word as to the necessity of repealing this provision of the act of May last. The Commissioner of the Land Office says the surveys were made at the expense of the Government. Grant it; but that is no reason why these people should pay for it. It is an expense we were subjected to by reason of our treaty stipulations. The Land Office gave no reason and nobody has given any reason for making these persons pay the expense.

Mr. POTTER. Will the gentleman state by what treaties we are bound to make these surveys?

Mr. BLAIR, of Pennsylvania. We have the treaty of Guadalupe Hidalgo, and by that we are bound to guaranty these titles.

Mr. CRADLEBAUGH. I understand the question before the House to be simply this: whether privileges shall be extended to the people of New Mexico in reference to the survey of the public lands; in other words, whether they shall not be compelled to pay for the survey of the lands within that Territory the same as the people in other Territories pay for the survey of their lands and the expense of the entry thereof.

If that be the proposition made by the gentleman from New Mexico, for one, I am opposed to extending to those people there, even if they settled in that country long before the declaration of independence in New Mexico, any favor of that kind. My reason is this: if you will look at the history of this war, so far as it has been developed in New Mexico, you will find that, though they boast of a population of one hundred thousand, and ought to be able to turn out ten thousand troops for the defense of the country and for suppressing this rebellion, they have raised but a very limited number. I say, looking at the matter in that point of view, what aid and support has she given to the Government of the United States?

I know the regular force that has been placed there; and I am acquainted with Colonel Canby, and the force under his command; and you will find that, when they are organized into regiments, they do not stand up like men, like American citizens, and fight to protect their country and their land. If, then, they are this kind of people, they are not entitled to this kind of favor, and unusual privileges should not be extended to them. Already this Congress has extended to them privileges which never have been extended to the people of other Territories. You find that appropriations have been made by previous Congresses in favor of that Territory, for the purpose of erecting public buildings within that Territory, and these appropriations have been offset against the direct tax which has been assessed against the people of

New Mexico. Is that right? We have said the people of New Mexico shall be exonerated from the payment of their taxes. If they will not fight for the defense of their lands, and will not raise a tax for the purpose of carrying on the war, shall we extend unusual benefits to them? I, for one, am opposed to it. My people of Nevada are not here asking such favors of the Government; and I say that until the people of New Mexico show themselves worthy of them, they are not entitled to any such favors. If they will not come forward and defend their land and the institutions of our country, let us not treat them with such favor, and say that we will exonerate them from the payment of taxes, we will pay for the survey of their lands, and they shall be a privileged class in this country. I want to see all communities come forward and show that they are willing to protect the institutions of the country, and then we will extend to them all the privileges and benefits of the Government in our power.

Mr. WATTS. The House will indulge me a moment or two while I pay my respects to the Delegate from Nevada. Had he contented himself with defending his own gallant and glorious people and their interests, I should not have felt called upon to reply to his remarks. But he has seen fit to thrust himself before this House, not only as the defender of his own constituents, but for the purpose of making an attack upon mine, and, permit me to say to him and to the House, with as little truth as justice.

Mr. CRADLEBAUGH. I do not wish to put myself in the wrong, but if I understand the matter, these regiments raised in New Mexico by Colonel Canby, ran as fast as they could——

Mr. WATTS. They may have run, but the gentleman never had courage enough to raise a regiment in his Territory, and bring it into the field to see whether they would run or not. [Laughter.]

Mr. CRADLEBAUGH. We have raised a thousand troops for this war.

Mr. WATTS. Let me say to the Delegate from Nevada, that his Territory never yet had a soldier upon the battle-field.

Mr. CRADLEBAUGH. We have raised a thousand troops for the field; a larger number, in proportion to our population, than any State of the Union.

Mr. WATTS. And I expect they will be as likely to run as any other troops, if they ever get where the enemy is. [Laughter.] I do not think that Providence has made a special exception in favor of Nevada, by which all of courage, all of honesty, and all of patriotism is concentrated in that little spot. I may be mistaken about this matter; and if I am, I will correct my error whenever I discover it.

So far as the troops of New Mexico are concerned, it is unnecessary to enter upon any defense of them. I am willing that they shall stand by the public records of the country. There have been regiments in New Mexico which have fought with as much gallantry as any other troops, and I appeal to the records of the country to sustain my assertion. All troops are liable to be slandered. There is not a State in the Union which has troops in the field where false and slanderous reports have not been circulated by somebody or other who wished to raise a prejudice against them.

But that is not the question here. I do not ask for any exclusive privileges for the people of New Mexico. I ask for the people of New Mexico the same privileges which the gentleman from Nevada asks for the people of his own Territory.

Suppose the people of Nevada purchase at $1 25 an acre a hundred and sixty acres of land, do you tax them for the expense of the resurvey of that one hundred and sixty acres? The injustice of it is obvious to the dullest and most stupid mind. These people of New Mexico have already paid a full consideration for their land, received a perfect title from the preceding Government—a title which we bound ourselves by the most solemn obligation to protect and preserve; and now would it be just and fair to compel them to surrender their titles and have them repassed upon by the Government of the United States, resurveyed under a compulsory law of the Government of the United States, and then refuse a return of their original title or give them a new title, unless they pay the expense of the resurvey?

I will read the eighth section of the treaty to which allusion has been made:

"ART. 8. Mexicans now established in territories previously belonging to Mexico, and which remain for the future within the limits of the United States as defined by the present treaty, shall be free to continue where they now reside, or to remove at any time to the Mexican republic, retaining the property which they possess in the said territories, or disposing thereof, and removing the proceeds wherever they please, without their being subjected, on this account to any contribution, tax, or charge whatever."

That is the stipulation of the treaty. I think I have now answered, and I trust satisfactorily to the House the remarks of the gentleman as to the legality and justness of this measure.

So far as the other allusion of the Delegate from Nevada is concerned, I have no reply to make except to present to him the illustration on one of the first copper cents ever issued by the United States, where, in bold lines, it is written across the bottom "mind your own business." [Laughter.]

Mr. OLIN. I move that the rules be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union.

Mr. BLAIR, of Pennsylvania. I hope the gentleman will allow the previous question to be called first on this bill.

Mr. OLIN. I think this bill has occupied time enough.

Mr. BLAIR, of Pennsylvania. And therefore I want to dispose of it at once. It is requisite that it should pass.

Mr. OLIN. Will it be in order for me to state now what bill I propose to have taken up?

The SPEAKER. The motion is not debatable.

Mr. LOVEJOY demanded tellers.

Tellers were ordered; and Messrs. LOVEJOY and STILES were appointed.

The House divided; and the tellers reported—ayes 14, noes 81.

So the motion was not agreed to.

Mr. BLAIR, of Pennsylvania. I move the previous question on the third reading of the bill.

Mr. TRIMBLE. I move that the bill be laid on the table.

Mr. F. A. CONKLING called for the yeas and nays.

The yeas and nays were not ordered.

Mr. ALLEN, of Ohio, called for tellers.

Tellers were not ordered.

Mr. BLAIR, of Pennsylvania. I ask that the bill and the letter from the Secretary of the Treasury be again read.

The bill and letter were read.

Mr. MALLORY. I move that there be a call of the House.

The motion was agreed to.

The roll was called; and the following members failed to answer to their names:

Messrs. Baker, Bingham, Francis P. Blair, Campbell, Clements, Conway, Covode, Delano, Delaplaine, Diven, Edgerton, Franchot, Goodwin, Granger, Grider, Harding, Harrison, Hickman, Horton, Hutchins, Johnson, Julian, Kelly, Francis W. Kellogg, Killinger, McKean, Marston, May, Noble, Norton, John S. Phelps, Pomeroy, Price, Edward H. Rollins, James S. Rollins, Segar, Smith, Vallandigham, Vandever, Van Valkenburgh, Van Wyck, Vibbard, Wadsworth, Whaley, Chilton A. White, Woodruff, and Wright.

One hundred and twenty-nine members having answered to their names,

Mr. BLAIR, of Pennsylvania, moved that all further proceedings under the call be dispensed with.

The motion was agreed to.

ENROLLED BILLS.

Mr. COBB, from the Committee on Enrolled Bills, reported as truly enrolled acts of the following titles; when the Speaker signed the same:

An act (S. No. 342) for the establishment of certain national arsenals;

An act (S. No. 352) to carry into effect the treaty between the United States and her Britannic Majesty for the suppression of the African slave trade; and

An act (S. No. 102) to amend an act entitled "An act to divide the State of Illinois into two judicial districts," approved February 13, 1855.

BUSINESS ON SPEAKER'S TABLE.

Mr. STEVENS. I move that the House proceed to the business on the Speaker's table.

The motion was agreed to; and the House proceeded to the business on the Speaker's table.

JUDICIARY SYSTEM.

The first business taken up was Senate bill (No. 89) to amend the act of 3d of March, 1837, entitled "An act supplementary to the act entitled 'An act to amend the judicial system of the United States,'" with the House amendments thereto.

Mr. WILSON. I move that the House insist on its amendments, and ask a committee of conference.

The motion was agreed to.

Mr. WILSON moved to reconsider the vote by which the motion was agreed to; and also moved to lay the motion to reconsider on the table.

Mr. WASHBURNE. I do not know how that bill has got before the House.

The SPEAKER. It is in the regular order of business.

Mr. WASHBURNE. That is a bill which ought not to pass.

The SPEAKER. No debate is in order.

Mr. WASHBURNE. If the motion to reconsider be not laid on the table, will it not be in order to reconsider the vote asking for a committee of conference, and to move to postpone the consideration of the amendments till next session?

The SPEAKER. If the motion to reconsider shall prevail, the bill will be before the House for its action.

Mr. WASHBURNE. I desire to get it before the House for its action. I call for the yeas and nays on the motion to lay on the table the motion to reconsider.

The yeas and nays were ordered.

Mr. MAYNARD. I ask that the amendments be read.

The action of the Senate on the House amendments was read. The Senate agrees to the third and fifth amendments of the House, disagrees to the first and fourth, and agrees to the second, with an amendment that the districts of Ohio, Michigan, and Indiana, shall constitute the seventh circuit; that the districts of Kentucky, Illinois, and Wisconsin shall constitute the eighth circuit, and that the districts of Missouri, Iowa, Kansas, and Minnesota shall constitute the ninth circuit.

The question was taken; and it was decided in the affirmative—yeas 61, nays 45; as follows:

YEAS—Messrs. William Allen, William J. Allen, Bingham, Samuel S. Blair, Blake, William G. Brown, Casey, Chamberlin, Clark, Colfax, Roscoe Conkling, Corning, Cravens, Cutler, Davis, Dunlap, Dunn, Edwards, Fessenden, Fouke, Frank, Haight, William Kellogg, Knapp, Lansing, Law, Lehman, Low, McKnight, Mitchell, Moorhead, Anson P. Morrill, Justin S. Morrill, Nixon, Odell, Patton, Pendleton, Perry, Timothy G. Phelps, Richardson, Riddle, Robinson, Sargent, Segar, Shanks, Sheffield, Shellabarger, Sherman, Sloan, John B. Steele, Benjamin F. Thomas, Trimble, Trowbridge, Van Horn, Voorhees, Wall, Ward, Albert S. White, Wilson, Windom, and Worcester—61.

NAYS—Messrs. Aldrich, Ancona, Arnold, Ashley, Baily, Beaman, Biddle, Jacob B. Blair, Buffinton, Calvert, Clements, Cobb, Frederick A. Conkling, Cox, Crisfield, Crittenden, Dawes, Duell, Ely, Fenton, Fisher, Goodwin, Hall, Harding, Kerrigan, Lazear, Loomis, Lovejoy, Mallory, Maynard, Menzies, Morris, Noell, Nugen, Porter, Sedgwick, William G. Steele, Stevens, Stiles, Stratton, Francis Thomas, Wallace, Washburne, Webster, and Wickliffe—45.

So the motion to reconsider was laid on the table.

ENGINEER CORPS——COMMISSARY DEPARTMENT.

Mr. DUNN, from the Committee on Military Affairs, reported back with amendments a bill (H. R. No. 523) to promote the efficiency of the corps of engineers and of the commissary department.

The bill unites into one corps the corps of engineers and the corps of topographical engineers, to be called the corps of engineers, its organization to be as follows: one brigadier general, four colonels, eight lieutenant colonels, sixteen majors, twenty-four captains, twenty-four first lieutenants, twenty-four second lieutenants, one sergeant major, one quartermaster sergeant, and five companies of enlisted men, as provided by law. The relative rank of the officers of the corps shall be the same as before the passage of this act. The general officer provided for shall be appointed by selection from the commissioned officers of the corps; the other vacancies shall be filled by regular promotion of the present officers and by graduates of the Military Academy who have heretofore been recommended by the academic board for the corps of engineers, topographical engineers, or ordnance corps, or who may be recommended to the Secretary of War for appointment by a board of engineer officers; and all vacancies

hereafter occurring in the corps of engineers shall be filled only by graduates of the Military Academy who have been recommended thereto by the academic board.

The second section provides that, during the present war, all officers of the corps of engineers who have served two years, shall have the rank, pay, and emoluments of captain; those who have served five years, the rank, pay, and emoluments of major; those who have served ten years, the rank, pay, and emoluments of lieutenant colonel; those who have served twenty years, the rank, pay, and emoluments of colonel.

The third section provides that there be added to the subsistence department of the Army, by regular promotion therein, one brigadier general, who shall be Commissary General of Subsistence, one colonel, one lieutenant colonel, and two majors—the colonels and lieutenant colonels to be assistants commissary general of subsistence—and that vacancies in the above mentioned grades shall be filled by regular promotion in said department.

The first amendment reported from the Committee on Military Affairs was to strike out the following section:

SEC. 2. *And be it further enacted*, That, during the present war, all officers of the corps of engineers who have served two years, shall have the rank, pay, and emoluments of captain; those who have served five years, the rank, pay, and emoluments of major; those who have served ten years, the rank, pay, and emoluments of lieutenant colonel; those who have served twenty years, the rank, pay, and emoluments of colonel.

The amendment was agreed to.

The next amendment was to add the following new section:

And be it further enacted, That there shall be added to the ordnance department, two lieutenant colonels, four majors, eight captains, eight first lieutenants, and eight second lieutenants; the additional officers herein authorized to be appointed by promotion as far as the present officers in the ordnance corps will admit, and the rest to be appointed by transfers from other corps of the Army, of such graduates of the Military Academy as may be recommended by the academic staff for that corps, and that there be allowed in the office of the chief of ordnance two additional clerks of class four.

Mr. HOLMAN. I desire to know first, what number of officers will be allowed to the ordnance corps, and second, what increase that will be on the number allowed during the Mexican war?

Mr. DUNN. In reply, I ask to have read the following letters from the Secretary of War and the chief of the Ordnance Bureau.

The letters were read, as follows:

WAR DEPARTMENT,
WASHINGTON CITY, D. C., *June* 30, 1862.

SIR: I have the honor to transmit a communication from Brigadier General Ripley, chief of the Bureau of Ordnance, calling "attention to the necessity of an increase of the number of officers of the ordnance department," and recommending that application be made to Congress for the proper legislation to carry it into effect.

Concurring in the views of the chief of ordnance, as expressed in his letter, I commend them to the favorable consideration of the Committee on Military Affairs of the House of Representatives.

I have the honor to be, very respectfully, your obedient servant,
EDWIN M. STANTON,
Secretary of War.

HON. F. P. BLAIR, jr., *Chairman Committee on Military Affairs, House of Representatives.*

ORDNANCE OFFICE, WAR DEPARTMENT,
WASHINGTON, *June* 23, 1862.

SIR: Permit me to call your attention to the necessity of an increase of the number of officers of the ordnance department. That necessity arises from the insufficiency of the present authorized number for the proper discharge of the many duties of the department; and an increase is imperatively demanded by the interests of the public service. I have been compelled on many occasions, by the want of a sufficient number of ordnance officers, to report my inability to comply with applications for the services of such officers with troops in the field; although recognizing the propriety and importance of such assignments, which I would have made to a greater extent had it been possible without neglecting more essential and urgent demands for their services elsewhere. The duties at the arsenals, and the inspection duties under contracts, have been so much increased as to require an additional number of officers for the proper and efficient discharge of these duties, which cannot be omitted or delayed without serious injury to the public interests, as well as of those who are employed to furnish supplies. The fortifications defending the approaches to the principal cities and harbors must have their armament placed as soon as possible in an efficient condition, and the services of ordnance officers for that purpose are necessary in different districts along the entire coast. Taking into consideration these indispensable duties, the increase to meet the wants of the service will require the addition of thirty officers, making the aggregate of the corps seventy-five, instead of forty-five as at present. The organization on that aggregate should be so arranged as to add to the ordnance department two lieutenant colonels, four majors, eight captains, eight first and eight second lieutenants.

I therefore respectfully suggest and recommend to your favorable consideration this addition to the aggregate strength of the ordnance department, and request that application may be made to Congress for the proper legislation to carry it into effect. The slow promotion in the corps indicates the propriety of a provision that these additions shall be made by regular promotion, as far as the present number of officers will admit, and the residue by transfers of graduates of the Military Academy belonging to other corps or regiments of the Army, at the discretion of the Secretary of War.

Respectfully, your obedient servant,
JAMES W. RIPLEY,
Brigadier General, Chief of Ordnance.

HON. E. M. STANTON, *Secretary of War.*

Mr. DUNN. Mr. Speaker, this bill was reported on the 24th of last month, and at that time I had read and inserted in the Globe a communication from committees of the engineer and topographical corps, recommending the consolidation of these corps, and also a communication from General McClellan on the same subject. At that time I also had read and published in the Globe a communication from the Quartermaster General's department recommending the adoption of the section now reported relating to his department, and the House has just heard read the communications in relation to the ordnance corps. The committee recommended the striking out of the second section of the original bill, in accordance with what is understood to be the views of the Military Committee of the Senate; and as the bill is now before this House for its action, I believe it is approved by the Military Committee of the Senate as well as of the House.

For one, I have not felt at liberty to disregard the recommendations of the several sections of this bill, approved as they are by the officers in the Army who know the wants of the service and the legislation necessary to give greater efficiency to their respective corps. We know that since the commencement of this rebellion the duties of all branches of the service have been vastly increased, and are daily increasing. It is but justice to the officers who have been faithfully and laboriously engaged in these departments that they should have proper promotion, such promotion as they would likely have reached had they been on field duty. The increased duties require increased force in these several departments. I would have been glad to have avoided the expense of such increase if it would have been indeed economical to leave these departments without some greater force.

But, sir, the efficiency of the Army in the field depends upon the dispatch of business in these departments. The business of supplying our armies with subsistence, clothing, arms, ammunition, and transportation, has to be transacted in these departments, and it is of the utmost importance that such business should be transacted carefully, as well as with dispatch. We all know what a constant pressure there is upon the ordnance department for the examination of new inventions of guns, cannon, and projectiles. The inventive genius of the country seems to be turned with great energy and success to improvements in this respect. Some of these inventions are no doubt of great value, and ought to be promptly examined and adopted if found useful. Yet so great is the ordinary business of that department that it is found almost impossible to detail officers to constitute a board to make such examinations and report on their value.

MESSAGE FROM THE SENATE.

A message was received from the Senate by Mr. FORNEY, their Secretary, informing the House that the Senate had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the bill of the House making further appropriations for sundry civil expenses of the Government for the year ending the 30th of June, 1863, and additional appropriations for the year ending the 30th of June, 1862.

ADDITIONAL FORCE IN THE WAR DEPARTMENT.

Mr. OLIN. With the permission of the gentleman from Indiana, I will submit one or two remarks upon the subject of this bill. All the provisions of this bill have been respectively approved by the commanding general of the army of the Potomac, by the various heads of bureaus to which they relate, and by the Secretary of War.

I wish to call the attention of the House for a moment to the condition of the ordnance department. There were in 1831, thirty-seven commissioned officers in the ordnance department, and the whole number of enlisted men employed by that department was three hundred and nineteen. The amount of money expended by the Government for that department in that year was a little over $800,000. At that period the aggregate number of men in the Army was about seven thousand men. During the Mexican war the number of commissioned officers in the employ of that department was fifty-one; the expenditure of money by it was about two million eight hundred and thirty-four thousand dollars; and the total force of the Army about sixty-four thousand men. That was the whole amount during the Mexican war.

There are now fifty-five commissioned officers in the ordnance department, four more than there were in 1847. The aggregate number of employés and enlisted men is seven thousand and ninety-eight; the expenditure of money by that department for the last year has been upwards of forty million dollars, and the whole Army reaches about five hundred thousand men.

This bill proposes to promote some of the men who are now in that department, and to add somewhat to the number. And having in my labors in connection with the Military Committee of this House been brought somewhat in contact with that department in the last two years, and more particularly within the last year, I wish to say one word to the House upon that subject.

There are certain men there who have held the position of captain for more than twenty years, who were originally brought into the department because of their superior ability evinced in the Military School, who still continue to hold the position of captain in the regular Army, who still hold the rank of captain although men far inferior in point of ability and in service have been raised to the rank of major and brigadier general in the service. They would gladly have thrown up their commissions or gone into active service, but for the fact that the country could not dispense with their services here.

I know of one man, a resident of the State of Virginia, whose every living relative has gone off with that State, who has given his entire devotion and his services to the cause of our common country, and he holds the rank, I believe, of a brevet major in the service.

I know another individual in that department, who, if he had been employed by any other Government than ours, would have received every honor that it was possible for a Government to bestow upon him for his distinguished services, and I suppose I may name him. I refer to Captain Rodman, a man now certainly approaching fifty years of age, and yet still a captain in the ordnance department. I say that any other civilized nation than ours would have conferred upon him such distinguished consideration as is conferred for eminent ability and distinguished discoveries in his department.

I could name another, now holding the rank of captain, who has, within a short period of time, disbursed more than four million dollars in the manufacture and procurement of ordnance supplies, who has rendered and settled his accounts in every respect, I believe, exactly accurate, except in regard to one pistol which was lost somewhere and another found of a different description.

Now, the House ought to know, and the country ought to know, that these men thus employed have had an amount of labor thrown upon them that the same number of men in no other branch of the Government have performed in the last twelve months, working daily and nightly, knowing no Sabbaths, no intermission, and no rest. Those fifty-one men in all have thus far performed all the services that have been demanded of them by an emergency of rushing into the field an army—not of twelve or fifteen thousand, but an army of more than half a million men. They have provided for supplying them not with material on hand, but with material they have had to create.

Now, I hope this measure will be passed. It is one of as much pressing necessity as any that has been before the House; and it certainly must be passed, or the greatest possible inconvenience will be occasioned to the service, and detriment sustained by the country.

Mr. DUNN. There may be an impression in this House that the officers of these several corps

are all on duty in the city of Washington. Many of them are in the field in the discharge of the duties of their respective departments with the divisions of the Army. Officers of the commissary and quartermaster's departments are stationed in our large cities, and other important points, to provide the Army with subsistence, clothing, and other supplies. In a bill which passed the Senate and House yesterday, we provided for promotion in the adjutant general's department, and it is but just that like promotion should be granted in the other departments. The truth is that the engineer and ordnance departments secure their officers from the cadets who graduate highest in their classes at West Point. These officers are the very *élite* of our Military School. Many of the officers in the different corps affected by this bill have been serving the country for long years, without promotion, and with very little hope of ever having any promotion. The gentleman from New York has referred to some of them by name. He mentioned Captain Rodman, of the ordnance corps. There is not a more meritorious officer in the whole Army, and it is not doing injustice to any other officer in the Army to say so. Still, after more than twenty years of invaluable service to his country, he is but a captain. He is an honor to his native State, Indiana, and an honor to his country. He is known throughout the world as an officer of distinction in his department. He has contributed greatly to the improvement and efficiency of our ordnance. Shall his country grudge to such an officer the increased rank and pay of a major?

Mr. McPHERSON. Mr. Speaker, several measures, containing like provisions with this bill, have been introduced into this House during the present session of Congress, and some have become laws. I have, therefore, no expectation whatever, in anything I may say, of inducing the House to modify this proposition, or reject any portion of it; yet I deem it my imperative duty to submit a few remarks on it before the vote is taken. The gentleman from Indiana [Mr. DUNN] urges, as an argument in favor of the passage of this bill, that we have already increased the rank of the officers in the adjutant general's department. It will be thus seen that Congress is likely, by its action on this bill, to be hereafter considered as committed to future legislation in behalf of other corps, which must entail heavy burdens upon the Government. The bill which I hold in my hand will, if adopted, involve an increased expenditure per annum of about one hundred and fifty thousand dollars for the engineer, subsistence, ordnance, and quartermaster corps. And, sir, if this bill should pass, there is no sort of reason why the same sort of promotion should not be extended throughout the Army. I desire to suggest to members of the House, when they are considering this measure, not to take an imperfect and partial view of it. Let them remember that the increased expenditure will not be confined to this corps, but that it will engender increased expenditure in other corps of the Army, who will not permit themselves to be left behind in this mad race for promotion.

It is true that there are a great many deserving officers who occupy these bureaus in the city of Washington. I acknowledge, with pleasure, that they are men of high intelligence and capacity, of thorough training and wide usefulness. But, it must also be admitted, that these are the desirable positions of the Army. They are sought with the most eager desire, the occupancy of them is held out as a prize to West Point graduates. The position of officers of the ordnance corps and of these other corps, is delightful in comparison with that of officers of the line. The duties of officers of the ordnance corps are discharged at arsenals, near the large cities; and I know very well that their positions are envied by the officers of the line.

Mr. OLIN. Does the gentleman from Pennsylvania know of a single ordnance officer who would not exchange for active field service?

Mr. McPHERSON. It would be an imputation upon the patriotism and courage of the officers in that corps, if I were to answer the gentleman's question in the affirmative. I do not say that those officers prefer their duties to duties in the field; but I do say, that for a period extending through many years the positions in those corps have been held to be the most desirable positions in the Army. In times of peace they have been delightful, and have been most eagerly sought for; and if these officers now find their duties burdensome, in a time of war, it should only be considered, in some sort, compensation for the unusual advantages they have heretofore enjoyed. There is no weight, therefore, in that suggestion of the gentleman from New York.

I admit that there are many gentlemen in these departments who are laboring faithfully and who are serving the country most usefully. But, Mr. Speaker, if you are to base upon that fact an argument in favor of the increase of rank and the increase of pay of those officers, where will you stop? Is there not the same reason for increasing the pay and increasing the rank of all the line officers, for are not they, as well as the officers of these corps, doing everything in their power for the success of our armies, and laboring with fivefold ordinary assiduity? Are not their duties onerous, and do they not risk their lives daily for the preservation of the Government? In this crisis, when all are doing so well, if these officers are entitled to increase of pay and increase of rank, then also are all the officers of the Army, no matter where located. If that be an argument for an increase of pay, that they are discharging more duties now than in times of peace, then every officer of the Government, whether military or civil, is entitled to an increase of pay; for there is not a man connected with executive, legislative, or any other department of this Government, who has not had additional labors devolved upon him by reason of the existence of this war. I will not, as I have said on a former occasion, vote to increase the compensation of any officer of the Government, solely with reference to that fact.

In July last, Mr. Speaker, we legislated with regard to every one of these bureaus. We made the Quartermaster General a brigadier general, and added one colonel, two lieutenant colonels, four majors, and twenty captains to his corps. We also provided that captains in the quartermaster's department, who should serve for fourteen years, should be promoted to the rank of major. With regard to the ordnance corps, (with reference to which the gentleman from New York spoke more particularly,) we made its chief a brigadier general, and we added other officers. By subsequent legislation, we added to the engineer corps two lieutenant colonels and four majors; and in another bill, we added two more lieutenant colonels and four more majors. We made these additions in those corps in July last, on the recommendation of the heads of the different bureaus; and I think that it must be conceded that the Congress of the United States dealt with them most liberally.

I do not see the necessity for the increased legislation now asked. I have heard read at the Clerk's desk the recommendation of the chief of the ordnance corps, in which he asks this still larger increase. It is no imputation upon that chief of the ordnance corps to say that there has not been a time within the last ten years in which the head of that bureau, whoever he may at the time have been, would not have written precisely such a letter asking for an increase in that corps. Nor, sir, has there been any time within the last ten years in which you could not have procured of any of these departments letters asking for an increase in these different corps, for all of them have always thought themselves overworked, underpaid, and greatly suffering. There is and has been competition between them, and they watch with jealous vigilance any legislation discriminating in favor of either one of them, of which they quickly avail themselves to turn to their own advantage. I may state, in proof of that assertion, that the increase of force in some of these corps was not asked until a similar increase had been provided for other corps. It is a fact which must be familiar to all who have attempted to understand these matters, that there is a great jealousy, or rather that there is great rivalry between these corps. Each is careful that the other shall not receive any advancement of pay or rank in which it does not share. It is human nature, I suppose, and not discreditable to them that they are actuated by these motives. But that will not justify us, who have no personal or peculiar interest in the increase of any of these corps, in going beyond our duty in order to gratify the feelings of these officers.

I have said that the passage of this bill will involve an increased expenditure of over one hundred and fifty thousand dollars per annum. How much more increased expenditure will necessarily follow in its train, I am not able to calculate.

The gentleman has alluded to his pleasant associations with the members composing these corps. I will say that I have also had pleasant association with them; and if I were to consult my own personal feeling, I would not raise my voice against the passage of this bill. Looking, however, to my duty as a member of the House, I am compelled to say that the bill ought not to be passed in its present shape. There are portions for which, if separately proposed, I would vote; but as we are called upon to vote upon it as a whole, I shall be compelled to vote against it. The provision in regard to the engineer and topographical engineer corps is a project that has been agitated at various times for ten years past. There is no necessary connection between officers of the engineer corps and officers of the topographical engineers. Their studies are dissimilar, though in some points approaching each other; and in practice they are essentially different, and present many points of antagonism. I know the past experience of the Government has been against the passage of such a measure, and I doubt very much whether it can be considered a proper one even at this time.

I do not desire to detain the House, for as I said before, I have no expectation whatever of changing the opinion of the House upon this subject. But inasmuch as I would like to have a test vote upon this subject, I move to lay the bill on the table.

The SPEAKER. Does the gentleman from Indiana yield to that motion?

Mr. DUNN. I do not.

Mr. McPHERSON. I understood that I had the floor, and had the right to make that motion.

Mr. DUNN. I only yielded to hear what remarks the gentleman desired to make.

Mr. McPHERSON. If the gentleman declines to yield for that purpose, I will not press the motion. There was an amendment which I very much desired to offer, and which the friends of this bill, if they pass it, ought to accept; and that is a new section providing that the increase of rank, and in the number of officers provided in this bill shall continue only during the existence of the present rebellion. We had a feature of that kind in the bill increasing the medical staff of the Army; and it is very clear we will not, after the suppression of this rebellion, need this enormous organization at Washington. If you pass the bill in its present shape, and the organization, based upon the provisions of this bill, is once fastened upon the Government, you never will be able to reduce the number. I now offer a new section as an amendment.

Mr. DUNN. I do not yield for any amendment to be offered. The gentleman from Pennsylvania discusses this subject as if the officers of the various departments mentioned in this bill were sitting in easy chairs in the Government offices in this city. He is much mistaken. Many of them are, as I have said before, with the armies in the field, and at other points, discharging most important duties in the prosecution of the war. He will find, discharging the duties of quartermaster at Cincinnati, Captain Dickinson, controlling millions of expenditures, and discharging those duties with an industry, efficiency, and fidelity highly creditable to him and the service. At St. Louis, Memphis, New Orleans, Fortress Monroe, Philadelphia, New York, Boston, and other important points, as well as on the staffs of our generals in the field, he will find like able and efficient officers of those departments detailed for duty. And, sir, it is a great credit to these officers in the regular Army, and I take great pleasure in saying it, that though charged with great pecuniary expenditures, they have, almost without exception, been so faithful to their trust as even in these days of complaints, just and unjust, to escape even suspicion of dishonesty. I am sorry I cannot make this remark without any exception, but there are black sheep in nearly every flock.

The gentleman from Pennsylvania says that this bill involves an additional expenditure annually of more than one hundred and fifty thousand dollars. I do not know what the increased expenditure will be, but if the bill will increase the efficiency of the Army to any considerable degree, the expenditure of $150,000 is a small consideration. In the commissary department, it is import-

ant that the purchase of provisions should be made promptly, and in order to purchase them promptly you must have a sufficient number of officers upon whom that duty devolves. If your Army is to be supplied with ordnance, it is necessary to have a sufficient number of agents whose duty it is to furnish those supplies. What is $150,000 compared with the prompt and efficient supply of munitions of war and provisions for the Army?

The gentleman from Pennsylvania speaks of the number of officers we had when this war broke out, and of the increase made in July. Before this rebellion raised its bloody head, our Army consisted of less than twenty thousand men. Now we have more than twenty times that number. They are scattered over many fields, in many hospitals, and the duties of the officers are not only increased in proportion to the numbers employed, but in proportion to the casualties of the service.

The gentleman also refers to the fact that we shall have to increase the rank of the line officers. Officers of the line are willing to win their promotion on the battle-field, and if these other officers had the same opportunity I presume they would not be so anxious for promotion now, and would be content to receive promotion as they merited it, by their deeds upon the fields of conflict.

Mr. McKNIGHT. I merely desire to say a word or two in relation to the gentleman belonging to the ordnance department to whom allusion was made by the gentleman from New York [Mr. OLIN] and the gentleman from Indiana, [Mr. DUNN,] to show to Congress the injustice of the present law in relation to a man of that character and caliber. This man has, perhaps, rendered as much service to the Government as any man in the Army corps. The man who invented those large guns, the Columbiad, the Rodman gun, the Union gun, a man whose name is known widely all over the world, who has been complimented by the crowned heads of Europe, a man who, were he there, would be promoted at once, and, perhaps, knighted, that man has for years held merely the rank of captain, while those who were fifteen or twenty years his juniors in the Army have been put over his head.

In talking with that man last fall, he told me that were it not for the duty he owed his country in this time of trial and danger, he would have felt that he must resign, but he felt that this was no time for any patriot to get out of the Army, and therefore, though he was humiliated, and felt that he should lose his self-respect if he remained in the Army under such circumstances, he considered that as long as this rebellion lasted his country was entitled to his services.

I hope there will be a change in the law, so that such injustice will no longer be done to meritorious men in the service—men who, instead of being upon the battle-field, have done signal service in the improvement of arms and otherwise—a change which shall no longer permit of their being unnoticed and unrewarded.

Mr. OLIN. I ask the gentleman from Indiana to yield to me a moment.

Mr. DUNN. I will.

Mr. HOLMAN. I have no objection to the gentleman yielding the floor, if he does it unconditionally. I do object to his holding the floor and farming it out at his will.

Mr. DUNN. I yield to the gentleman from New York.

Mr. OLIN. I wish to say a few words in reply to the most extraordinary speech of the gentleman from Pennsylvania. Without stating a single fact, and I may say without being possessed of a single fact that ought to influence the vote upon this question, he undertakes to assert here that this measure is unnecessary and improper to be passed, and that at any time in the history of the country the chief of any one of the bureaus, and besides, the Secretary of War, would——

Mr. McPHERSON. I did not say the Secretary of War.

Mr. OLIN. Then does the Secretary of War know as much about it as you do?

Mr. McPHERSON. The statement I made in reference to the letter of the chief of ordnance, asking an increase of his corps, was this: that there had not been a time during the last ten years when you could not have got letters from the chiefs of those bureaus asking for an increase of their respective corps, for they always have had an exaggerated idea of their wants and need—the result of such constant consideration of themselves as generally belongs to bureau organizations.

Mr. OLIN. I understood that statement, and I think it was a statement not very fit to be made to this House, unless the gentleman who made it can assert some fact, or is in possession of some information that authorized him to say that the particular letter of the chief of ordnance was a letter that should not have been written to the House, and that that department did not, in truth, require any increase of force. The gentleman has undertaken to show that the Secretary of War, under whose direct observation all the duties of that department are performed, is entirely mistaken, is a blockhead, and has sent to the House a recommendation which would involve the country in an expenditure of thousands of dollars, while a volunteer aid, who had served for two months on a brigadier general's staff, ought to know better than the Secretary of War. Sir, I am tired of this kind of legislation. Is it pretended that in the history of the country the ordnance department has been overrun with sinecures, with offices, when no duties are to be performed? As I stated before, there were in 1837 forty-one commissioned officers in that department, with an Army of seven thousand men, and with an expenditure of $800,000 per annum. There is now an Army of five hundred thousand men in the field, and an expenditure of $40,000,000 in the ordnance department; and the gentleman has found out by his two months' campaigning that it requires no more men to supervise an Army of five hundred thousand men and an expense of $40,000,000, than it did to supervise an Army of seven thousand men, and an expenditure of $800,000. Now it is said, if this measure pass there will be an application to increase the rank of the line. If the gentleman had not been so busy in his Philadelphia campaign, he would know that this has been already done. Increase the rank of the line! What does he mean by that? It is now composed of some thirty major generals in the volunteer service, four in the regular Army, and as many brigadier generals as a man can well enumerate; and that number, large as it is, will be increased with the exigencies of the service, or whenever the three hundred thousand additional men are called into the field. I am not very much averse, if the House see proper, to limit the promotion in the ordnance or any other corps in the Army to the period of this rebellion, or perhaps to a year afterwards. I have no objection to any such measure, because no man can foresee what the limit of this will be, or what the state of the country will be, at the termination of this war.

But let me state a fact with regard to the ordnance department, that may be of some service to some men in this House. The other day we established three new arsenals. Now these ought to be supervised and controlled by officers who know something about ordnance. But the ordnance department have not got a single officer whom they can spare for any such purpose. Let me state another fact. It is desirable, above everything else, in the present state of affairs, that some ten or fifteen ordnance officers should be assigned to the duty of inspecting ordnance stores, the cannon and arms that are being delivered on Government contracts. Some six weeks ago Major Thornton was assigned to this duty, he being a most accomplished and skillful officer, perhaps one of the most so in the ordnance department. All the assistance that he has to conduct the immense operations now being transacted at the West Troy and Watervliet arsenals, is one second lieutenant. If he went from there a day, the whole operations of supplying our Army with fixed ammunition would be left to the superintendence of that second lieutenant, a young gentleman of perhaps twenty years of age, who has just graduated at the Military Academy at West Point. Of course he could not do it, and the ordnance department cannot now supply a man to perform that duty. Major Thornton is now superintending the operations of that vast arsenal, which is supplying fixed ammunition to the whole Army, and is there working day and night, and for the last six months he has stood over that work for more than eighteen hours a day on the average. But it is discovered here in the House that really there is no necessity for this measure.

Now, there is the same necessity, to some extent, for the increase of the engineer corps provided for by this bill. I may state a fact which has come to my own knowledge, and I presume to the knowledge of every member of this House. I do not pretend to criticise the conduct of this campaign; but we are all sufficiently informed about it to know that one of the most laborious duties in it has been the erection of intrenchments, and the making of slow approaches. The engineer corps of the Army has worked on this work day and night, without rest, without intermission——

A MEMBER. And without success.

Mr. OLIN. I do not know how that is.

Mr. COX. Will the gentleman allow me for a moment?

Mr. OLIN. Certainly.

Mr. COX. I am entirely satisfied with this bill, and especially with that part of it which looks to the union between the engineer and topographical corps. From information which I have had for the past two years, I am satisfied that this union ought to be made, and made now. The men connected with the topographical and engineer corps have got more hard service recently and less compensation than any other officers in the Army, with scarcely any opportunity for promotion. I have a letter from a friend of mine connected with the topographical corps, who has been with the army before Richmond, in which he says that his corps left Washington with seventeen officers, that two are dead, one from wounds, the other from over-exertion; that two others are disabled, one from wounds, the other from disease contracted by over-work; and that the thirteen remaining men are performing work which, in any European army, would occupy one hundred. I simply state this for the purpose of urging members to do justice to what is, perhaps, the hardest worked corps in the Army. As to the other features of the bill, I leave them to gentlemen more familiar with them than I am.

Mr. McPHERSON. By unanimous consent, I offer the following as a new section:

Be it further enacted, That as to the increase of rank and the number of officers provided for by this bill, this act shall continue only during the continuance of the present rebellion, and one year thereafter.

Mr. OLIN. I have no objection, Mr. Speaker, to that proposition, but I am not authorized to accept it. The Government does not ask it; those who understand the matter better than I do, do not ask it, but still I do not see any serious objection to it.

Mr. McPHERSON. Mr. Speaker, I feel it due to myself, after the gentleman from New York has traveled beyond the record in noticing the argument which I had the honor to submit to the House, that I should have an opportunity for saying a word or two in reference to what I consider an improper personal allusion to myself. In the discharge of my duty as a member of the House, I have examined this bill, and have chosen to express my opinion upon it, and if it were fair to suspect a bill from the irritability of its friend, the gentleman from New York, under fair criticism, I might naturally suppose that he considered this one defective, unfit for examination, and therefore unfit for enactment.

Mr. Speaker, after the adjournment of the special session of Congress last summer, I, as many other members of the House did, and as all who felt disposed had a right to do, did—on my own responsibility, for the double purpose of rendering any service in my power to the country, and of obtaining whatever information I could upon military matters—connect myself with the military service, upon the staff of a gallant and heroic officer, now, unfortunately for himself and the country, a prisoner in the hands of the rebels. I was impelled to this the more, because made painfully aware, in the course of that session of Congress, of a woeful lack in the House of that military knowledge which is necessary to wise and proper legislation. And I respectfully suggest to the gentleman from New York that, if, instead of returning to his home, and contenting himself with the information he was able to acquire on military subjects from the person who happened, for the time being, to be in command of the arsenal near his residence, he had chosen to make himself familiar, by actual observation and experience, with the organization of the Army and its requirements, and brought the information thus acquired to the

deliberations of the Military Committee of this House, in the preparation of the numerous important bills they have reported to it, he would have rendered much substantial service to the country.

I have no right to quarrel with the gentleman for the course he saw fit to pursue; and I respectfully submit that he has no right to quarrel with me for the course I saw fit to pursue. I believe I have endeavored to turn to practical use whatever knowledge I have acquired upon these subjects; and if I may judge of the measures which may hereafter emanate from his committee by those which have hitherto come from it during the present session, I commend to the distinguished member from New York and to other distinguished members of the Military Committee, the usefulness of having more actual information as to the organization and wants of the Army, than they seem to possess; whether they gain it by study in doors or practical observation out of doors, it were well it was possessed. Had it hitherto been, the bills of that committee would have been less open to criticism, would have been more intelligently matured, would have proved less incapable of defense, and would less frequently have demanded early repeal or modification. I do not desire to say anything offensive or disagreeable to any member of this House, but I have felt that I could not with self-respect do otherwise than repel the insinuation made by the gentleman, denying his right to call in question the motives of my action here or elsewhere.

Mr. OLIN. One word. I certainly did not intend to say anything personally offensive to the gentleman from Pennsylvania, nor did I intend to set up any special claim to knowledge in military matters. I have disavowed that very freely in this House on all occasions.

Mr. WICKLIFFE. I wish to suggest a single amendment. As I understand it, the House have, by unanimous consent, adopted an amendment that all the officers provided for by this bill shall, at the end of the war, go out of office.

Mr. OLIN. That amendment is pending. It has not been adopted.

Mr. WICKLIFFE. Well, I suppose the effect of the amendment, if adopted, would be that the officers for whom it provides promotion would necessarily go out of office.

Mr. OLIN. Oh, no.

Mr. WICKLIFFE. Then I suppose they will go back to the rank they now hold.

Mr. OLIN. I think the gentleman is a little mistaken. As I understand it, the effect of the amendment, if adopted, would be this: the bill creates additional offices, which would be vacated at the end of the war. The officers for whom the bill provides promotion would remain in office, but would take the same grade of office they would have held if the bill had not passed. In other words, the effect of the amendment is to make this ordnance department a kind of petrifaction, to end where it begun at the commencement of the war. It would deny to those men the promotion it has given to all others.

Mr. WICKLIFFE. That being the case, I would suggest an amendment that those officers who are promoted by this bill retain their rank after the close of the war.

Mr. McPHERSON. I will suggest that we applied the same provision to the medical bill; and the effect of it, as I understand it, is this: the officers promoted by this bill will go back to the same position in the regular Army they would have held if the bill had not passed; that is, they will retain the same rank they would have acquired in the regular line of promotion in the regular Army. The same rule has been applied to the officers of the regular Army who have been detached for volunteer service. They are to go back to the regular service holding the same position to which they would have risen in the regular line of promotion if they had not been detached.

Mr. HOLMAN. I would suggest to the gentleman from Pennsylvania that he add to the section he has proposed in substance something like this: "except, however, the ordinary increase of grade by ordinary promotion, independent of the provisions of this act."

Mr. McPHERSON. I think that is implied as the section is now worded.

Mr. HOLMAN. But inasmuch as there will certainly be argument against the amendment based upon the suggestion of the gentleman from Kentucky, I would suggest that it would be well to guard against the possibility of such a construction.

Mr. McPHERSON. I will accept the amendment.

Mr. CRADLEBAUGH. I desire to submit this amendment to the amendment of the gentleman from Indiana: "that so far as this bill is concerned it shall not apply to the Territory of Utah."

Mr. HOLMAN. I cannot accept that amendment, and so far as I am concerned, I cannot consent that it shall be adopted.

Mr. CRADLEBAUGH. I desire to offer it then as an amendment to the amendment.

The SPEAKER. The amendment is not in order, except by unanimous consent.

Mr. CRADLEBAUGH. I hope I shall be permitted to offer it. I can show its entire propriety.

The SPEAKER. The Chair will state that the amendment is not in order at this time.

Mr. DUNN. I call the previous question upon the amendment of the gentleman from Pennsylvania.

The SPEAKER. The Chair can hardly see how, as the amendment of the gentleman from Pennsylvania is the last to be voted on, the previous question on that will cut off discussion upon the others.

Mr. DUNN. I than call the previous question upon the bill and amendments.

The previous question was seconded, and the main question ordered to be put.

The several amendments reported by the Committee on Military Affairs were adopted.

The question recurred on the amendment submitted by Mr. McPHERSON, as modified on the suggestion of Mr. HOLMAN.

Mr. CRADLEBAUGH. Is it now in order to offer my amendment?

The SPEAKER. It is not. The previous question is still pending.

Mr. CRADLEBAUGH. I hope I shall be permitted to offer it. I tell the House that this bill ought not to apply to Utah. It will apply to the veriest set of scoundrels upon the face of the earth the President has appointed out there if it does, and I have the documents here to prove it.

The SPEAKER. Debate is not in order.

The amendment of Mr. McPHERSON was adopted.

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

Mr. DUNN moved the previous question on its passage.

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

The bill was passed.

Mr. DUNN moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

PERRY E. BROCCHUS.

Mr. BLAKE. Yesterday I moved to lay upon the table the bill for the relief of Perry E. Brocchus, which was reported from the Committee on the Judiciary. An examination of the subject since then has shown me that I did injustice to this claimant; and I therefore now ask to have entered the motion to reconsider the vote by which the bill was laid upon the table. I propose to call up the motion to reconsider, and have it acted on at the earliest possible moment.

TARIFF BILL.

Mr. STEVENS. I move to take from the Speaker's table the amendments of the Senate to the tariff bill.

The motion was agreed to.

Mr. STEVENS. I move that the House nonconcur in the amendments of the Senate, and that it ask for a committee of conference on the disagreeing votes between the two Houses.

The motion was agreed to.

LOUISA ABERT BYRNE.

The SPEAKER. The House will now resume the consideration of the business upon the Speaker's table.

An act (H. R. No. 328) for the relief of Louisa Abert Byrne.

Amendment of the Senate:

Strike out the words "natural life," and in lieu thereof insert the word "widowhood," so that the pension shall be during her widowhood, and not during her natural life.

The amendment was concurred in.

DISTRIBUTION OF THE BLUE BOOK.

Joint resolution (H. R. No. 71) providing for the distribution of surplus copies of the Blue Book for 1861, among the several bureaus of the Executive Departments.

Amendment of the Senate:

Strike out "Blue Book," and insert "Biennial Register."

The amendment was concurred in.

COLLECTION OF THE REVENUE.

An act (H. R. No. 550) further to provide for the collection of the revenue upon the northern, northeastern, and northwestern frontier, and for other purposes.

Mr. SHEFFIELD. I move that the House non-concur in the amendments of the Senate, and ask for a committee of conference on the disagreeing votes between the two Houses. I object to striking out the third section, which provides for abolishing the consular certificates. I have no doubt that when the Senate comes to see the reason for that section, they will consent to its adoption.

The motion was agreed to.

Mr. SHEFFIELD moved to reconsider the vote just taken; and also moved that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

PENSION ACT.

An act (H. R. No. 438) to grant pensions.

The SPEAKER. This bill has been returned from the Senate with numerous amendments.

Mr. HOLMAN. After those amendments have been read by the Clerk, I will move that they be concurred in, with one or two exceptions.

Mr. WASHBURNE. I demand the previous question.

Mr. GOODWIN. I intended to move that the amendments of the Senate should be referred to the Committee on Invalid Pensions, but as it is the dispositon of the House to consider them at this time, I will not interpose any objection. I will merely say that that committee have informally examined the amendments of the Senate, and that they would recommend a concurrence in all of them. I move that they be concurred in.

Mr. HOLMAN. I desire to say a word or two on these amendments of the Senate.

The SPEAKER. The previous question has been called, and the gentleman can only occupy the floor by unanimous consent.

Mr. LOVEJOY. I will not object, if the gentleman does not consume more than five minutes.

Mr. HOLMAN. The gentleman from Illinois, who has talked so incessantly and consumed so much of the time of the House on mere abstract questions, is the last man in the world who should insist upon limiting the debate to five minutes upon a proposition so important and so just as the one now pending. Perhaps it was to be expected that a gentleman who had occupied the attention of the House upon questions perfectly useless for any good, would object to legitimate debate upon a matter of vital importance.

Mr. LOVEJOY. Mr Speaker, this tirade is simply contemptible.

Mr. HOLMAN. The gentleman does not object to long hours and entire days being consumed on abstract questions, but he will not listen to explanations in reference to a bill in which is involved the bread of the widows and orphans of our dead soldiers. I have risen for the purpose simply of urging upon the House a concurrence in the amendments of the Senate, with one or two exceptions. And there is one fact which I do not wish to be forgotten, and which I hope the House will bear constantly in mind: the Senate have stricken out the provision which we inserted fixing the charges of pension agents at five dollars and ten dollars for making applications for back pay, pensions, &c. I am very strongly of the opinion that that feature of the House bill ought to be retained. I think that the class of persons especially provided for by this act ought to be protected from sharpers; while the class intended to be provided for in this bill are the most meritorious class in the Union, they are at the same time more liable than any other to be imposed upon by sharpers and speculators; and I hope, therefore,

that in concurring in the amendments of the Senate, we will except the amendments striking out the seventh and eighth sections.

Mr. GOODWIN. I object to a division of the question.

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

Mr. DAWES. I want to call the attention of the House to a remarkable thing in this bill. The amendment of the Senate, in striking out the provision of the House fixing the charges for applications for back pay and pensions, proposes to open the whole thing to pension agents who are now crowding in this city from all quarters, and establishing themselves in every street and by-way. It is proposed that they shall be left free to charge for any services that they may render in procuring these pensions, whatever price they please. I hope the House will non-concur in that amendment of the Senate. It will obliterate the feature of the bill which most commends itself to my approval. It operates against any set of men combining in the country for the purpose of taking one half or one quarter of what they can get under this pension act as compensation for their services. The provision of the House fixes the charges at a reasonable rate, and I sincerely trust that the House will non-concur in the amendment of the Senate striking it out.

Mr. BINGHAM. Let the gentleman indicate the amendments to which he proposes we shall non-concur.

Mr. DAWES. They were indicated by the gentleman from Indiana. I desire that the House shall non-concur in the amendments of the Senate, so far as they strike out that portion of the bill which fixes the charges of pension agents.

Mr. HOLMAN. My motion is that the amendments of the Senate be concurred in, excepting those striking out the seventh and eighth sections.

Mr. BINGHAM. Inasmuch as there seems to be some doubt in reference to the amendments of the Senate, which ought to be concurred in, and those which ought not to be concurred in. I suggest that the motion be made that all the amendments of the Senate be non-concurred in, and that a conference be asked with the Senate, in order that all these matters may be put right.

Mr. HOLMAN. I accept the gentleman's suggestion. I withdraw my motion; and I move that the amendments of the Senate be non-concurred in, and that a committee of conference be asked on the disagreeing votes between the two Houses.

The motion was agreed to.

PUBLIC DOCUMENTS AT COST.

A bill (S. No. 336) to provide for the further distribution of public documents.

Mr. ROSCOE CONKLING moved that the bill be laid upon the table.

The motion was agreed to.

Mr. ROSCOE CONKLING moved to reconsider the vote by which the bill was laid upon the table; and also moved that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

SENATORS TO FILL VACANCIES.

A joint resolution (S. No. 76) relating to the compensation of Senators elected or appointed to vacancies.

The resolution was read a first and second time, and ordered to a third reading; and was accordread the third time, and passed.

CONTRACTS WITH THE GOVERNMENT.

The next bill taken from the Speaker's table, was a joint resolution (S. No. 93) in relation to contracts with the Government.

The resolution was read a first and second time, ordered to a third reading, and it was accordingly read the third time.

Mr. LOVEJOY. Is it in order to move to amend that resolution?

The SPEAKER. Not at this time.

Mr. LOVEJOY. Then I ask unanimous consent to offer an amendment which shall require the publication of the advertisements in relation to contracts, to be published alternately, from week to week, in the several dailies in this city.

Mr. CONKLING. Allow me to make a suggestion to the gentleman from Illinois. It is now so late in the session, will we not lose the bill altogether if we allow it to be amended?

Mr. LOVEJOY. I think not.

Mr. ROSCOE CONKLING. I think we had better let it go on as it is.

Mr. HALE. I will suggest an amendment to the amendment. It is, that all offices solicited during the week shall be published also.

Mr. ROSCOE CONKLING. I must object to any amendments. I am satisfied we shall lose the bill if we allow them.

The resolution was then passed.

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

The latter motion was agreed to.

FINES, ETC., IN THE DISTRICT OF COLUMBIA.

The next bill taken from the Speaker's table, was a bill (S. No. 316) to provide for the payment of fines and penalties collected by or paid to the justices of the peace in the District of Columbia, under the acts of Congress approved the 3d and 5th of August, 1861, and for other purposes.

The bill was read a first and second time, ordered to a third reading, read the third time, and passed.

WILLIAM A. EVANS.

The next bill taken from the Speaker's table, was a bill (S. No. 375) for the relief of William A. Evans.

The bill was read a first and second time, and referred to the Committee of Claims.

RELIEF OF INDIANA VOLUNTEERS.

The next bill taken from the Speaker's table was an act (S. No. 321) for the relief of certain companies of Indiana volunteers who lost their baggage and other property at Hatteras Inlet.

The bill was read a first and second time.

Mr. EDWARDS. I move that the bill be referred to the Committee of Claims.

Mr. COLFAX. I wish to say a word or two in relation to this claim, and then I think the gentleman from New Hampshire will allow it to pass. A large number of the recipients under this bill have gone to their last account from the battle before Richmond, and justice should be rendered to those who survive. One third of that twentieth regiment of Indiana volunteers are killed or wounded. They were sent forty miles from any support, to the extremity of Hatteras Island, near Roanoke Island, to a place called Chicamacomico. They were attacked, and having no transportation or artillery, were compelled to retreat to save their lives. They did so, a number of them being captured upon their retreat. Their baggage was all necessarily left behind. They went in pursuance of orders, and lost everything.

Every one of the items of this claim is verified under oath, even those of the smallest amount. The papers were before the Senate, and were exhibited while the bill was pending in that body. There never has been a claim as well substantiated before Congress. To refer it now is to defeat it for the session. I submit the bill to the House with this brief explanation, and the House can do with it as it pleases.

Mr. WASHBURNE. The principle of this bill will apply to all soldiers.

Mr. COLFAX. The gentleman is mistaken, because this case rests upon facts entirely exceptional in character.

Mr. FOUKE. What kind of baggage was lost by this regiment?

Mr. COLFAX. All their personal effects—clothes and everything of that kind.

Mr. EDWARDS. I desire to say I hope I am not disposed to deny to the soldiers in the service all the consideration that other members of the House are, or that they deserve; and I should be very glad if it was expedient, and if it was politic, for this Government to indemnify every soldier for every dollar of property he may lose out of his own personal effects. But, sir, I see that, in passing this claim, we are opening the door into which thousands and thousands are ready to enter; and it becomes an important question with us now, at the threshold, to determine what principle we will adopt in relation to the payment of these losses of private property.

Why, sir, I am reminded just now that, at the battle of Port Republic, there were a large number of soldiers and officers who lost all their personal effects; and within the last three days, from a recital of the events of the battle before Richmond, I learn that quite a number of wagons were cut off, and taken possession of by the enemy, which contained the wearing apparel of the officers and soldiers; and one officer said he had not a change of clothing left.

Mr. ROSCOE CONKLING. Allow me to say one word merely with reference to this very point. I desire to inform my friend from New Hampshire, that not only am I assured that the statement he has made is correct, but in addition, that in the recent battle on the Chickahominy, in repeated instances, the effects of officers and men were collected together, with boxes of ammunition put under them and combustibles put about them, and burned and blown into the air, so as to be destroyed utterly. And the gentleman from Massachusetts, near me, says the surgical implements of volunteer surgeons, who went probably either for nothing or for a song, taking with them their costly implements, were treated the same way.

The SPEAKER. The Chair would state to the gentleman from New Hampshire, [Mr. EDWARDS,] that if objection is made this bill must first be considered in a Committee of the Whole, as it makes an appropriation.

Mr. F. A. CONKLING. I move that it be referred to the Committee of Claims.

Mr. PORTER. I think it had better be referred to a Committee of the Whole.

The SPEAKER. If there is no objection, it will be so referred.

Mr. HOLMAN. I hope the gentleman will consent to have it referred to the Committee of Claims.

Mr. FENTON. I wish to say to the House that there are several cases of this kind now before the Committee of Claims, especially claims from the officers and men who were in the battle at Port Republic, and the Committee of Claims have now this whole subject under consideration. They are not desirous to have these cases particularly referred to them; but they think, under the circumstances, it may be best that all these claims should receive the same destination in order that the same rule may be adopted in relation to their payment.

Mr. PORTER. I think the case of this twentieth Indiana regiment is an exceptional one. There the Government did not provide any means for the transportation of the property of these persons. They were sent to Chicamacomico without any means of transportation at all. They were overwhelmed by numbers, and it was impossible to carry away with them their personal effects. I can see no reason why this bill should be referred to the Committee of Claims. All the items of the account are verified by oath, and the facts are indisputable.

Mr. WASHBURNE. I move to refer this bill to the Committee of Claims; or, if it has been already referred to a Committee of the Whole House, I move to reconsider that vote.

Mr. HOLMAN. I move to lay on the table the motion to reconsider.

The SPEAKER. The gentleman has not the floor for that purpose. The gentleman from Illinois [Mr. WASHBURNE] has the floor.

Mr. HOLMAN. Can he retain the floor after he has made his motion?

Mr. WASHBURNE. I will let the gentleman from Indiana know when I get through.

Mr. COLFAX. I raise the question of order that the bill being, by the rules, in a Committee of the Whole House, it is not in order to move to reconsider that reference.

The SPEAKER. A motion to reconsider may be made on any vote except a vote to adjourn.

Mr. MAYNARD. I rise to a point of order. As I understand, the House, by unanimous consent, referred this bill to the Committee of Claims. It was then proposed by the gentleman from Indiana that it should be referred to a Committee of the Whole House, and the Chair stated that, there being no objection, it was so referred. My point is that I was on the floor attempting to get the ear of the Speaker for the purpose of making objection, but the Chair announced the reference before I could get the ear of the Speaker.

The SPEAKER. The Chair heard no objection. It is impossible for the Chair to recognize every gentleman that is standing on the floor. If he did, half the House would be recognized.

Mr. WASHBURNE. I have the floor on the motion to reconsider. I do not know why this

matter should produce any excitement. It is only a question in regard to the payment of the claims of these soldiers. My friend from Indiana cannot imagine that I am opposed to that; but the bill certainly embraces a principle which applies to a great many other cases that must come before Congress. Allusion has been made here to the fact that in the swamps of the Chickahominy our soldiers lost a great deal of their baggage. Not five minutes ago a young man from my own town, a second lieutenant in the regular Army, told me that he lost everything but the clothes on his back. If this bill is fair in the one case, it is also fair in the other.

Mr. HALE. I ask the gentleman from Illinois whether the House did not, a few days ago, pass a joint resolution authorizing the Secretary of War to furnish extra clothing to all soldiers who had lost clothing by the exigencies of war? That would bring the Indiana men on a level with the Illinois and Pennsylvania and all other soldiers who have lost their clothing. There is, therefore, no necessity for passing this bill.

Mr. WASHBURNE. If my friend from Pennsylvania is correct, it is another argument why this matter should be referred to the Committee of Claims. I now move the previous question on the motion to reconsider the reference.

Mr. HOLMAN. I move to lay the motion to reconsider on the table.

The motion was not agreed to.

The previous question was seconded, and the main question ordered; and under its operation the reference was reconsidered, and the bill was referred to the Committee of Claims.

CALIFORNIA LAND CLAIM.

The next business taken up was the bill (S. No. 318) for relief in the land claim in California known as the claim of Francisco Soberanes to a tract of land known as Saujon de Santa Rita. The bill recites that in the district court of the United States for the southern district of California, in the case of Francisco Soberanes *vs.* The United States, for the rancho lying in the State of California known by the name of Saujon de Santa Rita, a decree filed on the 9th day of February, 1858, was entered, confirming to the said Soberanes the said tract of land known by the name of Saujon de Santa Rita; that on the presentation of the mandate of the Supreme Court of the United States, dismissing the appeal to the Supreme Court of the United States in said cause, the said decree was made final by a decree of said district court, rendered on the 1st day of November, 1860; and that the land confirmed as aforesaid lies in the northern district of California, as ascertained by a final survey of the same; it therefore declares the said decrees of the district court of the United States for the southern district of California to be as valid and effectual as if the same had been rendered by the district court of the United States for the northern district of California.

The bill was read a first and second time.

Mr. PHELPS, of California. I desire that this bill shall be passed now. There is not, and cannot be, any possible objection to it. I will state the circumstances. This ranch or private land claim in California was confirmed by the Supreme Court. A survey was ordered, and in making the survey, it was ascertained that the land lies actually in the northern district, and that consequently the patent could not issue, nor the return be made. This bill is simply to get over the difficulty, and let the return be made. The passage of this bill is recommended by the Secretary of the Interior and the Attorney General.

The bill was read the third time, and passed.

PAYMASTERS' BONDS.

The next business taken up was Senate bill No. 380, repealing the law requiring the bonds of paymasters and assistant paymasters to be approved by the judge or attorney of the district in which such paymaster or assistant paymaster shall reside.

The bill received its several readings, and was passed.

J. W., A. L., AND W. W. DYER.

The next business taken up was a bill (S. No. 338) for the relief of Joseph W. Dyer, Ansel L. Dyer, and William W. Dyer. The bill authorizes and directs the Secretary of the Treasury to pay, out of any money in the Treasury not otherwise appropriated, to Joseph W. Dyer, Ansel L. Dyer, and William W. Dyer, the sum of $549 60, being for tonnage duties wrongfully exacted from the ship Corinthian by the collector of the port of New Orleans, in the year 1858.

Mr. F. A. CONKLING. I object to the consideration of that bill, and move its reference to the Committee on Commerce.

The motion was agreed to.

NAVAL APPROPRIATION BILL.

Mr. STEVENS, from the committee of conference on the disagreeing votes of the two Houses on the bill making appropriations for the naval service for the year ending June 30, 1863, reported that the committee, after full and free conference, had agreed to recommend that the House recede from its disagreement to the second, fourth, twenty-ninth, thirty-fourth, forty-second, and forty-eighth amendments of the Senate, and agree to the same; that the Senate recede from its eleventh, nineteenth, twentieth, twenty-first, twenty-fifth, twenty-sixth, thirty-first, forty-first, forty-third, and forty-seventh amendments; that the Senate recede from its disagreement to the amendment of the House to the fourteenth amendment of the Senate, and agree to the same; that the House recede from its disagreement to the forty-sixth amendment of the Senate, and agree to the same with an amendment to add the word "five" after the word "thirty," in line three; that the House recede from its disagreement to so much of the Senate's twenty-second amendment as proposes to insert the words:

Provided, The Secretary of the Navy can procure a satisfactory title to the whole thereof, $65,000.

And agree to the same with an amendment to strike out the words proposed to be inserted, and after the word "dollars," in line twenty-four, to insert:

Provided, That the chief of the Bureau of Docks and Yards be, and he is hereby, authorized to purchase that portion of Seavey's Island lying east of the road, for such sum as to him may seem reasonable and advantageous to the Government.

Mr. F. A. CONKLING. I wish to inquire of the gentleman from Pennsylvania what proportion of Seavey's Island lies within the boundaries described in the report of the committee.

Mr. STEVENS. The purchase provided for by the House was twenty-seven acres. There is a corner running down near the deep water, with the road lying on the other side. This is to authorize the purchase of all on the east side of the road, down to deep water. The water above is shallow. This takes it down to thirty-one feet. It is probably four acres more.

Mr. F. A. CONKLING. Thirty-one or thirty-two acres in all.

Mr. STEVENS. Thereabouts.

The report of the committee of conference was agreed to.

EMANCIPATION IN THE DISTRICT.

The next bill taken from the Speaker's table was an act (S. No. 351) supplementary to the "Act for the release of certain persons held to service in the District of Columbia," approved April 16, 1862.

The bill provides that the oath or affirmation required to verify the statements or petitions in writing, filed before the commissioners, of persons holding claim to service or labor against persons of African descent, freed and discharged therefrom, may, in all cases, where the persons holding such claims are infants or minors, be made by the guardian or by any other person, whether separately or jointly, having the custody, management, or control by law of the person and property of such infants or minors; and that in all cases where the persons holding such claims are non-residents of the District of Columbia, or resident absentees, the oath or affirmation required may be made by the attorney or agent of said non-resident or resident absentees, and in all cases in which the statements or petitions required of persons in the military or naval service of the United States, shall have been or may be hereafter verified before any commander of any military post, or of any officer having a separate command of any military force in the field, or before any captain, commander, or lieutenant commanding in the Navy, the same shall be received and deemed valid, to all intents and purposes, as fully as if the verification had been or were made before any officer competent by law to take and administer oaths and affirmations; provided the commissioners shall be satisfied that, at the time of the verification aforesaid, the person making the same was employed in the military or naval service of the United States within the jurisdiction of a rebellious State or Territory, and unable to make the oath or affirmation required before any officer authorized by law to take or administer the same, holding allegiance to the United States.

The second section provides that where no claim is made by the owner, the person whose services are claimed may file a statement setting forth the facts.

The third section directs the clerk to the commissioners to prepare, sign, and deliver certificates, as prescribed in the tenth section of the act to which this is supplementary, to such person or persons as shall file such statements, in all respects the same as if such statements were filed by the person having claim to their service or labor.

The fourth section declares that all persons held to service or labor under the laws of any State, and who at any time since the 16th day of April, 1862, by the consent of the person to whom such service or labor is claimed to be owing, have been actually employed within the District of Columbia, or who shall be hereafter thus employed, free, and forever released from such servitude, anything in the laws of the United States or of any State to the contrary notwithstanding.

Mr. ASHLEY. The bill before the House is supplementary to the act abolishing slavery in this District. It allows the claims of persons who are minors or who are absent from the city to be presented for payment of the services of persons held by them as slaves, in accordance with the recommendations of the President. It also provides that slaves sent here by their masters for hire shall be set free, which is simply re-enacting what has for a long time been the decisions of the courts here.

Mr. CALVERT. I ask the gentleman to yield to me for a moment. I desire to move to strike out the fourth section, which is not in any sense carrying out the provisions of the bill abolishing slavery in the District of Columbia. It is simply interfering with the rights of slaveholders in the other States. I move to strike out that section of the bill.

Mr. ASHLEY. I must decline to withdraw the demand for the previous question to permit that amendment to be offered.

Mr. CALVERT. I hope, then, it will be voted down.

Mr. WICKLIFFE. As I understand the reading of that section, if a man in Montgomery county or anywhere in Maryland, sends his negro to market, or into the city to do any business for him, he is set free. Now, I desire to hear that section read again. I have no objection to freeing those sent here for hire, or as laborers, but I do not think it is right to set a man's negro free when he sends him here to market, or to do any matter of shopping.

Mr. ASHLEY. I ask that the section may be read. I think the gentleman puts a wrong construction on it.

The Clerk again read the section.

Mr. MAYNARD. I wish to ask the gentleman if it applies to a man passing through the city with his family?

Mr. ASHLEY. I cannot inform the gentleman what construction will be placed upon it. It is a Senate bill.

Mr. MAYNARD. I merely asked for the gentleman's construction. I do not think it applies to such a case as I have mentioned.

Mr. ASHLEY. Nor do I think it is liable to that construction.

Mr. COX. I wish to make a motion to refer this bill.

The SPEAKER. Such a motion is not in order pending the demand for the previous question.

Mr. COX. I move then to lay the bill on the table.

Mr. CALVERT called for the yeas and nays on the motion.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 35, nays 67; as follows:

YEAS—Messrs. William Allen, Ancona, Baily, Biddle, Jacob B. Blair, Calvert, Cobb, Corning, Cox, Cravens, Crisfield, Dunlap, English, Fouke, Grider, Hall, Holman,

Knapp, Law, Lazear, Mallory, Maynard, Nugen, Pendleton, Perry, Richardson, James S. Rollins, Shiel, John B. Steele, Stiles, Francis Thomas, Ward, Webster, Wickliffe, and Wood—35.

NAYS—Messrs. Aldrich, Alley, Ashley, Baxter, Bingham, Samuel S. Blair, Blake, Buffinton, Chamberlin, Clark, Colfax, Frederick A. Conkling, Roscoe Conkling, Cutler, Davis, Dawes, Duell, Dunn, Edwards, Eliot, Ely, Fenton, Fessenden, Frank, Goodwin, Gurley, Hale, Kelley, Francis W. Kellogg, Lehman, Loomis, Lovejoy, Low, McPherson, Mitchell, Anson P. Morrill, Justin S. Morrill, Nixon, Patton, Timothy G. Phelps, Pike, Porter, Potter, John H. Rice, Riddle, Edward H. Rollins, Sargent, Sedgwick, Shanks, Sheffield, Shellabarger, Sherman, Stevens, Stratton, Benjamin F. Thomas, Trimble, Trowbridge, Van Horn, Verree, Wall, Wallace, Walton, Washburne, Wheeler, Albert S. White, Wilson, and Windom—67.

So the bill was not laid on the table.

Before the vote was announced,

Mr. MOORHEAD (having been absent when his name was called) asked leave to vote.

Mr. WICKLIFFE objected.

Mr. MOORHEAD said that, if permitted, he would vote "no."

Mr. MENZIES (having been absent when his name was called) asked permission to record his vote in the affirmative.

Mr. BINGHAM objected.

Mr. ARNOLD (having also been absent) asked leave to record his vote in the negative.

Mr. CALVERT objected.

The vote was announced as above recorded.

The question recurred on seconding the demand for the previous question.

Mr. CRISFIELD. I desire to offer an amendment to the fourth section, and, if the House will permit me, I will give notice of it.

Mr. BINGHAM objected.

Mr. WASHBURNE called for tellers on seconding the demand for the previous question.

Tellers were ordered; and Messrs. ASHLEY and CRISFIELD were appointed.

The House divided; and the tellers reported—ayes 63, noes 29.

So the previous question was seconded.

The main question was ordered to be put.

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

Mr. ASHLEY demanded the previous question on the passage of the bill.

Mr. WICKLIFFE rose simultaneously and claimed the floor.

The SPEAKER. The gentleman from Ohio demands the previous question.

Mr. WICKLIFFE. The gentleman from Ohio did not address the Chair. I saw the Speaker turn his eyes towards the gentleman. They cannot shut my eyes.

The SPEAKER. The gentleman will suspend a moment. The Chair will have read the practice of the House.

The Clerk read from Barclay's Digest, in substance, that the member on whose motion a measure is taken up has the right to be recognized at every new stage in its consideration.

The SPEAKER. The gentleman will therefore see that it was the duty of the Chair to recognize the gentleman from Ohio.

Mr. WICKLIFFE. I ask the Chair if he did not hear me address the Chair before the gentleman from Ohio demanded the previous question.

The SPEAKER. The gentleman from Ohio demanded the previous question before the gentleman from Kentucky addressed the Chair; both, however, before the Chair could properly recognize either.

Mr. CRISFIELD. I appeal to the gentleman to allow me to offer an amendment, and make a single statement in reference to it.

Mr. ASHLEY. I cannot withdraw the demand for the previous question.

Mr. CRISFIELD. Then I appeal to the gentleman to withdraw his demand to allow me to submit an amendment, without any debate whatever.

Mr. ASHLEY. I cannot withdraw the demand.

Mr. CRISFIELD. Then I hope there is patriotism enough in the House to vote down the demand.

The SPEAKER. The gentleman is not in order.

Mr. CRISFIELD. I know I am not in order.

Mr. WICKLIFFE. If that is the kind of legislation we are to have, I must decline to vote any further.

Mr. WASHBURNE. I desire to ask the Chair whether, if the demand for the previous question were withdrawn, any amendment would now be in order to the bill?

The SPEAKER. It would not.

Mr. CRISFIELD. Is the gentleman from Illinois in order?

Mr. WASHBURNE. I merely wished to show that the gentleman would accomplish nothing by insisting upon the demand for the previous question being withdrawn. [Cries of "Order!"]

The previous question was seconded, and the main question ordered to be put.

Mr. RICHARDSON moved that the House adjourn; and upon that motion demanded the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 28, nays 69; as follows:

YEAS—Messrs. William Allen, Bally, Biddle, Jacob B. Blair, Calvert, Clements, Cobb, Corning, Crisfield, Dunlap, English, Fouke, Grider, Harding, Holman, Knapp, Law, Mallory, Maynard, Menzies, Morris, Perry, Richardson, James S. Rollins, John B. Steele, William G. Steele, Stiles, and Webster—28.

NAYS—Messrs. Aldrich, Alley, Arnold, Ashley, Babbitt, Baxter, Bingham, Samuel S. Blair, Blake, Buffinton, Chamberlin, Colfax, Covode, Cox, Cravens, Cutler, Davis, Dawes, Duell, Edwards, Eliot, Ely, Fenton, Fessenden, Frank, Gooch, Goodwin, Gurley, Julian, Kelley, Francis W. Kellogg, William Kellogg, Lazear, Lehman, Loomis, Lovejoy, Low, McKnight, McPherson, Mitchell, Moorhead, Anson P. Morrill, Justin S. Morrill, Patton, Timothy G. Phelps, Pike, Porter, Potter, Alexander H. Rice, John H. Rice, Riddle, Edward H. Rollins, Sargent, Sedgwick, Shanks, Shellabarger, Sherman, Stevens, Benjamin F. Thomas, Trowbridge, Van Horn, Wall, Wallace, Walton, Washburne, Wheeler, Albert S. White, Wilson, and Windom—69.

So the House refused to adjourn.

The question recurred on the passage of the bill.

Mr. PENDLETON called for the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 69, nays 36; as follows:

YEAS—Messrs. Aldrich, Alley, Arnold, Ashley, Babbitt, Baxter, Bingham, Samuel S. Blair, Blake, Buffinton, Chamberlin, Clark, Frederick A. Conkling, Roscoe Conkling, Covode, Cutler, Davis, Duell, Edwards, Eliot, Ely, Fenton, Fessenden, Frank, Gooch, Goodwin, Hooper, Julian, Kelley, Francis W. Kellogg, Lehman, Loomis, Lovejoy, Low, McKnight, McPherson, Mitchell, Moorhead, Anson P. Morrill, Justin S. Morrill, Patton, Timothy G. Phelps, Pike, Porter, Potter, Alexander H. Rice, John H. Rice, Riddle, Edward H. Rollins, Sargent, Sedgwick, Shanks, Sheffield, Shellabarger, Sherman, Stevens, Benjamin F. Thomas, Trowbridge, Van Horn, Verree, Wall, Wallace, Walton, Washburne, Wheeler, Albert S. White, Wilson, Windom, and Worcester—69.

NAYS—Messrs. William Allen, Ancona, Bally, Biddle, Jacob B. Blair, Clements, Cobb, Corning, Cox, Crisfield, Dunlap, English, Fouke, Grider, Harding, Knapp, Law, Lazear, Mallory, Maynard, Menzies, Morris, Nugen, Pendleton, Perry, Richardson, James S. Rollins, Shiel, John B. Steele, William G. Steele, Stiles, Francis Thomas, Voorhees, Ward, Webster, and Wood—36.

So the bill was passed.

During the vote,

Mr. GURLEY stated that he had paired with Mr. HOLMAN, who would have voted "no."

Mr. STEELE, of New York, stated that Mr. FRANCHOT had paired with Mr. SMITH.

Mr. PENDLETON stated that Mr. VALLANDIGHAM and Mr. WHITE, of Ohio, were absent and paired.

The vote was announced as above recorded.

Mr. ASHLEY moved to reconsider the vote by which the bill passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

MESSAGE FROM THE SENATE.

A message was received from the Senate, by Mr. HICKEY, their Chief Clerk, notifying the House that the Senate had passed a bill of the House to establish certain post routes, with amendments, in which he was instructed to ask the concurrence of the House.

The message further announced that the Senate insist on their amendments, disagreed to by the House, to the bill increasing temporarily the duties on imports, ask a committee of conference on the disagreeing votes to the said bill, and have appointed Mr. FESSENDEN, Mr. SIMMONS, and Mr. HOWARD, as the committee on their part.

POST ROADS.

An act (H. R. No. 392) to establish certain post roads, returned from the Senate with sundry amendments, was next taken from the Speaker's table for consideration.

Mr. BINGHAM moved that the amendments of the Senate be concurred in, and on that motion he demanded the previous question.

Mr. WASHBURNE. This bill provides for building bridges across navigable streams, and I hope that the previous question will not be seconded.

The previous question was seconded; there being, on a division—ayes 87, noes 7; and the main question was then ordered to be put.

Mr. WASHBURNE moved to lay the bill upon the table.

The motion was disagreed to; there being, on a division—ayes 2, noes 92.

The amendments of the Senate were then concurred in.

Mr. COX moved to reconsider the vote by which the Senate amendments were concurred in; and also moved that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

WILLIAM BAIRD, OF PITTSBURG.

Mr. ASHLEY. I ask the unanimous consent of the House to withdraw from the files the papers in the case of William Baird, of Pittsburg.

Mr. LOVEJOY. I object, unless copies are left with the Clerk.

And then, on motion of Mr. BAILY, (at five o'clock, p. m.,) the House adjourned.

IN SENATE.

THURSDAY, *July* 10, 1862.

Prayer by the Chaplain, Rev. Dr. SUNDERLAND.

The Journal of yesterday was read and approved.

EXECUTIVE COMMUNICATION.

The PRESIDENT *pro tempore* laid before the Senate a report of the Secretary of War, communicating, in compliance with a resolution of the Senate of the 4th of June, copies of all instructions given to commanding generals in pursuance of the acts of Congress approved August 6, 1861, setting free slaves who have been employed by the consent of their masters against the Government of the United States; which, on motion of Mr. SUMNER, was ordered to lie on the table and be printed.

PETITIONS.

Mr. GRIMES presented a petition of the Mayor and other citizens of Washington city, District of Columbia, praying a grant to the Guardian Society of that District of the use in perpetuity of ten acres of land on the north side of B street south, extending from Twelfth to Fourteenth streets west, for the purpose of a house of industry and a widows' and orphans' home; which was referred to the Committee on Public Buildings and Grounds.

Mr. FESSENDEN presented a petition of importers and others interested in the sugar trade, praying that no change be made in the duties on sugar, and that they remain as now fixed in the act of December 24, 1861; which was ordered to lie on the table.

REPORTS FROM COMMITTEES.

Mr. SUMNER, from the Committee on Patents and the Patent Office, to whom was referred the bill (H. R. No. 345) for the relief of George B. Simpson, reported it without amendment.

He also, from the Committee on Foreign Relations, to whom were referred a resolution of the Senate, of the 29th of April, instructing them to inquire into the necessity of creating a consul general for the Pacific ports, as recommended by the Secretary of the Treasury and Fifth Auditor in their annual reports; a resolution of the Senate of the 16th of June, instructing them to inquire into the sufficieney of the salary of the consul of the United States at Batavia; and a resolution of the Senate of the 14th of April, instructing them to inquire into the expediency of providing for the exchange of productions of the United States through our ministers and consuls with the Governments to which they are accredited, asked to be discharged from their further consideration; which was agreed to.

Mr. TEN EYCK, from the Committee on Commerce, to whom was referred the bill (H. R. No. 547) changing the name of the steamboat Charlotte Vanderbilt to that of William F. Russell, reported it without amendment and adversely.

Mr. CHANDLER, from the Committee on Commerce, to whom was referred the bill (H. R. No. 510) for the relief of James N. Muller, supervising inspector of steamboats for the third supervising district, reported it without amendment.

THE CONGRESSIONAL GLOBE.

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

THIRTY-SEVENTH CONGRESS, 2D SESSION. FRIDAY, JULY 11, 1862. NEW SERIES....No. 202.

Mr. RICE, from the Committee on Military Affairs and the Militia, to whom was referred the bill (H. R. No. 321) to indemnify certain citizens of the United States, residing in the State of Delaware, for expenses incurred by them in defense of the United States, reported it with an amendment.

Mr. COWAN, from the Committee on Patents and the Patent Office, to whom was referred the bill (H. R. No. 486) to authorize a rehearing of the application of Daniel Woodbury before the Commissioner of Patents for the extension of his letters patent for an improvement in horse-power, dated August 26, 1846, reported it without amendment.

He also, from the Committee on Claims, to whom was referred the bill (H. R. No. 278) for the relief of Joseph C. G. Kennedy, reported it without amendment.

He also, from the Committee on Patents and the Patent Office, to whom was referred the bill (H. R. No. 503) to confirm and establish a patent heretofore granted to Itienne Berust, dated July 24, 1860, and to secure to George Somerville Norris, the assignee of said patent, the benefit of the full term for which said patent was granted, reported it without amendment.

Mr. WILLEY, from the Committee on Pensions, to whom was referred the petition of Daniel Moriarty, submitted an adverse report; which was ordered to be printed.

NAVY REGISTER.

Mr. ANTHONY, from the Committee on Printing, to whom was referred a resolution to print three thousand copies of the Navy Register, for the use of the Senate, reported it with an amendment.

The Senate proceeded to consider the resolution; and the amendment was agreed to.

The resolution, as amended, was adopted, as follows:

Resolved, That three thousand copies of the Navy Register be printed for the use of the Senate: *Provided*, That the same be not printed until it shall have been perfected, or as nearly so as practicable.

ADDITIONAL MAIL ROUTES.

Mr. COLLAMER. The Committee on the Post Office and Post Roads, to whom was referred the bill (H. R. No. 553) to establish additional post routes, have had the same under consideration, and instructed me to report it back with amendments, and with a recommendation that it pass. I desire its present consideration. There is no appropriation in it; it consists of nothing but provisions for mail routes.

There being no objection, the bill was considered as in Committee of the Whole.

The Secretary proceeded to read the amendments reported by the Committee on the Post Office and Post Roads.

Mr. COLLAMER. I think it is taking up the time of the Senate unnecessarily to read the amendments. I move that the amendments reported by the committee be adopted. Nobody is paying any attention to the reading of them, I presume.

The PRESIDENT *pro tempore*. By unanimous consent that can be done.

Mr. TRUMBULL. Is there anything else in them but new routes?

Mr. COLLAMER. Nothing.

The amendments were agreed to.

Mr. WRIGHT. I offer a little amendment:

From Freedom, in Owen county, Indiana, by way of Arney, intersecting the present established route at Hauserville.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendments were concurred in and ordered to be engrossed, and the bill to be read a third time. The bill was read the third time, and passed.

CARMACK AND RAMSEY.

Mr. COLLAMER. The Committee on the Post Office and Post Roads, to whom was referred the amendment of the House of Representatives to the joint resolution (S. No. 89) in relation to the claim of Carmack & Ramsey, have had the same under consideration, and instructed me to report it back with a recommendation that the Senate non-concur in the amendment of the House, and ask for a committee of conference thereon.

The motion was agreed to; and Messrs. COLLAMER, WADE, and RICE were appointed managers at the conference on the part of the Senate.

EXTRA CLOTHING FOR SOLDIERS.

Mr. WILSON, of Massachusetts. The Committee on Military Affairs and the Militia, to whom was referred the joint resolution (H. R. No. 98) authorizing the Secretary of War to furnish extra clothing to sick, wounded, and other soldiers, have directed me to report it back without amendment, and I should like to have it put on its passage at once.

There being no objection, the joint resolution was considered as in Committee of the Whole.

It proposes to authorize the Secretary of War to furnish extra clothing to all sick, wounded, and other soldiers who may have lost the same by the casualties of war, under such rules and regulations as the Department may prescribe, during the existence of the present insurrection.

The joint resolution was reported to the Senate, ordered to a third reading, read the third time, and passed.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives by Mr. MORRIS, Chief Clerk, announced that the House had passed the following bills and joint resolutions of the Senate:

A bill (No. 316) to provide for the payment of fines and penalties collected by or paid to justices of the peace of the District of Columbia under the acts of Congress approved the 3d and 5th of August, 1861, and for other purposes;

A bill (No. 318) for relief in the land claim in California known as the claim of Francisco Soberanes to a tract of land known as Saujon de Santa Rita;

A bill (No. 351) supplementary to the act "for the release of certain persons held to service or labor in the District of Columbia," approved April 16, 1862;

A bill (No. 380) repealing the law requiring bonds of paymasters and assistant paymasters to be approved by the judge or attorney of the district in which such paymaster or assistant paymaster shall reside;

A joint resolution (S. No. 76) relating to the compensation of Senators elected or appointed to fill vacancies; and

A joint resolution (No. 93) in relation to contracts with the United States.

The message also announced that the House had passed a bill (No. 523) to promote the efficiency of the corps of engineers, and of the ordnance and quartermaster's departments, and for other purposes; in which it requested the concurrence of the Senate.

The message further announced that the House of Representatives had agreed to the amendments of the Senate to the bill of the House (No. 392) to establish certain post roads.

ABSTRACTION OF INDIAN BONDS.

Mr. DOOLITTLE. The Committee on Indian Affairs, to whom was referred the bill (H. R. No. 554) relating to trust funds of several Indian tribes invested by the Government in certain State bonds abstracted from the custody of the late Secretary of the Interior, have had the same under consideration, and instructed me to report it back, with a recommendation that it pass without amendment; and I am requested, on behalf of the committee, to ask the Senate to put it on its passage now.

Mr. KING. Let it be read through.

The Secretary read the bill, which proposes to direct the Secretary of the Treasury to cause to be entered upon the proper books of his Department the following credits to Indian tribes: to the Delawares, $423,990 26; to the Iowas, $66,735; and to the confederate bands of Kaskaskias, Peorias, Piankeshaws, and Weas, $169,686 75; which amounts are for and in place of the same amounts heretofore invested by the Government under treaty stipulations with these tribes in the bonds of the States of Missouri, Tennessee, and North Carolina, which were stolen while in the custody of Jacob Thompson, late Secretary of the Interior, in whose Department they had been deposited for safe-keeping. These entries are to be evidence that the United States holds the several sums named in trust for these tribes respectively, and the Treasurer of the United States is to pay them respectively, on requisitions by the Secretary of the Interior, interest on the sums thus credited, at the rate of five per cent. per annum, in semi-annual payments, on the 1st days of January and July in each year, the first payment to be on the 1st day of January, 1863. All interest which these tribes may have had in the bonds is to be terminated and vested in the United States; and any recovery or reclamation of the same, or any part thereof, is to be for the use and benefit of the United States.

The bill makes an appropriation of $50,066 64, for the payment of interest to these tribes on the sums invested in the bonds, from the date of the last payment of interest to the 1st day of July, 1862, to wit: the sum of $32,307 91 to the Delawares, $5,032 23 to the Iowas, and $12,726 50 to the confederate bands of Kaskaskias, Peorias, Piankeshaws, and Weas. The act shall take effect and be in force only in relation to such of these tribes as shall file with the Secretary of the Interior their assent, in writing, to so much thereof as relates to them respectively.

The PRESIDENT *pro tempore*. Is there any objection to the present consideration of this bill? No objection being made, the bill is before the Senate as in Committee of the Whole.

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

PHILIP LANSDALE.

Mr. HALE. The Committee on Naval Affairs, to whom were referred the papers in relation to the claim of Dr. Philip Lansdale, a surgeon of the United States Navy, have had the same under consideration, and instruct me to report a bill for his relief; and also to request that it be put upon its passage now, and I will state the ground. A bill for his relief passed the House of Representatives and was sent to the Senate and reported against under a misapprehension. Since that, the papers have been referred to the Committee on Naval Affairs, and the Secretary of the Navy recommends the passage of the bill, in a letter which I shall read if it be desired.

By unanimous consent, the bill (S. No. 390) for the relief of Philip Lansdale, surgeon of the United States Navy, was read three times, and passed. It proposes to direct the accounting officers of the Treasury to pay to Surgeon Philip Lansdale $1,255 06, being the difference between the pay of a passed assistant surgeon and that of a surgeon, from April 25, 1859, to February 25, 1861, during which time he performed the duties of a surgeon on board the United States ship John Adams, and received only the compensation allowed by law to a passed assistant surgeon.

ORDNANCE CONTRACTS.

Mr. POWELL submitted the following resolution:

Resolved, That the Secretary of War be directed to transmit to the Senate the report of Joseph Holt and Robert Dale Owen, "commissioners on ordnance and ordnance stores," made to the Department, and that he transmit to the Senate all the evidence touching the contracts investigated by the said commissioners.

Mr. CHANDLER. Let it lie over.

Mr. POWELL. I think the Senator who made the objection will withdraw it.

The PRESIDENT *pro tempore*. Objection being made, it lies over.

WILLIAM PATTON.

Mr. COWAN. I offer the following resolution:

Resolved, That in view of the long and faithful service

of William Patton as principal engrossing clerk of the Senate, his salary be continued to him from the 1st of November to the end of the fiscal year terminating on the 30th of last month.

I should be glad to have action on the resolution.

Mr. SHERMAN. I object to it, if he has not been serving.

The PRESIDENT *pro tempore*. It lies over under the rules.

COMMERCE OF THE PACIFIC STATES.

Mr. McDOUGALL. I offer a resolution:

Resolved, That the President be requested to have prepared a full report of the foreign and domestic trade and commerce of the States of California and Oregon, and Washington Territory, to be submitted at the next session of Congress for the use of the Senate.

Mr. HALE. I want to inquire if that does not appear by the annual report of the Secretary of the Treasury on the trade and commerce and navigation of this country.

Mr. McDOUGALL. It does not.

Mr. MORRILL. I should like to have the resolution laid over until to-morrow morning. I wish to look at it.

The PRESIDENT *pro tempore*. It will lie over.

BILLS INTRODUCED.

Mr. COWAN asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 389) supplementary to an act entitled "An act to amend the several acts respecting copyrights," approved February 3, 1831, which was read twice by its title, and referred to the Committee on Patents and the Patent Office.

Mr. ANTHONY asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 391) to define the number of major generals and brigadier generals in the military service; which was read twice by its title.

Mr. KING. I ask that that bill be read through.

Mr. ANTHONY. If the Senator will allow me, I will state the object of the bill in two or three words.

The PRESIDENT *pro tempore*. It is not subject to discussion.

Mr. KING. Let it be read. That will take less time.

The bill was referred to the Committee on Military Affairs and the Militia.

LAND CLAIMS UNDER THE ASHBURTON TREATY.

Mr. CLARK. I move that the Senate now proceed to the consideration of the bill I have mentioned—House bill No. 399, to provide for the quieting of certain land titles in the late disputed territory in the State of Maine, and for other purposes. It is a bill which has passed the Senate two or three times, and I think it will not take much time.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill. It directs the Secretary of the Treasury to pay to Laura A. Stebbins, of Bangor, in the State of Maine; Catherine C. Ward, of Roxbury, in the State of Massachusetts; Rufus Mansur, of Houlton, in the State of Maine; and James A. Drew, of Chelsea, in the State of Massachusetts, the sum of $3,353 each, being in all the sum of $13,422, in full compensation for three thousand three hundred and fifty-three acres of land, including the timber previously taken therefrom, in the half township in the State of Maine granted by the State of Massachusetts to the late General Eaton, and called the Eaton grant, to which those parties lost title by the operation of the fourth article of the treaty of 9th August, 1842, "to settle and define the boundary between the United States and the possessions of her Britannic Majesty in North America;" but the parties are to execute deeds of release to the parties holding "possessory" or "equitable possessory claims" to the three thousand three hundred and fifty-three acres of land, or any portion thereof, as described in the reports made to the Governor and Council of Maine by Ebenezer Hutchinson and others, commissioners under a resolution passed by the Legislature of the State on the 12th of April, 1854, and the plan of surveys accompanying the reports, and of record in the land office of the State. It is also to appear to the satisfaction of the land agent of the State of Maine that such deeds of release do effectually convey a good title to the lands, except so far as the titles have been affected by the operation of the treaty. If it shall appear to the land agent that the parties are incompetent to make such deeds of release to the whole of the lands, then they are to be entitled to receive a *pro rata* only of the compensation provided in this act for so much thereof as they shall convey.

The Secretary is also required to pay to Edmund Monroe and Benjamin Sewall, of Boston, in the State of Massachusetts, the sum of $13,540, in the proportion of three fourths thereof to the former and one fourth to the latter, in full compensation for three thousand three hundred and eighty-five acres of land, including the timber previously taken therefrom, in the western half of Plymouth township, so called, in the State of Maine, and the sum of $6,768 to Rufus Mansur, of Houlton, Maine, and James A. Drew, of Chelsea, Massachusetts, in full compensation for sixteen hundred and ninety-two acres of land, including the timber previously taken therefrom, in the eastern half of the township, to which the parties severally lost title by the operation of the fourth article of the treaty; but the regulations, restrictions, and provisions contained in the provisoes to the first section of this bill are to be made, to all intents and purposes, applicable to this section.

The Secretary of the Treasury is also directed to pay to Laura A. Stebbins, of Bangor, Maine, and Catherine C. Ward, of Dorchester, Massachusetts, the sum of $6,647; and to Edmund Monroe and Benjamin Sewall, of the city of Boston, in Massachusetts, the sum of $7,635, in the proportion of three fourths of the same to Monroe, and one fourth to Sewall; and to James A. Drew, of Chelsea, Massachusetts, and Rufus Mansur, of Houlton, Maine, the sum of $9,328; those several sums being in full compensation, at the rate of one dollar per acre, for timber taken from lands owned by them respectively, and located in the Eaton grant and Plymouth township, (so called,) in the State of Maine, and within the district recognized as the "disputed territory," and which timber was taken off and lost to the proprietors in consequence of the diplomatic arrangement entered into between the United States and Great Britain in 1832, by which both parties agreed to abstain from the exercise of jurisdiction in the territory; but the payments authorized and required by this act may be made, in whole or in part, at the option of the Secretary of the Treasury, in any of the bonds of the United States, bearing interest at the rate of six per cent. per annum, which have been or may hereafter be authorized by law to be issued.

The PRESIDENT *pro tempore*. The Chair will suggest that in the second section, where the term "Secretary" stands alone, probably by inadvertence of the printer, the words "of the Treasury" have been omitted; and they will be supplied, so that it will read "Secretary of the Treasury."

The bill was reported to the Senate without amendment.

Mr. FOSTER. This bill appropriates a pretty large amount of money. I had occasion at a former time to look at some portion of these claims, and although I am not familiar with it, yet I confess I have not been very thoroughly persuaded that the whole claim ought to pass. It appropriates, I think, between thirty and forty thousand dollars.

Mr. CLARK. More than that—$57,500. The bill has been before the Senate a number of years at different times, has been examined by a great many committees and always favorably reported upon, and has been several times passed; and the Senate once appointed a commissioner to go into the State of Maine and make a thorough examination of it. The commissioner did so; and the evidence is before the Senate, and has been for years. I think there can be no question in regard to it.

Mr. FOSTER. It seems there has been a question heretofore, for the claim has not been paid.

Mr. CLARK. The bill failed in the House of Representatives for want of time.

Mr. FOSTER. It is very certain the parties have not had the relief which they have asked for. A portion of these claimants derive their titles by purchase made years after the questions that are now decided, it is said, deprived them of their rights. There were persons on certain lands in the State of Maine, or what was considered to be in the State of Maine, in possession at the time of the treaty between Great Britain and the United States, and in consequence of the treaty the lands went into the British possessions, and there was a question as between those who were on the lands, claiming by a possessory title, and those who claimed by a proprietary title, and the treaty gave the preference to those who had the possessory title. Afterwards, persons bought of the proprietors a portion of their titles to some of these premises and prosecuted their claims here, purchasing the titles of the proprietors some ten years or more after the treaty, and in that way deriving their titles. Now, it may be all right, but I confess that I should feel different toward persons who had been deprived by the action of the Government of their property, and who prosecuted their claims against the Government in the proper mode, from what I should feel toward those who came in and purchased a title knowing that there was a cloud over it, a difficulty about it, and then came to Congress and prosecuted a claim which they had thus bought.

Mr. CLARK. Everybody who has read the report knows that the question arises under the fourth article of the treaty of 1842, by which certain lands which had been in the possession of certain individuals for six years were transferred from their rightful owners to the persons in possession. I cannot say that the Senator from Connecticut may not be right in some one or two instances; I have no knowledge on that subject; and I do not know but that some people who were poor and who had got to be aged transferred their claims, but I know that the persons who sold to them, if there were any such cases, had a valid claim which the Senate proposes now to recognize. Some of the people who are now claiming are very aged people, and very poor people, and desire that this remuneration should be made to them. The whole matter has been carefully examined by different committees of the Senate.

Mr. FOSTER. The Senator from New Hampshire is mistaken as it regards the fact that some of the persons who sold were poor; they were very wealthy.

Mr. CLARK. Some were undoubtedly, but some were poor.

Mr. FOSTER. Those who bought might have been poor, and bought to make money, and prosecuted their claim here, perhaps, to make money; but the persons who sold were abundantly competent to prosecute them. It was not necessary for them to sell because they were not able to prosecute their claim against the Government, if they had a good one.

Mr. CLARK. I do not know, and of course cannot state, the personal condition and responsibility of many of these people. I do not undertake to state it. If the fact were as stated by the Senator from Connecticut, it would not impugn the validity of the claim. If a person chooses to part with a claim and another person chooses to buy it, if the claim is a good claim, I do not understand that to be a valid objection why it should not be paid, but I do not know that there is any such case; it has not come to the knowledge of the committee that there are any such cases; and the claim has been so thoroughly examined that I do not think it calls for further discussion at the present time.

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

NAVAL APPROPRIATION BILL.

Mr. HALE. In the report of the committee of conference on the naval appropriation bill, which I submitted yesterday, a verbal error has been discovered, which was made by the clerk in drawing up the report. I move that the report be recommitted for the correction of the error.

The motion was agreed to.

A message was subsequently received from the House of Representatives, by Mr. MORRIS, its Chief Clerk, announcing that the House had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the bill (H. R. No. 423) making appropriations for the naval service for the year ending June 30, 1863.

Mr. HALE. I hope the Senate will now take up that report and concur in it. It is the same one that I presented yesterday, and explained to the Senate. I move that the Senate concur with the House in the adoption of the report of the committee of conference.

The PRESIDING OFFICER, (Mr. FOSTER

in the chair.) By unanimous consent the report can be taken up. The Chair hears no objection. The report will be read.

Mr. HALE. It was read yesterday. The bill is now here. I have no objection to its being read again.

The Secretary read the report, as follow:

The committee of conference on the disagreeing votes of the two Houses to the bill (H. R. No. 423) making appropriations for the naval service for the year ending June 30, 1863, have met, and after full and free conference have agreed to recommend, and do recommend, to their respective Houses, as follows:

That the House recede from their disagreement to the Senate's second, fourth, twenty-ninth, forty-second, and forty-eighth amendments, and agree to the same.

That the Senate recede from their eleventh, nineteenth twentieth, twenty-first, twenty-fifth, twenty-sixth, thirty-first, thirty-fourth, forty-first, forty-third, and forty seventh amendments.

That the Senate recede from their disagreement to the amendment of the House to their fourteenth amendment, and agree to the same.

That the House recede from their disagreement to the Senate's forty-sixth amendment, and agree to the same, with an amendment, as follows: after the word "thirty," in line three of said amendment, add the word "five."

That the House recede from their disagreement to so much of the Senate's twenty-second amendment as proposes to insert the words, "*Provided*, The Secretary of the Navy can procure a satisfactory title to the whole thereof, sixty-five thousand," and agree to the same, with the following amendment: strike out the words proposed to be inserted, and after the word "dollars," in line twenty-four, insert, "*Provided*, That the chief of the Bureau of Yards and Docks be, and he is hereby, authorized to purchase that portion of Seavey's Island lying west of the road, for such sum as to him may seem reasonable and advantageous to the Government."

That the Senate recede from so much of their twenty-second amendment as proposes to strike out the words "fourteen thousand five hundred."

JOHN P. HALE,
JAMES W. GRIMES,
Managers on the part of the Senate.
THADDEUS STEVENS,
C. B. SEDGWICK,
Managers on the part of the House.

I dissent from this report.

E. B. WASHBURNE.

The report was concurred in.

ARMY OF THE POTOMAC.

Mr. CHANDLER. I move now that the Senate proceed to the consideration of the resolution of inquiry offered by me a few days ago.

The motion was agreed to; and the Senate proceeded to consider the following resolution, submitted by Mr. CHANDLER on the 7th instant:

Resolved, That the Secretary of War be directed to furnish, for the use of the Senate, all orders of the Executive to Major General George B. McClellan, relative to the advance of the army of the Potomac upon Richmond, and all correspondence between the said General George B. McClellan and the Executive, from the date of the President's order to the said General McClellan to advance upon Manassas on the 22d of February, 1862, and the 1st day of May, 1862; likewise the numerical force of the army of the Potomac, as shown by the morning rolls on the 1st days of November and December, 1861, and January, February, and March, 1862; the number of troops which General McClellan took to Fortress Monroe, the number at Fortress Monroe, and the number of reinforcements supplied him up to and including the 25th day of June, 1862.

Mr. CHANDLER. I move to amend the resolution in various particulars, so as to make it read as follows:

Resolved, That the President of the United States be requested to furnish, for the use of the Senate, all orders of the Executive to Major General George B. McClellan relative to the advance of the army of the Potomac upon Richmond, and all correspondence between the said General George B. McClellan and the Executive, not inconsistent with the public interests, from the date of the President's General Order No. 1, January 27, 1862, and the 1st day of May, 1862; likewise the numerical force of the army of the Potomac, as shown by the morning rolls on the 1st days of November and December, 1861, and January, February, and March, 1862; the number of troops which General McClellan took to Fortress Monroe, the number at Fortress Monroe, and the number of reinforcements supplied him up to and including the 25th day of June, 1862.

The PRESIDENT *pro tempore*. The resolution will be modified according to the suggestions of the Senator from Michigan, he having the right to modify it.

Mr. RICE. I would suggest that the resolution be so amended as to include not only the correspondence of the Executive, but of the War Department also.

Mr. CHANDLER. I am perfectly willing to put that in, though the term "executive" covers the War Department, I think.

Mr. RICE. And where it says the "1st day of May" I should like to have inserted the "1st day of July."

Mr. CHANDLER. I accept that amendment.

The PRESIDENT *pro tempore*. The resolution will be so modified. It is competent for the mover of the resolution to modify it before the Senate takes action on it.

Mr. CHANDLER. I am prepared to discuss the resolution, but I do not wish to take time if there is no objection to it.

Mr. WRIGHT. I ask for the yeas and nays on the passage of the resolution.

The yeas and nays were ordered.

Mr. WRIGHT. Mr. President, when the resolution of the Senator from Michigan was read the other day, I could not refrain an expression of surprise that in the midst of such a crisis as the present—a crisis which affects and concerns all the people of this continent and threatens to involve the civilized Governments and people of the Old World—that an inquiry should be set on foot, the result, I will not say the object of which must be to divide the friends of the Union and to unite the enemies of the Union. But, Mr. President, when later in the day the same Senator in the course of a debate upon another subject, proceeded in language and manner sufficiently violent and declamatory, to explain the purpose he had in view and almost in terms to declare his determination to bring contempt and dishonor upon one of the generals in the American service, my first feeling of surprise was changed into profound mortification and regret.

I will not stop to examine or to discuss the Senator's resolution, nor yet to reply to the somewhat official figures with which he garnished his speech to prove that General McClellan had more troops in his command than is alleged by those better acquainted with his plans than myself. Nor does it become me to defend him against the charge of letting his countrymen die upon the peninsula, and of not advancing upon Richmond. It is not to my taste to go back to the field of Manassas and to say that two hundred and thirty thousand Union soldiers were held at bay by less than thirty thousand rebels. I know little of the art of war, and if I had had any ambition for eminence in that particular pastime, the experience of some of our political martinets would have dissuaded me from the experiment. I am willing to trust the men who are placed in command of the Army until they are proved to be incompetent or corrupt. It is inconceivable to my mind that an American general would deliberately commit any of the acts which have been sometimes attributed to General McClellan, and therefore I have rather referred the exaggerated statements of his opponents to personal ill will, or, it may be, political apprehension and distrust. Judging, however, from the explosive rhetoric of the Senator from Michigan, who seems desirous of seeking for a "great criminal," and who takes pains to say that this criminal is either Abraham Lincoln or George B. McClellan, General McClellan must have committed some horrible atrocity. I take it for granted that the Senator does not intend the President of the United States, whom he assisted to elect, and in supporting whose administration he, as well as myself, so far as putting down this rebellion is concerned, is daily striving to do his uttermost; but it puzzles me considerably how the commanding general of the army of the Potomac can be guilty of crime or can deserve to be "deprived of office and suffer the extreme penalty of the law" in view of the fact that he has now been in a conspicuous position for more than a year, and that all his acts have been revised, if not approved, by the President himself.

The PRESIDENT *pro tempore*. The Senator from Indiana will suspend his remarks. The further consideration of this resolution is superseded by the special order of the day, which is the bill (S. No. 384) to amend the act calling forth the militia to execute the laws of the Union, suppress insurrections, and repel invasions, approved February 28, 1795, to which an amendment has been moved, and an amendment to that amendment is now pending.

Mr. CHANDLER. I move that the special order be postponed until the vote is taken upon this resolution.

The PRESIDENT *pro tempore*. If no objection be made the Chair will assume——

Mr. FOSTER and Mr. GRIMES. I object.

The PRESIDENT *pro tempore*. Objection being made, the sense of the Senate must be taken.

Mr. GRIMES. If the Chair will be kind enough to listen to me he will hear what my objection is. My objection is not to allowing the Senator from Indiana to go on, but to the motion as stated by the Senator from Michigan, that the bill shall be suspended until a final vote shall be taken on this resolution, for I do not know how many Senators are going to follow the Senator from Indiana. I want to hear him through.

The PRESIDENT *pro tempore*. The Chair was about to state the question on the motion as made by the Senator from Michigan. Does the Senator modify that motion?

Mr. GRIMES. I move to modify that motion so that the special order be suspended informally until the Senator from Indiana is through.

Mr. CHANDLER. I move that it be suspended until the action of the Senate shall bring it before the body again.

The PRESIDENT *pro tempore*. The Senator from Michigan moves that the special order of the day and all other orders be postponed until final action on this resolution.

Mr. GRIMES. I understand the Senator from Indiana is content that the whole subject shall lie over.

Mr. WRIGHT. I am very anxious to take up the confiscation bill and vote on it. I will not stand in the way.

Mr. CHANDLER. No man is more anxious to take up the confiscation bill and vote upon it than myself; but I deem this resolution the most important question now before the Senate. The whole country is in a state of excitement and alarm, and the information called for by this resolution will give just what they require, just what they demand, and I can see no reason why any man should object to furnishing it, and therefore I insist upon my motion.

The PRESIDENT *pro tempore*. The Chair will suggest, for the consideration of the Senate, respectfully, that by common consent the special order be passed over informally until the conclusion of the remarks of the Senator from Indiana, and then the subject will be open to motions for further postponement or for proceeding with the consideration of the special order; but as a matter of courtesy to the Senator from Indiana, the Chair suggests that by unanimous consent the special order be passed over until the conclusion of his remarks. ["Agreed."] The Senator from Indiana will proceed with his remarks on the resolution before the Senate.

Mr. WRIGHT. Mr. President, General McClellan is not a citizen of my State. I believe he was first honored by a command in this great Army for the preservation of the Union by and upon the recommendation of Governor Dennison, of Ohio. It is none of my especial business to defend him here; but I cannot refrain, overwhelmed by my responsibility as an American Senator, and looking forward to the fearful future which these internal dissensions seem to invite, to say a few words, if not in his vindication, at least a few words to stay the tide, which, if the Senator from Michigan can effect it, bids fair to crush him.

Mr. President, General McClellan has not been a newspaper general. He has not sought to write himself into renown, or courted others so to do. One of the main charges against him has been his somewhat too consistent refusal to afford facilities to newspaper correspondents. His name has been the theme of comment far and wide, here as well as in Europe; and I notice in the journals published in Berlin, where I had the honor to represent my country as minister for a few years—and perhaps there is no portion of the Old World where there is so much discussion on military matters as there is in Prussia—that military men find no topic more fruitful than the tactics and policy of our young general. And yet, although debated and not inconsiderably denounced in public assemblies, and most indiscreetly, as I conceive, in some of the journals of the day, no one word has been volunteered by General McClellan in his own behalf. His reticence and silence, under all the circumstances, has been remarkable. A more impulsive man—and we are constantly told that youth is most impulsive, and General McClellan is a very young man—would have rushed into print and insisted upon such a defense of his conduct as would at least assure his friends that he was not indifferent to his fame. His studied silence is probably his best eulogy and his surest vindication.

I will not go back to his campaign upon the im-

mediate Potomac; that belongs to history, or to the President of the United States who sanctioned it; but I will say that, in my humble opinion, with no knowledge of the "arcana" of military details, and with no desire to enter into the contest between military men, that his ten days' campaign upon the peninsula, with an army that he tells us was so much smaller than that of the rebel enemy, and against a foeman at once infuriated, unconscionable, and bloodthirsty; a foeman contending for the favor of all the despotisms on earth, and to maintain an oligarchy more infamous than any that history records—I will say, sir, that this campaign "out-tongues complaint," and will arouse as much admiration among the people of foreign countries as it has undoubtedly awakened enthusiasm, confidence, admiration, and hope among our own loyal masses. Some gentlemen may call this campaign a defeat. Some will say that the general who led in it was surprised and taken unawares, and that all the allegations of his friends, that his movements were prearranged and the result of a settled plan, are untrue. I will only say, that the conflict displayed on his part uncommon genius, perseverance, and ability; that his troops were heroic beyond all parallel, and that he saved them from annihilation and captivity. Sir, I know not in the history of the nations of the earth where you can point to me a seven days' conflict, with the same number of men engaged, where there was more science and skill exhibited by the commander than General McClellan exhibited in that contest, or where there was more heroic bravery and undoubted courage on the part of the troops engaged. I take it from the silence of the Administration and those in power, I take it from the history of the war as it is disclosed, that everything was done on that occasion that the Government expected of its ablest general.

Mr. President, we are told that if the resolution of the Senator shall pass, a great revelation will be made that will startle the country. We are not children here, and nobody is mad enough to suppose that this rebellion is to destroy the President, to turn him out of his office, and subject him to the extreme penalty of the law. Of course the alleged criminal, General McClellan, will defend himself, and thus the nation will be, as I have said, divided between opposing statements, and our vigilant enemy enabled to secure an uncounted advantage. Sir, if I were a selfish friend of the young commander of the army of the Potomac, I think from what I have heard I could desire nothing more than that this comparative exposé should be made. But I prefer to regard my country first. In this hour of her calamity, surely this is not the arena in which to enter these charges against a general at the head of your men. If you have any charges to make, go to the Administration; but in Heaven's name, in this crisis, divide not our forces, divide not the parties of the country, divide not the men that are carrying on this contest. I see in this new movement the seeds of an appalling calamity to that country. Let gentlemen who listen to me hear the stories that are told by the men who fought under McClellan on the peninsula, or if they do not wish to make a tour to that quarter, let them visit the thousands of sick and wounded soldiers in the hospitals within the District of Columbia; let them read the letters of the different correspondents, writing from the different battle-fields, correspondents of newspapers representing different views, and I think they will agree with me that if the manifest purposes of the Senator from Michigan are accomplished, we may have to deal with a new element in our vast difficulties. We may have, with General McClellan "deprived of office and compelled to suffer the extreme penalties of law," to answer to those who shall demand the reason why this was done.

Now, sir, my votes have shown that I have been with the Senator from Michigan on that one question which has probably occasioned the most controversy here. I believe in the necessity of a strong and vigorous and all-reaching confiscation bill, and even he, with his undoubted sincere hostility to the rebel enemy, is not more hostile to that enemy than myself. But I confess that I am not brave enough to encounter the awful responsibility of assisting to divide my own people, to arouse factions in the Army, to delight the secession enemy on the one hand, to assist the sympathizing enemy on the other. The very atmosphere is full of predictions that from these troubles will date the downfall of this Republic, and the overthrow of all the proud hopes that we have entertained. I know that Europe, should this attempt made to degrade the young general commanding the army of the Potomac be crowned with success, will seize upon it as the latest and best excuse for intervention. Let me appeal to the Senators around me, to those who have the political destinies of this Administration more immediately in charge, let me tell them that in my own State we are fighting a noble battle for the Union and the Constitution, urging the most vigorous prosecution of the war, and that our people implore and beg of you to give no weapon, place not the means in our enemies' hands by which the followers of Breckinridge will be able to divide the friends of the Union; and what is true of us is true of other and of all the loyal States. I am not pleading for party. This question should be above party and party feelings. If we are to save the country in this hour of peril, we must rise above party, and we have to leave this Administration in power. I am no apologist for General McClellan's condition. I am not sufficiently acquainted with them to explain his actions or his condition; but the style and manner of the attack made upon him in this body the other day were calculated to divide the friends of the Union and to sow the seeds of dissension that will lead to most deplorable results.

I believe, as I believe in my Maker, that if these quarrels among ourselves are to go on, the true Union men of the country will be divided, and probably after that the Government itself. Rebellion will be recognized, and we of the present free States will be cut to pieces by our own dissensions, and be called upon to contemplate the sundering of the nation into different and contending republics; thus gradually assuming an inferior position, and with all our great resources, physical, moral, agricultural, and manufacturing, be made the scorn and derision of the nations of the earth.

Mr. President, while I shall vote against the resolution of the Senator from Michigan, I wish it distinctly to be understood that I do not do so because General McClellan has anything to fear from its passage, or that I have any objection to the facts being promulgated. It is said by the Senator that this is one of the most important questions that can come before the Senate. That is true, if the gentleman is right in his statement; but let me ask the Senator this question: in this hour of our country's peril, is this the day and the time when such an *ex parte* resolution should be introduced into this body? The resolution in itself is not so objectionable as the style and argument of the speech of the Senator. What must be the feelings of that general when he is charged upon this floor with disloyalty; when it is promulgated in this body that every move of his for the last six months would be precisely what Jeff Davis would have desired? Is it possible that we can sustain this Government and its administration in this way? The Administration is in possession of all the private dispatches of our officers, and is acquainted with their public conduct, and has the power to recall them at any time. Is this the place in which to pass a resolution, with the sanction of the speech of the Senator from Michigan, that this man is unworthy and shall be turned out? I am no political friend of this Administration, but in this hour I know no party. One thing I know, that the men who are placed in the most important positions by your President are men who differed with him politically; and if Abraham Lincoln can trust the destinies of this country in the hands of George B. McClellan, Edwin M. Stanton, Halleck, and other men, who differ politically with him, it is as little as I can do to give them my respect and my confidence. Until we crush out this rebellion, let us stand by those in authority, and hold up the hands of those leading our brave sons to battle.

In conclusion, I trust that this resolution will not pass; not so much on account of its language and purpose, as the speech and object which is avowed by the mover.

Mr. CHANDLER. Mr. President, I do not propose going into this discussion——

The PRESIDING OFFICER, (Mr. FOSTER in the chair.) The business before the Senate is Senate bill No. 384.

Mr. CHANDLER. I move that that be postponed until we get a vote on this resolution. I shall not occupy ten minutes of the time of the Senate, and probably not five.

The PRESIDING OFFICER. It is moved that the bill (S. No. 384) to amend the act calling forth the militia to execute the laws of the Union, suppress insurrections, and repel invasions, approved February 28, 1795, be postponed until the Senate take a vote on the resolution of the Senator from Michigan.

Mr. SHERMAN. I object to the postponement of the bill. I am perfectly willing that it should be laid aside to allow the Senator to make his remarks.

Mr. SUMNER. Pass it over informally.

Mr. SHERMAN. It can be passed over informally.

The PRESIDING OFFICER. The motion before the Senate is that the special order, and all other orders, be postponed to continue the discussion of the present resolution until a vote is had.

Mr. CHANDLER. I ask only that the special order be passed over informally.

Mr. LANE, of Kansas. Until the Senator from Michigan gets through.

Mr. CHANDLER. Do not put in that proviso.

The PRESIDING OFFICER. Is there any objection to laying aside the business regularly before the Senate?

Mr. COLLAMER. I object, unless there is something definite about it. To lay it aside implies that we are to go on with other business.

The PRESIDING OFFICER. That was the suggestion. The Chair put the suggestion to the Senate, asking if there was any objection to laying aside, informally, the business before it.

Mr. WILSON, of Massachusetts. What is the motion?

The PRESIDENT *pro tempore*. The original motion was to postpone the bill before the Senate, and all prior orders, for the purpose of continuing the discussion of the resolution of the Senator from Michigan, until a vote should be had upon it. That was then modified, and the suggestion was made that the bill before the Senate should be laid aside informally. The Chair understands the Senator from Vermont to object to laying it aside, informally.

Mr. COLLAMER. I desire to know what is implied in laying it aside informally?

The PRESIDING OFFICER. It will continue laid aside again, until taken up by a vote of the Senate.

Mr. COLLAMER. Then it loses its place.

Mr. WADE. It only means that the mover of the resolution wants to make a very brief reply to the Senator from Indiana.

Mr. COLLAMER. I move that the regular business be laid aside until the gentleman from Michigan closes his remarks.

Mr. WADE. Very well.

The PRESIDING OFFICER. Is the motion of the Senator from Vermont objected to? The Chair hears no objection. The special order will be laid aside for that purpose.

Mr. CHANDLER. Mr. President, to a considerable extent, the Senator from Indiana has misunderstood my position. It is well known that the press for weeks has been filled with denunciations of the Secretary of War. That onslaught was intended to be deadly; he was to be removed, and for what? What was assigned by the press of the country to be a military crime, to wit, in not having furnished reinforcements to the army of the peninsula when he had those reinforcements at hand. I admitted what the press claimed, that a military crime had been committed; but I denied that Edwin M. Stanton was the criminal, and I simply and respectfully asked for the evidence that he was not the criminal. I sought it in the ordinary way of arriving at information. I stated to the Senate that this was a matter of record; the account was made up, and I simply called for the record which the country demanded should be placed before it. Sir, in this war to put down this great rebellion you must rely upon the people. They alone can replenish your armies; they alone can put down the rebellion; and when you spread out honestly before them the facts as they exist, I care not whether those facts be auspicious or the opposite, they will never fail you in any emergency.

What are the facts in this case? I stated that the

army of the Potomac, on the day that it marched to Manassas, had two hundred and thirty thousand men upon its rolls. When that army was divided, and a large force taken to the peninsula, it was well known that a portion of that army must be left to defend the capital of the country where vast supplies of munitions and stores were located, where were your archives, where you must protect your northern frontier. I hold in my hands, and am authorized by a majority of the committee on the conduct of the war to use it, the sworn testimony of nine of your present major generals in command, as to the force to be left in front of the capital. General Richardson, on the 24th of December, under oath, said "forty thousand men in the intrenchments would be sufficient, and then a corps of sixty thousand could stop any movement of the enemy above or below." It required, in the estimation of that general, sixty thousand men in case you made a movement in any direction except directly upon your enemy. General Franklin, on the 26th of December, said that "from thirty-five to fifty thousand men are sufficient for a defensive position at Washington." There is a very great diversity in the opinion of these generals; but it all depends upon whether your main army was to be within striking distance. It was unknown which way the main army would move, and therefore you find a diversity of opinion, but each one of the nine generals—Richardson, Franklin, McCall, Fitz John Porter, Doubleday, Casey, Barry, Keyes, and Barnard—swears that it will take from thirty-five to seventy-five thousand men to defend the capital.

When the army of the Potomac moved to Fortress Monroe it was decided that forty-five thousand men should be left here for the defense of the capital. After General McClellan had moved the army to Fortress Monroe—and this is the testimony, and when the testimony is printed you will find it sworn to by the most respectable witnesses that are to be found on the face of the earth, military men—it was found that he had ordered every solitary regiment from the capital save nineteen, and had not left a solitary gun on wheels for the defense of the capital. These facts were so important that the committee at once submitted them to the Executive and the Cabinet, and we found that the Executive already had a report to that effect. The President at once ordered an army corps to stand between the enemy in force and the capital of your nation. Had that order of General McClellan's been literally carried out, Jackson would have had this capital before the 15th day of April, but the President interfered. The press has been loaded down with denunciations of Secretary Stanton for having kept an army corps between the capital of your nation and the enemy untouched.

Is it not proper that these facts should go out, and that the country should know what the facts were? I say that Secretary Stanton and the President have sent every man, and every musket, every saber, every bayonet to the army of the peninsula that could be possibly spared from the defense of your capital and your northern frontier. Not a soldier, not a musket, not a saber, not a bayonet, not a horse has been refused to that army that could by any possibility be spared from the defense of your capital and your frontier. Is it not right, is it not proper, is it not indispensable that the country should know these facts, and that the press should cease denunciation of the man who opposed this division of the army and was in favor of a movement of the whole force right upon the enemy, as I think at this time no man will doubt should have been done?

Sir, I did not propose to say a single word; I hoped that this resolution would pass, as all such resolutions of inquiry usually do, unanimously. The country demands the information; the country is entitled to the information; the country will have the information whether you give it to them in this manner or not. I hope that the resolution will be passed.

Mr. WRIGHT. I shall only take two minutes time. I am very glad——

The PRESIDING OFFICER. Bill No. 384 was laid aside informally until the Senator from Michigan concluded his remarks. Does any Senator object to the bill being still laid aside?

Mr. GRIMES. I do.

Mr. CHANDLER. I move that we continue this resolution.

Mr. WRIGHT. I am very willing to let it lie over until to-morrow.

Mr. LANE, of Kansas. I move that the further consideration of this resolution be postponed until the first Monday of December next.

Mr. WRIGHT. I do not yield for that motion.

The PRESIDING OFFICER. The resolution is not strictly before the Senate. The bill S. No. 384, is before the Senate.

Mr. WILSON, of Massachusetts. I hope we shall go on with the bill.

Mr. WRIGHT. I can assure the Senator from Iowa that I will not debate the matter long.

Mr. GRIMES. I am satisfied that the remarks of the Senator from Indiana will lead to remarks from other Senators; and if there is a necessity for passing this military bill that was presented to us yesterday by the Military Committee, it is a necessity that we should pass it at as early a day as possible, and therefore I trust we shall go on with the regular order, and not let this resolution, which has been interpolated in our proceedings, take up the whole time, as it evidently will.

The PRESIDING OFFICER. The motion before the Senate is, that the bill shall be further laid aside for the purpose of continuing the discussion on the resolution of the Senator from Michigan.

Mr. TRUMBULL. I hope that the bill will be laid aside and this resolution passed. I am one of those who believe in the intelligence of the people, and that we should know the worst, and provide for it. This resolution is calculated to bring out the facts; let us have them; let the country have them. I do not believe that anything is made by attempting to withhold from the intelligent people of this country all the information, let the blame fall where it will. I think they will place it on the right shoulders. I think that the people of this country will put the rebellion down if you do not deceive them and mislead them. If you let them see what is necessary to be done, they will have it done. I do hope we may pass this resolution. I should like to say something upon it myself, but I forego that with a view of getting a vote upon it.

Mr. WILSON, of Massachusetts. If I thought we could have a vote in a few minutes, I should have no objection; but I do not think we can have, and therefore I think it had better go over until to-morrow morning, and let us act on this important bill.

Mr. COWAN. I am rather inclined to think we had better have the information called for by this resolution. Whenever an issue is made, it had better be settled. The issue is now made; let it be settled. I would not have made the issue; but when the issue is once made let it be settled; let us know the facts. There is less mischief in that than in keeping the matter in suspense, and setting the country by the ears about it.

Mr. SAULSBURY. I am not disposed to meddle in this matter, but I want to know what number of soldiers there were in the valley of Virginia, also in Western Virginia, and in front of Washington in the intrenchments, and also at Baltimore——

Mr. TRUMBULL. I rise to a question of order. No amendment is in order in this stage of the proceedings.

The PRESIDING OFFICER. No amendment is in order at the present time.

Mr. WILSON, of Massachusetts. Let us have a vote.

The PRESIDING OFFICER. The question is on the motion of the Senator from Michigan, that the bill before the Senate be laid aside in order to continue the discussion on the resolution introduced by him.

Mr. CHANDLER. I hope we may have a vote on the resolution. Let the bill be informally laid aside until we take the vote. The yeas and nays have been ordered, and let us take the vote on the resolution.

The PRESIDING OFFICER. The motion is, that the bill before the Senate be informally laid aside until there is a vote on the resolution of the Senator from Michigan.

The motion was agreed to.

The PRESIDING OFFICER. The bill is laid aside, and the resolution is before the Senate.

Mr. WRIGHT. What is the issue tendered by the Senator from Michigan? What is his statement? He says he wants the record. The Administration have that record. Do you desire to cast any blame or censure on the Administration, and to say that they do not do their duty? Has it come to this, that in a controversy of this kind the newspaper press of the country, that has slandered McClellan or slandered your Secretary of War, is to be the basis of a resolution of the Senate?

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

Mr. WRIGHT. With pleasure.

Mr. TRUMBULL. I should like to inquire of the Senator from Indiana whether he distrusts the intelligence of this people to decide what is right, and whether he does not believe it best that this people should know, that the country should know, and that the Senate should know what the facts are without casting censure upon anybody? Does he not have sufficient confidence in the intelligence of this people to believe that they will settle this question right, and that they ought to have the information?

Mr. WRIGHT. I have as much confidence in the people settling this matter right as the Senator from Illinois; and I have as much confidence, I fear more than he has, in the Administration; but this is not an arena where the newspaper press of the country should be made the basis of an attack on public men. Where is the record? It is in the hands of the Administration. You will get nothing but what they have got; and I take it from their conduct that there is nothing in this matter. As I remarked before, the objection is not so much to what is in the resolution as to the manner in which it is presented and the charges that are made here.

Mr. WILSON, of Massachusetts. Will the Senator from Indiana allow me to make a suggestion to him?

Mr. WRIGHT. Certainly.

Mr. WILSON, of Massachusetts. I will simply say that I hope the Senator from Indiana will not vote upon this question on the speech of the Senator from Michigan. We are not voting for that Senator's speech, we are voting simply for information, official information for the Senate and for the country, and without attacking General McClellan, or the Secretary of War, or the President. The information called for can do no harm to the country, certainly, and I think will do injustice to no man. I should like to see that information myself. As to the speech of the Senator from Michigan, he alone is responsible for it. He has taken the responsibility of making the speech, and certainly none of us can be held responsible for any sentiments that we do not utter ourselves. I say this with the view of expressing the hope that the Senator will not put his vote on that ground.

Mr. WRIGHT. I have just one word to say in reply to that, and then I shall be done. If, in all the controversies going on in our country in regard to our Army, resolutions of this character and in this shape, and in the spirit in which this was presented, are to be presented to the Senate under the circumstances that this has been, there is no hope of union. I do not know General McClellan; I never saw him in my life; I do know the Secretary of War. But the idea that the Senate is to be involved in passing resolutions day after day upon the statements of newspapers, attacking our public men, is a letting down of the dignity of the Senate. Not only that, but the very nature of the resolution, calling for this and calling for that, is distrusting the character of your public men, distrusting your own Administration, distrusting their proper action, and it is weakening your Army, it is weakening your private soldiers, and it is making distrust throughout the land. I only enter my protest against it as one Senator responsible alone to my people. The moment the Senator from Michigan introduced this resolution with the speech he made, I determined, if no other Senator did, that I would vote against the resolution. I want union; I will trust the Administration; I believe they will call the right men, and where there are wrong men in command in the field they will remove them. I say again, I am willing to trust the Administration, but I will never give a vote that will imply an indorsement of the speech of the Senator from Michigan, or that there is any doubt of the capacity of this general, or that he has not discharged his duty under the circumstances.

Mr. COWAN. I think the remarks of the Senator from Indiana perfectly applicable to the intro-

duction of the resolution. I think all these resolutions are mischievous. I think we must have more trust, more faith, more charity in one another than has been manifested or is likely to be manifested if this series of probing resolutions is to go on. For myself, I do not know any reason in the world why a man on our side either in the Administration or at the head of our Army should not be just as desirous of putting down this rebellion as I am, and of doing it in the best way. I am at the same time perfectly convinced, if the conduct of everybody is scanned with a microscopic eye, that faults may be found, and those faults may be magnified, and they go to the country and tend to weaken the force of the country in its great effort. As I said before, I would not make the issue, but when the issue is once made and the country is once alarmed upon it, I think it is best to give the country the evidence, and let its intelligence determine it. I would not have offered the resolution of the Senator from Michigan; but as he has offered it, as the country seems to be everywhere quivering under the supposed intelligence that resolution will convey to them, I think, as they are interested, as we are, they ought to know it. I hope that hereafter the several departments of this Government will be allowed to go on and do their duty, severally, in their own place, and that nothing, unless it is the most pressing necessity, unless it is the most glaring default, shall call for a public examination; and in fact it is a public trial of the man who is called to answer at the bar by one of these resolutions. I think all those things should be avoided, and that we should go together calmly and steadily to endeavor to secure the great end for which we struggle without any attempt to take part in these apparent conflicts which are supposed to exist between the Administration and our generals in the field, and which I do not believe do exist. It is not necessary, because one member of the Cabinet does not approve of this move or that move or that other move, that there should be any great issue about it. Members of the Cabinet are only men, as we are; generals are only men, as we are; and we cannot suppose that they will agree on this, that, or the other thing. The only way we can succeed is upon the hypothesis that we are all honest and that we are all trying to do our best in this matter; and whenever any persons set themselves up by attributing false and improper motives to anybody else, just at that instant the seeds of ruin, distrust, and failure are sown.

Let us, then, sir, in this case have this information, whatever it may be, because the thing is mooted; the country is alarmed about it, and wants to know it. When we do hear it, it will be just as I have stated. The country will come to the conclusion that the Secretary of War is an honest man, trying to do his duty; they will come to the conclusion that General McClellan is an honest, brave general, trying to do his duty; that the President is honest, and everybody is honest. They may differ about things; but with regard to the great object to be attained, they are all struggling to arrive at the same point, although they may come there by different roads.

Mr. HENDERSON. I do not desire to occupy the time of the Senate in discussing the propriety of the resolution now pending. I regret very much, and regretted at the time, that it was introduced, for the reason that it has provoked discussion, and in fact was commenced by a speech from the honorable Senator who introduced it, that I think is extremely unfortunate in this country at the present time. I sincerely believe that the result of its introduction will be the result foreshadowed by the Senator from Indiana. If there are any complaints against General McClellan, whose acquaintance I do not enjoy, but in whom, as a general, I must say I have the utmost confidence, there is a proper place to go with these complaints. They ought to be presented to the President of the United States. I do not think it is appropriate to bring them here; and I now announce it as my sincere belief, that the introduction of this resolution and its discussion here will have the effect to divide the country into two great political parties for and against the operations of the commander in the field. I say it would be infinitely better to have him immediately removed, and another man put in his stead at once, or that the country should at once conclude to retain him at the head of the Army, and let us unite our efforts to put down this rebellion.

Sir, there are many things discussed in this body which I sincerely believe are calculated to do us injury throughout the country. But it is not for me alone to judge. Other Senators are entitled to their views and their opinions on these subjects as much as I am; they have superior judgment and superior experience; and I am not disposed to complain when propositions are made which do not have my approbation or concurrence. I take occasion to say that I have the utmost confidence in George B. McClellan. I believe he is true and loyal to the Government of the United States, and that he has performed military service in the field within the last two weeks that will most inevitably distinguish him beyond all other men of his day as a military commander. I have no question that that will be shown when the facts are brought forward. But, sir, it will not do for us, every time our Army may meet with a little reverse, to rise in the Senate of the United States and charge treason upon the commander. It is bad policy.

There is a mistaken notion in regard to the strength and the power of this rebellion. I know that the newspapers throughout the northern States have been in the habit for the last five or six months of disparaging the power and ability of the rebels to hold out against us in this rebellion. They have invented new terms of reproach. They have again and again said that they would not stand and fight us. In fact, they have invented a new word, "skedaddle," and applied it to them. They have said they would not stand, but would invariably run from our troops. I have never thought so; and we shall find out from this day on, as we have found it heretofore, that they will meet us on the field of battle and fight with a bravery and courage equaled only by the bravery and courage of our own troops; and it is useless any longer to conceal that important fact from the country. It is useless, when a reverse happens to our arms, for the Senate of the United States to say it is in consequence of treason in the commander, or in consequence of treason among the troops. It is unnecessary; it is idle; it is useless so to talk.

Sir, this is a great work that we have undertaken. We must recollect that this is an immense territory we have undertaken to conquer. It is a territory almost as large as our own; a territory to which nature has given every defense in the world. Such a territory and such a number of people have scarcely ever been conquered in the world. We have come nearer to it than history gives any account of in the past, and I think we ought to be satisfied. This is the first reverse we have met with for some time. Senators seem unable to bear it. Sir, if the army of the Potomac is immediately reinforced, and a sufficient number of men given to General McClellan, now is the time to march upon Richmond, and the rebel capital will fall within the next month. Let that be done, and let these vain and futile complaints, and these charges of disloyalty against the commander-in-chief be dispensed with. They are only calculated to divide the loyal men of this country; and I fear if they are continued, it will not be many weeks before you will have throughout the northern States a controversy and a party ranging itself on the side of George B. McClellan as military commander, and preaching a doctrine which would be abhorrent to the Senate of the United States. It has already been insinuated, it has already been said, if an attempt should be made to remove him, the Army would rise in his favor. Sir, away with all such things as that. If he proves to be incompetent, let the President of the United States go forward and remove him at once, and put another man in his stead, and the loyal men of this country, from one end of the land to the other, will sanction it, and we shall have no difficulty whatever. Any man who is incompetent should be removed; but I see no evidence of incompetency in front of Richmond.

The idea has sometimes been advanced that the rebels had but thirty thousand men in front of Manassas. If our Army had marched upon Manassas, we should have had a different story entirely. We always underrate the forces of the rebels. Never since I can remember—and I have been in the midst of these scenes since they first commenced—have I known a battle to be fought in the West that immediately preceding the battle the troops of the rebels were not underrated; and after the battle was fought, the truth was manifest, and it was shown they were invariably equal to us in numbers, equal to us in arms, equal to us in all the equipments of war; and yet the country is still underrating everything of that sort. Sir, it requires a little more power, and a little more knowledge; it requires reinforcements from the loyal States of the Union, or else this rebellion never will be crushed.

Mr. WRIGHT. And perfect unity.

Mr. HENDERSON. Yes, sir; perfect unity throughout this land. It is not necessary for men who feel an interest in putting it down to talk about erecting new political parties in this country. Sir, if we are not careful, we shall find, before this rebellion is crushed, disasters ten times worse than those in front of Richmond. We need not close our eyes to this thing any longer. Their armies in the field are as numerous as ours. What is the use of our closing our eyes to the important fact any longer?

The newspapers have told us for months and months that the rebels were starving to death. That question was asked me by an honorable Senator in this body some month or two ago, and he will remember what I told him in reference to it. Why, sir, is there so much ignorance in the country that the belief can possibly prevail that, under any circumstances whatever, the immense territory now occupied almost exclusively by the power of this rebellion, with a climate such as it is, and a soil unequaled in the world, far superior to the soil of the northern States—is it possible we have come to the conclusion that that fertile soil, with the labor they have, the slaves they have, cannot furnish enough food for them to subsist upon? You may take the one State of Texas, entirely in their control and possession, and that one single State can furnish beef cattle enough, running wild upon the rich and everlasting pastures of that State, for the southern army for the next twenty years; and yet we are told there is some probability of their starving out, and that this rebellion will be crushed entirely by the starvation of the rebels. Let us banish that idea. A portion of the finest grain-growing country is covered now entirely by the armies of the rebellion. It is within their power and control, and they are cultivating it with an eye to the future. They are dispensing with the cultivation of cotton in order to aggravate the distress of Europe, and providing this year for a continuation of the war for all time to come. He who imagines that this rebellion can be crushed by the number of men we now have in the field is dreaming without hope of realizatiou. We cannot crush it with the number of men we have. It is unnecessary to ask that Governors of States shall petition that troops shall be organized. It becomes us to ask that they shall be organized; and if they are not organized, let us at once stop the war, in order to save ourselves financially.

Mr. President, there are many things that might be said, and it is proper for us to know them. This discussion, as I have understood, has led somewhat to a declaration of the honest sentiments of men. I agree with the Senator from Illinois that it is idle to undertake to conceal important facts from the people of this country. It is not the interest of the country; it is not our duty as Senators to conceal these facts, but to let the people know them. We ought to know our own strength, and we ought to realize the strength of the rebels. They have more enthusiasm in their armies. They somehow or other look upon this as an invasion of their soil, and every man who is able to carry arms marches to the battle-field with zeal and alacrity.

It is a mistake that they have not cannon; it is a mistake that they have not rifles equal or superior to our own. We have been told sometimes that they are armed with shot-guns, and that forty or fifty of our men can defeat hundreds of them on the battle-field, and yet when we meet them and the reports of the battles are placed before the country, the important fact is disclosed that their rifles were of longer range than ours. They manufacture those things throughout the South as well as we, perhaps not with equal facility; but whatever amount of labor, whatever number of men may be necessary to construct these arsenals, they bring to bear, and they will make them. They have made them, and they will make them again. When we meet them upon the battle-field, we shall find

that they are men of our own race, of our own blood, and as brave as we are. I know something about them. I have seen their operations from the beginning.

Sir, when I tell the Senate these things, I do it for the mere purpose of inspiring the Senate and the country, if possible, to renewed zeal, if they are determined to crush this rebellion. Let them unite. Let the Republican party of this body cease all clamors in regard to emancipation. When I say the Republican party, I mean certain members of it. I do not include the whole of that party in the remark; I do not wish to speak disrespectfully even of those who dream that emancipation can be accomplished. I think they are actuated by the most patriotic motives. I believe that they sincerely look forward to it as the accomplishment of the great end designed, and that is the suppression of the rebellion. I differ materially with them.

We have had much said here in this discussion about border State men. We differ with a great many members here. We do not differ in the great end to be attained; we do not differ as to the suppression of this rebellion, because if any men in the United States have suffered from it, it is the men in the border States. There has not been a proper feeling existing between Senators on this floor since I have been here. Let me tell you, sir, that unless we understand each other better, this rebellion never will be suppressed. If we wish to save ourselves from the disgrace of financial ruin, to save ourselves from the inevitable ruin that looks us in the face in the future, we must understand each other better, and we must go to the battlefield with a little more zeal and a little more determination to crush out this rebellion, and with a little more kindness for each other, or we shall never accomplish our great purpose.

Ever and anon it is said here that border State men are not as loyal as they ought to be; that is, they have so much interest in the subject of slavery, they are so fearful of their constituents, that they cannot take hold of this rebellion as they ought. Sir, suffer me to make one remark in this Senate on that point. Gentlemen in the border States had to act a little differently from gentlemen in the non-slaveholding States. I admit that proposition. Are we less loyal? I have heard it frequently said that Kentuckians were not as loyal as they might be. Why? Because of the old neutrality doctrine that Kentucky adopted. Suppose that Kentucky, Missouri, and Maryland had joined hands with this rebellion at an early day, and passed ordinances of secession—and those ordinances of secession, let me tell you, would have induced the people to render their allegiance to secession in the course of a short time, as in other States—I ask you what would have been the success of our arms? It is true Missouri put into the rebel army from ten thousand to twenty thousand men; but yet we have put in the Federal Army forty thousand men, and we are ready to put the twelve thousand that may be apportioned to us under the recent call into the field, and if that be not sufficient, we are ready to put twelve thousand in addition thereto. We are ready to give the men, we are ready to give the means, we are ready to do everything that may be necessary to crush this rebellion and to restore the Union again as our fathers made it.

It has been said that the Senator from Kentucky [Mr. DAVIS] belongs to the old neutrality order. I did not take that position in Missouri; but a great many of the very best Union men in the State took it, not as a matter of principle, but as a matter of policy. In all probability, the neutrality doctrine adopted by the Union men of Kentucky saved the State at the time; and let me say, that had it not been for such men as GARRETT DAVIS and JOHN J. CRITTENDEN, in all probability Kentucky would have been stained by an ordinance of secession, and many of the troops who are now in the Federal service would have been in the service of the rebel States; and so it would have been in the other border States.

Now, sir, one word in reference to the action and the policy which are being pursued here. Gentlemen who differ with me in regard to the various measures that are proposed here, in regard to the propriety and policy of mustering negroes into the service of the United States, and of adopting universal confiscation or emancipation, ought to recollect that until you have opened the way into the heart of this rebellion, until you have broken the serried ranks of the enemy who stand on the outskirts of their republic in a strength and power that almost defies the penetration of the Federal arms, it is idle, useless to talk about emancipation or confiscation or anything of the sort. Those measures may well be adjourned until next December, for, in my opinion, those serried ranks will not be broken between now and then. But, sir, it must be done. It is your duty, it is the duty of the Senate, it is my duty, it is the duty of the whole country to break those ranks, and they will be broken in the end if the country does its duty.

While I differ with gentlemen on those subjects, I am not inclined, as some of our border State friends seem to be, to declare them abolitionists whenever they disagree with me on those subjects. I have never been so inclined. They have the same right to denounce me as a rebel on this floor because I disagree with them, as I have to denounce them as abolitionists for disagreeing with me. There is one thing that we in the border States ought to understand, and I appreciate it fully, and the Union men of Missouri appreciate it; and it is this: that but for the kind assistance of the western States, thousands of whose soldiers we have been denouncing as abolitionists, we should have been driven from the soil of Missouri, our property confiscated, and ourselves exiles from our homes. We ought to remember, also, that the Republican party of this and the other House are as anxious as we can possibly be to put down this rebellion, and they may in all sincerity of purpose believe that the true and proper plan to do it is to seize upon everything that comes in their way, in order to its early suppression. They may consistently and honestly believe it is the proper plan to seize upon the negroes of the South, and to use them, if you please, as soldiers in order to suppress this rebellion. I should exceedingly regret to see any action of that sort adopted. Loyal men in the slaveholding States, however, have no right to turn around and talk about abolition. Sir, what has rebellion done in my State? It has taken fifty per cent. of the slave population out of the State. No doubt it has done the same thing in other States, and it will inevitably drive slavery from the border States in the future.

But we look upon this thing not as a matter of principle, but as a matter of policy. You may muster as many of these black soldiers as you please; but I tell you gentlemen from the northern States, when you muster them in—I mean the cotton plantation negroes of the southern States—you must send two or three regiments of Yankees to stand behind them, and then there will be great danger of those regiments being run over by them when the firing commences. They will not make soldiers. You cannot make soldiers out of them. I think the officers of the Army ought to seize them, and put them to that sort of work to which our soldiers ought not to be put. They ought to be used. The Union soldiers of Missouri have done it. The troops organized under the State government in Missouri have done it. I do not object to that; but let it be left to the military commanders in the field. What is policy in Kentucky is not policy in South Carolina. What is policy in Missouri is not policy in Alabama. Leave it to the generals, discreet and prudent men, to manage this thing.

But, sir, I have wandered from the subject. In regard to the resolution before the Senate, I desire to say that I intend to vote for it. We can do no good by dodging the question. The issue will be made in the country, as was said by the Senator from Pennsylvania. The introduction of the resolution, followed by the able, but I must say, in my opinion, very unwise speech of the Senator from Michigan, must make the issue in the country, and we cannot avoid it. I, for one, desire not to avoid it. If General McClellan is loyal, as I believe him to be, he should remain at the head of our forces. If he is incompetent——

Mr. CHANDLER. Mr. President, I wish to correct a statement which was made by the Senator from Indiana, and also by the Senator from Missouri, that I had charged General McClellan with disloyalty. I charged him with no such thing. I said that I considered the division of the Army, and the sending of half of it to the peninsula, as a great blunder—a military blunder. I said the army had not made a movement which Jefferson Davis would not have ordered, but I considered it simply a great military blunder. I made no charge of disloyalty whatever.

Mr. HENDERSON. I am really glad to hear that statement from the Senator from Michigan. I understood the Senator from Michigan to say that if Jeff Davis had been at the head of our Army he would have made every move that General McClellan has made within the last four months.

Mr. CHANDLER. I said I considered them very great military blunders.

Mr. HENDERSON. No man with the military science of General McClellan, unless his heart be corrupt, would ever have blundered accidentally upon all the scientific movements that Jefferson Davis would have made. But for the explanation of the Senator this morning, that remark would have gone to the country signifying to the country that we had silently sat here and heard it stated that the man who was conducting our armies in the field was designing, by every movement he could make, to put our armies in the hands of Jefferson Davis. I am glad the explanation has been made. Let it go to the country, and let it be understood, that no man in this Senate is suspecting the loyalty of George B. McClellan. Sir, it implicates the President of the United States; it implicates this body; it implicates the advisers of the President; it implicates us all. Let us put away these things from us; let us have a better state of feeling among Senators; let us understand each other; and let us put our hearts and our hands together for the suppression of this rebellion. When measures shall pass this body to which we cannot give our hearty concurrence, let us at least be charitable to those who disagree with us.

Mr. WILSON, of Massachusetts. If the Senate is ready to vote on this subject, I will not interfere; but if not, I must move to take up the bill we had under consideration yesterday.

Mr. SAULSBURY. If it is in order, I move to amend the resolution by adding the following:

> And that at the date of the departure of General McClellan for the peninsula, how many troops were under command of General Frémont in Western Virginia; under General Banks in the valley of Virginia, and what number were in front of Washington or between it and the Rappahannock, and within the intrenchments of Washington and in and around Washington, and what number of effective troops were actually in service under General McClellan in his engagements on the peninsula and before Richmond.

Mr. CHANDLER. If the Senator will pardon me, all the information that he asks for is included in the original inquiry. I do not object to that amendment, however. I will accept it if the Senator desires it.

Mr. SAULSBURY. Very well; if the Senator accepts it, I am perfectly willing. I will state my reason for offering it.

Mr. CHANDLER. It is all included.

Mr. SAULSBURY. I wish to have it there if the Senator will accept it, and I will state my reason for offering the amendment. If there is to be an investigation, I want full justice to be done. I am one of those who believe the President acted wisely when he accepted the advice of General Scott, and appointed General McClellan commander-in-chief of the forces. I have seen nothing in that general since to weaken the confidence I had in the beginning, and I do not regard his defeat before Richmond as arising from any fault of his generalship.

The PRESIDING OFFICER, (Mr. FOSTER in the chair.) Does the Chair understand the Senator from Michigan to accept the proposed amendment as a part of the original resolution?

Mr. CHANDLER. Certainly; I have no objection to it.

The PRESIDING OFFICER. Then it will be considered as added to the resolution.

Mr. TRUMBULL. I regard it as a little singular that Senators who rise and deprecate the introduction of this resolution, and deprecate any division of opinion in the country in regard to our commanders, seek to lay it down as an undisputed question that General McClellan has done exactly right. The Senator from Indiana, in his speech, says General McClellan has been assailed but he does not stop to defend himself. He does not enter the newspapers, nor do his friends for him. The Senator from Missouri says he has unbounded confidence in General McClellan. The Senator from Delaware thinks that General McClellan has done exactly right. Now, sir, without expressing any opinion whether General McClellan has done

exactly right or not, without expressing any confidence or want of confidence in General McClellan, I am surprised that Senators should insist that the whole expression of opinion should be one way in regard to it while they deprecate anything being said on the other side.

Mr. HENDERSON. I desire to ask the Senator a question with his consent.

Mr. TRUMBULL. Certainly.

Mr. HENDERSON. I desire to ask him, if it shall be the determination of the Senate after this information comes in that General McClellan is incompetent, what will the Senate do; what will he advise the Senate to do?

Mr. TRUMBULL. I suppose that is no portion of the object of the resolution. We all know that the Senate cannot appoint the officers of the Army. We can advise and consent to such names as are sent us; but we cannot of ourselves remove men. The expression of the opinion of the Senate might have some effect, perhaps, upon the country and upon the Executive; I do not know how much.

Mr. HENDERSON. If the Senator will permit me, my object in making the remarks I did was this: I thought if there were any facts as to his incompetency or disloyalty in the possession of any Senator, they should be communicated to the proper department, the department having the power—the President of the United States—and let him remove him at once; and I said the country would acquiesce in it, and I believe it would.

Mr. TRUMBULL. What I found fault with was that these Senators should insist upon magnifying General McClellan, and then insist that nothing should be said about him by anybody else. You are entirely at liberty to say that he has done exactly right; and the Senator from Indiana, with a strange forgetfulness of what is in the newspapers, and what has been in the newspapers for a year, rises in his place in the Senate and says that nobody enters into the newspapers to defend General McClellan. Has not the Senator from Indiana read the newspapers for the last ten days? Have they not been filled with articles showing the strategic ability of the commander before Richmond? Have they not been filled with articles showing with what ability he was drawing the rebels into a trap? Has not the Senator from Indiana seen all this?

The Senator from Missouri says he has unbounded confidence in General McClellan. I said I should express no opinion about it, either of a want of confidence in him or not; but I wish to ask the Senator from Missouri a question. General McClellan was placed at the head of the army here almost a year ago, subordinate only to Lieutenant General Scott at that time, having everything his own way; superseding General Scott about the 1st of November, having the control of all the armies of the United States, all the forces subject to his order, for it is well known that he was not interfered with by the President or anybody else; a high officer in the Government announced that within sixty or ninety days the rebellion was to be crushed; another high officer of the Government in the city of New York proclaimed that by the 15th of January the rebels were to be driven away. If the Senator from Missouri had been told that all the armies of the United States, half a million of men, were to be placed under the control of a single individual, and that individual was to have marshaled under his immediate command two hundred and thirty thousand men, as we are told here, with authority to control the other troops throughout the Union, and he was to hold these men under his command not only for sixty or ninety days, but through the whole season of the fall of the year, through the whole winter, through the whole spring, and into midsummer, and never make one attack upon the rebels—would he have selected that man as the one in whom he had unbounded confidence if he had been told that last July, a year ago? Would he have selected an individual to command who has done that thing? The Secretaries connected with the Administration thought differently. Is that satisfactory to the Senator from Missouri, that he rises here in his place to express his unbounded confidence——

Mr. HENDERSON. Does the Senator desire an answer at this time?

Mr. TRUMBULL. I am entirely willing to hear the answer if the Senator desires to make it.

Mr. HENDERSON. I will state very frankly that I myself thought Manassas ought to have been attacked. I was of that impression during the fall and an early part of the winter. But, sir, I do not profess to know the number of troops behind the rebel intrenchments at Manassas; I do not profess to know the discipline and the skill of the officers and men that General McClellan had under him at the time; I do not exactly know the topography of the country at Manassas; I do not know a great many things that would enter into and make a part of the difficulties and the advantages of an attack on Manassas. I am no military man. I went into the field once in Missouri merely to fight off the guerrillas who were attempting to fight me out of the State; but I never did profess to be a military man. I know nothing about military science, and I am not competent to pass an opinion upon the propriety or impropriety of General McClellan's conduct in front of Manassas.

But, sir, I will repeat what I said before, that in my opinion the Senator from Illinois, as well as the greater portion of the country at large, has been in error in regard to the strength of the rebels. I recollect when General Sherman, in Kentucky, at one time said it would require one hundred thousand men—[Mr. DAVIS. Two hundred thousand]—to proceed through the State of Kentucky, the newspapers throughout the land said he was deranged. I recollect that afterwards, when our forces undertook to go through the State of Kentucky, it required over one hundred thousand men. I recollect also that General Frémont, in my own State, with what was called a well-appointed army, placed right in front of the rebels of southwest Missouri, did certainly suffer a rebel army to come to the center of the State of Missouri and take the city of Lexington, reducing the garrison, and taking the property of the United States at that garrison. Sir, when you look around, you will find that our generals everywhere have found this rebellion a little stronger than the people at home anticipated. Why, sir, but a short time ago, General Hunter himself, as I understand, believing that it would be an easy job to take the rebel fortifications on James Island, found our army repulsed and himself very badly whipped. It is because we have underrated the power of the rebels, and we have done it from the beginning, and we ought to wake up to a proper knowledge of it. My understanding is, that General McClellan has informed the War Department since he went to Yorktown that he never could approach Richmond with the army he then had. I do not say that that is so, because I am not in the confidence of the War Department; but if it be true, it was right that General McClellan should not attack Richmond, and in that attack destroy his army. I say it was altogether proper, if he had not troops enough to move, and I believe he did not have—that is my conscientious conviction; I may be in error—he ought not to have made an attack, because by attacking he would have destroyed his army. The same may have been the case in front of Manassas. If it be true that there were but thirty thousand men in those fortifications, then an attack ought to have been made last fall; but if it be true, as I honestly believe, that there were one hundred and fifty thousand men behind those fortifications, then I say it was a matter of extremely doubtful propriety.

Mr. TRUMBULL. I did not give way with the view of the Senator's going into an argument. I supposed he wanted to ask some question or make some explanation.

The PRESIDING OFFICER. It is the privilege of the Senator at any time to recall his right to the floor.

Mr. TRUMBULL. I believe the Senator is through.

Mr. HENDERSON. Yes, sir.

Mr. TRUMBULL. The very thing of which I complain in the Senator from Missouri and other Senators, is, that while he disavows being a military man, or having sufficient knowledge to pass judgment upon the conduct of armies, he all the time does pass judgment. He has passed it in the strongest language which mortal man could employ on this very occasion. He said he had unbounded confidence in General McClellan. Why, sir, in this very speech he expresses his confidence and gives his opinion that what he has done is right.

Mr. HENDERSON. Mr. President——

Mr. TRUMBULL. I will give way if it is merely to ask a question or for explanation, but I cannot give way to another speech.

Mr. HENDERSON. I desire to say that when I said I had the utmost confidence in General McClellan, it was in reply to the Senator from Michigan. I understood that Senator to doubt his loyalty, and I said that I had undoubted confidence in the loyalty of General McClellan.

Mr. TRUMBULL. Now, I wish to say a word in regard to this over and underestimating the force of the enemy. The Senator speaks of the defeat of General Hunter, and says that he had under estimated the enemy. Why, sir, General Hunter had nothing to do with the attack upon James Island; and I am sorry the Senator from Missouri should do General Hunter the injustice to couple his name with the repulse in that attack. He is known not to have been there, and I understand he arrested the officer who made the attack. Surely, General Hunter is not to be held responsible for a thing which is done by a subordinate officer without his knowledge or consent, and whom he has reproved for doing the act.

I disagree entirely with the Senator from Missouri about our underestimating the strength of the enemy. The very difficulty under which we have labored from the beginning is, that we have overestimated the strength of the enemy. We have been acting on the defensive; and that was the point to which I wanted to bring the Senator from Missouri when he interrupted me before. We are engaged in a war to put down rebellion. It is not a war with an independent nation, where we may wait for that nation to attack us; but it is a war with rebels, and for every day that it is prolonged, strength and power are given to the rebels; their government becomes consolidated; men become accustomed to the government; the interests of men become identified with it. They borrow money, and the man who loans the money, although it be by force, is then interested in maintaining the government that he may get his pay. Officers are elected and appointed, and thereby become interested in that government. The very trouble has been that we have overestimated the strength of the enemy, and have acted upon the defensive. The question I wanted to put to the Senator from Missouri was, if any man could have his unbounded confidence who had been placed at the head of all the armies of this Union for the purpose of putting down a rebellion, and for a year had not struck a blow? Has the army under the command of the general who has his unbounded confidence ever made an attack, or has it waited to be attacked on every occasion? Can a rebellion ever be put down by acting on the defensive, by building intrenchments, and waiting for the rebels to come and attack you?

I have heard the strength of these rebels stated here time and again, and magnified twofold. The Senator from Pennsylvania [Mr. COWAN] the other day talked about seven or eight million people. Why, sir, there are in the southern States engaged in this rebellion, including the State of Virginia, for you must not include Maryland; you must not include Delaware; you must not include Missouri; you must not include Kentucky; and now you can scarcely include Tennessee—but in all these rebel States, including Virginia with them, and of course it is unjust to include a large part of Virginia—taking the entire population of Virginia, and giving them all the southern States, excluding those I have named, and there are about eight million people in all, and nearly half of them are slaves. There are only four or five million white people with whom we are contending; a very little larger population than there is in the State of New York; and the whole rebel States are not equal to-day in arms, in the materials of war, or anything else, to the State of New York alone. She is compact; she could bring her men into the field promptly, while these southern States extend over thousands of miles, with a scattered population, and a large slave population that would have, to some extent, to be looked after, if the Union armies would cease to watch them; and yet we are told we have underrated their strength! Sir, we have overestimated it, and waited to act upon the defensive, instead of striking this wicked rebellion, and crushing it by active movements upon it; that has been the trouble, and I am unwilling that the remarks of Senators, founded upon such false premises, should go out unreplied to in the Senate. That

is my excuse for saying anything upon the present occasion.

I shall not go into the conduct of General McClellan. I will express no opinion of my own about it. The country can judge when it sees the results. The country sees that weeks and months were spent in digging intrenchments and throwing up fortifications, and that thousands of lives were sacrificed, and yet when the enemy approaches, your intrenchments are left and your guns hauled away without scarcely an appearance of battle. The great battles that have been fought in front of Richmond, where our men have shown themselves equal to any men that were ever mustered upon a battle-field, were fought whenever they had an opportunity. Those battles were all fought outside of the intrenchments and on the retreat, and the enemy had all the benefit which the inspiration of pursuing a retreating foe could give them. We know, sir, that the retreat was ordered from the other side of the Chickahominy without any considerable battle having taken place on Friday night. True, sir, a battle had taken place on the north side of the Chickahominy in which a small portion of our troops were engaged, where they were met and overwhelmed by superior numbers. I presume that is so, because it would be very easy for the rebels to bring to bear a superior force upon twenty-five or thirty thousand of our men, when it would have been utterly impossible for them to bring to bear a superior force on one hundred thousand of our men.

I hope that this resolution may be passed, and that we may get this information. Let the country understand where the fault is, if there is any. They will put it upon the right shoulders, and they are in earnest in regard to this rebellion. They have the power, they have the heart, and they are determined to crush this rebellion, and whether it shall require three hundred thousand men or three million men, I believe the power exists and the will exists to crush the rebellion, and I believe it will be done. I think the best way to do it is to let the people see everything that is going on. I do not distrust them. Let them understand it, and if it is necessary to sacrifice fifty or one hundred thousand men in front of Richmond in order to put down the rebellion, the people will make the sacrifice. They would prefer not to do it, if it could be put down without; but they are ready, I think, to make whatever sacrifice shall be required to accomplish the object.

Mr. WILSON, of Massachusetts. I move to take up the bill which is the special order.

Several SENATORS. Let us vote.

Mr. CHANDLER. If the Senator will give way, I think we can have a vote.

Mr. WILSON, of Massachusetts. I have given way three or four times, and we have got speech after speech.

Mr. ANTHONY. I hope the Senator from Massachusetts will not give way. This debate will last all day.

Mr. CHANDLER. Will the Senator give way if the call of the yeas and nays can commence at once?

Mr. WILSON, of Massachusetts. I would give way if I thought we could have a vote.

Mr. CHANDLER. I hope the Clerk will call the roll, if the Senator will give way.

The PRESIDING OFFICER. The Clerk will not call the roll until the debate has terminated.

Mr. CARLILE. I move to amend the resolution. I am not going to argue it. I move to strike out "May," in the ninth line, and insert "July."

Mr. TRUMBULL. That is in, on the motion of the Senator from Minnesota, [Mr. RICE.]

Mr. CARLILE. No. I wish this alteration made in the ninth line, to make it conform to the amendment adopted on the suggestion of the Senator from Minnesota. That will bring the correspondence down to the 1st of July.

Mr. CHANDLER. I accept that.

The PRESIDING OFFICER. The resolution will be so modified.

Mr. WILSON, of Massachusetts. I now move to proceed to the consideration of Senate bill No. 384.

Mr. SHERMAN and others. Let us take the vote now.

Mr. WILSON, of Massachusetts. Senators say, take the vote. Very well.

Mr. DAVIS. I have an amendment that I want to offer.

Mr. WILSON, of Massachusetts. If there will not be any speaking on it, I shall not object.

Mr. DAVIS. I offer an amendment.

The PRESIDING OFFICER. The Senator from Massachusetts moves that the Senate proceed to the consideration of Senate bill No. 384.

Mr. WILSON, of Massachusetts. I withdraw that for the purpose of taking a vote on this resolution. Senators say they will take the vote at once.

The PRESIDING OFFICER. The resolution of the Senator from Michigan is before the Senate.

Mr. DAVIS. I offer an amendment, to add to the resolution:

And all General McClellan's correspondence with the President and the War Department during the period of time embraced by this resolution.

Mr. CHANDLER. If the Senator will pardon me, all that is not inconsistent with the public service is already called for in the resolution.

Mr. DAVIS. I do not understand that the correspondence on the part of General McClellan is called for.

Mr. CHANDLER. Certainly; it is all in.

Mr. WILSON, of Massachusetts. We want the whole facts of the case.

Mr. DAVIS. I do not insist on the amendment, but I want to be heard about ten minutes on the resolution.

Mr. WILSON, of Massachusetts. Then I must renew my motion.

The PRESIDING OFFICER. It is moved that the Senate resume the consideration of the bill No. 384.

Mr. TRUMBULL. I think we shall gain time by disposing of the resolution.

The question being put, there were twelve ayes.

Mr. WILSON, of Massachusetts. Rather than divide the Senate, I give it up. I see the majority does not sustain the motion.

The PRESIDING OFFICER. The motion is withdrawn.

Mr. DAVIS. I do not intend to make much of an infliction upon the Senate, but I will speak according to my own judgment and discretion. I intend to vote for this resolution, and I am opposed to much secrecy in matters of State at any rate. I understand that what has produced this resolution has been the assaults in the newspapers that have been made within a short time upon the Secretary of War. When that officer was appointed and was inducted into office, no man was more gratified with the appointment than I was, and I do not know but what the Secretary of War has mainly and essentially, in his official conduct, discharged his duty with ability and fidelity. I have not the information and I am not competent to pass a judgment upon it, and I do not intend to attempt to do so.

But here is that for which I censure the Secretary of War, for which I think he deserves censure. In a short time after his appointment to this office he evidently manifested a very great hostility to the then commander-in-chief of the Army, and that commander-in-chief was General McClellan. We recollect the time when the lamented General Lander had a skirmish up in the valley of Virginia, where he displayed the greatest gallantry and where he had a small yet brilliant success. The Secretary of War, in a proclamation published in the newspapers, commended the gallantry and the good conduct, very justly, too, of General Lander; but there was language in that proclamation that the country understood and that I understood, and that I have no doubt was intended to reflect strongly and directly upon the course of General McClellan and the manner in which he was managing the army immediately under his command. It had been given out by the friends of General McClellan before, that the reason he did not make military movements from his encampment on the other side of the Potomac was, the condition of the roads rendered a forward movement impracticable; and the proclamation of the Secretary of War was to this purport: that notwithstanding the condition of the roads, or in defiance of their condition, General Lander had undertaken a military expedition, and had conducted it to such a successful result.

Mr. President, there is another reason why I condemn the Secretary of War. We all know that he entered into an intrigue in the Cabinet to induce the President to remove General McClellan from his office, and that he persisted for some time with great industry and energy to press it upon the President; but the confidence of the President could not be shaken.

Mr. WILSON, of Massachusetts. I think that is a mistake.

Mr. DAVIS. That is my information; and my information furthermore is that General McClellan, in consequence of this intrigue, headed and conducted by the Secretary of War, was induced to lay his plan of campaign before a board of general officers, twelve in number probably, and expressed to the President that if this military board should condemn his plan of campaign, his commission was at the service of the President, and that he would retire promptly from his command; but that board examined carefully and deliberately his plan of campaign, and eight officers of the twelve approved it and four disapproved it.

I know, not from my own knowledge, but from the most reliable authority, that the Secretary of War has been inimical to General McClellan, and that he has time after time controverted his capacity for his command; and I know from men who have visited the War Department that a stream of disparagement and detraction has issued from the War Office against General McClellan, and that men high in that office have been engaged in that work of disparagement. I condemn the Secretary of War for that course, if it be true, and that it is true I have upon good authority.

Well, Mr. President, instead of the Secretary of War detracting from the commander-in-chief and endeavoring to destroy the confidence of the Senate, of the country, and of the Army in him, it was his duty as a faithful officer to have upheld the confidence of the country, of the Congress of the United States, and of the Army, in the commander-in-chief.

Mr. MORRILL. Will the Senator allow me to make a single inquiry?

Mr. DAVIS. Yes, sir.

Mr. MORRILL. These charges certainly are of the gravest possible character; and I desire simply to know whether, when the Senator says we all know them, he is stating matter of history, or whether he is stating this upon his own information and belief, or whether he is stating what he states as matter of rumor. I think he should be specific when a high Cabinet officer is arraigned so severely.

Mr. DAVIS. I will answer the honorable Senator from Maine. I will move for a committee of inquiry, and if the Senate will grant me a committee of inquiry, I will establish some of these material facts. I know and believe all of them.

Mr. CHANDLER. Will the Senator allow me to make a correction?

Mr. DAVIS. Certainly.

Mr. CHANDLER. The Senator has alluded to the council of war which was held. The facts have not been properly represented to him. That council of war was held, but it was held upon this proposition: that the enemy should be left intrenched in force at Manassas, that the Potomac should be left blockaded, and that the army of the Potomac should be taken to Annapolis by railroad, and there shipped to attack the enemy in the rear. That was the object of the council of war. And the council of war decided that they would do it; but the President and the Secretary of War overruled that decision of the council of war, and compelled them to go out and attack Manassas, and raise the blockade. It is proper that the facts should be known.

Mr. DAVIS. I have no access to the official and authentic facts; but if the Senate, as I shall move, will grant a committee of inquiry, I will prove, I think, upon the Secretary of War, his hostility to General McClellan, and his attempts to disparage him, and to have him removed from his command.

Mr. MORRILL. Now, if the honorable Senator will allow me to make a single suggestion, I desire to submit whether the honorable Senator thinks it is entirely just to the Secretary of War to make this criticism in advance of any information.

Mr. DAVIS. I do it, Mr. President, because of the avowal of the Senator from Michigan. I do not recollect his language, but I understood him to say that he offered the resolution because of the attacks of the newspapers upon the Secretary of War.

Mr. CHANDLER. No; that was not the rea-

son assigned. I stated the fact to be so in answer to the statement of the Senator from Indiana; but that was not the reason for the resolution.

Mr. DAVIS. However, I will proceed, and I will soon come to a close. I am no military man. I do not pretend to have any military capacity or knowledge. I know something of results. I know a defeat from a victory. I know, further, that there ought not to be any discord or want of confidence between the Secretary of War and the commander-in-chief and the President, and that they all ought to be endeavoring to uphold each other and the confidence which the country and the army have in each of them. I am not able to give any reason upon facts for the expression of this confidence, but I have full confidence in General McClellan, and I have confidence in General Halleck, and I do not believe there is a man in the Army of the United States who has proved himself, by his achievements in the field and his management of armies, fit to be at the head of such a vast army as these two generals have been and are now commanding, excepting those two generals themselves. Our armies heretofore have been eight thousand, ten thousand, fifteen thousand, twenty thousand. I believe twenty thousand was a greater army than was ever under the command of a single officer of the United States until this rebellion. The Duke of Wellington was asked, when he was in the British ministry, how many men there were in Europe who could handle properly one hundred thousand men. With all his experience in India, in the Peninsular war, in Belgium, and his final triumph at Waterloo, he said there was but one man in Europe who could handle an army of that magnitude. It is not at all remarkable that our best and our ablest commanders should have exhibited some mistakes and some blunders when they were suddenly placed in command of such large masses of men. I have confidence, I say, in General McClellan. That confidence is unbroken. I may misplace that confidence, and he may not be worthy of it.

As to my confidence, it is a matter of no consideration; but as to the confidence of the President and of the country and of the Senate, they are matters of much and of serious import; and if General McClellan is not worthy of that confidence his incompetency ought to be revealed, and he ought to be removed from his command. If that is to be his fate, let it be so; but I do not believe that it will so turn out. We all learn that his army, rank and file, have for him the strongest attachment and confidence. I am in possession of the facts, as the whole country is, in relation to his military operations from the time that his right flank on the Chickahominy was attacked, from the time that he commenced his maneuver of removing that right flank to form his left upon the James river; and I am in possession of the facts that attended his falling back, not his defeats, but his successful falling back from before Richmond against the onset of a force twice the number of his own army to Harrison's Landing; and according to my poor judgment there is no man in America that in all these operations, so arduous and difficult, taxing to the utmost his military resources, and also the courage, the constancy, and the heroism of his gallant army, who could have accomplished that retreat, if you so call it, in a more masterly manner than General McClellan did. There was no defeat or demoralization of his army. Whenever it was so pressed upon by the rebels, so greatly superior in numbers, it beat them back, and he pursued without any rout, but in order, his march to the place that he had previously selected and marked out at which to make his stand. When he got it well into position, and was ready again to receive the assaults of the enemy, he addressed a short encouraging, and model proclamation to his unconquered army, in which he declares that he will yet march them to Richmond, and that the *Constitution shall be preserved.*

Mr. WILSON, of Massachusetts. Mr. President, it was not my purpose to engage in this debate, for I deplore it. I believe it is of no advantage to the country; but the Senator from Kentucky has made some statements to-day that I think ought not to be allowed to pass without a word or two from me. It has so happened that, as chairman of the Military Committee, I have been called to the War Office and had duties to perform there nearly every day of this session, and I say here, without hesitation or qualification, that I think the Senator from Kentucky is entirely mistaken in what he has said of the action of the Secretary of War towards General McClellan. I do not believe that the Secretary of War has ever engaged, with the President or with anybody else, in any intrigue for General McClellan's removal from the Army.

Mr. DAVIS. I did not charge it on the President.

Mr. WILSON, of Massachusetts. The Senator said something of the President—about the influence of the President, or something of that kind. I do not wish to misrepresent the Senator.

Mr. DAVIS. I spoke of an intrigue to induce the President to do it.

Mr. WILSON, of Massachusetts. I think my means of information are such that if any movement of that kind had been on foot, I should have known it, and to-day is the first time I have ever heard any statement of that kind. The statement that the Secretary of War habitually indulges in disparaging remarks of General McClellan I do not think is correct. The Secretary of War carried into that office great zeal, great industry, an earnest determination to use all the military power of the nation to suppress this rebellion as speedily as possible; and I have no doubt that movements which he regarded to be slow and dilatory of some of our generals in the field met with some censure at his hands; and he is, perhaps, sometimes too quick and too impetuous, but I believe that, take day by day, and week by week, and month by month, his conversation and his action have been to sustain and uphold not only General McClellan but every other general in the field. I think that he has shown an earnest determination in that direction. There was a difference in regard to the movement upon Richmond. There was a difference in the Cabinet; there was a difference among military men; there was a difference among civilians.

I understand that there were three plans to go to Richmond. One, I think, originated with General Rosecranz, and that was to make the movement down the Shenandoah valley, because it was a rich valley, which had not then been overrun, and could furnish large supplies for the army in marching on Richmond, and then it would approach Richmond from the right direction, throwing the enemy towards the tidewater. I understand the Secretary of War believed that to be the best mode to go to Richmond. There was another plan, to go to Fredericksburg, on the Rappahannock, and move on Richmond in that direction, nearly all the forces moving on that line, which, while it assailed Richmond, protected Washington. Then there was what I understand to be General McClellan's movement, which was the movement finally adopted, to go to the peninsula and to move on Richmond in that direction. I know there were a great many men who believed that not to be the best movement, and they honestly entertained that opinion. They are confirmed in it now; but in entertaining that opinion they did not attack General McClellan, nor intend to attack or impeach his loyalty or his ability.

I say this simply because I believe I ought to say it, for it is my conviction and my judgment, in reply to the observations which the Senator from Kentucky has seen fit to make. I have no doubt the Senator from Kentucky believes the statements he has made are substantially correct. I think he has been misinformed, and that if the real facts could go out to the country, they would be very different from what he has stated.

Now, sir, in regard to this vote, as I am upon the floor, I will simply say that I will vote for this resolution with no intention either to defend the Secretary of War or attack the Secretary of War, to defend General McClellan or attack General McClellan. As the subject has been introduced, I believe the information can do no harm to the country, and perhaps it may disabuse some erroneous prejudices and opinions that exist. It has been called for, and I do not think it would look well to vote it down. I hope we shall have the vote at once.

The PRESIDING OFFICER. The question is on agreeing to the resolution.

Mr. DOOLITTLE. I ask that it be read as it now stands.

The Secretary read it, as follows:

Resolved, That the President of the United States be requested to furnish for the use of the Senate all orders of the Executive to Major General George B. McClellan, relative to the advance of the army of the Potomac upon Richmond, and all correspondence between the said General George B. McClellan and the Executive, including that with the War Department, not inconsistent with the public interests, from the date of the President's General Order No. 1, January 27, 1862, to the 1st day of July, 1862; likewise the numerical force of the army of the Potomac as shown by the morning rolls on the 1st days of November and December, 1861, and January, February, March, and July, 1862; the number of troops which General McClellan took to Fortress Monroe, the number at Fortress Monroe, and the number of reinforcements supplied him up to and including the 25th day of June, and that at the date of the departure of General McClellan for the peninsula; how many troops were under General Frémont in Western Virginia, under General Banks in the valley of Virginia, what number was in front of Washington or between it and the Rappahannock, and within the intrenchments of Washington and in and around Washington, and what number of effective troops were actually in service under General McClellan in his engagements on the peninsula and before Richmond.

Mr. DOOLITTLE. I suggest that after the words, "President of the United States," in the first line, be inserted the clause, "if in his judgment it be not incompatible with the public interest."

Mr. CHANDLER. It is there.

Mr. DOOLITTLE. It is not there.

Mr. CHANDLER. If the Senator had paid attention, he would have known that it was there.

Mr. DOOLITTLE. I have given my direct attention to the resolution, and I beg to say that the clause in a subsequent part of the resolution does not apply to the first part. I read it, and I listened to the reading, and listened on purpose to give my attention. The clause which is in the resolution does not apply to the first part of it at all, but applies simply to the amendment of the Senator from Kentucky.

Mr. CHANDLER. If the Senator thinks so, that clause may be placed where he wishes it instead of where it is. I intended it to cover the whole.

Mr. DOOLITTLE. After the word "President," insert the words, "if not in his judgment incompatible with the public interests," and then strike out what is said about the public interests in another portion of the resolution.

Mr. CHANDLER. I accept that modification.

The PRESIDING OFFICER. The amendment will be made as suggested by the Senator from Wisconsin, the modification having been accepted by the Senator from Michigan, the mover of the resolution. The question is on the resolution as modified.

The question being taken by yeas and nays, resulted—yeas 34, nays 6; as follows:

YEAS—Messrs. Browning, Carlile, Chandler, Clark, Collamer, Cowan, Davis, Doolittle, Fessenden, Grimes, Hale, Harlan, Harris, Henderson, Howard, Howe, Kennedy, King, Lane of Indiana, Morrill, Pomeroy, Powell, Sherman, Simmons, Stark, Sumner, Ten Eyck, Trumbull, Wade, Wilkinson, Willey, Wilmot, Wilson of Massachusetts, and Wilson of Missouri—34.

NAYS—Messrs. Anthony, Foster, Lane of Kansas, McDougall, Saulsbury, and Wright—6.

So the resolution was agreed to.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. MORRIS, Chief Clerk, announced that the House had passed the following bill and joint resolutions of the Senate:

A bill (No. 119) confirming a land claim in the State of Iowa, and for other purposes;

A joint resolution (No. 78) to suspend all payments under the act approved 25th March, 1862, entitled "An act to secure to the officers and men actually employed in the Western department, or department of Missouri, their pay, bounty, and pension," and for other purposes; and

A joint resolution (No. 82) to provide for the presentation of "medals of honor" to the enlisted men of the Army and volunteer forces, who have distinguished or may distinguish themselves in battle during the present rebellion.

The message further announced that the House had passed the following bill and joint resolutions; in which it requested the concurrence of the Senate:

A bill (No. 511) to amend an act entitled "An act to reduce the expenses of the survey and sale of the public lands in the United States," approved May 30, 1862;

A joint resolution (No. 81) authorizing the Secretary of the Interior to expend from a fund in the United States Treasury, belonging to the Winnebago Indians, the sum of $50,000, or so much

thereof as may be necessary, for the benefit of said Indians; and

A joint resolution (No. 84) for the relief of pre-emptors on the home reservation of the Winnebagoes, in the Blue-earth region in the State of Minnesota.

CARMACK AND RAMSEY.

The message also announced that the House had insisted upon its amendment to the joint resolution (S. No. 89) in relation to the claim of Carmack & Ramsey, disagreed to by the Senate, agreed to the conference asked by the Senate on the disagreeing votes of the two Houses thereon, and had appointed Mr. JAMES M. ASHLEY of Ohio, Mr. SCHUYLER COLFAX of Indiana, and Mr. EDWIN H. WEBSTER of Maryland, managers at the same on its part.

ENROLLED BILLS SIGNED.

The message further announced that the Speaker of the House of Representatives had signed the following enrolled bills and joint resolution; which thereupon received the signature of the President *pro tempore:*

A bill (H. R. No. 328) for the relief of Louisa Abert Byrne.

A bill (H. R. No. 393) making further appropriations for sundry civil expenses of the Government for the year ending 30th of June, 1863, and additional appropriations for the year ending 30th of June, 1862.

A bill (H. R. No. 556) to change the place of holding the circuit and district courts of the United States for the district of West Tennessee.

A joint resolution (H. R. No. 71) providing for the distribution of surplus copies of the Biennial Register for 1861, among the several bureaus in the Executive Departments.

SERVICE OF MILITIA.

On motion of Mr. WILSON, of Massachusetts, the Senate, as in Committee of the Whole, resumed the consideration of the bill (S. No. 384) to amend the act calling forth the militia to execute the laws of the Union, suppress insurrections, and repel invasions, approved February 28, 1795.

The PRESIDING OFFICER, (Mr. FOSTER in the chair.) The Senator from Iowa [Mr. GRIMES] moved an amendment to the bill, and the Senator from Ohio [Mr. SHERMAN] moved an amendment to the amendment. The amendments will be read.

Mr. GRIMES. It is hardly necessary, I suppose, to reread my amendment. It was yesterday agreed that we should consider it by sections, and I now desire to make a verbal alteration in the ninth line of the first section, which is the section under consideration, by inserting after "fed" the words, "and clothed;" so as to make the clause read, "and they shall be fed and clothed, and paid such compensation for their services as they may agree to receive when enrolled."

Mr. SHERMAN. I intended to move to strike out that last clause, because I think the compensation ought not to be left to the quartermasters, who probably will have to settle it, but ought to be fixed by law. I hope, therefore, the Senator from Iowa will agree to strike out that clause and to provide the rate of compensation in the third section. I make the suggestion, because, if it be left open, it will be left in a great measure to the quartermasters, and there will be different rules in regard to the pay, and difficulties may occur.

Mr. GRIMES. I have not noticed the amendment of the Senator from Ohio. I suggest that the alteration I propose be adopted, and then I will look at the amendment he has proposed.

Mr. KING. The amendment has not been acted on, and I suppose the Senator from Iowa may modify it as he chooses.

The PRESIDING OFFICER. The Senator from Iowa may modify his own amendment.

Mr. GRIMES. I modify it as I have suggested, by inserting the words "and clothed" after "fed."

The PRESIDING OFFICER. The question is on the amendment as amended.

Mr. SHERMAN. Is that the first section?

The PRESIDING OFFICER. The first section.

Mr. SHERMAN. I move to amend it by striking out the words, "and they shall be fed and clothed, and paid such compensation for their services as they may agree to receive when enrolled."

Mr. KING. I suggest whether, when those words are struck out, it may not be as well to insert in that section the provision we wish to make in regard to pay.

Mr. SHERMAN. I prefer to put in a separate section by itself defining the pay. I think it ought to be defined by law, and not left indefinite, or so indefinite as this would leave it.

The amendment to the amendment was agreed to; and the question recurred on the first section of Mr. GRIMES's amendment, as amended.

Mr. KING. I ask that the proposition be read as it now stands.

The Secretary read, as follows:

And be it further enacted, That the President be, and he is hereby, authorized to receive into the service of the United States, for the purpose of constructing intrenchments, or performing camp service, or any other labor, or any military or naval service for which they may be found competent, persons of African descent; and such persons shall be enrolled and organized under such regulations, not inconsistent with the Constitution and laws, as the President may prescribe.

Mr. COWAN. I should like to ask now if there is anything in the laws which confines the President or the War Department in raising armies to men of any particular color, nationality, or kindred?

Mr. COLLAMER. Does the Senator inquire of me?

Mr. COWAN. I ask the question of somebody. I am not very familiar with these laws myself. We have authority under the Constitution to raise armies. I know that Irishmen, Germans, Scotchmen, Frenchmen, may be enlisted. Now, I should like to know whether a negro may be enlisted in the regular Army.

Mr. COLLAMER. So far as I understand, there is no law prohibiting the enlistment of colored men. They are engaged in the Navy, and have always been, to some extent. We have no law prohibiting their enlistment in the Army. The Constitution provides that the militia shall be organized according to act of Congress; and Congress, in 1792, passed a law for organizing the militia, and in that law it was provided that the militia should be composed of all free white male citizens, between the ages of eighteen and forty-five years; and therefore, when the militia are called into the United States service, it includes only white male citizens; but in relation to the Army there is no law forbidding the enlistment of colored people, so far as I can ascertain. I speak with a good degree of confidence, upon the examination I have given the laws.

I see that some confusion has come over us in regard to volunteers and militia. Volunteers are really militia raised by the States, commissioned by the Governors. As a corps it is unknown to the Constitution by the name of *volunteers*. That term has grown up in comparatively modern times. There was no such thing known to us during the last war with Great Britain, except that I believe an act was passed in the second year of the war for engaging volunteers, and we had one regiment from the State of Maine, commissioned by the President for one year's service, as United States volunteers. But what are called the volunteers received from the militia, instead of a draft of the militia, originated in the Mexican war, and that idea has been continued down to this time; but they were regarded as volunteer militia, and commissioned accordingly. We have got into a little confusion about it at this time, because last summer, after passing an act allowing the President to call upon the States for their quota, we passed another act declaring that the President might accept volunteers in cases where he did not call upon the States according to their quota. I believe the President, under that act, gave out orders for regiments and brigades. I think the Sickles brigade was organized in that way, as United States volunteers, and, I suppose, commissioned by the President. The idea of volunteers as substitutes for drafted militia is entirely a new thing. The drafting of the militia which this bill talks of and provides for was in the day of it, that is, in 1792, when the first act was passed, a plain, straight business. It was so during the last war with Great Britain, when I had personal occasion to know something about it, for I served in the militia myself as a subaltern for one campaign in the war of 1812.

The first thing to which I would call attention is, that then the service of the militia was limited to six months. In the present bill it is proposed to leave that entirely to the President. I think that is not wise, because it will amount, or may amount, really to conscription. During the war of 1812, I remember that there was an attempt to make a classification of the militia, and a system of conscription bills was introduced for that purpose, but they entirely failed in Congress. In no form would Congress adopt anything like the European conscription. Now, if the President of the United States is, by this bill, to be clothed with power to call out the militia in such numbers as he thinks proper, and to limit their service as he chooses, to three years or during the war—for this bill leaves it unlimited—I say, if we adopt a system to allow him to draft the militia and fix the time of their service, and to say that they shall serve for that time, it is conscription. It is drafting men without limitation, entirely at Executive control, in the numbers that he pleases and for the time that he pleases. That is conscription. I do not suppose that what I personally think about it is a matter of any sort of consequence, except as to one vote, but I want the proposition put into plain English and distinctly understood. I shall vote against any proposition of this kind, and I do it because it is conscription unlimited in time and unlimited in numbers. It is a power that I will vest in no President, and I follow the example of a period when even our capital was taken by a foreign enemy, and then Congress would not do it.

I shall move, if no one else does, in due time, that the period of service shall be limited, not exceeding six months, and in that I shall follow precedent and early experience. The militia, when called out, should be called for a campaign, no more. That was the experience of the war of 1812, and that precedent was founded on the experience of the Revolution. They never made their drafts of militia during the Revolution except for a campaign, and six months cover a campaign in most of the country. If the time were fixed even at a year, it would relieve the bill very much from the difficulty which is in my mind; but six months I think the bettef period, according to our early practice. It is hardly worth while to call out the militia during the winter, to spend their time in winter quarters, when they are of no use. When you call out the militia, you call them on the ground that they can be of immediate relief and use; and if so, you should call them during an active campaign early in the spring, and relieve them in the fall. They did so in the Revolution; they did it in the last war with England. Personally, I went out in the month of June, and returned in the month of December.

There seems to me to be some confusion about another matter. This bill provides that when the militia shall be called out, they shall be organized as volunteers are organized, and the officers appointed for them by the General Government.

Mr. WILSON, of Massachusetts. No; they are to be organized the same as the volunteer force called out last year. The regimental and company officers are commissioned by the Governors of the States.

Mr. COLLAMER. The proposition now pending, as I have it before me in print, provides in the first section that colored people shall be a part of the militia.

Mr. GRIMES. No; that has been substituted by another provision.

Mr. COLLAMER. What has become of the one which I have before me?

Mr. GRIMES. It has been withdrawn.

Mr. KING. The Senator from Iowa adopted the first two sections of a bill I offered and withdrew the section he had offered, which will explain it fully to the Senator from Vermont.

Mr. COLLAMER. When the militia are drafted, as I understand, they are drafted with all their officers. For instance, if you want enough from Massachusetts to make a brigade, the order goes for a brigade, including its general, and all the drafts are made of all the necessary officers all the way down. The militia are to have their own generals as much as they have their own colonels. I am not now talking of volunteers. Volunteers come out in modern times by regiments, the officers of which are commissioned by the Governor, and the general officers appointed by the President. But in relation to the militia, the idea that they can be organized, as is suggested by the last section of the bill, as volunteers, will not do. If you draft the militia, they come with all their officers, generals and all, according to the Constitu-

tion. You cannot, therefore, undertake to organize them by way of appointing generals for them, as you do for volunteers. If that is what is meant by the provision, it will not do. I have not had time to prepare amendments, and I do not know exactly where they are needed, but I do see that there are these difficulties which should be provided for in the bill.

I now come to another topic, and that is the second section of the amendment proposed by the Senator from Iowa. The first section provides that the President may receive into the service of the United States, for the purpose of constructing intrenchments or performing camp service, and so on, people of African descent, and that they shall be enrolled and organized under such regulations consistent with the Constitution and laws, as the President may prescribe. I have no objection to make to that, though I do not wish to leave it precisely with that statement. I never could understand, and do not now understand, why the Government of the United States has not the right to the use of every man in it, black or white, for its defense, and every horse, every particle of property, every dollar in money of every man in it. That is the eminent domain. The details of laws are only the mode of carrying the power into effect; but as to the power itself, I cannot conceive that there is any doubt; indeed I do not know that anybody has ever really suggested any. As to the using of colored men, that is entirely a question of expediency, whether you need them, whether you can use them to advantage; and that depends on so many contingencies that I have always supposed the President, the generals, the men who are managing the war, actually engineering it along if you please, would lay their hands upon and use all means and appliances to that end which they found necessary. If gentlemen think it is any better to put it into a law that the President may do that, if that will help the matter, I have no sort of objection.

Mr. WILSON, of Massachusetts. It is necessary.

Mr. COLLAMER. Then I have no objection. It is a mere detail of a mode of getting at it. I have not much to say about my confidence in colored men making good soldiers. I do not know much about it. I can only say that we did use them in the last war with England. I saw very nearly one whole regiment of them in the service of the United States in 1812-13. I cannot exactly say that I served with them, though I was very near them.

The second section of the amendment provides that when any man or boy of African descent who, by the laws of any State, owes service or labor to any person who during the present rebellion has borne arms against the United States or adhered to their enemies by giving them aid or comfort, shall render to the United States any such service as is provided in the preceding section, he, his mother, and his wife and children, shall forever thereafter be free, any law or usage to the contrary notwithstanding. I have a word to say about that. I am constrained to say, whether it is to the honor or dishonor of my country, that, in the land of slavery, no male slave has a child; none is known as father to a child; no slave has a wife, marriage being repudiated in the slave system. This is the condition of things; and wonderful as it may be, we are told that that is a Christian institution!

Mr. WILSON, of Massachusetts. A Christianizing institution!

Mr. COLLAMER. It is said to be a Christian institution, sustained by, countenanced by the system of Christianity! That is what is claimed. Mr. President, if I understand anything about the philosophy of Christianity, I view it to be a divine revelation, condescendingly made to us from the Supreme Being, and shaped to us so as to address itself to us in our social capacities.

It is said to us—God says to us: "Son, give me thy heart." He says, "As a father pitieth his children, so God pitieth those that fear him." He says that "he is more ready to give good gifts to them that ask Him, than earthly parents to give gifts to their children." He tells us to address Him as "our Father which art in heaven." Now, sir, can we not see in all this, that it is addressed to us in infinite condescension to our social relations. It is a revelation only to them who understand those relations, and if a man can be found on earth who does not understand those relations, to him it is no revelation, it is a dead letter. We come, then, to a mass of people in this country—four millions of them—among whom no child knoweth his father, and all this revelation addressed to him in the filial relationship of a child to a parent is a dead letter. When he is told "as a father pitieth his children, so God pitieth those that fear Him," he may say, "I never knew a father; I do not know what you mean by a father giving gifts to his children; I have no father; I know not how to address God as my Father in heaven, who have not a father upon earth, and never have had." And yet we are told that it is a Christian institution! So, too, sir, in condescension to our limited faculties, the relationship between the Church and its Head is likened to that of the bride and the bridegroom, a thing unknown, unrealized, incapable of being understood by four millions of our people. And yet it is a Christian institution! I speak of the system according to its theory and what that makes it. Christianity with the connubial relation left out, is a paradox. Such is the theory of the slave system, and so far as that theory is practically realized, so far it renders the slave incapable of apprehending or appreciating the divine revelation. He is only saved from such consequence to the extent that *practice* is in violation of the theory.

Mr. President, I do not wish to pursue this point any further. I have simply to say that these people have no wives, they have no children, and this provision in this section of the amendment is, to all practical purposes, a dead letter.

The PRESIDING OFFICER, (Mr. ANTHONY in the chair.) The question is upon the first section of the amendment, as amended.

Mr. TEN EYCK. I desire to propose what I regard as a verbal amendment to this amendment; it is to strike out, in lines four and five, the words "any military or naval" before "service." I do not think the striking out of these words will affect the sense; or, if it has any effect, it will strengthen the meaning of the section.

Mr. KING. We may as well meet this question directly, and see whether we are prepared to use for the defense of our country the powers which God has given to it; the men who are willing to be used to preserve it. I hope the Senate will not strike out these words, which might, by construction, prevent the use of these persons for military purposes. They are now in the Navy, serving our guns there; and why should we not be at liberty to use them in the Army? It has been said that there is no necessity for the passage of a bill of this kind, that the power exists fully, not only for the general purposes here described, but to enlist them as soldiers, and that it is a matter of discretion. The difficulty is in the prejudice with which a great many minds take up and contemplate this question. For my part, I am prepared to express my opinions upon it. The President, in his message at the beginning of the session, referred much of all these subjects to Congress for its opinion. Congress has heretofore refrained from acting on this point. I should have been prepared to act at a much earlier day, but I think the time has come when we may at least express our opinion. If the Senator from New Jersey persists in his motion, I shall want a division on it. I hope he will consent to let the section stand as it is without pressing his proposition.

Mr. TEN EYCK. I am almost afraid to say that I fear the Senator from New York does not understand the scope and effect of my proposed amendment.

Mr. KING. I may not. I shall be happy to do so.

Mr. TEN EYCK. I do not think my amendment will have any such effect as he seems to deprecate. It will simply have the effect of relieving this section from one or two expressions; but it will not at all affect the meaning or effect of the section.

Mr. SUMNER. Will the Senator be good enough to state it again?

Mr. TEN EYCK. My proposition is, to strike out the words "any military or naval," before "service;" so that it will read:

That the President be, and he is hereby, authorized to receive into the service of the United States, for the purpose of constructing intrenchments or performing camp service, or any other labor or service—

Without descending to particulars—

Any other labor or service for which they may be found competent, persons of African descent; and such persons shall be enrolled and organized under such regulations, &c.

If it has any effect at all, you would hardly, perhaps, expect me to be proposing an amendment which was giving additional strength and scope to this proposition; but if the section be amended as I propose, it will be really stronger than it is now.

Mr. KING. Mr. President, our opinions are expressed and our wishes accomplished through a great many modes of action and forms of expression. The Senator states, as I understand, that his object is to enlarge the scope of action of these persons who may be thus employed. In my judgment, the direct effect is to strike out these two purposes for which these persons may be employed and used. There are enumerations of service, and in my opinion the labor in the intrenchments, the camp service, and the various other services for which they may be employed, ought to be enumerated. I think they should go into the service to relieve our troops from carrying baggage, and a great amount of labor which is imposed on the troops. Our soldiers should be left free from the performance of these fatiguing impositions of labor that are necessary in a camp and in marches, wherever it can be done. If that is all these people are wanted for, I am content; but I would also expressly declare that they may be used for military and naval purposes. That is the question upon which doubts exist, and upon which differences of opinion exist. Nobody would object, probably, to their cooking, and yet but a few of them are used in that way. One of the difficulties in this matter is that these persons, when they come to our tents and our camps for their own safety and security—and everybody has a right to look to that—are now uncertain, and we have had no such general declaration from any department of the Government as can give accurate certainty to them as to what is to be their future fate. I think it is time that we had said to these people who will take up their arms, or who will take up their shovels and their spades and their hoes, or who will buckle the knapsacks of our soldiers on their shoulders and carry them, that they who will come to do this service shall be free. The time has come to say that, or to say that it shall not be so. Let us be men, and treat these people as men, and let us understand where we are, and what is the decision of this country upon these subjects.

We have, in my judgment, nothing to fear from our enemies on account of the expression of our views on this point. All we have to fear is from timid counsels that hesitate to pronounce what are really the sentiments and opinions of the country. The justice of God must be sustained by a government and its people, or it cannot stand. What is just and right in this matter? Let us not fear to say it; let us not fear to proclaim it; let us not go behind any form of words by declaring that this thing is not necessary; that this power exists; that it is already in the power of the President to do this. The President has not done it. I find no fault with him; I make no complaint; and I should not have made this allusion, excepting that it is presented here as an obstacle to an expression of our sentiment on the subject. If the Senator from New Jersey persists in this amendment, I regard it as one which, by its very effect and construction, declares it as the judgment of the Senate that these military and naval purposes ought not to be enumerated or mentioned among the purposes for which these persons may be employed. The Senator may put in "all other services," if he pleases; he may put in any words enlarging it to his heart's content; but I do not want to restrain it.

Mr. TEN EYCK. It is hardly worth while for one to take up the time of the Senate with matters about which he himself may be solely interested, or to correct a false impression stated with respect to his course. I am not in the habit of doing that. The Senator from New York shows some little degree of warmth—he will pardon me for saying so; he seems to assign a motive to me.

Mr. KING. The Senator, I trust, will excuse me. I did not intend to do that; I think it would be entirely unparliamentary and out of order to do so; but I did speak of the construction of this language, and what the Senator avowed himself to

be the object. I understood him to state that his motive was to enlarge the section; but I certainly imputed no motive to the Senator, and I shall not.

Mr. TEN EYCK. The Senator did misunderstand me when he construed my language to mean that my sole object was to enlarge the effect of this section. I had no such object. I stated, however, by way of explanation, that the only effect my amendment could have would be to enlarge it.

Mr. KING. Exactly.

Mr. TEN EYCK. I went further, and said that perhaps the Senate might be a little surprised that I should take such a position, as I have been accused here and elsewhere of rather too much conservatism, and being rather slow, and not quite up to high water mark in the judgment of certain gentlemen whose opinions and whose judgments are of course much better than my own.

Sir, I do not think it is necessary to specify all the services that these men may be called upon to render; nor do I believe that the power of the President or the power of the Government will be crippled in the necessary use and employment of the persons referred to, by the adoption of my amendment. If the Senator from New York had taken the pains to cast his eye upon the other sections of this proposition, and in fact upon the few following lines of the first section, he would see that the amendment which I propose would have no effect whatever in depriving the President or the military power of the use of these persons in any branch of the public service in which they see fit to use them. If the striking out of these words would have that effect, the following words in the section would place another construction upon the kind of service which is to be rendered. I claim the indulgence of the Senate for a moment while I read the section as I propose to amend it:

That the President be, and he is hereby, authorized to receive into the service of the United States for the purpose of constructing intrenchments, or performing camp service, or any other labor or service for which they may be found competent, persons of African descent; and such persons shall be enrolled and organized under such regulations, not inconsistent with the Constitution and laws, as the President may prescribe.

Then in an amendment which has been proposed and which I apprehend there will be no difficulty about passing in the Senate, it is provided:

And be it further enacted, That all persons who have been or shall be hereafter enrolled in the service of the United States under this act, shall receive the pay and rations now allowed by law to soldiers.

I regret that the proposition I submitted to the Senate should have led to any consumption of the time of the body. I frankly say that my object was to relieve this section of a little of its asperity; and if it had any other effect it left it stronger in fact than the words as proposed by the committee. There can be no such construction put upon it as the Senator from New York seems to anticipate, that these people may not be used with arms in their hands. If any such construction was attempted to be put upon it, it would be a forced and improper one, one which would not be justified by the law or by the fact, and the adoption of any such amendment by the Senate could not authorize the Executive, the Commander-in-Chief, to put any such construction on it as that he should not use those persons in the way which may become necessary for the public service. Neither have I taken the position, nor do I suppose any person connected with the Administration has taken the position, that a man or boy of African descent who has served the country in any of the modes pointed out, belonging to a rebel, or where a rebel claims his services or his labor, should not be entitled to his freedom. I know of no such person, at least on this side of the House; and if the Senator's warmth or allusion was meant in the slightest degree to reach this quarter, I say most respectfully he has mistaken the man to whom he made reference.

If it should be that the confiscation bills which have been proposed and which are now undergoing the examination of a committee of conference, should pass, as I trust one of them will pass in a modified form, and as I have heard no objection to the eleventh section of the confiscation bill as proposed by the select committee of the Senate, there will be sufficient and ample authority on the part of the President, conferred upon him by that section, to use these persons in any way to put down and suppress the rebellion; and as I believe that will become a law, it was hardly necessary, in my view, to pile statute upon statute in relation to the same subject; still I did not mean to raise any objection to this first section, but I thought it might be benefited in its form and in its character by striking out these words.

Mr. KING. My relations with the Senator from New Jersey, during all the time we have been acquainted, have been such that he certainly cannot suppose I designed to say one word unkindly of him. He knows the esteem and the respect I have for him; and although we may not on all questions entirely agree, we very nearly do so on all that are of any importance, and where we do not, we differ with entire respect for each other. I have felt it. The Senator suggests, in the kind manner in which he has presented his views, that one of the purposes or one of the effects of his suggestion, at least, would be to relieve this proposition somewhat of its asperity.

Now, Mr. President, in the passage of our laws, I would not have any doubt or cloudiness or ambiguity, lest they should be regarded as being expressed with asperity. Certainly our friends, those on our own side, can have no trouble upon this subject; and the time has come, I think, when we should speak so plainly that our enemies can understand us, whether they get mad about it or not.

I have done talking in such a manner as to avoid giving offense to our enemies in this matter. On this question of irritation, I told the Senator the other day, I believe, that I should relate a fact which occurred here in March, 1861. I think it was the captain of the watch here at the Capitol who came and consulted about getting permission to omit during the session of the Senate to hoist the flag on the top of the Capitol; and when he was asked what he wanted to omit that for, he said he feared it might be supposed that it might save labor and trouble, but he really suggested it because it hurt these people about here to look at it, [laughter,] to see the flag from the top of the Capitol. [Laughter.] I had not done much, but I wrote a letter very promptly to the Secretary of the Interior stating the fact, and saying that I did not care whom he appointed, but I wanted that man removed. He was removed, and within ten days was with the enemy at Manassas. His name was Dunnington. Part of those facts came within my own personal observation, though, of course, the fact that he was in the confederate army within that time, I do not know personally.

This idea that we shall refrain from doing what is clearly right and proper, that we shall avoid using direct and clear expressions lest it may be unpleasant to somebody's ears, is, I think, hypercritical in reference to the passage of a law. We have got to take off our gloves and our coats and go at these people in earnest.

Mr. TEN EYCK. One single word. The allusions of the Senator from New York in reference to me were of the kindest character and most grateful to me; but if he had any design to run a parallel between the case of the person who had a tenderness about the feelings of others [laughter] and the course I have pursued, I have just in all kindness to say to the Senator, that if he is disposed to bear the standard of his country in the face of the enemy—although it is not a fair proposition, he being my senior and, perhaps, affording broader scope for danger, [laughter]—he will find me ready to carry the standard of the country as far and as near the face of the enemy as he, under all circumstances. Sir, there is no fear on my part of the enemy, and there is no boast on my part. I am ready to march up to all essential positions that my duty here or elsewhere may require at my hands. I do not know, nor have I the least idea that the Senator meant to make an allusion of that kind, but still it occasioned a smile, and it occasioned the direction of some eyes in this quarter. I may have been too vain to suppose that I was noticed when I was not.

Mr. KING. The Senator will allow me to say that I have as entire confidence in his fidelity and in his loyalty as I have in my own, of which I do not assume to speak; but I have not any doubt about it.

Mr. GRIMES. The debate on this subject seems to have been very satisfactorily closed; and I now raise the question of order that the motion of the Senator from New Jersey is not admissable at this stage of the bill. The words which he proposes to strike out have been put in in committee, one of them at my instance, the other on the motion of the Senator from Ohio; and they cannot be stricken out, as I understand, until we get into the Senate.

The PRESIDING OFFICER, (Mr. ANTHONY in the chair.) The amendment of the Senator from Iowa has not been agreed to in the committee, as the Chair understands.

Mr. GRIMES. I do not know how the Chair understands it; but the Senator from Ohio will bear me witness that it was agreed to yesterday in committee. The word "war," before "service," was stricken out, and the words "military or naval" inserted.

Mr. KING. The words, as the Senator suggests, were modified by authority of the mover, and not by a vote of the Senate; but that makes no difference. It was a change of the original language from the word "war" to "military or naval."

The PRESIDING OFFICER. The Senator from Iowa is right. The point of order is well taken. The Chair was mistaken, because the amendment was printed as it had been amended, and not as it was originally introduced. The amendment of the Senator from New Jersey, therefore, is not in order. The question now is on the first section of the amendment proposed by the Senator from Iowa.

Mr. DAVIS. I move to amend the section by striking out the words "or any military or naval service for which they may be found competent;" and on this amendment I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. DOOLITTLE. Of all things, I dislike ambiguity in any law passed by Congress. I desire that it shall state clearly what is intended, and no more. As to the employment of either Indians or negroes in the service of the United States, the course pursued by the commanders of the rebel forces against the Government of the United States, makes it perfectly justifiable in us to employ them in any capacity for which they are competent in the progress of this war. They have, beyond all question, employed Indian savages as a part of their armed forces. We should be perfectly justifiable in authorizing the President to employ Indians against the rebels. So, too, in relation to the employment of negroes. We have been informed, and I think we cannot be mistaken, the traitors in arms against us have employed negroes not only upon intrenchments and in camp service, but have organized and put arms in their hands to shoot down our sons and our brothers on the field of battle. Such being the fact, it is justifiable on the part of the Government of the United States, by every rule of honorable warfare, to authorize the President, if in his judgment it shall become necessary, to employ them, and even to arm them.

Sir, three opinions prevail in this body in regard to the war power. One opinion maintains that the President himself, under the Constitution, has the whole power in his hands alone during war, and therefore all legislation is unnecessary because the President has the power now. There is another opinion here, which maintains that the President is not clothed with any military discretion upon the subject which Congress may not control, even in the conduct of the war. There is a third opinion, and in my judgment, the sound one, that while Congress may by law declare what powers may be exercised by the President in war, he is clothed with the constitutional power to decide when the military necessity has arisen for the exercise of the power thus given by act of Congress. If he has the power, as those who maintain the first opinion contend, already, this act will not change, affect, or enlarge the power which he now possesses. The act would be merely declaratory. But if he has not the power without an act of Congress, this act will clothe him with that power, when in his judgment it becomes a military necessity to employ colored men to put down this rebellion, as an armed force or otherwise. I do not believe that the honorable Senator from Kentucky [Mr. DAVIS] can object to that. If it comes to be a military necessity, for instance, in the State of South Carolina, in order to put down this rebellion, to employ, ay, to arm every man in it, white or black, I do not think he would resist their employment in any capacity by the President for which they are competent.

It will be borne in mind that the main object of this provision is to employ these persons as laborers upon intrenchments and in camp service, to lighten the burdens and save the lives and health and strength of our brave and patriotic soldiers. The further power of arming them is in the discretion of the President, where it can be most safely lodged. They were employed to some extent in the Revolution and in the last war with Great Britain. They are employed by the wicked leaders of this rebellion against us now. While I would be the last to sanction a departure from the rules of civilized warfare, we cannot be condemned in our own consciences, nor before the civilized world, if we employ the same class of persons to fight against the rebels which they employ against us. If it be wrong, they alone are guilty. We have borne and forborne. They have sown the wind; they may reap the whirlwind.

It has been sometimes objected that some of us on this floor have not gone as far on the subject of confiscation as some other gentlemen, because, in the view we take of the Constitution, that instrument expressly forbids the forfeiture or confiscation of the real estate of traitors beyond their lives. It is in vain that gentlemen, by calling these traitors public enemies in war, attempt to make them anything else than traitors. Treason consists in levying war against the United States, and those who do so are traitors, and nothing more or less than traitors. The very point decided by Judge Swayne was, that rebels in arms against the United States are not enemies within the meaning of the Constitution, but traitors, and nothing else. Congress is forbidden to forfeit the estate of a traitor, except during his life, by attainder of treason, which at common law reached and forfeited his real estate only. I read the authorities bearing on that question on a former occasion, and no gentleman on this floor has offered a single authority to the contrary. The authorities which I quoted were conclusive. They demonstrated that at the common law the real estate of the traitor, which he held in his own right, or over which he had the power of disposition, was the real estate and the only real estate liable to forfeiture, and that it was expressly to limit the forfeiture of that during the lifetime of the traitor that our fathers, in making the Constitution, inserted those words, "no attainder of treason shall work corruption of blood, or forfeiture, except during the life of the person attainted."

As to personal property, including slaves, they are the subjects of capture in war, and Congress is expressly authorized to make rules concerning captures on land and water.

But the title passes from the owner not by the enactment of the law, but by the capture, and that until the President by his military forces can put down the armed forces of the rebels, and get possession of their country and make the captures, the law of Congress will have no more effect in putting down the rebellion than in putting down the rebellion in China. If a law of confiscation would have such marvelous results as some suppose, why not by act of Congress confiscate the powder and ball and muskets and cannon of the enemy, and that would end it at once. Sir, it needs something more than paper shot, acts of Congress, and impassioned speeches of congressmen. I will not, however, repeat these views nor dwell upon these authorities at this time.

But, sir, I feel called upon to notice a remark made the other day by the Senator from Ohio, [Mr. WADE.] He denominated those of us who hold to these opinions, referring to myself and others, "weak brethren." Weak in our disposition to prosecute this war against the rebels? Weak in our sympathies for the loyal cause! As if we had a desire to cover up traitors' property and cover up treason? Let me tell that Senator that the most efficient means to put down the rebellion is not the enactment of unconstitutional laws by Congress, but by marching our military forces upon the rebel enemy; that nothing will do it but ball and bayonet. Nothing can overcome war but war. War is an appeal to the god of forces, and we must bring force against force. It is not by speeches here, nor resolutions, nor acts of Congress that this rebellion can be crushed. It is to be put down at the point of the bayonet. And if from the beginning of this session the only word of Congress had been "men and money," and of the Executive "forward march, charge bayonets, a little more grape," and nothing else, we should be nearer the end of the rebellion than we are at this hour. We have spent too much time and wasted too much energy in finding fault with each other, in criticising our generals in the field, and criticising and thus weakening the confidence of the country in the Administration, when we ought to have been girding up the whole energies of our souls to sustain it; and especially to sustain the President, upon whose heart and head there is a load to-day which never rested upon a President before. We ought to uphold his hands, strengthen his heart, speak to him words of faith, friendship, and courage. We must stand by him or all is lost, so long as he is the President of the United States and holds the sword of its power. During this gigantic war which demands all our power, he that is not with him is against him; and the man or the party that fights not for him fights against the country.

Sir, this is the spirit I would infuse into every American heart. In this day of our trial, in this hour of blood and agony and tears, when the hearts of this people, disappointed in their expectations before Richmond, are stricken, and the hopes of timid men begin to fail, it is no time for Senators of the United States to be standing here publicly denouncing the Administration or denouncing the general in command. Now is the time for men of real courage, men of abiding faith in man and truth and God, whom temporary reverses do not cast down, and dangers do not appall, to speak to the country, to the President, and to the civilized world words of encouragement and good cheer. Let them know that in the midst of apparent disasters, in spite of threatened intervention from abroad, we the representatives of American States and of the American people, standing fast by the Constitution and the Union, here and now renew our pledge before high Heaven, and swear by Him who liveth and reigneth forever, that we will put down this rebellion, we will sustain this Constitution, and preserve this Union forever! [Applause in the galleries.]

The PRESIDING OFFICER. Order!

Mr. DOOLITTLE. This is the word which I would speak, if I had the power, to the hearts of all American citizens, and speak it now.

Mr. WILSON, of Massachusetts. Will the Senator allow me to ask him a question.

Mr. DOOLITTLE. Certainly.

Mr. WILSON, of Massachusetts. I want to ask the Senator from Wisconsin this simple question: what has the Administration asked of the American Senate that has not been given cheerfully and freely by the votes of all of us to carry on the war?

Mr. DOOLITTLE. I will answer the honorable Senator. What the Administration has asked of this Senate which it has not had, as it ought to have had, is its sympathy, its words of encouragement and support. Instead of that, it has often received speeches denunciatory in their tone on this floor, denouncing the policy of this and the policy of that, when the President's head and heart have been aching and almost crushed under the load of these great responsibilities, which God in his providence has thrown upon him. I complain of that. But what is past is past; let us hear no more of it. I do not say that you have not voted men and money. They have been voted with a lavish hand; but he wants more, he wants the hearts of the Senate to sustain him. Let our hearts go out towards him, to fight with him and fight for him.

Mr. WILSON, of Massachusetts. Allow me to ask the Senator another question. The Senator from Wisconsin is taking a very high position in lecturing the Senate of the United States in the way that I think he is doing to-day. I want to know who deserves that lecture; what Senator here has failed to give every vote and give his heart and soul to support the President? I am sure that the history of the world can furnish nothing like the forbearance of this Senate in criticising either the President, or the Cabinet, or the generals in the field. Now and then there has dropped out a word of that kind, but it has been very seldom. So little has been said, and so warmly and universally has the President been sustained by the counsel and the advice and the hearts of the Senate, that the Senate of the United States, after seven or eight months of toil here, does not deserve what seems to me to be a rebuke.

Mr. DOOLITTLE. Mr. President, I am not lecturing the Senate. I do not intend to do so, or to assume the right to do so. I am simply speaking for myself. I do not attempt to lecture my friend from Massachusetts. There is no more faithful, devoted, patriotic, and laborious gentleman in this body. He has almost worn himself out this session in the service of his country. What I say, and I say it before high Heaven, is that the time has come when the hearts of the American people and the American Senate and the American House of Representatives should be united as one heart; there should be but one sentiment, but one voice, and we should stand together shoulder to shoulder as one man fighting for the country and for the Administration. That all we do should be to unite, and not to divide the country. Let us understand that it is not by vaporing speeches here nor by acts or resolutions of Congress, it is only by the bayonet, it is only by calling men into the field and crushing these traitors in arms that the rebellion is to be put down, and in no other way.

But, Mr. President, I do not desire to take up further time. I have expressed what I desire to say in relation to this matter. As to the proposition pending, I will only say I prefer that the language should be entirely unambiguous, that the provision should stand as it is; and as it leaves the determination of this military discretion in the hands of the Executive, where by the Constitution it belongs, I shall support the proposition.

Mr. WILSON, of Massachusetts. I agree to every word the Senator from Wisconsin says, when he makes the appeal to the Senate, and to both Houses of Congress, to unite heart and hand in raising men and raising money in supporting the Administration to put down this rebellion. So far as his remarks go to us as an appeal for unity, for vigor and energy, I respond to every word of them; but it did seem to me that there was something in the Senator's remarks that appeared to criticise and to rebuke the Senate.

Mr. DOOLITTLE. If my honorable friend will allow me to say a single word, perhaps I can explain a little more to his satisfaction. I think that in the discussion of questions here, a somewhat different rule prevails, or should prevail in time of war. I do not care so much about what is said when we are everywhere perfectly successful and all is going on quietly in the country; but the discussion which took place the other day, and which has taken place to-day in relation to the course of the President and General McClellan and the army before Richmond, I deem very unfortunate. It may prejudice us with foreign Powers, and may strengthen our rebel enemies. It may weaken the confidence of our people in the Administration. Besides, sir, it is the ordinary mode in which a political enemy attacks a party in power. These resolutions of inquiry apparently imply censure, and are generally introduced to find fault. I object not so much to the resolution itself as to the temper and tone of the debate accompanying it; it may, perhaps, have impressed me more than it ought, and I may have spoken more warmly than I ought to speak; but I certainly had no intention, as the Senator from Massachusetts supposes, to lecture the Senate or any Senator.

Mr. HALE. I do not mean to detain the Senate, but I want to say that when this body and when Congress is called to account by public opinion, by the impartial judgment of history, a want of compliance with the wishes of the Executive will not be found in the bill of indictment. On the other hand, I think their sin will be found in an opposite direction. In my humble judgment, if gentlemen on this floor have committed any transgression, they have committed it in forgetting their constituents in the great observance of the wishes of the Executive. Our armies may be victorious in the field, but we suffer a calamitous defeat in the trampling under foot of the great landmarks and bulwarks of constitutional liberty. While I am willing to go as far as he who goes the furthest in supporting the Administration in a vigorous prosecution of the war, in doing everything that is necessary to vindicate the honor, maintain the liberties, and preserve inviolate the integrity of the Government, I will not forget that it is a republican, a constitutional Government that I am sent here to protect and maintain and defend. I have sat and held my peace. Again and again have I been silent when my convictions would have prompted me to speak, and to speak

in a tone that might possibly have subjected me to the censure which I think the honorable Senator from Wisconsin has administered to the Senate. I have simply risen to say that none of that reproach, none of that reproof, do I take as lying at my door; and if anybody should undertake to reprove me for not having been more prompt and more bold in the maintenance of the great landmarks of constitutional liberty and constitutional law, I would not undertake to plead "not guilty" to that so fully and so unqualifiedly as I do to the other charge.

The PRESIDING OFFICER. The question is on the motion of the Senator from Kentucky to amend the amendment by striking out the words "or any military or naval service for which they may be found competent."

The question being taken by yeas and nays, resulted—yeas 11, nays 27; as follows:

YEAS—Messrs. Carlile, Cowan, Davis, Henderson, Kennedy, Powell, Saulsbury, Stark, Willey, Wilson of Missouri, and Wright—11.

NAYS—Messrs. Anthony, Browning, Chandler, Clark, Collamer, Doolittle, Fessenden, Foot, Grimes, Hale, Harlan, Harris, Howard, King, Lane of Indiana, Lane of Kansas, Morrill, Pomeroy, Rice, Sherman, Simmons, Sumner, Ten Eyck, Trumbull, Wade, Wilkinson, and Wilson of Massachusetts—27.

So the amendment to the amendment was rejected.

Mr. HENDERSON. I move to amend the section by inserting the word "free," before "persons," in the sixth line, and also by adding after "descent," in the same line, the words "and also such persons of African descent as may owe service or labor to persons engaged in the rebellion;" so as to make the section read:

That the President be, and he is hereby, authorized to receive into the service of the United States, for the purpose of constructing intrenchments, or performing camp service, or any other labor, or any military or naval service for which they may be found competent, free persons of African descent, and also such persons of African descent as may owe service or labor to persons engaged in the rebellion, &c.

I see an evident disposition, on the part of the Senate, to adopt the proposition before them. It has been frequently said here that nearly all the slaveholders in the country are disloyal. I disagree with gentlemen in that opinion; but if that be true, this will include all the slaves. If this amendment be adopted, I desire to offer another, to come in at the end of the section:

Provided, That all loyal persons entitled to the service or labor of persons employed under the provisions of this act, shall be compensated for the loss of such service during the period of such employment.

I think we owe that much to the loyal men in the border slaveholding States. I think that gentlemen ought to yield something to those representing the border slaveholding States. Gentlemen are not aware of the extreme sensitiveness on this subject there, and it does not arise so much out of the loss of service and labor of slaves, as from the general idea that these slaves will be turned loose.

Mr. COLLAMER. Allow me to suggest to the gentleman that the provision before us makes the black man free if he does the service. The amendment which the gentleman suggests should be, not compensation for the time the man is in the service, but compensation for him altogether.

Mr. HENDERSON. I do not expect that the second section will be adopted. I desire to state a fact in reference to affairs in Missouri. We never have objected there to the employment of slaves. Last December, when the north Missouri railroad was torn up from the town of Warrenton almost to the junction, a distance of a hundred or a hundred and twenty miles, the slaves, with their wagons and teams, were taken by the State military authorities, and were used in the repair of the road for some considerable length of time; indeed, until the road was fully repaired; and so soon as that was done, the slaves were sent back to their masters, with their wagons and teams. The calculation is, that if their masters are disloyal, they will not be paid; if they are loyal, they will be paid. That is the course that was pursued there; and I can say to gentlemen that if a different course had been pursued in the State of Missouri at that time, I conscientiously believe, whether they think so or not, that we should have had ten times more trouble than we have had in that State. There is an aversion, a very great aversion, amongst the people of the slaveholding States, to turning loose the negroes amongst them as free men. I do not think that it is absolutely necessary to make every slave a free man who does service under this law, as you intend to pass it. That is not important; and much less should you undertake to make the whole family free. Here you propose to give the President power to enlist into the service of the United States one slave of a family. He may take the slave of the most loyal master in the State of Missouri; and Senators will remember that there are numbers of loyal slaveholders in that State; men who have been carrying the flag of their country from the earliest beginning of this rebellion, who have left their homes for the battle-field, leaving their slaves behind them, many of whom are in the service of the country to-day, and will continue there until the rebellion is over. I am very well satisfied that such legislation as this will provoke resentment and ill-feeling.

It is with a great deal of diffidence that I say a single word on that topic, because gentlemen laugh at the idea of irritation. I know that a great many rebels talk about irritation. It is a very familiar phrase with them. They are accustomed to say, you must not do this, and you must not do that, or you will irritate the people of the country. I have never paid much attention to that idea of irritation, but here is a proposition of injustice; I say it is absolute injustice. One slave may run away, may be absent from his master, and may be enlisted in the service of the United States in another part of the country, and yet here is a proposition that frees the whole family of that slave if he is employed by the United States. It may be ascertained who is his mother; that is very easy to ascertain; and I suppose the children born of the same mother would be brothers and sisters; and although the father may not be known, the mother and the brothers and sisters may be, and therefore it will liberate the whole of them; and this may be done with the slaves of men who have, from the beginning of the rebellion, been engaged in the service of the country, who have lost limbs in its service, many of whom, in all probability, will lose their lives.

Mr. COLLAMER. It does not free the brothers and sisters.

Mr. HENDERSON. I so understood; but perhaps the Senator is right. On reflection, I think the language is confined to the mother and wife and children. I simply rose to state that it seems to me this provision ought to be extended only to giving the President power to enlist in the service of the United States, if you will have it so, free persons of color and the slaves of rebel masters. The strong probability is that in the seceded States two thirds of the slaveholders, perhaps three fourths, or even nine tenths, and, in fact, nearly all the non-slaveholders have given aid and comfort to this rebellion. The fact is, that a *de facto* government has been established there so long that men who were at first unwilling to yield obedience to that government, who put it off for six or nine months, have finally been compelled to yield. It seems to me, therefore, that by confining the proposition to free persons of color and the slaves of rebels, it would have a pretty broad sweep. In that way you can get as many of these persons into the service as will be needed; I think a larger number than the President will ever be willing to enlist. It is not necessary to go into this operation in any of the border slaveholding States, but if it should be found necessary to take the slave of a loyal master, why not pay him?

Mr. President, we here are not responsible for the institutions of the different States, and Congress ought not to hold itself responsible for those institutions, whether they be barbarous or not. I am no defender of the institution of slavery; it does not devolve on me to defend it. I find that it is an institution existing in the different States; I find it existing in Missouri; I find it existing in Kentucky, and I find numbers of loyal men in those States who have given the Government of the United States their money, their means, their blood, in the defense of this country. We not being responsible for the institution there, is it not better for us to recognize it as an existing fact? If we are bound, in order to preserve the Union of the States, to take the slaves of loyal men in these communities, why not pay them for them? If where you find slavery sanctioned by State law for which you are not responsible, you mean to set free the slave of a loyal master because that slave has done service for you, do so; but do not go before the country and say that you will pay for any other species of property that you take, and not for this. I know, as well as any Senator, and have always recognized, the distinction between slave property and other personal property; but will you go before the people and say that if a northern man has his guns taken from him he shall be paid for them, if military necessity should require you to go into a private arsenal in the northern States and take property, you will pay for it, and yet that you will turn your back upon the loyal men of the border slaveholding States and refuse to pay them for their property when you take it?

Mr. President, I will not be responsible for the consequences of such legislation. We gain nothing by shutting our eyes to it. We all know that man is a creature of feeling and of motive, and there will be found no advantage in such injustice. You recognize in the northern States as property some things which we do not recognize as such, but would I as a Senator refuse to pay for that which was recognized under your State constitution and laws and which it was necessary to take in the prosecution of the war? Would I deny you payment for it? By no means. I hope the amendment which I have proposed will be adopted. I think Senators might yield that much at least to the feelings of loyal men in the border slaveholding States.

Mr. KING. At an early period of this insurrection, we did not expect to have any summer campaign. We did not suppose that our Army would be carried into unhealthy places in a hot climate or in the marshes on the sea-shore, where they would be exposed to the diseases of that portion of the country. The necessity for such a measure as this did not exist in the beginning, and it was hoped there would not be any occasion for it; but the necessity has come, and with it comes the measure very naturally. I could wish that the Senator from Missouri—and I ask his attention—would waive his amendment to this section and move it to the next, which pertains somewhat to that subject. I will say to him in the frankness with which we should all speak on these measures, that I should regard it as very unfortunate indeed if there should be any limitation as to the slaves who might be taken on account of the character of their ownership. I would leave that wide and large; but there is this fact, which I here frankly declare, as he does, that if, under this provision, a black man, a slave belonging to a loyal man, should be received into the service of the country, I should suppose, as a matter of course, whatever the value, whatever the loss of that loyal man was by that act, would be made up to him just as much as if we took his horse. The Senator speaks of it as if that was not intended. The bill itself does not make provision for it, to be sure; but a disloyal man has no such right, and we leave that matter to be disposed of in the settlement and management of all these claims. There is no necessity for providing for it now. The general provisions of law secure that without any necessity for it here. I remember when the Senator from Ohio [Mr. WADE] brought in a bill for the seizure of all the railroads in the country, it contained a provision in relation to the payment for them, but the mode in which the payment should be made was stricken out by the Senate. There is no trouble about this matter. Whatever may be the rights of loyal people, they are and should be respected. I certainly should be one of the last, and I hope there would be nobody who would be one of the first to deprive a loyal man of his just rights under the laws anywhere. I would ask the Senator if he cannot waive this amendment. I should oppose his proposition anyway, as striking at what is really the vitality of this measure. If we are going into it we must go in so as to accomplish some result, and not with fettered hands.

Mr. SAULSBURY. I move that the further consideration of this bill and the amendments be indefinitely postponed, and on that I ask for the yeas and nays.

The yeas and nays were ordered; and being taken, resulted—yeas 9, nays 27; as follows:

YEAS—Messrs. Carlile, Davis, Henderson, Kennedy, McDougall, Powell, Saulsbury, Stark, and Wilson of Missouri—9.

NAYS—Messrs. Anthony, Browning, Clark, Collamer, Cowan, Doolittle, Fessenden, Foot, Grimes, Hale, Harlan, Harris, Howard, King, Lane of Indiana, Lane of Kansas, Morrill, Pomeroy, Rice, Sherman, Simmons, Ten Eyck,

Trumbull, Wade, Wilmot, Wilson of Massachusetts, and Wright—27.

So the motion did not prevail.

The PRESIDING OFFICER. The question is on the amendment of the Senator from Missouri, [Mr. HENDERSON,] to insert in line six, before the word "persons," the word "free;" and after the word "descent," to insert "and also such persons of African descent as may owe service or labor to persons engaged in the rebellion."

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

Mr. SHERMAN. I hope the Senator from Missouri will be satisfied to let this section stand as it is, and to make his amendment at the proper place in the second section. There is no reason why the slaves of loyal men should not be employed just as well as the slaves of disloyal men. The only question is what compensation should be made to the masters of slaves. If my amendment shall be adopted to the second section, the slaves of loyal persons will not be made free by the operation of the act, and the masters of those slaves will draw the compensation allowed by the Government for their services, and they would get their slaves back as a matter of course. If my amendment to the second section be adopted, this measure will not affect the loyal master, because he will receive the compensation allowed by law for the service of his slave, and the slave will be his at the termination of that service. If my amendment shall not be adopted, the Senator may move his amendment to the second section, just as well as to this section. There is no object in dividing this contest, and therefore there will be no real trouble about it. There is no desire, so far as I have heard any expression, to affect the right of any loyal master in the United States. It seems to be the general desire, so far as I know, to treat him fairly, not to deprive him of what is regarded by the local law as his property, without fair and just compensation. I shall, therefore, vote against this amendment to the first section, because I think all these persons are subject to military duty, and they ought to be allowed to be employed at the discretion of the President. It may be that the slaves of loyal persons are the very ones who would desire employment, whom the President would naturally employ in the first instance, and I see no impropriety in leaving them subject to military duty, as they are by the Constitution of the United States.

Mr. SAULSBURY. As the yeas and nays have been ordered on this question, I wish to say that I shall decline voting on it, although the amendment seems just; but as it recognizes the employment of negroes in the Army of the United States, and as I am opposed to the whole principle, I cannot vote for the amendment; neither can I vote for the original proposition.

Mr. HENDERSON. I simply desire to state that I, too, may vote against the bill when it is amended; I do not know about that. I am not so very squeamish about it, provided the loyal men of this country are protected. I have not much desire to so legislate here as to protect the rebels. I must confess that I have not much sympathy with them, and never have had, and, so far as my action here is concerned, I desire to represent as truly as I can the loyal sentiment of my State, and, so doing, to strike at the rebels in every way I possibly can. It is a mere question of policy in regard to this matter. I may be mistaken in policy, but I am satisfied of one thing—that I shall not attempt to fan any flame in my State in consequence of any legislation that may be consummated here in Congress. I shall defend your action as far as I possibly can, but under no circumstances will I ever defend the southern rebellion; and if the action here is, in my judgment and conscience, defensible, I am willing to make that defense in the State of Missouri; and I shall defend a great many things that I have voted against upon this floor; I shall defend before my people many things that I have not voted for here, because I differed merely in policy. If gentlemen differ with me in policy about the best means to suppress the rebellion, I certainly have not much complaint to make of them. I ascribe to them the same honest and conscientious motives which dictate my own conduct; and although they may adopt measures which in my heart I believe will do no good towards the suppression of the rebellion, theirs may at last be the best course of policy. I may be wrong as well as they. It really seems to me—and I will take occasion here to say it—that as a matter of policy I would not pass these amendments; I would have nothing to do with the question, because I believe the military authorities now have the power, and ought to exercise it, to bring into the service whoever may be necessary to put the rebellion down; and if the military commanders want to take slaves in the disloyal States, or even in the loyal States, be it so. No loyal man will complain of it; but he will complain if you enact laws which merely on one hour's service will make his slave free.

Mr. GRIMES. I understood the Senator to say that he believed the President of the United States had the power to do this, and that he ought to exercise it under certain circumstances.

Mr. HENDERSON. As I stated before, I am no military man; but I was once in the service of the country, and I took slaves and worked them on a railroad.

Mr. GRIMES. The necessity which exists for this provision grows out of the fact that there is no method of paying these persons without the passage of such a law as this; and colored persons who have been enrolled in the military service of the United States, or in some of the collateral branches of the public service, are being disbanded because of the want of such a provision.

Mr. HENDERSON. That is just the difficulty. I do not want these slaves enrolled in the military service. I voted against that proposition. I do not want them taken into the service and used as soldiers at all. I would use them in all service except that. I do not believe they will help you any. That is my opinion about it. I am satisfied that they will not. In the first place, they know nothing of the use of arms; and, in the second place, if you have to wait to instruct negroes in the use of arms, and in the discipline necessary to make good soldiers before you strike at this rebellion, let me tell you the rebellion is a success. That is all I desire to say in reference to that. As a question of policy, I think the matter is against you; as a question of expediency, I think the matter is against you.

But, sir, there are many things they can do. They can use the spade; they can use the hoe; they can use the pick; and they can drive wagons. For all these matters, except military service, it is perfectly competent now for the quartermaster's department to take them. I say I would use them, and require the quartermaster's department, under the general appropriation bill, to pay for their service and labor; and I am frank to say the loyal slaveholders will sustain me in it. I would use them wherever I could use them to put down the rebellion; not as soldiers, because I believe—I know you differ with me—they will do you no good. I believe that, for every good soldier you would get among them, you will lose a white man who will be driven off by his prejudices against legislation of this character. I may as well be frank. I may as well tell you what I believe. I think the day has come when it is absolutely essential for men to talk out and say what they believe, and what they know in reference to this thing. These are my opinions. I give them frankly. I am aware that gentlemen do not agree with me.

Now, sir, how many negroes are you going to take? How many do you want? This bill will give you the right to take all the free, and it will give you the right to take all the slaves. Suppose the Government makes a mistake and gets the slave of a loyal man. Then I say the loyal man ought to be paid for the slave. It would be wrong to turn him loose. If it is necessary, go and take the slaves of loyal men and use them in building fortifications. They have been so used. I know plenty of loyal men in Missouri who have taken their negroes and made them do service in that way in favor of the Union. Shall that make them free? Are you going to legislate them free in consequence of that act? I say, no. It is an institution recognized by State law, and it is not for us to tear down that institution which has been recognized by the people of the State, the only persons properly having jurisdiction over it.

Now, how many do you want? I believe there are nearly four million slaves in the country. There are half a million of them in the non-seceding States; perhaps not over four hundred and twenty-five thousand. You can get just as many of them as you want to pay for. You can get ten times as many as you want in the seceding States. You can get all you desire to put into the service under this law; or, under the law as I propose to amend it, you may take the slaves of every rebel in my own State. How many do you suppose the adoption of my amendment will exclude you from taking? Some gentlemen say, why not give us the slaves of loyal men in the border slaveholding States? At the first blush it does look to be a matter of justice; but how much do you get by it? Let me tell you a loyal man will feel rather badly to have his slave taken by the President of the United States and put into the Army by his side. He may tolerate a great deal better the taking of the slave of the rebel; but he will not like to have his own slave taken from home, when he himself is fighting the battles of the country; and nearly every man in the border slaveholding States is so engaged. They all have to do it once in a while. Nearly all of them have been or are now in the service. A loyal man in one of those States will dislike very much to have his slave, whom he left at home attending to his family, brought into the service; and I think the slave himself would thank you much more if you would leave him at home where his master left him, and where, in ninety-nine cases out of a hundred, he would be better off than if you enlisted him and took him away. That is my opinion; and hence it is that I propose this amendment; and I hope it may be adopted. By rejecting my amendment you will not get one hundred thousand slaves, including the old and infirm, children, and everybody else. You have as many slaves as you want; you have as many persons of color as you desire throughout the broad expanse of these seceding States. I have said enough, Mr. President.

The PRESIDING OFFICER, (Mr. ANTHONY in the chair.) The question is on the amendment of the Senator from Missouri to the amendment, and on that amendment the yeas and nays have been ordered.

The question being taken by yeas and nays, resulted—yeas 13, nays 22; as follows:

YEAS—Messrs. Anthony, Browning, Cowan, Davis, Henderson, Lane of Indiana, McDougall, Powell, Rice, Stark, Willey, Wilson of Missouri, and Wright—13.

NAYS—Messrs. Chandler, Clark, Collamer, Doolittle, Fessenden, Foot, Grimes, Hale, Harlan, Harris, Howard, King, Lane of Kansas, Morrill, Pomeroy, Sherman, Simmons, Sumner, Trumbull, Wilkinson, Wilmot, and Wilson of Massachusetts—22.

So the amendment to the amendment was rejected.

Mr. HENDERSON. I desire to offer another amendment, to add at the end of this first section:

Provided, That all loyal persons entitled to the service or labor of persons employed under the provisions of this act shall be compensated for the loss of such service.

Mr. HALE. I should like to amend that by inserting the words, "by the laws of the State in which they reside."

Mr. HENDERSON. I have no objection to that.

The PRESIDING OFFICER. Does the Senator from Missouri accept that modification of his amendment?

Mr. HENDERSON. Certainly.

Mr. SHERMAN. Before the Senator accepts that, I wish to move an amendment fixing the amount of damages by the law.

The PRESIDING OFFICER. The amendment can only be altered by the assent of the Senator from Missouri. It is an amendment to an amendment.

Mr. HENDERSON. I readily perceive what the Senator from Ohio is aiming at; but I do not know what will be done with this proposition subsequently, and hence I want this amendment put on the first section now. I do not know whether the Senate will make free all the slaves who may be employed under this section or not. I cannot foretell what will be the action of the Senate; therefore, while we are upon this section, I want to ingraft an amendment upon it in such language that if you do make the slave employed free, the loyal owner shall be compensated for the service lost; that is, the entire use of the slave if you make him free. If you returned him to his owner, you compensated him for the time he was employed in the service. The language of this amendment, I thought, would accomplish the object, whatever may be the action of the Senate.

Mr. SHERMAN. The trouble is, if a slave is paid for his services under the operation of the

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law, and he is not made free, there will be a double payment made by the Government of the United States for the services rendered by the slave of a loyal master. I am perfectly willing that the loyal master shall draw the wages or compensation allowed by this law for the services, because I would not do anything to interfere with the legal rights of the loyal master; but at the same time I do not want to fix a different measure of damages and thereby create disputes and controversy. I think, therefore, where the slave of a loyal master is used, that the master may properly draw the pay allowed by law, and no more. I desire that measure of compensation to be fixed by law.

Mr. KING. Allow me to suggest to Senators that this whole subject should be left to the subsequent section, and not put upon this one.

The PRESIDING OFFICER. Does the Senator from Missouri accept the amendment of the Senator from Ohio?

Mr. HENDERSON. No, sir.

The PRESIDING OFFICER. Then it is not in order.

Mr. HENDERSON. The Senator from Ohio, as I understand, has already proposed an amendment to this bill, in these words:

That all persons who have been, or shall be hereafter enrolled in the service of the United States under this act, shall receive the pay and rations now allowed by law to soldiers, according to their respective grades: *Provided*, That persons of African descent, who under this law shall be employed, shall receive ten dollars per month and one ration.

Now, if you are going to liberate the slave, I have no objection to paying the slave for his services; but I want you to pay the master for the loss of the slave. If you are not going to liberate the slave, I do not care how much you pay the slave, provided you will pay the loyal owner of the slave during the time you have him in service, and until you return him. This amendment will accomplish that, and therefore I desire to have it adopted.

Mr. SHERMAN. I hope the Senator from Missouri will not press a vote on this question now, because if the Senate shall refuse to adopt my amendment and make free all the slaves employed, I will vote for his proposition with the greatest pleasure. It is too early, therefore, to press it now, and I hope the Senator will withdraw it. The Senator will have ample opportunity after the vote is taken on my amendment. These votes may be taken all over again in the Senate.

Mr. HENDERSON. What is the objection to it now?

Mr. SHERMAN. Simply because I desire to reach it in a different way. I desire to give to the master the wages allowed by this law, and to fix the measure of compensation by the language of the law and not leave it open to dispute.

Mr. HENDERSON. Does not this accomplish it? It is a proviso to the first section, declaring that when the slave of a loyal man shall be used a reasonable compensation shall be paid to the loyal owner for that service. If he is employed for a month, you only pay for a month; if he is employed for two months, you only pay for two months; and it will not conflict with anything the Senator may see fit to propose hereafter. His proposed amendment will be altogether proper then. If he wants to fix the compensation, however, it is altogether proper that he should fix it. I have no objection to his fixing it; but I do think some ground ought to be given to the Union men of the border States.

The PRESIDING OFFICER. The Chair understands the Senator from Missouri to accept the amendment of the Senator from New Hampshire.

Mr. HENDERSON. Yes, sir; I accept that.

The PRESIDING OFFICER. The amendment as modified will be read

The Secretary read it, to insert at the end of the first section of the amendment proposed by Mr. GRIMES the following:

Provided, That all loyal persons entitled to the service or labor of persons, according to the laws of the State in which the owner of such slave may reside, employed under the provisions of this act, shall be compensated for the loss of such service.

Mr. POWELL. I ask for the yeas and nays on that amendment.

The yeas and nays were ordered; and being taken, resulted—yeas 20, nays 17; as follows:

YEAS—Messrs. Anthony, Browning, Collamer, Cowan, Davis, Doolittle, Foot, Foster, Harlan, Henderson, Howe, Lane of Indiana, McDougall, Powell, Simmons, Stark, Ten Eyck, Willey, Wilson of Missouri, and Wright—20.

NAYS—Messrs. Chandler, Clark, Fessenden, Grimes, Hale, Harris, Howard, King, Lane of Kansas, Morrill, Pomeroy, Sherman, Sumner, Trumbull, Wilkinson, Wilmot, and Wilson of Massachusetts—17.

So the amendment to the amendment was agreed to.

Mr. LANE, of Kansas. I desire to move an amendment to that first section, if it is in order. I move, in line two, after the word "authorized," to insert the words, "and directed;" so that it will read:

That the President be, and he is hereby, authorized and directed to receive into the service of the United States, &c.

The amendment to the amendment was rejected.

The PRESIDING OFFICER. The question now recurs on the amendment as amended.

Mr. DOOLITTLE. These sections proposed by the Senator from Iowa are all one amendment as I understand.

The PRESIDING OFFICER. The Senate is considering the amendment by sections; and the question now is on agreeing to the first section of that amendment as amended.

The amendment, as amended, was agreed to.

The PRESIDING OFFICER. The question now is on the second section of the amendment of the Senator from Iowa, which will be read.

The Secretary read it, as follows:

And be it further enacted, That when any man or boy of African descent shall render any such service as is provided for in the first section of this act, he, his mother, and his wife, and children, shall forever thereafter be free, any law, usage, or custom whatsoever to the contrary notwithstanding.

The PRESIDING OFFICER. The Senator from Ohio [Mr. SHERMAN] proposes to amend this amendment by inserting after the word "descent," in the second line, the following words:

Who by the laws of any State shall owe service or labor to any person who, during the present rebellion, has borne arms against the United States, or adhered to their enemies by giving them aid and comfort.

Mr. WILKINSON. I move to amend the amendment——

The PRESIDING OFFICER. It is not amendable. This is an amendment to an amendment, and it is not amendable except by the assent of the Senator from Ohio who proposes it.

Mr. WILKINSON. I wish to state that Judge Swayne in Ohio, has decided in a case that was before him recently, that the men who are engaged in this rebellion are not amenable to the laws for rendering aid and comfort to the enemy; that they are not, in the language of the law, enemies of the country; they are not within the purview of the constitutional definition of the crime of treason. In order to cover the ground, therefore, I wish to add after the word "enemies" the words, "or persons who are disloyal to the Government of the United States."

Mr. HENDERSON. Inasmuch as that decision has been very repeatedly referred to in the Senate, I desire simply to say that I think Judge Swayne was perfectly correct in his decision. In nearly all the cases of treason preceding the one that has been spoken of, it has been decided that the words "levying war" included every possible act of giving aid and comfort to a domestic enemy. The Constitution uses the words, "levying war against the United States, or in adhering to their enemies, giving them aid and comfort." As I understand, the words "levying war" include the party at home who gives comfort to a rebellion; and they are amply sufficient to include every possible act of aid to a rebellion. The additional words, "adhering to their enemies, giving them aid and comfort," apply to a foreign enemy; that is, if in case of an invasion by a foreign Power a citizen at home gives aid and comfort to it, he is included within those words; but it has been decided repeatedly in the courts of justice that whenever an individual did the same acts in case of a rebellion, he was included under that provision which declares that he shall be guilty of treason when he levies war. Therefore the words "levying war" cover every possible case of giving aid and comfort to a rebellion.

Mr. WILKINSON. I desire to have included those men, if there are any, in any county in Missouri, who have neither levied war nor done anything actually to levy war, but have given their whole moral influence in favor of the rebellion. I think in many instances they are the worst enemies we have, although they do not come within the legal definition of enemies, or of rendering aid and comfort to an enemy. It must require some overt act; but I wish to include every man who is disloyal.

Mr. HENDERSON. Of course it would not include moral treason, and I do not think it would be altogether proper to include moral treason. Certainly the words "levying war" were not intended by the makers of the Constitution, nor have they ever been construed to apply only to parties who take up arms. If a man furnishes money, furnishes men, or in any manner whatever gives aid and comfort by any overt act, of course he is guilty of treason.

Mr. WILKINSON. I hope the Senator from Ohio will include those words, because I certainly do not wish to see any man who is disloyal to this Government compensated, or in any wise favored by any law of Congress.

Mr. SHERMAN. I have carefully taken the language of the Constitution, and I have embraced every person who, under any circumstances, would be indicted for treason. I will remark that the decision of Judge Swayne on this subject has been very much misunderstood. It was rather a question on a point raised on an indictment.

Mr. COWAN. A matter of description.

Mr. SHERMAN. Yes, sir; rather a matter of description than otherwise. I have seen an explanation of that decision that was perfectly satisfactory. There is no doubt but that a person can be indicted for treason in a civil war under either branch of the clause of the Constitution. The only question in that case, according to the detailed report was, that the proper allegations were not made in the indictment. It was rather a question of quashing the indictment than of the capacity of men to commit treason in a civil war.

Mr. WILKINSON. I wish to ask the Senator from Ohio if that decision of Judge Swayne did not go to this extent: whether he did not declare that if a private citizen upon his farm should conceal rebels or feed them, he was not guilty of treason within the meaning of the Constitution?

Mr. SHERMAN. No, sir.

Mr. WILKINSON. I have only seen the decision as commented on in the newspapers; but I understood the decision of the judge to be that those persons were not enemies within the meaning of the Constitution.

Mr. COLLAMER. I believe I understand the decision of Judge Swayne. The decision of the judge was that a person could not, in this civil war, be indicted and convicted of giving aid and comfort under that branch of the clause of the Constitution; but that if he had given aid and assistance, and they had indicted him for being himself guilty of treason in levying war, it would have convicted him; because any aid or assistance given makes the man a principal. That is the decision.

Mr. DOOLITTLE. I suggest to the Senator from Ohio that the language of this amendment should be "levied war." "Borne arms" is not the language of the Constitution.

Mr. SHERMAN. I am willing to make it "levied war or borne arms."

Mr. DOOLITTLE. "Levied war" will be sufficient. That is the constitutional language.

Mr. CLARK. I was about to say to the Senators who have raised this question in regard to the decision of Judge Swayne, that in a subsequent

case, in charging the grand jury, he charged that a person who aided in this rebellion might be indicted for treason as a principal, and that he might be convicted in a State where he rendered the aid, or where the crime was committed. He so expressly charged the jury, as I understand.

Mr. SHERMAN. To avoid all controversy about it, I will insert the words, "levied war, or," so that the amendment will read:

Who, during the present rebellion, has levied war or borne arms against the United States, or adhered to their enemies by giving them aid and comfort.

I think it will be well to have it broad enough.

Mr. HOWARD. I will take the liberty of suggesting to the Senator from Ohio that the latter part of his amendment will be entirely inapplicable to the existing state of things, because it has been decided over and over that the crime of adhering to the enemies of the United States is the crime of adhering to the foreign enemies of the United States; that that clause in the Constitution does not apply to the case of domestic rebels or insurgents.

Mr. SHERMAN. If the Senator had been in a little sooner, he would have heard that matter explained. The decision of Judge Swayne has been very much misrepresented. The decision grew up on a technical objection to an indictment. If I understand it correctly—I may not be very accurate, but I think I can give the substance of it—the allegation in the indictment was that the defendant had aided and assisted in committing an act of treason by giving them aid and comfort. The judge decided that they must be all principals in treason; that there could not be a crime of that kind. It was a question of the sufficiency of the indictment rather than of construction of the Constitution.

Mr. HOWARD. No, Mr. President, the judge did not decide that point, because it did not arise, as to whether all were principals in treason. We know very well they are all principals in treason. The point which the judge decided, if I recollect rightly, and I read his decision as reported in the newspapers, was this: that there was at that time no law of the United States which made it a crime in any individual to adhere to, or give aid and comfort to persons engaged in this insurrection; that there was a hiatus in the law; that Congress had not legislated in such a manner as to cover such a case as adhering to rebels, giving rebels aid and comfort; and in that case the indictment charged the accused with having adhered to persons who were rebels, and with having given them aid and comfort. I think the judge was entirely right in his decision. It is the fault of Congress that the person then accused was discharged, and not the fault of Judge Swayne.

Mr. HENDERSON. With the permission of the Senator, I desire to ask him a question. I know he is a good lawyer. I ask him if a party were indicted, and if the allegation in the indictment was that the defendant had adhered to the public enemies of the country, giving them aid and comfort, and on the trial it should turn out that instead of its being a public enemy, a foreign enemy, he was giving money to rebels in this country, if he would suffer the defendant to be found guilty on that indictment?

Mr. HOWARD. I should not.

Mr. HENDERSON. That is what Judge Swayne decided; but he decided in addition to that, as I understand it has always been decided in the courts, that any act whatever of aid and comfort to rebels in arms, was levying war; that is, any act of aid and comfort to the rebels which would be adhering to the public enemy, giving them aid and comfort in case it was a foreign enemy, would be "levying war" under the other provision of the Constitution.

Mr. HOWARD. I do not understand Judge Swayne to have decided in that way to that extent.

Mr. HENDERSON. I understand he followed the decisions of the court previously on that subject.

Mr. HOWARD. I am quite sure he did not go to that extent. It was not necessary in the case, and I doubt if he would go out of the record to decide any point.

Mr. HENDERSON. That is just what he decided.

Mr. GRIMES. If I do not misapprehend the question, the decision of Judge Swayne is not now under consideration, but the amendment of the Senator from Ohio, and I hope the vote may be taken upon it.

Mr. KING. The amendment of the Senator from Ohio proposes to limit the effect of the act, so far as it confers freedom on persons who serve the United States under the act, to those who are the slaves of rebels, while the section, without his amendment, extends freedom to all who serve the United States. The amendment proposed by the Senator from Ohio, therefore, is a limitation, limiting the operation of the section to the slaves of rebels. I am in favor of the original proposition. I do not propose to argue it; but I desired to state it, so that we should distinctly understand it. I prefer and I think that all who serve the nation under the circumstances should be made free. The first section of the amendment which has been adopted would give the masters, if loyal persons, compensation.

Mr. SHERMAN. When we take the slave of a loyal man and make him work for us, I do not, for that reason, wish to deprive the master entirely of what he regards as his property, or what is regarded by local law as his property. If we inflict injury on him by taking his property and using it for the time being, we certainly should not, in addition to that, deprive him of his property altogether. The slave is in no worse condition than he was before; and I think it would be grossly unjust and improper now, or at any time, to deprive the owner of a slave of the legal right to the service of his slave, if he is a loyal and true man, and has done his duty in this emergency. I certainly would not vote for such a proposition.

Mr. KING. When we take a slave to serve the country in this emergency, my own opinion is that he should be made free, whether he belongs to a rebel or not. I should like to have a division on this amendment so as to have an opportunity to record my vote upon it. It is so plain a proposition that it does not need any discussion.

The PRESIDING OFFICER. Does the Senator ask for the yeas and nays?

Mr. KING. Yes, sir; I am opposed to the limitation.

The PRESIDING OFFICER. The question is on the amendment of the Senator from Ohio to the second section, and on that question the yeas and nays are requested.

The yeas and nays were ordered.

Mr. HALE. I ask that the amendment on which we are about to vote be read.

The Secretary read the amendment to the amendment, to insert after the word "descent," in the second line, the words "who by the laws of any State shall owe service or labor to any person who, during the present rebellion, has levied war or borne arms against the United States, or adhered to their enemies by giving them aid and comfort;" so that the section will read:

That when any man or boy of African descent, who by the laws of any State shall owe service or labor to any person who, during the present rebellion, has levied war or borne arms against the United States, or adhered to their enemies by giving them aid and comfort, shall render any such service as is provided for in the first section of this act, he, his mother, and his wife and children shall forever thereafter be free, any law, usage, or custom whatsoever to the contrary notwithstanding.

The question being taken by yeas and nays, resulted—yeas 22, nays 16; as follows:

YEAS—Messrs. Anthony, Browning, Collamer, Cowan, Davis, Doolittle, Foster, Harris, Henderson, Howard, Howe, Kennedy, Lane of Indiana, McDougall, Rice, Sherman, Simmons, Stark, Ten Eyck, Willey, Wilson of Missouri, and Wright—22.

NAYS—Messrs. Chandler, Clark, Foot, Grimes, Hale, Harlan, King, Lane of Kansas, Morrill, Pomeroy, Sumner, Trumbull, Wade, Wilkinson, Wilmot, and Wilson of Massachusetts—16.

So the amendment to the amendment was agreed to.

The PRESIDING OFFICER. The question now is on the second section of the amendment as amended.

Mr. BROWNING. I wish to move another amendment to that section in the seventh line, by striking out the words "his mother, and his wife and children;" so that it will read:

That when any man or boy of African descent, &c., shall render any such service as is provided for in the first section of this act, he shall forever thereafter be free, &c.

Mr. President, I have no doubt about the propriety of what is provided for in this proposition, so far as we have proceeded with it; and there is as little doubt that all that is provided for in the first and second sections could be done as well without it as with it. I do not doubt the power, the right, the duty of the Government to employ all people of African descent belonging to rebels to aid in the suppression of the rebellion and to aid in the support of the Government. I think it is not only within the competency of the Government so to use and employ them, but I think it is the duty of the Government to do it. As long ago as March last I expressed my own views on this subject in these words:

"The same principles are applicable to slaves as to other property, and no officer should be permitted to use the forces under his command in repelling fugitives from the lines, or in arresting or returning them to rebel masters; but they should be received and used in whatever way they could be made most available and efficient in the prosecution of the war. All who can be advantageously used should be used. Let them do the drudgery and labor which would otherwise devolve on our soldiers; let them open roads, build bridges, dig ditches and trenches, erect fortifications, and do labor of every kind which may be needed by a large army; and if need be, to save the Government from overthrow, the country from ruin, and our homes from desolation, let them be formed into companies and regiments and drilled and disciplined and armed, and take their chances of wounds and death in the front of battle."

These were the opinions I entertained then; they are the opinions I entertain now. When it shall become necessary to do this is to be determined as other military necessities are, by the exigencies of the moment, or upon consideration of the exigencies of the moment by the Commander-in-Chief of the armies, or those who may be in command at the time being, and in the place where such services may be required. This bill leaves that matter so to be determined; it leaves the whole thing to the discretion of the President. I have entire confidence in the judgment, patriotism, and discretion of the President. I entertain no doubt that his discretion will be well and wisely used; and as the bill provides for nothing which, in my judgment, it is not competent for him to do, and which it has been competent for him to do at any moment since the war began, as it does not at all interfere with the constitutional prerogatives of the President, or attempt on our part to judge of and determine upon military necessities, I shall very cheerfully give my support to the bill if there shall be no obnoxious provision left in it when we come to record our votes upon its final passage.

Mr. President, there has been a great deal said at different times about a reluctance to adopt measures that might be irritating in other quarters. For one, I have never had any scruple whatever, and I do not suppose any Senator at any time has had any scruple whatever about enacting any necessary measure, however irritating or provoking it might be to the enemies of the country, to traitors and to rebels. I have, however, some scruples about adopting measures that are irritating and offensive to our loyal friends, either in the border States or in the rebel States. If a measure was otherwise indifferent, if we were in no better condition after passing it than we were before, if we possessed the same power before that we possessed after it, and the mere passage of it would be irritating to any loyal man in any of the border States or any of the rebel States, the very fact that it would be irritating and offensive to our friends would be with me a sufficient reason for voting against it. I recognize a distinction, and I desire practically to make a distinction, in all my conduct, in all my legislation, between our loyal friends in the slave States and rebels and traitors in arms against the Government. We ought to make a distinction; and while we are legislating against rebels and traitors, we ought to be careful not to involve our friends in the same measures that are enacted for the purpose of putting down rebellion and treason, and bringing the war to a close and reëstablishing the authority of the Government. It is for the reason that I recognize the distinction and desire practically to make a distinction between friends and enemies, that I have moved the amendment which is now pending before the Senate. In a very few words, I will call the attention of Senators to it. The provision of the section is:

That when any man or boy of African descent, who by the laws of any State shall owe service or labor to any person who, during the present rebellion, has levied war or borne arms against the United States, or adhered to their enemies by giving them aid and comfort, shall render any such service as is provided for in the first section of this act, he, his mother, and his wife and children, shall forever thereafter be free, any law, usage, or custom whatsoever to the contrary notwithstanding.

Now, Mr. President, if we could get at his mother, wife, and children, if we could lay our hands upon them, it might be well enough in some cases to turn them loose and set them free; in other cases it might be well enough to do it, and we might not have power to do it, and could not do it without what I conceive to be a gross violation of our constitutional duties.

It may not unfrequently happen that a man or boy of African descent, who would be impressed into the service and used by the President, as he could be at any time under this provision, and applied to the use of the Government, might belong to a rebel, while his mother, wife, and children belonged to as loyal a man as you or I, sir. I say that might not unfrequently happen; but whether it was frequent or not, if it happened in a solitary instance in all the United States, that one instance of its happening ought to be enough to induce us to make the amendment I have proposed.

More frequently than otherwise the same person who owned the man or boy contemplated by the bill would not own either the mother, the wife, or the children, or, owning the mother, would not probably own the wife and children of the man or boy. If the mother, wife, and children are the property of a loyal citizen, in my judgment we have no right, no power under the Constitution, to legislate in regard to them all, as is contemplated by this section. We have no power, by our legislation, to invade the sovereignty of a State, to go into a State and overthrow this institution, any more than we have the right to go there and overthrow any other domestic institution, which is the peculiar subject of State legislation, and over which the General Government has no power or control.

If it be true, as I have suggested, that the mother, wife, and children, or the mother, wife, or children, any of them, was the property of a loyal citizen, I put it to Senators, with all possible respect and with all possible kindness, to say, in view of our duties to the Government, consisting as it does of the general or central Government and the State governments, whether from the mere fact of seizing the man or boy, the property of a rebel and traitor, we acquire any power to manumit the slaves of loyal persons; and whether, if we can exercise the power to emancipate the mother, wife, and children, or any one of them, under such circumstances as these, they being the property of a loyal person, they being held by that loyal person under the laws of the State where that loyal person resides—whether, if we can do that, there is any barrier or any impediment to a law universally emancipating all the slaves in all the States of the Union? It is not a question to what extent power may be pushed. It is a question of the existence of the power. If it can be shown to exist to any extent, it exists to every possible extent and may be pushed to every possible extent; and we should have the same power to emancipate all the slaves in all the States that we should have to emancipate the mother, wife, and children of the boy or man thus employed; assuming that that mother, wife, and children were the property of a loyal citizen of any one of the States of this Union, whether that State be in rebellion against the Government or not; that is, whether that State has adopted an ordinance of secession or not. Whether the State has or has not adopted an ordinance of secession, should have and can have no possible effect upon the status of the loyal citizens who may still be in that State. They stand to the General Government in precisely the same relation that they would stand to it if the State had never seceded. They are entitled to all the protection of the Constitution and laws of the General Government precisely to the same extent that they would be entitled if their State had never seceded or assumed to secede; and the fact that a State has seceded or attempted to secede, gives us no more authority over a loyal citizen and his property in that State than we possess over the persons and property of loyal citizens in the most loyal State of the Union.

Mr. President, there is no possible good that I can perceive which will result from retaining in the section the words that I propose to strike out. Assume that the mother, the wife, and children are the property of a disloyal man, a rebel, a man in arms against the Government; will their condition be at all affected by retaining these words if we do nothing more? No, sir; they will be as much slaves after we have passed this law as they are slaves before we pass it. It is not your paper declarations that is either to confiscate the property or to emancipate the slaves of rebels. It is marching with your Army, and by the strong hand of war seizing hold of the property, taking it from their possession, and appropriating it to the uses of the Government, that constitutes confiscation and emancipation, and not mere declarations in the form of a resolution or law enacted by us here; because, after we have passed it, if they are the property of a rebel, and in the possession of a rebel, they are just as much slaves as they were before we passed it. If they are not the property of a rebel, then we ought not to pass it; we have no right to emancipate them; we have no power to emancipate them. We cannot legislate for the emancipation of the slaves of loyal citizens in the States until we have ourselves ignored the authority of the Constitution and laws of the United States.

I do not desire to detain the Senate, but thought it proper that the attention of the Senate should be called to this section, and that this amendment should be made in it. I could not vote for that section of the bill as it stands, because it does assume the power on our part by a law of Congress to emancipate the slaves of loyal citizens of States of this Union, and I cannot vote for anything that recognizes that principle. I believe all Senators, of whatever shade of opinion—even the Senator from Massachusetts, [Mr. SUMNER]—have declared, in the most explicit terms, that, under the Constitution of the United States, Congress possesses no power by any act of ours to emancipate the slaves in the States, or to interfere with the status of slavery in the States. I do not suppose that any one contends that Congress, by a mere act of legislation, may go into the States, invade the States and all its laws, and overthrow an institution that is peculiarly a local one, existing by local law, created by local law, sustained by local law, deriving its very life and essence from local law, never under the protection of the laws of the Union or the control of the laws of the Union. If we begin by an assertion of the principle, how long will it be before we cast off all restraint, all covering, all pretexts, and go boldly to the work and pass a law for the emancipation of all the slaves in the country? For if we can do it in a single instance, we can do it in all instances.

The first section of this bill, as I have already remarked, provides for nothing more than could have been done last week, and could be done to-day by the authority of the Government. We should hardly think we were making a valuable use of our time if we should spend it in enacting laws authorizing the President whenever he thought proper to impress the wagons and teams of either disloyal or loyal men, and apply them to the uses of the Government. It matters not whose property it is. The powers that conduct the war have as much right to take the slaves of loyal men for the purposes of the Government, the necessities of the war, as the slaves of disloyal men. No loyal man will object to it. Our friends around us from the border States have announced to us to-day that they will make no objection to it when the necessities of the war require it. When the exigencies of the times demand it your commanders may go as they have gone, seize upon the slaves of the loyal or disloyal and put them to such uses as may for the time being be needful and valuable, and nobody objects to it. But, sir, that is a totally different thing from our assuming to enact laws for the manumission of slaves. It does not matter whether your law is for the manumission of one, or a thousand, or a million slaves; the principle is identically the same.

But, sir, I was remarking that no one would suppose we were making a valuable use of our time if we were to spend it in enacting laws authorizing the President to impress the wagons, the teams, the cattle, the horses, the mules, anything and everything for the service of the Army. We might do it, just as we are passing this bill; but after we had done it, the President would possess no more power than he had before; the act would be merely declaratory; and it has never entered into the conception of any man, I apprehend, that it was necessary to pass such a law. Nor would it have been deemed necessary to pass this law if it were not that the subject to which it relates is that subject upon which the public mind is more excitable, more inflammable, than upon any other one or all subjects that have ever agitated this country.

Mr. LANE, of Kansas. I wish to ask the Senator from Illinois a question.

Mr. BROWNING. Certainly.

Mr. LANE, of Kansas. What would freedom be worth to you if your mother, your wife, and your children were slaves? Again, does not this bill provide expressly, by the amendment proposed by the Senator from Missouri, that if the mother, the wife, and the children belong to loyal persons, those loyal persons are to be remunerated by the General Government; and without such an amendment, under the laws as they now exist, cannot the loyal slaveholder obtain from the Government damage for the loss of his slave, just as the Senator and I could for the loss of our horses or mules or wagons?

Mr. BROWNING. I will endeavor to answer in a very few words the question which the Senator has propounded. I do not desire to consume much of the time of the Senate. I say, in the first place, that it would detract very greatly from the value of life with me, if it did not totally destroy it, to have my mother, my wife, and children in a state of hopeless bondage. I am no more the friend or the advocate of slavery than the Senator from Kansas—not a bit more. I loathe and detest the institution as much as he or any other man does. But, sir, neither my hostility to slavery, nor to any other institution that the passions or cupidity of men ever invented, shall make me faithless to my obligations to the Constitution of my country. It is not a question as to whether slavery is a good thing or a bad thing, or whether it would be painful or otherwise to me to have the members of my own household in bondage. That is not the question. It is a question of power under the Constitution and the oaths that we have taken—not only before the world, but before that higher tribunal to which we are all responsible for what we do—to uphold and maintain it. Without any sort of feeling on the subject, permit me to ask the Senator whether in his opinion this Congress, under the Constitution of the United States, has an atom of power to pass laws for the emancipation of slaves in the States of the Union?

Mr. LANE, of Kansas. I can imagine a case like this, and I think we shall find thousands of them at the close of this rebellion, under this law, believing that it will pass: a slave is enlisted in the service of his country; he fights bravely and gallantly, as I believe, as bravely, as gallantly, and as skillfully as the white man—and I take this occasion to say that the statement of the Senator from Missouri, that the slaves of Missouri are not used to the gun, is a mistake, to say the least of it; the slaves that I saw in Missouri were skillful in the use of the gun; and I had twelve hundred of them at one time within my brigade—but to continue my illustration: after this war is over, a soldier, perhaps covered with scars, his mother, wife, and children around him, having escaped, or their masters escaped from them, are in Washington city. I say that the Government that would restore that mother, that wife, and those children to slavery after that father and husband has been covered with wounds in defense of the country, deserves to be damned. God himself would turn his face against a Government that would commit a crime like that. Let me tell the Senator from Illinois, the bill provides that if the mother, wife, and children belong to a loyal person, he is to get remuneration from the Government, as the Senator or I would for our property. I deny that this Government cannot take the slaves of the loyal and the disloyal, and that they are estopped from making any use of them that they choose for the suppression of this rebellion; and having made use of them, I say it would be a crime before God to return them to slavery.

Mr. BROWNING. I did not ask for a speech. I ought not perhaps, however, to complain that the Senator has availed himself of the occasion to make one. I listen to him now, as I do on all occasions, with pleasure. It is always a pleasure to hear him talk; but it would have been more satisfactory to me on this occasion, if instead of giving us the eloquent speech to which he has treated the Senate, he had given an answer to the question I asked him. The Senator totally forgot that I had asked him a question. He made no response what-

ever to it; he did not hint at it, but availed himself of the occasion to make a speech. Now, if it is perfectly agreeable to him, and if it is not I will not insist upon it—I do not desire to do anything that can be in the remotest degree considered as discourteous or offensive—but if it is perfectly agreeable to him, I would be glad if he would give me a distinct and explicit answer to the question: does he believe, does he maintain that, under the Constitution and laws of the United States, Congress has any right, power, or authority to pass a law for the emancipation of a single slave held under the laws of any State of this Union?

Mr. LANE, of Kansas. I will undertake to answer the Senator. I am as clear as I am of any other proposition that it would be constitutional for the Congress of the United States to pass a law to-day directing the military authorities of this country to emancipate every slave in every rebellious State under the war power of the country.

Mr. BROWNING. That is where I wanted the Senator to come; and there is precisely where we differ upon this floor. I impugn no man's motives. I scorn to avail myself of the privilege of a Senator on this floor, to hurl at all others who exercise the right of thinking for themselves and differing with me the insulting charge that they are therefore in sympathy with slavery and rebellion, as if it were impossible for any man to be true to his country or his God who dared to differ with some other man in his opinion.

Mr. LANE, of Kansas. I never did that in my life.

Mr. BROWNING. I know you did not; but there have been, repeatedly, imputations made upon this floor. I question no man's motives; but, sir, we now have the issue directly presented. I do not question that gentlemen are sincere and honest in their views; but let us adopt their views, and how long does this Government stand? We will accomplish in one bad hour what the rebels have not yet accomplished in more than a year and never can accomplish while the world stands—the overthrow of this Government. While gentlemen disclaim any right and power under the Constitution to interfere with the institution of slavery in the States, regarded as a legislative body and in times of peace, they still assert that in time of war Congress, by some mysterious operation that no one has explained and no one can explain, acquires a power it did not before possess to sweep out the institutions of all the States if it chooses to do so; because if it can sweep out one under the war power it can sweep out any other. It is just as easy to say that Congress can declare that the growing of hemp or tobacco requires to be stopped as a military necessity, and that Congress has the power to determine and enforce that necessity, as to say Congress acquires a power to determine that the abolition of slavery is a military necessity, and enforce that necessity. When you begin to draw your powers of legislation from the disturbed and unsettled condition of the country and not from the Constitution, when you cast the Constitution from you, when you put it away from your sight, when you bury it out of your sight and do not refer to it and recur to it as the charter of our existence, the source of our powers, but step beyond it and say we derive our powers from the disturbed condition of the country; in other words, that treason and rebellion, traitors and rebels, are the source of our power, and not the Constitution that our fathers made for us—where is the Government? What conceivable act is there that passion or caprice or tyranny or despotism can suggest that we may not perform under this claim of power, that we derive from traitors and rebels and not from the Constitution, to do anything and everything that the Constitution forbids, when we look to that?

I am neither the advocate nor the defender of slavery; but, Mr. President, I trust as long as I retain a seat on this floor, I trust as long as I am entitled to claim the proud privileges of an American citizen, that God will continue to give me courage and boldness enough fearlessly to avow my sentiments of what the Constitution is, and to live up to my own judgment and convictions of what my duty under it is.

The Senator from Kansas has admitted, and he has done it with a perfect frankness that I admire, just what I stated in the beginning of these few desultory remarks, that if we can pass this section as it is, we may pass the next hour a bill for the emancipation of all the slaves in the Union. The gentleman avows it; he says it is so.

Mr. LANE, of Kansas. In States out of the Union?

Mr. BROWNING. Does the gentleman hold that we have any more power over either persons or property of loyal citizens in States that have assumed to secede, than we have over persons and property of citizens in States that have not assumed to secede? Does he hold that?

Mr. LANE, of Kansas. I do not like to be catechised. I say, in all kindness to the Senator, that I laugh to scorn the idea of extending constitutional rights over a State and people who trample under foot that Constitution, and who are at war to overthrow that Constitution. The idea of those States being in the Union is, to me, ridiculous. The fact is, they are not only out of this Union, but in another government. I have given no weight, and I propose to give no weight, to the idea that any one has the claim of constitutional rights in those States that are out of the Union, and fighting against the Constitution and the Union.

Mr. BROWNING. It is one of the easiest modes in the world of meeting an argument that you cannot meet in any other way, to laugh it to scorn. We have had a great deal of that sort of argumentation here from time to time. It is the best answer and the best argument that can be made in reply to what I have suggested. What I asked the Senator was not what we might do with rebels and traitors and those who repudiated the authority of the Government. I do not intend to be put, even by implication, on the record as standing here and advocating any right, any privilege for rebels and traitors. I have never done so heretofore. I will not be provoked into doing so now. What I asked him was this: whether, under the Constitution, we had any more power over the persons and property of loyal men, men recognizing their allegiance to the Government, and living in support of the Government and reverence of its Constitution and laws, whether we had any more power over their persons and their property because the State in which they chanced to live had assumed to secede, than we had over the persons and property of loyal men in the States that had not assumed to secede? That was what I asked him, and the reply is "laughter to scorn!" I know the feelings of the Senator are as kind to me as mine are to him, and they could not be any kinder; and I know he did not intend anything offensive to me; but I will suggest to him, without asking him, that Tennessee is one of the States that assumed to secede from this Union. Tennessee is out of the Union as effectually as any other State is out of the Union. None of them are out of the Union. That is the bone of controversy between us. They say they are out of the Union and we say they are not, and we have gone on to the arbitrament of war to settle that controversy between us. Now, it would be a little ungracious in me to say that the Senator takes the side of rebels and traitors, and says they are out of the Union. I will not admit it. They are not out of the Union. Tennessee is as much out as any of them, if they are out at all. Are there no loyal men in Tennessee? Have we the right to-day to pass an act of Congress abolishing slavery in Tennessee and manumitting the slaves of the loyal people there? The Senator says we have in every State that has assumed to go out of the Union.

Mr. LANE, of Kansas. With the permission of the Senator from Illinois, I will say, a portion of the people of Tennessee deny that they are out of the Union; and I am willing to say, if it will be gratifying to the Senator, that Tennessee is in the Union. The question of going out of the Union is with the people. The people of Tennessee deny that they are out of the Union; and I would be as far as the Senator from Illinois from disturbing the institutions of the State of Tennessee. But here is South Carolina, without one voice to dispute the proposition that they are out of the Union and in the southern confederacy. So far as I am concerned, I should feel that I was discharging the highest duty to God and to my country if I should say to South Carolina, "you shall not come back into the Union unless you come back as a free State, without one relic of the cause that induced you to go out of the Union."

Mr. BROWNING. Mr. President, I am sorry to consume time; but I really do not think it wasted even when so humble an individual as I am occupies the floor, when I can provoke the gentleman from Kansas to enlighten us with his views of constitutional law occasionally. I am doing the country a service. I am glad the Senator has changed his ground. A little while ago he derived the right under the war power to pass a law to emancipate all the slaves in all the States that had seceded from the Union.

Mr. LANE, of Kansas. I want to ask the Senator from Illinois a question. Have not the people of Tennessee overturned the confederate government?

Mr. BROWNING. Mr. President, that was the ground upon which he placed it, that we got the right from the fact that a State had seceded. Tennessee had seceded. The gentleman concedes that from her secession we derive no such power of legislation over her and her citizens, and why? Because a portion of the people of Tennessee are opposed to secession. Did not Virginia secede? Was not a portion of the people of Virginia opposed to secession? Are not a portion of the people of Virginia, a large and patriotic, a loyal, a devotedly loyal portion of the people of Virginia, opposed to secession to-day?

Mr. LANE, of Kansas. Mr. President, I will ask the Senator from Illinois another question.

Mr. BROWNING. Well, sir.

Mr. LANE, of Kansas. Suppose a joint resolution should be introduced here to-morrow directing the President of the United States to issue his proclamation to the States now in rebellion against the Government, to lay down their arms within sixty days, or that on the refusal to lay down their arms he would emancipate their slaves, and the Senator believed that the issuing of such a proclamation by the President would close this rebellion, would he feel at liberty to vote against such a resolution?

Mr. HARLAN. It is very evident that this discussion cannot be closed to-night, and I will inquire of the Senator from Illinois if he will give way for a motion to adjourn?

Mr. BROWNING. I have occupied three or four times as much time as I expected to do when I got up, and I think I shall be done in a dozen words. I want to reply at all events now, before I give way, to the question the Senator from Kansas propounds. If any such resolution were proposed here as he suggests, for one, if I were the only one, I would record my vote against it, because that is one of the very points upon which we differ; that is the very place of divergence.

Mr. LANE, of Kansas. If you believed that the issuing of such a proclamation would induce the laying down of their arms and restore peace to the country?

Mr. BROWNING. We have no more right to pass a resolution directing the President to issue a proclamation of the sort the Senator suggests than we have a right to pass a resolution directing the President to have every prisoner captured in this war shot; not a bit more. There is one of the encroachments by Congress upon the constitutional powers of a coördinate department that I have protested against, and that I will continue to protest against. The President, and not Congress, is to determine for himself when he will issue proclamations, and what he will issue them about, relating to the conduct of the war, the active operations in the field. He is to determine military necessities; he is to adopt the proper measures to meet military necessities; and we have no more power to legislate on the subject of slavery in regard to any one slave than we have in regard to the whole of them. I will give way now.

Mr. WILSON, of Massachusetts. I do hope we shall pass this bill to-night. It is an important measure. We are now near the close of the session, and I hope we shall pass this bill to-night. We have several other important measures yet to dispose of.

Mr. HARLAN. From what I have observed since I have had the honor of a seat here, I do not believe we shall dispose of this bill to night; and I think at this hour of the day it is better to adjourn.

Mr. WILSON, of Massachusetts. I think we ought to pass this bill.

Mr. HARLAN. I can remain here; I enjoy good health, and am not prostrated by age; but I

believe it will be perfectly useless to attempt to sit longer to-day. I therefore make the motion, and we shall have the sense of the Senate. I will not ask for the yeas and nays. I move that the Senate adjourn.

The question being put, there were ten ayes.

The PRESIDING OFFICER, (Mr. FOSTER.) Is a further count demanded?

Mr. HARLAN. I think it manifest that a majority of those present desire to remain. I ask leave, therefore, to withdraw the motion.

The PRESIDING OFFICER. The motion is withdrawn. Is the Senate ready for the question on the amendment proposed.

Mr. POWELL. I ask for the yeas and nays on the amendment.

The yeas and nays were ordered.

Mr. KENNEDY. I should like to hear the amendment read.

The PRESIDING OFFICER. It will be read.

The Secretary read the amendment of Mr. BROWNING, in line seven, section two, after the word "he," to strike out "his mother, and his wife and children;" so as to read:

Shall render any such service as is provided for in the first section of this act, he shall forever thereafter be free.

Mr. KING. I hope the amendment will not be adopted. I believe it is understood, and I have no disposition to make an argument upon it.

The question being taken by yeas and nays, resulted—yeas 11, nays 16; as follows:

YEAS—Messrs. Browning, Carlile, Henderson, Kennedy, McDougall, Powell, Rice, Saulsbury, Stark, Willey, and Wilson of Missouri—11.

NAYS—Messrs. Clark, Fessenden, Foot, Foster, Harlan, Howard, Howe, King, Lane of Indiana, Lane of Kansas, Morrill, Pomeroy, Simmons, Sumner, Wilkinson, and Wilson of Massachusetts—16.

The PRESIDING OFFICER. The vote is short of a quorum.

Mr. McDOUGALL. I move that the Senate adjourn.

The motion was agreed to; and the Senate adjourned.

HOUSE OF REPRESENTATIVES.

THURSDAY, *July* 10, 1862.

The House met at twelve o'clock, m. Prayer by the Chaplain of the Senate, Rev. BYRON SUNDERLAND, D. D.

The Journal of yesterday was read and approved.

NAVAL APPROPRIATION BILL.

Mr. SEDGWICK. I ask the unanimous consent of the House to recommit to the committee of conference the disagreeing votes between the two Houses on the naval appropriation bill, on account of a verbal mistake made in the report. I make the motion to recommit the report to that committee.

There was no objection, and the motion was agreed to.

COST OF THE PUBLIC BUILDINGS, ETC.

Mr. SARGENT, from the Committee on Expenditures on Public Buildings, submitted a report, in compliance with a resolution of the House of December 19, 1861, relating to the cost of the Treasury and Capitol extensions, &c.; which was laid upon the table, and ordered to be printed.

CLERK TO COMMITTEE.

Mr. SARGENT, from the same committee, reported the following resolution:

Resolved, That the Committee on Expenditures on the Public Buildings, who were "instructed to inquire into the probable cost of the Treasury building extension and Capitol extension, the manner in which the work is done and being executed, and whether the original designs are being carried out or not, and whether the several contracts pertaining thereto are being faithfully performed; and also, whether the same objects cannot be obtained with less expense to the Government; and also, whether the officers of the Bureau of Construction are, in the judgment of the committee, qualified to discharge the duties thereof properly, and whether they have done so or not; and that the said committee investigate, and report to this House, such facts in relation to the several matters referred to, as they shall deem proper; and that they have power to send for persons and papers," be allowed a clerk at the usual rate of compensation, not to exceed four dollars per day, from the 14th of February, 1862.

Mr. F. A. CONKLING. I object to the reception of that resolution.

Mr. SARGENT. I hope that the gentleman from New York will withdraw his objection until I make a statement.

Mr. F. A. CONKLING. I withdraw my objection for that purpose.

Mr. SARGENT. I will state that the House required that committee to go into an elaborate investigation of all the matters referred to, and that resolution authorized them to send for persons and papers. They have labored nearly the whole session on the subject, and the result of their labors has just been sent to the Clerk's desk, making, as the members will see, a voluminous mass of manuscript. It is only common justice that the committee should be allowed compensation for this clerk, who has assisted them throughout the whole of their investigation. It is exceedingly strange that gentlemen should object to this resolution, when it is the general and certainly proper practice of the House to allow clerks under such circumstances. Anybody can see from the amount of clerical duty this clerk had to discharge that this is a most meritorious claim. I hope that the objection to the passage of the resolution will be withdrawn. We only ask pay for a clerk from the time he was appointed, and not from the date of the resolution of the House. The resolution is a just one. A clerk has been appointed who has rendered very important service, and it seems to me to be very illiberal on the part of the House to refuse to allow him compensation for the time that he was necessarily employed.

Mr. F. A. CONKLING. I do not object to the reception of the report of the committee, but I hope that the resolution will not pass.

Mr. HOLMAN. I renew the objection to the reception of the resolution.

CIRCULATION OF SMALL NOTES.

Mr. LOVEJOY. I ask the unanimous consent of the House to introduce the following resolution:

Resolved, That the Committee of Ways and Means be instructed to report to this House, at the earliest practicable moment, some measure which shall prevent or properly restrict the circulation of the notes of non-specie paying banking corporations, to the prejudice of the circulation of the notes of the United States, and to the serious injury of the public credit.

Messrs. SHEFFIELD, and THOMAS of Massachusetts, objected.

PRIVATE LAND CLAIMS IN NEW MEXICO.

The SPEAKER stated the next question in order to be the consideration of House bill (No. 511) to amend an act entitled "An act to reduce the expenses of the surveys and sale of the public lands of the United States," approved May 30, 1862.

Mr. TRIMBLE. I withdraw the pending motion to lay the bill upon the table, and I hope that the gentleman from Pennsylvania will withdraw the demand for the previous question.

Mr. BLAIR, of Pennsylvania. I withdraw that demand.

Mr. TRIMBLE. Mr. Speaker, this bill, which came from the Committee on Private Land Claims, repeals a law passed at the present session of Congress, which required surveys of private land claims to be made at the expense of the parties owning them. I will not say that that law is altogether just; but the bill was prepared in the Department of the Interior, and it was approved by the Commissioner of Public Lands, as well as by the Secretary of the Interior. It was considered in the House and in the Senate, and it was deliberately enacted into law. Whether, however, the law is a just or unjust one, it would certainly be unjust to some of the States and Territories to exempt from the provisions of that law only the people of the Territory of New Mexico. I would, therefore, suggest that the first section of this bill be stricken out, so that an opportunity may hereafter be afforded to the Committee on Public Lands to revise the action which has already been had on this subject. Let the Interior Department devise some general system that shall operate in all the States and Territories alike. If the law is unjust, let us repeal it and enact another. It is now too late in the session, it appears to me, to have this subject properly considered, and I would therefore suggest that the first section be stricken out, and the second section so amended as to make it perfect in itself. The reason for this suggestion is that the Secretary of the Treasury, in his letter read yesterday, stated that it would be a very great inconvenience to the Treasury Department to transfer the duties of a depositary from the receiver to the surveyor general in the Territory of New Mexico. I hope my suggestion will meet with the approval of the gentleman who reported this bill.

Mr. BLAIR, of Pennsylvania. If the gentleman from Ohio desires to offer an amendment I have no objection, inasmuch as he is satisfied that the second section ought to pass, while he has doubts about the propriety of the first section, though I have none.

Mr. TRIMBLE. I will move then that the first section of the bill be stricken out.

The SPEAKER. By unanimous consent that motion can be entertained. There are two or three motions already pending.

No objection being made, the motion was entertained.

Mr. SHEFFIELD. It seemed to me yesterday that it was doubtful whether this bill ought to be passed by the House, but upon further reflection I have come to the conclusion that it ought to pass; that it is just, and that its justice commends itself to the favorable consideration of the House.

The case put to the House I understand is this; the Territory of New Mexico, with the Territory of California, was acquired from Mexico by conquest; that after such conquest it was occupied for a time by military authority, and was governed by a military government.

I refer to this fact, in passing, as that military Governor was appointed by the Commander-in-Chief; and afterwards the Supreme Court of the United States decided that that appointment was a valid one. That fact is important in the consideration of other questions. Now, as I understand the law of nations, when a territory is acquired from another sovereignty by conquest, all the rights of individuals, and all the rights of private property, are to be regarded as secure, and are to be preserved, notwithstanding the change of sovereignty. And it seems to me that the provisions of the treaty, as expressed, are but declaratory of the principles of the law of nations.

That private rights are thus to be preserved; and that the property of private individuals cannot be confiscated was solemnly decided in the Supreme Court of the United States, in a case in which Chief Justice Marshall gave the opinion, and dispelled completely the fog thrown around the case here of Brown. And allow me to congratulate my friend from Pennsylvania [Mr. BLAIR] that he is emerging from the fog in which he has been somewhat enveloped, and that he now occupies a more substantial position than he has heretofore.

Now, it seems to me that, by the law of nations, as well as by the terms of the treaty, we are bound to respect these private rights and preserve them. We are to protect and preserve them, without contribution or charge upon the part of private proprietors. That is the express provision of the treaty. That being the case with the persons holding these lands—some holding their evidences of title from ancient Spanish authority, and some from the more recent Mexican authorities—those titles were to be preserved by our Government.

The act of Congress which provided that the surveyor general should in some way adjudicate upon those titles, receive evidence as to them, and pass upon them, and should survey the lands, was for the benefit of the Government, to the end that those private grants might be separated from the public property. The individuals did not desire these surveys to be made, because their grants inured by treaty, and the evidences of their title were secure in the archives of Mexico. Their titles were also secure by virtue of the laws of nations. Therefore it was that they did not desire that the survey should be made. They take no benefit by it. The Government has evidence of the titles. True, they left copies in the archives of Mexico; but they propose to give to the claimants other evidences of title, no better than what they already have, and which they have surrendered, but upon the condition that they shall pay the expenses attending upon those surveys. Now, this would be to confiscate in some cases, I am told, a very considerable portion of the property which is described in the grant. This is manifestly unjust. Therefore I hope that the bill will not be amended, but that it will pass as it came from the hands of the committee, as it seems to me that it is eminently just in all particulars.

Mr. TRIMBLE. I am not disposed to enter into a discussion of the merits of this first section. There can be no doubt of the requirements of the treaty with Mexico, with regard to the title of these persons claiming through Mexican authority, and that our Government is bound to protect

them. But the treaty does not require, in addition to protecting these people in their titles, that we shall define by metes and bounds their lands. It is incumbent upon those parties claiming, in many instances, thousands of acres of land, that they should give to this Government the lines and boundaries of their surveys. I would ask the gentleman how this Government, in giving patents or in making surveys of the public lands, can respect these private land claims, unless they are defined by actual surveys?

Mr. BLAIR, of Pennsylvania. It is not the duty of the individuals to do it; but it is for the Government to mark out the boundaries.

Mr. TRIMBLE. Then how is the Government to survey its lands when there are no lines or corners to define these individual possessions?

Mr. BLAIR, of Pennsylvania. Those metes and bounds already exist in the archives of Mexico.

Mr. TRIMBLE. But they do not exist upon the surface of the country, and I understand from the Committee of Public Lands that the Government is utterly at a loss to know where the boundaries of their lands are.

Mr. BLAIR, of Pennsylvania. The House will bear in mind that many of these Mexican grants strike natural boundaries; but many of them do not, and it is necessary to have a survey or to trace the boundaries.

Mr. TRIMBLE. Where there are natural boundaries, as a matter of course there is no great necessity for an actual survey. But many of those possessions are upon the plains, and in open country, and I insist that the Government cannot survey its public lands unless the metes and bounds of these tracts of country are fixed.

I said in the beginning, and I say again, that I am not disposed to enter into a discussion of the justice or injustice of the requirements of the law passed at the present session of Congress requiring that these parties shall pay the expense of these surveys before patents are issued; but what I desire to press upon the House is, that if the law is unjust, let us repeal it, but not as proposed in this bill, by excepting the Territory of New Mexico alone from its provisions, while all the other States and Territories are compelled to bear this burden.

I think it is our duty to consult the Secretary of the Interior and the Commissioner of Public Lands upon a measure of so much importance to the country at large, before we take so important a step as this. I leave the question, however, for the decision of the House. I have no particular interest in the matter one way or the other; but I will say that the bill passed at the present session was prepared in the Interior Department, and submitted to the Committee on Public Lands, by whom it was examined and reported to the House. And now it looks to me a good deal like child's play, on the spur of the moment, without having the bill in print, and without consulting the Interior Department at all, that we should undo what we have already done after mature deliberation and consideration. It is undoubtedly important that the second section of this bill should be amended and passed in order to relieve the Treasury Department from the embarrassment that might possibly arise in consequence of the repeal of a prior law which made the receiver of public lands the depositary of public money.

Mr. BLAIR, of Pennsylvania. I move the previous question.

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

The first question being upon the motion of Mr. Low, to amend the first section of the bill by striking out the words, "so far as they apply to the Territory of New Mexico."

Mr. BLAIR, of Pennsylvania, demanded tellers.

Tellers were ordered; and Messrs. BIDDLE and BUFFINTON were appointed.

The House divided; and the tellers reported—ayes sixty-seven; noes not counted.

So the amendment was agreed to.

The question recurred on the motion of Mr. TRIMBLE, to strike out the first section of the bill as amended.

The question was put; and there were—ayes 31, noes 25; no quorum voting.

Mr. BLAIR, of Pennsylvania, called for tellers.

Tellers were not ordered.

Mr. LOVEJOY demanded the yeas and nays.

The yeas and nays were ordered.

Mr. POTTER. I ask that the section may be reported by the Clerk; and also that a short paragraph from the last annual report of the Secretary of the Interior shall be read.

The SPEAKER. It is not in order to read the report, the main question having been ordered.

Mr. MAYNARD. I hope it will be done. We do not understand the question.

Mr. POTTER. The House does not understand what it is doing, or it would strike out this section.

The SPEAKER. The report can only be read by unanimous consent.

Mr. PHELPS, of California. I object, unless I am allowed to make a statement.

The section was read.

Mr. POTTER. I now ask unanimous consent that a paragraph of about twelve lines from the report of the Secretary of the Interior may be read.

Mr. PHELPS, of California. I object, unless I can be allowed to make a statement.

Mr. POTTER. The gentleman may have any portion of the report read in reply that he chooses.

Mr. BROWNE, of Rhode Island. I object, unless we are allowed to explain this matter.

Mr. POTTER. Then I move to lay the bill upon the table.

The question was put; and there were—ayes 21, noes 42; no quorum voting.

Mr. LOW demanded tellers.

Tellers were ordered; and Messrs. PHELPS of California, and ROSCOE CONKLING, were appointed.

The House divided; and the tellers reported—ayes 23, noes 65; no quorum voting.

Mr. PHELPS, of California, called for the yeas and nays.

The yeas and nays were ordered.

Mr. POTTER withdrew the motion to lay the bill upon the table.

The question recurred on Mr. TRIMBLE's motion, to strike out the first section of the bill; and being put, it was decided in the negative—yeas 29, nays 73; as follows:

YEAS—Messrs. Babbitt, Beaman, Buffinton, Clark, Frederick A. Conkling, Roscoe Conkling, Crisfield, Cutler, Dawes, Hutchins, William Kellogg, Lansing, Loomis, Maynard, Potter, John H. Rice, Edward H. Rollins, Sargent, Shellabarger, Sloan, Spaulding, Benjamin F. Thomas, Trimble, Van Horn, Wall, Wallace, Albert S. White, Wilson, and Worcester—29.

NAYS—Messrs. Aldrich, William Allen, Alley, Ancona, Ashley, Baily, Baxter, Biddle, Bingham, Samuel S. Blair, Blake, George H. Browne, William G. Brown, Calvert, Chamberlin, Clements, Colfax, Corning, Cox, Cravens, Duell, Dunlap, Dunn, Edwards, Fenton, Fisher, Fouke, Goodwin, Granger, Grider, Gurley, Haight, Hale, Hall, Harding, Holman, Hooper, Kelley, Knapp, Law, Lazear, Leary, Lehman, Lovejoy, Low, McKnight, McPherson, Mallory, Menzies, Moorhead, Morris, Nugen, Olin, Patton, Perry, Timothy G. Phelps, Porter, Alexander H. Rice, Sheffield, Sherman, Shiel, John B. Steele, William G. Steele, Stiles, Stratton, Trowbridge, Verree, Voorhees, Walton, Wheeler, Whaley, Windom, and Wood—73.

So the motion was disagreed to.

The substitute, as amended, was adopted.

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

Mr. BLAIR, of Pennsylvania, moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider upon the table.

The latter motion was agreed to.

ENROLLED BILLS SIGNED.

Mr. GRANGER, from the Committee on Enrolled Bills, reported that the committee had examined and found truly enrolled bills and a joint resolution of the following titles; when the Speaker signed the same:

An act (H. R. No. 393) making appropriations for sundry civil expenses of the Government for the year ending June 30, 1863, and additional appropriations for the year ending June 30, 1862;

An act (H. R. No. 556) to change the place of holding the circuit and district courts of the United States for the district of West Tennessee;

An act (H. R. No. 328) for the relief of Louisa Abert Byrne; and

Joint resolution (H. R. No. 71) providing for the distribution of surplus copies of the Biennial Register for 1861 among the several bureaus in the Executive Departments.

ISAAC ANDREWS AND OTHERS.

Mr. ALDRICH, from the Committee on Indian Affairs, reported back, with an amendment in the nature of a substitute, bill of the House No. 84, for the relief of Isaac Andrews and others.

The substitute was read. The preamble sets forth that certain individuals have memorialized Congress, stating that they were *bona fide* actual settlers, under the preëmption laws of the United States, in the tract of country known as the eighteen-mile square home reservation of the Winnebagoes, in the Blue-earth region, Minnesota, at a period of time when the Indian title had been extinguished, and prior to the setting apart by legal divisions of the Indian home reservation under the second article of the treaty of the 27th of February, 1855, and that by reason of the setting apart of the home reservation they were forced from their settlements, and subjected to loss and damage by the destruction of their improvements.

The first section of the substitute provides that it shall be lawful for each of such settlers, within three months from the passage of this act, to file his declaratory statement with the proper register and receiver, descriptive of the tract settled upon and improved; and under such regulations as may be prescribed by the Secretary of the Interior; the settler shall be permitted to establish his claim by the production of testimony, showing compliance with all the requirements of the preëmption law up to the period when he was ousted by reason of the premises falling within the Indian home reservation; that the testimony required under this act shall be the affidavit of the claimant himself, taken before the register and receiver, and shall show the date of the commencement and the period of continuance of his improvements, the extent of them, size of his habitation, the time and labor required in its construction, extent of other improvements, and the cost to him and value, and value of crop derived from the same, the affidavit to be corroborated by disinterested testimony.

The second section provides that upon the return of such testimony to the Department, it shall be the duty of the Secretary of the Interior finally to adjudge the validity or invalidity of each claim; and in regard to those shown to be *bona fide* under the preëmption law, to report a list of the same, with all the testimony, to Congress, stipulating such award as should be paid as damages growing out of the loss and destruction of such improvements, by reason of the appropriation of such settlements to the Indian reservation; provided the land officers of the local land office mentioned in the bill shall not receive any additional pay or fees for the services required of them.

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

Mr. ROSCOE CONKLING. Is there a report accompanying the bill?

Mr. ALDRICH. There is no report. The preamble explains the whole matter. It is merely a bill directing an inquiry into certain matters.

Mr. ROSCOE CONKLING. And directing pay in a certain event?

Mr. ALDRICH. No, sir; no pay; the result is to be reported to Congress.

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

The substitute was agreed to.

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

Mr. ALDRICH moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider upon the table.

The latter motion was agreed to.

Mr. ALDRICH moved to amend the title of the bill so as to make it read "A bill for the relief of preëmptors on the home reservation of the Winnebagoes, in the Blue-earth region, in the State of Minnesota."

The amendment was agreed to.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. FORNEY, its Secretary, announced that the Senate had passed bills and a joint resolution of the following titles severally without amendment:

An act (H. R. No. 399) to provide for the quieting of land titles in the late disputed territory in the State of Maine, and for other purposes;

An act (H. R. No. 554) relating to trust funds of several Indian tribes invested by the Government in certain State bonds abstracted from the custody of the late Secretary of the Interior; and

Joint resolution (H. R. No. 98) authorizing the Secretary of War to furnish extra clothing to sick, wounded, and other soldiers.

Also, an act (H. R. No. 280) to establish and equalize the grades of line officers of the United States Navy, with amendments; in which he was directed to ask the concurrence of the House.

Also, an act (No. 392) for the relief of Philip Lansdale, surgeon in the United States Navy; in which he was directed to ask the concurrence of the House.

OSAGE INDIANS.

Mr. ALDRICH, from the Committee on Indian Affairs, made an adverse report on the petition of the Governor and Legislative Council of the Osage nation of Indians; which was laid on the table.

JOHN T. JONES.

Mr. ALDRICH also, from the same committee, reported back, with a recommendation that it do pass, Senate bill No. 354, for the relief of John T. Jones, an Ottawa Indian, for depredations committed by white persons on his property, in Kansas Territory.

The bill directs the payment, under direction of the Commissioner of Indian Affairs, to John T. Jones, of $6,700 in full, for depredations committed on his property by white persons, that being the amount adjudged by said Commissioner to be the full value of the property destroyed.

The question being on ordering the bill to a third reading,

Mr. ROSCOE CONKLING objected.

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

QUINDARO NANCY GUTHRIE.

Mr. ALDRICH also, from the same committee, reported back, with a recommendation that it do pass, Senate bill No. 315, for the relief of Quindaro Nancy Guthrie and her children.

The bill authorizes and directs the Secretary of the Interior to reëxamine the claim of Quindaro Nancy Guthrie and her four children to be entitled to annuities and lands as members of the Shawnee tribe of Indians; and if, upon such examination, he shall be satisfied that they are so entitled, then he is authorized and directed to pay to her and her said children their just proportion of tribal annuities and investments as to other members of said tribe, for the whole period during which he has found that they have been unjustly excluded. The said payments to be made out of any moneys now due, or hereafter to become due, to the Shawnees of Kansas. And the said Secretary is also authorized and directed, on the condition above specified, to permit the said Quindaro Nancy Guthrie to locate for herself and children a quantity of land equal to that selected by other Shawnees out of the lands reserved for absent Shawnees, under the second article of the treaty of May 10, 1854, to be held by her by the same tenure as the locations of other Shawnees under said treaty.

The question being on the third reading,

Mr. F. A. CONKLING. I desire to inquire whether there is any report accompanying that bill?

Mr. ALDRICH. There is no report. The bill makes no appropriation. It merely directs the Secretary of the Interior to inquire and examine as to whether the woman is really a Shawnee; and if so, that she shall be entitled to her share of the annuity and lands belonging to that tribe.

Mr. BLAKE. I would like to know from the gentleman from Minnesota, whether the Shawnee Indians are a party to this bill, or whether there is any representative of that tribe who knows anything about it?

Mr. ALDRICH. If gentlemen will allow me to go on, I will answer all questions. I am informed by my colleague on the Committee on Indian Affairs, [Mr. CONWAY,] who is now absent in consequence of sickness, that this bill ought to pass. It leaves the matter in the hands of the Secretary of the Interior to decide whether this woman is a member of the tribe of Shawnee Indians, and is entitled to her share of the annuity and lands belonging to that tribe. In the absence of the gentleman from Kansas, I have taken some interest in the matter, and desire that the bill shall be put upon its passage. I know nothing more about it than what I have been informed by the gentleman from Kansas and by the Senators from that State, all of whom assure me that the bill ought to pass. I am also informed by another Senator that, in his opinion, there is no necessity for the passage of this bill, for the reason that the Secretary has now authority to decide whether or not this woman is a member of that tribe and entitled to her share of annuity and lands.

Mr. BLAKE. My information is that there is no representative of the Shawnee tribe here asking for the passage of this bill; that this woman is not and never was a Shawnee, and that this is simply an attempt to take from that tribe and give to this woman what justly belongs to the tribe itself. I protest against the passage of any such bill. If a bill of this kind is to be passed, I want the Indians whom we are bound to protect to come and ask for its passage. I am told by gentlemen who know these Indians that the tribe would protest against it in the most earnest manner, if they knew anything about it.

Mr. MALLORY. I would inquire from the gentleman from Minnesota whether he is not willing to leave the question as to whether this woman is a member of the tribe to the tribe itself.

Mr. BLAKE. That question has been left to the tribe. They have decided, in the words of the treaty itself, who are the members of their tribe. This attempt I regard as an infamous fraud on these Indians.

Mr. ALDRICH. I would inquire of the gentleman from Ohio whether he would admit these Indians or their representatives on this floor to protest against the passage of this bill?

Mr. BLAKE. No sir; but every Indian tribe has a representative in this city, and whenever they want business of this kind transacted they send an agent to attend to it. There is no agent or representative from the Shawnee tribe asking for the passage of this bill.

Mr. ALDRICH. I am not aware that there is an agent here from any tribe of Indians.

Mr. BLAKE. I am aware that there are agents here from several tribes.

Mr. ALDRICH. I can also inform the gentleman that this woman has been unjustly deprived of her share of the annuity and lands.

Mr. ROSCOE CONKLING. Deprived by whom?

Mr. ALDRICH. By the Shawnees. I am also informed that there is a small particle of Wyandotte blood in this woman; and because she has for the most of her time resided with the Wyandottes, the Shawnees have unjustly deprived her of her share of the annuity and lands belonging to the tribe.

Mr. MAYNARD. Where did the gentleman from Minnesota get that information?

Mr. ALDRICH. I got it from the Senators and Representative from Kansas, where this tribe is located.

Mr. MAYNARD. In what way does this woman come here?

Mr. ALDRICH. She is not here at all. [Laughter.]

Mr. MAYNARD. Who represents her?

Mr. ALDRICH. The Senators and Representative from Kansas.

Mr. MAYNARD. Do these Senators and Representative represent the tribe or the woman?

Mr. F. A. CONKLING. I infer, Mr. Speaker, from the language of the bill, that this claim of Quindaro Nancy Guthrie has already been examined and decided. The bill directs the Secretary of the Interior to reëxamine this claim.

Mr. ALDRICH. The matter has not been investigated by the present Secretary of the Interior.

Mr. F. A. CONKLING. I did not infer that it had, but that it has been officially examined and determined.

Mr. ALDRICH. I infer so from the tenor of the bill. I have no other information about it.

Mr. F. A. CONKLING. Then the gentleman from Minnesota does not know anything at all about it. He simply assures the House that it is the desire of an absent member that the bill shall be passed.

Mr. ALDRICH. And the Senators, who, I presume, know all about it, who indorse it as a just claim, and who desire that the bill shall be passed.

Mr. F. A. CONKLING. There is no report accompanying this bill, if I correctly understood the honorable gentleman from Minnesota.

Mr. ALDRICH. There is none.

Mr. F. A. CONKLING. This bill, like other bills which have been rejected by this House, provides that, without notice, lands and money which, under treaty stipulation, have been given to the Shawnee tribe, shall be diverted from the recognized members of the tribe who have heretofore received them, and appropriated in part to the woman named in the bill. Of course the rights and interests of a large number of Indians are involved in the passage of the bill. And the question will very likely be involved whether treaty stipulations are to be observed.

Mr. ALDRICH. Not at all. The treaty involves no violation of treaty stipulations.

Mr. F. A. CONKLING. It seems to me that the House ought to know something about this bill before taking any action upon it whatever. I therefore move, and I hope the gentleman from Minnesota will yield for that purpose, that the bill be recommitted to the Committee on Indian Affairs, with instructions to report it back with the facts on which it is based.

Mr. ALDRICH. If the member from Kansas were here, he would undoubtedly be able to make such a report on the case as would be satisfactory to the House. I would like to say a word in reply to the gentleman from New York, that if this woman is a member of the Shawnee tribe, under the treaty she is entitled to her share of the money and lands distributed to the members of that tribe. If she has been unjustly deprived of her rights, there is no wrong committed in rectifying it.

Mr. F. A. CONKLING. I wish to say in reply to the last remark of the gentleman from Minnesota that, as I understand it, the question has been officially examined and determined by the Department. It has been decided that this woman is not a member of the Shawnee tribe, and has no right to the lands or money distributed to the members of the tribe.

Mr. ALDRICH. I will say, in reply to the gentleman from New York, that this bill does not grant money or lands to this woman; it merely directs the Secretary of the Interior to reopen and reëxamine her claims, and decide whether any portion of those lands and money justly belongs to her. No wrong to any one can result from the passage of this bill. If she is not entitled to money or land, the Secretary of the Interior will so decide, and she will not receive any.

Mr. F. A. CONKLING. I still insist that before the House is called on to pass such a bill, the gentleman who reported it ought to be able to show some reason why the bill ought to be passed; he ought to be able to show some reason why the decision which has already been made is not a correct decision, and that there is some good and sufficient reason for reopening and reëxamining the case anew.

Mr. ALDRICH. The reason is, that justice will be done by reopening and reëxamining the case. That is the reason.

Mr. F. A. CONKLING. I move to recommit the bill.

The SPEAKER. Does the gentleman from Minnesota yield for that purpose?

Mr. ALDRICH. I see no necessity for that.

Mr. F. A. CONKLING. I move, then, to lay the bill on the table.

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

The motion was agreed to.

Mr. F. A. CONKLING moved to reconsider the vote by which the bill was laid on the table; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

Mr. ROSCOE CONKLING. Has the morning hour expired?

The SPEAKER. It has.

Mr. ROSCOE CONKLING. I call for the regular order of business.

The SPEAKER. The regular order of business is the call of the committees for reports, unless the gentleman moves to proceed to some other business.

WINNEBAGO FUND.

Mr. ALDRICH, from the Committee on Indian Affairs, reported back joint resolution H. R. No. 81, authorizing the Secretary of the Interior to expend, from a fund in the United States Treasury belonging to the Winnebago Indians, the sum of $100,000, or so much thereof as may be neces-

sary, for the benefit of said Indians, with amendments.

The joint resolution was read. It directs the Secretary of the Interior to expend, from a fund in the Treasury of the United States belonging to the Winnebago Indians, the sum of $100,000, or so much thereof as may be necessary, to make such improvements upon their lands and purchase such stock and agricultural implements as their necessities may require, and that the amount so expended shall be replaced from the proceeds of the sales of the lands belonging to said Indians.

The first amendment reduces the fund authorized to be expended from $100,000 to $50,000.

The second amendment adds at the end of the bill, the words:

Which the Government is now authorized to sell by virtue of the existing treaty with said Indians.

Mr. F. A. CONKLING. Is there a report accompanying this bill?

Mr. ALDRICH. There is not.

The amendments reported by the Committee on Indian Affairs were agreed to.

Mr. BLAKE. I would like to have the gentleman from Minnesota tell us the reason there is for passing this bill? Will he tell us whether the Indians are a party to this arrangement, or whether it is a mere grab for some speculators to take money away from the Indians?

Mr. ALDRICH. I am very happy to inform the honorable gentleman from Ohio that no grab is contemplated by this joint resolution. [Laughter.]

Under the treaty with the Winnebago Indians, concluded with the Indians on the 15th of April, 1859, and ratified on the 23d of March, 1861, I find the following provision:

"ART. 4. Should the proceeds of the surplus lands of the Winnebagoes not prove to be sufficient to carry out the purposes and stipulations of this agreement, and some further aid be from time to time requisite to enable said Indians to sustain themselves successfully in agricultural and other industrial pursuits, such additional means as may be necessary therefor shall be taken from the moneys due and belonging to them under the provisions of former treaties; and so much thereof as may be required to furnish them further aid, as aforesaid, shall be applied in such manner, under the direction of the Secretary of the Interior, as he shall consider best calculated to promote and advance their improvement and welfare; and in order to render unnecessary any further treaty, engagements, or arrangements hereafter with the United States, it is hereby agreed and stipulated, that the President, with the assent of Congress, shall have full power to modify or change any of the provisions of former treaties with the Winnebagoes, in such manner and to whatever extent he may judge to be necessary and expedient for their welfare and best interests.

Now, Mr. Speaker, I will give way to my colleague, who is more familiar with the condition of these Indians than I am, most of these Indians being residents of his district.

Mr. WINDOM. With the consent of the House I will explain very briefly why this resolution was presented. As has been stated by my colleague, the Winnebago Indians are creditors of the Government to the extent of $1,100,000. The Government has in its hands this fund belonging to them. The Indians have also a large tract of land in my district, one half of which has been set apart for them however, and the other half is to be sold.

The Secretary of the Interior and the Commissioner of Indian Affairs have both been consulted in this matter, and have deemed it advisable for the best interest of the Indians as well as all concerned, that this land should not be forced into sale at the present time, knowing that if that be done the lands will be sacrificed. It is a matter of absolute necessity that the Indians should receive this money for the purpose of procuring agricultural implements and stocking their farms, so as to enable them to live. They have no mills, and they have no means of building their houses; and, unless they are permitted to draw upon this fund, as this resolution authorizes them to do, these lands will have to be sold at a heavy sacrifice to these Indians. It is therefore asked that the sale of these lands may be anticipated for a short time, and it is at the same time provided that whatever may be advanced shall be repaid at the proper time.

When I introduced this resolution, I accompanied it with a letter from the Secretary of the Interior strongly recommending its adoption. I am not able at this moment to find that letter, and I only state the fact that the House may be made aware such a letter was written. This action is recommended by the Commissioner of Indian Affairs, as well as by the Secretary of the Interior. It is intended to supply these Indians with some means of living and taking care of themselves. As it is now, they do great injury and are the source of constant annoyance to the whites in that section of country. There are no other remarks which I deem it proper to make, unless gentlemen should ask me questions for information. I sincerely hope that the resolution will be adopted.

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

Mr. WINDOM. I move to amend the title of the resolution by striking out "one hundred" and inserting "fifty," so that it will read:

Joint resolution (H. R. No. 81) authorizing the Secretary of the Interior to expend, from a fund in the United States Treasury belonging to the Winnebago Indians, the sum of $50,000, or so much thereof as may be necessary, for the benefit of said Indians.

The amendment was agreed to.

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

The latter motion was agreed to.

LAND CLAIM IN IOWA.

Mr. WILSON. I move to reconsider the vote by which bill of the Senate No. 119, confirming a land claim in the State of Iowa, and for other purposes, was referred to the Committee on Public Lands.

The motion was agreed to.

The question then recurred on the third reading of the bill.

Mr. WILSON. If it is the pleasure of the House, I would like to say a few words in explanation of the bill.

Mr. OLIN. Oh, no; let us vote on it.

Mr. WILSON. Then I demand the previous question.

The previous question was seconded, and the main question ordered to be put; and under the operation thereof, the bill was ordered to a third reading, and was accordingly read the third time.

The bill provides:

That the grant of lands to the then Territory of Iowa for the improvement of the Des Moines river, made by the act of August 8, 1846, is hereby extended so as to include the alternate sections (designated by odd numbers) lying within five miles of said river, between the Raccoon Fork and the northern boundary of said State; such lands are to be held and applied in accordance with the provisions of the original grant, except that the consent of Congress is hereby given to the application of a portion thereof to aid in the construction of the Keokuk, Fort Des Moines, and Minnesota railroad, in accordance with the provisions of the act of the General Assembly of the State of Iowa, approved March 22, 1858. And if any of said lands shall have been sold or otherwise disposed of by the United States before the passage of this act, the Secretary of the Interior is hereby directed to set apart an equal amount of lands within said State to be certified in lieu thereof: *Provided*, That if the said State shall have sold and conveyed any portion of the lands lying within the limits of this grant the title of which has proved invalid, any lands which shall be certified to said State in lieu thereof by virtue of the provisions of this act shall inure to and be held as a trust fund for the benefit of the person or persons respectively whose titles shall have failed as aforesaid.

Mr. F. A. CONKLING. What is the number of acres that this bill will cede to the State of Iowa?

Mr. WILSON. It is only necessary to make a very brief statement in order to satisfy the House that this bill ought to pass. It was originally presented in the Senate by the Senator from Iowa, and referred to the Committee on Public Lands. It was then reported unanimously from that committee with the recommendation that it do pass, and it was accordingly passed by the Senate in the shape in which it is now presented to the House.

Mr. F. A. CONKLING. Is there a report accompanying the bill?

Mr. WILSON. There is no report accompanying the bill, but I will briefly state the facts in the case. It has not only had the indorsement of the Committee on Public Lands in the Senate, but it has also had the indorsement of the Committee on Public Lands in the House. It is not proposed to enlarge what was supposed to be the grant made by Congress in 1846 to the State of Iowa, but it is simply for the purpose of obviating a difficulty which has grown out of a decision of the Supreme Court in relation to other grants made for railway purposes in that State. Notwithstanding it is the decision of the land commissioners and the opinion of Mr. Walker, the then Secretary of the Treasury, that the grant was to extend beyond Raccoon Fork to the northern boundary of the State of Iowa, yet there has been some difficulty in the matter, and this bill does not propose to grant any more land than was supposed to be embraced in the act of 1846.

Mr. RICHARDSON. Let me make a single observation in regard to this matter, as it is one with which I have some familiarity. The original grant was made by Congress for the improvement of a certain river.

Mr. F. A. CONKLING. The Des Moines river.

Mr. RICHARDSON. Yes, sir; and an application has been made that a portion of the land shall be used to aid in the construction of the Keokuk, Fort Des Moines, and Minnesota railroad, in accordance with the provisions of the act of the General Assembly of that State of March 22, 1858. The bill does not extend the grant, but it merely diverts the purpose for which the original grant was made in a slight degree.

Mr. WILSON. And that is all there is in it. It is designed to confirm the arrangement already made with the settlers upon the land. I hope, therefore, that the bill will pass. It has received the approval of every officer of the Government. As I have already stated, it has been indorsed by the Committee on Public Lands in this House, as well as by the committee in the Senate. I demand the previous question on the passage of the bill.

The previous question was seconded, and the main question ordered; and under the operation thereof, the bill was passed.

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

The latter motion was agreed to.

WILLIAM KENNEDY.

Mr. PHELPS, of California, from the Committee on Indian Affairs, reported a bill for the relief of William Kennedy, which was read a first and second time, referred to a Committee of the Whole House on the Private Calendar, and, with the accompanying report, ordered to be printed.

INCREASE OF THE MILITARY ESTABLISHMENT.

Mr. OLIN. I am instructed by the Committee on Military Affairs to report back Senate bill No. 325, in addition to an act approved 5th of August, 1861, entitled "An act supplementary to an act entitled 'An act to increase the present military establishment of the United States,'" with the recommendation that it be laid upon the table, because the provisions embraced in it have already been provided for in other legislation at the present session of Congress. I move that the bill be laid upon the table.

The motion was agreed to.

APPOINTMENT OF GENERALS.

Mr. OLIN, from the same committee, reported back Senate bill No. 297, to limit the appointment of major generals and brigadier generals in the Army and volunteers, and moved that it be laid upon the table, as the matters embraced had been already provided for.

The motion was agreed to.

MEDALS OF HONOR.

Mr. OLIN, from the same committee, reported back Senate joint resolution No. 82, to provide for the presentation of "medals of honor" to the enlisted men of the Army and volunteer forces who have or may distinguish themselves in battle during the present rebellion, with the recommendation that it do pass.

The resolution authorizes the President of the United States to cause two thousand "medals of honor" to be prepared, with suitable emblematic devices, and directs that they be presented in the name of Congress, to such non-commissioned officers and privates as shall most distinguish themselves by their gallantry in action, and by other soldier-like qualities, during the present insurrection; and it further appropriates $10,000, out of any money in the Treasury not otherwise appropriated, for the purpose of carrying this resolution into effect.

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

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

The latter motion was agreed to.

PAY, ETC., OF SOLDIERS IN MISSOURI.

Mr. OLIN, from the same committee, reported back Senate resolution No. 78, to suspend all payments under the act approved March 25, 1862, entitled "An act to secure to the officers and men actually employed in the Western department, or department of Missouri, their pay, bounty, and pension," and for other purposes, with the recommendation that it do pass.

The resolution authorizes the Secretary of War to suspend all payments under the act approved March 25, 1862, entitled "An act to secure to the officers and men actually employed in the Western department, or department of Missouri, their pay, bounty, and pension;" and provides that there shall be appointed by the President, by and with the advice and consent of the Senate, two commissioners to examine all claims arising under the provisions of that act, and report the same, with the facts connected therewith, to the Secretary of War; the commissioners to have such compensation for their services as the Secretary of War may consider just and reasonable.

Mr. OLIN. This resolution is simply to amend an act which was passed during the present session of Congress, and it imposes some additional restrictions and guarantees in reference to the examinations of these claims to be made by the General Government. It was thought that the act, as originally passed, did not provide sufficient security against defrauding the Government, and this supplemental act is brought forward to secure those guarantees. I understand that the persons most interested in these claims are willing to accept this law imposing additional securities and restrictions. Why any one should object to it I do not know. Now, it is time this act should pass. It ought to pass this session.

As I understand it, the act passed by the House in relation to these claims left the whole adjudication in the hands of the paymaster of the Army. He probably will refuse to act under it, and the consequence will be that these claims will go uncanceled or unpaid unless the legislation of Congress creates a tribunal to adjudge and decide upon them.

I understand that this bill is perfectly satisfactory to those persons interested in these claims. The act contemplates providing for certain securities upon the part of the Government, in order that the Government may not be defrauded. It is the best means that can be devised to secure an examination of these claims, and have the accounts certified. If there is any object in defeating for the present those claims, or if there is an object for having a law executed which affords no guarantee for any proper examination of the claims, then defeat this bill.

Mr. WICKLIFFE. I am, like the gentleman from New York, in favor of providing for the payment of these claims. When the original proposition which this is designed to amend was before the House, I tried to obtain the ear of the advocate of the measure, to tell him that the bill would not answer the object intended.

You cannot understand the original bill unless you will read the report of the committee on Government contracts, and the report of the commission upon Army claims, which sat in St. Louis. The first bill which passed the House contained the words, "other persons employed," embracing a set of claimants who would not present their claims to the commissioners at St. Louis, and which claims have been denounced by both the committee on Government contracts and that board. It is that description of claims to which that expression in the original bill refers, and which will come here and claim to be protected.

If the gentleman from New York will amend his resolution so as to confine it to claims for military service performed by citizens of Missouri, he will protect the Treasury, and have no difficulty in settling the accounts. If you let the resolution stand as it is, you will admit claims which have been condemned by the committee on Government contracts and by the commission on claims. I can give an instance of one of those claims. Take a case of the erection of those fortifications around St. Louis. The persons employed by the contractors under the commander of that department, in constructing the last five forts around St. Louis, have not received one cent for their services, and yet they have been employed in the service of the Government. The first five forts were constructed under the direction of the quartermaster, and the laborers were paid. The last five were made by a contractor, and he employed the laborers around St. Louis, and, though he has received his money from the Government under the order of the commander of that department, he has never paid one cent to the laborers.

Now, if the gentleman will only confine his bill to the soldiers who served their country, he will find no difficulty, and it will cover all claims that ought to be embraced in the bill. If he does not, we may have hundreds of colonels, majors, and captains, who were employed in the military service against law, and whom the Administration did not dismiss by order, presenting claims under this bill. Confine the bill to the payment of officers and soldiers who served in Missouri and who have not been paid, and you will protect the interests of the Government and do justice.

Mr. FENTON. I wish to say that I have not examined the claims provided to be settled by this commission under this bill, but I believe the bill is sound in principle. I think that the various claims that arise during this war, this particular class as well as others, will have to be adjusted in the manner provided in this bill. I have doubted whether the conclusions of the commissioners should be, in all cases, final, as provided in this bill; but I have no objection to it in this particular case.

The bill is framed precisely upon the principle adopted by the Committee of Claims in their general bill brought before this House, except that the bill of my colleague from New York provides for the payment of a particular class of claims, while the bill of the Committee of Claims provided for several classes of claims. I am glad my colleague has become so far a convert to the united report of the Committee of Claims that he is now advocating the passage of this bill, and I cordially unite with him, and recommend my friends to support him.

Mr. OLIN. I have no further observations to make in reply to the remarks of the gentleman from Kentucky.

Mr. TRIMBLE. I wish to state, in addition to the facts which have already been mentioned by the gentleman from New York, that in the law for the pay of pensions and bounties to soldiers and officers in the department of Missouri who had not been regularly mustered into the service of the United States, no provision was made for their adjudication; and the paymaster, when he went out to attend to this business, found that frauds were attempted to be perpetrated upon the Government, and for that reason he declined to pay the claims, but he reported, I am informed, claims to the amount of $3,000,000 to the Secretary of the Treasury, who declined payment and asked for further legislation upon the subject.

It was upon that ground that the Senate declined, a few days since, to pass a joint resolution of this House extending the provisions of that bill to the other departments of the country.

Mr. OLIN. With this explanation I move the previous question upon the passage of the resolution.

The previous question was seconded, and the main question was ordered to be put; and under the operation thereof, the resolution was passed.

Mr. OLIN moved to reconsider the vote by which the resolution was agreed to; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

ORGANIZATION OF ARMY CORPS.

Mr. OLIN. I am further instructed by the Committee on Military Affairs to report back, with a recommendation that it do pass, a bill (S. No. 235) providing for the organization of army corps and staffs attached to corps and divisions of the Army of the United States.

The question being on the third reading of the bill,

Mr. OLIN said: It will be recollected by the House that until quite recently, perhaps up to the time that the army of the Potomac left the vicinity of Washington, divisions and corps of the Army had never been created, and it was only at that period of time that the new organization of the Army substantially was made. The moment that was done, it became necessary to create the staff which is provided for in this bill—that is, a staff for the division and the army corps.

Now, the third section of this bill, I think it is, does create three additional officers for the staff of a division. Those may be assigned from the regular Army or from the volunteer service.

I am not sufficiently familiar with the organization of the Army to know the necessity of this. All that I do know about it is, that I suppose it to be just as necessary that a commander of an army corps should have a staff as it is necessary for a brigadier general to have a staff, or a commander of a division to have a staff. I do know that this bill was drawn up by the Military Committee of the Senate, under the advice and at the solicitation of the Secretary of War. I have taken some pains to examine the legislation of this Congress, with a view to ascertain in what respect former laws relative to the organization of the Army have been modified by the enactments of the present session; but I think it would be difficult for any member of the House to state definitely to what extent previous legislation in reference to the Army has been modified and changed. I have taken pains to inquire in reference to the necessity and propriety of this measure, to know if it is demanded by the exigencies of the country; and I am assured that it is demanded, and that it is absolutely necessary to organize these staffs, and to give the authority of law to what is substantially and practically now done.

The House will recollect that about four months ago what are called *corps d'armée* were organized. Up to that time the Army was not organized into corps, although the subject had been considered and urged by some military men, but General McClellan, who was then in command of the army of the Potomac, did not see fit to organize in that manner the large army then in the vicinity of Washington. Four months ago, however, that organization was made. The House will recollect that in August last a bill was passed through both Houses of Congress, somewhat inadvertently, authorizing a major general of the Army to create about as many officers or assign them to staff duty as he saw fit, and under that regulation thus passed, some thirty or forty individuals were appointed to staff duty by the various major generals of the Army. Some of you may remember that there was an attempt to dispense with the services of some thirty-three individuals on the staffs of major generals, and we have amended the provision of law so as to limit the number. Now, in the organization of these corps, it was very easy to supply them with staff officers. A major general had authority to make as many staff officers as he saw fit to appoint, and in that way a great number of staff officers were appointed and assigned to duty with the various brigades and divisions. Now, if any gentleman desires to discuss or amend this bill, I am entirely content that he shall do so.

Mr. McPHERSON. There is one feature of this bill which I thought, when it was originally proposed some weeks ago, ought to be adopted; and that is the section creating staffs for the generals commanding our *corps d'armée*, for at that time each one of our army corps in the army of the Potomac was commanded by a brigadier general, and he could not legally have any larger staff than is provided for a brigadier general. Since that time, however—and this is a very important point—every commander of a corps in the army of the Potomac has been made a major general by nomination on the part of the President a few days since and confirmation by the Senate. Every general, therefore, commanding a corps in the army of the Potomac, is to-day entitled to the staff belonging to a major general. I take it that furnishes quite as many staff officers as any ordinary emergency can require. If there be any extraordinary emergency, there is nothing to prevent the commander of a corps from detailing, for temporary service upon his staff, any officers in his command. These emergencies are not at all likely frequently to occur, because our legislation upon this subject was made to reach every probable demand of the service.

The bill, as it now stands, increases the staff of every division commander in your Army. It not only gives every commander of a corps a larger staff than the law gives to a major general of the Army, but it gives to every division commander a larger staff than your law now authorizes him to have. There will be, if this bill should pass,

an increase of three officers upon the staff of every division general in the Army, as stated by the gentleman from New York. There are about forty divisions in the Army, which will make an increase of one hundred and twenty staff officers under that provision of the bill. That, of itself, will entail upon the Treasury an expenditure of about two hundred thousand dollars per annum.

Now, Mr. Speaker, before the Army was organized into corps, and when these divisions each stood upon its own footing, there might have been, comparatively speaking, some propriety in asking for an increase in the staff of every division general; but since these divisions have been consolidated into corps, and each commander of a corps has the staff of a major general, there is no necessity whatever for the commander of a division having this increased staff, because the staff of the commander of a corps is for the benefit in part of the division generals.

Mr. OLIN. What is the staff of the commander of a corps?

Mr. McPHERSON. The bill has been read at the Clerk's desk, which defines the staff of the commander of a corps. Every commander of a corps in the whole Army is to-day a major general, and is entitled under the law to the staff of a major general, and I believe that the staff authorized by existing law is abundant for all ordinary emergencies, and if there be any extraordinary emergency he has the right, as commander of a corps, to detail for special duty, and for a limited time, one, two, or more of the officers in his corps, as he sees proper.

Mr. OLIN. The gentleman seems to suppose that the commander of a corps will have the staff provided in the bill, and also his staff as a major general.

Mr. McPHERSON. Not at all. I do not suppose any such thing, but I say that the commander of a corps, being a major general, is entitled to have the staff of his rank, which is sufficient for all ordinary purposes.

Mr. OLIN. What is the staff of a major general?

Mr. McPHERSON. The gentleman stated yesterday, during the debate on the bill which we then had before us, that an increase in the ordnance corps was necessary in order to detail officers of the ordnance corps to the field. They will, of course, then go upon the staff of your commanders, for there is no place else for them to go.

Mr. OLIN. I said nothing of the kind.

Mr. McPHERSON. Well, the gentleman from Indiana, [Mr. DUNN,] who had the bill in charge, did. So an increase in the quartermaster's department was urged upon the ground that officers of that corps had been taken from their duties in the office here and placed in the field upon active duty. And so with the officers of the commissary and engineer departments. A general commanding a corps is, as I understand it, entitled to have upon his staff an officer from the ordnance department, an officer from the quartermaster's department, and officers from the commissary and engineer departments, if the strength of those corps will justify their detail; and if they will not justify it, then he can go upon the quartermaster's staff and the commissary staff of volunteers, and get his officers detailed from them; for, as you all know, we have appointed probably not fewer than one hundred and twenty additional quartermasters, and have had a large number of additional commissaries of subsistence appointed for the special purpose of being placed upon the staff of these field officers.

Mr. ROSCOE CONKLING. Aside from this extraordinary mode of providing for contingencies, will the gentleman be good enough to state to what staff, by the law as it now stands, a major general is entitled?

Mr. McPHERSON. He is entitled to an assistant adjutant general. He is also entitled to a quartermaster. His entitled also to a commissary and engineer. He is entitled, under the legislation of last July, to three aids-de-camp. I do not know whether he is entitled to an inspector general or not. I do not remember distinctly about that.

Mr. OLIN. I believe they are not staff officers.

Mr. McPHERSON. Certainly they are; and very important staff officers.

Mr. ROSCOE CONKLING. A *corps d'armée*, as I understand it, is ordinarily composed in our service of some thirty-six or forty thousand troops. I wish the gentleman from Pennsylvania would state to the House how many division and brigade staffs there are ordinarily comprised in a *corps d'armée*, and about how many staff officers in all are ordinarily absorbed into and comprised within a *corps d'armée?*

Mr. McPHERSON. There are usually four brigades in a division; three or four, and there are usually three divisions in a corps. You thus have twelve distinct and separate staffs, in addition to that of the major general commanding the *corps d'armée*

A VOICE. How are they made up?

Mr. McPHERSON. On the staff of a brigadier general you have an assistant adjutant general and two aids. On the staff of a division commander you have the same. You have, therefore, no less than from thirty-six to forty staff officers on the staffs of the brigadiers and division commanders in the corps. Besides that, your corps commander, being a major general, is entitled to a major general's staff. If you pass this bill, there will be an increase of at least three staff officers in each division, which will make an increase of one hundred and twenty staff officers, besides the additional aids, all with increased rank.

Mr. BIDDLE. Do I understand my colleague to say that the officers provided in this bill will be in addition to what the law already allows?

Mr. McPHERSON. No, sir; except so far as they exceed the present allowance.

Mr. BIDDLE. I find that the third section provides that each division of the forces of the United States consisting of two or more brigades shall have the following officers attached thereto, who shall constitute the staff of the permanent commander thereof: one assistant adjutant general, one assistant inspector general, who shall bear, respectively, the rank of major; also three aids-de-camp, to bear the rank of captain.

Mr. McPHERSON. That is an increase of one inspector general and of one aid-de-camp on the staff of each division commander. In addition to that, it gives increased rank to all of them. At present the assistant adjutant general of a division commander has the rank of captain. This bill gives him the rank of major. The aids of division commanders are lieutenants; this makes them captains.

Mr. ALLEN, of Ohio. I desire to ask the gentleman from Pennsylvania whether he has made any calculations that will enable him to state the expense of the additional staff officers provided in this bill?

Mr. McPHERSON. The increase will be not less than $300,000 per annum. There is an increase, according to the admission of the gentleman from New York, of three officers on the staff of each division commander. There are forty divisions, which makes one hundred and twenty additional staff officers.

Mr. OLIN. The bill does not necessarily provide for any increased expense at all. All of these officers may be detailed either from the regular or volunteer forces. It is only where these officers are taken from outside, and attached to the staff, that there is any additional expense. An estimate of $300,000 increase is very remarkable.

Mr. McPHERSON. I am prepared to establish that fact. The gentleman says that this bill does not necessarily increase the number of officers, but that these staff officers may be detailed from other branches of the service. I should like to know where you are going to get an assistant inspector general for each one of these forty division commanders. They must be created. This bill does create them, because it authorizes their appointment. It increases aids from two, with the rank of lieutenant, to three with the rank of captain. In addition to that, it provides for the creation of a new staff officer known as the judge-advocate of a division. Suppose it were true that every one of these staff officers was not a new appointment, but could be detailed from the line: what would be the result? Suppose that the company officers should be taken from their positions and transferred to these staff positions: what would be the condition of your company commands? If every general commanding a division had the right to take three captains from their companies to put them on his staff, the result would be such a depleting of your company organization as that the efficiency of the Army would be largely impaired, for their vacancies of transferred officers cannot be filled.

There is another feature about this bill which I think highly objectionable. As presented by the Military Committee it fails to require that the appointments as aids-de-camp shall be confirmed by the Senate. What I think still worse, it also fails to require that these additional aids shall be taken from men now in the service. There is nothing to prevent a division commander from taking all his aids from civil life. He will be authorized to pass by all the experienced and practical men of his command, dig up from civil life whoever he may choose, and transplant them into his staff to command men who have for six or nine months borne the brunt of the battle.

When a proposition somewhat similar to this was before the House some months ago, I took occasion to oppose it. Subsequently I had conversations with several Army men on this very subject. If I thought proper I could give the highest military authority for the declaration that this enlarged staff organization is wholly unnecessary, and that that bill had been prepared in the interest of a certain portion of the Army, which he denominated the "fancy" part of the Army, and said that the practical fighting men of the Army did not require and do not desire any such organization. The distinguished major general who made that declaration—not to me, but it came to me through a friend—is a man who distinguished himself in the recent battles before Richmond, and who, through a long and honorable career, has proved himself a true and faithful soldier. Sustained by the opinions of such men as he, I feel it my duty to protest against this bill, and ask the House not to pass it. I move that the bill be laid upon the table.

Mr. OLIN. I ask the gentleman to withdraw the motion.

Mr. McPHERSON. I withdraw it for a remark; but I do not withdraw it absolutely, unless the gentleman will renew it.

Mr. OLIN. Mr. Speaker, in reply to what the gentleman has stated, I desire to say that it cannot be true that any distinguished officer of the Army has said, with reference to the provisions of this bill, that the staff proposed to be created by it was unnecessary. I venture to say that the gentleman has seen no one to express such an opinion since the bill has been reported.

Mr. McPHERSON. The gentleman from New York is in error as to what I said. I said that, when a bill like this, almost substantially the same, was brought before the House two or three months ago, I opposed it; and that subsequently I had conversation with several Army people, and heard of the declaration I have substantially repeated.

Mr. OLIN. Mr. Speaker, the gentleman is in error again. There has been no bill before the House containing the provisions of this bill, or anything like the provisions of this bill, in reference to corps and division staffs; if so, will the gentleman lay his hand upon the bill?

Mr. McPHERSON. I will. The bill which was before the House on the 6th day of March last, and which was then acted upon, was almost exactly this bill, except that there is added to this a provision in reference to the staff of a general commanding a corps not then provided for. I hold in my hand the remarks I made at that time, and I can turn to the bill itself.

Mr. OLIN. The gentleman will please to do so. In relation to this measure, it is, in my judgment, a very obvious and simple one, and can easily be understood by the House. If it be necessary or proper to divide an army of the magnitude of ours into corps and divisions, and to put an officer at the head of each corps or division, I do not suppose that anybody will dispute that it is necessary that that officer shall have a staff. Whether that staff is to be a large one or a small one is another question. Whether the staff here proposed is unnecessarily large, I suppose there is enough of military experience in the House to decide.

But I aver that nothing which the gentleman has said should, in my judgment, disturb at all the recommendation of the highest officer of the Army, and of the Secretary of War, as to the propriety and necessity of this measure. Is it wise, is it prudent, is it proper, for this House to say, in response to a recommendation of this kind, that it is wholly unnecessary, or that it ought to be rejected, because it would cost $200,000 additional expense.

Mr. McPHERSON. I have now the bill to which I referred. It is Senate bill No. 122.

Mr. OLIN. Oh, that is an entirely different bill.

Mr. McPHERSON. The statement I made was, that it was substantially the same bill as this. That bill, which was before us on the 6th of March, provides for a staff corps for the commander of a division. At that time we had no commanders of corps which this bill provides for; and, of course, the bills differ in this respect; but in every other respect they are substantially the same.

Mr. OLIN. If the gentleman will compare the two bills, he will find that they are essentially different. That bill did not apply to an Army organization such as now exists.

Mr. McPHERSON. I have compared the two bills, and find them, as I have said, substantially the same, with the exception that this bill provides a staff for the commander of a *corps d'armée*, which that bill did not provide for. The gentleman can examine and compare them for himself.

Mr. OLIN. Mr. Speaker, now the gentleman from Pennsylvania takes hold of some private conversation that he has had with the commander of a division who has distinguished himself in the military service, in whose opinion this bill is not needed to promote the efficiency of the service. I wish the gentleman would give the name of that officer.

Mr. McPHERSON. I have said that I do not feel at liberty to give his name. I do not consider it proper, but I repeat that he is a commander who has distinguished himself in the field, and is now a major general.

Mr. DUNN. I desire to say, in reference to this matter, that when the bill to which the gentleman from Pennsylvania refers was before the House, in the course of the discussion which then took place I stated what was the opinion of General Burnside, expressed just as he was about to leave for the South in command of his expedition, urging me to procure the passage of a bill increasing the number of staff officers for commanders of divisions. I wish to say further, that since General Heintzelman has been on the peninsula he has written to me urging the passage of this bill.

Mr. OLIN. Now, I wonder who the fellow was who opposed this increase. [Laughter.]

Mr. McPHERSON. If the gentleman knew his name, he would not call him a fellow.

Mr. OLIN. Oh, I mean a good fellow. Now, in reference to the propriety of passing this bill, here is a recommendation coming from the head of the War Department. Here is the recommendation of officers upon whom has been devolved the responsibility of commanding divisions and commanding army corps asking for this measure, and I ask, is there any man here who is willing to take the responsibility of saying they do not need it, that it is going to cost money? Who will say to those officers in command, we expect you to peril your lives in the service of the country; we expect you to do whatever men can do to save the honor of the country, but when Congress is asked to afford you the ordinary facilities for performing your duties by passing a measure which the most experienced and skillful officers say is necessary, some gentleman in this House will get up and assume to understand the wants of the Army so entirely as to say, upon his own responsibility, that the whole thing is unnecessary, and that you must lay the bill upon the table?

Now, in order to give the House an opportunity of defeating the bill if they desire to do so, I will, according to my promise, move to lay the bill upon the table.

Mr. McPHERSON. Will the gentleman allow me to say a single word in reply to him before he makes that motion?

Mr. OLIN. I will.

Mr. ROSCOE CONKLING. I desire to make one or two observations upon the bill, if the gentleman from Pennsylvania will allow me.

Mr. McPHERSON. I will.

Mr. OLIN. I believe I hold the floor, and I must decline to yield further. I yield to the gentleman from Pennsylvania.

Mr. ROSCOE CONKLING. I object to that. I insist if the gentleman yields, he yields unconditionally.

The SPEAKER. Objection being made, if the gentleman from New York yields the floor, he must do it unconditionally.

Mr. OLIN. I decline to yield the floor unconditionally, and move to lay the bill upon the table.

Mr. McPHERSON. I hope the gentleman will withdraw that motion for a moment. I will renew it.

Mr. OLIN. I am perfectly willing, if I can do so.

Mr. ROSCOE CONKLING. I object. I object to putting this bill through under any gag.

Mr. OLIN. Very well; I insist upon my motion then.

The motion was agreed to.

Mr. ROSCOE CONKLING moved to reconsider the vote by which the bill was laid on the table; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to—ayes 67, noes 32.

CARMACK AND RAMSEY.

On motion of Mr. ALLEY, Senate joint resolution (No. 89) in relation to the claim of Carmack & Ramsey, was taken from the Speaker's table.

Mr. ALLEY moved that the House insist upon its amendments, and agree to the committee of conference asked for by the Senate.

Mr. BLAKE. I do not want a committee of conference upon that bill. I hope the House will insist on its amendment.

The SPEAKER. The Chair will state that it is the usual courtesy on the part of one House to agree to the conference asked by the other House.

Mr. BLAKE. Very well; let it go.

The motion of Mr. ALLEY was then agreed to.

Mr. COX. Is it not in order to move that the House adhere to its amendment to that bill?

The SPEAKER. The Chair will state that a committee of conference has already been ordered to be appointed on it.

Mr. COX. I will move, then, to reconsider the vote by which the committee of conference was ordered.

The SPEAKER. The Chair will again say that it is a matter of courtesy when the other House asks for a conference on a measure to grant it.

Mr. COX. Very well; I will withdraw the motion.

SHERBURNE AND WOOD.

Mr. DUNN, from the Committee on Military Affairs, reported a bill for the relief of Captains John P. Sherburne and H. Clay Wood, of the United States Army; which was read a first and second time.

Mr. F. A. CONKLING. I raise the point of order that the bill makes an appropriation, and must be first considered in a Committee of the Whole.

The SPEAKER. The Chair sustains the point of order.

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

RICE M. BROWN.

Mr. BUFFINTON, from the Committee on Military Affairs, reported a bill for the relief of Rice M. Brown; which was read a first and second time.

The bill was read.

Mr. F. A. CONKLING. I raise the question of order that the bill makes an appropriation, and must go to a Committee of the Whole House.

The SPEAKER. The Chair sustains the question of order.

Mr. BUFFINTON. I ask the gentleman to hear the report read, and perhaps he will not object.

Mr. F. A. CONKLING. I will waive my point of order for that purpose.

The report was read.

Mr. F. A. CONKLING. I must insist on my point of order.

The SPEAKER. The Chair sustains the point of order.

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

DEPUTY INSPECTORS GENERAL.

Mr. BUFFINTON, from the Committee on Military Affairs, reported back House bill (No. 336) to authorize the appointment of two inspectors general; which was referred to the Committee of the Whole on the state of the Union, and ordered to be printed.

PAY OF MUSICIANS.

Mr. BUFFINTON made an adverse report on the resolution of the House instructing the Committee on Military Affairs to inquire into the expediency of increasing the pay of musicians to that of privates in the Army; which was laid on the table.

COLLEGE MILITARY INSTRUCTION.

Mr. BUFFINTON, from the same committee, made an adverse report upon the resolution of the House instructing the Committee on Military Affairs to inquire into the expediency of detailing, at the expense of the United States, a military instructor for each incorporated college in the United States; which was laid on the table.

NARRAGANSETT BAY.

Mr. BUFFINTON, from the same committee, made an adverse report on the resolution of the House instructing the Committee on Military Affairs to inquire into the expediency of fortifying Narragansett Bay, Rhode Island; which was laid on the table.

GOVERNMENT OF THE NAVY.

Mr. SEDGWICK, from the Committee on Naval Affairs, reported back Senate bill (No. 348) for the better government of the Navy of the United States, with sundry amendments.

Mr. THOMAS, of Massachusetts. Let the bill and amendments be read.

Mr. SEDGWICK. The amendments of the Committee on Naval Affairs are principally verbal in their character, and I think they are such as the House will not object to.

The bill and amendments were read.

Mr. THOMAS, of Massachusetts. I desire to make a verbal amendment. In the provision for the deposit of money in the Treasury of the United States the language is, "until the final decree of distribution shall be made in these prize cases." I move to add the words "or until the decree of restitution."

The amendment was agreed to.

Mr. F. A. CONKLING. I also have a verbal amendment which I desire to make to this bill. It provides that "the proceeds of the sale of prizes shall be deposited with the Assistant Treasurer at the place of sale." I move to amend, so as to make it read that "the proceeds shall be deposited with the Assistant Treasurer at or nearest to the place of sale."

The amendment was agreed to.

The amendments of the Committee on Naval Affairs were then concurred in; and the bill, as amended, was ordered to a third reading; and it was accordingly read the third time, and passed.

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

The latter motion was agreed to.

THANKS OF CONGRESS TO CAPTAIN FOOTE.

Mr. SEDGWICK, from the same committee, reported a joint resolution tendering the thanks of Congress to Captain Andrew H. Foote, United States Navy; which was read a first and second time, ordered to be engrossed, and read a third time; and being engrossed, it was accordingly read the third time, and passed.

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

The latter motion was agreed to.

ENROLLED BILL.

Mr. GRANGER, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled an act (S. No. 371) for the relief of Fanny Mactier Smith; when the Speaker signed the same.

EQUALIZATION OF GRADES IN THE NAVY.

Mr. SEDGWICK moved to take from the Speaker's table the amendments of the Senate to House bill No. 280, to establish and equalize the grades of line officers in the United States Navy, and that they be non-concurred in.

The amendments were taken up by unanimous consent, and the motion to non-concur was agreed to.

SUSAN DIXON.

Mr. VERREE, from the Committee on Naval Affairs, reported back House bill (No. 435) for the

relief of Susan Dixon, widow of John Dixon, deceased.

The bill provides simply for the correction of an error. It was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

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

The latter motion was agreed to.

PHILIP LANSDALE.

Mr. RICE, of Massachusetts, from the Committee on Naval Affairs, reported back Senate bill (No. 392) for the relief of Philip Lansdale, surgeon in the United States Navy.

The bill provides for the payment of the difference between the pay of a surgeon and that of an assistant surgeon.

Mr. CALVERT. I will detain the House but a few moments in explanation of this bill. A similar bill passed this House and went to the Senate, where it was laid over for the want of certain papers. Since then the Senate have again taken up the matter, considered it fully, and passed the bill which they have sent to us, and which is now pending.

Mr. F. A. CONKLING. Was the bill passed at this session by the House?

Mr. CALVERT. It was.

Mr. RICE, of Massachusetts. This is a bill which passed this House several weeks ago, after having been before the Committee on Naval Affairs, and thoroughly investigated. It went to the Senate, and was reported on adversely by the committee in that body. Immediately afterwards it was reconsidered, and this bill was passed and sent to this House. It has been recommended by the Secretary of the Navy, and in proof of that fact I ask the Clerk to read the letter which I send to his desk.

The Clerk read, as follows:

NAVY DEPARTMENT, *July* 9, 1862.

SIR: I have the honor to acknowledge the receipt of your letter of the 9th instant, inclosing a bill for the relief of Surgeon Philip Lansdale, and asking the opinion of the Department with respect to his claim.

It is not the practice of the Department to order officers to perform the duty of a higher grade, because an act of Congress deprives it of the power of allowing them the corresponding pay. But the exigencies of the service required that Dr. Lansdale should be ordered to perform the duty of a surgeon on board the John Adams, and, having performed it for the time stated in the claim, the Department considers him equitably entitled to the pay.

The papers inclosed by you are herewith returned.

I am, respectfully, your obedient servant,

GIDEON WELLES.

Hon. JOHN P. HALE, *Chairman of the Committee on Naval Affairs, United States Senate.*

Mr. TRIMBLE. I make the point of order, that as the bill makes an appropriation, it must, under the rules, have its first consideration in a Committee of the Whole House on the Private Calendar.

The SPEAKER. The Chair sustains the point of order.

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

MARITIME RIGHTS.

Mr. COX, from the Committee on Foreign Affairs, to which was referred the resolution of Mr. BLAIR, of Missouri, in relation to intervention by France in the affairs of this nation, as well as several other papers, reported a joint resolution in relation to maritime rights; which was read a first and second time, and ordered to be printed, and its further consideration postponed until the third Monday in December next.

DR. WILLIAM TREAVITT.

Mr. COX, from the same committee, reported a bill for the relief of Dr. William Treavitt; which was read a first and second time.

Mr. F. A. CONKLING. That bill makes an appropriation, and must go to a Committee of the Whole House on the Private Calendar.

Mr. COX. I ask the gentleman from New York to withdraw his objection until I shall make a brief statement of the facts in this case.

Mr. F. A. CONKLING. I withdraw it for that purpose.

Mr. COX. This bill was peculiarly under the charge of my friend from New York [Mr. POMEROY] who was unanimously authorized by the Committee on Foreign Affairs to report it to the House, and to ask that it be put on its passage. He drew up an elaborate report in the case, which was placed in his desk for my use. The Doorkeeper, unfortunately, sent all of his papers home, that report among the others; but I am very well informed of the facts involved, and I will state them for the information of the House. This bill was authorized to be reported from the Committee on Foreign Affairs, in order that Dr. Treavitt might receive the balance of pay due him as United States consul at Valparaiso. It is necessary for the purpose of enabling him to settle his accounts at the Treasury Department.

The reason why he has not been paid heretofore is simply this: he had a difficulty with the Chilian Government, and he was dismissed by that Government; but the United States authorities thought that he had been wrongfully dismissed. General Cass, the then Secretary of State, as well as the President of the United States, held that he had a right to be at his post. He was forbidden to leave his post. About the same time his house was burned down, which fact I state to show that he is entitled to our sympathy. When he was compelled by our Government to remain at his post, he did what any good physician would do. He opened a hospital, and paid out his own money for the purpose of taking care of the sick sailors belonging to the United States. Afterwards he presented his accounts of these expenditures, and they were allowed and paid by the Government. When, however, the officers came to settle his salary account, they then discovered that he had already been paid the expenses which he had incurred in behalf of our sick sailors. They therefore refused to pay him the balance due him as consul at Valparaiso. They founded their action on the law which prohibits our consuls and commercial agents from engaging in any mercantile transactions. But members will see, by reference to that law, that it was never intended to include any case like the one now pending. It certainly was not a commercial transaction on the part of Dr. Treavitt to pay out his money for taking care of our sick sailors; nor was it designed by any law we ever passed to preclude him from being repaid the money he had thus expended.

Dr. Treavitt also presented to us a claim amounting to two or three thousand dollars for clerk hire. The committee refused to allow that claim. He had another claim. He was transferred by the President from Valparaiso to Callao at a time when Mr. Clay, our minister, was obliged to leave there. Dr. Treavitt attended to all the diplomatic correspondence with that Government, and he asked to be paid additional salary for the additional services which he rendered. We rejected all those claims, and have only reported in favor of paying him the balance of salary due him as consul at Valparaiso; and with this explanation, I hope that the bill will be put upon its passage.

Mr. F. A. CONKLING. I object.

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

HUGH HOWARD.

Mr. ELY, from the Committee on Invalid Pensions, reported back Senate bill No. 219, granting an invalid pension to Hugh Howard, of Hockingport, in the State of Ohio.

Mr. BLAKE. I would like to know what reason there is why this man cannot get a pension at the War Department at this time, if he is entitled to one. If there is no law granting pensions to soldiers who were engaged in the Oregon war, it is not the right way to do justice by passing bills for special cases.

Mr. SHERMAN. This man has been disabled in the service, and there is no sort of doubt that he is entitled to the pension which this bill provides. I demand the previous question.

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

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

The latter motion was agreed to.

LEOPOLD SCHNEIDER.

Mr. COBB, from the Committee on Invalid Pensions, made an adverse report upon the petition of Leopold Schnieder, asking for an invalid pension; which was laid upon the table.

CLERK TO A COMMITTEE.

Mr. SARGENT, from the Committee on Expenditures on the Public Buildings, reported the following resolution:

Resolved, That the Committee on Expenditures on the Public Buildings, who were "instructed to inquire into the probable cost of the Treasury building extension, the Capitol extension, the manner in which the work is done or being executed; whether the original designs are being carried out or not, and whether the several contracts pertaining thereto are being faithfully performed; and also whether the same objects cannot be attained with less expense to the Government; and also whether the officers of the Bureau of Construction are, in the judgment of the committee, qualified to discharge the duties thereof properly, and whether they have done so or not; and that said committee investigate and report to this House such facts in relation to the several matters referred to as they shall deem proper; and that they have power to send for persons and papers," be allowed a clerk at the usual rate of compensation, not to exceed four dollars per day, from the 11th of February, 1862.

Mr. SARGENT. I will simply state that the committee this morning made their report. It is a very voluminous one, and much time and labor were expended in its preparation. A great deal of testimony was taken, and the matters contained in the report are worthy the consideration of the House. We ask that the committee may be allowed a clerk, who shall receive pay for the time he was employed. I think the request is eminently just, and I call the previous question.

The previous question was seconded, and the main question ordered to be put; and under the operation thereof, the resolution was adopted.

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

The latter motion was agreed to.

PERRY E. BROCCHUS.

Mr. BINGHAM. I rise to a privileged question. I move to take up the motion to reconsider the vote by which the House, day before yesterday, laid upon the table joint resolution (No. 80) for the relief of Perry E. Brocchus.

Mr. TRIMBLE moved to lay the motion to reconsider on the table.

The motion was put, and no quorum voting, Mr. BINGHAM demanded tellers.

Pending which, on motion of Mr. MAYNARD, (at four o'clock and five minutes, p. m.,) the House adjourned.

IN SENATE.

FRIDAY, *July* 11, 1862.

Prayer by the Chaplain, Rev. Dr. SUNDERLAND.

On motion of Mr. GRIMES, and by unanimous consent, the reading of the Journal was dispensed with.

MEMORIAL.

Mr. POWELL presented the memorial of Perry E. Brocchus, praying compensation for services as associate justice of the supreme court for the Territory of New Mexico; which was referred to the Committee on the Judiciary.

HOUSE BILLS REFERRED.

The following bills from the House of Representatives were severally read twice by their titles and referred as indicated below:

A bill (No. 511) to amend an act entitled "An act to reduce the expenses of the survey and sale of the public lands in the United States," approved May 30, 1862—to the Committee on Public Lands.

A bill (No. 523) to promote the efficiency of the corps of engineers and of the ordnance and quartermaster's departments, and for other purposes—to the Committee on Military Affairs and the Militia.

A bill (No. 562) for the relief of the estate of Joseph Wheaton, deceased—to the Committee on Claims.

A joint resolution (No. 81) authorizing the Secretary of the Interior to expend, from a fund in the United States Treasury belonging to the Winnebago Indians, the sum of $50,000, or so much thereof as may be necessary for the benefit of said Indians—to the Committee on Indian Affairs.

A bill (No. 84) for the relief of preëmptors in the home reservation of the Winnebagoes, in the

Blue-earth region, in the State of Minnesota—to the Committee on Indian Affairs.

REVENUE LAWS.

The Senate proceeded to consider its amendments to the bill of the House (No. 550) to further provide for the collection of the revenue upon the northern, northeastern, and northwestern frontier, and for other purposes; and

On motion of Mr. CHANDLER, it was

Resolved, That the Senate insist upon its amendments to the bill, disagreed to by the House of Representatives, and agree to the conference asked by the House of Representatives on the disagreeing votes of the two Houses thereon.

Ordered, That the committee of conference on the part of the Senate be appointed by the President *pro tempore*.

The PRESIDENT *pro tempore* appointed Mr. CHANDLER, Mr. MORRILL, and Mr. WILMOT.

PAY OF FIRST MINNESOTA SENATORS.

Mr. WILKINSON. I move now to take up the resolution in regard to the pay of the first Senators from Minnesota. I have consulted with all the Senators who raised objection to it; and they are all satisfied.

The motion was agreed to; and the Senate resumed the consideration of the following resolution:

Resolved, That there be paid out of the contingent fund of the Senate, to the Senators first elected by the State of Minnesota, compensation as such, from the commencement of the session at which they were admitted to their seats.

The resolution was adopted.

REPORTS FROM COMMITTEES.

Mr. TRUMBULL, from the Committee on the Judiciary, to whom were referred a message of the President of the United States, relative to the arrest of Simon Cameron, late Secretary of War, at the suit of Pierce Butler, for false imprisonment; resolutions of the Legislature of the State of Ohio, in relation to a modification of the naturalization laws, and of a resolution of the Senate directing them to inquire into the expediency of so amending the naturalization laws as to confer the rights of citizenship on unnaturalized foreigners serving in the Army of the United States during the present rebellion, asked to be discharged from their further consideration; which was agreed to.

He also, from the same committee, to whom were referred the following bills, reported them without amendments, and adversely:

A bill (S. No. 285) concerning private actions against public officers;

A bill (S. No. 288) to amend an act entitled "An act to confiscate property used for insurrectionary purposes," approved August 6, 1861;

A bill (S. No. 320) to further provide against the cutting and removal of timber from the public lands; and,

On motion of Mr. TRUMBULL, it was

Ordered, That they be postponed indefinitely.

Mr. TRUMBULL, from the Committee on the Judiciary, to whom was recommitted the bill (S. No. 33) to suppress insurrection and sedition, and for other purposes, reported it without amendment, and with a recommendation that it be postponed indefinitely; which was agreed to.

Mr. BAYARD. The Committee on the Judiciary, to whom was referred the bill (S. No. 159) for the relief of Juan Miranda and his legal representatives, ask to be discharged from its further consideration at this session, without any expression of opinion upon the merits of the claim. The claim may have and probably has merit; but the petitioner has left us in a position of doubt; we do not know whether the non-presentation of this case under the laws of the land arose from sheer neglect, or was superinduced from a common error of the profession as to judicial action. If that evidence was furnished to us, we might be disposed to consider the claim entitled to relief. Without it, the precedent would be too dangerous to recommend the allowance of relief.

The motion to discharge the committee was agreed to.

LAND OFFICE AT VINCENNES.

Mr. WRIGHT. The Committee on Public Lands, to whom was referred the bill (H. R. No. 454) for the relief of the register of the land office at Vincennes, Indiana, and for other purposes, have instructed me to report it back, with a recommendation that it be put on its passage.

There being no objection, the bill was considered as in Committee of the Whole. It proposes to authorize the Secretary of the Interior to make such allowance for office rent during the temporary continuance of the land office at Vincennes, Indiana, as may, in his opinion, be just and proper; and to adjust the account of John Moore, postmaster at Vincennes, and allow him, at the usual rates for such services, compensation for the custody of the books and papers of the land office during the time they were in his charge, under instructions from the Commissioner of the General Land Office, dated September 3, 1858; these allowances to be paid out of the appropriation for incidental expenses of district land offices, and the total sum paid under the act is not to exceed $500.

Mr. WRIGHT. I ask the Clerk to read a letter from the Commissioner of the General Land Office, which will explain this matter. ["Oh, no."] Gentlemen say they do not want it read.

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

BILLS BECOME LAWS.

A message from the President of the United States, by Mr. NICOLAY, his Secretary, announced that the President had this day approved and signed the following acts and joint resolutions:

An act (S. No. 256) for the relief of the widows and orphans of the officers, seamen, and marines of the United States ships Cumberland and Congress;

An act (S. No. 303) for the relief of D. S. Farragut;

An act (S. No. 307) to grant the right of preemption to settlers on certain lots in Wisconsin;

An act (S. No. 352) to carry into effect the treaty between the United States and her Britannic Majesty for the suppression of the African slave trade;

An act (S. No. 361) in relation to the Post Office Department;

A resolution (S. No. 61) tendering the thanks of Congress to Captain Louis M. Goldsborough and officers, petty officers, seamen, and marines under his command for the victory at Roanoke Island;

A resolution (S. No. 66) expressive of the thanks of the Congress to Lieutenant J. L. Worden, of the United States Navy, and to the officers and men under his command in the Monitor;

A joint resolution (S. No. 77) for the relief of the officers, non-commissioned officers, and privates of the battalion of marines on board the transport Governor, on the 3d of November, 1862;

A joint resolution (S. No. 84) of thanks to Captain David G. Farragut, of the United States Navy, and to the officers and men under his command; and

A joint resolution (S. No. 85) to compensate the crew of the United States steamer Varuna for clothing and other property lost in the public service.

MESSAGE FROM THE HOUSE.

A message was received from the House of Representatives, by Mr. MORRIS, Chief Clerk, announcing that the House of Representatives had disagreed to the amendments of the Senate to the bill of the House (No. 280) to establish and equalize the grades of line officers of the United States Navy.

The message also announced that the House of Representatives had passed the bill of the Senate (No. 348) for the better organization of the Navy of the United States with amendments; in which it requested the concurrence of the Senate.

The message also announced that the House had passed the bill of the Senate (No. 219) granting an invalid pension to Hugh H. Howard, of Hockingport, State of Ohio.

The message also announced that the House of Representatives had passed the following bill and joint resolution; in which it requested the concurrence of the Senate:

A bill (No. 435) for the relief of Susan Dickson, widow of John Dickson, deceased; and

A joint resolution (No. 102) tendering the thanks of Congress to Captain A. H. Foote, United States Navy.

CAPTAIN RINGGOLD.

Mr. HALE. The Legislature of the State of Maryland have passed some joint resolutions, tendering the thanks of the Legislature to an officer of the Navy, Captain Ringgold, for gallant and humane service in rescuing the crew of the transport Governor. They have transmitted them to the Naval Committee, with a request that they may be preserved in the archives of the committee. The committee have no archives; and they have thought proper that they be presented to the Senate, and placed upon the files of the Senate. Of course it can only be done by unanimous consent, and if there is unanimous consent, I send them up. They are very brief; and I move that they be read, and laid on the table.

The PRESIDENT *pro tempore*. They will be read, and laid on the table.

The Secretary read, as follows:

Legislature of the State of Maryland in General Assembly.

Joint resolution commending the conduct of, and tendering the thanks of the Legislature to, Captain Cadwalader Ringgold, his officers and crew, for rescuing the marine battalion from the wreck of the steamer Governor, adopted by the General Assembly of Maryland, March 3, 1862.

Whereas the coolness and eminent seamanship displayed by Captain Cadwalader Ringgold, early in November last, in rescuing a marine battalion of four hundred men from the wreck of the transport steamer Governor, during the storm which overtook the United States squadron, on its way from Fortress Monroe to the attack and capture of Port Royal, is an occurrence well calculated to elevate the character of the American Navy, and deserving of honorable mention by the Legislature of his native State: Therefore,

Be it resolved by the General Assembly of Maryland, That the thanks of the Legislature are tendered to Captain Ringgold and the officers and crew of the United States frigate Sabine, for their gallant and humane efforts in saving the lives of so many human beings from the wreck of the ill-fated steamer Governor, during the storm on the southern coast, in November last.

Resolved, That the Governor be requested to transmit a copy of these resolutions to Captain Ringgold, requesting him to communicate the same to the officers and crew of the frigate Sabine.

A true copy from the record.

ANNAPOLIS, *March* 3, 1862.

Attest: T. SNOWDEN THOMAS,
Clerk House of Delegates, Maryland.
CHAPMAN HARWOOD,
Secretary of the Senate.

The PRESIDENT *pro tempore*. The document will lie on the table.

NAVAL REGULATIONS.

The Senate proceeded to consider the amendments of the House of Representatives to the bill of the Senate (No. 348) for the better organization of the Navy of the United States.

On motion of Mr. HALE, it was

Resolved, That the Senate disagree to the amendments of the House of Representatives to the said bill.

GRADES OF NAVAL OFFICERS.

The Senate proceeded to consider its amendments to the bill of the House (No. 280) to establish and equalize the grades of line officers of the United States Navy, disagreed to by the House of Representatives; and

On motion of Mr. HALE, it was

Resolved, That the Senate insist upon its amendments disagreed to by the House of Representatives, and ask a conference on the disagreeing votes of the two Houses thereon.

Ordered, That the committee of conference on the part of the Senate be appointed by the President *pro tempore*.

The PRESIDENT *pro tempore* appointed Mr. HALE, Mr. GRIMES, and Mr. KENNEDY.

NAVY-YARD ON LEAGUE ISLAND.

Mr. GRIMES. I move to take up Senate bill No. 363, to authorize the Secretary of the Navy to accept the title to League Island, in the Delaware river, for naval purposes.

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

Mr. GRIMES. I move, in the sixth line, after the word "river," to insert the words "together with the marsh east of and adjacent thereto, all."

The amendment was agreed to.

Mr. GRIMES. The word "indefensible," in the eleventh line, should be "indefeasible."

The PRESIDENT *pro tempore*. That verbal change will be made.

Mr. GRIMES. After the word "island," in the eleventh line, I move to insert the words "and marsh adjacent."

The amendment was agreed to.

Mr. GRIMES. In the fourth line of the second section, after the word "shops," I move to insert "and machinery."

The amendment was agreed to.

Mr. FOSTER. I offer the following as an additional section to the bill:

And be it further enacted, That the board of officers to be

appointed by the Secretary of the Navy according to the provisions of the first section of this act, shall, before proceeding to any decision of the questions hereinbefore referred to them, make a survey and examination of the harbor of New London and its surroundings, with reference to its capacity and fitness for a naval depot and navy-yard, and whether the public interests will be promoted by establishing a naval depot and navy-yard in or near said harbor of New London, instead of League Island.

Mr. ANTHONY. I propose to amend the amendment, by inserting after "New London," the words "and Narragansett bay."

Mr. GRIMES. I have no authority, in behalf of the committee from whom this bill proceeded, to accept these amendments. I am perfectly content that they should be put on the bill, though, because, so far as I am aware of, the water and other conveniences and the interests of the Government, I do not know of any point that can come in competition or rivalry with the point named in the original bill; but I trust we shall not have it loaded down with too many propositions, or else the commission will never be able to get through and report, and make the yard, wherever it may be established, of any benefit before we shall be under the necessity of using it.

Mr. ANTHONY. I will put my amendment in this shape:

And that they shall also make the same investigation in regard to the waters of Narragansett bay.

The amendment to the amendment was agreed to, and the amendment, as amended, was adopted.

Mr. SHERMAN. I move to strike out section two, which appropriates $200,000. I have no objection to the first section. I was convinced by the Senator from Iowa, the other day, that it was to the interest of the Government to accept this cession from the city of Philadelphia; but I think we ought not to appropriate any money at present. It will be soon enough to do that next winter.

The PRESIDENT *pro tempore*. The Senator from Ohio moves to amend the bill by striking out the second section. It will be read.

The Secretary read the section proposed to be stricken out, as follows:

SEC. 2. *And be it further enacted*, That if the title shall be accepted and received as aforesaid, then for the purpose of surveys, piling, dredging, filling, excavating, building walls, houses, shops, and machinery on said island, the sum of $200,000 be, and the same is hereby, appropriated out of any money in the Treasury not otherwise appropriated.

Mr. GRIMES. If this section will cause any delay or doubt as to the passage of the bill in the other House, as I am told it will, I shall be content to have it stricken out, provided there is in some other bill—and of that the Senator from Ohio can inform me—in the naval or some other appropriation bill, an appropriation already made, a portion of which can be used to fit this site, or whatever place may be selected, for naval purposes. Before we meet again, we do not know what may occur in regard to the relations of this country with any foreign Power; and I think I am authorized to say that, under some contingencies, some place may be absolutely necessary to our protection for the safe deposit and repair of iron vessels. If there is any appropriation that can be used in making preparations for a depot for these vessels, and for the repair of them, I am content that the section shall be stricken out. The Senator from Ohio can inform me whether there is such an appropriation or not; I do not know.

Mr. SHERMAN. The appropriations for contingencies of the naval service, especially for this class of service, I think are probably sufficient. At any rate, if the Senator desires to pass this bill he had better not put any appropriation in it. If it goes to the other House containing an appropriation, it will have to go to the Committee of the Whole, and it is very hard in that House at this stage of the session to pass a bill containing an appropriation of $200,000.

Mr. GRIMES. I should like the views of the Senator from Maine on this point.

Mr. FESSENDEN. I really do not know what this question is. I suppose there is no doubt but that the sum appropriated for contingencies in reference to iron vessels would be enough.

Mr. SHERMAN. Certainly.

Mr. GRIMES. I am a little anxious to get gentlemen who represent the Finance Committee on record upon this subject. There is no special appropriation for contingencies of iron-clad vessels, but there is an appropriation for the building and repair of iron-clad ships.

Mr. FESSENDEN. They must have a place to build and repair them.

Mr. GRIMES. If the opinion of the Senators is that, under that appropriation, money can be used in making preparations at either of the points named for the repair of such vessels of war, I am content.

Mr. FESSENDEN. I do not suppose they could make anything like a permanent place under such an appropriation, but I presume the use of any ordinary sum for a particular contingency would be authorized.

Mr. GRIMES. Very well, then; I do not insist on the retention of the section.

The PRESIDENT *pro tempore*. The question is on the motion of the Senator from Ohio to strike out the second section of the bill.

The motion was agreed to.

The bill was reported to the Senate as amended.

The PRESIDENT *pro tempore*. The question is on concurring in the amendments which have been made as in Committee of the Whole.

Mr. TEN EYCK. I have just this moment come from a committee room, and before this bill passes, I wish to say a word or two on the subject. I do not know the order of business.

The PRESIDENT *pro tempore*. The bill will be open to amendment after the amendments made as in Committee of the Whole shall have been concurred in or non-concurred in.

Mr. TEN EYCK. I wish to speak to the bill.

The PRESIDENT *pro tempore*. The Senator will have the opportunity.

The amendments were concurred in.

Mr. TEN EYCK. I am not at all familiar with the proceedings of the morning in relation to this bill; nor do I know what has been said with reference to the merits of it, being detained until this moment in committee. A few days ago, however, I understood the Senator from Iowa to say that he considered the safety and permanency and future success of the Navy to depend upon the passage of this bill, and the acquisition of the title to this island in the Delaware river, for the purposes designated. All I have to say upon that subject is, that if such be the case, Heaven save the Navy! I had supposed, from the very eloquent, just, and proper eulogiums pronounced during the session by the Senator from Iowa, upon the character of our Navy, upon the gallantry of our several naval officers, too numerous for designation now, who during the continuance of this rebellion have actually covered this branch of the public service with glory, that it was far otherwise. If all that they have done, and all that we expect them to do in command of the old Navy as it was constituted, and in command of the new and novel species of naval vessels, the gunboats, which have rendered such important and essential service on our western rivers—a species of vessels for the construction of which the Senator from Iowa is entitled to very great credit—if all these things are to be regarded as naught, unless League Island, in the river Delaware, can be acquired for the purposes of the Navy, I repeat, Heaven save the Navy, and Heaven protect the glory of the Navy!

I have no further wish before the passage of this bill than to call the attention of the Senate to what they are doing, that they may judge of the propriety of the passage of the bill. The offer on the part of the city of Philadelphia of the title to League Island to the Government of the United States, for the purpose of establishing a navy-yard, seems to be magnanimous. It is a noble offer upon its face, a splendid donation, a gift almost unheard of for magnificence. The first section of the bill describes it as a gift on the part of the city—disinterested, noble, and almost without parallel. It is said to be worth $300,000 The second section, however, provides for an appropriation of $200,000 for the purposes of surveys, piling, dredging, filling, excavating, building walls, houses, and shops on the island.

Mr. GRIMES. That section has been stricken out.

Mr. TEN EYCK. I was not in, and was not aware that it had been stricken out.

The PRESIDENT *pro tempore*. The second section of the bill has been stricken out.

Mr. TEN EYCK. Nevertheless, it affords a key to unlock the character of this offer on the part of the city of Philadelphia, and serve as a note of warning, if nothing else, to Congress, when they are about to act on a measure of this kind. If the second section has been stricken out of this bill, we shall find a section similar to it in some subsequent bill, and instead of $200,000 being required for the purpose of piling, dredging, filling, excavating, building walls, &c., I apprehend it will approach nearer a million in order to render it available for the purposes designed or expected by the Navy. Does it not strike the Senate as a little peculiar that it should have been thought advisable to have an appropriation of $200,000 at the outset, in order to make this magnificent gift available for the purposes which those who have charge of naval affairs seem to design or to consider necessary to make it effective?

Why, sir, I live not far remote from League Island, only about seventeen miles from that place, and I assert that I believe there is not a foot of solid ground on the whole island; it is low, meadowy, marshy land, and every foot that will be required for the public service in the construction of a navy-yard, for the building of houses, or for any other such purpose, will have to be made ground. So, although they may give you an island, they give you a spongy, marshy, meadowy soil, which must be made solid land before it can become useful or proper for the purposes designed by this bill, and it will not only cost $200,000 for piling, dredging, filling, and excavating, but it will, perhaps, cost half a million, or more.

Then, again, sir, this second section provided for building walls. Senators are not familiar with the character of League Island and the islands in the river Delaware. The green surface of those islands is only a few inches above the level of the river, and some of them, perhaps League Island, below, at high tide; and in order to make them valuable for any earthly purpose, they have to be walled by stone walls, or substantial embankments on their front, and whenever there is a freshet in the Delaware, volumes of water sweep across these islands from one end of them to the other, and if it happens to be in the winter time, the ice rolls across from one end to the other, in such force that if there were rocks there they would be excoriated and marked as the rocks of our northern coasts are by the passage of ice grating over their surface. These walls are very extensive, so much so as to render these islands, although very valuable for the purpose of grazing and for hay, of not so much value in the market when the expense of their construction and repair is taken into consideration, since they are constantly liable to be swept away, and frequently are.

Then, sir, instead of having an island as a gift, which is most magnificent and splendid on its face, from the city of Philadelphia, they give you an island for a certain purpose, which you have to improve and make entirely different in its character before it can be available. Why, sir, these islands there are pushed over in skiffs at high tide by sportsmen when shooting reed bird and rail. The cost would be millions, perhaps, in order to make these islands available, according to the best information I have, for the purposes designed by this bill.

Again: it is unnecessary that we should receive this island for the purpose designed. The Government now own in that neighborhood tracts of land suitable and appropriate for the purpose, where they can construct a navy-yard without its costing a dollar. The Government now own a valuable property at Fort Mifflin, just a little way below this island, with an extended water front. The Delaware river in winter is less obstructed by ice below the Schuylkill than above it. Besides this, the Government has seven acres of high land at the old Lazaretto, and more than one hundred acres of reclaimed marsh land. If it becomes necessary to move the navy-yard south of the city, it may be moved down to the Government property at Fort Mifflin, where there will be no necessity for piling and ditching and draining and filling and excavating and building walls for the purpose of making a site valuable for a navy-yard. And then, again, there is a road over the Schuylkill river by a bridge at Penrose Ferry direct to Fort Mifflin, while League Island is isolated, and if we accept this magnificent present, we have yet to build a bridge in order to make it accessible from the main land. I assure Senators that there is some danger of their being carried away by this splendid lure of a magnificent present which the city of Philadelphia now offers to bestow upon the United States. We not only

shall have to make the soil for the purpose, but we shall have to build an extensive bridge and make a road over an extent of marsh in order to get there, when the Government owns land in the immediate neighborhood sufficient for the purpose, and fast and high land also. I submit to the Senate, if no appropriation is now required for this purpose, the second section having been stricken out of the bill, whether it is not manifest to every man, that hundreds of thousands of dollars will hereafter be required to make this island available to the Government for the purposes designed. Pass the bill and the wedge will have been entered.

What does the city of Philadelphia ask in exchange for this magnificent gift? I have heard nothing. It does not appear on the face of the bill; it would not be wise that it should; but is the city of "Brotherly Love" so full of kindness as its name implies? So fond and munificent that it will make a present of this island valued at $300,000 for no earthly return? No sooner shall we pass this bill than we shall have another proposition to cede to the city of Philadelphia the site of the present navy-yard. They want it for building purposes or some other return. There is a motive for this thing; and although it does not appear on the face of the bill, yet it appears in the surrounding negotiations which have been set on foot for this purpose. We are to abandon all our works there, all our wharves, screw-docks, dry-docks, all our buildings, all our workshops, all our machinery is to be removed for the purpose of accepting this magnificent gift. If the navy-yard at Philadelphia is not sufficiently extensive, there is plenty of land connected with and adjoining it on the south which can be procured for the purpose of enlarging it, and I know that there has been a proposition in the city for some time past to acquire that adjoining property for the purpose of enlarging the yard. Let the yard remain where it is; and if it is not sufficiently extensive in its dimensions, let the property adjoining it, which can be obtained, be procured for that purpose.

I am myself perfectly satisfied that it would be prejudicial and injurious, exceedingly so, to the Treasury, for us to accept the gift of this island; and for that reason, and for that alone, I shall vote against this bill.

Mr. GRIMES. I am very well aware, sir, that there is a strong disposition on the part of some gentlemen to defeat the passage of this bill, although I am perfectly willing that there should be embraced in it a direction to this board of naval officers to examine Fort Mifflin, if the Senator wishes, or any other point, for the purpose of determining as to the relative value of different points. The only purpose that I have, the only purpose that the Committee on Naval Affairs have, is to subserve the public interest as they understand it, and upon the recommendation of the Navy Department they have submitted this bill.

As to what may be the particular merits of League Island, it is not for us to determine here. This bill does not take the title absolutely from the city of Philadelphia; it directs the Secretary of the Navy to appoint a commission of naval officers who are experts in matters of this kind. It is to be their duty to examine League Island and the other points that have been designated by the Senators from Connecticut and Rhode Island, and if they can procure an indefeasible title to a sufficient quantity of land, if they find that the soil is susceptible of sustaining the character of buildings that the Government requires to be erected upon it, if there is a proper depth of water at either of these points, then they are authorized to select one of them as the place for the navy-yard.

The Senator from New Jersey commented a great deal upon the second section of this bill which appropriated $200,000 for surveys, piling, dredging, excavating, and building walls, houses, machinery, &c., as though it was a most extraordinary thing that there should be an appropriation for dredging, filling, or anything of that kind, in connection with a navy-yard. If the Senator had taken the trouble to investigate that matter, he would have found that Congress appropriates from twenty to sixty thousand dollars for dredging at the Brooklyn navy-yard; it is the only way by which we are able to secure exit and entrance for our vessels at that navy-yard; and there is not a single navy-yard—I think I am correct in saying so—for which there is not an appropriation made every year for dredging more or less, unless it be the one at Portsmouth; and there is not a navy-yard, except it be at Portsmouth, where they have a rock bottom and a very strong current, that there is not an annual appropriation made for piling, for filling, and for every one of the items that are enumerated in the second section of this bill.

I am very well aware, everybody knows, that League Island is not in a state of nature susceptible of being immediately converted, without any preparation, into a navy-yard; nor is there a spot on the face of God's earth that is. The appropriation was only to be used in the contingency that, all other things being equal, this was the best place for a navy-yard. In regard to the character of the soil there, either the Senator is misinformed or I am. I am informed by very good authority that there are four hundred acres of that land high and dry. Adjacent to it, on each side except the water front, is an extent of marsh. It is true that it will be necessary to erect our buildings upon piles; but so it is at the old yard; so it is at all our yards, except the one at Portsmouth, which is upon a granite base.

The Senator speaks about the great expense that is going to be incurred here; he says that it will cost $2,000,000 to prepare this yard. I do not doubt that we have expended between eighteen and nineteen hundred thousand dollars—nearly two millions—on the old yard, a yard only fourteen acres in extent; and if this yard is to be used for the purposes for which I think it ultimately will, and for which, if this bill passes, and the naval commissioners and the Navy Department concur in my opinion it will, I presume that in the course of years there will be millions of money spent upon it, as millions of money have been expended upon every one of your yards. I presume there have been $12,000,000 spent upon the yard at Brooklyn. As to the power to extend the present yard at Philadelphia, that I think the Senator is mistaken about. The Committee on Naval Affairs have had an opportunity to examine that subject very thoroughly this year, and previous years, for there has been a call made upon us for eight successive years, by the Bureau of Yards and Docks, to extend the yard. We have the power to buy a little patch of land running down to a street the name of which has now escaped me, for a very large sum—about eighty thousand dollars; but beyond that we cannot go; and that would only add an acre or two, and leave us about sixteen acres of ground in the yard; not near enough for the purposes of the Government.

I send to the Clerk, to read, a letter from Professor Bache, on the subject of this island.

The Secretary read, as follows:

COAST SURVEY OFFICE, *June* 23, 1862.

SIR: I have the honor to acknowledge the receipt of your letter of June 21, asking my views in regard to the eligibility of the site at League Island, in the Delaware river, for a navy-yard, and especially as to the foundations for larger buildings; and requesting a copy of the map of any recent survey of the island and its environs. I have the honor, in reply, to send—

1. An engraved copy of one of the sheets of the Coast Survey charts of Delaware bay and river, by which you will see the position and general features of the island. On this subject I also inclose a copy of a letter addressed to Hon. G. V. Fox, Assistant Secretary of the Navy, in reply to a letter of inquiry from him.

2. A tracing upon a larger scale of a map of League Island and the adjacent main, and chart of the adjacent channel and shoals. This shows the cultivated part of the island and the marsh beyond it, and the adjacent channels and shoals of the Delaware and Schuylkill rivers. The point of the main to the north and east of the island, and the shoal which lies off it, deflects the current of the river to the New Jersey shore, and so protects League Island in the time of freshets and from running ice.

3. In regard to the foundations, I send a report from Professor Fairman Rodgers, acting assistant on the Coast Survey, from which it appears that within twenty feet of the surface of the island a bed of white sand and pebbles is reached, which would serve as a safe recipient of piles or of concrete foundations, and below which is the tenacious clay upon which the foundations of the structures of Philadelphia rest. I am informed by the highest authority that piling would be resorted to, as a rule, in any ordinary quality of soil for the buildings and works of a navy-yard upon a river or estuary; also that the massive foundations and works of Fort Delaware, on Pea Patch Island, in the Delaware river, below New Castle, have been laid successfully, with merely ordinary expense and without cracking. If it is deemed desirable to be entirely certain in regard to the foundations for buildings and works, which are points, however, merely among the details of engineering, it could easily be done by sending engineers of the Navy Department to make a special examination, by boring at different positions on the site.

In regard to the eligibility of this site for a navy-yard for iron-clad vessels, upon which my judgment is asked, I say, without hesitation, that I consider it highly eligible, in view of the staples of Pennsylvania coal and iron which supply with economy and certainty the materials required; in view of the easy defense of the position which insures the safety of the materials, the works, and the results of manufacture; in view of the proper relation of the site to the fresh water of the river and the salt water of the bay; and in view of the great perfection of the machinery turned out at Philadelphia, the facility of procuring competent mechanics for the work to be done at the yard; and in this connection, the liberal offer of the City Councils of Philadelphia to present the title for the site to the General Government.

Very respectfully, yours, A. D. BACHE,
Superintendent United States Coast Survey.

Hon. J. W. GRIMES,
Committee Naval Affairs, United States Senate.

Mr. GRIMES. I have only one word more to say. The Senator from New Jersey set out with saying I had expressed the opinion on a former occasion that the safety and welfare of the Navy depended on the purchase of this island. The Senator is certainly mistaken; I have said no such thing. I have said that so far as I was able to judge from the investigation I had given this subject, I knew of no point that could stand as a rival to this place, taking everything into consideration, its proximity to a large manufacturing city where there was such an ability to secure workmen and supplies; its nearness to the coal and iron fields of Pennsylvania, but above all on account of its fresh water, and the depth of water that could always be secured there. I may be mistaken about that, but I am willing, and this bill proposes that that question shall be referred to a board of naval officers to be appointed by the President of the United States, who are better capable of judging of this subject than either the Senator from New Jersey or myself. That is all the bill proposes.

Mr. TEN EYCK. The Senator says that the sole object which the Navy Department and the Government have in endeavoring to locate this navy-yard at League Island is the benefit of the public service. That is the sole object I have, and although my motive, and what little influence I may have to exert in behalf of the public service and for its benefit, are not to be mentioned, measured, or named in the same day with the Navy Department, or those who have charge particularly and specially of the interests of the Navy, nevertheless in my place here I feel it to be my duty to state my objections to a measure when I think they are sound, and the country should have an opportunity of knowing and considering them, although it may be to the prejudice of my own personal interests or the interests of my immediate constituents who manifestly would be benefited by an increased public work upon an island in the Delaware river, when my State lies so near it. Any increase of public works, of course, increases the employment of artificers and persons engaged in industrial pursuits in the vicinity, and therefore I perhaps may be pardoned for saying that if any private or sectional influence could operate on my mind, it would be in favor of the passage of this bill; but from my own knowledge of the character of this locality, without ever having been spoken to by a single person on either one side or the other, I am so thoroughly convinced of its impropriety that I have begged the permission of the Senate to submit the few views I have in relation to the policy of the measure.

The Senator from Iowa says that the Senator from New Jersey regards it as a very extraordinary thing to appropriate large sums of money for the purpose of dredging, piling, filling, &c., localities or sites for the establishment of navy-yards. Sir, although I may be surprised to hear that such large sums of money have been expended in other localities, I should not be surprised to hear of a very large expenditure in this locality, because, as I said before, from information and from actual knowledge, I believe that almost every foot of the area of this island will have to be made land before it can be used with any practical benefit. The Senator incidentally seemed to think that I was ignorant of the vast sums of money that had been expended upon the navy-yards. He told us that millions had been expended in different places, at Brooklyn and at the old navy-yard in Philadelphia. I know that large sums of money are expended upon these public works, these navy-yards, but not such a vast sum of money as will be required here in order to make the ground on which to expend whole millions in constructing public works afterwards. It was that peculiar feature of expenditure in this case that my attention was

called to, and which I wish to avoid. The gentleman says that the Navy Department recommend this. The Mayor of the city of Philadelphia recommends it; he has been here and exerted all the influence of his power, and all the influence of the city in favor of this measure. They are desirous of having this change made, and they have brought the advantages of this locality to the notice of the Department, and they have spread before the Department all the desirability of this locality in their view. Whether they are solely disinterested or not, it is not for me to say. Subsequent events may prove how that is. I apprehend that although the Navy Department may have better means of judging of these matters than some of the rest of us, still their better means of judgment is not entirely to deprive us of the exercise of our own judgments. We have to vote the appropriation if any is to be voted hereafter, and we are now called upon to vote for the passage of this bill.

Sir, without taking any more time, as the Senator from Iowa has referred to a report from the Navy Department in relation to this matter, I respectfully ask to have the report of the Secretary of the Navy read, if any such report has been sent in.

The PRESIDENT *pro tempore*. The Chair is informed that there is no such report on the Clerk's desk.

Mr. TEN EYCK. I thought there was no such report; but the Senator referred to a report which had been made.

Mr. GRIMES. I may have used the word "report;" but I referred to a letter which had been sent to the chairman of the Committee on Naval Affairs, which has been printed by order of the House of Representatives, and laid on the table of the Senator from New Jersey.

Mr. TEN EYCK. I have not seen it.

Mr. COWAN. I am utterly at a loss, sir, to perceive any valid objection to the acceptance of this gift upon the proposed condition; nor can I conceive of anything on the part of any city in the Union more generous and more liberal than this proposed gift. What is it? The city of Philadelphia has purchased a property for $310,000, and proposes to donate it to the United States, and does not ask for your absolute acceptance of it, but proposes that you may appoint a commission of scientific gentlemen, and determine the question of final acceptance on their report. If there is any danger lurking under this, I must confess that my honorable friend from New Jersey has not shown it, although his tones were exceedingly ominous, and when I came in and heard him, I felt myself almost transported to the days of the siege of Troy, when some senator was expatiating most lustily against the admission of the wooden horse:

"Timeo Danaos et dona ferentes."

At the same time, I think the Senate had better adopt the maxim of Sancho Panza, "never to look a gift horse in the mouth." If anybody is willing to give to the Government such gifts as these are, I think it would be the better part of prudence not to scan them too closely.

Mr. TEN EYCK. If the Senator sees fit to square his conduct in his senatorial career by that of Sancho Panza, I am willing to concede to him the distinction of that course. If the Government takes possession of this island under these circumstances, it will be as sensible as Sancho taking possession of Barrataria.

Mr. COWAN. I beg leave to say, in behalf of the memory of Sancho, that when he was governor of that island he behaved very well, and conducted its affairs with great propriety; and this is the first reflection I have ever heard upon him. [Laughter.]

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

Mr. TEN EYCK. I call for the yeas and nays on the passage of the bill.

The yeas and nays were ordered.

Mr. KING. I inquire of the member of the Naval Committee having charge of the bill for that letter of the Secretary. I have not seen it.

The PRESIDENT *pro tempore*. The morning hour having expired it is incumbent on the Chair, under the rule of the Senate, imperatively, to call up for consideration the special order, which is the unfinished business of yesterday, and which supersedes the further consideration of the bill now before the Senate.

Mr. GRIMES. I move that that be suspended until we take the vote. The yeas and nays have been ordered.

The PRESIDENT *pro tempore*. If no objection be made, the consideration of the special order will be postponed.

Mr. KING. I object.

Mr. GRIMES. I make the motion, then.

The PRESIDENT *pro tempore*. The Senator from Iowa moves to postpone the special order until the conclusion of the bill before the Senate.

The motion was agreed to.

The PRESIDENT *pro tempore*. The Secretary will call the roll on the passage of the bill.

The Secretary commenced the call of the roll.

Mr. KING. There has been no answer made. I should like to have that letter read. As there is a difference between gentlemen, I desire to see what the Secretary states upon this subject. I have not seen it.

Mr. GRIMES. If it is anybody's fault that the Senator has not seen it, it is his own. It was laid on his table. It was a letter addressed to the chairmen of the Committees on Naval Affairs of the Senate and House of Representatives, and it was printed by order of the House.

Mr. KING. Have you got it?

Mr. GRIMES. I have a copy of it on my file here, I presume.

Mr. KING. If the Senator will state what it contains, very well.

Mr. GRIMES. I had the honor to submit a few observations on this subject two or three weeks ago, and I read very copious extracts from it; and if the gentleman had done me the honor to read those remarks, he would have learned that the better part of those remarks consisted of extracts from the Secretary's letter on this subject, in which he said that duty to the country imperatively required us to establish new navy-yards, or very greatly to increase the capacities of the present ones.

Mr. KING. A single other question, and that is, whether the Secretary of the Navy recommends this proposition. I ask the question with a view to know whether this is a recommendation from the Department.

Mr. GRIMES. He recommends no point, and if the Senate will bear with me one moment, I will state that this bill provides for a commission to investigate this point, New London, and Narragansett Bay.

Mr. KING. Without determining?

Mr. GRIMES. Yes, sir; without determining.

The question being taken by yeas and nays, resulted—yeas 32, nays 9; as follows:

YEAS—Messrs. Anthony, Bayard, Browning, Carlile, Collamer, Cowan, Doolittle, Fessenden, Foot, Foster, Grimes, Hale, Harris, Henderson, Howard, Howe, Kennedy, King, Lane of Kansas, McDougall, Morrill, Pomeroy, Rice, Saulsbury, Sherman, Simmons, Sumner, Trumbull, Wade, Willey, Wilmot, and Wilson of Massachusetts—32.

NAYS—Messrs. Chandler, Davis, Lane of Indiana, Powell, Stark, Ten Eyck, Wilkinson, Wilson of Missouri, and Wright—9.

So the bill was passed.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. MORRIS, its Chief Clerk, announced that the House of Representatives had passed the following bills; in which it requested the concurrence of the Senate:

A bill (No. 390) in relation to the competency of witnesses in trials of equity and admirality; and

A bill (No. 561) in relation to commissioned officers of the United States revenue cutter service.

The message also announced that the House of Representatives had insisted upon its amendments to the bill of the Senate (No. 348) for the better government of the Navy of the United States, disagreed to by the Senate, asked a conference on the disagreeing votes of the two Houses thereon, and had appointed Mr. CHARLES B. SEDGWICK of New York, Mr. A. G. PORTER of Indiana, and Mr. GEORGE H. BROWNE of Rhode Island, managers at the same on its part.

The message also announced that the House had insisted upon its disagreement to the amendments of the Senate to the bill (H. R. No. 280) to establish and equalize the grades of line officers of the United States Navy, insisted on by the Senate, agreed to the conference asked by the Senate on the disagreeing votes of the two Houses thereon, and had appointed Mr. CHARLES B. SEDGWICK of New York, Mr. JOHN F. POTTER of Wisconsin, and Mr. JAMES E. ENGLISH of Connecticut, managers at the same on its part.

The message also announced that the House of Representatives had appointed Mr. HARRISON G. BLAKE, of Ohio, a manager at the conference on the part of the House on the disagreeing votes of the two Houses on the joint resolution (S. No. 89) in relation to the claim of Carmack & Ramsey, in place of Mr. SCHUYLER COLFAX of Indiana, who had been excused.

The message also announced that the House of Representatives had passed the joint resolution of the Senate (No. 94) to change the name of the schooner Sally McGee to that of Ocean Eagle.

ENROLLED BILLS SIGNED.

The message further announced that the Speaker of the House of Representatives had signed the following enrolled bills and joint resolutions:

A bill (S. No. 119) confirming a land claim in the State of Iowa, and for other purposes;

A bill (S. No. 316) to provide for the payment of fines and penalties collected by and paid to the justices of the peace of the District of Columbia under the acts of Congress of the 3d and 5th of August, 1861, and for other purposes;

A bill (S. No. 318) for relief in the land claim in California known as the claim of Francisco Soberanes to a tract of land known as Saujon de Santa Rita;

A bill (S. No. 351) supplementary to the act for the release of certain persons held to service in the District of Columbia, approved April 16, 1862;

A bill (S. No. 371) for the relief of Fanny Mactier Smith;

A bill (S. No. 380) repealing the law requiring bonds of paymasters and assistant paymasters to be approved by the judge or attorney of the district in which such paymaster or assistant paymaster shall reside;

A bill (S. No. 383) to define the pay and emoluments of certain officers of the Army, and for other purposes;

A joint resolution (S. No. 76) relating to the compensation of Senators elected or appointed to fill vacancies;

A joint resolution (S. No. 78) to suspend all payments under the act approved 25th of March, 1862, entitled "An act to secure to the officers and men actually employed in the Western department, or department of Missouri, their pay, bounty, and pension," and for other purposes;

A joint resolution (S. No. 80) authorizing the State of Minnesota to change the line of certain branch railroads in said State, and for other purposes;

A joint resolution (S. No. 93) in relation to contracts with the United States;

An act (H. R. No. 392) to establish certain post roads;

An act (H. R. No. 399) for the quieting of certain land titles in the late disputed territory in the State of Maine, and for other purposes;

An act (H. R. No. 454) for the relief of the register of the land office at Vincennes, Indiana, and for other purposes;

An act (H. R. No. 554) relating to trust funds of several Indian tribes invested by the Government in certain State bonds abstracted from the custody of the late Secretary of the Interior; and

A joint resolution (H. R. No. 98) authorizing the Secretary of War to furnish extra clothing to to sick, wounded, and other soldiers.

CONTRACTS FOR ORDNANCE.

Mr. POWELL. I move to postpone all prior orders, and take up the resolution I offered yesterday.

The PRESIDENT *pro tempore*. The Senator from Kentucky moves to postpone the special and all prior orders, with a view to proceed to the consideration of the resolution indicated by him.

Several SENATORS. What is the resolution?

Mr. POWELL. A resolution calling for the report of the commissioners to investigate contracts for ordnance and ordnance stores.

Mr. WILSON, of Massachusetts. I hope the Senate will not postpone the bill which is the special order. It is very important to get it through early.

Mr. POWELL. I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. WILSON, of Massachusetts. Rather than have any trouble about it, if the Senator will with-

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draw the call for the yeas and nays, I will not insist on proceeding with the special order for the present.

Mr. POWELL. I withdraw the call.

Mr. HALE. I insist on the yeas and nays being taken.

The Secretary commenced the call of the roll.

Mr. POWELL. I wish to make a short statement to the Senate, to show why I desire to have the resolution taken up.

The PRESIDENT *pro tempore*. No response has been made, and the question is open to debate.

Mr. TRUMBULL. On a motion to take up?

The PRESIDENT *pro tempore*. The motion to take up does not open the merits of the question for debate.

Mr. POWELL. I merely wish to assign the reasons why I wish the resolution taken up and considered at this time. A week or more ago I introduced a resolution directing the Secretary of War to transmit to the Senate the report of Mr. Holt and Mr. Owen concerning ordnance and gun contracts, and the accompanying evidence. That resolution was so amended as to request the President, if not incompatible with the public interest, to give the information. To that resolution there has been no response; but by some means or other, I do not know how, a printed copy of the report found its way into my hands through the post office. I have the report now in my hands, and I desire this resolution to be adopted for the purpose of getting the testimony and other documents that evidently accompanied the report. This report exhibits very great abuses in the Government, and very great wrongs and frauds, in my judgment, on the public Treasury. I will read one or two short extracts, to let the Senate know the nature of the transactions that are detailed by this evidence——

Mr. WILSON, of Massachusetts. I hope the Senator will consent simply to let us take a vote on his proposition, and put it through and get the information, and then he can explain it hereafter. I really hope we shall take the vote.

Mr. POWELL. If you will allow me to have it, it is all I want. ["Very well."]

Mr. WILSON, of Massachusetts. By common consent, let the call for the yeas and nays be withdrawn, and let the bill be passed over for the present, and the Senator's resolution be adopted.

The PRESIDENT *pro tempore*. The Chair has called upon the Clerk to proceed with the call, but the Chair cannot restrain debate.

Mr. TRUMBULL. I am satisfied that if the call for the yeas and nays be withdrawn, there will be no objection to the resolution.

Mr. POWELL. I withdraw it, if there is no objection.

The PRESIDENT *pro tempore*. The call for the yeas and nays is withdrawn, if the Senate consent. One fifth of the Senate having ordered them, the call cannot be withdrawn by a single Senator. By common consent, the call for the yeas and nays is withdrawn; and the question recurs on the motion of the Senator from Kentucky to postpone the special and all prior orders, with a view to take up the resolution indicated by him.

The motion was agreed to; and the Senate proceeded to consider the following resolution, submitted by Mr. POWELL yesterday:

Resolved, That the Secretary of War be directed to transmit to the Senate the report of Joseph Holt and Robert Dale Owen, commissioners on ordnance and ordnance stores, made to the War Department; and that he transmit to the Senate all the evidence touching the contracts investigated by said commissioners.

The resolution was agreed to.

NAVAL REGULATIONS.

The Senate proceeded to consider the amendments of the House of Representatives to the bill (S. No. 348) for the better government of the Navy of the United States, disagreed to by the Senate and insisted on by the House; and,

On motion of Mr. HALE, it was

Resolved, That the Senate insist upon its disagreement to the amendments of the House of Representatives to the said bill, and agree to the conference asked by the House on the disagreeing votes of the two Houses thereon.

Ordered, That the committee of conference on the part of the Senate be appointed by the President *pro tempore*.

The PRESIDENT *pro tempore* appointed Mr. HALE, Mr. SUMNER, and Mr. CARLILE.

ORDER OF BUSINESS.

Mr. FOSTER. There is a bill upon the table that was reported some three or four days ago from the Committee on the Judiciary, amending the acts in regard to the slave trade. It is either on its third reading or on its passage, and I think it will not occasion debate. It is very important that it should pass. I hope the Senator from Massachusetts will consent that it shall be taken up and be put upon its passage.

Mr. WILSON, of Massachusetts. If it does not occasion debate.

Mr. FOSTER. I do not think it will occasion debate; if it shall do so, I will withdraw it.

The PRESIDENT *pro tempore*. By common consent the special order will be passed over.

Mr. KING. I cannot consent to anything intervening in the way of the bill which is the special order.

Mr. FOSTER. I will not ask a vote, then.

The PRESIDENT *pro tempore*. The special order is the bill (S. No. 384) to amend the act calling forth the militia to execute the laws of the Union, suppress insurrections, and repel invasions, approved February 28, 1795, to which an amendment consisting of several sections was proposed by the Senator from Iowa, [Mr. GRIMES.] An amendment is now pending to the amendment, moved by the Senator from Illinois, [Mr. BROWNING,] upon which the yeas and nays have been ordered.

Mr. McDOUGALL. I ask the Senate to take up a resolution offered by me which was laid over yesterday, that will admit of no debate.

The PRESIDENT *pro tempore*. The special order is before the Senate. The Senator from California asks the unanimous consent of the Senate to take up and consider a resolution.

Mr. KING. I cannot give my consent to passing by this bill.

SERVICE OF THE MILITIA.

The Senate, as in Committee of the Whole, resumed the consideration of the bill (S. No. 384) to amend the act "calling forth the militia to execute the laws of the Union, to suppress insurrections, and repel invasions," approved February 28, 1795, the question pending being on the motion of Mr. BROWNING, to amend the second section of the amendment of Mr. GRIMES, by striking out the words "his mother, and his wife and children," in the clause "he, his mother, and his wife and children shall forever thereafter be free."

The question being taken by yeas and nays, resulted—yeas 17, nays 21; as follows:

YEAS—Messrs. Anthony, Browning, Carlile, Cowan, Davis, Harris, Henderson, Lane of Indiana, McDougall, Powell, Saulsbury, Sherman, Stark, Ten Eyck, Willey, Wilson of Missouri, and Wright—17.

NAYS—Messrs. Clark, Doolittle, Fessenden, Foot, Foster, Grimes, Hale, Harlan, Howard, Howe, King, Lane of Kansas, Morrill, Pomeroy, Simmons, Sumner, Trumbull, Wade, Wilkinson, Wilmot, and Wilson of Massachusetts—21.

So the amendment to the amendment was rejected.

Mr. BROWNING. I now move to amend the section by adding to it the following proviso:

Provided, That the mother, wife, and children of such man or boy of African descent shall not be made free by the operation of this act, except where such mother, wife, and children owe service or labor to some person who, during the present rebellion, had borne arms against the United States, or adhered to their enemies by giving them aid and comfort.

Mr. HALE. I would a great deal rather meet that form of question by paying the loyal owner of slaves, or the loyal person who claims to be their owner, compensation for those that might be freed under the operation of this act, than to put in such an amendment as that. I cannot imagine a human being (and there are some people fanatical enough to believe that colored men are human beings) in a worse situation than you would put him in by the operation of this bill thus amended. You put him into your Federal Army and rely upon his aid for success; and if he thinks at all, he must think that his success will be the perpetual enslavement of his wife and children.

Mr. COWAN. I think the method proposed by the Senator from New Hampshire would be a very expensive way of procuring soldiers. It appears, according to his plan, that when a negro slave enters your Army, either as a laborer or as a soldier, immediately on his performing service, his wife, his mother, and his children are entitled to their freedom, and if they belong to loyal people the Government will pay for them. Now, let us see at what cost we should achieve the service of one negro on this plan. He may have a mother; what is she worth? That is the question. Put her down at $500, if you please. He has a wife; what is she worth? Put her down at $500. He has children; what are they worth? That will depend upon the number he has, and their ages, and their value. But without counting the children, here is $1,000 to be paid as a bounty over and above, to get a negro soldier into the American Army.

Where is this mania to end? Does any man in his sober senses suppose that the American people are going to expend their money upon any such project as that? It does strike me that those who propose it are not in earnest. They cannot expect that this Government should ever, under any circumstances, be able to put its money into any such scheme; and yet if the Senate of the United States, the most august tribunal of the nation, pledges its faith that it shall be done, how are we to avoid it hereafter? Where will this mania end, I ask? Look at the financial condition of the country now. Gentlemen talk about projects as if they were creating a gulf into which millions might fall without notice. I think it is time that we came back to the serious, sober realities of life, that we came back to the dollars and cents view, and if we do not, we shall be very apt to be brought there.

Why not stand upon the law? Why not allow the law to be as it has been from time immemorial? Why not allow the Government to enjoy its right of eminent domain over the negro, just as over everything else? Let the Government take negroes if it needs them to do its work. Let the proper department of the Government decide as to the nature of that work, and if it decides that it can make soldiers of them, for which judgment it is responsible, I will not object. I do not know, it is not for me to determine that question. It is for the President, the executive department of the Government, and for his generals, to determine it, and being a question of fact, they only can determine it. Why not allow that to be done? If we want the negro of a loyal man to dig in the trenches or to do what they think he is fit to do, they have the right to take him as well as they have the right to take the negro of a rebel. If the man is loyal he is entitled to be paid the same as though his horse had been taken, or any other article of his property, because, whether it be right or whether it be Christian to hold this property, it is held by law. We have solemnly agreed to abide by that law. We have gone into partnership with these people knowing that was the law. We agreed to that law because in exchange for it we got the blessings, the advantages, and the benefits of a great Union which made us one people. That was the consideration, and it is too late now for us to say that we will keep the consideration, or that we can keep the consideration, and trample under foot the condition upon which we enjoy it.

What did we enjoy in the Union? We enjoyed the privilege of being one, the most powerful people on the face of the earth as against all foreign people. What did we pay for it? In Pennsylvania we enjoyed freedom, we enjoyed the blessings of our own institutions as we chose to make them. In Massachusetts they enjoyed them; in New York they enjoyed them. And we were willing, and I think our people are willing to-day, to allow the people of the slave States to enjoy theirs. We had no more responsibility for what they did with slavery than if it had been done in Russia. The law was fixed and settled, and well

understood, and I am for standing upon it, and standing upon it literally as it was made.

The Government has to-day all the power in the premises necessary to enable it to do anything that any nation of the earth can do. The power for the purpose of defense is supreme over all the people and all the property of the nation; and this amendment to the bill cannot confer any more. The bill itself is right enough, perhaps, with a single amendment limiting the time for which this draft shall be made, which amendment I hope will be made, and if nobody else shall move it, I will move it myself. As to the amendment to this bill to give the President authority to do that which he has the power to do now, I see no use in it; I see mischief in it; I see that which will make us regret it hereafter; but it may be that the purpose of it is, as I have reason to believe the purpose is, to compel the President to adopt a line of policy which he has heretofore all along strenuously resisted. If that is the purpose, I say the more manly way is to write it down in plain English. If the President has refused to adopt the counsels of certain people in regard to arming the slaves, and all this kind of thing, and they want to compel him into that course, and to compel him through the channels of legislation, I would write it down; I would approach him at least as a man, and I would not undertake to do it under cover of this kind of law.

Mr. HOWE. Mr. President, I wish we could pass this bill or some other, and do it during this session of Congress. We have heard repeatedly within a few days that there was some trouble in our military operations, and there seems to be a general desire to get out of it. I do not think there is any great trouble with that branch of the service. If there is any trouble I am afraid it is right here in the legislative department of the Government. I understand there is a question under debate now in the country—I do not know but that it has been under debate in the legislature—as to whether we achieved a victory or sustained a defeat the other day down on the James river. I am not prepared to answer the question. I am not prepared to consider it. I do not think it very necessary for us to spend any time upon it. One or the other we did; we either achieved a victory or sustained a defeat. If we achieved a victory, we are well enough. If we sustained a defeat, it seems to me we had better take care not to sustain another. But if we sustained a defeat down there, I suppose it happened for one of two reasons: either that we had not force enough in the field, or that it was not well handled. If the trouble is that it was not well handled, we are helpless. We picked out a man one year ago to handle that force and he is there, and he is there for a specific purpose, and you must let him handle it according to the judgment and the discretion that the Almighty gave him. He endowed him; He had the whole work in fixing him up; we selected him, and we had better stand by the selection until the Constitution authorizes us to put another one in his place, and then we will do it; and then we can get just such command for our forces as we see fit to select. But if the trouble was that there was not force enough for him to command, I think we had better order up the reserves. That is what commanders usually do when they sustain a defeat, or when they are in danger of sustaining a defeat, when they find a given force being repulsed. We have got a large reserve. It is said we have put a large army in the field. It is but a tithe, it is but a drop, in comparison with that great ocean of physical force which still lies behind us. Let us order that up, and do not let us dole it out to the commander-in-chief; do not let us peddle it out to him. In point of fact, we have been a little too modest and a little too prudent and economical about these matters. I know there was a grave question in dispute between the two Houses here but a few weeks since as to whether we should reduce one branch of the military force now in the field to fifty thousand or to thirty thousand, and we stood here debating upon that question, upon which the two Houses were at issue, until your general officers ordered the whole force into the field, and now you want three hundred thousand more. Nobody is to blame for this. Things look different at one time from what they do at another; and none of us happen to have infallible judgments. If a mistake has been made, do not let us shake it up; do not let us blind the nation by fluttering a blunder in their eyes. That is not wise on our part.

I heard a remark from my friend, the Senator from Pennsylvania, just now; I think it was a reflection suggested by the consideration of some constitutional question. Perhaps I did not speak that just as I meant to speak it, for I do not know but that I indicated some want of respect for constitutional debate. I do not intend any want of respect for it at all. I do not, for my life, see how we need to be troubled about the thing here. I take it there is no sort of doubt but that we have full, ample, plenary, constitutional authority over all the force we have got. The remark I heard him make was that we must be very faithful to this instrument and very faithful to all its obligations, because we were in the enjoyment of all the considerations upon which these constitutional stipulations were made. That is a mistake in point of fact. I am not about to plead any failure of consideration, but it is a mistake to say that we are in the full enjoyment of them. We are sadly disturbed in the enjoyment of those considerations. We do not enjoy them in New York; we do not in Pennsylvania; we do not in Wisconsin; we do not in New England, anywhere. We are sadly disturbed. You have already paid $500,000,000, and you have already sacrificed two hundred thousand lives, and you have got to sacrifice a great many more lives, and you have got to pay a great many more millions of dollars before you are in the full enjoyment of all these considerations again. The very thing you want is force; you want it to-day and not to-morrow; you want it to-day, and you ought to have had it weeks ago.

Mr. COWAN. Will the gentleman allow me to ask him whether the compact is not still in force, whether the Union is not still in existence, in theory at least, as we are going on?

Mr. HOWE. In theory the Union is still in existence; I will not dispute that; in theory, the compact is still in force.

Mr. COWAN. Then are we not bound by it?

Mr. HOWE. My friend knows the compact is not in force in fact. Bound by it? Yes, bound by it, and bound to do battle for it to the death. That is what I want of you. Do not stand here squabbling as to the sort of force you shall bring into the field. If you find an ounce of force anywhere, I do not care what the shape of it is, nor what the color of it is, bring it into the field in the name of God, if you cannot bring it in in the name of the Constitution. I do not think God and the Constitution are much at variance on this matter. Bring it in in the name of both. Do not stand here day after day, when every hour is fraught with the most momentous consequences, to arrange the terms upon which you will settle between the man and his master. Sir, if you take any property of any shape with which to conduct this war, and to produce the result you mean to have produced, and you must have produced, if you take any force that you do not own yourselves, and take it from anybody who is a citizen of yours, a subject of yours, acknowledging obedience to you, you will pay him for it, will you not? If you do not, you will steal. No matter what it is, or from whom you get it, if you take it from me, or from a man in Kentucky, or from a man anywhere, the faith of the nation is pledged to pay him, and the faith of the nation is not going to be compromised by any manner of means. I am working here every day on the faith of the nation. So are you. I am taking the promises of the nation to pay, and I rely upon them. I do not make a cent's discount. I take them at par all the time, and pay for my board in the same way. I guess everybody else can do as much if we are in earnest about this thing. I do not think there is much danger of anybody suffering from trusting to the nation, and if we do not all trust to the nation, I tell you what is going to happen; you have got to trust to those other fellows down there, [the southern confederation,] and take their promises or their justice, one of the two. You may have the faith of this nation or that to rely upon and work for. I prefer this. I prefer to surrender every man you have got, and every ounce of material you have got, without restriction, without limitation, uncover the whole of it, expose it all at once, and hold the man you put in the White House a year ago responsible for the salvation of the nation; hold him responsible because you put him there for that express purpose. Now, do not let us spend any unnecessary time in haggling over mere details on a question of this kind.

Mr. COWAN. Let us understand this, and let us see who it is that causes this unnecessary delay. Here is a bill reported to this body authorizing the President to call into the field three hundred thousand men. Who has interposed an objection to it? Not one. It can be passed through both these Houses in five minutes, with perhaps a slight modification, which I do not know that anybody will object to; and that is, as to the time for which they shall be called; but who interposes the difficulty? I inquired yesterday, is there anything in the law to prevent the President, when he is raising the Army, from taking any man with a black skin or a yellow skin, any more than a man with a white skin? I was answered, no; there is nothing to prevent him from doing it. Then, if there is nothing to prevent him from doing it, he has the authority now. If the President and the officers he sets to work to raise the Army we authorize, decide to take in black men and yellow men, who objects to it? I do not; but what I do object to is that we go on here to determine questions that properly belong to the Executive. We authorize the President to raise the regular Army, and we put no restrictions as to the kind of men he shall take into it. His recruiting sergeants decide upon that—not the Congress of the United States. We do not do it. Then we expect to have a large number of militia called into the field. Does not everybody know that that militia is organized and officered by the States in which it exists? If there are States in which they propose to put negroes in the militia, and the President calls on the militia from those States, he will get their negro militia.

Then what are we badgering about it here for? Whence comes this delay? It comes from the fact that gentlemen disregard the whole theory of the Constitution and the laws, and the modes and means by which armies are raised. We want three hundred thousand men now. Where from? Not regularly enlisted soldiers; but we want the militia of the country. The Senator from New York is very anxious to have the negroes taken. If they have negroes in the militia of New York and the President calls for that militia, the negroes will come along with the rest. I am not going to quarrel with it, and I do not know anybody in the world who is. Then what is this dispute about? How is the President to get negroes into the Army according to this bill which authorizes the calling out of the militia? I confess I am at a loss to see; but it is thrown in here to attain the particular purpose, through the medium of legislation, which cannot be obtained according to the legitimate modes of doing business. That is why I object to it. I understand very well why it is put here. It is not put here for any other purpose, in my judgment, except to compel the Executive to resort to a policy which he has heretofore put behind him. We might just as well out with it, and let the country know it.

Sir, I am in favor of conducting this war with energy and vigor; I am in favor of concentrating the whole force of the nation upon it; but believing the Union yet to exist, believing the Constitution yet to exist, and believing we are bound by it, I am for doing it in the ordinary, legal way, and through the ordinary channels, consistently with the symmetry of the Government. I desire that we shall do our duty here; I desire that the President and the executive branch of the Government should do their duty; and I think if we let them alone they will do it. I think they have tried to do it as well as they could; and they are the proper judges of the necessity and the contingencies upon which these things are to be done. Even suppose that you pass this bill, there is nothing obligatory in it upon the President that he should do what you authorize him to do. You still leave it in his discretion; the matter just ends where it was before; and we have all the division, the wrangle, the delay, and the debate, with all its inflammatory tendencies, here for nothing. It just goes for nothing. The country is excited to no purpose whatever. I say it is our duty here to do that which is effective, and to do it without debate and without dispute, and if we were to take simply that which is legitimate, it would be done without dispute and without delay. There is no man that I know of in either House who is not willing to vote men to any extent, who is not will-

ing to vote money to any extent, who is not willing to give to the Executive all the means of the nation in order to make the war effective; but when you intermingle it with undercurrent projects, to suit the few instead of the many, then it is embarrassed, and then we get into debates about it.

Mr. KING. Mr. President, I will remark, preliminarily, that I do not recognize the authority of the Senator from Pennsylvania to speak for the Executive, either *pro* or *con*. I do not think there is any such authority on this floor. When the President desires us to know what his opinions or wishes or recommendations are, I have not the slightest doubt he will communicate them himself to the Senate; and when he does so, they shall have my very highest respect. The manner in which allusions are made here to his wishes and opinions, with a view to influence legislation or to influence our opinions, is, in my judgment, altogether improper and unparliamentary. So I shall lay that aside as not to be considered or discussed in the consideration of this question.

The Senator from Pennsylvania says, if it is desirable to have the black population in the service of the United States at all, the States organize their own militia, and they may be called into the service by the action of the States themselves. Now, sir, we all know that the militia of the States do not comprise in their organization the blacks of the country. It is the white population alone, so far as I know, in any State of the Union who are organized as militia. I am not aware of a single State in which the black population are organized in the militia.

Mr. COWAN. Then my friend will allow me to ask him, if they are not in the militia, as the militia comes from the States when we call upon it, where are these people to go, except into the regular Army? And I wish to follow that by this further question: whether there is any restriction now on the Executive to put them in the regular Army?

Mr. KING. The Senator's inquiry shows that he is not aware of any mode in which we can get service from these people without some action of law. It is for that very reason, that there is not sufficient provision of law to enable the astute and excellent lawyer from Pennsylvania to determine how these persons shall be got into the service that he asks me the question; because he does not know himself. This bill provides for bringing this black population into the service of the United States—not as the militia, not as the regular Army, but it provides a special mode in which they shall come in; and it is because of the peculiar condition of the country at this time that there is, in my judgment, a special propriety in calling them into the service. Mr. President, the mangled corpses of thousands of our young men sunk in the marshes of the Chickahominy and other localities in the southern States, cry to us for some mode by which those who are to come after them shall be relieved from the diseases and death which have fallen upon them in the defense of their country. We read the accounts of the ship loads of our sick and wounded who are coming back, for care, to the different cities and hospitals of our country. Do we not know—is there a question about it in the mind of any man—that the pestilential atmosphere of these low grounds and marshes is more dangerous to our men than the bullets and bayonets of the enemy? In my judgment, there is no danger to this country from bullets and bayonets. These infamous insurgent enemies who are now attempting to destroy the Constitution and the country rely upon the climatic influences as a means of security. At an early part of this insurrection, it was not expected that a summer campaign was to be made, or could be made. I remember that our old and veteran General Scott had indicated that it was not wise or well to send away troops into these countries until the fall and winter weather came. Now, after having passed the winter, we are in the middle of the summer, the very worst period of the time, and not only have we our army in these localities, but the young men of the country are called to come fresh from their northern homes to meet the enemy there, and to meet these diseases. The insurgent enemy count upon this.

But it is not to call the black population from the free States that this bill is to provide or is necessary. We find in the insurgent States thousands and tens of thousands of willing, strong, hardy men anxious to serve this country, and to do what is more dangerous for our men than to fight, to dig in the trenches, to do the labor of our Army. Should we refuse to have that done upon some question and quibble of authority or of law, or of who may exercise this power? I trust not. The whole scope and object of this provision is to enable us to bring these people into the service, and to relieve the country, the Army, and us all from this kind of doubt and difficulty that the Senator from Pennsylvania himself has suggested as to how this thing can be done. This bill provides how it shall be done.

Mr. President, shall we bring these people, in this condition of things in the country, into the public service, and not guaranty to them their liberty? Why, sir, we should hardly deserve their services, if after they had preserved our rights, and our liberties, we could return them into slavery. It would be unworthy a Christian or a pagan people to do so. Let us meet this question fairly and frankly, and say to those who shall come to our aid that they shall have the benefits which the shedding of their own blood secures to us, and that it shall secure the same to them. It was so in the Revolution. Let us meet this question like men. If the Senate or the country is prepared to say that we will not have these services, let that be said, though it is much against my opinion; but let us understand this matter. Let us know, and let our young men know when we are calling upon them to come into the service, whether we are willing to respond and give them every aid in our power when we call upon them to come and meet the double dangers of disease and battle. I say it is our highest duty to provide every means in our power to protect them in their health and in their comfort as well as in their lives; and in my judgment this bill is most essential and desirable for the safety and security of the country.

Mr. President, I am not one of those who have ever despaired of this Republic. I said two years ago in this Senate Chamber that if the Government and the Congress could prove recreant to the high trust committed to their charge, there was intelligence and patriotism enough in the people of this country, in whom its sovereignty really resided, to sweep the whole away and come together and reinstate the glorious institutions which the men of the Revolution established, as they supposed, for all time for their descendants. In my judgment, this country is not to be destroyed by any of these means; but I desire that it may be preserved through the forms of the Constitution and by the constituted authorities of the country. That is the mode in which it should be done. It is the mode in which I have entire confidence now that it will be done.

I have not feared that our young men would fail to respond to this call for additional forces. In my opinion, they will come; and I feel it in my heart that they will come whether we do our duty or not; but I should feel ashamed to meet them and to look them in the face if I had failed by every effort and by every means in my power to lighten their burdens, to secure their safety and their health, and to enable them to meet the enemy with vigor in this climate to which they are unaccustomed. It is this peculiar condition of things that calls for this peculiar organization. How are we met? By the constant and perpetual objections of those who are complaining of the agitation of the question of slavery. Who is it that talks about slavery? It is the men who desire to preserve and perpetuate and continue slavery in this country.

Mr. President, we should meet these things fairly and squarely, and understand ourselves. We should be equal to the destiny that is upon us, and we must be so. I believe we shall. I have faith, I have confidence, in the present and in the future. Dark and heavy as are the clouds that have risen from the dismal swamps of the Chickahominy, we shall go through with this great work and see bright sunshine in the future. This country is to live for generations yet to come a glorious and a free Republic. But, sir, we must do our duty. Let us meet these questions like men. Are we willing to relieve and to aid our soldiers by the employment of these colored men? I believe it to be our highest duty to do so. They are acclimated; they can perform this service easily to themselves; and we should make it beneficial to them if we are just men, and I trust we are.

Mr. COWAN. I heartily sympathize with my friend from New York, and I pledge him that I will second him in all honorable ways and means to do everything possible to strengthen the Army of the nation in this its hour of calamity. I am just as willing as he is that every ounce of force possessed by the nation shall be brought to bear upon this rebellion to put it down. But, Mr. President, I cannot shut my eyes to the past; nor can I shut my eyes to the questions which agitate us here now. I desire to meet these questions frankly, and I trust as honorably as the gentleman himself, and to meet them squarely. What are those questions? General Hunter, down upon the coast of South Carolina, sometime ago, it was said, organized a regiment of negro slaves; and the question was whether that should be the policy of the country in conducting this war. I had asked myself the question before, and I had decided it for myself; and I had stated here publicly in the Senate my solution of the rule. I will state it again; and I question whether any man can possibly cavil about it.

Why should the question arise as to whether these slaves should be employed in our armies? Why is it that the question arises at all? If there were no difference between these people and us, the question could not arise; but there being a difference, an acknowledged difference, the question has arisen, and has agitated the world for the last hundred years. Then, what is the solution of the question? When you come to determine whether a man or a race of men shall be admitted into your armies as soldiers, you must decide whether you can subject them to the drill and the discipline to enable you to carry on civilized war. That is the question which you must decide. In the war of the Revolution, Great Britain employed Indians against the people of this country. What was the unanimous decision of the civilized world? That they had violated the laws of war; that they had outraged the sense of the civilized world. Why was that? It was not that the Indian was not a brave man; a braver man never lived; but he was a savage; he was a barbarian, and in war he was unwilling, nay, he was unable, to conform to the rules of civilized warfare; and therefore the world decided that he should not be taken into armies and made a soldier of.

Now, the question arises in the case of the negro: can you put him into your Army? Can you drill him and discipline him so as to make him respect the laws of civilized warfare, as our people do, as white people do? Will he, in the hour of victory, be clement? Will he give quarter when quarter is demanded? Will he make war upon women or children, or will he make war only upon combatants? Those are the questions. Then the next difficulty which occurs is, who shall decide that question? In whose hands is it to be decided? Is it to be decided by the Congress of the United States? I say emphatically, no. I say this Congress to-day is incapable of deciding the question. I say that my honorable friend from New York, or myself either, knows nothing at all about it. If we were generals in the field; if these people were brought before us; if we were to inspect them and try them for a time, then we might decide it. It is a question of fact which the legislature of no country, I think, can determine. Therefore it is a question that devolves on the Executive to determine.

Mr. RICE. Will my friend allow me one moment?

Mr. COWAN. Certainly.

Mr. RICE. During the revolutionary war the Legislature of Rhode Island authorized the enlistment of negroes and Indians.

Mr. COWAN. That may all be. I have nothing to say against that. The Legislature of Rhode Island may have done a great many things, and done them very properly. I do not undertake to say that they have not; but I do undertake to say, when the question comes up in this country, it is a question of fact to be determined by the executive branch of the Government, and not by the legislative branch of this Government. If the President and his generals are of opinion that he can take these men, enlist them in our armies, regulate them, subject them to the rules of discipline as our own people are, then I have said here openly that he should do it; but as I do not know whether he can or not, and it is for him to decide under the Constitution, I will leave that question to him.

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

Mr. COWAN. Certainly.

Mr. GRIMES. I know the Senator is a good lawyer, and his opinions are entitled to very great consideration, and therefore I should like to know of the Senator whether in his opinion there is any necessity for any law regulating the calling out of the militia or of volunteers in time of war; or whether, under his theory, this great power does not reside in the Commander-in-Chief of our armies. If there is, then I want him to show me the difference between regulations as to the calling out of militia and volunteers specifying the ages between which they may be called out, their color, &c., and the question now under consideration.

Mr. COWAN. Mr. President, by a statute we have authorized the President in case of emergencies to call out the militia for the suppression of rebellion. We could repeal that statute and retain the authority ourselves.

Mr. GRIMES. Does that limit it?

Mr. COWAN. In what respect?

Mr. GRIMES. Does that limit this great right of eminent domain, of which the Senator has spoken heretofore, that resides in the President in time of war of doing just about what he has a mind to?

Mr. COWAN. We have a right to limit him. We have a right to say how many he shall call out; or we have a right to leave him unlimited. With regard to who he shall call out, that is the question here. That law authorizes him to call out the militia. Who are the militia? If the gentleman will take the trouble to turn to the Constitution he will find that the militia is the creation of the several States. It is not a creation of the General Government at all; but it is a creation of the several States. They are to be organized, drilled, and disciplined by the States and by the officers of the States.

Mr. GRIMES. Is it not the law of the United States which declares that they shall be white?

Mr. COWAN. No, sir; it is not. I do not know of anything in the Constitution of the United States that requires the militia to be white.

Mr. SUMNER. That is the law of Congress.

Mr. GRIMES. The laws of the States in relation to the militia are made in pursuance of the law of Congress, which declares that the militia shall be composed of white persons.

Mr. COWAN. Not necessarily so at all. Each State in its own separate individual capacity has a right to organize its own militia, beyond all question, and they have done so repeatedly all over the country; and when so organized under the State laws, the General Government has a right to call upon them, and they have the right to send them, and to send them with men, officers, and equipage.

Mr. SUMNER. If the Senator will allow me, I will read to him one sentence from the statute of 1792, on the organization of the militia. It is as follows:

"Each and every free, able-bodied, white male citizen of the respective States, resident therein, who is or shall be of the age of eighteen years and under the age of forty-five years, except as hereinafter excepted, shall severally and respectively be enrolled in the militia by the captain or commanding officer of the company within whose bounds such citizen shall reside, and that within twelve months after the passage of this act."

That is the foundation of the military system of the United States.

Mr. COLLAMER. If the gentleman will allow me a moment on this point about the organization of the militia, I wish to read what the Constitution says about it. Among the powers of Congress is the following:

"To provide for organizing, arming, and disciplining the militia, and for governing such part of them as may be employed in the service of the United States, reserving to the States respectively the appointment of the officers, and the authority of training the militia according to the discipline prescribed by Congress."

Congress, under this authority of the Constitution, passed the law to which the Senator from Massachusetts has referred. The organization of the militia is not left to the States. It is an organization, under the Constitution, by act of Congress.

Mr. COWAN. It is very much as I supposed it all to have been without any previous examination on the subject, with this single exception. What I say is that the States may and do organize their militia, and not under and by virtue of that law of the United States; and they do disregard the law of the United States, because they did it in Pennsylvania. The whole militia system there was abolished at a single stroke; but of course the State of Pennsylvania could not repeal the law of Congress.

Mr. GRIMES. They could fail to organize the militia; but if they organize it, they must organize it under the laws of the United States.

Mr. COWAN. Well, it is totally immaterial in what aspect you view it, whether it be a State or a United States organization. By the law just read, that militia that are called out from the States must be white men. If that be so, then I say there is no place elsewhere that these men can be put into the Army of the United States, except by being put in the regular Army. You cannot call them out as militia. You must enlist them in the regular Army. As I understand, there is nothing in the law of the United States to prevent that from being done now. The volunteers called for are the militia of the States. If they are not, they are nothing; and if you cannot recognize them as militia, you cannot recognize them as anything. They are not the Army of the United States. That is a technical term, and refers to the army of enlisted men in the service of the United States. The volunteers, then, that are called from the States are the militia of the States, and come with their own organizations and their own officers. The Senator from New York said this law provided for that; but I ask is this law intended to provide for the organization of negroes into the militia of the several States? Is that the object?

Mr. KING. I will read the clause. It says they are to be employed "in the service of the United States." They are to dig trenches and fight the rebels. They are to be organized, fed, and paid for to do that work.

Mr. COWAN. If that is all, then we are left just about as wise as at the start.

Mr. KING. I thought so.

Mr. COWAN. The law, then, provides for nothing. It provides that they may be taken into the service of the United States.

Mr. KING. If the Senator will allow me, it provides for a good deal, and precisely what I desire this bill should do: that they may dig our trenches, perform labor in the camps, and fight the enemies of the Union, the insurgents and rebels.

Mr. COWAN. I have yet to learn that anybody has made any question about their digging our trenches or working in the camps. I never heard anybody object to it in my life, and that is put in as a mere work of supererogation.

Mr. SUMNER. The Senator seems to be unwilling to have them hurt the enemy.

Mr. COWAN. Of course, every gentleman who cannot agree with the Senator from Massachusetts and his party as to how this thing ought to be done, does not want to hurt the enemy! Why should I not want to hurt the enemy as much as the Senator from Massachusetts? I will go as far into the teeth of the enemy as he will, or any of his party.

Mr. SUMNER. The Senator misunderstands me. I say the Senator does not wish the slaves to hurt the rebels.

Mr. COWAN. The gentleman has no right to say that the Senator wishes anything about it. The Senator has not said any such thing. It is a creation of his own brain for the purpose of distorting and disturbing the true position that I occupy here. I wish the enemy to be hurt, and to be hurt by everybody, as much as he does. That is not the question; and it is time that that kind of thing was done with upon this floor. Because you do not agree as to how the Army shall be organized, you do not want the Army to be effective! It is a *non sequitur;* and nobody, I should think, except an orator in some country debating school, would ever think of resorting to it as a means to foil an antagonist. I want the Army to be made effective, just as much effective as anybody; and I say I never heard any objection on the part of anybody that slaves should dig our intrenchments and do the work they can do in the camp. I never heard anybody object to that; but there is an objection to making soldiers of them.

Mr. TRUMBULL. Will the Senator allow me to ask him if he ever heard of the celebrated order No. 3 expressly driving every one of them out of the camps of the whole army of the West?

Mr. COWAN. I do not know whether it was order No. 3 or not; but I do remember an order driving them out. What of it?

Mr. TRUMBULL. The Senator said he never heard of an objection to their coming in and digging intrenchments.

Mr. COWAN. No; never, never; and that is another of the same species of argument precisely. If there were no trenches for them to dig or no work for them to do, then I can very easily know why order No. 3 was issued. If they had trenches to dig, and if they were wanted for that purpose, then I suppose order No. 3 would not have been issued; but it does not follow because negroes were excluded from the camps that trenches were to be dug at that time.

Mr. TRUMBULL. Will the Senator allow me to put a question to him in all kindness?

Mr. COWAN. Certainly. I hope this is all kind.

Mr. TRUMBULL. I wish to ask him if he never heard of intrenchments being dug about Corinth, and of fortifications being thrown up in that portion of the country? Has not that come under his observation; and that there was an order prohibiting any slave from coming within the lines?

Mr. COWAN. I say in all candor and kindness and sincerity that I never heard yet that slaves were prevented from digging intrenchments. I have heard that white men have dug them, and I have heard great complaints that they were made to dig them.

Mr. SHERMAN. I can inform the Senator myself that intelligent citizens of Ohio, some of whom never worked a day in their lives, and who volunteered out of patriotism, were compelled to build roads and dig trenches, and negroes were expelled in their presence from the lines. That I know myself.

Mr. RICE. One Minnesota regiment made twenty-five miles of railroad.

Mr. SHERMAN. Two Ohio regiments, the organization of which I know all about, worked day after day through winter and storm in building bridges; and there were plenty of negroes about them and they were not employed.

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

The PRESIDENT *pro tempore*. The floor is at the command of the Senator from Pennsylvania. Does he yield the floor?

Mr. COWAN. Certainly.

Mr. DAVIS. Last summer I was along the line of fortifications that were being constructed on the south side of the Potomac river; and I saw many negroes, free and slave, there at work upon the trenches and the forts.

Mr. TRUMBULL. Order No. 3 did not apply there.

Mr. SHERMAN. I will inform the Senator from Kentucky that the case I mentioned was in the State of Kentucky.

Mr. DAVIS. I am speaking of the employment of the negroes of the United States in the construction of works. It has been done again and again; and I never knew of any impediment to its being done according to the discretion of the commander.

Mr. COWAN. That is as I understand it; but all this has nothing in the world to do with the question which we are now discussing.

Mr. DAVIS. With the permission of the Senator, I will say another word. Colonel Alexander, the chief engineer, under whose direction that line of lunette forts was constructed, told me that they gave to the soldiers additional pay of twenty-five cents a day for working on them. They had to give higher wages—I do not remember what the amount was; but it was something like a dollar a day—for slaves and negroes to work; and I suppose it was a question of economy and expediency whether the officers superintending the work would employ the soldiers, or the slaves and free negroes.

Mr. COWAN. I never had any difficulty in my mind about this question whatever. I suppose General Halleck is the officer referred to in regard to the celebrated order No. 3. If General Halleck made that order excluding negroes from his camp, I suppose, without knowing anything about it, he had the best reason in the world; and why? Because if General Halleck trusts me in the Senate, I trust General Halleck in the field; and I trust all these men everywhere, I do not condemn them until I first examine the

question carefully, coolly, and have an opportunity to know all the facts connected with it. I never had any opinion whatever about that order No. 3. I did not know whether it was right or wrong. I did not undertake to know, because it was not my business to know. If General Halleck satisfied his superior, the President, and he was continued in command, that was enough for me. If he put negroes out of his camp, I suppose there was good reason for it. I can very well conceive why, if I were commander-in-chief, I would put a great many white men out of the camp. If the camp is in a particular neighborhood, and all the people of the neighborhood flock in and disturb the discipline and organization of the soldiers, I think they would be put out very soon; and much more, I think, if a parcel of negroes were to make a camp a haunt, they should be put out. Why not? In every common county muster they put out spectators and persons who have no business within the lines.

But, Mr. President, that is not the question. I think nobody can deny but that the commanders of our armies, the executive branch of this Government, have the right to apply part of the appropriations for the purpose of paying for navvies, as they are called abroad. The English Government took to Balaklava large numbers of Irishmen who were skilled with the spade and pick, in order to make railroads there and dig trenches. They were called "navvies." Now, I suppose our Government would have the same authority precisely to get up gangs of negroes for the purpose of digging in the intrenchments; and when the intrenchments were done, I suppose the negroes would be discharged, and would go away; would not be kept there forever thereafter; would be treated just as white laborers, under the circumstances.

But, as I said before, that is not the question. The question is, whether we will employ negroes in our armies, and in our regular Army, because I know you can place them nowhere else, unless you make a new law specifically authorizing the militia to be composed of them, which I think would be exceedingly mischievous. If you alter your law so as to put the negroes of the free States in the militia of those States, you will not get a white man to come here. I do not think you will get a man from the free States to come in a company here if negroes are to come along with him in that same company; and these men love their country, and are just as willing to do as much for it as we are now. Then I say, unless you alter that law so as to authorize them to be put in the militia, there is nowhere else they can be put except in the regular Army, and to that there is no impediment now by any law of this Republic. The President has full and entire authority over that subject. When a negro comes up to enlist, there is the same right to strip and examine him, and determine whether he shall be put into that company through the medium of his recruiting officers, as there is to enlist a free white citizen. Whether the President would permit this is another thing; but it is with him in the exercise of his judgment. He must decide it, because it presents the question of a race in that attitude to other civilized races, for we cannot determine it. I therefore propose to intrust it to him. He is as anxious as we are, of course, to suppress this rebellion; perhaps more so. He has more cares in regard to it than we have. I have the greatest confidence in his wisdom, his prudence, his moderation, and his desire to do it with an eye to the restoration of the Union.

If to put negroes in our Army were to drive away white men from our service, the consequence of the question is palpable. Can people shut their eyes to it? When it becomes a question whether we shall gain or lose force by it, is it not a question worthy of consideration? It would be worthy, I think, of the very serious consideration of the President himself. I say nothing about the President's opinions from my own knowledge of them. What I know of his opinions and what I know of his policy, I have acquired here in my seat. I know that the same party, the same persons who were opposed to his countermanding the order of General Hunter putting blacks into our Army, and who thought he did improperly by countermanding that order, are endeavoring to pass this bill; and I know, too, it was said upon this floor by one of the advocates of this bill, that unless the President would change his policy he was not certain that he would vote for the supplies. Change what policy? What policy of the President is it that must be changed?

Mr. WILKINSON. I can answer the gentleman as to one policy of the Administration which has been pursued, and which should be changed—the taking of Union soldiers to guard the property of rebels, the placing of Union men from Minnesota around the house of a rebel general, protecting it, and keeping them up in the night while the inmates are sleeping quietly in their beds. That is one policy that I want changed.

Mr. COWAN. I have heard a great deal about that, and I beg the country to pause before they pass their judgments suddenly upon that. How is a general to maintain order and discipline in his army if he allows his soldiers to plunder? Why, sir, to state the question is to answer it. This is one of the necessary and unpleasant consequences of the war; but it is absolutely necessary to its successful carrying on. If our soldiers, when they go down there to suppress this rebellion, are not to guard private property, if they are not to prevent outrage, if they are not to observe the strictest discipline and to behave themselves according to the laws of warfare as established among all civilized nations, our Army becomes a mob, and our war becomes a war of extermination. There may be hardship in the fact that our sons, or our brothers, or our fathers may be obliged to stand guard over the property of a rebel, and it may be disagreeable; but all this war is hardship from beginning to end. It is still harder that that father and that son should be shot down upon the battle-field, and his corpse come home bleeding to his family. Still, that is one of the things that has to be done in order to save the country, and to save the blessings we expect to enjoy by preserving that country intact as it was before. I have no complaint to make of a general who observes order. I should have a great deal of complaint if he did not observe order. If he allowed his soldiers to plunder the private property of the people down there, if he allowed women and children to be insulted and outraged, I should have great quarrel with him for that. That could not be excused; this may; and I think in all charity it is due to our general to suppose that it was excusable; that there was a reason for it. Because the owner happened to be a rebel general, that is no reason why his house should be given up to pillage; his wife and children turned out of doors, and everything that has been respected in civilized war be outraged.

Mr. WILKINSON. I ask the Senator from Pennsylvania if that is the character of our Army in the field? Have they shown any general inclination to pillage, to rob, and to plunder the country through which they passed, and to insult women, as he intimates?

Mr. COWAN. That is the old method of bamboozling a question instead of arguing it. I intimated no such thing.

Mr. WILKINSON. I asked the question whether there has been any evidence of such conduct on the part of our Army?

Mr. COWAN. I say to the Senator from Minnesota I know nothing about it. I was not along with the Army. I pay no attention to these rumors of any kind one way or another. I pay no more attention to the idle slander on the Army than I pay to the idle slander on the Army's general. I pay no attention at all to any of these rumors. It is enough for me to decide what I have to decide here when I have the evidence before me, and when I can make up my judgment in such a way as that I shall not be obliged to retract it. I think our Army, rank and file, is composed of the best material of any army in the world; but yet I have no doubt that even in that Army there are men whom it might be dangerous to turn loose in passing through an enemy's country; and I suppose the very fact that property has to be guarded is evidence of the fact that there is danger. I know nothing about it personally, although I have heard a great many rumors of that, just as well as rumors of the other. What I mean to say is, that these things should be decided by those who are able to decide them, who are capable of deciding them, and that we should not here turn ourselves into a French convention and destroy and divide and weaken the efforts of the country for its own safety by undertaking to take cognizance of this question of which we are utterly incapable to form any good and sensible judgment. That is my ground. If I could see my way clear, I should support any legitimate law that could be passed to help us along and give us additional strength and force; and none would be more willing than I am to second it and further it. But, sir, I should be very loth, to agree to any law which would liberate the general from the necessary obligation which now rests upon him to preserve order and discipline in his army, and to prevent that army from being a band of marauders, in which case they would do more harm to our cause than they did good, and besides disgrace themselves and us by such conduct. I hope it will never be done.

Mr. WILKINSON. I do not intend to prolong this discussion, nor to make any remarks to any extent myself; but the Senator from Pennsylvania alluded to the fact that the British in the revolutionary war employed Indians, and that the civilized world looked down upon that act with condemnation, and I think he intended to draw a parallel between the employment of the Indians by the British Government and the proposition that is now before the Senate.

Mr. COWAN. If the Senator will allow me, I will save him the trouble of beating down that proposition. I made no such proposition, and if he has got his speech fitted to that, he might just as well give it up, because I neither made it nor intended it. I stated that the question arose in that case, and the question arises in this case; and the proper question is, who is to decide it?

Mr. WILKINSON. The Senator claims to be a very close constitutional lawyer; and if he did not mean anything by such an allusion, he certainly should not have resorted to it. I rose simply to call the attention of the Senate to the act of General Washington during the revolutionary war when he called upon the States to organize the slaves. That question was asked the other day in the debate by my colleague of the Senator from Kentucky, and he denied that it was so. Now, sir, here is a preamble to an act of the Legislature of the State of Rhode Island, which I will read, showing that they based their action upon the special request of the Commander-in-Chief, General Washington, and it goes on to provide that the slaves, Indian slaves as well as negroes, should be organized and mustered into the service of the United States:

"Whereas, for the preservation of the rights and liberties of the United States, it is necessary that the whole powers of Government should be exerted in recruiting the Continental battalions; and whereas his Excellency General Washington hath inclosed to this State a proposal, made to him by Brigadier General Varnum, to enlist into the two battalions raising by this State such slaves as should be willing to enter into the service; and whereas history affords us frequent precedents of the wisest, the freest, and bravest nations having liberated their slaves and enlisted them as soldiers to fight in defense of their country; and also whereas the enemy, with a great force, have taken possession of the capital, and of a great part of this State, and this State is obliged to raise a very considerable number of troops for its own immediate defense, whereby it is in a manner rendered impossible for this State to furnish recruits for the said two battalions, without adopting the said measure so recommended:

"*It is voted and resolved*, That every able-bodied negro, mulatto, or Indian man slave in this State may enlist into either of the said two battalions, to serve during the continuance of the present war with Great Britain; that every slave so enlisting shall be entitled to and receive all the bounties, wages, and encouragements, allowed by the Continental Congress to any soldier enlisting into their service.

"*It is further voted and resolved*, That every slave so enlisting shall, upon his passing muster before Colonel Christopher Greene, be immediately discharged from the service of his master or mistress, and be absolutely *free*, as though he had never been incumbered with any kind of servitude or slavery; and in case such slave shall, by sickness or otherwise, be rendered unable to maintain himself, he shall not be chargeable to his master or mistress, but shall be supported at the expense of the State."

The Senator from Pennsylvania urges the same objections to the employment of slaves that were urged by the gentleman from Kentucky the other day. It is said to be inhuman and barbarous; that they would become savage, and that they are savages in their nature. General Washington, who was a slaveholder and knew the character of the negro as well as the Senator from Kentucky or the Senator from Pennsylvania, who was as humane, as kind, as benevolent, and as Christian in his character as any gentleman opposed to this measure, by a solemn official act, called upon the States to muster their slaves into the service, that he, the greatest captain of his age, might lead them on to battle and to victory. Do we ask any more? Can the Senator from Virginia, who spoke so elo-

quently against this measure the other day, representing a State whose greatest honor is derived from the fact that it contains the bones of that great general, can he or can anybody urge a single argument against this proposition of the Senator from New York that could not be urged against this proclamation of General Washington? Sir, there is no objection to it except the objection that arises from a certain element and from a certain source, who are more tender of slavery and its rights than they are of the rights of the Government of the United States. I saw a gentleman to-day, of high character, who had just had a conversation with Governor Curtin, of Pennsylvania, in regard to Pennsylvania answering this new call of the President of the United States for troops, and as the conversation was related to me, Governor Curtin expressed very great doubts whether they could be induced to enlist under the present circumstances. He did not tell it to me, but told it to a gentleman whom I met in front of Willard's Hotel this morning, who said he had had a conversation with him on the subject.

Mr. COWAN. I have not had a conversation with Governor Curtin himself, but I am afraid he is not fairly represented. I understand Governor Curtin's opinion to be that men can be procured if the period for which they are drafted is limited; but that it would be impossible to draft men for an unlimited period. That is his position.

Mr. WILKINSON. Perhaps that was the qualification that was put to it. I received this morning a letter from a very prominent and very active man in New York, who proposes immediately upon the issuance of this call by the President to raise a regiment, or a brigade if he could. I received a letter from him this morning, and I wish to read an extract from it:

"I started a day or two since to raise some volunteers in answer to the new call, and in several cases have been met with the prompt refusal from men whom I thought would follow me anywhere, that they were unwilling to go in the present condition of things. They say that they do not, and will not enter into the service until some action takes place to show that they are not to be thrust into the swamps to dig intrenchments or to build roads, while the negroes are rejected from our service."

I wish to say one other thing with regard to this subject. We have one regiment from Minnesota in the army of the Potomac. They were at Bull Run, and have been here ever since. They have made seven miles of road; they have built two bridges across the Chickahominy river; and they have been engaged in this business and in making intrenchments from the time they went there until the battles commenced the other day.

Mr. RICE. One regiment from our State in the West constructed twenty-five miles of railroad.

Mr. WILKINSON. Another regiment, as I am informed by my colleague, in the West, constructed twenty-five miles of railroad. Now, I demur to this. I object to the active, the energetic, the high-minded young men from my State being placed in such menial service as this, and wearing themselves out and wasting their lives and their energies in it when there are thousands of men ready and willing to perform this service on behalf of the Government of the United States if we will permit them to do it. It seems to me like madness to refuse or to undertake to reject this offer, because we cannot find a place where to put these men on the statutes, whether we regard them as militia men or as regular Army men. Put them into the ranks. General Washington found no difficulty on that point.

Mr. HARLAN addressed the Senate at some length, but, without concluding, he yielded temporarily, for the disposal of the following necessary business:

PENSION BILL.

Mr. FOSTER. I ask leave to make a report from a committee of conference, with the consent of the Senator from Iowa.

The PRESIDENT *pro tempore*. It will be received with the assent of the Senator from Iowa, who is entitled to the floor.

Mr. HARLAN. I yield for that purpose.

Mr. FOSTER. The committee of conference on the disagreeing votes of the two Houses on the amendments to the bill (H. R. No. 438) to grant pensions, have met, and after a full and free conference have agreed to recommend that the House of Representatives recede from their disagreement to the Senate amendments numbered 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 20, 21, 22, 23, 24, 25, 26, and 27, and agree to the same; and that the Senate recede from their eighteenth and nineteenth amendments.

The result of the conference is that the House of Representatives, through their committee, agree to all the amendments of the Senate save two, and the committee of the Senate recommend that the Senate recede from those two amendments and concur with the House. The House proposed a rate of fees for attorneys and agents who may act for persons entitled to pensions under this bill, to procure them from the Department. The Senate committee did not think it advisable to undertake to fix a rate of compensation, but the House insisted upon it, and it was thought the bill would be endangered unless we agreed to it. We thought it best, therefore, to recommend that the Senate recede from its two amendments on that point.

The report was concurred in.

THE TARIFF BILL.

Mr. FESSENDEN. The committee of conference on the disagreeing votes of the two Houses upon the bill (H. R. No. 531) increasing temporarily the duties on imports, and for other purposes, have agreed to a report, which I send to the Chair to be read.

The Secretary read the following report:

The committee of conference on the disagreeing votes of the two Houses on the amendments to the bill (H. R. No. 531) increasing temporarily the duties on imports, and for other purposes, having met, after full and free conference have agreed to recommend, and do recommend, to their respective Houses, as follows:

That the House recede from their disagreement to the third, fourth, fifteenth, sixteenth, seventeenth, nineteenth, twentieth, twenty-first, twenty-third, twenty-fourth, twenty-fifth, twenty-ninth, thirtieth, thirty-first, thirty-second, thirty-third, thirty-fourth, thirty-fifth, thirty-sixth, thirty-seventh, thirty-eighth, thirty-ninth, fortieth, forty-first, forty-fourth, forty-fifth, forty-sixth, forty-seventh, forty-eighth, forty-ninth, fiftieth, fifty-first, fifty-fifth, fifty-sixth, sixtieth, sixty-first, sixty-second, sixty-fourth, sixty-fifth, sixty-eighth, sixty-ninth, seventieth, seventy-first, seventy-fourth, seventy-fifth, seventy-sixth, seventy-seventh, seventy-eighth, seventy-ninth, eighty-first, eighty-second, eighty-fifth, eighty-sixth, eighty-ninth, ninety-second, ninety-third, ninety-fourth, ninety-fifth, and ninety-sixth amendments of the Senate, and agree to the same.

That the Senate recede from their first, fifth, sixth, seventh, eighth, tenth, eleventh, twelfth, thirteenth, fourteenth, twenty-eighth, forty-third, fifty-third, fifty-fourth, fifty-eighth, fifty-ninth, seventy-third, eightieth, eighty-third, eighty-fourth, and eighty-eighth amendments.

That the House recede from their disagreement to the Senate's second amendment, and agree to the same, with an amendment, as follows: in line nineteen, after the word "three," insert "and one half." In line twenty, after the word "all," insert "stove dried or;" and in line twenty-two, strike out "five" and insert "four."

That the House recede from their disagreement to so much of the ninth amendment of the Senate as is proposed to be inserted, and agree to the same with the following: strike out the words proposed to be substituted, and in line sixteen of said clause, strike out the words "$1 50," and insert "$2," and the Senate agree to the same so amended.

That the House recede from their disagreement to the Senate's eighteenth amendment, and agree to the same with an amendment, as follows: strike out the words proposed to be inserted, and insert in lieu thereof, "*Provided*, That wire covered with cotton, silk, or other materials, shall pay 5 cents per pound in addition to the foregoing rates."

That the House recede from their disagreement to the Senate's twenty-second amendment, and agree to the same with an amendment, as follows: strike out the word "and" before the word "fifty," in said amendment.

That the House recede from their disagreement to the Senate's twenty-sixth amendment, and agree to the same with an amendment, as follows: strike out "fifteen" and insert "twenty-five."

That the House recede from their disagreement to the Senate's twenty-seventh amendment, and agree to the same with an amendment, as follows: strike out "fourth," and insert "half."

That the House recede from their disagreement to the forty-second amendment of the Senate, and agree to the same, with an amendment, as follows: strike out the word "ten," and insert "five;" and in line sixty-three, strike out "fifteen," and insert "eight."

That the House recede from their disagreement to the fifty-second amendment of the Senate, and agree to the same, with an amendment, as follows: strike out "twenty," and insert "thirty."

That the House recede from their disagreement to the Senate's fifty-seventh amendment, and agree to the same, with an amendment, as follows: strike out all of lines twenty-two and twenty-three of section seven, and insert in lieu thereof the following: "on white and red lead, dry or ground in oil, 15 cents per one hundred pounds; on oxyd of zinc, dry or ground in oil, 25 cents per one hundred pounds."

That the House recede from their disagreement to the Senate's sixty-third amendment, and agree to the same with an amendment, as follows: strike out the word "twenty" in said amendment, and insert "thirty."

That the House recede from their disagreement to so much of the Senate's sixty-sixth amendment as proposes to strike out the words "and twenty;" and in the same line strike out the words "five cents;" and the Senate recede from so much of said amendment as proposes to insert "seventy," and agree to the same so amended.

That the House recede from their disagreement to so much of the Senate's sixty-seventh amendment as proposes to insert the words "and on," and agree to the same with the following amendment: strike out the words "and on," proposed to be inserted; in line eighty-three, after the word "rough," insert "or;" and in the same line strike out the words "or sawed." In line eighty-four, strike out the words "one dollar," and insert in lieu thereof "seventy-five cents." In line eighty-six, after the word "rough," insert "or;" and in the same line strike out the words "or sawed." In line eighty-eight, after the words "of marble," insert "marble slabs;" and in line eighty-nine, after the word "marble," insert "sawed;" and the Senate agree to the same so amended.

That the House recede from their disagreement to the seventy-second amendment of the Senate, and agree to the same with the following: after the word "sheets," in line one hundred and twenty of section eight, insert the word "terne."

That the House recede from their disagreement to so much of the Senate's eighty-seventh amendment as proposes to strike out the words "provided that," in lines twenty-two and twenty-three, of section seventeen, inserting in lieu thereof the word "and;" and to strike out all from the word "provided," in line thirty-eight, down to the word "treaty," in the fiftieth line, inclusive, and the Senate agree to the same; and the Senate agree to recede from so much of their eighty-seventh amendment as proposes to insert from the word "that," in the fiftieth line, down to the word "specified," in the one hundred and second line, inclusive, and further agree to transpose all from the word "for," in the one hundred and eleventh line, down to the word "for," in the one hundred and thirteenth line inclusive, to come in after the word "require," in the one hundred and tenth line; and after the words "sixty-three," in line one hundred and eighteen, add the following amendment: "*And provided further*, That the provisions of this section shall not apply to countries where there is no consul, vice consul, or commercial agent of the United States," and that the House agree to the same so modified.

That the House recede from their disagreement to so much of the Senate's ninetieth amendment as proposes to strike out the words "and copper," and agree to the same with an amendment, as follows: after the word "gold," in the sixteenth line, insert "and;" and the Senate agree to the same so modified.

That the House recede from their disagreement to the ninety-first amendment of the Senate, and agree to the same with an amendment, as follows: strike out all of said Senate amendment, and in lieu thereof insert the following: "that all goods, wares, and merchandise which may be in public stores or bonded warehouse on the 1st day of August, 1862, may be withdrawn for consumption upon payment of the duties now imposed thereon by law: *Provided*, The same shall be so withdrawn within three months of the date of original importation, but all goods, wares, and merchandise which shall remain in the public stores or bonded warehouse for more than three months from the date of original importation, if withdrawn for consumption, and all goods on shipboard on the 1st of day of August, 1862, shall be subject to the duties prescribed by this act."

That the House recede from their disagreement to the Senate's ninety-seventh amendment, and agree to the same with an amendment, as follows: after the word "extended," in line three of said amendment, insert "under such regulations as the Secretary of the Treasury shall prescribe."

That the House recede from their disagreement to the Senate's ninety-eighth amendment, and agree to the same with an amendment, as follows: strike out the word "third," in line one of said amendment of the Senate, and insert "fifth."

That the House recede from their disagreement to the Senate's ninety-ninth amendment, and agree to the same with an amendment, as follows: in line four of said Senate amendment, strike out the word "all," and insert in lieu thereof the words "so much;" strike out, in the same line, the words "except so much thereof," and in lines five and six strike out the words "a Commissioner of Internal Revenue," and insert in lieu thereof the words "collectors and assessors."

W. P. FESSENDEN,
J. F. SIMMONS,
J. M. HOWARD,
Managers on the part of the Senate.
THADDEUS STEVENS,
J. S. MORRILL,
E. B. WASHBURNE,
Managers on the part of the House.

Mr. FESSENDEN. I am ready to give any explanation which gentlemen may desire about this report. The House concur in most of the Senate amendments, and some the Senate waive.

Mr. HARRIS. I desire to inquire what is the state of the bonded warehouse question.

Mr. FESSENDEN. Precisely the same as it went from the Senate, except that we have changed the phraseology.

Mr. HARRIS. How does it stand now?

Mr. FESSENDEN. It stands in this way: that goods in public stores or bonded warehouse at the date of the passage of the act, may be taken out at the present rates of duty within three months from the time of their original importation, just as they might under the old law.

Mr. HARRIS. Then, in relation to the bonded warehousing, I understand the time has been limited.

Mr. FESSENDEN. The time was three months, but this extends it to a year.

Mr. SHERMAN. I was informed by a member of the House, but he must have been mistaken, that the time was limited to three months; that

the duties must be paid on all importations within three months; that the bonds only run for three months.

Mr. FESSENDEN. I will read it.

Mr. SHERMAN. The Senator's word is sufficient.

Mr. FESSENDEN. I will read the provision:

That all goods, wares, and merchandise which may be in public stores or bonded warehouse on the 1st day of August, 1862, may be withdrawn for consumption upon payment of the duties now imposed thereon by law: *Provided*, The same shall be so withdrawn within three months from the date of the original importation; but all goods, wares, and merchandise which shall remain in the public stores or bonded warehouse for more than three months from the date of original importation, if withdrawn for consumption, and all articles on shipboard on the 1st day of August, 1862, shall be subject to the duties prescribed by this act.

Mr. POWELL. It is not my purpose to detain the Senate. I merely wish to say, as I did not have an opportunity when this bill was passed of recording my vote against it, that I am utterly opposed to the bill. I think the tariff is prohibitory, and calculated to destroy commerce and to yield very little revenue. I shall not take up the time of the Senate even by calling for the yeas and nays on this report. I merely wish to state that I am opposed to the bill and to the report.

The report was concurred in.

JUDICIAL CIRCUITS.

Mr. WRIGHT. I wish to make a report from a committee of conference. The committee of conference on the disagreeing votes of the two Houses to the bill (S. No. 89) to amend the act of the 3d of March, 1837, entitled "An act supplementary to the act entitled 'An act to amend the judicial system of the United States,'" have met, and after full and free conference have agreed to recommend that the House of Representatives recede from all its amendments, except those in which the Senate heretofore concurred, and that the House concur in the Senate's amendment, amended, as follows:

The districts of Louisiana, Texas, Arkansas, Kentucky, and Tennessee shall constitute the sixth circuit; the districts of Ohio and Indiana shall constitute the seventh circuit; the districts of Michigan, Wisconsin, and Illinois shall constitute the eighth circuit, and the districts of Missouri, Iowa, Kansas, and Minnesota shall constitute the ninth circuit.

Mr. HOWARD. I hope the Senate will not pass upon that report at present. The bill is one of the utmost importance, for the reorganization of the judicial circuits of the United States, and the report which is now presented differs broadly from any scheme which has heretofore been suggested either in the Senate or in the House of Representatives; it is, in fact, a new bill. Before any further action on the subject is taken in this body, I move that the report be printed. I shall have something to say on the subject at the proper time, but I am not prepared at this time. I hope that the report will be printed.

The PRESIDENT *pro tempore*. Does the Senator accompany that motion with the further motion that the report lie on the table?

Mr. HOWARD. Yes, sir.

Mr. WRIGHT. I trust that the motion will not succeed. It is evident that, in a day or two, there will be no quorum in the other House, even if there shall be here. There is no necessity for printing the report. The question can be stated in a moment; and if the gentleman has any objections, he can present them. The only difference between the action of the Senate and this report is, that the State of Michigan is attached to another circuit. The circuit west of the Mississippi river is precisely the same; Ohio and Indiana are together; Kentucky is placed where she was in the House bill. I can say to the Senator from Michigan that I was very desirous of having his State where he wanted it. There is a unanimous report of the committees of both Houses. I trust the Senate will take it up and decide it at once. It is a privileged question.

Mr. HOWARD. I hope the Senate will at least do my State the justice to have the report printed, and allow me an opportunity to discuss it before it is passed upon. I have not been consulted by a member of the committee of conference; and the proposition is entirely new to me. I claim it as a matter of justice that I have an opportunity to see the report in print, and discuss it in the Senate. We shall then see whether the Senate will concur in this radical change which the committee of conference has seen fit to make of all the bills that have been submitted to us upon this most important subject.

Mr. WRIGHT. One word. There can be no objection certainly to the gentleman being heard; but there is no necessity for printing the report. The whole matter is in two or three lines.

Mr. HOWARD. I have no idea of having a snap judgment taken on me in this way, if I can help it.

Mr. WRIGHT. There is no desire for that.

Mr. HOWARD. I do not know about that. It is sufficient that the Senator disclaims it. I must draw my own inferences.

Mr. HARLAN. I do not think the request of the Senator from Michigan an unreasonable one. If he were ready to go on now, I should not claim my right to the floor, as I do not think anything I shall say ought to interfere with the transaction of business of the importance suggested by this bill; but as he says he is not ready to go on now, and desires to be heard, I think he is entitled to that right, and hence I hope the report may lie on the table until to-morrow at any rate.

Mr. WRIGHT. I only fear that in a day or two we shall have no quorum. I am certainly willing that the gentleman shall be heard, but this is a privileged question.

The PRESIDENT *pro tempore*. Reports of conference committees have been received as privileged questions, but not so highly privileged as to deprive a member of the floor. The Senator from Iowa yielded the floor for the purpose of receiving this and other reports from the committees of conference.

Mr. GRIMES. I rise merely to inquire whether it has ever been the custom to print reports of committees of conference. It certainly has not been since I have been in the Senate.

The PRESIDENT *pro tempore*. The Chair is not aware of that practice; but nevertheless it is a proper motion, if a Senator desires such a report to be printed.

Mr. SHERMAN. It will be competent for the Senator from Indiana to call it up, I suppose, after the Senator from Iowa gets through, as it is a privileged question.

The PRESIDENT *pro tempore*. Certainly. The Senator from Indiana can call it up at any time when he gets the floor for that purpose. Reports from committees of conference are privileged and highly privileged.

Mr. WRIGHT. I have no desire to insist upon it, except that I fear we shall soon have no quorum in the other House at any rate.

Mr. KING. I think we shall have a quorum. We ought to have.

The PRESIDENT *pro tempore*. The Senator from Michigan moves that the report and bill lie upon the table, and that the report be printed.

Mr. CHANDLER. I hope that motion will prevail. Michigan has been placed outside, without consultation and against her wishes. She certainly is entitled to be heard, and I think she is entitled to a little consideration in this body. We were placed in the original bill just where we wanted to be. We were in an association that suited us. I do not complain of the association in which it is now proposed to put us, but it is inconvenient, and I think it is unjust. I hope the Senate will reject this report, and I say it now, because I do not propose to discuss it when the bill comes up. My colleague will; he is a lawyer; I am not. I hope that his motion will prevail, and that he will at least be heard upon so important a matter to the State of Michigan as her judicial status for the next ten years, or twenty, perhaps.

Mr. TEN EYCK. I hope the matter will be postponed. I should be exceedingly opposed to having this report rushed through, after the declaration of the Senator from Michigan that this was a sort of snap judgment. If so, those who have had a hand in making this report, and agreeing to it, are parties to a transaction of that kind, and I think it is due to the managers on the part of the two Houses that the whole thing should be ventilated, and let us see whether there is any snap judgment.

Mr. KING. It should be so.

The PRESIDENT *pro tempore*. The question is on the motion of the Senator from Michigan.

Mr. FOSTER. I ask for a division of the question, so that we may vote separately upon ordering the printing.

The PRESIDENT *pro tempore*. A division being asked, the first question will be on the motion that the report and bill lie upon the table.

The motion was agreed to.

The PRESIDENT *pro tempore*. The question now recurs on the motion to print the report.

The motion was agreed to—ayes eighteen, noes not counted.

TERM OF SERVICE OF MILITIA.

The PRESIDENT *pro tempore*. The bill (S. No. 384) to amend the act "calling forth the militia to execute the laws of the Union, to suppress insurrections, and repel invasions," approved February 28, 1795, which was temporarily laid aside, is again before the Senate.

Mr. HARLAN resumed and concluded his speech. [His speech will be published in the Appendix.]

Mr. DAVIS. If I had not been referred to by name by two of the Senators that have taken part in this debate, I should not have said another word in this debate.

Mr. HALE. Will the Senator from Kentucky give way a moment?

Mr. DAVIS. I will yield for an explanation.

Mr. HALE. I was about to make a suggestion, if it is agreeable to the Senate. It is this: there are a large number of nominations from the President upon the table, and they ought to be referred to the appropriate committees, and my suggestion is that we have an executive session, if for nothing else, long enough to refer those messages.

Mr. DAVIS. I will leave plenty of time for that.

Mr. HALE. You do not know yourself how long it will take you.

Mr. DAVIS. Mr. President, I remarked that but for the manner in which I had been referred to by name by two of the Senators who have taken part in this debate, I should have said nothing further on the subject. As it is, I have no doubt it will be very agreeable to the Senator from New Hampshire and other gentlemen to know that I do not intend to occupy the attention of the Senate a great while.

The particular and interesting question before the Senate is this: shall the President of the United States be authorized by this bill to arm the negro slaves of the United States? Gentlemen who support it have brought forward authority which they say bears directly on the pending question, and sanctions the measure of now arming the slaves. Sir, I hold that this is a question of expediency, policy, and humanity, and that every proposition for arming the negroes ought to be decided by the circumstances of each particular case. I will show by a very few remarks that there is no sort of analogy between the cases cited by the two honorable Senators from Minnesota and the present occasion, which, it is said, demands the negroes should be armed.

There has been produced as yet evidence of but a single State that proceeded to arm slaves in the revolutionary war, and that was the State of Rhode Island. I have a statement here of the number of slaves in the State of Rhode Island at the time the first census of the United States was taken in 1790. The number then was something over nine hundred—under one thousand. I presume that in the year 1776 they were less; but I have no information as to the number of slaves in the State of Rhode Island during the revolutionary war, or at any time previous to 1790. What was the condition of things in the revolutionary war when General Washington authorized and desired the enrollment in the State of Rhode Island of her slave population, or such of it as were of capacity to render military service, in order to eke out the two battalions that that State was then required to raise? We were pressed upon by an enemy from across the ocean. The colonies had been almost subjugated in 1776 by the British foe. General Washington was retreating from New York across New Jersey and over the Delaware river during the winter of that year. The struggling States were in the greatest possible strait, pressed by an overpowering enemy. The question then arose, was it expedient and proper that the slaves of Rhode Island should be organized into the battalions which that State was called upon to send to the assistance of Washington's army? Why should it not have been done, sir? The only persons that could have been injured by the acts of those slave

soldiers were men, men in arms in the cause of a foreign tyrant, who it seemed was about to conquer and enslave our country. There were no women and children; there were no old and superannuated persons; there were no non-combatants against whom that slave power, when thus incorporated into the American army, could be brought to bear. The number of slave recruits that was proposed to be raised could not exceed two hundred, and that small number could be reasonably restrained from all excesses.

The state of the case was precisely similar in the war of 1812, when General Jackson called upon the free colored population of Louisiana to repair to his standard to defend the State of Louisiana against the descent of the British upon the coast of that State. In both cases the slaves were called upon to array themselves on the side of the women and children, on the side of non-combatants and the helpless, against an enemy composed wholly of men, and who were combatants with arms in their hands. Is that case analogous to the present? Is there any similitude between either of these cases and the present? I admit I had forgotten that there was an enrollment of slaves in the Revolution; and it was to so inconsiderable an extent, and was productive of such little consequences, that it is not at all strange that it did not make an impression on my mind that was lasting. But, sir, I would have gone further than did the State of Rhode Island, or did General Washington in the revolutionary war for the purpose of enabling the struggling colonies to beat back the British army, and secure their independence. If the colonies could have commanded the whole Indian power of the country, I would have called upon that Indian power to assist the colonies in their struggle; and why? Because as a question of policy and expediency it would have been proper; as a question of humanity there could have been no objection to it, at least no great objection, because the Indians in any assistance they could render to the armies of the colonies, and the negroes of Rhode Island in any assistance they did render to the colonies, would not be operating upon or against a defenseless population, but against belligerents in battle array.

Now, sir, what is the condition of things when it is urged with so much vehemence and passion that the slaves should be armed? We are invading the southern States. The slaves in four or five of those States in the aggregate are about equal to the white population. The great mass of that white population consists of women and children, aged and defenseless men, persons who are not belligerents, not combatants. We remonstrate against the employment of slaves in this case, because they will be called upon to precipitate themselves against and upon a helpless population; and from their nature and disposition, and from the manner in which their passions can be inflamed and maddened, they having been heretofore in a state of slavery to the people against whom they are to be armed, they could not be restrained within the rules and usages of civilized war, and they would, especially if organized in large numbers, as General Hunter proposed to organize them, to the amount of forty or fifty thousand, as he says, be totally beyond the control and command of their officers, and it would be impossible to limit them within the pale of civilized warfare. The consequence would be all the cruelties would be brought down upon a defenseless population, consisting mainly of women and children, that will necessarily occur in a conflict of arms between the negro race, who have been held in subjection by their fathers and brothers, when that negro race are to have arms placed in their hands, and are offered freedom as the boon for subjugating their masters.

Mr. President, there is a little more history upon this point. I hold in my hand a copy of the original draft of the Declaration of Independence, as drawn out by Mr. Jefferson. This very thing of arming slaves, which the Congress of the United States is now about to do, was one of the grounds of complaint, one of the grievances, which he brought as a charge against the British king, and upon which he proposed to base the Declaration of Independence by the colonies. I will read it. Speaking of George III, he says:

"He has waged cruel war against human nature itself, violating its most sacred rights of life and liberty in the persons of a distant people who never offended him, captivating and carrying them into slavery in another hemisphere, or to incur miserable death in their transportation thither. This piratical warfare, the opprobrium of infidel Powers, is the warfare of the Christian king of Great Britain. Determined to keep open a market where men should be bought and sold, he has prostituted his negative for suppressing every legislative attempt to prohibit or restrain this execrable commerce; and that this assemblage of horrors might want no facts of distinguished die, he is now exciting those very people to rise in arms among us, and to purchase that liberty of which he has deprived them by murdering the people on whom he also obtruded them; thus paying off former crimes committed against the liberties of one people with crimes which he urges them to commit against the lives of another."

He makes that as one of the most atrocious offenses of George III against the colonies. How analogous is that to the present state of the case upon which we are now acting; and how similar was the conduct of the English and of their shipowners and slave dealers to the conduct of the people of Massachusetts and of the New England States in relation to the same subject, and to the present condition of this question as to all the slave States? Mr. President, the slave trade commenced about the year 1630. The introduction of slaves into the British colonies on the North American continent about 1660. In a few years, the slave trade extended into all the colonies and slaves were bought in all of them. The parties to this traffic were principally the navigators and shippers of New England, particularly of Massachusetts, Rhode Island, and Connecticut. They all bought slaves; they all held slaves; and imported them into the more southern colonies, they all owned slaves at the commencement of the American Revolution. They were all slaveholding colonies, and owned slaves when the Declaration of Independence was propounded to the world. We are now told that that Declaration of Independence applied to the slaves as well as the white men. Not so, sir. The slave did not come within the purview of the Declaration of Independence. It was made irrespective of him, without intending to embrace, and without in fact embracing him. In every one of the colonies he continued in a State of slavery the day after the Declaration of Independence was signed and promulged up to the time of the abolition of slavery in their respective States—when they had become States by the Declaration of Independence—just as he had continued a slave before. Massachusetts, I believe, was the first of the colonies to abolish slavery; and next to her I think was Connecticut.

Mr. HOWARD. It was decided that slavery could not exist there.

Mr. DAVIS. That was abolition; but it did and had long existed there. There were many bought and sold in Massachusetts.

Now, let us see the course of those States, when the Convention which formed our Constitution commenced its sessions, upon this subject of slavery. The northern States were then deeply engaged in the trade. They made heavy profits by importing slaves and selling them to the southern States. Virginia, Pennsylvania, Maryland, and Delaware had prohibited the slave trade. The first reported *plan* of the Constitution contained a clause recognizing the continuance of the slave trade without any condition or restriction whatever. The *projet* of a Constitution was so reported to the Convention. No member of the Convention from any of the New England States then moved to strike out that provision. The member of the Convention who made that proposition was Luther Martin, from the State of Maryland. It gave rise to a long and earnest debate; and finally that, with several other subjects, on motion of Governeur Morris, was referred to a committee of eleven to make a *bargain* for the settlement of it. What was done then? A report was made embracing that and other subjects—the subject of exports, of the navigation laws—to the Convention, and that report authorized a continuance of the slave trade until the year 1800. A member from one of the southern States proposed that the time for restricting the slave trade by Congress should be extended from 1800 to 1808; and Massachusetts and every New England State that was represented in the Convention voted for the extension. Massachusetts and the New England States continued this traffic, and imported these slaves, sold them to southern planters, and made large gains by their sale, up to the year 1808. What did Massachusetts do shortly afterwards, when she could no longer import slaves from Africa and sell them to the southern States, and what is she now proposing to do? To deprive these people to whom she sold the slaves, whose money she got for the slaves, and upon the traffic made heavy profits—she proposes to deprive, to rob these same people of the slaves which she sold to them.

Now, sir, I ask if there is not an analogy, strict and striking, between the condition of these States and the present slaveholding States, and Great Britain and the colonies, when in the original draft of the Declaration of Independence, Mr. Jefferson was making the same course of conduct recommended and pursued by George III, as one of the grievances of which the colonies complained, and upon which they based their right to declare themselves independent. George III had instructed his Governors to employ the slaves against the revolted colonies, and to promise them their freedom in the event that they would join the British army and endeavor to crush the rising revolt for liberty. That proposition so shocked the American people that Mr. Jefferson in drawing up the original *projet* of the Declaration of Independence made that one of the grounds of denunciation against the British tyrant; and the American Congress is about to do the same diabolical act against our own countrymen, their women and children, and to hold it out to them as a condition and lure to reconciliation and peace.

Mr. President, I think it ill-becomes a people or the descendants of a people who were so instrumental in planting slavery in these slave States, to take so ungracious a part against the institution and to endeavor by such measures as have been proposed to deprive the descendants of those to whom they sold these identical slaves of their property in them.

The question is not now whether we will employ Indians or slaves against men in arms. If our armies, with slaves constituting a part of them, had nobody to meet but the rebels in arms in the field—combatants—the men who are responsible for the present condition of things, the objections to the employment of slaves would have much less weight; and then there would be some analogy between the limited, small examples set in the war of the Revolution and of 1812 by General Washington and General Jackson, to the present employment of slaves. But, sir, when you go into the State of South Carolina, you find the slaves there are more numerous, by some one hundred and twenty-five or one hundred and thirty thousand than the white population; and the question is, will you arm all the slaves in that State who are capable of bearing arms? Will you proclaim liberty to them if they will engage in a war against their owners, for the purpose of subjugating their owners to obedience to the United States Government? All the defenseless people of that country, the aged, the imbecile, the women, and the children would be exposed to the slaves let loose from their state of thralldom with arms in their hands, incited by abolitionists and incendiaries to revenge themselves upon those who had held them in slavery.

But, Mr. President, I am grievously impressed with the opinion that those men who feel, or pretend to feel, so much sympathy for the slaves, feel none for the white man, nor none for white women and children. I make the honorable Senator from Iowa an exception, as I believe he is a just and humane man. For his words of kindness in respect to myself I thank him, and from my heart I reciprocate them. But, sir, I believe there are thousands of those men, and some in Congress, and women, who have taken part in this avenging crusade against slavery in the South, whose passions have been inflamed by the visions of injustice and cruelty which their imaginations have created, who, if the negroes were to rise tomorrow, and massacre the whole white population of South Carolina—men, women, and children—would be monsters enough to rejoice over the horrible immolation.

Mr. FESSENDEN. If the honorable Senator from Kentucky will give way, I will move a recess, in order to finish this matter this evening. Some of us want to get our dinners.

Mr. DAVIS. You can have your dinner in ten minutes, so far as I am concerned.

The honorable Senator from Iowa misunderstood me in one point of my argument against the abolition of slavery in this District. I did not intend to say, and my recollection is that I did not say, that a conflict of races and scenes of cruelty

and bloodshed would ensue in the District; but I did say, and intended to say, that in the South, where the slave population is large, where it is equal or nearly equal in point of numbers to the white population, if they were liberated, and left in the country, this conflict of races, and these cruel and bloody consequences would necessarily result. I believe so. Some gentlemen upon this floor, during the present session, have told us of this conflict in a small way in the navy-yard at Philadelphia. I heard of another instance of it a few days since in Toledo, in the State of Ohio. The Irish there were the stevedores principally. They struck for higher wages. The employers refused to give them higher wages, and called in negro stevedores. That immediately gave rise to a riot and a bloody conflict between the Irish and the African race, and the military of city of Toledo had to be called on to suppress it, and to keep order. That is but a germ, but a sample of what will take place, if this great measure of emancipation should go into effect, as anticipated by the fervid, excited, but honest heart of the Senator from Iowa. He thinks that the time has come when the great Ruler of the universe has willed that slavery in the United States shall end. I do not presume to interpret any of His purposes. If this be one of them, when He manifests it, I will bow in humble and reverent submission to His will. But at present I do not believe that He allowed the men of Massachusetts to people the southern States with slaves, that these men of Massachusetts might put knives into the hands of those slaves to cut the throats of the men of the South, their wives, and their children, to whom they sold these slaves. All the colonies and all the States held to slavery for more than a hundred years, and although some of the States then abolished slavery, about one half of them still retained it, and for more than fifty years longer, and yet there was no trouble among them about it. And why did peace for so long a time upon this subject continue among them? It was purely a domestic institution, concerning each separate State and colony alone, and all the others refrained from intermeddling with any one about her slavery. So long as this rule of justice, forbearance, and good neighborhood was adhered to, this subject gave no trouble; and if the free States had adhered to this rule to the present day, this war, with all its burdens and afflictions, we would have escaped.

Sir, we of the present day did not bring slaves into Kentucky. We found them there. We do not retain them because it is our interest to do so. We know that in that State slave labor is a more costly labor than free labor would be if the slaves were away. We know that the free labor of Indiana and Illinois is a cheaper labor to him who employs it and pays for it than the slave labor of our State. We have two hundred and forty or two hundred and fifty thousand slaves there. The question, and the great grievance with us, is not so much the giving up of the slaves as leaving them among us. As I have said here again and again, if the question could be submitted to the people of Kentucky, will you consent to give up your slaves for a full and fair compensation, they to remain with, or you to have nothing for your slaves and they to be removed out of the country, the latter proposition would be accepted ten times where the other would be considered at all.

Mr. President, I beg pardon for having said so much as I have. I know that the decree has gone forth that this measure shall pass; and I know that I have no power to change it, or to stay it. I believe that the wisest and most eloquent men that ever graced the earth, if they were here, their voices and counsels would be as powerless as even my own. It seems to me that men have swung away from their reason and are acting entirely from apprehension of the rebels.

Mr. CHANDLER. Not in apprehension of them.

Mr. DAVIS. I will say a word upon that matter directly. I mean apprehension in this respect: of the consequences that are to come to your sons and your brothers from the continuance of the conflict, and that men are now legislating in a spirit of excitement and revenge. I believe that some men are ready to resolve themselves, like the Estates of France, into a convention, and to claim all the powers of Government in relation to this subject. I do not think it should be treated in such temper. I think it is a subject to be treated with the gravest deliberation and the greatest coolness, and in strict subordination to the Constitution of the United States.

The honorable Senator from Iowa, [Mr. HARLAN,] in the beginning of his speech, gave a clear, concise, and able resumé of the events of this war of rebellion, and an equally clear statement of its present condition. He showed that everywhere the rebellion was yielding, and how certainly the armies of the United States were overcoming and would certainly crush it out. That portion of his argument conclusively demonstrates this measure of arming the slaves to be wholly unnecessary, and that if it is done, it will only be for the purpose of bloody, cruel, and shocking vengeance against the seceding States, and in utter recklessness of the great mischief it will bring down upon the Union people of the border States.

The honorable Senator from Iowa did me but justice, and my people but justice, when he said he approved of the sentiment I had uttered a few days ago, that we would never permit our slaves to come into competition with the question of the continuance of the Union. Fifteen years ago, in writing to a friend in the State of Ohio on that subject, I expressed to him the sentiment to which I have constantly adhered, that the Union was worth all the slaves living, that had ever lived, or ever will live. But I think the great bond of the Union is about to be violated and broken by the means by which it is proposed to liberate these slaves; and that being my honest conviction, it is as much my duty to stand up against that breach of the Constitution as against the breach which the secessionists themselves are attempting to consummate. Mr. President, I hold that the value of the Union is inestimable; it is not to be measured by dollars or property or blood. All my hopes are in it; all my affections are given to it. Come weal, come woe, I am for the Union, and for the armies of the Union, and I want victory always to perch upon the standard of those armies. I trust to the Constitution, to the justice of my countrymen, and to God, for the delivery of my country from this great and bloody peril, and its reunion in freedom, peace, fraternity, power, and glory, and I still trust hopefully for all this.

Mr. CHANDLER. I ask leave to make a report from a committee of conference.

The PRESIDENT *pro tempore*. The Chair will receive it as a privileged question.

REVENUE LAWS.

Mr. CHANDLER. I submit the following report from the committee of conference on the bill (H. R. No. 550) to further provide for the collection of the revenue upon the northern, northeastern, and northwestern frontier, and for other purposes; which I ask may be read.

The Secretary read, as follows:

The committee of conference on the disagreeing votes of the two Houses, upon the bill of the House No. 550, entitled "An act to further provide for the collection of the revenue upon the northern, northeastern, and northwestern frontier, and for other purposes," report—

That after a full and free conference they have agreed to recommend, and they do recommend, to their respective Houses, as follows:

That the Senate recede from their vote disagreeing to the third and fourth sections of the bill of the House, and agree to the same.

That the House recede from its vote disagreeing to the amendment of the Senate striking out the fifth section of the bill of the House, and agree to the same.

That the House recede from its vote disagreeing to the amendment of the Senate adding a section to the bill of the House, and agree to the same.

Z. CHANDLER,
LOT M. MORRILL,
D. WILMOT,
Managers on the part of the Senate.
SCHUYLER COLFAX,
S. S. COX,
WILLIAM P. SHEFFIELD,
Managers on the part of the House.

The report was concurred in.

SUSPENSION OF JOINT RULES.

Mr. SHERMAN. I desire to offer a privileged resolution, which will take but a moment, in regard to the rules of the Senate:

Resolved, (the House of Representatives concurring,) That the 16th and 17th joint rules of the two Houses be suspended for the residue of the session.

This is the ordinary resolution offered at the close of a session.

Mr. KING. I think that resolution had better lie over. There is no hurry about its adoption, I suppose.

The PRESIDENT *pro tempore*. The resolution will lie over under the objection.

Mr. SHERMAN. If the rules are read, the Senator will see there is a necessity for suspending them. I ask for the reading of the two rules that are proposed to be suspended.

The PRESIDENT *pro tempore*. The rules referred to in the resolution will be read.

Mr. SHERMAN. This is the ordinary resolution adopted at the close of every session of Congress.

Mr. KING. But there is no hurry for it now. We have not agreed to adjourn at any particular time.

Mr. SHERMAN. It is necessary, if we wish to adjourn on Monday.

Mr. KING. But we have not agreed on any day of adjournment.

Mr. SHERMAN. It will do no harm, at any rate.

Mr. KING. I prefer that it should lie over.

The PRESIDENT *pro tempore*. The resolution will lie over, under the objection.

FINAL ADJOURNMENT.

Mr. POWELL. I offer the following resolution. I do not ask for action upon it now:

Resolved, (the House of Representatives concurring,) That the President of the Senate and the Speaker of the House of Representatives do adjourn their respective Houses *sine die* on Monday, the 14th day of July, at twelve o'clock, meridian.

Mr. SUMNER. I object.

Mr. POWELL. Let it lie on the table. I will call it up in the morning.

The PRESIDENT *pro tempore*. The resolution will lie over, objection being made.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. MORRIS, its Chief Clerk, announced that the House of Representatives had passed the bill of the Senate (No. 93) for changing the place of holding the September term of the district court of the United States for the district of Maine.

The message also announced that the House had passed the bill of the Senate (No. 98) to amend an act entitled "An act to prohibit the sale of spirituous liquors and intoxicating drinks in the District of Columbia in certain cases," approved August 5, 1861, with amendments, in which they requested the concurrence of the Senate.

The message also announced that the House had passed a joint resolution (No. 105) to grant pensions to masters and officers of the gunboats in the service of the United States; in which they requested the concurrence of the Senate.

The message also announced that the House of Representatives had agreed to the amendments of the Senate to the bill of the House (No. 553) to establish additional post routes.

The message also announced that the House had appointed Mr. WILLIAM E. LEHMAN of Pennsylvania, a manager on the part of the House, on the committee of conference on the disagreeing votes of the two Houses on the bill (H. R. No. 280) to establish and equalize the grades of line officers of the United States Navy, in the place of Mr. JAMES E. ENGLISH of Connecticut, who has been excused.

ENROLLED BILL SIGNED.

The message further announced that the Speaker of the House of Representatives had signed an enrolled bill (H. R. No. 423) making appropriations for the naval service for the year ending 30th of June, 1863, and for other purposes; and it was signed by the President *pro tempore*.

HOUSE BILLS REFERRED.

The following bills and joint resolution were severally read twice by their titles and referred as indicated below:

A bill (No. 435) for the relief of Susan Dickson, widow of John Dickson, deceased—to the Committee on Claims.

A bill (No. 390) in relation to the competency of witnesses in trials of equity and admiralty—to the Committee on the Judiciary.

A bill (No. 561) in relation to commissioned officers of the United States revenue cutter service—to the Committee on Claims.

A joint resolution (No. 105) to grant pensions

to masters and officers of the gunboats in the service of the United States—to the Committee on Pensions.

The joint resolution (No. 102) tendering the thanks of Congress to Captain A. H. Foote, United States Navy, was read twice by its title, and, on motion of Mr. GRIMES, laid on the table.

SALE OF LIQUORS IN THE DISTRICT.

Mr. POWELL. I move that the Senate do now adjourn.

Mr. GRIMES. I ask the Senator to withdraw that motion for a moment, in order to allow me to move that the Senate concur in some little amendments made by the House to a bill in relation to the District of Columbia.

Mr. POWELL. Certainly, I withdraw the motion.

Mr. GRIMES. I ask that Senate bill No. 98, which has been just returned from the House with amendments, be taken up and the amendments concurred in.

The PRESIDENT *pro tempore*. The Chair will lay before the Senate the action of the House on that bill, which will be read.

The Secretary read, as follows:

IN HOUSE OF REPRESENTATIVES, *July* 11, 1862.

Resolved, That the bill from the Senate, No. 98, entitled, "An act to amend an act to prohibit the sale of spirituous liquors and intoxicating drinks in the District of Columbia in certain cases," approved August, 5, 1861, do pass with the following amendments: after the word "person" in line two of section two, insert the words "licensed or who shall hereafter be licensed to sell spirituous liquors or intoxicating drinks within the said District;" and after the word "conviction," in line eight of section two, to insert the words, "before any justice of the peace as aforesaid."

The amendments were concurred in.

PROPOSED RECESS.

Mr. FESSENDEN. At the suggestion of several members of the Senate, believing it to be the general impression that we should try, as is customary at the last period of the session, to sit in the evening, I move that the Senate take a recess until half past seven o'clock.

Mr. SUMNER. I must say I do not think that advisable. I think we had better go on. I think that since I have been in the body all our experience of taking recesses has been a failure.

Mr. HARLAN. If the Senator will allow me, I think that was true at one time in the history of this body. Without intending any personal reflection, I will say it grew out of the fact that many who were then members of the Senate drank wine at dinner and incapacitated themselves afterwards for service that day. I do not think that is true of members of this body at this time, and I have no doubt of our capacity to reconvene to transact business.

Mr. DAVIS. I suppose it would be more agreeable to members even to protract the session two or three days longer than it would be to exhaust themselves by late fatiguing sessions.

Mr. SUMNER. I think so. I have no doubt of it.

Mr. SAULSBURY. I should like to know of the Senator from Maine whether the evening session is designed for the purpose of legislative or executive business.

Mr. FESSENDEN. For doing whatever may be necessary to be done. The Senate will decide that when they come together.

Mr. SUMNER. I think the Senate will gain more if it sits now as long as it can keep a quorum, and proceed with its business. I think we shall lose two hours of time if we take this recess. I doubt whether we shall have a quorum when we come back; and my impression is, it will be a bad economy of time for the Senate to take a recess.

Mr. FESSENDEN called for the yeas and nays; and they were ordered; and being taken, resulted—yeas 21, nays 13; as follows:

YEAS—Messrs. Anthony, Browning, Clark, Cowan, Doolittle, Fessenden, Foot, Foster, Grimes, Harlan, King, Lane of Indiana, Lane of Kansas, Morrill, Pomeroy, Simmons, Ten Eyck, Willey, Wilson of Massachusetts, Wilson of Missouri, and Wright—21.

NAYS—Messrs. Chandler, Davis, Harris, Henderson, Howard, Howe, Powell, Rice, Saulsbury, Sumner, Trumbull, Wade, and Wilkinson—13.

The PRESIDENT *pro tempore*. The vote discloses the want of a quorum.

Mr. POWELL. I now move that the Senate adjourn.

The motion was agreed to; and the Senate adjourned.

HOUSE OF REPRESENTATIVES.

FRIDAY, *July* 11, 1862.

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

The Journal of yesterday was read and approved.

EXECUTIVE COMMUNICATION.

The SPEAKER, by unanimous consent, laid before the House a communication from the Secretary of the Treasury in response to a resolution of the House of Representatives of the 20th of May last, requesting the Secretary of the Treasury to communicate to the House any information in the possession of his Department which he may judge to be in a form suitable for the consideration of the House of Representatives upon the relations between the United States and northwest British America, particularly the central districts of the Red River of the North and the Saskatchewan.

In compliance with the spirit and terms of the resolution, the Secretary caused to be prepared an abstract of the report of James W. Taylor, Esq., special agent of the Treasury Department, and of other papers on file, relating to the subject; which abstract, together with the papers referred to, were transmitted to the House.

The communication was laid on the table and ordered to be printed.

GOVERNMENT CONTRACTS.

On motion of Mr. WASHBURNE, leave was granted to the committee on Government contracts to hand their report, when prepared, to the Clerk; and when so handed to the Clerk, the same, together with the evidence, to be printed.

The SPEAKER stated the business in order to be the business before the House when it adjourned yesterday, being a motion to lay upon the table a motion to reconsider the vote by which the House, on Tuesday last, laid upon the table the resolution (H. R. No. 80) for the relief of Perry E. Brocchus.

EXCUSED FROM SERVING UPON A COMMITTEE.

Mr. COLFAX. I ask the House to excuse me from serving upon the committee upon the disagreeing votes of the two Houses on the bill for the relief of Carmack and Ramsey. I was not present yesterday when the committee of conference was appointed. I am already serving upon another committee, and my opinion is so fixed in regard to that case that I think some other member had better serve upon the committee.

The question was put; and Mr. COLFAX was excused.

NATIONAL CURRENCY.

Mr. HOOPER, by unanimous consent, introduced a bill to provide a national currency secured by a pledge of United States stocks, and to provide for the circulation and redemption thereof; which was read a first and second time, and referred to the Committee of Ways and Means.

STEAMBOAT IGO.

Mr. BROWN, of Virginia. I ask leave to offer a joint resolution authorizing the Secretary of the Treasury to permit the owner of the steamboat Igo to change the name of the same to that of Monitor.

Mr. SHEFFIELD. I object to its introduction, except for reference.

Mr. BROWN, of Virginia. I hope the gentleman will not object. The matter is left discretionary with the Secretary of the Treasury.

Mr. SHEFFIELD. I object for any other purpose than for reference.

The resolution was introduced, read a first and second time, and referred to the Committee on Commerce.

CIVIL AND MILITARY APPROPRIATIONS, ETC.

Mr. WICKLIFFE. I desire to offer a resolution calling for information through the agency of the Clerk, and I hope the House will let it pass.

The resolution was read for information, as follows:

Resolved, That the Clerk prepare for the use of the members of this House a condensed statement exhibiting the following facts and information: 1. The amount of appropriations for civil and diplomatic service of the United States at the present session of Congress. 2. The like amount for the military and naval service, under separate and appropriate heads, including fortifications, vessels, and all other objects of national defense. 3. The number of civil and military offices created and authorized by law, and their salaries. 4. The amount of the bonds to be executed by the United States to be paid to incorporated companies for stock in railroads and other incorporated or associated companies. If the same cannot be done before the adjournment of the present session, that he cause the same to be printed and sent to the members of this House during the recess.

Mr. LOVEJOY. I object.

The SPEAKER. The Chair would state to the gentleman from Kentucky that, under the rules, the Clerk is already required to prepare such a statement.

Mr. WICKLIFFE. I hope the gentleman from Illinois will withdraw his objection, and allow us to have the information.

Mr. LOVEJOY. The ground of objection is, that the resolution involves a great deal of labor for no adequate result, as I can see.

Mr. WICKLIFFE. That labor will be done during the vacation, when the Clerks have nothing to do.

Mr. LOVEJOY. I am told that the regular report made by the Clerk always contains that information.

Mr. WICKLIFFE. It will not contain the information called for in the resolution.

Mr. LOVEJOY insisted upon his objection.

So the resolution was not received.

PERRY E. BROCCHUS.

The House proceeded to the consideration of the regular order of business, being the motion to lay upon the table the motion to reconsider the vote by which the House laid upon the table the resolution (H. R. No. 80) for the relief of Perry E. Brocchus.

Mr. PORTER. My colleague upon the Judiciary Committee [Mr. BINGHAM] is out upon a committee of conference, and I ask the House to allow this matter to go over informally until he returns.

Mr. ROSCOE CONKLING. The gentleman from Ohio [Mr. BINGHAM] brought up the motion to reconsider; but was there not a motion made to lay the motion to reconsider on the table?

The SPEAKER. There was.

Mr. ROSCOE CONKLING. We had better take the vote upon that; and if that motion is carried there will be nothing to act upon.

Mr. PORTER. My colleague upon the Judiciary Committee desires to be present when this matter is disposed of.

The SPEAKER. No debate is in order unless the motion to reconsider is carried.

Mr. ROSCOE CONKLING. Then we had better take a vote.

Mr. PORTER. Is it in order to move to postpone?

The SPEAKER. It is not in order to move to postpone a motion to lay upon the table.

Mr. WATTS. As I introduced that resolution, I think it due to myself, as well as to the claimant, to make a remark upon the subject.

The SPEAKER. That is not in order.

Mr. WATTS. Then I want it to go over.

Mr. BLAKE. I ask consent of the House to make a statement in relation to this subject.

Mr. MORRILL, of Maine. I object.

The question was put; and there were—ayes 38, noes 21; no quorum voting.

Mr. HOLMAN demanded tellers.

Tellers were ordered; and Messrs. PORTER and ROSCOE CONKLING were appointed.

The House divided; and the tellers reported—ayes 40, noes 29; no quorum voting.

Mr. HOLMAN called for the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 61, nays 39; as follows:

YEAS—Messrs. William Allen, Alley, Ancona, Arnold, Ashley, Babbitt, Baxter, Beaman, Biddle, William G. Brown, Buffinton, Campbell, Casey, Clark, Clements, Frederick A. Conkling, Roscoe Conkling, Dawes, Dunlap, Edwards, Eliot, Ely, Fenton, Fisher, Frank, Grider, Hall, Harding, Holman, Hooper, Hutchins, Lansing, Lazear, Loomis, Lovejoy, May, Maynard, Mitchell, Moorhead, Anson P. Morrill, Olin, Pike, Potter, John H. Rice, Edward H. Rollins, Sedgwick, Shanks, Sheffield, Shellabarger, Sherman, Sloan, John B. Steele, Benjamin F. Thomas, Train, Trimble, Trowbridge, Van Horn, Wall, Wallace, Walton, and Windom—61.

NAYS—Messrs. Aldrich, Baily, Jacob B. Blair, Samuel S. Blair, Blake, Colfax, Cox, Cravens, Crisfield, Cutler, Duell, Fouke, Goodwin, Granger, Haight, Kelley, William Kellogg, Law, Leary, Lehman, Low, McKnight, Menzies, Nixon, Odell, Patton, Pendleton, Perry, John S. Phelps, Porter, Sargent, Segar, Shiel, William G. Steele, Stiles, Stratton, Francis Thomas, Verree, and Wood—39.

So the motion to reconsider was laid upon the table.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. FORNEY, their Secretary, announced that the Senate had passed, without amendment, bill of the House No. 454, for the relief of the register of the land office at Vincennes, Indiana, and for other purposes; also, that the Senate had passed bill of the House No. 533, to establish additional post routes, with amendments, in which he was directed to ask the concurrence of the House.

The SPEAKER then proceeded, as the regular order of business, to call the committees for reports of a private character.

ADVERSE REPORT.

Mr. FENTON, from the Committee of Claims, made an adverse report on the petition of William B. Bowhay, praying compensation for his services, and for certain inventions adopted by the Government in ship building; which was laid upon the table, and ordered to be printed.

WAR ACCOUNTS OF THE STATE OF NEW YORK.

Mr. FENTON, from the same committee, reported back, with a recommendation that it do pass, bill of the House No. 418, to settle the accounts of the State of New York for advances made to the United States during the war with Great Britain, and for other purposes; which was referred to the Committee of the Whole on the state of the Union, and ordered to be printed.

CHANGE OF NAME OF A SCHOONER.

Mr. ELIOT, from the Committee on Commerce, reported back joint resolution of the Senate No. 94, to change the name of the schooner Sally McGee to that of Ocean Eagle.

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

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

The latter motion was agreed to.

WILLIAM B. SNOWHOOK.

Mr. KELLOGG, of Illinois, from the Committee on the Judiciary, reported back, with a recommendation that it do pass, bill of the House No. 487, for the relief of William B. Snowhook.

Mr. ROSCOE CONKLING. Is not this the same bill, in substance, upon which we voted some time ago?

Mr. KELLOGG, of Illinois. The bill has been changed and amended so as to be satisfactory to the Committee on the Judiciary, and I hope the gentleman will not object to it.

Mr. ROSCOE CONKLING. I want to say a few words upon it, but I will yield to the gentleman from Illinois, while he states in what respect the bill has been amended.

Mr. KELLOGG, of Illinois. The bill is not materially changed. It releases the surety on the payment of the balance of the judgment.

Mr. ROSCOE CONKLING. I hope the gentleman will state the facts. I shall not object to the bill, if it is right.

Mr. KELLOGG, of Illinois. Some time since I reported a bill similar to this, and the action of the House was adverse to it. I then introduced another bill differing somewhat from that, which was referred to the Committee on the Judiciary, and I was directed to report it to the House. The bill simply proposes to release this security from $2,500 of the judgment recovered against him on payment of the balance of the judgment. It does not release the principal, but it releases the security, on the ground that before this particular item of $2,500 was placed in the hands of this marshal who proved to be a defaulter, and upon whose bond this judgment was obtained, the Government had been informed that the marshal was derelict in his duty; that he was embezzling money; and that money ought not to be placed in his hands. The securities urged, in writing to the Department, that no more money should be placed in his hands, and that he should be removed from office. They importuned the Government for some time, but failed in securing his removal, and failed in preventing them from placing money in his hands. The Government afterwards placed in his hands $2,500, and that amount of money forms a portion of the judgment recovered against the principal and the securities. It is upon that ground that we ask that the security be released upon the payment of the balance of the judgment, not in any way relieving the principal.

I had read to the House before the letter of the United States attorney who procured the judgment and the letter of the judge who tried the case, stating that while they believed it was not a legal defense, yet there was a meritorious claim that might properly be presented to Congress, that there was equity in it, and that they recommended that Congress should release the securities.

Mr. ROSCOE CONKLING. What was the whole amount of the judgment?

Mr. KELLOGG, of Illinois. About four or five thousand dollars. They have paid a considerable portion of it.

Mr. ROSCOE CONKLING. The principal is worthless?

Mr. KELLOGG, of Illinois. I do not know. I cannot say, for I do not know where the principal now is.

Mr. F. A. CONKLING. When this bill, or a bill very similar to it, was before the House a few weeks since, I felt it to be my duty to state some reasons why, in my judgment, it ought not to pass, and I voted myself against it. I would be glad to have an opportunity to examine this case more fully than I have yet done, and I ask the gentleman from Illinois to allow me to make a motion to postpone the bill till the next session of Congress.

Mr. KELLOGG, of Illinois. Well, sir, while I am solicitous that the bill should pass, believing it to be eminently just and meritorious, I shall not prevent the gentleman from making that motion, but I hope he will indicate some day next session, say the second Monday, and make it the special order for that day.

Mr. F. A. CONKLING. That is my intention.

Mr. ROSCOE CONKLING. Not make it a special order?

Mr. KELLOGG, of Illinois. There is no special order assigned as yet for that day.

Mr. ROSCOE CONKLING. I believe I have the floor, and I will yield it for a moment to the gentleman from Illinois, [Mr. ARNOLD.]

Mr. ARNOLD. I desire to say, in regard to this bill, that it is recommended by the judge who presided at the trial, and by the district attorney who prosecuted and obtained judgment against the parties. They understand all the facts of the case, and recommend the passage of this bill.

Mr. HOLMAN. I rise simply to move to postpone the bill until the first Friday in the next session.

Mr. KELLOGG, of Illinois. Let it be made a special order, so that it will come up and be acted on.

Mr. ROSCOE CONKLING. I object to that.

Mr. ARNOLD. I do not propose to add further at the present time. I merely wished to call the attention of the House to the fact that the judge who tried the case, and the prosecuting attorney who obtained the judgment, both concur in the propriety of passing this bill.

Mr. ROSCOE CONKLING. I propose only to say a word in support of my conditional objection to the bill. The fact that the judge who tries a case, and the district attorney who prosecutes the case, recommend some act of mercy, is not, we all know from experience, a very safe test on which to gauge our action in a case of this kind, or in other cases where like proceedings are likely to occur. It has been found necessary by the Legislatures of the several States to see by statute that neither the judge who tries the case, nor the district attorney who prosecutes it, send to the Executive a recommendation of pardon, unless they shall be called upon to do so, and then they shall make a statement of the fact. So easy is it to work upon human sympathy, which prosecuting attorneys and judges, like other people, have. I do not mean, however, to say that in this case there are not good reasons why the district attorney and the judge should recommend that a portion of this judgment should be remitted. But I do say this, that there seems to be, as I think gentlemen on all sides will agree with me, an exceedingly lax understanding of the law relating to sureties and official bonds, at least upon the part of some persons connected with the Government.

I have heard it advanced upon this floor, that the mere delay in the prosecution of a principal discharges the sureties. I have heard it said, in answer to a question put substantially upon that point, that a man could defend himself against prosecution as surety without showing that a binding agreement had been made which enlarged the time for the performance of the contract of the principal by merely showing that laches had occurred upon the part of the holder of the obligation.

I have heard it said—not by the gentleman from Illinois, [Mr. KELLOGG,] because he very properly disclaims it—but I have heard it said that it was a legal defense to show that by some conversation or something in writing, it had been intimated to the holder of the obligation that something was wrong on the part of the principal. It is said that would constitute a legal defense upon the part of the sureties. It is not so said here. It is said here, however, that a claim arises in equity, in mercy, in an enlarged beneficence, or in some way, where the principal receives money after his surety has become satisfied that he is unworthy of trust, and has so notified the holder of the bond.

Now, sir, if this is to be the understanding upon which we are to act, put it upon what ground you please, then I insist upon it, and I think the gentleman from Illinois will agree with me, that it behooves us, after we shall have allowed this claim, after we shall have passed this bill, to give notice to the Departments by legislation of some description, that they are bound to take notice of every caveat of any sort filed by the sureties of an officer; that otherwise an equity grows up in behalf of the sureties, who have had their day in court, who have litigated the proposition upon all grounds known to the law, and after judgment has been obtained, and the amount of the defalcation recovered. Now, if this is to be treated as a precedent case, the Treasury Department, and all the Departments, ought to be put upon their guard, because I do know it is not the understanding now. The Departments look at the nomination of the bond; they look at the agreement stated in the bond, and they do not consider every idle letter that may be written, or every conversation which may take place, as something that varies the terms of that agreement; something which they are bound to consider as a running commentary upon it; or that they are bound to conform to every suggestion that may be made in that way.

Mr. HUTCHINS. I wish to say that when this claim was up before, I was well satisfied in my own mind that there was no valid or equitable reason why the claim should be allowed. I know it is a very easy matter to show that it is a hard case if sureties have to pay their obligations, and this bill seems to be pressed with considerable warmth by its friends, but I am not willing to vote for it at this time. This is a bad period of the session to consider such a question. Fearing, however, that some injustice may be done in this particular instance, I am willing to vote for the postponement of the bill until some day in the next session.

Mr. ROSCOE CONKLING. Now, Mr. Speaker, I was going on to say that I make these suggestions, not by way of objection to the bill. I am not at all prepared to say that there are not in this case special reasons for action at this time. I have the more hesitation in desiring to defeat the bill at this time because I have very great respect for the opinion of the Judiciary Committee when they have concurred in it with any considerable unanimity, which I understand they have expressed in favor of the justice of this claim. But it seems to me, at this stage of the session, the occasion is a very bad one for the consideration of a question of this sort. I will, therefore, move, or I will yield the floor to my colleague to move, to postpone the bill to any day in the next session which will be agreeable to the gentleman from Illinois.

Mr. KELLOGG, of Illinois. I do not care what day if you will make it a special order.

Mr. ROSCOE CONKLING. It cannot be made a special order without the unanimous consent of the House.

Mr. HOLMAN. I will suggest the first Friday in December next.

Mr. F. A. CONKLING. I think that is too early. I would suggest the second Friday in December.

Mr. ROSCOE CONKLING. Very well. I will say the second Friday in December.

Mr. KELLOGG, of Illinois. I hope the House will not postpone this bill. But if it should be the will of the House to do so, I will again present considerations to the House at that time in favor of the passage of the bill.

I wish to say that all the gentleman from New York indicates as the rule in the States in relation to the action of the courts and attorneys, has been complied with in this case; that the letters to which I have referred are not mere matters of sympathy, but they set forth facts, and the judgment of the law upon those facts, as well as their own opinions as the justice of the claim.

I wish to state, further, that while I do not claim this as a legal defense, I do claim that the courts of the United States have decided that this class of defense is a legal defense. I am not one of those, however, who have ever contended for it. I admit fully that laches in the prosecution of the principal is no defense to the security.

This case is put upon the ground that so full and clear had been the warning to the Government officers that this was an unfit man to have custody of Government funds, that their continuing to put money in his hands was a wrong to the security. That is the point.

Mr. ROSCOE CONKLING. I ask the gentleman from Illinois whether he does not know that all the Departments of the Government, despite of notices of this sort, continue to repose pecuniary confidence in the principal, with the understanding that the bond of the sureties is perfect?

Mr. KELLOGG, of Illinois. I do not know what the practice is, but I had never supposed that that was the practice; and I say here that it never ought to be the practice. When the Government is advised that there is an unfaithful servant squandering the funds of the Government it is due in truth and justice to the security and to the Government itself that no more money shall be put in his hands, and that the official shall be removed. That is the case presented here; and on that ground the passage of this bill is asked for.

Mr. BINGHAM. May I make an inquiry of the gentleman from Illinois?

Mr. KELLOGG, of Illinois. Certainly.

Mr. BINGHAM. I believe this is the case that was considered in the Judiciary Committee.

Mr. KELLOGG, of Illinois. Yes.

Mr. BINGHAM. I desire the gentleman to state to the House, as clearly as he can, the amount of the judgment.

Mr. DAWES. What is the use of all this, when the bill is to be postponed?

Mr. KELLOGG, of Illinois. I do not desire that it shall be postponed. I want it passed now.

Mr. DAWES. But if the House will not pass it now, you want it postponed.

Mr. KELLOGG, of Illinois. Yes.

Mr. DAWES. Now I understand.

Mr. KELLOGG, of Illinois. I think the amount is about $4,000.

Mr. BINGHAM. My recollection is that it is $5,000.

Mr. KELLOGG, of Illinois. Between four and five thousand dollars. I have no more to say.

Mr. ROSCOE CONKLING. I move the previous question on the motion to postpone.

The previous question was seconded and the main question ordered; and under its operation the further consideration of the bill was postponed till the second Friday in December next.

Mr. ROSCOE CONKLING moved to reconsider the vote by which the bill was postponed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

ENROLLED BILLS.

Mr. GRANGER, from the Committee on Enrolled Bills, reported as truly enrolled bills of the following titles; when the Speaker signed the same:

An act (S. No. 318) for relief in the land claim in California, known as the claim of Francisco Soberanes, to a tract of land known as Saujon de Santa Rita;

Joint resolution (S. No. 76) relating to the compensation of Senators elected or appointed to fill vacancies;

An act (S. No. 383) to define the pay and emoluments of certain officers of the Army, and for other purposes;

An act (S. No. 119) confirming a land claim in the State of Iowa, and for other purposes;

Joint resolution (S. No. 80) authorizing the State of Minnesota to change the line of certain branch railroads in said State, and for other purposes;

Joint resolution (S. No. 93) in relation to contracts with the United States;

An act (S. No. 351) supplementary to the "Act for the release of certain persons held to service in the District of Columbia," approved April 16, 1862;

An act (S. No. 316) to provide for the payment of fines and penalties collected by, or paid to, the justices of the peace of the District of Columbia, under the acts of Congress approved the 3d and 5th of August, 1861, and for other purposes;

Joint resolution (S. No. 82) to provide for the presentation of "medals of honor" to the enlisted men of the Army and volunteer force who have distinguished, or who may distinguish, themselves in battle during the present rebellion;

An act (S. No. 380) repealing the law requiring bonds of paymasters and assistant paymasters to be approved by the judge or attorney of the district in which such paymaster or assistant paymaster shall reside; and

Joint resolution (S. No. 78) to suspend all payments under the act approved March 25, 1862, entitled "An act to secure to the officers and men actually employed in the western department, or department of Missouri, their pay, bounty, and pensions," and for other purposes.

REVENUE CUTTER SERVICE.

Mr. WASHBURNE, from the Committee on Commerce, reported back House bill (No. 561) in relation to commissioned officers in the United States revenue cutter service.

The bill provides that commissioned officers in the United States revenue cutter service shall be appointed by the President, by and with the advice and consent of the Senate, and that no officers not so nominated and confirmed at the end of next session of Congress shall be considered an officer in the service. The grades of engineer shall be chief engineer, first and second assistant engineers, with the pay and relative rank of first, second, and third lieutenants, respectively. The wages of the petty officers and crew are not to exceed the average wages paid for like services on the Atlantic or Pacific coast respectively. Officers while serving in accordance with law as part of the Navy are to rank as follows: captains with, and next after, lieutenants commanding in the Navy; first lieutenants as lieutenants; second lieutenants as masters in line; third lieutenants as passed midshipmen.

Mr. F. A. CONKLING. I inquire whether there is a letter from the Department accompanying the bill?

Mr. WASHBURNE. There is.

Mr. F. A. CONKLING. Will the gentleman have it read.

The letter was read, as follows:

TREASURY DEPARTMENT, *June* 30, 1862.

SIR: I have the honor to transmit for the consideration of the Committee on Commerce and of Congress a bill relative to the revenue cutter service.

The first section merely requires concurrent action by the Senate in the appointment of all commissioned officers in this service.

The second section authorizes no increase of numbers or pay of engineers, but makes three grades, in place of two, as at present authorized, thereby reducing the compensation of one class to correspond with the services and acquirements of the officers of that grade.

The third section creates a legal and uniform standard of wages, not to exceed the average paid in the merchant service.

The revenue cutters are an important adjunct of the general revenue service, and which the legislation of the last and present sessions of Congress in relation to the revenue has rendered still more necessary.

The bill increases no expense, but by throwing new guards around the appointment of officers, enhances their sense of their position and responsibity, and promotes the general efficiency of the service. I therefore recommend its immediate adoption.

I am, very respectfully, S. P. CHASE,
Secretary of the Treasury.

Hon. E. B. WASHBURNE, *Chairman Committee on Commerce, House of Representatives*

Mr. F. A. CONKLING. I suggest to the gentleman from Illinois that the words "in the merchant service" should be inserted after the words "the average wages paid for like services on the Atlantic or Pacific coast, respectively." As it now stands, the provision seems indefinite and equivocal.

Mr. WASHBURNE. I have no objection.

The amendment was agreed to.

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

Mr. WASHBURNE moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

CONSIDERATION FOR GOVERNMENT CONTRACTS.

Mr. BINGHAM, from the Committee on the Judiciary, reported back, with amendments, an act (S. No. 358) to prevent members of Congress and officers of the Government of the United States from taking consideration for procuring contracts, office, or place, from the United States.

The first amendment was to strike out the word "give," in the fifth line.

The amendment was agreed to.

The second amendment was to insert after the word "whomsoever," in the thirteenth line, the words:

And the person or persons who shall, directly or indirectly, offer or agree to give, or give or bestow any money, property, or other valuable consideration whatsoever, for the procuring or aiding to procure, any contract, office, or place as aforesaid, and any member of Congress who shall directly or indirectly, take, receive, or agree to receive any money, property, or other valuable consideration whatsoever, after his election as such member, for his attention to, services, action, vote, or decision on any question, matter, cause, or proceeding which may then be pending, or may by law or under the Constitution of the United States be brought before him in his official capacity or in his place of trust and profit, as such member of Congress.

Mr. WICKLIFFE. I desire to have that section amended. I want to have introduced the words "or accept as a present." Sometimes, after the job is done, presents are made to members. I want the same rule applied to them that is applied to foreign ministers.

Mr. BINGHAM. I desire to say to the gentleman from Kentucky that the amendment, as it stands, does substantially provide for the punishment of accepting any gift of any sort for anything he does in any official capacity or in an exercise of trust.

Mr. WICKLIFFE. Allow me to say a word. If this bill is intended to comprehend penalties for all kinds of temptation and corruption, I think that it is wanting in one respect. An oily contractor comes here and he goes to an equally oily member to help him to procure a contract. After he gets the contract, the contractor becomes generous and makes the member a present of a carriage and horses. I do not think that such cases are provided for by this bill.

Mr. BINGHAM. I think that all such cases will be included under the provisions of this bill.

Mr. WICKLIFFE. Does it provide for those who shall make such gifts?

Mr. BINGHAM. It includes those who give and those who receive such gifts.

Mr. ROSCOE CONKLING. I inquire of the gentleman from Ohio whether the penalty to be visited upon members of Congress for certain acts extends to their taking pay or reward of any sort for assisting in obtaining contracts or appointments?

Mr. BINGHAM. It imposes the same penalty for assisting for reward to obtain contracts or appointments.

Mr. ROSCOE CONKLING. Listening to the reading of the bill, I received the impression that the penalty is confined to a certain number of acts enumerated; for example, receiving pay for votes or influence in any matter depending before Congress; and I ask the gentleman from Ohio whether it extends so far; and if it does not, I ask him to make it so comprehensive as to include the case of a member of Congress who may use his influence for pay or reward to procure a contract or an appointment, or the making of any sale to the Government, or for any other purpose he accomplishes wholly or in part in consequence of being a member of Congress. I want the bill to punish both the man who receives and the man who gives pay or reward in any of these cases.

Mr. BINGHAM. All that the gentleman has suggested has already been anticipated by the provisions of this bill. I am free to say that if this bill did not provide for the cases where contracts or appointments were procured for pay or reward by members of Congress, it would be defective. I think the bill is a most comprehensive

one, both as to the giver and the receiver, as to the official and to the non-official.

The amendment was concurred in.

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

Mr. HOLMAN. Let me make a suggestion. I suggest that this bill be postponed, and made the special order for to-morrow, at one o'clock.

Mr. BINGHAM. I am perfectly willing to consult the pleasure of the House on the subject. The committee obeyed the order of the House in immediately making this report.

Mr. HOLMAN. I am apprehensive that there are cases which are not, but which ought to be, embraced in this bill.

Mr. BINGHAM. There may be some confusion in the language, but on looking at the bill the gentleman will find that, so far as officials are concerned, it is as comprehensive now as the wit of man can make it.

Mr. HOLMAN. I hope that the bill will be found sufficient for the purpose.

The bill was passed.

Mr. WICKLIFFE. I move that it be entered upon the Journal of the House that that bill was passed unanimously.

The motion was agreed to.

Mr. BINGHAM. I move to amend the title of the bill by adding to it the words, "and for other purposes."

The amendment was agreed to.

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

The latter motion was agreed to.

COMPETENCY OF WITNESSES.

Mr. THOMAS, of Massachusetts. I am instructed by the Committee on the Judiciary to report back bill of the House (No. 390) in relation to the competency of witnesses in trials in equity and admiralty, with the recommendation that it do pass.

The bill, which was read, provides that the laws of the State in which the court shall be held shall be the rules of decision as to the competency of witnesses in the courts of the United States, in trials in equity and admiralty, as in trials at the common law.

Mr. LOVEJOY. I hope that the gentleman from Massachusetts will permit me to offer an amendment to this bill, to the effect that nothing in the bill shall be so construed as to exclude any person from acting as a witness on account of his color.

Mr. THOMAS, of Massachusetts. I desire to make an explanation of the bill, and I cannot now yield to the gentleman to submit his amendment.

Mr. WASHBURNE. This is not a private bill, and I object to its reception.

The SPEAKER. The gentleman's objection comes too late.

Mr. THOMAS, of Massachusetts. Mr. Speaker, the object of this bill is simply this: under the statute of 1789, in relation to the proceedings and practice in the courts of the United States, it was provided that the laws of the State in relation to proceedings and practice, should obtain in the courts of the United States in all cases at common law. But it was not provided that those laws should obtain in suits in equity and admiralty. The result has been, while the laws of evidence of States have been changed substantially in equity and at common law, that the modification has been made in the courts of the United States only in suits at common law. The result to-day is this: if a man brings an action for infringement of his patent, he is a competent witness.

Mr. LOVEJOY. I did not hear what the gentleman has just stated.

Mr. THOMAS, of Massachusetts. If a man brings a suit at common law for injury to his patent to recover damages he is a competent witness, but if he desires, which is more often the case, to get an injunction against the party, and he brings a suit in equity in the same tribunal, he is not a competent witness. It is the same with cases in admiralty. A party who is a claimant in a suit cannot be a witness, but if he had a remedy at common law he could be a witness. I beg leave to say that I have had communication on this subject with some of the judges of the United States courts. The bill was prepared with the sanction of one of the justices of the Supreme Court; and I know that its passage is desired by the district court in Massachusetts, and by many eminent lawyers in different parts of the United States. I have received several letters urging its passage.

I do not see that the bill affects at all the position of the gentleman from Illinois, [Mr. LOVEJOY.] He desires a thing which I sanctioned by my vote the other day; and I have no hesitation in saying here or elsewhere, that no witness should, in the courts of the United States, be *excluded* as a witness on account of his color or race. But this bill does not affirm the laws on that subject. I may add that in some of the States the law has been so modified that witnesses are admitted who were formerly excluded on account of their color. In all those cases this bill will work in their favor. I demand the previous question on the bill.

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

Mr. THOMAS, of Massachusetts, moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

JUDGE WEATHERBY.

Mr. BINGHAM, from the Committee on the Judiciary, asked to be discharged from the further consideration of the petition of Judge Weatherby, of Michigan, for compensation for services rendered in laying out land by order of the Government, and that the same be referred to the Committee of Claims.

No objection being made, it was so ordered.

GRADE OF OFFICERS OF THE NAVY.

Mr. SEDGWICK. I ask the unanimous consent of the House to take from the Speaker's table the bill (H. R. No. 280) to establish and equalize the grade of the line officers of the United States Navy, with Senate amendments thereto.

No objection being made, the bill was taken up and brought before the House for action.

Mr. SEDGWICK. I move that the House insist upon their disagreement to the Senate amendments, and grant a committee of conference to meet a committee already appointed by the Senate.

The motion was agreed to.

The SPEAKER subsequently appointed, as such committee upon the part of the House, Mr. SEDGWICK, Mr. POTTER, and Mr. ENGLISH.

BETTER ORGANIZATION OF THE NAVY.

Mr. SEDGWICK. I ask unanimous consent to take from the Speaker's table Senate bill (No. 348) for the better organization of the Navy, returned from the Senate with a notice that they disagree to our amendments thereto.

No objection being made, the bill was taken from the table and brought before the House for action.

Mr. SEDGWICK. I move that the House insist upon their amendments to the bill, and ask a committee of conference of the Senate.

The motion was agreed to.

The SPEAKER subsequently appointed, as such committee upon the part of the House, Messrs. SEDGWICK, PORTER, and BROWNE of Rhode Island.

LEAGUE ISLAND.

Mr. F. A. CONKLING. I ask unanimous consent that the bill (S. No. 36) to authorize the Secretary of the Navy to accept the title to League Island, in the Delaware river, for naval purposes, be taken from the Speaker's table, and referred to the Committee on Naval Affairs.

Mr. ARNOLD objected.

POST ROUTE BILL.

Mr. COLFAX. I ask the unanimous consent of the House to take up the Senate amendments to the post route bill, that they may be acted on.

No objection being made, the bill was taken from the Speaker's table and brought before the House for action.

Mr. COLFAX. The Senate have added six additional post routes to the bill, and nothing else. I hope they will be agreed to.

The amendments were agreed to

Mr. COLFAX moved to reconsider the vote by which the amendments were concurred in; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

SALE OF SPIRITUOUS LIQUORS IN THE DISTRICT.

Mr. BINGHAM, from the Committee on the Judiciary, reported back, with an amendment, a bill (S. No. 98) to amend an act entitled "An act to prohibit the sale of spirituous liquors and intoxicating drinks in the District of Columbia in certain cases," approved August 5, 1861.

The amendment was read.

Mr. BINGHAM. I will state that this amendment, reported by the Judiciary Committee, is merely a formal amendment to make this bill more perfect than when it came from the Senate.

I beg further to say that the bill is simply in aid of a statute which was passed at the July term; that the general purpose is to give summary jurisdiction to the local magistrates of this District for the punishment of persons licensed in this District, in abusing that privilege, in this: that they sell them, to be drunk in the places where sold, to the soldiers of the country, to the injury of the public service. And, in order that there may be no delay, we have inserted a formal amendment, that a conviction may be had before the local civil magistrates in the District.

The amendment was agreed to.

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

SERVICE OF PROCESS BY INDIFFERENT PERSONS.

Mr. BINGHAM, from the Committee on the Judiciary, reported back, with a recommendation that it be laid on the table, a bill (S. No. 291) providing for the issuing of process to, and the service of the same by, indifferent persons.

The bill was laid on the table.

UNITED STATES COURTS IN MAINE.

Mr. PORTER, from the Committee on the Judiciary, reported back, with a recommendation that it do pass, an act (S. No. 93) for changing the place for holding the September term of the district court of the United States for the district of Maine.

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

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

The latter motion was agreed to.

RIGHT OF CITIZENSHIP.

Mr. PORTER, from the Committee on the Judiciary, reported adversely a bill (H. R. No. 202) to extend the right of citizenship to certain Mexican citizens in the Territory of New Mexico.

The bill was laid on the table.

NAVAL APPROPRIATION BILL.

Mr. STEVENS, from a committee of conference, made a report, which was read, as follows:

The committee of conference on the disagreeing votes of the two Houses on the bill of the House (No. 423) making appropriations for the naval service for the year ending 30th June, 1863, having met, after full and free conference, have agreed to recommend, and do recommend to their respective Houses, as follows:

That the House recede from their disagreement to the Senate's second, fourth, twenty-ninth, thirty-fourth, forty-second, and forty-eighth amendments, and agree to the same.

That the Senate recede from their eleventh, nineteenth, twentieth, twenty-first, twenty-fifth, twenty-sixth, thirty-first, forty-first, forty-third, and forty-seventh amendments.

That the Senate recede from their disagreement to the amendment of the House to their fourteenth amendment, and agree to the same.

That the House recede from their disagreement to the Senate's forty-sixth amendment, and agree to the same with an amendment, as follows: after the word "thirty," in line three of said amendment, add the word "five."

That the House recede from their disagreement to so much of the Senate's twenty-second amendment as proposes to insert the words "*Provided*, The Secretary of the Navy can procure a satisfactory title to the whole thereof, sixty-five thousand," and agree to the same with the following: strike out the words proposed to be inserted, and after the word "dollars," in line twenty-four, insert "*Provided*, The chief of the Bureau of Yards and Docks be, and he is hereby, authorized to purchase that portion of Seavey's Island lying west of the road, and for such sum as to him may seem reasonable and just to the Government."

That the Senate recede from so much of their twenty-

second amendment as proposes to strike out the words "fourteen thousand five hundred."

JOHN P. HALE,
JAMES W. GRIMES,
Managers on the part of the Senate.
THADDEUS STEVENS,
CHARLES B. SEDGWICK,
Managers on the part of the House.

Mr. HOLMAN. I call for the reading of the section in reference to the purchase of Seavey's Island as it will stand if the report of the committee be adopted. It seems to me that so far as the purchase of the island is concerned there is no limitation imposed upon the officers of the Government.

Mr. STEVENS. I will say to the gentleman that the committee restored the twenty-seven acres, and that left a little space of perhaps four or five acres between the end of that line of land and the deep water upon the sea-board, which four or five acres are owned by three persons who have houses upon them. If we purchased that, our land would extend down to the deep water. There it would be thirty-one feet deep, while the water above, in many places, is only five feet deep. We have authorized the purchase of that land, in addition, if it can be got at such a price as may be considered reasonable. We did not fix a limit to the amount to be paid. We left the matter entirely with Commodore Smith. The question whether we should fix a limit to the price was discussed, and it was thought best not to do so.

Mr. HOLMAN. I call for the reading of the section.

The Clerk read, as follows:

For the purchase of twenty-seven and three hundred and fifty-five thousandths acres of land on Seavey's Island, adjacent to the Kittery navy-yard, $14,500: *Provided*, That the chief of the Bureau of Yards and Docks be, and he is hereby, authorized to purchase that portion of Seavey's Island lying west of the road for such sum as to him may seem reasonable and advantageous to the Government.

Mr. HOLMAN. I would ask the gentleman if these twenty-seven acres do not lie west of the road?

Mr. STEVENS. Yes, sir; they lie on both sides of the road. The lot of twenty-seven acres runs up west of the road, and then goes across it. It does not go down to the deep water west of the road. It is to buy a point west of the road, not embraced in the twenty-seven acres that we have put in this proviso.

Mr. F. A. CONKLING. Will the gentleman state to the House the reason for purchasing this additional land fronting on deep water?

Mr. STEVENS. It is, sir, that vessels may float there. [Laughter.]

Mr. F. A. CONKLING. The reason assigned by the honorable member from Pennsylvania for the proposed purchase would be a valid and, as he appears to regard it, a conclusive one, provided this land was required for a navy-yard; but I assert here, as a member of the Committee on Naval Affairs, that so far as that committee is in possession of any information on the subject, it is not intended for any such purpose. Originally the purchase of some twenty-seven acres of Seavey's Island was proposed for the erection of a hospital. No sooner had the authority to make the purchase been granted than we were coolly informed that the running of a road through or near the plot rendered the acquisition of an additional quantity of land indispensable. Now, we are met by the assertion that a necessity, absolute and imperative, exists for securing a frontage on deep water. Thus the scheme, I will not call it by any other name, has advanced from one step to another. Originally we were asked to purchase twenty-seven acres, and subsequently we were asked to purchase some ninety or one hundred acres in addition. I am prepared to assert that there is no evidence before the House that the Government really requires a single foot of this land for any purpose whatever. My belief is that we ought to reject the proposition *in toto*. But if it be conceded that a new hospital is needed at that point, I assert unhesitatingly that more than twenty-seven acres cannot, in any event, be required for that purpose.

Now, the remarks of the gentleman from Pennsylvania [Mr. STEVENS] have doubtless conveyed the impression to the House that the land in question is required for a navy-yard, and therefore that this additional parcel which fronts the deep water, is an indispensable part of the plot. It is not so, sir, according to the best of my information, and I have given my attention candidly to the subject. I believe that the whole appropriation should be rejected unqualifiedly.

Mr. STEVENS. The gentleman probably has more information upon this subject than I have, although I have examined the plots, drafts, and soundings which have been furnished to us by those who had made them. The navy-yard is upon one side of the channel. At that point the channel is narrow. Opposite to the navy-yard and to the land which we own below it upon that side, lies Seavey's Island and these twenty-seven acres of land. I admit that we might do without a part of it, if we could get the rest; but that portion of it which faces the navy-yard can very easily be built with wharves, and there is a likelihood that it will be done, to the great annoyance and obstruction of the navy-yard, and of the vessels which lie there. Immediately opposite the navy-yard the water is more shallow than it is below. The same channel below is bounded on one side by land belonging to the Government, and on the other side by the projection of this twenty-seven acres. At the point below, where we propose to purchase, the water is thirty-one feet deep. Above that, at the navy-yard, it ranges only from six feet up to twelve and fourteen. It is thought that Government vessels would find great convenience in not being obstructed by any building of wharves out from this island.

Mr. F. A. CONKLING. In the launching of vessels?

Mr. STEVENS. No, in riding there when they are launched, in going out and coming in, and riding at anchor. This was not proposed to us at all by the owners of these lots; no one of them that I know of made any offer of sale; but the committee were of opinion that if we purchased the twenty-seven acres, as we thought it was proper to do, the addition of these few acres was needed; and, in my judgment, it is of as much importance as all the rest put together. It gives us the command of the channel on both sides, which I look upon as a very great advantage. That is the opinion of the Superintendent of Yards and Docks—Commodore Smith. Did the gentleman from New York consult him on this subject?

Mr. F. A. CONKLING. No, sir.

Mr. STEVENS. We did; and he recommended this as very useful and very necessary for the purpose for which we propose to make the purchase. The chairman of the Committee on Naval Affairs, I believe, agrees with us. He can tell us what he thinks of it. I do not profess to be much acquainted with the subject myself, except from the information I gained by looking at the plots and drafts exhibited to the committee, and from the recommendations of Commodore Smith, whom we had twice before us for the purpose of consultation.

Mr. F. A. CONKLING. Will the gentleman state whether, in his judgment, there is any limitation upon the quantity of land which may be purchased under the section as it is proposed to be amended?

Mr. STEVENS. Upon the price?

Mr. F. A. CONKLING. Any limitation upon the quantity of land to be purchased?

Mr. STEVENS. Oh, yes; the road referred to runs down to the water.

Mr. HOLMAN. There is no limitation as to the price though.

Mr. STEVENS. No, sir. There are only four or five acres additional which are to be subject to purchase.

Mr. HOLMAN. And there is no limitation as to price?

Mr. STEVENS. No, sir.

Mr. HOLMAN. I submit that possibly some limitation might be imposed; for instance, we might provide that the amount paid for these additional acres shall not exceed the amount paid per acre for the twenty-seven acres.

Mr. STEVENS. There is a limitation fixed upon the twenty-seven acres, but I understand that these four or five acres have dwellings and buildings upon them.

The SPEAKER. The Chair will state that the report of a committee of conference is not open to amendment of any kind.

Mr. STEVENS. No, sir. I may mention that after consulting the parties owning this land as to whether they would sell or not, they made propositions which are in the hands of persons connected with this movement—I mean the committees. Beyond that price, of course, no one will think of going, but we thought that by leaving this matter to the officer, he might get the land for a less sum. If we fixed the limitation at the price which they offered as an *ultimatum*, they would probably insist upon that sum. We do not suppose that there is any possibility that the officer will go beyond that price, which is about nine thousand dollars for all the property, according to the propositions made by the owners. We thought it might be had for less if left open to a bargain, and that is the reason why we did not fix any limitation; but of course the maximum would be the amount for which they offered to sell.

The question was taken; and the report of the committee of conference was agreed to.

PAY OF MINNESOTA SENATORS.

Mr. WILSON, from the Committee on the Judiciary, reported back, with a recommendation that it do not pass, joint resolution (S. No. 33) in relation to the pay of the first Senators and Representative in Congress from the State of Minnesota; which was laid on the table.

UNITED STATES COURTS IN MICHIGAN.

Mr. WILSON also, from the same committee, reported back an act (S. No. 270) concerning the courts of the United States in and for the district of Michigan.

The bill provides that, in addition to the courts now provided to be held in the district of Michigan, a general term of the circuit court of the United States for said district shall be held annually in the court-room, in the city of Detroit, on the second Monday in February.

The bill was read the third time, and passed.

Mr. WILSON moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

SECURITY TO KEEP THE PEACE.

Mr. WILSON, from the same committee, reported back, with a recommendation that it do not pass, Senate bill (No. 266) for the more convenient enforcement of the laws of the United States concerning security to keep the peace, and for good behavior; which was laid on the table.

RIGHT OF WAY.

Mr. WILSON, from the same committee, reported back, with a recommendation that it do pass, a bill (S. No. 123) to extend the provisions of the act of August 4, 1855, entitled "An act to grant the right of way to all rail and plank roads," &c., for the term of five years, and to amend the same. It extends the provisions of the act entitled, "An act to grant the right of way to all rail and plank roads and macadamized turnpikes passing through the public lands belonging to the United States," approved August 4, 1852, and of the act extending the same to all of the public lands of the United States, approved March 3, 1855, for the term of five years from the 4th of August, 1862.

The second section gives a right of way for a railroad through the public lands of the United States lying in Wasco county, in the State of Oregon, to the Oregon Steam Navigation Company.

The bill was read the third time.

Mr. LOVEJOY called for the yeas and nays on the passage of the bill.

Mr. WILSON. The bill simply extends the laws granting right of way over the public lands to rail and plank roads for a term of five years, and also gives the right of way to the Oregon Steam Navigation Company, for the purpose of constructing a road. That is all that there is in the bill. It makes no grant of land.

Mr. LOVEJOY. I withdraw the demand for the yeas and nays.

The bill was passed.

Mr. WILSON moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

UNITED STATES COURTS.

Mr. WILSON, from the same committee, reported back, with a recommendation that it do not pass, House bill (No. 319) to amend an act entitled "An act to establish the judicial courts of the United States."

The bill was laid on the table.

Mr. WILSON, from the same committee, reported back, with a recommendation that it do not

pass, House bill (No. 441) concerning the circuit and district courts of the United States.

The bill was laid on the table.

ADJUSTMENT OF ACCOUNTS.

Mr. WILSON, from the same committee, reported back, with a recommendation that it do not pass, House bill (No. 497) to authorize the Solicitor of the Treasury to settle and adjust certain demands due the United States.

The bill was laid on the table.

THOMAS HOPE.

Mr. WILSON, from the same committee, made an adverse report on the petition of Thomas Hope, of Harford county, Maryland; which was laid on the table.

YEARLY MEETING OF FRIENDS.

Mr. WILSON, from the same committee, asked that the committee be discharged from the further consideration of the memorial of the Yearly Meeting of Friends held in Philadelphia, for Pennsylvania, New Jersey, Delaware, and the Eastern Shore of Maryland; and that the same be laid on the table.

It was so ordered.

TROOPS IN NEW MEXICO.

Mr. CRADLEBAUGH. In the proceedings of the House on the 9th instant, when House bill No. 511 was under consideration, I am reported to have said:

"I know the regular forces that have been placed there, [alluding to New Mexico,] and I am acquainted with Colonel Canby and the force under his command, and you will find that when they were organized into regiments they did not stand up like men, like American citizens, and fight to protect their property."

The report of what I said, as made, would and does reflect on Colonel Canby and the regular troops under his command. I intended no such thing. At a time when I held a civil office in the Territory of Utah, Colonel, now General, Canby was in command at Fort Bridger. He had the reputation of being a good and efficient officer. He subsequently went south with his command to New Mexico. From all that I have seen and read in the reports of the various engagements in New Mexico, I have no doubt of his being a brave and gallant officer, and his command an efficient and good one. I intended to, and supposed I did, say that the regiments raised in New Mexico to aid Colonel Canby did not stand up to the work. I intended no reflection upon the regulars under Colonel Canby, or the American population in New Mexico, but only upon the Mexican population, who, it was said, had inhabited that section of country for many years, and who the papers reported had fled from the battle-field.

MASTERS ON GUNBOATS.

Mr. PENDLETON. I ask the unanimous consent of the House to introduce and have put upon its passage a joint resolution providing that the masters on the gunboats in the western waters shall receive the same benefits given to other officers of corresponding grades by the act just passed to grant pensions.

Mr. BLAIR, of Missouri. That has been already provided for.

Mr. PENDLETON. I desire to say to the gentleman from Missouri, that the Secretary of the Navy has put a construction on the act granting pensions, different from what it was intended to bear. The resolution which I introduce is only to extend to the masters and officers of gunboats the privileges of the act which it was intended they should have.

The joint resolution was read a first and second time. It directs that the masters and other officers upon the gunboats employed in the service of the United States shall be entitled to all the benefits, including bounty and pension, provided for in the act to grant pensions, passed at the present session of Congress; the masters of such gunboats to receive the pension allowed by said act to captains in the Navy, and pilots and engineers to receive the pension allowed by said act to lieutenants in the Navy. The widows, mothers, and heirs of such officers are to be entitled to all the benefits of the act.

Mr. HOLMAN. I do not object to the passage of this joint resolution if it be amended so as to give the title of the act "to grant pensions." It is clear to me that this joint resolution ought to pass.

Mr. PENDLETON. I agree to the offering of that amendment.

The amendment was agreed to.

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

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

The latter motion was agreed to.

BUSINESS ON SPEAKER'S TABLE.

Mr. VERREE. I move to proceed to the business on the Speaker's table.

The motion was agreed to.

The House therefore proceeded to the business on the Speaker's table, the only bill there being an act (S. No. 363) to authorize the Secretary of the Navy to accept the title to League Island in the Delaware river, for naval purposes.

LEAGUE ISLAND.

The bill was read a first and second time.

Mr. F. A. CONKLING. I move that the bill be referred to the Committee on Naval Affairs.

Mr. VERREE. Mr. Speaker, this is a bill of very great importance, and is not such a measure as the gentleman from New York supposes. It simply authorizes the appointment of a commission to examine into the location of League Island and New London, as regards the propriety of making selections for naval depots. The bill passed the Senate by a very decided majority, and I believe it will also pass the House by a large majority. The position is one highly desirable, and one that the Department has fully approved. I hope, therefore, that the bill will not be referred; but immediate action may be had upon it.

Mr. F. A. CONKLING. I will now yield to the gentleman from Pennsylvania, [Mr. KELLEY,] if he desires to make a remark in relation to the bill.

Mr. KELLEY. I should be glad to hear what objections the gentleman from New York has to urge against the bill.

Mr. F. A. CONKLING. The motion which I have made is that this bill be referred to the Committee on Naval Affairs for examination. The gentleman from Pennsylvania has failed, in my judgment, to state correctly the character of the bill, unintentionally of course. The first section provides:

That the Secretary of the Navy be, and he is hereby, authorized to receive and accept from the city authorities of the city of Philadelphia the title to League Island in the Delaware river, together with the marsh east of and adjacent thereto, within the first ward of the said city of Philadelphia, together with all riparian rights and privileges thereunto belonging and appertaining, to be used for naval purposes by the Government of the United States: *Provided*, That said title shall not be accepted nor received, unless the same shall be perfect and indefeasible to the whole island and marsh adjacent to low water mark; nor if, upon more thorough examination and survey of the premises by a competent board of officers to be by him appointed, he shall discover that the public interests will not be promoted by acquiring the title as aforesaid.

The original proposition, which came informally before one of the committees of this House, was, that League Island be accepted by the Government for a navy-yard, in lieu of the present navy-yard at Philadelphia.

The language of the section is ambiguous, not to say equivocal. What precise use is proposed to be made of this property by the Government, I am unable to infer from anything which appears in this section of the bill. From the second section, however, I gather that it is designed for a naval depot as well as for a navy-yard.

Now, sir, my information concerning League Island is this: that it was originally a bank of soft mud, or rather of alluvium, comprising, with the adjacent marsh, an area of some six hundred acres. An embankment of stone and earth has been built round a portion of it, by which means the portion thus fortified is shut in from the ebb and flow of the tide. I am informed that no part of the island, so called, was ever fast land, and that it is not possible, without incurring an expenditure of something like two million dollars—that is my opinion—to make it a suitable spot for a navy-yard or naval depot.

Mr. DAVIS. Will the gentleman from New York allow me to ask a simple question? I should be pleased to know upon what basis he makes his estimate that $2,000,000 will be required to make this a suitable location for the purposes of the Government?

Mr. F. A. CONKLING. I will say that the statement rests upon the authority of a citizen of Philadelphia, whom I have ascertained, after diligent inquiry, to be a gentleman of high standing and of unquestionable veracity. More than that, inasmuch as the writer of the communication has not authorized me to mention his name, I cannot give it. Without intending any disrespect to the honorable member, I must decline to give the name.

Mr. DAVIS. I merely asked for information.

Mr. F. A. CONKLING. Now, Mr. Speaker, it is proposed by the municipal authorities, of Philadelphia to make a free gift of this island to the Government of the United States; and it would not be extraordinary if some gentlemen should suppose that when so munificent a donation is tendered, it would be an act of folly upon the part of Congress not to accept it.

But if the object of the gift be, as I suspect, to induce the Government, in order to elevate and redeem the so-called island, to make the enormous outlay of $2,000,000, then I apprehend we should commit an act of folly in accepting it, because, in accepting it, we virtually bind ourselves to make the improvements. Is there not sufficient ground for a reference of the subject to the appropriate committee, that the facts may be thoroughly examined and reported to the House for its guidance? The second section of the bill provides:

That the board of officers to be appointed by the Secretary of the Navy, according to the provisions of the first section of this act, shall, before proceeding to any decision of the questions hereinbefore referred to them, make a survey and examination of the harbor of New London, Connecticut, and its surroundings, with reference to its capacity and fitness for a naval depot and navy-yard, and whether the public interests will be promoted by establishing a naval depot and navy-yard in or near said harbor of New London instead of League Island.

By which provision, I presume, the votes of certain Senators were secured for the bill.

The SPEAKER. The Chair will remind the gentleman that it is not in order to refer to Senators.

Mr. F. A. CONKLING. In what I am stating, I am, of course, merely supposing a case.

The SPEAKER. The Chair thinks it is not a supposable case. [Laughter.]

Mr. F. A. CONKLING. This section seems to be in the nature of a tender hitched on to the bill as it was originally framed. The remaining words of it are as follows:

And that they also make the same investigation in regard to the waters of Narragansett bay.

Now, I venture to ask the attention of the House to this further provision. The waters of the Narragansett bay I understand to be somewhere in Rhode Island.

Permit me, in conclusion, to suggest what, in my judgment, should be done relative to this whole subject. I admit that the necessity exists for the establishment somewhere of a great naval depot, and what I suppose to be incumbent upon Congress at this time is to provide for the appointment of a proper board of commissioners fully to investigate the whole subject, leaving them untrammeled to examine the entire coast, and to report at the next session of Congress what point, in their judgment, is best adapted for the purpose.

That, however, is not the purpose, nor will it be the effect of this bill, should it become a law. It starts out by pledging the Government to the acceptance of League Island for a specific purpose, and then comes the provision in reference to one or two other points which are expressly named.

It appears to me that the facts which I have stated are abundantly sufficient to induce the House to adopt the motion which I have submitted, and allow the bill to go to the Committee on Naval Affairs for their consideration.

Mr. BIDDLE. If the gentleman will allow me, I would like to ask him a question before he takes his seat. The gentleman has stated two or three times, in the course of his remarks, in a voice so clear and sonorous that it has reached here, and must have reached gentlemen upon the other side of the House, some of them, that this involves an expenditure of $2,000,000.

Mr. F. A. CONKLING. That is my information.

Mr. BIDDLE. Mr. Speaker, I will beg leave

to say, in a voice not quite so loud, but as loud as I can make it, that the bill does not make any appropriation; that there is no money involved in the bill at all.

Mr. F. A. CONKLING. I have read the bill in the hearing of the House.

Mr. BIDDLE. I desire to read in the hearing of the gentleman from New York what the bill does provide for, and I am sure the gentleman will acquiesce in the statement I have made.

Mr. F. A. CONKLING. I have read the bill as distinctly as I was able, in order that every gentleman might understand its precise meaning and extent. I have said that I have information from a trustworthy source, that in order to render this island suitable for the purposes indicated in this bill, an outlay of at least $2,000,000 will be required; and that therefore it will be an unprofitable operation for the Government to accept the gift.

Mr. KELLEY. The gentleman from New York derived from a single correspondent——

Mr. F. A. CONKLING. No, sir; the honorable member is mistaken. Permit me to correct him right there. My information is not from a single quarter.

Mr. KELLEY. When asked for the source of his information, the gentleman indicated a single correspondent. I will now ask him whether he has any further source of information?

Mr. F. A. CONKLING. I will say to the gentleman from Pennsylvania that the honorable member from Delaware, [Mr. FISHER,] whom I do not see in his seat, showed me a communication which had been made to him.

Mr. ROSCOE CONKLING. The gentleman from Delaware is now present.

Mr. F. A. CONKLING. I am very glad of it. The gentleman from Delaware showed me a communication made to him, setting forth certain facts in relation to this subject; not in reference to the precise point of cost, but in reference to the other matters to which I have referred.

Mr. FISHER. I simply wish to state that, so far as my sympathies and my feelings go, they are all with the city of Philadelphia and its interests. But in regard to the question pending before the House, I have information from a gentleman who I know to be as reliable as any man in this House, and with as capable judgment, in reference to a matter of this kind, as any man in this House or elsewhere. He informed me that this island is not an island composed originally of fast land; that there is no portion of it which was originally fast land; but that, on the contrary, it is made land of some four or five hundred acres, which is usually three or four feet below tidewater. He further informs me that if the United States shall accept this island as a gift, it will be very much in the dilemma of the man who bought the white elephant—it will not know what to do with it. If it is accepted, he tells me that it can only be made useful to the Government by the expenditure of a vast sum of money.

Mr. KELLEY. I would like the gentleman to give me the name of his informant.

Mr. FISHER. His name is George W. Churchman, and he is familiarly acquainted with the Delaware river and Delaware bay, and with all the islands and all the lands adjacent thereto or lying therein.

Mr. LEHMAN. With the permission of my colleague, I wish to state for the information of the gentleman from Delaware, that the Government will not find itself in the condition of the man who bought the white elephant, because, according to the terms of the gift of the city of Philadelphia of this island to the Government, unless it is accepted and occupied as a naval depot, it reverts to the city Moreover, I wish to state to him that the island is of immense value, and while I do not claim for the city of Philadelphia any more extended philanthropy than I would concede to any other city in the United States, yet I do say that this island will be of immense advantage to this Government, and that it is one which it ought gladly to accept. Philadelphia is stimulated not so much from a desire of benefiting its own citizens, as it is from a desire to furnish to the Government one of the best sites for a naval depot in the United States. Notwithstanding the information which the gentleman from New York has obtained from isolated sources, I venture to state, from a knowledge of the character of the soil of the island and its history, and from the statements of persons who have investigated the matter, as well as from statements of those who have lived all their lifetimes in the vicinity, that the declaration made by the gentleman from New York is incorrect, and that League Island is not a "bank of mud;" that it is not "made soil of three or four hundred acres, which is generally overflowed and surrounded only by banks of mud."

Mr. KELLEY. I yielded to my colleague for the purpose of making a single statement, and not for the purpose of making a speech.

Mr. LEHMAN. I beg my colleague's pardon. I was carried away by the impulse of the moment, and I readily yield the floor, well knowing that he will fully explain this bill to the satisfaction of the House.

Mr. KELLEY. We have now information furnished by one or two men. The gentleman from New York does not give us the name of the author of the letter to him, as the gentleman from Delaware does. If the two letters were from the same man, we have information from one citizen. If they were not from the same, then we have it from two persons, disinterested or otherwise. As to the statements made by the correspondent of the gentleman from Delaware, I can say, from personal knowledge, of League Island, and from knowledge gained in the progress of judicial investigations connected with it, while I was a judge, that the information communicated to him does not relate to the island in question. His letter neither locates it properly nor describes it correctly. It is not *above* but *at* the junction of the two rivers. It is not an island that is overflowed by the tide, but is an island upon which there is a number of buildings, and on which there is and has been for years a residence of much elegance, which was occupied so far back as 1834, by Charles Wharton, Esq., from whom the title to the island passed to the Pennsylvania Company for Granting Annuities and Insurance upon Lives. I have spent many a day on that island, and I know that it has four hundred acres and more of high, dry, fast land. I speak from personal, intimate, long-continued knowledge, and I say now, publicly, to my friend from Delaware, as I did privately some days ago, that the statements of the letter to which he refers can have no relation whatever to the property in question.

Mr. F. A. CONKLING. I would like to ask the gentleman from Pennsylvania a question.

Mr. KELLEY. I will yield first to my colleague, [Mr. DAVIS.]

Mr. DAVIS. I wish merely to call the attention of the House to the difference in terms, because I do not think there is so much difference between us in reality. The gentleman from Delaware has a different idea from that which we of Pennsylvania have in that State, where we have rocks, hills, and things of that kind. He comes from a State made up of land very much like this island. I do not know whether it is much higher above tide-water. His idea of fast land may have originated in the alarm which took place in the lower part of Delaware at the time that the Delaware and Chesapeake canal was to be cut through that State. The people objected to it for fear that it would let the sea in and carry away the lower part of Delaware, or forever prevent it from being connected with the fast land of the north. [Laughter.]

Mr. F. A. CONKLING. I wish now to ask the gentleman from Pennsylvania, whether this island, with which he is so familiar, and which he has declared to be dry land, has not been dyked within a very recent period in order to secure it against overflow by the tide.

Mr. KELLEY. My recollection is that it was originally fast land.

Mr. F. A. CONKLING. My information is totally at variance with that of the gentleman from Pennsylvania, and my information has been derived from other sources in addition to that which has been stated by the gentleman from Delaware.

Mr. LEHMAN. I ask the gentleman from New York, in order that I may possibly give him an answer, to tell this House what he means by "fast land?"

Mr. F. A. CONKLING. I mean to refer to land originally above the ebb and flow of the tide. I wish to be understood by the House as stating, on what I believe to be trustworthy information, that no portion of this island was originally of that character; that it has been overflowed by the tide up to a very recent period; and that, notwithstanding it has been banked up, it would be impossible to find a foundation for any massive or permanent buildings without incurring a very heavy expense.

Mr. KELLEY. I cannot give the geological history of this island. I can go back some thirty-odd years, when it was the gunning ground of my boyhood, and say that it was then high, dry, and fast land, in the gentleman's acceptation of that term, and was covered with abundant crops of grass with a handsome mansion and fine outbuildings upon it; that it is now suitable for blocks of buildings for occupation by families—comfortable, and I believe salubrious residences; that it lies at the junction of the Schuylkill and Delaware rivers, about equally distant from the coal and iron of the Schuylkill and Lehigh regions, which furnish supplies of coal and iron of such various qualities as cannot be got at so little cost and with equal facility at any other point of land within the broad limits of our country; that it contains six hundred acres of land, all of which might be reclaimed by processes simpler and less expensive than those indicated by the gentleman from New York, and would, even without this, give us a larger naval depot than the world has yet seen.

One of the difficulties the Navy Department is suffering from, and one of the sources of heavy expenditures of the Government, is a want of wharfage. When the Navy was suddenly increased, the Department required miles of wharfage, and it is paying thousands and tens of thousands of dollars to private owners because it has no wharves of its own to bring many vessels of our expanded Navy to!

League Island, sir, is of such shape and extent, and has such a depth of water around it, as would, I am informed by the Navy Department, afford several miles of wharfage and dockage. It has, running between it and the main land, a stream of, I think, less than fifty feet in width, making the rear an admirable location for workshops, and offering facilities which those who manage large machine shops know well are to be derived from such a body of fresh water.

I meet the allegation that this is marsh land and is overflowed, with the fact that the Pennsylvania Railroad Company, the affairs of which are managed with as much sagacity as those of any corporation in the country, was about making it—and would have done so could the arrangement have been effected—its great depot. There it was that its directors proposed to erect those elevators which are to be the means of transferring from car to ship the grain it is now able to bring in bulk from Chicago, Milwaukee, and other cities of the Northwest.

It is said it will require an expenditure of two million dollars or more. This is not correct. It may not be generally known to the members of the House that we have a navy-yard in Philadelphia containing, I believe, a little over fifteen acres of land, with a narrow water front amounting to but a few hundred feet; that the improvements of the city have gone to and surrounded the navy-yard, and extended many blocks beyond it to the south; that the land in that yard, limited as it is in extent, is now worth in the market of Philadelphia nearly or quite half a million dollars, and that it would largely improve the commercial facilities of Philadelphia if the streets obstructed by it could be opened through it.

One motive prompting the city to make the magnificent tender of this island, which cost her the sum of $310,000 purchase money, is that she may still remain a naval station, and have these streets, which are needed for her legitimate business, opened. She has in view her own interests, and those of the great State of which she is the metropolis, but beyond and above all, the interests of our common country. The last few months have demonstrated the change which is to take place in the character of war vessels. Iron, coal, steam, and skilled workmen are the great needs of the Government at this time in connection with the Navy. Philadelphia is a city of six hundred thousand people; the largest manufacturing county in the world, whether measured by the amount of capital involved in our machinery and manufacturing establishments, the number of people employed, or by the results they produce.

Mr. F. A. CONKLING. As shown by the United States census, or that of the city?

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Mr. KELLEY. It is, by the facts of the census tables of the United States, of Great Britain, and of Continental Europe. The statistics of nations prove it. London, be it remembered, lies in two counties, and comparing the manufacturing results of either with those of Philadelphia, the excess is with her. I know that I speak the truth when I tell you that Philadelphia is the greatest manufacturing county in the world.

Mr. F. A. CONKLING. I am credibly informed that the census taken by the United States Government shows a very different state of things from that referred to by the gentleman from Pennsylvania. I am further assured that in making up the summary of manufacturing statistics for the city of Philadelphia for publication in the United States census report, under the supervision of the chief of the division of manufactures in the Census Bureau, the official returns have been disregarded, and the returns of a census taken under the direction of the municipal authorities of that city used, differing in its aggregate from the official returns some twenty-four million dollars. Nor is this all: in correcting mistakes of the United States marshals, frequently occurring, where the returns show an evident discrepancy in the cost of production with the value of goods manufactured at particular establishments, the practice has uniformly been, under the direction of the same gentleman, to increase the value of the goods produced to correspond with the cost of production stated, if the establishment is in Pennsylvania; while the opposite course of leveling down has been pursued if the establishment is in New York.

Mr. KELLEY. I will assure the gentleman that the census was in error, then. There are New England men here who are prompt to speak for New England, but I venture to say that the lanes and alleys of Philadelphia turn out annually as many boots and shoes as Lynn and Haverhill together, or as any other two towns in Massachusetts produce; that our manufactures of woolen, cotton goods, and carpets, equal those of any town in Massachusetts or Rhode Island. Philadelphia also excels any city, town, or county, whose speciality is the production of tools, machinery, cutlery, or other products of iron, in that town's own speciality. And her book houses are the greatest in the world, and the establishment now erecting by her distinguished publisher, Joshua B. Lippincott, Esq., will nearly equal the two largest book establishments in the world.

Labor—skilled labor—and a steady supply of such labor, is one of the wants of the Government; and the city of Philadelphia invites it to locate its great depot there, where it may have the advantage of the genius, the experience, and the concentration of labor which such a city offers. She invites you to locate the depot—not by this bill to locate it, but to inquire whether it may be well located there—to locate the depot there, where, with this abundant supply of skilled labor, it can get coal—the softer anthracite from the Schuylkill and the hard anthracite from Lehigh—at less cost for transportation than at any other point. She also asks you to remove your naval station from where it is, above the horseshoe, and where in winters of extreme severity and duration you are sometimes cut off from the use of it, to a point about seven miles further down the river, where it has never been known to be so frozen that vessels do not pass freely; with a depth of water greater than that of the harbor of New York—twenty-two feet—with a harbor deeper there than the harbor of New York, at least at the shallowest point over which the great commerce of that port has to pass, and for the truth of this assertion I appeal to scientific surveys. The depth of water at points below this island ranges from twenty-two to fifty-two feet, and there is not a shoal over which there is less than twenty-two feet of water flowing.

Mr. F. A. CONKLING. How did the Great Eastern, drawing twenty-six feet, get into New York harbor, then?

Mr. KELLEY. I do not know, but I do know that she waited for high tide for the trip, and I do not know that she could have gone in at low water.

Mr. WICKLIFFE. If I understand the matter, the city proposes to give this land to the Government of the United States without consideration.

Mr. KELLEY. Yes, sir.

Mr. WICKLIFFE. And the United States has the liberty to accept it or not?

Mr. KELLEY. Exactly.

Mr. WICKLIFFE. And if she accepts it, she still holds the present navy-yard?

Mr. KELLEY. Certainly.

Mr. WICKLIFFE. The Government is not bound by any agreement in this bill, if I understand it, to accept the donation.

Mr. KELLEY. Not at all.

Mr. WICKLIFFE. Then it is the best chance for a bargain for the United States that I have seen in this Congress, and I hope the House will pass the bill.

Mr. KELLEY. Saying amen to what the gentleman from Kentucky has said, I now call the previous question.

Mr. MORRILL, of Vermont. I ask the gentleman to yield to me for a moment.

Mr. KELLEY. I will do so.

Mr. MORRILL, of Vermont. I have received a communication from Philadelphia upon this subject. I am not acquainted with the author, but he refers me to any member of the delegation from the city of Philadelphia.

Mr. BIDDLE. Name him.

Mr. MORRILL, of Vermont. I have exhibited the signature to members from Philadelphia, and they are little uncertain whether it is Penrose or Perrott. They know men of both those names; but are not sure which it is.

Mr. BIDDLE. Then it is an anonymous communication?

Mr. MORRILL, of Vermont. As it states some very interesting facts in regard to this matter, I ask to have it read at the Clerk's desk.

The Clerk read the letter, as follows:

PHILADELPHIA, *June* 23, 1862.

SIR: I take the liberty of addressing you upon the subject of the proposed location of the United States navy-yard at League Island. I have been informed and I believe League Island has been wholly reclaimed from the river Delaware, and is only prevented from overflow by large banks of stone and earth. It is surrounded, except upon one side, by a marsh, and for this cause, as well as from insalubrity, it has been unimproved and unoccupied, except as pasture land, at a moderate rent, since its reclamation. The fast land is from six to eight feet below high water mark at all points, and would cost over a million dollars to level and fit for use as much as will be required for the large purposes projected.

If the object is to erect founderies, the spongy nature of the soil would make it impossible to get a proper foundation for the buildings except at great cost, nor could a well of sufficient depth be dug for large castings. It could not cost less than two or three million dollars in ship-houses, dry docks, and other structures now in the old yard, which would have to be abandoned. Thus the *gift* of the island would be dear, and still dear if $2,000,000 were added to the gift towards fitting it for use. Most of the ship-carpenters employed in the yard now reside in and find employment in Kensington, nearly eight miles distant from the island, where they would continue, as Government work is not sufficiently regular or remunerative to induce a permanent removal. The island is at least five miles from the supply stores of the city. The approaches are as low as the island itself, and unfit for building purposes, and far distant from hydrants, gas, improved streets, police, and railroads.

The place has only to be visited and *seen* to demonstrate its unfitness; and I would humbly suggest a visit by a committee of Congress for the purpose, before so great an outlay is incurred or promised, where performance is impossible. There are minor objections, which I will not urge. I am as earnest as any Philadelphian in the desire of the location of a first-class yard, but it is my duty, impelled by the same feelings which you have, to state to you, as a public man, it will cost at least *four million dollars* to fit League Island for the least efficiency as compared with the present yard. If you add founderies, &c., that will be an additional expense, which I will not undertake to estimate.

The present yard may be extended for about two hundred and fifty thousand dollars, and provide all the ground necessary now and hereafter without disturbance or delay. I am ready to give further information. Being personally unknown to you, I refer you to any of the Philadelphia delegation of the House to be assured who I am.

With high respect, JOSEPH N. PEIRSOLL.

Hon. J. S. MORRILL.

The Clerk read the signature to the above "Joseph N. Penrose."

Mr. BIDDLE. I do not know any person of the name of Penno.

Mr. LEHMAN. I never heard of any.

Mr. MORRILL, of Vermont. This is a matter that ought to be understood by the House before we are called upon to legislate upon it. It is clear that parties in Philadelphia have different opinions on the subject. For myself, I know nothing at all about it, but I am clearly of opinion that now is not the proper time to incur any large expenditures for the purpose of making new navy-yards. I do not know but that the author of that letter may be interested in the old navy-yard, so as to prejudice or influence his judgment in behalf of that yard. It is possible that he may have property there, and is merely maligning the gift proposed to be made by the city of Philadelphia to the Government from personal motives; but at the present time, I am impressed with the idea, that before we even accept of such a gift, it ought to be fully investigated by the Navy Department or by a committee of this House, and that we should not take any steps in relation to it of our own motion.

Mr. KELLEY. I do not know the writer of that letter.

Mr. F. A. CONKLING. I know him, sir, from information received from the gentleman's colleague, [Mr. VERREE.] His name is Peirsoll.

Mr. VERREE. As the gentleman says he knows him from information received from me, I ask my colleague to yield to me.

Mr. KELLEY. Certainly.

Mr. VERREE. The writer of that letter is Joseph N. Peirsoll. I know him very well. The gentleman from New York asked me, some weeks ago, if I knew this Mr. Peirsoll, as he had received a letter from him.

Mr. WICKLIFFE. Where does he live.

Mr. VERREE. In Philadelphia.

Mr. WICKLIFFE. Has he got any property adjoining the navy-yard there, that he wants to sell?

Mr. VERREE. I will respond to that question in a moment. I told the gentleman from New York that I knew Mr. Peirsoll; that he was a very respectable and honorable gentleman; that he holds property adjoining the navy-yard, and had written me a number of letters urging me to advocate the extension of the present navy-yard, and is consequently opposed to League Island. That is the whole secret of Mr. Peirsoll's letter; and I am astonished that the gentleman from New York and the gentleman from Vermont can represent the interests of that gentleman.

Mr. KELLEY. I was about to call the attention of the House to the fact that when the naval appropriation bill was under consideration there was an item in it of $128,000 for the purchase of a strip of land adjoining the Philadelphia navy-yard. Some of my colleagues were very much surprised that I did not support that proposition. I could not do it in good conscience. It was, in my estimation, a job. When the land would have been bought, our navy-yard would still have been an inferior, second-class yard. At the rate at which that ground would have been sold to the Government, our present navy-yard must be worth, I think, $1,500,000. I did not vote for it and the amendment was lost. I did not raise my voice in its behalf. I do not know that I could have changed the result, but I do know that I did not endeavor to do so, and that I discountenanced the proposition. Here is one of the men whose property is in that little lot coming to give information which I pronounce deceptive and incorrect in its leading allegations. I renew the call for the previous question.

Mr. SHELLABARGER. I ask the gentleman to yield to me for an inquiry.

Mr. KELLEY. For an inquiry I will yield.

Mr. SHELLABARGER. I wish to inquire of the gentleman from Pennsylvania whether any action has been taken—I have heard of none—by the Legislature of the State of Pennsylvania touching the title to this land that it is proposed to cede to the Government? If there has been none, it

does seem to me that the action of Congress is premature in this matter, and that we had better not dispose of it now in the absence of information. We cannot accept the land except after and upon the cession by the State of Pennsylvania, at any rate.

Mr. KELLEY. I thank the gentleman for his inquiry. It enables me to state the history of this *projet*. The Mayor of the city of Philadelphia, Hon. Alexander Henry, heard that the Navy Department had indicated League Island as the most favorable point, upon the information then before it, for the location of a general naval depot, having reference to the future exigencies of the Department and country. Upon receiving that information, he visited Washington, and found that it was well founded, and that the chairman of the Naval Committee of the Senate was about introducing a measure having reference thereto. He hastened home, and laid the matter before the Councils of Philadelphia, and they tender League Island to the Government in response to the suggestion of the Navy Department. The Legislature of the State has not, meanwhile, been in session, but Pennsylvania has never failed to respond to the call of the Union; and if the Government shall say to Pennsylvania that the interests of the country will be subserved by her granting exclusive jurisdiction over this island, it will be done by the unanimous vote of her Legislature. To doubt it, is to doubt the loyalty and patriotism of the State. I will say, further, in answer to the same question, that my impression is—and I find that two of my colleagues, at least, entertain it—that there was a general law passed by our Legislature at its last session vesting the jurisdiction in the Government over whatever lands it might require during this war, and giving the Government the right to acquire it without further legislation.

Mr. ROSCOE CONKLING. With the permission of the gentleman, I desire to ask him a question. I understand the claim made by Pennsylvania to be that the Government is in need of a site somewhere for a given purpose. I want to inquire of him in this regard if a commission is to be appointed with a view to examine, locate, or report, is it not manifestly fair and expedient that that same commission shall be allowed to look at all this coast, and at every site supposed to be feasible, and to report in regard to all of them? And, in the same connection, I want to inquire whether we have not already passed a bill creating a commission to do the very thing which I now indicate, to wit, to examine League Island, and all the other places, and report as to every one their belief and the facts connected with it?

Mr. KELLEY. Not a bill having reference to the purposes for which the Navy Department propose to occupy League Island. I now yield to my colleague, [Mr. LEHMAN.]

Mr. LEHMAN. Mr. Speaker, I think that the House is fully aware of the merits of this site, and I do not intend to trespass on the attention of the House by giving any further details about it. If the House is acquainted with the terms of the bill, there can be no objection to it notwithstanding all that has been said by the gentlemen who have argued against it, and notwithstanding all that has been said by Mr. Peirsoll, and other correspondents. It does not make a particle of difference to Government or to Congress, whether this land is fast land or made land, whether it is good for a naval depot or whether it is perfectly worthless. The city of Philadelphia has paid $310,000 for it, and that is an evidence that it is not worthless. The city now offers to donate it to the Government as a free gift. The Government is not bound to accept it unless it pleases to do so; if it chooses to say that it will not have land worth $310,000, it can be thrown back on the hands of the city, and there will be no complaint. There is no provision in this bill compelling the Government to accept it. It simply provides that the Secretary of the Navy shall authorize a thorough examination and survey of the premises by a competent board of officers, who are not to determine whether it shall be a naval depot or not, but simply, in the language of the bill, to say whether the title to the land should be accepted.

The acceptance of the island, according to the provisions of this bill, does not involve the necessity of making it a naval depot. On the contrary, this board of commissioners is authorized to go to New London, Connecticut, and examine the site there, and to Narragansett bay—in Massachusetts, I believe, according to the geography of a member from the Bay State—to survey a site there. There is nothing compelling the Government to accept League Island, but it may accept it or any other place, as it thinks proper. In regard to the expense, I have to say, that the Government need not expend a single dollar upon it.

Mr. SHEFFIELD. I wish to correct the statement of the gentleman from Pennsylvania. Narragansett bay is not in Massachusetts, but Rhode Island.

Mr. THOMAS, of Massachusetts. It was in Massachusetts, but it was stolen by Rhode Island.

Mr. LOVEJOY. I hope no one will undertake to have anything taken away from Rhode Island.

Mr. LEHMAN. I made this statement upon as good authority as that which gentlemen have used against this bill—that is, on the authority of some one whom I have heard state so. If, after the survey and examination of this island, it should be decided by a board of competent officers that it is a proper site for a naval depot, that will not involve the expenditure of a single dollar of the public money. The present site of the Philadelphia navy-yard is in the heart of the city, and an appropriation of $110,000 was made this session for the purchase of one hundred and fifty feet of land adjoining that yard. What is to be done with this land? It will have to be resold, and the Government will derive the profit of it.

Mr. F. A. CONKLING. Does the gentleman say that that appropriation was made?

Mr. KELLEY. It was reported by the committee, and rejected by the House.

Mr. ALLEN, of Ohio. I desire to ask the gentleman from Pennsylvania whether, in the event of the Government accepting this title, it is bound in any manner to improve the land either by building a navy-yard or otherwise?

Mr. LEHMAN. Not at all. The gentleman can examine the bill for himself. I cannot see what possible objection there is to it. We offer you land worth $310,000, with no conditions but just to look at it, and say whether you will take it or not. Objection is made that Government should not take it, because it might choose hereafter to make a naval depot there. Well, it cannot be made a naval depot, nor can any money be expended upon it, unless the Secretary of the Navy and a board of officers recommend it, and unless Congress shall afterwards choose to make an appropriation for that purpose.

Mr. F. A. CONKLING. Does the gentleman mean to assert that there is no condition to the acceptance of that land?

Mr. LEHMAN. The gentleman from New York knows very well the condition. I assert there is nothing in the bill which involves the necessity of the Government accepting it on any condition whatever; and, for the verification of this, I ask anybody who can read, and who can understand the plainest language, to look at this bill, and if he can find any conditions in it, it is more than I can discover.

Mr. BINGHAM. I wish to make an inquiry of the gentleman from Pennsylvania. Am I rightly advised when I say that this land proposed to be given to the Government without charge, embraces four hundred acres?

Mr. LEHMAN. Yes, sir.

Mr. BINGHAM. Am I rightly advised that the land now owned by the Government of the United States in the city of Philadelphia, and occupied by the navy-yard, embraces thirty acres?

Mr. LEHMAN. No, sir.

Mr. BINGHAM. How much?

Mr. LEHMAN. Seventeen acres and three quarters.

Mr. BINGHAM. The inquiry which I wish to make of the gentleman in this connection is, whether, in the event of the Government accepting this island as a gift, as is proposed here, and if it is determined to transfer the navy-yard to the island, the land now owned by the Government in the city of Philadelphia cannot be brought into the market, and sold for enough to enable the Government to make of this island an impregnable defense for the city of Philadelphia against anything that floats on the sea?

Mr. LEHMAN. I suppose the actual value of the real estate at present used as a navy-yard in Philadelphia is not less than $500,000. There is a great deal of machinery now in use there which could be removed to this other site. The value of this property would produce a fund for the purpose of improving the new site without calling on the public Treasury for the expenditure of a single dollar. But all these considerations are irrelevant. The mere purpose of this bill is, to say whether the Government has your authority to accept the title to this land or not.

Mr. KELLEY. I call for the previous question.

Mr. CRADLEBAUGH. I ask the gentleman from Pennsylvania to withdraw the demand for the previous question.

Mr. KELLEY. I decline to withdraw it.

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

ENROLLED BILLS.

Mr. GRANGER, from the Committee on Enrolled Bills, reported as truly enrolled bills of the following titles; when the Speaker signed the same:

An act (H. R. No. 392) to establish certain post roads;

An act (H. R. No. 399) for the quieting of certain land titles in the late disputed territory in the State of Maine, and for other purposes;

Joint resolution (H. R. No. 98) authorizing the Secretary of War to furnish extra clothing to sick, wounded, and other soldiers;

An act (H. R. No. 554) relating to trust funds of several Indian tribes invested by the Government in certain State bonds, abstracted from the custody of the late Secretary of the Interior; and

An act (H. R. No. 454) for the relief of the register of the land office at Vincennes, Indiana, and for other purposes.

LEAGUE ISLAND—AGAIN.

The question was taken on the motion to refer to the Committee on Naval Affairs.

Mr. STEVENS demanded the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 30, nays 83; as follows:

YEAS—Messrs. Arnold, Buffinton, Clark, Clements, Frederick A. Conkling, Roscoe Conkling, Corning, Dawes, Duell, Ely, Fenton, Fisher, Frank, Gooch, Granger, Haight, Francis W. Kellogg, Justin S. Morrill, Odell, Olin, Pike, Riddle, Shellabarger, John B. Steele, Francis Thomas, Trowbridge, Wall, Ward, Washburne, and Albert S. White—30.

NAYS—Messrs. Aldrich, William Allen, William J. Allen, Ancona, Ashley, Babbitt, Baily, Baxter, Biddle, Bingham, Jacob B. Blair, Samuel S. Blair, Campbell, Casey, Cobb, Colfax, Covode, Crittenden, Cutler, Davis, Dunlap, Dunn, Eliot, Fessenden, Fouke, Goodwin, Grider, Gurley, Hale, Hall, Harding, Hooper, Hutchins, Julian, Kelley, William Kellogg, Kerrigan, Knapp, Law, Lazear, Leary, Lehman, Loomis, Lovejoy, Low, McKnight, McPherson, Mallory, Maynard, Menzies, Mitchell, Moorhead, Anson P. Morrill, Morris, Nixon, Nugen, Patton, Pendleton, Timothy G. Phelps, Porter, Potter, Alexander H. Rice, John H. Rice, Edward H. Rollins, James S. Rollins, Sargent, Segar, Sherman, Shiel, William G. Steele, Stevens, Stiles, Stratton, Benjamin F. Thomas, Train, Verree, Wallace, Walton, Wickliffe, Wilson, Windom, Wood, and Worcester—83.

So the bill was not referred.

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

Mr. VERREE moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

ENROLLED BILL.

Mr. GRANGER, from the Committee on Enrolled Bills, reported that the committee had examined and found truly enrolled an act (H. R. No. 423) making appropriations for the naval service for the year ending 30th June, 1863, and for other purposes; when the Speaker signed the same.

BANK REPORT.

Mr. HOOPER, by unanimous consent, reported a bill to provide for printing the annual report upon the banks of the United States; which was read a first and second time, and referred to the Committee on Printing.

CONFISCATION.

Mr. ELIOT. I rise to a question of privilege. I am instructed by the committee of conference on the disagreeing votes of the two Houses to House bill No. 471, to make the following report:

The committee of conference to whom the disagreeing votes of the two Houses, on the amendment of the Senate to House bill No. 471, being an act to confiscate the prop-

erty of rebels for the payment of the expenses of the present rebellion, and for other purposes were referred, having met and considered the same, after full and free conference thereon have agreed to recommend to their respective Houses as follows:

That the House recede from their disagreement to the Senate's amendment, and agree to the same, with the following amendments: strike out of the second section of the Senate's amendment the words, "by the forfeiture of all his personal property, of every kind whatsoever, including choses in action, and by the forfeiture of his life estate in any real property of which he may be the owner, wherever situated within the United States," and insert the words, "by a fine not exceeding $10,000;" and strike out the further words, "and all such property, excluding slaves, shall be forfeited to the United States."

Also, strike out the fifth, sixth, seventh, eighth, and ninth sections of the Senate bill, and insert the following sections:

SEC. 5. *And be it further enacted*, That to insure the speedy termination of the present rebellion, it shall be the duty of the President of the United States to cause the seizure of all the estate and property, money, stocks, credits, and effects of the persons hereafter named in this section, and to apply and use the same, and the proceeds thereof, for the support of the Army of the United States, that is to say: first, of any person hereafter acting as an officer of the army or navy of the rebels in arms against the Government of the United States; secondly, of any person hereafter acting as president, vice president, member of Congress, judge of any court, cabinet officer, foreign minister, commissioner, or consul of the so-called confederate States of America; thirdly, of any person acting as Governor of a State, member of a convention or Legislature, or judge of any court of any of the so-called confederate States of America; fourthly, of any person who, having held an office of honor, trust, or profit in the United States, shall hereafter hold an office in the so-called confederate States of America; fifthly, of any person hereafter holding any office or agency under the government of the so-called confederate States of America, or under any of the several States of the said confederacy, or the laws thereof, whether such office or agency be national, State, or municipal in its name or character: *Provided*, That the persons thirdly, fourthly, and fifthly above described shall have accepted their appointment or election since the date of the pretended ordinance of secession of the State, or shall have taken an oath of allegiance to, or to support the constitution of the so-called confederate States; sixthly, of any persons who, owning property in any loyal State or Territory of the United States, or in the District of Columbia, shall hereafter assist and give aid and comfort to such rebellion, and all sales, transfers, or conveyances of any such property shall be null and void; and it shall be a sufficient bar to any suit brought by such person for the possession or the use of such property, or any of it, to allege and prove that he is one of the persons described in this section.

SEC. 6. *And be it further enacted*, That if any person within any State or Territory of the United States, other than those named as aforesaid, after the passage of this act, being engaged in armed rebellion against the Government of the United States, or aiding or abetting such rebellion, shall not, within sixty days after public warning and proclamation duly given and made by the President of the United States, cease to aid, countenance, and abet such rebellion, and return to his allegiance to the United States, all the estate and property, moneys, stocks, and credits of such person shall be liable to seizure as aforesaid, and it shall be the duty of the President to seize and use them as aforesaid or the proceeds thereof. And all sales, transfers, or conveyances, of any such property after the expiration of the said sixty days from the date of such warning and proclamation shall be null and void; and it shall be a sufficient bar to any suit brought by such person for the possession or the use of such property, or any of it, to allege and prove that he is one of the persons described in this section.

SEC. 7. *And be it further enacted*, That to secure the condemnation and sale of any such property after the same shall have been seized, so that it may be made available for the purposes aforesaid, proceedings *in rem* shall be instituted in the name of the United States in any district court thereof, or in any territorial court, or in the United States district court for the District of Columbia, within which the property above described or any part thereof may be found, or into which the same if movable may first be brought, which proceedings shall conform as nearly as may be to proceedings in admiralty or revenue cases, and if said property, whether real or personal, shall be found to have belonged to a person engaged in rebellion, or who has given aid or comfort thereto, the same shall be condemned as enemies' property, and become the property of the United States, and may be disposed of as the court shall decree, and the proceeds thereof paid into the Treasury of the United States for the purposes aforesaid.

SEC. 8. *And be it further enacted*, That the several courts aforesaid shall have power to make such orders, establish such forms of decree and sale, and direct such deeds and conveyances to be executed and delivered by the marshals thereof where real estate shall be the subject of sale, as shall fitly and efficiently effect the purposes of this act, and vest in the purchasers of such property good and valid titles thereto. And the said courts shall have power to allow such fees and charges of their officers as shall be reasonable and proper in the premises.

SEC. 9. *And be it further enacted*, That all slaves of persons who shall hereafter be engaged in rebellion against the Government of the United States, or who shall in any way give aid or comfort thereto, escaping from such persons and taking refuge within the lines of the Army; and all slaves captured from such persons or deserted by them and coming under the control of the Government of the United States; and all slaves of such persons found or being within any place occupied by rebel forces and afterwards occupied by the forces of the United States, shall be deemed captives of war, and shall be forever free of their servitude and not again held as slaves.

Also, amend the title so that it shall read as follows: "A bill to suppress insurrection, to punish treason and rebellion, to seize and confiscate the property of rebels, and for other purposes."

DANIEL CLARK,
IRA HARRIS,
JOSEPH A. WRIGHT,
Managers on the part of the Senate.
THOMAS D. ELIOT,
JAMES F. WILSON,
Managers on the part of the House.

Mr. ELIOT. I demand the previous question upon the adoption of the report.

Mr. WICKLIFFE. I understand the previous question has been called upon the adoption of the report. As this is a matter of great importance, I desire to make a suggestion to the chairman of the committee.

The SPEAKER. No debate is in order.

Mr. WICKLIFFE. I desire the consent of the House to make a suggestion to the chairman of the committee.

Mr. STEVENS. I object.

Mr. MALLORY. I rise to a question of order. My point of order is that a committee of conference has no right to take cognizance of anything except points of disagreement between the two Houses when the matter was referred to them. The idea that a committee of conference may embrace new matter in their report, upon which there has been no disagreement between the two Houses, is one which I think has no sanction in parliamentary law.

The SPEAKER. The point raised by the gentleman from Kentucky involves simply a question of fact.

Mr. MALLORY. I point out that portion of the report which provides for the arming of persons of African descent, and submit that the committee had no right to embrace that subject in their report.

A MEMBER. That was in the Senate bill.

The SPEAKER. The Chair does not see how it is within his province to reject the report of a committee of conference. The point raised by the gentleman from Kentucky involves a question of fact which is for the gentleman from Massachusetts to decide. The Chair asks the gentleman from Massachusetts whether the report of the committee of conference includes any matter not referred to the committee?

Mr. ELIOT. It does not.

Mr. STEVENS. The gentleman does not make a question of order. I object to this discussion.

The SPEAKER. The Chair stated that the point raised by the gentleman involved a question of fact, and not a question of order.

Mr. COX. Let me ask a question as to a matter of fact. As I understand it, the House passed a bill and sent it to the Senate. The Senate substituted its own bill in place of that passed by the House. Now, I submit to the Chair whether anything is in order for the committee of conference except to report one bill or the other.

The SPEAKER. The report of the committee of conference is before the House, and they can dispose of it as they please.

Mr. MALLORY. I desire to ask as to a point of fact. Did I understand the Chair to say that the point raised by me involved a question of fact to be settled by the gentleman from Massachusetts?

The SPEAKER. The Chair so stated.

Mr. MALLORY. I supposed, when a point of order was presented to the Chair for his decision, based upon a question of fact, it was for the Speaker to decide both the question of fact and the question of order.

The SPEAKER. The Chair stated that the point presented by the gentleman from Kentucky did not involve a question of order, merely a question of fact, which it was competent for the gentleman from Massachusetts, the chairman of the committee of conference, to determine. The Chair does not know of any power vested in him to rule out a report of a committee of conference. If the statement of the gentleman from Kentucky be correct, it might be a good reason for the House to reject the report, but none for the Chair to rule it out of order.

Mr. COX. I desire to raise a question of order based upon a point of fact.

Mr. STEVENS. I object to any irregular proceeding.

The SPEAKER. The question is on seconding the demand for the previous question.

Mr. COX. Does the Chair overrule my point of order?

The SPEAKER. The Chair overrules the question of order.

Mr. COX. I appeal from the decision of the Chair.

The SPEAKER. The gentleman from Massachusetts reports from the committee of conference on the disagreeing votes of the two Houses on House bill No. 471. The gentleman from Ohio raises the point of order that the House, having passed a bill, and the Senate having amended the bill by adopting a substitute therefor, the committee of conference must report the bill or the substitute entire. The Chair overrules the question of order, and the question is, "Shall the decision of the Chair stand as the judgment of the House?"

The question was taken; and the decision of the Chair was sustained.

MESSAGE FROM THE SENATE.

A message was received from the Senate, by Mr. FORNEY, its Secretary, informing the House that the Senate insist upon their disagreement to the amendments of the House to the bill (S. No. 348) for the better government of the Navy of the United States, agree to the conference asked by the House on the disagreeing votes of the two Houses thereon, and have appoined Messrs. HALE, SUMNER, and CARLILE, as the committee of conference on their part.

The message further announced that the Senate have agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the bill (H. R. No. 438) to grant pensions.

The message further announced that the Senate have agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the bill (H. R. No. 531) increasing temporarily the duties on imports, and for other purposes.

CONFISCATION—AGAIN.

Mr. ALLEN, of Ohio. I move to lay the report on the table.

Mr. LOVEJOY demanded the yeas and nays on the motion.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 42, nays 77; as follows:

YEAS—Messrs. William Allen, William J. Allen, Ancona, Baily, Biddle, George H. Browne, Clements, Cobb, Corning, Cox, Crisfield, Crittenden, Dunlap, Fouke, Granger, Grider, Hall, Harding, Holman, Kerrigan, Knapp, Law, Lehman, Mallory, Maynard, Menzies, Morris, Nugen, Pendleton, James S. Rollins, Segar, Shiel, John B. Steele, William G. Steele, Stiles, Benjamin F. Thomas, Francis Thomas, Ward, Webster, Wickliffe, and Wood—42.

NAYS—Messrs. Aldrich, Alley, Arnold, Ashley, Babbitt, Baxter, Beaman, Bingham, Samuel S. Blair, Blake, Buffinton, Campbell, Clark, Colfax, Frederick A. Conkling, Roscoe Conkling, Covode, Cutler, Davis, Dawes, Duell, Dunn, Edwards, Eliot, Ely, Fenton, Fessenden, Fisher, Frank, Gooch, Goodwin, Gurley, Hale, Hooper, Hutchins, Julian, Kelley, Francis W. Kellogg, William Kellogg, Lansing, Loomis, Lovejoy, Low, McKnight, McPherson, Mitchell, Moorhead, Anson P. Morrill, Justin S. Morrill, Nixon, Patton, Timothy G. Phelps, Pike, Porter, Potter, Alexander H. Rice, John H. Rice, Riddle, Edward H. Rollins, Sargent, Sedgwick, Shanks, Shellabarger, Sherman, Stratton, Trimble, Trowbridge, Van Horn, Verree, Wall, Wallace, Walton, Washburne, Wheeler, Albert S. White, Wilson, Windom, and Worcester—77.

So the report was not laid on the table.

During the call of the roll,

Mr. SHEFFIELD stated that he had paired with Mr. CHAMBERLIN on this bill, otherwise he would vote to lay the report on the table.

Mr. TRAIN stated that he had paired with Mr. WADSWORTH.

Mr. PENDLETON stated that Mr. WHITE, of Ohio, was absent and paired with Mr. BAKER.

Mr. ALLEN, of Ohio, stated that Mr. VALLANDIGHAM was absent and paired with some gentleman on the other side of the House.

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

Mr. ALLEN, of Ohio, demanded the yeas and nays on the adoption of the report.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 82, nays 42; as follows:

YEAS—Messrs. Aldrich, Alley, Arnold, Ashley, Babbitt, Baxter, Beaman, Bingham, Jacob B. Blair, Samuel S. Blair, Blake, Buffinton, Campbell, Casey, Clark, Colfax, Frederick A. Conkling, Roscoe Conkling, Covode, Cutler, Davis, Dawes, Duell, Dunn, Edwards, Eliot, Ely, Fenton, Fessenden, Fisher, Frank, Gooch, Goodwin, Gurley, Hale, Hooper, Hutchins, Julian, Kelley, Francis W. Kellogg, William Kellogg, Lansing, Loomis, Lovejoy, Low, McKnight, McPherson, Maynard, Mitchell, Moorhead, Anson P. Morrill, Justin S. Morrill, Nixon, Patton, Timothy G.

Phelps, Pike, Porter, Potter, Alexander H. Rice, John H. Rice, Riddle, Edward H. Rollins, Sargent, Sedgwick, Shanks, Shellabarger, Sherman, Stevens, Stratton, Trimble, Trowbridge, Van Horn, Verree, Wall, Wallace, Walton, Washburne, Wheeler, Albert S. White, Wilson, Windom, and Worcester—82.

NAYS—Messrs. William Allen, William J. Allen, Ancona, Baily, Biddle, George H. Browne, Clements, Cobb, Cox, Crisfield, Crittenden, Dunlap, Fouke, Grainger, Grider, Haight, Hall, Harding, Holman, Kerrigan, Knapp, Law, Lazear, Lehman, Mallory, Menzies, Morris, Nugen, Odell, Pendleton, James S. Rollins, Segar, Shiel, John B. Steele, William G. Steele, Stiles, Benjamin F. Thomas, Francis Thomas, Ward, Webster, Wickliffe, and Wood—42.

So the report of the committee of conference was adopted.

During the vote,

Mr. DAWES stated that his colleague, Mr. DELANO, had been called home by indisposition in his family.

Mr. SHEFFIELD stated that he was paired on this question with Mr. CHAMBERLIN, who would have voted for the report, while he would have voted against it.

Mr. STILES stated that his colleague, Mr. JOHNSON, was absent from the House on account of indisposition.

Mr. FOUKE stated that his colleague, Mr. ROBINSON, who was necessarily absent from the House, would have voted in the negative if he were present.

The vote was announced as above recorded.

Mr. ELIOT moved to reconsider the vote by which the report of the committee of conference was adopted; and also moved that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

PENSION ACT.

Mr. HOLMAN. I rise to a privileged question. I am instructed by the committee of conference on the disagreeing votes between the two Houses on House bill No. 438, to grant pensions, to submit a report for the adoption of the House. I will explain, in a few words, what has been the action of the committee of conference; and then I will ask that the question shall at once be taken on the adoption of the report. We have recommended that the House shall recede from its disagreement to the amendments of the Senate, with the exception of the eighteenth and nineteenth amendments. It will be recollected that the seventh and eighth sections, which those amendments affected, provided for a limitation of the charges to be made by pension agents for making application for back pay, pensions, &c. The Senate, by its action, removed that just restriction upon the compensation of those agents; and the action of the committee of conference, in recommending to the Senate to recede from its amendments to those sections, will be to leave the bill, in that respect, as it originally went from the House. There seemed to be some difficulty between the two Houses on that subject; and I do not think that the House can find fault that the Senate has receded from its amendments.

Mr. ROSCOE CONKLING. I understand, then, that the adoption of the report of the committee of conference will leave in the bill the limitation provided by the House on the compensation to be allowed these pension agents.

Mr. HOLMAN. That will be the precise effect of the adoption of the report. I now demand the previous question.

The previous question was seconded, and the main question ordered; and under the operation thereof, the report was adopted.

Mr. HOLMAN moved to reconsider the vote by which the report was adopted; and also moved that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

TARIFF BILL.

Mr. STEVENS. I am instructed by the committee of conference on the disagreeing votes between the two Houses on the tariff bill, to submit the report which I send to the Clerk's desk.

The Clerk read the report, as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendments to the bill (H. R. No. 531) increasing temporarily the duties on imports, and for other purposes, having met, after full and free conference have agreed to recommend, and do recommend to their respective Houses, as follows:

That the House recede from their disagreement to the third, fourth, fifteenth, sixteenth, seventeenth, nineteenth, twentieth, twenty-first, twenty-third, twenty-fourth, twenty-fifth, twenty-ninth, thirtieth, thirty-first, thirty-second, thirty-third, thirty-fourth, thirty-fifth, thirty-sixth, thirty-seventh, thirty-eighth, thirty-ninth, fortieth, forty-first, forty-fourth, forty-fifth, forty-sixth, forty-seventh, forty-eighth, forty-ninth, fiftieth, fifty-first, fifty-fifth, fifty-sixth, sixtieth, sixty-first, sixty-second, sixty-fourth, sixty-fifth, sixty-eighth, sixty-ninth, seventieth, seventy-first, seventy-fourth, seventy-fifth, seventy-sixth, seventy-seventh, seventy-eighth, seventy-ninth, eighty-first, eighty-second, eighty-fifth, eighty-sixth, eighty-ninth, ninety-second, ninety-third, ninety-fourth, ninety-fifth, and ninety-sixth amendments of the Senate, and agree to the same.

That the Senate recede from their first, fifth, sixth, seventh, eighth, tenth, eleventh, twelfth, thirteenth, fourteenth, twenty-eighth, forty-third, fifty-third; fifty-fourth, fifty-eighth, fifty-ninth, seventy-third, eightieth, eighty-third, eighty-fourth, and eighty-eighth amendments.

That the House recede from their disagreement to the Senate's second amendment, and agree to the same, with an amendment, as follows: in line nineteen, after the word "three," insert "and one half." In line twenty, after the word "all," insert "stove-dried or;" and in line twenty-two, strike out "five" and insert "four."

That the House recede from their disagreement to so much of the ninth amendment of the Senate as is proposed to be inserted, and agree to the same with the following: strike out the words proposed to be substituted, and in line sixteen of said clause strike out the words "$1 50," and insert "$2;" and the Senate agree to the same so amended.

That the House recede from their disagreement to the Senate's eighteenth amendment, and agree to the same with an amendment, as follows: strike out the words proposed to be inserted, and insert in lieu thereof, "*Provided*, That wire covered with cotton, silk, or other materials, shall pay 5 cents per pound in addition to the foregoing rates."

That the House recede from their disagreement to the Senate's twenty-second amendment, and agree to the same with an amendment, as follows: strike out the word "and," before the word "fifty," in said amendment.

That the House recede from their disagreement to the Senate's twenty-sixth amendment, and agree to the same with an amendment, as follows: strike out "fifteen" and insert "twenty-five."

That the House recede from their disagreement to the Senate's twenty-seventh amendment, and agree to the same, with an amendment, as follows: strike out "fourth," and insert "half."

That the House recede from their disagreement to the forty-second amendment of the Senate, and agree to the same, with an amendment, as follows: strike out the word "ten," and insert "five;" and in line sixty-three, strike out "fifteen," and insert "eight."

That the House recede from their disagreement to the fifty-second amendment of the Senate, and agree to the same, with an amendment, as follows: strike out "twenty," and insert "thirty."

That the House recede from their disagreement to the Senate's fifty-seventh amendment, and agree to the same, with an amendment, as follows: strike out all of lines twenty-two and twenty-three of section seven, and insert in lieu thereof the following: "on white and red lead, dry or ground in oil, 15 cents per one hundred pounds; on oxyd of zinc, dry or ground in oil, 25 cents per one hundred pounds."

That the House recede from their disagreement to the Senate's sixty-third amendment, and agree to the same with an amendment, as follows: strike out the word "twenty" in said amendment, and insert "thirty."

That the House recede from their disagreement to so much of the Senate's sixty-sixth amendment as proposes to strike out the words "and twenty;" and in the same line strike out the words "five cents;" and the Senate recede from so much of said amendment as proposes to insert "seventy," and agree to the same so amended.

That the House recede from their disagreement to so much of the Senate's sixty-seventh amendment as proposes to insert the words "and on," and agree to the same with the following amendment: strike out the words "and on," proposed to be inserted. In line eighty-three, after the word "rough," insert "or;" and in the same line strike out the words "or sawed." In line eighty-four, strike out the words "one dollar," and insert in lieu thereof "seventy-five cents." In line eighty-six, after the word "rough," insert "or;" and in the same line strike out the words "or sawed." In line eighty-eight, after the words "of marble," insert "marble slabs;" and in line eighty-nine, after the word "marble," insert "sawed," and the Senate agree to the same so amended.

That the House recede from their disagreement to the seventy-second amendment of the Senate, and agree to the same with the following: after the word "sheets," in line one hundred and twenty of section eight, insert the word "terne."

That the House recede from their disagreement to so much of the Senate's eighty-seventh amendment as proposes to strike out the words "provided that," in lines twenty-two and twenty-three, of section seventeen, inserting in lieu thereof the word "and;" and to strike out all from the word "provided," in line thirty-eight, down to the word "treaty," in the fiftieth line, inclusive, and the Senate agree to the same; and the Senate agree to recede from so much of their eighty-seventh amendment as proposes to insert from the word "that," in the fiftieth line, down to the word "specified," in the one hundred and second line inclusive, and further agree to transpose all from the word "for," in the one hundred and eleventh line, down to the word "for," in the one hundred and thirteenth line, inclusive, to come in after the word "require," in the one hundred and tenth line; and after the word "sixty-three," in line one hundred and eighteen, add the following amendment: "*And provided further*, That the provisions of this section shall not apply to countries where there is no consul, vice consul, or commercial agent of the United States," and that the House agree to the same so modified.

That the House recede from their disagreement to so much of the Senate's ninetieth amendment as proposes to strike out the words "and copper," and agree to the same with an amendment, as follows: after the word "gold," in the sixteenth line, insert "and;" and the Senate agree to the same so modified.

That the House recede from their disagreement to the ninety-first amendment of the Senate, and agree to the same with an amendment, as follows: strike out all of said Senate amendment, and in lieu thereof insert the following: "that all goods, wares, and merchandise which may be in public stores or bonded warehouse on the 1st day of August, 1862, may be withdrawn for consumption upon payment of the duties now imposed thereon by law: *Provided*, The same shall be so withdrawn within three months of the date of original importation, but all goods, wares, and merchandise which shall remain in the public stores or bonded warehouse for more than three months from the date of original importation, if withdrawn for consumption, and all goods on shipboard on the 1st day of August, 1862, shall be subject to the duties prescribed by this act."

That the House recede from their disagreement to the Senate's ninety-seventh amendment, and agree to the same with an amendment, as follows: after the word "extended," in line three of said amendment, insert "under such regulations as the Secretary of the Treasury shall prescribe."

That the House recede from their disagreement to the Senate's ninety-eighth amendment, and agree to the same with an amendment, as follows: strike out the word "third," in line one of said amendment of the Senate, and insert "fifth."

That the House recede from their disagreement to the Senate's ninety-ninth amendment, and agree to the same with an amendment, as follows: in line four of said Senate amendment, strike out the word "all," and insert in lieu thereof the words "so much;" strike out, in the same line, the words "except so much thereof;" and in lines five and six strike out the words "a Commissioner of Internal Revenue," and insert in lieu thereof the words "collectors and assessors."

W. P. FESSENDEN,
J. F. SIMMONS,
J. M. HOWARD,
Managers on the part of the Senate.

THADDEUS STEVENS,
J. S. MORRILL,
E. B. WASHBURNE,
Managers on the part of the House.

Mr. WARD. With the permission of the gentleman from Pennsylvania, I will propound one or two interrogatories to him, in order that I may correctly understand the effect of the action of the committee of conference. The bill, as reported from that committee, provides that all goods, wares, and merchandise shall remain in the bonded warehouses for the period allowed by the present law; that is, three months from the date of importation. I ask the chairman of the Committee of Ways and Means whether any provision is made in regard to the goods, wares, and merchandise which may remain for three years under the existing law for exportation.

Mr. STEVENS. The law has not been touched on that subject at all.

Mr. WARD. Am I to understand, then, that the goods now deposited in the bonded warehouses for exportation will not be obliged to be taken out within ninety days?

Mr. STEVENS. Certainly they would not. The bill expressly provides in reference to the goods that are taken out for home consumption. Goods for exportation may remain in the bonded warehouses for three years, as is the case under the existing law.

Mr. ODELL. I ask the chairman of the Committee of Ways and Means what provision is made for the goods in the bonded warehouses prior to the law passed by Congress at its extra session?

Mr. STEVENS. We have not touched that.

Mr. ODELL. What is the effect on goods in the bonded warehouses for three years subject to duties under the present law—under the law of 1861?

Mr. STEVENS. If they are withdrawn within three months they pay the old duties—that is, if they are withdrawn for home consumption; and if they are withdrawn for exportation within three years they pay the old duties.

Mr. ODELL. I do not know that the gentleman from Pennsylvania exactly understands the point which I made. It may be that I have not stated it as clearly as I ought to have done. Goods imported under the law of 1861 were entitled to remain in the bonded warehouses for three years for exportation. The law of the extra session did not affect the rate of duty under which those goods were to be taken out. I ask the gentleman from Pennsylvania whether the report of the committee of conference will subject them to pay the new duty, or leave them to pay the old duty?

Mr. STEVENS. The general provision is that the goods in the bonded warehouses which shall be removed within three months after they have been deposited there, for home consumption, shall pay the old duty; but that if they are removed after that time, they shall be compelled to pay the

new duty. Goods in the bonded warehouses for exportation, as I have already said, may remain, as under existing law, three years from the date of their importation. I now demand the previous question.

The previous question was seconded, and the main question ordered; and under the operation thereof the report was adopted.

Mr. STEVENS moved to reconsider the vote by which the report of the committee of conference was adopted; and also moved that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

REVENUES UPON THE NORTHERN FRONTIER.

Mr. SHEFFIELD, from the committee of conference on the disagreeing votes of the two Houses on the bill (H. R. No. 550) to further provide for the collection of the revenue upon the northern, northeastern, and northwestern frontiers, and for other purposes, submitted a report, which was read, as follows:

The committee of conference on the disagreeing votes of the two Houses upon the bill of the House No. 550, entitled "An act to further provide for the collection of the revenue upon the northern, northeastern, and northwestern frontiers, and for other purposes," report that after full and free conference they have agreed to recommend, and they do recommend, to their respective Houses as follows:

That the Senate recede from their vote disagreeing to the third and fourth sections of the bill of the House, and agree to the same.

That the House recede from its vote disagreeing to the amendment of the Senate striking out the fifth section of the bill of the House, and agree to the same.

That the House recede from its vote disagreeing to the amendment of the Senate adding a section to the bill of the House, and agree to the same.

Z. CHANDLER,
LOT M. MORRILL,
D. WILMOT,
Managers on the part of the Senate.
S. S. COX,
W. P. SHEFFIELD,
Managers on the part of the House.

Mr. SHEFFIELD. I demand the previous question upon agreeing to the report.

The previous question was seconded, and the main question ordered to be put; and under the operation thereof the report was agreed to.

Mr. SHEFFIELD moved to reconsider the vote last taken; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

PRINTING THE PENSION BILL.

Mr. ALLEN, of Ohio, asked unanimous consent to introduce the following resolution:

Resolved, That twenty thousand extra copies of the bill passed by the two Houses of Congress, entitled "An act granting pensions," be printed for the use of the members of the House.

Mr. HOLMAN. I object unless the number is reduced to five thousand.

Mr. ALLEN, of Ohio. As it is to go to the Committee on Printing, I am not particular about the number.

The resolution was received, as modified, and referred to the Committee on Printing, under the rules.

DIVISION OF VIRGINIA.

Mr. WHALEY. I ask leave to submit some remarks upon the division of Virginia into two States.

No objection was made.

Mr. WHALEY. Mr. Speaker, the people of West Virginia, with unparalleled unanimity, through their Representatives, ask for the separation of their portion of the State from East Virginia, and the admission of it into the Union as a separate, independent, and sovereign community. If it were a Territory of our national domain, with her superficies of about twenty-four thousand square miles, and with her population of nearly four hundred thousand souls, asking admission into the Union, there would be no hesitancy. If it were a mere question of the division of a large State, you would at once refuse to entertain the proposition. If there were not urgent public and Federal reasons therefor, affecting essentially the peace, happiness, and prosperity of West Virginia, you should promptly decline to consider the suggestion of the division of the "Old Dominion." If the causes demanding the separation were transient and evanescent, or such as could be removed without political convulsion and in a nation's lifetime, or such as might continue without the greatest detriment and injustice, if the highest welfare and safety of the Union could be preserved in the present status of affairs, the case would be different.

For eighty years have the people of West Virginia suffered from her unnatural connection with East Virginia. For nearly three generations has she petitioned and sought for the adoption of a liberal and just policy toward her. For almost a century has she borne the oppression, insult, and contumely of eastern legislation without redress and without relief. Forty years ago, hoping for no change in policy from the eastern aristocracy, she sought the division of the State; some contending that the Blue Ridge, and others the Alleghany mountains, should constitute the boundary. The seaboard and Piedmont districts, instead of modifying legislation and rendering it less odious to the people of West Virginia, sought to make it more permanently oppressive by detaching the valley from us, extending internal improvements of all descriptions into that section, uniting the people commercially and socially with Richmond, treating the west as her rival in commerce, her enemy, and an inferior.

After the metropolitan city of Maryland had extended a branch of its road to Winchester, the Virginia Legislature denied further charters. The breeding of slaves for southern markets served also to detach the valley from the west and assimilate it to the east. Of the forty-four millions of State debt expended in internal improvements up to January 1, 1861, only one and a half millions have been expended in West Virginia. Not only has Virginia refused to permit us to improve our country, but when Baltimore proposed to build railroads through our territory at her own expense, the Legislature refused a charter.

The antagonism usually finding place between communities with social organizations so widely different as those of Western and Eastern Virginia, developed to such a degree that John Randolph of Roanoke spoke in the convention of Virginia of 1829 of the valley and Western Virginia as parts of the State "which I must call alien to us, and forever separated from our interests and feelings, torn by factions, marked by lines which divide her into two different people—distinct in feeling, distinct in possessions, different and antagonizing interests." Mr. Baldwin, of Augusta, predicted that "if slave representation should be forced upon them, the final result will be the separation of the State." So oppressive had the legislation become, with no hope of relief in the ordinary way, that Mr. Goode, in the convention of Virginia in 1851, proposed that the House of Delegates and the Senate should each be divided into two chambers, one composed of those east, and the other of the members west of the Blue Ridge, and requiring votes by chambers, and a majority of each chamber necessary to appropriate or raise money by taxes, loans, or otherwise. Mr. Wise said, "we [the east] had kept their nose [of the west] to the grindstone for the last seventy-five years in agony."

In 1860, there were 490,887 slaves, of whom only 12,771 were west of the Alleghanies. By the monstrous system of taxation, so unjust to the west, no slave, though worth $1,800 in the market, can be valued over $300 for taxation; and no slave under twelve years can be taxed, though worth seven or eight hundred dollars. Thus, $200,000,000 of slave property owned in the east, its chief property, has never been taxed at all, while legislation has mainly been for this property and its interests; and while every species of income and property in the west has been fully taxed, even to the earnings of the humble toiler for daily bread barely sufficient for family support. Licenses must be paid for at enormous prices for every branch of business, except the breeding, working, and selling of negroes, giving monopoly to the slave interest of the east, and crushing the free labor of the west. In addition to the recording fee, the poor man, buying his piece of wild land to clear him a home, must pay his one dollar tax to the State before his deed can be recorded. So with all forms of legal process, whether relating to the living or the dead.

For eighty years, as at the present, the east has denominated the western lands "waste and unappropriated," and has sold them and granted patents of any portions to all who will pay, until the whole country has been affected—two, three, or more, frequently paying taxes on the same land at the same time, thus increasing the revenue from the west, keeping titles unsettled, defrauding and impoverishing the people; the Legislature repeatedly exonerating lands in the east justly assessed, and by the same act enforcing the payment of a like tax against western lands by ordering sale. There has been one statute of limitation for lands east, and another for lands west of the Alleghanies.

One of the greatest injuries sustained by our western people has been an organized opposition to a system of free schools and popular education, by which the bright but untutored minds of our mountain ranges and humbler classes have not been developed, while colleges and seminaries for the rich have been fostered by eastern legislation. To keep the people in ignorance is a part of the policy of *their masters*, the forty thousand slaveowners of East Virginia. Since 1776, Virginia has had thirty-three Governors, of whom West Virginia has had five, and twenty-four United States Senators, of which West Virginia has had but three.

But the greatest wrong and insult which has degraded us politically and socially is what is called the "mixed basis of representation." In the west portion of the State there exists a large majority of white population, and in the other portion the slave property interest, and giving rise to diversity of sentiment. The east insists upon protection of property by apportionment of representation; that the majority of the people should not rule, but the majority of interests; that the great wealth of the State is in slaves, and that the forty thousand slaveholders of the east should rule; that while eight hundred and ninety-eight thousand people have, say fifty representatives, $495,000 of taxes must also have fifty representatives; that slavery, and not free white men, is the element of political power; that more than one hundred and twenty-five thousand citizens of the west are properly denied representation in the councils of the State; that, with an immense majority of free white men in the west, the legislative power is rightly placed in the hands of the minority, giving them thirty majority on joint ballot in General Assembly, as Mr. Scott said in Virginia convention, "to secure property [slaves] by not surrendering the legislative control to a majority of mere numbers." As Mr. Beale also said, "to protect slavery from West Virginia."

The west, on the contrary, while valuing property, values persons more; declares that according to every principle of republican freedom the whole majority, and not slaves, should rule; that a minority of interests should not govern a majority of people; that one dollar in money should not be counted equal to two white men; that all men are by nature free and independent; that all power is vested in and derivable from the people; that a majority of the people is the only true basis of legislative power; that any other basis is a palpable infraction of the great American doctrine. There is a heartfelt and almost universal earnestness of sentiment on the other side of the Alleghanies, that a majority of the community is the true source of political power; that no man or set of men are entitled to exclusive emoluments or privileges, and that by the property basis a sectional minority inflicts political degradation on a large majority of the population; that a denial to the majority of the people of the right to protect themselves, each and all alike, is the denial of all republican principle; that everything should not pay tribute to the slave power; that the doctrine of the sovereignty of the people is sanctified by time, and tested and confirmed by experience, commended by treasure expended, the blood shed, and the sufferings endured in the American Revolution.

The principle of mixed representation, based partly on property, was imported from South Carolina and planted in the Commonwealth of Virginia—and later, also, that of secession. And do you now wonder, under such discipline, that when more than a year ago these oppressors, whose cup of iniquity was running over, plunged into treason and rebellion, that the people of the West, loyal and true, should not only have rallied under the national flag, but also have rejoiced to escape from such bondage? Then was reorganized the State government. Our young men and men of middle age gathered around the nation's standard, and rallied, leaving wives and children, aged parents and property, to the mercy of guerrillas and bandits, and numbering as many, proportionately, in the loyal army as any portion of the country, where such sacrifices as ours are unknown. We have done our duty faithfully in this crisis.

Fully do I indorse what one of our worthy Senators from Virginia [Mr. WILLEY] said in convention of 1851:

"Our own glorious history amply vindicates the patriotism of the masses who shed their blood most freely in our revolutionary struggle for independence. Whom did the father of his country lead to victory? Upon whom did he rely in the 'dark days which tried men's souls?' Was it upon the slave owner, the land owner, the man of merchandise, the wealthy? I will venture the assertion that seven tenths of those noble men had no title to a foot of the soil they enriched by their blood, shed in defense of it. And when they shouldered their knapsacks they carried on their backs their entire stock of goods and chattels. Yet we confided in them. We placed in their keeping our lives and fortunes and sacred honor, and we were not betrayed. Why the shouts of the victories of Chepultepec and Buena Vista are still echoing in our mountains and floating across your low lands? Who fought these brilliant achievements? *Our landlords, our slave owners, or the wealthy proprietaries of the country? No, sir. No.*"

I would fill our hills and valleys with a population loving the Union, men of industry and enterprise; would give to our free and manly people the control of their own legislation, and emancipate them from the thralldom of disloyal and wasted Eastern Virginia.

Mr. Speaker, this is a question in which the whole people of America have a deep interest. It is the appeal of West Virginia for equal rights, for the rights of the people against the rights of money—mammon against liberty. Will the gentlemen of this Congress, Democrats and Republicans, discard the tried and well established doctrine of the right of the majority to govern? Will you not guaranty to us the enjoyment of this right? Will you permit every vestige of liberty to be swept away from Virginia? Safety, quiet, peace, and liberty can only be found in separation. Will you compel us to continue a connection not only repulsive to our feelings, but utterly repugnant to all the principles of free government? Will you force us to be ruled over by an odious and most offensive aristocracy? to be dependent serfs of our eastern lords? Will the Republican and Democratic masses of the North sustain you in compelling our free people to live in such galling degradation and bondage?

West Virginia is law-abiding. She has been ardently attached to the good old Commonwealth. When the east was in peril, western men flew to the rescue and sacrificed even life itself in defending the border towns and cities from fire and sword, and eastern property from pillage. The east in the late secession movement has repaid us by calling a convention unsanctioned, without the consent of a majority, usurping powers to our injury; by pretended ordinances requiring us to separate from and wage war against the Government of the United States, and against the citizens of friendly neighboring States; attempting to subvert the Union of Washington and his copatriots, and to transfer our allegiance to a rebellious confederacy, and to place the whole military force and operations of the Commonwealth under the control of the rebellious southern confederacy; instituting a reign of terror to suppress the free expression of the will of the people; making elections a mockery and a fraud; instituting war by seizing the property of the Federal Government; organizing and mobilizing armies to capture and destroy the capital of the nation; attempting to bring the allegiance of the people of the United States into direct conflict with their subordinate allegiance to the State.

The Western Virginians are, and always have been, of the race of American pioneers—the conquerors and cultivators of the wild regions of the New World—mountaineers by nature and democrats, in the legitimate sense of the word, by instinct. They belong to the advance guard of modern civilization. In principle, policy, and interest, they are of the progressive party of the American people. Everything in them and around them and before them impel them to *proceed*, nothing that allows them to recede. By this difference of character and conditions, they are morally and politically divorced from Eastern Virginia. A mountain chain divides us geographically; a gulf as broad as that between Abraham and Dives lies between us in spirit, institutions, and destiny. Sooner or later the virtual division so long felt to be necessary, will and must be acknowledged and established in fact.

In the State of Virginia, immediately before its ordinance of secession, there were 490,887 slaves; of these there were but 12,771 in West Virginia, or one in thirty-nine of the whole number, while its free population numbers 334,921, or closely approaching one third. From such a diversity of interests as the difference in slave population, and from such a preponderance of political power in the State to sustain the system of work without wages against the free labor of the west, helped out, as it has been, by the atrocious principle of slave-property representation, it is easy to infer the malign influences that have retarded our progress in everything necessary to our welfare. Our contributions to public measures have not been paid back to us in the internal improvements which our country demands; nor in the free school system, to our advancement in all that makes a people prosperous and happy. The tide of emigration has been turned away from a country tempting to the men that are building up an empire in the Northwest as "the sun visits in his wide career." Our mountains full of minerals; our coal, marble, salt, rock oil, are all held under the ban of a middle age policy of legislation. Our rivers are unimproved, and our valleys are shut out of the markets that a happier government would long since have opened to them. The mass of these mischiefs is too great and too numerous for statement, as the injury is beyond calculation. They may be summed up in one generally comprehensive and terribly significant fact. The State of Virginia, larger than Pennsylvania and Maryland put together, as old as either, and naturally richer than both, advanced in free population but 156,063, or twelve and a half per cent., in the last ten years; while Pennsylvania made an increase of 594,584 persons, equal to twenty-five and three quarters per cent., more than double the rate of growth in that great product which in a country like ours is the sign and a proof of all other kinds of progress.

Are we not right, Mr. Speaker, in crying out with the apostle, "who shall deliver us from the body of this death?" But we have already, by our own act, thrown off the decaying and corrupting carcass that so long cumbered and oppressed us, and we are now asking you to break the slender thread of State unity that fictitiously holds us together here in representation and responsibility.

While the secession of Eastern Virginia seemed too monstrous to be possible, and while it stood merely as a temporary triumph of political desperadoes over the sober and better judgment of her real people, we who knew that the act of secession was a falsehood of the convention, and therefore believed that she could not be constrained into a mad and treasonable rebellion in fact and deed, as well as in words, hoped that ere this time she would return to loyalty; but the history of the last year, and the attitude of her people to-day, have opened our eyes. Instead of repentance, they exhibit nothing less than the very desperation of popular insanity. We no longer hope for their return to the spirit of unity and peace. Possibly we might forgive the bloodshed, the robberies, the imprisonments, which they have so ruthlessly inflicted upon us; but it is not possible for them to become worthy of such forgiveness, or capable of such forbearance. They first made themselves our enemies, and now they have made us theirs. We cannot again go, as a minority of the State, into their legislative councils; we will not again endure their malignant domination. The constructive unity of the State of Virginia is a mere legal fiction; in common English, it is not true of the present, and it is as clearly impossible in the future. We have for more than a year stood front to front at the point of the bayonet. We never can again stand side by side in their halls of legislation. They cannot beat us in the battle-field. We will not surrender to their superior numerical force at the ballot-box. They have never done us justice or shown us mercy in either. We choose, if we must choose, that in which we had the free use of our proper defenses; and God be with the right.

We are constrained by the circumstances of this wicked rebellion to cast our fortunes in with our kindred of the free North and West. Give us our State independence, and we will repay it with such benefits as might well purchase a greater boon. The Alleghany chains on our eastern and southern borders are the natural boundaries for our State line, that is to be eternal, whatever happens to the semi-tropical regions of the Gulf and the eastern slope of the Alleghanies south of the line that nature and civilization have dedicated to democratic liberty and equality. Our streams from their very fountain-heads flow into your rivers, and all the territory from the Alleghany peaks to the great lakes, have one common interest, and must forever be one united people. Your northern lakes are within our neighborhood. Our interests are common, reciprocal, inseparable, and we have proved our fraternity, political and moral, by all that is difficult and dangerous in the separation of our political ties, and by the resolute endurance of all the cruelties of a civil war within our borders. The groans of our slain and imprisoned people, the flames of our burning dwellings, the devastation of our farms and villages, we offer in support of our claim; and finally we urge the necessity of the measure as a sufficient answer to all scruples that lawyers or politicians can urge. There can be no constitutional objection. The clause in the Federal Constitution which provides "that no new State shall be erected within the jurisdiction of any other State without the consent of the Legislature of the State concerned, and of Congress," is in all respects satisfied. Congress has already recognized the restored government of Virginia to be the true government of Virginia. The Senators which the Wheeling Legislature elected hold their seats as Senators of Virginia. This same Legislature has by vote authorized the formation of the new State, and it now requires only the ratifying vote of Congress to consummate the procedure in precise accordance with the Constitution. If the body of that State shall hereafter deem it hard that it was dismembered, it must be content to count it among infelicitous consequences, parricidal madness.

The New or West Virginia stands and promises ever to stand within the rights and duties of a member of the national compact. The Union rent and shattered by fratricidal strife, whether restored or divided, must be reconstructed. Why not in the territorial limits of the States as well as in the other conditions of the settlement where policy, expediency, and necessity alike demand it?

We appeal to this Congress in the name of the one hundred and twenty-five thousand of the white majority of West Virginia, and of the whole population, for speedy relief. We appeal to your sense of honor and justice, to your appreciation of the great principles of freedom and political equality, to deliver us and let us enter on a career of honorable prosperity. We speak not the sentiments of an individual nor those of momentary excitement. They are the sentiments of our entire people, deep, fixed, heartfelt, unalterable sentiments, cherished for three quarters of a century, and we feel assured that we shall not appeal in vain to this House and the American people.

On motion of Mr. KELLOGG, of Illinois, (at five o'clock and five minutes, p. m.,) the House adjourned.

IN SENATE.

SATURDAY, *July* 12, 1862.

Prayer by the Chaplain, Rev. Dr. SUNDERLAND.

The Secretary proceeded to read the Journal of yesterday.

Mr. SHERMAN. As I see that the Journal is very long, I move that its reading be dispensed with.

The PRESIDENT *pro tempore*. It can be done only by unanimous consent.

Mr. TRUMBULL. We are not in a condition to do any business, and we might just as well have the Journal read.

Mr. SUMNER. I doubt whether it ought to be dispensed with.

Mr. TRUMBULL. No business can be done with only half a dozen Senators present. If there was a quorum here I would not insist upon it; but we certainly are not going to do business with this number of Senators.

The PRESIDENT *pro tempore*. Objection being made, the Secretary will proceed with the reading of the Journal.

The Secretary continued the reading for five minutes, when he was again interrupted.

Mr. HALE. I move that the reading of the Journal be suspended, for the purpose of allowing me to make a motion which I think will be acceptable, to go into executive session. I only want the Senate to go into executive session for a few minutes, because there are important nom-

inations which ought to be referred to the Committee on Naval Affairs.

The PRESIDENT *pro tempore*. It is again suggested that the reading of the Journal be dispensed with. It can be done only by unanimous consent. The Chair hears no objection.

EXECUTIVE SESSION.

Mr. HALE. I move that the Senate proceed to the consideration of executive business.

The motion was agreed to; and after some time spent in executive session, the doors were reopened.

MEMORIAL.

Mr. TRUMBULL presented a memorial of the Chicago Presbytery of the Reformed Presbyterian Church, praying for the liberation and education of slaves; which was ordered to lie on the table.

LETTERS OF MARQUE.

Mr. GRIMES asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 393) concerning letters of marque, prizes, and prize goods; which was read twice by its title.

Mr. GRIMES. I ask the Senate to proceed to the consideration of that bill.

Mr. KING. Let it be read through before I give my consent.

The PRESIDENT *pro tempore*. Is there objection to the present consideration of the bill?

Mr. TRUMBULL. I shall object until I know what it is.

The first section was read. It provides that whenever war exists or has been declared between the United States and any other nation, the President of the United States may issue to private vessels of the United States, commissions, or letters of marque and general reprisal, in such form as he may think proper, and under the seal of the United States, against the vessels, goods, and effects of the nation or Government so at war with the United States, and the subjects and citizens thereof.

The Secretary commenced to read the second section.

Mr. TRUMBULL. I have heard enough to know that I cannot consent to the passage of the bill.

The PRESIDENT *pro tempore*. Objection being made, it cannot be considered at this time. The Chair will ask the Senator from Iowa if he desires a reference of this bill, or shall it lie on the table?

Mr. GRIMES. I would have it referred if I believed any committee would assemble to consider it, but I have seen the difficulty in that regard. I therefore ask that it may be printed and lie on the table. I want the subject taken up.

The bill was ordered to be printed, and lie on the table.

DISCHARGE OF STATE PRISONERS.

Mr. TRUMBULL. The Committee on the Judiciary, to whom were referred a resolution of the Senate of December 23d, in relation to a judicial examination of persons arrested by executive authority during the present insurrection, and a resolution of the Senate of December 12, in relation to the arrest and imprisonment of persons in the loyal States, have directed me to report them back, and ask to be discharged from their further consideration.

The motion was agreed to.

Mr. TRUMBULL. The same committee, to whom was referred the bill (S. No. 301) to secure to the citizens of the United States their right of personal liberty, report it back, with a recommendation that it be indefinitely postponed. I make that motion.

The motion was agreed to.

Mr. TRUMBULL. The Committee on the Judiciary, to whom was referred the bill (H. R. No. 362) to provide for the discharge of State prisoners and others, and to authorize the judges of the United States courts to take bail or recognizances to secure the trial of the same, have instructed me to report it back to the Senate, with a recommendation that it be passed, and to ask for its immediate consideration.

Mr. WILSON, of Massachusetts. I hope we shall not proceed now to the consideration of that bill.

The PRESIDENT *pro tempore*. Objection being made, it cannot be now considered.

Mr. TRUMBULL. I move to postpone all other orders, and proceed to the consideration of the bill I have indicated.

Mr. FESSENDEN. One objection carries it over.

Mr. GRIMES. What is it?

Mr. TRUMBULL. It is a House bill providing for the trial or discharge of persons who have been arrested and confined in prison. I trust that the Senate will proceed to its consideration.

Mr. FESSENDEN. I hope not.

Mr. TRUMBULL. It is an important bill, and it should be passed before we adjourn. It is a bill that has passed the House of Representatives, and has been referred to the Committee on the Judiciary, and is reported back here, with a recommendation that it do pass, and I trust the Senate will consent to action upon it. I know of no subject more important, and it is one which should enlist the attention of every Senator. We ought to have some law on this subject. I think it is time that some action should be taken in regard to the confinement of persons without charge, without examination, and without knowing why they are confined. This bill provides for giving to such parties a trial, and I trust the Senate will not consent to postpone it for any other subject.

The PRESIDENT *pro tempore*. The Chair understands objection to be made to the consideration of the report this morning; and by the rule of the Senate a report cannot be considered on the same day, if objection be made to its consideration. The Chair is of impression that a single objection carries it over.

Mr. TRUMBULL. Does a single objection carry over a bill on the day it is reported?

The PRESIDING OFFICER. That is the rule of the Senate.

Mr. TRUMBULL. I was not aware of the rule. Then I will object to proceeding to the consideration of any bill reported to-day.

The PRESIDENT *pro tempore*. The Chair will inquire if any Senator objects to the consideration of the report and bill just presented by the Senator from Illinois from the Committee on the Judiciary?

Mr. FESSENDEN. I do not object, but the Senator from Massachusetts did distinctly before he left his seat.

Mr. TRUMBULL. If he makes objection, I shall pursue a similar course.

Mr. FESSENDEN. Object to all business?

Mr. TRUMBULL. I shall object to every bill reported to-day being considered, if a single objection can postpone this.

The PRESIDENT *pro tempore*. The Chair can only state what the rule of the Senate is.

Mr. TRUMBULL. The Chair will bear with me a moment. If the question can be submitted to the Senate, and a majority of the Senate decide not to consider this bill to-day, of course I shall acquiesce; but if a single objection is to be interposed to prevent its consideration at this stage of the session, I shall feel bound to make a similar objection to other bills, so that we may get at this bill in its order.

Mr. FESSENDEN. Mr. President, I did not object to this bill, but another gentleman did, having objections to it; and I can only say it is a most amiable and pleasant and agreeable disposition on the part of the Senator, because one gentleman objects to a bill for the reason that he does not like it, to object to every bill that everybody may offer. Because one Senator will not yield to him, he will delay the business of the Senate.

The PRESIDENT *pro tempore*. With the permission of the Senator from Maine, the Chair desires to have read that clause of the 26th rule which applies to this subject. The Chair makes no order, but simply calls the attention of the Senate to the rule they have made for their own government. The Secretary will read the last clause of the 26th rule.

The Secretary read as follows:

"And all other resolutions shall lie on the table one day for consideration, and also reports of committees."

DUTIES ON SUGAR.

Mr. FESSENDEN. I ask leave to introduce a bill, and although it is subject to the objection of the Senator from Illinois, I shall ask for the immediate consideration of it as it is important.

The bill to impose an additional duty on sugars produced in the United States was read. It provides, that in addition to the duties imposed by the act entitled "An act to provide internal revenue to support the Government and pay interest on the public debt," approved July 1, 1862, on all brown, muscovado, or clarified sugars produced directly from the sugar cane, there shall be levied, collected, and paid under the provisions of this act, upon all such sugars produced in the United States, a duty of one cent per pound; and such additional duty, and the duty specified in the act of July 1, shall be levied, collected, and paid on all such sugars (not manufactured for consumption in the family of the producer) in the hands of the producer or manufacturer, on the day of the approval of this act by the President. Within States or portions of States declared to be in insurrection, these duties may be collected in such manner and by such officers as the President may direct, until the insurrection so declared shall cease or have been suppressed.

The PRESIDENT *pro tempore*. Is there any objection to the present consideration of the bill?

Mr. TRUMBULL. I feel constrained to object to the bill if a single objection is to be introduced by the Senator from Massachusetts to prevent the consideration of the bill reported by me. I am entirely willing that the Senate should take a vote on it, but I object to the consideration of this or any other bill, until we can have a vote of the Senate as to taking that up.

Mr. FESSENDEN. If that principle is carried out, it will stop all public business, because one Senator has objection to the gentleman's bill.

Mr. TRUMBULL. I do not stop it; the Senator from Massachusetts stops it.

Mr. FESSENDEN. It is suggested to me, what escaped my attention, that the bill I laid on the table just now is properly a revenue bill, and should first be introduced in the House of Representatives. I ask leave of the Senate therefore to withdraw it.

The PRESIDENT *pro tempore*. By general consent the Senator from Maine will withdraw the bill he has indicated.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. MORRIS, Chief Clerk, announced that the House of Representatives had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the bill (H. R. No. 471) to confiscate the property of rebels for the payment of the expenses of the present rebellion, and for other purposes.

Also, that it had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the bill (H. R. No. 550) to further provide for the collection of the revenue upon the northern, northeastern, and northwestern frontiers, and for other purposes.

Also, that it had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the bill (H. R. No. 438) to grant pensions.

The message also announced that the House had passed the following bills of the Senate, with an amendment:

A bill (No. 123) concerning the courts of the United States in and for the district of Michigan; and

A bill (No. 363) to authorize the Secretary of the Navy to accept the title to League Island, in the Delaware river, for naval purposes.

Also, that it had passed the bill of the Senate (No. 358) to prevent members of Congress and officers of the Government of the United States from taking consideration for procuring contracts, office, or place, from the United States, with amendments; in which it requested the concurrence of the Senate.

SUSPENSION OF JOINT RULES.

Mr. SHERMAN. I rise to a privileged motion. I ask for the consideration of the resolution I offered yesterday, which, under the rules, must be disposed of without debate.

The resolution was read, as follows:

Resolved, (the House of Representatives concurring,) That the 16th and 17th joint rules of the two Houses be suspended for the residue of the session.

Mr. SHERMAN. The Senate does not understand these rules, and I ask to have them read.

The Secretary read as follows:

"16. No bill that shall have passed one House shall be sent for concurrence to the other on either of the last three days of the session.

"17. No bill or resolution that shall have passed the House of Representatives and the Senate shall be presented to the

President of the United States for his approbation on the last day of the session."

The PRESIDENT *pro tempore*. In connection with this, the Clerk will read the last clause of the 26th rule of the Senate.

The Secretary read as follows:

"A motion to suspend or to concur in a resolution of the House to suspend the 16th and 17th joint rules, or either of them, shall always be in order, be immediately considered, and be decided without debate."

Mr. KING. Being opposed to the immediate adjournment of Congress, I prefer that this resolution should lie over for a day or two; and I move, if it be in order to do so, that it be postponed until Monday.

Mr. SHERMAN. If we adjourn even on Monday, the resolution should be passed to-day.

The PRESIDENT *pro tempore*. The Senator from New York moves that the consideration of this resolution be postponed until Monday.

Mr. KING. It is because I am opposed to an immediate adjournment.

Mr. SHERMAN. I submit that the motion of the Senator from New York is not in order. The resolution must be considered and decided without debate.

Mr. SUMNER. Mr. President——

The PRESIDENT *pro tempore*. The question is not a debatable one; but the Chair will hear suggestions.

Mr. SUMNER. I was going to remark, simply, that I believe it is not customary to introduce the resolution now introduced by the Senator from Ohio, until the two Houses have fixed a day of adjournment. No such day has yet been fixed, and I think we are not now in a condition to fix the day. When we have fixed that day, the resolution of the Senator will be in order.

Mr. SHERMAN. I have no doubt we shall be able to adjourn soon without fixing a day of adjournment, and I do not think it would be wise to fix the day of adjournment positively until we are ready to adjourn. The suspension of the 16th joint rule is indispensable now, in order to allow bills to be sent from one House to the other.

The PRESIDENT *pro tempore*. Under the clause of the 26th rule, which has been read, the Chair must decide that the motion of the Senator from New York is not in order. The rule is explicit, that a motion to suspend the 16th and 17th joint rules shall always be in order, and shall be considered and decided without debate. The motion of the Senator from New York is to postpone the consideration of the resolution against the letter of the rule.

Mr. KING. I had some doubt about it, and I shall now content myself with asking for the yeas and nays, that I may record my vote against the proposition.

Mr. TRUMBULL. I desire to make a suggestion to the Senator from Ohio. The resolution will be without any application until a day of adjournment is fixed. Suppose that we should adjourn this evening, there is no rule in existence now to prevent our sending bills backward and forward, because it is not yet fixed that we shall adjourn this evening. The bills will continue to go, and until you have a time fixed for adjournment, the rule can have no application. There is, therefore, no occasion for the resolution.

Mr. SHERMAN. Allow me to say to the Senator that if we adjourn on Tuesday this is one of the last three days of the session; and this is the usual resolution.

Mr. TRUMBULL. It will not be proper until we fix the day.

The PRESIDENT *pro tempore*. The question is on agreeing to the resolution of the Senator from Ohio, to suspend the 16th and 17th joint rules for the residue of the session.

Mr. KING called for the yeas and nays, and they were ordered; and being taken, resulted—yeas 26, nays 11; as follows:

YEAS—Messrs. Anthony, Browning, Carlile, Clark, Collamer, Cowan, Davis, Doolittle, Foot, Foster, Hale, Harris, Henderson, Howard, Howe, Lane of Indiana, Lane of Kansas, McDougall, Pomeroy, Rice, Sherman, Simmons, Ten Eyck, Wilmot, Wilson of Missouri, and Wright—26.

NAYS—Messrs. Chandler, Grimes, Harlan, King, Powell, Saulsbury, Sumner, Trumbull, Wade, Willey, and Wilson of Massachusetts—11.

So the resolution was agreed to.

BILLS BECOME LAWS.

A message was received from the President of the United States, by Mr. NICOLAY, his Secretary, announcing that the President of the United States had approved and signed, on the 11th instant, an act (S. No. 102) to amend an act entitled "An act to divide the State of Illinois into two judicial districts," approved February 13, 1855; and an act (S. No. 342) for the establishment of certain national arsenals.

MILITARY EXPENSES OF MISSOURI.

Mr. HENDERSON. There has been lying on the table for some days a bill of some importance, which I desire to call up. It is Senate bill No. 376, to allow to the State of Missouri the moneys expended by that State in arming and paying troops employed in the suppression of insurrection against the laws of the United States. I move to postpone all prior orders and take up that bill.

Mr. SUMNER. I hope the Senator will postpone his motion for a few minutes, that we may make some reports. The committees have not yet made their reports this morning. I have several to make.

Mr. HENDERSON. I have endeavored to get the floor for some mornings for the purpose of asking for the consideration of this bill, but I have not succeeded. I will state to the gentleman from Massachusetts that it will take but a moment. It has been before the Military Committee, and is reported with a slight amendment.

The motion was agreed to; and the bill (S. No. 376) to allow and pay to the State of Missouri the amount of money expended by said State in the arming and paying of troops employed in the suppression of insurrection against the laws of the United States, was considered as in Committee of the Whole. It provides that the State of Missouri shall be entitled to a credit against the direct tax apportioned to that State by the "Act to provide increased revenue from imports to pay interest on the public debt, and for other purposes," approved August 5, 1861, for all sums of money expended by the State in the arming, equipping, subsisting, and paying of troops organized under the ordinances of the convention of the State passed during the year 1861, and employed in concert with the Federal authorities in suppressing insurrection against the United States, and enforcing the laws thereof.

For the purpose of ascertaining the amount due to the State for moneys so expended, the Secretary of War is, by commission or otherwise, to cause the accounts to be examined, and a report made to him of the amount due, which being approved by the Secretary of War, and by him certified to the Secretary of the Treasury, the amount shall be allowed to the State, and deducted from the amount apportioned by the act of August 5, 1861, and the remainder only, if any, shall be collected as therein prescribed.

If the State shall assume and pay into the Treasury the balance of the direct tax, if any, at such time as may be fixed by the Secretary of the Treasury, or if the expenditures shall be found to be equal to the tax, the deduction or discount of fifteen per cent., as prescribed in the fifty-third section of the act of August 5, 1861, is to be allowed on the whole amount thus apportioned.

The Committee on Military Affairs proposed to amend the bill by inserting, at the end of the second section, the following proviso:

Provided, That in the adjustment of accounts under this act, no greater rate of compensation shall be allowed than was provided for by all the laws of the United States, applicable to the arming, equipping, subsisting, and payment of volunteers, in force at the time of the enrollment of such troops of Missouri.

The amendment was agreed to.

Mr. DAVIS. I offer another section as an amendment to the bill:

And be it further enacted, That the provisions of the act entitled "An act to secure to the officers and men actually employed in the Western department or department of Missouri, their pay, bounty, and pension," approved March 25, 1862, are hereby extended and made applicable to the officers and men employed in any other military department of the United States.

Mr. HENDERSON. I hope the Senator from Kentucky will not insist upon that amendment to this bill. The Senate will discover by an examination of the bill that the subject proposed to be ingrafted upon it, by way of amendment, is not connected with the matter under consideration in the bill itself. While I am up, I will simply explain that a bill has been passed by Congress allowing to the different States the amount of money expended by those States in the arming and equipping of troops for the Federal service, but that law is not exactly applicable to the State of Missouri, for the reason that the troops we raised in that State were raised under the ordinances of a convention. The Union men called together the convention last July, and again subsequently in October, and passed ordinances. We had furnished all the men that we were called upon to furnish by the Federal Government, but we found our State overrun after the fall of Lexington, and we found that it was utterly impossible for us to protect ourselves against the rebels of that State unless we had more troops in the field. We called together the convention in October, and passed ordinances for raising a militia force, and adopted for their government the articles of war prescribed by the United States Government. Our troops were enrolled and entered into the service under the western commanders. I was in that service myself. I went into the field and raised upwards of a thousand men, and continued in that service till I came here in January last. The object of this bill is merely to make the provisions of the law, passed in reference to other States, applicable to the State of Missouri. It is to allow that State the amount of money she expended in subsisting, arming, and equipping those troops for five months. After I came to Congress, the chairman of the Military Committee will recollect that a bill was passed allowing ten thousand troops, that we were then raising under an ordinance of the convention, to be mustered into the service of the United States instead of remaining in the service of the State. The Senator from Massachusetts will remember that we had it before the Military Committee, and that there was a committee of conference on the subject. We have raised the ten thousand men, and those men that the State raised have been mustered into the service of the United States. We only ask pay back to the State of Missouri for the amount of money expended while they were acting as State troops, under the authority of the Federal commanders in that department.

Now, the Senator from Kentucky offers a proposition connected with the allowing to the Federal troops in his State of pay to which they may be entitled under the laws of the United States. It is altogether a different subject, and I hope he will not insist upon it, and desire to have it appended to this bill. The bill is one which it is very much desired to have passed at once. There is some objection now to a bill that was passed at the early part of the session, allowing payment under the Federal laws to what were termed home guards. That is a matter which has nothing to do with the bill under consideration, and I hope very much that the Senator from Kentucky will not insist upon it, because a resolution has been recently passed to investigate that matter, and there is some objection to it in the minds of Senators; and I fear very much that if he insists on appending an amendment of that sort, it will jeopard the passage of the bill, which is very much desired by the people of my State.

In the present exigencies of the Government I would not ask that a single dollar be paid back to the people of Missouri, unless it were as a mere set-off against the direct tax which is imposed upon us by the revenue laws of Congress. We are compelled to raise about seven hundred thousand dollars to meet the direct tax. Senators know the condition of the people of Missouri at present. We are unable to pay that direct tax, and were it not for that, I would not ask to have it set off. I would wait until the Government was in a better condition to pay back to the State than it now is; but my people are unable to pay the tax; we have been run over by the armies of the rebels again and again. I believe it utterly impossible for the people to pay it, and therefore I hope this bill will be left unincumbered and passed, and that our people will be allowed pay for what they have actually expended in suppressing this rebellion.

Mr. DAVIS. The subject of the amendment which I have offered is entirely germane to the bill that is under consideration, and instead of impeding or obstructing the passage of the bill, I think it will add to its strength and more certainly insure its passage; and I suppose of the question of its passage there is no reasonable doubt. I will merely explain in a moment the object of my amendment.

For the protection of our State we formed home

guards all over Kentucky, and had them armed as best we could. Some of the military officers of the General Government made requisitions for companies of these home guards for different military expeditions, not however to any considerable amount. The home guards responded to the orders and marched, and did such service and for such length of time as the military commanders required of them. In the battle of Wild Cat there were some three or four companies of home guards in that portion of the State who were called upon by the Federal commander to march to Wild Cat and to assist in the defense of that encampment. They did so; they were not gone more than fifteen or twenty or thirty days. All they ask is payment according to the rates which are given to officers and soldiers such as they were for their compensation. When Louisville was threatened by an irruption of General Buckner, there were about a thousand home guards moved from there down below Elizabethtown to intercept General Buckner in his threatened movement upon Louisville, and they were gone some twenty or thirty days. All these men ask is that they shall receive pay for the actual time that they rendered service under the requisition of a commander of the United States troops. Recently, within the last three or four months, stores were taken from Cincinnati to Lexington by railroad, and from there they were moved along the road about a hundred miles to the camp near Barboursville, in the neighborhood of the Cumberland mountain. There was not a United States force in that region of the State sufficient to guard them, and the officer that had command of those supplies summoned the home guards in the neighborhood through which this cavalcade of supplies was passing, to guard them. They moved and guarded them, marched a hundred miles, and were gone fifteen or twenty days. All they ask is pay for that service. The whole amount of pay thus due to these troops would not exceed twenty or thirty thousand dollars. They are poor men, men in humble life, mechanics and young men who need the money, and I trust the Senate will adopt the amendment I have proposed.

Mr. POWELL. I very much hope that this amendment may be adopted. It certainly cannot jeopard in any way, in my judgment, the passage of the bill of the Senator from Missouri. I really think it will help its passage. This is a claim which the people of Kentucky, who rendered service in this war, are very anxious to have passed, and as my colleague has so fully stated the case, I think it unnecessary for me to detain the Senate. I will only say that I am very confident it will aid the passage of the bill of the Senator from Missouri.

Mr. DAVIS. I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. SHERMAN. I should like to hear the amendment read again. I did not hear it.

The Secretary read it, as follows:

And be it further enacted, That the provisions of an act entitled "An act to secure to the officers and men actually employed in the Western department or department of Missouri, their pay, bounty, and pension," approved March 25, 1862, are hereby extended and made applicable to the officers and men employed in any other military department of the United States.

Mr. FESSENDEN. I hope that that will not be adopted. It is general; it may lead to immense frauds; and it ought not to be passed without more information. The Senate will recollect when we passed the original bill referred to in the amendment, what statements were made. It was represented, and we had the statement of the Governor of Missouri in relation to that matter, that there were only about twenty-five hundred troops in the whole to be affected by it. It was confined to Missouri. I objected to it strenuously; but finally having it perfectly guarded, as it was said, so that it could not be abused, I submitted to having it passed. Such bills had always been found excessively dangerous; and the first intelligence we had after we passed that bill was that under it there was danger of claims to the amount of $3,000,000 coming in. This amendment extends that bill all over the United States, everywhere. The Senator says it will take only about thirty thousand dollars for Kentucky. Why not put in a limitation, "provided, that the whole sum shall not exceed $30,000?" and then we shall know what we are doing; but it is dangerous in the extreme to pass these bills before we have the exact amount ascertained, and know where the money is going, to whom it is going, and under what circumstances it is going. The Treasury will be depleted to an extent that there is no calculating, if you pass bills of this description. I would not ask for a bill of that kind applicable to my own section of country, or allow it to pass if I could help it, such is the extreme danger of passing bills in utter ignorance of what is to be the result of them.

SEIZURE OF RAILROADS.

The PRESIDENT *pro tempore*. The further consideration of this bill is superseded by the special order of the day, which is the bill (S. No. 384) to amend the act calling forth the militia to execute the laws of the Union, suppress insurrections, and repel invasions, approved February 28, 1795. The amendment pending is the one moved by the Senator from Iowa, [Mr. GRIMES,] and to that amendment an amendment is offered by the Senator from Illinois, [Mr. BROWNING,] which is the pending question.

Mr. WILSON, of Massachusetts. I move to postpone the consideration of that bill in order to take up a joint resolution from the House of Representatives, No. 39.

Mr. SAULSBURY. What is it?

The PRESIDENT *pro tempore*. The Senator from Massachusetts moves to postpone the special order, and all orders standing prior to the measure indicated by him, with a view of proceeding to the consideration of that resolution.

Mr. SAULSBURY. Let it be read.

The PRESIDENT *pro tempore*. The resolution will be read for information by its title, that the Senate may know what the proposition of the Senator from Massachusetts is.

The SECRETARY. A joint resolution (H. R. No. 39) to declare the meaning of "An act to authorize the President of the United States in certain cases to take possession of railroads and telegraph lines, and for other purposes," approved January 31, 1862, and to repeal a part of said act.

Mr. TRUMBULL. I should like to inquire when that resolution was reported?

Mr. WILSON, of Massachusetts. Four months ago.

The PRESIDENT *pro tempore*. The 24th of February, the Chair is informed.

Mr. WILSON, of Massachusetts. I want to say a single word. I objected to the consideration of a bill reported here this morning, and the Senator from Illinois [Mr. TRUMBULL] does not seem to be satisfied since that objection. Sir, I want to say that I withdraw that objection, and he can get up his bill as soon as he pleases. I am amazed at him.

The PRESIDENT *pro tempore*. The question is on the motion of the Senator from Massachusetts.

Mr. HENDERSON. I sincerely hope the Senate will proceed with the bill which was under consideration when the morning hour expired.

The PRESIDENT *pro tempore*. It cannot be done without postponing the special order.

Mr. HENDERSON. I make that motion.

The PRESIDENT *pro tempore*. There is a motion of that kind now pending. The Senator from Massachusetts moves to postpone the special order, and all other orders standing prior to the resolution indicated by him, which would take with it the bill of the Senator from Missouri.

Mr. HENDERSON. It is a bill of some importance, and I have been endeavoring to get the floor for several mornings to take it up. I have yielded to gentlemen in my kindness. I have now got it up, and I am in hopes the pending amendment will be defeated and the bill passed.

The PRESIDENT *pro tempore*. The question is on the motion of the Senator from Massachusetts.

The motion was agreed to; and the joint resolution was considered as in Committee of the Whole.

The joint resolution was reported to the Senate without amendment.

Mr. LANE, of Kansas. I should like to understand something about that resolution. I want to hear from the Senator from Massachusetts something about it. What is it?

The PRESIDENT *pro tempore*. The question is on ordering the joint resolution to a third reading.

The joint resolution was ordered to a third reading, and read the third time.

Mr. LANE, of Kansas. Unless I can get an explanation of it, I want the yeas and nays on the passage of the resolution.

Mr. WILSON, of Massachusetts. There is no objection to making an explanation of it.

Mr. LANE, of Kansas. I want to hear it.

Mr. WILSON, of Massachusetts. Congress sometime since passed a bill authorizing the Government to take possession of railroads, and to aid in the construction of railroads where it was necessary. It was thought that the provisions of the bill were too unlimited, and the House of Representatives immediately passed this resolution to define it, and it has lain in the Senate until this time. It is believed to be important that the joint resolution should be passed in order to limit and define that bill.

Mr. SHERMAN. I should like to ask the Senator how long a railroad requires to be to be called "an extended line?" How many miles?

Mr. WILSON, of Massachusetts. I cannot tell precisely. I do not think the bill was as closely drawn as it ought to be; but this is a great restriction upon it.

Mr. SHERMAN. I think one hundred miles would not be a very "extended line" in this country; and really it seems to me that this resolution does not change the law in any particular. It leaves the President to determine what is an "extended line" of railroad.

Mr. FESSENDEN. I wish the Senator would look at the resolution, and see if he can suggest anything to limit it.

Mr. SHERMAN. I would strike out the words "of an extended line."

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

Mr. HENDERSON. If I understand the resolution, the purport of it is to repeal entirely the act that was passed at the early part of the session. I do not see that any authority whatever would be given to the President under this resolution to build or complete, or even to extend a road one, two, or ten miles, whatever might be the military necessities for it. I might as well be frank about this matter. I heard the other day—I do not know whether it was so or not; I have not had a word with the President of the United States on the subject—that it was contemplated to build a road in my State, or continue the southwest branch for some forty or fifty miles across a mountainous region of country, on which a great deal of grading has already been done. Whether that is so or not, I do not know; I have not had a word with the President on the subject.

Mr. GRIMES. Was it to be built through the mountains?

Mr. HENDERSON. It is through a portion of the hilly countries on the road to Springfield. I understand a part of the grading was done, and the Army used the graded road. Some of the military commandants in the West at an early period recommended very strenuously that the road should be completed as far as Lebanon. I understand at one time the transportation for our army from St. Louis to Springfield was so great that it would have been amply sufficient to construct the road every mile of the way to Springfield and save money to the Government. Whether that is so or not I cannot tell. I wish Senators to understand me. I am not extremely solicitous for the building of this road. I am not now engaged in attempting the construction of it. I did desire it constructed because I thought at one time that if this railroad were constructed to Springfield the great difficulty of holding Missouri against the rebel hordes would be entirely overcome. I thought the transportation of troops, munitions of war, and subsistence from St. Louis would be so easy that we should never have any more difficulty in securing Missouri to the Union. I requested the President to construct it for ten or twelve miles, where the ties were lying along the side of the road, and I understood at the time that it would save immensely to the Government. However, I do not want to put myself in the way of the passage of this joint resolution, because I wish it distinctly understood that unless it be the desire of those having charge of military matters there, and unless it be seen at once that it is to the great interest of the Government itself, we in Missouri do not desire to ask for that road. That is my position about it.

Mr. FESSENDEN. I wish to make a single

remark about that. So far as the power extends of which the Senator speaks, when there are armies in the field in a particular section of the country, and it is necessary to do work of that kind merely to facilitate military matters, it is understood that the Government have just as much power to do it as they have to lay down a corduroy road, as they call it, or anything of that sort. All that necessary power they have. But this law was passed giving extraordinary powers on this subject, more, perhaps, than Congress were aware of at the time; and on the idea that it might be carried much further than the Government and Congress would be willing to engage in it, this resolution was passed by the House of Representatives. It is a very proper one. I think it should, perhaps, be made a little more specific than it is. But even supposing the original law were repealed—and this resolution does not propose to repeal it—I have no doubt of the power of the Government in a case such as the Senator from Missouri speaks of to exercise it, and I should defend its exercise.

Mr. HENDERSON. I will state that I was not in the Senate when the original bill was passed, introduced, I think, by the Senator from Ohio, [Mr. WADE.]

Mr. CARLILE. I move to amend the resolution by striking out, in the eighth line, after the word "any," the word "such," and inserting the words "line of;" and after the word "road," in the same line, by striking out the words "of an extended line;" and in line ten, by striking out the word "extended" before the word "work."

The PRESIDENT *pro tempore*. The resolution can be amended in this stage only by unanimous consent; but it is in order to move to reconsider the vote ordering it to a third reading.

Mr. FESSENDEN. I move to reconsider that vote.

The motion was agreed to.

The PRESIDENT *pro tempore*. The question now is on the amendment of the Senator from Virginia, in line eight, after the word "any," to strike out the word "such," and insert the words "line of;" and after the word "road," to strike out the words "of an extended line;" and in line ten, to strike out the word "extended," before the word "work;" so that it will read:

That the act entitled "An act to authorize the President of the United States in certain cases to take possession of railroads and telegraph lines, and for other purposes," approved January 31, 1862, shall not be so construed as to authorize the construction of any railroads, or the completion of any line of road, the greater part of which remained uncompleted at the time of the approval of said act, or to engage in any work of railroad construction; and so much of said act as authorizes the President of the United States to extend and complete any railroad is hereby repealed.

The amendment was agreed to.

Mr. DAVIS. When the bill authorizing the President to take possession of the railroads in the United States was passed, he was about to proceed to complete two roads in the State of Kentucky, commencing at a point at Danville, to intersect a road in East Tennessee. The extent of the road would have been about one hundred miles, and its utmost cost would not have been $4,000,000. If the President had proceeded to construct that road at the time he first determined to do so, the saving to the Government of the United States in transportation alone up to this time would have greatly exceeded the cost of the construction of the road. If this war is to be continued, and if the southern States are to be subjugated and retained in the Union, the most important military work that could be constructed to that end would be the completion of that road from Danville to intersect the road in East Tennessee. It would connect at that point with the road leading to Louisville and with another road leading to Cincinnati; and if the war continues until next December, the cost of transportation to the General Government along the line of the road would be saved twice over by the construction of the road. The completion of such a road and putting it in operation would be the most effective bridle that could be placed in the mouth of secessia. There never was a bit of any power that was ever designed to break a young horse that would have a more effective influence in restraining the movements of that horse, than this road if it was constructed would have upon secession. I do not feel a great deal of interest personally in the matter; but I think the original bill ought not to be interfered with, and that the President of the United States ought to have the discretion to construct that or any other road that was partly finished, according to the provisions of the original bill.

Mr. WADE. I had the honor to introduce the original bill which is sought to be modified by this resolution. It was subject to some criticism at the time. I introduced that bill at the instance of the Secretary of War, and made all the amendments at his suggestion, without the least idea in the world that the Administration had any particular project of railroad making in view when the bill was under consideration. I did suppose it would be convenient for them to have this power where there were lines of railroad—which, by making some small additions, could be connected together, thus saving an immense expense in transportation—to make these patches of road, and also to complete some lines of road that were nearly completed, but had been suspended on account of the war. It was intended as a war measure; nothing more. Indeed, I did not believe then, nor do I believe now, that it added anything to the power of the Executive as a war measure. However, I thought it was very well to regulate it by law, rather than to leave it in the broad discretion of the Government, unregulated, and little understood by the people or by us what the executive government might think they could or ought to do under such circumstances. I have always believed that, where this immense residuum of power resides, the representatives of the people, where ever it can be regulated and controlled, ought to take hold of it and regulate it, if necessary, where it can be regulated; so that all may understand alike what they are to do under the circumstances. It was with that view that I introduced the bill. By and by it began to be whispered about that there was a provision in it authorizing the construction of certain expensive roads in Kentucky, or somewhere else, for the purpose of transportation. Well, sir, that might be. I never had any intimation of it—not the least in the world. I had no idea that there was any particular project of railroading in contemplation by the Executive at that time. If they had assured me that, under the enormous powers of that bill, they intended to go into an extensive railroad business, I should have been very cautious in introducing a bill with such enlarged powers as that contained; but as nothing was said about it, and as it did not, in my judgment, add anything to the discretion of the Executive, I was very willing that the bill should pass. I think, however, the House of Representatives are right in limiting that discretion. It seems to be too broad and unlimited in the bill, especially as it is now intimated that they had in contemplation to go on with expensive projects of railroading that, perhaps, may not be entirely dictated as a war measure. Such powers are very liable to abuse evidently; because, although made for the exigencies of the war, and perhaps a cheap instrumentality for that purpose at the time, after the war is over they may be the greatest and most beneficial internal improvements in the world for a State; and therefore, there are too many persuasive powers addressed to your Executive to persuade him that the necessities of the war require that these railroads should be built. I am very willing that that act should be modified. I think it ought to be. I think this resolution a proper one.

Mr. RICE. If the Senator will yield to me a moment, I should like to ask this question: if this joint resolution should pass, could the President, without differing from Congress, construct a railroad between Fredericksburg and Richmond? There is no railroad there now; and could he construct one, if this joint resolution should pass, without doing it against the express wish of Congress? Would it interfere with him in cases like that?

Mr. WADE. I think this would be a great obstacle in the way of the construction we give to his power, should we pass the resolution, in making a road to Richmond. I rather think if he wants a military road to Richmond, unless there is the most pressing emergency that it should be done, he should ask Congress to give him the power.

Mr. RICE. In case Richmond should be taken, as I hope it may be very soon, it would be a matter of necessity that the track should be relaid and the bridges rebuilt between Fredericksburg and Richmond. Would it be proper for Congress to put the President in such a position that he must do it against the express desire or wish of Congress?

Mr. COLLAMER. There is a road there.

Mr. RICE. There is no road. It has been destroyed.

Mr. COLLAMER. The road is there. They have taken the rails off.

Mr. RICE. The ground is there.

Mr. COLLAMER. The grading is all there.

Mr. WADE. That refers to a distinct power in the bill, I believe, to repair; and one head of power in the bill was to repair roads that were out of order. I do not intend by anything I have said to cast any reflection on the Executive, or to intimate any distrust of the good faith in which they would execute these powers. I do not believe they ever meditated doing anything under the powers of this bill that they had not a perfect right to do. I do not believe they have ever entertained any idea of doing anything but what was in the plain scope of their power, even without the bill; but there were some who suspected that they had great railroad projects in view. I do not believe it now, and I never did believe it. I was willing, and would be willing to-day, to invest the Government with power to make military roads where ever they thought a military necessity existed for them; but as the power is enormous, I am willing that it should be limited.

Mr. RICE. I should like to offer an amendment, to strike out all of line eight, line nine, and down to the word "act" in line ten, in these words:

Or the completion of any line of road, the greater part of which remained uncompleted at the time of the approval of said act.

Mr. FESSENDEN. I hope those words will not be stricken out. It would leave power to finish any large road in the country.

Mr. HENDERSON. In reply to the question asked by the Senator from Minnesota in reference to the views of the President on this subject, I desire to state simply this: at the time General Curtis was at Springfield, a very short time previous to the battle of Pea Ridge, I called upon the President in regard to this very matter, and at the suggestion of some military officers. This resolution had then been passed through the House of Representatives and was pending in the Senate. The President told me that he did not conceive that, under the resolution, he had any power whatever, and in fact that it was a denial of his power to construct any railroad, and I have said nothing to him upon the subject since. I understood it was the desire of the Senate to pass it, or that if it was taken up it would be passed, and I said nothing more in reference to it. I think it ought to be limited, not in reference to any interest we have in Missouri in that thing, because I do not think it has been pressed upon the President at all. I understood this resolution was introduced in the House of Representatives in consequence of the contemplated construction of a road in Kentucky. I should think, however, it would be as well to adopt a proviso that the President should not be prohibited from the repair or construction of short lines of road where the military necessities of the nation demand it.

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

Mr. CARLILE. If the amendment proposed by the Senator from Minnesota is adopted, it is scarcely worth while to pass the resolution. It leaves the President with all the power he had under the law that has been enacted. The object of the resolution is to restrain and to limit to some extent the former action of Congress. Those who think that action should be limited, that it was too broad, will of course vote against the amendment of the Senator from Minnesota.

The amendment was rejected.

The amendments were ordered to be engrossed, and the joint resolution to be read a third time. It was read the third time, and passed.

CONFISCATION OF REBEL PROPERTY.

Mr. CLARK. I desire to make a report from the committee of conference on the confiscation bill.

The PRESIDENT *pro tempore*. The special order of the day is before the Senate; but the report of a committee of conference is a privileged question and will set aside the special order for the time being. The report will be read.

Mr. CARLILE. I suppose the Senator does not desire action upon it now, and I suggest that it be printed.

Mr. CLARK. I desire to have it acted upon immediately.

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

The Secretary read it, as follows:

The committee of conference to whom the disagreeing votes of the two Houses, on the amendment of the Senate to House bill No. 471, being an act to confiscate the property of rebels for the payment of the expenses of the present rebellion, and for other purposes, were referred, having met and considered the same, after full and free conference thereon have agreed to recommend to their respective Houses as follows:

That the House recede from their disagreement to the Senate's amendment, and agree to the same, with the following amendments: strike out of the second section of the Senate's amendments the words "by the forfeiture of all his personal property of every kind whatsoever, including choses in action, and by the forfeiture of his life estate in any real property of which he may be the owner, wherever situated within the United States," and insert the words "by a fine not exceeding $10,000," and strike out the further words "and all such property, including slaves, shall be forfeited to the United States."

Also, strike out the fifth, sixth, seventh, eighth, and ninth sections of the Senate bill, and insert the following sections:

Mr. McDOUGALL. I should like to ask the Senator from New Hampshire whether that is not doing just what we have determined a committee of conference cannot do—introducing new matter?

The PRESIDENT *pro tempore*. It is not a proper subject for consideration while the report is being read, unless the Senator rises to ask that the reading be suspended.

Mr. McDOUGALL. I ask for information if that is not new matter?

The PRESIDENT *pro tempore*. The reading will proceed.

The Secretary continued the reading of the report, as follows:

SEC. 5. *And be it further enacted*, That to insure the speedy termination of the present rebellion, it shall be the duty of the President of the United States to cause the seizure of all the estate and property, money, stocks, credits, and effects of the persons hereafter named in this section, and to apply and use the same, and the proceeds thereof, for the support of the Army of the United States, that is to say: first, of any person hereafter acting as an officer of the army or navy of the rebels in arms against the Government of the United States; secondly, of any person hereafter acting as president, vice president, member of Congress, judge of any court, cabinet officer, foreign minister, commissioner, or consul of the so-called confederate States of America; thirdly, of any person acting as Governor of a State, member of a convention or Legislature, or judge of any court of any of the so-called confederate States of America; fourthly, of any person who, having held an office of honor, trust, or profit in the United States, shall hereafter hold an office in the so-called confederate States of America; fifthly, of any person hereafter holding any office or agency under the government of the so-called confederate States of America, or under any of the several States of the said confederacy, or the laws thereof, whether such office or agency be national, State, or municipal in its name or character: *Provided*, That the persons thirdly, fourthly, and fifthly above described shall have accepted their appointment or election since the date of the pretended ordinance of secession of the State, or shall have taken an oath of allegiance to, or to support the constitution of the so-called confederate States; sixthly, of any persons who, owning property in any loyal State or Territory of the United States, or in the District of Columbia, shall hereafter assist and give aid and comfort to such rebellion, and all sales, transfers, or conveyances of any such property shall be null and void; and it shall be a sufficient bar to any suit brought by such person for the possession or the use of such property, or any of it, to allege and prove that he is one of the persons described in this section.

SEC. 6. *And be it further enacted*, That if any person within any State or Territory of the United States, other than those named as aforesaid, after the passage of this act, being engaged in armed rebellion against the Government of the United States, or aiding or abetting such rebellion, shall not, within sixty days after public warning and proclamation duly given and made by the President of the United States, cease to aid, countenance, and abet such rebellion, and return to his allegiance to the United States, all the estate and property, moneys, stocks, and credits of such person shall be liable to seizure as aforesaid, and it shall be the duty of the President to seize and use them as aforesaid or the proceeds thereof. And all sales, transfers, or conveyances, of any such property after the expiration of the said sixty days from the date of such warning and proclamation shall be null and void; and it shall be a sufficient bar to any suit brought by such person for the possession or the use of such property, or any of it, to allege and prove that he is one of the persons described in this section.

SEC. 7. *And be it further enacted*, That to secure the condemnation and sale of any such property after the same shall have been seized, so that it may be made available for the purposes aforesaid, proceedings *in rem* shall be instituted in the name of the United States in any district court thereof, or in any territorial court, or in the United States district court for the District of Columbia, within which the property above described or any part thereof may be found, or into which the same if movable may first be brought, which proceedings shall conform as nearly as may be to proceedings in admiralty or revenue cases, and if said property, whether real or personal, shall be found to have belonged to a person engaged in rebellion, or who has given aid or comfort thereto, the same shall be condemned as enemies' property, and become the property of the United States, and may be disposed of as the court shall decree, and the proceeds thereof paid into the Treasury of the United States for the purposes aforesaid.

SEC. 8. *And be it further enacted*, That the several courts aforesaid shall have power to make such orders, establish such forms of decree and sale, and direct such deeds and conveyances to be executed and delivered by the marshals thereof where real estate shall be the subject of sale, as shall fitly and efficiently effect the purposes of this act, and vest in the purchasers of such property good and valid titles thereto. And the said courts shall have power to allow such fees and charges of their officers as shall be reasonable and proper in the premises.

SEC. 9. *And be it further enacted*, That all slaves of persons who shall hereafter be engaged in rebellion against the Government of the United States, or who shall in any way give aid or comfort thereto, escaping from such persons and taking refuge within the lines of the Army; and all slaves captured from such persons or deserted by them and coming under the control of the Government of the United States; and all slaves of such persons found or being within any place occupied by rebel forces and afterwards occupied by the forces of the United States, shall be deemed captives of war, and shall be forever free of their servitude and not again held as slaves.

Also, amend the title so that it shall read as follows: "A bill to suppress insurrection, to punish treason and rebellion, to seize and confiscate the property of rebels, and for other purposes."

DANIEL CLARK,
IRA HARRIS,
JOSEPH A. WRIGHT,
Managers on the part of the Senate.
THOMAS D. ELIOT,
JAMES F. WILSON,
Managers on the part of the House.

The PRESIDENT *pro tempore*. The question is on concurring in this report of the committee of conference.

Mr. McDOUGALL. Evidently this is new legislation, and that it may be exactly ascertained I move that the report lie on the table and be printed.

Mr. CLARK. I hope not. I do not think there is a necessity for printing the report, neither do I understand that it contains new legislation. It strikes out certain sections of the Senate bill and introduces certain sections of the House bill, with a modification, and also modifies, to some considerable extent, o... other section of the Senate bill, but there is no new subject of legislation introduced into the report.

The PRESIDENT *pro tempore*. The question is on the motion of the Senator from California, that the report lie on the table and be printed.

Mr. McDOUGALL. Certainly every Senator will understand that this is an entirely new measure in the form in which it is presented, and I think it is worthy of consideration. We can have the measure up for consideration when it is printed. I think there is a departure from the authority that belonged to this committee.

Mr. HENDERSON. I think we have discussed this confiscation subject sufficiently, and I have no doubt that Senators have made up their minds to adopt the proposition now before the Senate in the shape of a report from the committee of conference. I, for one, shall throw no obstacle in the way, and I desire that whatever is done may be done without any further discussion on the subject. I am satisfied that every man has made up his mind. I should like, however, very much to have the report printed, in order that I may know, in regard to my own vote, what I am voting for or against. I have very little doubt the bill will be passed; but if the Senator from New Hampshire has no objection, I should like very much to see it in print, because I cannot tell from the reading of so lengthy a bill by the Clerk what are its particular provisions. We can have it in print on Monday morning, and I, for one, shall then put no obstacles in the way of the passage of the bill.

Mr. CLARK. I hope it will not be delayed. We are coming so near the end of the session, and as is well said by the Senator from Missouri, the subject has been so thoroughly discussed, that I have no doubt almost every person, perhaps every person, in the Senate has made up his mind about it. There is scarcely anything in it that is not in one or the other of the printed bills; the report is made up almost entirely of parts cut out with a scissors and put into the report, standing as they did in the text, with some slight alterations.

Mr. HENDERSON. Of the House bill?

Mr. CLARK. Both the Senate and House bills. We modify the second section of the Senate bill by striking out the forfeiture of property, putting in a fine not exceeding $10,000, so that there shall be no complication in regard to forfeiture of estate. That I think the Senator will agree to. We then strike out the fifth, sixth, seventh, eighth, and ninth sections of the Senate bill, and insert as many new sections, four of them from the House bill, and one of those stricken out of our own bill slightly modified adopting some of the principles of the House bill, but varying them so far as to authorize the President to seize this property for the use of the Army, which almost everybody, I think, will agree that we may do, both those who deny the power of the President, and those who assert it. We say it shall be his duty to seize it. If he has the power already, it is only declaring the power; if he has not the power, we give him the authority to do it. And then if there is any of the property which requires to be condemned, in order to make it available for the use of the Army, we authorize proceedings for that purpose.

Then there is a modification of the section in regard to slaves. By the original section of the Senate bill, the President was authorized to issue a proclamation making the slaves free, if, after a certain time, the rebellion should not be suppressed in any particular locality. Now, we propose to take the slaves of rebels who come within our lines and declare them captives of war and set them free.

Mr. SAULSBURY. The fact that there is in this report new matter may be readily made apparent. What is the ordinary course pursued in reports of committees of conference where there is a disagreement between the two Houses? It is this: the report recommends that the Senate recede from such an amendment, and that the House of Representatives recede from such an amendment, and you can go through a whole conference report in that way. But now test this report by that. What amendment of the Senate to the House bill is it that the Senate recedes from, and what is it that the House recedes from? You cannot go through this report in the ordinary form in which you go through the reports of conference committees. It is said there is no new matter in this bill. Was there anything in the House bill or anything in the Senate bill about taking captives of war slaves that have been found in places occupied by the confederate forces? Not a word. According to my judgment of the report throughout, in almost every section of it, as made, new matter is introduced; and that we may have an opportunity to see whether this is so, it is nothing but fair and right and just to us who do think so that this report should be printed. The other day when there was a disagreement between the two Houses, and the Senator from Connecticut [Mr. FOSTER] was one of the committee on the part of the Senate, and in his report he introduced some new matter, it was held that the Senate should not accept the report, but they referred it to another committee. I think that would be the proper course in this case if such new matter has been introduced; and that we may see whether such new matter has been introduced, there being a disagreement on that point between the Senator from New Hampshire and the Senator from California and others of us, it is but fair and right that the report should be printed.

Mr. CLARK. I desire to say to the Senator from Delaware that no such question arises here as arose in that case. In that case there was a modification of the text of the bill which had been agreed to by both Houses; but here no part of the text had been agreed to. The Senate struck out the whole of the House bill after the enacting clause, and inserted the whole of the Senate bill. That the House disagreed to, throwing the whole matter open to the consideration of the committee of conference. There was no text agreed to, and it brought the whole subject fairly before the consideration of the committee of conference, and they have made a bill from the two, taking something from the House bill and most of the sections of the Senate bill, modifying the section in regard to slaves as I have stated. I submit, if a point of order is raised, that the committee have acted entirely within the scope of their authority.

The PRESIDENT *pro tempore*. The case presents no point of order for the Chair to decide as a point of order. As has already been stated, the whole Senate bill in this case was an amendment in the form of a substitute, disagreed to by one House, after having passed the other, so that it

placed the whole subject within the jurisdiction of the committee of conference. The question is on the motion of the Senator from California, that the bill and report lie on the table and be printed.

Mr. KENNEDY. I should like to have the yeas and nays on that motion.

The yeas and nays were ordered; and being taken, resulted—yeas 12, nays 28; as follows:

YEAS—Messrs. Bayard, Browning, Carlile, Cowan, Davis, Henderson, Kennedy, McDougall, Powell, Saulsbury, Willey, and Wilson of Missouri—12.

NAYS—Messrs. Anthony, Chandler, Clark, Collamer, Doolittle, Fessenden, Foot, Foster, Grimes, Hale, Harlan, Harris, Howard, King, Lane of Indiana, Lane of Kansas, Morrill, Pomeroy, Sherman, Simmons, Sumner, Ten Eyck, Trumbull, Wade, Wilkinson, Wilmot, Wilson of Massachusetts, and Wright—28.

The PRESIDENT *pro tempore*. The motion does not prevail; and the question recurs on concurring in the report of the committee of conference.

Mr. CARLILE. I desire the yeas and nays on that.

The yeas and nays were ordered; and being taken, resulted—yeas 27, nays 12; as follows:

YEAS—Messrs. Anthony, Chandler, Clark, Doolittle, Fessenden, Foot, Foster, Grimes, Hale, Harlan, Harris, Howard, King, Lane of Indiana, Lane of Kansas, Morrill, Pomeroy, Sherman, Simmons, Sumner, Ten Eyck, Trumbull, Wade, Wilkinson, Wilmot, Wilson of Massachusetts, and Wright—27.

NAYS—Messrs. Bayard, Browning, Carlile, Cowan, Davis, Henderson, Kennedy, McDougall, Powell, Saulsbury, Willey, and Wilson of Missouri—12.

So the report was concurred in.

Mr. STARK. I desire to be allowed an opportunity to record my vote on the question just taken, if the Senate will grant me the privilege. I wish to vote upon the question of concurring in the report of the committee of conference on the confiscation bill.

The PRESIDENT *pro tempore*. It can be done only by unanimous consent.

Mr. TRUMBULL. I believe the practice of the Senate is not to do that. I think it has never been done.

The PRESIDENT *pro tempore*. It has been done, but it is a departure from all parliamentary rule and all propriety. It has been done on several occasions, but in the judgment of the Chair it never ought to be done.

Mr. TRUMBULL. I was misinformed. I did not recollect its being done, and I thought the practice of the Senate was not to allow it to be done.

The PRESIDENT *pro tempore*. Is there any objection to the Senator from Oregon having his name recorded on that vote? ["No objection."] The Chair hears no objection; the Senator will answer.

Mr. STARK voted in the negative.

JUDICIAL CIRCUITS.

Mr. WILSON, of Massachusetts. I move to postpone the consideration of all other questions, and take up House bill No. 524.

The PRESIDENT *pro tempore*. The special order is before the Senate.

Mr. WILSON, of Massachusetts. I move the postponement of the special order and all other business for the purpose of taking up House bill No. 524, prohibiting the confinement of persons in the military service of the United States in the penitentiary of the District of Columbia, except as a punishment for certain crimes, and to discharge therefrom certain convicts by sentence of courts-martial, and for other purposes.

Mr. WRIGHT. I rise to a privileged question. I call up for consideration the report of the committee of conference on Senate bill No. 89.

The PRESIDENT *pro tempore*. The Chair regards the report as before the Senate. It will be read.

The Secretary read the report, as follows:

The committee of conference on the disagreeing votes of the two Houses to the bill (S. No. 89) to amend the act of the 3d of March, 1837, entitled "An act supplementary to the act entitled 'An act to amend the judicial system of the United States,'" having met, after full and free conference have agreed to recommend, and do recommend, to their respective Houses, as follows:

That the House recede from all its amendments to said bill except those in which the Senate heretofore concurred.

That the House concur in the Senate's amendment amended as follows, to wit:

The districts of Louisiana, Texas, Arkansas, Kentucky and Tennessee shall constitute the sixth circuit; the districts of Ohio and Indiana shall constitute the seventh circuit; the districts of Michigan, Wisconsin, and Illinois shall constitute the eighth circuit; and the districts of Missouri, Iowa, Kansas, and Minnesota shall constitute the ninth circuit.

J. COLLAMER,
JOSEPH A. WRIGHT,
JOHN C. TEN EYCK,
Managers on the part of the Senate.
JAMES F. WILSON,
JOHN A. BINGHAM,
R. MALLORY,
Managers on the part of the House.

Mr. HOWARD. Mr. President, I am opposed to the arrangement of judicial circuits in the manner agreed upon by the committee of conference on the part of the two Houses, and I will briefly state the reasons of my dissent from this arrangement. I remarked yesterday that I did not intend that a snap judgment should be obtained against my State and the other States interested in this bill as it originally passed the Senate; and that remark seemed to give some slight offense to the Senator from New Jersey. I regret that very much, for I certainly intended no offense, nor do I think that my remark was chargeable with any discourtesy to that Senator. I did, however, feel a little dissatisfied that the committee of conference should have introduced such essential changes in the bill as it passed the Senate and as it passed the House, without resorting to that which is usual, I believe, on such occasions, and consulting the members of the Senate and members of the House whose States are immediately interested. In point of fact, I was not consulted; my colleague in this body was not consulted; we had no knowledge even of the manner in which the committee of conference had been constituted; and I am told that no member of the House of Representatives from Michigan was in any way consulted by the committee of conference in reference to the disposition of these judicial circuits. I thought, and I think still, that, to say the least, it would not have been out of place if in so important a matter some of us had been consulted by the committee, and our views ascertained. We had no notice of the fact while it was pending in the hands of the committee, nor had I any notice or knowledge of it until the report was made to the Senate. What I wished for was a fair opportunity to be heard upon the subject of the new arrangement of the judicial circuits.

I desire to call the attention of Senators to the status of this bill. On the 3d of July the Senate passed the bill, and arranged certain judicial circuits in this form:

The districts of Ohio, Michigan, and Indiana shall constitute the seventh circuit; the districts of Kentucky, Illinois, and Wisconsin, shall constitute the eighth circuit; and the districts of Missouri, Iowa, Kansas, and Minnesota, shall constitute the ninth circuit.

That was the mode in which these States were divided into judicial circuits by the bill as it passed the Senate; and with that division I should have been content, because I confess that one great object which I have in view, and have had in view all along, is that my State should remain as it has been for long years, in connection with the State of Ohio, and within the judicial circuit to which Ohio belongs. A great reason for it is, that there is the utmost intimacy, both social and commercial, between the people of my State and the people of Ohio. We are, in fact, one and the same people; our commercial connections are very intimate; our codes of legislation are very similar; our modes of practice in courts of justice are almost identical; and the intimacy which exists, and which has so long existed, ought to be permitted to continue, and we should be permitted to remain in the same judicial circuit in which we have been since we have been a State.

Of course I could make no objection to Indiana remaining in the same circuit. Indiana and Illinois and Ohio and Michigan have, for the last ten years, I believe, constituted the seventh judicial circuit; and we have got on very harmoniously, justice has been administered by a very able judge now deceased, and no complaint has arisen in consequence of that connection. But, sir, what arrangement has the committee of conference made of the western and northwestern States in reference to judicial circuits? They recommend to us as follows:

That the districts of Louisiana, Texas, Arkansas, Kentucky, and Tennessee, shall constitute the sixth circuit; the districts of Ohio and Indiana shall constitute the seventh circuit; the districts of Michigan, Wisconsin, and Illinois, shall constitute the eighth circuit; and the districts of Missouri, Iowa, Kansas, and Minnesota, shall constitute the ninth circuit.

It will be seen that while the eighth circuit lies entirely on the east side of the Mississippi river, that circuit consisting of Michigan, Wisconsin, and Illinois, the ninth circuit, consisting of Missouri, Iowa, Kansas, and Minnesota, lies west of the Mississippi. The leading idea of the committee of conference seems to have been that there should be a division of judicial circuits upon the Mississippi river. I do not know what reason there is for that; nor can I conceive of the propriety of the governing principle by which the committee were guided, or seem to have been guided, in their action. Two circuits lying on the east side of the river and one circuit lying on the west side of the river, are provided for; but it will be seen, on looking into the amendment recommended by the committee of conference, that they violated this principle in the arrangement of the sixth circuit, which is to consist of Louisiana, Texas, Arkansas, Kentucky, and Tennessee. That circuit is very strangely shaped, indeed, and the Mississippi river runs directly through it. The States of Kentucky and Tennessee lie on the east side, while Louisiana, Texas, and Arkansas, lie on the west side, the two parts of the circuit being connected only by a tongue of land lying on the river, of about seventy-five miles in length, according to the map. I see no necessity whatever for adhering to this geographical division upon the line of the river in the arrangement of the more northern circuits; indeed, I do not like it. In times like these I am getting a little distrustful of geographical divisions. We do not know what a day or even an hour may bring forth in the midst of the trials and shocks which the nation is now undergoing.

But, sir, I desire to call the attention of the Senate to the very singular geographical and numerical arrangements which the committee have recommended for the States on the upper Mississippi. I will begin with the seventh circuit, consisting, according to this report, of the States of Ohio and Indiana. And first, as to the population. The population of Indiana and Ohio united, was, according to the census of 1860, 3,700,000. The area of these two States is only 76,000 square miles. The eighth circuit, according to their programme, consists of Michigan, Wisconsin, and Illinois; and these States, according to the same census, had within their limits a population of 3,200,000 and a geographical area of 157,000 square miles, more than twice the geographical superficies of the seventh circuit. The ninth circuit, consisting of Missouri, Iowa, Minnesota, and Kansas, had, according to the same census, a population of 2,166,000, while its geographical area amounts to 488,700 square miles, more than six times the geographical extent of the seventh circuit, and more than three times the geographical extent of the eighth circuit, as arranged here.

All these inequalities and disproportions are introduced into the report of the committee of conference for the purpose of carrying out the idea that there must be a separate circuit on the west side of the Mississippi river. Why it is, I do not know; but it seems to be a very odd and a very strange arrangement. Look at the eighth circuit, consisting of my own State, Wisconsin, and Illinois, a most misshapen circuit, more resembling in its form an Indian tomahawk than anything else, as you will discover if you look upon the map—Illinois forming the handle, and Wisconsin and Michigan the blade, presenting a most singular appearance upon the map.

Now, sir, why is all this? Why is this attempt made to revolutionize all our ideas on the subject of these judicial circuits? We need in our State and in Wisconsin a very able admiralty judge; and let me say to the Senate that no mediocre lawyer, no lawyer who has not had experience in the administration of that branch of the law, will be likely to satisfy the people of that circuit. While Ohio has a lake coast of only about one hundred miles lying within the seventh circuit, the State of Michigan has a coast upon Lakes Erie, Huron, Michigan, and Superior of nearly two thousand miles. Illinois has only about fifty miles of coast upon the southern border of Lake Michigan; Indiana has about as much; and I undertake to say that the amount of admiralty business alone which must necessarily be transacted in our circuit will be double, treble, and even quadruple that which will be transacted in the seventh circuit as arranged by the committee. In order to dispose of this busi-

ness, which is to increase from year to year very rapidly and in an important ratio, it will be necessary that we should have an expert, a learned, a ready, and a sound admiralty judge. The present incumbent, Judge Swayne, who holds his court in my district, and also in Ohio and in Indiana, is, in every way, as I am informed by the bar of my own State, entirely acceptable to the State. He will administer this important branch of the law, I have no doubt, with skill and ability, with a higher degree of these invaluable qualities than we have any right to expect will be furnished to us in the shape of some other judge who may be picked up in some other part of the Northwest.

I do not understand why this radical change has been introduced. Why not adopt something more simple, more rational, more easily understood than this complicated system embraced in the report of the committee of conference? If I might be allowed to make a suggestion to Senators, I would say—and I think this would meet entirely the views of the Senator from Indiana—why not continue Ohio and Indiana and Michigan in the same judicial circuit? These States furnish a geographical area of one hundred and twenty-six thousand square miles, and a population, according to the last census, of about four million and a half; but they are all comparatively old States, and population in those States is increasing by no means so rapidly as it is in the more western and northwestern States. Then why not, as another circuit, include Illinois, Missouri, and Kansas, with a geographical area of two hundred and twenty-eight thousand square miles, and a present population of a little over three million, but rapidly increasing. That population will increase in the course of ten years to four or five or five and a half million souls. I would suggest that the next circuit be constituted of Wisconsin, Iowa, and Minnesota. There there is a geographical area of three hundred and sixty-seven thousand square miles, and a population of nearly two million; but this population in the course of ten years will undoubtedly be doubled, and even more; for it is a general rule, I believe, which prevails throughout the new western States, that their population doubles in about ten years.

Now, sir, for these reasons, because there are great and unnecessary inequalities and disproportions in the circuits as arranged by the committee of conference, because this report separates my own State from Ohio, and sends us into a circuit and connects us with States with which we have comparatively little commercial connection, and comparatively few commercial transactions, I oppose this report. I desire that my State may remain connected with Ohio for judicial purposes. We have no fault to find with our sister States of Illinois and Wisconsin; but in point of fact our commercial interests connected with those States are comparatively small, while they are great and constant and constantly increasing with the State of Ohio. I shall, therefore, move that this report be non-concurred in, and ask for another committee of conference upon this subject, so that we may arrive at something that shall be reasonable and satisfactory, as I have no doubt the plan I have sketched would be to all the people and all the States of the Northwest; and I thank my friend from Wisconsin [Mr. DOOLITTLE] most sincerely for the suggestions he has made, and the aid he has rendered me in my endeavors to bring about an arrangement of these circuits in the manner I have indicated.

Mr. DOOLITTLE. I believe the population of Wisconsin ten years ago was about two hundred and fifty thousand. Now it is seven hundred and seventy thousand. That State has trebled its population in ten years; so with the State of Iowa. So undoubtedly it will be with the State of Minnesota. By the end of the next ten years the probability is that Wisconsin, Iowa, and Minnesota will be very nearly as populous as either of the other circuits; and more than all that, there is Dakota lying west of Minnesota, which will have to come in within the next ten years and be annexed to a circuit, and very probably Nebraska, which lies adjoining Missouri and Kansas, and which might be annexed to that circuit, and which before the ten years elapsed would make a circuit, composed of Illinois, Missouri, and Kansas, with Nebraska attached, as populous as Ohio, Indiana, and Michigan. So, too, would the circuit of Wisconsin, Iowa, Minnesota, and Dakota, if that come in, be as populous as either of them, probably.

Indiana, Ohio, and Michigan, it seems, desire very much to remain together in one circuit. Their business and their associations bind them together. So, too, with Illinois, Missouri, and Kansas; their railroads and their interests bind them together. A man from Missouri or Kansas, if he goes east to New York, passes through Illinois. So, to a very great extent, it is with Wisconsin, Minnesota, and Iowa; our railroads run together; we are the same class of people; we live in much the same latitude; we have the same kind of business, and more than that, we have precisely the same practice in the courts. I have not the slightest doubt that if Kentucky is to go with the southern circuit, as recommended by the committee, and you are to make up your three circuits north of the Ohio and west of the Mississippi, the circuits as proposed by my friend from Michigan would be the best. Laying aside all questions about who is going to be judge or anything of that kind, and coming right down honestly to the business transactions of the people, there is no doubt that the States clustered in this way would be best in forming the circuits; Ohio, Michigan, and Indiana lying together, with a little over four million people; Illinois, Missouri, and Kansas, which within ten years will have the four million, when the State beyond, Nebraska, will be admitted. Wisconsin has trebled its population in ten years, and so has Iowa, and Minnesota doubtless will, and with Dakota next upon the west, which must come in in the course of ten years, that circuit will be equal to the rest in population. In the courts of the United States in Michigan and Wisconsin, the admiralty business is very large indeed. I am disposed to favor the views expressed by the Senator from Michigan.

Mr. WRIGHT. It is to be regretted that we have so few Senators present to settle a question of so much importance and interest. This question has to be met, and I am sorry that my friend from Wisconsin has introduced the subject of judges. He certainly does not design any part of that to apply to Indiana, whose delegation on this floor and in the other House are unanimous in favor of remaining with Ohio where there is a judge.

Mr. DOOLITTLE. I am willing that you should.

Mr. WRIGHT. There ought to be a solid vote for this report; but there is a mystery about the opposition to this measure which I wish Senators to explain to me. The bill passed the Senate with only five dissenting votes, making Ohio, Indiana, and Michigan one circuit. I believe one, if not both of the Kentucky Senators voted for that. For some reason the members in the lower House from Kentucky, and a portion from Illinois, opposed the arrangement made by the bill. The Senator from Michigan knows that I was perfectly willing, as I am, to have his State remain with ours in the same circuit, but I can tell him the reason why it could not be so. In that circuit there are four and one half million people, while you have only ten million to divide into three circuits. My venerable friend from Vermont was one of the committee of conference, so was the Senator from New Jersey, and it was the unanimous vote of the committee that you must divide this population; that you could not be governed by territory. I was anxious to place these three States together, and I voted to keep Michigan with us; but you cannot do it when you have ten million people to divide among three circuits. You cannot get any fair committee, who, taking these ten million for three circuits, will put four million and a half in one circuit. Then the question comes up, how will you settle it? If you reject this report you will be at sea again, and it may be hopeless to expect the bill to pass.

So far as the action of the Senate and House of Representatives is concerned, there was one thing agreed upon by both—that the four States west of the Mississippi river, Missouri, Kansas, Iowa, and Minnesota, should go together. Now, it is proposed by the Senator from Michigan and the Senator from Wisconsin to divide these States, to take Missouri and attach her to Illinois. If we do that, we shall get into another row. Let me tell Senators that they get this bill or none. There are four States that have never had a circuit judge, Minnesota, Kansas, Wisconsin, and Iowa. This question has been up for six months; and you have had a committee of conference that now makes a unanimous report. I must correct my friend from Michigan in one thing. He certainly could not have meant to say that he had a right to go before the committee of conference.

Mr. HOWARD. I did not say so.

Mr. WRIGHT. I certainly conversed with the Senator three days ago, and so did the Senator from Vermont, and we told the members of the committee that Michigan was opposed to this arrangement; but we could not make any compromise that would place her with us.

Mr. HOWARD. Will the Senator from Indiana allow me to ask him a question?

Mr. WRIGHT. With pleasure.

Mr. HOWARD. I desire to ask the Senator from Indiana at what time and by whom was I ever informed of this arrangement of the judicial circuits. I deny that any human being ever communicated to me anything whatever respecting the scheme of division which is embraced in this report.

Mr. WRIGHT. The Senator does not understand me. I did not know until the committee met what they wanted.

Mr. HOWARD. But the Senator speaks of my having been called upon by himself and by the Senator from Vermont, and that I conversed with them about it.

Mr. WRIGHT. I understood that the Senator was opposed to this arrangement. I was willing to keep his State in with Ohio and Indiana, but the committee took the ten million population in the northwestern States, and did not see any way of dividing them fairly so as to keep these three States together. They have done what is best, making a division which gives my circuit the largest population, because it is composed of the oldest States.

This bill cannot be passed, in my judgment, with any divisions which are now suggested. Such are the elements of opposition to it either in the other House or here, that any other division than that contained in the report will be defeated. The question has been pending for six months; both Houses have acted; here is a report of a committee after a free conference, a unanimous report, proposing to include in the circuits States which have never had a circuit court. The question is, shall they have them? I should be perfectly willing, as I have already said, to put Michigan in our circuit, but the committee decided otherwise; the House decided otherwise; and now the question is, whether you shall have any bill at all.

Mr. HOWARD. I am myself less easily discouraged than the Senator from Indiana in reference to this matter. I believe that we can pass this bill in the manner suggested by me, or in some manner which shall be satisfactory to all the States, and the people of all the States concerned, by a little consultation. By a little exchange of views between one and another, getting together and talking it over, I think we can come to an arrangement, and that speedily, if we are only courageous and have confidence in ourselves and confidence in those with whom we are associated here. I do not think Senators or Representatives from the west side of the Mississippi are so perverse as not to listen to those who come from the east side of the river, nor do I think those who are from the east side will refuse to listen to the reasonable requests of those who reside on the west side of that father of waters. We are neighbors, we are friends, socially and commercially, and we intend to remain so.

But I do object to this unreasonable division of territory. The Senator from Indiana tells us that the basis of this report is the existing population of about ten million souls, that that population has been divided by the committee, and that their report embraces the division. Now, sir, such a division upon the actual existing population is an unreasonable division; because he knows as well as I, as well as every gentleman here knows, that the population in the new States, either east or west of the Mississippi, is perpetually and rapidly increasing, and that the population of to-day is by no means the population of next year, or five years hence, or ten years hence; and he sees or must see as plainly as I that these circuits, lying the one east of the Mississippi, including Illinois, Wisconsin, and Michigan, will in a few years very greatly outnumber in population Ohio and Indiana united, probably double that population; and he must see that the population of his ninth circuit,

consisting of Missouri, Iowa, Minnesota, and Kansas, will in a very few years be greatly above that of the States of Ohio and Indiana united. This seventh circuit, consisting of Ohio and Indiana, is one of the smallest circuits within the limits of the United States in geographical extent and in numbers. Why is this? Why are these inequalities introduced? What is there at the bottom of it? I say nothing about judgeships, and I care nothing about judgeships, but I wish to see the territory and the population, present and prospective, properly and equitably divided for the accommodation of persons having business in the courts. That is all I desire; and it does seem to me that by a little mutual consultation by those who are interested in this matter, the scheme which I have suggested may be easily agreed upon and carried out. I have no doubt it will be agreed upon if we set ourselves about it earnestly.

I see in this committee of conference—I allude to it without any disposition to censure the authority by whom the committee was appointed—that, on the part of the Senate, the committee consisted of the Senator from Indiana, [Mr. WRIGHT,] a Senator from Vermont, and a Senator from New Jersey, gentlemen certainly very learned in the law, very competent, gentlemen in whose integrity and knowledge we have the utmost confidence, but gentlemen who are really little acquainted with the wants or the feelings or the tastes of the western and northwestern population; and on the part of the other House, the committee consisted of a member from Ohio, a member from Iowa, and a member from Kentucky. My State was not represented at all, Wisconsin had nothing to do with it, Illinois was unrepresented on the committee. In the committee no northwestern man, except the Senator from Indiana, was appointed on the part of this body to hold this conference. Now, sir, we want a chance, we want an opportunity to consider this matter and to make a different arrangement, one which will be more satisfactory to the country, more satisfactory to the Northwest, more consistent with our commercial and social relations and connections than this is; and I appeal to the Senate to non-concur in this report, and to direct the appointment of another committee of conference. If we fail after making another attempt, I shall acquiesce; but I think we ought to have one more attempt to arrange the circuits in a manner that shall not so grossly disappoint the people of my State and Wisconsin.

Mr. WRIGHT. I shall not detain the Senate. I hope we may have a vote. If, after this question has been pending for six months, after the action of the two Houses and of a committee of free conference, we cannot pass this bill now, I tell Senators they will never get one.

Mr. HOWARD. I can tell Senators that we will get one; I have not any doubt about it.

Mr. RICE. Will it be in order to make a motion that the further consideration of this question be postponed until next December?

The PRESIDING OFFICER, (Mr. ANTHONY in the chair.) That motion will be in order.

Mr. RICE. I move that the further consideration of the subject be postponed until the second Monday of December next.

The motion was not agreed to.

The PRESIDING OFFICER. The Senator from Michigan moves that the Senate disagree to the report of the committee of conference and ask for another conference.

Mr. SHERMAN. I think the question is, "Will the Senate concur in the report of the committee of conference?"

The PRESIDING OFFICER. The Senator from Michigan moves that the Senate disagree to the report and ask for a new committee.

Mr. WRIGHT. But the first question is whether we concur.

The PRESIDING OFFICER. The Chair supposes that the ordinary form of the question would be on concurring, but when a motion is made that the Senate disagree to the report and ask for another conference, the present occupant of the chair, though not well advised in such questions, is of opinion that the motion is in order. The motion is that the Senate disagree to the report and ask for another conference.

Mr. WRIGHT. Is that the way in which the question is to be put?

The PRESIDING OFFICER. That is the form of the motion.

Mr. WRIGHT. I supposed the question would be put on concurring in the report.

Mr. GRIMES. I understand from those more familiar with parliamentary law than I am that the question of concurrence has precedence.

The PRESIDING OFFICER. The present occupant of the chair is liable to be mistaken on such a question.

Mr. HOWARD. If there is no appeal from the decision of the Chair, I think we had better take the vote on the motion to disagree to the report and ask for another committee.

The PRESIDING OFFICER. The Chair understands that motion to be in order.

Mr. COLLAMER. As I understand it, these are equivalent votes. If the Senate should refuse to concur in the report, it will then be open to ask for another committee. The question is whether the Senate will concur. If they concur, there is the end of the matter. If they non-concur, it will be open, as the Senator from Michigan desires, to a motion for the appointment of another committee. I think the parliamentary form is, "Will the Senate concur in the report of the committee?"

Mr. DOOLITTLE. I shall vote to non-concur for the purpose of having a new committee, but I suppose in whatever form the question is put, it amounts practically to the same thing.

The PRESIDING OFFICER. It is moved that the Senate disagree to the report of the committee of conference and ask for a new committee.

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

Mr. WRIGHT. I want the question divided. I wish to vote first on concurring or non-concurring.

The PRESIDING OFFICER. The motion is to non-concur and ask for a new committee of conference.

Mr. WRIGHT. The latter branch of the motion is a distinct question.

Mr. WILSON, of Missouri. I wish to inquire of the Chair what will be the effect of the vote proposed to be taken. Suppose the Senate vote to non-concur, what will be the effect of that?

The PRESIDING OFFICER. They will ask for a new committee of conference.

Mr. WILSON, of Missouri. But suppose on this motion a majority of the Senate vote the other way, what then is the result? Is that report concurred in, or must there be another vote?

The PRESIDING OFFICER. Then the report will be concurred in.

Mr. COLLAMER. Do I understand the Chair that if the Senate should vote against the motion to non-concur, that would be a concurrence in the report? Would that be an acceptance of the report and an agreement to it?

The PRESIDING OFFICER. No, sir. The Chair was mistaken in that suggestion. The question then would be on concurring. It is the impression of the Chair that ordinarily the question is, "Will the Senate concur in the report of the committee?" but a motion made to disagree to the report and to ask for a new committee of conference is a different question from that of merely agreeing or disagreeing. If the question was either to agree or disagree, it should be put affirmatively.

Mr. COLLAMER. I desire to come to the point in the most simple and proper form. I ask that the question be divided. Whether we disagree to the report, and whether, if we disagree, we shall ask for a new committee, are two different things. Now on the first question, whether the Senate will disagree, I desire to know if that does not amount to the same question as whether we shall concur?

The PRESIDING OFFICER. Certainly.

Mr. COLLAMER. Then the question should be put on concurring.

The PRESIDING OFFICER. The Senator from Vermont asks for a division of the question. If the question be divided, it will be put affirmatively. The question then, is, "Will the Senate concur with the report of the committee of conference?"

Mr. HOWE. I was not here when the report was made, and I simply ask, for information, whether the report recommends that the Senate recede, or that the House of Representatives recede? This bill, I understand, has passed the Senate in some form. Does the report recommend that the Senate recede from its former vote?

A Senator has kindly put the information in my hands, and I see by the report that the committee recommend that the House concur in the Senate amendment, amended as follows:

The districts of Louisiana, Texas, Arkansas, Kentucky, and Tennessee shall constitute the sixth circuit; the districts of Ohio and Indiana shall constitute the seventh circuit—

Mr. GRIMES. It simply puts Michigan with Wisconsin and Illinois. That is the only change from the bill as it passed the Senate before.

Mr. HOWE. I understand the purpose of a portion of the Senate—those who do not wish to concur in this report—is to get another committee of conference; and it seems to me that the proper question to be submitted to the Senate is, that the Senate insist upon their former vote; and if they shall insist upon the former vote, then a motion for a new committee of conference will be in order. That strikes me to be the proper motion.

The PRESIDING OFFICER. The question now is, "Will the Senate concur in the report of the committee of conference?" If that shall be determined in the negative, it will be open to a motion for the appointment of a new committee.

Mr. HOWARD. I call for the yeas and nays upon the question of concurrence.

The yeas and nays were ordered; and being taken, resulted—yeas 24, nays 12; as follows:

YEAS—Messrs. Anthony, Clark, Collamer, Cowan, Fessenden, Foot, Foster, Grimes, Harlan, Harris, Henderson, Lane of Indiana, Lane of Kansas, Morrill, Pomeroy, Powell, Sherman, Simmons, Sumner, Ten Eyck, Trumbull, Wilson of Massachusetts, Wilson of Missouri, and Wright—24.

NAYS—Messrs. Browning, Carlile, Chandler, Doolittle, Howard, Howe, Kennedy, McDougall, Rice, Stark, Wilkinson, and Willey—12.

So the report was concurred in.

CONFINEMENT OF SOLDIERS.

On motion of Mr. WILSON, of Massachusetts, the bill (H. R. No. 524) prohibiting the confinement of persons in the military service of the United States in the penitentiary of the District of Columbia, except as a punishment for certain crimes, and to discharge therefrom certain convicts by sentence of courts-martial and for other purposes, was considered as in Committee of the Whole.

The bill provides that hereafter no person in the military service of the United States, convicted and sentenced by a court-martial, shall be punished by confinement in the penitentiary of the District of Columbia, unless the offense of which the person may be convicted would by any statute of the United States or at common law, as the same exists in the District, subject the convict to that punishment, or he should be convicted of mutiny, or desertion, or an attempt to incite to mutiny.

All persons in the military service who have heretofore been or may hereafter be convicted and sentenced by a court-martial for any offense other than mutiny, or desertion, or an attempt to incite to mutiny, which, if tried before the criminal court of the District, would not subject such person to imprisonment in the penitentiary, and who are now or may hereafter be confined therein, are to be discharged from imprisonment, upon such terms and conditions of further punishment as the President of the United States may, in his discretion, impose as a commutation of the sentence. Upon the application of any citizen of the United States, supported by his oath, alleging that a person or persons in the military service is confined in the penitentiary under the sentence of a court-martial for any offense, other than mutiny, or desertion, or an attempt to incite to mutiny, not punishable by imprisonment in the penitentiary by the authority of the criminal court, it will be the duty of the judge of the court, or, in case of his absence or inability, of one of the judges of the circuit court of the District, if upon an inspection of the record of proceedings of the court-martial he shall find the facts to be as alleged in the application, immediately to issue the writ of *habeas corpus* to bring before him the convict; and if, upon an investigation of the case, it shall be the opinion of the judge that the case is within the provisions of this act, he is to order the convict to be confined in the common jail of the District, until the decision of the President of the United States as to the commutation shall be filed in the court, and then the convict will be disposed of and suffer such punishment as by the commutation of his sentence may be imposed. No person convicted upon the decision of a court-martial is to be confined in any penitentiary in the United States, except under the conditions of this act.

The bill was reported with amendments by the Committee on Military Affairs and the Militia, the first of which was in line seven of section one, to strike out the word "any," before "statute," and insert "some."

The amendment was agreed to.

The next amendment was to strike out of the first section the words "or such person be convicted of mutiny, or desertion, or an attempt to incite to mutiny."

Mr. GRIMES. I am satisfied that the amendment ought not to be adopted. The preceding portion of the section provides that no person in the military service shall be sent to the penitentiary of the District of Columbia unless the offense of which the person may be convicted would by some statute of the United States or at common law in the District of Columbia subject such convict to that punishment. There is no statutory law of the United States, nor is there any common law in this District, under which any person can be convicted of a mutiny or an attempt to incite to mutiny, no matter how outrageous or grievous it may have been; and yet punishment for offenses of that kind ought to be inflicted, and I do not know any safer or any more satisfactory way, both in point of humanity and otherwise, than to send them to the penitentiary of the District of Columbia. If we want to maintain subordination in the Army, we must reserve the power to punish men of that description. I am perfectly well aware that we are legislating under a great load of prejudice that has been thrown on courts-martial in consequence of the conduct of some of our military tribunals within the last few months; but we ought not on that account to deprive ourselves of the power of punishing flagrant cases of mutiny and attempts to incite to mutiny in the military service.

Mr. WILSON, of Massachusetts. The bill provides that no person in the military service shall be sent to the penitentiary unless his offense would, by a statute of the United States, or at common law, as that law exists in the District of Columbia, subject him to such punishment; and then there is added the clause, "or such person be convicted of mutiny, or desertion, or an attempt to incite to mutiny." The person so convicted must be convicted under the rules and articles of war; and to allow such persons to be sent to the penitentiary, it was thought, would be liable to great abuse; and there are other modes of punishment by which persons who incite to mutiny or who desert or who are convicted of mutiny, may be punished without being sent to the penitentiary. There are outrageous cases in which, perhaps, such persons ought to go to the penitentiary; but it is a very remarkable fact that we have had a large number of persons sent to the penitentiary for the most trivial offenses, as the evidence goes to show; and it is rather a hard thing, in my judgment, to take a volunteer who enlists in the service of his country, who commits some trivial offense under the influence of intoxication or of a freak of passion or something of that kind, for which, at common law, you could not get a jury to convict him and fine him ten dollars, and by the sentence of a court-martial send him to the penitentiary. If, however, the Senate think that this last amendment ought not to be adopted, of course they will vote it down. The committee, under the best examination they could give to it, thought it best to strike out these words. We have so reported; we leave the result to the Senate.

Mr. COLLAMER. Suppose a court-martial are sitting in California, and they want to sentence a man for an offense, and rather than shoot him they propose to put him in prison: how will they know whether in the District of Columbia a man can be sent to the penitentiary for that offense or not? They have no means of knowing anything about it.

Mr. WILSON, of Massachusetts. I suppose they have their law books, as you have.

Mr. COLLAMER. They may know what the common law provides for; but how can they know every offense for which a man may be sent to the penitentiary in this District?

Mr. WILSON, of Massachusetts. The offense is to be one which under the statute law or the common law as it exists in this District would subject a man to imprisonment in the penitentiary.

Mr. HARRIS. I hope this amendment will be adopted. I do not like the idea of punishing for military offenses by a sentence to confinement, imprisonment among felons. I know a case of six young men, some of whose families I know personally, young men well educated, who have maintained a good character through life, who have a spotless reputation, who are now serving in the penitentiary among felons, for, as it is said, having refused to march without arms. I believe it. I hope that Congress will never sanction a sentence like that. If this bill be not passed, I shall be put to the necessity of going to the President to get a pardon for these young men. They must come out of there; they will come out of there; the President will not hesitate to pardon them; but the law ought not to allow such young men to be imprisoned among felons. It is not the place for them. There are other ways of punishing for this sort of insubordination, though it may be called mutiny or attempt at mutiny.

Mr. GRIMES. I have no doubt the Senator from New York used to teach the young men whom he educated that it was a very unsafe rule to argue from the abuse of a thing that the thing itself ought not to exist. It is undoubtedly true that personal rights and military rights have been violated. It is so always when we are in a condition of war. It is so especially when you are relying upon a volunteer force, and relying upon volunteer officers to hold your courts-martial who are utterly unfamiliar with everything of this kind. The men who composed the courts-martial who have sentenced these men to whom the Senator has alluded to the penitentiary, are men who have not been accustomed to being engaged in that kind of business. They have never acted as judges-advocate; they have never acted as military judges; they have not been in the habit of weighing testimony; and they have been on the march all the time. There has not been, probably, an opportunity to the persons who were arraigned before these tribunals to procure their testimony as there ought to have been. Doubtless there have been great hardships. Nobody pretends to defend these courts-martial; but because that evil has existed, and because wrong has been done to these men, will you say that in all cases which may occur hereafter within our national domain, there shall be no power to send a soldier to your penitentiary, or confine him anywhere under an order of a court-martial? That is the effect of it. Here is a man who is guilty of mutiny, or who incites to mutiny; who overthrows the constituted military authorities of the Government, and yet, by striking out this provision, you say that man shall not be punished.

Mr. WILSON, of Massachusetts. Shall not be punished by confinement in the penitentiary.

Mr. GRIMES. What other punishment have you to inflict upon him? What can you do with him? It is said you do not want to incarcerate him with felons. He is the very worst kind of felon. He strikes at the very basis of your Government. Who is guilty of a greater offense than a man who gets up a mutiny? I know perfectly well that I am arguing the unpopular side of this case, but I say that it is very unsafe for us by legislation to declare that men shall not be punished when guilty of a flagrant violation of military law; and that is the effect of this, because, besides prohibiting the use of the District penitentiary, there is a clause declaring that they shall not be incarcerated in other penitentiaries. What are you going to do with them? Keep them on bread and water, paying them, exempting them from the performance of military duty, from all camp duty? It is the very thing they want.

Mr. HARRIS. I am utterly opposed to mingling punishment for military offenses with punishment for civil offenses. There are various ways in which to punish sufficiently all insubordination, all mutiny, all other military offenses, without attaching to the volunteer soldiers the ignominy of civil crime.

Mr. GRIMES. The Senator will allow me to suggest that the ignominy does not consist in the punishment, but in the perpetration of the offense.

Mr. HARRIS. I deny that. Take the case of these young men. They may for the moment have been insubordinate, it may have technically amounted to mutiny; but they are young men of the highest respectability, and their families are so. I would never allow my son to enter the Army, if by any such means he could be covered with infamy by sentencing him to punishment in a penitentiary. I think there are many men who would not. It is wrong in itself; it is doing injustice to our volunteers. The very idea that here are a hundred young men belonging to the best families of our country who have volunteered to serve the country, who have by this hasty mode of trial been subjected to this ignominious punishment, is enough to excite the indignation of the country. I hope these words will be stricken out; and if there are not modes of punishment in the Army sufficient to meet the case, provide them, but do not send these men to an association with felons. They do not belong to that class of the community.

Mr. RICE. My understanding is that no court-martial has the right to sentence a soldier to be imprisoned in any jail or any penitentiary throughout the United States. It has been for years customary—I am not able to refer to any law authorizing it—where a man connected with the military service has deserted or committed a crime, and he is found far from a military depot, to place him for safety, for the time being, within a jail or penitentiary; but whenever the convenience of the service rendered it proper, he was taken before a court-martial, and there received his sentence. There is not an instance in the history of the United States where a soldier has been sentenced to confinement in a penitentiary or in a jail. It is mixing the civil and military authorities together, which certainly are incompatible with each other. They are tried by different tribunals; their sentences are different. A person in civil life convicted and one in military life convicted for offenses are never put together, and never should be.

Mr. HARRIS. They are now.

Mr. RICE. I am speaking in accordance with the usages and laws of the country, not in regard to what the necessities of the occasion may have required recently here. I have seen soldiers—I am told honorable men—who mistook the orders of their commanders, or who, not being thoroughly conversant with the rules and articles of war, had innocently departed from them. They have been tried by a military court, and sentenced sometimes to pay a fine, sometimes to have their pay stopped for a few days or a few months, sometimes to be kept under guard for a few weeks; but never in the history of the country did an instance occur in which they were consigned to the cell of a felon. Men picked up here in our country, young farmers and mechanics, never read the military law, never looked over the regulations governing the military or the militia of the country; and because one of them happens innocently to do something that conflicts with the stringent laws and regulations of war, it is wrong that he should be consigned to a cell by the side of a man who had committed one of the most infamous crimes. Adopt that principle, and no man of any honor will enlist hereafter in the Army.

The PRESIDING OFFICER. The question is on the amendment proposed by the committee.

The amendment was agreed to.

Mr. WILSON, of Massachusetts. The amendments which follow in the other sections are precisely like it.

The Secretary read the next amendment, which was, in section two, line four, to strike out the words "other than mutiny or desertion, or an attempt to incite to mutiny."

The amendment was agreed to.

The next amendment was, in section three, lines five and six, to strike out the words "other than mutiny or desertion, or an attempt to incite to mutiny."

The amendment was agreed to.

The bill was reported back to the Senate as amended, and the amendments were concurred in and ordered to be engrossed, and the bill to be read a third time. The bill was read the third time, and passed.

COMMERCE OF THE PACIFIC STATES.

Mr. McDOUGALL. I laid upon the table, the day before yesterday, a resolution which was then objected to. I move now to take it up.

The motion was agreed to; and the following resolution was considered and adopted:

Resolved, That the President be requested to have prepared a full report of the foreign and domestic trade and commerce of the States of California and Oregon, and Washington Territory, to be submitted at the next session of Congress for the use of the Senate.

ELECTION OF REPRESENTATIVES.

Mr. TRUMBULL. I ask the Senate to take up House bill No. 525, which was up the other day, and, I think, ordered to a third reading, so that the question is on its passage. I think there will be no delay in passing it; it is a bill providing for the election of Representatives by single districts.

The motion was agreed to; and the Senate resumed the consideration of the bill (H. R. No. 525) in relation to the election of Representatives to Congress by single districts.

The bill was passed.

CONSTITUTIONAL QUORUM.

On motion of Mr. SHERMAN, the Senate resumed the consideration of the following resolution submitted by him:

Resolved, That a majority of the Senators duly elected to seats in this body is a constitutional quorum.

Mr. COLLAMER. I propose to make a very few remarks in relation to this question of what shall constitute a quorum of the Senate. It is said in the Constitution that a majority of each House shall constitute a quorum for the transaction of business. A quorum of the Senate consists of the majority of the Senate, and of course the whole question turns upon this, what constitutes a Senate? It would seem to a man, in the mere exercise of ordinary common sense, that the Senate was composed of Senators. It is difficult to see how it can be composed of anybody else but Senators. But it is insisted that that is not so, or else it is insisted that the Senators consist of two classes, those that have been elected and those that have not been elected. That is the way all mankind are divided, into those that have been hung and those that have not been hung. [Laughter.] That really reminds one very much of the man who after the publication of "Thirty Years in the Senate," published his "Thirty Years out of the Senate." [Laughter.] I cannot conceive how there can be such a thing as Senators never elected. It is to me a confusion of ideas. There is a sort of jumble in it that I cannot comprehend.

I know there has been a great deal of learning, and a great many precedents have been submitted about this matter; but it seems to me that, after all, the case is perfectly clear, not merely from the exercise of common sense, as I have mentioned, but from the very words of the Constitution itself in express language. It is not true that those who made the Constitution involved any such contradiction as talking about a Senate that was not composed of Senators; and, to my mind, it has altogether arisen from undertaking to read a definition, and reading only half of it.

"The Senate of the United States shall be composed of two Senators from each State."

Is that it? Is that the Constitution? All the remarks that have been made, and almost all the precedents which have been quoted, have been upon the ground that that ended the sentence, that that was all there was of the definition; but that is not so. The sentence is this:

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

That is all one sentence; not "two Senators from each State," stopping there, and then making provision that the Legislature shall choose these Senators. That is not it, nor is it "two Senators to be elected." It is that "the Senate of the United States shall be composed of two Senators from each State, chosen by the Legislature thereof." What composes the Senate according to these words? The two Senators from each State who have been elected, who have been chosen. Such are the words of the Constitution; such is the common sense of the thing. Would it not be strange language if it were otherwise? A provision of the Constitution here is that, even a minority of the Senate may send for absent members, the members who will make the body. Are you to send for members that have never been elected? That would seem to be the doctrine. If a State was entitled to elect, but did not, whom would you send for? To my mind, the question is simply as I have stated it, and it is implied in these words of the definition itself, as well as in the nature of the thing, otherwise we are involved in all the absurdities of talking about a Senate composed of men who never were Senators of the United States, who never had been elected, and there is no telling when they will be, or who they are, when elected.

To my mind, therefore, it is a clear case. The Senate is really composed of Senators; and what makes the body is the number of those Senators who have been legally elected. They compose the body, and a majority of that body constitutes a quorum. You may talk about the inconvenience of having an uncertain number: you cannot escape that altogether in any way; some will die; I do not know that any ever resigned. It was said, in Jefferson's time, that none who held office ever resigned; but some die, and some may possibly remove from the country, and there will be an uncertainty about it anyway. That is unavoidable always.

But men may ask me, what if there should be only one or two or three States who elect Senators? It will be time enough to settle that question when it comes. When that state of circumstances arises, it will be time enough to settle that question. That is not a question before us now. I am, however, in no way unprepared to give my impressions about it. To my mind, in all popular Governments, majorities govern, unless some other arrangement is made by the conventionalities by which they exist. I am not very fond of being pushed out to reason exactly why that is so. I do not know but that, if it were carried out, it would be found to be resolved at last into mere physical force. A majority can govern, and will govern. They will because they can; and they can because they have more physical force; but I do not wish to run out into any abstractions of that kind. That is the principle and theory of popular government. I do not see but that with that theory, which runs through all popular government, it is possible, after all the contrivances and ingenuities and inventions of men, that a majority can destroy government. I do not say that they have a right, but I say they have power, and it is obvious enough in our own Constitution. We see it all the way through. If, the whole Senate being full, a majority of Senators agreeing in a plan choose to sit back in their chairs and say, "We will vote no supplies for this Government," there is an end of your Government. When the election of President devolves on the House of Representatives, the Constitution says that the man having the largest number of votes shall be elected, provided that is a majority of the whole number of States. Suppose a majority of States will not vote; it is the end of your Government. You may go on and suppose a thousand particulars in which they may have the power, if not the right, practically to put an end to a Government by a mere nonfeasance, without any direct violence. But it certainly must be equally true that the majority have the right to support the Government, continue it, and maintain it. That must be so in the nature of things. Therefore, so long as you have a majority of the States who do elect their Senators, and you have Senators enough to make up and represent a majority of the States of the Union, a quorum of that body is made up of a majority of those Senators. If it should ever come to this, that you are reduced at last to a minority of States, whether they can constitute a Senate, it is not necessary now to inquire.

Mr. FESSENDEN. I do not wish to enter into the argument of this subject, and do not intend to do so. I entertain precisely the same opinions with the Senator from Vermont, and have from the beginning, but perhaps upon somewhat different grounds, though I concur fully in the force of his argument. I so voted when the question was up the other day. I think the matter is of importance, and we ought to pass the resolution, not in reference to this session or any necessity that may be upon us during this session. We have Senators enough to pass all necessary votes without fearing any want of a quorum. But, sir, the suggestion has been made in one of the public papers, and it has struck me with great force, that it is very possible in the present state of the country, if we should adjourn as we intend to do, that we may be called together upon a sudden to act at once upon important public measures, when there would not be time, probably, to collect Senators enough, under the present rule, to make a quorum in season to act; and as that is a chance that may occur, I believe it to be important that before we adjourn we pass this resolution, and the sooner we pass it the better, if it is right that it should be passed, in order to meet that possible contingency which may arise. I hope, therefore, the Senate will act upon the subject.

Mr. SUMNER. Mr. President, the question of a quorum depends upon the Constitution; but we approach its consideration with the knowledge that in England, which was the home of our institutions, and especially of parliamentary law, for a long period anterior to our Constitution, the quorum has been fixed by usage. But perhaps it may be said that usage is the authority for the larger part of the English constitution. It is also stated that in this case of the quorum this usage is liable to alteration. The parliamentary law on the question is thus stated by Mr. Cushing, in his elaborate work on the Law and Practice of Legislative Assemblies:

"In the British Parliament, according to the ancient and invariable usage of the two Houses, as evidenced by their rules, three is the number necessary to constitute a quorum of the Lords, and forty a quorum of the Commons. These numbers, respectively, although established by and dependent upon usage merely, and within the power of each House to abrogate or change at any time, have, nevertheless, the force of standing orders; that is, they are equally binding upon every succeeding Parliament until abrogated, and do not require to be specially adopted in order to be in force."—Page 95.

It will be observed that the quorum of the Commons, numbering upwards of six hundred persons, is only forty, and this number appears to have been recognized as long ago as 5th January, 1640. At an earlier day more than sixty had been required, and it appears that an attempt was made in the Commons, March 18, 1801, to make the quorum sixty, but it failed. For a short time in 1833 and 1834, the quorum, for private business, was fixed at twenty.

The quorum of the Lords, numbering upwards of four hundred, is only three. A spectator at the law sessions of the House of Lords will be struck by the appearance of the Lord Chancellor on the woolsack, in wig and gown, listening to the arguments, with two lay lords sitting on the benches merely to make a quorum, so as to give constitutional force to the decision of the Lord Chancellor. The origin of this quorum, which has the sanction of unbroken usage, seems to be lost in the night of antiquity. It is probably founded on the ancient maxim of the Roman law, *tres faciunt collegium*—"three make a *college*"—a word which is equivalent, in some respects, to our word corporation.

Thus, according to parliamentary law, two things appear: first, the quorum of each House is within the control of the House; secondly, it is now and always has been in each House much smaller than a majority.

But with us the quorum, in general terms, is fixed by the Constitution. It is not left to usage or the control of each House; but it is reasonable to infer that any question on the meaning of the Constitution, arising from the generality of the language employed, may be interpreted in the light of parliamentary law. Indeed, this is only according to the rule under which all technical words in the Constitution are interpreted. For instance, where words known to the common law, or to the English chancery, are used by the Constitution, they are to be interpreted according to the common law or the English chancery. Mr. Wirt, in his admirable argument on the impeachment of Judge Peck, has stated and indicated this rule of interpretation. Here are his words:

"The Constitution secures the *trial by jury*. Where do you get the meaning of a *trial by jury*? Certainly not from the civil or canon law, or the law of nations. It is peculiar to the *common law*; and to the common law, therefore, the Constitution itself refers you for a description and explanation of this high privilege, *the trial by jury*, and the mode of proceeding in those trials." * * * * "I insist that the moment *a court of common law* or *a court of equity* is established under the authority of the Constitution, its mode of proceeding and its power of self-protection arise with it, and that the *very name* by which it is called into being authorizes it to look at once to the English archetypes for its government in these particulars."—*Impeachment of Judge Peck*, p. 499.

According to this rule, so clearly enunciated, the words "quorum" and "House," which are derived from the parliamentary law of England, may be explained by that law; so that, in the case of doubt, that law is to a certain extent imbodied in the Constitution.

The Constitution declares that *a majority of each House* shall constitute a quorum to do business. The rule, it will be observed, is the same for each House. But the question arises, what is a majority of each House? Or, rather, putting aside

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all question with regard to the House of Representatives, which is perfectly free to determine for itself, what is the majority of the Senate?

In fixing the quorum at a majority, rather than any smaller number, our Constitution followed the law of business corporations, where a majority always prevails, according to an old maxim of the common law, *ubi major pars est, ibi est totum;* "where *the greater part* is, there is all." This rule seems so reasonable that it has been vindicated by an eminent authority as founded on the law of nature. Here are the words of the great jurist Savigny:

"The will of a corporation is not merely the concurring will of all its members, but that even of a bare majority. Therefore, the will of a bare majority of all its existing members, is to be regarded as having the disposal and being invested with all the rights of the corporation. This rule is founded on the law of nature, inasmuch as if unanimity were demanded it would be quite impossible for any corporation to will and to act. It is also confirmed by the Roman law."—*Savigny's System of Roman Law*, vol. 2, p. 329, sec. 97.

But the question still occurs, what is the *major part* of the Senate? Is it the major part of the abstract or theoretical Senate, or the major part of the real Senate? In other words, is it the major part of the Senate contemplated by the Constitution, with two Senators from each State; or the major part of the actual Senate, counting only those who are entitled to vote? Of course, at the present moment, there is a wide difference between the two cases.

There are several clauses of the Constitution applicable to this question. I group them together:

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

"*A majority of each House* shall constitute a quorum to do business."

"The Congress, whenever *two thirds of both Houses* shall deem it necessary, shall propose amendments to this Constitution."

"A quorum for the purpose [the election of Vice President] shall consist of two thirds of *the whole number of Senators*, and a majority of the whole number shall be necessary to a choice."

In the first two cases a quorum is a majority of two thirds of "each House." In the third case it is two thirds of "the whole number of Senators."

It is probable that "the whole number of Senators" is equivalent to the term "House," so that the rule may be considered the same in all these cases. But what is the "House?"

The Senate *de jure* consists of two Senators from each State.

The Senate *de facto* may consist of the Senators actually elected and qualified, or merely of Senators actually elected.

The question whether the "House" shall be the Senate *de jure* or the Senate *de facto* is now within our discretion. The question has been raised, and the way is open to adopt either interpretation, according to the meaning of the Constitution, as seen in the light of parliamentary law, and, I may add, of convenience.

According to parliamentary law, the whole question should be in our hands.

According to convenience, the quorum should be founded on the actual Senate, being the Senators duly elected and qualified.

Sir, if ever the argument of convenience was strong—peculiarly strong—it is now, when, by a wicked rebellion, eleven States have undertaken to withdraw their Senators from this Chamber, thus reducing our numbers here. It is not necessary to assert that these States are to be no longer counted among our stars. It is enough if we declare that their vacant chairs shall no longer be counted in our quorum. As the language of the Constitution has been drawn into doubt, it seems to me clear, according to the principles of parliamentary law, that it is within the control of the Senate to be determined according to all the teachings of reason and of convenience, with a view to the public welfare. Any other interpretation will leave the Senate to all the hazards of disorganization by treason, or it may be by indifference. If the Senate declines to exercise this power, it will abandon an essential principle of self-defense.

An extreme case may be put, where, through defection, the actual Senators are reduced to a mere handful. But the rule is not to be tried by any such extreme case, which can occur only when the Government is broken up.

I rest confidently on this double conclusion: first, that the words of the Constitution with regard to the quorum of the Senate, so far as they are considered as doubtful, are to be interpreted in the light of parliamentary law; and secondly, that, in the light of parliamentary law, these words are within the control of the Senate, to be interpreted according to its own ample discretion under the exigency of the occasion.

Mr. McDOUGALL. Mr. President, I would prefer that this discussion should go over until Monday. I did not anticipate its being called up to-day. I understood from the Senator from Ohio, after the resolution was laid upon the table on a former day, that he did not propose to call it up again. I had occasion to state then that this was a question well settled by authorities; and I should like the opportunity to bring before the Senate the well determined law to be found announced by our own most eminent jurists, before any final action shall be taken on this proposition. This is a grave matter. I look upon it as nothing else than a clear and palpable attempt here in the Senate to violate the Constitution with regard to the organic law of the Senate; and the doctrine, if laid down and maintained, will be a most dangerous doctrine. I have been surprised at hearing learned, experienced Senators undertake to maintain the soundness of the proposition advanced by the Senator from Ohio.

This is not, as suggested by the Senator from Massachusetts, a question of construction; it is a question of the plain letter of the Constitution, laid down in terms that he who runs may read, and reading, understand; and the accepted interpretation, as stated by the Presiding Officer in the paper read to the Senate the other day, is sustained by almost the uniform course of determination in this body.

The remark made by the Senator from Vermont that there was some confusion in regard to the terms "Senate" and "Senators," I think was a mistake on his part. If I should say that there was a want of observation on the part of the Senator making the remark, I should come much nearer the truth. The Senate is one thing, Senators are another. The Senate is the creature of the Constitution established and fixed by fundamental law, receiving, it is true, vitality and power of action through Senators, but when the law creates the organization and bestows the right, there is the Senate. It may exist rudimentally or in right only, if you please, as the Senate. Would there not be a Senate of the United States in contemplation of the Constitution and the laws if there were no one elected? Suppose all these seats were vacant and had to be filled by the next coming Legislatures of the different States, would there not be a Senate to which persons could be elected? Certainly. It is the Constitution that organizes the body and bestows the right and that makes the Senate. In order that the Senate may act, there must be Senators. Now, the Senate is composed of two Senators from every State of the Union; and whether all are elected or not, the right of each State to have two Senators is an existing thing.

For instance Congress meets by general laws on the first Monday of December; the congressional term commences on the previous 4th of March. For Representatives in many of the States elections are held between the 4th of March when the right to the office commences, and the first Monday of December, when the session by law commences. Now suppose it were true that all but three States of the Union provided for an election on the first Monday of August between the 4th of March and the first Monday of December, and an extra session of Congress were called on the 4th of July, and but three States had Representatives elected, will Senators undertake to say that the Representatives of those three States could go on and make laws for the Union? The affirmation of a proposition of that kind is simply absurd. They would not constitute the House of Representatives, which is another creature of the Constitution. One member from each congressional district or so many members from each State according to population compose the body which is the acting House of Representatives when the body is full or when it has what the Constitution calls a quorum.

The distinction presented by the Senator from Massachusetts is a pregnant one between different clauses of the Constitution. The two-thirds vote required is a two-thirds vote of Senators, not two thirds of the Senate——

Mr. TRUMBULL. If the Senator from California will read the Constitution, he will observe that it is two thirds of each House, not two thirds of a quorum.

Mr. McDOUGALL. That is one of the clauses.

Mr. TRUMBULL. And I will state to the Senator, if he will allow me, that it has been uniformly held under this clause, where a bill is vetoed, that two thirds of a quorum is sufficient to pass it over the President's veto, notwithstanding the language of the Constitution is that it shall require two thirds of each House. The same language applies when Congress proposes amendments to the Constitution. I raised the question myself at the last Congress, when an amendment was proposed to the Constitution of the United States. Under this clause, "the Congress, whenever two thirds of both Houses shall deem it necessary, shall propose amendments," I raised the question that, in order to have two thirds of each House, it was necessary to have two thirds of the whole number of which each House was composed; that "a House" was something different from "a quorum." The Senate, however, unanimously decided against me, that "a majority of the House" and "two thirds of the House" meant a majority or two thirds of a different body.

Mr. McDOUGALL. I grant you this is a Senate when there is a quorum; that is, it is one of the Houses with power to do business, when there is a quorum.

Mr. TRUMBULL. The Senator will allow me to make myself understood. The point is just this, that a quorum is not the House. The language of the Constitution is, that a majority of each House shall constitute a quorum to do business. Two thirds of each House may do certain things which a majority cannot do; but the Constitution nowhere calls a majority of each House a Senate or a House of Representatives, but calls it a quorum.

Mr. McDOUGALL. I take it a quorum would be a House for business purposes. That is a very different thing from the term used here. And observe this is for the purpose of determining when laws may be made; it is a fundamental elementary rule. When may the Senate, when may the House of Representatives undertake to make laws for the Confederacy? When there is a quorum of the Senate, the Senate may act. This was intended as a restraining term to prohibit action without those elements being brought together that constitute a majority of the Senators, to be elected from the several States. The absurdity of the rule maintained on the other side is presented and illustrated by the case which I put from the House of Representatives. On any other rule, what constitutes the body which may make laws or aid in making laws in the Senate will be subject to change from day to day. How are we going to know, how is the Presiding Officer to know, how will the President know, how will the country know by any process, whether at any one given day there was a sufficient body here to pass upon a law? If a man should die absent from the city, a Senator of this body, it would change the quorum. If a man should resign, it would change the number requisite for a quorum. Every change in this body would change the number requisite for the passage of laws—a thing not to be considered. How will the Presiding Officer be able to determine whether there is a body here sufficient to give sanction to a bill? It cannot be done.

I say, then, that the terms of this clause cannot be construed; they must be taken as they are laid

down in the text. What constitutes the Senate is precisely and exactly stated, and it is especially provided that a majority of the Senate shall constitute a quorum, not a majority of the members present, not a majority of the members elected, but a majority of the Senate, that is, of the men who by virtue of right may occupy places here representing their several States.

There has been determination by the courts as to what these words mean. As I remarked before, the same terms have been incorporated in the organic laws of almost every municipal corporation, of almost every private corporation; and what the law has pronounced to be their meaning in one instance, the law would pronounce to be the meaning in the other instance. I undertake to say that there is not a lawyer here who has not had frequent occasion to notice a uniform series of decisions holding that the quorum representing the incorporation and transacting its business must be a majority of all who may fill seats in that body. As I suggested on a previous day—suppose a board of directors composed of eleven, and there were six vacancies, five remaining in, less than a majority, could three members of that board of direction go on and transact the business of the corporation, sell its stock, sell its lands, convey its estates, dispose of its property? There is no business man in the United States that would not know better than this. He would know that it could not be so on general principles. And so of this great incorporation, of which we are to a certain extent directors: can it be said that because there are vacancies in two-thirds of the seats of this body, one third may go on and dispose of the public domain, inaugurate war, contract peace, transact all the business of the Government? It is simply absurd.

Gentlemen will recognize, I suppose, the opinions of eminent judges in a regular series of determination on language the same as this, as authority. I should like to have an opportunity to bring those decisions before the Senate. The Senator from Massachusetts has talked about the Roman law. I do not think the Roman law has much to do with the Constitution of the United States. His illustrations I think very far fetched, and indeed altogether inapplicable. The rules that he lays down are perhaps altogether sound, and might be sound in this country and sound at the present time, but they have nothing to do with the case in hand.

But, sir, I am not disposed to occupy the time of the Senate at this period in discussing any of these questions. As I have said, I should like to bring before the Senate the well-considered judgments and opinions of our most eminent jurists on this very question, and I trust the Senate may listen to them before they take final action. In my mind, this is a clear attempt at a violation of the fundamental law of the Constitution, and that fundamental law as it relates to the organization of this body. While I think the Constitution has been violated more than once during the present session of Congress, in my judgment this would be one of its most fatal stabs. If there be a revolution in the South, do not let us commence revolutionizing here in this Senate Hall, when our business is to put our foot upon revolution and upon rebellion and an attempt at the overthrow of the Constitution. Let us not be active agents ourselves in the same most mischievous, dangerous work.

Mr. DAVIS. This matter was considered in the Convention that adopted the Constitution, and that Convention manifestly treated the majority of the whole Senate as a quorum to do business. There were repeated efforts made in that Convention to make a less number than a majority of the whole body a quorum to do business, and all of them were voted down. The original plan of the Constitution that was reported to the Convention, and which underwent very extensive debate, contained this provision in article six, section three:

"In each House a majority of the members shall constitute a quorum to do business, but a smaller number may adjourn from day to day."

The position of the Senator from California I think cannot be contested with any reason, that where a quorum is spoken of in relation to any numeral body, be it a corporation or a legislative assembly, by the force of the term it means a majority of the whole body that constitutes the organization. If a bank charter is passed authorizing the appointment of seven directors, and it provides that business may be done by a quorum, the general sense of the whole world would be that the quorum there was a majority of the board. That, according to my reason, is the plain meaning of the term "quorum" in relation to all numeral bodies. It means a majority of the body, and in any Constitution or law passed by a legislative body, or in any act whatever that introduces the term quorum in relation to a numeral body, it would necessarily import a majority of that body. A quorum frequently consists of a less number than a majority, but in what classes of cases? In precisely those classes of cases where the law itself, creating and organizing the numeral body, constitutes a less number than a majority of the whole to be a quorum; and unless the law or the Constitution expressly declared that a less number than a majority should be a quorum, the term "quorum" would necessarily import and require a majority of the numeral body. I will read what was said in the Convention when this subject came up for debate.

"Article six, section three, was then taken up.

"Mr. GORHAM contended that less than a majority in each House should be made a quorum; otherwise great delay might happen in business, and great inconvenience from the future increase of numbers."

In the clause of the Constitution under consideration, the term "House" is used both in relation to the Senate and House of Representatives. The number of the House of Representatives is ascertained by the Constitution. In relation to the Senate, the term "House," as used in the Constitution, means that body represented by two members from each State. That is the House when the Senate is spoken of as a House, and it is nothing short of a representation of two members from each State to constitute the Senate. What was said in the Convention upon the proposition of Mr. Gorham, that less than a majority in each House should be made quorum?

"Mr. MERCER was also for less than a majority. So great a number will put it in the power of a few, by seceding at a critical moment"—

Just the case that has now happened—

"to introduce convulsions and endanger the Government. Examples of secession have already happened in some of the States. He was for leaving it to the legislature to fix the quorum, as in Great Britain, where the requisite number is small and no inconvenience has been experienced.

"Colonel MASON. This is a valuable and necessary part of the plan. In this extended country, embracing so great a diversity of interests, it would be dangerous to the distant parts, to allow a small number of members of the two Houses to make laws. The central States could always take care to be on the spot; and by meeting earlier than the distant ones, or wearying their patience and out-staying them, could carry such measures as they pleased. He admitted that inconveniences might spring from the secession of a small number; but he had also known good produced by an apprehension of it.

"He had known a paper emission prevented by that cause in Virginia. He thought the Constitution, as now molded, was founded on sound principles, and was disposed to put into it extensive powers. At the same time he wished to guard against abuses as much as possible. If the legislature should be able to reduce the number at all, it might reduce it as low as it pleased, and the United States might be governed by a junto. A majority of the number which had been agreed on was so few that he feared it would be made an objection against the plan.

"Mr. KING admitted there might be some danger of giving an advantage to the central States, but was of opinion that the public inconvenience on the other side was more to be dreaded.

"Mr. GOUVERNEUR MORRIS moved to fix the quorum at thirty-three members in the House of Representatives and fourteen in the Senate. This is a majority of the present number, and will be a bar to the legislature. Fix the number low, and they will generally attend, knowing that advantage may be taken of their absence. The secession of a small number ought not to be suffered to break a quorum. Such events in the States may have been of little consequence. In the national councils they may be fatal. Besides other mischiefs, if a few can break up a quorum, they may seize a moment when a particular part of the continent may be in need of immediate aid, to extort by threatening a secession, some unjust and selfish measure.

"Mr. MERCER seconded the motion.

"Mr. KING said he had just prepared a motion which, instead of fixing the numbers proposed by Mr. Gouverneur Morris as quorums, made those the lowest numbers, leaving the legislature at liberty to increase them or not. He thought the future increase of members would render a majority of the whole extremely cumbersome.

"Mr. MERCER agreed to substitute Mr. King's motion in place of Mr. Morris's.

"Mr. ELLSWORTH was opposed to it. It would be a pleasing ground of confidence to the people that no law or burden could be imposed on them by a few men. He reminded the movers that the Constitution proposed to give such a discretion, with regard to the number of Representatives, that a very inconvenient number was not to be apprehended. The inconvenience of secessions may be guarded against by giving to each House an authority to require the attendance of absent members.

"Mr. WILSON concurred in the sentiments of Mr. Ellsworth.

"Mr. GERRY seemed to think that some further precautions than merely fixing the quorum might be necessary. He observed that as seventeen would be a majority of a quorum of thirty-three, and eight of fourteen, questions might by possibility be carried in the House of Representatives by two large States, and in the Senate by the same States with the aid of two small ones. He proposed that the number for a quorum in the House of Representatives should not exceed fifty nor be less than thirty-three; leaving the intermediate discretion to the legislature.

"Mr. KING. As the quorum could not be altered, without the concurrence of the President, by less than two thirds of each House, he thought there could be no danger in trusting the legislature.

"Mr. CARROLL. This would be no security against the continuance of the quorums at thirty-three and fourteen, when they ought to be increased.

"On the question of Mr. King's motion, that not less than thirty-three in the House of Representatives, nor less than fourteen in the Senate, should constitute a quorum, which may be increased by a law, on additions to the members in either House—Massachusetts, Delaware, ay—2; New Hampshire, Connecticut, New Jersey, Pennsylvania, Maryland, Virginia, North Carolina, South Carolina, Georgia, no—9.

"Mr. RANDOLPH and Mr. MADISON moved to add to the end of article six, section three, 'and may be authorized to compel the attendance of absent members in such manner and under such penalties as each House may provide.' Agreed to by all except Pennsylvania, which was divided."—*Madison Papers*, vol. 3, pp. 1287, 1288, 1289, 1290.

The subject there was considered by the convention; it was brought before them; and their own interpretation of the clause in the Constitution was that a majority of the whole number of the Senate and of the House constituted a quorum, and that no less number than the majority of the whole did constitute a quorum of either House. The inconvenience resulting from the absence of members breaking up the quorum according to the meaning of the Constitution, and of the men who framed the Constitution, and that result being produced by secession, the very case now under consideration, all came before the attention of the convention, and were debated and considered, and against all arguments of convenience, the convention adhered to the original principle and retained the clause precisely as it was, requiring a majority of the whole number of each House to constitute the quorum, giving, however, to a less number the privilege and the power to send for absent members, in order to compel their attendance. I have read from the debate upon the subject in the convention, because it is the most satisfactory reasoning that can be given.

I hold, with the Senator from California, that the present proposition is one to violate and to amend the Constitution; it is nothing short of it. I think it is the most radical and revolutionary and dangerous of all the propositions that have ever been made in Congress. The Senator from Illinois made the question at the last session; he properly made it; and the ground upon which he stood when he made it was invulnerable in my judgment. The meaning of the Constitution now is precisely the same that it was before he made that question, and before the Senate overruled the question as he made it. The decision of the Senate at that time upon the proposition does not affect the question now, and I hope it does not affect the judgment and opinion of that able lawyer in relation to this point; it ought not.

In relation to the other House, how is it? The free States generally elect their Representatives one year before the meeting of Congress, the slave States the succeeding year. This fall most of the free States will elect their Representatives to the next Congress. In the State of Kentucky, and in most of the slave States, I believe, the elections will not come on until August of next year. It sometimes happens, it has happened twice, at least, in the course of our history, that extra sessions of Congress have been called before the elections in the slave State took place. The elections in the free States constituted at that time all the members of the House that were elected. In addition to that, they constituted a majority of all the members of the House. If the elections in the other States had taken place, if the whole of the members of the House had been filled up by elections, the members elected from the free States a year before they were elected in the slave States would have constituted a majority of the whole number of the House, and in addition to that, those members elect would have constituted all the members of the House that were then elected. In the year 1841, and last year, when the special sessions of Congress were convened by the proclamation of the President, why did the President not permit the House to convene in the absence of the members

from the slave States, and without any regard to them? It would have been regular to do so on the principle now contended for, because he would have called all the members that were then elected to convene in Congress by his proclamation, and if they attended, all the members elect would be in attendance, and they would be a majority of the whole House. But on both occasions the Executive did not convene the House as it was constituted by the elections that had then taken place. On the contrary, measures were taken to have special elections in all the slave States for the purpose of filling up the full number of the House, and giving all the States of the United States a chance to elect members to the House of Representatives and those members the opportunity of attending. That is, to my mind, an argument, and a strong and persuasive argument, in favor of that construction of the Constitution.

Last year, notwithstanding all the exigencies by which we were surrounded—with the rebellion upon our hands, with all the advantages which the insurgents had in the contest—with the start they had taken in seizing the arms in the fortifications of the United States when they began the war; when we had a perfect disorganization of our Navy and of our militia system, and the standing Army had run down to a point where it had no efficiency whatever—when that was the condition of things, the President, instead of convening the House of Representatives, as it would have been constituted by the members then elected, postponed the called session, to which he summoned the two Houses of Congress, some eighty or ninety days, in order to enable all the States to be represented in the Congress. It may be urged that that was an argument of justice—that a consideration of justice required it; but that was a consideration of a very temporary and fleeting duration. There was another, higher, and more imperative consideration than that; and it was to assemble Congress immediately together, in order that the proper and energetic war measures might be immediately passed for the purpose of putting down the rebellion, and saving the Constitution and the Government. Notwithstanding the extreme urgency of this consideration, the other, which was constitutional in its character, was found, in the judgment of the President and of his Cabinet, to be paramount; and in obedience to this requisition of the Constitution, the session was postponed to a day that would enable every State to be represented.

The argument offered by the Senator from Connecticut [Mr. FOSTER] is perfectly unanswerable to my mind. The view taken by the honorable President of the Senate is equally conclusive and unanswerable, and is sustained by nearly all the precedents. None of the gentlemen who have spoken have shaken either of those arguments, and in my judgment they cannot be shaken by constitutional knowledge or by logic. When the Constitution speaks of a quorum of the Senate it speaks of something that is known, that is fixed, that is definite, that anybody who takes the pains may ascertain exactly by inquiry. But on the principle embodied in the resolution, would there be anything so fixed and certain in relation to the Senate? Surely not. In the case put by the Senator from Connecticut, there might be vacancies in the Senate from the distant Pacific States while the Senate was in session, while the Congress of the United States was in session, passing laws from day to day. In passing those laws, it would be necessary to know what the quorum was, and how would you ascertain that quorum? Suppose there were two vacancies in the State of Oregon and two in the State of California, or but one in each, how would you know, when Congress was sitting from day to day, when those vacancies occurred, and the Governors of those States respectively had the power to fill them by appointment, how would you know when they were filled? Indeed, how would you know when they happened? Suppose those Senators were kept at home by indisposition or any other cause, or died.

Mr. SHERMAN. I can answer my friend from Kentucky, at least to my satisfaction, if not to his. The Journal shows when members present their credentials and are sworn. As a matter of course, no person can sit here and vote until he has been sworn and taken his seat. The record of the Senate itself shows the number of Senators who have been duly elected and qualified.

Mr. DAVIS. I have not been happy in making myself understood by the honorable Senator. I have not presented my point distinctly. It is this: a Senator has left here for California, after he has been qualified and sworn, the Senate being in session. Suppose he dies?

Mr. SHERMAN. The answer to that is that by parliamentary rule we do not know of the vacancy until the successor comes here and presents his credentials, which establish the fact of a vacancy, and that it has been filled. Then, and not till then, the death of the previous Senator is announced. The death is announced by his successor, who brings credentials from the proper authority of the State, presents himself, and is sworn. Then we know that a vacancy has occurred, and that it has been filled.

Mr. DAVIS. He is to be counted, then, for no purpose until he qualifies?

Mr. SHERMAN. That is the constitutional rule and the parliamentary law.

Mr. DAVIS. I do not think that is the Constitution at all. The dead man or the vacant seat would be counted until his successor was qualified. But I was going to put a case which some of the older Senators in the Chamber will remember; the honorable President of the Senate will remember it. In the State of Virginia, a few years ago, there was no election for two sessions of the Legislature of that State, because they could not agree to give a majority of votes to any gentleman, and from that cause there was a vacancy in the Senate. If that Senator, from that State, had been present in his seat, the quorum of the body might have been one way, while, when he was not present, it might have been the other way, and that very fact might have affected the passage of bills of the most vital importance.

Mr. SHERMAN. When the time of a Senator expires there is a vacancy, and that was the case in Virginia. The attempt to elect was to elect a new Senator to fill a new term. As a matter of course, when the term of a Senator expires, our record shows the fact and shows the vacancy. If a Senator dies during his term of office after he has been elected and qualified, we do not know of the vacancy until his successor comes here and presents his credentials.

Mr. DOOLITTLE. If the Senator from Kentucky will allow me, I desire to call attention to a clause of the Constitution that, I think, has escaped gentlemen, or, at all events, has not been brought out in this discussion, that may have a very important bearing on it.

Mr. DAVIS. I shall be glad to hear it.

Mr. DOOLITTLE. I refer to the last amendment of the Constitution, which provides the mode of electing a President and Vice President in a certain case.

Mr. SUMNER. I quoted that.

Mr. DAVIS. It was brought up by the Senator from Connecticut.

Mr. DOOLITTLE. In that case it is provided that there shall be a special quorum; not a mere quorum consisting of Representatives from a majority of States in the House of Representatives, but from two thirds of the States.

Mr. FOSTER. One member or more from two thirds of the States.

Mr. DOOLITTLE. The Constitution provides that a special quorum for the election of President by the House of Representatives shall "consist of a member or members from two thirds of the States." If the election of Vice President comes to the Senate, "a quorum for the purpose shall consist of two thirds of the whole number of Senators;" not simply that there shall be a Senator from two thirds of the States, but two thirds of the whole number of Senators, including two Senators from each State; not Senators elected, but Senators from States, for this is a body where States are represented.

Mr. DAVIS. Precisely.

Mr. DOOLITTLE. If the Senator will indulge me a moment further, I will reply to a side remark of the Senator from Ohio, who says that we talk about Senators that do not exist. It is to be presumed that people who live under the Constitution know what it is, and that the States under the Constitution expect to be obedient to the Constitution, and to elect Senators, and it is no more proper for us to presume the extreme case that all the States do not or will not do it than to presume that a majority of States will not do it.

Mr. SHERMAN. Then, my friend does not presume that Mississippi has not elected Senators here, but he presumes that she has elected Senators, and that they stay away for some reason or other.

Mr. DOOLITTLE. I do not presume that; but if the time shall come when even one third of the States do not elect any member to the House of Representatives, I ask, how can you count the votes for President?

Mr. SHERMAN. The people elect him.

Mr. DOOLITTLE. But how can you count your votes?

Mr. SHERMAN. I have not examined that question; it has no reference to this.

Mr. DOOLITTLE. If the election of Vice President comes to the Senate, how can you count your votes, unless two thirds of the Senators are here?

Mr. SHERMAN. Two thirds of the Senators elected.

Mr. DOOLITTLE. The Constitution says, "two thirds of the whole number of Senators."

Mr. SUMNER. But that raises the same question that is raised on the term "House." The phrase "whole number of Senators" is obviously an equivalent for the phrase "a House," which is used two or three times in the Constitution.

Mr. DOOLITTLE. My friend cannot deny that when the Constitution in the last amendment speaks of the quorum of the House necessary, it requires that there should be a member or members from two thirds of the States.

Mr. SUMNER. That my friend understands is in the single case of balloting for President of the United States; and it is obviously because that balloting is on the basis of States; the vote is by States, as he is aware.

Mr. DOOLITTLE. What I say is that there is a special quorum requiring two thirds of the States to be represented for that purpose, whereas for ordinary business a simple majority constitutes a quorum.

Mr. DAVIS. I am obliged to the Senator from Wisconsin for reproducing the argument presented the other day by the honorable Senator from Connecticut, and I will make an application of it now. Suppose at this very time the House of Representatives were in the act of electing a President of the United States——

Mr. DOOLITTLE. My friend will allow me to suggest that I was detained from the Senate some days by sickness, and I had not the pleasure of listening to the argument of the Senator from Connecticut. If I had been aware that it had been brought up before, I should not have repeated it.

Mr. DAVIS. I am obliged to you for doing it, for it gives me another view in connection with this subject. Suppose the House of Representatives were now in the act of electing a President, the electoral college having failed to do so: upon the argument of the Senator from Ohio and the Senator from Massachusetts, aside from the express provision of the Constitution, a majority of the States represented in the House might go on and make a President. They cannot do that; and one reason for it is that the Constitution itself defines what shall constitute a quorum for that particular business. The Constitution having defined in the matter of electing a President what is a quorum to do that act, leaves the common definition of quorum to regulate the business and the duties of Congress in relation to every other matter, and that is a majority of the whole number of the Senate. The Senator from Massachusetts might avoid even the express constitutional provision in relation to two thirds of the States being required to be represented in voting for President upon his principle that so many States have abdicated and ceased to be members of the Union and States in the Union, that he would regard those who had not abdicated as constituting the whole Union, and that a majority of two thirds of that number could make the election.

The simple single question is this: what is a quorum under the Constitution? The argument, to my mind, is conclusive that nothing short of a majority of the whole number of the Senate can be considered a quorum. What is a quorum? A majority of the Senate, as constituted by the Constitution, two members representing each State, and that majority of the whole number of members must be represented by two members from a majority of States, to constitute a quorum of the Senate. When this

matter was under consideration in the Convention, the inconvenience of requiring a majority of all the members of both Houses, as the Houses were constituted, was considered, and considered at some length. The inconvenience resulting from the principle of requiring a majority of both Houses, as they were constituted, by the Constitution and the laws, to be present, was treated of at great length. There were various propositions made to lessen the quorum, and to constitute a quorum less than the majority of both Houses, as organized by the Constitution and the laws to form a quorum. Every proposition of the kind was steadily voted down, and that body, upon full consideration and argument, adhered inflexibly to the position that a majority of both Houses, as constituted and organized by the Constitution and the law, alone was a quorum; and they could not be, and were not driven from that position.

Mr. HENDERSON. It is very evident to my mind that this subject will occupy the whole of the day, and inasmuch as it is a privileged question and can be called up at any moment, I desire to move to postpone this and all prior orders for the purpose of taking up the bill I had up this morning, (S. No. 376,) and Senators between now and Monday morning can make up their minds on this subject, without taking up the whole of this day upon it.

Mr. FOSTER. I hope that motion will prevail. I also have a few bills on the Calendar which could be disposed of in a very little time if this matter is postponed, and then on Monday gentlemen can be heard upon it at any length, and I presume with great patience. I hope the motion of the Senator from Missouri will prevail.

Mr. SHERMAN. In the hope that on Monday we shall have a vote on this subject without any further debate, I will not now oppose a motion to postpone.

Mr. DOOLITTLE. We are so near the end of the session that the discussion of this question will necessarily take up some considerable time, and it has no practical effect whatever. If the view taken by the Senator from Ohio is correct, that a majority of those elected constitute a quorum, it can just as well be decided when the exigency arises as to be decided now, and the time spent in the discussion now will be lost. I therefore desire to amend the motion by moving that this matter be indefinitely postponed.

Mr. SHERMAN. I am perfectly willing for the Senate to take a vote on that proposition without further debate.

Mr. KING. That is a final vote.

Mr. SHERMAN. I know it; but if Senators have made up their minds deliberately that, in all time to come, thirty-five Senators must be here to transact any business, and will look at the future full in the face, and so vote, let it be so. I am perfectly willing to take the vote without further debate.

Mr. HENDERSON. I sincerely hope this resolution will not be postponed indefinitely. I have not made up my mind on the subject. I am not prepared to say that if one or two States shall take their Senators from this body, the Senate is destroyed. However, I have been of the impression that it required a majority of the Senators from all the States, considering all the States as in the Union; or, as long as we consider them in the Union, I have been of the impression that it required a majority of the whole. The Constitution says:

"The Senate of the United States shall be composed of two Senators from each State."

I believe that is the only provision of the Constitution on the subject. It requires two Senators from each State to make the Senate. The subsequent words, "chosen by the Legislature thereof for six years," in my opinion, only have reference to the manner of choosing them, and have nothing to do with the determination of this question. However, I have not made up my mind on the subject; and I hope the matter will go over at least until Monday when Senators may examine it for themselves, and not use up the whole of this day, at the close of the session, in the discussion of the question. I make the motion to postpone it with a view to take up the bill I have indicated.

Mr. FOSTER. I hope the Senator from Missouri will allow his motion to stand as he made it; that is, that this subject and all prior orders be postponed; leave it general.

Mr. HENDERSON. That is my motion.

Mr. DOOLITTLE. I will withdraw my motion. I did not, in making it, desire to have it made a test question, but simply to let the subject pass over, to give it the go by, because it can just as well be determined when the exigencies arise which make it necessary to determine the question. It is not necessary now.

Mr. HOWE. I do not like to acquiesce in the view that this question can be just as well determined with a few Senators here as with many. I regard it as a question which must have great practical importance and great consequence in reference to the present and to the possible future of the country. I desire to have the question determined in the fullest Senate we can command, and know what the deliberate judgment of so many Senators as we can command the attendance of really is upon this question. I do not wish to oppose the motion of the Senator from Missouri. Perhaps the decision of this question to-day is not of any vital importance, but I have very distinct convictions upon this question myself, and I want to know what the convictions of the Senate are, and the fullest Senate we can get upon it. If the Senate is disposed to postpone it until Monday I shall not object to it; but I want then a vote upon it.

Mr. HENDERSON. I have no objection to that.

The PRESIDING OFFICER. The Senator from Missouri moves to postpone the pending and all prior orders with the view to take up the bill indicated by him.

Mr. SHERMAN. I have no objection to this resolution going over until Monday; but I give notice that I shall call it up on Monday.

Mr. TRUMBULL. Is this motion double, to postpone a resolution and take up a particular bill?

The PRESIDING OFFICER. It is.

Mr. TRUMBULL. I have no objection to the postponement of this question; but I object to take up the bill indicated. I believe it is the bill in regard to the payment of troops in Missouri.

Mr. HENDERSON. No, sir; it is not in regard to the payment of Missouri troops, but it is to pay Missouri what she has actually expended, the same as the other States.

Mr. TRUMBULL. It is the same bill we had under consideration this morning. I am opposed to taking up that bill; but I am not opposed to this question of a quorum going over until Monday. I ask that the vote be first taken on the postponement. The Senator moves to postpone with a view to take up a bill.

The PRESIDING OFFICER. It is susceptible of division.

Mr. DAVIS. I will remark, that if the bill which the Senator from Missouri desires to take up be taken up, I shall withdraw the amendment I proposed to it.

Mr. HENDERSON. Then I hope, under that view of the case, there will be no opposition to my motion. The bill has gone to the Committee on Military Affairs, and has been examined and reported back, and I desire that it shall be passed. It is a matter of justice to my State; and now that all extraneous matter has been withdrawn, I hope there will be no objection to its passage.

The PRESIDING OFFICER. Does the Senator from Illinois insist on a division of the motion?

Mr. FOSTER. I submit that the motion is not divisible. It is one motion, and I believe has been so ruled by the Chair frequently.

The PRESIDING OFFICER. If it has been so ruled, the Chair will feel bound by that ruling. The Chair was under the impression that the motion was divisible.

Mr. TRUMBULL. I think it is.

The PRESIDING OFFICER. The Senator from Connecticut informs the Chair that the ruling has been otherwise.

Mr. FOSTER. I will appeal to the President *pro tempore* on that point.

The PRESIDING OFFICER. Of course the Chair will follow the decisions that have been heretofore made.

Mr. TRUMBULL. If such has been the ruling, of course I will acquiesce in it, but my impression was that it was not so; that it comprised two questions: to postpone all prior orders, and then to take up the subject indicated. The question here is to postpone all prior orders and take up a particular bill. I understand that to be two propositions: first, postponing everything in the way, and then another question as to what you take up.

Mr. FOOT. The motion is most usually made, when a Senator desires that the Senate proceed to the consideration of some particular bill, to postpone all prior orders with a view to take up the bill which he indicates. What is the meaning of that? It is a motion followed with an argument—not with another motion, not with another proposition, but simply an assignment of a reason for that motion. What does it signify? A motion to postpone the pending and all prior orders. Prior to what? Prior to the bill that I desire to be acted upon. It is not necessary to couple that with a motion and make it a double motion; and it is not so to be regarded. It is simply an assignment of a reason, an argument for the postponement that he desires that bill to be taken up. It is not necessary to move then or at any subsequent time that, it be taken up, for the reason that if all prior orders, that is, all orders that stand before that are postponed, then his proposition comes up as a matter of course as first in order upon the Calendar.

The PRESIDING OFFICER. The motion is to postpone all pending and prior orders with a view of taking up the bill indicated by the Senator from Missouri.

The motion was agreed to.

FINAL ADJOURNMENT.

Mr. SHERMAN. Now, I ask the Senator from Missouri to allow me to report back from the Committee on Finance the resolution to fix the day of adjournment.

Mr. HENDERSON. I will do so. It is a privileged question.

Mr. SHERMAN. I am directed by the Committee on Finance to report back the resolution with an amendment, and I wish to have it acted upon now.

The Senate proceeded to consider the resolution, as follows:

Resolved, (the House of Representatives concurring,) That the President of the Senate and the Speaker of the House of Representatives do adjourn their respective Houses on Monday, the 14th of July, instant, at twelve o'clock, meridian.

The amendment of the Committee on Finance was to strike out "Monday, the 14th," and to insert "Wednesday, the 16th."

The PRESIDING OFFICER. The question is on agreeing to the amendment of the committee.

Mr. SUMNER. I hope the Senate will not adopt any such proposition.

Mr. COLLAMER. What is it?

Mr. SUMNER. The Senator from Vermont asks me what it is. It is a proposition for an adjournment next Monday. I do not think in the present state of the country that the Senate ought to adjourn, and for one I desire to enter my protest against it, and I ask for the yeas and nays that I may make it of record.

The PRESIDING OFFICER. The question before the Senate is on the amendment reported from the committee. Does the Senator ask for the yeas and nays on the amendment?

Mr. SUMNER. Yes, sir; on the amendment and at every stage of the proposition.

Mr. HENDERSON. I hope the Senator will not insist on the yeas and nays on the amendment. I suppose the Senator is opposed to adjourning at all, either on Monday or Wednesday, and yet he desires the yeas and nays on the question to extend it to the latter day.

The yeas and nays were ordered; and being taken, resulted—yeas 33, nays 6; as follows:

YEAS—Messrs. Anthony, Browning, Carlile, Clark, Collamer, Cowan, Davis, Doolittle, Fessenden, Foot, Foster, Grimes, Hale, Harlan, Harris, Henderson, Howard, Howe, Kennedy, Lane of Indiana, Lane of Kansas, McDougall, Pomeroy, Powell, Rice, Saulsbury, Sherman, Simmons, Stark, Ten Eyck, Wilmot, Wilson of Missouri, and Wright—33.

NAYS—Messrs. King, Sumner, Trumbull, Wade, Wilkinson, and Willey—6.

So the amendment was agreed to.

The PRESIDING OFFICER. The question now recurs on the resolution, as amended.

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

The yeas and nays were ordered.

Mr. FESSENDEN. I wish simply to observe

that several Senators give as their opinion that we ought not to adjourn in the present state of the country; they do not seem to give any particular reasons about the matter, if we make the necessary legislation. If it were the sense of the majority, I should be perfectly willing to sit here as long as any Senator; but, sir, there is one thing that will influence my vote. I have become perfectly convinced that unless we fix the day and fix it early, we cannot even keep a quorum of this Senate until Wednesday. Several Senators have given me notice that unless the day was fixed, they should leave and not stay here; and it was with that view that I desired to have some arrangement made. I have been notified by members of the House, repeatedly, that unless we fix the day of adjournment early, allowing sufficient time to close the necessary business, we could not keep a quorum of the House here even until that time; and as to expecting to keep a quorum for any purpose indefinitely on the mere expectation that perhaps we might be wanted, it was entirely out of the question. Under these circumstances, I certainly am not disposed to risk anything, and lose the business of the session upon the mere opinion of gentlemen, however much respect I may have for it, that we had better not adjourn at all. I have become so perfectly convinced, and warned in so many quarters, that an early day for an adjournment must be fixed in order to keep a quorum, that I shall vote for the resolution.

Mr. TRUMBULL. Some weeks ago we heard this same statement that no quorum could be kept, and therefore we must adjourn. I am not disposed to be influenced by any such consideration as that. I will not presume that members of Congress will abandon Congress, and break up its business, when there is anything to do. I do not say that we should remain permanently in session; but I do say, that while there is business of importance which we ought to do, we ought to see that that business is done before we fix upon a day of adjournment, which may prevent our doing it. There are a number of bills on the Calendar, which has never been called since this Congress met, containing, I do not know how many, perhaps, fifty bills, possibly more; some of them of very great importance, and we have no assurance whatever that those bills can be passed into laws between now and next Wednesday. There is a bill from the House of Representatives which I regard as of very great importance, to which I called the attention of the Senate this morning, but was unable to get a vote upon, whether I could get it up or not, by reason of the interposition of a single objection. There is a bill reported by the Senator from New York, [Mr. HARRIS,] which has been discussed to some extent already, providing provisional governments in those localities where the authorities of the United States have been overborne, and where we have now military possession. There are numerous other bills—I will not undertake to mention them in detail—which, in my judgment, ought to be acted upon before Congress adjourns. I am, therefore, opposed, at this time, to fixing any time for adjournment. We know, constituted as this body is, that it will be impossible to get action upon any of those important measures between now and Wednesday, if there should be a factious opposition to any of them. There is no way of limiting debate here.

I think the consideration which governs the Senator from Maine, that Senators will abandon their duty, will refuse to attend the sessions of Congress to constitute a quorum while Congress is in session, is one that ought not to have the least weight. I will not assume that any Senator will do that. I have no doubt it would suit the personal convenience of Senators to leave, and they would be very glad to have an adjournment of Congress for their own personal convenience; but I will not believe that any Senator will neglect his public duties in order to accommodate simply his personal convenience. I shall vote against fixing the day of adjournment on Wednesday. However, it is manifest it is a foregone conclusion, and that a majority of the Senate is inclined to adjourn at that time.

Mr. WADE. There is one measure, reported from the committee of which I am a member, that I have endeavored to get passed; I do not know what favor it will receive in the Senate; that is, the admission of the State of West Virginia. It is an important matter, and I believe it is due to that people that we should act upon that matter during this session. I never knew any question that excited a whole community with the intensity that this question does that people. Their principal men have been here, and are now here, beseeching us to act upon this subject. What they fear above all things is, that we shall leave them ultimately in the hands of their inveterate enemies; and it is their belief that if we leave them in that condition, they will have to abandon their property and their homes and seek residences somewhere else. The Governor and all the principal men of the State whom I have seen—and I have seen many of them—inform me that that opinion is universal. I believe, among the great measures which we have passed during this session, there is none more important than this; and I should like to crown our legislation by the admission of a State shortly to become free out of an old, inveterate, slave State. I hope we shall continue in session until we perform this meed of justice to this people who have sacrificed everything but their lives, and many of them their lives, in order to maintain their relations with the Union; and they now fear that after all they will lose it, that they will be violently dissevered and have to abandon their homes, because we still leave them in the hands of the enemy. I hope we shall not adjourn until we do this deed. Of course, it will not take long if we are disposed to do it. I have been trying to get up the bill for several days, but there has been important measures before it, and I have not pressed it. I hope, however, we shall dispose of it before we adjourn.

Mr. WILLEY. I certainly feel under great obligations to the honorable Senator from Ohio for the remarks he has just made. He has been permitted to see and to hear much of the interest felt by that section of the Commonwealth of Virginia on this question. I am in the receipt of letters daily from every section of the State, which, in addition to the information given by the gentlemen now in this city at their own expense for many days, besieging the members of the Senate, assuring me of the fact that unless the relief is extended of giving them a separate State organization, they will be compelled to leave all they have of property in the world except what they can take away with them, and find an asylum somewhere else. I voted just now against fixing the day of adjournment under the influence of this consideration. It is now nearly eight months since I left my home and family, and since I saw them; and of course I am as anxious as any Senator can be to return; it would be a matter of great personal convenience to me; but, sir, knowing as I do the deep, abiding, intense interest which the loyal people, or three fourths of the loyal people of Virginia, who constitute the people of Virginia for all governmental purposes; knowing that they so anxiously desire action on this measure, I would be willing to sit here from one year's end to the other until it should please the Senate to answer their prayers and petitions. This question has a great national consequence, and it ought to be acted upon. It will forever settle twenty-four thousand square miles of territory in the State of Virginia on the question of secession, on the question of loyalty to this Government. I hope, sir, that the Senate will not adjourn until that question is settled. If it can be settled by Wednesday, I should have no objection to adjourn then.

I make these remarks with great hesitation; perhaps I owe an apology to the Senate for making them; but if they could see and feel the interest these people who have suffered everything that people could suffer, who have stood by this Union in times of peril, in the midst of burning houses and shrieking women and children, in the midst of fathers slaughtered all over our hills—firm, true and loyal to the Government—if after all this, if after the Legislature by its solemn act has requested action upon it, the Senate cannot delay long enough to hear the prayer and petition of the State of Virginia and such a people as this, all I have to do is to submit. I will do it, of course, cheerfully, if such be the will of the Senate.

Mr. CLARK. I think I may safely say, and the Senator will bear me witness, that there never has been a Congress, at least within many years, that has performed so great an amount of business and passed acts of such vast importance as the present Congress. I think I may say with equal truth that there never has been a Congress that has left a Calendar as clear as we shall leave ours if we adjourn next Wednesday.

Mr. WADE. That is true, but there is no reason why we should not do it.

Mr. CLARK. The Senator from Ohio says that is true. I assert that there never has been a Congress for years, certainly not since I have been here, where they have delayed so long in fixing their time of adjournment for the purpose of doing the public business. We have been on the eve of adjourning here for days, I may say weeks. This resolution has been in the hands of the Committee on Finance for the purpose of fixing the day, and they have delayed it for the very purpose of pushing through the great measures of the session, so that they might see their way clear; that we might finish them before we did adjourn. Now let me say to the Senator from Virginia that I will go with him, heart in hand, for his measure; but he is quite as likely to have it passed if this time of adjournment is fixed, and more so, than if it is not.

Mr. FOSTER. Far more.

Mr. CLARK. Yes, sir; far more. We have for three or four days been wasting time in debate which we should not have done if the time for adjournment had been fixed; and for the very purpose of bringing the business of the session to an end, I desire to have this time of adjournment fixed, and then we shall go about doing the business and not talk ourselves to death.

Mr. SHERMAN. In justice to myself and the committee who reported this resolution, it is proper for me to say that we have been urged day by day by members of the House of Representatives, by the great body of the members of the House of Representatives, and by Senators, to report back this resolution. Senators on all sides of the Chamber have been pressing us, asking why it was held so long. It was sent to the Committee on Finance, I think, nearly two weeks ago, and more than a month has elapsed since a similar resolution came from the House of Representatives. Under the circumstances we felt bound to report it back to the Senate. The time fixed by the resolution was Monday next. We would not report it until all the great measures of the session had been acted upon. The confiscation bill has been disposed of this morning; yesterday the tariff bill was disposed of; and all the great measures of the session, which will distinguish this Congress in the history of this Government as the most important Congress that ever sat since the foundation of the Government, are now laws, so far as Congress are concerned. It is true there are some measures pending; but they are of comparatively less importance; and it is believed that if we are willing to stay here and vote and act upon those various propositions, we can do all that a majority of the Senate is willing to have done, by next Wednesday. I see no reason for procrastinating. We know very well that Senators have been kept here upon the promise, tacitly or impliedly given, that this subject would be acted upon soon. I hope, therefore, that the Senate will, on Monday, decide what is the true constitutional rule of a quorum of this body, one way or the other, and that the other important measures, whatever they are, shall be acted upon. I am in favor of the admission of West Virginia, and have heretofore and will hereafter act with the Senator from Virginia in getting that question before the Senate; but, with the exception of that bill, and the militia bill under the charge of the Senator from Massachusetts, [Mr. WILSON,] and the question in regard to a quorum, there is no other measure affecting the condition of this body or the country that is so important as to keep us here any longer, in my judgment.

Mr. FESSENDEN. I wish to say one word in reply to the argument of my friend from Illinois about this matter. I do not pretend to any judgment of my own upon the subject. I am perfectly willing to be at the disposal of the Senate about it. My action has been determined entirely by the convictions of my own mind from what I have heard from different quarters, that it would be useless to attempt to keep us here longer; especially the House of Representatives. We may refuse, if we please, to fix the day of adjournment. The result, I am assured from various quarters, will be that in the House of Representatives—where the opinion is almost unanimous that Congress ought to adjourn, and from whom

we have had at three several times, I believe, a resolution fixing the day of adjournment—so far as they are concerned, they will not stay. If a majority of that body has determined that it is not necessary for us to stay here, that there is no occasion for it, and will not stay—and such seems to be the tenor of their votes, and they certainly have as much right to their opinions as we have to ours—it is perfectly useless for us to contend and refuse to adjourn, for the result would be that we should do no business if we did stay. If Senators should choose to go away, which I am warned they will do, and undoubtedly they can give a reasonable excuse for it, we know perfectly well we have no power to send for them; that we cannot compel them to return. That has been repeatedly ruled in this body. We have no law which will enable us to do it. The privilege which we have under the Constitution has been ruled to be the privilege, if we have not a quorum, of requesting the attendance of absent members. Under these circumstances, I deem it entirely useless to contend against what seems to be the general wish for an adjournment at an early day.

With regard to the argument of the honorable Senator from Illinois that it will be in the power of a few factious individuals to prevent our acting by too much talking or in any other mode, I am compelled in justice to say that up to this period I have seen no disposition of that kind on the other side of the House, if we may say there is another side of the House, and it is not to be presumed that there is any factious minority on our side who would talk against time to prevent the passage of necessary measures. I believe, so far as the Senate is concerned, we have nothing to complain of the gentlemen who are not properly of the Republican party, either of absence from their places or a disposition to talk against time, which is not so applicable, to say the least of it, to our side of the House; and I say it in justice to gentlemen who have been acting on these questions. Nor do I apprehend anything of the kind in the future, from what gentlemen have said and from my belief of the views of gentlemen. If they are in a minority they will yield gracefully as a minority, I dare say, and are quite as likely to yield gracefully as I should, or anybody else, to the majority and take the measures as they come. If, on the contrary, a majority stays here to do business until Wednesday, as I presume they will when we fix that day, and Congress finds that there is such a disposition to prevent the passage of measures, the same majority that passes this resolution can unmake it and vote to sit longer; but I apprehend that gentlemen on the other side of the House would not resort to any unworthy course to prevent business being done, if there were any measures left of importance to the country. I certainly should have to change my opinion of all the members of the Senate before I could believe that there is any one who would resort to any such expedient as that. I therefore remain of my original opinion about it, that it is useless to contend, if we have any difference of opinion, against what seems to be the settled determination, as stated by my friend and colleague on the Committee on Finance, of the members of the House. I understand it is almost the universal opinion there. A great many members have already left, and a great many more are ready to leave; and I am assured it is very doubtful whether they will stay unless we do fix this day.

Mr. KING. Entertaining the opinion that it is better that Congress should remain in session under the present circumstances of the country, and that it is not advisable to adjourn at this early day or to fix a day of adjournment at this time, I shall vote against this resolution.

Mr. SUMNER. It is essential to proper legislation not only that the Senate should vote, but that it should consider the measures on which it votes; and the consideration must be in proportion to the importance of the measures. Allusion has been made to one measure on which the Senate has not voted—that which is in charge of my friend the Senator from Ohio, [Mr. WADE,] the admission of West Virginia as a new State. Perhaps no question of greater importance has ever been presented to the Senate. It concerns the whole question of slavery; it concerns also the question of State rights; it concerns also the results of this war. Look at it, therefore, in any aspect you please, it is a great question; and yet the idea of Senators anxious to adjourn is, that this question is to be hurried to a vote without any proper discussion.

There is another question which is not less important. It is the bill which the Senator from New York [Mr. HARRIS] has in charge, involving the question of provisional governments for the rebel States; a question of transcendent importance, and I submit, also, of practical interest at this very moment; for it involves precisely this inquiry: whether you are to allow a system of military governments or congressional governments. It is a question between the military and civil power.

Then we have the Army bill, which my colleague has in charge. Very few matters of greater importance have ever been presented to the Senate. It involves nothing less than the organization in our country of a system of conscription, so well known on the continent of Europe, but thus far happily unknown to us; and yet, sir, this question also is to be hurried to a vote without any adequate discussion. Then, we have executive business, to which I can only allude in a general way, but of vast moment, which cannot be adequately considered without days, and I might say weeks. Then we have, also, the whole Calendar, to which the Senator from Illinois has referred, which ought to occupy us for weeks.

There are, then, at least, these five important matters: West Virginia, the provisional governments, the Army bill, the executive business, and the whole Calendar—all of them yet open to consideration; and yet, sir, Senators propose to go home; Senators are weary; Senators would like to find a retreat, away from these legislative cares. I can enter into that feeling. Sir, I should be glad to be at home. I suppose the gallant soldiers on the James river, on the Chickahominy, would also be glad to be at home. They are not excused; they have not a furlough; and yet we Senators propose to take our furlough.

Now, it is known, in fact, that formerly when Congress was paid by the day, it never thought of adjourning at this time. One of the most important bills on your statute-books bears date the 18th day of September, 1850; and for some years immediately after that, Congress did not adjourn until late in August. I think I have sat myself once into September; but when I mentioned this fact the other day the Senator from Ohio reminded me that then Congress was paid by the day; whereas now it is paid by the year. Has it come to this, that Congress could sit here content when it was paid by the day, and now that it is paid by the year it leaves all its important business either to be neglected entirely or to be hurried to a vote without that discussion which it ought to receive? Sir, I hope the Senate will not consent to fix any day of adjournment. I hope it will sit here in order to proceed regularly with all the business which is now on its Calendar, and to meet any contingencies which in the present state of the country may arise. There is a duty which is cast upon Congress, and which ought not to be slighted. It is to see that the Republic receive no detriment. Solemnly this duty now addresses itself to all of us. Let us not neglect it. For the sake of the public business, and for the sake of those duties which from their very uncertainty at this crisis, are vast, I ask the Senate to continue here.

Mr. CLARK. Allusion has been made to the soldier upon the banks of the James river, that he can have no furlough to go to his home, but must remain to fight; and a contrast has been drawn between him and the Senator who desires to go to his home. Now, let me make a suggestion, that there are already Senators who have gone to their homes, not for rest, but for the very purpose of raising reinforcements and soldiers to go to the banks of the James river for the purpose of enabling those soldiers to fight. I have had in my pocket for a week a request from the Secretary of War to proceed to my State for the purpose of enabling them to raise troops. I have been solicited by the President to go, but asked not to go if it endangered a quorum of the Senate; and I desire to go, not for rest, but for the purpose of arousing the people of my State, that they may put into the field her quota to aid the soldiers now upon the James river, and that we may crush this rebellion in a better way than we can do by sitting here in our chairs and legislating or firing paper bullets at the enemy. Sir, this rebellion is not to be put down by acts of Congress. When we have given the Government the necessary means, we should go to the fields, to the workshops, and to the farms in our States, if we cannot go into the ranks ourselves, and raise the men who will go and with bullets and bayonets put down the rebellion. I hope I shall not hear from the Senator from Massachusetts any such invidious distinction as that. Let him go with me, and I will go to the banks of the James river with him, and expose our bosoms to those bullets. If he will go with me I will resign my place and go to the field. I will give my body to the country as well as my services here in this Hall. Sir, it was no want of patriotism, it was no want of love of country that induced me to say the Senate had better adjourn on Wednesday next when it had finished its business.

Mr. GRIMES. All these declarations of patriotism are very nice and very satisfactory, but it seems to me that the place for Senators to perform their duties is in this Chamber, and I propose to remain here to perform my duty as long as I believe there is any necessity for my remaining, or so long as I believe there is any probability of my being of any benefit to the Government. Now, sir, I do not believe that soldiers are to be raised by Senators and Representatives going home and making speeches to them, or proposing to lead them to the battle-field. The Senator from Maine, [Mr. FESSENDEN,] the other day, took the right position in regard to this subject. He said that the public sentiment at home must be gratified in the way in which this war is to be conducted hereafter, and I am in favor of gratifying it. We have, in some measure, I think, satisfied that public sentiment by the passage of a confiscation bill here to-day; but is it a law? No, sir. It has not been signed by the Presiding Officer of either branch of Congress. It will not be signed to-day. Probably it will not be sent to the President till Monday or Tuesday. Will he approve it? I trust so. I do not know whether he will or not. He may find some constitutional objection. Some of the objections that have been urged against it by gentlemen on this floor may seem substantial to him If so, what are we going to do? Are we going to be without any law upon these vital questions; or shall we then take up the bill which is in some respects objectionable to him, and answer his constitutional objections by passing another? This is a question of very vital importance, I think, in the proper conduct of this war, and I want to know what is going to become of that confiscation bill which we have passed through this body to-day.

I might go on and enumerate a great many other measures of very vast importance to this country. I want to have the country put in some sort of a state of defense against any contingencies that may arise with foreign Powers. I introduced a bill to-day looking to that effect. It was objected to by the Senator from Illinois, [Mr. TRUMBULL,] and goes over until next Monday. Then it will be taken up and probably discussed a day or two. We adjourn on Wednesday; and who knows whether we shall have an opportunity to get it through this House or the other?

The argument that the House of Representatives is going to adjourn is no argument at all. Whether they do their duty or not, they must be responsible to their constituents. The question with us is, what is our duty? Every Senator must judge that question for himself. I choose to remain here under the circumstances.

Mr. FESSENDEN. It has been suggested to me that a later day in the week might be fixed, and the Committee on Finance certainly have no sort of objection to that, if any gentleman thinks another day or two is of consequence. If gentlemen think we had better change it to Thursday or Friday, I am perfectly willing to agree to it. ["Oh, no."]

Mr. FOSTER. I think it had better be earlier—Tuesday, rather than Wednesday.

Mr. FESSENDEN. As there is no response to that suggestion, of course I will make no motion with regard to it.

The PRESIDING OFFICER. The question is on the adoption of the resolution, as amended, on which the yeas and nays have been ordered.

The question being taken by yeas and nays, resulted—yeas 29, nays 10; as follows:

YEAS—Messrs. Anthony, Browning, Carlile, Clark, Collamer, Cowan, Davis, Doolittle, Fessenden, Foot, Foster, Hale, Harris, Henderson, Howard, Howe, Lane of Indiana,

Lane of Kansas, McDougall, Morrill, Powell, Saulsbury, Sherman, Simmons, Stark, Ten Eyck, Wilmot, Wilson of Missouri, and Wright—29.

NAYS—Messrs. Chandler, Grimes, Harlan, King, Pomeroy, Sumner, Trumbull, Wade, Wilkinson, and Willey—10.

So the resolution, as amended, was adopted.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. MORRIS, Chief Clerk, announced that the House had agreed to the amendments of the Senate to the joint resolution (H. R. No. 39) declaring the meaning of an act to authorize the President of the United States in certain cases to take possession of railroads and telegraph lines, and for other purposes, approved January 31, 1862, and to repeal a part of said act.

The message also announced that the House had agreed to the report of the committee of conference on the bill (S. No. 89) in relation to the claim of Carmack & Ramsey.

The message also announced that the House had concurred in the resolution of the Senate to suspend the 16th and 17th joint rules during the residue of the session.

ENROLLED BILLS SIGNED.

The message further announced that the Speaker of the House of Representatives had signed the following enrolled bills and joint resolutions; which thereupon received the signature of the President *pro tempore:*

A bill (S. No. 93) for changing the place for holding the September term of the district court of the United States in the district of Maine;

A bill (S. No. 98) to amend an act entitled "An act to prohibit the sale of spirituous liquors and intoxicating drinks in the District of Columbia in certain cases," approved August 5, 1861;

A joint resolution (S. No. 94) to change the name of the schooner Sally McGee to that of Ocean Eagle;

A bill (S. No. 219) granting an invalid pension to Hugh H. Howard, of Hockingport, State of Ohio; and

A bill (S. No. 270) concerning the courts of the United States in and for the district of Michigan.

RECESS.

Mr. WADE. I will ask the Senate now to take up House bill No. 437, to extend the territorial limits of the Territory of Nevada.

The PRESIDING OFFICER. There is a bill before the Senate, which was laid aside to take up the resolution in regard to an adjournment as a privileged question. The bill (S. No. 376) to allow and pay to the State of Missouri the amount of money expended by said State in the arming and paying of troops employed in the suppression of insurrection against the laws of the United States, is now before the Senate as in Committee of the Whole.

Mr. FESSENDEN. By the consent of the honorable Senator from Missouri, I will make a motion which I think will be necessary. As we have fixed the day of adjournment, I think now, as is customary on all such occasions—I know it has been ever since I have been a member of Congress—we ought to meet in the evenings, especially as we have a good deal of executive business to dispose of, and with a view that we may proceed to the consideration of executive business this evening, I move that at five o'clock the Senate take a recess until seven.

Mr. McDOUGALL. Say half past seven.

Mr. FESSENDEN. Very well; half past seven.

Mr. SHERMAN. I hope the Senator will adhere to his original motion—seven o'clock.

Mr. FESSENDEN. Well, I will say seven o'clock. That will give us two hours.

The PRESIDING OFFICER. It is moved that the Senate take a recess from five till seven o'clock.

Mr. SUMNER. I hope the Senate will keep on with its work without a recess.

Mr. SHERMAN. We cannot do that. We shall find ourselves without a quorum and then we shall have to adjourn.

Mr. SUMNER. But there will be no quorum in the evening—that is the point. We shall come here and find no quorum present.

The PRESIDING OFFICER. The question is on the motion of the Senator from Maine.

The motion was agreed to.

PERSONAL EXPLANATION—CONFISCATION BILL.

Mr. HOWE. I ask the indulgence of the Senate to make a personal explanation or statement. I was called to the War Department this afternoon upon business of importance. During my absence the Senate took a vote upon the report of the committee of conference on the disagreeing vote of the two Houses on what is known as the confiscation bill. I was necessarily absent at the time that vote was taken. I do not suppose it is of the slightest consequence to the country how I should have voted if I had been in my seat; but it may not be improper for me to state, for the information of the few friends who may take an interest in my course here, that I should have voted to concur with the report of the committee if I had been in my seat.

Mr. TRUMBULL. I will state that one Senator had his name recorded after the vote was announced; and I suppose now that the precedent is set, if the Senator desires it, he could record his vote.

Mr. CLARK. I hope he will be allowed to do so.

Mr. HOWE. If the Senate will indulge me so far, I should like to have it done.

Mr. TRUMBULL. It was done in another instance. The Senator from Oregon voted after the result was announced.

The PRESIDING OFFICER. The Senator from Wisconsin asks unanimous consent that his vote may be recorded on the vote agreeing to the report of the committee of conference on the confiscation bill. The Chair hears no objection.

The Secretary called the name of Mr. HOWE, and he voted "yea."

Mr. FOSTER. I concur entirely in the consent; but I would suggest that this is a very dangerous precedent. It may have been established and may have been allowed; but in some cases it would change the result, and, of course, then it would not be admitted. I do not think it is a good practice now, but still I will not make any objection; but I would suggest whether we had not better consider it a rule hereafter to make objection.

Mr. FESSENDEN. I shall always object in all cases hereafter.

Mr. CLARK. And so shall I.

MILITARY EXPENSES OF MISSOURI.

Mr. WADE. Is there anything before the Senate?

The PRESIDING OFFICER. There is a bill before the Senate called up on motion of the Senator from Missouri, [Mr. HENDERSON.]

The Senate, as in Committee of the Whole, resumed the consideration of the bill (S. No. 376) to allow and pay to the State of Missouri the amount of money expended by said State in the arming and paying of troops employed in the suppression of insurrection against the laws of the United States.

The PRESIDING OFFICER. The question pending is the amendment offered by the Senator from Kentucky, [Mr. DAVIS,] to insert the following as a new section:

And be it further enacted, That the provisions of the act entitled "An act to secure to the officers and men actually employed in the Western department, or department of Missouri, their pay, bounty, and pension," approved March 25, 1862, are hereby extended and made applicable to the officers and men employed in any other military department of the United States.

Mr. WILSON, of Missouri. The Senator from Kentucky gave notice that he would withdraw that amendment.

Mr. DAVIS. I withdraw it.

The PRESIDING OFFICER. Then there is no amendment pending.

The bill was reported to the Senate as amended, and the amendment made as in Committee of the Whole was concurred in.

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

TERRITORIAL LIMITS OF NEVADA.

Mr. WADE. I now move to take up House bill No. 437.

The PRESIDING OFFICER. The Senator from Ohio moves that the Senate proceed to the consideration of the bill indicated by him.

Mr. FESSENDEN. I should like to hear what the bill is.

Mr. WADE. It is a bill to extend the territorial limits of the Territory of Nevada. It is a House bill to which there seems to be no objection anywhere.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. No. 437) to extend the territorial limits of the Territory of Nevada. It directs that all that part of the territory of the United States included within the following limits, namely: beginning at the point of intersection of the forty-second degree of north latitude with the thirty-eighth degree of longitude west from Washington; thence running south on the said thirty-eighth degree of west longitude until it intersects the northern boundary line of New Mexico; thence due west to the thirty-ninth degree of longitude west from Washington; thence with said thirty-ninth degree north to the intersection of said forty-second degree of north latitude; thence east with said forty-second degree of north latitude to the place of beginning, be attached to and made a part of the Territory of Nevada, subject to the limitations, restrictions, and provisions of the act organizing the Territory of Nevada.

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

WITNESSES IN UNITED STATES COURTS.

Mr. FOSTER. I move that the Senate take up for consideration Senate bill No. 167. It is a bill that was prepared by the Solicitor of the Treasury, and recommended in a letter from the head of the Department. It was referred to the Committee on the Judiciary some time since, and the committee proposed a very slight amendment. The Secretary of the Treasury thinks it is important in regard to the revenues of the Government, or rather in regard to suits where the revenues of the country are concerned; and I think it is not liable to objection from any quarter. It will take about two or three minutes to read the bill, and then I think it will pass without objection.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill (S. No. 167) to authorize the examination of parties to suits in the courts of the United States, and for other purposes. It provides that whenever any party to any suit or proceeding now or hereafter pending in any of the courts of the United States shall desire to examine, under oath, any other party to the same proceeding, the court in which such suit or proceeding shall be pending shall have power to compel the party whom it shall be desired to examine to appear before such court, or a commission to be designated for that purpose, and to answer, under oath, all questions which may be propounded to him, pertinent to the matter in controversy. Such examination may be had as well after judgment, decree, or final order in such suit or proceeding as before, and for the purpose of discovering any fact necessary or material to the enforcement of such judgment, decree, or final order; and especially for the purpose of discovering any property of the party so examined, which of right ought to be applied to the satisfaction of such judgment, decree, or final order; or any equitable interest which he may have in any real estate, as mortgagor, mortgagee, or otherwise; or any interest he may have in any banking, bridge, turnpike, or other joint stock company; or any interest he may have in any money contracts, claims, or choses in action due or to become due to him, or in any judgment or decree; or any money, goods, or effects which he may have in the possession of any other person; and the court before which such proceedings are had may cause any property or other thing so discovered, not exempt by law, to be applied to the satisfaction of such judgment, decree, or final order.

If a sale of any property or thing so discovered shall be necessary, the same is to be conducted by the receiver, who may be appointed by the court as hereinafter provided, or other proper officer, under the order of the court, as nearly as may be in accordance with the regulations in force for the time being, for the sale on execution of the like or similar property or thing. The court is to have power, if the same shall be deemed necessary, to appoint a receiver to take possession of any property or thing so discovered, and to sell the same or otherwise dispose of it under the order of the court, for the purpose specified, who shall, before entering upon the discharge of his duties, give bond, with security, in such sum as shall be

prescribed by the court appointing him, and to be approved by the clerk thereof, conditioned for the faithful discharge of his duties as receiver, and he will also be required to take an oath to the like effect. He will receive such compensation as may be allowed to marshals and other officers for like services, to be taxed as costs in the case, the collection of which, and of all other costs and expenses arising in such proceedings from the party or parties who ought to pay the same, may be enforced by order of the court. If any person shall disobey any order lawfully made in pursuance of this act, and duly served, such person may be punished as for contempt. No person, on examination pursuant to this act, is to be excused from answering any question on the ground that his examination will tend to convict him of a fraud, but his answer is not to be used against him in a prosecution for such fraud. The court before which any such examination may be had, may compel the production of any books of account, or other books or papers, which may be in the possession or under the control of any party so examined, and which may be deemed material to the proper conduct of such examination, or which may contain any evidence concerning the subject of such examination or the matter in controversy; and, if necessary, to compel the delivery thereof to the receiver or other proper officer of the court, to be used as the exigencies of the examination or proceeding may require. When the party to be examined is a corporation, its answers are to be made, on oath, by such officer or officers thereof as the court, on motion of the party asking for such examination, shall order. The several courts of the United States may direct, by standing rules, that any power by this act conferred upon such courts may be exercised, in vacation, by any judge thereof within his proper district.

The Committee on the Judiciary reported the bill with an amendment in section six, line two, after the word "be," to insert the words "required to answer any question, if the answer will tend to criminate him; but no person shall be;" so that the section will read:

That no person shall, on examination pursuant to this act, be required to answer any question, if the answer will tend to criminate him; but no person shall be excused from answering any question on the ground that his examination will tend to convict him of a fraud; but his answer shall not be used against him in a prosecution for such fraud.

The amendment was agreed to.

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

Mr. DAVIS. If it be in order, I will move the following amendment as an additional section to the bill.

And be it further enacted, That hereafter any person who shall adhere to the government of the so-called confederate States of America, or do any act to carry on or sustain the same, or shall adhere to the existing insurrection against the United States, or give it aid or comfort, or shall advise any person to join it, or give any money, property, or other thing whatever, to any person to induce him to join said insurrection, or to any person who has joined, or is about to join said insurrection, with the intent to give aid or assistance to such person in said insurrection, or shall enter into any consultation or conspiracy to promote or aid the present insurrection, shall be guilty of a high misdemeanor against the United States, and shall be subject to fine or imprisonment, or both, the fine not to be more than $1,000 nor less than $100; the imprisonment not to exceed ten years nor be less than one year, at the discretion of the jury.

Mr. FOSTER. I really hope the Senator from Kentucky will not press that as an amendment to this bill. If it should be pressed, the consequence, of course, may be foreseen. I will suggest to him that I will go with him heart in hand in punishing what he is properly so anxious to punish; but certainly it would be improper to put it on this bill, which is simply altering some of the rules of evidence in courts of the United States in regard to revenue cases.

Mr. DAVIS. I withdraw the amendment. I shall ask the Senate, though, to take it up as a separate proposition.

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

MARGARET BAILEY.

Mr. SHERMAN. I desire, what I have never asked to be done before, the passage of a small private bill giving a pension to a widow, and I hope it will be done. It will take but a moment to pass it.

Mr. TRUMBULL. I have a public bill, or a resolution, rather, which is of some importance to the Government. I have addressed the Chair at least twenty times this afternoon in order to get it presented.

Mr. SHERMAN. I move to discharge the Committee on Pensions from the consideration of House bill No. 527.

Mr. TRUMBULL. This is a private bill it seems, and in a committee, and not yet reported.

Mr. SHERMAN. I have the assent of the committee. It has been acted on by the House, and I am sure if the Senator will hear the report he will not object to it. I move to postpone all prior orders, and that the Committee on Pensions be discharged from the further consideration of the bill.

The PRESIDING OFFICER. The Senator from Ohio moves that the Committee on Pensions be discharged from the further consideration of the bill (H. R. No. 527) to secure one month's pay and pension to Margaret Bailey, widow of George B. Bailey, lieutenant colonel in the ninth regiment of Virginia volunteers.

The motion was agreed to, and the Senate, as in Committee of the Whole, proceeded to consider the bill. It directs that there be paid to Margaret Bailey, widow of George B. Bailey, late acting lieutenant colonel in the ninth regiment of Virginia volunteers, one month's pay of a lieutenant colonel, for services rendered by her husband as lieutenant colonel and surgeon, prior to November 10, 1861, when he was killed in battle at Guyandotte, Virginia. The Commissioner of Pensions is also directed to place the name of Margaret Bailey on the pension roll, at the rate of thirty dollars per month.

Mr. TRUMBULL. I think that is setting a very bad precedent.

Mr. SHERMAN. If the Senator will hear a statement of the case, he will not object.

Mr. TRUMBULL. I should like to know if the widow of a lieutenant colonel is ever pensioned at the rate of thirty dollars a month.

Mr. SHERMAN. Yes, sir; that is the rule.

Mr. FOSTER. That is the law.

Mr. TRUMBULL. I think it had better be passed over.

Mr. SHERMAN. If the Senator had read the report or heard a statement of the case, he would not make an objection. This man was appointed a lieutenant colonel and served as such, but before he received his commission and was mustered into the service of the United States, he was engaged in battle, distinguished himself, and was killed. The simple reason why it is necessary now to pass this bill is, that he was not mustered into the service.

Mr. TRUMBULL. Let me inquire if this bill gives nothing but what the widow would be entitled to by law if he had been mustered into the service?

Mr. SHERMAN. Not a cent, as I understand the law.

Mr. TRUMBULL. Then I have no objection.

Mr. FOSTER. The Senator is right as to the law, that this widow would be entitled to thirty dollars a month; but I suggest to him and the Senate that the bill should be amended in this; it does not direct the Commissioner of Pensions from what date to place this widow's name on the pension roll, nor does it fix the period that it shall continue there, through widowhood, as the general law does. It neither fixes the time when it shall begin or end.

Mr. SHERMAN. I take it, it will begin with the passage of the law.

Mr. FOSTER. The time ought to be fixed.

Mr. SHERMAN. The only objection I have to fixing it is on account of the great difficulty of getting a bill through the House of Representatives, or having an amendment acted on there.

Mr. FOSTER. It ought to be limited during widowhood, because that is the general law. If we give this widow all the benefits of the general law, it is as much as ought to be asked.

Mr. SHERMAN. It is all I ask; but this bill passed the House in this form, and I trust it will not be sent back, where it may be lost. This lady is very poor.

Mr. FOSTER. I go with the Senator from Ohio in favor of the bill. It is a meritorious bill, and ought to be passed, and if it had been in the hands of the Committee on Pensions over two days it would have been reported, but it was only referred yesterday. I have looked at the bill, and I am satisfied it is but simple justice to this widow; but still I think it ought to conform to the general law and apply only during widowhood. That is the general law, and it has been put upon every pension bill that has been passed this session. I do not believe there would be any difficulty in the House in concurring in the amendment.

Mr. SHERMAN. If the Senator thinks that it will not create opposition in the House I have no objection to the limitation. I do not want to make an exception in this case.

Mr. FOSTER. Of course the Senator is more competent to judge of the action of the House than I am. I know there is a very kindly feeling in the House towards this bill; but still I cannot agree to it without these amendments. I believe it would be assented to in the other House.

Mr. POWELL. I will ask the Senator if we could not amend it by a supplemental bill at the next session. This lady is very poor, I believe. I know nothing of her; but I hope the bill will be passed.

The PRESIDING OFFICER. The Senator from Connecticut moves the following amendment to the bill——

Mr. SHERMAN. I have no objection to the amendment.

Mr. FOSTER. Will the Senator state at what time it shall commence?

Mr. SHERMAN. From the passage of the act.

Mr. FOSTER. Say "the 1st of July, to continue during widowhood."

Mr. SHERMAN. Very well. I will ask, however, if it ought not to commence from the date of the death of her husband. Is not that the usual course?

Mr. FOSTER. From the time the proof is made out is the rule. I think if it is put at the 1st of July, it will be as early as could be.

Mr. SHERMAN. Very well; that will answer probably.

The PRESIDING OFFICER. The question is on the amendment of the Senator from Connecticut, to add at the end of the bill these words: "from the 1st day of July, 1862, to continue during her widowhood."

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in and ordered to be engrossed. The bill was ordered to be read a third time; and it was read the third time, and passed.

CUSTODY OF MONEY IN PRIZE CASES.

Mr. TRUMBULL asked, and by unanimous consent obtained, leave to introduce a joint resolution (S. No. 97) in relation to the law of prize; which was read twice by its title.

Mr. TRUMBULL. I will ask for the consideration of that joint resolution now, after the reading of a letter from the Secretary of the Interior, which will explain it.

The PRESIDING OFFICER. The Senator from Illinois asks the unanimous consent of the Senate to consider the joint resolution at the present time.

Mr. HALE. Let it be read through first that we may see what it is.

The Secretary read the joint resolution, which directs that hereafter all moneys received from the sale of property under the prize laws of the United States, whether under interlocutory or final decrees, shall be paid by the marshal into the Treasury of the United States for safe-keeping, within twenty days from the day of sale, instead of the register of the court, less the costs and disbursements, sworn to by the marshal and taxed by the court; and every clerk of a United States court now having any such moneys in hand is to immediately pay the same into the Treasury of the United States, less the costs and disbursements, to be sworn to and taxed; and upon a final decree of condemnation or restitution it is to be the duty of the Secretary of the Treasury, and he is authorized, to pay over the same upon the order of the proper court.

Mr. HALE. Let me state a fact to my friend from Illinois. That very subject has been under consideration, and a section covering that very matter is agreed to in a bill which has just been completed in a committee of conference of the two Houses. That very matter has been considered by them, and a similar provision is agreed to in the bill, that this money shall be paid over.

Mr. TRUMBULL. Then there is no occasion for this joint resolution if another bill covers it.

Mr. HALE. I am sure it does. It directs the money to be paid into the Treasury of the United States, instead of to the clerks of the courts.

Mr. TRUMBULL. The Senator knows, I suppose, what the trouble is. The marshals are charged with the custody of this property; they make the sale; the judge directs the proceeds to go into the hands of the clerk; and the Secretary of the Interior says there are millions of dollars that may be held there for years while all this thing is in litigation. It ought to be corrected; but if it is done already, there is no use for this resolution now.

Mr. HALE. Let it lie over. I know what the section is in the other bill, for I have examined it within an hour; and I will submit it to the Senator.

Mr. TRUMBULL. I will not ask for its consideration under the circumstances. Let it lie for the present.

The PRESIDING OFFICER. The joint resolution will lie on the table.

NAVY RATION.

Mr. HALE. I desire to make a report from the Committee on Naval Affairs, which I have neglected to make heretofore, owing to the fact that the papers were mislaid. It is a joint resolution which I am instructed to report, and I think when the Senate hear it read they will pass it without objection.

The PRESIDING OFFICER. Does the Senator ask the present consideration of the joint resolution?

Mr. HALE. Let it be read, and if there be any objection to it I will not ask it.

The Secretary read the joint resolution, which authorizes the Secretary of the Navy to substitute the Sawyer-Crimean soup for the preserved meat and desiccated mixed vegetables now issued as part of the Navy ration, if, after proper examination, he shall deem the change advisable.

Mr. HALE. It is simply authorizing the change if the Secretary thinks it advisable. A great many gentlemen think it is, and this gives him the discretion on the subject.

There being no objection, the joint resolution (S. No. 96) changing the Navy ration, was read three times, and passed.

PREËMPTORS IN MINNESOTA.

Mr. WILKINSON. The Committee on Indian Affairs, to whom was referred the bill (H. R. No. 84) for the relief of the preëmptors on the home reservation of the Winnebagoes, in the Blue-earth region, in the State of Minnesota, have directed me to report it back without amendment, and to ask that it may be put on its passage now.

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill. Certain individuals having memorialized Congress, setting forth that they were *bona fide* actual settlers, under the preëmption laws of the United States, in the tract of country known as the eighteen-mile-square home reservation of the Winnebagoes, in the Blue-earth region, Minnesota, at a period of time when the Indian title had been extinguished, and prior to the setting apart by legal divisions of the Indian home reservation, under the second article of the treaty of the 27th of February, 1855, and that by reason of the setting apart of the reservation they were forced from their settlements and subjected to loss and damage by the destruction of their improvements; the bill therefore provides that it shall and may be lawful for each of such settlers, within three months from and after the passage of this act, to file his declaratory statement with the proper register and receiver, descriptive of the tract so settled upon and improved; and under such regulations as may be prescribed by the Secretary of the Interior he is to be permitted to establish his claim by the production of testimony showing compliance with all the requirements of the preëmption law up to the period when he was ousted by reason of the premises falling within the Indian home reservation. The testimony required under this act is to be the affidavit of the claimant himself, taken before the register and receiver, showing the date of the commencement and the period of continuance of his improvements, the extent of the same, size of his habitation, the time and labor required in its construction, extent of other improvements, and the cost to him and value of the same, and value of crop derived from the same; the affidavit to be corroborated by disinterested testimony.

Upon the return of such testimony to the Department, it is to be the duty of the Secretary of the Interior finally to adjudge the validity or invalidity of each claim; and in regard to those shown to be *bona fide* under the preëmption law, to report a list of the same, with all the testimony, to Congress, stipulating such award as should be paid as damages growing out of the loss and destruction of such improvements by reason of the appropriation of such settlements to the Indian reservation; but the land officers of the local land office are not to receive any additional pay or fees for the services required of them.

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

The PRESIDING OFFICER. The hour of five o'clock having arrived, the Senate will now, in accordance with an order previously made, take a recess until seven o'clock.

Mr. DAVIS. Before that is done, let me ask that the Committee on Foreign Relations be discharged from the further consideration of a petition.

The PRESIDING OFFICER. It is too late. The recess has been ordered.

EVENING SESSION.

The Senate reassembled at seven o'clock, p. m.

LAKE SUPERIOR LAND DISTRICT.

Mr. CHANDLER. I move that the Committee on Public Lands be discharged from the further consideration of House bill No. 496, to enlarge the Lake Superior land district, in the State of Michigan. The chairman of that committee and the committee desire that this course be taken, and I ask that the bill be put on its passage. The Commissioner of the General Land Office has recommended it.

The PRESIDENT *pro tempore*. The question is on the motion to discharge the committee from the further consideration of the bill.

The motion was agreed to.

The PRESIDENT *pro tempore*. The Senator asks unanimous consent that that bill be put on its passage at the present time.

Mr. SHERMAN. I should like to hear it read.

The PRESIDENT *pro tempore*. The bill will be read for information.

The bill was read. It provides that all that portion of the present Cheboygan district lying west of Lake Michigan and south of the line dividing townships forty-one and forty-two north, including St. Martin's and the adjacent islands near the entrance to Big Bay de Noc, shall be attached to the Lake Superior district, and the lands therein be subject to sale and entry at the site of the land office for that district.

Mr. CHANDLER. During six months of the year there is no travel except on snow shoes between the land office as now located and this part of the State.

The bill was considered as in Committee of the Whole, reported to the Senate, ordered to a third reading, read the third time, and passed.

THANKS TO NAVAL OFFICERS.

The PRESIDENT *pro tempore* laid before the Senate the following message from the President of the United States:

To the Senate and House of Representatives:

I recommend that the thanks of Congress be given to the following officers of the United States Navy:

Captain James L. Lardner, for meritorious conduct at the battle of Port Royal and distinguished services on the coast of the United States against the enemy.

Captain Charles Henry Davis, for distinguished services in conflict with the enemy at Fort Pillow, at Memphis, and for successful operations at other points in the waters of the Mississippi river.

Commander John A. Dahlgren, for distinguished service in the line of his profession—improvements in ordnance, and zealous and efficient labors in the ordnance branch of the service.

Commander Stephen C. Rowan, for distinguished services in the waters of North Carolina, and particularly in the capture of Newbern, being in chief command of the naval forces.

Commander David D. Porter, for distinguished services in the conception and preparation of the means used for the capture of the forts below New Orleans, and for highly meritorious conduct in the management of the mortar flotilla during the bombardment of Forts Jackson and St Philip.

Captain Silas H. Stringham, now on the retired list, for distinguished services in the capture of Forts Hatteras and Clark.

ABRAHAM LINCOLN.

WASHINGTON, D. C., *July* 11, 1862.

The message was, on motion of Mr. GRIMES, referred to the Committee on Naval Affairs.

OFFICERS OF REVENUE SERVICE.

Mr. CHANDLER. The Committee on Commerce, to whom was referred the bill (H. R. No 561) in relation to commissioned officers of the United States revenue cutter service, have instructed me to report it back, with two amendments. I reported precisely the same bill from the Committee on Commerce three or four days ago, supposing it would originate here. This is a duplicate, word for word, of the bill on the files of the Senate. I ask that it be put on its passage.

The PRESIDENT *pro tempore*. Is there objection to the present consideration of this bill?

Mr. CHANDLER. There are two amendments which I ask may be read.

Mr. FESSENDEN. I believe I shall object to that bill. I do not wish it to pass without further consideration.

The objection was subsequently withdrawn, and the bill (H. R. No. 561) in relation to commissioned officers of the United States revenue cutter service was considered as in Committee of the Whole. It provides that the commissioned officers of the revenue cutter service shall be appointed by the President, by and with the advice and consent of the Senate, and that no officer not so nominated and confirmed at the end of the next session of Congress shall be considered an officer of the service. The grades of engineers are to be chief engineers, first and second assistant engineers, with the pay and relative rank of first, second, and third lieutenants, respectively. The wages of petty officers and crew are not to exceed the average wages paid for like services on the Atlantic and Pacific coasts, respectively, in the merchant service.

Officers of the revenue cutter service, when serving in accordance with law, as part of the Navy, are to be entitled to relative rank as follows: captains, with and next after lieutenants commanding in the Navy: first lieutenants, with and next after lieutenants in the Navy; second lieutenants, with and next after masters in line in the Navy; first lieutenants, with and next after passed midshipmen in the Navy.

The first amendment reported by the Committee on Commerce was in line five of section one, after the word "Senate," to strike out "and no officer not so nominated and confirmed at the end of the next session of Congress shall be considered an officer of the service."

Mr. CHANDLER. The committee strike that out so as to leave all officers now in service there, and all in future are to be appointed by the President and confirmed by the Senate.

The amendment was agreed to.

The next amendment of the committee was to insert at the end of section four, the following proviso:

Provided, That no change of rank by this bill shall increase the pay to which such officer is now entitled by law.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendments were concurred in, and ordered to be engrossed, and the bill to be read a third time. The bill was read the third time, and passed.

MILITIA LAWS.

Mr. WILSON, of Massachusetts, from the Committee on Military Affairs and the Militia, reported a bill (S. No. 394) to amend the "Act calling forth the militia to execute the laws of the Union, suppress insurrections, and repel invasions," approved February 28, 1795, and the acts amendatory thereof, and for other purposes; which was read twice by its title, and ordered to be printed.

NAVAL ACADEMY.

Mr. GRIMES, from the Committee on Naval Affairs, who were instructed by a resolution of the Senate of June 30, 1862, to inquire if the Superintendent of the Naval Academy, or any of the officers connected with the government or instruction thereof, have allowed or countenanced in the young men under their charge any manifestation or ex-

hibition of feelings or sentiments hostile to the Government of the United States, and whether any of the officers of said academy have manifested any sentiments of like character, submitted a report; which was ordered to be printed.

PAYMENTS FOR CALIFORNIA LAND CLAIMS.

Mr. McDOUGALL submitted the following resolution:

Resolved, That the Secretary of the Treasury be directed to communicate to the Senate the several amounts paid on account of legal and other services in investigating and litigating land titles in the State of California during the years 1857, 1858, 1859, 1860, and 1861, with the particular services for which the several amounts were paid. Also, the several amounts paid for like services in and about the investigating of said titles in the city of Mexico during the same period.

Mr. SHERMAN. I think that information was called for before. I do not want to put the officers to double trouble.

Mr. McDOUGALL. The Secretary of the Interior has referred me to the Secretary of the Treasury for particular information.

The PRESIDENT *pro tempore*. If there be objection, the resolution lies over under the rules.

Mr. SHERMAN. I think there is a report on that very subject.

Mr. McDOUGALL. There is a report of the Secretary of the Interior, which I have in my hand; but it refers to the Secretary of the Treasury for the detailed information.

The resolution was considered and agreed to.

METROPOLITAN POLICE.

On motion of Mr. GRIMES, the Senate, as in Committee of the Whole, proceeded to consider the bill (S. No. 250) to amend an act entitled "An act to create a metropolitan police district of the District of Columbia, and to establish a police therefor," approved August 6, 1861.

The bill was read. The first section provides that all property or money, alleged or supposed to have been feloniously obtained, or which shall be lost or abandoned, and which shall be thereafter taken into the custody of any member of the metropolitan police force, or criminal court of the District of Columbia, or which shall come into custody of any justice of the peace, is by such member or justice, or by order of the court to be given into the custody of and kept by an officer who is to be appointed and may be removed by the board of police, known as "property clerk" of the metropolitan police district. All such property and money are to be particularly registered by the property clerk in a book kept for that purpose, which is to contain also a record of the names of the persons from whom such property or money was taken, the names of all claimants thereto, the time of the seizure, and any final disposition of such property and money. Whenever property or money shall be taken from persons arrested, and shall be alleged to have been feloniously obtained, or to be the proceeds of crime, and whenever so brought with such claimant and the person arrested before some magistrate for adjudication, and the magistrate shall be then and there satisfied from evidence that the person arrested is innocent of the offense alleged, and that the property rightfully belongs to him, the magistrate may thereupon, in writing, order such property or money to be returned, and the property clerk, if he have it, to deliver such property or money to the accused person himself, and not to any attorney, agent, or clerk of such accused person. If any claim to the ownership of such property or money shall be made on oath before the magistrate, by or in behalf of any other persons than the persons arrested, and the accused person shall be held for trial or examination, such property or money is to remain in the custody of the property clerk until the discharge or conviction of the persons accused. All property or money taken on suspicion of having been feloniously obtained, or of being the proceeds of crime, and for which there is no other claimant than the person from whom it was taken, and all lost property coming into the possession of any member of the metropolitan police force, and all property and money taken from pawnbrokers as the proceeds of crime, or by any such member from persons supposed to be insane, intoxicated, or otherwise incapable of taking care of themselves, is to be transmitted as soon as practicable to the property clerk, to be duly registered and advertised for the benefit of all persons and parties interested, and for the information of the public as to the amount and disposition of the property so taken into custody by the police. All property and money remaining in the custody of the property clerk for the period of six months without any lawful claimant thereto, after having been three times advertised in public newspapers, are to be sold at public auction, and the proceeds paid into the policemens' fund; but horses and other animals taken by the police and remaining unclaimed for twenty days may be advertised and sold upon ten days' public notice, and all perishable property is to be sold at once. If any property or money placed in the custody of the property clerk shall be desired as evidence in any police or other criminal court, it is to be delivered to any officer who shall present an order to that effect from the court; such property, however, is not to be retained in court, but be returned to the property clerk, to be disposed of according to the previous provisions of the act. The annual compensation of the property clerk, as also of the clerk hereafter to be known as secretary of the board of police, is to be $1,200 each, payable monthly.

The second section proposes to make it the duty of the board of metropolitan police to set apart a sanitary police company, to consist of not exceeding ten persons, selected from among the police, and to assign to the company such especial duties, by the rules and regulations, as may be publicly advantageous; and also to appoint not exceeding seven surgeons of police, who shall receive an annual compensation of $300, and discharge such duties as may be required of them by the board of police. The metropolitan sanitary company, under such distribution of power and duty as may be made by the rules and regulations, may visit and make inspection of all ferry boats, manufactories, slaughter houses, tenement houses, and edifices suspected of, or charged with, being unsafe, and attend to such other matters relating to health as are complained of and entered upon the complaint book kept by order of the board, and take all necessary legal measures for promoting the security of life or health generally, and upon or in such boats, manufactories, houses, and edifices, and to make report of inspection and action in the premises to the board of metropolitan police. Whenever the board shall be satisfied, by such report, that any ferry boat, manufactory, slaughter house, tenement house, or edifice is maintained, or that any other act is being about to be committed, in a manner prejudicial to the lives or health of the public, it will after due entry upon its minutes of the circumstances, cause complaint to be made, founded upon such report and circumstances, before any magistrate of the police district, who in a summary way, upon such complaint made under oath, will issue his proper warrant, reciting therein the name of the member or members of the metropolitan sanitary police company, for the arrest of the person in charge of the ferry boat, manufactory, slaughter house, tenement house, or edifice, or otherwise committing any act that may be derogatory to the public health, to the end that he may be brought before such magistrate, and the complaint of insecurity of the life or health of the public so made be duly investigated according to the law of examination into misdemeanors. If the magistrate shall be satisfied, on a summary hearing thereof, that the charge of insecurity of the lives or health of the public is founded on reasonable and probable cause, he may, by his order in writing, command any such ferry boat to cease running, or any business in such manufactory or slaughter house to cease, or impose such fine as by law may be attached to such offense upon the person so offending, until the cause of complaint shall be removed to the satisfaction of the board of metropolitan police.

Mr. GRIMES. I move in the seventh line of section two, to strike out "seven," and insert "three;" so as to read, "three surgeons of police," and after the word dollars in the eighth line to insert "each."

The PRESIDENT *pro tempore*. These modifications will be made if there be no objection.

By the third section, if any member of the metropolitan police, or if any two or more householders shall report in writing, under his or their signature, to the superintendent of the metropolitan police force that there are good grounds (stating them) for believing any house, room, or premises within the police district to be kept or used as a common gaming house, common gaming room, or common gaming premises, for therein playing for wagers of money at any game of chance, or to be kept or used as a bawdy house, or for lewd and obscene public amusement or entertainment, or as a house of prostitution, or for purposes of prostitution, or the deposit or sale of lottery tickets or of lottery policies, it will be lawful for the superintendent of metropolitan police to authorize any member or members of the police force to enter the same, and forthwith arrest all persons there found offending against law, and seize all implements of gaming, or lottery tickets, or lottery policies, and convey any person so arrested before the nearest police magistrate, and bring the articles so seized to the office of the board of metropolitan police. It is to be the duty of the superintendent of police to cause such arrested persons to be rigorously prosecuted, such articles seized to be destroyed, and such room or house to be closed, and not used again for such unlawful purposes.

The fourth section confers on the board of metropolitan police powers of general police supervision and inspection over all licensed pawnbrokers, licensed vendors, licensed hackmen and cartmen, dealers in second-hand merchandise, intelligence office keepers, auctioneers of watches and jewelry, and suspected private banking houses, and other doubtful establishments within the police district; and in the exercise and furtherance of this supervision they may, from time to time, empower members of the police force to fulfill such special duties in the premises as may be ordained by the board of metropolitan police. The board may direct the superintendent to empower any member of the metropolitan police force, whenever such member shall be in search of property feloniously obtained, or in search of suspected offenders, to examine the books of any pawnbroker or his business premises, or the business premises of any licensed vendor or dealer in second-hand merchandise, or intelligence office keeper, or auctioneer of watches and jewelry, or suspected private banking house, or other doubtful establishment. Any member of the metropolitan police, when thereto authorized in writing by the superintendent, and having in his possession a pawnbroker's receipt or ticket, is to be allowed to examine the property purporting to be pawned or pledged, or deposited upon the receipt or ticket, in whosesoever possession the property may be; but no such property is to be taken from the possessor without due process or authority of law. Any willful interference with the superintendent of police, or with any member of the police force, by any of the persons named in this section, while in official and due discharge of duty, is to be punishable as a misdemeanor.

The fifth section authorizes the board of metropolitan police from time to time to establish stations and station houses, or sub-stations and sub-station houses, at least one to each precinct, for the accommodation of members of the police force, and as temporary places of detention for persons arrested and property taken within the precinct. No person holding office under this act, or the act to which it is an amendment, is to be liable to military or jury duty, nor to arrest on civil process, or to service of subpenas from civil courts, while actually on duty. The members of the board of police, the superintendent, and secretary, are to be vested with all the powers conferred by law upon notaries public and justices of the peace in the District of Columbia. The members of the board of police and of the police force are to possess in every part of the District of Columbia all the common law and statutory powers of constables, except for the service of civil process and for the collection of strictly private debts, in which designation fines imposed for the breach of corporation ordinances are not to be included; but the board of police are not to enforce any law or ordinance discriminating between persons in the administration of justice.

Mr. GRIMES. I move to insert after the word "time," in line two, of section five, the words "without expense to the United States;" so as to read:

The board of metropolitan police may, from time to time, without expense to the United States, establish stations and station houses, &c.

The PRESIDENT *pro tempore*. If there be no objection, it will be so amended.

The sixth section proposes to make it the duty of the board of police, from time to time, to select and employ from among the duly appointed and qualified justices of the peace for the county of Washington such justice or justices as may be required, and as it may deem proper, to sit at the respective station houses for the hearing of such charges as may be brought against persons arrested and carried to the station houses; and no person is hereafter to be allowed to give security for the payment of any fine imposed, but every person sentenced by the justice to the payment of any fine and costs is to stand committed until they are paid.

Mr. GRIMES. I move to strike out the words:

And no person shall hereafter be allowed to give security for the payment of any fine imposed; but every person who shall be sentenced by the justice to the payment of any fine and costs, shall stand committed until they are paid.

And to insert in lieu thereof:

And every person who shall be sentenced to pay a fine and costs, or either, shall satisfy the same before being released by payment or by giving security to the satisfaction of the justice imposing such fine and costs; and when such security shall be taken, the justice shall be held personally liable to said board of police for the amount of the fine and costs, to be collected of him as a debt due and payable.

The amendment was agreed to.

Section seven provides that no member of the metropolitan police force, under penalty of forfeiting the salary or pay which may be due to him, shall withdraw or resign, except by the permission of the board of metropolitan police, unless he shall have given to the superintendent one month's notice, in writing, of such intention. There is to be no limitation or restriction of place of residence to any member of the metropolitan police force, other than residence within the metropolitan police district; and it will be the duty of the board of police to cause the location of the patrolmen to be changed from time to time, as the efficiency of the force shall require. It is to be a misdemeanor for any person not being a member of the metropolitan police force, or specially empowered thereto by the board of metropolitan police, to serve any criminal or corporation process within the said metropolitan police district.

Mr. GRIMES. I move to strike out all of that section after the word "require," in line twelve. The words proposed to be stricken out are:

It shall be a misdemeanor for any person not being a member of the metropolitan police force, or specially empowered thereto by the board of metropolitan police, to serve any criminal or corporation process within the said metropolitan police district.

The amendment was agreed to.

The eighth section provides that the *ex officio* members of the board of police (being the Mayors of Washington and Georgetown) shall be entitled to receive the same compensation as is allowed by law to the commissioners of police, beginning from the date of the organization of the board, August 19, 1861. The monthly compensation of the sergeants of police (who are hereafter to be designated as lieutenants of police) is to be seventy dollars; that of the roundsmen (not exceeding two to each precinct, who are to be designated as sergeants of police) sixty dollars; and that of the patrolmen fifty dollars; to be paid as now required by law. And the board of police may appoint not exceeding six detectives, who shall receive a monthly compensation of seventy dollars; not exceeding one turnkey or doorman to each police station or lock-up house, who shall receive a monthly pay of forty dollars; and, from time to time, assistant clerks, (not exceeding three in number,) at a monthly compensation of $83 33 each.

Mr. GRIMES. I move to strike out all of that section down to the word "law," in line twelve; to strike out the word "and," and insert "that," in the twelfth line; to strike out "seventy dollars," in line fourteen, and insert "sixty dollars." I stated to the Senate that that is the only additional expense which will be imposed on the Government by the passage of this bill, the creation of these detective policemen at a salary of sixty dollars a month. I move also to strike out all after the word "dollars," so as to leave the section just this one sentence:

And be it further enacted, That the said board of police may appoint not exceeding six detectives, who shall receive a monthly compensation of sixty dollars.

The amendment was agreed to.

Mr. GRIMES. I propose to strike out section nine.

The section was read, as follows:

SEC. 9. *And be it further enacted*, That the treasurer of said board of police shall receive, for the use of the metropolitan police, all fines, penalties, and forfeitures growing out of violations of law and of the ordinances of the corporations of Washington, Georgetown, and the levy court, in the county, or in any other way received by the said metropolitan police force, and the same apply to the erection of station houses, and payment of the other necessary expenses incurred by the said police force, in such manner as the said board may, from time to time, direct. And the said treasurer shall, immediately after the expiration of each and every year, make full and complete reports to the said board of all his receipts and expenditures during the said year. And in case of the death of the said treasurer, or his removal from office by the votes of a majority of the whole board, any money remaining in his hands shall immediately pass into the hands of his successor in office, and shall, without delay, be paid to such successor by the said treasurer in case of his removal, or his executors or administrators in case of his death. And the said treasurer shall, in addition to his regular salary, be entitled to such per cent. of the said moneys, so received by him under the authority of this section, as the said board may deem just and reasonable for his services. And the official bond of the treasurer shall be fixed at $30,000. The corporations of Washington and Georgetown shall no longer be required to furnish, heat, and light the station houses for the metropolitan police.

The amendment was agreed to.

Section ten provides that the board of police, for meritorious and extraordinary services rendered by any member of the police force, in the due discharge of his duty, may permit him to retain for his own benefit any reward or present tendered him therefor; and it shall be cause of removal from the metropolitan police force for any member thereof to receive any such reward or present without notice to the board of metropolitan police. Upon receiving notice, the board may either order the member to retain the same or dispose of it for the benefit of the policemen's fund. All fines imposed by the board of police upon members of the metropolitan police force, by way of discipline, and collectable from pay or salary, and all rewards, fees, proceeds of gifts, and emoluments, that may be paid and given for account of extraordinary services of any member of the metropolitan police force, (except when allowed to be retained by the member,) and all moneys remaining for the space of six months in the hands of the property clerk, or arising from the sale of unclaimed goods, and all proceeds of suits for penalties under this act, are to be paid to the treasurer of the board, and the payments so made are to accrue to the benefit of the policemen's fund, unless otherwise appropriated by the board.

Mr. GRIMES. I move to strike out in the eighteenth line all of that line after the word "member," and all of the nineteenth and twentieth lines, and all of line twenty-one, to the word "shall," and then in line twenty-two, after the word "police," to strike out down to the word "unless," in the twenty-third line; so as to read:

All fines imposed by the board of police upon members of the metropolitan police force, by way of discipline, and collectable from pay or salary, and all rewards, fees, proceeds of gifts, and emoluments that may be paid and given for account of extraordinary services of any member of the metropolitan police force, (except when allowed to be retained by said member,) shall be paid to the treasurer of the board of metropolitan police, unless otherwise appropriated by the board of police.

The amendment was agreed to.

Section eleven provides that the several members of the police force shall have power and authority to immediately arrest without warrant, and to take into custody any person who shall commit, or threaten or attempt to commit, in the presence of such member, or within his view, any breach of the peace or offense directly prohibited by act of Congress, or by any ordinance of the city or county within which the offense is committed, threatened, or attempted; but he is immediately, and without delay, to be conveyed before the nearest magistrate, to be dealt with according to law.

Mr. GRIMES. After the word "force," in line two, I move to insert the words, "including the commissioners of police."

The amendment was agreed to.

Section twelve provides that, for the better exercise of the powers and duties before enumerated, the board of police are directed immediately, and from time to time hereafter, to cause to be collected into a compact form all the laws and ordinances in force in the District having relation and applicable to police and health, and publish the same in a form easily accessible to all members of the community, as the police code of the District; and the code so prepared, and such rules as the board of police may from time to time adopt for the purpose of enforcing and carrying out the provisions thereof, is to constitute the law of the District upon the matters therein contained. All laws, or parts of laws, inconsistent with the provisions of this act, are to be repealed.

Mr. GRIMES. I move to strike out "directed," and insert "authorized;" and after the word "hereafter," in line four, to insert the words "but without expense to the United States;" so that they may codify their laws without our paying for it.

The amendment was agreed to.

The bill was reported to the Senate, and the amendments were concurred in. The bill was ordered to be engrossed for a third reading, was read the third time, and passed.

SETTLEMENT OF NEGROES IN WEST INDIES.

Mr. FOSTER. I ask that the bill in regard to the slave trade, which was reported from the Committee on the Judiciary a few days since, and to which the honorable Senator from New York [Mr. KING] suggested an objection, be taken up. I trust he will not persist in it; I think the bill may be taken up and passed without objection. I hope he will, on consideration, be satisfied that it will be for the interest of the slave as well as all concerned to pass the bill.

The motion was agreed to; and the bill (S. No. 385) to amend an act entitled "An act to amend the act entitled 'An act in addition to the acts prohibiting the slave trade,'" was considered as in Committee of the Whole.

Mr. FESSENDEN. I understand that a division will be called on that bill, and I therefore move that it be laid on the table.

The motion was agreed to

STEAMBOAT INSPECTORS.

Mr. FESSENDEN. I gave notice that I thought it was wise to meet this evening to do up some executive business, which will meet, probably, with no opposition. I move, therefore, that the Senate proceed to the consideration of executive business.

Mr. TEN EYCK. Allow me to have a bill passed for the protection of the lives of passengers on board of steamboats. It will not take two minutes and it seems to be important.

Mr. FESSENDEN. I withdraw the motion for that purpose.

Mr. TEN EYCK. I have no interest in it except the benefit of the public service, and I have charge of this bill. I move to postpone all prior orders and take it up.

The motion was agreed to; and the bill (S. No. 382) in addition to the act entitled "An act to amend an act entitled 'An act to provide for the better security of the lives of passengers on board vessels propelled in whole or in part by steam, and for other purposes,' approved 30th of August, 1852," was read a second time and considered as in Committee of the Whole. It provides that the inspectors of steamers appointed under the provisions of the act of the 30th August, 1852, shall, by virtue of such appointment, be empowered and required to inspect any steamer not carrying passengers agreeably to the provisions of the third, fourth, and fifth sections of the act approved 7th July, 1838, and that certificates of inspection by such inspectors shall be of equal validity as of those inspectors who may have been appointed by any district judge of the United States, but the fees for such inspections are to be accounted for in the same manner as is provided for those for the inspection of passenger steamers by the act of the 30th of August, 1852.

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

EXECUTIVE SESSION.

Mr. FESSENDEN. I move that the Senate proceed to the consideration of executive business.

The motion was agreed to; and after some time spent in the consideration of executive business, the doors were reopened, and the Senate adjourned.

HOUSE OF REPRESENTATIVES.

SATURDAY, *July* 12, 1862.

The House met at twelve o'clock, m. Prayer by the Chaplain of the Senate, Rev. BYRON SUNDERLAND, D. D.

The Journal of yesterday was read and approved.

PERSONAL EXPLANATION.

Mr. FENTON. I ask consent to make an explanation in regard to an error in the Journal of the House for the extra session in July last, and which error concerns me personally. On the 9th day of July, Hon. Mr. LOVEJOY, of Illinois, submitted the following resolution, namely:

"*Resolved*, That in the judgment of this House it is no part of the duty of the soldiers of the United States to capture or return fugitive slaves."

On the final vote on the passage of this resolution, I am recorded in the negative, when in fact I voted in the affirmative. On all the preliminary motions I am properly placed on the record. I ask that the proper correction may be made, as far as it can be made now, on the records of the House.

The SPEAKER announced the regular order of business to be the call of committees for reports of a private nature, and proceeded with the call.

ELIZA PURCHASE.

Mr. GRIDER, from the Committee on Revolutionary Claims, asked that the committee be discharged from the further consideration of the claim of Eliza Purchase, and that the same, with the accompanying papers, be referred to the Secretary of the Interior for adjustment, the case being provided for by existing law.

No objection being made, it was so ordered.

ELIZABETH COLE.

Mr. DUELL, from the Committee on Revolutionary Claims, reported a bill for the relief of Elizabeth Cole, widow of Levi Cole, deceased; which was read a first and second time, referred to a Committee of the Whole House, and ordered to be printed.

CHESAPEAKE AND OHIO CANAL.

Mr. OLIN. I ask the unanimous consent of the House to discharge the Committee of the Whole from the further consideration of the bill (H. R. No. 542) for the relief of the Chesapeake and Ohio Canal Company.

The bill, which was read for information, appropriates $13,000 out of any money in the Treasury not otherwise appropriated, for reconstructing the bridges and market-house in Georgetown, built across the Chesapeake and Ohio canal, and for raising the same, so as to open a convenient outlet to the trade of the canal to the Potomac river, in place of that which has been interrupted by the occupation of the aqueduct connecting the Chesapeake and Ohio and the Alexandria canals, as a bridge for the transportation of supplies for the Army of the United States across the river. The sum is to be expended under the direction of the president of the Chesapeake and Ohio Canal Company.

Mr. F. A. CONKLING. I object.

Mr. OLIN. Will the gentleman hear an explanation?

Mr. F. A. CONKLING. I will withdraw my objection for that purpose.

Mr. OLIN. If the gentleman will listen to me for a moment, he will see the propriety of the passage of this bill. The Chesapeake and Ohio Canal Company constructed this aqueduct across the Potomac river at a cost of more than half a million dollars. The Government took possession of it, and constituted a bridge of it for the purpose of transporting supplies. That act has already saved the Government more than twenty thousand dollars in transportation; but by the act of taking possession of it the Government has rendered it impossible for the canal company to send boats down to Alexandria, to the navy-yard, and to Washington city, except by passing into the basin at the mouth of Rock creek; but between the aqueduct and this basin, three bridges and part of a market-house are built across the canal, too near to its surface for boats to pass into the basin loaded, and return after being unloaded.

The Government has had this subject under consideration, and General Meigs, Quartermaster General, has communicated to the Secretary of War his opinion upon the subject, in a letter contained in Executive Document No. 102.

Mr. F. A. CONKLING. Let that be read.

The letter was read, as follows:

QUARTERMASTER GENERAL'S OFFICE,
WASHINGTON CITY, *March* 11, 1862.

SIR: I have the honor to return the letter of Hon. FRANCIS THOMAS, urging, on the part of his constituents, and the public interested in the navigation of the Chesapeake and Ohio canal, that a small advance may be made by the Government for the purpose of raising certain bridges in Georgetown which obstruct the return of unloaded canal boats from the river.

It appears that several of these bridges are some four feet too low. Loaded boats can descend the canal, but unloaded boats, *unless partially filled with water*, cannot pass under these bridges on their return.

Mr. THOMAS urges that the only outlet to the river, which is by way of Alexandria, has been cut off by the occupation of the Alexandria aqueduct as a military bridge. There is no question of the great interests injuriously affected by this condition of the bridges, and interruption of communication across the aqueduct.

The removal of these obstructions would lower the price of coal in the city of Washington, and thus be an advantage to the Government (which is a consumer at the navy-yard) as well as to the people.

It is supposed that the obstruction caused by these bridges was intentionally created.

The only ground upon which the Government could be called upon to interfere in the matter, in my opinion, is the advantage which it will derive from any additional facility in procuring supplies of coal, and the interruption which the Government itself has caused by occupying the aqueduct.

Considering, however, that this interruption, which is a military necessity, is more than compensated to the canal by the protection which the military operations, of which this is a part, have afforded to other portions of the canal which have been saved from destruction by the rebels only by the operations of the army of the Potomac, it does not appear to me that the Government is under obligations to make other compensation for the use of the aqueduct as a military bridge.

At the request of Mr. THOMAS, I have caused these bridges to be examined by an engineer of experience, who reports that he finds that the late chief engineer of the Chesapeake and Ohio Canal Company, Charles B. Fisk, Esq., officially reported in 1852 that the raising of all these bridges in a permanent way might be effected for $10,000, and that probably $6,000 would answer the purpose if structures of a temporary character were used. From an examination of Mr. Fisk's report, he understands, however, that even in raising these bridges in a permanent way, he intended the use of wooden floors where there are now desirable stone pavements.

He also reports that Mr. Fisk included no estimate for raising the market-house, presuming, probably, that that would be done by the corporation of Georgetown.

The estimated cost of raising the market-house is about five hundred dollars. I think that at this time, though Mr. Fisk was very careful and reliable in his estimates, it would not be possible to make the change he proposed for less than twenty-five per cent. above the amount of his estimate, which is dated in June, 1852.

I am, very respectfully, your obedient servant,

M. C. MEIGS,
Quartermaster General.

Hon. E. M. STANTON, *Secretary of War.*

Mr. OLIN. The gentleman will see that the case is comprised in this; that the Government found it necessary, to facilitate their operations, to take possession of that aqueduct, thereby obstructing the passage of canal boats over it. That stops the passage of boats to Alexandria, and the return of boats from the navy-yard and Washington city. Boats which are heavily loaded can pass through the canal into the basin, but as soon as they are unloaded they cannot return on account of the bridges, which are built too near the surface of the water.

It is unquestionably true, as stated by the Quartermaster General, that it was a military necessity to take possession of this aqueduct and use it for Government purposes, and the Government will probably continue to use it in that way; but it was taking possession of private property, and the Government ought to put the canal in such a condition as to remedy the evil.

But over and above that, there is this further consideration; I understand that really the whole expenditure would benefit the Government as much, at least, as it would the canal company, by affording facilities for the transportation of Government supplies, especially coal, of which the Government is a very large consumer at the navy-yard. I think if the bill is to be acted upon at all, it should be acted on at once.

Mr. F. A. CONKLING. Mr. Speaker——

The SPEAKER. The Chair would state that all this debate is out of order. If the gentleman objects to the consideration of this bill it cannot be considered now.

Mr. F. A. CONKLING. I do object most decidedly and emphatically.

SUPPLEMENTAL CIVIL APPROPRIATION BILL.

Mr. STEVENS, by unanimous consent, reported, from the Committee of Ways and Means, a bill making supplemental appropriations for sundry civil expenses of the Government for the year ending June 30, 1863, and for the year ending 30th June, 1862; which was read a first and second time.

Mr. STEVENS. I ask unanimous consent of the House to consider this bill in the House.

No objection being made, it was ordered that the bill have its first consideration in the House.

The bill was read.

Mr. STEVENS. Unless some gentleman desires to offer an amendment, I call the previous question.

Mr. COLFAX. I move to amend by adding to the end of the bill this further appropriation:

Also, $10,000, or so much as may be necessary, for service on such routes authorized by the act establishing additional post routes, as in the opinion of the Post Office Department may be necessary.

The amendment was agreed to.

Mr. RICE, of Maine. I move to amend by adding, "$6,000 for the repair of the custom-house at Bangor, Maine."

Mr. STEVENS. I believe that amendment ought to have been made to the naval appropriation bill.

Mr. RICE, of Maine. It properly belongs to the Treasury Department.

Mr. STEVENS. Then it is all right.

Mr. HOLMAN. I would inquire whether that appropriation is recommended by the Committee of Ways and Means or by the Naval Committee?

Mr. RICE, of Maine. This appropriation is necessary to preserve the passages to the custom-house and post office. The building is erected in the middle of the Kenduskeag stream, with approaches built of stone several rods in length leading from two bridges across the stream, one above and one below the building. The wall of one approach has already fallen into the stream, and the other only prevented from so doing by props and stays placed against it. Both approaches are now unsafe and inconvenient for passage, and it is important that they be repaired immediately while the water is low and before the other walls fall. If this is not done, great inconvenience must ensue, and much greater expense incurred in the repairs in the future. On the representation of these facts to the Secretary of the Treasury he immediately recommended the appropriation named in the amendment. His letter I delivered into the hands of the honorable chairman of the Committee of Ways and Means, who informed me that he would put the appropriation into this bill. When I discovered that it was omitted, I called the attention of the honorable chairman to the matter, and he said he had mislaid the letter, and therefore omitted it. I move the amendment with his approbation, and he will assent to what I have said as regards the Secretary's letter. I trust the gentleman from New York will withdraw his opposition and that the House will adopt the amendment.

I had a letter from the Secretary of the Treasury on the subject, which I handed to the chairman of the Committee of Ways and Means, but it was mislaid.

Mr. STEVENS. I recollect the letter very well, and I believe the proposition is all right.

Mr. ALLEN, of Ohio. Do I understand that the bill is open to amendment?

The SPEAKER. It is.

Mr. STEVENS. I desire to say that this item was omitted on account of the communication from the Secretary of the Treasury having been mislaid. There was no objection to the appropriation by the Committee of Ways and Means. It is simply to repair the approaches to the custom-house at this point, which is now almost inaccessible.

Mr. F. A. CONKLING demanded tellers on the amendment.

Tellers were ordered; and Messrs. FESSENDEN and HOLMAN were appointed.

The House divided; and the tellers reported—ayes 64, nays 25; no quorum voting.

Mr. HOLMAN called for the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 86, nays 18; as follows:

YEAS—Messrs. Alley, Arnold, Ashley, Babbitt, Beaman, Samuel S. Blair, Blake, George H. Browne, Buffinton,

Casey, Colfax, Roscoe Conkling, Corning, Crisfield, Crittenden, Cutler, Davis, Dawes, Delaplaine, Duell, Dunlap, Dunn, Edwards, Eliot, Ely, Fenton, Fessenden, Fisher, Frank, Goodwin, Granger, Grider, Haight, Hale, Hall, Hooper, Hutchins, Kelley, Lehman, Loomis, Lovejoy, Low, McKnight, McPherson, Maynard, Moorhead, Anson P. Morrill, Justin S. Morrill, Noell, Nugen, Odell, Olin, Timothy G. Phelps, Pike, Potter, Alexander H. Rice, John H. Rice, Edward H. Rollins, James S. Rollins, Sargent, Sedgwick, Segar, Shanks, Shellabarger, Sherman, Shiel, Sloan, Spaulding, John B. Steele, Stevens, Stratton, Benjamin F. Thomas, Francis Thomas, Train, Trimble, Verree, Wall, Wallace, Walton, Washburne, Wheeler, Albert S. White, Wilson, Windom, Wood, and Worcester—86.

NAYS—Messrs. William Allen, William J. Allen, Ancona, Bally, Biddle, Jacob B. Blair, William G. Brown, Calvert, Frederick A. Conkling, Cravens, Holman, Julian, Knapp, Law, Morris, Richardson, William G. Steele, and Stiles—18.

So the amendment was agreed to.

During the call of the roll,

Mr. DAWES stated that Mr. DELANO was called home on account of sickness in his family; and that Mr. GOOCH was absent on account of the sickness of a friend.

The vote was announced as above recorded.

Mr. MORRILL, of Vermont. I ask the gentleman from Pennsylvania to permit me to make a motion to strike out the paragraph in relation to the Annals of Congress.

Mr. THOMAS, of Massachusetts. I object to his yielding.

Mr. STEVENS. I yield for that motion; and now I move the previous question.

Mr. ROSCOE CONKLING. I ask the gentleman from Pennsylvania to withdraw the demand for the previous question, that I may say a word in reference to this amendment.

Mr. STEVENS. If it be for the purpose of offering an amendment to it.

Mr. ROSCOE CONKLING. It is for the purpose which I intimated to the gentleman, and which he indicated his willingness to accede to.

Mr. STEVENS. I find that it is likely to bring on debate.

Mr. ROSCOE CONKLING. This amendment relates to a matter which has been up here several times.

Mr. WASHBURNE. I object to discussion.

The SPEAKER. Does the gentleman from Pennsylvania withdraw the demand for the previous question?

Mr. STEVENS. I cannot, unless the House desires to hear the gentleman from New York.

Mr. ROSCOE CONKLING. I appeal to the gentleman to withdraw the previous question for a particular purpose. I desire to do what there has heretofore been no opportunity of doing—that is, to state the other side of this book question.

Mr. STEVENS. That would lead to debate, and I want to get through with the public business.

Mr. ROSCOE CONKLING. Three or four speeches have been made on the one side and none on the other.

Mr. STEVENS. I decline to withdraw the previous question.

Mr. HOLMAN. I move to lay the bill on the table, and on that motion I call for the yeas and nays.

Mr. WASHBURNE. I rise to a question of order. I desire to know whether the motion of the gentleman from Vermont, [Mr. MORRILL,] to strike out the item in regard to books, has not been entered; and whether, if the previous question be seconded, the vote will not be on that amendment?

The SPEAKER. The Chair received the motion.

Mr. WASHBURNE. Then it is before the House.

The SPEAKER. It is.

Mr. HOLMAN. That is no question of order.

Mr. WASHBURNE. It shows there is no necessity for a motion to lay the bill on the table.

Mr. PHELPS, of Missouri. I ask to have the bill again read.

The bill was again read.

Mr. MORRILL, of Vermont. I appeal to the gentleman from Indiana to withdraw his motion to lay on the table.

Mr. THOMAS, of Massachusetts. I object.

Mr. HOLMAN. I am compelled to say that, in my judgment, there is not one feature of this bill necessary.

The SPEAKER. Debate is not in order.

The yeas and nays were ordered.

The question was put; and it was decided in the affirmative—yeas 59, nays 49; as follows:

YEAS—Messrs. William Allen, William J. Allen, Ancona, Babbitt, Biddle, Buffinton, Colfax, Frederick A. Conkling, Roscoe Conkling, Cravens, Davis, Dawes, Delaplaine, Dunlap, Edwards, Fessenden, Frank, Granger, Grider, Harding, Holman, Hutchins, Julian, Kelley, Knapp, Lansing, Law, Loomis, Lovejoy, McKnight, Mallory, Menzies, Mitchell, Morris, Nugen, Odell, Patton, Pendleton, Porter, Potter, Edward H. Rollins, James S. Rollins, Sargent, Shanks, Sherman, Shiel, William G. Steele, Stiles, Benjamin F. Thomas, Trimble, Wall, Wallace, Wheeler, Albert S. White, Wickliffe, Wilson, Windom, Wood, and Worcester—59.

NAYS—Messrs. Aldrich, Alley, Arnold, Baxter, Beaman, Samuel S. Blair, Blake, Calvert, Casey, Clements, Corning, Crisfield, Cutler, Duell, Dunn, Eliot, Ely, Fenton, Fisher, Goodwin, Gurley, Hooper, Francis W. Kellogg, Lehman, Low, McPherson, Maynard, Moorhead, Anson P. Morrill, Justin S. Morrill, Noell, Timothy G. Phelps, Pike, Alexander H. Rice, John H. Rice, Riddle, Sedgwick, Segar, Shellabarger, Sloan, Spaulding, John B. Steele, Stevens, Stratton, Francis Thomas, Train, Verree, Walton, and Washburne—49.

So the bill was laid on the table.

During the call of the roll,

Mr. BINGHAM (not having been within the bar when his name was called) asked leave to vote.

Mr. DAWES objected.

Mr. FRANK stated that Mr. CLARK was absent on account of sickness.

Mr. COX (having been absent when his name was called) asked leave to vote.

Mr. HOLMAN objected.

Mr. COX stated he would have voted "ay."

Mr. ROSCOE CONKLING moved to reconsider the vote by which the bill was laid on the table; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. HICKEY, its Chief Clerk, announced that the Senate had agreed to the report of the committee of conference on the bill (H. R. No. 471) to confiscate the property of rebels for the payment of the expenses of the present rebellion, and for other purposes.

Also, that the Senate had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the bill (H. R. No. 550) to further provide for the collection of the revenue upon the northern, northeastern, and northwestern frontier, and for other purposes.

Also, that the Senate had agreed to the amendments of the House to the bill of the Senate (No. 98) to amend an act entitled "An act to prohibit the sale of spirituous liquors and intoxicating drinks in the District of Columbia in certain cases," approved August 5, 1861.

Also, that the Senate had adopted a concurrent resolution, providing that the 16th and 17th joint rules of the two Houses be suspended for the residue of the session.

ENROLLED BILLS.

Mr. GRANGER, from the Committee on Enrolled Bills, reported as truly enrolled bills of the following titles; when the Speaker signed the same:

An act (S. No. 98) to amend an act entitled "An act to prohibit the sale of spirituous liquors and intoxicating drinks in the District of Columbia in certain cases," approved August 5, 1861;

An act (S. No. 93) for changing the place for holding the September term of the district court of the United States for the district of Maine;

An act (S. No. 219) granting an invalid pension to Hugh H. Howard, of Hockingport, State of Ohio; and

Joint resolution (S. No. 94) to change the name of the schooner Sally McGee to that of Ocean Eagle.

ADDITIONAL DUTIES ON SUGARS.

Mr. STEVENS, from the Committee of Ways and Means, asked leave to report a bill to impose additional duties on sugars produced in the United States.

Mr. F. A. CONKLING. I object.

Mr. STEVENS. Is it in order to move to suspend the rules?

The SPEAKER. Not to-day.

NATIONAL CURRENCY BILL.

Mr. HOOPER offered the following resolution; which was read, considered, and referred to the Committee on Printing:

Resolved, That five thousand extra copies of the bill of the House (No. 568) to provide a national currency, secured by a pledge of United States stocks, &c., be printed for the use of the House.

WASHINGTON PENITENTIARY.

Mr. TRAIN, from the Committee on Public Buildings and Grounds, reported back House bill No. 221, to transfer the penitentiary buildings of the District of Columbia to the War Department, to be used as an arsenal.

The bill authorizes the Secretary of the Interior to make provision by contract with the authorities of any State for the custody and safe-keeping in State prisons of the prisoners now imprisoned in the penitentiary of the District of Columbia, and of such prisoners as may be hereafter convicted and sentenced to imprisonment in the penitentiary, until the expiration of the term of imprisonment of such prisoners, or until they shall be otherwise legally discharged, provided contracts for the safe-keeping and subsistence of prisoners can be made at a cost for each prisoner not exceeding the cost to the United States of keeping each prisoner during the fiscal year ending June 30, 1861, exclusive of the cost of transporting prisoners to the places at which they shall be confined.

The second section provides that if such contracts shall be made, the prisoners now confined in the penitentiary of the District of Columbia, and those who shall be sentenced by the courts of the District of Columbia to confinement in the penitentiary, shall be transferred, under the direction of the Secretary of the Interior, to the State prisons specified in such contracts, to be kept in conformity with the terms of such contracts.

The third section provides that as soon as the prisoners now confined in the penitentiary of the District of Columbia shall be transferred to any other prisons in conformity with the foregoing provisions, all officers and others employed in the penitentiary, except the warden, shall be discharged from service. The warden shall, under the direction of the Secretary of the Interior, sell, for the best price that can be obtained for the same, all the stock and materials for work, and all other movable property connected with the penitentiary belonging to the United States; and as soon as the property shall be disposed of, the salary of the warden shall cease, and all the penitentiary buildings shall be placed under the charge of the War Department, to be used as an arsenal.

The fourth section provides that the expense which may be necessarily incurred in carrying into execution the provisions of this act, shall be paid from the proceeds of sale of the property hereby authorized to be sold, and from the unexpended balance of appropriations for the support of the penitentiary of the District of Columbia.

Mr. TRAIN. I ask that some letters from the War Department may be read.

The letters were read, as follows:

WAR DEPARTMENT,
WASHINGTON CITY, D. C., *July* 11, 1862.

SIR: I transmit herewith, by direction of the Secretary of War, a copy of a letter addressed to this Department by Brigadier General Ripley, chief of ordnance, and of the inclosure therein referred to, calling attention to the great necessity of additional storage room at the arsenal in this city, and suggesting that the penitentiary of the District of Columbia be appropriated for that purpose.

The suggestions of General Ripley are respectfully recommended to the favorable consideration of your committee.

I have the honor to be, very respectfully, your obedient servant,

C. P. WOLCOTT,
Assistant Secretary of War.

Hon. CHARLES R. TRAIN, *Chairman of Committee on Public Buildings and Grounds, House of Representatives.*

ORDNANCE OFFICE, WAR DEPARTMENT,
WASHINGTON, *July* 10, 1862.

SIR: I respectfully inclose herewith a copy of a letter from Lieutenant Colonel Ramsay in relation to the insufficiency of storage room at the Washington arsenal. This subject has been heretofore brought to the notice of the War Department by my letters of the 6th January and 5th March, 1862, and has been by it and the Department of the Interior submitted to Congress, and referred to the Committee on Public Buildings and Grounds, with the suggestion and recommendation to appropriate the penitentiary to the purpose of storage and preserving munitions of war. As action in this matter is of importance, I would suggest that the attention of the committee be called to it by the War Department, or, if it meet your sanction, by this office.

Respectfully, your obedient servant,

JAMES W. RIPLEY,
Brigadier General, Chief of Ordnance.

Hon. E. M. STANTON, *Secretary of War.*

WASHINGTON ARSENAL, *July* 10, 1862.

SIR: I cannot refrain from again calling your attention to the great necessity of additional storage room at this arsenal. At the present time we are so crowded as to ren-

der it absolutely unavoidable to expose to the weather a large amount of valuable ordnance stores, and indeed I have been obliged, within a few days past, and for the reasons above stated, to request you to withhold for the present any additional supplies.

One of our principal storehouses has been, in part, and from necessity, converted into a magazine; notwithstanding, I am obliged to use a portion of the building for fitting out light batteries, &c.; and in a corresponding building, the upper floor of which is an extensive armorer's shop, I am obliged to use the lower floor for the storage of arms in boxes, in packing and unpacking arms, and for the storage of a large amount of cartridges for small arms. In this building I have a small vertical engine for driving the machinery in the armorer's shop.

These details, and I could add others, will not only assure you of the constant danger by which we are surrounded, but of our uncomfortable and circumscribed condition, having reference to the great variety and extent of our operations.

I am, sir, very respectfully, your obedient servant,

GEORGE D. RAMSAY,
Lieutenant Colonel Ordnance.

General J. W. RIPLEY, *Chief of Ordnance.*

DEPARTMENT OF THE INTERIOR,
WASHINGTON, *March* 27, 1862.

SIR: Referring to the conversations which I have had with you at different times upon the subject of transferring the penitentiary buildings of this District to the use of the arsenal, I have the honor to inclose herewith a copy of a letter which I have just received from the Secretary of War, requesting the surrender of the buildings for that purpose.

I have ascertained that I can make a contract with the managers of an excellent prison at Albany, New York, to keep all the prisoners now in the penitentiary of the District, who have six months or more to serve, at a cost of $1 25 per week. This will include the cost of subsistence, clothing, medical attendance, and all contingent expenses; the prison to have the benefit of their labor. The prison will accommodate about five hundred prisoners, and is represented by Judge HARRIS, of the Senate, to be an excellent institution, and well managed.

The managers of the Maryland State prison, at Baltimore, have informed me that they would be glad to take one hundred of the prisoners. They have not proposed their terms, but I presume they will be higher than those offered at Albany.

The number of prisoners here has been increased by volunteer soldiers, who have been sentenced by courts-martial; and the whole number is now about two hundred.

That you may be able to examine the subject in reference to the question of expense, I inclose a statement of the appropriations made by Congress for the last five years for the support of the penitentiary, and also of the number of convicts. From this statement you will see that the average appropriations for five years have been $23,969 86 per year; and the average cost of supporting prisoners has been $3 60 per week.

The appropriation already made by Congress for the fiscal year ending July 30, 1863, is $30,123 75. If we assume that the average number of prisoners for the next fiscal year will be two hundred, and of that number one hundred and fifty shall be sent to the prison at Albany, the cost of keeping them there, at $1 25 per week, will be $9,750. The cost of transporting them there will probably be $10 for each prisoner, making $1,500, which, added to the cost of keeping them there, will make an aggregate of $11,250.

The other fifty, if sent to Baltimore, may cost $2 50 per week. The cost of transporting them there will be about $1 50 each, which will make $6,575. Add to this sum $1,000 for contingencies, and we have a total of $18,925 as the entire cost of keeping the prisoners for the year. This sum deducted from the appropriation will leave a balance of $11,201 75.

I think there can be no doubt that there will be a saving of expense to the Government if the transfer shall be made, in addition to the advantages to be derived from the use of the buildings for the purpose of an arsenal.

Very respectfully, your obedient servant,

CALEB B. SMITH, *Secretary.*

Hon. CHARLES R. TRAIN, *Chairman of Committee on Public Buildings and Grounds.*

Mr. TRAIN. I wish to repeat what I said when this bill was before the House on a previous occasion. It is of the utmost necessity that the War Department shall have these buildings for the purpose named in the letters just read. The bill was recommitted upon the question of whether it would be safe to remove the prisoners from the District; whether such an act as that would not relieve them from imprisonment so that they might obtain a discharge. In reference to that point, the committee have the opinion of Hon. Reverdy Johnson that it would not have that effect. I regret that I have not his letter here; it was an opinion sought by the Secretary of the Interior, and given by Mr. Johnson, in writing, after a careful examination of the subject.

In reference to expense, it will be seen by the letter of the Secretary of the Interior that there will be an actual saving to the Government of little less than twelve thousand dollars.

Mr. DUNN. I desire, if possible, to call the attention of the House to this very important resolution.

Mr. F. A. CONKLING. I rise to a point of order. The joint resolution makes an appropriation, and I submit that it must have its first consideration in the Committee of the Whole on the state of the Union.

The SPEAKER. The Chair does not see any appropriation in the resolution.

Mr. F. A. CONKLING. It provides for the payment of money.

The SPEAKER. The Chair has decided more than a dozen times, that a bill which does not appropriate money from the Treasury directly, but only directs money to be paid out of an appropriation already made, is not an appropriation bill within the purview of the rule.

Mr. F. A. CONKLING. With great deference to the opinion of the Chair, I desire to say that that is not my understanding of previous decisions.

Mr. DUNN. I claim the floor; the gentleman from New York is out of order.

The SPEAKER. The gentleman from New York thinks that the Chair does not understand his point of order, and he has a right to state it.

Mr. F. A. CONKLING. I have understood the decision of the Chair to be, that where money is directed to be paid out of an appropriation already made, it cannot be considered as falling within the scope of the rule; but my understanding of the provisions of this bill or resolution is, not that the money is to be paid from an appropriation already made, but from the proceeds of the sale of this property, which would necessarily go into the Treasury of the United States. It is therefore in my view in the nature of a new appropriation.

The SPEAKER. It has been held over and over again in similar cases, that such a provision is not a new appropriation. The Chair therefore overrules the point of order.

Mr. DUNN. The gentleman is great on points of order, and is always making them.

The SPEAKER. The gentleman from Indiana is not in order; he must discuss the question before the House.

Mr. DUNN. I propose to do so; but I presume I have a right to comment on the gentleman's point of order.

Mr. F. A. CONKLING. I call the gentleman to order.

The SPEAKER. The gentleman will state his point of order.

Mr. F. A. CONKLING. The gentleman says that he has a right to comment on points of order. I submit he has no such right.

The SPEAKER. The Chair sustains the point of order.

Mr. DUNN. Well, sir, I will make my comments privately in my own mind. I am tired of these everlasting points of order. I was endeavoring, when interrupted, to call the attention of the House to this very important measure; and I think the House will realize its importance if they will give their attention to the subject. The head of the ordnance department has repeatedly applied to Congress for the privilege of using the penitentiary in this District as a place for storing ordnance supplies, and for the general use of his department. Any gentleman who has visited the arsenal during the past winter must have been impressed with the great hazard to which our ordnance stores are subjected; they are all there in the open air, much of them highly combustible. An accident to a single building in that arsenal might destroy all the Government supplies of that kind we have at this depot. It is very important that these supplies should be properly secured; while there is no way even of protecting them from the weather. Now, it is suggested that the penitentiary should be vacated, and that the prisoners should be distributed among the people of the vicinity, where they can be supported at less expense to the Government than they now are. The use of this building would be of immense value at this time to the ordnance department. I hope the House will pass the bill.

Mr. TRAIN. I move the previous question.

Mr. DAWES. I appeal to my colleague not to do that.

Mr. PHELPS, of Missouri. I move to lay the bill, or joint resolution, whichever it is, on the table.

Mr. DAWES. I trust my colleague will not undertake to force such a measure as this through the House without further consideration.

Mr. PHELPS, of Missouri. I object to all debate.

The question was taken on Mr. PHELPS's motion; which was agreed to.

Mr. PHELPS, of Missouri, moved to reconsider the vote last taken; and also moved to lay the motion on the table.

The latter motion was agreed to.

PAPERS WITHDRAWN.

On motion of Mr. CORNING, it was

Ordered, That leave be granted for withdrawal from the files of the House of the papers relating to the case of T. Apollon Cheney.

ENROLLED BILL SIGNED.

Mr. COBB, from the Committee on Enrolled Bills, reported that the committee had examined and found truly enrolled an act (S. No. 270) concerning the courts of the United States in and for the district of Michigan; when the Speaker signed the same.

CARMACK AND RAMSEY.

Mr. ALLEY. I rise to a question of privilege. I am instructed to make a report from the committee of conference.

The report was read, and is as follows:

The committee of conference on the disagreeing votes of the two Houses to the joint resolution (S. No. 84) in relation to the claim of Carmack & Ramsey, having met, after a full and free conference have agreed to recommend, and do recommend, to their respective Houses as follows: that the House recede from their amendment to Senate resolution; that the House agree to the said resolution with the following amendment, to wit, in lines seven and eight, strike out "one hundred and eighty" and insert "ninety-eight," and add to the resolution the following words: "nor shall any amount be allowed said Carmack & Ramsey for damages or expenses incurred after the 9th day of July, A. D. 1853."

JOHN B. ALLEY,
EDWIN H. WEBSTER,
Managers on the part of the House.
J. COLLAMER,
B. F. WADE,
J. A. WRIGHT,
Managers on the part of the Senate.

Mr. ALLEY. If the House will give me its attention I will state very briefly the facts in this case. By an act of March 3, 1851, the Postmaster General was authorized to make arrangements for transporting through any foreign country mails of the United States running from and to any point in the United States. The act authorized the Postmaster General to select the speediest, safest, and most economical route, subject to revocation when a better route should be found, with a fair indemnity to the contractors. Under that act the Postmaster General advertised for proposals for carrying the mails between the Atlantic and Pacific States. Messrs. Carmack & Ramsey were the lowest bidders and the contract was awarded to them. The contract was, however, a conditional one—I say conditional, because it contained this clause:

"And it is hereby further expressly understood that this contract is to have no force or validity until it shall have received the sanction of the Congress of the United States by the passage of an appropriation to carry it into effect."

This contract was entered into on the 15th February, 1852. It was signed by these parties on the 25th February, and on the 3d March following it was signed by the Postmaster General; and on the 7th March following he directed that whenever the parties were in a condition to carry the mails according to that conditional contract, they should be delivered to them. Carmack & Ramsey went on and expended a large amount of money under that conditional contract, as the committee believe, in perfect good faith, and as the record shows, believing that Congress would sanction and approve the contract entered into by the Postmaster General. Mr. Hubbard, was the Postmaster General who made this arrangement, and on the 9th July following, Mr. Campbell, the then Postmaster General who had succeeded Mr. Hubbard, notified these parties that he disapproved of the contract which had been entered into with them by his predecessor. This was on the 9th July, 1853, five months after the contract was signed. Now, this controversy went on for several years, they resisting and opposing the action of the Postmaster General, until in 1856 Congress passed a law containing the following section, which I will read. It was adopted as an additional section to the Post Office appropriation bill of that year:

"SEC. 6. *And be it further enacted*, That the First Comptroller of the Treasury be, and he is hereby, required to adjust the damages due to Edward H. Carmack and Albert C. Ramsey on account of the abrogation, by the Postmaster General, of their contract to carry the mail on Vera Cruz, Acapulco, and San Francisco route, dated the 15th of February, 1853; to adjudge and award to them, according to the principles of law, equity, and justice the amount so

found due; and the Secretary of the Treasury is hereby required to pay the same to the said Carmack & Ramsey out of any money in the Treasury not otherwise appropriated."

Under that section the matter was referred to the First Comptroller of the Treasury, who at that time was Mr. Whittlesey. Before Mr. Whittlesey had concluded the investigation in full and had audited their accounts, he was succeeded by Mr. Medill. Mr. Medill took the ground that there was no contract entered into with these parties, that it was only a conditional one, that the conditions were never complied with by Congress, and that they have therefore no right to any claim whatever upon the Government; and this view of the case was sustained by the Attorney General.

But the decisions of Mr. Medill, the First Comptroller, the Postmaster General, and the Attorney General, were based upon the fact that the condition in the contract, in the absence of any action of Congress, rendered it a nullity. Mr. Whittlesey, on the contrary, contends that the act of Congress is mandatory upon him, and that it is no response to the act of Congress to declare that there was no contract and therefore it must be dismissed without examination, for Congress, by its very act, settled the question by recognizing it as a contract and commanding the Comptroller to adjust and settle the damages upon the principles of law, equity, and justice. The Postmaster General is authorized to make contracts, and having made this with the condition that it should not have effect until confirmed by Congress, and yet countenancing and encouraging immediate action on their part, it seems to me that Congress wisely concluded that it partook of the nature of a contract, and that the parties were entitled in equity to consideration.

Mr. MORRILL, of Vermont. I desire to ask whether this claim has ever been before the Post Office Committee?

Mr. ALLEY. It has.

Mr. MORRILL, of Vermont. And how reported on by them?

Mr. ALLEY. They reported against it.

A MEMBER. And several times rejected by the House.

Mr. ALLEY. Only once rejected.

Mr. MORRILL, of Vermont. I ask the gentleman whether the House did not a few days ago reject this claim?

Mr. ALLEY. The House did reject the claim, and if the gentleman will allow me, I will proceed very briefly to state the facts of the case.

I think it is necessary, in order that the House may fully understand the case, to go rapidly over the points of the case, in order that the facts may be fully before the House, and for the vindication of our report. I believe that the proposition made by the committee of conference is just and right, although entered into as a matter of compromise. It contains my views precisely, as uttered at the time the matter first came before the Post Office Committee.

I was going on to say that the Postmaster General, the First Comptroller of the Treasury, (Mr. Medill,) and the Attorney General, all concurred in the opinion that no contract had been entered into, or at least no such contract as was legally binding upon the Government.

Well, sir, I am willing to admit, for argument sake, that, according to the technical rules of law, no such contract had been entered into. I regard these parties as having no legal claim but for the subsequent action of Congress. Yet I will say that that subsequent action gives these men a claim for damages, not upon technical and legal grounds, but upon the principles of equity and justice. Upon that ground, I do believe that these parties have a just and valid claim upon the Government, and that just and valid claim goes to the extent of damages for the expenses incurred up to the 9th day of July, 1853, when they were notified by the Postmaster General that this contract was abrogated, or rather, that he disapproved of the contract. That is the ground, and the only ground, upon which I place it. I will say that the other branch of Congress were almost unanimously of the opinion that it was a valid claim.

Mr. PHELPS, of Missouri. Will the gentleman from Massachusetts permit me to ask him a question?

Mr. ALLEY. Certainly.

Mr. PHELPS, of Missouri. I ask the gentleman from Massachusetts whether the contract to which he refers, entered into by Mr. Hubbard, then Postmaster General, and abrogated by Postmaster General Campbell, was not a conditional contract, not to be valid until approved by Congress, by making an appropriation for carrying it out?

Mr. ALLEY. I have just stated that that was the condition upon which it was entered into. But it was entered into, I believe, from what investigation I have been able to give to the facts of the case and from the records, in perfect good faith upon their part and upon the part of the Postmaster General. It was the understanding with both parties that Carmack & Ramsey should go on and incur expenditures and receive the mails until Congress should sanction the arrangement. If Congress had, in its wisdom, concluded that it was an improper or an unwise contract, these parties, in my judgment, had no right to expect any consideration beyond the amount of expenditure made up to that time. The contract was, I repeat, entered into in perfect good faith, and the parties made the expenditure in good faith under the contract.

Mr. PHELPS, of Missouri. I desire to know whether the stipulation I have stated was not in the contract as the condition on which alone it was to be valid, that Congress was first to approve it by an appropriation for carrying it into effect?

Mr. ALLEY. I have said over and over again that it was; but if the gentleman will allow me I will proceed to state the reason why, in the judgment of the committee of conference, or at least in my own judgment, these parties have nevertheless a valid claim.

I will state that, in the judgment of many gentlemen of great legal eminence in this Congress, this is a perfectly legal as well as just claim, made so by the subsequent action of Congress. So far as that proposition is concerned, I neither assent nor dissent; but I do say that if we are to be governed by considerations of equity and justice, these parties, having entered into this arrangement with a fair and full understanding with the Postmaster General that they should go on and make these expenditures and receive the mails, although it may have been done at their own risk, it does not become this great Government, under these circumstances, if they have expended the money in good faith for the benefit of the Government, to withhold from them indemnity for the expenses thus incurred upon a mere question of technicality.

Congress passed a law in 1856 by which it must be inferred that they considered at the time there was some claim in justice and equity.

Mr. F. A. CONKLING. What law was that?

Mr. ALLEY. I have read the law once, and I will read it again for the benefit of the gentleman if he desires.

Mr. MAYNARD. I desire to ask the gentleman whether there is a claim for any service performed since the action of Congress?

Mr. ALLEY. No service was rendered after this action of Congress for which any claim is presented for indemnity. All the service which the committee of conference are willing those parties should receive pay for, is the service rendered previous to the notification issued on the 9th of July, 1853.

The parties claim that they are entitled to damages for the whole amount they have expended. The committee of conference agreed to a compromise that they should receive no pay for any expenses incurred after the 9th day of July, 1853, when the notice was given, and they have reported the sum of $98,000; not that they question at all the integrity, wisdom, impartiality or economical propensity of the First Comptroller of the Treasury, Mr. Whittlesey, but in consequence of the statements which have been made that this company had presented an enormous claim, amounting to some $2,000,000, and that Mr. Whittlesey had recognized the justice and validity of the claim. I will state, however, that I am here authorized to say that Mr. Whittlesey takes no such view of the case; but in view of the fact that such a statement had been made, the committee were of opinion that it would be more satisfactory to confine them to an amount which is less than that which has been proved under oath as the amount of the expenditure made by them, to wit, $98,000.

The Senate, it will be observed, passed this joint resolution that, under the sixth section of an act entitled "An act making appropriations for the service of the Post Office Department during the fiscal year ending the 30th of June, 1857, approved August 18, 1856, no amount shall be allowed or paid exceeding in all the sum of $180,000." To this resolution the House non-concurred, and passed an amendment recommending a repeal of that sixth section of the act of 1856. To this the Senate would not agree; and we found in the conference committee that there was no chance whatever for an agreement between the two Houses; and the committee, after a full and thorough investigation and discussion of the case, came to the conclusion that they would agree, with one single exception, to the report which has now been submitted.

Mr. EDWARDS. How much was the amount claimed by these contractors?

Mr. ALLEY. I understand the amount claimed was $1,600,000.

Mr. EDWARDS. Then I understand that they claim that enormous amount upon what never was a contract.

Mr. ALLEY. They regard it as a contract. They were advised by their counsel that it was a contract. Some of the most eminent legal gentlemen in both Houses of Congress have said to me that they regarded it as a contract, and the subsequent action of Congress had the effect to confirm it as a contract. Under that act of Congress they claimed $1,600,000.

Mr. BLAKE. With the permission of the gentleman from Massachusetts, I will interpose a single remark.

Mr. ALLEY. Let me answer one question at a time. I understand that they have claimed that they have expended something like two hundred and sixty-odd thousand dollars in preparing the route, in fixing roads, in buying coaches and mules, in building bridges and purchasing steamboats, and in I know not what. I do not know exactly what the amount is, nor do I undertake to say that they have any claim at all for one single dollar, and neither does Mr. Whittlesey. The proposition is to put this thing into the hands of Mr. Whittlesey to allow and adjust the claim upon principles of law, equity, and justice. He may think that they have no claim at all. I do not know that they have. My position is this, and it was my position before the committee and in the House, and I have not changed it since.

When I heard the case first discussed in the committee, I had no knowledge of the facts involved, and after hearing them all, I came to this opinion: that they were entitled, under the law of Congress, to the amount that they had actually expended, or rather lost, subject to the deduction of all they had received from the sale of property which they had at the time the notice was given to them that the contract was disapproved of by the Government. That was my judgment then, and it is my judgment now. If they had lost $98,000, they ought to have it paid back to them; and if they expended $98,000 and have received $50,000 for the sale of the property which they had on hand, they are, I say, entitled to have refunded to them by the Government the balance, namely, $48,000. I understand Mr. Whittlesey to take that view of the case; and the proposition is, that he shall give his judgment exactly on the facts in that way.

Mr. THOMAS, of Massachusetts. I would ask my colleague whether there is anything going to show that these contractors ever performed any part of their contract.

Mr. ALLEY. So far as it appears from the record, it is to be inferred that they did; for, on the 7th of March the Postmaster General directed that when they were ready, the mails should be given to them. When they had gone on and put themselves in a position by this expenditure to carry those mails, as was agreed on, they ought to have been given to them; but on the following 9th of July, on application for the mails, they were told by the then Postmaster, Mr. Campbell, who succeeded Mr. Hubbard, that he disapproved of the contract. So far from recommending to Congress to carry out the contract, as they contend he was bound in good faith to do, he positively recommended to the next Congress to abrogate the contract.

I contend that the contract was made in good faith as appears from the record and the testimony, that the nature of the contract was such that action and expenditure was contemplated by the

Department before an appropriation could be made by Congress; for it appears it could not be developed, and the practicability of the route established without preliminary action and a large expenditure; and such being the case, the condition in equity at least, only extended to the continuance of the contract. But the Postmaster General having notified the parties in July that the Government disapproved of the contract, and instead of leaving the matter to the impartial action of Congress, uninfluenced by the Department, the Postmaster General, as I have said before, advised Congress strongly against it. This, perhaps, was his duty if that was his judgment, but it certainly was unfortunate for these contractors, and justly entitles them to compensation up to the time while they were acting in good faith, that the Government notified them of their disapproval of the contract. It seems that Congress, by its subsequent action, recognized it as a valid contract, to the extent, at least, of having a claim in equity.

Now, Mr. Speaker, I believe that I have stated all of the chief facts in the case, and unless my colleague on the committee desires to say something, I will call for the previous question.

Mr. BLAKE. I do desire to say something in opposition to the adoption of this report.

Mr. ALLEY. I yield, then, for an explanation from my colleague.

Mr. BLAKE. I do not want to make an explanation. This case was once examined here very elaborately.

Mr. PHELPS, of Missouri. I object to the gentleman yielding the floor, unless he yields it unconditionally. I am entirely opposed to this system of farming out the floor.

Mr. BLAKE. I am also a member of the committee, and I do not know why I should not be heard.

Mr. ALLEY. I yield the floor to the gentleman from Ohio.

Mr. BLAKE. This question was examined very elaborately the other day by the chairman of the Committee on the Post Office and Post Roads, and after a full, free, and fair presentation of all the facts involved, the House almost unanimously voted it down. I think, sir, that this case has been examined by almost every Department of the Government, and that by almost every Department of the Government it has been rejected as a fraudulent claim. It has been rejected by all the Postmasters General, from Postmaster General Campbell to the present Postmaster General. It was referred, under the sixth section of the act of Congress of 1856, to the then Comptroller of the Treasury, but he did not have time to examine it fully, and left it to his successor, Mr. Medill, who decided, in the report which he made, that these contractors were entitled to no damages at all. Other elaborate reports have since been made, announcing the same conclusion—that these parties were not entitled to one mill under the contract.

Now, sir, what was the contract? Let any man look at it for himself. Here it is expressly stipulated that this contract shall not be considered to be in force until Congress shall ratify it. It goes on in another clause and says that it is distinctly understood that this contract shall have no vitality or force until Congress shall approve of it and make an appropriation therefor. Here, then, is the whole case.

The gentleman says that they made large expenditures. What if they did? Is there any proof that the Government ever approved of those expenditures? Never, to my knowledge, or the knowledge of the conference committee. In not one single instance did the Government approve of their carrying the mails. The appropriation bills do not show that those expenditures were authorized by the Government. On the contrary, in every instance that these gentlemen undertook to enforce this pretended contract for carrying the mails, they were notified by Mr. Campbell that the contract was disapproved of by the Department. It is known to gentlemen who have examined the matter that this contract was made on the last day of Mr. Fillmore's administration, and that the papers were signed on the 7th day of March. Mr. Campbell, when he came into office, disapproved of it; and since that day I think that there has been no action of the Government approving of it.

Mr. ALLEY. The contract was not made on the last day of Mr. Fillmore's administration.

Mr. BLAKE. It was in February preceding the March at which Mr. Fillmore went out of office.

Mr. ALLEY. It was made on the 15th of February, on proposals issued by the Department. It was given to them, as the lowest bidders, on the 15th of February, and the contract was signed by them on the 25th of February, and by Mr. Hubbard, the Postmaster General, on the 3d of March. He did not retire from office until the 7th or 8th of March, and it was on the 7th of March that he gave the orders for them to carry the mails, under the contract which had previously been entered into between them and the Government, in accordance with the provisions of law.

Mr. BLAKE. There is no difference between us upon that subject. I said it was made during the last days of Mr. Fillmore's administration, and he only confirms what I said.

Another thing in relation to this contract. The advertisement soliciting proposals for carrying the mail upon this line contains the stipulation that the contract was first to be approved by the Congress of the United States before it should have any validity or force. That is the fact, and I am glad my colleague called my attention to the advertisement for bids under proposals to carry the mail upon this line, because here due notice was given to the parties that this contract was to have no force or be binding upon Congress at all until Congress approved it. They never have approved it.

It is said that the sixth section of the act of July, 1856, was binding upon this Congress. It is said that by that section it was found that there was a contract, that it was abrogated, and that in consequence of that abrogation, there must damages follow to the party in interest here.

But Attorney General Black took an entirely different view of this subject; and now, to my friend from Massachusetts, who has expatiated somewhat upon the honesty and integrity of Mr. Whittlesey, I will say that I have nothing to say against him. I know him well, and a more honest man does not live; but an honest man may sometimes mistake in the construction of a law. The reason why I object to referring this matter to Mr. Whittlesey is, not that I doubt his honesty or intelligence, but because, from a conversation I have had, I know he believes he is estopped from going behind the act of Congress of July, 1856; that that act decided that a contract was made, that the contract was abrogated, and that there were damages. And because I know that these parties, and the papers they themselves present, show are not entitled to one cent, I am opposed to submitting this matter to any man who by any possibility will give them one mill.

Another thing: when these parties first made their claim upon the Government, they presented a claim for $1,800,000. In their statement of account they claimed for prospective damages, that is for what they would have made outside of carrying the mails—$31,700 a month—and that the $424,000 which they were to have for carrying the mails was clear net profit.

And yet, in the face of that statement, they come here and ask us to award them damages for the abrogation of a contract which would give them $31,000 a month, independent of carrying the mail.

Mr. PHELPS, of Missouri. This case is an old acquaintance, dating back to the year 1853 or 1854, and it has no vitality in it, except that given to it by cormorants and greedy claim agents. At the time the contract was made, we had established a postal communication between the Atlantic and Pacific oceans by way of the Isthmus of Panama. There were persons who claimed that they held a grant of a right of way across the Isthmus of Tehuantepec, and also the Isthmus of Nicaragua. Those claimants said the mails could be transported in a shorter time from the Atlantic to the Pacific coast than by way of the Isthmus of Panama. They made their proposition to Congress, that Congress should authorize the transportation of the mails by one or the other of those two routes. Congress refused to sanction it. They appealed, however, to the Postmaster General, just as his term of office was expiring, that he should make an additional contract for the transportation of the mails by another route to the Pacific coast. Yielding to their solicitation, and in order to exonerate the Government from any liability, he stipulated in that contract that the parties should have no claim whatever upon the Government for any compensation, nor should it be deemed a valid contract until it had received the approval of Congress. And he had no authority to make any other kind of contract for ocean mail service.

Mr. ALLEY. I desire to ask a question of the gentleman from Missouri. I understand the gentleman to say that this contract was given these parties upon urgent solicitation by them to the Postmaster General. I ask the gentleman if he knows that fact of his own knowledge, because it appears upon the record entirely different, and every statement which I ever heard made in connection with this question is of an opposite character. The gentleman having been in Congress at that time, I believe, and knowing the circumstances of the case, perhaps may have knowledge upon the subject which I have no cognizance of. If the gentleman's statement is correct, the facts are contrary to the record, and contrary to every statement I ever heard made in connection with it. On the contrary, it appears from the record, and so it has been stated, and I never heard the statement contradicted, that the contract was made in accordance with an act of Congress, and by the voluntary action of the Administration, which conceived this to be a better route than the other.

Mr. PHELPS, of Missouri. I speak from my impressions and recollections. I have not examined this question for some time past; but I recollect that there were competing routes about that time, and persons were here soliciting Congress to interpose and give them a contract for ocean mail service by other routes than the Isthmus of Panama to the Pacific coast. The inducement for the Government to embark in this was that mail matter would be transported in a shorter time to the Pacific coast than by the present route.

Mr. WEBSTER. Is it not a fact, in reference to this case, that the Post Office Department advertised for proposals for carrying the mails, and that these parties were the successful bidders under a public advertisement?

Mr. PHELPS, of Missouri. The law was this: the Postmaster General was authorized to invite proposals for ocean mail service wherever he deemed proper, but he could make no contract until Congress gave sanction to the stipulation made. Under that authority proposals were invited. If that gives any vitality to the contract made by the Postmaster General, I would like to know it.

Mr. ROSCOE CONKLING. Allow me one moment. I agree entirely with everything the gentleman from Missouri says, and after listening to the very candid statement of the gentleman from Massachusetts, [Mr. ALLEY,] I think there is not the shadow of a foundation upon which to rest any gift or payment to these men. But I will thank the gentleman from Missouri if he will be good enough to make a statement upon this other point: I find there is in the minds of some gentlemen the idea that the Postmaster General, or some person on behalf of the Government, either induced these parties to do something pending the consummation of the contract or else suffered them to do something; or, as the gentleman from Massachusetts puts it in his question to his colleague, had notice or knowledge of some kind that the claimants were acting upon the faith of this contract, and that thus some irregular sort of equity has grown up.

Mr. PHELPS, of Missouri. My understanding is this: the contract was made by the Postmaster General just as his term of service expired. A new Postmaster General came into office, simultaneous with the making the contract. Permission was given that they might carry the mail, but they were not commanded to do so. When this fact came to the notice of the successor of Mr. Hubbard, Mr. Campbell, he declared that it was no contract, that he would not abide by it, and that the Government could not be held responsible unless Congress confirmed the validity of that contract, and he so notified the parties.

I have thus far spoken of the contract. I now come to their proceedings. Carmack & Ramsey besieged Congress for remuneration, urging that they had suffered damages; that they had transported the mails—at their own solicitation, be it remarked, and not at the command of the Government. They rendered whatever service they performed, for the purpose of demonstrating that the

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route by which they carried the mail through the republic of Mexico was a shorter and a better route than that by the Isthmus of Panama, and for the purpose of having Government annul the contract with the Panama Railroad Company and the steamers running to and from that Isthmus, in order that they might obtain the contract themselves, and for the other reason, to obtain the transit on this route, then a lucrative business. They came here beseeching Congress to make them remuneration. Congress yielded to their importunities thus far: it told them that their claim should be submitted to an accounting officer of the Government, and should be settled according to the principles of law, equity, and justice. The claim was referred to the First Comptroller of the Treasury, the officer in the Treasury Department who is charged with the most responsible duty pertaining to the Department in the adjustment and settlement of claims against the Government. A long and tedious examination was made by Mr. Whittlesey, then First Comptroller, and continued by Mr. Medill, his successor in the office, who reported that nothing was due the claimants either in law, equity, or justice. The parties selected their own tribunal; they came here themselves and asked Congress to pass an act giving the accounting officers of the Treasury the right to investigate that claim, and if anything was found to be due them, it was to be paid without further legislation.

Mr. ALLEY. The gentleman states that the First Comptroller decided they were not entitled to anything under that contract. I ask him if that decision was not based upon the ground that no contract had been made?

Mr. PHELPS, of Missouri. And that is the very ground upon which I base my argument.

Mr. ALLEY. Thereby entirely ignoring the action of Congress.

Mr. PHELPS, of Missouri. Is the gentleman from Massachusetts ready to sanction the doctrine that if I make a contract with the Government of the United States, and it is expressly stipulated therein that it shall not be valid till it is approved by Congress, and in the absence of that approval I beg and beseech the Department to employ me in pursuance of the terms of that contract, as a special favor to me, and the Department does so, that I have any claim in law, equity, or justice, upon the Government?

Mr. ALLEY. Mr. Speaker, I hold that this doctrine of equity and justice requires that the Government of the United States should be a law unto itself, and ought not to be bound by any legal technicalities whatever, either for or against itself. I hold that it should decide every claim upon principles of equity and justice for services which have been rendered by an individual in accordance with the wishes and directions of the Department, even although the contract may have been subject to such a condition, inserted though it may be, very properly, by a prudent Postmaster General. I say, then, that it is competent for Congress, under these circumstances, and in view of all the facts of the case, to decide whether these parties, having rendered service and incurred expenses in perfect good faith, are not entitled, on principles of equity and justice, to consideration. If, in the judgment of Congress, these parties acted in good faith, and rendered these services and incurred these expenses, it is their privilege, and, in my judgment, their solemn duty, to grant them compensation.

Mr. PHELPS, of Missouri. I beg the gentleman not to make a longer speech than I intended to make myself when I arose. I said that the claim had been referred to the First Comptroller of the Treasury, who was to settle and adjust it according to the principles of law, equity, and justice. In obedience to the mandate of Congress, he examined into the claim and reported that nothing was due whatever. I shall not enter into the reasons which he gives in support of his report. The question is *res adjudicata*. It has been settled; it has been determined by the tribunal to which the claimants themselves were willing to submit their case; and it was determined adversely to them. And yet you find a bill coming here from the Senate appropriating nearly two hundred thousand dollars for the benefit of these cormorants and greedy claim agents. Sir, I will not give one dollar for this purpose; I will not give the $98,000 proposed by the committee of conference. We are told that the committee were unanimous. I ask how that committee was organized—three members of the Senate to represent the wishes of the Senate, and three members of the House to represent the wishes of the House.

Mr. MAYNARD. Suppose we adopt the report of the committee of conference, I would like to know how much of the $98,000 would go to the claim agents?

Mr. PHELPS, of Missouri. I cannot, of course, form any opinion in relation to that matter.

MESSAGE FROM THE PRESIDENT.

A message from the President, by Mr. NICOLAY, his Private Secretary, informed the House that the President had approved and signed bills and joint resolutions of the following titles:

An act (H. R. No. 328) for the relief of Louisa Abert Byrne;

An act (H. R. No. 556) to change the place of holding the circuit and district courts of the United States for the district of West Tennessee;

An act (H. R. No. 393) making further appropriations for sundry civil expenses of the Government for the year ending June 30, 1863, and additional appropriations for the year ending June 30, 1862;

Joint resolution (H. R. No. 71) providing for the distribution of surplus copies of the Biennial Register for 1861 among the several bureaus in the Executive Departments;

An act (H. R. No. 540) making appropriations for the payment of the bounty authorized by the sixth section of an act entitled "An act to authorize the employment of volunteers in enforcing the laws and protecting public property," approved July 22, 1861, and for other purposes;

An act (H. R. No. 187) to authorize an additional issue of United States notes, and for other purposes;

Joint resolution to confirm the decision of the Court of Claims in the case of Abraham King, administrator of John Mandeville;

Joint resolution (H. R. No. 92) to confirm the adverse decision of the Court of Claims in the case of C. J. Jenkins and W. W. Mann, assignees of John McKinnie;

Joint resolution (H. R. No. 88) to confirm the adverse decision of the Court of Claims in the case of T. S. J. Johnson;

An act (H. R. No. 543) relating to schools for the education of colored children in the cities of Washington and Georgetown, in the District of Columbia;

Joint resolution (H. R. No. 91) to confirm the adverse decision of the Court of Claims in the case of Richard Irvin, trustee of the Mechanics' Bank, New York;

An act (H. R. No. 549) to abolish certain ports of delivery on the Mississippi;

Joint resolution (H. R. No. 87) to confirm the adverse decision of the Court of Claims in the case of Dennis Cronans;

An act (H. R. No. 529) concerning certain lands heretofore granted to the State of Iowa;

Joint resolution (H. R. No. 89) to confirm the adverse decision of the Court of Claims in the case of executor of Lewis Warrington and others; and

An act (H. R. No. 545) to authorize the Secretary of the Treasury to appoint a deputy collector of customs at Chincoteague Island, in the State of Virginia.

CARMACK AND RAMSEY—AGAIN.

Mr. SHELLABARGER. I understood the gentleman from Missouri to state, in the course of his remarks, that these parties had entered upon the carrying of the mails of the United States. I wish to inquire of him whether he speaks advisedly on that point, and whether it is not doubtful whether they ever carried the mails at all, or more than one through mail as an experiment.

Mr. PHELPS, of Missouri. The gentleman is right in his supposition. According to my information the mails were carried once or twice as a matter of experiment for the purpose of demonstrating that this was the shortest and most expeditious route to California. As I am informed, they only claim to have carried the mail once.

Mr. BLAKE. Right at that point I want to say, that they did carry the mails once, but the order which authorized them to do it expressly declared that they should do it without expense to the United States.

Mr. PHELPS, of Missouri. It comes, then, back to what I said, that it was done as an experiment. They were not directed by the Government to carry the mails, but, at their own solicitation, they were authorized to carry the mail, for the purpose of demonstrating that their route was the most expeditious route to California, with a view not only of having the mails transferred, but the great mass of travel to California transferred to their route, thereby building up large fortunes for those who held the grant for this route. That was the object and inducement. The House has already adopted, without almost a dissenting voice, a resolution declaring that these parties are entitled to no compensation whatever, and it seems therefore useless to consume the time of the House further with this question. If I had not made a speech myself, I would submit a motion to lay the report of the committee of conference on the table; but the gentleman from Maryland, [Mr. WEBSTER,] who was a member of that committee, desires to submit a few remarks, and it is but courteous that I should yield to him.

Mr. WEBSTER. I was a member of the committee of conference, and signed this report. I have been called out of the House during this discussion, and have heard only the speech of the gentleman from Missouri, and consequently I do not know what course the argument has taken.

I wish, both in justice to myself and in justice to the parties interested in this matter, to submit one or two remarks. All that I know of it I learned from the speech of the gentleman from Indiana, [Mr. COLFAX,] who introduced a joint resolution repealing the law of 1856; and for that resolution I voted. I went upon this committee of conference believing that these men had no just claim upon the Government for compensation. After a full discussion—a discussion lasting for several hours—I came to a different conclusion. I regretted to hear the gentleman from Missouri speaking of claims agents and cormorants in connection with this matter, as if the action of such people had controlled the action of the committee or of the House. Sir, I repudiate, for myself, such insinuation.

Mr. PHELPS, of Missouri. If the gentleman supposed or inferred that I intended to charge that the members of the conference committee were influenced by these people, he was in error.

Mr. WEBSTER. I did not exactly draw that conclusion.

Mr. PHELPS, of Missouri. Then the gentleman ought not to have assumed that that was my meaning.

Mr. WEBSTER. The gentleman has somewhat misunderstood me. Whatever may have been the action of the claims agents or cormorants around this Hall, it is not a proper matter for discussion on this floor, unless there be some proof of it.

Mr. PHELPS, of Missouri. I suppose it is a well-known fact that these claimants and their agents have been here for several Congresses past pressing this case; and that, as you pass along the corridors, members are likely to hear such expressions as that Carmack & Ramsey are entitled to something for their contract.

Mr. WEBSTER. The gentleman has been more fortunate than myself in learning that fact. I must confess that I was ignorant that there was such a claim before Congress until the gentleman

from Indiana alluded to it the other day; and I never heard of it from that day until the day that I was placed upon the conference committee. I do not know any of the parties interested in this case. I never heard of them. I only refer to this fact because I think that the discussion in regard to claims agents, and the attempt to prejudice claims by allusions of this sort, is not exactly the sort of argument that ought to be made by gentlemen of such ability as the gentleman from Missouri. Let the question stand on its own merits, and on its claims to the justice of the House, and not on any outside influence of this sort.

I confess that I am not perfectly posted on the subject; but, as I understand the law and the facts, they were these: under the law, the Postmaster General had the right to make contracts for the carrying of the mails through foreign States, from one part of the United States to the other, on advertisement for proposals, without submitting these matters to Congress. That I understand to be the law.

Mr. PHELPS, of Missouri. But the law requires the proposals to be made to Congress before the contracts are made.

Mr. WEBSTER. I would be obliged to my friend from Missouri if he would turn me to the law, because I asked that very question in the committee of conference, and the chairman of the committee on the part of the Senate, [Mr. COLLAMER,] who had himself been Postmaster General, and who is at the head of the Post Office Committee in the Senate, informed me that the Postmaster General had the right, under the law, to make this contract, without the condition which it contained. On that presumption I agreed to that report, also taking into consideration the other fact, that the Postmaster General advertised for proposals for carrying the mails, to which all parties could come in. He was not driven into this contract by any suggestions or importunities of the parties concerned, but was induced to enter into it by the public necessities. All persons had the same opportunity for coming in.

The Postmaster General finding that these gentlemen—Carmack & Ramsey—offered the most favorable terms, makes the contract with them. I have no doubt the contract was made in good faith by the Post Office Department. It was made by an honorable man then at the head of the Post Office Department. It was made on the presumption that the Post Office Department, under his successor, would, in good faith, stand by his action. The Department does not change because the incumbent is changed. It is the same body-politic, so to speak. In this case, the Postmaster General made this contract with these parties in good faith. They entered into it in good faith. The Postmaster General ordered the mails to be given to these parties, and they were taken. I do not know how long the mails were carried by them; but I know that the order was given that the mails should be delivered to them, and I take it for granted that the mails were delivered to them. There is no proof of the contrary. When all this had been done, and when these contractors had gone on and incurred expense, I hold that, until the Post Office Department gave notice that the contract was not approved of, and that the mails would be no longer sent by that route, the Government is bound to pay.

If you look at this report of the committee of conference, you will find that the compensation is restricted to the damages incurred prior to the time—the 9th of July—when Judge Campbell, the Postmaster General, notified the parties that he did not approve of this contract. Up to that time these contractors had gone on in good faith. Beyond that time I would allow them no damages. I was unwilling to go any further in allowing compensation. In this conference report it is directed that this examination is to be made by the Comptroller of the Treasury, and that he shall take into consideration only the damages and losses that accrued up to the 9th day of July, 1853, running only through three or four months; and he is further restricted to the sum of $98,000, without interest. This is the sum actually claimed, although a larger claim has been made. I think that the House will see the motive which induced me to go for this report.

I hold that if the Postmaster General had a right to make a contract for the carrying of these mails without having this condition put into it, when he did put in that condition—that the contract should be until the meeting of Congress, or until he himself should put an end to it—it was binding on him, on the Department, and on the Government. These men, when they made this contract with the Department, had a right to suppose that the Department would carry it out in good faith, and that neither the then Postmaster General nor his successor should use their influence to prevent the contract being carried out. I hold that if service is done for the Government, that service ought to be paid for. I hold that when parties who have been doing service for the Government have sustained losses thereby, it is but just that those losses should be made up. Without caring, so far as I am personally concerned, whether the House agree to this report of the committee or not, without feeling the slightest interest in the parties connected with this measure, whom I do not know, I hold that service has been done for the Government, and that the Government is bound to pay for it.

Mr. PHELPS, of Missouri. I move that the report of the committee of conference be laid on the table.

Mr. COLFAX. I ask the gentleman from Missouri to withdraw that motion.

Mr. PHELPS, of Missouri. I withdraw the motion.

Mr. COLFAX. This case has been amply discussed, and I do not desire to detain the House in reference to it if they are ready to vote upon it. Inasmuch as I have been referred to once or twice in the course of this discussion, I did propose to submit a few remarks in that connection, but if the House desires to vote I will not avail myself of this opportunity to do so.

Mr. PHELPS, of Missouri. I renew the motion to lay the report on the table.

The motion was agreed to.

Mr. PHELPS, of Missouri. As the joint resolution is now, I presume, before the House for our action, I will move that the House adhere to its amendment.

The SPEAKER. The Chair will state that when the report of the committee of conference was laid on the table, it carried the joint resolution with it. The motion of the gentleman is therefore not in order.

Mr. ALLEN, of Ohio, moved to reconsider the vote by which the report of the committee of conference was laid on the table; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

SIXTEENTH AND SEVENTEENTH JOINT RULES.

Mr. MORRILL, of Vermont. I ask the consent of the House to take up the resolution of the Senate suspending the 16th and 17th joint rules for the remainder of the session, and concur in it.

The resolution from the Senate was read, as follows:

Resolved, (the House of Representatives concurring,) That the 16th and 17th joint rules of the two Houses be suspended for the residue of the session.

Mr. WICKLIFFE. I ask the gentleman from Vermont whether the Senate have passed any resolution yet fixing the time of final adjournment?

Mr. MORRILL, of Vermont. They have not yet, but I understand they probably will in the course of the day.

Mr. WICKLIFFE. I object to suspending these rules until some time has been fixed for the adjournment of the two Houses. It is folly to suspend these rules until that is done.

Mr. PHELPS, of Missouri. It seems to me the action of the Senate in suspending the rules is a little premature.

The SPEAKER. The Chair will have the rules read, and will then put the question whether there is objection to taking up the message of the Senate.

The Clerk read the rules, as follows:

"16. No bill that shall have passed one House shall be sent for concurrence to the other on either of the last three days of the session.

"17. No bill or resolution that shall have passed the House of Representatives and the Senate shall be presented to the President of the United States for his approbation on the last day of the session."

The SPEAKER. Is there objection to taking up the message of the Senate?

Mr. WICKLIFFE. I object.

Mr. MORRILL, of Vermont. I hope the gentleman from Kentucky will withdraw his objection, at least to permit me to make a statement.

Mr. WICKLIFFE. Oh! I know what the statement the gentleman wants to make is. I decline to withdraw.

Mr. MORRILL, of Vermont. Has the morning hour expired?

The SPEAKER. It has expired.

Mr. MORRILL, of Vermont. I move to go to the business on the Speaker's table, with a view of reaching the concurrent resolution in reference to suspending the 16th and 17th joint rules.

UNITED STATES JUDICIAL SYSTEM.

Mr. WILSON. I rise to a privileged question. I submit the report of the committee of conference on the disagreeing votes of the two Houses on the bill of the Senate (No. 89) to amend the act of 3d March, 1837, entitled "An act supplemental to an act entitled 'An act to amend the judicial system of the United States.'"

The report was read. It recommends that the House recede from all its amendments to the bill except those in which the Senate has heretofore concurred, and that the House concur in the Senate's amendments with an amendment, as follows:

The districts of Louisiana, Texas, Arkansas, Kentucky, and Tennessee, shall constitute the sixth circuit; the districts of Ohio and Indiana shall constitute the seventh circuit; the districts of Michigan, Wisconsin, and Illinois, shall constitute the eighth circuit; the districts of Missouri, Iowa, Kansas, and Minnesota, shall constitute the ninth circuit.

Mr. WILSON demanded the previous question on the adoption of the report.

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

The report was concurred in.

Mr. WILSON moved to reconsider the vote by which the report was concurred in; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

BUSINESS ON THE SPEAKER'S TABLE.

The question recurred on the motion to go to the business on the Speaker's table.

The motion was agreed to.

DISTINGUISHED NAVAL OFFICERS.

The first business on the Speaker's table was the following message from the President of the United States:

To the Senate and House of Representatives:

I recommend that the thanks of Congress be given to the following officers of the United States Navy:

Captain James L. Lardner, for meritorious conduct at the battle of Port Royal, and distinguished services on the coast of the United States against the enemy.

Captain Charles Henry Davis, for distinguished services in conflict with the enemy at Fort Pillow, at Memphis, and for successful operations at other points in the waters of the Mississippi river.

Commander John A. Dahlgren, for distinguished services in the line of his profession; improvements in ordinance, and zealous and efficient labors in the ordnance branch of the service.

Commander Stephen C. Rowan for distinguished services in the waters of North Carolina, and particularly in the capture of Newbern, being in chief command of the naval forces.

Commander David D. Porter, for distinguished services with conception and preparation of means used for the capture of the forts below New Orleans, and for highly meritorious conduct in the management of the mortar flotilla during the bombardment of Forts Jackson and St. Philip.

Captain Silas H. Stringham, now on the retired list, for distinguished services in the capture of Forts Hatteras and Clark.

ABRAHAM LINCOLN.

WASHINGTON, D. C., *July* 11, 1862.

The message was referred to the Committee on Naval Affairs, and ordered to be printed.

FOREIGN RELATIONS.

A message from the President of the United States, transmitting the report of the Secretary of State upon the subject of the resolution of the House of Representatives of the 19th ultimo, requesting information in regard to the relations of the United States with foreign Powers, was taken from the Speaker's table, referred to the Committee on Foreign Affairs, and ordered to be printed.

CANADIAN INTERCOURSE.

A communication from the Secretary of the Treasury, in answer to a resolution of inquiry of the House of April 7, 1862, relative to commercial intercourse with Canada, was taken from the Speaker's table, referred to the Committee on Commerce, and ordered to be printed.

JOINT RULES—AGAIN.

The resolution of the Senate suspending, with the concurrence of the House of Representatives,

the 16th and 17th joint rules of the two Houses for the residue of the session, was taken from the Speaker's table, next in order.

Mr. MORRILL, of Vermont. The Senate have thought proper to send us this resolution. I understand it is the purpose to adjourn at the earliest possible moment, probably on Wednesday next. If we come to that conclusion, of course these joint rules must be suspended, otherwise no bill can next week be sent to the President for his approval. I hope, therefore, the House will concur in the resolution, and I demand the previous question.

Mr. LOVEJOY. I hope the gentleman will withdraw that demand for a moment.

Mr. MORRILL, of Vermont. For what purpose?

Mr. LOVEJOY. For the purpose of submitting a few remarks to show that we ought not to adjourn at present.

Mr. MORRILL, of Vermont. I decline to withdraw. I call for tellers on seconding the demand for the previous question.

Tellers were ordered; and Messrs. WILSON, and THOMAS of Massachusetts, were appointed.

The House divided; and the tellers reported—ayes 67, noes 23.

So the previous question was seconded.

The main question was ordered to be put.

The resolution was concurred in.

Mr. MORRILL, of Vermont, moved to reconsider the vote by which the House concurred in the resolution; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

RAILROAD AND TELEGRAPH LINES.

House joint resolution (No. 39) to declare the meaning of the act to authorize the President of the United States, in certain cases, to take possession of railroad and telegraph lines, and for other purposes, approved January 31, 1862, and to repeal a part of said act, with the amendments of the Senate thereto, was taken from the Speaker's table, the question being on concurring in the Senate amendments.

First amendment:

Page 1, line seven, strike out the word "such," and insert "line of."

The amendment was concurred in.

Second amendment:

Same page and line, strike out the words "extended line."

The amendment was concurred in.

Third amendment:

Page 1, line nine, strike out the word "extended."

The amendment was concurred in.

Mr. HOLMAN moved to reconsider the vote by which the amendments of the Senate were concurred in; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

POSTAGE STAMP FRAUDS.

Mr. COLFAX. I am requested by the Postmaster General to call the attention of the House to a matter by which the postal revenues are being defrauded. Late investigations have disclosed extensive operations in chemical washing off of canceling marks on stamps, and then selling them for use in large and small lots. It is not found that any law punishes the offense until they are actually used, when it is nearly impossible to show the guilty knowledge in such cases.

The SPEAKER. Will the gentleman state what proposition he desires to make?

Mr. COLFAX. I propose, with the consent of the House, to make a single explanation, and then introduce a bill for the purpose of having it put on its passage.

The SPEAKER. The gentleman will have leave to introduce his bill, there being no objection.

Mr. COLFAX. As this refers to a matter which is being investigated with a view to criminal prosecution, the fact being that a large amount of stamps have had the ink defacement removed by a chemical wash with a view to their being used over again, I will not read the letter of the special agent of the Post Office Department unless the House particularly desires it. It is a letter from Mr. Holbrook, one of the oldest special agents in the service.

Mr. HOLMAN. My colleague has made the thing perfectly clear, and I do not think there is any necessity for further discussion.

Mr. COLFAX. As the law now stands, it only provides a penalty where a person attempts to use stamps after they have been already used. There is now no law imposing penalties for the removal, by chemical washes or in any other way, of the ink defacement upon the stamps after they have been once used, unless the same party attempts to use them himself. In order that that defect in the law may be supplied, I ask the unanimous consent of the House to introduce a bill to punish the fraudulent use or sale of postage stamps.

There was no objection; and the bill was received, read a first and second time, ordered to be engrossed and read a third time; and having been engrossed, it was accordingly read the third time, and passed.

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

The latter motion was agreed to.

MEMBERS IN THE MILITARY SERVICE.

Mr. McPHERSON. I ask the unanimous consent of the House to introduce a joint resolution relating to the pay of members of the Senate and House of Representatives who have been, or shall be, in the military service.

Mr. PENDLETON. I object.

Mr. McPHERSON. Let me make a single remark.

Mr. PENDLETON. I withdraw my objection for the present.

Mr. McPHERSON. This resolution is intended to provide necessary action on the part of Congress in reference to the pay of members of Congress who have engaged in the military service of the United States.

Mr. HOLMAN. I object to debate.

The SPEAKER. The gentleman's objection comes too late.

Mr. McPHERSON. I desire to make a short statement. This resolution is intended to meet this particular difficulty. There are certain members of the House of Representatives who entered the service of the United States as volunteers—members who raised regiments under authority of commissions granted by the Governors of their different States. They remained in the military service during the recess of Congress, and many of them for a part of the present session of Congress. I can refer particularly to the gentleman from Kentucky [Mr. JACKSON] as an illustration of my position. He raised a regiment of cavalry, and remained in command of his regiment until the rebel forces were driven from Kentucky, or until the cessation of active hostilities in that State. When he returned to his seat in this Hall, he called upon the Sergeant-at-Arms of the House for a settlement of his accounts. There he was met by the statement that the law made no provision for the absence of a member, except in case of his own illness or the illness of a member of his family. The Sergeant-at-Arms therefore refused, or rather stated that he could not pay for that portion of the session during which the gentleman from Kentucky had been absent from the House in the military service of the United States.

Mr. WEBSTER. Let me correct the gentleman from Pennsylvania. General Jackson not only remained with the Army until the rebels were driven from Kentucky, but he gallantly refused to leave them until the authority of the United States was restored in Tennessee.

Mr. HOLMAN. These are matters of history, with which the whole House is acquainted, and I therefore suggest that we proceed to vote on the question. There is not the slightest necessity for a lengthy discussion.

Mr. McPHERSON. This resolution is intended to relieve the Sergeant-at-Arms, by providing that he shall pay to members of Congress who have been engaged in the military service for the period of their absence during the present session of Congress, on their making a certificate that they have drawn no pay for the same time as military officers. I think the proposition is a fair one. It wrongs no one. It protects the Government, and does justice to the members who have so gallantly served in the Army. I demand the previous question.

Mr. EDWARDS. I would suggest an amendment to the bill. The language of the bill is, provided that the member has not drawn and shall not draw. I move to amend it by saying, "will not draw."

Mr. McPHERSON. I accept that amendment as a modification of the bill.

Mr. PENDLETON. I ask the gentleman from Pennsylvania to withdraw the demand for the previous question, in order that I may make a suggestion.

Mr. McPHERSON. I withdraw the demand for that purpose.

Mr. PENDLETON. I suggest to the gentleman from Pennsylvania to withdraw the resolution, and propose it in a different shape. I think he can accomplish the purpose he has in view in a much better way. The reason why these gentlemen cannot be paid by the Sergeant-at-Arms is, that they are obliged to certify that they have been absent from the House on account of the sickness of themselves or some member of their family.

Let the gentleman introduce a resolution which will provide another excuse for the absence of members, and then payment will be made; and then he will avoid the question which will necessarily arise under the resolution he has offered, and which will compel me to vote against it. The question is whether this House is prepared to recognize that a man, being a member of Congress, may be in the military service of the United States. I understand that that question has been passed upon by the Committee of Elections, that their report has been made to this House, and that the House has postponed it till the first Monday of December next. I think the question is as clear as can be. I think no man can be a member of the House who is in the military service of the United States. The resolution which the gentleman offers prejudges that question. If this resolution passes the House, it will be equivalent to a judgment of the House on a question which they have expressly declared shall not be considered until December next.

Mr. McPHERSON. Let the gentleman move an amendment, then.

Mr. PENDLETON. I will not move an amendment, but I ask the gentleman to withdraw his resolution, and to propose it in such shape as to obviate that objection. I cannot vote for the resolution in the form in which it now is. I will vote against any proposition by which I think we shall prejudge the question, whether under the Constitution a man may be a member of the House and at the same time a member of the Army of the United States.

Mr. ROSCOE CONKLING. Will the gentleman from Ohio be good enough to state how he means that this resolution, either expressly or by implication, prejudges the question whether a man can hold a military commission from the United States, and at the same time sit upon this floor?

Mr. PENDLETON. By authorizing the Sergeant-at-Arms to pay the member of this House the amount of his salary, notwithstanding the fact that he is engaged in the military service of the United States.

Mr. ROSCOE CONKLING. I do not know but what the gentleman is right. I rather think I am inclined to agree with him.

Mr. DAWES. The gentleman from Ohio has just stated what I have sought the floor for some time to call to the attention of the House. And, without attempting to go over what that gentleman has said, let me add that the House of Representatives has deliberately, time and again, passed on this very question, and settled it, as unanimous reports of the Committee of Elections, as well as resolutions passed by the House, will attest. I wish to inquire of the gentleman from Pennsylvania why these men cannot take their pay in the military service without the House taking notice of it? Why cannot they draw that pay, and then conform to the rules which would exclude them from pay here? I do not want to deprive these men of compensation for their valuable services to the country, nor do I want to recognize the fact that men may be members of the House and in the military service at the same time. I do not want to have action on that question now, for the reason already suggested by the gentleman from Ohio. I ask the gentleman from Pennsylvania why these gentlemen cannot draw their pay for their military position without any vote of this House and with-

out any recognition on the part of the House that they do hold such military positions? I hope the gentleman will answer my question.

Mr. McPHERSON. I am willing to adopt any plan which will secure the object which I have in view, and at the same time obviate the objections urged by the gentleman from Ohio and the gentleman from Massachusetts. I will cheerfully acquiesce in any arrangement which they may suggest for the purpose.

Mr. SHERMAN. I will answer the question of the gentleman from Massachusetts. The reason why the members who are in the military service do not receive pay for their military positions is because the pay department has uniformly refused to pay them.

Mr. DAWES. On what ground does it refuse to pay them?

Mr. SHERMAN. On no other ground than its *ipse dixit*. I am a member of the House, and also a member of the volunteers from New York, accepted by the United States Government. I do not hold any commission under the Federal Government, and hence I see nothing in the Constitution forbidding me from filling both of those places, so far as I can do so. The rule which has been observed here, of withholding pay from me while serving in camp, and demanding of me a certificate which I cannot sign, results in this: that every day I spend in camp costs me thirteen dollars—$8 50 a day being deducted from my pay here, and I have to support myself and servant and horse in camp. I have served this Government more than four months since Congress came together, at a cost every day of $13 50 to myself. Such is the result of the rule of the House and of the pay office which you have established. I protest against it. I am in favor of the suggestion of the gentleman from Ohio, that you shall only ask of those situated as I am to say upon the receipt that we have not been absent from the House except in the military service of the country.

Mr. DAWES. I recognize the valuable services of the gentleman from New York, [Mr. SHERMAN,] and of those situated as he is, as much as any member of this House, and I do not desire to throw any obstacle in their way beyond that which the Constitution imposes. I do not want to argue with him at this time, that his holding a commission under the Governor of New York does not make any difference. I will suggest that if there can be any way in which a resolution can be passed which will not recognize the fact that members of Congress can hold a position in the Army, it is exactly what I want.

There have been cases where gentlemen have drawn pay for both services. I have no objection to their doing that, if it can be done according to law. I am not here to stint any man who performs such arduous duties, and if the laws will permit him to draw pay for both services, I have no objection personally. But when we come to say, by resolution, that a member of Congress may hold both places, then we are setting a precedent which, if carried out, will in time strike at the independence of the House of Representatives, and it cannot possibly be tolerated.

I have before me a statute which throws light upon this subject, as well as does that which has been said in relation to the Constitution. It is as follows:

"No person hereafter who holds, or shall hold, any office under the Government of the United States, whose salary or annual compensation shall amount to the sum of $2,500, shall receive compensation for discharging the duties of any other office."

I beg leave to call the attention of the House to this statute. Difficulties surround this subject on all sides. If these gentlemen can get their pay according to the compensation to which they are entitled in the Army, without any questions asked, I shall be glad, and I shall turn my back upon it and say not a word. But if you call upon us to authorize their taking pay as members of Congress and pay as officers of the Army, I say we would be doing that which is in the face of the Constitution and in the face of the statutes of the land.

Mr. PHELPS, of Missouri. I have but a few words to say in relation to the pending proposition; and I shall merely speak of the course which I myself have pursued. If I believed that, by holding a commission in the militia of the State of Missouri, and serving under the call of the Government of the United States, I was violating the Constitution of the United States, I would not take my seat here. My opinion differs from that of the gentleman from Massachusetts, [Mr. DAWES,] and the Committee of Elections, of which he is chairman. I have studied to avoid, and did last summer, the difficulty which lay in the way of my accepting a military appointment. When I left my home in July last, the troops of the United States were in possession of the country embraced in my congressional district, or the greater part of it. After my return from this city, I could not go to my home, because the enemy was in possession of the country. I then took steps to raise a military force, by the sanction of the President and Secretary of War. In pursuance of that authority, I raised a regiment, not of regulars, but of militia, and of that regiment I was commissioned the commanding officer, and I commanded it so long as it was in the service of the United States. In doing that, I endeavored to steer clear of any constitutional objection, and did so in my own opinion. And if I believed now that I was here in violation of the Constitution of the country, I should cease to answer to my name or to participate in the debates of this House.

Now, a word in reference to pay. With my property in the possession of the enemy, my land, my stock and everything which was movable, except my servants, with my crops destroyed, and without any money in my pocket, I did not hesitate, while in the service of the country, to receive the pay to which I was entitled by virtue of the command I exercised. At the same time, I have not received pay, as a member of Congress, for the time I was absent.

Mr. DAWES. The gentleman does not suppose that I alluded to him.

Mr. PHELPS, of Missouri. By no means. I make this declaration because I prefer to place it upon the records of the country. I know that whatever was said by the gentleman from Massachusetts was said in the kindest manner possible, and with no intention to give offense in any manner, certainly not to me.

Mr. MALLORY. I wish to say at this stage of the discussion, that Colonel Jackson, of Kentucky, who is interested in this resolution, has never received a single cent of pay as colonel, either of the militia of Kentucky or the volunteers of the United States. He believed that he had a right to his pay as a member of Congress. He has not received that pay as yet, and he has refused to receive pay for his services as an officer of the volunteers of the Government of the United States or of the State of Kentucky, and he expects Congress to pay him as a member of Congress.

Mr. KELLOGG, of Illinois. I am satisfied that those members who have gone into the field will be injured in almost any view that is likely to be taken in this case by way of legislation. And when I say *injured*, I mean to say that they will not receive compensation sufficient to pay for the services they performed and the expenditures they were compelled to make in the service of the country.

I do not wish to raise the question here whether a member of Congress can hold his seat here and at the same time hold an office in the Army. And with a view to this matter being properly adjusted, and after due consideration, if the friends of this measure will agree to it, I will move to refer the whole subject to the Judiciary Committee, with leave to report at any time. My object is that it may be got in some shape where justice may be done to the officers concerned, to the members of the House, and to the country.

Mr. PHELPS, of Missouri. Let the motion be submitted after I shall have finished my remarks. I desire to state what was my own course in this matter, because it is right that the House should hear it from me instead of from others. While I have been in the military service, with the exception of the months of the extra session when I was at home in command of a regiment of home guards—for which I received no compensation—the Sergeant-at-Arms has deducted my pay, according to law, for the time I was absent; at least he has so informed me. During the latter period of time I received the pay to which I was entitled by my military position. In doing so, I believe I have not done wrong. I believe my course was correct. If I have committed an error in this matter, let the House say so now, for I prefer to have the charge made at this time rather than have it made when I might be absent.

Mr. BIDDLE. As the course of those who have held military commissions during a period while they were members of the present Congress seems to be the topic of this discussion, and as those who know that I am within that category may expect me to state what has been my own course in this matter, I desire to say that it has been precisely the same, I believe, as that of the gentleman from Missouri, [Mr. PHELPS.] During five months of the period while I was in the field, during the past year, I was an elected member of this Congress. Being somewhat uncertain whether I should ever take my seat here, I received my pay as colonel of volunteers at the stated periods when my regiment was paid. I did not attend the extra session of last year. I resigned my military commission at the beginning of this session. On arriving here and taking my seat, I informed the Sergeant-at-Arms of the date to which I had been paid as a military officer. From that date I have drawn my pay as a member of the House. I have never drawn pay for the same time in both capacities. Without offering any opinion on a matter so personal to myself, I simply state the facts in order that they may contribute so far as they can to the information of the House. I offer no comment or argument upon the resolution now before the House, nor upon the course which other gentlemen may have found proper to adopt.

Mr. FOUKE. Mr. Speaker, it seems to be necessary that I should say something on the present occasion, having served in the Army since August last up to within a very short period of time. When I and some other members from my portion of the State of Illinois concluded to go home and raise volunteers for the service of the United States, the question came up whether we could hold the two positions. There was not a dissenting voice from either the national or State Executives. We were informed that it was not desired that we should resign our positions on this floor. We were told that they preferred we should hold our positions and also go into the Army. This was after the disaster of Bull Run. We felt that something was to be done, that southern Illinois had to be raised to a sense of the important crisis then on the country. I believe that we were perfectly justified in the course that we took.

As to the matter of pay, I desire to state what was my course. While I was in the Army I received my pay. It was necessary that I should do it. I had to defray my expenses in camp, the expenses of my family at home, and the expenses of sick soldiers to and from their homes. I believe that every dollar of my pay has gone in that way, and for the purpose of promoting the comfort and welfare of my soldiers, and for the benefit of the country. I believe I may have drawn a few dollars more than I am entitled to, unless I am entitled to both my salaries. That may be taken out of my future salary, and I am perfectly willing that it shall be.

This is a plain statement of facts. The members from Illinois who have been in the Army have pretty generally expended all their salary in outfits, equipments, &c. The troops employed in the West were without the conveniences which were enjoyed by the troops employed near the capital. It was therefore necessary we should make these outlays. We did so out of our own pockets, freely and voluntarily, and we do not regret it. The Sergeant-at-Arms very properly withholds my pay as member of Congress during the time I served in the Army.

Mr. PHELPS, of Missouri. In raising regiments in the West we pursued a different course from that pursued in the East. The regiment which I had the honor to command had no charge made for its transportation, except for my own transportation from the town of Rolla to the city of St. Louis. When raised, they were mustered into the service of the United States. They drew their rations, their clothing, and their camp and garrison equipage, precisely as soldiers of the Army. There were no bills of $10,000, $20,000, or $50,000 to be made against the Government of the United States for the raising of that regiment. As a matter of course, it entailed expenses on the officers engaged in raising the regiment, an expense of which no account was kept, and none intended to be preferred against the Government.

Mr. RICHARDSON. Mr. Speaker, I think that members of this House who have gone into the military service of the country are entitled to pay for both positions. This Congress has refused to assert the principle that where a member is absent with the Army, his seat here is vacant. The House, by a decided majority, refused to consider the proposition; and that action held out an inducement to members to enter the Army. I will, therefore, vote willingly to pay them for both services.

Mr. PHELPS, of Missouri. My opinion is different from that of the gentleman from Illinois, although when I came here to take my seat I was not in the military service of the United States.

Mr. McPHERSON. I have adopted the suggestion of the gentleman from Ohio, [Mr. PENDLETON,] and have thrown the resolution into a form which I believe meets his approbation.

The joint resolution was read. It provides that when the Secretary of the Senate or the Sergeant-at-Arms of the House of Representatives is satisfied, by the certificate upon honor, of any member of the Senate or House of Representatives, that he has been absent from the sessions of the Senate or House by reason of his being in military service, such member shall be paid his regular salary for the time he has been so absent, provided that he shall certify that he has not drawn, and will not draw, pay as an officer in the military service.

Mr. McPHERSON moved the previous question.

Tellers were ordered; and Messrs. KELLEY, and PHELPS of California, were appointed.

The House divided; and the tellers reported—ayes 50, noes 34—no quorum voting.

Mr. McPHERSON. If the House is desirous that the joint resolution should be referred to the Committee on the Judiciary, with leave to report at any time, I have no objection.

The joint resolution was referred to the Committee on the Judiciary.

CONFINEMENT OF SOLDIERS.

Mr. WILSON. House bill No. 524 has been returned from the Senate with sundry amendments. With a view to act upon these amendments, I move that the House proceed with the business on the Speaker's table.

The motion was agreed to; and the bill of the House (No. 524) prohibiting the confinement of persons in the military service of the United States in the penitentiary of the District of Columbia, except as a punishment for certain crimes, and to discharge therefrom certain convicts by sentences of courts-martial, and for other purposes, returned from the Senate with amendments, was taken up, and the amendments of the Senate were read.

Mr. WICKLIFFE. I want to see if I understand that bill. If I understand it, it prohibits confinement in any penitentiary for any offenses committed by officers and soldiers of the Army, except those enumerated—mutiny, and so forth. Now, I wish to state a case, and I want to know if punishment should not be inflicted in such cases. An officer of the United States, in Missouri, the other day went to the house of one of the most respectable and peaceful, and I might say pious men in that State—I knew him personally before he moved there—and ordered his soldiers to shoot him, and he was shot, receiving two or three balls in his body. Charges have been preferred against that man. Suppose this bill passes, how is this man to be punished? Confinement in the penitentiary is prohibited, and therefore they must either shoot him or let him run free. I understand that the amendments of the Senate prohibit the punishment of such a man as that for manslaughter, if it can be brought down to that, by confinement in the penitentiary of any State. I do not believe he ought to be confined in any penitentiary, being a fit subject for the gallows. But cases might occur in which outrages by soldiers or officers on the lives and property of the peaceful citizens could only be appropriately punished by confinement, such as the civil law of the land would inflict upon an ordinary citizen.

Mr. WILSON. I do not see that this bill at all interferes with the case referred to by the gentleman from Kentucky. The Senate amendments leave the bill substantially as it was originally agreed upon by the Committee on the Judiciary of the House. Now, I am informed that there are many persons confined within the penitentiary of this District, at the present time, for the commission of petty offenses not connected with military matters at all, and yet courts-martial have found them guilty of mutiny, whereas there was no such charge against them, and yet those men are held here in confinement. Inasmuch as it is so late in the session, and as Congress is likely to adjourn early next week, I think we had better concur in the amendments of the Senate, and let the bill become a law.

Mr. FRANK. I have in my hand a paper just signed by several of the delegation in this House from New York, recommending the restoration, by the Governor of that State, to the captaincy of his former company, a man, the circumstances connected with whose removal should be known in connection with the bill now before us. I will state them briefly: a captain in one of the regiments raised in my district, while with the army on the peninsula a few weeks ago, weary and sick from a march of several days, unable to carry his baggage further, purchased an old mule from a man who had previously bought him a few miles back, paying ten dollars for the animal. For that he was tried by a military court, and, in defiance of law or justice, convicted, dismissed from service, disgraced, and sentenced to the penitentiary of this District for three years. There was no proof that the animal belonged to any person other than the man from whom it was purchased; but it was sufficient that it had once been the property of the rebels, and for that alone he was convicted and disgraced, as I before remarked. I am happy, however, to state that I have in part been instrumental in obtaining his release, and I hope soon to see him once more in command of his late company.

Mr. PHELPS, of Missouri. I desire to make one remark with reference to the case which Mr. FRANK has mentioned. I presume the person he refers to was charged with receiving stolen property knowing it to be stolen, which is an offense against the law of the land, whether stolen from a traitor or stolen from a loyal citizen. The rules and articles of war prohibit pillaging, marauding, and plundering. If it was necessary for the Government to take that property, the commanding officer could have ordered it to be taken for the use of the Government, and it would then have passed into the hands of the quartermaster, who would have accounted for it as Government property. But if you permit your soldiers as they pass along to seize whatever property they choose and appropriate it to their own use, you are inculcating a bad system of morals upon your soldiers, which you will feel the effects of when they return to their homes.

Now, I know nothing of the case to which the gentleman from New York [Mr. FRANK] refers, save from his own statement. But this captain was tried by a court-martial composed of volunteer officers. Any evidence exculpatory or in extenuation of the alleged offense would have been received by the court-martial, or if it was ruled out, the commanding officer, who ordered the court-martial, would not have enforced its decision. The rules of procedure in courts-martial are as well defined and marked out as are those of any criminal court in the country. The same laws of evidence govern them, though not exactly the same rules of procedure, because there is more strictness in a court-martial than there is in any civil tribunal. It is proposed in this bill, as I understand it, to except the offenses of mutiny or attempting to incite mutiny or desertion. Where, then, do you leave the military code? The only punishment that can be inflicted on a man for desertion or for mutiny, or an attempt to incite to mutiny, will be death. They cannot imprison him in the penitentiary. I ask you, if a man who has agreed to serve for a limited period of time, throws down his gun and runs away from the enemy, leaving his brave comrades to fight the battle, is it right to let him go scot free? Is not that encouraging desertion; and is this a time to encourage desertion?

It is a very difficult matter in these military proceedings to inflict the penalty of death in all cases where the military code authorizes that punishment, or such other punishment as a court-martial may determine. A soldier may be brought before a court-martial, and that court may think that there are extenuating circumstances in his case, and that the man ought not to forfeit his life—perhaps the sickness of his wife or child lying at the point of death, his commanding officer being unwilling to grant him a furlough or leave of absence from the public service, might estrange him from his duty; in such a case as that, I ask you, is it not better to punish by imprisonment than by death?

Mr. WILSON. I wish to say, in reply to the remarks of the gentleman from Missouri, that the difficulties he has presented do not grow out of this bill, but out of the articles of war, and the regulations of the Army. If they have not made proper provisions for the punishment of these offenses, then that can be done by Congress subsequently. It should not interfere with the passage of this bill.

Now, sir, I hold in my hand a letter in which a case is stated by a constituent of the gentleman from New York, and written to that gentleman, in which he states that his one offense was the striking by mistake of a lieutenant, in the dark, he being in liquor at the time. He apologized for it, and, by advice, plead guilty when arraigned before the court-martial, hoping that in this way the court-martial would make the punishment as light as possible. Well, sir, for that offense, for which he plead guilty, he was sentenced to the penitentiary in this District for ten years.

Mr. PHELPS, of Missouri. I desire, with the consent of the gentleman, to say one word in reference to that case. If the circumstances of the case the gentleman mentions are as he states them, I think the court erred in the severity of the punishment inflicted; but the offense of striking a superior officer is a very grave military offense. If he struck in the dark, not knowing the person to be an officer, that would so extenuate the offense that I think the court-martial made a serious mistake in the sentence they pronounced.

Mr. WILSON. This is, however, only one of many such instances which show the necessity of some legislation on the subject.

Mr. PHELPS, of Missouri. One word more. When this bill was before the House some days since, I stated that by the military code no officer in the volunteer or militia service can be tried except by officers in the volunteer service, and no soldier in the volunteer service can be tried except by the officers whom he and his comrades have elected to govern them while in the military service; and the presumption is, that in cases so adjudicated, upon the full evidence, the punishment will be suitable and proper.

In this case you have the statement of the person convicted to offset against the decision of the court-martial upon all the evidence that could be presented upon that occasion. I therefore receive the statement with distrust, because it is from the party convicted.

Mr. WILSON. I will say that in this case the party convicted is confined in the penitentiary in this District, and that there are an abundance of cases there where the punishment and offense have been as disproportionate. I move the previous question upon agreeing to the amendments of the Senate.

Mr. FRANK. Will the gentleman withdraw the demand for the previous question for a moment?

Mr. WILSON. I will.

Mr. FRANK. I merely wish to say in reply to the gentleman from Missouri, that he does not more than myself wish parties punished who take property unlawfully, or who go about the country marauding.

Mr. PHELPS, of Missouri. I have no doubt we agree in that respect.

Mr. FRANK. But the case I mentioned was entirely different. There was not a particle of proof that the man knew the property to be stolen, or that it was stolen. So well satisfied was the President on examining the case, that he ordered his instant release. He even sent a note to the jailor to that effect, before the man reached the city. I ask if there is not a better mode of punishment, even when parties are found guilty, than imprisonment in the penitentiary of this District for years?

Mr. PHELPS, of Missouri. Let me say a word right here. I know that this practice of stealing horses is constantly going on. I know that horses and mules are continually hawked about the camps for ten or fifteen dollars apiece, which would be worth $100 upon the market. Their very cheap-

ness is an evidence of their being stolen. And it not unfrequently happens that officers who buy horses under such circumstances are compelled to give them up, it being proved that they were stolen from somebody in the neighborhood. No officer ought to purchase a horse of a soldier at such a reduced price.

Mr. WILSON. I move the previous question.

Mr. PHELPS, of Missouri. I think this matter had better go to the Committee on the Judiciary, with the privilege to report at any time. That will satisfy me.

Mr. WILSON. No, sir; it would never get back. The bill ought to pass, and pass promptly. The Committee on the Judiciary cannot have another meeting until Monday.

Mr. PHELPS, of Missouri. I believe both those amendments of the Senate to be wrong, and I hope they will not be adopted. If the bill can go to the Committee on the Judiciary, however, I will make no opposition to it, if they report in its favor.

Mr. WILSON. I prefer the bill in its present shape with the Senate amendments, rather than to have them stricken out. I call for tellers on seconding the demand for the previous question.

Tellers were ordered; and Messrs. PHELPS, of Missouri, and WILSON were appointed.

Mr. PHELPS, of Missouri. I hope the gentleman will withdraw the demand for the previous question, and let the bill go to the Judiciary Committee, with the right to report at any time. If they report favorably, there will be no opposition to concurrence in the Senate amendments.

Mr. WILSON. Very well; I withdraw the demand for the previous question, and make that motion.

Mr. WICKLIFFE. I desire to make this suggestion to go before the committee. This bill as it stands, prohibits courts-martial from confining soldiers in the penitentiary for offenses which, if they were simply citizens in one of the States, would send them to the penitentiary. Now, if you will so amend the bill as to except all offenses which by the laws of the State are made so punishable, by statute law, if that has taken the place of the common law, I think the bill would be a proper one. But if you punish the citizen for the crimes of robbery, arson, or burglary, and let him go if he is a soldier, I think the bill is defective. If a citizen commits violence upon a female in some of the States, he is placed in the penitentiary for life. Now, is there any reason why the same law should not apply to the soldier? I submit the suggestion for the consideration of the Committee on the Judiciary when they come to have the matter before them.

The bill was referred to the Committee on the Judiciary, with leave to report at any time.

ELECTION OF MEMBERS OF CONGRESS.

House bill No. 525, in relation to election of Representatives to Congress by single districts, with amendment of the Senate thereto, was taken from the Speaker's table, the question being on concurring in the amendment.

The amendment of the Senate adds to the bill a provision that in the election of Representatives to the Thirty-Eighth Congress from the State of Illinois, the additional Representative allowed to that State by the act entitled "An act fixing the number of the House of Representatives from and after the 3d of March, 1863," approved March 4, 1862, may be elected by the State at large, unless the Legislature of that State should otherwise provide before the time of holding the election for members of Congress in the State of Illinois.

The amendment was concurred in.

Mr. KELLOGG, of Illinois, moved to reconsider the vote by which the amendment was concurred in; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

ENROLLED BILL.

Mr. GRANGER, from the Committee on Enrolled Bills, reported that the committee had examined and found truly enrolled an act (S. No. 123) to extend the provisions of the act of August 4, 1852, entitled "An act to grant the right of way to all rail and plank roads," &c., for the term of five years, and to amend the same; when the Speaker signed the same.

Mr. STEVENS. I move that the rules be suspended, and the House resolve itself into the Committee of the Whole on the state of the Union.

NATIONAL FOUNDERY.

Mr. KELLOGG, of Illinois. I ask the unanimous consent of the House to take up and put upon its passage joint resolution No. 42, providing for the establishment of a national foundery east of the Alleghany mountains, and for a national foundery and manufacturing arsenal west of that line.

Mr. HOLMAN. I object.

MINT IN ST. LOUIS, ETC.

Mr. MORRILL, of Vermont. I am directed by the Committee of Ways and Means to report back sundry petitions in reference to the warehousing system, the establishment of a mint in St. Louis, &c.; which I move be laid upon the table.

The motion was agreed to.

Mr. WASHBURNE moved that the House do now adjourn.

Mr. TRAIN demanded tellers.

Tellers were ordered.

Mr. WASHBURNE withdrew the motion to adjourn.

Mr. TRAIN renewed it.

The House refused to adjourn; there being, on a division—ayes 18, noes 15.

WASHINGTON AND GEORGETOWN RAILWAY.

Mr. COLFAX. I am requested by the directors of the Washington and Georgetown railway to state to the House that they offer their cars for the free use of members of Congress from this hour up to nine o'clock this evening.

Mr. HOLMAN. In view of the extraordinary announcement of my colleague, I move that this House do now adjourn.

On a division, there were—ayes twenty-two, noes not counted.

Mr. HOLMAN demanded tellers.

Tellers were not ordered.

The House refused to adjourn.

Mr. STEVENS. I now insist on my motion to go into committee.

On a division there were—ayes 52, noes 19; no quorum voting.

Mr. WICKLIFFE. For what purpose does the gentleman from Pennsylvania want to go into the Committee of the Whole on the state of the Union?

Mr. STEVENS. I do not want to do any business, but merely to give a gentleman a chance to make a speech.

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

The House refused to adjourn, there being on a division—ayes thirteen, noes not counted.

Mr. ROSCOE CONKLING. If it be in order, I would ask the gentleman from Pennsylvania to state why it is that he desires to go into the Committee of the Whole on the state of the Union? I understand that a gentleman wishes to make a speech who has very seldom troubled the House during this session.

Mr. WASHBURNE. I move that when the House adjourns to-day it adjourn to meet on Tuesday next.

The SPEAKER. That motion cannot be put to the House until it is ascertained whether there is a quorum present or not.

Mr. BLAKE. I move that there be a call of the House.

The motion was agreed to.

Mr. BLAKE. I withdraw the motion that there be a call of the House.

Mr. WASHBURNE. I also withdraw the motion I have made.

Mr. HOLMAN. I move that the House now resolve itself into the Committee of the Whole on the state of the Union by unanimous consent.

The motion was agreed to.

The House accordingly resolved itself into the Committee of the Whole on the state of the Union, (Mr. KELLOGG, of Illinois, in the chair.)

Mr. WASHBURNE. Mr. Chairman, what is the business before the committee?

The CHAIRMAN. Joint resolution H. R. No. 30, authorizing the Secretary of War to test Sanderson's breech-loading cannon, [laughter,] on which the gentleman from Indiana [Mr. HOLMAN] is entitled to the floor.

Mr. HOLMAN. Mr. Chairman, when I sought the floor a few days ago, it was with a view of discussing a question of some general interest; that is, the effect of the tax bill recently passed on the different sections of the Union, and especially its bearing on the West. I had proposed at that time to meet the views which were being presented by a gentleman from the western section of the Union—a gentleman of distinguished ability and high political position. I proposed to show that, so far as that bill was concerned, the West had no reason to complain of its provisions, and that, on the contrary, the main burdens had been imposed on the manufacturing interests. If there is any feature of that bill that is commendable, it is in proposing a tax in the main on manufactures. If the tax is not paid by the manufacturer, it is paid by the consumer, according to the old Democratic theory, and therefore the tax approximates to the old system of indirect taxation to which this country has been so long accustomed. That is to say, that the citizen of wealth and affluence pays according to his expenditure and the extravagance of his establishment, or according to his economy and prudence. The more he expends in the purchase of manufactured articles the greater amount of tax he will pay. This is not universal; there are several exceptions to it, important exceptions, but this is the rule.

But I am aware that the House has gone into committee for the purpose of hearing a speech from my distinguished friend from Michigan, [Mr. KELLOGG,] whose patient application to business as one of the working, not talking, members of the House, entitles him to this partiality. But before yielding the floor, I desire to make a motion, which, when I have made it, I will yield to my friend from Michigan with great pleasure.

Mr. COLFAX. I should like to move an amendment to the pending joint resolution.

Mr. HOLMAN. I move that the pending joint resolution be passed over for the present, in order that the House may take up for consideration House bill No. 211, reducing the number and salaries of Government employés, which is the last measure of reform left pending before this House, the only chance for this Congress to reduce the national expenditure. I will yield the floor with the understanding that that bill shall be taken up for consideration.

Mr. ROSCOE CONKLING. I ask the gentleman to yield to me for a moment.

Mr. HOLMAN. Certainly.

Mr. ROSCOE CONKLING. This bill, the sole remaining vestige of reform, is, in my opinion, one that cannot be properly considered during the very last days of a session; and if the effect is to put that bill forward, and to act on it or nothing, I must object to it. When that bill is acted on, I want it done deliberately. I want to have an opportunity to amend it, and I want it to do really what it promises, but what, in my judgment, it fails to do, and that is, to establish some substantial and thorough reform instead of making an apology which will stand in the way of some more radical measure.

Mr. HOLMAN. I do not propose that the bill shall be taken up and passed without opportunity for amendment and discussion. It is a bill that is pending before Congress—it is pending in the Senate as well as in the House—and it is a bill that reduces largely the very heavy expenditures of this Government. I want it to be before the House section by section for amendment. As soon as the gentleman from Michigan has concluded his speech, I propose that this bill shall be before the House instead of the one that is now pending, and that the sense of the House be taken upon it, so that the country may know whether this just measure of reform is to be approved or rejected.

Mr. MAYNARD. Let me make a suggestion. This is an important bill. Every one who has been in Congress as long as my friend from Indiana sees the necessity that when it is considered it should receive the deliberate attention of the House. I understand the probability is that we will adjourn on Wednesday, and that will only give us two days more. The gentleman knows that we have other important measures to perfect, and that there is not time in which to give this matter proper consideration.

Mr. WASHBURNE. If my friend yields the floor he must yield it entirely.

Mr. MAYNARD. I want to make a simple suggestion. It is the duty of every member to go

home and arouse the country, and to assist in recruiting volunteers for our Army.

The CHAIRMAN. The Chair feels himself under obligation to state that when the House resolved itself into committee, the understanding was that no business should be transacted, and that the floor should be occupied by the gentleman from Michigan in a speech on general topics.

Mr. MAYNARD. Let this question go over till the next session.

Mr. HOLMAN. I know that the House wants to hear the gentleman from Michigan, but I regret that the House will not unanimously consent, before adjourning without day, to pass this just measure of reform. If the bill cannot be acted on at this session, I ask that it be taken up, so that it may be pending at least.

Mr. OLIN. The gentleman has the right to make the motion, but anybody has the right to object to it.

Mr. HOLMAN. I submit the motion that the pending bill be laid aside, and that the measure I have referred to be taken up for consideration.

Mr. COLFAX. I want to make an amendment to the pending resolution.

Mr. WASHBURNE. The proposition of the gentleman from Indiana is business; and I object to it.

Mr. HOLMAN. Who agreed to that understanding?

Mr. ROSCOE CONKLING. The whole House.

The CHAIRMAN. The Chair would state to the gentleman from Indiana that no quorum voting, by unanimous consent it was agreed that the House should resolve itself into the Committee of the Whole on the state of the Union for the purpose of hearing discussion, and that no business should be transacted. That is the recollection of the Chair; and he is so informed by the clerks of the House.

Mr. HOLMAN. Then one single remark, and I will yield to my friend. I have been exceedingly anxious that this bill (No. 211) should be before the committee, but as the committee are unwilling, I yield the floor.

MESSAGE FROM THE SENATE.

The committee informally rose, and the House received a message from the Senate, by Mr. HICKEY, one of their clerks, notifying the House that the Senate had passed a joint resolution authorizing the President of the Senate and the Speaker of the House to adjourn their respective Houses *sine die* on Wednesday, the 16th of July instant, at twelve o'clock, meridian; in which the concurrence of the House was requested.

The committee then resumed its session.

Mr. KELLOGG, of Michigan, and Mr. STILES addressed the committee. [Their speeches will be published in the Appendix.]

Mr. ALLEN, of Ohio. Mr. Chairman, at the extra session of Congress an act was passed providing for a commission to be composed of two members of the Senate, three members of this House, one officer of the Army, and one of the Navy, for the purpose of equalizing and reducing the salaries of public officers, and reducing the public expenditures. I had the honor of being appointed one of the members on the part of the House of that commission. The commission, through its chairman [Senator SHERMAN] has reported to each House several bills, with a view of accomplishing the object proposed by its organization. Among others is a bill pending in Committee of the Whole here providing for the graduation and reduction of the pay of members of Congress and the employés of the two Houses; also a bill providing for the graduation and reduction of the pay of officers of the Army; to the first bill named, which is the one which should first receive our attention, in candor and fairness to the large number of civil and military officers whose pay we propose to reduce, I desire to give some attention at this time.

I know there is no more unthankful office than that held by the members of this commission, if they attempt in good faith to carry out the object of their appointment. Every public officer, with few exceptions, in the employ of the Government, together with all their friends and dependents, will be found arrayed against such a mission as that contemplated; and every step that is taken in the direction indicated by the bills now pending in Committee of the Whole will be attended with all the embarrassment which might readily be expected from the large number of persons in the public service, and which will account for the delay in the consideration of these measures. Persons in the public employ will be jealous of any attempt to curtail the salaries and expenditures of other officials, for fear of a precedent that will affect their own salaries. And hence, various pretexts will serve to oppose any action on these bills, which it is not probable will receive a consideration this session of Congress. The authors and advocates of these measures will be denounced as demagogues, trying to make capital for themselves at the expense of others. The bills will be spoken of as attempting to interfere with poor laborers and pages in the Capitol, or as looking to a reduction of the pay of the poor soldier while he is fighting the battles of the country. Such, however, is not the object of those who reported the bills. But the object is to equalize the pay between the laborer and the office-holder, and between the poor private and the officer in the Army. There is no reason why Senators and Representatives should receive forty cents a mile in coming to and going from the capital at each regular session of Congress, when every one knows that it does not cost one fourth of the amount; nor that gentlemen who sit a few hours each day by the doors leading into this Hall should receive sixteen and eighteen hundred dollars per annum, while the poor laborer who performs the drudgery around the Capitol receives $1 50 per day; nor that the commander of a regiment, who is privileged to, or at least does —when not expecting an engagement—come and go when he pleases, who passes much of his time, as every one has noticed to be the case with military officers about this city, loitering around hotels and places of amusement, or promenading the streets exhibiting his military paraphernalia to his own admiration, if not to that of others, shall receive $218 per month, while the poor private, who cannot get leave of absence when sick even, who endures long and weary marches on foot, amid hunger, cold, and rain, over mountains and through ravines, who is compelled to stand guard at stated times, and if, when tired and fatigued with weary marches and loss of rest, his tired nature should for a moment "seek repose in balmy sleep" while thus on duty, is liable to be shot, receives for all this service, privation, and hazard thirteen dollars per month. I voted to increase the pay of the private from eleven to fifteen dollars per month, and would, under no consideration, withhold from him any remuneration that is possible for the Government to grant; but I cannot see the reason for these discriminations, nor can I see how we are to reward the private as he deserves when we are continually increasing the number and rank of our military officers at the large salaries they now receive.

I append a statement showing the compensation paid some of the officers in the military service at present, and what it is proposed by the bill pending in committee to pay them, and which may be further amended as a majority of the House may determine.

The reduction proposed is trifling; and yet, when it is applied to the large number of military officers in the public service, the aggregate amount saved to the Government would be large by this small reduction of compensation:

	Present pay per month.	*Proposed pay per month.*
Major general	$469	$300
Brigadier general	323	240
Colonel	218	200
Lieutenant colonel	184	180
Major	165	140
Captain	128	120
First lieutenant	108	100
Second lieutenant	103	100
Surgeon General	228	200
Paymaster General	228	200
Deputy Paymaster General	211	180
Paymaster	187	150

As recent legislation has changed the medical department of the Army, it may be necessary to make some changes in the bill, when it is reached, as to the pay of surgeons proposed.

But to return to the bill first mentioned, which involves the pay of members of Congress and the employés of the two Houses. According to an abstract which the Sergeant-at-Arms has kindly furnished me at my request, I find the mileage of members of this House, at the last session of Congress, was $136,514. The bill referred to proposes to cut this amount down to less than one fourth of the above sum, by which we would save to the Government over one hundred thousand dollars on our own mileage. The mileage of Senators for that session I have not been able to ascertain, but I should think it amounted to at least $50,000, which the bill proposes to reduce in like proportion.

The Secretary of the Senate now receives per annum $3,600 salary as Secretary, and $480 as disbursing clerk. The bill reported by the commission proposes to fix his salary at $2,500, without an allowance as disbursing officer, this latter service to be rendered by an assistant clerk, as part of the duties of his office.

Next come the assistant clerks in the Senate. There are, at present, one chief clerk at a salary of $2,500; one principal clerk at a salary of $2,160; one principal executive clerk at the same salary; eight other clerks at a salary of $1,850 each; one keeper of the stationery at a salary of $1,752; two messengers at a salary of $1,080, each; and one page at a salary of $500. It is now proposed to provide one chief clerk at a salary of $2,000 per annum; one clerk to act as a disbursing and executive clerk at a salary of $1,080 per annum; and six other clerks at a salary of $1,200 each; also, one messenger at $1,080, and one page at $400. Computing the difference between the salaries paid and those proposed by this bill to the employés in this one office, and we have a saving of $15,852.

The pay of the Sergeant-at-Arms of the Senate it is not proposed by the bill to disturb. The salary of the postmaster of the Senate is reduced from $1,750 to $1,400; the assistant postmaster from $1,440 to $1,200; the two assistants in the document-room in the Senate it is proposed to reduce from $1,200 to $1,080 each.

The assistant doorkeeper's salary is reduced from $1,700 to $1,400, and the two other assistants from $1,400 to $1,200 per annum. And instead of seventeen messengers, or doorkeepers, at $1,200 each per annum, it is proposed to provide fourteen temporary doorkeepers, at three dollars per day during the session. The engineer's salary is reduced from $1,400 to $1,080 per annum; making the reduction in the pay of the employés of the Senate in all about thirty-three thousand dollars per annum. The Clerk of the House now receives a salary of $3,600. He has two clerks at $2,160 each, eighteen clerks at $1,800 each, one at $1,752, and nine at $1,200 each per annum. It is proposed by the bill now pending to pay the Clerk $3,000, a finance and a journal clerk each $2,000, a clerk in charge of the files $1,500, ten clerks $1,200 each, and one messenger $1,080; making a reduction of about eighteen thousand dollars in the pay for clerks of the House, and discontinuing the newspaper clerk, land map clerks, and others which are totally useless.

It is proposed to reduce the pay of the House Postmaster and assistants in some small degree. This is a branch of the public service which, although in the hands of gentlemen whom I have ever found accommodating and kind, yet duty would require we should dispense with. It seems to me that the $10,000 we pay the employés in this office, besides the expense of horses and carryalls for the mere convenience of having our mail brought to our rooms, when we could, at least with a trifling expense, get them from the post office, and much sooner, is a needless outlay.

The Doorkeeper is now allowed $2,160 per annum; he has one assistant at $1,740, two at $1,752, one at $1,800, five at $1,500, and nine at $1,200 per annum; making nearly $27,404 paid the Doorkeeper and his assistants; besides ten persons under his charge who do the folding, and eight laborers, at $1 50 and two dollars per day, who attend to keeping the Hall and committee-rooms in order, and perform such other labor as is required about the Hall.

The bill before us proposes to pay the principal Doorkeeper $2,000; a principal assistant, $1,400; three other assistants, $1,200 each; and twenty temporary doorkeepers at three dollars per day during the session, which would make a reduction of from ten to eleven thousand dollars per annum on the pay of the Doorkeeper and his assistants. These are some of the reductions proposed by the committee on the pay of members and officers connected with the legislative department of the Government. If we reduce our own pay, and those appointed by the two Houses of Congress, then there are other bills in the same series which can be considered, reducing the ex-

penses of other departments of the Government. But if we are unwilling to pass this or a similar bill, it would not be commendable in us to attempt to disturb the salaries of other public officers. We should begin with our own. I know the question is asked of us, do we receive too much now? That, I submit, is not the question. The question is, could we not, in view of the embarrassment of the Government, discharge our duties for less than we now receive, and could not other officers in the public service, in like manner, discharge their duty for less than they now receive?

Sir, it is high time, if we are sincere in our doctrines of "retrenchment and reform," that we take some steps which may indicate our sincerity. What has this Congress done in the way of curtailing public expenditures at a time when the ingenuity of our ablest financiers is exhausted in devising ways and means to raise revenue to support the Government? Why, sir, we have spent our time in legislating upon and discussing all manner of schemes of internal improvement, creating new offices, and adding additional expenditures to those already weighing the Government down, with as much profligacy as if our Treasury was overflowing, and it was necessary to deplete it to render high tariffs plausible.

I recollect during this session when an appropriation bill was before the House in which there was an appropriation of $58,000 to pay clerks in the General Land Office under the act of 1855, to provide for granting land warrants to the soldiers of 1812, it was alleged, and not denied, that the expenditure was unnecessary, as there were but a very few warrants issued under the act; since it had been so long in effect that most applications under it had been disposed of. Yet, in the face of these facts, the appropriation was made, and the money will doubtless be expended for this purpose, as I notice some twenty-eight clerks are in the office under that act, who receive salaries varying from twelve to sixteen hundred dollars each; and possibly others are temporarily employed, as I remember one of the reasons urged for the appropriation by some gentlemen was to give employment to certain meritorious persons who are not regular clerks. In this same Land Office there are, according to the official register, about eighty-five other clerks at salaries of $1,200, $1,400, $1,600, and $1,800 each, when it occurs to me, considering the depression in the land market, a far less number might suffice. I notice that in 1855, when speculation was rife in public lands, there were only about one hundred of these clerks. There are certainly not as many required now as then, by one half at least.

This is but a single bureau out of a number in the Interior Department, and if we were to ascertain the facts I think we should find quite a number of sinecures in all of them. I am not aware that the duties of this Department are increased in any manner, but on the contrary must be reduced since some eight or nine States have mostly ceased to recognize the Government, and consequently their people have no transactions with any of the Departments. Yet, in addition to the large force which this Department had before the rebellion, this Congress has provided an Assistant Secretary of the Interior, at an annual salary of $4,000. This officer was not required when we were in the midst of prosperity, and might have been dispensed with now.

In the Post Office Department, while there are eight or nine States that do not desire or receive mail facilities, there is no curtailment, but an increase of clerks. Since this session began twenty-five new clerks, at the usual salaries, have been added to this Department, for the alleged purpose of rendering more efficient the dead-letter office. This expenditure was not necessary now, as we have dispensed with it up to the present session, unless it be to provide places for the friends of some gentlemen who have claims on the Administration, which I strongly suspect was a ruling motive in passing it. I intend no reproach, however, upon any gentleman on the floor of either House of Congress; but I must be permitted to say that the measure was, in my opinion, entirely unnecessary.

Another act of this Congress, certainly not demanded at this or any other time, was the passage of a bill establishing diplomatic relations with the negro republics of Hayti and Liberia, and providing for diplomatic representatives to each of these republics, with salaries of $4,000 each, which, under the present dynasty, will soon become missions of the first class, with salaries of $17,000 each, with a secretary of legation and all the outfit required for a mission to the Court of St. James; and in return the negro-loving portion of our population will soon be gratified by the appearance of two distinguished sons of Africa, as foreign ministers from these Governments, traversing Pennsylvania avenue in their coaches of four, with footmen and drivers in livery, and all the pomp and display of the most important European embassadors. And all this, not because it is necessary, but simply to carry out the great idea of "negro equality," and to exhibit due and proper contempt for the sentiments of those who oppose the doctrine.

What else have we done during this Congress besides providing for an Assistant Secretary of the Navy, three Assistant Secretaries of War, and scores of clerks in each of these Departments, besides hundreds of other offices in the military and naval establishments, at a cost of many millions, some of which was a necessary expenditure, but some of it not? We have in addition taken it into our heads, since money is plenty, to buy the slaves in this District, and have appropriated $1,000,000 for that purpose. We, however, have annulled the old rule "requiring two to make a bargain," as we have fixed our own terms, and compelled the owners to receive our own price or nothing. Our agents are now actively employed in assessing such prices as we think we can pay, not exceeding $300 per head. This legislation was not demanded at this time, nor would we have been at a loss to find a place for the money which has been and will be appropriated to carry out this bill. The appropriation will not stop with $1,000,000, as I have reason to believe from the bill reported to-day by the chairman of the Committee of Ways and Means, which appropriates $500,000 more to carry out the emancipation act, and to dispose of the slaves to be liberated by the new confiscation act. Such appropriations will be common in the future. By the passage of the emancipation act for this District, and the acts of Congress and the Federal authorities annulling the fugitive slave law, and inviting slaves into our camps, and rendering this District a place of refuge for runaway slaves, we have imposed a burden on ourselves in maintaining and providing for so-called contrabands, amounting—as stated by the distinguished gentleman from Illinois [Mr. RICHARDSON] some weeks ago, and not disputed then nor since—to $100,000 per day, and I have do doubt his estimate was reasonable.

Mr. BLAKE. Will my colleague yield to me for a moment?

Mr. ALLEN. Certainly.

Mr. BLAKE. That statement of the gentleman from Illinois is not sustained by any authentic information. Not at all; it is a mistake entirely. I do not say that the gentleman from Illinois meant to misrepresent anybody; but the facts do not warrant any such statement.

Mr. RICHARDSON. The gentleman from Ohio, I understand, has denied that the Government is paying $100,000 for the employment and support of negroes.

Mr. BLAKE. I deny that the following statement in the gentleman's speech is correct:

"The Government is to-day issuing rations to about two thousand negroes in this District alone, that cost over twenty cents per ration—$400 per day, in violation of law, is being paid for this purpose. The Government is hiring in the District several hundred negroes, some as teamsters and some for other purposes, to the exclusion of white laborers, thousands of whom, together with their wives and children, in our large cities are suffering for the want of employment. I speak advisedly when I say that the Republican party are already paying, of tax-gathered money, in this District alone, over three hundred thousand dollars per annum to buy, clothe, feed, and exalt the African race. Thus for the negro you expend more in a single year in the District of Columbia than you appropriate for the government and protection of all the people in all the organized Territories of the United States. The negro is made superior, in your legislation, to the pioneer white men that settle the great West, and, amid hardships and dangers, lay the foundations of new Commonwealths; the hardiest and noblest men of our common country.

"So the people are taxed yearly more for the benefit of the black race in this District alone than it costs to maintain the burdens of State government in either Iowa, Michigan, Minnesota, Wisconsin, Maine, New Hampshire, Vermont, Connecticut, Rhode Island, New Jersey, Delaware, or Maryland.

"But it is not in this District alone that you require the people to pay tribute to the idol of your affections. Where ever you find our Army, with one or two honorable exceptions, you will find that hundreds of rations are being issued daily to unemployed negroes who rendezvous in and about the camps; wherever the Army is they are being employed in various capacities at good wages, and to the utter exclusion of white labor, that now languishes in irksome idleness throughout our country. I state, therefore, and I think truthfully, that the Government is already paying $100,000 per day for the support and employment of negroes—paying it, too, out of money raised through the toil, deprivations, and taxation of our own kith and kin."

Mr. RICHARDSON. The speech was made on the 19th of May. No member of this House has dared to rise in his place and contradict a single statement in it till now.

Mr. BLAKE. Because no man could get the floor for that purpose.

Mr. RICHARDSON. No gentleman has arisen in his place to deny the fact while there was time to get up an investigating committee on the subject.

Mr. ALLEN, of Ohio. Since the passage of these acts fugitive slaves have been daily flocking into this District and into our encampments in different sections of the country, and becoming a burden upon the Government. Gentlemen on the other side of the House talk about putting them to useful service in the Army; but I am not aware of any service being rendered by this class of persons as yet. I think the gentlemen on the opposite side of the House prefer to use the slaves which they have not yet obtained and will not obtain to those already in their possession. This latter class is working on bread and beef, while the slaves (of rebels) not yet liberated are used by our Republican friends in building fortifications and bearing arms. The precise amount that the Government is spending in keeping these fugitives, of course cannot be ascertained, for the reason that every effort to have an inquiry on the subject has been crushed by the majority of Congress, who have invariably voted down or tabled all resolutions asking for information on this subject. No stronger evidence is necessary to show that the Government is incurring large expenditures in keeping these contrabands than the fact that the resolutions of inquiry are voted down. Why do not gentlemen let the facts come to light if these expenditures are not being made? But any gentleman who desires to satisfy himself on this subject, so far as this District is concerned, has only to walk across the grounds of the Capitol, where there is a block of buildings literally crowded with these fugitives, who are under the care of a superintendent employed at the public expense, and who receive their rations, clothes, medical attention, and all from the Government. It is useless to deny that which most gentlemen here must have witnessed; facts which are occurring daily before our eyes.

Another unnecessary addition to the public expenditures, in my opinion, is the new bureau created in the Treasury Department, at the head of which is placed an officer styled a "Commissioner of Internal Revenue," who, by the act creating the office, receives a salary of $4,000 per annum, and who has power to appoint an indefinite number of clerks, for the purpose of carrying out the provisions of the law, which is entitled "An act to provide internal revenue to support the Government and to pay interest on the public debt." Under this law an army of assessors and collectors are to be appointed, to flock over the country like the "locusts of Egypt," blighting in their advance all the industrial pursuits of the country. What number of clerks and employés will be required in this new bureau, and what number of assessors and collectors will be required to collect the proposed revenue, can only be conjectured. I should think, however, that $300,000 per annum would be a moderate estimate for the expenses of the Commissioner, clerks, messengers, stationery, and other expenses which will be incurred in this bureau, which will in time, I have no doubt, be magnified into a department as extensive as the Treasury Department itself.

Then we have, by the provisions of the bill, one assessor and one collector for each congressional district in the United States—also for the District of Columbia. Each of these officers has the power of appointing as many assistants as he may deem necessary. Of course a large number of these assistants will be required—at least one assistant assessor and one assistant collector in each county in country districts, and in cities perhaps one for each ward. Take Ohio, for instance, which con-

tains eighty-eight counties. It will require, on an average, at least one assistant assessor and one assistant collector for each county; and the average expense of assessing and collecting revenue in each county will not be less than $3,000. This will amount to $264,000 for the State. Ohio does not comprise more than one twelfth of the population and territory over which the law is expected to be enforced. Twelve times the expense computed for assessing and collecting, in Ohio, would make $3,168,000 the amount for assessing and collecting in all the territory over which our laws are enforced; add to this the expenses of the bureau at Washington, and we have about three millions and a half dollars as the total expense of collecting this revenue; and I am inclined to the belief that it will amount to nearer five millions than this sum. As an evidence that my estimate is low I beg leave to refer to the law of last summer, which allows fifteen per cent. to the States that collect the tax for collecting it; the revenue now to be collected is much greater, and the system of collecting it more complex.

The greater portion of this sum might have been saved to the Government by adopting the proposition made by the Legislature of Ohio, submitted to Congress during this session, of allowing each State to collect its own portion of the national tax, which would, of course, be done by its own officers with but little additional expense. But this would close the doors to hundreds of the *pets* of the Secretary of the Treasury, who expect to have a share of the public revenue by the existing arrangement. I know that it was the design of some who preferred the law as it is, to relieve the agricultural interests of the country, or at least to have this large class of our population to think themselves relieved by the present law. But it will be found in the end that they are not relieved, and they will realize such to be the case. It matters not to the farmer whether his farm is taxed or its productions. He would as soon have his land taxed as to have all the products of his land taxed, as is the case under this law. Every slaughtered beef he may sell, "hide, hoof, and horns," is subject to a tax. Every hog, not excepting the "bristles" —every sheep and calf; every gallon of whisky manufactured; and thus every bushel of grain, whether it be fed to stock or manufactured by the distiller, becomes subject to a duty. True, the grain itself is not subject to a duty, but the whisky, beer, or ale into which it may be manufactured, or the stock to which it may be fed, is subject to a duty, which is the same in effect. The farmer has to pay this duty, or, which is equivalent, suffer a deduction in the price of his productions equal to that duty. If he wishes to make a deed conveying or execute a mortgage on his land, a stamp duty, which was one of the causes of the Revolution of our fathers, demands tribute at his hands.

But it is not my purpose to discuss this law further than to show that several millions of dollars of the public money is needlessly expended by its enactment. These, Mr. Chairman, are a few of the acts of the present Congress, the legislation of which has ever tended to increase the drafts upon a bankrupt Treasury, and never to curtail them. It is true we passed a law a few days ago dispensing with regimental bands, but that was simply a repeal of legislation of the present Congress by which we had unnecessarily incurred an expense of some thirteen or fourteen million dollars. The law ought never to have passed. It was right, however, to repeal it, and we deserve some credit for having, at the solicitation of these bands, dispensed with their services, which were so very expensive.

But some of the acts to which I have referred are but the prelude to enormous expenditures in the future. The expenditures incurred by the confiscation and emancipation acts passed the present session cannot yet be realized; but at no distant day a burden will be imposed upon the people by their passage that will be intolerable. But I have no time nor disposition to enter further into the details of these measures now. I abide their result, and doubt not the good sense and patriotism of the people will approve whatever of our legislation is necessary and expedient, and condemn that which is not.

Mr. LOW moved that the committee rise.

The motion was agreed to.

So the committee rose; and the Speaker having resumed the chair, Mr. KELLOGG, of Illinois, reported that the Committee of the Whole on the state of the Union had, according to order, had the Union generally under consideration, and particularly the House resolution (No. 30) directing the Secretary of War to test Anderson's breech-loading cannon, and had come to no resolution thereon.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. HICKEY, their Chief Clerk, announced that the Senate had passed an act (H. R. No. 84) for the relief of the preëmptors on the home reservation of the Winnebagoes, in the Blue-earth region in the State of Minnesota; and an act (H. R. No. 137) to extend the territorial limits of the Territory of Nevada, with amendments, in which the concurrence of the House was requested.

Also, an act (H. R. No. 527) to secure one month's pay and pension to Margaret Bailey, widow of George B. Bailey, lieutenant colonel in the ninth regiment of Virginia volunteers.

Also, that the Senate has passed a joint resolution and bills of the following titles, in which the concurrence of the House was requested:

Joint resolution (S. No. 96) authorizing a change in the Navy ration;

An act (S. No. 167) to authorize the examination of parties to suits in the courts of the United States and for other purposes; and

An act (S. No. 376) to allow and pay to the State of Missouri the amount of money expended by said State in the arming and paying of troops employed in the suppression of insurrection against the laws of the United States.

And then, on motion of Mr. LOW, (at six o'clock, p. m.,) the House adjourned.

IN SENATE.

MONDAY, *July* 14, 1862.

Prayer by Rev. THOMAS H. STOCKTON, Chaplain of the House of Representatives.

The Secretary proceeded to read the Journal of Saturday last.

Mr. GRIMES. I move that the reading of the Journal be dispensed with.

The PRESIDENT *pro tempore*. The Chair hears no objection. The reading is dispensed with.

THANKS TO CAPTAIN FOOTE.

Mr. GRIMES. I move that the Senate proceed to the consideration of the joint resolution (H. R. No. 102) tendering the thanks of Congress to Captain A. H. Foote, of the United States Navy.

The motion was agreed to; and the joint resolution was considered as in Committee of the Whole. It proposes to tender the thanks of Congress to Captain Andrew H. Foote, of the United States Navy, for his eminent services and gallantry at Fort Henry, Fort Donelson, and Island No. 10, while in command of the naval forces of the United States, and to instruct the Clerk of the House of Representatives to transmit a certified copy of the resolution to Captain Foote.

Mr. GRIMES. I move to strike out "Clerk of the House of Representatives," and insert, "President of the United States."

The PRESIDENT *pro tempore*. That change will be made if there be no objection. The Chair hears none.

Mr. GRIMES. And to insert "requested," instead of "instructed."

The PRESIDENT *pro tempore*. That change will be made.

The joint resolution was reported to the House, as amended; and the amendments were concurred in, and ordered to be engrossed. The joint resolution was ordered to be read a third time, and it was read the third time, and passed.

GOVERNMENT CONTRACTS.

Mr. HALE. I move that the Senate take up for consideration a bill that has been under discussion several times, repealing the law requiring copies of contracts to be filed in the office of the Secretary of the Interior.

The motion was agreed to; and the Senate resumed, as in Committee of the Whole, the consideration of the bill (S. No. 350) to repeal an act entitled "An act to prevent and punish fraud on the part of officers intrusted with the making of contracts for the Government," approved June 2, 1862.

Mr. POWELL. I suggest that the Senator from Pennsylvania [Mr. COWAN] takes an interest in that bill and he is not in his seat.

Mr. HALE. I want to state the reason why I call it up, for the benefit of the Senator from Kentucky, and everybody else. The session now is within two days of its close, and the War and Navy Departments both insist that there is great addition needed to their clerical force if this bill is not passed. I think it would be better to repeal the act of June 2, and let the matter stand until the next session, when it can be adjusted.

The PRESIDENT *pro tempore*. The question is on the amendment of the Senator from Pennsylvania, [Mr. COWAN,] to insert at the end of the bill:

In so far as the same requires contracts to be filed in the returns office which in the opinion of the Department making the same ought not to be made public.

Mr. POWELL. I move to postpone the further consideration of this bill until the 1st Monday of December next, and on that I ask for the yeas and nays.

Mr. GRIMES. I suppose the Senator is aware that the calling of the yeas and nays will break up the Senate.

Mr. POWELL. I am aware of that, but I want this act done in a full Senate.

Mr. HALE. Let me say to the Senator that I have not been behindhand in urging this upon the Senate again and again, in an earlier part of the session, and I informed the Senate that it would be necessary to introduce a new bill appropriating at least $12,000 annually for clerks for the Navy Department, if it is not passed, and there will be a similar application for a larger sum from the War Department. It has got to that stage of the session that there is no time to mature such bills; and I think it would be better on all hands for this law to be repealed, and let it stand over until the next session, which is but a few months, and then we can mature a plan and make a law that will meet what the Senator from Kentucky and the Senator from Pennsylvania want, but it is too late at this time to mature a plan to meet the exigencies of these Departments.

The PRESIDENT *pro tempore*. The Senator from Kentucky moves to postpone the further consideration of this bill until the first Monday of December next, and upon that motion demands the yeas and nays.

The yeas and nays were ordered.

Mr. WILSON, of Massachusetts. I hope the Senator from Kentucky will not press his motion. I look upon it as an absolute necessity that this law shall be repealed. I do not believe the Government can be carried on under it and live up to it, and if I were in the War Department I would not try to live up to it; I would take care of the country, carry the country through the present crisis, without undertaking to be fettered by an impossible rule. They say in the War Office that it will take three hundred clerks if this bill is carried out. I do not believe with a thousand clerks they could carry it out. I do not believe your Army can exist in the field under that law, and adhere to it. I look upon it as putting restrictions upon the War Department, and the conduct of the Army in the field, that cannot be adhered to without sacrificing the interests of the country; therefore I hope Congress will repeal the act, and let us in December next, if we can, make an act to correct abuses. The great point now, in my judgment, is to relieve ourselves from a restriction that is against the interests of the country.

Mr. HALE. I have a proposition to make that I think the Senator from Kentucky will consent to; and that is, strike out all after the enacting clause of the bill, and insert a provision that the operation of the law be suspended until the 1st day of January next.

Mr. POWELL. I withdraw my motion and the call for the yeas and nays.

The PRESIDENT *pro tempore*. The bill is before the Senate as in Committee of the Whole; there is a pending amendment.

Mr. HALE. Let us vote that down.

The amendment was rejected.

The PRESIDENT *pro tempore*. The bill is still open to amendment.

Mr. HALE. Now I move to strike out all after the enacting clause, and insert:

That the operation of the act entitled "An act to prevent and punish fraud on the part of persons intrusted with the

making of contracts for the Government," approved June 2, 1862, be, and the same is hereby, suspended until the first Monday of January, 1863.

The amendment was agreed to.

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

Mr. TRUMBULL. I do not see the Senator from Pennsylvania in his seat who took an interest in the bill which is sought to be suspended, and who prepared some amendments to the bill under consideration with a view of perfecting the law which has passed or remedying any defects which exist in it. I think this bill had better be delayed until the Senator from Pennsylvania is in his seat. I know that he prepared amendments which he intended to offer to correct the objectionable features that exist in the law which was passed, and I think that would be a much better way than to suspend it. The whole country has been crying out and demanding some legislation to prevent frauds in the making of contracts, and a bill has been passed with a view of exposing such frauds, if any take place. The Departments find fault with the bill and regard it, in some respects, as impracticable, and one of the Departments thinks it might lead to the disclosure of some contracts which ought not to be disclosed. These are matters which ought to be corrected, and instead of suspending the bill, I think it would be much better to remedy these defects and let the law stand. I think the country requires some legislation to preserve the purity of the Government in these matters, and I know that the Senator from Pennsylvania has turned his attention to this subject; in fact, he was the author of the original bill. I move that this bill be laid aside until the Senator from Pennsylvania is in his seat. I do not see him at this moment. I suppose he will be in soon.

Mr. HALE. I stated to the Senate when I was up before how much I had tried to get this bill considered, and the absolute necessity there was devolving upon the committee of which I am a member to prepare a bill for additional clerks, unless this be passed. The proposition I now make was made on consultation with the Senator from Kentucky, who agrees to it. I would mention to my friend from Illinois that since this bill was introduced, we have passed a joint resolution which many think is more stringent in its character and covers the ground all over and better, and that was done with the approbation of the heads of both Departments—I refer to the resolution to compel the publication of all these contracts every week in the city newspapers, with the names of the persons at whose instance the contracts are given out. Inasmuch as the Departments require so much larger clerical force to carry out this act, and that joint resolution has already passed requiring a publication of contracts, I think it would be imprudent and impolitic to insist on this act going into immediate operation. By the 1st of December, if we live, we shall come together again, and we can then see what the operation of that resolution has been, and can prepare a bill that will be void of the objections which exist to this law. I think its operation had better be suspended under these circumstances.

The PRESIDENT *pro tempore*. The question is on the motion of the Senator from Illinois.

Mr. GRIMES. Suppose the Senator from Pennsylvania does not come in.

Mr. TRUMBULL. I suppose he will come in. I do not agree with the Senator from New Hampshire that all has been accomplished by the publication of these contracts. I think it will make a very fine job for the newspaper publishers in the city of Washington; but if it was calculated to do any good, I was willing that the resolution should pass. I have no doubt the resolution had the approbation of the heads of Departments, and I wish to say to the Senator from New Hampshire, that while I should like to have the suggestions of the heads of Departments, and of the subordinate officers, as to the working of any law in their Departments; while I should like to be informed as to how the business is done, I think Congress should frame the law to expose any improper conduct in any of the Departments or any of the bureaus. I do not think that that is the best place to go to, where the frauds have been practiced, to the officers under whom they have been practiced, to prepare laws to prevent their future occurrence. If there is no fraud, if the contracts are all fairly made, and there is no imposition upon Government, there would be no necessity for a law. But the whole country has called out for some legislation on this subject. The Senator from New Hampshire himself introduced a bill making it a highly penal offense to practice an imposition upon the Government; other Senators introduced bills punishing with death a man who should defraud the Government in this its time of emergency. The bill which we passed a short time ago, and which it is proposed to suspend, received the deliberate consideration of Congress at a former session, was then passed, reconsidered, postponed for six months, considered again, and passed, and now it is to be suspended at the suggestion of the Departments. It would be certainly much better to perfect it. I am not asking that this bill be indefinitely postponed; I am asking that it be laid aside until the Senator from Pennsylvania, who takes an interest in it, who has prepared amendments to remedy the defects which are complained of in the law, shall be in his seat. It is extraordinary to me that this bill must be forced to a vote under such circumstances. When before has a bill in which a Senator feels an interest been rushed through in a few minutes after the meeting of the Senate in the morning, and at an hour when such business is not usually done? I do not know how it happened that this bill came up so early. I was in the Senate a very few minutes after eleven o'clock. The Journal must have been read with great quickness or this bill could not have been got up at the time it was. I only ask that it be laid aside until the Senator from Pennsylvania comes in. He is not out of the city that I have learned. I presume he will be here in a few minutes.

Mr. GRIMES. The Senator does the chiefs of two Departments of this Government a great deal of injustice, and I think does injustice to himself when he says that the act of Congress to which this bill relates is to be suspended at the instance of the head of any Department. Such is not the fact. The War Department, so far as I know, has taken no notice of it. The Secretary of the Navy has addressed a letter to the Committee on Naval Affairs for an appropriation for clerks to carry into effect the very law which the Senator from Illinois is so anxious shall remain upon your statute-books, and be unrepealed or unsuspended. In the exercise of their discretion, the Committee on Naval Affairs believed that it was more expedient to repeal the law than it was to grant this large sum of money for the purpose of paying additional clerk hire.

If the Senator from Illinois believes that he can prevent frauds by retaining this law upon your statute-book, he believes something in which I do not believe. Contracts are always fair upon their face. I do not know of a single contract that has been made by either of your Departments, and that is said to be tainted with fraud, or of which it is said fraud composes a part, that is not of itself fair upon its face. It is the execution of the contract afterwards in which the fraud consists. You do not reach them by the enactment of this law, or by its retention upon your statute-book.

Mr. President, the whole question is in a nutshell. We have passed a law, and given no power to execute it. Now, the question is, shall we repeal that law, or shall we pass an appropriation to allow the officers who want to obey the laws of the country faithfully and conscientiously, the means of doing it? Do one thing or the other. So far as the Department with which I am more immediately connected is concerned, I do not care which is done. If you choose to give $12,500 to the Navy Department for additional clerk hire, the Navy Department will be perfectly satisfied; the Committee on Naval Affairs will be entirely satisfied; everybody connected in any degree with that Department will be satisfied; but if you do not choose to do that, repeal the law. Do not put the Departments in the attitude of violating a solemn act of Congress which you have passed, and which you, by your failure to pass an appropriation, are compelling them to violate.

Mr. WADE. There does not seem to be any probability of bringing this subject to a conclusion, and I therefore move to postpone this and all prior orders for the purpose of taking up the bill for the admission of West Virginia into the Union as a State.

Mr. GRIMES. I hope not.

Mr. DOOLITTLE. I desire to make a report which will occupy the Senate perhaps five minutes only.

Mr. HALE. I object to this repealing bill giving way to anything. It is an important bill; and either it must be passed or the Naval Committee must introduce a bill for additional clerks.

The PRESIDENT *pro tempore*. The Senator from Ohio moves to postpone the pending and all prior orders, with a view to proceed to the consideration of the bill for the admission of West Virginia into the Union. The question is on that motion.

Mr. LANE, of Kansas. I desire to introduce a resolution of inquiry which will take no time. I believe that is in the order of business.

The PRESIDENT *pro tempore*. It is in the regular order of business, except when set aside by a special motion to postpone all prior orders.

Mr. LANE, of Kansas. I ask the Senator from Ohio to allow me to introduce a resolution of inquiry. It will not take a moment, and relates to a matter of some importance to us in Kansas.

Mr. WADE. Any such motion, of course, I do not wish to stand in the way of.

The PRESIDENT *pro tempore*. If there be no objection, the motion of the Senator from Ohio will be suspended, to receive the resolution from the Senator from Kansas. The Chair hears no objection, and the Secretary will read the resolution.

The Secretary read it, as follows:

Resolved, That the Secretary of War be directed to communicate to the Senate any information he may have as to the reasons for the arrest of Lieutenant Colonel D. R. Anthony, of the seventh Kansas regiment, if, in the opinion of the said Secretary, such information can be given without injury to the public interest.

Mr. LANE, of Kansas. I desire to read an extract from a letter that I have just received.

The PRESIDENT *pro tempore*. The first question is, does any Senator object to the consideration of the resolution?

Mr. HALE. Yes, sir; I do. If it were a matter of course, I would not object; but I object to any debate.

Mr. LANE, of Kansas. I only desire to read five lines of this letter.

The PRESIDENT *pro tempore*. The resolution will lie over, objection being made.

Mr. WADE. On Saturday last, when the Senate had under consideration a resolution to adjourn at an early period, I stated that one great reason I had for voting against it was the deep and abiding interest that the people of Western Virginia seemed to feel in the great question of their admission into the Union as a State. I did not like to see this Congress adjourn without acting upon that subject, and I was fearful that we should bring the session to a close before we could act upon it. It was suggested to me that there would be ample time to act upon it within the time indicated in the resolution to adjourn. Well, sir, that may be; I believe there is time; but I feel and know that if I fail to succeed with the present motion, the time has gone, and gone forever. Therefore it is that I now make an appeal to every Senator on this floor who is favorable to the admission of that State, to embrace the opportunity presented by this motion to stand by me and to stand by this measure until we carry it through. I do not think it need take half an hour. It has already been debated, so far as debate will elucidate the subject, and I do not propose to debate it myself. The people of Western Virginia, at all events, are determined that they never will travel side by side with their old associates any longer. They cannot do it; and they appeal to us, as an act of justice, to let them into the Union on the same principles on which other States are admitted.

Mr. GRIMES. Let us dispose of this bill, and then we will take up yours.

Mr. WADE. There was a vote to suspend your bill I believe.

Mr. GRIMES. No; there was not. It has not been suspended.

The PRESIDENT *pro tempore*. The question is on the motion of the Senator from Ohio.

Mr. GRIMES. I desire to say to the Senator that I am with him to get in the new State of West Virginia, but the bill under consideration I conceive to be of vast importance; and I do not wish to be put in the position of antagonizing that bill against this. If he will be content to let us take a vote on this proposition, I will vote with him to take up this bill.

Mr. HALE. I am in the same condition.

Mr. WADE. I always listen to reason, and if gentlemen tell me I am antagonizing something and working against my friends, I am the last man to place myself in that position if I know it.

The PRESIDENT *pro tempore*. Does the Senator withdraw his motion?

Mr. WADE. Yes, sir; I withdraw it for the present; but I give notice that I shall embrace the very first opportunity when this question is out of the way to renew it.

The PRESIDENT *pro tempore*. The question recurs on the motion of the Senator from Illinois to postpone the consideration of the pending bill, which is Senate bill No. 350, to repeal an act entitled "An act to prevent and punish fraud on the part of officers intrusted with the making of contracts," approved June 2, 1862, for the time being.

Mr. TRUMBULL. I wish to have that motion understood by the Senate. I do not ask that this bill should have the go-by, but simply to wait for a Senator who has prepared amendments to remedy the supposed defects in the existing law. I think it but reasonable that the Senate should wait, to give him an opportunity to come in. He is in the city, but is probably temporarily occupied this morning; perhaps at some Department. I have heard of him this morning, having made inquiry about him, and no doubt he will be here. He may come in at any moment; and I think it but reasonable that this bill should be laid aside until he does come in.

The PRESIDENT *pro tempore*. Is there any objection to passing the bill over informally?

Mr. HALE. There is.

The PRESIDING OFFICER. Then it must be subject to a vote on a motion to postpone it for a definite period of time, not a motion to postpone the measure until an uncertain event.

Mr. TRUMBULL. I move to postpone it until one o'clock.

Mr. BAYARD. I think we had better dispose of the bill while it is before us. It is a very simple question. We have passed a law at this session which, as I understand, the Department or some of the Departments, perhaps more than one, say is either impracticable in its execution or will greatly enhance the cost to the Government for the purpose of carrying it into execution, and they doubt whether it is not impracticable altogether. This bill as originally proposed was to repeal that law. To that we are opposed. The proposition as it stands at present is simply to postpone the operation of the law until the first Monday of January next. I am inclined to think that that is the wiser course to take, to suspend the operation of the law. I am as much disposed to punish fraud as any man; but we may have passed a law—it was a novel one—that may not be practicable. I think we can in the mean time, holding on to the law if we merely suspend its operation, frame an appropriate bill for the purpose of preventing frauds, before the expiration of the period of suspension. I think it would be wiser to pass the bill with the amendment suggested by the Senator from New Hampshire suspending the operation of the law until the first Monday of January next.

Mr. TRUMBULL. I wish to inquire of the Senator from Delaware if he is aware that the Senator from Pennsylvania has already been preparing amendments to remedy these very defects, and I suppose has them all ready?

Mr. WILSON, of Massachusetts. Are you sure of it?

Mr. TRUMBULL. He told me so.

Mr. BAYARD. My reply to the honorable Senator is this: you have but two days of the session left. The honorable Senator from Pennsylvania has an amendment, but that amendment would not apply to a bill to suspend the operation of the law. It would apply to a bill to repeal it, because it restricts it to a certain extent. If the original bill as reported, the bill to repeal the law approved on the 2d of June last, to punish frauds in contracts, was now before us without amendment, the amendment of the Senator from Pennsylvania would apply. But supposing he has other amendments, still those amendments must meet the judgment of the Senate; they will become the subject of discussion. You could not take the opinion of a single member and pass them, without discussion, as amendments to that bill so as to alter its structure without some discussion and consideration. It is for the very reason that I do not believe you can amend the law which your Departments tell you is impracticable within the period of time the session is to last, that I think it would be wise to suspend its operation until January next.

The PRESIDENT *pro tempore*. The question is on the motion of the Senator from Illinois.

Mr. TRUMBULL. I will ask for the yeas and nays upon that motion. I want to see the precedent on the statement of facts I have made to the Senate, that a bill cannot be postponed only an hour and a half to allow a Senator who has taken an interest in a law about to be repealed to come in and offer his amendments.

The yeas and nays were ordered; and being taken, resulted—yeas 24, nays 12; as follows:

YEAS—Messrs. Carlile, Chandler, Doolittle, Foot, Harris, Henderson, Kennedy, King, McDougall, Pomeroy, Powell, Rice, Saulsbury, Sherman, Simmons, Stark, Ten Eyck, Trumbull, Wade, Wilkinson, Willey, Wilmot, Wilson of Missouri, and Wright—24.

NAYS—Messrs. Anthony, Bayard, Browning, Clark, Fessenden, Foster, Grimes, Hale, Lane of Indiana, Lane of Kansas, Morrill, and Wilson of Massachusetts—12.

So the motion to postpone was agreed to.

GRADES OF NAVAL OFFICERS.

Mr. HALE submitted the following report:

The committee of conference on the disagreeing votes of the two Houses on House bill No. 280, to establish and equalize the grades of line officers of the United States Navy, having met, after full and free conference have agreed to recommend, and do recommend, to their respective Houses as follows, to wit:

That the House recede from their disagreement to the first, second, fourth, and sixth amendments of the Senate and agree to the same.

That the House agree to the seventh amendment of the Senate with the following amendment, namely, insert "not less than" before the word "three."

That the House recede from their disagreement to the ninth, tenth, eleventh, thirteenth, fourteenth, fifteenth, sixteenth, seventeenth, and eighteenth amendments of the Senate and agree to the same.

That the House agree to the nineteenth amendment of the Senate with the following amendment, namely, insert after "Navy," the words, "now upon the active list."

That the House agree to the twentieth amendment of the Senate with the following amendment, namely, after the word "retired," in the ninth line, insert "except for cause."

That the House recede from their disagreement to the twenty-third and twenty-fourth amendments of the Senate and agree to the same.

That the House agree to the twenty-sixth amendment of the Senate, with the following amendments, namely: strike out, in the third line, the words "acting midshipmen;" in the fifth line strike out "passed midshipmen" and insert "ensigns;" in the fourteenth line, after the word "examinations," insert "for admission to the same class;" in the seventeenth line strike out all after the word "large," and also all the eighteenth, nineteenth, and twentieth lines, and insert the word "and;" in the twenty-sixth line strike out all after the word "service," and all of the twenty-seventh, twenty-eighth, and twenty-ninth lines, down to and including the word "district," and insert "from and after the 5th of March, 1863, the nomination of candidates for admission into the Naval Academy shall be made between the 5th of March and the 1st of July of each year, upon the recommendation of the Member or Delegate from actual residents of his district, and they shall be examined for admission in July: *Provided*, That when any candidate, who has been so nominated, shall, upon examination, be found physically or mentally disqualified for admission, the Member or Delegate from whose district he was so nominated shall be notified to recommend another candidate, who shall be examined in September following;" in the thirty-fourth line strike out "August" and insert "July;" in the thirty-sixth and thirty-seventh lines strike out "or acting midshipmen."

That the House recede from their disagreement to the twenty-seventh, twenty-eighth, thirtieth, thirty-first, thirty-second, and thirty-third amendments of the Senate, and agree to the same.

That the House agree to the thirty-fourth amendment of the Senate, with the following amendments: in line forty-five, amendment thirty-four, strike out "passed midshipmen" and insert "ensign;" in line fifty-one strike out "and acting midshipmen;" in section —, lines three and four, strike out the words "act above mentioned," and insert "law."

That the House recede from their disagreement to the thirty-fifth amendment of the Senate, and agree to the same.

That the House agree to the thirty-sixth amendment of the Senate with the following amendment: strike out all after the word "that," and insert "the relative rank between officers of the Navy and Army on the retired list shall be the same as on the active list, and the annual pay of retired naval officers shall be as follows: admirals, $2,000; commodores, $1,800; captains, $1,600; commanders, $1,400; lieutenant commanders, $1,300; lieutenants, $1,000; masters, $800; ensigns, $500; and no rations shall be allowed to any officer of the Navy on the retired list. And the pay of all naval officers appointed by virtue of an act entitled 'An act to provide for the temporary increase of the Navy,' approved July 24, 1861, shall be the same as that of officers of a like grade in the regular Navy."

That the Senate recede from their third, fifth, eighth, twelfth, twenty-first, twenty-second, twenty-fifth, and twenty-ninth amendments, disagreed to by the House.

JOHN P. HALE,
JAMES W. GRIMES,
Managers on the part of the Senate.
C. B. SEDGWICK,
JOHN F. POTTER,
Managers on the part of the House.

Mr. HALE. As the report is pretty long, and evidently cannot be comprehended by its mere reading, I will state to the Senate that most of the amendments are verbal, and that the only real difference between the committees, which took them some time to arrange, was as to the pay of the retired list; and upon that, instead of taking it as it was originally, or as it was amended, they have agreed to a compromise, fixing a gross sum instead of making it indefinite, and counting rations, &c. I will state that the sum is greatly higher than I wish it was; but it was the best compromise we could make, and I believe it was not as high as some of the committee wished. We have altered the name; we have struck out "passed midshipmen," and made them "ensigns;" and we have made "admirals" "rear admirals." They are mostly verbal amendments.

The report was concurred in.

ADMISSION OF WEST VIRGINIA.

Mr. WADE. I now renew my motion to take up the bill for the admission of West Virginia.

Mr. CHANDLER. I desire to ask the Senator from Ohio to give me about three minutes to pass a couple of bills that the Secretary of the Treasury thinks are of importance. They will not take over three minutes, I think. They are Senate bills, and it is important to have them acted on to-day.

Mr. WADE. I do not think this will take over half an hour.

The PRESIDENT *pro tempore*. The question is on the motion of the Senator from Ohio.

Mr. TRUMBULL. That question is an important one, and undoubtedly it will take every moment of time from now until the adjournment. The Senator from Ohio is very much mistaken in supposing that the bill to admit Western Virginia into the Union will pass in the course of half an hour. It is a very important question, and I cannot conceive that such a bill as that should go through the Senate in so short a time. I hope the bill will not be taken up. I think it will result in postponing some very important measures that we ought to act upon, and it will consume the whole time, and then I doubt whether there is time, if we do nothing else, to dispose of this one bill. I hope that the Senate will not take it up. We had a few days ago what I supposed was a test vote on taking it up, and if the Senate does take it up, I am satisfied it will be in the way of the transaction of much other business during the session.

Mr. WADE. I hope we shall not be bluffed off by this implied threat of the gentleman that he is going to talk us out of doors.

Mr. TRUMBULL. I am not going to talk long.

Mr. WADE. But you very plainly give out that it will take the whole session to pass this bill. I do not think anybody else supposes it will take the whole session to pass the bill. It is a very important measure, and therefore it is argued that it must have a very important amount of gab over it. I do not think that follows, for I have seen as much talk over very unimportant measures as I have over important ones. It is an important measure, but it is plain, palpable, and evident to every one. It needs no argument to illustrate it; it will receive no particular light from arguments from any source here, because it is plain to the comprehension of every Senator, and every Senator understands it now as well as his fellows do, and knows whether this measure is reasonable or unreasonable. I know that there is no measure which is pressed upon this Congress with so much earnestness and zeal as this measure; no one in which so great a number of people feel such a vital interest as in this. We are told it is a very important measure. It is important. Nobody doubts that; and nobody doubts its necessity as well. You cannot postpone it long if you would. There is no reason why you should wish to do it if you could. The people of Western Virginia are entitled to what they ask; they have earned it by their loyalty, by their privations, and by their perils; and they are entitled to the good will and good fellowship of this Senate, to endeavor to do for them that which they have fairly earned. I hope we shall take up the bill, and I hope no friends of the measure will think it necessary to make very long arguments on the subject.

Mr. POMEROY. I certainly hope this measure will be acted upon, and taken up for that purpose.

It must be apparent to every one that it is due to these gentlemen, due in fact to this State of Western Virginia, that some decision be had. The hope deferred in this matter maketh the heart sick; and I think it is due to that people, who are loyal, who are true, that at least the Senate should act. If they are not to come in under their constitution, they ought to know it. If they are to come in, they certainly should know it. I think it is inflicting a great injury on them not to decide the question one way or the other.

The PRESIDENT *pro tempore*. The question is on the motion of the Senator from Ohio, to proceed to the consideration of the bill for the admission of West Virginia.

Mr. TRUMBULL. I ask for the yeas and nays.

The yeas and nays were ordered; and being taken, resulted—yeas 25, nays 11; as follows:

YEAS—Messrs. Carlile, Clark, Collamer, Fessenden, Foot, Foster, Grimes, Hale, Harris, Henderson, Howe, Lane of Indiana, Lane of Kansas, Pomeroy, Sherman, Simmons, Stark, Sumner, Ten Eyck, Wade, Wilkinson, Willey, Wilmot, Wilson of Missouri, and Wright—25.

NAYS—Messrs. Anthony, Bayard, Browning, Chandler, Doolittle, Kennedy, King, Powell, Saulsbury, Trumbull, and Wilson of Massachusetts—11.

So the motion was agreed to; and the Senate, as in Committee of the Whole, resumed the consideration of the bill (S. No. 365) providing for the admission of the State of West Virginia into the Union, the pending question being on the amendment of Mr. SUMNER, in lines sixteen and seventeen of the first section, to strike out the words "the children of all slaves born within the limits of said State shall be free," and to insert in lieu thereof:

Within the limits of said State there shall be neither slavery nor involuntary servitude, otherwise than in the punishment of crime whereof the party shall be duly convicted.

The PRESIDENT *pro tempore*. Upon this amendment the yeas and nays have been ordered.

The question being taken by yeas and nays, resulted—yeas 11, nays 24; as follows:

YEAS—Messrs. Chandler, Clark, Grimes, King, Lane of Kansas, Pomeroy, Sumner, Trumbull, Wilkinson, Wilmot, and Wilson of Massachusetts—11.

NAYS—Messrs. Anthony, Bayard, Browning, Carlile, Collamer, Doolittle, Foot, Foster, Harris, Henderson, Howe, Kennedy, Lane of Indiana, Powell, Rice, Saulsbury, Sherman, Simmons, Stark, Ten Eyck, Wade, Willey, Wilson of Missouri, and Wright—24.

So the amendment was rejected.

Mr. WILLEY. I wish to make a verbal amendment to the preamble.

The PRESIDENT *pro tempore*. The preamble is not in order to be amended until the body of the bill shall be perfected.

Mr. WILLEY. I now offer the amendment which has been printed and laid on the tables of Senators.

The Secretary read the amendment, as follows:

Strike out all the bill after the second line in the first section, excepting the last section, and insert:

That West Virginia is hereby admitted into this Union on an equal footing with the original States in all respects whatever, upon the fundamental conditions that from and after the 4th day of July, 1863, the children of all slaves born within the limits of said State shall be free, and that no law shall be passed by said State by which any citizen of either of the States in this Union shall be excluded from the enjoyment of any of the privileges and immunities to which such citizen is entitled under the Constitution of the United States: *Provided*, That the convention that ordained the constitution aforesaid, to be reconvened in the manner prescribed in the schedule thereto annexed, shall, by a solemn public ordinance, declare the assent of the said State to the said fundamental conditions, and shall transmit to the President of the United States, on or before the 15th day of November, 1862, an authentic copy of said ordinance; upon the receipt whereof, the President, by proclamation, shall announce the fact; whereupon, and without any further proceeding on the part of Congress, the admission of said State into the Union shall be considered as complete.

Mr. WADE. I have an amendment which I wish to offer to the amendment. It seems to me reasonable that some provision should be made for slaves that are born just before the period fixed as well as for all born afterwards who are to be free. I move to amend the amendment of the Senator from Virginia by inserting after the word "free," in the eighth line, the words, "and that all slaves within the said States who shall at the time aforesaid be under twenty-one years of age, shall be free when they arrive at the age of twenty-one."

I hope the Senators from Virginia will agree to it. I know it is a pretty strong movement in the direction of anti-slavery principle, but it asks no sacrifice of principle from the people there. It will make their bill run much smoother in the other House and much smoother with us. Gentlemen must be well aware that the vote I have just given against the proposition of my friend from Massachusetts was a very harsh and unsavory vote for me to give, but I thought it inharmonious and inconsistent with the real purpose we all had in view in admitting this new State. Still, it does seem to me that when we are making provision that the children of all slaves that shall be born after the 4th of July, 1863, shall be free absolutely, it is no more than right to say that all the children in the State at that period, who are under the age of twenty-one, shall be free as soon as they arrive at that age. That places them on the footing of all other persons, and still leaves a great residuum of slave population there that it does not interfere with; it leaves some rather hard cases undoubtedly; but then there are a great many of that class who are old, who have been in families a great while, and to whom probably it would be no great favor to interfere with their status. This provision I think is necessary. There is something exceedingly harsh and abrupt in the provisions of this bill unless it is smoothed down, softened, and rendered harmonious by such a provision as I now offer.

Mr. POMEROY. I want to inquire of the chairman whether, as the amendment now stands, it extends to all the counties named in the committee's bill, or only to those counties covered by the amendment of the Senator from Virginia?

Mr. WADE. I propose to amend the amendment. I suppose his amendment will be adopted, and the original bill rejected. I have no doubt that that is not to pass. This will be a substitute, as I understand, for the bill reported by the committee.

Mr. POMEROY. This, then, is an amendment to the amendment.

Mr. WADE. Yes, sir; it is an amendment to the amendment of the Senator from Virginia, because his proposition is the only one, I suppose, that will receive favor here. For myself, I am not now disposed to go for the original measure. I am satisfied that it would not be very safe legislation for us to admit the State under that first arrangement, and I suppose there is no idea here now of doing that. I suppose if the State is admitted it will be under the amendment offered by the Senator from Virginia, and I hope as amended by myself. I hope my amendment will be agreed to.

Mr. WILLEY. It is hardly necessary for me to say that I should have greatly preferred, if the State of West Virginia is to be admitted, that it should be according to the constitution exactly as it was submitted by that portion of the people of Virginia, without any condition and without any amendment. But, sir, feeling that the views, sentiments, and opinions of others in this body are entitled to all respect, I have deemed it but right to make an advance beyond what was personally agreeable to myself, and to offer the proposition, by way of amendment, which was read at the desk a while ago; and I had hoped that it would be the pleasure of the Senator from Ohio to allow the sense of the Senate to be taken on that amendment. I appreciate very highly the motives operating upon that Senator; I appreciate very highly and very gratefully the active coöperation he has given me in the progress of this matter; and I wish just here to make, very respectfully, some suggestions which I think very worthy of consideration.

I wish to suggest to the Senator from Ohio what will be the operation of his amendment if it prevails. I hope he will believe me when I say that in whatever form this bill shall pass, if it pass at all, the interests, the welfare, of the negro should by no means be overlooked; but I submit to him this consideration, whether practically and in point of fact the operation of his amendment, if passed, will not be prejudicial to the welfare and the intests of that portion of the slaves to be affected by it. If it pass, the result will be that all slaves under twenty-one years of age will be made free when they arrive at twenty-one years of age. That will embrace all ages from twenty-one down to one year. Nearly all those slaves now are in counties lying along the borders, or what will be the borders of the old State of Virginia if this bill passes. What will be the practical result? Nearly all these young slaves, instead of remaining at home under the mild system of usage and government which necessarily prevails within all the section proposed to be embraced in this new State, will be silently, at about a convenient age for sale, transferred across the border which lies at hand, either into Kentucky or into Virginia, or if need be, further south, into the cotton fields of the South, and there sold. Thus, instead of operating so as to secure the freedom of the class of negroes to be affected by this amendment, it will transfer them from slavery under its mild form in West Virginia to the cotton fields of the South, or the tobacco fields of the east, almost inevitably.

Another consideration: many of these are females, and if you would allow them to remain in the State all their offspring would be free. Pass this amendment, and they will be not only transferred to a worse form of slavery in a worse climate, to which they are not accustomed, but the offspring of all such as will be sold and transferred to the South will also forever remain in slavery, whereas if they remain in the State of West Virginia their offspring will be free.

Mr. LANE, of Kansas. Will the Senator permit me to ask him a question?

Mr. WILLEY. Certainly.

Mr. LANE, of Kansas. Will public sentiment in this new State sanction such action?

Mr. WILLEY. I will answer the Senator. I have already stated to the Senator, if I caught his ear, that nearly all these slaves lie in the counties of West Virginia which are contiguous to the old part of the State and to Kentucky, and they will be silently transferred. Public sentiment will know nothing about it. Public sentiment will not be affected by it. They will be silently transferred, and it will be impossible, in my estimation, to stop the transfer. And now I submit a question to the Senator who propounded one to me: with his views—I say nothing of my own—of the feelings of regard for public sentiment of the owners of these young slaves, who would thus sell them to the South, does he concede that they would be apt to be influenced by public sentiment? I can assure the Senator that such will be the practical result of this amendment if it is adopted.

I wish to make another suggestion to the Senator and to the Senate. We have within West Virginia a very considerable amount of secession sentiment yet. It is silent; it is under the ban of public opinion; it at present cowers, but it will avail itself of anything by which it may possibly stir up the prejudices of the people, and this will be used as an element and as an instrument by which an effort will be made to defeat this whole measure, and to prevent the convention, that it is proposed to reconvene, from adopting the fundamental proposition suggested, and the result of that will be that all the slaves in West Virginia will retain their present status, and there will be no freedom either to those who are living or to those who may be born.

I wish to make the further suggestion, whether, after the exhibition of loyalty to the Union, of fidelity to this Government, and after the exhibition of the public sentiment of that section of the State in regard to this matter, it is not a question which may safely and well be left to the management of public sentiment within the State. The passage of this amendment will tend to embarrass us. We have already embarrassments enough; we have already in this struggle for a State, and for a free State, a load sufficiently burdensome to carry; and I had hoped that it would be consistent with the feelings and the wishes and the principles of the honorable Senator from Ohio, to allow us to carry my amendment, if it be the sentiment of the Senate that it shall be carried, virtually giving to this Union what I have no doubt he so much desires, and the majority of the Senate so much desire, a free State in due time, and according to that plan of gradual emancipation which has been followed in all the present free States where slavery existed at the time of the Revolution. There, I believe, the slaves *in esse* were never freed; they were left slaves for life; and then the children who were freed were not set at liberty until twenty-five, twenty-seven, and twenty-eight years of age in many instances; seeing, as our wise fathers did see, that it was not only best for the interests of the masters and the welfare of the State, but was likewise better for the welfare of the slave himself, that this plan and process of gradual emancipation should be the one adopted.

I do not wish to detain the Senate in regard to this question. If it be the pleasure of the Senate to pass this amendment, I would respectfully suggest to the Senator from Ohio that he fix the age at twenty-five or twenty-seven years, or something

of that kind; but I trust that it may be his pleasure, upon reflection, to withdraw the proposition altogether, and let us give him a State in due time of the character which he desires, and which he admires. Judging from his expression, the purpose is not seriously entertained to pass the bill as reported by the committee, and I shall not detain the Senate by further argumentation on that matter. I submitted my views the other day, showing that there was an absolute incompatibility between the interests, the commercial relations, the social feelings, the habits, the wishes of the people in the valley counties proposed to be included, and the people within the limits of the proposed State, as provided in their constitution. It is said from very high authority, that whom God hath joined together let not man put asunder. The reverse of the maxim is true, whom God hath put asunder let no man attempt to put together. There is no identity of interest, there is no homogeneousness between the people of the valley and the people west of the Alleghany mountains, and we are to-day verifying that remarkable prediction of Mr. Webster, that whenever there was an attempt to withdraw Virginia from the Union, it would be seen that the inhabitants living upon the waters in that State which flow into the valley of the Mississippi would inevitably go with the people of that valley. As well, said he, might you expect to see the current of the Ohio and the vast rivers of that valley reversing their course, as to expect that Western Virginia should go into any southern organization.

I hope, sir, that the Senate will reject the amendment of the Senator from Ohio, and take the halfway proposition which we have made to it, and let us know whether, in that form, we can be admitted.

Mr. LANE, of Kansas. I desire to answer the Senator from Virginia, by a reference to a little of our experience or history. In February, 1856, the people of Kansas adopted a constitution in which we freed the slaves of Kansas on the 4th of July subsequently. The attempt stated by the Senator from Virginia was made by a portion of the slaveholders of Kansas, to spirit their slaves out of the State, but the slaves themselves stopped that business. They said to their masters, "we are to be freed on the 4th day of July, and you shall not take us from the borders of Kansas." They remained there and were freed there by the operation of the Topeka constitution and the law subsequently passed. I suppose the slaves of Virginia have as much sense as the slaves of Kansas had in 1856. Even if public sentiment would justify such an outrage—and I say it with all respect to the Senator from Virginia—the community that would permit such an outrage is not yet prepared for freedom. The slaves of Kansas said to the slaveholders, "you shall not take us out of Kansas," and they stopped it at the threshold, as I believe will be done in Virginia. I hope the amendment proposed by the Senator from Ohio will be adopted. I am as anxious for the reception of Virginia as a free State into the Union as either of the Senators from that State.

Mr. CARLILE. Mr. President, I am opposed to all these conditions, and would prefer the admission of West Virginia under the constitution as it has been presented to Congress; but if it shall be found to be the opinion of the Senate that conditions must be annexed, that we cannot be admitted at once under the action of the people within the proposed boundary so far as it has been had, I then desire to ascertain as far as I can what will be required by the Senate for our admission, in order that our people, if willing to accept your terms, may come here with that which will be acceptable to Congress at its next session. And, sir, since this subject was first suggested, we had it before our committee, of inserting some such provision as that proposed by the amendment of the Senator from Ohio, I have reflected upon it, and am satisfied that if the slaves that are to be born after the 4th of July, 1863, are to be freed, it is to the interest of the white people of Western Virginia that some such amendment as that of the Senator from Ohio shall be adopted. Otherwise we should present the anomalous condition of a State existing, for the lifetimes of all that are now in being, neither free nor slave. If it be an advantage that the State shall be made a free State, then I hold that those who are now in existence are entitled to the enjoyment of the benefit of that advantage as much as those who are to come after them. It would be a strange thing indeed, if a child born on the 3d day of July, 1863, should be a slave for life, while one born the next day was free from the instant he appeared in the world. I do not concur with my colleague in the opinion that the cupidity of those who own slaves within the boundary proposed, no matter whether residing remote or near the line between the two States, will be such as to induce any considerable number of those persons to transport beyond the limits of the proposed boundary their slaves, and pocket their value.

Mr. WADE. I do not wish to detain the Senate any longer on this subject; but it does seem to me that this State of West Virginia is essentially a free State. It is because it is a free State, and is forever to be a free State, that you are here now asking a separation. Why, then, should we stand higgling over the question whether there shall not be a few in this anomalous condition of slavery extending indefinitely into the future? I do not believe the spectacle would be gratifying to the people there, who have nobly emancipated themselves from that condition. I believe, with the Senator from Virginia who has just spoken, that in this there would be a strange and harsh anomaly, one inexplicable, one that no man who has had anything to do with this bill could justify to himself or to his constituents, when challenged on the subject. Suppose the question was put, "when you provided for the freedom of all born after a certain period, why did you not make the same provision for that great number of persons who happened to be *in esse* a little before that period? Was there any great reason why all born after a particular day should be free, and all those born the year before, or the month before, or the week before, should be slaves?" It strikes me that that would not be satisfactory to anybody. It is not in harmony with the reasoning of the human mind; it would not subserve the purposes of common justice. And let me say to the Senator from Virginia, [Mr. WILLEY,] you are to be a free State; you are to be numbered with the free States; you have seen fit to put your fate with the free States; you have asked to join us, and to abide with us in all time to come; you will be a free State, and you will not wish to leave any marks of your former servitude any longer than you can help. Having made up your minds most nobly, as you have, and come forward and asked admission on these great free principles, for Heaven's sake do not stickle over this. There must be a little compromise here. There is no question that touches the feelings of mankind, like that involved even in this case, that does not require some compromise. We have gone to the very verge of northern feeling in order to admit you, because we know you are all right at heart, and by the time your constitution is in operation you will be glad that we recommended to you the amendment I have proposed. I hope it will be adopted, and not grudgingly, by the other side.

The PRESIDENT *pro tempore*. The question is on the amendment of the Senator from Ohio to the amendment of the Senator from Virginia.

The amendment to the amendment was agreed to.

Mr. CARLILE. I propose to amend the amendment of my colleague, by inserting after the word "shall," in the sixteenth line, the words, "after the said ordinance shall be submitted to a vote of the people in said State of West Virginia, and be ratified by the vote of the majority of the people thereof."

Mr. WILLEY. This amendment of my colleague seems to me a very extraordinary one. A vote of the majority of the people is a very extraordinary sort of vote. It is not usual, I believe, when you submit a thing, that a majority of the people shall be required, men, women, and children, and negroes themselves, for I suppose they are called people. But I object to it on other grounds, and I will state the grounds of the objection. The people of Northwestern Virginia have been very much harassed. They have had difficulties of a diverse character in this reorganization of the State. A great many elections have been held. In appointing the convention which ordained this constitution, and in reassembling the Legislature to give their assent to it, they have incurred a great deal of expense and a great deal of delay, and they are not in a condition to incur much more, unless it be absolutely necessary. The operation of the amendment of my colleague would be to have not only a new convention, assenting to this fundamental proposition, but sending it back to the people, imposing on the people the very considerable cost as well as the trouble of a new election. To avoid that, and to provide for any incident which might arise in the prosecution of their object, the convention which ordained the constitution now before Congress, wisely, as I think—and especially does it appear to be wise in the light of the amendment of my colleague—refused to dissolve the convention, but by express stipulation in a schedule adopted by them, appointed certain commissioners who were authorized to reassemble the convention upon any occasion necessary; and by looking to the second section of the schedule annexed to the constitution, as printed and laid before the Senate, the Senate will see who the commissioners are who have been appointed, and on turning to the eleventh section of the schedule it will appear "that the commissioners hereby appointed shall have power, if it become necessary, to reconvene the members of this convention on such day as they may prescribe," so that the convention is still in existence, still a legal body, and it has provided for its own reassembling.

In a matter like this, and especially after the voluntary expression of the people at the polls in regard to the subject involved in this amendment at the election when they adopted this constitution, it does seem to me there is no necessity for sending this question back to them; but let the people of West Virginia, in convention assembled, to be reconvened under the authority and power reserved in the schedule annexed to the constitution, say whether they will assent to this proposition or not, as I think they have a perfect right to do, without going through all these formalities again, without imposing upon our people the trouble and expense that it necessarily would impose upon them, and accomplish as satisfactorily, I am sure, the object designed by us all, as if there is another election held. The people do not want to be troubled with it in my humble estimation, and there is no necessity for doing it. The proposition, as I have presented it, is almost a literal copy of the celebrated Missouri resolution. The question of the adoption by the people of the State of Missouri of the condition prescribed by Congress was not submitted to the people even in convention assembled, but to the Legislature; and if the Legislature consented they were thereupon to be admitted into the Union without any further proceedings whatever. I follow this precedent, and I go a little further, as we have it in our power to do, by submitting it not to the Legislature of the new State, but to the people themselves in convention to be assembled under the authority which I have mentioned. I hope my colleague will withdraw his proposition.

Mr. CARLILE. Mr. President, I did not detain the Senate by any explanatory remarks upon the amendment, because I supposed the propriety of it would not be questioned. I use the word "people" as synonymous with "voters." It is so used, I believe, in other portions of this bill; but I will, with the consent of the Senate, modify my amendment by adding, after the word "people," the words which the Secretary has now taken down, "entitled to exercise the right of suffrage under the laws of the State of Virginia," which will settle at once what I suppose would have been settled anyhow.

The PRESIDENT *pro tempore*. The Senator can modify his amendment at his own pleasure.

Mr. CARLILE. I have so modified it; and now, at this stage, it is better for me to make the remarks I intended to make upon submitting a further amendment, which I conceive it my duty to do under the request of the Legislature through whose action this memorial reached this body.

My colleague says that the provision which is contained in his amendment is a copy of the action of Congress in regard to Missouri. There is this important difference, Mr. President; and I will show, I think, before I am done, wherein it is important. The resolution with regard to Missouri made it the duty of the first Legislature that should assemble in Missouri to accept this fundamental condition, which was, that the Legislature never would pass any law excluding from the State of Missouri citizens of other States. My colleague's proposition does not submit this question to the

Legislature of the State, but proposes to submit it to the convention that formed the constitution, itself the creature of another convention; and, as I shall show, composed, to a very considerable extent, of members who were elected with a much smaller vote than were the members who composed the Legislature of the State.

In this case, the members of the convention to whom my colleague proposes to submit these conditions precedent to our admission, changing the Constitution proposed by them as essentially as if you were to turn day into night, were elected last fall. They submitted a constitution—the one now before the Senate—to the people, recognizing all existing rights of property and social institutions as they now exist. This constitution the people adopted. These conditions change the fundamental law, interfere with the existing rights of the people, propose that their own domestic institutions shall be changed at the bidding of Congress, if some thirty or forty gentlemen who last year composed a convention shall assent thereto. Three hundred and forty thousand people, in everything pertaining to their government, represented by fifty thousand voters, are to be bound by these gentlemen who met last year to frame for, and propose to this people a constitution which, if adopted, was to be the organic law.

Missouri was a Territory seeking admission as a State. In the case before the Senate, a State consents to the formation of another State within its own limits. In the case of Missouri the Legislature was to be elected under the new constitution after the passage by Congress of the resolution which my colleague cites as a precedent. Of course, the question involved in the resolution came directly before the people of Missouri in the election of members of the Legislature. Let it be remembered, too, that the Missouri resolution was in direct conflict with the treaty by which that Territory was ceded to the United States, and, therefore, a nullity.

It will be remarked, too, by the Senate that there are three fundamental conditions now in the amendment of my colleague, which must be accepted before the assent of Congress, if his bill shall pass, can be given to the admission of the State of West Virginia: first, upon the fundamental condition that all slaves born after the 4th of July, 1863, shall be free; second, that all slaves under the age of twenty-one years shall be free upon arriving at that age; third, that the clause in the constitution excluding free negroes from the limits of that State shall never be so construed as to authorize the passage of any law on the part of the Legislature excluding from it citizens of the several States of this Union.

The PRESIDENT *pro tempore*. The Senator will suspend his remarks to receive a message from the House of Representatives.

Mr. CARLILE. Certainly.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. MORRIS, its Chief Clerk, announced that the House of Representatives had passed a bill (No. 571) to punish the fraudulent sale or use of postage stamps, in which it requested the concurrence of the Senate.

The message also announced that the House of Representatives had disagreed to the amendments of the Senate to the bill of the House (No. 524) prohibiting the confinement of persons in the military service of the United States in the penitentiary of the District of Columbia, except as a punishment for certain crimes, and to discharge therefrom certain convicts by sentence of courts-martial, and for other purposes, asked a conference on the disagreeing votes of the two Houses thereon, and had appointed Mr. JAMES F. WILSON of Iowa, Mr. HENRY L. DAWES of Massachusetts, and Mr. JOHN S. PHELPS of Missouri, managers at the same on its part.

The message also announced that the House of Representatives had agreed to the amendment of the Senate to the bill of the House (No. 525) in relation to the election of Representatives to Congress by single districts.

BILLS BECOME LAWS.

The message further announced that the President of the United States had approved and signed, on the 11th instant, the following acts and joint resolutions:

An act (H. R. No. 187) to authorize an additional issue of United States notes, and for other purposes;

An act (H. R. No. 328) for the relief of Louisa Abert Byrne;

An act (H. R. No. 393) making further appropriations for sundry civil expenses of the Government for the year ending 30th of June, 1863, and additional appropriations for the year ending 30th of June, 1862;

An act (H. R. No. 529) concerning certain lands heretofore granted to the State of Iowa;

An act (H. R. No. 540) making appropriations for the payment of the bounty authorized by the sixth section of an act entitled "An act to authorize the employment of volunteers to aid in enforcing the laws and protecting public property," approved July 22, 1861, and for other purposes;

An act (H. R. No. 543) relating to schools for the education of colored children in the cities of Washington and Georgetown, in the District of Columbia;

An act (H. R. No. 545) to authorize the Secretary of the Treasury to appoint a deputy collector of customs at Chincoteague Island, in the State of Virginia;

An act (H. R. No. 549) to abolish certain ports of delivery in the Mississippi valley;

An act (H. R. No. 556) to change the place of holding the circuit and district courts of the United States for the district of West Tennessee;

A joint resolution (H. R. No. 71) providing for the distribution of surplus copies of the Biennial Register for 1861, among the several bureaus of the Executive Departments;

A joint resolution (H. R. No. 87) to confirm the adverse decision of the Court of Claims in the case of Dennis Cronans;

A joint resolution (H. R. No. 88) to confirm the adverse decision of the Court of Claims in the case of T. S. J. Johnson;

A joint resolution (H. R. No. 89) to confirm the adverse decision of the Court of Claims in the case of executor of Lewis Warrington and others;

A joint resolution (H. R. No. 90) to confirm the adverse decision of the Court of Claims in the case of Abraham King, administrator of John Mandeville;

A joint resolution (H. R. No. 91) to confirm the adverse decision of the Court of Claims in the case of Richard Irvin, trustee of the Mechanics' Bank, New York; and

A joint resolution (H. R. No. 92) to confirm the adverse decision of the Court of Claims in the case of C. J. Jenkins and W. W. Mann, assignees of John McKennie.

ENROLLED BILLS SIGNED.

The message further announced that the Speaker of the House of Representatives had signed the following enrolled bills and joint resolution; which thereupon received the signature of the President *pro tempore:*

A bill (S. No. 89) to amend the act of 3d March, 1837, entitled "An act supplementary to the act entitled 'An act to amend the judicial system of the United States;'"

A bill (S. No. 123) to extend the provisions of the act of August 4, 1852, entitled "An act to grant the right of way to all rail and plank roads," &c., for the term of five years, and to amend the same;

A bill (S. No. 363) to authorize the Secretary of the Navy to accept the title to League Island, in the Delaware river, for naval purposes;

A bill (H. R. No. 84) for the relief of preëmptors on the Home reservation of the Winnebagoes, in the Blue-earth region, in the State of Minnesota;

A bill (H. R. No. 437) to extend the territorial limits of the Territory of Nevada;

A bill (H. R. No. 438) to grant pensions;

A bill (H. R. No. 471) to suppress insurrection, to punish treason and rebellion, to seize and confiscate the property of rebels, and for other purposes;

A bill (H. R. No. 525) in relation to the election of Representatives to Congress by single districts;

A bill (H. R. No. 531) increasing temporarily the duties on imports, and for other purposes.

A bill (H. R. No. 550) to further provide for the collection of the revenue on the northern, northeastern, and northwestern frontier, and for other purposes;

A bill (H. R. No. 553) to establish additional post routes;

A joint resolution (H. R. No. 39) to declare the meaning of "An act to authorize the President of the United States in certain cases to take possession of railroads and telegraph lines, and for other purposes," approved January 31, 1862, and to repeal a part of said act.

FRAUDULENT USE OF POSTAGE STAMPS.

Mr. COLLAMER. A bill has just been received from the House of Representatives to which I desire to call the attention of the Senate for one moment, if the gentleman from Virginia will indulge me.

Mr. CARLILE. Certainly.

Mr. COLLAMER. Very recent events have shown that a new mode of defrauding the Government has come into use, or been discovered within the last few days, which it needs a statute to prevent. This bill from the House of Representatives accomplishes that object, and I desire that it may be passed. I will explain it in one moment by reading a letter from the Post Office Department to me on this subject:

POST OFFICE DEPARTMENT,
APPOINTMENT OFFICE, WASHINGTON, *July* 12, 1862.

SIR: The Postmaster General instructs me to call the attention of the Postal Committees of the Senate and House to the necessity of a penal law of the character of the draft herewith inclosed. Late investigations have disclosed extensive operations in chemical washing off of canceling marks on stamps, and then selling them for use in large and small lots. It is not found that any law punishes the offense until they are actually used, when it is nearly impossible to show the guilty knowledge in such cases.

I respectfully request that action may be taken thereon at this session. I inclose a report by special agent on this subject.

I have the honor to be, very respectfully, your obedient servant, JOHN A. KASSON.

First Assistant Postmaster General.

Hon. J. COLLAMER, *Chairman, United States Senate.*
Hon. S. COLFAX, *Chairman, House of Representatives.*

This is a bill merely to declare that the defacing of the marks which show that the stamp has been used, and the using of it again, is penal and punishable.

The PRESIDENT *pro tempore*. The Senator from Vermont asks the unanimous consent of the Senate to consider at the present time House bill No. 571, to punish the fraudulent sale or use of postage stamps, which has just been brought to the Senate from the House of Representatives. Does any Senator object to the present consideration of this bill?

There being no objection, the bill was read twice by its title and considered as in Committee of the Whole. The bill declares that every person who shall willfully remove or cause to be removed from any postage stamp or stamped envelope the canceling or defacing marks thereon with intent to use the same or cause the use of the same the second time, or shall knowingly or willfully sell or buy such washed or restored stamp, or offer the same for sale, or give or expose the same to any person for use, or knowingly use the same or prepare the same with intent for the second use thereof, shall, on conviction, be adjudged guilty of felony, and shall be punished by imprisonment not exceeding three years, or by fine not exceeding $1,000, or both imprisonment and fine, and one half such fine, when collected, shall be paid to the informer.

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

GOVERNMENT CONTRACTS.

Mr. HALE. I ask the unanimous consent of the Senate to take up and pass the bill that was postponed for the purpose of taking up the bill for the admission of West Virginia. Both the Senator from Illinois [Mr. TRUMBULL] and the Senator from Pennsylvania [Mr. COWAN] withdraw their objection to it; and it will only take about two minutes to pass it.

The PRESIDENT *pro tempore*. It can only be done by unanimous consent. No objection being made, the pending bill will be laid aside for the time being that the Senate may consider the bill indicated by the Senator from New Hampshire.

The Senate resumed the consideration of the bill (S. No. 350) to repeal an act entitled "An act to prevent and punish fraud on the part of officers intrusted with the making of contracts," approved June 2, 1862.

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

On motion of Mr. HALE, the title was amended so as to read:

A bill to suspend temporarily the operation of an act entitled "An act to prevent and punish fraud on the part of officers intrusted with the making of contracts," approved June 2, 1862.

ADMISSION OF WEST VIRGINIA.

The PRESIDENT *pro tempore*. The Senator from Virginia [Mr. CARLILE] is entitled to the floor on the amendment moved by himself to the amendment of his colleague to the bill (S. No. 365) providing for the admission of the State of West Virginia into the Union.

Mr. CARLILE. Mr. President, the great object to be attained, and one of the great benefits that I expect the people of the proposed new State will derive upon their admission into the Union, is the unanimity of sentiment and the cordiality of action which it will bring about. The conventions which have assembled looking to the formation of this State, the Legislature in its action looking to the formation of the State, all have carefully respected the time-honored and established law of our State, which is never to make any change in our organic laws until the proposed change is first submitted to the people of the State, and by them ratified and adopted. Now, sir, three changes of so much importance as to justify the Congress of the nation in withholding from that people their assent to their separate organization, are incorporated in this amendment. That they are important and of the highest moment to the people who are to be subject to these provisions, is shown by the fact that the Senate is unwilling to act without an acceptance of these conditions. Would it not be a departure from all our ideas which have grown with our growth and strengthened with our strength, and which we derive from the fundamental proposition that lies at the basis of all our institutions, to wit, that all governmental power is derived from the people, if we were to subject them to solemn fundamental covenants, holding that people responsible for the fulfillment of these conditions, and refusing to consult them as to whether they are willing to be bound by these stipulations.

Sir, from the beginning of this movement I have taken, I may say without arrogating anything to myself, a prominent position in the front rank in favor of this separation; but I have done it always with the conviction that every step that was to be taken, every act that was to be done, should be approved by the people themselves who are to be affected by the proposed action. I am indebted to the Wheeling Intelligencer of the first day of this month for furnishing to me a quotation from some remarks that I made in the convention when the proposition was pending before that body to authorize the sense of the people to be taken on the proposed new State, which I will read, showing that I am acting in perfect accordance with every movement I have made connected with this subject from its incipiency. Upon a resolution which I had the honor to submit to that convention, and which gave rise to this proceeding which is now before the Senate, instructing a committee "to report an ordinance providing for the formation of a separate State out of, and to be composed of the following counties, to wit"—naming them—some discussion arose. There was a desire on the part of members of the convention to include within the resolution counties which I had not named, and in reply I stated what I now read:

"That I was not for including within the limits of this new State a single county which I did not believe, by a large majority of its people, would desire to be a part and parcel of it."

The ordinance providing for taking the sense of the people within the proposed boundary upon a new State and—in the event a majority should be found voting for it—providing for the organization of a convention to form a constitution for the government of the new State, expressly provides, in so many words, that the constitution thus formed shall be submitted to the people at the polls for their ratification or rejection; and in pursuance of that provision of the ordinance, this constitution now before the Senate was, after its adoption by the convention, proposed to the people of the State, and their votes, to the extent that they voted, were taken upon it. Would it be a compliance with this spirit of the ordinance of the convention to change that constitution, to add other and further provisions deemed by the Senate of so much importance as to require an addition, and to hold that people responsible for the fulfillment of these conditions, without you first consult them upon it, and they agree to it? I put that question to the Senate. I put it to Republicans, to Democrats, to Whigs; I put it to men of every complexion and of every hue of political opinion whether it would not be a strange anomaly in the history of this country if three provisions of so much importance as those that are proposed in this amendment are to be placed upon a people, and they expected to carry them out in good faith without ever having been consulted upon them. I cannot for a moment entertain the idea that the amendment I propose will be rejected by this body.

But, Mr. President, there are other considerations; there are other reasons why this should be done. In the proposed boundaries of the amendment now pending before the Senate, the tables show some forty-seven thousand voters, forty-seven thousand persons within those boundaries entitled to exercise the right of suffrage, and who did exercise it at the last presidential election. The returns which are now in the possession of the Senate show that but about nineteen thousand of those forty-seven thousand voted upon this proposition. A majority of the voting population within the boundaries of this proposed new State have never assented even to the constitution that is now before you by a direct vote at the polls. The only assent that has been given which strengthens the vote at the polls is the assent given by those counties through their representatives in the General Assembly who were present and voted; and because of the request of that body thus given, I have felt it my duty, and shall continue to feel it to be my duty, to ask the Senate for a vote directly upon the proposition which is transmitted to us through the Legislature, and which we are requested to present to the Senate.

But, sir, if we have to go back, if the request of the Legislature cannot be granted, if, after a discharge of our duty here by complying with that request, the Senate shall determine that that cannot be granted, but that other and further steps are necessary to be taken in order to secure our admission, I shall, as I have done heretofore, insist at every step that the people shall have at least the privilege of pronouncing upon any and every proposition. Why do we want this new State? Because of the interests that will be promoted in times of peace. We know that in the time of war it matters not where we are, so far as the material and pecuniary interests of the people are to be affected. The separation by mere imaginary lines dividing States will not give to the people within the proposed new State any greater or increased security from the horrors of war and the desolation of war than if they were not separated. The great objects to be promoted by this separation are to be enjoyed upon the return of peace with the single solitary object, which I consider a very important one to us at this particular time—that of uniting together as many of our people as we can in the same cause and for the same object. I believe that a separation and organization of this State will, the instant it is accomplished, at least quiet very many who are now induced to adhere to their secession proclivities because of this singular idea that they owe their first allegiance to the State. Get them within our own boundaries, give them our own State in which they reside, and we will direct their allegiance as we have adhered to our own to the State and to the Federal Government of which it forms a part. That, sir, is the only advantage now to be derived by immediate action on this proposition. The other privileges are to be enjoyed when peace shall once more smile upon our country.

Mr. POMEROY. I simply wish to say, in a single word, that if this amendment of the Senator's is adopted, or even if there is a prolonged discussion upon it, the simple effect will be to put off the measure for this session. If the Senator himself is not in favor of the admission of Western Virginia, he need not expect others to be; and if the people of Western Virginia do not send Senators here who are in favor of this measure, they certainly cannot expect to get it through.

Mr. CARLILE. I do not think there has been anything that I have said or done to justify the remark of the Senator from Kansas. As I stated in the outset, I am in favor of the admission of West Virginia, if you admit her under the constitution which she has brought here; but you refuse that, and seek to impose conditions upon her people changing radically the fundamental law as they had adopted it, and deny to them even an opportunity to say whether or not your terms are acceptable to them. The Senator from Kansas is in favor of the admission of West Virginia upon certain conditions. He proposes to admit West Virginia with such a constitution as he shall prescribe for the government of her people. I propose to admit her with the constitution she has formed for her own government. I am in favor of her admission without conditions upon the precise terms that she asks.

Mr. POMEROY. The amendment that has been proposed will allow the State of Virginia to come into the Union speedily by the action of the convention. I supposed that these people were anxious for immediate action. It has been so represented to the committee. As the chairman has very well stated this morning, we acted on the idea that immediate action was called for in this matter. If the Senator from Virginia himself, representing that State, takes the responsibility of proposing an amendment which delays the matter for another year, he alone is responsible for the effect of that vote. We are for admitting the State, and providing that the convention may accept or reject the proposition immediately, and come into the Union.

Mr. CARLILE. Mr. President, I trust I am aware of the responsibility I assume, and I shall take care of all its consequences without calling upon the Senator from Kansas, or troubling him in the slightest degree. I intend to show, before I get through, that the suggestions of the Senator are not founded in a correct understanding of the proposition before the Senate. What does it propose, if this bill shall pass, and you hold that people bound by stipulations and fundamental conditions to which they have never assented? Even your own amendment does not provide for the admission of the State earlier than sixty days after the 15th day of next November; and that brings us to the middle of next January. This Congress will meet here on the first Monday of December next. If we come here with a constitution framed in accordance with the suggestions that have been thrown out to us by this body, emanating from the people—not in obedience to your direction, or not in obedience to your exaction, but emanating from them spontaneously, for the purpose of securing their admission into the Union, acting upon the suggestions they have received at your hands—what is there to prevent the admission of the State, under such a constitution, earlier than you provide in that amendment for her admission, when the Congress meets here on the 1st day of December next, and the amendment itself runs it into the middle of January before she is admitted? There is nothing in that idea at all.

I intend to deal frankly with the Senate. I have no concealments, never have any, and never intend, in a representative capacity at least, to conceal from my brethren and colleagues who are to act with me, any opinions that I entertain. What are they? Supposing—as I suppose I will see when I move the test amendment, which I shall, to this proposition—that the Senate is unwilling to admit us without conditions, I shall vote against any bill, if it is pressed, exacting conditions, for the purpose of going home to my people, asking them to assemble a convention between this and the first Monday in December, and act upon the suggestions which we have received here from the Senate, if they desire to do so, and come here with a constitution that will enable Congress, without any arbitrary stretch of power, to admit us at once without delay. That is the course I propose to take, whenever the Senate shall, as I presume it will, by a majority of its votes refuse to so amend the amendment of my colleague as to strike out all his proposition after the word "whatever." And why do I do it? Mr. President, the people of West Virginia not only desire an admission into the Union; but they wish to preserve their liberties under the Constitution of the United States, and I shall be mistaken if they surrender the high privilege of freemen, that of forming for themselves, free and untrammeled, their own organic law. They will never consent that this

Congress shall prescribe for them a form of government. Such exercise of power has never been submitted to by the people of this country since the day our fathers declared the independence of the colonies; prior to that, forms of government were prescribed for them by the British Crown. The exercise of such a power by Congress, if submitted to by the people of West Virginia, would not only affect them, but it would be an assertion of power over a free people that would alarm the fears of the patriot and encourage the traitor in arms. The people of West Virginia value constitutional liberty; they do not look alone to their interests, isolated and disconnected from the interests of their fellow-citizens throughout the entire country. In proof of this I will take occasion to read some remarks which I had the honor of submitting to the convention when this very proposition was before it, in June of last year, and the convention acted in accordance with the suggestions of the remarks which I shall read; and to show that their devotion to this Union is higher and greater than any other consideration that influences them, and that they were then willing, if it would in the slightest degree complicate the difficulties that then surrounded us, and still surround us, to forego for the time action upon their proposed separation. I read from the National Intelligencer of the 22d of June, 1861:

"The objects of the new State organization in Western Virginia were very clearly stated in the Wheeling convention, on the 14th instant, by Mr. JOHN S. CARLILE, a prominent mover in the new movement. We copy his concluding remarks from the report of the Wheeling Intelligencer:

"'Let us pursue the policy laid down in the declaration, and let us repudiate Letcher and his transfer; let us assemble a Legislature here of our own, sworn to support, not the southern confederacy constitution, but that which Washington and Madison formed; the Constitution of our fathers, under which we have grown and prospered as never people grew and prospered before.

"'Let us maintain our position under that tree of liberty watered by the blood and tears of the patriots of the Revolution, planted by them, its roots having taken deep and firm hold in the hearts of a great people; and having, from a little spot of earth, spread from the Atlantic to the Pacific, embracing, I might say, a continent, and spreading its branches of protection over the whole unbounded land. Let us organize a Legislature swearing allegiance to that Government, and let that Legislature be recognized by the United States Government as the Legislature of Virginia.

"'Then we have still a direct recognition of the protecting care of our ancient Government, and then we will effect this separation. But now, with no Legislature recognized as owing allegiance to the Constitution of the United States, we could not do it.

"'With the Legislature recognized as still the Legislature of the State, with Virginia in the Union, with a Legislature recognized by the Government of the United States, and with its assent to our separation, our way is clear. And if the southern confederacy dares to interpose, we have the strong arm of that same old Government to be thrown around us and to shelter us from harm.

"'Let us, then, go on as we propose. Let us be recognized as the true and lawful authorities, speaking for and on behalf of the loyal people of the whole State of Virginia. Give us that recognition, and then the separation will come. And here I say that one of the first acts I shall perform, if no one else does it—and I believe it a duty I owe to the people who have honored me with a seat in Congress—will be to obtain from that body a legislative declaration recognizing this Legislature as the Legislature of the State; and then let my friends, the representatives, assent to it, and my word for it, we will be the State of New Virginia.

"'It is a mere question now of whether we shall wait until we are solemnly recognized as the true, legal, constitutional representatives of the people of Virginia, or whether we shall now attempt an impossibility; for every man who will reflect a moment will know that until rebellion is crushed no assent will be attained for our separation from the rebellious portion of this State.

"'But, sir, there is another object which I have at heart. Two great objects influence and govern my actions. The first, I am free to say, the dearest, the highest, and the nearest my heart, is the perpetuity of the Union. Keeping forever undimmed the thirty-four stars that now deck the constellation of our national ensign, adding to them, as we have done, star after star; when that is done, when safety and perpetuity are again secured to that flag, then we can consider our own State interests; then we can consider the interests of our immediate section of this State; but until then we owe it to our loyal brothers throughout the length and breadth of this great land to stand by them and aid them in resisting a crime the greatest that has ever been attempted to be perpetrated on humanity.

"'Let us do this, succeed in this, and we will succeed in all we desire in a very short time. Let us bring peace again to our Loudoun, Alexandria, and Hampshire friends. Let our brothers over the mountains, through our aid and assistance, and that of this great and good Government of ours, again see harmony throughout the land, again sit around their hearthstones with their families, and again instil in the quiet hours of peace the lessons the Father of his Country has bequeathed to us in his Farewell Address. Then we may say to them, 'we love you still as brothers, but your interests and ways and ours are diverse. Let this line be drawn between us. We will have two separate and distinct sovereign States, but brethren we will all be American citizens.'"

Sir, I have no fear of any responsibility that I may assume in the conscientious and honest discharge of my representative duty here, with such a record as that to which I have briefly referred upon this subject. On the contrary, instead of assuming responsibilities, I feel that I am but carrying out the will and the wishes of that people. I feel that I am but acting in accordance with what would be the desire of the representatives in the Legislature who sent to us this memorial, praying their admission under the constitution which is now before the body. The early accomplishment of the object, of course, is desirable. No one could desire it more than I do. But when I find we will not hasten the accomplishment of that object; when I find that we have to go over this session of Congress; when I find that under no circumstances can we get into the Union until the next session of Congress, I greatly prefer that that mode to which I referred shall be pursued by our people of their own motion, making a constitution for themselves, and if they desire they can make it in accordance with the suggestions given to us by the Senate, and come here ready, prepared, without any conditions to be imposed, to seek admission into the family of States on the meeting of Congress on the first Monday of December next. It will not delay therefore at all our admission. The amendment of my colleague contemplates a delay now to a point of time beyond which there is any necessity for our remaining out of the Union as a separate State.

But, sir, there are other considerations. The great object that I have in view is unanimity among our people. The great object I have in view is to prevent anything like divisions and dissensions, and to heal up what we have. We have too many already; and I know that if you attempt to impose upon that people conditions in their organic act without consulting them, such an attempt will be viewed by them as an assertion of powers not conferred upon you by the Constitution. The people of Northwestern Virginia have given abundant evidence that they know their rights, and knowing, dare maintain them.

Mr. LANE, of Kansas. I should like to ask the Senator from Virginia a question.

Mr. CARLILE. Certainly.

Mr. LANE, of Kansas. Does he not belong to the party that undertook to place conditions on the admission of Kansas into the Union under a constitution formed by her?

Mr. CARLILE. No, sir. I will say, if my record is worth anything to the Senator from Kansas, the first time I ever differed in my life with the Democratic party after I arrived at maturity, was upon the passage of that very Kansas-Nebraska bill in 1854; and I was elected in opposition to the organization of that party a member of the other branch of Congress in the spring of 1855.

Mr. WILSON, of Massachusetts. Will the Senator from Virginia give way to enable me to have a committee of conference appointed on a bill which has been returned from the House?

Mr. CARLILE. Certainly.

SOLDIERS CONFINED IN PENITENTIARY.

On motion of Mr. WILSON, of Massachusetts, the Senate proceeded to consider its amendments to the bill of the House (No. 524) prohibiting the confinement of persons in the military service of the United States in the penitentiary of the District of Columbia, except as a punishment for certain crimes, and to discharge therefrom certain convicts by sentence of courts-martial, and for other purposes, disagreed to by the House of Representatives.

On motion of Mr. WILSON, of Massachusetts, it was

Resolved, That the Senate insist upon its amendments to the said bill disagreed to by the House of Representatives, and agree to the conference asked by the House on the disagreeing votes of the two Houses thereon.

Ordered, That the committee of conference on the part of the Senate be appointed by the President *pro tempore*.

The PRESIDENT *pro tempore* appointed Mr. WILSON of Massachusetts, Mr. LANE of Indiana, and Mr. WILKINSON.

BILLS BECOME LAWS.

A message from the President of the United States, by Mr. NICOLAY, his Secretary, announced that the President had approved and signed, on the 12th instant, the following acts and joint resolutions:

A joint resolution (S. No. 80) authorizing the State of Minnesota to change the line of certain branch railroads in said State, and for other purposes;

A joint resolution (S. No. 82) to provide for the presentation of "medals of honor" to the enlisted men of the Army and volunteer forces who have distinguished or may distinguish themselves in battle during the present rebellion;

A joint resolution (S. No. 76) relating to the compensation of Senators elected or appointed to fill vacancies;

A joint resolution (S. No. 78) to suspend all payments under the act approved March 25, 1862, entitled "An act to secure to the officers and men actually employed in the Western department or department of Missouri, their pay, bounty, and pension," and for other purposes;

A joint resolution (S. No. 93) in relation to contracts with the United States;

An act (S. No. 119) confirming a land claim in the State of Iowa, and for other purposes;

An act (S. No. 318) for relief in the land claim in California known as the claim of Francisco Soberanes to a tract of land known as "Saujon de Santa Rita;"

An act (S. No. 371) for the relief of Fanny Mactier Smith;

An act to amend an act entitled "An act to aid in the construction of a railroad and telegraph line from the Mississippi river to the Pacific ocean, and to secure to the Government the use of the same for postal, military, and other purposes," approved July 2, 1862;

An act (S. No. 351) supplementary to "An act for the release of certain persons held to service or labor in the District of Columbia," approved April 16, 1862; and

An act (S. No. 316) to provide for the payment of fines and penalties collected by or paid to the justices of the peace of the District of Columbia, under the act of Congress approved the 3d and 5th of August, 1862, and for other purposes.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. MORRIS, Chief Clerk, announced that the House of Representatives had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the bill (H. R. No. 280) to establish and equalize the grades of line officers in the United States Navy.

The message also announced that the House of Representatives had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the bill (S. No. 348) for the better government of the Navy of the United States.

The message further announced that the House of Representatives had concurred in the resolution of the Senate fixing a day for the adjournment of Congress.

OATH OF ALLEGIANCE.

Mr. CHANDLER. Mr. President——

The PRESIDENT *pro tempore*. The Senator from Virginia is entitled to the floor. Does he yield to the Senator from Michigan?

Mr. CHANDLER. I hope the Senator will yield to allow us to pass a couple of bills that will not lead to any discussion and will only occupy about three minutes. They are believed by the Secretary of the Treasury to be important, and I wish them to go to the House of Representatives today. If the Senator will yield, I shall feel greatly obliged to him.

Mr. CARLILE. I yield.

The PRESIDENT *pro tempore*. Not only must the Senator from Virginia yield, but it also requires the unanimous consent of the whole Senate.

Mr. CHANDLER. If there is any objection, I will not ask it.

The PRESIDENT *pro tempore*. No objection being interposed, the bills will be entertained, and put on their passage.

Mr. CHANDLER. I ask the Senate to take up the bill (S. No. 202) requiring the commanders of American vessels sailing to foreign ports to take the oath of allegiance.

There being no objection, the bill was read a second time, and considered as in Committee of the Whole. It directs that the commanders of all American vessels sailing from ports in the United States to foreign ports, during the continuance of the present rebellion, shall be required to take the

THE CONGRESSIONAL GLOBE.

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

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oath of allegiance and support the Constitution of the United States, (or affirm, as the case may be,) as required of persons in the civil service of the United States by the provisions of the act of Congress approved August 6, 1861. The oath or affirmation may be taken before any justice of the peace, notary public, or other person who is legally authorized to administer an oath in the State or district where the same may be administered; and any violation of it will subject the offender to all the pains and penalties of willful and corrupt perjury, and be liable to be indicted and prosecuted to conviction for any such offense before any court having competent jurisdiction theerof.

Mr. RICE. I have an amendment that I should like to offer to this bill. It is in line five of section one, after the word "rebellion," to insert the words "and all persons prosecuting claims either as attorney or on his own account before any of the Departments or bureaus of the United States;" so that it will read:

That the commanders of all American sailing vessels from ports in the United States to foreign ports, during the continuance of the present rebellion, and all persons prosecuting claims either as attorney or on his own account before any of the Departments or bureaus of the United States, shall be required to take the oath of allegiance, &c.

Mr. CHANDLER. I hope the amendment will be adopted.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in. The bill was ordered to be engrossed for a third reading, was read the third time, and passed.

The title was amended so as to read, "A bill requiring the commanders of American vessels and persons prosecuting claims to take the oath of allegiance."

CALIFORNIA COLLECTION DISTRICTS.

Mr. CHANDLER. I now ask that Senate bill No. 203 be taken up. It will save from fifteen to eighteen thousand dollars to the Government, and will not lead to any discussion.

The PRESIDENT *pro tempore*. The Senator from Virginia yielding the floor, and no other Senator objecting——

Mr. GRIMES. I call for the reading of the title of the bill.

The Secretary read it, as follows:

A bill (S. No. 203) to amend an act entitled "An act to create additional collection districts in the State of California, and to change the existing districts therein, and to modify the existing collection districts in the United States," approved September 28, 1850.

Mr. KING. I should like to hear the bill read through.

The PRESIDENT *pro tempore*. The Chair always calls for the reading of a bill at length before it is considered.

Mr. CHANDLER. This bill has been reported from the Committee on Commerce unanimously.

Mr. WADE. I hope we shall continue with the business regularly before the Senate. This is entirely out of order.

The PRESIDENT *pro tempore*. It is in order only by common consent; the Senator having the floor, in the first place, yielding it for that purpose, and no other Senator objecting. The Chair takes care to put the question distinctly whether there is unanimous consent for these irregular proceedings.

Mr. GRIMES. There has been no unanimous consent given to the consideration of this bill.

Mr. WADE. Not that I know of.

Mr. CHANDLER. It will lead to no discussion, and will save from sixteen to eighteen thousand dollars annually to the Government. I hope it will be allowed to pass.

The PRESIDENT *pro tempore*. Does any Senator object?

Mr. WADE. I do. It may save money to the Government, but I think it should be looked into, and should not be passed in this irregular way.

The PRESIDENT *pro tempore*. Then the Senator from Virginia will proceed with his remarks on his amendment to the amendment of his colleague on Senate bill No. 365.

Mr. POWELL. With the permission of the Senator from Virginia, I desire to move to take up Senate bill No. 358.

Mr. WADE. I will not give my consent to it.

Mr. CARLILE. I trust the Senator from Kentucky will excuse me. I think I had better go on with my remarks.

Mr. POWELL. It will take but a moment, and if the Senator will allow me, I will state the object.

The PRESIDENT *pro tempore*. There can be no discussion upon it. A single objection prevents these proceedings.

ADMISSION OF WEST VIRGINIA.

The Senate resumed the consideration of the bill (S. No. 365) providing for the admission of the State of West Virginia into the Union.

Mr. CARLILE. Mr. President, keeping in view the great object which I have avowed in my remarks, to be attained by this proposed separation, to wit, unanimity and the disappearance of divisions in our midst, I desire to call the attention of Senators to the fact which they have seen, if they have taken the trouble to examine the memorial, that the convention which formed this constitution included within the proposed boundaries a larger number and other counties than were included and specified in the ordinance calling the convention together. Among these counties included, which were not included in the original ordinance summoning the convention to organize a constitution for the new State, are the counties of —which have never been represented in any of the conventions or of the Legislature of the State under the reorganized State government—Logan, Calhoun, Nicholas, McDowell, Mercer, Monroe, Greenbrier, Pocahontas, Webster, Morgan, and Pendleton, containing a white population of fifty-five thousand four hundred and sixty-six. When it is borne in mind that here are eleven counties that have never been represented either in the convention that authorized a vote of the people to be taken upon the question of a new State, or in the Legislature of the State, or in the convention that formed the constitution of the State, that never had an opportunity to give expression to their sentiments on this subject as far as it has gone; when it is remembered that the counties of Hampshire, Hardy, and Morgan, which are also included within the proposed boundaries have only been represented through a senator from that district, never having a single member of the House of Delegates in the General Assembly—with these facts before the Senate, I submit, if there is not an obvious propriety in the adoption of the amendment I have proposed, so that these people may have an opportunity of giving their assent and of acting upon the proposed conditions.

Now, sir, what would be the effect? I desire Senators to bear in mind that I am looking to a cessation of hostilities upon the admission of this new State. I am looking to a restoration of harmony among its people. I will not by my act do anything that tends to sow the seeds of discord and to perpetuate division of sentiment among them. Well may these people say, if you refuse to them the right to pass upon these conditions, that they are not morally, neither are they legally, bound to regard these stipulations; and if they are admitted upon an equal footing with the rest of the States, they will have the right after their admission to change their organic law. I will not say that they would do so; but I ask, why upbraid them if they chose to disregard your stipulations, never having been consulted at all as to them, and many of them never having been consulted at all upon the subject in any manner, shape, or form, either directly or through representation in any of the bodies which originated this proceeding and have acted upon it. I have in my eye one county that polls from eight hundred to a thousand votes, that was represented in this convention by a man upon seventy-six votes alone. I have in my eye another county that polls from twelve to fifteen hundred votes, that was represented in this convention by a man receiving less than four hundred votes. I give these as instances. There are others to which I can refer. When these facts are considered, is it not but policy, to say nothing of justice, is it not demanded, does not the Senate owe it to itself, when it comes to the conclusion to reject the application for immediate admission, and to exact of the people of West Virginia certain stipulations, to give that people an opportunity to pass upon those stipulations by which they are expected to be for all time to come bound?

Mr. WILKINSON. I should like to ask the Senator from Virginia if he means to intimate or assert that the convention in Western Virginia did not represent the people and the whole people of that section?

Mr. CARLILE. I mean nothing further than I have said. I have said that that convention had in it representatives who did not receive one vote in ten in the counties which they proposed to represent.

Mr. WILLEY. I will put this question, with the leave of my colleague: whether he does not know that in those counties no more votes than those were given because they were partially and sometimes wholly overrun by the forces of the enemy?

Mr. CARLILE. To some extent that may have been so, but not in all, for if I recollect aright, in the county of Ohio, where the usual vote is upwards of three thousand, one of the delegates to the convention, and the leader of the emancipation party, received but a little over six hundred votes.

Mr. WILLEY. And if a fair expression of opinion could have been taken there, there would not only be a larger vote, but they are eagerly and anxiously desirous for a new State.

Mr. CARLILE. If my colleague will just bear with me a little while he will find that I will nothing keep back or ought set down in malice. It is for the purpose that I have avowed that I felt it incumbent on me to detain the Senate with the remarks I have made; and which I should not have made if my colleague had allowed, and it had been the pleasure of the Senate to have voted on the amendment offered without discussion. My colleague remarks that I submitted that amendment without saying anything why I submitted it. I therefore felt it was my duty to explain the reason. I was willing and content that the vote should be taken without discussion; but when called upon, and the attention of the country being called to the fact of my not detaining the Senate by remarks upon it, I felt it due to myself and to the Senate to explain it. It never entered into my mind that there would be a single opposing vote to the amendment I proposed. It cannot delay the admission of the State; it cannot have any injurious effect. All the consequences following from it must be to harmonize and to conform to our republican form of Government. It is in accordance with the letter and the spirit of our institutions. The very reason which my colleague assigns, by way of answer to the remark that I made, that men represented in the convention people from whom they did not receive one vote in ten, is an argument, I think, irresistibly in favor of the adoption of the amendment. I grant that in many of those counties the people were prevented from voting. I have no doubt whatever that they would all have been represented if they had been free from military terror; but if Senators have paid attention to the memorial upon this subject before this body they will see—what? That the Legislature and the convention that organized this proceeding contemplated—and I call the attention of Senators to this clause of the ordinance—that there might be counties upon the day named that were in a condition not to vote upon this constitution; and they expressly provided that at a subsequent period, when they were in a condition to vote, they should be allowed to do so. It is right that these people should be consulted. I have no doubt myself, although I should not allow it to govern my action, as to what would be the action of that people. I have no doubt, furthermore, that if they are refused the opportunity to pass upon it, we shall have more

bitterness and greater division in our community than we have yet seen. It is because of that fact that I desire that these conditions shall not be considered as obligatory and binding upon them until they have the opportunity to be consulted. The convention that organized this convention adopted in that very ordinance this provision:

"If on the day herein provided for for holding said election there shall be in any of the said counties any military force or any hostile assemblage of persons, so as to interfere with a full and fair expression of the will of the voters, they may assemble at any other place within their county, and hold an election as herein provided for."

There are counties still included within this boundary which, at least up to a very recent period, have been occupied by the enemy, and the people have had no opportunity as yet to be heard either at the polls or through their representatives in any of these assemblages. Taking these facts into consideration, with the further fact that the convention that called into existence the body that formed the constitution of West Virginia contemplated that the rebellion in Virginia would have been subdued before the 26th day of December last, the day fixed for the submission of the constitution to the people, and the justice of my amendment will strike every mind; taking into consideration also the further fact that even at the vote upon the constitution, out of forty-seven thousand voters but nineteen thousand were cast—taking all these facts together, I put it to the Senate if it is not only a duty we owe to that people, but one that we owe to ourselves, that we should give them an opportunity to pass upon these conditions? I ask again, how could we hold them up to a faithful regard of these stipulations if they were imposed upon them without their consent?

But, Mr. President, if I know those people, they will never submit to congressional dictation or control in matters relating to their own internal government. Anxious as they may be for a separate State organization, convinced as they are that their interests demand it, they will forego these advantages rather than submit to encroachments upon their rights by the central Government. Great as the loss of their proposed State would be to them, they would count it as nothing when compared with the loss that would be sustained by them and their posterity if the great truth established by the founders of our Government, and the great right secured to them by our Constitution, to wit: the right of each State to form and regulate, free from the dictation, interference, or control of the Federal Government, for itself its own domestic institutions, should be voluntarily surrendered by them. A people who could consent to a compliance with such a congressional mandate are already enslaved, and the fact of their enslavement will soon manifest itself even to them.

Mr. President, it is my sincere belief that this disposition to interfere with the rights of the States exhibited by this Congress has prolonged the war; that, if persisted in, the war becomes a war of indefinite duration, and that the constitutional Union our fathers formed will be lost to us and our posterity forever.

Mr. ANTHONY. It is apparent that it is impossible to get a vote on this bill to-day, and as the House has concurred in the resolution for an adjournment, and we all know there is very pressing business awaiting our action, I hope we shall lay this bill on the table. I make that motion.

Mr. WILLEY. I hope not. Let us have a vote on the amendment.

The PRESIDENT *pro tempore*. The Senator from Rhode Island moves that the bill, with the pending amendments, be laid on the table.

Mr. WADE. I know that motion is not debatable; but I do not believe the Senator intends to cut us off right here.

Mr. ANTHONY. No, sir; I do not intend to cut off debate, if the Senator wishes to reply.

Mr. DOOLITTLE. I suggest to the Senator from Rhode Island to make a motion to postpone the bill until the beginning of the next session. That will not be a test question on the measure itself, but simply leave it as a question to be acted on next session. Laying on the table cuts off all debate.

Mr. ANTHONY. I will withdraw the motion, and rely on the Senator from Ohio, when he concludes his remarks, to renew it.

The PRESIDENT *pro tempore*. The motion is withdrawn, and the question recurs on the amendment of the Senator from Virginia [Mr. CARLILE] to the amendment offered by his colleague.

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

The yeas and nays were ordered.

Mr. WADE. I certainly did not intend to take any time in debating this bill; but the very extraordinary course the Senator from Virginia has seen fit to take has so entirely disappointed me that I almost owe an apology to the Senate itself for urging this measure with the zeal that I did upon its consideration this morning. I did so at the request of some of the best men of that State, not only one but many, almost supplicating that we should take it up and get through with it to-day. When I saw a Senator from the State itself rise, so evidently with no other purpose than to talk against time, and thus to defeat the bill, I was disappointed beyond measure. We have had a new proposition, a long argument, and a recurrence to old speeches that had been made on former occasions, that must be read here, all coming from a man pretending to be a friend of this proposition. Any man knows that if anything was calculated under these circumstances to defeat this measure, it was precisely the course he has seen fit to take with it. He tells us that he still is in some shape a friend to it; but what has been the purport of his speech, except to shake the confidence of the Senate itself in the constitutional convention that framed the constitution which we have been asked to ratify? He has gone back of their appointment; he has not only undertaken to find fault with what they have done, but he has undertaken to say that they were not really organized to do anything; and it is the first I have heard of any such thing. We have sat in committee with that gentleman; we have heard his arguments and illustrations on this subject; we have had many men of the proposed State before us, in council with us upon it; and here for the first time to-day we hear that the convention who framed this constitution really did not represent the people whom they professed to represent! After all the discussions in committee and out of committee and in the Senate, to-day, for the first time we hear a deliberate, premeditated attack made upon the convention that framed this constitution. I do not believe that the people of Western Virginia expected any such arguments from that quarter. I do not believe they would have implored me almost to use what influence I might have to bring this matter before Congress at this late period of the session, if they believed that one of their own representatives was to rise here and talk by the hour to endeavor to shake the confidence of the Senate in the competency of the convention that had framed their constitution. Sir, there is something wrong in this matter. I do not profess to know where it is, but it is unusual; it is not what we have heard before. It takes us all by surprise, and it jeopardizes the measure. I hope that from the perversity of any man, the people of Western Virginia, who are worthy of our favor, will not cease to receive it because one of their own number takes a very different view of this subject from what we expected he would take.

I hope we shall view it as we always have before, that the people of Western Virginia were sincere and are sincere, and when they have acted in their convention upon this subject, that it was a convention that met the approbation of the people, that they have been entirely satisfied with its actions, that the people are even more earnest than the convention that what they have done shall be carried out. Of all this there is no doubt or question, and here we are with the ability to-day to pass the bill, with the ability to-day to give them what they so anxiously demand, unless we are prevented by the interposition of new and unheard of questions by one of their own representatives.

Now, Mr. President, this proposition to my mind is not necessary. That convention, to meet all such questions as are now got up here by us, anticipating that we might perhaps undertake to revise their constitution in some particulars, provided for reassembling. The convention did not cease at the time they framed this constitution, but they were to be kept in being, subject to be reconvened again to meet any emergency that the exigencies of their case might give rise to or render necessary. Then why not submit this constitution to the reconvened body, as they expected to be reconvened for that purpose? We want no amendments. That convention to-day represents, undoubtedly, the will of that people, as it ever has done, and it is retained there for the purpose. Why, then, undertake to get it up anew? If you want to come in speedily, you can.

I will not prolong the discussion. I did not intend to say a word, and I should not, but for this extraordinary course which has really jeopardized the case, and, perhaps, will destroy it, for motions are already made to cut the whole proceeding off *in limine*, and postpone it indefinitely. I hope the Senate will not weakly yield, as I said before, to the perversity of any one of the representatives, or to the new-fangled doctrine he has brought in here at the eleventh hour, but let us steadily go on and carry into effect the well known will and wishes of the worthy people for whom we have undertaken to act.

Mr. CARLILE. One word only; I do not intend to detain the Senate, nor shall I use expressions of surprise at the extraordinary course of the Senator from Ohio, as he has at mine. He has alluded to what has occurred in committee heretofore on this subject. I will say to the Senator from Ohio that nothing ever occurred in committee, according to my knowledge, by which important fundamental provisions were to be inserted in an organic law for these people, as to which they were not to be consulted; and it was for the first time when this amendment was proposed this morning, that my attention was called to the important fact that these conditions, these stipulations, three in number, of the importance that is attached to them by the Senate, were to be imposed upon this people, and they were to be held bound by them without their ever having consented to them, when their constitution itself under which they sought admission would not be worth the paper upon which it is written, under the ordinance convening the convention, if it had not been submitted to and ratified at the polls by the people.

Mr. WILKINSON. As a member of the Committee on Territories, I had some objections to the admission of the State of West Virginia, but my objections were overcome by what I supposed to be the unanimous wish of the people of that State. The Senator from Virginia [Mr. CARLILE] is also a member of that committee, and I never supposed there was the least particle of doubt but that the convention which framed the constitution expressed the almost unanimous wish of the entire people of Western Virginia. While I had some objections to it, the peculiar situation of affairs in Western Virginia, as was represented in our committee by a large number of delegates composed of what I should judge to be the most respectable men of that country—for they would be the most respectable men in any State where they resided—who appeared before the committee and induced us to favor the bill, especially as they appeared unanimously to join in carrying out the objects and purposes of the convention which framed the constitution.

Now, sir, having had some feeling against the admission of Western Virginia, if such an argument as has just been adduced here on the floor this morning had been urged by the Senator from Virginia in committee, I should, for one, have never assented to it, and I am utterly surprised that he should get up here in the Senate and make such an argument as he has introduced this morning. It seems to me that it was due to the Committee on Territories that he should have urged that argument there.

Mr. CARLILE. Allow me to interrupt the Senator a moment. A proposition of this sort was never moved in committee according to my recollection, that three fundamental conditions should be annexed to the admission, and they merely assented to by the convention that formed the constitution, and of course I could not have made any allusion in committee to that which was never before us.

Mr. WILKINSON. Who ever doubted but that that convention represented the entire population of Western Virginia?

Mr. HALE. I wish to make a report from a committee of conference.

Mr. WILKINSON. I give way for that.

NAVAL REGULATIONS.

Mr. HALE submitted the following report:

The committee of conference on the disagreeing votes of

the two Houses on the bill (S. No. 348) for the better government of the Navy of the United States, having met, after full and free conference have agreed to recommend, and do recommend, to their respective Houses, as follows:

That the Senate agree to the first, second, third, fourth, fifth, eighteenth, nineteenth, twenty-fourth, twenty-seventh, twenty-eighth, thirty-fifth, thirty-ninth, fortieth, forty-third, forty-fourth, forty-fifth, forty-sixth, forty-seventh, forty-eighth, forty-ninth, fifty-second, fifty-fourth, fifty-fifth, fifty-seventh, fifty-eighth, sixtieth, sixty-first, sixty-second, sixty-third, sixty-fourth, sixty-sixth, sixty-seventh, sixty-eighth, sixty-ninth, seventieth, seventy-first, seventy-second, seventy-third, and seventy-fourth amendments of the House.

That the House recede from their sixth, seventh, eighth, ninth, tenth, eleventh, twelfth, thirteenth, fourteenth, fifteenth, sixteenth, seventeenth, twentieth, twenty-first, twenty-second, twenty-third, twenty-fifth, twenty-sixth, twenty-ninth, thirtieth, thirty-first, thirty-second, thirty-third, thirty-fourth, thirty-sixth, thirty-seventh, thirty-eighth, forty-first, forty-second, fiftieth, fifty-first, fifty-third, fifty-sixth, and fifty-ninth amendments.

That the Senate agree to the sixty-fifth amendment of the House, with an amendment, as follows: in the first line of the proviso, in section twelve, strike out "inferior," and after the word "persons" insert, "of inferior ratings desiring to go there."

Mr. HALE. The Senate cannot understand the report from hearing it read in this form. These amendments are principally verbal amendments as to mere matters of detail, with the exception of one or two amendments that have been introduced in relation to the subject of prize law, which the exigencies of the time require, and which were introduced by the House, and to which the Senate have agreed. There is nothing material in the disagreement between the two Houses.

The report was concurred in.

CUSTODY OF PRIZE MONEY.

Mr. TRUMBULL. In connection with the report just adopted, I will remind the Senate that a day or two since I introduced a joint resolution to remedy a defect in the law as to the distribution of prize money, founded on a letter from the Secretary of the Interior, but its passage was arrested by a suggestion of the Senator from New Hampshire, that it would be provided for in this bill. It is not entirely provided for. The joint resolution ought to pass, and if the Senator from Minnesota will allow it to be called up, I am sure there will be no opposition to it, and let it pass and go to the other House.

Mr. HALE. I saw the resolution, and arrested it as the Senator from Illinois suggests. Upon looking at the bill, the Senator from Illinois and myself both found it did not cover everything that was covered by his resolution. We provide in this bill that the prize money arising from property hereafter to be sold shall be paid into the United States Treasury, but it does not provide for the payment of that which has already been sold, and is now in the hands of the clerks, as the Senator's resolution does. I think the resolution ought to pass.

Mr. TRUMBULL. It will take but a moment.

Mr. WILKINSON. I have no objection

The PRESIDING OFFICER, (Mr. FOSTER in the chair.) It requires unanimous consent to lay aside the business before the Senate for the purpose of taking up the resolution. The Chair hears no objection.

The joint resolution (S. No. 97) in relation to the law of prize was considered as in Committee of the Whole. It provides for paying the proceeds of all sales of property under the prize laws into the Treasury.

The joint resolution was reported to the Senate, and ordered to be engrossed for a third reading. It was read the third time.

Mr. GRIMES. I call for the reading of the joint resolution. I suppose I am entitled to hear it.

Mr. TRUMBULL. It had just been read before the Senator came in. I will state it, if there is no objection.

The PRESIDING OFFICER. The Senator from Iowa calls for the reading of the resolution again. It has just been read, and therefore it is not the privilege of a member to ask for its reading now, but it is the privilege of the Senate to refuse it or grant it. Is any objection made to its being read again?

Mr. GRIMES. Is it in order for me to enter a standing objection against taking up any bill and interjecting it during the consideration of another bill in this way?

The PRESIDING OFFICER. It is in order for the Senator to object to this bill being read the third time. The Chair put the question to the Senate distinctly, whether the laying aside of the business before the Senate and the taking up of this resolution was objected to, and no objection was made. The resolution cannot be read again, if it is objected to by the Senate.

Mr. TRUMBULL. It has been read twice, before to-day.

The PRESIDING OFFICER. Then it may be read to-day for the third time. The question is, "Shall the joint resolution pass?" Does the Senator from Iowa ask for its rereading?

Mr. TRUMBULL. I am sure the Senator from Iowa will have no objection to it if he will listen to me while I explain it.

The PRESIDING OFFICER. Is the reading of the resolution again asked for?

Mr. TRUMBULL. Let it be read; I have no objection to its reading.

The PRESIDING OFFICER. The Chair does not get a response whether the reading of the resolution is asked for.

Mr. KING. I should like to have it read.

The PRESIDING OFFICER. Is there any objection? The Chair hears none; the resolution will be read.

The Secretary again read it.

The joint resolution was passed.

ADMISSION OF WEST VIRGINIA.

The PRESIDING OFFICER. The business before the Senate is the bill (S. No. 365) for the admission of the State of West Virginia into the Union, upon which the Senator from Minnesota is entitled to the floor.

Mr. WILKINSON. Mr. President——

Mr. DOOLITTLE. If the honorable Senator from Minnesota, my colleague on the Committee on Indian Affairs, will allow me to make a report——

Mr. WADE. I must take the helm in my own hands. I believe I got up the bill under consideration, and I protest against anything else being interjected until it is through.

The PRESIDING OFFICER. No other business can be taken up except by unanimous consent. None has been, none will be. The Senator from Minnesota is entitled to the floor.

Mr. DOOLITTLE. The Senator from Minnesota will allow me to say a word to my honorable friend from Ohio.

The PRESIDING OFFICER. Does the Senator from Minnesota yield to the Senator from Wisconsin?

Mr. WILKINSON. I dislike to refuse——

Mr. DOOLITTLE. I do not desire to offer my bill, but to say a single word in reply to my friend from Ohio.

The PRESIDING OFFICER. Does the Senator from Minnesota yield?

Mr. WILKINSON. It strikes me that I have yielded too often already. I cannot yield any more.

The PRESIDING OFFICER. The Senator from Minnesota is entitled to the floor.

Mr. WILKINSON. Mr. President, I hope the Senate will follow the advice and recommendation of the Committee on Territories in regard to this bill. I believe that the people of Western Virginia are earnest and sincere and devoted in their advocacy of this measure; I believe that it is almost a case of life or death with them; and for that reason I have yielded my assent to the proposition that is now before the Senate, and I am a little surprised at the course which the Senator from Virginia has taken; but I hope that his course will not deter the Senate from passing this measure as has been recommended by the Committee on Territories. That is all I have to say.

The PRESIDING OFFICER. Is the Senate ready for the question on the amendment to the amendment?

Mr. CARLILE. It is suggested to me by my colleague that the amendment as it stood originally required a majority of all the persons entitled to vote within the boundary, and I have amended it so that it will be a majority of those persons voting, provided the vote is taken in each county.

Mr. WILLEY. It is with inexpressible pain that I have taken the position in regard to my colleague that I have. I have determined, however, not to discuss the matter, but I have the bill here offered by my colleague in the other House, [Mr. W. G. BROWN,] modified so as to cover this state of things here, which, if it will suit the chairman of the committee, and the members of the committee and my colleague here, will be acceptable to me as another compromise under the circumstances, and without argumentation I will read it. After the usual preamble, it goes on to provide:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the State of West Virginia be, and is hereby, declared to be one of the United States of America, and admitted into the Union on an equal footing with the original States in all respects whatever, and until the next general census, shall be entitled to three members in the House of Representatives of the United States: *Provided always*, That this act shall not take effect until after the proclamation of the President of the United States hereinafter provided for.

SEC. 2. It being represented to Congress that since the convention of the 26th of November, 1861, that framed and proposed the constitution for the State of West Virginia, the people thereof have expressed a wish to change the seventh section of the eleventh article of said constitution by striking out the same, and inserting the following in its place, namely: "The children of slaves born within the limits of this State after the 4th day of July, 1863, shall be free, and no slave shall be permitted to come into the State for permanent residence therein:" Therefore, *Be it further enacted*, That whenever the people of West Virginia shall, through their said convention, and by a vote to be taken at an election to be held within the limits of the said State at such time as the convention may provide, make and ratify the change aforesaid, and properly certify the same under the hand of the president of the convention, it shall be lawful for the President of the United States to issue his proclamation stating the fact, and thereupon this act shall take effect and be in force from and after sixty days from the date of said proclamation.

I am willing to go one step further, and do that for the sake of peace and harmony, and I do it with this view especially. I am sorry to believe that—my colleague will take no offense, I hope, when I say it—the extraordinary speech he has made will be an additional firebrand cast into our midst. I am a man of peace. I know that the almost universal sentiment of that people is for division. I know there is not a loyal man in Northwestern Virginia, whether represented in the convention or not, who is not this day life and soul for a division of the State. To prevent discord, to compose strife, I am willing, as a peace offering here upon this floor, and with a view of preventing distraction in our midst, to submit this proposition, if it will satisfy my colleague. It embraces essentially his proposition, and I hope the Senate will be willing to take it under the circumstances. It will put us to some expense; it will put us to a good deal of unnecessary trouble in taking the sense of a people who have but one opinion and one view on the subject; but in order to prevent discord and preserve peace, I am willing, if the Senate be willing, and my friends on the committee, to whom I am under lasting obligations, are willing, to accept it.

Mr. WADE. How does this differ from your amendment as amended by myself?

Mr. CARLILE. My colleague has referred to me. I am perfectly willing he shall withdraw his amendment.

Mr. WILLEY. I was out of the Senate when, as I understand, the amendment of the Senator from Ohio was adopted. I did not know it was adopted. I am willing that it shall be incorporated in here.

Mr. WADE. I have no objection to this amendment, only I wish to insert the amendment which was already agreed to as an amendment to the proposition of the Senator from Virginia. I want to insert in the proper place in this proposition a clause to the same effect, and with that modification I should have no objection.

The PRESIDING OFFICER. The question before the Senate now is on an amendment to an amendment, on which the yeas and nays have been ordered, and it can only be withdrawn by unanimous consent.

Mr. WILLEY. With the leave, then, of my colleague and the Senate, I will withdraw my original amendment.

The PRESIDING OFFICER. The Chair repeats the inquiry, whether the withdrawal of the amendment is objected to? An amendment to it having been proposed, and the yeas and nays ordered, it requires unanimous consent of the Senate to withdraw it. The Chair hears no objection. The amendment is withdrawn.

Mr. WILLEY. I now offer this as a substitute for the whole bill, striking out all after the word "whereas" in the preamble, and substituting this in lieu of the committee's bill.

Mr. LANE, of Kansas. I desire to offer an amendment to the amendment of the Senator from

Virginia, to be substituted for the amendment of the Senator from Ohio, if acceptable to him.

The PRESIDING OFFICER. Does the Senator from Ohio offer an amendment to the amendment of the Senator from Virginia?

Mr. WADE. Yes, sir; but I will hear the proposition of the Senator from Kansas, and I may agree to accept it as a modification; I do not know.

The PRESIDENT *pro tempore*. The amendment of the Senator from Virginia will be read.

The Secretary read the amendment of Mr. WILLEY, to strike out all after the enacting clause of the bill, and insert:

That the State of West Virginia be, and is hereby, declared to be one of the United States of America, and admitted into the Union on an equal footing with the original States in all respects whatever, and until the next general census shall be entitled to three members in the House of Representatives of the United States: *Provided always*, That this act shall not take effect until after the proclamation of the President of the United States hereinafter provided for.

SEC. 2. It being represented to Congress that since the convention of the 26th of November, 1861, that framed and proposed the constitution for the said State of West Virginia, the people thereof have expressed a wish to change the seventh section of the eleventh article of said constitution by striking out the same, and inserting the following in its place, namely, "The children of slaves born within the limits of this State after the 4th day of July, 1863, shall be free and no slave shall be permitted to come into the State for permanent residence therein:" Therefore,

Be it further enacted, That whenever the people of West Virginia shall, through their said convention, and by a vote to be taken at an election to be held within the limits of the State at such time as the convention may provide, make and ratify the change aforesaid and properly certify the same under the hand of the president of the convention, it shall be lawful for the President of the United States to issue his proclamation stating the fact, and thereupon this act shall take effect and be in force from and after sixty days from the date of said proclamation.

The PRESIDING OFFICER. The Senator from Kansas proposes to amend the amendment by inserting, after the word "free," the words:

And that all slaves within the said State who shall at the time aforesaid be under the age of ten years shall be free when they arrive at the age of twenty-one years, and all slaves over ten and under twenty-one years shall be free when they arrive at the age of twenty-five years.

Mr. KENNEDY called for the yeas and nays, and they were ordered; and being taken, resulted—yeas 25, nays 12; as follows:

YEAS—Messrs. Anthony, Clark, Collamer, Doolittle, Foot, Foster, Grimes, Harlan, Harris, Howard, Howe, King, Lane of Indiana, Lane of Kansas, Morrill, Pomeroy, Sherman, Simmons, Sumner, Ten Eyck, Trumbull, Wade, Wilkinson, Wilmot, and Wilson of Massachusetts—25.

NAYS—Messrs. Browning, Carlile, Davis, Henderson, Kennedy, McDougall, Powell, Saulsbury, Stark, Willey, Wilson of Missouri, and Wright—12.

So the amendment was agreed to.

The PRESIDING OFFICER. The question is on the amendment of the Senator from Virginia, [Mr. WILLEY,] as amended.

Mr. CARLILE. I propose now to amend the amendment by striking out all after the word "whatever," in the sixth line of the first section, so as to test the sense of the Senate upon the admission of the State without conditions, and upon that proposition I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. WILLEY. Although, as I have already stated, that would be more acceptable to me, yet having proposed the amendment in good faith to meet my friends on the other side, I shall vote against the motion to strike out.

The question being taken by yeas and nays, resulted—yeas 11, nays 25; as follows:

YEAS—Messrs. Carlile, Cowan, Davis, Henderson, Kennedy, McDougall, Powell, Saulsbury, Stark, Wilson of Missouri, and Wright—11.

NAYS—Messrs. Anthony, Browning, Clark, Doolittle, Foot, Foster, Grimes, Harlan, Harris, Howard, King, Lane of Indiana, Lane of Kansas, Morrill, Pomeroy, Sherman, Simmons, Sumner, Ten Eyck, Trumbull, Wade, Wilkinson, Willey, Wilmot, and Wilson of Massachusetts—25.

So the amendment to the amendment was rejected.

The PRESIDING OFFICER. The question recurs on the amendment of the Senator from Virginia, [Mr. WILLEY,] as amended.

The amendment was agreed to.

Mr. SUMNER. The bill is still in committee, I understand, and will be open to amendment when it comes into the Senate.

The PRESIDING OFFICER. It will be.

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

Mr. SUMNER. I had proposed to offer in the Senate the amendment which I offered in the committee. I do not like to take up the time of the Senate, but I thought the Senate acted on the amendment hastily, perhaps without full consideration, without considering the bearing of the proposition. The amendment was simply the old Jeffersonian proviso. It will be remembered that when that proviso was passed for the Northwest Territory, it operated upon slavery already there, and absolutely forbade it from that time forward. In point of fact, slaves were freed by the operation of that proviso. It seems to me only just——

Mr. COLLAMER. I desire to ask what is the gentleman's amendment.

Mr. SUMNER. The Jeffersonian proviso.

Mr. COLLAMER. As I understand, the Senate have concurred in the amendment made in committee, which is a substitute for the whole bill. It regulates the whole subject of slavery, and the Senator's amendment is inconsistent with the amendment we have made.

Mr. SUMNER. I have not offered the amendment in the Senate.

Mr. COLLAMER. I asked you what it was, and you stated.

Mr. SUMNER. I offered in committee that amendment.

Mr. COLLAMER. We have adopted in the Senate the committee's amendment.

Mr. SUMNER. We have not yet taken the vote on the final passage of this bill. If the Senator would have the kindness to listen to me until I close—I shall not occupy three minutes—he would see the bearing of what I have to say.

Mr. SHERMAN. I suggest to the Senator that his amendment cannot be adopted unless the Senate strike out what is already in the bill.

Mr. SUMNER. If Senators will have the kindness to listen to the close, they will hear what I have to say. I was speaking of the amendment which I offered, and of its importance, and that it was borrowed from Thomas Jefferson; that it was regarded by him as practical; that it had been recognized in the history of our country as one of its honors. I proposed it on this occasion. I thought it well that this production of Virginia's son should help to redeem Virginia. It has been voted down, and now the question recurs whether the Senate will vote for the bill which proposes to recognize a new slave State. It may be that the slavery will be for a short term of time, for twenty-one years, if you please, but that is a long term for slavery. I cannot consent to admit a new State into the Union with slavery for twenty-one years. We all know, as I have said before, that it takes a very little slavery to make a slave State. We know that with seventeen hundred slaves in Delaware, that State sends two Senators of slavery to this Chamber. Shall we have two other representatives of slavery in this Chamber hereafter from a State newly created by ourselves? Never, sir, by my vote; and as the Senate has seen fit to discard the proposition which I have made, I shall deem it my duty to vote against the bill.

Mr. LANE, of Kansas. I desire to make a statement in answer to the remarks made by the Senator from Massachusetts. So far as I am concerned, I propose to legislate upon the subject of slavery as upon all other subjects, practically. I voted with the Senator for his ordinance of 1787 as an amendment to this bill. I am assured by members of the House of Representatives that if that amendment be affixed to this bill, it will fail in the House; I am assured by the Senators from this State that if it be affixed to the bill it will fail before the people. Therefore, as the best thing that I can do, I vote for the bill as amended, being willing to take from a slave State slavery in twenty-one years, if we cannot get rid of it earlier.

Mr. CARLILE. For the purpose of making every effort that is in my power within the rules of the Senate, and in accordance with the request of the Legislature, I merely—I shall not ask for the yeas and nays upon it—move to strike out all after the word "States," beginning with the proviso, so as to get rid of the conditions.

The amendment was rejected.

The PRESIDING OFFICER. If no further amendment be moved, the preamble will be read.

The Secretary read the preamble.

Mr. WILLEY. In place of the preamble, I propose to offer the following, which is the preamble to the House bill already adopted as a substitute for the Senate bill:

Whereas the people inhabiting that portion of Virginia known as West Virginia did, by a convention assembled in the city of Wheeling, on the 26th of November, 1861, frame for themselves a constitution, with a view of becoming a separate and independent State; and whereas at a general election held in the counties composing the territory aforesaid, on the 3d day of May last, the said constitution was approved and adopted by the qualified voters of the proposed State; and whereas the Legislature of Virginia, by an act passed on the 13th day of May, 1862, did give its consent to the formation of a new State within the jurisdiction of the said State of Virginia, to be known by the name of West Virginia, and to embrace the following named counties, to wit: Hancock, Brooke, Ohio, Marshall, Wetzel, Marion, Monongalia, Preston, Taylor, Tyler, Pleasants, Ritchie, Doddridge, Harrison, Wood, Jackson, Wirt, Roane, Calhoun, Gilmer, Barbour, Tucker, Lewis, Braxton, Upshur, Randolph, Mason, Putnam, Kanawha, Clay, Nicholas, Cabell, Wayne, Boone, Logan, Wyoming, Mercer, McDowell, Webster, Pocahontas, Fayette, Raleigh, Greenbrier, Monroe, Pendleton, Hardy, Hampshire, and Morgan; and whereas both the convention and Legislature aforesaid expressed a strong desire that the new State should be admitted into the Union, and the constitution aforesaid being republican in form, Congress doth hereby consent that the said forty-eight counties may be formed into a separate and independent State: Therefore.

The PRESIDING OFFICER. The question is on ordering the bill to be engrossed for a third reading.

Mr. TRUMBULL. Before taking the final vote on this bill, as it seems now to be brought to that stage where a vote is proposed to be taken upon it, I desire to say that I am utterly opposed to the admission of a new State at this time from Western Virginia. I do not think, in the present unsettled condition of the country, till we see how we are to come out of this struggle, we ought to be admitting another State. We need the present organization in Western Virginia, which is the State of Virginia. It was upon the principle that that organization represented the whole State of Virginia, not simply the western part of it, that the Senators were admitted upon this floor. Now, in point of fact, we know that the jurisdiction of the State of Virginia, as at present organized and loyal to the Government, does not extend over the whole territory of Virginia, but only a portion of it. We are making some progress in reclaiming other parts of Virginia that were not embraced in the portion originally acknowledging the authority of the organization in the western portion of the State, and we need the organization that now exists to help us to reclaim the remainder of the State. As we take possession of a county now, the jurisdiction of the State government already in existence is extended over it; but suppose that all that part of the State of Virginia which acknowledges its allegiance to the Federal Government is organized into a State by itself, what are you to do with the rest of it? We have, then, no nucleus for the loyal people to rally around. We have lost the benefit of this organization, which would help us very materially in reclaiming the rest of the State.

Mr. WADE. How?

Mr. TRUMBULL. Here is the county adjoining us across the river which is not proposed to be embraced in the State of West Virginia. The local laws of the State of Virginia are now extended over it. We need the administration of local law in Alexandria to punish crime and to administer upon estates. How can you enforce the local law there without tribunals? Now, the government which holds its sessions at Wheeling may provide for justices of the peace, judges of courts, and other officers in the county which embraces Alexandria; but suppose you take that away, what local law is left at Alexandria? Have you got a judge of probate? Have you any tribunal before which you can bring a suit to enforce a private right? Not at all. And how are you going to have one? You have got military supremacy there for the time being, but the military authority cannot establish courts. That is a power reserved by Congress; and it was so decided by the Supreme Court in questions which arose in regard to California. By creating this new State, we lose the benefit of the existing organization in Western Virginia. That is one objection, and I think a very serious objection, to acting upon it at this time.

Again: it is needless to disguise the fact that we are creating and admitting into the Union another slave State. It is said a provision is made for gradual emancipation, but not during our day. I believe the bill provides that children under ten years of age shall be free when they arrive at twenty-one, and those between ten and twenty-one when they arrive at twenty-five. Whether, in the amendment which has been proposed, there

is any provision for freeing those who are now over twenty-one, I am not prepared to say. There have been so many amendments that I have been unable to keep up with them. I do not know whether a person who is now twenty-two is to be a slave for life or not. I am told that he is to be a slave as long as he lives. Then, as long as any of us live, this is to be a slave State. Now, sir, I am not prepared to admit into the Union a State that is to be a slave State as long as we live. We have just passed a confiscation bill by which the slaves of rebels are to be freed. I trust the effect of that bill may be to bring about the freedom of most of the slaves in the rebellious States; and if so, it will probably lead to the emancipation by the loyal owners of their slaves, and making them entirely free. I hope such may be the effect; but here we are admitting a State where slavery is to be fixed on its inhabitants as long as any of us shall live, admitting into the Senate two more Senators from a slaveholding State.

I object to it upon that ground. I do not say that under no circumstances would I vote to admit into the Union a State which tolerated slavery. I will decide that question when it arises; but I am not prepared to admit this State at this time, and in this condition of the country, as a slave State into the Union. I do not know that I should be prepared to vote for the admission of West Virginia if there was no slavery there, and if its constitution provided for freedom. I question very much whether we should divide these old States and admit portions of them as new States until we can see over the whole ground, and come to a point where we can effect a final settlement of the questions which are now upon us.

And, sir, what reason is there for this? One of the Senators from Virginia said that unless they were admitted as a new State, the inhabitants must make up their minds to abandon the country and go somewhere else. I cannot see why. How is the formation of Western Virginia into a new State to help the citizens of Western Virginia? They are maintaining their loyalty to this Government now by force of arms. It is by the power of the United States and the arms of the United States that they preserve their loyalty at this time. Will they be any more powerful to do this when they shall be set off from the other part of Virginia? They have to-day an organized government; they have a Governor and judges and sheriffs and marshals and Representatives in Congress, and a State Legislature, and they are the State of Virginia. Will they be stronger if you take from them a part of what they now have? Is a part greater or stronger than the whole? How are they to be any better off, or how are the loyal men to be protected any better, by setting off from them a portion of the State of Virginia, some of the other counties? Will the other counties of Virginia cease to war upon you because you set them off? Do you expect that the armies of the rebels will cease to cross the line when you declare that you are a separate State down to a certain boundary? Will that make any difference? Will they pay any respect to this line, or will they march their armies wherever they have the power to go? I cannot conceive how it is that these people are to be any better protected after they are organized into a State embracing a half or a third of Virginia, than when they embrace the whole. Do these other counties of Virginia embarrass your organization? In no respect whatever. The counties which are unfriendly to your organization do not send representatives to your Legislature; you have it all your own way; and how are you to be benefited, how are you to be protected better, when you have only a part of the State of Virginia under your control, than when you have the whole of it within your jurisdiction?

If it be said that by and by at some future period, when the rebellion shall have been suppressed and the whole State of Virginia shall have been brought to acknowledge its loyalty, then the western portion of the State will be overborne by the eastern portion; I answer, not so. When the rebellion is put down in Eastern Virginia, it is to be put down by driving into exile, or killing upon the battle-field, or hanging upon the gallows the traitors who would overrun and oppress Western Virginia; and what shall be left in Eastern Virginia will be like you in Western Virginia, loyal and true to the State and the Union, and you may all act harmoniously together. Or then will be the time, if you shall think it best, to divide the State and have two States out of what was formerly Virginia. Then perfect that organization, and there will be no objection probably to the division. But make the division now, and who can foresee its consequences? When this war shall have subsided, and we shall have a settlement of the controversies which are now pending, who can tell the embarrassments that will arise out of our having divided Virginia at this time? Sir, it will be too late then to put Virginia together again. The Constitution of the United States makes provision for dividing States; it makes no provision for uniting two States into one.

So, sir, in every point of view in which I am able to look at this question, I think it inopportune to attempt to force Western Virginia at this time as a separate State into the Union, or to attempt to divide the State of Virginia, and I trust this bill may not pass. I move that it be postponed until the first Monday of December next, and on that motion I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. CARLILE. At the risk, sir, of misconstruction, I propose to vote for the motion of the Senator from Illinois; and in order that my reasons may go forth with the vote, I shall detain the Senate but a moment. It will be observed, and I desire to call the attention of the people interested in this proposition to the fact, that under this bill we cannot be admitted as a State any earlier than we can be admitted if the bill shall not pass. We have ascertained now the wishes of the Senate, and if our people are willing to submit to congressional dictation, they can, of their own motion, between this and the next session of Congress, frame a constitution, if such shall be their wish, in accordance with the proposition that is now pending; and we can come with that constitution to Congress, upon its assembling here on the first Monday of December, and be admitted into the Union without difficulty, and assume our position as a separate State just as early as we can under this bill. For one, I never would consent to have the organic law of a State framed for its people by the Congress of the United States. When this right is surrendered to the central Government it becomes a despotism, and the people no longer free because its subjects and slaves.

Looking, therefore, to the good of the country, seeing that there is no injury to be inflicted upon the people whom I immediately represent by the refusal to pass this bill, and denying to Congress all power to dictate to a people within a certain territorial limit upon what terms they shall come into the Union, other than merely ascertaining if the constitution which they present is republican in form, and seeing no benefit that can result to the people interested in this proposition by the passage of the bill in its present shape, I shall vote, as I believe it to be a duty I owe to the whole country, for the motion submitted by the Senator from Illinois.

Mr. HOWARD. I do not wish to detain the Senate; I rise chiefly to make an inquiry of the Senators from Virginia. Not long since, upon the recommendation of the President of the United States, both Houses of Congress passed a joint resolution suggesting to the so-called border slave States to take some action in reference to the final emancipation of their slaves. It is not necessary further to state the contents of that resolution. The Senators from Virginia know its contents quite well. I desire to ascertain from either of the Senators from Virginia whether the Legislature of that State, now organized and sitting at Wheeling, have taken any action upon the subject of that joint resolution; whether they have made any response to it either the one way or the other; and if they have made no such response, what are the anticipations of the Senators from Virginia in reference to the final action of their State upon the question submitted in that joint resolution? I do not know that any such action has been taken; I fancy there has been none.

Mr. WILLEY. Mr. President, I was anxious to secure the adoption of a proposition which would save the people of Western Virginia, among whom there is not a scintilla of difference in regard to this question—I mean the loyal people—the great expense and trouble of another convention and another submission; and when I yielded to my colleague what he regarded as a *sine qua non*, and when it was accepted apparently with cordiality as acceptable to him, I hoped that I should have his coöperation in this matter of vital importance to the constituency we represent. But, sir, from point to point, and from step to step, he misrepresents three fourths of the loyal people of Virginia on this floor. He misrepresents the will of the Legislature that sent him here, with scarcely a dissenting voice; and he interposes to-day an objection which is calculated and designed to thwart this whole movement.

Sir, it is with pain that I am compelled to take this stand, but I am justified in doing it. These people have looked for sixty long years to this day. Time and again have the sections of Virginia been upon the eve of an outbreak, of an insurrection. Criminations and recriminations have sounded in our legislative halls at every session of the Legislature for the last thirty or forty years. Threats of violence have been hurled by one section at the other. And to-day, when the loyal people come with a united voice, having fulfilled all the requisitions of the Constitution and all the forms of the law, and I stand here, where my colleague does not stand, representing the voice of the people of Virginia, who ask for freedom, who ask for severance from the eastern section of the State to whom we have been in bondage in a great degree for fifty or sixty years, he gets up here on the very eve, as I have reason to believe, of the passage of the bill, when the Senate of the United States is about to bestow upon us the long prayed for boon, and he interposes an objection, to postpone and defer our long-cherished hopes and desires.

Now, sir, I wish to make another remark in answer to the Senator from Illinois. He seems to have fallen into the mistake, common to almost every person, that this movement was conceived in a desire to separate ourselves from the disloyal portion of the State of Virginia, that it grew out of our national difficulties, out of the secession of Virginia from the Federal compact. No, sir; no. These circumstances may have precipitated action upon it; they may have given us the opportunity to effect the long-cherished desire of our section of the State; but this controversy is older than I am; I have heard it ever since I can remember anything. It grows not out of these national dissensions; it grows not out of loyalty or disloyalty to the Government; it grows not out of this question of secession; but it grows out of the social, geographical, commercial, industrial distinction and antagonisms that never can be reconciled by the power of man. The Almighty, with His own eternal hand, has marked the boundary between us. We live upon waters that flow into the valley of the Mississippi; our eastern brethren live upon waters that flow into the Potomac and the Chesapeake; and there is a chain of impassable mountain barriers between us that prevent, and will forever prevent, all connection, all social relations, all interchange of traffic and commodities by any convenient means of transportation. Owing to these facts, we ask this separation, and we place it upon these large national grounds; not upon the questions of secession and disloyalty. If those were the only questions at issue, I would say to the western people, as I have hitherto said to them, stand fast, not only until the Union is restored, but until all Virginia again is made loyal to the national flag, and until we all dwell together again beneath its ample folds in peace and in security. But, sir, we never can dwell in harmony, not because now we are separated by principles of secession and anti-secession, or loyalty and disloyalty, but because the Almighty, with His own hand, has placed barriers between us that separate our trade and our intercourse, because our social relations are different, because our places of market are different, because our industrial interests are different, and because, on account of these facts, our internal resources have never been developed, and never can be developed while we are connected with Eastern Virginia.

This new proposed State contains within its towering hills and mountains, treasures richer, perhaps, than can be found within the limits of any other State within this Confederacy, and there they have lain, ever since the establishment of this Government, undeveloped, unworked, valueless, and they must continue to remain so unless a different policy be pursued. Is it just to the people there? Is it just to the loyal people of

Virginia that they shall be thus trampling under their feet treasures which, if developed, would be of untold value, but are valueless beneath their feet in consequence of the antagonisms of State policy which must ever exist until there is a separation between the sections?

Upon these grounds, then, we place this issue; not upon those other grounds. If those other grounds were alone the consideration which moved us, I, for one, would cast my fortunes in the common bark, and when Virginia went down, if she did, I would go down with her, as I intend to do any how, so far as our natural fortunes are concerned.

But the Senator from Illinois takes occasion to say that a division of the State will operate against the reorganization of the eastern section of Virginia; that the Wheeling government, as he calls it, is a nucleus around which the other counties, as they are relieved of the pressure that is upon them, can be brought under State authority. Sir, where is the county east of the Blue Ridge to-day that can be reorganized by any other power than that of military authority? Not one. You tell me of Alexandria. How long would Alexandria acknowledge the authority of the government at Wheeling if you were to withdraw your soldiers? How long would any other county east of the Blue Ridge do it? There is not, in my estimation, a county, and much as I regret to have to say it, let me tell the Senator from Illinois that the only mode by which Virginia can be brought into subjection again to the State and national authorities is by the stern power of the military arm. If this new State is established it leaves the laws of Virginia as they now exist, both in the new State and in the old State precisely the same as before. There is the revised code, there are all the officers, there is all the machinery of the law. What are they worth in a civil point of view? Nothing. You have to-day to enforce authority by the sword, and you will have to do it still if you continue with the old State, and you will have this embarrassment, you will have a civil authority in the western part of the State incapable of exercising any power in the eastern part of the State, and it will be obligatory upon the United States, before this rebellion is subdued in Eastern Virginia, to appoint a military Governor, and therefore you will have in the State of Virginia a military Governor and a civil Governor. Separate the sections and each can govern itself according to the civil laws, and you will not be embarrassed by the civil government in one section of the State, and you may be left free to exercise the necessary military authority in the other portions of the State. All this matter about granting letters of administration can be done about as well in the State after the division as it can be now under the existing state of affairs.

Again: the Senator undertakes to say, and urges as another reason why this State should not be divided, and the new State received into the Union, that it would be the admission of another slave State. So far as the slaves themselves are concerned, what is the fact? If you do not admit the State, what is the fact? Every one of them will remain in perpetual bondage. I am arguing the case now on his own principles; I am not saying whether slavery is right or wrong; but I am speaking *gratia argumenti*. Taking his own premises as true, and his views of slavery as true, what will be the result of his policy? If you do not divide the State, it follows that every slave within the limits of the proposed new State will remain in bondage forever. And yet the people who desire to become a new Commonwealth make a proposition here to-day that all slaves born after the 4th of July next shall be freed, and that all slaves over ten years of age shall be free at twenty-one, and all over fifteen shall be free at twenty-five. With that proffer to the honorable Senator from Illinois, he would rather have no State at all, because it would bring in a slave State, and keep these slaves forever in bondage. There is an old maxim, a homely one, but it is very true, that half a loaf is better than no bread sometimes.

There is another remark which I wish to answer. I happened to say the other day, and I reiterate it now, upon the authority of personal communication with a great many citizens of Northwestern Virginia, and upon the authority of a great many letters which I have received within the last fortnight, that unless the relief is granted to the people of that section of the State which this bill will afford, thousands upon thousands of them will take up the little all they have and find a home elsewhere. Such is my information, and I believe it. But the honorable Senator inquired, how will the erection of that section of the State into a new State relieve us from the difficulties of which we complain, how will it bring about security and peace that will retain those citizens within its limits? So far as the enemy abroad are concerned, they can invade us as well if we are erected into a new State as they can without it; but we do not fear the enemy, we do not fear the national foe, we fear the guerrillas in our midst, we fear the slumbering secessionism that remains there, as my colleague has stated; but give us this new State, and you destroy at once that singular sentiment of State pride, and the new State having once been established, those people will go with the State, acknowledging, singular as it may seem, a supreme allegiance to the State rather than to the United States.

These are some of the reasons, but I want to show to the honorable Senator from Illinois how this thing will operate. Suppose the rebellion is put down all over Eastern Virginia; suppose, as I hope will be the case, that his prediction will be fulfilled and that those secessionists may be driven out: will our condition be any better? Our difficulties are geographical; they are sectional. Look at the state of facts in Eastern Virginia. The State of Virginia is indebted to almost every man east of the Blue Ridge; almost every man has scrip for a horse, or a wagon, or a bag of wheat furnished to the confederate troops. Carry us back to Eastern Virginia, and what is the result? This people to whom the State government is thus indebted will send to the Legislature men who will reflect their will, and what will that be? They will enact laws not only to prevent our receiving any benefit of the State revenues for improvements in our western section, as we have always been prevented, but we shall have imposed upon us, through the overwhelming majority, through the influence of the popular will, the payment of the debts which Eastern Virginia has contracted in sending men across our borders to murder our citizens and burn our houses, besides having furnished ten thousand men in resisting them, and paying our proportion of the national debt. That will be our condition if we are carried back into Eastern Virginia; and it is no wonder our people are excited; it is no wonder that by scores they have been beseeching the members of the Committee on Territories, coming here from their homes at their own expense, beseeching that now when they may, they may have a separate and independent existence. It will injure no one; it will not injure Virginia; it will not injure the Union. It will give to this Union, and to those who desire it, in due time a free State.

Mr. CARLILE. I merely wish to notice a personal allusion to myself by my colleague. I have no intention to detain the Senate, but his remarks call for a reply from me. I will not say that my colleague misrepresents three fourths of the people that sent him here. He may suppose that I do. That is a question which time will settle. It is not my habit, never has been, to proclaim the position that I stand in with those whose representative I am. Certain it is, that I endeavor to take that course which I believe sincerely will best subserve the interests of that people. Now, I desire it to be borne in mind that no additional expense will be imposed upon the people of Northwestern Virginia, who desire this separation, if this bill shall be postponed until December, than will be imposed if it passes now. Does not the bill itself contemplate the assemblage of the convention? Does it not contemplate the adoption, on the part of that convention, of the conditions contained in the bill?

Mr. WILLEY. Allow me to suggest that I made the remark in regard to expense, in reference to my yielding to my colleague's other proposition.

Mr. COLLAMER. I wish to ask the Senator from Virginia [Mr. CARLILE] a question. Suppose that between now and December the progress of our arms should be such that old Virginia submits again to the Union, would this new State ever get the consent of old Virginia to its erection?

Mr. CARLILE. The Legislature has given its assent. It is not six months until Congress meets again. No Legislature, I will say to the Senator from Vermont, can be assembled, unless it is assembled in extra session, under our constitution, until next December a year. By our constitution our Legislature meets biennially. Its regular session was last December. It has been convened since in extra session, and unless convened in extra session there can be no session of the Legislature until December one year from this time. Now, does the Senator suppose that if we should take possession of Richmond to-morrow, with our force, the civil government would be so reorganized throughout the State that a Legislature composed of representatives from the various counties of the State, now within the confederate power, could be assembled by the reassembling of Congress in December? Sir, it is a violent presumption to be made. There is no fear, therefore, that we shall lose the assent which our Legislature has already given, by the repeal of the act giving the assent.

And, sir, further, if you will postpone this bill until December, you allow us of our own motion to frame our own constitution, and we can, if we shall deem it worth while to do so, come here at the next session with a constitution emanating from ourselves. Therefore, as it will not delay us, as it will not add one dollar to the expense to be incurred by our people, I think there is an obvious propriety in the motion submitted by the Senator from Illinois. If we were to be admitted unconditionally, as we proposed to be, and as the Legislature has requested us to ask for admission, it would be another and a very different question. Now, sir, I have at heart as much as any man this separation, but I have other things at heart, too. I have the peace and quiet of my section, and I have the desire to afford to those who are engaged in rebellion against the Government nothing like an argument for its prolongation or its continuance.

But furthermore, Mr. President, my colleague says that when he yielded to me and submitted the proposition which he did in lieu of the one which he first presented, he supposed he would have my hearty coöperation. Sir, I supposed I was yielding to my colleague. I supposed I was doing for him that which I believed he would do for me; relieving him from a dilemma that I did not think he would like to be placed in. When the yeas and nays were called on my amendment, I did not want to place my colleague in the position of having to vote against giving the privilege to the people he represents on this floor to pass on these conditions, and therefore I yielded that he should withdraw his amendment; and I was willing that mine should be withdrawn, and that he should substitute another in its stead that would place him in a much better condition before his people than he would be otherwise. I assented to it out of kindness to him.

Now, Mr. President, my colleague says that this question of the separation of the State is older than he is. So it is; but it is not by the boundaries here proposed, and the quotation to which he alluded, from Mr. Webster, was looking and addressed to the men west of the Blue Ridge. His language is, "ye men west of the Blue Ridge of mountains," as he opens the paragraph to which my colleague has referred, and always heretofore, up to May one year ago, we have looked to a separation by the line of the Blue Ridge; and the convention—I acting in harmony with them—confined the first proposition, and the original proposition, to the counties of northwestern Virginia alone, because we knew that we were in no condition to get a fair or open expression of the people elsewhere upon the proposition. But, sir, it was not because we would not like to have our boundaries enlarged. That fact is evidenced by the very papers now before the Senate. The very convention, the very Legislature, which gave its assent, gave an opportunity, and hoped that an opportunity would be presented to the counties in the valley—Jefferson, Berkeley, and Frederick—to come in, and contemplated their addition to our boundaries; but contrary to our expectations, these counties were, at the time the vote was taken, in the possession of the confederate armies, and therefore could not vote.

Now, sir, if we let this thing alone, and let our people act, we shall secure I believe an addition of territory, we shall run our southern boundary as it now is still further east, going across and in-

cluding the counties in the valley, which properly belong, in a commercial aspect, to the same trading community that we do. But we can at least do this: we can secure the counties through which the Baltimore and Ohio railroad passes, which has been a very desirable object from the very beginning with our people. The Baltimore and Ohio railroad enters the State of Virginia at Harper's Ferry; it continues in that State, if the new State shall be made under the proposition, until it enters the county of Morgan, and under this bill if we act we shall be confined to the counties named in the bill, whereas if we are let alone and assemble a convention of our own, we may attain that desirable object, the placing of the entire line of the Baltimore and Ohio railroad within loyal States, to say the least, if we do not get the other counties named in the bill of the committee, and which would give us a natural mountain boundary between us and the old State.

Furthermore, the convention that originated the convention that framed this constitution, and under which this proposition has been brought before the Senate, contemplated in the first place a natural boundary, a boundary by the Alleghany mountains. Now, sir, we are bounded by this bill alone by imaginary lines. Take your map and look, and tell me why the county of Highland should not be in our State as well as the county of Pendleton. She is more with us in interest, more directly connected, and much easier of approach; she has fewer of that peculiar population than has the county of Pendleton or the county of Greenbrier that are taken in with us. There is no natural separation under this proposition between us and the old State. We cross the Alleghany mountains to take in the counties of Hampshire, Hardy, and Morgan, as proposed under this bill, with no natural separation between them and the county of Berkeley and adjoining counties. And when we speak of loyalty there is not within the limits of the State of Virginia, not upon the banks of the Ohio river to-day, a more loyal people than the people in the county of Berkeley. I will inform my colleague, who says there is no loyalty east of the mountains, if he does not know it, that Berkeley county weeks ago went on and organized under our Government, elected their clerks, elected their sheriff, elected their prosecuting attorney, elected their justices of the peace. I am informed also that even down here on the Eastern Shore, the county of Accomac and probably the county of Northampton have proceeded in the same way. But, sir, if we are in a condition to do it, we desire the addition of the counties through which the Baltimore and Ohio railroad runs; and, therefore, as nothing can be gained by the passage of this bill now, as the people can suffer no delay whatever, I prefer that we should be left alone to act without being confined to the forty-eight counties named in the amendment submitted by my colleague. Will it not be prejudicial to the Union cause in the valley of Virginia if the loyal people there see that they are denied all opportunity of giving expression to their wish to unite their destiny with their fellow-citizens west of the mountains, and does not the imposition of these conditions contained in this amendment at this time tend to confirm the charge that it is the purpose of some to have two governments if they cannot bring back the States shorn of the constitutional right of regulating for themselves their own internal policy?

Mr. WADE. I want to say one word, and only one word, because I understand a motion has been made to postpone this bill until the next session. There is no gentleman who knows exactly when human nature is weak, just exactly the time to strike, like my friend from Illinois. He understands the weakness of human nature, and the persuasive argument towards dinner time of a motion for delay; and how arguments, otherwise without weight and without much reason, press upon men when they are pretty sure that they do no harm to anybody, when they have done no positive act. In accordance with our natural indolence, such an argument is very apt to have weight, and yet it is the most dangerous in a legislative assembly that is ever made. Nobody knows it better than my friend from Illinois.

Gentlemen say that I have said enough. I suppose I have, and am not going to say much more. Gentlemen ought not to admonish me much, for I believe I never make long speeches. This is a very easy way for us to rid ourselves of this question, but it will not be so satisfactory to those who feel such a vital interest in it as the people of West Virginia, who have sent their population here almost *en masse* to urge it upon this Congress to pass this measure and relieve them from the alarm that they are under in consequence of the uncertainty that they may be left in the hands of their enemies. That there is to be a separation is a foregone conclusion, and no man has urged it upon the committee more strongly than the Senator who now opposes immediate action, [Mr. CARLILE.] He, of all the men in the committee, is the man who penned all these bills and drew them up. He is the man who has investigated all the precedents to see how far you could go in this direction. It was to his lucid mind that we were indebted for the fact that there were no legal or constitutional barriers in the way of this proposition. He submitted to the labor; he did it cheerfully; he did it backed by the best men of his State and section, and what did they say? They said, "we cannot live any longer with Eastern Virginia. Independent of the great controversy that has sprung up in the nation, we have a controversy of old standing that renders our connection with Eastern Virginia absolutely impossible." He is the gentleman who impressed their opinions upon the committee as strongly as anybody else, and what change has come over the spirit of his dream I know not. His conversion is greater than that of St. Paul. He has persuaded us that the measure was right; he has appeared side by side with his able Governor, who urged this upon us as a measure vital to the interests of the State that he represents. All at once, after persuading us to bring the question before Congress, and when we expected his powerful aid to help us to push it through, we are brought up all standing by his powerful opposition. Why did he write, why did he investigate, why did he persuade the committee that all was right? Why did he persuade us that there was scarcely a dissenting voice in all that part of Virginia, if now he has discovered that it is all wrong? Why did he resort to books, why did he go back to the old Missouri compromise, and discover there the steps that were taken to initiate that State? Why did he go back to the Rhode Island case, and to other cases, and point them out to us? No gentleman urged the measure upon us more strongly than he, in connection with his distinguished associates, he acting as their chief and their spokesman, and yet all at once, when we become earnest and see that the people want this done, we have to encounter his violent, determined, persistent opposition. Sir, it is sheer trifling.

There is no reason on God's earth why, if Western Virginia is ever to be a State, she should not be admitted now. The Senator from Illinois spoke of the present confused and turbulent state of affairs. Sir, amidst that turbulence is the very time to organize it. When we have lost State after State going out from the Union, and making war upon it, is it not good policy for us to seize upon the first State that offers her friendly hand to come back to us into the Union? Does he want them still to go, and never to hold out encouragement that they shall return? Is that good policy? He says many States have gone out, and, therefore, he argues, that when they want to come in, we should keep the rest of them out. That is about the argument he has made use of.

If there is anything in such an argument as that, it is that this people, believing with us, being with us in sentiment, being with us in principle, being a powerful barrier between our enemies and our friends, should not be erected into a noble free State as a breakwater between the secessionists of the South and the great Northwest. Is there any time more favorable than this for the measure? If all was calm, if all was peace, if all was just as it should be, then to tear old Virginia asunder might cause a commotion that would induce men to hesitate. Now it is one of those things that the exigencies of the times most eminently demand, and it does not make a ripple upon the waters. You can do justice now easier than you can begin to contemplate it in other times. Now is the time for great events, when you see that a commotion in the land has brought it within the compass of your power to do a great and mighty good, to perform it. To treat the fact of that commotion as a reason why you should not do it, is the narrowest statesmanship in the world. Sir, this is the time when you can do it without exciting passion. It is a time when you can do ample justice to this people, for which they have been laboring for years. They have been almost the slaves of their eastern oppressors, and in ordinary times we should not have the hardihood to do them justice. They could not appeal to us then, because there stood powerful Eastern Virginia with her heel upon their necks, and we were without the courage to help them to rectify and to adjust their grievances. Now things are reversed. Their long-crying grievances are at our doors, easy to be redressed. Let us not postpone that redress. The task will be no lighter at the next session than now. Those who oppose it now will oppose it then. The whole subject is understood. After going as far as we have gone, to yield now to the argument of the Senator from Illinois would be trifling with the feelings and the cause of these Union men, who have sacrificed everything to maintain the integrity of the Union and maintain the principles which we all avow. Let us stand by them; let us not be carried away by this argument and be deterred from coming up to the work of doing justice, and doing it boldly; not shrinking in a cowardly manner, and saying "although I see it is just, I would a little rather postpone it to some more convenient season." Sir, that is not the way for a statesman to act. That meed of justice which the exigencies of the times demand should be done here now. We are able to do it now. What time may bring forth we know not. It is wisdom for a Legislature, when they have the justice of the case before them, when they have the facts before them, when they see that nothing but good can result, to act promptly. Nothing but mere cowardice will drive a man from the exercise of the godlike principle of justice. Let us do it now and at once; let us reject this motion to postpone.

Mr. WILSON, of Massachusetts. I move that the further consideration of this subject be postponed until to-morrow at twelve o'clock.

The PRESIDING OFFICER, (Mr. FOSTER.) The motion now is to postpone to the first Monday of December next. The question must be taken on the longer time first.

Mr. WILLEY. I hope we shall have the vote now.

Mr. POWELL. I desire to say a few words on this bill, but I give way to the Senator from Massachusetts to make his motion.

Mr. WILSON, of Massachusetts. I am very anxious to get the Senate to take up a bill and pass it through to-night. I have waited patiently all day for an opportunity. I am sure the vote cannot now be taken on this bill. To-morrow at twelve o'clock we shall have a full Senate, and can vote on it then just as well. I hope, therefore, the question will be put and the bill postponed until twelve o'clock to-morrow.

The PRESIDING OFFICER. The motion now is to postpone the bill until the first Monday of December next. A motion to postpone until to-morrow is not now in order.

Mr. TEN EYCK. I shall not say that I want to say only a word, but I am sure I shall not utter more than twenty words; I just wish to give my reasons. This question presents two aspects, one a matter of law, and the other a matter of policy. A year ago I voted with joy to admit the two Senators from Virginia to seats upon this floor. They had been appointed by the Legislature of Virginia, and this Senate recognized the legality of their appointment. The same power has agreed to the division of the State. I apprehend the Senate by the vote which it gave on that occasion has fixed the legality of the action of the Legislature of Virginia. That settles the legal question.

Now, with regard to the policy. I understand and believe that a vast majority of the people of Western Virginia are looking here with tears in their eyes, if men shed tears, anxiously hoping that Western Virginia will be admitted as a State. I am not willing to postpone, and run the risk of having the whole of Virginia, by their Legislature, when this rebellion shall have been crushed out, repeal this act, and subjecting the free people, the freedom-disposed people of Western Virginia, to any further dictation and tyranny exercised over them by the people of Eastern Virginia. Having said thus much, I shall vote against the proposition to postpone.

The PRESIDING OFFICER. The question

is on the motion of the Senator from Virginia, to postpone the further consideration of the bill until the first Monday of December next.

The question being taken by yeas and nays, resulted—yeas 17, nays 23; as follows:

YEAS—Messrs. Bayard, Browning, Carlile, Chandler, Cowan, Davis, Doolittle, Howard, Kennedy, King, Powell, Saulsbury, Stark, Sumner, Trumbull, Wilson of Missouri, and Wright—17.

NAYS—Messrs. Clark, Collamer, Fessenden, Foot, Foster, Grimes, Hale, Harlan, Harris, Henderson, Howe, Lane of Indiana, Lane of Kansas, McDougall, Morrill, Pomeroy, Sherman, Simmons, Ten Eyck, Wade, Wilkinson, Willey, and Wilson of Massachusetts—23.

So the motion to postpone did not prevail.

Mr. POWELL. I desire to assign very briefly the reasons why I shall vote against this bill. I discover by reference to the bill that there are forty-eight counties that ask admission into the Union as a new State. Ten of these counties, I understand, were not represented in the Legislature that inaugurated the proceedings to form this territory into a new State, to wit, the counties of Mercer, McDowell, Webster, Pocahontas, Greenbrier, Monroe, Hardy, Hampshire, Pendleton, and Morgan. That leaves only thirty-eight counties that were represented in that Legislature. The State of Virginia is composed of about one hundred and sixty counties. Here we have less than one fourth of the counties assuming to act for the entire State. We have, perhaps, not more than one fourth of the population, provided all the people within those boundaries were in favor of forming this new State. I do not believe that the action of the limited number of people that I have named in Western Virginia can by any fair construction come within the meaning of that clause of the Constitution which declares that—

"New States may be admitted by Congress into this Union; but no new State shall be formed or erected within the jurisdiction of any other State, nor any State be formed by the junction of two or more States or parts of States, without the consent of the Legislatures of the States concerned, as well as of the Congress."

I know that something may be said so far as the precedent is concerned, as indicated by the Senator from New Jersey, but I do not believe it was ever contemplated by the Constitution of the country, that less than one-fourth of the people constituting a State should in revolutionary times like these form themselves into a Legislature and give their consent to themselves to form a new State within the limits of one of the States of this Union. It is inaugurating a principle that, in my judgment is dangerous, that is radically destructive of the great principles of the Constitution of our country, and one I never can assent to. The Senator from Virginia [Mr. WILLEY] says the people of Western Virginia are very unanimous in favor of this new State. I am informed that in the last presidential election they cast something like fifty thousand votes, and that when this question was submitted, only eighteen thousand three hundred voted in favor of this new State.

Mr. WILLEY. With the leave of the Senator I will state that the Legislature and convention represented three fourths of, or almost unanimously, the loyal people of Western Virginia; and the Senator will remember that in addition to the eighteen or nineteen thousand votes cast, there were ten thousand men in the field away from their homes, and it was a foregone conclusion, and many of the people in the populous counties did not come out, knowing it would be carried overwhelmingly anyhow.

Mr. POWELL. That may be, but we know from the votes cast that largely more than one half the voters within the boundaries of this new State declined to cast their votes, and that is a test. If they were at home and declined to vote, the presumption is that they were not in favor of the new government or they would have voted. I do not believe that we should act in this radical manner, particularly in times like the present. If the cities of New York and Brooklyn and the counties in which they are, were to get up a little bogus legislature and say they were the State of New York, and ask to be admitted and cut off from the rest of the State, I would as soon vote for their admission as for the admission of this new State. No Senator pretends to claim that a majority, that even a third of the people of the State of Virginia, have ever had anything to do with rendering their assent to the making of this new State within the territorial limits of that ancient Commonwealth. Suppose this revolution should extend to one of the free States of the Union, to Pennsylvania for instance, and less than one third or one fourth of her counties should get together and assume to set up a new government or the government of the State, calling it if you please the State of Pennsylvania, and were to demand admission here as an independent State, and present the act of that legislature, constituted of less than one third of her people and less than one fourth of her counties, as the act of the people of Pennsylvania, should we think that that was really the act of the people of Pennsylvania yielding their assent within the meaning of the Constitution? I certainly should not. It is a dangerous precedent, one that is radical, one that, in my judgment, overthrows the Constitution of my country, and one that perhaps, in after time, may be fraught with the most dire consequences.

I have very briefly, in the briefest possible manner, stated the outline of the reasons why I shall vote against the admission of this new State. Here are nine counties that had but little if any agency in forming this government; they too are to be dragged into this new State, and perhaps against their will. The whole thing, Mr. President, in my judgment, is radically wrong.

The PRESIDING OFFICER. The question is, "Shall the bill be ordered to be engrossed for a third reading?"

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

Mr. POWELL. I ask for the yeas and nays on the passage of the bill.

The yeas and nays were ordered, and being taken; resulted—yeas 23, nays 17; as follows:

YEAS—Messrs. Anthony, Clark, Collamer, Fessenden, Foot, Foster, Grimes, Hale, Harlan, Harris, Howe, Lane of Indiana, Lane of Kansas, Morrill, Pomeroy, Rice, Sherman, Simmons, Ten Eyck, Wade, Wilkinson, Willey, and Wilson of Massachusetts—23.

NAYS—Messrs. Bayard, Browning, Carlile, Chandler, Cowan, Davis, Howard, Kennedy, King, McDougall, Powell, Saulsbury, Stark, Sumner, Trumbull, Wilson of Missouri, and Wright—17.

So the bill was passed.

PRINTING OF PACIFIC RAILROAD BILL.

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

Resolved, That three thousand extra copies of the Pacific railroad bill, as passed by Congress, be printed for the use of the Senate.

Mr. ANTHONY, from the Committee on Printing, subsequently reported the resolution, and it was agreed to.

REPORTS FROM COMMITTEES.

Mr. DAVIS, from the Committee on Foreign Relations, to whom was referred the memorial of Frances Ann McCauley, widow of Daniel S. McCauley, praying compensation for the judicial services of her husband as consul general at Tripoli, Barbary, and Alexandria in Egypt, asked to be discharged from its further consideration; which was agreed to.

Mr. WILSON, of Massachusetts, from the Committee on Military Affairs and the Militia, asked to be discharged from the further consideration of the following bills and joint resolution:

A bill (S. No. 357) concerning enlistments in the military service;

A bill (S. No. 391) to define the number of major generals and brigadier generals in the military service; and

A joint resolution (S. No. 90) authorizing the President of the United States to purchase Jones's improvement in operating heavy guns.

The motion was agreed to.

PROPOSED EXPULSION OF MR. SIMMONS.

Mr. TEN EYCK, from the Committee on the Judiciary, to whom was referred the resolution to expel Hon. JAMES F. SIMMONS, a Senator from the State of Rhode Island, from the Senate, submitted a report; which was ordered to be printed.

NOTICE OF A BILL.

Mr. HOWE gave notice of his intention to ask leave to introduce a bill to provide a new article of war.

PRINTING OF A REPORT.

A motion, by Mr. HALE, to print three thousand additional copies of the report of the Committee on Naval Affairs, to whom was referred a resolution directing an inquiry into certain allegations affecting the loyalty of officers, instructors, and pupils at the Naval Academy, was referred to the Committee on Printing.

BILL INTRODUCED.

Mr. WILSON, of Massachusetts, asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 395) in relation to military hospitals, and for other purposes; which was read twice by its title, referred to the Committee on Military Affairs and the Militia, and ordered to be printed.

ADDITIONAL VOLUNTEERS AND MILITIA.

On motion of Mr. WILSON, of Massachusetts, the bill (S. No. 394) to amend the act calling forth the militia to execute the laws of the Union, suppress insurrections, and repel invasions, approved February 28, 1795, and the acts amendatory thereof, and for other purposes, was considered as in Committee of the Whole.

The bill provides that whenever the President shall call forth the militia of the States, to be employed in the service of the United States, he may specify in his call the period for which such service will be required, not exceeding nine months; and the militia so called is to be mustered in and continue to serve for and during the term so specified, unless sooner discharged by command of the President. If by reason of defects in existing laws, or in the execution of them, in the several States, or any of them, it shall be found necessary to provide for enrolling the militia and otherwise putting the act into execution, the President is authorized in such cases to make all necessary rules and regulations; and the enrollment of the militia is in all cases to include all able-bodied male citizens between the ages of eighteen and forty-five, and to be apportioned among the States according to representative population. The militia, when so called into service, are to be organized in the mode prescribed by law for volunteers. In addition to the volunteer forces which the President is now authorized by law to raise, he may accept the services of any number of volunteers, not exceeding one hundred thousand, as infantry, for a period of nine months, unless sooner discharged; and every soldier who shall enlist under this provision is to receive his first month's pay, and also twenty-five dollars as bounty, upon the mustering of his company or regiment into the service of the United States; and all provisions of law relating to volunteers enlisted in the service of the United States for three years, or during the war, except in relation to bounty, are to embrace the volunteers to be raised under this provision. For the purpose of filling up the regiments of infantry now in the United States service, the President may accept the services of volunteers in such numbers as they may be presented for that purpose for twelve months if not sooner discharged; and such volunteers, when mustered into the service, are to be in all respects upon a footing with similar troops in the United States service, except as to service bounty, which shall be fifty dollars, one half to be paid upon their joining their regiments, and the other half at the expiration of their enlistment.

The bill further provides that the President shall appoint, by and with the advice and consent of the Senate, a judge-advocate general, with the rank, pay, and emoluments of a colonel of cavalry, to whose office shall be returned, for revision, the records and proceedings of all courts-martial and military commissions, and where a record shall be kept of all proceedings had thereupon; and that no sentence of death or imprisonment in the penitentiary, shall be carried into execution until the same shall have been approved by the President. There may be appointed by the President, by and with the advice and consent of the Senate, for each army in the field, a judge-advocate, with the rank, pay, and emoluments, each, of a major of cavalry, who shall perform the duties of judge-advocate for the army to which they respectively belong, under the direction of the judge-advocate general. Hereafter all offenders in the army adjudged to be punished by a regimental or garrison court-martial are to be brought before a field officer of the regiment, who shall be detailed for that purpose, and who shall hear and determine the offense, and order the punishment that shall be inflicted, and shall also make a record of his proceedings, and submit it to the brigade commander, who, upon the approval of the proceed-

ings of the field officer, shall order the same to be executed; but the punishment in such cases is to be limited to that authorized to be inflicted by a regimental or garrison court-martial; and in the event of there being no brigade commander, the proceedings are to be submitted for approval to the commanding officer of the post. All officers who have been mustered into the service of the United States as battalion adjutants and quartermasters of cavalry under the orders of the War Department, exceeding the number authorized by law, are to be paid as such for the time they were actually employed in the service of the United States, and all such officers now in service, exceeding this number, are to be immediately mustered out of the service of the United States.

The bill also provides that the President may establish and organize army corps according to his discretion. Each army corps is to have the following officers attached thereto, to constitute the staff of the commander thereof: one assistant adjutant general, one quartermaster, one commissary of subsistence, and one assistant inspector general, to bear, respectively, the rank of lieutenant colonel, and to be assigned from the Army or volunteer force by the President; also, three aids-de-camp, one to bear the rank of major, and two to bear the rank of captain, to be appointed by the President, by and with the advice and consent of the Senate, upon the recommendation of the commander of the army corps. The senior officer of artillery in each army corps is, in addition to his other duties, to act as chief of artillery and ordnance at the headquarters of the corps. The cavalry forces in the service of the United States are hereafter to be organized as follows: each regiment of cavalry is to have one colonel, one lieutenant colonel, three majors, one surgeon, one assistant surgeon, one regimental adjutant, one regimental quartermaster, one regimental commissary, one sergeant major, one quartermaster sergeant, one commissary sergeant, two hospital stewards, one saddler sergeant, one chief trumpeter, and one chief farrier or blacksmith; and each regiment is to consist of twelve companies or troops, and each company or troop is to have one captain, one first lieutenant, one second lieutenant, and one supernumerary second lieutenant, one first sergeant, one quartermaster sergeant, one commissary sergeant, five sergeants, eight corporals, two teamsters, two farriers or blacksmiths, one saddler, one wagoner, and seventy-eight privates; the regimental adjutants, the regimental quartermasters, and regimental commissaries to be taken from their respective regiments, but vacancies caused by this organization are not to be considered as original, and are to be filled by regular promotion. The bill also proposes to authorize the President to receive into the service of the United States, for the purpose of constructing intrenchments, or performing camp service, or any other labor or any military or naval service for which they may be found competent, persons of African descent, and such persons are to be enrolled and organized under such regulations, not inconsistent with the Constitution and laws, as the President may prescribe; and are to be fed and clothed and paid such compensation for their services as they may agree to receive when enrolled. When any man or boy of African descent shall render any such service he, his mother, and his wife and children, are forever thereafter to be free, any law, usage, or custom to the contrary notwithstanding. All persons who have been, or shall be hereafter enrolled in the service of the United States under the act, are to receive the pay and rations now allowed by law to soldiers, according to their respective grades, except that persons of African descent, who shall be employed, who are to receive ten dollars per month and one ration. An appropriation of $10,000,000 is made to carry the act into effect.

Mr. WILSON, of Massachusetts. I wish to make one or two slight amendments. On the third page of the printed bill, in the fourth line of the fourth section, I move to strike out the word "they," and in the same section, line eleven, to strike out the word "said" before "enlistment." They are verbal amendments.

The PRESIDING OFFICER. These amendments will be made unless there be objection. The Chair hears no objection. The Clerk will make the necessary corrections.

Mr. WILSON, of Massachusetts. In the seventh section, second line, I move to strike out the words "adjudged to be punished," and insert "charged with offenses now punishable."

The PRESIDING OFFICER. That amendment will be made, unless there be objection.

Mr. SHERMAN. In section twelve, I move to strike out the last three lines; they are inconsistent with the last clause of section fifteen.

Mr. KING. Not the entire three lines, but after the word "prescribe."

Mr. SHERMAN. Yes, sir.

Mr. KING. I rose to make that motion, to conform it to the other section, and to append as part of this section the fifteenth section.

The PRESIDING OFFICER. The words proposed to be stricken out in section twelve are:

And they shall be fed and clothed, and paid such compensation for their services as they may agree to receive when enrolled.

The amendment was agreed to.

Mr. SHERMAN. I move to add to the proviso at the end of the fifteenth section the words, "three dollars of which monthly pay may be in clothing."

Mr. KING. I concur in that amendment.

The amendment was agreed to.

Mr. KING. I desire that the word "first," in section thirteen, line three, be changed to the word "twelfth." These are two bills added together, by which the first section of one becomes the twelfth section of the other.

The PRESIDING OFFICER. That verbal correction will be made.

Mr. GRIMES. I wish to inquire whether the order that was made the other day to have a recess from five o'clock until seven extended beyond that day or not. If it did not, I make the motion applicable to to-day and to-morrow. I move that hereafter the Senate take a recess from five to seven o'clock during the present session.

The PRESIDING OFFICER. Is the motion objected to? The Senator from Iowa moves that to-day and to-morrow the Senate take a recess from five o'clock in the afternoon until seven. If there be no objection, it will be considered the sense of the Senate, and that order will be entered.

Mr. KING. Now, I desire to change the fourteenth section, which makes an appropriation of $10,000,000 to carry this act into effect, to the following words:

That the expenses incurred to carry this act into effect, shall be paid out of the general appropriations for the Army and volunteers.

The reason for this is, that it is suggested that it will increase the difficulty of passing the bill to make a distinct and specific appropriation. The Senate is aware that this bill is one which has been made up from two or three previous bills, which has made this amendment necessary.

The amendment was agreed to.

Mr. SUMNER. I offer an amendment to come in at the end of the first section. I believe that my colleague, the chairman of the committee, will give his assent to it, and I should like to have the attention of the Senate to it, for it relates to an important point:

Provided, That all enlistments hereafter made, shall be credited to the cities, towns, or municipalities, respectively, in which the same shall be made, and be deducted from any future draft in pursuance of this act.

Mr. GRIMES. If I understand that amendment, the proposition is this: that where anybody hereafter volunteers in one State, although he may be a resident of another State, he shall be credited to the State in which he volunteers; and therefore that State in which he volunteers shall not be compelled to present so many men for conscription as it otherwise would.

Mr. SUMNER. Not precisely so. Let me take a case. In Massachusetts at this moment different cities, towns, and municipalities are supplying a certain quota of troops. Now suppose a draft, which is a compulsory proceeding, should take place next week or next month, immediately after this supply by these different towns, cities, and municipalities. The question arises, shall they not be credited with the troops which they have already contributed? The object of my proposition is to provide that they shall be, and that they shall be deducted from any future draft.

Mr. GRIMES. From that town.

Mr. SUMNER. From that town.

Mr. GRIMES. The result of which is, that in a town which is overflowing with riches or with rich men, there will be such a bounty, such an inducement to enlistment, that young men will come in from the agricultural and rural districts and volunteer from that town, and you will throw a burden on the rural districts that they cannot bear.

Mr. SUMNER. I think that is an imaginary danger.

Mr. GRIMES. That is certainly so. You will never get along with it in the world.

Mr. SUMNER. At this very moment there seems to be a hardship in Massachusetts, arising out of the very case that I have stated. Different cities are contributing their men; and when they make the contribution they ask the question, suppose we have a draft next week, shall we then be supplied under that draft? My object is to put the present supply into an account, so that these different cities and towns and municipalities shall be accredited.

Mr. COLLAMER. I think gentlemen are a little at cross purposes here. The proposition of the Senator from Massachusetts, as I understand it, relates to men who are enlisting in the regular service; that they shall be counted, if they come from a town, in the proportion from that town. Am I right, that this proposition relates to enlistments into the regular service?

Mr. SUMNER. Enlistments, whether in the regular or volunteer service.

Mr. COLLAMER. I believe in my State they keep the account of each town, and they keep the account of the volunteers. Though they may have volunteered, say in the town of Burlington, but their residence was in the county town of Williston, six miles off, they are counted from Williston, where their residence was at the time they volunteered.

Mr. HALE. I want to ask the Senator from Vermont, cannot this be done by State law?

Mr. COLLAMER. Undoubtedly; and it always is done by State law.

Mr. HALE. Then I think the amendment had better be voted down.

Mr. COLLAMER. I think the whole matter can be regulated by State law.

The PRESIDING OFFICER. Is the Senate ready for the question on the amendment?

Mr. HARRIS. I do not think this amendment right at all.

Mr. HALE and others. We are going to vote it down.

Mr. HARRIS. It is said all around me that they will vote it down, and I will not take up time.

Mr. SUMNER. Why will it not answer?

Mr. COLLAMER. If the gentleman will permit me a moment, I will tell him. They set up one, or perhaps two or three, recruiting stations for volunteers in a county. The young men from all that county come to this place or these places and volunteer. The Senator's amendment is that they shall be counted to the benefit of the town or towns in which they volunteer, and not where they reside. I do not think that fair.

Mr. WILSON, of Massachusetts. I suppose my colleague wanted to reach this case; in some of the States, townships are making a special effort to comply with the request of the President for troops. They suppose they can raise nearly all the men they are called upon to raise by volunteering. Other portions of the country do not. Then there is a draft; the militia are called out; and those people who have perhaps paid great bounty, made a special effort to get out their men, and have got all their fair proportion, are to be drafted in addition to their proportion. The idea was to credit that to the State.

Mr. COLLAMER. That is right to credit it to the State.

Mr. WILSON, of Massachusetts. I suggest that it might be altered by striking out "cities, towns, and municipalities," and inserting "States." I think that is fair.

Mr. SUMNER. Very well. Allow me to look at it first, however, that I may see how it will then stand.

Mr. WILSON, of Massachusetts. While my colleague is looking at that question, I wish to call the attention of the Senator from Vermont to the second section of this bill. I understood him to say that he thought it would not do. I am not strenuous about retaining it in the bill. By the

existing law of the country, when the militia are called out, they have got to conform in their organization to the Army organization of the United States. That is the law of the country now; and our volunteers are formed on that model; and therefore when the militia are called out they will have to conform to the present system of organization of volunteers. I do not know, therefore, that it is necessary to retain this second section in the bill; but the Adjutant General thought it had better be there.

Mr. COLLAMER. That is the one that enables the President to make regulations?

Mr. WILSON, of Massachusetts. Yes, sir. The idea was this: that when we called out the militia, they should be conformed to the present organization; that is, one hundred and one men in a company; ten companies in a regiment, with captains and lieutenants, and having a colonel, lieutenant colonel, and major. They were to conform in their organization to the present system of volunteers; and the present system of volunteers conforms to the Army system, with the exception of the new regiments we raised last year, which were made into twenty-four companies.

Mr. COLLAMER. The objection I had was this: when you draft the militia, if they are drafted as they should be, by the laws of the United States and the State, they are drafted with their general officers; whereas that section says they shall be organized like volunteers, which would leave the appointment of their generals to the President. When you call out the militia, they should have their generals with them.

Mr. WILSON, of Massachusetts. If the Senator from Vermont thinks we had better strike out the section, I really do not consider that it is of any great account, and I am perfectly willing that it should be.

Mr. COLLAMER. When I suggested that objection, I thought the Senator would examine it and modify it accordingly. I had not drawn an amendment, and have not now. I do not know but it had better remain there after all, but I think it should be amended.

Mr. SUMNER. I will ask the Senate to go back to the proposition I submitted a moment ago. I propose to alter it by striking out the words "cities, towns, and municipalities," and substituting "States." Will the Secretary be good enough to read it.

The PRESIDING OFFICER. That modification will be made, the amendment being within the Senator's own control. It will be read as modified by the mover.

The Secretary read it, as follows:

Provided, That all enlistments hereafter made shall be credited to the States respectively in which the same shall be made, and be deducted from any future draft in pursuance of this act.

Mr. HALE. I do not want to have that amendment adopted unless it is further modified and these enlistments are made from citizens of their own State. I will tell you what the operation of it will be.

Mr. SUMNER. You cannot go into those details.

Mr. HALE. Perhaps you cannot. Then I think you cannot go into this. The State of Vermont lies its whole length side by side with New Hampshire, and the State of Vermont pays a bounty of seven dollars a month. The result will be, if you adopt this amendment, that all the men, from the Canada line down to Massachusetts, on the borders of Vermont will go over into Vermont and volunteer in preference to enlisting in New Hampshire where they get no bounty, and our enlistments will be credited to Vermont instead of New Hampshire. I think we had better leave it as it is, and leave this thing to be regulated by the States, and if any of these municipalities raise more than their quota, let the State regulate it. I hope the amendment will not be adopted.

The amendment was rejected.

Mr. HALE. In section ten, line two, after the word "officers," I move to insert the words "and no more;" so that it will read:

That each army corps shall have the following officers and no more attached thereto, who shall constitute the staff of the commander thereof, &c.

Mr. WILSON, of Massachusetts. I will agree to that amendment. I will state to the Senator that the commanders of army corps have more men attached to their staffs than would be allowed by this section; and now the Senator proposes that they shall have no more, which will define precisely what they shall have. I think this section provides enough for them, and therefore I am perfectly willing to agree to the Senator's amendment.

Mr. HALE. The Senator does not quite understand the amendment. This section applies to officers of the staff, and not to the army corps, and as amended it will read, "that each army corps shall have the following officers, and no more, attached thereto, who shall constitute the staff of the commander thereof."

Mr. KING. This amendment will strike off the additional aids-de-camp that have been given to these officers.

Mr. HALE. No; it will not. Three aids-de-camp are included.

Mr. KING. But I mean that some of them have more than that.

Mr. HALE. That is the very thing I desire to do.

Mr. KING. I will merely state, that the Senate may understand it, that there are quite a number of them.

The amendment was agreed to.

Mr. HALE. I move further to amend the bill by striking out the whole of the ninth section, and I will explain to the Senate why I do it. I think there is law enough for army corps now, and if we allow this section to remain, it will be construed just as was the bill for five hundred thousand additional men that we voted by accident at the last session. We provided in one bill for raising that amount of men, and then repeated it in another bill, supposing it still to amount to five hundred thousand, and it was construed to authorize a million. This section authorizes the President to make just as many army corps as he pleases. Here is the section:

SEC. 9. *And be it further enacted*, That the President be, and he is hereby, authorized to establish and organize army corps according to his discretion.

That gives him a perfectly unlimited discretion to make just as many as he pleases. I think that section had better be stricken out, and let the matter stand as it is.

Mr. WILSON, of Massachusetts. There is no law for forming army corps now; but it was believed by those connected with the military service, that, with our large force, it was very important to make army corps. Army corps were intended to contain somewhere from thirty to forty thousand men. Generally an army corps comprises three divisions of the Army, and they have been based upon that—three divisions making from thirty to thirty-five thousand men, and put under the command of one man. The Army of the Potomac at the present time has five army corps connected with it. There is no law authorizing the President to make these army corps.

Mr. GRIMES. He does not need any.

Mr. WILSON, of Massachusetts. The Senator from Iowa suggests that he does not need the law; but the truth is, it seems to me, that in organizing our Army there ought to be a law for making army corps. There is a law for company, regiment, brigade, and division organization, and it seems to me there ought to be a law for army corps. I do not think it will give the President any more power than he has now. He will certainly divide the Army into these corps wherever it will be deemed necessary.

Mr. GRIMES. Why not fix the number of men of which they are to consist?

Mr. WILSON, of Massachusetts. The Senator from Iowa asks why we do not define the number of which they consist. I think there is no trouble on that point. There is no necessity for that; for I believe the army corps, with one or two exceptions, have had three divisions. There may be one or two of them that have had only two divisions. I am inclined to think that General Banks's corps has been reduced to that.

Mr. HALE. After the explanation that has been made, I will withdraw the amendment.

Mr. SHERMAN. I think by an inadvertence, for the Senator from Massachusetts would not have done it otherwise, he has left out a very important clause in the thirteenth section which was adopted by a deliberate vote of the Senate. I will therefore renew it. It is in section thirteen, line two, after the words, "African descent," to insert the words "who by the laws of a State owes service or labor to any person who during the present rebellion has waged war against the United States, or has aided or assisted said rebellion."

Mr. LANE, of Kansas. I must demand the yeas and nays on that amendment.

Mr. SHERMAN. Oh, no. We have voted on it once.

Mr. LANE, of Kansas. I cannot help it.

Mr. KING. I will ask the Senator from Ohio to allow me to make a verbal correction in this section before the question is taken on his amendment.

Mr. SHERMAN. Certainly.

Mr. KING. It now reads:

That when any man or boy of African descent shall render any such service as is provided for in the first section of this act, he, his mother, and his wife and children shall forever thereafter be free, &c.

The provision referred to is in the twelfth section instead of the first, but as there may be some change in the numbering of the sections, instead of referring to the twelfth section, I propose to strike out the words "the first section of," so that it will read, "as is provided for in this act."

The PRESIDING OFFICER. That correction will be made if there be no objection. The amendment is merely for the purpose of identification. The question recurs on the amendment of the Senator from Ohio. The Senator from Kansas asks for the yeas and nays on the adoption of the amendment.

The yeas and nays were ordered.

Mr. SHERMAN. I simply want the Senate to understand the amendment. The Senate, by a deliberate vote and by a considerable majority, determined that it would not apply the emancipation clause in this bill to any but the slaves of rebels, and yet now, when the bill is introduced in a new form, that important provision is omitted. By the section, as it now stands, if any slave is employed to wheel a barrow of earth in making an intrenchment, or cutting down a tree, if he was the slave of the most loyal man in this country, he would thereby be made free. I am sure the Senate does not desire to do that injustice.

Mr. LANE, of Kansas. I am perfectly willing to provide in the bill for remunerating the loyal master; but the idea in this amendment is to remand a man back to slavery, either to a loyal or a disloyal master, after he has fought in defense of his country! Sir, I am not prepared to do so gross an act of injustice as that. Besides, it takes away the great incentive from these men to work. The incentive is their freedom. Any price that the Senate choose to give to the loyal master I am ready to vote; but not to remand the man to slavery.

The question being taken by yeas and nays, resulted—yeas 16, nays 9; as follows:

YEAS—Messrs. Browning, Davis, Doolittle, Foster, Harris, Henderson, McDougall, Morrill, Powell, Sherman, Simmons, Stark, Ten Eyck, Willey, Wilson of Missouri, and Wright—16.

NAYS—Messsrs. Carlile, Foot, Hale, Harlan, King, Lane of Kansas, Sumner, Wade, and Wilson of Massachusetts—9.

The PRESIDING OFFICER. There is no quorum voting.

Mr. WILSON, of Massachusetts. We have agreed to take a recess at five o'clock, and I think it would be as well to take it now. We have not got a quorum.

The PRESIDING OFFICER. Under the order of the Senate then, there will be a recess until seven o'clock in the evening.

EVENING SESSION.

The Senate reassembled at seven o'clock.

EMANCIPATION IN THE STATES.

The PRESIDENT *pro tempore*. The Chair will present a message from the President of the United States.

The Secretary read the message, as follows:

Fellow-citizens of the Senate and House of Representatives:

Herewith is the draft of a bill to compensate any State which may abolish slavery within its limits, the passage of which, substantially, as presented, I respectfully and earnestly recommend. ABRAHAM LINCOLN.

JULY 14, 1862.

The PRESIDENT *pro tempore*. The first reading of a bill.

The Secretary read the bill by its title, as follows: "A bill providing for the payment for persons held to service or labor liberated by any State."

The PRESIDENT *pro tempore*. The bill will receive its second reading with a view to reference.

The bill was read a second time by its title.

The PRESIDENT *pro tempore*. The bill will be read at length.

Mr. POWELL. I will inquire if it is in order for the President of the United States to introduce a bill into the Senate. That bill seems to be introduced by no Senator.

Mr. SUMNER. Let us have it read.

The PRESIDENT *pro tempore*. The Senator will allow the bill to be read at length.

The Secretary read it, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That whenever the President of the United States shall be satisfied that any State shall have lawfully abolished slavery within and throughout such State, either immediately or gradually, it shall be the duty of the President, assisted by the Secretary of the Treasury, to prepare and deliver to such State an amount of six per cent. interest-bearing bonds of the United States equal to the aggregate value, at $—— per head, of all the slaves within such State, as reported by the census of the year 1860; the whole amount for any one State to be delivered at once if the abolishment be immediate, or in equal annual installments if it be gradual; interest to begin running on each bond at the time of its delivery, and not before.

And be it further enacted, That if any State, having so received any such bonds, shall at any time afterwards by law reintroduce or tolerate slavery within its limits, contrary to the act of abolishment upon which such bonds shall have been received, said bonds so received by said State shall at once be null and void, in whosoever hands they may be, and such State shall refund to the United States all interest which may have been paid on such bonds.

The PRESIDENT *pro tempore*. It will be referred to the Committee on Finance, if there be no objection.

Mr. GRIMES. I should think the proper way would be not to refer it, but to let it lie on the table, and be printed. I do not recognize the right of the President of the United States to send a bill in here.

The PRESIDENT *pro tempore*. The bill is a part of the message.

Mr. GRIMES. Yes, sir; and as a part of the message it should lie on the table, and be printed.

The PRESIDENT *pro tempore*. That order will be made.

Mr. GRIMES. I ask the Senate to take up——

Mr. SUMNER. I have a motion to make with reference to the message.

Mr. GRIMES. That is disposed of, and I wish to make a motion in regard to another bill.

Mr. SUMNER. I beg the Senator's pardon. I have a motion to make in regard to it.

The PRESIDENT *pro tempore*. The Chair will receive a motion in reference to the bill.

Mr. SUMNER. I propose to move that it be referred to a committee. I am somewhat at a loss as to which committee of the Senate it should be referred; but it seems to me it should be referred to one of our committees with a direction to report forthwith. No question can be of equal magnitude, and as we are now near the eve of——

Mr. SHERMAN. I object to the second reading of that bill to-day. I do not believe the President of the United States has any right to introduce a bill here.

Mr. SUMNER. Have I the floor?

The PRESIDENT *pro tempore*. The order was made that the message lie on the table, and be printed.

Mr. GRIMES. That motion has been made and carried.

The PRESIDENT *pro tempore*. That motion was made and carried.

Mr. POWELL. I desire to make an inquiry concerning that bill.

The PRESIDENT *pro tempore*. The Senator from Iowa has the floor.

Mr. SUMNER. I thought I had the floor. I have not given up the floor.

The PRESIDENT *pro tempore*. The Senator had the floor to make a motion or remarks in connection with the bill; but that is disposed of. The Chair hopes that Senators will coöperate with the Chair in observing some degree of order. The bill is disposed of. It is open to a motion to reconsider, but not otherwise.

Mr. POWELL. I desire to make an inquiry concerning the bill just disposed of. Has it had any reading as a bill?

The PRESIDENT *pro tempore*. It has.

Mr. POWELL. I will inquire if that was in order?

The PRESIDENT *pro tempore*. It was.

Mr. POWELL. I do not think it was in order for the President to introduce a bill here. He can send in a message accompanied by the form of a bill.

The PRESIDENT *pro tempore*. The Chair has no comments to make on the propriety or authority of the President to send communications or messages, or the character of the communications he sends to the body. The bill was a part of the message.

Mr. POWELL. I do not doubt his authority to send a bill as part of a message.

The PRESIDENT *pro tempore*. There is no question on the bill now before the Senate.

Mr. SUMNER. It seems to me there was a surprise on that vote. I was not aware that any such vote had been taken, that the message had been laid on the table. I supposed it was still before the Senate open to a motion. I wish to move its reference to a committee, with a view to speedy action upon it.

Mr. GRIMES. What committee?

The PRESIDENT *pro tempore*. The Chair suggested a reference to the Committee on Finance, but a motion to lay on the table and print was interposed, which took precedence of that motion and was carried. It is unnecessary to have any altercation about it. If the Senator is not satisfied with that disposition, it is open to a motion to reconsider.

Mr. GRIMES. I desire to say in connection with that subject, that I moved to lay it on the table because I did not know of any appropriate committee to which it could properly be referred; but I supposed everybody wanted to see it and to see it in print. I certainly did; and to-morrow morning, when the bill shall be printed, I shall be willing to unite with the Senator in taking it up and referring it to any committee or making any disposition of it.

Mr. SUMNER. But we lose time by that.

The PRESIDENT *pro tempore*. If no motion is made in connection with it, the subject is not before the Senate, and cannot be debated.

CONVICTS IN THE DISTRICT PENITENTIARY.

Mr. GRIMES. I move that the Senate proceed to the consideration of Senate joint resolution No. 86, regulating the employment of the convicts in the penitentiary of the District of Columbia, for their improvement and benefit, and I shall then move that the Senate disagree to the amendments of the House.

The motion was agreed to; and the Senate resumed the consideration of the amendments of the House to the joint resolution. The first amendment of the House was to strike out the third section in the following words:

SEC. 3. *And be it further resolved*, That the soldiers and volunteers confined in the penitentiary in the District of Columbia, under sentences of military courts-martial be forthwith discharged from the said penitentiary, and that imprisonment in said penitentiary under sentences imposed by courts-martial shall not hereafter be allowed.

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

And be it further resolved, That the office of clerk to the said penitentiary is hereby abolished.

The PRESIDENT *pro tempore*. When this subject was last under consideration the Senate concurred in the first amendment of the House of Representatives, and the Senator from Massachusetts [Mr. SUMNER] moved a reconsideration of that vote. The question is on that motion.

The motion was agreed to.

Mr. GRIMES. I now move that the Senate disagree to the amendments of the House of Representatives.

Mr. HALE. I hope they will not disagree.

The PRESIDENT *pro tempore*. The question is on concurring in the amendments of the House of Representatives. The negative of that is equivalent to the affirmative of the motion to disagree. "Will the Senate concur in the amendments of the House to this resolution?"

Mr. HALE. I hope so.

Mr. GRIMES. If Senators wish to make an issue on this question, I am ready to do it. The whole point on which the Senator from New Hampshire objects to non-concurring is because the House have put in an amendment abolishing the office of clerk in the penitentiary. That clerk is appointed by the inspectors of the penitentiary, and is a very respectable man. The consequence of taking away the clerk who is appointed by the inspectors is to leave the whole financial condition of the penitentiary in charge of the warden, against whom there are four indictments at this time pending in the district court of the District of Columbia for malfeasance in office.

Mr. HALE. I am instructed to say that the charges against the warden were frivolous, malicious, and unfounded, and on investigation by the proper Department they have been found to be so, and they are either dismissed, or are to be dismissed, every one of them, from the files of the criminal court, under an investigation had by the head of the proper Department, I think the Secretary of the Interior.

Mr. GRIMES. I am instructed to say, on the contrary, by one of the inspectors, a gentleman on whom the Senator himself would rely implicitly, that not only are they true but he has investigated them, and finds other charges of equal culpability against him, on which he is not yet charged. I did not want to make this issue; but it is my business, as the representative of the District of Columbia, to see that the public is protected, and I am not disposed to allow this clerk to be thrust out for the sake of giving a perfectly unlimited field to the warden of the penitentiary, and over the heads of the inspectors.

Mr. HALE. There is another thing about this. As the subject has come up, we must meet it. I am instructed that this clerk is entirely useless; that he does not average an hour a day there, nor anything like it.

Mr. FESSENDEN. By whom instructed?

Mr. HALE. By the warden, whose clerk he is, that he is not there more than an hour a day, and that his office is entirely useless. Further than that; it seems to me it is a great impropriety in allowing one man to have a clerk, and to have him appointed by a different and independent power. This clerk is appointed by the inspectors, but is the clerk of the warden. It seems to me if there is a warden and he has a clerk, he should not be appointed by an independent and hostile power. I can imagine a state of things, which I apprehend is a part of the facts in this case, which would make the Senate, I think, slow to disagree to the amendments of the House. I am told, and I may state it, because I am told so and believe it, that this clerk is a connection of one of the inspectors, and that the great difficulty that arises here is, that the warden will not consent that one of the inspectors, who ought to be there to oversee and look out for the interests of the public in this matter, shall furnish the prison supplies on his own terms and at a higher rate than they can be got elsewhere. It is the interference of this clerk in this way that has made all these difficulties. There is not the slightest earthly necessity for him in the world. You have a warden and a deputy warden, and if they are not fit let them be turned out, but do not keep there an individual as clerk to a man who is hostile to him, and appointed by a power that is hostile to him.

Mr. GRIMES. The Senate can follow whoever they see fit on this question. I have taken the trouble to investigate this matter a little. The Senator gets his information from the warden. I get my information from the inspectors, no one of whom, with whom I have conversed, is any relative, either immediate or remote, of the clerk.

Mr. HALE. How many have you talked with?

Mr. GRIMES. I have talked with Dr. Brodhead especially, and he is known to most members here as a reputable, respectable, and truthful man. The very purpose of the appointment of this clerk is to be a check on the warden; and now it is proposed to remove him entirely. If the Senate choose to do it, I am content.

The PRESIDENT *pro tempore*. The question is on concurring in the House amendments.

The amendments were non-concurred in.

EMANCIPATION IN THE STATES.

Mr. SUMNER. I now move that the Senate take up the message of the President, and refer it, with the accompanying paper, to the Committee on Finance.

Mr. SHERMAN. Is that in order without a motion to postpone the pending and all prior orders? Can it be done without a motion to postpone the pending order, the bill which was under consideration at the recess?

The PRESIDENT *pro tempore*. The regular

order of business before the Senate is the bill that was under consideration at the time the Senate took a recess.

Mr. SHERMAN. I call for that.

Mr. SUMNER. I hope the Senator will consent to allow this motion to be made.

Mr. SHERMAN. I regard it as perfectly idle to attempt to act on that matter at this period of the session. It seems to me a very strange proceeding. I hope we shall take up the bill which is the regular order of business, and which is of vital importance. Let us get through with that first.

Mr. SUMNER. But my object is simply to have this message of the President referred and put in the train for action.

The PRESIDENT *pro tempore*. The Chair will suggest to the Senator from Massachusetts that the appropriate motion to get at the object he aims at, to take up from the table the bill accompanying the President's message, would be to postpone the pending bill, which is Senate bill No. 394, and all prior orders, with a view to take up that subject.

Mr. SHERMAN. If the Senator wishes merely to refer it to the Committee on Finance, I will withdraw the objection.

Mr. SUMNER. That is all I wish to do. I merely wish to give it the best direction for speed. I have no other object.

Mr. SAULSBURY. I rise to a question of order. The bill has been ordered to lie on the table and be printed. Is it now in order to take it up?

The PRESIDENT *pro tempore*. The motion is to take it up from the table. The order to print does not interfere with that motion.

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

The PRESIDENT *pro tempore*. On this question the yeas and nays are demanded. Those in favor of taking the question by yeas and nays will rise.

No members rose to second the call.

The PRESIDENT *pro tempore*. No member rising, the yeas and nays are not ordered

The motion to take up the message and bill was agreed to.

The PRESIDENT *pro tempore*. The question now is on the motion to refer to the Committee on Finance.

The motion was agreed to.

FINAL ADJOURNMENT.

Mr. SUMNER. I now send a resolution to the desk, which I wish to have read.

The PRESIDENT *pro tempore*. The bill before the Senate is Senate bill No. 394; but by common consent the resolution will be received and read for information.

The Secretary read it, as follows:

Resolved, That in order that the two Houses of Congress may have time for the proper consideration of the message of the President, and the accompanying bill for emancipation in the States, and for the transacting other public business, the resolution fixing Wednesday, the 16th of July, for adjournment is hereby rescinded.

Mr. HALE. I object to its consideration.

The PRESIDENT *pro tempore*. It lies over under the objection.

PRINTING OF TAX BILL.

Mr. HALE. I submit the following resolution, which I ask to have considered now:

Resolved, That ten thousand copies, in addition to those which have been ordered, of the tax bill, be published for distribution.

The PRESIDENT *pro tempore*. By common consent the resolution will be received. It will be referred to the Committee on Printing.

Mr. DOOLITTLE. Before it goes to the Committee on Printing, I should like to add as an amendment, "and two thousand copies of the bill to collect taxes in the insurrectionary districts."

The PRESIDENT *pro tempore*. The Chair will suggest to the Senator, that on a suggestion to the committee they can report it as an amendment. Under the rule the resolution goes to the Committee on Printing as it is presented by the mover.

BANKRUPT LAW.

Mr. FOSTER. I ask the unanimous consent of the Senate to take up the bankrupt bill, for the purpose of allowing me to move a few, mostly verbal, amendments with a view of then moving a postponement of the bill, and making it the special order for an early day at the next session. I will not ask for the consideration of it now, because I am satisfied it will not be worth while. I merely wish to move a few amendments, and then I shall move to postpone the bill, and to print it as amended.

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill (S. No. 324) to provide for the relief of honest but unfortunate debtors, and the distribution of their property among their creditors, by the establishment of a uniform system of bankruptcy throughout the United States.

Mr. FOSTER. On page 2 of the bill, line twenty-three, section two, after the word "same," I move to insert the words "together with an accurate inventory of his property, rights, and credits of every name, kind, and description, and the location and situation of each and every portion thereof, stating what incumbrance, if any, exists, on any part of them."

The amendment was agreed to.

Mr. FOSTER. On the 16th page of the bill, section eleven, line nine, I move to strike out the word "shall," and insert "may."

The amendment was agreed to

Mr. FOSTER. In line ten, of the same section and page, after the word "assignee," I move to insert "or assignees."

The amendment was agreed to.

Mr. FOSTER. In line twelve of the same section and page, after the word "if," I move to insert the words "they shall neglect to choose such assignee or assignees, or."

The amendment was agreed to.

Mr. FOSTER. In line thirteen, of the same section and page, I move to strike out the word "additional."

The amendment was agreed to.

Mr. FOSTER. On the 20th page, section thirteen, line twenty-three, after the word "order," I move to insert the words "as soon as he shall have been placed in funds for that purpose."

The amendment was agreed to.

Mr. FOSTER. On page 39, section twenty-seven, I move to strike out all after the word "that," in the first line, down to the end of the sixth line, in the words "the filing of petition for adjudication in bankruptcy, either by a debtor in his own behalf or by a creditor against a debtor, or the issuing of an order by a judge of a State court in the manner provided in section six, shall be deemed and taken to be the commencement of proceedings in bankruptcy under this act;" so that it will read, "that the proceedings in all cases in bankruptcy shall be deemed matters of record," &c.

The amendment was agreed to.

Mr. FOSTER. I now move that the bill be printed as thus amended, and made the special order for the second Monday in December next.

The motion was agreed to.

CONTINUANCE OF BUSINESS.

Mr. FESSENDEN. I have a resolution with reference to the business of the Senate, which I should like to have adopted. I presume there will be no objection to it.

The PRESIDENT *pro tempore*. It will be read for information.

The Secretary read it, as follows:

Resolved, That all subjects before the Senate at the close of the present session, including those before committees, shall be continued to the next session, and shall then be proceeded with in the same manner as if no adjournment of the Senate had taken place; and the papers which have been referred to the committees, and may be in their possession at the close of the session, shall be returned informally to the Secretary, and by him restored to the committees when appointed at the next session.

There being no objection, the Senate proceeded to consider the resolution.

Mr. FESSENDEN. Perhaps the words, "not disposed of," should be inserted after the word "subjects."

The PRESIDENT *pro tempore*. The resolution is in form and substance the usual one.

Mr. FESSENDEN. Very well; I suppose it is right as it is.

The resolution was adopted.

REPORTS FROM COMMITTEES.

Mr. CLARK, from the Committee on Claims, to whom was referred the bill reported by the Court of Claims for the relief of John H. Aulick, with the opinion of the court in favor of the claim, reported the bill (S. No. 396) for the relief John H. Aulick; which was read, and passed to a second reading.

Mr. WILMOT, from the Committee on Pensions, to whom was referred the bill (H. R. No. 327) for the relief of Sylvanus Burnham, reported it without amendment, and that it ought not to pass.

He also, from the same committee, to whom was referred the bill (S. No. 8) to renew and continue the pension allowed to Olivia W. Cannon, reported it without amendment, and that it ought not to pass.

WILLIAM PATTON.

Mr. COWAN. I should like to ask the unanimous consent of the Senate to call up a resolution I offered a few days ago in relation to the pay of General Patton.

The PRESIDENT *pro tempore*. The Senator from Pennsylvania moves to postpone all prior orders, and that the Senate proceed to the consideration of the resolution indicated by him.

The motion was agreed to; and the Senate proceeded to consider the following resolution, submitted by Mr. COWAN on the 10th instant:

Resolved, That in view of the long and faithful service of William Patton as principal engrossing clerk of the Senate, his salary be continued to him from the 1st of November to the end of the fiscal year terminating on the 30th of last month.

Mr. SHERMAN. I will not vote for a proposition to give a man pay who has rendered no service, whom we have discharged from our service, and that, too, for a period of some eight or nine months. I do not wish to break up a quorum; but I shall call for the yeas and nays rather than see a resolution of this kind passed. ["Oh, no."] I think the practice is a bad one. I would not agree to it, no matter who was to receive it. I hope the Senator will let it go over.

The PRESIDENT *pro tempore*. The question is on the third reading of the resolution. As it makes an appropriation, it requires three readings.

Mr. SHERMAN. I will object to its third reading to-day.

The PRESIDENT *pro tempore*. An objection to its third reading carries it over.

TITLES TO KANSAS INDIAN LANDS.

Mr. DOOLITTLE. I am directed by the Committee on Indian Affairs, to whom the subject was referred, to report a joint resolution in relation to a certain act concerning title to lands set apart for the use of the half-breed Kansas Indians in Kansas Territory, and it is necessary that there should be immediate action upon it; for there may result such a decision on the part of the Secretary of the Interior, based upon *ex parte* testimony, as may affect the titles of a great many persons. The subject was under consideration by the Committee on Indian Affairs, and they have directed me to report this resolution. The resolution is to repeal sections two and three of an act which was passed in 1860, and also so much of the first section as authorizes the Secretary of the Interior to decide who are the heirs of deceased half-breed Indian reservees. The committee were unanimous in reporting the resolution.

The PRESIDENT *pro tempore*. The Senator from Wisconsin asks the unanimous consent of the Senate to consider the joint resolution reported by him from the Committee on Indian Affairs, at the present time.

There being no objection, the joint resolution (S. No. 98) to repeal and modify certain portions of acts mentioned therein, was read twice by its title, and considered as in Committee of the Whole. It repeals sections two and three of the act entitled "An act to settle the titles to certain lands set apart for the use of certain half-breed Kansas Indians, in Kansas Territory," approved May 26, 1860, and so much of the first section as authorizes the Secretary of the Interior to decide what persons are heirs to the deceased reservees mentioned therein.

The joint resolution was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

On motion of Mr. DOOLITTLE, the title was amended so as to read: "A joint resolution to repeal and modify certain portions of an act mentioned therein."

LETTERS OF MARQUE.

Mr. GRIMES. I now move to take up the bill (S. No. 393) concerning letters of marque, prizes, and prize goods.

Mr. SUMNER. I doubt the expediency of proceeding to the consideration of that bill with a Senate like this, so thin; perhaps there is not a quorum present. There are Senators absent who I have reason to believe take great interest in the bill. It is a very important one. I hope the Senator from Iowa will let it go over until to-morrow morning, when there will be a full Senate.

Mr. GRIMES. I am desired by those who feel a deep interest in this subject to get it passed as speedily as possible, if it passes at all.

Mr. SUMNER. I hope the Senator will not press it.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill. It authorizes the President of the United States, whenever war exists, or has been declared between the United States and any other nation, to issue to private vessels of the United States, commissions or letters of marque and general reprisal in such form as he may think proper, and under the seal of the United States, against the vessels, goods, and effects of a nation or government so at war with the United States, and the subjects and citizens thereof; and the President is also authorized to revoke and annul at pleasure all such commissions or letters of marque so by him granted. The conduct, rights, duties, and mode of proceeding, and regulations of letters of marque, their prizes and prize goods, are to conform and be subject to the provisions of the act of Congress approved on the 26th day of June, 1812, entitled "An act concerning letters of marque, prizes, and prize goods;" and the act of Congress approved on the 27th day of January, 1813, entitled "An act in addition to the act concerning letters of marque, prizes, and prize goods," which are to be so far revived and declared operative and in force for that purpose.

Mr. GRIMES. I propose to strike out all after the enacting clause, and to insert what I send to the Chair as a substitute for the whole bill:

That the President of the United States be, and he is hereby, authorized, during the continuance of the present insurrection, to grant letters of marque and reprisal, and the provisions of the act of Congress, approved on the 26th day of June, 1812, entitled "An act concerning letters of marque, prizes, and prize goods," and of the act of Congress approved on the 27th day of January, 1813, entitled "An act in addition to the act concerning letters of marque, prizes, and prize goods," are hereby revived and shall be in force in relation to all that part of the United States where the inhabitants have been declared in a state of insurrection, and the vessels and property to them belonging.

The PRESIDENT *pro tempore*. The question is on the amendment of the Senator from Iowa, as a substitute for the bill.

Mr. SUMNER. Will the Senator from Iowa be good enough to give us a statement of the purpose of the bill and explain its character?

Mr. GRIMES. Yes, sir; I can explain it so far as I think it needs any explanation. It is merely a revival of the act specified in the bill, approved on the 26th of June, 1812, entitled "An act concerning letters of marque, prizes, and prize goods," and the act approved on the 27th of January, 1813, entitled "An act in addition to the act concerning letters of marque, prizes, and prize goods," which were in force during the pendency of our war with Great Britain, during the years 1812–13. It simply authorizes the President of the United States, if he sees fit during the pendency of the present insurrection, to issue letters of marque; in other words, to authorize privateers to interfere with the commerce or the war vessels of those who are in insurrection against the Government. The Senator perhaps may be aware that at this time there are some ten or twelve valuable iron steamers lying at Bermuda, Nassau, and at other points in the vicinity of the West Indies, under the British flag, but prepared at any time, whenever they can see a favorable moment, to haul down that flag and raise the confederate flag. Although we have a very large armed Navy afloat, which is necessary in order to keep up an efficient blockade for several thousand miles, yet the fact that these steamers are there, and seeking a favorable moment to elude the watchfulness of those who are sent there to watch them, has crippled the energies of the Navy elsewhere. The purpose of this bill, as I understand it, is to authorize the Government to grant letters of marque to private individuals, that they may, if they see fit, interest themselves enough in the capture of these prizes to undertake the work.

Mr. SUMNER. If I understand the Senator from Iowa, the bill is directed exclusively at those who are engaged in supporting the insurrection.

Mr. GRIMES. It says so in its terms.

Mr. SUMNER. That is, the bill which the Senator now moves as a substitute for the other bill?

Mr. GRIMES. Yes, sir.

Mr. SUMNER. Then it is a widely different bill from the one to which it is moved as a substitute; and if it is agreeable to the Senate, I should like to have it read again. The Secretary read it with some little difficulty, and I should like to hear it read through from beginning to end.

The Secretary again read the amendment.

The amendment was agreed to.

Mr. HENDERSON. I desire to ask the Senator from Iowa, who reported this bill, if his information is such as to induce him to think that by legalizing this business, which certainly is somewhat repugnant to the present spirit of the age, we can get along any better in destroying the commerce of the rebels than we can by armed vessels of the United States; and whether, in his view, if we legalize this business again, and turn loose upon the ocean a large number of privateers, those privateers will not be more likely to get us into difficulty with foreign nations than to do any real, practical good, over and above that which can be accomplished by armed vessels of the United States? I must confess I do not like this system of privateering; and especially do I not like it unless it be actually necessary to destroy the commerce of the enemy. If I understand our position, the ports of the southern States are blockaded, and really there cannot be much object in sending privateers upon the ocean to interfere with a commerce that we have declared does not exist—a commerce which, by our rigid blockade, is almost exclusively, if not entirely, destroyed. I may be mistaken, but I really have some fears that if these privateers are sent broadcast over the ocean, they may involve us in some serious difficulties with the commerce of other nations; and I should like to have this bill very carefully guarded now, if it shall pass at all. I do not like the business of privateering; and if it could be abolished by the civilized nations of the earth, I, for one, would vote most cheerfully to do so. It is exactly the same as legalizing plunder in any other way. Weak nations have been compelled to resort to it, and in all probability will hereafter be compelled to resort to it for their own protection against stronger Powers; but it is a business that the civilized world at the present time more or less condemns.

Mr. GRIMES. If the Senator from Missouri had asked me for my individual opinion, and I had given it to him, he would find that it very much coincides with that which he has expressed; and in introducing this bill, I am not representing myself or my own opinions, but the opinions, as I understand them, of the Administration, who desire to have this power to exercise it, if an emergency arises, which in their judgment will justify them in exercising it. If I had the power, I would abolish all privateering, and rely upon the armed vessels of my Government to defend my Government. I think one of the greatest political errors that was ever perpetrated by the Government of the United States was the rejection of the proposition of the Paris treaty; but it was rejected; and now when we have proposed to come in and become a part of it, it is understood that we have been repelled. We therefore have the authority to use privateers. I understand it to be the fact that those in whose discretion the Government is now placed desire this privilege if an emergency should arise; and I am willing to trust them, if such a case should occur, to exercise it; but I am very much of the same opinion as the Senator from Missouri in regard to the whole subject in the abstract.

Mr. POWELL. I will move that this bill be postponed until to-morrow, and printed. It seems to me to be a matter of importance, and I should like to examine it.

Mr. HALE. It is printed.

Mr. POWELL. The substitute of the Senator from Iowa is not printed.

The PRESIDENT *pro tempore*. It will be printed, as a matter of course, under the general rule, and will not require a special motion. The Senator from Kentucky moves to postpone the further consideration of the bill until to-morrow.

Mr. HALE. I do not object to its postponement; but I am against the bill. I think it is an unwise measure at this time for this reason: privateering is generally to operate upon the commerce of the enemy; the enemy with whom we are at war have no commerce; and there is no necessity, it seems to me, of authorizing such a measure as this at this time. The Administration do not want it so much as to make any formal communication to Congress, as I understand, in favor of it. I think it had better be postponed until the next session of Congress, in December next. It seems to me that at this time it would be a most unwise and most dangerous experiment, liable to all the dangers that have been suggested by the Senator from Missouri, and I move that the further consideration of the bill be postponed until the next session of Congress.

Mr. FESSENDEN. It would be better to agree to the first motion, to postpone until to-morrow, and let it be printed.

Mr. HALE. Very well; I withdraw it for that motion.

The PRESIDENT *pro tempore*. The question is on the motion of the Senator from Kentucky, to postpone the bill until to-morrow.

The motion was agreed to.

CONGRESSMEN INTERESTED IN CONTRACTS.

Mr. POWELL. I ask the Senate now to take up and consider the amendments of the House of Representatives to the bill of the Senate (*No.* 358) to prevent members of Congress and officers of the Government of the United States from taking consideration for procuring contracts, office, or place from the United States, and for other purposes. I merely wish to concur in the amendments of the House. The House made a couple of amendments, and then passed the bill unanimously.

The motion was agreed to; and the Senate proceeded to consider the amendments of the House to the bill.

The amendments were in line five, to strike out the word "give;" and in line thirteen, after the word "whomsoever," to insert the following:

And the person or persons who shall directly or indirectly offer, or agree to give, or give or bestow any money, property, or other valuable consideration whatsoever, for the procuring, or aiding to procure, any contract, office, or place, as aforesaid, and any member of Congress who shall directly or indirectly take, receive, or agree to receive any money, property, or other valuable consideration whatsoever, after his election as such member, for his attention to, service, action, vote, or decision, on any question, matter, cause, or proceeding which may then be pending, or may by law, or under the Constitution of the United States, be brought before him in his official capacity, or in his place of trust and profit, as such member of Congress.

The PRESIDENT *pro tempore*. The question is on concurring in the amendments of the House of Representatives to this bill.

The amendments were concurred in.

ALTERATION OF THE SENATE CHAMBER.

Mr. HALE. I wish to move that the committee appointed on the ventilation of the Hall have leave to report at the next session of Congress. In explanation of the motion, I will say that the architect with whom we wanted to consult has been absent from the city almost ever since the committee has been appointed, and is now absent. We do not ask leave to sit in the recess or incur any expense, but simply to report at the next session, so that we may have the benefit of consulting with the architect during the vacation and submitting his plans at that time.

The PRESIDENT *pro tempore*. The committee unquestionably have that power without a special vote.

Mr. HALE. I understood differently; but if that is so I am content.

LAND OFFICE IN ST. LOUIS.

Mr. HENDERSON. I move that the Senate proceed to the consideration of House bill No. 113, concerning the closing of the office of the surveyor general at St. Louis, and for other purposes.

The motion was agreed to.

The PRESIDENT *pro tempore*. The Chair is informed that the bill referred to by the Senator from Missouri was postponed indefinitely on the 20th of May last. If so, it is not before the Senate.

Mr. HENDERSON. There must be some mistake in regard to that matter. I understand that the bill was recently reported back by the Committee on Public Lands.

The PRESIDENT *pro tempore*. The record will determine the question. [After a pause.] The clerks are unable to find any such bill on the files.

EXECUTIVE SESSION.

Mr. WILSON, of Massachusetts. I move that the Senate proceed to the consideration of executive business. We have a great deal to do.

The motion was agreed to; and the Senate proceeded to the consideration of executive business; and after some time spent therein, the doors were reopened, and the Senate adjourned.

HOUSE OF REPRESENTATIVES.

MONDAY, *July* 14, 1862.

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

The Journal of Saturday was read and approved.

EXECUTIVE COMMUNICATION.

The SPEAKER, by unanimous consent, laid before the House a communication from the Secretary of the Navy in answer to a resolution of the House of the 26th ultimo relative to a rifled cannon used in the Navy; which was referred to the Committee on Naval Affairs.

SUPPLEMENTAL CIVIL APPROPRIATION BILL.

Mr. STEVENS, by unanimous consent, reported from the Committee of Ways and Means a bill making supplemental appropriations for sundry civil expenses of the Government for the year ending 30th June, 1863, and for the year ending 30th of June, 1862; which was read a first and second time.

Mr. STEVENS. If there is no objection, I ask that the bill may have its first consideration in the House.

Mr. F. A. CONKLING. I object.

Mr. STEVENS. I ask that it may be referred to the Committee of the Whole on the state of the Union.

It was so referred.

Mr. STEVENS. I move that the bill be made a special order in Committee of the Whole.

Mr. F. A. CONKLING. I object to the bill being made a special order.

The SPEAKER. A majority of the House can make a general appropriation bill a special order at any time, and hence the Chair rules the motion in order.

Mr. F. A. CONKLING. Does the Chair decide that a majority can suspend the rules?

The SPEAKER. No; but the Chair decides that a majority may make a general appropriation bill a special order at any time. The Clerk will read the rule from Barclay's Manual.

The Clerk read as follows:

"The House may at any time, by a vote of a majority of the members present, make any of the general appropriation bills a special order.—*Rule* 119. But in all other cases, it requires a two-thirds vote to make a special order, it being a change of the established order of business."

The motion submitted by Mr. STEVENS was agreed to.

Mr. STEVENS. I move that debate upon this bill be limited, in Committee of the Whole, to five minutes.

Mr. F. A. CONKLING. I object.

The SPEAKER. Debate cannot be closed upon the bill until it has first been considered in committee.

BETTER GOVERNMENT OF THE NAVY.

Mr. SEDGWICK. I rise to a privileged question. I desire to present the report of a committee of conference.

The report was read, as follows:

The committee of conference on the disagreeing votes of the two Houses on the bill of the Senate (No. 348) for the better government of the United States Navy, having met, after full and free conference have agreed to recommend, and do recommend, to their respective Houses, as follows:

That the Senate agree to the first, second, third, fourth, fifth, eighteenth, nineteenth, twenty-fourth, twenty-seventh, twenty-eighth, thirty-fifth, thirty-ninth, fortieth, forty-third, forty-fourth, forty-fifth, forty-sixth, forty-seventh, forty-eighth, forty-ninth, fifty-second, fifty-fourth, fifty-fifth, fifty-seventh, fifty-eighth, sixtieth, sixty-first, sixty-second, sixty-third, sixty-fourth, sixty-sixth, sixty-seventh, sixty-eighth, sixty-ninth, seventieth, seventy-first, seventy-second, seventy-third, and seventy-fifth amendments of the House.

That the House recede from their sixth, seventh, eighth, ninth, tenth, eleventh, twelfth, thirteenth, fourteenth, fifteenth, sixteenth, seventeenth, twentieth, twenty-first, twenty-second, twenty-third, twenty-fifth, twenty-sixth, twenty-ninth, thirtieth, thirty-first, thirty-second, thirty-third, thirty-fourth, thirty-sixth, thirty-seventh, thirty-eighth, forty-first, forty-second, fiftieth, fifty-first, fifty-third, fifty-sixth, and fifty-ninth amendments.

That the Senate agree to the sixty-fifth amendment of the House, with an amendment, as follows: in the first line of the proviso, in section twelve, before the word "salaries," insert the word "annual."

That the Senate agree to the seventh amendment of the House with the following amendment: in line five, section ——, strike out the word "inferior," and after the word "persons," insert the words "of inferior ratings desiring to go there."

JOHN P. HALE,
CHARLES SUMNER,
JOHN S. CARLILE,
Managers on the part of the Senate.
C. B. SEDGWICK,
G. H. BROWNE,
Managers on the part of the House.

Mr. SEDGWICK. I call the previous question on the adoption of the report.

The previous question was seconded, and the main question ordered to be put; and under the operation thereof, the report was agreed to.

Mr. SEDGWICK moved to reconsider the vote by which the report was agreed to; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

ENROLLED BILLS.

Mr. GRANGER, from the Committee on Enrolled Bills, reported that the committee had examined and found truly enrolled bills and joint resolutions of the following titles; which thereupon received the signature of the Speaker:

An act (H. R. No. 531) increasing temporarily the duties on imports, and for other purposes;

An act (H. R. No. 525) in relation to the election of Representatives to Congress by single districts;

An act (H. R. No. 471) to suppress insurrection, to punish treason and rebellion, to seize and confiscate the property of rebels, and for other purposes;

An act (H. R. No. 438) to grant pensions;

An act (H. R. No. 437) to extend the territorial limits of the Territory of Nevada;

An act (H. R. No. 553) to establish additional post routes;

An act (H. R. No. 84) for the relief of preëmptors on the Home reservation of the Winnebagoes, in the Blue-earth region, in the State of Minnesota;

An act (H. R. No. 550) to further provide for the collection of the revenue on the northern, northeastern, and northwestern frontier, and for other purposes;

An act (S. No. 89) to amend the act of the 3d March, 1837, entitled "An act supplementary to the act entitled 'An act to amend the judicial system of the United States;'";

An act (S. No. 363) to authorize the Secretary of the Navy to accept the title to League Island, in the Delaware river, for naval purposes; and

Joint resolution (H. R. No. 39) to declare the meaning of an act to authorize the President of the United States in certain cases to take possession of railroad and telegraph lines, and for other purposes, approved January 31, 1862, and to repeal a part of said act.

SUPPLEMENTAL CIVIL APPROPRIATION BILL.

Mr. STEVENS. I move that the rules be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union.

Mr. HOLMAN. I rise to a point of order, and I will state it more for the purpose of ascertaining the condition of business in the House than for any other purpose. On Saturday last a bill was before the House making certain appropriations for civil expenses, which bill was laid upon the table, and a motion was made, which prevailed, to lay upon the table a motion to reconsider the vote by which it was laid upon the table. It is said, whether truthfully or not I do not know, that the bill which it is now proposed to consider in Committee of the Whole on the state of the Union is of precisely the same character as that bill.

The SPEAKER. The bill was referred to the Committee of the Whole on the state of the Union some time since, and the point of order comes too late. As to the matter of fact, the Chair is not aware that this is the same bill as the one that was laid upon the table on Saturday.

The question was taken on Mr. STEVENS's motion; and it was agreed to.

So the rules were suspended, and the House accordingly resolved itself into the Committee of the Whole on the state of the Union, (Mr. WHITE, of Indiana, in the chair.)

Mr. STEVENS. I move to take up bill of the House, No. 572, making supplemental appropriations for sundry civil expenses of the Government for the year ending June 30, 1863, and for the year ending June 30, 1862.

The motion was agreed to; and the bill was taken up and read.

The Clerk then proceeded to read the bill by clauses for amendments.

Mr. HOLMAN. I move to strike out the following clause:

For salary of clerk in the Office of Returns authorized by the act of June 2, 1862, $1,200.

Mr. STEVENS. I do not know, of course, what the object of the gentleman is in making that motion, but this is an office created by Congress and the salary of which has been fixed by Congress, and there has been no appropriation made as yet to pay it.

Mr. HOLMAN. The office seems to have been created in June of the current year. It is suggested to me by gentlemen around me, that certainly no such office has been created by this particular title. I hope the gentleman from Pennsylvania will explain the duties devolving upon this officer.

Mr. STEVENS. Does the gentleman say that no such office has been created?

Mr. HOLMAN. No sir; I do not say there is no such office, but I do not remember that any such office has been created by this designation.

Mr. STEVENS. I ask to have a letter from the Secretary of the Interior in relation to this matter read.

The Clerk read the letter, as follows:

DEPARTMENT OF THE INTERIOR, *June* 30, 1862.

SIR: The act of Congress approved June 2, 1862, establishing a Returns Office in this Department does not make appropriation for the salary of the clerk authorized by law.

I have the honor, therefore, to call your attention to the fact in order that the Committee of Ways and Means may take the necessary action to provide means for the payment of the salary of the clerk at $1,200 per annum, as contemplated by the act referred to.

Very respectfully, your obedient servant,

CALEB B. SMITH, *Secretary.*

Hon. THADDEUS STEVENS, *Chairman of the Committee of Ways and Means of the House of Representatives.*

Mr. HOLMAN. The letter of the Secretary of the Interior at once suggests the object of this clerkship. The duty of this clerk is to keep a record of all contracts made with the Government, especially contracts for Army and Navy purposes. But my recollection of the act is that it was made the duty of the Secretary of the Interior to assign a clerk to this particular duty. I did not understand that we were adding a clerk to the office of the Secretary of the Interior. Certainly if that had been the intention it would have been a very grave objection to the bill. My impression is that it was simply made the duty of the Secretary of the Interior to assign a clerk to this office who should keep a record of all contracts made and returned to that Department by the other Departments.

Mr. STEVENS. Has the gentleman got the act?

Mr. HOLMAN. I have not got it before me.

Mr. PHELPS, of Missouri. I think myself that the act which was passed establishing this Bureau of Returns was improvident legislation on our part. It required the establishment of a bureau in the Department of the Interior to be called the Returns Office, where copies of all contracts, made either by the Secretary of War, the Secretary of the Navy, or the Secretary of the Interior, or by any officer in their employment, shall be filed within so many days after the making of those contracts. This matter was discussed a few days since in another branch of the Legislature. The subject came up for consideration there. A report had been made by the Quartermaster General that it was an impossibility to comply with the provisions of that law, and that if all the contracts made in his department were to be filed in this office it would require a large increase in the quartermaster and commissary departments. I think myself the better course would be to repeal the act passed on the 2d of June last, or to suspend its operation so as to give further time for the con-

sideration of the subject. It must necessarily entail upon the Government a large expenditure of money, and no advantage will result from it. All contracts are now required by law to be filed in the proper offices; those relating to the Army in the War Department, and those relating to the Navy in the Navy Department.

I think if the law of June 2 should be enforced, it would be attended with large expense, without any corresponding benefit to the Government. In addition to that, I am of the opinion that the Departments cannot comply with the provisions of the law.

Mr. STEVENS. I wish to have the law creating the office read.

Mr. PHELPS, of Missouri. The law extends to all contracts.

The Clerk read the law, as follows:

"SEC. 4. *And be it further enacted*, That it shall be the duty of the Secretary of the Interior, immediately after the passage of this act, to provide a fit and proper apartment in his Department, to be called the Returns Office, within which to file the returns required by this act to be filed, and to appoint a clerk to attend to the same, who shall be entitled to an annual salary of $1,200," &c.

Mr. STEVENS. There is the law creating this office, directing the Secretary of the Interior to appoint the clerk, and fixing his salary. Now, if the law is not a good one, let it be repealed; but so long as the law remains upon the statute-book, we must provide the salary of the clerk appointed under it. I do not see how the House can refuse to make the appropriation. If gentlemen wish to repeal the law, that is another question to be determined afterwards.

Mr. PHELPS, of Missouri. The gentleman from Pennsylvania certainly misapprehended the tenor of my remarks. I admit that while the law remains in existence, it is proper that we should pay the salary, because the Secretary of the Interior is authorized to employ this clerk; whether he has done so or not I do not know. But I invite the attention of the committee to the legislation which we have placed upon our statute-book. I submit that it was inexpedient legislation, useless, incumbering the transaction of the necessary business of the Government, and resulting in no good whatever, not even in imposing a check or barrier against fraud. I will now move to amend the clause by adding to it the following proviso:

Provided, That no further expenditure shall be incurred under the aforesaid act until after the close of the next session of Congress.

The object of the amendment is to suspend the operation of the act substantially, or at least to place it in a position where it may be repealed or suspended. I should desire myself to submit a proposition to repeal that act.

Mr. WICKLIFFE. Mr. Chairman, my attention has been called to this statute in conversations with officers who are connected with its execution; and from all that I have learned, I pronounce it utterly impracticable. The heads of bureaus also, I believe, pronounce its execution impossible. They say that it can be only construed as applying to contracts for general supplies made from year to year for the Army and Navy of the United States. If the law were to be enforced according to its literal provisions, the clerical force of the War Department would have to be increased beyond all conception. Look at it. While your Army is in motion your quartermaster cannot obtain supplies from day to day until he has complied with all the forms provided in that bill, swearing that he has no pecuniary interest in it, and that he does not believe there is any fraud in it. I do hope that the House will reconsider its action, and suspend the operation of that act.

Mr. HOLMAN. I was not able to catch the amendment of the gentleman from Missouri. I desire to say that that same bill substantially was before the last Congress, and failed by the slightest disagreement between the two Houses. It therefore was not, by any means, an act of hasty legislation, but was as much deliberated as any other subject of no great importance that has been acted on by Congress.

Mr. PHELPS, of Missouri. I have modified my amendment so as to read:

Provided, That the execution of said act of 2d June, 1862, shall be suspended till the 4th of March next.

Mr. HOLMAN. I make the point of order that this amendment is not in order, as the suspending the operation of a law is tantamount to repealing it.

The CHAIRMAN. It is not in the nature of independent legislation.

Mr. HOLMAN. I desire to say that the subject was considered by the House in July of last year. A slight amendment of the bill was made in the House, in which the Senate did not concur, and the bill failed. The measure, in its general scope, can be executed without any very great expense, and it seems to me that it should be. Without it you have no restraint at all on contracts in the War and Navy Departments, and even if the execution of this law were to cost infinitely more than is contemplated, it would still be a saving to the Government to have every contract open to inspection. At present no information can be got in reference to contracts made for the Army and Navy except through the agency of either House of Congress calling on the Departments to furnish information. You have no guarantee whatever for the proper performance of the duties of officers in regard to contracts. You have to depend altogether on the fidelity and discretion of public officers. The spirit of the law is to be construed not as applying to little matters, but to the leading contracts in the quartermaster's department, the commissary department, the Navy Department, &c.

The CHAIRMAN. The Chair, on reconsideration, rules the amendment of the gentleman from Missouri as out of order.

Mr. HOLMAN. I would be sorry to see this item for a clerk struck out, if it were absolutely necessary to carry out the provisions of the law referred to. I do not believe that any gentleman in this House thought there would have to be an independent appointment of a clerk, with a salary of $1,200 a year. Every man knows what an army of clerks is employed in connection with that Department of the Government, who have really little or nothing to do. There is no head of Department for whom I entertain higher regard than the Secretary of the Interior. But the fact is well known that the business of that Department is immensely diminished. And yet we have made the usual amount of appropriations for it which were made when the Land Office and the Indian Bureau were pressed with business. I do not believe that this appropriation ought to be made. There are clerks enough already provided for, one of whom can be assigned to this duty.

Mr. PHELPS, of Missouri. I am informed that there will shortly be a bill reported to this House, suspending the operation of the act referred to until the 4th of March next. That will accomplish the very object that I desire, and give time to Congress to consider the question *de novo*. If Congress on examination shall see fit not to interfere with it, the act will be in force. The vote on striking out this item for a clerk will be a test of its feeling in this matter. If we are in favor of suspending the operation of the act, there is no necessity for making this appropriation; but if the act is to remain in force, then the appropriation ought to be made. Under that state of facts I shall sustain the motion to strike out, making it a test of the sense of the House in suspending the operation of the act.

Mr. DUNN. I shall vote for striking out this item for reasons similar to those assigned by the gentleman from Missouri. The bill in question must have been inconsiderately passed. It subjects officers to arrest and punishment for buying a bushel of corn, unless the contract is enrolled.

Mr. PHELPS, of Missouri. Or for having a horse shod.

Mr. DUNN. Yes, sir; the thing is perfectly ridiculous.

Mr. HOLMAN's amendment was agreed to.

Mr. COLFAX. I desire to offer at this place an amendment appropriating $10,000 for service on such routes authorized by the act establishing additional post routes as in the opinion of the Post Office Department may be necessary. Unless a specific appropriation be made, this service cannot be put on.

The CHAIRMAN. The Chair suggests to the gentleman from Indiana to reserve his amendment till the end of the bill.

Mr. STEVENS. There is no objection to it.

The amendment was agreed to.

Mr. HOLMAN. I move to amend by striking out the item of $1,800 for a land clerk. I am not aware that legislation requires that appropriation to be made. The amount, to be sure, is less than is generally appropriated; but at the same time there is no good argument in favor of an appropriation at all.

Mr. POTTER. The committee will recollect that this whole matter was discussed at the time the resolution was offered for the appointment of this clerk. Mr. Parker, who is clerk to the Committee on Public Lands, had charge of the land maps, which he himself had gotten up, under the auspices of the House, and at very great expense. That resolution provides that he shall not only act as clerk to the Committee on Public Lands, but shall continue in charge of these maps and be responsible for them.

Mr. HOLMAN. I withdraw my amendment.

Mr. STEVENS. In order to allow a committee of conference to report, I will move that the committee rise.

The motion was agreed to.

So the committee rose; and Mr. WASHBURNE having taken the chair as Speaker *pro tempore*, Mr. WHITE, of Indiana, reported that the Committee of the Whole on the state of the Union had, according to order, had under consideration the Union generally, and particularly the bill of the House No. 572, making supplemental appropriations for sundry civil expenses of the Government for the year ending June 30, 1863, and for the year ending June 30, 1862, and had come to no resolution thereon.

GRADES OF NAVAL OFFICERS.

Mr. SEDGWICK, from the committee of conference on the bill (H. R. No. 280) to establish and equalize the grades of line officers of the United States Navy, submitted the following report:

The committee of conference on the disagreeing votes of the two Houses on House bill No. 280, to establish and equalize the grades of line officers of the United States Navy, having met, after full and free conference have agreed to recommend, and do recommend, to their respective Houses as follows, to wit:

That the House recede from their disagreement to the first, second, fourth, and sixth amendments of the Senate, and agree to the same.

That the House agree to the seventh amendment of the Senate with the following amendment, namely, insert "not less than" before the word "three."

That the House recede from their disagreement to the ninth, tenth, eleventh, thirteenth, fourteenth, fifteenth, sixteenth, seventeenth, and eighteenth amendments of the Senate, and agree to the same.

That the House agree to the nineteenth amendment of the Senate with the following amendment, namely, insert after "Navy," the words "now upon the active list."

That the House agree to the twentieth amendment of the Senate with the following amendment, namely, after the word "retired," in the ninth line, insert "except for cause."

That the House recede from their disagreement to the twenty-third and twenty-fourth amendments of the Senate, and agree to the same.

That the House agree to the twenty-sixth amendment of the Senate, with the following amendments, namely: strike out, in the third line, the words "acting midshipmen;" in the fifth line strike out "passed midshipmen" and insert "ensigns;" in the fourteenth line, after the word "examinations," insert "for admission to the same class;" in the seventeenth line strike out all after the word "large," and also all the eighteenth, nineteenth, and twentieth lines, and insert the word "and;" in the twenty-sixth line strike out all after the word "service," and all of the twenty-seventh, twenty-eighth, and twenty-ninth lines, down to and including the word "district," and insert "from and after the 5th of March, 1863, the nomination of candidates for admission into the Naval Academy shall be made between the 5th of March and the 1st of July of each year, upon the recommendation of the Member or Delegate from actual residents of his district, and they shall be examined for admission in July: *Provided*, That when any candidate, who has been so nominated, shall, upon examination, be found physically or mentally disqualified for admission, the Member or Delegate from whose district he was so nominated shall be notified to recommend another candidate, who shall be examined in September following;" in the thirty-fourth line strike out "August" and insert "July;" in the thirty-sixth and thirty-seventh lines strike out "or acting midshipmen."

That the House recede from their disagreement to the twenty-seventh, twenty-eighth, thirtieth, thirty-first, thirty-second, and thirty-third amendments of the Senate, and agree to the same.

That the House agree to the thirty-fourth amendment of the Senate, with the following amendments: in line forty-five, amendment thirty-four, strike out "passed midshipmen" and insert "ensign;" in line fifty-one, strike out "and acting midshipmen;" in section —, lines three and four, strike out the words "act above mentioned" and insert "law."

That the House recede from their disagreement to the thirty-first amendment of the Senate, and agree to the same.

That the House agree to the thirty-sixth amendment of the Senate with the following amendment: strike out all after the word "that" and insert "the relative rank between officers of the Navy and Army on the retired list shall be the same as on the active list, and the annual pay of retired naval officers shall be as follows: admirals, $2,000; commodores, $1,800; captains, $1,600; commanders, $1,400; lieutenant commanders, $1,300; lieutenants, $1,000; masters, $800; ensigns, $500; and no rations shall

be allowed to any officer of the Navy on the retired list. And the pay of all naval officers appointed by virtue of an act entitled 'An act to provide for the temporary increase of the Navy,' approved July 24, 1861, shall be the same as that of officers of a like grade in the regular Navy."

That the Senate recede from their third, fifth, eighth, twelfth, twenty-first, twenty-second, twenty-fifth, and twenty-ninth amendments, disagreed to by the House.

JOHN P. HALE,
JAMES W. GRIMES,
Managers on the part of the Senate.
C. B. SEDGWICK,
JOHN F. POTTER,
Managers on the part of the House.

The report was adopted.

Mr. SEDGWICK moved to reconsider the vote by which the report was adopted; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

MESSAGE FROM THE PRESIDENT.

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

Also, a message announcing that the President had approved and signed bills and a joint resolution of the following titles:

An act (H. R. No. 393) to establish certain post routes;

An act (H. R. No. 454) for the relief of the register of the land office at Vincennes, Indiana, and for other purposes;

An act (H. R. No. 399) to provide for the quieting of certain land titles in the late disputed territory in the State of Maine, and for other purposes; and

Joint resolution (H. R. No. 98) authorizing the Secretary of War to furnish extra clothing to sick, wounded, and other soldiers.

MESSAGE FROM THE SENATE.

A message was received from the Senate, by Mr. FORNEY, their Secretary, informing the House that the Senate have agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the bill (H. R. No. 280) to establish and equalize the grades of line officers of the United States Navy.

The message further announced that the Senate have passed a bill and joint resolution of the House of the following titles, with amendments; in which he was directed to ask the concurrence of the House:

An act (No. 561) in relation to commissioned officers of the United States revenue cutter service; and

Joint resolution (No. 102) tendering the thanks of Congress to Captain A. H. Foote, United States Navy.

The message also announced that the Senate have passed, without amendment, a bill (H. R. No. 496) to enlarge the Lake Superior land district in the State of Michigan.

The message further announced that the Senate have passed bills of the following titles; in which he was directed to ask the concurrence of the House:

An act (No. 250) to amend an act entitled "An act to create a metropolitan police district of the District of Columbia, and to establish a police therefor," approved August 6, 1861; and

An act (No. 382) in addition to an act entitled "An act to provide for the better security of the lives of passengers on board vessels propelled in whole or in part by steam, and for other purposes," approved August 30, 1852.

BUSINESS ON THE SPEAKER'S TABLE.

Mr. TRAIN. I move to proceed to business on the Speaker's table.

The motion was agreed to

The business on the Speaker's table was then taken up and disposed of, as follows:

FINAL ADJOURNMENT.

The following resolution from the Senate was taken up and concurred in:

Resolved, (The House of Representatives concurring,) That the President of the Senate and the Speaker of the House of Representatives adjourn their respective Houses *sine die* on Wednesday, the 16th of July, instant, at twelve o'clock, meridian.

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

The latter motion was agreed to.

METROPOLITAN POLICE.

Senate bill (No. 250) to amend an act entitled "An act to create a metropolitan police district of the District of Columbia, and to establish a police therefor," approved August 6, 1861, was taken from the Speaker's table, and read a first and second time.

Mr. TRAIN. I ask that the bill may be put on its passage.

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

Mr. TRAIN moved to reconsider the vote by which the bill was passed, and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

MESSAGE FROM THE SENATE.

A message from the Senate was received by Mr. HICKEY, their Chief Clerk, notifying the House that the Senate have passed a bill and joint resolution of the following titles; in which he was directed to ask the concurrence of the House:

An act (No. 202) requiring the commanders of American vessels sailing to foreign ports and persons prosecuting claims to take the oath of allegiance; and

Joint resolution (No. 97) in relation to the law of prize.

MISCELLANEOUS APPROPRIATION BILL.

Mr. STEVENS. I move that when the House resolves itself into the Committee of the Whole on the state of the Union all general debate upon the supplemental appropriation bill be closed in five minutes.

Mr. ROSCOE CONKLING. I make this point of order, that until the bill has been read through by clauses for amendment, a motion to close debate is not in order.

The SPEAKER. The Chair understands the bill has been read through for information in committee.

Mr. ROSCOE CONKLING. But not by sections for amendment.

The SPEAKER. The reading of the bill by sections, the Chair is informed, had been commenced. The Chair overrules the question of order.

Mr. STEVENS. I ask for the vote upon my motion.

Mr. F. A. CONKLING. I object to all limitation of debate.

The SPEAKER. That will be for the majority of the House to determine. The question is on the motion of the gentleman from Pennsylvania.

The motion was agreed to.

Mr. STEVENS. I move that the rules be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union.

The motion was agreed to.

So the rules were suspended; and the House accordingly resolved itself into the Committee of the Whole on the state of the Union, (Mr. WHITE, of Indiana, in the chair,) and resumed the consideration of House bill (No. 572) making supplemental appropriations for sundry civil expenses of the Government for the year ending June 30, 1863, and for the year ending June 30, 1862.

The following clause of the bill was read:

For light-house at Ediz Hook, Port Angelo harbor, Washington Territory, hereby authorized to be established, $5,000.

Mr. F. A. CONKLING. I rise to a question of order in relation to that paragraph of the bill, and ask the Clerk to read the following rule:

The Clerk read, as follows

"No appropriation shall be reported in such general appropriation bills, or be in order as an amendment thereto, for any expenditure not previously authorized by law, unless in continuation of appropriations for such public works and objects as are already in progress, and for the contingencies for carrying on the several Departments of the Government."

Mr. WASHBURNE. I think the point is correct. It is a matter that certainly ought to have been considered by the Committee on Commerce. I do not know how it got into this general appropriation bill.

The CHAIRMAN. The Chair is of opinion that this is a question over which the committee has no control. This clause of the bill was referred by the House to the committee, and the point must be made in the House, if at all. The committee cannot determine it.

Mr. F. A. CONKLING. Is it for the House to determine points of order raised in Committee of the Whole?

The CHAIRMAN. The House has referred this clause among others to the committee, and the committee cannot exclude it upon a question of order.

Mr. F. A. CONKLING. With great respect to the Chair, it appears to me that the decision is fatal to a proper consideration of a bill appropriating money for a great variety of purposes, like the one now before the committee. We are considering a general appropriation bill, and the language of the rule is express on this point. I feel constrained to appeal from the decision of the Chair.

The CHAIRMAN. The Chair will have the practice read.

The Clerk read, as follows:

"This rule is rigidly enforced so far as relates to amendments offered in the House or in committee, but it not unfrequently happens that bills are reported which are in conflict with it; and as they are usually received by the House and committed without being read *in extenso*, the conflict is not discovered until they are in committee, when it is too late to make the point."

Mr. HOLMAN. I rise for the purpose of moving to strike out the appropriation.

Mr. STEVENS. I do not know about the merits of this case. It was reported by the Committee of Ways and Means and included in this bill, because it had been referred by the House to that committee. They have properly reported the matter back to the House. I do not know particularly what are the merits of the appropriation, and if any gentleman does, I hope that he will state them to the House.

Mr. WASHBURNE. This is an appropriation for a new light-house. If I understand the theory of the rules of the House, the Committee of Ways and Means has for its duty to report appropriations to carry out existing laws; and here that committee is initiating new legislation on a subject foreign to the purpose for which it was constituted.

Mr. STEVENS. It frequently happens that subjects are referred by the House to the Committee of Ways and Means not properly within the jurisdiction of that committee. This matter has been referred to us, and we have very properly reported on it. As I have already said, I do not know anything in regard to the peculiar merits of this case.

Mr. WASHBURNE. I do not know whether it was referred to the Committee of Ways and Means in open House, or under the rule; but there is one thing which I do wish to say. The same subject was referred to the Committee on Commerce, but that committee in this, as in all other cases for the construction of new light-houses, withheld their recommendation to the House until they had first consulted with the Light-House Board. It is very unsafe legislation for us to insert this provision in this appropriation bill without having had any consultation with that Light-House Board, which has charge of this whole subject. We ought not to pass laws for the erection of these light-houses until we hear what is the recommendation of the Department which has been peculiarly intrusted with the organization of our light-house system. It has not sent us any information with reference to this particular light-house, and so far as I am aware the House is not prepared to legislate on this matter at this time. I would say to the Delegate from Washington Territory, who represents the interests of his constituents with so much ability, that the Committee on Commerce has taken up the subject; that they will refer it to the Light-House Board; that they will report a separate bill, and ask that it immediately be put upon its passage. I hope, however, that this appropriation will be stricken out.

Mr. WALLACE, of Washington. I will make but a single remark in favor of the retention of this appropriation in the bill.

The CHAIRMAN. Discussion on the amendment is exhausted.

Mr. WALLACE, of Washington. I ask the unanimous consent of the House to be permitted to make a few observations.

The CHAIRMAN. It is not within the province of the committee to give unanimous consent. We are acting under the orders of the House.

The amendment was agreed to

The Clerk read the next paragraph of the bill, as follows:

To enable the President to carry out the act of Congress for the emancipation of the slaves in the District of Columbia, and to colonize those to be made free by the probable

THE CONGRESSIONAL GLOBE.

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

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passage of a confiscation bill, $500,000, to be repaid to the Treasury out of confiscated property, to be used at the discretion of the President in securing the right of colonization of said persons made free, and in payment of the necessary expenses of their removal.

Mr. MALLORY. I move to strike that paragraph out of the bill. I do not like to appropriate so much money in view of some act which may possibly pass this House.

Mr. STEVENS. The law has already passed which requires compensation to be made to the masters of slaves who have been emancipated in this District. This $500,000 is for the purpose of carrying into effect that law which requires the colonization of such of those emancipated slaves who may choose to leave the District of Columbia. So far as that is concerned, then, it provides for the execution of a law which is now upon our statute-books.

In regard to the proposed law that is referred to there, it has already passed both branches of Congress. I believe that it has not yet been signed by the President, but I think it has become a probability that it will soon become a law. That is the whole matter.

On Mr. MALLORY's motion, on a division, there were—ayes 39, noes 68.

Mr. PHELPS, of Missouri, demanded tellers.

Tellers were ordered.

Mr. PHELPS, of Missouri. All we want is that there shall be a recorded vote in the House on this proposition. If there be an understanding that there shall be a vote on the proposition in the House, I will withdraw the demand for tellers.

Mr. STEVENS. The gentleman from Missouri will without doubt be enabled to ask for a separate vote on this proposition in the House.

Mr. PHELPS, of Missouri. With the understanding that we shall have a separate vote on this proposition in the House, I withdraw the demand for tellers.

Mr. WICKLIFFE. And without the gentleman from Pennsylvania demanding the previous question.

Mr. PHELPS, of Missouri. Will the gentleman from Pennsylvania, when the bill gets into the House, permit any gentleman to move to strike out this proposition before he demands the previous question? He will, of course, be first entitled to the floor.

Mr. STEVENS. I, of course, agree to that. I want to have everything fairly decided.

Mr. MALLORY's motion was rejected.

The Clerk read the next paragraph, as follows:

That the salary of the Assistant Secretary of the Treasury shall be the same as that of the Assistant Secretary of the Navy, to commence with the present fiscal year.

Mr. LOVEJOY. What is the salary of the Assistant Secretary of the Treasury now?

Mr. STEVENS. Three thousand dollars.

Mr. F. A. CONKLING. And it proposes to carry this increase of salary back to the first of this year?

Mr. STEVENS. It only proposes to carry it back to the first of the present fiscal year, which is the 1st of July last.

Mr. ROSCOE CONKLING. I would like the chairman of the Committee of Ways and Means to state the reason for this proposed increase of salary.

Mr. STEVENS. I will state the reasons which influenced the committee. The Assistant Secretary of the Treasury has had more labor to perform than ever before, in consequence of the increased business of the Department. He has had to labor more hours than any officer in the Government, excepting, perhaps, the Treasurer of the United States. His duties are more onerous than those of the Assistant Secretary of the Navy, and the committee thought that it was the least justice we could do to raise his salary up to that of the Assistant Secretary of the Navy.

Mr. F. A. CONKLING. I do not like the way in which this proposition is stated. It would, for various reasons, be better to say, if we are to adopt the provision at all, that the salary of the Assistant Secretary of the Treasury shall hereafter be $4,000 per annum, and not that it be the same as that of some other officer; but I move to strike out the whole paragraph.

Mr. ROSCOE CONKLING. Will the chairman of the Committee of Ways and Means agree to let us have a separate vote on this proposition in the House?

Mr. STEVENS. Certainly.

Mr. F. A. CONKLING. Then I withdraw my motion.

The Clerk read the next paragraph, as follows:

For the fund of the Patent Office, $50,855 49, to supply the deficiency existing under the act of March 2, 1861, entitled an "Act in addition to an act to promote the progress of the useful arts:" *Provided*, That the fourteenth section of said act be, and the same is, hereby repealed.

Mr. HOLMAN. For the purpose of obtaining some information on the subject, I move that that paragraph be stricken out. I deprecate the practice of referring to laws authorizing the appropriation of money. It is well enough, where you have an opportunity of examining them, but this bill has been brought before the House without previous notice and without being printed. It is impossible, therefore, to know what this appropriation refers to, unless one is perfectly familiar with the previous legislation of Congress. It seems to me strange, at this particular moment, that this appropriation should be brought forward, when there is no time for deliberation, and no time to look into the act of 1861. I object to this hasty and ambiguous legislation. I heartily approve of the declaration made by the chairman of the Committee of Ways and Means, that the appropriation bill shall be brought in at the earliest possible moment, and deliberately acted on.

Mr. WALTON. I would state that the Patent Office department sent a communication to this House, approved by the Secretary of the Interior, asking for an appropriation to make up a deficiency in the funds of that office. That was first referred to the Committee of Ways and Means, and after some examination there, it was reported back to the House and referred to the Committee on Printing. That committee made a full examination of the matter, and I will state now for the information of the gentleman from Indiana, [Mr. HOLMAN,] that the fourteenth section of the act of March 2, 1861, authorized the Commissioner of Patents to print full specifications of patents granted, with lithographic drawings. Under that law, the department expended between June last and the 1st of November, the sum of about thirty-four thousand dollars for printing, and if you add to that the expense of preparation of copy, for proof reading and other expenses necessarily connected with the matter, the sum of money expended under the fourteenth section of the act of 1861, will amount to nearly fifty thousand dollars.

Moreover, by another section of the act—a provision by which patentees were permitted to elect at what time they would take out their patents—they were not required to make payment of the last installment of fees until they took out the patents. By means of these two provisions of the act which we ourselves passed, a deficiency has occurred in the funds of the department to the amount named in the bill—$50,855 49. I ought to say, further, that in consequence of the provisions of the act of 1861, and the printing of these full specifications and drawings in the department, the Commissioner did not make any report to this House and the Senate of the descriptions of the patents granted, and of the drawings, as has usually been done heretofore.

We have therefore saved to the House and the Senate, in printing and engraving in the Patent Office this year, the sum of $80,000, and if you make this appropriation to supply this deficiency which we have created by our own act, we shall save $30,000 this year in the printing of patents.

Mr. DUNN. I move to amend by striking out fifty cents of this appropriation. I make the motion for the purpose of saying that an appropriation of this amount is necessary for the purpose here stated. This question of appropriating a certain amount to defray the printing of the Patent Office, was referred to the Committee on Patents, which reported in favor of the appropriation; then to the Committee on Printing, which reported in favor of it, and it was then referred to the Committee of Ways and Means, and they reported in favor of it. The Commissioner of Patents has recommended it. It is necessary.

Now, the Government has been in the habit of paying a much larger amount than is here asked for every year for Patent Office printing. There probably will be no need hereafter of any such appropriation, because the receipts of the Patent Office will, I presume, be sufficient to defray all its expenses. In years passed the Government has been in the habit of appropriating, out of the general fund of the Government, for the Patent Office, sums much larger than this. This is the smallest appropriation which has been asked for in many years.

Mr. MAYNARD. I am opposed to a reduction even to the amount of one dollar. This matter came up before the Committee of Ways and Means, and was there examined, and whatever we may think of the propriety of increasing the expenditure, yet the expenditure, as the law stood was rightfully and properly incurred.

Mr. F. A. CONKLING. I would inquire of the gentleman whether there was any evidence furnished to the Committee of Ways and Means that this amount of expense had actually been incurred?

Mr. MAYNARD. That was the stated balance submitted to us by the department. We had to rely upon the statement submitted to us by the department, and therefore we recommended this appropriation; and to prevent any future deficiencies, we recommended that the fourteenth section of the act of 1861 should be repealed.

Mr. DUNN, by unanimous consent, withdrew his amendment.

Mr. CALVERT. I move to diminish the amount by $50,000. I understand that the Committee on Printing have recommended the repeal of that part of the law which has been violated in this printing; that the law authorized the printing of ten copies of all the specifications issued and all the drawings connected with them, but that the Commissioner printed thirty copies. I contend that we ought not to pay for the twenty copies in excess of the law.

Mr. WALTON. The gentleman from Maryland is right as to the number of copies printed and the number of copies authorized by law to be printed. The fourteenth section expressly gave authority to print ten copies for certain purposes, but when the Commissioner made a contract for ten copies, he also made a contract for twenty additional copies for the use of the library of the department and for making exchanges with foreign Governments. I put the question to the department to know by what authority that had been done. The answer was that the department had authority to provide for its own library by means of exchanges with foreign Governments. The committee thought, or, at least, I thought the Commissioner had put a very liberal construction upon that fourteenth section, and that was one reason why we thought we had better repeal it.

Mr. CALVERT, by unanimous consent, withdrew his amendment.

Mr. FRANK. I move to reduce the amount two dollars. I would like to ask the chairman of the Committee on Printing, or of the Comittee on Patents, if, when this law was passed at the last Congress, it was not distinctly understood that no expense to exceed the previous amount paid for writing was to accrue to the Government? I would like to ask further if a responsible individual did not offer, and has not at all times since stood ready, to publish the number authorized by law, without expense to the Government other than was formerly paid for the written record?

Mr. WALTON. In reply to the gentleman from New York, I would say that it was expected that the fees of the office would defray all the expenses of this printing. It is also true that a gentleman

connected with some newspaper, the Scientific American, I believe, did make a proposition to the Commissioner to go into a sort of partnership and furnish these ten copies if he could have the engravings. I believe the department declined to make the contract.

Mr. FRANK. If I correctly understand this question, it is this: under the former rules of the Patent Office a written record of all patents was kept. A gentleman of respectability and position, long connected with the business of patents, deemed it much better for all concerned to substitute a printed record, and suggested the idea to the different Commissioners for several years past. It was thought to be much more simple and better in every respect. He proposed to print and furnish the Government *ten* copies of each patent for the amount formerly paid by them for writing out two copies. The profit from the sale of extra copies to parties who might desire them was to pay him for expense and trouble. The Department, in place of accepting this proposition, went on and incurred the large expense for which we are now asked to appropriate $50,000, when the necessary copies could have been furnished without expense, save that formerly incurred for writing out two copies.

I am not aware that the gentleman was connected with the Scientific American. It matters not if he was, as it is one of the most respectable and useful papers in the world.

Mr. WALTON. I think my friend from New York is mistaken in saying that that gentleman had no connection with any newspaper.

Mr. FRANK. I never understood the gentleman to be connected with a newspaper.

Mr. WALTON. I have seen that gentleman's statement of the case, and I understand that the gentleman was connected with the press, as I have named. The gentleman is mistaken in the idea that this work has been done at our expense. It has been nearly all paid for out of the funds of the office. I do not justify the contract, but inasmuch as, by our putting this power in the hands of the Commissioner, this deficiency has been created, I shall vote for the appropriation. I will further say that the work was stopped last November, and none has been done since.

Mr. HOLMAN. I wish to ask a single question. I wish to know whether these officers have exceeded the powers conferred upon them?

Mr. WALTON. This is not an appropriation to carry out that contract at all. A contract was made by the Secretary of the Interior with Mr. Gideon to do this work, and the work has been paid for, as I understand it, except a small balance, which stands over as a deficiency, but that is not what we are paying for now.

Mr. DUNN. I desire to explain the reason why the Commissioner of Patents has exceeded his authority. We have received as exchanges from England and France very splendid works of the same character, and it was almost a matter of national courtesy that we should as speedily as possible send them specimens of our work. But in further answer, I wish to make this remark, that when the last Congress passed the act which has been referred to, we had no doubt but that all these expenses would be covered by the receipts of the office, and they would have been far more than covered by the receipts of the office had it not been for the paralysis of the business of the office consequent upon the war. Times like these are not favorable for the sale of patent rights. One of the largest and most profitable fields for the sale of patent rights has been taken from our possession, to wit, the southern States. That is the reason why the Patent Office asks the Government to make up this deficiency. The Government would not have been called upon to do it but for the reason which I have stated.

Mr. FRANK's amendment was disagreed to.

The question recurred on Mr. HOLMAN's motion to strike out the appropriation.

Mr. FRANK. I move, as an amendment to the amendment, to strike out the whole clause with the exception of the last word. I do it for the purpose of making a few remarks in reply to the gentleman from Indiana and the gentleman from Vermont. I was a member of the Committee on Patents of the last Congress, and remember very well when this matter now under consideration was before us. The gentlemen only differ with me in this: they think that, as the money has been expended, it ought to be repaid to the Department. If the House sees fit to do so, well and good. I only state the facts. I say that this large expenditure was entirely unnecessary, and that a responsible party offered to do the work without such large expense to the Government. If, in view of this fact, the House chooses to vote this $50,000, very well. The gentleman from Vermont says himself he does not justify the contract, but as the deficiency has been created, he will vote for it.

Mr. MAYNARD. I would ask the gentleman if that responsible party is not a patent agent?

Mr. FRANK. I do not know that he is; but I *do* know that he has given the subject of patents great attention for many years, and was at one time connected with the Patent Office.

Mr. MAYNARD. And I would ask the gentleman if he approves of the Department entering into that sort of arrangement with any patent agent?

Mr. FRANK. Certainly, with a proper arrangement as proposed by the gentleman making the offer. I have no hesitation in stating that the gentleman is Mr. Greenhough.

Mr. DUNN. Would the gentleman think it proper that these specifications, belonging to the archives of the Patent Office, should be handed out to a printer, to be used as copy from which to print, and that then this patent agent, for such he is, and a very respectable gentleman, should make a profit by sending out copies all over the country?

Mr. FRANK. It was not intended to take the manuscript from the office. It was to remain there, under the supervision of a proper officer, during the time the work of setting the type was going on; then to be stereotyped and printed.

In reply to the last part of the gentleman's question, I would say that copies of patents can now be obtained from the Patent Office—the only difference being that they are written, where Mr. Greenhough proposed to furnish them printed.

I have stated the facts simply, and leave the House to decide. I withdraw the amendment.

The question was taken on Mr. HOLMAN's motion; and there were—ayes 25, noes 51; no quorum voting.

Mr. HOLMAN. Inasmuch as no quorum has voted, I suggest that it be the understanding that there shall be a separate vote in the House on this clause.

Mr. STEVENS. No, sir; I cannot agree to anything of the kind. I call for tellers.

Tellers were ordered; and Messrs. THOMAS, of Massachusetts, and HOLMAN were appointed.

The committee divided; and the tellers reported—ayes 39, noes 54.

So Mr. HOLMAN's amendment was disagreed to.

Mr. F. A. CONKLING. I move to strike out the following clause:

To supply a deficiency in the appropriation for rent of surveyor general's office in California, fuel, books, stationery, and pay of messenger, $2,000.

Mr. LOW. I would like to ask the gentleman from New York if he can assign any reason for striking out that clause.

Mr. F. A. CONKLING. My reason is a general one. There has been a certain amount of money appropriated by law for defraying the expenses of the office of the surveyor general of California, and that officer had no right whatever to incur an expenditure to the amount of one dollar beyond the amount so appropriated. The case is essentially the same as that which has just been passed upon by the committee. In that case an officer has seen fit, without any authority of law—indeed I may say in violation of law—to incur an expenditure of upwards of $50,000 for printing, and this House has been called upon to pay it. I voted against that appropriation. I voted against it because the officer in question had no right to incur the expenditure, and because, in addition to that, the remarks of the gentleman from New York [Mr. FRANK] led me to suppose that the transaction was nothing short of a swindle. I have already stated that my objection to this appropriation now under consideration is a general one. The amount which the surveyor general of California was authorized to expend was fixed by law, and unless it shall be shown that the expenditure of an additional sum was absolutely necessary in order to carry on the office, I think it is the duty of the House to vote against the appropriation.

Mr. LOW. This appropriation is reported by the Committee of Ways and Means for expenditures incurred in pursuance of law. The appropriation is in pursuance of an act of Congress, and is necessary. I hope the committee will not strike it out.

Mr. DUNN. I move to increase the appropriation one dollar. The gentleman from New York, [Mr. F. A. CONKLING,] in discussing this clause, has thought proper to refer to the action of the House on the preceding appropriation of $50,000 as a swindle. Now, sir, I do not think it is proper that a member should rise here and speak to the nation in that kind of language, unless he is prepared to sustain his declaration. If there be any swindling in that matter, I call upon the gentleman to produce the proofs, and not to do injustice to a department of the Government by general and sweeping charges of swindling. Gentlemen are too ready to make such charges. I do not wish to make any comments upon the conduct of the gentleman from New York here, but I wish to call the attention of the House to the great injustice done by these general charges, and to say to the gentleman that I defy him to the proof that his charge or insinuation is true. I now withdraw my amendment.

Mr. F. A. CONKLING's amendment was rejected.

Mr. WATTS. I offer the following as an additional section:

That the sum of $20,000 be, and the same is hereby, appropriated out of any money not otherwise appropriated, to enable the Secretary of the Interior to make treaties with the Navajoe, Apaché, and Utah Indians of New Mexico, defining their limits.

I wish to say a word to the House in explanation of this amendment, and I do not think that, after the explanation is made, the amendment will be opposed by a single member on this floor. A bill was introduced by me for this purpose, and was referred to the Committee on Indian Affairs. The committee reported it back, at the request of the Interior Department, unanimously recommending its passage. An estimate of $30,000 was made by the Interior Department, and furnished to the Committee on Indian Affairs in the Senate. That committee investigated the matter, and agreed to recommend an appropriation of $20,000 in the Indian appropriation bill. When that bill was up in this House, I was unable to get the floor to offer an amendment for that purpose, and the chairman of the Committee of Ways and Means suggested that the conference committee would attend to the matter. It was presented to the conference committee, and unanimously agreed to; but on account of some rule of order, this amendment, with others, was stricken out, and I have had no opportunity until the present of bringing it before the House.

Mr. STEVENS. I think the gentleman is mistaken about that amendment being stricken out in the House.

Mr. WATTS. It was agreed to in committee of conference, but the report of that committee was not agreed to by the Senate on account of some question of order, and in that way the appropriation failed. With forty-one thousand Indians in New Mexico, we have not had for sixteen years a single treaty defining the limits of Indian possessions. Treaties were made for that purpose in 1854, but were not ratified by the Senate. The Indian intercourse act must be a dead letter there, because there are no boundaries within which it could be applicable. How can a violation of the Indian intercourse act be prosecuted when there are no limits or boundaries by which to determine what belongs to the Indians and what to the people? This measure is urgently recommended by the Indian department, was agreed to by the Committee on Indian Affairs, and by the Committee of Ways and Means. I do not think it necessary to say another word about it. I hope the amendments will be unanimously agreed to.

Mr. F. A. CONKLING. I raise the question of order, that the amendment is not in order; and I refer to the 120th rule.

The rule was read, as follows:

"No appropriation shall be reported in such general appropriation bills, or be in order as an amendment thereto, for any expenditure not previously authorized by law."

Mr. WATTS. This is not for any expenditure not previously authorized by law.

Mr. F. A. CONKLING. That is the reason why it is not in order.

Mr. WATTS. But it is for an expenditure to

be authorized by law. I am not very familiar with the rules, and do not consider that the most valuable members of the House are those that rise to points of order. [Laughter.] And I object——

Mr. F. A. CONKLING. What does the gentleman propose to do?

Mr. WATTS. Anything that I have a right to do. When you get to understand it, you will find that it is all right. I do not want to carry anything in this House that I am not satisfied is perfectly right and fair. To show that this is so, I introduced a bill for that purpose, on its own merits, and it was referred to the Committee on Indian Affairs.

Mr. F. A. CONKLING. The only question is, whether this is authorized by existing law? That is the point.

The CHAIRMAN. Does the gentleman from New York insist on his point of order?

Mr. F. A. CONKLING. I do.

The CHAIRMAN. The Chair feels itself under the necessity of sustaining the point of order, believing that this is not an appropriation authorized by law.

Mr. WATTS. I acquiesce in the decision of the Chair; but I hope that when I move to suspend the rules to have the bill which I introduced passed, my friend from New York [Mr. F. A. CONKLING] will not object to it.

Mr. CRADLEBAUGH. I offer the following amendment:

For the general incidental expenses of the Indian service in Nevada Territory—purchase of oxen, cows, ponies, presents of goods, agricultural implements, and other useful articles; for the pay of blacksmith and support of blacksmith shop, for the fiscal year ending June 30, 1863, $30,000.

Mr. MAYNARD. I raise the point of order that the amendment is not in order. All these items should have been put in the Indian appropriation bill.

Mr. CRADLEBAUGH. This matter was not considered at all in the Indian appropriation bill.

Mr. MAYNARD. Well, if it were a proper one, that was the place for it.

The CHAIRMAN. The Chair sustains the point of order.

Mr. DAILY. I offer the following amendment:

And be it further enacted, That for the purpose of building a penitentiary in the Territory of Nebraska, all unexpended balances of appropriations heretofore made for said Territory, up to the commencement of the present fiscal year, for legislative, judicial, and executive purposes, be, and the same are hereby, reappropriated, together with a sum sufficient to make, in all, $40,000, out of any money in the Treasury not otherwise appropriated. The Secretary of the Interior shall select the point, and make the contracts for said building; but no contract shall be made except for the entire completion, within eighteen months, of a penitentiary for said sum suitable for the wants of the Territory.

Mr. MAYNARD. I make a point of order on this amendment. This matter came before the Committee of Ways and Means, and the committee decided adversely upon it.

Mr. DAILY. It is true that this proposition was before the Committee of Ways and Means.

The CHAIRMAN. The point of order is not debatable.

Mr. DAILY. I think the point of order is not good, because the organic act organizing the Territory of Nebraska provides for Congress furnishing money for these buildings.

The CHAIRMAN. If this is for a public work already authorized, the amendment is in order.

Mr. DAILY. It is for a public building authorized by the organic act of the Territory.

The CHAIRMAN. If that be the fact, the amendment is in order.

Mr. MAYNARD. The point I made was that there is no law authorizing the erection of this penitentiary. This is a new proposition.

The CHAIRMAN. The Chair, in announcing its decision, put it entirely on the understanding that there had been a former appropriation made for this penitentiary.

Mr. MAYNARD. I do not understand that there ever was an appropriation made for it. I have been so informed more than once by the Delegate himself.

Mr. DAILY. There has been no appropriation made for it; but there is a provision in the existing law that Congress shall appropriate for it.

The CHAIRMAN. This question of order depends altogether on that question of fact. The Chair not being advised on the subject, requires the gentleman from Nebraska to produce authority of law for the construction of this penitentiary. If there be such a law, the amendment is in order; otherwise it is not.

Mr. MAYNARD. I have been informed more than once that there was no such law.

Mr. DAILY. I think that the gentleman from Tennessee will withdraw the point of order when I state the fact that only $3,000 is to be drawn from the Treasury for the erection of this penitentiary. The other $37,000 is to be composed of balances of appropriations made for other purposes in the Territory.

Mr. MAYNARD. If we have heretofore appropriated for any purpose in Nebraska a larger amount than was necessary, the balance reverts to the Treasury, and is part of the money in the Treasury. As I stated, we examined this matter in committee very fully.

The CHAIRMAN. As the Chair understands the facts, he rules the amendment out of order.

Mr. DAILY. The authority for making this appropriation is to be found in the organic act of the Territory of Nebraska. It is there provided that the Government shall make appropriations for the erection of public buildings in that Territory. Some of the public buildings have been already erected, but there has never yet been an appropriation for the erection of this public building.

The CHAIRMAN. The Chair does not suppose that an organic act of the Territory is such a law as was intended to be covered by the rule of the House. He must therefore rule the section out.

Mr. STEVENS. I move to add the following additional section to the bill:

For expenses in carrying into effect the treaty with Great Britain for the suppression of the slave trade, the sum of $15,000, or so much thereof as may be necessary.

Mr. Chairman, that treaty has already been made, and the officers appointed under it. There has, however, been no appropriation made to carry it into effect. The Secretary of State has sent us a communication asking that that sum be appropriated for that purpose.

The amendment was agreed to.

Mr. STEVENS. I move that the committee rise and report the bill.

The motion was agreed to.

The committee accordingly rose; and Mr. WASHBURNE having taken the chair as Speaker *pro tempore*, Mr. WHITE, of Indiana, reported that the Committee of the Whole on the state of the Union had, according to order, had the Union generally under consideration, and particularly the supplemental civil appropriation bill, and had directed him to report the same back with sundry amendments.

Mr. STEVENS. It was the understanding in the Committee of the Whole on the state of the Union that there should be separate votes on the proposition to increase the salary of the Assistant Secretary of the Treasury, and also on the proposition for the colonization of the emancipated slaves of this District. With the exception of those propositions, I move that the other sections and amendments be agreed to *en masse*.

There was no objection; and the amendments were agreed to.

The Clerk read the following:

To enable the President to carry out the act of Congress for the emancipation of the slaves in the District of Columbia, and to colonize those to be made free by the probable passage of a confiscation bill, $500,000, to be repaid to the Treasury out of confiscated property, to be used at the discretion of the President in securing the right of colonization of said persons made free, and in payment of the necessary expenses of their removal.

Mr. MALLORY. I move that that paragraph be stricken out of the bill.

Mr. STEVENS. I demand the previous question.

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

Mr. HOLMAN. Was there not an understanding that there should be a separate vote on the patent fund proposition?

Mr. STEVENS. There was no such agreement. The understanding was that there should be a separate vote only on the two propositions which I have already indicated.

Mr. MALLORY. I demand the yeas and nays on my motion.

The yeas and nays were ordered.

Mr. HOLMAN. To test the sense of the House on this bill, and especially with reference to the patent fund provision, I move that it be laid upon the table; and on that motion I demand the yeas and nays.

On a division there were—ayes 8, noes 60.

Mr. HOLMAN demanded tellers on the yeas and nays.

Tellers were not ordered.

The yeas and nays were not ordered.

The question was then taken; and the House refused to lay the bill upon the table.

The question then recurred on Mr. MALLORY's motion to strike out; and being taken, it was decided in the negative—yeas 41, nays 70; as follows:

YEAS—Messrs. William Allen, William J. Allen, Ancona, Baily, George H. Browne, William G. Brown, Calvert, Cobb, Cox, Cravens, Fouke, Granger, Grider, Haight, Hall, Holman, Jackson, Kerrigan, Knapp, Law, Lazear, Leary, Mallory, May, Menzies, Odell, Pendleton, John S. Phelps, Segar, Sheffield, Shiel, Smith, John B. Steele, William G. Steele, Stiles, Benjamin F. Thomas, Francis Thomas, Webster, Wickliffe, Wilson, and Wood—41.

NAYS—Messrs. Aldrich, Alley, Ashley, Babbitt, Baxter, Bingham, Samuel S. Blair, Blake, Buffinton, Casey, Clements, Colfax, Frederick A. Conkling, Roscoe Conkling, Covode, Davis, Dawes, Duell, Dunn, Edwards, Eliot, Ely, Fessenden, Fisher, Frank, Goodwin, Hale, Hanchett, Hooper, Hutchins, Julian, Kelley, Francis W. Kellogg, Lansing, Lehman, Loomis, Lovejoy, Low, McKnight, McPherson, Maynard, Moorhead, Anson P. Morrill, Justin S. Morrill, Nixon, Olin, Patton, Timothy G. Phelps, Potter, John H. Rice, Riddle, Edward H. Rollins, Sargent, Sedgwick, Shanks, Shellabarger, Sherman, Spaulding, Stevens, Stratton, Trowbridge, Van Horn, Verree, Wall, Wallace, Walton, Washburne, Albert S. White, Windom, and Worcester—70.

So the motion was disagreed to.

During the vote,

Mr. TRAIN stated that he was paired with Mr. WADSWORTH on all these questions.

The vote was announced as above recorded.

The Clerk read, as follows:

SEC. 3. *And be it further enacted*, That the salary of the Assistant Secretary of the Treasury shall be the same as that of the Assistant Secretary of the Navy, to commence with the present fiscal year.

Mr. ROSCOE CONKLING. I move to strike that section out; and on that motion I demand the yeas and nays.

The yeas and nays were ordered.

The question was taken; and was decided in the negative—yeas 42, nays 57; as follows:

YEAS—Messrs. William Allen, William J. Allen, Ancona, Biddle, Blake, Casey, Clements, Frederick A. Conkling, Roscoe Conkling, Fisher, Goodwin, Holman, Hutchins, Jackson, Julian, Knapp, Lazear, Loomis, McKnight, Menzies, Nixon, Patton, John S. Phelps, Porter, Potter, Riddle, Edward H. Rollins, James S. Rollins, Shanks, Shellabarger, Shiel, William G. Steele, Stiles, Stratton, Trimble, Trowbridge, Verree, Wallace, Wickliffe, Wilson, Windom, and Worcester—42.

NAYS—Messrs. Aldrich, Alley, Baily, Baxter, Samuel S. Blair, George H. Browne, William G. Brown, Buffinton, Calvert, Cobb, Colfax, Covode, Duell, Dunn, Edwards, Eliot, Ely, Fenton, Fessenden, Fouke, Granger, Haight, Hale, Hall, Hooper, Kelley, Francis W. Kellogg, Kerrigan, Leary, Lehman, Lovejoy, McPherson, Maynard, Moorhead, Morris, Noell, Odell, Olin, Pendleton, Timothy G. Phelps, John H. Rice, Sargent, Sedgwick, Segar, Sheffield, Spaulding, John B. Steele, Stevens, Benjamin F. Thomas, Francis Thomas, Train, Van Horn, Walton, Washburne, Webster, Albert S. White, and Wood—57.

So the motion was disagreed to.

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

Mr. HOLMAN demanded a division on the passage of the bill.

On a division, there were—ayes 57, noes 13.

Mr. PHELPS, of Missouri, demanded the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 62, nays 34; as follows:

YEAS—Messrs. Aldrich, Alley, Arnold, Babbitt, Baxter, Samuel S. Blair, Blake, Buffinton, Casey, Clements, Colfax, Frederick A. Conkling, Covode, Dawes, Duell, Dunn, Edwards, Eliot, Ely, Fenton, Fessenden, Frank, Haight, Hale, Hooper, Julian, Kelley, Francis W. Kellogg, Lansing, Leary, Lehman, Loomis, Lovejoy, Low, McKnight, McPherson, Maynard, Moorhead, Anson P. Morrill, Justin S. Morrill, Nixon, Olin, Patton, Timothy G. Phelps, Porter, John H. Rice, Riddle, Sargent, Sedgwick, Sherman, Smith, Stevens, Stratton, Benjamin F. Thomas, Van Horn, Verree, Wall, Wallace, Walton, Washburne, Albert S. White, and Windom—62.

NAYS—Messrs. William Allen, William J. Allen, Ancona, Calvert, Cobb, Roscoe Conkling, Cox, Fisher, Fouke, Granger, Grider, Hutchins, Jackson, Kerrigan, Knapp, Law, Mallory, Menzies, Pendleton, John S. Phelps,

Potter, Edward H. Rollins, James S. Rollins, Shanks, Shellabarger, Shiel, William G. Steele, Stiles, Trimble, Trowbridge, Wickliffe, Wilson, Wood, and Worcester—34.

So the bill was passed.

During the vote,

Mr. HOLMAN stated that if he had been present, he would have voted in the negative.

The vote was announced as above recorded.

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

The latter motion was agreed to.

ENROLLED BILL.

Mr. GRANGER, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled an act (H. R. No. 496) to enlarge the Lake Superior land district in the State of Michigan; and an act (H. R. No. 571) to punish the fraudulent use or sale of postage stamps; when the Speaker signed the same.

ADDITIONAL DUTIES ON UNITED STATES SUGARS.

Mr. STEVENS. I am directed by the Committee of Ways and Means to report a bill to impose additional duties on sugars produced in the United States, and to ask that the bill be put on its passage.

The bill was read a first and second time.

Mr. STEVENS. I have risen to call the previous question; but if there is any gentleman who desires to be heard upon it, I will yield to him.

Mr. MORRILL, of Vermont. I ask the gentleman to allow me to make a few remarks.

Mr. STEVENS. Certainly.

Mr. MORRILL, of Vermont. I know very well such are the exigencies of the Treasury, that any measure looking to replenish it will be likely to find favor in this House. Nevertheless, our financial position is not so desperate that we can afford to adopt any bill as wrong in principle and wrong in policy as I believe this to be. I therefore desire to call the attention of the House to the position and attitude we shall assume if we pass this bill. We have already passed a bill taxing sugar made from sugar cane one cent per pound. That rate is in excess of any other on manufactures reached by that bill; but it was justified, and justified only, upon the ground that we had raised the price of sugar by increasing largely the tariff on sugar, although that was done at a former session of Congress, and without any reference to the tax bill.

Now, the ordinary value of New Orleans sugar—for it is not to be disguised that this bill is to operate chiefly upon Louisiana and Texas—is about four cents per pound. One cent tax upon sugar is, therefore, equal to twenty-five per cent. *ad valorem*, and this bill is to increase it to fifty per cent. In relation to other manufactures—except in a few instances where we have levied specific duties, as in relation to liquors and tobacco, which are considered either as luxuries or vices—we have only levied three per cent. Under what rule of right can this article be singled out by a special law for so heavy a burden?

Mr. Speaker, it has been considered hitherto a policy of some moment that we should raise the sugar, consumed in this country, within the limits of the United States. Although no longer than two years ago very persistent efforts were made here to strike off the duties upon sugar, upon the ground that the cane had failed in the southern States, and that it was utterly impossible to promote its culture there, it was refused. So large a home tax must increase its price, checking its consumption, and will necessarily check its production. None of these results are to be desired.

Of so great importance has the production of sugar been considered in France, that at the first start of the beet culture for this purpose, a premium was given by Napoleon for its culture, and for a long series of years a differential duty was made in favor of beet sugar. But now, so extensive is the beet culture for sugar in France, that they have to give the cane sugar the advantage in their system of taxation. It is not proposed to tax the sorghum of the western States, nor the maple sugar of the northern States, though both come into direct competition with cane sugars. I ask gentlemen if this can be called fair dealing?

But how will this tax be regarded in the southern States? Why, that we have singled out one production—and that a production very nearly allied to agricultural productions which we expressly exempt from taxation—for the purpose, not so much of raising a revenue as to punish the men who produce it. When it comes to a military measure, a measure for suppressing the rebellion, I am ready to go as far in sharpening the instruments, and in making our war crushing and destructive, as any other man. But when you come to a matter of ordinary legislation, I demand of this House that it shall protect its character by passing no bill which is not equal and just to all portions of the country. Let us have impartial legislation. Confiscate the property of rebels, if you please; but when you levy taxes do it fairly.

It is the fact in relation to the persons upon whom this duty is to operate, that we have already imposed a duty of one cent per pound, and we propose to raise it to double that amount, and impose another cent which they will have to pay. Now, so far as I am informed, these people are the most likely to become loyal of any citizens now in a state of rebellion. That feeling deserves to be nursed and encouraged. Rather than do anything which may be regarded as partial, which may discourage them from returning to their allegiance to the Government, I would be willing that our laws should treat them with some degree of favor, so that they may see, if they come here, that they may expect to have nothing but equality and exact justice in proportion to all the other States. Let our criminal code—laws for the punishment of traitors—deal out vengeance; but our ordinary legislation should not proceed on the idea that this war is to be eternal, and that no loyal men are ever to appear in the sugar-planting States.

I am therefore opposed to these little skinning bills; and, as the great Athenian said of a certain proposition, "it may be advantageous, but it is not just." I hope the bill will be defeated.

Mr. STEVENS. I cannot help admiring the course pursued by my colleague upon the Committee of Ways and Means, praying for the defeat of this bill, as if it were unjust to a portion of our citizens. He knows very well that this tax, as it is worded, will operate only on Louisiana and Texas sugar; and this is the only tax you can raise from the people of those States. While all the other States are paying taxes upon their trade, upon their income, and upon personal property, these people, who have created this debt, are escaping from the payment of all of it. I cannot understand that mode of doing justice to all. That doctrine will do rank injustice to everybody except secessionists. To them it will give an advantage which no other part of the community has.

Now, sir, the Secretary of the Treasury in recommending this measure, informs us that Louisiana and Texas will, this year, produce from seven hundred to seven hundred and fifty million pounds of sugar. The provisions of this bill will enable us, while our armies are there, to collect it, as it provides that the Secretary of the Treasury may collect it under such regulations as he may make, different though they may be from the general tax law. If this tax of one cent on this seven hundred and fifty millions, in addition to the one cent already laid—which never can be collected without the machinery which this bill provides—can be collected, you will raise on the productions of that country $14,000,000 towards defraying the expenses of this war. In no other way can you raise from these people one cent. And yet my colleague talks about this picayune bill which is going to do injustice to one class of people, and hopes it will not pass, so that when they come back into the Union they may not be offended. It is an extraordinary doctrine coming from the mouth of a Representative from Vermont. It is an extraordinary doctrine coming from the mouth of a Representative of a free State which believes that those who brought on this war ought to pay at least a small portion of the expenses of carrying it on. Sir, I do not wish to protract this debate.

Mr. MORRILL, of Vermont. I desire to ask the gentleman from Pennsylvania whether the southern planter is not subjected to the same income tax, and will not be reached in the same way as other classes of people?

Mr. STEVENS. Not to the amount of a dollar. How can you reach them with your assessors and collectors? Under the regulations provided by this bill you can reach this sugar, while our armies are there, by collecting the tax from the holders of it; but you can never collect the income tax from those men to the amount of a dollar.

Mr. THOMAS, of Massachusetts. I do not desire to discuss this matter at all upon the ground on which the learned gentlemen of the Ways and Means Committee have put it. My objection to this bill rests upon the plainer ground of the theory, which I take to be true in the main, that the tax is to be paid by the consumer and not by the producer; and I say the effect is to raise a tax upon one of the most common necessaries of life. It is an article in universal use among the poorer classes, and the effect is to increase the price twenty-five per cent. upon every pound of sugar consumed by the poorer and I may say all classes of community. If this tax was actually levied upon the producer I should not object to it so much, because those persons should bear their proportion of the burden. My objection is, that following the ordinary law of political economy, the tax will be paid by the consumer and not by the producer.

Mr. MORRILL, of Vermont. Another question. It is whether this tax will not be levied upon the maple sugar produced in the northern States?

Mr. STEVENS. No, sir; that which is manufactured for home consumption everywhere is exempted from paying this duty whether made from sorghum or anything else.

Mr. WICKLIFFE. I would like to inquire if there is not a great deal of maple sugar made in certain sections of this country for sale, and not for consumption by the makers?

Mr. STEVENS. I think there is considerable.

Mr. WICKLIFFE. Why not tax it, then?

Mr. STEVENS. I put this bill on the ground that it is laying a tax upon people that could not be reached in any other way. Those who produce the maple sugar not only pay taxes to the country, but provide men to fight those who raise the sugar we now propose to tax.

Mr. MAYNARD. I hope the project of taxing maple sugar will not be seriously considered by the House. There are in many parts of the country those who raise ten, fifteen, and perhaps as high as fifty pounds of maple sugar, and bring it into the towns for sale at the small stores for boys. It is not worth more than ten or twelve cents a pound, and I think it would be a very small business to tax it.

Mr. STEVENS. I do not want to spend the whole of the session in a debate upon this bill, and I therefore move the previous question.

Mr. LOVEJOY. I hope the gentleman will not do that; I want to propose an additional section to the bill.

Mr. PORTER. I have prepared an amendment in the form of an additional section, to which I think the gentleman from Pennsylvania will agree.

Mr. STEVENS. I will hear it.

The Clerk read Mr. PORTER's amendment, as follows:

SEC. 2. *And be it further enacted*, That the provisions of this act shall not apply to sugar manufactured from sorghum.

Mr. STEVENS. I have no objection to that.

The amendment was agreed to.

Mr. STEVENS. Now, I will hear what the gentleman from Illinois proposes.

Mr. LOVEJOY. I offer the following as an additional section to the bill:

SEC. 3. *And be it further enacted*, That every bank, banking association, or corporation issuing notes calculated or intended to circulate as money shall, within six months after the passage of this act, and regularly once in every succeeding six months, make and deliver to the Secretary of the Treasury a true and accurate return of the amount of its notes in circulation, and shall pay at the time of making each return to the Secretary of the Treasury, in lawful money of the United States, one per cent. on the amount of notes issued, according to said return, and in default of any such return the bank, banking association, or corporation so failing to make return shall pay to the United States a penalty of two per cent. upon its entire capital stock, to be recovered for the use of United States in any court of competent jurisdiction.

Mr. STEVENS. Oh, sir, I adhere to the previous question. The gentleman cannot surely be in earnest in offering that amendment.

Mr. LOVEJOY. Yes, sir, I am.

The SPEAKER. Does the gentleman from Pennsylvania yield to the gentleman from Illinois to allow the amendment to be offered?

Mr. STEVENS. By no means. I call the previous question.

Mr. WASHBURNE. I hope my colleague, when he gets a chance, will move to suspend the rules, and offer that as a separate and distinct measure.

Mr. LOVEJOY. I will do so.

The question was put on seconding the demand for the previous question; and there were—ayes 27, noes 15; no quorum voting.

Mr. STEVENS demanded tellers.

Tellers were ordered; and Messrs. BINGHAM and WOOD were appointed.

The House divided; and the tellers reported—ayes 55, noes 31; no quorum voting.

Mr. LOVEJOY. I hope the gentleman from Pennsylvania will now withdraw his demand for the previous question, and allow a vote to be taken on my amendment. If the House chooses to vote it down, well and good.

Mr. STEVENS. No, sir; I will not withdraw it. I move that there be a call of the House.

The motion was agreed to.

The roll was accordingly called, when the following named members failed to answer to their names:

Messrs. Arnold, Ashley, Babbitt, Baker, Beaman, Francis P. Blair, Jacob B. Blair, William G. Brown, Burnham, Campbell, Chamberlin, Clark, Clements, Conway, Corning, Cutler, Delano, Delaplaine, Diven, Edgerton, English, Fouke, Franchot, Granger, Gurley, Harding, Harrison, Hickman, Horton, Johnson, Julian, William Kellogg, Killinger, Lansing, Leary, McKean, Mitchell, Morris, Nixon, Noble, Norton, Nugen, Odell, Patton, Perry, Pike, Pomeroy, Price, Richardson, Robinson, James S. Rollins, Segar, Sheffield, Sloan, Vallandigham, Vandever, Van Valkenburgh, Van Wyck, Vibbard, Voorhees, Wadsworth, Ward, Wheeler, Whaley, Chilton A. White, Woodruff, and Wright.

A quorum being now present,

On motion of Mr. MORRILL, of Vermont, all further proceedings under the call were dispensed with.

The question recurred on the demand for the previous question.

Mr. PHELPS, of Missouri. The previous question will preclude a motion which I desire to submit, and that is to postpone the further consideration of this bill till next session. I hope, therefore, the House will not second the demand for the previous question.

Messrs. ELIOT and LEHMAN were appointed tellers on the second.

The House divided; and the tellers reported—ayes 70, noes 30.

So the previous question was seconded.

The main question was then ordered to be put; and being put, the bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time.

Mr. STEVENS demanded the previous question on the passage of the bill.

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

Mr. MORRILL, of Vermont, demanded the yeas and nays on the passage of the bill.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 57, nays 55; as follows:

YEAS—Messrs. Alley, Babbitt, Bingham, Samuel S. Blair, Blake, William G. Brown, Casey, Colfax, Frederick A. Conkling, Roscoe Conkling, Covode, Davis, Duell, Eliot, Fenton, Fisher, Frank, Goodwin, Haight, Hale, Hanchett, Hooper, Hutchins, Kelley, Francis W. Kellogg, Lehman, Loomis, Low, McPherson, Maynard, Moorhead, Anson P. Morrill, Nixon, Noell, Odell, Patton, Timothy G. Phelps, Potter, Alexander H. Rice, John H. Rice, Edward H. Rollins, Sargent, Sedgwick, Segar, Sherman, Spaulding, Stevens, Stratton, Train, Trimble, Trowbridge, Van Horn, Verree, Wall, Wallace, Washburne, and Albert S. White—57.

NAYS—Messrs. Aldrich, William Allen, William J. Allen, Ancona, Ashley, Baily, Baxter, Biddle, George H. Browne, Buffinton, Calvert, Cobb, Cox, Crittenden, Dawes, Dunlap, Dunn, Edwards, Ely, Fessenden, Grider, Hall, Holman, Jackson, Julian, Kerrigan, Knapp, Law, Lazear, Lovejoy, McKnight, Mallory, Menzies, Justin S. Morrill, Olin, Pendleton, John S. Phelps, Porter, Riddle, James S. Rollins, Shanks, Shellabarger, Shiel, Smith, John B. Steele, William G. Steele, Stiles, Benjamin F. Thomas, Francis Thomas, Walton, Wickliffe, Wilson, Windom, Wood, and Worcester—55.

So the bill was passed.

During the roll call,

Mr. WASHBURNE stated that his colleague, Mr. ARNOLD, had left the House in consequence of indisposition.

The result of the vote having been announced as above recorded,

Mr. STEVENS moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

EMANCIPATION IN THE STATES.

Mr. FISHER. I rise to a privileged question. I ask to have taken from the Speaker's table a message from the President.

There being no objection, the message was taken up, and read, as follows:

Fellow-Citizens of the Senate and House of Representatives:

Herewith is the draft of a bill to compensate any State which may abolish slavery within its limits, the passage of which, substantially as presented, I respectfully and earnestly recommend. ABRAHAM LINCOLN.

The draft of the bill was read. It proposes to enact that whenever the President of the United States shall be satisfied that any State shall have lawfully abolished slavery within and throughout such State, either immediately or gradually, it shall be the duty of the President, assisted by the Secretary of the Treasury, to prepare and deliver to such State an amount of six per cent. interest-bearing bonds of the United States, equal to the aggregate value, at $—— per head, of all the slaves within such State as reported by the census of the year 1860. This amount is to be delivered at once, if the abolishment be immediate, or in equal annual installments if it be gradual—interest to begin running on each bond at the time of its delivery, and not before.

The second section proposes to enact that if any State, having received any such bonds, shall, at any time afterwards, by law, reintroduce or tolerate slavery within its limits contrary to the act of abolishment on which such bonds shall have been so received by said State, the bonds, no matter in whose hands they may be found, shall be at once null and void; and such State shall refund to the United States all interest that may have been paid thereon.

Mr. WHITE, of Indiana. I move the reference of this message to the special committee on emancipation, with leave to report at any time.

The motion was agreed to.

Mr. WHITE, of Indiana, moved to reconsider the vote by which the message was referred; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

MILEAGE OF MEMBERS.

Mr. COLFAX. I ask unanimous consent to introduce for consideration at the present time a bill containing a single section, which has already received the assent of the Senate by a very large majority, and which, I doubt not, will meet with a similar preponderance of sentiment in this House. It is the bill reducing the rates of congressional mileage.

The bill was read. It enacts that hereafter the rate of mileage of members of Congress shall be reduced fifty per cent., to be computed by the most direct traveled route from their place of residence to the seat of Congress. A statement of the mileage of each Senator is to be certified to the Secretary of the Senate, and of each Representative and Delegate to the Sergeant-at-Arms of the House of Representatives by the Postmaster General, within thirty days after the commencement of the first session of each Congress, provided that until a railroad be constructed to the Pacific coast, the mileage of Senators and Representatives from beyond the Rocky mountains shall be computed by the usually traveled route.

Mr. MAYNARD. I object to the consideration of this bill, and I ask the gentleman from Indiana whether he has not already received mileage for this Congress.

Mr. COLFAX. This is precisely the section which is contained in the Army appropriation bill. I move to suspend the rules in order that I may introduce the bill.

Mr. McKNIGHT called for the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 75, nays 33; as follows:

YEAS—Messrs. Aldrich, William Allen, Alley, Ancona, Ashley, Babbitt, Baily, Baxter, Biddle, Bingham, Samuel S. Blair, Blake, George H. Browne, William G. Brown, Buffinton, Campbell, Cobb, Colfax, Frederick A. Conkling, Roscoe Conkling, Covode, Davis, Dawes, Duell, Dunn, Edwards, Eliot, Fenton, Fessenden, Fisher, Frank, Gooch, Goodwin, Haight, Hale, Holman, Hutchins, Julian, Kelley, Francis W. Kellogg, Lazear, Loomis, Lovejoy, McKnight, McPherson, Moorhead, Anson P. Morrill, Justin S. Morrill, Nixon, Odell, Olin, Patton, Porter, John H. Rice, Riddle, Shanks, Shellabarger, Smith, Spaulding, John B. Steele, William G. Steele, Stiles, Stratton, Francis Thomas, Trimble, Van Horn, Wall, Wallace, Walton, Washburne, Webster, Albert S. White, Wilson, Windom, and Worcester—75.

NAYS—Messrs. William J. Allen, Calvert, Casey, Clements, Cox, Cravens, Crittenden, Dunlap, Ely, Grider, Hall, Hooper, Jackson, William Kellogg, Knapp, Low, Mallory, Maynard, Noell, Pendleton, John S. Phelps, Timothy G. Phelps, Potter, Alexander H. Rice, James S. Rollins, Sargent, Sedgwick, Segar, Sherman, Shiel, Benjamin F. Thomas, Train, and Wickliffe—33.

So (more than two thirds voting in favor thereof) the rules were suspended, and the bill was introduced, and read a first and second time.

Mr. WATTS. I ask the gentleman to yield to me, that I may offer an amendment.

Mr. COLFAX. I give way to the gentleman from New Mexico to offer an amendment, but not to make a speech.

Mr. WATTS. I offer the following amendment:

Provided further, That such members of this House and Delegates from the Territories as were not elected in time to be present until after the extra session, and have drawn but one mileage, shall not be included within the said reduction during the Thirty-Seventh Congress.

Mr. THOMAS, of Massachusetts. I ask the gentleman from Indiana to yield to me to offer an amendment.

Mr. COLFAX. I cannot yield.

Mr. THOMAS, of Massachusetts. Then I hope the previous question will not be seconded.

The question was taken; and the House refused to second the previous question.

Mr. ALDRICH. I offer the following as a substitute for the bill:

Strike out all after the enacting clause and insert:

That all laws and parts of laws giving mileage to members of Congress be, and the same are hereby, repealed.

Mr. WASHBURNE. I move the previous question on that.

The SPEAKER. The gentleman has not the floor to make the motion.

Mr. ALDRICH. I move the previous question.

Mr. THOMAS, of Massachusetts. Will the gentleman allow me to offer an amendment?

Mr. ALDRICH. I withdraw for that purpose.

Mr. THOMAS, of Massachusetts. I move the following amendment to the substitute offered by the gentleman from Minnesota:

And this provision shall apply to the present Congress, and the mileage already received for the same.

Mr. ALDRICH. I now renew the demand for the previous question.

Mr. NOELL. Is it in order to move to refer the bill?

The SPEAKER. It is not. The previous question is pending.

Mr. COX. I move that the House adjourn, and stop this buncombe.

The yeas and nays were demanded, and refused.

The question was taken; and the House refused to adjourn.

Tellers were ordered on seconding the previous question; and Messrs. RICE, of Maine, and ANCONA, were appointed.

The House divided; and the tellers reported—ayes 47, noes 44.

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

Mr. PHELPS, of Missouri. I move that the House do now adjourn.

The motion was not agreed to.

The question being on Mr. WATTS's amendment,

Mr. ROSCOE CONKLING called for tellers.

Tellers were ordered; and Messrs. MITCHELL and ODELL were appointed.

Mr. PHELPS, of Missouri. I move that the bill be laid on the table.

The motion was not agreed to.

The House divided; and the tellers reported—ayes 24, noes 60; no quorum voting.

Mr. WASHBURNE I move that the House do now adjourn

The motion was agreed to.

The House thereupon (at five o'clock, p. m.) adjourned

IN SENATE.

TUESDAY, *July* 15, 1862.

Prayer by the Chaplain, Rev. Dr. SUNDERLAND.

The Secretary proceeded to read the Journal of yesterday.

Mr. SHERMAN. I move that the reading of the Journal be dispensed with. It is always very long at the close of a session.

The motion was agreed to by unanimous consent.

EXECUTIVE COMMUNICATION.

The PRESIDENT *pro tempore* laid before the Senate a report of the Secretary of the Navy, communicating, in obedience to law, a statement of all the contracts made with the bureaus connected with that Department since the commencement of the present session of Congress; also a copy of a letter of the chief of the Bureau of Yards and Docks, under date of the 11th instant; which was ordered to lie on the table, and be printed.

TERRITORIAL LAWS.

The PRESIDENT *pro tempore* laid before the Senate a copy of the acts, resolutions, and memorials passed by the Legislative Assembly of the Territory of Utah during the eleventh annual session, for the years 1861 and 1862; which was referred to the Committee on Territories.

REPORTS FROM COMMITTEES.

Mr. SAULSBURY, from the Committee on Pensions, to whom was referred the memorial of William J. Best, reported adversely thereon.

Mr. HARRIS, from the Committee on Private Land Claims, to whom was recommitted the bill (H. R. No. 265) to authorize the Court of Claims of the United States to hear and determine the claim of the heirs of Stephen Johnston, deceased, reported it without amendment.

Mr. SUMNER, from the Committee on Foreign Relations, asked to be discharged from the further consideration of the bill (S. No. 104) to provide for the appointment of a solicitor of claims for the Department of State; from the further consideration of a resolution of the Senate of June 10, instructing the committee to inquire whether any additional legislation is necessary to the proper control of the contingent expenses of the State Department; and of a memorial of the board of managers of the Pennsylvania Colonization Society, praying a recognition by the United States Government of the republics of Hayti and Liberia; which was agreed to.

Mr. DOOLITTLE, from the Committee on Indian Affairs, to whom were referred the report of the Commissioner of Indian Affairs, submitting estimates for the Indian service for the fiscal year ending June 30, 1862; a memorial of chiefs and principal men of the Stockbridge and Munsee Indians, praying a new treaty; and a report of the Secretary of the Interior, of June 5, communicating copies of the report of William H. Walsh and William H. Coombs, in relation to the "half-breed Kaw lands," in the State of Kansas, asked to be discharged from their further consideration; which was agreed to.

Mr. SIMMONS. I am instructed by the Committee on Patents and the Patent Office to report back House bill No. 365, to amend an act entitled "An act to promote the progress of the useful arts," with amendments. I ask to have the bill taken up.

Mr. LANE, of Kansas. I hope we shall go through with the ordinary morning business.

Mr. COLLAMER. Let us hear the bill read.

The PRESIDENT *pro tempore*. The bill will be read for information.

Mr. LANE, of Kansas. I object to its consideration.

Mr. SUMNER. I think if Senators knew what the bill was, they would not object.

The PRESIDENT *pro tempore*. Objection being made, it will lie over.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. MORRIS, its Chief Clerk, announced that the House had passed the bill of the Senate (No. 250) to amend an act entitled "An act to create a metropolitan police district for the District of Columbia, and to establish a police therefor," approved August 6, 1861.

The message also announced that the House of Representatives had passed the following bills, in which it requested the concurrence of the Senate:

A bill (No. 572) making supplemental appropriations for sundry civil expenses of the Government for the year ending June 30, 1863, and for the year ending June 30, 1862; and

A bill (No. 573) to impose an additional duty on sugars produced in the United States.

ENROLLED BILLS SIGNED.

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

An act (H. R. No. 496) to enlarge the Lake Superior land district in the State of Michigan; and

An act (H. R. No. 571) to punish the fraudulent sale or use of postage stamps.

BILLS BECOME LAWS.

The message further announced that the President of the United States had approved and signed, on the 12th instant, the following acts and joint resolution:

An act (H. R. No. 392) to establish certain post roads;

An act (H. R. No. 399) to provide for the quieting of certain land titles in the late disputed territory in the State of Maine;

An act (H. R. No. 454) for the relief of the register of the land office at Vincennes, Indiana, and for other purposes;

An act (H. R. No. 554) relating to trust funds of several Indian tribes, invested by the Government in certain State bonds, abstracted from the custody of the late Secretary of the Interior; and

A joint resolution (H. R. No. 98) authorizing the Secretary of War to furnish extra clothing to sick, wounded, and other soldiers.

STEVENS'S BATTERY.

Mr. HALE. I am instructed by the Committee on Naval Affairs, to whom was referred the resolution of the Senate in relation to Stevens's battery, to report a joint resolution, which I ask may be read, and I wish the Senate to consider it now, if they will.

The joint resolution (S. No. 99) releasing to the heirs-at-law of Robert L. Stevens, deceased, all the right, title, and interest of the United States in and to Stevens's battery, was read twice.

Mr. KING. I should like to hear some reason for that.

Mr. HALE. I will state the reason, if the Senator will allow me.

The PRESIDENT *pro tempore*. The resolution is before the Senate as in Committee of the Whole, no objection being made to its present consideration.

Mr. HALE. There have been propositions innumerable made, but none can be agreed upon, and Congress has refused to appropriate one dollar to carrying it on. It costs about ten thousand dollars a year to keep it, and the Committee on Naval Affairs thought the best way was to allow Mr. Stevens to take it, and if he should finish it and make anything practical out of it, the Government might buy it cheap. As it is now, it is of no sort of use to anybody, but an annual expense of $10,000. Congress has refused in any form to appropriate a dollar for it, and we think this the best way to get rid of it.

The joint resolution was reported to the Senate, ordered to be engrossed for a third reading, read the third time, and passed.

Mr. KING. I desire to enter a motion to reconsider the vote on the passage of the joint resolution in regard to the Stevens' battery. I want to know something more about it before such a large amount of property is released.

Mr. KING afterwards said: I ask that the motion to reconsider which I entered may be considered now and negatived. It is a motion to reconsider the vote passing the joint resolution in regard to Stevens's battery.

Mr. HALE. I hope it will be disposed of.

Mr. KING. I will not ask that the vote be reconsidered. The information I have obtained is such as induces me to think that perhaps it is better the resolution should stand passed.

The PRESIDENT *pro tempore*. Does the Senator withdraw his motion?

Mr. KING. The Senator from Ohio will make a brief statement on the subject.

Mr. SHERMAN. The Senator from New York desires me to state the facts in regard to Stevens's battery, which I will do. We have a mortgage on what is called Stevens's battery. It is unfinished and of no value to the United States. Mr. Stevens proposes to finish it, and if it is then a good vessel he proposes to sell it to the United States. My own impression is that it is best to surrender the vessel to Mr. Stevens to do what he pleases with it. If he finishes it, it is only valuable as a vessel of war, and then the Government of the United States will be able to negotiate for its possession. I think it would be wiser and better rather than that the Government should embark in this speculation any further, to just surrender it to Mr. Stevens and let him do the best he can. The United States have a mortgage on the property, and could take the vessel and sell it for old iron. That is all.

Mr. KING. I withdraw the motion to reconsider.

Mr. CLARK. Is there not a mortgage on his other property?

Mr. SHERMAN. I am not advised as to that.

The PRESIDENT *pro tempore*. The motion to reconsider is withdrawn.

HOUSE BILLS REFERRED.

The bill (No. 572) making supplemental appropriations for sundry civil expenses of the Government for the year ending June 30, 1863, and for the year ending June 30, 1862, and the bill (No. 573) to impose an additional duty on sugars produced in the United States, were severally read twice by their titles, and referred to the Committee on Finance.

PRINTING TAX BILL.

Mr. ANTHONY. The Committee on Printing, to whom was referred a resolution to print ten thousand additional copies of the tax bill in addition to those already required, have instructed me to report it back, and recommend its passage. I have not the resolution in my hand, as it has gone to the superintendent for the estimate; but the estimate is not necessary, as it will of course be the same as the estimate for the preceding ten thousand.

Mr. COLLAMER. I inquire what was the number before ordered?

Mr. ANTHONY. Ten thousand.

Mr. COLLAMER. And this is a resolution for ten thousand more?

Mr. ANTHONY. Ten thousand additional.

Mr. COLLAMER. I can see no reason for it.

Mr. ANTHONY. There is a very great demand for it.

Mr. COLLAMER. That may be, but it is in all the newpapers that publish laws, and the House of Representatives have published seventy-five thousand copies to scatter over the country.

The PRESIDENT *pro tempore*. Objection being made to the consideration of the report, it goes over under the general rule.

ARREST OF LIEUTENANT COLONEL ANTHONY.

Mr. LANE, of Kansas. I move to take up the resolution of inquiry I offered yesterday.

The PRESIDENT *pro tempore*. The Senator from Kansas calls for the consideration of the resolution on the table, which will be read.

The Secretary read, as follows:

Resolved, That the Secretary of War be directed to communicate to the Senate any information he may have as to the reasons for the arrest of Lieutenant Colonel D. R. Anthony, of the seventh Kansas regiment, if, in the opinion of the said Secretary, such information can be given without injury to the public service.

Mr. TRUMBULL. I hope the resolution will not be adopted in that form. This calling on the Secretaries to communicate information if not incompatible with the public interest, is a novel thing. The Secretaries, it has been repeatedly decided by the Senate, can be required to communicate to the Senate. It is only when we communicate with a coördinate branch of the Government, the President, that we leave this discretion.

Mr. LANE, of Kansas. Will the Senator from Illinois permit me to state to him the reason why I desire this information?

Mr. TRUMBULL. I would strike out the latter part of the resolution.

Mr. LANE, of Kansas. You will be able to judge whether it should be stricken out when I have stated why I have offered the resolution.

Mr. TRUMBULL. We should not certainly make our inquiries upon the Department to depend upon their judgment whether they will communicate the information we seek or not. The Executive, if he thinks proper, may withhold information, and that has been often done; but this leaving it to the discretion of the Departments whether they will communicate with Congress or not, is a novel way of asking for information. I hope it will not be adopted in that form.

Mr. COLLAMER. Permit me to ask the Senator from Illinois a question. All the information the Executive has, is always contained in some of the Departments. I wish to inquire of him whether he thinks that the Senate have a right, by demanding it of the different Departments, to get what information it pleases?

Mr. TRUMBULL. I think we have, unless the President interferes and informs us directly that it would be improper to communicate the information. I think the Departments are at the control of Congress. We have always so regarded them. The question has been agitated in the Senate since I have been here once or twice as to the form of a resolution, whether it should read "the Secretary of War be requested to communicate," or the "Secretary of War be directed to communicate," and the Senate has solemnly decided on the yeas and nays, more than once since I have been here, that the proper form of a resolution is to direct the Departments to communicate what we desire. The communication has to be sent; it is the duty of the officer to send it, unless the President, from motives of policy, should interfere in some way. I have never known such an instance, however. This leaving it to the discretion of a Department to communicate information or not, has been carried to a very great extent during the present session of Congress. It was formerly confined to calls made upon the Executive in reference to foreign matters, in regard to our intercourse with foreign nations. It was supposed there might be some reasons for withholding information from Congress in those cases. But this Government is intended to be a people's Government; they ought to know what is going on, and there ought to be nothing in the Interior Department, nothing in the War Department, unless it be in time of war, that should not be open to every member of Congress. The idea that this Government is to be carried on in secrecy, and information withheld from the people, has been quite too much tolerated by the present Congress. I think the effect of it has been bad upon the public. I think if we had known the actual truth in regard to the battles before Richmond two weeks ago, it would have been of infinite value to this country; but the information was withheld, the people were allowed to speculate and imagine what had happened there, and their imaginings made it a great deal worse than it was. I deny that there is any paper in any Department of this Government, except connected with foreign affairs, that should not be at the control of Congress. We have a right to demand it, we have a right to instruct these officers to furnish it, and it has always been the practice until the present session of Congress to do so. I move to strike out the latter clause of the resolution which provides for sending the information if the Secretary shall think proper to send it.

The PRESIDENT *pro tempore*. The Senator from Illinois moves to amend the resolution by striking out the following words: "if in the opinion of the said Secretary such information can be furnished without injury to the public service."

Mr. FOSTER. No doubt it is very important to discuss the question now before the body; perhaps it is important at the present time; but I confess I do not see its wisdom. It is hardly possible, whether we amend the resolution or pass it as it is, that we shall get an answer before we adjourn to-morrow at twelve o'clock. I suggest therefore to the Senator from Kansas whether he will not be willing to have it laid aside and let us go on with the business of practical importance. There are divers resolutions and bills which, if now acted upon, can be completed in the other House and some practical result of our labor arrived at, but we may talk all day about this question, and only increase our own wisdom, of which we have no doubt a great abundance now.

Mr. LANE, of Kansas. If after stating the facts, any Senator desires to postpone this information, I will offer no objection.

Mr. FOSTER. I did not propose to oppose the resolution; but there is a proposition here to amend it which will be pressed; and we shall have no doubt long and able speeches upon it. I submit to the Senator whether it is important thus to spend the day.

Mr. LANE, of Kansas. There will not be long speeches from me.

Mr. FOSTER. Of course not, but that does not preclude others from making them.

Mr. LANE, of Kansas. I ask permission of the Senate to read an extract from a letter of Lieutenant Colonel Anthony on the subject of this resolution, dated Corinth, Mississippi, July 8, 1862:

"I have been in arrest for two weeks, and no trial granted by General Halleck. The charges against me are allowing negroes within my lines, issuing an order (Brigade, No. 26) prohibiting rebels from coming within my lines to hunt for their fugitive slaves."

I send to the desk a copy of that order, which I desire may be read, for the issuing of which he is arrested.

The Secretary read, as follows:

HEADQUARTERS MITCHELL'S BRIGADE,
ADVANCE COLUMN, FIRST BRIGADE, FIRST DIVISION,
GENERAL ARMY OF THE MISSISSIPPI, CAMP ETHERIDGE,
TENNESSEE, *June* 18, 1862.

[General Orders, No. 26.]

1. The impudence and impertinence of the open and armed rebels, traitors, secessionists, and southern-rights men of this section of the State of Tennessee, in arrogantly demanding the right to search our camp for fugitive slaves, has become a nuisance, and will no longer be tolerated.

Officers will see that this class of men, who visit our camp for this purpose, are excluded from our lines.

2. Should any such person be found within our lines, they will be arrested and sent to headquarters.

3. Any officer or soldier of this command, who shall arrest and deliver to his master a fugitive slave, shall be summarily and severely punished, according to the laws relative to such crimes.

4. The strong Union sentiment in this section is most gratifying, and all officers and soldiers, in their intercourse with the loyal and those favorably disposed, are requested to act in their usual kind and courteous manner, and protect them to the fullest extent.

By order of D. R. Anthony, Lieutenant Colonel, seventh Kansas volunteers, commanding:

W. W. H. LAWRENCE,
Captain and Assistant Adjutant General.

Mr. LANE, of Kansas. After the Senate passed the new article of war I procured printed copies of it and forwarded them to the officers of the Kansas troops. They have endeavored to obey the law of Congress. For obedience to that article of war Lieutenant Colonel Anthony has been arrested by General Halleck, and is now under arrest, and has been for the last two weeks. The reason why I inserted the condition in the resolution to which the Senator from Illinois objects, is that the Secretary of War might use his judgment, for it has been expressly stated, I understand, by General Halleck, that the moment anything interferes in anywise with his carrying out his order No. 3, he will resign his command in the Army of the United States. It was to give the Secretary of War an opportunity to judge of the propriety of driving Halleck from the service.

Mr. TRUMBULL. I should like to know if Congress has not interfered with order No. 3, by the passage of the confiscation act.

Mr. LANE, of Kansas. I say Congress have not interfered in fact. They have passed a law, I grant you, and the officers of the Kansas troops have endeavored to obey that law, but General Halleck has spit upon it, and continues to spit upon it.

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

Mr. ANTHONY. I suggest that, instead of the resolution being addressed to the Secretary of War, it be addressed to the President, as I think all resolutions of inquiry ought to be, and then the words "if not incompatible with the public interest" will be proper.

Mr. LANE, of Kansas. I have no objection.

Mr. ANTHONY. I move to insert "President of the United States."

The PRESIDENT *pro tempore*. The amendment of the Senator from Illinois is now pending.

Mr. LANE, of Kansas. I hope the Senator will withdraw it.

Mr. HOWE. I understand the Senator from Kansas accepts the amendment of the Senator from Rhode Island.

Mr. LANE, of Kansas. Yes, sir.

Mr. TRUMBULL. I withdraw my amendment, if the direction of the resolution is changed.

The PRESIDENT *pro tempore*. The amendment is withdrawn, and the Senator from Kansas modifies his resolution as suggested by the Senator from Rhode Island.

The resolution, as modified, was adopted.

BILLS INTRODUCED.

Mr. DOOLITTLE asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 397) to establish a Bureau of Migration; which was read twice by its title, and referred to the Committee on Foreign Relations.

Mr. HOWE. I ask the unanimous consent of the Senate to introduce a bill of which I gave notice yesterday.

Leave was granted to introduce the bill (S. No. 398) further amending the articles of war, and it was read twice by its title.

Mr. HOWE. I hope the Senate will allow the bill to be read at length and considered at this time.

Mr. TRUMBULL. I do not know what is in it. It is a new proposition; it is not printed.

Mr. HOWE. Hear it read.

Mr. TRUMBULL. I have no objection to hearing it read; but I do not want to consent to its consideration until I know what it is.

The PRESIDENT *pro tempore*. The bill will be read at length.

The bill was read. It provides that it shall be the duty of all officers, in the naval or military service of the United States, to furnish protection to the full extent the force under their respective commands will enable them to do, to each and every person appealing for protection against the authority or control of all those who are or may be engaged in prosecuting the rebellion against the Government of the United States; but if any loyal citizen of the United States shall be deprived of any property under this provision, the faith of the United States is pledged to make compensation therefor. If any officer shall willfully neglect to furnish the protection required, he shall, upon conviction by a court-martial, be dismissed the service, and forever rendered incapable of holding a commission in the military or naval service of the United States.

The PRESIDENT *pro tempore*. Is there any objection to the present consideration of this bill?

Mr. KENNEDY. I object.

LETTERS OF MARQUE.

Mr. GRIMES. I move to take up the bill which the Senate had under consideration last evening.

Mr. TRUMBULL. I inquire if that bill will not come up as unfinished business either at twelve or one o'clock to-day.

The PRESIDENT *pro tempore*. The Chair is informed that the business left unfinished was Senate bill (No. 394) to amend the act calling forth the militia to execute the laws of the Union, suppress insurrections, and repel invasions, approved February 28, 1795, and the acts amendatory thereof, and for other purposes, which will be the special order at twelve o'clock. The Senator from Iowa moves to postpone all prior orders with a view to proceed to the consideration of the bill indicated by him.

Mr. TRUMBULL. I hope it will not be taken up. I have been trying for several days to get action on a bill of very great importance.

The motion was agreed to; and the Senate resumed the consideration of the bill (S. No. 393) concerning letters of marque, prizes, and prize goods.

The PRESIDENT *pro tempore*. The question is, "Shall the bill be engrossed for a third reading?"

Mr. TRUMBULL. I should like to know what that bill is. I understand there is an amendment to it. If it is printed I should like to see it. I inquire of the Chair if the amendment, which is a substitute I understand, is in print.

The PRESIDENT *pro tempore*. The original bill is in print, but the amendment, in the form of a substitute for the whole bill, is in manuscript, and not printed.

Mr. TRUMBULL. It is impossible to understand it in that way. I am told it was ordered to be printed, and I suppose it will be here very soon. It is a matter of vast importance. I hope the bill will be laid aside until the printed copy comes in.

Mr. GRIMES. I trust that that will not be done. I suppose that any question which might come up

which would be in antagonism with the bill that the Senator is so anxious to have taken up, would be of such vast importance that it ought to be laid aside in order to take up his particular bill. If we are going to pass this bill, the sooner we do it the better for the public interests. We want to pass it promptly, so that it may be sent to the House of Representatives for their concurrence. I am not very strenuous about the bill myself. If the Senate do not choose to pass it, be it so. All I want is a vote upon it. It is a bill of a single section, authorizing the President, if he sees fit at any time during the pendency of the present insurrection, to issue letters of marque and reprisal against the vessels and goods of those who are in rebellion against the Government, and only against the ships and the goods of those who have been declared to be in a state of insurrection by proclamation of the President of the United States.

Mr. TRUMBULL. I have not had an opportunity to see this substitute, but I understand it is one of that series of measures which have been advocated during the present session calculated to divest Congress of its legitimate powers and surrender them all to the Executive. The Constitution intended that Congress should exercise some discretion in regard to the granting of letters of marque and reprisal. I understand this is a proposition in advance, a general law—I speak of it, I admit, without any very definite idea of what it is; I have not read it—a declaration in advance conferring upon the President of the United States the authority, whenever he shall think proper, to issue these letters in case we should ever have a war or he should inaugurate a war.

Mr. GRIMES. No.

Mr. TRUMBULL. That is the original bill, I understand.

Mr. COLLAMER. Not the substitute.

Mr. TRUMBULL. I should like to hear the substitute read, that I may know what it is.

The PRESIDENT *pro tempore*. The bill, as it now stands, will be read at length.

The Secretary read, as follows:

Be it enacted, &c., That the President of the United States be, and he is hereby, authorized, during the continuance of the present insurrection, to grant letters of marque and reprisal; and the provisions in the act of Congress, approved the 26th day of June, 1812, entitled "An act concerning letters of marque, prizes, and prize goods," and the act of Congress, approved the 27th day of January, 1813, entitled "An act in addition to the act concerning letters of marque, prizes, and prize goods," are hereby revived, and shall be in force in relation to all that part of the United States where the inhabitants have been declared in a state of insurrection, and the vessels and property to them belonging.

Mr. TRUMBULL. It seems that this is a bill to authorize the granting of letters of marque and reprisal against the rebellious communities in the South. I do not know that we need any such authority as that. What navy have they got, or what commerce have they got? Our vessels are chasing them all over the ocean. Do you want to fit out privateers as against them? I think it would be exceedingly questionable. It is adopting a very bad practice, and there is very little to be accomplished by it. I think we had better leave what few vessels they can get out from blockaded ports to the regular navy to capture, and not undertake to fit out private expeditions against the insignificant commerce of these rebels. It is giving them too much importance entirely.

Besides that, it seems to me it is recognizing them. You might just as well declare war against them. What is to be the effect of the passage of such a bill as this? Do you ever grant letters of marque and reprisal against any but a Power that is one of the recognized Powers of the world? I am not sure what the effect of it will be. The Senator from Pennsylvania [Mr. COWAN] says that no such thing as the granting of letters of marque and reprisal was ever heard of except against an independent nation; and the Senator from Vermont [Mr. COLLAMER] adds "or a blockade, either." I think the blockade was questionable; and let me ask the Senator from Vermont if he does not think so, too. If that was a false step, is it best to take another? That very step has been pressed upon us by foreign Powers; it is one of the excuses that they are disposed to make for interference. Now, if you grant letters of marque and reprisal, they will have another excuse, and what is to be accomplished by it? What good is to result? What is it that the Senator from Iowa is after? Where is the commerce that is to be affected by it? What private citizens are there that are to be engaged in fitting out privateersmen to plunder the commerce of the rebels? I think there will be a great deal more danger of their interfering with the lawful commerce of the country than of this illegitimate commerce. There is not enough of it, as I understand, to be worth looking after.

Mr. GRIMES. There has been no man in the Senate during this session who has been more anxious, who has made more speeches and more powerful arguments in favor of capturing and confiscating the property of the rebels on land than the distinguished Senator from Illinois; and when there is here, as now, a proposition introduced by which it is proposed to assist in capturing rebel property on the water——

Mr. TRUMBULL. Allow me to say to the Senator from Iowa that I was never in favor of private citizens going and capturing property.

Mr. GRIMES. I think the Senator has been in favor of taking rebel property almost any way that he could get it; but here is a proposition to call to our aid the militia of the seas to assist in upholding the constituted authorities of the country. I stated yesterday that I was not precisely representing my own views in regard to the necessity of this measure. Were I the Secretary of the Navy or the President of the United States, I would not recommend it. I do not believe myself abstractly in the doctrine of privateering. I am, however, representing those who desire that this measure should pass. They desire that they should have an opportunity to avail themselves of it if an exigency should arise hereafter to render it necessary.

Mr. POWELL. If the Senator from Iowa will allow me, I should like to ask who it is that wishes the bill to pass? Any Department of the Government?

Mr. GRIMES. I understand that it is deemed desirable by the Administration that this bill should pass. The Senator from Illinois has stated that this is a great abandonment of the power of Congress, and he thinks we ought not to grant to the President the power to issue letters of marque and reprisal. It is what has been done heretofore in this country in time of war. If the Senator will refer to the statute of June 18, 1812, he will find that it reads in this way:

"And the President of the United States is hereby authorized to use the whole land and naval force of the United States, and to issue to private-armed vessels of the United States commissions or letters of marque and general reprisal, in such form as he may think proper, under the seal of the United States, against the vessels, goods," &c.

He had the power then to issue them if he chose. That is all the power that is granted in this bill. This bill does not revive the act to which I have referred, but adopts the language, to some extent, of that act, in the first clause of the section, for it contains only one section, and then revives the two subsequent laws that were passed in 1812 and 1813, in regard to prizes, prize goods, and letters of marque, so as to govern the method in which they shall be issued, to declare the right of the President to revoke them, and establish such regulations as are necessary to keep these vessels from getting into difficulties with foreign Powers. I stated to the Senate last evening the particular reason why I understood that this bill was desired to be passed. It was to guard and to capture, if possible, some ten or twelve iron vessels of war at this time lying at Bermuda and Nassau, and other points in the West Indies, all of which are now under the British flag, which flag, it is well known, is to be hauled down as speedily as it can be safely, and the confederate flag raised, and then to become privateers against the commerce of the United States. Now, so large an amount of the American Navy is compelled to be there to watch these vessels, that to some extent, and in the view of the Administration, to a dangerous extent, the ability and resources of the Navy are crippled; and it is solely, as I understand, for the purpose of allowing private citizens to take their risk in capturing these private-armed vessels of the confederates to which I have alluded, that this bill is sought to be passed.

Mr. TEN EYCK. The Senator from Illinois asked what would be the effect upon the country of the passage of a measure of this kind. I do not know what will be the effect upon the country. I can only judge from past events. About a year ago, when Jefferson Davis published his proclamation authorizing letters of marque and reprisal, it sent a thrill of horror throughout the whole North, and the public newspapers, with scarcely an exception, announced the fact with a death's head and cross-bones at the head of the article. There was nothing, that I am aware of, that caused our volunteers to rush to arms so speedily as this wholesale piracy which was attempted to be legalized by the head of this rebellion. Now, in one year it is proposed that we shall issue letters of marque and reprisal to prey upon the commerce of the rebel States, or, as the Senator from Iowa says, to capture British vessels which are attempting to run into our southern ports for the aid of the southern cause.

Mr. GRIMES. I do not want to have that remark go into the records. I did not say British vessels. I said they were confederate vessels at present, with the British flag flying, but known to be confederate vessels.

Mr. TEN EYCK. I stated it too broadly. In the hurry of my remarks I was not exactly accurate in stating the Senator's language. Sir, I think that the passage of this act will do more to disturb, and destroy, and weaken the confidence of the northern public mind in the success of our arms than anything else we can do. I had rather that a dozen of those vessels thus lying in the West Indian ports, with British colors flying at their head, should get into southern waters, and escape our blockade, than that this bill should become a law. I think the effect will be most pernicious and disastrous. In that point of view I shall oppose the bill, although I may be very greatly in error in the view which I take.

Mr. HALE. I hope the bill will not pass. The Congress of the United States have voted money to this Administration with a lavish hand for purposes of naval warfare. They have put at its command more money than can be used for the purpose of building war vessels, and they have withheld nothing that has been asked. The Navy thus far has rendered a generous return for the confidence that has been reposed in it, and for the money that has been expended upon it; but I think the passage of this bill to-day, after the explanation that has been made by the Senator who has introduced it, would be a confession of pusillanimity and weakness before the world that would be more disastrous to your cause, more demoralizing to the national spirit, than any defeat that you could possibly suffer. It would be an admission that your Navy was a failure, and that the little handful of vessels which the confederates can send out upon the ocean, whether of commerce or of war, are too powerful for the gigantic efforts that you have put forth; and you confess weakness and call upon private armed vessels to come forward and do that to which your Navy is incompetent. I was satisfied when the bill was read that there was something in it more than met the eye, because the idea of a private-armed vessel is not that of an aid to the Government to combat the enemy, but it is holding out to the desire of lucre and gain, if I may say so, in the community, the prizes of the commerce of the enemy which is to be captured by private-armed vessels. That is the idea of privateering. It is a private-armed vessel to prey on private vessels of the enemy and on their commerce, and they are rewarded by the prizes which they make. There is nothing of that sort here; there is no commerce of the enemy to be captured, comparatively none at all; and the idea that you want these private-armed vessels to help you in the legitimate warfare which you are making, and in the blockade which you are sustaining, it seems to me is founded on a mistaken policy.

Again, sir, I think the point is well made that was taken by the Senator from Illinois, that you never call in the aid of privateers except in a war with a public enemy, and the Senator from Vermont suggested that there never before was a blockade except in such a case.

Mr. COLLAMER. I said that blockades had been known only among independent nations at war, but the blockade declared by this Government has been recognized by Powers abroad, and, therefore, the question whether it was regularly or properly instituted originally, never came before our body.

Mr. HALE. The Senator will recollect, those who are old enough to remember the last war with England—I was a boy at the time—will recollect what we did about blockades. We blockaded

every one of our own ports; we made a universal blockade, not of an enemy's ports, but of our own.

Mr. COLLAMER. An embargo.

Mr. HALE. No odds what you call it, it was substantially a blockade. We prevented commercial vessels in our own ports from going abroad and we prevented vessels from coming here. But I will not enlarge on this subject. My ideas are entirely adverse to the proposition. I think it is a mistake.

Mr. COWAN. I have very great doubts as to our ability to delegate this power to the President. It is given in the same clause which authorizes us to declare war——

Mr. COLLAMER. This is copied exactly from the act of 1812.

Mr. COWAN. That may be.

The PRESIDENT *pro tempore*. The morning hour having expired, the further consideration of this bill is set aside by the special order of the day, which is Senate bill No. 394.

Mr. GRIMES. I do not expect to succed, but I make the motion that the special order be set aside for the purpose of enabling us to dispose of this bill.

Mr. KING. The special order is the militia bill, I believe.

The PRESIDENT *pro tempore*. The special order is the bill (S. No. 394) to amend the act to provide for calling forth the militia to execute the laws of the Union, suppress insurrections, and repel invasions, approved February 28, 1795.

Mr. KING. It is essential that that bill be acted upon at once.

The PRESIDENT *pro tempore*. The question is on the motion of the Senator from Iowa.

The motion was not agreed to.

PENSIONS TO MASTERS OF GUNBOATS.

Mr. FOSTER. I ask unanimous consent to make a report from the Committee on Pensions. A joint resolution has come from the House of Representatives making a slight addition to the pension bill which passed both Houses a few days ago. By a casual omission, masters on board gunboats were omitted from the benefits given in this bill. This joint resolution is intended to supply that omission. The resolution having been, I think, rather hastily drawn, contains some inaccuracies which make it necessary to amend the resolution slightly. That the committee propose to do, and as amended I hope the Senate will consent to pass it, and to act upon it at the present time. The resolution is in but a few lines, and I think it will take but a few moments to read it, and dispose of it.

By unanimous consent the joint resolution (H. R. No. 105) to grant pensions to masters and other officers upon the gunboats in the service of the United States was considered as in Committee of the Whole.

It is designed to enact that the masters and other officers of gunboats employed in the service of the United States shall be entitled to all the benefits, including bounty and pension, provided for in an act entitled "An act to grant pensions," passed during the present session of Congress, and the masters of such gunboats are to receive the pension allowed by such act to captains in the Navy; and pilots and engineers, the pension allowed by that act to lieutenants in the Navy; and the widows, mothers, and heirs of such officers are to be entitled to all the benefits of that act.

The first amendment of the Committee on Pensions was in line three, after the word "masters," to strike out "and other officers."

The amendment was agreed to.

The next amendment was to strike out the following words in lines seven, eight, nine, and ten:

And the masters of such gunboats shall receive the pension allowed by such act to captains in the Navy; and pilots and engineers the pension allowed by said act to lieutenants in the Navy.

The amendment was agreed to.

The next amendment was in line ten, to strike out the word "that."

The amendment was agreed to.

The next amendment was to strike out the words "above named" after "officers," in line eleven.

The amendment was agreed to.

The joint resolution was reported to the Senate as amended, and the amendments were concurred in, and ordered to be engrossed.

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

On motion of Mr. FOSTER, its title was amended by striking out the words "and other officers."

JAMES N. MULLER.

Mr. CHANDLER. The Committee on Commerce have directed me to report back the bill (H. R. No. 510) for the relief of James N. Muller, supervising inspector of steamboats for the third supervising district, without amendment, and to recommend its passage; and I ask the unanimous consent to put it on its passage now.

There being no objection, the bill was considered as in Committee of the Whole. It will require the Secretary of the Treasury to audit and settle the accounts of James N. Muller for services rendered as supervising inspector of steamboats for the third supervising district, and to allow him the compensation provided by law for the period commencing on the 6th day of August, 1861, and ending on the 2d day of December, 1861.

The bill was reported to the Senate, ordered to a third reading, read the third time, and passed.

ADDITIONAL VOLUNTEERS AND MILITIA.

The Senate, as in Committee of the Whole, resumed the consideration of the bill (S. No. 394) to amend the act calling forth the militia to execute the laws of the Union, suppress insurrections, and repel invasions, approved February 28, 1795, and the acts amendatory thereof, and for other purposes; the pending question being on the amendment of Mr. SHERMAN, to insert after the word "descent," in the second line of section thirteen, the words "who by the laws of a State owes service or labor to any person who, during the present rebellion, has waged war against the United States, or has aided or assisted said rebellion."

Mr. LANE, of Kansas. I desire to give notice that if this amendment is voted down, I shall propose the following:

Provided, That in all cases where such man, boy, mother, child, or children shall owe service or labor to any loyal citizen by any law, usage, or custom, such loyal citizen shall be entitled to receive just compensation for the loss of the same.

Mr. SHERMAN. I desire to modify my amendment, so as to make it conform exactly to the vote of the Senate the other day. I move to insert, after the word "descent," in the second line of the thirteenth section, the words "who, by the laws of any State, shall owe service or labor to any person who, during the present rebellion, has levied war or has borne arms against the United States, or adhered to their enemies by giving them aid and comfort;" so as to make the section read:

That when any man or boy of African descent who, by the laws of any State, shall owe service or labor to any person who, during the present rebellion, has levied war or has borne arms against the United States, or adhered to their enemies by giving them aid and comfort, shall render any such service as is provided for in this act, he, his mother, and his wife and child, shall forever thereafter be free, &c.

Mr. LANE, of Kansas. I desire now to make a statement to the Senator from Ohio; he was not in when I was up before. There is a practical difficulty in adopting the amendment he has offered if we propose to use the slaves. We propose to use them in fighting. We have in Kansas, as reported to me, six thousand four hundred slaves. Out of this number we expect to get two regiments of infantry. A large portion of these slaves belong to loyal masters. I undertake to say that one third of these slaves belong to loyal masters. The idea of organizing these men into regiments, inducing them to fight for the country and against its enemies, bravely, as I believe they will fight, and after they have rendered the service, returning them to slavery, is to me an outrage that the Senator from Ohio would not in anywise indorse. After they have fought bravely for freedom, for the maintenance of the Government, to return them to slavery is monstrous. By the proposition that I make, the loyal citizen is not wronged. We use the slave, and we free him, as did our fathers in the Revolution, and as they did in the war of 1812; and if the masters are loyal, we will remunerate them for the loss of the slaves. No incentive can be offered to men that will induce them to fight more desperately than their freedom. You say to them that they are to return to slavery after the war is over, and there is no incentive for them to fight. If you propose to use these negroes as soldiers, the proposition of the Senator from Ohio destroys the probability of making them useful as soldiers. Slaves of loyal and disloyal masters come away together; they cannot be separated, and you throw in among regiments men who have no incentive to fight, but the contrary. It seems to me that the Government which will return to slavery a man who has fought for its defense, deserves the frowns of the Almighty.

Mr. SHERMAN. The Senator from Kansas would scarcely take the slave of a loyal person without paying for him.

Mr. LANE, of Kansas. I propose to pay.

Mr. SHERMAN. Then the question is, is the Government of the United States able, at this time, to pay for all the slaves who may be employed temporarily, even for an hour, in the service of the Government? We have gone far enough in mingling the question of emancipation with the conduct of this war. It is my deliberate judgment that we can go no further and act wisely. The question of emancipation is a very grave and serious one, that ought not to be mingled with the war. I am willing to take the slaves of the rebels, and I am willing to make them free and employ them in any service that may be necessary. But when you propose to go a step beyond that, and to take the slaves of loyal people who may be themselves engaged in the service of the country, and to deprive the masters of their property, I think it is going entirely too far. Look at the effect of it. If a slave of a loyal master is engaged one day in the employment of the United States, it will cost the Government $1,000 to pay him for that day's labor. Are we prepared for that? If this war is to be conducted only with a view to emancipation, then it may be a pretext for doing that very unjust and very unwise thing; but if the war is to be conducted for the purpose of putting down this rebellion, without regard to emancipation, except as it is incidentally involved, then certainly we cannot embark in any such foolish enterprise. This country will have loads of obligations and debts of various kinds enough upon it without incurring such an obligation as this. If the proposition of the Senator from Kansas should be now adopted, I can assure the Senate that there will be claims against this Government which would swamp it if it did not owe a single other debt, because, as a matter of course, if we now stipulate that the slave of every loyal man who is employed in this war, if he shall even be employed for only an hour or a day, is thereby to be free, and if we further stipulate that we will pay the loyal master for the emancipation of his slave, we assume a burden of responsibility that this Government cannot bear.

Mr. FOSTER. And wife and children and mother, besides, are to be free.

Mr. SHERMAN. Yes, sir; if the slave of a loyal man is employed a single day to carry a single message in the prosecution of this war, you may involve the Government of the United States in an expenditure of $1,000 to repay the service that may be probably hired for a single dollar. Now, sir, we cannot embark in such a scheme, and I warn Senators that they have gone far enough in this matter. Whenever you affect the property of a rebel master, I will go with you as far as any one, because I believe a man who has assisted in this rebellion forfeits life and property and slave and honor and everything. There is hardly anything that I would not do to him. Probably I would carry my vindictive feeling against a rebel further, almost, than any other man; but when you propose to touch even the local rights of a loyal man, who is true to his Government in its time of trial, I feel like hesitating. My amendment, if it is adopted, will apply this emancipation clause simply to the slaves of rebels, and under it thousands of slaves will be emancipated. If you adopt the clause as it now stands, you will emancipate all the slaves of this country under the pretense of using them in prosecuting this war. It is unjust, unfair; and I may say further, that it is unmanly to avail yourself of this condition of affairs brought about by rebels, to seize the property of loyal people and deprive them of that property. It will be unjust. If you go a step further, and do what the Senator from Kansas desires to do, pledge the faith of this Government to pay for every slave of every loyal master who may be used in this war, you involve the country in financial ruin.

Mr. President, the Senator from Kansas, and

many others, do not look upon this financial difficulty in so serious a light as I do. I believe, if we are at all crippled in the prosecution of this war, it will be because of the failure of our finances. We are already embarrassed by a depreciated currency. Our bonds are already sold under par. We have been wasting—I cannot but say it—the treasure of this country with a lavish hand. We have deliberately refused any measure of reform except that which relates to the Army; we have refused to look upon the difficulty by which we are surrounded; and I warn Senators that this is no time for us to undertake a new responsibility which may not be covered even by $1,000,000,000. If the war is to be prosecuted to its ultimate termination, and one million of these slaves are held by loyal masters, you may involve this country in an expenditure equal to the value of one million slaves, which, superadded to all the other difficulties by which we are now surrounded, will certainly swamp us; and when you have passed this provision once, ingrafted it in your law, you have made it a contract between the Government and the master, and the Government and the slave; and then this Government is bound by honor to emancipate the slave, and to pay the loyal master.

Mr. President, before we embark in this movement, we ought to pause a little. We do no injustice if we employ the slave of a loyal master; he is no more a slave than he was before; he is made no worse; on the contrary, he receives the incidental benefit which must arise from the emancipation of the great body of his race, and it will probably at no very distant period lead to his emancipation and the emancipation of the whole African race. He receives the incidental benefit of that employment in rendering loyal service to the country. He is not injured at all. When he renders service, he is none the less a slave. If there are runaway slaves in Kansas, and I take it that must be the case, if they are employed in the service of the Government and they are discharged after that service is rendered, they are no worse off than they were before; and it does not follow that because we now need the service of a slave, we shall therefore guaranty to him, for a temporary employment, what may cost the Government thousands of dollars.

This is too serious a proposition for us to act upon lightly. We have no money to throw away. If we ever had the lamp of Fortunatus, if we ever had an accumulation of money, it is now wasted and gone, and we are compelled by the sober realities of war to look upon these financial questions, and not to embark in a new expenditure and pledge our credit for a large sum of money without counting the cost. I know the most thankless of all business in the world is to make objection, and that which is but a repeated objection; but that is our duty now; and I trust the desire of the Senator from Kansas to emancipate the slaves of loyal masters, or his desire to avoid even a hard case, may not involve us in a principle which will be dangerous, and which will add very much to our already accumulated difficulties.

Mr. LANE, of Kansas. I believe that the Senator from Ohio and the Senator from Connecticut voted for the resolution, called the President's resolution, to emancipate all the slaves in the border States and pay for them. Did you not?

Mr. BROWNING. Not to emancipate.

Mr. LANE, of Kansas. To emancipate and to remunerate them for their slaves. What does my proposition propose?

Mr. SHERMAN. The Senator does not state the proposition fairly; but still, as that is so familiar, I will not stop to discuss it. It was simply a proposition that when a State inaugurated a system of emancipation, then we would render them just and fair aid in that movement. That was all there was of it.

Mr. LANE, of Kansas. I suppose that the Senator acting under it meant what he said, that if each and every one of the border States would inaugurate a system of emancipation, Congress would provide remuneration to them for the value of their slaves so emancipated. What is my proposition? To remunerate the loyal master for a small portion of these slaves. Is that unmanly? I will not say to the Senator from Ohio that his proposition partakes of that character, for I have too much respect for myself to make such a charge as that against the Senator from Ohio; but I say that his proposition is hypocritical. You arm these slaves, and fight them in the Army of the United States; and when that is done, I say it is out of the power of the Senator from Ohio, the Congress of the United States, or the General Government to return them to the loyal master in a state of slavery. I propose to act frankly and squarely with loyal men, and speak plainly. After these men are armed, they cannot be enslaved. Rome knew that; our fathers in the Revolution knew that; our fathers in the war of 1812 knew that. Rhode Island knew that when she provided that every slave that was armed should be freed. It was all right in the war of the Revolution to take the slaves of loyal masters to fight against England; it was all right in the war of 1812 to take the slaves of loyal masters to fight against Great Britain; but the white-glove policy of carrying on this war must be pursued; and although it was right to use the slaves of loyal masters in the Revolution, although it was all right to use the slaves of loyal masters in the war of 1812, it will not do as against traitors, who are seeking to destroy the Government! If these slaves are called into the Army, and are armed and are taught the use of arms, it is hypocritical, it is unmanly, to say to the loyal master that after the war is over they shall be remanded to slavery. I propose to speak plainly to these men, and say, we cannot return you your slaves, because they will be useless as slaves, but we will remunerate you for the loss of their service.

DUTIES ON SUGAR.

Mr. FESSENDEN. I have a short bill to report from the Committee on Finance, which came from the House of Representatives this morning, that I should like to have acted upon now.

The PRESIDENT *pro tempore*. By common consent the special order will be passed over for the purpose of considering the bill.

Mr. FESSENDEN. I report back, with an amendment, the bill (H. R. No. 573) to impose an additional duty on sugars produced in the United States, and ask for its present consideration.

There being no objection, the Senate proceeded to consider the bill as in Committee of the Whole. It provides, that in addition to the duties imposed by the act entitled "An act to provide internal revenue to support the Government and pay interest on the public debt," approved July 1, 1862, on all brown, muscovado, or clarified sugars produced directly from the sugar cane, there shall be levied, collected, and paid under the provisions of this act, upon all such sugars produced in the United States, a duty of one cent per pound; and such additional duty, and the duty specified in the act of July 1, shall be levied, collected, and paid on all such sugars (not manufactured for consumption in the family of the producer) in the hands of the producer or manufacturer, on the day of the approval of this act by the President. Within States or portions of States declared to be in insurrection, these duties may be collected in such manner and by such officers as the President may direct, until the insurrection so declared shall cease or have been suppressed. These provisions are not to apply to sugar manufactured from sorghum.

The amendment of the Committee on Finance was, after the word "thereof," in line fourteen, to insert "or of his agent or factor," so as to read: "in the hands of the producer or manufacturer thereof, or of his agent or factor."

The amendment was agreed to.

Mr. FESSENDEN. I will state in half a dozen words that the tax bill imposes a duty of one cent a pound upon sugar. It does not, however, go immediately into operation. The ordinary consumption of the United States, as I understand, is about nine hundred million pounds. This year the Louisiana crop is over six hundred millions. It is now coming forward, and it will very seriously affect the revenue of the country from foreign sugar, and we see no reason why domestic sugar should not pay a reasonable duty. Before we increased the duty on sugar, there was a duty of about three fourths of a cent a pound; but now we have increased the duty to two and a half cents on sugars imported, of the lowest quality, and three and three and a half on sugars of higher quality. This bill lays an additional duty of one cent on sugars of all qualities produced from the sugar cane in this country. The result is, that they have half a cent protection on the lowest grades now, even after this is passed, and one cent, or one cent and a half on the higher grades. We see no reason why it should not be passed.

The bill was reported to the Senate; and the amendment was concurred in.

Mr. FESSENDEN. I move to insert the word "annually" before "levied."

The amendment was agreed to.

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

ADDITIONAL VOLUNTEERS AND MILITIA.

The consideration of the bill (S. No. 394) to amend the act calling forth the militia to execute the laws of the Union, suppress insurrections, and repel invasions, approved February 28, 1795, and the acts amendatory thereof, and for other purposes, was resumed as in Committee of the Whole, the question being on the amendment of Mr. SHERMAN.

Mr. POMEROY. I think this going into details, and providing beforehand that we will pay for the slaves of loyal men and not pay for the slaves of disloyal men, before we get them, will only embarrass the action of the Government and embarrass the bill. For my own part I do not propose to vote to pay a dollar for any slave bought by this Government. This Government has condemned that traffic, and hung a man since I have been in the Senate for engaging in it, and I do not propose to commit the Government to buying up the slaves of the country; I do not care whether they belong to loyal or disloyal masters. It is a kind of traffic which I do not think we can engage in. If slaves come within our lines, and we use them, let them be paid thirteen dollars a month, or any other sum; but to hold ourselves responsible to the master to pay what he may consider the value of those slaves, is ridiculous; it is employing labor at a tremendous expense; a day's labor may cost us $1,000. I do not propose to commit the Government to that. Slave masters have no loyalty to brag of. I do not propose to give them a bone in advance, and pledge the Government that if we use one of their slaves we shall pay for him. I do not propose to embark this Government in the enterprise of buying up slaves. We cannot afford it. There is no necessity for it. It is not in harmony with the policy we have adopted; and I shall vote against all these amendments to buy up slaves, whether of loyal or disloyal men.

Mr. TRUMBULL. I wish to make another suggestion in that connection. Under this bill, if it passes, a young white man eighteen years of age will be mustered into the service of the United States. The parents have a right, by the laws of nearly all the States of the Union, and I think by the laws of every State of the Union, to the service of their sons until they are twenty-one. You take those sons away from their parents, and does anybody propose to pay the parents for their service? I think it will be time enough to provide for this hereafter.

Mr. SHERMAN. I understand the Senator from Kansas has not yet offered that proposition. The question is on my amendment.

Mr. WILSON, of Massachusetts. I hope we shall have the vote.

Mr. TRUMBULL. What is the question?

The PRESIDENT *pro tempore*. On the amendment of the Senator from Ohio.

Mr. SHERMAN. I will state to the Senator from Illinois, that the effect of this amendment is simply to confine the emancipation clause to the slaves of rebels.

Mr. HOWARD. The question is upon the amendment offered by the Senator from Ohio, which provides that the slaves of any person who during the present rebellion has borne arms against the United States, or levied war against the United States, or adhered to their enemies by giving them aid and comfort shall be rendered free. As this amendment is worded, it is quite clear to my mind that the clause will apply only to such rebels as have actually borne arms against the United States or actually levied war against them, and it will not apply to that class of persons who have adhered to the rebels, giving them aid and comfort; because by the Constitution, in that clause which provides that treason against the United States shall consist only in levying war against them or adhering to their enemies, giving them aid and comfort, "enemies" mean public enemies,

and not domestic enemies. If the Senator from Ohio will examine the decisions upon that subject, he will discover that that is the proper meaning of the word "enemies" as used in the clause. That large class of persons, therefore, who have rendered assistance, and aided and abetted the rebellion, but who have not actually borne arms or levied war against the United States, will be entirely exempted from the operation of this bill. I suppose there must be a vast difference in point of numbers between the class who have been actually engaged in bearing arms against the United States and that mixed class who have rendered aid and comfort to the rebellion by furnishing military stores, and doing other acts which come within the purview of the phrase "aid and comfort." If the Senator insists upon this amendment, I hope he will so amend it as to apply to insurgents generally. I ask him to strike out the words "their enemies," and insert "the insurgents." The language would then be constitutional, and apply to every class of persons who have not only made war against the United States, but who have adhered to the insurgents by giving them aid and comfort.

Mr. SHERMAN. If the Senator thinks the term "insurgents" better than "enemies," I have no objection to it. My purpose is to extend this provision to all rebels, and those who have aided and assisted them. I used the language of the Constitution simply because I thought it safer and better to do it; and I do not understand the decision referred to in the same sense that the Senator does. If he desires, however, I will not oppose his amendment to change my proposition by inserting the word "insurgents," instead of "enemies."

Mr. HOWARD. According to Professor Greenleaf's work on the law of evidence in criminal cases, the "enemies" spoken of in this clause of the Constitution are such persons as, not owing allegiance to the United States, but to some foreign Government, have been engaged in making war upon the United States. But, sir, I confess that I am entirely opposed to the incorporation of the amendment of the Senator from Ohio, in whatever form it may assume, into the bill. I cannot bear the idea; and it seems to me that if I were a slaveholder, I could not bear the idea of employing or suffering my slaves to be employed in defending me and my rights as a loyal man, taking arms in their hands, and going with me into the face of the battle, and risking their lives to defend my life and my family and my rights under my Government, and afterwards reducing those poor creatures to slavery. I should regard it as a burning and an eternal shame. I never could do it. I do not care how lowly, how humble, how degraded a negro may be, if he takes his musket or any other implement of war and risks his life to defend me, my countrymen, my family, my Government, my property, my liberties, my rights, against any foe, foreign or domestic, it is my duty under God, it is my duty as a man, as a lover of justice, to see to it that he shall be free. Having once risked his life to defend mine, he should never again be a slave. I would sooner see my right arm drop from its socket than be guilty of such an act. I hope the amendment will not prevail. If we are to emancipate these slaves according to the policy sketched by the President of the United States, then we all know that justice will be done to every loyal owner whose slave may be employed in defending the Government, and that is sufficient for me; but, in any event, I would not be guilty of the cruelty and injustice of again reducing to slavery a negro who had once defended me on the field of battle.

Mr. HARLAN. I do not think an individual, a slave, that may have been armed and mustered into the service of the United States will ever again be fit for slavery. I think that is the history of the whole world on this subject. I do not remember a single example since civilization commenced, when slaves have been mustered into the armed service of a country and again attempted to be returned to slavery. I do not believe that any master of slaves would tolerate such an idea for a moment. If the slaves of loyal masters are mustered into the service of the United States we ought to provide for their liberty; and if they are entitled to pay hereafter, pay them.

The question being taken on Mr. SHERMAN's amendment, by yeas and nays, resulted—yeas 18, nays 17; as follows:

YEAS—Messrs. Anthony, Browning, Collamer, Cowan, Davis, Doolittle, Fessenden, Foster, Henderson, Howe, Lane of Indiana, Powell, Sherman, Simmons, Ten Eyck, Willey, Wilson of Missouri, and Wright—18.

NAYS—Messrs. Chandler, Clark, Foot, Grimes, Harlan, Harris, Howard, King, Lane of Kansas, Morrill, Pomeroy, Sumner, Trumbull, Wade, Wilkinson, Wilmot, and Wilson of Massachusetts—17.

So the amendment was agreed to.

Mr. BROWNING. I move to amend the same section——

Mr. FESSENDEN. Allow me to report an appropriation bill.

Mr. BROWNING. Certainly.

SUPPLEMENTAL CIVIL APPROPRIATIONS.

Mr. FESSENDEN. The Committee on Finance, to whom was referred the bill (H. R. No. 572) making supplemental appropriations for sundry civil expenses of the Government, for the year ending June 30, 1863, and for the year ending June 30, 1862, have instructed me to report it with an amendment.

By unanimous consent, the bill was considered as in Committee of the Whole. For the fiscal year ending June 30, 1863, it proposes to appropriate $10,000 for mileage and compensation of witnesses and other incidental expenses of the High Court of Impeachment in the case of West H. Humphreys; $1,000 for laborers employed about the Hall of the House of Representatives; $6,000 for repairing post office and custom-house at Bangor, Maine; $1,800 for salary of clerk of House Committee on Public Lands according to a resolution of the House of May 22, 1862; $1,000 for painting iron fence around La Fayette square and in front of the President's House; $2,600 for compensation of two clerks in the Surgeon General's office; and $500,000 to colonize slaves emancipated in the District of Columbia and those made free by the probable passage of a confiscation bill, the money to be repaid to the Treasury out of the proceeds of the sale of confiscated property. The bill also provides that the appropriations for furnishing the State Department with Howard's Supreme Court Reports may be applied to reports of the Supreme Court, under whatsoever name published; and that the salary of the Assistant Secretary of the Treasury shall be the same as that of the Assistant Secretary of the Navy. For the year ending June 30, 1862, the bill proposes to appropriate $1,200 for coal and fire to warm the library of Congress; $50,855 49 to supply a deficiency in the Patent Office fund existing under the act of March 2, 1861, entitled "An act in addition to 'An act to promote the progress of the useful arts,'" the fourteenth section of which act is repealed; $2,000 to supply deficiencies in the appropriation for rent of the office of the surveyor general in California, and fuel, books, stationery, and pay of messenger; $10,000 for service on additional post routes; and $15,000 for carrying into effect the treaty with Great Britain for the suppression of the slave trade.

The amendment of the Committee on Finance was to strike out the sixth item of the first section, in the following words:

For compensation of two clerks, one of class one and one of class two, hereby authorized to be employed in the office of the Surgeon General, $2,600.

Mr. FESSENDEN. That is provided for in another bill.

The amendment was agreed to.

Mr. GRIMES. I am authorized by the Committee on the District of Columbia to submit an amendment, to come in at the end of the first section:

For the pay of three commissioners to condense and codify the laws of the District of Columbia, and for the contingent expenses attending the same, $7,500.

Mr. FESSENDEN. I hope that will not pass.

Mr. GRIMES. I will explain exactly what this amendment is. Perhaps it is known to most of the members that several years ago Congress authorized the appointment of two or three commissioners to condense and codify the laws of this District, and in the act which authorized their appointment it was provided that the code, when thus prepared, should be submitted to the people of the District for ratification or rejection by the popular vote. In consequence, as I have been told, of one or two objectionable features, one especially in regard to imprisonment for debt, the code, as it was called, was voted down. A few weeks after the commencement of the present session, the attention of the Committee on the District of Columbia was called to the condition of the laws in this District. The propriety of authorizing the appointment of some man to report to Congress such of those acts as were in the main unobjectionable to the people of the District, and as ought to be enacted into a law, and to report by the 1st day of May, in ample time for Congress to pass upon them, was suggested to them. They reported a bill of that kind, and that bill passed through the Senate by a unanimous vote. I think nobody dissented. It went to the other House, and they changed the phraseology of the bill so as to authorize the President of the United States to appoint three persons, learned in the law, to condense the laws. It came back to the Senate, and without my knowledge, and I think without the knowledge of my friend by my side, who is on the committee, and who is my counselor and attorney general on these questions, [Mr. MORRILL,] a motion was made to concur in the action of the House, which I think I may say we should not have assented to, if we had known anything about it. In fact I can say that I knew nothing about the action of the House for several weeks afterwards; so I think it was with my colleague on the committee. Thus the law stands authorizing the appointment of three commissioners to codify the laws; but there is no provision in that law, or in any other, to pay them any salary, and the Attorney General does not propose to make the appointment until provision is made for their payment; and now the question is for the Senate to decide whether they will make an appropriation to pay these commissioners when they shall be appointed or not. I do not know whether the Government will make the appointments without the appropriation or not. Certainly there is no appropriation now, although there is a law on the statute-book authorizing their appointment.

Mr. FESSENDEN. It is quite evident that this is an attempt to fix a salary of $2,500 each for three persons, to do we do not know what; how much or how little we cannot tell. My friend from Iowa may be in favor of this thing; but I do not believe he is, though he reports it as the organ of the Committee on the District of Columbia. I think it is palpably wrong. The Attorney General can find somebody to do this work; and when we know what the work is, and what is necessary to be done, we can provide for paying a fair rate of compensation. This looks like holding back until we allow a salary of $2,500 each for three persons to do a very small work. It is absurd on its face, and I hope the Senate will not agree to any such proposition.

Mr. GRIMES. I tried to make a fair statement of it. It was proposed, I think, by the Attorney General, that the salary should be $2,000, and that $1,500 of the $7,500 should be for contingencies. I should not have given my assent to the creation of the three commissioners if I had known it, and my colleague on the committee [Mr. MORRILL] says he would not.

Mr. TRUMBULL. It is very important to have these laws revised, I will say to the Senator from Maine; it is important to have it done now. There is the greatest uncertainty about the laws in this District, and it is very important that they should be done in some shape. Although $7,500 seems a considerable sum for this, I think it better to pass even that amount, in the shape it is, than to omit to have the laws codified or revised in some way, so that the people can understand what they are. I have had some little experience since I have been on the Judiciary Committee, and I know it is with the greatest difficulty that we can find out what the law is here. When propositions are made to pass new laws, we have to spend a great deal of time in searching the statutes of Maryland to ascertain what the law now is, and of course we cannot propose the remedy unless we know what the trouble is. It is important to have this done. If it is not best to appropriate $7,500, and this law was passed inadvertently, I suggest that we so amend this proposition as to appropriate $3,500, and insert a proviso that but one commissioner shall be employed. We can do that in this same amendment.

Mr. FESSENDEN. I do not like, at this period of the session, to be legislating on this subject. I am informed that a bill has passed here within a few days, or been reported from the Judiciary Committee, making some arrangement in regard to codifying the laws of this District, but

providing that it shall be done at the expense of the District.

Mr. TRUMBULL. No such bill has been reported from the Judiciary Committee.

Mr. GRIMES. I suppose the Senator from Maine refers to a bill the passage of which I secured on last Saturday evening, amendatory of the police law. That bill authorized the police commissioners to have all their rules and regulations, and all the laws of the District and the acts of the corporation relating to criminal offenses against the municipal authorities, published, and we inserted a provision that it should be done without expense to the United States. The Senator from Maine, I suppose, has confounded that with this.

Mr. TRUMBULL. If this appropriation of $7,500 is to be resisted, I shall propose to amend the amendment of the Senator from Iowa, if the Senator from Maine will assent to it in that shape, so as to provide that $3,500 be appropriated for this purpose, with a proviso that but one commissioner shall be employed to perform this duty, and that so much of the law referred to as authorizes the appointment of three commissioners be repealed. That, then, would meet the views of the Committee on the District of Columbia, if that law was passed inadvertently.

Mr. FESSENDEN. I am afraid that it will get us into difficulty with the House of Representatives.

Mr. TRUMBULL. If there is any trouble about it we can recede from it. There is no danger of the bill being lost by this, because it will have to go back to the House any way; and rather than lose the proposition altogether I should vote for the $7,500. Perhaps it had better go that way.

Mr. FESSENDEN. Make it $2,500.

Mr. GRIMES. I suggest that we make it $3,000, and that that be adopted, so as to cover any incidental expenses.

Mr. TRUMBULL. I am willing; I am not particular as to the amount.

Mr. GRIMES. The codification has already been completed four or five years ago, as I have stated, and I believe the main features of it to the acceptance of everybody. All this man will have to do will be to select out from that code, which is already in book form, such provisions as are known to be acceptable to the profession and to all the citizens here.

Mr. ANTHONY. I desire to read a single paragraph from the report made by the chairman of the Committee on the District of Columbia, to show the necessity of the codification of the laws of this District.

Mr. FESSENDEN. There is no necessity for three commissioners.

Mr. ANTHONY. I think it had better be done, even if it costs something. The report to which I have referred says:

"The committee would embrace this occasion to call the attention of the Senate to the necessity which exists for the collection and codification of the laws of the District of Columbia, with a view to future amendment; and, as illustrative of such necessity, they would refer to the law establishing the fees of the marshal for keeping and dieting prisoners in the jail. This fee is fixed in the Maryland law November 17, 1779, chapter twenty-five, clause three, which allows twelve pounds of tobacco per day for each prisoner. To ascertain the value in Federal currency of twelve pounds of tobacco, as then rated, recourse is had to the law of Maryland of October, 1780, chapter twenty-three, clause three, which requires all tobacco fees to be rated at 12*s.* 6*d.* sterling per hundred pounds, and Spanish dollars at 7*s.* 6*d.* each. By an application of the 'rule of three,' it is ascertained that twelve pounds of tobacco were equal to two hundred and one thousandths of a Spanish dollar, which would be twenty cents and one mill Federal currency, if the American dollar were of the same weight and fineness of the Spanish dollar of that period. But inasmuch as there is a difference in favor of the Spanish dollar, that difference must be estimated, and the fraction corresponding to twenty cents and one mill added to the fee. By this painful calculation it is found that the law allows twenty-one cents per day to the marshal for keeping and dieting prisoners in the jail. It is somewhat amazing that such a method of ascertaining the compensation of an officer of the District of Columbia should have survived eighty-three years, and be in full force at this day; yet the committee believe that this is not exceptional, in point of awkwardness, from the general fundamental laws of the District."

Mr. TRUMBULL. I propose to put the amendment in this form:

For the pay of a commissioner, and incidental expenses, under the act for the codification and revision of the laws of the District of Columbia, approved May 20, 1862, the sum of $3,000; and so much of the above recited act as authorizes the appointment of more than one commissioner be, and the same is hereby, repealed.

The amendment was agreed to.

Mr. HARLAN. I offer this amendment, to come in at the end of the first section of the bill:

For clerk hire in the consolidated land office at Des Moines, Iowa, to be disbursed by the register at a rate not exceeding three dollars per day, from the 31st day of December, 1861, to the 30th of June, 1863, $1,638.

The amendment was agreed to.

Mr. HARLAN. I also offer the following amendment, which appropriates no money, to be added as an additional section to the bill:

And be it further enacted, That the office of clerk in charge of unfinished surveys in the General Land Office under the act of January 22, 1853, be, and the same is hereby, abolished, and the duties thereof shall be transferred to the principal draughtsman of the General Land Office or such other clerk as the Commissioner of said office may designate.

Mr. FESSENDEN. That is a saving?

Mr. HARLAN. Yes, sir.

The amendment was agreed to.

Mr. SUMNER. I offer the following additional section:

And be it further enacted, That where any Senator or Representative withdraws from his seat in anticipation of the adjournment of Congress, and before the adjournment, and does not reappear, he shall, in addition to the sum now deducted for each day, forfeit a further sum equal to the mileage now allowed by law for his return home, which shall be deducted from his compensation, unless where such withdrawal is on account of illness of himself or family.

The amendment was rejected.

Mr. SUMNER. I do not want to divide the Senate.

Mr. FESSENDEN. You cannot pass that at this period of the session. It is legislation on another subject, which should not go on this bill.

Mr. ANTHONY. I should like to ask the chairman of the Committee on Finance what is the fourteenth section of the act of March 2, 1861, that is to be repealed by this bill?

Mr. FESSENDEN. It is a law providing for certain printing of the Patent Office which is very expensive, and not for the benefit of the office but of the public, and it has caused a deficiency which we have to make up.

Mr. ANTHONY. I wanted an explanation of that deficiency. I did not understand it, and do not now.

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

Mr. ANTHONY. I did not understand the explanation of the Senator from Maine.

Mr. FESSENDEN. Your colleague can give it.

Mr. ANTHONY. I should like to hear it.

Mr. SIMMONS. This fourteenth section of the act of March 2, 1861, required certain printing to be done at the expense of the patent fund, which has produced a deficiency. When it is done, it is for the benefit of the public, and we thought if we repealed the provision, there would be no deficiency to provide for hereafter.

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

BILLS BECOME LAWS.

A message from the President of the United States, by Mr. NICOLAY, his Secretary, announced that the President of the United States had approved and signed, on the 14th instant, the following acts and joint resolution:

An act (S. No. 93) for changing the place for holding the September term of the district court of the United States in the district of Maine;

An act (S. No. 98) to amend an act entitled "An act to prohibit the sale of spirituous liquors and intoxicating drinks in the District of Columbia in certain cases," approved August 5, 1861;

An act (S. No. 219) granting an invalid pension to Hugh H. Howard, of Hockingport, State of Ohio;

An act (S. No. 270) concerning the courts of the United States in and for the district of Michigan; and

A joint resolution (S. No. 94) to change the name of the schooner Sally McGee to that of Ocean Eagle.

REVENUE CUTTER SERVICE.

Mr. CHANDLER, from the Committee on Commerce, to whom this subject was referred, reported a bill (S. No. 399) relative to the revenue cutter service, to provide for the appointment of commissioned officers, and for other purposes; which was read, and passed to a second reading.

ADDITIONAL VOLUNTEERS AND MILITIA.

The consideration of the bill (S. No. 394) to amend the act calling forth the militia to execute the laws of the Union, suppress insurrections, and repel invasions, approved February 28, 1795, and the acts amendatory thereof, and for other purposes, was resumed as in Committee of the Whole.

Mr. WILSON, of Massachusetts. I desire to move a couple of additional sections to this bill as amendments. I offer this amendment:

And be it further enacted, That medical purveyors and storekeepers shall give bonds in such sum as the Secretary of War may require, with security to be approved by him.

I will simply say that some of these medical purveyors have a large amount of property put into their hands, and it is important for the public interests that the Secretary of War shall have the power, if he sees fit, to take such bonds as may be necessary for the public security. I hope the amendment will be adopted.

The amendment was agreed to.

Mr. WILSON, of Massachusetts. I now move as an additional section:

And be it further enacted, That the sum of $15,000 be appropriated out of any money in the Treasury not otherwise appropriated, for the purchase of artificial limbs for soldiers and seamen disabled in the service of the United States, to be expended under the direction of the Surgeon General.

Mr. SHERMAN. I should have had no objection to that if it had been offered to the appropriation bill which has just been disposed of; but if you send this bill to the House of Representatives with this amendment in it, making an appropriation, it cannot be passed there and become a law.

Mr. GRIMES. Can we not, by general consent, put it on the other bill?

Mr. SHERMAN. I have no objection.

Mr. GRIMES. I ask that by unanimous consent this clause be added to the other bill.

Mr. SHERMAN. If we add this appropriation to this bill, it will have to go to the Committee of the Whole House.

Mr. WILSON, of Massachusetts. I withdraw the amendment to this bill; and if we can put it on the other bill, very well.

Mr. GRIMES. Is it understood that it goes on the other bill by unanimous consent?

The PRESIDING OFFICER. The Chair is of opinion that it cannot be done without a reconsideration.

SUPPLEMENTAL CIVIL APPROPRIATIONS.

Mr. GRIMES. I move to reconsider the vote passing the bill (H. R. No. 572) making supplemental appropriations for sundry civil expenses of the Government for the year ending June 30, 1863, and for the year ending June 30, 1862.

The motion was agreed to.

Mr. GRIMES. I move to reconsider the vote by which the bill was ordered to a third reading.

The motion was agreed to.

Mr. GRIMES. I now move to amend this bill by adding the section submitted by the Senator from Massachusetts, and I will say in connection with this subject that some time ago my attention was called to the necessity of making an appropriation of $5,000 for the Navy and $10,000 for the Army for this pupose:

And be it further enacted, That the sum of $15,000 be appropriated out of any money in the Treasury not otherwise appropriated for the purchase of artificial limbs for soldiers and seamen in the service of the United States, to be expended under the direction of the Surgeon General.

The amendment was agreed to.

The amendments were ordered to be engrossed, and the bill to be read a third time. It was read the third time, and passed.

Mr. FESSENDEN. I move to amend the title by adding "and for other purposes."

The motion was agreed to.

PROLONGATION OF THE SESSION.

The PRESIDENT *pro tempore* laid before the Senate the following communication from the President of the United States:

EXECUTIVE MANSION, WASHINGTON, *July* 15, 1862.

SIR: Please inform the Senate that I shall be obliged if they will postpone the adjournment at least one day beyond the time which I understand to be now fixed for it.

Your obedient servant, ABRAHAM LINCOLN.

Hon. SOLOMON FOOT, *President pro tempore of the Senate.*

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. MORRIS, Chief Clerk, announced that the

House had passed the following bill and joint resolutions; in which it requested the concurrence of the Senate:

A bill (No. 568) to provide for the printing of the annual report of the banks of the United States;

A joint resolution (No. 107) further to provide for the compensation of members of Congress; and

A joint resolution (No. 108) requiring the superintendent of metropolitan police to pay over certain moneys collected for fines and penalties to constitute a contingent fund for certain purposes.

The message also announced that the House of Representatives insisted upon its amendments to the resolution of the Senate (No. 86) regulating the employment of the convicts in the penitentiary of the District of Columbia for their improvement and benefit, disagreed to by the Senate, asked a conference on the disagreeing votes of the two Houses thereon, and had appointed Mr. CHARLES R. TRAIN of Massachusetts, Mr. J. A. GURLEY of Ohio, and Mr. R. H. DUELL of New York, managers at the same on its part.

ENROLLED BILLS SIGNED.

The message further announced that the Speaker of the House of Representatives had signed the following enrolled bills; which thereupon received the signature of the President *pro tempore:*

A bill (S. No. 250) to amend an act entitled "An act to create a metropolitan police district for the District of Columbia, and to establish a police therefor," approved August 6, 1861;

A bill (S. No. 358) to prevent members of Congress and officers of the Government of the United States from taking consideration for procuring contracts, office, or place from the United States, and for other purposes; and

A bill (H. R. No. 280) to establish and equalize the grades of line officers of the United States Navy.

EMPLOYMENT OF CONVICTS.

The Senate proceeded to consider the amendments of the House of Representatives to the resolution of the Senate (No. 86) regulating the employment of the convicts in the penitentiary of the District of Columbia, for their improvement and benefit, and,

On motion of Mr. GRIMES, it was

Resolved, That the Senate insist upon its disagreement to the amendments of the House of Representatives, and agree to the conference asked by the House on the disagreeing votes of the two Houses thereon.

Ordered, That the committee of conference on the part of the Senate be appointed by the President *pro tempore.*

The PRESIDENT *pro tempore* appointed Mr. GRIMES, Mr. TRUMBULL, and Mr. ANTHONY.

ADDITIONAL VOLUNTEERS AND MILITIA.

The Senate, as in Committee of the Whole, resumed the consideration of the bill (S. No. 394) to amend the act calling forth the militia to execute the laws of the Union, suppress insurrections, and repel invasions, approved February 28, 1795, and the acts amendatory thereof, and for other purposes.

Mr. BROWNING. I move to amend the bill by striking out, in the third and fourth lines of the thirteenth section, the words "his mother and his wife and children."

Mr. LANE, of Kansas, called for the yeas and nays; and they were ordered.

Mr. HARRIS. Mr. President, I am in favor of employing the negroes of the country, slaves or not, to the utmost possible extent to which their services can be made available in aiding the country in suppressing the rebellion. My belief is that, with some very inconsiderable exceptions, this has already been done, and I believe that there is a vast amount of misapprehension pervading the country in respect to this subject. There has been in Congress, and out of Congress, a vast amount of declamation and sentiment in relation to our soldiers being employed in menial services, in digging trenches, and all that sort of thing, when negroes ought to have been employed in doing it. Sir, that is a delusion. To the utmost extent to which that could be done it has been done. To show that that is so, let me read a letter that I have recently received from General McClellan himself, and I take this occasion because I would be glad to put it before the country. It is dated on the 12th of July, in which he says:

"I perceive by the newspaper reports of congressional proceedings that there has been considerable discussion on the subject of requiring military commanders to receive negroes seeking protection in their camps and to employ them in suitable labor connected with military service. It may be well enough for the fact to be made known that all negroes, male and female, who have come into the camps of the army of the Potomac, on the peninsula, have been protected and set to work, at wages, in performing offices which would otherwise have devolved upon our soldiers. The supply of those operatives has thus far been insufficient for our wants."

This is signed by General McClellan himself. Now, sir, that is right. I am in favor of doing that, and I am in favor of holding up inducements for them to come in our lines, male and female, as is said in this letter, and I would make them all free. Sir, every colored person now bound to slavery, if he is employed by the Government a single hour in aiding to suppress this rebellion, should be made free. I would therefore provide by this law (and it was for that reason that I voted against the amendment of the Senator from Ohio) that any man who would aid us in putting down this rebellion should thereby be made free. To that extent I am willing to go. I want to make a provision that shall be available, that shall be useful, and I want to strip it of all sentiment and buncombe. So far as this proposition is concerned, embraced by the amendment proposed by the Senator from Illinois, I am with him in that. I do not believe you can make it a practical thing. The Senator from Vermont the other day, in most eloquent terms, showed the difficulty of applying this provision. Who are the children of the slaves; who is the wife of the slave? Sir, it is only administering to the sentiment of the country on this subject. It is not a practical thing; it cannot be carried into effect. I am therefore opposed to it. Let us have the section providing for the employment of the services of slaves, and declaring that if they are employed by our Government they shall be free. To that extent I go. If afterwards it be found that we have, by the operation of this law, made free the slaves of loyal men, let that be a subsequent question to be determined. I am not for providing pay now, nor am I for providing for any distinction between the slaves of loyal men and those of disloyal men. I would, therefore, in the commencement of the section, strike out the words "any man or boy," and insert "any person," and then I would adopt the amendment of the Senator from Illinois.

Mr. HOWE. I was very glad to hear the letter which the Senator from New York just read to the Senate. I was very glad to hear his statement that he believed that, so far as it was practicable to do so, colored people had been employed to do the menial work connected with this war. I should be still more gratified if I myself entertained the comfortable faith which the Senator from New York has just professed, but I am not able to entertain that belief. I have very recently seen very striking and conclusive evidence to the contrary. I do not know but that it may be true, as General McClellan asserts in the letter, that he has employed this description of help to the extent of his ability; but he does not command the only army the United States has in the field. Among others, there is one in possession of the lower Mississippi, at the head of which is General Butler. I have recently seen a correspondence between Brigadier General Williams, commanding a brigade in the army of General Butler, and Colonel Paine, who commands a regiment of Wisconsin volunteers. That correspondence commences with an order issued by Brigadier General Williams to Colonel Paine, commanding him to exclude from the lines of his camp all fugitives and all persons of color, and pronounces upon his official responsibility that taking possession and keeping possession of these people is demoralizing to our troops, and he orders that the whole of them be excluded from our lines. Against that order, Colonel Paine, in very appropriate and becoming terms, remonstrates, insisting that it is in direct violation of an article of war recently enacted by the Congress of the United States. To that remonstrance the general makes no other reply than to demand of the colonel a specific answer whether he will or will not obey his order, and the colonel makes a specific reply to that by saying that he will not obey it, the result of which is that he is at once placed under arrest, and he was under arrest at the last dates from that portion of the country.

I have the correspondence here, and as I think it of great interest to the country, and as it seems to be germane to this debate, I beg leave to present it:

HEADQUARTERS SECOND BRIGADE,
BATON ROUGE, *June 5*, 1862.

[General Orders No. 46.]

In consequence of the demoralizing and disorganizing tendencies to the troops of harboring runaway negroes, it is hereby ordered that the respective commanders of the camps and garrisons of the several regiments second brigade, turn all such fugitives in their camps or garrisons out beyond the limits of their respective guards and sentinels.

By order of Brigadier General T. Williams:

WICKHAM HOFFMAN,
Assistant Adjutant General.

To that order, this reply was made:

HEADQUARTERS FOURTH WISCONSIN REGIMENT,
BATON ROUGE, *June 5*, 1862.

SIR: An order of Brigadier General Williams, of this date, has just reached me. It is in the following words:

HEADQUARTERS SECOND BRIGADE,
BATON ROUGE, *June 5*, 1862.

[General Order No. 46.]

In consequence of the demoralizing and disorganizing tendencies to the troops of harboring runaway negroes, it is hereby ordered that the respective commanders of the camps and garrisons of the several regiments second brigade turn all such fugitives in their camps or garrisons out beyond the limits of their guards and sentinels.

By order of Brigadier General T. Williams:

WICKHAM HOFFMAN.

The following are the provisions of an act of Congress approved March 13, 1862, entitled "An act to make an additional article of war:"

"*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That hereafter the following shall be promulgated as an additional article of war for the government of the Army of the United States, and shall be obeyed and observed as such:

"ART. —. All officers or persons in the military or naval service of the United States are prohibited from employing any of the forces under their respective commands for the purpose of returning fugitives from service or labor who may have escaped from any person to whom such service or labor is claimed to be due, and any officer who shall be found guilty, by a court-martial, of violating this article shall be dismissed from the service.

"SEC. 2. *And be it further enacted*, That this act shall take effect from and after its passage."

It is true that the order of General Williams does not *in terms* require regimental commanders to employ their guards or sentinels for the purpose of returning fugitives, but it is equally true that the order *in effect* requires nothing else. For it is notorious that the regimental camps are watched, not only by pretended owners, but also by men who hunt for pay, into whose grasp the fugitives will fall the very instant the guard thrust them over the lines.

Within my personal knowledge many fugitives have been received aboard our transports at different places in this State by General Williams, and have, upon close interrogation, given him important military information. Such of these as have not already been returned to their owners, may still be in the camps of this brigade. What their fate will be, if delivered up to claimants or hunters, it is easy to predict. It seems to me that while their surrender would be in palpable violation of the law, it would also in its moral aspect, be obnoxious to the gravest objections. The order of General Williams forces upon me an alternative which is peculiarly painful, because with me "obedience to orders" has always been, in practice as well as theory, a fundamental military maxim. I am compelled either to disobey him or defy the sovereign power of the Republic.

In this matter I cannot hesitate. No punishment for disobedience to this order can be so intolerable as would be the consciousness of having violated the law, by compelling my guards to return to vindictive rebels fugitives whose information has been sought and used for the benefit of our arms. While I have the honor to command the fourth Wisconsin regiment, it cannot, with my consent, be employed in violation of law for the purpose of returning fugitives to rebels.

Your obedient servant, H. E. PAINE,
Colonel Fourth Wisconsin Regiment.

Captain WICKHAM HOFFMAN, *Assistant Adjutant General.*

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HEADQUARTERS SECOND BRIGADE,
BATON ROUGE, LOUISIANA, *June 10*, 1862.

COLONEL: Your letter of the 5th instant is not sufficiently definite. You will state categorically whether or not you will obey General Order No. 46.

By order Brigadier General T. Williams.

HENRY H. ELLIOT,
Lieutenant and Acting Assistant Adjutant General.

Colonel H. E. PAINE, *Fourth Wisconsin Volunteers.*

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HEADQUARTERS SECOND BRIGADE,
BATON ROUGE, *June 10*, 1862, 7½ o'clock, p. m.

COLONEL: Your attention is called to a communication from these headquarters this morning in reference to General Order No. 46, to which an answer is required immediately.

By order, HENRY H. ELLIOT,
Lieutenant and Acting Assistant Adjutant General.

Colonel H. E. PAINE, *Fourth Wisconsin Volunteers.*

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HEADQUARTERS FOURTH WISCONSIN VOLUNTEERS,
BATON ROUGE, *June 10*, 1862.

LIEUTENANT: In obedience to an order of this date from brigade headquarters, informing me that my letter of the 5th instant is not sufficiently definite, and requiring me to state categorically whether or not I will obey General Order No. 46, I have to state that for the reasons given in

detail in that letter I cannot obey the order. I supposed the letter would be understood.

Your obedient servant, H. E. PAINE,
Colonel Fourth Wisconsin Volunteers.

Lieutenant H. H. ELLIOT,
Acting Assistant Adjutant General.

HEADQUARTERS SECOND BRIGADE,
BATON ROUGE, LOUISIANA, *June* 11, 1862.

COLONEL: In consequence of your refusal to obey General Order No. 46, from these headquarters, June 5, 1862, you are hereby placed under arrest. Your limits will be the inclosure of this garrison. The command of your regiment will devolve on the next ranking officer for duty.

T. WILLIAMS,
Brigadier General Volunteers, Commanding.

Colonel H. E. PAINE, *Fourth Wisconsin Volunteers.*

There is a brigadier general commanding in the Army of the United States, who not only refuses to employ or to protect this class of men, whom the Senator from New York says ought both to be employed and protected, but he pronounces that the protection of such men is demoralizing to the service, and he commands, upon pain of arrest, the commander of a regiment to fling them all without his lines, and to subject them to the authority and control of their rebel owners. Whatever other commanders may have done, or may do hereafter, there, I do not hesitate to say, is one general officer who has no more appreciation of the duties of this service, in which he is temporarily employed, than he has of the duties of an apostle in the Christian Church. He is no more fit for one than the other; and I do not hesitate to say that no officer ought to be employed for an instant in the command of any portion of our troops who does not feel it to be his solemn and his bounden duty to furnish protection, the most ample and adequate his force will enable him to furnish, to every man and every woman and every child who appeals to him for protection from the authority or control of those who are now in arms against us; and the officer who will not do it ought not to be retained in our service a single day. I do not hesitate to say, for one, while you are talking about the general subject of exchange, that I would exchange just as many brigadiers of that sort as I could find for an equal number of those people whom General Williams ordered Colonel Paine to thrust without his camp, and I would pay boot between them. I would rather have the negro than the brigadier. He is worth more to the service; he is worth more to the Government; he is worth more to mankind.

I thought it proper here, inasmuch as the general assertion had been made that there was no just cause of complaint of our officers in reference to their treatment of this class of persons, to introduce this correspondence. I should like to have the country see it I should like to have the country know it. What Congress can do to correct this evil, I do not know. I have introduced a bill which will attempt to correct it to a certain extent. That bill is not now before the Senate; this correspondence is; and to-morrow I shall hope the Senate will be prepared to act upon the bill.

Mr. HOWARD. I am much gratified that the Senator from Wisconsin has seen fit to lay before the Senate the correspondence which he has read. I am acquainted with General Williams, the officer alluded to in that correspondence, and who gave the order to Colonel Paine. He is a townsman of my own. He is what is called an old Army officer, although he himself is not an old man. He has the honor of having been graduated at the Military Academy at West Point, and of having served in the regular Army for a considerable number of years. I am too well acquainted with his political principles and his party proclivities, to entertain any doubt as to the purpose which he had in view in drafting the order which has been read, and which Colonel Paine saw fit, in my judgment very properly, to disobey. He is of that class of hard pro-slavery men, so-called, who do not see in the black man a human creature, who see in him nothing but an animated chattel, if you please, sir, a piece of humanized drift-wood passing sluggishly and slowly down the stream of time into oblivion, there to be left and forgotten forever. It is due to the people of my State where he resides, to say that they, including all classes, have no sympathy whatever with the principles which are manifested in that order. I am extremely happy that Colonel Paine took the responsibility of disobeying that order, which in my judgment was illegal, to say the least of it was a harsh, unfeeling, and cruel order. The spirit of that order is plainly incompatible with the act of Congress which we have passed during the present session. It seeks to evade, by a cunning artifice of words, the spirit and real intention of that act of Congress. I am extremely happy that there is one officer under him from the Northwest who has not been afraid to beard him in his quarters, and I hope that the matter will not stop even there as to General Williams. I hope that higher officials will feel it their duty to make an inquiry into his acts, and that if he has violated the law he will be brought to speedy justice.

Sir, a remark fell from the Senator from New York, to which I beg leave to make one single observation by way of reply. The Senator has spoken of the complaints which are so prevalent in the land respecting the non-employment of black persons to aid and assist the operations of our Army, as being too much in the style and spirit of buncombe, as being idle declamation and mere sentimentalism. I confess that I cannot concur with the Senator from New York in the view which he takes of the nature and ground of these complaints. It is very possible that some persons will seek to make popularity out of the circumstance of the non-employment of blacks. It is very possible that in the free States people may say with some point and force, that although the blacks are employed habitually and continually by the rebels in the field for the purpose of constructing their trenches and doing other menial service, our own officers have industriously avoided the employment of that class of persons. It is a just ground of complaint. The circumstances of the case are such as to inflame the public mind of the North, and to produce a feeling of dissatisfaction and discontent among the masses of our people from whom the Army has been recruited and is still to be recruited. To show that these complaints are not entirely groundless, and that we have some reason for asking for the employment of this class of persons, I will trouble the Senate while I read a statement made to me by a friend and acquaintance of mine respecting the operations of the negroes in the rebel army during the siege of Yorktown and at the battle of Williamsburg. I will read the whole paper for the information of the Senate and of the country.

Benjamin B. Luce, of Grand Rapids, Michigan, says:

That he is a sutler in the third regiment of Michigan volunteers, and has acted as such from the 5th of June, 1861; that he was with said regiment at the siege of Yorktown, Virginia, and that while there he saw several negroes in the rebel uniform, who were deserters from the rebel army, and had served as soldiers in the rebel army, as they informed this deponent; that he saw several of these deserters and talked with them; that while said siege was going on, this deponent learned from Union officers and men that a negro marksman on the rebel side was in the habit of shooting the Union pickets, that he shot some six or eight of the Berdan Sharpshooters, and several from the Michigan fourth, and that said negro was finally shot by a Union man near his covert, an old chimney, from which he had been firing.

He further says, that on reaching the Chickahominy with his regiment, he heard some of the officers of the regiment, who had been in the battle of Williamsburg, remark that they had seen among the rebel dead on the field at Williamsburg, after the battle there, some three or four dead negroes in rebel uniform, and also one Indian in rebel uniform; that the officers spoke of the fact as one with which they were perfectly familiar, and this deponent has not the least doubt of the truth thereof.

He further says, that on Friday, the 14th of June, instant, he was, as sutler of said regiment, at the White House, on the Pamunky river; that while engaged there procuring supplies, he learned that a detachment of rebel cavalry approached the river and set fire to two Union vessels, and did other damage; that a third vessel was cut loose by the Union men on board of her, and while she was dropping down the stream she was attacked by a band of rebel cavalry, among whom were some six or seven negroes in rebel uniform, who fired upon her, killing a Mr. ——, who was a quartermaster sergeant of Stockton's regiment; that this deponent helped bury said quartermaster sergeant, and was informed by several persons who were on board and in company with the quartermaster sergeant, that the soldiers who fired upon them and killed him, were negroes belonging to a party of rebel cavalry who were making a reconnoissance on the river and around the White House, although at the time they made the attack they were on foot, having dismounted a short distance off; that this party of rebel cavalry was the one commanded by Stewart, and the same which on that day passed around the Union camp and returned to Richmond.

B. LUCE.

In every word of this, I have the utmost confidence as a matter of fact.

The PRESIDING OFFICER. The question is on the amendment proposed by the Senator from Illinois, [Mr. BROWNING,] upon which the yeas and nays have been ordered.

The question being taken by yeas and nays, resulted—yeas 17, nays 20; as follows:

YEAS—Messrs. Browning, Collamer, Cowan, Davis, Doolittle, Foster, Harris, Henderson, Lane of Indiana, Powell, Rice, Saulsbury, Sherman, Stark, Ten Eyck, Wilson of Missouri, and Wright—17.

NAYS—Messrs. Chandler, Clark, Fessenden, Foot, Grimes, Hale, Harlan, Howard, Howe, King, Lane of Kansas, Morrill, Pomeroy, Simmons, Sumner, Trumbull, Wade, Wilkinson, Wilmot, and Wilson of Massachusetts—20.

So the amendment was rejected.

Mr. BROWNING. I now move to amend the thirteenth section by adding to it the following proviso:

Provided, That the mother, wife, and children of such man or boy of African descent shall not be made free by the operation of this act except where such mother, wife, or children owe service or labor to some person who, during the present rebellion, has borne arms against the United States, or adhered to their enemies by giving them aid and comfort.

On this amendment I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. HENDERSON. Inasmuch as the Senate has refused to strike out the words which the Senator from Illinois moved to strike out, and has thereby determined to make free the family of a slave who may do service as prescribed in this act, I very much hope that this amendment will be adopted. I believe the object of the amendment is to provide that no slaves shall be made free under the provisions of this act, unless those slaves belong to rebels. It is provided by the amendment which has been adopted on the motion of the Senator from Ohio, that the particular slave doing the service shall not be freed unless he belongs to a rebel; and yet, by the refusal to strike out the provision making free the mother, wife, and children of the slave, it is now provided that those parties may be freed in the hands of loyal men. It strikes me as manifestly unjust. In the first place, I think that it is worth something in our legislation upon this subject to respect somewhat the loyal sentiment of slaveholders, where ever they may be, whether in Louisiana, Missouri, Kentucky, or elsewhere. It must be remembered that if a fugitive from service from a disloyal man shall be enlisted in the Army, and do service, although it may be of but an hour's duration, this act will make the mother of that slave, and the wife and children of that slave, free, although they may be in the hands of an individual who has himself engaged in service in the armies of the United States. The Senate may not regard it as a matter of any consequence to respect the rights of the loyal white man, and may deem it a matter of far more importance to respect the rights of the family of the slave owing service, but I respectfully differ from them in that respect.

There are several objections, in my view, to the legislation contemplated. In the first place, it is wrong in itself by legislation of Congress to take away that which by the laws of any given State is guarantied to a loyal man. You may legislate against the rebels as much as you please, but it is bad policy to suffer our legislation to have any appearance of an act of abstract injustice to loyal men. However wrong this institution may be, we know very well what it is, and we know that a part of a family may belong to one man and a part of it to another, a part of it may belong to a loyal man and a part of it to a disloyal man. That portion of it which may actually do service may belong to a disloyal owner, and the other portion of it may belong to a loyal man. The loyal man's property is proposed to be taken from him absolutely, when there can be no excuse given for it.

Now, I appeal to gentlemen, has Congress the power to emancipate slaves in the hands of loyal people? Is not that in the face of the declaration of this Congress since the commencement of this unfortunate rebellion? If slaves can be emancipated at all, it must be done as a punishment inflicted upon rebels. It strikes me as an alarming proposition that, under any circumstances whatever, legislation may be had by these two Houses which will take from a loyal man in any State of the Union that which may be recognized as property by the laws of his State. Is it for any crime that he has committed? Is it for any wrong that he has done? Is it for any rebellion in which he has been engaged against the constituted authorities of the land? Surely not. Then why is this thing? It is simply because, as you tell me, one slave of the family, not interfering with the rights

of property under the State laws, may have done service for one half hour, under the provisions of this bill.

Mr. President, I say that this is wrong; I say, in the second place, that it is bad policy; for we should endeavor to encourage men everywhere to be loyal. It is not only abstractly wrong within itself, but the policy of the thing is bad, for the reason that instead of encouraging white men to be loyal we are discouraging them. The Senate will remember that they have not even made provision in this bill, so far, for paying anybody anything for the destruction or loss of his property; and here is a grave proposition, not only to take the slave that may do service and make him free, but to make free every one connected by ties of relationship with him, even though it may be in the hands of a man who has been engaged in service since the commencement of this war. Sir, it is bad policy, for the simple reason that there can be no excuse given for it. What power has Congress to do it; and what is the propriety of taking the property of a loyal man, that which is recognized as property in any of the slaveholding States, when he has committed no wrong against the Government? We can give no excuse for this legislation. You may turn loose an old negro under the provisions of this law who would be in all probability infinitely better off in the hands of her owner, when her son had done service, but if her master was a loyal man, he would regard it in the light of an attack or an infringement on his rights under the laws of the State in which he lives. Therefore it is not only wrong, but it is bad policy within itself. We ought by our legislation to do everything we can here to encourage men to be loyal.

Then, Mr. President, there is another thing, and I desire to call the attention of the Senate to that proposition. If you intend to carry out this view of the subject, there is no end, let me say to Senators, to the burden of indebtedness that will be brought upon your shoulders. If a negro, by one half hour's service in the Army of the United States, is to have his whole family, wherever they may be throughout this country, liberated, you surely will not liberate them from the hands of loyal men without paying the owners. Surely that cannot be contemplated by the Senate, because that would be a worse policy even than that already indicated by me; and if this is to be done, there is no end to the burden that you will bring upon the Government, and it is a bad policy when we are looking to this matter in a financial point of view. It is wrong for us, at the present time, to undertake to liberate slaves all over the country, even in the hands of loyal owners, when we have no constitutional power to do it, and, in the next place, when, if we had the power, it would be extremely bad policy to do it. I say that it is wrong to undertake this thing at the present time. The Treasury of the United States is not in a condition for us to undertake it.

The Senator from Kansas, a few moments ago, remarked in reply to the Senator from Ohio, that the Senate had gravely responded to the message of the President, and had passed a resolution offering to meet upon half-way grounds the States that might inaugurate a system of emancipation. That is altogether a different thing. I apprehend that the President of the United States does not desire to inaugurate a system of immediate emancipation in any State of the Union; and if he were to desire it, I am satisfied that no slave State would at the present time respond to that call and inaugurate such a system—but he looks forward to a period of time, as I understand him, when the Treasury of the United States will be in a condition, twenty-five or thirty years hence, to pay something in order to enable the States to adopt a system of emancipation; or the States may adopt it now, but it is not expected that any money will be immediately required. It should be remembered by Senators that under this bill the slave will be immediately emancipated upon any service; and upon the emancipation of the slave the money ought to be paid; and it is that heavy drain upon the Treasury that will require more, infinitely more, let me say to Senators, in order to pay for the slaves immediately emancipated than the proposed action of the President of the United States. His action does not presuppose, either, that Congress possesses the right, as against the will of the people of the slaveholding States, to emancipate slaves at all. I understand that proposition to leave it entirely in the discretion of the several border slaveholding States, and that Congress will meet them upon half-way grounds and do what it can in order to facilitate gradual emancipation in those several States, but it is to be left exclusively to the States interested; it is not assuming on the part of Congress the right to emancipate slaves in the hands of loyal men in those States. It merely says that if the States themselves will inaugurate it—it being a matter of free choice with them, and not being compelled on the part of Congress—then Congress, in a spirit of liberality and kindness, will make such appropriations as they may legitimately make for the purpose of aiding such States in that good work. That is my understanding of the proposition; and it is altogether a different proposition from the one ingrafted upon this bill. The one that we now have is a proposition that slaves in the hands of loyal men shall be freed, not for anything that they themselves may have done for the Government, nor for any wrong that their owners may have committed against the Government, but merely because a portion of the family may have done service. I think the amendment of the Senator from Illinois should be adopted. I sincerely hope it will be.

The question being taken by yeas and nays, resulted—yeas 21, nays 16; as follows:

YEAS—Messrs. Browning, Collamer, Cowan, Davis, Doolittle, Fessenden, Foster, Harris, Henderson, Kennedy, Lane of Indiana, Powell, Rice, Saulsbury, Sherman, Simmons, Stark, Ten Eyck, Willey, Wilson of Missouri, and Wright—21.

NAYS—Messrs. Chandler, Clark, Foot, Grimes, Hale, Harlan, Howard, Howe, King, Lane of Kansas, Sumner, Trumbull, Wade, Wilkinson, Wilmot, and Wilson of Massachusetts—16.

So the amendment was agreed to.

Mr. WRIGHT. I have a few remarks to make on this subject, without regard to any particular section of the bill. I had intended some weeks ago to say something on the confiscation bill, but my health would not justify it. So far as the question of slavery is concerned, I believe the Senate will bear me witness that I have never mingled in the debates on that subject; and I am very sure that if no one would ever introduce it here until I had done so, the subject would never be submitted to the Senate of the United States; yet I think I shall be thoroughly understood before I conclude.

The PRESIDING OFFICER. The Chair will remind the Senator from Indiana that there is no question now before the Senate, and perhaps it would be better to let the bill go along to its third reading or passage.

Mr. WRIGHT. I wish to speak on the subject generally.

The PRESIDING OFFICER. The Chair will not interrupt the Senator if he prefers to make his remarks at this point.

Mr. WRIGHT. We have passed a bill on the subject of confiscation which gives the President power to employ negroes to work at his discretion. I believe he had the power without that bill; and I will take this occasion to say to my friend from New York [Mr. HARRIS] that so far as the exercise of that power is concerned by our generals, my information is not of the character he gives to us in the letter from General McClellan. I have a letter before me, written in the South, from a gentleman that I have known for many years, and I purpose now to read an extract from it in relation to the effect of General Halleck's order No. 3. My friend writes, as follows:

"Halleck's order No. 3 has killed at least ten thousand of your western soldiers. You can see them in every car and on the corners of every street. At Hamburg, four miles above Pittsburg Landing, there were two thousand seven hundred soldiers sick, and six hundred had been taken away the day before we were there. I saw detachments of our troops making roads in the hot sun; I saw the boats being unloaded by them; and, in fact, young men, noble men who had sprung to arms to save the country, were performing labor which was enough to break down the constitution of the strongest; and I did not see a single black man at work at any of the landings on the Tennessee or Cumberland rivers; but I did see two stout fellows blacking the boots of rebel prisoners on board the steamer Uncle Sam at Pittsburg Landing."

This is the authority of a gentleman I can vouch for as a man of respectability. He sent me another fact. He inclosed to me a list of four hundred and seventy sick men who were then on board one steamer, most of whom were from my own State and Ohio; and out of the whole list but three were wounded in battle. They were all afflicted with the diseases of that country, as shown from the list opposite to each name, and but three were wounded. I only refer to this to show the fact that I will go as far as any man in prosecuting this war, in upholding the generals in the field, in sustaining any proposition that may be necessary, to employ these men, not only to work and labor, but will do whatever else may be necessary, with the vast means God has given us, to save the life of the Republic. But, sir, I wish here to protest against bringing this subject again before the Senate day after day. When it has been once passed upon, I think we ought to be satisfied. We have solemnly passed a bill giving this power to the President; and if he will not exercise the power, I do not know what more we can do than to enact a new article of war. This, however, is not the direct subject to which I desire to call the attention of the Senate.

My first proposition on the subject of this bill is this: I have believed from the commencement of this war, and I am more confirmed in that belief every day as it progresses, that we have not relied enough upon the patriotism of this country. Had the drafting of this bill fallen upon me, I should have incorporated within it no such provision for bounty, as I find is herein proposed to nine and twelve months' men. I would not encourage the States in offering the large liberal bounties they are now giving throughout New England and elsewhere to induce the enlistment of men.

I have desired to see a direct proposition from the General Government, presented to the patriotic people of the various States of my country at this perilous time to our hopes and institutions, that would go to, and arouse the deep, earnest heart of every man within them. Patriotism and generosity are the proudest attributes of this great people. Call upon them earnestly, appeal to them for the exercise of these noble virtues, and we should behold company after company, regiment after regiment, aglow with the kindlings of liberty and love of their blood-cemented country, with arms nerved to the fury of any conflict,

"Coming as the winds come when forests are rended,
Coming as the waves come when navies are stranded;"

marching to the field, clothed, furnished, yea and armed, if necessary, by their own means, to put down this unholy rebellion. Sir, if there is not patriotism enough in this country to save it, I fear me it will perish; I dare not trust its salvation to these liberal bounties.

I wrote to the President in November last, and I only refer to it to show that I was of the same opinion then, that I hoped this Congress before they were many days in session would authorize the States in this Union to bring out half a million of men, and see what States would respond and furnish them with their own wagons, their guns, and equipments complete. I desired to see how many men would volunteer to go into this struggle—not for money; for it is my solemn conviction to-day that there are officers in our Army who are mere hangers-on, who are dead weights to our cause. Sir, it is time for us to make an appeal to the patriotism of the country, uninfluenced by pecuniary considerations. While I am willing to pay the soldier, while I am willing to make a contribution to take care of his family, we ought to be careful not to make his enlistment a matter of money. We should be cautious about securing volunteers with a price, but rely alone and firmly on the pure and noble hearts of this country.

Sir, I must express fears that difficulty has grown out of error on this point. I fear there has not been a true appreciation of our condition among us as the representatives of the people. There was a great deal of truth uttered by General Wallace of my own State, the other night, in those magic words: "*We want to make war.*" Sir, we *have* to make *war;* we *want* to make *war*. There was much force also in the reply made the other day by an officer in Alexandria, when he was asked by the commissary department what he wanted: "*I want ropes in Alexandria.*" It was a laconic reply, but it meant a great deal. I purpose for a few moments to look at a few facts that stare us in the face. What has been the conduct of our Army? When I was in Kentucky in the month of October last, spending a few weeks, there was a regiment located right in the Blue Grass region, where there are a great many secessionists who have interests at the South. I was told when that regiment left there, they had never touched

or taken a thing from any man. Governor WICKLIFFE of the other House told me of a regiment from my own State that remained for some weeks in his region with perfect order, perfect discipline, and perfect system, and not one particle of property was taken or injured. When our Army took Williamsburg the other day, they took possession of a lunatic asylum, and placed our own physicians in it, and furnished our own means for its support. What treatment have we received in return? What has been the policy pursued in return for all this lenity and kindness? Need I answer, when we have all seen these armed rebels defy the laws of Jehovah Himself, violate every law of man, and outrage every sentiment of humanity. I have honestly regarded as the only measure that will save this country the bill to confiscate the property of these rebels; but it has been delayed here for weeks and months. In my judgment, if there is anything for which we shall be held responsible in the future, it will be the delay upon that very measure. Will any Senator answer me this question, and I appeal to the Senator from Missouri, have you heard anything about bridges being burnt in Missouri since the execution of an order to hang seven men for that offense? In that case the punishment was promptly inflicted; but have you heard of any other violators of the law being punished? You have gone into the enemy's country to restore order, and while there they have violated every law on earth and defied us, and yet the mercy and leniency of the Government forbid still, in a manner, their punishment.

Sir, I might as well be plain about this matter, for I mean what I say. The fault has been in the Executive of your Government. There has been no policy. One course has been pursued in the South; another in the East; another in the West; another in the North; but there has been no uniform firm and decided policy. It was your duty when you met in July last to sustain the arms of the President, and to give him a policy. This Congress ought not to have sat four weeks until the property of Lieutenant Maury in this city, for the use of which the Government now pays its money, had been taken possession of. This Congress ought not to have sat four weeks until Magruder's property and the property of every disloyal man throughout the North had been taken possession of. Can we expect peace in this country, can we expect order, while we are tampering with these men, holding out inducements to them, offering to accommodate them, and trying to bring them back into their allegiance by mild means while they are breaking down the institutions of our fathers? Look at the state of things in Kentucky and Missouri to-day, all growing out of the fact that there has been no system, no firmness, no policy. And our troubles will not end here; we shall have more, much more; we shall never crush this rebellion until we come out boldly and declare that this Government belongs to the loyal men of it, North and South. He who is not for the Government must bear the consequences. Not only what he has, but all he is in possession of, must be taken. It was a very pretty thing to listen to the Senator from Pennsylvania talk about the spectacle of men going into southern and northern homes, and taking possession of the property of women and children; but, sir, my mind reverted to a sadder spectacle in my own State, all over which may be found the widows of our slain, clad in the habiliments of mourning; bright hearthstones made silent and desolate forever, and beautiful daughters and dear boys turned upon the cold, cold charities of this unpitying world. I draw the curtain over the sad, dark scenes which crowd around the hearthstones and upon the stricken hearts the slain patriots of my country have left behind them.

Sir, the man who rebels against this Government ought to die. He has no right to the protection of a particle of property for an hour. Why, sir, I have before me a letter from the secretary of one of the finest railroads in Indiana asking my opinion in a case of this sort. A man by the name of Mitchell owns a large quantity of stock in that railroad. He was raised and educated by the Government of the United States. I see by the list that he was twenty-five years in the Navy. When this rebellion broke out, he went South. He commanded the Louisiana, a rebel vessel, in the fight at New Orleans the other day; and when he found that he would be whipped, he blew her up. He was taken prisoner, and is now in Fort Warren; and yet he is receiving every six months his dividends on this railroad stock. And this is but one of ten thousand such examples; and in the face of such facts, shall we continue, as we have done, shall we carry on the war in this beautiful way, passing over to rebels in arms the profits of stocks and property in the North, or loyal States, to feed them and strengthen their bastard government? The marshal of my State owes an existing debt of $20,000 to a gentleman who is a commissary in the rebel army; and every six months that man gets his interest. Can you tolerate these things? If these things are to go on, do you ever expect to restore order in this country?

Mr. President, for the last five or six weeks I have sat in my seat and heard gentlemen, hour after hour, and day after day, talk about what we could not do. It would have been gratifying to me if some gentleman had told us what we might do. It would have been far more gratifying to me to hear that. I know that there is rebellion in the land; I know that there are traitors in the North as well as in the South; and I know they are living upon the fat of the land. I know that in this city to-day, where you are taking the temples of God as hospitals, there is more property belonging to rebels than would be necessary to furnish hospital accommodations for every sick man in our Army. Sir, I would march with this Senate in a body to-night and say to the President, "before to-morrow's sun shall rise take every bit of it." It is not the mere value of the property I look to, but to the example you would show to the country that you mean to sustain this Government; that you mean that he who rebels against it shall lose his property altogether; and you will never have peace until you do it. I always begin to suspect any man's loyalty when he talks to me about the violation of the writ of *habeas corpus*, or this thing or that thing done to sustain the Government.

Mr. President, as an humble Senator I have voted against every measure that I considered was in the way of an efficient prosecution of this war. I voted against the proposition of my friend from Virginia, [Mr. WILLEY,] yesterday. I voted against the Pacific railroad. I voted against the bill to dispose of the public lands. Every measure that will weaken the Government, by weakening as I believe her credit, as these measures seemed to me to do, in this crisis, I am against; but I am for every measure that will give power and efficacy to the Government, and give strength and nerve to the soldier. If we could stop the discussion of this negro question, and not put it on every bill that comes up, and carry out, as we ought to carry out, the principles of the confiscation bill, we shall begin to see daylight. By that bill we can employ these blacks upon fortifications, and in all kinds of work; I am ready for that. I am ready to sacrifice everything to preserve this Union; but I do not like to see the Senate day after day discussing questions that will only tend to excite sectional controversy and can produce no good.

I desire to make a remark on another subject, and I hope the Senate will pardon me for alluding to it. I listened the other day with a great deal of interest to a speech of the Senator from Delaware, [Mr. SAULSBURY,] in which, I think, for about half an hour, he summed up what he believed to be the causes of this rebellion. Of course men will differ on that point, but I have made up my mind that this is not the time to find fault. I listened to the gentleman talking about a remark of President Lincoln's, that the Union could not stand with half the States free and half of them slave; but I can tell the gentleman that there is one sentence which I have in the book before me which has done far more injury to this Union. When a certain President of the United States wrote these words: "Kansas is therefore at this moment as much a slave State as Georgia or South Carolina;" and when that was followed up by a decision of the Supreme Court, the highest tribunal of the land, that your fathers and mine made a Constitution that carried slavery where there was no law for it—I was not in the country at the time; but I think I understand the popular heart of this people—it struck the hearts of millions of freemen as a falsehood and a slander. The people were told that Kansas was as much a slave State as South Carolina, where they have been legislating on the subject for eighty years; and it was expected that the honest, loyal men of this country would swallow a doctrine so monstrous. I go for the doctrines of the lamented Douglas, the true expounder of the Constitution, and one of the best, the ablest, and most faithful public men this country has ever produced. I go for no such power as is stated in that decision. If my friend from Delaware desires to find the causes of the present rebellion, he will find one of them in that celebrated message of James Buchanan.

Mr. SAULSBURY. I hope my friend will allow me to say one word.

Mr. WRIGHT. Certainly.

Mr. SAULSBURY. I know it is generally popular to attack a man who is out of power, who once had friends dancing attendance upon him, but who has retired from place and is no longer in any public position. When Mr. Buchanan was President of the United States he never did any act at my solicitation. He never made an appointment at my solicitation. I never asked for but one favor, and that was not to make an appointment to my State. He refused to gratify my wishes. But, sir, without attempting to indorse all the acts of Mr. Buchanan's administration, let me say to my friend, perhaps it is a little unjust to attack a man who is not in a condition to defend himself.

Mr. WRIGHT. I certainly have not made any attack upon Mr. Buchanan. I have spoken of a message of a President of the United States, but made no allusion to him. I think it was a fatal blow. I think it led to disastrous results. The gentleman knows what I mean, and I am not going to repeat it. I have no desire to enter into political controversies, particularly at the present time. I believe we have had a Democratic caucus, and I believe we have had a Republican caucus. I know one man who has attended none of them, and I know one man who, while this rebellion lasts, will never go into a political caucus of any kind. This Government does not belong to caucuses nor to parties. It belongs to the loyal men of this whole country. I am determined, so far as this question is concerned, that I shall never be a party to any organization until we have peace. Just in proportion as you organize party, you will organize divisions on the subject of this war. If you form party organizations at the North, you will have men for and against this war; and it is the duty of the patriot to guard against any such divisions.

Mr. President, I desire to make this appeal to the Senate. I desire to ask every Senator this question: what effect would a steady, uniform policy produce throughout this whole land? As I have said before, the difficulty is that we have no uniform, definite, fixed policy. No man can expect order until we have some uniform and definite plans of action. That plan or policy must come from your Executive, and we must sustain him in it. It should be this: "protection to the loyal men of the country everywhere; no protection to a disloyal man, whether in the North or South." That purpose or policy should be so firm and decided, that in carrying it out the whole power of the Government could be brought to bear. Have you a right to ask three hundred thousand men to come into your Army while vacillating councils prevail? I want the soldier of my State, when he falls upon the battle-field, to know that disloyal men are to be punished; I want him to know that the Government for which he is dying is to be preserved. If we have not boldness and firmness of purpose, how can we expect the soldier to exercise the courage that belongs to him?

I will take this occasion to make a remark in regard to a subject that we had under consideration this morning, in the bill of my friend the Senator from Iowa, [Mr. GRIMES,] on the subject of authorizing the Government to issue letters of marque and reprisal. I must say I was astonished at the course of the remarks of the Senator from Illinois, [Mr. TRUMBULL,] and the Senator from New Hampshire, [Mr. HALE,] that if we passed that measure, it would be an admission that we were weak; it would be vacillation. I have but one answer to make, and I alluded to it some weeks ago when I asked the Senate this question, and I now ask it again: is there any Government on earth that has the right to call in question what means we adopt to crush out this rebellion? Is it not a part of the policy of the Government of this coun-

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try, when a rebellion breaks out, to take our own means of crushing it? Senators are not aware of the injury the Nashville, the Sumter, and those vessels did to our commerce abroad. I remember twelve months ago, when leaving the Old World, I saw lying upon the wharves at Southampton more than $100,000 worth of property, the freight on which would have amounted to five or ten thousand dollars, and which was not put on board a vessel then in that port, because she was an American vessel. The rates of insurance on American vessels were increased. No man can calculate the injury that was done to our trade and commerce by those vessels; and yet it is said this is a dangerous power to give the President—the power to issue letters of marque and reprisal.

Is it a dangerous thing to give the President, if necessary to save the life of this nation, the power to arm privateers? What right have you to call in question the conduct of Great Britain, or any other Government, in suppressing a rebellion within her limits? What right have they to call in question our conduct in suppressing a rebellion here? I am willing to trust the Executive of this country. I remarked to a gentleman three months ago that this Government could have well afforded to pay $200,000 for the capture of those two vessels—the Nashville and Sumter—twelve months ago. I repeat, it is not a dangerous power; and I hope the Senator from Iowa will again call up his bill, so that I at least may have the pleasure of voting for it. It is just as essential in time of war that the Government of your country should have the power to issue letters of marque and reprisal as it is to pass a confiscation bill. Our commerce has been crippled; vessels have been detached from the naval service just on account of those two or three vessels, which, if you had authorized letters of marque and reprisal, might have been taken six or twelve months ago. We have the perfect right to do it on the principle that no nation has a right to look into the course of the conduct of another nation in putting down a rebellion.

It may seem that the view I have thus taken of the power of this Government is a little strong. I know that the propriety of a man taking the course to which I have alluded in relation to the confiscation bill has been called in question. If gentlemen can point me to any other remedy, if gentlemen can show me any other system, I should be willing to adopt it. As I remarked two months ago, if we have not the power to pass a confiscation bill, I desire to know why we have not had articles of war on this subject. Let us at least have a uniform policy in carrying out the views of the Government of the country, as expressed through its members of Congress. Sir, the unity of this country is paramount to all other considerations. We have got to have war; and I mean by that that we have got to execute the power of our Government in its bullets and bayonets. There is no other power that can be looked to in this crisis. During the course of my life I have seen a little of the force and power of this Government. I have been abroad and seen the influence and power of my country when it was united. The Governments of the Old World are watching earnestly all our movements. They say we are strong except in one aspect, and that is, to put down a rebellion. They have always doubted our power to do that. The Governments of the Old World will tell you privately, "oh, you do very well so long as your country is in peace and harmony; but whenever a rebellion or insurrection takes place, you have not the power to crush it." We have given them one answer in the number of men we have called into the field, in the unanimity with which our people have responded; and as I said a moment ago, I desire very much to see that spirit carried out again in relation to the measures proposed by this bill—not offering money in contributions, but I should like to see an appeal made to the patriotic heart of the people. I have seen the influence of your Government abroad before disunion was stalking over the land. I have seen an American citizen who was arrested and put into the army of a foreign country when we were a united people, at once discharged by that Government because it was their policy to do so; but the moment divisions and dissensions grew up in the land, I have seen a hesitating policy there that looked not to the force and power of our Government, but to say that in our weakness and divisions we were gone.

Mr. President, I may have erred, as all men are liable to err, in relation to these questions. I took my seat in this body, under peculiar circumstances, four months ago. It is the only position I ever held in my life that did not come from the people; and I have been a politician for thirty years. Sir, I came here and took the oath at your desk with but one solemn determination, and that was to give my vote and my influence to every measure calculated to prosecute this war, calculated to break down this rebellion. I have never looked to the right nor to the left, but have asked myself this question: what measure and what system is best calculated to restore this Government over all the States? I have never been one of those who believed or have ever thought of the question of the separation of any portion of this country—never. My motto is, we are one, we cannot be two, three, or four. We are one people or we are nothing. In carrying out that maxim, I know of nothing so essential as that the Government shall act with energy and firmness, and that the power of the Government shall be brought to bear in a solid and single policy, North, South, East, and West. Who was not alarmed yesterday on opening the papers at seeing the state of things in certain portions of the country? It is said that the archives of the State of Kentucky have been removed, although you have had peace there for six months past. What is the state of things there? You have had armies all over Kentucky right among rebels who have got sons in the rebel army, and you have bought their produce and paid them your gold at high prices. Do you expect to carry on this war and to maintain this Government in that way? If you do, you are mistaken. You never will preserve this Government unless you prosecute this, in the language of Wallace, *as a war*. If you wish to carry it on as a war you must go into the country of the enemy, and you must make them contribute to the support of our Army. When we go into a land to restore order, we must make those who have dethroned it pay for it.

Why, sir, look at the vast amount of property in the North as well as in the South owned by these rebels. There are towns in the West that are paying thousands of dollars every year to these southern men. When a man comes to Indiana, where I live, and preaches doctrines opposed to this confiscation bill, I have but one thing to tell him: there is scarcely a hamlet there that does not contain a widow; there is mourning all over the land; and by the side of the graves of these boys, in many instances, there are large buildings and fine farms owned by southern rebels. Sir, that property should be taken, not to-morrow but to-day, instantly, North and South; and wherever you go, let the watchword be war! war! war! If you think that by tampering with this question, by introducing side issues, you can save this country, in my judgment you will be mistaken. No, sir; those measures will not do; nor is this the hour or the time to introduce side issues or other questions. For months I have listened to gentlemen discussing those questions; but I have endeavored to give my vote with one single object in view: to prosecute this war and to sustain the President. When I sustained General McClellan, in the few remarks I made the other day, I sustained him because he is a general in the Army; he is my general. I sustain the President because he is my President. I sustain whoever is in authority. I know no other way to save this Government than by sustaining those who are in authority; and I will not find fault by the wayside with what he is doing. If I think a general is incompetent, I will go to the proper authority about it, but I will never introduce a resolution in this body to weaken the arm of a general or the President.

As before remarked, I have been a politician for thirty years. I have been what the world called a Democrat. I hold the same political sentiments now that I ever did. A friend of mine, in addressing a Union convention at Indianapolis the other day, stated a striking fact, that there were in that convention nine men who were members of the second convention that nominated General Jackson. I wish I had been present at that Union convention in my State to have made the number ten, for I was also a member of that convention which nominated General Jackson. When I was nineteen years of age I attended a Democratic convention. I have been a Democrat all my life; but, sir, the man who can talk about a Republican party, or a Democratic party, or who can talk about anything in this crisis of the country but the best measures to save his country, is unworthy the name of Republican, is unworthy the name of Democrat. There should be no Republican party, no Democratic party now.

I desire to say that the sentiments of the extract I am about to send to the desk are the sentiments of the people of Indiana on this slavery question. Indiana is a national State. She desires to live in peace and harmony with sister States, and to preserve this Union. I ask the Secretary to read this extract from remarks made by a friend of mine.

The Secretary read, as follows:

"Whether the war shall end in subjugation and emancipation is a question that concerns the rebels, and not us. They can lay down their arms and consider themselves *conquered* or *subjugated*, as their refined sense of honor and delicate taste may prefer; and, though the political power of slavery is forever broken, the tenure of property in slaves may continue; but if they protract the struggle until the endurance and resources of the nation are expended, I predict that, without any congressional or executive interference, and as the inevitable result of invasion and the conflict of arms, the longevity of slavery will be coincident with the duration of the war. We will prosecute the war to reëstablish the supremacy of the Federal Constitution, under Mr. CRITTENDEN'S resolution at the extra session of Congress, and if slavery must perish in the conflict, let it perish.

"We can all agree in a vigorous prosecution of the war to crush treason and save the Government, and if, in so doing, slavery dies, let it go. We have no stock in it. We did not put it in peril by a war. What interest or responsibility have we in slavery? Why is slavery any more sacred in the hands of rebels than any other species of property? Why will political fossils persist in linking the fortunes of the Democratic party with the fortunes of slavery? Rebels have thrown off their obligations to the Constitution, under which alone it has any guarantees; they have put it in issue by a causeless and unprovoked war; they have staked it on the result of military conflict. Shall it not abide the fortunes of revolution?"

Mr. WRIGHT. I remarked that I believed those were the sentiments of the people of my State. I shall detain the Senate but a moment longer. I know they are anxious to come to a vote. If I have exhibited any warmth in the remarks that I have made, I hope it will be attributed to my natural character of being impassioned. In the conclusion of my remarks I beg the Senate again to consider this question: when we have decided this matter, why should the subject be introduced here every day and in every bill? I favored the confiscation bill that finally passed with great regret, because it had that one feature in it; but I voted for it simply because I believed the President had that power without the bill. I desire to see everything on God's earth taken by our generals that will assist in the prosecution of this war; but, Senators, it will never be done until you have a policy defined by your Executive. I talk to you as a plain man. It never will be done until you have a policy defined by the President. A general in the Army who will not employ every negro that comes within his lines to work, to labor, should be turned out instantly. As that Army moves along, every bit of property belonging to the rebels must be taken. If your President does his duty, before ten days, in my judgment, there can be $30,000,000 of property belonging to rebels taken possession of in the North. Gentlemen have no idea of the amount of property held in the Northwest by rebels, from John Slidell down. Sir, you have got more rebels than you think you have in this country, and it is the duty of our Gov-

ernment to show firmness and nerve and energy in punishing them. It is our vacillating policy that has now caused Kentucky and other States to be invaded, because we have not sustained our loyal men, and we have not shown to the people of this country that we are determined to carry on this war as a war. We shall never have peace until we have a uniform and permanent system, and that system must come from the Executive; and if it is necessary, he ought to be told by you and by me: issue a proclamation, not only one a day, but every hour; this is no time to hesitate; put it in the hands of every officer throughout the North, and proclaim throughout the length and breadth of this land that a man who is not for this Union must forfeit all he has. This Government must be preserved. A rebel to this great Government has no claims to its protection; and the man who can rebel against it ought to forfeit everything and to die.

Mr. SAULSBURY. I should like to ask my friend a question.

Mr. WRIGHT. Certainly.

Mr. SAULSBURY. I will ask him whether he would make every military officer the judge of the loyalty or disloyalty of the citizen?

Mr. WRIGHT. I will answer that. I would not make a military officer the judge of a man's conscience, but we can always tell men by their acts. We have a great many men furnishing aid and comfort to the South. We have men all over the North who cannot see anything right in this war. I would make every military commander my officer; I would lay down my rule; and I would take the property under this confiscation bill, and then I would let the court determine the question. Sir, in this hour of deep calamity it is no time to be critical in the use of the means we shall employ.

Mr. President, it was my fortune about ten months since to come into that beautiful bay, the bay of Naples. No man can describe it. There, for the first time in many months, I saw the American flag, and about twenty of our boys rowing to shore; and I met a gentleman, that I was pleased to see here the other day, on board the Richmond, who is a loyal man, just as we had received the news of the attack on Fort Sumter. A man must see all this; to know what it is in a foreign land to see the flag of his country and meet one of his fellow-citizens; to know what it is *to be* an *American citizen*. We have a great deal more at stake than I fear we sometimes think. We talk about our Government, and speak of it as our all. We each know that; but we do not realize what it means to be an American citizen. Mr. President, go abroad; go to the couch of the dying mother, when in a foreign land, separating from her child, her husband, and everything that is dear to her; see that dying mother ask for the flag of this country to be wrapped around her when she dies, and you will then know what it is to be a citizen of a united and happy country. I have felt this; I have known it; and I could not come right back to my struggling country and run into partisan ranks, and talk about filling the offices of the country. What odds does it make who fill the offices of the country, if we can preserve it, if we can only save the institutions of our country, and break down this rebellion and the principle on which it rests—disobedience to law?

Why, sir, if Jeff Davis, in his inaugural, had put the rebellion on the ground of revolution, I should have felt very different from what I do in regard to it now. It would have been less painful to me if he had claimed the right to go out on the ground of revolution; but, oh! those fatal words, the right to separate from this Government, under the compact of our fathers, the right to secede from this Union, the right to go out of this compact! Acknowledge that doctrine once, and you have got nothing left. What obligations have you at home for your counties to remain in the States? It would sap the foundation of all our institutions; and who is there that is not willing to sacrifice anything and everything to break down this infamous heresy which is attempting the destruction of this Union? Sir, if that doctrine should prevail, we may burn our churches and destroy our schoolhouses, for there is nothing left worthy of the name of an American citizen.

Now, we are all engaged in this controversy, in this contest, and my prayer and wish is that we may act together as one man, and have a definite policy from the Executive; that that policy may go before our Army; that every man who takes a musket in his hand may know, as he goes into battle, that he has the assurance of his country to stand by him in an affirmative policy, and to make the disloyal man's property subject to his wants, and an aid in defraying the expenses of this war. Then we shall have a system, and will show to all the nations of the earth that we are yet a Government, and that there is yet power, firmness, and nerve enough to punish rebellion.

Mr. HENDERSON. In reference to one point made by the Senator from Indiana, as against Missouri, Kentucky, and Tennessee, I desire to state to that Senator that I believe in the State of Missouri are the only instances of contributions levied upon disloyal men for the purpose of carrying on this war. I cannot now remember a single instance, except in the State of Missouri, of contributions being made strictly in accordance, as I consider, with international law upon that subject.

Mr. WRIGHT. The Senator will allow me to ask him this question: was I not right in the statement that General Halleck's order issued on the subject of hanging bridge-burners has stopped all trouble of that kind since?

Mr. HENDERSON. Not entirely; there is some trouble now.

Mr. WRIGHT. Then it is only lately.

Mr. HENDERSON. I will state to the Senator from Indiana that, in the State of Missouri, those men who have been caught in arms within the last two or three months have been summarily put to death; they have been shot upon the spot where they were taken. That is the system that has been adopted in the State of Missouri. Contributions have been levied in various parts of the State of Missouri; and I can say to him very frankly that I agree with him in the belief that if we had marched our armies into the territories of the rebellion, and had levied those contributions according to the international law on the subject, as we have an indisputable right to levy them, and to collect from the rebels whatever might be necessary for the subsistence, the transportation, and the comfort of the Army, we would have had less trouble.

But, sir, there has been another difficulty in my honest view in reference to this matter, and I will state it now. The Senator from Indiana is mistaken, in my opinion, in reference to the valuable power that he has assigned to anything like legislative confiscation. The course of policy that I would pursue in Missouri I would not pursue in South Carolina. Why? Because in the State of South Carolina the people are rebellious, almost every one of them. It is almost a united rebellion in the State of South Carolina. It is not so in the State of Missouri; it is not so in the State of Tennessee; it is not so in the State of Kentucky; and I would vary my policy in those States. It will not do to talk about a general policy in reference to putting down the rebellion. The course of policy I would pursue in regard to men who are bushwhacking in Kentucky to-day, when there is comparative peace, and in the State of Missouri, is this: when I caught them I would have them shot, because it is irregular warfare; it is guerrilla warfare; it is not legalized by humanity, nor is it in accordance with the rights of nations in that respect, and hence it is that I would treat them in that way. But the Senator from Indiana would not put to death the prisoners that he took at Fort Donelson, nor would he put to death the prisoners that he took at Richmond the other day. Why? Simply because, if they are put to death, our prisoners in their hands will be put to death to an equal number.

Let me say another thing while I am up, as I do not desire to occupy the time of the Senate again. The Senator complains of the discussion of this negro question. I have not thrust that question upon this body. I have never done it. I have been indisposed to discuss it upon every occasion, and I do not feel disposed to discuss it now. When he talks, however, about disloyal men being protected, he will excuse me if I say that I have not, in all my action, cared at all in regard to the rebels; but whatever I have done has been done for the protection of loyal men. I have not given the rebels my sympathy, as I have repeatedly said. I have had nothing to do with their rights and their interests here in the Senate; but whenever I have touched this subject, it has been in reference to the rights of loyal men; and he, himself, has complimented the loyal men in every State in the Union, and very properly.

The Senator thinks that if the President of the United States will adopt some policy—I suppose he alludes to this negro question—and carry it out, this rebellion will be completely put down. Mr. President, the putting down of this rebellion does not rest upon the negro question. My opinion is, that there has been an effort on the part of the Government intended for the best, but which has not operated well, to protect the whole line of border between the seceding States and the non-seceding States. I know that there has been an effort in the State of Missouri to protect loyal men there, and I honor the Government for it; I honor northern men for it; but it is wrong that sixty or seventy thousand troops should be kept upon that border for the mere protection of men in Missouri. It is wrong to divide the immense force that we have for the purpose of putting down the rebellion, and have a part of it at Corinth, a part of it in Arkansas, a part of it at Washington city, a part of it at Richmond, a part of it at Hilton Head, a part of it at other points in South Carolina, a part of it at Roanoke Island, and a part of it at New Orleans. I have for some months been fearful, inasmuch as we are compelled, when we make a movement, to move around the whole borders of these seceding States, and we are necessarily delayed in making our military movements, that the rebels with their railroads, and having only to cross the diameter of their States, will attack us in detail, and destroy the various divisions of our Army. From recent movements in Tennessee and in Kentucky, and from our reverses at various points with our divided Army, I have been fearful, and I am now fearful, unless there is some more concentrated effort, that it will be defeated in detail. If an attack is made in the direction of Washington city, and it becomes necessary to move the troops of General Halleck's army here, it is no easy matter for us to make the transportation; but yet it is an easy matter for the rebels to make a movement from Corinth here, and why? Because they have merely the diameter of their country to pass over, while we have one half of the circumference or more to pass around. That is the condition of affairs. There ought not to be an intention on the part of the Government to protect every inch of its border. That idea should be abandoned, and abandoned at once.

Sir, you will never free slaves, you will never confiscate property, you will never touch the enemy, unless you can enter their territory. How are you going to enter it with your Army divided in every direction? Can you advance through South Carolina? We undertook it the other day and backed out. Can you advance into North Carolina? Why has not the advance long since been made? Can you advance below Corinth? Why not advance? I tell Senators that the great difficulty is that our Army is not concentrated. It ought to be brought together and then marched over the country. Subsist the Army, as the Senator from Indiana says, upon the rebels as you go. Make them feel the power of the Government. They have never yet felt it. A few secessionists of my State have had levies and contributions made upon them, and to my satisfaction always. In addition to that, they have had their property destroyed; and Union men, too, have had their property destroyed. Sir, nobody has felt the terrors of this war except a few border State men. You have not yet entered the territories of the rebels; and with a divided Army all around this vast circumference of their territory for thousands and thousands of miles, while they transport their troops from one point to another, they may attack us in detail and destroy the Army. This has been going on for a long while.

If you will enter North Carolina and South Carolina and Alabama and Georgia and Louisiana, whose action brought death and destruction to the border States, we will not complain as to your course of conduct, whatever it may be; but we implore you to go there, and take this war, if you please, from our borders. We have borne it long enough. Our people have all been confiscated to every extent that my heart can desire; and I am as good a Union man as any that lives. We have all, Union and disunion, been confiscated—confiscated to the extent of the desires of any man; and here you are with your armies in our border

States. We beseech you, leave Missouri, leave Kentucky, leave Tennessee, and go into the rebellious territories. If Halleck's army is not able to break through their serried ranks, add enough men to Halleck's army, and let them go. If we desire to defend this capital, defend it; but do not keep the whole Army here in defense of the capital. We had better remove from the capital the archives of the Government—remove them to the city of Boston, if you please, and turn the Army loose in this country, and resolve to march even to the Gulf of Mexico. As long as you keep your armies upon our borders, the rebels accomplish their design. Their object in the beginning was to build up a confederacy of the cotton States. They never wanted Kentucky; they never wanted Tennessee; they never wanted Western Virginia or Maryland. Every border State man knows from his conferences with those gentlemen in years past that they never would receive us.

Why did they pretend that they desired us? Why did they say they wanted us to go with them? To make us, in the language of Mr. Yancey, fortifications for them. It was to keep up the internal war in Missouri and Kentucky, and in Tennessee, to divide their population, to divide even men in the northern States, and to keep our armies just as they have been in the border States—destroying our property, bringing on ill feeling, bringing all the terrors of war upon us; and by the time their armies were conquered, together with the disloyal men driven from our States, our financial condition would be such that we would be compelled to acknowledge their independence. They hope by the destruction of their own cotton, which they thought would regulate and control matters in Europe, and by keeping our armies at bay in the border States, that they would go unscathed, and that hereafter they could build up a confederacy commanding the mouth of the Mississippi, commanding the Gulf of Mexico and the southern Atlantic, commanding the great rivers of the West, and then they could pay their debt, by levying contributions on western commerce. Everybody knows what their object was; and yet they have never been touched by the horrors of war.

Sir, it is not confiscation that is going to enable you to do it. Suppose that you send forth your fulminations, your proclamations from the capital, declaring that all property is confiscated. Is it so? The object is not accomplished; the deed is not done. Why pass your laws saying that negroes may be armed, if you cannot get to the negroes? Just so long as you keep your armies divided, they will attack you upon the Napoleonic system, massing troops together and destroying you in detail upon the borders. Sir, Missouri, Kentucky, and Tennessee will yet prove to be the grave of your northern men, and hereafter, when you come to build your monuments to northern bravery and chivalry, you will have to build them upon our soil, and not upon the soil of the southern gentlemen who have brought about this rebellion.

Therefore, sir, I say, unite this army, and let it march with sufficient force to oppose any army they can bring to bear. That is what we want. Then, go on levying your contributions. As I said, if you are afraid of the capital, take away your archives, and turn your armies loose, and tell them to go. There is no use of undertaking to protect Missouri. Let us protect ourselves. Go along into the southern confederacy, and their armies will be called home to defend their own States, and they will not annoy us. Whenever you enter North Carolina and Alabama and Georgia, no southern armies will be found in Kentucky.

Mr. CARLILE. We have been in North Carolina for a year.

Mr. HENDERSON. You have been in North Carolina just having land enough to bury your dead. Sir, that will not do; it is not sufficient. So you have been in South Carolina; so you have been in Mississippi; you have had the flag floating in them all; but scarcely land enough to bury the dead who die of disease. That will not do. You must go into these territories; march over them; let them feel that this is war, levying your contributions and subsisting your army upon them. Let us of the border States be relieved of the horrors of this war. Until you advance your armies they will raise guerrilla bands. They are at it in Kentucky now; they are at it in Tennessee. They can raise four, five, and ten thousand men around you in a night, and the first thing you know a regiment will be taken solid, as a Michigan regiment was taken the other day. Thirty or forty or fifty will be sacrificed in a night. In that way they expect to delay your armies until your financial condition will force you to acknowledge their independence; and then they will fall back, and say they have accomplished all they ever designed, a confederacy of seven or eight States lying on the Gulf of Mexico, and they will tell you they said to border State gentlemen, we did not want you in the beginning of the controversy.

That is the character of the change that ought to be made in the administration of the war, and I know of none other. We ought to gather our armies and march on irrespective of the territory behind us. You are afraid that the loyal men in Missouri will be hurt; you are afraid that if you leave there and go down into Arkansas, or into Louisiana and Texas, and leave nobody for our defense in Missouri, they will march up into Missouri, get around our armies and hurt us. You are afraid of the loyal men in Kentucky being hurt; you are afraid of the loyal men in Tennessee being hurt. Sir, we do not ask you to remain near us. Go on with your Army upon these seven or eight cotton States, and leave us, and we will defend ourselves against them. But we know we shall have no defense to make. The moment you enter their territories their armies will become concentrated, and we shall be freed of the guerrilla bands and bushwhackers who are taking our property and sacrificing the lives of our best men every night. That is what we want, and that is the change of policy we have desired. We do not want your paper bulletins here. We want a few more men; we want a few more regiments; we want your armies massed together in sufficient force to march through the southern confederacy. I do not care what direction you take; but go through the heart of their country. Make them feel that there is war existing; make them feel that if they are to be protected at all, it is by the power of the Federal Government, and not by this *de facto* confederate government. Whenever you have done that, this rebellion closes; and until you do that it will never close.

Sir, if this policy is pursued much longer, if we keep our armies divided, and these men, by destroying their cotton, show to the civilized world a determination, and not only a determination but an ability to maintain themselves, European Governments will interfere in our affairs in a short time, and demand at our hands peace for the good of the world. We have delayed too long, I admit with the Senator from Indiana. It is not in consequence of legislative decrees, but in consequence of bad management of the armies; and when I say that I say this mismanagement has proceeded from the best motives in the world. It has proceeded from a desire to protect us in the border States. I am thankful to the Administration, I am thankful to northern men for their kindness in protecting us; but I would say, drop all your ideas about this negro controversy; let it go by the board; drop your controversies about confiscation; go upon their territories; subsist your armies; take whatever is necessary to put down the rebellion; pursue this policy in one State; that in another; whatever may be considered as essential to put it down; and when you have done that, when you have established the flag of the country upon every hill-top and in every valley in the southern States, you can return back and say that the rebellion is suppressed.

Mr. DOOLITTLE. Mr. President, the temper and tone of the remarks of my honorable friend from Missouri meet my most cordial approbation; and the fact that he speaks so confidently to-day about the people of Missouri and Kentucky and some other border States, is to me a matter of most sincere congratulation. But, sir, I do not agree with him entirely. I do not agree to all the criticism which we have so often heard here, that the policy of the Administration in the management of our armies has been either so mistaken, so unmilitary, or so destitute of foresight and generalship as I hear it very often said.

Sir, let us go back a little in the history of this thing. In the beginning, had the policy of concentrating all our forces been pursued, how long could Missouri have held out against the designs of the secessionists if no Federal army had been sent to St. Louis or to Springfield? So in relation to Kentucky. If the armed forces of the Federal Government, and in large numbers, too, had not been sent into Kentucky, who could say that, through the efforts of the secessionists, Kentucky would not have been within their power to-day in spite of the loyal citizens of that State? Had our Army been concentrated, as gentlemen now say it should have been, at one point, at Washington or in South Carolina or in North Carolina, where would the valley of the Mississippi have been now? I tell you, sir, that, upon the whole, there has been a masterly use of the forces of the United States upon the Mississippi river, in Missouri, Arkansas, Kentucky, Tennessee, and Louisiana; in sending, at the same time, troops enough into South Carolina to take possession of its harbors to shelter our vessels; in sending, at the same time, troops enough to the Gulf of Mexico to seize all its harbors, to give protection to our armed vessels necessary to enforce the blockade; in sending troops, also, into North Carolina, seizing all her seaport towns, giving protection to our ships, and enforcing the blockade against this rebellion there; in keeping, all the while, a large body of troops in Maryland to sustain her loyal people, and to keep down and awe into subjection every element of secession there; and in maintaining, at the same time, a large body of troops to defend Washington, the capital of the United States, which, for a long time, was in danger of being seized by the confederates—it is by pursuing such a policy, by sending our troops upon different points at the same time to seize upon the Mississippi, to seize upon the Gulf and Atlantic coasts, to defend Washington, that we have obtained time for the loyal sentiment of Missouri, Kentucky, Tennessee, and Maryland to rise up to the point that their representatives here can now, to the pride and joy of my heart, declare that they are all able to defend themselves against the secessionists and rebels in arms.

Sir, I do not say that in every respect the conduct of the armies of the United States has been satisfactory. From what I now know, I believe that the army of the Potomac, in December last, if the same vigor and energy which inspired the western army in opening the Mississippi and taking the rebel strongholds of Tennessee had controlled it, might have captured the army at Manassas. I do not doubt that. But, sir, it was not done. Although it has not been done, although it ought to have been done, still I am not one of those who can look back over the last year's history, during which we have organized an immense Army and Navy almost from nothing; during which we have recovered our rightful supremacy over territories larger than the kingdoms that talk about intervention from Europe; larger than the kingdom of France, three times as large as Great Britain; during which we have opened the great valley of the Mississippi—that river which more than all things binds this Union together. As long as we hold the Mississippi, from its sources to its mouth, this Union cannot be dissolved. Our friends who live down in the little States of New England may regard southeastern Virginia, this side of the Alleghany mountains, and North and South Carolina as of very great importance. Why, sir, if we were ten years subjugating that country to the supremacy of the Constitution, it would be as nothing compared with holding the valley of the Mississippi to the Gulf of Mexico, thus binding the Union together forever from North to South. Sir, tell me that nothing has been done! The history of this world has never shown a parallel.

I do not say this to show that I approve of the policy that has been pursued in all things. After events have transpired all see, or think they see, wherein mistakes have occurred. I could wish there had been a more vigorous policy; but I beg to say to my friends here, let us have a little more patience. Let us wait. God is wiser than we are. It is said the "mills of God grind slowly," but they grind exceeding fine. Wait a little; do not manifest so much of this impatience; the time is coming. Already is America the mother of liberty; but she did not yield all her offspring at a single birth.

The Revolution and the seven years war with Great Britain which followed was her first parturition. During that long period of throes and pains and agony and blood, she gave her first-born birth—liberty, ay, liberty—but it was liberty for

the white man and not liberty for the black. Now, again, in God's own time and in a way that man knows not of, America is in the agonies of her second childbirth, praying to be delivered. In some way no human being can foresee, this war forced upon the country by the madness and fanaticism of the South, will, as all hearts believe, never end until slavery is put in the process of final extinction; until liberty for the black man, the second offspring of America, shall be born. This is the period of her second parturition, her hour of pains and throes, of blood and agony and tears. It is a time that demands of all her counselors and advisers in this trying hour patience and self-possession, coolness and courage, and, above all, that steadiness of purpose and fixedness of resolve which comes only from abiding faith in God. Sir, the child is there; it must be born; its period of gestation is nearly over; the labor pains of parturition have begun. Let there be no fanatical excitement, no attempt to force nature before her time; let every nerve be steady; let every soul possess itself in patience; gird up every energy, and learn to labor and to wait. Would that it were so. Some, in the excitement of the hour, urge immediate delivery before its time. With knife and bloody hand and one deep gash they would perform a gigantic Cesarean operation, at the imminent danger of destroying both the mother and her offspring. Others, with less noisy zeal, but with cooler and clearer heads and steadier nerves, and, in the same proportion, with more fixed determination, say "take care of the mother; save all her strength; wait upon and assist nature in her labors; let no rashness or insane folly destroy at the same blow both the mother and the child; let us save them both; have faith in God the Almighty; work with Him and not against Him; let us not madly run before Him and place ourselves in His way."

Sir, in religion and politics everywhere, and in all times, there have been two tendencies to leave the path of true wisdom; one to push matters, even good things, before their time—to harvest the fruit before it is ripened; the other to keep matters, even good things, behind their time, to let the fruit become rotten before it is gathered. One is fanaticism, the other fogyism. In my opinion, true statesmanship consists neither in reaping what is not ripe, nor in gathering what is rotten, but in harvesting what is just ripening; in a word, in pressing the right thing at the right time and in the right way, neither too soon nor too late. If, without irreverence, we could imagine one of each of these classes present on the evening of the first day of the creation, the fanatic would begin in his usual impatience to find fault with the slow movements of the Almighty and say, "what can be the possible necessity or use in God's taking six days to make the world. He is Almighty, and he can do it just as well in two days as in six. If he takes six, I denounce him as a conservative." "But," says the fogy, "that is all wrong; behold what an immense labor has been done already. I insist he ought to rest, and have his Sabbath on the second day. He ought to rest every other day at least, after such infinite labors." The third and truly wise one says, "God is all wise, as well as all powerful. He knows when to labor and to rest; I bow to his will. I will seek to work as He works, with Him and not against Him."

Let me say to our friends here, that the Almighty is just as much working with us, and through us, as he did in the days of the Revolution, or as he has at any other period of our eventful history. We are, under His providence, to work out our high destiny; a higher, better, and diviner state of things for man than has ever before appeared upon the earth. When men rise here and say there has been no policy on the part of this Government, they do great injustice to the Government, to its administration, and to the character of the American people. No Government on the face of the earth, in the same time and with the same means in their hands, have accomplished so much. True, sir, I could wish they had accomplished more; I could wish, as I look back upon the past, that last December we had marched upon Manassas and taken the rebel army there, as I think we might; but because we have not done it, because down at Richmond lately some say we have met with a temporary repulse, am I to sit down, as an American Senator, and say, "I am ready to give up the ship; the Union is gone; the Constitution overthrown; the battle is over; we are beaten on all sides?" No, sir; never. We have but just begun to fight. I say to the honorable chairman of the Committee on Military Affairs, do not be discouraged, sir; the American people are just bending themselves to this contest; they will gather strength from reverses which, in war, we must sometimes expect; they will fight it through. Never you fear, sir.

Mr. President, I should not have been drawn into these remarks, but that I thought, from the tenor of the speech of the honorable Senator from Indiana, and I attribute to him nothing but a patriotic and earnest desire to press this war through, that he thinks there is no policy on the part of this Government. Sir, he is altogether mistaken. There is a policy, and there has been from the beginning. One sentence expressed it all in the inaugural address of the President. It has been repeated in every paper, and every act of his, from that time to this hour; and it is to maintain the oath which he has taken before high Heaven to support this Constitution, to maintain this Union, to put down this rebellion, and to trample it, and the men who have been the authors of it, and everything which stands in his way, under the feet of this Government.

I have often heard the question asked, why does he not hang these traitors taken in arms? When has there been one hour that he could do so? Have the rebels not had during the whole time almost an equal number of our prisoners? If we should hang one of their prisoners, would they not retaliate at once and hang two of ours, and would we not be compelled, in retaliation, to double that number and hang four of theirs, and thus make this civil war a war of barbarity at which human nature would shudder? Why complain, then, that he has not hung these traitors that have been taken in arms? Sir, wait until we crush this rebellion; wait until we recapture our prisoners, as we shall; wait until we shall have subjected this country to its rightful supremacy by the arms of this Republic; and then I have no doubt he will go as far as justice requires in taking the leaders of this rebellion, the Davises and Tombses and Yanceys, bring them into court, and make them feel the power and the majesty of the law of the United States executed upon traitors.

But, Mr. President, I will forbear making any further remark. I only desired to say this by way of encouragement to those of our friends who seem to be so desponding on this subject of the policy or the want of policy of the Government.

Mr. WILSON, of Massachusetts. I hope, sir, we shall endeavor now to get a vote on this question. We have had it under consideration for five days. I assure my friend from Wisconsin that I have not lost heart in the support of the country; but I am getting almost discouraged about getting this bill through. [Laughter.] I hope, therefore, the Senators will vote upon it.

Mr. POWELL. Before the vote is taken, I wish to assign to the Senate, very briefly, the reasons why I shall vote against the bill. It was not my purpose to discuss this bill at all; but after the speeches that have been made, I feel it incumbent on me to put on the record the reasons why I shall vote against this bill; and, in passing, I shall notice very briefly some of the points made by Senators who have discussed it.

That portion of the bill that does not relate to the arming of slaves I shall not notice. It is to that point that I wish to direct very briefly the remarks that I shall make. After the very elaborate and excellent speech of my colleague on this subject—and I heartily and fully concurred with him in everything he uttered touching the arming of slaves—I did not think it was necessary for a Kentucky Senator to be heard further.

Mr. President, I am as confident as that I live and speak to the Senate of the United States today that the policy of arming slaves, which has been adopted in one bill that has passed both Houses of Congress, and is proposed in the bill now under consideration, is the most disastrous measure for the integrity of this Union that has been or can be before this Congress. In my judgment, there is no valid reason why any man, who desired the Union reconstructed and maintained as it was, or the Constitution maintained as it is, should advocate the policy of putting arms in the hands of slaves. It is shocking to every sense of humanity, to every impulse of Christianity, and to every noble feeling that should animate manhood in a civilized and Christian land. The result will be to turn these people loose to indiscriminately cut the throats of the women and children of the country, and to burn their houses over them in the night time. I know well the nature of these negroes, half civilized as they are. I know their brutal ferocities. Those who advocate this doctrine may think they can regulate and restrain them; but whenever they get these people in motion, they will find that the torch of the incendiary, the assassin's dagger, the violation of female chastity, and the putting of the innocent women and children of the South to death by the most cruel tortures will follow. That has been the result in other countries where these people have had arms in their hands. You may think you are adding largely to your armies by that mode; but allow me to tell you, where you can put one gun in the hands of a citizen to overthrow this rebellion by that policy, in my judgment it will cause hundreds to take arms against the Government who otherwise would be loyal; in my judgment it will cause many of your bravest and best soldiers to resign their places in the Army, and perhaps turn their arms against the Government, which they now serve with loyal and patriotic zeal.

The Senator from Indiana, a moment ago, passed a most glowing eulogy on Judge Douglas. I do not object to that eulogy. He pronounced him perhaps the greatest and ablest expounder of the Constitution. I would to God that the Senator from Indiana, for whom personally I entertain the kindest regard, had been animated by the noble, the lofty, the pure, the constitutional, the broad, philanthropic, and Christian feelings that animated the dead Senator when he occupied a seat on this floor. In perhaps the last speech that he ever made—the speech delivered when he was welcomed to his home in Chicago, he uttered these words, contemplating and having in view the very state of things by which we are now surrounded. He said:

"We must not invade constitutional rights; the innocent must not suffer; nor women and children be the victims; savages must not be let loose."

He was then referring to this war, the speech was upon the war, speaking of this very negro question; and that last clause, "savages must not be let loose," alluded to them. And yet his disciple is here to-day advocating the arming of the negroes, turning the savages loose, which his great master forbade by that sound and humane teaching. Sir, if the dead Douglas were living, his noble heart never would be animated by any such unchristian, inhuman, and brutal impulse as to cause him to advocate the arming of slaves. He was opposed to turning the savages loose. I would to God that he were here in his seat to-day. I feel that his potent eloquence and his mighty genius would have been aroused at the monstrous heresies of his pretended followers. He would boldly speak in defense not only of the Constitution of his country, but of the innocent, the women, and the children. He was utterly opposed to turning the savages loose. That is his record; and in that he but maintained the noble manhood that animated his life.

There was one sentence which fell from the Senator from Missouri to which I demur; and that was when he alluded to the order of General Halleck, in Missouri, by which he seized the property of citizens who were supposed to be disloyal there, and, through a military commission, had it sold and devoted to charities. The Senator says that the order of General Halleck was sustained by international law. Allow me to tell the Senator that a grosser infraction of international law and the Constitution of this country and the rights of a citizen as guarantied by the Constitution and laws of the land, was never perpetrated.

Mr. HENDERSON. I desire to correct the Senator. I had no reference at that particular time to the order of General Halleck.

Mr. POWELL. I beg the Senator's pardon. I thought he alluded to it.

Mr. HENDERSON. The order of General Halleck was not for the support of the army, but it was merely to levy contributions on the secessionists in the city of St. Louis, to support certain Union families that had been driven out of southwestern Missouri. They did not pretend to be in the army, nor did they join the army; indeed most of them were women and children.

I alluded to certain orders that had been made under the direction of General Pope while he was in command of northern Missouri, and also of General Prentiss, levying contributions upon the enemy, as they were termed, for the support of the army, and also for the purpose of repairing damages upon railroads that the secessionists had caused to be committed. I had no reference to General Halleck's order in St. Louis.

Mr. POWELL. I am very glad the Senator had not. I thought he alluded to it.

Mr. HENDERSON. No, sir. I said this: that according to the international law, there was no doubt of the proposition that an invading army has a perfect right to levy contributions for its support. They have not the right to take all the personal property of every man, but they have a right to levy, according to some equitable and just mode, a sufficient contribution to support the army. There is no doubt about it in international law.

Mr. POWELL. I am very glad the Senator did not indorse that unconstitutional order of General Halleck.

Mr. HENDERSON. I was talking of another subject.

Mr. POWELL. I am very glad that he does not indorse it; for I well remember that order. I have read it heretofore and commented in the Senate at length upon it. General Halleck, by that order, established a military commission who went through the city of St. Louis and designated persons whom they supposed to be disloyal, and levied contributions upon them to be given in charity. It was a tribunal entirely unknown to the laws, and the execution of the order was attended with the harshest proceedings. If the parties failed to make the payment assessed in a week, I believe, twenty-five per cent. was to be added; and if they resisted that, they were subject to be court-martialed. I consider it a flagrant attempt to overthrow the Constitution of the country.

Mr. HENDERSON. No, sir; they were not subjected to a military court-martial. I do not think that was part of the order. Certainly the Senator is doing General Halleck very great injustice in that. He did not put them under military law because parties refused to pay; all that was done was a sale of their property. If property could not be obtained, of course the party was not arrested at all, nor tried by court-martial. The Senator has done General Halleck injustice in that respect.

Mr. POWELL. The order will speak for itself. I will read the order, and will correct myself with great pleasure if I am wrong, because I do not wish to do any man injustice.

Mr. HENDERSON. I am satisfied that that is not so, because a portion of those men refused to pay, and were not subjected to military law, but their property was seized and sold.

Mr. POWELL. Here is the order. It is dated "Headquarters Department of Missouri, St. Louis, December 12, 1861," and the sixth section of it is in these words:

"Any one who shall resist, or attempt to resist, the execution of this order, will be immediately arrested and imprisoned, and will be tried by a military commission."

That is the order, and those are the very words of it.

Now, Mr. President, I have but one opinion as to the way this war should be conducted. I have no criticisms to make on generals in the field, or on the President, as to the mode and manner in which he has managed it. I will not enter into that discussion. I will leave that to the eminent military gentlemen who are to be found so thickly in this Senate; not one in fifty of whom I suppose ever received any military education, ever saw a battle, or perhaps know the right wheel from the left. I am no military man, and will enter into no criticisms on that subject. But, sir, this war should be conducted upon those elevated principles of Christianity and humanity which mark the age in which we live; and I here avow that it is contrary to the rules of war in all civilized countries to seize the private property of the enemy. You can seize his public property, and devote it to your uses. That is legitimate; that is proper. All the authorities and all the publicists that ever wrote on this subject in modern times lay that down as the rule; and that is the rule that has been acted on by our Government heretofore. Our army marched from Vera Cruz to the capital of Mexico, and our stars and stripes floated proudly over the capital of that people; they marched from the Rio Grande to Buena Vista; but they never disgraced their arms by despoiling any private citizens of their property. Such conduct is unbecoming American soldiers; it is unbecoming the genius of our Government; it is unbecoming the Christianity of the age; it is unbecoming the civilization of the times. If you turn your armies loose to take property of private citizens whose country you invade, you but make your Army a band of national plunderers; you sanction by law that which you can never arrest. License them to do that, and the most rigid discipline will not restrain them within anything like reasonable bounds. No Government does it in this age. It is a relic of barbarism that has been long since exploded; and in my judgment it is not the way to conduct this or any other war to a successful termination.

When you go into your own country with your victorious armies do not despoil the private citizen of his property, unless by due process of law, as is provided by the Constitution of your country. Seize the public property; take it and use it; fight him upon every hill-top and in every valley, if you please; drive him from his fastnesses and his strong places; seize all his public property; but do not go through his country taking the last chicken, the last duck, the last egg, the last peck of meal, and the last piece of meat from the defenseless women and children, and leave them to starve. In my judgment such a policy is not the one to reconcile and restore the southern people to the folds of this Union. No, sir; we must exhibit ourselves as brave Christian warriors, and not by our legislation and our orders given to our generals in the field, authorize them to seize and take all property, and leave the men, women, and children, the infirm, the aged and decrepit, to starve. In my opinion, this war would have been much nearer closed to-day if we had conducted it within the Constitution of the country. We have, under and by virtue of the Constitution, power to supply the President with all necessary munitions of war, to call into the service all the soldiers necessary for the war. When we have done that, we have discharged our duty. We should not encourage by word, by act, or by deed, these practices, that will cause us to be scorned and contemned by all the civilized nations of Europe. Why, sir, an indiscreet, cruel, and barbarous order issued by one of our generals in New Orleans has brought down the censure of all Christendom upon us; they even say that America has furnished a Haynau. These things should be avoided.

I shall say no more upon the question of arming slaves; for, as I said before, my sole object is to put upon the record my earnest protest against the passage of this bill; believing, as I said, that the argument heretofore made was full, unanswerable, and complete. Allow me to read just here an extract from a letter from John Quincy Adams on this subject of emancipating slaves under the war power. I regret that I did not have it when I was engaged in this discussion heretofore. I find this slip in a newspaper, and suppose it is correct. I have not had time to look to the reference. I will read it. It is headed "J. Q. Adams on the Laws of War:"

"The following extracts of a letter from John Quincy Adams to Mr. Rush, in 1820, when the former was Secretary of State to Mr. Monroe, and the latter our minister to England, have a peculiar applicability at this time. Mr. Adams is discussing the asserted right of the British Government to emancipate American slaves captured during the war of 1812-14. He says:

"'The principle is that the emancipation of enemy's slaves is not among the acts of legitimate war, as relates to the owners; it is a destruction of private property, nowhere warranted by the usages of war.'"

There is the authority that has been rung in our ears by the Senator from Massachusetts, [Mr. SUMNER,] that under the war power we could set all the slaves in all the States free. This was the utterance of Mr. Adams, before he was fired with that fanatical zeal, before he had that disease of negrophobia that for a time dethroned his mighty intellect on that subject. This was in an important State paper, written with the greatest consideration, in a diplomatic discussion with the British Government that was then being carried on by our Government. Again he says:

"In the statement of the British ground of argument upon the claim in the submission, they have broadly asserted the right of emancipating slaves—private property—as a legitimate right of war. This is utterly incomprehensible on the part of a nation whose subjects hold slaves by millions, and who, in this very treaty, recognizes them as private property. No such right is acknowledged as a law of war by writers who admit any limitation. The right of putting to death all prisoners of war in cold blood, and without special cause, might as well be represented to be a law of war, or the right to use poisoned weapons, or to assassinate."

There, sir, Mr. Adams boldly, clearly, unequivocally says, you have no right to emancipate slaves under this war power. You have not only passed laws emancipating slaves, but Senators declare in their speeches that you must go forth and seize every species of property. I hope for the honor, for the dignity, for the glory of my country, that our brave and gallant soldiers never will go forth armed with the authority of this Congress to despoil men of their private property, whether they be friends or enemies. It is revolting to every feeling of humanity, and all the civilized nations of the earth will condemn us as harsh, brutal, and cruel. No other verdict can be or will be rendered by Christian or civilized men. Even if they were alien enemies, we could not act thus unless we violated every rule of Christian warfare. But, sir, they are not treated or regarded as alien enemies; you claim them as a part of our people. They are entitled, then, to all the provisions of the Constitution of your country, for I am sure no gentleman will be so illogical as to maintain the position that they are under the Constitution, a part of the Union, and are not entitled to all the panoply and all the shields that the Constitution throws around the rights of the citizen. The Constitution of your country says private property shall not be taken for public uses, except upon compensation, upon consideration. I do not pretend to quote the words of the Constitution, but I know I have the substance. Senators say that this confiscation bill must be executed. I regret that that confiscation bill was passed. In my judgment, it is utterly unconstitutional. Why, sir, if the men who have violated the Constitution and laws of the country cannot be caught and punished in accordance with law, you will have to let them go. They will be like all other offenders when they escape. The old maxim applies, "there is catching before hanging." What are the words of the Constitution of your country? After defining treason, it says:

"The Congress shall have power to declare the punishment of treason; but no attainder of treason shall work corruption of blood or forfeiture, except during the life of the person attainted."

That is the constitutional guarantee of these men; and yet you deprive them of that sacred constitutional guarantee. When you do it, you overthrow the Constitution of your country. I will not elaborate on that point now, for I have heretofore discussed it at great length.

Senators, let us observe the Constitution of the country. Nothing can be added to the power, to the force, or to the efficacy of this war by violating the Constitution. You have, under the Constitution, the power to bring into requisition all of your material aid; you have the power to summon the whole force of your country; you have the power to fight the enemy wherever you can find them; and if you cannot overthrow the rebellion when you have the entire power of the United States in your hands, in the name of God what more can be given?

That is all you can have, but in order to exercise a vindictive feeling you propose to resort to the harshest barbarities. I was pained to hear the Senator from Ohio, [Mr. SHERMAN,] at the close of the speech he made the other day, announce that he would resort to every usage of war either in ancient or modern times if it were necessary to put down this rebellion. Why, sir, what were the usages of ancient war? Do we not know that the ancient nations made captives of all their prisoners, that they led the women and children into bondage and sold them for prices? Those gentlemen who have so much philanthropy and humanity for the poor negro—and I see the Senator from Kansas [Mr. POMEROY] is assenting to this proposition as I utter it—those gentlemen who almost go into hysterical fits at the idea of a negro being held in bondage, would resort to the harsh barbarities and cruelties of the ancient times, that allowed all the prisoners to be sold as slaves. I confess that much as I desire to see this country united and our people live together in concord, unity and love, to see the constitutional Union exist forever as our fathers gave it to us, to see the Constitution exe-

cuted as it is written, I would not take this remedy, for it would be worse than the disease. You would not only overthrow all the constitutional rights of the people, but you would lead white men, women, and children into captivity, and sell them forever as slaves, if you were to exercise the harsh cruelties of ancient times.

Mr. President, I know that nothing I shall say will prevent the passage of this bill; but I desired in a very brief manner to leave on record the reasons why I cannot vote for it. In the first place, I think that this and the confiscation bills are all in violation of the Constitution of the country. In the second place, the policy is bad. I think the passage of these bills will mass the people of the South against you, to raise in deadly strife against this Government the arms of men who desire to support it. I think this policy should never be adopted. I believe it will be attended with no good, but incalculable evil. I believe that if anything does prevent forever a reunion of these States, it will be the harsh and unconstitutional legislation of this Congress. I believe you have done more to strengthen the revolution than the armies of the confederates themselves have done. I have uttered my sentiments freely, but not with a view of being unkind to any Senator who differs from me. I dare say other gentlemen utter their honest convictions. They are entitled to their opinions. I certainly utter nothing but what I honestly believe.

Mr. HENDERSON. I desire simply to make an explanation. I do not wish to occupy much time. If I understand the remarks of the Senator from Kentucky, he has put me in the category of individuals who assert the right of the Army in passing over the southern country to take all the property of private citizens. That is not the position that I take.

Mr. POWELL. I am very happy to hear the Senator make the disclaimer. I thought his language was broad enough to warrant that conclusion; and so was that of the Senator from Indiana.

Mr. HENDERSON. If I had been of that opinion, I should have voted for any confiscation bill. There is just that difference between my views of the power of the Army and the power as given by a confiscation bill. If I understand the confiscation bill that has been passed, it requires the taking of all the property of private citizens. I object to that, because when we shall have accomplished that, we have merely a land of beggars left, and the Government really does not do any good. After the Government has accomplished the very thing that the gentleman speaks of, the destruction of all private property, it is then in the attitude of being compelled to support and maintain those whom it has impoverished. I object to it. *It is upon that objection that I have cast my vote against the confiscation bills. In the remarks which I made on the confiscation bill pending in this body, I placed my objections upon that ground; but I never have doubted the right of the Army of the United States, under the orders of its military commanders, to levy a contribution upon the enemy for its support. The difference between levying a contribution and taking all the property is, that in the levying a contribution it is done somewhat in proportion to the value of the property owned by individuals. No man is entirely stripped of all his property, no man is impoverished. That is the difference, as I understand, between the ancient mode of warfare and that which has been recently adopted by the civilized nations of the world. I would not go back to the old doctrines once entertained by the Romans and the Grecians, and sell prisoners; I would not rob individuals of their property; but I would levy contributions, I would maintain my army upon the rebels, and I would do it, as near as I could, according to the value of their property.

Now, sir, one other remark, and I have done; and that is in reference to General Halleck's order. I said nothing in my previous remarks with regard to the propriety or impropriety of General Halleck's order; but I desire to say to the Senator from Kentucky, that while I did not agree with General Halleck in that order, General Halleck, in my opinion, is an able general, and one of the best constitutional lawyers in this country; and, in addition to all that, he is a just and a humane man. Although I thought he had not the power to levy the contribution for the purpose indicated in his order, I never doubted his power to issue an order making contributions upon the disloyal portion of the people of Missouri for the subsistence of the army within its borders. He did not levy that contribution for the support of the army, as I think he would have been justified in doing under international law, but he levied the contribution for the support of the Union families driven out of southwest Missouri. That is where I differ from General Halleck; but I do not desire that it shall go forth to the world that this was the most despotic and tyrannical order ever made since the existence of the world, or, if you please, under the Constitution of the United States. I desire to vindicate General Halleck against an imputation of that character. Although I differ from him in the precise object for which that contribution was levied, I think clearly the power would have existed if he had changed the object. He might have called on the Government of the United States to support those families who were driven out by the secession sympathizers of southwest Missouri; and after that was done, he might have turned round and levied a contribution to replace that amount. That he might have done legally, in my opinion. I always thought that changing the object of the order in that way, it would have been right; but I did not agree with him in the terms in which it was couched. That is all.

Mr. WRIGHT. I should not do my duty if I did not make some reply to the remarks of the Senator from Kentucky, and particularly to his allusion to the lamented Douglas. The Senator appeals to me to know one fact, and I am glad he has done so. He puts the question whether a man has not his right, under the Constitution, to be tried; whether every man is not entitled to all the rights and privileges secured by the Constitution. Yes, sir; he is if he is an obedient citizen; but if he is a traitor he is not. If he is in rebellion against his Government, he is not entitled to the protection of the Government. That is my general answer. Whenever a man is in rebellion against his Government, he is not entitled to its protection. That is the reason why, in the case before us, in the region where the rebel armies come from, leaving their slaves behind to do their work, it is the duty of the Government, under the law of nations, to take the property which can be found there to support the army.

I have but one remark in relation to Judge Douglas. Sir, I should be derelict in my duty if I were to sit still in the Senate and hear a Senator say that I ever intimated that Judge Douglas would be in favor of inciting servile insurrections in the South. I know no man who is in favor of inciting servile insurrection in the South. The Senator may talk about the consequences of particular acts, but the rebels commenced this work; and do you say that we shall not undertake to lessen the strength of that enemy by taking his slaves to build our fortifications, dig our trenches, and to do all our work? That is as far as I have said that I would go. I have declared that, in order to preserve this Government, in order to preserve the institutions of this country, I will use all the means that this Government has at command, if necessary. I know nothing that I would not use to preserve the Government of my fathers. When you are talking about the Constitution, I want it understood that I desire to preserve that Constitution in all its breadth and depth; but what is the use of your Constitution if you have no Government? The Senator says that Judge Douglas was against the doctrine of coercion. Let me tell you what he said:

"When our Government is assailed with hostile armies, that are marching under new banners against the Government of our country, the shortest way to a peace is the most unanimous preparation for war; the greater the unanimity the less blood will be shed; the more prompt and energetic the movement, the more important it is in numbers, the shorter will be the struggle."

And this brings to my mind a little incident in the history of Judge Douglas. It will show you the grasp of his intellect, and the mighty weight of that brain which worked in his head. He left here in the month of April, 1861, and went to the capital of my State, where the Legislature was in session, just after the attack upon Fort Sumter. He walked into the Senate chamber and sat down by a Senator whose name I need not mention; that Senator mentioned to Judge Douglas that the President had called out seventy-five thousand men, and asked him if he did not think the number was too many. Striking his hand with emphasis upon a table before him, he responded, "it ought to be five hundred thousand men." I record this fact because I believe it has not been printed in our history of the country. There was no talk of coercion then, but he saw that seventy-five thousand men were not enough.

Mr. Douglas declared, then, further, that "if any attempt is made to invade the rights of the South, or to incite servile insurrection among them, he would be the first to run to the rescue." So would I. But if you want to see Douglas's position, look at him standing up on the 4th of March, 1861, by the President who had been his competitor. John C. Breckinridge and other traitors were there around him, but there stood Douglas, saying, "I stand by you, Mr. President," and when he went home that spring he stood in the same wigwam where his competitor was nominated, and there told fifteen thousand of his countrymen to stand by this Government, upon which he folded his mantle around him and went home to die. Take his example. I intend that no man shall ever say in the Senate that he connived at the doctrine of not using all the means and all the power of the Government to sustain it, for his language was, "it is a question of country or no country; Government or no Government."

Mr. POWELL. One word in reply to the Senator from Indiana. The Senator in the very brief remarks he has just made, has uttered what is to me a most singular proposition. He says that if a man is obedient to the Constitution and the laws of the country, he has a right to the protection of that Constitution and those laws, but if he is a traitor, if he is in rebellion, he has no right to constitutional protection. That to me was a most strange avowal. If men were always obedient to the laws, if they always subjected themselves to the Constitution and the laws of the country, they would rarely, if ever, have any necessity to appeal to that Constitution and those laws before the bar of a criminal court. The Constitution of our fathers and the laws not only in the United States, but in all the States, guaranty to every man, high or low, rich or poor, guilty or innocent, patriot or traitor, the protection of the Constitution and the laws. That is a right guarantied and secured to every man, which no one who respects the Constitution and laws will attempt to take away. The guarantees of the Constitution are intended to shield the innocent and protect the weak. Punishments are decreed not in the way of vindictiveness, not in the way of harshness, not in the way of cruelty, by a civilized and Christian nation, but they are decreed for the purpose of compelling obedience to the law and as a terror to evil doers. Hence I boldly declare here that the vilest traitor, the guiltiest murderer, the most contemptible thief, is entitled to all the guarantees that the Constitution and the laws throw about him. The Constitution prescribes the mode and manner in which he shall be tried. He can only be arrested upon warrant. You then take him to the court, and, through the instrumentality of a grand jury, an indictment is found against him. Then, sir, you give him a traverse jury; then you give him counsel; and he has the law with its guarantees in the fullest measure extended to him through the instrumentality of the judges. That is not only the case under our wise Constitution and laws, but it is so in all civilized nations.

To-day, for the first time, I have heard it asserted that, because a man is a rebel or a traitor, he has no right to the guarantees and protection that the Constitution and laws give him. If a man were to kill another in the presence of the Senate, and his hands here were all reeking with blood, would you instantly slay him? No, sir; no. You would seize him, you would take him before the judicial tribunals, you would have him committed by warrant. When the grand jury was impanneled by the court that had cognizance of the offense, he would be indicted; he would avail himself of counsel; and the case would be submitted upon the law and the evidence to the traverse jury. They would find him, in that state of case, no doubt, guilty, and he would be hanged by the hangman, and thus expiate his crime upon the gallows. So if a man commits treason, which is the highest offense known to the law, you cannot seek him and slay him wherever you find him. I grant you if he has arms in his hands, is arrayed in battle against you, you may slay him; but then it is war. If he commits treason, what is the process? Unless

you violate the Constitution of the country, you must arrest him by warrant, and then the grand jury examine the case; if they think him guilty, they indict him. He must be tried by the traverse jury, and if found guilty, he may be hanged. If found innocent he would be discharged. All these privileges he has; all these securities he has; they are secured for the wisest and most beneficent purposes. You must establish his guilt in the mode and manner prescribed by law, before you can punish him; but the astounding doctrine of the Senator from Indiana would say, this man is entitled to no protection, none. I ask no other protection than the Constitution gives him, and that is a fair trial in accordance with the laws of the land, in order that his guilt may be established or his innocence made manifest—punish the guilty, and let the innocent go free. Nobody asks more; no man who reveres the Constitution of the country should submit to having less. On the doctrine the Senator announced here to-day, everybody that presumed another to be a rebel and a traitor might go and, *ad libitum*, slay him; that is, the guilty and innocent would suffer together. Sir, the poorest criminal is entitled to all the guarantees and all the protection of the Constitution and laws. They were made for the benefit of all citizens. In order to protect and shield the innocent and to punish only the guilty, the law presumes every man innocent until his guilt is made manifest in the mode and manner prescribed in the Constitution and laws. None can be rightfully punished until they have had a fair and impartial trial and found guilty by the jury and sentenced by the court, in obedience to the law.

The Senator from Indiana has said a great deal about Judge Douglas. I understand what was Senator Douglas's position precisely. I knew what it was in the Senate Chamber. I know how he labored to settle all these difficulties by compromise and by amicable adjustment. I know how he deprecated war. I remember when he announced in this Chamber, and the sentence thrilled through every chord of my heart, that war was dissolution, final, eternal. This was the position assumed by Senator Douglas. After the war came, I know that in his late speeches he was for its vigorous prosecution; but while he was for the vigorous prosecution of the war, he was utterly opposed to any violation of the Constitution. In the extract which I have read from the last memorable speech of that distinguished man, he said, "we must not invade any constitutional rights." Is it not the constitutional right, I would ask the Senator from Indiana, of the poorest criminal, whether he be traitor, murderer, or thief, to be tried in accordance with the laws of the land? Certainly it is; but if he be a traitor or a rebel, the Senator would not give him that poor boon. Judge Douglas said, "the innocent must not suffer." If you arm the negroes and turn them loose, do you not know that rapine, murder, pillage will follow? If you establish the doctrine that the Army may seize from the rebels whatever they have, do you not know that women and children will die of starvation? Senator Douglas says, "savages must not be let loose." He meant by that that negroes must not be armed; but the Senator from Indiana avows that, if necessary, he is ready to arm them. I will defend the memory of Douglas from any such outrage as that he was willing to arm negroes.

The Senator says he is opposed to inciting insurrection. I have no doubt that he is; but does not the Senator know that the logical sequence of his proposition to arm negroes is the very thing that will incite insurrection. It will carry it to every hearthstone, to every house where the pernicious doctrine may go, in the southern States. That will be the inevitable consequence. If you do not desire to incite domestic insurrection, for God's sake dismiss this foul heresy of arming the slaves, for I tell you it will lead to that; it will follow inevitably as the night follows the day. It cannot be averted if you carry out the doctrine of arming the slaves. The Senator says, that if necessary he will use all the means to save the country; that is a very broad expression. Would you overthrow and destroy the Constitution to maintain the territorial *status* of the country? I should suppose not. If it was necessary to reduce rebel States to allegiance to the Government, would you lead their white women and children and sell them, as many nations did in ancient times? These are means, and means that nations before this have resorted to. History in its annals is full of such instances where whole tribes have been led captive and sold into bondage; and when gentlemen say all the means, they embrace that. All is not a part. I am confident, however, the Senator did not intend to speak so broadly. I have certainly no intention to do him injustice; I certainly would not knowingly misrepresent him.

Mr. WRIGHT. I do not want the Senator from Kentucky to be talking about murder when I am talking about another thing. I do not intend that the record of this debate shall go out in that way. I have not talked about a man committing murder. I have talked about a single proposition, and that of a different character. My proposition was that when the Army, to save the Government was marching to restore order through regions where wicked men are banded and armed in rebellion against this Government, it had a right to subsist itself off the property there; and if the owners of the property are loyal men, we will pay them; if they are disloyal men, we will not. That is what I said and what I mean. When our Army goes to restore the Government through a country where men are in rebellion against it, it is the duty of this Government to make that Army support itself off those in rebellion.

Now, a word about Judge Douglas, and I am done. I have a right to make an allusion to this distinguished and lamented statesman. I hardly think it fair to quote his remark made before the war commenced. Thousands of times have I said, as the Governor of Indiana, that war is disunion. There is not a patriot in the length and breadth of the land that has not said so. But when that sentiment was uttered, it was when we did not know that there was a band of men in a portion of this country who have for years been plotting its destruction. That fact is now known. Judge Douglas, before he died, said that was the case. The record was before him; and when the head of the rebellion showed itself, he said that all patriots throughout the land should be united in putting it down. It is true that, before the war commenced, Judge Douglas said that war would be disunion; but at the first dreadful bugle sound of this rebellion he was a patriot. He always was a patriot. He differed, as I differ, from men in this Chamber; but I have no difference now with any man who is in favor of putting down this rebellion. Still, with all my benevolence, and with all my charity, I cannot have the feelings of my heart enlarged very much for men who never see anything right in the conduct of their Government. I cannot take the hand of my friend from Kentucky, and say that he is as pure a patriot as I would desire him to be, if he sees nothing right in this Government. I know there are men who think there never ought to have been any coercion, and that we ought to have submitted. Judge Douglas did not think so. When the rebels attacked our country, he was for war to the knife, and the knife to the hilt; and then, whenever he had occasion to talk to the people, his language was, "Countrymen, let the past be forgotten; bury your past political differences; rally round this Government until you shall put down the rebellion."

The bill was reported to the Senate as amended.

The PRESIDING OFFICER, (Mr. FOSTER.) The question is on concurring in the amendments made as in Committee of the Whole. Unless Senators ask separate votes, the vote will be taken collectively on the amendments made as in Committee of the Whole.

Mr. HOWARD. I ask for a separate vote on the amendment of the Senator from Ohio, [Mr. SHERMAN.]

The PRESIDING OFFICER. That amendment will be reserved. Is there any other amendment which any Senator desires to except?

Mr. LANE, of Kansas. If the amendment of the Senator from Ohio is defeated, I shall then demand the yeas and nays on the amendment proposed by the Senator from Illinois.

The PRESIDING OFFICER. The Chair will take the question on the amendments not excepted to together.

The amendments were concurred in, except that excepted by Mr. HOWARD.

The PRESIDING OFFICER. The question now is on the excepted amendment, which will be read.

The Secretary read it, as follows:

In section thirteen, after the word "descent," insert "who by the laws of any State shall owe service or labor to any person who during the present rebellion has levied war or borne arms against the United States, or adhered to their enemies by giving them aid and comfort."

Mr. HOWARD. I had understood that a verbal amendment was made to that amendment of the Senator from Ohio by striking out "their enemies," and inserting "the insurgents."

Mr. SHERMAN. Since the Senator from Michigan is not in favor of the amendment in either contingency, I prefer to let it stand. If the Senator would vote for it, then I would accept it, but I think it had better stand.

Mr. HOWARD. That only makes it more objectionable to me. I call for the yeas and nays on the amendment.

The yeas and nays were ordered; and being taken, resulted—yeas 21, nays 14; as follows:

YEAS—Messrs. Anthony, Browning, Carlile, Cowan, Davis, Doolittle, Fessenden, Foster, Harris, Henderson, Howe, Lane of Indiana, Powell, Rice, Sherman, Simmons, Stark, Ten Eyck, Willey, Wilson of Missouri, and Wright—21.

NAYS—Messrs. Clark, Foot, Hale, Harlan, Howard, King, Lane of Kansas, Morrill, Pomeroy, Sumner, Trumbull, Wade, Wilkinson, and Wilson of Massachusetts—14.

So the amendment was concurred in.

The bill was ordered to be engrossed for a third reading; and was read the third time. On its passage, Mr. SAULSBURY called for the yeas and nays, and they were ordered; and being taken, resulted—yeas 28, nays 9; as follows:

YEAS—Messrs. Anthony, Browning, Chandler, Clark, Cowan, Doolittle, Fessenden, Foot, Foster, Hale, Harlan, Harris, Howard, Howe, King, Lane of Indiana, Lane of Kansas, Morrill, Pomeroy, Rice, Sherman, Simmons, Sumner, Ten Eyck, Wade, Wilkinson, Wilson of Massachusetts, and Wright—28.

NAYS—Messrs. Bayard, Carlile, Davis, Kennedy, Powell, Saulsbury, Stark, Willey, and Wilson of Missouri—9.

So the bill was passed.

BILLS BECOME LAWS.

A message from the President of the United States, by Mr. NICOLAY, his Secretary, announced that the President had this day approved and signed the following acts:

An act (S. No. 89) to amend the act of the 3d March, 1837, entitled "An act supplementary to the act entitled 'An act to amend the judicial system of the United States;'"

An act (S. No. 123) to extend the provision of the act of August 4, 1852, entitled "An act to grant the right of way to all rail and plank roads," &c., for the term of five years, and to amend the same; and

An act (S. No. 363) to authorize the Secretary of the Navy to accept the title to League Island, in the Delaware river, for naval purposes.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. MORRIS, Chief Clerk, announced that the House of Representatives had passed the following bills of the Senate:

A bill (No. 202) requiring the commanders of American vessels sailing to foreign ports, and persons prosecuting claims, to take the oath of allegiance;

A bill (No. 350) to suspend temporarily the operation of an act entitled "An act to prevent and punish fraud on the part of officers intrusted with making contracts for the Government," approved June 2, 1862; and

A bill (No. 376) to allow and pay to the State of Missouri the amount of money expended by said State in the arming and paying of troops employed in the suppression of insurrection against the Government of the United States.

The message also announced that the House of Representatives had passed the following bill and joint resolution, in which it requested the concurrence of the Senate:

A bill (No. 574) abolishing congressional mileage; and

A joint resolution (No. 109) to amend section seventy-seven of "An act to provide internal revenue to support the Government and pay interest on the public debt."

The message further announced that the House of Representatives had passed a resolution to extend the time fixed for the adjournment of the two Houses of Congress until Thursday, the 17th instant, at twelve o'clock, meridian, in which it requested the concurrence of the Senate.

LABOR AT NAVY-YARDS.

Mr. HALE. The Committee on Naval Affairs,

to whom was referred the bill (H. R. No. 355) to amend an act entitled, "An act further to promote the efficiency of the Navy," approved December 21, 1861, have instructed me to report it back without amendment, and ask for its present consideration.

By unanimous consent, the bill was considered as in Committee of the Whole. It provides that the hours of labor and wages of employés in the Government navy-yards shall conform, as nearly as is consistent with the public interest, to those of private yards in the immediate vicinity, to be determined by the respective commandants of the navy-yards, subject to the approval of the Secretary of the Navy.

The bill was reported to the Senate, ordered to a third reading, read the third time, and passed.

PROLONGATION OF THE SESSION.

On motion of Mr. FESSENDEN, the Senate proceeded to consider the resolution of the House of Representatives for the extension of the session.

The resolution was read, as follows:

Resolved, (the Senate concurring,) That the time fixed for the adjournment of the two Houses be extended till Thursday, the 17th instant, at twelve o'clock, meridian.

Mr. CARLILE. I think there ought to be some reason assigned for that.

Mr. FESSENDEN. The Senator is not perhaps aware that the President has sent us a communication requesting us to postpone the adjournment for one day; and out of respect to him we cannot do otherwise.

Mr. SAULSBURY. I certainly would pay great respect to the wishes of the President of the United States; but he has not seen proper to enlighten us upon what subject it is that he wishes us to remain to legislate; he has not told us that he has any communication to make to this body. Apprehensive that the subject upon which he may wish to invite legislation is not such as in my judgment—every Senator must be governed by his own judgment—is calculated to promote the interests of the country, I shall content myself with recording my vote against the resolution, protesting at the same time that I mean no disrespect to the President, but I feel that I ought to do so from a high sense of public duty. I ask for the yeas and nays on the adoption of the resolution.

Mr. FESSENDEN. Of course I cannot object to that, but I really think the Senator on reconsideration will hardly call for the yeas and nays. It is to be presumed that the President of the United States has business which he deems of importance enough to justify him in asking us to stay one day more; and I do not see how, with respect to him, we can refuse unanimously to grant it.

Mr. SAULSBURY. If it is put upon that ground, I beg to say that I certainly feel no disrespect to the Executive; and I withdraw the call for the yeas and nays if it is the sense of the majority of the Senate that it ought to be done.

Mr. SUMNER. It will be remembered that the President in his communication asked Congress to postpone its adjournment at least one day. I infer from the language employed that perhaps he would be glad to have a postponement for more than one day. I think it would be becoming in Congress to postpone the adjournment certainly for more than one day. I should like to have the resolution amended so as to fix Saturday as the day of adjournment. ["Oh no."] I shall not divide the Senate.

Mr. LANE, of Indiana. I should feel bound to call for a division upon the proposition of the Senator from Massachusetts. I should not be willing to stay more than one day unless it was necessary.

Mr. SUMNER. I do not make any motion; I suggest to the Senate what it seems to me it would be proper for us to do, but I will not divide the Senate.

The resolution was concurred in.

HOUSE BILLS REFERRED.

The following bill and joint resolutions from the House of Representatives were severally read twice by their titles, and referred as indicated below:

A bill (No. 568) to provide for the printing of the annual report of the banks of the United States—to the Committee on Printing.

A joint resolution (No. 107) further to provide for the compensation of members of Congress—to the Committee on Finance.

A joint resolution (No. 108) requiring the superintendent of metropolitan police to pay over certain moneys collected for fines and penalties, to constitute a contingent fund for certain purposes—to the Committee on the District of Columbia.

A joint resolution (No. 109) to amend section seventy-seven of an act to provide internal revenue to support the Government and pay interest on the public debt—to the Committee on Finance.

The bill (H. R. No. 574) abolishing congressional mileage was read a first time.

Mr. POWELL. I object to the second reading of the bill.

The hour of five o'clock having arrived, the Senate took a recess until seven o'clock, p. m.

EVENING SESSION.

The Senate reassembled at seven o'clock, p. m.

WESTERN GUNBOAT FLEET.

Mr. GRIMES. The Committee on Naval Affairs, to whom was referred the bill (H. R. No. 518) transferring the western gunboat fleet from the War to the Navy Department, have instructed me to report it back with an amendment, and recommend its passage. I ask that it be considered now.

Mr. KING. Let it be read.

The PRESIDENT *pro tempore*. It will be read for information.

The Secretary read the bill. It provides that the western gunboat fleet, constructed by the War Department for operations on the western waters, shall be transferred to the Navy Department, which will be hereafter charged with the expense of its repair, support, and maintenance.

The joint resolution was considered as in Committee of the Whole.

The Committee on Naval Affairs reported the following amendment:

Provided, That all vessels now under construction or repair by authority of the War Department, shall be completed and paid for under the authority of that Department and from appropriations made for that purpose.

The amendment was agreed to.

Mr. GRIMES. I will state that this bill originated with the Committee on Military Affairs of the House of Representatives, and passed through that body, and when it came here it was referred to the Naval Committee of the Senate. It simply transfers the control of the gunboat fleet on the western waters to the Navy Department, where it properly belongs, I suppose; and the amendment that has been put in is that those boats which are now in process of construction or repair shall be paid for out of the appropriations that were made for that purpose in the Army appropriation bill.

Mr. KING. I do not know that there is any objection to it. It is agreeable to both Departments I understand, but I know nothing of it myself.

Mr. GRIMES. There is no objection to it.

The bill was reported to the Senate as amended, and the amendment was concurred in, and ordered to be engrossed, and the bill to be read a third time. The bill was read the third time, and passed.

PAPERS WITHDRAWN.

On motion of Mr. POMEROY, it was

Ordered, That David H. Burr have leave to withdraw his petition and papers from the files of the Senate.

On motion of Mr. KING, it was

Ordered, That leave be granted to withdraw the petition of Pliny Miles and other citizens of New York, praying a postal reform, presented February 11, 1862.

REPORTS FROM COMMITTEES.

Mr. HALE, from the Committee on Naval Affairs, to whom were referred the petition of Alonzo Hitchcock; the petition of Jabez Coney and others; resolutions of the Legislature of Pennsylvania, in favor of the construction of iron-clad gunboats for the defense of the Delaware river; resolutions of the Legislature of Pennsylvania, relative to lake and river defenses in that State; and resolutions of the Legislature of Rhode Island, in favor of the location of the Naval Academy at Newport, in that State, asked to be discharged from their further consideration; which was agreed to.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. MORRIS, Chief Clerk, announced that the House had agreed to the second and disagreed to the first amendment of the Senate to the bill of the House (No. 573) to impose an additional duty on sugar produced in the United States; and had passed a joint resolution (No. 110) explanatory of an act to suppress insurrection, to punish treason and rebellion, to seize and confiscate the property of rebels, and for other purposes; in which it requested the concurrence of the Senate.

The message further announced that the House had agreed to the amendments of the Senate to the following bills and resolutions of the House:

A bill (No. 572) making supplemental appropriations for sundry civil expenses of the Government for the year ending June 30, 1863, and for the year ending June 30, 1862, and for other purposes;

A bill (No. 527) to secure one month's pay and pension to Margaret Bailey, widow of George B. Bailey, lieutenant colonel in the ninth regiment of Virginia volunteers;

A bill (No. 561) in relation to commissioned officers of the United States revenue cutter service;

A joint resolution (No. 102) tendering the thanks of Congress to Captain A. H. Foote, United States Navy; and

A joint resolution (No. 105) to grant pensions to masters and other officers upon the gunboats in the service of the United States.

CONFINEMENT OF SOLDIERS IN PENITENTIARY.

Mr. WILSON, of Massachusetts, submitted the following report:

The committee of conference on the disagreeing votes of the two Houses upon the bill (H. R. No. 524) "prohibiting the confinement of persons in the military service of the United States in the penitentiary of the District of Columbia, except as a punishment for certain crimes, and to discharge therefrom certain convicts by sentence of courts-martial, and for other purposes," having met, after full and free conference, have agreed to recommend, and do recommend, to their respective Houses as follows:

That the House recede from its disagreement to the amendments of the Senate to the said bill, and agree to the same.

HENRY WILSON,
M. S. WILKINSON,
H. S. LANE,
Managers on the part of the Senate.
JAMES. F. WILSON,
H. L. DAWES,
Managers on the part of the House.

I dissent. JOHN S. PHELPS.

Mr. HALE. I wish the Senator from Massachusetts would tell us what it is the committee have done.

Mr. WILSON, of Massachusetts. We passed a bill, the Senator will remember, to prevent the imprisonment of soldiers in the penitentiary.

Mr. HALE. What do you do with those now there. Release them?

Mr. WILSON, of Massachusetts. Yes, sir.

Mr. HALE. Unconditionally?

Mr. WILSON, of Massachusetts. No; the President can commute their punishment if he chooses, but most of them will get out. We amended the bill as it came from the House of Representatives, striking out the part in regard to mutiny. They did not agree to that, although I understood the House stood 60 ayes to 15 noes, a large majority; but they had some trouble about getting a quorum, and they finally referred it to a conference committee. The conference committee have agreed that the House shall concur with the Senate in the amendment.

The report was concurred in.

DUTIES ON SUGAR.

Mr. FESSENDEN. There is a little bill on the table, returned from the House of Representatives with a disagreement on one matter, which I wish to have taken up, and I shall then move that the Senate recede. It is of no great consequence, and will take but a moment.

The motion was agreed to; and the Senate proceeded to consider the action of the House of Representatives on the amendments of the Senate to the bill (H. R. No. 573) to impose an additional duty on sugars produced in the United States. The House non-concurred in the first amendment of the Senate and concurred in the second.

Mr. FESSENDEN. I move that the Senate recede from its first amendment, which was to insert the word "annually" before "levied."

The motion was agreed to.

ETIENNE BERNOT.

Mr. COWAN. I move to take up House bill No. 503, to confirm and establish a patent here-

tofore granted to Etienne Bernot, dated July 24, 1860, and to secure to George Summerville Norris, the assignee of said patent, the benefit of the full term for which said patent was granted.

The motion was agreed to; and the Senate proceeded, as in Committee of the Whole, to consider the bill. By its provisions the patent granted to Etienne Bernot on the 24th of July, 1860, for "an improved machine for cutting files," and which patent, on its face, was granted for the term of fourteen years from its date, will be made a valid grant for the full term of fourteen years from its date, notwithstanding the fact that a patent had been previously granted in France for the same invention, and notwithstanding that the patent, when issued, ought to have been granted only for the term of fourteen years, to be computed from the date of the patent previously issued in France. The title of George Summerville Norris, as assignee of the patent, under the assignment made to him by Etienne Bernot, dated October 8, 1860, and recorded in the Patent Office, is to be good and valid to vest in the assignee, his executors, administrators, and assigns, the exclusive right, under the patent, for the full period of the term of fourteen years from its date, in like manner and to the same extent as if the patent, when originally issued, had been validly granted for fourteen years from its date.

The bill was reported to the Senate, ordered to a third reading, read the third time, and passed.

ROBERT M. EVANS.

Mr. LANE, of Indiana. I move to suspend all other orders for the purpose of taking up a little private bill that is perfectly just. I am familiar with all the circumstances myself. It was introduced in the House of Representatives and referred to the Military Committtee, passed the House and came here, and was referred to our Military Committee, and was reported back without amendment. The circumstances are these: last July Colonel Baker was raising a cavalry regiment; he authorized me to raise four companies in the State of Indiana. I went home with Colonel Baker's authority, and handed it to Captain Evans. He raised one company, and three other companies were raised and brought on here to this city in addition to the one that Evans raised. When Evans came here, Colonel Baker had had a different command assigned to him, and three of the companies were mustered into the New York cavalry, and are there yet. About half of Captain Evans's company joined other companies, for they were not willing to muster into the New York cavalry and leave our own State service. Captain Evans was commissioned and mustered into service, but he had no company, and of course was thrown out of service. Here is the sworn statement of his actual expenses, and for eighty-three days' service. The Secretary of War says the claim is just, but says there is no law under which it can be paid without special legislation.

The motion was agreed to; and the bill (H. R. No. 369) for the relief of Robert M. Evans was considered as in Committee of the Whole. It is intended to authorize the Secretary of War to adjust and settle, upon fair and equitable terms, the accounts of Robert M. Evans, for recruiting in and bringing from the State of Indiana to this city, during the months of August and September, 1861, cavalry troops in pursuance of an order issued on or about the 15th day of July, of the same year, by the then Secretary of War; but the amount so paid is not to exceed $500.

The bill was reported to the Senate, ordered to a third reading, read the third time, and passed.

GEORGE B. SIMPSON.

Mr. SUMNER. I move that the Senate postpone all pending orders and proceed to the consideration of House bill No. 345, for the relief of George B. Simpson, reported by the Committee on Patents and the Patent Office.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill. It proposes to authorize the Commissioner of Patents to rehear and determine, as in his discretion and judgment shall be required by the law and justice of the case, the application of George B. Simpson for letters patent for a certain invention claimed by him for the construction of what he denominates "a submarine telegraphic cable," by the combination of gutta-percha and metallic wire, in such form as to incase a wire or wires, or other conductors of electricity, within the non-conducting substance gutta-percha; and whatever shall be required by justice and right in the application, is to be granted by the Commissioner the same as if the application had never been before heard or decided; but this application is not to affect any existing right or interest in the manufacture of the article sought to be patented.

Mr. HALE. Is there a report in that case? Before the report is read, I want to say that the action of Congress in these matters is very singular; it seems to be spasmodic. Sometimes since I have been here, for years and years it has been a very difficult thing to get a renewal of a patent, indeed almost impossible, and my own impression is that it is the right course. We give already a judicial hearing, and the laws are very liberal, and it seems to me the Congress coming in and rejudging these cases which have once had a judicial decision, is contrary to the tenor of our institutions, and ought not to be tolerated.

Mr. SUMNER. It is only on the principle on which a court grants a new trial, that is, on special circumstances, new evidence of a particular kind, all of which is set forth in the report, if the Senator will listen to it. I think it is hardly worth while to take up time in reading it, but the report is very clear; it is a report made in the other House.

The Secretary read the following report of the House Committee on Patents, made by Mr. NOBLE:

The Committee on Patents, to whom was referred the petition of George B. Simpson, praying the passage of a law to authorize a rehearing of his application before the Commissioner of Patents, asking letters patent of the United States for insulating telegraph wires with gutta-percha, and denominated by him "a submarine telegraph cable," report:

That soon after the first magnetic telegraph was put into practical operation between this city and the city of Baltimore, by Professor Samuel F. B. Morse and others, about the year 1840, an obstacle almost insuperable was discovered to exist to its practical working. This obstacle was water. It interposed as a medium for conducting electricity from the telegraph wire, wherever a connection should be established by it, between the wire and other substances; and electricity, that motive power of organic forms, following the instinctive fiat of its being, sought the shortest distance to attain equilibrium, and thus passed from the wire to more inviting forms whenever connected by water with those forms. This proved an interference so embarrassing to the friends of the great enterprise that they were induced to make liberal offers, through the public press, to any one who should discover a successful insulator of the telegraph wire.

Being of an inventive turn of mind, and a great student and lover of nature, Mr. Simpson undertook the task, firmly believing he could accomplish it. He read books upon the subject, compounded substances, and experimented for seven years; and finally, on the 22d day of November, 1847, in the city of Cincinnati, and State of Ohio, he deduced, from long continued and persevering research, the result of that, which he now claims, discovery and invention. Elated with the idea of final success in the attainment of the object of his research and experiments, on Monday following, the 23d day of November, 1847, he addressed a letter of inquiry to Hon. Amos Kendall, of Washington city. On the 4th day of December, 1847, he made affidavit to the foregoing facts before the mayor of the city of Cincinnati, to which affidavit he, the mayor, attached his signature and official seal. On the 7th day of December, 1847, he called on Messrs. Amos Kendall and F. O. J. Smith, at the Pearl street House, (having been informed of their intended arrival by letter from one of them,) and made full explanations of his invention. During the month of December, 1847, he made a complete model, from which accurate drawings and specifications were made, claiming the combination and arrangement of the gums and glass around the wire in such form as to secure the controlling power of that mysterious agent, electricity. This model, drawings, and specifications were forwarded by mail to the Commissioner of Patents at Washington city, receipt of which was acknowledged by him on the 1st day of February, 1848.

During the month of February, 1848, he succeeded in obtaining a small quantity of gutta-percha gum, with which he made various experiments, one of which was the dissolving of the gum in chloroform, reducing it to the consistency of copal varnish; after which, by means of a small brush, he spread it on India-rubber surfaces. Another was the insulation of the telegraph wire with it in the following manner, to wit: by placing the gutta-percha in boiling water he reduced it to the consistency of soft putty, and in this plastic state he spun it out into thin and ribbon-like strips, and as he spun it out he wound it continuously around the wire from end to end, thus effectually covering and insulating the telegraph wire with gutta-percha. This invention he denominated "a submarine telegraph cable."

Previous and subsequent to this period pecuniary embarrassments, the birthright of most inventors, not only followed, but preceded him in his daily toils. To use his own language, "they met him at every turn; they harassed him by day and by night; they sat a companion at his midnight lamp, and accompanied him in his walks at earliest dawn; they appeared not only to be with him, but to be a part of him, until their presence wearied his mind, and their stature threw a shadow over his brightest hopes."

In the winter of 1848 and 1849, aided by Horace H. Day, of New York, he executed a new model, new drawings, and new specifications, all of which were filed in the Patent Office on the 2d of April, 1849, and in May following the patent fee, thirty dollars, was paid. This completed his application.

In September following the case came up for examination in the office, and after a brief correspondence, the Commissioner rejected his claim upon the alleged ground "that the insulating property of gutta-percha being known, its use to protect wires, &c., was not a patentable invention."

Through this plain and palpable error, thus committed against him by the Commissioner, he became disgusted, and having no means to contend with the Government, whose agents seemed to him to exhaust every means to defeat the attainment of what he deemed a just claim, he rested the case until he should acquire the necessary funds to prosecute his claim to a more successful termination.

Thus it remained till the 1st day of January, 1851, when he withdrew the return fee, twenty dollars, under the solemn protest "that the invention belonged to him as justly as did the inherent principle of life, thought, or action."

In 1853, Mr. Simpson went to Oregon and California for the purpose of more readily acquiring the means wherewith to prosecute his claim, determined never to yield his right as long as life should last. Having obtained what he believed to be a sufficiency, he returned, and in 1858 renewed his application for a patent for "a submarine telegraph cable." This claim is in the following words: "what I claim and desire to secure by letters patent of the United States is the combination of gutta-percha and metallic wire in such form as to incase a wire or wires, or other conductors of electricity, within the non-conducting substance gutta-percha." During the examination of this renewal application, the Commissioner acknowledged that the rejection of the first original application was made on "insufficient grounds," and affirmed that "the invention ought to have been patented in 1849; but that the office is bound to reject it now on the ground of abandonment to the public." It is not only the decision of the courts, but it is now the rule and practice of the Patent Office, that the withdrawal of the return fee is not an abandonment of a claim.

The act of 1839, section seven, provides "that every person or corporation who has, or shall have, purchased or constructed any newly invented machine, manufacture, or composition of matter prior to the application by the inventor or discoverer for a patent, shall be held to possess the right to use, and vend to others to be used, the specific machine, manufacture, or composition of matter so made or purchased, without liability therefor to the inventor or any other person interested in such invention; and no patent shall be held to be invalid by reason of such purchase, sale, or use prior to the application for a patent as aforesaid, except on proof of abandonment of such invention to the public, or that such purchase, sale, or prior use has been for more than two years prior to such application for a patent."

What shall constitute an abandonment is not defined by the statute, nor have we been able to learn that it has been very well settled by judicial decision. We are clear, however, that within the spirit and meaning of this law there must be some act or neglect sufficient to denote a purpose or intent on the part of the inventor to surrender or relinquish to the public use whatever right he has in the invention, before any tribunal would be warranted in finding such abandonment. It is not pretended by any one that Mr. Simpson has manifested any such purpose or intent, unless the length of time of his delay amounts to such neglect. When, however, we consider that he did make his effort, and expended all the means he had, and the case was decided against him, not on the ground of neglect or abandonment, but upon the erroneous ground that his invention was not patentable; and that he then and ever afterwards declared his purpose to prosecute his claim further as soon as he could raise the necessary means for that purpose; and that all he did from that time forth was consistent with his declared purpose that he never would yield his right, we think no one will say there was any abandonment in the premises.

That Mr. Simpson is the original inventor, there is now no question. That he spent the best years of his life in the efforts made by him which resulted in the discovery, we are fully satisfied. There is not, and never has been, any conflict of claim between him and any other person. His invention is highly useful and important, yet no patent has ever been granted therefor either to him or any other person. Like the discovery of the other means of applying electricity to the use of man, this, too, belongs to the science and genius of America. It is therefore but justice to the Government itself, as well as to one of its worthy citizens and to science, that this right should be secured to him, and the record of this discovery be thus perpetuated among the archives of the nation.

We therefore recommend the passage of the bill herewith reported for his relief.

Mr. HALE. I am glad that that report has been read; and if we pass this bill, we had better abandon the Patent Office. It seems this inventor thinks he made this discovery some fourteen years ago, and that he applied for a patent, and was rejected. I think he applied the second time, about twelve years ago, and it was again rejected. He avows in the report, which I think was evidently written by himself, that he has made one determination, and that is to prosecute the thing just exactly as long as he gets money to prosecute it. Again in 1858, it seems he had another hearing before the Commissioner. The law allows an appeal from the Commissioner to the courts, which he has not pursued. Now, sir, if Congress is going to depart so far from what has heretofore been the practice, as to take up this stale claim of an invention made in the first half of this century, before the year 1850, and which has been repeatedly rejected by the Commissioner of Patents, and not prosecuted by appeal in courts, we had better

abandon the attempt to keep up such an establishment as the Patent Office. I shall oppose the bill, and ask for a division if it is insisted on.

Mr. SUMNER. The Senator sat at some distance from the Chair, and heard the report only imperfectly.

Mr. HALE. That is a fact. Let it be read over again. [Laughter.]

Mr. SUMNER. He certainly has misstated it. He has shown that he did not understand it. On the statement of the Senator, I am astonished at his conclusion, but the facts are very simple. Some time ago, not so far back in ancient history as the Senator charged, this party did apply for a patent. Owing to peculiar circumstances at that time, he did not prosecute his application to a close; in short, he had not the necessary funds. The whole proceeding was abandoned; he was, unhappily, poor. Since then he has become better off, and is enabled to press his claim. It is a very important invention, one in which he believes he has an interest which he thinks belongs to him, and his friends think that it belongs to him. He has been encouraged to make another application, but there he is met by the law; and now, following the practice, following the precedents, he applies to Congress simply for one thing, and what is it? For authority to the Commissioner of Patents to rehear his case, securing to intervening rights everything that belongs to them, so that no person who has acquired any rights during this intervening time shall in any event be jeoparded in any of those rights by what may now be granted. In short, this bill is according to all the precedents. The Senator says it is new. He is entirely mistaken; it is according to precedent, and if the Senate reject it, it would depart from precedents.

Mr. TRUMBULL. It is manifest that this bill is to lead to considerable discussion; I see that the Senator from New Hampshire is preparing to reply, and I move to postpone the bill, and all other orders prior to House bill No. 362, and that the Senate now proceed to the consideration of that bill.

The PRESIDENT *pro tempore*. The Senator from Illinois moves to postpone all prior orders, and proceed to the consideration of the bill indicated by him.

Mr. TRUMBULL. It is a bill to provide for the discharge of State prisoners and others, and to authorize the judges of the United States courts to take bail or recognizances to secure the trial of the same.

Mr. SUMNER. I hope no such thing will be done, and I hope the Senate, having commenced with this little bill, will proceed with it; and if the Senator from New Hampshire will only have the kindness to understand it, I believe he will withdraw his opposition. I think that he has made it in haste, without proper knowledge of the facts.

The PRESIDENT *pro tempore*. The question now is on the motion of the Senator from Illinois to postpone this and all prior orders, and proceed to the consideration of the bill indicated by him.

Mr. SHERMAN. Is it in order to move to go into executive session? If so, I make that motion.

The PRESIDENT *pro tempore*. The Senator from Ohio moves that the Senate proceed to the consideration of executive business.

Mr. TRUMBULL. I ask for a division on the question of going into executive session. I want to get up this bill.

Mr. FESSENDEN. A division will show the want of a quorum.

Mr. TRUMBULL. We cannot do any business in executive session without a quorum.

Mr. DAVIS. I hope I shall be allowed to ask the attention of the chairman of the Committee on Military Affairs again to the bill that passed the House of Representatives in February, authorizing the State of Kentucky to raise twenty thousand volunteers for her defense.

The PRESIDENT *pro tempore*. The pending motion is that the Senate proceed to the consideration of executive business.

Mr. DAVIS. I hope the chairman will report that bill in some way, so as to place it within the power of the Senate.

The PRESIDENT *pro tempore*. Upon the motion that the Senate proceed to the consideration of executive business, a division is demanded.

Mr. TRUMBULL. I wish to make a suggestion, simply, before that motion is put. We shall have the same difficulty about a quorum in executive session as here, and this bill I have been trying to get up for some days. If there is to be debate on it, the discussion can go on to-night, and we shall gain time by taking it up now. It certainly is an important question. It ought to be considered by the Senate. I have struggled all the session to have some action on this question, and the persons who have been confined, some of them for a year, have a right to a trial, or a discharge, or something. We should take some action. If the bill is not satisfactory let us amend it.

Mr. FESSENDEN. There are a great many executive messages on the table which ought to be referred. It was the general understanding that in the evening we should attend to executive business, and pass a few little bills in the mean time. I think the Senate had better proceed to the consideration of executive business.

Mr. COWAN. I think the bill reported by the Judiciary Committee appeals very strongly to every man everywhere for its consideration, and I trust the Senate will take it up and pass it. These men cannot be kept in confinement always. There must be an end to it some time. Let us think for one moment—suppose we were in the same position—of the hardship of allowing these men to continue there without any hope of relief or deliverance. Let them be tried; and if they are guilty of anything, let them be punished; otherwise, let them be discharged. I think it has been carried far enough. I hope the Senate will take up the bill. It is for the good of the country that it should be disposed of.

The PRESIDENT *pro tempore*. The question is on the motion of the Senator from Ohio, that the Senate proceed to the consideration of executive business.

Mr. SUMNER. Before that is put, I hope the Senate will proceed with this little bill that was under consideration. It is a bill that has already passed the House of Representatives, which has been before the Patent Committee of the Senate for some time, and has been reported from that committee; and the whole objection of the Senator from New Hampshire is founded in a misapprehension.

Mr. HALE. No, it is not.

Mr. SUMNER. All that the bill proposes is to——

Mr. DAVIS. I rise to a point of order. I inquire if it is in order to discuss the merits of that bill upon a motion to go into executive session?

The PRESIDENT *pro tempore*. It is not.

Mr. SUMNER. It is not in order, certainly, to discuss the merits of the bill; but among the reasons for not going into executive session——

Mr. DAVIS. Mr. President, I make my point of order.

The PRESIDENT *pro tempore*. The Senator has made his point of order, and the Chair has decided it.

Mr. SUMNER. The Senator has made his point of order; but I am proceeding, and have the floor.

Mr. DAVIS. I presume the Senator is to proceed in order.

Mr. SUMNER. If I proceed out of order, the Chair will correct me, and any member of this body will have the privilege also of correcting me.

Mr. DAVIS. You are out of order.

Mr. SUMNER. We shall see.

Mr. DAVIS. Yes; we shall see.

Mr. SUMNER. I shall submit very cheerfully to every correction of the honorable Senator, and to no one more cheerfully than that Senator.

The PRESIDENT *pro tempore*. The motion is to proceed to the consideration of executive business.

Mr. SUMNER. And to that point I address myself; and my reason why we should not proceed to the consideration of executive business at this moment is precisely this, that the Senate has before it a little bill which has passed the House, and which has been reported from the Committee on Patents, which it has proceeded with the consideration of; and I submit that we had better finish the consideration of that bill, rather than go into executive session. It is not worth while, in considering so small a bill as that, to take two bites, if I may so say. It is too small an affair. I think, therefore, we had better consider it and dispose of it now, and that is my reason for not desiring to go into executive session at this time; and I believe the Senator from Kentucky, in his frankness, will admit that I am in order.

Mr. GRIMES. I am satisfied from my knowledge of the business in executive session that the effect of going in will be, as soon as the executive messages are read, to break us up, because there is certainly a thing that will come up upon which I shall insist upon a division.

Mr. FESSENDEN. We can refer the messages on the table.

Mr. GRIMES. But we shall break up then, and we shall never get into legislative session again to-night.

The motion for an executive session was not agreed to.

Mr. SUMNER. Now, I ask that the Senate proceed with the bill before us.

The PRESIDENT *pro tempore*. The Chair will direct the business according to the parliamentary order; and the motion now pending is the one made by the Senator from Illinois to postpone the pending bill, which was called up on the motion of the Senator from Massachusetts, and all prior orders, to proceed to the consideration of the bill indicated by him (H. R. No. 362) to provide for the discharge of State prisoners and others, and authorize the judges of the United States courts to take bail or recognizances to secure the trial of the same.

Mr. FOSTER. I ask the Senator from Illinois to give way for a moment, until the bill sent from the House in regard to the competency of witnesses, that will supersede the necessity of passing a bill reported by us, may be taken up, and with slight amendments, which I think the Senate will readily concur in, be acted on. It will not occasion debate, and not displace the bill that is up.

Mr. TRUMBULL. I have no objection to that coming up, and I should have no objection if there could be a vote on the bill of the Senator from Massachusetts; but manifestly there is to be a division upon it, and I apprehend it will break us up. I will temporarily withdraw my motion to allow the Senator from Connecticut to present his bill, if it can be done.

Mr. FOSTER. It is House bill No. 390. I report it now from the Committee on the Judiciary, and move that it be taken up.

Mr. SUMNER. I think the Senate had better not take up that bill to-night. It cannot be proceeded with without a division. If it is the bill which was up the other day, there are at least two points on which I shall deem it my duty to divide the Senate.

COMPETENCY OF WITNESSES.

The PRESIDENT *pro tempore*. The Chair will put the question on the motion of the Senator from Connecticut, to postpone the pending and all prior orders and proceed to the consideration of the bill (H. R. No. 390) in relation to the competency of witnesses in trials of equity and admiralty.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill. It provides that the laws of the State in which the court shall be held shall be the rules of decision as to the competency of witnesses in the courts of the United States, in trials of equity and admiralty, as in trials at the common law.

Mr. FOSTER. I move to amend the bill by inserting after the word "trials," in the fifth line, the words "at common law," and strike out after "admiralty" the words "as in trials at the common law," so as to make the bill read:

That the laws of the State in which the court shall be held shall be the rules of decision as to the competency of witnesses in the courts of the United States, in trials at common law, in equity, and admiralty.

The amendment was agreed to.

Mr. FOSTER. I also move the following as an additional section; it is the same section which was moved the other day to another bill, and agreed to unanimously by the Senate:

And be it further enacted, That so much of section twenty-nine of an act entitled "An act to establish judicial courts of the United States," approved September 24, 1789, as requires, in cases punishable with death, twelve petit jurors to be summoned from the county where the offense was committed, be, and the same is hereby, repealed.

The amendment was agreed to.

Mr. SUMNER. I offer an amendment, to come in at the end of the first section:

Provided, That there shall be no exclusion of any witness on account of color.

Mr. President, the bill is entitled "in relation

to the competency of witnesses." The first section relates exclusively to the competency of witnesses, and lays down the rules for the competency of witnesses in the United States courts within their exclusive jurisdiction. The whole subject, therefore, is at this moment within the control of Congress; and the simple question is, whether Congress, undertaking to legislate on the competency of witnesses, shall sanction one of the most cruel and outrageous rules which has ever existed since the days of barbarism, and which is in itself emphatically a part of barbarism.

Mr. WILKINSON. I do not see, and I never have been able to understand, why a court should exclude any person from testifying. The object of testimony in a court is to arrive at the truth. Now, in the State of Minnesota the plaintiff in a suit, and the defendant, and everybody, may testify, and there is no reason why all intelligent persons should not be permitted to testify in court. The object of testimony is to arrive at the truth, to arrive at the facts, and there is no earthly reason why a negro, if he knows the facts, should not be permitted in a court of justice to testify to them. I base my support of this proposition of the Senator from Massachusetts upon the simple question of justice, of arriving at the facts. The question of slavery has nothing to do with it, as I understand; and there is no common sense in a court of the United States closing its doors against any communication which may be made to it in regard to the facts which are before the courts to be adjudicated. If a murder has been committed, why should not a negro, if he saw the murder, be permitted to testify in regard to it? In a civil action where the rights of parties are involved, amounting, perhaps, to thousands of dollars, are in issue before the court, why should not a black man, if he has the intelligence, be permitted to make his statement before a jury and let the jury decide as to the credibility of the witness?

Now, sir, the true rule is not to exclude men, but to allow the jury to determine upon the credibility of the witness. Leave that to the jury. There can never be any harm done; and it is consistent with the end which all courts should seek to attain, that is, justice, that all parties should be permitted to tell their story before the court under the solemnity of an oath, and let the jury and court determine as to the credibility of the witness. There is no principle, either in law or in morals, that would exclude a black man, or an Indian, or anybody else, from testifying to the facts which he has within his own mind in an issue before a court. I hope this amendment will be adopted.

Mr. FOSTER. I presume that the honorable Senator from Minnesota would not very readily submit to having the Legislature of Connecticut make laws for his State of Minnesota, even as to the competency of witnesses. I confess that I, as a citizen of Connecticut, should not be disposed to have the Legislature of Minnesota make laws for the State of Connecticut, as it regards the same question. I make no comparison between the two States other than to say they are precisely equal; they are here as peers; they are in the Union as peers. Each is entitled, within its own jurisdiction, to legislate on that and on other subjects for its own citizens, without being disturbed or molested at all by the citizens of the other.

Now, the Senator says that in the State of Minnesota they allow all parties, the parties to the action and all parties in interest, whatever their interest may be, to come forward and testify, and the triers in that way can arrive at the truth, which is the great object of a legal investigation. That, he says, is the true rule. Well, Mr. President, it may be so; but that honorable Senator is very well aware that there are other communities and other men who entertain an entirely different opinion; and that throughout the world, where the common law of England has prevailed, until within a very recent period, it has been the uniform rule that no witness should be allowed to testify upon a question where he had an interest in the event. It was supposed that his interest in the event of the cause would so bias his mind as that he ought not to be allowed as a witness; and the rule, as every one knows, has excluded from testifying all persons who had an interest in the event of the cause.

Mr. WILKINSON. I will ask the Senator from Connecticut, who is conversant with these matters, whether the Government of England have not so modified their law of evidence as to permit parties to testify?

Mr. FOSTER. No, sir; they have not. They have modified the law so far forth as that interest shall not be an exclusion. They allow persons to testify who have an interest even in the event of a cause. They yield that principle by, I believe, what is popularly known as Lord Denman's bill, passed through Parliament a number of years ago, but that bill does not allow parties in the cause to testify. It allows those who are in interest to testify, and yields, therefore, the principle. But that is foreign from the point that I was discussing, although I am quite happy to answer the gentleman's question so far as I am able. I say upon this point that men of legal learning and experience are not agreed, nor are the most enlightened communities agreed upon what is the best rule respecting the competency of witnesses in courts of justice. They differ. The honorable Senator is perfectly sure that he is right, and I am not now questioning but that he may be so. I am only saying that other communities and other men—and he will pardon me for saying even of as high reputation as himself—differ entirely from that opinion, and think that where a man has a direct interest in the event of a suit, it is too great a temptation to commit perjury to allow him to testify. Such has been the uniform rule of the common law, and it always has been the rule, except where it has been modified by statute, that we must have testimony coming from those who are uninterested in the event about to be decided.

But now the honorable Senator proposes that his law of Minnesota, for instance, if that is the true rule, should be adopted all over the United States, and that if we in Connecticut think that the parties to a suit ought not to be competent witnesses, and will not allow them to be competent witnesses in our State courts, yet we shall have them as witnesses in the United States courts when they sit in the State of Connecticut, because the Legislature of Minnesota have determined that to be the true rule, and the true rule shall be followed in the courts of the United States. Mr. President, I submit that it is far better to leave to every State its decision upon this question, its own rule of proceeding upon this question. Besides the disqualification of interest in a cause, in very many, I apprehend in most of the States, there is some test in regard to a man's religious faith. The honorable Senator from Minnesota says that in his State they allow everybody to testify. I ask him whether they allow a man who does not believe in the existence of a God to testify.

Mr. WILKINSON. Yes, sir; we allow everybody to testify.

Mr. FOSTER. They allow even atheists to testify! I confess that with entire deference to his opinion and the opinion of his Legislature, I do not want that law to be established in Connecticut; nor do I want it established that in the courts of the United States sitting in the State of Connecticut, atheists may testify. I do not want to see the mockery gone through with of calling upon a man to kiss the Evangelists of Almighty God, or to hold up his hand and swear by the same Being, when he asserts that he does not believe in the existence of such a Being. In most of the States, I think, the belief in the existence of God is required in order that a man shall be admitted as a competent witness in a court of justice. I am pretty sure it is so in the State of the honorable Senator from Massachusetts; and that that law has been administered there within a few years past, even in a capital cause. It was asserted that a man who was charged with a capital offense, murder I think, escaped conviction because the person who saw the deed committed was a man who either did not believe in the existence of God, or who lacked that religious faith which by the law of Massachusetts was requisite in order to make a man a competent witness in a court of justice; the honorable Senator will correct me if I am wrong; I believe that has occurred in his State within seven years past. I am quite sure the law of Massachusetts does not allow an atheist to testify. In the State of Connecticut, until within some thirty years past, the law was that a man must believe in the existence of God and in a future state of rewards and punishments, in order to be a competent witness.

I say it is competent for every State to fix its own rules for itself, and that the independence of each State of every other State requires that they should be protected in that right of making their own laws. Nobody questions it as regards their own tribunals. The only question is, whether, after they have made a law controlling their own State tribunals, we, sitting as the Legislature of the country, shall establish in the courts of the United States sitting in those several States, a rule at variance with, and contradictory to, the laws thus established within the States.

I know it is proposed to place this on the ground of color; but in regard to that, the color of a man's faith is quite as important as the color of a man's skin, in my opinion. If we are now to determine as to what the color of a man's skin shall be, and to fix a particular standard of complexion, or to define the complexion a man shall have in order that he may be qualified and competent as a witness in the United States courts, we may, and I think are bound, to say what amount of religious faith, if any, is necessary to make a man competent in the courts of the United States, and whether infamy of character, by conviction of crime, should be an exclusion. We shall, in that manner, violate the statutes of every State in the Union, it may be, by setting up an entirely different test respecting the competency of witnesses from that which prevails in any State in this Union, and impose that law upon each of the thirty-four States.

Now, are we prepared to do it? I am not. I am prepared to allow to each State its sovereign right within its own jurisdiction of defining by law who shall and who shall not be competent witnesses. As I have before remarked, nobody questions that right in respect to the State tribunals. I say it is better to leave, as this bill proposes to leave, the law within each State, when a court of the United States is sitting within that State, to the regulations of the State itself; and be governed by them. Then atheists can testify in Minnesota, and deists in Connecticut; and where ever else they have a different rule, that can also be fully enjoyed. Why quarrel with any State for its rule or its test?

Mr. DAVIS. And atheists in Michigan, too.

Mr. HOWARD. We have not got any.

Mr. FOSTER. I only allude to a single fact which is within my recollection, in the State of Massachusetts, and I presume within the honorable Senator's, for he is a man observant of what takes place in his own State and out of it. A man came forward in a capital case, avowing himself an atheist, avowing his disbelief in the existence of a Supreme Being, or it was proved that he did so, and he was excluded from being a witness for the reason that he did not believe in the existence of a Supreme Being. The honorable Senator from Michigan may have nobody in his State who does not believe in the existence of God, and who is not quite orthodox in all his opinions. I know nothing about that. I only know that I have met men, and met men in New England, who avowed solemnly, positively, their disbelief in the existence of God. The honorable Senator's experience may be quite different, and he may believe that nobody ever thought so; I only say that I have heard men, who seemed to be fully in possession of their reason, deliberately, positively affirm such a belief.

Under these circumstances, I cannot think that it will conduce to the ends of justice for us now to alter the provisions of this bill. It proposes to allow to each State its own rules, and to have those rules administered within the State by the courts of the United States. What can be more fair? Nothing, unless I am anxious to impose the rule of my State upon the State of the honorable Senator from Minnesota, or the honorable Senator from Michigan, which I am not. I am by no means saying that their rule may not be better than the rule which obtains in my State. I only ask that we shall be left the same privilege, the same liberty, which we freely grant to them. I say to gentlemen, seek not to impose the law of your several States upon us, although it may be better than ours. When the courts of the United States sit in your State, they will be governed on this subject by your laws; when they sit in my State, they will be governed by our laws. What can be more fair; what more just?

These differences in the States will still obtain; and shall we therefore take the Senator's rule, and make atheists witnesses in Connecticut because they are witnesses in Michigan, for the reason

that the Senator may, by possibility, be obliged to come to Connecticut and sue me for some wrong that I have done him? I hope it will not occur, but if it should, where would be the harm of having him compelled to be tried by the law as administered in the courts of the United States, their rules of evidence being according to the provisions of this bill, for, to turn the case about, if I go to Michigan, and am compelled to bring a suit there, I might want to carry my law with me? I should have just as good a right to insist on carrying my law with me, as he would have to insist that he should bring his law with him.

Mr. HOWARD. So that the objection will be equally weighty in both cases.

Mr. FOSTER. Precisely; and we should leave each State its own privileges and its own rights. That is the excellence of the law which I propose; but in the other event, some one State either gets its own law in all the States, or else we get a law that is in violation of the laws of every State, which, I take it, nobody wants. Inasmuch as the States differ, why not let the courts of the United States differ in the same degree?

Mr. WILKINSON. I did not refer to the State of Minnesota because I thought her laws ought to be taken as a rule for the laws of the General Government; but I think it is legitimate always, here or anywhere else, to refer to precedents; and that is the only reason or excuse I had for referring to the State of Minnesota.

Mr. FOSTER. I did not understand the Senator as alluding to his own State in any other than the most proper manner. It was a happy illustration, perfectly proper, in my opinion, and I certainly did not intend to say anything intimating the contrary.

Mr. WILKINSON. I stated, too, that I referred to the State of Minnesota to illustrate one single idea: that the credibility of the witness should be a matter to be determined by the jury, and that nobody should be excluded. I am not prepared to say that Dr. Chapin, because he does not believe in a state of future punishment, should be excluded from testifying in an important case; and I think it would be abhorrent to the moral sense of this nation, in Connecticut, or Massachusetts, or any other State, to exclude that eminent gentleman from testifying in a court of justice upon a simple question of fact, because he did not perhaps consent to a state of future punishment. I would believe him. Although I do believe in a state of future punishment, and although I am free to say, as the Senator from Connecticut did, that my faith would be shaken in the credibility of the testimony of a man who stated that he did not believe in the existence of God, yet my point is that it is a question of credibility, not of competency; and the whole argument of the Senator against the amendment is on the question of the admission of this testimony—a question of the competency of the witness, not a question of credibility.

Mr. FOSTER. I only say such are the laws of the State. I do not say the honorable Senator's rule would not be much the better way. These rules may be wrong; but they obtain in all the States, more or less.

Mr. WILKINSON. We are now legislating for the General Government, and we are making a rule of evidence here. Now, in regard to the question of the admission of the testimony of a negro, it is a question of credibility, and not a question of competency. I cannot say, and I will not say here in the Senate of the United States, that I would place as much confidence in an uneducated, uncultivated negro, as I would in a cultivated, accomplished gentleman; but I do say that the admission of his testimony should be made, under the laws of the United States, a question of credibility, and not a question of competency. He should be a competent witness, and the credibility of that witness should be left for the court and the jury to determine.

Mr. FOSTER. That is for the Universalist, also.

Mr. WILKINSON. Yes, sir; for the Universalist and for the Atheist. I said before, that while I am free to admit my confidence would be somewhat shaken in the testimony of any man who should declare that he did not believe in the existence of a God, because I doubt whether a man could be a right-minded, honest man, and make such a declaration in court, yet I would permit him to testify, and I would place as much confidence in his testimony as my judgment permitted me to place in it. I would bring into the courts of the United States all the light that could be brought into them. I would gather up, in a judicial conflict between parties, all the light that could be brought into that controversy, and I would leave it for the court and for the jury to determine upon all the facts that they had, whether they were gathered from black men or from white men, from Christians or from infidels, from Universalists or from Calvinists. I would take it all into the account, and let the court and the jury determine who was right and who was wrong.

Mr. President, I think there has been great progress in this matter. When I was a young man, just as I had got my diploma to practice law in the State of New York, I went into the court-house and I heard an argument between B. Davis Noxon, whose name is familiar to many around me, and a Judge Pratt, on the question of the competency of a witness. They argued all day long whether he had not a remote interest in the event of that action. The witness was one of the most prominent men in that county. That discussion was shocking to the moral sense of every man who sat down and listened to it. They were trying to prove that he had a remote interest away back somewhere in the cause, and yet he was a most honorable, high-toned man. One hundred thousand dollars would not have induced him to swerve for one moment from the right line of his duty. Now, look at the question here. Here is an issue to be tried. Here is a man who knows all about it, a man in whom the community have every confidence. His face is black. The whole community are aware that he knows all about it; they know that he was there and saw the whole transaction; they know that he is an honest and an upright man; the court knows it; the jury know it; everybody knows it; but you have a law that prohibits him from telling it in court; justice is cast aside and trampled under foot because of an arbitrary, tyrannical, nonsensical law of Congress, which prohibits such a man from testifying in court.

Mr. SUMNER. It may be well, as we are now called to enact a new national law, to go back to an early landmark of our history and see the principles which were laid down by our fathers. I hold in my hand the Declaration of Independence. At the beginning you will find these words: "We hold these truths to be self-evident: that all men are created equal." Now, sir, the gentleman from Connecticut, representing the Judiciary Committee of the Senate of the United States, proposes to establish as a rule of evidence in the United States courts that men are not equal.

Mr. FOSTER. If the Senator will allow me a moment, I propose no such rule of evidence. I propose saying not one word about any human being of any color, faith, or complexion—nothing whatever. I simply propose by the bill to allow the laws of the several States of this Union to operate as rules to control the courts of the United States sitting within those several States as it regards the competency of witnesses; that is all. It does not propose to establish any law in the world except to allow the law of the locality to be administered by the courts of the United States on that subject.

Mr. SUMNER. I certainly could not intentionally do the Senator injustice. I do not think I did him injustice; and he will therefore pardon me if I repeat what I said before, that the Senator from Connecticut, representing the Judiciary Committee of the Senate of the United States, proposes solemnly to ingraft into the legislation of the United States, in defiance of the Declaration of Independence, the practical principle that all men are not equal. The Senator rises and denies that he proposes any such thing. He simply proposes to recognize local laws in the States. That is all; nothing else. But pray, sir, is not this enough? Local laws, which defy the Declaration of Independence, cannot be recognized without defying the Declaration; nor can the Senator escape the responsibility merely by saying that he follows the local laws. Does he not sanction an injustice? The case is plain—too plain for argument. He proposes an act of legislation with regard to the competency of witnesses. He undertakes to regulate the competency of witnesses here by the voice of Congress, and gravely asks us to enact that witnesses shall be incompetent to testify on account of color. This proposition is not made openly, but under the guise that the local laws of States shall in all cases prevail in the national courts. Can the Senator forget the character of these local laws; how instinct with barbarism they are; what a shame and scandal they are to our country, and to the civilization of this age; and will he now recognize such a scandal and shame, and give them new effect? Not in the courts of the States, within the local jurisdiction, but in the courts of the United States, under the Constitution of the United States, within the national jurisdiction, where you and I, sir, will be responsible for the barbarism. No matter in what form it is put, no matter how subtly the proposition is concealed, it is a sanction of an outrageous rule of evidence.

Make any objection that you please to the *credibility* of a witness; show that he is not intelligent, that he is not worthy of belief, that his character is bad, and make all proper deductions from his testimony on this account; but do not say that he is absolutely *incompetent;* that he cannot be heard in court; that no matter how intelligent, truthful, or respectable he may be, he cannot be admitted to testify if he happens to be black. Such an exclusion of testimony is cruel to the witness, degrading to courts which administer such a rule, and destructive of justice, which requires evidence from every quarter.

I listened as closely as I could to the ingenious argument of the Senator. I went along with him in all that he claimed for the States and for their courts. He said each State is entitled within its own jurisdiction to have its rules of evidence. Granted. He said that it is better to leave to every State its own rule on this question. Granted again, sir, so far as the courts of the States are concerned.

Mr. FOSTER. Why allow them barbarism?

Mr. SUMNER. Because I have no right to interfere with them.

Mr. FOSTER. That answers the two questions.

Mr. SUMNER. There is the mistake of the Senator. He confounds our duties with regard to the national courts, where we are responsible, with regard to the State courts, where we have no responsibility and no right to interfere. Again, in his remarks, he said, "it is competent for each State to make these rules for itself." Granted again—within its own jurisdiction. Then, again, he said he would allow to each State its sovereign will on this question. Sir, where I cannot constitutionally interfere to check a barbarism, of course I do not interfere; I allow the sovereign will to prevail; but when a barbarism seeks shelter directly under the jurisdiction of Congress, when it falls under the responsibility of my vote, I cannot be silent. The Senator will pardon me, if I say that he erred when he undertook to transfer the rules of the State courts, without amendment or modification, to the United States courts. Let the State courts have their rules of evidence; they are beyond our control; but let the United States courts which are within our control be brought at last within the pale of civilization. Why, sir, has the cause which the Senator represents, prevailed at last? To what end is it triumphal by its votes on this floor, if, when we undertake to organize the rules of evidence in the United States courts, we take up and sanction such a relic of barbarism?

If this is not within our reach, pray, sir, why are we asked to vote on this bill? Why does the Senator bring forward his bill entitled "a bill concerning the competency of witnesses," with a section expressly regulating that whole subject, unless it is directly within our control, and we are to be made responsible for the way in which it is regulated? Sir, I should feel that I had been untrue to myself, untrue to the principles that I have at heart, and to the people that I have the honor to represent, if I allowed a bill like this, with such a title, with such an object, to pass without endeavoring to exclude from it all sanction of the vileness which seeks shelter under its words. The Senator this very session, within a few days, has voted for a bill to punish the fraudulent counterfeiting of postage stamps; but suppose the counterfeiter does his work in the presence of colored persons and nobody else, where will the Senator, according to his favorite rule of exclusion, find the evidence by

which the law is to be carried into effect? Sir, as long as Congress undertakes to legislate criminally, as long as it has courts with a national jurisdiction in the slave States, it owes it to itself, and it owes it to justice, that it should furnish the evidence by which its criminal legislation may be made effective, and by which its courts may be conducted without a constant act of shame calculated to bring a blush upon the cheeks. I speak frankly, as is my habit, and, perhaps, with feeling, but I trust that I have said nothing that I ought not to say.

Mr. FOSTER. I do not wish to interrupt the Senator——

Mr. SUMNER. I am done.

Mr. FOSTER. But when he speaks of my "favorite rule of exclusion," as though I was opposed to having black men testify, I would say that, in the course of my professional life, I presume I have examined more black men as witnesses than he ever did white ones, and did it, I hope, courteously, without a thought that I was not getting the truth in the majority of cases. The Senator ought not to impute to me any feeling of hostility towards this class of our population, or any wish to exclude them from being witnesses. There is no such thing.

Mr. SUMNER. I said the Senator's favorite rule of exclusion of evidence.

Mr. FOSTER. My "favorite rule of exclusion" excludes nobody; it allows everybody.

Mr. SUMNER. I understood the Senator to advocate the exclusion of testimony.

Mr. FOSTER. By no means.

Mr. SUMNER. I understood the Senator so.

Mr. FOSTER. The Senator has been singularly unfortunate. This law which is here proposed is an enlargement of the existing law, decidedly an enlargement of the existing law. His friend the district attorney of Massachusetts is now, from day to day, trying suits in admiralty in the courts of the United States in the city of Boston, and cannot examine a party or any one having an interest in the cause. This bill is to enable him to do it. The court of the United States sitting there as a court of equity, cannot permit the examination of the parties without this law. It is to prevent the exclusion of those men in the city of Boston, black or white; for they stand alike there; the white man can no more testify there in a suit in admiralty where he is interested, than the black man. This law enables both to do it; and it enables the black man to testify as well as the white, for the law of Massachusetts makes no discrimination on that ground. That is this law. The gentleman is unfortunate in his understanding of the law, as well as of my views respecting it.

Mr. SUMNER. The Senator then does propose to interfere with State laws.

Mr. FOSTER. By no means. It is to give to the courts of the United States the right to administer the laws of Massachusetts as to the competency of witnesses in the courts of the United States sitting in Massachusetts. That is it exactly—to administer the law of Massachusetts in the courts of the United States held in Massachusetts.

Mr. SUMNER. Very well, I am with the Senator in that.

Mr. FOSTER. Then vote for the bill.

Mr. SUMNER. I am with the Senator in the general objects of his bill; but I desire to perfect it. I desire to bring it in harmony with the Declaration of Independence, and with the principles of American institutions. The Senator, in opposing my amendment, sets himself practically against the Declaration of Independence, and against that fundamental principle of equality which I humbly submit we cannot, in our legislation, violate without wrong. If we were not now called upon to act on this subject, if the Senator did not bring forward this very bill "concerning the competency of witnesses," I should have nothing to say about it; but it is because we have the question before us, because we are called upon to provide legislation on this special subject, that I deem it my duty to perfect the measure by the amendment which I have brought forward.

Mr. HOWARD. Mr. President——

Mr. CLARK. Will the Senator from Michigan allow me to appeal to him for a moment? A resolution explanatory of the confiscation bill has been sent to us from the House, and it is desirable that it should be passed now. I presume it will take no time to pass it.

Mr. HOWARD. I have but one word to say on this subject, and shall be through in a moment. If I understand this bill, the effect of it is simply this: to establish as rules of evidence in the Federal courts throughout the United States the rules of evidence that exist in the various States where those courts are held, so as to make the rule in the Federal courts identical, as far as practicable, with the rule in the State court. I believe I do not misstate the purport of the bill. Now, Mr. President, I do not see the necessity of passing any such law as this. If that be the object of the Senator from Connecticut, I can assure him with confidence that his object has already been attained, because the Federal courts have decided, and decided repeatedly, that it is competent for them to adopt upon the trial of causes in those courts the rules of evidence prevailing in the State courts under State laws.

Mr. FOSTER. Will the honorable Senator permit me to ask in what State we have any courts of admiralty, so that there is any State law regarding the competency of witnesses in courts of admiralty?

Mr. HOWARD. I do not speak particularly of courts of admiralty.

Mr. FOSTER. That is what the bill speaks of.

Mr. HOWARD. This decision has been made by Judge Curtis in the Massachusetts circuit, and if my memory serves me, it was an admiralty case. I will not be confident about that, however. But it is perfectly well settled that the rules of evidence in the State courts are by adoption the rules of evidence in the Federal courts. This ruling has prevailed in my own State in the seventh circuit, and has been expressly so decided very recently. The same rule of law has been on more than one occasion, I can assure the Senator, recognized by the Supreme Court of the United States; so that I do not see the necessity of adopting any such principle as that which is embodied in this bill.

It appears to me that the only valuable feature of this bill, if it shall pass, will be the amendment offered by the Senator from Massachusetts. There is a matter which it does seem to me is deserving the attention of Congress. I agree entirely in the view taken of that question by my friend from Minnesota. When a negro is offered as a witness in court, the question should be not respecting his admissibility as a witness, but as to the weight to be given to his testimony. Let him stand upon precisely the same basis as to credit that other persons stand in the same court. I see no injustice in it; and, on the other hand, I see the great necessity for it, and I see that it will remedy a defect that has too long existed in some of the southern States of this Union. I hope the amendment will be adopted.

Mr. TRUMBULL. I seem to have been exceedingly unfortunate in my effort to get up another bill this evening. This bill came in, and I supposed would not occupy more than a few minutes, when lo, and behold! the rights of man, the Declaration of Independence, and religious belief have all been brought into the discussion. I should be very glad if we could take a vote upon the bill and get rid of it. What the Senator from Connecticut has said is very true, that the amendment offered by the Senator from Massachusetts is not germane to the bill. It is a new subject brought in upon us. This is not a bill excluding any witness on account of religious belief or color or anything else. It is simply a proposition that is now pending, to adopt, in the different States of the Union in the United States courts, the same rules of evidence that are adopted in the State courts. That is all there is about it. The Senator from Michigan says the courts may do that by a rule. Suppose the courts choose not to do it by a rule.

Mr. HOWARD. Then I suppose it would be an error, and that the judgment would be reversed upon error.

Mr. TRUMBULL. Not at all. They are not obliged to adopt it as a rule.

Mr. HOWARD. I think they are.

Mr. TRUMBULL. No, sir; there is no such law. It is a matter of discretion.

Mr. HOWARD. No, sir.

Mr. TRUMBULL. The law of 1789 provided:

"That the laws of the several States, except where the Constitution, treaties, or statutes of the United States shall otherwise require or provide, shall be regarded as rules of evidence in trials of common law in the courts of the United States in cases where they apply."

The courts have always held that that law of 1789 was not obligatory or binding so far as it applied to a State admitted since that time; that it only adopted the laws of the States in existence at that time. It has been repeatedly so held in nearly all the circuits of the United States. Judge McLean always held so, and so decided in Illinois, that a statute, unless he thought proper to adopt it, was of no validity in his court.

Mr. HOWARD. I beg to assure the Senator from Illinois that in my own circuit the common law rule of evidence was changed very recently, within the last few years; and the circuit court of the United States there adopted the State rule, and enforced it.

Mr. TRUMBULL. The circuit court in Illinois, while Judge McLean presided there, frequently adopted our statutes regulating the mode of proceeding in his court. He sometimes adopted them, and sometimes he did not adopt them. We had at one time what was called a valuation law in that State, requiring that property should bring two thirds of its appraised value. Some of the legislation upon that subject was adopted by the circuit court of the United States, and other portions were not adopted; and it was a matter of discretion. There should be a uniform rule upon the subject. The bill that is now pending simply requires the United States courts to adopt the same rule in regard to evidence as obtains in the State where the court is held. That is all there is about it; and here we are brought up with a proposition that it is a barbarous law to do that; it is barbarism, and it excludes negroes from testifying! It does not do any such thing. If your law in Massachusetts allows a negro to testify, he will testify there under this bill.

Mr. SUMNER. But it acts in the slave States.

Mr. TRUMBULL. It acts everywhere. You do not want to enforce Massachusetts law in Illinois, do you?

Mr. SUMNER. No.

Mr. TRUMBULL. Then let us adopt in the courts of Illinois the laws we have in Illinois. Do you want Illinois law in Massachusetts? Are you not satisfied if you can have the same rules of evidence in the United States court in Massachusetts as you have in the State courts; or do you insist that we in Illinois shall adopt the same rule of evidence that you have adopted in Massachusetts? If you do not, let us pass this bill. It is a most astonishing proceeding to me, that the Senator from Massachusetts comes in here denouncing this as a barbarous proposition to receive testimony in the courts of the United States where the court is held just as they do in the courts of the State. What right have we to establish a code of evidence all over the United States? Perhaps we could adopt a code of evidence, or pass laws which should declare what should be received as evidence in the United States courts, and change the whole mode of proceeding, and have laws administered upon one rule in the United States courts, and on another rule in the State courts in the same locality. But, sir, it is desirable to have the State courts and the United States courts act in harmony, and decide the same questions in the same way. That has been the policy of the Government from the beginning. It started out, in 1789, with that view, and this is to carry it out; and I am sorry that the question is to be embarrassed by a matter that is foreign entirely to the purpose of this bill. It is not a bill to establish the competency of testimony. I agree with very much that has been said here by Senators, if we were to go into the discussion of that question, that the tendency of the modern decisions is to allow everybody to testify. If I was to determine that question, I might agree with them that it would be better to receive the testimony of every person who offered to testify, and let the jury pass upon the weight that is to be given to that testimony. These questions go to the credibility rather than to the competency of the witness, as said by the Senator from Minnesota. We are not passing upon any such question as that. We are not proposing to fix the rule of evidence in the United States courts any further than to adopt the existing rule, and have the law administered in the United States courts just as it is administered in the State courts where the United States court is sitting.

Mr. SUMNER. The Senator says that we are not proposing to regulate the competency of witnesses. Sir, what is the title of the bill on your table? "Concerning the competency of witnesses." That is my answer to the Senator from Illinois. He then proceeds to say that the bill simply proposes to adopt the laws of the States. Yes, sir; this is true—undeniable. The bill declares that the laws of the States shall be adopted in the United States courts as the rule with regard to the competency of witnesses; but what is the subject-matter of the bill? It is always "the competency of witnesses" which the bill proposes to regulate. Whichever way you regard it, you come round to this single point: what shall be the rule concerning the competency of witnesses? The Senator from Illinois asked me whether I would allow the Congress of the United States to enter Massachusetts, and overrule what it might regard as a barbarism there. Yes, sir; with all my heart, so far as it constitutionally can; and may every relic of barbarism that shall show its head there find instant judgment!

Mr. TRUMBULL. Will the Senator allow me to ask him a question right there?

Mr. SUMNER. Certainly.

Mr. TRUMBULL. A few years ago this Senate and the House of Representatives were under the control of different influences from what now control them. Would it have met the Senator's approbation if the Congress at that day had gone into Massachusetts and said that no man who was a negro should testify in the United States courts, and that no man who believed that a negro had no rights that a white man was bound to respect should testify in the United States courts in Massachusetts? What would he have thought of that?

Mr. SUMNER. I should have thought that was a barbarism, and I should have opposed it as such; but that does not meet the question of the Senator.

Mr. TRUMBULL. It shows the impropriety of it.

Mr. SUMNER. Not at all. The Senator is mistaken. The Senator asks me whether I would consent that Congress should go into Massachusetts to overturn barbarism. I reply, with all my heart, let Congress go, and if it can find a barbarism, overturn it.

Mr. FOSTER. Congress to be the judge?

Mr. SUMNER. I do not admit that Congress should be the judge.

Mr. FOSTER. That makes a difference.

Mr. SUMNER. Certainly; it makes this difference: it is right for Congress to act in one case, and it is not right for it to act in the other case. The two cases cannot be confounded. They are as wide as the poles asunder; as wide apart as civilization and barbarism.

But it is a mistake to say that it is now proposed that Congress shall enter the States, and make or unmake. No such thing. All that I ask is, that Congress, in establishing rules for its own courts, shall not sanction a principle of exclusion which no recognition in the State courts can make otherwise than utterly ignoble and detestable. The question is simple: will you take care of your own courts? Leave the State courts to themselves; but do not fail to see to it that within your own exclusive jurisdiction no barbarous rule of evidence shall be established.

The PRESIDING OFFICER, (Mr. HALE in the chair.) The question is on the amendment proposed by the Senator from Massachusetts.

Mr. SUMNER. I ask for the yeas and nays.

The yeas and nays were ordered; and being taken, resulted—yeas 14, nays 23; as follows:

YEAS—Messrs. Chandler, Grimes, Harlan, Howard, Howe, King, Lane of Kansas, Pomeroy, Rice, Sumner, Wade, Wilkinson, Wilmot, and Wilson of Massachusetts—14.

NAYS—Messrs. Anthony, Bayard, Browning, Clark, Cowan, Davis, Doolittle, Foster, Hale, Harris, Henderson, Kennedy, Lane of Indiana, Powell, Saulsbury, Sherman, Simmons, Stark, Ten Eyck, Trumbull, Willey, Wilson of Missouri, and Wright—23.

So the amendment was rejected.

Mr. WILSON, of Massachusetts. I move that the Senate proceed to the consideration of executive business. ["Oh, no."]

Mr. TRUMBULL. I hope not. Let us dispose of this bill.

The motion was not agreed to.

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

Mr. DAVIS. I have an amendment to offer, to add the following as an additional section:

And be it further enacted, That hereafter any person who shall adhere to the government of the so-called confederate States of America, or do any act to carry on or sustain the same, or shall adhere to the existing insurrection against the United States, or give it aid or comfort, or shall advise any person to join it, or give any money, property, or other thing whatever, to any person to induce him to join said insurrection, or to any person who has joined, or is about to join said insurrection, with the intent to give aid or assistance to such person in said insurrection, shall be guilty of a high misdemeanor against the United States, and shall be subject to fine or imprisonment, or both, the fine not to be more than $1,000 nor less than $100; the imprisonment not to exceed ten years nor be less than one year, at the discretion of the jury.

Mr. FOSTER. I really hope that that amendment will not be pressed upon this bill. This is a bill in regard to rules of evidence in courts of the United States; and to put a criminal law upon it, it seems to me, if there were no other objection to it, would be in exceedingly bad taste. We should not unite together matters so perfectly incongruous as the rule of evidence in regard to the administration of the law and defining a penal offense, one that ought to be punished, and visiting it with a heavy hand. It does seem to me that such things ought to be acted on separately.

Mr. DAVIS. If there was any other place under the sun of heaven where I could plant this provision at this late day of the session, I would do so; but I trust there will be a vote upon it without any debate.

Mr. FOSTER. If that can be done I have no objection.

Mr. HENDERSON. I will state to the Senator from Kentucky that I think the second section of the bill known as the confiscation bill, which has passed the two Houses, embraces everything that is contained in his amendment. I am satisfied that it contains every possible aid that can be given to the insurrection.

Mr. DAVIS. I wish to present two or three other amendments; but I propose that a silent test vote shall be taken on this amendment. If this one fails, I shall press none of the others. I ask for the yeas and nays upon it.

The yeas and nays were ordered; and being taken, resulted—yeas 18, nays 19; as follows:

YEAS—Messrs. Browning, Chandler, Davis, Grimes, Harlan, Howard, Howe, King, Lane of Indiana, Lane of Kansas, Pomeroy, Sherman, Simmons, Sumner, Wade, Wilkinson, Wilmot, and Wright—18.

NAYS—Messrs. Anthony, Clark, Collamer, Cowan, Foot, Foster, Hale, Harris, Henderson, Kennedy, Powell, Rice, Saulsbury, Stark, Ten Eyck, Trumbull, Willey, Wilson of Massachusetts, and Wilson of Missouri—19.

So the amendment was rejected.

The amendments were ordered to be engrossed, and the bill to be read a third time. It was read the third time, and passed.

On motion of Mr. FOSTER, the title was amended so as to read, "An act in relation to the competency of witnesses in trials of equity and admiralty, and for other purposes."

EFFICIENCY OF ENGINEER CORPS.

Mr. RICE. I am instructed by the Committee on Military Affairs and the Militia to report back House bill No. 523, to promote the efficiency of the corps of engineers and of the ordnance and quartermaster's departments, and for other purposes, and to ask that it be put upon its passage. It is recommended, I believe, by everybody, and I presume there will be no objection to it.

The PRESIDING OFFICER. The Senator from Minnesota asks leave to report a bill, and also asks unanimous consent to consider it at the present time.

Mr. TRUMBULL. I had a motion pending to take up House bill No. 362, and gave way at the request of the Senator from Connecticut to bring in this other bill which I did not suppose would take any time. It has occupied most of the evening, and now it is proposed to let another bill come in. It seems to me I shall never have an opportunity to get up House bill No. 362, which is an important bill, if I give way all the time.

The PRESIDING OFFICER. The bill of the Senator from Minnesota can only be entertained by unanimous consent.

Mr. TRUMBULL. Then I object, and move to proceed to the consideration of House bill No. 362.

Mr. RICE. It is not necessary for the Senator to object. After his statement, I will ask that this bill be laid aside until his bill is considered.

ORDER OF BUSINESS.

Mr. TRUMBULL. I now move that the Senate proceed to the consideration of House bill No. 362.

Mr. WILSON, of Massachusetts. I hope the Senate will not take up that bill. If we do we shall spend a great deal of time upon it, and I have no idea that the bill is going to pass this Congress. I think it would be one of the most disastrous things that could happen.

The PRESIDING OFFICER. It is moved by the Senator from Illinois that the Senate postpone all prior orders and proceed to the consideration of the bill indicated by him.

Mr. WILSON, of Massachusetts. I move that the Senate proceed to the consideration of executive business.

Mr. TRUMBULL. I hope not. That tests the question. I want to see if we cannot get some action on this House bill, or whether this Congress is determined to adjourn without taking any action whatever, or giving a trial to men who have been confined, some of them for a year without knowing for what. I should like to have this bill taken up, and see what the disposition of the Senate is upon it. I trust the Senate will not go into executive session, for it is evident the design is to get rid of this bill.

Mr. POWELL. I do hope the Senate will take up the bill indicated by the Senator from Illinois. There is certainly no bill before the Senate of so much importance.

The PRESIDING OFFICER. The question is on the motion to proceed to the consideration of executive business.

Mr. POWELL. I hope that we shall not agree to that motion, but will take up this bill, and have a vote upon it.

Mr. TRUMBULL. I will ask for the yeas and nays on the motion of the Senator from Massachusetts. Let us see if we cannot get up this bill.

The yeas and nays were ordered.

Mr. SUMNER. It is evident that if we proceed with the consideration of the bill just moved by the Senator from Illinois, it will occupy the whole of this evening. Now, it is known that there is important business in executive session which we ought to attend to. I hope, therefore, the Senate will go into executive session.

Mr. TRUMBULL. I hope not.

Mr. RICE. We all have had our dinners, and we can just as well stay until morning as not. We all know that if we go into executive session, there will be no bill considered afterwards. After an executive session, as has been universally the case, we shall adjourn; and as there are only a few bills pending, why can we not stay and act upon them, and then go into executive session? We can certainly do all this, and get home time enough for our breakfasts.

Mr. ANTHONY. I only wish to say that I shall not allow any vote that I give to be a test vote unless I agree to it in advance. This may be a test vote for the Senator from Illinois, but it is not for me. I shall vote to go into executive session, because I think we have business there that we ought to proceed with.

The question being taken by yeas and nays, resulted—yeas 18, nays 20; as follows:

YEAS—Messrs. Anthony, Browning, Chandler, Clark, Collamer, Doolittle, Fessenden, Foot, Hale, Harris, Howard, Howe, King, Morrill, Simmons, Sumner, Ten Eyck, and Wilson of Massachusetts—18.

NAYS—Messrs. Cowan, Davis, Foster, Harlan, Henderson, Kennedy, Lane of Indiana, Lane of Kansas, Pomeroy, Powell, Rice, Saulsbury, Sherman, Stark, Trumbull, Wilkinson, Willey, Wilmot, Wilson of Missouri, and Wright—20.

So the Senate refused to go into executive session.

SETTLEMENT OF NEGROES IN WEST INDIES.

Mr. TRUMBULL. I now move that we proceed to the consideration of House bill No. 362.

The motion was agreed to.

Mr. FOSTER. It is said one good turn deserves another. The honorable Senator from Illinois gave way a short time since for a bill which he supposed would not take time. I have one now which I am persuaded will not take any time, except the time necessary to vote upon it. The honorable Senator from New York [Mr. KING] has suggested that whenever the bill came up, he should ask for a vote upon it, but was not disposed to debate it. I am prevented, therefore, from moving to take it up, except when there is a quorum pres-

ent. There is a quorum now present, and I believe a simple vote will dispose of the bill. It is the bill in regard to the slave trade, which is of importance. I do not believe it will occasion any debate. If it does, I will not ask that it be continued. The honorable Senator from New York, however, will ask for the yeas and nays upon it, and that is, as I believe, all the time it will take to pass the bill, or to reject it, one way or the other.

Mr. TRUMBULL. I have no objection to allowing a call of the yeas and nays upon it; but I cannot allow a bill to come in to displace this.

Mr. FOSTER. If it goes beyond that, I will not ask that it be continued, if the Senator will kindly give way.

Mr. POWELL. I hope the Senator from Connecticut will not ask to displace this bill.

Mr. FOSTER. It is simply to take the yeas and nays. If it goes beyond that I will not insist upon it.

Mr. POWELL. Very well.

Mr. FOSTER. Then I move to take up Senate bill No. 385, to amend an act entitled "An act to amend an act entitled 'An act in addition to the acts prohibiting the slave trade.'"

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

Mr. KING. Let the bill be read through.

The PRESIDING OFFICER. It will be read.

Mr. TRUMBULL. The Senate well understand it. This is the bill to allow Africans captured from slavers to be taken to the West India Islands. The question came up on a communication from the Danish minister. We all understand it, and I presume it is not necessary to read the bill.

Mr. FOSTER. It simply enlarges the power of the President in regard to the disposition of captured Africans.

Mr. KING. I should like to have it read.

The PRESIDING OFFICER. The reading is called for, and the bill will be read.

The Secretary read the bill, which provides that it may be lawful for the President of the United States to enter into arrangement, by contract or otherwise, with one or more foreign Governments having possessions in the West Indies or other tropical regions, or with their duly constituted agent or agents, to receive from the United States, for a term not exceeding five years, at such place or places as shall be agreed upon, all negroes, mulattoes, or persons of color, delivered from on board vessels seized in the prosecution of the slave trade by commanders of United States armed vessels, and to provide them with suitable instruction, and with comfortable clothing and shelter, and to employ them, at wages, under such regulations as shall be agreed upon, for a period not exceeding five years from the date of their being landed at the place or places agreed upon; but the United States are to incur no expenses on account of the negroes, mulattoes, or persons of color, after having landed them at the place or places agreed upon. Any arrangement so made may be renewed by the President of the United States from time to time, as may be found necessary or desirable, for periods not exceeding five years on each renewal. The President of the United States is also authorized to issue instructions to the commanders of the armed vessels of the United States, directing them, whenever it shall be practicable, and under such rules and regulations as he shall prescribe, to proceed directly to such place or places as shall have been agreed upon with any foreign Government, or its duly constituted agent or agents, under the provisions of the first section of this act, and there deliver to the duly constituted authorities, or agents of such foreign Government all negroes mulattoes, or persons of color, delivered from on board vessels seized in the prosecution of the slave trade, afterwards taking the vessel and persons engaged in prosecuting the slave trade to the proper place for trial and adjudication.

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

Mr. KING. Regarding this as a sort of apprenticeship system I am opposed to it; and ask for the yeas and nays on the passage of the bill. I desire to record my vote against it.

The yeas and nays were ordered, and being taken, resulted—yeas 30, nays 7; as follows:

YEAS—Messrs. Anthony, Browning, Clark, Collamer, Cowan, Doolittle, Foot, Foster, Grimes, Hale, Harris, Henderson, Howard, Howe, Kennedy, Lane of Indiana, Lane of Kansas, Morrill, Powell, Rice, Saulsbury, Sherman, Simmons, Stark, Sumner, Trumbull, Willey, Wilson of Massachusetts, Wilson of Missouri, and Wright—30.

NAYS—Messrs. Davis, Harlan, King, Pomeroy, Ten Eyck, Wade, and Wilmot—7.

So the bill was passed.

DISCHARGE OF STATE PRISONERS.

Mr. RICE. Now I ask the Senate to take up the bill to which I referred before, House bill No. 523. I presume there will be no objection to it.

Mr. TRUMBULL. The bill just passed was a bill interjected by the Senator from Connecticut after my motion had been agreed to.

Mr. RICE. I beg pardon.

Mr. TRUMBULL. I hope we may now go on with House bill No. 362.

The Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. No. 362) to provide for the discharge of State prisoners and others, and to authorize the judges of the United States courts to take bail or recognizances to secure the trial of the same. It directs the Secretary of State and the Secretary of War forthwith, or as soon as may be practicable, to furnish to the judges of the circuit and district courts of the United States and of the District of Columbia, a list of the names of all persons, citizens of States in which the administration of the laws has continued unimpaired in the Federal courts, who are now, or may hereafter be held, as prisoners of the United States in any fort, arsenal, or other place, as State or political prisoners, or otherwise than as prisoners of war; the list to contain the names of all such who reside in the respective jurisdictions of the judges, or who may be deemed by the Secretaries, or either of them, to have violated any law of the United States in any of those jurisdictions, and also the date of each arrest.

In all cases where a grand jury having attended those courts, or either of them having jurisdiction in the premises, since the arrest of the persons, has terminated its session without finding an indictment, or presentment, or other proceeding against such persons, and in cases hereinafter provided for, it is to be the duty of the judges forthwith to order the discharge of such prisoner from imprisonment, and every officer of the United States, having custody of such prisoner, is directed immediately to obey and execute the judge's order, and in case he shall delay or refuse so to do, he is to be subject to indictment for a misdemeanor, and be punished by a fine of not less than $500, and imprisonment in the common jail for a period not less than six months, in the discretion of the court. In case any of such prisoners shall be under indictment or presentment for any offense against the laws of the United States, and by existing laws bail or a recognizance may be taken for the appearance for trial of such person, it is to be the duty of the judges at once to discharge such person upon bail or recognizance for trial. In case the Secretaries of State and War shall for any reason refuse or omit to furnish the list within five days from and after the passage of this act, any citizen may, by a petition alleging the facts aforesaid touching any of the persons so imprisoned, supported by the oath of such petitioner or any other credible person, obtain and be entitled to have the judge's order to discharge such prisoner; but the judge is to be satisfied such allegations are true, and in all cases included in the provisions of this act; or if the public safety shall require it, is to have power and be required to take a recognizance or bail from such prisoner to keep the peace and be of good behavior towards the United States, and also to appear before the proper court, if he shall deem it necessary after due examination of the case; and it is to be the duty of the district attorney of the United States to attend at such examination by the judge. It will be lawful for the President of the United States, whenever, in his judgment, by reason of "rebellion or invasion, the public safety may require it," to suspend by proclamation the privileges of the writ of *habeas corpus* throughout the United States, or in any part thereof; and whenever and wherever the writ shall be suspended, it will be unlawful for any of the judges of the several courts of the United States, or of any State, to allow the writ, anything in this act or in any other act to the contrary notwithstanding.

Mr. WILSON, of Massachusetts. I move to strike out the first and second sections of the bill.

Mr. GRIMES. Let them be read.

The Secretary read them, as follows:

That the Secretary of State and the Secretary of War be, and they are hereby, directed forthwith, or as soon as may be practicable, to furnish to the judges of the circuit and district courts of the United States and of the District of Columbia, a list of the names of all persons, citizens of States in which the administration of the laws has continued unimpaired in the said Federal courts, who are now, or may hereafter be held, as prisoners of the United States in any fort, arsenal, or other place, as State or political prisoners, or otherwise than as prisoners of war; the said list to contain the names of all such who reside in the respective jurisdictions of said judges, or who may be deemed by the said Secretaries, or either of them, to have violated any law of the United States in any of said jurisdictions, and also the date of each arrest. And in all cases where a grand jury having attended said courts, or either of them having jurisdiction in the premises, since the arrest of said persons, has terminated its session without finding an indictment, or presentment, or other proceeding against such persons, and in cases hereinafter provided for, it shall be the duty of said judges forthwith to order the discharge of such prisoner from said imprisonment, and every officer of the United States having custody of such prisoner is hereby directed immediately to obey and execute said judge's order; and in case he shall delay or refuse so to do, he shall be subject to indictment for a misdemeanor, and be punished by a fine of not less than $500, and imprisonment in the common jail for a period not less than six months, in the discretion of the court.

SEC. 2. *And be it further enacted*, That in case any of such prisoners shall be under indictment or presentment for any offense against the laws of the United States, and by existing laws, bail or a recognizance may be taken for the appearance for trial of such person, it shall be the duty of said judges at once to discharge such person upon bail or recognizance for trial as aforesaid. And in case the said Secretaries of State and War shall for any reason refuse or omit to furnish the said list within five days from and after the passage of this act, any citizen may, by a petition alleging the facts aforesaid touching any of the persons so as aforesaid imprisoned, supported by the oath of such petitioner or any other credible person, obtain and be entitled to have the said judge's order to discharge such prisoner: *Provided, however*, That the said judge shall be satisfied such allegations are true, and shall also in all cases included in the provisions of this act, or if the public safety shall require it, have power and be required to take a recognizance or bail from such prisoner to keep the peace and be of good behavior towards the United States, and also to appear before the proper court, if he shall deem the same necessary after due examination of the case; and it shall be the duty of the district attorney of the United States to attend at such examination by said judge.

Mr. WILSON, of Massachusetts. I hope the Senate will strike out those two sections of the bill. I regard the first section, and, in fact, the second, to be a jail delivery of traitors. I hope, sir, when we have a general and universal demand for more vigor in the prosecution of the war for the suppression of the rebellion, that the Congress of the United States is not to close its labors by releasing from the prisons where they are now confined men who have been plotting treason against the country. I believe that the Government of the United States has acted with more humanity than any Government that has existed from the foundation of the world that has been threatened by insurrection and rebellion. I do not believe that coming generations will arraign the Government of the United States with having acted cruelly to any portion of those who have been plotting treason against the country. On the contrary, I believe that the verdict of the present and the verdict of the future will be that the Government has acted quite too leniently towards those persons. I think the judgment of this country, and the judgment of Congress to-day is, that we have dealt too gently with persons who have been plotting treason against the country. While we are calling upon the Government for renewed and increased vigor of action; while we are arraigning the Administration for carrying on the war in the way in which it has been carried on, and for its manner of dealing with men who, all over this country, have been daily and nightly plotting treason, we propose here a general jail delivery, to discharge from the prisons where they are now confined, men who have been placed there on evidence overwhelming and complete, now in the offices of this Government, for plotting the overthrow of this Government. I hope the Senate of the United States will pause before it turns out upon the country the men who a few months ago were doing all in their power to carry States out of the Union and to overthrow the Government of the country.

Why, sir, the bill provides that if a grand jury has held and closed its sessions where these men are confined, and has made no presentment, they are to be discharged from their confinement. I think there is something in the first and second sections of this bill that conveys a censure on the

Secretary of State and the Secretary of War. I say for myself, I thank the Secretary of State and the Secretary of War for laying the hand of this Government upon the black-hearted traitors who were plotting its ruin, and shutting them up where they could do no harm to their country. I think the Government deserve our thanks for the little they have done. I believe there are to-day hundreds of men in this country who ought immediately to be arrested and consigned to confinement, where they can do no harm to the country.

I hope, therefore, that this bill is not to receive the sanction of the Senate of the United States. I believe its passage will be a blow at our country in this the darkest hour it has ever seen. Desiring to do all in my power to carry my country triumphantly through this contest, to carry it through these hours of gloom to a brighter day, I am opposed to the bill, and shall vote against it in any and every form. The third section of the bill, authorizing the President of the United States to suspend the writ of *habeas corpus*, I think very well, and am very willing to vote for it; but I am utterly opposed to the first two sections.

Mr. TRUMBULL. This is a House bill which was referred to the Judiciary Committee of this body, and the committee has reported it back, recommending its passage. The bill, perhaps, may not be perfect; possibly it ought to be amended. I should like myself to see it in a different shape in some respects; but the committee thought it advisable to recommend its passage as it came from the House, as an amendment to it now might hazard the passage of it into a law at the present session. But the Senator from Massachusetts comes in, and, without attempting to perfect the bill, moves to strike out the first two sections which relate to the persons who have been in confinement for political offenses. He is unwilling to take any action, as it would seem by his motion, upon that subject; and he thinks it entirely out of place when Congress and the country are calling upon the Government for more efficient measures towards the traitors that we should institute a general jail delivery.

Now, sir, we should not confound things together that are unlike. I am as much for efficient measures against the rebels as the Senator from Massachusetts, or anybody else. I am for pursuing them with all the power of our armies, for crushing them out, and for carrying on this war as a war. I understand war to mean desolation and destruction and death; and I am for administering death, desolation, and destruction to the rebels in arms against this Government.

But, sir, what has this bill to do with that? While I am for doing that, I am not for punishing innocent men. Is the Senator from Massachusetts? Because he wants to pursue with all the power of the Government the rebels in arms against the Government, is he, therefore, going to accomplish it by putting into prison men in the loyal States of this Union—and this bill applies to none others—and confining them in prison without telling them for what; without telling them why they are arrested; without telling them how long they may be confined; without letting them know what they have done; without giving them an opportunity to answer? He assumes that they are traitors. How do you know they are traitors? If they are traitors, will this bill discharge them? Not at all; the grand jury will present them; and they will not be bailed; they will not get out if they are traitors. He says they have got the evidence. In the name of Heaven, then, bring it against them and not keep them in prison, but let them swing from the gallows if they are traitors. The Senator from Massachusetts assumes that these men are traitors; and he says they have the evidence. In the name of Heaven, then, bring it forth and let them be put upon their trial before the country, and let us see this evidence, and let us execute them as traitors. But will it do to assume that they are traitors?

I have seen in this Senate, time and again, the Constitution interposed for the protection of armed rebels. When we attempt to pass confiscation bills, when we attempt to pass laws which shall strike down armed rebels, we are met with the Constitution; but here, where men are arrested, not by the military power, but are arrested by an order without the authority of law, in loyal portions of this country, where judicial process has not been obstructed, and are placed in prisons, and are confined for weeks and months and years, shall they not be permitted to invoke the Constitution in their behalf? Are they not entitled to a trial, to a hearing? This bill does not propose to interfere with prisoners of war, but only with those persons who say they are innocent. The Senator from Massachusetts says they are guilty. Let that question be tried by the proper tribunals of the country; and if they are guilty, let them suffer the punishment due to their guilt, and no man will complain. But, sir, suppose they are innocent, then how is it? Are they to lie in prison and rot? What relief is there for them? What hope is there for them? When are they to come out? By what authority are they kept in prison? Will the Senator from Massachusetts tell me?

If the provisions of the bill will operate to the prejudice of the Union cause, let us amend it, let us change it, but not defeat it entirely. I should be glad, myself, to see the bill changed in some respects, though I do not propose offering amendments, as I am instructed by the Judiciary Committee to report it to the Senate without amendment. It is to me extraordinary that we have sat here so long as we have and have taken no steps to vindicate the Constitution and constitutional liberty. I ask, what is the Constitution good for, and what is the law good for, if in the peaceable portions of the country, if in judicial districts where the execution of the law has not been interfered with, a man cannot claim the protection of the Constitution and of the laws?

Sir, this is a Government of laws, and the safety of our republican institutions, and of republican institutions every where, depends upon our observance of the law. It will not do to say that we cannot observe the law in times like these in portions of the country where there is no commotion to interfere with the ordinary administration of justice. The danger would be that innocent men would suffer rather than that the guilty would escape. The probabilities would be that the prejudices would be such against men tinctured with treason, that jurors would be inclined to find them guilty on insufficient testimony, rather than that they would let those who were guilty escape.

Now, sir, I do trust that the motion of the Senator from New Hampshire will not prevail. I think this is due to these persons who have been confined, and who allege that they are innocent. I know the Senator from Massachusetts says they are guilty. Who is to determine that? Will he undertake to determine that the persons who have been arrested and confined are guilty? Does not that Senator know that scores of men have been arrested and confined for weeks and months and then have been discharged, it appearing that there was no sort of evidence against them?

Mr. WILSON of Massachusetts. I do not know it.

Mr. TRUMBULL. Well, sir, I know it. A commission has discharged scores of them. Men are about this city who have been discharged for a length of time. They either ought not to have been confined, or else they should have been put upon their trial for the offense which led to their arrest. Numerous political prisoners, as they were called, have been discharged; and I think it due to the others who are in confinement that they should have an opportunity to be heard. That is all this bill proposes. It is not a general jail delivery for traitors. No traitor can escape under it. None but the innocent will escape. Would the Senator from Massachusetts hold the innocent in prison? I know he would not. Let us not be misled in our zeal to put down this rebellion, which is to be pardoned in any one, and which I trust I feel as strongly as any one. I say, in our anxiety to crush this wicked rebellion, let us not do injustice to innocent men. I will not say that these persons who were arrested are innocent, though I have just as good a right to say they are innocent as the Senator from Massachusetts has to say they are guilty; that is the very question that should be decided. Let that be tried by an impartial jury, and if they are innocent they will be discharged, and if they are guilty they will be made to suffer for their crimes.

Mr. WILSON, of Massachusetts. The Senator from Illinois says this is not a general jail delivery. I maintain that if this bill passes, and if the grand jury of the city of Washington has held a session since certain persons were arrested, and has not found a bill against them, they are to be immediately discharged. I maintain that by the provisions of the first section of this bill, if the grand jury in the city of Baltimore has held a session since the members of the Legislature of Maryland and other persons concerned in treasonable acts in that State were confined in Fort McHenry, and have not found bills against them, they will be at once discharged by the passage of this bill.

Mr. TRUMBULL. If the Senator from Massachusetts will allow me, I should like to inquire if the members of the Legislature were not discharged some time ago?

Mr. WILSON, of Massachusetts. The members of the Legislature may have been discharged, but there are a great many persons connected with that movement still in Fort McHenry.

Mr. TRUMBULL. I may be misinformed, but my understanding is that they were discharged some time ago.

Mr. WILSON, of Massachusetts. They have not all been discharged, I think. There are many persons there that were arrested last year, who were engaged in the movement to take Maryland out of the Union.

Mr. SHERMAN. Have their cases been submitted to the grand jury?

Mr. WILSON, of Massachusetts. Here is what this bill says. I want the Senate to understand it:

> And in all cases where a grand jury having attended said courts, or either of them having jurisdiction in the premises, since the arrest of said persons, has terminated its session without finding an indictment, or presentment, or other proceeding against such persons, and in cases hereinafter provided for, it shall be the duty of said judges forthwith to order the discharge of such prisoner from said imprisonment; and every officer of the United States having custody of such prisoner is hereby directed immediately to obey and execute said judge's order; and in case he shall delay or refuse so to do, he shall be subject to indictment for a misdemeanor, and be punished by a fine of not less than $500, and imprisonment in the common jail for a period not less than six months, in the discretion of the court.

I think that means that if, in the district of country where these persons are under arrest, the courts have been held, and a grand jury has met, and has not taken up their cases and found bills against them since their arrest, they shall be discharged by the passage of this bill.

Mr. SHERMAN. I should like to ask the Senator whether the evidence which he says is in the possession of the State Department has been submitted to a grand jury?

Mr. WILSON, of Massachusetts. I do not know that.

Mr. COLLAMER. Allow me a word.

Mr. WILSON, of Massachusetts. Certainly.

Mr. COLLAMER. The probability is, and I understand there are many such cases, that these persons, if the testimony were presented to a grand jury, would be indicted, and probably would be convicted. The point that can easily be conceived is that the Government does not desire to begin the business of hanging, and these men do not want to be tried and hung. It is not thought advisable to begin that business. Indictments have not been found, both because the Government does not think it best to push them, and because the parties themselves do not insist upon it. We can easily conceive of a great many such cases as that. But the effect of this bill, as it now stands, is, that though that complaint has not been made, though that testimony has not been presented for the reasons I have stated, still the man must be discharged forthwith.

Mr. WILSON, of Massachusetts. I see that I was right, and I am glad to be sustained by the Senator from Vermont.

Mr. POWELL. Allow me one word. I will state to the Senator from Vermont, that the police commissioners of Baltimore presented their memorial to this Senate one year ago, asking either to be released, or to be handed over to the civil tribunals for trial.

Mr. COLLAMER. If the gentleman would listen to me and make his usual discrimination, he would understand what I mean; and that is that the bill should be so drawn that those who desire to be tried should have a trial, and those whom neither the Government nor themselves desire to have trial at present should not be compelled to have their trial or be released immediately.

Mr. WILSON, of Massachusetts. I am sure the Senator from Vermont is right when he says that the Government of the United States have not been anxious to bring those persons to trial. They

THE CONGRESSIONAL GLOBE.

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have the evidence overwhelming and crushing on hundreds of men in this country, some of whom they have never yet arrested, that would convict them before an impartial jury. The Government has not been anxious to bring these men to trial and to convict and to execute them. Then, sir, I do not believe these people want to be tried. They want to be turned out of prison.

Mr. GRIMES. Will the Senator from Massachusetts allow me to inquire of him whether these persons who are not yet arrested, against whom the Government has this crushing testimony of treason, are within the jurisdiction of the loyal States, so that they are capable of being arrested by the Government?

Mr. WILSON, of Massachusetts. The question will be whether the District of Columbia and the State of Maryland are loyal States where you can hold the courts. You have traitors confined from this city, and have had them, and you have them from Maryland, and the Government has the evidence of their treasonable transactions, but has not brought them to trial.

Mr. GRIMES. Those are cases where the Senator says the persons are now in confinement; but he also said that there were men at large of whose guilt the Government had most crushing testimony. Now, I want to know whether those men are within the jurisdiction of those States where it is possible for the Government to execute its process and reach them so as to bring them to trial.

Mr. WILSON, of Massachusetts. I think some of them are, although I say to the Senate that I doubt whether you can get a conviction of any of these men in almost any portion of this country. If you were to arraign a man in the city of Washington for treasonable transactions against this Government, I have no idea that you could get a jury to convict him. I have no idea that it could be done in the city of Baltimore. I doubt whether it could be done in the city of New York. You have traitors and sympathizers with traitors all over this country.

The Senator from Illinois said that persons had been taken up and discharged who have been proven innocent. I said that I knew no such case. I do not know any such case. I know of cases where persons have been discharged, not because they were not guilty, but because they were willing in some cases to come forward and take the oath of allegiance, and in others to agree to do nothing against the Government. They have been let off by the humanity of the Government. Some of the very men who have been let off in that way are now in the rebel army. Does the Senator from Iowa believe that George W. Jones, of his State, who was arrested, was let out of the prison because he was not guilty? He was let out of prison by the humanity of this Government. They had the evidence of his transactions. General Sumner, it will be remembered, arrested Gwin and Calhoun Benham, and they were kept in prison a short time and let out, not because the Government had not evidence against them; and where are they to-day? Calhoun Benham is in the army of the South, and Gwin is plotting treason in the southern confederacy.

Mr. GRIMES. Is that what the Senator calls the humanity of the Government?

Mr. WILSON, of Massachusetts. A Senator near me says it is the weakness of the Government. The Government found itself in this condition: it found treason all over the Union, in the offices in this city, in the Army, in the Navy, everywhere North and South; and what did the Government do? When evidence was placed before it that certain persons were exerting their influence for the overthrow of the Government, were plotting treason against it, and those persons were of consequence enough to justify the step, they were arrested and shut up where they could do no harm. Hundreds, as to whose conduct the Government had sufficient evidence, were not arrested, because it was rather a difficult matter to make these arrests, and the Government did not wish to appear to be cruel. It let hundreds escape who, it was thought, could not do any harm anyway, and many persons who were arrested by the Government have been let off under promise that they would not do anything against it, or on taking an oath, or because the Government thought they were too insignificant to keep; but in cases where the persons were of sufficient position to justify it, they have been kept where they could do no harm to the country; and I think the Government has done right, and I do not wish to turn them out of prison, at any rate until the cause of the country triumphs. I want to see the flag of the Union proudly wave over this country before the traitors who plotted the overthrow of the Government are turned out of the prisons where they are now held. If I had the keys, they would not be turned out until the cause of this country was assured; and I hope the Congress of the United States will permit the Government to thus act, and I hope the Government will thus act.

I should be glad to have these persons brought to trial, but I do not believe that if you could bring them to trial, one in twenty of them could be convicted. You have treasonable sympathizers all around, men who are rejoicing to-day over our defeats near Richmond, men who shouted for joy when Stonewall Jackson chased Banks up the Shenandoah valley. In this city, in Baltimore, all over Maryland; ay, sir, in portions of the free States of the Union, we have sympathizers with treason who have been kept down by the power of the Government, by the overshadowing power of the patriotism of the country; but the moment disasters came upon us, they showed their sentiment and their feeling. It is of no use to talk about getting a jury in this city to make a conviction. You might pack a jury to do it, but I do not believe you can honestly draw a jury in this city that will convict any of these persons who have been arrested. I do not believe there is a man in Fort McHenry to-night that you can get a Baltimore jury to convict. Therefore, sir, I say to the Government, hold on to these traitors now, hold them fast until the country gets so strong that they cannot harm it, then bring them to trial if you wish to do so; if not, turn them out, and let them go forth to the country and be blasted forever as they should be by the patriotic indignation of the people.

Sir, I shall regard the passage of this bill as a blow struck at our Government and our country in this hour of anxiety and gloom; for, as a gentleman said in a letter the other day, these traitors all over the North emerge from their gloom as the shadow falls upon us, and they are doing so. It is no time now to unbar the doors and let out these traitors. Sir, I know that the Government of this country has volumes of evidence against men who have been plotting treason against it, many of whom have been arrested, many of whom have not been, that if they were brought in here and published, would amaze the people of this country. Let men that are disloyal stay in prison until the cause of the country triumphs, and then send the poor devils out marked and branded for their treason to their country. Sir, I hope this bill is not to pass the Senate of the United States. I do not wish to open the doors to let these men out, and I do not wish, by a vote here, to rebuke the Government, that, instead of being cruel, or being harsh or vindictive, has been excessively humane towards these people that have been trying to destroy our country.

Mr. FOSTER. Mr. President, as this bill comes from the Judiciary Committee, I wish, as a member of that committee, simply to say that it did not have my assent. I am opposed to the first two sections of the bill which have been read, for reasons which, I think, will occur to almost any one who has heard them read. I am opposed to the third section, which proposes to give to the President of the United States the power to suspend the writ of *habeas corpus*, for the reason that it gives to him that power without limitation or restriction as to time. If there be necessity, and I would not say that there was not a necessity, for giving him the power, I would limit it in point of time. I am, therefore, opposed to each section of the bill, and hope that it will not pass.

The PRESIDING OFFICER, (Mr. HALE in the chair.) The question is on the motion of the Senator from Massachusetts to strike out the first two sections of the bill.

Mr. HOWE. Mr. President, the first moment I have seen this bill is since it was brought under the consideration of the Senate this evening. It strikes me as a most extraordinary one. The motion now pending is to strike out the first two sections. It seems to me very evident that either the first two sections ought to be stricken out, or the last section ought to be. If you pass the bill as it stands, it is a *felo de se*. The last section completely defeats and destroys every particle of vitality in the first two sections. That is evident, and I am at a loss to understand why such a bill is introduced here.

Mr. TRUMBULL. It comes from the House of Representatives.

Mr. HOWE. It was not introduced here. Then I wish to know how it ever came to be introduced in the House.

Mr. FOSTER. That you are not at liberty to comment upon.

Mr. HOWE. And therefore I will not comment upon it. I understand that since this war commenced, a great many persons have been arrested, and have been thrown into prison. They are treated as State prisoners, or political prisoners. They have not been put on trial. I suppose their arrest and confinement is in accordance with law, or it is in violation of law. If it is in accordance with law, I do not know of any reason why we should interfere, why we should change the law to effect their release, unless we assume that the administration of this Government is now in arbitrary, despotic hands. If the executive department of the Government is in such hands, perhaps the legislature ought to interfere, if it can, to soften and ameliorate its rule. For myself, I do not believe, whatever other faults may be laid to the charge of the Executive of the nation, that he can justly be accused of being a despot, or of being a tyrant, or of being inhuman I do not think it would be easy to convict him of either of these offenses. He may exert power which the laws do not confer upon him, through error or mistake of judgment; but that he would exert any power tyrannically, arbitrarily, harshly, or inhumanly, I do not believe. Therefore, if he has only exerted the power with which the law does clothe him, if he has only arrested men, and confined them in accordance with law, I am not for changing the legislation of the country to interfere between him and the prisoners whom he has in custody. If, on the contrary, he has acted in violation of law, the courts are open where these men can get redress.

The first section of the bill provides that the Secretary of War and the Secretary of State shall make a return to the judges of the circuit and district courts of all these prisoners. It sets out what the list shall contain, and it provides:

> And all cases where a grand jury having attended said courts, or either of them having jurisdiction in the premises, since the arrest of said persons, has terminated its session without finding an indictment, or presentment, or other proceeding against such persons, and in cases hereinafter provided for, it shall be the duty of said judges forthwith to order the discharge of such prisoner from said imprisonment; and every officer of the United States having custody of such prisoner is hereby directed immediately to obey and execute said judge's order; and in case he shall delay or refuse so to do, he shall be subject to indictment for a misdemeanor, and be punished by a fine of not less than $500, and imprisonment in the common jail for a period not less than six months, in the discretion of the court.

This proceeds on the assumption that the Government has exercised no power with which it is not clothed, that it has only exerted power with which it is clothed, and this is to clothe the judicial department of the Government with power which it does not now possess, to order the discharge of these persons. If the Government, or any officer under it, has exerted power with which it is not clothed, has imprisoned a man against the law of the land, then these same courts can be applied to

by the petition of the prisoner, and upon writ of *habeas corpus*, the petitioner will be discharged. This bill, in the first section, assuming that the prisoner is rightfully confined, and therefore that he has no right to the writ of *habeas corpus*, provides that he may apply to the court for an order, and not for a writ, and without a hearing, without a trial, without any examination, he shall be discharged.

The second section provides for taking bail in bailable cases, but the third section is in these peculiar terms:

SEC. 3. *And be it further enacted*, That it is and shall be lawful for the President of the United States, whenever, in his judgment, by reason of rebellion or invasion, the public safety may require it, to suspend by proclamation the privileges of the writ of *habeas corpus* throughout the United States, or in any part thereof; and whenever, and where ever, the said writ shall be suspended as aforesaid, it shall be unlawful for any of the judges of the several courts of the United States, or of any State, to allow said writ, anything in this act or in any other act to the contrary notwithstanding.

In the very same bill in which you are trying to discharge prisoners by an order, you declare that it is the right of the President already, and shall continue to be his right, to suspend the writ of *habeas corpus*. You do not propose to confer that power upon him, but to recognize it as his. Now, what is the meaning of the whole bill? Is it anything more or less than this: these prisoners, and all others confined under like circumstances, shall not be entitled to the writ of *habeas corpus*; shall not be entitled to a hearing upon a writ of *habeas corpus;* but upon an *ex parte* application, they shall be discharged upon a judge's order. Is not that the effect of the whole act, acknowledging the right of the President to suspend the writ of *habeas corpus*, which is the time-long remedy for persons restrained of their freedom contrary to law, and creating a new remedy which will discharge the prisoner in spite of the suspension of the writ of *habeas corpus*. That is what the whole act means, standing together. Now, it does seem to me that either you ought to strike out the first two sections or the last. I think the whole bill ought to be struck out except the enacting clause, and that ought to be greatly amended; but as the motion is to strike out the first two sections, I shall content myself now with voting for that motion.

Mr. FESSENDEN. We must have a short executive session to-night. It is now after ten o'clock.

Mr. COWAN. I ask the Senator to allow me to move a few amendments to the bill.

Mr. FESSENDEN. Very well.

Mr. COWAN. In the nineteenth line of the first section, I move to strike out the words "since the arrest of said persons," and to insert "after the passage of this act;" and in the twenty-third line, after the word "of," to insert "any," and in the same line, after the word "prisoner," to insert the words "desiring a discharge." I propose, also, to amend the third section by inserting, in the fifth line, after the words "*habeas corpus*," the words "in all cases of political offenses;" so as to confine the suspension to that class of offenses, leaving the writ allowable in all other cases.

Mr. FESSENDEN. Now I renew my motion.

The motion was agreed to; and after some time spent in executive session, the doors were reopened, and the Senate adjourned.

HOUSE OF REPRESENTATIVES.

TUESDAY, *July* 15, 1862.

The House met at twelve o'clock, m. Prayer by Rev. BYRON SUNDERLAND, D. D., Chaplain of the Senate.

The Journal of yesterday was read and approved.

CHARGES AGAINST HON. BENJAMIN WOOD.

Mr. WOOD. I rise to a question of privilege. On last week the testimony before the Committee on the Judiciary in my case was concluded. On yesterday I learned for the first time that the committee had continued the case until the next session of Congress, when I sought the floor for the purpose of offering the following resolution.

The SPEAKER. The gentleman will state his question of privilege.

Mr. WOOD. My question is one of personal privilege relating to myself as a member of this House, which I was proceeding to state. I say that I protest against this delay as unjust to myself. If I am guilty of the charges preferred against me, I am unworthy of holding a seat upon this floor. If I am innocent, it is due to myself that it shall be so decided by the House. I submit the following resolution:

Resolved, That the Judiciary Committee be instructed to report forthwith to the House in the matter of the investigation into the alleged misconduct of BENJAMIN WOOD, a Representative of the State of New York.

Mr. BINGHAM. I rise to a question of order. I submit that it is not a question of privilege to instruct a committee to make a report.

The SPEAKER. The Chair hardly thinks a resolution to instruct a committee to report or to do any particular thing involves a question of privilege. The gentleman from New York asks consent to introduce the resolution which has been submitted.

Mr. BINGHAM. I object to that.

NAVAL CONTRACTS.

The SPEAKER, by unanimous consent, laid before the House a communication from the Secretary of the Navy, in compliance with the fourth section of the act approved 4th May, 1858, transmitting a statement of contracts entered into in the Navy Department since the commencement of the present session of Congress; also transmitting a letter from the chief of the Bureau of Yards and Docks; which was laid on the table, and ordered to be printed.

O. B. AND O. S. LATHAM.

Mr. FENTON, from the Committee of Claims, reported back a bill (C. C. No. 111,) for the relief of O. B. and Oliver S. Latham, with amendments. The bill was recommitted to the Committee of Claims, and with the amendments ordered to be printed.

NORFOLK NAVY-YARD EMPLOYÉS.

Mr. FOUKE, by unanimous consent, introduced a bill to legalize certain payments made by William H. Peters on account of wages due by the United States to mechanics, laborers, and other employés at the Norfolk navy-yard; which was read a first and second time, and referred to the Committee on Naval Affairs.

PENSION ACT.

Mr. WALTON. I rise to a privileged question. I am instructed by the Committee on Printing to report the following resolution:

Resolved, That five thousand extra copies of the act of Congress entitled "An act granting pensions," be printed in pamphlet form for the use of the House, and that there be added thereto so much of the act making appropriations for the payment of bounty to the widows and heirs of deceased soldiers as relates to that subject.

Mr. ROSCOE CONKLING. Will the gentleman permit me to make a suggestion?

Mr. WALTON. I will.

Mr. ROSCOE CONKLING. I suggest that it will be a great convenience to everybody if he will so amend the resolution as to embrace with it such instructions and forms as the Department has prepared in relation to these pension and bounty acts. We are called upon for them every day. It will add very little to the expense, and if the gentleman will so amend his resolution as to embrace these forms and also all the pension and bounty laws as they will stand at the end of the present session of Congress, I am sure, if the gentleman will reflect for a moment, he will see that it will be a matter of great convenience to members to have all this matter embodied in a single pamphlet.

Mr. WALTON. I would be very glad to accommodate the gentleman, but I hardly see the necessity of the amendment he proposes. The Department has already been instructed by resolution of this House to prepare circulars embracing all those forms to which the gentleman from New York alludes, and I hardly think it necessary, therefore, to include them in this resolution. This resolution embraces the pension law as it has passed during the present session, and also the law in relation to the bounty of widows and heirs of deceased soldiers. I think this, with the circulars already provided for by resolution of the House, will be amply sufficient.

Mr. WICKLIFFE. Let me make one suggestion to my friend. I do not know about the necessity of the publication of those additional laws, but if they are to be published, I suggest that he add the publication, in the same connection, of the forms and instructions for drawing the back pay and bounty of dead soldiers by their widows and heirs. I think it would be a matter of convenience to the members of the House.

Mr. WALTON. Very well. I will so amend the resolution as to include the forms and instructions to which the gentleman alludes.

Mr. ROSCOE CONKLING. If the gentleman will allow me, I hope he will go a little further and include the pension laws as they now exist, or as they will stand at the end of this session. I do not mean any pension laws which may have been repealed, but the laws as they shall stand upon our statute-books when this session of Congress shall adjourn.

Mr. WALTON. With the consent of the House, I will withdraw the resolution for the present, and remodel it to meet the suggestions which have been made.

No objection being made, the resolution was withdrawn.

PRINTING OF BANK REPORT.

Mr. WALTON, from the Committee on Printing, reported back House bill No. 568, to provide for printing the annual report upon banks.

The bill was read. It makes it the duty of the Secretary of the Treasury to have his annual report upon the banks of the United States for each year as nearly completed by the first Monday in October as practicable; and requires that when completed, or during its progress, the Secretary of the Treasury shall cause the work of printing to be commenced, so that the report shall be ready for delivery on or before the first Monday in December following.

The bill further provides that, until otherwise ordered by Congress, the Secretary of the Treasury shall cause to be printed five thousand copies for the use of Congress and the Treasury Department, to be substantially bound—except those to be included with other public documents—at a cost of not more than twelve cents a copy.

Mr. WALTON. I will state this bill is substantially the present law for the publication of the Report on Commerce and Navigation. It is asked for by the Secretary of the Treasury, and by the officers having charge of the bank report, and the effect will be to provide that the report shall be printed and on our table at the commencement of each session of Congress. It will add nothing to the expense, and I presume there can be no objection to it.

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

MESSAGE FROM THE SENATE.

A message was received from the Senate, by Mr. HICKEY, their Chief Clerk, notifying the House that the Senate have passed joint resolutions and a bill of the following titles; in which he was directed to ask the concurrence of the House:

Joint resolution (No. 98) to repeal and modify certain portions of an act mentioned therein;

Joint resolution (No. 99) relinquishing to the heirs-at-law of Robert L. Stevens, deceased, all the right, title, and interest of the United States in and to the Stevens battery; and

An act (No. 365) for the admission of the State of West Virginia into the Union, and for other purposes.

The message further announced that the Senate have agreed to the amendments of the House to the bill of the Senate (No. 358) to prevent members of Congress and officers of the Government of the United States from taking considerations for procuring contracts, office, or place from the United States.

The message also announced that the Senate have disagreed to the amendments of the House to the joint resolution of the Senate (No. 86) regulating the employment of the convicts in the penitentiary of the District of Columbia for their improvement and benefit.

NATIONAL CURRENCY.

Mr. WALTON. I am directed by the Committee on Printing to submit the following resolution:

Resolved, That five thousand copies of House bill No. 568, to provide a national currency, secured by pledge of United States stock, and for the circulation and redemption thereof, be printed in pamphlet form for the use of the House.

Mr. ROSCOE CONKLING. That bill has never passed the House.

Mr. WALTON. It has been reported from the committee.

Mr. ROSCOE CONKLING. I ask the chairman of the Committee of Ways and Means whether it has been reported from his committee.

Mr. WALTON. I understand that the bill was reported from the Committee of Ways and Means.

The SPEAKER. The bill was introduced by the gentleman from Massachusetts [Mr. HOOPER] and referred to the Committee of Ways and Means. A motion to print extra copies was referred under the rules to the Committee on Printing.

Mr. F. A. CONKLING. I move that the resolution be laid on the table.

The motion was agreed to.

MEMBERS IN THE MILITARY SERVICE.

Mr. BINGHAM. I am directed by the Committee on the Judiciary, to whom the subject was referred by order of the House, to report a joint resolution further to provide for the compensation of members of Congress. It simply authorizes the Sergeant-at-Arms to receive as a further excuse for the absence of members of Congress that they were actively engaged in the military service of the United States.

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

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

The latter motion was agreed to.

CONTINGENT FUND OF METROPOLITAN POLICE.

Mr. ASHLEY. I ask the unanimous consent of the House to introduce a joint resolution requiring the superintendent of the metropolitan police to pay over certain moneys collected for fines and penalties, to constitute a contingent fund for certain purposes. This joint resolution is necessary in order that the fines and penalties which are collected may be put at the disposition of the metropolitan police.

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

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

The latter motion was agreed to.

CORRECTION OF THE TAX BILL.

Mr. MORRILL, of Vermont. I ask the unanimous consent of the House to introduce a joint resolution to correct a clerical error made in the enrollment of the tax bill. In the seventy-seventh section the word "May" is printed for the word "August." The joint resolution provides for striking out the word "May" and inserting in lieu thereof the word "August," so that it will read:

SEC. 77. *And be it further enacted*, That from and after the 1st day of August, 1862, there shall be levied, collected, and paid, by any person or persons owning, possessing, or keeping any carriage, yacht, and billiard table, the several duties or sums of money set down in figures against the same respectively, or otherwise specified and set forth in schedule marked A.

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

Mr. MORRILL, of Vermont, moved to reconsider the vote by which the resolution was passed; and also moved that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

MILEAGE OF MEMBERS.

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

The SPEAKER. The regular order of business is the consideration of the unfinished business of yesterday, in relation to the mileage of members of Congress. The pending question is on the amendment of the Delegate from New Mexico, [Mr. WATTS,] which the Clerk will read.

The Clerk read, as follows:

Provided further, That such Members of this House and Delegates of Territories, as were not elected in time to be present until after the extra session, and have not drawn but one mileage, shall not be included within said section during the Thirty-Seventh Congress.

On a division, there were—ayes sixty-three, noes not counted.

Mr. WATTS demanded tellers.

Tellers were ordered; and Messrs. PHELPS of California, and FESSENDEN, were appointed.

The tellers reported—ayes 6, noes 60; no quorum voting.

Mr. WATTS. I will withdraw the amendment if there be any serious objection to it. If the House is to make the same application to the Delegates of Territories and those Members of Congress, when the majority of the Members have received two mileages, whereas the former have only received one, then let it be so. I think that my services in this House are worth as little as those of any other member. I withdraw the amendment.

Mr. RIDDLE. I call the gentleman to order.

Mr. PHELPS, of California. I object to the gentleman withdrawing his amendment.

Mr. PHELPS, of Missouri. I demand the yeas and nays on the amendment.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 27, nays 68; as follows:

YEAS—Messrs. Aldrich, Alley, Ancona, Arnold, Baily, Beaman, William G. Brown, Davis, Dunn, Eliot, Hanchett, Hooper, Julian, Low, Moorhead, Patton, James S. Rollins, Sargent, Sedgwick, Sherman, Sloan, Train, Trowbridge, Wall, Wallace, Webster, and Worcester—27.

NAYS—Messrs. William Allen, Ashley, Babbitt, Biddle, Bingham, Jacob B. Blair, Blake, Buffinton, Clements, Colfax, Frederick A. Conkling, Roscoe Conkling, Covode, Cox, Cutler, Dawes, Duell, Dunlap, Edwards, Fenton, Gooch, Goodwin, Granger, Grider, Haight, Hale, Holman, Hutchins, Francis W. Kellogg, William Kellogg, Killinger, Law, Lazear, Lehman, Loomis, Lovejoy, McKnight, McPherson, May, Mitchell, Justin S. Morrill, Nixon, Odell, Olin, Pendleton, Potter, Alexander H. Rice, John H. Rice, Riddle, Edward H. Rollins, Segar, Shellabarger, Shiel, Smith, Spaulding, John B. Steele, William G. Steele, Stevens, Stiles, Stratton, Benjamin F. Thomas, Trimble, Van Horn, Verree, Walton, Wickliffe, Wilson, and Windom—68.

So the amendment was disagreed to.

During the vote,

Mr. MAYNARD hoped that he would be excused from voting, as he was personally interested in the matter.

Mr. PHELPS, of California, begged leave to be excused for the same reason.

The vote was announced as above recorded.

The question recurred on the amendment of Mr. THOMAS, of Massachusetts, to the substitute of Mr. ALDRICH, to add the following:

And this provision shall apply to the present Congress, and the mileage already received for the same.

Mr. TRAIN demanded the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 64, nays 48; as follows:

YEAS—Messrs. Aldrich, William Allen, William J. Allen, Alley, Arnold, Baxter, Jacob B. Blair, Samuel S. Blair, Blake, George H. Browne, William G. Brown, Clements, Cobb, Roscoe Conkling, Cox, Dawes, Duell, Ely, Fouke, Gooch, Granger, Gurley, Hall, Holman, Hooper, Killinger, Knapp, Law, Lehman, Loomis, Low, May, Maynard, Menzies, Mitchell, Justin S. Morrill, Odell, Pendleton, John S. Phelps, Timothy G. Phelps, Pike, Potter, Alexander H. Rice, John H. Rice, Sargent, Shanks, Shellabarger, Sherman, Shiel, Spaulding, John B. Steele, William G. Steele, Stevens, Stiles, Benjamin F. Thomas, Train, Van Horn, Wall, Washburne, Wickliffe, Wilson, Windom, Wood, and Worcester—64.

NAYS—Messrs. Ancona, Ashley, Babbitt, Baily, Beaman, Buffinton, Casey, Colfax, Frederick A. Conkling, Covode, Crisfield, Cutler, Dunlap, Dunn, Edwards, Eliot, Fenton, Fisher, Goodwin, Grider, Haight, Hale, Hanchett, Hutchins, Julian, William Kellogg, Lovejoy, McKnight, McPherson, Moorhead, Anson P. Morrill, Nixon, Patton, Porter, Riddle, Edward H. Rollins, Sedgwick, Segar, Sloan, Smith, Stratton, Trimble, Trowbridge, Verree, Wallace, Walton, Webster, and Albert S. White—48.

So the amendment was agreed to.

The question then recurred on the substitute of Mr. THOMAS of Massachusetts, as amended; which was read, as follows:

That all laws and parts of laws giving mileage to members of Congress be, and the same are hereby repealed; and this provision shall apply to the present Congress, and the mileage already received for the same.

On a division, there were—ayes 44, noes 40.

Mr. ANCONA demanded the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 71, nays 42; as follows:

YEAS—Messrs. Aldrich, William Allen, William J. Allen, Alley, Ancona, Arnold, Baily, Baxter, Beaman, Jacob B. Blair, Samuel S. Blair, Blake, George H. Browne, Cobb, Roscoe Conkling, Covode, Cox, Cravens, Davis, Dawes, Duell, Ely, Fessenden, Fouke, Gooch, Granger, Gurley, Haight, Hanchett, Holman, Hooper, Julian, Francis W. Kellogg, Killinger, Knapp, Law, Lehman, Lovejoy, Low, May, Maynard, Mitchell, Moorhead, Justin S. Morrill, Odell, Pendleton, John S. Phelps, Timothy G. Phelps, Potter, Alexander H. Rice, James S. Rollins, Sargent, Shanks, Sherman, Shiel, Smith, Spaulding, John B. Steele, William G. Steele, Stevens, Stiles, Benjamin F. Thomas, Train, Van Horn, Wall, Washburne, Wickliffe, Wilson, Windom, Wood, and Worcester—71.

NAYS—Messrs. Babbitt, Buffinton, Casey, Clements, Colfax, Frederick A. Conkling, Crisfield, Cutler, Dunlap, Dunn, Edwards, Eliot, Fenton, Goodwin, Grider, Hale, Hutchins, William Kellogg, Kerrigan, Loomis, McKnight, McPherson, Menzies, Anson P. Morrill, Nixon, Patton, Pike, Porter, John H. Rice, Riddle, Edward H. Rollins, Segar, Shellabarger, Sloan, Stratton, Francis Thomas, Trimble, Trowbridge, Verree, Walton, Webster, and Albert S. White—42.

So the substitute, as amended, was agreed to.

MESSAGE FROM THE PRESIDENT.

A message was received from the President, by Mr. NICOLAY, his Private Secretary, notifying the House that on the 14th of July, instant, he had approved and signed bills and a joint resolution of the following titles:

An act (H. R. No. 423) making appropriations for the naval service for the year ending the 30th of June, 1863, and for other purposes;

An act (H. R. No. 553) to establish additional post routes;

An act (H. R. No. 550) to further provide for the collection of revenue upon the northern, northeastern, and northwestern frontier, and for other purposes;

An act (H. R. No. 525) in relation to the election of Representatives to Congress by single districts;

An act (H. R. No. 84) for the relief of the preemptors on the home reservation of the Winnebagoes, in the Blue-earth region, in the State of Minnesota;

An act (H. R. No. 437) to extend the territorial limits of the Territory of Nevada;

An act (H. R. No. 438) to grant pensions;

An act (H. R. No. 531) increasing temporarily the duties on imports, and for other purposes; and

Joint resolution (H. R. No. 39) to declare the meaning of an act to authorize the President of the United States in certain cases to take possession of railroad and telegraph lines, and for other purposes, approved January 31, 1862, and to repeal a part of said act.

EMPLOYMENT OF CONVICTS.

Mr. TRAIN. I move that the House insist on its amendments to Senate resolution No. 86, regulating the employment of convicts in the penitentiary of the District for their improvement and benefit, and ask for a committee of conference.

The motion was agreed to; and Messrs. TRAIN, GURLEY, and DUELL were appointed managers of said conference on the part of the House.

MILEAGE—AGAIN.

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

Mr. BAILY moved to lay the whole subject upon the table.

Mr. HOLMAN demanded the yeas and nays.

The yeas and nays were ordered.

Mr. MAYNARD. Would a motion to postpone until the second Monday of December be in order?

The SPEAKER. Not during the pendency of a motion to lay upon the table.

Mr. ROSCOE CONKLING. I hope the gentleman from Indiana will withdraw his demand for the yeas and nays upon this motion, but take the yeas and nays upon the passage of the bill. It will save one call of the roll.

Mr. HOLMAN. I desire the yeas and nays upon the motion.

Mr. BAILY. I withdraw my motion to lay on the table.

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

Mr. EDWARDS. I move to lay the bill upon the table.

Mr. ROSCOE CONKLING. Upon that motion I demand the yeas and nays.

The yeas and nays were ordered.

The question was put; and it was decided in the negative—yeas 30, nays 75; as follows:

YEAS—Messrs. Baily, Baxter, Biddle, Casey, Clements, Crisfield, Dunlap, Edwards, Grider, Hall, William Kellogg,

Kerrigan, Knapp, Law, Lazear, Maynard, Menzies, Moorhead, Anson P. Morrill, John S. Phelps, Timothy G. Phelps, Riddle, Sargent, Sedgwick, Sloan, Smith, Trowbridge, Wallace, Webster, and Wickliffe—30.

NAYS—Messrs. Aldrich, William Allen, Alley, Ancona, Arnold, Babbitt, Beaman, Bingham, Jacob B. Blair, Samuel S. Blair, Blake, George H. Browne, William G. Brown, Buffinton, Cobb, Colfax, Frederick A. Conkling, Roscoe Conkling, Covode, Cox, Cutler, Davis, Dawes, Duell, Dunn, Ely, Fenton, Fessenden, Fouke, Gooch, Goodwin, Granger, Gurley, Hale, Hanchett, Holman, Hutchins, Jackson, Julian, Kelley, Killinger, Loomis, Low, McKnight, McPherson, Mitchell, Justin S. Morrill, Nixon, Odell, Olin, Patton, Pike, Porter, Potter, Alexander H. Rice, John H. Rice, Edward H. Rollins, Shanks, Shellabarger, Sherman, Spaulding, William G. Steele, Stevens, Stiles, Stratton, Benjamin F. Thomas, Train, Trimble, Verree, Walton, Washburne, Albert S. White, Windom, Wood, and Worcester—75.

So the motion was not agreed to.

MESSAGE FROM THE PRESIDENT.

The SPEAKER, by unanimous consent, laid before the House the following communication from the President of the United States:

EXECUTIVE MANSION, WASHINGTON, *July* 15, 1862.

SIR: Please inform the House of Representatives that I shall be obliged if they will postpone the adjournment at least one day beyond the time which I understand to be now fixed for it.

Your obedient servant, ABRAHAM LINCOLN.

Hon. GALUSHA A. GROW,
Speaker of the House of Representatives.

MILEAGE—AGAIN.

Mr. COLFAX. The previous question not having been demanded upon the passage of the bill, I desire to say that the proposition I introduced for the reduction of the mileage one half, was a section which had previously passed the Senate in the Army bill, and which I supposed they would be willing to agree to at this period of the session. I have tried on two successive Mondays, when only a suspension of the rules was in order, to offer this proposition, and offered it yesterday at the earliest hour I could obtain the floor. The House, however, has now seen fit to strike it out, and insert instead a proposition abolishing all mileage, and requiring members to refund the mileage they have already received during this Congress. I infer they are serious; for I regard every action and vote here as serious, and I shall vote for the passage of the resolution as amended, although I can scarcely hope that the amendment will pass the Senate, but because a majority of the Senate being sincerely in favor of reform, they may, if they do not see fit to go thus far, strike it out, and send back to us something in which the House may concur.

The gentleman from Kentucky, whom I do not regard as a supervisor of my votes, but to whose gray hairs I pay the reverence due to old age, interrupted the roll-call recently to inquire how I had voted. He can find that vote, and my vote on all other bills, upon the record. I voted my conviction, which is that this mileage being, in the opinion of the whole country, too high, I believed that before we adjourn, when we are taxing the people in the future so heavily, the least we could do would be to reduce our future mileage one half. We have passed reform bills reducing the pay of chaplains, mustering bands out of the service, cutting down the extras of officers, and we talk about economy, and yet a majority of the House have refused to retrench their own expenses in one single item, present or prospective.

Mr. PHELPS, of Missouri. I rise to a question of order. I desire to know how this matter is open to discussion.

The SPEAKER. The previous question had exhausted itself upon the third reading, and the gentleman from Indiana, having introduced the proposition, was entitled to the floor.

Mr. COLFAX. Some gentlemen who were not here at the extra session of Congress, not being then elected, complain about the proposition I have introduced; because, they say, those who were here during the extra session of Congress draw two mileages for three sessions of Congress, and they will not get as much. But most of those are gentlemen who come from a great distance, and receive a very large mileage. They have a right, of course, to make that complaint, and I do not criticise them because they make it, but I say this in reply: by my bill, if it had passed, the members who serve three sessions would receive two mileages, while the members who serve two sessions receive one and a half mileage. If anything could be more equitable, I do not know what it is. In proportion it is almost exactly the same.

Again: there are gentlemen here who were elected before their terms commenced on the 3d of March, and they drew their pay, at the rate of $3,000 a year, from the 4th of March. There are also gentlemen here, and those affected somewhat by my proposition, who were elected in September, after the commencement of their term, and yet they drew their pay from March on to September, a period of five or six months before their election, simply deducting $8 33⅓ a day for the time Congress was actually in session, when they were not here and performed none of the duties and endured none of the labors of that session. And yet their terms expire simultaneously with ours, eighteen months from the time they were elected, and they draw their per diem for the whole two years, except the month that Congress was in extra session.

I say these things to vindicate myself, and not to reproach any one; and I only say that the matter is not so unequal as some gentlemen have said it was, in conversations in which I have participated. I did think that this proposition should be made at some time. I wish it had been made earlier in this Congress, but this argument always is used, that retrenchment does not come at the right time, that we should wait until the next Congress; and when we come to that time, gentlemen will say they were elected with the understanding that they were to receive mileage at the rate of forty cents each mile, and that it is no time to retrench in reference to them. I believe at this particular time it would be a graceful act upon the part of Congress to cut down their mileage. I offered this bill in good faith. It has now been modified, in the manner I have stated.

Mr. THOMAS, of Massachusetts. I desire to say with great brevity precisely the ground upon which I offered my amendment. I had a serious purpose, as well as the gentleman from Indiana. This matter of mileage has been two or three times before the House during the present Congress. I thought and think the graceful thing, in the present condition of the country and in the depleted condition of the Treasury, was and is for the members of the present Congress to give up their own mileage, instead of regulating the mileage of future members of Congress. When this question was before the House formerly, I voted to reduce the mileage. I am willing that future Congresses should regulate the matter for themselves, as, under all the circumstances of their condition, they shall think right; but I do not think it is graceful or liberal to undertake to regulate the mileage of future members of Congress, while, at the same time, we have taken full mileage for both sessions of Congress ourselves.

Mr. COLFAX. We have thought it graceful enough to regulate the future pay and allowances of officers of the Army. I now yield to the gentleman from California.

Mr. SARGENT. Mr. Speaker, I am in favor of a reduction of mileage of members, and I am very sorry to be placed in a position where I am compelled to vote against a bill of this kind. But I am not willing that the impression shall go to the world that the members of this House are so self-sacrificing as to throw away part of their mileage, while the fact is that the great majority of them do not lose a dollar by the passage of this bill.

The gentleman from Indiana speaks of it being our duty to vote for this bill as a self-sacrifice, called for by the exigency of the times, and yet he knows very well that he has drawn every dollar of mileage that he can draw for this Congress. The statute allows us two mileages for each Congress, whether we come here two, three, or twenty times. All of that he has drawn. I will not discuss the question whether it was proper for him to draw his first mileage for this Congress seven months in advance. If he was wrong in it, he simply had the advantage of interest on the money. But it is a poor argument for members who have received every dollar they can get, to go to the country and say, "see how we have reduced mileage," when, in fact, all the change proposed to be made is to be at the expense of half a dozen members from the Pacific coast. I am willing to pay back half my mileage if a resolution be passed to make that general. I will cheerfully vote for such a resolution. Yielding in patriotism to no gentleman on this floor, I will give up pay and mileage for the whole session, provided all other members do the same. But it is unjust and unfair for members to stand here and say that those who vote against this proposition because all the reduction is at their expense, are opposed to retrenchment; and it is equally unfair to pretend to the people that the majority are affecting their pockets by a reform which does not cost them a dollar. I ask the gentleman from Indiana this question: whether, if this measure be carried, it will cost him one cent? I ask him whether he has not received all the mileage that it is contemplated by law he can receive, and hence, whether this would be any reduction of the mileage of members of the Thirty-Seventh Congress, except of those members who were not here at the extra session? I believe it would not be. For these reasons, I felt compelled to vote against the bill, because I conceive it to be unfair and unjust, and based upon false pretenses.

Mr. COLFAX. If the gentleman from California is here for many sessions, as I trust he will from the course of his votes, he will find that he should not throw so much feeling into a discussion.

Mr. SARGENT. The gentleman from Indiana entirely misapprehends me. I usually speak with a good deal of earnestness, because I speak from strong convictions; but I speak at the same time with good temper and feeling. Those who know me best know that while I speak earnestly, I do not speak angrily.

Mr. COLFAX. I thought from the gentleman's conversation yesterday, and his speech to-day, that he had some feeling on the subject.

Mr. SARGENT. I do not think it entirely proper for the gentleman to allude to a conversation at which he was present, and which was not before the House. As he has done so, he will please state what remark implied feeling on my part. I remember none, and think he is in error.

Mr. COLFAX. I do not repeat the remark. I was only alluding to the gentleman's manner, which before this was always friendly. I will answer his question. We are levying taxes on the people of the country, to be paid in the future. We are providing ways and means for the future. When we go to our people and ask them to pay these taxes, it would be graceful for us to say to them, "in the future we intend to bear our part of these burdens with you. We shall not henceforth take the forty cents mileage which is now allowed to members of Congress." That is all I have to say, except this: I have drawn two mileages for three sessions of Congress, while the gentleman from California will draw one mileage and a half, or $7,800, for two sessions.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. HICKEY, its Chief Clerk, announced that the Senate had passed a joint resolution and bills of the following titles:

Joint resolution (H. R. No. 105) to grant pensions to masters and other officers upon the gunboats in the service of the United States;

An act (H. R. No. 573) to impose an additional duty on sugars produced in the United States; severally, with amendments; and

An act (H. R. No. 510) for the relief of James N. Muller, supervising inspector of steamboats for the third supervising district, without amendment.

Also, that the Senate insist upon its disagreement to the amendments of the House to the joint resolution of the Senate (No. 86) regulating the employment of convicts in the penitentiary of the District of Columbia for their improvement and benefit, and agree to the conference asked for by the House, and had appointed Messrs. GRIMES, TRUMBULL, and ANTHONY, the committee of conference on its part.

MILEAGE OF MEMBERS—AGAIN.

Mr. ROSCOE CONKLING. Mr. Speaker, during the various votes on this bill I have heard it insinuated that some persons, I do not know who, were voting to load the measure with the amendments, first of the gentleman from Massachusetts, [Mr. THOMAS,] and second with that of the gentleman from Minnesota, [Mr. ALDRICH,] in order to render it so hateful as to insure its defeat. Inasmuch as such a suggestion has been made, I wish to state briefly the views which have influenced me, and, as I believe, the other friends of the measure, in the votes already given.

In the first place, I agree entirely with the gentleman from Massachusetts, [Mr. THOMAS,] that

it would not only be graceful and proper, but that it is incumbent upon us while we have on our lips professions of reform, and while we are razeeing the compensation of others, to see to it that we do not spare or overlook ourselves. It amazes me, if I may say so without offense, to hear the idea put forth that members of Congress have vested rights in the face of which we have no legislative power to cut down our own pay. Sir, will it be seriously contended after officers and men have entered the military service, the men upon terms of enlistment depriving them of all power to resign or obtain release after they have volunteered, relying upon rates of compensation already fixed by law, and after they have nevertheless had these seriously reduced, and this, too, by acts defended and adopted by this House as proper, expedient, and constitutional—will it, I ask, after such legislation, be contended by those who have sanctioned it, that they cannot cut down their own pay because, forsooth, when they received their election it was understood that they were to receive two mileages each Congress, and $3,000 a year? No, sir, and I submit to every sincere reformer that the principle of the amendment of the gentleman from Massachusetts, so far as it can be made legally operative, is right on grounds of equity and justice. Whether it is possible to reach money already paid over, is a serious question, no doubt, but the language is fit to go as far as possible, and if it falls short of any point, that will be owing to the inherent difficulties of the case.

So much as to applying the proposed reform to the present Congress. Now, as to the other branch of this subject, namely, the proposition to destroy totally the existence of mileage: in place of making war upon half the abuse and making love to the remaining half, I voted for the substitute offered by the gentleman from Minnesota, [Mr. ALDRICH,] because, whatever the motive of others, I believe it is right, not half just and half right, but entirely right, and therefore preferable to any lesser reform. I differ entirely with the gentleman from Indiana in thinking that we shall do our duty, or enough of our duty, by reducing congressional mileage one half, leaving congressional *pay* untouched, and then making the reduction apply exclusively to future Congresses, instead of embracing this Congress, so as to include ourselves. I contend that the whole system of congressional mileage, as it now stands, is an abuse, and likely to be an abuse, in practice, if not in theory, however it may be diminished in rate per mile. I believe the allowance of any rate of mileage to be vicious in its tendency, unjust, and indefensible, even when scrupulous exactness is observed in regard to it, and productive of laxity, temptation, and bad morals. I understand the best apology for it to be that it is in the nature of compensation or reimbursement for expenses incurred in traversing the distances to which it applies. Conceding, for the sake of argument—and I deny it in truth—that members should be paid beyond their salary for coming to the capital to discharge their duties—paid their traveling expenses—I say, even then, that a uniform rate per mile is an indefensible basis of allowance, whether you leave the amount as it now is, or cut it down one half. We all know that the present mileage, if it be reduced one half, will still amount to a sum larger than any man's actual traveling expenses, and in most cases very much larger.

Mr. MAYNARD. I do not understand the theory of mileage to be that which the gentleman from New York suggests. It is a compensation by which the pay of the most distant members is equalized to that of the nearest. I would rather serve for the compensation of the member from Maryland who is within an hour or two of his home than for the pay and mileage of members living at a distance, who are entirely debarred from attending to their business at home.

Mr. ROSCOE CONKLING. The statement of the gentleman from Tennessee is a very frank avowal, and I have no doubt well founded, yet I would not have ventured to charge the friends of mileage with occupying the gentleman's ground, lest I should draw down a storm of disclaimers and denials. I believe that the naked character of emolument, not even cloaked under the pretense of reimbursement for traveling expenses, does uphold, with many, the mileage system, but it is none the less true in my estimation, as I said before, that the only half tenable ground upon which it can be put at all is that salary is for services, and mileage for traveling expenses.

I will recur again to the remarks of the gentleman from Tennessee, after considering a moment the point that I was making, namely, that mileage is unjustifiable as a mode of allowing traveling expenses. A certain sum per mile, whether as it stands now, or reduced as proposed by the bill before it was amended, is, I say, an over-payment; it is money received for a certain purpose in excess of the true amount, and therefore an improper and wrongful allowance.

Why, under the guise of traveling expenses, should those who come from Oregon and California receive four, five, or six thousand dollars or more every session, whether they actually return to their home during the vacation or not? Suppose, sir, that they do make the journey; suppose that none of them have passes without cost upon the steamships; suppose they all pay, in point of fact, for coming here and going hence: does any one believe that it costs them anything like the sum they would receive if we only cut down the present mileage one half? Certainly not. Then, why should they receive an overplus of thousands of dollars annually? Why should any one receive, as the expenses of his journey, one penny more than he actually expends? How can any law be defended that gives it to him? The only refuge from the argument is the ground assumed by the gentleman from Tennessee.

Let me examine that for a moment; and in doing so, let us suppose that we ought to tolerate the idea of giving under a false name additional salaries to all and enormous salaries to some, if any reason can be found for doing so. I say to the gentleman—and I think I can speak advisedly at this session, if I never could before—that the Representative is fortunate, looking to his own personal interest and convenience, who represents a constituency remote from this capital. Why? Because the further his constituents are from him the more he enjoys immunity from these countless applications and taxes, which some of us know have become burdensome and continual at this session beyond the power of any man to attend to them; if the home of the Representative is far away, he escapes those ten thousand calls for attention to private interests which consume days and nights, and which are all in derogation of our public labors and duties, and which render incessant effort necessary in order to save any time at all to study measures before us. To listen to the sufferings, the misfortunes, the anxieties, the distresses of others, of neighbors in the Army, and of those whose friends are in the Army; to listen, without the power to relieve or to comfort; to receive and answer many letters daily, and go from place to place to attend to the requests they contain; to search for the sick and the wounded; and to do the little that can be done to soothe the sorrows of relatives: these are among the daily incidents in the life of a Representative whose constituents are in short or easy communication with the capital.

Gentlemen who live far from the capital, and whose constituents have few relationships with the capital, are comparatively free from all this. Besides, what Representative, who does his duty, can go home, as the gentleman from Tennessee suggests, no matter how near his residence may be, and transact business, unless on some rare and unusual emergency—some emergency which would call him home, wherever his residence might be, unless, perhaps, it happened to be at one of the very remotest points from which members come?

Mr. MAYNARD. I suggest to the gentleman that he is speaking rather for the Representatives than for the constituencies. The constituents of those who represent remote districts are unable to get here. I venture to say that, if you will remove the seat of Government to the State of Tennessee, the people of that State will agree to pay their own Representatives for all time afterwards. Proximity to the seat of Government is a benefit to the people.

Mr. ROSCOE CONKLING. If the gentleman supposes that Representatives of remote constituencies are taxed with the same labor that falls upon others, it is because he has never represented a constituency in New York, Pennsylvania, and New Jersey, or any one of the free business States—States contiguous to the seat of Government, or connected with it by easy modes of travel. If he had done so, he would know that constituents—I know there are exceptions to every rule, but I speak in measured general terms when I say that every citizen coming here with any need, or application, or grief, or business, resorts at once to the Representative of the district from which he comes; man or woman, no matter what the case may be, the Representative is the person to whom resort is had. It is also true that the more numerous are the relationships of a constituency with Washington and the Government, the greater will be the business coming by letter, whether the writers are in the habit of coming themselves or not. Again, sir, those who live remote from the capital do not make the journeys to and fro that are made by others; and for a variety of reasons those who come from a far distance are more than compensated for all the losses they sustain in being further than others from their homes, and for the expenses they incur in making the journey.

Mr. PHELPS, of California. Will the gentleman yield to me for a moment?

Mr. WICKLIFFE. I should like to know if the gentleman from New York can consume an hour. I believe the gentleman from Indiana still has the floor.

Mr. ROSCOE CONKLING. No, sir; he yielded it to me unconditionally.

The SPEAKER. The gentleman from Indiana only yielded to the gentleman from New York a portion of his time.

Mr. COLFAX. I yielded only conditionally.

The SPEAKER. The gentleman from Indiana has twenty-five minutes of his time left.

Mr. WICKLIFFE. Has the morning hour expired?

The SPEAKER. It has not commenced yet.

Mr. WICKLIFFE. Well, I have been here more than one hour.

The SPEAKER. The Chair thinks the gentleman has been here for two hours.

Mr. WICKLIFFE. I am exceedingly anxious to call up a message from the President.

The SPEAKER. The Chair laid before the House the only message which was upon the table half an hour ago by consent of the House. The Chair will state to the gentleman further that the morning hour commences with the call of committees for reports. When the committees are not called for reports there is no morning hour. The message from the President has been read to the House.

Mr. WICKLIFFE. But it has not been acted on, and for that reason I wish to call it up.

Mr. ROSCOE CONKLING. I call the gentleman to order. The gentleman from Kentucky, like others, should observe the rules of the House. He has no right to inquire about the President's message while another member is upon the floor.

The SPEAKER. The Chair sustains the point of order.

Mr. ROSCOE CONKLING. Mr. Speaker, we have been sitting here a good many months sympathizing most kindly with the overburdened people of this country; we have expended some rhetoric upon the fact that we are engaged in the most expensive war the world has ever seen; we know that we are carrying a public debt greater in proportion to our basis of taxation, taking into account the rates of interest we pay, than the public debt of England; a great variety of most cogent reasons for retrenchment and reform are gravely evident, and earnest professions have been made on all sides of a determination to economize and correct abuses. But what have we done? Much has been said, but how much has been done? We have increased a great many salaries; many of them, I think, without any good or sufficient reason for it. I say so under favor, meaning no disrespect to that majority made up of all shades of party politics which has thought otherwise. On the other hand, we have not scrupled to cut down the pay of brave men who have gone to stricken fields to maintain the honor and existence of the Government. We have been in various ways regaling the public ear with necessities of reform, and I submit to gentlemen, one and all, that if we are sincere in the matter, if we mean to do our duty, it behooves us, as we value our respect and our consistency, to remember that charity is not the only thing that should begin at home. Let us cut down our own pay, let us cut it down liberally, and then we can with propriety and consistency make war upon

the emoluments and superfluities of others. Upon this ground we can stand; and we ought not to stand upon any other if we could.

I know that we have been subjected to unusual labors and burdens. We have been compelled, in common with others in office and out, to bear our share of the general calamity, a little more than our relative share, if you please, but that is the disaster of the times. The period in which we are living is one of universal affliction; nobody has escaped, nobody ought to wish to escape; self-denial and sacrifice are called for; everything must be done to diminish taxation to the uttermost, that labor may be lightly burdened; and where is there a more appropriate way to lop off one source of public expenditure than to repeal all laws allowing mileage to ourselves? Sir, let us cut up the whole thing, root and branch. When we have done so, if there be any member having any peculiar claim to consideration, any one who is compelled for any reason to incur onerous expenses in reaching his seat or returning home, we can provide such reimbursement as may be just at a proper time. But let us now do an act which will allow us to go home with the consciousness that we have contributed our just proportion to lessen the public expenditure; let us pass such an act that will place every member of this House on an equality as near as may be; which will enable every one to serve out the residue of his term, or if he cannot afford to do so, will enable him to resign and make room for somebody else who is willing to serve his constituents without mileage or allowance of any kind beyond his salary.

I am for a mileage reform. I am for a reform that shall be a practical and simple one. Such a proposition is now before us. We have it within our power to eradicate a system which has long been a sin and an abuse; and I call upon the gentleman who introduced the original half-way proposition, and upon every other gentleman, to join hands in passing the bill. The question is not what will the Senate do, or what will the Senate think; but what ought we to do, what should we think. Let the Senate take its own responsibility. If, in this time of public agony and public poverty, the Senate rejects or neglects a measure of wholesome reformation, that is the affair of the Senate, and of those to whom Senators are answerable; but we are bound to believe, and we have no right to doubt, that a bill just in itself will meet with as much favor in the Senate Chamber as in this Hall.

Mr. EDWARDS. I desire to say just a word, with the permission of the gentleman from Indiana.

Mr. COLFAX. I will yield to the gentleman.

Mr. WASHBURNE. I object to the gentleman from Indiana yielding the floor further unless he yields unconditionally.

Mr. EDWARDS. I desire to say just a few words upon this subject, and I trust the gentleman will not object.

Mr. WASHBURNE. I object, unless the gentleman from Indiana yields unconditionally.

Mr. COLFAX. I cannot yield unconditionally, for I have a word myself to say before I move the previous question.

Mr. STEVENS. Well, sir, now that I have the chance, I move the previous question.

The SPEAKER. The gentleman from Indiana is still entitled to the floor.

Mr. WASHBURNE. Well, sir, I trust if the gentleman from Indiana is entitled to the floor, he will finish what he has to say, and give some one else the floor.

The SPEAKER. The gentleman from Indiana will proceed with his remarks, or yield the floor.

Mr. COLFAX. I will finish what I proposed to say and move the previous question. I desire to say that the proposition introduced by me reducing the mileage of Members and Senators to one half the amount now given, was introduced, going only to that extent, because I did not believe, nor do I now believe, that any proposition more radical would pass both Houses of Congress at this session of Congress. I believed that under the circumstances that was as great a reduction as could be made of any practical effect by passing this House. The House differed with me in opinion, and deferring as I always do to the better judgment of the House, I acquiesce in the decision they have made, to require members not only to forego the reception of mileage in future, but to refund to the Treasury that already received by them during the present Congress. For one, I am perfectly willing to do that. I am perfectly willing to place in the Treasury, or anywhere else, my entire pay and mileage if it be required of me, for I would scorn myself if I could receive any income during a war like this that I would not be perfectly ready to give at the call of my country. Other gentlemen I know are as patriotic, and it may be more so.

I am perfectly willing that this bill shall pass, and I trust that it will be passed. I sincerely hope the Senate will pass it, and that members will be called upon to refund the mileage they have received.

Now, sir, my proposition was to reduce the mileage one half. The gentleman from Minnesota proposed to substitute, in the place of that proposition, the abolition of mileage altogether. The House adopted the amendment of the gentleman from Minnesota, and the question is now upon the bill as amended. I shall vote for the bill.

Mr. WASHBURNE. I demand the previous question.

Mr. COLFAX. The gentleman from Illinois will please wait until he has the floor to make his motion. The gentleman from California [Mr. SARGENT] spoke of members receiving mileage illegally. Sir, the law says, in just so many words, (I have not the exact language before me,) that one mileage shall be paid at the first session of a Congress, and another mileage at the commencement of any second or subsequent session of Congress.

Mr. EDWARDS. Mr. Speaker, will the gentleman yield to me a moment?

Mr. COLFAX. I will.

Mr. EDWARDS. I have only time to say that so much of the bill before the House as provides that members of the present Congress shall refund mileage received, is a mere nullity. All the mileage received has been received in accordance with law, and it is not in the power of Congress to compel any member of this House, or any person in the Army or Navy, or any other service of the Government, to pay back money which has been legally paid to him. The law is clear and explicit on this subject, and is as follows:

Joint Resolution to amend the act entitled "An act to regulate the compensation of members of Congress," approved August 16, 1856.

Resolved, &c., That the compensation allowed to members of Congress, by an act entitled "An act to regulate the compensation of members of Congress," approved August 16, 1856, be paid in the following manner, namely: on the first day of the first session of each Congress, or as soon thereafter as he may be in attendance and apply, each Senator, Representative, and Delegate shall receive his mileage, as now provided by law, and all his compensation from the beginning of his term, to be computed at the rate of $250 per month, and during the session compensation at the same rate. And on the first day of the second or any subsequent session, he shall receive his mileage, as now allowed by law, and all compensation which has accrued during the adjournment, at the rate aforesaid, and during said session compensation at the same rate.

Let every member examine it, and he will then be able to judge of the correctness of the position assumed.

Mr. PHELPS, of Missouri. It can be deducted from the future earnings of members.

Mr. EDWARDS. No law of the kind can prevent any member from receiving his pay.

Mr. WASHBURNE. I rise to a question of order. I understood the Chair to decide that if the gentleman from Indiana yielded the floor, he yielded it unconditionally.

The SPEAKER. The gentleman from Indiana must yield the floor or occupy it without interruption.

Mr. COLFAX. I yield the floor by moving the previous question on the bill.

The previous question was seconded, and the main question ordered to be put.

Mr. HOLMAN demanded the yeas and nays on the passage of the bill

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 86, nays 29; as follows:

YEAS—Messrs. Aldrich, William Allen, William J. Allen, Alley, Ancona, Arnold, Babbitt, Baxter, Beaman, Bingham, Jacob B. Blair, Samuel S. Blair, Blake, George H. Browne, William G. Brown, Buffinton, Cobb, Colfax, Frederick A. Conkling, Roscoe Conkling, Covode, Cox, Cutler, Davis, Dawes, Duell, Eliot, Ely, Fessenden, Fouke, Frank, Gooch, Goodwin, Granger, Gurley, Haight, Hale, Hanchett, Holman, Hutchins, Julian, Kelley, Francis W. Kellogg, Killinger, Law, Loomis, Low, McPherson, May, Mitchell, Moorhead, Justin S. Morrill, Nixon, Noell, Odell, Olin, Patton, Pike, Porter, Potter, Alexander H. Rice, John H. Rice, Edward H. Rollins, James S. Rollins, Shanks, Shellabarger, Sherman, Smith, Spaulding, John B. Steele, William G. Steele, Stevens, Stiles, Stratton, Benjamin F. Thomas, Train, Van Horn, Verree, Wall, Walton, Washburne, Albert S. White, Wilson, Windom, Wood, and Worcester—86.

NAYS—Messrs. Baily, Biddle, Casey, Clements, Cravens, Dunlap, Edwards, Fenton, Grider, Hall, Hooper, William Kellogg, Kerrigan, Knapp, Lazear, Mallory, Maynard, Menzies, Anson P. Morrill, Pendleton, John S. Phelps, Riddle, Sargent, Segar, Sloan, Francis Thomas, Trimble, Trowbridge, and Wickliffe—29.

So the bill was passed.

Mr. ROSCOE CONKLING moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

Mr. COLFAX. I move to amend the title so as to make it read, "An act abolishing congressional mileage."

Mr. WICKLIFFE. I should like to move an amendment to that.

Mr. COLFAX. I demand the previous question.

Mr. WASHBURNE. I desire to amend by adding "and for other purposes."

Mr. SARGENT. I propose to amend by adding, "and for other purposes of buncombe." [Laughter.]

The SPEAKER. No debate is in order.

The House divided on seconding the demand for the previous question, and there were—ayes 42, noes 22; no quorum voting.

Mr. COLFAX. If gentlemen desire to waste time upon this I call for tellers.

Tellers were ordered; and Messrs. SHANKS, and KELLOGG of Michigan, were appointed.

The House again divided, and the tellers reported—ayes 43, noes 49; no quorum voting.

Mr. ROSCOE CONKLING. I move that there be a call of the House.

The motion was agreed to.

The Clerk proceeded to call the roll, and the following members failed to answer to their names:

Messrs. Alley, Ashley, Baxter, Beaman, Francis P. Blair, Jacob B. Blair, Burnham, Calvert, Chamberlin, Clark, Clements, Conway, Corning, Crisfield, Davis, Delano, Delaplaine, Diven, Edgerton, English, Fenton, Franchot, Harding, Harrison, Hickman, Horton, Knapp, Lansing, Leary, Lovejoy, McKean, Marston, Anson P. Morrill, Morris, Noble, Noell, Norton, Nugen, Perry, Pomeroy, Price, Richardson, Robinson, Sheffield, Vallandigham, Vandever, Van Valkenburgh, Van Wyck, Vibbard, Voorhees, Wadsworth, Ward, Webster, Wheeler, Whaley, Chilton A. White, Woodruff, Worcester, and Wright.

Mr. SARGENT. How many members have answered to their names?

The SPEAKER. One hundred and seventeen; which is more than a quorum.

Mr. SARGENT. I move, then, that all further proceedings under the call be dispensed with.

The motion was agreed to.

The question then recurred on seconding the demand for the previous question.

The SPEAKER appointed Messrs. LOOMIS and BUFFINTON tellers.

The previous question was seconded; the tellers having reported—ayes 51, noes 43.

The main question was ordered.

The amendment to the title was agreed to.

Mr. ROSCOE CONKLING moved to reconsider the vote by which the amendment was agreed to; and also moved that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

EXTENSION OF THE SESSION.

Mr. WICKLIFFE. A message has been received from the President of the United States, which it is necessary should receive some action on the part of this House. He asks that Congress should extend the session for one day. There must be some good reason for this request on the part of the Executive. I move, therefore, that this session be extended until Thursday next, at twelve o'clock, m.

Mr. ALDRICH. It seems to me that there is no real necessity for the extension of the session. We have acted upon all the business which has been brought before the House, and if there is anything else we have plenty of time between now and Wednesday, at twelve o'clock, m., in which to consider it.

Mr. LOVEJOY. I move, as a substitute for the resolution of the gentleman from Kentucky,

to rescind the resolution by which the adjournment of the two Houses was fixed for Wednesday next, at twelve o'clock, m., which will leave the whole matter open. On that motion I demand the previous question.

Mr. STEVENS. I move to lay the whole subject upon the table.

Mr. WICKLIFFE. Neither the gentleman from Pennsylvania nor the gentleman from Illinois has the floor to make any motion. I would not yield for a motion for indefinitely rescinding the resolution for final adjournment. My proposition is for the extension of the session one day, in accordance with the request of the President of the United States.

Mr. LOVEJOY. I have not asked the gentleman to yield the floor to me to make my motion. The gentleman from Kentucky yielded the floor, and the Speaker assigned it to me. I have the right, therefore, to make my motion.

The SPEAKER. The gentleman from Kentucky was still in possession of the floor, and the Chair was under the impression that he yielded it to the gentleman from Illinois.

Mr. WICKLIFFE. I do not yield the floor to anybody. I demand the previous question on my motion, that (the Senate concurring) the session be extended until Thursday next, at twelve o'clock, m.

Mr. ARNOLD. I ask the gentleman to modify his resolution so as to extend the session two days instead of one.

Mr. WICKLIFFE. I cannot accept that modification. My resolution is in accordance with the request of the President of the United States. I insist on the demand for the previous question.

The previous question was seconded, and the main question ordered; and under the operation thereof, the resolution was agreed to.

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

The latter motion was agreed to.

ENROLLED BILLS.

Mr. GRANGER, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled bills of the following titles; when the Speaker signed the same:

An act (H. R. No. 280) to establish and equalize the grades of line officers of the United States Navy;

An act (S. No. 250) to amend an act entitled "An act to create a metropolitan police district of the District of Columbia, and to establish a police therefor," approved August 6, 1861; and

An act (S. No. 358) to prevent members of Congress and officers of the Government of the United States from taking consideration for procuring contracts, office, or place from the United States, and for other purposes.

MRS. MARGARET BAILEY.

Mr. DUNN. I move that the House proceed to the consideration of the business upon the Speaker's table.

The motion was agreed to.

The SPEAKER laid before the House bill of the House No. 527, to secure one month's pay and pension to Margaret Bailey, widow of George B. Bailey, lieutenant colonel in the ninth regiment of Virginia volunteers, which was returned from the Senate with the following amendment:

Add to the second section granting a pension:
From the 1st day of July 1862, to continue during her widowhood.

Mr. DUNN demanded the previous question.

The previous question was seconded, and the main question ordered; and under the operation thereof, the amendment of the Senate was concurred in.

Mr. DUNN moved to reconsider the vote by which the Senate amendment was concurred in; and also moved that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

OFFICERS OF REVENUE CUTTER SERVICE.

An act (H. R. No. 561) in relation to the commissioned officers of the United States in the revenue cutter service.

First amendment of the Senate:

In line five of section one, after the word "Senate," to strike out "and no officer not so nominated and confirmed at the end of the next session of Congress shall be considered an officer of the service."

Second amendment:

Insert at the end of section four, the following proviso:
Provided, That no change of rank by this bill shall increase the pay to which such officer is now entitled by law.

Mr. ELIOT. I move that the amendments of the Senate be non-concurred in, and the House ask for a committee of conference on the disagreeing votes between the two Houses.

The motion was agreed to; and

The SPEAKER appointed Messrs. ELIOT, LOOMIS, and PATTON managers of said conference on the part of the House.

CAPTAIN A. H. FOOTE.

Joint resolution (H. R. No. 101) tendering the thanks of Congress to Captain A. H. Foote, United States Navy.

Amendment of the Senate:

Strike out "Clerk of the House of Representatives," and in lieu thereof insert "President of the United States."

Mr. SEDGWICK. I move that the Senate amendment be concurred in.

The amendment was concurred in.

Mr. SEDGWICK moved to reconsider the vote by which the Senate amendment was concurred in; and also moved that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

PENSION TO MASTERS UNITED STATES NAVY.

Joint resolution (H. R. No. 105) to grant pensions to masters and other officers of the gunboats in the service of the United States, returned from the Senate with sundry amendments.

Mr. PENDLETON. I move to concur in the amendments of the Senate.

The amendments were concurred in.

Mr. PENDLETON moved to reconsider the vote by which the Senate amendments were concurred in; and also moved that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

DUTIES ON SUGAR.

An act (H. R. No. 573) to impose additional duties on sugars produced in the United States.

Amendments of the Senate:

Page 1, line five, after the word "levied," insert "annually;" so that it will read:

Be it enacted, &c., That in addition to the duties imposed by the act entitled "An act to provide internal revenue to support the Government and pay interest on the public debt," approved July 1, 1862, on all brown, muscovado, or clarified sugars produced directly from the sugar cane, there shall be levied annually, &c.

Page 1, line fourteen, insert after the word "thereof" these words: "or of his agent or factor;" so that it will read:

And such additional duty and the duty specified in the act aforesaid shall be levied, collected, and paid on all such sugars, not manufactured for consumption in the family of the producer, in the hands of the producer or manfacturer thereof, or of his agent or factor, on the day of the approval of this act by the President.

Mr. STEVENS moved that the amendments of the Senate be concurred in.

The motion was agreed to.

NAVY RATION.

Joint resolution S. No. 96, authorizing a change of the Navy ration.

Mr. SEDGWICK moved that the resolution be referred to the Committee on Naval Affairs.

The motion was agreed to.

MILITARY EXPENSES IN MISSOURI.

An act (S. No. 376) to allow to the State of Missouri the moneys expended by that State in arming and paying troops employed in the suppression of insurrection against the laws of the United States.

The bill was read a first and second time. It provides that the State of Missouri shall be entitled to a credit against the direct tax apportioned to that State by the "Act to provide increased revenue from imports to pay interest on the public debt, and for other purposes," approved August 5, 1861, for all sums of money expended by the State in the arming, equipping, subsisting, and paying of troops organized under the ordinances of the convention of the State passed during the year 1861, and employed in concert with the Federal authorities in suppressing insurrection against the United States, and enforcing the laws thereof. For the purpose of ascertaining the amount due to the State for moneys so expended, the Secretary of War is, by commission or otherwise, to cause the accounts to be examined, and a report made to him of the amount due, which being approved by the Secretary of War, and by him certified to the Secretary of the Treasury, the amount shall be allowed to the State, and deducted from the amount apportioned by the act of August 5, 1861, and the remainder only, if any, shall be collected as therein prescribed. If the State shall assume and pay into the Treasury the balance of the direct tax, if any, at such time as may be fixed by the Secretary of the Treasury, or if the expenditures shall be found to be equal to the tax, the deduction or discount of fifteen per cent., as prescribed in the fifty-third section of the act of August 5, 1861, is to be allowed on the whole amount thus apportioned.

It is further provided that in the adjustment of accounts under this act, no greater rate of compensation shall be allowed than was provided for by all the laws of the United States applicable to the arming, equipping, subsisting, and payment of volunteers, in force at the time of the enrollment of such troops of Missouri.

Mr. PHELPS, of Missouri. I desire to put that bill on its passage, and if there be any objection to it, I will make a few words of explanation.

At the time of the commencement of the disturbances in the country, we had a Governor who was disloyal; we had a Legislature which was disloyal. Now, sir, that Legislature was convened for the purpose of passing acts which should drive Missouri into the ranks of the secessionists; in other words, it was determined by the Governor of Missouri and the members of the State Legislature, that Missouri should cease to belong to this Union. In pursuance of that determination, an odious military act was passed for the organization of a State guard. Every organization in that State having the semblance of a military organization, under that law passed by the Legislature in May, 1861, was liable to be stripped of whatever arms they had, which were confiscated to the use of the State. It was made the duty of commissioned officers of the State guard to confiscate those arms. Provision was also made by which men should be forced into the military service against the Government of the United States. We determined to resist it. The Legislature, a year ago last winter, provided that a convention should be held in that State to take into consideration the existing condition of affairs in the Union.

In pursuance of the act passed by that Legislature, delegates to a State convention were elected. It was expected by those who voted for that law that the convention, when it should assemble, would pass an ordinance severing the connection of Missouri, so far as they could do it, with the Union. Fortunately for us that convention decided otherwise; and instead of adjourning *sine die*, they adjourned to meet in the autumn, or at such time as the president of the convention, or an executive committee, might convene it.

The Governor of the State had convened the Legislature in May, and they had passed this odious military law. In pursuance of that law they levied troops, they assembled their army at Jefferson City and Booneville; they were attacked and dispersed; and afterwards they fought a battle with Lyon at Wilson's Creek, where we were defeated.

Our convention was then assembled, in pursuance of a call of the executive committee of that convention. It met in July last. That convention deposed the Governor and the Legislature of that State. We had no other way, except to attempt a revolution in our own midst, for it was a revolution, and every man in that State was at that time a rebel, either against the Government of the United States or against the State government. It became necessary, therefore, to depose the chief Executive. He was deposed. It became necessary to depose the Legislature. It was deposed; and that convention, in the possession of plenary power from the people, repealed that odious military law and adopted another.

Under that act, the new Governor of the State, Governor Gamble, feeling that it was incumbent upon him to preserve the peace and quiet of the State, called out troops for six months' service. There were between six and seven thousand troops called into the field.

Let me here say, so far as Governor Jackson was concerned, the Legislature in May placed the whole credit of the State at his disposal, and diverted the eleemosynary funds of the State to war purposes—to the purchase of arms and army supplies, and the payment of the State guards.

In this condition of things, it was incumbent upon the State to pursue some course by which we could prevent our being subjugated and driven to pursue a course repugnant to our feelings, and which would not have been in accordance with our sense of duty. The Governor of the State issued his proclamation calling for a number of troops; and between six and seven thousand were called into the service. They performed efficient duty, and coöperated with other troops then in the field. They rendered efficient aid in guarding and protecting railroads, in fighting some battles in that State, and they were paid by the issue of treasury warrants. The State of Missouri, poor as her credit may be, or as you may estimate it, has paid the troops which were called into the service by Governor Gamble. The convention provided for their payment by authorizing warrants or treasury notes to be issued; which were issued, and which were receivable in payment of all dues to our State.

Under and in pursuance of the provisions of that act, and to fulfill the obligation which the State of Missouri had incurred, an indebtedness has been thrown upon the State of from six to seven hundred thousand dollars. We ask that this account for military services, and for such supplies as were necessary for these State troops, shall be paid by the Government of the United States. We provide, under this bill, that this account shall be settled by the Secretary of War, and whatever amount shall be found by him to be due shall be certified by the Secretary of the Treasury, and that no other allowance shall be made to the men who were in the military service of the State of Missouri than such as would have been allowed to those men if they had been called into the military service of the United States by the President.

We ask that this amount, whatever it may be, shall be regarded as a set-off against the direct tax which is imposed upon that State, and that we shall be entitled to the same discount as if we had paid the money. All the other States, I believe, have been paid it in the expenses they have incurred in the military service, and is it not right that you should extend the same indulgence, the same right to the State of Missouri which you have extended to other States?

I desire to call the previous question upon the passage of this bill. If there be any objections to the bill, I desire they shall be now made, and if I can I will remove them.

Mr. TRAIN. I would inquire of the gentleman from Missouri if these home guards are the ones of whom Colonel Mulligan said, "they were invincible in peace, and invisible in war."

Mr. PHELPS, of Missouri. Colonel Mulligan slandered those men who were at the battle of Lexington. But the bill does not embrace the home guards. These troops were organized in opposition to this very law, which was enacted by our Legislature. It only embraces those who were called into the service by the present Governor of Missouri.

Mr. DUNN. It seems to me that this bill ought to be adopted for the reasons stated by the gentleman from Missouri. We know that this rebellion broke out so suddenly that it was impossible to place our troops immediately under any regular government. The people of Missouri enlisted in the home guards, and rendered efficient service, as much so as those which were mustered into the service through the regular course; and I can see no just reason why they should not be paid.

Mr. F. A. CONKLING. I have listened attentively to the gentleman from Missouri, and if I have understood him correctly, he states that those troops were called out in the State of Missouri for the purpose of suppressing riots, protecting property, and preserving social and public order; and he has attempted to establish an analogy between the State of Missouri and other States, including my own.

Mr. PHELPS, of Missouri. I will correct the gentleman. If I so expressed myself, I did not intend to. These troops were called into real service—just the same service as the troops which were called out in pursuance of the order of the Government were engaged in.

Mr. THOMAS, of Massachusetts. What service did they perform?

Mr. PHELPS, of Missouri. They were, to a considerable extent, engaged in protecting the railroads over which our troops and military supplies were being carried. They were not marched by General Frémont to Springfield when he marched his troops there, but they took the place of other troops which had been guarding the railroad lines which were interfered with, and on which trains were liable to be captured and destroyed. These troops thus called into the service performed their duties under the order of the commanding generals-in-chief of that military department, Generals Frémont and Halleck.

Mr. F. A. CONKLING. With that qualification of the gentleman's remarks, I shall not trouble the House with the few observations I proposed to submit upon this subject. I understand him now to state distinctly that these troops were under the command and acted under the authority of United States officers.

Mr. PHELPS, of Missouri. They did. I call the previous question.

The previous question was seconded, and the main question ordered to be put; and under the operation thereof the bill was ordered to be read a third time, and was read the third time.

Mr. F. A. CONKLING. Did I understand the gentleman to say that the estimated amount was between six and seven hundred thousand dollars?

Mr. PHELPS, of Missouri. The bill provides that these accounts of the State of Missouri shall be adjusted by the Secretary of War, or under his direction. It directs that, immediately after the passage of this act, the Secretary of War shall, by commission or otherwise, cause the accounts to be examined, and a report made to him of the amount due the State; which, being approved by the Secretary of War, and by him certified to the Secretary of the Treasury, the amount shall be allowed the State, and deducted from its proportion of the direct tax.

Mr. THOMAS, of Massachusetts. At what time were these troops enlisted, and what service did they perform?

Mr. PHELPS, of Missouri. They were called into the service of the State for a period of six months by proclamation of the Governor.

Mr. THOMAS, of Massachusetts. When were they called out?

Mr. PHELPS, of Missouri. In the latter part of last summer, or the fore part of the autumn. I think they were raised in the months of August and September, and, perhaps, some of them in October.

Mr. THOMAS, of Massachusetts. How did they come under the command of the United States officers?

Mr. PHELPS, of Missouri. The Governor of the State was very willing to facilitate all the operations of the Government of the United States, and they served where it was indicated that their services were required.

Mr. THOMAS, of Massachusetts. Did they render any other service?

Mr. PHELPS, of Missouri. They did.

Mr. THOMAS, of Massachusetts. What was it?

Mr. PHELPS, of Missouri. They took part in several skirmishes. A Senator from Missouri, at the other end of the Capitol, was in command of a portion of them, who were engaged in one or two skirmishes. They rendered most efficient service. If it had not been for them we could not have preserved the State. I move the previous question on the passage of the bill.

The previous question was seconded, and under its operation the bill was passed.

Mr. PHELPS, of Missouri, moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider upon the table.

The latter motion was agreed to.

SUITS IN UNITED STATES COURTS.

Bill of the Senate No. 167, to authorize the examination of parties to suits in the courts of the United States, and for other purposes, was next taken from the Speaker's table, read a first and second time, and referred to the Committee on the Judiciary.

SAFETY OF PASSENGERS ON STEAMBOATS.

Bill of the Senate No. 382, in addition to the act entitled "An act to amend an act entitled 'An act to provide for the better security of the lives of passengers on board vessels propelled in whole or in part by steam, and for other purposes,' approved 30th August, 1852," was taken up, read a first and second time, and referred to the Committee on Commerce.

FRAUDS IN CONTRACTS.

Bill of the Senate No. 350, to suspend temporarily the operation of an act entitled "An act to prevent and punish fraud on the part of officers intrusted with making contracts for the Government," approved June 2, 1862, was taken from the Speaker's table, and read a first and second time.

The bill proposes to suspend the operation of the act referred to until the 1st day of January, 1863.

Mr. PHELPS, of Missouri. This matter has been already considered informally by the House on a proposition to strike from the supplemental civil appropriation bill the appropriation for the salary of the clerk in the Bureau of Returns. I hope the House will pass the bill.

Mr. HOLMAN. I object to its being considered now.

Mr. PHELPS, of Missouri. The subject has been already considered by the House in the appropriation bill which was up a day or two since. The House then took a test vote on a proposition to strike out the appropriation of $1,200 for the salary of the clerk in the Bureau of Returns, and the House by a decided majority indicated a disposition to suspend the operation of this act, which it is now proposed to suspend until the 1st of January next. The matter was fully explained and considered at that time, and I move the previous question on the third reading of the bill.

Mr. HOLMAN. I desire to move to refer the bill to the Committee on Military Affairs, who reported the act of which it is now proposed to suspend the operation.

Mr. PHELPS, of Missouri. I am quite willing that that motion shall be made.

Mr. HOLMAN. Then I submit the motion to refer.

Mr. PHELPS, of Missouri. I now call the previous question. I hope the bill will not be referred, but will be passed at once.

Mr. DUNN. At this stage of the session I hope the bill will not be referred to the Committee on Military Affairs. I can see no necessity whatever for it.

Mr. HOLMAN. Is this subject open to debate?

The SPEAKER. It is not, the previous question being demanded.

Mr. PHELPS, of Missouri. I withdraw the demand for the previous question, and yield the floor to the gentleman from Indiana, [Mr. DUNN,] but I hope he will renew the call.

Mr. DUNN. I will do so. This bill covers the same question which was discussed in the House upon an appropriation bill either yesterday or on Saturday. The act referred to in this bill, and the operation of which it is proposed to suspend, embarrasses the military operations of the country. That act requires every contract made by an officer of the Army to be put in writing, and a copy of it to be filed in the office of the Secretary of the Interior, and if that law were strictly carried out, the operations of the Army must entirely stop. Every one at all acquainted with the military operations of the country knows that if every contract made by an Army officer for supplies must be reduced to writing, the operations of the Army must cease. Frequently parties of soldiers are on detached service, sent out on scouting parties. They get hungry and must have supplies, and it is impossible that written contracts can be made for such supplies, with the affidavit of the parties furnishing them that they are the only parties interested in these contracts. The object of the law was a good one, but it was so imperfectly or improperly drawn as to defeat its own purpose.

Mr. HOLMAN. I desire to make an inquiry of my colleague in regard to this act, the operation of which it is now proposed to suspend. The bill originally passed the Senate during the session of July last, and came to this House, and it was here amended in some unimportant particu-

lars. When it was returned to the Senate, a communication was received by that body from the Quartermaster General, suggesting these very difficulties. That document was published with the proceedings of the last session of Congress; and every member of the Senate and of the House understood the embarrassment and restraint which the bill would impose upon persons authorized to make contracts for the Government; and yet, with a knowledge of all that, that act passed the Senate at this session, and passed this House by an almost unanimous vote. And yet, within a month afterwards, it is proposed to reconsider that bill which has been twice considered within thirteen months, and was regarded as the only safeguard against fraud on the part of those who are authorized to make contracts for the Government, and to suspend its operation until a period so remote that, in all human likelihood, its importance will have entirely ceased. I say that it is a burlesque upon legislation. I ask my colleague what new light has been thrown upon Congress that it had not when the bill was passed, and that should induce an abandonment of the policy then deemed necessary to protect the Treasury against fraud?

Mr. WICKLIFFE. I stated yesterday that the reason why I thought the appropriation of $1,200 for a clerk ought not to be paid was, that on a thorough examination of that bill which had passed here in the "presto, change, and begone" style, I felt convinced that it would be impossible for an honest Army officer to do his duty efficiently and still observe its provisions. That was the only measure advocated by me which passed this session, and I will tell the gentleman from Indiana why a new light has sprung up in me on this subject. It was on my motion that a provision was introduced making fraudulent contractors punishable by courts-martial. Now, all that I ask is, that the execution of that act be postponed until it can be amended. When an army is marching along, quartermasters have to take supplies where ever and however they can get them, but under this law they could not get a load of corn or a basket of bread without going through the forms prescribed, swearing that they have no interest in the contract, and the contractor swearing that nobody is in partnership with him, and that there is no fraud in it.

Mr. DUNN. The object of the law, Mr. Speaker, was a good one. It was that all contracts for general supplies for the Army should be reduced to writing. All possible provisions against fraud were introduced into it. But the bill does not carry out properly the objects proposed. It is too extensive in its provisions. While it is proper that contracts for general supplies should be reduced to writing, there are other circumstances in which it is absolutely necessary that the quartermaster shall procure the necessary supplies in whatever way he can. The act would amount to such an embarrassment of operations as seriously to interfere with the movements of the Army. I think it right that the execution of the act should be suspended; otherwise detached parties cannot be sent out. We have passed a law this session providing that fraudulent contractors shall be punished under the rules and articles of war; and that will be one wholesome measure of defense against fraud.

Mr. HOLMAN. Does not my colleague know that this court-martial law has special reference to, and can only operate on contractors? And I also ask my colleague whether there is any law in force to punish officers for or preventing them making improper contracts. The bill in question was reported on favorably at the extra session, and was passed at this session.

Mr. DUNN. I am very free to say that if that bill has been properly drawn, so as to limit it to general contracts for supplies of the Army and Navy, I would have supported it, and would not have been here to-day asking for a suspension of its operation. But the truth is, that its provisions are too extensive, and that it embraces too many cases. It is necessary that its execution should be suspended, so as not to embarrass the operations of the Army.

Mr. ROSCOE CONKLING. If the fault with this bill be as the gentleman states, that it is too extensive, I submit to him whether we ought not to amend or narrow it in place of repealing it altogether.

Mr. OLIN. The difficulty, Mr. Speaker, is this: perhaps the suggestion of the gentleman from New York is well enough in itself; but to amend the act we would have to go on and enumerate all the possible cases in which officers might be authorized to make contracts. The difficulty is that in a thousand instances, perhaps in a majority of instances, there is an absolute necessity for the immediate furnishing of the supplies. For instance, where your Army moves from its headquarters, and is cut off from communication with its base of supplies, it must procure them where and how it can. Sometimes your quartermaster must seize them without making any contract at all. If he had to make the contract and submit it to the Secretary of War, the soldiers might have to starve to death. This law has only been in practical operation fifteen or twenty days, and yet in nine cases out of ten it has already been disregarded.

Mr. SHELLABARGER. I ask whether it is not practicable to amend the law so as to require the quartermaster, or the officer who makes the contract, whenever it was impossible, from the exigencies of the service, to comply with the act of Congress, to show that fact by affidavit? Would not all the difficulty be obviated by making that exception? The law is certainly an exceedingly important one in the general, and if it were simply so amended as that the officer should show the facts that rendered it impracticable for him to comply with the law, that would be, it seems to me, the best course.

Mr. OLIN. I suppose that half the time it would require the contracting officer to be busily engaged in making affidavits.

Mr. SHELLABARGER. He could do it afterwards.

Mr. OLIN. The law is perfectly absurd, to say the least of it. It is one of those hysterical efforts of the House to remedy a difficulty which is insuperable from the very nature of conducting military affairs on the scale on which we are now engaged. Unquestionably there are a great variety of cases in which some safeguard ought to be thrown around the contracts of the Quartermaster General's department, and of the ordnance department, and of every department of the Army where money is expended. There should be a general law requiring contracting officers to advertise for the articles needed, letting every one compete for the contract, and leaving the proposals to be examined and the contracts awarded to the lowest responsible bidders. Every one will see that that is the only guarantee for fidelity and economy in the purchase of military supplies. But does not every one see, also, that, situated as we are, that is wholly impracticable? The law provides that the Secretary of War, when the exigencies of the public service demand it, may dispense with that formality in time of peace. It cannot be complied with now, for the occasion frequently occurs when the supplies demanded must be furnished within twelve hours of the time that notice is given. He must get them where he can, and if he cannot get them by contract he seizes them where he finds them and gives certificates. What would be the use of requiring him to go through the formality of entering into a contract in such a case? The House may or may not suspend the operation of this law, as it chooses; but if it does not, the consequence will be that which happens with every foolish regulation—the Department will, if necessary, disregard the law, nine times out of ten.

Mr. DUNN. I desire to say one word further, and then I will move the previous question. The law whose execution it is proposed to suspend requires that notice shall be given before any contract is made. I should like to know how an army which, retreating, finds itself in strange circumstances, with its supplies cut off, can be supported, if the quartermaster must give notice to the War Department before he can procure supplies. The idea is utterly preposterous; and if this law were to be stringently enforced, half of your Army and Navy officers would this day be under arrest. I move the previous question on the third reading of the bill.

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

The question was first on referring the bill to the Committee on Military Affairs.

Mr. DUNN demanded tellers.

Tellers were ordered; and Messrs. ELIOT and HOLMAN were appointed.

The House divided; and the tellers reported—ayes 17, noes 75.

So the bill was not referred.

The bill was read the third time.

Mr. DUNN moved the previous question on the passage of the bill.

The previous question was seconded, and the main question ordered; and under its operation the bill was passed.

OATH OF ALLEGIANCE.

Senate bill No. 202, requiring commanders of American vessels at foreign ports and persons prosecuting claims to take the oath of allegiance, was taken from the Speaker's table, and read a first and second time.

The bill was read at length.

Mr. WASHBURNE. I move the previous question on the third reading of the bill.

The previous question was seconded, and the main question ordered to be put.

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

Mr. WASHBURNE moved that the House adjourn.

The motion was disagreed to.

LAW OF PRIZE.

Senate joint resolution No. 97, in relation to the law of prize was taken from the Speaker's table, and read a first and second time.

The joint resolution was read at length.

Mr. WASHBURNE. I move the previous question on the third reading of the joint resolution.

The previous question was seconded, and the main question ordered to be put.

Mr. F. A. CONKLING. I wish to say that I think this joint resolution is in conflict with a bill which the House has recently passed.

The SPEAKER. No debate is in order, the main question having been ordered.

The joint resolution was ordered to a third reading, and was accordingly read the third time.

Mr. F. A. CONKLING. I am now in order in saying that I think this joint resolution is in conflict with a bill which has just passed both Houses; and in order to ascertain that fact, I will move to refer it to the Committee on Naval Affairs.

Mr. WASHBURNE. This certainly is a measure that ought to be passed at the present session of Congress, and I hope it will not be referred.

Mr. THOMAS, of Massachusetts. The provisions of this resolution seem to me to be right. It provides that this prize money shall be deposited in the Treasury of the United States while the cases are pending in the courts. I think that is the proper place of deposit. It is subject to the order of the courts either for distribution or restoration, as the case may be. I see no objection to it.

Mr. SEDGWICK. If the gentleman will allow me, I will move to refer the bill to the Committee on Naval Affairs, with leave to report at any time.

Mr. WASHBURNE. It seems to me it is a question whether this resolution shall be passed at this session of Congress or not. If it goes to a committee, as a matter of course it will hardly come back in time to be passed.

Mr. F. A. CONKLING. I desire to say that I have no wish in any way to embarrass the measure. It seems to me it is in conflict with our legislation just adopted, and I wish simply to ascertain whether such is the fact.

Mr. WASHBURNE. As I understand it, the gentleman from New York [Mr. SEDGWICK] does not think it is in conflict, but thinks it does not go far enough.

Mr. SEDGWICK. I hope it will be allowed to go to the Naval Committee, with leave to report at any time.

Mr. WASHBURNE. If the gentleman will report it back to-morrow, I will not object.

Mr. SEDGWICK. I presume it will be reported back to-morrow.

The joint resolution was then referred to the Committee on Naval Affairs, with leave to report at any time.

KANSAS INDIAN LANDS.

Senate joint resolution No. 98, to repeal and modify certain portions of an act mentioned therein, was taken from the Speaker's table, and read a first and second time.

The joint resolution was read at length.

It repeals the second and third sections of the

act entitled "An act to settle the titles to certain lands set apart for the use of certain half-breed Kansas Indians in Kansas Territory," approved May 26, 1860, and repeals, also, so much of the first section as authorizes the Secretary of the Interior to decide who shall be the heirs of the deceased Indian reservees mentioned in the act.

Mr. WASHBURNE. I think this had better go to the Committee on Indian Affairs, and I hope they will amend the title so as to show what the resolution is about.

Mr. ALDRICH. If the gentleman will allow the law to be read, portions of which this repeals, he will see what it is about, and I think he will see the propriety of it.

The Clerk read the law, as follows:

Whereas, by the sixth article of a treaty made and concluded at the city of St. Louis, in the State of Missouri, on the 3d day of June, 1825, between the United States of America and the Kansas nation of Indians, there was reserved from the lands ceded by said treaty to the United States by the Kansas nation of Indians one mile square of land for each of the half-breeds of the Kansas nation named in the said sixth article, which land has been surveyed and allotted to each of the said half-breeds in the order in which they are named in, and in accordance with, the provisions of the said sixth article of said treaty: Therefore,

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That all the title, interest, and estate of the United States is hereby vested in the said reservees who are now living, to the land reserved, set apart, and allotted to them respectively by the said sixth article of said treaty; and in case any of the said reservees named in the said sixth article are deceased and leaving heirs, then all the title, interest, or estate of the United States to the land allotted to such deceased reservees, is hereby vested and confirmed in such persons as shall by the Secretary or the Interior be decided to be the heirs of such deceased reservees; but nothing herein contained shall be construed to give any force, efficacy, or binding effect to any contract, in writing or otherwise, for the sale or disposition of any lands named in this act, heretofore made by any of said reservees or their heirs.

SEC. 2. *And be it further enacted*, That in case any of the reservees now living, or the heirs of any deceased reservees, shall not desire to reside upon, or occupy the lands to which such reservees or heirs are entitled by the provisions of this act, the Secretary of the Interior, when requested by them or either of them so to do, is hereby authorized to sell such lands belonging to those so requesting him, for the benefit of such reservees, or such heirs; and the Secretary of the Interior is also authorized to sell, with the assent of the Kansas nation of Indians, the lands allotted to the reservees who are deceased, leaving no heirs, for the benefit of the living reservees, their heirs, and the heirs of those deceased, equally; said lands to be sold in accordance with such rules and regulations as may be prescribed by the Commissioner of Indian Affairs, and approved by the Secretary of the Interior; and patents in the usual form shall be issued to the purchasers of said lands, in accordance with the provisions of this act.

SEC. 3. *And be it further enacted*, That the proceeds of the land, the sale of which is provided for by this act, shall be paid to the parties entitled thereto, or applied by the Secretary of the Interior for their benefit, in such manner as he may think most advantageous to their interest.

Mr. WASHBURNE. I understand what the resolution proposes to do. I think this was a very improper power to vest in the Secretary of the Interior, and I hope the resolution will be passed. I withdraw my motion to refer to the Committee on Indian Affairs.

The joint resolution was ordered to a third reading, and it was accordingly read the third time, and passed.

Mr. COLFAX. I move to amend the title, so that it will read:

A bill relative to certain half-breed lands in Kansas.

Mr. ROSCOE CONKLING. I will suggest that that will not indicate what the joint resolution is. The object is to repeal certain portions of an act already passed.

Mr. ALDRICH. If there be no objection, I will suggest that the title remain as it is. If it is amended, it will have to go back to the Senate.

Mr. COLFAX. There will be no difficulty in the Senate concurring in the amendment. I modify my amendment, so as to make it read:

Joint resolution to repeal the second and third sections of an act to settle the titles to certain lands set apart for the use of certain half-breed Indians in Kansas Territory, approved May 26, 1860.

The amendment was agreed to.

The title, as amended, was agreed to.

PRINTING OF PENSION AND BOUNTY LAWS, ETC.

Mr. WALTON. I rise to a privileged question. I am instructed by the Committee on Printing to report the following resolution:

Resolved, That ten thousand copies of an act of the present Congress, entitled "An act to grant pensions;" and also of all other acts and parts of acts in operation at the close of the present session, relating to bounty, back pay, or pensions, to officers or men of the Army, or to officers or seamen in the Navy, whose rights have accrued, or may accrue during the existing rebellion, together with all forms, regulations, and instructions prepared, or being prepared by any Department or bureau of the Government relating thereto, be printed for the use of the House.

I will merely say that the resolution has been modified as suggested by the gentleman from New York, [Mr. ROSCOE CONKLING,] and the gentleman from Kentucky, [Mr. WICKLIFFE,] and that the matter which has been added will embrace about twenty-two pages.

The resolution was adopted.

PRINTING OF NATIONAL CURRENCY BILL.

Mr. ROSCOE CONKLING. I rise to a privileged question. This morning the gentleman from Vermont reported a resolution to print five thousand copies of a bank bill referred to the Committee of Ways and Means. I then moved to lay the resolution on the table, which motion prevailed. I understand that there is a great desire to see the bill, even in its present state, before the Committee of Ways and Means, and I think it is due to its distinguished author that it should be printed. I therefore move to reconsider the vote by which the resolution was laid on the table.

The resolution was read, as follows:

Resolved, That five thousand copies of House bill No. 568, to provide a national currency, secured by a pledge of United States stock, and to provide for the circulation and redemption thereof, be printed for the use of the House.

Mr. HOLMAN. I move to lay the motion to reconsider on the table.

Mr. COLFAX called for tellers on the motion.

Tellers were ordered; and Messrs. OLIN, and BLAIR of Virginia, were appointed.

The House divided; and the tellers reported—ayes 15, noes 80.

So the motion to reconsider was not laid on the table.

The question then recurred on the motion to reconsider.

The motion was agreed to.

Mr. ROSCOE CONKLING demanded the previous question on the adoption of the report of the Committee on Printing.

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

On a division there were—ayes 78, noes 24.

Mr. F. A. CONKLING demanded tellers.

Tellers were not ordered.

The report was adopted.

CORRECTION OF CONFISCATION ACT.

Mr. MAYNARD. I ask unanimous consent of the House to introduce a joint resolution for the purpose of correcting the confiscation act.

Mr. THOMAS, of Massachusetts. I object. There is no confiscation law as yet, and therefore there is no law to correct.

Mr. MAYNARD. I move to suspend the rules in order that I may introduce the joint resolution.

Mr. PHELPS, of Missouri. I should like to have the law read which that resolution proposes to correct.

On a division, there were—ayes 72, noes 76.

Mr. PHELPS, of Missouri, demanded tellers.

Tellers were not ordered.

Mr. F. A. CONKLING moved that the House do now adjourn.

Mr. TRAIN. Before that motion is agreed to we ought to fix an earlier hour of meeting than twelve o'clock. As we have passed a resolution extending the session one day, it is necessary to know what action the Senate have taken upon it. I move, therefore, that the meeting of the House to-morrow be at ten o'clock instead of twelve.

Mr. THOMAS, of Massachusetts. I object.

The House refused to adjourn.

DUTIES ON SUGAR.

Mr. STEVENS. I move to reconsider the vote by which the House concurred in the first amendment of the Senate to the bill imposing additional duties on sugars produced in the United States.

The motion was agreed to.

Mr. STEVENS. I move that the amendment be non-concurred in, so that the bill may be sent back to the Senate.

The motion was agreed to.

CORRECTION OF CONFISCATION BILL—AGAIN.

The question recurred on Mr. MAYNARD's motion to suspend the rules.

Mr. PHELPS, of Missouri, demanded the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 68, nays 33; as follows:

YEAS—Messrs. Aldrich, Arnold, Ashley, Baxter, Beaman, Bingham, Samuel S. Blair, Blake, Buffinton, Campbell, Clements, Colfax, Cutler, Dawes, Duell, Dunn, Edwards, Eliot, Ely, Fessenden, Gooch, Goodwin, Gurley, Hale, Hanchett, Hooper, Hutchins, Kelley, Francis W. Kellogg, William Kellogg, Killinger, Loomis, Lovejoy, Low, McKnight, McPherson, Maynard, Mitchell, Moorhead, Anson P. Morrill, Justin S. Morrill, Nixon, Noell, Patton, Timothy G. Phelps, Pike, Porter, Potter, John H. Rice, Riddle, Edward H. Rollins, Sargent, Sedgwick, Shanks, Shellabarger, Stevens, Stratton, Trimble, Trowbridge, Van Horn, Verree, Wall, Wallace, Walton, Washburne, Wilson, Windom, and Worcester—68.

NAYS—Messrs. William Allen, Ancona, Baily, Biddle, Jacob B. Blair, William G. Brown, Frederick A. Conkling, Roscoe Conkling, Cox, Crisfield, Dunlap, Granger, Haight, Hall, Holman, Jackson, Knapp, Lazear, Menzies, Olin, Pendleton, John S. Phelps, Segar, Shiel, Smith, John B. Steele, William G. Steele, Stiles, Benjamin F. Thomas, Francis Thomas, Ward, Webster, and Wickliffe—33.

So the rules were suspended (two thirds voting in favor thereof.)

During the vote,

Mr. TRAIN stated that he was paired with Mr. WADSWORTH.

The vote was announced as above recorded.

The joint resolution was read a first and second time.

Mr. MAYNARD. I desire to state the necessity for the passage of this joint resolution. On examining a copy of the confiscation act, I find that the word "hereafter" is left out, so that it is retrospective as well as prospective in its action. In another place the language of the bill is disjunctive, when it should be conjunctive. The effect of my resolution will be, that no judge or member of a State Legislature shall be brought within its scope, unless he gave his adherence to the confederate States by oath to support the confederate constitution. Such I am sure was the intention of the conferees. I demand the previous question.

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

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

The latter motion was agreed to.

SUPPLEMENTAL CIVIL APPROPRIATION BILL.

Mr. STEVENS. I move that the House concur in the amendments of the Senate to the supplemental civil appropriation bill.

The motion was agreed to.

Mr. STEVENS moved to reconsider the vote by which the Senate amendments were concurred in; and also moved that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

HOUR OF MEETING.

Mr. STEVENS moved that when the House adjourns, it adjourn to meet to-morrow at eleven o'clock, a. m.

The motion was agreed to.

DR. WILLIAM TREAVITT.

Mr. COX. I move that the Committee of the Whole House on the Private Calendar be discharged from the further consideration of House bill No. 556, for the relief of Dr. William Treavitt.

Mr. F. A. CONKLING. I object.

Mr. COX. I move, then, that the rules be suspended for the purpose which I have indicated.

And then, on motion of Mr. WASHBURNE, (at a quarter to five o'clock, p. m.,) the House adjourned until eleven o'clock to-morrow morning.

IN SENATE.

WEDNESDAY, *July* 16, 1862.

Prayer by the Chaplain, Rev. Dr. SUNDERLAND.

Mr. SHERMAN. I move that the reading of the Journal be dispensed with.

The PRESIDENT *pro tempore*. The Chair hears no objection. The reading is dispensed with.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. MORRIS, Chief Clerk, announced that the House had passed the resolution of the Senate

(No. 98) to repeal and modify certain portions of an act mentioned therein, with an amendment; in which it requested the concurrence of the Senate.

ENROLLED BILLS SIGNED.

The message also announced that the Speaker of the House of Representatives had signed the following enrolled bills and joint resolutions; which thereupon received the signature of the President *pro tempore:*

A bill (H. R. No. 510) for the relief of James N. Muller, supervising inspector of steamboats for the third supervising district;

A bill (H. R. No. 527) to secure one month's pay and pension to Margaret Bailey, widow of George B. Bailey, lieutenant colonel in the ninth regiment of Virginia volunteers;

A bill (H. R. No. 561) in relation to commissioned officers of the United States revenue cutter service;

A bill (H. R. No. 572) making supplemental appropriations for sundry civil expenses of the Government, for the year ending June 30, 1863, and for the year ending June 30, 1862;

A joint resolution (H. R. No. 102) tendering the thanks of Congress to Captain A. H. Foote, United States Navy; and

A joint resolution (H. R. No. 105) to grant pensions to masters and other officers upon the gunboats in the service of the United States.

BILLS BECOME LAWS.

The message further announced that the President of the United States had approved and signed the following acts and joint resolutions:

An act (H. R. No. 423) making appropriations for the naval service for the year ending June 30, 1863, and for other purposes;

An act (H. R. No. 553) to establish additional post routes;

An act (H. R. No. 550) to further provide for the collection of the revenue upon the northern, northwestern, and northeastern frontiers, and for other purposes;

An act (H. R. No. 525) in relation to the election of Representatives to Congress in single districts;

An act (H. R. No. 84) for the relief of preëmptors on the Home reservation of the Winnebagoes, in Blue-earth region, in the State of Minnesota;

An act (H. R. No. 437) to extend the territorial limits of the Territory of Nevada;

An act (H. R. No. 438) to grant pensions;

An act (H. R. No. 531) increasing temporarily the duties on imports, and for other purposes; and

A joint resolution (H. R. No. 39) to declare the meaning of an act to authorize the President of the United States in certain cases to take possession of railroad and telegraph lines, and for other purposes, approved January 31, 1862, and to repeal a part of said act.

EXECUTIVE COMMUNICATION.

The PRESIDENT *pro tempore* laid before the Senate a report of the Secretary of War, communicating, in compliance with a resolution of the Senate of the 10th of June, information in relation to claims made by citizens of the United States upon the War Department for damages to or destruction of property by the Federal Army; which was ordered to lie on the table, and be printed.

WINNEBAGO INDIANS.

Mr. WILKINSON. The Committee on Indian Affairs, to whom was referred the joint resolution (H. R. No. 81) authorizing the Secretary of the Interior to expend from a fund in the United States Treasury, belonging to the Winnebago Indians, the sum of $50,000, or so much thereof as may be necessary, for the benefit of said Indians, have had the same under consideration, and have instructed me to report it back, with a recommendation that it pass. I ask that it be put on its passage now.

There being no objection, the joint resolution was considered as in Committee of the Whole.

The joint resolution was reported to the Senate.

Mr. SHERMAN. I should like to know something about that appropriation of $50,000.

Mr. WILKINSON. I will state all about it in a very few words. The Winnebago Indians have in the Treasury $1,100,000 of their money, which has been there some years. They have a large tract of land, and under a treaty made two years ago, it was provided that one half of the land should be sold, and the Indians should be removed to the other half of the land. They have been removed, but there are no improvements there, and the Indians in council have begged that a portion of their regular funds shall be applied for some important improvements for them, the Secretary of the Interior not thinking it wise to sell the land at this time, when there is no sale for it. It has passed the House of Representatives, and been referred to the Committee on Indian Affairs. It appropriates nothing out of the Treasury; the money belongs to the Indians; it is their fund.

Mr. SHERMAN. Has it received the sanction of the Committee on Indian Affairs of the Senate?

Mr. WILKINSON. It is reported from the Committee on Indian Affairs, and has received the sanction of that committee.

The joint resolution was ordered to a third reading, read the third time, and passed.

POLICE CONTINGENT FUND.

Mr. GRIMES. I move to discharge the Committee on the District of Columbia from the consideration of the joint resolution (H. R. No. 108) requiring the superintendent of the metropolitan police to pay over certain moneys collected for fines and penalties, to constitute a contingent fund for certain purposes.

The motion was agreed to

Mr. GRIMES. I now move that the Senate take up that resolution for consideration

The motion was agreed to

The PRESIDENT *pro tempore*. The joint resolution is not here.

Mr. GRIMES. Let it be laid aside informally until we can get the engrossed copy.

The PRESIDENT *pro tempore* That course will be pursued.

REPORTS FROM COMMITTEES.

Mr. WILSON, of Massachusetts, from the Committee on Military Affairs and the Militia, to whom were referred the bill (S. No. 189) authorizing the President of the United States to accept certain officers to serve in the Army of the United States without pay, and the bill (S. No. 156) for the better organization of the artillery of the Army of the United States, asked to be discharged from their further consideration; which was agreed to.

Mr. WILSON, of Massachusetts, from the Committee on Military Affairs and the Militia, to whom was referred the joint resolution (H. R. No. 82) establishing a professorship of the German language in West Point Academy, reported it back, and moved its postponement to the first Monday in December next; which was agreed to.

Mr. TRUMBULL from the Committee on the Judiciary, to whom was referred resolutions of the Legislature of Maine, approving the administration of the President of the United States in the conduct of the war; and resolutions of the Legislature of Ohio, expressive of their views as to the treatment of the leading rebels, asked to be discharged from their further consideration; which was agreed to.

Mr. FESSENDEN, from the Committee on Finance, to whom were referred various memorials and petitions in regard to the tariff and tax bills, asked to be discharged from their further consideration; which was agreed to.

Mr. HENDERSON submitted the views of Mr. KENNEDY and himself, as the minority of the Committee on the District of Columbia, in relation to the condition and management of the Washington jail; which were received, and ordered to be printed.

VOLUNTEER FORCE FOR KENTUCKY.

Mr. WILSON, of Massachusetts. The Committee on Military Affairs and the Militia, to whom was referred the bill (H. R. No. 137) to authorize the raising of a volunteer force for the better defense of Kentucky, have instructed me to report it, and to ask to be discharged from it. The Senator from Kentucky desired me to make the report, and he can take such action as he sees fit.

Mr. DAVIS. I move to dispense with all other business, and that we take up that bill.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill. It proposes to empower the military board for Kentucky to raise and organize into regiments a volunteer force not exceeding twenty thousand, rank and file, to serve for the term of twelve months, to be employed within the limits of Kentucky in repelling invasion, suppressing insurrection, and guarding and protecting the public property; but at any time that it may be necessary, these troops may be employed out of the limits of Kentucky against the enemies of the State or of the United States. The regimental and company officers are to be appointed and commissioned by the State of Kentucky in such mode and manner as the military board may prescribe; but the officers of the regiment are to be entitled to pay only when the regiments or companies are filled, as now required by law. The regiments, when raised and officered, are to be mustered into the service of the United States, and be subject to the command of the officer of the United States having power and jurisdiction over the whole or any part of Kentucky. The regiments may be formed into brigades at the discretion of the officer in command of the department, and the brigadiers to command may be designated from time to time by the War Department, or the general in command of the department. The officers and soldiers thus enrolled and mustered into the service of the United States are to be subject to the rules and articles of war, and to be placed on the same footing with other volunteers of the United States as to pay, subsistence, clothing, and other emoluments, for and during the time they may be in service. A portion of this volunteer corps may, when necessary in the opinion of the general in command of the department, be mounted and armed as mounted riflemen.

The Committee on Military Affairs report as a new section, the following amendment:

And be it further enacted, That by and with the advice and consent of the commanding general of the department of which Kentucky may be a part, the volunteers authorized to be raised by this act, or any portion of them, may attach themselves to, and become part of the body of the three years Kentucky volunteers, according to such rules and regulations as the said commanding general may prescribe.

Mr. DAVIS. I have no objection to the amendment; my only purpose is to have a body of men for the defense of the State as efficient as possible, and upon the most approved principles. If there is anything in which the bill is defective, I would not only be willing to amend it, but very much obliged to Senators for suggesting the defect and the remedy for it. Before this bill was passed by the House of Representatives, it was foreseen by the delegation from Kentucky what would be the condition of things along through the spring and the summer, both in Kentucky and Tennessee. We knew that in all probability the great body of the forces in that State in the service of the United States would be moved across the State for the subjugation of the rebels in Tennessee and north Alabama, and northeastern Mississippi, and that the consequences of these movements would be to leave our State comparatively defenseless. We knew that there was a systematic organization of the secession party all over the State; that they had secret military organizations and secret magazines of arms, of powder, and of other munitions, and were only waiting favorable opportunities for the purpose of making an uprising. Events have demonstrated that that view of things was correct. In that State now, and in the State of Tennessee, there are guerrilla bands of secessionists who are making their depredations pretty much over both of the States, and there are other organizations over each of the States that have come to a head, and are ready to break out upon those States nearly as thickly as the small-pox breaks out on the natural man when he takes the infection.

It will be seen from the provisions of the bill that these troops are to be raised for twelve months. They are to be raised especially for the defense of the State of Kentucky, but the President of the United States has the full discretion to order them at his will and pleasure anywhere; and I assure the Senate that any body of men organized under this bill, if it shall become a law, will move with as much promptitude and as much pleasure to any field of service to which they may be called as the three years forces.

I have no idea that we can raise twenty thousand volunteers in that State in addition to what we have raised, the number of forces in that State that have attached themselves to the Army being already upwards of thirty thousand; but if this

bill had gone into operation—and I am very sorry that the Senate did not give it a more favorable consideration—about the time it passed the House of Representatives, we should have had at least ten thousand volunteer troops in the State of Kentucky for a twelve months' term, now well drilled and disciplined. They would have held the State perfectly quiet, and they would have been ready to move over into Tennessee, or any other place where danger might have appeared, for the purpose of repressing the rebels. I therefore hope the Senate will pass the bill without further discussion. If it is to pass, the state of things is so urgent in the State of Kentucky that it ought to pass at once. If it is not to pass, let us know it, and let us look to other provisions for our safety.

Mr. WILSON, of Massachusetts. It will be remembered that this bill passed the House of Representatives several months ago, and was referred by the Senate to the Committee on Military Affairs. After careful examination and deliberation, the committee decided that it was not best to pass the bill. The Senator from Kentucky, naturally taking a great interest in the affairs of his State, has been very anxious for its passage, and we now report the bill, and report against its passage.

I will state that we have just passed a bill through the Senate authorizing the organization of one hundred volunteer infantry regiments for nine months. I think that under that bill there can be raised in the State of Kentucky several regiments that will answer all the purposes designed by this bill. They are to be raised for nine months; they are to receive twenty-five dollars bounty on entering the service. I do not think this bill necessary. At the time the House passed the bill, we were raising men for three years or the war, but we are now enlisting for twelve months. I think the bill we have passed will answer the purpose, and they can raise men in Kentucky without the passage of this bill.

Then, there is an objection in the minds of many persons against raising these State local forces. There is no doubt that in Maryland and Missouri, where we have given that liberty, the troops raised have been very much localized, and the expenses have been very large for the amount of services rendered. It is best generally to raise troops for the nation that can be summoned anywhere, go anywhere, and perform duty wherever called for. I think this bill is unnecessary, and that, under the provisions of the bill we passed yesterday, the State of Kentucky can bring several regiments at once of nine months men into the field that will answer all the purposes.

Mr. DAVIS. I will make a single remark. There is some chance, of course, that the bill which passed the Senate yesterday, may not become a law. If this bill shall pass the Senate, it will be a law subject to the action of the House upon the amendment. These forces are proposed to be raised for twelve months, and to the extent that they are raised, of course they will dispense with the force to be raised under the act passed yesterday, even if it should become a law.

Mr. LANE, of Indiana. After some little consideration of this subject, I think the bill had better pass. The State of Kentucky is in a dangerous and critical position. My birth and former residence there enable me to speak competently in relation to the condition of that State. The rebel armies are in the rear of our armies in many neighborhoods in the State of Kentucky. I hope the bill will pass, and the number of men raised may be taken from the nine months men provided for by the other bill.

Mr. KING. This application for local State troops, to be used only for the defense of a particular State—home guards—was made early in the session, and pressed with great pertinacity, and there was at one time a disposition to yield to it——

Mr. DAVIS. Permit me to interrupt the Senator. They are not to be raised exclusively for the defense of Kentucky. The President has the power to order them to any service.

Mr. KING. Then in what respect do they differ from any ordinary volunteers or militia?

Mr. DAVIS. In this respect: that the bill authorizes our State to raise these troops at once.

Mr. KING. That they may do under the militia system. There was an effort at the beginning of the session to get troops raised as State troops and home guards. In Missouri and Kentucky, and in several of the States along the border, there were eminent patriots; and there was every disposition to maintain and encourage them, but there was still the settled fixed conviction, the more we reasoned upon it, that it was not advisable to raise State troops that exclusively belonged to the States, or to make two or three different classes of troops. The opinion was very decided then against its propriety, and it was laid aside. If these troops are to be under the orders of the President, he is authorized to take them to any locality, as he is the other troops, and there is then no occasion whatever for a special law. Under the very liberal call for volunteers, with the order for the militia, ample scope is given to the raising of any quantity, either of militia or volunteers, that may be needed in any of the States. I hope we shall not get these different classes of troops. As I said, the manner in which our friends in Kentucky conducted themselves had, at the commencement of the session, almost overpersuaded the Administration and the Committee on Military Affairs to authorize the raising of some ten or twenty thousand home guards, but it was upon the whole concluded to be against sound policy to do it.

Mr. SHERMAN. I had a slight conversation with General Boyle, who is in command in Kentucky; and he assured me that if this bill passed the best citizens of Kentucky, who were loyal people, would at once enroll themselves in this special service for one year, with the understanding that they were to be employed in the defense of Kentucky; and that they would be just as valuable to the Government of the United States for soldiers as the troops raised in any other way, while they would be less expensive; in many cases they would clothe themselves; and they would enable all the forces of the United States to advance beyond the borders of Kentucky. He stated such pregnant facts to me that I was convinced beyond a doubt that it was politic in Kentucky to arm a special volunteer militia for that purpose. It seemed perfectly clear from his statement that it was wise and proper to do so. He said that, of course, when you called for three years volunteers, men would hesitate a long while before they would abandon their business; and men of property and means, who could not be away so long, would not volunteer; but that he could go into the mountain counties of Kentucky especially, and raise a class of the best kind of men, who would leave their farms for one year, with the understanding that they could go back, and that they were to be used for a particular service; and he said that, so far as the pay and clothing were concerned, if Congress thought there should be a discrimination in favor of the three years volunteers, there was no practical objection to making that discrimination, and giving these troops even less pay and less provisions in clothing and rations.

Mr. GRIMES. Was that conversation before or since we passed the bill we had up yesterday?

Mr. SHERMAN. Some time before; but I wish to state that under the militia law the troops are apportioned among the several States and consequently you cannot raise a special force in Kentucky. The amount of militia under the bill we passed the other day must be apportioned among the several States; only so many will be apportioned to Kentucky. I do not think that changes the result. I think it would be, therefore, well enough to give this authority to the Government—it is all a matter of discretion—to raise this class of troops. They will be of great service to Kentucky. I have no doubt that what the Senator from Kentucky says is true; if this bill had been passed there would have been now ten thousand troops to relieve us in this time of distress. If ten thousand mounted men, or even infantry, were now organized as volunteers in Kentucky for the defense of Kentucky, is it to be supposed that Morgan would be within a few miles of the capital of that State. When you appeal to volunteers, you must appeal to them from various motives. A great many men would enlist for the defense of their own State, and their own community, that probably might not enlist for service for which they would be called far away from home. Now, I think, is the time when we should arm all the people in some form or other, either as militia to be apportioned among the States, as three years volunteers with full bounty, as nine months volunteers with a less bounty, or as volunteers for special service. If the Military Committee think there ought to be a discrimination made in favor of the three years volunteers, I would agree to it. I would agree that there should be no bounty to these volunteers who serve a year for special service.

Mr. DAVIS. We do not ask any.

Mr. SHERMAN. General Boyle told me that even if a discrimination were made as to the pay, it would make less difference; that many of these farmers would be willing to lay down their usual employment and volunteer for a year, even without pay, or with very little pay, simply enough to keep them along; that they do not care anything about clothing; that the purpose was to organize a force within the State of Kentucky, which will make that State in all events safe, so that the military power of the Government may not be employed within the State. These people will fight bravely and well at very little expense to the Government comparatively. It strikes me that it would be advisable in all these border States, where you can, to arm the population to defend their own soil. They are just as useful in that way as if they were defending any other portion of the soil of the United States, and you can appeal to them more strongly; they are more likely to enlist; you are more likely to get a better class of men—those who have property and cannot leave it for a long time—than you would under a general draft of the militia, or under a call for volunteers for three years. From this conversation, which made a very serious impression on my mind, more than a month ago, before General Boyle went to assume this command, I was clearly of opinion that in Virginia and Tennessee and Kentucky and Missouri, it would be wise to arm this class of special volunteers. That is the way it appeared to me.

Mr. KING. This is the third time that the proposition to raise special local troops has come to us. On two previous occasions the call has been disregarded. The first was in the winter of 1860-61. There was then an application on the part of the Texans for mounted troops to defend themselves against the Indians, and the Texans did not want to be called upon to go across the State boundary; they wanted to be armed and sustained at the expense of the Government. I remember the great anxiety of the Texans to get a regiment of mounted rangers. We came very near passing it. I was thoroughly opposed to it, from the apprehension that such a distinctive class of troops in Texas would be very likely to fall into the hands of our enemies. Hamilton, who was then, I think, a very fair man, was in here urgently pressing upon us the raising of a regiment of mounted rangers for Texas; but in a very brief time our whole army in Texas surrendered to the insurgents. This class of local troops, with local allegiance and for local purposes, divide us, cut us up, and, in my opinion, should not be encouraged. Last fall we had this effort from the border States to get local troops. What is the difference between a good sound patriot and Union man in a border State and any other State? It is time we had got to regard ourselves as belonging to the same country, with common purposes and common interests. There is a great disturbance made about having white men and black men in regiments. Now, the border State men must have their separate organization; they cannot serve even with the white men of other States. All this classification, in my judgment, is bad. While I have no disposition to find any fault with our friends of the border States, I think they are disposed to set themselves up a little too nice, and want to be by themselves, and to have a separate and distinct interest in the country. I do not think it advisable either for them or us that they should have, and I am opposed, therefore, to this proposition to raise distinct State troops.

Mr. SHERMAN. I think one of the most unfortunate acts ever done by the Government was in refusing to arm western Texas. I have no doubt that if the prayer of Henderson and Alexander and Hamilton and Evans, and other loyal men of Texas that I might name, had been complied with, if the Government of the United States had furnished them three thousand stand of arms, you would have had Texas in a state of revolt against the rebel government and quarreling among themselves; and there has been an error that we have committed all along. The Senator says that the border State men are trying to make

discriminations. It is not so. If a call were made in Ohio for troops to guard the soil of Ohio, we should have a large number of volunteers for that purpose who cannot go into the three years service; and in the State of New York, in the county of St. Lawrence, where the honorable Senator lives, if there was danger of an invasion from Canada, and a call was made on the people of that locality for service for a short time to defend that soil, thousands of men would spring to arms, and render good service to their country, who might not see proper to enlist for a long term of general service. All these motives ought to be acted upon. You must avail yourselves of local pride, of local jealousies, of local feelings. You must avail yourselves of every physical and every moral power in this war. There may be thousands of men in Kentucky who are willing to serve as volunteers for the defense of that State who may not be willing to go beyond that State. The Senator says they ought to be patriotic enough to go everywhere. That is not the question. If they are willing to render good service anywhere, I would employ them there, and employ general volunteers for other duty. It seems to me we make a great mistake in not availing ourselves of this local pride and local feeling. I think it is right and proper to do it.

Mr. GRIMES. Why not call out the militia there under our new law?

Mr. SHERMAN. As I have stated, you cannot call on the militia of particular States; you must call on the general militia, and then it is apportioned among the States.

Mr. TRUMBULL. The Senator is certainly mistaken. We can call out the militia under the law of 1795 in any State or all the States.

Mr. SHERMAN. Then my answer is, that it is much better and wiser to have volunteers than militia.

Mr. GRIMES. Why?

Mr. SHERMAN. Because I believe you get a better class of men, men who go voluntarily into service and assume service without a draft.

Mr. COLLAMER. I ask the gentleman if the Government gives encouragement to volunteers for service in a particular State and organizes them for that purpose, whether you will ever get any other volunteers there.

Mr. SHERMAN. My own impression is, that now since you have called for a draft, you will get very few volunteers any way. You have got to choose between two systems: drafting, which I have always thought wisest for general purposes, and volunteering; but if you adopt one system it is very apt to stop the other. But I say you may get volunteers for particular local purposes when you cannot get them for general purposes of the war; and I think we ought to avail ourselves of that class of persons.

The amendment was agreed to.

Mr. COLLAMER. I move to amend the second section by adding the words "and while in actual service," so as to restrict payments to the officers while they are in actual service.

Mr. DAVIS. I do not object to that amendment.

The amendment was agreed to.

Mr. COLLAMER. I will state my object. In our public experience we have had a species of troops called "the sedentary militia," particularly in Florida. When we had our Indian war down there, a number of volunteer militia companies were got up to be used whenever their services might be needed, just as is proposed here. This is to be a volunteer force to be mustered into service, but not to continue in service unless they are called on for the defense of the State. That becomes a sedentary militia. The fact was in regard to that kind of militia in Florida, that the same men belonged to three or four different companies and drew pay in each, because the calculation was that they were not likely to be called upon to serve in each company at the same time. Many men and officers in that way got paid for belonging to different companies. That is a sedentary militia. I desire that these volunteer troops shall not be under pay except when they are in actual service, and I desire not only to insert the words that have been inserted on my motion, but to extend the same provision to the soldiers as well as to the officers. In the fourth section, I propose the same amendment, to insert the words "actual service," and in the second section, to provide that the officers and soldiers shall not have pay except while they are in actual service.

Mr. DAVIS. I hope those amendments will be adopted.

The amendments were agreed to.

Mr. COLLAMER. By these amendments the character of the bill is somewhat altered; but after all, my impression is that if you provide for this sort of qualified service in a State, subject to the possibility of being called out of the State and being sent away freely like other volunteers, you will not get many men; and if it is understood that they are not subject to being called away like others, and to go abroad, a good many will enter the service; and my belief is that just as far as you organize this sort of service in any State you will *pro tanto* prevent the getting of any other men there. The men who enter this service will not enter any other, and you will be deprived, either of getting your militia in proper detachments, or obtaining your volunteers as you need them for the general service of the country.

In the next place, if we pass a bill of this kind, it will be very awkward for us to go home to other parts of the United States and talk over what we have done about the war and urge our people to enter upon the service under the call for three hundred thousand additional men, of which my State has sent the first regiment into the field. We may be told "you passed a law for Kentucky by which their people can volunteer for the defense of their State merely, subject to a possibility of some part of them being called beyond the State; but you will not let us do so, you will not let the people of other States of the Union enter themselves as brave patriotic men into the local service of their States; we have got to march down into Virginia six or seven hundred miles from home, and now we do not understand, we cannot perceive the propriety or equality or equity of such an arrangement." I should hardly know what to tell them. The honorable Senator from New Hampshire [Mr. CLARK] informed us the other day that he desired to go home and exert himself to raise men as volunteers for the service of the country in its present extremity. I should hardly know what to tell him to say to the people of New Hampshire, and I should hardly know what to say myself to the people of Vermont in relation to an arrangement of this kind. "What," say they, "you want to provide for the people of the State of Kentucky—who at one time put themselves upon the ground that they would fight out of the State our troops and the southern troops—and to organize and pay a local militia for the defense of that State, and not oblige their men to go as we have to go to the common defense of the country; you make peculiar distinctions and extend favoritism to them, and call upon us to bear the heat and burden of the day." I cannot see the propriety of doing so; I cannot see how I am going to excuse it at home; and, therefore, I shall vote against it.

Mr. CLARK. In addition to what has been said by the Senator from Vermont, I may mention a little incident that has come to my knowledge in the history of this war, which relates peculiarly to the State of New Hampshire. There went out from a little rural town in that State with a small population, in one of the regiments of the State, sixteen men. They belonged to the New Hampshire fifth. I am told now upon good authority, that I believe, that there is not a man alive of the sixteen who went in that regiment, and there has not been a man of those sixteeen who has fallen by the bullet, the bayonet, or the saber. They belonged to the army of the Potomac, and they have all fallen in the swamps and by the wayside and in the ditches of Virginia; and now, as the Senator from Vermont says, what can we say to the people of that State when they tell us, "you send us out to perish in Virginia, not to fight the enemy, but to die in the trenches like dogs and rot by the wayside, while the people of Kentucky in their own climate, and on their own hills, defend their own State, without marching where you send us."

Mr. DAVIS. Mr. President, whenever the States of New Hampshire and Vermont have the same perils threatening them that Kentucky has, Kentucky will vote that those States be authorized to arm for their own defense, as Kentucky now asks to be armed for her own defense.

Mr. CLARK. The Senator will allow me to say that I have not any doubt about it; but the objection is this: why will not Kentucky go into Virginia?

Mr. DAVIS. She is willing to go into Virginia, and these troops are subject to be ordered into Virginia whenever the President decides to do so.

Mr. SHERMAN. The Senator from Kentucky may also say that she is compelled to furnish her quota under the other call.

Mr. DAVIS. Precisely. If gentlemen will just give us a law authorizing the President to furnish us with arms, we will ask no more; we will raise the troops necessary for our own defense without pay and without clothing. All we ask is that the State be allowed to rally her sons to her own defense, finding herself, in the present sudden emergency; but if gentlemen will pass the bill, the troops who will be raised under this law will be subject to the order of the President, and they will march freely to any point where he may order them to serve.

Mr. COWAN. I think there is great force in what has been said by the Senator from Ohio, and the Senator from Kentucky, and I think that one point has been overlooked entirely in the debate; and that is that the necessity for the provision arises out of the condition of Kentucky at the present time—a State in civil war. I can very easily conceive that a provision of this kind properly carried out might have the effect of entirely saving that State; because it is a question oftentimes as to who shall arm first, who shall first be in the field with an imposing array. I feel constrained to favor the passage of this measure, because I think it will be salutary, and perhaps save the lives even of New Hampshire and Vermont men in defending the State of Kentucky, hereafter, as well as men from the other free States; and if it were in my own State I should claim it as it is claimed now by the representatives of Kentucky.

Mr. TRUMBULL. I move that this bill be indefinitely postponed, and on that I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. HOWE. Mr. President——

SALE OF INDIAN LANDS IN KANSAS.

Mr. LANE, of Kansas. I should like to have permission of the Senator from Wisconsin to make a report from the Committee on Indian Affairs. It is a joint resolution which I should like to have passed.

The joint resolution (S. No. 100) suspending the sale by sealed bids of the lands of the Kansas and the Sac and Fox tribes of Indians was read the first time by its title.

Mr. LANE, of Kansas. This is a matter that there is no dispute about, and I should like to have the resolution passed.

The PRESIDENT *pro tempore*. Does any Senator object to the consideration of the joint resolution?

Mr. GRIMES. What is it?

Mr. LANE, of Kansas. To suspend the sales of lands of the Kansas and Sac and Fox Indians by sealed bids, until the 4th of March. We have treaties here with the two tribes, but there is no time to get the treaties through, and the joint resolution is to suspend the sales as provided by the new treaties, until the 4th of March next.

The PRESIDENT *pro tempore*. Does any Senator object?

Mr. KING. I object; we ought to get through with the bill before the Senate.

Mr. DAVIS. I hope that the vote will be taken on this bill.

CONFISCATION OF REBEL PROPERTY.

Mr. CLARK. With the permission of the Senator from Wisconsin, I desire to postpone the bill for a moment, to call up the House resolution explanatory of an act to suppress insurrection, and to punish treason, for the purpose of making an amendment. It will take but a few moments, and it is very important that it should be taken up at this time.

Mr. HOWE. I yield.

The PRESIDENT *pro tempore*. Does any Senator object? The Chair hears no objection.

The joint resolution (H. R. No. 110) explanatory of "An act to suppress insurrection, to punish treason and rebellion, to seize and confiscate the property of rebels, and for other purposes," was read twice, and considered as in Committee of the Whole. It provides that the provisions of the third clause of the fifth section of "An act to

suppress insurrection, and punish treason and rebellion, to seize and confiscate the property of rebels, and for other purposes," shall be so construed as not to apply to any acts done prior to its passage; nor to include any member of a State Legislature or judge of any State court who has not, in accepting or entering upon his office, taken an oath to support the constitution of the so-called confederate States of America.

Mr. CLARK. I move to amend the resolution by adding:

Nor shall any punishment or proceedings under said act be so construed as to work a forfeiture of the real estate of the offender beyond his natural life.

Mr. TRUMBULL. I cannot consent to that amendment. The Senate will observe it is a very important amendment. It provides that you shall confiscate the real estate only for life. What will that amount to? What is a life estate worth in lands in the West, where these traitors chiefly hold their real estate? It is not worth anything; it amounts to nothing. According to the principles of this bill, I think there can be no question about the constitutional power to seize the property of these traitors who have run away. Take the case which I have so often alluded to in the Senate, that of Mr. Slidell, who owns forty thousand acres of land in the State of Illinois. You cannot reach Mr. Slidell to punish him; you cannot institute proceedings against him; he is not in the country; probably never will be in the country; yet he has property in my State which was worth more than $100,000 some time ago, which would probably sell for $100,000 now. The life estate in that property is not worth anything; it would not sell for anything. It seems to me there is no trouble in reaching that property. I cannot consent to this amendment. I do not wish to take up time at this stage of the session, but I trust the amendment will not be agreed to by the Senate.

Mr. CLARK. I trust the amendment will be agreed to. It may be sometimes desirable to secure as much as we can, if we cannot get all we wish. I would desire to get the real estate in fee; but if we cannot do that, it may be worth while for us to consider whether we will not take the personal property of the individual and the real estate for life, if we cannot get the estate in fee.

Mr. SHERMAN. I should like to know by what authority the Senator says we cannot get any more, because if we are acting under a kind of duress, I want to understand it.

Mr. CLARK. I do not say that we are acting under any duress; but it may be that there may be objections to the bill as it now stands, somewhere, and it may be that an amendment like this will cure the difficulty and enable us to get over it. I suggest to Senators whether it may not be better to adopt the amendment in that view of it, rather than to reject it.

Mr. SHERMAN. If the Senator from New Hampshire will state to us in explicit language that the President of the United States will veto the bill unless we pass this amendment, I am in favor of passing it; but I want to throw that responsibility upon those who ought properly to assume it. I will not shirk myself, and I do not want anybody else to shirk. If the President desires to say that in his view of the Constitution—and I do not criticise him—he wishes this amendment in order to enable him conscientiously to sign the bill, I will pass it; but I want him to take that position before the people of the United States. So far as the life estate to wild lands in the West is concerned, it is a simple absurdity to talk of seizing it and deriving anything from it. The leading traitors of this country have been speculating very largely in western lands, and they have great quantities of them. I think we ought to seize them and sell them, and use the proceeds to put down their rebellion. The idea that we may draw a distinction in a military operation between a life estate and an estate in fee, I think is an absurdity. That will do very well for the courts to talk about; but it has no application to this case. Still, if the President rests his objection to any bill we have passed on that ground, I am ready to vote for this resolution in order to remove the objection; but I want him to take the responsibility of saying so. If the Senator says that he is authorized, or feels authorized, to say that the President objects to the bill we have passed because of the two grounds named here, then I am perfectly willing to relieve him by passing this amendatory resolution; but I want him to assume the responsibility, and not to take it myself.

Mr. CLARK. Mr. President, I think I may say that I am authorized to declare that I do know that that is one of the objections made to the bill by the President, and it is with a view of removing that objection and inducing his signature to the bill that I offer this amendment, not that it satisfies me.

Mr. SHERMAN. Then I will vote for it.

Mr. CLARK. There is one other amendment that I propose to make, and I may as well, as I am upon the floor, state what that is. I propose, after this amendment be adopted, if it shall be adopted, to move this further amendment:

And be it further resolved, That the words granting an amnesty in the thirteenth section of said act shall be so construed as to authorize the President to restore the offender any property which may have been seized and condemned under any proceedings of this act, or the proceeds thereof.

Mr. GRIMES. Will the Senator state whether that is also at the instance of the President?

Mr. CLARK. It is. The thirteenth section of the bill provides:

That the President is hereby authorized at any time hereafter, by proclamation, to extend to persons who may have participated in the existing rebellion in any State or part of a State, pardon and amnesty, with such exceptions, and at such times and on such conditions as he may think fit.

The question was whether that would authorize him, if a man showed himself to be innocent, to restore his property; and it is only to extend the words to give him that privilege, if he finds the man has been innocent, to let him have his property back again.

The PRESIDENT *pro tempore*. It is incumbent upon the Chair to announce the special order of the day, which will supersede all other business.

Mr. CLARK. I move that that and all prior orders be postponed with a view of enabling us to proceed with this joint resolution.

Mr. TRUMBULL. I hope not; for it is manifest that if this matter comes up there will be some controversy about it.

Mr. CLARK. We may as well have it now.

The PRESIDENT *pro tempore*. The question is for a majority of the Senate to decide. The Senator from New Hampshire moves to postpone the special order and all other orders for the purpose of continuing the consideration of the joint resolution which has been before the Senate.

The motion was agreed to.

The PRESIDENT *pro tempore*. The question is on the amendment of the Senator from New Hampshire.

Mr. LANE, of Indiana. I do not like to legislate under duress, or under the threat of a veto from the President of the United States. Some three days ago we passed a confiscation bill. I made a surrender of my individual opinions to take the bill as it was, believing that it should be more stringent in its character than we passed it; but having consented to that bill I am not now willing to have a modification of that bill which will not be a law until the President of the United States shall sign it. Having voted upon it under my responsibility as a member of the Senate, my duty for the time being ceases. It then becomes the duty of the President of the United States either to approve the bill or to return it to Congress with his objections. When he shall return it with his objections, I shall be willing to vote for or against it, according to the dictates of my conscience; but I am not willing in advance to anticipate an objection of the President of the United States, and to remove it by an amendment of a law which is no law. I will not surrender the independence of the Senate and the Constitution of the United States at the dictation of any President, however I may trust his discretion and his patriotism. "Sufficient unto the day is the evil thereof." When the veto message shall be presented to the Senate I shall be ready to make the issue between confiscation and no confiscation, and to stand upon my convictions. I believe a confiscation bill is demanded, and imperatively demanded; but I am not willing in advance to have my hands tied at the dictation of the Executive or any other power this side of God in heaven.

Mr. CLARK. Mr. President, it may be well enough to look at this matter practically and candidly and calmly. I do not know that there is any attempt here to have any Senator legislate under duress. I do not think the President of the United States attempts to dictate to anybody. But every Senator will say that when a bill has passed both Houses of Congress, it becomes the duty of the President to examine it carefully and thoughtfully and conscientiously. If the President has objections to it, he is authorized to return it to Congress with his objections. Now, in a measure so important as this, the President of the United States sought nobody; he holds out no dictation to anybody; but some persons who feared there might be objections, sought the President to know what might be the objections. He asks nothing; he determines nothing; he imposes no dictation. They ascertained what were the objections in the mind of the President to the bill, and the President has a right to entertain these opinions, if he entertains them conscientiously, as I have no doubt he does. And does it not become us as practical legislators, if we can meet the objections of the President and offer to the country a bill not so stringent as some gentlemen might like, but one nevertheless which has some important features in it; is it not our duty as practical Senators and legislators to do it? That is the question that suggests itself to my mind.

I do not make any question whether it is duress or dictation. I ask what is best to be done, and I make the appeal to Senators now, whether, in this condition of the country, when we want recruits, it is worth while to stand upon punctilio, and upon exact points, and defeat this bill, and thus repress the ardor of our men and prevent enlistments, when, by yielding a little ourselves, or making this modification, we can make it harmonious to the country. I ask what is the duty of the statesman, what is the duty of the Senator? Is it to stand upon his own particular notions, or is it to yield something and take the best thing he can get, if he does not sacrifice any principle in doing so? You may ask the President to sacrifice a principle; but if he tells you what that principle is, and you can modify the measure so as to get something which may be proper and advantageous to the country, I suggest to Senators whether we ought not to do it, and whether we ought to stick and higgle as to how the thing shall be done.

Mr. KING. Mr. President, this mode of proceeding presents to us a question that is entirely new. We are called upon to make a precedent as to the manner in which communications shall take place between coördinate branches of the Government in the exercise of their powers. I look upon it as a graver question, if possible, than the merits of this particular proposition.

We have three independent branches of the Legislature: the President, with the power to recommend measures for the consideration of Congress, and with a veto upon the acts of Congress; and we have the two Houses of Congress, each acting separately and independently, the distinct action of each necessary to the passage of a law. Gentlemen say Congress is not coerced by this mode of proceeding, and talk about the practicability of things. They might as well say, if we cannot be freemen we can consent to be slaves. Each of the three branches of the Legislature is and ought to be independent of the others. The President of the United States has his constitutional rights. If a proposition which has passed the two Houses is not satisfactory to him, either by reason of constitutional or other objections, it is not only his right, but it is his solemn duty, under the Constitution, to return that bill to the House in which it originated, with his objections to it; but it will not do, through a Senator upon this floor, to suggest that a bill must be modified. It is monstrous to commence a practice that would require the two Houses to ascertain and shape their action by the will of the Executive. Where is popular power, where is the legislative power, or what is the power of Congress, if suggestions of that sort are to be made either secretly or openly?

I am astonished that this proposition should be made. I regret it. I think it ought not to be made or acted on. Let Congress sit here until it can do the business of the country; let us meet all these questions; it is our highest duty to do so; and not under any circumstances to shirk and run, and then talk about the responsibility for results. It is a threat for a child, and for a very young child too, to talk about responsibility in the discharge of duties where high trusts are confided to men. We have got to meet our enemies as enemies, and we have got to act with the decision that belongs

to men who are prepared to meet their responsibilities. The idea of conciliating our enemies was never, in my judgment, a wise idea; but whatever it may have been at an earlier period, the time has passed for all such thoughts. We must meet the enemies of the country and overcome them by force.

To talk about the confiscation of their estates during their lifetime in a bill which provides for hanging them as soon as you can catch them, is an absurdity. I have no disposition to find fault that any opinions honestly entertained are firmly adhered to. If the President has objections to the bill which has been passed, I desire them to be presented in the proper form, and I shall have great respect for them. There have been difficulties in the minds of some of our best men in both Houses of Congress in coming to a conclusion upon this question of confiscation, and the constitutional principles involved in it. Let us meet them openly and fairly. If I had doubts, I would express them, I would stand upon them, and would have no hesitation in doing so. We can reach results by open and direct action, better than by any sideway behind-the-door practice. It is no way to meet these questions. I will not vote for any proposition that comes here in that shape; I should scarcely be disposed to do so if I was otherwise in favor of it. I make the objection that I do not think this is the proper mode to meet our responsibilities here. The time has come, in my judgment, when the Senate and Congress and the people of the country must come up to their work and assume their responsibilities to save the country from its enemies, and to save it from timid counsels and halfway measures.

Mr. HARRIS. Mr. President, I think if my colleague had reflected a little more, and not gone off so impulsively, he would have been a little more moderate in the terms he has employed in reference to this subject. I cannot see anything so monstrous in this proposition; nor can I see, what Senators seem to think they see, that there is anything which should be characterized as duress in this matter. Let us see how it stands. We have a proposition before Congress for the confiscation of rebel property. It has received a very protracted and full discussion. One of the questions which have been the subject of discussion has been, whether or not the Constitution of the United States authorizes the real estate of rebels to be confiscated for a longer period than their natural lives. Upon that question lawyers in Congress, in both Houses of Congress, have differed radically. Some of the best lawyers in Congress are of opinion that you cannot confiscate the property of rebels beyond their lives. I am not one of those. I sought, upon an early occasion, to show, as I thought, at any rate satisfactorily to myself, that the entire real estate forever might be confiscated. I believe it may. That is my construction of the Constitution; but other lawyers, better lawyers than myself, have a different opinion. Now, it may as well be known that the President entertains the latter view. He is of opinion that the real estate of rebels cannot, for treason, be confiscated beyond the term of their lives; and if the bill now before the President is allowed to stand as it is, it will be vetoed—we may as well understand it—and solely upon that ground. It is a bill that contains other and very valuable and important provisions. We may as well look at the question just as it is—what is best, what is expedient, what is wise. There is no duress about it; there is no threat about it; there is nothing so monstrous about it. We are to look at it just in this light: here is a bill passed, containing a provision by which the real estate of traitors will be confiscated forever; the President says, "I think that is unconstitutional; I think all that Congress can do is to pass a bill confiscating their real estate for their lives." He says, "that is my objection to the bill; I cordially approve of the bill all but that; that I cannot sanction;" here we are with a resolution to adjourn to-morrow; the question is whether we shall allow that veto to come in to-day, or whether we shall so modify the bill by this resolution that we shall have the benefit of the bill with that exception. Can any man in his senses doubt as to what is expedient in that respect? We have got a valuable bill; all agree that it is a valuable bill; it is an efficient bill; but it will have to be modified in this one respect to suit the constitutional scruples of the President, or we lose it altogether.

I am surprised to witness the excitement of members on this subject. The President asks nothing of Congress; he does not undertake to dictate to Congress; but some persons feeling an interest in this subject, aware of its importance in the present crisis of our history, have sought to ascertain what the difficulties were, and they have ascertained this to be the objection of the President. The question is what is wise, what is best? and upon that question, it seems to me, Senators ought not to differ. It seems to me that it is wise that we should pass this declaratory resolution, declaring that to be the effect of the bill, and thus relieve the bill of the difficulties which the President finds in it.

Mr. WADE. Mr. President, I do not rise for the purpose of making a speech on this subject; but it seems to me that the question is entirely a novel one. It comes before us in a way unknown to the Constitution, and in a manner that is utterly illegitimate. I do not know who has a right to speak to this Senate authoritatively of what the opinions of the President are upon constitutional questions. I should like to know who it is that is the authorized organ of communication between the Senate and the Executive upon the subject of vetoes. If there is any such relation between this body and the President we ought to have a committee on vetoes; we ought to have a committee to wait on the President whenever we send him a bill, to know what his royal pleasure is in regard to it; and whether it contains anything he would like to modify. Sir, that is not the Constitution. It does not consist with the dignity of this body. It is our constitutional right, it is our constitutional duty to pass all such laws as we believe ought to be passed. We certainly ought to pass none that we do not believe to be constitutional. But when we have performed this duty, and have sent him, through the organized channels of communication with the Executive, a bill for his consideration, there is only one constitutional way in which we can ascertain what his views and opinions are in regard to it. Do you tell me that somebody takes an interest and goes mousing around the President to see if there is any little difficulty that may be removed, and comes back here to speak authoritatively in the Senate what the opinions of the President are? Sir, it is disgraceful; it is a total surrender of the dignity of this body; it is an unconstitutional submission. You have no more right to make such a surrender than to usurp a power not belonging to you. We have only one proper course to pursue, and that is to await a communication from the President as to whether he approves or disapproves our bill. If he approves, well; if he disapproves, he gives us the reasons upon which that disapproval is founded, and then the Constitution says that we shall immediately take up and consider his objections, and see whether we will pass the bill, notwithstanding the objections. We can proceed in no other way without a violation of the Constitution, without a total surrender of the Constitution and of our dignity as a Senate. I am astonished that men should come in here, creeping in at the back door, with vetoes. It is a new idea. It cannot be tolerated; it must not be tolerated for a moment.

Sir, I should be exceedingly sorry if the President of the United States should find insurmountable objections to this most useful of all bills, one that lies deeper in the hearts of the people than anything we have done during the session or can do. If it should fail to meet the approbation of the President of the United States, I can tell him it will be the saddest announcement that ever went out from this Capitol; but nevertheless it is his constitutional right to sit in judgment upon what we have done; he may veto it if he will, and take the responsibilities of that veto. The Constitution defines our duties and his duties. I will live up to mine; I will be responsible for what I do, and he shall be responsible for what he does, and there shall be no back-kitchen way of doing this business.

We cannot consider this bill in the light in which it has been presented to us. We are told that some gentlemen, taking an interest in this measure, have been to see the President. Some gentlemen are very fortunate in that respect. Others, when they go to see the President, find that they are debarred all access to him. Nobody can see him, it seems, except some privileged gentlemen who are charged with his constitutional conscience! I do not choose to take them as his organ. The Constitution has pointed out the proper course. Let his message come here and be read, and then I shall know what it is. I hope that no Senator will be influenced in his action on this question by suggestions starting in an unconstitutional, illegitimate manner. It is the most unfortunate thing during the whole war. If the President has come to a deliberate conclusion on full consideration that the confiscation bill is unconstitutional, let him veto it, and then we must do the best we can after he has given the reasons on which he sees fit to object to it; but I utterly protest against the manner in which this thing is brought here.

Mr. WILSON, of Massachusetts. Mr. President, we passed a confiscation bill after many months of anxious discussion, in which the best men of the Senate widely differed; we passed that bill after days and nights of anxious deliberation, after a conference between the two Houses. I regard it as a measure of vital importance to the country, and I regret to hear that there is any doubt in the mind of the President as to signing that bill. But whatever doubts there may be in the mind of the President, there is now a measure before us to modify the provisions of that act. I think the proposed modification of very little significance or importance; but if the passage of the measure now before us will relieve anybody in the Senate, or anybody out of the Senate, I am ready to give my vote for it. I regard a confiscation bill as of great importance to this country in the present struggle; and so regarding it, I shall vote to-day, and vote most cheerfully, without any feeling on the subject, for the joint resolution now before us, if it will contribute in any way to the consummation of the great measure of this session.

I admit that there is something about this whole affair which seems to me to be somewhat irregular and hardly proper; but I do not choose to get up a controversy about the dignity of the Senate or of Congress, or of the rights of the President. I believe the measure involved to be above all these considerations; and so believing, I shall give my vote for the resolution now pending before us. I trust the Senate will calmly reflect upon the subject, regard the transcendent importance of the great question involved in the issue and the deplorable results that will follow defeat, and agree to save as much of the measure as we can—a measure which we who voted for it believe essential to the triumph of the country in the great rebellion in which we are engaged. For myself, therefore, I choose to forget all irregularities, not to stand upon the dignity of the Senate, or the rights of this body or that body, but to go for the measure because I believe it to be for the cause of our country, which in this hour of gloom and darkness demands of us every effort and every sacrifice that we can make.

Mr. FESSENDEN. Some remarks which fell from the honorable Senator from Ohio caught my ear as I came into the Senate, which necessarily call for some reply from me. I am not in the habit of doing anything in an indirect manner, and I think Senators will bear me witness that I am not much in the habit of visiting the Executive or the Executive Departments.

Mr. WADE. I beg to have it understood that I know nothing as to the manner in which this thing came in, by whose agency, or anything about it, except, as it has been announced on this floor, that somebody brought it in.

Mr. FESSENDEN. And it is precisely about that somebody that I am speaking. The Senator's remarks were general, and if they apply to me, I wish to let him and the country have the benefit of the facts.

It is evident that a proposition of this kind could not have been introduced unless upon some idea that it was necessary to do so for some good reason. I heard in the course of yesterday that it was possible the bill which we passed would not meet the assent of the President. I do not know that there is the slightest impropriety, in such a case, or in any case, for a Senator who has taken part in the passage of measures, to ask the President what his views are in reference to them. It is exceedingly common, and always has been in our Government; and I do not know, except as a question of propriety between the member and the President, that there is any objection to it. At

any rate, if there is, it does not apply to me very largely, because if I have done it in this instance, it is the first time in my life. I was solicited by several members to see the President on the subject, because we should all regard the fact that the bill did not meet the views of the President in some particulars as a misfortune, and a very serious misfortune. A difference of opinion on an important measure between Congress and the President is always to be regretted. But it is to be considered, and I ask gentlemen to consider this fact, that the President is an important branch of this Government, and that without his signature no bill can become a law unless it be passed over his veto by two thirds of both branches of Congress. This measure is a very important measure. It is one in which the people feel a very deep interest. It is one in which I feel a very strong interest, and in which I have professed a strong interest from the beginning. I voted for it as it went to the President, although gentlemen must be aware, from my known opinions, that I voted for it with some hesitation as to some of its provisions and its constitutional bearings. Still I voted for it. I yielded my opinions to those of many gentlemen who differ from me, and took this bill as a compromise between the jarring opinions of different members of the Senate. We cannot get rid of the fact that this right exists on the part of the President, that he is as much entitled to his opinions as we are to ours, and to the respectful expression of them; and I believe that whatever opinions the President may express, will be honestly expressed.

Now, sir, what is the part of common sense under such circumstances? If all the essential features of the bill can be retained, or if the greater number of the most essential features can be secured by yielding one, without which the bill cannot become a law, or may not become a law, what is the objection, as a matter of common sense and common prudence, to taking the best we can and the most we can under such circumstances? Is there any loss of dignity in that? Is there any loss of character on the part of the Senate? Is it better that no bill be passed with regard to this object, which gentlemen profess to have, and have, so much at heart? Is it best to have an open defiance, and to say that nobody shall have an opinion but ourselves? That would seem to be the inference from the argument. I have always been opposed to that idea. While I am very anxious to have my own views carried out into practice, I acknowledge the same right on the part of others in the same position with myself and those in a different position from myself, if they are to act on the same subject.

Laboring under this impression, of the very great importance of passing this bill, of not coming in collision or bringing the country in collision with the President, following out the suggestions and the requests of gentlemen who thought as I did in relation to the matter, I took the responsibility, with another gentleman, of calling upon the President to inquire his views. I avow it here before the country; and if gentlemen choose to make any insinuations about the views of the Executive and going to the Executive and all that, and being an agent or a committee of the Senate or assuming to act, I care not. I acted for myself as a single Senator upon my own responsibility, and I am ready to assume it before the Senate and before the country, in the anxious desire I had to know whether we were to meet this misfortune, and whether there was no way to avoid it. Therefore all the remarks which the Senator from Ohio has made fall upon me, and I must take the consequences, and I am ready to do so with perfect cheerfulness. What I have done has been in obedience to a solemn sense of duty to my country in a great crisis, and I trust I shall be able to do much more.

Now, sir, for the result. It is useless for me—and I do not deem it advisable or necessary—to go into details. I am of the opinion that with the passage of this explanatory resolution, all difficulties will pass away. I have no doubt of that fact. Allow me to inquire, if it so happens that the President sees a constitutional difficulty in his way which he cannot surmount, can you ask him to surmount it? Can any man ask him to disobey it? Can any Senator, or any Representative, in decency request the President of the United States, acting under his oath to support the Constitution of the United States, to violate his view of the Constitution, in obedience to yours or mine? No, sir. No man could ask him to do so without being guilty of a personal insult. It cannot be expected.

The question simply remains, if such is by any possibility the state of the fact, do gentlemen choose to stand on a punctillio as to a mode of proceeding? Time is of some consequence. We are to adjourn to-morrow at twelve o'clock, meridian. There is very little time left in which to act on a matter of this description. This is in fact the only way we can act under the rules of the Senate with any effect. It is a perfectly legal and constitutional mode of action. We have a right to pass an explanatory act in reference to an act that we have passed, before that act has been signed and gone into operation. Nobody can doubt that. If we pass a bill hastily, even before it is signed we can pass another bill explanatory of it; and if they are both signed, they both equally become laws. There can be no question of the entire power of the Senate to act in that way. Will gentlemen, from temper, at this period of the session, with a great public measure pending—a measure which they profess to believe of infinite importance, in which our constituents feel a deep interest—say that they will make a point upon the form of proceeding, when the consequence may probably be to defeat any bill because of the time fixed for adjournment, and the unwillingness of members of both Houses to extend it? This may be the only mode in which gentlemen can accomplish their purpose, to all and every extent, except in one particular. Would not that be the part of unreasonable men? Would it be acting like legislators who desire—what they profess to desire—the good of their country, by the passage of a bill of this description? Would it not be acting with temper and heat, that kind of temper and heat which for the sake of supplying a form would sacrifice the substance, which, if they cannot have all they desire, and as they desire it, will have nothing at all?

This is the simple state of the fact, and I rose to say thus much to the Senate, to take all my share of responsibility; and I have no fear of putting myself before the country on that responsibility which I have taken.

Mr. POWELL. Mr. President, it is not my purpose to enter into this debate except very briefly. I shall say nothing upon the propriety or the impropriety of the President desiring the modification of this bill. I shall leave that matter to be settled by his friends. I now notify the Senate that at the proper time I will move to amend the pending amendment by striking out the word "real" before "estate," so that, confining the forfeiture to life, it shall apply to all estates, both real and personal; and upon that point I will remark very briefly.

I am clearly of opinion, and have expressed it heretofore in the Senate, that the clause in the Constitution which declares that "no attainder of treason shall work corruption of blood or forfeiture, except during the life of the person attainted," applies both to personal and real estate. The chief object I have in view now, however, is to call the attention of the Senate to a very short, but in my mind a very cogent argument that cites the authorities on this subject. I have delivered to the clerk a written article upon this very subject, which was sent to me some days ago, by Judge Nicholas, of Louisville, Kentucky, who is one of the best lawyers in the country, and he has written most luminously on all this subject of confiscation and the war power. He wrote this article with a view of having it inserted in the National Intelligencer of this city, and he inclosed it to me for that purpose; but as it is so much in point I ask to have it read to the Senate. Judge Nicholas cites the opinions expressed upon this point by the Senator from Illinois, [Mr. BROWNING,] and by the Senator from Massachusetts, [Mr. SUMNER,] and he makes his argument, adduces his authorities, to overthrow the error into which those Senators had fallen.

I am delighted, sir, to see that the President has indicated a desire to regard the Constitution in this measure. I pray God that he will do it in all cases, and I am sorry he has not heretofore done it more resolutely than he has. I now ask the Clerk to read the manuscript that I have placed in his hands.

The Secretary read, as follows:

FORFEITURE—CONFISCATION.

"Personalty, by the English law, was never forfeited by an attainder of treason. It was the realty, and the realty only, that the attainder acted on; and when they say no attainder shall hereafter work a forfeiture, they mean it shall not hereafter work a forfeiture upon the same estate that it heretofore acted upon. An attainder never did act upon the personalty at all, never touched it; it affected the realty only, leaving the personalty to be dealt with as the wisdom of Congress might see fit."—*Senator Browning, Congressional Globe*, 2171.

"It is admitted by Senators that the words of the Constitution do not forbid the forfeiture of personal estate; so that a person attainted of treason would be made to forfeit all his personal estate, no matter what its amount."—*Senator Sumner, Congressional Globe*, 2190.

To prevent a repetition of such gross, pernicious blunders, the attention of those Senators and others is invited to the following citations from so familiar and accurate an authority as Blackstone's Commentaries:

"By attainder for treason or other felony, forfeiture of lands and of whatsoever else the offender possessed, was the doctrine of the old Saxon law."—*Vol.* 2, 251.

"Upon judgment of outlawry or of death, for treason or felony, a man shall be said to be attainted."—*Vol.* 4, 381.

"The forfeiture of goods and chattels accrues in every one of the higher kinds of offense: in high treason or misprision thereof, petit treason, felonies of all sorts, whether clergyable or not," &c.—*Vol.* 4, 386.

"There is a difference between the forfeiture of lands and of goods and chattels. Lands are forfeited upon attainder and not before; goods and chattels are forfeited by conviction. Because, in many of the cases where goods are forfeited there never is any attainder; which happens only where judgment of death or outlawry is given. The forfeiture of lands has relation to the time of the fact committed, so as to avoid subsequent sales and conveyances; but the forfeiture of chattels has no relation backwards; so that those only which a man has at the time of conviction shall be forfeited. Therefore, a traitor or felon may, *bona fide*, sell any of his chattels, real or personal, between the fact and conviction, for no buyer could be safe if he were liable to return the goods he had fairly bought, provided any of the prior vendors had committed treason or felony."—*Vol.* 4, 387.

Therefore the Constitution, in saying "no attainder of treason shall work forfeiture except during the life of the person attainted," includes personal as much as real estate.

Therefore, also, Congress can in no way, directly or indirectly, punish treason by emancipation, for *quo ad* the punishment of treason the owner of a slave has only a life estate, and the owner of such life estate has no power of emancipation. Or, at most, all that Congress could do in the way of penalty, would be to emancipate during the life of the owner; but this would be so manifestly unjust to the remainder-man that no fair-minded person would contend for that mode of exercising the power.

There is still a stronger reason against such exercise of the supposed power. Senator SUMNER, in the same speech, (page 2190) admits: "Congress has no power under the Constitution over slavery in the States." "Congress has no direct power over slavery in the States so as to abolish or limit it." Now, all the slave States prohibit emancipation, except in the manner their statutes specially prescribe. Congress can rightfully, legally, do nothing in reference to this peculiar property, whether by way of punishment or otherwise, in violation of this necessary settled policy of those States. Congress may forfeit and hold, or forfeit and sell slaves by due process of law in punishment of treason, but the Government or its purchaser must take and hold the property subject to the State law.

This equally disposes of all claim of power in the President, or one of his sub-military commanders, to emancipate by proclamation. They can have in that particular, or any other, no power not given by Congress expressly or impliedly. As Congress cannot give such power directly, it cannot be implied. If claimed as an incident to the right of eminent domain, then it becomes private property taken for public use, for which just compensation must be made to the owner according to the recent precedent of emancipation in the District of Columbia. If claimed as an incident to the power of carrying on the war, then it is met by that highest authority, the Declaration of Independence, denouncing it as contrary to the usages of civilized warfare. It therefore cannot be implied in the silence of the rules and articles of war, nor can Congress rightfully make it part of them.

Respectfully submitted by S. S. NICHOLAS.

Mr. POWELL. It is not my purpose to argue the question further. I merely desired to present the argument of one of the most eminent jurists of America, on this very point; and I hope that while the President is investigating this matter he will condescend to look at that argument. I move now, if it be in order, to strike out the word "real" in the amendment of the Senator from New Hampshire.

The PRESIDENT *pro tempore*. It is in order to move an amendment to a pending amendment. The Senator from Kentucky moves to amend the amendment by striking out the word "real" before "estate."

Mr. KING. I shall oppose the amendment of the Senator from Kentucky; but I rise to express my gratification at the frank manner in which the Senator from Maine has presented this whole case to the Senate. He certainly has done well, and he has my thanks for his interposition in this matter, and for the frank manner in which he has stated it. The facts which he has stated, however, do not change my ideas as to the propriety of the action to be taken on the part of the legislative body of the country. We should receive no com-

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munication from the President which shall affect our action officially, except in the mode pointed out by the Constitution. Forms in some matters are things. The signatures of the Presiding Officers of the Senate and House are the essential evidence that a bill has passed the two Houses, and the affidavits of these officers would not so establish the fact as to make the law valid. Forms are realities, and we should in these matters act in conformity to them. I should have been more gratified if the Senator from Maine had gone one step further, and said to the President, "if this be your difficulty in this matter, frankly communicate it to Congress; I know that the disposition and desire exist there to do whatever shall be necessary to promote the public interests, and the knowledge exists there that there is a necessity for agreement and for union on the part of those who direct the action of the Government, and who desire to sustain the integrity of the country and secure its safety." The fullest and frankest manner in which we communicate with one another will best promote that object. There is no doubt about this. I shall not vote for this proposition. It does not come from the President in the form prescribed by the Constitution. I am free to say that I would take all of this bill that I could get, if I could have but one section of it, I would take that. I would take the first section and the second and the third, and so on. I would take any part of it. I think it is all good; I should be glad to have the whole of it; I shall take all I can get; and with a direct communication from the President, I have no doubt that Congress could act without difficulty, and with little or no division.

My opinion is, that it would be better for Congress to take a longer time to sit, and to present a new bill; thus we should preserve the independence of the different branches, communicate freely with each other, and act with a knowledge of each other's views and rights and duties. I shall vote against this proposition, although I think it very probable that Congress will pass it in the form it comes, acting upon the suggestion that has been made. My opinion is, that they had better not do it, that they had better receive from the President, and that it would be best for him and for us all, that he should make a communication frankly stating his objections. As I said before, the question of the confiscation of real estate and of the duration for which the title shall be held, is one upon which there have been differences. I have had no trouble about it myself, but I know some of the very best men of the Senate have. The question has been as to the constitutional power of Congress in the premises. I have had no doubt about the power; I voted for its exercise. All these questions ought to be properly considered. It certainly does not become us, on any side, to find fault and wrangle with each other, but we should meet this matter fairly, and the more we can get at the facts and disclose the whole truth, the better it will be for us and the whole country.

Mr. CLARK. The question is upon the amendment submitted by the Senator from Kentucky to the amendment, I believe.

The PRESIDENT *pro tempore*. That is the question; it is on the amendment to the amendment.

Mr. CLARK. I shall only detain the Senate by saying that I hope that amendment will not be made. The original amendment has been framed carefully to meet the case, and I hope the Senate will retain it as it is.

Mr. DOOLITTLE. I hope the amendment of the Senator from Kentucky will not prevail. I do not propose to make a speech in relation to it, but to say a word by way of personal explanation. My course and views in relation to this matter have been industriously misrepresented by some portions of the press of my own State and of the State which immediately adjoins it. It has been said that I have sought to shield from confiscation the estates of traitors. Mr. President, I have sought no such thing. If there is a man in this body who has labored to convince himself that there was no constitutional restriction upon the power of confiscating their real estate beyond their lives, I have done so, and labored most faithfully. I desired before all things to get hold of the real estate of these traitors, to get the soil from under them, and to repeople it with loyal men; but, sir, notwithstanding that wish on my part, I was compelled on full examination to say, and I have no more doubt of it than that I stand here, that the Constitution of the United States does put a restriction upon us which we cannot pass in reference to the forfeiture of real estate for treason. It was with that view, to meet and overcome this very difficulty, that I sought to reach after the real estate of these men by a power under the Constitution that no man can question—by the power of taxation. I introduced a bill for that purpose. It was carried through both Houses almost unanimously, and is now in force. It gives us the power to take hold of the real estate of traitors for the non-payment of their taxes, to make a title to it, and it provides for its disposal. Within sixty days after sale, the owner must appear before the commissioners in person and swear to support the Constitution, or he cannot redeem. If he is in the rebel army, and will not come and redeem, that is not the fault of the law. It is wholly his own. To the loyal owner, who has not engaged in the rebellion, the commissioners may extend the redemption for two years from sale. It provides for the occupation of the lands not redeemed, and for the employment of the families or persons residing upon them at wages or shares of the crop. It clothes these commissioners with important powers, by which to probe and to heal, to kill and to cure secessionism as our arms progress and break the armed power of the rebellion.

It is because some of us have foreseen and sought to avoid this very difficulty, that from the beginning of the session in private conversation in the meetings of our friends for consultation, and in the Senate, we have urged, besought, and almost implored our friends, not to indulge in heated discussions calculated to inflame and divide the country, but to agree upon a measure at once earnest and efficient and yet within the powers delegated by the Constitution. Now that Congress feels itself constrained to yield to the views of the President upon this constitutional question to save the confiscation bill, we have no word of reproof or complaint; for what is past is past. Let us hope for wiser counsels, learn to respect the earnest convictions of each other, and cease all these denunciations for the future.

Our vindication has come; our constituents can now appreciate, and when they do, they will approve our course. But, sir, I have no speech to make, I will not reiterate what I have said before. I rose to speak of my own purpose and motives, which have been during the pendency of this question so outrageously misrepresented by a portion of the press—a press, too, professing to be Republican, questioning the motives of men on this floor, who are devoting their hearts, their energies, their lives, all their strength, to put down this rebellion. Sir, I may speak with some feeling, but I have occasion for it. So much by way of personal explanation

Mr. LANE, of Kansas. Mr. President——

Mr. FESSENDEN. Will the Senator from Kansas give way to let me report a couple of bills that it is necessary to pass at this time.

Mr. LANE, of Kansas. I yield.

The PRESIDENT *pro tempore*. They may be received by common consent.

AMENDMENT OF THE TAX BILL.

Mr. FESSENDEN. I am instructed by the Committee on Finance, to whom was referred the joint resolution (H. R. No. 109) to amend section seventy-seven of "An act to provide internal revenue to support the Government and pay interest on the public debt," to report it back with an amendment, and I ask for its present consideration.

There being no objection, the joint resolution was considered as in Committee of the Whole. It proposes to amend section seventy-seven of the tax-bill by striking out "May," and inserting "August."

The amendment of the Committee on Finance is to add:

And be it further resolved, That all the sections of an act entitled "An act to provide revenue to support the Government and to pay interest on the public debt" which require any matter or thing to be done on or before the 1st day of July or August, 1862, shall be so amended and changed that said matters or things may be so done on or before any day in the year 1862, not later than the 1st day of October, 1862, which may be fixed and determined upon by the Secretary of the Treasury, if, in his judgment, the later day should be so fixed in order to put said act into practical operation; and all parts of said act having reference to the said dates of the 1st day of July and August, 1862, shall be taken and construed as having reference to the said day which may be so fixed and determined upon: *Provided*, That the Secretary of the Treasury shall give public notice of the day so fixed and determined upon in such manner as he may deem expedient.

The amendment was agreed to.

The joint resolution was reported to the Senate as amended, and the amendment was concurred in, and ordered to be engrossed. The joint resolution was ordered to be read a third time; and it was read the third time, and passed.

Mr. FESSENDEN. I move to amend the title by adding "and for other purposes."

The amendment was agreed to.

COMPENSATION OF MEMBERS.

Mr. FESSENDEN. I have another resolution from the House of Representatives, which I send to the Chair. I call the attention of the Senate to it. I will simply state, before it is read, that under the existing law gentlemen who have been absent from the House serving their country in the field cannot receive their pay as members of the House. This is a resolution to authorize the Clerk to pay them.

Mr. TRUMBULL. Have they been taking pay as officers?

Mr. FESSENDEN. I understand not. The Committee on Finance report back, without amendment, the joint resolution (H. R. No. 107) further to provide for the compensation of members of Congress, and I ask for its present consideration.

By unanimous consent the joint resolution was considered as in Committee of the Whole. It provides that, until the further order of Congress, the Secretary of the Senate and the Sergeant-at-Arms of the House of Representatives shall receive as a valid excuse for absence from duty in Congress, active employment in military service for the suppression of the rebellion.

Mr. COLLAMER. I move to amend by adding "without pay," so as to confine it to those who have not received pay for military service.

The amendment was agreed to.

Mr. SUMNER. This joint resolution relates to the compensation of members of Congress; and I now propose to move a second section, being the one which I moved yesterday to the appropriation bill:

And be it further resolved, That where any Senator or Representative withdraws from his seat in anticipation of the adjournment of Congress, and before the adjournment, and does not return, he shall, in addition to the sum now deducted for each day, forfeit a further sum equal to the mileage now allowed by law for his return home, which shall be deducted from his compensation, unless such withdrawal is on account of illness of himself or family.

I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. LANE, of Kansas. I gave way to the Senator from Maine with the understanding that his bill would not occupy time.

The PRESIDENT *pro tempore*. It is too late to interpose an objection at this time.

Mr. SUMNER. The Senator from Vermont [Mr. COLLAMER] suggests the insertion of the word "hereafter," which I accept. I intended that.

Mr. DOOLITTLE. This forfeiture, or penalty, or whatever you may term it, is altogether too severe. I understand that the law now provides that members shall forfeit so much per day during their absence. Put on some additional penalty if you choose; but the idea of putting on as a penalty the forfeiture of a sum equal to the mileage is too severe.

Mr. SUMNER. It is only the return mileage; that is half mileage.

Mr. DOOLITTLE. I am willing to impose a sufficient penalty; but it seems to me to be wrong to impose so severe a penalty for going away in anticipation of the adjournment of Congress; it may be a single day.

Mr. SUMNER. I would ask what penalty is too severe on Senators who go away and break up a quorum just toward the close of the session. Constantly, during the last week and fortnight, have we been told that we could not keep a quorum. Business has been pressed, because it has been said that Senators and Representatives were hurrying to their homes, and we have been powerless to prevent it.

Mr. ANTHONY. I suggest to the Senator from Massachusetts to amend the amendment by adding after "sickness to himself or family," the words "or on public service." Some members of both Houses have gone home at the request of the Government on public service, and I think they ought not to be stamped in this way.

Mr. SUMNER. If they go as Senators, then of course they are in the discharge of their public duties. While they are Senators, their public duties are those of Senators.

Mr. ANTHONY. I move to amend the amendment of the Senator from Massachusetts by adding the words "or on the public service."

Mr. SUMNER. Those words are not in the compensation law. When Senators go home on account of illness in their families, they are excused; but there is no excuse for other service. What public service has a Senator to perform except to the Senate? If, as the Senator suggests, he has gone home to raise troops, that is not a senatorial service.

Mr. ANTHONY. I think this amendment will stamp as a neglect of public duty the conduct of some members of both Houses who have gone home in my opinion from the very highest and most honorable motives, and I prefer to have that objection obviated.

The PRESIDENT *pro tempore*. The question is on the amendment of the Senator from Rhode Island to the amendment of the Senator from Massachusetts.

The amendment to the amendment was rejected.

Mr. DOOLITTLE. I move to amend the amendment by providing that the forfeiture shall be fifty dollars a day, instead of the amount of mileage.

Mr. RICE. I do not like the amendment offered by the Senator from Massachusetts, nor the amendment of the Senator from Wisconsin, in one particular. If a Senator, in the condition in which the Senate now is, will leave the city, unless he is compelled to do it either by the sickness of himself or his family, he deserves a severer penalty than that which has been named by either of the Senators. It ought to be no less than expulsion. A Senator who leaves the body unless compelled to do so by sickness, probably does so for the purpose of breaking up a quorum, and preventing the Government from going on; and such a Senator ought to be expelled, leaving it to the Executive of his State to fill the place immediately.

The amendment to the amendment was rejected.

Mr. CLARK. I desire simply to say that I am opposed to the amendment of the Senator from Massachusetts. I do not believe there is any necessity for it. I think the Senate will bear me witness that I am in my place as constantly as almost any other Senator. I prefer by far to leave it to the sense of right, to the sense of honor of Senators, rather than to go on imposing penalties and forfeitures on them to keep them in their places. I do not know that a quorum has ever been broken up in that way.

Mr. SUMNER. There is this single fact in the history of Congress, that formerly, before the compensation was made annual and independent of the length of the session, Senators and Representatives staid here to a late period. Now that the compensation does not depend on their remaining here in Washington they do hurry home, and we are constantly threatened that we cannot have a quorum of the two Houses, and that business will be put a stop to.

Mr. FOSTER. Will the gentleman allow me a word?

Mr. SUMNER. Certainly.

Mr. FOSTER. The Senator is mistaken in saying that the sessions have been shorter since the change as regards the compensation. That change has been made now more than six years, and every alternate session, which is usually and popularly called the long session, since the change in the compensation, is longer than the average, taking ten years together. The sessions have been longer since the change of compensation than the average of the sessions, taking a period of ten years before the change.

Mr. SUMNER. The Senator, I think, is entirely mistaken. I speak of my own practical experience in this body before I had the honor of meeting the Senator from Connecticut here, and then the long sessions, some of them, ran into the month of September, and I think invariably into the month of August. Some of the most important legislation of this country bears date the 18th of September.

Mr. HOWE. I propose to amend the amendment by striking out "on account of the illness of himself or family," and inserting "without the leave of the Senate or House of Representatives respectively," so that it will enable any member of the Senate or House of Representatives to leave, with the permission of the House to which he belongs.

Mr. SUMNER. I accept that.

Mr. DOOLITTLE. With the modification suggested by my colleague, I vote for the amendment.

The question being taken by yeas and nays, resulted—yeas 22, nays 16; as follows.

YEAS—Messrs. Chandler, Collamer, Doolittle, Fessenden, Foot, Grimes, Harlan, Howard, Howe, King, Lane of Indiana, Lane of Kansas, Morrill, Pomeroy, Rice, Sherman, Sumner, Ten Eyck, Trumbull, Wade, Wilson of Massachusetts, and Wright—22.

NAYS—Messrs. Anthony, Browning, Carlile, Clark, Cowan, Davis, Foster, Hale, Harris, Henderson, Powell, Saulsbury, Simmons, Stark, Willey, and Wilson of Missouri—16.

So the amendment was agreed to.

Mr. TRUMBULL. I rise merely to correct an error of fact into which the Senator from Connecticut has inadvertently fallen. He stated that Congress had continued in session as long since the compensation was fixed at an annual salary as before. I have before me the statutes of Congress, reaching back ten years previous to the passage of the law giving members of Congress a salary, and the long session has never yet reached into August since the passage of that law. Previous to 1854, one session adjourned on the 30th of September; another on the 31st day of August. That was the long session of 1852. I find here acts approved August 31, 1852; and in 1854, I find acts approved on the 5th of August. I have not the day of adjournment; it may have been even later than that. For the three preceding Congresses, one long session continued until the 30th day of September, and the other two till about the middle of August. I state this, so that there may be no mistake as to what the practice has been, and what the consequence of fixing the salaries has been.

Mr. HALE. I should like to know when the compensation bill was passed.

Mr. TRUMBULL. It was passed in 1855 or 1856.

Mr. HALE. I know that the first long session I was here adjourned on the 17th of June. That was in 1844; and previous to that they used to adjourn in April and May. Congress never sat until September but once in fifty years, or since the last war with England, and that was the compromise year.

Mr. TRUMBULL. The Senator is very much mistaken in his recollection. I have before me the statutes of 1852, and here is an act approved on the 31st of August, 1852. That is the very last day of that month.

Mr. HALE. I know it is the last day, but they adjourned on that day.

Mr. TRUMBULL. I am not sure about that.

Mr. HALE. I am.

Mr. TRUMBULL. In 1856 I was here and remained until the last days of August, and I think we sat into September.

Mr. HALE. No, sir; we adjourned in August.

Mr. COLLAMER. What is the question before the body?

The PRESIDENT *pro tempore*. There is no question before the body. The Chair is endeavoring to obtain an opportunity to report the joint resolution to the Senate.

Mr. TRUMBULL. I understood there was a question before the body.

The PRESIDENT *pro tempore*. The joint resolution is open to amendment, but none is offered. The last amendment was agreed to.

Mr. TRUMBULL. The question then is on the joint resolution, if no one offers any amendment.

The PRESIDENT *pro tempore*. The question is on ordering the joint resolution to be reported to the Senate, as amended. It is not done by order of the Senate, but by direction of the Chair.

The joint resolution was reported to the Senate as amended, and the amendment was concurred in, and ordered to be engrossed, and the joint resolution to be read a third time. It was read the third time; and on the question, "Shall the joint resolution pass?"

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

Mr. WILSON, of Missouri. The amendment just adopted on motion of the Senator from Massachusetts, it will be observed, imposes a very unequal punishment of forfeiture upon different persons. In many cases it will not operate to any extent. Those Senators and Representatives living near the seat of Government forfeit scarcely anything, while those living at a greater distance would forfeit a larger sum. I think it is not calculated to effect the object designed, because those living near can very well afford to leave and suffer a small amount. Those at a greater distance will forfeit a greater sum; and therefore, in my judgment, it is unjust.

The question being taken by yeas and nays, resulted—yeas 30, nays 8; as follows:

YEAS—Messrs. Anthony, Browning, Chandler, Clark, Davis, Doolittle, Fessenden, Foot, Foster, Grimes, Harlan, Howard, King, Lane of Indiana, Lane of Kansas, McDougall, Morrill, Powell, Rice, Sherman, Simmons, Stark, Sumner, Ten Eyck, Trumbull, Wade, Wilkinson, Wilmot, Wilson of Massachusetts, and Wright—30.

NAYS—Messrs. Carlile, Hale, Henderson, Kennedy, Pomeroy, Saulsbury, Willey, and Wilson of Missouri—8.

So the joint resolution was passed.

BILLS BECOME LAWS.

A message from the President of the United States, by Mr. NICOLAY, his Secretary, announced that the President of the United States had this day approved and signed the following acts:

An act (S. No. 250) to amend an act entitled, "An act to create a metropolitan police district of the District of Columbia, and to establish a police therefor," approved August 6, 1861.

An act (S. No. 358) to prevent members of Congress and officers of the Government of the United States from taking consideration for procuring contracts, office, or place from the United States, and for other purposes.

CONVICTS IN DISTRICT PENITENTIARY.

The PRESIDENT *pro tempore*. The business before the Senate is the joint resolution of the House of Representatives No. 110, to which an amendment was moved by the Senator from New Hampshire, [Mr. CLARK,] and the amendment to that amendment, moved by the Senator from Kentucky, [Mr. POWELL,] is the question before the Senate.

Mr. GRIMES. I rise to a privileged question. The committee of conference on the disagreeing votes of the two Houses on Senate joint resolution No. 86, have instructed me to make a report.

The PRESIDENT *pro tempore*. It is a privileged question and will be received. The report will be read.

The Secretary read it, as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendment to Senate joint resolution No. 85, regulating the employment of the convicts in the penitentiary of the District of Columbia for their improvement and benefit, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from their disagreement to the first amendment of the House, and agree to the same.

That the House recede from their second amendment.

JAMES W. GRIMES,
H. B. ANTHONY,
LYMAN TRUMBULL,
Managers on the part of the Senate.
FRANCIS W. TRAIN,
R. H. DUELL,
JOHN A. GURLEY,
Managers on the part of the House.

Mr. HALE. I should like to have that report explained, whatever it is about.

Mr. GRIMES. It is a report on the disagreeing votes of the two Houses on the joint resolution of the Senate regulating the employment of convicts in the penitentiary. The House struck out the third section of the resolution, which set free all soldiers within the jail by sentence of court-martial. That has been provided for in another bill, and we, therefore, concur in their amendment striking that out. They also put in an amendment abolishing the office of clerk in the penitentiary. That they have receded from; so that the resolution now stands with the first two sections, as it originally stood.

Mr. HALE. Does it still leave soldiers in jail?

Mr. GRIMES. It leaves them, as they are provided for in the bill of the House of Representatives on that subject, which has passed the ordeal of the Committee on Military Affairs here, and, I think, passed the Senate yesterday, or the day before. The whole subject is provided for in another bill.

The PRESIDENT *pro tempore*. The question is on concurring in the report of the committee of conference.

The report was concurred in.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. MORRIS, Chief Clerk, announced that the House of Representatives had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the bill (H. R. No. 524) prohibiting the confinement of persons in the military service of the United States in the penitentiary of the District of Columbia, except as a punishment for certain crimes, and to discharge therefrom certain convicts by sentence of courts-martial, and for other purposes.

The message also announced that the House of Representatives had passed the joint resolution of the Senate (No. 99) releasing to the heirs-at-law of Robert L. Stevens, deceased, all the right, title, and interest of the United States in and to the Stevens battery.

The message further announced that the House of Representatives had passed the joint resolution of the Senate (No. 97) in relation to the law of prize, with amendments; in which it requested the concurrence of the Senate.

The message also announced that the House of Representatives had passed the following bills; in which it requested the concurrence of the Senate:

A bill (No. 566) for the relief of Dr. William Treavitt; and

A bill (No. 577) to provide for the more prompt settlement of the accounts of disbursing officers.

The message further announced that the House of Representatives had agreed to the amendments of the Senate to the following bills of the House:

A bill (No. 518) transferring the western gunboat fleet from the War to the Navy Department; and

A bill (No. 390) in relation to the competency of witnesses in trials of equity and admiralty.

ENROLLED BILLS SIGNED.

The message further announced that the Speaker of the House of Representatives had signed the following enrolled bills; which thereupon received the signature of the President *pro tempore:*

A bill (S. No. 202) requiring the commanders of American vessels sailing to foreign ports, and persons prosecuting claims, to take the oath of allegiance;

A bill (S. No. 348) for the better government of the Navy of the United States;

A bill (S. No. 350) to suspend temporarily the operation of an act entitled "An act to prevent and punish fraud on the part of officers intrusted with making contracts for the Government," approved June 2, 1862;

An act (S. No. 376) to allow and pay to the State of Missouri the amount of money expended by said State in the arming and paying of troops employed in the suppression of insurrection against the laws of the United States;

A bill (H. R. No. 355) to amend an act entitled "An act to promote the efficiency of the Navy," approved December 21, 1861;

A bill (H. R. No. 369) for the relief of Robert M. Evans;

A bill (H. R. No. 503) to confirm and establish a patent heretofore granted to Etienne Bernot, dated July 24, 1860, and to secure to George Summerville Norris, the assignee of said patent, the benefit of the full term for which said patent was granted; and

A bill (H. R. No. 573) to impose an additional duty on sugars produced in the United States.

HOUSE BILLS REFERRED.

The following bills from the House of Representatives were severally read twice by their titles, and referred as indicated below:

A bill (No. 566) for the relief of Dr. William Treavitt—to the Committee on Claims.

A bill (No. 577) to provide for the more prompt settlement of the accounts of the disbursing officers—to the Committee on Finance.

CUSTODY OF PRIZE MONEY.

Mr. TRUMBULL. The House have just returned the joint resolution of the Senate in regard to the distribution of prize money with a couple of amendments. I move that the Senate take up that resolution, and concur in the amendments of the House.

The motion was agreed to; and the Senate proceeded to consider the amendments of the House to the joint resolution (S. No. 97) in relation to the law of prize. The first amendment of the House was, in line eight, to strike out the words "within twenty days from," and to insert the words "immediately after;" so that it will read:

That hereafter all moneys arising from the sale of property under the prize laws of the United States, whether under interlocutory or final decree, shall be paid by the marshal into the Treasury of the United States for safe-keeping immediately after the day of sale, &c.

The next amendment was to add at the end of the resolution the following:

And no more shall be retained by any clerk for money received and paid over by him under this resolution as commissions or otherwise than one per cent. upon the first $1,000 in each case, and one fourth of one per cent. on the excess above that sum, not, however, to exceed $250 in any case.

The amendments were concurred in.

CONFISCATION OF REBEL PROPERTY.

The Senate, as in Committee of the Whole, resumed the consideration of the joint resolution (H. R. No. 110) explanatory of an act to suppress insurrection, to punish treason and rebellion, to seize and confiscate the property of rebels, and for other purposes, the pending question being on the amendment of Mr. POWELL to the amendment of Mr. CLARK, to strike out the word "real" before the word "estate."

Mr. TRUMBULL. I am disposed to look calmly and dispassionately at this question which is presented for our consideration, and I am sorry——

Mr. LANE, of Kansas. I should like to know from the Chair how I lost the floor? I gave way to other gentlemen, to the Senator from Maine distinctly.

Mr. TRUMBULL. I will yield the floor to the Senator from Kansas, if he claims it.

The PRESIDENT *pro tempore*. The Chair is obliged to beg pardon of the Senator from Kansas. The Senator from Kansas is entitled to the floor.

Mr. LANE, of Kansas. Now, I have no objection to give way to the Senator.

Mr. TRUMBULL. No, sir; I will wait.

Mr. LANE, of Kansas. I merely ask the Senate to allow me to give a reason for the vote I am about to give, to my constituents. This President, whom it is proposed to relieve, is the child of the Republican party of the United States. So far as I am concerned, I do not propose to injure my own child, nor to prejudice him before the country; and I differ with the distinguished Senator from Ohio as to the course he has pursued towards this Senate. We have solemnly decided that the interests of the country are to be advanced by an adjournment of Congress to-morrow. As to our child, as to our President, it seems to me he has acted highly proper in communicating to us frankly his opinion. He differs from us as to the constitutionality of this bill. So far as I am concerned I do not propose that our President shall violate his own conscience to oblige us. The amendment proposed by the Senator from New Hampshire, so far as my constituents are concerned, is better than the original bill. We have in Kansas a larger proportion of rebel property than any other State in this Union. The proposition of the Senator from New Hampshire will enable us to obtain possession of that property for much less money than under the original bill; and I am willing to risk the intelligence and sagacity of my constituents to obtain the balance, the fee. We purchase the life interest in the rebel property; and the Legislature of Kansas will know how to pass an occupation bill, by which they will obtain the fee to every foot of that land. I repeat to that constituency, to this Senate, and to the country, that so far as my constituents are concerned, the amendment of the Senator from New Hampshire will be a saving of money to them, and that under it they will obtain the fee to as much rebel land as under the original bill. As I stated the other day, in this instance as in all others, I shall stand by the officers of this Government, and sustain them in this our darkest hour. I shall sustain the President of the United States, and all others in authority. After the war is over, after the rebellion is crushed out, then I propose to hold them to a strict accountability.

Mr. TRUMBULL. As I said, I was disposed to look at this question as far as I was capable of doing it, dispassionately and calmly, and looking at it as it is, so far as I am capable of seeing it. I think the Senator from Kansas has not discussed the question that is before us. He speaks of standing by the President. That is not the question that is before us. We have a duty to perform. We are a legislative body. The Constitution imposes upon us the passage of laws. The approval of those laws is left to the President. He may approve or disapprove any bill which we pass. The Constitution points out the mode by which that is to be done. Has it been done in this instance? If the President does not approve of the bill we have passed on the subject of confiscation, the Constitution clearly points out his duty; and the Senator from Kansas is no further from attempting to force the President to violate his convictions of constitutional duty than I am. I would not require the President to violate the Constitution as he understands it. I would not have him do so. Is that the question? Is the President of the United States a part of the legislative body in any other sense than as possessing the veto power? Was it in contemplation by the framers of the Constitution that the President should exercise an influence upon your vote in the Senate on a bill that is pending in the Senate? Was he to interfere with it at all, except by returning the bill with his objections, and then it is our duty to reconsider it?

Why speak of a collision which we are bringing about with the President? Are we bringing about any collision? If a collision is brought about, does not the President bring it about in an unconstitutional way? The Senator from Maine spoke of a collision between Congress and the President. Have we brought about any such collision? Is it not our duty—I know the Senator from Maine will so consider it—to pass bills which, in our judgment, ought to be passed, leaving it to the Executive to exercise his constitutional prerogative of approving or disapproving those bills? Shall it be said that we come in conflict with the Executive because we do not go to him and ask him whether a bill that is pending before us would be acceptable to him? I know that will not be contended; and yet that is the effect of this proposition. We are not coming in conflict with the Executive; but the Executive is brought in conflict, in an unconstitutional way, and in a very dangerous way, with Congress. I have no doubt that the Senator from New Hampshire and the Senator from Maine are accurate in their understanding of the President's views; I have great confidence in both those Senators being accurate in their recollection of the conversation; but look at the danger of the precedent. Some other bill may be up, and a Senator who is not so exact in his language as either of those Senators may have a conversation with the President——

Mr. CLARK. The Senator will pardon me for interrupting him. If he refers to me, I have not seen the President on the subject. I do not know anything about it.

Mr. TRUMBULL. I supposed the Senator from New Hampshire had.

Mr. CLARK. Other individuals; not me.

Mr. TRUMBULL. The Senator from Maine saw him. It does not alter the point I was desiring

to make, although the Senator from New Hampshire is not embraced. I misunderstood him. I thought he, also, had seen the President. But, sir, if we establish this precedent, another Senator will see the President in regard to some other measure which is pending before Congress, and will ascertain from him that he has constitutional scruples in regard to the provisions of a bill which is pending, and he will come into the Congress of the United States and avow that fact, and members are then to square their votes according to his statement of the constitutional views of the Executive. Will that do? The Executive, when he comes to write out his opinion, may change his views upon that subject. All of us know that we have commenced the investigation of legal and constitutional questions with one opinion, and before we were through with the investigation we had changed our opinions. Every lawyer knows that. Every judge who has ever presided upon a bench knows that he has oftentimes had occasion, when he came to investigate, to discover that his first impressions in regard to it were erroneous.

This measure is presented in consequence of a conversation that is had with the President in this way. I will not call it a loose conversation in this instance, because I have already said that the Senator who had the conversation with him is a Senator who is accurate in his conversations, and I have no doubt understood clearly the views of the Executive in this particular instance; but we are setting a precedent, we are establishing a principle, we are departing from the regular constitutional mode of ascertaining the views of the President. Never before was it done in the history of this Government. I will venture to say no instance can be produced where such a proceeding as this has taken place: that while the Executive had under his consideration a bill which had passed both Houses of Congress, at his suggestion a supplemental bill is introduced to vary and change the bill he is considering. It is unheard of, and no earthly reason given for this, except that it is at the instance of the Executive. Senators say they are not coerced. Not coerced? What induces you to vote for this bill? What induced you to introduce this bill? Were you not moved to that by the Executive, and by nothing else?

Mr. CLARK. Will the Senator allow me to set him right, because I see he does not understand it?

Mr. TRUMBULL. Certainly.

Mr. CLARK. The House of Representatives yesterday introduced this resolution explanatory of that act entirely upon another subject, with no reference to this matter whatever, and it came down here last night. These facts were learned this morning, and I simply moved to put the amendment upon the resolution. The resolution in its inception had no reference to this matter at all.

Mr. TRUMBULL. That does not alter the view which I was taking in the least. I will change my language then, and say that the amendment offered by the Senator from New Hampshire is offered because the President desires it, and for no other reason.

Mr. CLARK. I do not know whether he desires it or not.

Mr. TRUMBULL. Then I will change my phraseology again. The Senator from New Hampshire is moved to propose this amendment by what he believes to be the wishes, the views of the Executive.

Mr. CLARK. Let me state it. I present the amendment to meet what I believe to be the objection of the President. That is it exactly.

Mr. TRUMBULL. What he believes to be the wishes of the Executive; and he never would have thought of presenting the amendment for any other reason. Then we are voting to meet the views of the Executive, and for no other reason whatever. Can the Senator from Maine deny that a resolution is introduced and sought to be passed; or an amendment, to speak accurately, affecting a bill in the hands of the Executive, is introduced and sought to be passed through this body, for the reason, and the sole reason, that the Executive, in conversation with a Senator, has suggested that such an amendment would remove his constitutional difficulties? I would not have the President of the United States sign a bill he did not approve; but let him return the bill to the Senate with his objections. We may repass the bill by a two-thirds vote; and I should like to inquire of the Senator from Maine, by what authority he says the bill is to be lost; that we are to pass what is brought in here to meet the views of the Executive, or have no bill at all? That is the way in which he put it. The bill, I believe, passed both Houses of Congress by a constitutional vote.

Mr. FESSENDEN. I will answer the Senator very frankly about that. Congress has voted to adjourn to-morrow at twelve o'clock. I should be glad if we had another day. If that stands, it is in the power of any one Senator to prevent the second reading of a bill on the same day. It would go over until to-morrow; and even if it were passed, then it would have to go over to the House, and judging of the probabilities of all this, I said I thought it was probable the bill would be lost.

Mr. TRUMBULL. The Senator from Maine will recollect that there are no three readings of this bill when it comes back from the Executive. It is brought in here, and the question is: "Shall the bill pass, the objections of the President to the contrary notwithstanding?" and the Constitution requires that it shall be immediately done, and we could take that vote and pass it in ten minutes if two thirds of the Senate are in favor of it.

Mr. FESSENDEN. I did not exactly understand the Senator in relation to that matter. We may differ with reference to that. I was speaking of a new bill introduced with this objectionable feature out of it. I would not think it advisable myself; I would dread, in fact, the consequences of passing the bill by a two-thirds vote over a constitutional objection of the President, and a bill of this character especially, when the doubts in reference to the constitutional point have been stated by so many Senators of respectability on this floor, and by gentlemen in the other House, belonging, if you please, to the same party. Our President stating that it is unconstitutional, and many gentlemen concurring in those views, I should deem it to be dangerous, to say the least of it, and on a bill of this description. In saying this, I wish also to say that I should probably vote precisely as I did before, but I should dread the consequences.

Mr. TRUMBULL. All those are very proper considerations; but I was meeting the suggestion that we must either pass this resolution now pending or have nothing. That does not follow of necessity. Possibly it might follow, but not necessarily so; and the Senator has no right to assume that it would be so. It is not unreasonable to suppose that a bill which has passed both Houses of Congress, after months of discussion, after all these constitutional questions have been discussed and rediscussed over and over again, and has received the sanction of more than two thirds of each body, might be passed, the objections of the Executive to the contrary notwithstanding, especially a bill of the vast importance of this bill. I may magnify its importance; I may overestimate it; but I have believed from the beginning that a bill of this character was of the utmost importance in suppressing this rebellion. Sir, I believe if this confiscation bill had been passed at the July session, and had been fairly executed, this rebellion would not have existed to-day. I believe, and so state here in my place, and I wish I could make every loyal man from Louisiana to Maine hear it—I believe that the passage of that bill, and its fair execution, is worth more towards crushing this rebellion than would be the capture of Richmond and the destruction of the whole rebel army that is around it to-day. Why, sir, it is just the difference between saying to the slave population, which upholds this rebellion, which feeds its soldiers and sustains its army, "if you escape from your rebel masters and come within our lines you shall be free," and saying to them, "if you escape and come within our lines you shall be driven back to slavery." It is just the difference between saying to the loyal men of the South, "if you remain loyal to the Government of the United States you shall be protected in your loyalty," and saying to the loyal men of the South, "your only safety lies in becoming a rebel and a traitor." Why, sir, in Memphis, and not only in Memphis, but in Winchester, in Alexandria, in Fredericksburg, at Richmond, and everywhere else where our armies have gone to, there has been a reward offered for men to become rebels and traitors. These rebel authorities have stripped the loyal men of all they possess. They have driven them into their armies to fight against the Union, or they have driven them out of the country and appropriated all of their property. When the Union Army came along, what did they do? They set guards around the rebel property and protected it. The rebel authorities protected rebel property, of course; and if a man wanted to be safe in his possessions, he had but to declare himself an enemy to his country. We should have had friends all through the South if the policy had been proclaimed to them: "it is just as hazardous for you to be a traitor as it is to be a Union man; if you think proper to take sides against your country, when the armies of the nation come here they will take your property, and they will make you suffer for it." Then, sir, those whose inclinations led them to side with the Government would have had no inducement to side against it; but under a different policy we could not expect to have friends in any region of country which was liable, for the time being, to be overrun by the rebel armies.

The confiscation bill changes all this. It makes it the duty of the President to take the property of rebels wherever our armies go and appropriate that property to the expenses of the war. When that policy is adopted the rebels will feel something of the horrors of war. It says to this slave population, which is upholding and sustaining this rebellion, without which it could not live, "leave the support of your rebel masters; come within the lines of the Union armies, and your shackles shall fall off; henceforth and forever you shall be a free man." Sir, I have felt great encouragement since the passage of this confiscation bill. I struggled for it at an early day; but I have been willing if I could not get what I wanted, to accept the best bill I could get. I even voted for the Senate bill with the hope that out of a committee of conference something better might be obtained. I was gratified in that hope; and by the firmness and resolution of the House in adhering to an efficient bill, there was finally adopted a measure made up of the two bills of the Senate and the House, which, if not all that could be asked, I regarded as a very efficient and a very valuable measure; more so, as I said, than I believe would be the capture of the capital of the southern confederacy and the destruction of the army that now defends it; because it would fix a policy that would go to the root of this rebellion.

Now, sir, in regard to this amendment. I am one of those who stated at an early day that the inclination of my mind was to the conclusion that we could not forfeit the property of a convicted traitor beyond his life. I have never satisfied myself that we could by any means so frame a law as to take anything more than his life estate in the realty. I did not agree with the Senator from Vermont, [Mr. COLLAMER,] who proposed by his bill to convict a man for treason and then fine him, and in collecting the fine take his real estate. I doubt whether it could be done. But, sir, I do not understand that the bill, as it has passed, provides for taking the real estate of a convicted traitor for a longer period than his life. I have always insisted that where the person of the traitor was beyond our jurisdiction, we could proceed against his property; but I have never contended that if you could reach the individual, bring him to trial for treason, convict and execute him, you could then take anything more than the life estate in his property, and your title to it would be gone the moment he was executed. This bill, however, as I understand it, does not provide for trying men for treason and forfeiting their property on their conviction for treason. There is no such principle in the bill. It does not change the punishment for treason, and it contains, if I recollect rightly, a provision in the first section authorizing the assessment of a fine. I believe that is retained.

Mr. CLARK. That is retained.

Mr. TRUMBULL. And that fine could be levied, I suppose, upon the real estate, and the real estate sold under that fine.

Mr. CLARK. The bill so says.

Mr. TRUMBULL. I would have preferred that that should have been out of the bill; but there is not in the whole bill, as I understand it—and I wish not to misunderstand it—any other clause, excepting that first section forfeiting the real estate of a man who is tried for treason. Am I not right?

Mr. CLARK. That is right.

Mr. TRUMBULL. Then why talk about this bill forfeiting the real estate beyond the life of the traitors? It is not in the bill, except it is in that

first clause, that you shall get at the real estate by means of a fine. That never was a favorite proposition of mine. I was opposed to it. I believe I moved in the Senate to strike it out, but the Senate disagreed with me, and I acted on the principle on which I have ever been acting, willing to concede to get the best bill I could, and I confess, not having very clear ideas of what this clause in the Constitution did mean; for I have had great difficulty in understanding it, and the very fact that it is understood so differently by Senators, shows that it is an obscure passage. As I understand it, there is not now in the bill any provision for forfeiting the property of a traitor beyond his life or for any time except as it will grow out of that first section. The other provisions of the bill for seizing property relate to property that is captured by the Army where the person of its owner is not subjected to trial for treason or any other offense.

The objection I have to the passage of this resolution, therefore, in the shape in which it is, is that it is introduced in—I do not say an unconstitutional way; it is perfectly competent for the Senator from New Hampshire to offer an amendment to a bill or resolution; but it is a violation of the spirit of the Constitution which has pointed out the mode by which we are to ascertain the views of the Executive; it is setting a dangerous precedent; it will lead to taking the loose expressions of the Executive for his settled constitutional convictions. If the President of the United States, when he comes to write out his veto message, if he should undertake to veto it, would examine the bill and scan it, when he finds there is no provision in it to forfeit the real estate of the traitor who is tried for treason, beyond his life, I think he would come to a different conclusion. I cannot believe that the veto message will ever reach us. I will not believe that a person so earnest and sincere, so desirous to discharge his duty and his whole duty to the country, as I know the President of the United States to be, when he carefully examines this bill of such vast importance would come to the conclusion that his duty required him to express his dissent. I cannot believe it, sir, and I will not believe it until I see his message and the reasons he shall give for it. I vastly prefer, therefore, that instead of passing this resolution to obviate supposed objections, we should wait till he presents to the Senate in a constitutional form his objections to the bill. The Senator from New Hampshire will find me as ready as any man in the Senate to meet those objections by obviating them in some other bill, if they shall be thought by the Senate to be sound; if they are not, then it would be our duty to repass the bill.

I protest against its being said that the Senate is putting itself in collision with the President. The President is brought into collision with the Senate by this course of proceeding. It is not our fault, but it is the fault growing out of this informal, indirect, and, I think, very objectionable mode of proceeding. By that I mean to cast no censure on the Senator from Maine. I can appreciate the patriotism that led him to visit the President, for it was doubtless an unpleasant duty to him to go upon such an errand, and nothing but a sense of public duty, I am persuaded, would have induced him to go upon such an errand. I appreciate all that; but, sir, I do not think that is the way to get at the views of the President. I am sorry that he should be brought into these discussions. I think we should never cite the opinions of the President in regard to a pending measure with a view of influencing the action of Senators upon this floor. So far as the President makes official communications, messages, as it is his duty under the Constitution, undoubtedly his suggestions should receive the attention, and will receive the due consideration of every Senator. When I say that we ought not to cite his opinions to influence Senators, I mean opinions derived from him in other than the constitutional form, his private opinions, his casual declarations. It is bringing the Executive of the nation, as I think, in a wrong position, to be compelled to discuss him here in the passage of bills. I trust, sir, that the Senate will not adopt the amendment.

Mr. HALE. I confess that I have listened to a great deal that has been said on this occasion with pain. I do not sympathize with those who have any censure to cast upon the President or upon the members who have taken occasion to ascertain what his views are. I see nothing irregular or improper in it; but on the other hand, it strikes me as being highly proper and highly praiseworthy. Let us, in the first place, see if there is anything the President has done that is wrong. I do not understand that he has made any suggestions to anybody. He had this confiscation bill under consideration, and it was rumored that there were doubts about its being signed. Those rumors might have arisen from the fact that the bill was so long in his hands without our receiving official notice of his approval or disapproval of it. In that state of things, some members of the Senate, knowing that the close of the session was near at hand and that this was an important measure, undertook to ascertain, if it were possible, what the objections were, and with that view frankly called upon the President and ascertained. Certainly there can be nothing improper imputed to the President in the proceeding thus far. On the contrary, I think there is great credit due to his candor and frankness in stating what his objections were.

I regret exceedingly that the President should have stumbled at this bill upon that absurd dogma of black-letter law which it seems sticks in his mind; because although there are others who agree with him, and notwithstanding the triumphant vindication which the Senator from Wisconsin [Mr. DOOLITTLE] notified us a few days ago he had made, and made so triumphantly that nobody had gainsayed it since, I confess I still entertain the same opinion upon it now that I did then; and the Senate, by their vote upon the bill, affirmed the same idea. I say I regret exceedingly that the President should have stumbled there; but he has. It is no matter whether there is anything of the kind in it or not, provided he thinks so, and is not disposed to agree to the bill. I think, therefore, there is nothing at all irregular in this; and I think this is not the time nor the occasion for the Senate to stand upon points with the President. Some call it standing upon their dignity as a Senate. I do not think the President has infringed the dignity of the Senate; and I will say this in passing: whenever a body, and the same may be said of an individual, undertakes very scrupulously to nurse its own dignity, it will be found that it is a poor bantling they are trying to raise, generally speaking. A man's dignity is best taken care of by his own character without making any extraneous effort to defend it; and those people who take the greatest care to nurse their dignity are generally those who have the least of it. I do not think that the Senate need be afraid that their dignity will be lowered by listening respectfully to these suggestions.

Again, sir, I think the President, if we believe, as I do believe, that he is eminently patriotic in his purposes; that he is pure, upright, honest, and honorable in his intentions, is entitled to the respect, the confidence, and the sympathy of both Houses of Congress and of the public; and if we believe that he has with honest purpose and an earnest and faithful desire to discharge his whole duty, come to the conclusion that he has upon this bill, I think we are bound by every consideration which can address patriotic minds to respect it; and if we are aiming for the public good we should try to conform our actions to what we know to be the fact, instead of caviling at the manner in which we found it out.

It is well known to those who take any notice of what so humble an individual as I think or say, that I do not concur with the President in this. I think he has made a mistake, and a wide mistake; and I think it is owing to bad advice that he has had upon the subject. I do not believe that his unsophisticated mind could have become imbued with such an absurd sophism if he had not been advised by those whose legal knowledge or whose legal erudition upon this subject is an evidence that—

"A little learning is a dangerous thing."

I think if the President had been no lawyer at all, but a good, sound, sensible man, or a very learned lawyer—if he had been either extreme—he would have gone wide of this mistake. But, sir, I agree that whether it is right or wrong, if the President has acted honestly, honorably, patriotically about it, and we have ascertained this, and we really and earnestly desire to pass a confiscation bill, we must take this, and take it with this amendment that will obviate this difficulty; and no matter whether the Senator from Maine said it or not, I will say it now, though it will not have so much force as it would if he had said it, that we must take this bill or nothing.

Mr. TRUMBULL. Why?

Mr. HALE. I will tell the Senator why. If it comes here with a veto, I have no idea that we can pass it by a two-thirds vote over his head. I have seen bills pass through this Senate by a vote of three to one; yes, five to one; they were vetoed and came back; the executive magnet had reached some members, and the four fifths dwindled down to two thirds. The first vote is no criterion by which you can judge what will be the ultimate vote. The day of adjournment is fixed for to-morrow, and it is too late to introduce a new bill and pass it.

Now, sir, my dignity is not offended at all, not the slightest, by this course. In fact, I am obliged to the gentlemen who have taken this course. I am obliged to my colleague. I differ with him on this subject, as he knows very well; but I think his course upon this subject, in this stage of the case—I am not going to indorse everything—has been eminently wise and patriotic. I hope the Senate will take what I conceive to be a common-sense view of the matter, and concur in the amendment.

The PRESIDENT *pro tempore*. The question is on the amendment to the amendment moved by the Senator from Kentucky.

Mr. POWELL. I desire the yeas and nays on that amendment.

The yeas and nays were ordered; and being taken, resulted—yeas 6, nays 31; as follows:

YEAS—Messrs. Davis, Henderson, Powell, Saulsbury, Stark, and Wilson of Missouri—6.

NAYS—Messrs. Anthony, Browning, Chandler, Clark, Cowan, Doolittle, Fessenden, Foot, Foster, Grimes, Hale, Harlan, Harris, Howard, Howe, King, Lane of Indiana, Lane of Kansas, McDougall, Morrill, Pomeroy, Sherman, Simmons, Sumner, Ten Eyck, Trumbull, Wade, Wilkinson, Wilmot, Wilson of Massachusetts, and Wright—31.

So the amendment to the amendment was rejected.

The PRESIDENT *pro tempore*. The question now recurs on the amendment of the Senator from New Hampshire [Mr. CLARK] to the joint resolution of the House of Representatives.

Mr. HARRIS. Mr. President, the bill in question, as it has passed both Houses of Congress, provides for the seizure and condemnation of the property of rebels in two ways: first, where the traitor has been proceeded against personally and convicted. In that case, the first section of the bill provides that a fine may be imposed upon him, and that his property may be sold for the payment of that fine. His whole estate in the realty may, under the provisions of that section, be divested. The Senator from Illinois thinks that provision is unconstitutional, and yet he has supported the bill and desires to have it a law. He thinks that, under the provisions of that section, only the life estate can be divested. So the President thinks. Thus far they agree.

Now there is another provision of that bill which the Senator from Illinois does not seem to understand. He has stated that it is provided in the bill that the real estate of the rebel may be seized by the Army, and made a prize or capture of war. The Senator is mistaken about that. The seventh section of the bill provides that where the proceeding is not against the rebel *in personam*, where there are no personal proceedings against him, his estate may be seized by the Government by a proceeding *in rem*, and condemned and sold. The President thinks that that proceeding *in rem* against the property instead of the person is equally unconstitutional with the other; and I am not sure that the Senator from Illinois would not think so. It is accomplishing indirectly what the first section accomplishes directly, in my judgment. The one is a judgment *in rem* against the property, the other is a judgment *in personam*, accompanied with a fine under which the property is sold. The Senator from Illinois and the President differ widely in respect to this. The principle is the same. The Senator has entirely misapprehended, at least it would seem so from the remarks he has made, the scope and the extent of the provisions of this bill in regard to proceedings *in rem*. If I understand the bill, the seventh section of the bill provides for the seizure of rebel property where there are no proceedings against the person, not by the Army merely, but by proceedings insti-

tuted on behalf of the Government by the executive department of the Government. It seems to me that the Senator from Illinois is of all others the last person who should object to this explanatory provision by which the bill is made to conform to his own principles.

Mr. WADE. Mr. President——

Mr. TRUMBULL. If the Senator from Ohio will allow me, I should like to say a word in reply to the Senator from New York.

Mr. WADE. Certainly.

Mr. TRUMBULL. I understand that property may be seized anywhere, but the Army may seize it also. I did not state all the features of the bill. The bill, as I understand it, makes it the duty of the President to seize the property anywhere. He may do it by the Army and he may do it without the Army. He may do it in my State, by instituting proceedings, without any Army. I am aware of that; but this is not a proceeding against the person, but it is a proceeding against property where the persons themselves have run away; and I have always insisted that there was no sort of difficulty in taking the property of a man whom you could not catch.

Mr. FESSENDEN. If my friend from Ohio will allow me, I do not want to lecture anybody or suggest anything offensive; but I wish to suggest to the Senate that if this resolution is to be passed with the amendment—I do not know whether it is or not—it will have to go to the House of Representatives, and will necessarily take some time there; and I hope Senators will bring the debate to a close as soon as they can conveniently.

Mr. WADE. If the Senator had seen fit to understand my argument, and to treat it as I made it, it would not be necessary for me to say another word; but his whole argument proceeded on an entire misapprehension of all that I said on the subject. If I understood him, he accused us of being in collision with the President on this subject. He contended that I was endeavoring to procure an approval by the President of an act that he thought unconstitutional. If he will read his speech, he will find that that constitutes the great burden of his argument in opposition to the remarks that I made. So far from there being anything in that idea, I said that the Senate and the President had their appropriate duties to perform; that when we made up our minds to pass a bill, it implied that that bill was, in our judgment, constitutional; that we passed upon its constitutionality; that it went from our hands with our sanction that it was all right in reference to the Constitution. I said that I had no controversy with the President about its constitutionality, because by the Constitution he has an independent right to judge for himself upon that question. Notwithstanding it may have received the sanction of the entire Senate, he may differ with them all, and if he still believes it unconstitutional, it is his right, nay, it is his duty, to vindicate the Constitution by a veto. But that Constitution has pointed out the manner in which this shall be done; and all I complained of was of the manner in which this matter had been brought in here, as I believe establishing a precedent highly dangerous in its effect upon the Senate hereafter, as well as upon the dignity of this body, as tending to interfere with its privileges. What, sir, is more dangerous than in the inception, before the President has come to the performance of his duty, for us to go and ascertain what his private opinions may be, and come back here to the Senate and say, you must make your ideas of constitutional law square with that of the President, as we have received it, or you will lose all your legislation? That is the plain English of it.

Sir, that is destructive of the independence of the Senate. It is a direct conflict with the privileges of the Senate. We ought to deliberate here entirely free and independent of any opinions the President may entertain. We have no right to know anything as to his opinions on the subject of the constitutionality of a bill before us. If we are satisfied ourselves about it, we should pass it. The President, however, when it goes to him has a constitutional duty to perform, for which he is responsible to the country as well as we are for what we do; and I am not the man to procure from him a recognition or approval of an act that he may deem unconstitutional. In the argument I made, if argument it might be called, I expressed it always with that exception; and yet the Senator, in his argument, accused me of endeavoring to procure an approval by the President of a law that he thought was unconstitutional. No such thing ever entered my heart or my head. I believe our duties are entirely independent of each other. I believe, notwithstanding the all-importance of this great measure, that it is not so important as that we should depart from the great principles of the Constitution; for I do not believe in the history of the legislation of this country there ever has been a bill introduced to modify an act to make it conform to what were said to be the opinions of the President as to its constitutionality before he had passed upon it. I believe the thing is as new as it is dangerous in its effects.

I did not accuse the Senator of doing anything improper. I did not know he was the gentleman who got the information. From the high-spirited manner in which he always conducts affairs here, I hardly suspected that he would go near the President until he saw fit in a constitutional way to tell us what his opinions were. I know that whatever he did was dictated by the highest idea of patriotism and love of country. I thought of nothing else. I accused nobody; and especially, when I ascertained the source from whence it had come, I would have dismissed all idea that there was anything improper intended, and would know that it was exactly the other way. If the Senator has been to the President and learned from him his objections to this bill, and he has seen fit to bring them into Congress and endeavor to obviate that objection in this way, it is because he believes it is absolutely necessary to do so. I do not impeach his patriotism. I know he has done it from the highest considerations of what he believes to be right. But, sir, after all, I believe the precedent to be a dangerous one. I cannot believe that it is justified even by the importance of the measure under consideration. I would rather await the action of the President; see what his objection is, and see if we can obviate it.

The Senator has also said there was another element in it of paramount importance, which ought to lead us to consider it well; and that was that the Congress was about to expire. Sir, the Congress will expire precisely when we, the Senate and House of Representatives, say it shall expire, and not before; and we should be exceedingly wanting in patriotism if we could not postpone it in order to accomplish an object of the highest importance to the country. I think we had better await the constitutional manner in which these things should be done, and if the President has constitutional scruples, see what they are. If we can pass the bill over his veto, we ought to do it; it is our constitutional right, duty, and privilege to do it. If we cannot, then we might institute other measures free from any of the objections that he seems to have. I should like that method of proceeding even if it detained us here a month, rather than go across lots in the matter in a way that only seems to me not only new but dangerous.

Mr. SUMNER. Mr. President, our country is in peril. This is much to say; but it must be said, and we must all govern ourselves accordingly. More than ever before, the time has now come for us to exclaim, "our country, our whole country, and nothing but our country." This is the lesson of the day. In the presence of such peril, and under the weight of such duties, there is no pride of opinion which I cannot freely sacrifice; nor can I stand on any order of our proceedings. I ask no questions, and I make no terms. If in any way I know that an important measure can be secured, which I think vital to the country, I shall spare no effort to secure it. Rules are for protection and defense, and to facilitate business. If in any way they become an impediment, they cease to perform their natural office, and I can easily abandon them, especially when my country is in peril. Therefore, sir, I am only slightly impressed by the argument that our information with regard to the President is informal. It is enough for me that a measure which we all have at heart as essential to our national life may fail to receive his constitutional approval unless it is modified in advance by a supplementary statute. Anxious for this measure, I think how it may be secured rather than how the opinions of the President have become known to us.

Of course, sir, I cannot enter into the doubts attributed to the President. To me they seem utterly groundless and fallacious. They proceed on the mistaken idea that we are proceeding by *indictment*, and not by *war;* and they voluntarily subject the country to all the constraint of a criminal trial when the exigency requires the ample latitude of war. If soldiers are sent forth to battle, if fields are occupied as camps, and houses are occupied as hospitals, without permission of the owners, it is by virtue of the war powers of Congress, or, in other words, the belligerent rights of this Government. And it is by virtue of these same belligerent rights that the property of an enemy may be taken; nor, if he be an enemy, is there any check upon these rights in the Constitution. Whether you choose to take his property for life, or beyond life, the Constitution is indifferent; for all constitutional limitations are entirely inapplicable to belligerent rights. According to express words, you may not "abridge the freedom of speech or the press;" nor "infringe the right of the people to keep and bear arms." Nor can you take "life, liberty, or property, without due process of law." And yet, wherever your armies move, and elsewhere, too, you do all these very things in the exercise of acknowledged belligerent rights. But the right of confiscation, whether for life or beyond life, is as clear.

Unhappily, sir, our country is now engaged in war—terrible, relentless, unquestionable war—and if you wish success, it must be prosecuted as war, and you must exercise the belligerent rights of the Government. If we were dealing with cases of treason, or with a seditious riot, or with a mere outbreak, our process would be limited by the Constitution; but with an enemy before us, lashed into fury and led on by "Ate hot from hell," where is the limit to the powers which we shall employ? I remember that Burke, in his great effort on conciliation with America, says, "it looks to me to be narrow and pedantic to apply the ordinary ideas of criminal justice to this great public contest; I do not know the method of drawing up an indictment against a whole people." But when you refuse to take the property of *an enemy in open war*, on account of a provision in the Constitution obviously intended only for the protection of the *citizen*, you substitute the ordinary ideas of criminal justice for the requirements of war; you voluntarily weaken your armies and diminish your power. I am almost tempted to say that in a blind devotion to the form of the Constitution you sacrifice its substance. Indeed, I might say that in misapplying the text of the Constitution you sacrifice the Constitution itself.

Pardon me for seeming, even thus briefly, to argue this question. I do it only because I would not have the vote which I shall give in any way misunderstood. I shall support the proposition of the Senator from New Hampshire, [Mr. CLARK,] not because I think it right, but because its adoption will help secure the bill which has already occupied so much of the attention of Congress and so much of the hopes of the country.

Mr. President, I have never from the beginning disguised my conviction that the most important part of the bill relates to emancipation. To save this part, to secure this essential element of success, to establish this assurance of victory, and to obtain for my country this crown of prosperity and glory, I willingly abandon all the rest. The navigator is sometimes called to save his ship by casting into the sea a part of the cargo.

But whatever may be the difference between the President and Congress, there are two points on which there is no difference. The blacks are to be employed, and the slaves are to be freed. In this proclamation the President and Congress will unite. Together they will deliver it to the country and to the world.

It is an occasion of just congratulation that the long debates of this session have at last ripened into a measure which I do not hesitate to declare as more important than any victory which has been achieved by our arms. Thank God! the new levies which are now called for will be placed under the inspiration of an idea which cannot fail. In spite of all discomfitures, past or present, that idea imbodied in the embattled armies of the Republic, will now go forward conquering and to conquer; for it is the idea of freedom, and freedom's battle once begun cannot be lost.

Sir, from this day forward the war will be waged with new hopes and new promises. A new power will be enlisted incalculable in influence, strengthening our armies, weakening the enemy, awak-

ening the sympathies of mankind, and securing the favor of a benevolent God. The infamous order No. 3, which has been such a scandal to the Republic, is now rescinded. The slave everywhere can hope. Beginning to do justice to the oppressed, we shall at last deserve success.

Mr. HOWARD. Mr. President, under the circumstances which surround us, and considering the nearness of the close of the session, and the consequent difficulty of the Senate reviewing its action upon this important measure, I shall feel constrained to vote for this joint resolution giving a construction to the bill commonly called the confiscation bill, and also for the amendment offered by the Senator from New Hampshire. I do this, however, under the strong belief, derived from assurances given me from sources entitled to my entire respect, that unless this constructive resolution shall be passed there is great danger, not to say certainty, that the confiscation act will be returned to the House in which it originated with a veto from the President. Language scarcely enables me to express the feelings of deprecation with which I contemplate that contingency. I foresee that should it happen, it would create a most serious embarrassment in the prosecution of the existing war; that it would tend greatly so to divide opinion and so to arrange parties in the free States that it would be extremely difficult, not to say impossible, that all the energies of the loyal people of the United States shall be used for the suppression of this rebellion. Rather than jeopard the bill now in the hands of the President, and seeing these dangers thickening before me, and anxious to avoid them, and anxious especially that we should have a united North in the suppression of this rebellion, I must waive any pride of opinion which, under other circumstances, and in peaceful times, might induce me to vote against this measure, at such a moment as this.

Mr. President, it is not disguised that the joint resolution, taken in connection with the amendment offered by the Senator from New Hampshire, does introduce very material modifications into the original confiscation bill. It emasculates that bill in some degree. In the first provision of the joint resolution it is declared that the terms of the confiscation act shall not apply to any act committed by any person previous to the passage of the act itself.

Mr. CLARK. Will the Senator allow me to state to him a fact or two in regard to that, if he makes any question upon that point?

Mr. HOWARD. Certainly; I shall be very happy to hear the Senator.

Mr. CLARK. I understand that modification was made at the suggestion of some of our Union friends in Tennessee. I understand the fact to be that some thorough Union men are still holding office as judges there. I have heard of one instance where a judge was pulled from the bench by a secession mob. The people afterwards elected him as a Union man, and put him on the bench. It was said by some of our friends it was liable to that objection, and rather than to have the objection made when they went home, they desired this explanation to be made.

Mr. HOWARD. Very well; I have no fault to find with them on that account. But I was proceeding to remark, Mr. President, that both the joint resolution in that respect, applying it to future acts and to them only, and the amendment offered by the Senator from New Hampshire, declaring that the forfeiture shall only be for the life of the offender, are based upon this assumption: that the whole proceeding is a judicial proceeding; or, in other words, the amendments imply that there is not under the Constitution any power in Congress when waging a foreign or domestic war to resort to the ordinary process of seizure and confiscation and the treatment of the property as prize of war. While I say I shall vote for this resolution, and for the Senator's amendment, I do it with the earnest protestation that I do not concede the principle which it seeks to establish. It falls far short of my idea of the scope and efficiency of the Federal Constitution. I hold that under the power of making and carrying on war, under the power of using the military force of the country for the purpose of suppressing insurrection, Congress has full power to resort to confiscation, to emancipation, or any other means or instrumentality known to the code of war, either ancient or modern. I do not, therefore, wish to be understood, while I vote for this joint resolution, that I yield one single particle of the principle which I have advocated so often in this body on this subject. I do it, as the lawyers say, *protestando*. I do it under the pressure of what I regard a necessity; and as such I feel compelled to submit to it.

I hope, sir, that with this amendment, the President will see fit to approve the confiscation act. I not only hope it, but I give my vote under the expectation that he will approve it; and if in this he shall disappoint me, it will be to me, I confess, a most grievous disappointment. My friend from Illinois, and another Senator, have asked where in the history of this Government has a case occurred where Congress has passed an explanatory act, or an act modifying a bill which had already been placed for approval in the hands of the President of the United States. Fortunately for the honor of Congress, and for the honor of the nation, and for the privilege of the two Houses, those cases are very few; but there is not a positive absence of precedent on this subject, let me assure my friend from Illinois. I have a most distinct recollection that while I was a member of the other House, twenty years ago this blessed summer, Congress, with great unanimity, had passed a bill of the utmost importance to the country, a bill necessary for supporting the credit of the Government, and maintaining our finances, and that while that bill was in the hands of John Tyler, President of the United States, it crept out that he was dissatisfied with some of its provisions, and assurances were given to certain members of the House of Representatives, and to the Senate, that in case Congress would modify that bill in some respects, so as to make it agreeable to John Tyler, Esq., he would not fail to approve it as it would pass the two Houses. In humble obedience to that distinguished individual, Congress consented to modify their legislation, and to pass a bill precisely as it had come from his hand in his own hand-writing. We passed it. The bill was placed in the hands of John Tyler, and John Tyler vetoed that same bill, whereupon issued the death of the Whig party. I refer to this ancient fact in order that it may be known in another quarter, and generally to the country.

Mr. CLARK. I hope we shall now have a vote.

The PRESIDENT *pro tempore*. The question is on the amendment of the Senator from New Hampshire.

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

The yeas and nays were ordered.

Mr. TRUMBULL. I move to amend that amendment by striking out the words "or proceedings," and inserting in lieu thereof the words "for treason;" so that it will read, "nor shall any punishment for treason under said act be so construed," &c.

I do not desire to do anything more than simply to state the effect of the amendment. If that amendment be adopted, the provision will be that the punishment for treason shall not take the real estate of any person beyond his life, saying nothing about the taking of real estate for any other offense. I think that removes all the constitutional difficulty, and it will be for the courts to decide. I should like the Senator from New Hampshire himself to see if it does not meet the case precisely. It will then be for the court to decide. If the case is treason, of course you cannot take his property beyond his life; and that is the clause in the Constitution: that no attainder of treason shall work corruption of blood or forfeiture beyond the life of the person attainted. Now, if we confine this to treason, we meet that constitutional provision. If the other clauses of the bill that provide for punishing rebels with a fine relate to treason, and the courts so hold, then you cannot take the property there. It seems to me it would cover the whole controversy in point.

Mr. COLLAMER. A proceeding *in rem*.

Mr. TRUMBULL. Well, a proceeding *in rem*. If a person is tried by a judicial proceeding, you cannot take the property there. It will be a judicial question to decide. There will be no difficulty then in proceedings *in rem*, because if that is a punishment for treason, that would not, under this provision, take it beyond life. I hope that amendment will be adopted.

Mr. CLARK. I hope the amendment to the amendment will not be made. The amendment was carefully framed to meet a particular object, and I hope it will not be modified.

The amendment to the amendment was rejected.

The PRESIDENT *pro tempore*. The question recurs on the amendment of the Senator from New Hampshire, [Mr. CLARK,] on which the yeas and nays have been ordered.

The question being taken by yeas and nays, resulted—yeas 25, nays 15; as follows:

YEAS—Messrs. Anthony, Browning, Chandler, Clark, Collamer, Cowan, Doolittle, Fessenden, Foot, Foster, Hale, Harris, Henderson, Howard, Howe, Lane of Kansas, Morrill, Pomeroy, Sherman, Simmons, Sumner, Ten Eyck, Willey, Wilson of Massachusetts, and Wright—25.

NAYS—Messrs. Carlile, Davis, Grimes, Harlan, Kennedy, King, Lane of Indiana, Powell, Saulsbury, Stark, Trumbull, Wade, Wilkinson, Wilmot, and Wilson of Missouri—15.

So the amendment was agreed to.

The joint resolution was reported to the Senate; and the amendment was concurred in.

Mr. CLARK. I offer the further amendment which I mentioned:

And be it further resolved, That the words granting an amnesty in the thirteenth section of said act shall be so construed as to authorize the President to restore to the offender any property which may have been seized and condemned under any of the provisions of the act, or the proceeds thereof.

The section of the bill to which this refers is in these words:

"That the President is hereby authorized, at any time hereafter, by proclamation, to extend to persons who may have participated in the rebellion in any State or part thereof pardon and amnesty with such exceptions, and at such time and on such conditions, as he may deem expedient for the public welfare."

It was doubtful whether that would authorize him, if he found a man to be innocent and deserving, to have his property restored, to return it to him, and that is the object of the amendment.

Mr. HOWARD. If I understand the proposition of the Senator from New Hampshire correctly, it would enable the President to direct the capture of property which may have been sold to innocent purchasers, and to divest them of their title.

Mr. CLARK. I do not so understand it. It gives them the proceeds after it has been sold; that is all.

Mr. HOWARD. It seems to me, if we have gone so far——

Mr. CLARK. I withdraw it if any objection is made.

Mr. HOWARD. I do object.

Mr. CLARK. I do not want any fuss about it. I withdraw it.

The joint resolution was ordered to a third reading, read the third time, and passed.

POLICE CONTINGENT FUND.

The PRESIDENT *pro tempore*. The special order of the day recurs.

Mr. GRIMES. The Chair will remember there was a joint resolution taken up this morning and informally laid aside, and this other business has been pushed in in place of it. It will not take a moment; it is a mere local matter relating to the District of Columbia.

Mr. TRUMBULL. If it is understood that it does not postpone the special order, I will not object.

The PRESIDENT *pro tempore*. By common consent, the special order will be temporarily passed over for the consideration of the resolution indicated by the Senator from Iowa.

Mr. CARLILE. I object. I want the bill that was up last night considered.

Mr. GRIMES. This joint resolution is entitled to precedence. It was taken up and laid aside informally early in the morning. It is only in regard to the police here. It requires merely to be read and be concurred in.

Mr. CARLILE. Will it give rise to debate?

Mr. GRIMES. If it does, I shall withdraw it.

Mr. CARLILE. I withdraw the objection.

The joint resolution (H. R. No. 108) requiring the superintendent of the metropolitan police to pay over certain moneys collected for fines and penalties, to constitute a contingent fund for certain purposes, was considered as in Committee of the Whole. It proposes to direct the superintendent of metropolitan police of the District of Columbia to pay over all such moneys as may be paid to him under the act of Congress entitled "An act to provide for the payment of fines and

penalties collected by or paid the justices of the peace in the District of Columbia under the acts of Congress approved the 3d and 5th of August, 1861, and for other purposes," to the treasurer of the board of metropolitan police, in whose hands the same shall constitute a "contingent fund," to be disbursed under the order and for such purposes as the board may direct.

The joint resolution was reported to the Senate, ordered to a third reading, read the third time, and passed.

DISBURSING OFFICERS' ACCOUNTS.

Mr. FESSENDEN. I ask the Senate to pass a bill to which there is no objection, relative to the mode of doing business in the Treasury Department, which has been agreed on by that Department and the War Department.

The PRESIDENT *pro tempore*. If no objection be made, the special order will be temporarily laid aside for the purpose indicated by the Senator from Maine. The Chair hears no objection.

Mr. FESSENDEN. The Committee on Finance, to whom was referred the bill (H. R. No. 577) to provide for the more prompt settlement of the accounts of disbursing officers, direct me to report it back without amendment, and ask that it be put on its passage at once.

The bill was considered as in the Committee of the Whole. It proposes to require disbursing officers to render their accounts monthly, instead of quarterly, and to forward them to the Treasury within ten days after the expiration of each month; but the Secretary of the Treasury may extend the time if the circumstances require it.

The bill was reported to the Senate, ordered to a third reading, read the third time, and passed.

ORDER OF BUSINESS.

Mr. KING. I ask the Senate to take up House bill No. 548.

Mr. CARLILE. I object to anything being considered out of order.

The PRESIDENT *pro tempore*. The special order can only be postponed by general consent, or else upon motion made and carried.

Mr. KING. I hope it will be done by common consent. I trust there will be no objection, otherwise I shall make the motion.

Mr. CARLILE. I object.

Mr. KING. I move to postpone the special order for that purpose.

Mr. DAVIS. What is the special order?

The PRESIDENT *pro tempore*. The special order is the bill (H. R. No. 362) to provide for the discharge of State prisoners and others, and to authorize the judges of the United States to take bail or recognizances to secure the trial of the same.

Mr. KING. I move to postpone the special order for the purpose of taking up the bill (H. R. No. 548) authorizing the Secretary of the Treasury to change the name of the steamship Coatzacoalcos to that of America.

Mr. TRUMBULL. It is now a quarter past three o'clock. The bill announced by the Chair was the order of the day at twelve o'clock, but we have consented to its postponement first for one thing and then for another and then another, until now the afternoon is far spent. Certainly, if we are ever going to consider that bill, we must do so now. I should not interpose objection to taking up the bill of the Senator from New York if it could be done with general acquiescence and without a vote; but now the Senator from New York comes in and asks a vote of the Senate to postpone this bill. I trust it will not be done.

Mr. KING. If the Senator from Illinois had assented to it, the bill which I now wish to call up might have been passed. I am sure there will be no objection to it when it is presented. It is because it is so late in the session that I have asked the Senate to take it up now. Unless it is taken up, I shall follow my present motion with a general motion to postpone.

The PRESIDENT *pro tempore*. The question is on the motion of the Senator from New York, to postpone the special order and all prior orders, with a view to proceed to the consideration of the bill indicated by him.

Mr. CARLILE. The bill of the Senator from New York can be passed at any moment, as he says it is merely a bill to change the name of some vessel. Here is a bill providing an opportunity for persons who may be innocent to be relieved from confinement, and I do think the Senate has more interest in that than they have in the change in the name of a vessel, and I ask the yeas and nays on the motion to postpone.

The yeas and nays were not ordered.

The motion of Mr. KING was not agreed to.

DAILY RECESS.

Mr. SHERMAN. I desire to inquire whether the order for a daily recess extends to to-day.

The PRESIDENT *pro tempore*. It does not. That order applied only to Monday and Tuesday.

Mr. SHERMAN. Then I make the motion that the Senate take a recess to-day from five to seven o'clock, p. m.

The motion was agreed to.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. MORRIS, Chief Clerk, announced that the House had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the joint resolution (S. No. 86) regulating the employment of the convicts in the penitentiary of the District of Columbia, for their improvement and benefit.

The message also announced that the House of Representatives had passed the following bills of the Senate without amendment:

A bill (No. 385) to amend an act entitled "An act in addition to the act prohibiting the slave trade;" and

A bill (No. 394) to amend the act calling forth the militia to execute the laws of the Union, suppress insurrections and repel invasions, approved February 28, 1795, and the acts amendatory thereof, and for other purposes.

The message further announced that the House of Representatives had passed a joint resolution (No. 112) tendering the thanks of Congress to Captain James L. Lardner, and other officers of the Navy, in pursuance of the recommendation of the President of the United States, in which it requested the concurrence of the Senate.

ENROLLED BILLS SIGNED.

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

A bill (H. R. No. 390) in relation to the competency of witnesses in trials of equity and admiralty;

A bill (H. R. No. 518) transferring the western gunboat fleet from the War to the Navy Department;

A bill (H. R. No. 524) prohibiting the confinement of persons in the military service of the United States in the penitentiary of the District of Columbia except as a punishment for certain crimes, and to discharge therefrom certain convicts by sentence of courts-martial, and for other purposes; and

A joint resolution (H. R. No. 108) requiring the superintendent of the metropolitan police to pay over certain moneys collected for fines and penalties, to constitute a contingent fund for certain purposes.

HOUSE BILL REFERRED.

The joint resolution (H. R. No. 112) tendering the thanks of Congress to Captain James L. Lardner, and other officers of the Navy, in pursuance of the recommendation of the President of the United States, was read twice by its title, and referred to the Committee on Naval Affairs.

DISCHARGE OF STATE PRISONERS.

The PRESIDENT *pro tempore*. The bill (H. R. No. 362) to provide for the discharge of State prisoners and others, and to authorize the judges of the United States courts to take bail or recognizances to secure the trial of the same, is before the Senate as in Committee of the Whole, being the special order; the pending question being on the amendment of the Senator from Pennsylvania, [Mr. COWAN,] in section one, line nineteen, to strike out the words "since the arrest of said persons," and to insert "after the passage of this act," so as to read, "and in all cases where a grand jury having attended said courts, or either of them having jurisdiction in the premises, after the passage of this act, has terminated its session."

The amendment was agreed to.

The PRESIDENT *pro tempore*. There is another amendment of the Senator from Pennsylvania, in section one, line twenty-three, after the word "of," to insert "any," and after "prisoner," insert "desiring a discharge;" so as to read:

It shall be the duty of said judges forthwith to order the discharge of any such prisoner desiring a discharge from said imprisonment, &c.

The amendment was agreed to.

The PRESIDENT *pro tempore*. The question now recurs on the motion of the Senator from Massachusetts, [Mr. WILSON,] to strike out the first and second sections of the bill.

Mr. TRUMBULL. There was another amendment offered by the Senator from Pennsylvania to the last section.

Mr. COWAN. Not to this amendment.

The PRESIDENT *pro tempore*. That amendment is to the third section of the bill. The question now is on the motion of the Senator from Massachusetts to strike out the first and second sections of the bill, as amended.

Mr. WILSON, of Massachusetts. On that I ask for the yeas and nays.

The yeas and nays were ordered; and being taken, resulted—yeas 18, nays 19; as follows:

YEAS—Messrs. Anthony, Chandler, Clark, Collamer, Doolittle, Fessenden, Foot, Foster, Harris, Howard, Howe, King, Lane of Kansas, Simmons, Sumner, Ten Eyck, Wilmot, and Wilson of Massachusetts—18.

NAYS—Messrs. Browning, Carlile, Cowan, Davis, Grimes, Henderson, Kennedy, Lane of Indiana, McDougall, Powell, Saulsbury, Sherman, Stark, Trumbull, Wade, Wilkinson, Willey, Wilson of Missouri, and Wright—19.

So the motion to strike out the first and second sections of the bill did not prevail.

The PRESIDENT *pro tempore*. There is an amendment pending to the third section, moved by the Senator from Pennsylvania, [Mr. COWAN,] to insert at the end of the second line the words "Congress not being in session;" in line five, after "*habeas corpus*," to insert "in all cases of political offenses;" and in line six, after the word "thereof," to insert "until the meeting of Congress thereafter;" so as to make the section read:

That it is and shall be lawful for the President of the United States whenever, (Congress not being in session,) in his judgment, by reason of "rebellion or invasion the public safety may require it," to suspend by proclamation the privileges of the writ of *habeas corpus* in all cases of political offenses throughout the United States or in any part thereof, until the meeting of Congress thereafter; and whenever and wherever the said writ, &c.

The amendment was agreed to.

The bill was reported to the Senate as amended.

Mr. BROWNING. I wish to offer some amendments. Is it too late to offer an amendment?

The PRESIDENT *pro tempore*. It is not quite time. The question is upon concurring in the amendments already made in Committee of the Whole.

Mr. HOWE. I ask for the yeas and nays on concurring in those amendments.

Mr. TRUMBULL. All of them, or some particular one?

Mr. HOWE. They all have reference to one subject, I think.

Mr. LANE, of Kansas. I desire to propound a question: whether it is in order now to move that the bill and pending amendments be postponed until the first Monday in December?

The PRESIDENT *pro tempore*. The Senate have made several amendments to this bill, acting as in Committee of the Whole, the bill has been reported to the Senate, and the first question is on concurring in the amendments made as in Committee of the Whole. The Senator from Wisconsin demanded the yeas and nays upon those separate amendments. The first amendment will be read.

The Secretary read the amendment; which is in section one, line nineteen, to strike out the words "since the arrest of said persons," and insert "after the passage of this act."

Mr. HOWE. I want the yeas and nays upon the amendments to the third section only.

The PRESIDENT *pro tempore*. The Senator now requires the yeas and nays upon the amendments to the third section. The Chair will then put the question on concurring in all the other amendments in the aggregate.

Mr. COLLAMER. I desire a separate vote upon the question taken in committee on striking out the first two sections.

The PRESIDENT *pro tempore*. There can be

no vote upon that, because they were not stricken out. The motion can be renewed at the proper time.

Mr. WILSON, of Massachusetts. I intend to renew it.

The PRESIDENT *pro tempore*. The question is on concurring in the first amendment, which has been read.

The amendment was concurred in.

The Secretary read the next amendment, which is in section one, line twenty-three, after the word "of," insert "any," and after "prisoner," to insert "desiring a discharge."

The amendment was concurred in.

The Secretary read the next amendment, which is in section three, at the end of line two, to insert "Congress not being in session."

Mr. HOWE. I ask for the yeas and nays on that amendment.

The yeas and nays were ordered.

Mr. HOWE. The third section, as it stands in the bill, affirms what I believe to be the law of the land, that it is lawful for the President of the United States, whenever, in his judgment, by reason of rebellion or invasion, the public safety may require it, to suspend the writ of *habeas corpus*. The effect of these amendments, taken altogether, is to declare that that may be lawful for the President, in a certain contingency, that is to say, in the absence of the Congress of the United States. It is an indirect affirmance that, when Congress is present, is convened, the President cannot do it without the consent of Congress. I do not believe such to be the law of the land. I do not believe it ought to be, and I am unwilling to affirm any such doctrine.

The question being taken by yeas and nays, resulted—yeas 33, nays 5; as follows:

YEAS—Messrs. Anthony, Browning, Carlile, Chandler, Clark, Collamer, Cowan, Davis, Fessenden, Foot, Foster, Grimes, Hale, Henderson, Kennedy, King, Lane of Kansas, McDougall, Powell, Saulsbury, Sherman, Simmons, Stark, Sumner, Ten Eyck, Trumbull, Wade, Wilkinson, Willey, Wilmot, Wilson of Massachusetts, Wilson of Missouri, and Wright—33.

NAYS—Messrs. Doolittle, Harris, Howard, Howe, and Lane of Indiana—5.

So the amendment was concurred in.

The Secretary read the next amendment, which was in line five, of section three, after the words "*habeas corpus*," to insert "in all cases of political offenses."

The amendment was concurred in.

The Secretary read the next amendment, which was in line six, of section three, after the word "thereof," to insert "until the meeting of Congress thereafter."

The amendment was concurred in.

The PRESIDENT *pro tempore*. The amendments made as in Committee of the Whole have all been concurred in; and the bill is still open for amendment.

Mr. BROWNING. I propose to amend the first section of the bill, by inserting after the word "States" in the tenth line of the first section, the words "by order or authority of said Secretaries or either of them."

Mr. CHANDLER. Mr. President, I have a few remarks which I wish to submit to the Senate that may not be particularly germane to this amendment.

Mr. TRUMBULL. I hope, then, the Senator will allow us to go through with the amendments, if he wants to make any remarks on the bill. Let us first get through with the amendments as to which there is no controversy, at any rate.

Mr. HOWE. I wish to get at the view of the Senator from Illinois [Mr. BROWNING.] He proposes now to limit these discharges to the cases of those who are in prison under the authority of these two Secretaries. I wish to know if he means by that to exclude those who are imprisoned under the order of the President of the United States, which order has issued from either of the Departments over which these Secretaries preside.

Mr. BROWNING. The section provides:

That the Secretary of State and the Secretary of War be, and they are hereby, directed forthwith, or as soon as may be practicable, to furnish to the judges of the circuit and district courts of the United States, and of the District of Columbia, a list of the names of all persons, citizens of States in which the administration of the laws, has continued unimpaired in the said Federal courts, who are now or may hereafter be held as prisoners of the United States.

There may be men held as prisoners of the United States by virtue of arrests upon process issued from the courts. The bill, as it now stands, would require these Secretaries to furnish lists of them and provide for their discharge. To prevent that I propose the amendment, which restricts the lists to be furnished by them, or either of them, to such persons as have been imprisoned by their order or authority. I have understood that all the political prisoners to whom it is intended this act shall apply have been imprisoned by the order or authority of either the Secretary of State or the Secretary of War.

Mr. HOWE. I do not know how the fact may be, but the newspapers informed us some time since that a citizen of Pennsylvania commenced an action at law against the late Secretary of War for an alleged illegal arrest and confinement, and that the President, although the arrest was made under the direct order of the Secretary of War, avowed that it was made in accordance with his direction. It may be the case—I will not assume or assert that it is the case—that every one of these political prisoners, so called, has been arrested under an order signed by the Secretary of State or Secretary of War, but which really emanated from the Executive, so that the authority for the detention would be the authority of the President of the United States; and I want to know if it is the purpose of the Senator from Illinois by this amendment to exclude that class of persons from the privileges of these two sections.

Mr. BROWNING. I wish to confine the duty imposed upon the Secretaries to cases that are within their knowledge, and upon which they can report. They cannot report upon cases where arrests have been made and persons confined not by their authority. This act requires them to report what persons are in prison. All they can know will be by the records of their offices; and it is intended to restrict the reports that they may make to such persons as have been imprisoned by their authority, and of whose imprisonment, therefore, they are informed and have knowledge.

Mr. HOWE. Yes, sir; but the Senator must be aware that if by direction of the President of the United States either of these Secretaries have issued an order for the arrest of an individual, that individual is held, not under their authority, but under the authority of the President of the United States, but they are equally cognizant of the fact of the arrest and of imprisonment as if the order had emanated from themselves directly and without any consultation with the President.

Mr. BROWNING. If the person is held by order of either the Secretary of State or the Secretary of War, he is imprisoned, I apprehend, by virtue of that order, and the language is "held" by virtue of the order or authority; so that if the order goes it is embraced within the amendment.

Mr. HOWE. But I wish the Senator would endeavor to comprehend what the information I wish to get at is; and that is, what he means to do with those prisoners, if there are any, who are held in custody by the order of the President of the United States, which order is attested by the Secretary of War or Secretary of State, and issued from those Departments?

Mr. BROWNING. This amendment makes no allusion to that, nor do I think the section does. It does not impair the force of the section; it only gives it certainty in its application.

The amendment was agreed to.

Mr. BROWNING. I move a further amendment to the same section by inserting, between the sixteenth and seventeenth lines, the following words:

The Secretary of State to furnish a list of such persons as are imprisoned by his order or authority, and the Secretary of War to furnish a list of such as are imprisoned by his order or authority.

Mr. TRUMBULL. I think that would be the construction without the amendment.

Mr. BROWNING. This will not do any harm, but makes it certain.

Mr. TRUMBULL. It makes it certain, but at the same time it cannot receive any other construction.

The amendment was agreed to.

Mr. BROWNING. I move another amendment to the first section, by adding to it the following proviso:

Provided, however, That no person shall be discharged by virtue of the provisions of this act, until after he or she shall have taken an oath of allegiance to the Government of the United States, and to support the Constitution thereof: *And provided, also*, That the judge or court before whom such person may be brought may, if it be deemed necessary to do so, before discharging him or her from imprisonment, require him or her to enter into recognizance in a sum to be fixed by said judge or court, to keep the peace and be of good behavior towards the United States and its citizens, and from time to time, and at such times as such judge or court may direct, appear before said judge or court to be further dealt with according to law, as the circumstances may require.

Mr. TRUMBULL. I see no objection to that.

The amendment was agreed to.

Mr. SUMNER. I move to amend the third section by inserting, after the word "writ," in the ninth line, the words "or to make or issue any of the orders hereinbefore provided;" so that the whole clause will read as follows:

And whenever and wherever the said writ shall be suspended as aforesaid, it shall be unlawful for any of the judges of the several courts of the United States, or of any State, to allow the said writ, or to make or issue any of the orders hereinbefore provided.

The effect of this amendment will be to enable the President, when he suspends the writ of *habeas corpus*, to make that suspension effective against the operation of this statute also.

Mr. McDOUGALL. I object to the amendment. If the writ of *habeas corpus* is suspended, the question arises upon the return to the writ, and it will then be decided whether it is authorized or not; but to say that the judge shall not grant the writ, would be going beyond what has ever been contemplated. I trust the Senator will withdraw the amendment.

Mr. SUMNER. I shall not withdraw the amendment. It seems to me very important.

Mr. TRUMBULL. I hope the amendment will not be adopted; it nullifies the whole bill; it would make it a *felo de se*. The first section of the bill, as it is now amended, provides that if no proceedings whatever are taken against these political prisoners after a grand jury shall have met, they may, upon certain conditions which have been inserted on the motion of my colleague—taking an oath and entering into bond, if required—be discharged; and if an indictment is found, then, by the second section, they are to be admitted to bail in bailable cases. The third section authorizes the President of the United States to suspend the writ of *habeas corpus* under certain circumstances. Now, the Senator from Massachusetts moves an amendment providing that if the President of the United States suspends the writ of *habeas corpus*, then this law is not to operate. What will it be good for? What will it amount to? If after the President of the United States has suspended the writ of *habeas corpus*, and a political offender is arrested and put in prison and confined until after the grand jury meets, and there is no charge presented against him, and he is willing to comply with the provisions of the act and give bond and make the oath, does the Senator from Massachusetts mean to keep him in? Is that his intention, that he shall be kept there forever? The very object of the bill is to allow this person who is arrested where the *habeas corpus* is suspended, after he shall have remained in prison till a grand jury has met in his district, there being no obstruction to the judicial proceedings in the locality, to be discharged if he complies with the terms of the act. The Senator from Massachusetts comes in and says that he shall not be discharged at all if the writ of *habeas corpus* has been suspended by the President. The writ of *habeas corpus* may be suspended for the time being, but it is not intended to be perpetual. I trust the amendment of the Senator from Massachusetts will not be adopted. It is enough if the writ of *habeas corpus* is suspended during this length of time; and then let the provisions of this act, if it is adopted, apply.

Mr. SUMNER. What is the effect of a suspension of the writ of *habeas corpus*? Clearly, the very statement of the question is an answer to it. The writ is suspended, and the parties who are imprisoned can be detained because the writ cannot be had for the asking. My proposition simply explains the obvious meaning of the statute, for the last section gives to the President the power to suspend the writ; so that really, unless the Senator from Illinois is prepared to deny entirely the efficacy of the suspension, the moment any court has proceeded under the first two sections of this statute, and the person is about to be discharged, he may be met at the door of the prison by the suspension of the writ of *habeas corpus*, as regards him, and be returned. The few words

that I have proposed to add simply carry out and explain the obvious import of that language. I do not know that the words are necessary. I am inclined to think that all I have in view is already accomplished by the words employed; but, sir, I like, in legislation, to have always as much plainness as possible, to remove all chance of difficulty or doubt hereafter, and to that end I have proposed this amendment.

Mr. HENDERSON. I hope the amendment of the Senator from Massachusetts will not be adopted. I am just as far from desiring that those parties who are really guilty of treason against the Government of the United States should be turned loose again, to recommit their offenses, as any Senator; and I do not intend, by any vote of mine, to do any such thing. But, sir, my understanding is that there is a considerable number of political prisoners that have been arrested, and are now held in confinement under the authority of the President of the United States, or the Secretaries; and now the question presents itself, are those parties guilty, or are they not guilty? This, as I understand it, is not a proposition to turn loose any parties that have been arrested in States where the process of the law is obstructed. It is not a proposition to turn loose those individuals who have been arrested where they cannot be tried, but it is a proposition to require a trial of those parties who have been arrested in States where the law is not obstructed.

Some Senators say that unless we keep them in confinement, we shall simply turn them loose upon the community to recommit their offenses. Mr. President, if we do not demand a trial of these parties, I fear very much that we shall run into the other extreme. I have no complaint to make of any of the executive authorities in reference to this matter; but if we declare that they can seize upon parties in the State of Ohio or in the State of Wisconsin, where the law is unobstructed, I ask where is the limit to it? Why cannot I be arrested? Why cannot any Senator upon this floor be arrested? And will the remaining Senators sit here calmly and quietly, and have not one word to say in reference to this matter?

Sir, I am an earnest supporter of the Administration in the prosecution of this war. I have sustained and upheld every act of the Administration to put down this rebellion, and I expect still to do so, where I can consistently do it in accordance with my own convictions of constitutional duty; but there is a principle involved in this question which is of great importance. I desire to limit the exercise of these powers in every way I possibly can, so as to keep my eye upon the great object to be attained, and that is the suppression of the rebellion; but where is the necessity of keeping political prisoners who have been arrested in the State of Missouri? None whatever. Let them be turned over to the civil authorities and tried. I will here remark that if some of those men had been tried in the early part of this rebellion and had been convicted and hung, we should have had less necessity for arresting others. That is what ought to be done. Those parties ought to be turned over to the courts, and it ought not be at their own discretion whether they should be tried or not; but some of the leaders, the active participants in the rebellion, ought to have been turned over at an early day to the judicial authorities, and tried and executed. Nothing is gained by keeping them. This bill proposes not to turn loose anybody who has been arrested where the law cannot be executed, but provides for the trial of those who have been arrested in States where the laws can be executed.

The third section of the bill, as I understand it, if there is anything in it, simply assumes the power in Congress to suspend the privilege of the writ of *habeas corpus*. I do not regard it as the Senator from Connecticut yesterday regarded it—that the third section nullifies the first and second sections. My understanding of the provisions of the bill is simply that the first and second sections are intended to apply to those political prisoners now held under arrest, and that the third section proposes to authorize the President to suspend the privilege of the writ of *habeas corpus* in cases that may hereafter occur, because the same authority that undertakes to suspend the privilege of the writ, certainly has power to legislate in regard to those cases already under arrest. As I understand the bill, it intends to legislate specifically in reference to pending cases, and then to give to the President the privilege of suspending the writ in cases that may hereafter occur. It may not be perfectly plain, but if there is any meaning in the bill, that must be the meaning, that must be the understanding of it; and I am willing to take it as it was evidently intended, and to make the first and second sections apply to the cases of those now under arrest. I think they ought to be tried.

Mr. COLLAMER. It says "who are now or may hereafter be held."

Mr. HENDERSON. In the third section?

Mr. COLLAMER. No, sir; but the very section you wish to keep, showing that it is not confined to persons now arrested.

Mr. HENDERSON. That makes no difference; the first section of the bill intends to apply to the cases of those who are now arrested, and I understand it will apply to all who may hereafter be arrested, unless the President, by proclamation, suspends the privilege of the writ of *habeas corpus*. Am I not correct? It is certainly so. I understand that the first section applies specifically to the cases now under arrest; and it may apply to cases hereafter, but it will not apply to cases hereafter, provided that by the proclamation authorized by the third section the privilege of the writ of *habeas corpus* may have been suspended. I can, certainly, give no other construction to it. If that be not the construction, then I am forced to concur in the view of the Senator from Connecticut, that, by the adoption of the first, second, and third sections, the latter nullifies the other two, and the President, by issuing the proclamation immediately after the passage of the act, may prevent the trial of these parties.

I do not know that there is anything to be accomplished by the Administration by retaining these men any more than can be accomplished by having them tried. I believe there has not been a single conviction for treason, nor indeed a trial for treason, since this rebellion commenced. If there are cases, I say, let us try some of them; not pen them up in forts, and keep them there from year to year; and, it may be said, without authority so to do where the men are from States which are loyal, and where there are courts with judges appointed by the present President and district attorneys, ready, eager, and desirous to prosecute these parties; but turn them over to the judicial authorities, and let some of them be convicted; or if they are not guilty, we have no right to hold them. If they are guilty and there is any evidence to convict them, let them be turned over to the courts and tried. If there is no evidence against them, we ought not to hold them. It may be said that those persons who have been arrested are guilty. Who says they are guilty? Having the confidence that I have in the Administration, I have every reason to believe that they are guilty; and I will assume that they are guilty; but if they are, let them be tried. It can do the country no harm to let them be tried; but if they are not guilty, it is certainly a great outrage on human liberty to have them confined.

I say, sir, that the bill ought to pass; and it will do much toward the suppression of the rebellion to adopt this course. Some bill ought to be passed requiring these parties to be tried.

Mr. CHANDLER. As I remarked a few minutes ago, what I have to say may not be deemed quite germane to this bill; and yet this bill and what I have to say are alike connected with the conduct of the war, and therefore I ask the indulgence of the Senate for a short time.

At an early day of the present session of Congress, the committee on the conduct of the war was raised by the following resolution, which was passed by both Houses:

"*Resolved by the Senate*, (the House of Representatives concurring,) That a joint committee of three members of the Senate and four members of the House of Representatives be appointed to inquire into the conduct of the war; that they have power to send for persons and papers, and to sit during the recess of either House of Congress."

In accordance with that resolution, the committee has expended much time and labor upon this investigation. Although the committee has made but one report to Congress, and that only upon the barbarities practiced upon our dead, wounded, and prisoners, yet, when the testimony is printed, it will be found that it was not for want of material, but for the reason that in the opinion of the committee the public interests would not be subserved by printing the testimony. The committee has been in constant, almost daily, communication with the Administration, and has, from time to time, submitted such information as in their opinion should be furnished to the Executive. How valuable this information may have been to the Administration is not for me or the committee to decide, but in my opinion, when the history of the war shall have been written, the country will give credit where credit is due.

The battle of Bull Run seems to have been the culminating point of the rebellion. Up to that time the North hardly seemed to appreciate the fact that we were in the midst of war, that a gigantic and wicked rebellion was shaking the very foundation-stones of our political institutions, that the rebels meant a bloody, fratricidal war. The firing upon Sumter was considered rather the action of a frenzied mob than the fixed, determined intent to break up and destroy the best Government the world had ever seen. That battle left the enemies of the country masters of the field and virtually besiegers of the capital. From that 21st day of July, 1861, the nations of the earth considered the experiment of republican institutions a failure, or at least an untried experiment. Rebellion had triumphed, and the nations believed the Republic was tottering to its fall. Our securities became valueless outside our borders, and our armies to be raised were considered *men in buckram*. Not so the brave and loyal millions of the North. They knew that the resources of the North had not been touched, that the battle of Bull Run was but an insignificant skirmish, without results to either side, and forthwith began to put forth their mighty energies. Up to this time the earnestness of this rebellion had not been appreciated by the North.

1. Upon the cause or causes of that disaster I propose to dwell very briefly. The army of the Potomac at that time was composed of two columns. The one under Patterson at Martinsburg consisted of a force of about twenty thousand effective men of all arms; the other, under McDowell, of about thirty-five thousand, and a reserve in Washington, Lieutenant General Scott in command of all, conducting both columns.

I will read General Patterson's orders:

WASHINGTON, *July* 13, 1861.

General R. PATTERSON:

I telegraphed you yesterday. If not strong enough to beat the enemy early next week, make demonstrations so as to detain him in the valley of Winchester. But if he retreats in force towards Manassas, and it be hazardous to follow him, then consider the route via Keyes's Ferry, Leesburg, &c.

WINFIELD SCOTT.

WASHINGTON, *July* 17, 1861.

General PATTERSON, *&c.*:

I have nothing official from you since Sunday last, but am glad to learn through Philadelphia papers that you have advanced. Do not let the enemy amuse and delay you with a small force in front, while he reinforces the Junction with his main body. McDowell's first day's work has driven the enemy beyond Fairfax Court-House. The Junction will probably be carried to-morrow.

WINFIELD SCOTT.

Had these orders been obeyed, Johnson could never have joined Beauregard; had Johnson not joined Beauregard, the battle of Bull Run would have been but a skirmish between forces greatly unequal, and the army of the South would have been destroyed. The failure, therefore, of Patterson to hold Johnson was the primal cause of that inglorious defeat. Why did not Patterson obey orders?

Before the battle was fought, General Scott telegraphed to General Patterson:

WASHINGTON, *July* 18, 1861.

Major General PATTERSON, *&c.*:

I have certainly been expecting you to beat the enemy. If not, to hear that you had felt him strongly, or at least had occupied him by threats and demonstrations. You have been at least his equal, and I suppose superior, in number. Has he not stolen a march and sent reinforcements toward Manassas Junction? A week is enough to win a victory.

* * * * * * * * * * *

WINFIELD SCOTT.

Patterson had turned off from Bunker Hill, where he was threatening Johnson, to Charlestown, on the 17th of July. Upon the receipt of the above telegram, he replied as follows:

CHARLESTOWN, *July* 18, 1861.

Colonel E. D. TOWNSEND, *A. A. G., &c.*:

Telegram of to-day received. The enemy has stolen no march upon me. I have kept him actively employed, and by threats and reconnoissances in force caused him to be reinforced. I have accomplished more in this respect than the general-in-chief asked, or could well be expected, in

face of an enemy far superior in numbers, with no line of communication to protect. * * * * *

R. PATTERSON.

General Scott says, in relation to this matte:

"General Patterson was never ordered by me, as he seems to allege, to attack the enemy without a probability of success; but on several occasions he wrote as if he were assured of victory. For example: June 12, he says he is 'resolved to conquer, and will risk nothing;' and July 4, expecting supplies the next day, he adds: as soon as they 'arrive I shall advance to Winchester to drive the enemy from that place.' Accordingly, he issued orders for the movement on the 8th, next called a council of war, and stood fast at Martinsburg.

"But although General Patterson was never specifically ordered to attack the enemy, he was certainly told and expected, even with inferior numbers, to hold the rebel army in his front on the alert, and to prevent it from reinforcing Manassas Junction, by threatening maneuvers and demonstrations; results often obtained in war with half numbers.

"After a time General Patterson moved upon Bunker Hill, and then fell off from Charlestown, whence he seems to have made no other demonstration that did not look like a retreat out of Virginia. From that moment Johnson was at liberty to join Beauregard with any part of the army of Winchester."

The reason assigned by Patterson and his staff was that Johnson had received large reinforcements, and greatly outnumbered him both in men and guns. General Patterson testifies:

"The immense superiority of the enemy at Winchester in men and guns, as well as in position, was well known. The information was obtained from Union men who had been there, from prisoners, from deserters, and from various sources, all agreeing, on an average of forty thousand men and over sixty guns."

Colonel Price says:

"He [General Patterson] got positive information at Bunker Hill that Johnson had forty-two thousand men at Winchester, and, I think, sixty-three pieces of artillery."

Colonel Biddle says:

"Everybody represented the force of General Johnson as from thirty to forty thousand."

That is the testimony of Patterson and his staff. The facts were that Johnson had received no reinforcements except of undisciplined, unorganized militia from the surrounding country, and held an effective force less than that of Patterson.

Nathaniel F. Palmer (prisoner at Winchester) says:

"We concluded that by the 18th (July) there was but very little over thirteen thousand men there."

Dr. Ira Tripp (prisoner at Winchester) says that there were about twelve thousand men of the enemy at Winchester on the 18th of July.

Alfred Spates (president of Chesapeake and Ohio canal) says:

"The general impression in that vicinity was, that Johnson's army was between eight and ten thousand men. I never heard any man put it higher than ten thousand men."

A. R. Stoke (general superintendent of the Chesapeake and Ohio canal) says:

"I know that it was the impression throughout the community, and in the Army, that there were not more than ten thousand men under Johnson; and there is this additional fact ascertained since, from perfectly reliable gentlemen, that there never was at any time in Winchester as many as fourteen thousand men, and of those there were perhaps four or five thousand militia, badly armed and equipped."

Colonel David B. Birney (twenty-third Pennsylvania volunteers) says:

"I thought, from information that I got from the people there in the county, that he [General Johnson] had from fifteen to twenty thousand men."

General Sanford says, in reference to the story that Johnson had been reinforced:

"They all had got this story, which was without the slightest shadow of foundation, for there had not a single man arrived at the camp since we had got full information that their whole force consisted of twenty thousand men, of whom eighteen hundred were sick with the measles. The story was, however, that they had ascertained by reliable information of this reinforcement. Where they got their information I do not know. None such reached me, and I picked up deserters and other persons to get all the information I could. And we since have learned, as a matter of certainty, that Johnson's force never did exceed twenty thousand men."

Upon this melancholy statement of facts I will neither comment nor dwell.

2. The second cause of this disaster was the failure to attack on Friday before the arrival of the enemy's reinforcements, instead of on Sunday, after they had arrived. Why was not this done? It is averred that the fault was in the quartermaster's department, in not furnishing transportation at the proper time and place.

General Heintzelman says:

"The delay at Centreville, I suppose, was principally waiting for provisions, and for information of the position of the enemy.

"The day after we left Alexandria the provision train was to start. The wagons had not yet been collected, as I understood, and the consequence was that they did not start the next day, but the day after."

General Franklin states, in relation to the delay of the army at Centreville from Thursday to Sunday:

"My impression is that it was on account of the non-arrival of the supplies for the army until some time on Saturday."

General McDowell states that he was forced to leave to those in the city the duty of forwarding provisions to him, but there was delay in doing so.

3. The delay of the whole army for three hours on Sunday morning in consequence of the delay of Keyes's brigade in Tyler's division, in getting into the assigned position. The enemy was defeated at two o'clock, and but for the timely arrival of a portion of Johnson's force, their rout would have been complete. The three hours lost in the early morning could not be regained. The men were fatigued and overworked in the heat, and the precious moment for a crushing blow passed. General McDowell says on this point:

"Tyler was to move at half past two o'clock, a. m., and Hunter was to move half an hour earlier, so that he might close up on Tyler's division. Heintzelman was to move at half past two o'clock, a. m., so as to fall in the rear of Hunter's division. Tyler was expected to get over the ground between the encampment of his advanced brigade, and where the road turned off to the right, at the blacksmith's shop, in time to offer no obstructions to the road to be used in common by all the divisions.

"I was sick during the night and morning, and did not leave my headquarters—a little over a mile, perhaps a mile and a quarter east of Centreville—until I thought all the divisions were fully in motion, so as to give myself as much rest as possible. When I had got beyond Centreville about a mile, I passed the troops lying down and sitting down on the wayside. Upon asking why they did not move forward, the reply came to me that the road was blocked up. I saw some men coming from the left of the road through a cornfield into the road. When I asked to what regiment they belonged, they said the second New York, which formed a part of Schenck's brigade, (Tyler's division.) I went forward, urging the troops to move on, until I got to the blacksmith's shop, where the road turned off to Sudley's Springs. I was making every effort, personally and by my aids, to have the road cleared, in order that Hunter's and Heintzelman's divisions might take up their march to the right, by way of Sudley's Springs, to carry out the plan of battle."

In reply to the question, "Whose division blocked up the road?" General McDowell says:

"The first division; General Tyler's division. Major—now General—Barnard, who was the chief of engineers on my staff, in his report to me, dated July 29, 1861, says, as follows:

"'You are aware of the unexpected delay. The two leading brigades of Tyler's did not clear the road for Hunter to this point, (blacksmith shop,) where the road turned to the right, until half past five.'

"That was three hours after the time fixed to start.

"Colonel Heintzelman—now General Heintzelman—in his report to me of July 31, states as follows:

"'At Centreville we found the road filled with the troops, and were detained three hours to allow the divisions of Generals Tyler and Hunter to pass. I followed them with my division, immediately in rear of the latter.'"

General Heintzelman says:

"The next morning, (Sunday,) precisely at the hour fixed, I left. The head of the column got to Centreville, and found the road obstructed with troops. General Tyler's division had not passed yet. I waited there three hours for Tyler's and Hunter's divisions to pass."

General Andrew Porter, who succeeded to the command of General Hunter's division when he was wounded, says:

"Our orders were to get under way at two or half past two in the morning. We got into the road, and were delayed a great while there. We were formed on the road in front of my camp. I had the reserve brigade in the rear. After some delay we then moved on some distance, and halted again. And we kept pottering along, pottering along in that way, instead of being fairly on the road. It was intended that we should turn their position at daylight, as we could have done very easily but for the delay."

4. The advancing of our batteries one thousand yards without adequate support, and the unfortunate mistaking of a rebel regiment for the batteries' support, was the fourth cause of that disaster. If these guns had not been captured and turned upon our own troops, the strong probabilities are that we should at least have held the field, and that no panic would have ensued.

Captain Griffin, of Griffin's battery, who had been placed in this advanced position, says:

"After I had been there about five minutes, a regiment of confederates got over a fence on my front, and some officer—I took it to be the colonel—stepped out in front of the regiment, between it and my battery, and commenced making a speech to them. I gave the command to one of my officers to fire upon them. He loaded the cannon with canister, and was just ready to fire on them when Major Barry rode up to me and said, 'Captain, don't fire there! those are your battery support.' I said, 'They are confederates; as certain as the world, they are confederates.' He replied, 'I know they are your battery support.' I sprang to my pieces, and told my officer not to fire there. He threw down the canister, and commenced firing again in the former direction. After the officer who had been talking to the regiment had got through, he faced them to the left and marched them about fifty yards to the woods, then faced them to the right and marched them about forty yards towards us, and then opened fire upon us, and that was the last of us.

"Before this occurred, I started to limber-up my pieces, so thoroughly convinced was I that they were the confederates. But as the chief of artillery told me that they were my battery support, I was afraid to fire upon them. Major Barry said, 'I know it is the battery support; it is the regiment taken there by Colonel ——.' 'Very well,' said I, and gave the order to fire in another direction with the battery; but I never delivered the fire—for we were all cut down."

Colonel Averill says:

"In going down the hill after the general break, I saw an officer galloping along in front of me. I recognized Major Barry, and cried out, 'Hullo! Barry, is that you?' He said, 'Yes.' I said, 'where is Griffin?' He said, 'I am afraid he is killed.' I said, 'that battery is lost. I am afraid we are gone up,' or some remark to that effect. Barry then said, 'I am to blame for the loss of that battery; I put Griffin there myself.'"

5. The failure to bring the reserves into action at the critical moment. The reason assigned was an insufficient staff and a lack of discipline by brigades.

The foregoing I believe to be the true and only reasons for the loss of the battle of Bull Run. I am of the opinion that the remedying of any one of the five errors would have saved the field, but it was lost, and a scene too disgraceful for description met the astonished gaze of the nation. And yet our losses were small comparatively. Two thousand five hundred men killed, wounded, and missing, in round numbers, twenty-six guns, twenty-five army wagons, twenty-five ambulances, and from six to eight thousand stand of arms will cover the whole loss of that defeat.

Were the people discouraged, depressed? Not at all. Untold thousands rushed into the shattered ranks, eager to wipe out the stain and stigma of that defeat. From the East, the West, the North, and the middle States, thousands and tens of thousands and hundreds of thousands came pouring in, until the Government said "hold, enough." The army of the Potomac, denuded in August of the three months' men, scarcely numbered fifty thousand efficient men, swelled in September to over one hundred thousand, in October to one hundred and fifty thousand, in November to one hundred and seventy-five thousand and upwards, until, on the 10th day of December, the morning rolls showed one hundred and ninety-five thousand four hundred men, and thirteen regiments not reported, chiefly intended for the Burnside expedition, but all under the command of General McClellan. During the months of October, November, and December, the weather was delightful and the roads fine. The question began to be asked in October, when will the advance take place? All had the most unbounded confidence in the army and its young general, and were anxiously waiting for a Napoleonic stroke. It came, but such a stroke! That a general movement was being prepared the whole country had known for weeks; but when the terrific blow was to be struck no one knew save the commander of the army of the Potomac. The nation believed in its young commander; the President relied upon him, and all, myself included, had the most unbounded confidence in the result of the intended movement. It came. On the 21st of October, McCall's division, twelve thousand strong, was ordered to Drainesville upon a reconnoissance. Smith's division, twelve thousand strong, was ordered to support him. McCall's reconnoissance extended four miles beyond Drainesville, and to within nine miles of Leesburg. Stone, on Sunday, was informed of McCall's and Smith's advance, and directed to make a slight demonstration upon Leesburg. How? He could do it in but one way, and that was by crossing the river and moving upon it.

According to the testimony of Colonel Lee, confirmed by Major Revere, of the twentieth Massachusetts, the following dispatch was sent from McClellan to Stone:

OCTOBER 20, 1861.

General McClellan desires me to inform you that General McCall occupied Drainesville yesterday, and is still there. Will send out heavy reconnoissances to-day in all directions from that point. The general desires that you keep a good lookout upon Leesburg, to see if this movement has the effect to drive them away. Perhaps a slight demonstration on your part would have the effect to move them.

A. V. COLLUM,
Assistant Adjutant General.

General McCall says:

"General McClellan told me, when he gave me the orders to march Saturday morning, that there were no confederate troops at Leesburg, that they had left there several days before. On my arrival at Drainesville all the inhabitants told me that the brigade at Leesburg had crossed Goose Creek, and returned to Manassas on Tuesday. That was a thing clearly understood. We did not see a man on the Leesburg road. I ascertained afterwards that Evans had sent back his heavy baggage with a guard; and that body crossing Goose Creek gave rise to the report that he had retired with his whole force. But he was there at the time I was at Drainesville, but I did not know it. Had I been ordered forward, I have not the slightest doubt that I could have defeated Evans and captured his whole command. But it certainly would have been a very delicate matter; because they could have thrown up twenty or thirty thousand men from Centreville, and cut off my retreat from Drainesville."

In another place, General McCall says:

"At six o'clock, Monday morning, I reported to him [General McClellan] that the engineers whom I had consulted reported to me that they would finish their work in two hours. I sent that, express, to General McClellan at six o'clock. I got his reply, dated eight o'clock, telling me to return as soon as the work was finished. I got his answer between nine and ten o'clock. I ordered the troops then to be ready to move, and as soon as the work was finished, I returned to my camp under orders."

Here are the orders given by General Stone on that occasion:

HEADQUARTERS, CAMP OF OBSERVATION,
POOLESVILLE, *October* 20, 1861, 10½ p. m.

[Special Orders, No. —.]

Colonel Devens will land opposite Harrison's Island with five companies of his regiment, and proceed to surprise the camp of the enemy discovered by Captain Philbrick in the direction of Leesburg. The landing and march will be effected with silence and rapidity.

Colonel Lee, twentieth Massachusetts volunteers, will, immediately after Colonel Devens's departure, occupy Harrison's Island with four companies of his regiment, and will cause the four-oared boat to be taken across the island to the point of departure of Colonel Devens.

One company will be thrown across to occupy the heights on the Virginia shore, after Colonel Devens's departure, to cover his return.

Two mountain howitzers will be taken silently up the tow-path, and carried to the opposite side of the island, under the orders of Colonel Lee.

Colonel Devens will attack the camp of the enemy at daybreak, and having routed them, will pursue them as far as he deems prudent, and will destroy the camp, if practicable, before returning.

He will make all the observations possible on the country, will, under all circumstances, keep his command well in hand, and not sacrifice them to any supposed advantage of rapid pursuit.

Having accomplished this duty, Colonel Devens will return to his present position, unless he shall see one on the Virginia side nearer the river, which he can undoubtedly hold until reinforced, and one which can be successfully held against largely superior numbers. In such case, he will hold on and report. CHARLES P. STONE,
Brigadier General.

Great care will be used by Colonel Devens to prevent any unnecessary injury of private property; and any officer or soldier straggling from the command for curiosity or plunder will be instantly shot.

CHARLES P. STONE,
Brigadier General.

HEADQUARTERS CORPS OF OBSERVATION,
EDWARDS'S FERRY, *October* 21, 1861.

COLONEL: In case of heavy firing in front of Harrison's Island, you will advance the California regiment of your brigade, or retire the regiments under Colonels Lee and Devens, now on the Virginia side of the river, at your discretion, assuming command on arrival.

Very respectfully, colonel, yours, most kindly,
CHARLES P. STONE,
Brigadier Commanding.

Colonel E. D. BAKER, *Commanding Brigade.*

HEADQUARTERS CORPS OF OBSERVATION,
EDWARDS'S FERRY, *October* 21, 11.50.

COLONEL: I am informed that the force of the enemy is about four thousand, all told. If you can push them you may do so as far as to have a strong position near Leesburg, if you can keep them before you, avoiding their batteries. If they pass Leesburg and take the Gum Springs road, you will not follow far, but seize the first good position to cover that road. Their design is to draw us on, if they are obliged to retreat, as far as Goose Creek, where they can be reinforced from Manassas. I have a strong position. Report frequently, so that when they are pushed Gorman can come in on their flank.

Yours respectfully and truly,
CHARLES P. STONE,
Brigadier General Commanding.

Colonel E. D. BAKER, *Commanding Brigade.*

Thus it is shown that Colonel Baker had reason to expect reinforcements, for the enemy were to be pushed upon their flank by General Gorman.

At two o'clock on Monday morning Colonel Devens crossed the river upon a reconnoissance with four hundred men at Ball's Bluff, opposite Harrison's Island, as directed by General Stone. At daylight Colonel Baker was ordered to cross to the support of Colonel Devens. I have read his orders. One scow and two small boats were their only means of transportation. At eight o'clock on Monday morning the fight commenced by Colonel Devens, and Colonel Baker was placed in command, as is alleged, with discretionary orders. Colonel Baker knew that Smith and McCall were at Drainesville, or within striking distance, that our troops were crossing at Edwards's Ferry, or, in other words, that forty thousand effective men were within twelve miles of him, and that at least thirty thousand were upon the Virginia side of the Potomac, and that in the nature of things he must be reinforced. He did not know that at half past ten, a. m., of Monday, or two and one half hours after Colonel Devens commenced the fight, the divisions of Smith and McCall commenced their retreat, by the express orders of General McClellan. He knew that Colonel Devens was contending with greatly superior forces, and, like a gallant soldier as he was, he hastened to his relief with all the force he could cross with his inadequate means of transportation.

Colonel Baker has been charged with imprudence and rashness; but neither the facts nor the testimony support the charge. Instead of rashly or imprudently advancing into the enemy's lines, as was alleged, he did not move ten rods from the Bluff, and the only sustaining witness to this charge was one officer, who swore that he thought Colonel Baker imprudently exposed himself to the enemy's bullets. This kind of rashness is usually pardoned after the death of the perpetrator. At two o'clock, p. m., Colonel Baker found himself in command of about eighteen hundred men upon Ball's Bluff, including Devens's men and three guns, and the fighting commenced. The alternatives were fight and conquer, surrender or be captured. That noble band of heroes and their gallant commander understood these terrible alternatives as well upon that bloody field as we do now, and nobly did they vindicate their manhood. During all those long hours, from two o'clock, p. m., until the early dusk of evening, the gallant Baker continued the unequal contest, when he fell pierced by three bullets and instantly expired. A council of war was called, (after the frightful death-struggle over his lifeless remains and for them,) and it was decided that the only chance of an escape was by cutting through the enemy and reaching Edwards's Ferry, which was at once decided upon; but while forming for the desperate encounter, the enemy rushed upon our little band of heroes in overpowering numbers, and the rout was perfect.

Colonel Devens says:

"As we were talking, Colonel Cogswell came up, and it appeared in a moment that he was the officer entitled to take the command. Colonel Cogswell said to me, 'Colonel Devens, we should, I think, make an effort to cut our way to Edwards's Ferry; that is the thing to be done.' I replied to him, as I had to Colonel Lee, that I would take any orders of his."

Colonel Lee says:

"Captain Harvey, of Colonel Baker's staff, his adjutant general, came up, and said that he believed that Colonel Cogswell was the senior officer. Colonel Cogswell was a stranger to me; I knew he was on the field; but whether he was my senior or I his, was a question I would not determine there. But, as Captain Harvey stated it confidently, I accepted it as a fact; for it was no time to dispute about rank on a field of battle like that. I said, 'Very well; what are your orders?' 'I think,' said Colonel Cogswell, 'that we better try to cut our way through the enemy to the left, and reach Edwards's Ferry;' which is from two and a half to three miles distant from where we were."

Major John Mix, third New York cavalry, says, in answer to the question:

"What number of men would have driven off the enemy at Ball's Bluff if you had gone up?

"*Answer.* I think almost any number would, because we would have attacked them on their flank and rear. I think twenty-five men would have scared them off, for being in the woods, and coming right out upon them they would have thought there was something terrific coming.

"*Question.* How many men had you over there (Edwards's Ferry) at the time you wanted to go up to Ball's Bluff?

"*Answer.* I think not over fourteen hundred men."

General Stone says, (first testimony:)

"Now, here at Edwards's Ferry is Goose Creek, (indicating on the map.) Here is an intrenchment of the enemy on the road to Leesburg, and there is another intrenchment in there, (indicating the places.) This is wooded ground along here, (above the ferry on the Virginia side.) When this fire commenced heavily on our right in the afternoon, these troops of the left would have gone up, as a matter of course, had it not been fully explained in the morning that that was an impossibility, there being two intrenchments of the enemy here armed with cannon. It was known beforehand that they were there." * * * *

"*Question.* They could not go directly up on account of these batteries?

"*Answer.* No, sir; and that was known and explained to Colonel Baker before he started." * * * *

"*Question.* What was the strength of those batteries?

"*Answer.* They were within the woods, and we could not tell what they were; they might be very weak or very strong. All I knew about them was that they were in the woods, and that they had open spaces for the guns to play, and I knew there were three guns there."

Major Mix says, in answer to the question:

"*Question.* Were there any fortifications between the two places that would have obstructed you?

"*Answer.* Yes, sir; there was an earthwork on a hill, some three and a half feet wall, which did not amount to much. If I had not met that regiment, it was my intention to gallop through that work.

"*Question.* Were there any guns in it?

"*Answer.* I was informed by General Stone that there was not. He said the guns had been moved out a day or two before. I asked him if I could go through it, and he said I might if it was not held too strongly." * * * *

"*Question.* Would it have impeded your going up there? Did he [General Stone] think it would?

"*Answer.* No, sir; I do not think it did.

"*Question.* He thought there were a thousand men with three guns in the way?

"*Answer.* I only heard that statement about the regiment and three guns about three or four weeks ago."

This testimony was taken February 14, 1862; Stone's first testimony was taken January 5, 1862.

"In a conversation with General Stone, I was regretting that we had not moved up; and he said we could not have got there for that reason.

"*Question.* Did you know at the time of any obstruction to your going up there?

"*Answer.* No, sir."

Major Dimmick testifies:

"*Question.* When did you go up to this breastwork?

"*Answer.* I went up there Wednesday morning a little before day, just at break of day. I think there were men inside; we could see figures moving, but we could not tell whether they were armed or not. The day before, during the skirmish, men were seen there throwing up earth. It was evidently very hastily constructed, nothing but a very simple earthwork running across the road, perhaps forty paces long.

"*Question.* Would you have considered that at that time any impediment to the march of infantry?

"*Answer.* Not at all; hardly more than if you should turn this table upon its side, and put some men behind it. The boys were so anxious to go that they would hardly wait for the order to go."

Colonel Tompkins testifies:

"*Question.* Were there any obstacles in the way of your going up to Ball's Bluff?

"*Answer.* None at all. No doubt we would have had to fight a little on our way up. But I think by going up that way, on that side, we would have drawn their attention towards us, and engaged them so that Colonel Baker's forces would have had an opportunity to have got a better foothold than they had. He had a horribly bad place to cross there." * * * * * * * * *

"*Question.* Did you see any batteries, or anything of that kind, that would have prevented your going up to Ball's Bluff?

"*Answer.* No, sir; I did not. We did not receive any fire from any batteries."

Philip Haynes testifies:

"*Question.* Are you acquainted with the ground on the Virginia side between Edwards's Ferry and Ball's Bluff?

"*Answer.* Certainly, I think I ought to be. I have been up and down there a great many times.

"*Question.* Is there any difficulty in the way of men passing from Edwards's Ferry to Ball's Bluff on the Virginia side?

"*Answer.* I should think not.

"*Question.* Are there any fortifications there that you know of?

"*Answer.* It was reported that there was a little embankment there, but the men would not require to go within a half mile of that to go to Ball's Bluff.

"*Question.* Were there any guns mounted there?

"*Answer.* I never heard of any." * * * *

"*Question.* There was no obstacle to infantry marching right up?

"*Answer.* None at all, except right on the bluff by the river. The land is rolling there as it is about Chain Bridge; but after you get from the river about an eighth of a mile it is perfectly accessible for infantry."

General Stone says, (second examination:)

"*Question.* They have no guns to cannonade with except west of Leesburg?

"*Answer.* None at all that are in position, nor have they had any at any time. According to the last information which I obtained, they had three field guns that moved from point to point; those field guns they move about."

How many were killed in battle, how many drowned in the relentless river, will never be correctly known; suffice it to say our little force was destroyed. Why was this little band permitted to be destroyed by a force little more than double its numbers in presence of forty thousand splendid troops? Why were McCall and Smith ordered back at the very moment that Baker was ordered to cross? If we wanted Leesburg, McCall could have taken it without the loss of a man, as his movement in mass had already caused its evacuation, and the enemy did not return in force until after McCall had retreated. If we did not wish to capture Leesburg, why did we cross at all? Of what use is "a slight demonstration" even, with-

out results? These are questions which the people will ask, and no man can satisfactorily answer. Why were not reinforcements sent from Edwards's Ferry to Colonel Baker? The distance was only three and a half miles. We had fifteen hundred men across at two o'clock on Monday, and the universal concurrent testimony of officers and men is that a reinforcement of even one thousand men —some say five hundred, and one gallant captain swears that with one hundred men he could have struck them upon the flank, and changed the result of the day. Why, I say, were not these reinforcements sent? Stone swears, as I have already shown, that there were batteries between Edwards's Ferry and Ball's Bluff which would have utterly destroyed any force he could have sent to Baker's relief, and that Baker knew it. But Stone was not sustained by a single witness; on the contrary, all swear that there were not, to their knowledge, and that they did not believe there were any, and a civilian living upon the spot, and in the habit of passing over the ground frequently, swears there were none, and again, Stone, when questioned as to the erection of forts under the range of his guns, upon his second examination, swears positively that there is not a gun now between Edwards's Ferry and Ball's Bluff, and never has been. Why, then, were not reinforcements sent from Edwards's Ferry? Let the men who executed and planned this horrible slaughter answer to God and an outraged country. General Banks swears that his orders were such from General McClellan, that upon his arrival at Edwards's Ferry, although his judgment was against crossing, he did not feel himself at liberty to decline crossing; and he remained upon the Virginia side until Thursday.

General Banks swears:

"*Question.* One question in relation to the crossing. You said that General Gorman thought it not advisable for our forces to cross. General Lander thought it was, and you felt constrained to adopt General Lander's view. Do you mean that you felt constrained in consequence of instructions or orders?

"*Answer.* I concurred with General Lander on account of my instructions. But then it was not an affair that I should have planned myself at that time.

"*Question.* You took your instructions from General McClellan?

"*Answer.* My instructions from General McClellan were to cross the river, and I did so as far as was practicable. The difficulty was that we had no transportation to make it safe."

So much for the wholesale murder at Ball's Bluff.

Five o'clock having arrived the Senate took a recess until seven, p. m.

EVENING SESSION.

The Senate reassembled at seven o'clock, p. m.

ADDITIONAL INDIAN APPROPRIATIONS.

Mr. DOOLITTLE. Mr. President——

The PRESIDENT *pro tempore*. The special order is House bill No. 362, upon which the Senator from Michigan [Mr. CHANDLER] is entitled to the floor.

Mr. DOOLITTLE. If my honorable friend will allow me one moment before he commences with his remarks, it is important to make an amendment to the Indian appropriation bill. Some amendments were put upon that bill in the Senate, which by mistake either of the printer or of some one of the clerks, were not sent to the House of Representatives, and therefore were not acted upon there; and it becomes absolutely necessary that a joint resolution or an act should be passed to supply those deficiencies. I ask leave to introduce a joint resolution.

There being no objection, leave was granted to introduce a joint resolution (H. R. No. 101) making further appropriations for the current and contingent expenses of the Indian department, and for fulfilling treaty stipulations with various Indian tribes for the year ending June 30, 1863; and it was read twice, and considered as in Committee of the Whole.

It recites that certain appropriations agreed to by the Senate of the United States, as amendments to the act making appropriations for the current and contingent expenses of the Indian department, and for fulfilling treaty stipulations with various Indian tribes for the year ending June 30, 1863, approved July 5, 1862, were accidentally omitted to be sent to the House of Representatives for concurrence; and as these appropriations are necessary to be made, the resolution provides for them as follows: For the Indians in Nevada Territory: for the pay of an interpreter, $500; for presents of goods and clothing to the Indians, to be expended by the superintendent of Indian affairs, $5,000; for incidental expenses in Nevada Territory, (including office and traveling expenses,) $2,000. For Indian service in Colorado Territory: for pay of interpreter, $500; for presents of goods and clothing to Indians, $5,000; for incidental expenses, $2,000. For Indian service in Utah Territory: for interpreter of the Shoshones, $1,000; for interpreter for the Utahs, $1,000; for interpreter for the Ruby Valley agency, $500; for interpreter for Fort Bridger agency, $500; for interpreter for the Spanish Fork agency, $500; for presents of goods and clothing to Indians, $5,000; for incidental expenses in Utah Territory, including office and traveling expenses, $2,000.

The joint resolution was reported to the Senate, ordered to be engrossed for a third reading, read the third time, and passed.

BILL INTRODUCED.

Mr. HENDERSON asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 400) concerning the closing of the office of surveyor general at St. Louis, and for other purposes; which was read twice by its title, and referred to the Committee on Public lands.

HOUR OF MEETING.

On motion of Mr. FESSENDEN, it was

Ordered, That to-morrow the Senate meet at nine o'clock, a. m.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. MORRIS, Chief Clerk, announced that the House of Representatives had agreed to the amendments of the Senate to the following joint resolutions of the House:

A joint resolution (No. 107) further to provide for the compensation of members of Congress;

A joint resolution (No. 109) to amend section seventy-seven of an act to provide internal revenue to support the Government and pay interest on the public debt; and

A joint resolution (No. 110) explanatory of an act to suppress insurrections, to punish treason and rebellion, to seize and confiscate the property of rebels, and for other purposes.

ENROLLED BILLS SIGNED.

The message further announced that the Speaker of the House of Representatives had signed the following enrolled bill and joint resolution; which thereupon received the signature of the President *pro tempore:*

A bill (H. R. No. 577) to provide for the more prompt settlement of the accounts of disbursing officers; and

A joint resolution (H. R. No. 81) authorizing the Secretary of the Interior to expend from a fund in the United States Treasury, belonging to the Winnebago Indians, the sum of $50,000, or so much thereof as may be necessary, for the benefit of said Indians.

SALE OF KANSAS INDIAN LANDS.

Mr. POMEROY. With the consent of the Senator from Michigan, I desire to ask for the consideration of a resolution which was reported this morning by my colleague, from the Committee on Indian Affairs, with reference to the sales of Indian lands in Kansas. I am sure it will take no time, and it is very necessary.

Mr. LANE, of Kansas. I hope it will be done.

Mr. DOOLITTLE. As chairman of the Committee on Indian Affairs, I will say that it is necessary to pass the resolution. The sale of these lands is by sealed bids, and it is supposed there will be some great speculation unless the sale is suspended.

The joint resolution (S. No. 100) suspending the sale by sealed bids of the lands of the Kansas and Sac and Fox tribes of Indians, was read the second time by unanimous consent and considered as in Committee of the Whole. It proposes to postpone the sales of the lands of the Kansas and Sac and Fox tribes of Indians in the State of Kansas by sealed bids until the 4th day of March, 1863, any treaty or law to the contrary notwithstanding.

The joint resolution was reported to the Senate, ordered to be engrossed for a third reading, read the third time, and passed.

PENSION AGENTS.

Mr. FOSTER. I desire the Senate to take up for consideration joint resolution No. 58, which was reported from the Committee on Pensions a few days since. It makes a little alteration as regards the compensation of pension agents, affecting a few pension agents in the large cities, but the Commissioner of Pensions thinks it is necessary that it should be passed, and the committee concur in that opinion.

The joint resolution (S. No. 58) to regulate the compensation of agents for paying pensions, was considered as in Committee of the Whole. It provides that agents for paying pensions shall receive two per cent. on all disbursements made by them to pensioners of the United States; but the aggregate compensation to any one agent, paying both Army and Navy pensions, is not to exceed $2,000 per annum.

The joint resolution was reported to the Senate, ordered to be engrossed for a third reading, read the third time, and passed.

SALE OF TOWN SITES.

On motion of Mr. HARLAN, the bill (S. No. 355) for increasing the revenue by reservation and sale of town sites on public lands, was considered as in Committee of the Whole.

It provides that it shall be the duty of the President of the United States, in virtue of the power possessed by the Executive, to reserve from the public lands, whether surveyed or unsurveyed, town sites on the shores of harbors, at the junction of rivers, important portages, or any natural or prospective centers of population. The second section provides that when any such reservation, in whole or in part, shall have been released, the Secretary of the Interior is to have it surveyed into urban or suburban lots of suitable size, sold by such officer as the President may designate, after being first offered at public sale, and thereafter laid open to sale at such minimum price and according to such regulations as the Secretary of the Interior may prescribe; but such sales are to be made without additional cost to the Government.

The Committee on Public Lands had reported two amendments to the bill. The first was in line four of the first section, to strike out the words "in virtue of the power possessed by the Executive." The next amendment was to substitute for the second section the following:

SEC. 2. *And be it further enacted*, That when, in the opinion of the President, the public interests require it, it shall be the duty of the Secretary of the Interior to cause any of the said reservations, or part thereof, to be surveyed into urban or suburban lots of suitable size, and to fix by appraisement of disinterested persons their cash value, and to offer the same for sale at public outcry to the highest bidder, and thence afterwards to be held subject to sale at private entry, under such regulations as the Secretary of the Interior may prescribe: *Provided*, That no lot shall be disposed of at public sale or private entry for less than the appraised value thereof: *And provided further*, That said sales shall be conducted by the register and receiver of the land office in the district in which such reservation may be situated, in accordance, as near as may be, with the laws and rules and instructions of the Department regulating the sales of public lands.

The amendments were agreed to.

The bill was reported to the Senate as amended, and the amendments were concurred in. The bill was ordered to be engrossed for a third reading, read the third time, and passed.

DISCHARGE OF STATE PRISONERS.

The Senate resumed the consideration of the bill (H. R. No. 362) to provide for the discharge of State prisoners and others, and to authorize the judges of the United States courts to take bail or recognizances to secure the trial of the same.

Mr. CHANDLER. After the melancholy disaster at Ball's Bluff, our army of the Potomac, of over one hundred and fifty thousand men, retired at all points except directly in front of Washington, where it remained stationary for many months. The last of October the Navy Department applied to the military for four thousand men to hold Matthias Point after the enemy should have been shelled from it by the gunboats, and thus keep open the navigation of the Potomac, a military as well as national necessity.

Assistant Secretary Fox testifies:

"*Question.* Do you know of an attempt having been made, or a project formed, to take possession of Matthias Point at any time? If so, will you state the particulars?

"*Answer.* The Navy Department, as early as in June last, (1861,) proposed to the War Department to take possession of that point, and an examination was made by the War Department with reference to the project, by Captain Woodbury, of the engineers, and Captain Palmer, of the topo-

graphical engineers. The War Department, or General Scott, declined to send a force down there as early as June. Captain Ward sent up a very urgent request, just before he was killed, asking for only three hundred men to occupy that point, and General Scott consented to allow three hundred men to go; but General Mansfield thought that there ought to be as many as five thousand, and it fell through probably on that account, though General Mansfield was very earnest, and very positive, in his opinion that that point ought to be occupied in force.

"Mr. Welles went over to see General Scott about it, I think in June, and pressed it upon him personally as well as by letter. The first official letter that I find upon our books was written on the 1st day of July. It is as follows, addressed to Mr. Cameron:

"'NAVY DEPARTMENT, *July* 1, 1861.

"'SIR: I have the honor to inform you that this Department is entirely satisfied, from reports of its officers, that the Potomac river will soon be closed by the batteries of the rebels, unless one or more important points are occupied by the Federal troops.'

"Then Bull Run intervened between that and the next one which I find upon our books, which is dated August 20, 1861, to Mr. Cameron from Mr. Welles. It is as follows:

"'NAVY DEPARTMENT, *August* 20, 1861.

"'SIR: The importance of keeping open the navigation of the Potomac is so obvious that no argument is necessary upon the subject. So far as is possible this Department has, and will continue to discharge its duty in this matter by an armed flotilla. But there are one or two points where shore batteries can be made to intercept communication, and in view of that danger and recent investigations, I would most urgently request that immediate measures be taken by the War Department to fortify and intrench Matthias Point. A single regiment, aided by two of our steamers, could heretofore, and perhaps may still, take possession and secure it. But if more than a regiment is required, it appears to me indispensable that the requisite number should be furnished.

"'Attention, on repeated occasions, has been called to the particular necessity of holding that place as absolutely essential to the unrestricted navigation of the Potomac. The Navy will at any moment contribute its efforts towards seizing and holding that place, and I apprehend there need not be any delay. Cannot a sufficient force be sent down forthwith to seize, and in connection with such armed vessels as we can order, hold Matthias Point, and thus keep open the navigation of the Potomac?

"'I understand that troops will be sent to the lower Maryland counties to keep the peace and prevent batteries from being erected on the left bank. This is a timely and wise precaution. But it is equally necessary that we should take possession of Matthias Point. Should the insurgents get possession of that point, it would require a very large force to dispossess them.'

"On the 31st of August I find the following letter from the Navy Department to the War Department:

"'AUGUST 31, 1861.

"'SIR: I have the honor to inclose copies of dispatches received from Captain Craven, in command of the Potomac flotilla, and beg leave to call your attention to his suggestions of the necessity of prompt and efficient measures for keeping open the navigation of the Potomac. I have heretofore, on repeated occasions, called the attention of the War Department to this subject, which is of immense importance to this city, and the operations of the Army as well as of the Navy. It appears to me there should be no delay in taking the precautionary steps recommended by Captain Craven; and this Department, with the naval force in the Potomac, is ready at all times to aid in this measure.'

"Nothing, however, was done at that time.

"In October there were in the Potomac the Pawnee, the Pocahontas, and the Seminole, three very heavily armed vessels, and the R. B. Forbes, with two very formidable guns on board. These vessels were detailed to go with Du Pont's expedition to Port Royal. But before they went the Navy Department proposed to the President and to the War Department that the rebel batteries that had then begun to appear upon the river should be destroyed, and their places occupied by the Army. It was urged that these were the heaviest ships that we had in the river, and that we must withdraw them for this southern expedition, as ships were too scarce to allow them to remain here in the river doing nothing. And an effort was made to get the Army to coöperate with us, or, rather, to permit us to coöperate with the Army.

"They agreed to send down four thousand men to take possession just above Matthias Point. This was some time in October. I do not find any written communication upon our books in regard to it; but I can get the exact date, if necessary. The orders were sent down from the Navy Department to Captain Craven and Captain Dahlgren, and scows and steamers were provided for carrying the troops and landing them at Matthias Point. Captain Craven collected at Matthias Point all the boats of his flotilla, and we notified him that four thousand men would arrive there in the middle of the night. Those troops did not go. The first intimation we had of that was a tug-boat sent up the next day, from Captain Craven, with word that the troops had not come.

"I went over to see the President about it, and we went over to see General McClellan. He told us that the engineers were of the opinion that troops could not be landed in such large numbers, and they had concluded not to send them. I told him that the business of landing the troops belonged to the Navy, and that we had the means provided for it, and that nobody had inquired of us whether we could land them or not. It was then concluded that they should go the next night, and we sent down word to Captain Craven to be prepared the next night, but the next night they did not go. They never went; and we never knew what the reason was.

"We then sent our boats out of the river. We told the President, who was exceedingly earnest upon the subject, that the election had been made that the river should be closed; that we had done our part, and that we had nothing further to do; that we had the vessels and could destroy the batteries, but the vessels would be of no use here if that was not done, and it would be of no use to destroy the batteries if they were not occupied by our troops. We told him that these vessels, as he very well knew, must go down to Port Royal. They were of very light draught, very powerful, and their machinery was covered. They accordingly went out, one after another." * * * *

"I have heard a great many reasons assigned for this course, as I have gathered them from conversations. General McClellan thought it would bring on a general engagement to attempt to move there. The engineers were under the impression that the proper way to carry those batteries was to march down the river. The President assisted the Navy Department as far as he could in urging this plan upon General McClellan. And he manifested more feeling and more disappointment than I have seen him before exhibit, when he found the men had not gone.

"*Question.* General McClellan objected to furnishing the men?

"*Answer.* General Scott commenced.

"*Question.* But afterwards General McClellan objected?

"*Answer.* Yes, sir; it was continued by him."

Mr. WRIGHT. I desire to ask the Senator from Michigan a question.

Mr. CHANDLER. Certainly.

Mr. WRIGHT. The Senator seems to be presenting testimony taken before the committee on the conduct of the war.

Mr. CHANDLER. Yes, sir.

Mr. WRIGHT. I desire to know whether it is presented at the instance of the committee?

Mr. CHANDLER. Yes, sir; by a vote of the committee.

Mr. WRIGHT. I am a member of the committee, and I was not aware of it.

Mr. CHANDLER. After consultation, it was agreed by General McClellan that four regiments should be furnished, and the time was fixed for their embarkation. At the appointed time the vessels were ready, steam up and transports alongside, and thus they remained all night, but no troops appeared. Upon inquiry as to the cause, the general-in-chief informed the Secretary of the Navy that he did not send the troops because he feared the arrangements for landing were not perfected. The Secretary of the Navy informed him that when the Navy and Army coöperated, it was the duty of the Navy to provide boats for landing, and that ample provision had been made; whereupon, that night was fixed upon as the time to embark the troops. Again the boats were in readiness, steam up, and the gallant sailors and marines eager for the fray, but again were they disappointed. The troops did not arrive; whereupon the Navy Department informed the War Department that it considered the refusal to furnish troops a virtual abandonment of the Potomac to the rebel blockade, that the vessels were required for the southern expedition, and would at once be sent to their destination; and thus for months was the nation disgraced by the blockade of its capital, and many millions of dollars wasted in expensive transportation, which a small force judiciously posted might have prevented. Mr. Fox, in answer to the question whether this small force would be safe on Matthias Point, replied, "certainly; our vessels can shell the Point upon both sides for a long distance." Why was this disgrace so long submitted to? No man knows or attempts to explain. Month after month one of the most splendid armies the world had ever seen, of two hundred thousand men, permitted itself and the national capital to be besieged by a force *never* exceeding one half its own number.

During the month of December, the nation became impatient. The time had arrived and passed when we were promised a forward movement. The roads were good, the weather splendid, the army in high condition, and eager for the fray. How long the roads and weather would permit the movement, no man could predict; still there was no movement. The generals, with great unanimity, declared that the army had reached its maximum of proficiency as volunteers, but still there was no movement. Under these circumstances, the committee on the conduct of the war asked an interview with the President and Cabinet, and urged that the winter should not be permitted to pass without action, as it would lead to an incalculable loss of life and treasure by forcing our brave troops into a summer campaign, in a hot and to them inhospitable climate. The President and Cabinet were united in the desire that an immediate advance should be made, but it was not made, although we were assured by General McClellan that it would be very soon, that he had no intention of going into winter quarters, and he did not. While the enemy erected comfortable huts at Centreville and Manassas for their winter quarters, our brave and eager troops spent the most uncomfortable winter ever known in this climate, under canvas, as thousands and tens of thousands of invalid soldiers throughout the length and breadth of the land will attest. Why did not the army move in all December, or why did it not go into winter quarters? No man knows, nor is any reason assigned.

On the 1st day of January, 1862, and for months previous to that date, the armies of the Republic were occupying a purely defensive position upon the whole line from Missouri to the Atlantic, until on or about the 27th of January the President and Secretary of War issued the order *forward*. Then the brave Foote took the initiative, soliciting two thousand men from Halleck to hold Fort Henry after he had captured it with his gunboats. They were promptly furnished, and Henry fell; then Donelson, with its fifteen thousand prisoners; then Newbern, and the country was electrified. Credit was given where credit was due. Do-nothing strategy gave way to an "immediate advance upon the enemy's works," and the days of spades and pickaxes seemed to be ended. On the 22d of February a forward movement upon our whole line was ordered, but did not take place. The army of the Potomac was not ready; but on the 10th of March it moved, against the protest of the commanding general and eight out of twelve of the commanders of divisions, but the President was inexorable, and the movement must be made. It proceeded to Centreville, and there found deserted huts, wooden artillery, and intrenchments which could and can be successfully charged by cavalry. It proceeded to Manassas, and found no fortifications worthy of the name, a deserted, abandoned camp, and dead horses for trophies. The enemy, less than forty thousand men, had leisurely escaped, carrying away all his artillery, baggage, arms, and stores. Our army of the Potomac, on that 10th day of March, showed by its muster-roll a force of two hundred and thirty thousand men. Comment is needless. The grand army of the Potomac proceeded towards Gordonsville, found no enemy, repaired the railroad, and then marched back again.

Why this grand army of the Potomac did not march upon Richmond has never been satisfactorily explained, and probably never will be. One reason assigned was lack of transportation; but there were two railroads, one by way of Acquia Creek and Fredericksburg, the other via Manassas and Gordonsville, which could have been repaired at the rate of ten miles per day, and our army was ample to guard it. Had this overwhelming force proceeded directly to Richmond by these lines, it would have spent the 1st day of May in Richmond, and ere this the rebellion would have been ended. This grand army, *ably* commanded, was superior to any army the world has seen for five hundred years. Napoleon I never fought one hundred and thirty thousand men upon one battle-field. Yet this noble army was divided and virtually sacrificed by some one. Who is the culprit?

Before the advance upon Manassas, General McClellan changed his plans, and demanded to be permitted to leave the enemy intrenched at Centreville and Manassas, to leave the Potomac blockaded, and to take his army to Annapolis by land, and there embark them for the rear of the enemy to surprise him. In the council of war called upon this proposition, the commanding general and eight out of twelve of the commanders of divisions (and here permit me to say that I am informed that seven of the eight generals were appointed upon the recommendation of General McClellan) voted that it was not safe to advance upon the wooden guns of Centreville, and to adopt the new plan of campaign. The President and the Secretary of War overruled this pusillanimous decision, and compelled McClellan to "move immediately upon the enemy's works." He marched, and the trophies of that memorable campaign are known to the Senate and the country.

At Fairfax, General McClellan changed his plan and decided not to advance upon the rebels with his whole force, but to return to Alexandria, divide his army, and embark for Fortress Monroe and Yorktown. It was decided that forty-five thousand men should be left for the defense of the capital, and he was permitted to embark. After much delay (unavoidable in the movement of so vast a force, with its enormous material) the gen-

eral-in-chief himself embarked. Soon after he sailed it came to the knowledge of the committee on the conduct of the war that the capital, with its vast accumulation of material of war, had been left by General McClellan virtually without defense, and the enemy's whole force, large or small, was untouched in front. The committee immediately summoned General Wardsworth, the commanding general and military governor of the District, who, upon oath, made part of his testimony the following statement to the Secretary of War:

HEADQUARTERS MILITARY DISTRICT OF WASHINGTON,
WASHINGTON, D. C., *April* 2, 1862.

SIR: I have the honor to submit the following condensed statement of the forces under my command for the defenses of Washington:

Infantry	15,335
Artillery	4,294
Cavalry (six companies not mounted)	848
	20,477
Deduct sick and in arrest and confinement	1,455
Total present for duty	19,022

I have no mounted light artillery under my command. Several companies of the reserve artillery of the Potomac are still here, but not under my command or fit for service.

Of this force I am ordered by General McClellan to detail two regiments (good ones) to join Richardson's division (Sumner's corps) as it passes through Alexandria; one regiment to replace the thirty-seventh New York volunteers in Heintzelman's old division, and one regiment to relieve a regiment of Hooker's division at Budd's Ferry; total, four regiments.

I am further ordered this morning by telegraph to send four thousand men to relieve General Sumner at Manassas and Warrenton, that he may embark forthwith.

In regard to the character and efficiency of the troops under my command, I have to state that nearly all the force is new and imperfectly disciplined; that several of the regiments are in a very disorganized condition from various causes which it is not necessary to state here. Several regiments having been relieved from brigades which have gone into the field, in consequence of their unfitness for service, the best regiments remaining have been selected to take their place.

Two heavy artillery regiments and one infantry regiment, which had been drilled for some months in artillery service, have been withdrawn from the forts on the south side of the Potomac, and I have only been able to fill their place with very new infantry regiments, entirely unacquainted with the duties of that arm, and of little or no value in their present position.

I am not informed as to the position which Major General Banks is directed to take, but at this time he is, as I understand, on the other side of the Bull Run mountains, leaving my command to cover the front from Manassas Gap (about twenty miles beyond Manassas) to Acquia Creek.

I deem it my duty to state, that looking at the numerical strength and character of the force under my command, it is in my judgment entirely inadequate to and unfit for the important duty to which it is assigned. I regard it very improbable that the enemy will assail us at this point; but this belief is based upon the hope that they may be promptly engaged elsewhere, and may not learn the number and character of the force left here.

I have the honor to be your obedient servant,

JAMES S. WADSWORTH,
Brigadier General and Military Governor.

HON. SECRETARY OF WAR.

Well, sir, I will here state that no man has a higher regard for General Wadsworth than myself. I know him well, and esteem him highly; but I must be permitted to say that his soldierly simplicity exceeds belief. His only hope of impunity from attack is that the enemy will not know his force, and will speedily be engaged elsewhere. By whom and where? Not certainly by the army under McClellan, for he had already learned that McClellan never attacked. By whom and where? I again ask. General Wadsworth must answer. One hundred and twenty thousand men were landed at Fortress Monroe, and sat down before Yorktown under General McClellan, while the enemy at that time did not reach ten thousand men. Instantly General McClellan began to telegraph for reinforcements, and continued to telegraph up to the day he was attacked by the rebels. The country has been deceived as to McClellan's force; has been led to believe it was inadequate. John Tucker, Assistant Secretary of War, procured transportation and superintended the shipment of all the troops and reinforcements. He testifies as follows:

"*Question.* What is your position under the Government?

"*Answer.* I am Assistant Secretary of War.

"*Question.* Do you know anything about the transportation of troops to Yorktown and the peninsula?

"*Answer.* I do. I attended to the embarkation of those troops.

"*Question.* Of the whole of them?

"*Answer.* Yes, sir.

"*Question.* Can you state what number of troops were first embarked for that place?

"*Answer.* Prior to the 5th of April, as I know from the statements made to me by the quartermasters who were attending to the details, there were one hundred and twenty-one thousand five hundred men.

"*Question.* That was before General Franklin's division was ordered there?

"*Answer.* Yes, sir. Shortly after that Franklin's division was shipped; it numbered twelve thousand men. About the 1st of June McCall's division was sent down there; it consisted of ten thousand men. And about the same time, from Baltimore and Fort Monroe there were sent eleven thousand men; and the last of June a part of Shields's division were shipped. I did not superintend that, but I am informed there were about five thousand of them.

"*Question.* You superintended the shipment of all the troops but those from General Shields's division?

"*Answer.* Yes, sir.

"*Question.* Does that comprise all that has been sent to General McClellan since he landed there?

"*Answer.* That is all that I know of.

"*Question.* That includes the number sent by Generals Wool and Dix?

"*Answer.* Yes, sir. That makes one hundred and fifty thousand men in all.

"*Question.* Do you know of any other forces at the disposal of the Government that could have been spared for his assistance?

"*Answer.* I do not.

"*Question.* Were there reasons why General McDowell's forces could not be sent?

"*Answer.* Yes, sir. The President deemed them essential for the protection of Washington.

"*Question.* And that force was none too strong for the defense of this place?

"*Answer.* It was so regarded.

"*Question.* Have you any personal knowledge of the state of the roads and the condition of the country on the peninsula when General McClellan first took his army there?

"*Answer.* Early in April I visited the headquarters of General McClellan, and found the roads totally impassable for the transportation of artillery and almost so for supplies. On my arrival at General McClellan's headquarters, I was informed that he was sending his cavalry back to the river, because it was impossible for him to transport forage to sustain them. As an evidence of the condition of the roads from Ship Point to his headquarters, I was myself eight hours going seven miles on horseback."

This testimony is so important that I have deemed it absolutely requisite that the country should have it. The country has been deceived. It has been led to believe that the Secretary of War or somebody else has interfered with General McClellan's plans, when he had an army that could have crushed any other army on the face of the earth. One hundred and fifty-eight thousand of the best troops that ever stood on God's footstool were sent down to the peninsula and placed under command of General McClellan; and yet the whole treasonable press of the country has been howling after the Secretary of War because of his alleged refusal to send reinforcements to General McClellan. As I said the other day, he has sent every man, every saber, every bayonet, every horse, that could be spared from any source whatever to increase that grand army under General McClellan in front of Richmond. Why did he not enter Richmond? We shall see. General McDowell's force was not sent down because it was deemed necessary to protect the capital and its vast accumulation of military stores. Although the President and Secretary of War would have been justified in holding the whole of that force, General Franklin's division was taken from it and shipped to the peninsula at General McClellan's most urgent solicitation, and it was his urgent cry for reinforcements that brought Shields down to unite with McDowell, and thus united, those two columns were to march upon Richmond and still further reinforce and aid General McClellan. As to the manner in which General McClellan has been treated by the War Department, I will present the testimony of the Quartermaster General. General M. C. Meigs testifies as follows, among other things:

"*Question.* Will you give, if you have no objection, an approximate estimate of the number of troops sent to General McClellan before the late battles near Richmond?

"*Answer.* In doing so, I shall have also to give the grounds for my opinion. I was called upon to provide transportation for about one hundred and ten thousand men, with their artillery, horses, baggage, provisions, &c. I am informed by Mr. Tucker, Assistant Secretary of War, who negotiated the most of the charters of vessels at the first starting, that he made up an estimate just after they sailed, by which it appeared that about one hundred and twenty-three thousand men, I think; two hundred and seventeen thousand horses; eighteen hundred wagons; and forty-four batteries of artillery, had been shipped for the peninsula. I do not understand that Franklin's division was included in that enumeration. Since then, Franklin's division, which must have been ten or twelve thousand strong, and McCall's division, nearly eleven thousand strong, have been sent down there. Certain troops have been obtained from Fortress Monroe and Norfolk, being drilled troops, and replaced by newer ones from here, Baltimore, and elsewhere. The number of those I could hardly guess at. I should suppose they were about eight or ten thousand men; and about eleven thousand men since these late battles have been sent from Alexandria; they were a part of Shields's division, and some regiments that were taken from here. I have estimated roughly that that would make a total of about one hundred and sixty thousand men, from first to last, transported to the peninsula. We have sent more wagons since—a considerable number; and General Van Vliet, who was here the other day, and was chief quartermaster of the peninsula, told me that there were about three thousand wagons now in camp at Harrison's Point. We have sent horses down, from time to time, to replace those that died or were broken down and killed.

"*Question.* Have you had the means of knowing whether the Government has had it in its power to send more reinforcements to General McClellan than it has since his landing on the peninsula?

"*Answer.* I do not think the Government could have safely sent, from any troops within its reach here, any considerable reinforcements to General McClellan beyond what it has already sent. A few hundred men, more or less, would amount to nothing. The only way, it appears to me, in which the Government could have done so, was to have called for more troops, raised them, organized them, drilled them, and made them fit to go there; for raw troops are of no use." * * * * * * * *

"*Question.* Will you state to the committee if, in your estimation, everything required by General McClellan of the Government has been promptly sent to him?

"*Answer.* I think so. I know the Government has desired to do it. In my own department, I have endeavored to supply everything called for; and I have no doubt that has been done in all the other departments."

I present this testimony now partly because we have not yet had an answer to the resolution of the Senate asking for information as to the number of men shipped to the peninsula. It is not for me, sir, to state the strength of McClellan's army at this time; but I know it is one hundred and fifty-eight thousand men, less the number lost by sickness and casualties. Does any man doubt that this army, ably handled, was sufficiently strong to have captured Richmond and crushed the rebel army? I think not, if promptly led against the enemy; but instead of that, it sat down in malarious swamps and awaited the drafting, arming, drilling, and making soldiers of an army to fight it, and in the mean time our own army was rapidly wasting away. Unwholesome water, inadequate food, over-work, and sleeping in marshes, were rapidly filling the hospitals, and overloading the return boats with the sick. Sir, we have lost more men by the spade than the bullet, five to one, since the army started from Yorktown under McClellan. Had the soldiers been relieved from digging and menial labor by the substitution of negro laborers, the army of the Potomac would to-day, in my estimation, contain thirty thousand more brave and efficient soldiers than it does. Had it been relieved from guarding the property of rebels in arms, many valuable lives would have been saved. Yorktown was evacuated after a sacrifice of more men by sickness than the enemy had in their works when our army landed at Fortress Monroe. The battle of Williamsburg was fought by a small fraction of our army, and the enemy routed. During the battle, General McClellan wrote the following dispatch, miles from the field of battle:

(Received at War Department, at 12.22 p. m., May 6.)

BIVOUAC IN FRONT OF WILLIAMSBURG,
May 5, 10 p. m.

HON. EDWIN M. STANTON, *Secretary of War:*

After arranging for the movements up the York river, I was urgently sent for here. I find Joe Johnson in front of me in strong force, probably greater a good deal than my own. Hancock has taken two redoubts and repulsed Early's brigade by a real charge with the bayonet, taking one colonel and a hundred and fifty prisoners, killing at least two colonels and many privates. His conduct was brilliant in the extreme. I do not know our exact loss, but fear Hooker has lost considerably on our left. I learn from prisoners that they intend disputing every step to Richmond. I shall run the risk of at least holding them in check here, while I resume the original plan.

My entire force is undoubtedly considerably inferior to that of the rebels, who will fight well; but I will do all I can with the force at my disposal.

G. B. McCLELLAN,
Major General Commanding.

He would try to "hold them in check!" He could not hold them. He could not stop his eager troops from chasing them. After a small fraction of his army had whipped their entire force and had been chasing them for hours, he penned that dispatch and sent it to the Secretary of War, and, if I remember aright, it was read in one of the two Houses of Congress. As you may suppose from that dispatch, there was no great eagerness in following up that victory. Three Michigan regiments were not only decimated, they were divided in twain, in that bloody battle at Williamsburg. They fought there all day without reinforcements. One Michigan regiment went into the trenches and left sixty-three dead rebels, killed by the bayonet, weltering in their blood. But who has ever heard, by any official communication from the head of the

army, that a Michigan regiment was in the fight at Williamsburg? I do not blame him for not giving credit where credit is due, for I do not believe he knew anything more of that fight than you or I.

When that battle was fought and won, all the enemy's works were cleared away, and we had an open road to Richmond. There was not a single fortification between Richmond and Williamsburg. All we had to do was to get through those infernal swamps, march up, and take possession of Richmond. What did we do? We found the worst swamp there was between Richmond and Williamsburg, and sat right down in the center of it and went to digging. We sacrificed thousands and tens of thousands of the bravest troops that ever stood on the face of God's earth, digging in front of no intrenchments, and before a whipped army of the enemy. We waited for them to recruit; we waited for them to get another army. They had a levy *en masse*. They were taking all the men and boys between the ages of fifteen and fifty-five, and magnanimously we waited weeks and weeks and weeks for them to bring these forced levies into some sort of consistency as an army. The battle of Fair Oaks was fought. There the enemy found again a little fraction of our army, very much less than half, and they brought out their entire force. I have it from the best authority that they had not a solitary regiment in or about Richmond that was fit to put in front of an enemy that they did not bring to Fair Oaks and hurl upon our decimated army. Again the indomitable bravery of our troops, (of the men, of the private soldiers, the indomitable energy of Michigan men and New Jersey men—but I will not particularize, for all the troops fought like lions,) and the fighting capacity of our army not only saved it from being utterly destroyed by an overwhelming force, but gave us a triumphant victory. The enemy went back to Richmond pell mell. I have been informed by a man who was there at the time, that two brigades of fresh troops could have chased the whole confederate army through the city of Richmond and into the James river, so utter was their rout and confusion.

And what did we do then? We found another big swamp, and we sat down in the center of it, and went to digging. We began to throw up intrenchments when there were no intrenchments in our front, no enemy that was not utterly broken. We never took advantage of the battle of Fair Oaks. Again Michigan soldiers were cut to pieces by hundreds. Go into the Judiciary square hospital in this city, and you will find more than half the occupants are Michigan men who were shot at Fair Oaks and Williamsburg, men who stood until a regiment of a thousand men was reduced to one hundred and five, and even then did not run. Sir, these men have been sacrificed, uselessly sacrificed. They have been put to hard digging, and hard fare, and hard sleeping, and if there was any hard fighting to do they have been put to that; and, besides all this, at night they have had to guard the property of rebels in arms. They have been so sacrificed that two or three of the Michigan regiments to-day cannot bring into the field two hundred and fifty men each out of a thousand with which they started.

Fair Oaks was lost; that is to say we won a brilliant victory, but it did us no good; we did not take advantage of it. Of course it would have been very unfair to take advantage of a routed army; [laughter;] it would not have been according to our "strategy." We magnanimously stopped, and commenced digging. There was no army in our front; there were no intrenchments in our front; but we did not know what else to do, and so we began to dig and ditch, and we kept digging and ditching until the rebels had impressed and drilled and armed and made soldiers of their entire population. But that was not enough; they sent Jackson up on his raid to Winchester, and we waited for him to come back with his twenty or thirty thousand men. We heard that Corinth was being evacuated, and of course it would have been very unfair to commence an attack until they brought their troops from Corinth, and so we waited for the army at Corinth to get to Richmond. After the rebels had got all the troops they ever hoped to raise from any source, we did not attack them, but they attacked us, as we had reason to suppose they would. They attacked our right wing, and as I am informed upon what I must deem reliable authority, they hurled the majority of their entire force upon our right wing of thirty thousand men, and during the whole of that Thursday our right wing of thirty thousand men held their ground, and repulsed that vast horde of the enemy over and over again, and held their ground at night. Of course you will say a reinforcement of twenty or thirty thousand men was sent to these brave troops that they might not only hold their ground the next day, but send this dastardly army into Richmond a second time, as at Fair Oaks. No, sir, nothing of the sort was done.

At night, instead of sending them reinforcements, they were ordered to retreat. That was "strategy." The moment they commenced their retreat, as is said in the dispatches, the enemy fought like demons. Of course they would. Who ever heard of a retreating army that was not pursued by the victors like demons, except in the case of rebel retreats? No other nation but ours was ever guilty of stopping immediately after a victory. Other armies fight like demons after a victory, and annihilate the enemy, but we do not. Our left wing and center remained intact. A feint was made upon the left and center, and I have here, not the sworn testimony, but the statement of one of the bravest men in the whole army of the Potomac—I will not give his name, but a more highly honorable man lives not—that when his regiment was ordered under arms, he had no doubt that he was going to march into Richmond. He believed the whole force of the enemy had attacked our right wing; he believed there was nothing but a screen of pickets in front; and he thought that now our great triumph was to come off. His men sprang into line with avidity, prepared to rush into Richmond and take it at the point of the bayonet. He never discovered his error until he saw a million and a half dollars' worth of property burned in front of his regiment, and then he began to think that an advance upon Richmond was not intended. And it was not. We had been at work there and had lost ten thousand men in digging intrenchments; we had spent months in bringing up siege guns, and we abandoned those intrenchments without firing one gun. Our army was ordered to advance on the gunboats instead of on Richmond. This colonel told me that his regiment fought three days and whipped the enemy each day, and retreated each night. The left wing and center were untouched until they were ordered to retreat. No portion of our vast force had been fought except the right wing under Porter, and they whipped the enemy the first day.

This is called strategy! Again, sir, I ask why was this great army of the Potomac of two hundred and thirty thousand men divided? Human ingenuity could not have devised any other way to defeat that army; divine wisdom could scarcely have devised any other way to defeat it than that which was adopted. There is no army in Europe to-day that could meet the army of the Potomac when it was two hundred and thirty thousand strong, the best fighting material ever put into an army on the face of the earth. Why was that grand army divided? I simply charge that grave and serious errors have been committed, and, as I have said, no other way could have been devised to defeat that army. If the one hundred and fifty-eight thousand men that were sent to General McClellan had been marched upon the enemy, they could have whipped all the armies the confederates have, and all they are likely to have for six months. One hundred and fifty-eight thousand are about as many as can be fought on any one battle-field. One hundred and fifty-eight thousand men are a vast army, a great deal larger army than that with which Napoleon destroyed six hundred thousand of the Austrians in a single year. One hundred and fifty-eight thousand men ably handled can defeat any force the confederates can raise; and that is the force that went down to the peninsula. But, sir, it lay in ditches, digging, drinking rotten water, and eating bad food, and sleeping in the mud, until it became greatly reduced in numbers, and of those that were left very many were injured in health. Still they fought; still they conquered in every fight; and still they retreated, because they were ordered to retreat.

Sir, I have deemed it my duty to present this statement of facts to the Senate and the country. I know that I am to be denounced for so doing, and I tell you who will denounce me. There are two classes of men who are sure to denounce me, and no one else, and they are traitors and fools. The traitors have been denouncing every man who did not sing pæans to "strategy," when it led to defeat every time. The traitors North are worse than the traitors South, and sometimes I think we have as many of them in the aggregate. They are meaner men; they are men who will come behind you and cut your throat in the dark. I have great respect for southern traitors who shoulder their muskets and come out and take the chances of the bullet and the halter; but I have the most superlative contempt for the northern traitors, who, under the pretended guise of patriotism, are stabbing their country in the dark.

Mr. WILSON, of Massachusetts. I move that the Senate now proceed to the consideration of executive business.

Mr. TRUMBULL. I hope not. Let us take the vote on the pending bill.

KANSAS INDIAN LANDS.

Mr. DOOLITTLE. I ask the Senator from Massachusetts to withdraw his motion, to allow me to have a matter taken up which lies upon the table, simply as to the amendment of the title of a joint resolution which has passed both Houses.

Mr. WILSON, of Massachusetts. I have no objection.

The PRESIDENT *pro tempore* laid before the Senate the amendment of the House of Representatives to the joint resolution (S. No. 98) to repeal and modify certain portions of an act mentioned therein, which was to amend the title of the joint resolution, so as to make it read, "A joint resolution to repeal and modify sections two and three of an act entitled 'An act to settle the title to certain lands set apart for the use of certain half-breed Kansas Indians in Kansas Territory,' approved May 26, 1860, and to repeal part of section one of said act."

The amendment was concurred in.

CONDUCT OF THE WAR COMMITTEE.

The PRESIDING OFFICER, (Mr. CLARK in the chair.) The question is on the motion of the Senator from Massachusetts that the Senate proceed to the consideration of executive business.

Mr. SUMNER. With the consent of my colleague, before the motion is put, I ask the Senate to act on a resolution which I propose to offer, which has to go to the other House, and which I should like to have acted on at once. I offer the following resolution:

Resolved, (the House of Representatives concurring,) That the joint committee on the conduct of the war be authorized to continue its sessions during the recess of Congress.

Mr. HARRIS. I object to the consideration of the resolution.

The PRESIDING OFFICER. It will lie over.

CHANGE OF NAME OF A VESSEL.

Mr. KING. I move to take up the House bill 548, to change the name of a steamer.

Mr. WILSON, of Massachusetts. It can be done to-morrow.

Mr. KING. Oh, no; it will be too late then.

Mr. DAVIS. I rise to a question of order as to the state of the business. This morning I moved that the orders before it should be dispensed with, in order to take up the bill authorizing a body of volunteers to be raised in the State of Kentucky. That bill was taken up, but it was not got through with. For some cause or other, it was overslaughed. I gave way for a special motion to be made——

Mr. KING. I hope the Senator will allow the bill which I have brought to the attention of the Senate to be taken up; it will not take a minute to pass it. If a single Senator objects to it, I shall waive it.

Mr. DAVIS. I think the bill to which I referred is the business properly before the Senate.

Mr. WILSON of Massachusetts. I must insist on my motion for an executive session.

The PRESIDING OFFICER. The business before the Senate when the Senator from Massachusetts made his motion to proceed to the consideration of executive business was the bill (H. R. No. 362) in reference to the discharge of State prisoners. The question now is on the motion that the Senate proceed to the consideration of executive business.

Mr. TRUMBULL. I hope the Senate will not go into executive session, but will take a vote on

THE CONGRESSIONAL GLOBE.

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

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this important bill. I know that the Senator from Michigan has taken up some time in speaking on a subject not pertinent to the bill; but I trust the bill itself, which is a House bill, will be passed upon by the Senate. I do not want it to be overslaughed in this way. Give us a vote upon it. If the Senate is opposed to it, let it be voted down, and let it be known to the country that the Congress of the United States adjourns without taking any action whatever, either to give a trial to or to discharge the men who are in prison for political offenses, without their knowing why they are in prison. I trust we shall have a vote.

The PRESIDING OFFICER. The question is on the motion that the Senate proceed to the consideration of executive business.

Mr. TRUMBULL. I ask for the yeas and nays on that motion.

The yeas and nays were ordered.

Mr. KING. Now I ask the unanimous consent of the Senate—certainly no gentleman will object to it—to take up that little bill, which, if not adopted now, cannot be passed at all.

By unanimous consent, the bill (H. R. No. 548) authorizing the Secretary of the Treasury to change the name of the steamship Coatzacoalcos to America, was considered as in Committee of the Whole. It proposes to direct the Secretary of the Treasury to change the name of the steamship Coatzacoalcos, now owned by Marshall O. Roberts, of New York city, to that of America, and to issue a register in that name.

The bill was reported to the Senate, ordered to a third reading, read the third time, and passed.

ORDER OF BUSINESS.

Mr. RICE. I have been trying for two or three days to call up a bill, but I have yielded to everybody else. I should like to have the Senate consider it. I ask the chairman of the Military Committee if he will consent to the bill being considered at the present time?

Mr. WILSON, of Massachusetts. If we could consider and pass that bill, I should be willing to do so; but we have another measure before us, and it will lead to a long debate. I think we had better go into executive session and finish up our business there, and then, if possible, to-night we may be able to get the Senator's bill through.

Mr. RICE. If we go into executive session the chairman knows we shall do nothing more to-night.

Mr. WILSON, of Massachusetts. We may not, it is true, but I think we had better adhere to this motion.

Mr. DAVIS. I inquire if the business in order strictly is not the motion of the Senator from Illinois to postpone, until the 1st of December next, the bill to authorize the State of Kentucky to raise volunteer troops.

The PRESIDING OFFICER. The Chair is unable to answer fully the question of the Senator from Kentucky. When the present occupant of the chair assumed the chair, the bill under consideration was the bill (H. R. No. 362) discharging State prisoners, to which the Senator from Massachusetts [Mr. SUMNER] had proposed an amendment.

Mr. TRUMBULL. I think I can satisfy the Senator from Kentucky. The bill to which he alludes was under consideration before twelve o'clock. At the hour of twelve, the bill to provide for the trial or release of political prisoners was the order of the day, and superseded his bill by being the unfinished business of yesterday, and that has been the subject before the Senate ever since twelve o'clock, except when gentlemen have interposed with other business, as they have frequently done and passed half a dozen bills in the mean time. Now, inasmuch as the friends of this measure have given away repeatedly, and the day has been spent, when it comes to half past eight o'clock in the evening we are met with a motion to go into executive session. I trust that every Senator who believes that this Congress ought not to adjourn without passing some law that shall give to men who say they are innocent an opportunity to prove their innocence and to be discharged from prison, will vote against going into executive session. That is all this bill proposes to do—that those persons who have been arrested without charge, without examination, without knowing for what, and held in confinement, some of them for nearly a year, should have an opportunity to be tried or else be discharged.

Mr. DAVIS. In the morning hour I moved to lay aside all previous orders to take up the bill to authorize the State of Kentucky to raise volunteers. That motion prevailed, and that bill was under consideration for some time when a gentleman appealed to me to give him an opportunity to make a particular motion. I did so, and at the hour of twelve, I admit that the bill indicated by the Senator from Illinois was announced as the order of the day, but it had been postponed upon my express motion.

Mr. TRUMBULL. That was not postponed; it was not up until twelve o'clock.

Mr. DAVIS. But I moved to postpone all orders before the bill that I asked to take up, and the motion prevailed.

Mr. TRUMBULL. You could not postpone the special order before the hour arrived for its consideration.

The PRESIDING OFFICER. The Chair can state the facts for the information of Senators. Upon the suggestion of the present occupant of the chair, the Senator from Wisconsin, [Mr. HOWE,] who was entitled to the floor upon the bill of the Senator from Kentucky, gave way that the joint resolution of the House of Representatives in regard to the confiscation bill might come up; and when the special order came up at twelve o'clock, on the motion of the present occupant of the chair, it was postponed, and the Senate proceeded with that resolution. The question now is on proceeding to the consideration of executive business, and upon that motion the yeas and nays have been ordered.

The Secretary proceeded to call the roll.

Mr. RICE. I am under the impression that there are other matters which require immediate attention.

Mr. COLLAMER. I object to debate during the call of the roll.

The PRESIDING OFFICER. Senators must vote without debate.

Mr. RICE. I yield to the chairman of our committee. I suppose there are good reasons known to himself for an executive session. I vote "yea."

The result was announced—yeas 25, nays 14; as follows:

YEAS—Messrs. Browning, Chandler, Clark, Collamer, Doolittle, Fessenden, Foster, Grimes, Hale, Harlan, Harris, Howard, Howe, King, Lane of Indiana, Lane of Kansas, Morrill, Pomeroy, Rice, Sherman, Simmons, Sumner, Ten Eyck, Wade, and Wilson of Massachusetts—25.

NAYS—Messrs. Anthony, Carlile, Cowan, Davis, Henderson, McDougall, Powell, Stark, Trumbull, Wilkinson, Willey, Wilmot, Wilson of Missouri, and Wright—14.

So the motion was agreed to; and the Senate proceeded to the consideration of executive business; and after some hours spent therein, the doors were reopened, and the Senate adjourned.

HOUSE OF REPRESENTATIVES.

WEDNESDAY, *July* 16, 1862.

The House met at eleven o'clock, a. m.

The Journal of yesterday was read and approved.

ENROLLED BILLS.

Mr. GRANGER, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled bills and joint resolutions of the following titles; when the Speaker signed the same:

An act (H. R. No. 510) for the relief of James N. Muller, supervising inspector of steamboats for the third supervising district;

An act (H. R. No. 527) to secure one month's pay and pension to Margaret Bailey, widow of George B. Bailey, lieutenant colonel in the ninth regiment of Virginia volunteers;

An act (H. R. No. 572) making supplemental appropriations for sundry civil expenses of the Government for the year ending June 30, 1863, and for the year ending June 30, 1862;

An act (H. R. No. 561) in relation to commissioned officers in the United States revenue cutter service;

Joint resolution (H. R. No. 105) to grant pensions to masters and other officers upon the gunboats in the service of the United States; and

Joint resolution (H. R. No. 102) tendering the thanks of Congress to Captain A. H. Foote, United States Navy.

DR. WILLIAM TREAVITT.

The SPEAKER stated the business first in order to be the consideration of the unfinished business of yesterday, being House bill No. 566, for the relief of Dr. William Treavitt, the pending motion being to suspend the rules.

Mr. COX. It is the same bill which I referred to the other day as having been reported from the Committee on Foreign Affairs unanimously, by the gentleman from New York, [Mr. POMEROY.]

Mr. F. A. CONKLING. I object to debate at this time. There is no report accompanying the bill.

Mr. COX. The gentleman from New York [Mr. POMEROY] prepared an elaborate report.

Mr. F. A. CONKLING demanded tellers.

Tellers were ordered; and Messrs. F. A. CONKLING and COX were appointed.

The tellers reported—ayes 55, noes 20; no quorum voting.

Mr. LOVEJOY moved that there be a call of the House.

The motion was agreed to.

The Clerk proceeded to call the roll; and the following members failed to answer to their names:

Messrs. William J. Allen, Alley, Baker, Baxter, Francis P. Blair, Burnham, Chamberlin, Clark, Clements, Cobb, Conway, Corning, Cravens, Crittenden, Cutler, Delano, Delaplaine, Diven, Dunn, Edgerton, English, Fouke, Franchot, Frank, Hale, Harrison, Hickman, Horton, Hutchins, Jackson, Johnson, Francis W. Kellogg, Kerrigan, Killinger, Knapp, Lansing, Lehman, Loomis, Low, McKean, Marston, May, Morris, Nixon, Noble, Norton, Nugen, Odell, Perry, Timothy G. Phelps, Pomeroy, Price, Riddle, Robinson, Edward H. Rollins, James S. Rollins, Sargent, Sheffield, Sherman, Trimble, Vallandigham, Vandever, Van Horn, Van Valkenburgh, Van Wyck, Vibbard, Voorhees, Wadsworth, Wallace, Ward, Webster, Wheeler, Whaley, Chilton A. White, Wood, Woodruff, and Wright.

Mr. ROSCOE CONKLING. How many members have answered to their names?

The SPEAKER. Ninety-nine. More than a quorum.

Mr. ROSCOE CONKLING. I move, then, to dispense with all further proceedings under the call.

The motion was agreed to.

MESSAGE FROM THE SENATE.

A message was received from the Senate by Mr. HICKEY, its Chief Clerk, notifying the House that that body had concurred in the resolution of the House extending the time for the adjournment of the two Houses of Congress; also, that it had passed bills of the following titles, without amendment:

An act (H. R. No. 355) to amend an act entitled "An act to further promote the efficiency of the Navy," approved December 21, 1861;

An act (H. R. No. 369) for the relief of Robert M. Evans; and

An act (H. R. No. 503) to confirm and establish a patent heretofore granted to Etienne Bernot, dated July 24, 1860, and to secure to George Summerville Norris, the assignee of said patent, the benefit of the full term for which said patent was granted; and bills of the following titles, with amendments, in which he was directed to ask the concurrence of the House:

An act (H. R. No. 390) in relation to the competency of witnesses in trials of equity and admiralty; and

An act (H. R. No. 518) transferring the western gunboat fleet from the War to the Navy Department.

Also, that it had passed bills of the following titles, in which he was directed to ask the concurrence of the House:

An act (S. No. 385) to amend an act entitled

"An act to amend an act entitled 'An act in addition to the acts prohibiting the slave trade;'" and

An act (S. No. 394) to amend the "Act calling forth the militia to execute the laws of the Union, suppress insurrections, and repel invasions," approved February 28, 1795, and the acts amendatory thereof, and for other purposes.

Also, that it had receded from its first amendment to the bill of the House (No. 573) to impose an additional duty on sugars produced in the United States.

Also, that it had agreed to the report of the committee of conference on the disagreeing votes between the two Houses on bill of the House (No. 524,) prohibiting the confinement of persons in the military service of the United States in the penitentiary of the District of Columbia, except as a punishment for certain crimes, and to discharge therefrom certain convicts by sentence of courts-martial and for other purposes.

DR. WILLIAM TREAVITT—AGAIN.

The question recurred on a suspension of the rules; and Mr. BUFFINTON and Mr. ANCONA were appointed tellers.

The House divided, and the tellers reported—ayes 68, noes 26.

So the rules were suspended.

ENROLLED BILLS.

Mr. GRANGER, from the Committee on Enrolled Bills, reported that the committee had examined and found truly enrolled an act (H. R. No. 573) to impose an additional duty on sugars produced in the United States; when the Speaker signed the same.

DR. WILLIAM TREAVITT—AGAIN.

The bill, which was read, directs the Secretary of the Treasury to pay, out of any money in the Treasury not otherwise appropriated, to William Treavitt, late consul of the United States at Valparaiso, the sum of $1,158 34, in full of all claims and demands upon the United States, for balance of pay or otherwise while acting in the above capacity.

Mr. HOLMAN. I call for the reading of the report.

Mr. COX. I stated to the gentleman the other day, and he must have heard it, that Mr. POMEROY, of New York, made a written report but took it home with him a few days since, and that I had not been able to procure it. I stated the facts to the House on that occasion, and I can state them again if desired. I am advised by the friends of the bill not to indulge in any lengthy explanation of this matter. It was claimed by the clerk who settled the account of Dr. Treavitt, that because he had acted as a physician at Valparaiso to certain sick sailors, that that service was incompatible with his duties as consul, and therefore they refused to pay him as consul for the time he was so employed. This bill is only to pay him the balance due him as consul at that point, and there is nothing in it incompatible with the law and the facts. The bill was examined by the Committee on Foreign Affairs, and Mr. POMEROY has examined it. They were entirely satisfied with it, after striking off certain items, which are not included in this bill, for clerk hire, office rent, &c. We so cut it down to this small sum, which we ask Congress shall pay him.

Mr. ROSCOE CONKLING. I desire to ask the gentleman what is the particular urgency about passing this bill now at the closing hour of the session, instead of letting it go over until December next, when we can have time to understand it.

Mr. COX. Mr. POMEROY, the gentleman's colleague, left this matter in my charge, and I desire to carry out all my trusts. I want this gentleman to have his accounts settled. I do not want it to linger along further, and I hope, notwithstanding this late day of the session, the Senate will pass it. I call the previous question.

Mr. F. A. CONKLING. Will the gentleman withdraw that call for a moment?

Mr. COX. I will not.

The previous question was seconded.

Mr. F. A. CONKLING. I move to lay the bill on the table, and upon that I call the yeas and nays.

The yeas and nays were ordered.

The question was put; and it was decided in the negative—yeas 20, nays 87; as follows:

YEAS—Messrs. Aldrich, Arnold, Babbitt, Frederick A. Conkling, Roscoe Conkling, Covode, Duell, Dunn, Edwards, Holman, Kerrigan, McKnight, McPherson, Anson P. Morrill, Patton, Edward H. Rollins, Sloan, Spaulding, Trimble, and Wilson—20.

NAYS—Messrs. William Allen, Alley, Ancona, Ashley, Baily, Baxter, Biddle, Bingham, Jacob B. Blair, Samuel S. Blair, Blake, George H. Browne, William G. Brown, Buffinton, Campbell, Casey, Clements, Colfax, Conway, Cox, Davis, Dawes, Dunlap, Eliot, Ely, Fenton, Fessenden, Fisher, Gooch, Goodwin, Granger, Grider, Gurley, Haight, Hall, Hanchett, Hooper, Hutchins, Jackson, Julian, Kelley, William Kellogg, Law, Lazear, Leary, Loomis, Low, Mallory, Marston, May, Menzies, Mitchell, Moorhead, Justin S. Morrill, Morris, Noell, Odell, John S. Phelps, Timothy G. Phelps, Pike, Porter, Potter, Alexander H. Rice, Sargent, Sedgwick, Segar, Shanks, Shellabarger, Sherman, Smith, John B. Steele, William G. Steele, Stevens, Stiles, Stratton, Benjamin F. Thomas, Train, Trowbridge, Verree, Wall, Wallace, Walton, Washburne, Albert S. White, Wickliffe, Windom, and Worcester—87.

So the House refused to lay the bill on the table.

During the call of the roll,

Mr. BROWNE, of Rhode Island, stated that Mr. SHEFFIELD had been absent for two or three days on account of illness.

ENROLLED BILLS.

Mr. GRANGER, from the Committee on Enrolled Bills, reported that the committee had examined and found truly enrolled an act (H. R. No. 503) to confirm and establish a patent heretofore granted to Etienne Bernot, dated July 24, 1860, and to secure to George Summerville Norris, the assignee of said patent, the benefit of the full term for which said patent was granted; and an act (H. R. No. 369) for the relief of Robert M. Evans; when the Speaker signed the same.

DR. WILLIAM TREAVITT—AGAIN.

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

CONFINEMENT OF SOLDIERS.

Mr. WILSON presented the following report from a committee of conference:

The committee of conference on the disagreeing votes of the two Houses on the amendments to the bill (H. R. No. 524) prohibiting the confinement of persons in the military service of the United States in the penitentiary of the District of Columbia, except as a punishment for certain crimes, and to discharge therefrom certain convicts by sentence of courts-martial, and for other purposes, having met, after full and free conference have agreed to recommend, and do recommend, to their respective Houses as follows:

That the House recede from its disagreement to the amendments of the Senate to the said bill, and agree to the same.

HENRY WILSON,
M. S. WILKINSON,
H. S. LANE,
Managers on the part of the Senate.
JAMES F. WILSON.
H. L. DAWES,
Managers on the part of the House.

I dissent. JOHN S. PHELPS.

Mr. WILSON. I call the previous question on agreeing to the report of the committee.

The previous question was seconded, and the main question ordered to be put; and under the operation thereof the report was agreed to.

Mr. WILSON moved to reconsider the vote last taken; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

EMANCIPATION IN THE STATES.

Mr. WHITE, of Indiana, from the select committee on emancipation, reported a bill granting the aid of the United States to certain States upon the adoption by them of a system of emancipation, and to provide for the colonization of free negroes, accompanied by a report.

The bill was read, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, whenever the President of the United States shall be satisfied that any one of the States of Delaware, Maryland, Virginia, Kentucky, Tennessee, or Missouri, shall have emancipated the slaves therein by law within and throughout such States, it shall be the duty of the President, assisted by the Secretary of the Treasury, to prepare and deliver to such State an amount of bonds of the United States, bearing interest at the rate of five per cent. per annum, and payable at thirty years from the date thereof, equal to the aggregate value of all slaves within such State at the rate of $300 for each slave, as the same shall be ascertained by an enumeration to be made by the Federal authorities designated for that purpose at the time of emancipation; the whole amount for any one State to be delivered at once, if the emancipation shall be immediate, or in ratable installments if it shall be gradual: *Provided*, That no State shall make any compensation to the owner of any slave who shall be proven to have willingly engaged in, or in any manner aided the present rebellion, or who at any time may have accepted and held any office, either civil, naval, or military, under the so-called confederate States, or under the State government of any of said confederate States, and shall have willingly taken the oath of allegiance to said so-called confederate States: *And provided further*, That in the enumeration of said slaves as aforesaid, no slave shall be computed who shall have been brought into the State so emancipating as aforesaid, from any other State or country after the passage of this act.

SEC. 2. *And be it further enacted by the authority aforesaid*, That the whole amount of bonds so to be made and delivered as aforesaid shall not exceed, in the aggregate, the sum of $180,000,000.

SEC. 3. *And be it further enacted by the authority aforesaid*, That for the purpose of deporting, colonizing, and settling the slaves so emancipated as aforesaid in some State, territory, or dominion beyond the limits of the United States, the sum of $20,000,000 is hereby appropriated, out of any money in the Treasury not otherwise appropriated, to be expended for the purposes aforesaid at the discretion of the President.

SEC. 4. *And be it further enacted by the authority aforesaid*, That the benefits of this act shall only inure to such State or States as may pass such act or acts of emancipation as aforesaid within five years from the date of the passage of this act, and shall provide for the complete and entire emancipation of the slaves therein within the period of twenty years from the date of the passage of said State act or acts.

SEC. 5. *And be it further enacted by the authority aforesaid*, That if any State shall, at any time after having received any such bonds as aforesaid, by law reintroduce or tolerate slavery within its limits contrary to the act of emancipation upon which such bonds shall have been received such State shall refund to the United States all the principal and interest which may have been paid on any such bonds.

Mr. WHITE, of Indiana. I do not propose to occupy the time of the House at this moment by any lengthened remarks.

Mr. HUTCHINS. I wish at the proper time to raise the point of order, that this bill, making an appropriation, must have its first consideration in the Committeuof the Whole on the state of the Union.

Mr. WHITE, of Indiana. I will explain that before I get through.

Mr. STEVENS. Well, I hope it will not be considered that the point of order is waived, if the gentleman is allowed to proceed.

The SPEAKER. It will not be if that is the understanding.

Mr. STEVENS. Well, sir, I make the point of order.

Mr. WHITE, of Indiana. I wish to make a brief explanation, and then I will leave the bill within the control of the House.

The SPEAKER. By an understanding of the House, the gentleman from Indiana can be allowed to proceed with his explanation, and the point of order can be made and decided when he concludes.

Mr. STEVENS. I think we had better go on with regularity. We are close to the end of the session, and we can do no business unless we proceed regularly.

Mr. WHITE, of Indiana. I ask it from the courtesy of the House, that I may be permitted to make a few words of explanation. I think it is due to the friends of this measure.

Mr. STEVENS. I have no objection to that, if it does not waive the question of order.

The SPEAKER. By unanimous consent that can be the understanding.

Mr. STEVENS. I have no desire to cut the gentleman out of the opportunity of making an explanation, if it does not waive the point of order.

The SPEAKER. Then, if there be no objection, the gentleman from Indiana will proceed with his explanation, and then the point of order will be decided.

No objection was made.

Mr. HOLMAN. I rise to make an inquiry on which I propose to predicate a point of order. I would inquire if this bill is reported back just as it came from the President?

Mr. WHITE, of Indiana. That is one of the points that I wish to explain. The committee have no desire to press a measure of this magnitude improperly upon the attention of the House. I wish merely to explain in a few words the points of difference between the President's bill and the bill reported by the committee, and then I will submit it to the judgment of the House whether they will act upon it now or not.

Mr. HOLMAN. I submit, however, that if this bill is not the one that was referred to the committee, they cannot report it back at this time.

Mr. WHITE, of Indiana. The President's message was referred to the committee with leave to report at any time.

Mr. HOLMAN. The bill itself was referred to the committee.

The SPEAKER. The Chair will say to the gentleman from Indiana, [Mr. HOLMAN,] that he is mistaken. The Chair knows of no power in the President to introduce a bill into this House.

Mr. HOLMAN. Nevertheless a bill was sent to the House, and referred to the committee.

The SPEAKER. The Chair overrules the point of order. There was no bill as the term bill is understood in parliamentary practice. A communication from the President was referred to the committee, and they can report upon it, but there is no power in the President or in any other officer of the Government to introduce a bill into this House.

Mr. WHITE, of Indiana, resumed the floor.

Mr. COVODE. I desire to know if it is in order to move to postpone this bill?

Mr. WHITE, of Indiana. I hope the gentleman will defer that motion until I get through.

The SPEAKER. A motion to postpone the bill is not in order at this time, as the gentleman from Indiana is entitled to the floor.

Mr. HOLMAN. I hope it will not be understood that there is any unanimous consent that this bill shall not be considered in the Committee of the Whole on the state of the Union.

The SPEAKER. The gentleman who made the point of order did not insist upon its decision until the gentleman from Indiana has made his explanation.

Mr. WHITE, of Indiana. Mr. Speaker, the select committee on gradual emancipation and colonization, in presenting a modified bill to carry into practical effect the President's recommendation, are aware of the many and momentous considerations the subject involves. Although the matter was in the hearts of the people, especially those of the free States, and their spontaneous impulse was "emancipation by the proper authority and compensation to loyal owners" as the only thing that could furnish a counter-current and corrective to the war and its consequences, and security for the future, and although this sentiment was frequently uttered through the press and by letters to their Representatives, yet the message of the President by its suddenness startled the nation and seemed to give them pause. So great a contribution of treasure on the one side, and so sudden a change of system on the other, seemed to require deliberation. Meanwhile the inevitable course of events has made it a question rather for the heart than for the judgment to decide, and has left us, it may be, only this, or an alternative necessity too terrible to think of.

The committee, by the present bill, have proffered the aid of the Government in this respect only to States not in complete revolt, who have maintained a loyal organization, and have continued to meet us in the national Council Chambers; and have limited the benefits of the act to the loyal classes of those States. The number of slaves in the six States belonging to loyal owners they estimate now at six hundred thousand; for which, making the same allowance as Great Britain made for her enfranchised West India slaves, and as this Congress has made for the slaves of the District of Columbia, the sum of $180,000,000 will be required. This is provided to be paid to the States in five per cent. stocks of the United States, running thirty years, deliverable through a probable series of twenty years, or at the rate of about nine millions a year for twenty years. A further appropriation of $20,000,000 is proposed for colonization purposes, which, if successful, the committee confidently predict will repay the nation a hundred fold in commerce. Although the bill provides that States passing their emancipation act within five years shall be entitled to its benefits, the truth cannot fail to impress itself on these States and the nation that unless they (the border States) move this moral lever in time to put a speedy close to the war, the act will have no validity, and consequences must ensue destructive of the conditions on which it was passed.

Although the committee—as on the most mature and solemn deliberation they have recommended this measure—are ready to adopt it, still, unless the House, by a decided expression, shall determine to act upon it now, the committee are not disposed to press its consideration at the present time. Should it go to the country for their consultations, the people will have in distinct form the recommendation of the President—which alone, from his high seat and in view of the solemn difficulties of the hour, he considers the nucleus of the war and the gage of our future union—together with such views as the committee have been enabled to present in their report. The proposition is a modified form of the one furnished by the President in his message of the 14th July, but has the same scope contemplated in one of the alternatives of his message of March last, and which, if executed to that extent, he then thought would be effectual for the great object he had in view.

I will only add further that this measure has passed the committee with great unanimity, the slight dissent of any member being more to detail than principle. It is addressed, not to the politician of an hour, but to historic men, conscious of the peril of their country, who know that great sacrifices must be made to save it, and look upon this as the most hopeful, as it will be the noblest in its results.

Mr. Speaker, I will now yield to the further action of the House; but before doing so, I submit the motion that the bill be printed, and that ten thousand extra copies of the report be printed. A portion of the report is devoted to the consideration of the commercial branch of the question of colonization, and the report will undoubtedly, whether drawn with any ability or not, be interesting to the country.

The bill was ordered to be printed; and the motion to print extra copies was referred, under the law, to the Committee on Printing.

Mr. WHITE, of Indiana. I now leave it to the judgment of the House what course they will take on this bill. The committee are anxious that it shall pass, but they do not desire to press it against the judgment or deliberation of the House.

Mr. COVODE. I move that the bill be postponed until the second Thursday in December.

Mr. ELIOT. I should like to ask the gentleman from Indiana a question.

Mr. WICKLIFFE. I object.

Mr. STEVENS. I now insist on the point of order that the bill makes an appropriation, and must have its first consideration in the Committee of the Whole on the state of the Union.

Mr. COVODE. Why not postpone it until December next?

Mr. MAYNARD. Will the Chair hear a suggestion upon the point of order?

The SPEAKER. The point of order is not debatable. The Clerk will now read a portion of the first section of the bill.

The Clerk read, as follows:

It shall be the duty of the President, assisted by the Secretary of the Treasury, to prepare and deliver to such State an amount of bonds of the United States, bearing interest at the rate of five per cent. per annum, and payable at thirty years from the date thereof.

Mr. MAYNARD. The bill does not appropriate money.

The SPEAKER. The Clerk will now read a section from another act, upon which the same point has been decided.

The Clerk read from the tenth volume of the United States Statutes-at-Large, page 212, as follows:

"SEC. 9. *And be it further enacted*, That the Secretary of the Treasury be, and he is hereby, authorized to purchase, at the current market prices, any of the outstanding stocks of the United States, as he may deem most advisable from any surplus funds in the Treasury: *Provided*, That the balance in the Treasury shall not at any time be reduced below $6,000,000."

Mr. MAYNARD. I know, Mr. Speaker, that your predecessor in the Thirty-Fifth Congress, sustained a similar point of order in relation to the French spoliation bill, and the House supported him. I thought at that time that the decision was wrong, and I respectfully ask the Chair to submit the question again for the decision of the House.

The SPEAKER. The Chair will state that the third section of this bill appropriates $20,000,000, but the Chair would sustain the point of order upon the provision in relation to the bonds. Such a provision has been held to be an appropriation since the question was decided in the Thirty-Fifth Congress on the French spoliation bill. Under these two provisions of the bill the Secretary of the Treasury could take money out of the Treasury. But the bill contains a direct appropriation of $20,000,000, and must have its first consideration in the Committee of the Whole on the state of the Union. The bill is so referred.

The SPEAKER. The House will proceed with the call of committees for reports.

PAYMENT OF EXTRA CLERK.

Mr. POTTER. I ask the consent of the House to offer the following resolution:

Resolved, That the Clerk of the House of Representatives is hereby directed to pay out of the amount heretofore appropriated for the expenses of the select committee on disloyal employés of the Government, on the certificate of the chairman of said committee, such sum or sums as may be due for the services of an extra clerk employed by the committee in copying testimony.

The appropriation is already made; but the original resolution in regard to the appointment of a clerk does not allow payment for an extra clerk.

Mr. WICKLIFFE. I object to the resolution. I think we have had enough of that committee.

Mr. POTTER. I hope the gentleman from Kentucky will withdraw his objection.

Mr. WICKLIFFE. If you will allow me, I will tell you the reason why I will not withdraw it.

The SPEAKER. No debate is in order.

DISBURSING OFFICERS' ACCOUNTS.

Mr. HOOPER, by unanimous consent, reported from the Committee of Ways and Means a bill to provide for the more prompt settlement of the accounts of disbursing officers.

The bill was read a first and second time. It provides that from and after the passage of the act any officer or agent of the United States who shall receive public money which he is not authorized to retain as salary, pay, or emolument, shall render his accounts monthly, instead of quarterly as heretofore. Such accounts, with the vouchers necessary for the correct and prompt settlement thereof, are to be rendered directly to the proper accounting officers of the Treasury, and be mailed or otherwise forwarded within ten days of the expiration of each successive month. In case of the non-receipt at the Treasury of accounts within a reasonable and proper time, the officer whose accounts are in default is to be required to furnish satisfactory evidence of his having complied with the provisions of the act. For any default on his part, the delinquent officer is to be deemed a defaulter and is to be subject to all the penalties prescribed under the sixteenth section of August 6, 1846, "to provide a better organization of the Treasury, and for the collection, safe-keeping, transfer and disbursement of public revenue," provided the Secretary of the Treasury may, if in his opinion, the circumstances of the case justify and require it, extend the time prescribed for the rendition of accounts; and provided further, that nothing herein contained shall be construed to restrain heads of Departments from requiring such other return or reports from the officer or agent subject to their control.

Mr. HOOPER. As the law now stands, the reports of all disbursing officers are required to be made quarterly; and the whole of the next quarter is allowed to have the accounts made up and sent to the Departments. There is, therefore, no law by which disbursing officers can be obliged to render their accounts in less time than six months. The object of this bill is to have reports made monthly, and sent in within ten days after the end of the month.

Mr. PHELPS, of Missouri. It strikes me that the penalties for non-compliance with the law are, in the present condition of affairs, too severe. All disbursing officers, embracing those of the Army and Navy, are to render their accounts within ten days after the expiration of each month. How will a paymaster in the Navy, on shipboard on the coast of Africa, forward his accounts? How will a paymaster in the Army, who may be sick, at the expiration of the month, be prepared to furnish his accounts? And yet this law subjects him to the penalty of being a defaulter, which is imprisonment in the penitentiary on conviction.

Mr. HOOPER. There is provision in the bill for such cases.

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

Mr. PHELPS, of Missouri. I move to lay the bill on the table.

The motion was not agreed to.

The bill was passed.

Mr. HOOPER moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

HOUR OF MEETING TO-MORROW.

Mr. STEVENS. I move that when the House adjourns to-day, it adjourn to meet to-morrow at eleven o'clock.

The motion was agreed to.

PAYMENT IN STAMPS, ETC.

Mr. HOOPER. I ask leave to report from the Committee of Ways and Means a bill to authorize payment in stamps, and to prohibit the circulation of notes of a less denomination than one dollar.

Mr. BLAIR, of Virginia. I object.

ENROLLED BILL.

Mr. GRANGER, from the Committee on Enrolled Bills, reported as truly enrolled an act (H. R. No. 355) to amend an act entitled "An act to further promote the efficiency of the Navy," approved December 21, 1861; when the Speaker signed the same.

INCREASE OF THE ARMY.

Mr. KELLOGG, of Illinois, asked leave to offer a joint resolution authorizing and empowering the President of the United States to call into the Army of the United States, by voluntary enlistment, or in such other mode as he may direct, for the term of one year, unless sooner discharged, one million men, in addition to the Army now authorized by law, and that such increase of the Army shall be organized, armed, and equipped, paid and officered, as is now by law provided.

Mr. POTTER. If the gentleman from Illinois will modify his proposition, and make the number two million I will vote for it.

Mr. LOVEJOY. I suggest the amendment that men be taken without distinction of color.

Objection was made to the introduction of the resolution.

Mr. KELLOGG, of Illinois. I move to suspend the rules; and on that I call for the yeas and nays.

The yeas and nays were not ordered.

Mr. KELLOGG, of Illinois, called for tellers.

Tellers were not ordered.

The question was taken; and (two thirds not voting in favor thereof) the rules were not suspended.

LAW OF PRIZE.

Mr. SEDGWICK. I rise to a privileged question. I am directed by the Committee on Naval Affairs—which has power to report at any time—to report back joint resolution S. No. 97, in relation to the law of prize, with amendments.

First amendment:

Line eight, strike out the words "within twenty days from," and insert in lieu thereof the words "immediately after."

Second amendment:

At the end of the resolution, add:

And no more shall be retained by any clerk for money received and paid over by him under this resolution, as commission or otherwise, than one per cent. on the first $1,000 in each case, and one quarter of one per cent. on the excess above that sum, not, however, to exceed $250 in any case.

The amendments were agreed to.

The joint resolution was read the third time, and passed.

BOUNTY TO DISCHARGED SOLDIERS.

Mr. ANCONA asked unanimous consent to introduce a joint resolution authorizing the payment of bounty to soldiers discharged by reason of wounds or other disability before the expiration of their term of enlistment.

The joint resolution was read. It directs that the sixth section of the act entitled "An act to authorize the employment of volunteers to aid in enforcing the laws and protecting public property," approved July 22, 1861, shall be so construed as to authorize the payment of the bounty of $100 provided by such section, to all volunteers who have been or may hereafter be discharged from the military service of the United States by reason of any wounds received or disease contracted while in the service of the United States, and in the line of duty, for or on account of which such volunteers should be entitled to receive and should receive a pension.

Mr. F. A. CONKLING objected to the introduction of the joint resolution.

Mr. ANCONA. I move to suspend the rules.

Mr. F. A. CONKLING. If the gentleman will let the resolution go to the Committee on Military Affairs, I will withdraw my objection.

Mr. WICKLIFFE. I ask the consent of the House to make an inquiry with reference to this resolution, to see whether I understand it.

There was no objection.

Mr. WICKLIFFE. If I understand the law as it now exists, if a wounded soldier is discharged from the service, and dies immediately afterwards from the effects of his wound, neither his mother, sister, or any other heir is entitled to draw bounty or pension.

Mr. ANCONA. That is the fact.

Mr. WICKLIFFE. With the permission of the gentleman, I just want to state an instance right in point. A wounded soldier in one of the New York regiments was in one of the hospitals of this city. His mother was induced by the hospital surgeon to take him home to New York. He took his discharge before leaving this city; and, as I was satisfied would be the fact, the boy died before reaching his home. Yet, under the law as it now exists, this poor woman can draw neither the bounty nor pension to which she would have been entitled if her son had not taken his discharge. This joint resolution, I understand, is to meet such a case; and I hope it will be passed.

Mr. ANCONA. There are a thousand such cases. I hope the motion to suspend the rules will be agreed to. I call for tellers upon it.

Tellers were ordered; and Messrs. EDWARDS and STILES were appointed.

The House divided; and the tellers reported—ayes 66, noes 30.

So the rules were suspended, (two thirds having voted therefor.)

The joint resolution was introduced, and read a first and second time.

Mr. ANCONA. I ask the previous question on the engrossment and third reading of the joint resolution.

Mr. STEVENS. I hope my colleague will allow me to move to strike out the words "or other disabilities."

Mr. F. A. CONKLING. I desire to say that if this joint resolution is passed, it will involve the expenditure of $100,000,000.

Mr. POTTER. If it is to do justice it matters not if it costs $500,000,000.

The SPEAKER. Does the gentleman from Pennsylvania yield to permit his colleague to move an amendment?

Mr. ANCONA. I decline to yield.

Mr. STEVENS. I move to lay the joint resolution on the table.

Mr. ANCONA. I ask for the yeas and nays upon that motion.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 26, nays 78; as follows:

YEAS—Messrs. Baxter, Beaman, William G. Brown, Calvert, Campbell, Frederick A. Conkling, Edwards, Ely, Fenton, Hanchett, Hooper, Hutchins, Julian, Low, McKnight, Maynard, Justin S. Morrill, John S. Phelps, Riddle, Sedgwick, Shellabarger, Stevens, Train, Trimble, Washburne, and Worcester—26.

NAYS—Messrs. Aldrich, William Allen, William J. Allen, Alley, Ancona, Baily, Biddle, Bingham, Jacob B. Blair, Samuel S. Blair, Blake, George H. Browne, Buffinton, Colfax, Cox, Cravens, Crisfield, Cutler, Dawes, Duell, Dunlap, Dunn, Eliot, Fessenden, Fisher, Fouke, Gooch, Goodwin, Granger, Grider, Gurley, Haight, Hale, Hall, Harding, Holman, Kelley, Francis W. Kellogg, William Kellogg, Kerrigan, Knapp, Law, Lazear, Leary, Mallory, May, Menzies, Morris, Nixon, Noell, Odell, Timothy G. Phelps, Pike, Porter, Potter, Alexander H. Rice, Edward H. Rollins, Sargent, Segar, Shanks, Sherman, Shiel, Smith, John B. Steele, William G. Steele, Stiles, Stratton, Benjamin F. Thomas, Francis Thomas, Trowbridge, Verree, Wall, Wallace, Walton, Albert S. White, Wickliffe, Wilson, and Windom—78.

So the joint resolution was not laid on the table.

The question recurred on seconding the demand for the previous question.

Mr. COLFAX. I trust the gentleman from Pennsylvania will withdraw the demand, and allow an amendment to be offered. Many of us voted against the motion to lay on the table with the expectation of amending the resolution.

Mr. ANCONA. I am willing to withdraw the demand for that purpose if gentlemen think the bill is not sufficiently guarded. I think it is.

Mr. MAYNARD. I trust this bill may be permitted to go to the Committee on Pensions.

The SPEAKER. Does the gentleman withdraw the demand for the previous question to permit an amendment to be offered?

Mr. ANCONA. I do.

Mr. STEVENS. I think such a bill ought to be very carefully drawn. I believe that in its present condition it will be very much misconstrued. I will now move to amend by striking out the words "or disease contracted."

Mr. MORRILL, of Vermont. I desire to ask the gentleman a single question. I ask him how many men he supposes this resolution will discharge from the Army in the next ninety days who may have received some little scratch or wound, and who will, if this resolution is passed, receive pensions and bounty?

Mr. ANCONA. I cannot answer the question as to how many men will be discharged by this resolution from the Army. I do not think it will discharge any.

Mr. MORRILL, of Vermont. My fear is that it will discharge not less than fifty thousand men. I desire to know how many million dollars it will take to pay these pensions and bounty?

Mr. ANCONA. I will reply that whatever it will require, if it is justly due these volunteers, they should have it. From the assurances I have had, it was the general impression when these men were enlisted that they should receive their $100 bounty. I think those who have been disabled by disease contracted in the service should receive this bounty, as well as the heirs of those who have died in the service.

Mr. MORRILL, of Vermont. I appeal to the gentleman from Pennsylvania to allow me to say that we have already had several legislative acts passed during the present session in relation to this very item, and that it is necessary, if any such act is to be passed in addition, that it should be very carefully drawn, even to accomplish the purpose the gentleman desires to accomplish. It seems to me, therefore, that it would be better to refer the bill to the Committee on Military Affairs, with leave to report at any time.

Mr. ANCONA. I am willing the resolution should be referred to the Committee on Invalid Pensions. If it goes to the Military Committee we shall not hear of it again.

Mr. MORRILL, of Vermont. I am willing it shall go to that committee, and will make that motion if the gentleman will withdraw his demand for that purpose.

Mr. ANCONA. I withdraw the demand.

Mr. MORRILL, of Vermont. I now submit the motion that the joint resolution be committed to the Committee on Invalid Pensions.

Mr. ANCONA. With leave to report at any time.

The joint resolution was accordingly referred.

ENROLLED BILLS.

Mr. GRANGER, from the Committee on Enrolled Bills, reported that the committee had examined and found truly enrolled bills of the following titles; to which the Speaker thereupon affixed his signature:

An act (S. No. 350) to suspend temporarily the operation of an act entitled "An act to prevent and punish frauds on the part of officers intrusted with making of contracts for the Government," approved June 2, 1862;

An act (S. No. 348) for the better government of the Navy of the United States;

An act (S. No. 202) requiring the commanders of American vessels sailing to foreign ports, and persons prosecuting claims, to take the oath of allegiance; and

An act (S. No. 376) to allow and pay to the State of Missouri the amount of money expended by said State in the arming and paying of troops employed in the suppression of insurrection against the laws of the United States.

DISTRICT AMUSEMENTS.

Mr. FESSENDEN asked leave to introduce and have put on its passage a bill to regulate public places of amusement in the District of Columbia.

Mr. McPHERSON. I object.

Mr. FESSENDEN. I hope the gentleman will withdraw his objection. It is a very brief bill, to which I do not think there should be any objection.

Mr. McPHERSON. I withdraw my objection for the present.

Mr. F. A. CONKLING. I object.

Mr. FESSENDEN. I move to suspend the rules.

The bill was read *in extenso*.

Mr. BINGHAM. I trust the gentleman will allow his bill to be referred to the Committee for the District of Columbia. There are many good things in it, but it is not such a bill as ought to pass without a good deal of consideration.

Mr. FESSENDEN. Let it go to the Committee for the District of Columbia.

Mr. F. A. CONKLING. With that understanding, I withdraw my objection.

The bill was then introduced, read a first and second time, and referred to the Committee for the District of Columbia.

BUSINESS ON THE SPEAKER'S TABLE.

Mr. BINGHAM. I move to proceed to business on the Speaker's table.

The motion was agreed to.

The bills on the Speaker's table were then taken up and disposed of, as follows:

COMPETENCY OF WITNESSES.

House bill No. 390, in relation to the competency of witnesses in trials of equity and admiralty, was taken from the Speaker's table with the amendments of the Senate thereto, the question being on concurring in the amendments of the Senate.

First amendment:

After the word "trial," in line four, insert the words "at common law."

The amendment was concurred in.

Second amendment:

Add at the end of the bill as follows:

SEC. —. *And be it further enacted*, That so much of section twenty-nine of the act entitled "An act to establish judicial courts of the United States," approved September 24, 1789, as requires, in cases punishable with death, twelve petit jurors to be summoned from the county where the offenses were committed, be, and the same is hereby, repealed.

The amendment was concurred in.

MARTIN F. CONWAY.

Mr. MENZIES. I move that the rules be suspended for the purpose of taking up and putting on its passage House bill No. 398, for the relief of Martin F. Conway.

Mr. McKNIGHT. I object to that bill.

Mr. MENZIES. I withdraw my motion for the present.

TRANSFER OF THE WESTERN GUNBOAT FLEET.

An act (H. R. No. 518) transferring the western gunboat fleet from the War to the Navy Department.

Amendment of the Senate:

Add the following:

Provided, That the vessels now under construction or repair by authority of the War Department shall be paid for and fitted up under the authority of that Department, from appropriations made for that purpose.

The amendment was concurred in.

HEIRS OF ROBERT L. STEVENS, DECEASED.

Joint resolution (S. No. 99) releasing to the heirs-at-law of Robert L. Stevens, deceased, all right, title, and interest of the United States in and to Stevens's battery.

The resolution was read a first and second time.

Mr. MORRILL, of Vermont, demanded the previous question.

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

Mr. WASHBURNE moved that the resolution be laid upon the table.

The motion was disagreed to.

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

Mr. F. A. CONKLING moved to reconsider the vote by which the joint resolution was passed; and also moved that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

LEAVE OF ABSENCE GRANTED.

Mr. MORRILL, of Vermont. Mr. Speaker, I have not been absent one day during the present session, and I now ask that I shall be excused after to-day from further service during the remainder of the session.

There was no objection, and it was ordered accordingly.

ADMISSION OF WEST VIRGINIA.

An act (S. No. 365) for the admission of the State of West Virginia into the Union, and for other purposes.

The bill was read a first and second time.

Mr. BINGHAM demanded the previous question on the passage of the bill.

Mr. SEGAR. I object to the third reading of the bill.

The SPEAKER. The question must be put to the House.

Mr. SEGAR moved that the bill be laid upon the table.

On a division, there were—ayes 32, noes 59.

Mr. CALVERT demanded the yeas and nays.

The yeas and nays were ordered.

Mr. MORRILL, of Vermont. I ask the gentleman from Virginia to withdraw his motion to lay upon the table, in order that a motion may be made to postpone the further consideration of the bill until December next.

The SPEAKER. The motion to postpone is not in order during the call for the previous question.

The question was taken; and it was decided in the negative—yeas 44, nays 70; as follows:

YEAS—Messrs. Alley, Ashley, Baxter, Biddle, George H. Browne, Buffinton, Calvert, Roscoe Conkling, Conway, Cox, Crisfield, Davis, Dawes, Dunlap, Eliot, Ely, Gooch, Granger, Grider, Haight, Hall, Harding, Jackson, Kelley, Kerrigan, Knapp, Law, McPherson, Mallory, May, Menzies, Justin S. Morrill, Pendleton, John S. Phelps, Potter, Alexander H. Rice, Segar, Shiel, William G. Steele, Stevens, Stiles, Francis Thomas, Webster, and Wickliffe—44.

NAYS—Messrs. Aldrich, Arnold, Babbitt, Beaman, Bingham, Jacob B. Blair, Samuel S. Blair, Blake, William G. Brown, Casey, Clements, Colfax, Frederick A. Conkling, Covode, Cutler, Duell, Dunn, Edwards, Fenton, Fessenden, Fisher, Frank, Goodwin, Gurley, Hanchett, Holman, Hooper, Hutchins, Julian, Francis W. Kellogg, William Kellogg, Loomis, Lovejoy, Low, McKnight, Maynard, Mitchell, Moorhead, Anson P. Morrill, Nixon, Olin, Patton, Timothy G. Phelps, Pike, Porter, John H. Rice, Riddle, Edward H. Rollins, Sargent, Sedgwick, Shanks, Shellabarger, Sherman, Sloan, Smith, Spaulding, Stratton, Benjamin F. Thomas, Train, Trimble, Trowbridge, Verree, Wall, Wallace, Walton, Washburne, Albert S. White, Wilson Windom, and Worcester—70.

So the House refused to lay the bill upon the table.

During the vote,

Mr. ANCONA stated that he was paired with Mr. WHALEY, and that he would have voted in the affirmative.

Mr. BROWNE, of Rhode Island, stated that his colleague, Mr. SHEFFIELD, was detained from the House by illness.

The vote was announced as above recorded.

Mr. FENTON. Is the motion to postpone now in order?

The SPEAKER. It is not, as the call for the previous question is pending.

Mr. FENTON. Then let us vote down the demand for the previous question.

On seconding the demand for the previous question, on a division, there were—ayes 30, noes 59.

Mr. McKNIGHT demanded tellers.

Tellers were ordered; and Messrs. BLAIR, of Virginia, and CALVERT were appointed.

The previous question was not seconded; the tellers having reported—ayes 44, noes 62.

Mr. ROSCOE CONKLING. I move the further consideration of the bill be postponed until the second Tuesday in December next; and on that motion I demand the previous question.

Mr. BLAIR, of Virginia. I ask the gentleman to withdraw the demand for the previous question in order that I may make a statement.

Mr. ROSCOE CONKLING. I decline to withdraw it.

Mr. BLAIR, of Virginia. If this motion be agreed to, it will be equivalent to killing the bill.

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

Mr. BINGHAM demanded the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 63, nays 53; as follows:

YEAS—Messrs. William J. Allen, Alley, Ashley, Baily, Baxter, Biddle, George H. Browne, Buffinton, Calvert, Campbell, Frederick A. Conkling, Roscoe Conkling, Conway, Covode, Cox, Crisfield, Crittenden, Davis, Dawes, Dunlap, Edwards, Eliot, Ely, Fenton, Gooch, Granger, Grider, Haight, Hall, Harding, Jackson, Julian, Kelley, Kerrigan, Knapp, Law, Loomis, McPherson, Mallory, May, Menzies, Justin S. Morrill, Nixon, Odell, Pendleton, John S. Phelps, Potter, Alexander H. Rice, Edward H. Rollins, Segar, Shiel, William G. Steele, Stevens, Stiles, Benjamin F. Thomas, Francis Thomas, Train, Verree, Wall, Walton, Ward, Webster, and Wickliffe—63.

NAYS—Messrs. Aldrich, Arnold, Beaman, Bingham, Jacob B. Blair, Samuel S. Blair, Blake, William G. Brown, Casey, Clements, Colfax, Cutler, Duell, Fessenden, Fisher, Frank, Goodwin, Hanchett, Holman, Hooper, Hutchins, Francis W. Kellogg, William Kellogg, Lazear, Leary, Lovejoy, Low, McKnight, Maynard, Mitchell, Moorhead, Anson P. Morrill, Timothy G. Phelps, Pike, Porter, John H. Rice, Riddle, Sargent, Sedgwick, Shanks, Shellabarger, Sherman, Sloan, Spaulding, Stratton, Trimble, Trowbridge, Van Horn, Washburne, Albert S. White, Wilson, Windom, and Worcester—53.

So the motion to postpone was agreed to.

Mr. ROSCOE CONKLING moved to reconsider the vote by which the further consideration of the bill was postponed; and also moved that the motion to reconsider be laid upon the table.

Mr. BINGHAM. I hope the gentleman will not insist on that motion.

Mr. ROSCOE CONKLING. I do insist on it.

Mr. BINGHAM demanded the yeas and nays.

The yeas and nays were not ordered.

Mr. BINGHAM demanded tellers.

Tellers were ordered; and Messrs. BINGHAM and SEGAR were appointed.

The motion to reconsider was laid upon the table, the tellers having reported—ayes 60, nays 43.

EMPLOYMENT OF CONVICTS.

Mr. TRAIN submitted a report from the committee of conference on the disagreeing votes between the two Houses on Senate joint resolution No. 86, regulating the employment of convicts in the penitentiary in the District of Columbia for their improvement and benefit. It recommends that the Senate should recede from its disagreement to the first amendment of the House, and should agree to the same, and that the House should recede from its second amendment.

The report was adopted.

SLAVE TRADE.

An act (S. No. 385) to amend an act entitled "An act to amend an act entitled 'An act in addition to the acts prohibiting the slave trade.'"

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

CALLING OUT THE MILITIA.

An act (S. No. 394) to amend the act calling forth the militia to execute the laws of the Union, suppress insurrections, and repel invasions, approved February 28, 1795, and the acts amendatory thereof, and for other purposes.

The bill was read a first and second time.

Mr. STEVENS demanded the previous question.

Mr. BIDDLE. I appeal to my colleague not to insist on the demand for the previous question. This is too important a measure to be passed without scrutiny and discussion. Some of the provisions of the bill I would like to vote for, but there are others I doubt whether I have the right to vote for.

Mr. STEVENS. It is because it is important that I insist on the demand for the previous question.

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

Mr. BIDDLE. I rise to a question of order. This bill makes an appropriation of $10,000,000, and, under the rules, must have its first consideration in the Committee of the Whole on the state of the Union.

The SPEAKER. The bill, as it came from the Senate, does not contain any such appropriation.

Mr. HOLMAN moved that the bill be laid upon the table.

Mr. ALLEN demanded the yeas and nays.

The yeas and nays were ordered.

The question was taken, and it was decided in the negative—yeas 30, nays 77; as follows:

YEAS—Messrs. William Allen, William J. Allen, Biddle, Calvert, Clements, Cobb, Cox, Crisfield, Dunlap, Fouke, Grider, Hall, Harding, Holman, Kerrigan, Knapp, Law, Lazear, Mallory, May, Maynard, Menzies, Pendleton, John S. Phelps, Shiel, John B. Steele, William G. Steele, Stiles, Webster, and Wickliffe—30.

NAYS—Messrs. Aldrich, Alley, Arnold, Ashley, Babbitt, Baxter, Beaman, Bingham, Samuel S. Blair, Blake, Buffinton, Campbell, Colfax, Roscoe Conkling, Cutler, Davis, Dawes, Duell, Dunn, Edwards, Ely, Fenton, Fessenden, Frank, Goodwin, Granger, Haight, Hale, Hanchett, Hooper, Julian, Kelley, Francis W. Kellogg, William Kellogg, Leary, Loomis, Lovejoy, Low, McKnight, McPherson, Moorhead, Anson P. Morrill, Justin S. Morrill, Nixon, Noell, Olin, Patton, Timothy G. Phelps, Pike, Porter, Potter, Alexander H. Rice, John H. Rice, Riddle, Edward H. Rollins, Sargent, Sedgwick, Shanks, Shellabarger, Sherman, Smith, Spaulding, Stevens, Stratton, Benjamin F.

Thomas, Train, Trimble, Trowbridge, Van Horn, Verree, Wall, Wallace, Walton, Ward, Wilson, Windom, and Worcester—77.

So the motion was disagreed to.

The previous question was seconded, and the main question ordered to be put.

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

Mr. STEVENS moved the previous question on the passage of the bill.

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

Mr. WICKLIFFE demanded the yeas and nays on the passage of the bill.

The yeas and nays were not ordered.

The bill was passed.

Mr. STEVENS moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider upon the table.

The latter motion was agreed to.

ENROLLED BILLS SIGNED.

Mr. GRANGER, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled bills of the following titles; when the Speaker signed the same:

An act (H. R. No. 524) prohibiting the confinement of persons in the military service of the United States in the penitentiary of the District of Columbia, except as a punishment for certain crimes, and to discharge therefrom certain convicts by sentence of courts-martial, and for other purposes;

An act (H. R. No. 518) transferring the western gunboat fleet from the War to the Navy Department; and

An act (H. R. No. 390) in relation to the competency of witnesses, and for other purposes.

THANKS TO CAPTAIN LARDNER AND OTHERS.

Mr. SEDGWICK, by unanimous consent, reported, from the Committee on Naval Affairs, a joint resolution tendering the thanks of Congress to Captain James L. Lardner, and other officers of the Navy, in pursuance of the recommendation of the President of the United States.

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

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

The latter motion was agreed to.

ADDITIONAL INDIAN APPROPRIATIONS.

Mr. ALDRICH. I ask the unanimous consent of the House to report from the Committee on Indian Affairs a joint resolution making further appropriations for the current and contingent expenses of the Indian department, and for fulfilling treaty stipulations with various Indian tribes for the year ending June 30, 1863.

Mr. F. A. CONKLING. I make the point of order that the joint resolution must have its first consideration in the Committee of the Whole on the state of the Union.

The SPEAKER. The joint resolution has not yet been received.

Mr. F. A. CONKLING. I object to its reception.

Mr. ALDRICH. I hope the gentleman will withdraw his objection, to hear an explanation.

The SPEAKER. The Chair cannot permit objections to be discussed.

NATIONAL FOUNDERIES, ETC.

Mr. MOORHEAD. I ask that the Committee of the Whole on the state of the Union be discharged from the further consideration of the joint resolution (H. R. No. 42) providing for the establishment of a national foundery east of the Alleghany mountains, and a national foundery, a national armory, and a manufacturing arsenal west of that line and in the valley of the Ohio and Mississippi, and that the same be considered at this time.

Mr. HOLMAN. I object.

Mr. MOORHEAD. I move a suspension of the rules.

Mr. STEVENS. The resolution only proposes an inquiry by a commission.

Mr. MOORHEAD. I call for the reading of the joint resolution.

The joint resolution was read. It provides that there shall be established within the United States one national foundery east of the Allegheny mountains, and also one national foundery, one national armory, and one manufacturing arsenal west of the Alleghany mountains and in the valley of the Ohio and Mississippi, and for the appointment of a commission of five citizens to locate the said founderies, armory, and arsenal, who shall, within sixty days from the time of their appointment, report to the Secretary of War, who shall report the same to Congress, together with an estimate of the amount necessary for the establishment of the said founderies, armory, and arsenal; and the resolution appropriates $5,000 for the expenses of the commission.

Mr. PHELPS, of Missouri, demanded the yeas and nays on the motion to suspend the rules.

The yeas and nays were ordered.

Mr. MOORHEAD. I ask the unanimous consent of the House to make a brief statement.

Mr. DAWES. I have no objection, if the gentleman will permit a statement to be made in reply.

Mr. PHELPS, of Missouri. I object. I should like to make a statement myself.

The question was taken; and there were—yeas 55, nays 41; as follows:

YEAS—Messrs. Aldrich, Ancona, Arnold, Ashley, Babbitt, Baily, Baxter, Beaman, Biddle, Bingham, Samuel S. Blair, Blake, William G. Brown, Campbell, Colfax, Dunn, Fessenden, Pouke, Goodwin, Granger, Gurley, Hanchett, Hutchins, Julian, Kelley, Francis W. Kellogg, William Kellogg, Knapp, Low, McKnight, McPherson, Menzies, Moorhead, Nixon, Noell, Patton, Pendleton, Porter, Potter, James S. Rollins, Sargent, Shanks, Shellabarger, Sherman, Stevens, Stiles, Stratton, Trimble, Trowbridge, Verree, Wallace, Albert S. White, Wilson, Windom, and Worcester—55.

NAYS—Messrs. William Allen, William J. Allen, Alley, Buffinton, Calvert, Cobb, Frederick A. Conkling, Roscoe Conkling, Dawes, Duell, Dunlap, Edwards, Eliot, Ely, Frank, Grider, Haight, Hall, Harding, Holman, Hooper, Law, Leary, Loomis, Maynard, Anson P. Morrill, Olin, John S. Phelps, Timothy G. Phelps, Pike, John H. Rice, Edward H. Rollins, Shiel, Smith, John B. Steele, William G. Steele, Benjamin F. Thomas, Francis Thomas, Train, Wall, and Wickliffe—41.

So (two thirds not voting in favor thereof) the rules were not suspended.

EXTRA PAY OF CHAPLAIN.

Mr. STEVENS. I ask the unanimous consent of the House to offer a resolution, of which I am sure four fifths of the members of the House will be in favor.

The Clerk read the resolution, as follows:

Resolved, That there be paid out of the contingent fund of this House to Rev. Thomas H. Stockton $450 additional compensation for his services as Chaplain of this House for the Thirty-Seventh Congress.

Mr. F. A. CONKLING and others objected.

Mr. STEVENS. I move a suspension of the rules; and I call for the yeas and nays upon that motion.

The yeas and nays were ordered.

The question was taken; and there were—yeas 59, nays 41; as follows:

YEAS—Messrs. Aldrich, Alley, Babbitt, Baxter, Bingham, Samuel S. Blair, William G. Brown, Buffinton, Cobb, Conway, Cox, Crisfield, Cutler, Davis, Dawes, Duell, Eliot, English, Fenton, Fessenden, Fisher, Goodwin, Granger, Grider, Haight, Hale, Hanchet, Hooper, Julian, Kelley, William Kellogg, Lovejoy, Low, McPherson, Mitchell, Moorhead, Nixon, Patton, Potter, Alexander H. Rice, John H. Rice, Sargent, Sedgwick, Segar, Shanks, Shellabarger, Sherman, Spaulding, Stevens, Stratton, Benjamin F. Thomas, Trowbridge, Verree, Wall, Walton, Washburne, Webster, Albert S. White, Windom, and Worcester—59.

NAYS—Messrs. William Allen, William J. Allen, Ancona, Arnold, Jacob B. Blair, Blake, George H. Browne, Calvert, Clements, Colfax, Frederick A. Conkling, Roscoe Conkling, Dunlap, Dunn, Edwards, Ely, Gurley, Hall, Harding, Knapp, Law, Loomis, May, Maynard, Menzies, John S. Phelps, Pike, Porter, Riddle, Edward H. Rollins, James S. Rollins, Shiel, Smith, William G. Steele, Stiles, Francis Thomas, Train, Trimble, Wickliffe, and Wilson—41.

So (two thirds not voting in favor thereof) the rules were not suspended.

MARTIN F. CONWAY.

Mr. MENZIES. I move to suspend the rules for the purpose of discharging the Committee of the Whole House on the Private Calendar from the further consideration of House bill No. 398, for the relief of Martin F. Conway.

The bill was read. It directs that there shall be paid to Martin F. Conway $3,176 20, as additional compensation and mileage to him as a Representative in the Thirty-Sixth Congress from the State of Kansas.

Mr. MAYNARD. I ask the gentleman from Kentucky whether the Delegate from Kansas did not draw his pay and mileage up to the time that Kansas was admitted as a State?

The SPEAKER. No debate is in order at this time.

Mr. MAYNARD. I ask unanimous consent to put that question.

There was no objection.

Mr. MAYNARD. My intention was to ask whether, at the last Congress, the Delegate from Kansas did not draw his mileage and pay up to the time that Kansas was admitted as a State, and whether, after that time, the then member—who is also the present member—did not draw his salary and mileage; and, furthermore, whether this very question was not presented at the last Congress and referred to the Committee of Elections, which committee unanimously decided against it?

Mr. MENZIES. I believe that the Delegate from Kansas did, as suggested by the gentleman's question, draw his pay up to the time of the admission of Kansas as a State. I know nothing as to the action of the Committee of Elections at last Congress. I failed to inform myself on that point.

Mr. McKNIGHT. Will the gentleman from Kentucky yield to me a moment? I think I can answer the question.

Mr. MENZIES. Yes.

Mr. McKNIGHT. I believe I can answer the question of the gentleman from Tennessee in the affirmative on every point.

The SPEAKER. If there be no objection, the gentleman from Pennsylvania will be heard.

Mr. F. A. CONKLING. I object to any further debate on the motion.

Mr. MENZIES. In answer to the gentleman from Missouri——

The SPEAKER. The gentleman from New York objects to further debate.

Mr. F. A. CONKLING. I withdraw the objection.

Mr. MENZIES. I was about to remark that a direct answer "yes" or "no," to the interrogatories put by the gentleman from Tennessee, would not do justice to the claimant before the House, and therefore I want to be permitted to enter into an explanation. The answer "yes" or "no" might influence the vote on the motion to suspend the rules, in a way different from what it would be if the House understood the substance of the report of the committee. The Committee of Elections was fully satisfied that the claimant was here properly, from the time the petition for the admission of Kansas as a State was presented to the Thirty-Sixth Congress. He was here according to usage, and according to the wishes of his constituents. He had been elected to Congress to take his seat when the State should be admitted, and was sent here for the purpose of forwarding that act. The committee was satisfied that he had a right to expect earlier action on the claim of Kansas for admission as a State, that the delay was unreasonable, and that equity entitled him to compensation from the time when it might reasonably have been expected that Kansas should be admitted.

The question was taken; and (two thirds not voting in favor thereof) the rules were not suspended.

WEST VIRGINIA.

Mr. BLAIR, of Virginia, asked and obtained permission to have printed a speech which he had prepared on the subject of the admission of West Virginia. [His speech will be published in the Appendix.]

DIPLOMATIC CORRESPONDENCE.

Mr. COX. I move that there be printed five thousand copies of the correspondence between the Government and certain European Governments, now being prepared at the State Department under the resolution of the House. One thousand of the same to be for the use of the Department of State.

The motion was referred to the Committee on Printing.

ROBERT F. WINSLOW.

Mr. LOVEJOY. I ask that the Committee of the Whole House on the Private Calendar be discharged from the further consideration of House bill No. 379, for the relief of Robert F. Winslow.

Mr. TRAIN. I object.

Mr. LOVEJOY. I move to suspend the rules.

The bill was read. It directs the Secretary of the Treasury to pay to Robert F. Winslow the sum of $1,188 82 in full for his services and for all his disbursements in his attempts to organize a

regiment of volunteers in the State of Illinois, for the service of the United States.

The question was taken; and (two thirds not voting in favor thereof) the rules were not suspended.

EXTRA CLERK TO COMMITTEE.

Mr. POTTER. I ask now to offer the resolution which was objected to some time ago by the gentleman from Kentucky, [Mr. WICKLIFFE.] On explanation, he withdraws his objection.

The resolution was read, as follows:

Resolved, That the Clerk of the House of Representatives is hereby directed to pay out of the amount heretofore appropriated for the expenses of the select committee on disloyal employés of the Government, on the certificate of the chairman of said committee, such sum or sums as may be due for the services of an extra clerk employed by the committee in copying testimony.

Mr. F. A. CONKLING. I would like to inquire, by permission of the House, what is the sum required for this purpose?

Mr. POTTER. The original resolution authorized the committee to employ but one clerk. We have found it necessary this session, in order to give copies of the testimony to the Departments and to various individuals charged, to employ a copying clerk. This is merely to pay him out of the appropriation already made.

Mr. F. A. CONKLING. What is the amount?

Mr. POTTER. I do not know the exact amount. I think it is four or five hundred dollars. I have myself been obliged to pay him in part.

There being no objection, the resolution was offered.

Mr. STEVENS. I would like to amend the resolution by adding a proviso that no committee of investigation heretofore appointed by the House shall take any further proceedings until the further order of the House.

Mr. WASHBURNE. I object to that as not germane to the resolution.

The SPEAKER. The Chair sustains the point of order.

The resolution was adopted.

Mr. POTTER moved to reconsider the vote by which the resolution was adopted; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

EMANCIPATION IN THE STATES.

Mr. WALTON, from the Committee on Printing, reported a resolution for the printing in pamphlet form of ten thousand copies of the bill entitled "An act giving the aid of the United States to certain States on the adoption by them of a system of emancipation, and to provide for the colonization of free negroes," and of the report of the select committee thereon, for the use of the House.

The resolution was agreed to.

DIPLOMATIC CORRESPONDENCE.

Mr. WALTON also, from the same committee, reported a resolution for the printing of five thousand copies of the correspondence between this Government and certain European Governments; one thousand copies to be for the use of the Department of State.

The resolution was agreed to.

TREASURY EXTENSION.

Mr. WALL asked leave to offer the following resolution:

Whereas it is set forth in the report of the Committee of Expenditures on Public Buildings, made to this House on the 10th instant, that the officers of the Bureau of Construction, namely, A. B. Young and Samuel M. Clark, are, in the judgment of the committee, not qualified for their positions, or abuse them, and should be removed: Now, therefore,

Be it resolved, That the Secretary of the Treasury be and hereby is required to stop the further payment and disbursement of money for or on account of any work or material, for which proposals have been invited, for the Treasury extension or any other work, or any vouchers of estimates for work or materials, made or to be made, by said A. B. Young and said S. M. Clark; and that said committee be authorized to employ some competent person or persons to examine any or all of the plans and specifications, books, and papers, pertaining to the Treasury extension or any other work done or in progress of being done for the Government under the supervision of the Bureau of Construction, for the purpose of obtaining such further evidence as the committee may think proper; and that said committee report the same to this House at its next session in December next.

Mr. HAIGHT. I object.

Mr. WALL. I move to suspend the rules.

The question was taken; and (over two thirds voting in favor thereof) the rules were suspended.

Mr. WALL moved the previous question on the adoption of the resolution.

Mr. PHELPS, of Missouri. I hope the previous question will not be sustained. I desire to say something on that resolution.

Mr. WASHBURNE demanded tellers.

Tellers were ordered; and Messrs. FRANK and GURLEY were appointed.

The House divided; and the tellers reported—ayes 40, noes 55.

So the previous question was not seconded.

Mr. COLFAX. I move to go to the business on the Speaker's table.

Mr. PHELPS, of Missouri. I rise to a question of order. That motion is not in order while the House is acting under a suspension of the rules.

Mr. COLFAX. I believe the rules have not been suspended.

Mr. PHELPS, of Missouri. The rules have been suspended, and the resolution introduced.

The SPEAKER. The Chair is of the opinion that the report of the Committee on Public Buildings and Grounds having been presented under a suspension of the rules, a motion to go to business on the Speaker's table would not be in order.

Mr. PHELPS, of Missouri. The resolution which is before us proposes to stop some work now being done upon the Treasury extension. It also requests the Secretary of the Treasury to remove certain gentlemen, who are specified by name, because a committee of this House have found them incompetent to discharge the duties intrusted to them.

Of this matter I have no complaint to make except this: if the House of Representatives, through one of its committees, upon the taking of testimony, have found that there are persons employed upon this work who are incompetent to discharge their duties, it is the duty of the Secretary of the Treasury to discharge them immediately.

Mr. WALL. I withdraw the resolution.

Mr. PHELPS, of Missouri. The gentleman cannot withdraw his resolution, it having been introduced under a suspension of the rules.

Mr. WALL. Very well; go on. I have no objection.

Mr. PHELPS, of Missouri. Inasmuch as this resolution is an indirect censure upon the Secretary of the Treasury, I desire to say a word upon it. A committee of the House of Representatives, upon calling before them witnesses, have found two of the employés of the Treasury Department incompetent, and they even hint at something else, that they are not honest; and because the Secretary of the Treasury does not remove them, they come here hunting after mice, instead of striking at the man who has the power to set the matter right.

You have, then, these facts, that a committee of this House have reported these two employés, who hold their offices at the will of the Secretary of the Treasury, and who still retain their offices, and they ask this House to request the Secretary of the Treasury to remove them. It seems to me an astonishing fact that a committee of this House should attempt, by a single resolution of this House, to arrest the progress of the work upon one of the public buildings; for the resolution under consideration is not a joint resolution, and if it shall pass, it will be ineffectual to accomplish the object desired, except so far as it shall be an expression of opinion upon the part of the House in relation to the incompetency of those men.

Now, I have had no opportunity of examining the testimony which has been taken by this committee, nor am I prepared to join issue with them in the conclusions which they have drawn. One of these gentlemen, I know, has been for a long time employed in the Treasury Department as principal or chief architect. He has continued in his employment, if I mistake not, through three or four different Administrations, and I have never heard his competency questioned, or his honesty or integrity impugned. I allude to Mr. Young.

But, sir, I have not risen for the purpose of entering upon the defense of these men. There are others in the House, I presume, who know them personally, who know their characters and reputation, and who will vindicate them from the assault which has in this manner been made upon them, if they need vindication.

But, sir, it seems to me surprising, if the gentlemen composing this committee believe the Secretary of the Treasury has employed men who are incompetent or dishonest, that another course has not been pursued. The gentleman from New York might have personally called upon the Secretary, and invited his attention to the fact. If his attention had been called to the fact, and he had believed the allegations against these men to be true, I am of opinion he would have dismissed them forthwith from the public employment. It was certainly his duty to have dismissed them upon so grave accusations being presented to him, unless he found that the men so arraigned had not been notified of the charges against them, nor permitted to appear in their own defense. I desire to inquire whether the committee caused these persons to be informed of the nature of the accusations against them, and were they permitted to be heard in their own defense?

Mr. SARGENT. Does the gentleman desire an answer?

Mr. PHELPS, of Missouri. Yes, sir.

Mr. ASHLEY. I object to the gentleman from Missouri yielding the floor, unless he yields unconditionally.

Mr. PHELPS, of Missouri. Very well. I cannot then learn from the gentleman from California, because the gentleman from Ohio objects, whether these persons, these employés of the Treasury Department, arraigned by this committee, were informed of the nature of the testimony against them or not; or whether they were permitted to call witnesses in support of their own conduct. That would seem to have been a fair course of proceeding. In all the committees of this House charged with the investigation of frauds or official misconduct, if I mistake not, a general rule has prevailed whenever the conduct or character of a party has been impugned to furnish copies of the evidence submitted against him to the party, and afford him the opportunity of calling witnesses for the purpose of rebutting the testimony adduced against him. That would have been a fair course of procedure, and if such a course has not been pursued in this case, the Secretary of the Treasury, if he has confidence in their ability and integrity, is justifiable in still retaining them in the public service; because if upon an *ex parte* proceeding you cause men to be dismissed from the public service, when they have it in their power to show that they are not guilty if the opportunity is afforded them, I say it is treating private character and reputation in an unfortunate and improper manner.

But, sir, I have not risen for the purpose of consuming time upon this matter. As the gentleman from New York desired this resolution to be introduced, I had no objection to it, provided it could be considered, so that the House could understand upon what it was acting before voting upon the adoption of the resolution.

Mr. ELIOT. I move to go to business on the Speaker's table.

Mr. BINGHAM. I rise to a privileged question. I call up the motion to reconsider the vote by which the bill in relation to the division of the State of Michigan into two judicial districts was referred to the Committee on the Judiciary.

The SPEAKER. The motion may be entered, but not acted upon at this time.

Mr. BINGHAM. The motion has been made and entered, and I now desire to call it up for action.

The SPEAKER. The House is acting under a suspension of the rules, and the motion of the gentleman will not be in order until the business under consideration has been disposed of.

Mr. WALL. I submitted this resolution hoping it would be acted on at once. I have no desire to consume the time of the House upon such a matter when business of importance is pressing, and I therefore withdraw the resolution.

Mr. PHELPS, of Missouri. I object.

The SPEAKER. Upon what ground?

Mr. PHELPS, of Missouri. Upon the ground that the resolution having been introduced under a suspension of the rules, it is not competent for the gentleman to withdraw it.

The SPEAKER. The gentleman has the right to withdraw his proposition under the rules at any time before there has been action upon it.

Mr. PHELPS, of Missouri. I submit that the suspension of the rules is action upon it.

The SPEAKER. The gentleman was not permitted to introduce his resolution until the rules

had been suspended for that purpose. It could not, therefore, have been action upon the resolution, because the resolution was not before the House. The Chair decides that the gentleman has the right to withdraw the resolution.

MESSAGE FROM THE SENATE.

A message was received from the Senate, by Mr. HICKEY, their Chief Clerk, notifying the House that the Senate have passed, without amendment, a joint resolution and bill of the House of the following titles:

Joint resolution (No. 108) requiring the superintendent of the metropolitan police to pay over certain moneys collected for fines and penalties, to constitute a contingent fund for certain purposes; and

An act (No. 577) to provide for the more prompt settlement of the accounts of disbursing officers.

The message further announced that the Senate have passed, with amendments, in which the concurrence of the House is asked, joint resolutions of the House of the following titles:

Joint resolution (No. 110) explanatory of an act to suppress insurrection, to punish treason and rebellion, to seize and confiscate the property of rebels, and for other purposes;

Joint resolution (No. 107) further to provide for the compensation of members of Congress; and

Joint resolution to amend section seventy-seven of an act to provide internal revenue to support the Government and pay interest on the public debt.

The message also announced that the Senate have agreed to the amendments of the House to the joint resolution (S. No. 97) in relation to the law of prize.

ENROLLED BILL.

Mr. GRANGER, from the Committee on Enrolled Bills, reported that the committee had examined and found truly enrolled a joint resolution (H. R. No. 108) requiring the superintendent of metropolitan police to pay over certain moneys collected for fines and penalties, to constitute a contingent fund for certain purposes; when the Speaker signed the same.

BUSINESS ON THE SPEAKER'S TABLE.

Mr. ELIOT. I move to proceed to the business on the Speaker's table.

Mr. MALLORY moved that the House adjourn, and called for tellers on the motion.

Tellers were ordered; and Messrs. COLFAX, and STEELE of New Jersey, were appointed.

The House divided; and the tellers reported—ayes 21, noes 76.

Mr. MALLORY. I demand the yeas and nays upon the motion to adjourn.

The yeas and nays were not ordered.

So the House refused to adjourn.

The question recurred on the demand for tellers on the motion to proceed to the business on the Speaker's table.

Tellers were ordered; and Messrs. ASHLEY and FISHER were appointed.

The House divided; and the tellers reported—ayes 71, noes 12; no quorum voting.

Mr. PHELPS, of Missouri. I move that the House do now adjourn; and upon that I demand the yeas and nays.

The yeas and nays were ordered.

The question was put; and it was decided in the negative—yeas 23, nays 83; as follows:

YEAS—Messrs. William J. Allen, Ancona, Baily, George H. Browne, Calvert, Cox, Crisfield, Crittenden, Dunlap, Grider, Harding, Kerrigan, Mallory, Menzies, Odell, Pendleton, John S. Phelps, James S. Rollins, John B. Steele, William G. Steele, Stiles, Francis Thomas, and Wickliffe—23.

NAYS—Messrs. Aldrich, Alley, Arnold, Babbitt, Baxter, Beaman, Bingham, Jacob B. Blair, Samuel S. Blair, Blake, Buffinton, Campbell, Casey, Clements, Colfax, Frederick A. Conkling, Covode, Cravens, Cutler, Davis, Dawes, Duell, Edwards, Eliot, Ely, Fenton, Fessenden, Fisher, Frank, Gooch, Goodwin, Granger, Gurley, Haight, Hale, Hanchett, Holman, Hooper, Hutchins, Julian, Kelley, Francis W. Kellogg, William Kellogg, Loomis, Lovejoy, Low, McKnight, McPherson, Moorhead, Anson P. Morrill, Nixon, Noell, Olin, Patton, Timothy G. Phelps, Pike, Porter, Potter, Alexander H. Rice, John H. Rice, Riddle, Edward H. Rollins, Sargent, Sedgwick, Shanks, Shellabarger, Sherman, Stevens, Stratton, Benjamin F. Thomas, Train, Trimble, Trowbridge, Van Horn, Wall, Wallace, Walton, Ward, Washburne, Albert S. White, Wilson, Windom, and Worcester—83.

So the House refused to adjourn.

Mr. COLFAX. I call for the yeas and nays upon the motion to proceed to the business on the Speaker's table.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 78, nays 24; as follows:

YEAS—Messrs. Aldrich, Alley, Arnold, Ashley, Babbitt, Baxter, Beaman, Bingham, Blake, Buffinton, Campbell, Casey, Clements, Colfax, Frederick A. Conkling, Roscoe Conkling, Covode, Cutler, Davis, Dawes, Duell, Dunn, Edgerton, Eliot, Ely, Fenton, Fessenden, Frank, Goodwin, Granger, Gurley, Hale, Hanchett, Hooper, Hutchins, Julian, Kelley, Francis W. Kellogg, William Kellogg, Loomis, Lovejoy, Low, McKnight, McPherson, Maynard, Mitchell, Moorhead, Anson P. Morrill, Nixon, Noell, Olin, Patton, Timothy G. Phelps, Pike, Porter, Alexander H. Rice, John H. Rice, Riddle, Edward H. Rollins, Sargent, Shanks, Shellabarger, Sherman, Spaulding, Stratton, Train, Trimble, Trowbridge, Van Horn, Verree, Wall, Wallace, Walton, Washburne, Albert S. White, Wilson, Windom, and Worcester—78.

NAYS—Messrs. William J. Allen, Ancona, Biddle, Calvert, Cox, Crisfield, Crittenden, Dunlap, Haight, Harding, Holman, Kerrigan, Knapp, Menzies, Pendleton, Potter, Shiel, Smith, William G. Steele, Stevens, Stiles, Benjamin F. Thomas, Ward, and Webster—24.

So the House decided to go to the business on the Speaker's table.

Mr. MALLORY. I move that the House do now adjourn; and upon that I demand tellers.

Tellers were not ordered.

Mr. MALLORY. I demand the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 13, nays 84; as follows:

YEAS—Messrs. William J. Allen, Baily, Biddle, George H. Browne, Cox, Crisfield, Dunlap, Grider, Kerrigan, James S. Rollins, Shiel, Smith, and Stiles—13.

NAYS—Messrs. Aldrich, Alley, Arnold, Ashley, Baxter, Beaman, Bingham, Jacob B. Blair, Samuel S. Blair, Blake, Buffinton, Campbell, Casey, Clements, Colfax, Frederick A. Conkling, Roscoe Conkling, Covode, Cravens, Davis, Dawes, Duell, Dunn, Edwards, Eliot, Ely, Fenton, Fessenden, Fisher, Frank, Gooch, Goodwin, Granger, Gurley, Haight, Hale, Hanchett, Holman, Hooper, Hutchins, Julian, Kelley, Francis W. Kellogg, William Kellogg, Loomis, Lovejoy, Low, McKnight, McPherson, Mitchell, Moorhead, Anson P. Morrill, Nixon, Noell, Patton, Timothy G. Phelps, Pike, Porter, Potter, Alexander H. Rice, Riddle, Edward H. Rollins, Sargent, Sedgwick, Shanks, Shellabarger, Sherman, Spaulding, Stevens, Stratton, Benjamin F. Thomas, Train, Trimble, Trowbridge, Van Horn, Verree, Wall, Wallace, Walton, Washburne, Albert S. White, Wilson, Windom, and Worcester—84.

So the House refused to adjourn.

MESSAGE FROM THE SENATE.

A message from the Senate by Mr. HICKEY, their Chief Clerk, announced to the House that the Senate had passed a joint resolution of the House (No. 81) authorizing the Secretary of the Interior to expend from the fund in the United States Treasury belonging to the Winnebago Indians, the sum of $50,000, or so much thereof as may be necessary, for the benefit of said Indians.

CONFISCATION AND EMANCIPATION.

The first bill taken from the Speaker's table was joint resolution (H. R. No. 110) explanatory of an act to suppress insurrection, punish treason and rebellion, to seize and confiscate the property of rebels, and for other purposes; with a Senate amendment thereto.

The amendment of the Senate was to add at the end of the resolution the following:

Nor shall any punishment or proceeding under said act be so construed as to work a forfeiture of the real estate of the offender beyond his natural life.

Mr. ELIOT. I move that the House concur in the Senate amendment; and upon that I call the previous question.

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

The motion was not agreed to.

The previous question was seconded; and the main question ordered to be put.

Mr. COX. I demand the yeas and nays upon agreeing to the amendment of the Senate.

The yeas and nays were ordered.

Mr. WICKLIFFE. I rise to a question of order. If there is not a quorum voting for the amendment of the Senate, will it be adopted or rejected?

The SPEAKER. The Chair does not see any point of order in that question.

The question was put; and it was decided in the affirmative—yeas 79, nays 9; as follows:

YEAS—Messrs. Aldrich, Alley, Arnold, Ashley, Babbitt, Baxter, Beaman, Jacob B. Blair, Samuel S. Blair, Blake, Buffinton, Campbell, Casey, Clements, Colfax, Frederick A. Conkling, Roscoe Conkling, Covode, Cutler, Dawes, Duell, Dunn, Edwards, Eliot, Ely, Fenton, Fisher, Frank, Gooch, Goodwin, Granger, Gurley, Haight, Hale, Hanchett, Hooper, Hutchins, Julian, Kelley, Francis W. Kellogg, William Kellogg, Loomis, Lovejoy, Low, McKnight, McPherson, Maynard, Mitchell, Moorhead, Anson P. Morrill, Nixon, Noell, Olin, Patton, Timothy G. Phelps, Pike, Porter, Alexander H. Rice, John H. Rice, Riddle, Edward H. Rollins, Segar, Stevens, Wilson, and Windom—9.

Mr. TRAIN stated that he had paired with Mr. WADSWORTH.

No quorum having voted,

Mr. WASHBURNE moved that there be a call of the House.

The motion was agreed to.

The roll was then called, when the following members failed to answer to their names:

Messrs. Ancona, Baker, Francis P. Blair, William G. Brown, Burnham, Calvert, Chamberlin, Clark, Conway, Corning, Delano, Delaplaine, Diven, Edgerton, English, Fouke, Franchot, Harrison, Hickman, Horton, Jackson, Johnson, Killinger, Lansing, Lazear, Leary, Lehman, McKean, Marston, May, Justin S. Morrill, Noble, Norton, Nugen, Perry, Pomeroy, Price, Richardson, Robinson, Sheffield, Sloan, Stiles, Francis Thomas, Vallandigham, Vandever, Van Valkenburg, Vibbard, Voorhees, Wadsworth, Wheeler, Whaley, Chilton A. White, Wood, Woodruff, and Wright.

Mr. WASHBURNE. As a quorum have answered to their names, I move that all further proceedings under the call be dispensed with.

The motion was agreed to.

The question recurring on the motion to agree to the Senate's amendment, upon which the yeas and nays had been ordered, the question was put; and it was decided in the affirmative—yeas 83, nays 21; as follows:

YEAS—Messrs. Aldrich, Alley, Arnold, Ashley, Babbitt, Baxter, Beaman, Biddle, Jacob B. Blair, Samuel S. Blair, Blake, Buffinton, Campbell, Casey, Clements, Colfax, Frederick A. Conkling, Roscoe Conkling, Covode, Cutler, Dawes, Duell, Dunn, Edwards, Eliot, Ely, Fenton, Fessenden, Fisher, Frank, Gooch, Goodwin, Granger, Gurley, Haight, Hale, Hanchett, Hooper, Hutchins, Julian, Kelley, Francis W. Kellogg, William Kellogg, Loomis, Lovejoy, Low, McKnight, McPherson, Mitchell, Moorhead, Anson P. Morrill, Nixon, Noell, Olin, Patton, Timothy G. Phelps, Pike, Porter, Alexander H. Rice, John H. Rice, Riddle, Edward H. Rollins, Sargent, Sedgwick, Shanks, Shellabarger, Sherman, Smith, Spaulding, Stratton, Benjamin F. Thomas, Train, Trimble, Trowbridge, Van Horn, Verree, Wall, Wallace, Walton, Washburne, Albert S. White, Windom, and Worcester—83.

NAYS—Messrs. Ancona, Bingham, Cobb, Cox, Cravens, Davis, Dunlap, Holman, Law, Menzies, Morris, Odell, Pendleton, Potter, Shiel, John B. Steele, William G. Steele, Stevens, Stiles, Ward, and Wilson—21.

So the amendment of the Senate was concurred in.

Mr. ELIOT moved to reconsider the vote last taken; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

ENROLLED BILLS.

Mr. GRANGER, from the Committee on Enrolled Bills, reported that the committee had examined and found truly enrolled an act and joint resolution of the following titles, which were then signed by the Speaker:

An act (H. R. No. 577) to provide for the more prompt settlement of accounts of disbursing officers; and

Joint resolution (H. R. No. 81) authorizing the Secretary of the Interior to expend, from a fund in the United States Treasury belonging to the Winnebago Indians, the sum of $50,000, or so much thereof as may be necessary, for the benefit of said Indians.

CLERK TO COMMITTEE ON MILITARY AFFAIRS.

Mr. OLIN. I ask the unanimous consent of the House to introduce a resolution establishing the pay of the clerk to the Committee on Military Affairs.

The resolution, which was read for information, directs that the pay of the clerk to the Committee on Military Affairs be the same as that of the clerks of the Committees of Claims and of Ways and Means, and that the same shall commence from the 4th of July, 1861.

Mr. STEVENS objected.

Mr. OLIN moved to suspend the rules to enable him to introduce the resolution.

On a division, no quorum voting,

Mr. OLIN demanded the yeas and nays.

The yeas and nays were ordered.

The question was put; and there were—yeas 48, nays 48; as follows:

YEAS—Messrs. Aldrich, William J. Allen, Ashley, Bid-

dle, Bingham, Jacob B. Blair, Buffinton, Cobb, Covode, Cox, Cravens, Cutler, Dunn, Edwards, Fisher, Frank, Gooch, Goodwin, Gurley, Haight, Francis W. Kellogg, William Kellogg, Kerrigan, Knapp, Law, Loomis, Morris, Noell, Odell, Olin, Pendleton, Potter, Alexander H. Rice, Biddle, Edward H. Rollins, James S. Rollins, Sedgwick, Sherman, Shiel, Smith, John B. Steele, Stiles, Stratton, Benjamin F. Thomas, Train, Ward, Albert S. White, and Wilson—48.

NAYS—Messrs. Alley, Ancona, Babbitt, Baily, Beaman, Blake, Campbell, Casey, Clements, Colfax, Frederick A. Conkling, Roscoe Conkling, Duell, Dumlap, Eliot, Ely, Fessenden, Grider, Hall, Hanchett, Harding, Hutchins, Julian, Lovejoy, McKnight, McPherson, Mallory, Maynard, Menzies, Moorhead, Anson P. Morrill, Nixon, Patton, John H. Rice, Sargent, Shellabarger, Spaulding, Stevens, Trimble, Trowbridge, Van Horn, Verree, Wall, Wallace, Washburne, Wickliffe, Windom, and Worcester—48.

So the rules were not suspended, (two thirds not voting in favor thereof.)

Mr. STEVENS. I call for the regular order of business, which is the business on the Speaker's table.

INTERNAL REVENUE BILL.

The next bill taken from the Speaker's table was a joint resolution of the House, to amend the seventy-seventh section of an act to provide internal revenue to support the Government and pay the interest upon the public debt, returned from the Senate with an amendment.

The amendment of the Senate, which was read, was to add at the end of the resolution the following new section:

And be it further resolved, That all the sections of the act entitled, "An act to provide internal revenue to support the Government and pay the interest upon the public debt," which requires any matter or thing to be done on or before the 1st day of July or August, shall be so amended and changed that said matters or things may be so done on or before any other day in the year 1862, not later than the 1st day of October, 1862, which may be fixed and determined upon by the Secretary of the Treasury, if in his judgment a later day should be so fixed in order to put said act into practical operation, and all parts of said act having reference to said dates of the 1st day of July and August, 1862, shall be taken and construed as having reference to the said day which may be so fixed and determined upon: *Provided*, That the Secretary of the Treasury shall give public notice of the day so fixed and determined upon, and in such manner as he may deem expedient.

The amendment was concurred in.

COMPENSATION OF MEMBERS OF CONGRESS.

The next bill taken from the Speaker's table was a joint resolution (H. R. No. 107) to provide for the compensation of members of Congress, returned from the Senate with amendments.

The amendments, which were read, were to insert at the end of line five, the words "without pay," and after line five to insert the following new section:

SEC. 2. *And be it further enacted*, That whenever any Senator or Representative shall hereafter withdraw from his seat in anticipation of the adjournment of Congress, and before the adjournment, and does not return, he shall, in addition to the sum now deducted for each day, forfeit a further sum equal to the mileage now allowed by law for his return home, and it shall be deducted from his compensation, unless when said withdrawal is with the leave of the Senate or House of Representatives, respectively.

Mr. KELLOGG, of Illinois. I move to lay that amendment on the table.

The motion was not agreed to.

Mr. HOLMAN. I call the previous question upon agreeing to the Senate amendments.

The previous question was seconded, and the main question ordered to be put.

Mr. MAYNARD. I have not been absent from the House at the close of any session since I have been a member; but I think that amendment is wrong, and I shall vote against it.

Mr. KELLOGG, of Illinois. I call for the yeas and nays upon agreeing to the Senate's amendments.

The yeas and nays were not ordered.

The amendments were agreed to.

Mr. WASHBURNE moved to reconsider the vote last taken; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

JUDICIAL DISTRICTS IN MICHIGAN.

Mr. BINGHAM. I rise to a privileged question. House bill No. 267, to divide the State of Michigan into two judicial districts, and to provide for holding the district and circuit courts therein, was referred to the Judiciary Committee, with leave to report at any time. I now report back that bill.

The bill was read.

Mr. BINGHAM. I move the previous question on the motion to reconsider.

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

Mr. BINGHAM. I hope my colleague will not insist on that motion. Let me say a word to the House.

Mr. F. A. CONKLING. Will the gentleman withdraw the demand for the previous question on the motion to reconsider?

Mr. BINGHAM. Will my colleague withdraw the motion to adjourn?

Mr. MORRIS. I withdraw it.

Mr. BINGHAM. I withdraw the demand for the previous question for the purpose of making a statement to the House. I think it is due to a whole people, not much less than a million of our fellow-citizens, who have petitioned the House for a change in the law which will enable them to have something like a fair administration of justice, that we should at least show this much respect to their wishes.

Mr. HOLMAN. I rise to a question of order. I submit that the gentleman from Ohio has no right to discuss the measure on a motion to reconsider.

The SPEAKER. The Chair overrules the point of order. The motion to reconsider is debatable.

Mr. BINGHAM. I do not desire to detain the House long. I say that the Committee on the Judiciary thought it due to not much less than a million people, occupying an area of fifty-six thousand square miles, that they should report this bill to the House, and to submit to the House that it is due to them that the House should pass the bill now, although it may not pass the Senate, and although everybody knows that the adjournment to-morrow will prevent its passage there, if there is a single objection to it.

Mr. F. A. CONKLING. I desire to vote advisedly on this bill, and I wish to ask the gentleman from Ohio on how many days during the last year the district court for Michigan has been held?

Mr. BINGHAM. I am not able to answer that question now; but I can tell the gentleman that examination into the matter shows that a large majority of the people of the State of Michigan, by reason of their remoteness from the places where the court is now held, and the difficulty of travel, cannot have justice administered at all in the Federal courts. I say further, that when this bill is passed by the House, if there is a single Senator who doubts its propriety, he can prevent its passage, as every one acquainted with the rules of the Senate knows. I ask the passage of the bill now, out of decent respect to the memorial of the people of Michigan. When it is passed, any member can enter a motion to reconsider, and it will lie over till next December. I now move the previous question on the motion to reconsider.

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

LEAVE OF ABSENCE TO MEMBERS.

Mr. KELLOGG, of Illinois. Before that motion is put, I desire to make a request of the House, to which I am sure there will be no objection. My colleague, Mr. KNAPP, has just received a telegraphic dispatch announcing the death of his father, and desires leave of absence for the remainder of the session.

There being no objection, leave was granted.

Mr. DAWES. I make the same request in my own behalf. It is necessary for me to leave in the morning on account of my ill health.

There being no objection, leave was granted.

Mr. TRIMBLE. I now insist on my motion.

The motion was agreed to; and thereupon (at six o'clock, p. m.) the House adjourned until eleven o'clock to-morrow morning.

IN SENATE.

THURSDAY, *July* 17, 1862.

Prayer by the Chaplain, Rev. Dr. SUNDERLAND.

Mr. GRIMES. I move that the reading of the Journal be dispensed with

The PRESIDENT *pro tempore*. Unless some member demands the reading of the Journal, its reading will be dispensed with. It is dispensed with.

PETITIONS AND MEMORIALS.

Mr. GRIMES presented a petition of A. C. Jones, praying an appropriation for making a target for testing his improvement in armor for vessels and forts; which was ordered to lie on the table.

Mr. COWAN presented a petition of volunteers discharged for disability, and honorably discharged from the Army of the United States, praying to be allowed $100 bounty; which was referred to the Committee on Military Affairs and the Militia.

Mr. TRUMBULL presented the memorial of J. B. Ennis and others, in favor of the establishment of a naval depot and foundery at Mound City, Illinois; which was ordered to lie on the table.

REPORTS FROM COMMITTEES.

Mr. TEN EYCK, from the Committee on Commerce, to whom were referred the petition of Philip Fitzpatrick and the petition of Thomas Clyde, asked to be discharged from their further consideration; which was agreed to.

Mr. TRUMBULL, from the Committee on the Judiciary, to whom were referred the petition of Charles Henry Foster; the petition of Marble N. Taylor; a petition of citizens of New York, relative to the disposition of the lands of traitors; and a resolution of the Senate directing the committee to inquire what further legislation is necessary to protect persons of color from illegal seizure in Washington, asked to be discharged from their further consideration; which was agreed to.

Mr. FOSTER, from the Committee on the Judiciary, to whom were referred the memorial of James Craig, as agent for certain banks and savings institutions in the State of Missouri; the memorial of the stockholders of the bank of the State of Missouri; the memorial of the president and directors of the Franklin Savings Institution of St. Louis; and the memorial of Pierce & Bacon, of Boston, Massachusetts, praying that provision may be made for the payment of certain drafts held by them, drawn by Russell, Majors & Waddell on the War Department, and accepted by John B. Floyd, late Secretary of War; and also the report of the Secretary of War in answer to a resolution of the Senate, of April 2, 1862, in relation to drafts drawn by Russell, Majors & Waddell, or other parties, on the War Department, and accepted by John B. Floyd, late Secretary of War; and the correspondence of the War Department in relation to the Floyd acceptances; reported a joint resolution (S. No. 102) for the relief of the holders of drafts, orders, or bills of exchange drawn by Russell, Majors & Waddell, contractors with the Government, commonly known as the Floyd acceptances.

Mr. ANTHONY, from the Committee on Printing, to whom was referred a resolution to print three thousand copies of the report of the Committee on Naval Affairs in relation to the loyalty of the officers, professors, and pupils of the Naval Academy, reported favorably thereon; and the resolution was agreed to.

Mr. DOOLITTLE. The Committee on Foreign Relations, to whom was referred the bill (S. No. 397) to establish a bureau of migration, have instructed me to report it back to the Senate with an amendment. If there were a full Senate and there were no objection to it, I should like to call up the bill and put it on its passage. ["Oh, no."]

The PRESIDENT *pro tempore*. The bill will go upon the Calendar.

PERSONAL EXPLANATION.

Mr. WRIGHT. I wish to make a remark personal to myself in relation to the events of yesterday. As a member of the committee on the conduct of the war I desire to state in this manner to the Senate and the country that I knew nothing of any order of that committee authorizing the publication of any of the proceedings of the committee; and I wish to say further, with due respect to other gentlemen, that I do not believe the committee had any right to authorize any one to use any portion of the evidence before it. I enter my protest against the action of the committee. In my opinion, as the committee was constituted by this body, it was their duty to report to this body. I have nothing to say personally about the taste of any gentleman who has used it; but I desire in this manner to enter my protest against it, and to say that if any such action was taken by the committee, it was without my knowledge and consent.

WILLIAM PATTON.

Mr. COWAN. I should like to call up the resolution in regard to General Patton, formerly a clerk in this body, and have it acted on.

The motion was agreed to; and the Senate resumed the consideration of the following resolution:

Resolved, That in view of the long and faithful service of William Patton as principal engrossing clerk of the Senate, his salary be continued to him from the 1st of November to the end of the fiscal year terminating on the 30th of last month.

Mr. COWAN. I should be glad to have a letter from Mr. Patton read.

The Secretary read it.

Mr. HALE. It is extremely painful to me to oppose this resolution; but I feel constrained, by a sense of public duty, which is too imperative to be resisted, to enter my protest against its passage. Mr. Patton's is not the only case. There were a great many gentlemen removed from office at the commencement of this year, and the Senate have uniformly refused, except in the case of Mr. Dickins, its late Secretary, to allow these gratuities. Mr. Patton was a very faithful and worthy officer, whom I very highly esteemed; but there are many others of the same character. If this appeal is to be listened to, it will not be the only one, but there will be multitudes of others. I feel constrained to oppose it, and to vote against it, not from any want of sympathy or respect for Mr. Patton, but because I think it is due to a sense of public justice that the resolution should not pass.

Mr. WILMOT. I know this gentleman, William Patton, very well. I also know that the statement in his letter, which has been read, is strictly true. He was for a long time a clerk in this Senate—some twenty-six years—and devoted himself very faithfully to the duties of his appointment. In this resolution there is nothing peculiar. It has not been unusual for the Senate, on the dismissal of an officer, to pass a resolution giving him some compensation beyond the exact amount due to him. I had some hand in the removal of Mr. Patton, and I am very desirous that this resolution should pass. He has been a most faithful officer, and has devoted himself very industriously for twenty-six years to the business of this body. He has returned here during every recess, I believe, for twenty-five years, for the purpose of superintending the printing of the index, and was thereby subjected to expense. It may be said that he could have remained here. So he could, but he preferred to return home and then come back again for the purpose of superintending the publication. This is but a small amount. It gives him some seven months' additional pay.

Mr. CLARK. I agree with my colleague that this is no time to pass a resolution of this kind. I know that Mr. Patton is a very worthy gentleman; I have no doubt he has been a very efficient clerk. I hope, however, the Senators from Pennsylvania will not press the resolution when the Senate is not full. One of those Senators, perhaps, knows the history of a claim presented by Mr. Patton, which has been examined by the Committee on Claims. I do not wish to refer to it now. I have no doubt he is a very worthy man; I have no doubt he is in indigent circumstances; but there are a great many people in a like condition appealing to the Committee on Claims every day to pass claims on account of their poverty. If we begin here, there is no knowing where it will end; and though I sympathize with Mr. Patton, I think the Senate of the United States ought not now at this time, whatever they do hereafter, to pass this resolution.

The PRESIDENT *pro tempore*. The question is, "Shall the resolution be read a third time?" Being for the payment of money, three readings are required.

Mr. HALE. Can it be read a third time to-day?

The PRESIDENT *pro tempore*. It has been read twice heretofore. The question is on its third reading now.

The resolution was read a third time.

The PRESIDENT *pro tempore*. The question is, "Shall the resolution pass?"

Mr. GRIMES. It is very evident we are going to break up the Senate in a few minutes on this matter. I therefore move that the Senate proceed to the consideration of executive business.

EXECUTIVE SESSION.

The motion was agreed to; and after some time spent in the consideration of executive business, the doors were reopened.

CORNELIUS VANDERBILT.

The PRESIDENT *pro tempore* laid before the Senate the following message from the President of the United States:

Follow-Citizens of the Senate and House of Representatives:

I have inadvertently omitted so long to inform you that in March last Mr. Cornelius Vanderbilt, of New York, gratuitously presented to the United States the ocean steamer Vanderbilt, by many esteemed the finest merchant ship in the world. She has ever since been, and still is, doing valuable service to the Government. For the patriotic act in making this magnificent and valuable present to the country, I recommend that some suitable acknowledgment be made. ABRAHAM LINCOLN.

JULY 17, 1862.

The message was ordered to lie on the table, and be printed.

CONFISCATION OF REBEL PROPERTY.

The PRESIDENT *pro tempore* also laid before the Senate a message from the President in relation to the confiscation bill; which was ordered to lie on the table, and be printed.

EXTENSION OF THE SESSION.

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

Resolved, (the House of Representatives concurring,) That the adjournment of the two Houses be postponed until the hour of two o'clock, p. m., this day, at which time the President of the Senate and the Speaker of the House of Representatives adjourn their respective Houses *sine die*.

A message was subsequently received from the House of Representatives, by Mr. MORRIS, its Chief Clerk, announcing that the House had concurred in the resolution extending the time of adjournment.

PRINTING OF LAWS.

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

Resolved, That five thousand copies of the acts and resolutions of the Thirty-Seventh Congress be printed in pamphlet form for the use of the Senate, with a suitable index.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives by Mr. MORRIS, Chief Clerk, announced that the House had passed the Senate joint resolution (No. 100) suspending the sale, by sealed bids, of the lands of the Kansas and the Sac and Fox tribes of Indians.

The message also announced that the House had passed a bill (H. R. No. 579) to authorize payments in stamps, and to prohibit circulation of notes of a less denomination than one dollar.

ENROLLED BILLS SIGNED.

The message further announced that the Speaker of the House of Representatives had signed the following enrolled bills and joint resolutions; which thereupon received the signature of the President *pro tempore:*

A joint resolution (S. No. 86) regulating the employment of the convicts in the penitentiary of the District of Columbia for their improvement and benefit;

A joint resolution (S. No. 97) in relation to the law of prize; and

A joint resolution (S. No. 98) to repeal and modify sections two and three of an act entitled "An act to settle the titles to certain lands set apart for the use of certain half-breed Kansas Indians in Kansas Territory," approved May 26, 1860, and to repeal part of section one of said act;

A joint resolution (S. No. 99) releasing to the heirs-at-law of Robert L. Stevens, deceased, all the right, title, and interest of the United States in and to Stevens's battery;

An act (S. No. 394) to amend the act calling forth the militia to execute the laws of the Union, suppress insurrections, and repel invasions, approved February 28, 1795, and the acts amendatory thereof, and for other purposes;

An act (H. R. No. 548) authorizing the Secretary of the Treasury to change the name of the steamship Coatzacoalcos to America;

A joint resolution (H. R. No. 107) further to provide for the compensation of members of Congress;

A joint resolution (H. R. No. 109) to amend section seventy-seven of an act to provide internal revenue to support the Government and pay interest on the public debt, and for other purposes;

A joint resolution (H. R. No. 110) explanatory of an act to suppress insurrection, to punish treason and rebellion, to seize and confiscate the property of rebels, and for other purposes; and

An act (S. No. 385) to amend an act entitled "An act to amend an act entitled 'An act in addition to the acts prohibiting the slave trade.'"

BILLS BECOME LAWS.

The message further announced that the President had approved and signed, on the 16th instant, the following acts and joint resolution:

A joint resolution (H. R. No. 105) to grant pensions to masters and other officers upon the gunboats in the service of the United States;

A joint resolution (H. R. No. 102) tendering the thanks of Congress to Captain Andrew H. Foote, United States Navy;

A joint resolution (H. R. No. 108) requiring the superintendent of metropolitan police to pay over certain moneys collected for fines and penalties to constitute a contingent fund for certain purposes;

An act (H. R. No. 280) to establish and equalize the grades of line officers of the United States Navy;

An act (H. R. No. 496) to enlarge the Lake Superior land district, in the State of Michigan;

An act (H. R. No. 571) to punish the fraudulent sale or use of postage stamps;

An act (H. R. No. 573) to impose an additional duty on sugars produced in the United States;

An act (H. R. No. 518) transferring the western gunboat fleet from the War to the Navy Department;

An act (H. R. No. 503) to confirm and establish a patent heretofore granted to Etienne Bernot, dated July 24, 1860, and to secure to George Summerville Norris, the assignee of said patent, the benefit of the full term for which said patent was granted;

An act (H. R. No. 369) for the relief of Robert M. Evans;

An act (H. R. No. 355) to amend an act entitled "An act to further promote the efficiency of the Navy," approved December 21, 1861;

An act (H. R. No. 510) for the relief of James N. Müller, supervising inspector of steamboats for the third supervising district;

An act (H. R. No. 524) prohibiting the confinement of persons in the military service of the United States in the penitentiary of the District of Columbia, except as a punishment for certain crimes, and to discharge therefrom certain convicts by sentence of courts-martial, and for other purposes;

An act (H. R. No. 527) to secure one month's pay and pension to Margaret Bailey, widow of George B. Bailey, lieutenant colonel in the ninth regiment of Virginia volunteers; and

An act (H. R. No. 572) making supplemental appropriations for sundry civil expenses of the Government for the year ending June 30, 1863, and for the year ending June 30, 1862.

ORDNANCE REPORT.

The PRESIDENT *pro tempore* laid before the Senate a communication from the Secretary of War, in reply to the resolution of the Senate of the 11th instant, communicating a copy of the general report of the commission on ordnance and ordnance stores, and stating that the chairman, Hon. Joseph Holt, has been diligently engaged in preparing the general report, the special decisions on the several cases, and the evidence for transmission to the Senate, and that the copy of the decision on the several cases, and of the evidence, cannot be completed for several days; which was laid on the table, and ordered to be printed.

POSTAGE STAMPS A CURRENCY.

On motion of Mr. FESSENDEN, the bill (H. R. No. 579) to authorize payments in stamps, and to prohibit the circulation of notes of less denomination than one dollar, was read three times, and passed.

EXECUTIVE SESSION.

The Senate resumed the consideration of executive business; and after some time spent therein, the doors were reopened.

ENROLLED BILLS SIGNED.

A message from the House of Representatives, by Mr. MORRIS, Chief Clerk, announced that the Speaker of the House had signed the following enrolled bills and joint resolutions; and they were thereupon signed by the President *pro tempore:*

A joint resolution (S. No. 100) suspending the sale, by sealed bids, of the lands of the Kansas and Sac and Fox tribes of Indians;

A joint resolution (S. No. 101) making further appropriations for the current and contingent expenses of the Indian department and for fulfilling treaty stipulations with various Indian tribes for the year ending June 30, 1863; and

A bill (H. R. No. 579) to authorize payments in stamps, and to prohibit the circulation of notes of a less denomination than one dollar.

BILLS BECOME LAWS.

The message further announced that the President had this day approved and signed the following acts and resolutions:

A joint resolution (H. R. No. 81) authorizing the Secretary of the Interior to expend from a fund in the United States Treasury, belonging to the Winnebago Indians, the sum of $50,000, or so much thereof as may be necessary for the benefit of said Indians;

A joint resolution (H. R. No. 110) explanatory of "An act to suppress insurrection, to punish treason and rebellion, to seize and confiscate the property of rebels, and for other purposes;"

A joint resolution (H. R. No. 107) further to provide for the compensation of members of Congress;

A joint resolution (H. R. No. 109) to amend section seventy-seven of an act to provide internal revenue to support the Government and pay interest on the public debt, and for other purposes;

An act (H. R. No. 471) to suppress insurrection, to punish treason and rebellion, to seize and confiscate the property of rebels, and for other purposes;

An act (H. R. No. 548) authorizing the Secretary of the Treasury to change the name of the steamship Coatzacoalcos to America; and

An act (H. R. No. 577) to provide for the more prompt settlement of the accounts of disbursing officers.

CLERK OF MILITARY COMMITTEE.

Mr. HOWARD. I submit the following resolution, and I ask for its present consideration:

Resolved, That the annual compensation of the present clerk of the Committee on Military Affairs and the Militia shall be from the commencement of the Congress the same as that of the clerk of the Committees on Finance, on Printing, and on Claims.

Mr. FESSENDEN. I object.

The PRESIDENT *pro tempore*. Objection being made, it lies over.

BILLS BECOME LAWS.

A message from the President of the United States, by Mr. NICOLAY, his Secretary, announced that he had approved and signed, on the 16th instant, the following bill:

A bill (S. No. 380) repealing the law requiring bonds of paymasters and assistant paymasters to be approved by the judge or attorney of the district in which such paymaster or assistant paymaster shall reside.

Also, that he had this day approved and signed the following bills and joint resolutions:

A bill (S. No. 202) requiring the commanders of American vessels sailing to foreign ports, and persons prosecuting claims, to take the oath of allegiance;

A bill (S. No. 348) for the better government of the Navy of the United States;

A bill (S. No. 350) to suspend temporarily the operation of an act entitled "An act to prevent and punish fraud on the part of officers intrusted with making of contracts for the Government," approved June 2, 1862;

A bill (S. No. 376) to allow and pay to the State of Missouri the amount of money expended by said State in the arming and paying of troops employed in the suppression of insurrection against the laws of the United States;

A bill (S. No. 383) to define the pay and emoluments of certain officers of the Army, and for other purposes;

A bill (S. No. 385) to amend an act entitled "An act to amend an act entitled 'An act in addition to the acts prohibiting the slave trade;'"

A bill (S. No. 394) to amend the act calling forth the militia to execute the laws of the Union, suppress insurrections, and repel invasions, approved February 28, 1795, and the acts amendatory thereof, and for other purposes;

A joint resolution (S. No. 86) regulating the employment of the convicts in the penitentiary of the District of Columbia for their improvement and benefit;

A joint resolution (S. No. 97) in relation to the law of prize;

An act (S. No. 250) to amend an act entitled "An act to create a metropolitan police district of the District of Columbia, and to establish a police therefor," approved August 6, 1861;

An act (S. No. 358) to prevent members of Congress and officers of the Government of the United States from taking consideration for procuring contracts, office, or place, from the United States, and for other purposes;

A joint resolution (S. No. 98) to repeal and modify sections two and three of an act entitled "An act to settle the titles to certain land set apart for the use of certain half-breed Kansas Indians in Kansas Territory," approved May 26, 1860, and to repeal part of section one of said act; and

A joint resolution (S. No. 99) releasing to the heirs-at-law of Robert L. Stevens, deceased, all the right, title, and interest of the United States in and to Stevens's battery.

PATENT OFFICE.

Mr. SIMMONS. I now move to postpone all prior orders, and that the Senate proceed to the consideration of House bill No. 365.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. No. 365) to amend an act entitled "An act to promote the progress of the useful arts."

Mr. SIMMONS. The Committee on Patents and the Patent Office report the bill with several amendments. The first amendment is to strike out the first section.

Mr. COLLAMER. You cannot send it back to the House and have the amendments acted on at this session.

Mr. KING. Let us hear what this amendment is.

The Secretary read the amendment, which was to strike out the first section of the bill, as follows:

That from and after the passage of this act, the three examiners-in-chief created by the act of March 2, 1861, to which this is additional, shall not constitute an independent tribunal in the Patent Office to revise and determine upon the validity of decisions made by examiners in the refusal of letters patent, or in interference cases; but that the duties of the said examiners-in-chief shall be only advisory to the Commissioner of Patents, who shall prescribe rules for their action.

The PRESIDING OFFICER, (Mr. CLARK in the chair.) The question is on the amendment proposed by the committee, striking out this section.

The amendment was agreed to.

The next amendment of the committee was in section three, after line three, to insert the words "or other employés," and in line seven to strike out the words "in his opinion;" so that it will read:

That whereas the falling off of the revenue of the Patent Office required a reduction of the compensation of the examiners and clerks or other employés in the office after the 31st day of August, 1861, that the Commissioner of Patents be, and he is hereby, authorized, whenever the revenue of the office will justify him in so doing, to pay them such sums, in addition to what they shall already have received, as will make their compensation the same as it was at that time.

The amendment was agreed to.

The bill was reported to the Senate as amended.

Mr. SHERMAN. I wish to have the bill read.

Mr. GRIMES. I should like to hear it read. It has not been read at all as yet.

Mr. SHERMAN. Let it be read as it stands amended.

The Secretary read the bill as amended, as follows:

Be it enacted, &c., That so much of section seven of the act entitled "An act to promote the progress of the useful arts," approved July 4, 1836, as requires a renewal of the oath, be, and the same is hereby, repealed.

And be it further enacted, That whereas the falling off of the revenue of the Patent Office required a reduction of the compensation of the examiners and clerks or other employés in the office after the 31st day of August, 1861, that the Commissioner of Patents be, and he is hereby, authorized, whenever the revenue of the office will justify him in so doing, to pay them such sums, in addition to what they shall already have received, as will make their compensation the same as it was at that time.

Mr. SHERMAN. I do not see what is the object of the bill.

Mr. FESSENDEN. It is manifest it is going to take up time, and we have only fifteen minutes left. It is necessary to pass some resolutions before we adjourn; and I therefore move that this bill lie on the table.

Mr. WADE. I hope it will be permitted to pass.

Mr. SHERMAN. I should like to know what the object is.

Mr. WADE. The only object is to regulate the compensation of these employés.

Mr. WILMOT. They receive more money now than they ought to receive.

The PRESIDING OFFICER. The question is on concurring in the amendments made in Committee of the Whole.

Mr. WILMOT. I renew the motion that the bill lie on the table.

Mr. WADE. I hope not. There is no reason why it should not be passed. I call for the yeas and nays upon the motion.

The yeas and nays were ordered; and being taken, resulted—yeas 22, nays 13; as follows:

YEAS—Messrs. Browning, Doolittle, Fessenden, Foster, Grimes, Hale, Harlan, Henderson, Howard, Howe, King, Lane of Kansas, Pomeroy, Powell, Rice, Sherman, Stark, Trumbull, Wilkinson, Wilmot, Wilson of Massachusetts, and Wilson of Missouri—22.

NAYS—Messrs. Anthony, Chandler, Clark, Collamer, Foot, Harris, Morrill, Simmons, Sumner, Ten Eyck, Wade, Willey, and Wright—13.

So the motion that the bill lie on the table was agreed to.

CLOSING OF THE SESSION.

Mr. FESSENDEN. I desire to offer a couple of privileged resolutions which are absolutely necessary with reference to finishing up business and adjourning. I offer the following resolution:

Ordered, That a committee of two members be appointed on the part of the Senate, to join such committee as may be appointed on the part of the House of Representatives, to wait upon the President of the United States and inform him that, unless he may have further communication to make, the two Houses are ready to adjourn.

The resolution was agreed to; and Mr. FESSENDEN and Mr. HENDERSON were appointed the committee on the part of the Senate.

Mr. FESSENDEN. I also offer the following resolution:

Ordered, That the Secretary inform the House of Representatives that the Senate, having finished the business before it, is now ready to adjourn.

The resolution was agreed to.

BILL BECOME A LAW.

A message from the President of the United States, by Mr. NICOLAY, his Secretary, announced that he had this day approved and signed a joint resolution (S. No. 101) making further appropriations for the current and contingent expenses of the Indian department and for fulfilling treaty stipulations with various Indian tribes for the year ending June 30, 1863.

RECRUITING EXPENSES IN DELAWARE.

Mr. RICE. I ask the Senate to take up a small bill merely to refund to certain citizens of Delaware money expended by them in the defense of the country. It is House bill No. 531.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. No. 321) to indemnify certain citizens of the United States residing in the State of Delaware, for expenses incurred by them in defense of the United States. It directs the Secretary of the Treasury to pay to the Farmers' Bank of the State of Delaware, at Dover, or the duly authorized agent thereof, any amount not exceeding the sum of $1,378, borrowed of the bank by Alden B. Richardson and others, citizens of the State of Delaware, and by them expended for the enrolling, subsisting, clothing, and equipping of company D of the first regiment of Delaware volunteers, employed in aiding to suppress the present insurrection against the United States; and also to the Bank of Smyrna, at Smyrna, Delaware, or the duly authorized agent thereof, an amount not exceeding the sum of $1,378, borrowed of the bank

by George W. Cummins and others, citizens of Delaware, and by them expended for the enrolling, subsisting, clothing, and equipping company H of the first regiment of Delaware volunteers, employed in the service as aforesaid; but the Secretary is to pay only so much of the expenditures aforesaid as, upon examination, he shall be satisfied were properly made.

The Committee on Military Affairs reported the bill, with an amendment to add as an additional proviso:

Provided further, That no greater allowance shall be made for enrolling, subsisting, clothing, and equipping said company than would have been under the then existing laws of the United States.

Mr. RICE. I have ascertained, upon inquiry, that the committee are satisfied that the amendment is unnecessary. It is provided for in the body of the bill. I hope, therefore, the amendment will be voted down, and the bill passed as it is.

The amendment was rejected.

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

ENROLLED BILL SIGNED.

A message from the House of Representatives, by Mr. MORRIS, Chief Clerk, announced that the Speaker had signed the joint resolution (S. No. 58) to regulate the compensation of agents for paying pensions; and it was thereupon signed by the President *pro tempore*.

CENSUS INDEX.

Mr. SIMMONS. I should like to call up House joint resolution No. 62, requiring an index of the names of heads of families embraced in the census. It has passed the House, and will not take a minute.

Mr. SUMNER. I hope that motion will be agreed to. That resolution ought to be passed at once.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the joint resolution (H. R. No. 62) requiring an index of the names of adult males, or heads of families, embraced in the census. It requires the Superintendent of the Census to record, or have recorded, in books to be prepared for that purpose, the names of adult males, or heads of families, of the free population of the United States and Territories, designating such as are freeholders in alphabetical order, and in such manner as to admit of easy reference to their place in the original census returns.

Mr. GRIMES. I desire to be informed by the chairman of the Committee on Patents, from whom this resolution proceeds, what is the estimated additional expense to the Government, if it should be passed and carried into effect?

Mr. SIMMONS. There is a report on the table on the subject.

Mr. SUMNER. I will say it is recommended by the Superintendent of the Census, who thinks it very important, and that, with the clerical force which he has now at his command, it can be done with reasonable economy.

Mr. SIMMONS. It can be done at a very slight expense.

Mr. RICE. I suppose it is not to cost more than $1,000,000, or something less, and I move that it be laid on the table.

The motion was agreed to.

THANKS TO THE PRESIDENT PRO TEMPORE.

Mr. SUMNER. I ask the Senate to take up House bill No. 345, which was under consideration the other night. The Senator from New Hampshire [Mr. HALE] withdraws his objection to it. It is a bill for the relief of George B. Simpson. It has already passed the House.

Mr. HENDERSON. I ask the Senator from Massachusetts to allow me to offer a resolution.

Mr. SUMNER. Let this pass. It will not take a minute.

Mr. HENDERSON. The Senator from Massachusetts will not object to this resolution when he hears it read.

The PRESIDENT *pro tempore*. It will be read for information.

The Secretary read the resolution, as follows:

Resolved, That the thanks of the Senate be presented to Hon. SOLOMON FOOT, President *pro tempore* of the Senate, for the dignified and impartial manner in which he has performed his duties while presiding over its deliberations during the present session.

Mr. HENDERSON. I hope the resolution will be considered now.

The Secretary put the question on the resolution; and it was unanimously adopted.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. MORRIS, Chief Clerk, announced that the House had concurred in the resolution of the Senate to appoint a committee to wait on the President of the United States and inform him that unless he had further communication to make the two Houses were ready to adjourn; and had appointed Messrs. WASHBURNE, COX, and MENZIES the committee on the part of the part of the House.

GEORGE B. SIMPSON.

Mr. SUMNER. I renew my motion to take up the bill (H. R. No. 345) for the relief of George B. Simpson.

Mr. GRIMES. I hope not. We have but two or three minutes left.

The motion was not agreed to.

REPORTS FROM COMMITTEES.

Mr. WILKINSON, from the Committee on Revolutionary Claims, to whom was referred the bill (S. No. 327) for the benefit of the heirs and administrators of John Denham and George Townley, deceased, reported it back, and asked to be discharged from its further consideration; which was agreed to.

He also, from the Committee on Territories, to whom was referred a letter of the Secretary of the Territory of New Mexico, transmitting a copy of the exhibit of proceedings of the Territory, and one copy of the laws enacted during the last session, reported it back, and asked to be discharged from its further consideration; which was agreed to.

BILL BECOME A LAW.

A message from the President of the United States, by Mr. NICOLAY, his Secretary, announced that he had this day approved and signed the joint resolution (S. No. 58) to regulate the compensation of agents for paying pensions.

EXECUTIVE SESSION.

Mr. COLLAMER. I move that the Senate proceed to the consideration of executive business.

The motion was not agreed to.

Mr. CHANDLER. I renew the motion for an executive session.

Mr. COLLAMER. I take it is too late to go into executive session now.

The PRESIDENT *pro tempore*. There would hardly be time to clear the galleries.

CLOSE OF THE SESSION.

Mr. FESSENDEN. The committee of the two Houses appointed to wait on the President and inform him that they had concluded their business and were ready to adjourn if he had no further communication to make, have waited upon him, and he replies that he is not aware that he has any further communication to make to Congress at the present session.

The PRESIDENT *pro tempore*. The hour has arrived which by concurrent resolution of the two Houses of Congress terminates their present session. Before declaring the final adjournment, it becomes me to express to you Senators, my full and grateful appreciation of your recorded approval of the manner in which I have discharged the duties of the Chair during the absence of the Vice President—duties, I may be permitted to say, always delicate and difficult, often laborious, and not unfrequently involving questions of embarrassment and perplexity. For whatever of facility or success with which I may have been able to perform the duties of the position which you have been pleased so often to assign to me, as your Presiding Officer, it equally becomes me to acknowledge my great obligation to the courtesy, the forbearance, and the kind indulgence which have been uniformly extended to the Chair, covering even its presumed errors of judgment. I have to acknowledge a like obligation to the prompt and willing aid which I have always received from the experienced and excellent officers of the Senate at the desk before me.

Although we adjourn and separate at a time of trial and of deep affliction to our beloved country, a country most loved and most revered when most tried and afflicted; a country most honored and most cherished in all loyal hearts when most imperiled, and when, as now, most wantonly and most wickedly assailed by fratricidal hands; yet may we not be allowed to indulge the hope and the confidence that after a few passing months we may come back to these seats with renewed vigor of health and strength, of heart and of hope, rejoicing in the prospect of a brighter and a better day for the Republic? May we not even hope to come back to this high Council Chamber of the nation amid the rejoicings of a mighty, though now distracted and warring people, restored once more to union, to peace, and to harmony? This is a consummation most devoutly to be wished. Wherever we may be, let this be our constant aim and effort; wherever we may be, let this be our abiding faith and our unceasing prayer.

And now, Senators, wishing you all a safe and welcome return to your constituencies, and to your homes, I have only to perform the last act of a long and laborious session, in declaring the Senate of the United States adjourned without day.

HOUSE OF REPRESENTATIVES.

THURSDAY, *July* 17, 1862.

The House met at eleven o'clock, a. m. Prayer by the Chaplain of the Senate, Rev. BYRON SUNDERLAND, D. D.

The Journal of yesterday was read and approved.

A message was received from the Senate, by Mr. MCDONALD, one of its clerks, notifying the House that it had agreed to an amendment of the House to the joint resolution of the Senate (No. 98) to repeal and modify certain portions of an act mentioned therein; also, that it had passed a bill of the House (No. 548) authorizing the Secretary of the Treasury to change the name of the steamship Coatzacoalcos to America, without amendment; also, that it had passed joint resolutions and a bill of the following titles; in which he was directed to ask the concurrence of the House:

Joint resolution (No. 58) to regulate the compensation for paying pensions;

Joint resolution (No. 100) suspending the sale by sealed bids of the lands of the Kansas and Sac and Fox Indians;

Joint resolution (No. 101) making further appropriations for the current and contingent expenses of the Indian department, and for fulfilling treaty stipulations with various Indian tribes, for the year ending June 30, 1863; and

An act (No. 355) for increasing the revenue by reservation and sale of town sites on public lands.

Also, that the Senate had passed a resolution providing that the adjournment of the two Houses be postponed until the hour of two o'clock this day; in which he was directed to ask the concurrence of the House.

ENROLLED BILLS.

Mr. GRANGER, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled bills and joint resolutions of the following titles; when the Speaker signed the same:

An act (S. No. 394) to amend the act calling forth the militia to execute the laws of the Union, suppress insurrection, and repel invasions, approved February 28, 1795, and the acts amendatory thereof, and for other purposes;

An act (S. No. 385) to amend an act entitled "An act to amend an act entitled 'An act in addition to the acts prohibiting the slave trade;'"

An act (H. R. No. 548) authorizing the Secretary of the Treasury to change the name of the steamship Coatzacoalcos to America;

A joint resolution (H. R. No. 109) to amend section seventy-seven of an act to provide internal revenue for the support of the Government, and pay interest on the public debt, and for other purposes;

A joint resolution (H. R. No. 110) explanatory of "An act to suppress insurrection, to punish treason and rebellion, to seize and confiscate the property of rebels, and for other purposes;"

A joint resolution (H. R. No. 107) further to provide for the compensation of members of Congress;

A joint resolution (S. No. 97) in relation to the law of prize;

A joint resolution (S. No. 99) releasing to the heirs-at-law of Robert L. Stevens, deceased, all the right, title, and interest of the United States in and to Stevens's battery; and

A joint resolution (S. No. 98) to repeal and modify sections two and three of an act entitled "An act to settle the titles to certain lands set apart for the use of certain half-breed Kansas Indians in Kansas Territory," approved May 26, 1860, and to repeal part of section one of said act.

EXTENSION OF THE SESSION.

Mr. STEVENS. I ask the unanimous consent of the House that it will take up and pass the concurrent resolution which the Senate has just sent us for the extension of the session until two o'clock, p. m., this day.

There was no objection; and the resolution was taken up and concurred in.

MICHIGAN JUDICIAL DISTRICTS.

The SPEAKER announced, as the regular order of business, the motion heretofore submitted by the gentleman from Ohio, [Mr. BINGHAM,] to reconsider the vote by which the bill of the House (No. 267) to divide the State of Michigan into two judicial districts, and to provide for holding the district and circuit courts therein, was recommitted to the Committee on the Judiciary; the pending question, when the House adjourned yesterday, being on the demand for the previous question.

The previous question was seconded, and the main question ordered; and under the operation thereof, the motion to reconsider was agreed to.

The question then recurred on the motion to recommit; which was disagreed to.

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

Mr. BINGHAM. I ask to have entered a motion to reconsider the vote by which the bill was passed, in order that the subject may be laid over until next session.

JOHN T. JONES.

Mr. CONWAY. I ask the unanimous consent of the House to discharge the Committee of the Whole House on the Private Calendar from the further consideration of Senate bill No. 354, for the relief of John T. Jones, an Ottawa Indian, for depredations committed by white persons upon his property in Kansas Territory.

Mr. F. A. CONKLING. I object.

Mr. CONWAY. I move to suspend the rules for the purpose I have indicated.

The motion was disagreed to, (two thirds not voting in favor thereof.)

MESSAGE FROM THE PRESIDENT.

Two messages, in writing, were received from the President of the United States, by Mr. NICOLAY, his Private Secretary, which were handed in at the Speaker's table. Also, a message notifying the House that he had approved and signed joint resolutions and bills of the following titles, namely:

On the 16th instant:

Joint resolution (H. R. No. 102) tendering the thanks of Congress to Captain Andrew H. Foote, of the United States Navy;

Joint resolution (H. R. No. 105) to grant pensions to masters and other officers upon gunboats in the service of the United States;

Joint resolution (H. R. No. 108) requiring the superintendent of metropolitan police to pay over certain moneys collected for fines and penalties, to constitute a contingent fund for certain purposes;

An act (H. R. No. 380) to establish and equalize the grades of line officers of the United States Navy;

An act (H. R. No. 355) to amend an act entitled "An act to further promote the efficiency of the Navy;"

An act (H. R. No. 369) for the relief of Robert M. Evans;

An act (H. R. No. 390) in relation to the competency of witnesses, and for other purposes;

An act (H. R. No. 496) to enlarge the Lake Superior land district, in the State of Michigan;

An act (H. R. No. 503) to confirm and establish a patent heretofore granted to Etienne Bernot, dated July 24, 1860, and to secure to George Summerville Norris, the assignee of said patent, the benefit of the full term for which said patent was granted;

An act (H. R. No. 510) for the relief of James N. Muller, supervising inspector of steamboats for the third supervising district;

An act (H. R. No. 518) transferring the western gunboat fleet from the War to the Navy Department;

An act (H. R. No. 524) prohibiting the confinement of persons in the military service of the United States in the penitentiary of the District of Columbia, except as a punishment for certain crimes, and to discharge therefrom certain convicts by sentence of courts-martial, and for other purposes;

An act (H. R. No. 527) to secure one month's pay and pension to Margaret Bailey, widow of George B. Bailey, lieutenant colonel in the ninth regiment Virginia volunteers;

An act (H. R. No. 571) to punish the fraudulent sale or use of postage stamps;

An act (H. R. No. 572) making supplemental appropriations for sundry civil expenses of the Government for the year ending June 30, 1863, and for the year ending June 30, 1862, and for other purposes; and

An act (H. R. No. 573) to impose an additional duty on sugars produced in the United States.

And this day:

An act (H. R. No. 577) to provide for the more prompt settlement of the accounts of disbursing officers;

Joint resolution (H. R. No. 81) authorizing the Secretary of the Interior to expend, from a fund in the United States Treasury belonging to the Winnebago Indians, the sum of $50,000, or so much thereof as may be necessary, for the benefit of said Indians;

An act (H. R. No. 471) to suppress insurrection, to punish treason and rebellion, to seize and confiscate the property of rebels, and for other purposes; and

Joint resolution (H. R. No. 110) explanatory of an act to suppress insurrection, to punish treason and rebellion, to seize and confiscate the property of rebels, and for other purposes.

CIRCULATION OF STAMPS.

Mr. HOOPER asked the unanimous consent of the House to introduce a bill to authorize payments in stamps, and to prohibit the circulation of notes of less denomination than one dollar.

Mr. WICKLIFFE objected.

Mr. HOOPER moved that the rules be suspended for the purpose indicated.

Mr. PHELPS, of Missouri, demanded the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 68, nays 33; as follows:

YEAS—Messrs. Aldrich, Arnold, Ashley, Babbitt, Bingham, Samuel S. Blair, Blake, Buffinton, Clements, Covode, Crisfield, Cutler, Duell, Dunn, Eliot, Fenton, Fessenden, Frank, Gooch, Goodwin, Granger, Gurley, Haight, Hale, Hooper, Horton, Hutchins, Julian, Kelley, Francis W. Kellogg, William Kellogg, Loomis, Lovejoy, McPherson, Maynard, Moorhead, Noell, Olin, Patton, Timothy G. Phelps, Porter, Potter, Alexander H. Rice, John H. Rice, Riddle, Edward H. Rollins, Sargent, Sedgwick, Segar, Shanks, Shellabarger, Sherman, Smith, Spaulding, John B. Steele, Stevens, Train, Trimble, Van Horn, Verree, Wall, Wallace, Walton, Washburne, Albert S. White, Wilson, Windom, and Worcester—68.

NAYS—Messrs. William Allen, Ancona, Baily, Beaman, Biddle, George H. Browne, Calvert, Frederick A. Conkling, Roscoe Conkling, Cox, Dunlap, Ely, Fisher, Grider, Hall, Harding, Jackson, Law, Low, Mallory, May, Menzies, Morris, Pendleton, John S. Phelps, James S. Rollins, Shiel, Stiles, Stratton, Trowbridge, Ward, Webster, and Wickliffe—33.

So the rules were suspended, (two thirds voting in favor thereof.)

The bill was received, and read a first and second time.

Mr. HOOPER. I ask the Clerk to read the letter of the Secretary of the Treasury.

The Clerk read, as follows:

TREASURY DEPARTMENT, *July* 14, 1862.

SIR: The depreciation of the currency, resulting, in great measure, from the unrestricted issues of non-specie-paying banks and unauthorized associations and persons, causes the rapid disappearance from circulation of small coins. To supply the want of these coins, tokens and checks for sums less than one dollar are being issued by hotels, business houses, and dealers generally; and the most serious inconveniences and evils are apprehended unless these issues can be checked and the small coins of the Government kept in circulation, or a substitute provided.

These objects may be accomplished by the extension of the principle of the act of February 21, 1853, to the United States notes. By that act the weight of the small coins was reduced, so as to make their actual less than their nominal value, in comparison with gold. If, during the existing troubles, the weight should be still further reduced, so as to establish a similar relation between these coins and the United States notes, it is highly probable, if not quite certain, that the coins will be retained in circulation. Of course, any enactment with this object should be accompanied by a prohibition of the circulation of tokens and certificates for fractional parts of a dollar, and should be limited in duration to the existing insurrection.

Should Congress see fit to adopt this expedient, a return to the existing basis, on the termination of the insurrection, will be practicable and easy.

The same object may be accomplished, and perhaps with less incidental evil consequence, by a similar prohibition, accompanied by a provision for the receipt of postage and other stamps in payment of the fractional parts of a dollar.

For the convenience of the committee, I inclose two bills prepared upon the principles just indicated.

With great respect,

S. P. CHASE,
Secretary of the Treasury.

Hon. THADDEUS STEVENS, *Chairman of the Committee of Ways and Means, United States House of Representatives.*

Mr. HOOPER. I wish to state that the first bill proposed by the Secretary in that letter, changing the weight of silver coin, was rejected by the Committee of Ways and Means, and the second alternative adopted. I now move the previous question.

Mr. PHELPS, of Missouri. I ask the gentleman from Massachusetts to withdraw the demand for the previous question. I desire to submit one word in explanation of my opposition to the second section of the bill.

Mr. HOOPER. I will, if the gentleman will renew the demand.

Mr. PHELPS, of Missouri. I will.

Mr. HOOPER. Then I withdraw the demand for the previous question.

Mr. PHELPS, of Missouri. It will be remarked, Mr. Speaker, that the second section of this bill prohibits the issuing of any paper money, token or note whatever, of a less denomination than one dollar, to be used as money. If the Congress of the United States has the right to prohibit the issuing of paper money by any corporation of a less denomination than one dollar, it has the right to prohibit the issuing of paper money by any corporation in the country of any amount. I have no objection to that feature of the bill, if confined to the District of Columbia where we have the power to legislate in that way. But if you extend it to the States, you at once sanction the principle that Congress may prohibit any corporation created by a State government from issuing any paper money whatever. I do not believe that that power is conferred on the Congress of the United States. I therefore believe that the bill under consideration is unconstitutional; and whenever Congress proposes to prohibit banks from issuing any paper money at all, this act will be cited in support of the measure.

I am as much in favor as any member on the floor of this House of preventing the circulation of shinplasters. I am against the circulation of small notes. I desire to see our circulation based on specie, and that no note of less than twenty dollars should be issued. But we have adopted another line of policy; we have made paper money a legal tender. We have thus supplanted gold and silver, and made paper money a legal tender, which is in value seventeen per cent. less than gold and silver. If the gentleman from Massachusetts will not consider it a violation of my pledge, I would like to submit a motion to strike out the second section of the bill; and then I will move the previous question.

Mr. HOOPER. I would prefer the gentleman to renew the demand for the previous question.

Mr. PHELPS, of Missouri. Very well. I ask that the second section may be again read.

The section was read.

Mr. PHELPS, of Missouri. One word further. This second section prohibits the issuing by any banking or other corporation of notes of a less denomination than one dollar. We know that the country banks do not now issue notes of a less denomination than one dollar; but nevertheless the Legislature of any State can authorize banks to issue notes of a less denomination than one dollar. It is the principle contained in this bill against which I am combating. I am as desirous to effect the object sought as the gentleman from Massachusetts can be, but I cannot and will not violate the Constitution of my country by voting for such a bill as this. I now renew the demand for the previous question.

Mr. COX. I move that the bill be laid on the table.

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

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 39, nays 64; as follows:

YEAS—Messrs. William Allen, Ancona, Baily, Beaman, Biddle, Jacob B. Blair, George H. Browne, Calvert, Frederick A. Conkling, Roscoe Conkling, Cox, Crittenden, Ely, Fisher, Grider, Hall, Harding, Hutchins, Law, Low, Mc-

Knight, May, Menzies, Morris, Pendleton, John S. Phelps, Edward H. Rollins, James S. Rollins, Sedgwick, Shellabarger, Shiel, William G. Steele, Stiles, Stratton, Benjamin F. Thomas, Trowbridge, Wallace, Washburne, and Wickliffe—39.

NAYS—Messrs. Aldrich, Arnold, Ashley, Babbitt, Baxter, Bingham, Samuel S. Blair, Blake, Buffinton, Clements, Colfax, Covode, Cutler, Duell, Dunn, Eliot, Fessenden, Frank, Gooch, Goodwin, Granger, Gurley, Haight, Hale, Hanchett, Hooper, Horton, Julian, Kelley, William Kellogg, Kerrigan, Lovejoy, McPherson, Maynard, Mitchell, Nixon, Olin, Patton, Timothy G. Phelps, Pike, Porter, Potter, Alexander H. Rice, John H. Rice, Riddle, Sargent, Segar, Shanks, Sherman, Smith, Spaulding, John B. Steele, Stevens, Francis Thomas, Train, Van Horn, Verree, Wall, Walton, Webster, Albert S. White, Wilson, Windom, and Worcester—64.

So the bill was not laid on the table.

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

Mr. STEVENS moved the previous question on the passage of the bill.

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

Mr. PHELPS, of Missouri, demanded the yeas and nays on the passage of the bill.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 62, nays 40; as follows:

YEAS—Messrs. Aldrich, Arnold, Babbitt, Baxter, Bingham, Samuel S. Blair, Blake, Buffinton, Colfax, Covode, Cutler, Duell, Dunn, Eliot, Fessenden, Frank, Gooch, Goodwin, Granger, Gurley, Haight, Hale, Hooper, Horton, Julian, Kelley, Francis W. Kellogg, Loomis, Lovejoy, McPherson, Maynard, Noell, Olin, Patton, Timothy G. Phelps, Pike, Porter, Potter, Alexander H. Rice, John H. Rice, Riddle, Sargent, Sedgwick, Segar, Shanks, Sherman, Smith, Spaulding, Stevens, Francis Thomas, Train, Trimble, Trowbridge, Van Horn, Wall, Wallace, Walton, Washburne, Albert S. White, Wilson, Windom, and Worcester—62.

NAYS—William Allen, Ancona, Ashley, Baily, Beaman, Biddle, Jacob B. Blair, George H. Browne, Calvert, Clements, Frederick A. Conkling, Roscoe Conkling, Cox, Crittenden, Dunlap, Fisher, Fouke, Grider, Hall, Harding, Hutchins, Kerrigan, Law, Low, McKnight, May, Menzies, Mitchell, Morris, Pendleton, John S. Phelps, Edward H. Rollins, James S. Rollins, Shellabarger, Shiel, William G. Steele, Stiles, Stratton, Benjamin F. Thomas, and Wickliffe—40.

So the bill was passed.

Mr. HOOPER moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

MESSAGE FROM THE PRESIDENT.

A message from the President of the United States, by Mr. NICOLAY, his Private Secretary, announced that he had approved and signed an act authorizing the Secretary of the Treasury to change the name of the steamship Coatzacoalcos to that of America; a joint resolution to amend section seventy-seven of the act to raise internal revenue, &c.; and an act in relation to compensation of members of Congress.

BUSINESS ON SPEAKER'S TABLE.

Mr. STEVENS. I move to go to the business on the Speaker's table, in order to take up joint resolution S. No. 100, which it is requisite to have acted on at this time, so as to prevent the sacrifice of some public lands.

Mr. PHELPS, of Missouri. What is it?

Mr. STEVENS. It is a resolution to postpone the sale of some public lands.

The motion was agreed to.

The House proceeded to the business on the Speaker's table, and took up joint resolution S. No. 100, suspending the sale by sealed bids of the lands of the Kansas and Sac and Fox Indians.

The joint resolution was read a first and second time. It directs that the sale of the lands of the Kansas and Sac and Fox tribes of Indians, in the State of Kansas, by sealed bids, be postponed till the 4th of March, 1863, any treaty or law to the contrary notwithstanding.

Mr. PHELPS, of Missouri. I demand tellers on the third reading. I suppose that this sale was to take place by treaty stipulation, and before it be postponed, the Indians ought to be consulted about it.

Tellers were ordered; and Messrs. STEVENS and Low were appointed.

The House divided; and the tellers reported—ayes 74, noes 19.

The resolution was read the third time, and passed.

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

The latter motion was agreed to.

F. W. POSTHOFF.

Mr. FENTON asked and obtained unanimous consent to have taken from the files and referred to the Court of Claims the papers in the case of F. W. Posthoff.

Mr. MAYNARD. I ask to take from the Speaker's table the President's message.

Mr. COX. Will the gentleman yield to me for a moment?

Mr. MAYNARD. Certainly.

ARREST OF MYERS AND TINSALL.

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

Resolved, That the President of the United States, if not incompatible with the public service, communicate to this House, at its next session, all the correspondence in reference to the arrest of Myers and Tinsall, a part of the crew of the brig Sumter, at Tangiers, Morocco.

CONFISCATION.

Mr. MAYNARD. I now ask that the messages of the President on the Speaker's table be read.

There being no objection, the Clerk read the following message:

Fellow-Citizens of the Senate and
House of Representatives:

Considering the bill for "An act to suppress insurrection, to punish treason and rebellion, to seize and confiscate the property of rebels, and for other purposes," and the joint resolution explanatory of said act, as being substantially one, I have approved and signed both.

Before I was informed of the resolution, I had prepared the draft of a message, stating objections to the bill becoming a law, a copy of which draft is herewith submitted.

ABRAHAM LINCOLN.

July 12, 1862.

—

[Copy.]

Fellow-Citizens of the House of Representatives:

I herewith return to your honorable body, in which it originated, the bill for an act entitled "An act to suppress treason and rebellion, to seize and confiscate the property of rebels, and for other purposes," together with my objections to its becoming a law.

There is much in the bill to which I perceive no objection. It is wholly prospective; and it touches neither person or property of any loyal citizen, in which particular it is just and proper.

The first and second sections provide for the conviction and punishment of persons who shall be guilty of treason, and persons who shall "incite, set on foot, assist, or engage in any rebellion or insurrection against the authority of the United States, or the laws thereof, or shall give aid or comfort thereto, or shall engage in or give aid and comfort to any such existing rebellion or insurrection." By fair construction, persons within those sections are not punished without regular trials in duly constituted courts under the forms and all the substantial provisions of law and the Constitution applicable to their several cases. To this I perceive no objection; especially as such persons would be within the general pardoning power, and also the special provision for pardon and amnesty contained in this act.

It is also provided that the slaves of persons convicted under these sections shall be free. I think there is an unfortunate form of expression, rather than a substantial objection, in this. It is startling to say that Congress can free a slave within a State, and yet if it were said the ownership of the slave had first been transferred to the nation, and Congress had then liberated him, the difficulty would at once vanish. And this is the real case. The traitor against the General Government forfeits his slave at least as justly as he does any other property; and he forfeits both to the Government against which he offends. The Government, so far as there can be ownership, thus owns the forfeited slaves, and the question for Congress in regard to them is, "shall they be made free or sold to new masters?" I perceive no objection to Congress deciding in advance that they shall be free. To the high honor of Kentucky, as I am informed, she is the owner of some slaves by *escheat*, and has sold none, but liberated all. I hope the same is true of some other States. Indeed, I do not believe it will be physically possible for the General Government to return persons so circumstanced to actual slavery. I believe there would be physical resistance to it, which could neither be turned aside by argument nor driven away by force. In this view I have no objection to this feature of the bill. Another matter involved in these two sections and running through other parts of the act will be noticed hereafter.

I perceive no objections to the third and fourth sections.

So far as I wish to notice the fifth and sixth sections, they may be considered together. That the enforcement of these sections would do no injustice to the persons embraced within them is clear. That those who make a causeless war should be compelled to pay the cost of it is too obviously just to be called in question. To give governmental protection to the property of persons who have abandoned it and gone on a crusade to overthrow that same Government is absurd, if considered in the mere light of justice. The severest justice may not always be the best policy. The principle of seizing and appropriating the property of the person embraced within these sections is certainly not very objectionable, but a justly discriminating application of it would be very difficult, and, to a great extent, impossible. And would it not be wise to place a power of remission somewhere, so that these persons may know they have something to lose by persisting and something to gain by desisting? I am not sure whether such power of remission is or is not within section thirteen. Without any special act of Congress, I think our military commanders, when, in military phrase, "they are within the enemy's country," should, in an orderly manner, seize and use whatever of real or personal property may be necessary or convenient for their commands; at the same time preserving, in some way, the evidence of what they do.

What I have said in regard to slaves while commenting on the first and second sections is applicable to the ninth, with the difference that no provision is made in the whole act for determining whether a particular individual slave does or does not fall within the classes defined in that section. He is to be free upon certain conditions; but whether those conditions do or do not pertain to him, no mode of ascertaining is provided. This could be easily supplied.

To the tenth section I make no objection. The oath therein required seems to be proper, and the remainder of the section is substantially identical with a law already existing.

The eleventh section simply assumes to confer discretionary power upon the Executive. Without the law, I have no hesitation to go as far in the direction indicated as I may at any time deem expedient. And I am ready to say now, I think it is proper for our military commanders to employ, as laborers, as many persons of African descent as can be used to advantage.

The twelfth and thirteenth sections are something better than unobjectionable; and the fourteenth is entirely proper, if all other parts of the act shall stand.

That to which I chiefly object pervades most part of the act, but more distinctly appears in the first, second, seventh, and eighth sections. It is the sum of those provisions which results in the divesting of title forever.

For the causes of treason and ingredients of treason, not amounting to the full crime, it declares forfeiture extending beyond the lives of the guilty parties; whereas the Constitution of the United States declares that "no attainder of treason shall work corruption of blood or forfeiture, except during the life of the person attainted." True, there is to be no formal attainder in this case; still, I think the greater punishment cannot be constitutionally inflicted, in a different form, for the same offense.

With great respect I am constrained to say I think this feature of the act is unconstitutional. It would not be difficult to modify it.

I may remark that the provision of the Constitution, put in language borrowed from Great Britain, applies only in this country, as I understand, to real or landed estate.

Again, this act, *in rem*, forfeits property for the ingredients of treason without a conviction of the supposed criminal, or a personal hearing given him in any proceeding. That we may not touch property lying within our reach because we cannot give personal notice to an owner who is absent endeavoring to destroy the Government is certainly satisfactory. Still, the owner may not be thus engaged; and I think a reasonable time should be provided for such parties to appear and have personal hearings. Similar provisions are not uncommon in connection with proceedings *in rem*.

For the reasons stated, I return the bill to the House in which it originated.

Mr. MAYNARD. I move that the message be laid on the table and printed, and on that motion I demand the previous question.

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

The question was taken; and the message was laid on the table, and ordered to be printed.

Mr. ALLEN, of Ohio, submitted a motion that ten thousand extra copies of the message be printed; which was referred to the Committee on Printing.

PRESENTATION OF THE VANDERBILT.

The SPEAKER laid before the House the following message:

Fellow-citizens of the Senate and
House of Representatives:

I have inadvertently omitted so long to inform you that in March last Mr. Cornelius Vanderbilt, of New York, gratuitously presented to the United States the ocean steamer Vanderbilt, by many esteemed the finest merchant ship in the world. She has ever since been and still is doing valuable service to the Government. For the patriotic act in making this magnificent and valuable present to the country, I recommend that some suitable acknowledgment be made.

ABRAHAM LINCOLN.

JULY 17, 1862.

On motion of Mr. COLFAX, the message was referred to the Committee on Naval Affairs, with leave to report at any time, and ordered to be printed.

MEMBERS OF CONGRESS AND CONTRACTS.

The SPEAKER laid before the House a communication from the Secretary of War, in answer to a resolution of the House of Representatives of the 5th instant, calling for all evidence on file in the War Department relative to the interest of members of Congress in Government contracts since the 1st of April, 1861, transmitting a copy of a communication on that subject heretofore sent to the Senate, embodying all the information on file in the Department; which was laid on the table, and ordered to be printed.

COMMERCE OF THE LAKES.

Mr. KELLOGG, of Illinois, by unanimous consent, submitted the following resolution; which was read, considered, and adopted:

Resolved, That the President of the United States be requested to have prepared a full statistical statement of the trade and commerce of the great lakes, to be presented at the next session of Congress for the use of the House.

EXAMINATION OF FIRE-ARMS.

Mr. FRANK asked leave to introduce a joint resolution authorizing the President to appoint a commission to examine fire-arms.

Mr. F. A. CONKLING objected.

Mr. FRANK. I hope my colleague will withdraw his objection. I merely desire the resolution to be referred to the Committee on Military Affairs.

Mr. F. A. CONKLING. I withdraw my objection.

Mr. WEBSTER. I object.

D. S. JUNKIN.

Mr. BLAIR, of Pennsylvania, asked leave to withdraw from the files of the House the papers in the case of the application of D. S. Junkin for a pension.

Mr. F. A. CONKLING. I will not object, if copies are left on file.

Leave was accordingly granted.

SUPPLEMENTAL INDIAN APPROPRIATIONS.

Mr. ALDRICH I move to suspend the rules for the purpose of taking from the Speaker's table Senate joint resolution No. 101, making further appropriations for the current and contingent expenses of the Indian department and for fulfilling treaty stipulations with various Indian tribes for the year ending June 30, 1863. I ask the House to permit me to say that these appropriations were passed by the Senate to the regular Indian appropriation bill, but by some mistake they failed to be engrossed and sent to the House with the other Senate amendments to the bill. It is necessary that they should be made for the service of the Indian department.

Mr. STEVENS called for tellers on suspending the rules.

Tellers were ordered; and Messrs. KELLOGG, of Illinois, and CALVERT were appointed.

The House divided; and the tellers reported—ayes 82, noes 12.

So the rules were suspended, (two thirds having voted therefor.)

The joint resolution was then taken from the Speaker's table, read a first and second time, and ordered to a third reading; and was accordingly read the third time, and passed.

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

The latter motion was agreed to.

CONTRABAND STATISTICS.

Mr. WICKLIFFE asked leave to submit the following resolution:

Resolved, That it shall be the duty of the Government to keep a faithful record of the names, ages, and sex of all slaves captured or received into the lines under the protection of the Army, stating the names of the owners of the same.

Mr. BINGHAM. I object.

Mr. WICKLIFFE. If the gentleman will withdraw his objection for a single moment, it is the last time in my life I will ask a similar favor of him. [Laughter.]

Mr. BINGHAM. No, sir; I cannot withdraw my objection.

Mr. WICKLIFFE. I move to suspend the rules.

The House divided on the motion; and there were—ayes 67, noes 27.

Mr. BINGHAM demanded the yeas and nays.

Only twelve members rose to second the demand.

Mr. BINGHAM. I ask for tellers on ordering the yeas and nays.

Tellers were ordered; and Messrs. BINGHAM and ASHLEY were appointed.

The House divided; and thirty-six voted in the affirmative.

So the yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 58, nays 45; as follows:

YEAS—Messrs. William Allen, William J. Allen, Ancona, Baily, Biddle, Jacob B. Blair, George H. Browne, Calvert, Casey, Cobb, Frederick A. Conkling, Crisfield, Crittenden, Dunlap, Dunn, Fisher, Goodwin, Granger, Grider, Haight, Hale, Hanchett, Harding, Jackson, Kerrigan, Law, Low, McKnight, May, Maynard, Menzies, Mitchell, Nixon, Noell, Odell, Pendleton, John S. Phelps, Timothy G. Phelps, Pike, Porter, Potter, Alexander H. Rice, Sargent, Segar, Shiel, Smith, John B. Steele, Stiles, Stratton, Benjamin F. Thomas, Francis Thomas, Wall, Wallace, Walton, Ward, Webster, Wickliffe, and Worcester—58.

NAYS—Messrs. Ashley, Babbitt, Beaman, Bingham, Samuel S. Blair, Blake, Buffinton, Colfax, Roscoe Conkling, Covode, Cutler, Duell, Eliot, Ely, Fenton, Fessenden, Frank, Gooch, Gurley, Hooper, Hutchins, Julian, Francis W. Kellogg, William Kellogg, Loomis, Lovejoy, McPherson, Moorhead, Patton, John H. Rice, Edward H. Rollins, Sedgwick, Shanks, Shellabarger, Sherman, Spaulding, Stevens, Train, Trimble, Van Horn, Verree, Washburne, Albert S. White, Wilson, and Windom—45.

So the rules were not suspended, (two thirds not having voted therefor.)

PENSION AGENTS.

On motion of Mr. STEVENS, by unanimous consent, Senate joint resolution No. 58, to regulate the compensation of pension agents, was taken from the Speaker's table, and read a first and second time, and ordered to a third reading; and was accordingly read the third time, and passed.

ENROLLED RESOLUTIONS AND BILLS.

Mr. GRANGER, from the Committee on Enrolled Bills, reported that the committee had examined and found truly enrolled joint resolutions and a bill of the following titles; to which the signature of the Speaker was thereupon affixed:

Joint resolution (S. No. 101) making further appropriations for the current and contingent expenses of the Indian department and for fulfilling treaty stipulations with various Indian tribes for the year ending June 30, 1863;

Joint resolution (S. No. 100) suspending the sale by sealed bids of the lands of the Kansas and Sac and Fox Indians;

Joint resolution (S. No. 58) to regulate the compensation of agents for paying pensions; and

An act (H. R. No. 579) to authorize payments in stamps, and to prohibit circulation of notes of less denomination than one dollar.

PRINTING OF CONFISCATION MESSAGE.

Mr. WALTON, from the Committee on Printing, submitted the following resolution:

Resolved, That ten thousand copies, extra, of the message of the President of the United States of this date, on the subject of confiscation, be printed for the use of the House.

Mr. HUTCHINS. I move to lay the resolution on the table.

Mr. PHELPS, of Missouri. I demand the yeas and nays. The President has sent a respectful communication, and it is due to him that it shall be printed.

The SPEAKER. The Chair has reminded the gentleman from Missouri several times that debate upon a motion to lay on the table is not in order.

The yeas and nays were ordered.

The question was taken; and it resulted—yeas 8, nays 82; as follows:

YEAS—Messrs. Ashley, Bingham, Cutler, Eliot, Ely, Shanks, Sherman, and Wallace—8.

NAYS—Messrs. William Allen, William J. Allen, Ancona, Arnold, Baily, Baxter, Beaman, Biddle, Jacob B. Blair, Samuel S. Blair, Blake, George H. Browne, Buffinton, Calvert, Clements, Cobb, Colfax, Frederick A. Conkling, Roscoe Conkling, Conway, Covode, Crisfield, Crittenden, Duell, Dunlap, Dunn, Fouke, Frank, Goodwin, Granger, Grider, Gurley, Haight, Hale, Hall, Hickman, Julian, William Kellogg, Law, McKnight, McPherson, May, Maynard, Menzies, Mitchell, Moorhead, Morris, Nixon, Noell, Odell, Olin, Patton, Pendleton, John S. Phelps, Timothy G. Phelps, Porter, Alexander H. Rice, John H. Rice, Edward H. Rollins, Segar, Shellabarger, Shiel, Smith, John B. Steele, Stiles, Stratton, Benjamin F. Thomas, Francis Thomas, Train, Trimble, Trowbridge, Van Horn, Verree, Wall, Walton, Ward, Washburne, Webster, Albert S. White, Wickliffe, Wilson, and Worcester—82.

The SPEAKER. No quorum has voted.

CALL OF THE HOUSE.

Mr. ELIOT. I move that there be a call of the House.

The motion was agreed to.

The Clerk thereupon proceeded to call the roll of members.

CLOSE OF BUSINESS.

A message was received from the Senate, by Mr. MCDONALD, one of their clerks, notifying the House that the Senate, having no further business to transact, was ready to adjourn.

The message further announced that the Senate had appointed a committee to join such committee as should be appointed by the House to wait on the President of the United States, and inform him that the two Houses of Congress, having finished their business, were ready to adjourn.

On motion of Mr. WASHBURNE, by unanimous consent, it was

Ordered, That a committee be appointed by the House to join the committee appointed by the Senate, to wait on the President of the United States and inform him that the two Houses of Congress, having finished their business, are ready to adjourn.

The SPEAKER thereupon appointed Messrs. WASHBURNE, COX, and MENZIES, as such committee on the part of the House.

CALL OF THE HOUSE—AGAIN.

Mr. WICKLIFFE. I move to suspend all further proceedings under the call.

Mr. STEVENS. I demand the yeas and nays upon the motion.

The yeas and nays were ordered.

Mr. WICKLIFFE. I withdraw the motion.

The Clerk then concluded the call, when the following members failed to answer to their names:

Messrs. Alley, Baker, Francis P. Blair, William G. Brown, Burnham, Campbell, Chamberlin, Clark, Corning, Cravens, Crittenden, Davis, Dawes, Delano, Delaplaine, Diven, Edgerton, Edwards, Franchot, Harding, Harrison, Hickman, Holman, Jackson, Johnson, Killinger, Knapp, Lansing, Lazear, Leary, Lehman, McKean, Mallory, Marston, Anson P. Morrill, Justin S. Morrill, Noble, Norton, Nugen, Perry, Pomeroy, Price, Richardson, Riddle, Robinson, Sheffield, Sloan, Spaulding, William G. Steele, Vallandigham, Vandever, Van Valkenburgh, Van Wyck, Wadsworth, Wheeler, Whaley, Chilton A. White, Wood, Woodruff, and Wright.

MESSAGE FROM THE SENATE.

A message was received from the Senate, by Mr. MCDONALD, one of their clerks, notifying the House that the Senate had passed, without amendment, a bill of the House (No. 321) to indemnify certain citizens residing in the State of Delaware for expenses incurred by them in defense of the United States.

MESSAGE FROM THE PRESIDENT.

A message was received from the President of the United States, by Mr. NICOLAY, his Private Secretary, informing the House that he had approved and signed an act (H. R. No. 579) to authorize payments in stamps, and to prohibit circulation of notes of less denomination than one dollar.

CALL OF THE HOUSE—AGAIN.

Mr. ALLEN, of Ohio. I move to dispense with all further proceedings under the call.

Mr. STEVENS. Upon that motion I demand the yeas and nays.

The yeas and nays were ordered.

The Clerk proceeded to call the roll; but before he had concluded,

Mr. COX, from the committee appointed to wait on the President and inform him that the two Houses having finished their business were ready to adjourn, reported that in pursuance of the order of the House they had waited on the President of the United States, who replied to them that he had no further or other communication to make at the present time.

Mr. WICKLIFFE. I ask the consent of the House to permit me to say six words in explanation of the resolution a few minutes ago submitted to the House by me.

The hour of two having arrived,

The SPEAKER said: The hour fixed by the two Houses for adjournment having arrived, I declare this House adjourned *sine die*.

APPENDIX

TO

THE CONGRESSIONAL GLOBE:

CONTAINING

SPEECHES, IMPORTANT STATE PAPERS, AND THE LAWS

OF THE

SECOND SESSION THIRTY-SEVENTH CONGRESS.

BY JOHN C. RIVES.

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

APPENDIX

TO THE CONGRESSIONAL GLOBE.

MESSAGE
OF THE
PRESIDENT OF THE UNITED STATES.

Fellow-Citizens of the Senate and House of Representatives:

In the midst of unprecedented political troubles, we have cause of great gratitude to God for unusual good health, and most abundant harvests.

You will not be surprised to learn that, in the peculiar exigencies of the times, our intercourse with foreign nations has been attended with profound solicitude, chiefly turning upon our own domestic affairs.

A disloyal portion of the American people have, during the whole year, been engaged in an attempt to divide and destroy the Union. A nation which endures factious domestic division, is exposed to disrespect abroad; and one party, if not both, is sure, sooner or later, to invoke foreign intervention.

Nations thus tempted to interfere, are not always able to resist the counsels of seeming expediency and ungenerous ambition, although measures adopted under such influences seldom fail to be unfortunate and injurious to those adopting them.

The disloyal citizens of the United States who have offered the ruin of our country, in return for the aid and comfort which they have invoked abroad, have received less patronage and encouragement than they probably expected. If it were just to suppose, as the insurgents have seemed to assume, that foreign nations, in this case, discarding all moral, social, and treaty obligations, would act solely, and selfishly, for the speedy restoration of commerce, including, especially, the acquisition of cotton, those nations appear, as yet, not to have seen their way to their object more directly or clearly through the destruction, than through the preservation, of the Union. If we could dare to believe that foreign nations are actuated by no higher principle than this, I am quite sure a sound argument could be made to show them that they can reach their aim more readily and easily by aiding to crush this rebellion than by giving encouragement to it.

The principal lever relied on by these insurgents for exciting foreign nations to hostility against us, as already intimated, is the embarrassment of commerce. Those nations, however, not improbably, saw from the first that it was the Union which made as well our foreign as our domestic commerce. They can scarcely have failed to perceive that the effort for disunion produces the existing difficulty; and that one strong nation promises more durable peace, and a more extensive, valuable, and reliable commerce, than can the same nation broken into hostile fragments.

It is not my purpose to review our discussions with foreign States; because whatever might be their wishes or dispositions, the integrity of our country, and the stability of our Government, mainly depend not upon them, but on the loyalty, virtue, patriotism, and intelligence of the American people. The correspondence itself, with the usual reservations, is herewith submitted.

I venture to hope it will appear that we have practiced prudence and liberality toward foreign Powers, averting causes of irritation; and, with firmness, maintaining our own rights and honor.

Since, however, it is apparent that here, as in every other State, foreign dangers necessarily attend domestic difficulties, I recommend that adequate and ample measures be adopted for maintaining the public defenses on every side. While, under this general recommendation, provision for defending our sea-coast line readily occurs to the mind, I also, in the same connection, ask the attention of Congress to our great lakes and rivers. It is believed that some fortifications and depots of arms and munitions, with harbor and navigation improvements, all at well selected points upon these, would be of great importance to the national defense and preservation. I ask attention to the views of the Secretary of War, expressed in his report, upon the same general subject.

I deem it of importance that the loyal regions of East Tennessee and western North Carolina should be connected with Kentucky, and other faithful parts of the Union, by railroad. I therefore recommend, as a military measure, that Congress provide for the construction of such road, as speedily as possible. Kentucky, no doubt, will coöperate, and, through her Legislature, make the most judicious selection of a line. The northern terminus must connect with some existing railroad; and whether the route shall be from Lexington, or Nicholasville, to the Cumberland Gap; or from Lebanon to the Tennessee line, in the direction of Knoxville; or on some still different line, can easily be determined. Kentucky and the General Government coöperating, the work can be completed in a very short time; and when done, it will be not only of vast present usefulness, but also a valuable permanent improvement, worth its cost in all the future.

Some treaties, designed chiefly for the interests of commerce, and having no grave political importance, have been negotiated, and will be submitted to the Senate for their consideration.

Although we have failed to induce some of the commercial Powers to adopt a desirable melioration of the rigor of maritime war, we have removed all obstructions from the way of this humane reform, except such as are merely of temporary and accidental occurrence.

I invite your attention to the correspondence between her Britannic Majesty's minister accredited to this Government and the Secretary of State, relative to the detention of the British ship Perthshire, in June last, by the United States steamer Massachusetts, for a supposed breach of the blockade. As this detention was occasioned by an obvious misapprehension of the facts, and as justice requires that we should commit no belligerent act not founded in strict right, as sanctioned by public law, I recommend that an appropriation be made to satisfy the reasonable demand of the owners of the vessel for her detention.

I repeat the recommendation of my predecessor, in his annual message to Congress in December last, in regard to the disposition of the surplus which will probably remain after satisfying the claims of American citizens against China, pursuant to the awards of the commissioners under the act of the 3d of March, 1859. If, however, it should not be deemed advisable to carry that recommendation into effect, I would suggest that authority be given for investing the principal, over the proceeds of the surplus referred to, in good securities, with a view to the satisfaction of such other just claims of our citizens against China as are not unlikely to arise hereafter in the course of our extensive trade with that empire.

By the act of the 5th of August last, Congress authorized the President to instruct the commanders of suitable vessels to defend themselves against, and to capture pirates. This authority has been exercised in a single instance only. For the more effectual protection of our extensive and valuable commerce, in the eastern seas especially, it seems to me that it would also be advisable to authorize the commanders of sailing vessels to recapture any prizes which pirates may make of United States vessels and their cargoes, and the consular courts, now established by law in eastern countries, to adjudicate the case, in the event that this should not be objected to by the local authorities.

If any good reason exists why we should persevere longer in withholding our recognition of the independence and sovereignty of Hayti and Liberia, I am unable to discern it. Unwilling, however, to inaugurate a novel policy in regard to them without the approbation of Congress, I submit for your consideration the expediency of an appropriation for maintaining a chargé d'affaires near each of those new States. It does not admit of doubt that important commercial advantages might be secured by favorable treaties with them.

The operations of the Treasury during the period which has elapsed since your adjournment have been conducted with signal success. The patriotism of the people has placed at the disposal of the Government the large means demanded by the public exigencies. Much of the national loan has been taken by citizens of the industrial classes, whose confidence in their country's faith, and zeal for their country's deliverance from present peril, have induced them to contribute to the support of the Government the whole of their limited acquisitions. This fact imposes peculiar obligations to economy in disbursement and energy in action.

The revenue from all sources, including loans, for the financial year ending on the 30th June, 1861, was $86,835,900 27, and the expenditures for the same period, including payments on account of the public debt, were $84,578,834 47; leaving a balance in the Treasury, on the 1st July, of $2,257,065 80. For the first quarter of the financial year, ending on the 30th September, 1861, the receipts from all sources, including the balance of 1st of July, were $102,532,509 27, and the expenses $98,239,733 09; leaving a balance on the 1st of October, 1861, of $4,292,776 18.

Estimates for the remaining three quarters of the year, and for the financial year 1863, together with his views of ways and means for meeting the demands contemplated by them, will be submitted to Congress by the Secretary of the Treasury. It is gratifying to know that the expenditures made necessary by the rebellion are not

beyond the resources of the loyal people, and to believe that the same patriotism which has thus far sustained the Government will continue to sustain it till peace and union shall again bless the land.

I respectfully refer to the report of the Secretary of War for information respecting the numerical strength of the Army, and for recommendations having in view an increase of its efficiency and the well-being of the various branches of the service intrusted to his care. It is gratifying to know that the patriotism of the people has proved equal to the occasion, and that the number of troops tendered greatly exceeds the force which Congress authorized me to call into the field.

I refer with pleasure to those portions of his report which make allusion to the creditable degree of discipline already attained by our troops, and to the excellent sanitary condition of the entire Army.

The recommendation of the Secretary for an organization of the militia upon a uniform basis, is a subject of vital importance to the future safety of the country, and is commended to the serious attention of Congress.

The large addition to the regular Army, in connection with the defection that has so considerably diminished the number of its officers, gives peculiar importance to his recommendation for increasing the corps of cadets to the greatest capacity of the Military Academy.

By mere omission, I presume, Congress has failed to provide chaplains for hospitals occupied by volunteers. This subject was brought to my notice, and I was induced to draw up the form of a letter, one copy of which, properly addressed, has been delivered to each of the persons, and at the dates respectively named and stated, in a schedule, containing also the form of the letter, marked A, and herewith transmitted.

These gentlemen, I understand, entered upon the duties designated, at the times respectively stated in the schedule, and have labored faithfully therein ever since. I therefore recommend that they be compensated at the same rate as chaplains in the Army. I further suggest that general provision be made for chaplains to serve at hospitals, as well as with regiments.

The report of the Secretary of the Navy presents in detail the operations of that branch of the service, the activity and energy which have characterized its administration, and the results of measures to increase its efficiency and power. Such have been the additions, by construction and purchase, that it may almost be said a navy has been created and brought into service since our difficulties commenced.

Besides blockading our extensive coast, squadrons larger than ever before assembled under our flag have been put afloat and performed deeds which have increased our naval renown.

I would invite special attention to the recommendation of the Secretary for a more perfect organization of the Navy by introducing additional grades in the service.

The present organization is defective and unsatisfactory, and the suggestions submitted by the Department will, it is believed, if adopted, obviate the difficulties alluded to, promote harmony, and increase the efficiency of the Navy.

There are three vacancies on the bench of the Supreme Court—two by the decease of Justices Daniel and McLean, and one by the resignation of Justice Campbell. I have so far forborne making nominations to fill these vacancies for reasons which I will now state. Two of the outgoing judges resided within the States now overrun by revolt; so that if successors were appointed in the same localities, they could not now serve upon their circuits; and many of the most competent men there probably would not take the personal hazard of accepting to serve, even here, upon the supreme bench. I have been unwilling to throw all the appointments northward, thus disabling myself from doing justice to the South on the return of peace; although I may remark that to transfer to the North one which has heretofore been in the South, would not, with reference to territory and population, be unjust.

During the long and brilliant judicial career of Judge McLean his circuit grew into an empire—altogether too large for any one judge to give the courts therein more than a nominal attendance—rising in population from one million four hundred and seventy thousand and eighteen, in 1830, to six million one hundred and fifty-one thousand four hundred and five in 1860.

Besides this, the country generally has outgrown our present judicial system. If uniformity was at all intended, the system requires that all the States shall be accommodated with circuit courts attended by supreme judges, while, in fact, Wisconsin, Minnesota, Iowa, Kansas, Florida, Texas, California, and Oregon, have never had any such courts. Nor can this well be remedied without a change of the system; because the adding of judges to the Supreme Court, enough for the accommodation of all parts of the country, with circuit courts, would create a court altogether too numerous for a judicial body of any sort. And the evil, if it be one, will increase as new States come into the Union. Circuit courts are useful, or they are not useful. If useful, no State should be denied them; if not useful, no State should have them. Let them be provided for all, or abolished as to all.

Three modifications occur to me, either of which, I think, would be an improvement upon our present system. Let the Supreme Court be of convenient number in every event. Then, first, let the whole country be divided into circuits of convenient size, the supreme judges to serve in a number of them corresponding to their own number, and independent circuit judges be provided for all the rest. Or, secondly, let the supreme judges be relieved from circuit duties, and circuit judges provided for all the circuits. Or, thirdly, dispense with circuit courts altogether, leaving the judicial functions wholly to the district courts and an independent Supreme Court.

I respectfully recommend to the consideration of Congress the present condition of the statute laws, with the hope that Congress will be able to find an easy remedy for many of the inconveniences and evils which constantly embarrass those engaged in the practical administration of them. Since the organization of the Government, Congress has enacted some five thousand acts and joint resolutions, which fill more than six thousand closely printed pages, and are scattered through many volumes. Many of these acts have been drawn in haste, and without sufficient caution, so that their provisions are often obscure in themselves, or in conflict with each other, or at least so doubtful as to render it very difficult for even the best informed persons to ascertain precisely what the statute law really is.

It seems to me very important that the statute laws should be made as plain and intelligible as possible, and be reduced to as small a compass as may consist with the fullness and precision of the will of the legislature, and the perspicuity of its language. This, well done, would, I think, greatly facilitate the labors of those whose duty it is to assist in the administration of the laws, and would be a lasting benefit to the people, by placing before them, in a more accessible and intelligible form, the laws which so deeply concern their interests and their duties.

I am informed by some whose opinions I respect, that all the acts of Congress now in force, and of a permanent and general nature, might be revised and rewritten, so as to be embraced in one volume (or at most two volumes) of ordinary and convenient size. And I respectfully recommend to Congress to consider of the subject, and, if my suggestion be approved, to devise such plan as to their wisdom shall seem most proper for the attainment of the end proposed.

One of the unavoidable consequences of the present insurrection is the entire suppression, in many places, of all the ordinary means of administering civil justice by the officers, and in the forms of existing law. This is the case, in whole or in part, in all the insurgent States; and as our armies advance upon and take possession of parts of those States, the practical evil becomes more apparent. There are no courts nor officers to whom the citizens of other States may apply for the enforcement of their lawful claims against citizens of the insurgent States; and there is a vast amount of debt constituting such claims. Some have estimated it as high as $200,000,000, due, in large part, from insurgents, in open rebellion, to loyal citizens, who are, even now, making great sacrifices in the discharge of their patriotic duty to support the Government.

Under these circumstances, I have been urgently solicited to establish, by military power, courts to administer summary justice in such cases. I have thus far declined to do it, not because I had any doubt that the end proposed—the collection of the debts—was just and right in itself, but because I have been unwilling to go beyond the pressure of necessity in the unusual exercise of power. But the powers of Congress I suppose are equal to the anomalous occasion, and therefore I refer the whole matter to Congress, with the hope that a plan may be devised for the administration of justice in all such parts of the insurgent States and Territories as may be under the control of this Government, whether by a voluntary return to allegiance and order, or by the power of our arms. This, however, not to be a permanent institution, but a temporary substitute, and to cease as soon as the ordinary courts can be reëstablished in peace.

It is important that some more convenient means should be provided, if possible, for the adjustment of claims against the Government, especially in view of their increased number by reason of the war. It is as much the duty of Government to render prompt justice against itself, in favor of citizens, as it is to administer the same between private individuals. The investigation and adjudication of claims, in their nature belong to the judicial department; besides, it is apparent that the attention of Congress will be more than usually engaged, for some time to come, with great national questions. It was intended by the organization of the Court of Claims mainly to remove this branch of business from the Halls of Congress; but while the court has proved to be an effective and valuable means of investigation, it in great degree fails to effect the object of its creation, for want of power to make its judgments final.

Fully aware of the delicacy, not to say the danger, of the subject, I commend to your careful consideration whether this power of making judgments final may not properly be given to the court, reserving the right of appeal on questions of law to the Supreme Court, with such other provisions as experience may have shown to be necessary.

I ask attention to the report of the Postmaster General, the following being a summary statement of the condition of the Department:

The revenue from all sources during the fiscal year ending June 30, 1861, including the annual permanent appropriation of $700,000 for the transportation of free mail matter, was $9,049,296 40, being about two per cent. less than the revenue for 1860.

The expenditures were $13,606,759 11, showing a decrease of more than eight per cent. as compared with those of the previous year, and leaving an excess of expenditure over the revenue for the last fiscal year of $4,557,462 71.

The gross revenue for the year ending June 30, 1863, is estimated at an increase of four per cent. on that of 1861, making $8,683,000, to which should be added the earnings of the Department in carrying free matter, viz: $700,000, making $9,383,000.

The total expenditures for 1863 are estimated at $12,528,000, leaving an estimated deficiency of $3,145,000, to be supplied from the Treasury, in addition to the permanent appropriation.

The present insurrection shows, I think, that the extension of this District across the Potomac river, at the time of establishing the capital here, was eminently wise, and consequently that the relinquishment of that portion of it which lies within the State of Virginia was unwise and dangerous. I submit for your consideration the expediency of regaining that part of the District, and the restoration of the original boundaries thereof, through negotiations with the State of Virginia.

The report of the Secretary of the Interior, with the accompanying documents, exhibits the condition of the several branches of the public business pertaining to that Department. The depressing influences of the insurrection have been especially felt in the operations of the Patent and General Land Offices. The cash receipts from

the sales of public lands during the past year have exceeded the expenses of our land system only about two hundred thousand dollars. The sales have been entirely suspended in the southern States, while the interruptions to the business of the country, and the diversion of large numbers of men from labor to military service, have obstructed settlements in the new States and Territories of the Northwest.

The receipts of the Patent Office have declined in nine months about one hundred thousand dollars, rendering a large reduction of the force employed necessary to make it self-sustaining.

The demands upon the Pension Office will be largely increased by the insurrection. Numerous applications for pensions, based upon the casualties of the existing war, have already been made. There is reason to believe that many who are now upon the pension rolls, and in receipt of the bounty of the Government, are in the ranks of the insurgent army, or giving them aid and comfort. The Secretary of the Interior has directed a suspension of the payment of the pensions of such persons upon proof of their disloyalty. I recommend that Congress authorize that officer to cause the names of such persons to be stricken from the pension rolls.

The relations of the Government with the Indian tribes have been greatly disturbed by the insurrection, especially in the southern superintendency and in that of New Mexico. The Indian country south of Kansas is in the possession of insurgents from Texas and Arkansas. The agents of the United States, appointed since the 4th of March, for this superintendency have been unable to reach their posts, while the most of those who were in office before that time have espoused the insurrectionary cause, and assume to exercise the powers of agents by virtue of commissions from the insurrectionists. It has been stated in the public press that a portion of those Indians have been organized as a military force, and are attached to the army of the insurgents. Although the Government has no official information upon this subject, letters have been written to the Commissioner of Indian Affairs by several prominent chiefs, giving assurance of their loyalty to the United States, and expressing a wish for the presence of Federal troops to protect them. It is believed that upon the repossession of the country by the Federal forces the Indians will readily cease all hostile demonstrations, and resume their former relations to the Government.

Agriculture, confessedly the largest interest of the nation, has, not a department, nor a bureau, but a clerkship only, assigned to it in the Government. While it is fortunate that this great interest is so independent in its nature as to not have demanded and extorted more from the Government, I respectfully ask Congress to consider whether something more cannot be given voluntarily, with general advantage.

Annual reports exhibiting the condition of our agriculture, commerce, and manufactures would present a fund of information of great practical value to the country. While I make no suggestion as to details, I venture the opinion that an agricultural and statistical bureau might profitably be organized.

The execution of the laws for the suppression of the African slave trade has been confided to the Department of the Interior. It is a subject of gratulation that the efforts which have been made for the suppression of this inhuman traffic have been recently attended with unusual success. Five vessels being fitted out for the slave trade have been seized and condemned. Two mates of vessels engaged in the trade, and one person in equipping a vessel as a slaver, have been convicted and subjected to the penalty of fine and imprisonment, and one captain, taken with a cargo of Africans on board his vessel, has been convicted of the highest grade of offense under our laws, the punishment of which is death.

The Territories of Colorado, Dakotah, and Nevada, created by the last Congress, have been organized, and civil administration has been inaugurated therein under auspices especially gratifying, when it is considered that the leaven of treason was found existing in some of these new countries when the Federal officers arrived there.

The abundant natural resources of these Territories, with the security and protection afforded by organized government, will doubtless invite to them a large immigration when peace shall restore the business of the country to its accustomed channels. I submit the resolutions of the Legislature of Colorado, which evidence the patriotic spirit of the people of the Territory. So far the authority of the United States has been upheld in all the Territories, as it is hoped it will be in the future. I commend their interests and defense to the enlightened and generous care of Congress.

I recommend to the favorable consideration of Congress the interests of the District of Columbia. The insurrection has been the cause of much suffering and sacrifice to its inhabitants, and as they have no representative in Congress, that body should not overlook their just claims upon the Government.

At your late session a joint resolution was adopted authorizing the President to take measures for facilitating a proper representation of the industrial interests of the United States at the exhibition of the industry of all nations to be holden at London in the year 1862. I regret to say I have been unable to give personal attention to this subject—a subject at once so interesting in itself, and so extensively and intimately connected with the material prosperity of the world. Through the Secretaries of State and of the Interior a plan, or system, has been devised and partly matured, and which will be laid before you.

Under and by virtue of the act of Congress entitled "An act to confiscate property used for insurrectionary purposes," approved August 6, 1861, the legal claims of certain persons to the labor and service of certain other persons have become forfeited; and numbers of the latter, thus liberated, are already dependent on the United States, and must be provided for in some way. Besides this, it is not impossible that some of the States will pass similar enactments for their own benefit respectively, and by operation of which persons of the same class will be thrown upon them for disposal. In such case I recommend that Congress provide for accepting such persons from such States, according to some mode of valuation, in lieu, *pro tanto*, of direct taxes, or upon some other plan to be agreed on with such States respectively; that such persons, on such acceptance by the General Government, be at once deemed free; and that, in any event, steps be taken for colonizing both classes (or the one first mentioned, if the other shall not be brought into existence,) at some place, or places, in a climate congenial to them. It might be well to consider, too, whether the free colored people already in the United States could not, so far as individuals may desire, be included in such colonization.

To carry out the plan of colonization may involve the acquiring of territory, and also the appropriation of money beyond that to be expended in the territorial acquisition. Having practiced the acquisition of territory for nearly sixty years, the question of constitutional power to do so is no longer an open one with us. The power was questioned at first by Mr. Jefferson, who, however, in the purchase of Louisiana, yielded his scruples on the plea of great expediency. If it be said that the only legitimate object of acquiring territory is to furnish homes for white men, this measure effects that object; for the emigration of colored men leaves additional room for white men remaining or coming here. Mr. Jefferson, however, placed the importance of procuring Louisiana more on political and commercial grounds than on providing room for population.

On this whole proposition, including the appropriation of money with the acquisition of territory, does not the expediency amount to absolute necessity—that, without which the Government itself cannot be perpetuated?

The war continues. In considering the policy to be adopted for suppressing the insurrection, I have been anxious and careful that the inevitable conflict for this purpose shall not degenerate into a violent and remorseless revolutionary struggle. I have, therefore, in every case, thought it proper to keep the integrity of the Union prominent as the primary object of the contest on our part, leaving all questions which are not of vital military importance to the more deliberate action of the Legislature.

In the exercise of my best discretion I have adhered to the blockade of the ports held by the insurgents, instead of putting in force, by proclamation, the law of Congress enacted at the late session for closing those ports.

So, also, obeying the dictates of prudence, as well as the obligations of law, instead of transcending, I have adhered to the act of Congress to confiscate property used for insurrectionary purposes. If a new law upon the same subject shall be proposed, its propriety will be duly considered. The Union must be preserved; and hence, all indispensable means must be employed. We should not be in haste to determine that radical and extreme measures, which may reach the loyal as well as the disloyal, are indispensable.

The inaugural address at the beginning of the Administration, and the message to Congress at the late special session, were both mainly devoted to the domestic controversy out of which the insurrection and consequent war have sprung. Nothing now occurs to add or subtract to or from the principles or general purposes stated and expressed in those documents.

The last ray of hope for preserving the Union peaceably, expired at the assault upon Fort Sumter; and a general review of what has occurred since may not be unprofitable. What was painfully uncertain then, is much better defined and more distinct now; and the progress of events is plainly in the right direction. The insurgents confidently claimed a strong support from north of Mason and Dixon's line, and the friends of the Union were not free from apprehension on the point. This, however, was soon settled definitely, and on the right side. South of the line, noble little Delaware led off right from the first. Maryland was made to *seem* against the Union. Our soldiers were assaulted, bridges were burned, and railroads torn up within her limits, and we were many days, at one time, without the ability to bring a single regiment over her soil to the capital. Now, her bridges and railroads are repaired and open to the Government; she already gives seven regiments to the cause of the Union, and none to the enemy; and her people, at a regular election, have sustained the Union by a larger majority and a larger aggregate vote than they ever before gave to any candidate or any question. Kentucky, too, for some time in doubt, is now decidedly, and, I think, unchangeably, ranged on the side of the Union. Missouri is comparatively quiet, and I believe cannot again be overrun by the insurrectionists. These three States of Maryland, Kentucky, and Missouri, neither of which would promise a single soldier at first, have now an aggregate of not less than forty thousand in the field, for the Union; while, of their citizens, certainly not more than a third of that number, and they of doubtful whereabouts and doubtful existence, are in arms against it. After a somewhat bloody struggle of months, winter closes on the Union people of western Virginia, leaving them masters of their own country.

An insurgent force of about fifteen hundred, for months dominating the narrow peninsular region constituting the counties of Accomac and Northampton, and known as eastern shore of Virginia, together with some contiguous parts of Maryland, have laid down their arms; and the people there have renewed their allegiance to, and accepted the protection of, the old flag. This leaves no armed insurrectionist north of the Potomac or east of the Chesapeake.

Also we have obtained a footing at each of the isolated points, on the southern coast, of Hatteras, Port Royal, Tybee Island, near Savannah, and Ship Island; and we likewise have some general accounts of popular movements, in behalf of the Union, in North Carolina and Tennessee.

These things demonstrate that the cause of the Union is advancing steadily and certainly southward.

Since your last adjournment, Lieutenant General Scott has retired from the head of the Army. During his long life, the nation has not been unmindful of his merit; yet, on calling to mind how faithfully, ably, and brilliantly he has served the country, from a time far back in our history, when few of the now living had been born, and thenceforward continually, I cannot but think we are

still his debtors. I submit, therefore, for your consideration, what further mark of recognition is due to him and to ourselves, as a grateful people.

With the retirement of General Scott came the executive duty of appointing, in his stead, a general-in-chief of the Army. It is a fortunate circumstance that neither in council nor country was there, so far as I know, any difference of opinion as to the proper person to be selected. The retiring chief repeatedly expressed his judgment in favor of General McClellan for the position; and in this the nation seemed to give a unanimous concurrence. The designation of General McClellan is, therefore, in considerable degree, the selection of the country, as well as of the Executive; and hence there is better reason to hope there will be given him the confidence and cordial support thus, by fair implication, promised, and without which he cannot, with so full efficiency, serve the country.

It has been said that one bad general is better than two good ones; and the saying is true, if taken to mean no more than that an army is better directed by a single mind, though inferior, than by two superior ones at variance and cross-purposes with each other.

And the same is true in all joint operations wherein those engaged *can* have none but a common end in view, and *can* differ only as to the choice of means. In a storm at sea, no one on board *can* wish the ship to sink; and yet, not unfrequently, all go down together, because too many will direct, and no single mind can be allowed to control.

It continues to develop that the insurrection is largely, if not exclusively, a war upon the first principle of popular government—the rights of the people. Conclusive evidence of this is found in the most grave and maturely considered public documents, as well as in the general tone of the insurgents. In those documents we find the abridgment of the existing right of suffrage, and the denial to the people of all right to participate in the selection of public officers, except the legislative, boldly advocated, with labored arguments to prove that large control of the people in government is the source of all political evil. Monarchy itself is sometimes hinted at as a possible refuge from the power of the people.

In my present position, I could scarcely be justified were I to omit raising a warning voice against this approach of returning despotism.

It is not needed, nor fitting here, that a general argument should be made in favor of popular institutions; but there is one point, with its connections, not so hackneyed as most others, to which I ask a brief attention. It is the effort to place *capital* on an equal footing with, if not above, *labor*, in the structure of government. It is assumed that labor is available only in connection with capital; that nobody labors unless somebody else, owning capital, somehow by the use of it, induces him to labor. This assumed, it is next considered whether it is best that capital shall *hire* laborers, and thus induce them to work by their own consent, or *buy* them, and drive them to it without their consent. Having proceeded so far, it is naturally concluded that all laborers are either *hired* laborers, or what we call slaves. And further, it is assumed that whoever is once a hired laborer, is fixed in that condition for life.

Now, there is no such relation between capital and labor as assumed; nor is there any such thing as a free man being fixed for life in the condition of a hired laborer. Both these assumptions are false, and all inferences from them are groundless.

Labor is prior to, and independent of, capital. Capital is only the fruit of labor, and could never have existed if labor had not first existed. Labor is the superior of capital, and deserves much the higher consideration. Capital has its rights, which are as worthy of protection as any other rights. Nor is it denied that there is, and probably always will be, a relation between labor and capital, producing mutual benefits. The error is in assuming that the whole labor of community exists within that relation. A few men own capital, and that few avoid labor themselves, and with their capital hire or buy another few to labor for them. A large majority belong to neither class—neither work for others, nor have others working for them. In most of the southern States, a majority of the whole people of all colors are neither slaves nor masters; while in the northern, a large majority are neither hirers nor hired. Men with their families—wives, sons, and daughters—work for themselves, on their farms, in their houses, and in their shops, taking the whole product to themselves, and asking no favors of capital on the one hand, nor of hired laborers or slaves on the other. It is not forgotten that a considerable number of persons mingle their own labor with capital—that is, they labor with their own hands, and also buy or hire others to labor for them; but this is only a mixed, and not a distinct class. No principle stated is disturbed by the existence of this mixed class.

Again: as has already been said, there is not, of necessity, any such thing as the free hired laborer being fixed to that condition for life. Many independent men everywhere in these States, a few years back in their lives, were hired laborers. The prudent, penniless beginner in the world labors for wages awhile, saves a surplus with which to buy tools or land for himself; then labors on his own account another while, and at length hires another new beginner to help him. This is the just and generous and prosperous system, which opens the way to all, gives hope to all, and consequent energy and progress and improvement of condition to all. No men living are more worthy to be trusted than those who toil up from poverty—none less inclined to take or touch aught which they have not honestly earned. Let them beware of surrendering a political power which they already possess, and which, if surrendered, will surely be used to close the door of advancement against such as they, and to fix new disabilities and burdens upon them, till all of liberty shall be lost.

From the first taking of our national census to the last are seventy years; and we find our population at the end of the period eight times as great as it was at the beginning. The increase of those other things which men deem desirable has been even greater. We thus have, at one view, what the popular principle applied to government, through the machinery of the States and the Union, has produced in a given time; and also what, if firmly maintained, it promises for the future. There are already among us those who, if the Union be preserved, will live to see it contain two hundred and fifty millions. The struggle *of* to-day is not altogether *for* to-day—it is for a vast future also. With a reliance on Providence, all the more firm and earnest, let us proceed in the great task which events have devolved upon us.

ABRAHAM LINCOLN.

WASHINGTON, *December* 3, 1861.

Report of the Postmaster General.

POST OFFICE DEPARTMENT,
December 2, 1861.

SIR: Respecting the operations and condition of this Department, during the past fiscal year, ending June 30, 1861, I have the honor to report as follows:

APPOINTMENT OFFICE.

The operations of the appointment office, for the year ending June 30, 1861, show the following result:

The whole number of post offices in operation on the 30th June, 1860, was 28,498.

The whole number on the 30th June, 1861, was 28,586.

The net increase of post offices during the year ending the 30th June, 1861, is 88.

The total number of post offices at which appointments are made by the President of the United States, on the 30th June, 1861, was 434.

The table (No. 1) annexed to this report shows the number of each class of offices in the several States and Territories of the Union.

The whole number of cases acted upon during the last official year, including the appointments ordered by the President of the United States, was 10,638. The whole number of appointments made by the Department during that year for all causes, was 9,235. The number of appointments ordered by the President, during the same period, was 337. The classification of these changes by States will appear in the table, (No. 2,) and a summary of them in the table (No. 3) annexed to this report.

The whole number of post offices in operation in the United States on the 1st day of December, 1861, excluding those discontinued by special order, and including those suspended by the general orders of May and June last, was 28,620.

SPECIAL AGENTS, ROUTE AGENTS, AND LOCAL AGENTS.

The number of special agents in the employment of the Department on the 30th of June last was 16. The extraordinary condition of the country, and the exigencies of the service in certain States, rendered it necessary to increase this number, up to the present time, to 20.

During the last fiscal year the number of route agents in the service was 474, at an annual cost of $372,240.

The number of local agents was 40, at an annual cost of $25,479.

At the close of the year, on the 30th of June last, the number of route agents was reduced to 392, at a cost of $294,460.

The number of local agents was reduced to 35, at a cost of $19,719.

These agents are paid salaries generally ranging from $400 to $800 per annum, and from the large proportion of railroad transportation have become an important and indispensable branch of the service in distributing and dispatching the mails. The special agents are the eyes and hands of the Department, to detect and arrest violators of the law, and to render the mails a safe and rapid means of communication. In their selection I have endeavored to secure the qualities of integrity, sagacity, and efficiency. While the duties of route agents are different, they are always of greater importance and more onerous than is commonly apprehended, and require, to a great degree, the qualities of character above described.

FOREIGN MAIL SERVICE.

The aggregate amount of postage (sea, inland, and foreign) on mails exchanged with the

United Kingdom was	$786,274 67
Prussia	266,275 38
France	220,394 31
Hamburg	41,260 95
Bremen	36,943 29
Belgium	10,888 10
Total postages on European mails	$1,362,036 70

Being a decrease from the amount reported for the preceding year of $14,365 55.

The sea conveyance of these mails was performed as follows:

By United States mail packets.

Of the New York and Havre Steamship Company		$105,057 58
Of Vanderbilt's European line		56,894 16
Of the North Atlantic Steamship Company		41,706 25
Total		203,657 99

By foreign steamers employed as United States packets.

Of the Canadian line	$169,803 42	
Of the Liverpool and New York and Philadelphia Steamship Company	131,071 51	
Of the North German Lloyd Company	112,748 18	
Of the New York and Hamburg Steamship Company	65,761 00	
		479,384 11

By British contract mail packets.

Of the Cunard line	$650,310 81	
Of the Galway line	28,633 79	
		678,994 60
Total		$1,362,036 70
Of this amount there was collected in the United States		$814,444 39
And in the United Kingdom, Prussia, France, Hamburg, Bremen, and Belgium		547,592 31
Excess of collections in the United States		$266,852 08

The cost of collecting which, in commissions at United States post offices, at an estimated average of forty per cent., would amount to $106,740 83.

The number of letters and newspapers ex-

changed in the mails between this country and Europe was as follows:

Letters sent from the United States	3,086,121
Letters received from Europe	3,059,700
Total	6,145,821
Newspapers sent from the United States	2,484,357
Newspapers received from Europe	1,033,633
Total	3,517,990

It appears that the number of letters sent to Europe exceeds the number received from Europe by 26,421.

The excess in the number of papers sent from the United States over those received from Europe is 1,450,724.

The amount of letter postage on mails *sent* to—	
Great Britain was	$373,754 36
Prussia	141,612 07
France	106,469 92
Hamburg	27,089 04
Bremen	19,713 31
Belgium	5,358 59
Total sent	$675,997 29
On mails *received* from—	
Great Britain	$410,520 31
Prussia	124,663 31
France	113,924 39
Hamburg	14,171 91
Bremen	17,229 98
Belgium	5,529 51
Total received	$686,039 41

The excess of postage on mails sent from the United States to different countries of Europe over that accruing on mails received from the same countries was as follows:

Prussia	$16,948 76
Hamburg	12,917 13
Bremen	2,483 33
Total	$32,349 22

The excess of postages accruing on mails *received* over those *sent*, was as follows:

Great Britain	$34,765 95
France	7,454 47
Belgium	170 92
Total	$42,391 34

The weight of *closed letter* mails, was as follows:

Prussian closed mails *received*	133,774½	ounces
Sent	149,572½	"
Total	283,347	"
British closed mails for Canada	42,058¼	ounces
Canada closed mails for Great Britain	25,000¼	"
Total	67,059	"
British and California closed mails *received*	24,328¼	ounces
Sent	6,412½	"
Total	30,741¼	"
British closed mails for Havana	8,922½	ounces
British closed mails for Mexico	824¼	"

The amount paid Great Britain for the sea and territorial transit of United States and Prussian closed mails through the United Kingdom, was $121,408 55½; and the amount received from Great Britain for the sea and territorial transit of British closed mails through the United States, was $38,322 53½.

Balance due Great Britain, on adjustment of accounts, for the year ending June 30, 1861	$149,935 24¼
Balance due to France, (first, second, and third quarters, 1860)	24,782 13
Balance due to Prussia, for the year ending June 30, 1860	41,252 47
Balance due to Bremen	18,073 13½
Balance due to Hamburg	15,749 63¾
Balance due the United States, on adjustment of accounts with Belgium, for the first, second, third, and fourth quarters of 1860, and first quarter of 1861	5,159 71

The amounts paid to the different lines of transatlantic steamships employed by this Department, for service performed during the year, under the provisions of the existing law, which limits the compensation to the sea and inland postages on the mails transported, if the conveyance is by an American steamer, and to sea postage only, if by a foreign steamer, will appear by the table (No. 4) annexed to this report. The total cost of this service was $392,887 63. Of this amount, $157,174 09 was earned by American steamers, performing twenty-three round trips, at the sea and United States inland postages, and $235,713 54 by foreign steamers, performing eighty-six round trips, at the sea postage only.

The aggregate amount of postages on the mails exchanged between the United States and the British North American provinces, during the year, was $186,900 50; of which $96,304 07 was collected in this country, and $90,596 43 in the British provinces.

The United States postages on the West India mails was $59,544 48; all of which has been paid to the different lines of American steamships conveying the mails to and from Havana, Matanzas, and St. Thomas, respectively.

The United States postages on mails forwarded to, and received from, Vera Cruz, Mexico, amounted to $4,370 08, which has been, in like manner, paid to the steamers and sailing vessels performing the sea transportation between New Orleans and Vera Cruz.

The United States postages on the correspondence forwarded to and received from Central and South America, and Acapulco, (Mexico,) by the California line of steamers, via Panama, during the year, amounted to $12,100 35. The entire California mail service was transferred from the Isthmus to the overland route on the 1st of July last; but the Isthmus, Central and South American mails are still conveyed by the California line of steamers, under the existing law, which limits the compensation to the United States postages on the mails transported, Cornelius Vanderbilt, Esq., the proprietor of the line, having consented "to carry them for the postages until Congress meets and has the opportunity of making some more permanent provision." It is claimed by him that the postages on these mails fall far short of a fair and proper remuneration for the service performed in their transportation. In view of the importance of keeping up a direct mail communication with the Isthmus of Panama, and the countries on the Pacific coast of Central and South America, I respectfully recommend the subject to the early consideration of Congress.

Additional articles to the United States and French postal convention of the 2d March, 1857, have been mutually agreed upon, establishing new exchanging offices, on the side of the United States at Portland, Detroit, and Chicago, respectively; and on the side of France at Paris; and providing for an exchange of mails by the Canadian mail packets plying between Liverpool and Portland, or between Liverpool and River du Loup; a copy of these articles accompanies this report, (No. 5.) Additional articles to the postal convention with Prussia, of the same character, have also been agreed upon with the general post office at Berlin, establishing, on the part of the United States, new offices of exchange at Portland, Detroit, and Chicago, respectively; to exchange closed mails with Aachen, (Aix-la-Chapelle,) through England, by means of the Canadian line of mail packets, a copy of which is annexed to this report, (No. 6.) These arrangements have greatly expedited the transmission of European correspondence to and from the western States, and give entire satisfaction to that portion of the country.

I have had the satisfaction of arranging the terms of a postal convention with Mexico, which was concluded with the Mexican minister on the 31st of July last, subject to ratification within six months from that date by the President of the United States, by and with the advice and consent of the Senate, and by the President of the republic of Mexico, with the approval of the Mexican congress. This convention was approved by the Senate of the United States on the 6th of August last; but no official information has yet been received of the action of Mexico thereupon. Its principal provisions are:

1. The establishment of direct mail steamship service between New York and Vera Cruz, either direct or via Havana, the expense of which is to be borne equally by the respective post departments of the two countries.

2. A uniform rate of postage between the two countries of twenty-five cents for a single letter under half an ounce in weight, and an additional charge of twenty-five cents for each additional fraction of half an ounce; prepayment of which is obligatory, and each country to retain all the postage it collects, which dispenses entirely with any postage accounts between the two countries.

3. With respect to printed matter of every kind, each country is to levy and collect its own postage only at the established domestic rates; and the dispatching country is to charge and collect, in addition to its regular domestic inland rate, a sea rate of one cent on each newspaper, and one cent per ounce on pamphlets and other kinds of printed matter.

4. Each country grants to the other the territorial transit of closed mail bags through its territories, free from all duties, tax, detention, or examination; the means of transporting such bags to be furnished, and the cost thereof to be paid, by the country to which they may respectively belong; and the carriages, cattle, and men exclusively employed in the service, to be free from arrest, charges, or molestation of any kind whatever, except for some flagrant violation of the laws of the country through which the closed bags are conveyed.

If this convention should be ratified by Mexico, special legislation will be necessary to provide for the portion of the expenses to be paid by this Department, in maintaining a regular line of mail packets between New York and Vera Cruz; as the provisions of the existing laws limit the compensation for sea service to the postages, which will be wholly inadequate to sustain such a line of packets.

A special appropriation from the Treasury will be required, to enable the Postmaster General to carry this convention into operation. It is not only important as a postal arrangement, in view of the present interruption of mail communication via New Orleans, but it is also regarded as a measure of great political and commercial importance to the respective countries.

Propositions have been submitted for postal arrangements with the Governments of Costa Rica and Guatemala, respectively, which are now under consideration; and the Department has other arrangements in contemplation for improvements in our postal intercourse with foreign countries, by the reduction of rates of postage, and increased certainty and efficiency in the transportation of the mails.

The negotiations with the British office for a reduction of postage, which have been pending since 1857, were unsuccessful, chiefly, as I understand it, because of the difference of the offices as to whether the steamers employed should receive a greater or less proportion of the postage remaining, after deducting the United States inland rate of three cents. This point did not seem to me to be of sufficient significance to be allowed to defeat a measure of so much importance to the commerce of both countries as the reduction of 50 per cent. of the rate of postage. Although fully concurring with my predecessors that the basis proposed by this Department was the more just as it recognized and was founded upon the inland rates established by the laws of the two countries, I have, on a review of the whole subject, concluded to accept the division of rates as proposed, which grants to the United Kingdom the same rate of inland postage, rather than longer delay an arrangement so desirable as that sought to be attained by the proposed reduction of the international letter postage from 24 to 12 cents the single rate. I have, therefore, formally accepted the basis for international letters as originally proposed by the British office on the 13th of February, 1857, that the benefit of the reduction may accrue to the written correspondence between the two countries as early as practicable. The other propositions relating to printed matter and territorial transit charges are held for further consideration and arrangement as soon as the respective departments find it practicable to give them attention. I trust that a review of these subjects, by the respective postal administrations, may result in further advantages to the people engaged in this intercourse.

MEXICAN MAILS ON THE PACIFIC COAST.

I commend to the consideration of Congress the propriety of an appropriation to sustain a reliable

mail communication on the coast between San Francisco and the several ports of the Mexican Republic on the Pacific.

CONTRACT OFFICE—TRANSPORTATION STATISTICS.

In consequence of the defection of the insurrectionary States, and the termination of the mail service in those States on the 31st of May last, under the act of Congress approved February 28, 1861, (with the exception of service in Western Virginia,) it becomes necessary to present the transportation statistics in two divisions. These are shown in tables A and B attached to this report.

Table A exhibits the service as it stood on the 30th of June last, in the States of Maine, New Hampshire, Vermont, Massachusetts, Rhode Island, Connecticut, New York, New Jersey, Pennsylvania, Delaware, Maryland, Ohio, Western Virginia, Michigan, Indiana, Illinois, Wisconsin, Iowa, Missouri, Minnesota, Kentucky, Tennessee, California, Oregon, and Kansas, and the Territories of New Mexico, Utah, Nebraska, and Washington, at which time there were in operation in those States and Territories 6,340 mail routes, the number of contractors being 5,644. The length of these routes was 140,399 miles, and the mode of service divided as follows:

Railroad	22,018
Steamboat	5,339
Coach	39,733
Inferior	83,309

The annual transportation of the mails was 54,455,454 miles, costing $5,309,454, divided as follows:

	Miles.		Cents.	
Railroad	23,116,823 at	$2,543,709, about	11	a mile.
Steamboat	1,833,016 "	290,559, "	15⅞	"
Coach	10,655,783 "	1,171,295, "	11	"
Inferior modes	18,852,832 "	1,303,891, "	7	"

The number of route agents in the service was 392, at a compensation of	$294,460 00
The number of local agents was 35, costing	19,719 00
The number of mail messengers was 1,532, costing	188,936 89
The number of railroad baggage masters in charge of the express mails was 48, costing,	5,760 00
	508,875 89
This sum, added to the cost of service in operation on the 30th of June	5,309,508 00
Makes the total on the 30th of June last	$5,818,383 89

The lettings of new contracts for the term commencing July 1, 1861, and ending June 30, 1865, embrace the routes in the States of Maine, New Hampshire, Vermont, Massachusetts, Rhode Island, Connecticut, and New York, and the following shows the service under those lettings for the first quarter of the contract year ended 30th of September last:

	Miles.	Miles annual transportation.	Cost.
Railroad	6,546	7,553,070	$753,814
Steamboat	463	283,362	16,463
With "celerity, certainty, and security"	16,533	5,964,562	263,730
	23,542	13,800,994	$1,034,007

Compared with the service on the 30th June last, the length of routes is diminished fifty-seven miles; but from the increase of trips, especially upon railroads, the annual transportation is increased 447,178 miles, and the cost, $24,154.

Table B shows the length of routes in the States of Virginia, (exclusive of Western Virginia,) North Carolina, South Carolina, Georgia, Florida, Alabama, Mississippi, Arkansas, Louisiana, and Texas, on the 31st of May last, to have been 96,015 miles, divided as follows:

Railroad	6,886
Steamboat	7,716
Coach	12,711
Inferior modes	68,702

The total annual transportation was 24,122,711 miles, as follows:

Railroad	5,701,093 miles, at		$978,910
Steamboat	1,721,859 "		574,699
Coach	4,769,740 "		824,393
Inferior modes	11,930,028 "		863,179
			3,241,181
To which add 121 route agents, costing		$86,400	
7 local agents		3,760	
180 mail messengers		28,115	
			118,275
Making the total cost of the service in those States, discontinued on the 31st of May			3,359,456
To this add the cost of the service in Tennessee as it stood on June 30, 1861			250,232
Also the amount of compensation to route agents at the same date			12,300
Local agents			1,000
Mail messengers			3,739
			$3,626,727

OVERLAND CALIFORNIA MAIL.

By the ninth section of an act of Congress, approved March 2, 1861, entitled "An act making appropriations for the service of the Post Office Department during the fiscal year ending June 30, 1862," authority is given to the Postmaster General to discontinue the mail service on the southern overland route, (known as the Butterfield route,) between St. Louis and Memphis and San Francisco, and to provide for the conveyance, by the same parties, of a six times a week mail by the "central route;" that is, "from some point on the Missouri river, connecting with the East, to Placerville, California." In pursuance of this act, and the acceptance of its terms by the mail company, an order was made on the 12th of March, 1861, to modify the present contract so as to discontinue service on the southern route, and to provide for the transportation of the entire letter mail six times a week on the central route, to be carried through in twenty days eight months in the year, and in twenty-three days four months in the year, from St. Joseph, Missouri, (or Atchison, Kansas,) to Placerville, and also to convey the entire mail three times a week to Denver City and Salt Lake; the entire letter mail to California to be carried, whatever may be its weight, and in case it should not amount to six hundred pounds, then sufficient of other mail to be carried each trip to make up that weight, the residue of all mail matter to be conveyed in thirty-five days, with the privilege of sending it from New York to San Francisco in twenty-five days by sea, and the public documents in thirty-five days; a pony express to be run twice a week until the completion of the overland telegraph, through in ten days eight months, and twelve days four months in the year, conveying for the Government, free of charge, five pounds of mail matter; the compensation for the whole service to be $1,000,000 per annum, payable from the general Treasury, as provided by the act; the service to commence July 1, 1861, and terminate July 1, 1864.

The transfer of stock from the southern to the central route was commenced about the 1st of April, and was completed so that the first mail was started from St. Joseph on the day prescribed by the order, July 1, 1861. While the carriages have, it is believed, departed regularly since that time, the mail service has not been entirely satisfactory to the Department. The causes of complaint, however, it is hoped will be removed by the measures now in progress. The route selected is that by Salt Lake City, so that that office has now the advantage of a daily mail, and Denver City is supplied three times a week. The overland telegraph having been completed, the running of the pony express was discontinued October 26, 1861. By the terms of the law the contractors were required to convey only the California letter mail on each trip by the short schedule, and this they were to do whatever might be its weight; but by voluntary agreement they stipulated that in case it should fall short of six hundred pounds on any occasion they would take other mails so as to make that weight. As the letter mails are seldom or never equal to six hundred pounds in weight some papers are conveyed in connection with the letter mails each trip by the short schedule, while others are necessarily delayed. This has occasioned complaint, and complaints have also been made of other delays, and that bags of printed matter have been thrown off *en route* for the admission of passengers and express matter. These charges are denied by the contractors; but while the conditions of the contract, fixed by law, allow a longer time for the transit of some mails than others, complaint and disappointment must of necessity occur.

At the commencement of threatening disturbances in Missouri, in order to secure this great daily route from interruption, I ordered the increase of the weekly and tri-weekly service then existing between Omaha and Fort Kearney to daily, and an increase of pay thereon of $14,000 per annum. By that means an alternative and certain daily route between the East and California was obtained through Iowa, by which the overland mails have been transported when they became unsafe on the railroad route in Missouri.

In sending them from Davenport, through the State of Iowa, joining the main route at Fort Kearney, in Kansas, the only inconvenience experienced was a slight delay, no mails being lost so far as known.

NEW YORK AND BOSTON NIGHT MAIL.

This important addition to the facilities for conveying correspondence between these cities, announced in the last annual report as having been commenced as a three months' experiment, proved to be so satisfactory and successful that the arrangement was continued with the same companies, viz: those composing the inland line, through Hartford and Springfield, until the 1st of August last, when negotiations with those corporations failing to secure a renewal of their services, the mail was transferred to the shore line, from New Haven, through New London, Stonington, and Providence, over which line it is now carried with great regularity, and much to the satisfaction of the citizens interested and of the Department.

NIGHT MAIL FROM NEW YORK TO WASHINGTON.

This mail leaves New York at 11 in the evening, and arrives at Washington by 9.30 the next morning. Connections are thus made at New York with railway trains from Montreal, Ogdensburg, Buffalo, &c., arriving at 10.30 p. m., and by a recent change in the hour of departure of the express train at Boston from 3 to 2 p. m., connecting with that train also, so that mails and passengers leaving Boston at 2 p. m. arrive at Washington by 9.30 a. m., or in less than twenty-three hours.

This is about the time occupied by the other lines, but it constitutes the *third* daily direct and unbroken line of travel for mails and passengers from city to city, and at hours causing the least loss of business time.

FINANCE OFFICE.

The details of the financial operations of this Department during the fiscal year ending June 30, 1861, are fully exhibited in the accompanying very elaborate and interesting report of the Auditor for this Department, from which the following statement is derived:

Revenue and Expenditures.

The expenditures of the Department in the fiscal year ending June 30, 1861, amounted to $13,606,759 11, viz:

For transportation of inland mails, including payments to route agents, local agents, and mail messengers		$8,406,652 51
For transportation of foreign mails, to wit:		
Between New York, Southampton, and Havre	$266,549 05	
Between New York, Queenstown, and Liverpool	44,733 31	
Between New York, New Orleans, and Havana	4,803 23	
Between New York and Havana	37,597 64	
Between New Orleans and Havana	10,422 27	
Between Portland and Liverpool	76,418 52	
		440,524 02
Between New York and San Francisco	299,239 99	
Mails across the Isthmus of Panama	25,000 00	
Expenses of Government mail agents at Panama	1,857 36	
		326,097 35
For compensation to postmasters		2,514,157 14
For clerks in post offices		947,296 31
For ship, steamboat, and way letters		12,007 06
For office furniture for post offices		2,177 55
For advertising		40,752 70
For mail bags		66,966 61
For blanks		79,859 18
For mail locks, keys, and office stamps		8,650 14
For mail depredations and special agents		47,837 22
For postage stamps and stamped envelopes		92,772 70
For wrapping paper		50,920 96
For payments to letter-carriers		149,073 62
For payments for dead letters		9 48
For interest under act of February 15, 1860		4,699 54
For miscellaneous payments		271,446 61
For payments for balances due on British mails		120,507 82
For payments for balances due on French mails		24,440 59
Actual expenditure for 1861		$13,606,759 11

The expenditures for the year ending the 30th of June, 1860, were	$14,874,772 89
The expenditures for the year ending June 30, 1861, were	13,606,759 11
Decrease in 1861	$1,268,013 78

The gross revenue for the year 1861, including receipts from letter-carriers and from foreign postages, amounted to $8,349,296 40, as stated below:

Letter postage	$646,498 14
Registered letters	19,305 66
Stamps sold	6,864,791 43
Newspapers and pamphlets	571,209 28
Fines	20 00
Receipts on account of emoluments	94,563 45
Receipts on account of letter-carriers	149,073 62
Miscellaneous receipts	3,834 82
	$8,349,296 40

The balance to the credit of the Department, on the books of the Auditor, June 30, 1860		$1,211,860 17
The receipts of the Department from all sources during the year 1861		8,349,296 40
Balance on credit accounts closed by suspense		5,902 90
Amount of various appropriations drawn from the Treasury during the year, as specifically shown by the Auditor, was		4,645,994 40
Total receipts		14,213,053 87
The whole amount of expenses in the year	$13,606,759 11	
Add amount of accounts closed by bad debts	407 17	
		13,607,166 28
Leaving to the credit of the revenue account		$605,887 59

The expenditure for 1861, inclusive of bad debts, and exclusive of credit balance, on accounts closed by suspense, as exhibited		$13,601,262 38
Deduct the revenue for 1861	$8,349,296 40	
Add the earnings of this Department in carrying free mail matter	700,000 00	
		9,049,296 40
Deficiency		$4,551,966 98

The estimated deficiency of means for 1861, as presented in the annual report from this Department, December 3, 1859, was	$5,988,424 04
Deduct actual deficiency	4,551,966 98
Excess of estimated deficiency over actual deficiencies	$1,436,457 06

The revenue from all sources during the year 1860 amounted to	$9,218,067 40
The revenue from all sources during the year 1861 amounted to	9,049,296 40
Decrease of revenue for 1861	$168,771 00

Statement of gross and net proceeds from post offices in the loyal and disloyal States, for the fiscal years ending June 30, 1860 and 1861.

DISLOYAL STATES.				LOYAL STATES.			
Year.	Gross Proceeds.	Compensation to postmasters and incidental expenses.	Net Proceeds.	Year.	Gross Proceeds.	Compensation to postmasters and incidental expenses.	Net Proceeds.
1860	$1,517,540 55	$696,994 04	$820,546 51	1860	$6,692,012 25	$3,003,321 69	$3,688,690 56
1861	1,241,220 05	583,513 35	677,706 70	1861	6,690,697 20	3,088,610 12	3,801,487 08
Decrease in 1861			$142,839 81	Increase in 1861			$112,796 52

The decrease in 1861, from the net proceeds of 1860 in all the States, appears to be $30,043 29:

Statement of the receipts and expenditures of the disloyal States, and amount alleged to be due to contractors; also, the amount actually paid to contractors from July 1, 1860, to May 31, 1861.

Total expenditures		$3,699,150 47
Total gross receipts		1,241,220 05
Excess of expenditures over receipts		$2,457,930 42
Amount alleged to be due to contractors for transportation	$3,135,637 12	
Amount actually paid for transportation	2,323,061 63	
Leaving amount alleged to be due and unpaid		$812,575 49

The tabular statement of the Auditor, marked No. 3, exhibits in detail the receipts from and the expenditures in the post offices in all the States during the fiscal year, together with the amount paid, and reported to be due, to contractors for the transportation of the mails.

No. 4 presents a similar exhibit for the disloyal States alone, with a statement of the whole amount of "transportation" accrued therein, which includes not only the amount actually paid, but also the cost of the service known to have been performed, payment for which is withheld, and the additional amount which would be due on the assumption that the postal service was uninterrupted until discontinued by the Postmaster General.

ESTIMATES FOR 1862.

The estimates of receipts and expenditures for the fiscal year ending June 30, 1862, and of the resulting deficiency for the same year, which were submitted in the last annual report from this Department, were based on the existence of postal service throughout the Union.

Should such service remain suspended, during the year, in States where it is now wholly or partially discontinued, the estimated deficiency of $5,210,426 63 would be reduced to $2,747,000, according to the ratio of receipts and expenditures in that section in 1860.

The amount appropriated by the third section of the act approved March 2, 1861, to supply deficiencies in the revenue for the year 1862, was $5,391,350 63; and, if the cost of a daily mail on the central route is to be paid out of the resources of this Department, there will be an unexpended balance of this appropriation July 1, 1863, of about one million six hundred thousand dollars.

Sections nine and eleven of the act approved March 2, 1861, (chapter seventy-three,) seemed clearly to authorize this payment out of the Treasury for mail service six times a week on the central route to California. But the word "daily," used in the eleventh section, in connection with the appropriation, has induced the adoption of a different construction at the Treasury.

ESTIMATE OF RECEIPTS AND EXPENDITURES FOR 1863.

Expenditures.

For transportation of the mails inland	$6,961,000
For compensation of postmasters	2,234,000
For clerks of post offices	846,000
For ship, steamboat, and way letters	12,000
For office furniture for post offices	2,000
For advertising	36,000
For mail bags	75,000
For paper for blanks	50,000
For printing blanks	12,000
For wrapping paper	45,000
For mail locks, keys, and stamps	56,000
For mail depredations and special agents	75,000
For miscellaneous payments	187,000
For postage stamps and stamped envelopes	90,000
For payments of balances due to foreign countries	230,000
For payment of letter-carriers	152,000
	11,063,000

To the above estimate must be added the cost of transportation of "foreign mails," which was formerly paid out of the appropriation of the fifth section of the act approved June 14, 1858, but which the Secretary of the Treasury, on the 6th of August, 1861, decided not to be payable therefrom, since the passage of the act of June 15, 1860.

Estimate for the Transportation of Foreign Mails for 1863.

Between New York, Southampton, and other European ports	285,000
Between New York, Queenstown, and Liverpool	50,000
Between Portland and Liverpool, and Quebec and Liverpool	80,000
Between United States, Havana, Cuba, and other West India ports	50,000
	11,528,000

The estimate for the transportation of the mails inland does not include the sum of $1,000,000, which it was presumed that Congress intended to appropriate from the Treasury by the ninth section of the act of March 2, 1861, for a daily mail on the central route; but by a decision of the First Comptroller of the Treasury, dated October 31, 1861, it is declared that this sum was not thus appropriated.

Unless, therefore, a specific appropriation for this object be made by Congress, the above estimates will be subject to a further addition of	1,000,000
Expenditures for 1863	12,528,000

Means for 1863.

The gross revenue for the year 1863, including foreign postages, fees paid in by letter-carriers, and miscellaneous receipts, is estimated at an increase of four per cent. on the revenues of 1861, making	8,683,000
Estimated deficiency of revenue, compared with estimated expenditures	3,845,000
Deduct appropriations made by the acts of March 3, 1847, and March 3, 1851, for carrying free mail matter	700,000
Which would make the whole amount estimated to be required from the Treasury for 1863	$3,145,000

exclusive of the earnings of the Department for carrying free matter under the acts of March 3, 1847, and March 3, 1851, ($700,000.)

The estimate of the total expenditures for 1863 is somewhat less than those for previous years heretofore submitted. This difference arises from the fact that only partial estimates are made for the cost of postal service in States where it is now suspended.

It is assumed that the restoration of such service in these States will take place gradually, and that in the process many expensive mail routes, from which but little revenue has been derived, may be curtailed or discontinued.

Most of the estimates for expenditures in the disloyal States for 1863 are calculated at a fixed proportion of the amount expended in that section of the country under the various heads of appropriation while its relations to this Department were undisturbed, which amount was about one quarter of the expenditure for the whole Union.

The estimates for blanks and wrapping paper are nearly the same as in former years, as in case of the resumption of postal service in the disloyal States a large quantity of blanks, wrapping paper, and other supplies furnished by blank agents would undoubtedly be required, as the post offices within the limits of these States would be entirely without such supplies.

For the reasons stated below, there has been no diminution in the estimates for the cost of mail bags, locks and keys, for the year 1863.

Since the discontinuance of the postal service in eleven States of the Union, the expenditure for mail bags has been greater than during any corresponding period of the preceding year. The causes are as follow:

1. The abstraction in those States, immediately preceding open rebellion, of considerable quantities of mail bags from the general supply in circulation on the principal routes between the North and the South, by withholding, in disregard of an established rule, the return of extra bags, which, by the course and exchanges of mail matter, always accumulate in the southern States, and by exchanging, and sending back with the

mails, old bags nearly unserviceable for new ones received.

2. The vast increase of mailable matter incident to the war.

3. The difficulty (arising from the rebellion and the exigencies of war) in procuring mail bags, made as heretofore, of cotton duck, or canvas, in sufficient quantities, thereby rendering necessary the purchase, to a great extent, of such as are made of leather.

During the fiscal year ending 30th June, 1861, there were purchased, under contract, and put into the service 7,787 locked pouches and bags, (used for the transmission of letters,) which cost $26,697 51, being about 37 per cent. more in number, and about 75 per cent. more in cost, than the locked pouches and bags procured during the year next preceding; also, 22,964 canvas sacks, (used for the transmission of newspapers and other printed matter,) which cost $20,305 78, being slightly more in number, and about 5½ per cent. less in cost, than the canvas sacks procured during the same period.

The amount of $30,000 for mail locks and keys would be a sufficient estimate for the wants of the mail service within its present limits only, including the cost of an entirely new issue of mail locks and keys, rendered indispensable for the safety of the mails, in consequence of the rebellion existing within a large portion of the former limits of the service, where the locks and keys of this Department are still in use.

After due advertisement, I have made a contract for new locks and keys, which, in respect to the quality and price of the articles to be furnished, is more favorable than any hitherto made by this Department.

Assuming the reëstablishment of the mail service throughout the States now under insurrectionary control, the additional supply requisite to cover that extent of service, will, it is believed, cost $20,000 more, making the total sum requisite in that case $50,000, as estimated.

Although the revenue of 1861, as compared with that of 1860, shows a diminution of nearly two per cent., yet it is anticipated that the revenue of 1863 will exhibit an increase of four per cent. on that of 1861, or nearly two per cent. on that of 1860. This estimate is justified by a comparison between the proceeds of the larger offices during the quarter ending September 30, 1860, and the corresponding quarter of the present year, which shows a small excess of revenue during the latter period.

In the appendix will be found a detailed statement of the annual revenues and expenditures from 1853 to 1861, inclusive, together with estimates for 1862 and 1863.

POST OFFICES.

The number of post offices in operation during the year was 28,586, and the number of quarterly returns received therefrom was 105,066.

The number of post offices in disloyal States which have made no returns for the third quarter of 1861, is 8,535. In the State of Virginia 167 offices continue to send in their quarterly accounts regularly.

DRAFTS AND WARRANTS.

The whole number of drafts and warrants issued during the year in payment of balances reported by the Auditor to be due mail contractors and other creditors of the Department, was 21,977. The warrants were drawn on eighteen United States depositories, and the drafts on thirty post office depositories and postmasters at draft offices, with whom it is necessary, for this purpose, to keep summary cash accounts, as well as with 987 depositing offices.

At the depositories and draft offices $2,796,011 76, which is more than three fifths of the net revenue of the Department, was concentrated and disbursed during the year. The remainder was collected by mail contractors by means of orders on postmasters at "collection offices," prepared and sent out by the Auditor.

From the 11th of July to the 13th of September, 3,177 Treasury notes, bearing six per cent. interest, and payable two years after date, were registered and paid to contractors and others. The aggregate amount of these notes was $1,016,800.

POSTAGE STAMPS AND STAMPED ENVELOPES.

The number of each denomination of postage stamps issued to postmasters during each of the four quarters of the year ending June 30, 1861, was as follows:

Quarter ending—	3 cents, note size.	3 cents, letter size.	10 cents, letter size.	6 cents, official.	1 cent, letter size.	4 cents, letter size.	3 cents, note size, ruled.	3 cents, letter size, ruled.	1 cent, letter size, ruled.	4 cents, letter size, ruled.
September 30, 1860	189,950	5,777,950	97,750	10,250	.....	.....	28,450	668,750	.....	.....
December 31, 1860	146,050	3,763,200	15,350	14,650	.....	35,000	40,350	1,657,750	412,000	35,000
March 31, 1861	82,150	3,657,600	50,150	5,800	594,500	.....	66,350	2,541,150	697,750	.....
June 30, 1861	53,900	2,456,700	38,300	9,750	536,350	.....	31,800	1,778,700	271,000	.....
Total	417,350	15,655,450	131,750	40,450	1,130,850	35,000	169,950	6,646,350	1,310,750	35,000

Quarter ending—	1 cent.	3 cent.	5 cent.	10 cent.	12 cent.	24 cent.	30 cent.	90 cent.
September 30, 1860	19,756,100	36,512,700	146,920	922,150	384,800	170,000	103,960	11,960
December 31, 1860	14,778,085	39,171,800	178,640	1,154,910	243,835	201,150	105,960	6,900
March 31, 1861	14,174,768	41,929,956	223,000	832,900	232,400	147,325	65,040	4,110
June 30, 1861	12,184,839	33,615,600	138,640	999,730	192,875	132,135	65,140	2,010
Total	53,893,792	151,223,056	667,200	3,925,690	1,053,900	650,600	340,000	24,980

The number of stamped envelopes issued during the above period was as follows:

Whole number of stamps, 211,788,518; value,		$5,908,522 60
Whole number stamped envelopes, 26,027,300; value		781,711 13
Total amount for 1861		6,690,233 73
Total value of postage stamps and stamped envelopes issued during the year ended June 30, 1860		6,870,316 19
Decrease during 1861		$180,082 46

The aggregate value of the envelopes included in the above statement is $781,711 13; but this sum does not give a correct idea of the real amount of postage represented, inasmuch as it includes the cost of the envelopes as well as the value of the stamps. The postage represented is $734,354 50—leaving as the cost of the envelopes and their distribution, $47,356 63.

The above decrease in the issues of postage stamps and stamped envelopes is contrary to all former experience, and is to be attributed to the then anticipated interruption of mail communication with the disloyal portion of the country, as the amount of each distributed continued steadily to increase up to the commencement of the second quarter of 1861, at which time orders from postmasters in that section were wholly or partially suspended. It was not deemed advisable to fill orders from postmasters in States which claimed to have "seceded," without first ascertaining their disposition to hold themselves personally responsible for such amounts as might be sent to them. With this view, a circular was prepared, about twelve hundred copies of which were addressed to different postmasters upon the receipt of their orders. Nine hundred replies were received, all but twenty of which avowed the personal responsibility of the writers for all revenues accruing at their respective offices, and their regret at the action of their State authorities. Stamps were accordingly sent them until June 1, when it appeared that the postal service could no longer be safely continued. The balance of stamps and stamped envelopes remaining unaccounted for in the hands of postmasters in disloyal States on the 1st of October, amounted to $207,000, without reference to commissions and allowances which may be placed to their credit in the future settlement of their accounts.

The total amount of postage stamps and stamped envelopes sold during the year was	$6,864,791 43
Amount used in prepayment of postage and canceled was	6,459,622 05
Leaving afloat and in the possession of purchasers, and being used to some extent as currency	$405,169 38

The contract for the manufacture of postage stamps having expired on the 10th of June, 1861, a new one was entered into with the National Bank Note Company, of New York, upon terms very advantageous to the Department, from which there will result an annual saving of more than thirty per cent. in the cost of the stamps.

In order to prevent the fraudulent use of the large quantity of stamps remaining unaccounted for in the hands of postmasters in the disloyal States, it was deemed advisable to change the design and the color of those manufactured under the new contract, and also to modify the stamp upon the stamped envelope, and to substitute, as soon as possible, the new for the old issue. It was the design of the Department that the distribution of the new stamps and envelopes should commence on the 1st of August, but, from unavoidable delays, that of the latter did not take place until the 15th of that month.

The number of postage stamps of the new style issued up to the 9th of November was 77,117,520, and the number of new stamped envelopes 8,939,650. All post offices in the loyal States, with the exception of certain offices in Kentucky and Missouri, have been supplied therewith. Those of the old issue have been exchanged and superseded. The old stamps on hand, and such as were received by exchange, at the larger offices, have been to a great extent counted and destroyed, and those at the smaller offices returned to the Department. It is proper to state that, in anticipation of the substitution of the new stamps and envelopes for the old issue, but limited supplies of the latter were sent to postmasters during June and July, so that the amount thereof remaining in their hands was comparatively small.

The additional expense incurred by the change is very inconsiderable, in view of the greatly diminished cost of the new stamps as compared with that of the old, while the prevention thereby of the use of stamps unaccounted for in the hands of disloyal postmasters saves the Department from severe loss. Although the enumeration and destruction of the old stamps and envelopes is not yet completed, there is ample evidence that few received in exchange were sent from disloyal States.

Envelopes of official size, at higher rates of postage, viz: 12 cents, 24 cents, and 40 cents, have been prepared during the past year, for the purpose of mailing large packages and for foreign correspondence. The aggregate number of these issued was 20,100. Of the patent ruled envelopes, nearly 2,500,000 have been distributed to postmasters, together with 79,150 letter sheets and envelopes combined, and 186,700 newspaper wrappers. The demand for the latter has of late rapidly increased.

It is believed that a change of the present system of issuing postage stamps and envelopes would prove to be highly advantageous. Instead of being delivered, as at present, on orders from postmasters, and charged to their account, the latter might be required to purchase a sufficient quantity to meet the wants of their respective offices. This would simplify the accounts of the Department, expedite the collection of its revenues, obviate losses from bad debts, and supersede the necessity of litigation for their recovery. It is, therefore, respectfully recommended to the consideration of Congress.

DEAD LETTERS.

The whole number of ordinary dead letters received and examined during the year was about 2,550,000.

The number of these letters containing money which were registered and sent out during the year ending June 30, 1861, was 10,580.

The number containing deeds, bills of exchange, drafts, and other articles of value, was 10,235.

For details see tables (Nos. 7 and 8) hereto appended.

There have been received and examined 125,000 letters which could not be forwarded to their destination, because of unpaid postage or carriers' fees, or because misdirected, &c. Of these there were sent out 53,934.

From the 1st of June to the 1st of November there were received at the dead letter office, in consequence of the suspension of the postal communication, 76,769 letters, originating in loyal States, and addressed to residents of disloyal States. Of this number, there were returned to the writers 26,711.

During the same period 34,792 foreign letters, destined for that section, were returned as "dead," and 2,246 of them were delivered in the loyal States to authorized agents of the parties addressed, making the whole number sent out 103,886, which is considerably more than three times the quantity sent out during the previous year, when the number was unusually large.

In addition to the above, about 40,000 letters from disloyal States, addressed to parties in the loyal States, were sent to the dead letter office after the suspension of the postal service, a large proportion of which were forwarded to their destination. The last three classes are not embraced in the above enumeration of ordinary dead letters.

FOREIGN LETTERS.

The number of dead letters returned unopened to foreign countries during the fiscal year was 111,147, divided as follows:

Returned to England	58,069
Returned to France	10,088
Returned to Prussia	11,584
Returned to Hamburg	2,813
Returned to Bremen	3,302
Returned to Belgium	113
Returned to Canada	22,337
Returned to Nova Scotia	1,125
Returned to New Brunswick	1,533
Returned to Prince Edward's Island	183
Total	111,147

Which added to the number of domestic letters (103,886) sent out as above, gives the whole number sent out from the dead letter office for the year 215,033.

During the same period the sum of $53,565 90 in money, and bills of exchange, drafts, checks, and negotiable notes to the amount of $2,436,546, found in dead letters, were returned to the owners or writers thereof.

In consequence of the great accumulation, after the suspension of mail service, of letters originating in or addressed to the disloyal States, the attention of the clerical force of the dead letter office was necessarily diverted from its accustomed duties, hence the causes of the non-delivery of valuable letters were not ascertained to so great an extent as was intended, or as could be wished.

The result of successful investigation in 7,560 cases, however, confirms the past experience of the Department that the failure of a letter to reach its destination is, in the vast majority of instances, the fault alone of the writer or sender. Out of the above 7,560 valuable dead letters, 3,095 were directed to the wrong office; 467 were imperfectly addressed; 612 were directed to transient persons; 257 to parties who had changed their residences; 821 were addressed to fictitious persons or firms; 83 were uncalled for; 10 without any directions; 2,136 were not mailed for want of postage stamps; 79 were missent; and for the failure of postmasters to deliver 133 no satisfactory reason was assigned. The Department, therefore, can justly be held responsible for the non-delivery of but 212 of these letters.

In the examination of 110,457 letters not mailed for want of postage or carriers' fees, or because misdirected, &c., (of which number 60,231 were contributed by the offices at the twenty-four largest cities in the country,) it was found that 82,582 were detained for non-payment of postage, 6,119 for want of carrier's fee, 5,947 were misdirected, and 366 were destitute of address or direction.

Of the above letters 1,339 contained money, amounting to $7,372 50, and 1,353 checks, drafts, or negotiable paper, the value of which was $259,716 59. Letters of the last class were generally from mercantile firms or from bankers, by whom they were carelessly mailed either without the proper address or without a postage stamp.

It is worthy of remark that out of 76,769 letters, before alluded to, originating in the loyal States, and addressed to residents of disloyal States, 40,000 could not be returned, either because the signature of the writer was incomplete, or because the letter contained no clue to his residence. The experience of the Department shows that a large proportion of domestic letters written by educated persons, and particularly by women, are deficient in one or both of these respects.

The sixth section of the act approved February 27, 1861, authorizes the application of the unclaimed money from dead letters to promote the efficiency of the dead letter office, by providing for a more careful examination of letters, and the return of a larger number to the writers, with or without valuable inclosures.

By virtue of the authority thus granted, from the 10th of April to the 10th of October the average number of clerks employed per month was nine, and the average compensation paid each per month was $68 52½, which, together with incidental expenses, ($21 38,) amounted to $4,544 11, leaving a balance to the credit of the dead letter fund, on the 31st of October, of $755 89.

As stated above, the suspension of postal communication with the disloyal States produced an unprecedented accumulation of dead letters, which rendered the employment of these clerks in the examination, registration, and delivery of such letters an absolute necessity. It is, however, the earnest desire of the Department that the dead letter fund should be exclusively devoted to increasing the number of ordinary dead letters returned to the writers, and to insuring the utmost promptness in their delivery.

Notwithstanding the manifest advantages of the law of February 2, 1861, requiring more frequent returns of dead letters to the Department, the majority of the postmasters, particularly those at the smaller offices, fail to comply with the necessary regulations under that law, although duly notified thereof. In order to carry out the salutary reform contemplated by Congress, every postmaster who is delinquent in this respect is reminded of what the law requires, and his immediate compliance therewith requested. This correspondence, and the consequent return of a larger amount of letters to the owners, involves much additional labor, tending to increase the efficiency of the dead letter office.

According to the experience of the last year, it would appear that the proportion of the dead letters sent out which would be received by the writers is much larger than was formerly estimated by this Department. Out of 53,934 dead letters held for postage, misdirected, &c., which, though not containing valuable inclosures, were sent out for delivery, but 4,466, less than one twelfth, were not delivered, because refused, or for other causes, and were again returned to the dead letter office. It is true that with dead letters of all kinds the proportion returned a second time to the Department would be somewhat larger; but if it were increased to one fourth of all dead letters sent out, the return to the writers of all such correspondence susceptible of restoration would involve no additional expense to the Department, while it would be generally gratifying and often extremely useful to the public. About 2,500,000 dead letters are annually received; and excluding letters without the signature or address of the writers, and those containing circulars and manifestly worthless matter, it is estimated that 1,500,000 could be returned to the post office of the writer. If one fourth of these were refused or uncalled for, the Department, under existing law, would receive from postages on the remaining 1,125,000 the sum of $33,750.

The number of clerks required to examine and send out 1,500,000 letters would not exceed twenty-five, and their compensation, at $800 per annum, which is deemed sufficient for the nature of the service to be performed, would amount to $20,000, leaving a net revenue to the Department of $13,750.

In view of the encouraging results already attained, by the partial use of the unclaimed dead letter money for this purpose, I would respectfully recommend that authority be granted by Congress to employ the proposed clerks, and that $20,000 be appropriated therefor, in addition to the ordinary appropriation for officers and clerks in this Department.

I would also suggest that valuable dead letters, when returned to their owners, should be charged with treble the ordinary rate of postage, comprising one rate for return transportation to the dead letter office, one rate for registration there, and one rate for return transportation to the writers or owners. It has already been shown that the failure of such letters to reach their destination is rarely attributable to the Department, while in their restoration much time and labor are expended, for which the ordinary letter postage is scarcely a sufficient recompense.

For the same reasons unregistered letters thus returned might be charged with double rates.

PREPAYMENT OF POSTAGE.

My predecessor called attention to the fact that large numbers of unpaid letters continued to be posted, notwithstanding the act of March 3, 1855, making prepayment compulsory, and stated that the practice of notifying the parties addressed that such letters would be forwarded on receipt of postage, had been abandoned, because it appeared, after trial of more than five years, that the evil continued unabated, showing a determination on the part of many correspondents using the mails to evade the postal laws. By immediately sending this class of letters to the dead letter office, it was expected that a proper compliance with the law would be enforced; but so far from this being the case, the number, after one year's trial, exceeds ten thousand each month, and the attention they require imposes considerable additional labor and expense on this Department.

The practical result of this decision of my predecessor is so different from what was anticipated, that I have been induced to revive the former regulation, requiring postmasters to notify persons to whom unpaid letters are directed that they will be forwarded on receipt of the postage inclosed in a *paid* letter to the postmaster. Thus the number returned to the dead letter office will be reduced at least two thirds.

The detailed statement of the expenditures, under the head of miscellaneous payments, required by the act approved June 15, 1860, will be found appended to this report, as furnished by the Auditor's office.

MISCELLANEOUS.

Appropriations for California Overland Mail.

I have in a previous part of this report alluded to the refusal at the Treasury to pay the appropriation for the overland mail service to California. It seems to me so evidently to have been the purpose of Congress to require the payment of the amount stipulated from the Treasury, under the ninth and eleventh sections of the act, that I again call the attention of Congress to the subject for such further legislation as may be required. It certainly cannot be supposed that a contract of that magnitude could be required by postal interests alone. The general interests of the country required it, and the compensation should therefore be made by a general appropriation from the Treasury, as this Department presumes to have been the intention of the law.

Post Office Building at New York.

Owing to the extraordinary demands upon the Treasury for the maintenance of the higher interests of the country, I have not deemed it prudent to proceed, at present, with the erection of a new building for the New York post office.

The balance of the appropriation heretofore made for that purpose, after paying for the site purchased, remains therefore unexpended.

Post Office Building at Philadelphia.

In view of the pressing need of improvements in the post office accommodations at Philadelphia, and in connection with the structure designed for

both post office and United States court-rooms, the commission invited plans and proposals for adapting to these uses the building which has been already purchased. This has resulted in the offer of a plan which appears to me satisfactory; and which, in my judgment, will answer the purposes proposed for many years to come, and will also meet the demands of good taste and convenience, at a cost not exceeding $30,000, for which the existing appropriation is sufficient. The question of its acceptance is now pending before my associates, as provided by law of the last Congress.

Boston Post Office.

I have made arrangements by which the post office in the city of Boston has been restored to its former site, on State street, without additional expense to the Department. It was done the more cheerfully because it enabled me to signify my reprobation of the conduct of a public officer using the influence of his official position to promote his private ends, in disregard of the public interest. This order, it is also believed, was in accordance with the wishes of a decided majority of the business interests affected by it. In connection therewith, I was able to terminate the claim on the fund of $12,600, formerly deposited by certain parties, for the return of which, after deduction of the expenses of one removal each way, Congress passed an act approved March 2, 1861. The sum of $9,584 84 was required to cover the double rent accrued during the period when the first removal was suspended. In my judgment, this was to be deducted, as it was expressly understood it should be at the time of the contract of indemnity. The settlement was effected on this basis, and the sum of $3,015 16 was returned under that provision of law, and the account closed.

Proposed Amendments of the Law.

By the act of Congress, approved July 2, 1836, (5 Stat., p. 84, sec. 33,) it is provided that the appointment of postmasters at offices where the commissions allowed to postmasters amounted to $1,000 or upwards in any one year, terminating on the 30th day of June, should be made by the President, with the advice and consent of the Senate. In several cases offices which have once earned that amount in one year have subsequently fallen below it, and become permanently reduced in value. Doubts have existed whether, by the letter of the law referred to, the appointment nevertheless did not continue to be presidential. It is recommended that this doubt be removed by an amendment to the law providing that the appointment shall cease to be presidential whenever such commissions shall have been ascertained to be less than the sum of $1,000 for the fiscal year next preceding an appointment.

The Postmasters' Franking Privilege.

The franking privilege is, in this country, greatly extended. In the United Kingdom, the only other country in which very low rates of inland postage prevail, it appears to be limited to addresses and petitions to the Queen, and petitions to either House of Parliament. All other mailable matter is chargeable with postage; hence, in part, the success there of the low postage system in point of revenue.

In this country, however, it is extended to cover a large class of postmasters, probably the majority.

By the first section of the act approved March 2, 1847, each deputy postmaster, whose compensation for the last preceding year did not exceed $200, may send through the mails all letters written by himself, and receive all addressed to himself, on his private business, free of postage, the weight not exceeding a half ounce.

This privilege is greatly abused, and ought to be revoked. If other compensation is due to a postmaster beyond his commissions, it should be in the discretion of the Postmaster General, not exceeding ——— per cent. additional to that now allowed, that it may go to the intelligent and faithful, not to the shrewd and unscrupulous, as it chiefly does under the existing law. Privileges resting in the conscience of the recipient, as to their extent, are dangerous.

I recommend the repeal of this clause, conferring the franking privilege on postmasters whose commissions do not exceed $200; only letters certified to be on post office business shall be allowed to be sent or received by postmasters free of postage, and this enforced by proper penalties.

Collection of Postage on Printed Matter.

Great losses to the postal revenue arise from the neglect of postmasters to collect the postage, as required by law, on printed matter, both transient and periodical, sent through the mails. It is known to have been left in arrear for years.

The rates on transient printed matter, and on that sent to regular subscribers, are different, being higher on the former.

The evil, it is believed, will be greatly remedied by an enactment providing that each copy of printed matter upon which the postage for at least one quarter shall not have been prepaid, either at the office of mailing or of delivery, shall be rated as transient matter, and the postage thereon collected on the delivery of each copy.

Power should also be given to the Department to fine, at the discretion of the Postmaster General, not exceeding the sum of five dollars for each offense, any postmaster who shall deliver, without payment of postage as required by law, any printed matter arriving through the mails at the office of delivery, and to charge the same in his account, to be deducted from his commissions. It is believed that by these two provisions a large amount of revenue, now lost, will be saved to the Department.

Naval Letters.

It is suggested for the consideration of Congress whether the privilege, by the act of the late session, conferred upon soldiers, to send letters without prepayment of postage, should not be extended to sailors and marines in the actual service of the United States, under such regulations as the Department shall provide.

Mail-Carrier's Fee.

By the act approved March 3, 1825, (section twenty,) it is provided that a mail-carrier shall receive and deliver for mailing at the next office any letter delivered to him for that purpose more than a mile from such office. He is entitled for such carriage to demand and receive one cent from the postmaster for this service. Under the prepayment system now adopted, this provision should be amended so as to allow him to demand this fee of the writer, in money, and of the postmaster only when the letter shall bear a prepaid stamp for one cent additional to the postage.

Newspapers.

By the existing law, (section sixteen of act approved March 3, 1845,) "newspapers" are declared to embrace printed matter issued by numbers, and published monthly, and are entitled to the same privilege of free exchanges and low rates of postage as daily and weekly newspapers enjoy. It is ascertained that this classification is abused by the publication of monthly issues of printed matter chiefly designed as an advertising circular, or to procure free exchanges for the proprietor, and they are often sent gratuitously.

I recommend that the definition of a newspaper, as given by that act, be amended by substituting the words, *published at short stated intervals of not more than one week*, for the words, "published at short stated intervals of not more than one month." Also, that the privilege of free exchange of publications be limited to newspapers as thus defined, and literary, educational, or religious periodicals, published not less frequently than once a month.

It is found that considerable frauds are perpetrated upon the revenues of the Department by publishers of newspapers, who include, mingled with the packages sent to their regular subscribers, numbers of their issues which are not sent to their regular subscribers, and which are therefore subject to postage as transient matter.

To remedy this evil, I recommend that discretion be given to the head of this Department to exclude, temporarily, from the mails any newspaper or periodical whose proprietors or agents shall send any of their issues without prepayment of postage to other than *bona fide* subscribers; or, otherwise, that an express penalty be imposed for such an act.

Congressional Post Routes.

It is frequently found expedient, in connection with the progress of railroad communications or changes of principal transportation routes, to change the termini of congressional mail routes intersecting them.

I suggest, for the consideration of Congress, the propriety of expressly authorizing this Department to change the termini and lines of congressional mail routes, intersecting principal routes on which the mails are carried daily, whenever the postal service can be thereby improved.

Additional Mailable Matter.

The twelfth section of the act of 1861 declares sundry additions to matter which may be sent through the mails. Various applications have been made to include other like matter, not expressly named therein, as mailable matter.

It is suggested whether it would not be expedient to invest the Department with the discretion to allow such other matter to be transmitted through the mails, at corresponding rates of postage, as the Postmaster General shall by order designate and allow. The public convenience and the revenues of the Department would derive benefit from such discretionary power.

Carrier's Fee.

I renew the recommendation of my predecessor, that power be given to the Department to regulate the carrier's fee, not exceeding the amount of two cents for the delivery of each letter. It cannot be sustained in some of the cities and districts without an increased rate. So long as it is discretionary with the party addressed to employ the service of the carrier or not, no just reason is perceived why the former discretion should not be given for the purpose of facilitating so important a branch of the postal service.

Branch Offices.

Requests have been made from several cities for the establishment of branch offices for the receipt and delivery of letters auxiliary to the city post office. I have been unwilling to establish them without some provision being made to meet the additional expense, for which the same fee allowed to carriers, one cent, would be sufficient. By the law authorizing their establishment (1847, chap. 63, sec. 10,) no charge is permitted for this additional service. I respectfully suggest, for the consideration of Congress, the propriety of amending that law and of granting this authority; and also of investing this Department with the authority to erect in any city box-pillars for the receipt of letters to be mailed, to be thence collected by carriers, for which the fee of one cent each letter shall be prepaid by stamps.

Codification of Postal Laws.

A revised code of the postal laws, bringing together in proper arrangement the various statutes now gathered only by the examination of the legislation of many years, would greatly facilitate the performance of their duties by the numerous officers and agents attached to this Department. This subject is respectfully commended to the attention of Congress.

Railroad Service.

In the last annual report of my predecessor mention is made of the refusal or neglect of a large number of railroad companies engaged in the conveyance of mails to execute the contracts required by law of all contractors for the performance of their duties. This abuse continues. When a railroad is constructed through a district of country, competition in the conveyance of passengers, mails, and merchandise, ceases on the route. Demand is immediately made for the mails, and without reference to the importance of the offices to be supplied, at a compensation much above that previously paid for coach and horse service. Increased speed is the only advantage which the service gains, although with respect to private business this is invariably accompanied with a great reduction of cost. The subject demands attention from Congress, and that measures be adopted to enable the Government to contract on fair terms with these companies. The existing rates of compensation are, in my judgment, too high, and even at such rates the Government is at the mercy of the companies. The Government has the power to compel them to carry the mails at fair rates, as it has the right to the use of all private property necessary for its purposes, upon

making just compensation; and provision should be made to resort to this power when fair arrangements cannot be made by way of contract. This would enable the Department to deal with the companies on equal terms.

Change of Contracts for Disloyalty.

Soon after the commencement of my term of office the country felt the shock of internecine arms. In view of the great crime attempted against the existence of the nation, it became the duty of this, in common with the other Departments of the Government, to put forth all its energies to prevent the consummation of that crime. By the existing laws all postmasters and mail-carriers, and all other persons engaged in handling the mails of the United States, or in clerical service, were required to take the usual oath of allegiance to this Government, as well as for the faithful performance of their duties. Whenever it was made apparent by their declarations, or by their conduct, that there was a practical repudiation of the obligation of this oath, whether the party was a postmaster or a postal contractor, I ordered a removal from office in the one case and the deprivation of contract in the other. Not only was it unsafe to intrust the transportation of the mails to a person who refused or failed to recognize the sanctions of an oath, but to continue payment of public money to the enemies of the Government and their allies, was to give direct aid and comfort to treason in arms. I could not thus permit this branch of Government to contribute to its own overthrow. No other course could have reasonably been expected by such contractors. The *bona fide* observance of that oath, and the duty of allegiance itself, entered into and became a condition, a part of the consideration, of the contract itself. This failing, the Department was equitably and legally discharged from its literal obligations. Protection on the part of Government, and allegiance on the part of the citizen, are correlative, and are conditions mutually dependent in every contract, and the highest public interest demanded the rigid enforcement of this rule of action. Occasional local and transient inconvenience resulted of necessity, but far less than would reasonably have been expected. Loyal men, everywhere, sustained this action, and speedily furnished the requisite means for continuing the service without increased expense. These changes were mainly called for in parts of Virginia and Maryland, and in Kentucky and Missouri.

In the same, and in neighboring districts, the duties of the appointment office have been very onerous, from the great number of changes required in post offices, according to changing phases of public sentiment, individual action, and military occupancy. It is believed that these positions, with rare exceptions, are now held by men of unquestioned loyalty. Where such men could not be found, the offices have been discontinued rather than they should be held by repudiators of public faith, and used for purposes hostile to the perpetuity of our national institutions.

Disloyal Publications Excluded from the Mails.

This Department was also called upon to act upon another question, alike novel and important. Various newspapers, having more or less influence within the sphere of their circulation, were represented to be, and were, in fact, devoting their columns to the furtherance of the schemes of our national enemies. These efforts were persistently directed to the advancement of hostile interests, to thwart the efforts made to preserve the integrity of the Union, and to accomplish the results of open treason without incurring its judicial penalties. To await the results of slow judicial prosecution was to allow crime to be consummated, with the expectation of subsequent punishment, instead of preventing its accomplishment by prompt and direct interference.

The freedom of the press is secured by a high constitutional sanction. But it is freedom and not license that is guarantied. It is to be used only for lawful purposes. It cannot aim blows at the existence of the Government, the Constitution, and the Union, and at the same time claim its protection. As well could the assassin strike his blow at human life, at the same time claiming that his victim should not commit a breach of the peace by a counter blow. While, therefore, this Department neither enjoyed nor claimed the power to suppress such treasonable publications, but left them free to publish what they pleased, it could not be called upon to give them circulation. It could not and would not interfere with the freedom secured by law, but it could and did obstruct the dissemination of that license which was without the pale of the Constitution and law. The mails established by the United States Government could not, upon any known principle of law or public right, be used for its destruction. As well could the common carrier be legally required to transport a machine designed for the destruction of the vehicle conveying it, or an innkeeper be compelled to entertain a traveler whom he knew to be intending to commit a robbery in his house.

I find these views supported by the high authority of the late Justice Story, of the Supreme Court of the United States. He says, in commenting on that clause of the Constitution securing the freedom of the press:

"That this amendment was intended to secure to every citizen an absolute right to speak or write or print whatsoever he might please, without any responsibility, public or private therefor, is a supposition too wild to be indulged in by any rational man. This would be to allow to every citizen the right to destroy at his pleasure the reputation, the peace, the property, and even the personal safety, of every other citizen. A man might, out of mere malice or revenge, accuse another of the most infamous crimes; might excite against him the indignation of all his fellow-citizens by the most atrocious calumnies; might disturb, nay, overturn all his domestic peace, and embitter his parental affections; might inflict the most distressing punishments upon the weak, the timid, and the innocent; might prejudice all a man's civil and political and private rights; and might stir up sedition, rebellion, and treason, even against the Government itself, in the wantonness of his passions, or the corruption of his heart. Civil society could not go on under such circumstances. Men would then be obliged to resort to private vengeance to make up the deficiency of the law; and assassinations and savage cruelties would be perpetrated with all the frequency belonging to barbarous and cruel communities. It is plain, then, that the language of this amendment imports no more than that every man has a right to speak, write, and print his opinions upon any subject whatever, without any prior restraint, so always that he does not injure any other person in his rights, person, property, or reputation; *and so always that he does not thereby disturb the public peace, or attempt to subvert the Government.*"

Of the cases presented for my action, upon the principles above named, I have, by order, excluded from the mails twelve of these treasonable publications, of which several had been previously presented by the grand jury as incendiary and hostile to constitutional authority.

I have the honor to be, &c., &c., your obedient servant,

M. BLAIR,
Postmaster General.

The PRESIDENT *of the United States.*

Report of the Secretary of the Interior.

DEPARTMENT OF THE INTERIOR,
November 30, 1861.

SIR: The report of the operations of this Department during the fiscal year ending June 30, 1861, will exhibit a diminished amount of business in some of the most important bureaus connected with the Department. This is attributable mainly to the insurrection which has suddenly precipitated the country into a civil war.

GENERAL LAND OFFICE.

The decline of business has very sensibly affected the operations of the General Land Office. Official intercourse has been entirely suspended with all the southern States which contain any large portion of the public lands, and consequently no sales have been made in any of those States.

In all the northern States in which any of the public lands are situated the war has almost entirely suspended sales. The demand for volunteers has called into the ranks of the Army a large number of that portion of our people whose energy and enterprise in time of peace incline them to emigrate to the West and settle upon the public lands, thus laying the foundations of future prosperous communities and States. Besides, the ordinary channels of trade and commerce have been so obstructed by the war that the sources of income, from which the settlers on the public lands have realized the means of purchasing, have been greatly diminished.

On the 30th September, 1861, there were 55,555,595.25 acres of the public lands which had been surveyed but not proclaimed for public sale. The lands surveyed and offered at public sale previous to that time, and then subject to private entry, amounted to 78,662,735.64 acres, making an aggregate of public lands surveyed and ready for sale of 134,218,330.89 acres.

Since the last annual report of this Department no proclamation for a public sale of lands has been made, as the quantity already subject to private entry is more than sufficient to meet the wants of the country. During the fiscal year ending 30th June, 1861, and the first quarter of the current year, ending 30th September, 1861, 5,289,532.31 acres have been disposed of. Of this amount 1,021,493.77 acres have been certified to the States of Minnesota, Michigan, and Louisiana, under railroad grants made by Congress; 606,094.47 acres have been certified to States as swamp lands; 2,153,940 acres have been located with bounty land warrants, and 1,508,004.07 acres have been sold for cash, producing $925,299 42.

It will be seen from this statement that the public lands have ceased, substantially, for the present at least, to be a source of revenue to the Government. The liberal manner in which the acts of Congress, granting swamp and overflowed lands to the States, have been construed and executed, the grants of large quantities to aid in the construction of railroads, and the quantity required to locate bounty land warrants for military services, have combined to reduce the cash sales to an amount but little more than sufficient to meet the expenses of our land system. The net income from sales during the last fiscal year will hardly reach the sum of $200,000. During the last fiscal year there were certified to the States for railroad construction, under the several acts of Congress making grants for such purposes: to Minnesota, 308,871.90 acres; to Michigan, 636,061.42 acres; and to Louisiana, 76,560.45 acres. The whole amount certified to all the States, under such grants, is 9,998,497.77 acres.

The grants of swamp and overflowed lands to the States have absorbed a large amount of valuable lands, and have caused a heavy drain upon the Treasury. The claims of the several States cover an aggregate of 57,895,577.40 acres.

The United States have also paid to the States, in cash, under the indemnity act of March 2, 1855, on account of lands claimed as swamp lands, and which were sold by the United States subsequent to the date of the grant, $276,126 50.

Certificates have been issued for location upon any of the public lands subject to entry, to indemnify the States for lands claimed as swamp lands, but which have been located by bounty land warrants after the date of the grant, amounting to 145,595.92 acres. Additional claims are pending, yet undecided, for cash, $142,435, and for lands, 301,429 acres.

The bounty land warrants and scrip issued under different acts of Congress, previous to September 30, 1861, embrace an aggregate of 71,717,172 acres of land. Of this amount, there have been located: for revolutionary services, 8,200,612 acres; for services in the war with Great Britain, 4,850,120 acres; for Canadian volunteers, 72,750 acres; for services in the Mexican war and other services, under acts of 1847, 1850, 1852, and 1855, in all 51,138,970 acres; leaving yet to be located on warrants and scrip, already issued, 7,454,720 acres.

Unless Congress shall authorize the issue of additional warrants, this drain upon the public lands will soon cease.

The propriety of issuing bounty land warrants to the volunteers who have been called into service to suppress the existing insurrection, is already a subject of discussion, and must be determined by Congress. A warrant for one hundred and sixty acres to each volunteer engaged in the service would absorb over one hundred million acres, a much larger amount than has been issued under all previous laws. It is evident that the issue of such an amount of warrants would destroy all hope of deriving any revenue from the public lands—at least for many years. And while such

a measure would deprive the Government of all income from this source, it would afford but little benefit to the volunteers. These warrants are now sold in the market at about fifty cents per acre. An addition of the large amount necessary to supply the volunteers would necessarily reduce the price of them to a merely nominal sum.

The bounty of the Government, dispensed to the volunteers in this form, would fail to realize to them the advantages intended. All the best lands would fall into the hands of speculators, who would be enabled to purchase them at a nominal price, and sell them to settlers at full prices as fast as emigration to the West would require them for settlement. If additional compensation to the volunteers, beyond the amount now authorized by law, shall be deemed just and proper, it will be better both for the Government and the volunteers to make such compensation by a direct appropriation of money, or of Government securities. This would give them the full benefit of the appropriations made, while the Government would, by keeping the lands until they shall be demanded for settlement, realize their full value.

The expenses of surveying private land claims in the territory acquired from Mexico, based upon grants of the Mexican Government, have heretofore been paid by the United States. These surveys have cost the Government large sums. The cost of surveying one claim amounted to $2,200; another cost the Government $1,400. The aggregate cost of surveying them has taken from the Treasury a large amount of the public funds. No valid reason exists, in my judgment, for taxing the Government with the cost of these surveys. There is no obligation resting upon the United States to ascertain and define the boundaries of grants made by Mexico to individuals previous to the cession of the territory. The claimant realizes all the benefit, and should be charged with the expenses of defining the boundary of his claim. The surveys should be made under the authority of the United States; but the cost of the survey should be paid by the claimants, and patents for the land should be withheld until the expenses of the survey are paid.

The valuable and extensive mineral lands owned by the Government in California and New Mexico have hitherto produced no revenue. All who chose to do so have been permitted to work them without limitation. It is believed that no other Government, owning valuable mineral lands, has ever refused to avail itself of the opportunity of deriving a revenue from the privilege of mining such lands. They are the property of the whole people, and it would be obviously just and proper to require those who reap the advantages of mining them to pay a reasonable amount as a consideration for the advantages enjoyed.

The territorial governments of Colorado, Dakotah, and Nevada have been successfully organized since the adjournment of the last Congress. The surveys of the public lands in those Territories have already been commenced, and the lands are now open for settlement. The productiveness of the soil and the mineral wealth of those Territories, with the advantages of legally organized governments, will doubtless invite a large immigration to them as soon as the termination of the war shall restore to civil employments that portion of our people now under arms.

Congress, by an act passed May 26, 1860, authorized the appointment by the President "of a suitable person or persons" who should, in conjunction with persons to be appointed on behalf of the State of California, "run and mark the boundary lines between the Territories of the United States and the State of California." Fifty-five thousand dollars was appropriated for the performance of the work. Sylvester Mowry was appointed a commissioner on the part of the United States, and the sum of $37,551 19 was placed at his disposal for the prosecution of the work.

Very soon after taking charge of the Department, I ascertained that the whole sum which had been placed in the hands of the commissioner had been disposed of by him, and a large amount of drafts for additional sums had been drawn upon the Department, while no progress had been made in the work beyond the fixing of one of three initial points, viz: the intersection of the thirty-fifth parallel of north latitude with the Colorado river. The whole appropriation had been squandered, while the work had been only commenced. Under these circumstances, I deemed it to be my duty to arrest the creation of further claims against the Government without authority of law, and accordingly directed the suspension of the work, and a discontinuance of the service of the commissioner. It is believed that the whole work might have been completed for the sum appropriated by Congress; but while only a small part of the work has been accomplished, the claims presented amount to nearly $20,000 beyond the appropriation. It remains for Congress to determine whether further appropriations shall be made for the continuance of the work.

The running of the boundary line between the Territories of the United States and the State of Texas, authorized by the act of Congress of June 5, 1858, has been completed in the field, and the office details will in a short time be finished. For this work $80,000 was appropriated. Of this sum $73,250 81 had been expended on the 30th of September, 1861, leaving an unexpended balance of $6,749 19. This balance is estimated to be sufficient for the completion of the entire work.

For more detailed information in regard to the operations of the General Land Office, reference is made to the able and elaborate report of the Commissioner.

INDIAN AFFAIRS.

Our Indian affairs are in a very unsettled and unsatisfactory condition.

The spirit of rebellion against the authority of the Government, which has precipitated a large number of States into open revolt, has been instilled into a portion of the Indian tribes by emissaries from the insurrectionary States.

The large tribes of Cherokees, Chickasaws, and Choctaws, situated in the southern superintendency, have suspended all intercourse with the agents of the United States.

The superintendent and agents appointed since the 4th of March last, have been unable to reach their posts or to hold any intercourse with the tribes under their charge. The superintendent and some, if not all, of the agents of the southern superintendency, who were in office on the 4th of March, have assumed an attitude of revolt to the United States, and have instigated the Indians to acts of hostility. Some of these, who lately held their offices under the United States, now claim to exercise the same authority by virtue of commissions from the pretended confederate government.

Although the Indian Office has not been able to procure definite information of the condition of affairs, and of the extent to which the Indians have assumed a hostile attitude, enough has been ascertained to leave no room for doubt that the influences which have been exerted upon the Indians have been sufficient to induce a portion of them to renounce the authority of the United States and to acknowledge that of the rebel government.

It has been currently reported through the press that a portion of them have been organized as a military force, and are in arms with the rebels; but the Department has no official information confirming these rumors.

The hostile attitude assumed by portions of the tribes referred to, has resulted from their fears, produced by violence and threats of emissaries sent among them, and the withdrawal from their vicinity of the troops of the United States, whose presence would have afforded a guarantee of protection. It is unfortunate that the War Department has been unable to send to that region such a body of troops as would be adequate to the protection of those tribes, and revive their confidence in the ability as well as the will of the United States to comply with their treaty stipulations. Cut off from all intercourse with loyal citizens; surrounded by emissaries from the rebels, who represented that the Government of the United States was destroyed, and who promised that the rebel government would assume the obligations of the United States and pay their annuities; assailed by threats of violence, and seeing around them no evidence of the power of the United States to protect them, it is not surprising that their loyalty was unable to resist such influences. Many white men of far greater intelligence have joined the insurrectionists against their own convictions of right, under much less pressure.

We have reason to believe that as soon as the United States shall reëstablish their authority in the Indian country, and shall send there a sufficient force for the protection of the tribes, they will renounce all connection with the rebel government and resume their former relations with the United States.

The payment of their annuities has been suspended. The Commissioner of Indian Affairs expresses the opinion, in which I concur, that Congress should make the usual appropriations to comply with the treaty stipulations of the United States, that the means may exist to pay them, if circumstances and the condition of the tribes shall hereafter render it proper and expedient to do so.

The tribes upon the Pacific slope of the Rocky Mountains have manifested a turbulent spirit, but have committed no acts of violence. With vigilance on the part of the agents, it is hoped they may be restrained from depredations upon the white settlers, and be gradually brought under the control of the laws of the United States.

Much trouble has been experienced in New Mexico from depredations committed by some of the tribes in that Territory. The withdrawal of the troops of the United States has encouraged them to acts of violence, while the active interference of disloyal persons from Texas has induced them to disregard the laws and authority of the Government. The presence of a military force in that Territory is indispensable to preserve the peace and cause the Indians to respect the laws.

The tribes in Kansas and Nebraska, and in the States of the Northwest, are gradually progressing in the arts of civilization. The plan of allotting portions of their reservations to the individual members of the tribes has been found by experience to result beneficially. Many of them have improved their lands and become quite proficient as farmers. A continuance of this policy, by familiarizing them with the habits of agricultural life, will gradually lead them to depend upon the cultivation of the soil for subsistence.

The report of the Commissioner of Indian Affairs, which is herewith submitted, furnishes full information in regard to the several tribes, and suggests, in detail, such matters as require the action of Congress.

The practice of licensing traders to traffic with the Indians has been productive of mischievous results. The money received by them in payment of their annuities, generally passes immediately into the hands of the traders. The Indians purchase goods of the traders upon a credit, to be paid for upon the receipt of their next annuity. When the payment is due, the debts of the Indians are usually sufficient to absorb the whole amount. But, if anything is left after the payment of their debts, it is used for new purchases from the traders. The result of this system of trade is that the Indians pay for the goods they purchase much more than they are worth. But this is not the only evil resulting from it. When a treaty is made, a large array of debts is presented, and provision usually made for their payment. Witnesses are produced, who establish the debts by evidence, which cannot be contradicted by any available proof, sufficient to absorb most of the proceeds of their lands. They are left to depend upon their annuities from the Government for subsistence, and these find their way into the hands of the traders, while the Indians receive from them goods at a profit of from one to three or four hundred per cent.

It is apparent to all acquainted with Indians that they are incompetent to manage their own business or to protect their rights in their intercourse with the white race. It is the duty of the Government to shield them from the arts of designing men, and to see that they realize the full benefit of the annuities to which they are entitled. This can only be accomplished by breaking up the whole system of Indian trading. The power granted to agents to license persons to trade with the Indians should be revoked. All contracts

made with them, and all obligations for goods or other property sold to them, should be declared utterly void. All future treaties should provide for the payment of their annuities in goods and agricultural implements, at the lowest prices at which they can be procured by the Government. The Department should be authorized to procure the consent of the tribes, with which treaties exist providing for the payment of cash annuities, that it shall furnish them with such goods and agricultural implements as their wants require, at the wholesale prices of such articles in the best markets, in lieu of the cash annuities provided for in the treaties.

By such a change the Indians would avoid the payment of profits which are now paid to the traders, and would realize a much larger amount in goods for their annuities than they now receive.

PATENT OFFICE.

No branch of the public service connected with this Department has been so much affected by the insurrection of the southern States as that of the Patent Office.

The receipts of the office from January 1 to September 30, 1861, were $102,808 18; and the expenditures were $185,594 05, showing an excess of expenditures over receipts of $82,785 87.

During the corresponding period of last year the receipts were $197,348 40, being $94,840 22 more than the receipts for the same part of this year. During the same period 3,514 applications for patents and 519 caveats have been filed, 2,581 patents have been issued, and 15 patents have been extended.

To meet this deficiency in the income of the office, the Commissioner, with the concurrence of the Department, has reduced the clerical and examining force by the discharge of thirty of the employés, and reduced the grade of the remainder in order to lessen their compensation. By this reduction it is believed by the Commissioner that the expenditures will be brought within the receipts.

The expenses of the office have been increased during the present year by the printing of the drawings and specifications authorized by the fourteenth section of the act of March 2, 1861. The Commissioner contracted for the printing in conformity with the law, and the work was executed in a satisfactory manner until the 1st of November, when, in consequence of the decline in the receipts of the office, it was discontinued.

The printing of the drawings and specifications of patents in the manner in which it has been done under the law of March last, would unquestionably be of great service to the office, as well as to all interested in its business, and should, if possible, be continued. Although the expenses of the Patent Office have been increased by this printing, a saving of a larger amount has been effected to the Treasury. The mechanical reports of the Patent Office have heretofore been printed at the expense of the Government. These reports consist of extracts from the specifications of patents issued, giving a brief and general description of the improvements or inventions for which the patents were issued. They possess no interest for the general reader, while they are too brief to be of service to mechanics or inventors. The plates for the mechanical report of 1860 cost the Government $47,398 21—a sum greater than the entire cost of printing provided for by the law of March last. The cost of paper, printing, and binding was probably as much more, while the work was without practical value. The printing of the drawings and specifications, as provided for by the law of March last, will render unnecessary the printing the mechanical reports, and save the expense heretofore incurred for their publication.

Several amendments to the law of March last are proposed by the Commissioner of Patents, which would doubtless render it more effective, and they are recommended to the favorable consideration of Congress.

The law regulating copy-rights should be amended to effect the objects contemplated by Congress.

The act of February 3, 1851, authorizes the clerks of the United States district courts to grant copy-rights, and requires the author to deposit a copy of his work with the clerk. The clerks are required to send to the Department of the Interior all such copies deposited in their offices. This duty is very imperfectly performed. Probably not more than half the books, maps, charts, and musical compositions which are copy-righted are deposited in this Department, as required by law.

The object of collecting in one library copies of all the copy-righted literary productions of the country is thus defeated. To secure this object an amendment of the law is recommended which shall give the sole power of granting copy-rights to the Commissioner of Patents, and require from every applicant the payment of a fee of one dollar and a deposit in the Patent Office of a copy of the work to be copy-righted.

PENSION OFFICE.

The report of the Commissioner of Pensions furnishes, in detail, the operations of this bureau during the past year. The number of pensions has diminished, during the year, 575, and the amount required to pay them was $43,246 87 less than the previous year.

The whole number of pensioners, of all classes, on the rolls on the 30th of June, 1861, was 10,709, requiring for their payment an aggregate of $957,772 08.

They were classified as follows: 4,725 invalid pensioners, receiving $425,256 02; 63 revolutionary pensioners, receiving $3,690 85; 2,728 widows of revolutionary soldiers, receiving $212,548 36; 2,236 widows and orphans, half pay, receiving $178,672; 957 Navy pensioners, receiving $137,604 85.

The casualties of the conflict in which the Government is now engaged, will increase the list of pensioners very largely. The amount of the increase cannot be estimated, as it will depend upon the duration of the war. The large amount of business which will necessarily be thrown upon the office from this cause, will render an increase of the clerical force employed indispensable.

The Commissioner of Pensions, with the concurrence of the Department, has construed the pension laws now in force as authorizing the granting of pensions to invalids, and the widows and children of deceased soldiers, who have been killed or wounded in the existing insurrection. If this construction of the laws should be deemed improper, the corrective is with Congress.

It has been ascertained that many of those who have been placed upon the pension rolls in the insurrectionary States have attached themselves to the rebel cause, and have taken up arms against the Government. I have deemed it my duty in all such cases to direct a suspension of the payment of the pensions awarded to them. I have also directed a suspension of payment to all pensioners in any of the States who have in any manner encouraged the rebels, or manifested a sympathy with their cause.

It is respectfully suggested that Congress should authorize this Department to cause the names of all such persons to be stricken from the pension rolls.

EIGHTH CENSUS.

The returns of the eighth census are being condensed for publication, with all the expedition practicable in a work of such magnitude and varied and comprehensive details.

The report which the superintendent of that work will be prepared to make during the present Congress, will confirm the general belief that no previous period of our history has been distinguished by greater prosperity or evidences of more substantial progress in all the material interests effecting the welfare and happiness of a people.

In this connection I feel constrained to recommend the establishment of a Bureau of Agriculture and Statistics, the need whereof is not only realized by the heads of Departments, but is felt by every intelligent legislator.

The maintenance of such a bureau, on a reasonable footing, by a different arrangement of offices which at present exist on a basis too contracted for extensive usefulness, would be attended with no expense to the Government additional to that incident to the present organization of the Departments, while the advantages gained to the public service would be incalculable. One of the objects contemplated by Congress in the appropriations for the promotion of agriculture was the "collection of agricultural statistics." Correct reports from every portion of the country, exhibiting the peculiarities of the soils and their adaptation to the various crops, with the character and extent of their annual productions, would constitute a fund of information of great practical value. The appropriations heretofore made by Congress have not been sufficient to accomplish this object, and at the same time provide for the distribution of seeds and the propagation of new varieties of plants to the extent which the public expectation appeared to demand.

Annual reports made under the direction of such a bureau, setting forth the condition of our agriculture, manufactures, and commerce, with well digested statements relative to similar facts in foreign countries, which the present rapid intercommunication enables us to obtain often in advance of their publication abroad, would prove the most valuable repertories of interesting and important information, the absence of which often occasions incalculable loss to the material interests of the country. The vigilance of such a bureau would supply timely warning of the failure of crops abroad or at home, and lead to the judicious investment of capital and employment of labor in agriculture and manufactures.

While we expend vast sums for experiments in gunnery—the promotion of science—in illustrating the physical features of unpeopled territory at home and regions beyond the seas, and publish costly volumes of undigested correspondence relating to foreign trade, it is a source of pain to every statesman and political economist, to reflect that it is only once in ten years that the country is supplied with reliable returns respecting the value of our agriculture and manufactures, while altogether ignorant of the extent of our internal commerce, and possess no means of ascertaining its importance.

All enlightened foreign Governments and several of the States sustain statistical bureaus, while the United States, with a population second to no other in intelligence, and with productions and resources the most varied, have yet to institute an agency which would prove an invaluable guardian of our most material interests. The want of such a bureau has long been felt, and has been frequently brought to the notice of Congress, but at no period has the necessity been so universally recognized as at the present.

Upon the Agricultural and Statistical Bureau would naturally devolve the charge of the census, for which timely preparation would be made, and its administration conducted with improved accuracy and ease. In fact the execution of that work collects a mass of valuable details, and reveals innumerable and reliable sources of information of deep interest, heretofore lost to the country, which a permanent bureau would be able to develop to advantage.

The extent to which the documents of that office have reached, and the frequent reference made to them for public and private purposes, make it indispensable to maintain a permanent clerical force to have them in charge. Confident that such a bureau will assert its claim to public preservation, and by its utility prove the wisdom of the measure, I recommend its immediate formation.

AFRICAN SLAVE TRADE.

The President, by an order dated the 2d of May last, devolved upon this Department the execution of the act of 3d March, 1819, and other laws enacted for the suppression of the African slave trade.

The subject was immediately taken in hand, under a deep sense of our obligation as a nation, to put an end, if possible, to this odious traffic, and with a full conviction that the power of the Government, in the hands of competent, honest, and faithful officers, was adequate to the purpose. Among other things, I caused the marshals of the loyal Atlantic States to assemble at New York for consultation, in order to insure greater concert of action. They were thereby afforded an opportunity of inspecting vessels fully equipped for the African slave trade, and of seeing the arts and

devices employed to disguise and conceal the real objects of their voyage, thus enabling them to detect and prevent the clearance of vessels designed for this trade. It is gratifying to know that unprecedented success has crowned the efforts of the past few months. Five vessels have been seized, tried, and condemned by the courts. One slaver has been taken on the coast of Africa with about nine hundred negroes on board, who were conveyed to the Republic of Liberia. One person has been convicted at New York as the captain of a slaver, having on board eight hundred captives, and two others, (mates of a different vessel,) and another one at Boston for fitting out a vessel for the slave trade. In the first-named case the penalty is death; in the others it is fine and imprisonment. Hitherto convictions under the laws prohibiting the African slave trade have been very rare.

This is probably the largest number ever obtained, and certainly the only ones for many years. It is believed that the first-mentioned case is the only one involving capital punishment in which a conviction has been effected.

The full execution of the law in these instances will, no doubt, have a most salutary influence in deterring others from the commission of like offenses.

A number of other indictments have been found which are yet to be tried.

Much credit is due to the United States attorneys and marshals at New York and Boston for the vigilance and zeal evinced by them, and I avail myself of the first occasion to make them this public acknowledgment.

Within a little more than a year the Government of the United States, under contracts made with the Government of Liberia, through the agency of the American Colonization Society, have taken into that republic four thousand five hundred Africans, recaptured on the high seas by vessels of our Navy. They are supplied with food, clothing, and shelter, medicines and medical attendance, for one year from the date of landing, and are thus brought within the civilizing and christianizing influences of a Government founded and administered by intelligent and right-minded persons of their own race.

They are under the special charge and supervision of an agent of the United States, the Rev. John Seys, who has been a devoted missionary in Africa for many years. His report, when received, will no doubt afford abundant evidence of the wisdom and philanthropy of the policy adopted by the United States in regard to these unhappy victims of a cruel and relentless cupidity, whose misfortunes have thrown them upon the fostering care and protection of the American people.

Great Britain and the United States have engaged, by the treaty dated at Washington the 9th of August, 1842, that each shall prepare, equip, and maintain in service on the coast of Africa a sufficient and adequate squadron or naval force of vessels of suitable numbers and descriptions, to carry in all not less than eighty guns, to enforce, separately and respectively, the laws, rights, and obligations of each of the two countries for the suppression of the slave trade.

It seems to be the opinion of those having most experience on the subject, that two or three fast steam vessels-of-war stationed on the coast of Africa would be able (in consequence of the light winds that usually prevail there and their capacity to go in any direction) to more effectually accomplish the object than a much larger number of sailing vessels. Vessels are always selected for the slave trade with special reference to their sailing qualities; and it would probably be wise to seek a modification of the treaty of 1842, in order to admit of some such change in the character of the vessels employed.

But, after all, while we must continue to watch the coast of Africa, the most economical and effectual mode of preventing our citizens from engaging in the slave trade is by preventing the fitting out of vessels in our own waters for that purpose, and the plans now in operation will therefore continue to be vigorously prosecuted.

It is believed that the unexpended balances of appropriations for the suppression of the slave trade will be sufficient to meet the requirements of the service during the next fiscal year, and no further appropriation is asked; but that fact will render it necessary to remove the limitation in the appropriation of March 2, 1861, as to the compensation that may be allowed to marshals and others who may be employed. The limitation of $10,000 was confined to the operations of one year; and although the whole amount will not be required for such services during the current fiscal year, it will not, probably, be sufficient to cover the necessary expenditures of that character for two years.

JUDICIARY.

The expenditures from the judiciary fund, during the fiscal year ending June 30, 1861, were $727,000 61. This includes the expenses of the courts, jurors' and witness's fees, rent and repairs of court-houses, and all other expenses attendant upon the administration of the laws of the Federal judiciary, except the salaries of the judges, district attorneys, and marshals.

The suspension of the courts in several of the southern States will diminish the expenses of the judiciary to that extent; but what may be gained from this cause will be more than counterbalanced by extraordinary expenses in the northern States, occasioned by the insurrection, chargeable to the judiciary fund.

The annual rent of rooms occupied by the Federal courts constitutes a large item of the expenses. As a matter of economy, as well as of convenience to all connected with the courts, it is desirable that the Government should own the buildings required for that purpose.

The United States now own the buildings in which the courts are held at Portland and Bangor, in Maine; at Windsor and Rutland, in Vermont; at Boston, in Massachusetts; at Providence, in Rhode Island; at Buffalo, in New York; at Pittsburg, in Pennsylvania; at Wilmington, in Delaware; at Richmond, in Virginia; at Wilmington, in North Carolina; at Savannah, in Georgia; at Pensacola and St. Augustine, in Florida; at Mobile, in Alabama; at Pontotoc, in Mississippi; at St. Louis, in Missouri; at Chicago, in Illinois; at Cleveland and Cincinnati, in Ohio; at Indianapolis, in Indiana; at Detroit, in Michigan, and at Santa Fé, in New Mexico. Buildings to be so occupied are in process of erection by the Government at Key West, in Florida; at Galveston, in Texas; and at Madison, in Wisconsin.

Much inconvenience is daily experienced for the want of a suitable court-house, owned by the Government, in the city of New York. The building formerly known as Burton's theater has been occupied by the courts since 1858, at a rent of $16,000 per annum. The Government has already expended over $30,000 in altering the building to adapt it to the wants of the courts, and in necessary repairs. To render it convenient and comfortable will require additional expenditures, which may be lost by the sale of the property. The lease contains a clause giving to the Government the option of purchasing the property within three years, at the price of $215,000. The time has elapsed, but it is understood that it may yet be purchased, within a reasonable time, for that price.

Mr. Burton has deceased since the date of the lease, and the settlement of his estate will probably require a sale of this property. If it should be sold to persons who would require the removal of the courts, the Government would be subjected to great inconvenience and expense. In my judgment, the best interests of the Government require that the property should be purchased; and I recommend an appropriation for that purpose.

PUBLIC BUILDINGS.

The report of the Commissioner of Public Buildings exhibits the condition of the several interests confided to his charge.

The occupation of the Capitol during the past summer by portions of the volunteer forces, necessarily caused some injury, which will require more than the ordinary appropriations for repairs.

The old portion of the building needs outside painting, as well to give uniformity of appearance to the whole, as to protect it from decay.

A portion of the basement of the building is now used as a bakery for the Army. Although this may be submitted to for a time as a military necessity, it ought not to be permitted any longer than absolute necessity will require. Immediate provision should be made to transfer this useful branch of industry to some other locality, where it may be conducted without injury to the national Capitol, or annoyance to its occupants.

The subject of the extension of the Capitol grounds has heretofore occupied the attention of Congress The private property necessary to make the proposed extension, has been appraised, in conformity with the directions of an act of Congress, at the sum of $417,594 90.

The propriety of making a purchase involving so large an expenditure, at a time when the demands upon the Treasury for the support of the war have rendered a resort to direct taxation necessary, must be determined by Congress. The Commissioner zealously advocates an early appropriation for that purpose, for reasons which will be found upon reference to his report.

The improvements and repairs which have been made upon the several public buildings and other works during the past year, will be ascertained on reference to the Commissioner's report.

The Washington Infirmary, located upon Judiciary square, was destroyed by fire on the morning of the 3d instant. The fire is supposed to have originated from accidental causes, and when first discovered could have been readily extinguished by an efficient fire department.

Congress, by an act approved June 15, 1844, directed the Commissioner of Public Buildings to allow the medical faculty of the Columbian College to occupy this building, (which had before been used as an insane hospital,) "for the purposes of an infirmary for medical instruction and for scientific purposes, on condition that they shall give satisfactory security to keep the said building in repair, and return it, with the grounds, to the Government, in as good condition as they are now in, whenever required to do so." In 1853, Congress appropriated $20,000 "to aid the directors of Washington Infirmary to enlarge their accommodations for the benefit of sick transient paupers." This sum was expended in enlarging and improving the building, which has since been under the control of the medical faculty, under the authority conferred by the law of 1844.

During the last summer extensive hospital accommodations having become necessary from the large accumulation of troops on the Potomac, an order was made by this Department to place the building under the control of the War Department, to be used as an Army hospital. It was accordingly occupied for that purpose up to the time of its destruction. I do not consider that any public necessity requires a reconstruction of the building.

Judiciary square, upon which it is situated, was designed for other purposes, and if the erection of an infirmary should be considered necessary, a different location should be sought. I recommend that provision be made for the removal of the walls of the building yet standing.

A street railroad through Pennsylvania avenue is a necessity which should no longer be disregarded. The great advantages of this mode of communication upon important city thoroughfares have been so fully demonstrated in all the large cities of the United States, that no argument upon the subject will be required.

The repairs of Pennsylvania avenue have annually cost the Government large sums, and the heavy transportation for Army purposes which has passed over it this season will render necessary larger appropriations than those usually made.

It is probable that those who are asking from the Government the privilege of constructing and using a railroad from the navy-yard, through Pennsylvania avenue, to Georgetown, would, as a consideration for the privilege, agree to keep the avenue, at least between the Capitol and President's square, in good repair. If such an arrangement can be made, the Government would avoid a large annual expense, while the citizens, and those who visit the District, would enjoy the great advantages of this most important improvement.

A new jail in the city of Washington is greatly needed.

The old jail is now crowded with more than double the number of persons of different colors and sexes than can be kept there with any regard to cleanliness or health. It is unfit for the purposes of a jail, and wholly inadequate to the demands made upon it. An appropriation for the erection of a new jail should be made by Congress.

PUBLIC PRINTING.

The change in the manner of executing the public printing, adopted by the last Congress, has been eminently successful. Under the direction of the present efficient Superintendent, the work has been performed with more dispatch and at less cost to the Government than at any previous time.

The system of executing the public printing in an office owned and controlled by the Government was commenced on the 4th of March last. All the public printing and binding has not, since that time, been executed in the Government office, for the reason that unexpired contracts have controlled a part of it.

The report of the Superintendent will show the cost to the Government of the work already executed, and what would have been its cost under the prices established by the law of 1852.

It will be seen that there was a saving of $21,127 95 on so much of the printing of the Thirty-Sixth Congress as was done in his office, and $3,628 66 on that of the first session of the Thirty-Seventh Congress.

On the printing for the Executive Departments the saving amounts to fifty per cent.

Upon the binding for the Executive Departments there has been a saving of about $1,000 per month; but the binding for the Thirty-Sixth Congress having been done under a contract existing at the time the Government printing office was established, there has been no opportunity to show what might have been saved on that work.

The expenditures for paper, printing, binding, engraving, and lithographing have heretofore constituted a very large item in the expenses of the Government. The orders of the Thirty-Fourth Congress for these objects involved an expenditure of $1,586,407 53. Of this amount $390,679 72 was paid for printing, $317,927 92 for engraving and lithographing, and $364,999 84 for binding. To this should be added the cost of the Daily and Congressional Globe for the same Congress, which was $257,904 28, and the printing for the Executive Departments for the same time, $152,883 04, making the whole expenditure for the two years $1,996,194 85. The cost of engraving and lithographing, from August, 1852, to December, 1858, was $892,139 59. This work can be done much more economically under the direction of the Superintendent of the Public Printing than by the present contract system. The Superintendent can as well control and direct this part of the work as the printing, and without additional expense. At least fifty per cent. of the present cost of engraving and lithographing can be saved by having it executed in the Government printing office.

HOSPITAL FOR THE INSANE.

The accompanying reports of the board of visitors and superintendent of the Government hospital for the insane furnish full information of the progress and condition of this valuable and beneficent institution. Too much praise cannot be awarded to Dr. C. H. Nichols, the superintendent, for the ability and fidelity with which he has executed the important and delicate trusts confided to his charge.

The appropriations made by Congress for the erection of the buildings and the improvement of the grounds have been expended with judgment and economy.

The buildings are spacious, well ventilated and warmed; admirably arranged with every convenience necessary for the health and comfort of patients, and in every respect are well adapted for the purposes for which they were designed. The grounds are in a fine state of improvement, and with but a small additional appropriation, the whole may be completed and rendered an object of just pride to the country.

Since the institution was opened, in 1855, 439 persons have been treated. The number of patients in the house on the 30th June, 1861, was 180, classified as follows: From the Army, 25; from the Navy, 11; from the revenue cutter service, 1; from civil life, males 71, and females, 72.

Of the inmates during the last fiscal year, 19 died, 63 were discharged, of whom 15 had so far improved that they could be safely removed, and 48 were completely recovered. The large proportion of patients who were discharged as recovered, (which was fifty per centum of the admissions,) furnishes ample evidence of the skill and care of the treatment observed.

The existing insurrection has thrown upon this institution largely increased burdens and responsibilities. During the first quarter of the current fiscal year, the admissions from the Army and Navy have been equal to four fifths of the whole number of all classes admitted during the previous year. But, in addition to the duties imposed upon him by law, Dr. Nichols has generously, with the approbation of this Department, appropriated a portion of the building, with the services of himself and his assistant, for the accommodation of the sick and wounded of the Potomac and Chesapeake fleets.

As many as fifty persons of this class have been under treatment at one time. These extraordinary demands upon the resources of the institution will furnish ample reason for the request for slightly increased appropriations by Congress.

COLUMBIAN INSTITUTION FOR THE DEAF AND DUMB AND THE BLIND.

This institution was organized in 1857. The number of pupils at the close of the first year was but 17. At the close of the last fiscal year the number was 35. The whole resources of the institution amount to but $8,126 19, of which $6,425 94 was appropriated by Congress. With such limited means but small results could be expected; but from the great liberality of the Hon. Amos Kendall, president of the board of directors, and his watchful care of the interests of the institution, much good has been accomplished.

The means of the institution have not been sufficient for the instruction of the pupils in horticulture, agriculture, and the mechanic arts. Instruction in these branches of industry is important, to prepare them to earn their own subsistence.

Additional appropriations to furnish the institution with the means to supply this deficiency in the instruction of the pupils are asked for by the board of directors, and are recommended to the favorable consideration of Congress.

The buildings now occupied do not afford the necessary space and accommodations for the number of pupils who now occupy them. An appropriation is asked for by the board of directors to make some additions which are greatly needed, and which I hope will be favorably considered.

The reports of the president of the board of directors, and of the superintendent, are referred to for detailed information.

METROPOLITAN POLICE.

The metropolitan police, authorized by an act of Congress of August 6, 1861, has been organized in accordance with the provisions of the law.

The report of the board is herewith presented. They recommend several amendments to the law, and an increase of compensation, with an additional number of officers. The organization has been so recently effected, that time has not been given to fairly test the sufficiency of the force employed, or the wisdom of the several provisions of the law. The views of the board are fully explained in their report, and the whole subject should be referred to Congress, for such action as they may deem proper.

PENITENTIARY OF THE DISTRICT.

The number of convicts confined in the penitentiary on the 30th September, 1861, was 158; classified as follows: white males, 96; colored males, 54; white females, 2; colored females, 6.

One hundred and nine were natives of the United States, and 49 were of foreign birth.

Seventy-three convicts were received during the past year, and 74 discharged—61 by the expiration of the term of sentence, 13 by pardon of the President.

Ninety-six of the convicts are employed in the manufacture of shoes, and 25 in that of brooms. The others are employed in various branches of labor necessary to provide for the wants of the convicts and to keep the buildings in a proper condition of repair and cleanliness.

The expenses of the penitentiary during the fiscal year ending June 30, 1861, were $32,741 26. Of this sum $9,987 46 was received from sales of the products of the labor of the convicts; showing an excess of expenditures over receipts of $22,753 77.

It is evident that a considerable portion of this expense has been occasioned by improper management of the institution. This is shown by the great difference in the amount of the expenditures made by the present warden and those made by his predecessor during a corresponding period. The present warden entered upon his duties on the 12th April, 1861. From October 1, 1860, to that time—a period of six and a half months—there was expended for clothing, provisions, fuel, and lights, and hospital stores, $13,118 50; for the same articles there was expended, from April 12 to October 1, 1861—a period of five and a half months—$4,566 70.

Under the administration of the present warden the labor of the convicts has been made productive. In the shoe manufactory, from April 12 to September 30, the receipts were $1,963 01 more than the cost of material and all other expenses, except the labor of the convicts. In the broom manufactory, for the same period, the receipts exceeded the expenditures $710 78.

The income from the labor of the convicts can, doubtless, under prudent management, be largely increased; but whether the institution can be made self-sustaining is a matter of much doubt.

The board of inspectors, who are gentlemen of ability and experience, think there are general causes for the inability of the institution to sustain itself, which are not likely to be obviated. Their report explains in detail their views.

The penitentiary buildings are very badly adapted to the purposes for which they were constructed. Circumscribed in extent, inconveniently arranged, and illy ventilated, they are much inferior to the prisons of most of the States. It can hardly be expected, however, that Congress, in the present condition of the country, will authorize the erection of new buildings; but while the old ones may be used for several years, and until the condition of the Treasury will better justify the expenditure necessary to erect new ones, the health and comfort of the prisoners, and the convenience of all connected with the institution, require that an expenditure for improvements should be made, at least sufficient to introduce gas and the Potomac water. This can be done at a comparatively small cost, and an appropriation by Congress for that purpose is earnestly recommended.

I desire, in conclusion, to commend to your favorable notice the fidelity and zeal with which the various officers of the Department have discharged the public trusts committed to them. Their several reports herewith show the extent of their labors, and exhibit a highly satisfactory condition of the business of the different branches of the Department.

I have the honor to be, very respectfully, your obedient servant,

CALEB B. SMITH,
Secretary of the Interior.

The PRESIDENT.

Report of the Secretary of War.

WAR DEPARTMENT, *December* 1, 1861.

SIR: I have the honor to submit the annual report of this Department.

The accompanying reports of the chiefs of the several bureaus present the estimates of the appropriations required for the service of this Department during the fiscal year ending June 30, 1863, and also the appropriations necessary to cover deficiencies in the estimates for 1861–62.

The following statement presents the entire es-

timated strength of the Army, both volunteers and regulars:

States.	Volunteers.		
	Three months.	For the war.	Aggregate.
California	.....	4,688	4,688
Connecticut	2,236	12,400	14,636
Delaware	775	2,000	2,775
Illinois	4,941	80,000	84,941
Indiana	4,686	57,332	62,018
Iowa	968	19,800	20,768
Kentucky	.....	15,000	15,000
Maine	768	14,239	15,007
Maryland	.....	7,000	7,000
Massachusetts	3,435	26,760	30,195
Michigan	781	28,550	29,331
Minnesota	.....	4,160	4,160
Missouri	9,356	22,130	31,486
New Hampshire	779	9,600	10,379
New Jersey	3,068	9,342	12,410
New York	10,188	100,200	110,388
Ohio	10,236	81,205	91,441
Pennsylvania	19,199	94,760	113,959
Rhode Island	1,285	5,898	7,183
Vermont	780	8,000	8,780
Virginia	779	12,000	12,779
Wisconsin	792	14,153	14,945
Kansas	.....	5,000	5,000
Colorado	.....	1,000	1,000
Nebraska	.....	2,500	2,500
Nevada	.....	1,000	1,000
New Mexico	.....	1,000	1,000
District of Columbia	2,823	1,000	3,823
		640,637	
Estimated strength of the regular Army, including the new enlistments under act of Congress of July 29, 1861	.....	20,334	
Total	77,875	660,971	718,512

The several arms of the service are estimated as follows:

	Volunteers.	Regulars.	Aggregate.
Infantry	557,208	11,175	568,383
Cavalry	54,654	4,744	59,398
Artillery	20,380	4,308	24,688
Rifles and sharpshooters	8,395	.....	8,395
Engineers	.....	107	107
	640,637	20,334	660,971

The appropriations asked for the service of the next fiscal year are computed for a force of five hundred thousand men. They have been reduced to the lowest possible amount consistent with the public interests, and are based upon a strictly economical administration of the various branches of this Department.

The appropriations to cover deficiencies are rendered necessary by the excess of the force in the field over that upon which the estimates were founded, and by extraordinary expenditures connected with the employment and discharge of the three months' contingent.

An item of very heavy expense is the large mounted force whichhas been organized, equipped and made available since the called session of Congress, and which was not computed for in the estimate. While an increase of cavalry was undoubtedly necessary, it has reached a numerical strength more than adequate to the wants of the service. As it can only be maintained at a great cost, measures will be taken for its gradual reduction.

In organizing our great Army, I was effectively aided by the loyal Governors of the different States, and I cheerfully acknowledge the prompt patriotism with which they responded to the call of this Department.

Congress, during its extra session, authorized the Army to be increased by the acceptance of a volunteer force of five hundred thousand men, and made an appropriation of $500,000,000 for its support. A call for the troops was immediately made; but so numerous were the offers that it was found difficult to discriminate in the choice, where the patriotism of the people demanded that there should be no restriction upon enlistments. Every portion of the loyal States desired to swell the Army, and every community was anxious that it should be represented in a cause that appealed to the noblest impulses of our people.

So thoroughly aroused was the national heart, that I have no doubt this force would have been swollen to a million had not the Department felt compelled to restrict it, in the absence of authority from the Representatives of the people to increase the limited number. It will be for Congress to decide whether the Army shall be further augmented, with a view to a more speedy termination of the war, or whether it shall be confined to the strength already fixed by law. In the latter case, with the object of reducing the volunteer force to five hundred thousand, I propose, with the consent of Congress, to consolidate such of the regiments as may from time to time fall below the regulation standard. The adoption of this measure will decrease the number of officers, and proportionably diminish the expenses of the Army.

It is said of Napoleon, by Jomini, that, in the campaign of 1815, that great general, on the 1st of April, had a regular army of two hundred thousand men. On the 1st of June, he had increased this force to four hundred and fourteen thousand. The like proportion, adds Jomini, "had he thought proper to inaugurate a vast system of defense, would have raised it to seven hundred thousand men by the 1st of September."

At the commencement of this rebellion, inaugurated by the attack upon Fort Sumter, the entire military force at the disposal of this Government was sixteen thousand and six regulars, principally employed in the West to hold in check marauding Indians. In April, seventy-five thousand volunteers were called upon to enlist for three months' service, and responded with such alacrity that seventy-seven thousand eight hundred and seventy-five were immediately obtained. Under the authority of the act of Congress of July 22, 1861, the States were asked to furnish five hundred thousand volunteers to serve for three years, or during the war; and by the act approved the 29th of the same month, the addition of twenty-five thousand men to the regular Army of the United States was authorized. The result is, that we have now an Army of upwards of six hundred thousand men. If we add to this the number of the discharged three months' volunteers, the aggregate force furnished to the Government since April last exceeds seven hundred thousand men.

We have here an evidence of the wonderful strength of our institutions. Without conscriptions, levies, drafts, or other extraordinary expedients, we have raised a greater force than that which, gathered by Napoleon with the aid of all these appliances, was considered an evidence of his wonderful genius and energy, and of the military spirit of the French nation. Here every man has an interest in the Government, and rushes to its defense when dangers beset it.

By reference to the records of the Revolution, it will be seen that Massachusetts, with a population of three hundred and fifty thousand, had at one time fifty-six thousand troops in the field, or over one sixth of her entire people—a force greatly exceeding the whole number of troops furnished by all the southern States during that war. Should the present loyal States furnish troops in like proportion, which undoubtedly would be the case should any emergency demand it, the Government could promptly put into the field an army of over three million.

It gives me great satisfaction to refer to the creditable degree of discipline of our troops, most of whom were, but a short time since, engaged in the pursuits of peace. They are rapidly attaining an efficiency which cannot fail to bring success to our arms. Officers and men alike evince an earnest desire to accomplish themselves in every duty of the camp and field, and the various corps are animated by an emulation to excel each other in soldierly qualities.

The conspiracy against the Government extended over an area of 733,144 square miles, possessing a coast line of 3,523 miles, and a shore line of 25,414 miles, with an interior boundary line of 7,031 miles in length. This conspiracy stripped us of arms and munitions, and scattered our Navy to the most distant quarters of the globe.

The effort to restore the Union, which the Government entered on in April last, was the most gigantic endeavor in the history of civil war. The interval of seven months has been spent in preparation.

The history of this rebellion, in common with all others, for obvious causes, records the first successes in favor of the insurgents. The disaster of Bull Run was but the natural consequence of the premature advance of our brave but undisciplined troops, which the impatience of the country demanded. The betrayal also of our movements by traitors in our midst enabled the rebels to choose and intrench their position, and by a reinforcement in great strength, at the moment of victory, to snatch it from our grasp. This reverse, however, gave no discouragement to our gallant people; they have crowded into our ranks, and, although large numbers have been necessarily rejected, a mighty army in invincible array stands eager to precipitate itself upon the foe. The check that we have received upon the Potomac has therefore but postponed the campaign for a few months. The other successes of the rebels, though dearly won, were mere affairs with no important or permanent advantages. The possession of Western Virginia, and the occupation of Hatteras and Beaufort, have nobly redeemed our transient reverses.

At the date of my last report the States of Delaware, Maryland, Kentucky, and Missouri were threatened with rebellion. In Delaware, the good sense and patriotism of the people have triumphed over the unholy schemes of traitors. The people of Kentucky early pronounced themselves, by an unequivocal declaration at the ballot-box, in favor of the Union; and Maryland, notwithstanding the efforts of bad men in power in the city of Baltimore, when the opportunity of a general election was afforded, under the lead of her brave and patriotic Governor, rebuked, by an overwhelming majority, the traitors who would have led her to destruction. In Missouri a loyal State government has been established by the people, thousands of whom have rallied to the support of the Federal authority, and, in conjunction with the troops from other portions of the country, have forced the rebels to retire into the adjoining State. The government established in Virginia by the loyal portion of her population is in successful operation, and I have no doubt will be sustained by the people of the entire State whenever the thralldom of the rebel forces shall have been removed.

Thus has it been made clearly apparent that, in whatever direction the forces of the Union have extended their protection, the repressed loyalty of the people, irresistibly manifesting itself, has aided to restore and maintain the authority of the Government; and I doubt not that the army now assembled on the banks of the Potomac, will, under its able leader, soon make such a demonstration as will reëstablish its authority throughout all the rebellious States.

The loyal Governor of Virginia is proceeding to organize courts under the constitution and laws of the State in all her eastern counties in the occupation of our troops. I respectfully suggest that authority should be given to the President to send commissioners with the Army, with power to exercise all the functions of local government wherever the civil authority has ceased to exist, and especially to enforce the obligations of contracts, and the collection of debts due to loyal creditors.

As stated in my last report, at the commencement of this rebellion the Government found itself deficient in arms and munitions of war through the bad faith of those intrusted with their control during the preceding Administration. The armory at Harper's Ferry having been destroyed to prevent its possession and use by the rebels, the Government was compelled to rely upon the single armory at Springfield, and upon private establishments, for a supply of arms. Every effort has been made to increase the capacity of that armory, the greatest product of which, prior to these troubles, had never exceeded 800 muskets per month. In charge of an energetic and able ordnance officer, the force being doubled, and operations vigorously prosecuted day and night,

there were made at this establishment, during the past month of October, a total of 6,900 muskets; and it is confidently expected that 10,000 will be manufactured during the present month. On a recent visit, with a view to enlarge the capacity of the armory, I directed the purchase of a large quantity of machinery already finished, which, when put in operation, will enable this establishment to produce, during the next year, 200,000 stand of the justly celebrated Springfield rifles. I respectfully suggest the recommendation of a liberal appropriation by Congress for the purpose of yet further increasing the capacity of this armory, believing that it can be made sufficient to supply all the muskets and rifles which the Government may hereafter need in any contingency. Located in a healthful country, in the midst of an industrious and ingenious people, where competent workmen can always be obtained without difficulty, and sufficiently near to all the materials needed in the manufacture of arms, it is at the same time accessible to every part of the country by water and railway communication.

After having made contracts for arms with the private establishments in this country, it was deemed necessary by the President, to insure a speedy and ample supply, to send a special agent to Europe with funds to the amount of $2,000,000 to purchase more. I am gratified to state that he has made arrangements for a large number of arms, part of which have already been delivered. The remainder will be shipped by successive steamers until all shall have been received.

Combinations among manufacturers, importers, and agents for the sale of arms, have, in many cases, caused an undue increase in prices. To prevent advantage being thus taken of the necessities of the Government, collectors of customs have been directed to deliver to the agents of the United States all arms and munitions that may be imported into this country.

The demand for arms has called into existence numerous establishments for their manufacture throughout the loyal portion of the country, and it has been the policy of this Department to encourage the development of the capital, enterprise, and skill of our people in this direction. The Government should never have less than a million of muskets in its arsenals, with a corresponding proportion of arms and equipments for artillery and cavalry. Otherwise, it may, at a most critical moment, find itself deficient in guns while having an abundance of men.

I recommend that application be made to Congress for authority to establish a national foundery for the manufacture of heavy artillery at such point as may afford the greatest facilities for the purpose. While a sufficient number of cannon, perhaps, could be procured from private manufactories, the possession of a national establishment would lead to experiments which would be useful to the country, and prevent imposition in prices by the accurate knowledge that would be acquired of the real value of work of this character.

In my last report I called attention to the fact that legislation was necessary for the reorganization, upon a uniform basis, of the militia of the country. Some general plan should be provided by Congress in aid of the States, by which our militia can be organized, armed, and disciplined, and made effective at any moment for immediate service. If thoroughly trained in time of peace, when occasion demands, it may be converted into a vast army, confident in its discipline and unconquerable in its patriotism. In the absence of any general system of organization, upwards of seven hundred thousand men have already been brought into the field; and, in view of the alacrity and enthusiasm that have been displayed, I do not hesitate to express the belief that no combination of events can arise in which this country will not be able not only to protect itself, but, contrary to its policy, which is peace with all the world, to enter upon aggressive operations against any Power that may intermeddle with our domestic affairs. A committee should be appointed by Congress, with authority to sit during the recess, to devise and report a plan for the general organization of the militia of the United States.

It is of great importance that immediate attention should be given to the condition of our fortifications upon the sea-board and the lakes, and upon our exposed frontiers. They should at once be placed in perfect condition for successful defense. Aggressions are seldom made upon a nation ever ready to defend its honor and to repel insults; and we should show the world, that while engaged in quelling disturbances at home we are able to protect ourselves against attacks from abroad.

I earnestly recommend that immediate provision be made for increasing the corps of cadets to the greatest capacity of the Military Academy. There are now only one hundred and ninety-two cadets at that important institution. I am assured by the Superintendent that four hundred can at present be accommodated, and that, with very trifling additional expense, this number may be increased to five hundred. It is not necessary, at this late day, to speak of the value of educated soldiers. While, in time of war or rebellion, we must ever depend mainly upon our militia and volunteers, we shall always need thoroughly-trained officers. Two classes having been graduated during the present year, in order that the service might have the benefit of their military education, I had hoped that Congress, at its extra session, would authorize an increase of the number. Having failed to do so, I trust that at the approaching session an increase will be authorized, and that the selection of cadets will be limited exclusively to those States which, coöperating cordially with the Government, have brought their forces into the field to aid in the maintenance of its authority.

In this connection, justice requires that I should call attention to the claims of a veteran officer, to whom, more than to any other, the Military Academy is indebted for its present prosperous and efficient condition. I allude to Colonel Sylvanus Thayer, of the engineer corps, who now, by reason of advanced years and faithful public services, is incapacitated for duty in the field. Under the recent law of Congress he may justly claim to be retired from active service; but, believing that his distinguished services should receive some mark of acknowledgment from the Government, I recommend that authority be asked to retire him upon his full pay and emoluments.

The health of an army is a consideration of the highest consequence. Good men and women in different States, impelled by the highest motives of benevolence and patriotism, have come in aid of the constituted sanitary arrangements of the Government, and been greatly instrumental in diminishing disease in the camps, giving increased comfort and happiness to the life of the soldier, and imparting to our hospital service a more humane and generous character. Salubrity of situation and pleasantness of surroundings have dictated the choice of the hospital sites, and establishments for our sick and wounded, of which we have every reason to be proud, have been opened in St. Louis, Washington, Georgetown, Baltimore, and Annapolis, and will be attached to every division of the Army in the field. To the close of the war vigilant care shall be given to the health of the well soldier, and to the comfort and recovery of the sick.

I recommend that the system of promotions which prevails in the regular service be applied to the volunteer forces in the respective States; restricting, however, the promotions to men actually in the field. At present each Governor selects and appoints the officers for the troops furnished by his State, and complaint is not unfrequently made, that when vacancies occur in the field, men of inferior qualifications are placed in command over those in the ranks who are their superiors in military experience and capacity. The advancement of merit should be the leading principle in all promotions, and the volunteer soldier should be given to understand that preferment will be the sure reward of intelligence, fidelity, and distinguished service.

The course above recommended has been pursued by this Department, and it is my intention, so far as is in my power, to continue a system which cannot fail to have a most beneficial effect upon the entire service.

By existing laws and regulations, an officer of the regular Army ranks an officer of volunteers of the same grade, notwithstanding the commission of the latter may be of antecedent date. In my judgment, this practice has a tendency to repress the ardor and to limit the opportunity for distinction of volunteer officers, and a change should be made, by which seniority of commission should confer the right of command.

I submit for reflection the question whether the distinction between regulars and volunteers which now exists, should be permitted to continue? The efficiency of the Army, it appears to me, might be greatly increased by a consolidation of the two during the continuance of the war; which, combining both forces, would constitute them one grand army of the Union.

Recruiting for the regular Army has not been attended with that success which was anticipated, although a large number of men have entered this branch of the service. While it is admitted that soldiers in the regular Army, under the control of officers of military education and experience, are generally better cared for than those in the volunteer service, it is certain that the popular preference is largely given to the latter. Young men evidently prefer to enter a corps officered by their friends and acquaintances, and, besides the bounty granted to volunteers in most of the States, inducements are often directly offered to them by those whose commissions depend upon their success in obtaining recruits. In addition, the volunteer is allowed to draw his full pay of $13 per month, while by law $2 per month are deducted from the pay of the regular, to be returned to him at the end of his term of service. In my judgment, this law should be repealed, and the regular soldier be allowed to receive his full pay when due. He should also receive either a reasonable bounty upon enlisting, or an advance of $20 of the $100 which a law of the last session of Congress grants to regulars and volunteers on the expiration of their periods of service. This would doubtless stimulate enlistments, as it would enable the soldier to make some provision for those dependent upon him for support until he receives his pay.

By the act approved August 5, 1861, the President is authorized to appoint as many aids to major generals of the regular Army, acting in the field, as he may deem proper. The number of aids, in my opinion, should be limited, and no more should be allowed to each major general than can be advantageously employed upon his own proper staff. Much expense would thus be saved, and the Executive and this Department would be relieved of applications very embarrassing from their nature and extent.

The fifth section of the act approved September 28, 1850, makes the discharge of minors obligatory upon this Department, upon proof that their enlistment was without the consent of their parents or guardians. In view of the injurious operation of this law, and of the facilities which it opens to frauds, I respectfully urge its early repeal. Applications for discharges of minors can then be determined either by this Department, in accordance with such regulations as experience may have shown to be necessary, or by the civil tribunals of the country.

The employment of regimental bands should be limited; the proportion of musicians now allowed by law being too great, and their usefulness not at all commensurate with their heavy expense.

Corporations, like individuals, are liable to be governed by selfish motives in the absence of competition. An instance of this kind occurred in the management of the railroads between Baltimore and New York. The sum of $6 was charged upon that route for the transportation of each soldier from New York to Baltimore. As this rate seemed extravagant to the Department, when considered in connection with the great increase of trade upon these roads, made necessary by the wants of the Government, inquiry was made concerning the expediency of using the roads from New York to Baltimore, via Harrisburg. The result was an arrangement by which troops were brought by the last-named route at $4 each; and, as a consequence, this rate was at once necessarily adopted by all the railroads in the loyal States, making a saving to the Government of thirty-three

and a third per cent. in all its transportation of soldiers, and, at the same time, giving to the railroads, through increased business, a liberal compensation.

The railroad connection between Washington and Baltimore has been lately much improved by additional sidings, and by extensions in this city. In order, however, that abundant supplies may always be at the command of the Department, arrangements should be made for laying a double track between this city and Annapolis Junction, with improved sidings and facilities at Annapolis, and along the branch road.

Should the navigation of the Potomac river be interrupted by blockade or the severities of winter it would become absolutely necessary, for the proper supply of the troops in the District of Columbia and vicinity, and of the inhabitants of this city, to provide additional railroad connection between Washington and Baltimore. A responsible company, with a charter from the State of Maryland, have proposed to do this upon condition that the Government will indorse their bonds; they binding themselves to set aside annually a sufficient sum for their redemption at maturity, and thus eventually release the Government from any liability whatever, and to charge for transportation rates in no case to exceed four cents a ton per mile for freight, and three cents per mile for passengers. During the continuance of the war, however, their charge for passengers is not to exceed two cents per mile. The charge for the transportation of passengers between the two cities is at present three and three quarter cents per mile, and for freight, the rates per ton will average from five to eight cents per mile. The large saving to the Government in cost of transportation would amply compensate for all liability, and give to the citizens of all the loyal States greatly improved facilities for reaching the national capital, and at much less rates than they are now compelled to pay. To the citizens of the District it would cheapen the cost of supplies, and prove of immense value in every respect.

I recommend that a railway be constructed through this city from the navy-yard, by the Capitol, to Georgetown, forming connections with the existing railroad depots, and using the aqueduct bridge for the purpose of crossing the river at Georgetown. By a junction of this proposed railway with the Orange and Alexandria railroad, not only would the communication with our troops in Virginia be greatly improved, but an easy access be obtained to the Baltimore and Ohio railroad near Harper's Ferry, by means of the Loudon and Hampshire railroad. To its importance as affording facilities for moving troops and supplies in time of war, may be added the future benefits it would confer upon the District of Columbia. The outlay required would be saved in a few months by enabling the Government to dispense with the expensive ferry at Georgetown, and by greatly decreasing the costly wagon transportation of the Army through this city.

The injuries to railroads, instigated by the rebel authorities of Baltimore, in order to embarrass communication with the North and West, via Harrisburg, and with the East, via Philadelphia, have been repaired by the different companies that own them. That portion of the Baltimore and Ohio railroad west of Harper's Ferry which was so ruthlessly destroyed by the rebels, has not yet been restored. The great interests of trade require that this road should be reopened as speedily as possible by the company for the transportation of the immense surplus of the agricultural productions of the West. To aid this object the Department has tendered to the company a sufficient force for its protection during the progress of the work, and will render such facilities as it may be able to provide, in connection with its other important public duties.

For the purpose of facilitating the transportation of supplies to Alexandria, and to points beyond, it has been found necessary to rebuild portions of the Orange and Alexandria and the Loudon and Hampshire railroads, and to lay a track from the railroad depot to a point on the Potomac river, in this city.

Under an appropriation granted for that purpose at the last session of Congress, a telegraphic bureau was established, and has been found of the greatest service in our military operations. Eight hundred and fifty-seven miles of telegraphic line have been already built and put in operation, with an efficient corps of operators; and a large extension is now in process of construction.

Congress, at its late session, made an appropriation for the reconstruction of the Long Bridge across the Potomac, which, in its then dilapidated condition, was unsafe for military purposes. The work, which has been carried on without interruption to trade or travel, is rapidly approaching completion, and, when finished, will be a substantial structure.

On the first of the present month Lieutenant General Winfield Scott voluntarily relinquished his high position as General-in-Chief of the American Army. He had faithfully and gallantly served his country for upwards of half a century, and the glory of his achievements has given additional luster to the brightest pages of our national annals. The affections of a grateful people followed him into his retirement. The President immediately conferred the command of the Army upon the officer next in rank. Fortunately for the country, Major General McClellan had proved himself equal to every situation in which his great talents had been called into exercise. His brilliant achievements in Western Virginia, the untiring energy and consummate ability he has displayed in the organization and discipline of an entirely new army, have justly won for him the confidence and applause of the troops and of the nation.

Extraordinary labor, energy, and talent have been required of the various bureaus of this Department to provide for the wants of our immense Army. While errors may have been occasionally committed by subordinates, and while extravagant prices have undoubtedly in some cases, controlled by haste and the pressure of rapid events, been paid for supplies, it is with great gratification that I refer to the economical administration of affairs displayed in the various branches of the service. Our forces had not only to be armed, clothed, and fed, but had to be suddenly provided with means of transportation to an extent heretofore unparalleled. While I believe that there is no army in the world better provided for in every respect than our regulars and volunteers, I candidly think that no force so large, and so well equipped, was ever put in the field in so short a space of time at so small an expense.

While it is my intention to preserve the strictest economy and accountability, I think the last dollar should be expended and the last man should be armed to bring this unholy rebellion to a speedy and permanent close.

The geographical position of the metropolis of the nation, menaced by the rebels, and required to be defended by thousands of our troops, induces me to suggest for consideration the propriety and expediency of a reconstruction of the boundaries of the States of Delaware, Maryland, and Virginia. Wisdom and true statesmanship would dictate that the seat of the national government, for all time to come, should be placed beyond reasonable danger of seizure by enemies within, as well as from capture by foes from without. By agreement between the States named, such as was effected, for similar purposes, by Michigan and Ohio, and by Missouri and Iowa, their boundaries could be so changed as to render the capital more remote than at present from the influence of State governments which have arrayed themselves in rebellion against the Federal authority. To this end, the limits of Virginia might be so altered as to make her boundaries to consist of the Blue Ridge on the east and Pennsylvania on the north, leaving those on the south and west as at present. By this arrangement, two counties of Maryland (Alleghany and Washington) would be transferred to the jurisdiction of Virginia. All that portion of Virginia which lies between the Blue Ridge and Chesapeake bay could then be added to Maryland, while that portion of the peninsula between the waters of the Chesapeake and the Atlantic, now jointly held by Maryland and Virginia, could be incorporated into the State of Delaware. A reference to the map will show that these are great natural boundaries, which, for all time to come, would serve to mark the limits of these States.

To make the protection of the capital complete, in consideration of the large accession of territory which Maryland would receive under the arrangement proposed, it would be necessary that that State should consent so to modify her constitution as to limit the basis of her representation to her white population.

In this connection, it would be the part of wisdom to reannex to the District of Columbia that portion of its original limits which by act of Congress was retroceded to the State of Virginia.

It is already a grave question what shall be done with those slaves who were abandoned by their owners on the advance of our troops into southern territory, as at Beaufort district, in South Carolina. The number left within our control at that point is very considerable, and similar cases will probably occur. What shall be done with them? Can we afford to send them forward to their masters, to be by them armed against us, or used in producing supplies to sustain the rebellion? Their labor may be useful to us; withheld from the enemy it lessens his military resources, and withholding them has no tendency to induce the horrors of insurrection, even in the rebel communities. They constitute a military resource, and, being such, that they should not be turned over to the enemy is too plain to discuss. Why deprive him of supplies by a blockade, and voluntarily give him men to produce them?

The disposition to be made of the slaves of rebels, after the close of the war, can be safely left to the wisdom and patriotism of Congress. The Representatives of the people will unquestionably secure to the loyal slaveholders every right to which they are entitled under the Constitution of the country.

SIMON CAMERON,
Secretary of War.

The PRESIDENT.

Report of the Secretary of the Navy.

NAVY DEPARTMENT, *December* 2, 1861.

SIR: The report from this Department under date of 4th July last exhibited the condition of the Navy, the administrative measures taken to augment its efficiency, and the general course of its operations up to the commencement of the late special session of Congress. The enlarged estimates of expenditure for the naval service then submitted, contemplated, especially, three different lines of naval operations, upon an extended scale, as demanded by the situation of the country. These were—

1. The closing of all the insurgent ports along a coast-line of nearly three thousand miles, in the form and under the exacting regulations of an international blockade, including the naval occupation and defense of the Potomac river, from its mouth to the Federal capital, as the boundary line between Maryland and Virginia, and also the main commercial avenue to the principal base of our military operations;

2. The organization of combined naval and military expeditions to operate in force against various points of the southern coast, rendering efficient naval coöperation with the position and movements of such expeditions when landed, and including also the needful naval aid to the Army in cutting off intercommunication with the rebels, and in its operations on the Mississippi and its tributaries; and,

3. The active pursuit of the piratical cruisers which might escape the vigilance of the blockading force and put to sea from the rebel ports.

These were duties which the Navy was called upon at the same time to prepare for and perform, and they constituted a triple task more arduous, it is believed, in some respects, than has before been demanded from the maritime power of any Government. I proceed to report briefly the efforts which have been made for its accomplishment.

The limited number of ships and men at command when the proclamation announcing the blockade of the ports of the insurgent States was

issued, and the inadequate means provided by the last Congress for the emergency, devolved upon the Department the necessity for calling into immediate service not only all the naval forces but vessels from the commercial marine. Purchases were accordingly made and charters hastily executed for the exigency, and orders peremptorily issued to forthwith equip and prepare for service the public vessels that were dismantled and in ordinary at the several yards. The force thus hastily gathered was placed along our coast and divided into two squadrons, one of which, designated as the Atlantic blockading squadron, had for its field of operation the whole coast, extending from the easternmost line of Virginia to Cape Florida, and was under the command of Flag-Officer Silas H. Stringham. The other, or Gulf squadron, operating from Cape Florida westward to the Rio Grande, was commanded by Flag-Officer William Mervine. These officers repaired to their stations and were reinforced from time to time by the arrival of such vessels as were dispatched to their commands, and under their supervision and direction all the ports upon their stations were subjected to a blockade as rigid and effective as the peculiar nature of our maritime frontier—which has through a large portion of its entire extent a double coast, inner and outer—would admit. Our principal naval vessels are not, from their great draught of water, adapted to blockade service on our shallow coast, which has been guarded with extreme difficulty. The ports of North Carolina especially, situated within the interior shallow waters of their sounds and inlets, afforded peculiar facilities to a class of small vessels, aided by fraudulent papers and foreign flags, to elude the vigilance of the sentinel ships whose special duty it was to interdict commerce with the insurgents.

THE POTOMAC FLOTILLA.

It became necessary at an early period to place a flotilla on the lower Potomac. A variety of circumstances combined to render this one of the most embarrassing duties on the whole insurgent frontier, and it was early foreseen by the Department that without the active coöperation of the Army it would be impossible to prevent the navigation of the river from being obstructed by batteries on the Virginia side. For several months, however, the Navy, without aid, succeeded, more effectually than could have been expected, in keeping the river open for commercial purposes, and restricting, to a great extent, communication between the opposite shores. In the heroic discharge of this duty the first commander of the flotilla lost his life; but the Navy continued to capture every rebel vessel which showed itself on the Potomac, and to give security and protection to the commerce of loyal citizens, until the close of October, when the insurgents erected batteries at sundry points on the Virginia shore, thereby rendering passage on the river dangerous.

THE SQUADRONS.

The duty of guarding the coast and enforcing the blockade has been one of great labor, as well as ceaseless vigilance and responsibility. With the steadily-increasing force that added to the squadrons, the efforts of the insurgents to elude our ships were also increased, in order to supply the pressing necessities that afflicted the whole of the rebel States. The duties imposed upon the flag officers became correspondingly arduous, and eventually more extensive in their operation and detail than could be well executed by one commander. While the subject of a division of the squadrons was under consideration, Flag-Officer Stringham, unaware of the fact, made a proposition to relinquish his command, which was acceded to, and two squadrons were organized on the Atlantic coast. Captain Louis M. Goldsborough was appointed to guard the shores of Virginia and North Carolina, and raised his flag on the Minnesota, on the 23d of September. The residue of the southern Atlantic coast, commencing at the line which separates the two Carolinas and extending to Cape Florida, was intrusted to Captain Samuel F. Dupont, whose flag was raised on the Wabash, on the 29th of October.

Flag-Officer William Mervine was relieved from the command of the Gulf squadron in September by Captain William W. McKean. The necessity of dividing this squadron, as well as that on the Atlantic sea-board, in order that the coast should be more rigidly guarded, was felt; but the measure was postponed until a larger force could be sent around the peninsula. A vigilant watch has been maintained at the passes of the Mississippi, by which the commerce of New Orleans has been successfully interdicted.

The task of blockading the coast is unattractive, and devoid of adventure. Those who have engaged in this rebellion have neither commerce nor a navy to reward or stimulate to exertion.

SINKING VESSELS.

One method of blockading the ports of the insurgent States, in interdicting communication as well as to prevent the egress of privateers which sought to depredate on our commerce, has been that of sinking in the channels vessels laden with stone. The first movement in this direction was on the North Carolina coast, where there are numerous inlets to Albemarle and Pamlico sounds, and other interior waters, which afforded facilities for eluding the blockade, and also to the privateers. For this purpose a class of small vessels were purchased in Baltimore, some of which have been placed in Ocracoke inlet.

Another and larger description of vessels were bought in the eastern market, most of them such as were formerly employed in the whale fisheries. These were sent to obstruct the channels of Charleston harbor and the Savannah river; and this, if effectually done, will prove the most economical and satisfactory method of interdicting commerce at those points.

VESSELS CAPTURED.

Since the institution of the blockade one hundred and fifty-three vessels have been captured sailing under various flags, most of which were attempting to violate the blockade. With few exceptions, these vessels were in such condition, when seized, as to authorize their being sent at once to the courts for adjudication and condemnation as prizes. Appended to this report is a list of the vessels which have been captured.

SEIZURE OF SOUTHERN PORTS.

A seizure of some of the important ports on the coast commanded the early and earnest attention of this Department. It was found that naval stations and harbors of refuge during the tempestuous seasons would be indispensable if hostilities were to be continued, and the stations thus secured could also be made the points of offensive military operations. Shortly after the attention of the Government was drawn to this subject, a board was convened under the auspices of the Navy Department, consisting of Captains Samuel F. Dupont and Charles H. Davis, of the Navy; Major John G. Barnard, of the Army, and Professor Alexander Bache, of the Coast Survey, to whom a thorough investigation of the coast and harbors, their access and defenses, was committed. Several elaborate and valuable reports of great interest, exhibiting in minute detail the position, advantages, and topographical peculiarities of almost every eligible point on the coast, were the results of this important commission.

In view of the data thus presented, two combined naval and military expeditions have already been organized and put in action. Such coöperation and concert of action between the two arms of the public service were indispensable; for, though the Navy alone might assail and capture batteries in some positions, it was not within its province or power to retain or garrison them. The operations on shore manifestly pertained to the Army, and, on each occasion, as soon as the military forces were ready for these expeditions, the Navy was fully prepared and eager for immediate action.

After some delays, an expedition to Hatteras inlet, on the coast of North Carolina, where piratical depredations had become extremely annoying, was undertaken. Flag-Officer Stringham commanded in person the naval forces on this occasion, and Major General Butler had command of the small military detachment of about eight hundred men which coöperated with the Navy. The expedition was eminently successful in the attack upon and capture of Forts Hatteras and Clark. The entire garrison, under the command of Samuel Barron, recently and for nearly fifty years an officer of the Navy, surrendered after sustaining great loss, while not a life was sacrificed nor an individual of the Union forces wounded. Annexed is the report of Flag-Officer Stringham of this achievement, with the letter of approval and congratulation of this Department. The military force was inadequate to follow up this brilliant victory, by securing a position upon the main land, and there propitiating and protecting the loyal feeling which had begun to develop itself in North Carolina.

It was intended that the success at Hatteras should have been followed in September by a more formidable expedition, and the seizure of a more important position further South. Owing to various causes, independent of the Navy Department or the condition of the Navy, this movement was unavoidably postponed until the 29th of October, when a fleet of forty-eight sail, including transports, a larger squadron than ever before assembled under our flag, left Hampton Roads. Captain Samuel F. Dupont, then recently appointed flag officer, an officer of great skill and experience, and possessing the entire confidence of the Department, was selected to command this expedition. In addition to his general professional ability, he had, through careful study and investigation, as chairman of the board which had been ordered in June, special qualification and thorough preparation for the highly important and responsible position assigned to him. Informed of the policy and views of the Government in regard to the expedition, prompt to execute its wishes, and having made himself familiar with every eligible port on the southern Atlantic coast, he, as commander of the expedition, was intrusted with the selection, within prescribed limits, of the place where the first assault should be made.

After encountering the severest storm that has visited the coast during the present season, which partially dispersed the squadron, causing the wreck of several of the transports, and compelling even some of the smaller vessels of the Navy to put back, the fleet, by the merciful interposition of Providence, was preserved, and appeared before Port Royal, one of the best, though neglected, harbors on our southern coast, on the 5th day of November. So soon as the channel could be buoyed out, and other preliminary measures accomplished, assaults were made on the well-built and thoroughly-armed forts, Beauregard and Walker. Consummate naval strategic skill and the most admirable gunnery were exhibited in the attack, which was of such tremendous effect that General Drayton and the rebel army surrendered their strongholds, fled the coast with precipitation, leaving their property, armament, and papers, while our naval forces took, and still hold, quiet possession of one of the finest harbors on the Atlantic sea-board. I append Flag-Officer Dupont's report of this brilliant achievement, and the letter of this Department congratulating him, his officers and men, on their bravery, skill, and success.

A demonstration since ordered by Flag-Officer Dupont on Tybee island, at the mouth of the Savannah river, resulted in the capture of that island and the strong Martello tower and battery that virtually command Fort Pulaski. Our naval forces have possession of that island, a part of the south Atlantic squadron is at anchor in the harbor, and the flag of the Union is again unfurled in Georgia. The dispatch of Flag-Officer Dupont, communicating to the Navy Department an account of this transaction, and the additional fact that the rebels themselves have, in anticipation of our action, placed obstructions in the river at Fort Pulaski, is appended to the report.

Without specifying, in detail, the numerous meritorious achievements which have, during the year, done honor to the naval service, I append dispatches of the commanders, communicating the brave and heroic conduct which has been displayed by our naval officers, sailors, and marines, whose intrepidity, courage, and loyalty were never more marked than in this rebellion.

THE MISSISSIPPI RIVER.

A naval force, auxiliary to and connected with the Army movements on the Mississippi and its tributaries, has been organized, and is under the command of Flag-Officer Andrew H. Foote, who is rendering efficient service in that quarter.

The steamers which have been built or purchased for this service by the War Department are of a formidable character, and manned by a class of superior seamen and western boatmen, who in the preliminary skirmishes already have done good service, and will, I am confident, acquit themselves with credit in the future. Reports are appended exhibiting some of the operations of this command as auxiliary to the military movements on the Mississippi.

PURSUIT OF PRIVATEERS.

It was natural that apprehensions should prevail in regard to armed cruisers commissioned expressly by the rebel leaders to depredate upon our commerce. This robbery of merchants and others engaged in peaceful and lawful pursuits, by piratical cruisers, is not inconsistent with the general conduct of those who have violated law and moral obligations to gratify inordinate ambition. Our extended commerce presented inducements for piratical warfare, yet but few of our misguided countrymen have prostituted themselves to the purposes of plunder, though thereto invited, and these few have been in constant flight to escape the avenging power of our vigilant naval forces. Such of these cruisers as eluded the blockade and capture were soon wrecked, beached, or sunk, with the exception of one, the steamer Sumter, which, by some fatality, was permitted to pass the Brooklyn, then blockading one of the passes of the Mississippi, and, after a brief and feeble chase by the latter, was allowed to proceed on her piratical voyage. An investigation of this whole occurrence was ordered by the Department. Soon the Niagara and the Powhatan, from the Gulf squadron, followed in vigorous pursuit—the latter, though long in commission, and with defective boilers and machinery, under her energetic commander, tracking the piratical craft as far as Maranham. The Keystone State, Richmond, Iroquois, and San Jacinto, were also in search of her at different points and periods. Although a piratical rover, without license from any recognized or acknowledged Government, and avowedly engaged in the robbery and plunder of our citizens, I regret to say this vessel has been received, and her wants supplied, against the remonstrance of our consuls, by public authorities, in many foreign ports where her character was well known.

REBEL EMISSARIES.

Captain Charles Wilkes, in command of the San Jacinto, while searching in the West Indies for the Sumter, received information that James M. Mason and John Slidell, disloyal citizens and leading conspirators, were with their suite to embark from Havana in the English steamer Trent, on their way to Europe, to promote the cause of the insurgents. Cruising in the Bahama channel he intercepted the Trent on the 8th of November, and took from her these dangerous men, whom he brought to the United States. His vessel having been ordered to refit for service at Charlestown, the prisoners were retained on board and conveyed to Fort Warren, where they were committed to the custody of Colonel Dimmick, in command of that fortress.

The prompt and decisive action of Captain Wilkes on this occasion merited and received the emphatic approval of the Department, and if a too generous forbearance was exhibited by him in not capturing the vessel which had these rebel enemies on board, it may, in view of the special circumstances, and of its patriotic motives, be excused; but it must by no means be permitted to constitute a precedent hereafter for the treatment of any case of similar infraction of neutral obligations by foreign vessels engaged in commerce or the carrying trade.

THE NAVAL FORCE AND ITS INCREASE.

This brief review of the principal operations of the Navy, under the new and extraordinary demands that were made upon its efficiency, naturally introduces an exposition of the measures adopted in conformity with the legislative policy of Congress to increase its available force. The measures which were adopted by the Department, in advance of the special session in July, for augmenting the Navy, and the recommendations and suggestions which I had the honor at that time to submit, received the sanction and approval of Congress. Immediate action had been rendered necessary in consequence of events that had been precipitated upon the country, and for which no legislative provision had been made. Only a feeble force of men and vessels, scarcely sufficient for ordinary police operations, was at that time available on the Atlantic coast. In order that the condition of the Navy on the 4th of March may be rightly understood, it will be well to state the position and character of each of the vessels at that date.

The home squadron consisted of twelve vessels, and of these only four were in northern ports and available for service, viz:

Name.	*Class.*	*Guns.*	*Station.*
Pawnee	Screw sloop	8	Washington.
Crusader	Steamer	8	New York.
Mohawk	Steamer	5	New York.
Supply	Storeship	4	New York.
Four vessels		25	

The remaining vessels of the squadron were stationed as follows:

Name.	*Class.*	*Guns.*	*Station.*
Sabine	Frigate	50	Pensacola.
St. Louis	Sloop	20	Pensacola.
Brooklyn	Steamer	25	Pensacola.
Wyandotte	Steamer	5	Pensacola.
Macedonian	Sloop	22	Vera Cruz.
Cumberland	Sloop	24	Returning from Vera Cruz.
Pocahontas	Steamer	5	Returning from Vera Cruz.
Powhatan	Steamer	11	Returning from Vera Cruz.
Eight vessels		162	

The Powhatan arrived at New York on the 12th of March, and sailed early in April for Fort Pickens. The Pocahontas reached Hampton Roads on the 12th of March, and the Cumberland on the 23d of the same month.

Of vessels on foreign stations, the following have returned in obedience to orders from the Department:

FROM MEDITERRANEAN.

Name.	*Class.*	*Guns.*	*Arrived.*
Richmond	Steam sloop	16	July 3.
Susquehanna	Steam sloop	15	June 6.
Iroquois	Steam sloop	6	June 15.

FROM COAST OF AFRICA.

Name.	*Class.*	*Guns.*	*Arrived.*
Constellation	Sloop	22	September 28.
Portsmouth	Sloop	22	September 23.
Mohican	Steam sloop	6	September 27.
Mystic	Steamer	5	October 7.
Sumter	Steamer	5	September 15.
San Jacinto	Steam sloop	13	November 15.
Relief	Storeship	2	October 12.

FROM COAST OF BRAZIL.

Name.	*Class.*	*Guns.*	*Arrived.*
Congress	Frigate	50	August 12.
Seminole	Steam sloop	5	July 6.

The following have not yet arrived:

FROM EAST INDIES.

Name.	*Class.*	*Guns.*
John Adams	Sloop	20
Hartford	Steam sloop	16
Dacotah	Steam sloop	6

The following are to remain abroad:

Name.	*Class.*	*Guns.*	*Station.*
Saratoga	Sloop	18	Coast of Africa.
Pulaski	Steamer	1	Coast of Brazil.
Saginaw	Steamer	3	East Indies.

Add to these the vessels on the Pacific coast, the steam frigate Niagara, which was returning from Japan, and four tenders and storeships, and there was a total, as stated in the last report, of forty-two vessels, carrying five hundred and fifty-five guns and about seven thousand six hundred men, in commission on the 4th of March last.

Without waiting the arrival of vessels from our foreign squadrons, the Department early directed such as were dismantled and in ordinary at the different navy-yards, and which could be made available, to be repaired and put in commission. They are, exclusive of those lost at the Norfolk navy-yard, embraced in the following table:

Names.	Where.	Ordered to be prepared for sea service with dispatch.	Put in commission or ready for the officers and crew.	Sailed.
Frigates.		1861.	1861.	1861.
Potomac	New York	April 1	June 1	July 10
St. Lawrence	Philadelphia	April 9	May 18	June 8
Santee	Portsmouth, N. H.	April 17	June 24	July 12
Sloops.				
Savannah	New York	April 1	June 1	July 10
Jamestown	Philadelphia	April 9	May 18	June 8
Vincennes	New York	April 20	June 24	July 12
Marion	Boston	April 20	June 30	July 14
Dale	Portsmouth	April 20	June 30	July 17
Preble	Boston	April 20	June 22	July 11
Brigs.				
Bainbridge	Boston	April 20	May 1	July 10
Perry	New York	April 20	.....	.....
Steamers.				
Ronnoke	New York	April 20	June 1	July 10
Colorado	Boston	April 20	June 18	July 30
Minnesota	Boston	April 3	June 3	Late in May
Pensacola	New York	April 3	May 3	May 27
Wabash	Washington	April 9	April 29	June 20
Mississippi	Boston	April 20	May 18	June 25
Water Witch	Philadelphia	April 6	April 10	May 23
		Feb. 14		April 17

When the vessels now building and purchased, of every class, are armed, equipped, and ready for service, the condition of the Navy will be as follows:

OLD NAVY.

Number of Vessels.	*Guns.*	*Tonnage.*
6 ships-of-the-line	504	16,094
7 frigates	350	12,104
17 sloops	342	16,031
2 brigs	12	539
3 storeships	7	342
6 receiving ships, &c.	106	6,340
6 screw frigates	232	21,460
6 first class screw sloops	109	11,953
4 first class side-wheel steam sloops	46	8,003
8 second class screw sloops	45	7,593
5 third class screw sloops	28	2,405
4 third class side-wheel steamers	8	1,838
2 steam tenders	4	599
76	1,783	105,271

PURCHASED VESSELS.

35 side-wheel steamers	160	26,680
43 screw steamers	175	20,493
13 ships	52	9,998
24 schooners	49	5,324
18 barks	78	8,432
2 brigs	4	460
136	518	71,297

VESSELS CONSTRUCTED.

14 screw sloops	98	16,787
23 gunboats	92	11,661
12 side-wheel steamers	48	8,409
3 iron-clad steamers	18	4,609
52	256	41,448

Making a total of 264 vessels, 2,557 guns, and 218,016 tons. The aggregate number of seamen in the service on the 4th of March last was 7,600. The number is now not less than 22,000.

CONSTRUCTION OF NEW VESSELS.

Most of the public armed vessels being of such size and draught of water that they could render only imperfect blockading service, immediate measures were taken by the Department to carry into effect the policy of the Government, in advance of the special session of Congress, by contracting for the construction of twenty-three steamers, which should be of light draught, but heavy armament. Congress, at the regular session, had authorized the building of seven screw steamers, and as there were four yards, in each of which two might be built, the Department, in the existing emergency, and in anticipation of the action of Congress when it should convene,

directed the construction of eight, dividing them into two classes of about one thousand and fourteen hundred tons, respectively. At the special session, Congress not only sanctioned the action of the Department in the construction of these thirty-one steamers, but it authorized the further construction of twelve side-wheel steamers of light draught, and of six of larger capacity, to be modeled and built specially for speed. Many of those first ordered are already in commission, and the others are in rapid progress towards completion. If with those above enumerated, we include three iron-clad, or armor steamers, which are being built from the money appropriated for that purpose at the special session, there will be under these several arrangements an addition, when they are completed, of fifty-two new steamers, peculiarly adapted to the required blockade or coast-guard duty, added to the Navy. No sailing vessels have been ordered to be built, for steam, as well as heavy ordnance, has become an indispensable element of the most efficient naval power.

PURCHASE OF VESSELS.

The public vessels and the public yards, in their capacity of construction and repair, were, however, totally inadequate to the demands that are now pressing on this branch of the Government, and the Department was compelled to resort to the commercial marine to make good the deficiency. Vessels of every class and description were promptly tendered by sellers and their agents, who, in many instances, became dissatisfied when their offers were not accepted.

This new necessity of the Government, involving a large expenditure, and the purchase of suitable vessels, imposed an important responsibility; and the task of making suitable arrangements to insure the prompt and systematic purchase, on the best and most reasonable terms for the Government, of a large number of vessels most suitable for its use, was attended by peculiar difficulties, and received mature consideration. The purchase might be made directly by the Department, or by boards of officers under its control at the principal ports where the vessels were to be bought, and especially at the great central point of supply for such a demand—the port of New York.

But to both of these methods of procedure the briefest trial disclosed serious objections. It was manifest from the first that the Department, charged suddenly with the organization and superintendence of new and arduous naval operations on a large scale, in addition to its current business, could not possibly itself devote to the numerous details of each case of purchase the time and attention needful fully to protect the interests of the Government. It was equally clear that boards of officers, acting in a mere mercantile capacity, new to them, and for which they had neither been practically trained nor professionally commissioned, would be subjected to great embarrassment and disadvantage in their dealings with sellers of ships and professional ship brokers, in a market suddenly pressed by a heavy and peremptory demand. Yet the Department could rely, and it did rely, with the fullest confidence, upon the professional judgment and ability of its ordnance officers, naval constructors, and engineers, all acting under the responsibility of their commissions, to investigate and determine the whole question of the adaptation, in all respects, of each ship offered, and of its capacity to be, by alteration, fully adapted to perform the particular service required by the Government. This work, with the corresponding authority of selection and rejection of all vessels, was therefore exclusively committed to boards consisting each of an experienced naval constructor and engineer and an ordnance officer, convened and stationed for the purpose at New York, and the other principal cities. The mere mercantile part of the business—the making of the best bargains possible for the Government in each case, with the care of averting all intervention of third parties, which might embarrass the attainment of that result—was considered by the Government to be placed most properly in the hands of a mercantile agency of a high and established character for integrity, experience, and capacity. Obvious reasons, including the consideration that it is individual responsibility which is always felt most keenly, and that several agents, all acting separately for the Government at the same places, would necessarily compete with each other to its disadvantage in the market, indicated that this agency should be tendered to a single properly-qualified individual, upon the distinct understanding that he should devote his whole time, attention, and ability to the work; that he should in no case make any charge against the Government for his service; that he should deal always directly and exclusively with the owners of the vessels purchased, thus permitting no brokerage fees, or agents' commissions, between himself and the owners; and that, finally, his own commission, payable always by the seller, should in no case exceed the regular mercantile percentage fixed by the Chamber of Commerce of New York, and established by the custom of merchants in that city as the rightful and legal rate of remuneration for such services rendered by any person acting between the sellers and purchasers of vessels.

The agent thus selected was a merchant, who had been connected with one of the most successful and extensive commercial firms in this country—a gentleman of great business capacity, and of the most scrupulous and unquestioned integrity. Relinquishing all private engagements, and withdrawing from all business connections of every description, this gentleman has devoted his whole time and energies with untiring fidelity to the service of the Department and the country.

By the system thus adopted, the very best vessels in the commercial marine have been secured for the naval service at moderate rates, and to the great advantage of the Government. The course pursued in these purchases has extemporized a Navy at less cost to the Government, it is believed, than that required for the construction of the same or equally serviceable vessels; and a question which, at the commencement, was one of embarrassment and difficulty, has been disposed of, and in no particular has the country been better served.

Subjoined is a statement from the purchasing agent at New York, with a schedule giving the name, tonnage, price demanded, and cost actually paid of every vessel that has been bought by him, and also of all added to the Navy since the change of Administration in March last. There is abundant reason to congratulate ourselves that, on such a demand, in such a crisis, we were enabled to make so speedy and so large an acquisition to the naval service, and on terms so economical to the Government.

The expenditure of fitting for sea service the vessels at the different navy-yards, and repairing and equipping those returning from our foreign squadrons, has been large. Eleven thousand mechanics and laborers have been in the daily employ of the Government at the different navy-yards in building and preparing vessels, and equipping and arming them for service; but this large force has been unable to dispatch the work with the rapidity demanded, and the Department has been compelled, in consequence, to resort to private ship-yards and outside labor.

ARMORED SHIPS.

To carry into effect the provisions of the act approved August 3, 1861, providing for the construction of one or more armored ships and floating batteries, I appointed Commodores Joseph Smith and Hiram Paulding and Captain Charles H. Davis, skillful and experienced naval officers, to investigate the plans and specifications that might be submitted. The subject of iron armature for ships is one of great general interest, not only to the Navy and the country, but is engaging the attention of the maritime Powers of the world. Under the appropriation made by Congress, the Department, on the favorable report of the board, has contracted for the construction of three iron-clad ships of different models, the aggregate cost of which will be within the limits of the appropriation. The difficulty of combining the two qualities of light draught and iron armor, both of which are wanted for service on our coast, could not be entirely overcome; but the board, in this new branch of naval architecture, has, I think, displayed great practical wisdom, and I refer to their very full and able report, which is appended, for a more explicit and detailed exhibit of their inquiries and conclusions.

STEVENS'S BATTERY.

In pursuance of the joint resolution of Congress approved June 24, 1861, authorizing the Secretary of the Navy to appoint a board to examine the iron steam battery now building at Hoboken, New Jersey, and ascertain what will be the cost of completing the same, how soon it can be completed, and the expediency thereof, I appointed Commodores Silas H. Stringham and William Inman, Captain T. A. Dornin, Chief Engineer A. C. Stimers, and Joseph Henry, Esq., Secretary of the Smithsonian Institution, a commission, and directed them to assemble on the 1st of November to prosecute the examination. The Department has information that the board convened, but has as yet received no report of its proceedings.

INCREASING THE EFFICIENCY OF THE NAVY.

The efficiency of the Navy may unquestionably be largely increased by creating more grades, and I would recommend that the permanent organization of the line officers be as follows:

Flag officer, to command squadrons; commodore, captain, commander, lieutenant commander, to command single ships; lieutenant, master, passed midshipman, midshipman, cadet.

The lieutenant commanders, a grade used during the Revolution, may be employed as first lieutenants, and in the command of the smaller class of naval vessels.

The present rate of pay may be so apportioned among the different grades that in the aggregate there shall be no increase. Let no officer be advanced to any grade above that of passed midshipman, except upon nomination of the President and confirmation by the Senate, after a board of officers shall have pronounced him morally, physically, and professionally competent to perform all his duties, both ashore and afloat.

The public service would also be promoted were some limit of age fixed by law for active service. I would therefore respectfully suggest that line officers be retired after having been forty-five years in the Navy, excepting when called into active service by special appointment from the President. A generous pecuniary provision should be made for those who are retired after long and faithful service.

To satisfy the immediate demands of the public service, I recommend that a grade to be designated flag officer be established, and that the President, by selection from the present list of captains and commanders, appoint a number not exceeding seven, who shall each have command, irrespective of seniority or rank, of the squadron to which he may be assigned, and the appointment shall cease when the officer hauls down his flag, unless for distinguished and meritorious conduct in battle, as flag officer, he receives, upon recommendation of the President, the thanks of Congress.

RETIRING BOARDS.

Under the provisions of an act authorizing a naval retiring board, entitled "An act providing for the better organization of the military establishment," approved August 3, 1861, a board has been assembled, and is composed of Commodore George W. Storer, president; Commodore Charles H. Bell, Captain D. G. Farragut, Surgeons Charles Chase and L. B. Hunter, members; and Philip Hamilton, Esq., judge advocate. The board convened at Brooklyn on the 18th of October last, and is still prosecuting its duties.

A like board assembled at the same place on the 6th of November, under authorization by the same law, for retiring such marine officers as have become incapable of performing the duties of their office. This board is composed of Colonel John Harris, commandant of the corps, president; Brevet Major Jacob Zeilin, Major William B. Slack, Surgeons Solomon Sharp, and Charles D. Maxwell, members; and P. T. Woodbury, Esq., judge advocate.

Availing themselves of the provisions of the act referred to, several officers of the Navy and of the marine corps have, upon their own application, been placed on the list of retired officers, after having been forty years in the service of the United States.

ACTING APPOINTMENTS.

In my report at the commencement of the special session I made mention of the fact that the

appointment of acting lieutenants had been conferred on certain gentlemen who had retired from the Navy in peaceful times, but who, when the flag was assailed, promptly tendered their services in its defense. It was not within the power of the Department to restore these gentlemen to the line of promotion, but they were placed in the position of, and assigned to duty as, acting lieutenants, where they have rendered good service, and proved themselves worthy of their profession whenever they have had an opportunity, either at Hatteras, Port Royal, the Gulf, or elsewhere. There are fifteen of these formerly naval officers who have received the appointment of acting lieutenants. The question of full restoration to these gallant officers, whose names are untarnished, and who have acquitted themselves with honor to their profession, is one of interest to themselves and the country.

In pursuance of the policy indicated by Congress at the extra session, there have been appointed from the commercial marine twenty-five acting volunteer lieutenants. Great care has been exercised in the selection of these officers, who, beside their general reputation for nautical skill, have undergone an examination as to their fitness and qualifications by a board constituted for that purpose.

There have also been appointed for active service in the Navy, independent of officers of the line, four hundred and thirty-three acting masters and two hundred and nine master's mates. All of these masters have had sea experience, and nearly every one has been a successful navigator and commander in the merchant service. It was soon found necessary also to require that master's mates should have previous sea experience to qualify them for appointment. In order to prepare the different classes of officers introduced from the mercantile marine for duty in the naval service, schools for gunnery and proper training were established at the navy-yards, where the appointees have been drilled and disciplined for navy duty. The officers thus selected are, with scarcely an exception, highly meritorious, and would be a credit to any service. Composed as they are of the best material in the best commercial marine on the globe, the spirit and zeal with which they surrender their more peaceful pursuits for the severe and rigid discipline of the Navy does honor to their country and themselves.

The assistant paymasters authorized to be appointed by the act of July last have been selected, but the increase of thirty-six was insufficient for the service with the large addition of vessels and crews that have been ordered. I have therefore been compelled to make further appointments of acting assistant paymasters, of whom there are now sixty-one on duty. Their appointments are temporary, for the cruise or the war, and made when there are no unemployed paymasters or assistant paymasters of the regular corps who can be detailed for the duty required.

Acting appointments of engineers and assistant engineers and of assistant surgeons have necessarily been made, in addition to the regular corps, to meet the new and extraordinary demands of the service. There has been an aggregate of nine hundred and ninety-three acting appointments for temporary service made by the Department since the present difficulties commenced. That there may, in some instances, have been improper selections in consequence of improper recommendations is not improbable, but such are exceptional cases. In some instances, men possessing high and excellent traits in other respects have been found addicted to intemperance. This is a disqualification in any officer, and whenever this habit has been detected there has been no hesitation in revoking at once the appointment.

MARINE CORPS.

The report of the commandant of the marine corps is herewith transmitted. Under the provisions of the act of March 3, 1849, with your approval, orders were given in April and May to enlist one thousand one hundred and fifty-two additional non-commissioned officers and privates to meet the requirements of the service. A large number of able-bodied men of a superior class were very readily obtained, and the increased demand for guards for vessels has rendered necessary an additional increase of five hundred privates, with the necessary non-commissioned officers, which numbers you have recently authorized to be enlisted. A general return of the corps for October accompanies the report of the commandant, and shows the actual strength of the corps, ashore and afloat, to have been at that time two thousand nine hundred and sixty-four.

In July last, a battalion of twelve officers and three hundred and thirty-six men, under Major J. G. Reynolds, was detailed for duty with the Army of the Potomac, under General McDowell. They were in the engagement at Bull Run, and Major Reynolds's report thereof will be found herewith. A similar battalion of nineteen officers and three hundred and thirty men, under the same officer, was dispatched with the expedition to Port Royal.

NAVAL SCHOOL.

Temporary accommodations for the Naval School have been provided, and the officers and students made comfortable at Newport, where the institution was located upon its removal from Annapolis, until Congress shall take some order on the subject of its future permanent location. Much of the public property appertaining to the school was hastily removed, but many conveniences and much that is essential were left at Annapolis, where they still remain in charge of a person to whose custody they were committed. No legislation was consummated at the extra session towards filling up the school to its full complement, in consequence of disagreement between the two Houses as to the method of appointment, although each branch expressed an opinion that the deficiency ought to be supplied.

I would respectfully renew the recommendations and suggestions made in my former report, not only that the deficiency should be supplied, but that for a period, at least, the number should be largely increased. In regard to the selection of students, when Representatives neglect or refuse to make the nominations, or when a district omits to elect a Representative, it is suggested that the President or the Secretary of the Navy be authorized to perform that duty.

The institution is one of too great national importance to be neglected. It is there that the youth are to be educated who in the future must maintain and elevate the character of the Navy. I have deemed it important that the accomplished superintendent, whose fidelity to his trust was exhibited under trying circumstances, should be continued in the position he has filled so acceptably until the school shall be again permanently established. But, even under the disadvantage of a temporary location, the country should avail itself of the opportunity to educate, for a period, at least, double the number now authorized by law.

EMPLOYMENT OF FUGITIVES.

In the coastwise and blockading duties of the Navy, it has not been unfrequent that fugitives from insurrectionary places have sought our ships for refuge and protection, and our naval commanders have applied to me for instruction as to the proper disposition which should be made of such refugees. My answer has been that, if insurgents, they should be handed over to the custody of the Government; but if, on the contrary, they were free from any voluntary participation in the rebellion, and sought the shelter and protection of our flag, then they should be cared for and employed in some useful manner, and might be enlisted to serve on our public vessels or in our navy-yards, receiving wages for their labor. If such employment could not be furnished to all by the Navy, they might be referred to the Army; and if no employment could be found for them in the public service, they should be allowed to proceed freely and peaceably, without restraint, to seek a livelihood in any loyal portion of the country. This I have considered to be the whole required duty, in the premises, of our naval officers.

NAVAL DEPOT ON THE LAKES.

I have been desired to invite attention to the fact that there is no naval depot on the lakes, notwithstanding the vast amount of tonnage on that frontier, and to state that if there were one and the ability to arm the merchant marine, our rights on the lakes would be made secure.

CAPTURE OF SLAVER.

There has been but one vessel seized by the African squadron for being engaged in the slave trade since those mentioned in the last report of this Department, the American brig Triton, by the United States ship Constellation, in the Congo river, on the 20th of May last. She arrived at New York on the 10th of July, in charge of Midshipman G. A. Borchert, and was turned over to the United States marshal.

THE BUREAUS.

The reports of the chiefs of the respective bureaus attached to this Department present the condition of affairs coming under their cognizance in detail. Their labors and responsibilities have been greatly increased by the events that have occurred during the present year, but their duties have been discharged with ability and fidelity to the Government, and that, too, in many respects, under peculiar disadvantages.

The navy-yards at Norfolk and Pensacola being in the hands of the insurgents, the chief of the Bureau of Yards and Docks has not had them under his supervision but for a small portion of the year. His labors, however, have not been diminished or less arduous in consequence.

At no period since its establishment has the Bureau of Construction had so great an amount of labor devolved upon it as during the current year. Not only the design and construction of the large number of vessels ordered to be built, but the repair and equipment of all that have been put in commission, with other attending duties, have come under the cognizance of the chief of that bureau and received his unremitting attention.

The emergency has put in requisition the energy and talent attached to the Ordnance Bureau, which, under many embarrassments, has met the demand upon it, and if, at the commencement of our difficulties, the wants of the Government could not, in all instances, be supplied with the rifled cannon and Dahlgren heavy ordnance, that branch of the service is now furnishing guns and munitions with a rapidity and of a description unsurpassed in any service. The occasion is such as to stimulate into greater activity the inventive faculties and powers of the distinguished commandant of the Washington yard, whose services are as valuable to the country, and entitled to as high regard, as those of the most successful flag officer who commands a squadron. For more specific details I would refer you to the report of the Ordnance Bureau.

Most of the contracts in the Bureau of Provisions and Clothing were made on the basis of a force not exceeding eight thousand five hundred men in actual service, but the greatly increased numbers and the enhanced prices of many articles have been attended with serious consequences to the contractors, some of whom have been unable to fulfill their engagements. I am happy to say, however, that the vigilant chief of that bureau has permitted none of our squadrons to be deficient in consequence of these failures.

The affairs of the Bureau of Medicine and Surgery have been further systematized and improved under the judicious management of its intelligent chief. Like every other branch of the service, the medical staff has been largely increased, not only in the regular corps, but by acting appointments.

The action of the several bureaus has been eminently satisfactory under the circumstances of the period. That the organization of the Department might be modified, and an improved distribution and classification of the duties that legitimately belong to it be made, I have no doubt. Some of these have been heretofore suggested by my predecessors, and are referred to by me at this time with deference, but with a sincere conviction that more systematic efficiency might thereby be produced.

ESTIMATES AND APPROPRIATIONS.

The amount appropriated at the last regular session of Congress for the naval service for the current year was $13,168,675 86. To this was added at the special session in July last, $30,446,875 91—making for the fiscal year ending June 30, 1862, an aggregate of $43,615,551 77. This sum will not be sufficient, however, for the purpose, and therefore additional appropriations will be neces-

sary. There will be required to pay for vessels purchased, and for necessary alterations incurred in fitting them for naval purposes, the sum of $2,530,000; for the purchase of additional vessels, $2,000,000; and for the construction and completion of twenty iron-clad vessels, $12,000,000—making a total of $16,530,000. This sum is independent of the estimates submitted for the next fiscal year, and being required for current expenses as well as objects of immediate importance, it is desirable should receive early attention from Congress.

The estimates submitted by this Department for the fiscal year ending June 30, 1863, amount to $44,625,665 02, viz:

For the Navy proper	$41,096,530 25
For the marine corps	1,105,656 77
For navy-yards, hospitals, magazines, and miscellaneous objects	2,423,478 00

The reports of the chiefs of the bureaus and commandant of the marine corps, with their accompanying estimates, exhibit in detail the object for which the appropriations are required. I would also refer to these reports as containing information and suggestions in regard to matters pertaining to the several departments of the naval service.

CONCLUSION.

In concluding this report, it gives me pleasure to acknowledge the important aid I have received in the administration of the Department from the zealous and very efficient coöperation of the Assistant Secretary and the clerical force of the Department proper, and from the chiefs of the several bureaus, and those performing public duty under their immediate superintendence and direction.

To the patriotic officers of the Navy, and the brave men who, in the various scenes of naval action have served under them, the Department and the Government justly owe an acknowledgment even more earnest and emphatic. Courage, ability, unfaltering fidelity, and devotion to the cause of their country, have been the general and noble characteristics of their conduct in the arduous and important service with which they have been intrusted. I state with all confidence, that in their hands the historic renown of the American Navy has been elevated and augmented. In this convulsive crisis of our country the duties of this Department have been new and heavy, and its responsibilities great. I have met them all with entire honesty of purpose, and have labored assiduously and faithfully to discharge them. The result of my labors I respectfully submit to you, and through you to the judgment of Congress and the country.

GIDEON WELLES,
Secretary of the Navy.

The PRESIDENT.

Report of the Secretary of the Treasury.

TREASURY DEPARTMENT, *December* 9, 1861.

SIR: The Secretary of the Treasury, in obedience to law, submits the following report to Congress:

The general principles by which, as the Secretary conceives, the administration of the public finances should be regulated, with a view to insure the desirable results of efficiency, economy, and general prosperity, were set forth, with as much clearness and plainness as he is capable of, in his report made to Congress on the 4th day of July last.

In that report, also, the Secretary submitted to the consideration of the Legislature the measures by which, in his opinion, the pecuniary means necessary to the speedy and effectual suppression of the gigantic rebellion set on foot by criminal conspiracy against the Government and the people of the United States might be most certainly and most economically obtained.

The estimates of the several Departments then laid before Congress by the Secretary contemplated an aggregate expenditure, during the fiscal year to end on the 30th of June, 1862, of $318,519,581 87.

To provide this sum, the Secretary proposed such modifications of the tariff and such internal taxes as would, in his judgment, produce the sum of $80,000,000, and such loans, in various forms, not exceeding in their aggregate $250,000,000, as would yield the required residue.

Without adopting all his recommendations in regard to customs and internal taxes, Congress made such provision for both as was deemed necessary to secure the sum proposed to be derived from those sources, and authorized loans, in the mode and to the extent proposed by the Secretary, for obtaining the additional sum required by the estimates.

It now becomes his duty to give some account of the execution and practical operation of these measures; and in the performance of it he solicits, first, the attention of Congress to that part of them relating to loans.

The acts authorizing loans provided—

First. For a national loan of $100,000,000, or any larger sum, not exceeding the whole amount authorized, in bonds or Treasury notes, bearing 7.30 per cent. interest, payable three years after date, and convertible at or before maturity into twenty years' six per cent. bonds.

Secondly. For a loan in Europe, or in the United States, at the discretion of the Secretary, of $100,000,000, payable twenty years after date, and bearing interest not exceeding seven per cent.

Thirdly. For the issue, in payments to public creditors, or in exchange for coin, of Treasury notes payable one year after date, bearing an interest of 3.65 per cent., and convertible into the three years' 7.30 bonds or Treasury notes.

Fourthly. For the issue of notes, payable on demand and receivable for all public dues, to be used as coin in payments and exchanges.

The aggregate of notes of the two last descriptions was limited to $50,000,000, in denominations less than fifty, but not less than five dollars.

A further authority was conferred by the act to issue Treasury notes of any of the specified denominations, bearing six per cent. interest, and payable not over twelve months from date, to an amount not exceeding $20,000,000.

To provide for immediate exigencies was the first duty of the Secretary; and he performed it by issuing, under authorities conferred by various acts, for payment to public creditors, or for advances of cash, $14,019,034 66 in Treasury notes, payable in two years, and bearing six per cent. interest, and $12,877,750 in Treasury notes, bearing the same rate of interest, but payable sixty days after date.

His next care was to provide for the regular and continuous disbursements of the war, under the acts of the July session, and with this view he carefully examined the various powers conferred on him; compared the probabilities of the American and European markets for capital; and considered the relative advantages and disadvantages of the several forms of loan authorized.

His reflections led him to the conclusion that the safest, surest, and most beneficial plan would be to engage the banking institutions of the three chief commercial cities of the sea-board to advance the amounts needed for disbursement in the form of loans for three years' 7.30 bonds, to be reimbursed, as far as practicable, from the proceeds of similar bonds, subscribed for by the people through the agencies of the national loan; using, meanwhile, himself, to a limited extent, in aid of these advances, the power to issue notes of smaller denominations than fifty dollars, payable on demand.

Upon this plan he hoped that the capital of the banking institutions and the capital of the people might be so combined with the credit of the Government, in a proper provision for necessary expenditures, as to give efficiency to administrative action, whether civil or military, and competent support to public credit. The result thus far has fulfilled that hope.

Representatives from the banking institutions of the three cities, responding to his invitation, met him for consultation in New York, and, after full conference, agreed to unite as associates in moneyed support to the Government, and to subscribe at once a loan of $50,000,000, of which $5,000,000 were to be paid immediately to the Assistant Treasurers, in coin, and the residue, also in coin, as needed for disbursement. The Secretary, on his part, agreed to issue three years' 7.30 bonds or Treasury notes, bearing even date with the subscription, and of equal amount; to cause books of subscription to the national loan to be immediately opened; to reimburse the advances of the banks, as far as practicable, from this national subscription; and to deliver to them 7.30 bonds or Treasury notes for the amount not thus reimbursed. It was further understood that the Secretary of the Treasury should issue a limited amount of United States notes, payable on demand, in aid of the operations of the Treasury, and that the associated institutions, when the first advance of $50,000,000 should be expended, would, if practicable, make another, and when that should be exhausted, still another advance to the Government of the same amount, and on similar terms.

The objects of this arrangement were, first, to place at the command of the Government the large sums immediately needed for the payment of maturing Treasury notes, and for other disbursements, ordinary and extraordinary; second, to secure to the people equal opportunity with the banks for participation in the loan; third, to avoid competition between the Government and the associated institutions in the disposal of bonds; fourth, to facilitate and secure further advances to the Government by the associates, if required; and, fifth, to insure, if possible, the maintenance of payments in specie, or its actual equivalents and representatives.

All these objects were happily accomplished. Fifty million dollars were immediately advanced by the banks. The Secretary caused books of subscription to be opened throughout the country, and the people subscribed freely to the loan. The amounts thus subscribed were reimbursed to the banks, and the sum reimbursed, though then covering but little more than half the amount, enabled those institutions, when a second loan was required, to make a second advance of $50,000,000.

Thus two loans of $50,000,000 each have been negotiated for three years' 7.30 bonds at par. The first of these loans was negotiated, and the first issue of bonds bears date, on the 19th of August; the second on the 1st of October, 1861.

On the 16th of November a third loan was negotiated with the associated institutions, under the authority given to the Secretary to borrow a sum not exceeding $100,000,000, in Europe or the United States, at a rate of interest not exceeding seven per cent. As no reasonable prospect appeared of obtaining terms equally advantageous by advertisement, and as it was manifestly for the interest of the Government to negotiate at home rather than incur the expense and hazard of negotiation abroad, the Secretary, under the authority of the seventh section of the act of August 5, 1861, arranged this third loan, also with the associates, by agreeing to issue to them $50,000,000 in six per cent. bonds, at a rate equivalent to par for the bonds bearing seven per cent. interest, authorized by the act of July 17. This negotiation, though less advantageous to the Government, considered under the light of a simple money transaction, than the two prior loans, was, in some respects at least, more so. It was coupled with no arrangement for reimbursement, and entailed no immediate expense on the Treasury, beyond that of preparing and issuing the bonds. It was coupled, also, with an understanding in the form of an option to the associates, that on or after the 1st of January, a fourth advance of $50,000,000 should be made, on the same terms with the first and second, if practicable and required by the Secretary.

In addition to the loans thus made, the Secretary has issued United States notes, payable on demand, in denominations of five, ten, and twenty dollars, of which there were in circulation, according to the last returns, on the 30th day of November, 1861, $21,165,220; and there remained in the Treasury at the same date, $3,385,105. The amount thus issued, so far as it enters into the circulation of the country, may be regarded as a loan from the people, payable on demand, without interest.

A brief recapitulation will exhibit the general result:

There were paid to creditors, or exchanged for coin at par, at different dates in July and August, six per cent. two years' notes, to the amount of	$14,019,034 66
There was borrowed, at par, in the same months, upon sixty days' six per cent. notes, the sum of	12,877,750 00
There was borrowed, at par, on the 19th of August, upon three years' 7.30 bonds, issued, for the most part, to subscribers to the national loan	50,000,000 00
There was borrowed, on the 1st of October, upon like securities	50,000,000 00
There was borrowed, at par for seven per cent., on the 10th of November, upon twenty years' six per cent. bonds, reduced to the equivalent of sevens, including interest	45,795,478 48
There have been issued, and were in circulation and on deposit with the Treasurer, on the 30th of November, of United States notes, payable on demand	24,550,325 00
Making an aggregate, realized from loans in various forms, of	$197,242,588 14

While success thus complete has so far attended the measures relating to loans, the Secretary regrets to say that the receipts of revenue from duties have not, as yet, fulfilled the expectations indulged at the date of his July report.

The act modifying the rates of duties which received the final sanction of Congress, differed, in several respects, from the measure which he had the honor of submitting to their consideration. In most of these particulars, especially in the diminished duties on tea, coffee, and sugar, and in the exemption, from the operations of the act, of goods in warehouse and on shipboard, the difference, however warranted by considerations of general policy, was certainly disadvantageous to the revenue, while another, and perhaps more potential cause of reduced receipts, may be found in the changed circumstances of the country, which have proved, even beyond anticipation, unfavorable to foreign commerce.

At the date of his report, the Secretary counted on a revenue from customs, for the financial year 1862, of $57,000,000, but the circumstances to which he has just adverted now constrain him to reduce this estimate to $32,198,602 55.

The receipts from customs for the first quarter, ending on the 30th September, were $7,198,602 55; while the receipts for the three remaining quarters cannot be safely estimated at more than $25,000,000, making the aggregate for the year the sum just mentioned, of $32,198,602 55.

The estimates of receipts from lands and miscellaneous sources must also be reduced from $3,000,000 to $2,354,062 89, of which $354,062 89 were received during the quarter ending 30th September, 1861, and $2,000,000 are the estimated receipts of the three remaining quarters.

The only other source of revenue which promises an addition to the resources of the year is the direct tax authorized by Congress, from which, if increased to the limit proposed by the Secretary, and assumed by the States, the further sum of $20,000,000 may be expected.

The aggregate of revenue from all sources may, therefore, be estimated at $54,552,665 44, which is less by $25,447,334 56 than the estimate of July.

This reduction, however, though large, would not have compelled the Secretary to ask any additional powers for the negotiation of loans, beyond those asked for in his July report, had appropriations and expenditures been confined within the estimates then submitted.

These estimates, it will be remembered, contemplated expenditures in all departments, and for all objects, to the amount of $318,519,581 87. Of this sum $185,296,397 19 were for additional appropriations required by the Department of War; and $17,652,105 09 for appropriations already made for that Department. The basis of the estimates for these additional appropriations was the understanding that it would be necessary to bring into the field, for the suppression of the rebellion, two hundred and fifty thousand volunteers in place of the seventy-five thousand drafted militia originally called out, and to increase the regular Army by the addition of eleven new regiments; making a total force, including the regular Army already organized, of about three hundred thousand men. After estimates for this force had been furnished to the Secretary, in accordance with law, and his own report, founded upon them, had been closed, the President thought it expedient, in order to make the contest short and decisive, to ask Congress to place at the control of the Government at least four hundred thousand men and $400,000,000. In the number thus called for the regulars were included. Congress, animated by the same desire for a short and decisive contest, went beyond this recommendation of the President, and authorized the acceptance of volunteers in such numbers, not exceeding five hundred thousand, as he might deem necessary. Congress also authorized the whole increase of the regular Army estimated for by the Department, and provided further for additional companies and for new officers in several branches of the military service.

The action of Congress, therefore, contemplated the employment, if necessary, of a force, including the existing regular Army, of about five hundred and fifty thousand men. To insure its efficiency, the President was authorized to appoint any number of major generals and brigadier generals he might think necessary, and to increase the staff of major generals in the field by discretionary appointments of aids-de-camp, with various rank, from captain to colonel.

This large increase of the Army in men and officers, and the liberal additions made by Congress to pay and rations, has augmented, and must necessarily augment, expenditure far beyond the limit indicated by the original estimates; and the limit must be still further extended by the additional sums required for the increase of the Navy, and for other objects.

To meet these increased demands, arising almost wholly from the increase of the Army and Navy and the increase of pay and rations beyond the original estimates, large additional appropriations have been and will be necessary.

Of these additional appropriations $47,985,566 61 were authorized by acts of the last session, and $143,130,927 76 are now asked for; making an aggregate increase, including $22,787,933 31 for indefinite appropriations and redemption of temporary debt, beyond the estimates of July, of $213,904,427 68.

To provide the large sums needed for the disbursements of the current year, and the large sums which the exigencies of the succeeding year may require, will necessarily engage the most serious attention of Senators and Representatives.

The first great object of reflection and endeavor, in the judgment of the Secretary, should be the reduction of expenditure within the narrowest practicable limits. Retrenchment and reform are among the indispensable duties of the hour. Contracts for supplies to the Army and Navy, as well as for public work of all descriptions, should be subjected to strict supervision, and the contractors to rigorous responsibility. All unnecessary offices should be abolished, and salaries and pay should be materially reduced. In these ways the burdens of the people, imposed by the war, may be sensibly lightened; and the savings thus effected will be worth more in beneficial effect and influence than the easiest acquisition of equal sums even without cost or liability to repayment.

While thus recommending retrenchment and the prevention of abuses, the Secretary feels himself constrained to renew the suggestion heretofore submitted by him, that the property of rebels should be made to pay, in part at least, the cost of rebellion. Property of great value in loyal States is held by proprietors who are actually or virtually engaged in that guilty attempt to break up the Union and overturn its Government, which has brought upon our country all the calamities we now endure. That property is justly forfeited to the people, and should be subjected, with due regard for all rights and interests concerned, to sequestration or confiscation, and the proceeds should be applied to the satisfaction of claims arising from the war.

Property of rebels in rebel States should be treated in like manner. Rights to services, under State laws, must, of necessity, form an exception to any rule of confiscation. Persons held by rebels, under such laws, to service as slaves, may, however, be justly liberated from their constraint, and made more valuable in various employments, through voluntary and compensated service, than if confiscated as subjects of property.

Whatever may be saved by retrenchment, however, or exacted from rebellion, large sums must remain to be provided for by taxation and loans.

Already in a former report the Secretary has had the honor of stating the principles by which, as he conceives, the proportions of taxation and loans should be determined. Reflection has only confirmed his opinion that adequate provision by taxation for ordinary expenditures, for prompt payment of interest on the public debt, existing and authorized, and for the gradual extinction of the principal, is indispensable to a sound system of finance. The idea of perpetual debt is not of American nativity, and should not be naturalized. If, at any time, the exacting emergencies of war constrain to temporary departure from the principle of adequate taxation, the first moments of returning tranquillity should be devoted to its re-establishment in full supremacy over the financial administration of affairs.

It is now even more apparent than at the date of the July report that duties on imports cannot be relied upon as a source of revenue sufficient for the proper objects of taxation. Some modification may, perhaps, be judiciously made of the existing tariff, and some increase of revenue may in this way be probably obtained. But existing circumstances are not propitious to a wise and permanent adjustment of imposts to the various demands of revenue, commerce, and home industry. The most sacred duty of the American people at this moment requires the consecration of all their energies and all their resources to the reëstablishment of union on the permanent foundations of justice and freedom; and while other nations look with indifferent or unfriendly eyes upon this work, sound policy would seem to suggest, not the extension of foreign trade, but a more absolute reliance, under God, upon American labor, American skill, and American soil. Freedom of commerce is, indeed, a wise and noble policy; but to be wise or noble, it must be the policy of concordant and fraternal nations.

In accordance with these views, the Secretary begs leave to recommend that the duties on tea, coffee, and sugar be increased to the rates heretofore proposed; that is to say, to two and one half cents per pound on brown sugar; to three cents on clayed sugar; to twenty cents per pound on green tea, and to five cents per pound on coffee; and that no other alterations of the tariff be made during the present session of Congress, unless further experience or changed circumstances shall demonstrate the necessity or expediency of them. All considerations of prudence and patriotism seem to concur in favor of giving to the existing tariff a full and fair trial, and of reserving the work of revision, modification, and permanent settlement for more propitious days.

It has been already remarked that the receipts of revenue from duties, during the first two quarters of the current year, have not equaled expectation. It is highly probable, however, that the revenue of the two last will very considerably exceed that of the two first quarters of the year. A considerable improvement in the condition of trade and industry is clearly perceptible, and promises to be permanent. An increase of the revenue from customs may therefore be reasonably anticipated.

It is quite clear, however, that no anticipation of revenue from imports, sufficient in amount for the various demands of ordinary and extraordinary expenditure, can be wisely indulged, so long, at least, as the existing contest shall be prolonged; nor is it probable, should the debt created in the suppression of the rebellion reach very large proportions, that the customs revenue will suffice for those demands during the first years after the restoration of peace.

It becomes the duty of Congress therefore to direct its attention to revenue from other sources, to consider the character and extent of the provision made at its last session, and the expediency of further provision of a similar character.

The provision made at the last session was of two descriptions: first, a direct tax of $20,000,000,

of which $14,846,018 was apportioned to States and Territories acknowledging their obligations to the Union, and $5,153,982 to States the citizens of which repudiate those obligations, and are in open rebellion; and, secondly, an internal duty of three per centum on all annual incomes, with certain exceptions and deductions.

As it is highly desirable to avoid, as long as practicable, introduction into the States of Federal agencies for the assessment and collection of taxes, the Secretary, relying on assurances from Governors of various States that the amounts apportioned to them respectively will be assumed, collected, and paid, through existing State agencies, has hitherto refrained from advising the appointment of the officers necessary for direct assessment and collection. He has been the more readily persuaded to this course because both the income and the direct tax are required to be assessed with reference to valuations which can only be ascertained for the purposes of the income tax, after the 1st day of January, and for the purposes of the direct tax, after the 1st day of April next.

The Secretary is acquainted with no statistics which afford the means of a satisfactory estimate of the amount likely to be realized from the income tax. Considering, however, how large a proportion of incomes, after the deductions sanctioned by law, will fall within the exemption limit of $800 a year; and considering also what numerous questions will certainly perplex its assessment and collection, he respectfully submits to the consideration of Congress whether the probable revenue affords a sufficient reason for putting in operation, at a great cost, the machinery of the act, with a view, should the States assume the direct tax, to the collection of the income tax alone.

The prudent forecast which induced Congress to postpone to another year the necessity of steps for the practical enforcement of the law, affords, happily, the opportunity of revision and modification. It affords, also, the opportunity of comparing the amount of needed revenue with the probable income from taxes of every kind, and of so shaping legislation as to secure, beyond doubt, the sums essential to the fulfillment of national obligations and the maintenance of the national credit.

In the judgment of the Secretary, it will be necessary to increase the direct tax so as to produce from the loyal States alone a revenue of at least $20,000,000, and to lay such duties on stills and distilled liquors, on tobacco, on bank notes, on carriages, on legacies, on paper evidences of debt and instruments for conveyance of property, and other like subjects of taxation, as will produce an equal additional sum. The existing provision for an income tax, just in its principle, inasmuch as it requires largest contributions from largest means, may, possibly, and if somewhat modified will, probably, produce $10,000,000 more. The aggregate taxation will thus amount to $50,000,000.

The Secretary is aware that the sum is large; but seeing, as he does, no probability that the revenue from ordinary sources will exceed $40,000,000 during the current year, and knowing, as he does, that to meet even economized disbursements, and pay the interest on the public debt, and provide a sinking fund for the gradual reduction of its principal, the appropriation of $90,000,000 will be necessary, he feels that he must not shrink from a plain statement of the actual necessities of the situation.

But if the sum is large, the means of the people are also large; and the object to be attained by a consecration of a portion of them to the public service is priceless. The real property of the loyal States is valued, in round numbers, at $7,500,000,000; the personal property at $3,500,000,000; and the annual surplus earnings of the loyal people at not less than $300,000,000. Four mills on each dollar, or two fifths of one per cent. on the real and personal property of the loyal States, will produce $44,000,000; to which sum the proposed income tax will probably add $10,000,000. The whole sum will be little more than one sixth of the surplus earnings of the country. Certainly such a tax cannot be paid without inconvenience; doubtless the Legislature which imposes such a tax must take care that the money thus raised be used economically, prudently, and honestly. But can any one hesitate about such or even greater contributions when the Union and the popular institutions which it guards are put in peril by rebellion, and the public faith pledged to our own citizens, who, in many instances, have placed the whole earnings of industrious lives in the hands of the Government for its suppression, asks support?

It will be seen at a glance that the amount to be derived from taxation forms but a small portion of the sums required for the expenses of the war. For the rest, the reliance must be placed on loans.

Already, beyond the expectations of the most sanguine, the country has responded to the appeals of the Secretary. The means adopted for securing the concurrence of all classes of citizens in financial support to the Government have been already explained. It remains only to be said here that, while the action of the banking institutions in assuming the immediate responsibility of the whole advances hitherto required, as well as the final responsibility of much the largest portion of them, merits high eulogium; the prompt patriotism with which citizens of moderate means and working men and working women have brought their individual offerings to the service of their country, must command even warmer praise. It should be the constant care of the national Legislature and of the national Government in all its departments that the generous confidence reposed by the poor, as well as by the rich, in the public faith, be never disappointed.

It must not be concealed, however, that the condition of the national finances when the present Secretary entered upon the duties of his office, though somewhat improved during the able and upright, though brief, administration of his immediate predecessor, was such as to make disadvantageous rates in the negotiation of loans inevitable. It affords just occasion of gratulation that, under most embarrassing circumstances of shaken credit and immense demands, loans have been effected at home, without resort to any foreign market, to the amount of $197,000,000, with a virtual engagement of $50,000,000 more, at an average rate, considering the conversion of the three years' 7.30 bonds into twenty years' six per cent. bonds as certain, of somewhat less than six and a half per cent.

This rate of interest is, however, higher than the United States, with their vast and constantly accumulating resources, ought to pay. No doubt reasonably exists that after the reëstablishment of union and order, the five per cent. bonds of the United States will command a premium in the markets of the world, unless the national debt be, meantime, augmented beyond necessity or reason. The wealth and power of the country, manifested in the suppression of rebellion, will demonstrate the absolute safety of investments in United States stocks; and foreign capitalists, restricted to the lower interests and the inferior security of public debt in other countries, will be attracted by the superior advantages offered by the loans of the Union.

To enable the Government to obtain the necessary means for prosecuting the war to a successful issue, without unnecessary cost, is a problem which must engage the most careful attention of the Legislature.

The Secretary has given to this problem the best consideration in his power, and now begs leave to submit to Congress the result of his reflections.

The circulation of the banks of the United States, on the 1st day of January, 1861, was computed to be $202,000,767. Of this circulation, $150,000,000, in round numbers, was in States now loyal, including Western Virginia, and $50,000,000 in the rebellious States. The whole of this circulation constitutes a loan without interest from the people to the banks, costing them nothing except the expense of issue and redemption and the interest on the specie kept on hand for the latter purpose; and it deserves consideration whether sound policy does not require that the advantages of this loan be transferred, in part at least, from the banks, representing only the interests of the stockholders, to the Government, representing the aggregate interests of the whole people.

It has been well questioned by the most eminent statesmen whether a currency of bank notes, issued by local institutions under State laws, is not, in fact, prohibited by the national Constitution. Such emissions certainly fall within the spirit, if not within the letter, of the constitutional prohibition of the emission of bills of credit by the States, and of the making by them of anything except gold and silver coin a legal tender in payment of debts.

However this may be, it is too clear to be reasonably disputed that Congress, under its constitutional powers to lay taxes, to regulate commerce, and to regulate the value of coin, possesses ample authority to control the credit circulation which enters so largely into the transactions of commerce, and affects in so many ways the value of coin.

In the judgment of the Secretary, the time has arrived when Congress should exercise this authority. The value of the existing bank-note circulation depends on the laws of thirty-four States and the character of some sixteen hundred private corporations. It is usually furnished in greatest proportions by institutions of least actual capital. Circulation, commonly, is in the inverse ratio of solvency. Well-founded institutions, of large and solid capital, have, in general, comparatively little circulation; while weak corporations almost invariably seek to sustain themselves by obtaining from the people the largest possible credit in this form. Under such a system, or rather lack of system, great fluctuations, and heavy losses in discounts and exchanges, are inevitable; and not unfrequently, through failures of the issuing institutions, considerable portions of the circulation become suddenly worthless in the hands of the people. The recent experience of several States in the valley of the Mississippi painfully illustrates the justice of these observations; and enforces, by the most cogent practical arguments, the duty of protecting commerce and industry against the recurrence of such disorders.

The Secretary thinks it possible to combine with this protection a provision for circulation, safe to the community and convenient for the Government.

Two plans for effecting this object are suggested. The first contemplates the gradual withdrawal from circulation of the notes of private corporations, and for the issue, in their stead, of United States notes, payable in coin on demand, in amounts sufficient for the useful ends of a representative currency. The second contemplates the preparation and delivery, to institutions and associations, of notes prepared for circulation under national direction, and to be secured as to prompt convertibility into coin by the pledge of United States bonds and other needful regulations.

The first of these plans was partially adopted at the last session of Congress in the provision authorizing the Secretary to issue United States notes, payable in coin, to an amount not exceeding $50,000,000. That provision may be so extended as to reach the average circulation of the country, while a moderate tax, gradually augmented, on bank notes, will relieve the national from the competition of local circulation. It has been already suggested that the substitution of a national for a State currency upon this plan would be equivalent to a loan to the Government without interest, except on the fund to be kept in coin, and without expense, except the cost of preparation, issue, and redemption; while the people would gain the additional advantage of a uniform currency, and relief from a considerable burden in the form of interest on debt. These advantages are, doubtless, considerable; and if a scheme can be devised by which such a circulation will be certainly and strictly confined to the real needs of the people, and kept constantly equivalent to specie by prompt and certain redemption in coin, it will hardly fail of legislative sanction.

The plan, however, is not without serious inconveniences and hazards. The temptation, especially great in times of pressure and danger, to issue notes without adequate provision for redemption; the ever-present liability to be called on for redemption beyond means, however carefully provided and managed; the hazard of panics, precipitating demands for coin, concentrated on a few points and a single fund; the risk of a depreciated, depreciating, and finally worthless paper money; the immeasurable evils of dishonored public faith

and national bankruptcy; all these are possible consequences of the adoption of a system of Government circulation. It may be said, and perhaps truly, that they are less deplorable than those of an irredeemable bank circulation. Without entering into that comparison, the Secretary contents himself with observing that, in his judgment, these possible disasters so far outweigh the probable benefits of the plan that he feels himself constrained to forbear recommending its adoption.

The second plan suggested remains for examination. Its principal features are, first, a circulation of notes bearing a common impression, and authenticated by a common authority; second, the redemption of these notes by the associations and institutions to which they may be delivered for issue; and, third, the security of that redemption by the pledge of United States stocks, and an adequate provision of specie.

In this plan the people, in their ordinary business, would find the advantages of uniformity in currency; of uniformity in security; of effectual safeguard, if effectual safeguard is possible, against depreciation; and of protection from losses in discounts and exchanges; while in the operations of the Government the people would find the further advantage of a large demand for Government securities, of increased facilities for obtaining the loans required by the war, and of some alleviation of the burdens on industry through a diminution in the rate of interest, or a participation in the profit of circulation, without risking the perils of a great money monopoly.

A further and important advantage to the people may be reasonably expected in the increased security of the Union, springing from the common interest in its preservation, created by the distribution of its stocks to associations throughout the country, as the basis of their circulation.

The Secretary entertains the opinion that if a credit circulation in any form be desirable, it is most desirable in this. The notes thus issued and secured would, in his judgment, form the safest currency which this country has ever enjoyed; while their receivability for all Government dues, except customs, would make them, wherever payable, of equal value, as a currency, in every part of the Union. The large amount of specie now in the United States, reaching a total of not less than $275,000,000, will easily support payments of duties in coin, while these payments and ordinary demands will aid in retaining this specie in the country as a solid basis both of circulation and loans.

The whole circulation of the country, except a limited amount of foreign coin, would, after the lapse of two or three years, bear the impress of the nation, whether in coin or notes; while the amount of the latter, always easily ascertainable, and, of course, always generally known, would not be likely to be increased beyond the real wants of business.

He expresses an opinion in favor of this plan with the greater confidence, because it has the advantage of recommendation from experience. It is not an untried theory. In the State of New York, and in one or more of the other States, it has been subjected, in its most essential parts, to the test of experiment, and has been found practicable and useful. The probabilities of success will not be diminished, but increased, by its adoption under national sanction, and for the whole country.

It only remains to add that the plan is recommended by one other consideration, which, in the judgment of the Secretary, is entitled to much influence. It avoids almost, if not altogether, the evils of a great and sudden change in the currency by offering inducements to solvent existing institutions to withdraw the circulation issued under State authority, and substitute that provided by the authority of the Union. Thus, through the voluntary action of the existing institutions, aided by wise legislation, the great transition from a currency heterogeneous, unequal, and unsafe, to one uniform, equal, and safe, may be speedily and almost imperceptibly accomplished.

If the Secretary has omitted the discussion of the question of the constitutional power of Congress to put this plan into operation, it is because no argument is necessary to establish the proposition that the power to regulate commerce and the value of coin includes the power to regulate the currency of the country, or the collateral proposition that the power to effect the end includes the power to adopt the necessary and expedient means.

The Secretary entertains the hope that the plan now submitted, if adopted with the limitations and safeguards which the experience and wisdom of Senators and Representatives will, doubtless, suggest, may impart such value and stability to Government securities that it will not be difficult to obtain the additional loans required for the service of the current and the succeeding year at fair and reasonable rates; especially if the public credit be supported by sufficient and certain provision for the payment of interest and ultimate redemption of the principal.

To obtain a clear understanding of the amount for which it will become necessary to resort to further loans, it is requisite to review the financial movement of the Treasury during the whole of the last, and the first quarter of the current fiscal year, and compare, somewhat more closely than has already been done, the probable wants and probable resources of the Government for the remaining three quarters of the current, and the whole of the following year.

In the July report the Secretary submitted a detailed statement, in part estimated, showing the receipts for the last fiscal year, ending on the 30th June, 1861, including the balance in the Treasury at its commencement to have been $86,972,893 81; and the expenditures to have been $84,577,258 60; and the balance to have been $2,355,635 21. Actual returns show that the receipts, including balance, were $86,835,900 27; the expenditures, $84,578,834 47; and the balance, $2,257,065 80.

For the first quarter of the current fiscal year, commencing 1st July, 1861, the receipts and expenditures are ascertained, and for the remaining three quarters, ending 30th June, 1862, are estimated as follows:

For the first quarter, the actual receipts from customs, lands, and miscellaneous sources, including the balance of $2,257,065 80, were	$9,809,731 24
For the second, third, and fourth quarters the estimated receipts are	27,000,000 00
To these sums must be added the amount realized from loans in all forms prior to December 1, 1861, as already stated	197,242,588 14
And there must be added also the amount to be realized from additional loans already authorized	75,449,675 00
And there must be added also the amount anticipated from the direct tax	20,000,000 00
Making the total of receipts	$329,501,994 38

On the other hand—

For the first quarter the actual expenditures were		$98,239,733 09
For the second, third, and fourth, the estimated expenditures, under appropriations already made for public service, including civil list, Interior, War, and Navy Departments, and public debt and interest, are		302,035,761 21
And the estimated expenditures under the additional appropriations now asked for, are:		
For the civil service and increased interest	$5,166,438 99	
And for the War and Navy Departments	137,964,488 77	
		143,130,927 76
Making a total of actual and estimated expenditures under existing and asked appropriations of		543,406,422 06
From which deduct actual and estimated receipts, as above stated		329,501,994 38
Making an apparent amount for which recourse must be had to loans of		$213,904,427 68

It is to be observed, however, that in the amount estimated for expenditures, $22,870,398 50 is estimated for public debt, payment of a considerable part of which will not probably be demanded, and that some expenses are estimated for which may be retrenched; so that the whole amount of loans required, in addition to the amount already authorized, will certainly not exceed $200,000,000.

For the fiscal year 1863, commencing on the 1st July, 1862, and ending on the 30th June, 1863, no reliable estimates can be made. It is earnestly to be hoped, and in the judgment of the Secretary, not without sufficient grounds, that the present war may be brought to an auspicious termination before midsummer. In that event, the provision of revenue by taxation, which he has recommended, will amply suffice for all financial exigencies, without resort to additional loans; and not only so, but will enable the Government to begin at once the reduction of the existing debt.

It is the part of wisdom, however, to be prepared for all eventualities, and the Secretary therefore submits the estimates of the several Departments for the fiscal year, 1863, based on the supposed continuance of the war, as follows:

The estimated expenditures are:

For the civil list, including foreign intercourse and miscellaneous expenses other than on account of the public debt		$23,086,971 23
For the Interior Department, (Indians and pensions)		4,109,962 96
For the War Department		360,159,983 61
For the Navy Department		45,164,994 18
For the public debt:		
Redemption	$2,883,364 11	
Interest on debt contracted before 1st July, 1862	29,932,696 42	
Interest on debt to be contracted after 1st July, 1862	10,000,000 00	
		42,816,339 53
Making an aggregate of estimated expenditures of		475,331,245 51

On the other hand, the estimated receipts are—

From customs, lands, and ordinary sources	$45,800,000 00	
From direct tax	20,000,000 00	
From internal duties, including income tax	30,000,000 00	
Making an aggregate of estimated receipts of		95,800,000 00
And leaving a balance to be provided for of		$379,531,245 51

The whole amount required from loans may, therefore, be thus stated:

For the fiscal year 1862, under existing laws,	$75,449,675 00
For the fiscal year 1862, under laws to be enacted	200,000,000 00
For the fiscal year 1863, also under laws to be enacted	379,531,245 51
Making an aggregate of	$654,980,920 51

The total may be stated in round numbers at $655,000,000.

A tabular statement will accompany this report, showing somewhat more in detail the actual and estimated receipts and expenditures of the financial years 1861, 1862, and 1863.

It only remains, in order to complete the view of the financial situation, to submit a statement of the public debt as it was on the 1st days of July, 1860 and 1861, and will be, according to the estimates now presented, at the same date in each of the years 1862 and 1863.

The statement, in brief, is as follows:

On the 1st day of July, 1860, the public debt was	$64,769,703 08
On the 1st day of July, 1861, the public debt was	90,867,828 68
On the 1st day of July, 1862, the public debt will be	517,372,802 93
On the 1st day of July, 1863, the public debt will be	897,372,802 93

The particulars of which the debt consists, and the portions which have been or will be paid or contracted in each year, will appear fully in a table, which will be submitted with this report to Congress. Another table will be submitted, showing the amount of the public debt in each year, from 1791 to 1861, inclusive.

The Secretary, believing that the frankest is the wisest policy for nations as well as individuals, has thought it his duty to submit to Congress this plain statement of the financial condition of the country. That it imposes considerable burdens is not to be denied or disguised. It is consoling to know that the energies and resources of the people are not insufficient for them. The public debt on the 1st of July, 1863, if the war be protracted until that time, on the scale of expenses contemplated by the estimates, will be, in round numbers, $900,000,000. The amount of the public debt in the year 1816, was $127,334,933 74, and in twenty years it was paid off by the people. The country, even if the loyal States only are regarded, can sustain and pay off in thirty years the debt to which rebellion now exposes us, with hardly greater proportional contributions from

increased and increasing resources than that debt made necessary.

It will be for the wisdom of Congress to determine how far the annual and the aggregate burdens of the people shall be diminished by retrenchment, by economy, by prudent yet vigorous adjustment of means to ends, and by just contributions from rebel property. Nothing more certainly enhances credit and improves resources than the reduction of wants and wise energy in administration.

The Secretary forbears making any recommendations concerning the authorities with which it may be expedient to invest him in respect to future loans. He begs leave to refer this matter altogether to the better judgment of Congress, suggesting only that, whatever discretion it may be thought prudent to give him in other respects, the rate of interest be limited by law.

Turning now from the more immediate consideration of the public finances, the Secretary solicits the attention of Congress to some other topics connected with the administration of the Treasury Department.

By the act of Congress of July 13, 1861, commercial intercourse with States declared to be in insurrection by the President was prohibited, and the Secretary of the Treasury was authorized to establish such rules and regulations as he might deem expedient, in accordance with which, under license from the President, a restricted trade might be conducted. Upon full consideration of the whole subject, it has not been deemed advisable as yet to establish any general rules and regulations for such a trade. In a few instances special licenses have been granted to convey particular articles of property into insurrectionary States, and to carry on a limited trade with parts of eastern Virginia inhabited by loyal people; but with these inconsiderable exceptions, it has been hitherto thought best to enforce the prohibition to the full extent of the act. As the act itself, however, does not seem to contemplate the forfeiture of property, unless used for the purposes of the rebellion, or found in transit to or from insurrectionary States, its execution has not been extended beyond that intent.

To avoid, as far as possible, the practical inconveniences of this suspension of commerce, the Secretary, with the approbation of the President, has established regulations, in accordance with which cotton, rice, and other property will be collected and cared for by agents of the Department in insurrectionary districts occupied by troops of the Union, and will be forwarded by sea to New York. All sales will be made for account of the Government, and the proceeds paid into the national Treasury, subject to any just claims of loyal citizens. This arrangement is, of course, temporary in its nature. As a general rule, in the judgment of the Secretary, commerce should follow the flag; and whenever the authority of the Union is fully restored in districts sufficiently extensive for the reëstablishment of loyal State government, affording due security against abuses of trade in furnishing aid and comfort to rebellion, the ports should be opened without restriction, and all commerce freely permitted.

With a view to reformation of abuses and reduction of expenses, the Secretary has caused most of the collection districts in all the States and Territories not under insurrectionary control, to be visited by an officer of his Department. Their inquiries have led to the abolition of some offices, and a reduction of the allowance and compensation to the incumbents of others, amounting to $75,095 annually. This sum, with the temporary reduction of annual expenses, occasioned by the suspension of official duties in the rebellious States, amounting to $644,141 68, will more than suffice for all the expenses arising under the act of July for the additional agents, inspectors, and aids, required for its due execution and the prevention of illegal traffic.

In this connection the Secretary asks permission to direct the attention of Congress to the fact that surveyors of ports at several points in the Mississippi valley are almost exclusively occupied by their duties under the act of July, and are subjected in consequence to labors and responsibilities for which the compensation now allowed by law is not an equivalent. It is, therefore, suggested that the Secretary be authorized to make some additional allowances, to be paid from the appropriation already made for such services.

The Secretary also recommends that a division be provided for of forfeitures, fines, and penalties, under this act, between the officers, the informer, and the Government, corresponding to that now allowed by the revenue laws in other cases; and in order to protect the interests both of citizens and of the Government, he further suggests that in all cases of fines, forfeitures, and penalties, under whatever law, when the amount in controversy does not exceed $1,000, the Secretary be authorized to prescribe whatever mode may seem most convenient and certain for ascertaining the facts involved, and to direct such settlement of the matter in controversy by remitter or otherwise, as he may deem just.

The interests of the Government will also be promoted, in the judgment of the Secretary, by the appointment of a solicitor of customs, to reside in the city of New York, who shall conduct all suits and prosecutions, and collect all penalties, fines, forfeitures, and dues to the Government, under the revenue laws, within the collection district of New York, and advise the collector in respect to all legal questions connected with the customs which may be referred to him by that officer.

The operations of the Mint during the last year were large beyond precedent. The net amount of bullion received was $72,146,571 01; the amount coined was, of gold coins, $60,693,237; of silver coins, $2,605,700; of cent coins, $101,660; of gold bars, $20,015,163 64; and of silver bars, $278,006 94; making the total coinage of the year $83,693,767 58; Of the bullion deposited $54,149,865 32 were received at the Assay Office in New York; of the gold bars, $19,948,728 88; and of the silver bars, $187,078 63, in value, were stamped at the same office. Of $799,923,362 14, the entire coinage since the establishment of the Mint, $520,000,000 have been coined from bullion derived from mines of the United States.

Of the gold deposited during the last year, $34,216,889 52, and of the silver, $610,011 29, were from the mines of the United States; the remainder formed part of the unusually large receipts during the year from foreign countries.

The large and rapidly increasing production of gold in the Territory of Colorado suggests inquiry into the expediency of establishing an assay office or a branch mint at Denver. A private mint for the convenience of the people is now in operation at that place; and obvious considerations seem to require the substitution of national for private agencies in coinage.

The silver mines of Nevada and Arizona have also yielded large returns; and the protection of the citizens, engaged in extracting their treasures, from insurrectionary and savage violence, demands the earnest consideration of Congress.

No means exist of ascertaining, with absolute certainty, the quantity of coin now in the United States; but the best accessible data lead the Secretary to concur in the judgment of the Director of the Mint that the amount is between two hundred and seventy-five million and three hundred million dollars.

The Secretary takes great pleasure in directing the attention of Congress to the able and instructive report of that officer, and to the suggestions it contains.

Under the act of July 27, 1861, large claims have been presented, by the authorized agents of the Governors of the several States, for expenses incurred on account of troops raised by them respectively, and employed for the suppression of the insurrection; but, as the act authorizing the settlement of these claims required proper vouchers in support of them to be filed and passed upon by the accounting officers, and as no such vouchers have as yet been furnished, it has been hitherto impracticable to adjust and pay them. Inasmuch, however, as these expenditures were incurred at a time when Congress was not in session, and when the public exigency was imperative, and were marked, so far as the statements submitted to him disclosed their character, by discretion and patriotism, the Secretary thought himself warranted in advancing to the several States, upon certificates of the State officers to the general correctness of the accounts, and on condition that no further claim should be made on account of the expenses contemplated by the act until after final settlement upon vouchers, the sum of forty per centum of their respective demands; and he has accordingly paid to the States of Illinois, Indiana, Iowa, Maine, Massachusetts, Michigan, New Hampshire, New Jersey, Ohio, Pennsylvania, Rhode Island, and Wisconsin the aggregate sum of $4,514,078 51.

As the law did not seem to contemplate the continued action of State officers for Federal objects, but confined the appropriation made by it to expenses incurred, leaving expenses to be incurred to the action of Federal officers within their respective spheres of duty, the Secretary has not thought himself authorized to settle in the unusual mode provided by the act, except for advances actually made, or at least contracted for prior to its passage. All other claims are, and will be, referred to the War Department for sanction and requisition, unless Congress shall be pleased to direct otherwise.

An act of the last Congress authorized the payment of claims, allowed for certain services and expenses in Oregon and Washington, to be made by the issue of bonds of United States, bearing six per cent. interest, and payable twenty years after date. The Secretary most respectfully asks the attention of Congress to the injurious influences of authorizing such issues for such purposes. Claims are easily allowed when payment is to be made otherwise than in money, and bonds issued for claims are apt to come into the market in competition with bonds issued for loans, to the serious prejudice of the public credit. That no important injury has resulted from the act just referred to is to be attributed to the faithful vigilance of the Third Auditor in the examination of the claims made upon the Treasury, and the comparatively small amount of bonds, not exceeding, probably, two million eight hundred thousand dollars in all, issued or to be issued in payment of them.

The attention of Congress is respectfully directed to the observations of the Fifth Auditor, in respect to the abuses which have been tolerated in the consular system, and the expediency of authorizing the appointment of a consul general for the coast and islands of the Pacific.

In disregard of repeated warnings of impending danger in December last, the Secretary of the Treasury in office at the time neglected to take the necessary measures to secure the vessels and other movable property connected with the light-house establishments. This property, therefore, became the easy prey of insurrectionary violence. Acts of rapine and plunder followed each other in quick succession as the rebellion spread, until the lights of commerce were extinguished along the whole coast—except at Key West and some neighboring points protected by the power of the Union—from the capes of the Chesapeake round to the western limits of Texas. In other parts of the country, the light-house system has been extended and improved, until it is surpassed in aids and benefits to navigation and commerce by that of no other country. Under the direction of the Secretary also, as the rebellion has been suppressed in district after district, the lights have been rekindled. Already from the coasts of the Chesapeake, from the banks of Hatteras, from the islands of Port Royal entrance, and from Chandeleur island in the Gulf, they shine once more as the safeguards and symbols of fraternal commerce and peaceful civilization. May we not hope that the time is not far off when every extinguished light shall be in like manner restored, amid the rejoicings of a reunited people?

The Secretary respectfully invites legislative attention to the condition of the marine hospitals constructed or in process of construction. The number has been increased far beyond necessity or utility, and to the serious prejudice of the fund for sick and disabled seamen, derived from the hard earnings of the meritorious class to which they belong. At present, indeed, some of these hospitals are made available for the benefit of the troops, but this use must necessarily be partial and temporary. Of these, therefore, as well as those not thus used, the Secretary recommends that those least advantageously situated and employed be disposed of on the most favorable

terms, and that no new structures be undertaken except in cases of the clearest expediency or necessity.

The great value of the Coast Survey has been strikingly attested by recent events. The knowledge gained by its operations during past years, the experience and skill of naval and military officers acquired in its service, are now available in the operations of the Army and the Navy; and the ready aid now afforded by it, in examinations and surveys of harbors and inlets, to the forces of the Union in their movements upon the coast, demonstrate, beyond question, the wisdom of the policy which originated and has sustained it. The diminished appropriation required for its support during the fiscal year 1863, will, no doubt, be cheerfully made.

The number of vessels in the revenue service of the Department on the 4th of March, 1861, was twenty-nine. Five had been previously seized by the insurgents, and one had been ordered to Norfolk for repairs, where, having been taken to pieces with a view to rebuilding, and therefore incapable of removal, she was involved in the disasters attendant on the destruction of the navy-yard.

Of the vessels connected with the revenue service not seized by the rebels, four were on the Pacific coast, six on the lakes, and eighteen on the Atlantic coast. Of those on the lakes five have been ordered to service on the Atlantic coast. Nearly half of these vessels are unfit for the purposes of the revenue, and will be sold under the provisions of the act of July 25.

Under the same act three steamers have been purchased and equipped, and have been of essential service in the suppression of unlawful commerce on the Chesapeake, and in aid of the expedition by which the authority of the Union was recently restored on the eastern shore of Virginia.

With a view to the increased efficiency of the service, the Secretary directed a thorough examination to be made, by a competent board of officers, of all candidates for appointment, as well as of all officers, except captains, already in the service, and has made a certificate from that board of entire competency an indispensable condition of appointment.

Four revenue cutters are now engaged in coast survey duty, in connection with the naval and military expeditions on the coasts of the insurgent States; and the whole of the remaining number are actively engaged in the enforcement of the revenue laws, and in the protection of commerce.

Under advertisements, for proposals for the construction of additional revenue steamers, under the act of July, a large number of bids and models have been received, and contracts will be made for five, which, when completed, will fully answer the existing demands of the service.

The Secretary desires to avail himself of this opportunity to invite the attention of Congress to the importance of a uniform system and a uniform nomenclature of weights and measures and coins to the commerce of the world, in which the United States already so largely shares. The wisest of our statesmen have regarded the attainment of this end, so desirable in itself, as by no means impossible. The combination of the decimal system with appropriate denominations in a scheme of weights, measures, and coins for the international uses of commerce, leaving, if need be, the separate systems of nations untouched, is certainly not beyond the reach of the daring genius and patient endeavor which gave the steam engine and the telegraph to the service of mankind. The Secretary respectfully suggests the expediency of a small appropriation to be used in promoting interchange of opinions between intelligent persons of our own and foreign countries on this subject.

In closing this report, the Secretary takes pleasure in asking the consideration of Congress for the various suggestions of the heads of the bureaus of the Department, contained in their several reports, which are herewith transmitted. It has been his endeavor, since assuming the charge of the Department, to infuse into its action the greatest possible activity and vigor; and it is a source of very great satisfaction to him that his efforts have been, in general, faithfully and zealously supported by the gentlemen with whom he has been associated. The reports from the several bureaus will show how much has been accomplished during the year, and how well. The Secretary indulges the hope that continued endeavor, with larger experience, will make the Department, in all its working, what a Department charged with duties and responsibilities so various and important ought to be.

S. P. CHASE.

Hon. G. A. GROW,
Speaker of the House of Representatives.

EMANCIPATION OF SLAVES IN REBEL STATES.

SPEECH OF HON. A. HARDING,

OF KENTUCKY,

IN THE HOUSE OF REPRESENTATIVES,

December 17, 1861,

On the joint resolution relative to the right and duty of the President in regard to persons held as slaves in any military district in a state of insurrection.

Mr. HARDING said:

Mr. SPEAKER: If there ever was a time in the history of any nation, or any people, when every feeling of passion or party prejudice should be banished from all minds—when the hearts and hands of all Union men should be united in the great and common purpose of saving an imperiled country, we have reached that period and that time. And it seems strange to me that such should not be the fact among the Representatives of the people in this House. It is "passing strange" that, at such a period, any mere matter of sectional or party strife should be allowed to obtrude upon our consideration, when all that we, as patriots, hold dear is evidently imperiled and threatened with utter overthrow.

Suppose a large and splendid mansion, erected by the toil and labor of many years, at the cost of a large expenditure of money and treasure; suppose it to have been fitted up in the most costly and magnificent style by a kind father, with separate suits of apartments for the different families of his children, each exactly suited to the wants and convenience of its occupants; suppose these families to have taken possession of their respective apartments, each governing its own affairs, and having the entire control and arrangement of its section of the mansion, in respect to its furniture and every domestic affair; suppose that while thus living in harmony and prosperity, suddenly the alarm of fire is raised—the mansion is beginning to burn. From their several apartments the families all rush into the common hall. Strange to say, at this point an angry controversy springs up. The fire is already blazing through the roof of the common structure, and if it is extinguished the united efforts of all must be exerted. "But," says the head of one of the families, "I will not aid in extinguishing the fire unless you alter one of your domestic arrangements." Another refuses to aid unless another changes his domestic concerns; and so an angry controversy arises and prevails, until the magnificent edifice is wrapped in flames, and every apartment sinks in common ruin.

Mr. Speaker, is not that a faint picture of what we are doing here at this day and this hour? The great problem of man's capacity for free, popular, self-government is being solved before the nations of the earth, it may be for the last time; and the true friends of liberty, the friends of popular, free government, from every dark land of despotism, are now looking with anxious and tearful eyes to the solution of this mighty problem. Shall we, at a time like this, suffer ourselves to be drawn off by mere matters of local or sectional strife—shall any angry feeling, shall any matter of party interest be allowed to obtrude itself at this dark hour?

Sir, we might do well, it seems to me, in this dark hour, to remember that the liberty which we now enjoy is but the price of the blood of our ancestors. We should look back to that dark and bloody period, that seven years' struggle through the wilderness of the Revolution. It seems to me that a solemn voice comes up at this day from every battle-field of the Revolution, saying to us, "beware, think, reflect, pause, before you take another step! Your liberty is the price of our blood." The claims of the present generation appeal to us in plaintive tones; the destiny of generations yet unborn appeals to us; all the high and solemn considerations of the past, of the present, and of the long distant future, come up and impress the conviction that a high and solemn responsibility rests upon us. Nay, sir, a responsibility so fearfully solemn that the most patriotic and the wisest in the land might well pause, tremble, and exclaim, "who is sufficient for these things?"

It is not my purpose, on this occasion, to utter a solitary word that should excite unkind feelings in the mind of any man present upon this much-agitated subject of slavery. I entertain no feeling but that of entire respect for any sentiment honestly and sincerely entertained upon that question by other gentlemen, however much I may differ with them; nay, sir, gloomy forebodings of the future rise up and so overwhelm me as to leave no room for the indulgence of angry party controversy.

Entertaining these feelings and these views, it was with the deepest pain that I saw, on the very first day of the session—even in the morning hour of that session—this much-to-be-dreaded controversy sprung upon us. Not more than two hours had elapsed before the proposition now under consideration was introduced, and the effort made to press it through the House under the previous question, without the opportunity of a moment's consideration. I say I was pained and grieved to witness this hasty and ill-timed movement. I confess I was more alarmed at the indications I then saw upon this floor than I had been since this revolutionary storm burst forth. I thought a disposition was manifested to run heedlessly and rashly on, without pausing to consider the consequences of the action it was proposed to take; but when I saw that gentlemen were disposed to postpone their action until opportunity should be given to consider, reflect, and reason, my hopes revived, and every indication since that day induces me to think that it is the intention of the House to allow a calm and full examination of the questions now under consideration before coming to any final conclusion.

What I desire on this occasion, then, is, that before taking any step we shall calmly consider the great questions presented in the resolutions before us, questions involving the destinies, not only of the present, but of generations yet to come. In coming to that consideration I would as far as possible divest myself of all prejudices arising from any previous theory. I prefer that every argument shall be carefully weighed, and then that the House shall cautiously and calmly act.

I oppose these resolutions, then, *first*, because we have no constitutional power to pass them, nor any of the bills or resolutions which have been introduced on this subject.

I object to them, *secondly*, because the faith of Congress, of the President, and of this Administration has been more than once pledged in the most solemn and public manner against all interference with the institutions of slavery; and to sanction the policy now proposed would be a plain and palpable violation of the plighted faith of this Congress, of the President, and the Administration.

In the *third place*, I oppose these resolutions because the legislation proposed is forbidden by every principle of sound policy.

In the *fourth place*, I oppose them because these and other kindred propositions introduced upon this subject propose to inaugurate a warfare which would involve in its horrors the loyal as well as the disloyal, the innocent as well as the guilty, having no respect to age, sex, or condition; a species of warfare which would be disgraceful to any civilized or Christian nation.

In support of my first two propositions, I beg leave to call the attention of the House to some documentary evidence, very recent in its date. I do not propose to go back and ransack the records of the past. I will come within the period of our present troubles; nay, sir, in the evidence I propose to introduce I will not go behind the period of ten months. First, I call the attention of the House to a resolution passed with remarkable unanimity by Congress on the 11th day of February last, introduced, I believe, by Mr. SHERMAN, of Ohio, as a substitute for certain resolutions which had been introduced by Mr. Palmer, of New

York. I ask the Clerk to read the proceedings on that occasion, including the names of the members who voted for the resolution.

The Clerk read, as follows:

"Mr. SHERMAN, by unanimous consent, submitted the following amendment in the nature of a substitute for both of the resolutions submitted by Mr. PALMER, viz: Strike out all after the word 'Resolved,' and insert:

"'That neither the Congress of the United States nor the people or governments of the non-slaveholding States have the constitutional right to legislate upon, or interfere with, slavery in any of the slaveholding States in the Union.'

"And the question being put, 'Will the House agree thereto?'

"It was decided in the affirmative.

"The question then recurring on the said resolutions as amended,

"Mr. SHERMAN moved the previous question; which was seconded, and the main question ordered and put, viz: 'Will the House agree to the said resolutions as amended?'

"And it was decided in the affirmative—yeas 161, nays 0.

"The yeas and nays being desired by one fifth of the members present,

"Those who voted in the affirmative are—

"Mr. Charles F. Adams,	Mr. William S. Kenyon,
Green Adams,	John W. Killinger,
Cyrus Aldrich,	Charles H. Larrabee,
William Allen,	Shelton F. Leake,
Thomas L. Anderson,	M. Lindley Lee,
William C. Anderson,	Owen Lovejoy,
William T. Avery,	William B. Maclay,
Elijah Babbitt,	Robert Mallory,
Thomas J. Barr,	Gilman Marston,
J. R. Barrett,	Elbert S. Martin,
John A. Bingham,	Horace Maynard,
Samuel S. Blair,	John A. McClernand,
Harrison G. Blake,	James B. McKean,
Thomas S. Bocock,	Jacob K. McKenty,
Alexander R. Boteler,	Robert McKnight,
Reese B. Brabson,	Edward McPherson,
William D. Brayton,	John S. Millson,
George Briggs,	William Millward,
Francis M. Bristow,	William Montgomery,
John Y. Brown,	Laban T. Moore,
James Buffinton,	James K. Moorhead,
John C. Burch,	Justin S. Morrill,
Anson Burlingame,	Edward Joy Morris,
Henry C. Burnett,	Isaac N. Morris,
Martin Butterfield,	Freeman H. Morse,
James H. Campbell,	Thomas A. R. Nelson,
John Carey,	William E. Niblack,
Luther C. Carter,	John T. Nixon,
Charles Case,	John W. Noell,
Horace F. Clark,	George W. Palmer,
John B. Clark,	John J. Perry,
Stephen Coburn,	John U. Pettit,
John Cochrane,	Samuel O. Peyton,
Schuyler Colfax,	John S. Phelps,
Roscoe Conkling,	Albert G. Porter,
Thomas Corwin,	John F. Potter,
John Covode,	Emory B. Pottle,
Samuel S. Cox,	Roger A. Pryor,
James Craig,	James M. Quarles,
Samuel R. Curtis,	John H. Reynolds,
Henry L. Dawes,	Alexander H. Rice,
Charles Delano,	Jetur R. Riggs,
William H. Dimmick,	Christopher Robinson,
R. Holland Duell,	Homer E. Royce,
W. McKee Dunn,	George W. Scranton,
Henry A. Edmundson,	Charles B. Sedgwick,
Thomas M. Edwards,	John Sherman,
Thomas D. Eliot,	Daniel E. Sickles,
Alfred Ely,	William N. H. Smith,
William H. English,	Elbridge G. Spaulding,
Emerson Etheridge,	Francis E. Spinner,
John F. Farnsworth,	Benjamin Stanton,
Orris S. Ferry,	John W. Stevenson,
Thomas B. Florence,	William Stewart,
Stephen C. Foster,	William B. Stokes,
Augustus Frank,	Lansing Stout,
Ezra B. French,	John L. N. Stratton,
Muscoe R. H. Garnett,	Mason W. Tappan,
John A. Gilmer,	Eli Thayer,
Daniel W. Gooch,	Thomas C. Theaker,
James H Graham,	James H. Thomas,
Galusha A. Grow,	Cydnor B. Tompkins,
John A. Gurley,	Charles R. Train,
Chapin Hall,	Carey A. Trimble,
Andrew J. Hamilton,	C. L. Vallandigham,
J. Morrison Harris,	Zebulon B. Vance,
John T. Harris,	William Vandever,
John B. Haskin,	Charles H. Van Wyck,
Robert Hatton,	John P. Verree,
William Helmick,	Edward Wade,
Charles B. Hoard,	Henry Waldron,
William S. Holman,	E. P. Walton,
William Howard,	C. C. Washburn,
William A. Howard,	Elihu B. Washburne,
George W. Hughes,	Edwin H. Webster,
James Humphrey,	Alfred Wells,
John Hutchins,	William G. Whiteley,
William Irvine,	James Wilson,
Albert G. Jenkins,	William Windom,
Benjamin F. Junkin,	Warren Winslow,
Francis W. Kellogg,	Samuel H. Woodson.

"So the said resolutions, as amended, were unanimously agreed to."

Mr. HARDING. Mr. Speaker, it will be seen that that resolution takes the ground that Congress has no power to legislate upon or to interfere with the subject of slavery. Mark that!—no power to legislate upon or to interfere with the subject of slavery in a State. That passed by a unanimous vote, on the 11th day of February last. It said to the whole Union, and to the world, by the voice of every man then present, that Congress had no power to legislate upon or to interfere with the institution of slavery in a State.

I want gentlemen to observe the dates. I come now to the 22d of July, 1861. On that day a resolution was introduced by my venerable colleague, [Mr. CRITTENDEN,] which was in these words:

"*Resolved by the House of Representatives of the Congress of the United States*, That the present deplorable civil war has been forced upon the country by the disunionists of the southern States, now in revolt against the constitutional Government, and in arms around the capital. That in this national emergency, Congress, banishing all feelings of mere passion or resentment, will recollect *only* its duty to the whole country. That this war is not waged on their part in any spirit of oppression, nor for any purpose of conquest or subjugation, nor purpose of overthrowing or interfering with the rights or established institutions of those States, but to defend and maintain the *supremacy* of the Constitution, and to preserve the Union with all the dignity, equality, and rights of the several States unimpaired; and that as soon as these objects are accomplished the war ought to cease."

It is impossible for any ingenuity to torture this resolution so as to make it speak but one language. It tells us first what the war is *not* for; and secondly what *it is* for. The war is not for the purpose of overthrowing or interfering with slavery; and affirmatively the war is for the purpose of maintaining and preserving the Union and all of the rights of the several States unimpaired—slavery included. We are told that this is not to be a war upon slavery at all, but for the purpose of preserving the Union and the Constitution; that it is for the purpose of preserving the Government and every right recognized and sanctioned by the Constitution. What was the vote on this resolution of the 22d of July? If my recollection serves me, every man in this House voted for it save two—one from Missouri, [Mr. Reid,] and the other from Kentucky, [Mr. Burnett,] and for that, and many other sins committed by them, these two gentlemen have both been expelled from this body, and very properly, I think. So much, then, for what Congress has said. So much for the pledges given over and over again that slavery should not be interfered with—and that Congress had no constitutional power to legislate on the subject.

Mr. Speaker, I next call the attention of the House to some extracts from a speech of Hon. Caleb B. Smith, Secretary of the Interior, delivered August 16, 1861, at Providence, Rhode Island. It was a most patriotic speech. He said:

"The theory of this Government is, that the States are sovereign within their proper sphere. The Government of the United States has *no more* right to interfere with the institution of slavery in South Carolina than it has to interfere with the peculiar institutions of Rhode Island. But, my friends, during the last summer, when the great political contest was raging throughout the land, *then it was* that designing and *dishonest* men, for the purpose of accomplishing their own selfish schemes, appealed to the prejudices of the southern people, denouncing those who supported Mr. Lincoln as *abolitionists*, as men who would *disregard* the *constitutional rights* of the South, and *transcend* the powers of the Government. Excited by means of these *iniquitous* appeals, they were ready to take up arms to prevent the inauguration of *that President* whom a majority of the people had declared to be the man of their choice. My friends, I have known the President long and well. It has been my fortune to be selected as one of his constitutional advisers. I have had the honor of being connected with this Administration since its commencement; *and I tell you to-night that you cannot find in South Carolina a man* more *anxious, religiously and scrupulously*, to observe *all the features of the Constitution relating to slavery* than *Abraham Lincoln*. My friends, *we* make *no war* upon southern institutions. *We recognize the right* of South Carolina and Georgia to *hold slaves* if they desire them."

That speech, I repeat, was delivered on the 16th day of August, 1861; and immediately preceding it, on the 8th day of August, an order was issued by the Secretary of War, General Cameron, to General Butler, as follows:

"It is the desire of the President that all existing rights in all the States be fully respected and maintained. The war now prosecuted on the part of the Federal Government is a war for the Union, and for the preservation of all constitutional rights of States, and the citizens of the States in the Union."

That order was issued to Major General Butler by the Secretary of War, with the sanction of the President. I ask you, then, whether the President is not himself pledged to this policy? He permitted himself to be pledged by Secretary Smith, and he was pledged by sanctioning the order of the Secretary of War which I have read. In his inaugural address, and in his message to Congress at its extra session, every man will recollect that he took conservative ground. The ground taken was, that war was to be resorted to only for the purpose of maintaining the Union and preserving the rights of the respective States. He tells us in his message to the present Congress—after his inaugural address, after his conservative message at the last session, after the patriotic speech of Secretary Smith, in which he said that the President would respect the rights of slavery and protect it under the Government and the Constitution as much as any man in South Carolina—after all this, he declares in his late message at the present session of Congress that nothing has occurred "*to add to or subtract from* the policy heretofore recommended." I ask, then, sir, whether the President does not stand pledged before the country and the world to this conservative policy? It is plain that Congress and that this Administration all stand pledged in the most solemn manner to the people of this country to follow this line of policy, and not depart from it.

It follows, then, that Congress and the President being pledged to this conservative policy, he cannot now, nor can Congress, swerve from it without a palpable and plain violation of the plighted faith of both. To sanction the policy proposed by these resolutions would be to turn the war away from its legitimate purpose, and indeed to turn the bayonets of our soldiers against the institution of slavery. It would not only be a departure from the policy heretofore indicated, but would in fact be a betrayal of the loyal States who have been induced with such great unanimity to vote men and money to carry on this war for the defense of the Government. Why, sir, common honesty would demand, if I induce a man to engage in any enterprise on stipulated conditions, that I should stand by him and adhere to my agreement. Let me put the case to the gentleman from Massachusetts, [Mr. ELIOT,] who introduced these resolutions. I take the ground that this war should have nothing to do with the institution of slavery any more than with any other State institution. Let slavery alone, it will take care of itself. Let me argue with the gentleman from Massachusetts, who moved these resolutions. The President and the Secretaries and Congress, by their action, have induced us with great unanimity to raise a very large army. Some six hundred thousand men have been brought into the field. Large amounts of money have been voted and expended. Direct taxes have been imposed even upon the necessaries of life. All this has been done to sustain, defend, and preserve the Constitution and Government of our fathers.

But after our troops are in the field, and have their armor on, suppose I come up from Kentucky and propose to divert the war from its legitimate objects by urging that the regiments from Massachusetts should be employed part of their time in capturing and returning runaway slaves? Would not the Representatives from that State rise up and denounce such a proposition with the deepest indignation? What, then, is it you propose? If it would be bad faith and a fraud upon your troops to employ them in capturing and returning fugitive slaves, I ask whether it would not be far more fraudulent, and in bad faith to the loyal men of Kentucky who have girded on their swords and gone out to fight for the Union, to tell them that from this time forth they shall be engaged in making war upon the institution of slavery—a war for the destruction of their own property, and leading on to all the bloody horrors of servile insurrection?

Sir, let me illustrate a little further, to show how destructive this policy is, and how strange it is that a man should be so far misguided as to permit himself to be influenced by it. We all know that a man's honest convictions of right, the burning zeal which he feels within him when he is engaged in this abolition war, or war of emancipation, is no evidence whatever that he is right. I remember that Paul himself was never more zealous than when he was breathing out threatenings and death; when he was persecuting, wasting, and destroying the churches of God; and he was doing all that in the name of religion, and "verily thought he was doing God's service."

But when the scales fell from his eyes he saw things in their true light, and he was a different man. I would that the scales might fall from the eyes of every one. What has this question of slavery to do with this war? We have no more right to interfere with slavery in a southern State than with the common school system, or any other local institution of a northern State. Suppose I should arise here and propose a bill to abolish or radically change the common school system of Massachusetts, and should urge that dangerous political heresies were taught in those schools, such as the higher law doctrine and various other wild and extravagant notions, tending to disqualify men for self-government and to array them against the Constitution of our country; and that therefore these schools are at war with the spirit of our free institutions, and must be put down. Might not the gentleman from Massachusetts with great propriety interrogate me thus: "Sir, have you any property or interest in Massachusetts?" "None whatever." "Were you ever there?" "Never." "Do you desire to go there?" "Not at all; I am satisfied to live in Kentucky." "Do you ever expect to be in Massachusetts?" "No." "Why then concern yourself about our local institutions?" "Ah, but you forget, I am engaged in '*a philanthropic line of business;*' that is all." [Laughter.] "Well, sir, perhaps you had better turn your attention to Kentucky. I have known men to show much good sense and acquire fine fortunes by simply attending to their own business; but no man ever manifested the one or secured the other by intermeddling with and giving his time to matters which no way concerned him. All that ever was accomplished in that way has been to annoy others and benefit nobody." How would I respond to that argument of my friend? I think I should "give it up," and immediately move to lay the bill upon the table.

Now, that is exactly a parallel case with this. It is manifest that the Constitution of the United States secures to each State the right to have or not have the institution of slavery—just as essentially so as it does the right to regulate your own common school system. We have no more right to make war upon the institution of slavery than upon any other local institution. The Constitution secures to each State the right of regulating its own domestic institutions; and it must necessarily protect slavery, as certainly as it protects your own common school system. Our wisest men, the President of the United States, the heads of Departments, and Congress, having with united voice declared that we have no constitutional power upon the subject, how are you to escape from the difficulty? This is a serious question. I was amused the other day by a speech, made by a distinguished gentleman in the other end of the Capitol, with a copy of which he favored me.

The SPEAKER. The Chair will say that the gentleman from Kentucky is not in order in referring to any gentleman in the other branch of Congress.

Mr. HARDING. I will not refer to the gentleman by name; but it becomes necessary for me to refer to his argument upon this subject. I call upon all gentlemen to pause and reflect upon this subject. It is strange that all the efforts to escape from the palpable provisions of the Constitution are of a similar character. That gentleman—of distinguished ability—went on to argue that Congress had the power to *confiscate the property* of rebels in the southern States, which, I think, was sound. But having established that proposition to his own satisfaction, and made it clear, he said "it was equally clear that Congress had the power to *emancipate* the slaves of rebels, because it is as property that they (the rebels) profess to hold them." Look at that argument. You who rely on it say that you have only the right to confiscate the *property* of rebels; but you say slaves *are not* property; therefore, according to your own logic, you cannot confiscate them.

But I say the right to confiscate property or slaves does not involve the right to emancipate slaves, because emancipation and confiscation are two very distinct things—and that distinction seems to have pressed upon that gentleman's mind throughout his whole argument. It evidently annoyed him, and seemed to start up at his back like a specter, and would not down at his bidding. You do not propose to confiscate slaves at all, but you propose to emancipate them. That is not confiscation. To confiscate property is to seize and apply it to the public use. You do not propose to do that. You propose to destroy the title of the master, but not to confiscate or seize the property in aid of the public treasury. Under the idea of confiscation, would any man here for a moment advocate the policy of shooting and killing all the horses, cattle, and stock of rebels, burning up and consuming their barns and dwelling houses, carrying desolation and ruin through the country, until the whole southern land was blighted and blasted, as if smitten by the lightnings of heaven? No gentleman would defend such cruel and savage barbarity. You can confiscate slaves just as you confiscate horses, treating them as property, and converting them to public use. But I deny that you can emancipate slaves under the idea of confiscation, or that you can turn loose four or five millions of slaves upon the southern people to annoy them, any more than you can kill and destroy other property, burn up and consume houses, and spread desolation over the whole land. How then can we emancipate slaves without a palpable violation of the Constitution and the oaths we have taken to support it?

The speech of my friend from Kansas, [Mr. CONWAY,] in some respects a very able one, presents a greater variety suited to every political appetite than any other speech I ever heard, and it reminded me of the vision of "the sheet knit together at the four corners, containing all manner of four-footed beasts of the earth, and wild beasts, and creeping things, and fowls of the air," so that a man could rise, slay, and eat venison, fowl, fish, anything his appetite might desire. I intend, therefore, to appropriate so much of it as answers my purpose in this discussion. How does the gentleman propose to escape the constitutional prohibitions on this subject? Let me read an extract or two from that speech. He says:

"But nothing which may be said or done will be sufficient for the emergency while the Government imposes upon itself the responsibilities of the Union with regard to the rebellious States. This principle must be repudiated; or it is obvious that we are tied hand and foot. Under our constitutional system the individual States are authorized to control their domestic institutions (including slavery) in their own way. This is the simple truth, and cannot be ignored or gainsayed. It is folly to look for emancipation by the nation in contravention of the system through which the nation lives and acts. The ministers of the Government are bound by the Constitution in the discharge of their duties. Any action of theirs transcending this limitation is revolutionary and criminal, and ground for impeachment and punishment. Men sworn to the performance of duty according to a certain formula are mere instruments, and rightfully possess no volition of their own."

I subscribe to all that. It is sound.

"As to giving freedom to five million slaves on the principle of a military necessity to suppress insurrection, it is an idle dream."

I agree to the dream also.

"Slavery cannot be abolished in a State by act of Congress. *The thing is impossible.*"

Very well; that is right. Now, as the gentleman says, he and all other men are tied hand and foot by the Constitution, and it is impossible to escape from it; and Congress has no power under the Constitution to emancipate slaves.

I supposed he was going to come out with some violent mode of breaking the bonds that bind him; but instead of that, he proposes to get out of it by a process that is perfectly gentle and harmless. How is that? Why he tells us that—

"The human mind has outgrown that superstitious reverence for Government of any kind which makes rebellion a crime *per se*."

That is his method of getting rid of the bonds of the Constitution. The Constitution must be repudiated because the human mind has outgrown that superstitious reverence for Government of any kind! Sir, I would rather remain a dwarf all my life than have that wonderful development of outgrowing the Constitution of my country, and the oath taken to support it. If it be superstition to venerate this Constitution of the fathers, then I acknowledge myself most superstitious. I know of no higher crime, save that of rebellion against the government of Heaven, than to rebel against this Government of our fathers.

But the gentleman from Massachusetts, [Mr. ELIOT,] in these very resolutions, says in substance that "we disclaim all constitutional power to interfere with slavery." How then, I inquire, are we to emancipate slaves? Why he says—and it is about as strange as anything I have heard yet—that "the recognized authority of the maxim that the safety of the State is the highest law, subordinates rights of property, and dominates over civil relations." Now, from this fearful subordination, from this monstrous domination, I pray that this Government may be delivered. Why, sir, is that the higher law? Where did that maxim come from? Who recognized the authority of that maxim which subordinates and dominates over the Constitution, and over the oaths we have taken to support it? Who recognized the authority of this higher law? I know no higher law to control my duty as a Christian than the Bible. And I know of no higher law to control my action in governmental matters than the Constitution of my country; and a departure from the one is no more excusable than a departure from the other. The man who proposes to depart from a plain provision of the Constitution is, in a certain sense, a transgressor of the whole. We are told that he who violates one plain command of the moral law is a transgressor of the whole; so he who would violate one plain provision of the Constitution is, in the same sense, a transgressor against the whole. He shows his disloyalty to his Maker if he is willing to violate one provision of the divine law, and demonstrates that he is making war against the government of Heaven; and so, if he violates the Constitution of our country willfully and knowingly, he is making war against this Government. This is higher law—a law higher than the Bible; higher than the Constitution; higher than the oath to support it. There is no proposition more monstrous than this; none fraught with greater evil. Why, sir, what is it but revolution to attempt to legislate with reference to any higher law than the Constitution of the country? What but rebellion against the government of Heaven to attempt to regulate religion and morality by a higher law than the Bible? Where did this law come from? Why, sir, it made its appearance at the time the Mormon bible came up: it seemed to rise with it, as if then resurrected; but not so, it has been in the world a long time; and it is upon this principle of a higher law which *subordinates* government and "*dominates over civil relations*," that fierce mobs have armed themselves and madly rushed on to bloodshed and riot, to the breaking open of prisons, and to the destruction of human life without evidence or trial. This is mob law. This is higher law! Why, sir, it was the spirit of this same higher law that put forth its sacrilegious hand and plucked

"That forbidden fruit
Whose mortal taste brought death into the world
And all our woes."

Sir, it was this higher law spirit which "dominated" over France in that fearful reign of terror, and made her streets run with blood. It is the ravings of that impious spirit in the North which declares the Constitution, framed by our patriotic ancestors, to be "a league with death and a covenant with hell." It is the spirit that moved the abolition disunionists in the North to gather up and furnish the fuel with which the fiery secessionists in the South have lighted up that fearful and burning conflagration, which is now consuming and desolating the whole land in its wild and spreading flame. It is the spirit determined "to rule or ruin"—its motto is, "better reign in hell than serve in heaven." It is this higher-law spirit that lately took possession of the once calm and conservative John Cochrane, changing his whole character—making him as fierce and wild as the man who dwelt among the tombs, and could not be chained or confined—and causing him to cry out in wild fury: "*Plunge the whole southern people, black and white, into a sea of indiscriminate carnage and blood!*" Sir, it is the spirit which "has hitherto worked, and now works, in the children of disobedience."

But, sir, a war upon the institution of slavery would be not only unconstitutional and revolutionary; not only a criminal violation of the plighted faith of Congress and of the Administration, but utterly at war with every principle of sound policy. Who ever lives to see that fearful and mad policy inaugurated, will see the sun of American

liberty go down in clouds and darkness to rise no more. The last hope of a restoration of the Union—the last hope of free government upon this continent—will then sink and utterly perish. It would seem to be a question of no great difficulty to decide what is sound policy in the conduct of the present war. *The object and end* of the war, clearly perceived, would indicate, at once, the policy that ought to govern it. This is *not* a war between two foreign nations, wholly separated from each other, bound together by no ancestral ties, and living under Governments wholly antagonistic to each other. If it was such a war, then the policy now so strangely urged by some gentlemen might be heard with some favor; then quotations from Vattel would be in point, for the object and end of such a war would be, on our part, simply to subdue, *conquer*, and *drive off* our enemy, without any regard to the deep hate and intense bitterness of feeling that might be engendered in the conflict. In such a war it might be sound policy (if humanity did not forbid it) to incite servile insurrection—burn up, confiscate, waste, and destroy property, and press upon our enemy with all the destructive fury of fire and sword. But he who regards the present war in that light is not prepared, and should never be trusted for a moment, to dictate its policy.

This war has grown out of a rebellion of part of the same people against the authority of their own Government. The great mass of the rebels have been deceived, seduced from their allegiance, and led blindly on to their present hostile position by a few master spirits, arch-traitors, lost to every patriotic emotion, but men of great intellectual power and control over others. These people, loyal and disloyal, were all bound together by the ties of kindred blood, by a common country, language, and history, and by the hallowed memories of a glorious struggle by a common ancestry, resulting in the establishment of a common free Government—a Government which the rebels themselves believed was the best the world ever saw. But they were taught by their wily leaders that a dominant party was about to turn the whole power of that Government against them and their institutions, to crush and destroy them; and thus they were led into rebellion against the Government they had loved. So that the sad spectacle is now presented, in the opposing armies, of neighbor arrayed against neighbor, father against son, and brother against brother, preparing to shed each other's blood.

Now, with every good man, every friend of his country, and with every true patriot, the object and end of the war *is not to destroy, conquer, and drive off;* but, with the least possible destruction of property and life, to maintain and establish the authority of the Government, and subdue, *reclaim*, and *bring back* to their allegiance the misguided rebels; and thus bring together and harmonize the great family of States in the bonds of Union and common brotherhood, under the glorious old national banner. If any man supposes this great and good result can be reached by the destruction and confiscation of property, by making war upon slavery in the South, by inciting the slaves to insurrection and rebellion, and by a species of warfare so cruel and savage as that of arming or encouraging the slaves to make war upon their masters and upon innocent women and children, he is sadly mistaken; he has much yet to learn of human nature. Such a war of aggression upon the constitutional rights of the seceding States would extinguish the last feeling of loyalty, unite them as one man, exasperate and drive them to a state of desperation, and forever lock, bolt, and bar the door of reconciliation. This mad policy would, at the same time, as certainly divide and destroy the power of the great Union forces who are now battling for the preservation of the Government. All over the northern and western non-slaveholding States vast numbers of loyal and true men would abandon such a war, or make war upon it. Brave officers and thousands of their troops, now in the Union army, would at once disband and lay down their arms, or band together and turn their arms against those who were prosecuting such a war. And the true and loyal men in the border States of Missouri, Kentucky, and Maryland, after forsaking houses and lands, and their secession neighbors, and brothers and fathers and sons—after "suffering so much for the Union," could hardly be expected to join in a war upon their own domestic institutions and upon the Constitution of their country. What was it, in the revolutionary struggle of our fathers with England, that now constitutes the bitter and burning memory of that period, transmitted from father to son, and never to be forgotten? What the unpardonable sin of England? What but that savage cruelty which armed with scalping-knife and tomahawk the wild Indians, and turned them loose to murder and destroy aged men and helpless women and children. And what patriot heart does not burn with indignation at the bare thought of that far more savage barbarism that would ally itself to the slaves in a servile war upon their masters?

Such a policy would, moreover, be the greatest possible cruelty to the slaves themselves; for it would certainly result in the destruction and slaughter of a large portion of them. After all that has been said on slavery by *professed philanthropists*, still, in the present state of society, it remains true that the abolitionist is the worst enemy of the slave, and the humane master his truest and best friend.

The ultra abolitionists, whether they know it or not, have been and now are giving the most successful aid to the disunionists of the South, and making the most successful war upon the Union. The great and prevailing argument of the leading disunionist, in the South and in the border States, has been, and still is, that the North, in violation of the Constitution, intended and was about to turn the struggle into a war for emancipation, and thus "plunge the whole population, white and black," into a remorseless and bloody struggle. By this argument alone he has succeeded in seducing and drawing into the rebellion thousands of misguided men. Without it he would have been powerless; and this argument has been furnished and put into his mouth by the northern abolitionist. This has been the great question of debate that loyal men have met and battled against a thousand times all over Kentucky.

But after the passage of the Crittenden resolutions in July last—after the President and his Cabinet had taken strong conservative ground—after every department of the Government stood out, openly committed and pledged to the whole country, to prosecute the war for the *single purpose* of sustaining the Union and preserving the Government with the rights of every State unimpaired—then it was, that the Union men in Kentucky felt themselves furnished with an *unanswerable* argument, and from a *responsible* source. Thus armed and strengthened, the Union men renewed the conflict. What was the result? Kentucky is soon "*unchangeably ranged on the side of the Union*"—she votes men and money to carry on the war, and though before then "she had refused to furnish a single regiment," now, more than twenty-five thousand of her brave and loyal sons rally at once under the stars and stripes. In view of all this, is it not monstrous that on the very first day of our session men should rise here, and by their ill-timed and radical measures revive the old argument of "*a war of emancipation*," thus putting it afresh into the mouths of secession leaders, crippling and disarming the Union men, and scattering firebrands through the Union camps? Sir, when Kentuckians, for the love they bear to the Union, are called to array themselves against their misguided kindred, brothers and fathers; when they are passing through this fiery ordeal; when they are contending for every inch of ground with a martyr firmness and patriotic devotion not surpassed at Bunker Hill or Yorktown, would it not tax past endurance even the patience of Job for these men in the North, who are subjected to none of these trials, to be continually furnishing the arguments and the means to annoy them and destroy their efforts?

Sir, the salvation of this great country requires that conservative men of every political faith should unite and band themselves together to crush rebellion in the South, and subdue and put down abolition disunionism in the North. Both are unitedly warring against the Government of our country. And I believe conservative men will do it. Though I was pained and oppressed with gloomy forebodings at first, yet I am now satisfied that, with a large majority of this House, these radical measures will meet with no favor whatever. They cannot receive the sanction of this House. But if, in this reasonable expectation I should be disappointed, I have still *one* hope left. I believe in the honesty and firmness of the President. I believe he is himself "*unchangeably ranged on the side of the Union.*" And if these measures should struggle through this House, he would arrest them by a prompt exercise of the veto power, and hold up the sinking cause of the Union. But if this *last hope* should perish, what then will become of the border States; what will they do? I think I can safely answer for Kentucky. If the war, righteously begun for the preservation of the Constitution and the Union, should be changed to an anti-slavery war, then Kentucky will unitedly make war upon that war. And if an army from the North should move toward Kentucky, to visit upon her the horrors of a war for emancipation, then Kentucky will meet that army at the threshold, dispute every inch of ground, burn every blade of grass, and resist to the last extremity.

Should it be said, Kentucky will soon be ready for disunion, if that is her temper; I reply, that so long as Kentucky shall remember the warning voice of Henry Clay, she shall answer, "*Never, never, never!*" And if *that voice* should be forgotten, still the united voices of her venerable living patriots—her CRITTENDENS, her WICKLIFFES, her Holts, and her Davises, would ring out over all her hills and valleys, "*Never, never!*" And when these patriots pass away, hosts of younger men, led on by their example, will still say "*Never!*" No, no, the great mass of Kentuckians will be true to the memories of the past. They will not pronounce this free Government "a failure," and throw it off as a worn and worthless garment. They will struggle for their rights in the Union and under the Constitution as best they can, and as long as they can.

An emancipation movement against the rebel States can find no shadow of justification from the plea of *necessity* sometimes urged by northern men. The great Union party have a just cause, four times the number of fighting men, and nearly all the money; and it is strange that northern men should make this plea, lest it should be construed as an indorsement of that idle gasconade of the South which represents one southern man as being a full match for four or five northern men, on the field of battle. Such a movement against the South finds still less justification as *a measure of retaliation.* It is scarcely ever good policy, and *never* sound morality, to resort to the law of retaliation. Sir, if a man traduces me, I cannot afford to slander him in return. If he burns my barn; I cannot become a felon, and burn his house. In the present war, we have a just and righteous cause, and can well afford to confine ourselves to just and righteous means for its prosecution. We cannot follow the example of the rebels, unless we would become rebels ourselves. Shall we destroy and confiscate property because they do? Make allies of slaves because they make allies of Indians? And shall we violate *one* provision of the Constitution because they have trampled under foot the whole instrument? "Thou that judgest another, and doest the same thing, how shalt thou escape the judgment?"

Sir, the Union cause in the border States has already lost more strength by the agitation of this question in Congress, at this session, than was lost by the defeat of our arms at Bull Run. Gentlemen should take care lest in their great zeal to strike off the bonds of the slave they should be preparing chains and slavery for themselves and posterity.

Sir, the fearful responsibility, the deep guilt and crime, of plunging this great country into all the horrors of civil war and bloodshed, does not rest alone upon the leading secessionists of the South; a full share of that criminal guilt is justly chargeable to the leading disunion abolitionists of the North. If this Government shall outride the angry storm now threatening its destruction, and the fearful day of just retribution shall come, may it not be justly said to these leading spirits from the North and the South: You have been co-workers in the attempt to destroy the Government of your country. You of the North sought to dissolve the Union of these States, *professedly* to destroy sla-

very. You of the South sought to dissolve it, *professedly* to protect slavery. You were both disunionists—all rebels against the Government. As State after State plunged into the gulf of disunion, your shouts of triumph from the North rose up and met the peans of joy from the South. You have smitten a great country with desolation and waste. You have crimsoned fields with kindred blood. You have filled the whole land with weeping widows and orphans. In guilt and crime you have been banded together, like Siamese twins, through life, and you ought not to be separated in death. It is but just that you should expiate your enormous crime together, on the same scaffold, and together be buried in the same traitors' grave.

OBJECT OF THE WAR.

SPEECH OF HON. W. T. WILLEY,

OF VIRGINIA,

IN THE SENATE, *December* 19 *and* 20, 1861,

On the resolution declaring that the existing war, forced upon the country by the States in rebellion, without justifiable cause or provocation, was, and is, designed by them to destroy the Union and the Constitution; and their purpose, moreover, was at first, and is now, to disavow and repudiate the fundamental principles of republican government on which our fathers established the Union and the Constitution.

Mr. WILLEY said:

Mr. PRESIDENT: The resolution offered by the Senator from New Jersey [Mr. TEN EYCK] a few days ago enunciates, as I think very properly, what are the purpose and motives of the United States in prosecuting this war. The resolution that I now submit enunciates what I conceive to be the motive and purpose of the States in rebellion in precipitating this war upon the country, and in prosecuting it. As I remarked just now, sir, we have in the States in rebellion, in the State which I have the honor to represent, not only the conflict of the sword, but we have also the war of opinion. I think it is appropriate that the Senate and the country should understand what were and are the real motives and purposes of the South in instigating this rebellion; and I propose to submit my views somewhat at length upon this proposition.

Our forefathers, when they threw off their allegiance to the British crown, admitted that a "decent respect to the opinions of mankind required that they should declare the causes which impelled them to the separation."

They also acknowledged that "Governments long established should not be changed for light and transient causes;" that revolution was justifiable only when government "became destructive of the ends for which it was instituted among men," such as "the inalienable rights of life, liberty, and the pursuit of happiness."

Having secured the recognition of our national independence, they proceeded to organize a government; and in order "to form a more perfect union, establish justice, insure domestic tranquillity, provide for the common defense, promote the general welfare, and secure the blessings of liberty to themselves and their posterity, they ordained and established the Constitution" under which we have since lived so happily, and prospered so well.

If this "respect to the opinions of mankind" is still to be recognized as obligatory, may we not properly inquire what justification is offered by the insurgents against the Government of the United States for their recent and existing terrible efforts to subvert and overthrow it? What essential right has been infringed or withheld? What intolerable wrong has been threatened or inflicted? In what respect has there been a failure to secure to the citizen the enjoyment of his life, his liberty, or the pursuit of his happiness? When or how has the General Government failed to accomplish any of the great purposes of its organization?

Mr. President, "to err is human." It were idle to claim that either of the two parties now in conflict, or that any of the great parties which have distracted the councils of the country, were wholly inculpable. But the question now is, has anything occurred in the administration of the national Government to justify this rebellion? Has the Federal Government become so destructive of the ends of its institution as to create the right in the people, or any portion of the people, "to alter or to abolish it, and to institute a new government?" Respectfully appealing to the "opinions of mankind," and inviting the most rigid scrutiny and criticism, I confidently declare that this rebellion is wholly inexcusable.

In what I shall have to say I shall avoid all theoretical and speculative examination of the fitness and adaptation of our system of government for the accomplishment of the purposes for which it was ordained. It has been tried for three fourths of a century, and now there is no necessity or room for speculation. We have the results of actual experiment. And what do they teach? What is the testimony which they bear to the security of the great inalienable right of life in this country? Where has life been more secure than in the United States? I respectfully challenge an answer to this question from the apologists of this rebellion, here or elsewhere. Spread out the map of the world, and designate the nation where the life of the citizen or subject or serf is more thoroughly protected than was the life of the American citizen prior to this rebellion. Unfold the volume of universal history, and show me the page which records the existence of greater personal security than was enjoyed by the people of the United States. How many millions of our people, twelve months ago, in village and hamlet and cottage, slept with doors unbarred, in calm and conscious security, both of life and estate; and when either life or estate was assailed, where and when did there exist a Government more prompt and efficient to avenge the injury?

And as to liberty, what unwarrantable restraint has ever been imposed upon the enjoyment of it? The American citizen worships God everywhere according to the dictates of his own conscience. His religious liberty is incomparable. As a citizen, his rights are equally well defined and secured. His civil liberties were incomparable; and what political franchise or privilege has ever been denied or infringed by the Federal Government? Who, in all these respects, was so happy as the American citizen? Wheresoever the flag of the Republic floated; on every ocean and sea under the whole heavens; wheresoever it marked the residence of the American minister or American consulate; in every city and seaport and town beneath the sun; in the palaces of kings and the cottages of peasants, to earth's remotest boundary, the name of American citizen had become a guarantee of personal and political security and privilege as high and as assured as ever attached to the national character of any human being.

Mr. President, I am touching upon an inspiring theme; but I will not allow myself to be betrayed into a further pursuit of it. I may be allowed to say, however, that while, like all our guilty race, the American citizen inherits the primal curse attaching to our first progenitor, yet no portion of the posterity of Adam ever came so near to the enjoyment of that wide and unrestricted freedom that in the fancy of the great poet fell to the lot of our federal father, as he turned his back upon the gates of Paradise, when

> "The world was all before him, where to choose
> His place of rest, and Providence his guide."

My purpose is more practical. It is to appeal to matters of fact known to every intelligent man. It is to challenge the production of an instance in the nomenclature of nations where liberty has been more perfectly secured and enjoyed than it was in the United States, and to demand specifications of those infractions of liberty by the Federal Government which may justify this great rebellion. But I shall challenge in vain. There will be no response to my just demand.

And what shall we say of the pursuit of happiness? Surely that people ought to be happy whose property, person, and life, and whose liberties, civil, religious, and political, are fully secured to them. But, apart from the enjoyment of these great rights, what has been the practical operation of the Government upon the physical condition of the people, and how has it affected the common weal in respect of the merely material interests of the country? Has there been any deficiency here? I again beg to appeal to the facts; I again challenge a parallel of progress and prosperity. Three quarters of a century have hardly passed away since we entered upon the arena of independent nations. We commenced the war of independence with a population of three million; now we number more than thirty million. In what age, in what clime, shall we find a parallel? We started in the race of national development with thirteen isolated, disconnected, impoverished colonies. When this rebellion broke out, it required the shores of the two oceans to circumscribe our enlarged and consolidated empire. Our commerce burdened every wave of the sea, and filled every port on the globe. We could have proudly defied the world in arms.

Sir, I am not dealing in pictures of fancy. I am not painting with the colors of an unbridled imagination. I am not indulging in figures of speech. I am quoting from the census. I am appealing to recorded facts. Sir, all the fancy belongs to the authors of the rebellion. It is they who are abnegating the results of experience, and are madly rushing after the phantoms of a disordered imagination; deserting the beaten paths of long-attested security and prosperity, to follow the *ignis fatuus* of a frenzied speculation. Nor can it be said that there were any indications of decline in our national prosperity. Down to the very day of the insurrection our growth in population and wealth and power was advancing with a constantly accelerated momentum and progress. And, sir, this remark is as applicable to the seceded States as to any other section of the Confederacy. It will be found that this rebellion was precipitated upon the country when the condition of the South exhibited incontestable evidence of greater prosperity than it had ever done in any previous period of our national existence.

What is the plain deduction from this unexampled national prosperity? Is it not that there could have been no real grievance justifying rebellion?

But we may, with equal confidence, challenge a more minute examination of the policy and administration of the General Government affecting the States in rebellion. And here I do but allege what the records of the country will amply attest, when I say that in the bestowment of official patronage and emolument, and position in every branch of the Government, the South has ever enjoyed an eminently liberal proportion of favor. The journals and acts of Congress will verify the assertion that every important measure of national policy has either originated with southern statesmen, or has been made, sooner or later, essentially to conform to the demands of southern sentiment. This is a broad assertion, but it is true. The South has always exercised a controlling influence in the councils of the Republic. She has had more than an equal share of Presidents; she has had more than a fair proportion of appointments in the Cabinet; the Supreme Court has been adorned with a full quota of her eminent jurists; the *corps diplomatique* has had no just cause of complaint for the want of representatives from south of Mason and Dixon's line; and the glorious annals of our Army and Navy attest on every page the valor and skill of southern chieftains.

But the great outcry of the South against the North has been predicated principally on alleged grievances respecting slavery. Now, I shall offer no apology for the unfriendly legislation of some of the free States in their distinct capacity. This legislation has sometimes been in direct conflict with the plainest provisions of constitutional law; but the judiciary in every instance, I believe, where a case has arisen under this species of State legislation has declared it to be unconstitutional, and thus rendered it nugatory. Nor will my sense of propriety allow me to do aught else than condemn and denounce the miserable misrepresentation and vituperation of the domestic institutions of the South, which have disgraced in too many instances the northern press and pulpit. But why should the General Government be made responsible for these things? What has it done unfriendly to the South? Look at the facts. The South has always prevailed in questions affecting slavery. For instance: was more efficient legislation required to secure the constitutional right of recovery of fugitives from labor, southern men prepared the law to suit themselves, and it was enacted accordingly. Did fanaticism interpose to rescue the fugitive from the custody of the law, the Gen-

eral Government, with a northern President in the chair of the Executive, enforced the law at the point of the bayonet. The South asked for the Missouri compromise, and got it; and then the South asked for its repeal, and got that. What reasonable demand of the South was ever denied? To the credit and honor of the North, I answer—none! none!

Thus may we speak of the past; but what of the future? The pretense was that the Republican party intended to abolish slavery in the States wherever it existed, or, in some manner, to assail it detrimentally. Mr. President, I am not a member of the Republican party. I opposed to the extent of my poor ability the election of Mr. Lincoln; and I have nothing to regret or to retract. But, sir, I never believed that it contemplated any interference with the domestic institutions of the slave States Whatsoever else may be obnoxious in the avowed principles, or in the actual administration of the Government by this party, it is not, I think, justly liable to animadversion in this respect. Such a design has been expressly repudiated by every respectable exponent of the Republican party from the commencement of its organization. The fourth resolution in the Chicago platform, on which Mr. Lincoln is elected, explicitly declares:

"That the maintenance inviolate of the rights, and especially the right of each State, to order and control its own domestic institutions according to its own judgment exclusively, is essential to that balance of power on which the perfection and endurance of our political fabric depends."

I have seen nothing in the administration of the Government, as yet, which would warrant any just apprehension of a departure from this avowal of constitutional obligation, and there have not been wanting exigencies to test its fidelity. If anything could cause it to swerve from the right line of constitutional duty on this point, it would be the unholy rebellion of the slave States, which are waging a relentless war upon it. And yet I remember with what supreme satisfaction I read the proclamation issued to the people of Virginia by General McClellan, when he first entered that Commonwealth, declaring there should be no infringement of the rights of slaveholders, and that all attempts at servile insurrection should be summarily suppressed. I refer with equal satisfaction to the entire unanimity with which Congress, at the last session, resolved that the war, brought upon the country by the South, should be prosecuted with the sole purpose of suppressing the rebellion, and restoring the Government to its legitimate constitutional supremacy, and that when these purposes were accomplished the war should cease.

In harmony with this avowal was the act of Congress for the confiscation of property employed in aiding and supporting the rebellion. The rights of the loyal slaveholder were sedulously guarded, and the determination of the Government not to interfere with the institution of slavery especially manifest. And so it was, when General Frémont, by his proclamation, proposed a different policy, he was promptly rebuked by the President, and commanded to revoke his unauthorized procedure. I might multiply proofs; I cannot forbear to mention another. When General Sherman disembarked his troops at Beaufort, in the very flush of a glorious victory, he does not, as the representative of the Government, forget his constitutional obligation as an officer or as a citizen, but by his proclamation to the people of South Carolina, doing equal credit to his head and his heart, assured even that rebellious State that "he had come among them with no feelings of personal animosity, no desire to harm her citizens, destroy their property, or interfere with any of their lawful rights, or their social and local institutions." General Dix reiterated the same sentiments. And now, sir, the President of the United States, in his late message, crowns these repeated demonstrations of fidelity to the Constitution, with his official sanction and authority. I honor him for it; and pledge to him the support of the loyal citizens of Virginia, so long as he adheres to his present position.

Sir, this apprehension, real or assumed, of unconstitutional aggression upon slavery in the States where it exists, is without reasonable cause.

But it was alleged that there could be no misapprehension of the purpose of the Republican party, by congressional intervention, to exclude the South from carrying their slaves into the Federal Territories. I am sorry to be compelled to admit that this objection is well taken. Now, I am free to declare that by no active agency of mine shall the area of slavery ever be extended. I will never aid in its diffusion. As a slaveholder, believing that under existing circumstances the welfare—moral, physical, and religious—of the African race requires that they should be, for the present at least, kept in bondage, I say this. But sworn as I am to support the Constitution, I will concur in no act which shall deprive any citizen or any section of any constitutional right. Consulting my own opinion of the powers of Congress under the Constitution, I should have had little hesitation in saying that the recognition or the exclusion of slavery in the Territories was entirely a matter of legislative discretion; and in the exercise of such discretion, I repeat, that by no active agency of mine should slavery ever be established where it had not existed. The Territories are the common heritage of all the people; and I would leave them to be settled by any or all of the people, from every section, without restriction as to the character of the property which they might carry with them. If the slaveholder wanted to go there with his slaves, let him do so, and let him abide the result of the popular determination when the time arrived for the organization of the Territory into a State. Taking the responsibility of carrying his slaves into the Territory, let him encounter the risk of the character of the constitution which may be ordained. Such is my poor view of congressional power in the premises, and of the proper policy to be adopted in the exercise of it. But, sir, my opinion must yield to better authority. The Supreme Court of the United States is the constitutional exponent of disputed principles of constitutional law. As a citizen, and especially as an humble member of this august body, I bow with implicit submission and loyalty to the judgment of this great constitutional arbiter. Sir, in my estimation, any other course will be disastrous in the extreme—prolific of anarchy, and subversive of the foundations and security of all popular government. Submission, unqualified submission, to the arbitrament of the Supreme Court is the great sheet-anchor of our safety. Let it be understood that Congress is not bound by its decisions and interpretations of constitutional law, and what would be the result? The sense of the Constitution would vary with the political complexion of the party in power. To-day it would mean one thing; to-morrow it would mean another. The rights of the people would become the sport of party spirit, and the order and security of society would be convulsed and upheaved, and confusion becoming perpetually worse confounded would ensue, until the whole benefit of established government would be lost.

What if the Supreme Court err in its judgment? This is possible—nay it is probable. But in such case we are not remediless. Let the error be corrected by an amendment of the Constitution in the mode prescribed in that instrument; and let the matter of dubious construction, and the errors of the Supreme Court, be obviated by terms which shall not admit of misconstruction. My Lord Coke, long ago, said in reference to this principle, "certainty is the mother of repose." We can have no certainty, no repose, no security, no liberty, no good government, unless we abide by the judgment of the judiciary in questions of constitutional law. But, sir, I find myself departing from my purpose not to be drawn into an argument upon abstract principles of government. I come back to the facts and legitimate deductions from facts proving that this rebellion is without justification.

And now, sir, I inquire what has the Republican party done, since the avowal of its policy, to exclude slavery from the Territories? Why, sir, with a decided majority in the other branch of Congress, it has allowed several territorial governments to be organized without intervention to exclude slavery. The South was at perfect liberty to emigrate there with their slaves if they thought proper. Will it be a sufficient reply to this fact to allege, as southern politicians have alleged, that this liberality on the part of the North would never have been manifested if it had not been known that the soil and climate of those Territories were of such a character as to practically prevent the existence of slavery there. Grant the fact; what wrong has the North done to the South? Was the North responsible for the climate and soil? Sir, this outcry against the North in regard to these Territories applies only to the God of nature; and, so far as secession is predicated upon the exclusion of slavery from any of the present Territories of the United States, it is a revolt against the inexorable laws of nature and Providence. The spirit which dictated it is akin to the spirit which inspired the angelic revolt in Heaven. May its overthrow be as complete.

But, sir, the South itself being judge, I aver there was in the policy and administration of the General Government in reference to the Federal Territories no just cause of complaint. I need not remind the Senate that this averment is authoritatively admitted in the official action of southern Senators on this floor. Senators all remember the resolution of Mr. Brown, of Mississippi, offered for the consideration of this body only a few months prior to Mr. Lincoln's election. I will read it:

"*Resolved*, That experience having already shown that the Constitution and the common law, unaided by statutory provisions, do not afford adequate and sufficient protection to slave property, some of the Territories having failed, others having refused to pass such enactments, it has become the duty of Congress to interpose and pass such laws as will afford to slave property in the Territories that protection which is given to other kinds of property.

"The yeas and nays being demanded on the adoption of this amendment, it was decided in the negative by the following vote:

"YEAS—Messrs. Brown, Johnson of Arkansas, and Mallory—3.

"NAYS—Messrs. Benjamin, Bigler, Bragg, Bright, Chesnut, Clark, Clay, Clingman, Crittenden, Davis, Dixon, Doolittle, Fitzpatrick, Foot, Foster, Green, Grimes, Gwin, Hamlin, Harlan, Hemphill, Hunter, Iverson, Johnson of Tennessee, Lane, Latham, Mason, Nicholson, Pearce, Polk, Powell, Pugh, Rice, Sebastian, Slidell, Ten Eyck, Thompson, Toombs, Trumbull, Wigfall, Wilson, and Yulee—42."

Every southern Senator, excepting three only, voted against this resolution, thereby acknowledging that down to that day, at least, there was no territorial grievance requiring redress.

Indeed, the act of secession logically implies that the exclusion of slavery from the Territories was not considered to be an intolerable grievance; for secession is a voluntary and final abandonment and surrender to the North of all claim to them by the South.

Mr. President, how utterly absurd are all the pretexts of the insurgents for their rebellion. Granting, for the sake of argument, that the policy and purposes of the Republican party were justly obnoxious to the animadversion which has been heaped upon them, what had the South to fear? If the South had remained loyal to the Government, and its Representatives in this and the other house had remained in their seats, what could your President or your party have accomplished prejudicial or objectionable to the South? Sir, you were powerless to do us harm. Your President could not have appointed a member of his Cabinet without our concurrence. With a clear majority in both branches of Congress against you and your party, your hands were tied. No minister to a foreign court could have represented this Government against the consent of the South. No law could have been enacted which was not acceptable to the South. The finances, that omnipotent lever of political power, were under the control of the majority opposed to your party and your policy. You were completely dependent on us for the means of administering the Government. Sir, I am recounting facts. And yet, sir, with all the power and control of the Government and of the Republican party in the hands of the South, secession commences. South Carolina recalls her Senators and Representatives in Congress. Mississippi follows her example. Other States tread in their rebellious wake—all crying aloud as they go against the overshadowing power of the North, which was all the time in the minority; till at length by the defection of State after State, our majority here was destroyed, and we of the border States, hitherto secure in our conservative principles, alike aloof from the ultraism of the extremists North and South, and fortified by our majority here, were left in a helpless minority, standing as it were "between the devil and the

deep sea." And to-day the so-called confederate States are appealing to the sympathies of the world to rescue them from the persistent oppression of the United States Government!

Sir, these subterfuges were so transparent that the more astute of the conspirators, seeing that they must be convicted by the verdict of reason, and the voice of mankind of duplicity, have boldly avowed that the election of Mr. Lincoln, and the triumph of the Republican party, were not the causes of their rebellion. It became convenient for them to make these things the occasion of it. The careful observer of events might have seen their shadows coming before, twenty-five years ago. The real course of this rebellion I hope to make apparent before I conclude. At present suffice it to say, that it was no sudden, unpremeditated insurrection—it was the result of a deliberate, long-concocted conspiracy; as has been virtually acknowledged by many of the principal conspirators.

We all remember the letter of William L. Yancey, urging the policy of "firing the southern heart," for the purpose of "precipitating" a dissolution of the Union.

In the late convention in South Carolina, most of the leading members expressed themselves in terms of exultation, that the event so long devoutly wished for had been consummated.

Mr. Keitt, a prominent member of the other branch of Congress, declared that he had "been engaged in this movement ever since he entered political life."

Mr. Rhett said:

"It is nothing produced by Mr. Lincoln's election, or the non-execution of the fugitive slave law. It is a matter which has been gathering head for thirty years."

Mr. Inglis said:

"*Most of us* have had this matter under consideration for the last twenty years."

I might multiply the evidence; but the fact is now unquestionable.

It was necessary to apologize for their withdrawal under some pretense of justification. Hence the dogma of "peaceable secession"—the right of a State to peaceably secede at the pleasure and within the sole discretion of the State seceding! A new theory of our Government was thus propounded to cover the ignominy of the retreating parties. And what an idea of government! What a Union! A Government without authority to maintain itself, and a Union with no obligation or bond to perpetuate it! What a commentary on the wisdom of Washington and Franklin, of Madison and Jefferson! Sir, the Constitution which we have hitherto regarded and revered as the wisest and best plan of government ever devised, turns out, if this dogma of secession be true, to be a mere solecism, a miserable abortion. Under this theory we have a constitutional Government avowedly on its face claiming to form a more perfect Union, yet containing within itself a fundamental principle of its own destruction.

Sir, our Federal Constitution is a farce if this right of secession be admitted. It is a mere caricature of government. It is less efficient than the old Articles of Confederation, which were acknowledged to be a failure. Of the operations of the old Articles of Confederation, Washington wrote to Warren, as follows:

"The Confederation appears to me to be little more than a shadow without the substance, and Congress a nugatory body, their ordinances being little attended to. To me it is a solecism in politics—indeed, it is one of the most extraordinary things in nature—that we should be confederate as a nation, and yet be afraid to give the rulers of that nation—who are creatures of our own making, appointed for a limited and short duration, and who are amenable for every action, and may be recalled at any moment, and are subject to all the evils which they may be instrumental in producing—sufficient powers to order and direct the same. By such policy as this the wheels of Government are clogged, and our brightest prospects, and that high expectation which was entertained of us by the wondering world, are turned into astonishment; and from the high ground on which we stood we are descending into the vale of confusion and darkness."

To James Madison he wrote:

"The consequences of a lax or inefficient Government are too obvious to be dwelt upon. Thirteen sovereignties pulling against each other, and all tugging at the Federal head, will soon bring ruin upon the whole; whereas a liberal and energetic Constitution, well checked and well watched to prevent encroachments, might restore us to that degree of respectability and consequence to which we had the fairest prospect of attaining."

To John Jay he wrote:

"We have errors to correct. We have probably had too good an opinion of human nature in forming our Confederacy. Experience has taught us that men will not adopt and carry into execution measures the best calculated for their own good without the intervention of coercive power. I do not conceive we can exist long as a nation without lodging somewhere a power which will pervade the whole Union in as energetic a manner as the authority of the State governments extends over the several States."

And yet, if it be true that a State may secede at pleasure, Washington, with the sages who cooperated with him in the establishment of the Federal Constitution, and who professed in their preamble to it to desire and to have provided for a "more perfect union," utterly unconscious of the imbecility and of the true import of his own labors to remedy preëxisting evils, succeeded only in furnishing to his countrymen a constitution of government less efficient and containing less force of national unity and power than the shackling and rickety articles of the old Confederation which were superseded. And this delusion and ignorance of the import of his labors must have followed and possessed the "Father of his Country" all through the eight years of his illustrious administration of the Federal Government; for, in his farewell address, he says to his countrymen:

"To the efficacy and permanency of your Union, a Government for the whole is indispensable. No alliance, however strict, between the parts can be an adequate substitute; they must inevitably experience the infractions and interruptions which all alliances in all times have experienced. Sensible of this momentous truth, you have improved upon your first essay, by the adoption of a constitution of government better calculated than your former for an intimate union, and for the efficacious management of your common concerns. This Government, the offspring of our own choice, uninfluenced and unawed, adopted upon full investigation and mature deliberation, completely free in its principles, in the distribution of its powers, uniting security with energy, and containing within itself a provision for its own amendment, has a just claim to your confidence and your support. Respect for its authority, compliance with its laws, acquiescence in its measures, are duties enjoined by the fundamental maxims of true liberty. The basis of our political systems is the right of the people to make and to alter their constitutions of government. But the Constitution which at any time exists, till changed by an explicit and authentic act of the whole people, is sacredly obligatory upon all. The very idea of the power and the right of the people to establish Government presupposes the duty of every individual to obey the established Government."

But this fiction of secession, I repeat, strikes at the fundamental idea of a national government. It completely emasculates it and leaves a barren inanity. It is now giving terrible illustration of the consequences portrayed by Washington. Behold how again, in the language of his letter to Warren, which I have just read—

"By such a policy as this the wheels of Government are clogged, and our brightest prospects, and that high expectation which was entertained of us by the wondering world, are turned into astonishment; and from the high ground on which we stood, we are descending into the vale of confusion and darkness."

The old Articles of Confederation are headed "Articles of Confederation and Perpetual Union between the States;" and they are concluded in these terms: "And that the union shall be perpetual." The preamble to the Constitution declares that one of its principal purposes is "to form a more perfect union." How is all this consistent with the principle of peaceable, discretionary secession? Sir, in the language of General Jackson, in his message of 16th January, 1833—

"The right of the people of a single State to absolve themselves at will, and without the consent of the other States, from their most solemn obligations, and hazard the liberty and happiness of the millions composing this Union, cannot be acknowledged. Such authority is believed to be utterly repugnant both to the principles upon which the General Government is constituted and to the objects which it was expressly formed to attain."

Equally repugnant to this doctrine of secession are the powers vested in the General Government by the express terms of the Constitution. The Constitution expressly vests in the General Government all the fundamental functions of complete national sovereignty. By section eight of article one, among other attributes of sovereignty, power is conferred on Congress

"To levy and collect taxes, duties, imposts, and excises.
"To regulate commerce with foreign nations, and among the several States.
"To coin money, and regulate the value thereof.
"To declare war, and grant letters of marque and reprisal.
"To raise and support armies.
"To provide and maintain a navy.
"To make treaties."

And, as if the framers of the Constitution were apprehensive of future assumptions of authority upon the part of the States, incompatible with the exercise of this national sovereignty, they did not rest satisfied with conferring these positive powers on the General Government; but they also, by negation, expressly prohibited the exercise of such powers by the States. So, in article one, section ten, of the Constitution, it is provided, among other restrictions, that

"No State shall enter into any treaty, alliance, or *confederation;* grant letters of marque or reprisal; coin money; emit bills of credit," &c.

And finally, as if to exclude all controversy, it is ordained in the second section of article six, as follows:

"This Constitution, and the laws of the United States which shall be made in pursuance thereof, and all treaties made, or which shall be made, under the authority of the United States, shall be the supreme law of the land."

The advocates of this right of discretionary secession do not pretend that it is either expressly or impliedly reserved in any clause of the Constitution; but they allege the right is inferrible from the manner in which the Constitution was ratified by the States; that it was ratified by the States distinctively in their sovereign capacities as States; and that, therefore, the Constitution is a mere compact between sovereign States, and is in fact nothing more than the terms of a league between independent sovereignties, liable to be dissolved at the pleasure of any of the parties to it. All this is mere assumption. Not so did Mr. Madison, the great artificer of the Constitution, understand his own handiwork. He says:

"It was formed by the States—that is, by the people in each of the States, acting in their highest sovereign capacity; and formed consequently by the same authority which formed the State constitutions."

And again he says:

"Nor is the Government of the United States, created by the Constitution, less a Government in the strict sense of the term, within the sphere of its powers, than the governments created by the constitutions of the States are within their several spheres. It is, like them, organized into legislative, executive, and judiciary departments. It operates, like them, directly on persons and things; and, like them, it has at command a physical force for executing the powers committed to it."

And the form and mode of submission of the Constitution for ratification are repugnant to the idea of a mere compact or league between the States in their distinctive sovereign capacity. Look at the preamble to it. It does not commence, we the States; nor, indeeed, we the people of the States respectively do ordain and adopt the following compact or league. No, it speaks out honestly and to the purpose. It plainly and broadly declares: "We, the people of the United States, do ordain and establish this Constitution for the United States of America."

Why, sir, this device of anarchy and confusion was exploded in the very beginning. Some of the jealous devotees of State rights, apprehensive of the overshadowing power of the central Government, started the idea of a conditional adoption of the Constitution, reserving the right to withdraw if it should afterwards appear to be necessary. Hence, Mr. Hamilton wrote to Mr. Madison, inquiring if it would be competent to do so. What was Mr. Madison's answer? Mr. Madison then, just fresh from his labor of framing the Constitution, in 1788, replied as follows:

"The Constitution requires an adoption *in toto* and forever. It has been so adopted by the other States. An adoption for a limited time would be as defective as an adoption of some of the articles only. In short, any condition whatever must vitiate the ratification. What the new Congress, by virtue of the power to admit new States, may be able and disposed to do in such a case, I do not inquire, as I suppose that is not the material point at present. I have not a moment to add more than my fervent wishes for your success and happiness. The idea—and these are the words to which I wish particularly to refer—of reserving the right to withdraw was started at Richmond, and considered as a conditional ratification, which was itself abandoned as worse than rejection."

Where, then, can this extraordinary right of secession find its predicate? Verily, it is said, in the resolutions of the Virginia and Kentucky Legislatures, passed 1798-99, and 1800. It would be more to the point to refer to the Constitution itself. The Legislatures of Virginia and Kentucky were, no doubt, very respectable bodies; but they were not the parties who made the Constitution; nor can their resolves supersede the Constitution. But it is alleged that Mr. Madison, who was in

fact the father of the Constitution, was also the author of the resolutions of 1798–99; and that therefore these resolutions are, in fact, his exposition of State rights under the Constitution. Did Mr. Madison mean, by his enunciation, in these celebrated resolutions, of the right of State interposition in certain contingencies, that a State had a right to withdraw from the Union? I answer, no. If Mr. Madison, as the principal framer of the Constitution, is authority for the correct exposition of the Constitution, let the same rule apply to him as the author of the resolutions. And here I cite him as authority that he never designed by these resolutions to enunciate any such power in the States, both on the grounds of his intelligence as a statesman and his integrity as a man of truth. He has said he meant to enunciate no such principle. He has repeatedly so declared—in his letters to Mr. Everett, Mr. Cabell, Mr. Stephenson, and Mr. Trist. And yet his great name is persistently paraded before the public as sanctioning the pestilent principle of secession!

The truth is, the assumption of the right of a State to withdraw from the Union of its own accord, and without reference to the will or the wishes of any or of all of the other States in the Union, has only found champions bold enough to avow it within the last few years. Even Mr. Calhoun himself, so late as 1844, declared:

"That each State has a right to act as it pleases in whatever relates to itself exclusively, no man will deny; but it is a perfectly novel doctrine that any State has such a right when she comes to act in concert with others in reference to whatever concerns the whole. In such cases, it is the plainest dictate of common sense, that whatever affects the whole should be regulated by the mutual consent of all, and not by the discretion of each."—*Calhoun's Letter, declining nomination, to Baltimore Convention in February*, 1844.

At the time of the passage of the resolutions of 1798–99, the construction now placed upon them was not dreamed of. Mr. Wirt, then in the vigor of youthful manhood, and the ardent admirer and personal and political friend of Mr. Madison and Mr. Jefferson, writes to Judge Carr, of Virginia, under date of January 6, 1833:

"As to the right of a State to secede from the Union, I do not recollect to have ever heard it made the subject of discussion in the high times of 1798–99 and 1800, and consequently never heard the denial of the right to secede treated as a high Federal doctrine." * * * * "Mr. Madison's and Mr. Jefferson's resolutions were not for secession—they were appeals to the other States, and looked no further than the repeal of the laws," &c.

That Mr. Wirt is entirely correct in this assertion there can be no doubt. Other cotemporaries and cotemporaneous events corroborate the statement of Mr. Wirt. For instance, at a festival held by the presidential electors of Mr. Jefferson, in 1800, at the city of Richmond, there were present some of the leading statesmen and exponents of Virginia policy and opinion, and most prominent among the sentiments offered on that occasion was, "secession is treason."

If any journal may be quoted as authority for the views of the State-rights party in Virginia at least, and as reflecting the opinions of Mr. Jefferson and Mr. Madison especially, the Richmond Enquirer was certainly worthy of that distinction. Now we find in the Richmond Enquirer of November 1, 1814, the following:

"No man, no association of men, no State, or set of States, has a right to withdraw itself from this Union of its own account. The same power which knit us together can unknit. The same formality which formed the links of the Union is necessary to dissolve it. The majority of States which formed the Union must consent to the withdrawal of any one branch of it. Until that consent has been obtained any attempt to dissolve the Union, or distract the efficacy of its constitutional laws, is treason—treason to all intents and purposes."

Thus, it seems to me that these celebrated resolutions afford no warranty for the "right of a State to withdraw itself from the Union of its own account;" and the pretense for peaceable, irresponsible secession, predicated upon them, dissolves from view, "like the baseless fabric of a vision;" and the secession of the States now in arms against the Government, stripped of its specious disguises and sophistries and garniture of falsehood, stands forth in its true character—"treason to all intents and purposes"—a willful, unprovoked, diabolical conspiracy against the best Government God ever vouchsafed to man, and against the last cherished hope of constitutional liberty in the world.

Sir, it will require the concentrated and accumulated indignation of centuries to denounce, in terms of commensurate severity, the monstrous sin and turpitude of this rebellion. It is a crime against the human race. It has no shadow of apology. The false pretenses of its authors and abettors will not avail to shield them against the coming execration of mankind. Even Calhoun was constrained to admit, in his letter to General Hamilton in 1832, that—

"With institutions every way so fortunate, possessed of means so well calculated to prevent disorders, and so admirable to correct them when they cannot be prevented, he who would prescribe for our political disease disunion on one side, or coercion of a State, in the assertion of its rights, on the other, would deserve, and will receive, the execrations of this and all future generations."

Sir, truth will ere long strip these conspirators naked before the world, and the people whom they have so cruelly misled will rise up and curse them. History—impartial history—will arraign and condemn them to universal contempt. It will hold them responsible before man and God for the direful consequences already brought upon the country, and for the evils yet to come—for the desolations of war, its pillage, and rapine, and blood, and carnage, and crime, and widowhood, and orphanage, and all its sorrows and disasters.

"All that the mind would shrink from of excesses;
All that the body perpetrates of bad;
All that we read, hear, dream of man's distresses;
All that the devil would do if run stark mad;
All that defies the worst which pen expresses;
All by which hell is peopled, or as sad
As hell."

Mr. President, it must remain for some future American Sallust to delineate in terms of adequate execration the causes, instrumentalities, and personages of this wicked rebellion. How far he may find parallels of treason and turpitude in the pages of his Roman prototype, I shall not now pause to inquire. It may not become his duty to portray the character of any American Catiline in colors of moral debasement, as dark and horrible as those which have justly consigned the name of the Roman conspirator to eternal infamy; but the cardinal offense—the treason itself—of the modern patricides will transcend the enormity of the ancient rebels by so much as the blessings and liberty of America excel those of Rome. For if Sallust properly presented, as the most astonishing and deplorable feature of the effort to subvert the Roman republic, the fact that it was instigated at a time when "every nation from the rising to the setting of the sun lay in subjection to her arms, and though peace and prosperity, which mankind think the greatest blessings, were hers in abundance, there were yet found among her citizens men who were bent with obstinate determination to plunge themselves and their country in ruin," (see Watson's translation, London, 1852, page 43,) what shall be said of those who, without pretense of provocation, have conspired to destroy the unexampled peace and prosperity of the United States, and to overthrow the wisest and best Government which the annals of history have ever presented to the admiration of mankind?—a Government of which one of the principal conspirators, now vice president of the organized rebellion, said a little more than a year ago—

"That this Government of our fathers, with all its defects, comes nearer to the objects of all good governments than any other on the face of the earth, is my settled conviction."—*A. H. Stephens before the Georgia Legislature, November*, 1860.

I come now, Mr. President, to the inquiry, what has produced this rebellion? What is the design of the leaders of the rebellion in attempting to destroy the Government? We have seen that there has been no just cause of dissatisfaction with the Government. It has most successfully accomplished the end of its institution in securing "life, liberty, and the pursuit of happiness" for the citizen, and in "promoting the general welfare." We have seen that the policy of the Government has always been controlled by the South, and that at the time of the outbreak of the insurrection the administration of the Government was completely within the power of the South and its friends. We have seen that slavery and the rights of slaveholders were secure from any successful aggression by the Republican party or by the General Government. It was no dread of the abolitionists which precipitated the rebellion. Ex-Governor Adams was not singular in the sentiment to which he gave utterance at Columbia, when he declared:

"The abolitionists were our best friends. Thank God for what they have already done." * * * * "If to-morrow morning they repealed every anti-slavery law, and said they would never whisper the word 'negro' again, he would still loose his connection with them."

We must, therefore, seek for the impelling causes in other considerations. Perhaps they were multifarious and somewhat complex. Perhaps disappointed political aspirations had something to do with the matter. Envy and chagrin at the prosperity of the other sections, the sole and legitimate result of industry, enterprise, and skill, and not the fruits of partial legislative policy, may have exerted their baleful influences; for the tenor of alleged grievances oft-times bore striking resemblance to the complaints which Catiline poured in the ears of his co-conspirators. "Who," said he,

"Who in the world, indeed, that has the feelings of a man, can endure that they should have a superfluity of riches to squander in building over seas and leveling mountains, and that means should be wanting to us for even the necessaries of life; that they should join together two houses or more, and that we should not have a hearth to call our own? They, though they purchase pictures, statues, and embossed plate; though they pull down new buildings and erect others, and lavish and abuse their wealth in every possible method, yet cannot, with the utmost efforts of caprice, exhaust it. But for us there is poverty at home and debts abroad; our present circumstances are bad, our prospects much worse; and what, in a word, have we left but a miserable existence?"

An ungenerous envy of northern thrift may have, in some instances, been productive of prejudice in the southern mind. But why should the South envy the prosperity of the North? Let us rather turn with joy and gratitude to the natural resources of the South, inviting development—a climate unrivalled; a soil as fat as the Delta of the Nile; mines of inexhaustible magnitude and incalculable value; rivers in which navies may ride secure; sea-ports where the commerce of the world may find harbor—all the elements of individual and national prosperity and happiness worthy of the Almighty hand that poured them in such infinite exuberance around us. Fostered and protected by the best Government man ever enjoyed, and proud of our name and position as American citizens, let us rather be stimulated by the prosperity and success of our neighbors to energy and industry, and show ourselves worthy of the rich gifts which God and nature have so munificently bestowed upon us.

But what was the primary inciting cause of this rebellion? I answer—dissatisfaction with the principles and operation of democratic government. It was hostility to the simplicity and equality of republican institutions. We may not find any direct and unequivocal avowal of this fact on the part of the conspirators. It would be strange if we should. Satan ever approaches his victims as an angel of light. Liberty has always been destroyed in the name of liberty. Despotism is strategetic. It fights with masked batteries. All history will attest that encroachments on human rights have generally been made in the guise of freedom and friendship.

Mr. President, I am not before you either as the defender or the denouncer of slavery. Its friends, however, claim that it is necessary to the perfection of any high degree of civilization; that by exempting those who possess slaves from those menial and servile offices inseparably incident to the economy of any condition of society, it affords leisure and means for superior mental and social improvement, and imparts a dignity of character and polish of manners unattainable where slavery does not exist. If this assumption be confined in its application to the slaveholder, it may, to some extent, be true; but how small a proportion of the people of the South own slaves!

Sir, I dare not say, with George Mason, of Virginia, that "every master of a slave is born a petty tyrant," for I am a slaveholder. I despise the vituperation so indiscriminately heaped upon slaveholders by the madness of fanatic abolitionists. They are the worst enemies of the slave in the world. They have already injured him much; and if their policy were carried out it would degrade the slave still below his present position, and entail miseries upon him exceeding the horrors of the slave-ship. It would beggar both master and slave, and demoralize the whole country. Let us leave slavery where the Constitution and

laws have placed it, and await the progressive influences of that blessed Christianity, which, in God's own time, shall redeem and regenerate the human race.

But, sir, it may nevertheless be so that slavery does tend to foster in the feelings and mind of the slaveholder sentiments averse to the perfect level of natural and political equality upon which the system of American republican institutions is based. Labor is not so reputable in slaveholding as it is in non-slaveholding communities; and although the laws do not create or tolerate any distinctions predicated upon this fact, we find them existing with a power and influence as inexorable as if they were a part of the Constitution. I remember the startling effect of a passage in the speech which the eloquent Preston, sent as a commissioner from South Carolina to the late Virginia convention at Richmond, made before that body. Said he:

"Southern civilization cannot exist without slavery. None but an equal race can labor at the South. Destroy involuntary labor, and the Anglo-Saxon civilization must be remitted to the latitudes from which it sprung."

Sir, how I did wish that these remarkable sentences could have reached the ears of the five million laboring inhabitants in the South who own no slaves! Whatever may be the cause of this aristocratic sentiment in the South, and especially in the Gulf States, I shall leave the further discussion of it to philosophers and statesmen. It is the fact that I am at present considering; and that the fact exists is, I think, indisputable. It will not be denied that Judge Pratt, of South Carolina, is an eminently able man, and may justly claim to be considered an authoritative exponent of the views of a large portion of the people of his section. In a late elaborate article animadverting upon the temporizing measures of the confederate States, he says:

"The contest is not between the North and South as geographical sections, for between such sections merely there can be no contest; nor between the people of the North and the people of the South, for our relations have been pleasant, and on neutral grounds there is still nothing to estrange us. We eat together, trade together, and practice, yet, in intercourse, with great respect, the courtesies of common life. But the real contest is between the two forms of society which have become established—the one at the North and the other at the South. Society is essentially different from government—as different as is the nut from the burr, or the nervous body of the shell-fish from the bony structure which surrounds it; and within this Government two societies had become developed as variant in structure and distinct in form as any two beings in animated nature. The one is a society composed of one race, the other of two races. The one is bound together but by the two great social relations of husband and wife and parent and child; the other by the three relations of husband and wife, and parent and child, and master and slave. The one embodies in its political structure the principle that equality is the right of man; the other that it is the right of equals only. The one embodying the principle that equality is the right of man, expands upon the horizontal plane of pure democracy; the other, embodying the principle that it is not the right of man but of equals only, has taken to itself the rounded form of a social aristocracy. In the one there is hireling labor—in the other slave labor; in the one, therefore, in theory, at least, labor is voluntary; in the other involuntary; in the labor of the one there is the elective franchise, in the other there is not; and, as labor is always in excess of direction, in the one the power of government is only with the lower classes; in the other the upper. In the one, therefore, the reins of Government come from the heels, in the other from the head of the society; in the one it is guided by the worst, in the other by the best, intelligence; in the one it is from those who have the least, in the other from those who have the greatest, stake in the continuance of existing order."

Mr. President, Judge Pratt is by no means singular in his repudiation of the cardinal principle of democratic institutions—the right of the majority to govern. The constitution of his State confines the political power, in fact, to a comparatively small number; and the fundamental laws of several of the other southern States, including my own, have denied that population or suffrage is the true basis of political power, but secure to property a representation in the Legislature.

Mr. President, Mr. Jefferson enunciated the axiom that "absolute acquiescence in the decisions of the majority was the vital principle of republics." Thus he summed up the argument in favor of adhering to the General Government and preserving it:

"The preservation of the General Government in its whole constitutional vigor as the sheet-anchor of our peace at home and safety abroad; a jealous care of the right of election by the people—a mild and safe corrective of abuses which are lopped by the sword of revolution where peaceable remedies are unprovided; and absolute acquiescence in the decisions of the majority—the vital principle of republics, from which there is no appeal but to force, the vital principle and immediate parent of despotism."

But, sir, Mr. Preston, the South Carolina commissioner, to whom I have already referred, delivered a very different message to us last spring, in the Virginia convention. He declared to us:

"In the free States, the simple, isolated, exclusive, sole political principle is a pure democracy of mere numbers, save a scarcely discernible modification, by a vague and undefined form of representation. In these States there can be no departure from this principle in its extremest intensity. The admission of the slightest adverse element is forbidden by the whole genius of the people and their institutions. It is as delicate in its sensitiveness as personal right in England, or slavery in Carolina; it is the vitalizing principle, the breath of the life of northern socialism. The almighty power of numbers is the basis of all social agreement in the northern States. A fearful illustration of this is at this moment exhibiting its results in the Government under which you are consenting to live. That Government was 'instituted and appointed' to protect and secure equally the interest of the parts. By the agency of mere numbers, one section has been restricted and another expanded in territory; one section has been unduly and oppressively taxed, and one section has been brought to imminent peril; and in this hour the people of the North are consulting whether they can subjugate the people of the South by the right of number.

"The 'government by the people' is equally the rule of the South, but the modification of the 'rule of numbers' is so essential in the slave States, that it cannot coexist with the same principle in its unrestricted form. In the South it is controlled, perhaps made absolutely subject, by the fact that the recognition of a specific property is essential to the vitalization of the social and political organisms. If, then, you attempt to institute the rule of either form into the organism of the other, you instantly destroy the section you invade. To proclaim to the North that numbers shall not be absolute, would be as offensive as to proclaim the extinction of slavery in the South. The element of property would neutralize the entire political system at the North; its exclusion would subvert the whole organism of the South."

This is not the opinion of isolated individuals. It is wide spread in the South. It is already incorporated, in some form or other, in the organic laws of several of the States; and other States are seeking to give it constitutional authority. Thus, in the constitutional convention of Virginia, recently in session, Mr. Stuart, formerly Secretary of the Interior, as chairman of the committee having the subject in charge, made a report, from which I read the following extracts:

"Governments are instituted for the protection of the rights of persons and property; and any system must be radically defective which does not give ample security to both. The great interests of every community may be classed under the heads of labor and capital, and it is essential to the well being of society that the proper equilibrium should be established between these important elements. The undue predominance of either must, eventually, prove destructive of the social system. Capital belongs to the few—labor to the many. In those systems in which capital has the ascendency, the government must, to some extent, partake of the character of oligarchy, whilst in those in which labor is predominant, the tendency is to what Mr. John Randolph graphically described as 'the despotism of king numbers.'

"In the opinion of your committee no system of government can afford permanent and effectual security to life, liberty, and property, which rests on the basis of unlimited suffrage, and the election of officers of every department of the government by the direct vote of the people."

Sir, great astonishment has been expressed at the hostility of southern statesmen to popular education. But, sir, we ought not to be surprised at it. Knowledge is power; and to keep the masses in ignorance is a necessary precaution to keep them in subjection. To maintain the oligarchy of the few owning the capital, it is necessary to bind down with the slavish chains of ignorance the many who perform the labor. Hence, Mr. Stuart connects with the recommendations which I have just read, the following:

"This tendency to a conflict between labor and capital has already manifested itself in many forms, comparatively harmless, it is true, but nevertheless clearly indicative of a spirit of licentiousness which must, in the end, ripen into agrarianism. It may be seen in the system of free schools, by which the children of the poor are educated at the expense of the rich."

Sir, the true reason of this hostility to popular education is hostility to democratic institutions.

I need not remind many of the members of this body with what pertinacity Mr. Calhoun resisted the application of the majority principle to our system of national government, as subversive of the rights of the States. He warred upon this great principle from the time of his Fort Hill address, and before that time, down to the day of his death, in the Senate, in popular addresses, and in labored volumes of essays. Nor need I advert to the mighty influence which this great man exerted on southern opinion. Sir, there is a wide-spread hostility all through the Gulf States, more especially, to the great fundamental political right of the majority to rule.

It will be remembered, moreover, that the head-spring of this rebellion was in the very State where, in the war of the Revolution, the attachment of the people to the aristocratic institutions of the mother country was the hardest to subdue. This attachment was never wholly extinguished. Flashes of the old aristocratic flame have often gleamed out from the revolutionary ashes, as they did recently, when Mr. Russell was assured by many there that they longed to renew their allegiance to some descendant of the royal family of England. Sir, there is a wonderful "hankering" in South Carolina after the "flesh-pots of Egypt." By referring to the January (1850) number of the Democratic Review, I find an elaborately-written article, from which I have taken the following extract:

"The formation of the cotton States, with Cuba, into a great cotton, tobacco, sugar and coffee-producing Union, calling forth the boundless fertility of Cuba, and renovating the West India Islands with the labor of the blacks of the southern States, in those hands in which their labor and numbers have thriven so well, and THIS EMPIRE ANNEXED TO BRITAIN, by treaties of perfect reciprocity, giving the latter the command of the eastern commerce by way of Nicaragua, and all the benefits of possession, without the responsibility of slave ownership, would be a magnificent exchange for the useless province of Canada."

And, sir, I find the following in the newspapers of the day, giving some most significant antecedents of the present distinguished secretary of the treasury of the so-called confederate government:

"I was very much surprised, Mr. Chairman, at the honorable member's speech from Charleston, [Colonel Memminger,] who said he had rather South Carolina was attached to the Government of Great Britain, as she was previous to the revolutionary war, than to remain a member of this Union. Such an expression neither becomes an American nor a Carolinian, and must have been uttered in the heat of argument and declamation, without due consideration."—*B. F. Perry in the South Carolina Legislature for* 1850-51.

In an address which this gentleman made before the Virginia Legislature a year or two ago, he uttered sentiments as little in accord with the spirit and genius of our American democracy.

I recently cut from the National Intelligencer—a paper which, by its wise, conservative, and patriotic course through a long series of years, has placed the friends of constitutional liberty under the most lasting obligations—the following short article:

"A NASCENT NOBILITY.—In the number of DeBow's Review for July, 1850, is an elaborate article from the pen of George Fitzhugh, Esq., author of 'Sociology for the South,' and long a prominent advocate of disunion. In the article designated he gives expression to the following aspiration:

"'England has once tried to dispense with nobility, and France twice, but each experiment was a failure. In America we have the aristocracy of wealth and talents, and that aristocracy is somewhat hereditary. The landed aristocracy of the South, who own slaves, approach somewhat to the English nobility. Time must determine whether the *quasi* aristocracy of the South has sufficient power, permanence, and privilege to give stability, durability, and good order to society. It is sufficiently patriotic and conservative in its feelings, but, we fear, wants the powers, privileges, and prerogatives that the experience of all other countries has shown to be necessary.'

"If such was Mr. Fitzhugh's fear while the South remained in the Union and under the Constitution, we presume his hopes have considerably risen since the outbreak of the present war, for in the same article he avows a preference for a military government, as being the 'most perfect' known to man, and imputes it as a fault to the Republican party that the more advanced of its number were averse to wars. Mr. Fitzhugh's language under this head is as follows: (It will be seen that he finds the perfection of military government in the fact that it allows 'the least liberty' to its subjects.)

"'The most perfect system of government is to be found in armies, because in them there is least of liberty, and most of order, subordination, and obedience.'"

It is but a short time since Governor Brown, of Georgia, charged upon the leaders of the secession movement in that State a design to establish

"A strong central government, probably preferring, if they did not fear to risk an avowal of their sentiments, a limited monarchy, similar to that of Great Britain, or other form of government, that will accomplish the same thing under a different name."

Only two or three days before the victory of our fleet at Port Royal, Governor Pickens, of South Carolina, closed his message to the Legislature of that State with the following significant intimations:

"As far as the northern States are concerned, their Government is hopelessly gone; and if we fail, with all our con-

servative elements to save us, then, indeed, there will be no hope for an independent and free Republic on this continent, and the public mind will despondingly turn to the stronger and more fixed forms of the Old World.

"In this point of view I most respectfully urge that you increase the power and dignity of the State, through all her administrative offices, and adhere firmly to all the conservative principles of our constitution."

It were easy to multiply the evidence of hostility among the instigators of secession to what Judge Pratt calls the "horizontal plane of pure democracy." The columns of most of the leading journals in the interest of the rebellion teem with assaults, direct or indirect, upon the great principles of political equality on which our republican institutions are based. I shall not weary the Senate by any detailed reference to them. I will give an extract from one as an example of many. I have taken the following extract from the Richmond Whig, of June 14, 1861. Speaking of the southern States:

"This vast region, inhabited by a people who are bred from childhood to horsemanship and the use of arms, and who know what liberty is, and love and adore it, is portioned out for subjugation by the disgusting Yankee race, who don't know how to load a gun, and look contemptible on horseback. That they may be drilled into respectable military machines by the Virginian, who commands them, is likely enough; but without disjointing the eternal fitness of things and dislocating the order of nature, that they should become capable of empire, is simply absurd. Grant that mere brute force should enable them to overrun the land like a cloud of eastern locusts, their reign would pass with themselves. They possess not one quality that fits them for command. Since their beginning as a nation, and out of all their seething population, they have never yet produced a general or a statesman. That is an effort beyond their ability. But for organizing hotels, working machinery, and other base mechanical contrivances, they are without equals in the world. And the very law of nature which invests them with excellence in those inferior departments of humanity, condemns them to inferiority in those of a nobler and more exalted strain."

Senator Hammond is by no means alone in his conception of the dignity of labor. There are hundreds of thousands who concur in his estimate of laboring men as the mere "mudsills" of society, on which there should be erected an aristocracy, controlling the political power of the State.

Do you ask me, do the masses of the people of the South understand the purpose of the advocates of this subversion of democratic government? Sir, I admit the proportion of the southern people holding these views was, and perhaps still is, greatly in the minority. They consist mostly of slaveholders and their immediate dependents. The number of actual slave-owners in the southern States does not, perhaps, exceed four hundred thousand, and the number of dependents and expectants in interest will not amount to above one million five hundred thousand more. But then it must be considered that these slaveholders are the principal men of wealth, education, intelligence, and social influence. Besides, sir, as I have already said, the aggressions of the few upon the rights of the many are always accomplished under false pretenses. The cry of "southern rights," "southern rights," "southern rights," has been rung in the ears of the people with such ceaseless, vehement importunity, as to create an honest impression on the public mind that grievous and outrageous wrong has been done to southern rights already, and that still further and greater outrages are imminent. Especially has the opinion been propagated that slavery is everywhere to be abolished in defiance of constitutional guarantees, and the rights of the States are to be sacrificed to the caprices of northern fanaticism. Thus has the "southern heart been fired." Still it may be asked, how could such a meager minority precipitate such a rebellion as now exists if the masses were not coöperating? I ask, what had the people to do in seceding the States out of the Union, and in the organization of the provisional confederate government? What had the people in my own once honored State to do in attaching Virginia to the southern confederacy? Nothing, sir. Nothing. They knew not when it was done. They knew not that it was in contemplation till after it was done. In secret session, with doors barred against the popular ear, with hearts steeled against the expressed will of the people, the conspirators at Richmond not only withdrew my State from the Union, but transferred her arms and her finances and her liberties to the self-constituted authorities at Montgomery; and before the people knew of the dark infernal deed, the tread of armed legions from the Gulf States was shaking the plains of Virginia, eager to transfer the horrors of war to the Potomac and Ohio—eager to involve my neighbors and friends and kinsmen in the carnage and desolation which they ought to suffer themselves.

Mr. President, I find in the rich and classic pages of Mr. Burke a passage so much in point that I am sure the Senate will pardon me for substituting it in the stead of any further remarks of my own on this topic. It is from one of his letters "On a Regicide Peace." The great statesman had been classifying the people of Great Britain and Scotland. Among them he supposed there were four hundred thousand "political citizens." Of these, he places one fifth, or about eighty thousand, on one side, and the residue on the other. Of the character of the minority he says: "On these no reason, no argument, no example, no venerable authority, could have the slightest influence;" and then, to show the power and influence of such a minority, he proceeds:

"This minority is great and formidable. I do not know whether if I aimed at the total overthrow of a kingdom, I should wish to be incumbered with a larger body of partisans. They are more easily disciplined and directed than if the number were greater. These, by their spirit of intrigue, and by their restless, agitating activity, are of a force far superior to their numbers, and if times grew the least critical, have the means of debauching or intimidating many of those who are now sound, as well as of adding to their force large bodies of the more passive part of the nation. This minority is numerous enough to make a mighty cry for peace, or for war, or for any object they are led vehemently to desire. By passing from place to place, with a velocity incredible, and diversifying their character and description, they are capable of mimicing the general voice. We must not always judge of the generality of the opinion by the noise of the acclamation.

"The majority, the other four fifths, is perfectly sound, and of the best possible disposition to religion, to government, to the true and undivided interest of their country. Such men are generally disposed to peace. They who are in possession of all they wish are languid and improvident. With this fault (and I admit its existence in all its extent) they would not endure to hear of a peace that led to the ruin of everything for which peace is dear to them. However, the desire of peace is essentially the weak side of that kind of men. All men that are ruined, are ruined on the side of their natural propensities. There they are unguarded. Above all, good men do not suspect that their destruction is attempted through their virtues. This their enemies are perfectly aware of; and accordingly they, the most turbulent of mankind, who never make a scruple to shake the tranquillity of their country to its center, raise a continual cry for peace with France; peace with regicides, and war with the rest of the world is their motto. From the beginning, and even while the French gave the blows, and we hardly opposed the *vis inertiæ* to their efforts, from that day to this hour, like importunate guinea fowls crying one note day and night, they have called for peace."

Mr. President, there is more than one application to be made of this eloquent extract. It not only illustrates the power of an active, unscrupulous minority, but it also aptly describes a party in our own midst who are eternally clamoring for "peace, peace," when "there is no peace."

Such, sir, are my apprehensions of the purposes of this great rebellion. It is not only treason against the Union and the Constitution, it is treason against universal liberty. And it was for these reasons that I have said we were here to-day in the last intrenchments of liberty, fighting her last battle. And if she perish in the conflict she will sink into a grave from which there will be no resurrection. Shall we conquer? Shall the American people prove themselves worthy of the position in which God and his providence have placed them? What is our response to the demands which the friends of political freedom are making upon us from the uttermost parts of the earth? Is it possible that we have been elevated to this amazing height of national power and glory only that our fall shall be the more fatal and disastrous? Sir, we have no cause of despondency. Twenty millions of loyal people struggling in such a cause as this must prevail; and besides, God reigns. Let the enemies of our American liberty remember that. Let its friends remember it. Let us cherish the blessed truth. And let us be assured that if we are true to ourselves and to the voice of duty which calls us—which is the voice of God—the same providential hand which led our fathers to victory and freedom will guide us still, until our mission is completed in the diffusion and establishment of civil, political, and religious liberty throughout the world.

Our enemies will be foiled. They wish our overthrow. They confidently predict it; but let me say to them, as the bard said to traitors in another land:

"Fond, impious man, thinkest thou yon sanguine cloud,
Raised by thy power, can quench the orb of day?
To-morrow he repairs his golden flood,
And glads the nations with redoubled ray."

Sir, I think the cloud is already breaking. Its fury in the Northwest has been spent on my own native hills. There we see, at least, one spot of blue sky; and that "morrow's sun," soon to pour his cheering light upon our land again, when the "morrow" comes, is tinging the skirts of the receding tempest, and to the eye of the patriot's hope is penciling there the bow of promise and of peace, a new covenant of God for all ages to come, of union, prosperity, and constitutional liberty.

Sir, this Union cannot be dissolved. Nature and Providence forbid it. Our rivers and lakes and mountains and the whole geographical conformation of the country rebuke the treason that would sever them. Our diversities of climate and soil and staple production do but make each section necessary to the other. Science and art have annihilated distance, and brought the whole family of States into close propinquity and constant and easy intercourse. We are one people in language, in law, in religion, and destiny. "Whom God hath joined together, let not man put asunder." The past is glorious—the future shall be sublime.

"No pent-up Utica contracts our powers;
But the whole boundless continent is ours."

EXPULSION OF A SENATOR.

SPEECH OF HON. M. S. LATHAM,

OF CALIFORNIA,

IN THE SENATE, *January* 27, 1862.

The Senate having under consideration the resolution of Mr. WILKINSON to expel from the body Hon. JESSE D. BRIGHT, of Indiana—

Mr. LATHAM said:

Mr. PRESIDENT: During the two years that I have been a member of this body, upon only two occasions have I occupied the attention of the Senate on any subject that did not relate immediately to the constituency which I here represent. The duties of a representative of a new State are sufficiently arduous in themselves to occupy quite as much of legislative time as belongs to him. I have always endeavored to follow the advice which I recollect to have read of Cato the Younger, who, when told by one of his friends, "Cato, the world finds fault with your silence," replied, "I shall begin to speak when I have things to say that deserve to be known." I should preserve my silence upon this occasion, as I have heretofore done, if I did not believe that now, at the close of this debate, there were facts and things which should be brought to the attention of this body, before it acts upon so grave and serious a matter as the expulsion of one of its number.

We seem, sir, to be occupied more with the present than is consistent with a remembrance of the past; to be actuated by impulses which are now living and moving within our hearts in the great national struggle in which we are engaged, rather than to be possessed of a recollection of the condition of this body, and of the country, when the offense charged upon the Senator from Indiana was committed.

We live, sir, in strange times—times, I venture to say, of which no man in this body, however gifted he may be with superior intelligence and knowledge, can foresee the final result. It is an era of revolution; and what accompanies all revolution, there is broadcast a spirit of distrust and of suspicion, a necessary concomitant, as it were, of all great upheavings in political and social organizations. Friend suspects friend, and neighbor suspects neighbor. Distrust enters the fireside; yes, even into the sanctuary of "Him who rides upon the storm." I had hoped, and I will still believe, that at least in this body—the most conservative known to our Constitution and laws, more sacredly guarded than any other branch of our Government—we can act without prejudice, passion, or an undue influence of the suspicion of

the times, but with that degree of independence and dignity which have always belonged to the American Senate. If, however, I am mistaken in this, I may well say, as did Rosse, the nobleman of Scotland:

"Cruel are the times when we are traitors
And do not know ourselves; when we hold rumor
From what we fear, yet know not what we fear,
But float upon a wild and violent sea,
Each way and more."

The honorable Senator from New York, [Mr. HARRIS,] in his address on last Friday, correctly told this body it was a fixed principle of all jurisprudence that each man was to be punished for a crime according to the laws in existence at the time of the commission of that crime; that it was regarded as so great a violation of well-settled principle to punish for an act which was not a crime at the time of its commission, that all your constitutions and bills of rights have expressly guarantied that there shall be no *ex post facto* law. If this be so of law, it is equally so of public opinion. The public opinion of to-day is not the public opinion of the 1st day of March last. The public opinion of to-day will not, judging by the past, be the public opinion of the 1st day of October next. The Senator from Indiana, therefore, when he wrote the letter upon which he is now arraigned at the bar of the Senate, is to be judged by the public opinion of the 1st day of March last. As an humble Senator upon this floor, I protest in my place, as representing a loyal constituency, against judgment being passed upon members of this body for sins that they may have committed when the voice of the people was entirely different from what it is to-day.

Mr. President, it is an unpleasant duty for me to recall our condition on the 1st day of March last. It is like the recollection of a horrid vision. Nothing but a sense of duty and the reasons which operate upon my own mind in making up my judgment as to how I shall vote upon the pending question, would induce me to refer to acts which occurred before this body—to declarations made, to treason disclosed upon the floor of the Senate at the period to which I refer. At that time the Senators from Texas, the Senators from Virginia, and several others who are now leaders in this great rebellion, had a voice upon this floor. They had a right to vote and control the legislation of the country. They molded your policy. They voted in secret session upon all questions affecting your foreign relations, and in open session on all which related to your domestic concerns. Notwithstanding their presence, there was still a majority here on the 1st of March faithful to your Government, and who have proved it by their subsequent acts.

Now, sir, what occurred subsequent to the 1st day of March? The resolution offered by the Senator from Minnesota says that the letter written by the Senator from Indiana upon the 1st day of March is evidence of his disloyalty, and for that reason he should be expelled from this body; I state merely the substance of the resolution. Now I submit the question to every Senator here, if this letter had been produced upon the 1st day of March, if it had been seized upon the person of Mr. Lincoln before he left the city of Washington, and had been read at the Secretary's desk, would this body then have expelled the Senator from his seat in the Senate? That is the correct criterion for us to determine what we should have done under public sentiment as it existed then. For my part, I unhesitatingly say that this body would not have expelled the Senator from Indiana. Nay, more, sir: I venture the prediction that if the letter had been read by the Senator from Minnesota in the Senate on the 2d day of March last, it would have fallen harmless and indifferent upon our ears, and if you had expelled him you would have visited judgment such as you were unwilling to visit upon any other member. You would have dealt more rigorously, more severely with the Senator from Indiana for writing that letter than you were willing to with those who, by their subsequent acts, have shown their disloyalty and are now arrayed in arms. Sir, let me read to the Senate, what probably many members of this body recollect full well, the language used by one of the Senators from Texas on this floor on the 2d day of March last, the day after this letter was written by the Senator from Indiana; I read from the Congressional Globe of the Thirty-Sixth Congress, second session, page 1398:

"But as things are, it is useless, I am satisfied, to talk about a reconstruction. This Federal Government is dead. The only question is, whether we will give it a decent, peaceable, Protestant burial, or whether we shall have an Irish wake at the grave. [Laughter.] Now, I am opposed to fighting, and would prefer a peaceable burial; but if the Republican Senators insist upon fighting, and they can get the backbone again put into their President-elect, and can get Mr. Chase reinstated in the Cabinet, from which he has been expelled, I do not know but that we shall have to fight. If their President has recovered from that 'artificial panic' under which he was laboring a short time ago, under the advice of the Lieutenant General and the Secretary of War (I believe they advised him to be frightened, so say the Republican papers in defense of him; it was done by the card; he goes by the platform;) if they can recover him from that artificial fright under which he was laboring, and get him to take the Chicago platform fair and square, we shall have a fight; otherwise we shall not. I think myself it would be for the benefit of both sections that we should not have an Irish wake at our funeral; but that is for the North to decide, and not for us. Believing—no, sir, not believing, but knowing—that this Union is dissolved, never, never to be reconstructed upon any terms—not if you were to hand us blank paper, and ask us to write a constitution, would we ever again be confederated with you. Your people have been taught to hate us; your people have been taught to hate our institutions; your people have been taught to believe that you are Pharisees; that your phylacteries are full; that you are entitled to the high places in the synagogue; and you come and thrust yourselves into our presence, and thank God before our faces that you are not like us poor publicans, and your company has become distasteful to us; you tell us that ours is distasteful to you; we say, 'grant it, then we will separate:' and you say we shall not. Then we are going to make the experiment, and we will trust in Providence."

Here was a bold declaration made upon the floor of the Senate by the Senator from Texas that they were for war, that they meant war, that the Union of our fathers was dissolved, and that he spoke from his seat merely by the comity of this body. Well, sir, he did not rest there. In a subsequent part of the same speech, he said:

"I was saying, Mr. President, that the parenthesis that is now incumbent in the War Office, following, unfortunately, the advice of the Lieutenant General, attempted in a very feeble way, coercion. The Senator from Illinois seemed to be shocked at my speaking with a feeling of gratification at the flag of what he chooses to call my country being insulted. It is not the flag of my country, I hope and believe; but I have not official information on that point. That flag was never insulted with impunity until it floated over a cargo of Black Republican hirelings, sent to one of the sovereign States of this Union to coerce them to obedience to a Government that was distasteful to them."

At this point he was interrupted by the Senator from Wisconsin:

"Mr. DOOLITTLE. I think I shall rise to a question of order. If the Senator from Texas does not know whether he belongs to this country or not, if he is really a foreigner in his own estimation, I desire to know whether he is in order in addressing the Senate of the United States. [Laughter.]

"Mr. WIGFALL. I think the point is well taken; and if the Senator and those who act with him, will acknowledge my State to be out of the Union, I will take my seat without a word further."

He subsequently went on to say:

"A shot was thrown athwart the bow of the vessel containing armed men; they displayed a flag and it was fired at. I did say that that vessel had swaggered into Charleston harbor, had received a blow in the face, and had staggered out; and that the Secretary of War, who had brought the flag of this country in a condition to be fired at, had never dared, from that time to this, to resent the injury and insult; and in consequence of that, the State to which I owe my allegiance has withdrawn and cut loose from all connection with a Government that allows its flag to be so insulted. She has plucked her bright star from a bunting that can be fired at with impunity. If your President elect has recovered from that artificial fright, see if you cannot induce him to try and wipe out the insult; but I predicted last night that he would not; and I predict again that he will not. You fear to pass your force bills; you abandon them in both Houses. If you can get a Cabinet properly organized, with fire-eaters enough in it, the Cabinet may precipitate the country into a war, and then call upon what is denominated the conservative elements of your party to sustain the country in a war in which you have already involved it; but I know, and you know, that those men whom you represent are not in favor of war, and that their representatives here, a large number of them, fear it. What will be the result, I do not know; and, to be very frank, I do not care.

"Now, having explained why it was that I felt rejoiced at this insult to the flag of your country, I shall take up very little more time. The country is composed of States; and when that Government which was established by those States, and that flag which bears upon its broad folds the stars representing those States, is used for the purpose of making war upon some of those States, I say that it has already been degraded, and that it ought to be fired at, and it should be torn down and trampled upon. These are my feelings upon the subject; and 'if this be treason make the most of it.' I owe my allegiance—and Senators are not mistaken about that, for I have said it frequently—to the State which I here represent."

I have read, Mr. President, somewhat at length what the Senator from Texas said upon this floor on the 2d day of March. Does any gentleman pretend that a Senator could rise in his seat and say that to-day? Yes, sir, he said it, and this body sat quietly by and heard him say it. They heard him defend an insult to the flag of our country, and to boast in the hearing of the Senate in the terms which I have read that, if for no other reason, he wanted to withdraw from a Government that had not independence and pluck enough to assert its own dignity. Mr. Wigfall was one of the chief spirits of this whole rebellion. If Mr. Davis was the Achilles, Mr. Wigfall was his *fidus Patroclus*. As several Senators sitting on this side will recollect, he directed his public documents to "Jefferson Davis, president of the confederate States, Montgomery, Alabama," under his frank, and passed them from desk to desk long after the 1st of March, while he continued to occupy a seat upon this floor, making an exhibition of his distaste and contempt for our Government. I ask the honorable Senator from Massachusetts [Mr. SUMNER] if he boils over with such indignation at this letter of the Senator from Indiana; if he now regards it in so heinous a light; if he can find no other parallel to express his hatred except to compare the Senator from Indiana to Catiline, why did he not, as the Cicero of the Senate, rise in his seat and denounce the gentleman who uttered such language upon the floor of the Senate? Compared to his offense, that of the Senator from Indiana is like the flickering of a rush-light to the blazing sun, or if you choose the other comparison of darkness, a London fog to Cimmerian darkness. In the estimation of the Senator from Massachusetts, the Senator from Indiana is a Catiline—the most ignoble character recorded in history, who outraged his own daughter, murdered his own brother, and, to bind himself with his confederates against the government that he was about to overthrow, sacrificed a human body and partook of the flesh. But no, sir, the Senator from Massachusetts sat as quiet and as calm as a summer day. There was no reverberation of the thunders of his eloquence and hurling of his shafts of fierce bitterness and sarcasm against one boasting openly of his disloyalty to the Government until he drove him from the Senate, when he might have exclaimed in the sublimity of his denunciation, as Cicero did, "*abiit, excessit, evasit, erupit.*" An earnest and faithful Senator from the State of Connecticut, [Mr. FOSTER]—if he will permit me so to style him, for I recognize in him a gentleman who never speaks on this floor except with earnestness and sincerity—feeling the wrong and outrage perpetrated on this body, rose in his seat, some days later, it is true, and offered this resolution—I read from the Journal of the proceedings of March 8, 1861:

"Mr. FOSTER submitted the following resolution for consideration:

"Whereas, L. T. Wigwall, now a Senator of the United States from the State of Texas, has declared in debate that he is a foreigner; that he owes no allegiance to this Government; but that he belongs to and owes allegiance to another and foreign State and government: Therefore,

"*Resolved*, That the said L. T. Wigfall be, and he hereby is, expelled from this body."

Was that resolution adopted? If you will turn a little further on you will find that it came up on the 11th of March; I quote from the Journal:

"On motion by Mr. FOSTER,

"The Senate proceeded to consider the resolution submitted by him the 8th instant, to expel Hon. L. T. Wigfall from the Senate; and

"On motion by Mr. CLINGMAN, to amend the resolution by striking out all after the word 'whereas,' and in lieu thereof inserting, *it is understood that the State of Texas has seceded from the Union, and is no longer one of the United States: Therefore,*

"*Resolved, That she is not entitled to be represented in this body.*

"Pending debate,

"On motion by Mr. CLARK, that the Senate proceed to the consideration of executive business,

"It was determined in the affirmative."

The subject then went over to the 12th of March; and on that day, ten days after the letter of the Senator from Indiana was written, what did the Senate do?

"The Senate resumed the consideration of the resolution submitted by Mr. FOSTER, the 8th instant, to expel Hon. L. T. Wigfall from the Senate; and,

"On motion by Mr. SIMMONS,

"*Ordered*, That the resolution, with the amendment proposed by Mr. CLINGMAN, be referred to the Committee on the Judiciary."

I need but recall the fact that in that committee room it slept the sleep of death, as quietly as if buried in the "tomb of the Capulets." Ten days after the letter complained of was written by the Senator from Indiana, the Senate emphatically, by its own vote—for the reference of it to the Committee on the Judiciary was that decision—refused to expel the Senator from Texas for language such as I have here read, for boasts unprecedented in their nature, and for an outrage which every Senator knows would not for one instant be tolerated on this floor to-day.

The action of this body did not end here, sir. It was extended to other Senators that were as deep in the guilt of this revolution as was the Senator from Texas. The honorable Senator from New Hampshire, [Mr. CLARK,] in the remarks that he submitted to the Senate on Friday, read to you an extract from a speech made on this floor by the president of the so-called southern confederacy, as proof that the Senator from Indiana must have known what their purposes were, and that knowing them, he too was equally as guilty as the Senator from Mississippi. With all due courtesy and respect to that Senator, he will pardon me for saying, that if he knew them he knew more than any other Senator at that time; and if he sat quietly by and heard the speeches made by Toombs and Iverson and Benjamin and Davis, and knew what their designs and intentions were, and permitted them to go from this body and this city unarrested, he is as guilty as the Senator from Indiana, and of quite as high an offense, known to the law as *misprision of treason*. A distinguished Senator of Rome once said that "a senator should be as solicitous for his Government as the bee is for her hive;" and if he had been faithful to this Government, if he had known the crimes they were about to perpetrate, if he foresaw the condition of affairs which existed after the 12th day of April, I ask why it was that he sat quietly in his seat and did not have them arrested before they left this body, as traitors to your Government, and as guilty of treason against your Constitution and your laws?

Mr. President, let me recall to the attention of the Senate what those gentlemen said. I read it, not for the purpose that the honorable Senator from New Hampshire did, of showing knowledge on the part of the Senator from Indiana, or any one else, of the intent or purpose of those gentlemen, but to show what they said, and what this body afterwards refused to do as a just punishment and rebuke for their language and conduct. I desire, first, to call the attention of the Senate to language used on the 7th day of January, 1861, by a Senator from the State of Georgia, who I believe was afterwards secretary of State of the so-called confederate States. He was never expelled from this body; more than that, he never even took formal leave, but went defiantly; and no attempt was ever made even to place upon him the stigma that we in the month of July last placed upon other Senators by including them in a general resolution of expulsion. On the 7th of January, 1861, Mr. Toombs said:

"The success of the Abolitionists and their allies under the name of the Republican party, has produced its logical results already. They have for long years been sowing dragons' teeth, and have finally got a crop of armed men. The Union, sir, is dissolved. That is an accomplished fact in the path of this discussion, that men may as well heed. One of your confederates has already, wisely, bravely, boldly, confronted public danger, and she is only ahead of many of her sisters because of her greater facility for speedy action. The greater majority of those sister States, under like circumstances, consider her cause as their cause; and I charge you in their name to-day, "Touch not Seguntum." It is not only their cause; but it is a cause which receives the sympathy, and will receive the support of tens and hundreds of thousands of honest patriotic men in the non-slaveholding States, who have hitherto maintained constitutional rights, who respect their oaths, abide by compacts, and love justice. And while this Congress, this Senate, and this House of Representatives are debating the constitutionality and the expediency of seceding from the Union, and while the perfidious authors of this mischief are showering down denunciations upon a large portion of the patriotic men of this country, those brave men are coolly and calmly voting what you call revolution—ay, sir, doing better than that: arming to defend it. They appealed to the Constitution, they appealed to justice, they appealed to fraternity, until the Constitution, justice, and fraternity were no longer listened to in the legislative halls of their country, and then, sir, they prepared for the arbitrament of the sword; and now you see the glittering bayonet, and you hear the tramp of armed men from your capital to the Rio Grande. It is a sight that gladdens the eyes and cheers the hearts of other millions ready to second them. Inasmuch, sir, as I have labored earnestly, honestly, sincerely, with these men to avert this necessity so long as I deemed it possible, and inasmuch as I heartily approve their present conduct of resistance, I deem it my duty to state their case to the Senate, to the country, and to the civilized world."—*Congressional Globe, Thirty-Sixth Congress, second session*, page 267.

Here was an open declaration made by the Senator from Georgia upon this floor, that he had armed his people to resist your Government and laws, that he advocated their cause, that he approved of their acts; and yet not one voice was raised demanding that he should be expelled from our Halls or that punishment should be visited. How did he wind up that address?

"You will not regard confederate obligations; you will not regard constitutional obligations; you will not regard your oaths. What, then, am I to do? Am I a freeman? Is my State, a free State, to lie down and submit because political fossils raise the cry of the 'glorious Union?' Too long already have we listened to this delusive song. We are freemen. We have rights; I have stated them. We have wrongs; I have recounted them. I have demonstrated that the party now coming into power has declared us outlaws, and is determined to exclude four thousand millions of our property from the common Territories; that it has declared us under the ban of the empire, and out of the protection of the laws of the United States everywhere. They have refused to protect us from invasion and insurrection by the Federal power, and the Constitution denies to us in the Union the right either to raise fleets or armies for our own defense. All these charges I have proven by the record; and I put them before the civilized world, and demand the judgment of to-day, of to-morrow, of distant ages, and of Heaven itself, upon the justice of these causes. I am content, whatever it be, to peril all in so noble, so holy a cause. We have appealed, time and time again, for these constitutional rights. You have refused them. We appeal again. Restore us these rights as we had them, as your court adjudges them to be, just as all our people have said they are; redress these flagrant wrongs, seen of all men, and it will restore fraternity and peace and unity to all of us. Refuse them, and what then? We shall then ask you, 'Let us depart in peace.' Refuse that, and you present us war. We accept it; and inscribing upon our banners the glorious words 'liberty and equality,' we will trust to the blood of the brave and the God of battles for security and tranquillity."

Does any one suppose that a speech of that kind would be tolerated on the floor of the Senate to-day? *Tempora mutantur*. What we listened to patiently, quietly, under the influence of public feeling and opinion then, would not for one instant be tolerated at the present time; and why? We regarded them as but the vaporing platitudes of bravado, and not as the language of men who were really in earnest and meant what they said. This body as well as the country believed that these were efforts made by the leaders of the great southern rebellion to force the dominant party of the country into compromises without which they said they were unwilling to continue as members of our American Confederacy. Why, sir, let me read to you a short passage which the Senator from New Hampshire, in alluding to the remarks made by the president of the so-called southern confederacy, did not call the attention of the Senate to on Friday. I read from Mr. Davis's speech of January 21, 1861:

"Secession belongs to a different class of remedies. It is to be justified upon the basis that the States are sovereign. There was a time when none denied it. I hope the time may come again, when a better comprehension of the theory of our Government, and the inalienable rights of the people of the States, will prevent any one from denying that each State is a sovereign, and thus may reclaim the grants which it has made to any agent whomsoever.

"I therefore say I concur in the action of the people of Mississippi, believing it to be necessary and proper, and should have been bound by their action if my belief had been otherwise."

Upon the 21st of January, 1861, Mr. Jefferson Davis told you that he approved of the act of his State in entering into an alliance against your Government, and forming an *imperium in imperio* at the city of Montgomery, in the State of Alabama. What occured subsequently? Another Senator from the State of Georgia, (Mr. Iverson)—it is true, more violent in his temper, but no more in earnest than the gentleman whose language I have quoted—on the 28th of January, 1861, said:

"We care not in what shape or form, or under what pretexts you attempt coercion. We shall consider and treat all and every effort to assert your authority over us as acts of war, and shall meet and resist them. You may send your armies to invade us by land; your ships to blockade our ports, and destroy our trade and commerce with other nations. You may abolish our ports of entry by act of Congress, and attempt to collect your Federal revenues by ships of war. You may do all or any of these or similar acts. They will be acts of war, and will be so understood and treated; and in whatever shape you attack us, we will fight you. You boast of your superior numbers, and your greater strength. Remember that 'the race is not always to the swift, nor the battle to the strong.' You have your hundreds of thousands of fighting men. So have we; and fighting upon our own soil, to preserve our rights, vindicate our honor, and defend our homes and firesides, our wives and children from the invader, we shall not be easily conquered. You *may possibly* overrun us, desolate our fields, burn our dwellings, lay our cities in ruins, murder our people, and reduce us to beggary; but you cannot subdue or subjugate us to your Government or your will. Your conquest, if you gain one, will cost you a hundred thousand lives, and more than a hundred million dollars. Nay, more, it will take a standing army of a hundred thousand men, and millions of money annually to keep us in subjection. You may whip us; but *we will not stay whipped*. We will rise again and again to vindicate our right to liberty, and to throw off your oppressive and accursed yoke, and never cease the mortal strife until our whole white race is extinguished, our fair land given over to desolation."

Here was a bold proclamation made by this Senator on the 28th day of January, 1861, that so far as his constituency were concerned, it "was war to the knife, from the knife to the hilt." I might consume time in quoting what Mr. Benjamin said, what Mr. Slidell said, and what others said who took formal leave of the Senate. I might recall the contempt with which they spoke of our Government, and the insults they cast in the very teeth of the northern people. Mr. Slidell said, the same North that had furnished vessels to carry on the slave trade would furnish them their privateers in carrying on their war against the United States. He told this body that the patriotism of the northerd people was entirely subordiate to the "almighty dollar"—that we were not in earnest, and that we dared not attempt to assert the authority and the dignity of our Government.

All these things occurred cotemporaneously with, even before, the writing of this letter by the Senator from Indiana, which is regarded as so criminal on his part. Did the Senate expel those gentlemen? None ever acknowledged their right to withdraw from this body; they did not resign; they merely left because they claimed that their States having seceded, they, as representatives of their States, approving of the action, were no longer willing to occupy places upon this floor. For weeks their names were called upon your list. You put your face against the whole doctrine of secession, and would never had conceded, for one instant, directly or indirectly, that they had withdrawn from this body or ceased to be members of it. You disapproved of their conduct, but you did not expel them, though you had the same right that you exercised in the month of July, when you expelled Senators who were not present, and who were no more members of this body than they were during the month of March. Let us see what did occur in regard to these gentlemen. A resolution was submitted by the honorable Senator from Maine, [Mr. FESSENDEN,] on the 13th of March, 1861, which I will read from the Journal of the Senate:

"Mr. FESSENDEN submitted the following resolution for consideration:

"*Resolved*, That Albert G. Brown and Jefferson Davis of Mississippi, Stephen R. Mallory of Florida, Clement C. Clay, jr., of Alabama, Robert Toombs of Georgia, and Judah P. Benjamin of Louisiana, having announced that they are no longer members of the Senate, and having withdrawn therefrom, their seats in this body have thereby become vacant, and the Secretary is directed to strike their names from the roll of members."

Here was no great outburst of indignation against these Senators; no proposition to put the brand of disgrace upon them. They were simply to be dropped from the rolls of the Senate, and the Secretary was to cease to call their names. This was on the 13th day of March—twelve days after this letter was written by the Senator from Indiana. On the 14th of March, I find:

"On motion by Mr. FESSENDEN, that the Senate proceed to the consideration of the resolution yesterday submitted by him, declaring the seats of certain Senators vacant, and directing the Secretary to strike their names from the roll of the Senate.

"It was determined in the affirmative."

Then came up the resolution for consideration; and it was modified, on the motion of Mr. FESSENDEN, to read as follows:

"*Resolved*, That Albert G. Brown and Jefferson Davis of Mississippi, Stephen R. Mallory of Florida, Clement C. Clay, jr., of Alabama, Robert Toombs of Georgia, and Judah P. Benjamin of Louisiana, having announced that they are no longer members of the Senate, and having withdrawn therefrom, their seats in this body have thereby become vacant, and the Secretary is directed to omit their names from the roll of members." * * * * * *

"The resolution having been further modified, on the motion of Mr. CLARK—"

The very Senator who is now visiting such indignation on the Senator from Indiana for what he wrote thirteen days before—

"to read as follows:

"Whereas the seats of Albert G. Brown and Jefferson Davis of Mississippi, Stephen R Mallory of Florida, Clement C. Clay, jr., of Alabama, Robert Toombs of Georgia, and Judah P. Benjamin of Louisiana, as members of the Senate, have become vacant: Therefore,

"*Resolved*, That the Secretary be directed to omit their names respectively from the roll." * * * *

"On the question to agree to the resolution, as modified on the motion of Mr. CLARK, it was determined in the affirmative."

Here is your own Journal showing that, fourteen days after the writing of this letter by the Senator from Indiana, this body acted so gingerly, if I may so express myself, in condemnation of the acts of the very leader and his confederates in this great rebellion; and you were so unwilling to expel them from the Senate that not a single syllable appears upon your Journal, or upon the records of the proceedings of this body, for the expulsion of either of them, except the resolution offered by the Senator from Connecticut, [Mr. FOSTER,] which I have read in your hearing, that was referred knowingly to the Committee on the Judiciary, there to be lost.

Mr. President, I think I have conclusively proven by precedents that this body would not have expelled the honorable Senator from Indiana at the time of the commission of his alleged offense. But now public sentiment having changed, a different spirit existing throughout the country, I ask whether it comports with the dignity of this body to punish what it would have tolerated and listened to patiently and without any expression of indignation at the time of its commission. The first expulsion of any of those who acted directly with, or sympathized with the rebellion, did not take place until the 12th day of July, 1861, at the meeting of the extra session.

But, Mr. President, I come now legitimately to my next proposition. The argument as made by the Senator from Kentucky, [Mr. DAVIS,] the Senator from New Hampshire, [Mr. CLARK,] and I believe also by the Senator from Massachusetts, [Mr. SUMNER,] was this: that the country was at war upon the 1st day of March; that Mr. BRIGHT, in recommending Mr. Thomas B. Lincoln to the president of this so-called southern confederacy, must have known from the acts which had occurred prior to that period that we were at war, or had reason to believe that war would follow, and that there was a malicious and traitorous intent in his heart in recommending to Mr. Davis a person who had an improved arm. The Senator from New Hampshire entertained the Senate by reading all the acts of aggression which had occurred on the part of the southern people in the seizure of forts, the mint at New Orleans, the arsenals, and other outrages that they committed, extending over a period of two months, and argued from this that if Mr. BRIGHT had exercised common intelligence, he must have known that war then existed; and he read from the opinion of a learned judge—Judge Smalley, I believe—that these acts were warlike acts, and for that reason, in his view, a case was made out clearly against the Senator.

Well, sir, upon the 1st day of March—nay, sir, upon the 4th of March—there was no war. The country did not dream of war. There was not a man now loyal to our Government, no one except some of those already in arms, who had the slightest idea that the present state of things ever would exist. Did the President believe there would be war? No, sir. Did Congress believe there was war? What did it do? It adjourned without making appropriations beyond those purely necessary to carry on the Government. It adjourned without passing any of those measures requisite to place the Government upon a war footing; and I say further that no proposition was ever offered in either House that had war in contemplation. When we broke up our executive session at the close of the month of March, every Senator here who looks into his own heart believed, (it may have been that his belief was founded upon his hopes,) but he believed that reason would return to these mad men, who, in destroying the Government, like Samson in pulling down the temple, must have themselves known that they, too, were to be buried in its ruins. How did those who were invested with the chief administrative authority regard it? What did President Lincoln say on the eastern portico of the Capitol relative to the condition of the country in his inaugural address? After laying down his theoretical view, he said:

"In doing this there needs to be no bloodshed or violence; and there shall be none unless it be forced upon the national authority. The power confided to me will be used to hold, occupy, and possess the property and places belonging to the Government, and to collect the duties and imposts; but beyond what may be necessary for these objects, there will be no invasion, no using of force against or among the people anywhere. Where hostility to the United States, in any interior locality, shall be so great and so universal as to prevent competent resident citizens from holding Federal offices, there will be no attempt to force obnoxious strangers among the people for that object. While the strict legal right may exist in the Government to enforce the exercise of these offices, the attempt to do so would be so irritating and so nearly impracticable withal, that I deem it better to forego, for the time, the uses of such offices. The mails, unless repelled, will continue to be furnished in all parts of the Union. So far as possible the people everywhere shall have that sense of perfect security which is most favorable to calm thought and reflection. The course here indicated will be followed, unless current events and experience shall show a modification or change to be proper, and, in every case and exigency, my best discretion will be exercised, according to circumstances actually existing, and with a view and a hope of a peaceful solution of the national troubles and the restoration of fraternal sympathies and affection."

That was the language of the Chief Magistrate on the 4th day of March. How did it fall upon the ears of the country? Let me quote on this point the language of distinguished Senators and statesmen from different localities. What, I ask you, said the distinguished Senator, now deceased, from the State of Illinois?—a man ever watchful and ever anxious not only to preserve the Government, but guard it at every point from assault; who was one of the most faithful sentinels upon the citadel of the Republic, ever ready to give the alarm when he saw danger approaching. What did he say in one of his last speeches here before he went to his western home to die? This was the language of Mr. Douglas, on the 7th day of March:

"I shall cling to the hope that the peace policy will prevail, until I see the contrary shown by some authoritative act of the President himself. I care not what individual Senators may think. I draw my conclusions not from what this man or that man thinks. I believe there are a great many men in the Republican party who hold principles and a policy entirely repugnant to the views of the President. I draw my inference, therefore, from the official action of the two Houses of Congress, and from the inaugural address of the President. I think these facts show conclusively that we are to have no war, no bloody collision, and that the peace policy is going to prevail."

Again, he said, upon another occasion:

"This was the whole substance of what I said, or of what I intended to say. The Senator from Texas thinks that the expression of such an opinion and the drawing of such a conclusion from the inaugural address is calculated to have a bad effect upon the country. I do not see how. It strikes me that if the country can rest secure in the belief that there is to be peace; that there is to be no civil war; that armies are not to be mustered in conflict with each other; it will have a happy effect upon the country. I am sure that every man who loves his country—every man who cherishes with affection this glorious Union; for I assert that she is still glorious, and dearer to me than ever—every man who loves constitutional liberty, and who is proud of being an American, ought to rejoice in the belief that peace can be maintained.

"If I am allowed to judge from the various speeches the Senator from Texas has made recently on this floor, I am forced to the conclusion that he does not feel, on this subject of preserving the peace, entirely as I do. He has told us more than once that we could take our choice between peace and war, and that he did not care which. I do care; and therein consists the difference between the Senator from Texas and myself. Because I do care whether the issue is to be peace or war, I was induced to ascertain what was to be the policy of the Administration; and I arrived at the conclusion, sincerely and firmly, that the inaugural means peace. Hence I expressed my gratitude at that result."

I have read you the opinion of a Senator from the Northwest. Let me refer you, lastly, to what the distinguished Senator from Maine, [Mr. FESSENDEN,] a leader from the great Northeast, said also in relation to this question. Here is his language, delivered on the 15th day of March:

"Now, sir, what is the object of this movement of the Senator from Illinois? As my friend from Massachusetts has said, but a very few days have elapsed since the President came into power. He made a peace address to the people, as the Senator admits; and, as the Senator repeats again this morning, he construes it as a declaration of peace. The President says distinctly in that inaugural, 'I mean peace to the country. I will make war upon no portion of it; and if war is to follow, it must be made by others upon the administration of the Government.' That is the declaration. Why not be content with it?"

Now, sir, I ask Senators if there was war—if it was inevitable; if the conflict of arms was even probable at the time the honorable Senator from Indiana, on the 1st day of March, wrote this letter, why it was that the President of the United States and these distinguished Senators, whose loyalty is not questioned, did not say to the country that war was inevitable and then existed? The honorable Secretary of State, (Mr. Seward,) far later than that, as late as the 10th day of April, two days before the assault on Fort Sumter, in his dispatch to Mr. Adams, our minister to the Court of St. James, uses this language:

"Only an imperial or despotic Government could subjugate thoroughly disaffected and insurrectionary members of the State. This Federal republican system of ours is of all forms of government the very one which is most unfitted for such a labor. Happily, however, this is only an imaginary defect. The system has within itself adequate, peaceful, conservative, and recuperative forces. Firmness on the part of the Government in maintaining and preserving the public institutions and property, and in executing the laws where authority can be exercised *without waging war*, combined with such measures of justice, moderation, and forbearance as will disarm reasoning opposition, will be sufficient to secure the public safety until returning reflection, concurring with the fearful experience of social evils, the inevitable fruits of faction, shall bring the recusant members cheerfully back into the family, which, after all, must prove their best and happiest, as it undeniably is their most natural home. The Constitution of the United States provides for that return by authorizing Congress, on application to be made by a certain majority of the States, to assemble a national convention, in which the organic law can, if it be needful, be revised so as to remove all real obstacles to a reunion, so suitable to the habits of the people, and so eminently conducive to the common safety and welfare.

"Keeping that remedy steadily in view, the President, on the one hand, will not suffer the Federal authority to fall into abeyance, nor will he, on the other, aggravate existing evils by attempts at coercion which must assume the form of direct war against any of the revolutionary States."

These words were written by the Secretary of State on the 10th day of April, nearly six weeks after this letter was written by the honorable Senator from Indiana, containing the clear enunciation that the policy of the Administration was not war, was not coercion.

On the 12th of April, the President, in his response to the committee of the Virginia convention, said:

"Not having as yet seen occasion to change, it is now my purpose to pursue the course marked out in the inaugural address. I commend a careful consideration of the whole document as the best expression I can give to my purposes. As I then and therein said, I now repeat, 'the power confided in me will be used to hold, occupy, and possess property and places belonging to the Government, and to collect the duties and imposts; but beyond what is necessary for these objects there will be no invasion, no using of force against or among the people anywhere.'" * * * * "Whatever else I may do for the purpose, I shall not attempt to collect the duties and imposts by any armed invasion of any part of the country; not meaning by this, however, that I may not land a force deemed necessary to relieve a fort upon the border of the country."

It is a notorious fact that the Postmaster General allowed the mails to be carried in the seceded States down to the 27th day of May, nearly three months after this letter was written by the Senator from Indiana. Here is his communication to the House of Representatives upon this subject:

POST OFFICE DEPARTMENT, *July* 12, 1861.

SIR: The act of Congress in relation to the postal service, approved February 28, 1861, provides "that whenever, in the opinion of the Postmaster General, the postal service cannot be safely continued, or the Post Office revenues collected, or the postal laws maintained, on any post route, by reason of any cause whatsoever, the Postmaster General is hereby authorized to discontinue the postal service on such route, or any part thereof, and any post offices thereon, till the same can be safely restored, and shall report his action to Congress." In compliance with this act, and because of the obstruction of the service by the insurgents, I directed it to be discontinued on the 27th of May, by an order herewith communicated, in the so-called seceded States, except in Western Virginia; and have since directed its discontinuance in West and Middle Tennessee. The events which have rendered this course necessary are so well known as to render any explanation of my action unnecessary. It seems, indeed, more to be required that I should explain why I suffered the service to continue so long in those States. The chief reason for this was, that the mails alone afforded the means of diffusing any correct information among the people of the South, and disabusing their minds of the prevalent errors which the conspirators had availed themselves of to organize the insurrection. I felt assured that the expressions of public sentiment which would be evoked on the first act of war, if allowed to reach the people of the South, would go far to break down the conspiracy.

The postal service afforded the best means to communicate to the people of the South the judgment which I was confident the civilized world would pronounce against the rebellion when its real purpose was distinctly seen; and

although I knew that the instruments of the revolutionary despotism temporarily established there were doing everything in their power to suppress all correct information, it was nevertheless apparent that information of the most important character was disseminated through the mails. Actuated by such views, I was not only disposed to continue the service in existence when I came into office, but even to restore it where it had been discontinued by my predecessor; and for this purpose, at an early day, I sent a special agent to the South to establish the principal offices which had been discontinued. But the insurrectionary leaders comprehending, I believe, as I did, the effect of the mails upon their power, refused then to allow those offices to be reëstablished, and more recently have excluded the mails from all portions of the country in which their military power is established. While the military despotism which was organized in secret clubs by the conspirators is suffered to dominate over the people of the South, there is no means of ascertaining whether the policy I have pursued has been advantageous or not. But I have no doubt that the people of the South will vindicate it and themselves the first moment that they are liberated from the cruel despotism which now prevails. The discontinued service, as appears by a detailed statement herewith submitted, cost the Government $3,096,427 24 over and above the receipts therefrom.

I am, sir, very respectfully, your obedient servant,

M. BLAIR,
Postmaster General.

The SPEAKER *of the House of Representatives.*

It is also another notorious fact that the President of the United States, to whom was intrusted the guardianship and protection of the honor of the Government, with whom was vested the power to put down rebellion, to use all the means necessary to sustain the nation, issued his first proclamation enforcing the blockade of the southern ports on the 19th day of April, 1861. That proclamation applied to the States of South Carolina, Georgia, Alabama, Mississippi, Louisiana, and Texas. The blockade was subsequently, on the 27th day of April, extended over the ports of North Carolina and Virginia—nearly ten days after the first proclamation; while the proclamation calling out volunteers to protect the capital, and to sustain the Government in its resort to coercion, was not issued until the 3d day of May, 1861. Let me present these proclamations to the Senate:

THE BLOCKADE.

To all whom it may concern:

UNITED STATES FLAG-SHIP CUMBERLAND,
OFF FORTRESS MONROE, VIRGINIA, *April* 30, 1861.

I hereby call attention to the proclamation of his Excellency Abraham Lincoln, President of the United States, under date of April 27, 1861, for an efficient blockade of the ports of Virginia and North Carolina, and warn all persons interested that I have a sufficient naval force here for the purpose of carrying out that proclamation.

All vessels passing the Capes of Virginia, coming from a distance, and ignorant of the proclamation, will be warned off, and those passing Fortress Monroe will be required to anchor under the guns of that fort, and subject themselves to an examination.

G. J. PENDERGRAST,
Flag Officer commanding Home Squadron.

A PROCLAMATION

By the President of the United States of America.

Whereas, for the reasons assigned in my proclamation of the 19th instant, a blockade of the ports of the States of South Carolina, Georgia, Florida, Alabama, Louisiana, Mississippi, and Texas was ordered to be established.

And whereas, since that date, public property of the United States has been seized, the collection of the revenue obstructed, and duly commissioned officers of the United States, while engaged in executing the orders of their superiors, have been arrested and held in custody as prisoners, or have been impeded in the discharge of their official duties without due legal process, by persons claiming to act under authority of the States of Virginia and North Carolina, an efficient blockade of the ports of those States will also be established. ABRAHAM LINCOLN.

By the President:

WILLIAM H. SEWARD, *Secretary of State.*
WASHINGTON, *April* 27, 1861.

A PROCLAMATION

By the President of the United States.

Whereas, existing exigencies demand immediate and adequate measures for the protection of the national Constitution and the preservation of the national Union, by the suppression of the insurrectionary combinations now existing in several States for opposing the laws of the Union and obstructing the execution thereof, to which end a military force in addition to that called forth by my proclamation of the 15th day of April, in the present year, appears to be indispensably necessary; now, therefore, I, Abraham Lincoln, President of the United States, and Commander-in-Chief of the Army and Navy thereof, and of the militia of the several States when called into actual service, do hereby call into the service of the United States forty-two thousand and thirty-four volunteers, to serve for a period of three years, unless sooner discharged, and to be mustered into service as infantry and cavalry. The proportions of each arm, and the details of enrollment and organization will be made known through the Department of War; and I also direct that the regular Army of the United States be increased, by the addition of eight regiments of infantry, one regiment of cavalry, and one regiment of artillery, making altogether a maximum increase of twenty-two thousand seven hundred and fourteen officers and enlisted men, the details of which increase will also be made known through the Department of War; and I further direct the enlistment, for not less than one nor more than three years, of eighteen thousand seamen, in addition to the present force, for the naval service of the United States. The details of the enlistment and organization will be made known through the Department of the Navy. The call for volunteers hereby made, and the direction for the increase of the regular Army, and for the enlistment of seamen hereby given, together with the plan of organization adopted for the volunteers and for the regular forces hereby authorized, will be submitted to Congress as soon as assembled.

In the mean time, I earnestly invoke the coöperation of all good citizens in the measures hereby adopted for the effectual suppression of unlawful violence, for the impartial enforcement of Constitutional laws, and for the speediest possible restoration of peace and order, and with those of happiness and prosperity throughout our country.

ABRAHAM LINCOLN.

By the President:

WILLIAM H. SEWARD, *Secretary of State.*
WASHINGTON, *Friday, May* 8, 1861.

Now, what follows from these facts? Simply this: that if the Senator from Minnesota is right in his denunciation of the Senator from Indiana, as having been guilty of treason in writing this letter on the 1st day of March, then the Administration—your Government—was guilty of a far greater treason in allowing for six, eight, ten weeks munitions of war to be carried South, and communications from disloyal citizens of the North to the disloyal citizens of the South through the medium of your postal communication. If he wrote a letter simply recommending a gentleman—a letter that was never delivered, a mere declaration of personal sentiment upon his part—how insignificant must be his guilt in the eyes of the country, as compared to the guilt of your Government and its chief in authority in allowing for eight weeks and upwards arms and munitions of war to go peaceably from the North to the South, and getting into their possession everything calculated to make their rebellion a success. Here is an inconsistency that I have not yet heard explained by any gentleman who professes adherence to the dominant party.

It proves nothing to my mind, except that at the date of this letter by the Senator from Indiana, the constituted authorities did not believe there would be war; that the Senator from Indiana did not believe it; that he had no more disloyal intent in his heart in the sending of this letter of introduction to the president of the so-called confederate States than Mr. Lincoln, or Governor Chase, or your Secretary of War had in permitting munitions of war to go freely from the northern to the southern ports, in allowing produce to go from the West, and in allowing the free intercourse of the mails. They believed just as you believed, and as I believed, and as we all believed, that reason would soon assert her sway, and there would be a peaceful solution to all our troubles.

The honorable Senator from Kentucky, [Mr. DAVIS,] in his remarks the other day, saw fit to complain of the honorable Senator from Indiana, who is now on trial, because he was opposed to the doctrine of coercion. It is true this is not a cause *stated* in the resolution why he should be expelled from this body; but among other reasons as going to show the treasonable intent on his part in the writing of this communication, the Senator says Mr. BRIGHT was and has been opposed to the doctrine of coercion! Why, Mr. President, up to the taking of Sumter—which fell on the 12th day of April—I have read enough to show that it was the settled policy of our Government, it was the settled policy of the Administration itself, nay, sir, it was the settled policy of good judgment and reason everywhere, that the Government should not resort to the coercive power, to its strong arm, unless driven to it by greater exigencies than had at that time disclosed themselves. I say that was the opinion, not only of this body, from extracts which I have read, but it was the opinion of the constituted authorities—the present Administration. And I may go further and say it was the general opinion of the press throughout the country; and many that are to-day howling after the blood of the Senator from Indiana, who are exceedingly anxious to see judgment visited upon him at our hands, were then openly advocating the allowance, if necessary, of these States to go in peace rather than resort to the strong arm of the Government to suppress and crush out this rebellion. Let me read what a distinguished editor—named by the honorable Senator from Kentucky a "horrible monster;" a *monstrum horrendum*—told the country on the 8th day of December, 1860—he who is now so excessively anxious that a victim be made; that the dignity of the country be vindicated by hurling indignantly the Senator from Indiana from our presence. A letter was addressed to him by A. L. Post, dated Montrose, Pennsylvania, December 4, 1860, making certain inquiries; and in response Mr. Greeley says:

"As to what Congress may be *bound*, in a certain contingency, to do, we will not decide. It is far more to the purpose to decide what Congress *can* and *will* do. And we again avow our deliberate conviction that, whenever six or eight contiguous States shall have formally seceded from the Union, and avowed the pretty unanimous and earnest resolve of their people to *stay* out, it will not be found practicable to coerce them into subjection; and we doubt that any Congress can be found to direct and provide for such coercion. One or two States may be coerced; not an entire section or quarter of the Union. If you do not believe this, wait and see."—*New York Tribune, December* 8, 1860.

This was not only the tone of this great leading press, but it was the tone of a majority of the papers throughout the country who openly held, in conjunction with those in authority, as I have already stated, that the policy of this Government was not to resort to the strong arm of power in bringing these people back within the folds of the Union.

But, Mr. President, the Senator from Kentucky draws an inference prejudicial to the Senator from Indiana, from the fact that he voted for Mr. Breckinridge at the presidential election, who is now in open arms against the Government, and who has been expelled from this body; and, forsooth, in consequence of that vote, in connection with other acts, as he said, he was satisfied in his own mind of his disloyalty to this Government. There would be just about as much propriety in my arguing that because any Senator on this floor chose to vote for Mr. Bell, another candidate for the Presidency, (who is now an open and avowed disloyal citizen of your Government, and who, according to rumor, I do not know whether true or untrue, has a large iron manufactory molding cannon and making munitions of war for the southern confederacy,) I should be from that vote justified in pronouncing judgment against his loyalty. Here is the language of the Senator from Kentucky:

"What course did the gentleman himself take in that election, if I am correctly informed? Why was it that a ticket was run for John C. Breckinridge in the State of Indiana? Why was a ticket run for John C. Breckinridge in the State of Illinois? Why was a ticket run for John C. Breckinridge in many other States? It was simply to abstract that many votes from Douglas, in order to give those States certainly, or probably, at least, to Lincoln, and secure his election, and bring about the condition on which these southern traitors were to dissolve the Government."

Mr. President, I advocated (I happened to be where I could not vote for him) the election of Mr. Breckinridge. I did it because I believed—and I have no hesitation in saying it—that he stood upon the proper platform upon which a President should be elevated to power. I was one of eight hundred thousand people who supported him. The Senator from Tennessee, [Mr. JOHNSON,] if I recollect aright, now a great leader in our Union cause, also advocated Mr. Breckinridge's election.

Mr. DAVIS. Will the gentleman allow me to ask him a question, and to make a suggestion?

Mr. LATHAM. Certainly, sir.

Mr. DAVIS. My complaint of the Senator from Indiana was, not that he voted for Mr. Breckinridge; but it was that, in the State of Indiana, and in other States where there was no hope whatever that Mr. Breckinridge could carry the electoral vote, but, on the contrary, where it was obvious that he would get a very few votes, the policy of running an electoral ticket for him in such States was to diminish the probabilities of the election of Douglas, and to secure the probabilities of the election of Lincoln.

Now, the gentleman from California avows that he approved of the principles of Mr. Breckinridge as a candidate for the Presidency, if I understand him.

Mr. LATHAM. Yes, sir.

Mr. DAVIS. Well, among those principles one of the leading ones is this: if I understood Mr. Breckinridge's politics at the time, he was a be-

liever in and subscriber to the doctrine of State rights as taught by the school of the Virginia politicians. Do I understand the gentleman from California as indorsing that principle?

Mr. LATHAM. The honorable Senator cannot divert me into a discussion upon party platforms. What my views were as to the principles enunciated in the platform upon which Mr. Breckinridge stood are in print, and he can easily ascertain them. As to the doctrine of State rights my views were well known in this body long anterior to the nomination of Mr. Breckinridge. If by his remark he intends to imply that I have ever in any way indorsed one of the leading features of the Virginia politicians, to wit: the heresy of the right of secession, I have only to say to him that I was among the very first upon this side of the House on this floor, when that doctrine was boldly asserted during the present contest, to deny any such right, and to oppose it in every possible and conceivable shape in which it was brought forward.

Mr. DAVIS. Will the gentleman allow me another word?

Mr. LATHAM. Certainly, sir.

Mr. DAVIS. I am glad to hear the gentleman express his adherence to that position. He and myself on that point, at least, agree. I hold that the doctrine of State rights, as entertained by the Virginia school, and now termed southern rights, is, and has been, the mother of all our political mischief. That is the great heresy which has debauched the mind of the politicians of this country, and has enabled them to bring the present rebellion to its great and enormous condition. But here, sir, is what appears strange to me, that a gentleman so opposed to the Virginia doctrine of State rights should have been so strong in his adherence to and support of a candidate who made that principle one of the foundation stones upon which he built his whole system of politics.

Mr. LATHAM. Mr. President, as I said before, upon the resolution for the expulsion of the Senator from Indiana, I do not propose to be drawn into a discussion as to party platforms. I repeat what I have ever held upon this point, that all questions of this kind, even questions involving the rights of the States as set up by the Virginia school of politicians, and carried, in my humble judgment, to a greater extreme than the author of the old Virginia resolutions ever imagined, legitimately belong to the hustings, and are not questions upon which I am here to be arraigned, even though I might agree with them in sentiment. Sir, there is a place where all American statesmen and people settle such questions. It is the place prescribed by the Constitution itself, to which I have ever appealed. The place to settle these questions is the ballot-box, where authority is vested by a simple paper missive to control and mold and form our Government, where you deposit

> "That weapon that comes down as still
> As snow-flakes fall upon the sod,
> But executes a freeman's will
> As lightning does the will of God."

I am opposed to the doctrine of revolution in every shape. In my humble judgment, the honorable Senator from Kentucky, in arraigning the Senator from Indiana for political principles that he may have avowed and professed, is advocating a rule which will bring revolution within the circle of this Chamber; inaugurating proscription for opinion's sake; putting our country but one step from that which the French people occupied when they inaugurated the guillotine. It is against the tendency of these doctrines as enunciated, as I understood him, by the Senator from Kentucky calling this gentleman to an account for his support of any one man for the Presidency on principles professed by him, that I enter my solemn protest.

Mr. DAVIS. Will the gentleman allow me?

Mr. LATHAM. I would do so with pleasure, but I do not desire to get into a running discussion.

Mr. DAVIS. Well, the gentleman must not get athwart of me if he wants to avoid discussion——

The PRESIDING OFFICER, (Mr. RICE in the chair.) The Senator from California has the floor, and declines to yield.

Mr. DAVIS. I did not understand him so, if the Chair pleases. If he did, of course I shall submit; but I did not so understand him.

Mr. LATHAM. When I am through, the gentleman can go on.

Sir, up to the meeting of Congress, in the month of July, there had not been upon this floor any one more consistently opposed to the whole doctrine of coercion than myself. I believed up to that period that the weapon of reason should be appealed to, and not the strong arm of the Government. If I had followed the advice of my worthy and honorable friend from Tennessee, [Mr. JOHNSON,] with whom I interchanged ideas, I should probably have discovered that I had made a great mistake. I believed, as I have said to the Senate, that these southern people never intended to involve this country in the struggles which now exist, which, if they had had the common foresight that belonged to human intelligence, they must have foreseen would end in the destruction of those very rights that they pretend now to be fighting for.

Mr. President, I shall ever oppose, while I have a seat upon this floor, proscription of any man for his opinions in this body. I desire to call the attention of the Senate, in these days when the question of loyalty has assumed such varied aspects, what would have been the condition of our country a few years ago, when the party of which I am a member was dominant, if, in addition to saying, as it always did, that the inauguration of the avowed principles of the Republican party would break up the Government, it had, as suggested by the Senator from New York, [Mr. HARRIS,] also exercised the power of passing judgment and expelling Senators for mere opinions expressed on this floor? It is safe to say that there is scarcely a single member upon the other side of the Chamber that would be here to-day to respond to his name. What would have been thought when a Senator on this side of the Chamber, in 1850—the honorable Senator from New Hampshire, [Mr. HALE]—introduced a petition, on the 7th day of February, from the people of Pennsylvania and Delaware, praying for a dissolution of the Union, if a motion had been made to expel him from this body? The petition which Mr. Webster said deserved this title:

> "Gentlemen members of Congress, whereas at the commencement of this session you and each of you took your solemn oaths, in the presence of God and on the Holy Evangelists, that you would support the Constitution of the United States: now, therefore, we pray you to take immediate steps to break up the Union, and overthrow the Constitution of the United States, as soon as you can. And, as in duty bound, we will ever pray."

What, I ask, would have been thought, when Mr. Chase, your Secretary of the Treasury, Mr. Seward, your Secretary of State, were the only members who voted with the Senator from New Hampshire for the reception of that petition, if a motion had been made to drive them from this body? What, I ask, too, would have been thought if a motion had been made in the House of Representatives to expel a member from Massachusetts, now a distinguished leader in the Union Army, because he said, "I am willing, in a certain state of circumstances, to let the Union slide?" What would have been thought, even at this session of Congress, if, when the nomination of the representative of your Government at the Court of Brazil came before us, a motion had been made to reject him because he had said, referring to one of your party conventions:

> "On the action of this convention depends the fate of the country. If the Republicans fail at the ballot-box, we will be forced to drive back the slavocracy with fire and sword."

What, sir, if when considering the nomination of the gentleman who now represents your Government in our great and growing interest on the Pacific, (Mr. Burlingame,) we had refused the confirmation on account of his saying:

> "*The times demand that we must have an anti-slavery Constitution, an anti-slavery Bible, and an anti-slavery God.*"

What, sir, if a motion had been made to expel the Senator who introduced a petition coming from Republican citizens, in which they declare:

> "We earnestly request Congress, at its present session, to take such initiatory measures for the speedy, peaceful, and equitable dissolution of the Union, as the exigencies of the case may require."

Sir, I know very well what my Republican friends would have said: "you are seeking to destroy and break down one of the very corner stones of our Government—the right of free speech and the right of free thought." Who makes you the arbiter of my thoughts or of my judgment? We are each sent here by a State of this Confederacy to represent her, to speak for her; and the question is between our constituency and ourselves, our conscience and our God. I concede that when it comes to acts it is a very different question; but when I confine myself merely to sentiments, I concede the right to no man on this floor, and I never will while I occupy a seat here, to expel me because I dare announce those sentiments. Sir, we are upon a stream, whose current is fast enough, God knows. Let me tell the venerable, patriotic, and talented Senator from Kentucky, that "the bells of time are ringing changes fast," and the sentiments that he uttered the other day against emancipating and arming the slaves may not be the ruling sentiments of the ides of October; and he may feel that great injustice and harshness is done to him, if, for uttering those humane sentiments, a majority of this body, under the dominant exigencies and opinions which may at that time exist, should attempt to hurl him from his seat, on the ground that he himself was inconsistent, according to its idea, with the true spirit of a loyal American citizen.

Mr. President, the old landmarks of our Constitution are fading fast enough. We have now no liberty of the press. The great, striking feature of *Magna Charta*, wrung from King John upon the plains of Runnymede by our great British ancestors—the right to the writ of *habeas corpus*—has gone; more than a thousand of our fellow-citizens, without due process of law, lie rotting in your political bastiles. Sir, I trust that even if these things are so, at least within these walls the representatives of the people and the States shall have the right of free speech, and the utterance of whatever sentiments they may see fit to proclaim, without having their peers sit in judgment upon them.

Mr. President, since this rebellion broke out; since war became inevitable; since there was no other resort than to the strong arm of the Government; since it became a death struggle for existence, I have voted, and I shall continue to vote, for every measure to furnish money and men to enable us to show power and strength in this contest. The people of this country have placed the entire resources in the hands of the present authorities; they have done that which the Athenian poet said the people of Athens had done—they have ceded

> "The tributes of the States, the States themselves,
> To bind, to loose: to build and to destroy:
> In peace, in war, to govern; nay, to rule
> Their very fate, like some superior thing."

I shall stand by the national authorities so long as they stand by the Constitution and the laws. While the authorized Government of the United States follows that Constitution and those laws, it will have the sympathies of the civilized world. Without such obedience it cannot triumph. Even as in the darkest night the mariner trusts implicitly and strictly to the unerring pointing of the needle upon the dial of his compass; so should we, in this hour of our Republic's "mortal agony," to the chart of our liberties, as prescribed in the Constitution of our fathers. So doing, we should triumph, "as surely as the night succeeds the day"—we must triumph. But, sir, forsaking this our chart and map, we shall, I fear, too soon be in the deepest current of that dark and turbid stream that has rolled through all time, bearing downward the sucessive nations of the earth to the great sea of oblivion, to be forgotten forever and forever.

I am sorry to have occupied so much of the time of the Senate.

TREASURY NOTES—LEGAL TENDER—THE CURRENCY.

SPEECH OF HON. C. L. VALLANDIGHAM,

OF OHIO,

IN THE HOUSE OF REPRESENTATIVES,

February 3, 1862.

The House being in the Committee of the Whole on the Treasury note bill—

Mr. VALLANDIGHAM said: It has been my habit, Mr. Chairman, to premeditate, whenever premeditation was possible, whatever I have had to say in this House; for no man has a right,

in my judgment, to obtrude his immature and undigested thoughts and opinions upon a deliberative assembly. From the laboratory of his mind and the storehouse of his memory, it is his duty to bring forth, at all times, as the occasion may permit, whatever is most valuable; and there is no such thing as inspiration in matters of either law or legislation, and least of all, certainly, upon questions of finance. And just at this moment especially, the country and the Government demand sound philosophy and stern facts; not vain theories, or what is worse still, delusive and hazardous experiments and contrivances. *Experimentum in vili corpore;* and never was the maxim more applicable.

If, therefore, sir, I have prepared myself now a little more elaborately than heretofore, the complexity, delicacy, and magnitude, not to say novelty, of the subject in late years, are my justification. And I do from my heart, and with the deepest sincerity, lament that I am not now master of the whole science of political economy and finance; and am unable therefore, and because that I have not that divine order of intellect which is able to seize hold of it and to comprehend and fathom it as if by intuition, to discuss it as its immeasurable importance demands. It happened to me, sir, to come into public life, and even to attain majority, after the great questions of currency and revenue in the administrations of Jackson, Van Buren, and Tyler had, for the most part, been settled, and to be familiar, therefore, chiefly with a subject the discussion of which I would to God had never been obtruded upon Congress or the country, and which even now I would forever banish from both. But at intervals in years past, and with labor and diligence for some months past, I have sought to master the facts and principles, and to penetrate somewhat into the philosophical mysteries of these great questions, and to apply them firmly and faithfully to the present and approaching condition of the country. Committed fully to any measure and all measures of finance necessary to sustain as well the honor as the credit of the country in which I was born, and the integrity of the Government of which I am a part, and especially to adequate and just taxation for that purpose, I propose to-day to discuss the subjects involved in this bill to the best of my ability, and with becoming candor and freedom, and I may add earnestness, too; for I have the profoundest conviction of their incalculable importance to the interests, present and future, of the United States, and of the people of this whole continent.

Nor am I to be deterred from a faithful discharge of my duty by the consciousness that my voice may not be hearkened to here or in the country, because of the continued, persistent, but most causeless and malignant assaults and misrepresentations to which, for months past, I have been subjected. Sir, I am not here to reply to them to-day. Neither am I to be driven from the line of duty by them. "Strike—but hear." Whatever a silenced or a mendacious press, outside of this House, may choose to withhold or to say, no man who is fit to be a member of this House, will allow his speech or his votes or his public conduct here to be controlled by his personal hates or prejudices. Sir, I recant nothing and would expunge nothing from the record of the past, so far as I am concerned. But my path of duty now, as a Representative, is as clear as the sun at broad noon. THE SHIP OF STATE IS UPON THE ROCKS. I was not the helmsman who drove her there; nor had I part or lot in directing her course. But now, when the sole question is, how shall she be rescued? I will not any longer, or at least not just now, inquire who has done the mischief. So long as they who held control insisted that she was upon her true course and in no danger, but prosperously upon her voyage though in the midst of the storm, I had a right to resist, and did resist and denounce the madness which was driving her headlong to destruction. But now, that the shipwreck stands confessed, I recognize, and here declare, it to be as much my duty to labor for her preservation as it is theirs who stranded her upon the beach. Within her sides she bears still all that I have or hope for, now or hereafter, in this life; and he is a madman or a traitor who would see her perish without an effort to save. Whoever shrinks now is responsible also, for some part at least, for the ruin which shall follow.

In this spirit it is, sir, that I approach this great question; and I thank the House kindly for the attention which they seem inclined to accord to me, and assure them that it shall not be abused.

I do not agree, Mr. Chairman, with the gentleman who opened this debate [Mr. SPAULDING] that this bill is a war measure. Certainly, sir, it has been forced upon us by the war; but if peace were restored to-morrow these $100,000,000 of Treasury notes would be just as essential to the public credit as they are to-day. The argument of "military necessity" has been carried quite far enough already, without being now urged in behalf of the proposition—so unconstitutional, disastrous, and unjust—to make paper money a legal tender in discharge of all debts. I support this measure—not, indeed, as reported—impossible—but as I would have it amended—because it is absolutely essential to even the ordinary credit of the Government, and because without it I see nothing but bankruptcy to the Government in the midst of immense aggregate wealth among the people. The credit of the country is the honor and strength and support of the country, and it must be maintained at all hazards, and no matter who is President or what party is in power. And I am not willing to hazard the entire credit and honor and good faith of the country, because the Administration may, perchance, use this recuperated credit, to continue a war which I have not approved. "War is disunion," said Mr. Douglas; and bankruptcy is disunion, and as a true Union man, I have opposed the first, as I shall labor now to avert the last.

But to return. No scheme of loan, or taxation, or national bank, or currency, or other similar contrivance, can be devised and put into operation in time to avert the ruin. Therefore the Government must fall back upon Treasury notes for its present support. But a single question is presented: what shall be their form, and how shall they be floated? But inasmuch as the Government has no money, no gold and silver coin—which is the only *money* in the world—these notes, incapable, therefore, of being the representatives of money, must take its place as a substitute. They must become currency, and pass or "run" from hand to hand. But Treasury notes bearing interest and payable at a future day, are not fitted to run or pass as money. They are as mere ordinary promissory notes; and though often issued in this form—and indeed never before in any other, except once, within the last fifty years—they never at any time passed into general circulation or even circulation at all. They are a particular form of loan or indebtedness or security, and fit subjects for speculation on the stock exchange, but are neither money, nor the representatives of, nor a substitute for money. If made payable on demand, they need bear no interest, since the great element of value in a paper currency is not profit but credit. Therefore, intending that Treasury notes should circulate and become a sort of currency, this bill proposes, as did also the act of July, 1861, that they shall bear no interest and be payable in gold and silver. This unquestionably is the legal and inevitable inference from the language of the act and the bill, so far as appears upon their face. But neither the act nor the bill, the present nor the original bill, prescribes expressly in what they shall be paid. But both are "payable." Payable in what? Gold and silver, which is the only money that by law can be received for the public dues, or disbursed in payment of debts owing by the United States, except that the Treasury notes already authorized are declared receivable also in payment of debts due to the Government.

Sir, this bill is in two particulars modeled, though imperfectly, after the act of 1815; and to that extent I approve of the idea or theory upon which it proceeds. The issue of notes without interest, and to circulate as currency between the Government and its creditors and debtors, is for temporary purposes, and to meet the immediate and pressing necessities of the Government—and this is the only justification for their issue—and they are to be funded or converted, at the will of the holder, into six per cent. stock, redeemable twenty years after date; and so far they are, therefore, not mere Government paper money, like the Continental bills of the Revolution, or the French assignats, or the Austrian notes of 1809. Nevertheless, sir, there are capital objections to this bill which ought, in my judgment, to condemn it to unanimous reprobation and defeat.

In the first place, sir, it precedes where it ought to follow. It assumes that the promise to tax will give credit before a dollar of tax has been laid; much less collected. On the faith of this credit, it expects the free circulation of $50,000,000 already issued, and the $100,000,000 proposed to be issued under its own provisions. But, as if fearful—and most justly, too—that the promise may not be received for performance, and that, at last, no adequate tax may be assessed, or, if assessed, collected, it proceeds to declare these notes to be money—actual, substantial, tangible, and veritable MONEY—and to be a legal tender in satisfaction of all debts, public and private, corporate and individual, State and United States. The judgments of the State courts are to be discharged in these notes, and State taxes to be paid in them. All debts owing by the United States are to be liquidated in them. They are even to be received in payment of each other, and one promissory note of the Government is, by compulsion of law, and, of course, if need be, at last, by armed force, to be taken in full discharge of another promissory note issued by the same Government. These notes, sir, are declared "payable to bearer." Payable in what? Gold and silver and Treasury notes. But the Government is truly apostolic in its poverty. Silver and gold it has none. Therefore one Treasury note is a full, authorized, compulsory discharge of another Treasury note. Peter is to be robbed to pay Paul; and Paul in turn is to pay Peter for a debt of his own out of the fruits of the robbery. In plain English, and without metaphor, one promise to pay is to be made a legal tender in satisfaction of another promise to pay; and the promise of the Government to pay in paper, is to discharge the obligation of the contract of the individual debtor to pay his creditor in gold and silver. And this is the grand financial contrivance of the Secretary of the Treasury, with the concurrence of one half of the Ways and Means!

Sir, if it were fifty-fold as constitutional as, in my deliberate judgment, it is unconstitutional in letter, and abhorrent to the spirit and principles of that instrument, it could not command my support. I will not renew the discussion of the question of constitutional power to make Government paper, or any other paper, a legal tender in payment of any debts, public or private, present or prospective. My colleague from the first district [Mr. PENDLETON] the other day, with a clearness and force never exceeded in this Hall, disposed of that question forever. His argument has not been answered; and, pardon me, sir, it never will be. I concur in it all, thoroughly and totally, upon this point. Sir, disguise it as you may, this bill is but a FORCED LOAN from the people. It is an abuse and a stretch of power which no Government, except one either in the first throes of revolutionary madness and desperation, or in the last agonies of dissolution, or in the midst of the most imminent danger of either bankruptcy or conquest and overthrow, and no king or potentate, except a usurper, ever ventured to exert. If voluntarily submitted to, or by fear or power enforced, it will corrupt, derange, and debase the currency, and afflict the country with financial and commercial disaster and ruin, and shake the foundations of public and private credit for half a century to come. But we shall be fortunate if it does not precipitate a revolution, sooner or later, in our own midst. In ordinary times, certainly not; but let us not forget that we are in the very crisis of a convulsion, equaled by but few in the history of the world, and where no man can reckon the course, or momentum, or extent of any movement according to any of the ordinary laws which govern human affairs. But, independent of all this, tried by the plainest principles of finance, the commonest maxims of political economy, as exhibited and enforced in the experience of other nations, this bold, but ill-advised and most hazardous experiment of forcing a paper currency upon the people, ought to be met by the Representatives of the people with unanimous and emphatic condemnation. Otherwise, the experiment, if successful, will be followed by other enormous issues, till not a dollar

of gold or silver will be seen again in your day or mine, and but little of ordinary bank paper. Exportation, hoarding, melting, and manufacture into articles of luxury of every kind, will follow as the legitimate and inevitable consequence of your irredeemable Government paper currency. The golden age of America henceforth will belong only to the *Saturnia regna* of poets and mythologists.

Nor is this all, nor the worst. An immense inflation or bloat in this wonderful paper money which our financial Midas by his touch is to convert into gold, must come next. Cheap in material, easy of issue, worked by steam, signed by machinery, there will be no end to the legions of paper devils which shall pour forth from the loins of the Secretary. Sir, let the Army rejoice; there will be no more "shoddy," for there will be no more rags out of which to manufacture it.

And now, sir, what must follow from all this? First, that which never has failed in times of bloated currency—high prices, extravagant speculation, enormous sudden fortunes, immense fictitious wealth, general insanity. These belong to all inordinate and excessive paper issues, and even to plethoras in the circulation of gold and silver, if such plethoras could occur. But the evil will not stop here. Every banker, every lender, every merchant, every business man, and every seller of real or personal estate, or of anything else, compelled to receive in payment for whatever he lends or sells, an irredeemable paper money, dependent for its value solely upon force, and without the smallest credit, and himself having no confidence in the Government, and no special good will to the borrower or buyer who forces him to take its paper, will demand a still higher price, by way of insurance, than if the currency were sound and safe, no matter how much inflated.

And now, sir, what is to be the result of all this? What else but the result from like causes in years past in foreign countries and in our own? It is written in the commercial convulsions and sufferings of France in 1720, and of England a century later, and of the United States in 1837. The collapse follows the inflation, and is terrible and disastrous just in proportion as the bubble has been magnificent. Your legal tender laws will avail nothing. They have been tried before: tried in this country and tried abroad; and have always failed in the end. The regent of France proclaimed them in Law's time, in 1717; and what followed? Let M. Thiers answer:

"Violent and vexatious as the measures were to sustain the credit of the notes, they were insufficient to give them a value which they did not possess. *Dishonest debtors alone used them to pay their debts.* Coin was secretly used for daily purchases, and was concealed with care. Many accumulated it clandestinely. The greater part buried it in the earth, and the rich realizers used every artifice to transfer it to foreign countries. Another portion of our coin left France; and although the exportation of specie is not necessarily injurious, it was so at this time, since it left behind only a false paper currency and an imaginary capital."

But again, sir: this bill declares these notes to be "payable *at the pleasure of the United States.*" Was ever such a proposition before this submitted by any legitimate, established Government? Did any of the multitudinous Mexican usurpers, in the midst of the direst convulsions of that most distracted of all countries, even in his severest straits, ever "pronounce" anything more unjust and monstrous? Sir, these notes are not to be the basis of a future loan; they are not kites to raise the wind with. They are to be paid out in discharge of past liabilities, for debts which already exist; for honest and fair indebtedness for past services rendered or value already received, as between the Government and the citizen. All these debts were payable in gold and silver only—in the current coin and lawful money—the hard money—of the country. In the absence of any express stipulation or law to the contrary—and not in one case out of a hundred probably has any such existed—they are all payable by cash in hand or on demand. And yet payment at all of this very class of debts is, by the terms of this bill, to be postponed indefinitely, unless indeed the creditor will accept bonds at six per cent., depreciated, it may be, and if this bill pass in its present form, will be, to eighty or ninety cents on the dollar, and redeemable in twenty years. The Government proposes to settle with its creditors, and to execute its promissory notes payable whenever it is ready or finds it convenient to pay. In other words, the debtor dictates terms to the creditor, and declares that a debt payable in cash down or on demand shall be paid at the pleasure of the debtor, or otherwise, in either case, shall be utterly extinguished. O most wonderful, righteous, and equitable Secretary!

Sir, there is no subject so delicate as credit. What is it? Confidence, trust, faith. In its very nature it is voluntary, and you can no more coerce credit than you can compel belief in a particular creed or religion, or love between man and woman. It withers before suspicion, and languishes and dies at the sight of force. Sir, in the reign of Henry VIII, Parliament passed "an act for the *abolishing of diversity of opinion* in certain articles concerning the Christian religion." How much worse or more absurd, I ask, was that act than the bill before us? Good faith is the foundation of all credit; but this bill proposes, not bold and outright, but timid—I will not say cowardly—and indirect repudiation. More than this: it is an open confession of bankruptcy. If the Government has solid means, it needs no notes. If it has credit, why declare its notes lawful money and a legal tender, equal with gold? If it has neither means nor credit, it is exactly what is meant by a bankrupt.

But yet again, this bill styles the paper which it authorizes to be issued, "United States notes." Well, sir, words are things, and this change of name is for some purpose. What is it? I have carefully examined every Treasury note act and act referring to Treasury notes, public and private, from the first, in 1812, to the present time, eighty-two in number; and in not one, not one, are notes of this description called anything but Treasury notes. Sometimes they have been issued as a convenient form of temporary loan; at other times as evidence of indebtedness by the Treasury. But they were always, upon their face, limited to the Treasury Department, and were never known in any act by any other name than "Treasury notes." They never were intended to furnish a permanent or even a general circulation as a commercial currency. They were thus maintained to be not "bills of credit," within the then well understood meaning of that term, and therefore not unconstitutional. The act of 1815 styled them Treasury notes, though issued in sums of less than one hundred dollars, payable to bearer, without interest, transferable by delivery, and therefore capable of passing as currency. So did the act of July, 1861; and more than that, so did both the title and the body of this same bill, as first reported on the 7th of January.

Sir, who invented this new-fangled term, "United States notes," and why was it invented? What new light struck in upon the Secretary between the seventh and the twenty-second of the same month? And what are these United States notes but "bills of credit," the very bills so abhorrent to the framers of the Constitution? Most appropriately I may say with Mr. Webster, that "if the genius of the old Confederation were now to rise up in the midst of us, he could not furnish us from the abundant stores of his recollection with a more perfect model of paper money;" and I am forced to add, also, or a worse model, too. Here, sir, is one of the Continental bills of November, 1776. It bears small resemblance to the delicate paper issues and exquisite engraving of the present day in the United States. It smacks a little of the poverty of "Dixie"—as is said. Instead of the effigies of Lincoln, it bears on its face a veritable but rudely carved woodcut of the wild boar of the forest. It was bad money, sir; but issued in a noble cause. It is redolent of liberty; it smells of habeas corpus, free speech, a free press, free ballot, the right of petition, the consent of the governed, the right of the people to govern, public indictment, speedy public trial, trial by jury, and all the great rights of political and individual liberty for which martyrs have died and heroes contended for ages—although I am not quite sure, sir, that even now it is altogether without somewhat of the odor of rebellion lingering about it. But even this Continental bill purports to be payable, though not paid, in specie. It recites that "this bill entitles the bearer to receive four Spanish milled dollars, or the value thereof in gold and silver, according to a resolution of Congress, passed at Philadelphia, Nov. 2, 1776," and it is issued in the name of "the United Colonies."

But though in the midst of a revolution, and struggling for liberty and life, and in the darkest hour of that sore trial—it was just previous to the victory at Trenton—it never occurred to the just men and patriots of that day to usurp the power to make this paper money a legal tender, and to force, it by this usurpation, into credit and circulation by the strong arm of the law; and to that extent—and it is great—the United States notes proposed by this bill are fifty-fold worse and more to be abhorred than Continental money. But this paper of 1776 bears no interest, is payable to bearer, payable in gold and silver, payable at no particular time, intended to circulate permanently and generally as money, and without a dollar of tax or revenue to support it. The men of that day relied on patriotism to keep their bills in credit; and yet we know that even then, in the purest and best times of the Republic, they sank in value till at the close of the war $1,000 in paper were worth but one dollar in specie. In short, sir, they so utterly depreciated that to this day, if a profane man would describe anything as totally and hopelessly worthless, he would say of it that it was "not worth a Continental—*dollar.*"

And here, sir, before I pass from this subject, allow me to say that a very grave error has been fallen into in this debate. The notes of the Bank of England were not made a legal tender during the suspension from 1797 to 1823. The bank was by act of Parliament prohibited from paying in specie. The taxes were then very heavy, the expenditures enormous, and the notes of the bank were received as cash in payment of the public dues. For this reason, mainly, and not because they were, either directly or in effect, a legal tender, the notes, until the issues of the bank became excessive, did not depreciate, at least until also gold had begun to disappear in spite of penal legislation. But in three years the depreciation began, and from 1800 to 1814, it varied from eight to twenty-five per cent. In 1816, after the war, it was sixteen and three fourths. And yet there were public men then, just as some are found now, to maintain that the value of paper money had not fallen, but that the value of gold had risen. It was precisely the argument over again, of the French National Assembly, nearly twenty years earlier—*it was not the assignat which had lost, but the franc which had gained.* But, sir, the act also of 1834 which, it is said, declared the notes of the bank a legal tender, has been totally misunderstood. They are not now and never were a legal tender as between the bank which issues them and its creditors, or the holders of its notes. Not at all, sir. A proposition so iniquitous and monstrous never was enacted into law by English legislators. It belongs to the present Secretary of the Treasury of the United States, in the year of grace, 1862. Justly did Mr. Canning boast, in 1811, that

"Never did the wildest and most hostile prophesier of ruin to the finances of England, venture to predict that a time should come when, by the avowal of Parliament, nominal amount in paper, without reference to any real standard value in gold, would be the payment of the public creditor."

But neither are these notes a legal tender at all, except so long as the bank pays specie, and, of course, while they are equivalent to, if not convertible at any moment all over England into gold: so that in fact the observation of Mr. Burke, seventy years ago, is equally just and true now:

"Our paper is of value in commerce, because in law it is of none. It is powerful on 'change, because in Westminster Hall it is impotent."

And now, sir, what are your United States notes? They, too, are payable to bearer; payable—not to be paid—in gold and silver, payable "at the pleasure of the United States," and meant to circulate generally and permanently as currency, at least till the Secretary's grand fiscal machine, his magnificent NATIONAL PAPER MILL, founded upon the very stocks provided for by this bill, can be put in operation, when this sort of bills of credit is to be supplanted by another sort of bills of credit, which are to become the sole currency of the country, and to drive all gold and silver, and ordinary bank paper, out of circulation. This, sir, is what is meant by the phrase in the third line of the bill, "for temporary purposes," and nothing else is meant. And now, sir,

how, meantime, are these United States notes to be floated? By voluntary credit, founded on adequate taxation? Not at all, sir. Taxation to nearly or perhaps two thirds the same amount would, as I shall presently prove, float these notes at par with gold and silver indefinitely. But if taxation is meant, then no other means of credit are needed. How comes it, then, that force, coercion, is to be resorted to to compel these notes into circulation? The faith of the United States, supported by taxation, is to be abandoned, and this paper money is to be floated in every commercial and business transaction of the country, by main force of law, and not voluntary credit because of the solvency of the United States, till a year or two hence the Secretary shall have stocks enough to enable him to execute his financial schemes and contrivances in full. This, then, is the first step in the direction of his grand fiscal and monetary agent which is to maintain the credit of the Government and supply the sole paper currency of the country; and in further proof, I refer to the fact that in his late annual report, the Secretary styles the notes to be "prepared for circulation under national direction," and issued by this monster FISCALITY, "United States notes." These, then, sir, are the reasons why the ancient, approved, constitutional term "Treasury note," sanctioned by eighty-two acts of Congress, and sustained by judicial decisions, is to be cast off and abandoned for one just freshly coined for the new financial nomenclature of the Secretary of the Treasury.

But I have yet another objection to this bill. Secreted innocently in the first section, I find the following:

"And any holders of said United States notes depositing any sum not less than fifty dollars, or other than a multiple of fifty, with the Treasurer of the United States, or either of the Assistant Treasurers, or either of the designated depositaries at Cincinnati or Baltimore, shall receive in exchange therefor duplicate certificates of deposit, one of which may be transmitted to the Secretary of the Treasury, who shall thereupon issue to the holder an equal amount in bonds of the United States, coupon or registered, as may be desired, bearing interest at the rate of six per cent., and redeemable, at the pleasure of the Government, after twenty years from date; *or in sums not less than* $2,500, *for which, if requested, the Secretary, if he deem it expedient, may issue similar bonds, the principal and interest of which may be expressed in the currency of any foreign country, and payable there.*"

So that whoever, though a citizen of the United States, can gather together $2,500 of these notes, may convert them into stocks expressed in the currency of a foreign country, with principal and interest payable there, and of course in gold and silver or its equivalent; while he who holds fifty dollars or upwards, but less than $2,500, is obliged to receive domestic bonds, payable at home, principal and interest, in "United States notes," or the continental money of 1862. And now, sir, what is the effect of all this? The bonds issued are to be of the same amount as the face value of the United States notes, no matter how much the latter may be depreciated, and they will depreciate in spite or because of your legal tender clause; and not only this, but the face value of the bonds finally, and meantime of the interest, is to be increased by the rate of foreign exchange, whatever it may be at the time of the payment of either principal or interest. Nor is this all. The purpose of this provision, discriminating so palpably and unjustly between the great and the small creditors of the Government, and providing for specie payments to one class, and paper payments to another, is to enable the Secretary to fund his United States notes in stocks of a higher value than those expressed in the home paper currency, so that a surer, speedier, and more profitable accumulation of stocks may be had for the darling object of the Secretary, his grand fiscal contrivance. A two-fold purpose will thus be subserved: first, an earlier investment or funding of these notes; second, a more valuable class of stocks for banking operations. To the banker also who shall invest in these bonds, payable in a foreign currency and country, there will accrue, not only the difference between the real value of the United States notes, and the par or face value of the bonds, and the premium upon foreign exchange, but also the profits to be derived from the seven per cent. interest on the notes to be circulated by the new banks, and sometimes, if not regularly, where the bank is distant from the city of New York, or perhaps Philadelphia and Boston—say in the Northwest—the fictitious exchange, equal to from six to eighteen per cent. per annum, amounting, with the other profits of banking, in all to from twenty to forty per cent. to the holder of these stocks who shall invest them in the Secretary's new banks. But the operation does not stop here. The interest on these will be paid, of course, in gold or its equivalent; and other United States notes, issued or reissued under this bill, will be bought at their depreciated value as compared with gold, and converted into new stocks, payable in a foreign country and currency; and thus the circle of profits upon an increased capital will again be traveled round, till the untold millions of stocks provided for in the first section of this bill and the $500,000,000 authorized by the second section, shall have all been exhausted.

Sir, there is no need for the amendment suggested the other day by the chairman of the Ways and Means, providing for the payment of the interest on these stocks in gold and silver. He is not in the secret. There will be no bonds issued, and none are intended or expected to be issued, except those payable in a foreign currency and country, and of course in specie. No wonder, sir, that every adventurer and stockjobber and speculator and kite-flyer and contractor, too, outside of this House is pressing this monstrous scheme, worthy of John Law's most daring genius, gigantic in its proportions, corrupting in its success, and desolating as an earthquake in its final ruin. No wonder the Ways and Means and the country are afflicted daily with "spouting wretches" and scribbling wretches, who raise the magic howl that whoever opposes this great American bubble of 1862, following close upon the great "national loan" bubble of 1861, is in sympathy with the rebellion, and giving aid to traitors. Let us see, now, who and how many will dare to stand up against this clamor, and to hold fast to the Constitution, and cling firmly to the real interests and final safety and preservation of the country.

Sir, it is altogether aside from my present point of argument to urge in reply that this very demand for stocks, payable in the currency of a foreign country, will not only hasten the funding of the notes, and extend the loan, and thus the resources of the Government, but will keep up the credit and par circulation of the notes themselves. Certainly, sir: that is part of the idea of the scheme; and, to a certain extent, the result anticipated will follow in this last particular also. But the bulls and the bears will have something to do with that, too; and the authors of the contrivance themselves have not confidence that this demand would of itself float these $150,000,000 of notes at their par value, or anything near it; else why do they propose to resort to that very element which above all others tends to destroy credit—*force?*

But I have not done with this section yet, sir. There is no end to the stocks which, payable in the home paper currency provided for by this bill, or a foreign specie currency, are to be issued. The United States notes are to be reissued indefinitely as soon as funded, and funded indefinitely as fast as reissued. The wheel of fortune is to be perpetually in motion, and at every revolution is to throw out new notes and new stocks, till superseded by the grand machine for manufacturing a national currency suggested by the Secretary in his annual report.

And now, sir, besides this emission of notes and bonds as multitudinous as the sands of the seashore, the second section provides for the issue of $500,000,000 more. It recites that it is "to enable the Secretary to fund the *Treasury* notes and floating debt of the United States." "Treasury" notes indeed. What Treasury notes? None are proposed to be issued by this bill; and all issued under existing laws, including the acts of July and August, 1861, are to be funded in the same manner as provided for in this section; unless, indeed, the object of the section be, after all, only to enable the Secretary to convert all the outstanding Treasury notes issued under existing laws, except the $50,000,000 notes, amounting, according to the gentleman from New York, [Mr. SPAULDING,] to $103,000,000, into bonds expressed in a foreign currency and country, and payable there, so as to still further increase the amount of the more valuable and profitable class of stocks which are to constitute the basis of the new national bank. The "United States notes"—not "Treasury" notes—authorized by the first section of this bill, and the demand notes issued under the act of July last, are to be funded according to the provisions of the section itself.

Then, sir, we have here some $103,000,000 of old-fashioned Treasury notes payable at a future day and bearing interest. We have also the floating debt estimated by the gentleman from New York [Mr. SPAULDING] at $100,000,000, though, in my belief, it is more than double that sum. But why authorize $500,000,000 of stock wherewith to fund two or three hundred millions of dollars of Treasury notes and floating debt? The secret lurks quietly in the last sentence of the section:

"And the Secretary of the Treasury may *also* exchange such bonds at any time for lawful money of the United States."

Sir, what does all this mean? What will be "lawful money" of the United States if this bill pass? The issue of bonds is expressly declared to be for the funding of Treasury notes and the floating debt of the United States; and the Secretary is authorized to issue them to any creditor of the United States who will receive them at their par value in satisfaction of his demands. He may also exchange them for Treasury notes heretofore issued, or which may be issued, under the provisions of this bill, although this bill provides not at all for Treasury notes, either in its title or in the body of it, but only for the newly devised "United States notes." And yet this is the bill which the gentleman from New York [Mr. SPAULDING] declared, without a smile, to be "simple and perspicuous in its terms, and easy of execution!" Sir, I am very sure he never could have written it; nor, I apprehend, has he ever scrutinized its language or its provisions with critical accuracy.

But not only are these stocks to be issued in lieu of Treasury notes or discharge of floating debt, but the Secretary may also "exchange" them for the lawful money of the United States. Sir, I pass by the singular inaccuracy of providing for the "exchange" of bonds for gold and silver, or money of any kind, as a mere verbal criticism. But are these bonds, too, to be issued for the United States notes of the first section? These notes are expressly declared to be "lawful money," and was it not enough to provide for the eternal circle, the endless chain of issue and funding and funding and reissue of the first section? No doubt the real object of this provision is to enable the Secretary to sell these bonds for cash, and thus to create a new debt, instead of funding or transmuting a debt which may exist previous to and independent of the bonds. Why not, then, say so openly in the title and in the body of the bill? But I oppose this provision, and prefer that the notes and bonds provided for in this bill shall both be issued, not for the purpose of raising money, but to discharge debts otherwise incurred. In no other way, I fear, can you expect to float these United States notes or Treasury notes, whichever you may call them, at par with gold and silver, or the notes of specie-paying banks.

And now, sir, what, I beg to know, is the object of all this, if it be not to create an enormous and endless public debt, to be interwoven with every political, social, and business relation of life; to subjugate the States and the people perpetually to the Federal Government, and therefore never to be extinguished? The seven years of famine are upon us, and our modern Joseph is to buy in the property of the whole people, and lease it out to them again as tenants at a perpetual rent. Sir, I commend to him the ancient and significant Hebrew proverb: *Quum lateres duplicantur venit Moses*—when the bricks are doubled, Moses comes.

I propose, then, Mr. Chairman, a substitute for the bill, omitting so much of it as purports to make these notes a legal tender. But I go further. The Treasury notes authorized by the act of July last, and those provided for by this bill, are both declared to be payable, the one on demand, and the other "at the pleasure of the United States." Payable in what? You have no gold and silver. You can borrow none. You propose to collect $150,000,000 in taxes and imposts. But you issue at the same time $150,000,000 of Treasury notes, declared to be money, made a legal tender, receivable for the public dues, and to be circulated gen-

erally as currency; and you thus drive gold and silver into vaults and hiding places, or under ground, and bank paper out of existence. What, then, can you, will you receive, except these self-same notes again into your Treasury? And if so, what but Treasury notes will you have to pay out? Sir, your bill is a delusion and a snare. These are not demand notes. They are not to be payable to bearer, nor to any one else, at any time, nor at any place. They are not to be "paid" at all. They are to be funded or converted into six per cent. stocks, redeemable in twenty years. Sir, the public credit cannot be maintained by a public lie. Your notes are not money; they will not circulate as currency; they will not be taken as a legal tender, and in discharge of judgments and contracts and State debts, or private debts, though you should send them forth bearing ten times the image and superscription—the fair face and form of Abraham Lincoln, now President and Cæsar of the American Republic.

Sir, I propose to abandon this false pretense, and to change the form of the note itself. A Government note, payable on demand or at the pleasure of the Government, to bearer, in gold and silver, is necessarily and inevitably a delusion and an absurdity. If the Government has gold and silver wherewith to pay, it need issue no Treasury notes. The necessity and the justification for their issue cannot exist till the Government is without gold and silver or its equivalent, obtained either by taxation or upon formal loan. And whenever it issues notes it confesses that it relies for the time, not upon funds in hand, but on credit because of funds to be had at a future day. And when the note is payable at a future day certain, there is no fraud and no deception. Not so when it purports to be payable on demand, or at no fixed time at all, and certainly not when payable at the pleasure of the debtor, the United States. Recall, then, as I propose, your outstanding demand notes, and conform those which you authorize now by this bill to what they really are, and do not send them forth seeking credit or to be forced upon the people by the strong arm, and yet branded with falsehood upon their face.

Instead of this compound of delusion and force, I propose a form of Treasury note depending solely for its value and circulation upon the consent of the creditor or holder and the solvency and credit of the Government. And as without taxation there can be no credit, it is founded wholly upon the basis of a not far from equal, and at all times certainly an adequate, taxation. It proceeds upon the assumption—first, that the Government is indebted in the amount proposed, and must provide for its creditors, in payment, that which is equivalent to currency or cash; and, secondly, upon the right of property which the Government has in so much of the wealth of the country as is necessary to carry on its legitimate and constitutional operations, and to maintain its credit. Upon these two corner-stones it rests. The Government is to issue in payment of its debts due to others that which it is to receive in satisfaction of the debts due from others to itself. It is to tax the people to the extent of a hundred or a hundred and fifty millions of dollars to maintain its good faith and its integrity every way; and it is to furnish the people with the medium, not the means, of payment. If this scheme fail, if these notes have no credit and do not circulate as substitutes for so much money, always good in satisfaction of so much debt due by the people to their Government, it will be either because there is no sufficient taxation laid, or if laid, not collected, or because of direct and successful repudiation. And if any of these, then the Government cannot be maintained any longer, and is not worth preserving.

But we need apprehend none of these results, I trust. The country is full of wealth and resources; it is able, and, for the purpose of maintaining the honor and credit of the Government, which are the credit and honor of every citizen in it, willing, I doubt not, to pay any amount of taxation which may be demanded. We have full constitutional power to tax. Here is a coercion which I recognize and approve. True, as Mr. Burke said, it is no more possible to tax and to please, than to love and to be wise. But is it not wonderful that gentlemen who are so fearful of their popularity that they will not resort to the constitutional coercion of taxation, are yet willing and eager to force upon the people instead of taxes, the unconstitutional, despotic, and most disastrous coercion of a paper currency to be received in satisfaction of every debt, and to enter into, and derange every contract, and taint and degrade every commercial and every business transaction of every kind, under penalty of forfeiture or confiscation of the debt? Coerce taxes, sir, and you secure a firm credit, and a full and, what is better, a free and voluntary circulation of your Government paper, intermingling naturally with the whole circle of the financial and commercial concerns of the States and of the people, without the violence, derangement, and convulsion of a forced and odious and abhorred paper currency. If you are afraid of the people, be afraid to do wrong, not to do right.

Sir, instead of force, the substitute proposes to rely for the credit and circulation of these Treasury notes—Treasury certificates they really are, but I prefer the long-established and accepted name—first, upon their convertibility at the will of the holder into six per cent. stock; and as they bear no interest at all, the holders will naturally seek to fund them whenever United States stocks shall have been restored to their par value. And this will happen whenever, and not before, its solid revenue shall have been made sufficient for its ordinary expenses, and the punctual and certain payment of the interest on the public debt, present and prospective, and the collection of that revenue made absolutely sure. Whenever *doubt* upon that question is removed, your stocks will go up to par, and will remain there or above it. Why does not this bill, instead of force, rely upon credit obtained by the right to fund these notes bearing no interest, in bonds with interest at six per cent.? Because your stocks are already at ninety cents on the dollar, and of course no capitalist will invest par notes in bonds ten cents below par. And why are your stocks thus depreciated? Because there is a *doubt* whether the interest will be paid punctually and surely at maturity. And, pardon me, sir, you never can remove that doubt by legislation or force, but only by revenue.

Sir, I have not referred to-day to a sinking fund as an object of immediate importance; because if revenue enough can be secured just now to pay the very large interest on the public debt, we shall have done well enough at present, without attempting to find ways and means to discharge it, till the enormous drain of millions a day shall in some way or other have been arrested. Sufficient unto the day will that evil be. I concur, indeed, thoroughly in the principle which affirms that no debt ought to be created without at the same time providing means wherewith to pay it finally. But that principle should have been remembered before, or at least at the time when, the prodigious expenditures of the Government were commenced; and it is impossible to act upon it just now, when there is scarce a dollar to be had for the most pressing wants of the Treasury. Let us seize the earliest moment for it when it shall have become practicable, and meantime be content to find means for the current and most essential expenses of the Government.

But, Mr. Chairman, the fundamental idea of this substitute is to support and float these $150,000,000, by a nearly equal amount of taxation and revenue, payable of course in these notes. The Government owes the people and the people owe the Government, each $150,000,000, and these notes are primarily to be used as a common medium of payment between them. Unquestionably so long as this relation of mutual debts and credits subsists in nearly the same proportion, these notes will float in general circulation and in payments, or exchanges, or other commercial and business transactions between citizen and citizen, even without the funding clause; but this clause is essential inasmuch as the expenditures of the Government very greatly exceed the $150,000,000, and because the debt present and future is unhappily to last for many years to come. But these notes will have this advantage over bank paper, that they are receivable at par with gold and silver in payment of Government dues, while it is not. The refusal, therefore, of the banks to receive and circulate them will avail nothing to depreciate their value, since their credit and circulation will depend, not on bank favor, but on taxes of a nearly equal amount which must be paid at all events, and may be paid in these same notes. They will thus be beyond the reach of bull, bear, or banker.

Will they circulate as money, and answer its purposes as well to the creditors as the debtors of the Government, sustained as they are by all these elements of credit? Sir, I do not depend solely on theory and deduction upon this point. We are not without examples at home and abroad. North Carolina, after the Revolution, and previous to the adoption of the present Constitution, issued between four and five hundred thousand dollars, of paper, receivable in payment of her public dues. She declared it also a legal tender, but her ratification of the Constitution in November, 1789, of course abrogated that provision; and yet, supported by taxation sufficient to pay her debts and carry on her State government, this immense amount of paper money remained in circulation for more than twenty years at par with gold and silver during the whole time, although her revenue was less than one fourth of the whole amount of this currency. In like manner Russia, as late as 1827, had a fixed paper circulation of upwards of one hundred and twenty millions of dollars, in the form of bank bills, but having nothing to sustain it, except that it was receivable in payment of her public dues; and yet it continued for years at par, although her revenue did not exceed $90,000,000 annually. And in 1838 Mr. Clay declared that if the Government used only gold and silver, and its own credit, it could even with the then small revenue of some $30,000,000 keep $40,000,000 of Treasury drafts in circulation at par all over the Union, though they should bear not a cent of interest, and not be fundable at last in interest-bearing stocks; and I do not now doubt that one third, possibly one half more of these Treasury notes, than of any given amount of fixed, undoubted, and punctually paid revenue, could be floated at par to-day.

I do not propose, Mr. Chairman, or pretend that these Treasury notes are to be convertible into gold and silver. They are not payable on demand; they are not payable to bearer, nor payable at all. They are not *to be* paid, but to circulate as a currency receivable in Government dues, and finally to be funded in twenty years' stocks. They are not promises to pay, and therefore are not paper money. They do not represent gold and silver, of which the Government has none; and if it had wherewith to pay notes on demand, it would be under no necessity and have no justification for issuing or circulating these notes at all. They represent only Government dues, and their value rests on the credit of the Government—on its right and power to collect such an amount of taxes as may be needed to sustain that credit. The United States are to cease in part for a time to be a specie-paying, hard-money Government. I deplore it profoundly. But imperious necessity demands it. There is no alternative, no matter what evils may follow. It is the best possible that can be done under the circumstances; and that is the only apology for suspending, even to that extent, the Independent Treasury, as wise and beneficent a measure as ever was devised. And yet it is one thing for the Government to receive and pay out its own paper or notes in its own business, and quite another to receive and pay out the paper bills or promises of a bank as cash; and as to this last, the Independent Treasury system remains unchanged.

But I utterly deny, sir, the right of the Federal Government to provide a paper currency intended primarily to circulate as money, and meet the demands of business and commercial transactions, and to the exclusion of all other paper. It is not the intent or object of the substitute to furnish such a currency for the country. Its purpose is to provide a new but temporary medium, receivable for the public dues, and sufficient only to meet the increased fiscal action of the Government. It is not to supersede either gold and silver or bank paper in ordinary business and commercial affairs. The tendency of all paper, indeed, is to expel specie from circulation; and it always will, to a greater or less extent, where it is a mere substitute for it, and the more so just in proportion as there is a want of confidence in it. But this bill proposes a paper in addition to the present currency of the

country, an addition made necessary by the immensely increased disbursements, and by and by of the revenues of the Government. Sir, the whole amount of specie and bank paper actually in circulation in the United States, on the 1st of May, when this increase began, was about $400,000,000, of which amount some $300,000,000 were in the States still called loyal. Of the whole amount, the Government employed in various ways $87,000,000; leaving $313,000,000 for the ordinary commercial and business transactions of the country; of which amount about $213,000,000 were circulated in the loyal States. Meantime in nine months, though one third of the States have seceded, the expenditures and operations of the Government have gone up in the remaining two-thirds, from $87,000,000 to $600,000,000. To meet this immensely increased fiscal action, we have but $213,000,000 of currency, gold and silver and bank paper, not including the $50,000,000 of demand notes now in circulation.

It is true, sir, that in the generally deranged and embarrassed condition of the country, a large part of the $213,000,000 has been withdrawn from ordinary and private business and commerce, and used in aid of the transactions of Government. But with all this there remains some hundreds of millions needed still. It cannot, indeed, be all supplied in this way, because the limit to the credit of the Government, by virtue of which it can float Treasury notes, is not the amount of its expenditures and indebtedness, but of its solid revenues. There is, however, abundant room, as I have just shown, for the circulation of these notes, primarily, and therefore constitutionally, as a medium between the Government and its taxpayers and tax consumers; but, secondarily, as a part of, and not a substitute for, the common currency of the country. And it is a consideration of no small value to the Government, and bringing no loss to the people, that as long as they circulate there will be a large saving of interest, equivalent in one year, at six per cent., to the sum of $900,000; a considerable item, in ordinary times at least.

And they have this further advantage also over Treasury notes bearing interest and payable at a future day, that the latter bear interest from the day they are put out, but the former only from the time they cease to circulate and are funded—another large item in the way of economy. Nor is there any danger, sir, that they will continue in circulation after the necessity which compels and justifies their issue shall have ceased. As soon as the credit of the Government is restored, and its bonds are at par or command a premium, and when its enormous receipts and disbursements shall have been diminished, not only will it be the interest of all capitalists to fund them, but especially of the banks to drive them into stocks and thus out of circulation. That day, indeed, may be far distant.

Such, Mr. Chairman, is the substitute which I have submitted. It differs essentially from the bill. The one relies on force, the other upon credit; the one looks to the direct and despotic coercion of law and arms, the other to the indirect and ordinary coercion of taxation; the bill would override both the letter and the spirit of the Constitution; the substitute follows and complies with both; the former shocks every principle not only of justice between the Government and the citizen, but of sound political economy; the latter recognizes the eternal and immutable rules of justice, and conforms itself strictly to the fixed and inexorable laws of commerce and trade; and finally, the one would provide an unlimited, irredeemable, depreciated paper money forced by fear of violence or confiscation, upon the whole people; while the other proposes only a voluntary, limited, and temporary currency to circulate primarily between the creditors and the debtors of the Government. The difference is radical. It is the difference between the broad road and the narrow way. The Secretary has chosen the former, and death is at the end of it.

"Oh for that warning voice, which he, who saw
The Apocalypse, heard cry in Heaven aloud!"

To my political friends let me now appeal for support, not only of this substitute, but of the taxation which must follow it as essential to the maintenance of the good faith and credit of the Government. Forego the little paltry advantage which might be secured from opposition to the taxes necessary for that purpose. Impair not the estate in order to injure or annoy the tenant. But I put it upon higher and nobler grounds. There is not a member of this House, I take it for granted, who does not desire and hope and look for an ultimate, if not a speedy restoration of the Union of these States just as our fathers made it. If there be one who does not, no matter on which side of the House he sits, HE HAS NO BUSINESS HERE. I have differed with the Administration as to the means, and differ widely still, but never as to the end; if, indeed, reunion, the old Union, be the end and purpose for which they are contending. But, I repeat it, bankruptcy is disunion and dissolution in the worst form, and would instantly end the war, the Government, and the Union forever.

Finally, sir, if the committee and the House shall proceed upon the principles of justice and sound political economy which have been hitherto observed by every wise Government, and above all by this Government from the beginning, in the maintenance of its credit and good faith, I will lend a ready and an earnest support to every measure framed in conformity with these principles, and intended and calculated to build up and to sustain the public credit and good faith. Otherwise, I cannot and I will not vote to bring down upon the wretched people of this once happy and prosperous country, the triple ruin of a forced currency, enormous taxation, and a public debt never to be extinguished.

The following is Mr. VALLANDIGHAM's substitute for the bill:

That to meet the necessities of the Treasury of the United States, and to provide a currency receivable for the public dues, the Secretary of the Treasury, with the approbation of the President of the United States, is hereby authorized to issue, on the faith of the United States, Treasury notes in any amount not exceeding $150,000,000, not bearing interest, transferable by delivery, and of such denominations as he may deem expedient, not greater than $1,000, nor less than five dollars each: *Provided, however*, That $50,000,000 of said notes shall be in lieu of the demand Treasury notes authorized to be issued by the act of July 17, 1861; which said demand notes, so far as issued, shall be taken up as rapidly as practicable, and the notes herein provided for substituted for them, and no more of said demand notes shall be issued or reissued after the passage of this act: *And provided further*, That the amount of the two kinds of notes together shall at no time exceed the sum of $150,000,000; and the Treasury notes herein authorized shall be receivable in payment of all taxes, duties, imposts, excises, debts, and demands of every kind due to the United States, and may be paid out, under the direction of the Secretary of the Treasury, by any disbursing officer of the United States to any creditor of the United States who will consent to receive the same, at the par value thereof, in discharge of the debt or claim of such creditor; and any holder thereof depositing any sum not less than $100, or some multiple of one hundred, with the Treasurer of the United States, or either of the Assistant Treasurers, or either of the designated depositaries at Cincinnati or Baltimore, shall receive in exchange therefor duplicate certificates of deposit, one of which may be transmitted to the Secretary of the Treasury, who shall thereupon issue to the holder an equal amount of bonds of the United States, coupon or registered, as may by said holder be desired, bearing interest at the rate of six per centum per annum, payable semi-annually, and redeemable at the pleasure of the United States after twenty years from the date thereof; and any holder of said notes, being a citizen or subject and resident of any foreign country, depositing, as aforesaid, any sum therein not less than $2,500, shall, if he demand it, receive similar bonds at the above-named rate of interest, payable semi-annually, the principal and interest of which shall be expressed in the currency of any foreign country, and payable there. And said United States Treasury notes shall be received the same as coin, at their par value, in the sale or negotiation of any bonds that may be hereafter sold or negotiated by the Secretary of the Treasury, with the approbation of the President of the United States, to any person being a citizen and resident of the United States, and may be reissued from time to time, as the exigencies of the public interests shall require: *Provided, however*, That this right to reissue shall not continue longer than two years from the passage of this act, unless Congress shall hereafter otherwise provide.

SEC. 2. *And be it further enacted*, That the form of said Treasury notes shall be as follows: "The United States will receive this Treasury note in payment of all taxes, duties, imposts, excises, debts, and demands of every kind due to the United States, to the value of five dollars," or whatever sum or denomination may be expressed thereon, as hereinbefore provided for.

SEC. 3. *And be it further enacted*, That to enable the Secretary of the Treasury to fund the floating debt of the United States, he is hereby authorized, with the approbation of the President of the United States, to issue on the credit of the United States, coupon bonds, or registered bonds, to an amount not exceeding $200,000,000, redeemable at the pleasure of the United States after twenty years from date, and bearing interest at the rate of six per cent. per annum, payable semi-annually. And said bonds shall be of such denominations, not less than fifty dollars, as the Secretary of the Treasury, with the approbation of the President of the United States, may determine upon; or where any creditor of the floating debt of the United States, in any sum of not less than $2,500, being a citizen or subject and resident of any foreign country shall demand it, said bonds shall be issued to such creditor, the principal and interest therein being expressed in the currency of any foreign country, and payable there: *Provided, however*, That none of said bonds shall issue except at their par value; and to such creditors of the floating debt of the United States as shall elect to receive them in satisfaction of their demands: *Provided further, also*, That the claims and demands of such creditors shall, in all cases, have been first audited and settled by the proper accounting officers of the Treasury.

SEC. 4. *And be it further enacted*, That the United States notes and bonds authorized by this act, or that have been heretofore authorized, shall be signed by the Treasurer of the United States, or for the Treasurer by such persons as may be specially appointed by the Secretary of the Treasury for such purpose, and shall be countersigned by the Register of the Treasury, or for the Register by such persons as the Secretary of the Treasury may specially appoint for such purpose; and all the provisions of the act entitled "An act to authorize the issue of Treasury notes," approved the 23d day of December, 1857, so far as they can be applied to this act, and not inconsistent therewith, are hereby revived and reënacted; and the sum of $300,000 is hereby appropriated, out of any money in the Treasury not otherwise appropriated, to enable the Secretary of the Treasury to carry this act into effect.

UNITED STATES NOTES.

SPEECH OF HON. J. W. CRISFIELD,

OF MARYLAND,

IN THE HOUSE OF REPRESENTATIVES,

February 5, 1862.

The House being in the Committee of the Whole on the state of the Union, and having under consideration the bill providing for the issue of United States notes—

Mr. CRISFIELD said:

Mr. CHAIRMAN: I move to amend the pending bill by striking out from the first section the words "and for all salaries, debts, and demands owing by the United States to individuals, corporations, and associations within the United States; and shall also be lawful money and a legal tender in payment of all debts, public and private, within the United States;" and inserting in the last clause in lieu of these words "legal tender, in payment of debts public and private," the words "receivable for all debts and demands due the United States."

Sir, it would have been prudent in me to avoid throwing myself into this debate. I feel that it is an act of temerity to enter into an arena already occupied by the best talent of this House; and I know that it is a still greater act of temerity in one so recently a member of this body, so inexperienced in financial affairs, to attempt to discuss so grave a question as that now submitted for the consideration of this House. Sir, I would gladly avoid this if I could; but I have the honor to represent a constituency patriotic, devoted to the preservation of the Constitution and the maintenance of the Union—a constituency vigilant and observant of what is going on here; and they expect me not merely to represent them in my vote, but to enter upon the records of this House the reasons for my action, in order that they may judge them.

I approach the consideration of this subject free from all party bias. I may almost say I have no party. I was brought up in the old Whig school, and have learned its lessons so perfectly that I cannot forget them; and I find it difficult to incorporate any new principles into my creed. I have never ceased to lament the fall of that old party. I have never quite forgiven those within its bosom who contributed to its dissolution; and I never felt quite at home with those with whom, since its demise, I have felt it to be my duty to act. When these troubles began they found me standing alone; and here this day I know no party except that broad, national, catholic party, which includes the whole Union within its embrace, and seeks peace on the basis of the Union and the restoration of the Constitution as our fathers made it and as our fathers understood it.

Sir, I did not contribute to bring this Administration into power. I had known the President in former years, and personally I liked him. I knew him to be honest, I believed him to be brave,

and I hoped that he was patriotic. As my knowledge of him has increased, this belief and this hope have grown and are still growing. I had no affinities with the principles upon which he was presented to the American people. From the peculiar and distinctive features of the platform of his party I differed, and still differ. I lamented his election, not so much on his own account as of the disturbance I knew it would occasion. But, sir, he is here. He has been elected President of the United States. I recognize him as legally invested with all the constitutional powers of that high dignity; and it is as well a constitutional obligation as a dictate of patriotism to give his Administration, in this hour of evil, a fair, impartial, active, and energetic support. Many things have been done under his Administration which I do not approve; some things, I think, are positively wrong. Yet I do recognize in his public conduct an honest effort to maintain this Union of the States with unabridged privileges, and restore the Constitution to its ancient and rightful supremacy. I desire to support him in this great work. I believe that it is the duty of all good citizens to sustain him. I shall, therefore, give his Administration, in all of its efforts in this great work, a fair, candid, honest, and unreserved support. Especially do I desire to support him in his financial policy. I desire to support him in that, because that of all others is the most important to national safety. If that fails, all else must fail. If you fail to obtain the requisite means your Army is disbanded, the Union is destroyed, the Constitution overturned, the country ruined, and our national life will be entirely destroyed. Hence, sir, I am disposed to view with the utmost candor, with favorable predisposition, every measure of finance presented for my acceptance, having for its purpose the national safety, and the restoration of the Constitution to its just authority.

Mr. Chairman, the exigencies of the times have created an unusual want of money on the part of the Government. The ordinary expenses of the Government amount to $70,000,000 a year, and now, in one year, they have suddenly run up to $600,000,000. This exigency cannot be met by the ordinary revenues. The ordinary revenue is scarcely one tenth of the expenditures. Those expenditures cannot be met by taxation, for the reason that the people of the country cannot pay in one year the amount required to meet the expenditure of the year; and, even if they could bear it, it could not be procured in time to answer the demands of the Government. We are obliged to borrow money, therefore, and to create a public debt; and to create a public debt without enormous loss, we are bound to raise by taxation the sums necessary to meet the ordinary expenses of Government, and to meet with certainty and punctuality, in coin, the interest on the amount we desire to borrow. Not only that, but to handle the vast amount of means necessary for the prosecution of this war, to enable the people to pay in and the Government to pay out, we must have a larger and more abundant currency than we have heretofore found to be necessary. The accustomed currency is wholly inadequate. The Government has for many years used only gold and silver for this purpose, and it is deeply to be lamented that it is obliged to depart from this desirable standard. But we are left no option. The supply of the precious metals is inadequate to our wants. If all the gold and silver in the country were placed at the control of the Government, it would be received and paid out twice in the course of one year. It is, therefore, impossible for the Government to pay in coin. The business of the Government and the business of the country require some substitute for coin. We must therefore create a new or vastly enlarge the existing currency. We must therefore create a public debt, establish a currency, and impose new taxes.

The necessity being admitted, the only question is, how can these objects be accomplished with the least prejudice to the people and the greatest convenience to the Government? This is a grave question—the gravest which these times present. It is a question which lies at the foundation of all the other questions; and on its solution depends our success in every other enterprise. The Committee of Ways and Means have presented us one proposition, with a promise to present us two others, to complete the system. They propose to levy a tax which, with the present revenue, will raise $150,000,000 per annum; and both Houses by joint resolution are pledged to pass it. How it is to be raised the committee have not yet informed us. What their scheme is and what the machinery by which it is to operate, and what its efficiency, and how it may affect the business and property of the country, remain yet to be seen. They also propose to provide a currency, partly by the Treasury notes authorized by this bill and partly by a national currency based on public securities, through the agency of the banks as recommended by the Secretary of the Treasury. And then, as a means by which all that is to be brought into active use, they propose by this bill to issue Treasury notes fundable in public six per cent. stocks.

Mr. Chairman, it is a matter of deep regret that the committee has not presented the whole scheme in one bill. We then would have seen the whole at one view, and have been better able to adjust its parts and have rendered it homogeneous. It seems to me that we are beginning at the wrong end. The measure which we are now considering ought, in its natural order, to be the last in the series. It is the thing which is necessary to render practical and available the more important and potential elements of the scheme. We are committing the absurdity of beginning at the top of the structure to build downward to the foundation. Why did not the committee report the tax bill; why not lay in the first place the broad foundation of a tax on which the whole superstructure of public credit must be erected, if it is expected to be permanent? It is by far the most delicate and difficult part of the plan, and requires the most thought and care in its adjustment. But I have no disposition to carp, or too closely to criticize the course of the committee. I must suppose they have not reported such a bill for some good reason. I must have faith that in their own good time they will perform their work. I must suppose that they intend to report a bill which, if carried out, will, with the revenue from existing laws, raise $150,000,000 per annum; and meaning to treat them with all fairness and candor, I will assume that such a bill will be, as early as possible, presented to the consideration of the House and of the country. And so with the measure to create a national currency. Why did not that precede this? The Committee of Ways and Means has, I repeat, begun at the wrong end. But I will not cavil. I shall not attempt to look for bad motives. I will assume that there is no other purpose than the broad, national one of sustaining the credit of the Government. I shall consider this proposition as it is presented, and give it the full benefit of the promise with which it is accompanied.

Now, sir, what is this proposition? It is to issue $100,000,000 of Treasury notes, without interest, payable at the pleasure of the United States, to be receivable for all public dues, and by all the creditors of the Government. These notes are declared to be money, and are made a legal tender for all public and private debts. It provides that these notes, at the pleasure of the holder, may be funded in bonds of the United States bearing six per cent. interest, which it authorizes to be issued to the amount of $500,000,000. The bill makes no provision for the payment of the interest on such bonds except in Treasury notes.

The general object of this plan for supplying the wants of the Treasury I approve. If carefully adjusted, I am of opinion it will be efficient and successful. If we are wise in shaping its details the plan will bring relief to the Treasury and enable the Government with ease to prosecute the war to a successful termination. But to some of the provisions of this particular bill I have insurmountable objections.

I hold that, in its present form, it is inconsistent with the Constitution, and destructive of public credit. The provision making the notes proposed to be issued a legal tender in the settlement of all debts, public and private, is, in my judgment, a palpable violation of the Constitution. I have listened, Mr. Chairman, with great anxiety to the debates on this floor, in order to have that objection removed. I should have been glad to have found my own judgment erroneous. But, sir, this debate has only confirmed and strengthened my convictions. Gentlemen have failed to point to the clause of the Constitution authorizing in express terms, or by reasonable implication, this exercise of power. The Attorney General, in his letter read by the gentleman from New York, [Mr. SPAULDING,] says there is no inhibition in the Constitution on making Treasury notes a legal tender in payment of debts, public and private, and hence it may be made. The gentleman from New York [Mr. SPAULDING] adopted the same view, and says that the Government possesses all the power necessary to maintain itself; that Congress is to judge of what is necessary for the maintenance of the Government, and may enact into law whatever it so judges to be necessary. The Secretary of the Treasury assumes that it is constitutional; but he assigns no reason. The gentleman from Massachusetts [Mr. HOOPER] assumes that it is constitutional, but assigns no reason. The gentleman from Ohio [Mr. BINGHAM] thinks that the power to make notes a tender in payment of debts is an incident to the power to regulate commerce, and is not prohibited by the Constitution.

This is a fair, candid, and full exposition of the arguments made on this floor to persuade us that this provision is constitutional; and it is all that has been made. No other gentleman has spoken upon the point. The committee has made no report proving, or attempting to prove, its constitutionality; indeed, it is understood that the committee is equally divided on the point, and therefore could make no report. No authority has been quoted in favor of it; the opinion of no commentator on the Constitution, of no statesman or public man, living or dead, has been found to favor it; and we are left to construe the Constitution for ourselves, with no lights to aid us to discover this power but those I have already referred to.

The sum of the whole argument that has been made in favor of the constitutionality of the power of Congress to declare the Treasury notes contemplated by this bill a legal tender in the payment of all debts, public and private, may be stated in these three propositions: first, Congress may declare these notes a legal tender because it is not inhibited; secondly, the Government must maintain itself, and Congress may exercise all the power and adopt any measure it judges necessary for that object; and, thirdly, that the power to declare these notes a legal tender is a means necessary and proper to the full execution of the power to regulate commerce.

Mr. Chairman, I cannot but express amazement that a Cabinet minister, the first law officer of the Government, should venture to risk his professional and official reputation on an avowal that a proposition is constitutional because it is not inhibited. The Constitution does not, and was not intended to, restrict the powers of this Government. That was not its purpose. It made the Government; it called Congress into existence, and gave it all the power it can rightfully exercise. Congress is not sovereign. It has no inherent power. Its authority is entirely derivative. What was not granted is not possessed. When a power is claimed, the grant must be affirmatively shown. And such are the express words of the Constitution itself. By the tenth additional article it is provided:

"The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people."

This is a general inhibition of all power to Congress not granted. When, therefore, I am told a power is not inhibited, it is a conclusive answer to say it is not granted. And it is happy for the country it is so; for otherwise the discretion of Congress would be the sole limit of its power, and the most calamitous consequences might well be apprehended.

And the same may be said of the second proposition urged in support of this provision, that Congress, to insure the public safety, may adopt any measure it may judge necessary. It is a claim of unlimited authority.

The gentleman from New York [Mr. SPAULD-

ING] says the power to make these notes a legal tender is derived from the power of the Government to maintain itself, and that Congress is to be the judge of the means. Why, sir, this broad construction of the Constitution would allow you to do anything; it would authorize the monstrous proposition which the gentleman from Pennsylvania [Mr. STEVENS] announced upon this floor the other day, that this Congress had the power to establish a dictator if, in its judgment, the maintenance of the Government required it. Sir, if that is to be the limit of constitutional power, what may not be expected to be done? If Congress has unlimited discretion, upon the plea that the public safety requires it, your Government itself will cease to exist. No such construction can be admitted or acted on for a moment without giving up every power of the Government. The Government itself could not last for an hour under it. Your whole theory of government would be overturned. Every restraint would be taken away, and we should exist upon no more solid security for our rights and liberties than the mercy or caprice of those who happened for the hour to hold the reins of the Government.

But the gentleman from Ohio [Mr. BINGHAM] says this power to make paper a legal tender in payment of debts is to be found in the power of Congress to regulate commerce. Mr. Chairman, I admit that the power to regulate commerce is one of the powers granted to Congress in express words; I admit that included in that grant is the grant of power to make all laws which shall be necessary and proper for carrying it into execution; and I admit, further, that Congress may judge what laws are appropriate and best calculated to produce that end; and then the question presents itself, is the making of paper a legal tender in the discharge of debts necessary and proper to enable Congress to regulate commerce? Allow the most liberal interpretation to be given to the words "necessary and proper," and even then you fail to arrive at the conclusion that the substitution of paper for gold, as a standard by which its exchanges are made, tends, or in any degree aids Congress to regulate or promote commerce. The discretion vested in Congress by which it is to choose the means to execute its granted powers is not an arbitrary or capricious discretion. It is judicial in its nature, and is to be exercised by fixed rules. Congress may choose the means to effect the end, but the means chosen must be such as are necessary and proper to effect the end; that is, they must be such as tend to its accomplishment, and the choice must be made in good faith. The power is incidental to the execution of the express grant, and cannot be rightfully used for any other purpose.

If, under the pretext of regulating commerce, a law is passed to accomplish a different purpose, foreign to and perhaps destructive of commerce, it would be a fraud on the Constitution. How can the banishment of gold and silver, the most stable in value of all known substances, and the substitution of paper, the most fluctuating, as tender in payment of debts, either regulate or promote commerce? So far from regulating and promoting, its direct and certain effect is to disturb and destroy it. And in this case we know the object is not to regulate commerce. To say so would be a mere subterfuge. As a matter of fact, we know that the making of these notes a tender is not to regulate commerce; but to give the notes themselves a currency, and to compel the community to receive them. The effort, therefore, to deduce the power to make Treasury notes a legal tender from the grant in the Constitution to regulate commerce utterly fails; and I venture to affirm that the effort of the gentleman from Ohio, [Mr. BINGHAM,] yesterday, is the first that ever was made in any deliberative assembly, or by any public man, for that purpose.

Mr. Chairman, under the power to regulate commerce, it is undoubtedly true that Congress may adopt measures to create, enlarge, or improve the currency. Commerce cannot be regulated, much less promoted, without a sufficient and sound currency. It was mainly under this grant that Congress discovered and exercised the power to charter the Bank of the United States. One of the principal offices of that institution was to improve and enlarge the currency, and thus facilitate the commerce and business of the country. I think it is a power which Congress may properly exercise. But the power to enlarge and improve the currency is a very different thing from a power to make anything it may see fit a legal tender in the payment of debts. The essential element of a currency is a fixed and unvarying standard of value. That is found only in gold and silver. Of all metals they have the greatest intrinsic worth, and are least liable to fluctuation. Their value with respect to all other things has been determined by the common consent of mankind. Hence they have been selected by the whole world as the ultimate standard by which all settlements are to be made.

Congress, under the Constitution, has power to coin money, and to determine the value of each coin; that is, express its value in the nomenclature of the country. But the coinage is not sufficient for all purposes of commerce, and if it were, it is too ponderous and otherwise inconvenient to be handled. Hence the necessity of some device to represent coin, multiply its power, and avoid the inconvenience of its transmission. This is done by paper representing coin, and always convertible into it. To enlarge and improve the currency means simply to devise a means by which paper shall represent coin, and may be certainly and readily exchanged for coin. The paper has no intrinsic value, and becomes worthless when it ceases to represent and be convertible into coin. To make paper a legal tender in the discharge of contracts is quite another and dissimilar thing. The one is to bring paper up to the value of coin, the other is to reduce all contracts which represent coin to the level of irredeemable paper. The one enlarges and improves the currency and multiplies the power and utility of coin; the other contracts, deranges, and weakens the currency, and drives coin into its hiding places. The one regulates, improves, and invigorates commerce; the other prostrates and must ultimately destroy it.

The Constitution found gold and silver coin the medium in which all contracts were to be settled. It recognized, but did not seek to disturb it. It gave Congress no power to disturb it, and inhibited the States from making anything else a tender in payment of debts. And we have no power to alter what the Constitution chose to leave untouched. We have no constitutional power to pass this bill. Sir, the argument of my friend from Ohio [Mr. PENDLETON] upon this point was conclusive. It has not even been assailed, and cannot be. All the efforts of gentlemen upon the other side of the House have failed in even breaking down the weakest of his outposts. They have not touched his argument, and they cannot touch it. It is unanswerable. His position is impregnable. I am not going to repeat that argument. It was better stated by him than it can be by me; but there are some thoughts which occur to me in support of the position assumed by him which will perhaps aid to some extent in demonstrating its conclusiveness.

The gentleman from Ohio [Mr. BINGHAM] says that Congress has power to make anything it pleases a legal tender in payment of debt. He says that Congress may, if it think fit, make leather a legal tender in payment of debt. Now, let us examine for a moment that proposition. What was the object of the Constitution? It was, among other things, "to form a more perfect Union, to establish justice, and to insure domestic tranquillity." The object was to prevent a conflict of jurisdiction between the different States, and between them and the General Government. It was to insure uniformity of legislation. It was, among other things, to insure that there should be no conflict of legislation or authority upon this subject. Now, what does the Constitution do? It provides that "no State shall make anything but gold and silver coin a tender in payment of debt." In other words, they may not make anything else a tender, but they may make gold and silver coin a legal tender. Every State in this Union has made gold and silver coin a tender, by which all contracts made within its jurisdiction are to be discharged and canceled.

The power of the States to make such legislation is clear. It is an express grant of the Constitution. Every State in the Union may exercise it. Let us see how the matter will work. The State of Maryland has made gold and silver a tender in payment of debts. Congress, under the wise and sagacious counsels of the gentleman from Ohio, [Mr. BINGHAM,] makes leather a legal tender for that purpose. You profess to act for the whole people of Maryland; you profess to act for all, wherever the jurisdiction of the United States Government extends, and to declare that leather shall be a legal tender in payment of debt. But the State of Maryland says, "the Constitution of the United States has given me an express grant to make gold and silver coin a legal tender in payment of debt within my limits, and in pursuance of that grant, I have established gold and silver as the only legal tender." Which law, Mr. Chairman, are the people of Maryland to obey? Are your laws to have supremacy? Maryland points to the Constitution, and there reads that she may not make anything else, but that she may make gold and silver a legal tender. Are her people to be the victims of this conflict of jurisdiction? Is this conflict of jurisdiction consistent with the declared objects for which the Union was formed and the Constitution was established?

Mr. Chairman, the very statement of this palpable and inevitable consequence at once and forever dissipates every argument which has been, or can be, presented by gentlemen upon the other side of the House. This Government has no power to declare anything but gold and siver coin a legal tender in the discharge of debts. Congress is not inhibited from making anything else a tender, for the simple reason that no power was ever granted to make anything else a tender; and if Congress attempted to follow the counsels of the gentleman from Ohio, [Mr. BINGHAM,] this Government early will find itself involved in fearful conflicts of jurisdiction with every State in the Union.

Mr. HARRISON. Will the gentleman allow me to make an inquiry?

Mr. CRISFIELD. I decline to be interrupted. I mean no discourtesy; but I must decline to be interrupted.

Now, Mr. Chairman, there are other provisions in the Constitution which show quite as clearly that Congress has no power to disturb the accustomed medium, which is the final measure of all financial values. What, let me ask you, will be the practical operation of this scheme? You throw aside gold and silver, and make Treasury notes a legal tender. These notes will fall ten, fifteen, and, it may be, twenty or fifty per cent. below the standard of gold and silver. You require me to take them in payment of a debt which has been contracted to be paid to me in gold and silver. Is it not taking from me my property, and turning it over to my debtor? And where, let me ask, do you derive the power to take from me my property, against my consent, and transfer it to another? You are inhibited from the exercise of such a power. By the express words of the Constitution you can take the property of no man, except by due process of law. It can be done only as the penalty of some crime, or as a forfeiture for the violation of some law; and then only upon trial, conviction, and judgment, in some court of competent jurisdiction. Yet those who support this bill march forward to their purpose in utter disregard of the obligation of contracts, in utter disregard of the spirit and the very language of the Constitution.

Mr. Chairman, I have no doubt that this provision of the bill is unconstitutional, and if it be retained, I must adhere to my constitutional obligations, and, be the consequences what they may, vote against the bill. I shall regret to do so; but, sir, I can see no necessity for violating the Constitution. The particular provision is not necessary for any public purpose. The public credit does not require and will not be improved by it. And I beg and implore the House to pause in the course upon which they are now entering, and take another and a different one.

This provision is as inexpedient as it is unconstitutional. It is a legislative declaration of national bankruptcy. It is saying to the world that this Government is unable to meet its obligations

at their real value; and must compound with its creditors at a discount. It is the resort of every failing debtor, and even worse, for he only requires a release on his creditors' voluntary acceptance of a dividend of his estate; but this clause obliges him to accept what the Government chooses to offer in full discharge of his debt, and that, too, before it has exhausted its resources. Sir, it is disgraceful to the country. Public credit reposes on public confidence. It is a thing which cannot be compelled by law. It results only from fair contracts, fairly, fully, and certainly discharged. The man who pays most promptly is the man who has most credit. And it is so with Governments. But how, in the face of this provision, can credit be expected? Now discredit your own securities; declare by necessary implication that they are not worth what they import, and you compel all men, by force of law, to receive them. Can you expect confidence under these circumstances? Will men deal with you? Sir, this provision strikes down public confidence, destroys credit, and shames us before the world. What nation has ever resorted to it? It is a system of repudiation and forced loans in the worst form. It not only destroys our financial credit, but it will be a stain on our national character, which ages will not obliterate.

This provision attempts the impossible thing of giving to paper the value of gold. The experience of the world is against it. Law can regulate exchanges, and may indirectly affect values; but law can never give an artificial when there is no real value. Law cannot convert paper into gold. Paper is valuable only when it represents gold, and may be exchanged for it. Take away the gold, and the paper is worthless. All the laws of all the States, with the Continental Congress to help them, making the issues of that body tenders for debts, would not keep up their value to the standard of par; they sank, notwithstanding, and continued to sink, until it required $100 of that money to buy a poor soldier a poorer breakfast. And this is the experience of every nation that has tried the silly experiment; and such will be our experience. We may manage to pay off existing liabilities with such paper, because we can use the force necessary to compel its reception; but how will we make new purchases? Can it be supposed that prices will not rise just as much above the specie standard as the notes fall below it? The result is inevitable; all experience proves it; and all the laws you can make will not make it otherwise.

Look for one moment at the consequences the measure will bring upon the country. All existing indebtedness was created upon the specie standard, and all contracts are to be settled in gold and silver. Who can estimate the amount of this indebtedness? Think but one moment of its vastness. There is your own debt of five hundred millions or more; there are the debts of the States, probably quite as much; there are your city debts, corporation debts, bank debts, and debts of individuals, amounting to many thousands of millions, all payable in gold and silver. By this bill, you require them all to be settled in paper, which you declare is worth less than gold. How much less? In the face of this bill, certainly not less than the present market rate of your bonds is below their par value. They are now, at least, at ten per cent. discount, and soon may be at twenty, and you, with one dash of your pen, sweep one tenth, probably one fifth, nay, it may be one half, of this immense indebtedness out of existence. Are you prepared for the consequences? Think you that no suffering will follow this gigantic confiscation? Are you prepared for the wail of the widow, whose mite, at best, scarcely sufficient to keep hunger from the door, is made less by your reckless legislation? Are you prepared to behold the orphan gnaw his meager crust, shortened by your improvidence? Are you prepared to receive the frown of an injured and indignant people? Think you there will be no retribution? Think you that an outraged people will not hurl you from this Hall. Nay, more, do you imagine that a Government which inflicts such wanton and wide-spread mischief will be long tolerated by a free and intelligent people?

But, again: this provision will necessarily destroy all private credit, and, of course, all commerce. A steady and unvarying currency is essential to credit. No man will credit his neighbor unless there is some fixed standard of value by which the payment is to be made. Hence, gold and silver, which are less fluctuating than any other known substances, have been selected by the common consent of mankind as the standard by which all settlements are to be made. Their excellence consists in their uniformity of value. Now it is proposed to substitute Government notes in their place—of all things the most fluctuating in value. The issue of a battle, or even a skirmish, the appointment of a Cabinet minister, the result of some State election, perhaps a speech in this House, or even an editorial in the London Times, will cause them to rise or fall. Now, how is credit possible when payments are to be made in such a medium? Who will sell an estate on time when payment is to be made in such an unstable medium? Who will order from abroad a ship-load of coffee to be exchanged by such a standard? Who can calculate what will be the worth of these notes at any future day? Sir, this proposition destroys all credit, and with it all commerce. Then what will become of the business of the country? What will become of all your industrial interests? Where will your operatives go? What will become of your agricultural productions? What will real estate be worth? Sir, your factories must stop, your ships must rot at the wharves, your fields must be given to the thistle and the briar, and your laborer starve or maraud! And when commerce ceases the public revenue also ceases; and then your poisoned chalice, in just retribution, will return to your own lips, and the life blood of the nation cease to flow. Mr. Chairman, if this provision be confined to contracts hereafter to be made, as has been suggested, it will be quite as unconstitutional, and just as fatal to the credit of the Government and the business of the country as it is in its present form.

But this provision is not necessary. The wants of the Treasury do not require it. These notes will be quite as current and answer all the purposes of the Government just as well without this offensive provision. Indeed, I think they would have more credit without than with it. Make them receivable for all public dues and redeemable in six per cent. bonds; establish a national currency based on the public securities through the agency of the banks, with proper checks, and provide by adequate taxation for the certain and prompt payment of the interest on your bonds, and they will have a real value and will find a general circulation. Why should they not? The banks do not pay specie, and yet their notes have their accustomed circulation. These notes, thus sustained, will be worth more than bank notes. Bank issues are secured only by their capitals, and even this security is shared both by the bill-holder and the depositor, and is at the hazard of the want of faith and want of skill of their directors. These notes are secured by the bond of the Government, for which the property of the whole country is bound. Bank issues must depend on the credit of the particular institution for their circulation; these notes are backed by the whole property of the nation, and are made by law receivable in payment of $150,000,000 of taxes, one and a half times greater than the whole amount of notes at any time in circulation, even if the Secretary should avail himself of the extreme limit of the law. Then why will they not find circulation? They never can sink below the value of the bonds, for they are fundable at the option of the holder; and the bonds can never fall much below par, if such provision is made for the punctual payment of the interest in coin as inspires the public with confidence that it will be made.

Mr. Chairman, the success of this and of every other scheme at all practicable and likely to be efficient for the relief of the Treasury depends upon the taxes you may levy. If you will make the interest on these bonds payable in specie, and provide means to render that certain, can any man doubt why the notes should not attain a greater and broader circulation than bank paper? To accomplish anything, by any device to supply the public demand for money, such a tax must be laid. Can it be done, and how? Can the wealth of the country bear it? Have we the sagacity, wisdom, and, above all, the courage required to develop the resources of the country? Will the people submit to be taxed to the extent necessary to meet the exigency of the times?

Sir, this is a period that tries the mettle of men. Legislation has its perils as well as the battle-field. It demands even a more heroic courage; we must meet its dangers without the excitement of the conflict, and with no hope of the glories of victory. We must not shrink from the responsibility. Everything depends upon us. With self-sacrificing devotion to the cause of the Republic, we must apply ourselves to the development of the resources of the country, and with firm and steady hand turn the stream of national wealth into the public Treasury to reinvigorate the national life. If from a weak and pusillanimous fear of consequences to ourselves we fail in this high and holy work, our constituents and posterity will hold us responsible for that national degradation which is sure to follow.

It is estimated that a revenue of $150,000,000 annually is necessary to meet with certainty the demands on the Treasury, and to put the public credit on a sure and solid basis. Our present revenue laws will yield $60,000,000 or more, and there remains to be raised, from new taxes, not much short of $90,000,000 a year. Can the country bear this tax? I think it can, and that without serious inconvenience, if it be laid with prudence and judgment.

The country is rich and rapidly increasing in wealth. Its population, in round numbers, is thirty-one millions. In 1850, as appears from the census report, the property of the country was found to be a fraction over $7,000,000,000; and in 1860, by the same authority, it was found to be over $16,000,000,000—an increase of nearly $9,000,000,000, or over one hundred and twenty-six per cent. in ten years, equal to more than twelve and a half per cent. per annum. At the same ratio of increase for the next ten years, the property of the country will, in 1870, have run up to over $35,000,000,000, equal to an annual increase of $1,900,000,000, or more than twenty times as much as is now required to meet the wants of the Treasury.

These statements may appear extravagant, and it is possible they exceed the actual increase of national wealth, but they are official statements of the Census Bureau, and they stand uncontradicted. It may be true, and no doubt is, that from the withdrawal of the southern States from the Union, the diversion of a large portion of labor from productive industry to military service, and the general disturbance to the business of the country by the war, the annual increase of national wealth will be greatly lessened; but, after all proper allowances are made for each of these causes, the great fact stands broadly out, palpable to every apprehension, unquestioned and unquestionable, that the regular ordinary annual increase of national wealth exceeds by many hundred millions the sum now required, or likely hereafter to be required, for the wants of the Treasury, and to place the credit of the country on a solid foundation.

The country is therefore able to bear the tax, and the only question is how is it to be laid with the least inconvenience to the people and the greatest facility of collection and certainty of payment. To meet these objects it should be laid on productive industry, rather than on property; it ought to be indirect rather than direct. By this method the Government is brought into contact with the fewest people, and collects its revenue from the fewest sources. The tax is paid by the producer, and is returned to him by the consumer, in the shape of an increase in the price. It is equal upon all, for each contributes in proportion to his consumption of the products of industry. It is cheerfully and voluntarily paid, for each may avoid the tax by ceasing to use the article.

I look to indirect taxes as the proper mode of supplying the public necessities. The land tax is unequal, difficult to collect, and brings the Government into conflict with every citizen. It is always reluctantly paid, and keeps up a constant antagonism between the Government and the people. And the same may be said, with more or

less appropriateness, of all taxes on specific articles of property. Especially of the income tax it may be said with tenfold emphasis, from the fact that it makes the Government an inquisitor into the private affairs of each individual, upon whose declaration it is obliged after all to rely, and practices the impolicy of setting the duty and interest of contributors in opposition, and makes them profit by concealing or perverting the truth. We ought to rely on excise and stamp duties and taxes of that nature. They are the most productive, fall most equally on all, and are most easily and willingly paid.

We have unfortunately no statistics in this country by which we can determine what will be produced by any given system of excise and stamp duties. But we know enough to be sure that even at moderate rates such duties will raise a very large amount. In the United Kingdom of Great Britain, with a population not greatly exceeding our own, there were raised in 1860 from excise duties alone £18,188,605, or over $90,000,000, and from stamps upwards of £8,000,000, or over $40,000,000. In Great Britain there is no tax on domestic tonnage or passengers transported on railroads and canals, and by steam and other ships and vessels in their domestic waters. This is a rich mine of wealth, and if properly worked will yield immense revenue, and that without proving a burden to those who pay it. In Great Britain they do not tax bank notes, telegraphic dispatches, or gas companies, all of which may be made largely to contribute to the revenue without inconvenience to the people. With these sources of revenue, in addition to those taxed in Great Britain, may we not expect to derive a sum not much short of what she receives? Our population is not greatly less than hers; our people are as active and industrious as hers; consumption per man is as great here as there; and no just reason can be assigned why our revenue from these sources will not bear the same proportion to hers as our population bears to hers. It certainly cannot fall much below it. At all events, it is safe to assume that from these sources we can raise the amount now required to make the annual revenue equal to the present and prospective demands of the Treasury.

Mr. Chairman, we ought at once to devise a proper system of taxation; we ought at once, with a firm and steady hand, to tax the sources of national wealth, and to allow their currents to flow to the support of national life. Never was there a period in our history when it was more necessary. Our very existence is imperiled. Insolvency stares us in the face; insolvency is dissolution; and dissolution is death. Let us rise to the level of the occasion, abandoning all the low arts of the mere broker, the shifts of the failing debtor, the false pretenses of the needy borrower; let us rise to the dignity of true statesmanship, and make known to our constituents, with manly boldness and honest freedom, the dangers and necessities of the country, and demand of them, what they alone can give, the means of national salvation. Let us do our duty, and leave the responsibility to them. But, sir, no fear of them. They know the value of their institutions. They can appreciate the danger and the necessity. They know the value of representative government, and they are willing to pay the price of its preservation. They are willing to be taxed. They know it is necessary; and however much they may lament that necessity, however indignant they may be at the blunders and crimes of those who have created it, they are ready and willing to meet its responsibilities, and pour out their wealth to preserve the national existence and honor. They are not willing to have their means squandered by corrupt officials, by faithless contractors, by wild, reckless, profitless extravagance; they are not willing to contribute to wars prosecuted for unconstitutional objects; they are not willing to contribute under any pretended scheme of finance which poisons all the channels of trade, overturns the measure of value, and destroys what it does not take; but they are willing to lay upon the altar of their country whatever is fairly and in good faith required to preserve the Government and restore to the Constitution its just and proper authority. But if, sir, unfortunately they should not be willing to make the sacrifice, then are the days of the Republic numbered. A people who will not pay the just expense of the preservation of their liberties, cannot appreciate the priceless value of representative government, and will not long be permitted to enjoy it.

UNITED STATES NOTES.

SPEECH OF HON. T. O. HOWE,

OF WISCONSIN,

IN SENATE, *February* 12, 1862.

The Senate, as in Committee of the Whole, having under consideration the bill (H. R. No. 240) to authorize the issue of United States notes, and for the redemption and funding thereof, and for funding the floating debt of the United States—

Mr. HOWE said:

Mr. PRESIDENT: Isolated from the sympathies of the world, with a hostile army frowning at us along our southern borders, with a hostile people snarling at us from across our northern boundary, let the great Republic, fearless and undismayed, calmly take counsel of herself.

Justly proud of the number and the strength of her children, the Niobe of the West will surrender no one of them to the fatal embrace of rebellion but at the bidding of a destiny which she cannot resist. With an income of less than one hundred and fifty thousand dollars per day, the Government is spending more than one million and a half. Either, therefore, the Treasury must be replenished, or the war must be abandoned. The war cannot be abandoned.

Sir, since society was, since the earliest attempts to mass men into States, to subject human will to human authority, one purpose has guided, one hope has inspired the progress of the world. That purpose and that hope have been to plant every man within the pale of human enactments, where he stands in the light of the divine law, upon terms of perfect equality. The innate conviction of every rational human being is, that he is the peer of any other human being. There are times when he will assert his equality against whoever denies it. The sentiment is peculiar to no race; it belongs to no condition of intellectual culture. Sydney is no more a type of the Saxon than he is of the Sioux tribe. The feeling has animated all true reform, and has inspired all worthy revolution. Dynasties have smothered that feeling for a time; classes have combined against it. But neither have ever crushed it out, and neither ever will until that distant day when God lets go the cords by which he draws a ransomed world to himself, and lets the abandoned universe plunge backward into chaos. Every defeat of a people lights the fires of a new revolution, sure to break out sooner or later in a general conflagration.

"All men are born free and equal." They must be recognized as such. They must be treated as such. That gospel has been proclaimed to the world. It must be accepted. No matter what despotisms may deny it, no matter what tyrannies may proscribe it, that truth *will have* recognition. The oftener it is denied the fiercer will be the reassertion. Sir, the war in which we are involved is a war by the people, and in defense of their just and most equitable rights. Five millions have challenged twenty-two millions to combat. Five millions have resolved to wrest authority from twenty-two millions by force of arms, by the stern arbitrament of war.

Those who have challenged us to this conflict, and those who sympathize with them, are pleased to style the Government of the United States "Lincoln's Government." It is *not* Lincoln's Government. It is the Government of the people of the United States—a Government in which every man of those embattled thousands who are flinging their lives away in the frantic endeavor to batter it down has a fuller representation than any one of those who are trying to uphold it. It is a Government which asserts, and for almost a century has maintained for every one of those ingrates who now assail it, the largest share of civil liberty ever accorded to any people. It is a Government which has showered upon all its subjects riches and prosperity in such full measure as no other people ever enjoyed. It is a Government which never laid a feather's weight upon the neck of any citizen, which the people could not remove by the mere expression of their will. It is a Government, all the forms of which are as essential to those who oppose President Lincoln and desire to unseat him, as to those who support him and who may seek to continue him in authority.

There are those who are pleased to represent this war as a protest against the abolition of slavery. There are those who pretend the war was a necessity to the rebels to prevent the abolition of their slaves. There is but one term in our language which fitly characterizes that pretense. It is, according to the authority of all English lexicographers, a *lie*. Slavery has existed longer than the Government has. The Government never has assaulted it once. It never has threatened it once, until now it is threatened with the punishment due to treason. The men who urge this pretense *know* that if every rebel south of the Potomac would lay down his arms to-morrow, every slave in those States would be as safe from the American Government as from the Government of Great Britain.

There are those who pretend that the war is a protest against the anti-slavery *feeling* of the northern States of the Union. There is more truth in that hypothesis. The anti-slavery feeling of a large portion of the American people is very strong. It is not growing weaker. But who says the feeling is unconstitutional? What clause of the Constitution informs us what we may and what we may not think? Who dares stand here in the Senate or stand anywhere within sight of the *Omnipresent* and assert that, under the Constitution of the United States, one may not as rightfully think ill as think well of human slavery?

Has it come to this, that in the first century of the life of this free Republic, great armies are mustered to crush out a feeling; that cannon are employed to demolish an opinion?

If armies may properly be marched against anti-slavery opinion, will some prophet tell me how long any opinion will be safe from their assaults? If squadrons of cavalry are to be employed to trample down the right of opinion, will some sabered sage tell me what right the cavalry will respect?

If the Constitution does not guaranty to us the right of opinion, will some lawyer tell me what right it does insure us? If we will not fight, and, if necessary, die for the right to think, will some man tell me for what right he will dare to die?

There are those who say the war might have been avoided by timely concessions, and might now be settled by a happy compromise. Undoubtedly. No people go to war for fun. No people resort to war against those who are willing to do, and make haste to do, all they are told to do. I know that rebels have denied it; yet, in spite of their denial, I do not question but they would cease their assaults upon us if we would register such laws as they may please to dictate, and obey such constitutions as they may please to prescribe. Undoubtedly they would grant us peace if we would yield them dominion.

But the Constitution confers dominion upon the American people, and allegiance to the Constitution imposes upon us war until that dominion be acknowledged.

Many of those who dwell upon the marvelous efficacy of compromise and concession are true patriots, who mean to be loyal to the Constitution and faithful in their devotion to the Union. They do love the Constitution and the Union with that sort of uncalculating love which blinds them to the reason why they love them; and in the blindness of their devotion they would sacrifice the very excellencies which alone make it dear to them. They are like children who, ravished with the beauty of a rose they have gathered, cannot forbear to pick it to pieces and to devour its leaves. They are like men bending over the cataract at Niagara, and who, fascinated by the grandeur of its resistless anthem, long to lay down upon its resistless floods and seek silence beneath their unending roar.

We forget *why* we love the Constitution and the Union. We love the Constitution because it recognizes every citizen as a unit, with equal right to have his voice heard and his will respected; because it gives authority to the greater number of wills, for a reason as cogent as that which, in

mathematics, assigns the greater value to the greater number of units.

We love the Union because it enforces the wills of the greater number, by the combined force of the whole. If those who make war upon the Constitution desire any new enactment, any new policy, and if they are a majority of the American people, they may have their enactment through the instrumentality of the ballot-box. Indeed, by reason of the equal representation given to all States, whether large or small, in the Senate, and the representation given to slaves in the other House, it is well known that portion of the American people can control the legislation of the nation with less than a majority of the citizens of the United States. But, if the policy they demand is disapproved by a majority of citizens, there is no reason why that majority should surrender their judgments to a minority. There is no reason why ten men should yield their opinions to nine more than there is that ten dollars should be exchanged for nine. The very fact of an appeal to force is conclusive that the appellants are a minority in numbers. Under our Constitution majorities have no need of arms to carry a measure of domestic policy. Majorities triumph with ballots, not with bayonets. And this leads me to say to all those who would avoid violence, by the abandonment of cherished conviction, that the very moment a majority enacts, amends, or repeals a law, statutory or constitutional, at the bidding of an army or under the menace of violence, that moment the Constitution is annulled. The letter may indeed remain, but the life is gone. The form may be seen, but the beauty has perished. It is no longer the supreme law. Reason is dethroned. Force is ordained in its stead. The majority is hurled from the post of command, and a truculent minority usurps its lawful authority. Cowardice and not conviction guides the people, and the costly purchase of the American Revolution is ignobly bartered for an uncertain peace.

Sir, I repeat once more that five millions of citizens have challenged twenty-two millions to combat. You have the advantage of numbers, the advantage of wealth, commercial intercourse with other nations, and the prestige of legitimacy. You have set an army in the field. The Commander-in-Chief is the chosen of the people, the legislature is of their appointment. Every officer in their service was either selected by themselves or by agents of theirs empowered to select them. Modes are prescribed and times appointed to remove every officer who proves incompetent, or unfaithful to his trust.

If with these odds in their favor the people cannot triumph, let the reason stand confessed—*it is because they are not fit to govern.* Let no man mistake the nature of the contest. It is not between President Lincoln and Mr. Davis. It is not between General McClellan and General Beauregard. It is between the majority and the minority. It is between the people and their enemies. It is between the multitude of equals and the privileged class It is between the Constitution of the United States and its assailants. The world understands the issue. The capacity of the people for self-government is upon trial. Every steamer from England is freighted, half with prophecies of a popular defeat, and half with taunts of popular incapacity.

An American officer educated at the expense of the people, long trusted and employed by them, and liberally paid by them, on the first appearance of peril surrendered the department of Texas to the enemy. Two continents stood amazed at the shameless infamy of the betrayal. Sir, it behooves us to see that the fate of Texas is not the fate of the nation—that the treachery of Twiggs was not typical of the Government he served.

We cannot abandon the war. To abandon the war is to surrender the jurisdiction of the United States over those magnificent territories now embraced within the limits of the rebellious States. It is to withdraw the protection of the Government from the loyal millions within the insurrectionary districts, who, during those terrible months from the 7th of December, 1859, to the 17th of April following, were overwhelmed by the floods of anarchic violence, and who, as one community after another was submerged, went out of sight, bravely struggling to uphold the national flag and boldly protesting against that great outrage upon the national authority. It is to tell those loyal thousands who, rather than forfeit their allegiance to the national compact have sundered the ties of neighborhood and now wander through your cities exiles from their homes and hearths, that their confidence in you is misplaced; that their valor is in vain; that the only way to safety is through secession. It is to tell Johnson, Carlile, and Willey of this House, and Etheridge and Maynard of the other, that henceforth they are aliens to the States they represent here. It is to tell the compatriots of Brownlow, who are now expiating the offense of fidelity to the Constitution in southern prisons, that for them there is no deliverance but through submission to traitors and the baptism of rebellion.

The abandonment of the war involves more than these disgraces. It involves the surrender of your own independence—the evacuation of the last stronghold of civil liberty. Let no man be mistaken upon this point. There are those who fancy that peace might be secured by acknowledging the independence of the southern confederacy. There is nothing more improbable than that. The recognition of southern independence is only the first step towards the abdication of your own. There are those who think the integrity of the Union is the sole object of the contest, and that the stake is not worth the cost of the struggle. The value of the Union is inestimable. Its integrity is not only of the first importance, but it is the primal necessity for all its parts. The power of the whole is necessary to the independence of any part. When we were thirteen States, "free and independent" of each other, as the Declaration of the 4th of July, 1776, left us, the great law of self-preservation, the first law of nations as of nature, drove us together—loosely, at first, under the articles of confederation, but firmly, at last, under the Constitution of the United States.

Divide the Union to-morrow into two nations, secure the independence of each from the other by the most solemn of treaties, and both would be driven to unite again in twelve months to escape from foreign domination. This assertion is not the result of reasoning, it is the result of observation. Practically, we have been two nations since May last. Each in its own theory has been independent of the authority of the other; but I state the fact to-day, to which I wish every American citizen may give heed, that since May last Europe has given law to both sections of the Union.

The fact is open and manifest that the champions of the confederacy do not hope for a separate national existence but through the help of foreign alliances; while on the other hand it is too notorious that on a recent memorable occasion our own Government, at the instance of a foreign Power, deliberately undid the one deed which, more than any other since the war commenced, gave to the loyal people of the Union the most lively satisfaction, and was greeted by them with the most universal and the most enthusiastic approval. Let it not be said the American Government acted in defiance of the opinion of the American people. That is not the fact On the contrary, it is not truer that the American people approved the arrest of the rebel emissaries than it is that they approved of their release. We feted the gallant Wilkes, because we approved his achievement. We surrendered the fruits of that achievement, because England demanded it, and we did not feel strong enough to deny her. I do not mean to deny those principles of public law which were asserted by our Government as authority for the release of Mason and Slidell. I mean to say that England always has denied, and still does deny them. I do not mean to say they would not have been surrendered if we had felt strong. I mean to say if we had felt strong, England would not have demanded their surrender; or if she had demanded it she would have surrendered her opposition to the law which alone authorized the demand. It was a palpable instance in which British opinion bore rule in the United States of America. It was the first instance in half a century If we are true to ourselves, it will be the last instance in a hundred centuries to come.

It may be said this feeling of insecurity and of material dependence arose not from loss of southern men or southern means. It may be said that the people of the States still loyal are more numerous and more wealthy than the people of the original thirteen States; better able to maintain a separate nationality than those who first achieved that nationality; that there is room enough for an empire between the Atlantic and the Pacific oceans, and north of the Potomac; and that the people who dwell there need not hesitate alone to encounter the hostility of any single foreign Power; that it is not the absence of the South as a friend, but her presence as a foe that weakens us. This is all true. But it is also true that as a separate and independent State, the South must always be present as a foe in every contest that threatens our existence or our power.

If there is one admonition which more than all others cries out to us at this time it is, that these two diverse forms of civilization can never rest side by side upon the same continent under different systems of law and different governments, in peace and concord. The only friendship possible for them is that built upon the sacred memory of a common origin, a common baptism, common national struggles, the hope of a common national destiny, the existence of a common constitution, guarantying equal rights to both, and a common government, in which each is equally represented. If these solemn guarantees cannot hold us together in amity, no mere agreement can. If the high behests of the Constitution, sanctified as they are by the oaths of every one of us, often repeated, cannot enforce the peace between us, no mere international treaty ever will suffice to do it.

This truth resounds through all history—it is shouted back to us from all prophecy It is, I verily believe, the fundamental truth upon the clear perception of which the wisdom of our counsels of to-day mainly depends. It is a truth of which the South has never for a moment lost sight. She knows that your independence is utterly incompatible with her own; that the onward sweep of your civilization and your ideas must be more fatal to her own social forms out of the Union than in it. She contemplates nothing else than permanent disunion. It is not union she abjures, but the existing Union. She is no less resolved upon a union with the States of the North than England is upon a union with Ireland; but it is a union of the same kind she invokes. It is not a union under the broad and liberal Constitution which Virginia gave us, but under such a constitution as South Carolina may be pleased to give us.

She marched her armies as promptly to the conquest of Missouri and Kentucky as to the attack upon Sumter or Fort Pickens. They threatened your arsenal at St. Louis as unhesitatingly as your armory at Harper's Ferry; and although they might agree to withdraw their armies from the Potomac to-morrow if you would grant them independence, yet, the first use they would make of independence would be to muster another army upon the Susquehanna. To abandon the war is then simply impossible. To replenish the Treasury is not only possible, but practicable. It may be done either by resort to taxes or to loans, or to both.

It is not just to charge the whole cost of this struggle upon the people of to-day, and therefore it is not expedient to supply the Treasury by taxation alone. It is not just to charge the whole cost of it upon posterity, and therefore it is not expedient to supply the Treasury by borrowing alone. The ordinary expenses of the Government and the current interest upon the public debt are fairly chargeable upon the present income of the nation. The extraordinary expenses consequent upon the war, waged, as we have seen, not for this generation alone, but for all succeeding generations, ought to be charged upon the future income of the nation.

In accordance with this principle, the two Houses of Congress have already published a resolution to provide a revenue by taxes and imposts of not less than $150,000,000 for the ensuing fiscal year. The balance of the appropriations called for by the Government must be provided for by loans, and even the revenue itself will probably have to be anticipated by some temporary credit.

Mr. President, hitherto the effort of the Govern-

ment has been to borrow the immense sums demanded for the war in coin. It is clear to my mind that that effort should be abandoned. We are excluded from borrowing in foreign markets for the present. It suits both the financial and political purposes of other nations, at this time, to discredit our ability. Not until we have demonstrated that, in the devotion of our own people, the Government has resources equal to its utmost needs, can we command the confidence of the goldmongers of Europe. To borrow of those communities, in their present temper, would subject us to such discounts now as would neither comport with our interests or our honor, and would subject us hereafter to heavy annual exportations of specie for the payment of interest.

To continue borrowing of our own banks, and borrowing coin, is impossible. They have not the coin to lend. In their efforts to lend to the Government they have already been forced to suspend the payment of specie upon their own notes. The entire sum of specie in all the banks in the United States, in May last, was only $99,751,627; of that sum $27,125,000 was in the vaults of banks within the seceded States, and not just now available for the purposes of this Government. Thus the specie capital which the banks of the loyal States could place at the disposal of the Government was but little more than seventy-two millions of dollars. That sum will not defray the expenses of the Government for fifty days.

The Government may be able to borrow of the banks, but the Government cannot borrow specie of the banks. If it borrows anything of them it must borrow, not their money, but their promises to pay money. Nothing is more certain than that, whatever our wishes may be, it is impossible to command the revenues for this war in coin. We must rely mainly upon a paper circulation; and there is another thing equally certain, which is that that paper, whoever issues it, *must be* irredeemable. All paper currencies have been, and will ever be, irredeemable. It is a pleasant fiction to call them redeemable; it is an agreeable fancy to think them so. I would not dispel that fancy, I would not expose that fiction, only that the great emergency which is upon us seems to me to render it more than usually proper that the nation should begin to speak truth to itself; to have done with shams, and to deal with realities.

The fact is that no paper circulation ever was or ever will be redeemable in specie. No man ever did or ever will loan his note for ten dollars if he is compelled to keep a gold eagle to redeem it with, for the simple reason that it is cheaper to loan the coin. And no man who loans two ten dollar notes, and has but one gold eagle, can pay specie on demand for both of them. No bank would loan its notes instead of its coin, but for the privilege it enjoys of loaning more paper than it has of coin. And no bank which issues its notes in excess of its coin can, on demand, redeem its notes in specie. Every attempt that was ever made, here or elsewhere, to convert a paper circulation into a metallic currency proves this. So every bank note, therefore, in circulation, although it purports to be an unconditional undertaking to pay the sum mentioned upon its face in specie on demand, yet it has annexed to it this implied condition: *that the holder must not demand the specie any faster than the maker gets it.*

The total circulation of the banks of the United States was, in May last, $195,240,000; their total specie deposit at the same time amounted to but $99,751,627. To pretend that the latter sum is equal to the absorption of the former is as idle as to pretend that a frog can swallow an ox. It is worse than any common brag; it is falsehood.

Let it be understood, then, that during the continuance of this war we must have, as we have always had, a paper circulation, and that it must be, what it has always been, irredeemable. The question remains, who shall issue that paper—the Government or the banks? I answer, the Government. I say the Government, and not the banks, should issue that paper, for all the reasons and upon all the considerations which can influence the decision of the question. The Government should issue that paper, because it is for its own use, and because, also, let who will issue it, the Government must supply the means for taking it up. If the banks issue it, they will simply loan it to the Government upon its promise to pay that amount in a given period with interest. The banks will loan the Government one hundred of its promises each to pay ten dollars on demand, without interest, in exchange for the Government's promise to pay $1,000, with interest, in ten or in twenty years. No man believes that those one hundred promises can ever be redeemed until the banks have raised the money upon the Government's promise. Until that time the people must hold the bank notes, and pass them from hand to hand as money, and must pay interest upon the note of their own Government. The Government should issue that paper, because its promises are safest to take and surest to hold. It is the only party ultimately liable for their payment, and it is the only party able to pay. What we call the Treasury note is equivalent to a note signed by every individual in the United States and by all their posterity. It has these advantages over all other securities: the holder always knows how much of that paper is extant, which is rarely known of paper issued by an individual or by a company. It has the largest estate pledged to its redemption; its obligation defies all statutes of limitation, and survives the death of generations.

Sir, we hear a great deal said about the moneyed power of our country, the capitalists, and of their importance to the country. Daily we are pointed to them, and we are told "they hold the purse-strings of the nation." Daily our financiers, our observing men, rush to the columns of our commercial organs to see "how the credit of the United States stands in Wall street or State street."

Mr. President, those who use such language, terribly and almost fatally misapprehend where lie the wealth and the strength of the nation. It is not piled up upon the few insignificent acres comprising your great cities, swollen and distorted as they are. It lies in the productive industry and the productive soil of the country. Within the last six months you have gathered from the ranks of that hardy industry the magnificent host which, now encircling the monster rebellion, prepares to crush it to atoms. From your generous soil that host is fed and furnished. The daily pay and the daily feed of that Army would, in six months, empty your banks so clean that every vault in the country would collapse.

While that Army remains in the field, you need not resort to Wall street to have the credit of the nation indorsed. And should that Army leave the field before the rebellion is destroyed—which it never will—all the indorsement you will get in Wall street would not enable you to carry on a country tavern for twenty-four hours. In the land and labor of the country consists the nation's wealth. Let the country make a note of that fact.

To talk of borrowing of your banks the money to support your Army and your Navy is as idle as for England to talk of borrowing from her national bank the money to pay her national debt. There is but one fund adequate to supply the national finances, and that is the property of the nation. There is but one guarantee upon which the national credit can securely rest, and that is the national fath.

But, sir, there is another and, if possible, more conclusive reason why we should not rely upon the banks for the means of defraying the extraordinary charges of this war. It is that the banks have other work to do, and work scarcely less essential to the welfare of the country. Whatever be the available cash capital of the country, it is all required, and has all been used, in the ordinary business of the country. To supply the wants of our ordinary trade, is its legitimate work. So far as it is employed by the Government, it must be withdrawn from its legitimate work. The cash capital of the country was never equal to the present wants of the Government. It was never less able to supply those wants than at the present time. A large portion of the circulation has been withdrawn during the past season through the failure, or fear of failure, of the banks. In addition, $54,000,000 of circulation within the seceded States are locked up by the war. Besides these large sums, another sum larger than both of them, amounting probably to not less than $200,000,000, is lost to the active capital of the country, and now stands in the shape of southern indebtedness in our commercial cities, and which should have been paid out of the last year's crop. Yet, in spite of their crippled and exhausted condition, gentlemen—able, thoughtful, clear-headed gentlemen—representing our capitalists, have been here almost demanding to be employed as bankers to the Government. You might as well think to feed the boilers to a first-class engine by placing them under the eaves of your house just as the clouds were trickling their last drops upon it. Sir, it is impossible. They have already been employed too long and too freely. Every dollar you borrow from them hereafter will be so much taken from the facilities needed by and legitimately belonging to the private trade and business of the people. That trade must not be despoiled; that business must not be destroyed. We have already wronged it too much. This extraordinary spectacle is exhibited: you have withdrawn from the industry of the country more than half a million men; you are feeding them at enormous cost and with enormous waste; yet with all this accumulated demand you have not enhanced the price of labor or of bread by so much as the smallest fraction of one per cent.

This other fact ought to be heeded. To-day the papers quote flour at $3 70 per barrel in Milwaukee. I am told it commands nine dollars in Washington. The reason is plain. The demand is great, but the purchasers are few. They are only the few large contractors who can command facilities from the crippled and staggering banks of the great cities. Two thirds of what the Government pays is divided between the banks, the contractors, and carriers, and goes for interest, profit, and freight. No matter with what fullness the farmer's granaries may swell, it does not give him credit enough to go to market. He must wait for the agent of the contractor to come to his door, and he must take whatever the latter is pleased to pay. This will never answer. If we mean that the people shall go through this war and live, we must not fetter the hands and palsy the energies of five millions, while the other half million fight the battles of the nation. You may as well expect the factories of Lowell to prosper after you have diverted all the tributaries of the Merrimac, as to expect a nation to give a vigorous support to the war when you have paralyzed all its energies. You might as well place John C. Heenan in a receiver from which the air is exhausted, and expect to witness an exhibition of brilliant sparring, as to expect great achievements from the people when you have deprived them of all their accustomed sustenance.

When you demand great performance of a people you must nurse them, and not suffocate them. I submit, therefore, you ought to leave the ordinary facilities of trade for the accommodation of the ordinary business of the country; and that this new and extraordinary demand of the Government should be supplied by extraordinary means.

Sir, history has not left us without instruction as to the policy which should govern a nation under circumstances like those which surround us. The tides of commercial prosperity which bathed England from the close of the American war turned near the end of the year 1792. On the 19th of February following, the Bank of England threw out the notes of Lane, Son & Fraser. The next day that house stopped payment, with liabilities amounting to nearly one million pounds. That great failure was followed by numerous others in every part of the kingdom, including upwards of one hundred country banks. Universal distrust succeeded to universal confidence. A heavy drain commenced upon the specie in the vaults of the bank. The bank in self-protection curtailed its discounts; values declined; distress was wide spread and general. In the midst of these calamities the kingdom embarked in a war upon the continent.

But instead of absorbing the capital of the country in defraying the charges of the Government, and thus aggravating the paralysis which had overtaken the industry of the people, her Ministry felt called upon to intervene; did actually intervene on behalf of that industry, and tendered to it a loan of exchequer bills to the amount of £5,000,000 sterling.

The progress of the panic was arrested at once. The simple offer of Government aid and sympa-

thy afforded positive relief. Not half the amount voted by the Ministry was ever called for; and of the whole number who shared in the loan, only two individuals were finally driven to bankruptcy.

In 1825, England passed through another commercial crisis. To a season of the wildest speculation and of the boldest commercial adventure, encouraged by the most liberal accommodations from the banks, succeeded a season of alarm and general panic. The notes of the banks were hurried in, and the coin was hurried out. Fearful of the results, the banks refused all discounts. Every avowal on the part of the banks of inability to loan, inflamed the public apprehension that they would not be able to redeem what they had loaned. The demand for coin became more and more frantic. The stock of bullion melted rapidly away. Lord Ashburton has left on record a distinct intimation that, on one particular Saturday, the Bank of England "closed with nothing worth mentioning remaining." Application was made for an order in council to suspend specie payment. That led to a conference between Lord Liverpool and the governor of the bank, at which Lord Ashburton was called in to advise. The remedy he prescribed was to *increase* the circulation, instead of *decreasing* it. The remedy was administered. The relief was instant. Between the months of November, 1825, and March, 1826, the notes of the banks increased from £19,748,000 to £24,479,000. The moment trade revived confidence returned, and with returning confidence, the flow of specie set in towards the bank.

Admonished by such examples, I am disposed to insist that the Government shall no longer encroach upon those facilities which the hungry and famishing enterprise of the country needs so much, shriveled and shrunken as those facilities already are; and I insist the banks themselves shall not leave that enterprise to languish and to starve, in order that they may employ their crippled resources in giving a fitful, uncertain, and staggering support to the Government.

There are those who constantly and earnestly admonish us against the danger of any considerable inflation of the currency. They tell us that $50,000,000 is risky, that $100,000,000 would be frightful. They assure us that $150,000,000 would be fatal. They protest with solemnity and energy that the business of the country will not stand it. I answer, the business of the country will stand it. I assert that the life of the country imperatively demands it.

Sir, one third of the sum provided in this bill has already taken its place in the circulation of the country, having been issued under the law of July last. The hungry trade of the nation absorbed it as a Mexican plain drinks up a summer shower. Instead of inflating prices, prices have constantly depreciated in spite of it. The truth is, the circulation of the country is not yet what the business of the country, in its normal state, demands. That business demands an increase of circulation rather than a decrease, in time of war. Why, sir, with a circulation of not more than $100,000,000, it is seriously proposed to collect internal taxes quite equal to that sum. How is such a tax to be paid with such a circulation? Sir, you may as well place a man in the pillory, and bid him dance the polka, as to bid the nation walk under such a burden of taxation, with such iron restrictions upon its energies.

But, sir, I may be told the policy I advocate leads to the unlimited issue of irredeemable demand notes. I have already shown that, whoever supplies the funds for this war must and will supply, not coin, for that is not to be had, but a substitute for coin. It is also manifest that whatever the substitute is, it will, for the same reason, not be convertible into coin. It is quite evident that, if the coin cannot be obtained with which to make the Government purchases, it cannot be had for the redemption of the paper which must be employed as its substitute. I have already shown that the Government, and not the banks, should issue that paper substitute; I now say that substitute should not, in my opinion, consist of demand notes, and that the amount cannot be unlimited.

It seems to me the Government should never issue a note of any denomination, promising thereby to pay specie for it on demand. Among the most solemn and imperative obligations resting upon the Government, in my judgment, are those to redeem what notes it has outstanding, and to issue no more of that description. We should redeem what we have issued, because we have promised it, and the national honor demands it. We should issue no more, because we cannot redeem them, and the national honor forbids it.

Sir, whatever may be allowed to bankers in their dealings with the people, or whatever may be allowed to individuals trafficking with each other, this *Government*, representing, as it does, the integrity, the morality, and the religion of the most privileged nation upon the earth, should *never*, no *never*, forfeit its promise to the people, nor withhold a syllable from the performance of its plighted faith. Its contracts, like its records, should import *absolute* verity.

There is no stain upon the character of the Government if its bond, payable in ten or twenty years, sells for ninety cents on the dollar, although the Government may have received par for it. It argues, not that the Government is insolvent or unsafe, but that the holder is needy. It is all the same as if one, to supply a present want, sell his horse for $200, for which he paid $225. But when a man sells a Government note for ninety cents in the market, for which the Government has promised to pay, but cannot pay, one hundred at sight, it inflicts an almost indelible stigma upon the national character. There is nothing more humiliating to every just sense of national pride than to see the Government, the chosen representative of the national resources, standing in the market places with the brand of insolvency upon its brow, and dishonored by the protest of every huckster there.

Sir, I invoke the Legislature to take good care that our Government does not fall under that burning disgrace.

But regard for economy as well as regard for character forbids the issue of notes promising specie on demand. If such are issued decency requires that some pretense should be made of readiness to redeem. Some fund must be provided with that view. If the Government issues $200,000,000 of notes promising $200,000,000 of specie on demand, it would, for the sake of appearances, feel compelled to keep at least $50,000,000 of specie in its Treasury. Whatever it does keep is dead capital. It is useless for the purpose of redemption, for it is inadequate. One might as well keep a yard of cloth on hand to make him a new overcoat, in case he should need one. It is only a sign of redemption, not security for it. It is not good economy to pay $50,000,000 for a sign, when by going to the proper shop we can get one painted for ten dollars. The truth is, redemption never will be called for except by the speculator, when some flurry in trade creates a sudden demand for gold, or by the people, in case of general panic. For the speculator the Government should not provide; for the panic it cannot provide.

Prudence also forbids the issue of demand notes by the Treasury of the United States. If the people are induced to take them at all, they should be protected in the use of them. They should be placed out of reach of the bears, the brokers, and the shavers. If upon their face they are made redeemable in coin, and if in fact they are not so redeemable, that is the very point at which their credit may be attacked, and through which it may be stricken down. If the specie reserve be twenty-five per cent. of the circulation, it is only necessary for the brokers to combine in a demand for coin which shall exhaust the reserve, and then the seventy-five per cent. in the pockets of the people is dishonored and discredited. Thenceforth it will be convertible only at a sacrifice, and whatever the discount is it falls upon those who have taken it in good faith and who have not contributed to its depreciation. And whatever they lose the speculators in money make, since whenever they choose they can restore the note to credit again, and what they have purchased at fifty cents they may pay out at pleasure at one hundred cents. For all these reasons, I am persuaded the Government should issue no promise to pay coin on demand. If it has the coin or can get it for such interest as a Government ought to pay, it ought to pay out the coin. If, on the contrary, the Government has not the coin, it should issue its note, convertible on demand, in limited sums, into interest-paying stocks.

Authorize the issue of stocks to the amount of your appropriations, less the revenue applicable to them. Authorize the exchange of those stocks for coin or Treasury notes at par. Make the notes like the coin, a sufficient tender for all debts due to both Government and to individuals. Congress has the power to "regulate the value" of both. *Let the value of both be the same.* Then, whoever prefers the interest on the stocks to the use of money will invest either the coin or notes in the stocks. But whoever needs money more than the interest of it will keep the coin or notes in circulation.

I am not unmindful that the authority of Congress to make these notes a tender for debt is resolutely denied. I shall not enter upon an extended discussion of that question. I waive it the more readily because our decision of the question is not final. It may be reviewed by the judicial tribunals, especially if we affirm the power.

But since I am unwilling these notes should go to the country with the stamp of illegitimacy upon them, I shall offer a few suggestions in support of their validity. I readily admit, those illustrious men who framed the Constitution of the United States were deeply prejudiced against an irredeemable paper circulation. They had suffered much from such a circulation. I do not doubt they would have promptly negatived every proposition to insert in the instrument they were framing a clause which should clothe the Government with authority to issue such paper and make it a tender for debt. Nay more, I readily admit that if we were framing a constitution to-day, I myself would vote to exclude any express grant of such power from it.

I would not agree to the express grant of such power, because that would render the authority to issue paper money, and to make it a tender for debt, one of the ordinary powers of the Government, and the question of its exercise would be one of expediency merely. Such, I am persuaded, it ought never to be.

I would not consent to clothe the Government with a power which would enable it, when in the hands of dishonest men, to impose the whole cost of ordinary administration upon those who hold the credits of the country. When a Government resorts to loans for purposes of ordinary administration, it demonstrates that it is unworthy of credit. When it has forfeited its claim to credit, it has no more right to demand it than a highwayman has to demand your purse.

But it is to be noticed that Congress is not prohibited by the Constitution from issuing "bills of credit," or from making paper a tender for debt. It is to be noticed also that this authority to emit bills of credit and make them a tender is not one of the "reserved powers" so called. Only those powers "are reserved to the States respectively or to the people" which are "not delegated to the United States by the Constitution, *nor prohibited by it to the States.*" The power to "emit bills of credit" or to "make anything but gold and silver coin a tender in payment of debts" is "prohibited to the States," and resides with the Government of the United States, if it resides anywhere.

But I do not rest the claim of authority upon the fact that it is prohibited to the States. I ingraft it rather upon the powers expressly granted to the Government of the United States as a necessary incident, and without which the Government is helpless for the purpose of self-protection. "The United States shall guaranty to every State in this Union a republican form of government." That solemn duty is charged upon us by the Constitution. Eleven States in this Union are to-day either wholly or partly deprived of that guarantee. Our obligation to enforce it is absolute and unconditional.

In the discharge of that duty Congress is clothed with unrestricted power to "*raise* and *support*" armies, to "*provide* and *maintain*" navies. Congress is also clothed with power "to make all laws which shall be necessary and proper for carrying into execution the foregoing powers, and all other powers vested by this Constitution in the Government of the United States."

To preserve for these eleven misguided States a republican form of government, we have raised

such armies and provided such navies as this continent never before saw—such as the world has rarely seen. I deem those armies and navies "necessary and proper" for the occasion. To *support* those armies and to *maintain* those navies I deem the measure before the Senate "necessary and proper."

Those who deny the constitutional authority to pass this bill must deny its necessity or its propriety. Those who deny its necessity or its propriety ought to show us some plan for avoiding it, some measure adequate to the emergency and more *proper* than the one proposed by this bill. Two months have elapsed since the policy of this bill has been discussed, and no one of its opponents has yet produced a substitute. The total neglect to offer a substitute is *prima facie* evidence of the necessity for this. But it is not the only evidence of that necessity. It is evident that no substitute can be provided, except it be taxation or direct loans.

I have already said that taxation is inadequate to the supply demanded for this terrible occasion. No nation of modern times has been able to provide from taxes alone the immense sums we are called upon to expend. I will presently show that direct loans are quite as impracticable as taxation.

The Senator from Vermont [Mr. COLLAMER] has argued with great force and plausibility that the making of these notes a legal tender is unconstitutional because it is unjust and inequitable. Assuming that the notes of the Government will be depreciated to half their nominal value, he proves conclusively that it would be grossly unjust to enable one who had purchased upon credit when gold and silver were the only legal currency to discharge his debt in a paper worth but fifty per cent. as much as specie is. The Constitution, he reminds us, was framed "to establish justice." This, he rightly concludes, is not justice; and therefore he argues the Constitution will not sanction it I have not been able to recognize the conclusiveness of this reasoning, and I oppose to it these considerations:

1. Making a tender for a debt does not discharge it. It only stops the accruing of interest upon it. Any creditor who is tendered the notes of his Government if he has no debts of his own to pay, and cannot lend them to one who has, and will not lend them to his Government in exchange for its interest-paying stocks, may retain his security until the notes appreciate or coin is again recognized as the legal currency.

2. There is no probability that a currency based upon the resources of a great nation, the whole of which will be demanded once in each year for payment of dues to the Government, and which may be used any time in payment of private dues so long as any private dues exist, and may be loaned to the nation upon interest, even after every individual in the nation has ceased to borrow, will depreciate fifty per cent. or even five per cent. No such paper ever did depreciate, and none such, I venture to predict, ever will.

3. But even if it were certain that these notes would depreciate fifty or seventy-five per cent., it would by no means follow that Congress has not the authority to declare them a tender for debt. The power to degrade or depreciate the currency Congress undoubtedly has. It has that by the clearest terms of the Constitution. It has the power to "coin money" and to "regulate the value thereof." Those powers are unlimited.

It is under those powers that Congress has declared that two hundred and fifty-eight grains, nine parts of which shall be gold and one part a mixed alloy of silver and copper, shall be a tender for ten dollars of indebtedness.

But Congress is restricted to no quality or quantity of metal in coining money. It may as legally compose the eagle of fifty-eight grains as of two hundred and fifty-eight. It may as legally make it consist of one part of gold and the other nine parts of alloy as the reverse. It may coin money of iron or lead as legally as of silver or of copper. Every Government which has the power to coin money and to regulate its value has the power to degrade it; and monstrous and incurable as is the injustice of it, many Governments have actually resorted to such shifts to relieve their necessities —as England herself did in the reign of William and Mary.

I have said this circulation must be limited in amount. So indeed it is. It is limited by the occasion which makes it "necessary and proper." It is limited by the bill to a sum of $150,000,000. It is further limited by the opportunity constantly offered by the Government for funding it. If the interest on the public securities shall be fixed at six per cent., six dollars per hundred will be the precise bonus offered the holder of the notes to exchange them for stocks. The public creditor, therefore, will enjoy this advantage, that whenever money is worth more than the interest of the stocks he can receive from the Government what is equivalent to money. When, on the contrary, money is worth less than the interest, the notes can be exchanged for the stocks and the former will be retired from circulation. I never knew a circulating medium the quantity of which was regulated by a law so simple and so self-adjusting as this. It rises with the demand and it subsides with that demand. It ebbs and flows with the necessities of the people. No other medium could be devised so little apt to tempt speculation, or so little likely to be followed by distress. With other circulations the tendency is to flood the market when the market least demands it, and to fly the market when it is most required. The fundamental law of money-lending is that the desire to lend is in the exact proportion, inversely, to the desire to borrow. If the need to borrow is very urgent, the disposition to hoard is very strong. If the community groans for money, money cannot be had. If, on the contrary, the community is easy and independent, every bolt is withdrawn, every vault is thrown open, interest is reduced, and money is urged upon it.

Mr. President, the experiment of employing a currency of irredeemable paper is not untried. It has been severely tested. In 1793, England embarked in a war upon the continent. She had then a population of nine million eight hundred thousand, while we have a population of more than thirty millions. Her population was yarded upon a small and rugged island; ours is spread over a broad and fruitful continent.

In 1793, the Bank of England had notes in circulation to the amount of £11,388,919. The exports of the kingdom were £16,467,491. Her tonnage was but little more than one million, her revenue less than twenty million pounds. She prosecuted that war four years with specie funds, the demand notes of the bank, and exchequer bills. England sickened every day. Her coin was dissipated; her circulation was retired; trade languished; effort of every kind was paralyzed.

In 1797, England could look upon no single interest within the realm that prospered; there was no health in her. The languor of her people infected her armies and her navies. Mr. Alison says:

"During these four years one only victory at sea—that of Howe—was achieved. We were driven with disgrace from Flanders, Holland, and the north of Germany. Toulon beheld our standards recede before the rising star of Napoleon. Our continental alliances were all, with the exception of that with Austria and Russia, broken up; and from the Texel to Gibraltar the whole coast was arrayed in fierce hostility to our arms."

In the year 1796 the public expenditures reached £37,000,000. The burden bore the exhausted people to the earth. Pitt himself was appalled at it. He declared "it never had been equaled; it probably never would be surpassed."

On the 26th day of February, 1797, a Cabinet Council was convened at Whitehall. It was Sunday. The king attended. It is said to have been the only occasion upon which he attended a meeting of the Cabinet on the Sabbath day. The directors of the bank were ordered to pay out no more specie "until the sense of Parliament" could be taken. From that time until 1815—more than eighteen years—the trade of England was supplied and the Government in a great measure sustained by the use of an irredeemable paper currency. In fact, the bank did not fully resume the redemption of its notes until 1820, almost a quarter of a century from the time it suspended. The period from 1797 to 1815 was one of almost uninterrupted war. Yet it was a period of almost uninterrupted and almost unbounded prosperity. Between these years the circulation of the bank had increased from £11,000,000 to £27,000,000, besides a circulation of private bank notes in the latter year of more than £19,000,000. The discounts of commercial paper had increased from £5,000,000 to £14,000,000. The exports of the kingdom had increased from £16,000,000 to more than £42,000,000. Her shipping had doubled. Her revenue from taxation had swollen from £19,000,000 to the enormous sum of £72,000,000.

In 1797 England disbursed £37,000,000, and she staggered from such depletion. Her ministers declared that expenditure could never be surpassed. In 1815 she disbursed £117,000,000, and yet the nation stood erect; her armies swept the field at Waterloo; she dictated a peace to Europe; she prescribed a king to France; she prescribed a prison to Bonaparte. It would sound much like a bull, but it would be far from a blunder, to say that the "golden age" of England was during that long period when the only currency she knew was one of irredeemable paper.

Sir, I hope I shall not be understood as insisting that either war or a currency of irredeemable paper are national blessings. They are medicines, and harsh ones. The times must be sadly diseased to warrant the prescription of either. But when demanded for the salvation of a State they should be prescribed without hesitation, and be taken without grimace. War is the most forbidding of terrors, but it is sometimes as necessary to the grandeur of a nation as a thunder storm is to the purity of the atmosphere.

The employment of paper not exchangeable for coin is undoubtedly dangerous under most circumstances. Employed by a people made giddy by prosperity, it tempts to over-indulgence and illegitimate adventure, and it will sink them finally into the lethargy that follows excess. Employed by a people stripped of all superfluities, standing face to face with actual want, strained to their utmost endeavor in a crisis, chafed to the quick by the pressure of a great emergency, and it will give them strength and courage. Give wine to one whose appetite is diseased by indulgence, and he will drink to sottishness and insensibility; put it to the lips of one perishing from exhaustion, and he will arise and stand upon his feet.

It is said, sir, that in other countries besides England the experiment of supplying a currency of irredeemable paper has been tried, and that such experiments have been unsuccessful. That is true. France tried the experiment in the reign of Louis XIV. But the circumstances under which it was tried by France were very different from those under which it is proposed to us. France was precipitated upon no sudden emergency. She was not *surprised* by a stern necessity for expenditures beyond the capacity of her capital or credit to supply. She had, on the contrary, exhausted her people by continuous taxation to supply the means of profligate expenditure to a luxurious Court. She had already contracted a public debt, the interest of which she could not pay; and having demonstrated that the national resources were inadequate to pay interest on the national debt, she deliberately proceeded to issue Government paper, on which she never intended to pay principal, and on which she promised no interest.

France tried the experiment again during that reign of terror which succeeded the death of Louis XVI. But the Government was revolutionary. The revolution was itself a public protest against the Government credit. It was a solemn manifesto of the inability of the people to supply the wants of a legitimate Government. It was impossible that confidence thus denied to a legitimate Government should be accorded a revolutionary one. It had no single claim to credit. It inspired no belief in its stability, no obedience to its authority, no zeal for its welfare.

The experiment was tried by Austria in the beginning of the present century, but it was tried as it was first tried in France. The Government had borrowed money until it could no longer pay the interest, and then appealed to the people to give credit to notes which promised no interest.

The experiment was tried in this country during the Revolution. It is on trial now in the southern States of this Union. It did not work happily in the Revolution. I am rejoiced to know it is no more successful in the rebellion. But the reason is evident. The Government of the Federal Congress was, as that of Mr. Davis is, revolutionary. It was itself an experiment. The people owed to

it no allegiance and no support. It was a mere adventure, almost as much so as a voyage to Japan, and its credit was based upon almost the same considerations that control commercial credit.

Public sympathy for the noble enterprise, public affection and regard for the royal heroes adventured upon it, doubtless did very much to sustain the notes of the Continental Congress—much that was not done for the assignats of the French Directory, or for the mandate of the French Consulate; much that is not due for the scrip of the confederate cabal.

But the main reason why credit was withheld from the Continental money was that no provision was made for the interest, and the people did not believe either principal or interest would ever be paid. Such is not the attitude of the American Government to-day. The people are not poor. I am told they are worth $16,000,000,000. They are not exhausted by a long-continued system of oppressive taxation. They have paid no taxes except by way of duty on goods they have purchased from other countries; almost every dollar of which we could dispense with, and yet not suffer. The Government is not revolutionary; it is legitimate. It is not gambling to acquire empire; it is defending its own existence. There is no reason for distrusting its ability or good faith, and neither its ability or good faith is distrusted.

It is objected that this measure is equivalent to a confession of national bankruptcy. I deny it. It is no more a confession of bankruptcy than is the check your merchant gives you on the bank where he makes his deposits. Every note which the bill authorizes is a draft, drawn by the national authority upon the national resources. The nation has paid a debt with it. Every holder is empowered, in turn, to pay a debt with it. In the course of circulation it may, and it probably will, fall into the hands of some one who has no debts to pay. He may loan it either to those who have debts to pay or to the Government, which constantly offers to borrow for the national use. At some time during each year, every dollar of it will be due to the Government, which issues it for taxes we have already agreed to demand.

It is said the measure is equivalent to a "forced loan." Sir, I have said before, and I now repeat, the loan is already forced. The equivalent for every dollar of this issue is already advanced to the national use. It is advanced by labor instead of by capital, by debtors instead of by creditors. And the worst that can be said of the measure is that it forces a loan from those whose business it is to lend, instead of from those whose necessities require them to borrow, and it substitutes in the portfolios of the creditor class the credit of the nation for the credit of individuals.

The Senator from Ohio [Mr. SHERMAN] proposes to amend this bill so as to authorize the Secretary of the Treasury to sell the public stocks for whatever he may be offered for them; to go into the market with the national credit, and to sell it for whatever the crippled capital of the country chooses to offer for it; to fling the financial character of the Republic as a bone to be quarreled and growled over by the bulls and bears of the stock market. To that amendment I am opposed.

If you notify the capital of the country that you are prepared to pay for money whatever it is pleased to exact, it will be hoarded to await the extremity of your distress. No man likes to sell for less than he buys. No man likes to buy for more than his neighbors. And if we advertise to the world that, like any other spendthrift, we are prepared to pay for money according to our necessities for it, no man will purchase our bonds at ninety cents for fear we shall presently sell at seventy-five; and if we offer them at seventy-five per cent. we give the best of assurances that we will soon sell at fifty.

But if we say to the world at once that six per cent. is all we will pay for money, and that whenever we cannot find money at six per cent. per annum or men at thirteen dollars per month sufficient for the war, the war must stop, every man who has money to invest can make his election to lend or not. But every man who lends at par may feel secure that the Government itself is not going to undersell to him. In the very commencement of our difficulties, while the patriotism of the country was at white heat, the Secretary of the Treasury negotiated a small loan of $5,000,000, and for that he obtained only about ninety cents on the dollar.

No one believes $50,000,000 could be negotiated now at sixty cents. It is the experience of all borrowers, that the more they offer the more will be demanded. Besides, it ought to be remembered that the Government, acting for those who have entered the Army and those who have not, for those who supply food and those who supply none—acting both for labor and capital—has *promised* that labor shall be paid a given sum for the work of a soldier, for a barrel of flour, or a pair of boots. Whatever is borrowed to meet these engagements is borrowed upon the common credit; and if we borrow upon the credit of the whole people $10,000,000 to pay part of them $5,000,000, it is very easy to see they are never paid in full.

Sir, if the Government lives—if the nation survives the perils which now beset it—every man knows that the stocks of the United States bearing interest at six per cent., will, in a few years, command a large premium. Whoever, then, invests his money now in such stocks, will, if the Government lives, realize that profit, besides reaping the earnings of his investment in the shape of semi-yearly interest. That is enough.

But, it is said a large supply of stocks is to be thrown upon the market, and capital will soon be able to purchase them at large discount. It is true the nation must borrow largely or tax beyond the national ability. It is true the necessities of the Government are great and pressing. But it is not true that because our necessities are great, that every sharper in the country should be invited to speculate upon them. It is not true that we ought to issue a letter of marque and reprisal to every broker in the land to prey upon the exposed resources of the people.

The Government will be under the necessity of borrowing $500,000,000. For the use of that we are willing to pay $30,000,000 per annum. If you send your stocks to the auction block they will be sold at the sacrifice of $100,000,000. Every reverse to your arms will be the pretext for new exactions upon your resources. Capital will follow your armies as the crows do, and for the same purpose—to fatten upon your disasters. It will chuckle over your defeats because defeat will bring to it new discounts. It will rejoice with you over the final victory, because victory will bring to it the rich harvest of all its investments.

It is said that the demand for money is great, and it must be allowed to profit by the opportunity; that capital has the right to earn what it can; to make the most of its advantages. I deny it. The whole philosophy of Government denies it; the whole practice of legislation denies it. The legislation of all States denies to capital the right to take more than a given rate of interest, even from individuals who borrow upon private account and for private use. How much more imperiously should it deny the right to take more than a limited rate of interest upon loans, made for the common good of the nation, and to supply not the means for a private speculation but the demands of a public necessity. In the name of public necessity we demand sacrifice of all but capital. Why, then, in the name of that same necessity should we fling bonuses and profits to capital alone? The experience of half a century has demonstrated that the use of money is not worth more than six per cent.; that sum the Government ought to pay. The same experience has demonstrated that labor is worth thirteen dollars per month; that sum the Government is paying for the labor of half a million of men. No one proposes to increase their pay. One would hardly suppose it ought to be diminished; and yet if you borrow money upon their credit, with which to pay them, you actually *do* reduce their pay.

Mr. President, I have said that no one can suffer from this measure if the Government survives the struggle in which it is now engaged. All the notes it issues will be redeemed. All the money it borrows will be repaid with interest.

But the statement suggests the *possibility* that the Government *may* not survive. Let that be admitted. The Government *may* not survive. What, then, it is asked, will become of the money loaned to it, and of its notes outstanding?

I confess my apprehension that they will all be lost. That will be the case, too, I apprehend, with notes and money generally, let whoever will be the maker, let whoever will be the borrower.

Sir, if one of your soldiers shrinks from duty, and deserts his country's cause for fear of losing his life, he is called a coward, and he is ignominiously dismissed from his company, or shot in its presence. By what fitting term, then, shall we designate him who deserts his country in its greatest need for fear of losing his money? By what penalties should *he* be visited?

Money and men alone do not constitute the wealth of a nation. The genius, the generosity, the courage, the intellect, and the patriotism of the people are all national resources. In an emergency like this the Government should not draw upon one fund alone, but every fund should respond alike. Surely avarice and cowardice should not alone be exempt from the common burdens.

UNITED STATES NOTES.

SPEECH OF HON. J. R. DOOLITTLE,

OF WISCONSIN,

IN THE SENATE, *February* 13, 1862.

The Senate having under consideration, as in Committee of the Whole, the bill (H. R. No. 240) to authorize the issue of United States notes, and for the redemption or funding thereof, and for funding the floating debt of the United States—

Mr. DOOLITTLE said:

Mr. PRESIDENT: I regret exceedingly that this bill for the issue of Treasury notes must be acted upon before the tax bill comes from the other House. If I could see the tax bill, and know to a certainty that its provisions were sufficient to sustain the credit of the Government, I should be willing to vote for the amendment proposed by the Senator from Vermont, and allow this bill to pass without making the notes to be issued under it a tender in payment of debts, either public or private. But, sir, that cannot be. The chairman of the Committee on Finance informs us that there is an absolute necessity for action on this bill this week, and that the great measure of finance—the tax bill—cannot come from the House of Representatives for some weeks; and that this bill to issue Treasury notes, either with or without the legal tender clause, must be passed, or the Government cannot go on. I regret this, deeply regret it. Words can hardly express that regret. I declare for one, that if it were in my power I would postpone this bill until the tax bill shall come from the House of Representatives. I would see the whole financial budget at once. I wish it had been presented and opened on the first day of the session, and pressed before, and even to the exclusion of all else, until perfected. That ought to have been done. If we pass this bill to issue $100,000,000 to the Government, I fear that in the House of Representatives, relieved by this measure from the necessity of immediate action, controversies may arise as to particular objects of taxation, and delay it there for a month, perhaps two months, until this $100,000,000 is gone; and then we shall be just where we are now, with a new and more insatiate necessity upon us demanding of us a new issue of these legal tender Treasury notes. I trust I am no alarmist, taking counsel of my fears; but in this matter I confess that I do fear that unless we have immediate action by both Houses of Congress upon the tax bill, the necessity to which we yield to-day will grow with what it feeds upon, to return upon us more exacting and insatiate than ever.

I listened with great interest, as I confess I always do, to any remarks that fall from the honorable Senator who addressed us yesterday, and who sits before me, [Mr. COLLAMER.] It is not enough for me to say that his speech was an able one; it was a great speech on his side of the question; and if it were possible for him to go with me to the logical results of his own reasoning, and the teachings of those authorities which he has read, and stand upon what I believe was the original intention of the framers of this Government, for a hard-money, constitutional currency, and against all paper money whatever, I would go with him with all my heart, and stand firmly by his side. Sir, all my teachings, I believe all the teachings of

history, prove that a disordered paper currency is the greatest of all evils that ever afflicted a civilized nation, except the greater evil of war. What he showed yesterday from the debates in the convention which formed the Constitution demonstrates as clear as the daylight that the men who made it intended to have no money but gold and silver, and that no paper money should be issued under the authority of the States, or of the Federal Government either. Vexed and goaded as they had been by paper money, having drank of its bitterness to the very dregs, they met, in that convention, hard-money men. They had learned from experience what all philosophy teaches, that a thing *to be* done is *not yet* done; that the future is not the present; that a mere promise to pay money is not money itself.

What he read from the debates of those great men showed clearly their intention. Gouverneur Morris declared that "the moneyed interest will oppose the plan of Government, if paper emissions be not prohibited." Mason declared "he had a mortal hatred to paper money." Ellsworth thought it "a favorable moment to shut and bar the door against paper money." "Paper money," said another, "can in no case be necessary." Wilson would "remove the possibility of paper money." Randolph expressed "his antipathy to paper money." Langdon "had rather reject the whole plan than retain the three words 'and emit bills;'" and Read thought those words as alarming "as the mark of the beast in Revelation." That intention was to give to the Federal Government complete control not only of weights and measures—of the pound, the bushel, and the yard-stick—but the power to fix the standard of value, the medium of exchange, for products and services, as well as for the payment of debts, and that that standard should be fixed in gold and silver coin only. And it is equally certain, in my opinion, that they intended to provide, and believed they had provided, against the possibility of paper money, to be issued under either State or Federal authority. Had their intentions been carried out; had we always held fast to the constitutional currency; had not paper money, under both Federal and State authority, become the actual currency of our people; had we to-day no other currency but gold and silver, I could not tolerate the idea of passing this bill for a single moment. The Secretary of the Treasury and the honorable chairman of the Committee on Finance would appeal in vain to me to vote for this bill, with or without the legal tender clause. Were such the actual condition of things, I would much sooner support the measure proposed by the Senator from New York, and put our bonds in the market for coin only, if they did not bring over seventy-five cents on the dollar, than to issue these Treasury notes to go into and become a part of the paper currency of the country.

But, sir, such is not our condition; we are in the midst of a gigantic war; we cannot go back; we must go forward; we must go through; we must start from where we are, and not from where we would be; we must behold the real necessities of our position as it is, and not as we would have it, and look those necessities squarely in the face.

The truth is, while in theory the only money of our people is gold and silver, the fact is otherwise. It is almost exclusively of paper. Ay, sir, at this moment it is the irredeemable paper of suspended bank corporations. Most unfortunately paper money does now exist, and has existed so many years in this country, issued under the sanction of State authorities in violation, as I admit, of the spirit and intentions of those who framed the Constitution, that a man must be blind indeed who would not now, in time of war, in a measure of practical legislation recognize the stubborn fact that these banking corporations, created by the States, so long acquiesced in by this Government, have become great and powerful institutions, and have practically displaced the currency of the Constitution by substituting in its stead their own paper money. At all times, it is much the greater part of our circulating medium, and when, in times of panic and disaster, comes suspension of specie payments, it becomes our only currency. Such is our condition now.

What shall we do? We must have deeds, not words; facts, not theories. Shall we send our bonds abroad to be sold for gold? We could not sell them now if we would, except at most ruinous rates. The time has not come for that. With a single exception, we have not the sympathies of the great foreign Powers. We are too great, too gigantic in all our proportions, to expect or to receive their sympathy. We must command their respect. When we put down this rebellion, they will know, judging our future by our past, that we are to become the greatest and most powerful nation of the earth—like unto the man-child of prophecy, "in righteousness making war and peace," ruling yet, it may be, the nations with a rod of iron, and maintaining on sea and land the freedom of the world. Sir, that time may be near at hand; but it is not yet. We must crush this rebellion; we must crush this rebel army near Washington; we must crush them in Kentucky and Tennessee; and I believe that, under God, we shall do it. We may not close the war as soon as some of our sanguine friends predict; but we can break their power in the next three months; and then our bonds will command any amount of money in Europe. Then, if we do not have their sympathies, we shall command their respect and regain their confidence. We must win victories; we must restore State governments in North Carolina and Tennessee to the loyal people there, whose agonizing prayers are going up to heaven for our success. Thank God, even in Alabama the people wept for joy at the sight of the old flag, and thousands there are ready to enlist under it, and fight for its rightful supremacy.

But the question returns, what shall we do now? We cannot sell our bonds abroad. The paper money issued by banking corporations is all, or nearly all, the money our own people have. Shall we sell our bonds for the paper money of suspended banks? No, sir; no man will advocate that.

The only alternative is to issue these Treasury notes, which will go into the circulation of the country as a part of its currency. If, as I have said, the question now were whether we should begin to build up a paper currency in this country, or hold fast to the currency of the Constitution, I would oppose this measure. But we cut our moorings from the solid ground long, long ago. We have been embarked upon a sea of paper money for years. We have suffered periodically financial crashes and revulsions, tossed upon its uncertain waves, blown up and down by the breath of speculation. We are still at sea, and in the beginning of a terrific financial storm, and the question is whether we shall seize the rudder and direct the ship, or suffer it to go without direction, to founder and make shipwreck of all public and private securities and values, to become the prey and spoils of wreckers along the shore.

The simple question which presses upon us in this extremity is, whether we shall rule this currency created by these corporations, in violation, in my opinion, of the original intention of the Constitution of the United States, or whether they shall rule us.

For their good, for the security of all, as well as for its own safety, this Government must assert its constitutional authority over the currency of the country in some practicable way, and it seems to me that the mode proposed in this bill is the simplest and most direct in the present exigencies, as a temporary measure, until the great measure of finance, the tax bill, can be perfected and set in operation.

The argument of the Senator from Ohio is exceedingly powerful. He shows that it is impossible for us now to sell our bonds in our own market, because gold has been almost banished from circulation by the paper money of bank corporations; and since they have suspended specie payments gold has disappeared altogether, and unless you issue these notes, receivable in payment for the bonds which you propose to sell, it is impossible for our citizens to purchase them at all; and therefore, without this measure, it becomes impossible to go on. You cannot make loans unless these notes be issued, nor can the people pay their taxes to this Government.

I confess that I should prefer to have this legal tender clause so amended as to apply only to debts hereafter contracted. I believe the effect upon the value of the notes would be substantially the same. If made a tender in all contracts hereafter made, the banks, as a matter of course, will be compelled to receive them, or to stop doing business. If not made a tender in payment of debts already existing, that will avoid the great objection urged against this clause by the Senator from Vermont, that it is a violation of plighted faith between man and man, and may avoid having the constitutional question presented to the courts.

In what I have said I desire not to be misunderstood. While I agree that, as an original proposition, I would hold that the emission of all bills of credit—paper money of any sort—by States, or by corporations created under State authority, or by the Government of the United States, would be a violation of the Constitution of the United States, still long acquiescence, the decisions of State courts, the decision of the United State Supreme Court in the case of Briscoe against the Commonwealth of Kentucky, in relation to issues made by the Bank of Kentucky, seem practically to have settled the question the other way. When the case to which I have just referred was first argued before the Supreme Court, when Chief Justice Marshall was upon the bench, a majority of the court were prepared to decide that bank notes issued by a State bank were bills of credit issued indirectly by the State within the meaning of the Constitution of the United States, and therefore unconstitutional; and yet before the case came on to be decided, the court had changed in its members, and the opinion of the majority was the other way. Mr. Justice Story, in his dissenting opinion, held that they were precisely as much bills of credit when issued by a corporation created by a State, as if they had been issued by the State itself. That decision was made so long ago; it has been acquiesced in so long; so many banks have arisen under it under the laws of different States; our currency has become in fact so much a currency of paper; such is the existing state of things; our money, in fact, being paper money, that we cannot now, in this struggle of the Government for existence, go back to the old doctrines of the Constitution upon finance, and fight this great battle with gold and silver alone. It has become an impossibility. It is necessary, therefore, for us to seize the currency of the country as it exists, regulate it, and coerce it into the service of the Government.

The evil feared by those who made the Constitution was paper money. What was sought to be provided against was paper money; and if the Constitution has been violated, it is so violated by the long and almost universal use of paper money. The power to regulate the standard of value is clearly given to this Government, and if it has long acquiesced in allowing bank corporations to coin paper money, it is no additional violation of the spirit of the Constitution to regulate its value, by taxation or otherwise.

"Bills of credit," says Justice Story, "signify a paper medium intended to circulate between individuals, for the ordinary purposes of society." "If the prohibition means anything—if the words are not empty sounds—it must comprehend the emission of any paper medium by a State government, for the purposes of common circulation." It was not names, but things—not shadows, but realities—that the Constitution intended to prohibit. It was to prevent the issue of floods of paper money as currency, in any and in every form, directly or indirectly. Look for one moment at the shifts and devices under which States are emitting bills of credit by millions upon millions! They first issue their stock, in sums from $100 upwards, and then provide that if a banking association will deposit these stocks with their bank comptroller, he may register and issue small notes to the amount of the value of the stocks registered and countersigned under State authority. Wide as the departure has been from the original intention of those who made the Constitution, we cannot ignore the fact that at this very time, when the Government is using such vast sums of money—nearly two millions every day—the money of our people is the paper money of bank corporations; and this Government must regulate and master it, or succumb and be mastered by it.

The great objection to paper money is that it keeps the standard of value in constant fluctuation, expanding and contracting like an India-rubber

yard-stick, two feet long to-day, and four feet long to-morrow. While in theory the word "dollar," in which debts are paid and values measured, is fixed and certain, under the Constitution, it has, in fact, been an ever varying quantity. I feel the full force of the obligation to discharge debts by a certain measure of value. Never under our paper money system, however, since the Government began, was there a debt incurred for money borrowed payable one year from date, that the value of the dollar had not changed in the mean time, and been made to depend upon the amount of paper issues of bank corporations. Now it goes up, and now it goes down.

One other thing is certain, in my judgment; we must take measures, by taxation or in some other way, to restrain and control the amount of issues of the State banks. There is no disguising the fact that we enter upon a dangerous experiment not to be repeated. We are upon the downhill road of depreciation, and the only question is the rapidity with which we shall go down; whether we shall plunge so rapidly down as to destroy everything in our course, or whether we shall put down the brakes and steady our course downward. I believe, as has been said, that no legislation in the world is capable of making any paper currency which is not redeemable upon demand in specie, equivalent to specie or at par with specie. Specie may be quoted above par—but another form of saying paper is below par. Such is not the teaching of the history of the world. Such is not found in the history of any nation; neither of Great Britain, France, or the United States. They have all made the trial.

While I am willing and will move to amend the legal tender clause so as to apply it only to debts hereafter contracted, I am not willing to go to the full length of the proposition of the Senator from Vermont, to strike out the whole provision in relation to the legal tender. If my amendment shall be rejected, I shall still support the bill as a measure of war necessity, with more misgivings as to its effect at home and abroad than of any other measure for which I have given my vote in this body. I believe, as I have said already, that next to the calamity of war itself, are the evils of a depreciated paper currency. To use the strong language of the great statesman of Massachusetts, Mr. Webster—

"A disorganized currency is one of the greatest of political evils. It undermines the virtues necessary for the support of the social system, and encourages propensities destructive of its happiness. It wars against industry, frugality, and economy, and it fosters the evil spirits of extravagance and speculation. Of all the contrivances for cheating the laboring classes of mankind, none has been more effectual than that which deludes them with paper money. This is the most effectual of inventions to fertilize the rich man's field by the sweat of the poor man's brow. Ordinary tyranny, oppression, excessive taxation, these bear lightly on the happiness of the most of the community compared with fraudulent currencies and the robberies committed by depreciated paper."

Now, Mr. President, all that I desire in this hour of our extremity is, to defend, so far as we may, our people from the evils of depreciated paper currency. All concur that if these notes must be issued, and that if we put them into the hands of our soldiers without defending them by all the power of the Government, they will suddenly depreciate under the operations of bankers and brokers, and we shall be guilty of inflicting upon our people an evil next to war itself.

While upon this subject allow me to say that the real truth is, that these paper money banks, with few exceptions, so far from lending money to anybody, are mere borrowers themselves. They give nothing but their credit in exchange for other men's promises, with this remarkable difference, that they give their notes without interest and take the people's notes on interest, and with good security. It is a simple and ingenious contrivance, such as the philosophers of old could never discover, to turn nothing into gold, by which certain shrewd and clever men get interest on what they owe. Other people have to pay interest on what they owe; but banks of issue are contrivances to get interest not on the money they lend, but on what they owe the community. The more they owe the richer they become. Banks of loan and deposit are useful in many commercial transactions; I speak of banks of issue.

But, sir, we cannot ignore their existence. We must recognize the fact, and take those measures which are necessary and proper to prevent over issues of paper by these institutions, or, at all events, to regulate in some way the amount of paper which may be issued by them. We can, by the power of taxation, by putting stamp taxes upon their notes, if in no other way, prevent these institutions from pouring a deluge of paper money upon the country, and thus with railroad speed hurrying on still further and faster the depreciation of the currency of the country. Why, sir, one of the greatest dangers which I fear is that they will take these notes we are about to issue, put them into their vaults like so much coin, as a basis for expanding their own currency; that for every five-dollar Treasury note which they put into their vaults, they will issue three five-dollar notes, or perhaps fifteen one-dollar notes, of their own currency, thus trebling our paper circulation. While of necessity we are compelled to issue these notes, and to a certain extent inflate the currency ourselves, they, not from necessity, not from patriotism, but for gain and speculation, will go on, magnifying inflation upon inflation, building paper bubbles on paper foundations, thus hurrying us downward upon the road of depreciation utterly regardless of consequences. That is much to be feared; so much that if it were possible to pass another $10,000,000 note bill to pay the expenses of the Government until the House shall have had sufficient time to bring forward its tax bill, I should much prefer that. We could then put the tax bill with this note bill, and go to the country with both.

If we could have a tax bill in such a form as to satisfy me, I should be perfectly willing to vote for the issue of these notes without anything in the bill on the subject of tender; but as this note bill comes first and must be acted upon first, as it is determined to use our credit before we lay our hands upon our actual resources, I must insist that we shall go just as far as we can to keep these notes from depreciating in the hands of those who are compelled to receive them from the Government—those brave and heroic men who peril their lives to defend and maintain the very existence of the Government itself, upon which the rights of all, debtors and creditors, and the values of all property and securities depend.

Mr. President, I do not know that this is the proper time to offer an amendment to the proposition of the Senator from Vermont, his being an amendment to the amendment of the Committee on Finance; but if it were now in order, I would move to amend his amendment, so as to provide that this tender clause shall affect only those private debts which may be hereafter contracted.

Mr. FESSENDEN. That will not be an amendment to his; his is a motion to strike out.

Mr. DOOLITTLE. As I understand that I can propose my amendment afterwards, I shall not move it now.

UNITED STATES NOTES.

SPEECH OF HON. J. A. McDOUGALL,

OF CALIFORNIA,

IN THE SENATE, *February* 13, 1862.

The Senate took up for consideration, as in Committee of the Whole, the bill (H. R. No. 240) to authorize the issue of United States notes, and for the redemption or funding thereof, and for funding the floating debt of the United States.

Mr. McDOUGALL said:

Mr. PRESIDENT: I am not disposed to vote upon a question as grave and important as the one before the Senate, and involving so much of responsibility, without giving at least some reasons for my action. In doing this, I will not undertake to say that they, in all respects, satisfy my own judgment, but they furnish me a sufficient, or at least the best direction I have been able to find, in giving my vote upon the pending measure.

If I had sought the place and occasion where I could have best studied that greatest of lessons, the extent of one's own ignorance, I would have found it in this place, and on this occasion; for about this entire question I have wandered in darkness, a darkness almost equal to that of the great cave of Kentucky. I have heard the question discussed in committee, I have heard the very able discussion on this floor on yesterday, continued with great ability to-day. I have read the very full debates in the other Hall of Congress. I have read the numerous publications of the day, and conversed with intelligent gentlemen outside of the Government, and have found after all little more than a conflict of arguments, and that the ablest of our masters of finance were still seekers after opinions. With all these aids I am still compelled to a great extent to advance in darkness. But as I have a duty to perform I will act, whether wisely or unwisely, regarding action at this time as necessary, and even ignorant action better than no action at all.

The first question presented here is whether or not a measure of this general character and purpose is a present necessity. This is a very grave question, as grave as any that can present itself in this Hall. Necessity, it is said, is above all law; it is better said, "Necessity makes its own laws."

We are in the midst of a war, in its magnitude and in its demand for pecuniary resources, without a parallel. Our Treasury is now exhausted. Money, which is the first term in the maintenance of vigorous and successful war, is not only not to be found in the Treasury, but the Government at present has not the means of supplying it. We have been already great sufferers for want of it. There has been the want of prompt payments, or the fair assurance of payments, at many important points for months past.

I was at Cairo, the key point of the valley of the Mississippi, during the recess of Congress, and I was there informed not only by the officers of the quartermaster and commissary departments, but by the generals in command, that the Government had to pay, or contract to pay, one hundred per cent. advance upon cash value for its purchases; the fair credit of the Government had been exhausted. I have now in my possession a letter from a wealthy and intelligent gentleman residing at Cairo, who has no connection with the Government either as officer or contractor, stating that the certificates issued for purchases made by the Government, through its proper officers, could not be negotiated at fifty cents on the dollar.

I have been advised from time to time from the same point that such has continued to be the case. I was at St. Louis near the same time, and found the condition of things but little better. The Government had neither money nor credit, nor had the officers of the Government anything within their control which would secure credit. It was supposed by many that this evil would be overcome as soon as we should assemble here for purposes of legislation. More than two months have now passed since we met, and we have now before us but one of the measures necessary to the reëstablishment of our finances; and I regret to say the one that should have been the second, not the first, in the order of the establishment of a sound financial policy; with this, however, we can have nothing to do, as over it we have no control.

Some gentlemen of the Senate are of the opinion that this war is to be concluded in sixty days. I hope the sound judgment of those gentlemen may come to be verified; but it is but a faint hope, Mr. President. Yet, if the hope is justified, it cannot be accomplished without means. The provision of those means in money is a necessity, a present necessity.

Let the measure under consideration fail, a new system for the supply of means must be inaugurated. Observe that the system now proposed is the result of an elaborate investigation made by the head of the Treasury Department, whose duty it is to superintend and comprehend the financial affairs of the country. He studied the subject with the aid and advice of the best informed men of the country, and we all know he labored faithfully. His views were presented at an early day in the session, and went, in the due course of business, to the Committee of Ways and Means of the House of Representatives. After two months of labor that committee matured this bill, embodying a part of the policy of the Secretary, and immediately related to his entire system.

It now comes to us. When we shall conclude its consideration is yet doubtful. Strike out this measure—I speak of it as a measure, though but

part of the entire system—and how long before another can be matured into the forms of completed legislation? To whom shall we look as the person to originate this new policy? Shall we look to the Secretary of the Treasury? He has exhausted his knowledge of finance upon the policy now presented to us. Is there any gentleman in this Senate, or in the other branch of Congress, who will undertake the enterprise, or undertaking, will accomplish it? We will be compelled to look to the head of the Treasury Department for counsel in this matter.

The Secretary will again have to go through the long processes of investigation, consultation, and combination, and with care construct a new financial policy, one to be sufficient to accomplish its object, and not only that, but one that shall meet the views of both branches of Congress, the Executive, and the country. The Secretary will have to commence his work *de novo*. The Committee of Ways and Means in the House of Representatives, the House of Representatives, the Committee on Finance, and this Senate, each will have to commence its work *de novo*, and not only to commence the work *de novo*, they will have to conclude it, before any measure equal to that which is demanded by a present exigent necessity can be of any value to the country.

Mr. President, how long will it take with all the appliances that can be brought into action thus to mature and to give legislative life to any such new policy? Longer, much I fear, than the period assigned by the Senators to whom I have referred for the final termination of this war. Longer, I think, than with proper facilities need be required for the complete reëstablishment of the Union. Now, I say that such delay is a thing not to be contemplated—not to be permitted. Prompt present action is a necessity, and therefore the measure before us is a necessity. Not the measure emasculated; not the measure deprived of those features without which its originator and its friends say it would be worthless, and worse than worthless; but the measure complete in all its substantive parts. If this measure is a sufficient one, upon which I am not able to pronounce, it should, I think, have been a law long before this; it would have saved us millions upon millions, and I confess I cannot well understand why, with all the machinery of the Government, it has been so long delayed.

I have said I was not able to pronounce on the sufficiency of this particular measure, neither can I pronounce as to its wisdom. I again confess myself very much in the dark, and in my ignorance I feel how important it is that those who undertake to legislate, in times of great trial, for a Republic like ours, should be deeply instructed in public affairs. I confess my want of instruction; my pursuits in life have been such that, in matters of financial State policy, I have almost everything to learn; and therefore I have to look around me, not for scientific resolutions, but for opinions, considerations, and counsel; and to a great extent, as I am advised, I feel bound to act.

This measure as it stands, in substance, is the result of all the consideration which the very able Secretary of the Treasury has been able to bestow upon it. The Secretary is not merely an able man—one of the ablest of the Republic—he is a most careful, cautious, painstaking, just man. He would not, and I believe has not, left anything undone which he could accomplish with his own ability, aided by the best counsel with which he found practicable to advise. The measure before us is the substantial result of his labors, and the embodiment of his best judgment. It has also, I understand, the approval of the executive head of the Government.

I understand, then, that the executive head of the Government, to whom belongs the conduct of this war and its responsibilities, and the officer of the Government under him, whose special duty it is to comprehend and manage the resources necessary to the maintenance of the war, as well as the other executive officers immediately about the chief Executive, concur in the opinion that this measure, in all its substantive parts, is sufficient for its purposes; that emasculated in any of its substantive parts, it would not be; and that the measure, as a whole, is a necessary one.

This is something. The necessity of the particular clause now under consideration is particularly insisted upon, and I can say further, that all the opinions I have been able to gather from men out of office who have reputation as financiers has been to the effect that the bill without the legal tender clause would be ineffectual in answering the purposes of the Government. This view was pressed earnestly this morning by the Secretary in conversation, and I have great confidence in his judgment in all that relates to our financial affairs, much more than in any other man in the Republic—I might say than many of any men in the Republic. I certainly shall not measure my judgment upon a subject about which I confess ignorance against that of one who should be, and I believe is, very thoroughly instructed.

I say I am ignorant. It seems that I am not alone. Even my distinguished, able, and learned friend, the chairman of the Committee on Finance, says that upon this subject he also is ignorant. I prefer, then, to go to him I deem best informed when I have to take advice, the same as if I sought advice in matters of law I should go to the most learned lawyer.

If I have to take advice, I prefer to seek it of those who have most and best studied the subject of my inquiry.

All the advice I have been able to secure outside of the discussion here has been one way. I will say now that the discussion of yesterday was one of the ablest to which I ever listened, and it has been continued with marked ability to-day; but about the value of that discussion I felt I was about as much of a judge as a layman going into a high court would be able to judge of the exact merits of the arguments of the adversaries contending before the court in a case involving the most abstract questions in legal science, he having small knowledge of the premises involved, and small skill in the special deduction of legal logic. I was strongly impressed by the objections advanced by the chairman of the Committee on Finance, and the following argument of the Senator from Vermont [Mr. COLLAMER] almost convinced me. I was very much inclined at the time to think that I saw light on this subject, but as I reflected further, it seemed to me that the light they shed only made darkness more visible.

The result has been, Mr. President, that with the light of the opinions I have mentioned before me, under the influence of the consciousness of a present necessity, I have been compelled to the conclusion that if we have the right to pass this law it is our duty to do it, and that now.

I shall not detain the Senate with anything like an elaborate argument; but I will state some reasons why I think we have the right. And here let me say that I have been raised in the school of what is called strict constructionists, and such I hold myself now to be; but I have lived long enough to learn that there is more than one school of strict constructionists. One school—and a very large one, perhaps the largest—is that which claims to construe it strictly, but always strictly as they please. They can interpret a word in a dozen different ways, and always find an interpretation that suits themselves, ingenious in the sophisms of logic, and who seek not how the Constitution should be, but how it can be construed. That school devised and gave color of pretense to this rebellion. I am not of that school. It is not important here, however, what are my views of the rules of constitutional construction. Some gentlemen here would agree with me, probably; others would not.

I will proceed to the question; and I will request the learned Senator from Pennsylvania, [Mr. COWAN,] who has presented his argument against the constitutionality of the legal tender clause, to permit me to ask him a question.

Mr. COWAN. Certainly.

Mr. McDOUGALL. I ask the Senator may the Government declare, by law, that the money which the Government is by the Constitution authorized to coin, shall be a legal tender?

Mr. COWAN. The gold and silver coin?

Mr. McDOUGALL. To coin money, is the term of the Constitution. I ask him, may the money which the Government is authorized to coin under the Constitution be made a legal tender?

Mr. COWAN. If it is coin of gold or silver.

Mr. McDOUGALL. I do not interpret the terms; every man may interpret them for himself. I ask, when it is constitutionally done, when money is coined, can it be made a legal tender? Is there any dispute about that, I ask the Senator?

Mr. COWAN. I do not dispute it, if the coin is of gold or silver.

Mr. McDOUGALL. But I ask the question, and I should like to get a categorical answer. May the money which the Constitution authorizes the Government to coin be made a legal tender?

Mr. COWAN. Certainly; I should think so.

Mr. McDOUGALL. That is all I want. The Government may make its constitutionally-coined money a legal tender. I may as well say here, and it requires but a remark, that the Constitution in this connection does not say anything about the subject of coinage, that is, of gold, silver, or other metal or thing.

One of the wisest teachers the world has known held that the understanding of the true meaning of words was not only the whole mystery of logic, but the true key to the truth. His mode of teaching was, what does that word you use mean? He affirmed that this art was the one least known; and if it was so then, it may be so now.

I propose a brief inquiry into the meaning of these two talismanic words, money and coin; and I say to Senators, let us not confine ourselves to our popular impressions—the impressions of the day—but let us inquire fairly what these words do in truth mean.

I affirm, to start with, that the true meaning of the word money, at the time the Constitution was established, was that currency which, with the stamp of authority on the part of the sovereign power, is used to facilitate the exchanges of a country. I will remark here that, while the term money is generic, it has an infinite variety of species.

What did money ever mean? Webster defines the word money as describing paper money when it constitutes a currency as well as gold and silver. Money of iron was used in Sparta. Money of brass is used in China. Money of shells is used by many barbarous States. The tusks of the elephant constitute money in parts of Africa. And if any one were curious, he might collect a long catalogue of material made to constitute money; that is, the currency of a country authorized by the sovereign authority to affect the exchanges. It is simply the exercise of this sovereign authority stamping it or authorizing it as currency which makes it money. I say authorizing—foreign coin is money in the United States; it is authorized to be passed as money by our laws. Thus much for the use of the word; and now a word more as to its origin and application.

Its origin will be found in the Latin *moneo;* from which *moneta*, also *monitor* and *monitus*. Each of these words have several significations in the Latin, but the leading one is advise, or rather direction or authority; as originally the advice or direction signified by these words was supposed to come from the gods, and expressed by their own voice or omens, tokens, or prophecy, and their will more particularly, by oracles, lightning, &c. The particular reason why the name has its present signification is, that the Roman money was coined in the temple of *Juno Moneta*, under her supposed direction and protection, and it was at first rather descriptive of the place than the thing.

That paper money was unknown to the Romans, that it was unknown until within a comparatively brief period, is no argument against the fact that paper may not be made money. The progress of modern art, the demands of a commercial age, and the schemes of modern enterprise, have facilitated and forced into existence a new form of money to meet the new demands of a new age. This money, or stamped paper if you please, the Government denominates five or fifty dollars, and declares that it shall be given and received as such. It is this act of sovereign authority which makes the stamped paper money just as it makes the stamped bullion money.

The truth about it is, money has no such limited meaning as has been assumed. I am confident I can rest upon the definition I have first given: all that is required is the stamp of sovereign authority; and this money while it is of many

species is also of many places—that is, it is local. Money in Affghanistan may not be money in Egypt; money in Egypt may not be money at Constantinople; so of France, England, Austria, Russia, and the United States. I content myself with throwing out my ideas on this subject without elaborating them. I think my position cannot be questioned; we are only failing to embrace the full meaning of the word when we say the word money means only gold and silver coin. We have not accepted it even practically in that form, for we call bank notes money, and not without reason—they are authorized by law, although issued by corporations. They have the sanction of sovereign authority, and when current are used in effecting the exchanges of the country.

Next, as to the meaning of the word coin. Here again there seems to be a necessity for looking beyond first impressions to get at the true meaning of this word. It is true that for some time past, I do not know for what period, it has been customary to use the term stamping to describe impressions upon paper and coining as the particular process of forming money out of the metals, yet it is true that the meaning of the two words is precisely the same. We have the word coin from the Arabians through the Spanish and French into the English, and it has properly no relation to the work of stamping or forming *money*. Its primitive meaning appears simply to have been to strike, to beat, or to drive. Its present proper meaning is nothing more than to stamp or impress.

I am aware that a more limited meaning is generally given to the word; but I ask gentlemen who appear to be in the dark upon the subject to consult the authorities. For myself, I am compelled to think that the very great and learned men who engaged in the construction of our Constitution understood the weight of the very important words they used, and weighed them in the scales of the best authorities of their day, if not of ours. Even the word "mint," or more correctly, "to mint," means nothing but to strike or impress, although generally used in the sense of striking or impressing money; but the meaning of the word "coin" is much less limited by authority and use than "mint."

I then conclude that money is that which having been stamped by sovereign authority, for the purpose of currency, is used in the effecting of the exchanges of the country, and that coining is the act of stamping, and when duly authorized by law, *the coining* of money within the literal and true meaning of the Federal Constitution.

For myself, I have no difficulty in understanding that, when, by the exercise of so much of the power as exists in Congress, we authorize the stamping and issuance of paper money as a currency for the country, it is justly as well money and just as well-coined money as if it were stamped out of the richest metals to be found in the Sierras of California. This Government has the power to make money out of paper or out of timber or out of iron, out of the rocks of the hills or the shells on the sea-shore. It might not be wise, it might not be just, it might not be in the order of the progress of civilization to do these things; but I affirm that the power exists in the Government, and that is sufficient, so far as the constitutional question is concerned. To this conclusion, I add the admission of the Senator from Pennsylvania, the correctness of which admission no Senator will dispute; and if my reasoning has been just, the clause making the Treasury notes of the United States a legal tender, is one beyond all question within the power conferred on us by the Constitution.

Thus much, and briefly as to the constitutional question. I concede that it does not follow necessarily that is right.

It is said that the provision is a violation of the contracts between the Government and individuals, and authorizes the violation of contracts between individual citizens, and therefore wrong. Well, in the first place, as a general rule, law overcomes contracts, it is true that we have denied to States the power thus to legislate, but not so as to the General Government; and so far as the General Government is concerned, whether the obligations of contracts shall be impaired or not, is a question not merely of speculation or abstract justice, but is to be more or less governed by considerations of state policy and state necessity. I state boldly that a general state necessity is the higher and greater right, and swallows up, if you please, extinguishes, the individual wrong.

Such necessity has justified such action by Governments in all ages, and will have to justify it in all the ages to come. I hold such necessity a perfect justification.

How often, let me ask, if this be a violation of contract, (which I deny,) have contracts been violated by this government and by all the modern civilized Governments? How often has England, by alloy and debasement, changed the standard of her gold and silver currency? How often by the same process, have we done the same thing by debasing our own coin? How often have we changed the current value of foreign gold and silver coin? There was a time when an American and a Mexican silver dollar were of equal weight, purity, and value, and what is the difference now? In all these proceedings under the authority of law, have we not directly taken from the country the former measure of value, and thus operated upon the contracts and interests of individuals in the very manner which it is alleged by gentlemen we now propose. If this provision is a violation of contract, we certainly have had experience enough in the practice not to be shocked by its repetition.

But suppose it is a violation of contract, and suppose the violation operates a loss—suppose a loss to the creditor, who is required to accept notes not equal to gold and silver, and a loss to the holder on his own account in the course of comparative depreciation: is there no other word than loss that may be properly used to express this operation? For instance, may we not call it a tax? I think this worth considering.

This measure is necessary for the maintenance of the Government. Taxes are necessary for the maintenance of the Government. Taxes are directly demanded, and the burden is borne because of its necessity. This loss occurs by reason of the same necessity. The object and result of each is the same. If it is said that it is unequal, perhaps so; but one thing is certain, those cannot lose it who have not got it, and, besides, no system of taxation can be made equal. Our import system is not equal—one direct tax law is anything but equal.

But suppose we treat it as an excise tax, a tax discriminating against the wealthy and luxurious, which assumes a specific tax upon every article of luxury. Why not treat money as a luxury—it is the mother of all luxuries? If you may take from the man for his carriage, his horses, and his dogs, the lady for jewelry and instruments of music, and Herr Blitz for his tricks in magic, why not from the creditor for the interest-bearing money out in a thousand hands?

A tax is a sacrifice made for the common good. This loss is to be suffered, if loss there be, for the common good, and why not the same kind of sacrifice.

I am not the special advocate of this measure; it is no creature of mine. I was not at its birth, nor have I had anything to do with its development. It may not be a politic law; but I feel that some such law is necessary; and as I have not the skill to improve it, I will not lend my voice or vote to defeat it.

I am not able to maintain against it any good constitutional objection, and I do not see in it any special injustice. The gentleman from Vermont illustrates his views of its injustice by its effect upon small depositors in the savings banks of his State. This kind of appeal in behalf of the poor is not new. I suppose the persons who have got it there have it laid by, and are not in debt; well, they are not what I call poor people. If they are poor, then let me say, that the poorest are sometimes the richest; if they are poor they certainly are not needy; but I undertake to say that there is not in the State of Vermont, or elsewhere in the Republic, one good, true, loyal man or woman who will ever cast one regretful thought after the trifling percentage sacrificed to meet the necessities, the pressing necessities, of that country which has from their and our births till now bestowed upon us her lavish love, as well as her maternal care. They, whose sons and brothers are now offering life sacrifices, will not think of these sacrifices.

Mr. President, we are at war. This is a war measure; we must take war responsibilities. This measure can ruin no one, destroy no one, and we are advised upon the highest authority that it is needed for the maintenance of the Republic. Sir, when I arose I did not design going beyond a brief expression of opinion. I have trespassed beyond my intention. Let me say but one word more. I believe the law constitutional, just, and necessary. I hope to see it passed, and when passed, I shall hope on.

CONFISCATION OF PROPERTY.

SPEECH OF HON. J. A. McDOUGALL,

OF CALIFORNIA,

IN THE SENATE, *March* 3, 1862.

The Senate having under consideration the bill (S. No. 151) to confiscate the property and free the slaves of rebels—

Mr. McDOUGALL said:

Mr. PRESIDENT: The magnitude of the measure now before the Senate demands of us a very full investigation into its merits both as a measure of policy and law. In my opinion, there has been no measure brought before this Congress, perhaps none before any Congress since the Government was organized, involving graver and more important subjects of inquiry, more fruitful of consequences to us not only at the present time but for long years to come. I shall be pardoned then, sir, I trust, if I depart from my usual mode of brief observation, and, with some care and labor, undertake to present to the Senate the views and arguments that have governed my conclusions on this subject.

The present colossal war has been organized against and forced upon the Republic by a body of conspirators hostile to our own free institutions and to free government throughout the world. The sacrifice of human life, the desolations of civil war, and the vast burden of public debt with which they are justly chargeable did seem to me to justify almost any degree of penal visitation and almost any measure of reprisal or confiscation. I suppose it has been the opinion of Senators generally that some such legislation as is now proposed would be both just and salutary. I can at least say such were the opinions I entertained. Some such measure—I will not say this measure—seemed to me to be a just and reasonable war policy. A particular measure, however, has been brought before us, and our action demanded. The time has come when we have to investigate the measure and the principles upon which it is founded; the soundness of the measure as one of present policy; what will be its effects in the future; and its character, either as instance or precedent, in history.

I must say, that when I first read this bill, it struck me as one, if to be established as law, fraught with very important results. The magnitude of those results have *grown upon* me by contemplation. The bill itself has two important features; the first of which is a general provision for confiscating property, real and personal, of all persons found in arms against the Government, or lending aid and comfort to the enemy, with the machinery for carrying that provision into effect. As I propose to be careful in the statement of my remarks, I will read the sections of this bill which I propose to make the subject of discussion and consideration:

Be it enacted, &c., That the property, real and personal, of every kind whatsoever, both corporeal and incorporeal, and including choses in action, and wheresoever situated, within the limits of the United States, belonging to any person or persons beyond the jurisdiction of the same, or to any person or persons in any State or district within the United States, now in a state of insurrection and rebellion against the authority thereof, so that in either case the ordinary process of law cannot be served upon them, who shall, during the present rebellion, be found in arms against the United States, or giving aid and comfort to said rebellion, shall be forfeited and confiscated to the United States; and such forfeiture shall take immediate effect upon the commission of the act of forfeiture, and all right, title, and claim of the person committing such act, together with the right or power to dispose of or alienate his property of any and every description, shall instantly cease and determine, and the same shall at once vest in the United States.

This act proposes "instantly" to operate a gen-

eral confiscation. The machinery through which the act is to be made effective is provided in section four, as follows:

That it shall be the duty of the President of the United States, as often as in his opinion the military necessities of the Army, or the safety, interest, and welfare of the United States, in regard to the suppression of the rebellion, shall require, to order the seizure and appropriation, by such officers, military or civil, as he may designate for the purpose, of any and all property confiscated and forfeited under and by virtue of this act, situated and being in any district of the United States, beyond the reach of civil process in the ordinary course of judicial proceedings by reason of such rebellion, and the sale or other disposition of said property, or so much of it as he shall deem advisable.

The fifth section provides:

That it shall be the duty of the officers so designated to make to the President full reports of their proceedings under such orders, which report shall be filed in the office of the Secretary of the Treasury; and all moneys received on the sale of the confiscated property of any person as aforesaid shall be deposited in the United States Treasury.

The second section provides for the disposition of persons held to service or labor in the rebellious States; and among other things it contains this provision:

And whenever any person claiming to be entitled to the service or labor of any other person declared to be discharged from such labor or service under the provisions of this act shall seek to enforce such claim, he shall, in the first instance, and before any order for the surrender of the person whose service is claimed, establish not only his title to such service, as now provided by law, but also that he is, and has been during the existing rebellion, loyal to the Government of the United States.

The third section is in these words:

That it shall be the duty of the President of the United States to make provision for the transportation, colonization, and settlement in some tropical country, beyond the limits of the United States, of such persons of the African race made free by the provisions of this act as may be willing to emigrate, having first obtained the consent of the Government of said country to their protection and settlement within the same, with all the rights and privileges of freemen.

The magnitude of this measure appears upon its face, and in considering it I have sought to withdraw myself from the angry influences that prevail in every country during all times of war, and particularly in times of civil strife. I have sought my opinions and arrived at my conclusions upon consultation with those great and wise men who have been the acknowledged masters of opinion throughout the civilized world for many ages. I shall undertake to produce their views and opinions, and shall have but few arguments or opinions of my own to advance for the consideration of the Senate.

Before, however, entering particularly into the discussion of these considerations as they are furnished to us by the great authorities of the past, I will call the attention of the Senate to a slight glance at our past condition and make at least one question as to our course in the future. It is not two years since that peace prevailed throughout all this land. It is not two years since there was a brotherhood among our own people of all parts of this Confederacy. The man from Maine was at home in Louisiana; the man from Florida was at home on the banks of the Oregon. At that time a large majority of the people of all the southern States, with perhaps the exception of South Carolina, were friends of this Government. After the period I have named, eloquent voices were heard throughout all the South advocating the Union, the maintenance of the integrity of the entire Union. Since then, Kentucky and Tennessee, by their popular voice, declared at the ballot-box their attachment to the Union.

The estimate placed by the leading conspirators upon the popular sentiment of other southern States can be well understood from the fact that they did not dare to submit the acts of secession, managed and produced by a few leaders, to the popular voice.

For many years a small band of desperate conspirators, by careful and secret organization, have been endeavoring to effect the result we now witness. How did they proceed? They proceeded with a fixed and definite purpose; they organized secret societies with that common purpose; they affiliated with all parties for that same purpose; they got possession of the Executive chairs of the various southern States; they got possession by management of their Legislative Assemblies; they got possession of their military organizations; they got possession of all the State and Federal arms throughout the South, and what they had not of their own of right they procured through the agency of the conspirators within and about this Capitol. The result was, that when the standard of rebellion was raised these conspirators had brought about them the violent, the desperate, the reckless, and the worthless portion of the community throughout the South, (there, as well as elsewhere, too numerous,) with arms in their hands; and they overwhelmed, compelled, and subdued the large majority of true and loyal men throughout the South, who found themselves surprised without arms or organization.

What I now state is illustrated by what we are at present witnessing. The loyal men who receive our troops on the banks of the Cumberland and the Tennessee with shouts and with tears of joy are not men who have changed their opinions on this subject. They have been compelled for the sake of their lives, of their families—from necessity, if you please—to remain silent, and even to go so far as to express sentiments they do not in fact entertain; but the flag of the Union is as dear to them now as it is to us. It has been evidenced there; and I undertake to say the same exhibition of sentiment will be continued wherever that flag is moved throughout the States now in rebellion.

Then at least we have no right to say that the people of the southern States are in fact disloyal. They are unarmed and subject. What is it that is proposed to be done? Is there any one here in the Senate, a lover of his country, of the institutions established of old, under which we have prospered, who does not earnestly desire the reëstablishment of those institutions and the return of peace bringing with it in its train happiness and prosperity? If this is to be accomplished, in what spirit is it to be accomplished? Is it by subjugation? Is it by making the people of the South go under the yoke? They will have to be subjected, not subjugated—subjected, not to you or me; not the South to the North; but be made subject to the Constitution and the laws of the Union, and when they have been made in truth subject to the Constitution and the laws, then peace will have returned again.

Sir, as far as I am able to read of the wisdom taught by the history and counselings of the past, the measure now proposed can never secure peace. The policy involved in it will continue an angry, remorseless, relentless war, which, if it do not involve subjugation, will involve extirpation. I fear that the country, and not only the country but the Senate have been led wild with anger; that they have caught some of the angry spirit of their adversaries, and instead of taking lessons from the great States of the world, and the great teachers of ancient and modern times, have taken their advice from Richmond and Montgomery.

Now, Mr. President, I propose to read something of what is and has been the rule of clemency in war among States both in the ancient and modern times. It is well known that the great council of the Greek States, established in the most remote period beyond historical records, the Amphictyonic Council, was established for the purpose of promoting the laws of humanity in time of war between the confederated States—that such was the great office of that council. While war might be carried on against the barbarians beyond the confederacy or with other Governments with a relentless arm, a war against a rebellious city or State of the confederacy was limited by fixed laws, laws enforced by oaths imposed upon the leaders who conducted the forces into battle. One of those rules was that they should not destroy a confederate city; another, that they should not cut off the supply of water during a siege; another, that they should not be guilty of the crime of sacrilege. They were not permitted to pursue their adversaries who had sought sanctuary in the temple of the Delphian god. They were not permitted to rob those temples of the consecrated treasures. Other provisions were made of the same character. Their office was to restrain the violence of war among the Greek States. They were much more considerate of their own people, though in rebellion, or though violating the compacts upon which the council was established, than they were of strangers.

On the subject of how the Romans carried on war, and how, while adopting a liberal and generous policy, they extended their city and the strength and wealth of their State, and how afterwards, by adopting the contrary policy, they made, instead of friends, enemies, we have the benefit of the opinion of a man most eminent for wisdom. I will read a few passages cited by Wheaton from Cicero:

"In private life we ought, perhaps, to be satisfied with the repentance of an enemy, testified in such manner as to render impossible fresh aggression on his part, and to intimidate others from committing the like offense. In public relations, the laws of war are to be strictly observed; for there are two modes of settling controversies, one by discussion, the other by a resort to force. The first is proper to man, the second to brutes, and ought never to be resorted to except where the former is unavailable. The sole object of war is to enable us to live undisturbed in peace; and victory spares the conquered, unless they have forfeited their title to forbearance by first violating the laws of war in practicing cruelty. Thus the old Romans accorded the political rights of the city to the Tusculans, Sabines, and others; but they razed to the ground Carthage and Numantia. The destruction of Corinth was certainly to be regretted; but the severe conduct of the Romans towards that city was explained by the fact of its local position favoring a renewal of the war. According to Cicero's opinion, however, an offer of peace which has nothing insidious in its terms ought never to be refused. It is not only a duty to spare the vanquished, but to give quarter to the garrison of a besieged town offering to surrender after a breach made in the walls. He asserts that this rule had been so scrupulously observed by his countrymen that those generals who had received the submission of conquered cities or nations became their patrons according to the ancient law and custom." * * * * * *

"The oblivion of these principles of justice and mercy by the Romans in their conduct towards other nations was, according to Cicero, the main cause of the decline and fall of the republic, which he affirms to have been well merited, and as it were awarded by the justice of the gods. 'So long as the Roman people,' says he, 'maintained its empire by benefits and not by injuries, so long as it carried on wars either to extend its empire, or in defense of its allies those wars were terminated by acts of clemency, or of necessary severity. The senate was an asylum for kings, people, and nations. Our magistrates and generals placed their chief glory in protecting with justice and fidelity the provinces and allies. Thus Rome merited the name of patroness rather than that of mistress of the world. These usages and this discipline have long been gradually declining; and with the triumph of Sylla disappeared altogether.'"

An instance is cited by Vattel where an embassador came from Privernum, then at war with Rome, suing for peace; and it is cited by that author as an example worthy of admiration. The question put by the Roman Senate to the embassador was, "if we grant you clemency, what dependence can we have on the peace you come to sue for?" The embassador replied, "if you grant it on reasonable conditions it will be safe and permanent, otherwise it will not last long." Some objected to the boldness of this reply; but the body of the Senate approved of his answer, considering it the proper language of a free man representing a free people. Grotius has given us a number of cases, with his own opinions upon this same subject, of clemency in war:

"Though it be not properly my design to inquire what is now most practiced; but to reduce the extravagant license of making war to what natural equity allows, or what is best among things lawful; yet virtue itself, little esteemed in this age, ought to forgive me if, while she is by herself neglected, I set a value upon her on the account of her advantages. First, then, moderation observed in preserving those things which do not lengthen out the war, takes from the enemy a powerful weapon—*desperation*. Archidamus thus speaks in Thucydides: 'Look upon the enemy's country as an hostage, and so much the better the more it is enriched, and with the more reason to be spared, lest despair should render the enemy more formidable.' The same was the advice of Agesilaus, when, against the opinion of the Achæans, he gave the Acarnanians free liberty to sow their corn, saying, the more they sowed, the more desirous they would be of peace. And to this purpose in the Satyr:

"'Spoliatis arma super sunt.'

"'The plundered still have desperate arms.'

"Livy tells us, when the Gauls had taken a city, their chief commanders would not let all the houses be burned; that what they left standing of the town the enemies might look on it as a particular favor, and thereby it might be a means to make them more easy.

"Besides, the sparing of an enemy's country during a war looks as if we were pretty confident of a complete victory. And clemency is of itself a proper instrument to soften and pacify the minds of men. Hannibal, according to Livy, wasted none of the lands of the Tarentines, but not of modesty, either in general or soldiers, but to gain the Tarentines to his party. For the same reason did Augustus Cæsar forbear plundering Pannonia. Dio gives the reason; he hoped to win them without blows. And Timotheus, upon the same account, (as Polyænus relates,) and for some other considerations, gained upon the affections of his enemies. Plutarch, mentioning the moderation of Quintius and the Romans that were with him (in Greece,) adds this: 'They quickly reaped the benefit of his forbearance, for as soon as he came into Thessaly the cities readily yielded to him. The Greeks also which dwelt within the Thermopylæ earnestly desired his coming; and the Acæans, renouncing the friendship of Philip, immediately confederated with the

Romans against him.' Frontinus informs us that a city of the Lingones, having escaped a fearful devastation in the war made by Domitian, under the conduct of Cerealis, against Civilis the Batavian and his associates, because, beyond their expectation, they had lost nothing of their goods, submitting to his obedience, they furnished him with seventy thousand men well armed.

"Contrary counsels have met with contrary success. Livy gives an instance in Hannibal, by nature much inclined to covetousness and cruelty, to destroy what he could not keep, that he might leave nothing to the enemy but wasted lands. And this counsel was wretched both in the cause and the effect. For he not only lost the affections of those whom he thus barbarously used, but of others also; for the terror of the example reached beyond the immediate sufferers."—*Grotius on the Rights of War and Peace*, vol. 3, pp. 220, 222.

An instance of the same kind is given by Vattel. He cites the case of Henry IV of France struggling against his own people for his crown. After conducting a victorious war against them, such were his acts of clemency during that war, that there was no more loyal people to their prince in Europe than the people of France to Henry IV. It is cited in contradistinction to the conduct of the Duke of Alva, representing Spain in the low countries, where, although his acts of tyranny for the time, subjected the States then in revolt against Spanish authority, yet afterwards lost her the whole of the Netherlands.

Francis Vittoria, although more of a prelate than a jurist, is justly regarded as one of the ablest writers and highest authorities upon the subject of how far the spirit of Christianity should mitigate the rigors and calamities of war. He affirms as a rule to be observed among Christian nations that the property of private citizens in a Government subdued should not be taken possession of by the conqueror, and that therein wars in Christian countries should differ from the wars among old States before the introduction of Christianity and war among barbarians.

This rule of clemency is laid down as just between foreign States at war, without particularly considering the rule as applicable to civil wars. It is true that civil wars awake more angry passions, and are, as a general thing, pursued more ruthlessly than wars with foreign nations. Is it not merely the result of passion, evil passions, if you please, aroused by the more immediate presence of its cause? On this subject Vattel again gives us the benefit of his opinion, and he has put it in such a form of language and such shape of argument that the justice of his opinion cannot be challenged:

"A civil war breaks the bands of society and government, or, at least, suspends their force and effect; it produces in the nation two independent parties, who consider each other as enemies, and acknowledge no common judge. Those two parties, therefore, must necessarily be considered as thenceforward constituting, at least for a time, two separate bodies, two distinct societies. Though one of the parties may have been to blame in breaking the unity of the State and resisting the lawful authority, they are not the less divided in fact. Besides, who shall judge them? who shall pronounce on which side the right or the wrong lies? On earth they have no common superior. They stand, therefore, in precisely the same predicament as two nations who engage in a contest, and, being unable to come to an agreement, have recourse to arms.

"This being the case, it is very evident that the common laws of war—those maxims of humanity, moderation, and honor, which we have already detailed in the course of this work—ought to be observed by both parties in every civil war. For the same reasons which render the observance of those maxims a matter of obligation between State and State, it becomes equally and even more necessary in the unhappy circumstance of two incensed parties lacerating their common country. Should the sovereign conceive he has a right to hang up his prisoners as rebels, the opposite party will make reprisals; if he does not religiously observe the capitulations, and all other conventions made with his enemies, they will no longer rely on his word; should he burn and ravage, they will follow his example; the war will become cruel, horrible, and every day more destructive to the nation. The Duke de Montpensier's infamous and barbarous excesses against the reformed party in France are too well known; the men were delivered up to the executioner, and the women to the brutality of the soldiers. What was the consequence? The Protestants became exasperated; they took vengeance of such inhuman practices; and the war, before sufficiently cruel as a civil and religious war, became more bloody and destructive. Who could without horror read of the savage cruelties committed by the Baron des Adrets? By turns a Catholic and a Protestant, he distinguished himself by his barbarity on both sides. At length it became necessary to relinquish those pretensions to judicial authority over men who proved themselves capable of supporting their cause by force of arms, and to treat them not as criminals but as enemies. Even the troops have often refused to serve in a war wherein the prince exposed them to cruel reprisals. Officers who had the highest sense of honor, though ready to shed their blood on the field of battle for his service, have not thought it any part of their duty to run the hazard of an ignominious death. Whenever, therefore, a numerous body of men think they have a right to resist the sovereign, and feel themselves in a condition to appeal to the sword, the war ought to be carried on by the contending parties in the same manner as by two different nations; and they ought to leave open the same means for preventing its being carried to outrageous extremities, and for the restoration of peace.

"When the sovereign has subdued the opposite party, and reduced them to submit and sue for peace, he may except from the amnesty the authors of the disturbances—the heads of the party: he may bring them to a legal trial, and punish them if they be found guilty. He may act in this manner particularly on occasion of those disturbances in which the interests of the people are not so much the object in view as the private aims of some powerful individuals, and which rather deserve the appellation of *revolt* than of *civil war*. Such was the case of the unfortunate Duke of Montmorency; he took up arms against the King, in support of the Duke of Orleans, and, being defeated and taken prisoner at the battle of Castle Naudari, he lost his life on a scaffold, by the sentence of the Parliament of Toulouse. If he was generally pitied by all men of worth and sentiment, it was because they viewed him rather as an opponent to the exorbitant power of an imperious minister, than as a rebel against his sovereign, and that his heroic virtues seemed to warrant the purity of his intentions."

The point to which I particularly desired to call the attention of the Senate in this extract is contained in these words:

"For the same reasons which render the observance of those maxims a matter of obligation between State and State, it becomes equally and even more necessary in the unhappy circumstance of two incensed parties lacerating their common country."

Mr. President, the views thus expressed by these writers, and thus illustrated by past history, appear to have been the views entertained and acted upon by this Government thus far. That policy of clemency, as thus taught, was indicated in the inaugural address of the President. Afterwards at the opening of the extra session of Congress last summer, he used this language:

"Lest there be some uneasiness in the minds of candid men as to what is to be the course of the Government towards southern States after the rebellion shall have been suppressed, the Executive deems it proper to say it will be his purpose then, as ever, to be guided by the Constitution and the laws; and that he will probably have no different understanding of the powers and duties of the Federal Government relatively to the rights of the States and the people under the Constitution than that expressed in the inaugural address."

At the opening of the present Congress, the President, in his message, makes use of this language:

"In considering the policy to be adopted for suppressing the insurrection, I have been anxious and careful that the inevitable conflict for this purpose should not degenerate into a violent, remorseless, revolutionary struggle. I have, therefore, thought proper to keep the integrity of the Union prominent as the primary object of the contest on our part."

Expressing the same line of policy, Mr. Seward in August last, writes to Mr. Adams at the Court of Great Britain:

"You will indulge in no expressions of harshness or disrespect, or even impatience, concerning the seceded States, their agents, or their people; but you will, on the contrary, all the while remember that those States are now, as they always heretofore have been, and, notwithstanding their temporary self-delusion, they must always continue to be, equal and honored members of this Federal Union, and that their citizens, throughout all political misunderstandings and alienations, still are and always must be our kindred and countrymen."

Again, Congress in July last, in the Crittenden resolution, resolved:

"That this war is not waged on their part in any spirit of oppression, nor for any purpose of conquest or subjugation, nor purpose of overthrowing or interfering with the rights or established institutions of those States, but to defend and maintain the supremacy of the Constitution, and to preserve the Union with all the dignity, equality, and rights of the several States unimpaired; and that as soon as these objects are accomplished, the war ought to cease."

Sir, I ask whether the policy thus announced by the head of this Government, and thus announced by his chief Secretary to our representative abroad, and thus affirmed by both branches of the national Legislature, is or is not the policy of the country; and whether it is the policy indicated by the measure now before the Senate? I ask is not this the policy to which this Government stands pledged, and whether or not this measure is not a distinct violation of our pledged faith?

But, Mr. President, I have been reading mostly the opinions of individuals with regard to what should be the conduct of nations in time of war, and the rules of clemency that great, wise, and good men have endeavored to establish through many ages as the real law of war, and which they have not been able permanently to establish, for the sole reason that he who conquers has the conquered within his power, and will always be more or less revengeful; and to him power makes law. In almost all great wars even the established laws of nations are overturned and disregarded. If this has been so in other States and other nations, it will be no justification for us.

Now, sir, I undertake to say that this bill is a violation of the established law of nations. I take it there has not been in history such a thing as a general law of confiscation of estates, unless the power exerted by some monarch at the head of conquering armies, dividing conquered territories among his leaders, may be taken as *a law* of confiscation. I believe the last instance in history is that of William the Conqueror. He parceled out the lands of the conquered among his leaders. But this bill goes far beyond the extent of the power exerted by William the Conqueror. He only seized the lordships, the lands belonging to the great owners of the Saxon aristocracy, leaving to the franklin and lower landholders their possessions, only they were bound to recognize the dominion of the count or suzerain, who had immediate jurisdiction over them, and render certain services, mostly military. Even the Norman conqueror attempted no such confiscation as is attempted by this act, an act to sweep the whole of a populous country of all property, real and personal, and to be enforced, not by the forms of law in courts of justice, not by the President himself, whom we have clothed with authority, but by the ten thousand agents he may choose to appoint to go and inquire over the land who has uttered disloyal sentiments, who has been seen with arms in his hands, at this time or that time, and who said thus in April and thus again in August. The agent of the law is to distinguish himself by his being an efficient agent. He is informed that A, B, or C is disloyal. How informed? As to this the law is silent. Then, at his pleasure, with the strong arm of the Executive and with the aid of the military power of the Government, he seizes upon the property of every person he may choose to name as disloyal, sells it, and places the proceeds in the Federal Treasury. Surely this is a most strange and extraordinary law. He may take the poor man's cow as well as the lordly man's estate. He may take the poor man's oxen from the field as well as the rich man's fine bred horses in the stable.

As I understand it, the law of conquest, properly understood, gives to the conqueror the possession of that which was in the conquered Government, whether of lands that belong to the Government or Crown, or moneys in the public or his private treasury. A much argued case came up from India to the English courts, where one of the Indian princes who had been subdued and surrendered set up a claim to a portion of the moneys seized as his private moneys; and the court sitting at Bombay said, because they were his private moneys they were not subject to seizure; but the English court held, and held well, that he being the prince, the Government making war, and having command of all the resources that belonged to it for the purpose of prosecuting war, he had no private property, and therefore overruled the decision of the court in the East Indies. Vattel states the general rule with regard to that to which properly the conqueror succeeds:

"The conqueror who takes a town or province from his enemy, cannot justly acquire over it any other rights than such as belonged to the sovereign against whom he has taken up arms. War authorizes him to possess himself of what belongs to his enemy; if he deprives him of the sovereignty of that town or province, he acquires it, such as it is, with all its limitations and modifications. Accordingly, care is usually taken to stipulate, both in particular capitulations and in treaties of peace, that the towns and countries ceded shall retain all their liberties, privileges, and immunities."—*Vattel*, p. 387.

Again:

"In the conquests of ancient times even individuals lost their lands. Nor is it matter of surprise that, in the first ages of Rome, such a custom should have prevailed. The wars of that era were carried on between popular republics and communities. The State possessed very little, and the quarrel was in reality the common cause of all the citizens. But at present war is less dreadful in its consequences to the subject; matters are conducted with more humanity; one sovereign makes war against another sovereign, and not against the unarmed citizens. The conqueror seizes on the possessions of the State, the public property, while private individuals are permitted to retain theirs. They suffer but indirectly by the war, and the conquest only subjects them to a new master.

"But if the entire State be conquered, if the nation be

subdued, in what manner can the victor treat it, without transgressing the bounds of justice? What are his rights over the conquered country? Some have dared to advance this monstrous principle: that the conqueror is absolute master of his conquest; that he may dispose of it as his property; that he may treat it as he pleases, according to the common expression of treating a State as a conquered country; and hence they derive one of the sources of despotic government. But disregarding such writers—who reduce men to the state of transferable goods, or beasts of burden—who deliver them up as the property or patrimony of another man—let us argue on principles countenanced by reason and conformable to humanity."—*Vattel*, p. 388.

The same writer in speaking of the old law where a city or fortress resisted, and afterwards was taken and subjected to pillage, lays down the rule that now obtains among civilized States both in making war against fortified cities and where, occupying an open country, contributions have succeeded to seizure, so that when a city surrenders to an armed enemy, a contribution may be assessed justly upon all the citizens, or may be provided by the Government representing all the citizens, and not produce the waste and destruction following from a pillage where much is destroyed, and where vast injustice must always be done.

The doctrine is distinctly laid down by Kent to the same effect. He says:

"The general usage of war is not to touch private property upon land."

And let me here remark that much of the argument of the chairman of the Judiciary Committee is based upon confounding the law of war upon the land within the territorial jurisdiction of a State and the maritime law of nations, a uniform law recognized as the same law in Denmark, in England, in Spain, and in this Republic:

"The general usage of war is not to touch private property upon land without making compensation, unless in special cases dictated by the necessary operations of war, or where captured in places carried by storm and which have repelled all overtures of capitulation."—1 *Kent*, p. 92.

Now, Mr. President, what has been our practice? What was said to be the law of war when our armies marched into the territories of our neighboring republic? How was it administered by the column moving through Monterey to Buena Vista? How was it administered by General Scott in moving to the city of Mexico? Instead of pillaging or seizing anything upon the line of march, for such conduct the heaviest penalties were inflicted. No question was made whether the inhabitant of the enemy's country the day before or the day after might have been or might be in arms. He was paid out of the Government Treasury for whatever was taken; and when we had conquered a portion of Mexican territory, and it came to us by a treaty of peace, what was more carefully guarded than the estates of those men who held under the Spanish and Mexican Governments in the ceded territory? Among the largest landholders at that time in California was General Andres Pico, whose charge upon our forces on San Pasqual came very near changing the fortunes of war in that department. Was his claim of right disregarded for that, or the claims of any other person, or of the great body of the people of that country who had been in arms against us? In my judgment, the people of this country have the right to as favorable a construction of the law, and as favorable a practice of the rules of war as any foreign enemy—Mexican, English, French, or Spanish.

Then, Mr. President, I contend that although it is said the power exists in the conqueror to seize and confiscate, it is not said by any good authority that the right accompanies the power. There is a vast difference between the power of a conqueror over a subject enemy, what he may do, and what he may rightfully do. The rule of right is the rule of law, and the rule of right is against seizing the property of private persons, whether they be a foreign foe or a portion of our own people in rebellion against us.

But, sir, there is another rule of law with regard to this thing of confiscation. The bill is to be operative immediately, and to act upon every estate, the property of every individual, upon the happening of an act on his part. It is a confiscation of all the property of the parties now in arms. However, that I may understand the chairman of the Judiciary Committee, I will inquire of him, is the first section designed to operate upon persons who shall, after this bill becomes a law, be in arms, or is the term "during" to be understood as relating to those who are or may be in arms?

Mr. TRUMBULL. I am a little surprised that the Senator from California, a good lawyer, as I know him to be, should ask such a question as that. The language of the bill is "who shall." Of course it is prospective.

Mr. McDOUGALL. I presumed so; but finding other features in the bill quite as obnoxious to the constitutional objection, I thought I would ask the Senator that I might understand him perfectly. Now, there is a rule with regard to confiscation, and it applies to almost everything of this kind: you have got to acquire a thing before you confiscate it. It is true, that if you have seized and taken property as prize of war upon the high seas, and have had possession of it twenty-four hours, or have brought it into port, or in the case of property seized on land, have brought it within the lines of your fortifications, and got perfect dominion over it, had it in your possession for a certain time, so that the enemy may not recapture it, it may, in a certain case, become the right of the captor; but it is laid down most distinctly and clearly that there cannot be any such appropriation of anything which you have not taken manual capture of. You have got to take it by act of war, by the strong hand, and not by legislative enactment. You cannot acquire the right in it by paper formula. The right of capture, in all instances, results from the fact that it has been taken by the strong arm, and is within the present dominion of the captor.

Mr. HARRIS. The Senator from California will allow me to suggest a case to him. There are men now engaged in this rebellion, and prominently engaged in it, who own valuable property in the State of New York. Cannot we confiscate that?

Mr. McDOUGALL. That does not reach the point of the argument to which I am now addressing myself. That property you may yet get possession of; but that does not meet the objection to this bill. The bill in its general provision is for the confiscation of property everywhere upon the happening of an act, independent of whether it is in the possession of any conquering party or not. That view of the subject I shall discuss hereafter. The doctrine is laid down distinctly in all the books, as to how the conquering party may acquire a right, how it is limited as to the time of possession, and how as to the perfect dominion of the captor over the thing; but nothing is said with regard to lands, because it has never been admitted on the part of any writer on public law that the lands of private individuals could be made the property of the conqueror. It has been done by violence in some old periods of history, by semi-barbarous chiefs and Roman emperors, seeking either to fill their own treasury, or apportion it out among their military chiefs.

I will now proceed to the discussion of this measure in its relation to the Federal Constitution; and if I have not greatly misunderstood the provisions of that instrument, legislation, such as is proposed, is expressly prohibited. I understand this act to be a general bill of attainder—not such a one as finds precedent in English history, where bills of attainder were limited to a few named persons; but striking at whole communities, embracing millions of people. It is said by writers that in cases of rebellion or other war, individual examples may be made of the leaders of the insurgents or the enemy; but that it would be the worst of tyranny to include in the example whole classes or communities of men. This is in every one of its aspects an act of attainder, without a parallel, and not striking at the leading conspirators—the true objects of a just vengeance—but striking at millions of men, operating on them by one fell stroke, to deprive them of whatever they may have in this world either for themselves, their wives, their parents, or their children.

The Constitution provides that no bill of attainder or *ex post facto* law shall be passed; and I call the attention of the Senate—I suppose it is well understood, however—to the distinction between the two provisions of the Constitution. One provides that no bill of attainder shall be passed; the other that no attainder of treason shall work corruption of blood or forfeiture except during the life of the person attainted. The first provision relates to legislation, and inhibits the passage by legislative bodies of acts of attainder. The other simply limits the exercise of judicial power. By the English law, the blood of the convict was attainted; it was incapable of inheriting; and there was a confiscation of all his estate. We undertook to be more humane than the English Government. We were establishing our institutions in the light of ages after English law was first established. Now, the question I put to the Senate is, is this or is it not a bill of attainder? Woodeson's Lectures on English Law has been quoted as high authority by the eminent jurists of our own country and of England, and is, in many respects, an abler work than the great work of Blackstone. He defines a bill of attainder thus:

"All the modes of criminal prosecution hitherto spoken of, whether by impeachment or otherwise, are vindications of the laws in being, on which they are wholly founded. But besides the regular enforcement of established laws, the annals of most countries record signal exertions of penal justice, adapted to the exigencies unprovided for in the criminal code. Such acts of the supreme power are with us called bills of attainder, which are capital sentences, and bills of pains and penalties, which inflict a milder degree of punishment. In these instances the legislature assumes judicial magistracy, weighing the enormity of the charge and the proof adduced in support of it, and then deciding the political necessity and moral fitness of the penal judgment."

Observe, he lays down a bill of attainder, as understood in the English law, as including capital sentences and bills of pains and penalties. While I have this writer in my hand, I will read something more from him on this same subject; for it not only states what bills of attainder are, but it goes into some discussion as to the justice of them, and suggests some reasons for the prohibition contained in our Constitution:

"It must be admitted that in all penal statutes passed *ex post facto*, except where the innovation mollifies the rigor of the criminal code, justice wears her sternest aspect. Moral conscience and human frailty have no longer the additional guidance of the law. Bills of attainder for treason, notwithstanding their plausible pretenses, have offended the general humanity of this nation, and have been remarked to roll, like Sisyphus's stone, on the promoters."

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"All civil magistracies have in season their appointed province. The legislative ought not to intrench on the judicial. Legislation, as it is the noblest exertion of human sovereignty, is the hardest task of human wisdom; and should not be perplexed by such temporary considerations or conjunctures as might hazard impartiality of decision. Hence the political congruity of first enacting laws, and then enforcing them on subsequent occasions, *and by different magistrates*, has been confirmed by the very constant usage of the world; in the observance of which the subjects of every State have been thought deeply interested. Thus, when a general law is made restraining crime, the due application of it is a new field to exercise the faculties of our minds. To do the whole at once, is relying too much on our judgments, especially when the various passions are heated or alarmed by an interesting crisis. Such is not the time practically to overturn legal institutions, which have either been sanctioned by long tradition and experience, or were dictated by temperate reflection; and having universality for their object, were uninfluenced by present fears, and personal enmity or favor. * * * * *

"Lastly, it is said, that when it is the act of the supreme power, whoever deserves to die, dies justly This in terms excludes inferior judicatures. Their proper province is here allowed to be to declare their stable law, not to estimate moral guilt or weigh political danger. Have legislatures a conscientious right (for I question not their undefined constitutional power) to proceed by any other rule? There is a moral and a civil justice. Offenders may deserve the *ultimum supplicium* on a moral and philosophical view of their guilt; but how their demerit should authorize the political infliction of it, otherwise than according to precestablished institutions, it is difficult to determine and evince. Offenses against the law of nature are obnoxious to divine punishment, because the will of the Creator, which constitutes that law, hath been sufficiently promulgated. That the earthly rulers of society, who are ordained such for this very end of prescribing the line of civil conduct, should be extreme to mark what was done amiss beyond that which is written, should punish the transgression of laws which they have neglected to give, seems too great a power for man to exercise over man."

I understand the quality of a bill of attainder, as thus laid down by him, to be the act of a legislature which executes itself, and more, which is executed without any appeal to the established and recognized judicial tribunals of the country, either inflicting a capital sentence or imposing upon the individual pains or penalties. That this view of the law of what was a bill of attainder is correctly stated, I refer to the opinion of Chief Justice Marshall in the case of Fletcher *vs.* Peck, 6 Cranch, page 138:

"No State shall pass any bill of attainder, *ex post facto* law, or law impairing the obligation of contracts.

"A bill of attainder may affect the life of an individual, or may confiscate his property, or may do both.

"In this form the power of the legislature over the lives and fortunes of individuals *is expressly restrained*. What motive, then, for implying in words which import a general prohibition to impair the obligation of contracts, an exception in favor of the right to impair the obligation of those contracts into which the State may enter?"

The same interpretation of the meaning of a bill of attainder is recognized by Mr. Justice Story, in his Commentaries on the Constitution, and I will read somewhat from him, for he may be called a recognized authority, and probably is regarded as good authority by all Senators on this floor:

"Bills of attainder, as they are technically called, are such special acts of the legislature as inflict capital punishments upon persons supposed to be guilty of high offenses, such as treason and felony, without any conviction in the ordinary course of judicial proceedings. If an act inflicts a milder degree of punishment than death, it is called a bill of pains and penalties. But in the sense of the Constitution, it seems that bills of attainder include bills of pains and penalties; for the Supreme Court have said 'a bill of attainder may affect the life of an individual, or may confiscate his property, or both.' In such cases the legislature assumes judicial magistracy, pronouncing upon the guilt of the party, *without any of the common forms and guards of trial, and satisfying itself with proofs, when such proofs are within its reach, whether they are conformable to the rules of evidence or not.* In short, in all such cases the legislature exercises the highest power of sovereignty, and what may be properly deemed an irresponsible despotic discretion, being governed solely by what it deems political necessity or expediency, and too often under the influence of unreasonable fears or unfounded suspicions. Such acts have often been resorted to in foreign Governments as a common engine of state; and even in England they have been pushed to the most extravagant extent in bad times, reaching as well to the absent and the dead as to the living. Sir Edward Coke has mentioned it to be among the transcendent powers of Parliament, that an act may be passed to attaint a man after he is dead. And the reigning monarch who was slain at Bosworth, is said to have been attainted by an act of Parliament a few months after his death, notwithstanding the absurdity of deeming him at once in possession of the throne and a traitor. The punishment has often been inflicted without calling upon the party accused to answer, or without even the formality of proof; and sometimes because the law, in its ordinary course of proceedings, would acquit the offender."—*Story's Commentaries on the Constitution*, sec. 1344.

Here let me say that in attainders by the English law they have been infinitely more liberal than is provided by the terms of this bill. There, after the legislative investigation, judgment, sentence pronounced, if you please, the party had his day in court, and might assign objections to the attainder. Here you pass a law operating, and to operate instantly on its passage, upon millions of people, and the agents of the Government instantly proceed upon their mission, marching with our Army, not to bring captured property before the courts, but to seize and sell it, wherever found, at their discretion. And the party suffering this legislative condemnation, this magisterial act, has no redress, no remedy—not one provided for in the courts of the country. If the law be good for anything, the act of the Government clothing its agent with this power is final on the rights of the property seized, divests the property because the inquest is supposed to be had. The individual seizing pronounces judgment, if you please; he sells in open market or at private sale; his seizure divests the estate; his grant invests the estate. Either your law is valueless, it has no substance at all, or this is its effect; or otherwise, if any plea can be set up against this act, you have provided for involving the estates of at least one third of the confederacy in a series of litigation affecting all property, the rights of all citizens, and leaving them in a condition worse than if they were in a state of actual war; for general war in the courts of justice is more to be deprecated than war upon the battle-field. I continue the extract I was reading from Story's Commentaries:

"The injustice and iniquity of such acts in general, constitute an irresistible argument against the existence of the power. In a free Government it would be intolerable; and in the hands of a reigning faction, it might be and probably would be abused to the ruin and death of the most virtuous citizens. Bills of this sort have been most usually passed in England in times of rebellion, or of gross subserviency to the Crown, or of violent political excitements; periods in which all nations are most liable (as well the free as the enslaved) to forget their duties, and to trample upon the rights and liberties of others."—*Ibid.*

Mr. President, may we not well ask ourselves if we are not, to some extent, in the condition here depicted by the commentator? I say that this bill has all the characteristics of an act of attainder as stated by the Supreme Court, as discussed by Woodeson, as laid down by Story, without the intervention of the courts of justice, which by the established rules of law in civilized countries have the administration of estates, the determination of the rights of property. We provide for the transfer of estates by legislative act. It is true there is a condition precedent to the title passing, but we say it shall pass upon the happening of this act, and the party loses his right when it does transpire. Suppose we pass this act to-day, what is the consequence? The gentleman says it is not intended to be retroactive. Then to-day throughout all the South every man in arms, from the highest to the lowest, by this act loses his estate. To-day every man throughout the South who has, whether for the purpose of self-protection, or in the course of casual conversation, or as a matter of necessary policy, done anything, or said anything, or written anything which may be construed into lending aid and comfort to the enemy, is divested of all his property, real and personal. All that is to be done is to send the agents, civil or military, of the United States to seize it. Have Senators considered what the appointment of a body of agents of this kind will bring upon the country; that we are to carry on a war of detectives, informers, and witnesses against the South, instead of a war of arms; that we are to bring down upon them an army of harpies, with their vulture appetite and their vulture claws to rend the possessions of the South, that they may themselves carry off some of the fragments to their own homes near to the gates of hell?

There is nothing that I can conceive of that would be so disastrous to this country as to organize an army of informers, detectives, and subsidized witnesses to scour the South, and the North, if you please, too. In the State of Connecticut, for example, somebody has manufactured a gun that has been sold and found its way somehow to Charleston, South Carolina. There are anxious spies about, plenty of men who would prefer a case of this kind to obtaining a patent right. I speak not of Connecticut particularly; I speak of the North generally. While this kind of espionage and this kind of investigation and this banding together of agents, detectives, and witnesses would take place, what would be the result? Parties are so hostile that you cannot go to a neighborhood where you will not find a man of one party who will tell you that his neighbor of the other party is a secessionist. Go to that neighbor, and he will tell you that the other is worse than a secessionist, an abolitionist. How glad would they be to be informed that a law was passed whereby neighbor could be set on watch against neighbor, by cunning and stratagem to ascertain if he had not done or said something by which his handsome estate, his pleasant cottage, his comfortable home might be seized from him and he and his family driven out. While this would be true throughout many parts of the North, how would it be in the South, where it is assumed, popularly, that every man is a traitor, and where a man dare not whisper loyalty; where, if he says anything, he must say something that sounds like treason. There is a vast field for enterprise; there fortunes can be made in a day, for, by this law, all power is given to these agents; they seize, sell, and report, and it is not even provided that the report shall be under oath.

They seize and sell; and sell to whom? The sales will be Government sales. When a war ends—like that in Utah for instance—the auctioneer, the vendor, and the purchaser are generally persons in the same interest, and what is worth $1,000 is sold for ten dollars. And who are to be these agents clothed with this mighty power? Are they to be agents over whom we have any control—nominated by the President to the Senate? No; the President's appointees, and each particular appointee, of course, will exercise the authority of seizure and sale, with his detectives and his harpies about him. I can understand how a nation can bear a great war, where war is carried on by armed men on the battle-field—how it can stand the sacrifice of blood and treasure. There is suffering at the time; but years pass by, and the prosperity of the nation returns. There may be compensation in the dignity and elevation that even war can infuse into a people. But a war of detectives, informers, agents, and suborned witnesses for the purpose of seizing estates, will breed a disease from which this nation can never recover—a leprous disease, which will hang around us in all the ages to come; lepers we shall be, and a leprous people.

Mr. President, the chairman of the Committee on the Judiciary, in vindicating the constitutionality of his bill—for he thought it certainly so questionable that it required vindication—chose to refer to a number of authorities; and that we may get at the issue as to the question of law, I propose to give to them a cursory examination. The first case he cited was that of Cooper *vs.* Telfair, (4 Dallas, 14.) The question there arose under an act of the Legislature of the State of Georgia, passed May 4, 1782—an act passed five years before the adoption of the Constitution, and during the Revolution. The question that arose before the court was simply whether banishment and confiscation were inhibited by any provision in the constitution of Georgia. The question of its relation to the Constitution of the United States was not mooted, for there was no Constitution of the United States. Mr. Justice Washington, in delivering the opinion of the court, said:

"Where an offense is not committed within some county of the State, the constitution makes no provision for a trial, neither as to the place nor as to the manner. Is such an offense (perhaps the most dangerous treason) to be considered as beyond the reach of the Government, even to forfeit the property of the offender within its territorial boundary." * * * * * * * * * *

"The constitution of Georgia does not expressly interdict the passing of an act of attainder and confiscation by the authority of the Legislature."

There had been no inhibition in the State constitution; and under the Articles of Confederation the powers of the States were altogether different from what they became after we established the present Constitution. That is the first case that the gentleman relies upon from which he gets the right to confiscate. He next cites the case of Smith *vs.* The State of Maryland, (6 Cranch, 286,) which is obnoxious to the same objection. The confiscation in that case was under an act of the Legislature of Maryland, passed in 1707—a law of the province of Maryland; and the only question involved was, whether our treaty of peace with Great Britain applied to the case or not. The syllabus is:

"A writ of error lies to the highest court of a State in a case where the question is, whether a confiscation under the law of the State was complete before the treaty of peace with Great Britain.

"By the confiscating acts of Maryland, the equitable interests of British subjects were confiscated, without office found, or entry, or other act done, and although such equitable interests were not discovered until long after the peace."

That case arose under a law passed and operative in Maryland long before the establishment of the Constitution; and the question was simply whether the confiscation had been complete, perfected, so as to vest the title in the persons who had acquired it under the confiscation before the treaty with Great Britain; for if it was not complete before the treaty, the treaty would have come in and saved the estate of the person whose property was seized. It had nothing at all to do with this question—was altogether foreign to it.

The case of Brown *vs.* The United States, (8 Cranch, 110,) cited by the Senator from Illinois, in his opening argument, is a case where the right of seizure was denied by the Supreme Court. There the property was the cargo of a vessel in one of our ports; and it was seized after hostilities had commenced between the United States and Great Britain. The cargo had been landed and tied up on shore—had been discharged from the ship; and the court say that, being on land, it was not the subject of seizure. That is the point of the case.

Mr. COLLAMER. The Senator will allow me to suggest that the point in that case was, that the property of a belligerent in the country, at the declaration of war, was not forfeited by the declaration of war, but that it required a special act to do it.

Mr. McDOUGALL. True, the court decided that the declaration of war did not operate to give the right of confiscation; but the court made a special distinction, and the judgment can be rested on that very distinction, between the maritime law of nations and the internal law of nations. That distinction was one of the considerations governing the case; and the right to seize and con-

fiscate was clearly denied. I have chosen to refer to the decision particularly, because the court make the distinction, which should be borne in mind in this discussion, between the maritime law of nations administered on the high seas common to all civilized States, and the law of nations within the limits of a Government and its territorial jurisdiction in connection with the constitution and laws of that particular country. The maritime law of nations as administered in the prize courts of the United States is the same law that is administered in England. The English judges in admiralty rely on our authorities quite as much as they do on their own, and I believe more on the authority of the courts of the United States than those of any other country, and we, on the other hand, rely more on their authority. Mr. Phillimore, the Queen's proctor in admiralty and judge of the cinque ports, and one of the most eminent men in this department of jurisprudence, says that the law administered in the courts of admiralty in Great Britain is the same as the law in the courts of admiralty in the United States, Denmark, Sweden, Spain, and all the civilized nations of the world; and it is not the law of nations as to war, for in treating of the laws of war Grotius, Puffendorf, and all the continental jurists treat of war between contending armies, whereas the maritime law of nations has grown out of certain ordinances in old times when an effort was first made to give to those who sailed on the high seas some other character than that of pirates—ordinances established sometimes between commercial nations, and then a series of practices, and a body of treaties; and really the treaties that have existed between commercial nations are a great part of the law of nations itself, and our conformity to the general maritime law of nations may be considered as of the dignity of a treaty, for it enters into and becomes a part of our own law. That vessels of enemies may be seized anywhere upon the high seas is a rule of maritime war. If we treat with regard to the property of neutrals with the great Powers of Europe, the effect of that treaty will be to establish a new rule of maritime law.

The Senator cited the case of the Venus, Rae, master, (8 Cranch, 253.) The Venus was captured by the Dolphin, brought into a port of Massachusetts, and claim made for part of the cargo; and the only matter determined by the court was a question of fraud in the register. It is true that many questions as to the right of seizure were discussed in the case; but in speaking of them, the court speak only of those seizures recognized by the maritime laws of nations. The same is true of the case of the Amy Warwick recently decided in Massachusetts by Judge Sprague; a mere question of maritime seizure, and the point involved was the hostile character of the party claimant, whether he was really a friend of the Government, or whether, having his domicil abroad, he had not acquired the new character of an enemy; and whether, under these circumstances, he could maintain his right, which otherwise might have been conceded, admitting the seizure of the vessel itself to have been within the maritime law of war.

The last case cited by the Senator from Illinois is worth particular attention. It is the case of Johnson *vs.* McIntosh, a recent case, decided in 5 Curtis. From it he quotes these very pointed, and, it might seem, very comprehensive words: "Conquest gives a title which the courts of the conqueror cannot deny." It is worth while to inquire under what circumstances this language was used by the judge delivering the opinion. A party claimed title to a piece of property in the Northwest—Indian territory; he claimed his title under a grant made by the chief and men of authority of the tribe having possession of these lands, as against the Government of the United States, and the question is argued by the court in this wise: when, after the conquest of America, Spain and England and Holland and other States of Europe sought to acquire possession of the territories in this country, they thought that their bringing civilization and the Christian religion to the savages justified them in taking possession of their property; and therefore upon this ground England claimed the right by possession, and that the planting of the English flag gave the *jus dominum* wherever possession was taken, and so of the other States. I say they based the right upon the fact that in exchange for this violent seizure of the property of a people not at war with them, they brought civilization and the Christian religion; and what did those men of that day, more barbarous than ours, lay down the rule to be? That the fee, the ultimate estate, was in the Crown of England, but the usufruct was in the Indian tribes. That the Indian had the right to possess, and to forever possess, the lands and the fruits of the lands; and therefore, from the earliest day, the colonies from Holland and from England always negotiated with the Indian tribes, and purchased out what they called their possessory right, which was the full and entire benefit in the lands occupied and possessed by them. They said, "the Indians cannot convey; they may enjoy; but because they are barbarous and we are a sort of guardians of theirs, they may enjoy the lands, but they cannot convey the lands to anybody except the guardian Government; that even the Government has not the right to take these lands except by purchase." Will not this Indian law of seizure be a sufficient law to meet the views of the chairman of the Judiciary Committee? Suppose now we say we have got the dominion over all the property of the conquered country, can we not afford to say we take it because we bring back the Constitution and the laws, as well as if we brought Christianity and civilization? We will take the dominion, and we will treat you as well as your ancestry and ours treated the savages of the continent; we will leave you at least the possession and the usufruct in that which you have heretofore enjoyed and are now enjoying. I protest, in the name of modern civilization, against making for the people of the South a worse law, a severer and more penal law, than the one our ancestry administered against the savages of this coast, than the one which our people administered in the war against Mexico—a people among whom were none of our race or kindred, none bound to us by any common traditions or former ties of friendship or affection.

Mr. President, no such policy will secure peace. You may make what are called in the citations I have made a body of "*desperate*" men; you may deprive thousands and hundreds of thousands of their estates, of their all; you may say, "we will place you beneath the yoke, you shall be subjugated to us." Were they a people who had lived under the most abject slavery, the question would be whether they would submit to this from new masters; but there can be no such submission from a people who have once been free, who have learned what freedom is from their mothers' lips in infancy, and have enjoyed what freedom bestows through youth and into manhood. The degradation of imposing terms disgraceful and humiliating will not be stood by any portion of this people. It would not be stood by the people of the State of Maine, if single-handed they had to maintain their pine forests against the Union in arms. It would be stood by no community in this Republic. Then indeed there would be sacrifices; every true-hearted man would be willing, rather than submit to this, to make himself a sacrifice. No true man but would rather die with honor than live not only with himself but with his people disgraced.

I trust we all look for the return of peace. I trust we all look for a reunited Confederacy. But let us not expect to secure peace or union by passing laws which will only make men desperate, make fiercely hostile all now friendly to us in the country to which we propose to go, and where we propose to raise our flag. It will not only make them enemies, but make all our enemies desperate. We did not take Fort Donelson so much by the specific power of our arms; but the men in arms there had no heart in this controversy; they had been forced in the tide of revolution into their particular position. They doubted the justice of their cause; many knew the cause to be unjust. How will it be when you issue your mandate of general confiscation?

Mr. President, to throw what I have said about the South in a more pointed shape, I will read a letter taken at Fort Henry, which I have found in the papers of the day, as expressive of the condition of a great many people throughout the South, and many who are in arms:

NASHVILLE, TENNESSEE, *January* 7, 1862.

DEAR SON: I received your always welcome letter yesterday, and I am going to answer it speedily. I received your package containing $300 in confederate State scrip, for which I am very grateful. I am glad that you are doing well and that you are well, but I tremble when I think of you being engaged in this horrid war. Henry, my son, I can but feel the South is in the wrong. We may console ourselves with whatever belief we choose, the United States is bound to subdue us. General McClellan has and is exercising great generalship. I fear that soon a movement will be made that will crush us out. Henry, I know you must think as I do. I wish you would resign, and we will move North. No one here suspects my Union proclivities. I am obliged, for the sake of your mother and sisters, to talk and be a secessionist; but I say to you, what I said when you were at home, I do not believe the northern men desire the ruin of the South. A great interest is felt here as regards your position, [Fort Henry;] if that is taken, the South is surely conquered. You can see this as well as others.

Destroy this letter, as it may get you into trouble. Your affectionate father.

I take this to be a representative letter, exhibiting the true condition of vast numbers of people throughout the South. They talk this way, and why? As this writer says, "for the sake of your mother and sisters," and these are strong motives. I before remarked that these men are not to be condemned for their position. The organization of the rebels was so perfect throughout the South, by a long-continued system of organization, that all the arms and all the organizations of the country, both official and physical, were in the hands of the conspirators, so that a few men controlled the multitude. I have seen, and I presume other Senators have seen, a body of fifty men, armed and desperate men, for a time take possession of a whole populous county and hold it under absolute control; and so always a few violent men may get the possession of large majorities, and hold them until the majority have some means whereby they can secure organization, and resist force with force.

Enough of this, Mr. President; I propose now to say something in regard to another feature of this bill, and that is the clause in regard to negroes. I will now repeat here what I have had occasion to say in many parts of the country, and what has been my earnest conviction for many years. If from the Federal Congress could have been excluded the agitation of the negro question—one which has little, if any, legitimate business here—if it had never been permitted to enter, or if, when offering itself, it had been excluded, except where there was legitimate constitutional field for legislation, there would have been no disturbance in the country, and we should have been a brotherhood as a nation to-day. When introduced, it has become the absorbing topic. Men have sought by their efforts here to excite popular sentiment on one side in the North, and popular sentiment on the other side in the South. The orations, declamations, and harangues that have been heard in this Hall and in the other end of the Capitol have not been designed for counsel among Senators and Representatives, or for legislation for the Government, but for the purpose of more fiercely arraying party against party. For whose advantage? For the promotion of what end? The building of themselves up at the sacrifice of the harmony of the Republic. It has pained me whenever, since my arrival here, I have heard these subjects discussed. I had thought, and I still think, that the business of this great war, the financial policy it involves, the strengthening of the hands of Government so that war may be made promptly efficient in result; that these topics furnish field enough for all our wisdom, for all our counsel, and for all our conduct. But how has it been? It is not my office to reprove any Senator. I may, perhaps, be too young in the Senate even to speak of these things; but what time has been permitted to any Senator to inquire into the novel question of how we shall sustain the finances of the Government; how we can secure the means necessary for the prosecution of this great war?

It has been my fortune to be on the Finance Committee, and to come in contact, more particularly than some other Senators, with the questions there presented. I have not found my associates professing to be wise, not even the oldest Senators, on the subject. I have not found the men at the head of the finance department of the Govern-

ment professing to be wise on the subject. These are new questions, presented for the first time in our history. They demand careful study, careful investigation, because upon such measures being well and wisely matured, depends our success in this struggle more than on any question of armies, for we have yet unarmed a million of men ready for the field.

Is it not true that subjects like the one under consideration, alien to the war, have prevented anything like careful investigation or consideration of the paramount interests of the Government and the necessary business of legislation? Who, I ask, what one Senator has been able to investigate any policy of a foreign State that we may assimilate to the policy we have got to inaugurate? I think my friend from Ohio [Mr. SHERMAN] probably has paid more attention to that subject, with the exception of the chairman of the Committee on Finance, [Mr. FESSENDEN,] than any one else here; and yet I think he will say that he is only on the threshold of the inquiry. We are compelled here promptly to devise a great policy to operate throughout the whole country and to reach every man's property. We cannot take the example of England and copy laws from her statute-book, and why? England is a very different country from ours, and a source of revenue of particular denomination there might bring in many millions of money, while here it would not pay the expense of its administration. We have not large incomes as they have in England. Our business is conducted differently; our property is held differently; our machinery of government is altogether different. Some of the provisions made in regard to the finances at the extra session have remained a dead letter on the statute-book, because the Secretary of the Treasury has found it impracticable to make them operative; and why not operative? Because unwisely devised or imperfectly matured.

Had we not better bestow some attention on the pressing necessities now imposed upon the Government, and where the Government asks our aid, than devote ourselves to the discussion of bills brought in from the Judiciary Committee or the Committee on the District of Columbia or the Committee on Military Affairs, stirring up this vexed question which has been the foundation of all our disturbances, and is, I say, the immediate cause of the present destructive war? I will say here that I do not believe this subject requires legislation; I do not believe we are wise enough to apply apt legislation to it. If it be among the accidents or consequences of this war that slavery shall be crushed out forever, let such result come; we are not here to discuss the mode of doing it. For myself, I do not know how to contemplate such a result as the making free of the entire slave population of the South, and thrusting them upon the Republic, without the gravest apprehension of evil. That man must be both a wise and a brave man who can look such a result calmly in the face and with truth say, "This have I done, or this have I promoted, and what I have done I have done both wisely and justly."

But, Mr. President, while differing with the chairman of the Judiciary Committee as to the bill, I agree with him in some expressions of opinion, and particularly his well-put concluding sentence:

"But, while fighting this battle in behalf of constitutional liberty, it behooves us especially to see to it that the Constitution receives no detriment at our hands. We will have gained but little in suppressing the insurrection, if it be at the expense of the Constitution; for the chains which the bondman wears are none the lighter because they were forged by his own and not another's hands. As we expect to come out of this contest with our flag full and complete in all its proportions, not a stripe erased or a star obscured, so let us preserve the Constitution perfect in all its parts, with all its guarantees for the protection of life and liberty unimpaired, and the instrument itself rendered doubly dear from the fact that it has been sacredly maintained and proven equal to every emergency, under circumstances the most trying to which a nation was ever subjected. Then, when this struggle is over, we will have an assurance that our Government is stronger than ever before, and that constitutional liberty is established on a foundation which no human power will ever be able to subvert."

These I know to be the sentiments of the Senator from Illinois. They are sentiments worthy of him; but I think he has made a vast mistake, a radical mistake, in making, from his premises in the Constitution, so wide a departure as is exhibited in his bill. Before referring particularly to the constitutional question, which I shall discuss very briefly, I will see what the Government, both as a political and constitutional question, have been disposed to hold upon this matter.

[At this point the honorable Senator gave way for an executive session.]

TUESDAY, *March* 4, 1862.

Mr. McDOUGALL. At the close of my remarks yesterday, I thought that I had covered all the ground and all the considerations I desired to present on the question of the constitutionality of the right of confiscation; but upon recurring to my memoranda, I find that I had omitted to present some authorities, which I think important, to the consideration of the Senate. I think I shall be pardoned by the Senate for occupying so much time, for it must be felt by every one of us that this is a question that should be fully discussed in all its aspects. I will now call the attention of the Senate to some remarks of Justice Story, in his Commentaries, which I omitted to read yesterday. In that portion of his Commentaries where he treats of the subject of treason, and the power reserved to the Federal Government to punish treason, he lays down language which, in my judgment, covers the whole constitutional question involved, in definite terms, besides giving some reasons of the strongest character why forfeiture or confiscation should not take place under any circumstances. He remarks:

"It surely is enough for society to take the life of the offender, as a just punishment of his crime, without taking from his offspring and relatives that property, which may be the only means from saving them from poverty and ruin. It is bad policy too; for it cuts off all the attachments which these unfortunate victims might otherwise feel for their own Government, and prepares them to engage in any other service, by which their supposed injuries may be redressed, or their hereditary hatred gratified. Upon these and similar grounds, it may be presumed, that the clause was first introduced into the original draft of the Constitution; and, after some amendments, it was adopted without any apparent resistance."

The clause indicated is, that there should only be forfeiture during the lifetime of the party convicted.

"By the laws since passed by Congress, it is declared, that no conviction or judgment for any capital or other offenses, shall work corruption of blood, *or any forfeiture of estate*."

Observe the reasons given for this change of the rule of the Constitution, made almost immediately after its adoption, made in 1790, shortly after the revolutionary war, and when peace had returned and counsel was prevailing throughout the country:

"The history of other countries abundantly proves that one of the strong incentives to prosecute offenses as treason has been the chance of sharing in the plunder of the victims. Rapacity has been thus stimulated to exert itself in the service of the most corrupt tyranny; and tyranny has been thus furnished with new opportunities of indulging its malignity and revenge; of gratifying its envy of the rich and good; and of increasing its means to reward favorites, and secure retainers for the worst deeds."

To avoid such motives, it is assumed by the commentator that the law of 1790 was passed, which took from the courts the power to render the judgment of confiscation or forfeiture. And now observe the statement in the opening of the next section:

"The power of punishing the crime of treason against the United States is exclusive in Congress; and the trial of the offense belongs exclusively *to the tribunals appointed by them*."

What tribunals? What tribunals but the courts of justice of the country. I will also read on this same subject, and connected with this question of bills of attainder, a note introduced by Justice Story, quoting the authority of Doctor Paley:

"Dr. Paley has strongly shown his disapprobation of laws of this sort. I quote from him a short but pregnant passage: 'This fundamental rule of civil jurisprudence is violated in the case of acts of attainder or confiscation, in bills of pains and penalties, and in all *ex post facto* laws whatever'"—

Here is the objection—

"'in which Parliament exercises the double office of legislature and judge. And whoever either understands the value of the rule itself, or collects the history of those instances in which it has been invaded, will be induced, I believe, to acknowledge that it had been wiser and safer never to have departed from it. He will confess, at least, that nothing but the most manifest and immediate peril of the commonwealth will justify a repetition of these dangerous examples.'"

And again, in a note on the subsequent page, where the commentator introduces his own remarks:

"During the American Revolution"—

And cases during that period might be quoted as authority here, perchance—

"this power was used with a most unsparing hand; and it has been a matter of regret in succeeding times, however much it may have been applauded *flagrante bello*."

There is no authority, except the authority of power in its immediate and present action where power overrides law, that justifies proceedings of this kind. It is not to be found in the rules laid down by any of the calm, wise thinkers of the past or of the present day.

Now, sir, I will recur to the subject upon which I was entering at the time of adjournment yesterday; and that is, as to whether the provisions of this bill with regard to persons held to service or labor are either constitutional or politic. I object to the constitutionality of the second section of the bill, for the reason that it imposes upon the person claiming and owning a fugitive from service the burden of establishing affirmatively, before such jurisdiction as may be assigned, that he is a loyal citizen. Now, to begin with, what does loyalty mean? It has been said upon this floor recently that every man has his own definition. Loyalty is not a term known to the law; and the question of loyalty will have to be determined by the caprice, proclivities, or inclination of whoever may be the judge in the case. The bill in this respect is not good legislation; for when we undertake to limit a man's right, we should use such terms as would give a definite, fixed limit in exact and understood form of words. Loyalty, I suppose, means attachment; and there are various degrees of it. It may be qualified in a thousand ways. There may be a certain degree of loyalty and disloyalty united in the same individual's opinion. I say it is not a term known to the law; it has no particular or definite signification; and, therefore, it will be left at the control of whoever may be assigned to determine whether the proof of loyalty establishes loyalty in fact or not.

Then I say that this is imposing a limitation upon the party who has an absolute right of reclamation under the Constitution. I suppose it is admitted that the Constitution of the United States now prevails all over the old Confederacy, over all the States. I understand the Senator from Illinois, the chairman of the Judiciary Committee, to deprecate the idea of any violation of the Constitution. I understand the President of the United States and the Secretary of State to proclaim that the Constitution prevails everywhere, and that this war is to be waged simply to reëstablish the Constitution and the laws of the Union everywhere. Now, I say, here is legislation which is a limitation upon the absolute right given to the owner by the terms of the Constitution. That it is such an absolute right is not now an open question. The nature and force of the constitutional provision can be clearly understood from its terms; and upon learned and full argument, it has been carefully determined by our courts. I believe the opinion of the Supreme Court of the United States in Prigg *vs.* the Commonwealth of Pennsylvania, has not been denied from the time that decision was pronounced until now by any court of the United States, either in the South or in the North. The article of the Constitution is in these words:

"No person held to service or labor in one State, under the laws thereof, escaping into another, shall, in consequence of any law or regulation therein, be discharged from such service or labor, but shall be delivered up on claim of the party to whom such service or labor may be due."

It has been held that it was sufficient for the claimant to show that he was the party to whom labor or service was due. Such is the exact substance of the constitutional provision into which Congress, by law, cannot interpolate any new term. There is no room for argument upon this subject. In a note to this article of the Constitution, in the first volume of the Statutes at Large, the decision in Prigg *vs.* Pennsylvania is stated as follows:

"Prigg *vs.* The Commonwealth of Pennsylvania, 16 Peters, 539. The clause in the Constitution relating to fugitives from labor manifestly contemplates the existence of a positive, unqualified right on the part of the owner of the slave, which no State law or regulation can in any way qualify, regulate, control, or restrain."

This case grew up under a law of Pennsylva-

nia; but it applies equally to congressional legislation:

"Any law or relation which interrupts, limits, delays, or postpones the rights of the owner to the immediate command of his service or labor, operates, *pro tanto*, a discharge of the slave therefrom. The question can never be how much he is discharged from; but whether he is discharged from any service by the natural and necessary operation of the State laws or State regulations. The question is not one of quantity and degree, but of withholding or controlling the incidents of a positive right."

"A positive right." By the terms of the Constitution, which cannot be qualified or limited by the legislation of Congress any more than by legislation on the part of the State of Pennsylvania,

"The owner of a fugitive slave has the same right to him in a State to which he has escaped or fled that he had in the State from which he escaped; and it is well known that this right to seizure or recapture is universally acknowledged in all the slaveholding States."

Whether this provision of the Federal Constitution be a wise or an unwise one is not for us to determine. As long as we pretend to act, as long as we sit here sworn to act obedient to the terms of the Constitution, we should render it a prompt and willing obedience, particularly at this time, when we claim, with arms in our hands, with large armies in the field, to undertake the establishment of the Constitution throughout the Union as against parties who claim, as against us, that we have been guilty of its violation.

But, Mr. President, there is a pledge on the part of this Government as it stands now, with its present chief, with its present organization, as far as the Government can pledge itself by overt act and word, that these rights secured by the Constitution shall be maintained in all their integrity. The President, in his inaugural address, with the storm of war threatening him, impressed with all the responsibilities of a great nation disturbed by intestine war—a war in which this very question was deeply involved—said:

"I have no purpose, directly or indirectly, to interfere with the institution of slavery in the States where it exists. I believe I have no lawful right to do so, and I have no inclination to do so."

Here is a pledge of opinion as to his constitutional, lawful right to interfere either directly or indirectly. I believe this language meets this question. Not directly, but indirectly, this bill makes war upon the institution within the States where it exists. The President proceeds to remark:

"There is much controversy about the delivering up of fugitives from service or labor. The clause I now read is as plainly written in the Constitution as any other of its provisions. 'No person held to service or labor in one State, under the laws thereof, escaping into another, shall, in consequence of any law or regulation therein, be discharged from such service or labor, but shall be delivered up on claim of the party to whom such service or labor may be due.' It is scarcely questionable that this provision was intended by those who made it for the reclaiming of what we call fugitive slaves; and the intention of the lawgiver is the law. All members of Congress swear their support to the whole Constitution, to this provision as much as any other. To the proposition, then, that slaves whose cases come within the terms of this clause shall be delivered up, their oaths are unanimous."

It is true, the whole body of the Senate and the House of Representatives have sworn to the faithful execution of this clause of the Constitution. And further, Mr. President, on the 22d of April last, Mr. Seward discussed this subject in his correspondence with Mr. Dayton; and here is the avowal of our policy to our representatives abroad through the State Department, and I suppose it may without injustice be considered the avowal of our policy here:

"The Territories will remain in all respects the same, whether the revolution shall succeed or shall fail. The condition of slavery in the several States will remain just the same whether it succeed or fail. There is not even a pretext for the complaint that the disaffected States are to be conquered by the United States if the revolution fail; for the rights of the States and the condition of every human being in them will remain subject to exactly the same laws and forms of administration whether the revolution shall succeed or fail. In the one case the States would be federally connected with the new confederacy; in the other, they would, as now, be members of the United States; but their constitutions and laws, customs, habits, and institutions in either case will remain the same.

"It is hardly necessary to add to this incontestable statement the further fact that the new President, as well as the citizens through whose suffrages he has come into the administration, has always repudiated all designs whatever, and whenever imputed to him and them of disturbing the system of slavery as it is existing under the Constitution and laws. The case, however, would not be fully presented if I were to omit to say that any such effort on his part would be unconstitutional; and all his actions in that direction would be prevented by the judicial authority, even though they were assented to by Congress and the people."

To these declarations, made by the head of the Government and the person next to him in office in the executive department of the Government, I will add the expression of opinion by Congress on a resolution offered in the House of Representatives by the Senator from Ohio, now occupying the chair, [Mr. SHERMAN;] a resolution passed as late as February 11, 1861, passed, I believe, with perfect unanimity, persons of both parties concurring in the declaration made by the resolution:

"*Resolved*, That neither the Congress of the United States nor the people or governments of the non-slaveholding States have the constitutional right to legislate upon or interfere with slavery in any of the slaveholding States in the Union."

Now, if we have no right to interfere with slavery under the Constitution, have we any right above and beyond the Constitution? We have heard much of the necessary law of war, and that this is a war measure. True, there are war necessities—necessities that arise in the midst of war between armed men arrayed against each other. These necessities, at the demand of the moment, must, more or less, control military conduct; conditions of necessity controlling movements in the field justify no plea for the violation of fundamental law by the body charged with the establishing of law. We have no such imminent occasion imposing such necessity. There is neither necessity or policy in this legislation, even if we had the power to declare and make necessities by legislation instead of by the accidents of arms. As I have had occasion to say before in this discourse, instead of a proceeding of this kind strengthening the arms of the Union, it would paralyze the arms of thousands of men now maintaining the cause of the Union in the field, and would make the men who oppose us, now doubtful of the justice of their cause, firm in the conviction that it was their duty to resist to the death.

I understand Senators all admit their obligation to yield to the terms of the Constitution. Now, I do not want expositions on this subject. The Constitution executes itself. It has been repeatedly said by our courts, and well said, that it requires no legislation. It has been convenient to legislate to furnish a *quo modo* for the presentation of the claim of right; but the Constitution gives the absolute right, a right not to be qualified as to any one moment of time; for the right of seizure is absolute, the court say in Prigg *vs.* Pennsylvania, as absolute in Pennsylvania as in Louisiana, the right being a perfect one.

I have another objection, Mr. President, to this bill, independent of its being, in my judgment, clearly obnoxious to constitutional objection. It strikes me that the scheme of colonization incorporated into this bill is a perfectly wild, a perfectly visionary one. It seems to me that it is an attempt on the part of Congress, by law, to usurp the ways of Providence, to produce a result not within the grasp of this collective people, or within the grasp of the power of this Government. What does it contemplate? The bill itself, although it does not avow it, aims at general emancipation to follow our arms. Four millions of people are said to be of the class who should be colonized. It is known now that the necessities of this war have imposed on us burdens quite as much as we can well bear. These burdens will increase—burdens which we shall not be able to meet, but which we must leave as a legacy to our children. Suppose we undertake the enterprise of colonizing one million of these people, and undertake it as an immediate enterprise: what is to be the result? First, where are they to be sent? Into some tropical country. What tropical country? South America or some of the States of Central America.

In the first place, then, we have to acquire for them, because they cannot acquire for themselves, a large territory to begin with. How is that territory to be acquired? Except in few instances, where there are large claims held by grants from crowned heads, the property is divided and distributed up as it is in all other parts of what were formerly the dominions of Spain in America. We have to purchase titles, not merely from the Government itself, but from a multitude of individuals, and we shall have the Government here surrounded by a thousand men with great grants on paper, asking large sums to sell out to us the State of Nicaragua, or some other State in that part of the world. What will that cost us before we get through? But suppose we acquire the country to which we are to send these parties, the cost of transportation alone for one million of persons would not be less than $75,000,000, particularly when the Government undertakes the enterprise. And after you have spent that sum, you have sent out but one fourth of the population that is to be colonized, and you have accomplished this at an expense of $75,000,000—double the legitimate annual revenue of the Government to-day. You have expended that by borrowing money from your own people or from abroad. Another year comes round, and how many persons are there of the same class? Production alone, the natural increase, would make them four million five hundred thousand, and you have that number to operate upon. If you spend $75,000,000 for this purpose one year, can you do it the next? But apart from that, you have not only to send these persons to a tropical country; but they go there an ignorant, an indolent people, without any means, without clothing, without subsistence, except at the hands of this Government. Laws must be organized. The lands must be distributed, houses and implements of agriculture must be provided; all this must be superintended by the Government. We have to administer government for them. We have to furnish them with everything their condition and necessities may require. We constituted ourselves their guardians. How long, think you, will we have to stand guard and guardians for them? Certainly either until they go out into absolute barbarism, or until we have destroyed all means of capacity on our part to lend them aid. You propose to send them to South America, if you please, to mingle with whom? Not merely an ignorant, but a debased race of people, half Indian and half negro, men who live in the wilderness, who have no pursuits of labor, who live upon the spontaneous fruits of the earth—a lazy, vile, miserable race of demi-savages. In such a country, I say you have either to abandon them to absolute barbarism, or you have to maintain them as a State by furnishing the money necessary for that purpose, and continuing to furnish it until the operation shall go beyond all possible forbearance, and then the consequences will remain the same.

But apart from that, we have not the means to colonize these people; we have no policy of our Government that justifies it, and I question our constitutional power to do it. Where does the power come to us to establish a government not for ourselves or for our people, but for a people whom we declare alien to us, and maintain that government distant from the boundaries of the Republic—where is the constitutional right? If the Constitution of the United States be a grant of power, that power is not granted; and if there could be any departure from the spirit of the Constitution, this would be such a departure.

But consider the idea of colonizing four millions of people, enough to make a powerful State, and administering their affairs when colonized, for any period of years, for the least supposable period. The cost of this entire war, should it continue all this year and next year, would not be an approximation to the burden thus imposed on the country. The country could not bear it. It is a wild, impracticable scheme, such as is not within the power of this Government or of any other Government upon earth. It does well enough to put upon paper. It looks charitable perhaps to some. If you want to do the negro race great wrong, treat them worse than it is our custom to treat the savages on the frontier when we want possession of their lands; pass such a law; and if you can carry out such a policy, perhaps you may hope that, like all rude and barbarous people placed by themselves, without the restraint of masters or the restraint of true government—like the Indians in the country which we possess—vice, disease, and crime will, in a few years, break down the multitude to a small people that can be left to take care of themselves. This certainly cannot be done in the name of humanity. It is well understood, and well understood by every reasoning man, that there is no solution of this question consistent with the liberation of the whole slave population by any one act of war or of law. It is one of those evils that

exist in the country, not within the remedy of any parchment signed by the President of the United States with our consent. A wise and considerate policy on the part of this Government and this people, the policy inaugurated by the fathers of the Republic, by Washington and Jefferson and others, favoring a gradual emancipation, might and would have had vast results in reducing the evil, as far as it is an evil, among us. But the war made upon their movements, and the war made upon the institution, aroused all the angry feeling of the South many years since; and those measures of amelioration, which would have passed long ago in the State of Kentucky, in the State of Virginia, in the State of Maryland, and in the State of Tennessee, confining the true slave line to the extreme South—those measures of amelioration have been prevented by agitation in the Senate and in the House of Representatives, and in the newspaper press throughout the country. All we can hope for on the return of peace, is wiser and calmer counsels in regard to these things, and that gradually, by such appliances as may work out their results in the course of many years, we shall be freed from slavery as a burden.

Do not understand me, Mr. President, as being in any sense in the remotest degree an advocate for slavery in any form. I have never, since I have had opinions, entertained the opinion that it could exist to the advantage of any free State. I regard its influences as being worse upon the white than upon the slave population. I understand, too, that when I present my opposition to this measure, I come in contact with what is the popular opinion and feeling of the people throughout the free States. That cannot measure my conduct. I understand the business of a Senator here in the passage of laws to be to inquire into what laws are necessary and just, what laws presented are impolitic or unjust, and to give his support to the one, and his opposition to the other. No notion of popular opinion should or will control me.

I hold that one of the evils out of which the present condition of things in this country has grown is that the men who should be the leaders of opinion in the Republic, the men who, in various high places to which they have been elevated by the consideration of the country, have the power and stand charged with the duty of leading opinion, instead of leading, have to too great an extent allowed themselves to be mere followers of the uninformed and ignorant opinion existing among their respective constituencies. With regard to this condition of slavery and the necessities connected with it, is popular opinion informed? I say it is not. Therefore I will not be guided by mere popular opinion, but will rather give the reasons for the opinions I entertain, trusting that I may think justly and may be able to communicate sound opinions to others.

Mr. President, I say that the passage of this measure will make for us desperate adversaries, who will continue this war persistently until we have yielded ourselves to their position, or until they, as a people, shall be sacrificed. Legislation is an easy thing; the passage of laws, the making of written parchments with certain authentications, are easy things. It is said that "the path downward into hell is an easy path,"

> "But to return and view the cheerful skies,
> Therein the toil and mighty labor lies."

When by this legislation we shall have aroused all that is fierce, all that is resistant in the South, and thus invited a more desperate war than we have yet witnessed; after we have done the wrong, after we have committed the deed, there will be no possibility of efficient retraction. Our claim of having pursued a just line of conduct in the maintenance of the Constitution will be ignored everywhere; our acts will be looked upon as violations of the law of nations, and violations of the laws of just war everywhere, and we cannot take these things back. It is easy, I say, to place ourselves in the position of having wronged these people in the eye of nations, in the eye of the civilized world, and in their eye. It will be a difficult thing for us to redeem ourselves from that position.

Mr. President, it may be thought by some that the language of the Chief Magistrate and of the Secretary of State and of the Senator from Ohio was all well and proper in those days when the forces of the Government had not been marshaled, when Washington itself was threatened by armed foes; but that now that we have brought our six hundred thousand men in the field, that we have got an artillery alone sufficient and efficient for the entire war, that we have exhibited our ascendency on some well-fought fields, and now that we have demonstrated our entire power over the South, this may justify us at this time, in the day of our triumph and in the day of their humiliation, to impose upon them penalties, to apply to them tortures, to make them feel our giant strength. Sir, I have been taught that to the conqueror and the triumphant belong, as the highest virtue, magnanimity; as in days of peace the highest virtue is charity. We can now afford to be magnanimous. We have vindicated, in the eyes of the South as well as of the nations, our power to compel a proper subjection to the Constitution and the laws; and now, having demonstrated this, and being in regular progress in the work, it is for us to show them, by clear and distinct and well-affirmed acts, that we come to them with the Constitution as it was—with their rights as they were—saying to them: "You misguided men, you men who have been led away from the standard of our fathers, we come to you saying, return; yield obedience to these laws; live again in peace with us." Is not this the manner in which we should approach the people of the South, erring, wrong, rebellious as they are? Christianity teaches us a rule about this; but the same rule is taught by all the wise thinkers and the good and true men of antiquity and of the modern time.

Let us go forward, then, offering the Constitution as a common Constitution, the laws of the nation as common laws. Blows for armed rebels, but no chains for subjected citizens. With such a policy, Mr. President, we may hope to see the foundations of our Republic, now shaken and disturbed, settled upon a deeper and broader basis. I believe myself that this crisis has been demanded to establish our political institutions upon deeper and more enduring foundations, sufficient to sustain a structure to continue through the ages.

Mr. President, I cannot permit myself to think that unwise counsels will be permitted to prevent a consummation so worthy of the prayers of all true patriots. There is too much of calm and considerate judgment here and elsewhere in the country, to unnecessarily hazard the results of the present war, and with it the great experiment of popular government. No matter how threatening may seem the measures proposed by Senators, I shall trust in the well-advised and conservative judgment of the Senate. I shall maintain all my faith. I shall look hopefully forward to a speedy peace and a reëstablished and fraternal Union, a Union so strongly and deeply founded that we may all of us feel justified in apostrophizing this great, fair, and free land of ours:

> "And thou, my country, thou shalt never fall
> Save with thy children. Thy maternal care,
> Thy lavish love, thy blessings showered on all,
> These are thy fetters. Seas and stormy air
> Are the wide barriers of thy boundaries, where,
> Amid thy gallant sons who guard thee well,
> Thou laugh'st at enemies, who shall then declare
> The date of thy deep-founded strength, or tell
> How happy in thy lap the sons of men shall dwell."

EMANCIPATION.

SPEECH OF HON. C. A. WICKLIFFE,

OF KENTUCKY,

IN THE HOUSE OF REPRESENTATIVES,

March 11, 1862,

On the joint resolution in relation to the abolition of slavery, introduced by Mr. ROSCOE CONKLING, of New York.

Mr. WICKLIFFE said:

Mr. SPEAKER: I was forcibly struck yesterday by the remark of the chairman of the Committee of Ways and Means. In speaking of this resolution he said "it meant nothing at all." If he meant what he said, his remark is important. If the resolution "means nothing at all," I do not think that Congress ought to trouble itself with its consideration at this important time. If the resolution has a meaning, I suppose that that gentleman is fully conversant with it. If he is not, I have no doubt that the mover of the resolution [Mr ROSCOE CONKLING] will tell us what he means by it. In the first place, I will ask that gentleman this question—to be answered now or at his leisure—is he willing, is he prepared, will he pledge himself to his country and to his people to vote a tax to carry out the proposition contained in his resolution?

Mr. STEVENS. I do not know whether the gentleman is addressing me or the gentleman from New York.

Mr. WICKLIFFE. My remarks referred to both, in part. I repeat what I said: that the gentleman from Pennsylvania had made a remark yesterday which meant a great deal or meant nothing; he said that the resolution was of no account, and, therefore, he did not see why it should be postponed. I further remark, that if the resolution meant anything he had not yet told us what it was, and that if it meant nothing I did not think he ought to vote for it.

Mr. STEVENS. Mr. Speaker——

The SPEAKER. Does the gentleman from Kentucky yield to the gentleman from Pennsylvania?

Mr. WICKLIFFE. I yield for a personal explanation.

Mr. STEVENS. I do not want to make a personal explanation.

Mr. WICKLIFFE. The gentleman can answer after I have done.

Mr. STEVENS. I do not want to answer at all.

Mr. WICKLIFFE. I give way to the gentleman.

Mr. STEVENS. I was only rising out of respect to the gentleman from Kentucky. I do not desire to explain.

Other gentlemen requested Mr. WICKLIFFE to yield the floor.

Mr. WICKLIFFE. I gave way the other day until I was deprived of the hour allotted to debate, and as I want to say something in regard to this resolution, and to find out from the other side of the House what it means, I desire to do so without interruption.

In the first place, Mr. Speaker, there is the most extraordinary haste on this floor manifested by gentlemen on the other side to force a vote on the subject before the House by the previous question, denying debate or time for deliberation. There has been a refusal, unusual and harsh, to permit my venerable associate and colleague [Mr. CRITTENDEN] to make a single statement of fact in order to induce the majority to postpone this resolution. The message of the President of the United States which, we are bound to presume, was by him honestly intended to promote the public good, was submitted some two or three days ago. It was committed, at the instance of the gentleman from Pennsylvania [Mr. STEVENS] to the Committee of the Whole on the state of the Union. I crossed over the Hall with the intention of ascertaining from that gentleman, he having thus taken charge of the matter, when he intended to call it up. His answer to me was, as I understood him, that whenever we—meaning the portion of the House interested in it—desired to call it up, let him know, and he would do it. We were waiting; we were deliberating; we were consulting upon the mighty importance of the measure. We of Kentucky desired delay because our Legislature is at this time in session; we were anxious to hear from it. I have no doubt that my colleagues felt on this subject perhaps as I felt, that we should be permitted to hear from the Legislature of our State before we expressed our opinion, lest that opinion might be against the judgment of the State. This delay has been refused. Yesterday morning, to the surprise of nearly one half of the House, the resolution now under consideration, was offered by the gentleman from New York coupled with the declaration that he was under the pledge to call the previous question. No debate, no interchange of opinion was allowed. Since then we have been engaged in asking a few hours' consideration for those whose constituents must be regarded as having a direct and immediate, yes, sir, a vital interest in it. We are refused the ordinary courtesy of legislative proceeding. Allow me to say, Mr. Speaker, without meaning disrespect to any, that I do not believe there are thirty men in the House who will vote this tax if the hour for it ever comes. They do not intend to do it; the resolution itself does not even promise to do so——

Mr. STEVENS. I am told that the gentleman has said that I had promised not to call up this resolution.

Mr. WICKLIFFE. I said that the gentleman stated he would call it up at any time that would suit us, or suit me.

Mr. STEVENS. I have not called it up now, and never should have called it up, unless the gentleman wanted it done.

Mr. WICKLIFFE. I know you have not called it up, but you have called up its twin brother. What I complain of is that, instead of going straight forward and in an open and manly discussion of this matter in the Committee of the Whole on the state of the Union, we have it sprung upon us as the effect, perhaps, of a caucus.

Mr. STEVENS. I do not want the gentleman to say that I have violated any promise to him. I did not call up the resolution, and never would have called it up unless required by the gentleman, and then only as a matter of courtesy to him. From the little practical effect that I believe it would have, it is the very last thing that I would call up.

Mr. WICKLIFFE. I did not mean to cast any reflection on the gentleman. I did not intend to charge him with violating any promise. I mentioned it as an extraordinary event that, yesterday morning, to the astonishment of a large majority of the House, the member from New York [Mr. ROSCOE CONKLING] copied the President's resolution, stripped of the accompanying language of the President, and offered it as his own, accompanying it with the declaration of his intention to call the previous question. When was it, sir, in the history of the American Congress, that a proposition of the magnitude of this one, involving the emancipation of four millions of slaves and the payment for them out of the public Treasury, was presented to the House of Representatives, and the previous question demanded, and those members who were for or against it denied the opportunity of uttering a single word in vindication of their opinions? Sir, I had once the honor of serving in this House for some ten years, and I think that if I were to say that during those ten years the previous question was not called ten times in the House of Representatives—once a year—I would be within the mark. But at the present time it seems that nothing can be said, nothing can be discussed, opinions cannot be expressed, unless it is by the grace of the member who stands and holds the previous question at his bidding. A motion, a resolution, or bill is moved, the previous question is called, it is passed. A reconsideration is moved, and the motion to reconsider is laid on the table; and there is an end. It is not known what is in the bill or resolution half the time.

But, sir, to the question. How is this proposition to be executed? What is the plan? You say that if any State will adopt a system of emancipation, the United States *ought* to furnish, from the Treasury of the United States, such State with pecuniary aid and assistance. Now, I speak as a citizen. I cannot speak for my State. If it were left to me to say whether the slaves that I own should be emancipated on my being paid for them by the United States, I would say "no." That is an act which I will do whenever it is to be done without promptings of pecuniary aid from the United States. I would rather lose them by the "underground railroad" than be guilty of a violation of the Constitution, by taxing the people to pay for the loss I might sustain by emancipating them. Hence I have been desirous to know whether those gentlemen who are for passing this resolution will now tell the American people, tell the States that may adopt the measure, that Congress will, in any shape or form, appropriate money to carry it out. Now is the time to make known your present intentions and future purposes upon this question. Would they vote that money now if they had it? That is the point to which we want a decided answer.

Mr. Speaker, there has risen up on the very face of the discussion of this question an inquiry for every man to make who has taken the oath to support the Constitution of the United States. All admit—and when I say all I allude to the vote which was given in this House some twelve months past, by which it was declared that the citizens of the non-slaveholding States have neither the power nor the disposition to interfere with the institution of slavery within the States where it now exists—that Congress has not the power or right to interfere with that institution in the States. Is it no interference by Congress with that institution to propose to the States, to the people of these States, a measure which is to agitate the public mind, not only of these States, but of the whole Union?

Is it no interference with the institution of slavery for the United States to inaugurate emancipating parties, reckless of the peace and order of society? And shall this be done at a time like this when the union of all good men is so much needed to save that Government so dear to every American heart? Will you, can you desire that the energies of the people of these States shall be paralyzed in this great struggle, and wasted in the vain hope of an effort to emancipate four millions of slaves, and to pay the owners of them by taxation, with a war debt now upon the nation of over seven hundred millions of dollars—and that war just begun—if the policy be pursued in its prosecution designed by a portion of this Congress?

Let us alone; permit us to do our duty in the pending struggle, and we will attend to our own domestic institutions; and we trust to our Heavenly Father to point and guide us to the path of duty. You, by the offer, beget in every State where the institution of slavery exists, what will be destructive of domestic peace and domestic prosperity. It brings up the question of emancipation of slaves; the most exciting one that can be mooted.

THE CONSTITUTIONAL POWER.

Where, sir, do you find the power in the Constitution to appropriate the money of the people to carry out the purposes of this resolution? I made the same pertinent inquiry yesterday, and the response was that it was to be found in the preamble of the Constitution of the United States, in the words "to provide for the general welfare." It was alleged that it was competent for the legislative department of the Government, under these words in the preamble of the Constitution, "to provide for the general welfare," to do anything and everything which could be considered as promotive of the general welfare. I have spent some time in the practice of my profession; I have spent some portion of my life in the public service, especially in the halls of legislation, national and State, yet in all my life I have never before heard any lawyer or statesman claim the right or the power under the recitals in the preamble of the Constitution which is now so boldly asserted. Never before this present Congress have I heard that any such power was delegated under the phrase in the preamble of the Constitution, "provide for the general welfare." Under this pretense of power, Congress might think that it would be advancing the interests of the General Government to dot the whole country over with turnpikes, railroads, and bridges, or with schools and colleges, or to do anything or everything that a legislative body, unrestrained by a constitution, may do for the benefit of the people. I thought that this idea of a general welfare power had long since been exploded by our statesmen and jurists and courts whenever it was attempted to be asserted in the State or Federal tribunals. If you were to allow that to be taken as a granting power in the Constitution, then there is no limit to which the Federal Government or Congress may not go.

But we are told that this measure is to be consummated under the war power. It is alleged that we are now in a state of war, and we are told that the Constitution is, therefore, to be disregarded. It is said that whatever is *necessary* to carry on this war to a successful conclusion, may be done with perfect freedom under the license and authority, not of the Constitution, but as a military necessity. I deny that a state of war, and especially the present state of war, enlarges the power of Congress. I believe that Congress is vested with no more power than the people have already given to it for the purpose of doing all that is necessary and proper to carry on this or any other war. Is it necessary and proper, while pretending to restore this Constitution all over the territory of the United States, that we should repudiate the authority and power of the Constitution? Is it necessary that we shall disregard the Constitution and the laws? If we violate its provisions and disregard its mandates, no man but a despot can tell us where we shall stop. Neither will there be found a power to check his tyranny or to protect the citizen against oppression. If you want money to prosecute the war, the power to raise it is given. If you want men here, the power to raise them is ample. If you want to protect any portion of our citizens against oppression, here is the power to do it under the Constitution. But what will be the result of that military necessity which, it is said, enables us to lay aside the Constitution? What is it, and what has caused this line of executive and military action? I greatly fear there are many who desire more the emancipation of the slaves of the South than the restoration of the Union of the States. If it had not been for that strong desire, I think that we would never have heard of this military-necessity power.

I suspect, sir, that these old-fashioned opinions of mine may be taken as evidence of my want of loyalty. I have not as yet, seen any necessity why we should violate the Constitution in order that we should do what is required of us, and that is to furnish the men and money necessary to the restoration of the Union—I deny that a State of war increases or enlarges the powers of Congress. And let me depart from the argument a little. I want to make a suggestion to the gentlemen who agree with me, who prefer the restoration of this Union to all other political results at this time. Instead of proclaiming relentless and cruel war, the confiscation of estates, and the total subjugation of the white race, and the elevation of the black, I would urge the Government of the United States, (great and powerful as she is,) in the prosecution of a just and lawful war, a war approved by the civilized word, to proclaim, as the Army advances in its victorious triumphs to the misguided and deluded citizens in arms, lay down your arms; to the non-combatants, remain at your homes, attend to your business and property, and you shall be protected in both by the power of that Government your fathers established, both State and national. In this mode we may enter the dark regions of the seceded States with a hope of a restoration of the Union as it was.

But if the measures which now seem to be the particular and favorite ones urged to our consideration shall be carried out, if you proclaim to these people extermination or subjugation, and the confiscation of private property, you will have a war that will last longer than the life of any man upon this floor. You may conquer battles, and gain victories; but you will not in that way secure the reëstablishment of the Government and the restoration of the Union. How do you expect to maintain the Union and to reëstablish the laws of the United States over the seceded States? How do you expect to induce the people of those States to aid and assist you in the restoration of the Union and of the Government? How do you expect to do that, if you drive every man from his homestead under the threat you make here of utter destruction or subjugation? You destroy all hope of peace. Leave the peaceful non-combatants at rest; let them know that they have the pledge of their security by this Government. If that be done, when the war is over you will find a nucleus of Union men in the slave States around which the inhabitants of those States can rally, and then the Union may be restored. But if they are to be alarmed by threats of confiscation of estates of non-combatants, then their homesteads will be abandoned and burned either by themselves or the enemy. You see already the madness of the leaders of the rebellion. They urge the population of the South to burn their homesteads, and to destroy all their crops, in order to keep them out of the possession of what they term their enemies. You have taken possession of a portion of the South. I was glad when I heard of it. You have alarmed the population. They have now run off and left their slaves unprotected. What is proposed here? One gentleman has proposed that we shall have a land office

in the South, and that the lands of the nabobs shall be distributed to the slaves that have been abandoned. There are other projects equally as absurd, and in violation of the laws of civilized war.

Suppose you emancipate the whole of the black population of the southern seceded States, something over three millions, what do you intend to do with them? Have you provided any colony to which you can send them? Do you intend to leave them in the South where they are? Or do you intend to locate them in the free States? One plan was before us, I think, in a bill this morning. It is proposed that the Congress of the United States shall open cotton plantations in the South, upon lands now in the possession of the Army. Is that a *military necessity*? Is it a military necessity that we should employ, at the public expense, many agents, (I do not know that they are called overseers, as they are in the South; that would not sound well,) sub-agents or superintendents? They are none of them to be called *overseers*, that would sound too much like the agent of a southern slaveholder. There was a peculiar provision in it—this bill to which I refer. They were to *force* these creatures to work, and, if necessary, they were to give them humane and Christian instruction. No, sir; the word "instruction" is not there; but they were to use "*humane and Christian force*," I believe. What do you mean by that? You are to send a parcel of men to superintend the negroes on the cotton plantations as overseers for the United States. You may as well postpone that measure for a season, because the planting season for cotton is over in that latitude, and you can raise no crop this year.

I ask the gentlemen who are advocating these propositions, if it is a "military necessity" that this Government, with a debt now of upwards of seven hundred millions of dollars, should commence the business of cotton planting in South Carolina and Georgia or elsewhere? I ask where is the power and authority in the Government of the United States to go into the business of farming—for it amounts to that practically? Where is the authority for the Government of the United States to send a parcel of men South to engage in the business of cotton-growing who, when they get there, will know as much about raising cotton as I do about preaching the Gospel, and not as much, for I have heard the Gospel preached, and they never saw a stalk of cotton growing. [Laughter.] If you carry out your plan, it will be the finest position for one of your modern honest men to steal that you can find in the United States, not excepting Army contracts.

I did not intend to discuss this question to-day, because I hope to have other opportunities of discussing it; but I could not help alluding to these measures which are urged, as everything is now, upon the plea of military necessity "to crush out the rebellion." I think it is possible the views of some of these measures of military necessity which are to bring the war to a speedy close which are so often expressed here, may have had the effect of making Beauregard and his command leave Manassas suddenly.

What is to be the effect of this resolution upon the war? There seems to be an intimation, if I understand it, that there is danger that the border slave States, as they are termed, unless this measure shall be inaugurated, may wish to join the slave States of the South, not while the war is going on, but when the southern confederacy, composed of the cotton States, shall have gained its independence. I understand that that is one of the inferences that may be drawn from the adoption of this resolution. I do not say that is the clear sense of it; but may it not be drawn by those who do not understand the opinions and feelings of the President as well as we do? So far as I understand his conduct and his opinions expressed publicly and privately, I accord with him in the measures which he has recommended, which may be legitimately called war measures, as the only measures which would bring this war to a close, and give hope for a return of the States which have seceded. But, sir, I can see how this message of the President and the vote of this House may be understood abroad greatly to our prejudice. The inference will be inevitably drawn there that you from the North who advocate this resolution look to the utter impossibility of carrying out your favorite scheme of emancipation and confiscation, and the liberation of the slaves of the South; that you do not desire Union until slavery is abolished; and that you are willing to give up the cotton States, provided you can get the border States to emancipate their slaves.

For one let me say that no considerations of emancipation or of continued slavery, no considerations of money, or preferment, or advancement would induce me, and I think I may say a majority of the people of the State which I in part represent, under any circumstances, even if the independence of the southern confederacy should be recognized by all the world "and the rest of mankind," to give up the old Union for connection with a government and league such as the South presents; and they begin to understand that by this time at the South. Somerset and Fort Donelson have settled this question. They thought at one time that they had the power by the force of the arms of the southern confederacy to bring the proud and patriotic State of Kentucky into obedience to the southern confederation. But I told you at the commencement of the session—I was not exactly correct as to time, but what I predicted ultimately took place—that in the course of a month there would not be a hostile foot within the limits of that State; and if you were to acknowledge the southern confederacy now and give to the people of Kentucky a free choice, we would remain in the Union as we are with the right to govern ourselves under our own institutions and our own laws; we would stand by the Government which our fathers gave us, in preference to one which hangs together by a rope of sand and which cannot long exist. And more than that, we do not intend ever, by the blessing of God, to separate from the States of the valley of the Mississippi in any division of this country. We do not intend to separate from Indiana and Illinois and Ohio, and I will add, from old Pennsylvania, for I believe she is sound.

Sir, when there were but few inhabitants in the State of Kentucky, and when the mouth of the Mississippi was in the hands of a foreign Power, when there were, perhaps, but few inhabitants on the north side of the Ohio river, such was the importance of our commerce, small as it then was, that we thought it our right and our duty by the power of our arms to take the preparatory steps and possess ourselves of that river, and drive the Spanish power from its occupation, and Ohio and Indiana and Illinois and Iowa and Wisconsin will never consent to any adjustment of this question which will make that river the dividing line. I care not who may advocate it, or where the proposition may come from, by which that river and its advantages shall fall into the hands of an alien Power, a Power which will not be governed by that Constitution which secures us our rights at home and abroad it will be resisted by the great valley of the Mississippi. And I can assure gentlemen, so far as one man is authorized to speak for the State of Kentucky, that they need not be afraid, that if by chance, by accident, by power, or by agreement, you should consent to organize the cotton States into a confederacy, Kentucky will never consent to give up this Union, while she bears that name.

If it could be supposed that this proposition, if adopted, would put an end to this controversy, that the cotton States would see at once that there was no chance of Kentucky and Virginia and Maryland and Delaware joining the southern confederacy, even if it should be established and recognized, and they would at once surrender the contest as hopeless, I would give all the negroes in Kentucky, and five times as many more if I owned them, to see this contest ended honorably, and the Union restored as it was. But, sir, I am anxious to hear from gentlemen who are pressing this question upon us, how it is to operate upon the South. Do you intend to take this proposition in lieu of your measures of confiscation? Answer that question. Do you intend an abandonment of your measures for the cultivation of cotton? Do you intend to abandon your efforts, by the use of the Army of the United States, to emancipate the slaves of those who may be found resident within the region where this rebellion exists? If you intend to do that, and try this peaceful paper experiment, I can see that some good may possibly come of it; but if you intend to hold out this proposition, and at the same time carry out the measures which you have in embryo here in your committee room, and at the Clerk's desk—if you intend to divide the lands of the white man among the blacks, if you intend to exterminate the white race, and drive out from these States the people who occupy them, and hold them as Territories, then this measure cannot be necessary. I very much doubt that I should be able, by reflection, to come to a conclusion that this resolution is, perhaps, calculated to do no harm, if it did no good. But that has not been allowed me.

Sir, I have been compelled to deliver the few crude ideas that I have offered, in this disjointed way. Such as they are, you have them. In Kentucky and all these border States, the great difficulty that we have had to encounter from the influence of the South, and those of our own citizens who acted with the South, was to convince them that the Federal Government did not mean to interfere with slavery. I do not mean this to apply to the man alone who owns the slave; for it is a strange fact that the non-slaveholding portion of the population are most against emancipation. We were told by the advocates of the South that this war, which had been commenced and inaugurated for the purpose of protecting this capital and preserving the Union, would be used for the purpose of emancipating the slaves of the South. We took the opposite position. We recited the vote of Congress prior to that time—in the month of February, 1861—in which it was unanimously declared that Congress had no right to interfere with the institution of slavery in the States. With a view of satisfying the people of Kentucky and the people of the border States and the citizens of the South, as to what was the purpose and object of the war, my colleague [Mr. CRITTENDEN] introduced a resolution, in which it was declared that the war was for the purpose of extending the power and influence of the Constitution, of reëstablishing the States with all their equality and dignity, and was not intended or designed to interfere with their domestic institutions. I will here insert it:

"That this war is not waged on their part in any spirit of oppression, nor for any purpose of conquest or subjugation, nor purpose of overthrowing or interfering with the rights or established institutions of those States; but to defend and maintain the supremacy of the Constitution, and to preserve the Union with all the dignity, equality, and rights of the several States unimpaired; and that as soon as these objects are accomplished the war ought to cease."

How many members of this House voted against that resolution on the 22d of July last? Two; and two or three were too sick to vote, or, as we say in Kentucky, *absquatulated*. The rest of the members voted for it. We took that vote to our people. We met the disunionists on the stump, and read your vote and your declaration and the inaugural address and message of the President. We assured the honest people of that country that the purpose of the war was the reëstablishment and reconstruction of the Union as it was made by our fathers in 1777. We told them that they need not dread any effort on the part of the Administration or of the Congress of the United States to interfere with the institutions of the State of Kentucky, or of any other State.

With that belief infused into the popular mind of Kentucky, when the election came on, after a hard fought battle in every county of the State, between the disunionists on the one side and the Union men on the other, a majority of more than fifty thousand out of one hundred and forty-five thousand votes was given in support of the Union as it was. And Kentucky has sent into the Federal Army more than her quota of soldiers, willing to carry out the declarations of Congress and of the President, to maintain the Union, to guaranty to every State its legitimate right of self-government, and to protect persons and property. We are not now, I fear, carrying out that pledge. The vote on the proposition of the gentleman from Indiana [Mr. HOLMAN] the other day, shows a change of opinion in this House between July, 1861, and the day when that vote was cast. So

far as that vote goes, we are told that the object which we indicated in July last as the object of the war is not now its object.

Mr. FESSENDEN. Will the gentleman permit me to interrupt him a moment?

Mr. WICKLIFFE. No, sir; I cannot yield now.

Mr. FESSENDEN. Who has maae that statement?

Mr. WICKLIFFE. I refer to your vote and others on the resolution offered the other day by the gentleman from Indiana. I should like to take a stand-up vote in the House in the old-fashioned mode, by count of hands, whether you are willing to abide by the resolution of July, 1861. The resolution offered by the gentleman from Indiana the other day was a reiteration of the same principle enunciated in the resolutions of my colleague of last July, that the war is carried on for the restoration of the Union, the protection of persons and property, and the perfect equality of the States.

Mr. OLIN. Mr. Speaker——

The SPEAKER. Will the gentleman from Kentucky yield the floor to the gentleman from New York?

Mr. WICKLIFFE. I will after I am done. [Laughter.] I yielded to so many men the other day that I could not get the floor afterwards.

Mr. OLIN. I desire to correct the gentleman.

Mr. WICKLIFFE. The gentleman can correct me when I am done.

Mr. OLIN. I will, if I can get the floor.

Mr. WICKLIFFE. If I have done any man injustice, it is only by telling the truth about his vote. Gentlemen knew what they meant by that vote. Those who did not mean what they voted, of course I ask their pardon. I should like to say a little more of the mode and manner in which it is proposed to carry on this war. [Here the hammer fell.] It seems that my hour has expired, and I will add to this some of what I would have said.

I will call attention to the opinions of the President, and those who elected him, upon this subject of slavery as it existed in the States. The party, in their platform at Chicago, pledges him and themselves to this emphatic declaration:

"*Resolved*, That the maintenance of the rights of the States, and especially the right of each State to order and control its own domestic institutions according to its own judgment, exclusively, is essential to that balance of power on which the perfection and endurance of our political fabric depends; and we denounce the lawless invasion by armed force of the soil of any State or Territory, no matter under what pretext, as among the gravest of crimes."

The President in his inaugural address pledged himself to the observance of this principle, and I shall rely confidently on his fulfillment of that pledge. He said in that address:

"I have no purpose, directly or indirectly, to interfere with the institution of slavery in the States where it exists. I believe I have no lawful right to do so, and I have no inclination to do so."

In all his messages, that of July particularly, he has maintained the same regard for the rights of the States, and the sacredness of their institutions, as declared by him in March, 1861.

General Butler has not been silent upon this question of slavery, connected and affected as it may be by this war. He shall speak for himself. In his letter to the Governor of Massachusetts he utters the following sound opinions:

"On the morning following my landing, I was informed that the city of Annapolis and environs were in danger from an insurrection of the slave population, in defiance of the laws of the State. What was I to do? I had promised to put down a white mob, and to preserve and enforce the laws against that. Ought I to allow a black one any preference in a breach of the laws? I understood that I was armed against all infractions of the laws, whether by white or black, and upon that understanding I acted, certainly with promptness and efficiency."

Again, in the same letter, and speaking on the same subject, the following sentiments occur:

"I appreciate fully your excellency's suggestion as to the inherent weakness of the rebels, arising from the preponderance of their servile population. The question, then, is: in what manner shall we take advantage of that weakness? By allowing, and of course arming, that population to rise upon the defenseless women and children of the country, carrying rapine, arson, and murder—all the horrors of San Domingo a million times magnified—among those whom we hope to reunite with us as brethren, many of whom are already so, and all who are worth preserving will be when this horrible madness shall have passed away or be thrashed out of them? Would your excellency advise the troops under my command to make war in person upon the defenseless women and children of any part of the Union, accompanied with brutalities too horrible to be named? You will say, 'God forbid!' If we may not do so in person, shall we arm others so to do, over whom we have no restraint, exercise no control; and who, when once they have tasted blood, may turn the very arms we have put in their hands against ourselves, as a part of the oppressing white race?

"The reading of history, so familiar to your excellency, will tell you the bitterest cause of complaint which our fathers had against Great Britain, in the war of the Revolution, was the arming, by the British ministry, of the red men with the tomahawk and the scalping-knife against the women and the children of the colonies, so that the phrase, 'may we not use all the means which God and nature have put in our power to subjugate the colonies?' has passed into a legend of infamy against the leader of that ministry who used it in Parliament. Shall history teach us in vain? Could we justify ourselves to ourselves? Although with arms in our hands, amid the savage wildness of camp and field, we may have blunted many of the finer moral sensibilities in letting loose four millions of worse than savages upon the homes and hearths of the South, can we be justified to the Christian community of Massachusetts? Would such a course be consonant with the teachings of our holy religion? I have a very decided opinion upon the subject, and if any one desires—and I know your excellency does not—this unhappy contest to be prosecuted in that manner, some instrument other than myself must be found to carry it on."

General McClellan, in his address to the citizens of Virginia when he entered that State at the head of his gallant army, proclaimed to her citizens the following encouraging words:

"Notwithstanding all that has been said by the traitors to induce you to believe that our advent among you will be signalized by interference with your slaves, understand one thing clearly: not only will we abstain from all such interference, but we will, on the contrary, with an iron hand, crush any attempt at insurrection on their part."

On the 22d day of April, 1861, Mr. Seward, writing to Mr. Dayton, our minister at the Court of the Emperor Napoleon, and treating of the subject of the present rebellion, said:

"I need not further elaborate the proposition that the revolution is without a cause; it has not even a pretext.

"It is just as clear that it is without an object. Moral and physical causes have determined inflexibly the character of each one of the Territories over which the dispute has arisen, and both parties after the election harmoniously agreed on all the Federal laws required for their organization. The Territories will remain in all respects the same, whether the revolution shall succeed or shall fail. The condition of slavery in the several States will remain just the same whether it succeed or fail. There is not even a pretext for the complaint that the disaffected States are to be conquered by the United States if the revolution fail; for the rights of the States and the condition of every human being in them will remain subject to exactly the same laws and forms of administration whether the revolution shall succeed or fail. In the one case the States would be federally connected with the new confederacy; in the other, they would, as now, be members of the United States; but their constitutions and laws, customs, habits, and institutions in either case will remain the same.

"It is hardly necessary to add to this incontestable statement the further fact that the new President, as well as the citizens through whose suffrages he has come into the administration, has always repudiated all designs whatever and whenever imputed to him and them of disturbing the system of slavery as it is existing under the Constitution and laws. The case, however, would not be fully presented if I were to omit to say that any such effort on his part would be unconstitutional; and all his actions in that direction would be prevented by the judicial authority, even though they were assented to by Congress and the people."

Under date of April 10, 1861, Mr. Seward wrote to Mr. Adams, the American minister to England; and in his official instructions to him spoke as follows:

"You will indulge in no expressions of harshness or disrespect, or even impatience, concerning the seceded States, their agents, or their people; but you will, on the contrary, all the while remember that those States are now, as they always heretofore have been, and, notwithstanding their temporary self-delusion, they must always continue to be, equal and honored members of this Federal Union, and that their citizens, throughout all political misunderstandings and alienations, still are and always must be our kindred and countrymen."

I will quote no more, though much more remains to establish the position assumed by the Administration, by Congress, and the officers of the Army, that this war (being forced upon the United States) is to be prosecuted for the maintenance of the Constitution and the restoration of the Union as it was. To give it now a different purpose, to wage it for the destruction of the States, the abolition of slavery, would be a fraud so infamous that it would call down upon its authors the anathemas of all good and honest men.

MR. POWELL'S DEFENSE.

SPEECH OF HON. L. W. POWELL,

OF KENTUCKY,

IN SENATE, *March* 14, 1862,

On the resolution for the expulsion of Mr. POWELL, reported upon adversely by the Committee on the Judiciary.

Mr. POWELL said:

Mr. PRESIDENT: I had hoped that after the Judiciary Committee had made their report, the vote would be taken without any discussion. I at least, on my part, after the report of that committee, was willing that the vote should be taken without saying a word on the subject. But after the very extraordinary speech of my colleague, I am compelled, in my own defense, to make a reply. I trust, sir, that in the reply which I shall make, I shall be governed by feelings of just consideration to the Senate, that I shall approach the subject calmly, dispassionately, and seriously, duly impressed with the solemn circumstances by which I am surrounded, and the awful consequences to me individually of the action of the Senate.

My colleague was kind enough in the very lengthy, and I must say somewhat bitter, speech that he delivered, to speak kindly of me, personally. For that, I thank him. I shall not, I trust, be governed by that impetuosity of temper, if not bitterness of feeling, that characterized my colleague. My colleague's conduct in this whole matter has been, I confess, somewhat astonishing to me; yet I have no complaints to make of it. He has rights here as much as any other individual Senator. I accord to him most cheerfully all his rights and privileges. He stated to the Senate that this was a very unpleasant duty he had to perform. I hope that it was unpleasant, notwithstanding my colleague's disclaimer—his bearing, his manner, his temper, indicated to my mind that he was engaged in what to him was a work of love. But, Mr. President, there is a way of performing unpleasant duties that sometimes disarms them of a great deal of their apparent harshness.

My colleague is the author of the resolution. It is before me now in his own handwriting. [Mr. DAVIS assented.] It was presented, however, by another Senator. I have no complaint against the honorable Senator who presented it, because my colleague is presumed to know all the facts connected with this matter better than any other Senator, or at least the action of the State of Kentucky; and, as he makes the charges, I do not attach the least blame to any Senator for presenting the resolution. I think, however, my colleague acted a little ungenerously in this, that while he was laboriously engaged in drawing up his bill of indictment, he did not notify me of the fact. The first intimation I had of it was when the resolution was presented by the honorable Senator from Minnesota; and I must confess that when I looked at it at the Clerk's desk and found it to be in my colleague's handwriting, I was somewhat amazed. I thought courtesy at least to a colleague would have induced the Senator to notify me of what he proposed to do. He did not do it. The case went to the Committee on the Judiciary; and, as the honorable Senator from Illinois, the chairman of that committee, announced, I did promptly, and I trust delicately, ask the committee to give it the earliest possible attention. Before that committee, however, had time to conclude their investigation, such was the hot haste and zeal of my colleague, that he publicly in the Senate Chamber demanded of the committee to know why they had not reported, or at least urged them to report as speedily as possible. They did report that the resolution ought not to pass; and the very day that they made the report, my colleague notified the Senate that he would move on the next day to take it up. It did strike me that if my colleague had been governed by that courtesy which I am sure I would have extended to him, he would have come to me and consulted with me as to whether it would be convenient for me to have it taken up the next day or not; but he said not a word to me about it.

Of all this I do not complain, because I have been always ready to meet the charges. Conscious of my innocence, I felt that I could success-

fully meet them before any intelligent and impartial tribunal at any moment; and hence I have been prepared for the conflict from the very first day the resolution was introduced; for

"Thrice is he armed who hath his quarrel just."

I merely mention these things in passing; and I now notify my colleague that if ever I shall be under the painful necessity of making any assault upon him, in any way whatever, I will never do it through another. If I shall ever think it is my duty to do it, I will notify him of the fact, and I will do it in my own proper person. That is the way I will treat him. My sense of justice to a colleague indicates that I should do so; and notwithstanding the somewhat ungracious manner in which he has treated me, I shall always treat him in a way that I think proper, courteous, and just.

Mr. President, the speech of my colleague was extraordinary in many respects. He did not confine himself to the record. The indictment, I thought, was long enough. I have had some little experience in courts, and I have rarely ever seen an indictment longer than the one my colleague has drawn up against me. But, sir, he went out of the record, and compels me to meet charges that are not in the record, and of which I had no notice, and in doing that I hope my colleague will excuse me if I tell him that, in many particulars, he has drawn upon his fancy for his facts. Before I proceed to the gravamen of the charges, I will notice, at the outset, some of these outside allegations of my colleague and dispose of them. Really the gravamen of his speech, as I understood it, was, that I ought to be expelled from the Senate because I had misrepresented the will of the Union men of Kentucky, and because I had opposed the doctrine of coercion—had opposed the war, and voted against men and money to carry it on. That was the staple of his speech.

My colleague, with the zeal and ardor with which he always enters into any controversy, told the Senate that there was an immense mass meeting in the county of Owen, and that the people of that good county were invited there to drink whisky and feast on treason from Breckinridge and myself. I would not regard it as any want of loyalty if I had gone to the county of Owen and addressed my fellow-citizens there. Whether it would be disloyal or not, would depend on the manner in which I spoke to them. I can tell my colleague and the country that I should think it no discredit to me to speak to the people of the county of Owen. I have long known those people. They have been my fast, firm, political friends. I have spoken to them on many occasions, and always with pleasure. When I have been a candidate in the State of Kentucky, I have been always cheered at the close of the polls by the overwhelming majority that the people of Owen sent up for me. It will always afford me pleasure to mingle with and speak to the noble, patriotic, true-hearted, and gallant men of Owen. But, sir, the Senate will perhaps be surprised when I tell them that, although my colleague said I had been recently feasting those people with treason, I have not been in the county of Owen since the year 1856; and consequently the people at that meeting did not enjoy the banquet of which my colleague spoke.

I do not know why it was that my colleague, in his hot zeal to convict me of disloyalty, should have represented me as addressing assemblies of which I knew nothing and at which I was not present. It is true that some time after this meeting was over, I saw a statement in a newspaper announcing a great mass meeting in the county of Owen, and that Mr. Breckinridge, Mr. Vallandigham of Ohio, myself, and others would address them; but Senators all know how announcements of that kind are made in political canvasses. So far, then, as that part of my colleague's speech is concerned, it certainly can have no weight with the Senate; but if I had gone there and spoken to the people of Owen, I do not think I should have done anything wrong. I have spoken to them often with pleasure. I hope to be able to speak to them again, for I always met in that county good and brave men, true and loyal to the Constitution of their country.

My colleague said, too, that Humphrey Marshall was organizing troops in the county of Owen to march upon the capital of Kentucky, and he said that I knew it. Sir, I had no knowledge on God's earth that Humphrey Marshall was ever organizing troops for the purpose of marching on the capital of Kentucky. If he had any such intention, it was certainly unknown to me. After the panic which seems to have prevailed for some time at the capital had subsided, I saw a statement in the newspapers that Colonel Marshall had contemplated a descent upon the capital, but I regarded it as one of the many false rumors afloat in the country. I also saw in the papers a letter written by Colonel Marshall meeting this very charge—a letter written some fifteen or sixteen days after the 10th of September, when I attended a mass meeting at Frankfort, at which meeting the resolutions which my colleague has put in his charges were passed. If Colonel Marshall was at any time organizing men to march upon the capital, I had no knowledge of it, was in no way implicated in it, and am in no way responsible for it. I, however, do not believe he ever contemplated such a thing. His letter was written on the 27th of September, 1861, to Judge Prior, who had been instructed by General Anderson to ask Colonel Marshall to disperse some men who were said to be under his command. I will here state to the Senate that all the knowledge or information I ever had about Colonel Marshall organizing troops anywhere at any time I got from the public journals of the country. In this letter of Colonel Marshall, written a short time after the time at which, according to my colleague's statement, he was about to make a descent on Frankfort, he says:

"I have heard with profound astonishment and regret the rumor that I contemplated a descent upon the capital or the homesteads of Union men. I assure you nothing could be more false or preposterous, for if I had ten thousand men assembled, every Union man in the county or elsewhere might sleep in perfect security that I would not molest him or his, but, on the contrary, would protect him in the enjoyment of all those rights which are his birthright as well as mine.

"It is bad men who desire to convulse society who spread these reports—men who would precipitate the shock of arms and civil strife, that they might find opportunities for self-aggrandizement amid the turmoil they excite. I saw a paragraph stating that I was at New Liberty, surrounded by eight hundred secessionists to prevent my arrest; when I pledge my honor that I have not with me any one but my son of twenty-one years, who accompanied me from home."

It is not necessary for me, after the statement I have made, to assure the Senate that I had no knowledge that Colonel Marshall was organizing troops there. I do not know whether he was or not. If he was, it was certainly unknown to me. I neither advised it, concurred in it, nor had knowledge of it. How, then, is it that I can be made responsible for it, even if Colonel Marshall intended to do what my colleague charges, which Marshall himself, however, denies?

My colleague stated to the Senate that the neutrality which I and others advocated was not the neutrality of the Union men of Kentucky. I will show hereafter from the resolutions of their mass meetings, their speeches, and from their votes in the Legislature, that they were for the very neutrality I was for. My colleague said that they had assumed neutrality to divert the attention of the people; that is, that they were not sincere in it, if I understood him. So far as that neutrality is concerned, I shall show presently by incontestable records that it was inaugurated by the Union party of Kentucky. After it was inaugurated, I and many others, who had no hand in inaugurating it, assumed it for the purpose of keeping peace within the borders of Kentucky. If my colleague was correct in the announcement he made that that policy was adopted with a view to divert the attention of the people, I assure him that I had no hand in that. Whether those who first proclaimed it and who supported it during two or three canvasses in Kentucky were in earnest about it, I do not mean to say. I know that when I coöperated with them for neutrality, I was honest, I was in earnest, I meant it; and I was really astounded when my colleague proclaimed to the country, from his place in the American Senate, that they assumed that position for the purpose of diverting the public attention; in other words, in order to cheat the people.

My colleague announced, too, that if I had gone with the Union party, they would have received me with open arms. He was kind enough to tell the Senate that I had very great personal popularity in Kentucky, and to say that he had never heard a person speak otherwise than kindly of me personally. For that, I thank him. I fear that he does me over-justice in that. But I will say to my colleague that if I have the great popularity of which he spoke, I obtained it by acting with strict integrity in all my transactions, both public and private. As a politician, I never avowed before the people anything that I did not honestly believe. I never assumed a political tenet for the purpose of cheating and deceiving the people in any way whatever, and I trust and believe that the honest, the noble, the chivalrous people of Kentucky, if they esteem me at all, do so because of my direction, my sincerity, my truth, my devotion to their interests and to the interests of my country. They are a brave, honest, and generous people, and if they know that one of their public servants errs, but errs honestly, they are ready to cover his defects with the broad mantle of their charity.

It is not often that I have acted politically with my colleague. We were never, that I know of, together, but once. My colleague was a distinguished member in the olden time of the Whig party; he served with distinguished ability for many years in the other end of the Capitol from the Ashland district. He coöperated with that party ably and zealously. I, from my youth up, was a Democrat, coöperating always with that party. In the mutations of political parties, the Know Nothing or the American party came up, and my colleague was a distinguished member of that organization. I was firmly opposed to it. So, you see my colleague and myself have ever been in antagonism politically; but when my colleague and his party in Kentucky assumed the ground of neutrality, they appealed to the people of the whole State by resolution and by addresses from their central committees to get on it, and, in order to preserve the peace of Kentucky, while I said to my private friends that I did not believe they would maintain their neutrality, if the war should continue any great length of time. I agreed for the public good to go for it, for I was anxious to avert this most dire of all calamities, civil war, from the borders of Kentucky. I did take the ground of neutrality, and I thought I was then, for once, with my colleague; but to my utter astonishment he announced to the Senate yesterday that they got upon that platform to divert the public attention, and by some sort of hocus pocus to cheat and deceive the people. So I find that though my colleague and myself were together ostensibly, I was in earnest and he and some of his party were not. Now, Senators, I do think that a great many of the Union party in Kentucky were in earnest about this matter. I distinctly avow here that I was in earnest, and acted honestly in this whole matter of neutrality; and I had but one object, but one purpose, and that was to keep the war out of the borders of Kentucky, and to allow Kentucky, who had nothing to do with bringing on this war, who had been opposed to it, to stand as peacemaker between the belligerents with the single view of preserving the Union. That was the neutrality that I advocated; and in order that the Senate may see that I do not speak of that kind of neutrality as being advocated by me here, because of the peculiar circumstances by which I am surrounded, I beg to read a short extract from a speech I made in response to the honorable Senator from New Jersey, [Mr. TEN EYCK,] when he interrogated me upon this subject of neutrality at the last session of Congress. My remarks will be found at page 109 of the Congressional Globe of the first session Thirty-Seventh Congress:

"The Senator, as I understand him, asks how the State of Kentucky, consistently with her duty to the Constitution, refused to obey this call."

That was the President's call for troops.

"I will state to the Senator and to the country the view that Kentucky took of that question, as far as I am advised. Kentucky believed that this call for seventy-five thousand men was not necessary for the defense of the capital or of the public property. She believed that the calling forth of such an immense armament was for the purpose of making a war of subjugation on the southern States, and upon that ground she refused to furnish the regiments called for. The Senator seems to be a little offended at the neutrality of Kentucky. Sir, Kentucky has assumed a

position of neutrality, and I only hope that she may be able to maintain it. She has assumed that position because there is no impulse of her patriotic heart that desires her to imbrue her hands in a brother's blood, whether he be from the North or the South. Kentucky looks upon this war as wicked, unrighteous, and unnecessary. Kentucky believes that this war, if carried out, can result in nothing else than a final disruption of this confederacy. She hopes, she wishes, she prays that this Union may be maintained. She believes that cannot be done by force of arms; that it must be done by compromise and conciliation, if it can be done at all; and hence, being devoted truly to the Union, she desires to stay this war, and desires measures of peace to be presented for the adjustment of our difficulties.

"That is the neutrality of Kentucky, and that I understand to be the reason why she assumes to be neutral. It is the first time in the history of that proud Commonwealth that she ever failed to respond to the call upon the country for volunteers; she never was called upon to fight a public and foreign enemy that her true and gallant sons did not rush to the standard of the country in numbers so great that many had to be turned back. In other wars, in the war of 1812, and the war with Mexico, twenty times more men than could be taken were presented; and she would be ready to do it again, if it were a war against a foreign enemy; but she has no desire to shed the blood of a brother, whether of the North or South. I think her position is one that should be admired and esteemed by all patriotic men, by all Christian men, by all men who love their country and love the Union.

"She stands in an attitude, if possible, of a peacemaker, between the belligerents North and South, and I hope she may be permitted to maintain that attitude. It was one *not taken out of any hostility to the Government;* she took it because she believed it was the only means possible by which those difficulties could be averted, our country saved, the Union restored, and our people once more made prosperous, contented, and happy.

"I am aware that the position of my State is not palatable to gentlemen who rush fiercely on to this war. I am aware also that persons in the extreme South, perhaps, are not satisfied with the condition of Kentucky. They think we ought to unsheathe our sword at once, and make common quarrel with them. We have chosen to act differently, and we will, with the blessing of God, maintain our position of neutrality. This immense armament called out by the President looked to us as if this were to be a war of subjugation, and not one in defense of the public property. For that, in addition to the other reasons I have stated, we wished to present, if possible, a barrier between the fierce conflicting elements North and South, and restore peace to this country."

That was the neutrality of which I was the advocate, and I thought that the whole people of Kentucky who assumed it were alike honest with myself. I knew the position was somewhat anomalous, and I told some of my Union friends that I feared we should not be able to maintain it; but I said to them, "as you have taken it, for the peace of the State, for the common good, I will coöperate with you." I did coöperate and went not a whit further than the Union party went, as I will show you, though my colleague seems now to think, indeed declares, that they were not in earnest but were fixing up some clap-trap to cheat the people. If so, they deluded me on their platform, and because I went upon it and advocated it, as I always advocate everything, in public or private life, honestly, they want to sacrifice me. That is the truth, and I will make it manifest here. That is the only time I ever thought I was acting politically with my colleague; and it seems I was utterly mistaken in that; that I have been made the dupe, that I have been deceived by the artifice, insincerity, and political juggling of my colleague and those with whom he acted.

If my colleague wishes the extensive popularity which he imputes to me—a popularity I do not claim to have—I will say, that if he will act as I have acted in this and all other matters, consistently, with integrity, with honest directness, the noble people of Kentucky will sustain him. If I have any popularity, I got it in that way. I never, never attempted to deceive them in anything. I do not claim the popularity that my colleague imputes to me; but if I have it, it is because I have been true and faithful to the people, uttered my convictions honestly, without fear and without favor. I have announced them and carried them out as far as I could, consistently with public duty and public interest.

My colleague pronounced his usual philippic against the Breckinridge Democracy. Because Breckinridge has gone with the southern confederacy he seems to think that he can overwhelm any opponent by announcing that he has been of that party. I saw no necessity for his thrice-uttered philippic here against the Breckinridge party. It is true, Senators, that in my State, and perhaps in other States, many of those who supported Major Breckinridge for the Presidency are in the southern confederacy. It is also true that many who coöperated with my colleague and supported John Bell are there. I do not suppose my colleague is responsible because John Bell is in the confederate cause. He certainly should not make me responsible because Breckinridge is on that side, unless he takes the responsibility to himself because Bell is there. Breckinridge went there; I did not. Bell went; my colleague did not. What is the logic of that rule? I know that some of the most distinguished men of both the Douglas and the Bell party in Kentucky are with that confederation. The gentleman singled out a few Breckinridge men in the Legislature, upon whom he pronounced a glowing eulogy. I suppose they voted for him for Senator. I know those members of the Legislature to whom my colleague referred. They are honorable, worthy, and talented gentlemen. Why, sir, a distinguished gentleman, who pronounced himself a little while before that an unconditional Union man, in the gentleman's own neighborhood, Colonel Hanson, one of the most distinguished of the Bell men, by the by, a gentleman of ability and of talents and courage, was, unfortunately for himself, captured at the head of his regiment at Fort Donelson. Then there was another distinguished Union Bell friend, one of his electors, who is now a member of the confederate congress, Colonel Crockett, another gentleman of ability and valor from the town in which I myself live. Is my colleague responsible for these things? Certainly not. Why then, does he attempt to attach responsibility to me because of the action of the Breckinridge Democracy. That is all bosh, fustian-stuff. There is nothing in it. In these times it is as much as a man can do to take care of himself.

My colleague told the Senate, too, that my associates and myself are responsible for the devastation of a large portion of Kentucky. I was amazed when my colleague made that announcement. How I could be responsible, when from the beginning, as the Senate know, I have been for peace? I have been opposed to the war, and for that offense my colleague wishes me expelled from the Senate; for that is the charge, that I have been opposed to coercion. In every act of my life, in this whole connection, I have opposed the war, and striven in Kentucky, in mass meetings and otherwise, to keep the peace—to keep the hostile armies of the confederate States and of the United States from our borders. Then, how could I be responsible? I was really amazed. I could not tell; I did not know by what logic or what deduction of reasoning my colleague could make me responsible for the invasion of Kentucky. I can tell my colleague that when the passions of the day shall have subsided and reason shall have resumed its throne, and this whole affair shall be calmly investigated, the responsibility for the invasion of Kentucky will attach to others than myself. It will attach to those who got on this neutrality platform for the purpose of diverting the attention of the people, who were not in earnest about it, and who then went about organizing camps of Federal soldiers at Camp Dick Robinson and other places. In my judgment, the responsibility for this war in Kentucky attaches to them. I will not charge it upon anybody; but I know that I had nothing to do with it, for I was opposed from the beginning to the war being brought into Kentucky. I tried to avert it. I tried in my place in the Senate, as I shall presently show, to settle these difficulties by conciliation, by compromise. I failed. I then assumed neutrality along with the Senator's party. That was overthrown against my earnest protest, and how he can possibly make me responsible for the introduction of hostile troops into Kentucky, I am at a loss to know. I know that I am in no way responsible for it; and I do not fear to meet the people of Kentucky to discuss before them the whole matter.

My colleague, in commenting on one of the resolutions of that little county meeting in Henderson, made a singular announcement; but it was only singular in view of what I had known to be the political history of my colleague. The statement to which I allude was, that he had always been an unconditional Union man. I have here the proceedings of a meeting at which my colleague was present, that I will read to the Senate, and I will read some of the resolutions of the meeting, and then I will ask the Senate how the resolutions reported by my colleague as chairman of the committee, and which it was said were passed unanimously by a large mass meeting, comport with his declaration that he has always been an unconditional Union man. I allude to resolutions adopted by the Union State conventions held in Louisville, on the 8th of January, 1861. I take them up at this time, because I wish to place before the Senate in a consecutive manner the action of the Union party on the neutrality question. That action of course commenced after the President issued his proclamation for seventy-five thousand men on the 15th of April; but as these conventions were anterior to that time, I allude to them now. I wish to show where my colleague and the Union men of Kentucky then stood. I was at that time in the Senate Chamber, fighting for the Crittenden compromise, as the Senate know, and was exerting every effort I possibly could to have it passed, and to have our difficulties settled amicably, peaceably, without war, in order to avoid bloodshed and the final disruption of the Union:

"The following resolutions were reported to the Union Democratic State convention by a committee composed of the following gentlemen: Governor Dixon"—

Now a distinguished Union man, my intimate, personal friend, once a member of the Senate, who lives in the same village in which I reside—

"William G. Thompson, Judge Barbee, J. P. Barbour, Alexander Luske, John Jackson, V. B. Young, T. L. Jones, J. F. Bullitt"—

Now one of our supreme judges—

"And to the Union State convention by the following committee: Hon. Garrett Davis, Hon. Joshua F. Bell"—

The gentleman who my colleague said, if he had been elected Governor would have given troops—

"J. L. Shackleford, John W. Crockett"—

A gentleman who is now in the confederate congress—

"W. L. Underwood, Z. Wheat, Thomas W. Riley, William C. Goodloe, Orlando Brown, J. B. Huston, and James Taylor."

The Senate will notice in this committee some of the most distinguished gentlemen in Kentucky. Joshua F. Bell is an ex-member of Congress, and was the late candidate of the gentleman's party for Governor. Warner L. Underwood was recently a member of the other House. Z. Wheat is an ex-judge of our supreme court. Thomas W. Riley is a distinguished attorney. William C. Goodloe is at present one of the circuit judges of Kentucky. Orlando Brown is the late secretary of state and a distinguished politician. J. B. Huston is now one of the most distinguished Union men in the Kentucky Legislature.

The Senate may think it strange that there were two committees there, but I will explain that. The Douglas men and the Bell men both had conventions in the city of Louisville on the same day; they met in different halls; but they agreed through the instrumentality of committees upon the same resolutions; and hence it is said "they were reported to their respective conventions by the separate committees, and unanimously adopted." These resolutions go on to treat generally of our difficulties, of the aggressions of the North, and expressed very great devotion to the Union. They then copy the entire Crittenden amendments to the Constitution, and proceed to resolve as follows:

"*Resolved*, That we recommend to the Legislature of the State to put these amendments in form and submit them to the other States, and that if the disorganization of the present Union is not arrested, the States agreeing to these amendments of the Federal Constitution shall form a separate confederacy, with power to admit new States under our glorious Constitution thus amended."

Senators, you see that my colleague, as chairman of a committee composed of the most distinguished citizens of the State, reported a resolution as early as the 8th of January, 1861, in which they say that if the States do not take the Crittenden compromise, and the disorganization of the Union is not arrested, they recommend to the Kentucky Legislature, which was then in session or about to convene, to put it in form and submit it to the States, and that such States as adopted it should form a separate confederacy, with power to admit new States. That is the unconditional unionism of my colleague. Certainly he has shown nothing that I have ever had anything to do with, so direct as that.

While I produce this resolution here, and show

the character of the men who attended that meeting and passed it, I do not intend to charge my colleague with disloyalty; neither do I intend to charge it upon any of the distinguished gentlemen who participated in that meeting. I believe they are loyal men; I believe they are Union men; for they expressed their attachment to the Union in these very resolutions, as I before stated; but there was a contingency in their unionism. My colleague asked the Legislature of Kentucky to pass the Crittenden amendments to the Constitution, invite the coöperation of other States, and then to form a new Union upon the Constitution thus amended. That is a kind of unconditional unionism that I do not understand. If I had been in that meeting, I have no doubt that my colleague would have had it in his charges, and for that he would have asked that I be driven, dishonored, disgraced from the Senate because I was disloyal; but when he and his Union friends do it, it is all right. They are to receive the plaudits, I suppose, of a grateful people for doing that, which if I had done he would say should stamp me with eternal infamy. That was at an early time in this revolution, before the war had commenced—before a gun was fired, when the flag of the Union still waved over Fort Sumter—even at that early day my colleague had a condition in his unionism.

In the resolution just read, my colleague and his friends declare their intention and purpose, if the disorganization of the Union is not arrested, to break up the old Union and to form a new one. So far from being unconditional Union men, they distinctly avow their intention, in a certain contingency, which is set forth in the resolution, to form a new Union. They were for abandoning the old Union before a gun had been fired in its defense. The disorganization of which they spoke has not been arrested. The Crittenden amendments have been adopted by no States. With a full knowledge of these facts, my colleague yesterday distinctly told the Senate that he had always been an unconditional Union man. I will make no comments upon his sincerity or consistency; let the facts speak for themselves.

These distinguished gentlemen said further in their resolutions:

"*Resolved*, That we deplore the existence of a Union to be held together by the sword, with laws to be enforced by standing armies. It is not such a Union as our fathers intended, and not worth preserving."

That was the language of the Bell men and the Douglas men in Louisville in mass meeting. Yet the gentleman arraigns me for opposing coercion. They pronounced themselves against any such thing, and said that a Union held together by force was not worth preserving. He has introduced some resolutions in his charges against coercion, passed by political meetings attended by me, and asks that I be driven from the Senate because I advocated them and was opposed to coercion. My colleague has been very eulogistic of himself and the Union party of Kentucky; and he asks my condemnation and expulsion from the Senate for advocating the very principle set forth in the resolution last read, which was passed unanimously in mass meeting by himself and friends. What think you, Senators, of my colleague's sense of justice?

I introduce these matters for the purpose of showing what was the public mind of Kentucky. When I was urging the integrity of the Union, and not intimating that in any contingency I was for dissolution, my colleague and his friends were engaged in mass meeting, sending forth to the country and to the world resolutions that if the States did not take the Crittenden amendments, they were for uniting only the States that would adopt them, with power to admit new States, and turning the States that would not adopt the Crittenden amendments out of the Union. I am sorry my colleague did not think of these things when he was arraigning me for disloyalty to the Union.

I now ask the indulgence of the Senate while I show by the resolutions of the Union men of Kentucky, by their addresses, and by their legislative resolves, that they were in favor of neutrality, that they did approve the action of Governor Magoffin in refusing troops in obedience to the call of the President. I hold in my hand the Louisville Democrat of the 19th of April last, containing the proceedings of a Union meeting held in the city of Louisville on the previous evening. It is headed:

"Great meeting. Kentucky to stand neutral in the Union. Hands off on both sides. Five thousand Union men. Eloquent speeches by Hon. James Guthrie, Ex-Senator Dixon, Hon. John Young Brown, and Judge Bullock. Resolutions worthy of Kentucky."

I will read to the Senate some of the resolutions of this meeting: and I will hand to the reporter, to be published as an appendix to my speech, the whole resolutions and proceedings of the meetings to which I may allude, this among others, because I wish to make a record of them that the people of Kentucky may in after time know who it was that inaugurated neutrality, and who it was that stood upon it, and who it was that abandoned it. The meeting was organized by calling Judge Pirtle to the chair.

"Hon. Nat. Wolfe moved the appointment of a committee on resolutions, and the following gentlemen were accordingly appointed to draft resolutions expressive of the sentiments and sense of the meeting. Nat. Wolfe, Lovel Rosseau, [now General Rosseau,] Joseph Speed, G. A. Houghton, J. H. Harney, [the editor of the Louisville Democrat,] and Judge Bullock."

The committee reported a series of resolutions, from which I will read a few extracts:

"3. That as we oppose the call of the President for volunteers for the purpose of coercing the seceded States, so we oppose the raising of troops in this State to coöperate with the southern confederacy." * * * *

"6. That the present duty of Kentucky is to maintain her present independent position, taking sides not with the Administration nor with the seceding States, but with the Union against them both, declaring her soil to be sacred from the hostile tread of either, and if necessary, to make the declaration good with her strong right arm."

That was the meeting which inaugurated neutrality. The gentleman censures the resolutions of the meeting at which I was present, held afterwards, because they said that if the forces of either belligerent came upon the State, they should be expelled. Here the Union men of Louisville, at the very time they inaugurated neutrality, declared that they would make it good by the strong right arm. What did that mean? That they would maintain the neutrality by force, if needs be. It meant nothing else. I will read another resolution of that meeting:

"7. That to the end Kentucky may be fully prepared for any contingency, we would have her arm herself thoroughly, at the earliest practicable moment, by regular legal action."

Yes, they wished to have the State armed for the purpose of maintaining her neutrality by their good right arms. Now, let me read a few extracts from the speeches delivered before that meeting. Hon. James Guthrie addressed the meeting. He said:

"Now, in the action of the southern confederacy and that of Mr. Lincoln, the friends of both parties find excuses for them; but when it was the peace of the country and the saving it from war and bloodshed, then there should have been no interference of etiquette to prevent such a dreadful calamity. Kentucky spoke as her statesmen have always spoken, of conciliation, peace, harmony, and a final settlement. But war has been inaugurated. Fort Sumter has fallen. The President has issued a proclamation calling for seventy-five thousand men; but he has not told us what he is going to do with them. Is he going to retake Fort Sumter? Is he going to defend Fort Pickens? If so, why does he congregate them at Washington?"

* * * * * * * * *

"I want Kentucky to take her stand for peace, and appeal to that still, small voice in the North crying for peace. There are religious men from habit, education, and from profession, whose hearts, when Kentucky calls for peace, will be reached, and whose voice will reach the powers that be, and we will have peace."

* * * * * * * * *

"We have asked the South to stay their hands, for we had a great stake in this Government, and they have not. We plead with Lincoln for peace, and have not been hearkened to. Shall we be hearkened to in the din of arms? There will be a time when Kentucky's voice, if she stands firm on her own soil, fighting with neither section will be heard by millions of people of the free States who will hearken to us and say, 'Why should there be strife between us and you?'

"Let us stand boldly and fearlessly, as is characteristic of Kentuckians, and cry peace! Hold fast to that we know to be good, and let those men who want to make the experiment of secession go as individual amateurs, and find congenial spirits for their work."

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"If the North comes to ravage our land, we will meet them as Kentuckians always meet their foes. We will meet them as Kentuckians should meet them, so long as there is a tree for a fortification or a foot of land for a freeman to stand upon."

You see that Mr. Guthrie, who is a Union man, and who in that speech expressed his devotion to the Union, declared himself in favor of neutrality. In the resolutions of that meeting they declared their ardent attachment to the Union, but were still in favor of neutrality, and of maintaining it with their own right arm. Governor Dixon also made a speech at that meeting, from which I shall read a brief extract:

"We do not mean to submit to Lincoln. He has commanded us to send troops. We sent word that Kentucky will not do it. Will he compel us? Let him not dare it. Let him not rouse the sleeping lioness of the border States. She sleeps now, still and quiet, but it is not from lack of strength, courage, or power. She waits for the assault. Let it come, and roused she will crush the power that assails, and drag Mr. Lincoln from his high place. Can he make Kentucky help him kill? He has a right to demand troops, and he did. Glendower could, as he said, call spirits from the vasty deep, but would they come when they were called? Will the troops from Kentucky come at his call? No; they will never lend themselves to such a cause.

"But Kentucky will stand firm with her sister border States in the center of the Republic, to calm the distracted sections. This is her true position, and in it she saves the Union and frowns down secession."

There is certainly nothing in the resolutions read by my colleague more pointed than these resolutions of the first meeting in Kentucky that inaugurated neutrality—a Union meeting. I will next read an extract from the address of the Union central committee to the people of Kentucky, issued on the 17th of April:

"The alliance between party spirit and the sectional question of slavery has at length produced the legitimate fruit of such a combination. Disunion and war are upon the land. No further retrospect is necessary for the purposes of this brief address. The past is understood. We here propose to touch alone upon the present and the future.

"A condition of hostilities, as is known, exists between the seceding States and the national Government, springing immediately from the seizure by the former of one of the national forts. The President, in view of this seizure, and of the kindred acts committed previously by the seceding States, and of the secession out of which the acts have grown, has published a proclamation calling forth the militia of the several States of the Union to suppress what he describes as 'combinations too powerful to be suppressed in the ordinary way,' and to 'execute the laws,' appealing at the same time to 'all loyal citizens to facilitate and aid this effort to maintain the laws and the integrity of the national Union and the perpetuity of popular governments, and redress wrongs that have long been endured.' Kentucky, through her Executive, has already, we understand, responded to this appeal. She has refused to comply with it. And in this refusal she has acted as became her. *We approve the response of the Executive of the Commonwealth.* One other appeal now demands a response from Kentucky.

"The Government of the Union has appealed to her to furnish men to suppress the revolutionary combinations in the cotton States. She has refused; she has most wisely and justly refused. Seditious leaders in the midst of us now appeal to her to furnish men to uphold those combinations against the Government and the Union. Will she comply with this appeal? Ought she to comply with it? We answer, with emphasis, no.

"If a conviction that the policy of coercion is wild and suicidal, promising only to deluge the land in blood and dissolve the Union irretrievably in the crimson tide, is a good reason, as it is, for Kentucky to withhold her countenance and aid from the effort of the Government to suppress by force the revolutionary combinations of the Gulf, surely her allegiance, undimmed as yet by a solitary blur, her own sovereign interest, and the all but equal interest of the combatants themselves in the maintenance of her present independent relations towards both of them, and finally, the sacred and over-arching interest of the national peace and of the national life, are good reasons, nay, unanswerable and decisive ones, for Kentucky, as the case now presents itself, to decline to draw the sword in behalf of the seceding States against the Government of the Union."

There they denounce the doctrine of coercion as "wild and suicidal;" yet my colleague arraigns me most fiercely upon an extract he read from a speech of mine in the Senate, in which I opposed the war and opposed the whole policy of coercion. For that, forsooth, he says I should be driven from the Senate, though in the very extract he read there was coupled with that, the declaration that I opposed coercion because I thought it would lead to permanent disunion, that I was for the Union, and I believed coercion would destroy it. It was my love of Union that caused me to oppose coercion, as I distinctly stated. Here the Union central committee concur with me, and yet my colleague eulogizes them and condemns me. Is it because I am a Democrat, and have been a Breckinridge Democrat? I trust my colleague is not so prejudiced as to suppose that that which is good in others is bad in me; but that is the logic of his position. In this address, the Union central committee say further:

"The present duty of Kentucky is to maintain her present independent position, taking sides not with the Government and not with the seceding States, but with the Union against them both, declaring her soil to be sacred from the hostile tread of either, and, if necessary, make the declaration good with her strong right arm. And to the end

that she may be fully prepared for this last contingency we would have her arm herself thoroughly at the earliest practical moment.

"What the future duty of Kentucky may be, we, of course, cannot with certainty foresee, but if the enterprise announced in the proclamation of the President should at any time hereafter assume the aspect of a war for the overrunning and subjugation of the seceding States through the full assertion therein of the national jurisdiction by a standing military force, we do not hesitate to say that Kentucky should promptly unsheathe her sword in behalf of what will have then become her common cause."

The Union central committee were not unconditionally for the Union, it seems, any more than my colleague and his committee were on the 8th of January previous:

"Such an event, if it should occur, of which we confess there does not appear to be a rational probability, could have but one meaning—a meaning which a people jealous of their liberty would be keen to detect, and which a people worthy of liberty would be prompt and fearless to resist. When Kentucky detects this meaning in the action of the Government, she ought, without counting the cost, to take up arms at once against the Government. Until she does detect this meaning, she ought to hold herself independent of both sides, and compel both sides to respect the inviolability of her soil."

That address of the Union central committee was signed by J. H. Harney, W. F. Bullock, G. D. Prentice, (editor of the Louisville Journal,) James Speed, (now a distinguished member of the Senate of Kentucky,) Charles Ripley, W. P. Boone, P. Tompert, H. Pope, Nat. Wolfe, and L. E. Harvie. Certainly nothing the Senator has produced from me is stronger or more pointed than this address of the Union committee; and yet he eulogizes the conduct of his Union friends and censures mine most severely.

I have shown you, Senators, what was the atcion of the Union party of Kentucky, by their resolutions and addresses and speeches. Now, allow me to show you their action in the Kentucky Legislature. I wish the dates to be borne in mind, and in the end you will see whether I misrepresented the wishes of the people of Kentucky or not. On the 22d of January, 1861, the lower House of the Kentucky Legislature passed these resolutions:

"*Resolved by the General Assembly of the Commonwealth of Kentucky*, That this General Assembly has heard with profound regret of the resolutions recently adopted by the States of New York, Ohio, Maine, and Massachusetts, tendering men and money to the President of the United States, to be used in coercing sovereign States of the South into obedience to the Federal Government.

"*Resolved*, That this General Assembly receives the action of the Legislatures of New York, Ohio, Maine, and Massachusetts as the indication of a purpose upon the part of the people of those States to further complicate existing difficulties by forcing the people of the South to the extremity of submission or resistance; and so regarding it, the Governor of the State of Kentucky is hereby requested to inform the Executives of each of said States that it is the opinion of this General Assembly that whenever the authorities of these States shall send armed forces to the South for the purpose indicated in said resolutions, the people of Kentucky, uniting with their brethren of the South, will, as one man, resist such invasion of the soil of the South, at all hazards and to the last extremity."

The first of these resolutions was adopted by a vote of yeas 92, nays 0; and the second by a vote of yeas 87, nays 6. My colleague may say that this was before the present Legislature was elected; but allow me to tell him that Mr. Nat. Wolfe, Mr. Buckner, the present Speaker, and many other Union men in that Legislature, who voted for the resolutions, are in the present Legislature. Then they passed a resolution recommending the calling of a national convention, and a resolution appointing commissioners to the peace conference. The resolutions I first read only passed one House; but the following resolutions were passed by both Houses, and approved by the Governor on the 11th of February, 1861:

"*Resolved by the General Assembly of the Commonwealth of Kentucky*, That the people of Kentucky view, with the most lively apprehension, the dangers that now environ the Union and threaten its perpetuity.

"*Resolved*, That we appeal to our southern brethren to stay the work of secession—to return and make one mighty effort to perpetuate the noble work of our forefathers, hallowed by the recollection of a thousand noble deeds.

"*Resolved*, That we protest against the use of force or coercion by the General Government against the seceding States, as unwise and inexpedient, and tending to the destruction of our common country."

There is a resolve, passed by both Houses of the Legislature and approved by the Governor, against coercion as pointedly as any sentiment I ever uttered in this Hall or elsewhere. That was passed, you will remember, February 11, 1861. The next resolution is in favor of the call of a national convention to settle our difficulties.

Then in April the Legislature passed an act to provide for the election of delegates to the border State convention to be held at Frankfort.

Now, I will bring the record down to May, 1861. That was after the President had issued his proclamation. On the 16th of May the Committee on Federal Relations of the House reported the following resolutions, which were proposed by one of the most distinguished Union men in the Legislature, an ex-member of this body, Judge Underwood, and reported by the Committee on Federal Relations:

"Considering the deplorable condition of the country, and for which the State of Kentucky is in no way responsible, and looking to the best means of preserving the internal peace, and securing the lives, liberty, and property of the citizens of the State: Therefore,

"*Resolved by the House of Representatives*, That this State and the citizens thereof shall take no part in the civil war now being waged, except as mediators and friends to the belligerent parties; and that Kentucky should, during the contest, occupy the position of strict neutrality; and your committee unanimously recommend the adoption of the following resolutions."

There, sir, they take the position of "strict neutrality." What is strict neutrality? It is that you will stand indifferent; that you will furnish no aid of any kind whatsoever to either of the belligerent parties. That is the meaning of it, and that is all it can mean:

"*Resolved*, That the act of the Governor in refusing to furnish troops or military force upon the call of the executive authority of the United States, under existing circumstances, is approved."

Yes, sir, the Kentucky Legislature, in May, after the issuing of the President's proclamation, resolved to stand upon the doctrine of strict neutrality, and they approved of the action of the Governor of the Commonwealth in refusing to send troops upon the call of the President. The first of those resolutions was adopted by a vote of 69 yeas to 26 nays, and the second by a vote of 89 yeas to 4 nays. Out of the whole body there were but four who did not vote to approve the act of the Governor in refusing troops to the President.

Well, sir, the above series of resolutions were adopted by the lower House of the Kentucky Legislature. The Senate, on the 24th of May, 1861, passed the following resolutions by a vote of 13 yeas to 9 nays, enunciating similar doctrine in different words:

"Whereas, there exists a civil war between the national Government and the seceded States, which Kentucky deeply deplores; a war she had no voice in creating, and in which she has hitherto refused to take part, and she now refuses. Being a part of the national Government, in the enjoyment of its benefits—such as mail facilities, national hospitals, Federal courts, protection at home and abroad, a garrison paid out of the national Treasury, into which she is paying revenue—and having a representation in Congress, Kentucky ought, at least, to remain neutral till the end of the controversy; neither hindering the national Government in the exercise of its authority, nor furnishing men, as a State, to either of the belligerents; nor asking aid from either to maintain her position; she will, all the time, be ready and anxious to mediate between the belligerents, and will be profoundly happy, should she be able to reconcile the contending parties, and arrest the shedding of fraternal blood by fraternal hands. With this position, Kentucky is willing to go before the civilized world, and let her conduct pass into history, and await the candid and calm judgment of future and disinterested generations. Being connected with the seceded States geographically, and having the same domestic institution, she is unwilling to take up arms against them. Being attached to the national Government under which she has always lived and greatly prospered, and having no cause for war against it, she cannot take up arms to overthrow it. Having, in good faith, taken this position, she asked the belligerents to respect it: Therefore,

"1. *Resolved by the General Assembly of the Commonwealth of Kentucky*, That Kentucky will not sever her connection with the national Government, nor will she take up arms for either of the belligerent parties, but will arm herself for the one purpose of preserving tranquillity and peace within her own borders.

"2. *Resolved*, That Kentucky now tenders, and to the end of the war, all the time, will tender herself as mediator, and that she will constantly be ready to do all in her power to bring about a just and honorable peace.

"3. *Resolved*, That the Governor be directed to transmit a copy of the foregoing preamble and resolutions to the Presidents of the United States and of the seceded States, and to the Governors of each of the thirty-four States."

Mr. President, at the extra session of Congress, when I gave the votes and made the speeches of which my colleague and the Kentucky Legislature complain, I stood here upon the platform of Kentucky, as announced by her Union men in convention, by speeches, by addresses, and by legislative resolves. I stood here to advocate and did advocate the very doctrine that she said in the most solemn and formal manner should be advocated; and for that I am to be driven from the Senate by my colleague. Was there ever in the history of a public man such an unjustifiable assault upon him for doing that which the very party making the assault said should have been done? The Legislature ask me to resign for acting in obedience to their expressed will; and my colleague appears here and assumes the character of prosecutor in their behalf. I do not believe that the representatives of Kentucky ever desired or delegated to him the power to appear here as my prosecutor—he of his own volition assumes the task.

I hold in my hand the address of the delegates of the border State convention to the people of the United States. I wish to make this record complete, for I want to make but one vindication to the people of Kentucky. I know that when the whole facts are known, the honest, the brave, the true-hearted, noble men of Kentucky will sustain my action. They will say that I did right, that I acted in obedience to the public will of Kentucky, and that I did not misrepresent them. The border State convention published two addresses; one of them to the people of the United States, signed by J. J. Crittenden, James Guthrie, H. R. Gamble, W. A. Hall, J. B. Henderson, William G. Pomeroy—the last four are from Missouri—R. K. Williams, Archibald Dixon, F. M. Bristow, Joshua F. Bell, C. A. Wickliffe, G. W. Dunlap, J. F. Robinson, John B. Huston, Robert Richardson, and John Caldwell of Tennessee. I will read an extract from that address to the people of the United States:

"Our States desire and have indicated a purpose to take no part in this war, and we believe that in this course we will ultimately best serve the interests of our common country. It is impossible that we should be indifferent spectators; we consider that our interests would be irretrievably ruined by taking part in the conflict on the side where the strongest sympathies of our people are, and that our sense of honor and of duty requires that we should not allow ourselves to be drawn or driven into a war in which other States, without consulting us, have deliberately chosen to involve themselves. Our safety and our dignity, as among the most powerful of the slave States, demand of us that we take this position.

"If the time shall come when our friendly mediation may arrest the further progress of the strife, our most earnest and strenuous efforts shall not be wanting to bring about peace, and it is by such efforts that we hope to serve the interests of our country."

I shall now read a few extracts from the address of that border State convention to the people of Kentucky. This address is signed by John J. Crittenden, James Guthrie, R. K. Williams, Archibald Dixon, F. M. Bristow, Joshua F. Bell, C. A. Wickliffe, G. W. Dunlap, C. S. Morehead, J. F. Robinson, John B. Huston, and Robert Richardson—all distinguished names among Kentucky politicians. Mr. Bristow and Mr. Bell are ex-members of Congress; and Crittenden, Dunlap, and Wickliffe are now my honored colleagues in the other House; J. F. Robinson and John B. Huston are now distinguished members of the Legislature; and Robert Richardson is at present superintendent of public instruction in the State. What do they say on this question of neutrality, for which my colleague invokes my expulsion from the Senate?

"Your State, on a deliberate consideration of her responsibilities, moral, political, and social, has determined that the proper course for her to pursue is to take no part in the controversy between the Government and the seceded States but that of mediator and intercessor. She is unwilling to take up arms against her brethren residing either North or South of the geographical line by which they are unhappily divided into warring sections. This course was commended to her by every consideration of patriotism, and by a proper regard for her own security. It does not result from timidity; on the contrary, it could only have been adopted by a brave people—so brave that the least imputation on their courage would be branded as false by their written and traditional history."

Further on, they say:

"In declining to respond to a call made by the present Administration of the Government, and one that we have reason to believe would not have been made if the Administration had been fully advised of the circumstances by which we were surrounded, Kentucky did not put herself in factious opposition to her legitimate obligations; she did not choose to throw herself in hostile collision with the slave States of Missouri, Maryland, and Delaware, which have not seceded on the one hand, nor the slave States which have and are in process of secession on the other, and shed the blood of brethren and kindred at the very moment when she was striving to be an apostle of peace. Nature herself revolted at the thought, and her conduct in this

matter had so much of love to God and love to man in it, that it will meet the sanction of an approving world. So far from being denounced for this action, it is everywhere looked upon as an act of purest patriotism, resulting from imperious necessity and the highest instincts of self-preservation—respected by the very Administration that alone could have complained of it, and will, we doubt not, be ratified by it, if not in terms, at least by its future action. That fact did not take her out of the Union.

"Kentucky, in so grave a matter as this, passes by mere legal technicalities, and a discussion of theoretical difficulties of government, poises herself upon her right to do what the necessities of her condition imperatively demanded of her, and relies upon the good sense and magnanimity of her sister States, seeing that there is no parallel in her condition and theirs, to do her justice.

"In all things she is as loyal as ever to the constitutional administration of the Government. She will follow the stars and stripes to the utmost regions of the earth, and defend it from foreign insult. She refuses alliance with any who would destroy the Union. All she asks is permission to keep out of this unnatural strife. When called to take part in it, she believes that there is more honor in the breach than in the observance of any supposed duty to perform it.

"Feeling that she is clearly right in this, and has announced her intention to refrain from aggression upon others, she must protest against her soil being made the theater of military operations by any belligerent. The war must not be transferred by the warring sections from their own to her borders. Such unfriendly action cannot be viewed with indifference by Kentucky."

Why, sir, that is the doctrine that I have announced, and for which I am so harshly and bitterly censured by my colleague. I have read the distinguished names signed to this address; and right here allow me to defend one of those gentlemen from what, I have no doubt, was an unintentional assault by my colleague. I allude to Mr. Joshua F. Bell. My colleague, with stentorian voice and lusty lungs, announced that if Joshua F. Bell had been elected Governor instead of Magoffin, he would have furnished troops at the call of the President; that they were not furnished in consequence of the treason of the Governor. Why, sir, in this address, signed by him, Joshua F. Bell says the Governor did right; that Kentucky's position was right. I have known Mr. Bell for many years. In early life I was his school-mate in the university. I sat on the same benches with him. I have known him since. He is a talented, high-toned, and honorable gentleman. In my judgment, Joshua F. Bell would scorn to approve in another what he would not do himself. The fair inference is, that Mr. Bell, if he is an honorable gentleman, and I know him to be such, would have acted just as Magoffin acted; for he approved of Magoffin's action. I know my colleague did not intend to make any assault upon Mr. Bell, for I understand there are the most friendly relations between them.

I have now read to Senators the proceedings of the Legislature. I have still another action of theirs that I desire to present. The Kentucky Legislature in May last, in obedience to the resolves of these Union meetings—for they called upon them to do it—passed a law to organize her military. That law, as you will see, reiterates the very same idea on the subject of neutrality that is contained in the resolutions that I have read. I will read you the tenth section of that military law which was passed in May, 1861:

"Nothing contained in this act shall be so construed as to authorize said board, or any of the military organizations created by the militia law of this State, to use in any wise the arms and munitions of war herein authorized to be purchased, or those already belonging to the State, against the Government of the United States, nor against the confederate States, unless in protecting our soil from unlawful invasion, it being the intention alone that said arms and munitions of war are to be used for the sole defense of the State of Kentucky."

The law declared that the arms and munitions of war were not to be used against the confederate States, nor against the Federal Government, but in defense of Kentucky. That law was passed in obedience to the resolves of the Legislature of Kentucky, and particularly in accordance with the resolutions of my colleague's party in the State. Allow me to read another extract on this subject of neutrality. I have shown you, from their resolutions and addresses, that they meant just what I did by neutrality. Judge Underwood—well known to this Senate—wrote a letter on this subject of neutrality, dated Glasgow, June 6, 1861. I will read one short extract from that letter. Judge Underwood believed in the right to coerce a State, but in speaking of neutrality he said:

"Now, although my opinion as to the right of coercion remains unchanged, I have, from many considerations, too numerous to be here mentioned, come to the conclusion that Kentucky may properly refuse to participate in the war in progress. Hence I proposed that she should occupy the position of neutrality, believing she could thereby be more efficient in putting an end to the war, and restoring the Government to its legitimate action, than in any other way. Having taken that position, I think we are bound in honor to maintain it; after assuming to be neutral, if we join our forces with those of the national Government and aid in coercing the seceded States, we shall present ourselves before the world as an oscillating, undecisive, unreliable, and timid people; meriting ridicule and contempt, instead of respect and confidence. We can attract the admiration of mankind by taking a firm, immovable, and yet conciliatory stand."

That was the opinion of Hon. Joseph R. Underwood, once an eminent and distinguished member of this body, a gentleman eminent for ability, integrity, and worth, now a distinguished Union member of the Kentucky Legislature, on the subject of neutrality. My colleague must see then that all the Kentucky Union men were not like himself, that some of them were in earnest on this subject of neutrality, and meant what they said. I will read extracts from a speech of Hon. Archibald Dixon, delivered at Paducah, Kentucky, on the 9th of March, 1861. Mr. Dixon is a distinguished member of the Union party, a gentleman of talent and high position, having filled many offices of honor and trust in Kentucky; he was once a member of this body. He said:

"That the distracted condition of the country was not without cause. There was a cause, and that cause must be removed, or peace between the sections could never be restored.

"The people of the slave States had been wronged, grievously wronged by some of their brethren of the free States, but not by the Federal Government." * * * *

"The Black Republican party, led on by Lincoln, their President, Seward, and others, are enemies of the people of the South, and of their institutions; they alone are responsible for all the injuries of which the people of the southern States have just cause of complaint.

"It was this party that resisted the execution of the fugitive slave law; that organized and protected underground railroads; that encouraged and aided its followers in stealing the negroes of the southern slaveholders; that gave countenance and support to such incendiaries and murderers as Helper and John Brown; that stirred up strife between master and slave." * * * * *

"But we are told that the Black Republican party has succeeded in electing a President and Vice President upon a principle purely sectional and hostile to the institutions of the slave States. This is true; and such a triumph, of such a party on such a principle, was and is an insult, not only to the people of the southern States, but to the conservative men of the whole nation.

"And if such a party after all that has occurred, is to be continued in power by the deliberate judgment and suffrages of the people of the free States, I think the sooner a separation upon just and amicable principles takes place between the sections the better for all parties. But before this takes place, I am for appealing directly to the people of the free States to turn this faction out of power and amend the Federal Constitution in such a way as to prevent a recurrence of similar difficulties, and afford to the people of the slave States such guarantees for the safety of their slave property, both in the States and Territories, as the necessities of the case may require.

"This, in my judgment, would be infinitely better for all parties than hastily and rashly to break up and destroy a Government, that if properly administered and properly appreciated by the American people, would be productive of more real and substantial blessings to those who live under it than any that ever existed or perhaps that ever will exist." * * * * "Are these States that have separated themselves from the Federal Union, because of wrongs and injuries done their citizens by the Black Republican party, to be forced and driven back into the confederacy by that party? And are the people of Kentucky to be compelled to enlist under the Black Republican banner and aid them in dishonoring and degrading those who have common sympathies and a common interest with them?

"I do not know that Mr. Lincoln means to attempt this. In his inaugural he says that the laws must be enforced in every State in the Union; but he could not have said less than this, as he is sworn to support the Constitution of the United States and to see that the laws are faithfully executed.

"This means, of course, that the revenue laws now existing in all the States shall be enforced; and it may be that not only existing, but all laws which a Black Republican Congress may pass, shall be; and it may be, in his judgment, his sworn duty to see that they are enforced.

"A Black Republican Congress passes a law to collect a direct tax, not only of the people of Kentucky, but of every other slave State, to raise money to support armies and navies to whip a seceding State back into the Union. Will Kentucky submit to such a tax? A Black Republican Congress passes a law to raise troops in Kentucky to compel Kentuckians to submit to Black Republican rule, or to aid the usurping Administration to whip sister slave States into subjection, or back into the Confederacy. Will Kentucky, with the lash of unprincipled faction suspended over her back, submit to such outrages, such wrong, such indignity? Will she suffer the foot of a Black Republican invader to desecrate her soil, whether the object of such invasion be the subjugation of her own brave and noble sons or of her brethren in her sister slave States? *Never, never.*" * * * * "Shall Kentucky, then, resist him if he attempts to compel her to aid him in coercing her sister slave States back into the Union? Of course she will. She considers him and his party enemies to the whole country; as disorganizers, usurpers, and destroyers of the liberty and peace of the nation. *How* will she resist him? By seceding from the Union, and surrendering all into his hands? In my judgment, this would be unworthy of the high character which Kentucky has always sustained for courage and chivalry. If she does not secede, what other course will she adopt to maintain her honor and protect her rights under the Constitution? I say, throw herself upon the resolutions of 1798, and, in her sovereign character, declare every law of Congress passed by the Republican party to coerce in any way seceding States unconstitutional and void. And if the President attempts to enforce any such laws after they have been declared by Kentucky unconstitutional and void, by raising money, by direct taxation of the people of Kentucky, or by compelling them to enlist under his banner, or marching his troops through her territories, let her meet him sword in hand, and appeal to the God of battles to determine the right between them.

"In this fight she will have as allies all the people of the slave States, and half or more of the people of the free States; for those opposed to Black Republicanism in the free States, hate it with a more undying hatred than even the people of the slave States.

"They have been faithful to us through all our conflicts, and are ready in a just cause to stand by us to the last extremity; and we ought not to desert them because temporarily borne down by the Republican faction, their enemies and ours. Let then the fight be, as it should be, with the Black Republican party, and not with the Government. It will be time enough to wage war against the Government, and separate ourselves from it, when the people of the free States, after having had a fair opportunity of voting on the great question of right, decide such question against us, and refuse us such guarantees as we have a right to demand of them. But this, in my opinion, they will never do. I have not always been an advocate of the principles contained in the resolutions of 1798; but the perils by which our State is now surrounded, and the necessity she may be under in a short time to choose between secession and nullification, have satisfied me that they are her last hope; and to save the State government from destruction, and the people from anarchy, and it may be from civil war, she must plant herself firmly upon them. If she does this, she will not be forced against her will into a conflict with either the North or South, but will have it in her power to act as mediator between them. She will not have to bear her portion of the tax on her property imposed by the southern confederacy, and which she would be compelled to do if she seceded from the Union and became a member of it, and which she would willingly do if she thought secession right or there was just cause for it. Nor would she be compelled to furnish men or money or arms against her own stern judgment of right to coerce such confederacy."

I have shown you, Senators, what was the action of public meetings and the Legislature of Kentucky on this subject. I shall now read one or two extracts from the leading political journals of Kentucky, to show that they took the same position. I will first read an extract from the Louisville Journal. It is but just to the editors of the Journal and the Louisville Democrat, extracts from which papers I propose to read, that I should state that I find these extracts taken from those journals in other papers. I tried to obtain a copy of their files, to see if they were correctly quoted, but was unable to find them. I believe they were properly and correctly extracted. The Louisville Journal, speaking of the President's proclamation calling for seventy-five thousand men, says:

"The policy announced in the proclamation deserves the unqualified condemnation of every American citizen. It is unworthy not merely of a statesman but of a man. It is a policy utterly hairbrained and ruinous. If Mr. Lincoln contemplated this policy in the inaugural address, he is a guilty dissembler; if he has conceived it under the excitement raised by the seizure of Fort Sumter, he is a guilty Hotspur. In either case, he is miserably unfit for the exalted position in which the enemies of the country have placed him."

Again, the Journal says—this was written, I suppose, in May last:

"In our judgment, the people of Kentucky have answered this question in advance; and the answer, expressed in every conceivable form of popular expression, and finally, clinched by the glorious vote of Saturday, is: arm Kentucky, efficiently but rightfully and fairly, with the clear declaration that the arming is not for offense against either the Government or the seceding States, but purely for defense against whatever power sets hostile foot upon the actual soil of the Commonwealth. In other words, the Legislature, according to the manifest will of the people, should declare the neutrality of Kentucky in this unnatural and accursed war of brothers, and equip the State for the successful maintenance of her position at all hazards. And when the Legislature shall have done this, it may, in our opinion, wisely adjourn, leaving the cause of peace and of constitutional Government, so far as Kentucky is concerned, in the hands of the twelve mediators whom the people of the Commonwealth have just chosen expressly for that high custodianship. This, it seems to us, as it plainly seems to the people at large, is what the Legislature should now do."

That was soon after the election of delegates to the border State convention. I will now read some extracts from the Louisville Democrat:

"Let Kentucky preserve her neutrality, and she at once becomes the rallying point for patriots from all portions of the land. Western Virginia, southern Ohio, southern Indiana, and southern Illinois will stand by her to a man, and

we are very much mistaken if Tennessee will not heartily coöperate.

"Conservative men from all parts, both North and South, will join her standard to stay the fratricidal hand which is now being raised in anger and fury."—*Louisville Democrat, April* 19, 1861.

"One other feature of these speeches of Mr. Lincoln and we shall, for the present, have done with him. At Indianopolis he, by the most direct indirection, threatened the southern States with practical coercion, and the country with speedy civil war. At Pittsburg he distinctly stated that the Chicago platform, as regarded the tariff and slavery, would be sacred law to his administration, and at no other point has he retracted or essentially modified these positions or assertions. The country may, hereafter, regard coercion and no more slave territory as the settled policy of his administration. If it comes to that, and the issue is simply submission to that policy or disunion and war, Kentucky will accept the issue. And Mr. Lincoln might as well know, once for all, that Kentucky takes war with all its fearful consequences. And when war comes, no intelligent son of the Commonwealth can for a moment doubt in which direction the hostile batteries of Kentucky will be pointed, upon what soil the steady tramp of her invading battalions will be heard, or in whose bosoms the keen blades of her conquering swords will be flashed. Let Mr. Lincoln and his abolition myrmidons, who so valiantly press him on to 'no compromise' and war, consider well these things, and beware in time, while yet the dangers they suggest are not at their own doors."—*Louisville Democrat, February* 24, 1861.

"There are some principles born with the people of this country, or inculcated from the cradle, and one is, that all Governments derive their just powers from the consent of the governed. When whole communities will not consent, what is to be done? Shall they be forced? We shall not discuss the right of secession. It does not come into the case. Deny it, and the difficulty remains. If whole communities are forced to submit, how shall it be said that the powers of the Government over them is derived from the consent of the governed? Besides, when war begins, where will it end? Will it not defeat forever the object, the restoration of this Union. We are satisfied it will. Time and the policy of conciliation will restore all that is lost. Force will destroy all hope of such a result.

"It is too late to talk of coercion in any shape; it is compromise or war if coercion is attempted. Lincoln must see this; and if he does not, his advisers, some of them, cannot fail to see it. We are told of the threats of those seceding States; but they threaten because they apprehend coercion."—*Louisville Democrat, February* 23, 1861.

Mr. Prentice and Mr. Harney, the editors of the Journal and Democrat, are both gentlemen of eminent ability, and have great influence in forming public opinion in Kentucky. Both of these journals at one time opposed coercion, and approved the action of the Governor in refusing to obey the call of the President for troops in April last.

I could give you several other extracts from the same papers, but I shall not take up the time of the Senate by doing so.

I have now shown you, Senators, distinctly the record of the Union party in Kentucky on this subject. I have shown it by their meetings, by their legislative resolves, by their addresses, and by their political journals. I have shown it to be precisely in accordance with the votes that I gave here at the called session of Congress; and yet my colleague says that I have misrepresented the people of Kentucky. What evidences have you of it, sir? Here were these resolves of the Legislature unrepealed at the time I cast those votes. Here were those resolutions and addresses of the Union mass meetings unrevoked. It was in accordance with those resolutions and with the express will of Kentucky, as declared by resolutions unrepealed on the statute-book, that I cast those votes in July last. I do not believe that the honest, bold, chivalrous people of Kentucky, when they see the whole facts, will be willing to censure me for doing what I had reason to believe was the will of the people of my State, expressed in every form in which the public will could be conveyed to a public servant.

The Senate will bear in mind the fact that it was not until after the 10th day of September last that the Legislature of Kentucky abandoned neutrality.

I regret very much while on this subject of neutrality that I have not a letter written by my colleague after he made a visit some time in April or May last to Mr. Lincoln. Mr. Warner L. Underwood, who visited the President about the same time, wrote a letter also. I have an extract here from Mr. Underwood's letter which I will read, and if my recollection is right, it is about the same in substance with the letter of my colleague. I must say, however, that my recollection of my colleague's letter is very general and indistinct. I regret I have not been able to obtain a copy of it. Mr. Underwood says:

"In reference to Kentucky, Mr. Lincoln told me he hoped Kentucky would stand by the Government in the present difficulties; but if she would not, that, let her stand still and take no hostile part against it, and that no hostile step should tread her soil. This is also true with Missouri."

My recollection of my colleague's letter is that Mr. Lincoln would acquiesce in Kentucky's neutrality. I may be mistaken in that, however, as I have no very distinct recollection of it. I read it hastily when it appeared in the newspapers, I think some time in May last.

Now, Senators, having disposed of the subject of the neutrality of Kentucky, with your permission I shall address myself briefly to the specific charges contained in the pending resolution against me. I think my colleague himself, as one of my judges, ought now to be satisfied that I have not misrepresented the will of the people of Kentucky. The vindictive manner in which he assailed me I suppose resulted from his character as prosecutor; but I have a right to appeal to his calm and dispassionate reason in his capacity as judge to know if I have not shown, by the most incontrovertible documentary testimony, that I did act in accordance with the will of the people of Kentucky, as made known to me in every form. If he would divest himself of his prejudice, I might yet have some hope of obtaining his vote against this resolution; but I do not think I shall; his prejudices are too deeply rooted to be overthrown by any array of facts, however convincing and irresistible they might be to an unbiased or unprejudiced mind.

Let me notice for a moment the resolutions of the conventions that were alluded to by my colleague yesterday. I shall very briefly notice those resolutions, for I have now spoken longer than I intended to do. The resolutions of the meeting in the county of Henderson contained one clause approving the proclamation of the Governor, and that was criticised by my colleague. The Governor of Kentucky was only faithfully carrying out the neutrality of the State assumed by the Legislature. My colleague also read a portion of the proclamation of the Governor. I will read the first part of that proclamation to show what the Governor's meaning was:

"Whereas numerous applications have been made to me from many good citizens of this Commonwealth, praying me to issue a proclamation forbidding the march of any forces of this or any other State or States over our soil to make an apprehended attack upon the Federal forces at Cairo, in Illinois, or to disturb any otherwise the peaceful attitude of Kentucky with reference to the deplorable war now waging between the United States and the confederate States; and whereas numerous applications from like good citizens of this Commonwealth have also been made to me, praying me to issue a proclamation forbidding the occupation of any post or place or the march over our sacred soil by any force of the United States for any purpose; and whereas it is made fully evident, by every indication of public sentiment, that it is the determined purpose of the good people of Kentucky to maintain, with courageous firmness, the fixed position of self-defense, proposing or intending no invasion or aggression towards any other State or States, forbidding the quartering of troops upon her soil by either of the hostile sections, but simply standing aloof from an unnatural, horrid, and lamentable strife, for the existence of which Kentucky, neither by thought, word, nor act, is in any wise responsible; and whereas the policy thus recommended by so many of my fellow-citizens of all political leanings is, in my judgment, wise, peaceful, safe, and honorable, and the most likely to preserve peace and amity between the neighboring bordering States on both shores of the Ohio river, and protect Kentucky generally from the ravages of a deplorable war; and whereas the arms distributed to the 'State guard,' composed as it is of gentlemen equally conscientious and honest, who entertain the opinions of both parties, are not to be used *against the Federal Government nor the confederate States*, but to resist and prevent encroachments upon her soil, her rights, her honor, and her sovereignty, by either of the belligerent parties, and to preserve the peace, safety, prosperity, and happiness and strict neutrality of her people, in the hope she may soon have an opportunity to become a successful mediator between them, and in order to remove the unfounded distrust and suspicions of purposes to force Kentucky out of the Union, at the point of the bayonet, which may have been strongly and wickedly engendered in the public mind in regard to my own position and that of the 'State guard.'"

That shows that the Governor had but one purpose in issuing the proclamation—that was to preserve the neutrality of the State. One reason that caused him to issue it was to prevent the marching of troops across Kentucky to attack the Federal troops in Cairo, Illinois. The Governor states that in the proclamation. He speaks particularly of that. Then he forbids troops being marched through Kentucky by either contending party, and asserts the neutrality of the State—a doctrine that had been proclaimed by the Legislature and by all the mass meetings of the Union men, as well as southern rights men, throughout the Commonwealth. The Governor's proclamation is dated May 20, 1861.

My colleague states that one of the objects of the convention at Frankfort, on the 10th of September, was to intimidate the Legislature. Allow me to say to my colleague that the Legislature was composed of many gentlemen of eminent ability—men who could not be intimidated—and I will venture the assertion that not a delegate to that convention ever thought so poorly of the Legislature as to believe they could be intimidated. The members of the convention had too much respect for the intelligence and manhood of the Legislature to harbor such a thought for a moment. I regard the charge of intimidation as unjust, both to the convention and to the Legislature.

My colleague stated yesterday to the Senate that eight or nine months ago a majority of the people of Kentucky, if the question had been submitted to them, would have gone South. How does he reconcile that statement with the assertion that I misrepresented the people by entertaining sentiments that were too strongly southern, in the session of Congress that commenced on the 4th of July last—more than eight months since? The larger number—nearly all—of the votes given and speeches made about which he complains, were made before the 20th of July last, the date of the battle of Bull Run.

There was one resolution passed in the Henderson meeting that my colleague did not put in his indictment, for he carefully culled them. He only used those that he thought would induce the Senate to vote with him. That resolution is this:

"That all honorable efforts for the conciliation of the belligerent sections and the reconstruction of the Union are desirable, and we will heartily second and further such efforts."

There we distinctly declared that we would do everything we could to reconstruct the Union. We thought it could best be done by peace, and hence we declared it. We were opposed to coercion, and we so distinctly stated. I will say here in relation to that meeting that I was merely called to preside over it. It was called to nominate a candidate for the Legislature. Resolutions were passed with very great rapidity, and without much notice from me. I have always been for the reconstruction of the Union and for peace, and opposed to coercion.

Then there was another resolution which my colleague cited, and which I will now read:

"That the recall of the invading armies and the recognition of the confederate States is the true policy to restore peace and preserve the relations of fraternal love and amity between the States."

That resolution does not contemplate a permanent dissolution of the Union, as its very terms show. It says, "in order to restore peace and preserve the relations of fraternal love and amity between the States," they advocate the withdrawing of the troops. Then there was another resolution, which I read a moment since, declaring that we would do everything we could to reconstruct the Union; that we would use every effort for that purpose. But the whole intent and meaning of that resolution was, that rather than attempt to reconstruct by coercion, which was thought could not be done, but if persisted in, would result in disunion and eternal severance of the States of the Union, it would be better to withdraw the troops; in other words, that you should make every honorable effort to reconstruct the Union by peaceable adjustment and compromise; and if you failed, then, rather than have a long, exhausting civil war, acknowledge the independence of the confederate States, and make as close a treaty of amity and commerce as possible with them, and perhaps in a short time both sections would find by experience they could live more prosperously united, and the Union would again be reconstructed with such constitutional guarantees as would satisfy both the North and the South. That is an idea I have heard advanced by many men of ability and experience; that was the whole idea of that resolution. The resolution speaks of restoring the relations of fraternal love. What fraternal love could there be, if we were parted eternally in separate and independent States? The resolution manifestly contemplated a reconstruction of the Union; the terms of the resolution

clearly indicate that. My colleague, however, when he offered his resolution on the 8th of January, to establish a union of such States as would adopt the Crittenden compromise, never talked about reconstruction, and he certainly ought not to object to this resolution. I have given you my interpretation of that resolution. I must confess I thought but little about it at the time; but the whole idea and intention of it was peace and a reconstruction of the Union.

One word, sir, as to the resolutions adopted at the meeting at Frankfort. I have shown that in the meeting at Henderson we declared our purpose to use every effort for the reconstruction of the Union, and declared for neutrality in just such terms as all parties in Kentucky declared for it. Among the Frankfort resolutions I find the following:

"*Resolved*, That every material interest of Kentucky, as well as the highest dictates of patriotism, demand that peace should be maintained within her borders, and this convention solemnly pledges the honor of its members to do all in their power to promote this end."

The object of that convention, as expressly declared in their resolutions, was to maintain peace within the borders of the State. Then they go on in the next resolution and declare that they believe a large majority of the people of Kentucky are in favor of the neutrality of Kentucky. Then follows a resolution, upon which I shall comment briefly, as it seems to be offensive to some persons:

"That the organization and presence upon the territory of Kentucky of a military force of either of the belligerents is a violation of the neutrality indorsed by the people, and we believe can be attended with none other than the most fatal and disastrous results; and in that belief we earnestly advise the removal, by the proper authorities, of all such force from the limits of the State."

Now, what is that? The resolution but declares that the neutrality of Kentucky should be enforced by the proper authorities. Who are the proper authorities? The Legislature and the Governor of the State. It never was intended to mean anything else but that.

But my colleague takes exception to a resolution that was offered by me appointing certain gentlemen a central committee. That resolution was in these words:

"*Resolved*, That Colonel William Preston, George W. Johnson, Esq., General Lucius Desha, Captain Richard Hawes, and Thomas P. Porter, Esq., be, and they are hereby, appointed a committee of organization, in order to carry out the purposes of this convention; and full powers are conferred upon them for that object."

My colleague tries to construe that into a military organization. Why, sir, I never dreamed of a military organization when I introduced that resolution. That convention was organized for the purpose of keeping the peace; it was a political organization; and that resolution was designed merely to organize the ordinary central committee to call meetings, &c. The object of the meeting was to preserve the peace, and the resolution expressly declared that if the State should be invaded and it should be necessary to drive out the invaders, it should be done by the legal authorities, that is, by the State authorities in obedience to the act of the Legislature. I venture to say that there never was a mass political meeting, the object of which was the organization of a political party, but adopted some such resolution forming a central committee for the purpose of general organization; and yet my colleague is trying to torture that resolution into a design to create a military organization. There never was any such intention. Whatever any one of the members of that committee may have done individually afterwards, certainly it was never contemplated by me that they should exercise any power under that resolution other than that usually exercised by committees of political parties in the various States.

When was the neutrality of Kentucky annulled by the State? On the 10th of September last that convention was in session. After that time the Kentucky Legislature invited in troops. They invited General Anderson, and they overthrew their neutrality; but up to the 10th of September, and for several days afterwards, the doctrine of neutrality stood unrepealed on the statute-books in the resolves of the Kentucky Legislature. I stood fairly on them up to that time. A few days after that meeting, the Legislature of Kentucky got off neutrality. What did I do? Did I ever advocate it afterwards? No, sir. I stood where the State stood, and when the Legislature went against it I acquiesced.

But my colleague says many of those men who were with me in that convention have gone South. That is true; and one of those who were with him on the committee on resolutions at Louisville has gone South, and is a member of the confederate congress. I know that many of those gentlemen have gone South; but I am not responsible for that. After the Legislature got off its neutrality, there was organized in Kentucky a provisional government at Russelville. I had nothing to do with that government. I never acknowledged it. I adhered to the old State organization, and am here to represent it. Those who did not adhere to the old organization followed that provisional government and acknowledged it. I did not. My colleague twits me with Breckinridge and other of my friends having gone South. They went South, and they acknowledged the provisional government. I did not. I remained here true to the Constitution, and loyal to what I conceived to be the proper legitimate government of Kentucky; and I intend to remain loyal to it, notwithstanding the assaults of my colleague. I intend to abide the action of the majority of the people of Kentucky properly and legitimately expressed.

But my colleague wishes to oust me from the Senate because I was opposed to coercion, and he quotes a speech that I made on the 2d of March, 1861. That is no new doctrine with me. It is possible that I may have erred in it; but if I did, I honestly erred. I hope the Senate will pardon me for being so tedious, for this is a matter of deep moment to me, although it may be of little interest to others. I hold in my hand a speech that I made in the Senate on the 22d of January, 1861, and I will read presently some portions of it to the Senate. That speech was made on the Crittenden compromise; and in it I expressed as strongly as I could my attachment to the constitutional Union. I had no stronger language in which to express my attachment to it. I did the same thing in the speech I made when I introduced the resolution to raise a committee of thirteen. I defy my colleague, or my most inveterate enemy, to find in any speech of mine any sentence in which I ever uttered a sentiment of disloyalty to the constitutional Union of our fathers. I have every desire that this constitutional Union shall be maintained, and I have said it on all occasions. I now desire it to be reconstructed. I have declared it in every speech that I ever made on the subject in the Senate or elsewhere. I may have been wrong in the means that I resorted to to save it. I differed and now differ with Senators as to the best means by which it should be saved. They may have been right, and I wrong; but I was honest in those opinions. I desired the constitutional Union to be saved as a whole; and I would be willing to yield my life to-day if I could preserve the constitutional Union of our fathers, and transmit it unimpaired to those who are to come after us.

In my speech in support of the proposition to raise a committee of thirteen, after speaking of the proposed amendments to the Constitution, I said:

"Let us follow the worthy example of the noble patriots who have gone before us. When the country was imperilled and surrounded by dangers that threatened its ruin they never thought of a disruption of the Government as a remedy. They went to work like sensible and patriotic men to remedy the evils by providing additional securities—by perfecting the Government; first, by the Articles of Confederation; then by the adoption of the present Constitution; and at three different times amending it in such manner as to meet the exigencies of the times, and give more ample security to the people in their persons, property, and religion, and curing such defects as experience had pointed out. That is our duty to-day. Let us never despair of the Republic; but go to work promptly, and so amend the Constitution as to give prompt, certain, and full guarantees to the rights of every citizen in every State and Territory of the Union. Unless we proceed to this work without delay, and exhaust every effort to accomplish it, we will not have discharged the duty we owe to ourselves, our country, and those who are to come after us. Let us employ constitutional remedies for the correction of the evils by which we are environed, and to avert the dangers that threaten to ingulf us in inevitable ruin. Unless we exhaust every means within our reach to preserve and protect the Constitution, and save our common country, we will be degenerate sons of the noblest sires the world ever saw."

That speech I made on the 10th of December, 1860. In my speech on the Crittenden compromise in January, 1861, I discussed this very doctrine of coercion. I will read one or two extracts from it to show that that doctrine, whether right or wrong, is no new thing with me:

"I do not believe that under the Constitution of the United States we have any right to make war upon a State. We find, by reference to the proceedings of the convention that framed the Constitution, that it was proposed to give that power, and it was denied.

"In the debates on the Federal Constitution, (Madison Papers, vol. 5, p. 139):

"'The last clause of the sixth resolution, "authorizing an exertion of the force of the whole against a delinquent State," came next in consideration.

"'Mr. Madison observed that the more he reflected on the use of force, the more he doubted the practicability, the justice, and the efficacy of it, when applied to people collectively, and not individually. A union of the States containing such an ingredient seemed to provide for its own destruction. The use of force against a State would look more like a declaration of war than an infliction of punishment, and would probably be considered by the party attacked as a dissolution of all previous compacts by which it might be bound. He hoped that such a system would be framed as might render this resource unnecessary, and moved that the clause be postponed. This motion was agreed to, *nem. con.*'

"Mr. Ellsworth, upon the same subject, said:

"'I am for coercion by law—that coercion which acts only upon delinquent individuals. This Constitution does not attempt to coerce sovereign bodies—States—in their political capacity. No coercion is applicable to such bodies but that of an armed force. If we should attempt to execute the laws of the Union by sending an armed force against a delinquent State, it would involve the good and bad, the innocent and guilty, in the same calamity.'—*Elliot's Debates*, vol. 2, p. 197.

"Alexander Hamilton said:

"'It has been observed, to coerce the States is one of the maddest projects that was ever devised. A failure of compliance will never be confined to a single State. This being the case, can we suppose it wise to hazard a civil war? Suppose Massachusetts, or any large State, should refuse, and Congress should attempt to compel them, would they not have influence to procure assistance, especially from those States which are in the same situation as themselves? What picture does this idea present to our view? A complying State at war with a non-complying State; Congress marching the troops of one State into the bosom of another; this State collecting auxiliaries, and forming, perhaps, a majority against its Federal head. Here is a nation at war with itself. Can any reasonable man be well disposed toward a government which makes war and carnage the only means of supporting itself—a government that can exist only by the sword? Every such war must involve the innocent with the guilty. This single consideration should be sufficient to dispose every peaceable citizen against such a government.'—*Elliot's Debates*, vol. 2, p. 233.

"Mr. Mason, and other distinguished gentlemen in that convention, uttered similar views. General Jackson has been quoted as authority by those who advocate coercion. In his farewell address he said:

"'The Constitution cannot be maintained, nor the Union preserved, in opposition to public feeling, by the mere exertion of the coercive power confided in the central Government. The foundations must be laid in the affections of the people, in the security it gives to life, liberty, character, and property in every quarter of the country.'

"This Government, if preserved, must be maintained upon the principle clearly and distinctly enunciated by General Jackson in the clause of his farewell address which I have just read. It is a Union that depends upon the consent of the people governed. It can only be held together by a faithful observance by all the States of the requirements of the Constitution, mutual interest and forbearance, and the ties of fraternity.

"You speak, Senators, of executing the laws. I am as much in favor of executing the laws as any Senator in this Chamber. The laws ought to be honestly and faithfully executed. Laws can be executed against individuals, but not against sovereign States. How is it possible that you can execute the laws when you have no civil officer in the seceding States? You can only constitutionally and lawfully apply force in aid of the civil authority. You have no judges, you have no marshals, you have no civil officers in those States. Is there a citizen of one of the seceding States who acknowledges the jurisdiction of the United States? I doubt if there be one.

"How, then, can you execute the laws there? If you resort to force, without that force being called in aid of the civil authority, it would be war. War, of itself, is equivalent to dissolution. Suppose twenty-eight States were to undertake by force to compel the five seceding States to remain in the Union and to acknowledge and submit to the jurisdiction of the United States, what would be the result? When you had accomplished everything you could expect from the Army and Navy—bombarded and destroyed their cities, laid waste their fields, slaughtered their people, overrun and conquered them—would you, by that means, have preserved the Union? No; you would have placed it beyond the probability of reconstruction. So far from a constitutional Union of thirty-three free sovereign States, you would have twenty-eight States and five conquered provinces. It is madness, worse than madness, to think of preserving this Union by force. It cannot be done."

I said further:

"If you would resort to coercion and war, what will be the result? You would have a long, exhausting civil war, and after it you would settle all your difficulties by negotiation. If we have to separate, in God's name let us part in peace. I trust, however, that all our difficulties may be properly and honorably adjusted, and that this Union may last for hundreds of years to come."

I said "if we have to separate, in God's name let us part in peace." Senators may think with

my colleague, that that is very strange language. Why, sir, I hold in my hand an extract from a letter of Hon. Edward Everett, of Boston, in which he used this language:

"To expect to hold fifteen States in the Union by force is preposterous. The idea of a civil war, accompanied as it would be by servile insurrection, is too monstrous to be entertained for a moment. If our sister States must leave us, in the name of Heaven let them go in peace."—*Edward Everett's Letter to the Boston Courier, February* 22, 1861.

I suppose Mr. Everett will not be denounced as disloyal for those sentiments. Those were my sentiments.

Stephen A. Douglas, in a speech in the Senate, remarked as follows upon coercion and civil war:

"I do not understand how a man can claim to be a friend of the Union, and yet be in favor of war upon ten millions of people in the Union. You cannot cover it up much longer under the pretext of love for the Union.

"War is disunion; war is a final and eternal separation; and the man who is for prosecuting this war, though he may have Union in his heart, is a disunionist."

John Quincy Adams, in 1838, in speaking of the right of revolution, said:

"With these qualifications we may admit the same right as vested in the people of every State in the Union, with reference to the General Government, which was exercised by the people of the United Colonies with reference to the supreme head of the British empire, of which they formed a part; and under these limitations have the people of each State in the Union a right to secede from the confederated Union itself. Thus stands the right. But the indissoluble link of union between the people of the several States of this confederated nation is, after all, not in the right, but in the heart. If the day should ever come (may Heaven avert it) when the affections of the people of these States shall be alienated from each other; when the fraternal shall give way to cold indifference or collision of interest, shall fester into hatred, the bonds of political association will not long hold together parties no longer attracted by the magnetism of conciliated interests and kindly sympathies; and far better will it be for the people of these disunited States to part in friendship from each other than to be held together by constraint. Then will be the time for reverting to the precedents which occurred at the formation and adoption of the Constitution, to form again a more perfect Union by dissolving that which could no longer bind, and to leave the separated parts to be united by the law of political gravitation to the center."

Mr. Adams states distinctly, in the extract just read, that it would be far better for the people of disunited States to part in friendship from each other than to be held together by coercion.

At the close of my speech just quoted, on the Crittenden compromise, I stated my attitude towards Kentucky as follows:

"I have been often asked what Kentucky will do in the event of a refusal on the part of the North to yield the guarantees she asks. Allow me to say that I am not authorized to speak for Kentucky. She has convened her Legislature in extraordinary session, to consider the condition of the country. In a very short time her chosen representatives will make known her position. I have every confidence that she will meet this crisis, and that she will act in the midst of the great events by which she is surrounded, in a manner becoming the honor and the dignity of a brave people, and the people of a free sovereign State, who know their rights, and knowing, dare maintain them. When the position of Kentucky shall be thus taken, when her sovereign will shall be legitimately made known, whether it be according to my personal judgment or not, I, as a true and loyal son, will obey her high behests."

Kentucky did make known her will, and I, to the best of my poor ability, obeyed it, as I have shown; and for that my colleague desires to visit upon me the harsh censure of expulsion. In the speech that I delivered here at the executive session I declared that I was for maintaining the constitutional Union. I have been true and loyal to the Constitution. I have resisted and denounced every infraction of that glorious instrument; yet my colleague says I have violated it; he has not pointed to a single instance in which I have not observed it.

My colleague arraigns me for voting against all war supplies, and things of that sort. He might have saved himself that trouble. It was known to the whole Senate. What I did I have not done in a corner; it was here in the Senate Chamber, and I admit it. I acted conscientiously. I believed I was right, and have no regrets in telling my colleague that I did what I believed was right. I may have been in error; but I have never regretted my action when I believed that action was right, and the duty was conscientiously performed. He read extracts from my speech denouncing the President for usurpation. I did, sir, in my place in the Senate censure the President for suspending the writ of *habeas corpus*, and adding to the regular Army and Navy without the authority of Congress, and causing arrests to be made without warrant. I then believed and now believe that I was right in doing so; but even in that speech which perhaps has called upon me most of this censure, I said:

"I still declare, to-day, that I desire these difficulties to be settled in any other way than by a recourse to arms. I do not believe this Union will ever be reinstated, or that it will ever be held together by force of arms. I believe that those who really love the Union, those who wish to restore the Union of these States, those who wish to bring them back in harmony under the Constitution of the country, desire to avert war. I said in my place last winter that I believed war was equivalent to disunion. I solemnly believe to-day that every battle you fight will widen and deepen the chasm that divides the States of this Union. In my judgment, Senators, you can never reunite this distracted, broken Confederacy by force of arms. I do not believe that one section can ever conquer the other; but if it could, so far from that bringing about the result for which you go to war, you would have produced the very opposite; you would have forever destroyed the constitutional Union.

"Senators, in my judgment, we should make every effort to settle this matter peaceably. I would like to see this war instantly cease on both sides, and then see the States that are now arrayed in hostile attitude against each other, exhaust every means possible for the peaceful settlement of the difficulties by such amendments to the Constitution as would satisfy all parties, and allow us to live in peace and harmony once more as a united people. I desire to see this Union reunited, and this constitutional Confederacy go on as a whole, as much as any man in this Chamber. But I feel confident that you can never effect that by arms. You must do it by compromise; you must do it by conciliation. You cannot do it by force. I heartily concurred with the Senator from Illinois, (now, I regret, no more,) the late Mr. Douglas, in the speech which he made here on the 15th of March last. It so fully meets my views on this question of coercion, that I will send it forward, and ask the Clerk to read it.

"The Clerk read, as follows:

"'I prefer such an amicable settlement to peaceable dissolution; and I prefer it a thousand times to civil war. If we can adopt such amendments as will be satisfactory to Virginia, North Carolina, Tennessee, and the other border States, the plan of pacification which will satisfy them will create a Union party in the cotton States which will soon embrace a large majority of the people in those States, and bring them back of their own free will and accord; and thus restore, strengthen, and perpetuate this glorious old Union forever. I repeat, whatever guarantees will satisfy Maryland and the border States (the States now in the Union) will create a Union party in the seceded States that will bring them back by the voluntary action of their own people. You can restore and preserve the Government in that mode. You can do it in no other.

"'War is disunion. War is final, eternal separation. Hence, disguise it as you may, every Union man in America must advocate such amendments to the Constitution as will preserve peace and restore the Union; while every disunionist, whether openly or secretly plotting its destruction, is the advocate of peaceful secession, or of war, as the surest means of rendering reunion and reconstruction impossible. I have too much respect for his intellect to believe, for one moment, that there is a man for war who is not a disunionist *per se*. Hence I do not mean, if I can prevent it, that the enemies of the Union—men plotting to destroy it—shall drag this country into war, under the pretext of protecting the public property and enforcing the laws and collecting revenue, when their object is disunion, and war the means of accomplishing a cherished purpose.

"'The disunionists, therefore, are divided into two classes: the one open, the other secret disunionists. The one is in favor of peaceful secession and a recognition of independence; the other is in favor of war as the surest means of accomplishing the object, and of making the separation final and eternal. I am a Union man, and hence against war; but if the Union must be temporarily broken by a revolution, and the establishment of a *de facto* government by some of the States, let no act be done that will prevent restoration and future preservation. Peace is the only policy that can lead to that result.

"'But we are told, and we hear it repeated everywhere, that we must find out whether we have got a Government. "Have we a Government?" is the question, and we are told we must test that question by using the military power to put down all discontented spirits. Sir, this question, "have we a Government?" has been propounded by every tyrant who has tried to keep his feet on the necks of the people since the world began. When the barons demanded Magna Charta from King John at Runnymede, he exclaimed, "Have we a Government?" and called for his army to put down the discontented barons. When Charles I attempted to collect the ship money in disregard of the rights of the people, and was resisted by them, he exclaimed, "Have we a Government? We cannot treat with rebels; put down the traitors; we must show that we have a Government." When James II was driven from the throne of England for trampling on the liberties of the people, he called for his army, and exclaimed, "Let us show that we have a Government." When George III called upon his army to put down the rebellion in America, Lord North cried lustily, "No compromise with traitors; let us demonstrate that we have a Government." When, in 1848, the people rose upon their tyrants all over Europe and demanded guarantees for their rights, every crowned head exclaimed, "Have we a Government?" and appealed to the army to vindicate their authority and enforce the law.

"'Sir, the history of the world does not fail to condemn the folly, weakness, and wickedness of that Government which draws its sword upon its own people when they demanded guarantees for their rights. This cry, that we must have a Government, is merely following the example of the besotted Bourbon, who never learned anything by misfortune, never forgave an injury, never forgot an affront. Must we demonstrate that we have got a Government, and coerce obedience without reference to the justice or injustice of the complaint? Sir, whenever ten millions of people proclaim to you, with one unanimous voice, that they apprehend their rights, their firesides, and their family altars are in danger, it becomes a wise Government to listen to the appeal, and to remove the apprehension. History does not record an example where any human government has been strong enough to crush ten millions of people into subjection when they believed their rights and liberties were imperiled without first converting the Government itself into a despotism, and destroying the last vestige of freedom.'

"MR. POWELL. Mr. President, the sentiment expressed in the extract just read from the speech of the illustrious Senator from Illinois, now no more, fully meets my approval. I approved it when it was uttered in this Chamber; I approve it now. I verily believe that those who propose to maintain the Union of these States by arms are disunionists. They may not wish to destroy the Union; but the very means to which they resort for the purpose of saving it, will most assuredly accomplish its destruction. Hence I have been from the beginning opposed to war, and I am now opposed to it. I think that, in this age, as a Christian, enlightened people, we should settle these difficulties without a resort to arms."

I declared in that speech that I was in favor of using every measure to reunite the States. I so stated in every speech that I ever made on the subject. I defy any Senator to point to any speech of mine in which I do not distinctly declare for the constitutional Union. I have differed with Senators as to the best means to bring about that result. Some thought it was best to do it by coercion. I thought it could only be done by concession and compromise. But, sir, I suppose this is the first time in the history of this nation that it was ever attempted to expel a Senator because he held opinions that were not palatable to the majority. Mr. President, I am willing to stand by my congressional record; I do not regret the speeches I have made, or the votes I have given. I acted honestly and conscientiously, with the single view and intention of promoting the best interest of my country, and saving the country from war, desolation, and ruin. I am willing that impartial history shall pass upon it. I will abide the verdict.

Mr. President, if my colleague would govern his vote by the principle he himself announced the other day, I should feel very sure that it would be in my favor. In speaking of Mr. STARK's case, he said:

"Mr. President, we had a case involving this principle before the Senate a few weeks ago; and in the discussion and adjudgment of that case the principle seemed to be generally conceded that an abstract opinion, however disloyal it might be, unaccompanied by an overt act, was not sufficient to expel a member from the Senate. That was my own proposition, and my own principle, and I now adhere to it; I maintain it against all odds."

Well, sir, all the charges brought against me are but abstract opinions; and in truth there is but little in the resolutions that have been quoted against me, but what I have uttered here in my place in the Senate; for the whole scope and verge of them was to maintain the neutrality of Kentucky, and to reunite the States by peaceable means. In this long list of charges brought against me by my colleague charging disloyalty he does not point to overt acts. He says my purposes, if not my acts, are disloyal. I had supposed that there was no man who could look into the purposes of his brother, and summon him to trial and condemn him for what he proposed to do. I thought it was left to the omnipotent God alone to look into the hearts of men, and to find out their purposes. I believe if the great Jehovah wished to make a vicegerent upon earth, and endow him with power to look into the consciences and motives of men he would select a more amiable person than my colleague, one who was not so hasty to judge or quick to condemn; for my colleague is as intense a gentleman as I know of. He is very intense, very excitable, unrelenting, bitter, and unforgiving. I have always accorded to him honesty with his intensity; I do it now; but I do not believe that the great Jehovah would make a vicegerent out of one who is so ill-natured, petulant, and so unforgiving as my colleague sometimes is. I think he would select a more benevolent, a more amiable, and a more forgiving person. I protest against my colleague sitting in judgment upon my motives. He is so filled with animosity, spite, and spleen, that he is incapable of doing me justice.

Senators, so far as the charges, innuendoes, and deductions in this accusation, drawn up by my colleague, about my loyalty are concerned, I deny that there is any truth in any of them. They are utterly unfounded; they do not exist in fact, but only in my colleague's, I regret to say, prejudiced

brain. I have not been disloyal to this Government, and I do not intend to be. I have always desired, and I now desire, the constitutional Union of our fathers restored. I desire to see all the stars blaze on our flag forever, each representing a free sovereign State, in the full enjoyment of every constitutional right, and my youthful fancy was that this might be a sea-girt Republic, and that the stars and stripes might wave over the whole continent and all the islands thereunto adjacent.

Senators know how zealously I labored to settle this matter in the beginning. I counseled with those who left us. I told them that they should stay and fight the battle here. I believed, and honestly believed, that coercion was not the way to bring them back. Others differed with me. They may be right; I may be wrong. Time alone will determine that. I shall not discuss it. But I have looked somewhat into the history of the world, and I have seen no instance of confederate States that have been held together by coercion. I read in ancient history that the Amphictyonic league, the wisest, perhaps, of Grecian confederacies, was destroyed by an appeal to this doctrine of coercion. The majority of the States undertook to coerce one of the States—the Phocians. They called in Philip of Macedon, too ready to avenge their quarrels. What was the result? That celebrated league was destroyed; Philip came and possessed himself of a large portion of the territories of the Grecian States. In after time, in the history of that justly celebrated people, the Achæan league existed. Coercion was attempted on a delinquent State; the Romans were called in; and that league was overthrown, and the last hope of Grecian liberty perished.

Philip II, of Spain, instead of yielding to the just demands of the people of the Netherlands, undertook coercion, and after a war of over thirty years, the Low Countries were wrested from his dominions by the determined and heroic valor of William the Silent and his successors and their brave followers.

Great Britain turned a deaf ear to the just demands of our fathers, undertook to coerce them, and lost forever the richest of her colonies. These pertinent, and to me instructive, examples, confirm me in the opinion that our wisest and best policy was compromise and conciliation, not coercion and war.

I believed that we could do more by compromise and conciliation than by coercion. That was my belief from the beginning. I counseled that. My advice was not taken. Other gentlemen quite as patriotic, and I dare say—indeed I know—much wiser than I, thought differently. I have to submit to their judgment. I am but one. My counsels were not followed; my advice not taken. If they had been, I am confident we should have settled this matter by peaceful means, by adopting amendments to the Constitution that would have satisfied the cotton States, the entire South, and thus have saved the Union, and averted this bloody and expensive civil war which so sorely devastates our once prosperous, free, and happy country.

But I am astonished that my colleague, after laying down the very correct principle he did in Mr. STARK'S case, should think that I should be expelled because I was opposed to coercion and war. Why, sir, I remember that Lord Chatham and Mr. Burke thundered in the ears of the British Parliament opposition to the war against our fathers. Lord Chatham introduced resolutions into the British Parliament, and discussed them with great eloquence, great force, and great ability, demanding the recall of the troops from Boston; and yet they have been decreed by the judgment of mankind patriots and wise statesmen. The lamented Douglas made a most able and eloquent speech against coercion in this Chamber in March last, extracts from which I have read to the Senate. I have also read extracts from the speeches of the most illustrious of our fathers—statesmen eminent for their ability and patriotism—who opposed this doctrine of coercion. In opposing coercion, I have but followed the teachings of our wisest statesmen.

Mr. President, this country has been engaged in wars before this. The war of 1812 was going on when I was an infant. I discover, in looking into the congressional proceedings of that time, that there were many members who voted against supplies of men and money. Even last night, after my colleague so fiercely arraigned me, I took up the proceedings of Congress and I noticed that an act to provide additional military force in the year 1813, was opposed most vehemently by Mr. Josiah Quincy, of Massachusetts, and others. They thought the force was going to be used to invade Canada. I did not read the debate at large, but I read enough to show that that was the leading idea upon which they based their opposition. They opposed the increase of the Army, and the vote on the passage of the bill stood—yeas 77, nays 42. Would it have been just if those gentlemen honestly entertained the sentiments they expressed, to have expelled them from the House on the ground that they were not loyal to the country?

In the war with Mexico there were men who voted against supplies for our Army, and my colleague, who was a member of the other House at that time, declared in a speech, which I noticed last night in the Globe, that he intended to vote men and money, and yet he denounced the President as a usurper for bringing on the war; and I find that my colleague voted against the Treasury note and loan bill at that day. I saw among the names of those who voted against it a Mr. FOOT. I believe it is the honorable Senator who so worthily represents the State of Vermont in this Hall. The honorable Senator from New York [Mr. KING] was also among the nays. The vote on that bill was, yeas 119, nays 47. It was a proposition to borrow $10,000,000, and issue Treasury notes. There are now three gentlemen in this House who voted against that bill. I certainly would not think of arraigning those honorable gentlemen for that vote. I have no doubt they acted conscientiously—did what they thought was right—and perhaps their vote was right. I am not sitting in judgment upon it; but I merely note these things to show you that honorable and patriotic gentlemen might give a vote even against war supplies without being justly obnoxious to the charge of disloyalty.

Then there were some gentlemen who voted against a bill supplementary to an act providing for the prosecution of the war, about the troops, &c. This bill was of no great importance. My colleague and those other gentlemen named voted against that bill, and so did many members of the Whig party at that day. I do not know the vote on the main bill. I merely mention these things, not to censure, but to show to the Senate that honorable gentlemen, patriotic gentlemen, gentlemen who love their country, may speak, and vote even, against men and money without being censured and driven from their places on the ground of disloyalty.

Senators, after listening attentively, as I did, to the speech of my colleague, his whole ground is that I have not voted to carry out these war measures. In my action in this body, I have on all occasions spoken and voted in such manner as I thought was right; and while I retain a seat here I will continue to do so; I will utter my honest sentiments. I will vote for or against measures as I may think them right or wrong. That it is my duty to do, and I should be an unworthy representative of a free people unless I did so. While I do that, I am not prepared, and do not intend, to impeach the loyalty of others because they differ from me. If it comes to that, that a Senator cannot speak and vote as he thinks proper and right with out expulsion, then the majority are masters and the minority are slaves, and a seat in the American Senate would no longer be desired by an honest man or a patriot. I never have given a vote, I never have made a speech, I never have uttered a sentiment, I never have advocated a principle that I did not believe was calculated to promote the public good, to preserve the constitutional Union, and to reconstruct the broken Confederacy. That has been my object, nothing else. I may have been wrong in many of the principles I have advocated; I have, at least, been sincere, honest, and patriotic.

Senators, I am obliged to you for your attention. I submit this case to your impartial judgments, and I feel that you will decide it in a manner becoming your high character. After the report of the committee I should not have said a word but for the extraordinary speech of my colleague. I was driven to reply to that speech. The committee, consisting of gentlemen opposed to me politically with one exception, five of them Republicans, after a full investigation made a report adverse to the resolution; and I certainly should have rested the case on that report without saying one word to the Senate; and if my colleague had confined himself strictly to the record, I did not propose to open my mouth. I again thank you for the indulgent and patient attention with which you have listened to me.

APPENDIX.

Resolutions adopted by the Union State Convention held in Louisville on the 8th of January, 1861.

The following resolutions were reported to the Union Democratic State convention by a committee composed of the following gentlemen, to wit: Governor Dixon, W. G. Thompson, Judge Barkee, J. P. Barbour, Alexander Lusk, J. F. Bullitt, John Jackson, V. B. Young, T. L. Jones; and to the Union State convention by the following committee, to wit: Hon. Garrett Davis, Hon. Joshua F. Bell, J. L. Shackelford, W. L. Underwood, John W. Crocket, Z. Wheat, Thomas W. Riley, W. C. Goodloe, P. B. Muir, J. B. Huston, Orlando Brown, James Taylor, were unanimously adopted by both meetings:

"*Resolved*, That the people of Kentucky place the highest estimate on the Union of these States, on terms fair and just to all of its members; it is a Union made and commended to us by our patriotic ancestors, as a priceless legacy to be preserved by their children; that it will not cost a tithe of the patriotism and forbearance to save it that it did our fathers to make it; that it affords us a better government for peace and liberty at home and defense against aggression from abroad than is likely to be made out of its parts.

"*Resolved*, That although we of the slave States, and especially of Kentucky, have great reason to complain of bad fellowship and wrongs done us both in character and property by some of the citizens of the free States, and the States themselves, who have broken faith with us and gone astray from the landmarks of our fathers, yet we are ardently attached to our national Union; and, trusting that they will yet give us that justice we demand, and without which we cannot be friends, we still proclaim ourselves in favor of the Union, and so long as there is hope of preserving it on the basis of the Constitution, we will maintain and defend it.

"*Resolved*, That all laws of the free States which nullify and impair the full and fair operation of the fugitive slave law are in conflict with the national Constitution, and we demand their repeal at the earliest practicable moment.

"*Resolved*, That we consider the election of a President by one section of the Union on the ground of opposition to the institutions of the other as a severe test of the patriotism and forbearance of the minority; but that notwithstanding this ill-advised experiment on the harmony of the Union, we do not regard the election of Abraham Lincoln as a cause for its dissolution.

"*Resolved*, That we have in the majority of both Houses of the next Congress a sufficient security against any designs of aggression upon the rights of the South, and that it is the duty of the southern States to avail themselves of this fact in the operation of our institutions, and not desert the Union at this crisis, when we have a victory instead of a defeat in the main departments of the Federal Government, especially as those departments are sustained by a large majority of the popular vote of the United States.

"*Resolved*, That if this anti-slavery party should increase in strength, and be able to carry out its purposes in the use of the Federal Government, the South has ample means of resistance, and is fully able, at any time, to resist unconstitutional aggressions; and we have, therefore, no need to adopt hastily this last resort.

"*Resolved*, That the claim set up by a majority of the free States to all the territory, and the assumption of the right to restrict the South from the occupancy of any of the common Territories with their institutions, is unjust and unconstitutional, and will not be submitted to by a free people jealous of their rights.

"*Resolved*, That we hereby recommend the adoption of the proposition of our distinguished Senator, John J. Crittenden, as a fair and honorable adjustment of the difficulties which divide and distract the people of our beloved country, which are as follows:

"Joint resolution proposing certain amendments to the Constitution of the United States.

"Whereas serious and alarming dissensions have arisen between the northern and southern States concerning the rights of the slaveholding States, and especially their rights in the common territory of the United States; and whereas it is eminently desirable and proper that those dissensions which now threaten the very existence of this Union should be permanently quieted and settled by constitutional provisions which shall do equal justice to all sections, and thereby restore to the people that peace and good will which ought to prevail between all the citizens of the United States: Therefore,

"*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled*, (two thirds of both Houses concurring,) That the following articles be, and are hereby, proposed and submitted as amendments to the Constitution of the United States, which shall be valid to all intents and purposes as part of said Constitution when ratified by conventions of three fourths of the several States.

"ART. 1. In all the territory of the United States now held, or hereafter acquired, situated north of latitude 36° 30', slavery, or involuntary servitude, except as a punishment for crime, is prohibited while such territory shall remain under territorial government. In all the territory south of said line of latitude slavery of the African race is hereby recognized as existing, and shall not be interfered with by Congress; but shall be protected as property by all the departments of the territorial government during its continuance, and when any territory north or south of said line, within such boundaries as Congress may prescribe, shall contain the population requisite for a member of Congress, according to the then Federal ratio of representation of the people of the United States, it shall, if its form of government be republican, be admitted into this Union on an equal footing with the original States, with or without slavery, as the constitution of such new State may provide.

"ART. 2. Congress shall have no power to abolish slavery in places under its exclusive jurisdiction, and situated within the limits of States that permit the holding of slaves.

"ART. 3. Congress shall have no power to abolish slavery from the District of Columbia so long as it exists in the adjoining States of Virginia and Maryland, or either, nor without the consent of the inhabitants, nor without just compensation first made to such owners of slaves as do not consent to such abolishment. Nor shall Congress at any time prohibit officers of the Federal Government, or members of Congress, whose duties require them to be in said District, from bringing with them their slaves, and holding them as such, during the time their duties may require them to remain there, and afterwards taking them from the District.

"ART. 4. Congress shall have no power to prohibit or hinder the transportation of slaves from one State to another, or to a Territory in which slaves are by law permitted to be held, whether that transportation be by land, navigable rivers, or by the sea.

"ART. 5. That, in addition to the provisions of the third paragraph of the second section of the fourth article of the Constitution of the United States, Congress shall have power to provide by law, and it shall be its duty to so provide, that the United States shall pay to the owner who shall apply for it the full value of his fugitive slave, in all cases, when the marshal or other officer whose duty it was to arrest said fugitive was prevented from so doing by violence or intimidation, or when, after arrest, said fugitive was rescued by force and the owner thereby prevented and obstructed in the pursuit of his remedy for the recovery of his fugitive slave under the said clause of the Constitution and the laws made in pursuance thereof. And in all such cases, when the United States shall pay for such fugitive, they shall have the right, in their own name, to sue the county in which said violence, intimidation, or rescue was committed, and to recover from it, with interest and damages, the amount paid by them for said fugitive slave. And the said county, after it has paid said amount to the United States, may, for its indemnity, sue and recover from the wrong-doers, or rescuers, by whom the owner was prevented from the recovery of his fugitive slave, in like manner as the owner himself might have sued and recovered.

"ART. 6. No future amendment of the Constitution shall affect the five preceding articles, nor the third paragraph of the second section of the first article of the Constitution, nor the third paragraph of the second section of the fourth article of said Constitution, and no amendment shall be made to the Constitution which will authorize or give to Congress any power to abolish or interfere with slavery in any of the States by whose laws it is or may be allowed or permitted.

"*Resolved*, That we tender cordial greeting to our faithful allies of the North who have so long battled for our rights and endeavored to beat back the tide of fanaticism in their midst; we hail them as brethren good and true, and bid them stand firmly by us in the preservation of our General Government in its whole constitutional vigor, as the 'sheet anchor' of our peace at home and our safety abroad.

"*Resolved*, That we cannot regard the Constitution of the United States as a mere compact to be broken at the will of each, but as more and greater than that—the great bond of the people, establishing a more perfect union for themselves and their posterity, only to be dissolved by common consent or revolution.

"*Resolved*, That we recommend to the Legislature of the State to put these amendments in form, and submit them to the other States; and that, if the disorganization of the present Union is not arrested, that the States agreeing to these amendments of the Federal Constitution shall form a separate confederacy, with power to admit new States under our glorious Constitution thus amended.

"*Resolved*, That it is expedient to call a convention of the border free and slave States, and such other States as may see fit to unite with them, to consider the best mode of settlement of the questions which now agitate and threaten to destroy the union of these States.

"*Resolved*, That we deplore the existence of a Union to be held together by the sword, with laws to be enforced by standing armies; it is not such a Union as our fathers intended, and not worth preserving.

"*Resolved*, That if the State of Kentucky be represented in any convention of the States, such representation should be chosen by the people themselves."

Address of the Union State Central Committee of Kentucky to the People of the Commonwealth.

"The alliance between party spirit and the sectional question of slavery has at length produced the legitimate fruit of such a combination. Disunion and war are upon the land. No further retrospect is necessary for the purposes of this brief address. The past is understood. We here propose to touch alone upon the present and the future.

"A condition of hostilities, as is known, exists between the seceding States and the national Government, springing immediately from the seizure by the former of one of the national forts. The President, in view of this seizure and of the kindred acts committed previously by the seceding States, and of the secession out of which the acts have grown, has published a proclamation calling forth the militia of the several States of the Union to suppress what he describes as 'combinations too powerful to be suppressed in the ordinary way,' and to 'execute the laws,' appealing at the same time to 'all loyal citizens to facilitate and aid this effort to maintain the laws and the integrity of the national Union and the perpetuity of popular government, and redress wrongs that have long been endured.' Kentucky, through her Executive, has already, we understand, responded to this appeal. She has refused to comply with it. And in this refusal, she has acted as became her. We approve the response of the Executive of the Commonwealth. One other appeal now demands a response from Kentucky.

"The Government of the Union has appealed to her to furnish men to suppress the revolutionary combinations in the cotton States. She has refused. She has most wisely and justly refused. Seditious leaders in the midst of us now appeal to her to furnish men to uphold those combinations against the Government of the Union. Will she comply with this appeal? Ought she to comply with it? We answer, with emphasis, no.

"If a conviction that the policy of coercion is wild and suicidal, promising only to deluge the land in blood and dissolve the Union irretrievably in the crimson tide, is a good reason, as it is, for Kentucky to withhold her countenance and aid from the effort of the Government to suppress by force the revolutionary combinations of the Gulf, surely her allegiance, undimmed as yet by a solitary blur, her own sovereign interest and the all but equal interest of the combatants themselves in the maintenance of her present independent relations towards both of them, and, finally, the sacred and overarching interest of the national peace and of the national life, are good reasons, nay, unanswerable and decisive ones, for Kentucky, as the case now presents itself, to decline to draw the sword in behalf of the seceding States against the Government of the Union. Kentucky could not comply with the appeal of the Government without outraging her solemn conviction of duty and without trampling upon that natural sympathy with the seceding States which neither their contempt for her interest nor their disloyalty to the Union has sufficed to extinguish. She could not comply with the appeal of the seditious leaders in the midst of us, without sullying her unspotted loyalty, destroying her most vital interests, quenching in the blood of her own sons the last hope of reestablishing the Union, and lashing her free destiny amidst the clash and fury of arms, to the chariot wheels of the Gulf alliance. She ought clearly to comply with neither the one appeal nor the other. And, if she be not smitten with judicial blindness, she will not. The present duty of Kentucky is to maintain her present independent position, taking sides not with the Government and not with the seceding States, but with the Union against them both, declaring her soil to be sacred from the hostile tread of either, and, if necessary, making the declaration good with her strong right arm. And, to the end that she may be fully prepared for this last contingency, we would have her arm herself thoroughly at the earliest practicable moment.

"What the future duty of Kentucky may be, we of course cannot with certainty foresee; but, if the enterprise announced in the proclamation of the President should at any time hereafter assume the aspect of a war for the overrunning and subjugation of the seceding States through the full assertion therein of the national jurisdiction by a standing military force, we do not hesitate to say that Kentucky should promptly unsheath her sword in behalf of what will have then become her common cause. Such an event, if it should occur, of which we confess there does not appear to us to be a rational probability, could have but one meaning—a meaning which a people jealous of their liberty would be keen to detect, and which a people worthy of liberty would be prompt and fearless to resist. When Kentucky detects this meaning in the action of the Government, she ought, without counting the cost, to take up arms at once against the Government. Until she does detect this meaning, she ought to hold herself independent of both sides and compel both sides to respect the inviolability of her soil. The portentous meaning in question is not discernible at this time, and we believe it will never become discernible. We, however, have deemed it fit, in consideration of all the extraordinary features of the time, to anticipate this possible contingency.

"Such, as we conceive, is the present and contingent duty of Kentucky. Will Kentucky discharge this duty? Will she abide nobly by the dictates of patriotism, of wisdom, and of enlightened self-interest? Will she, in this most critical moment of the most trying juncture in our history, still be true to the country and true to herself? Will Kentucky, as the tempest of civil war begins to roar through the quivering masts of the ship of the Union, throw overboard such tried and trusted pilots as Crittenden and Guthrie and Morehead and Dixon and Bell and Wickliffe and their worthy colleagues on the Union ticket for the border conference, and intrust the helm of her destiny to James B. Clay and Henry C. Burnett and A. G. Talbott and Emory Whitaker and their colleagues on the secession ticket? Is this a moment for wise and sober and chivalrous Kentucky to quaff off the cup of precipitation and reel over the brink of secession into the bloody pit below? Is Kentucky a craven, that she requires the intoxicating stimulus of precipitation to nerve her for the perils that confront her? Must she get drunk with excitement in order to work up the spirit to guard her safety and her honor? Does it become proud and gallant Kentucky thus to meet the awful responsibilities of the hour? Kentuckians! we submit the momentous case to you with unwavering confidence.

"J. H. Harney, W. F. Bullock, G. D. Prentice, James Speed, Charles Ripley, W. P. Boone, P. Tompert, H. Pope, Nathaniel Wolfe, L. E. Harvie."—*Issued April* 17, 1861.

Proceedings and Resolutions of a Mass Meeting of Five Thousand Union Men, held at Louisville on the 18th of April, 1861.

"One of the grandest and largest public meetings ever held in Louisville filled the great cast hall of the court-house last night, in response to a call for a sober expression as to the proper position for Kentucky to assume in the present crisis. It was a splendid meeting, both as regards numbers and material. It was a closely attentive and understanding assemblage, of the best intelligence of the city, and its effect must be wide and wholesome. If the warring sections will but respect Kentucky's position and her advice, all may yet be well, civil war averted, and peace restored. We were more than gratified with the meeting and its work. The stars and stripes were on both sides of the speaker's stand, and were frequently cheered as allusions to the national banner were made.

"James Speed, Esq., called the meeting to order, and nominated Judge Pirtle as chairman. The nomination was unanimously confirmed.

"Mr. Speed then nominated Messrs. W. E. Glover, C. D. Pennebaker, A. B. Semple, G. W. Houghton, Phil. Tompert, A. D. Hunt, Geo. Ainslie, and James Malona as vice presidents, all of whom were elected by acclamation. Lewis E. Harvie, Esq., was appointed secretary.

"Judge Pirtle briefly addressed the meeting on taking the chair, expressing his thanks for the honor conferred upon him, and upon the importance of the occasion. He urged that reason and reflection should govern the course of Kentucky, and not passion and resentment.

"Hon. Nat. Wolfe moved the appointment of a committee on resolutions, and the following gentlemen were accordingly appointed to draft resolutions expressive of the sentiments and sense of the meeting: Nat. Wolfe, Lovel Russeau, Joseph Speed, G. A. Houghton, J. H. Harney and Judge Bullock.

"Hon. Nat. Wolfe, from the committee on resolutions, reported the following preamble and resolutions, which were adopted with hardly a dissenting voice:

"Events of commanding importance to the future safety and honor of Kentucky have occurred which call for action on the part of her citizens; and every consideration of self-interest, and every dictate of wisdom and patriotism must prompt our State to maintain most resolutely her position of loyalty. Situated on the border of the slave States, with seven hundred miles of territory exposed to the hostile attack, should the Union be divided into two separate sovereignties, and with but one million of population to oppose the four or five millions of the States contiguous to her, which might become unfriendly, Kentucky owes it to herself to exercise a wise precaution before she precipitates any course of action which may involve her in an internecine war. She has no reason to distrust the present kindly feelings of the people who reside on the north bank of the Ohio river, long her friendly neighbors, and connected by a thousand ties of business and consanguinity, but she must realize the fact that if Kentucky separates from the Federal Union and assumes her sovereign powers as an independent State, that Ohio, Indiana, and Illinois, remaining loyal to the Federal Union, must become her political antagonists. If Kentucky deserts the stars and stripes, and those States adhere to the flag of the Union, it seems impossible to imagine a continuance of our old friendly relations when constantly recurring causes of irritation could not be avoided. It is from no fear that Kentucky would not always prove herself equal to the exigencies of any new position she might see proper to assume, and from no distrust of the bravery of her sons that these suggestions are made, but as 'when in the course of human events it becomes necessary for one people to dissolve the political bands which have connected them with another, a decent respect to the opinions of mankind requires that they should declare the causes which impel them to a separation,' so an equal necessity exists that we should not dissolve those bands with old friends and neighbors without calling to our aid every suggestion of prudence, and exhausting every effort to reconcile difficulties, before taking steps which cannot be retraced, and may lead to exasperation, collisions, and eventual war: Therefore,

"*Be it resolved*, That as the confederate States have, by overt acts, commenced war against the United States, without consultation with Kentucky and their sister southern States, Kentucky reserves to herself the right to choose her own position, and that, while her natural sympathies are with those who have a common interest in the protection of slavery, she still acknowledges her loyalty and fealty to the Government of the United States, which she will cheerfully render until that Government becomes aggressive, tyrannical, and regardless of our rights in slave property.

"2. That the national Government should be tried by its acts, and that the several States, as its peers in their appropriate spheres, will hold it to a rigid accountability, and require that its acts should be fraternal, in their efforts to bring back the seceding States, and not sanguinary or coercive.

"3. That as we oppose the call of the President for volunteers for the purpose of coercing the seceding States, so we oppose the raising of troops in this State to cooperate with the southern confederacy, when the acknowledged intention of the latter is to march upon the city of Washington and capture the capital, and when in its march thither it must pass through States which have not yet renounced their allegiance to the Union.

"4. That secession is a remedy for no evils, real or imaginary, but an aggravation and complication of existing difficulties.

"5. That the memories of the past, the interests of the present, and the solemn convictions of future duty and usefulness in the hope of mediation, prevent Kentucky from taking part with the seceding States against the General Government.

"6. That 'the present duty of Kentucky is to maintain her present independent position, taking sides not with the Administration nor with the seceding States, but with the Union against them both, declaring her soil to be sacred from the hostile tread of either, and, if necessary, to make the declaration good with her strong right arm.'

"7. That to the end Kentucky may be fully prepared for any contingency, 'we would have her arm herself thoroughly at the earliest practicable moment,' by regular legal action.

"8. That we look to the young men of the Kentucky State Guard as the bulwarks of the safety of our Commonwealth, and that we conjure them to remember that they are pledged equally to fidelity to the United States and Kentucky.

"9. That the Union and the Constitution, being mainly the work of southern soldiers and statesmen, in our opinion, furnishes a surer guarantee for 'southern rights' than can be found under any other system of government yet devised by man."

Action of Kentucky Respecting Federal Relations.

January 21, 1861, Mr. George W. Ewing, representative from Logan county, laid before the House the following joint resolutions:

"*Resolved by the General Assembly of the Commonwealth of Kentucky*, That this General Assembly has heard with profound regret of the resolutions recently adopted by the States of New York, Maine, and Massachusetts, tendering men and money to the President of the United States to be used in coercing certain sovereign States of the South into obedience to the Federal Government.

"*Resolved*, That this General Assembly receives the action of the Legislatures of New York, Ohio, Maine, and Massachusetts as the indication of a purpose upon the part of the people of these States to further complicate existing difficulties by forcing the people of the South to the extremity of submission or resistance; and so regarding it, the Governor of the State of Kentucky is hereby requested to inform the Executives of each of said States that it is the opinion of this General Assembly that whenever the authorities of these States shall send armed forces to the South for the purpose indicated in said resolutions, the people of Kentucky, uniting with their brethren of the South, will, as one man, resist such invasion of the soil of the South at all hazards and to the last extremity."

The first resolution above was adopted—yeas 92, nays none; and the second was adopted—yeas 87, nays 6.

Resolutions recommending call for a convention of the United States.

Whereas the people of some of the States feel themselves deeply aggrieved by the policy and measures which have been adopted by the people of some of the other States; and whereas an amendment of the Constitution of the United States is deemed indispensably necessary to secure them against similar grievances in the future: Therefore,

Resolved by the General Assembly of the Commonwealth of Kentucky, That application to Congress to call a convention for proposing amendments to the Constitution of the United States, pursuant to the fifth article thereof, be, and the same is hereby, now made by this General Assembly of Kentucky; and we hereby invite our sister States to unite with us, without delay, in similar application to Congress.

Resolved, That the Governor of this State forthwith communicate the foregoing resolution to the President of the United States, with the request that he immediately place the same before Congress and the Executives of the several States, with the request that they lay them before their respective Legislatures.

Resolved, If the convention be called in accordance with the provisions of the foregoing resolutions, the Legislature of the Commonwealth of Kentucky suggest for the consideration of that convention, as a basis for settling existing difficulties, the adoption, by way of amendments to the Constitution, the resolutions offered in the Senate of the United States by Hon. John J. Crittenden.

Approved, January 25, 1861.

Resolutions appointing commissioners to attend conference at Washington city, February 4, in accordance with the invitation of the Virginia Legislature.

Whereas, the General Assembly of Virginia, with a view to make an effort to preserve this Union and the Constitution in the spirit in which they were established by the fathers of the Republic, have, by resolution, invited all the States who are willing to unite with her in an earnest effort to adjust the present unhappy controversies, to appoint commissioners, to meet on the 4th February next, to consider, and, if practicable, agree upon some suitable adjustment.

Resolved, That we hereby accept the invitation of our old mother Virginia, and that the following six commissioners, William O. Butler, J. B. Clay, J. F. Bell, C. S. Morehead, Charles A. Wickliffe, and James Guthrie, be appointed to represent the State of Kentucky in the contemplated convention; whose duty it shall be to repair to the city of Washington, on the day designated, to meet such commissioners as may be appointed by any of the States in accordance with the foregoing invitation.

Resolved, That if said commissioners shall agree upon any plan of adjustment requiring amendments to the Federal Constitution, they be requested to communicate the proposed amendments to Congress for the purpose of having the same submitted by that body, according to the forms of that Constitution, to the several States for ratification.

Resolved, That if said commissioners cannot agree in an adjustment, and, if agreeing, Congress shall refuse to submit for ratification such amendments as they may propose, the commissioners of this State shall immediately communicate the result to the Executive of this Commonwealth, to be by him laid before this General Assembly.

Resolved, That in the opinion of the General Assembly of Kentucky, the propositions embraced in the resolutions presented to the Senate of the United States by the Hon. John J. Crittenden, so construed that the first article proposed as an amendment to the Constitution of the United States shall apply to all the territory of the United States now held or hereafter acquired, south of latitude 36° 30', and provide that slavery of the African race shall be effectually protected as property therein during the continuance of the territorial government, and the fourth article shall secure to the owners of slaves the right of transit with their slaves between and through the non-slaveholding States and Territories, constitute the basis of such an adjustment of the unhappy controversy which now divides the States of this Confederacy as would be acceptable to the people of this Commonwealth.

Resolved, That the Governor be, and he is hereby, requested to communicate information of the foregoing appointment to the commissioners above named, at as early a day as practicable, and that he also communicate copies of the foregoing resolutions to the Executives of the respective States.

Approved January 29, 1861.

Resolutions declaring further action by the Legislature on political affairs unnecessary and inexpedient at this time.

Resolved by the General Assembly of the Commonwealth of Kentucky, That the people of Kentucky view with the most lively apprehensions the dangers that now environ the Union and threaten its perpetuity.

Resolved, That we appeal to our southern brethren to stay the work of secession—to return and make one mighty effort to perpetuate the noble work of our forefathers, hallowed by the recollection of a thousand noble deeds.

Resolved, That we protest against the use of force or coercion by the General Government against the seceding States as unwise and inexpedient, and tending to the destruction of our common country.

Resolved, That as this General Assembly has made an application to Congress to call a national convention to amend the Constitution of the United States, and requested the Legislatures of all the other States to make similar applications, and has appointed commissioners to meet those which have been appointed by the State of Virginia, and such as may be appointed by other States, at a designated time and place, to consider and, if practicable, agree upon some suitable adjustment of the present unhappy controversy, it is unnecessary and inexpedient for this Legislature to take any further action on this subject at the present time; and as an evidence of the sincerity and good faith of our propositions for an adjustment, and our expression of devotion to the Union and desire for its preservation, Kentucky awaits with deep solicitude the responses from her sister States.

Approved February 11, 1861.

An act to provide for the election of delegates to a convention to be held at Frankfort.

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That an election shall be held, on the first Saturday in May next, at all the election precincts in this State, to elect twelve delegates to a convention of the border slave States, and such other slave States as have not passed ordinances of secession, to meet at Frankfort, Kentucky; and said delegates shall be voted for and elected by the State at large, in the same manner that State officers are now elected; and the same laws which apply to and regulate the mode of the election of State officers by the qualified voters of the whole State, shall apply to and govern the election of said delegates.

SEC. 2. That the persons who may be thus elected shall be commissioned by the Governor as delegates to said convention, and are empowered to meet the delegates from the States aforesaid, in convention, to consult on the critical condition of the country, and agree upon some plan of peaceable adjustment.

SEC. 3. The convention shall be held on the 27th of May next, or at such other time as a majority of the delegates elected in this State may appoint, to suit the convenience of the delegates from the other States.

SEC. 4. That one of the delegates to represent Kentucky in the border slave State convention shall be required to reside in each congressional district in this State.

SEC. 5. This act shall take effect from its passage.

Approved April 3, 1861.

May 16, 1861, the Committee on Federal Relations made the following report:

A majority of your committee, consisting of Messrs. Hodge, Burnam, Wolfe, Carlisle, Lyne, Gowdy, Jacobs, and Buckner, recommend the passage of the following preamble and resolutions:

Considering the deplorable condition of the country, and for which the State of Kentucky is in no way responsible, and looking to the best means of preserving the internal peace, and securing the lives, liberty, and property of the citizens of the State: Therefore,

Resolved by the House of Representatives, That this State and the citizens thereof shall take no part in the civil war now being waged, except as mediators and friends to the belligerent parties; and that Kentucky should, during the contest, occupy the position of strict neutrality; and your committee unanimously recommend the adoption of the following resolution:

Resolved, That the act of the Governor in refusing to furnish troops or military force upon the call of the executive authority of the United States, under existing circumstances, is approved.

GEORGE B. HODGE, *Chairman.*

The first resolution above was adopted—yeas 69, nays 25; and the second—yeas 89, nays 4.

May 24, 1861, under a suspension of the rules, Mr. Bruner offered the following preamble and resolutions:

Whereas there exists a civil war between the national Government and the seceded States, which Kentucky deeply deplores; a war she had no voice in creating, and in which she has hitherto refused to take a part, and she now refuses. Being a part of the national Government, in the enjoyment of its benefits—such as mail facilities, national hospitals, Federal courts, protection at home and abroad, a garrison paid out of the national Treasury, into which she is paying revenue—and having a representation in Congress, Kentucky ought, at least, to remain neutral till the end of the controversy; neither hindering the national Government in the exercise of its authority, nor furnishing men, as a State, to either of the belligerents; nor asking aid from either to maintain her position; she will, all the time, be ready and anxious to mediate between the belligerents, and will be profoundly happy, should she be able to reconcile the contending parties, and arrest the shedding of fraternal blood by fraternal hands. With this position, Kentucky is willing to go before the civilized world and let her conduct pass into history, and await the candid and calm judgment of future and disinterested generations. Being connected with the seceded States geographically, and having the same domestic institution, she is unwilling to take up arms against them. Being attached to the national Government, under which she has always lived and greatly prospered, and having no cause for war against it, she cannot take up arms to overthrow it. Having in good faith taken this position, she asked the belligerents to respect it: Therefore,

1. *Resolved by the General Assembly of the Commonwealth of Kentucky*, That Kentucky will not sever her connection with the national Government, nor will she take up arms for either of the belligerent parties, but will arm herself for the one purpose of preserving tranquillity and peace within our own borders.

2. *Resolved*, That Kentucky now tenders, and to the end of the war all the time will tender, herself as mediator, and that she will constantly be ready to do all in her power to bring about a just and honorable peace.

3. *Resolved*, That the Governor be directed to transmit a copy of the foregoing preamble and resolutions to the Presidents of the United States and of the seceded States, and to the Governors of each of the thirty-four States.

Adopted by the Senate—yeas 13, nays 9.

Letter from Hon. Garrett Davis.

BALTIMORE, *April* 28, 1861.

DEAR SIR: Early last week I determined, upon my own reflection and impulse, to make a hurried run to Washington, to take a view of public affairs there, and from there; and to talk with the President and some of the members of his Cabinet in relation to our national troubles, and how the Administration intended to treat them.

I found the President frank and calm, but decided and firm. He expressed deep concern and regret for the existing condition of public affairs, and his hope that there would yet be a restoration of the Union, and peace and amity among all the States. He remarked that neither he, nor any other President, who had been elected by a party, could administer the Government in exact accordance with his own opinions and judgment; but must make some departure to satisfy those who had placed him in power. That before the Carolinians had made their attack on Fort Sumter, he had decided not to reinforce or to attempt to reinforce its garrison, but merely, and only, to supply its handfull of famishing men with food; and that he had distinctly communicated these purposes to the authorities of the southern confederation. That he had also determined that until the meeting of Congress he would make no attempts to retake the forts, &c., belonging to the United States, which had been unlawfully seized and wrested from their possession, but would leave the then existing state of things to be considered and acted upon by Congress, unless he should be constrained to depart from that purpose by the continued military operations of the seceded States.

The President further said, that events had now reached a point when it must be decided whether our system of Federal Government was only a league of sovereign and independent States, from which any State could withdraw at pleasure, or whether the Constitution formed a Government invested with strength and powers sufficient to uphold its own authority, and to enforce the execution of the laws of Congress; that he had no doubt of the truth of the latter proposition, and he intended to make it good in the administration of the Government to the extent that he should be sustained by the people of the United States.

He remarked also, that he had expected all the States upon which he had made a requisition for military aid to enable him to execute the laws, to respond to that call; and particularly the State of Kentucky, which had been so loyal to the Union and faithful in the performance of all her duties. That he greatly regretted she had not acted up to the principle of her great statesmen now no more, and for which she cast her vote in the late Presidential election, "the Union, the Constitution, and the enforcement of the laws."

That he intended to make no attack, direct or indirect, upon the institutions or property of any State; but, on the contrary, would defend them to the full extent with which the Constitution and laws of Congress have vested the President with the power. And that he did not intend to invade with an armed force, or make any military or naval movement against any State, unless she or her people should make it necessary by a formidable resistance of the authority and laws of the United States. That if Kentucky or her citizens should seize the post of Newport, it would become his duty, and he might attempt to retake it; but he contemplated no military operations that would make it necessary to move any troops over her territories, though he had the unquestioned right at all times to march the United States troops into and over any and every State. That if Kentucky made no demonstration of force against the United States, he would not molest her. That he regretted the necessity of marching troops across Maryland, but forces to protect the seat of the United States Government could not be concentrated there without doing so; and he intended to keep open a line of communication through that State to Washington city, at any risk, but in a manner least calculated to irritate and inflame her people.

In this time of gloom and danger, when the nation is being rocked to its base, and so many States are leaping headlong into the abyss of revolution, it is the paramount duty of every true son of Kentucky to give all his efforts to save her from the fatal plunge, and thus keep away from her borders the most terrible of all scourges, a civil and servile war. Let her not become a party to this most unnecessary, unnatural, and revolting sectional strife. She had neither part nor lot in bring it on. It was precipitated by its arrogant authors without condescending to consult her, against her earnest remonstrances, and to put in peril all her interests, every hearthstone within her borders, and all

her women and her children. Its flashes and thunders are gleaming and breaking in the southern horizon over the guilty heads of those who dared it, would have it, and there let it rage and waste its fury. There is no call of interest, of honor, or of duty upon us to rush into it and thus avert it from the South, and bring down its fury upon ourselves. Will we permit our sympathies for those who had none for us, or our reckless knight errantry, to intervene at the cost of having our fair and peaceful land ravaged with fire and sword?

Let Kentucky look to herself and her own self-preservation in this dread hour. Let her stand immovable as a rock peering above the tempest-tossed ocean, and as the red waves of war, from North or South, beat against her firm base, let her roll them back with all their desolation. To enable her to perform this difficult and perilous duty, let her clothe herself in full panoply. Let all her men and all her youths procure for themselves the most effective arms, and then themselves form an independent organization of companies, regiments, and divisions. Let them drill thoroughly, and always be ready to defend their homes and their State from all enemies, within or without. Let them put themselves under the command of brave and faithful men who are known to have no object but the defense and preservation of our Commonwealth and the reconstruction of the Union. Let us husband our resources and perfect our military organization, and when the contending parties become worn and wasted by a prolonged and bloody war, we can then effectively interfere to command a general peace.

Faithfully yours, GARRETT DAVIS.

GEORGE D. PRENTICE, Esq.

EMANCIPATION.

SPEECH OF HON. J. R. DOOLITTLE,

OF WISCONSIN,

IN THE SENATE, *March* 19, 1862.

The Senate, as in Committee of the Whole, resumed the consideration of the bill (S. No. 108) for the release of certain persons held to service or labor in the District of Columbia, to which Mr. DAVIS had moved the following amendment:

And be it further enacted, That all persons liberated under this act shall be colonized out of the limits of the United States, and the sum of $100,000, out of any money in the Treasury not otherwise appropriated, shall be expended under the direction of the President of the United States for that purpose.

Mr. DOOLITTLE moved to amend the amendment, so as to make it read:

And be it further enacted, That the sum of $100,000, out of any money in the Treasury not otherwise appropriated, shall be expended under the direction of the President of the United States to aid in the colonization and settlement, with their own consent, of free people of color from said District in the republics of Hayti and Liberia, or elsewhere.

The question being upon the amendment to the amendment,

Mr. DOOLITTLE said:

Mr. PRESIDENT: Believing, as I do, that all men have a natural right to their liberty, and that Congress has exclusive legislative power in the District of Columbia, I am ready to give my vote to put an end to slavery here forever. But, sir, I cannot support the amendment proposed to this bill by the Senator from Kentucky, [Mr. DAVIS,] unless my amendment to it shall be adopted, and then I will give it my hearty support. But before going into a discussion of its merits, I wish to say, in spite of all we have heard here or elsewhere about the alleged incapacity of the negro race, I believe that all the races of mankind are capable of enjoying and maintaining civil and religious freedom, under the influence of Christianity and in harmony with the laws of nature. I say, therefore, that in this District, where we have the undoubted constitutional power, I would extend freedom to the colored man. I go further: the freedom I would give him should be more than a thing in name; it should be a thing in substance, freedom in fact. Two things are necessary to give him that. He must be free not only from the control of a single master; he must be free from the presence and domination of a stronger race. It is in vain to talk of the independence of Indian tribes, or of the freedom and equality of individual Indians, scattered in the midst of our white population in the temperate zone. They may be free in name, in theory, but in fact they are a dependent and a subject race. In giving freedom to the men of African descent, some are content to give them the right to be free. I would do more, make them free in fact. I would not make an idle promise to the ear, to be broken to the heart.

Upon one extreme, it is said that our fathers, in asserting the equal rights of all men, did not embrace the negro race at all. I have heard it on this floor. In the Dred Scott case the Chief Justice says it. Sir, I have before me a *fac simile* of the original draft of the Declaration of Independence in Jefferson's handwriting. The same pen which wrote "all men are created equal" wrote these words also:

"He [the king of Great Britain] has waged cruel war against human nature itself, violating its most sacred rights of life and liberty in the persons of a distant people [the negroes] who never offended him, captivating and carrying them into slavery in another hemisphere, or to incur miserable death in their transportation thither. This piratical warfare, the opprobrium of *infidel* Powers, is the warfare of the *Christian* king of Great Britain; determined to keep open a market where MEN should be bought and sold, he has prostituted his negative for suppressing every legislative enactment to prohibit or to restrain this execrable commerce; and that this assemblage of horrors might want no fact of distinguished dye, he is now exciting those very people to rise in arms among us, and to purchase that liberty of which *he* has deprived them by murdering the people upon which *he* has obtruded them; thus paying off former crimes committed against the *liberties* of one people with crimes which he urges them to commit against the *lives* of another."

I read this whole extract, Senators, not for the burning words of denunciation against England for first forcing negro slaves upon the colonies, and then inciting them to insurrection, but to show that the same mind which conceived and the same pen that drew the Declaration of Independence embraced all the races of men, and to make it doubly sure, when speaking of the negro race, printed the word "MEN" in large capitals.

But, sir, that same master mind comprehended this whole negro question. He knew what, it seems to me every man may know, that in solving it two great ideas must be considered at the same time, one of race, and one of condition. The negro question involves more than the question of voluntary or involuntary servitude. I am not satisfied without an answer to the whole question. Jefferson gives it in these words:

"Nothing is more certainly written in the book of fate than that these people are to be free; nor is it less certain that the two races, equally free, cannot live in the same Government. Nature, habit, and opinion have drawn indelible lines of distinction between them. It is still in our power to direct the process of emancipation and deportation peaceably, and in such slow degree as that the evil will wear off insensibly, and their places be, *pari passu*, filled up with free white laborers. If, on the contrary, it is left to force itself on, human nature must shudder at the prospects held up."

Mr. President, in the temperate zone, the Caucasian race has always been dominant, and always will be. In the torrid zone the colored man dominates, and will forever. No laws of Congress or any other legislative power can reverse this great law stamped upon the earth and upon the constitution of man. Poets may dream otherwise; unwise philanthropy may hope to make it otherwise; but it cannot be done. The Creator has written it upon the earth and upon the race.

Look southward, to our own tropics; go, if you please, to Hayti; and what do you find there? You find that the white race is doomed. The colored man is the stronger race. Not only the laws of climate and race are against the white man, but even the municipal laws are reversed upon him. He cannot, it is said, own a foot of land in Hayti, nor can he give his testimony in court against a negro. The order of things here is reversed there. The colored man is dominant. I recollect a colored man by the name of Harris, from Cleveland, Ohio, who made a trip to Central America and to the islands of the Gulf of Mexico, for the purpose of exploration. He wrote a book on the subject, which I once read; and he states a fact patent to all the world. "The white race is doomed in this climate." Why doomed? Because it has become effete, enfeebled, and degenerated to such an extent that no choice is left but to commingle with the colored race, or in a few generations cease to propagate their species. Nature asserts her supremacy; she claims her own; she will have them; the negro is the child of the tropics and of the sun; he is going there and you cannot hinder it. He will go there as a freeman or as a slave. I would aid him to go there as a freeman. The sooner our minds and hearts and political action shall be in harmony with those laws which God the Almighty has established, the sooner may we look forward to a final and permanent solution of the great question now agitating the American people.

Some object to colonizing people of African descent, because they allege that the negro race is incapable of maintaining civilization, and especially civilized government, in the tropics where he naturally belongs, or anywhere else. But the facts I think show the contrary. In addition to what was stated by the honorable Senator from New Hampshire [Mr. HALE] yesterday, I will state some facts in relation to the French colonies, derived from a book lately published on the abolition of slavery by Augustin Cochin. The French have four colonies, Martinique, Guadaloupe, Cayenne, and Réunion. The population of Martinique was 121,130; of Guadaloupe, 129,109; of Cayenne, 19,375; of Réunion, 103,280. The total white and free mulatto population was 139,089; the slave population, 233,814; making in all, 372,903. He gives many statistics showing their condition for five years next previous to the abolition of slavery, and for the ten years after.

Slavery was abolished in these colonies by the republic of France in 1848. In 1840, eight years before abolition, there were required, to preserve order at Martinique, 3,026 soldiers; and in 1860, only 1,384 soldiers. At Guadaloupe there were required, in 1840, 2,900; and in 1861, but 1,384 soldiers. At Réunion, the garrison in 1840, was 1,719; and in 1860, there were but 691. The first fact I mention is, that the soldiers required to preserve the public peace in those islands since slavery was abolished is but one half of what was required before.

There are other facts in relation to the administration of justice. In the island of Martinique, in which there is a population of about 121,000, there were tried before the court of assize, in 1852, for crimes against person, 31; crimes against property, 87; in 1853, 21 against person, and 87 against property; in 1854, 29 against person, and 87 against property; in 1855, 30 against person, and 88 against property; in 1856, 21 against person, and 75 against property; in 1857, 27 against person, and 69 against property; showing that in a population of 121,000, there was less than one person in a thousand that was tried charged with an offense against either person or property before the court of assize. Compare that with civilized countries, and I think the people of Martinique will not suffer in comparison.

But, sir, as another test of the condition of these colonies since emancipation, as compared with their condition before, let us look at their productions. Take the five years before emancipation, from 1843 to 1847. The mean production of sugar in Martinique during that time was in value 39,226,503 francs; from 1848 to 1853, the first five years after the abolition of slavery, 36,676,503 francs; being a reduction of 3,000,000 per year. This was, in part, in consequence of the revolution in France, disturbing commerce there, and making importations less. But the mean production of sugar in Martinique for the next five years was 51,000,000 francs; going up from 39,000,000, during the five years previous to abolition, to 51,000,000 during the last five of the first ten years after the abolition of slavery. So, too, in Guadaloupe, the mean annual production was 39,904,671 francs; and at Réunion, 72,324,705 francs.

Now, Mr. President, I will call attention to some statistics which bear more nearly upon the actual social condition of the people of those islands. What was the effect of emancipation upon the families of the people of these islands?

"In the ten years from 1838 to 1847, there were but 1,754 marriages among the slaves; about 250 per year, of which 29 were at Martinique, 61 at Guadaloupe, 24 at Cayenne, and 135 at Réunion. Among the free persons, there were 6,175 marriages during the same time. In the nine years after 1848, between 1848 and 1855, there were 38,468 marriages. If you compare 1856 with 1846, at Martinique among the slave population, there were 637 marriages in place of 46; at Guadaloupe 907 marriages in place of 101; at Cayenne, 138 marriages in place of 17; at Réunion, 627 marriages in place of 225."

During the existence of slavery in those islands, there was this proverb: "the white is the child of God; the black is the child of the devil; and the mulatto is the child of nobody." But emancipation in those islands has given, not only freedom, but family to the subject race.

Once more: I will now refer to their religious condition:

"In 1839, there was one priest to about forty-five hundred persons. Now there is one priest to about twenty-five hundred persons. The number of churches has considerably increased. Many of them have been founded by the blacks themselves. The parishes are still too large and the churches too few; but their good moral effect has operated immensely,

judging both from the number of parishes, from the number of churches, and from the progress among the schools."

I have referred to these statistics, showing the actual condition of these French colonies before and after emancipation, and they go to sustain what the Senator from New Hampshire showed in his speech yesterday, that although the first effect of emancipation was to disturb business and show a falling off in imports and exports, yet, after the first few years, there has been a full recovery; and more, that they are, year by year, still advancing in their material, social, moral, and religious condition.

But it may be said that both in the English and in the French colonies the cause of emancipation was sustained by a great central power at home, and but for the support of the civilized and powerful Governments of England and France, this feeble race would have failed. To meet that I point you to the republics of Hayti and Liberia, where this race controls society, politics, and government. What are the facts in relation to Hayti? Until this present session we have never recognized the republic of Hayti; yet, in spite of our neglect, our commercial relations with her have been of more consequence than with many of the civilized Powers of the earth. Out of seventy-five foreign States or countries with whom we hold commercial relations, she occupies the twenty-first rank among our exports, and the twenty-fourth rank among our imports. During the year ending the 30th of June, 1860, our exports to Hayti amounted to $2,673,682, and our imports from Hayti during the same period to $2,062,723. Our trade with Hayti is more than it is with the eight millions of Mexico.

This colored race is put on trial in Hayti to-day. So, too, we ourselves are on trial to determine the great question whether even our own race with all our advantages, is capable of maintaining constitutional liberty and self-government. We are in the midst of that trial. I, for one, am full of hope, confidence, and expectation; but not without fear. I cannot altogether repress the anxious inquiry which sometimes rises, whether we shall be able to go through this great struggle and maintain our constitutional liberty unimpaired. Not whether we shall subdue this rebellion, for I have never doubted that; but whether, from the exertion of such tremendous powers by the Federal Government, we may not absorb all power here, trample under our feet all the rights of the States, break down all constitutional barriers, and make this one great consolidated empire to reënact the history of Rome. That is a question upon which every reflecting mind must pause.

But to return: the negro race is on trial in Hayti. I believe it will be a success. The President of that republic feels conscious of their situation, and in eloquent terms appeals to the colored men to come to their support and aid them in this trial. President Geffrard says:

"Hayti will soon regain her ancient splendor. This marvelous soil that our fathers, blessed by God, conquered for us, will soon yield to us the wealth now hidden in its bosom. Let our black and yellow brethren, scattered through the Antilles, and North and South America, hasten to cooperate with us in restoring the glory of the republic. Hayti is the common country of the black race. Our ancestors, in taking possession of it, were careful to announce in the constitution that they published, that all the descendants of Africans, and of the inhabitants of the West Indies, belong by right to the Haytian family. The idea was grand and generous.

"Listen, then, all ye negroes and mulattoes, who in this vast continent of America suffer from the prejudices of caste. The republic calls you; she invites you to bring to her your arms and your minds. The regenerating work that she undertakes interests all colored people and their descendants, no matter what their origin, or where their place of birth.

"Hayti, regaining her former position, retaking her ancient scepter as queen of the Antilles, will be a formal denial, most eloquent and peremptory, against those detractors of our race who contest our desire and ability to attain a high degree of civilization."

Through his authorized general agent of emigration he offers to these people great advantages. He says:

"I am authorized and instructed by the Government of the republic to offer you, individually and by communities, a welcome, a home, and a free homestead, in Hayti."

* * * * * * * * *

"To each family of emigrants, five carreaux"—

A carreau is about three acres—

"To each family of emigrants five carreaux of fresh and fertile land, capable of growing all the fruits and staples of the tropics, will be gratuitously given, on the sole condition that they shall settle on it and cultivate it, and declare their intention of becoming citizens of Hayti. To unmarried men, on similar conditions, two carreaux will be granted.

"Board and lodging, free of cost, will be furnished to the emigrants for at least eight days after their arrival in the island.

"The Government also will find remunerative work for those of you whose means will not permit you to begin immediately an independent cultivation.

"Emigrants are invited to settle in communities.

"Sites for the erection of schools and chapels will be donated by the State, without regard to the religious belief of the emigrants.

"The same protection and civil rights that the laws give to Haytians are solemnly guarantied to the emigrants.

"The fullest religious liberty will be secured to them; they will never be called on to support the Roman Catholic Church.

"No military service will be demanded of them, excepting that they shall form military companies and drill themselves once a month."

But it is said these people are unwilling to go. The fact is otherwise, not as to all, but as to great numbers of the most enterprising and intelligent. They are accepting this invitation from Hayti, and are going to it by hundreds and by thousands. There is now a line of steamships. They are going from Canada, from Michigan, from Ohio, from New York, from every part of the United States. They are building up flourishing communities; shall we not aid them? Justice demands it at our hands. Every consideration of humanity, every high, patriotic, and Christian motive which can move a noble and manly heart, urges it upon us as a work of duty and of charity. Oh, my God, if one half the money, talent, and energy expended in this war had been directed to the emancipation and colonization of this people, how would the angels in heaven rejoice, and shout, "peace on earth and good will to men."

I know it is sometimes said that the objection which is felt on the part of the white population to living side by side, on a footing of social and civil equality, with the negro race, is mere prejudice. Sir, it has its foundations deeper; it is in the very instincts of our nature, which are stronger and oftentimes truer than reason itself. Men of wealth and fortune, men of high-wrought education, and men of rank and position, who are removed above the trials and sympathies of the great mass of laboring men, may reason and theorize about social and political equality between the white and the colored race; but I tell you as a practical fact, it is simply an impossibility. Our very instincts are against it. Let us look at the facts, and neither deceive ourselves nor deceive anybody else. How do the people in the free States stand on this question? In my State there are so few colored men that there is now no great feeling on the subject one way or the other; but suppose it should now be proposed to distribute the whole negro population equally among the States, which would bring into the State of Wisconsin about one hundred and twenty thousand, say seven thousand to Milwaukee, and from one to two thousand to each of the towns of Racine, Madison, Janesville, Kenosha, Watertown, Oshkosh, Fond du Lac, and other places, what would be their feelings then? What would our people, native and foreign born, say to that? Sir, they would probably feel and say just what the people of Pennsylvania, Ohio, Indiana, and Illinois feel and say on this subject. Illinois has just held a convention, and formed a new constitution, which excludes free colored men, as did the old constitution. Indiana has a similar provision, either by constitutional requirement or by legislative enactment. Ohio had until quite recently a law by which a free colored man was required to give bail for his good behavior. Nor are the people of New England devoid of this same feeling either. By the laws of Massachusetts intermarriages between these races are forbidden as criminal. Why forbidden? Simply because natural instinct revolts at it as wrong. Come down to the practical question whether, if the whole negro population of the United States were to be set free, and to be apportioned and distributed among the several States, and you would find just as much repugnance in New England as you now see exhibited in Illinois, or Indiana, or Pennsylvania. Their humanity would rejoice at their freedom; but their instincts would shrink back at their apportionment.

I can give you a case directly in point. A very distinguished gentleman from Vermont was first elected to Congress, I believe, about 1843. One of the well-to-do farmers in his neighborhood called upon him, the evening before he was to leave for Washington, to pay his respects. He found him in his office, and told him that he came for that purpose, and to bid him good bye. "And now, judge," said he, "when you get to Washington, I want to have you take hold of this negro business, and dispose of it in some way or other; have slavery abolished, and be done with it." "Well," said the judge, "as the people who own these slaves, or claim to own them, have paid their money for them, and hold them as property under their State laws, would it not be just, if we abolish slavery, that some provision should be made to make them compensation?" He hesitated, thought earnestly for awhile, and, in a serious tone, replied: "Yes, I think that would be just, and I will stand my share of the taxes." Although a very close and economical man, he was willing to bear his portion of the taxes. "But," said the judge, "there is one other question; when the negroes are emancipated, what shall be done with them? They are a poor people; they will have nothing; there must be some place for them to live. Do you think it would be any more than fair that we should take our share of them?" "Well, what would be our share in the town of Woodstock?" he inquired. The judge replied: "There are about two thousand five hundred people in Woodstock; and if you take the census and make the computation, you will find that there would be about one for every five white persons; so that here in Woodstock our share would be about five hundred." "What!" said he, "five hundred negroes in Woodstock! Judge, I called to pay my respects; I bid you good evening;" and he started for the door, and mounted his horse. As he was about to leave, he turned round and said: "Judge, I guess you need not do anything more about that negro business on my account." [Laughter.] Mr. President, perhaps I am not going too far when I say that honorable gentleman sits before me now, [Mr. COLLAMER.]

Mr. COLLAMER. As the gentleman has called me out, I may be allowed to say that the inhabitants of the town were about three thousand, and the proportion was about one to six.

Mr. DOOLITTLE. That does not vary the result. Sir, when we come to the thing itself, and look it squarely in the face, it is a very important question what is to be done in relation to this race of people when they are emancipated. Within this District and within the Territories, we have all power and all responsibility. Within the several States, however, it belongs to them and to their people. They have the undoubted right to regulate as they have always regulated their own policy upon this subject for themselves. We know how much that policy varies, in free as well as slave States. In some free States they have civil rights alone; in others, political rights also. In others still, they are forbidden to come at all. The slave States have peculiar policies of their own. In none are free negros allowed to come. Some will not allow a negro to be emancipated unless he is taken out of the State; and within the last few years some of them have passed most cruel laws to compel those already free to leave the State or be reënslaved, sold at the auction block.

All this goes to demonstrate that Jefferson knew as much about this question as the new lights of the present day. He, who was himself the author of the declaration of the equal rights of all the races of mankind, declares to you also as a fact indisputable that the two races upon the same soil side by side in anything like equal numbers cannot and will not live together upon a footing of equality.

To illustrate this feeling in the slave States still further, I will state another fact not generally known, and I do so upon the authority of ANDREW JOHNSON, of Tennessee. In 1856, when he was Governor, there were fears of a negro insurrection in that State. Large numbers of the non-slaveholding white population called upon him as Governor for arms. For what purpose? To prevent an insurrection of the slaves? This was the alleged purpose; but he ascertained the fact to be that these men were conspiring to massacre the whole slave population in that section of the State, and

he was compelled to call out the militia, not to prevent the negroes from rising in insurrection, but to prevent the whites from destroying them altogether.

I know this bill relates only to the District of Columbia, and my amendment to colonization from this District only; but it naturally opens the whole field of discussion of the true relations of the two races towards each other. Washington, Jefferson, Madison, Monroe, Clay, and Jackson, not only loved liberty as ardently as we do, but they understood this question of race in all its bearings. It is well known they all favored emancipation with colonization. I state a fact not generally known, that General Jackson, when President, in Cabinet council, intending to carry out this policy, proposed the purchase of some territory from Mexico, to become the homes of free colored men, to be occupied as a territory for themselves and all who should become emancipated. But the troubles growing out of the treason of Calhoun postponed any definite action.

But the day for action is at hand; it cannot be postponed. There must be a solution. It belongs, it is true, mainly to the people of the States. Some responsibility, however, rests upon the Federal Government. It has the undoubted power, by treaties with Hayti, Liberia, and other tropical States, to acquire rights of settlement and of citizenship for all free persons of African descent who may desire to migrate to those countries, and thus, with very little expense, gain free homesteads for them and their children forever. This would open the way for the slaveholding States, if any of them desire to avail themselves of the opportunity, to emancipate and colonize their slaves, and thus open their own rich fields to be forever the homes of the pure Anglo-Saxon race.

There are, and there can be, in my judgment, but three solutions to this negro question. One is the solution of John C. Calhoun, one of John Brown, and a third, midway and equally removed from both extremes, the solution of Thomas Jefferson.

CALHOUN'S SOLUTION.

Calhoun and his followers, Toombs and Davis, say, in substance, "slavery is a blessing to mankind, black and white. Extend it everywhere; reopen the slave trade, bring all Africa into slavery, to christianize and civilize the negro race; buy if you can, if not, seize Cuba and all central and tropical America; plant slavery all around the Gulf of Mexico and the Caribbean sea, until the slaveholding aristocracy, proclaiming 'cotton as king,' reaching through the valley of the Orinoco to the valley of the Amazon, shall shake hands with the slaveholding empire of Brazil. Then shall slavery, the great Dagon at whose shrine we worship, hold within its embrace a monopoly of the sugar and the cotton of the world." This is the solution of southern fanaticism; this is the dream of southern mad ambition. It is a gigantic dream. Could they have held the Government for one or two administrations more, they would have struggled to realize it. But the power was wrested from their hands. Their dream is broken, and for that they make war upon the Government they could not hold.

JOHN BROWN'S SOLUTION.

The second is John Brown's solution. It is based on this idea—that all the negro population of the United States should be instantly set free, by act of Congress, or by arms, where they now are, side by side with their masters, throughout all the slave States, and placed on a footing of equality, entitled to all the rights of manhood, civil and political, of the citizens of those States; at once trampling down the rights of the States, and producing a system of equality which would bring the laboring white man and the laboring colored man precisely upon the same level, to compete for wages in the same market. This, of necessity, where their numbers bear any proportion to each other, must lead to an "irrepressible conflict" of race, and to the expulsion of one or the other, or to an amalgamation of races, to produce in the southern States the same condition that exists in Mexico, making them into mulatto States, and thus solve the negro question.

This is the John Brown solution. The first through Davis and Toombs, fourteen months ago said, "down with the Constitution, give us a new Constitution to carry slavery all over Mexico and Central America as fast as we can acquire it, or we will destroy the Government." The second cries, "down with the Constitution. It is a covenant with hell. It gives Congress no power to abolish slavery in the States. Make a new Constitution." Sir, I will not yield to the demands of either.

JEFFERSON'S SOLUTION.

I have stood and will continue to stand for that solution of the negro question which Jefferson, the author of the Declaration of Independence, himself proposes, which, while it will in the end give universal liberty to universal man, will gradually and peacefully separate these two races for the highest good and to the joy of both; giving to each in their own place the enjoyment of their rights, civil, social, political. That solution is in accordance with that law of the Almighty by which the black man dominates the tropics, and always will; by which our race dominates the temperate zone, and will forever. It is easier to work with Him than against Him. When we accept the solution of Jefferson, which falls neither into the fanaticism of the one nor the blindness of the other, we shall then see the beginning of the end of that irrepressible conflict, more of race than of condition, which has disturbed us so long. Until it be solved, there can be no permanent peace.

Mr. President, what idea underlies the war now going on? The leaders of the rebellion were goaded to it by mad ambition. Slavery was their pretext; but the great mass of the non-slaveholding people there were deluded into it. They were told, and became maddened at the thought, that the purpose of the Republican party is, not merely to prevent slavery going into the Territories and to abolish it in this District, where we have the power, but that its real purpose is to overturn slavery in the States; to put the black man there upon a footing of social and political equality with themselves and their wives and children. They were made to believe that John Brown was its true representative; that if Mr. Lincoln should be elected the slaves would be set free and armed against their masters. They believed it. That belief brought before their eyes, to be reënacted at their own homes, all the horrors of St. Domingo—fire, rape, and slaughter; dwellings burned, children butchered, wives and daughters ravished upon the dead bodies of their husbands and fathers. They were made to believe it all. That belief drove them to frenzy. That alone roused in their breasts a passion too strong for their patriotism. That alone made them desert the flag of the Union and take up arms against this Government.

What we may constitutionally and justly do to confiscate the property, including slaves, of the leading conspirators upon whom this crime rests, which

"Hell with all its powers to damn"

can hardly punish, I will not now consider; I may do so on some proper occasion hereafter. I will only now say, that if we now do just what they charged us with intending to do; if, by one sweeping act of Congress, we declare the immediate and unconditional emancipation of all the slaves in all the States, to remain forever within the States against the will of the people in those States, we shall make true every prophecy of our enemies against us, and make false the pledges we made in the canvass of 1860, on which we won the victory, and by which alone we brought this Administration into power. This course would make us appear to be false and hypocritical before God and man. For one I will not consent to do it. I say to my friends here, there is no Republican on this floor who took part in the canvass of 1860, who did not a hundred times over declare that we had neither the constitutional power nor the purpose to interfere with slavery within the States. How then can we now advocate a doctrine in violation of every pledge we then gave, and on which we brought this Administration into power? Shall we now make true every charge of our enemies against us, charges which we denounced as false and infamous? Shall we make them true instead of false prophets by our actions now?

Mr. President, while I would connect the action of this Government in emancipating slaves in this District with the idea of colonization, I would make it not compulsory but voluntary emigration. I would embrace those only who by their own free consent are willing to go from this District to Hayti, Liberia, or elsewhere. I am not in favor of the amendment as proposed by the Senator from Kentucky, [Mr. DAVIS,] to compel the colonization of all who may be set free under this bill. Upon this point I desire not to be misunderstood. I would make this colonization voluntary; upon their own free consent. I would hold out inducements which might lead them to go, and not compel them by force of arms. For that purpose I have offered my amendment.

Another objection to Mr. DAVIS's amendment is, that of those to be set free under this bill some may be too old to go, some too young. Therefore the money we appropriate for this purpose should be applied generally to all free persons of color in this District who may desire to emigrate under the direction of the President. If a commissioner to Hayti and Liberia were appointed he could very properly superintend this business. We may, perhaps, at some time hereafter establish a District bureau, with a commissioner, like our Commissioner of Indian Affairs. The republic of Liberia also offers large inducements for them to go there, and presents high hopes for the African race, and should not be overlooked: I have already occupied so much time that I will only say she offers substantially the same generous inducements which the republic of Hayti now offers them. There are also many other places. There is down upon the Gulf, just below Tampico, in Mexico, a flourishing colony of free negroes, founded by themselves, upon their own account. They are raising cotton, sugar, and coffee. There is also Honduras and the island of Ruatan; there is Nicaragua and Guatemala. The President of Guatemala offers a large hacienda of his own to settle a colony of free negroes, and will favor a law to give them homesteads in the public domain. There is also Venezuela, Yucatan, and other States below the Gulf. The single island of Hayti is capable of receiving immediately five hundred thousand of these people. There, too, is the island of Cuba, so long coveted to become the seat of power for a great slaveholding empire around the Gulf, which may itself, like Hayti, yet become the cherished home of free colored men. It is of itself capable of receiving and maintaining the whole negro population of the United States.

Behold all the islands of the Gulf and of the Caribbean sea, all the lower States of Mexico and Central and Southern America bordering upon the Gulf.

There you see, sir, the best and most fertile region of the whole earth, capable of sustaining five hundred millions of colored men lying almost at our doors. With comparatively very little expenditure we can plant these people as freemen, to remain our friends forever, all over that region; we can, if we will, by treaties of amity, open up there a commerce beyond the imagination of man to conceive; we can found colonies to which our ships will go loaded with emigrants and come back loaded with their productions. Thus, by cherishing friendly relations, without owning one foot of their territory, or being at the expense or trouble of governing it, we can raise a commercial empire at our feet which will be to us in commerce what the East Indies are to Great Britain. All this we can have almost for the asking.

In all these countries the colored races predominate. So far from objecting to receive our colored population, they prefer them to the white race, and for the same reason that we prefer our own. The judicious expenditure of one, two, or three, or even five, millions annually, in planting our best and most enterprising free colored men in all these countries, would open new markets for all our productions and manufactures. Though not nominally belonging to us, they would carry our language, institutions, and customs with them. They would be still of us; and by free trade, and by the moral power of friendship and gratitude, remain our producers and customers forever.

But, sir, there is another reason why we should encourage colonization to Hayti now. Some say that Spain covets the whole island of San Domingo. She has taken Dominica already, and seems to threaten even the republic of Hayti. We

can in no way give so much moral and physical support to that republic as to encourage and to aid these people to go there by thousands, carrying with them, as President Geffrard says, their civilization, their arms, and their minds, to aid the African race in sustaining self-government in that republic, where its capacity to do so is now on trial. Let us give to Hayti this recognition and moral support.

Mr. President, a few words more and I have done. I do not know, and dare not predict, what lies before us in the immediate future. It is well we cannot lift the vail. God only knows whether this civil war is to be long or short. No man now can foresee. I hope, I trust, I will say I believe, it may be substantially over in a few months. If our armies are as victorious in the East and South as they have been in the West, we shall soon have Norfolk, Richmond, Charleston Savannah, and New Orleans. When we open and hold possession of the Mississippi river, the power of the rebellion will be crushed. Once break the power of its armies, and the loyal people of these States will seek to take their true position in the Union, even in the State of South Carolina.

But, Mr. President, I may be too sanguine; I may be mistaken in all this; the war may continue for months, possibly for years; it may be fought with the courage of desperation; it may be fought to the bitter end with the madness of despair. The conspirators, with their lives in their hands, declare they will never surrender while they can get a man or a gun. This may prolong the war. That may compel us to march large armies into and through all the cotton States on the Gulf of Mexico. The tread of armies may tread out slavery as they go. If it does, be it so. Whatever stands in the way of suppressing this rebellion will be trampled in pieces. The white population may flee from the lower States at their approach as they fled at Beaufort. If negroes only remain, they will of necessity become free, and the country, from which all white people may have fled, become a negro territory. Should such an event occur; should South Carolina become a negro territory, the negroes from the northern slave States escaping also may flee to that territory, as their land of Canaan, and thus effect a separation of the races this side the Gulf of Mexico. On some future map we may see, where South Carolina now is, the "negro territory of the United States." This may occur. God only knows.

But while such a result may come, I say most distinctly that it is not what I desire to see. No, sir! No! I will hope and labor and pray Almighty God it may be otherwise; that the frenzy of that people may pass away. I would see once more every State, even South Carolina, in its proper sphere, loyal to the Constitution and the Union. I hope, I expect to see, Union men in every State rising to crush these conspirators and trample them under their feet. When the reaction does come, when the Union men of those States can get the power into their hands, O, what a day of vengeance for traitors then! They will meet the just reward of their gigantic crime. When the war is over, and the last vestige of armed rebellion crushed; when peace comes again, and Representatives of all the States take their places in Congress I shall hope to see the wise suggestions of the President adopted by the people of all the States, which, looking to gradual emancipation, and to generous colonization, will open all the tropical portions of America for those men of African descent who are now free or may hereafter become free, in which they may find homes for themselves and their children forever in that zone of the earth which God, in His good providence, has reserved for their race.

Let us take down the map of this New World. Let the American Republic, upon whose fate the destinies of republican liberty now hang, rise with the occasion and take the high responsibility. Let our vision be cramped with no contracted view. Let our eyes open wide to the whole of North America and to all the races upon it, Caucasian, African, and Indian. Let our legislation, where ever we have constitutional power, be such that while acting for ourselves, the dominant race here, we may, as a matter of high statesmanship and of Christian duty, do good to all the races of mankind.

SLAVERY IN THE DISTRICT.

SPEECH OF HON. J. A. McDOUGALL,

OF CALIFORNIA,

IN THE SENATE, *April* 3, 1862.

The Senate having under consideration, as in Committee of the Whole, the bill for the release of certain persons held to service or labor in the District of Columbia—

Mr. McDOUGALL said:

Mr. PRESIDENT: I am still so indisposed as to render it difficult for me to address the Senate, but the importance of the question induces me to attempt the expression of my opinions. This war has now been prosecuted for nearly a full year. Many gentlemen express the opinion that it is to be soon closed; that we shall in a very short time have compelled a peace, and it has struck me that this opinion, that we are about to completely triumph and that our enemy is no longer formidable, has led Senators to indulge in the production of measures and the announcement of opinions without the grave consideration which might otherwise be demanded. I must say that while I have hoped otherwise, I fear that we are as yet but upon the threshold of this war. Although I have been at all times full of confidence in the complete reëstablishment of the Union in all its integrity, I am compelled to think that the period of final consummation has been long postponed by the tone and temper of discussions, as well as the character of measures here introduced—measures not demanded by the times, for which there was no pressing or public necessity, and which when produced have called forth sentiments which, while tending to alienate friends, have strengthened our adversaries, by making their hostility more determined, and, as they think, their cause more just. It is true we find the enemy abandoning their lines on the Potomac, we find them abandoning East Florida, and withdrawing their forces southward on the Mississippi; these facts, with our recent successes, seem to some to promise a speedy peace, but it must be remembered that they are falling back with their organization and arms into their own country and their selected places of strength, while at the same time our forces have to act further from supplies and support in a country of which they are comparatively ignorant.

The Union sentiment existing to a greater or less extent throughout the South, we are now informed, has been in many sections entirely dissipated. Why is this? I understand it to be for the reason that the impression has been made to prevail that the leaders now controlling the administration of this Government are not making a war for the restoration of the Union, but a war against slave institutions. We have assured them to the contrary by our resolves, and the President has given the same assurance by repeated words. But we find in the two Houses of Congress, and particularly in this body, which should be the most conservative, measures constantly brought forward and advocated which can hardly be interpreted otherwise than as indicative of the policy they apprehend. They indicate such a policy to me, and if to me, how must they impress the people throughout the whole South. I am assured that thousands and tens of thousands throughout the South who looked anxiously and hopefully for the reëstablishment of the Union have abandoned all such hope, and possibly all such desire, for the assaults made here by Senators have not been aimed merely at their institutions, but at the character of the entire people of the South.

I ask, are we strengthening our hands in this war, when Senators—learned Senators, eloquent Senators—rise in their places and undertake to maintain, by what must be merely exceptional cases, that the people of the South are scarce removed from the condition of barbarism, that they are a ruthless and a savage race? If these opinions are in truth entertained by them, then they expect to meet them as they meet the savage, and it is to be a war, not to bring back into a fraternal union the States and the people that have left us, but a war of extermination. Do Senators suppose that in saying this they represent the opinions of any State in this Union, of any county in any State, or of any hamlet or town? I believe, from some knowledge of this country, from its eastern to its western confines, that there is no such community of people, great or small.

Mr. President, from the tone of the discussions here I must say I have lost much of the strong faith with which I entered this Hall. The character of these discussions is calculated to dispirit all those persons who are for a reëstablishment of the Union. The tone and temper of them would indicate to me, and do indicate to me, that gentlemen entertaining these opinions, and pronouncing them here, do not seek a reëstablishment of the Union. They expect sooner or later to see a dismembered Republic. They do not hope, I suppose, by a war of absolute conquest, to subjugate the South. As we march our armies through the country they might dissipate like the mist in the morning; but as the mist again settles on the hill the succeeding night, so would they be in their places again as our armies moved forward. We cannot occupy all of that vast country south of the Arkansas, the Ohio, and the Potomac. Remember the long border wars between the two sections of Great Britain. England was as strong, compared with Scotland, as is the North compared with the South; and yet England never conquered the barren hills of the North, neither was any permanent peace established until by succession, and by compact, a common head of the government of both countries was taken, who was of both Scottish and English race. When we talk of subjugation—I do not say subjecting—remember what it cost this Government, and how long a war we had to overcome a few Indians in the everglades of Florida.

I am well assured we shall have to carry on our operations as well by arms and the exhibition of our power as by offerings of peace. It is with this firm conviction that I have continued to say that I regret the introduction of all these measures, no matter how worthy of approval they may be as abstract propositions or as matters of legislation at a time when such legislation would not be prejudicial to the general harmony of the country, or the harmony which we sought to restore. I repeat, as I said yesterday, I regret that this measure has been brought forward; but it is brought forward now, and the discussion has to be had. I have no doubt some measure on the subject will be passed. I sincerely trust it may not be the measure as brought before the Senate from the committee. I think it is an immature measure. It appears to me extremely so. It does not look in the face the actual condition of things. Apart from its immediately and with one single act changing the condition of the institution, absolutely destroying it in this District, it makes none of those provisions that should attend such a change. It provides for the manumission of the slaves, and that is the end of it. As I remarked yesterday, there were, according to the last census, one thousand six hundred slaves in this District under fifteen and over sixty years of age; and it is not likely their number has been materially diminished. What is to be done with them? I suppose you will not colonize the old, because they are unfit to go to new countries. You will not send off the young, because they are unfit for the hardship. They must be provided for here. The law now compels their owners to support them; and that law can be enforced. Are we to take charge of that business, a large business as it will prove to be, requiring a great many agents on the part of the Government to transact it, the expenditure of a large amount of money, and very careful administration? If that provision was put in the bill, perhaps it would call attention, at least, to the nature of the enterprise in which we are engaged. It should be there, if for no other purpose than to advise the country of the responsibilities Congress has thought proper to assume.

I believe this is the first time that in a serious form a measure has been brought forward for the immediate emancipation of the slave population of this District. Let me inquire whether this accords with the pledges of the party now in power—for the Senator from Ohio [Mr. SHERMAN] has chosen to speak of parties particularly—are not the party in power pledged against such a policy? When there was no war upon the country, when there was no threat of war, in the canvass of 1858, the President, then a candidate for a place on this

floor, in presenting his views upon this subject, declared himself against any such legislation, although favoring gradual emancipation.

We are now engaged in a desolating, sanguinary, and exhausting war with a large portion of the people of the South, and upon this entire subject the whole South is sensitive to the extreme. If there ever was a time when such a measure could be unwise, that time is now. I confess myself surprised that the Republican organization should at this time venture upon such an uncalled for and hazardous policy—a policy in violation of the declared views of the President, and in violation of what I think may be fairly considered the pledges of the Republican leaders to the country; pledges made in times far more auspicious than now for such measures.

Mr. SHERMAN. My friend will allow me to observe that when I alluded to the Republican party it was for the purpose of proving by their recorded action the precise allegation he now makes of them; to show that they had never taken the extreme positions which had been attributed to them even by my friend from Kentucky. It was only in that way that I alluded to the Republican party to show its generosity and liberality.

Mr. McDOUGALL. I understand that such are the views of individuals, and I hope individuals will carry their opinions into action here without reference to party organizations. I have endeavored to do so, and I hope the Senators on the other side of the floor will pursue the same policy. I know that there is a great portion of the Republican party between whom and myself I can hardly name a difference, who agree with me, as a general thing, in principle and in policy; but I know there are others from whom I differ greatly, and they are the persons who produce these measures on the floor of the Senate. We shall better understand exactly how the Republican party is moved when there shall be final action on some of the measures which have been brought forward. I wish, however, to say that I think against this measure the Republican party, as such, are committed, as far as a party can be committed, by the express views of the person nominated by them as their standard-bearer in the presidential contest; and if it was wise for the President at that time to take that position, by the greater reason it is right and wise that it should be maintained now.

I have said that, as the question was before the Senate, I would now meet it. My friend from Indiana has brought forward a bill prepared, as I have stated, by the President when he was a Representative from Illinois in 1848. I am disposed to make some changes in that bill as then proposed, not in its substance, but adding provisions that I think will improve it. As to the bill thus amended, I wish to say that I am sincerely in favor of it. I repeat, in order that I may be understood, that I look upon the institution as a serious evil in the District, independent of the moral character of slavery, about which I propose to say nothing, as it comes before us as a political institution. If a measure, such as I think just, such as Republicans at one time thought a just and fair measure, such as has the authority and sanction of precedent and experience, can be brought forward here, I shall give it what support I can. That I may be understood I will briefly state the measure as I propose to support it. The Senator from Indiana in his statement did not go into any details as to the bill. I wish the bill understood, also the reasons why I approve of it. The first section of the bill of the Senator from Indiana, as I would amend it, provides:

"That no person not now within the District of Columbia, nor now owned by any person or persons now resident within it, shall ever be held in slavery within said District, except as hereinafter provided."

That of course limits slavery to the slaves now here, and prevents any slaves being brought here. The next section is:

"That no person now within said District or now owned by any person or persons now resident within the same, or hereafter born within it, shall ever be held in slavery without the limits of said District."

That is another limitation, so that if any slaveholder should take his slaves out of the District into Virginia, Alabama, or any other State, they would become free. But to that section I would add this proviso:

Provided, That the officers of the Government of the United States, being citizens of the slaveholding States, coming into said District on public business, and remaining only so long as may be reasonably necessary for that object, may be attended into and out of said District, and while there, by the servants of themselves and their families, without their right to hold such servants in service being thereby impaired: *And provided further*, That citizens of slaveholding States visiting or temporarily remaining in the said District, may be attended into and out of said District, and while there, by the servants of themselves and families, without their right to hold such servants in service being thereby impaired.

The rule of comity, as it is recognized by all civilized nations, would demand some such provision as I have just read. In a case decided sometime since in the supreme court of Massachusetts, the question arose of the right of a citizen of a slave State in transit to hold a slave servant. Chief Justice Shaw, one of the most eminent of our American jurists, in delivering the opinion of the court, remarks, in substance, that did Massachusetts occupy such a geographical position as to make such right of transit desirable or a great convenience, that is, if she was bounded in whole or part by slave States, then, as a matter of comity, the laws of the slave State maintaining the master's authority would be enforced in Massachusetts.

Since that decision the question was raised in Illinois. Illinois, it will be remembered, is bounded on one side by Kentucky, and another, in part, by Missouri. Upon very full argument, and very careful consideration, the supreme court of that State held that as a rule of comity Illinois would maintain the rights of masters in transit, and temporarily being in the State accompanied by their slave servants. As a matter of comity, we enforce the laws that prevail in Constantinople to a certain extent in this country; the same is true of all other countries. It is the practiced courtesy of nations, not dependent on statutory provisions, but when required, recognized and enforced by the courts.

The District of Columbia is surrounded by Maryland and Virginia. It should be equally accessible to the people from all parts of the country. When the Union shall be restored, men and families from the South as well as the North, will congregate here, some on account of office, some on account of business, and some for observation. I would have the capital at Washington accessible to a family from Kentucky or Louisiana, with their domestic arrangements, as well as to a family from Maine or Illinois. The true spirit of courtesy demands this, and it is in this spirit that our Government will have to be administered, if ever again it is administered as a unit.

Section three of the bill provides:

"That the children born of slave mothers within said District, on or after the 1st day of ——, in the year of our Lord 1862, shall be free, but shall be reasonably supported and educated by the respective owners of their mothers, or by their heirs or representatives, and shall serve reasonable service as apprentices to such owners, heirs, and representatives, until they respectively arrive at the age of twenty-one years, when they shall be entirely free, and the municipal authorities of Washington and Georgetown, within their respective jurisdictional limits, are hereby empowered and required to make all suitable and necessary provisions for enforcing obedience to this section on the part of both masters and apprentices."

The next section provides for manumission at the will of the owner. His slaves are not to be taken from him without his consent; but upon application to the Court of Claims, he may at any time have their value assessed. I do not like the machinery provided in the bill reported by the committee, making a large number of officers for this particular service, but I prefer to have the Court of Claims administer this business, as they can do; let them take testimony, ascertain the value of the negro, give him free papers, and the master an order on the Treasury for the amount of his valuation, which closes the business.

I undertake to say, that with a bill like this, providing that the proprietor of the slave may have his value properly assessed and paid, the institution of slavery will be extinguished throughout the District almost immediately. The Government will have to pay and ought to pay what the slaves are worth; and then we shall be freed of the institution, and will have the opportunity to do what I am anxious to see done, introduce white labor into the District of Columbia. This will accomplish it, because, if the proprietors can get what the negroes are worth, they will be willing to be rid of them. Then I propose another provision:

And be it further enacted, That all slaves and free persons of color resident in the said District may be colonized, with their consent, out of the limits of the United States, and the sum of $250,000, out of any money in the Treasury not otherwise appropriated, may be expended under the direction of the President of the United States.

As I have had occasion to state heretofore, I do not believe in the constitutional power of Congress to appropriate moneys for the purpose of the colonization of slaves from the States; but over the District of Columbia we have full jurisdiction, and in the exercise of the police powers of Government here we can make this provision. It will be of importance, as we have not got properly the labor of either free white persons or of slaves, to get rid of the one in order that we may introduce the other. Now, establish colonization, if you please, on some wise plan, of the persons held in slavery and free persons of color who choose to go from this District, and you may lay the foundation of a legitimate, cheap, and convenient colonization, not to be carried on by the Government, understand me, further than the District is concerned, but carried on by those efforts which may be legitimately made in the States by societies and individuals. By taking this step, a great national movement could readily be inaugurated.

When I speak of colonization do not understand me as being in favor of sending the colored population of this country across the Atlantic to Africa, to a country with which we have scarcely any communication or business, a country to which they are not acclimated. It does not follow because a person has African blood in him that the African climate suits him, although a more congenial climate than the one to which we are accustomed will certainly suit him. In Central America and about the Isthmus of Panama is a vast country, great portions of it uncultivated, owned, it is true, generally by proprietors who own four, five, fifteen, twenty, or thirty leagues. There, however, a country could be acquired. It is on the line of our commerce with the Pacific; it is on the line of a large trade carried on by this Government with the Gulf of Mexico, and with Mexico above the Isthmus; it is a very productive country; it is a country which we, the white people of North America, never will wish to occupy; it is too far south to breed the kind of man, the men with the hardihood of body and mind that are required in the maintenance of a free people. Let the Government, then, I say, organize a policy and secure a country in the southern part of our continent for the purpose of colonizing the people of color of the District of Columbia, and you have then laid the foundation of a work that can be prosecuted through the legitimate channels of effort and enterprise and the exercise of a true humanity. This makes provision for these people. In order to get free white labor here which we want, we have to get rid of this population. Now, let us legislate to do it. When you treat the subject, treat it considerately, treat it fairly, and treat it completely.

Then I have added to this the proposition that the measure shall be submitted to the people of the District of Columbia. That was the proposition of our present Executive—a proposition to which I think the Republican party may be said to be fairly committed. It is right. We legislate for the whole Republic in certain fields of legislation; but for the District of Columbia we legislate in place of their representatives. That is the exact relation which we assume. We undertake to act in the place of their representatives. It is our duty to consider all their interests. It is my business to consider their interests as carefully as those of the State of California. It is just as much the business of the Senator from Maine to consult their interests as to consult the interests of his own constituency. Here the doctrine of representation, so far as they are concerned, legitimately applies; and we should, upon all questions belonging to their domestic affairs, consult them as we would our respective constituencies were we acting in a State Legislature. Now, how do we understand these interests? I, coming from the Pacific coast, am not presumed to understand the interests of the people of this District, nor are other gentlemen from other remote parts. Where are we to learn? We should endeavor to learn from

them. If the sentiment of this District, where it is said there are only five hundred persons held as slaves who are fit for service, should be against the measure, which I do not believe, it will be for a reason which is at the foundation of the tardy steps made in favor of emancipation for the last twenty or thirty years. What a man may do of his own free will, of his own grace, at his own instance, in the way of surrendering a right or bestowing a benefit, he will do because it is a right surrendered or a benefit bestowed by him; but if, in his mode of doing it, he is interfered with by a stranger, he will be specially resistant.

In 1849, I was for some time in Western Missouri, traveling about the country. While there the subject of slavery was a matter of very common discourse. I made my headquarters at the house of a clergyman who owned some eight or ten hands. He was opposed to the institution. I found that the proprietors generally all through that part of the country were opposed to the institution and anxious to bring about some system of gradual emancipation. They wanted white labor, thought it more economical; but as soon as the Kansas difficulty arose, and they heard of Sharp's rifles being taken out there from the East instead of Bibles, that same people, who had been strongly in favor of emancipation, became fiercely resistant; and I heard of this same old clergyman being found on the road going into Kansas with a rifle on his shoulder. Why? Because they felt it to be an interference with their business; and if the people of the District of Columbia exhibit any hostility to this measure, it will be in a spirit of resistance, because we have not been disposed to consider their views and their interests. Now, I have no doubt that a large majority of the people of the District are in favor of some bill, but of course it must be a bill which will not look like an assault upon them. Their interest is in favor of some measure of emancipation. I trust if the measure does pass, it will be submitted to the people of the District. For one I wish to say to the people of the District of Columbia, that we, as their legislators, intend to consider their interests and their wishes in matters of domestic legislation.

Mr. President, this bill is not of great public importance so far as the amount of appropriation is concerned, or so far as the subject-matter of legislation is concerned; but it is of great importance so far as it concerns the health of opinion and sentiment throughout the country. I think that a measure such as that I have suggested is preferable to the one presented by the committee; but both are more or less imperfect. In so grave a business of legislative administration and management, my own notion is that the bill should be recommitted and more carefully prepared, so that it may be as near perfect as practicable, and furnish as few obnoxious points as possible. When in calmer times the minds of legislators can be fully devoted to legislation, much more time is given to the simplest measures than is now given to the gravest. In other countries, living in the light of a larger experience, much more time is given to the consideration of such measures than with us. A measure like this in England, before it would even receive consideration in Parliament, would have a special commission for its investigation of the most skilled and apt persons cognizant of the subject-matter, and after careful examination and matured plans and views, giving the reasons *pro* and *con.* on every side, Parliament would undertake to express the opinion of the country by either negativing or affirming the measure. We have been, during this session, especially in haste over the gravest matters, not demanded as immediate necessities of the day. It would seem as if there was some apprehension on the part of gentlemen that the power they now possess might by some accident, or by some change in the order of Providence or the course of events, suddenly escape from their hands; that their power might be like Jonah's gourd, that grew up in a night and withered in a night.

I think Senators should come here with the calm purpose of transacting that grave and solemn business which belongs to the maintenance of institutions, with a disposition to introduce only such modifications as are required for the progress of civilization and the development of the country. Legislation requires study, reflection, and careful preparation. Lessons that we should have learned by past experience, that the world has learned for centuries, and which have been recognized by all calm thinkers, seem to have been almost utterly ignored by this Senate.

Now, Mr. President, I have a word to say about some portion of the remarks of the Senator from Ohio. That Senator yesterday made the first rallying party speech that I have heard since war was upon the country, either upon the stump or in this Chamber. I had thought myself that there should be, so far as our councils were concerned, so far as our business here and our conversation abroad was concerned, but one party in this whole land, and that a national Union party; that to the great subject of restoring the Union in its integrity we should bend all our thoughts, to it we should give all our energies, and not let party discord and party difference come in to break up council. I have always been known as a Democrat. The views I have entertained in former times I have in no material or substantial matter changed. This was known to my people. I was sent here by the votes of Republicans and Democrats, but men who, in the day of their country's trial, determined to surrender all such mere minor questions of difference or of doubt as unworthy of the day. I stood pledged to them only to this: that I would be found standing by the Union and laboring to reëstablish it in all its integrity, as firmly and as persistently as any man. I thought that was a sufficient pledge, and I thought to do it would be a sufficient office until at least peace shall have returned after successful war.

The Senator from Ohio took occasion to announce, and challenged any exception to the observation, that to the victors belong the spoils, that the present Administration had won success in a party fight, and therefore that the offices should be held by Republicans, and he took exception because the head of the Army was a Democrat, and because generals in the Army were Democrats, known as such. So far as I am concerned, perhaps it may be said that I am in a minority and therefore it is not worth while for me to make mention of these things, but I must say that I have not lent my voice to any person for appointment to civil or military office since I came here on account of politics. When I came here there were no Republican members in the other branch of Congress from California. There was no one here from that State but my colleague and myself, and I had come most immediately from the State with the vote of the Republican party. So far as civil office was concerned I did endeavor to represent the views of leading Republicans of the State. I did understand, however, that in military matters no party question would be at any time raised. Indeed I did hope that in this time of difficulty the party rule would have been, to a certain extent, ignored at the White House and in the various Departments as to all matters connected with the administration of the Federal Government. I wished to hear nothing of party, and I yet hope that we may hear but little of it until we have concluded this war, which has yet to be long and bloody, full of difficulty, full of trial, with many, many disappointments.

Perhaps the war may—I hope it may—perform one great, good office: that it may bring together, as a unit, once more in our history, the true, sound, thinking men who really love their country and her institutions, many of whom have been and are too wide apart. I make no particular objection to the partisan position assumed by the Senator from Ohio; but I think we had better wait a little longer, perhaps even until another presidential canvass, before we undertake to make organizing party speeches here or elsewhere. I have myself, when speaking on these subjects, out of as well as in the Senate, endeavored to maintain just the opposite course. Where I have found the effort made to charge this war as the result of the election of a Republican President I have contradicted it, and met it with fact and argument. Where the purposes of this Government, or any portion of the Government, have been charged as being purposes hostile to the institutions of the South, I have met that by fact and argument.

I have endeavored to make a unit of all the Union men of the country by everything I have spoken or written since the war has been upon us; and although the gentleman may cry his party cries, I shall pursue the same course. When the war shall be over, when peace shall return again, when our weapons shall be tickets at the ballot-box, when our leaders will not advance standard in hand and sword at side, but when we may grasp with courtesy the hand even of our fiercest adversary, I shall be prepared for peaceful contests. I think a country like ours requires at least two parties; it will not do in any free government to have but a single party continually administering the Government. When peace shall have returned, I shall be found sustaining my peculiar views and opinions, and I shall then be ready to encounter the Senator from Ohio on party issues. It may be perchance that we may agree; I should be pleased to agree with him if I possibly could; but if we should chance to differ, I will be ready to hold with him fair, legitimate, wordy war; but I think we had better postpone all such engagements, and I hope they may be postponed in the Senate.

Mr. President, I will not detain the Senate further. I again reiterate the sentiment that all this kind of legislation is inopportune, that the war is made more threatening and will be much more protracted by reason of violent sentiments expressed on this floor of hostility to the South, personal and political, and by the bringing forward of measures such as have not been heretofore contemplated. It would be better if we should come to the conclusion that all these matters should be laid upon the table; I do not allude now to this bill. If the measure can be put in proper shape, very well. I would rather see legitimate legislation than none; but so far as these other measures are concerned which are not demanded by the times, I hope they may be laid on the table. As to this measure, I shall vote for the substitute of my friend from Indiana, amended as I have suggested; or if one of the same character can be brought before the Senate I will support it earnestly. I think such a measure it would be well to pass. I cannot vote for the bill as presented by the committee. It is, in my judgment, against the plighted faith of the Republican party in substance, and is a most unwise and imperfect bill at best.

SLAVERY IN THE DISTRICT.

SPEECH OF HON. E. H. ROLLINS,

OF NEW HAMPSHIRE,

IN THE HOUSE OF REPRESENTATIVES,

April 11, 1862,

On the bill for the release of certain persons held to service or labor in the District of Columbia.

Mr. ROLLINS, of New Hampshire, said:

Mr. CHAIRMAN: It is one of the most beautiful traits of human nature, that while the sons of men are struggling to bear the burdens of human life, and perform the works assigned to our common nature, they sometimes step aside, or stop in their way, to minister to the wants of the needy, who, sitting by the wayside, lift their eyes and hands to beg for charity. This nation, which, like a giant, walks along the pathway of nations, girded as with iron, sternly to meet and overwhelm its fratricidal foes, while marching steadily on to its work, feels it no hinderance to listen to the humble cry of a few hundred of its feeblest children, who grind in the prison-house of its deadly foe.

The abolition of slavery in the District of Columbia, is, to the few slaves therein, a deed of justice and mercy that this people cannot omit to perform at this golden opportunity. Slavery has forfeited all claims to any implied obligation for immunity in the capital of the nation, by its mad attempt to tear down the pillars of that Government under which it claimed protection. Justice demands that the arch enemy of our Government and instigator of all our present calamity, who still lurks in this chosen center of the Republic, as Satan did in the garden of Eden, should be expelled, and that the glittering sword of power should guard the gate against its entrance forever more. Mercy—if the act of emancipation may have that quality—demands for the victims of this too long endured oppression their restoration to the primal rights of humanity. This is the quality that will give to this act, about, as I trust, to be consummated, its crowning grace and virtue, and com-

mend it to the admiration of good men all over the world, and win for it the approval of Heaven, where mercy has its seat.

Looking at the subject only in this light, I should not hesitate in my support of this great measure, knowing as I do that a work founded in justice and mercy cannot fail to be beneficent in its results.

But other considerations commend themselves to the practical legislator, to which I claim the attention of this House. Here is the seat of Government for this great nation—this young giant among the Powers of the earth—adding daily to the strong sinews of his frame, and hardening his muscles by constant labor in the march of empire, despite the leprosy that had seized a part of his frame. Here is the eye of the country through which men look to read the soul within. The light thereof should not be doubtful, nor its aspect repel the gaze of him who approaches to admire. The records of the nation show that Washington had for many years regarded the present site with peculiar favor, when, after the establishment of his country's independence, he cast his eye about to seek for its seat of Government. He remembered how it had impressed him when, joined with Braddock's command, he was encamped upon the very spot where the Observatory now stands, and recalled his youthful surveys, when he had noted the natural advantages it offered for the location of a great city. We are not surprised at the impressions thus made upon his mind, and that they remained unchanged to the hour of his death. Situated at the head of navigation, on the deep and broad Potomac, far in the heart of the country, this city stands almost unrivaled on the continent in all the natural elements that tend to make a great and opulent mart. This view of the case must have had much influence in bringing about the final location of the capital, after political influences had decided that it should come south of the Susquehanna.

When the question first arose in Congress, a large majority were in favor of a northern location, and a bill was passed fixing upon Germantown, Pennsylvania, as the seat of Government; but a slight disagreement between the two Houses caused the subject to be postponed to the next session of Congress. This was in 1789. In 1790, a bill passed Congress entitled "An act establishing the temporary and permanent seat of Government of the United States," fixing upon its present location as the permanent seat.

The political influences that finally decided the matter were in the nature of a compromise, wherein, as usual, slavery obtained all the advantage. During the war of the Revolution, the northern States had incurred great expenses in carrying on the war, that involved them deeply in debt; for it is well known that those States had borne the great burden of the war in raising men and furnishing means for carrying it on, to such an extent that the great body of the troops sent to defend the Carolinas went from the North. It seemed but just that the General Government should assume the payment of debts burdening individual States, that all might bear the load alike. This was bitterly opposed by the members from the States that had done comparatively little, which, though deriving equal advantages, were unwilling to relieve those who, with lavish hands, had supplied our infant Government with the means of support. Thus early was manifested that illiberal spirit which, at successive periods, has shown itself to govern the legislation of the southern members of Congress. The bill for the assumption of the State debts was defeated, and now an opportunity was offered for the dexterous play of compromise. Mr. Jefferson says:

"It was observed that this pill [the assumption of State debts] was peculiarly bitter to the southern States, and that some concomitant measure should be adopted to sweeten it a little to them; and it was thought that by giving the seat of Government to Philadelphia for ten years, and to Georgetown, on the Potomac, permanently afterwards, this might as an anodyne calm in some degree the foment that might be excited by the other measure alone."

Finally, enough members were procured to change their votes to secure the passage of both bills. The State debts were assumed, and the seat of Government permanently located where it now is. Let me not omit to say that Washington, then President, favored the passage of the bill for the assumption of the State debts, as a just and equal measure, while he at the same time preferred some spot on the banks of the Potomac as the seat of Government. The fact that Washington desired it, reconciles us in a measure to the selection of the present location of the capital. To him cannot be attributed any other than the purest motives. He believed that nature would aid to make the capital city of the nation, standing near the head of tide water on the Potomac, the pride and glory of the whole people. With a prophet's eye he read the future of the nation, and his imagination painted the magnificent proportions of its capital. London sat upon the Thames, Paris upon the Seine, Vienna on the Danube. Constantinople invited the Ottoman empire to the Golden Horn; and Peter the Great, the Washington of Russia, built St. Petersburg on the Neva. What these cities of modern Europe were to the nations to whom they gave laws, so would the seat of Government of this country be to the people thereof. It was not a wild vision, but such as the calm temper of Washington would paint when he counted up the cities that, like jewels, would in the far future adorn the land.

That these anticipations of this great man have been as yet realized in hardly any degree, is attributable to one cause, and only one. Let this bill become a law, and so far as Congress is concerned, that cause will be removed. The capital was established in the midst of a country and among a people where free labor is a badge of dishonor, and the callous handmarks of toil a token of disgrace. It has been in vain that the valley of the Potomac extended through the ridge of the Alleghanies and touched the fountains of the Ohio and tempted the mineral wealth of western Virginia and invited all the agricultural wealth of the West to pay tribute to this natural seat of trade. The Chesapeake and Ohio canal, emulating the great Erie canal, was opened in vain; for slave labor could not transmute the ores of the mountains into the gold of commerce, nor would the agricultural productions of southwestern Pennsylvania, of Ohio, or of western Virginia, come to a slave market to be exchanged for the bungling handicraft of forced and unrequited labor. It is slavery that has hung over this city like an incubus, and kept out trade and enterprise, genius and skill in mechanic arts, thrift and capital of commerce, that seek abiding places only where the light of freedom shows a theater of action. Who ever heard or saw that the towns and villages that nestle among the mountains to the west of us, or are scattered over the plains, ever sent their merchants to this mart to trade? Where are the shops that swarm with busy artisans and skillful mechanics, fashioning and making every article that taste may fancy or convenience and necessity require? Their fame extends not beyond this District, and it requires a longer residence than mine to find them out. Intelligent labor would not come here. The law that prevails all over the world, which makes the seat of a nation's capital a place of great trade, the home of genius and skill and enterprise, does not apply here. Servile labor chokes all the avenues, and spreads far away through the whole round of the compass, and Washington is to-day what it can be by drawing its support from the General Government, and nothing more. Slavery would have it so. It has resisted every attempt of the people of the free States to disincumber this District of the weight that burdened it, like the "old man of the sea." It knew well how to use its "natural allies," whom the love of power and the greed of office bound to its interests, and made its supple tools. In vain have been all attempts to open this District to the waiting thousands of northern mechanics and tradesmen. We well remember how the right of petition was denied, and especially do the men of my State remember it, for to New Hampshire belongs the distinguished shame of furnishing the man to move in these Halls to strike down that sacred right. But while they remember this, they do not forget that to her belongs an equally distinguished *honor* of having sent to the other branch of Congress the first Senator elected distinctively to resist the encroachments of this power. Not satisfied with its ancient boundaries, slavery has sought to extend itself in all directions wherever new regions opened, fearful that the tide of emigration from the free North swelling westward and southwesterly might break over within its own limits. It adopted the popular cry of "equal rights," shocking the common sense of humanity with the pretended claim that the lands yet uncut by the plowshare were by any right, human or divine, the equal heritage of freedom and slavery; that the minerals yet undiscovered in the bosom of the earth were alike the property of men who should drive their gangs of slaves to the mines and of those who owned only their own limbs and worked their own muscles; that the streams whose waters come dancing down from the mountains would as cheerfully become the servants of slaves as lift the hammer and drive the shuttle for the freeman. When at last it broke down the barriers that had long restrained it to certain limits, freedom grappled with it on its own chosen field, and won by making Kansas a free State forever. Events crowd upon each other. The men of the North, surprised at their own successes, sought to administer the General Government for the interests of freedom, and elected Abraham Lincoln to be Chief Magistrate.

In this event slavery was not taken by surprise. Its supporters had long expected it, and in secret darkness had plotted their treason, for, like the great arch traitor—who no doubt fears lest his great act of treason shall be eclipsed—they

"Had rather reign in hell than serve in heaven."

One great object of all their plans was the gaining possession of Washington. The capital must still drag on, bound in chains and hampered with fetters. When the country was rent they did not mean that one rood of territory that had still the curse of slavery upon it should be left to the renovating influences of a Government wholly free. No; the whole must be dragged down, lest some portion of territory that feels the blight of servitude should be reclaimed and blossom in the light and heat of freedom. But, thanks to the patriotism of northern soldiers, the capital was saved. Our brave soldiers, fired with a noble ardor, responsive to the call of the President, while on their way to defend this capital, were slaughtered in the streets of Baltimore; all communication of the President with the real defenders of the Union in the North was cut off for days, and seriously interrupted for weeks; the capital of the Republic has been beleaguered for months, and the President and his constitutional advisers have been compelled, during their deliberations, to listen to the roar of rebel cannon. But for the single fact that this city is environed by slavery, all these humiliating circumstances attendant upon the administration of the Government for the past year might have been avoided—ay! and the rebellion itself. If the capital had been planted on northern soil, it might not have been endangered.

The location of the capital on southern soil, its distance from those who could be relied upon in an emergency to defend it, its situation in the midst of a people that sympathized with the rebellion, and its almost exclusive possession by secessionists, made the scheme of breaking up the Government seem practicable, and gave the rebels courage and confidence in their fiendish purposes. I do not believe any attempt would have been made to seize the capital had all the avenues of approach to it been guarded by the eagle eye of a really free people. Treason hoped to win while marching to its purpose in the encouraging smile of sympathizing spirits. It knew well the temper of this people, and expected to march its hordes through these avenues amid a shower of strown flowers and storms of applause. Had this capital been located among a free people, when the hour of peril came it would not have found the city inhabited by a class of men in arms against the nation's life, or encouraging rebellion by words of sympathy, and doing all in their power to uphold the arms of traitors raised to seize the seat of Government and disrupt the Union.

Against what fearful odds have the patriotic soldiers of the Republic had to contend in this slave accursed city! While treason, plotting in all its avenues, in the secret chambers of the Government-fed aristocracy, and in the lolling parlors of slavery-pampered wealth, safe amid the general sympathy of the crowd, its emissaries flying away to Charleston and Richmond and Montgomery, and hastening back to give report of how the plot for seizing the capital was ripen-

ing, with its spies lurking in our great northern cities, to hunt for still blacker treason, which, shame to say, they experienced no great difficulty in finding; while treason sweltered in its hot-bed, all ready to light the heavens with its lurid glare, our untried soldiers of freedom rested quietly by their hearthstones, waiting for the mounting sun to melt the winter's snow from the fields of their cheerful and well-requited toil. Apprehensive of no sudden call that should startle them like the throb of an earthquake, the cheerful mechanic stood beside his bench, and plied his implements of willing industry, no more believing that the storm of civil war would burst upon the land than that his native mountains would belch forth volcanic fires from their rounded summits.

But at once the whole southern sky glared with the fires of a traitorous war. Their chosen Chief Magistrate summoned them to his side, and away from home they sprang, fighting their way as they approached the beleaguered capital, cheered along all their route till they presumed to pass through the regions doomed to the blight of slavery. Then their reception was not such as the soldier, marching through his own country, going to its defense, receives from loyal hearts—mingled smiles and tears and garlands woven by the hand of beauty and virtue; but *missiles of death, loud and demoniac curses.* Slavery set its minions to contest their advance to the seat of Government their fathers gave with their lives. Slavery frowned black upon them from the windows along these streets, cursed them in the winding passages of our Government buildings, while it still clung to the places of trust it had always held, and where it still lingers to plot and spy for treason. Let this place be purged; let this spot of earth be cleansed as with fire and flood, till no trace or vestige of this abomination remain, and let the day of its power "stand, aye, accursed in the calendar."

Slavery is the cause of this mad and monstrous rebellion. This is the foul spirit that spread its enchantments over the minds of its worshippers, and lured them to their bloody deeds. It matters not who may deny it. Whether it be those whom it has sent as embassadors to foreign Powers, to lie themselves into favor with the Courts they visit, or those who loudly professing their devotion to the Union, tremble with every word they utter lest in the terrible shock of the hosts of freedom the peculiar institution may lose some pillar of its support, and lift their hands with deprecating gestures to spare this gloomy sanctuary, whose altars smoke with treason. In vain do we seek for any other cause, and none other is sought to be given by those who have flagrantly attempted to overthrow the Government. While treason was defiant in these Halls, as it well might be from the cringing suppliance that had always been paid to the behests of slavery, it wrapped itself in the folds of its constitutional assumption of the rights of the system of bondage, and stalked out of Congress. It is slavery that has whetted every sword that drips with patriot blood. It is slavery that sped every cannon shot and rifle bullet that have strewn our battle-fields from Manassas to Pitusburg with the bodies of our brethren. It is slavery that sought fit instruments of its warfare in the barbarous, bloody-minded savage, and chose the tomahawk and scalping knife for its weapons. So let it be! The historian who writes the deeds of nations for future generations to read, will not fail to record the truth that slavery put itself front to front with liberty, in the great rebellion of the nineteenth century. Let it be our care that men shall not blush to read that we sought to shun the real foe, and flesh our swords in some spectral horror.

How stand the facts? Nearly all the slave States joined bodily in the rebellion, and there are none of them but in some measure gave, and are still giving aid to treason. It is only by the timely presence of northern soldiers that any slave State is kept in the Union, with perhaps the exception of Delaware. Maryland begged that our hurrying hosts might not pass through its chief city, and I know not for what purpose the thousands of troops are still kept upon her soil except to protect her from herself. Kentucky, through her Governor, who still remains her chief executive officer, defiantly refused to give aid to the President when he called. Missouri was overrun by her own men, and now lies desolate; and when she recovers, and magnificent fields wave once more with golden harvests of wheat and plumed ranks of corn, her loyal people will remember that she was redeemed by the valor of soldiers from the free States. It is presumption to ask, if these border States had not been bound by the shackles of slavery, they would not have stood, as stand their sister States that along their northern borders even now, under all the burden of this war, still thrive and prosper. Wherever slavery predominates, there the States are all absorbed in this iniquitous work. Where the proportion of slave population is small, there do we find staunch friends of the Union; and no less does the gratitude of the nation flow out to them; ay more, that they were exposed to the terrible scourge of intestine war and bloody minded treason in their own midst. But let them not lessen that sense of grateful feelings by still hugging to their bosoms the unrelenting foe of our common country; and I appeal to them that, now the capital of our nation is still possessed by us, they help to rid it of the blight that tainted nearly all the ruling population with treason.

Slavery began the contest here in this capital. Here did it plot the whole category of crimes. Night was thick with the steam of villainy, and the chambers of legislation were possessed by men who came to their seats direct from the rooms of conspirators; and he who presided through the night over assembled traitors, sat by day to govern the deliberations of the Senate. With most unrelenting hate and cruelty it has pursued freedom, and it is my prayer that in the conflict it may receive a blow from which recovery will be impossible. This I believe to be the heartfelt desire of every man who looks forward with any hope to a reunion of these States—to a perpetual brotherhood. Slavery struck a foul blow at freedom, which it had sought to disarm; and let it not complain, if the blow it had aimed at its too patient combatant recoils upon its own crest, and the power long usurped is used for the defense of the Republic. Recent achievements show the temper of the men it has hitherto despised; and it is to be hoped that it has began to learn the lesson freedom gives to all foes, especially those of its own household. Now that freedom is forced into the contest and has mustered its hosts, having sent forth its sons to do battle for the right, it hurls proud defiance in the face of slavery, and has blows to give as well as take.

With what ill grace does it come from the apologists of slavery, who charge that the Republican party are waging this war for the emancipation of the slaves. One would judge that the free States had started a crusade and marched its hosts into the heart of the South while yet the whole population thereof were quietly pursuing the accustomed tenor of their lives, loyal in their hearts, and cheerfully submitting to the proper restraints of constitutional law, and performing all the obligations of good citizens. We wage an aggressive war? We battle to defend our institutions, to preserve our Government, to guard the priceless heritage bequeathed to us by noble ancestors against the assaults of the inveterate foe of human rights. In the whole history of this contest, nowhere in the records of the doings of the Cabinet or of the proceedings of Congress can there be found a single declaration to give color to the charge that this is a war for the destruction of slavery. On the contrary, we have been altogether too tender of the institution, and our leniency has been our fault. Some generals in the field have at times been engaged in promulgating manifestoes having for their object the return of fugitives from our lines, though they might be possessed of valuable information in reference to the movements of the enemy. Others have been occupied in returning the fugitive slave to his rebel master, to dig in the trenches, and build the breastwork from whence the traitor owner might safely hurl the missiles of death in the midst of our patriot soldiers. It is because they know that by all the laws of war we should be justified in seeking the *heart* of our foe, and annihilating forever the inspiring cause of all our present woes, that thus their frighted consciences start at the thought of what they know the whole world would applaud. Fearful that the slumbering might of a great people may awake to retributive justice, they stand appalled at every uneasy stir and every ominous murmur of the giant. It is the guilty heart that protests against the conceived judgments of the mind, and reads in every eye the sentence of condemnation.

For more than sixty years the free people of the North, as they have come to visit the capital of the nation, have been compelled to come in contact with this revolting and offensive system, and for fifty years to witness the cruel barbarities incident to the slave trade. The laboring men of the free States have been obliged for half a century to submit to the humiliating degradation thus heaped upon them. They have borne their exclusion from the capital of their own country with little murmuring, content to bide the time when the disgrace of labor should be removed, and they might do for this region what they have done for the New England, the middle, and the western States. The immunity they have granted to forced labor and unpaid toil, with all its thriftless results, they will grant no longer. The drudge and drone might live in the house so long as it gnawed its own fingers and kept the peace. But now that it has sought to scatter the firebrands through all the rooms and give the whole structure to the flames, the laboring members have little scruple to drive the incendiary without the doors while they seek to quench the fire he has kindled. Why should slavery be allowed longer to remain in the District? It is not surprising that now, when this same institution, in addition to all the other evils it has caused, seeks to destroy the Union and the Government, the toiling millions of the North are determined, at least, to see it banished from the capital. Thus much they demand, and they will take nothing less. There is to be no further delay, no putting off until next year. Now is the time, and the only time, acceptable to the people. The abolition of slavery in this District is demanded as some slight indemnity for the past, and full security for the future. The capital should be inhabited by a loyal people, ready to defend it in case of rebellion, and not by a community any considerable portion of which are ready to take up arms to destroy it.

Slavery makes a people disloyal, and therefore has no claims to consideration or favor from loyal hearts anywhere; and our own self-defense requires that it should be abolished wherever Congress has the power. The power to abolish slavery in this District I do not understand to be denied by any one, and was admitted by the venerable and distinguished gentleman from Kentucky [Mr. CRITTENDEN] in his argument to-day. It must, therefore, not be allowed here any longer.

The war has brought hundreds of thousands of our laboring men to this region. They now stand face to face with the foes of the Republic. By the blessing of God, and their undaunted courage, those foes will at length be overcome. The emblem of our Union will be displayed in every harbor on our southern coast and along all the peaks of the Alleghanies; and then their work will be done. They will have looked upon this fair region so favored of nature; they will have seen how this city, situated upon the willing waters, invites the skill of their labor, and the cunning of their hands. Make this city free, and it is not too much to expect that she will cast off her draggled garments and adorn herself with the white robes of commerce, and deck her brows with the jewels of art.

In giving my vote for the abolishment of slavery in the District of Columbia, I act not only in accordance with my own convictions of duty, but follow the instructions given to the delegation then in Congress by the New Hampshire Legislature in 1849, when there was a Democratic majority in both branches. At that time the following resolutions were unanimously adopted:

"*Resolved by the Senate and House of Representatives in General Court convened*, That, opposed to every form of oppression, the people of New Hampshire have ever viewed with deep regret the existence of slavery in this Union; that while they have steadfastly supported all sections in their constitutional rights, they have not only lamented its existence as a great social evil, but regarded it as fraught with danger to the peace and welfare of the nation.

"*Resolved*, That while, in periods of excitement some of the opponents of slavery have resorted to measures which we have thought it our duty to oppose and censure, on the other hand, slaveholding communities, in many portions of

this Confederacy, have engaged in excitements and resorted to measures equally deserving the severest condemnation.

"*Resolved*, That while we respect the rights of the slaveholding, as well as the free portions of this Union, while we will not willingly consent that wrong be done to any member of the glorious Confederacy to which we belong, we are firmly and unalterably opposed to the extension of slavery over any portion of American soil now free.

"*Resolved*, That in our opinion Congress has the constitutional power to abolish the slave trade and slavery in the District of Columbia, and that our Senators be instructed and our Representatives requested to take all constitutional measures to accomplish these measures."

These resolutions show conclusively that the people of the State were thus early moving, in a dignified and harmonious manner, in favor of this important measure. This, in my judgment, is the platform upon which a large majority of the people of New Hampshire have ever stood, and so long as the Democracy professed to stand by these principles, the people stood by the Democratic party; but when the party deserted the principles, the people deserted *it*, and the Granite State was no longer the Gibraltar of Democracy.

And now, with these resolutions in favor of freedom, lamenting the existence of slavery as a great evil, and "fraught with danger to the peace and welfare of the nation," declaring unalterable opposition to the extension of slavery over free territory, expressing the opinion that Congress has the power to abolish slavery in the District of Columbia, and at the same time instructing their Senators and requesting their Representatives to use that power, fresh in your minds, I desire to call your attention to a resolution unanimously passed by a Democratic State convention held in the city of Concord, in November, 1855:

"*Resolved*, That while the shifting organizations of our opponents have neither permanency of name nor consistency of doctrine, it is at once the merit and the glory of the Democratic party that its great and guiding principles are immutable, its purposes fixed, and its name time-honored and unchanging."

Inasmuch as the position of the Republican party upon this subject is unquestioned, it will be seen that, if the Democratic resolutions are to be relied upon at all, the people of New Hampshire are now, as they were in 1849, in favor of freedom, and with perfect unanimity desire the removal of this curse from the capital of the Republic. The delegation in Congress have the right therefore to expect the approbation of the entire people of the State for their support of this bill. The Republicans will approve, and the recorded Democracy, with these resolutions staring them in the face, dare not do otherwise. The Democratic party of our State does not stand alone upon the record in favor of this abolition movement; for the Democracy of Connecticut and several other northern States were too wise to be behind, and passed similar resolutions, and declared that liberty was better than slavery. I commend this record of the northern Democracy to the careful consideration of those members of the party with "IMMUTABLE PRINCIPLES" on the other side of the House who have manifested so much hostility to this great movement in behalf of freedom; and let me suggest to the gentleman from Kentucky [Mr. WICKLIFFE] the propriety of substituting these resolutions for once in place of the resolutions of the extra session, and that they be read for the benefit of those who sit around him.

I return again to the higher aspect of this question, grateful for the opportunity that is afforded me of bearing an humble part in this great act of mercy to the few suffering men, women, and children, that yet remain within this District in the bonds of slavery. Would that the price which is to be paid for their ransom could be given to them, and thus added to the great boon of freedom. How well they may use this boon, I do not stop to inquire. It is sufficient for me that they are to be made free. Freedom must cure the evils incident to its sudden bestowment. Men cannot learn to be freemen while they are slaves. As well might you bind a child from his birth with cords, and when arrived at the years of manhood, refuse to set his limbs free, because he knew not how to use them. Let the cords be cut, though he be unable to move one step. Time will accustom his limbs to perform their office and use will give them strength.

The greatest of English essayists says:

"There is only one cure for the evils which newly acquired freedom produces, and that *cure is freedom!* When a prisoner leaves his cell he cannot discriminate colors or recognize faces. But the remedy is not to remand him to his dungeon, but to accustom him to the rays of the sun. The blaze of truth and liberty may at first dazzle and bewilder nations which have become half blind in the house of bondage. But let them gaze on, and they will soon become able to bear it. Many politicians of our times are in the habit of laying it down as a self-evident proposition, that no people ought to be free till they are fit to use their freedom. The maxim is worthy of the fool in the old story, who resolved not to go into the water till he learned to swim. If men are to wait for liberty till they become wise and good in slavery, they may indeed wait forever.

Our own honor demands the abolition of slavery in the District of Columbia. It is a world-wide disgrace to the nation that its capital bears the curse of involuntary servitude. It is our reproach in every land upon the face of the earth. It is an anomaly in the history of the world, a stupendous fraud without a parallel. It is a huge blot upon our otherwise fair escutcheon, which should be removed with the least possible delay. We have borne with the innumerable evils necessarily incident to the presence here of the peculiar institution full too long already, and its days must come to an end. Who will mourn its departure? Who will be sad when it is gone? No true lover of his country. No one who places a higher estimate upon the honor and welfare of his country than upon the perpetuity of slavery.

SLAVERY IN THE DISTRICT.

SPEECH OF HON. H. G. BLAKE,

OF OHIO,

IN THE HOUSE OF REPRESENTATIVES,

April 11, 1862,

On the bill for the release of certain persons held to service or labor in the District of Columbia.

Mr. BLAKE said:

Mr. CHAIRMAN: The venerable and respected gentleman from Kentucky [Mr. CRITTENDEN] contends that this is a most inauspicious time for the passage of a bill to abolish slavery in this District. I cannot see the matter in that light. Why inauspicious? The power is conceded even by the gentleman, [Mr. CRITTENDEN]. Is it because there is danger of exasperating those now in arms against their country that we are called upon to reject this act of justice to an enslaved people? Why, sir, can the rebels of the slave States be more exasperated than they now are? They are doing, and will do all in their power, to destroy the Government, and I, for one, do not expect to legislate to please them; they have long since passed beyond the pale of legislation. Nothing will do them any good now but bullets, bayonets, and the loud-mouthed cannon; and *these* I am in favor of giving them to satiety. The loyal men of the South should have the full protection of the Constitution; but the rebels in arms against our Government have no constitutional rights whatever, except the right to be hung.

The propriety of abolishing slavery in this District has been a subject of discussion almost from the origin of the Government to the present time. In our earlier history, and by all our earlier statesmen, without distinction of party, the power of Congress over the subject was fully conceded. No one ever pretended to question the power, in fact, until John C. Calhoun conceived the idea of building up a great sectional party on the basis of slavery. His cotemporaries, John Quincy Adams, Henry Clay, and Martin Van Buren, freely admitted the absolute constitutional right of the General Government in the premises, but were averse to its exercise, out of deference to the slaveholding States, and especially to Virginia and Maryland.

But, sir, the plain letter of the Constitution needs no man's ingenuity to expound it. It in so many words declares that "Congress shall have power to exercise exclusive legislation in all cases whatsoever" over the ten miles square. The only possible escape from the inference that this language confers the power to abolish slavery, is found in the diabolical ethics of John C. Calhoun, who maintained that the right to hold men in slavery, and to buy and sell them, has the same foundation in nature as that of property in the brute creation, or in inanimate objects. The legitimate fruits of this doctrine have been treason and rebellion, and it is to be hoped that it will no longer find defenders on this floor.

But it is urged that the same reasons of comity which withheld John Quincy Adams, Henry Clay, and Martin Van Buren from the exercise of this power of abolishing slavery in the District of Columbia, should still operate upon us of the present day. It is maintained that good faith to Maryland, if not to Virginia, should still withhold the hand of Federal justice, and still bind in the chains of a revolting slavery the black men of this District. I will proceed to show that this reason of good faith and comity to Maryland and Virginia never had any solid foundation, and that it was in its best days nothing more than an apology for the moral weakness of political parties and their leaders. The argument rests upon the assumption that the national capital was located here upon slaveholding soil very much against the wishes of the southern people, and especially those of Maryland and Virginia; that these States, in a spirit of noble self-sacrifice, and greatly to their disadvantage, consented to have the seat of Government located upon their borders; and hence the high obligation of the General Government to consult the peculiar tastes and interests of their citizens while exercising its power of exclusive legislation. How far this assumption is founded in fact, will be shown by a brief recital of the discussions upon the subject of locating the seat of Government.

The permanent location of the national capital was a subject of frequent and earnest debate in the Continental Congress, and in the First Congress under the present Constitution. The controversy on this subject shows that the statesmen of that day attached to it the greatest importance, and those of the South, as has been the custom of their successors ever since, upon all important occasions, threatened to dissolve the Union unless their demands were complied with. They did not, as we might infer from the arguments which are urged against the abolition of slavery in the District of Columbia, oppose the location of the seat of Government within their borders. If they had done so, they might with some justice charge Congress with interfering in their affairs by the passage of the bill before the House. But so far from opposing, they urged and insisted, with their usual pertinacity, that the capital should stand on southern soil. Maryland and Virginia each made the requisite grant of dominion over the ten miles square which the Constitution had provided for, and each made a liberal donation to the General Government in money for the erection of public buildings, as an inducement and condition of the acceptance of the proposed cession of territory. This anxiety about the location of the Federal capital was natural. It was taken for granted on all hands that wherever located, it was to become the center of wealth, intelligence, and power; and each section was naturally desirous of having such a source of prosperity and fountain of light upon its soil. The Constitution had already provided that the ten miles square, where ever located, should be under the exclusive control of Congress. It had already announced that that body should have the exclusive power of legislation, and that whatever State or States should make the cession must surrender forever the right to control the ceded territory, with all claims, legal or moral, to impose new or to continue in force former laws and institutions. Yet, in full view of this explicit requirement of the Constitution, Virginia and Maryland made unconditional cessions of territory, and offered large bonuses—amounting to near two hundred thousand dollars—to the Federal Government to induce its acceptance.

I might consume much time if I were to cite all the recorded speeches of the southern statesmen of that day, in which they urged, with their accustomed emphasis, the propriety of locating the capital as far south as the Potomac. A passage or two from the history of the times will set the matter in a clear light. Hildreth, in his History of the United States says, in reference to the action of the First Congress on this subject, at their first session, that—

"The New England members, doubtful of the result, proposed a postponement to the next session; but the Pennsylvanians and Virginians, fearing lest the claim of New

York [where the Government then sat] might grow strong by delay, prevailed to have the subject entered on at once. Thereupon the more northern members came to an understanding with the Pennsylvanians, and resolutions were agreed to for fixing the permanent seat of Government on the Susquehanna—New York to remain the temporary capital until the necessary buildings could be erected. The Susquehanna had been preferred to the Delaware in hopes to conciliate the South; but southern members, especially the Virginians, were very much dissatisfied. The Potomac, they insisted, was far to be preferred to the Susquehanna, whether as respected communication with the ocean or with the region west of the Alleghanies. *Even the moderate Madison declared that, had this day's proceedings been foreseen, Virginia would never have ratified the Constitution.* In spite, however, of all opposition, a bill passed the House authorizing the President to appoint commissioners with authority to fix the particular site on the Susquehanna; also to purchase the necessary lands, and to erect the buildings—a loan being authorized for these purposes to the amount of $100,000.

"The bill came back from the Senate just before the close of the session, so altered as to substitute for the site on the Susquehanna a district ten miles square, adjoining Philadelphia, and including Germantown. This change made the bill more agreeable to some eastern members, and not less so to those of Pennsylvania; but it tended to add to the dissatisfaction of the South. The House, however, agreed to it, with an additional provision that the laws of Pennsylvania should continue in force in the ceded district till Congress should otherwise provide. This amendment made it necessary for the bill to go back to the Senate, where, for some reason that does not distinctly appear, but probably the increasing dissatisfaction of southern members, the whole subject was postponed till the next session."

This extract makes it evident that there was a strong sectional struggle for the seat of Government, and that the North was almost triumphant in this first political struggle with the South; but, as has generally been her fate in such contests, she failed, and there was for the time a drawn battle. I proceed to show that at the next session the tables were turned, and the South began her long career of success by the location of the seat of Government on slave soil.

Mr. Jefferson has given us the history of the log-rolling arrangement by which the South conceded the assumption of the State debts, a question in which the northern capitalists were peculiarly interested, as the condition on which the seat of Government of the nation was permanently located on the banks of the Potomac. Mr. Jefferson denounces the assumption in round terms, as a corrupt, stock-jobbing business, and yet it seems, from his own account, that it was consummated in his own house. He returned from his French mission in December, 1789, and went to New York in March, 1790; and he complains that he was "most ignorantly and innocently made to hold the candle" to the intrigue by General Hamilton. Hamilton was deeply exercised about the fate of the new Government, which was about to perish amid the rivalries of sections, the main subjects of controversy being the State debts and the permanent location of the capital. The assumption had just failed by a vote or two. "Hamilton was in despair. As I was going to the President's one day," says Jefferson, "I met him in the street. He walked me backwards and forwards before the President's door for half an hour. He painted pathetically the temper into which the Legislature had been wrought, the disgust of those who were called the creditor States, the danger of the *secession* of their members," &c. He made a strong appeal to Mr. Jefferson, and the latter concluded the conversation by inviting Mr. Hamilton to his house for further consultation. He continues:

"I proposed to him, however, to dine with me the next day, and I would invite another friend or two, bring them into conference together, and I thought it impossible that reasonable men, consulting together coolly, could fail, by some mutual sacrifices of opinion, to form a compromise which was to save the Union."

The result shows that Mr. Jefferson, for a novice, made a remarkably judicious selection of friends to dine in company with Mr. Hamilton. He proceeds:

"The discussion took place. I could take no part in it but an exhortatory one, because I was a stranger to the circumstances which should govern it. But it was finally agreed, that whatever importance has been attached to the rejection of this proposition, (the assumption of State debts,) the preservation of the Union and of concord among the States was more important, and that therefore it would be better that the vote of rejection should be rescinded, to effect which some members should change their votes. But it was observed that this pill would be peculiarly bitter to the southern States, and that *some concomitant measure should be adopted to sweeten it a little to them.* There had before been propositions to fix the seat of Government either at Philadelphia or at Georgetown, on the Potomac; and it was thought that by giving it to Philadelphia for ten years, and to Georgetown permanently afterwards, this might, as an anodyne, calm, in some degree, the ferment which might be excited by the other measure alone. So two of the Potomac members (White and Lee, but White with a revulsion of stomach almost convulsive) agreed to change their votes, and Hamilton undertook to carry the other point. In doing this, the influence he had established over the eastern members, with the agency of Robert Morris with those of the middle States, effected his side of the engagement; and so the assumption was passed, and twenty millions of stock divided among favored States, and thrown in as a *pabulum* to the stock-jobbing herd."

Mr. Jefferson assures us that only a few members of either section were parties to "this corruption," as he styles it. He explains that the Federalists and anti-Federalists being nearly equal in numbers, a few changes were sufficient to turn the scale. It seems that his two friends, White and Lee, the former "with a revulsion of stomach almost convulsive," served the purpose of Hamilton by ceasing to oppose assumption. Probably an equal number of northern votes answered the purpose of Mr. Jefferson in bringing the capital to the borders of Virginia. So far from the South losing anything by this "corrupt bargain," it, in fact, bought out the northern birthright for a very cheap mess of pottage.

Those who insist that slavery should be maintained in this District under a Constitution which was expressly designed to secure the blessings of liberty to the country, and the founders of which studiously avoided the use of language which could be construed into a recognition of the right of property in man, must find some better ground to stand upon than the alleged obligation of good faith and comity to the States of Virginia and Maryland. No such obligation was ever entered into, directly or by implication. On the contrary, the Constitution had announced in advance that whatever district of ten miles square should be ceded by any State to the General Government would become subject to the "exclusive legislation of Congress in all cases whatsoever." I have shown that the presence of the seat of Government was not forced upon Virginia and Maryland; but, on the contrary, that they earnestly sought it as a great advantage; that they, through their Representatives in Congress and public men, intrigued for it, and at length secured the prize by corruptly bartering away their aversion to the favorite northern measure of the day—the assumption of State debts—and made a splendid bargain at that.

But the opponents of emancipation would now have us believe that, in spite of these conspicuous facts of history, we shall be guilty of a great outrage upon Virginia and Maryland by the passage of the bill. It is not enough that these petted States were gratified in the first instance by having the seat of Government located to suit them, and by which a large portion of their territory has received an augmentation of value amounting to millions. This great benefit they received at the hands of our ancestors. But now we are called upon by their generous northern allies on this floor to surrender the very condition on which the cession of the ten miles square was made. We are called on to surrender the Constitution itself, and to abdicate our right of exclusive legislation.

But this is not all. If Virginia had remained loyal to the Constitution, and if the loyalty of Maryland were above suspicion, there still would remain some show of reason for the forbearance we are called upon to exercise toward slavery in this District. The case, however, is quite otherwise. All that portion of Virginia contiguous to the capital has been in open revolt against the Government, and is now held in obedience by the strong hand of military power. To argue that any forbearance or comity is due to the pro-slavery sensibilities of such a population, is to manifest open sympathy with rebels; and I will venture to assert that no man can stand up here and maintain the proposition without forfeiting his reputation for loyalty. As to the adjacent parts of Maryland, the case is not a great deal better. The slaveholders are, with few exceptions, disloyal. No man believes that Maryland is held to its allegiance by its slaveholders; and no man doubts that its slaveholders would carry the State out of the Union, by force or fraud, in spite of its loyal population, but for the restraining influence of Federal bayonets. That county of Maryland which lies immediately around this city, and of which the soil on which the city stands was originally a part—I mean Prince George's—contains a large body of wealthy slaveholders, most of whom are either openly disloyal, or covertly in sympathy with the rebellion. Charles and St. Mary's, and the other southern counties which contain three fourths of the slaves in the State, are still more openly hostile to the Government, and anxious for its disruption. These facts are notorious: while Baltimore, which has few slaves, and which gives a nominal Union vote at elections, is known to be at heart for secession. Its wealthy classes are for the most part disloyal. Its women insult our troops, and no friend of the Union would for a moment risk the consequences of withdrawing the troops for one week.

What, then, I ask, is due, on the score of comity, to such loyalty? If ever such considerations had weight, they have ceased to operate; and the time has arrived for the long-delayed act of justice. This Government has no right to hold men in bondage anywhere. Wherever its authority is exclusive, slavery ceases to exist. The Constitution was framed in order to "establish justice and secure the blessings of liberty" to the people. By a studious circumlocution the words slaves and slavery were excluded from the Constitution, in order that by no implication should the idea of property in man seem to be recognized. For the truth of this statement we have the Debates in the Federal Convention, and the positive assurance of Mr. Madison, who, more than any other man, is entitled to the honor of framing that instrument. I am aware that the Supreme Court has never yet taken this high ground; but the day is near at hand when no man will dare claim shelter for slavery under the authority of the Constitution.

A good deal has been said about consulting the wishes and interests of the people of the District. It is alleged that the people most interested in this measure have not been advised with, and that if the question were put to the vote, the popular voice would be heard in loud remonstrance against it.

But it seems to be forgotten that there are two classes peculiarly interested in the bill before the House. The peculiar friends of the slaveholders forget that the slaves are, to say the least, as much interested in it as their masters; and I think there are few who will be so uncandid as to deny that their interest is infinitely greater. The question of emancipation has not been submitted to the popular vote. Both slaveholders and slaves have been denied the privilege of voting upon it; yet the interests of the one, and the rights of the other, have been amply taken care of. Of the two, I would infinitely prefer giving the vote upon the question to the slave, instead of his avaricious master. Who, with the fear of God before him, will dare utter the blasphemy that one class of men have the right to cast a vote in favor of enslaving another class, while the victims of their inhumanity are compelled to stand mute? No fact could better illustrate the imbruting effects of slavery upon the minds of men than that this diabolism should find advocates.

Slavery, in my judgment, has never had the shadow of a legal existence in this District since it came under the jurisdiction of Congress. The Constitution emancipated every slave at the moment of cession, and compensation should then have been made. But inasmuch as our fathers neglected to consummate their work, we may still give compensation without incurring the charge of paying away the public money to those who have no legal claim to the slaves. In doing so we fully meet the charge that we have disregarded the interests of the slaveholders. We deny them, in common with the slaves and non-slaveholders, a vote upon the question, on the broad ground that it is one in which the whole country is interested. This is the seat of the national Government. The nation is deeply interested in its character and in the nature of its institutions. The framers of the Constitution, acting on this consideration, provided in advance that Congress should have the exclusive right of legislation over it. We but exercise this authority when we abolish slavery without consulting the tastes or wishes of the people of the District. It is sufficient that we consult the wishes of our constituents, and that the measure is ap-

proved by the great body of the loyal citizens of the country. We are determined to make the institutions of the District of Columbia harmonize with those of our constituents and with the letter and spirit of the Constitution. Those who ask us not to take this step, lest we should offend the slaveholders of Washington and irritate still further the traitors who are in arms against the Government, are simply asking that we abdicate and surrender our constitutional right of legislation in the premises.

The opponents of this bill, in the excess of their zeal, seem entirely to overlook the fact that not one citizen of Washington in a hundred owns a slave, and that the interests of this large class, except the despicable few who make a trade of catching fugitive negroes, all demand the abolition of slavery. Do you ask for proof on this point? If you do, I will call your attention to a few facts which will render the proposition too plain to be questioned.

The city of Washington is situated at the head of navigation on a noble river. It is accessible from the sea to the largest merchantmen, and even to sea-going steamers. For natural beauty of scenery, and for healthfulness of climate, it is unsurpassed. It is surrounded by a highly picturesque and fertile country, and can command the waters of the Potomac for manufacturing purposes to an extent equal to the demand of a dozen Lowells. The national Treasury has rained upon it a shower of gold for two thirds of a century. Its streets are paved by act of Congress, and the same power has placed a palace upon every hill, surpassing in magnitude and in delicacy of finish the far-famed temples of ancient Greece, and eclipsing any similar structures of modern Europe. Yet, after all these advantages of nature and circumstances, what is Washington? The New York press speak of it as a straggling village, others have styled it the city of magnificent distances. These distances between the really magnificent public edifices are now, however, being rapidly filled by inferior private houses, and the national capital, stripped of its more than regal palaces, would be regarded as a third-rate western town of twenty years old.

If we look for the causes of this stunted growth, this squalid contrast of public palaces and private hovels, we find them in the fact that Washington is surrounded by a large slaveholding population. Baltimore has been seriously retarded in growth by the presence of slavery; but its burden has been light compared with that of Washington. The counties surrounding the former never contained more than one slave to three or four white persons, and the vicinity of the free State of Pennsylvania has constantly tended to increase the disproportion between the two classes. Washington, on the contrary, was cut off from a county which contained more slaves than white persons, and is surrounded on the south and west by a large slaveholding population. But a succinct statement of the figures will present the subject in a more satisfactory point of view

The District of Columbia, in its original proportions, occupied both banks of the Potomac. That south of the river was cut off from Fairfax county, Virginia, a large slaveholding county, which was itself backed by other counties still more abounding in slaves. The portion of the District north of the river was taken from the counties of Prince George's and Montgomery, in Maryland. The population of these was, in 1790, as follows:

	Whites.	*Slaves.*
Montgomery	8,509	6,388
Prince George's	10,004	11,176
Total	18,513	17,564

The two counties, therefore, contained 18,513 whites, and 17,564 slaves. These facts will be sufficient to explain the slow progress of Washington to every candid and intelligent mind; but sophistry and falsehood themselves must succumb when reference is made to the parallel career of the surrounding country in comparison with that in the northern counties, where the slaves are not numerous. I have already stated the population in 1790 of the two counties of Maryland, from which the present District of Columbia was cut off; but for the sake of the contrast with later census returns, I will repeat them:

	Whites 1790.	*Slaves* 1790.	*Whites* 1850.	*Slaves* 1850.	*Whites* 1860.	*Slaves* 1860.
Montgomery	8,509	6,388	9,435	5,114	12,901	5,421
Prince George's,	10,004	11,176	8,901	11,510	10,848	12,479
Totals	18,513	17,564	18,336	16,624	23,749	17,890

It is not wonderful that the shower of gold has had so little effect in building up a city which is surrounded by a country whose population was less in 1850 than in 1790. Who can be surprised at the result? The two counties contained 18,513 white inhabitants in 1790, and but 18,336 in 1850! They had also suffered a slight diminution in the number of slaves; the number at the first period being 17,564, and at the latter, 16,624. This loss, however, was a real gain, and furnished a ray of hope that the evil had reached its climax. In 1860, however, the slaves again show a tendency to increase, especially in Prince George's, while in both counties the white population made unwonted progress. If slavery had been abolished ten years ago in this District, the population of the city and of the surrounding counties would now be ten per cent. greater than it is shown to be by the census of 1860.

I dismiss as contemptible any attempt to deny, in the face of these facts, that the existence of slavery fully explains the slow progress of Washington in wealth and population during the last seventy years. If further illustration were needed, however, it is furnished in the parallel growth of the comparatively free counties of northern Maryland. Take for instance the following counties in western Maryland:

	Whites 1790.	*Slaves* 1790.	*Whites* 1850.	*Slaves* 1850.	*Whites* 1860.	*Slaves* 1860.
Washington,	14,472	1,986	26,930	2,690	30,979	1,435
Alleghany...	4,539	256	21,633	724	27,682	666
Total	19,011	1,542	48,562	2,814	58,661	2,101

These figures show that where the proportion of slaves is small the progress in population is rapid; and it is further apparent that the ratio of increase is inversely to the number or proportion of slaves. Thus in the former table, the increase of population in Montgomery county, where the number of whites predominated in 1790, was much greater than in Prince George's, where the slaves outnumbered the whites. And comparing this last table with the preceding, it is apparent that the advance in the two counties of Alleghany and Washington, where slavery is merely nominal, has been many times greater than in Montgomery and Prince George's; while of the two, Alleghany, with scarcely one slave to twenty whites, has outstripped Washington county, which had nearly one to ten. Yet stronger illustrations would be afforded if absolutely free counties were put in comparison with these slaveholding districts around Washington.

It is therefore demonstrated beyond the point of plausible denial, that the great mass of the people of this city, who own no slaves, are deeply interested in the success of this measure. If they own houses or vacant lots, if they carry on trades or sell merchandise, if they sell books or print newspapers, if they carry on any branch of business except those of negro trading and negro catching, they cannot fail to be benefited by the abolition of slavery.

Of the moral effects of the measure upon the country and upon the world, I need not speak. That it will elevate us in the eyes of all civilized nations is not doubted; that it will awaken a thrill of patriotic pride and enthusiasm in the great heart of the nation no man doubts. Even the opponents of emancipation on this floor have not ventured to shock the moral sense of the House by an absolute defense of slavery as a thing desirable in itself. No man has ventured to assert that the measure will be injurious to the general interests of the District. The respected and venerable gentleman from Kentucky [Mr. CRITTENDEN] did declare that he was no friend of slavery; that, if the adoption of slavery was now an original proposition before the House, he would vote against it. I rejoice, sir, at such declarations as these, coming, as I have no doubt they do, from a truly loyal, patriotic heart; they are the harbinger of better days for the Republic. But, sir, I expect no applause in South Carolina and Mississippi for the passage of this bill, and none from traitors anywhere. It is our duty to abolish slavery here, because Congress, by the Constitution, has the power to do it; and slavery being a great wrong and outrage upon humanity, we should at once do right and pass this bill.

SLAVERY IN THE DISTRICT.

SPEECH OF HON. BURT VAN HORN,

OF NEW YORK,

IN THE HOUSE OF REPRESENTATIVES,

April 11, 1862,

On the bill for the release of certain persons held to service or labor in the District of Columbia.

Mr. VAN HORN said:

Mr. CHAIRMAN: We are about to pass upon a measure of the greatest moment, not only as relates to those immediately to be affected by its execution, but as to its connection with our interests as a people and the progress of events. The abolition of slavery in the District of Columbia, where all concede Congress has supreme control under the Constitution, has been for many long years the hope of a majority of the people of the free States, and is to-day demanded by the great mass of our free people, I believe, as just and proper. The other branch of this Congress has with great unanimity passed this measure, and sent it down to us for our consideration. The discussions thus far had upon it in both Houses clearly evince the incontrovertible fact that slavery has existed in this District down to the present day only by the consent of Congress, and that for its existence here until to-day, and all the barbarities practiced under its inhuman traffic, Congress alone has been and is responsible. That it has thus long been allowed to flourish here upon the very hearthstone of the Republic, is by no means a reason for its continuance, any more than any other crime should continue because it has for many long years filled the earth with groans and tears. On the other hand, the reason is doubly strong why it should cease forever and without delay. I cannot at this late stage of the bill go into any lengthy discussion of its merits or make for it any defense

I would rather close this debate, and come directly to the vote upon it, and content myself with recording my name in its favor. Indeed, it needs no defense. Upon its face it bears the marks of humanity and of justice. Every line and every syllable is pregnant with a just and true sentiment, and already hallowed with the sublime spirit of a noble purpose. Throughout it there breathes a spirit akin to that which runs through all the wonderful teachings of Him who spake as never man spake, and inspired the hearts of those whose immortal sayings will outlast all the monuments that time can erect.

The only argument that is urged with earnestness against the passage of this bill is, that it is now an inauspicious time to pass it, for the reason that it will agitate the country. Sir, it is never a bad time to be just. How can it injure our people to pass this law? Who will be less loyal? Who will love his country less, and who less willing to sacrifice and fight for her honor, and less willing to struggle to release her from the grasp of treason? When this grand work shall be accomplished greater reasons will exist for sacrifice and labor, for there will be more to be saved and protected. I am surprised that any one should oppose it. Why not make the nation's capital free? Why longer sit in these Halls as the Representatives of a sovereign people, with exclusive and sovereign control over this District, boasting as we do of our freedom and free institutions, and allow this great crime against humanity and natural-born citizens, who are guilty of no crime, to go unrebuked and unnoticed? This has nothing to do with slavery as a local institution in the slave States; it proposes in no way to affect it there, but is confined exclusively to the territory under the supervision of the whole people, and within the control of their Representatives.

Sir, the day has arrived when true men should stand up to the cause of right, not only upon the battle-field, nobly defending the honor and integ-

rity of our country, but here and everywhere declaring the unalterable conclusions of truth and constitutional duty with a devotion that cannot be shaken. There may be a few who will record their names against this proposition—I hope but very few—but the time will come when they will desire to blot out the record. Rather than have my name connected with such a record, I would prefer to have it forgotten, and not curse my kindred with its recollection. But very few are privileged as we now are with voting upon such a proposition, one of so much moment, and the opportunity is seldom offered even to those few. I hail the privilege as auspicious. The passage of this bill marks a period in our history from which to date the greater advance of those sublime doctrines enunciated by our fathers, upon which were based all our revolutionary struggles, and out of which the tree of liberty has already grown to such magnificent proportions. I will have hope in those principles still. Their destiny is not yet fully developed upon the American continent, and the severe struggle in which we are now engaged is the fiery ordeal through which they are to pass to be purified or made to shine with an increased brilliancy and luster. He who directed the blows of freedom in olden time, and gave them success, will ride upon the storms of battle that now rage, and out of all will come a more perfect Union, because the great and fundamental principles of good, free, constitutional government, in which the rights of mankind will be more fully recognized and protected, will be the rule of action which will govern.

This measure itself is an evidence of the progress of those principles. By it hundreds are restored to the enjoyment of their natural and inalienable rights, which the Constitution says shall not be taken away but by due process of law, and in punishment of crime. All control being vested in Congress, this work ought to have been done long ago, in obedience to its constitutional obligations and a common sense of justice.

As compensation is proposed, no violation of the rights of property, as claimed in the service or labor of any slave in this District, can be sustained, upon which any may hang an excuse for opposing this bill. It is simply whether we will make the capital of our nation free. While all the nations are throwing off the yoke of oppression, shall we, the only nation that boasts of freedom, and one which waded through a bloody revolution to secure it, shall we foster and build up a despotism and a barbarism here at the very heart of the nation, or shall we use the means in our hands and the power given to us, to wipe out the curse and purify the great national heart? Pass this bill, and the streams that flow out from the fountain will be purer, the nation will gather new life and vigor, and the drooping hopes of humanity will revive and live.

All that has been said against it has been in the name and in behalf of slavery. It is a sad thought that gentlemen whose homes are to-day made desolate by the wicked treason which this curse has brought into the field and controls, whose families are scattered throughout the land, and their fair fields made fields of blood in obedience to its dictates, should stand up in their places in this House and apologize for it here, or struggle to secure its perpetual existence. How strange that justice cannot be done a large class of "*persons*" in this District for fear that it may have a tendency to weaken the grasp of the slaveholder in the States where slavery exists by the local laws. Here the slave is held by no local authority, but by the whole people, through the laws of Congress, which place over this District the laws of Maryland and Virginia. The Constitution knows no such *thing* as a slave, but treats all as persons and equal before the law, so far as its protection is concerned, and especially here where no power can control but the whole people, as represented in Congress. That Constitution expressly declares that no person shall be "deprived of life, liberty, or property without due process of law." Here there is no limitation by State authority or local law; these colored persons are natural-born citizens, without disabilities as to any local limitations, and this sacred guarantee of the Constitution applies to them as much as to any other citizen of this Republic.

The oath that we have taken enjoins upon us the duty to see that they are secured in their rights, which so long have been withheld from them. Whatever difference of opinion may exist as to paying anything for these persons here held to service, I will cheerfully vote for the compensation feature of this bill upon the principle of ransom. Our Government has before paid money to ransom its subjects from slavery; and as Congress has so long held the rod over them by its own laws, and thus encouraged and practiced the system here in the capital of the nation, where it is responsible for its existence, it is but proper that a reasonable and just compensation should follow liberation. The sacrifice is but small at the greatest point, while the good will be lasting and the benefits untold. Our history shows that treason abounds only where slavery flourishes and controls. Purify the nation's capital of this curse of humanity, and you advance a great way towards making it forever loyal. Fill it with industry and enterprise, and by its institutions give its citizens a just appreciation of the rights of a common brotherhood, and you make it the abode of peace, virtue, and true patriotism. One year ago to-day, as has been well said, the treason of which we have spoken opened its batteries upon our flag at Fort Sumter, in defiance of all law, and with a wickedness unparalleled in all the history of nations. I rejoice that this, its anniversary day, is to be distinguished above other days as the one upon which the cause and support of this treason is to be forever banished from the national capital.

The passage of this bill will give new evidence that the nation's sense of justice has not entirely gone, but that it is determined to rise to a higher life, and not disappoint the reasonable hopes of struggling humanity throughout the earth. It will say, that while slavery exists (to our shame) in some States, in the capital of our nation where the representatives of the great people meet, and hold exclusive control under their Constitution, all persons shall in reality be free and equal before the law, and protected in the enjoyment of all constitutional rights. It will assert the doctrine which must, by this time, have become the living sentiment of all our people of the free States, that where the national Government has exclusive control, neither slavery nor involuntary servitude, except in punishment of crime, shall longer exist; and that not another foot of free soil under the control of Federal authority shall ever be trod by the foot or poisoned by the sweat of a slave.

EMANCIPATION.

SPEECH OF HON. J. R. DOOLITTLE,

OF WISCONSIN,

IN THE SENATE, *April* 11, 1862.

The Senate having under consideration the bill (S. No. 151) to confiscate the property and free the slaves of rebels, the pending question was on the motion of Mr. WILLEY to amend the third section by inserting in the sixth line the words, "and also of all other persons of the African race who are now free in any of the United States;" and after the word "emigrate," in the same line, inserting "or who may be hereafter manumitted, either by the voluntary act of individuals or by State authority, for the purpose of being so transported, colonized, and settled," and at the end of the section adding:

And the sum of $5,600,000 is hereby appropriated out of any money in the Treasury of the United States not otherwise appropriated, to be applied by the President in carrying into effect the provisions of this section.

So as to make the section read:

That it shall be the duty of the President of the United States to make provision for the transportation, colonization, and settlement in some tropical country, beyond the limits of the United States, of such persons of the African race made free by the provisions of this act, and also of all other persons of the African race who are now free in any of the United States as may be willing to emigrate, or who may be hereafter manumitted either by the voluntary act of individuals or by State authority for the purpose of being so transported, colonized, and settled, having first obtained the consent of the Government of said country to their protection and settlement within the same, with all the rights and privileges of freemen; and the sum of $5,000,000 is hereby appropriated, out of any money in the Treasury not otherwise appropriated, to be applied by the President in carrying into effect the provisions of this section—

Mr. DOOLITTLE said: Mr. President, before proceeding to the question upon which I design submitting some remarks, I shall now do what I have never done before in the Senate, and what I trust I shall never have occasion to do again—refer to a matter personal to myself. Some time ago, when the bill for emancipating the slaves in this District was pending here, the honorable Senator from Kentucky [Mr. DAVIS] moved an amendment to appropriate $100,000 to colonize out of the limits of the United States all persons set free by the act. To that amendment I moved the following:

And be it further enacted, That the sum of $100,000, out of any money in the Treasury not otherwise appropriated, shall be expended under the direction of the President of the United States to aid in the colonization and settlement, with their own consent, of free people of color from said District in the republics of Hayti and Liberia, or elsewhere.

I did so to extend its benefit to all free persons of color within the District: first, because I would not confine it to those only who should be liberated under the act; and second—which was the more material point with me—because I would make that colonization voluntary, *with their own consent*, and not compulsory. On that occasion, I made the following remarks, which I read from the Globe:

"The question being upon the amendment to the amendment,

"Mr. DOOLITTLE said: Mr. President, believing, as I do, that all men have a natural right to their liberty, and that Congress has exclusive legislative power in the District of Columbia, I am ready to give my vote to put an end to slavery here forever. But, sir, I cannot support the amendment proposed to this bill by the Senator from Kentucky [Mr. DAVIS] unless my amendment to it shall be adopted, and then I will give it my hearty support."

This remark, that I would not support the *amendment* to the bill unless mine was adopted, was misapprehended, I have no doubt, by some of the reporters in the gallery who are permitted to take notes of our proceedings; and the New York Times, a journal of wide circulation and great influence, by mistake reported me as saying that I would not vote for the bill itself unless my amendment were adopted. I said no such thing, and I thought no such thing. That I thought it much wiser to join colonization with emancipation is very true. I thought so then; I think so still, and will endeavor to demonstrate it before I close. This report of the Times has been quoted extensively by the press in my own State, and as it bears upon a question on which our people feel a deep interest, it has, without intending it, done injustice to my position.

While on this subject I will say a word also as to the course of the Chicago Tribune. This professed Republican journal has a wider circulation than any other in the Northwest. It circulates all over my State and wields a powerful influence there. Hundreds of copies are daily sold in my own town, to my friends. In giving the account of the vote on that bill it stated that I voted against the bill for emancipation in this District. This is an entire mistake. I will say further, sir, that I am at a loss to account for the tone and conduct of that journal of late in some respects. One of its editors, as postmaster at Chicago, is receiving the patronage of the best office in the gift of a Republican Administration in the State of Illinois; patronage annually to the amount of perhaps five or six thousand dollars. I can very well understand how an unfriendly newspaper may be led to attack, misrepresent, and depreciate the standing, position, and action of its political opponents; but I do not understand how it is that a Republican journal receiving its support mainly from Republicans and from their Administration can, upon any considerations of principle, gratitude, friendship, or policy, intentionally or carelessly make such misrepresentations of the friends of the Administration as go into that journal. I do not refer to myself alone; I refer to men abler than myself; to men high in position and in the confidence of the Administration. Nor should I mention this if it was the first case in which that journal had misstated my position here as a Senator. If for any reason that journal supposes that by such a course it can influence my action here, or if the editor of a certain other professed Republican journal in my own State, whose name I will not speak, for it is not fit to be spoken in this Senate, supposes that he can intimidate me, or, baser still, levy black mail upon me to gain his silence or his support, or to change my action or restrain the free utterance of my convictions here or elsewhere, they do not know the man with whom they deal.

I know the great power and influence of the press. It is great for good, and great for evil, too. No man who would leave the legacy of a good name to his children can be insensible to its attacks. To every public man, in trying times like these, it is grateful to the heart to know that his course is approved by his countrymen, at least that it is not misrepresented by the press of his own political friends.

Sir, I have no money with which to purchase its favors, to pension correspondents, or pay for telegraphic dispatches—those purchased encomiums so often and so unworthily bestowed, by which great men and heroes are manufactured here, sometimes of very small and very poor material; and if I had the gold of California, I would not humiliate myself to make the purchase.

And I now say, once for all, I ask nothing of the press but the truth, and I take all the responsibility of my opinions, my action, and my votes.

But, Mr. President, I come now to the issue made with me by the honorable Senator from New Hampshire, [Mr. HALE,] in his speech yesterday on the subject of the *possible* colonization of the increase of the colored population of the United States. He more than once denounced colonization as a thing impossible, impracticable, and absurd, one of "the most absurd ideas that ever entered into the head of man or woman." Among other things he said:

"The great laws of nature and of Providence will go on. One of the laws of the condition of this class is, that they increase faster than the whites. They have increased. They are to-day vastly exceeding in number the whole United States when they bade defiance to the power of the mightiest kingdom of the earth. They are here, and despite all your puny efforts they will remain here. They will increase. They will increase probably in about the ratio that they have increased. It will bother the wisest philosophy, it will set at naught even the philanthropy and wisdom of my friend from Wisconsin [Mr. DOOLITTLE] to meet it with any schemes looking to colonization in Central America, South America, or elsewhere."

He admitted that it might elevate the condition of a few, but stoutly denied that it could remove, in any possible degree, this black population, or materially retard their increase.

I stated yesterday that, as the Senator from New Hampshire was coming down to facts and figures, I desired to meet him. I then thought I might not occupy more than ten minutes in reply to him on this subject; but as my honorable friend from New York, [Mr. HARRIS,] to whom the floor would be assigned to-day, is detained by sickness, I will ask the indulgence of the Senate while I shall state the facts and figures a little more in detail than I expected to do last evening.

Mr. President, I regret exceedingly that the honorable Senator from New Hampshire, after the usual motion made by him on Friday to adjourn over Saturday until Monday, is not now present in the Senate. I should be glad if he were here, especially after giving him notice last evening as I did, that as he was coming down to history, geography, arithmetic, and figures, I desired to cipher with him a little on this question. It is not very often that I have an opportunity to meet that honorable gentleman upon equal terms. In the matter of rhetoric, figures of speech, wit and humor; in that magnetic power of voice and manner which can change at once from the grave and serious to the humorous and joyous; which almost at the same moment can dissolve us in tears and convulse us with laughter; in that power of declamation which he knows so well how to use, to influence the minds and move the passions of mankind, I am by no means the equal of the honorable Senator from New Hampshire. I yield to his great superiority at once. But, sir, when we come down to facts and figures, when I can be permitted to bring him to the blackboard, when I can be permitted to open the book of history, take down the map of the world, and look at geography and climate and men and races, then I feel that I can meet the honorable Senator from New Hampshire on equal terms. As I have him there now, I propose to cipher at the blackboard, even in his absence, as I gave him notice last evening I desired to cipher with him on this question to-day. It is my purpose to confine myself to the great issue between us: is the colonization of a number equal to or greater than the annual increase of the colored population to tropical countries, first of all,

A THING POSSIBLE?

I propose to look into the tables and see what that annual increase is. I have before me a table carefully prepared by the chief of the Census Bureau. In looking into that you will find what I have briefly abstracted, showing the rate per cent. of increase, in columns, during each decade preceding the year mentioned in the column of years, as follows:

Decade ending in the years—	Increase per cent. whites.	Increase per cent. slaves.	Increase per cent. of free colored.	Increase per cent. of total population.
1800	35.68	27.97	82.28	35.02
1810	36.18	33.40	72.00	36.45
1820	34.11	28 79	25.23	33.13
1830	34.03	30.61	36.87	33.49
1840	34.72	23.81	20.87	32.67
1850	37.74	28.82	12.46	35.87
1860	38.12	23.38	10.97	35.58

In the decade ending in 1800, that is for the ten years between 1790 and 1800, the increase of whites was 35.68 per cent.; the increase of slaves 27.97 per cent.; the increase of free colored persons 82.28 per cent.; the total increase of population 35.02 per cent. During that period manumissions were very extensive. From 1800 to 1810, the increase of whites was 36.18 per cent., of slaves 33.40 per cent., (but during most of this period the slave trade went on, and we acquired Louisiana and its slaves,) and of the free colored people 72 per cent.; total increase 36.45 per cent. From 1810 to 1820, the increase of the whites was 34.11 per cent., of slaves 28.79 per cent., (we acquired Florida about 1819, with its slaves,) and of the free colored 25.23 per cent.; total, 33.13 per cent. From 1820 to 1830, the increase of the whites was 34.03 per cent., of the slaves 30.61 per cent., and of the free colored 30.87 per cent.; total, 33.49 per cent. For the decade ending in 1840, the increase of the whites was 34.72 per cent., of the slaves but 23.81 per cent., of the free colored 20.87 per cent.; total, 32.67 per cent. For the decade ending in 1850, the increase of whites was 37.74 per cent., of slaves 28.82 per cent., (but during this period Texas was annexed with its slaves, increasing the rate per cent. of free colored 12.46 per cent.;) total, 35.87 per cent. For the decade ending in 1860, which has just closed, the increase of whites was 38.12 per cent., of slaves 23.38 per cent., of free colored 10.97 per cent.; total, 35.58 per cent. The annual increase, therefore, of the slave population during the last decade of ten years has been at the rate of 23.38 per cent., or a little more than 2.3 per cent. annually. The increase of the free colored population during the same period of ten years is 10.97 per cent., being at the rate of a little over one per cent. per annum, while the increase of the slave population is 2.3 per cent., almost 2.4 per cent.; making the annual increase of four millions of slaves, 93,520. That would be the increase for the last year of the decade, taking the number of slaves to be, in round numbers, four millions.

Now, Mr. President, six steamships of a large class, or indeed one single monster ship like the Great Eastern, carrying 12,000 passengers, would take "a number" equal to all the increase of the slaves in eight trips per annum to Liberia. This would give about six weeks for the round trip, to go to Africa and return. Yes, sir; eight trips only of that one ship, or of the six large class steamers I have supposed, would take away the whole increase. If, instead of going to Africa, those trips should be made from New York to the island of San Domingo, which could easily be done semi-monthly, she alone would carry more than three times the number of the annual increase of the 4,000,000 of slaves. The six steamships would do the same.

If instead of being shipped from New York to San Domingo, they should, in the progress of events, go from the city of New Orleans to Vera Cruz, on the coast of Mexico, to Yucatan or Honduras, or from South Carolina and Georgia to San Domingo, or nearer still, when, in the progress of events, the island of Cuba shall become, as it may, like Hayti, the home of the tropical race, those trips could be made every week, and this one ship or those six large steamships, making weekly trips, could carry from the United States 624,000 persons annually. I beg to call the attention of Senators to these figures. I would that the Senator from New Hampshire was here at the blackboard with us now. The ciphers show this result, that that one ship alone, or the six ships supposed, could carry seven times the increase of this population in the United States every year. The first year they would carry the increase of 93,520; and in addition to that 520,500, leaving but 3,480,000 of slaves in the United States. The second year these same trips would carry the increase, which would then only be 81,362, and besides the increase, would carry 542,638, leaving but 2,937,362. The third year these same trips could carry the increase, which would then be reduced to only 68,667, and 556,333 besides, leaving only 2,382,929. The fourth year these same trips would carry the increase, which would then be but 55,686, and also carry 568,314, leaving within the United States but 1,814,605. The fifth year these same trips would carry the increase, then reduced to 42,411, and besides the increase could carry 571,589, leaving but 1,243,194. The sixth year the same trips could carry the increase, then reduced to only 29,061, and besides the increase, carry 594,939, leaving but 648,255 in the United States. The seventh year—yes, sir, the seventh year—this single ship, or these six steamships of large class which I have supposed, making weekly trips, could carry not only the increase, then reduced down to 15,150, only, but besides the increase could carry 608,850, leaving less than 40,000 of the slave population within the United States.

This calculation has been made upon the assumption that colonization commenced at the end of the last decade when the census was taken.

I will also avail myself of the following carefully prepared table working out this problem upon two other suppositions:

In the tables following I have assumed as the annual number to be deported, 150,000 and 350,000, and allowing for the natural increase of the population remaining, from year to year, I have calculated the progressive decrease of the slaves. It will be seen that, by an annual deportation of 150,000, miscellaneously selected, the last remnant of the slave population would be removed by the year 1907. At the larger rate of 350,000, the removal would be complete in 1877. The aggregate number removed by the first supposition would be 6,470,000, distributed over a period of forty-five years; by the second it would be 4,920,000 in fifteen years:

**Table showing the progressive decrease of the slave population of the United States, assuming that 150,000 of miscellaneous selection are deported annually, beginning with the year 1862.*

Year.	*Population.*	*Year.*	*Population.*
1862	4,181,000	1885	2,513,000
1863	4,125,000	1886	2,419,000
1864	4,068,000	1887	2,324,000
1865	4,009,000	1888	2,226,000
1866	3,949,000	1889	2,126,000
1867	3,887,000	1890	2,023,000
1868	3,825,000	1891	1,919,000
1869	3,760,000	1892	1,812,000
1870	3,695,000	1893	1,698,000
1871	3,627,000	1894	1,586,000
1872	3,559,000	1895	1,472,000
1873	3,489,000	1896	1,355,000
1874	3,417,000	1897	1,235,000
1875	3,344,000	1898	1,113,000
1876	3,269,000	1899	988,000
1877	3,192,000	1900	860,000
1878	3,113,000	1901	759,000
1879	3,033,000	1902	596,000
1880	2,951,000	1903	459,000
1881	2,867,000	1904	320,000
1882	2,782,000	1905	177,000
1883	2,694,000	1906	30,000
1884	2,604,000	1907	0

Table showing the progressive decrease of the slave population of the United States, assuming that 350,000 of miscellaneous selection are deported annually, beginning with the year 1862.

Year.	*Population.*	*Year.*	*Population.*
1862	4,181,000	1870	1,963,000
1863	3,825,000	1871	1,657,000
1864	3,663,000	1872	1,345,000
1865	3,395,000	1873	1,025,000
1866	3,122,000	1874	698,000
1867	2,842,000	1875	363,000
1868	2,555,000	1876	21,000
1869	1,263,000	1877	0

* The above tables were furnished by a gentleman of Philadelphia after the speech was delivered.

Mr. President, I wish I had the Senator at the blackboard with me. These figures tell the story, and they answer all his high-sounding declamation about the impossibility of colonizing the annual increase of this race from the United States to the West Indies, Central or South America, or even to Africa.

I had occasion some two or three sessions since to ask another Senator to work out a problem at the blackboard—I refer to Mason, of Virginia. He had been denouncing, in terms both loud and deep, the immense loss Virginia sustained by the escape of fugitive slaves. He said Virginia lost every year $100,000. But what did the ciphers show? Upon the assumption that she had five hundred thousand slaves, valued then at $800 each, their value would be $400,000,000, upon which a loss of $100,000, or of the four thousandth part, would be only a quarter of a mill on a dollar, or one fortieth of one per cent. The result of this ciphering was stated; the loss was so small, so insignificant, so utterly contemptible, that I do not remember to have heard the loss of property in slaves escaping from Virginia ever mentioned again here until after the beginning of this rebellion.

But to return, sir; let us look at the possibility of colonization in another point of view. The declaration is so often made that all the navies of the world could not accomplish it, I will work out another problem. The tonnage of the United States in sailing vessels is six million five hundred and nineteen thousand one hundred and seventy-one tons, and the steam tonnage is eight hundred and thirty thousand eight hundred and eighty-five tons. I have before me a table prepared at the State Department, to which I refer for authority. I may, perhaps, note it as an appendix to my speech, but which I will not now take time to read. It shows, I repeat, that our whole tonnage is seven millions three hundred and fifty thousand and sixty tons. The law on the subject of carrying passengers provides that there shall not be carried upon vessels—

"A greater number of passengers than in the proportion of one to every two tons of such vessel, not including children under the age of one year in the computation; and that two children over one and under eight years of age shall be computed as one passenger."

If we were to rate the capacity of the tonnage of the United States, according to the law of the United States, to carry passengers, making this reduction on account of children under eight years of age, one single trip of all the vessels of the United States would take the whole of this population. This is, of course, an extreme case. I put it as such, and to show the immense carrying capacity of our mercantile marine.

But, Mr. President, there is another problem that I propose to examine on the blackboard. These tables, from which I have read, demonstrate that the free negro population of the United States does not increase one half as fast as the slave population. With all the manumissions added, with all the fugitives from their masters that escape to the free States, with all that, I repeat the important fact—I really wish that Senator was here to cipher with it—that *the increase of the free colored* population *is not one half* of the increase per cent. of the slave population. From 1840 to 1850, as I have already stated, it was but 12.46 per cent., or at the rate of 1.25 per cent. annually. In the decade from 1850 to 1860, it was but 10.97 per cent., or a little less than 1.1 per cent. annually. I shall not go into any long statement of the reasons which produce this great difference between the amount of increase of the free colored and the slave population. It is enough to say that in a state of freedom, from motives of prudence, or from other cause, they do not marry as early; and for some reasons there may be more deaths among their children. In slavery, where the increase of offspring is an increase of wealth, the master, from self-interest, does all in his power both to encourage and protect them.

On this point I will refer to an address made not long since by a gentleman now of this city, formerly of Maine, George M. Weston, Esq. His work on the progress of slavery in the United States, I believe, contains more facts, more statistics, and gives more information than any other book I have ever seen on the subject. I refer to his statements in that address, therefore, with great confidence in their accuracy. I have derived many facts and figures and valuable suggestions from it, and I feel called upon to give him my thanks, while I freely avail myself of them. He says, speaking of this difference in the increase of free colored and slaves:

"It is by no means to be assumed, from the fact that the free negroes, in the small numbers in which they have existed in this country during the last twenty years, have exhibited some little natural increase, that the entire African race existing among us would increase in the condition of freedom. On the contrary, as we know that the education and capacity to provide for themselves and families, of those who are now free, much exceed what is found among those now enslaved, we must conclude that if those now free increase but slowly, if at all, those who are now enslaved would positively diminish if they were emancipated."

What are the facts? In that section of the United States where the highest intellectual, moral, and religious culture is attained; where the laws are better observed than in any other; where the free colored man has been longest free, and admitted to the most civil, political, and social rights; where there are more humane asylums for every species of the unfortunate than anywhere in the world; where no human being is obliged to go without shelter, food, or raiment; where his offspring would be best provided for, there, with all his natural increase, with all manumissions, and escaped fugitives, the increase of the free colored man from 1840 to 1850 was less than 0.25 per cent. per annum, and from 1850 to 1860, less than 0.50 per cent. per annum. I quote again:

"In New England, from 1840 to 1850, the colored race increased a fraction less than two per cent.; from 1850 to 1860, a fraction more than four per cent.; and in the half century, from 1810 to 1860, only twenty per cent., or one fifth.

"The increase of free colored persons in this country, from 1850 to 1860, was at the following rates:

	Per cent.
In the free States	12.96
In the slave States	8.69
In all the States	10.68

"In the aggregate, the increase was from 424,390 to 469,709, which is a gain of 45,319, or, as before stated, of 10.68 per cent. How much of it is by natural increase may be determined with proximate, although not exact, accuracy.

"The number of slaves becoming free by escape was, in 1850, by the census of that year, 1,011, and in 1860, by the census of that year, 803. By averaging those numbers, we have for the whole decade 9,070, which is at least equal to all the colored persons who have left the country within that time. There was scarce any emigration of that kind prior to the census of 1860, except of the fugitive slaves themselves, who seek Canada as a place of refuge. From 1820 to 1852, a period of thirty-two years, only 2,720 free colored persons had left all the States for Liberia. Of late, there has been some emigration of such persons to Mexico and the West India Islands, to avoid the stringency of the severe legislation against free negroes in some of the slave States. But without going into unnecessary niceties of calculation, it is apparent that the escapes from slavery during the decade from 1850 will not only balance all the colored emigration of free persons, but also the number of such persons reduced to slavery by kidnapping, or by those modern laws of some of the States under which free persons are occasionally sold into the condition of servitude.

"There remains, then, to be deducted from the increase of the free colored, in order to determine their natural increase, the number gained by manumissions. These amounted, in 1850, by the census of that year, to 1,467, and in 1860, by the census of that year, to 3,010. By averaging those numbers, we have for the whole decade 22,380 as the sum total of manumissions, which reduces the gain of the free colored population by natural increase to 22,939, which is five and two fifths per cent. This is between one fourth and one fifth of the natural increase of the slaves, which was quite twenty-four and one half per cent., namely, twenty-three and one half per cent., as exhibited by the census, and one per cent. lost by escapes and manumissions.

"This small natural increase of the free colored race, as compared with either the slave or the white population, has, of course, always been known to statists. It is easily demonstrated as a matter of actual figures, and the causes of it are not obscure; but neither the fact itself nor the legitimate inferences from it have been sufficiently insisted upon, or attracted the attention they deserve."

But there is another grave matter bearing upon the subject of this increase. If in New England where most favored by law and by public sentiment, his natural increase is so small, how would it be in those States where the conflict of race, or, if you please, caste and prejudice, is so strong? What would be his increase there in a state of freedom? Jefferson declared it impossible for the two races in large numbers to remain together without conflict, equally free. Such is the opinion of all southern men, slaveholders and non-slaveholders. The Senators from Kentucky and Virginia tell us that it would lead to a conflict of race, and probably to the destruction of the weaker race. I do not justify this conflict; I speak of facts existing. We must, as statesmen, deal with things as they are, and not assume them to be as we would have them. I am dealing with facts and not fancies, and would address myself to men who think and not dream—to wise men, and not mere poets or orators.

Senators, we are compelled to regard, as facts bearing upon what will or will not occur, or what should or should not be done, the feelings and the prejudices of mankind. Ay, sir, these prejudices are facts, stubborn, ugly facts, which cannot be ignored. Is it not altogether probable that there would be little, if any, increase to the colored population in the United States if they were all now as free as they are in New England? On the other hand, Mr. Weston says:

"It is slavery, and nothing else, which multiplies the negro in the United States. There are no maids, and no widows, among slaves. From the time that the capacity to bear children begins with their women, to the time when it ends, it is in full activity, and as if the natural passion stimulating that function, (unrestrained as it is in the case of the slave by moral or prudential considerations,) was not sufficient for the avarice of masters, who see an increase of their wealth in an increase of their human stock, it is further stimulated by rewards and promises of reward."

Now, Mr. President, this is precisely the point where I should like to bring the Senator to the blackboard again. Let us suppose that the slaves were all emancipated, and that they were placed under as good circumstances as they now are in New England, or Wisconsin, or any of the States where they are accepted with the most favor and with the least objection, do not these census returns, with their inexorable logic of figures, show that, like the Indian race, they dwindle and dwarf in the presence of the white man; that under most favorable conditions their increase would not exceed ten per cent. in a decade, or one per cent. annually. One per cent. upon four millions is but forty thousand. If the annual increase would be only forty thousand, where is the Senator's position now? That Senator, the chairman of the Committee on Naval Affairs of the Senate of the United States, denouncing colonization as the most absurd idea that ever entered the head of man or woman, a thing not to be thought of for a moment, because it is beyond the power of all philanthropy and all legislation and of our Navy to carry away the future increase of this population in the United States, which, with emancipation, would fall at once from twenty-three to ten per cent. per decade, from ninety-three thousand five hundred annual increase to forty thousand! Sir, two first-class steamers from the city of New Orleans, and two from Charleston, or rather Port Royal—for Charleston as a commercial city may be among the things that were, and Beaufort become the future emporium of that State—these four steamers, making their trips to the West Indies and to the countries just across the Gulf, would carry the whole increase of this population from the United States twice told. It being now demonstrated that the colonization of more than the annual increase is a possible thing, I next inquire,

IS IT PRACTICABLE?

Here is another problem in figures applied to history, to which I would call the attention of the Senator from New Hampshire. Previous to 1850, the annual importation of slaves by the slave trade from Africa into America, including Cuba, was from one hundred and fifty to two hundred thousand; and since that time, when by the armed forces of Great Britain, the slave trade to Brazil was broken up, the annual importation of slaves into Cuba now, from 1850 to 1860, has been at the rate of fifty thousand every year. The number annually stolen from Africa, brought by violence three thousand miles across the sea to Cuba and sold there, in spite of treaties, in spite of the fleets of Great Britain, France, and the United States, is ten thousand more than the whole increase of the colored population of the United States would be if they were now emancipated.

If, in spite of treaties, if under the ban of piracy, with the halter on their necks, moved by base cupidity alone, a few obscure and outlawed men, in face of the armed ships of the three greatest commercial Powers of the world, can bring fifty thousand slaves three thousand miles to Cuba, cannot a great nation, in the interests of freedom, humanity, and the glory of all mankind, colonize annually forty thousand men in the best and richest countries in the world, lying almost at its feet?

But, Mr. President, it may be said that these are mere arithmetical problems, built up on suppositions, on figures only. I propose, sir, to call the attention of the Senate for a short time to some facts that have transpired in relation to the great voluntary migrations of the human family. I shall not dwell upon the migration of the people of Israel to the land of Canaan, by which from three to four millions of people were taken out at one time from the land of Egypt, their house of bondage, to Palestine. My friend [Mr. WILMOT] shakes his head. Has he ever gone into the figures?

Mr. WILMOT. No, sir. There were about six hundred thousand; that was all.

Mr. DOOLITTLE. That my friend *has not gone into the figures* is very evident. I have. There were six hundred thousand *men, besides their wives and children*.

Mr. FOSTER. Fighting men.

Mr. DOOLITTLE. "Fighting men," my honorable friend from Connecticut says. Figure upon that! There undoubtedly are not more voters in a community under our system than there were fighting men in Israel, and it is safe to calculate six or seven persons to one voter upon the average; so that, if the fighting men were 600,000, multiply the number by six, and you have 3,600,000, or by seven, and you will have 4,200,000. But, sir, as I said, I do not propose to dwell upon that case. It may be said, and truly said, they were led out by great and miraculous events under special superintendence of the Most High, who appeared as a pillar of cloud by day and a pillar of fire by night, leading them through the Red sea, feeding them by miracles in the wilderness, and carrying them safely through at last to the land of Canaan.

When I remember, however, the terrible judgments upon the Egyptians for refusing to allow the children of Israel to go out of Egypt, to their promised land, I cannot but remember that in this country there are two extremes of opinion, both meeting in the same thing, the fanatical devotees of slavery, and the *par excellence* friends of immediate abolition, denouncing colonization, the most practicable mode of removing this downtrodden race from their house of bondage to their promised land.

But, sir, there have been other great migrations mentioned in history. During the decline of the Roman empire, its provinces were overrun by those great swarms of emigrants from the northern hives. They came not in regularly organized armies, but as whole peoples, with their wives and children like great overflowing floods, bearing down the armies of the empire, and sweeping all in their way, spreading themselves every where, taking possession of whole countries and peoples, and subjecting the old Roman citizens to the dominion of greater and stronger men from the north of Europe and Asia. I am reminded of those migrations in some respects by what we now witness going on in our own midst. We behold six hundred thousand strong men from the northern States overflowing into these beautiful regions. They have come at the call of their country to maintain the Union and the Constitution. They have come to stand side by side with the loyal Union-loving men of the South, to fight for their homes and their firesides, to defend them against secession and treason and military despotism; but I say to our friends there, I believe, as I believe in my existence, many, many, if not most, have come to stay. They are falling in love with your goodly lands in Maryland, Virginia, Kentucky, Tennessee, and Missouri. True to their Anglo-Saxon instincts for land, they are going to take possession of them, not by force, not by depriving any loyal citizen of his rights, but by peaceful purchase. When peace comes again, many will send for their wives and children, and make their homes with you forever. Those who have no wives will marry your daughters. I am informed that in one of the Wisconsin regiments, stationed nearly a year in Maryland, seventy young soldiers were married to the girls of Maryland. Surely that is "reconstructing the Union" upon lasting foundations. These men will regenerate and redeem States like Virginia, which has fallen into a sad decline from the fatal mistake of following after the new dogmas of Calhoun instead of the ideas of Jefferson; of fostering and encouraging slavery as a blessing, instead of throwing it off as a curse; of tilling her soil by half a million of negro slaves, instead of developing all her resources by the free and energetic toil of what she might have had in their places, two millions of free white men. Sir, she is yet to recover. Young Virginia, already represented on this floor, holding once more the same enlarged views upon slavery and upon all other questions, which were entertained by Washington, Jefferson, and Madison, by all the men of the earlier, and, as some say, the better days of the Republic, by the influx of these thousands from the North, bringing with them the same ideas which Virginia, through her great men, have taught them. Virginia will regenerate herself, and become in one or two generations what she might have been now but for this accursed institution. Notwithstanding what her traitorous sons have done, notwithstanding what her Floyds and Masons and Hunters, following the evil teachings of Calhoun, have done, to mislead her people and carry them into this rebellion; notwithstanding her wretched and despicable condition now, for what she once was, and for what I believe she is yet to be, I shall speak of her always with feelings of gratitude and respect. Wisconsin was born of Virginia. She was her youngest born. But I thank God that she was born in the days of her ancient greatness; when the ideas of Washington, Jefferson, and Madison, and not the ideas of Calhoun and his followers, led her councils; when Virginia loved liberty more than she loved slavery; when Virginia, feeling the curse of slavery upon herself, by the great law of maternity stamped upon her offspring, the great Northwestern Territories, her own love of liberty and her own hatred against slavery forever. The debt of gratitude which Wisconsin and all the Northwest owes to Virginia for that great deed, but for which the same blighting curse would now rest upon the States of Ohio, Indiana, and Illinois, no language can express and no gratitude can repay. Oh, what a change has taken place since she has been seduced by listening to Calhoun's suggestion, and said to herself—

"Slavery thou art my blessing,
From henceforth evil be thou my good."

"Oh, what a fall was there, my countrymen!" from Washington down to Wise! from Jefferson to Hunter! from Mason of the Revolution, the grandfather, down to Mason the degenerate and traitorous grandson! But I will not give up Virginia yet. I believe in the resurrection. I expect to see her rise again; to hear her speak again the language of Washington and of Jefferson and of Madison. I think I begin to hear it even now sometimes. I think I shall see her once more, looking, hoping, praying, for emancipation, that God in his own good time will enable her to get rid herself of that institution which has been a curse and a blight upon her, which has reduced her from her high position as the empire State of the Union to a fourth or a fifth class State, in power and in population.

And, sir, I must say that I listened with pain to some remarks that fell from our friends on this side of the Chamber yesterday, in addressing themselves to the honorable Senator from Virginia, [Mr. WILLEY.] When that Senator tells us that he has of his own means spent more money in emancipating slaves than I am worth three times over; when he tell us that by his efforts, and the efforts of Mr. Botts, of Virginia, who now lies in jail confined as a Union man, because he will stand by the flag of the Union, his State was prevented from adopting into its constitution a clause banishing forever or reënslaving the whole free colored population of that State; when he tells us that, and says that he is willing to sacrifice all he has, even life itself, for the Union and the Constitution, I am pained to hear Senators address him in any other language than that of kindness and respect. Sir, if he differs from me in some views on slavery or anything else, so long as his heart beats true to the flag, and his foot keeps step to the music of the Union; so long as he has given evidence of his devotion to the cause of emancipation by great self-sacrifice; so long as he has stood up in his own State, where it required both physical and moral courage to stand up, for the truth and for the rights of this poor oppressed race, I will honor him, and I will give him the hand of friendship, and tell him, thank God, and take courage, better times are coming to us and to the Republic. Sir, beyond this storm of war, and all the blood and agony and tears it brings, I see the dawning of a better day rising upon this Republic. We are to be restored to the good old ideas and good old ways of the fathers who achieved our liberties, founded our Government, and administered it with such success for three generations.

But, Mr. President, I beg pardon for this digression, into which I have been drawn unexpectedly to myself. I will return at once to the question, for I desire this day to deal in nothing but facts and figures.

Sir, I pass over the great migration of the children of Israel to Palestine—I dwell no longer upon the great migrations of the northern barbarians when they overran the Roman empire—I come down to our own time, to what we have seen in our own day and generation. Take for instance the migrations from Great Britain, with a population of 28,000,000. In the ten years, from 1847 to 1856, inclusive, 2,800,000 persons migrated from Great Britain and Ireland, none of them on voyages shorter than that across the broad expanse of the stormy Atlantic, many of them to the southern extremity of Africa—the utmost verge of the real or fabled circumnavigation of Hanno—and still more, over a distance equal to two thirds of the circuit of the globe, to the antipodal regions of Australasia. This emigration from a population averaging 28,000,000, during the term of their movement, would only be equaled, proportional numbers being taken into the account, by an emigration from this country of 3,700,000 during the ten years to come. In the eight years, from 1847 to 1854, inclusive, this migration from Great Britain and Ireland, numbered 2,444,800 persons, which is at a rate still more rapid.

I call special attention to the case of Ireland, the green isle of Erin. The total Irish emigration for the six years, from 1847 to 1852, inclusive, was 1,313,226. (Thirteenth General Report of British Commissioners of Emigration.) In 1854, it was 150,209. Assuming for 1853 an emigration of 187,603, which is the mean of the emigration for the years 1852 and 1854, we have for the eight years, from 1847 to 1854, inclusive, a total emigration of 1,681,359. Taking the average population of Ireland from 1847 to 1854, at the 6,500,000 of the census of 1851, the emigration in that period of eight years was more than one fourth of the population. A proportional emigration from the United States for eight years to come would be 9,000,000. And the American people are a rich, commercial, and navigating people, while the Irish were poor to a proverb, and so little of a navigating people, that the bulk of their emigrants were absolutely obliged to make one voyage across the Irish channel, at least half as much of an undertaking as it would be to go from New Orleans across the Gulf, to find a port affording the necessary facilities for their final exodus.

This case of Irish emigration from 1847 to 1854, which includes the period of a too well remembered famine, is an extreme one; but it is always extreme cases which show what is possible to be done. And if the case is extreme, so it proves altogether more than is necessary to be proved in the matter on hand, as nobody supposes that it can be necessary or desirable to colonize the whole of our colored population in eight years, if at all; and if it was, the Irish example shows that we could colonize within that term twice as many colored people as we actually have, slave and free.

But again, sir, here is a problem to which I should ask the Senator's attention if he were here at the blackboard. Here is a problem in the rule of three. If 6,500,000 poor people, not a navigating people, can emigrate—for voluntary colonization is emigration—1,600,000, three thousand miles across the Atlantic in eight years, how many could 30,000,000 of people emigrate but six hundred or one thousand miles in the same time?

Mr. COWAN. That is the double rule of three. [Laughter.]

Mr. DOOLITTLE. So it is. It involves both time and distance as well as population.

Again, sir, from September 30, 1843, to December 31, 1856, there arrived in the United States from foreign countries, 3,635,460 persons, Ger-

many being the principal contributor next after the British empire to this vast immigration. In thirteen years, therefore, by the voluntary emigration mainly of the poor and oppressed people of Europe of our own race to the United States, we have received a population almost equal to the whole number of slaves within the United States.

Mr. FOSTER. And they came in sailing ships.

Mr. DOOLITTLE. As my honorable friend remarks, they came in sailing ships, too.

Mr. President, I have another problem. It is estimated that ten times the present number of all the slaves in the United States have been stolen from Africa and brought to the continent of America to be sold as slaves; yes, sir, 40,000,000; ten times the present number of all the slaves in the United States. The Encyclopædia Americana says that the number of negroes brought by the slave trade has been "calculated to amount during the last three centuries to above 40,000,000." Cannot the annual increase of 93,500, the rate in which they increase as slaves, or 40,000, the rate at which they increase in the condition of freedom, emigrate from the United States if they are willing and desire to go, and that too, not across the Atlantic, but just across the Gulf of Mexico, or into the islands in the Gulf or the Caribbean sea? All these figures demonstrate with mathematical certainty the ease with which any amount of colonization of our colored people, which can be considered to be necessary in order to render emancipation safe and acceptable, can be managed. The fullness of time has arrived, in our numbers, in our abounding wealth, in the vast improvements in the safety, cheapness, and comfort with which seas are traversed, and finally in the various choice of regions to which the colored race may be deported. The longest voyage is back to that continent from which ten times as many as we have now in this country have been dragged by violence, while available and substantially unoccupied areas, in close proximity to us, already invite this species of immigration.

The question now arises,

HOW FAR IS COLONIZATION DESIRABLE?

It is not to be expected that the whole of this population is suddenly or perhaps ever to be colonized out of the United States; no man ever dreamed of such a thing. But if a number equal to the annual increase, and a little more, could be colonized or induced to emigrate to a country far better for themselves than to remain here, so that the people of the slave States shall see the amount of this population diminishing instead of increasing, and their white population increasing and not diminishing, they will become satisfied to have emancipation begin in their States. It will be in their estimation no longer an impossible nor an improbable thing, even in the slave States where the most slaves exist. The idea, the hope of colonization, therefore, will aid emancipation in all the slave States.

Mr. President, for myself, I favor emancipation wherever I have constitutional power, because it will give freedom to this race. Besides, sir, emancipation will aid colonization. They will practically aid and sustain each other, and therefore I favor both. But I urge upon my friends who desire to see emancipation to favor colonization, because I believe that idea is necessary in order to allow an emancipation party to arise and sustain itself among the people of the States where slavery now exists. They tell me, sir, the Senator from Virginia, the Senator from Kentucky, every Senator coming from these States, and every man, woman, and child who comes from these States, tells me that it is utterly impossible for them to talk of emancipation within any slave State without connecting with it the idea of colonization. Can there be a party and nobody belong to it? When all the people residing in those States tell us that it is an absolute necessity in order to get their people—I do not mean the rebels, but the Union-loving people who are pouring out their blood like water to defend the Union and the Constitution—to consider the question of emancipation of slaves, or take hold of that question, or act upon it, or even speak of it, that they connect with it the idea of colonization; shall we not allow them to do so? That is the question.

I should rejoice in my whole soul to see both. There never has been an hour in my life when on this subject of human slavery all there is manly within me did not rise against it; when every power placed in my hands constitutionally I would not be willing to exercise in order to do away with it everywhere throughout the whole earth. Everywhere I would give universal liberty to universal man. But I believe that these questions of emancipation and colonization are so connected together in those States where slavery now exists, that it is next to impossible for the friends of emancipation there to get a hearing by the people of those States, much less to proceed with emancipation, without discussing and carrying forward at the same time a system of generous colonization of the emancipated people to some country beyond the jurisdiction of the United States.

IT IS GOOD ECONOMY

to plant colonies.

It is not necessary to expend any very large sums of money, especially in the initiation of this policy. I will say that one half the amount we annually expend in taking care of the Indians—the Indian appropriation bill now pending proposes to appropriate $1,700,000, and the additional estimates of the Secretary of the Interior are about $1,500,000 more, making in all $3,200,000—the expenditure of one half the amount which we make for the Indian race would open the way and organize a system. It would lay the foundations for a great, free, voluntary, and, in great measure, a self-sustaining colonization for these people from this country, which would take them to countries better adapted to them, to which they will go by hundreds of thousands, for the same reason that the Irish and the Germans and other people of Europe come to the United States—to seek a better home, where they can make more money and enjoy better privileges and make more rapid advancement for themselves and for their children.

Besides, Mr. President, looking at this as an economical question, it is not only not necessary to expend any very large sums of money, but I think I could show that even a large amount expended in this way might be made to subserve the agricultural, commercial, and manufacturing interests of the country. The judicious expenditure of one, two, three, or five millions of dollars by the Government of the United States in planting colonies all along the Gulf of Mexico *and the Caribbean sea*, in Vera Cruz, Guatemala, Nicaragua, Honduras, the Balize, Venezuela, as well as in Hayti and San Domingo, and all the islands of the Gulf and the Caribbean sea, would be a great and valuable investment, bringing rich returns to the people of the United States in the commerce it would build up there. Our commerce with the single republic of Hayti now stands, I believe, twenty-first in the whole list of our commercial relations with the civilized Powers of the earth. The republic of Hayti offers to these people, if they are unable to pay the expense of their own emigration, to bear that expense for them; and it offers to give them employment, and offers to give them homesteads; over two thousand have accepted these offers, and have voluntarily, upon their own account, gone there. San Domingo alone, it is estimated, is capable, if it should be populated as the island of Barbadoes is, of holding thirty millions of these people. There is no mistake about it. If my friend who shakes his head in doubt [Mr. WILMOT] will go to the figures he will see it. I shall not take time now to go to the blackboard again, but if he will cipher it out he will find it so. If the island of San Domingo was no more thickly populated than is Porto Rico to the square mile, it would take the whole of our present colored population.

But, sir, that island is but a speck on the map compared with those immense regions waiting for them, and which it would seem as if the Almighty had reserved for them. I wish to call the attention of the Senate to some facts bearing on this, for my attention, perhaps, has been more drawn to it than that of some other Senators. Take down the map. Here is Mexico, which stands ready to form a treaty with us to-day, by which she will give homesteads in any of her States to these people, if they will go there. Down the coast, near Tampico, they have gone out from New Orleans, on their own account, and have built up a flourishing colony. See, there lies Yucatan, which comes up as a peninsula right into the Gulf of Mexico. There is the small island of Cozumel, about twenty miles square, which we could probably purchase, make it a coaling station for the United States and a good harbor for us, and a depot for carrying out a system of colonization in the Mexican States. Mexico is capable of receiving, and willing to receive, any amount of this population. Besides, sir, coming nearer home, right adjoining Texas there lies Tamaulipas. As the rebels recede before our advancing armies, they may flee with many of their slaves into Texas, perhaps. From Texas they have only to cross a river to get into Mexico.

Look along down the Gulf. Vera Cruz has nearly six hundred miles of coast where the colony below Tampico, to which I have referred, already exists. Then there is Tehuantepec, with a hundred miles of coast and a route across from the Gulf to the Pacific ocean. Then there is Tabasco, with two hundred miles of coast; Yucatan, with probably more than one thousand; Balize, Guatemala, with five hundred miles of coast and the beautiful Gulf of Honduras. I beg to say in relation to Guatemala, that the president of that State offers to give his own hacienda to these people if they go there, and further, pledges his influence for legislation in their favor, giving homesteads to all who choose to go there, in a country where the cotton plant is almost perennial, and to which no country on the face of the earth is superior in the production of coffee, sugar, cotton, cochineal, and the other valuable tropical productions. Then there are Honduras and the Bay Islands, Nicaragua, Costa Rica, and New Granada, including the provinces of Chiriqui, Veraguas, Carthagena, Santa Martha, and Rio Hacha. There, too, is the beautiful valley of the Magdalena river, just across the Gulf of Mexico, inviting these people to come to its bosom by millions upon millions, capable of sustaining them and giving them successful employment. There is Venezuela, too, with a thousand miles of coast below the Caribbean sea. I saw the other day our minister lately returned from Venezuela, I conversed with him in relation to that country, and on this very subject. He informed me that for a thousand miles on that coast is a rich and fertile country, indented with beautiful bays and harbors, and capable of producing, in coffee, cotton, and sugar, more than almost any other country in the world. It stands to-day, I believe, only fourth in the production of coffee.

Mr. President, some would force on at once the emancipation of this whole population, and at the same time and in the same breath scout all ideas of aiding them in colonization or emigration. Upon the other hand, there are others who would force the colonization of every free negro from the slave States, and who scout all attempts even to consider the question of emancipation at all. I have no sympathy with the idea of banishing any people; but I do favor the ideas both of emancipation and colonization. Each will aid the other, and each is to the other the best *practical means* to aid it. Sir, I would inscribe high upon the banner which I would follow, "a *generous homestead policy* for both races, black and white. Homesteads for free white men in all the temperate territories of the United States homesteads for free colored men in the tropics and the islands of the Gulf of Mexico and the Caribbean sea." I would, by treaty arrangements with those States, endeavor to build up, as we could very easily do, free commercial relations, placing upon the manufactures and productions which we export to those countries but light duties, obtaining, perhaps, in consideration of the aid we give them, by planting colonies of our people among them, a provision that for a given number of years, say five years or ten years, colonists from this country should be permitted to receive from the United States, free of all duties, all our productions and our manufactures, *thus laying the foundations* for another market for all the productions of the Mississippi valley and the manufactures of the East, in exchange for the sugar and coffee of those countries.

Such a commerce, once begun, would of itself make the colonization of this people free, voluntary, and self-sustaining. Our ships would go loaded with emigrants, and return loaded with

tropical productions. I believe that in so doing we may be instrumental, under the providence of Almighty God, in laying the foundation of an empire there, a great republic to be composed of these people and their descendants, and of the people already there who stand ready and willing and anxious to receive them as a part of themselves, which after a few generations will contain a hundred millions of human beings; a republic which shall be in the tropics what this Republic is in the temperate zone of the North American continent; a republic which, if it shall grow up under our protection, will be a support against foreign intervention, and feel bound to us by interest, gratitude, and friendship forever. Although not a part of our territorial dominion, they will be within our commercial dominion. Sir, when we can have free commercial relations with a nation which immediately adjoins us, where we will send all our products and manufactures, with light duties upon them, and receive theirs in return, it is a practical annexation for all commercial purposes to the Government of the United States. It is as good and better for us than if we should own the sovereignty of the territory, and be at the expense and trouble of governing it.

Sir, although all our political relations were severed with Great Britain by the Revolution, are we not to-day still her best commercial customer? If the tie which binds Canada to Great Britain were severed to-morrow, and if she should unite her destinies with the United States, would not Canada still continue to be one of the best customers of Great Britain? Sir, those rich countries lying at our feet, just below the mouth of the Mississippi, although outside of our territorial jurisdiction, if filled up with emigrants from the United States, would be practically of us. They would remain our customers and our producers forever. I believe that to build up the commercial interests of this country, its agricultural interests, its manufacturing interests, the expenditure of a comparatively small sum of money each year in the negotiation of treaties, in opening up the way, in, perhaps, establishing lines of steamships between the United States and the countries just upon our border, would be not only wise, but that it would be repaid in the end ten, if not a hundred fold. Besides, sir, the expenditure of money for the purpose of enlarging our commerce with foreign countries is clearly

CONSTITUTIONAL.

It is within the express grants of power, and is sanctioned by the long established precedents of expending money in the removal of Indians.

In seeking for the constitutional power to compensate for the value of slaves emancipated within the States there is more difficulty. But I believe that will be avoided when the States having slaves come to act upon the question of their emancipation by following the examples of Pennsylvania and other States, making that emancipation prospective and gradual, and thus avoid the question of compensation, leaving the whole amount to be expended in aid of their colonization, and in that manner this Government can most effectually aid the States in the great work of emancipation.

At the risk of apparent repetition, I repeat, I would have that *colonization voluntary*. If compulsory, it is slavery still. Besides, sir, I would have the most enterprising, the most intelligent and aspiring among that people lead the way. I have been addressed by many of that class on this subject. They thank me for frankly speaking out the truth, and for stating the true relation in which they stand to the Caucasian race here in this country. They thank me for what I have done in my amendment to the bill emancipating slaves in this District, that I was not only for giving them emancipation and freedom, but was for giving them aid to go to a country in which they could aspire to and hope to attain a position of social, civil, and political equality which they never hope to have in this country, even in New England.

Mr. President, I will repeat again, in order that I may not be misunderstood nor misreported either, I am opposed to compulsory colonization. I look upon that as a species of slavery itself, as adding one wrong to another. I believe, also, that if made compulsory, colonization would be far less effective in producing the good results of which I have spoken than if it were made voluntary, and far less beneficial to the colored race.

Mr. President, my views on this subject are not the growth of a day or a year. They have been the result of many years of earnest thought on the subject, in all its bearings. It is the great problem of America. I agree with the Senator from New Hampshire in that. It is the great problem presented to the American statesman, and a problem which he must meet, which he cannot avoid. It may have been forced upon me, more especially within the last five years, because of my position upon the Committee on Indian Affairs; it has been a constant, every-day duty to consider in that committee the best mode in which we of the Caucasian race here on this continent shall deal with the Indian race to save even its remnants from destruction. Sir, wherever we look we behold that race dwindling at the presence of the white man, as the snows are melted and disappear in spring time. This Government has been engaged in one continued struggle; it has expended millions upon millions to preserve the Indian race, to provide for its support, to take care of it, to prevent the selfishness and cupidity and often criminal misconduct of the white man towards it. Upon this subject I have had put into my hands, and I will ask the Secretary to read a letter from Keokuk, the chief of the Sac Indians in Kansas, to the Great Father, the President of the United States in Washington, to which I ask the attention of the Senate, as to a statement as eloquent as it is simple, giving the condition of his tribe, and his hopes and his fears as to the future.

The Secretary read, as follows:

Keokuk, Chief of the Sac Indians, in Kansas, to the Great Father, the President, at Washington:

I am a chief; my father was a chief before me. He is dead. He long had the care of our people. It now devolves upon me. Their welfare is very dear to me. I look over our waning numbers with pain and melancholy forebodings. I look for the causes of this decay, and seek a remedy; but so far I have sought in vain. As a last hope I appeal to you.

It is well known that in 1832 the Sac Indians made war upon the whites, and were defeated. After the war we made a treaty with our Great Father. That treaty we have faithfully kept. So has our Great Father. We do not complain *of* him. We complain *to* him. He gave us a plenty of land in Kansas, twenty miles wide by thirty-four long, and much money—$81,000 a year for ten years, and $71,000 per year ever since. And now our land is to be sold to pay unjust claims, amounting to $150,000 more.

All this is more money than I know how to speak, but it would be all the same if it were more or if it were less. The Great Father intended it to refresh us like a spring, and make us grow and increase. But it runs through the hands of agents and traders, and is absorbed as a sandy plain absorbs the water from the mountain. We were not refreshed. We complained. The agents were dismissed and new ones appointed. It was all the same. My people lived in temporary dwellings, in wigwams and tents. They died from diseases brought on by exposure and want.

We have lived in Kansas eighteen years. We have had nine agents, all alike. They are agents for themselves, not for us. My people do not number one half that came here after the war. The agents are supercilious and proud. They treat us like dogs. My people are discouraged and drink too much. They have lost their self-respect. The agents do not listen to the chiefs and head men in council. They listen only to the traders. When some new plan is devised to get the Indians' money a council is called. If the chiefs and head men do not approve, they then take some weak-minded Indian and make him a chief, and so do as they please. They bribe him. In this manner they divide the Indians and make them act against each other. If the Great Father in his wisdom could send us a better plan we should be glad. We want a change. We want all the traders to go away. We do not want any agent with such powers as he now has. We want our chiefs and head men in council to decide many things. Now they decide nothing. The most trifling choice is denied us. We have our preference for a blacksmith. This has never been granted us, and is not now. We think it best to dispense with a gunsmith; this we are not allowed to do. We need a wagon and plow maker, but are not allowed to employ one. We are anxious to commence farming, but we cannot control our own means. We are like a fly in a spider's web. The agents and traders have our feet entangled and we cannot get out.

We are living poor and in poverty, with a domain of over four hundred thousand acres of land, and an annual income of $71,000 per year.

Let us have a voice in its management. The results cannot be worse. They may be better. We cannot live any poorer. We cannot die any faster. We cannot suffer any more. As things now are we are prevented from making any effort. We have faculties like white men; we have ambition also. Our faculties are not exercised; our ambition is not gratified. The agents and traders call my people ill names; they disparage our name and nation. We are conscious of this, and many weak-minded Indians lose their pride of character and of race. I am proud of my name. I am proud of my race. I am no longer the enemy of the white man. I belong to one of many tribes over which the Great Father rules. We are friends. Our people are friends. We wish to be treated as friends and equals by the white man, and not as enemies and dogs.

Our goods can be sent to us and distributed under the supervision of the Indian council.

A man can be employed to fit our boys and young men with pants and shirts, suitable to the change which we anticipate preparatory to school and work.

There are many things which we need, to change our condition, which our Great Father will think of better than I. I am done.

Mr. DOOLITTLE. Mr. President, I allowed the whole of this paper to be read, not as a part of my speech, but that it may go upon the record. I may desire to use it upon another occasion upon another subject. It discloses the same facts which appear in the statement of the Bishop of Minnesota in relation to the Indians of that State, and in the statements of all who give any information to the President or the Department of the Interior or to the Committee on Indian Affairs. This performance of my public duties here may have forced upon my mind the consideration of the question of the relations which these races bear to each other. For five years past upon the Committee on Indian Affairs, our attention has been constantly drawn to the question of the dealings of the whites with the Indians. What has given an additional force to that, in my mind, to study the relations we bear to the colored race, is this: I have seen some of the slave States passing laws to banish all free colored men or enslave them; the State of Tennessee even proposed it; and but for the letter of Judge Catron, a justice of the Supreme Court of the United States, it might have passed even the Legislature of that State. I know at the same time that the free States lying adjoining the slave States, like Illinois and Indiana and Iowa, have laws which refuse to allow the free colored men to come within their borders. Sir, I state these as facts; but because I see them, and will not blindly close my eyes to them, has any man a right to say here or elsewhere that I favor such legislation; that I would oppress these people? Nor, sir; no. I simply state what is patent to all the world. I take things as they are, and not as I would have them. Upon these facts the question comes to me, as it comes to you, and it should come home to every man who has a head or a heart, what, in God's name, is to become of these people? If they are to be banished from the slave States, and not received into the free States, where on earth shall they go? Do we owe them no duty? Is there no responsibility resting upon us? Upon the Government of the United States? *It alone controls all our foreign relations. The States have no power over them whatever.* Remember that. It can, by treaty, provide a home for these people which the slave States propose to banish, and the free States will not admit. Is it not our duty, as Christians and patriots, to find a place and a home where they can go and find refuge? Sir, my heart has been pained, my soul in agony has labored and hoped and prayed that God Almighty would give to us the true solution of this question. It is in that spirit that I have given my attention to it, and have earnestly considered it with all the powers of which I am capable.

THE SOLUTION IS JUST AND WISE.

Sir, this is no solution of mine. It is a solution which was proposed by Jefferson long, long ago; a solution which I believe has been favored by the greatest men this nation has ever produced; a solution which, in my judgment, is in accordance with the natural laws of climate, in accordance with the difference of constitution existing between these two races; a solution to which nature itself is pointing; a solution by which the tropics are to be given to the man of the tropics, and the temperate zone to the man of the temperate zone. As I stated the other day—I did so reverently, but I believe truly—it is God's solution; and it is easier to work with Him than to work against Him, and wiser, too.

IT IS GOOD POLICY TO SUSTAIN THE PRESIDENT.

Mr. President, I support these views on colonization, not because they have been recommended by the President of the United States in his message, but because I believe they are right. But it is a matter of great satisfaction that I agree with the President in the policy of his administration. I believe it is right. I feel assured it will be successful. The President and that party in this coun-

try which shall sustain him, which shall inscribe high on its banner "EMANCIPATION with COLONIZATION," "HOMESTEADS *for white men in the territories of the temperate zone;* HOMESTEADS *for colored men in the tropics, with a railroad to the Pacific to bind together our eastern and our western empire,*" will be the party to rule the destinies of this country, and if true to itself, its policy, and its friends, will last for a generation. If the Republican party, true to the principles upon which they came into power, are wise enough to accept it, wise enough to follow their President who has given them the lead, they will be the party of the future; they will republicanize—in the sense in which that term was used in the days of Jefferson and of Madison—not only every free States of the North, but Delaware, Virginia, Kentucky, Maryland, Tennessee, and Missouri, before the end of this Administration, and become the party of the future. But, sir, let them take the other policy, and suffer another party to arise which shall take it, and it will be trampled in pieces.

Mr. President, I have to-day discussed but one of the questions involved in the third section of the bill before the Senate, and I have been drawn unexpectedly into these remarks by what fell yesterday from the Senator from New Hampshire, [Mr. HALE.] I had no purpose, until I heard him, to address the Senate at all. I may have detained it already too long, but I have endeavored to confine myself to the question of colonization alone, to show that it was: first, possible; second, practicable; third, desirable; 4th, economical; fifth, constitutional; and lastly, that it is the true Christian-like, statesmanship-like, and, may I add, the natural and providential solution of the great American problem.

I desire, however, to say to my friend from Virginia that I hope he will not press his amendment to this section at the present time. That section, as it now stands, declares the policy and makes it the duty of the President to enter upon this policy of colonization; but if, at this time, there is an attempt to push it further, not only to apply it to those who may be emancipated under the provisions of the bill, but, at the same time, to a very large number of other persons, amounting to nearly five hundred thousand, it may defeat its own object, and perhaps defeat the section of the bill which declares this policy. I do not know that I understood the Senator from New Hampshire yesterday to say whether he is in favor of this section of the bill or not. I wish he were here. I should like to ask him that question now, for if this bill passes, I am anxious to have this section of the bill stand, declaring the policy of the Government on this subject. This section declares two things: first, the policy of colonization, and second, that that colonization should be voluntary, and not compulsory.

Mr. President, I will close what I have to say now without going at all into the merits of the other great questions which are involved. I have not time to do justice to them now. In conclusion, however, I may be allowed to say, that in my opinion no graver questions were ever raised in this body than are contained in the first three sections of this bill. The first section assumes to confiscate all the property, real and personal, of all persons who shall hereafter be engaged in this rebellion against the United States, who are——

Mr. TRUMBULL. I hope the Senator does not mean to misstate the bill. It certainly proposes no such thing. The first section of the bill does not propose to confiscate all the property, real and personal, of every person who shall hereafter be in rebellion against the Government.

Mr. DOOLITTLE. The bill as modified perhaps does not.

Mr. TRUMBULL. It never did propose any such thing.

Mr. DOOLITTLE. I may perhaps differ from the Senator in relation to the construction of that. The amendment of the Senator, offered the other day, may have made it clear that such was his intention.

Mr. TRUMBULL. No, sir; that amendment has nothing to do with it. The bill never proposed to forfeit the property of any rebel, except a man who was beyond the reach of judicial process. I know it has been so stated in the Senate; but the bill expressly says that it is confined to those who are beyond the reach of judicial process, and does not touch the property of any rebel who can be reached by judicial process.

Mr. DOOLITTLE. Right on that point I desire to ask the Senator a question, because, of course, I certainly want to make no mistake about this matter. By being beyond the reach of judicial process, does my honorable friend mean outside of the United States?

Mr. TRUMBULL. The bill says expressly——

Mr. DOOLITTLE. Will the Senator answer my question? Does he mean that?

Mr. TRUMBULL. I will answer it in the very words of the bill——

Mr. DOOLITTLE. That is mere construction. I want the gentleman's own opinion of the bill.

Mr. TRUMBULL. My own opinion is, that it certainly means those out of the United States, and also, in the language of the bill, those who are out of the reach of the courts by reason of the rebellion.

Mr. DOOLITTLE. I ask simply for information. It applies certainly to all outside of the United States.

Mr. TRUMBULL. All the rebels outside of the United States, and all within the United States, that are beyond the reach of process.

Mr. DOOLITTLE. But precisely on that point I understand it to apply to whoever, in the insurrectionary districts where the courts——

Mr. TRUMBULL. Where the courts do not exist when you seize the property——

Mr. DOOLITTLE. Does the bill apply to the cotton States, as they are called, now?

Mr. TRUMBULL. It will apply to the cotton States as you take possession of the property. If the bill is not clear, I desire to have it made clear. I have stated this point over and over again. If gentlemen prefer arguing against a suppositious case, that is one thing. I have introduced no bill that forfeits any man's property except a man that cannot be reached by judicial process; and if the bill does not mean that, if the Senator can use language clearer than that I have used, I hope he will propose it. In the insurrectionary districts, in the State of South Carolina, for instance, if the bill shall pass, the only property that will ever be reached to be confiscated under it will be the property of a man who, when we are able to take possession of that property, cannot be reached by judicial process in that locality. If our Army gets there before our courts, and there are no courts there at the time, I propose that the Army shall take the property and confiscate it through the action of officers to be appointed by the Government.

Mr. DOOLITTLE. Now, I want to ask a question there for information. I understand my friend to say that if the Army gets there before the courts, the property may be confiscated; but suppose the courts go with the Army?

Mr. TRUMBULL. Very well; then none can be confiscated where the process can be served on the person.

Mr. DOOLITTLE. If the person has gone out of the United States?

Mr. TRUMBULL. Yes, sir; so that you cannot get a service of process.

Mr. DOOLITTLE. All I desire is to understand the bill.

Mr. TRUMBULL. I wish the Senator would understand it, for it does seem to me as if there was a persistent——

Mr. DOOLITTLE. While the matter is up, I want to ask the Senator two or three questions. I believe I have the floor. I ask for information. If I understand the bill, it is this: wherever the courts are overborne, and you can get hold of the property, it is confiscated?

Mr. TRUMBULL. I will try to state again what the bill is, and I think——

Mr. DOOLITTLE. This is going around in a circle. I desire the Senator's own opinion.

Mr. TRUMBULL. I will do it in a word. No property is taken by the bill; the bill does not confiscate any property.

Mr. DOOLITTLE. Until seized?

Mr. TRUMBULL. Until something is done. Now, what is to be done?

Mr. DOOLITTLE. The seizure of property?

Mr. TRUMBULL. The property is to be seized by the direction of the President, through officers in these insurrectionary districts.

Mr. DOOLITTLE. I underatand then that it is not to be confiscated until it is seized in fact.

Mr. TRUMBULL. It is to be seized in fact, and it is to be seized in fact in the discretion of the President. If there is a court there when it is seized, and the process of the court can reach that person, you cannot confiscate the property. If there is no court there when it is seized, then the bill provides for confiscating it without the action of a court. Take Port Royal—this bill now, there being no court in South Carolina, would confiscate the property there.

Mr. DOOLITTLE. If my friend will direct his attention to the precise questions I ask him, he will much sooner give the information I desire. I understand him now to say that there is no confiscation without an actual seizure.

Mr. TRUMBULL. Yes, sir.

Mr. DOOLITTLE. Very well. That is one point. Then I understand if when you make the seizure you cannot serve your process on the person, the property is to be confiscated?

Mr. TRUMBULL. Yes, sir; and not till then.

Mr. DOOLITTLE. And if the person can be caught, then it is not to be confiscated?

Mr. TRUMBULL. Yes, sir.

Mr. DOOLITTLE. Then the question I put to my friend is this: suppose our armies enter into and have possession of half of one of the cotton States, would he say, as we approached to a plantation from which the owner has fled away into the other half where the rebel army is, that we cannot serve process on him?

Mr. TRUMBULL. If he was in the army fighting against us, I should say that the marshal could not serve process on him.

Mr. DOOLITTLE. Cannot we with our Army take him and the rebel army and all, and thus have jurisdiction over both person and property in fact as well as in law?

Mr. TRUMBULL. I hope we shall be able to do it. We have not done very much of it for some time past.

Mr. DOOLITTLE. Do we not expect to do it?

Mr. TRUMBULL. I expect that a great portion of these rebels will be banished from the country, and this is to enable us to seize their property.

Mr. DOOLITTLE. I should be very glad to have a penal colony to which, after hanging the leaders, to banish the incorrigible. I would go for forcible colonization to drive many of them out of the country. I will join with him in that. I should be glad to have a penal one, like Cayenne for the French. I have no objection to that. I did not intend to speak on this subject; but as I was interrupted, I put these questions for information, and my friend has informed me that the bill does not confiscate the property without first making an actual seizure, and that is to be done at the discretion of the President.

Mr. HOWARD. Will the Senator from Wisconsin allow me to ask him a question?

Mr. DOOLITTLE. I was about finishing my speech.

Mr. HOWARD. It may be an important point to him before he closes his speech. I desire to call his attention to it.

Mr. DOOLITTLE. I am not arguing the question of confiscation to-day, and do not desire to have a long conversation on that subject interjected into my speech.

Mr. HOWARD. I only wish to ask whether in his opinion seizure is necessary in order to a perfect confiscation.

Mr. DOOLITTLE. I will thank my honorable friend from Michigan—who is an excellent lawyer—to put that question to the honorable Senator from Illinois.

Mr. HOWARD. He would answer it just as I would. I have no doubt about that; I say that is not necessary.

Mr. DOOLITTLE. The Senator from Illinois states the effect of his own bill, and he has a right to state it, and I accept it. If there is any ambiguity about it, an amendment can make it very clear that the Senator from Illinois does not intend to confiscate the property without seizing it, and that that seizure is to depend on the discretion of the Executive.

Mr. TRUMBULL. In the insurrectionary States—not in my State and yours and Kentucky and Missouri. There I propose to seize it through the courts.

Mr. DOOLITTLE. I say in the insurrectionary States. Mr. President, I shall not go into the question as to the amount of property which would or might be reached and confiscated under the operation of this bill. I did not intend to go into that at all. I was simply stating the fact that there was a grave question involved, that a very large amount of property might be affected by the bill. I cannot estimate that amount. The second section of the bill certainly involves the forfeiture of all the slaves of the rebels engaged in this rebellion or any one giving it aid and comfort. Now, if you are to suppose that two millions of the slaves belong to rebel masters, and I believe that is not an unfair presumption, the effect of the second section of this bill, declaring their emancipation by an act of Congress, would be not only to forfeit all the property claimed in them by their masters, but would set free at one blow within the States two millions of slaves. Intermingling as they everywhere do with the slaves of the loyal masters, that would probably involve the emancipation of all the rest; and I think the honorable Senator in his speech the other day stated that in his opinion such would be its effect. If compensation should be made to the loyal masters of the other half at $300 for each slave, it would require the expenditure of the sum of $600,000,000, either by the States or the Federal Government.

The third section of this bill proposes the colonization of all who are willing to emigrate; and if it should cost fifty dollars per head for this colonization, and one fourth of the whole number of slaves were willing to be colonized, it might involve the expenditure of $50,000,000. Sir, no graver questions were ever raised in the Senate than are involved in the first three sections of this bill. The confiscation of millions of real and personal property, the emancipation by act of Congress within the States of two millions of slaves, involving in compensation to loyal masters it may be hundreds of millions of dollars; these present questions of constitutional power, gigantic questions of finance; questions of peace and war, questions of justice and clemency; questions of liberty and order, of international law, of race, and of empire which concern us and all who are to come after us forever. These, and more than these, are pressing upon us now. You cannot avoid them if you would. You cannot put them aside. They will not down at your bidding; turn which way you will, they meet you face to face. They demand, and from every earnest soul they will have, an answer. These are the issues that are upon us, they are the great issues made up for the trial of the souls of this people—I say it without irreverence—on the calendar of God. The question is, are we ready for the trial? Are we equal to the crisis? Sir, I know my own utter inability to meet them as I would. I shall meet them as best I can. Though I feel weighed down by the responsibilities of the hour, humbly imploring the guidance of that wisdom which comes from above, I shall discuss these questions alike without passion and without fear, endeavoring to preserve a cool temper, and, if I am able, a clear brain.

"INITIATE EMANCIPATION."

SPEECH OF HON. J. M. ASHLEY,

OF OHIO,

IN THE HOUSE OF REPRESENTATIVES,

April 11, 1862,

On the bill for the release of certain persons held to service or labor in the District of Columbia.

Mr. ASHLEY said:

Mr. CHAIRMAN: I intend to vote for this bill as a national duty, and not as the Representative of a locality. I shall vote for it without apology, and without disclaimer. I have no excuses to offer here, or elsewhere, for doing an act which even-handed justice demands. From the first I have been earnest and persistent in pressing this question of emancipation. It became my pleasing duty, in obedience to the request of the District Committee, to meet and confer with the Senator who had charge of this subject in the other branch of the national Legislature, and I may say, I trust, without impropriety, that the Senate could not well have confided it to a truer and more earnest friend of the measure.

After several meetings and consultations with leading members of both Houses, and citizens of the District, we agreed upon a bill, which was approved by each committee, and ordered to be reported in both Houses. This was the bill which I reported to the House on the 12th day of March last. I deem it due to myself, in this connection, to say that the bill then reported by me was not in all respects what I could desire; and I need hardly add that some of the Senate amendments are of a character to make it still more objectionable. But I am a practical man, and shall support this bill as the best we can get at this time. I have been shown a number of amendments which some of my friends on this side of the House desire to offer, and which I would prefer to the provisions which are proposed to be amended; but if offered I shall vote against them, as their adoption would greatly delay, if not endanger the passage of the bill at this session, because their adoption would necessarily return the bill to the Senate for their concurrence. I trust, therefore, that all friends of emancipation will decide to accept the Senate bill as it is, and vote against all amendments, so that the practical end aimed at by the earnest men of this House, the immediate liberation of all slaves in this District, shall at once be accomplished. The object to be attained, and not its particular mode of attainment, is what we ought all to have most at heart.

If I must tax the loyal people of the nation $1,000,000 before the slaves at the national capital can be ransomed, I will do it. I would make a bridge of gold over which they might pass to freedom, on the anniversary of the fall of Sumter, if it could not be more justly accomplished. The people of the United States must be relieved from all responsibility for the existence or longer continuance of human slavery at the capital of the Republic. The only question which I conceive I am called upon as a Representative to decide is, has Congress the power and is it our duty to pass such a bill as the one before us?

Part of the sixteenth clause of the eighth section of the first article of the Constitution reads thus:

"Congress shall have power to exercise exclusive legislation in all cases whatsoever over such district (not exceeding ten miles square) as may, by cession of particular States and the acceptance of Congress, become the seat of Government of the United States."

I need not go into a labored argument to show that Congress has power to banish slavery from this District. It is not necessary to be a constitutional lawyer to comprehend the extent of the power here granted. The meaning is plain enough. This clause confers upon Congress all the legislative power that can be exercised by both national and State governments combined. If Congress cannot abolish slavery in this District, no power on earth can.

A few years ago, one of freedom's distinguished orators startled the country by declaring "*that Congress had no more power to make a slave than to make a king.*" If, then, there is, as I claim, no constitutional power in Congress to reduce any man or race to slavery, it certainly will not be claimed that Congress has the power to legalize such regulations as exist to-day, touching persons held as slaves in this District, by reënacting the slave laws of Maryland, and thus doing by indirection what no sane man claims authority to do directly. I know it is claimed by some that if Congress has power to abolish, it must necessarily have power to establish slavery. I will not insult the intelligence of this House by discussing such a proposition. If Congress could not constitutionally reënact the slave laws of Maryland for this District, then slavery could not exist even for a single hour after the cession of the territory became complete; but whether slavery constitutionally exists in this District or not, that it does exist is a fact, and because it exists and has existed by the sufferance and sanction of the national Government, for which the entire people of the United States are justly responsible, it is more than ever the imperative duty of this Congress to abolish at once and forever so unnatural and unjustifiable a wrong. And, sir, if it be necessary to employ gold to do it, let gold be employed. Gold which has corrupted statesmen, perverted justice, and enslaved men, can never be more righteously used than when it contributes to reëstablish justice and ransom slaves.

It is claimed by the opponents of emancipation that the proper and natural condition of all colored races is that of slavery to the white race; that the people of color, not only in this District, but throughout the country, are unfit for freedom; that they cannot take care of themselves, and must, of necessity, if liberated, become a public charge. We are asked with apparent horror, and an air of sincerity, "if we intend to let this slave population loose among the whites;" and we are told if we do that it will be destructive alike of the interests of both races; that the prejudices against persons of color are so implacable they cannot live in peace, and a war of races will be the inevitable result of freeing them among the whites—evils far more to be dreaded than any which can ensue from their continued enslavement. I have no such apprehension. Experience teaches me that all such fears are groundless. While I deny the doctrine that the normal condition of any race is that of slavery, or that there can be rightfully such a thing as property in man, under any Government or constitution, I will not and cannot believe that the restoration of any race to freedom will produce antagonisms that shall culminate in a war between those whose relationships are changed from that of gross injustice and oppression to that of self-dependence and freedom. God made of one blood all the nations that dwell together on the face of the earth, and gave man "dominion over the fish of the sea, and over the fowl of the air, and over every living thing that creepeth upon the earth;" but man over man, never.

The distinction here made between persons and animals is clear and marked. It is the distinction recognized in the jurisprudence of all civilized and Christian nations; and when a slave master stands up here and claims that his title to his fellow-man rests upon the same recognized rights that give him a title to his horse, I see and feel the blighting effects of slavery, and realize the justice of the remarks which I submitted on this floor two years ago, when I said that—

"I exempt, with pleasure, from any sweeping denunciations which I may make, thousands of good and true men who find themselves born to this inheritance, and whose whole lives give assurance to the world that their hearts are better than the system. Intrust a class of men in any society or Government with absolute power over a servile race, and the bad men will not only use it and abuse it, as I shall show, but, by their clamorous cry of danger to the State, will perpetrate and give sanction to outrages that good and true men will be powerless to prevent. It is not that southern men and slaveholders are worse than other men, but because they are no better, that it is unsafe, if it were not in itself an indefensible wrong, to intrust them with absolute power over any part of the human race."

Sir, the origin and authority for all the dominion man of right possesses in this world comes direct from the Father of all, and has been so recognized, not only by the great English commentator, but by the law-givers of every civilized nation on earth. There is no right outside of His authority, much less in violation of it.

The great epic poet of England writes—

"He gave us only over beast, fish, fowl,
Dominion absolute; that right we hold
By his donation; but man over man
He made not lord; such title to himself
Reserving, human left from human free."

I ask the indulgence of the House while I read a few extracts from the writings of the great men of the past, which will suffice to show how slavery was regarded by them:

"Slavery is a system of the most complete injustice."—*Plato.*

"Slavery is a system of outrage and robbery."—*Socrates.*

"By the grand laws of nature all men are born free, and this law is universally binding upon all men."

"Eternal justice is the basis of all human laws."

"Whatever is just is also the true law; nor can this true law be abrogated by any written enactments."

"If there be such a power in the decrees and commands of fools, that the nature of things is changed by their votes, why do they not decree that what is bad and pernicious shall be regarded as good and wholesome, or why, if the law can make wrong right, can it not make BAD GOOD?"

"Those who have made pernicious and unjust decrees, have made anything rather than laws."—*Cicero.*

"The law which supports slavery and opposes liberty

must necessarily be condemned as cruel, for every feeling of human nature advocates liberty. Slavery is introduced by human wickedness; but God advocates liberty by the nature which he has implanted in the breast of every man."—*Fortescue.*

"If neither captivity nor contract can, by the plain law of nature and reason, reduce the parent to a state of slavery, much less can they reduce the offspring."

"The primary aim of society is to protect individuals in the enjoyment of those absolute rights which were vested in them by the immutable laws of nature. Hence it follows that the first and prime end of human laws is to maintain those absolute rights of individuals."

"If any human law shall require us to commit crime, we are bound to transgress that human law, or else we must offend both the natural and divine."—*Blackstone.*

"What the Parliament doth shall be holden for naught whenever it shall enact that which is contrary to the rights of nature."—*Lord Coke.*

"The essence of all *law* is JUSTICE. What is not justice is not law, and what is not law ought not to be obeyed."—*Hampden.*

"No man is by nature the property of another. The rights of nature must be some way forfeited before they can justly be taken away."—*Dr. Johnson.*

"If you have the right to make another man a slave, he has a right to make you a slave."—*Dr. Price.*

"It is injustice to permit slavery to remain a single hour."—*Pitt.*

"American slavery is the vilest that ever saw the sun; it constitutes the sum of all villainies."—*John Wesley.*

"Man cannot have property in man. Slavery is a nuisance, to be put down, not compromised with, and to be assailed without cessation and without mercy, by every blow that can be leveled at the monster."

"Ireland and Irishmen should be foremost in seeking to effect the emancipation of mankind." * * * *

"The Americans alleged that they had not perpetrated the crime, (that of enslaving the blacks,) but inherited it from England. This, however, fact as it was, was still a paltry apology for America, who asserting liberty for herself, still used the brand and the lash against others."—*Daniel O'Connell.*

"In regard to a regulation of slavery, my detestation of its existence induces me to know no such thing as a regulation of robbery or a restriction of murder. Personal freedom is a right of which he who deprives a fellow-creature is criminal in so depriving him, and he who withholds is no less criminal in withholding."—*Charles James Fox.*

"I would never have drawn my sword in the cause of America, if I could have conceived that thereby I was founding a land of slavery."—*La Fayette.*

"I never mean, unless some particular circumstances should compel me to it, to possess another slave by purchase, it being among my first wishes to see some plan adopted by which slavery in this country may be abolished by law."

"But there is only one proper and effectual mode by which it can be accomplished, and that is by legislative authority, and this, as far as my suffrage will go, shall never be wanting."—*Washington.*

"The abolition of domestic slavery is the greatest object of desire in these colonies, where it was unhappily introduced in their infant state."—*Jefferson.*

"It is wrong to admit into the Constitution the idea that there can be property in man."—*Madison.*

"We have found that this evil has preyed upon the very vitals of the Union, and has been prejudicial to all the States in which it has existed."—*Monroe.*

"Is it not amazing that at a time when the rights of humanity are defined and understood with precision, in a country above all others fond of liberty, that in such an age and in such a country, we find men professing a religion the most mild, humane, gentle, and generous, adopting such a principle, as repugnant to humanity as it is inconsistent with the Bible, and destructive to liberty?"—*Patrick Henry.*

"Sir, I envy neither the heart nor the head of that man from the North who rises here to defend slavery on principle."—*John Randolph.*

"The sacred rights of mankind are not to be rummaged for among old parchments or musty records. They are written as with a sunbeam in the whole volume of human nature by the hand of Divinity itself, and can never be erased or obscured by mortal power."—*Alexander Hamilton.*

"Little can be added to what has been said and written on the subject of slavery. I concur in the opinion that it ought not to be introduced nor permitted in any of the new States, and that it ought to be gradually diminished and finally abolished in all of them."—*John Jay.*

"It is among the evils of slavery, that it taints the very sources of moral principle. It establishes false estimates of virtue and vice; for what can be more false and more heartless than this doctrine, which makes the first and holiest rights of humanity depend upon the color of the skin?"—*John Quincy Adams.*

Thus, sir, spoke some few of the great men of the past, and the just principles by them proclaimed control and direct to-day all the civilized Governments of Europe. Shall the American Government be less just than monarchical Governments? Shall we alone cling to slavery and the dead past, while all Christian nations are keeping step to the march of human progress, and the demands of a higher civilization? Let us hope not, and so act and vote as to secure a realization of that hope.

I am for the liberation, not only of all slaves in this District, but wherever national jurisdiction extends and the national Constitution confers power. I am for it, because I believe it an act of justice to white as well as black, to master as well as slave; and, if no other reason could be given, I am for it because, in the language of the distinguished Senator from Massachusetts, "*they are men by the grace of God, and this is enough.*" Free institutions will gain strength everywhere by a decree of emancipation at the national capital, while slave institutions will everywhere be weakened. Such a triumph for the cause of freedom, as the passage of this act to-day, will be welcomed with gratitude not only by the ransomed slave, but with joy by the people everywhere in the loyal portions of our country. In Europe it will be hailed by the friends of liberty and progress as the dawning of a new era in the United States, and it will make the line of demarkation at home more distinct between the supporters and opponents of the Government.

I rejoice that I am about to be permitted to record my vote in favor of this humane and beneficent measure. It is a day which, in common with millions of my countrymen, I have long hoped to see; and if I never give another vote in this House or elsewhere, I shall not have lived in vain, especially if I have hastened, even a single hour, the adoption by Congress of this act of national justice and national liberation. I shall have the satisfaction of leaving the enduring record of an action of which my children cannot but be proud, and of which no true man in any Christian nation could be ashamed.

It is said, if the slaves in this District are at once emancipated, that society and domestic regulations will be greatly deranged; that peace, order, security, industry, and contentment will be banished, and violence, disorder, robbery, idleness and crime will increase; that such an act can do no possible good, while it would be unjust and a great hardship to both master and slave. Such is not my view of this act, nor such, sir, as I read it, the history of emancipation in the British or Danish West Indies. Such, I am sure, will not be the result in this District. Why, sir, with all the disabilities imposed upon the colored population of this District by congressional enactments, corporation regulations, and blind prejudices—and they are sufficient to weigh down and destroy the worthy and energetic, and encourage the vicious and indolent—with all these disabilities, disabilities without a parallel in any nation on earth, that colored population will compare, advantageously to themselves, with the colored population of any city in the free States. They have amassed property beyond belief. Their church property alone, as I am informed, is valued to exceed *one hundred thousand dollars.* They are taxed for the support of schools from which their children are excluded, and maintain separate schools of their own. They have societies for the support of their sick and disabled, and never permit one of their number to be buried at public expense. In thirty years not one of their number has been convicted of a capital offense. As a body, they are industrious, frugal, orderly, trustworthy, and religious. Instead of an increase, I venture to predict, as the earliest result of this great measure, a decrease in disorder, theft, idleness, and crime; and as an earnest that this prediction is not made without some foundation, let me read to you the preamble and resolution adopted the other day at a meeting of the colored ministers and leading members of the several colored churches in this city:

"Whereas we have learned by the published proceedings of Congress that there is a probability of the peaceful and final abolishment of slavery in the District of Columbia: Therefore,

"*Be it resolved*, That we recommend to the churches and congregations we represent that they set apart Sunday, the 13th day of April, 1862, in connection with the usual religious services, as a day of special prayer to Almighty God, that if this great boon of freedom is vouchsafed to our people, we may receive it in a becoming manner, and by our orderly behavior, our devotion to our Christian duties, our obedience to the laws, we may show how worthy we are to enjoy it; and that He would be pleased, in His own way and in His own time, to proclaim liberty throughout all the land, unto all the inhabitants thereof."

Need I say to this House and the country that the men who could draft and adopt such a preamble and resolution, will receive their freedom with heartfelt joy, and not with riotous and offensive demonstrations. Before the President can sign this bill, they will have assembled in all their churches to receive with prayer and thanksgiving to the Almighty, this ransom at your hands, and tears of gratitude will obliterate from their hearts the memory of the many and grievous wrongs they have suffered from this Government and their masters, and mingling with the echoing shouts on the sea and on the land, their voices will unite in gladness, with the generous hearts who everywhere will join the grand anthem, "Glory to God in the highest, peace on earth, and good will to men."

Mr. Chairman, the bill which we are about to pass, could not have passed but for this pro-slavery rebellion. The sagacity and wisdom of many of our statesmen, who in vain warned the nation that slavery and freedom could not forever live together peaceably, is being practically demonstrated. Jefferson and Jay, Franklin and the Adamses, Garrison and Calhoun have all warned the people of the impossibility of long continued peace with slavery. Speaking of the probable occurrence of a rupture between the North and the South, some ten or twelve years ago, in the United States Senate, John C. Calhoun said:

"The war will last between the two sections while there is a slave in the South. The conflict will never terminate. The South, I fear, will not see it until it is too late. They will become more feeble every year, while the North will grow stronger and stronger."

No longer ago than in 1858, in a speech at Springfield, Illinois, Abraham Lincoln, now President of the United States, made this prophetic declaration, which is passing into history:

"'A house divided against itself cannot stand.' I believe the Government cannot endure half slave and half free. I do not expect the Union to be dissolved. I do not expect the House to fall, but I do expect that it will cease to be divided. It will become all one thing or all the other. Either the opponents of slavery will arrest the further spread of it, and place it where the public mind will rest in the belief that it is in the course of ultimate extinction, or its advocates will push it forward until it shall alike become lawful in all the States, old as well as new, North as well as South."

How truly prophetic! To a man who comprehends that slavery, and slavery alone, is the cause of this rebellion, the duty of the Government is plain. Such a man understands that there can be no permanent or lasting peace until the people of the free States are no longer responsible for the existence and continuance of slavery, either at the national capital, or in any Territory or place where Congress has constitutional power to abolish it. Hence I rejoice at the introduction and certain passage of this timely measure. Others, I doubt not, will soon follow, and the people, North and South, will gradually array themselves on the side of freedom or on the side of slavery. There is, and there can be but this one, all-absorbing question in our national politics until it is disposed of, and that will continue to be agitated until the people "rest in the belief that it is in the course of ultimate extinction." Until that time there can be but two, great parties in this nation. The great mass of a free people, in a Government such as ours, must of necessity be divided into two, and into but two leading political parties; and in the present as in all coming contests on the question of slavery, we can have but two formidable parties struggling for the ascendency and control of the Government. The one, no matter what its name or designation, will be the representative of nationality and freedom; the other, that of privilege and slavery. As to other parties, representing, or professing to represent, the various shades of political opinions existing in the country, they cannot long continue, but must, as the Whig, American, and other parties have, in all the States, fade away before the advancing parties representing the cherished sentiments of a pro-slavery privileged class on the one hand, and the aspirations of the people for liberty on the other.

Individuals, however distinguished and worthy in all their relations in private life, who fail to cooperate earnestly with either the one or the other of the leading parties representing justice and freedom, or privilege and slavery, will continue to disappear, as they have done, from public life, and new and bolder leaders will be chosen by the people; for no generous and noble people will ever knowingly trust timid and time-serving leaders, knowing full well, as they do, that in such a contest as the party of privilege and slavery have forced upon this nation by their treason and rebellion there can be but two armies and two battle-fields and two banners, that of the stars and stripes, representing liberty and union, or that of the

serpent and pelican, representing slavery and disunion. There can be no question as to the position which the people occupy. Let us, then, procrastinate no longer the hour which they have so long in vain looked for. Let the news go forth on the wings of the wind that the national capital is ransomed from slavery, and it shall nerve the arms of your soldiers, and strengthen the hold of the Government in the hearts of the people.

Mr. Chairman, the struggles and hopes of many long and weary years are centered in this eventful hour. The cry of the oppressed, "how long, O Lord; how long?" is to be answered today by the American Congress. A sublime act of justice is now to be recorded where it will never be obliterated, and, so far as the action of the Representatives of the people can decree it, the fitting words of the President, spoken in his recent special message, "INITIATE AND EMANCIPATE," shall have a life coequal with the Republic. God has set his seal upon these priceless words, and they, with the memory of him who uttered them, shall live in the hearts of the people forever. The golden morn, so anxiously looked for by the friends of freedom in the United States, has dawned. A second national jubilee will henceforth be added to the calendar. The brave words heretofore uttered in behalf of humanity in this Hall, like "bread cast upon the waters," are now "to return after many days" and find vindication of their purposes in a decree of freedom. The command of God to let the oppressed go free, is declared to be our duty, not only by our patriotic President, but by both branches of our national Congress; and let us hope that from this time henceforth and forever, this nation is never again to be humiliated and disgraced by being responsible for the existence and continuance of human slavery. No longer within our national jurisdiction, where Congress has constitutional power to prohibit it, shall slavery be tolerated. The nation is to-day entering upon a policy which connot be reversed; and justice is vindicated, humanity recognized, and God obeyed. In the beautiful words of Mrs. Howe:

"He has sounded forth the trumpet that shall never call retreat;
He is sifting out the hearts of men before His judgment seat:
Oh, be swift, my soul, to answer Him! be jubilant my feet!
Our God is marching on.
In the beauty of the lilies, Christ was born across the sea,
With a glory in His bosom that transfigures you and me;
As He died to make men holy, let us die to make men free,
While God is marching on."

SLAVERY IN THE DISTRICT.

SPEECH OF HON. JOHN HUTCHINS,

OF OHIO,

IN THE HOUSE OF REPRESENTATIVES,

April 11, 1862,

On the bill for the release of certain persons held to service or labor in the District of Columbia.

Mr. HUTCHINS said:

Mr. CHAIRMAN: The measure under consideration has an importance beyond the one thousand or fifteen hundred persons whom it proposes to ransom from slavery. If this bill become a law, it will be an official and national recognition that slavery is a moral and political evil, which ought to be abolished everywhere as soon as practicable. For sixty-one years we have been a slaveholding nation, at least in form. On the 27th day of February, 1801, Congress enacted that the laws of the State of Maryland then in force should be and continue in force in that part of the District of Columbia which was ceded by that State to the United States, and by them accepted for a permanent seat of Government. Among the laws then in force in Maryland were the following:

"All negroes and other slaves, already imported or hereafter to be imported into this province, and all children now born or hereafter to be born of such negroes and slaves, shall be slaves during their natural lives."—*Laws of Maryland*, 1715, chap. 44, sec. 22.

"No negro, by receiving the sacrament of baptism, is hereby manumitted or set free, nor hath any right or title to freedom or manumission more than he or she had before."—*Laws of Maryland*, 1715, chap. 44, sec. 23.

"If any negro or other slave shall strike any white person, it shall be lawful, upon proof being made thereof, either by the oath of the party so struck or otherwise, before any justice of the peace, for such justice to cause one of the negro or other slave's ears so offending to be cropped."—*Laws of Maryland*, 1723, chap. 15, sec. 4.

It appears that certain good people in Maryland failed to have their slaves receive the rite of baptism, upon the hypothesis that thereby they would be entitled to their freedom; hence the preamble to the law on that subject which I have quoted reads as follows:

"And forasmuch as many people have neglected to baptize their negroes, or suffer them to be baptized, on a *vain* apprehension that negroes, by receiving the sacrament of baptism, are thereby manumitted and set free, be it hereby enacted," &c.

It was thus early settled, so far as human law can settle it, in Maryland, that one Christian may hold another Christian in slavery. There were many other laws in force in Maryland on the 27th day of February, 1801, concerning slaves and their treatment, which Congress, by its act of that date, extended over the District. For the purpose of the present discussion it is not necessary to quote them. These laws have been denominated the black code of the District, and an examination of them will show them to be black, brutal, barbarous, and bloody. I presume, nevertheless, they are necessary for the maintenance of slavery. I take issue with the distinguished gentleman from Kentucky, [Mr. CRITTENDEN,] who has just addressed the committee. He says slavery is legally here in the District, and has been for two hundred years, and that the slaveholder has the same legal right to hold his slaves in this District that he has any property. In other words, that the tenure by which persons are held as property is as sacred as the tenure by which any item of personal or real estate is held in this District. I deny this, and, on the contrary, I maintain that there has been no legal slavery here since the General Government accepted from Maryland that part of the District of Columbia which now constitutes the national capital; that since that time slavery has been in this District a usurpation without justice or law to sustain it.

This position is not new. It has been ably argued in Congress and out of it, and the argument has never been answered; and it never will be successfully answered. I shall only state it now without detail. The only law in Maryland in force when the United States Government accepted the cession of this District which undertook to legalize slavery, is the one I first quoted above, and reference to it will show that slavery is *limited* to the natural lives of the following persons: first, all negroes and other slaves already (in 1715) imported; second, all negroes and other slaves thereafter to be imported; and third, all children now (1715) born, or thereafter to be born, of *such negroes* and *slaves*. If it is admitted that Congress could constitutionally adopt or enact this Maryland law for the District of Columbia, after that State had ceded it to the United States, to make valid the master's claim to a slave under this law it must be shown that the slave was imported prior or subsequent to the date of the Maryland statute, (1715,) or that he or she is a child of *such slave*. I presume there are now no such description of persons in this District. Congress has not attempted to legalize slavery by the enactment of any other law for the District. It is an acknowledged rule of construction, as old as civilized jurisprudence, that penal statutes, or statutes restraining natural rights should be strictly construed. By this rule, slavery cannot be extended to the grandchildren of the persons mentioned in the statute. The attainder is, by the express terms of the statute, exhausted on the children of the persons therein described. The public sentiment of Maryland in 1715 was not for perpetual slavery. As late, in Maryland, as the adoption of the United States Constitution, the leading men of Maryland supposed that the institution "would be evanescent and pass away." Luther Martin, attorney general of Maryland, and a delegate from that State in the convention which framed the Constitution, opposed the Constitution because, among other reasons, it did not put an end to slavery and the slave trade; and in a speech to the Maryland Legislature in 1788, giving reasons why the Constitution should not be adopted, used the following language:

"You will perceive, sir, not only that the General Government is prohibited from interfering in the slave trade before the year 1808, but there is no provision in the Constitution that it shall afterwards be prohibited, nor any security that such proposition will ever take place; and I think there is great reason to believe that if the importation of slaves is permitted until the year 1808, it will not be prohibited afterward. At this time we do not generally hold this commerce in so great abhorrence as we have done—when our liberties were at stake we warmly felt for the common rights of men, the danger being thought to be past which threatened ourselves—we are daily growing more insensible to those rights. In those States who have restrained or prohibited the importation of slaves, it is only done by legislative acts which may be repealed. When these States find that they must, in their national character and connection, suffer in the disgrace and share in the inconveniences attendant upon that detestable and iniquitous traffic, they may be desirous also to share in the benefits arising from it, and the odium attending it will be greatly effaced by the sanction which is given to it by the General Government."

The Legislature of Maryland since the cession of this District to the United States, conscious that the statute which I have quoted did not provide for perpetual slavery, has passed a new statute extending slavery to negroes and other slaves *and their posterity* generally. (See Revised Statutes of Maryland.)

But, Mr. Chairman, there is no legal slavery in this District, because Congress has no constitutional authority to either adopt or enact a law enslaving any person. Congress can no more make a slave than it can create a king. The clause in the Constitution giving Congress *exclusive* jurisdiction only excludes other legislative authority. Congress can only legislate for the District within the limits of the Constitution. This the gentleman from Kentucky [Mr. CRITTENDEN] frankly admits, as I understood him. He belongs to that school of lawyers and politicians who, just now, are filling our ears with exhortations to keep within the express and implied powers of the Constitution, and that if one letter of the Constitution is violated to save the balance of it, the whole fabric will be in ruins. I ask gentlemen what clause of the Constitution gives Congress *power* to make any person a slave? It cannot be found among the express or implied powers of the Constitution. If Congress can adopt or enact a law reducing one description of persons to slavery, it can another; for the Constitution, in the grants of power to Congress, makes no distinction as to race, color, or size of persons. If persons of African descent are legally held in slavery here, Congress can, as soon as a law can be passed, make slaves of the balance of the residents of the District. Any law which Congress might attempt to pass, reducing persons to slavery within its jurisdiction, would be not only void for the want of power to pass it, but it would violate the spirit of the Constitution as well as plain clauses prohibiting Congress from passing such a law. The spirit of the Constitution is "to secure the blessings of liberty," and not to perpetuate the curse of slavery. The Constitution provides that "no bill of attainder shall be passed." Chief Justice Marshall, in the case of Fletcher *vs.* Peck, (6 Cranch, p. 138,) states:

"A bill of attainder may affect the life of an individual, or may confiscate his property, or may do both. In this form the power of the Legislature over the lives and fortunes of individuals *is expressly* restrained."

Mr. Justice Story, in his Commentaries on the Constitution, says, (sec. 1344:)

"Bills of attainder, as they are technically called, are such special acts of legislation as inflict capital punishment upon persons supposed to be guilty of high offenses, such as treason and felony, without any conviction in the ordinary course of judicial proceedings. If an act inflicts a milder degree of punishment it is called a bill of pains and penalties. But in the sense of the Constitution, it seems that bills of attainder include bills of pains and penalties."

A law that provides that a mother and her children without crime shall endure a life-long servitude, is a terrific bill of attainder, for it inflicts pains and penalties without trial or judgment. It attaints the blood of the child by reason of the *condition* of the mother. "*Partus sequitur ventrem*," (the offspring follows the condition of the mother,) is the legal maxim of slavery. I am well aware that bills of attainder, as generally used in law books, are applied to other crimes than slavery, but the definition by Marshall and Story, quoted above, of bills of attainder as used in the Constitution, is broad enough to embrace slavery.

The gentleman from Kentucky [Mr. CRITTENDEN] said in his speech, "the Constitution did not use the word in any technical sense." The Constitution further provides that no person shall be

"deprived of life, *liberty*, or property, without due process of law." The gentleman from Kentucky [Mr. CRITTENDEN] quotes it no "freeman." It will be remembered that this clause is in article five of amendments, and was recommended by North Carolina and Virginia. As originally proposed, the word "freeman" occupied the place of the word "person." As it now stands, there is no mistaking its meaning. Therefore, to deprive a *person* of his life or liberty or property within the national jurisdiction, *without due process* of law, is a palpable violation of this clause of the Constitution. What is due process of law? I will allow the gentleman from Kentucky [Mr. CRITTENDEN] to define it. He says, "the process of law alluded to is, as defined by Coke and every other jurist, a judicial trial." I know the gentleman quoted this to show that a slaveholder could not be deprived of property in his slaves by a law of Congress. No law of Congress can give property in man, and when it is shown that the slave's *liberty* was taken from him by a law, and not by a judicial trial, the gentleman's argument falls; but his definition of the words of the Constitution "due process of law" shows conclusively that, the law of Congress continuing in force, the law of Maryland making certain persons slaves is unconstitutional, null, and void. Slaves in this District could and should be released from their servitude by the judgment of a court of competent jurisdiction. The alleged slave-owners having no legal right to the services of the persons they claim to hold as slaves, it follows that they are not justly entitled to compensation. If these unfortunate persons have earned their clothes, board, and other expenses incurred, then there is nothing due the persons for whom they have labored. If they have not paid their way, then they are of no value to their alleged owners, and they ought to be glad to be relieved of their support. In no aspect, as I view it, is the provision in this bill allowing compensation just. But as I am satisfied that a majority of Congress do not think as I do on this question of compensation, and to save the bill, I will vote for it as it came from the Senate.

With slavery in the District will fall the barbarous code which upholds it. The cruelties and oppressions here practiced, in hearing and in sight of the nation's representatives, are a burning disgrace to a nation claiming civilization or professing humanity or Christianity. I will refer only to a few well-authenticated cases. Emanuel Mason and his wife were claimed as the property of Miss Forrest, formerly of Marlboro', Maryland, but in the year 1859 resident of the District of Columbia. Some years since, Mason purchased his freedom for $300. He afterwards hired the time of his wife by the month or year, and kept house in the District, and has raised several children at his own expense; and as soon as they were large enough to be of value, being born of a slave mother, according to the law of slavery, were the property of Miss Forrest, and they were all taken from him by the alleged owner of his wife, except a little son called "Ben." About one year before March, 1859, Miss Forrest took the wife of Mason home, leaving only with the father little Ben. Some time after an officer of the District called on the father for his son Ben, that he, too, might be sold for the benefit of his pretended mistress. The officer could not find him, and he requested Mason to go and look up the boy and bring him to the office. The father did not produce the son as directed. He was consequently arrested, tried, and convicted, and the following notice of his trial is contained in the National Intelligencer of May 17, 1859:

"Emanuel Mason, (colored,) recently convicted of harboring his son, a slave, the property of Miss Forrest, was yesterday sentenced to pay a fine of $166 66, being $1 66 for every hour the slave was so harbored; one half of said amount to go to the use of the owner of the slave, and the other half to the United States. The defendant was placed in jail till the fine shall be paid."

WASHINGTON CITY, D. C., *May* 10, 1859.

To Hon. Judge CRAWFORD:

We, the subscribers, neighbors and acquaintances of Emanuel Mason, do most respectfully ask your Honor to be as *lenient* as possible in said Mason's case. We have for years known Mason to be an industrious, moral, temperate, *poor*, peaceable, honest man, and we have reason to believe that "little Ben," (who is the last and youngest child of Mason,) left Mason's residence without any direction of the father, the said Emanuel. And, further, we do know that "little Ben" was raised from birth and infancy in the house and at the cost of said Emanuel, his father; and that he had never been out of the possession of Mason up to the time the officer came for the boy in September last. And, further, we do not believe that Emanuel knows anything of his ("Ben's") whereabouts. And, further, please to take into consideration the fact that Emanuel has been confined in jail a long time, to wit: more than forty days since his trial and conviction. And, finally, think, oh! think of a father's feelings.

JOHN W. MILLER.
AMOS HUNT.
W. S. WRIGHT.
NICHOLAS McCUBBEN.
S. C. BRADLEY.
ELIAS H. EAKLE.
T. LOWELL.

In 1828, over one thousand of the then principal citizens of this District petitioned Congress for the gradual abolition of slavery here, and the repeal of the cruel code by the authority of which such oppressions were practiced. (See Document No. 140, second session Twenty-Third Congress.) Among these petitioners were such names as Jonathan Elliott, Henry Burdick, and W. Cranch. I make a few extracts from this petition:

"We, the undersigned, citizens of the counties of Washington and Alexandria, in the District of Columbia, beg leave to call the attention of your honorable body to an evil of serious magnitude, which greatly impairs the prosperity and happiness of this District and casts the reproach of inconsistency upon the free institutions established among us. While the laws of the United States denounce the foreign slave trade as piracy, and punish with death those who are found engaged in its perpetration, there exists in this District, the seat of the national Government, a domestic slave trade scarcely less disgraceful in its character, and even more demoralizing in its influence. For this is not, like the former, carried on against a barbarous nation; its victims are reared up among the people of this country, educated in the precepts of the same religion, and imbued with similar domestic attachments. These people are, without their consent, torn from their homes; husband and wife are frequently separated and sold into distant parts; children are taken from their parents, without regard to the ties of nature; and the most endearing bonds of affection are broken forever. Nor is this traffic confined to those who are legally slaves for life. Some who are entitled to freedom, and many who have a limited time to serve, are sold into unconditional slavery; and, owing to the defectiveness of our laws, they are generally carried out of the District before the necessary steps can be taken for their release. We behold these scenes continually taking place among us, and lament our inability to prevent them. The people of this District have, within themselves, no means of legislative redress; and we therefore appeal to your honorable body, as the only one invested by the American Constitution with the power to relieve us.

"Nor is it only from the rapacity of slave traders that the colored race in this District are doomed to suffer, even the laws which govern us, sanction and direct, in certain cases, a procedure that we believe is unparalleled in glaring injustice by anything at present known among the Governments of Christendom. An instance of the operation of these laws, which occurred during the last summer, we will briefly relate. A colored man who stated that he was entitled to freedom was taken up as a runaway slave, and lodged in the jail of Washington city. He was advertised, but no one appearing to claim him, he was, according to law, put up at public auction for the payment of his jail fees, and sold as a slave for life! He was purchased by a slave trader, who was not required to give security for his remaining in the District, and he was soon after shipped at Alexandria for one of the southern States. An attempt was made by some benevolent individuals to have the sale postponed until his claim to freedom could be investigated; but their efforts were unavailing, and thus was a human being sold into perpetual bondage at the capital of the freest Government on earth without even a pretense of trial, or allegation of crime.

"We blush for our country while we relate this disgraceful transaction, and we would fain conceal it from the world did not its very enormity inspire us with the hope that it will rouse the philanthropist and the patriot to exertion. We have no hesitation in believing your honorable body never intended that this odious law should be enforced; it was adopted with the old code of Maryland, from which, we believe, it has been expunged since this District was ceded to the General Government.

"The existence among us of a distinct class of people, who, by their condition as slaves, are deprived of almost every incentive to virtue and industry, and shut out from many of the sources of light and knowledge, has an evident tendency to corrupt the morals of the people and to damp the spirit of enterprise, by accustoming the rising generation to look with contempt upon the honest laborer, and to depend for support too much upon the labor of others. It prevents a useful and industrious people from settling among us, by rendering the means of subsistence more precarious to the laboring class of whites. It diminishes the resources of the community, by throwing the earnings of the poor into the coffers of the rich; thus rendering the former dependent, servile, and improvident, while the latter are tempted to become, in the same proportion, luxurious and prodigal. That these disastrous results flow from the existence of slavery among us, is sufficiently conspicuous, when we contrast the languishing condition of this District and the surrounding country with the prosperity of those parts of the Union which are less favored in point of climate and location, but blessed with a free and industrious population."

No more cogent reasons need be given for the passage of the bill now under discussion than the statements contained in this petition. Shall Congress be longer responsible for such barbarous cruelties as are described by the citizens of this District? Let "the sum of villainies" be banished from the District, and the villain's "occupation will be gone." Slavery should be abolished as the beginning of an end—the ultimate extinction of slavery from the Republic. The permanent existence of slavery in this Government is incompatible with the permanency of the Republic. Slavery is the cause of the present war, is filling the land with sorrow and mourning, and burdening the people with oppressive taxation. Where slavery is strongest, there the rebellion is strongest. Where there is no sympathy with slavery, there is no sympathy with the rebellion. It is the spirit of slavery in this District which has saturated the atmosphere with treason and imperiled the capital of the nation. It was the spirit of slavery which, on the 19th of April last, painted the pavements in the streets of Baltimore red with Massachusetts blood. It is asserted that slavery agitation is the cause of the war; but this is putting the effect for the cause. It was the efforts of the advocates of perpetual slavery to nationalize the institution against the clear intent of the framers of the Constitution which caused the agitation.

Slavery in 1860, in the presidential contest, demanded the birthright of freedom or its life. Freedom protested and appealed to the peaceful arbitrament of the ballot-box for redress, and succeeded, and thereupon slavery rebelled. Slavery being founded in force, threatens force against peaceful and lawful efforts to interfere with it, and the present wicked rebellion is the logical results of the existence of slavery in our nation.

Mr. Chairman, I meet you upon the public highway and demand your money or your life—you protest, and I take your life—you caused the murder, because you *agitated my* right to *your* money! This is the logic of those who assert that slavery agitation caused the war. I do not suppose there would have been war if everything had been conceded to slavery. Allow it to rule and dictate the policy of the Government, of course it would be anxious for peace. This is the motive of the peace party, North and South. This is the motive of the reorganized Democratic party, of which my distinguished colleague [Mr. VALLANDIGHAM] is the acknowledged leader.

The gentleman from Kentucky [Mr. CRITTENDEN] opposes this bill, because it would endanger slave property in Maryland and Virginia, and would be a breach of faith on the part of the Government to those States. The breach of faith is on the part of those States in not abolishing slavery long ago, according to the expectations of their most distinguished statesmen, Luther Martin, Washington, Jefferson, Mason, and Henry.

The gentleman from Kentucky [Mr. CRITTENDEN] opposes this bill because it will tend to *irritate* those deluded men now in arms against the Government. I had supposed that the idea of conquering the rebellion with kindness had been tried to the satisfaction of the most sanguine of that school. The sorrowing friends of the mangled dead and wounded upon many a well-fought battle-field, will have a word to say on that subject. The gentleman advocates mild measures, especially concerning slavery, to woo back the erring sons of the South, but before we kill the fatted calf, we had better be satisfied that those prodigal sons have ceased to feed on the husks of secession, and have abandoned the harlots of treason. In connection with the joint resolution which Congress has just passed, on the recommendation of the President, in what is called his emancipation message, this measure is most opportune and important. I regard that message, and the action of Congress upon it, as a cheering evidence that the Government appreciates the issue that the rebellion has forced upon the nation. It inaugurates a new era, and opens a new field of anti-slavery discussion. The policy of gradual emancipation by lawful means will necessarily be discussed in the slaveholding States. The President's message is addressed to them in the language of kindness and in a tone of firmness. It *kindly* suggests that slavery is the enemy of the Union, and *firmly* asserts that "*the Union must be preserved, and hence all indispensable means must be employed. Such as seem indispensable or may obviously promise great efficiency towards ending the struggle, must and will come.*"

This will bring up the whole question of the economy and morality of slavery in the States addressed. Comparisons will be instituted between free and slave States; facts will be elicited; opinions will be formed; judgments will be enlightened. This is what the advocates of slavery fear. Slavery cannot stand the accurate scrutiny of free discussion. Before its ordeal it will melt away. This is what the slaveholders in Kentucky fear; hence the recent effort in her Legislature to enact severe laws against even the mention of emancipation within her borders. This will not stop discussion. Other men less personally interested in the question will come to the surface, and the question will be discussed. I believe a majority of the people of Kentucky to-day would be glad to be rid of the institution, which has retarded the growth and checked the prosperity of the State.

Ohio is a younger State than Kentucky. Ohio has 39,964 square miles; Kentucky has 37,680 square miles. The population of Kentucky in 1850 was 982,405; of Ohio, 1,980,329. The value of the real estate of Kentucky was $177,013,407; the value of the real estate of Ohio amounted to $337,521,075. In all other respects the comparison is as much in favor of Ohio.

Can there be a wall against free discussion erected between Ohio and Kentucky high enough to keep these facts from the loyal sons of Kentucky when they are called upon to consider the emancipation resolutions passed by Congress? Discussion will go on, it should go on, till slavery is extinct. It has only a "contraband" existence anywhere. It has rebelled against the lawful and rightful authority of the Government, and its presence is in the way of permanent peace. Our fathers honestly supposed that it would disappear before the march of Christian civilization. They were mistaken. While we strive to imitate their wisdom and seek to emulate their patriotism, let us be warned by their mistake. I am more anxious to vote than to detain the committee longer by remarks. This bill will make the national capital *free*, and then the statue of liberty, fashioned by our own Crawford, will be a fitting ornament on the finished dome of the Capitol.

CONFISCATION BILL.

SPEECH OF HON. L. W. POWELL,

OF KENTUCKY,

IN THE SENATE, *April* 16, 1862.

The Senate having under consideration the bill (S. No. 151) to confiscate the property and free the slaves of rebels—

Mr. POWELL said:

Mr. PRESIDENT: It is seldom that any deliberative body has been called upon to consider a bill of such vast importance as the one now before us. The Senate of the United States has rarely, if ever, had under consideration a subject of such vast and overwhelming magnitude. This Government is one of limited powers. All the power that can be legitimately exercised by any or all of its departments is derived from the Constitution. Whenever the legislative, the executive, or the judicial department claim the right to exercise power and it is challenged, they must show their constitutional warrant; they must show the grant of power either in express words or by necessary implication. The tenth article of the amendments to the Constitution declares that

"The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people."

I might rest the argument here, being confident that those who advocate the passage of this bill can point to no clause in the Constitution that will authorize its passage. I will proceed, however, to a brief examination of the bill and state to the Senate some of the reasons why, in my judgment, it should not pass. I will also cite the provisions of the Constitution that will be violated by its passage. The Constitution defines treason, and then gives to Congress the power to declare the punishment of treason; and an act of Congress passed in 1790 declared the punishment of treason to be death. I will read the clauses in the Constitution concerning treason:

"Treason against the United States shall consist only in levying war against them, or in adhering to their enemies, giving them aid and comfort. No person shall be convicted of treason unless on the testimony of two witnesses to the same overt act, or on confession in open court."

"The Congress shall have power to declare the punishment of treason, but no attainder of treason shall work corruption of blood, or forfeiture, except during the life of the person attainted."

Under that clause of the Constitution, I hold that there can be no attainder or forfeiture of estate in consequence of treason except by judicial attainder, and then only for the life of the offender; for the Constitution declares that "no bill of attainder or *ex post facto* law shall be passed." The full and entire extent to which Congress can go, in the punishment of treason, so far as forfeiture of estate is concerned, is, after judicial attainder, to forfeit or confiscate it during the lifetime of the individual convicted; and it is only for treason and its cognate offenses that that forfeiture, in my judgment, can take place under the Constitution.

There is another clause of the Constitution to which I will call the attention of the Senate, and that is the fifth amendment:

"No person shall be held to answer for a capital or otherwise infamous crime unless on a presentment or indictment of a grand jury, except in cases arising in the land or naval forces, or in the militia when in actual service, in time of war or public danger; nor shall any person be subject, for the same offense, to be twice put in jeopardy of life or limb; nor shall be compelled, in any criminal case, to be a witness against himself; nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use without just compensation."

Those clauses when taken together, in my judgment, present an insurmountable barrier to the passage of the first section of this bill. In order that I may present the bill fairly, I will read that section. It is in these words:

"That the property, real and personal, of every kind whatsoever, both corporeal and incorporeal, and including choses in action, and wheresoever situated, within the limits of the United States, belonging to any person or persons beyond the jurisdiction of the same, or to any person or persons in any State or district within the United States, now in a state of insurrection and rebellion against the authority thereof, so that in either case the ordinary process of law cannot be served upon them, who shall during the present rebellion be found in arms against the United States, or giving aid and comfort to said rebellion, shall be forfeited and confiscated to the United States; and as to all property which shall be seized and appropriated as hereinafter provided, such forfeiture shall take immediate effect upon the commission of the act of forfeiture, and all right, title, and claim of the person committing such act, together with the right or power to dispose of or alienate his property of any and every description, shall instantly cease and determine, and the same shall at once vest in the United States."

It is manifest from this section of the bill that the estates of persons engaged in this war in opposition to the Government, who are either in arms or aiding and assisting it, are forfeited by legislative enactment without the instrumentality or the aid of judicial process. That is evidently contrary to the provisions of the Constitution that I have read. I am fully aware that the honorable chairman of the Judiciary Committee and the distinguished Senator from New York, [Mr. HARRIS,] also a member of that committee, have declared to the Senate that this is not a bill of attainder. They both admit that wherever a party is convicted of treason you cannot forfeit his estate for a longer period than his life; but they attempt to avoid the application of the clause of the Constitution which says no bill of attainder shall be passed, to this section, on the ground that a bill of attainder must necessarily be *ex post facto* in its nature, and that this section applies only to those who shall commit this offense in the future. With great deference to those distinguished gentlemen, I humbly submit to the Senate whether the Constitution of the United States can be circumvented in that manner.

In order to give a just, full, and fair interpretation of the Constitution or of a statute, you must take into consideration the circumstances surrounding those who made it, the evils to be corrected, and the rights and privileges to be secured. Let us examine this clause of the Constitution in that light, and see whether or not it was not the intention of the framers of our Constitution to prevent our people from being visited by those harsh penalties that accompanied treason in England, the laws of which were extended to this country. I will read a few extracts from Judge Story on the Constitution that show very clearly, and in language more pointed and more forcible than any I could use, the reason why our fathers inserted those clauses in the Constitution. Commenting on the first section of the Constitution that I have just read concerning the punishment of treason, Judge Story says:

"It is well known that corruption of blood and forfeiture of the estate of the offender followed, as a necessary consequence, at the common law, upon every attainder of treason. By corruption of blood all inheritable qualities are destroyed; so that an attainted person can neither inherit lands nor other hereditaments from his ancestors, nor retain those he is already in possession of, nor transmit them to any heir. And this destruction of all inheritable qualities is so complete that it obstructs all descents to his posterity whenever they are obliged to derive a title through him to any estate of a remoter ancestor. So that if a father commits treason, and is attainted, and suffers death, and then the grandfather dies, his grandson cannot inherit any estate from his grandfather; for he must claim through his father, who could convey to him no inheritable blood. Thus the innocent are made the victims of a guilt in which they did not, and perhaps could not, participate, and the sin is visited upon remote generations. In addition to this most grievous disability, the person attainted forfeits, by the common law, all his lands and tenements, and rights of entry, and rights of profits in lands or tenements which he possesses. And this forfeiture relates back to the time of the treason committed, so as to avoid all intermediate sales and incumbrances; and he also forfeits all his goods and chattels from the time of his conviction."—*Story on the Constitution*, vol. 2, sec. 1299, pp. 178, 179.

It was to relieve our people forever from the harsh features of the English law cited by Judge Story that caused our wise ancestors to put in our Constitution the clauses that I have quoted. I will read another extract from the same authority. In commenting upon the clause of the Constitution which says, "no bill of attainder or *ex post facto* law shall be passed," Judge Story says:

"Bills of attainder, as they are technically called, are such special acts of the legislature as inflict capital punishments upon persons supposed to be guilty of high offenses, such as treason and felony, without any conviction in the ordinary course of judicial proceedings. If an act inflicts a milder degree of punishment than death, it is called a bill of pains and penalties. But in the sense of the Constitution, it seems that bills of attainder include bills of pains and penalties; for the Supreme Court have said, 'a bill of attainder may affect the life of an individual, or may confiscate his property, or both.'"

That was decided in the case of Fletcher *vs.* Peck, reported in 6 Cranch—

"In such cases the legislature assumes judicial magistracy, pronouncing upon the guilt of the party without any of the common forms and guards of trial, and satisfying itself with proofs, when such proofs are within its reach, whether they are conformable to the rules of evidence or not. In short, in all such cases the legislature exercises the highest power of sovereignty, and what may be properly deemed an irresponsible despotic discretion, being governed solely by what it deems political necessity or expediency, and too often under the influence of unreasonable fears or unfounded suspicions. Such acts have been often resorted to in foreign Governments as a common engine of State; and even in England they have been pushed to the most extravagant extent in bad times, reaching as well to the absent and the dead as to the living. Sir Edward Coke has mentioned it to be among the transcendent powers of Parliament, that an act may be passed to attaint a man after he is dead. And the reigning monarch, who was slain at Bosworth, is said to have been attainted by an act of Parliament a few months after his death, notwithstanding the absurdity of deeming him at once in possession of the throne and a traitor. The punishment has often been inflicted without calling upon the party accused to answer, or without even the formality of proof; and sometimes, because the law, in its ordinary course of proceedings, would acquit the offender. The injustice and iniquity of such acts, in general, constitute an irresistible argument against the existence of the power. In a free government it would be intolerable; and in the hands of a reigning faction it might be, and probably would be, abused to the ruin and death of the most virtuous citizens. Bills of this sort have been most usually passed in England in times of rebellion or of gross subserviency to the crown, or of violent political excitements; periods in which all nations are most liable—as well the free as the enslaved—to forget their duties and to trample upon the rights and liberties of others."—*Story on the Constitution*, vol. 2, sec. 1344, pp. 238–240.

I have read at length these two sections from Judge Story, pointing out the reasons why it was that our fathers placed in the Constitution the clauses that I have read. I have stated distinctly to the Senate that, in my judgment, there could be no confiscation for treason, except after judicial attainder and finding by the courts, and then only for life. This bill forfeits and confiscates the property of these parties for the crime of treason by legislative enactment, and consequently it is nothing less than a bill of attainder. It is clearly so. The great objection to bills of attainder was, not so much that they were *ex post facto* in their nature, but because they deprived the citizen of his property without judicial process, which is secured to him by the Constitution. If the two Senators to whom I have referred are correct, that this bill is not technically a bill of attainder, cer-

tainly in all its moral and legal effects it is a bill of attainder; but I believe, when strictly construed, it is a bill of attainder. The chief and most obnoxious feature of a bill of attainder is, that you deprive the citizen of his life, his liberty, or his property by legislative enactment, without judicial process, without trial by a jury of his peers. It is to that that Judge Story points, as one reason why that kind of proceeding was so obnoxious to law, to reason, to justice, and to right. I would ask the gentlemen who contend that this section of the bill is constitutional, what disposition they will make of the clause of the Constitution which I have read, which declares that no man shall be deprived of his life, liberty, or property without process of law? This bill certainly violates that provision of the Constitution. What do you mean, sir, by process of law? We are not left in the dark as to what is meant by it. That clause of the Constitution is substantially a clause of Magna Charta. I will read what Mr. Story says upon that subject:

"The other part of the clause is but an enlargement of the language of Magna Charta, '*nec super eum ibimus, nec super eum mittimus, nisi per legale judicium parium suorum, vel per legem terræ*,' neither will we pass upon him or condemn him, but by the lawful judgment of his peers, or by the law of the land. Lord Coke says that these latter words, *per legem terræ*, (by the law of the land,) mean by due process of law; that is, without due presentment or indictment, and being brought in to answer thereto by due process of the common law. So that this clause in effect affirms the right of trial according to the process and proceedings of the common law."

I put it to my worthy friend from New York, whom I know to be an able lawyer, how he can by any process of logic put this bill in any attitude that is not obnoxious to that provision of the Constitution? Do you not, by the section of the bill that I have read, deprive the citizen of his property without process of law? Do you give him a trial in any court? None, sir, none; but you take away his property by legislative enactment. Fortunately we are not left entirely without judicial decision on this point. I am aware that Senators make an effort to evade the force of the constitutional objections I am now making, and which were so ably urged by the Senator from Pennsylvania, [Mr. COWAN,] the Senator from Illinois, [Mr. BROWNING,] and the Senator from California, [Mr. MCDOUGALL,] and the Senator from Virginia, [Mr. CARLILE,] and others, by asserting that this is not a punishment for treason. That was particularly asserted by the chairman of the Committee on the Judiciary. Sir, I ask if you can avoid the plain, distinct provisions of the Constitution by that kind of circumvention? What is the language of the bill itself? It is, that the estates of persons

"Found in arms against the United States, or giving aid and comfort to said rebellion, shall be forfeited and confiscated to the United States."

The very language of your bill is the offense of treason as defined by the Constitution; and yet, you say because the party is not convicted of treason you will forfeit his estate, which the Constitution says shall not be forfeited without process of law; you will spare the party the trial and sentence of a court by a kind of artful dodge, for the purpose of circumventing the plain provisions of the Constitution and forfeiting his estate. In my judgment, such dodging cannot circumvent and virtually annul the clear provisions of the Constitution. You cannot treat them as citizens in arms against their Government, and at the same time apply to them the law which governs alien enemies, whilst you recognize them as citizens. You cannot rightfully withhold from them the guarantees of the Constitution.

I have a decision reported in the first volume of Dana's Kentucky Reports that I think is very much in point upon this very question as to whether this is a bill of attainder. Certainly each and every Senator must admit that in all of its moral and legal consequences it is a bill of attainder, if not technically so; but I believe, as I have said, that it is technically a bill of attainder, because you deprive the person of his estate by legislative enactment without judicial process. In 1824, the Legislature of Kentucky passed a law requiring the non-resident owners of lands in that State to make certain improvements upon them, and in the event that they did not make the improvements prescribed in the statute, their lands were forfeited and subject to entry under our land laws. Many persons did not make the improvements; others entered upon the lands; and the question came up directly under that statute as to whether it was constitutional or not. The case was elaborately argued, and decided by two of the judges of our supreme court. Their opinions were concurrent. Such was the magnitude and importance of the case that two judges, which is not common with us, delivered opinions. One of them was Judge Underwood, long an honored member of this body, and the other was Judge Nicholas, one of the most eminent jurists in that or any other State. They decided that the law was in contravention of the provisions of the Constitution; that it was not only in its moral and legal effects, but in reality, a bill of attainder. Judge Underwood makes a very elaborate and able opinion. He alludes to the clauses of the Constitution which I have read rather incidentally; but Judge Nicholas quotes the Constitution and decides it most directly. I will read one or two paragraphs from his opinion. It is the case of Gaines *et al. vs.* Buford, reported in 1 Dana's Kentucky Reports. He says:

"The powers of government are divided into three distinct departments, and confided to separate bodies of magistracy; those which are legislative to one, those which are executive to another, and those which are judiciary to a third, with a declaration that no person or persons being of one of those departments shall exercise any power properly belonging to either of the others. It is of the last importance to the purity of our institutions that this division of powers should be preserved, and this barrier against the encroachment of one department upon another should be properly kept up."

I think Senators would do well to bear in mind this lucid exposition of our system of Government and its division into various departments, and that our liberties alone consist in allowing no one department to encroach upon the other, but to keep each in its own sphere. Whenever you consolidate them your liberties are overthrown. Further on, Judge Nicholas says:

"The prohibition of the Federal Constitution against the passage of bills of attainder is also deemed to have an important bearing on this question.

"*Bills of attainder* are said by Woodeson, in his lectures, to be acts of the supreme power, pronouncing capital sentences where the legislature assumes judicial magistracy; and *bills of pains and penalties* those which inflict milder punishments. But it is believed that *bill of attainder* is a generic term, comprehending both descriptions of acts. Such, at least, is believed to be its true signification, as used in our constitutions. Thus it is said by the Supreme Court, in Fletcher *vs.* Peck, 6 Cranch, 138, 'a bill of attainder may affect the life of an individual, or may confiscate his property, or both.' So, also, it is said by Judge Tucker, in his edition of Blackstone, volume one, page 292: 'Bills of attainder are legislative acts, passed for the special purpose of attainting particular individuals of treason, or felony, or inflicting pains and penalties beyond or contrary to the common law.' That the term should be received in the large sense thus given to it, is consonant with the true republican character of our institutions. A condemnatory act of the legislature inflicting upon an individual, or class of individuals, pains and penalties, is as much within the reason of the prohibition as if it inflicted capital punishment. They are both equally hostile to the principles of civil liberty and the spirit of our written constitutions. They are equally engines of tyranny and oppression, and equally unsuited to the government of a free people.

"Understanding, then, the term bill of attainder as embracing bills of pains and penalties, the act in question would seem to fall under this inhibition."

What was the act of the Kentucky Legislature? It was that non-residents owning real estate in the State should make certain improvements, and if they omitted to do it the property was forfeited. Judge Nicholas tells us that that was in violation of the clause of the Constitution that I have just read. What do you propose here? You say if a certain class of persons do certain things which you set forth in your bill, to wit, commit treason, then they shall be subject to forfeiture of their estates. In the one case it is a sin of omission, and in the other a sin of commission. That is the only difference between the two bills, and both are equally obnoxious to the constitutional objections that I have stated. He goes on further:

"That it is a highly penal law, inflicting a most grievous penalty for the omission of the thing commanded to be done, is beyond dispute. But it is not the weight of the penalty, nor the character of the offense, that makes it a bill of attainder. But it is the confiscation of the property of individuals which it attempts to make, before any condemnation, and without any condemnation, for the offense designated, either *in personam* or *in rem*. When the State rightfully acquires the property of a citizen by forfeiture, it is as the punishment annexed by law to some illegal act or negligence of its owner. That the legislature may make the act or omission illegal, and prescribe forfeiture as the penalty, is admitted. But it is denied that it can of itself inflict the punishment. So far as the act in question undertakes to divest the title out of Gaines, and vest it in the State, it is a legislative infliction of the penalty; it is an assumption, to that extent, of judicial magistracy, without affording the accused the benefit of those forms and guards of trial which are his constitutional right, whenever he is sought to be punished, either in his person or by forfeiture of his property, for alleged violations of the penal enactments of the State."

That, sir, is what condemns this section as unconstitutional, because if this bill should become a law, you deprive, as far as you can do it by legislative enactment, the citizen of his property without allowing him the benefit of trial by process of law. The judge continues:

"The right to forfeit is an incident merely to the power to punish guilt. Without the guilt, the forfeiture cannot be incurred. The guilt cannot be ascertained by the legislature, nor otherwise than by a direct criminal procedure of some sort, and a judicial determination thereon."

Do you give these parties any judicial determination? No, sir; you by your legislative decree at one stroke of the pen deprive perhaps six millions of people of all their estates, real and personal, without any judicial process whatever, without trial by any court or any judicial tribunal. He continues:

"Bills of attainder have generally designated their victims by name; but they may do it also by classes, or by general description fitting a multitude of persons. Either mode is equally liable to moral and constitutional censure."

Here you do it by classes. You designate a class of persons any of whom or all of whom who commit the acts prescribed by your law, which is really a technical definition of treason, you say their entire estates, real and personal, shall be forfeited.

"They have generally been applied to punish offenses already committed; but they have been and may be applied to the punishment of those thereafter to be committed, or for criminal omissions thereafter incurring. A bill of attainder is not necessarily an *ex post facto* law. A British act of Parliament might declare that, if certain individuals, or a class of individuals, failed to do a given act by a named day, they should be deemed to be and treated as convicted felons or traitors. Such an act comes precisely within the definition of a bill of attainder, and the English courts would enforce it without indictment or trial by jury; the prisoner, when brought to the bar, being merely asked what he had to allege why execution should not be awarded against him."

It is clear, then, Senators, not only from the Constitution itself and the reasons that I have suggested, but from this most elaborate decision of one of the ablest judges that has ever graced the bench in any State in the American Union, that this is a bill of attainder, and it certainly violates the three provisions of the Constitution to which I have referred.

Apart from the unconstitutionality of the bill, it would be unwise and inexpedient; it would be harsh; it would be in conflict with all the rules of civilized and modern warfare. Chancellor Kent says:

"The general usage of war is not to touch private property upon land, without making compensation, unless in special cases, dictated by the necessary operations of war; or when captured in places carried by storm, and which have repelled all the overtures of a capitulation."—1 *Kent's Commentaries*, p. 92.

And according to Vattel:

"For the same reasons which render the observance of those maxims a matter of obligation between State and State, it becomes equally and even more necessary in the unhappy circumstance of two innocent parties lacerating their common country."—*Vattel*, 425, chap. 28.

By the passage of this bill you not only overthrow the Constitution of your country, but you do what has not been done in any civilized nation in Christendom for the last seven centuries. The last act of this kind, so far as I am advised, that was ever resorted to by a Christian nation was in England, when William of Normandy overthrew Harold at Hastings.

Mr. TRUMBULL. I should like to ask the Senator from Kentucky this question: if he does not know that every one of the colonies—Maryland, Virginia, Pennsylvania, and all the rest—forfeited the property of the Tories in the Revolutionary war?

Mr. POWELL. I will answer the Senator with a great deal of pleasure. I am not aware that every one of the colonies did it. I know that many of them did; and I know that Judge Story and other writers in this country say that that was one of the reasons why our fathers put it in the Constitution that we should not do it.

Mr. TRUMBULL. I should like to ask the

Senator another question: whether that was not since seven centuries ago?

Mr. POWELL. Well, that may be. We were rather in embryo then; we were struggling for existence; we were not regarded by European Powers as a separate, independent nation, but as a people in revolt against a parent Government, a people struggling for independence and nationality. I made my statement on the authority of Mr. Wheaton. I am very glad, however, the Senator suggested that, for I wish the Senate to look into the authorities. The writers on our Constitution cite those very things as one of the reasons why these clauses were inserted by our fathers in the Constitution. Mr. Wheaton, in making the statement, I suppose, did not regard the colonies as a separate nationality, but merely as a people struggling for liberty. Speaking of the subject of property obtained by conquest, Mr. Wheaton says:

"Such was the Roman law of war, often asserted with unrelenting severity; and such was the fate of the Roman provinces subdued by the northern barbarians, on the decline and fall of the western empire. A large portion, from one third to two thirds, of the lands belonging to the vanquished provincials, was confiscated and partitioned among their conquerors. The last example in Europe of such a conquest was that of England, by William of Normandy. Since that period, among the civilized nations of Christendom, conquest, even when confirmed by a treaty of peace, has been followed by no general or partial transmutation of landed property. The property belonging to the Government of the vanquished nation passes to the victorious State, which also takes the place of the former sovereign, in respect to the eminent domain. In other respects, private rights are unaffected by conquest."—*Wheaton's Elements of International Law*, p. 420.

That is what Mr. Wheaton says on the subject, and he is usually exceedingly accurate; and you propose to do what this most eminent of international law writers—certainly the most eminent of this country—says has not been done for seven centuries. Let me tell you, Senators, if you pass this bill, you cannot execute it except to a very limited extent, and so far as you did execute it, it would result in a swindle to the ignorant purchasers confiding in Congress, for the courts would decide that you could only forfeit the property during the life of the offender. The result would be that the ignorant purchasers buying this property, confiding in the title obtained in consequence of this law, would all be cheated and swindled; for whenever the courts were open, whenever a fair hearing in any impartial and enlightened court in Christendom could be had, I have no doubt such titles would be held to be invalid.

As I have said, if you attempt to take the property of those engaged in this war against the Government, you can do it only for life, and then only by process of law. For the reasons I have stated, I believe, if you pass this bill, that it will be clearly unconstitutional, and that no good, but great harm, will result from it. You would confer defective titles, and involve the purchasers in lawsuits; and so far from having the effect you suppose it would have, to weaken those in arms against the Government, in my judgment, you would nerve their arms; indeed you would put arms in the hands of tens of thousands that are now taking no part in this strife. You would fire them with a desperate zeal. They would have no motive to lay down their arms when they knew that all their property would be forfeited and they themselves sent as beggars through the earth.

Another objection to the bill is, that it punishes alike the innocent and the guilty. You strip the women, you strip the infant children, you strip decrepit age of that support to which they are entitled as the result of the savings from the labor for years of their families. It is harsh; it is cruel; it is unbecoming the age in which we live; and in my judgment unbecoming the American people. In a time like this we should attempt by measures just and constitutional to show those in arms against the Government that we are not actuated by hatred to them or their domestic institutions—that our only object is to reconstruct the constitutional Union. Intolerance and vindictiveness never saved a Government, and will not save this.

I now come to the second section of the bill; and in order that I may present it fairly before the Senate I will read it:

SEC. 2. *And be it further enacted*, That every person having claim to the service or labor of any other person in any State under the laws thereof, who during the present rebellion shall take up arms against the United States, or in any manner give aid and comfort to said rebellion, shall thereby forthwith forfeit all claim to such service or labor, and the persons from whom it is claimed to be due, commonly called slaves, shall, *ipso facto*, on the commission of the act of forfeiture by the party having claim to the service or labor as aforesaid, be discharged therefrom, and become forever thereafter free persons, any law of any State or of the United States to the contrary notwithstanding. And whenever any person claiming to be entitled to the service or labor of any other person shall seek to enforce such claim, he shall, in the first instance and before proceeding with the trial of his claim, satisfactorily prove that he is and has been, during the existing rebellion, loyal to the Government of the United States; and no person engaged in the military or naval service of the United States shall, under any pretense whatever, assume to decide on the validity of the claim of any person to the service or labor of any other person, or to surrender up any such person to the claimant.

There is certainly no power delegated to Congress to pass the section of the bill just read. All political organizations in this country have held that Congress had no power to interfere with the local institutions of the States. Congress, on the 23d of March, 1790, passed a resolution declaring that they "had no authority to interfere for the emancipation of slaves within any of the States, it remaining for the several States alone to provide any regulation therein which humanity and true policy may require." On the 11th of February, 1861, Congress, by an overwhelming majority, passed a resolution "that neither Congress, nor any of the non-slaveholding States had any right to interfere with slavery in any of the slaveholding States of the Union."

This is certainly in contravention of those resolutions, for you are interfering with the institution of slavery in the States. I am old-fashioned enough in my politics to believe that there is something of State rights left. Indeed, I have ever been a State-rights man, and now am a State-rights Democrat, and believe that if this country is rescued from the perils by which it is surrounded, it will ultimately be done by carrying out the constitutional principles of that glorious old party which has successfully administered this Government for over fifty years. All parties, every political organization in this country, have admitted that the control of this domestic institution of slavery is a matter that is reserved to the States. There is not, and has not been, any class of politicians in the country that ever held otherwise, except a few who claim to be higher law men. There is no reasoning with one of these higher law men. I have no more respect for a politician who claims that he is governed by a law higher and above the Constitution which he swears to support than I have for the man who claims to be a Christian while he repudiates the Bible, and says there is a code beyond and above it by which his Christian life is governed. I look upon them as crazy, mischievous madmen, one in the political field and the other in religious affairs. They are the only class of people that ever did claim this power. The Democratic party never claimed it; the Whig party never claimed it; the Republican party never claimed it; the Chicago platform expressly repudiates it; and it is only this class of individuals to whom I have alluded that ever did claim it, so far as I am advised.

This section of the bill is an insidious attempt to do indirectly what its advocates will not attempt to do directly. It is an attempt to destroy the institution of slavery in the southern States. You will not attempt to do it directly; but in my judgment this is a most insidious attempt to do it indirectly. It violates the clauses of the Constitution to which I have referred. It is a bill of attainder accompanied with forfeiture without judicial process. By it you take private property without process of law. You take it without compensation, not for the public use, but to turn it adrift, and in many cases to become a charge upon your already exhausted Treasury; for I find that you have got commissions down South now, engaged in some cotton-planting speculations, which I venture to say will cost this Government thousands upon thousands of dollars. There is one clause in this section to which I wish to call special attention:

"And no person engaged in the military or naval service of the United States shall, under any pretense whatever, assume to decide on the validity of the claim of any person to the service or labor of any other person, or to surrender up any such person to the claimant."

I do not know that the first part of that clause, that they shall not decide upon the claim of any person to his slave, is very objectionable, that might well be left to the courts; but it is declared that they shall not surrender them up—what will be the effect of that? It will make these camps a place of refuge for the slave population, and that will necessarily incite insubordination. They will flock there by hundreds and by thousands. We know they are doing so now. One of the reasons why our fathers declared they took up arms against the British king was that "he had incited insurrection among us." This clause has that tendency, to cause insubordination, insurrection.

There is another reason why I think you should do nothing like this. All of the slave States have laws and regulations for the emancipation of slaves. The United States must be governed by those laws, if it attempts to interfere with them. I need but state to so learned a lawyer, as I know the Senator from New York to be, the proposition, and he will at once see that when you go to interfere with the property of the people of any of the States, secured by their constitution and their laws, you must do it in obedience to their State laws. They must govern, and do govern, in the United States courts in all the States of the Union, concerning every description of property that can be legitimately held in the States. This bill, then, is a violation of the laws and constitutions of the States. It sweeps them all by the board. I know it is not common here to accord to the States many rights; the tendency is to a consolidated despotism; but all admit that they have some rights; all admit that they have control over this institution of African slavery within their borders; and yet, notwithstanding that, you now propose to pass a bill putting that institution virtually out of existence, and emancipating their slaves, not only in violation of their local laws regulating the subject, but in derogation of every right that those people may have in that property, without even giving them the opportunity of litigating their rights or of making their defense in a court of justice. Why, sir, many of those men may be innocent of this charge of treason. You do not allow them what you now accord to the lowest and most degraded petty larceny thief, an opportunity to vindicate his innocence; but you charge them; you condemn them; you forfeit their estates; you turn them out to wander as vagabonds through the earth; all this you do without hearing them before any judicial tribunal whatever; and you do this by the action of the American Senate, in this temple where we would suppose constitutional liberty and law delighted to dwell. Pause, Senators, before you go so far. We are now upon just such times as those in which Judge Story said those rash penalties of confiscation were passed in England, during times of civil war, when the reason is tossed to and fro as a reed is driven by the fierce hurricane in the storm. It is no time for such things. I had supposed that it would be kept out of this Senate; but I regret to say that the most learned judges and lawyers here appear absolutely to be ready to overthrow the Constitution. I will do them the justice, however, to remark that I dare say they believe what they are doing is constitutional.

Sir, what will be the effect, if this section should become a law? It will result virtually in the emancipation of the slaves in all the States. You turn loose the slaves of all those parties who are engaged in this rebellion, and, in the cotton States, nearly all the people are in it. What you will leave them will not be worth having, particularly when they are in the midst of such a free negro population; and that is the object. The Senator from Kansas, [Mr. POMEROY,] who has the negrophobia—if he will allow the word; I do not use it offensively—as badly as any man I ever saw, smiles when I say this. It is what he wishes, what he wants. The effect will be as I have stated, and hence I have called it an insidious attempt to do indirectly what they would not attempt to do directly. I would much prefer that gentlemen should march up to the work at once, unfold their flag, proclaim their purpose, and propose a law to free all the slaves. That, in my judgment, would be more direct, more manly, more to be approved by open, candid, sincere men.

It is true there is a clause in the bill providing

for colonization. Why, sir, that clause amounts to nothing. You will colonize no negroes under it, or, if any, very few. In the first place, it is to be voluntary colonization. No man ever spoke more truly than my colleague did the other day. When speaking of the negro, he said he was not a migratory animal—I do not know that I quote his words—he would stay where you would leave him; he would not be willing to go abroad to seek other homes. All the other races of the earth have gone to every part of the globe, but who ever knew a wooly-headed negro to go from his native land except when under the influence of others? Why, sir, there never would have been one of them in this country had it not been that the Anglo-Saxon brought him here by force. They were brought here by our English forefathers after Queen Elizabeth, by orders of council, authorized the slave trade, and by our own people, particularly our New England brethren—for they did most of this slave-trading business, and held on to it with very great tenacity so long as they found it profitable. They kept in the Constitution a clause allowing them to indulge in this trade for twenty years after it was formed. Their lands were too poor to allow slaves to work them profitably, and they sold them South; but they found the trade still profitable, and they held on to it for twenty years after the formation of the Constitution. The negro would never have been here but for the instrumentality of our own people and our English ancestors; he would have remained a savage and cannibal in his native Africa. Well, sir, what will you do with them? Will you turn these four millions of slaves loose? That will be the effect of this bill. As to colonizing them, unless you do it by compulsion, I tell you it will not be done. It never has been done, and it never will be, except to a very limited extent. Why, sir, what has this colony at Liberia done? After many years of the most assiduous labor, they have got but few, and many of these went there in order to be free, for they were emancipated upon the condition that they should go there, and many who went under that condition, to my knowledge, have returned. The negro, while he remains in this country, should be held as a slave. It is best for both the black and the white man that it should be so. The free negroes are the most worthless, thriftless, lazy, vagabond population on earth.

But, sir, this bill provides that you shall buy homes for them, and colonize them. How much money would it take? The Senator from Virginia, [Mr. WILLEY,] who seems to have had a good deal to do with this Colonization Society, said the other day that it would take $500 a head. If so, it would cost you two thousand millions of money to colonize these slaves. Are you in a condition to bear such an expenditure as that? I suppose this Government owes to-day a thousand millions of dollars. Your expenses in carrying on this war are said to be three or four millions a day. If the slaves were willing to go, could you bear the expense? Certainly you could not, and therefore I say this colonization clause in the bill amounts to nothing. I would not give a fig for it, or all the negroes that you will ever colonize under it. It is a mere tub that you have thrown out to let those people who dislike free negroes to come among them, sport with for a while.

Senators, if your object is not the emancipation of all the slaves, if you go on with this kind of legislation, you will soon make all the people in the slave States think so. I have been very much opposed to the legislation that has been under consideration here. I knew it would irritate; I knew it would do no good; I knew it would do much harm; I knew it would make many now friendly, enemies to this Union. What has been done in the last two months on this subject of slavery? You have passed the resolution recommended by the President, proposing to give aid to the border States to effect emancipation. You have abolished slavery in the District of Columbia, and in that bill you inserted a clause allowing a negro to testify, and by another clause the oath of the master is made unequal to that of his negro. Then you have passed an article of war preventing any officer of the Army surrendering up a fugitive slave under penalty of dismission from the service. The Senator from Delaware [Mr. SAULSBURY] proposed to amend that bill by inserting a provision that if any officer should engage in enticing or decoying a slave from the service of a loyal master, he should be subject to a like penalty. You refused to agree to it. If you wanted equal and exact justice, why did you not insert that provision to punish with dismissal from the service any officer who should entice a slave from a loyal owner; in other words, who should engage in negro stealing. You chose not to do it. What is the result? I regret to allude to these things. It is a fact published in the newspapers, and I was told by gentlemen from Baltimore not long since, that from General Banks's column there passed through the city of Baltimore, under military escort, some ninety slaves, and they were carried and turned loose in Philadelphia. Whether they were the slaves of loyal men or not I do not know; but there you find the military arm of the Government is being used to send runaway slaves to the free States. I hear no complaint from Republicans about that; but if one slave were delivered up to his owner, you would hear great complaint about it.

I saw it stated recently in the newspapers, and one of my colleagues in the House told me night before last he had letters from his district informing him, that from the northern part of Kentucky there had been taken forty-five negroes from loyal masters. They were taken in a Government steamboat which passed Collettsburg, in Kentucky, to Ohio, and turned loose, and they were taken by order of those in command of the post somewhere on the Big Sandy. We hear no complaint about this from the other side of the Chamber. If the amendment proposed by the Senator from Delaware had been inserted in this article of war, those gentlemen would have been dismissed from the service. In addition to this, you have repealed all the disabilities on these negroes from carrying the mails. Senators and Representatives have openly advocated the arming of the slaves. Propositions have been introduced into Congress to reduce sovereign States to Territories. A great deal of what you have done, I have heretofore said was unconstitutional. It will be very hard to make the people who are interested in this kind of property believe that your object is not to destroy it. I speak plainly, but I trust without offense. With all these acts before them, notwithstanding your professions, your declarations in the way of congressional resolutions, party platforms, and the President's messages, that you have no right, desire, or intention to interfere with slavery in the States, you will find it very hard to make them believe that such is not your object. The people of the slave States would be stupid, indeed, if they doubted, after the many evidences you have given them in the last few months, that your intention and object was not to destroy the institution of slavery. I know there are Republicans who do not favor the measures to which I have alluded, but so far their numbers have been too few to prevent the legislation to which I have referred. Extreme anti-slavery men desire the war as an instrument to accomplish the destruction of African slavery. They do not desire the Union to be reconstructed unless slavery shall first be abolished. If these men thought that slavery would not be abolished by the war, and that the Union would be reconstructed as it was before the commencement of this unfortunate civil war, they would oppose the war, and would not furnish either men or money to carry it on; prominent anti-slavery men, both in and out of Congress, have so declared? If our form of Government, our constitutional rights, our civil liberties, are preserved, the radical and extreme men, who now hold sway, who prefer the destruction of the domestic institutions of the southern States to the preservation of the constitutional Union of our fathers, must be repudiated by the people, and conservative men, who revere the Constitution and have a just appreciation of civil and constitutional liberty must fill their places. If that is not done, I have but little hope of preserving our system of Government. If the people will rally boldly and fearlessly to the standards of those who are determined to protect, preserve, and enforce the Constitution, we may be enabled to save our system of Government, and transmit our glorious Constitution to those who are to come after us.

I will now say a few words upon the fourth section of this bill, and in order that I may not misrepresent it, I will read it. I hope the Senate will listen to this section. It gives the Executive most extraordinary power:

"SEC. 4. *And be it further enacted*, That it shall be the duty of the President of the United States, as often as in his opinion the military necessities of the Army, or the safety, interest, and welfare of the United States in regard to the suppression of the rebellion shall require, to order the seizure and appropriation, by such officers, military or civil, as he may designate for the purpose, of any and all property confiscated and forfeited under and by virtue of this act, situated and being in any district of the United States beyond the reach of civil process in the ordinary course of judicial proceedings by reason of such rebellion, and the sale or other disposition of said property, or so much of it as he shall deem advisable."

Was there ever, in the history of this or any other well regulated free Government, a proposition to clothe the Executive with such vast and extraordinary powers? The power you propose to give the President is not only unwise and inexpedient, but it is subversive of the Constitution. The powers of Congress and of the Executive are limited by the Constitution. The Constitution confers on the President no judicial power. This bill clothes the Executive with judicial and ministerial functions. It arms him, through his deputy, with power to seize and sell the property of six millions of people. That is the language of your bill. I say six millions of people, for I suppose there are that many now engaged against the Government. Whether they will continue so or not I do not know. I do not believe the passage of this bill would cause them to lay down their arms, but would urge them to more resolute and stern resistance. The President, under this bill, through any officer, civil or military—yes, sir, he can clothe the most petty judge of the District of Columbia, or the most insignificant popinjay of a lieutenant of the Army, with power to go into these States and seize and sell any or all of the property that is confiscated by the terms of this bill. It confiscates the property of all who are engaged in this rebellion with arms in their hands, or who are giving aid and comfort to it, that property being situated where the process of law cannot reach. That is the power you give to the President of the United States. This contemptible justice, or this lieutenant, if you please, is armed with the power to go and seize any and all of the property at the President's discretion, and to sell it. He is to be the judge. The Senate of the United States is about to clothe the President with such a power as that. Why, sir, you not only clothe the President and his agents with judicial, but with ministerial functions. He is the judge; he is the marshal. You allow him to send this little lieutenant or this justice of the peace to judge whether or not this property belongs to persons who have been in arms or giving aid and comfort to the rebellion, and after, in his office as judge, he decides the grave question as to whether the parties who own the property have been guilty of treason or not. Then you clothe him with the power of a marshal to put it up and sell it under the auctioneer's hammer, and to put the money in the Treasury; and what is most remarkable, from these agencies of the President you require no oath of office, no bond for the faithful performance of the duties imposed upon them by the President; your judges are required to take an oath of office, your marshals are required not only to take an oath of office, but to give bonds, with sufficient security, that they will faithfully perform the duties of their offices.

Sir, I venture to say that since the organization of civil Governments there never was, in any country that had any respect for liberty or for law, an effort to clothe a magistrate with such extraordinary powers; and yet you clothe this magistrate with that power without limitation and without restriction. The only limitation is the will of the President. I have thought that the President's functions were executive alone. If the Constitution would allow it, (which it certainly does not, for the provisions that I have read are plainly violated by this section,) I would clothe no man with such power. I would not care how wise or how virtuous he might be. If it were possible to endow one man with all the wisdom of Solomon, the justice of Aristides, and the stainless purity and elevated patriotism of Washington, I would not clothe him with such power, and no people who

love and wish to preserve their liberty ever will. As you break down the departments of your Government and allow the magistrates appointed under any one of the different departments to exercise functions belonging to the other, you make a breach in the constitutional ramparts which our fathers have thrown around our liberties. It should never be done. No free, liberty-loving people, who respect and wish to retain their liberties, will ever clothe a magistrate with such power. I know that extraordinary power in the hands of a wise, virtuous, and just man might be used temporarily to promote the best interest of the State. I know Rome was safe when she called the wise, the virtuous, and the patriotic Cincinnatus from the plow, and clothed him with dictatorial power; but I know that she had cause, grievous cause, to mourn the dictatorships of Sylla and Caius Marius.

Senators, never, never clothe your magistrates with these extraordinary powers. Let them exercise only those functions that are given them by the Constitution of our country. Keep well and plainly marked all the distinctions that the Constitution makes in the coördinate departments of the Government. As you depart from them, you approach a despotism; for the very essence and meaning of despotism is the concentration of all power in one man. Let the legislative, executive, and judicial departments exercise the powers and functions conferred upon them by the Constitution, and no more. Do not suffer one department to encroach upon another. More particularly should we be careful in times like these, when every effort is being made by some persons to overthrow the Constitution. Let us stand by it as the ark of our safety. Sir, you may talk about the Union as you please. I love the Union; as our fathers formed it, it is worthy of my love, my devotion; but I love the Constitution more. If you preserve the Union, you must protect the Constitution. The Union without the Constitution would not be worth preserving. What care I for a territorial Union, even if it were to contain forty times the area of square miles that ours does, if in it we have despotism instead of constitutional liberty? For me, sir, I would rather have six feet of the meanest earth with the liberty that the Constitution of my fathers conferred upon me, than to live in an empire on a continent seagirt, with the Constitution overthrown, and my liberties and the liberties of those who are to come after me stricken down. I love the constitutional Union because of the liberty the Constitution, the bond of that Union, throws around me, and throws around the people. Its territorial extent, its grandeur, its power is subject of admiration, but not of love. My love is for the constitutional liberty that our fathers gave us when they gave us the Constitution: all else but challenges my admiration. It may gratify my vanity; but the constitutional liberty that our fathers gave us challenges my love and my ardent devotion. Allow me to read one single paragraph from Mr. Webster on this subject in the speech he made on Jackson's protest:

"The first object of a free people is the preservation of their liberty; and liberty is only to be maintained by constitutional restraints and just divisions of political power. Nothing is more deceptive or more dangerous than the pretense of a desire to simplify Government. The simplest Governments are despotisms; the next simplest limited monarchies; but all republics, all Governments of law, must impose numerous restraints and limitations of authority. They must be subject to rule and regulation. This is the very essence of free political institutions. The spirit of liberty is, indeed, a bold and fearless spirit; but it is also a sharp-sighted spirit. It is a cautious, sagacious, far-seeing intelligence. It is jealous of encroachment, jealous of power, jealous of man. It demands checks; it seeks for guards; it insists on securities; it intrenches itself behind defenses; and fortifies with all possible care against the assaults of ambition and passion. It does not trust the amiable weaknesses of human nature, and, therefore, *will not permit power to overstep its prescribed limits, though benevolence, good intent, and patriotic intent come along with it.* It seeks for duration and permanence. It looks back and before; and, building on the experience of ages which are past, it labors diligently for the benefit of ages that are to come. *This is the nature of constitutional liberty;* THIS IS OUR LIBERTY. A separation of departments, and the preservation of the lines of division between them, is the fundamental idea in the creation of all our constitutions; and doubtless the continuance of regulated liberty depends on the maintenance of these boundaries."

Thus spoke the great Webster. Senators, I beg you to ponder and digest the philosophy and the wisdom contained in that short but eloquent and pointed extract. You wish to consolidate; you wish to clothe the President with the power through the most insignificant instruments, such as the lowest order of your judiciary and the very lowest order of your military, to go forth armed with judicial and ministerial power to sell an amount of property that never before was put under the auctioneer's hammer—an amount greater than that which the Prætorian bands put under the hammer when they struck off the Roman empire to the highest bidder; and yet perhaps you will pass it; but in the name of the Constitution of my country, in the name of the liberties of the people, I make my protest against it. I invite the attention of Senators to this section of the bill; and I venture to say there never was heretofore, in this or any other country, where the rights of property and liberty were appreciated, a proposition to confer such extraordinary power upon the Executive.

The sixth section of the bill is an attempt to assimilate the punishment of treason to the proceedings for the punishment of smuggling. The forfeiture specified in the first section of the bill is a forfeiture for treason, and for treason there can be no forfeiture of estate except for life, and that must follow a judicial attainder. The party must be found guilty in court by a jury of his peers, before there can be a forfeiture, even for life, of his estate. I believe that if the doctrine of condemning property for smuggling in the way it is done had been met by a fearless spirit at the time, the current of decisions would have been different; but we know the reason assigned for it. We have the constitutional right to pass laws to lay and collect taxes, duties, and imports, and of course to prescribe the terms and conditions upon which goods may be imported; and in order to prevent infractions of the law, property which is attempted to be smuggled, is, by the law, forfeited. It is a forfeiture of the thing that is being used in violation of the law. That is the principle upon which it rests. The forfeiture of goods for breach of the revenue laws has, however, slight, if any, analogy to the confiscation of property as a punishment for the crime of the owner.

While you keep in view the provisions of the Constitution which I have read, I do not believe there is any power known to the logician or any art of the rhetorician that can give to this bill the semblance of constitutionality. There is one other subject that I beg leave to refer to somewhat in detail. The right to confiscate property has been claimed under the war power. Petitions have been presented here almost every day of the session asking that the property of rebels be confiscated and their slaves set free under the war power. The Senator from Massachusetts, [Mr. SUMNER,] I think, has presented a wagon load of them this session. I am aware that it is claimed that under the war power the President and his generals have the right to emancipate slaves and confiscate other property, and that is derived from the power which it is said the President has as Commander-in-Chief of the Army in time of war to declare martial law. Now, I deny that the President of the United States, that any general commanding our forces, ay, that the Government by virtue of any or all of its departments, can declare martial law. There is no such power given in the Constitution of our country, and whoever has attempted, or shall hereafter attempt, to exercise it is a usurper—he overthrows the Constitution of his Government. That is the position I take; and if you look into it closely I do not think you can doubt its truth. Now, what is this martial law? I will read a definition, as good a one, perhaps, as any you will find, in Jacobs's Law Dictionary. Jacobs, in his Law Dictionary, defines martial law to be

"The law of war that depends upon the just but arbitrary power and pleasure of the king or his lieutenant; he useth absolute power so that his word is law. A distinction should be made between martial law as formerly executed, entirely at the discretion of the crown and unbounded in its authority as to persons or crimes, and that at present established, which is limited as to both."

The Duke of Wellington defined martial law to be

"The will of the commander-in-chief."

Mr. Wharton, in his Law Dictionary, defines it to be

"That rule of action which is imposed by the military power, and has no place in the institutions of this country, unless the articles of war established under the mutiny acts be considered as of that character. The prerogative of proclaiming martial law within this kingdom is destroyed, as it would appear, by the Petition of Right."

The latter part of that definition I shall refer to in future. Martial law is the absolute will of the commander-in-chief; his will is substituted for law; and that is the power that is claimed now by many of our generals in the field; it is claimed and exercised to-day by the President of the United States through his subordinates, his generals in the field. It is a power which, whenever exercised, in my judgment is an overthrow of the Constitution of the country. What are the powers of the President? His powers are limited by the fundamental law. The Constitution says "he shall take care that the laws are faithfully executed." The Constitution, treaties, and laws made in pursuance thereof are the laws the President is to see executed; if he goes beyond these he violates the Constitution. The President has no legislative or judicial power. Under the Constitution the judicial power is conferred on a distinct and independent body of magistracy, the judiciary. The legislative functions are devolved on a separate and distinct body of magistrates, namely, the Legislature, of which we are a part. If you concede to the President the power to declare martial law, you clothe him with power to overthrow the Constitution and suspend all the laws, and his will becomes the law. He is then invested with executive, legislative, and judicial functions, and becomes an absolute despot. In our Government the President can exercise no implied powers; the exercise of all such powers is, by the Constitution, conferred upon another and different body of magistracy. Congress alone can exercise implied powers. Such is the express language of the Constitution. The last clause of the eighth section of the first article of the Constitution declares that Congress shall have power

"To make all laws which shall be necessary and proper for carrying into execution the foregoing powers and all other powers vested by this Constitution in the Government of the United States or in any department thereof."

The President can legitimately exercise no power except such as is conferred upon him by express provisions of the Constitution and the laws and treaties made in pursuance thereof.

Those who are charged with the preservation of the Constitution have no right to overthrow it. The Constitution secures to the people certain rights, certain immunities, and certain privileges, which every citizen in this broad land is entitled to; and there is no power on earth, save the sovereignty, to wit, the people of the States of the Union themselves, that has the legitimate right or power to alter, abridge, set aside, or suspend. The sovereignty, the people of the States of the Union, through their representatives, have the right and power to amend, alter, or change the Constitution in the manner prescribed in the Constitution. Then there is left to the sovereignty, the people, in the last resort, the divine right of revolution by which they may, by force, throw off a Government which they cannot rid themselves of otherwise, when it becomes oppressive and subversive of their liberties. The Constitution says that "no bill of attainder or *ex post facto* law shall be passed;" and then it says many other things, a few of which I will read, from the amendments to the Constitution, which set forth some of the rights secured to the people:

"ART. 1. Congress shall make no law respecting the establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances.

"ART. 2. A well-regulated militia, being necessary to the security of a free State, the right of the people to keep and bear arms, shall not be infringed.

"ART. 3. No soldier shall, in time of peace, be quartered in any house without the consent of the owner, nor in time of war but in a manner to be prescribed by law.

"ART. 4. The right of the people to be secure in their persons, houses, papers, and effects against unreasonable searches and seizures shall not be violated, and no warrants shall issue, but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.

"ART. 5. No person shall be held to answer for a capital or otherwise infamous crime, unless on a presentment or indictment of a grand jury, except in cases arising in the land or naval forces, or in the militia, when in actual service in time of war or public danger; nor shall any person be subject for the same offense to be twice put in jeopardy of life or limb; nor shall be compelled in any criminal case

to be a witness against himself, nor be deprived of life, liberty, or property without due process of law; nor shall private property be taken for public use without just compensation.

"ART. 6. In all criminal prosecutions the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the State and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation, to be confronted with the witnesses against him, to have compulsory process for obtaining witnesses in his favor, and to have the assistance of counsel for his defense.

"ART. 7. In suits at common law, where the value in controversy shall exceed twenty dollars, the right of trial by jury shall be preserved, and no fact tried by a jury shall be otherwise reëxamined in any court of the United States than according to the rules of the common law.

"ART. 8. Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted."

These are rights secured to the people of the United States by the Constitution of our fathers; and if you clothe the President with the power to declare martial law, you not only overthrow all these rights, but you overthrow our entire institutions, the President's will becomes the law instead of the Constitution of the country. Senators, if you clothe him with that power, you give him the power to destroy your free government. If he has the right to declare martial law in one city, say in the city of St. Louis, he has the right to declare it in a whole State; he is the judge of the necessity. Indeed, martial law has been declared in the entire State of Missouri. If the President has a right to declare it in one State, he has a right to declare it in all the States. Suppose he should think the necessity exists—and those who contend for this doctrine say he is to judge of the necessity—to declare martial law throughout the whole United States, what will be the result? Your Congress would be overthrown, or it would exist upon his will and pleasure only; your courts would all be overthrown, your State governments would be overthrown, and the President might enter this Hall, as Cromwell entered the chamber where the Long Parliament were sitting, and speak to us as Cromwell did to them, and tell us to go hence. He might come to this Congress as Napoleon did to the French Assembly on one occasion, and scatter us like beasts. This is the inexorable logic of the position; there is no escape from it. That power is claimed, and it is being exercised this day; one of your generals is doing it with a vengeance. When you clothe the President with this power, if the war should last twenty years, he can perpetuate his authority that length of time. What has been going on in Missouri? The constitution of that State prescribes the right of suffrage, and I will read an extract from the constitution of Missouri upon that point, and show you what has been done in Missouri to prove how Abraham Lincoln could perpetuate his power as long as this war exists, if you admit this most monstrous of all heresies that the President can declare martial law, and there would be nothing to prevent it unless an indignant people shall rise up and smite the usurper to the earth. The tenth section of the third article of the constitution of Missouri is in these words:

"Every free white male citizen of the United States who may have attained to the age of twenty-one years, and who shall have resided in this State one year before an election, the last three months whereof shall have been in the county or district in which he offers to vote, shall be deemed a qualified elector of all elective offices: *Provided*, That no soldier, seaman, or marine in the regular Army or Navy of the United States shall be entitled to vote at any election in this State."

Section fourteen is in these words:

"The General Assembly shall have power to exclude from every office of honor, trust, or profit, within this State, and from the right of suffrage, all persons convicted of bribery, perjury, or other infamous crime."

These are the only clauses in the constitution of Missouri touching the right of suffrage. Now what has occurred there? A major general of the United States has issued this order:

HEADQUARTERS DEPARTMENT OF MISSOURI,
ST. LOUIS, *February* 15, 1862.

[General Order No. 41.]

1. At the request of the acting Governor of Missouri, it is hereby ordered that at all future elections in this State, whether for State, municipal, county, or town officers, every voter will be required to take the oath of allegiance prescribed in article six of the ordinance of the convention, dated October 16, 1861. Officers of the polls will see to the execution of this order. If they receive votes of persons not taking the oath, they will be arrested and tried for military offense, and the election declared null and void.

* * * * * * * * * *

By command of Major General Halleck.

N. H. McLEAN,
Assistant Adjutant General.

The oath prescribed is in the following terms:

"I do solemnly swear that I will support the Constitution of the United States and of the State of Missouri; that I will not take up arms against the Government of the United States nor the provisional government of the State of Missouri; nor give aid nor comfort to the enemies of either during the present civil war. So help me God."

There you see that a military officer, as he says, according to the advice of the acting Governor of Missouri, has taken upon himself to prescribe the qualifications of voters, and those qualifications in direct conflict with the constitution of the State where he is acting. All this appears to be approved by the President—he at least has not annulled it. Now, suppose that Abraham Lincoln, President of the United States, were to declare martial law throughout the whole Union, and we were on the eve of the election of the next President, and he himself was a candidate, could he not publish a military order declaring that all those who did not vote the Republican ticket, or even that all who did not vote for Abraham Lincoln for President should not be permitted to vote? Could he not compel them to take an oath that they would vote in a certain way? Clearly. Thus you see that you clothe him, by this extraordinary doctrine, with the power to perpetuate his sway. There is no logical extrication from the position. Those who claim that the President or his commanders have a right to declare martial law, cannot escape from the position.

General Halleck has done a little more in Missouri. I do not read these papers with any view of making a special assault upon him or anybody else; but I wish it distinctly understood that I think General Halleck has transcended his power and overthrown the Constitution; and he and the President both deserve and should receive the sternest rebuke that the representatives of a free people can give. I read them to elucidate the argument. That general made another very extraordinary order in Missouri, which I will now read:

HEADQUARTERS DEPARTMENT OF MISSOURI,
ST. LOUIS, *December* 12, 1861.

[General Orders No. 24.]

1. The suffering families driven by rebels from southwestern Missouri, which have already arrived here, have been supplied by voluntary contributions made by Union men. Others are on the way, to arrive in a few days. These must be supplied by the charity of men known to be hostile to the Union. A list will be prepared of the names of all persons of this class who do not voluntarily furnish their quota, and a contribution will be levied on them of $10,000, in clothing, provisions, and quarters, or money in lieu thereof. This levy will be made upon the following classes of persons, in proportion to the guilt and property of each individual: First, those in arms with the enemy, who have property in this city. Second, those who have furnished pecuniary or other aid to the enemy, or to persons in the enemy's service. Third, those who have verbally, in writing, or by publication, given encouragement to insurgents and rebels.

2. Brigadier General S. R. Curtis, United States volunteers, Lieutenant Colonel B. G. Farrar, provost marshal general, and Charles Borg, Esq., assessor of the county of St. Louis, will constitute a board of assessors for levying the aforementioned contribution. In determining the amount of property of the individuals assessed, the board will take into consideration the official assessment lists for municipal taxes.

3. As soon as any part of the contribution has been assessed by the board, the provost marshal general will notify the parties assessed, their agents, or representatives, stating the amount of provisions, clothing, or quarters, and the money value thereof, required of each, and if not furnished within the times specified in such notice, he will issue an execution, and sufficient property will be taken, and sold at public aution, to satisfy the assessment, with costs, and a penalty of twenty-five per cent. in addition. When buildings, or parts of buildings, are to be used, and where any of the sufferers are to be quartered on families, care should be taken to produce as little inconvenience to the owners or families as possible, this not being considered a military contribution levied upon the enemy; but merely a collection to be made from friends of the enemy for charitable purposes.

4. If any person upon whom such assessment shall be made shall file with the provost marshal general an affidavit that he is a loyal citizen, and has been true to his allegiance to the United States, he will be allowed one week to furnish evidence to the board to vindicate his character; and if at the end of that time he shall not be able to satisfy the board of his loyalty, the assessment shall be increased ten per cent., and the levy immediately made.

5. The supplies so collected will be expended for the object designated, under the direction of the provost marshal general, with the advice of the State sanitary commission. Where money is received in lieu of supplies, it will be expended for them as they may be required. Any money not so expended will be turned over to the sanitary commission for the benefit of sick soldiers. A strict and accurate account of their receipts and expenditures will be kept and returned to these headquarters.

6. Any one who shall resist, or attempt to resist, the execution of these orders, will be immediately arrested and imprisoned, and will be tried by a military commission.

By order of Major General Halleck.

JOHN C. KELTON, *A. A. G.*

Here you have another installment of martial law. Here is an order from one of your generals in the field, taking $10,000 from citizens of St. Louis without judicial process, not as a military assessment, but in the way of charity, as he calls it, for a purpose prescribed by himself. Do you not see that generals now in the field are overthrowing the constitutions of the States and the Constitution of the United States; and yet you, who pretend to be friends of constitutional liberty, sanction it? Do you not know that by so doing you yield every sacred guarantee of your liberties contained in the Constitution of your country? You even yield to the will of a despotic President the power of driving you from these Halls. Under this power he can at his will drive the Supreme Court, and he can drive the State Legislatures from their places. He can do as Halleck has done—by his mere *ipse dixit* prescribe the qualifications of voters by military order; and by levying assessments, as he has done on men at St. Louis, deprive the people of any State within his command of every shilling they have and all their property, and devote it to whatever purpose he pleases. The President suffered all this, for I took to him the very order of General Halleck which has just been read, at the instance of a schoolmate and friend in Missouri, and told him its enormities, and asked him to have it corrected. He told me he would present the matter to his Cabinet. He kept the papers several days, and returned them with a very brief note, saying that he could not at present do anything with it. A people who will tamely submit to such an usurpation of their constitutional rights, to such an assault upon their dearest liberties and most sacred interests, do not deserve to be free; and unless they are aroused to a just appreciation of their rights and liberties, military despots will soon have their heretofore free limbs in chains and fetters. Such acts as these are being done, and, so far from doing anything here that would sanction in the least this assumed power of the President to declare martial law, the Senate owes it to itself, owes it to the Constitution of the country, in the name of the public liberties, to protest in the most solemn form against the extraordinary powers assumed by Major General Halleck and others in authority. As faithful sentinels of liberty, as the guardians of the Constitution, chosen by the people and the States, Congress should, in my judgment, in the most unequivocal manner visit these usurpers with the harshest censure. We can, however, get no censure against those who overthrow the Constitution in these degenerate days.

Now let me examine for a moment the proposition of Mr. Adams. I have here a speech made by the Senator from Massachusetts, [Mr. SUMNER,] in which he rests this doctrine upon the authority of Mr. Adams. The honorable chairman of the Committee on the Judiciary [Mr. TRUMBULL] rests it on the war power; but I must do him the justice to say that I do not think he has ever claimed that the President had the right to proclaim martial law. He says the power to confiscate necessarily flows from the power to carry on the war. In that I think he is greatly mistaken. But, sir, I will read an extract from the speech of the Senator from Massachusetts, made at Worcester, in October last:

"But there is another agency that may be invoked, which is at the same time under the Constitution and above the Constitution."

That is queer phraseology, under it and above it.

"I mean martial law. It is under the Constitution, because the war power to which it belongs is positively recognized by the Constitution. It is above the Constitution, because when set in motion, like necessity, it knows no other law."

I read in Horace when I was a boy, *necessitas non habet legem*, and the gentleman applies that ancient maxim to this case.

"For the time it is law and Constitution."

It is strange that one who claims to be educated in all the refinements of New England liberty, should say that the war power is above the Con-

stitution and the law. I have been taught to believe that there was no well-defined liberty save in the supremacy of the law, that there was no regulated liberty save where the law was supreme; but it seems that the code of the Senator from Massachusetts is, that this martial law exists in this country, and that it is above all law and above the Constitution:

"The civil power, in mass and in detail, is superseded, and all rights are held subordinate to this military magistracy. All other agencies, small and great, executive, legislative, and even judicial, are absorbed in this transcendent triune power, which, for the time, declares its absolute will, while it holds alike the scales of justice and the sword of the executioner. The existence of this power nobody questions. If it has been rarely exercised in our country, and never in an extended manner, the power none the less has a fixed place in our political system. As well strike out the kindred law of self-defense, which belongs alike to States and individuals. Martial law is only one form of self-defense.

"That this law might be employed against slavery was first proclaimed in the House of Representatives by a Massachusetts statesman, who was a champion of freedom—John Quincy Adams. [Applause.] His authority is such that I content myself with placing the law under the sanction of his name, which becomes more authoritative when we consider the circumstances under which he first put it forth, then repeated, and then again vindicated it.

"It was as early as the 25th May, 1836, that Mr. Adams first expounded what he called 'the war power and treaty-making power of the Constitution.' Then it was that he declared:

"'From the instant that your slaveholding States become the theater of war, civil, servile, or foreign, from that instant the war powers of Congress extend to interference with the institution of slavery in every way in which it can be interfered with, from a claim of indemnity for slaves taken or destroyed, to the cession of a State burdened with slavery to a foreign Power.'

"Again, on the 7th of June, 1841, after many years of reflection and added experience in public life, he terrified slavemasters by showing that universal emancipation might be accomplished through this extraordinary power.

"Afterwards, on the 14th of April, 1842, for the third time, he stated the doctrine in the House of Representatives, and challenged criticism or reply. I forbear to read the whole speech, though it is worthy of constant repetition. An extract will suffice.

"'I lay this down as the law of nations. I say that the military authority takes for the time the place of all municipal institutions, slavery among the rest. Under that state of things, so far from its being true that the States where slavery exists have the exclusive management of the subject, *not only the President of the United States, but the commander of the Army has power to order the universal emancipation of slaves.*' [Applause.]

"And then again he announces in words further applicable to the present hour:

"'Nor is this a mere theoretic statement. Slavery was abolished in Colombia first by the Spanish General Murillo, and secondly by the American General Bolivar. It was abolished by virtue of a military command given at the head of the army, and its abolition continues to be law to this day.'

"The representatives of slavery fumed and raged at these words, and at their venerable author; but nobody answered them. And they have stood ever since in the records of Congress, firm and impregnable as adamant."

That is the position which is taken under shelter of the name of Mr. Adams. The Senator was very much mistaken when he said that nobody answered it. It is well for the Senator that he contented himself with resting it upon a dictum of John Quincy Adams. It affords but another evidence that very great and very learned men often, when distempered by a single idea—as I regret to say Mr. Adams was in the latter part of his life on the subject of African slavery—give utterance to the greatest and most astounding heresies. Mr. Adams did it in this case. If the Senator had looked into the Constitution of his country, if he had looked into the judicial decisions and into the legislative decisions upon this subject, or if he had looked into the elementary writers, he would have found precedent against him; but it is a very convenient way to cloak one's self under the mantle of a great name, particularly when it is sought to impose on the ignorant and credulous. I will show you that this position of Mr. Adams was answered, answered at the time, answered in a manner that the Senator from Massachusetts and all the host that follow his standard never have met, and never will meet, in successful argument. It was answered by a distinguished citizen of Kentucky, by Judge Nicholas, an extract from the decision of whom I read a moment ago on another branch of the subject. Judge Nicholas issued a pamplet entitled Martial Law, in 1842, in which he reviewed the position of Mr. Adams in a bold, clear, lucid, logical argument, that I defy the Senator from Massachusetts to meet successfully. I shall have occasion to read a few extracts from that pamphlet before I am through; but before I do that I beg to read from Mr. Lieber. He speaks upon this, as he does upon all other subjects discussed by him, with great force and wisdom. At page 110 of his work on Civil Liberty and Self-Government, he says:

"All continental Governments which were bent on defeating the action of the new constitutions, even while they existed, resorted to declaring large cities and entire districts in 'a state of siege,' thus subjecting them to martial law. All absolute Governments, whether monarchical or democratic, have ever found the regular course of justice inconvenient, and made war upon the organic action of the law, which proves its necessity as a guarantee of liberty.

"It is obvious that whatever wise provisions a constitution may contain, nothing is gained if the power of declaring martial law be left in the hands of the Executive; for declaring martial law, or proclaiming a place or district in a state of siege, simply means the suspension of the due course of law, of the right of *habeas corpus*, of the common law, and of the action of courts. The military commander places the prisoners whom he chooses to withdraw from the ordinary courts before courts-martial. There were many French departments in 'a state of siege' before the *coup d'etat*. After it, all France may be said to have been so."

Thus a wise philosopher speaks. At page 117, the same author says:

"Ever since standing armies have been established, it has been necessary, in various ways, to prevent the army from becoming independent of the legislature. There is no liberty—for one who is bred in the Anglican school—where there is not a perfect submission of the army to the legislature of the people. We hold it to be necessary, therefore, to make but brief appropriations for the army. The King of England cannot raise an army, or any part of it, without act of Parliament; the army estimates are passed for one year only, so that were Parliament to refuse appropriations after a twelve month the army would be dissolved. The mutiny bill, by which power is given to the king to hold courts-martial for certain offenses in the army, is likewise passed for a year only; so that, without repassing it, the crown would have no power even to keep up military discipline."

Thus you see that our English ancestors and their descendants on the other side of the water, have been more rigid on this subject than we have been. Our Army regulations are a permanent statute; their mutiny act that gives them the right to hold courts-martial is passed every year. Here, under the Constitution, our appropriations for the Army can extend to two years; they limit theirs to one year.

Upon the question of the power to declare martial law, I find but one decision where the matter came directly in issue, though there are many decisions that touch it incidentally. There is a case in the third volume of Martin's Louisiana Reports, (Johnson *vs.* Duncan *et al.*, syndics,) where the question was made directly; and that the Senate may see it, I will read one of the grounds before the court:

"A motion that the court might proceed in this case, has been resisted on two grounds:

"1. That the city and its environs were, by general orders of the officer commanding the military district, put, on the 15th of December last, under martial law."

There the point was made directly that the functions of the court were suspended in consequence of martial law having been proclaimed in New Orleans, so that there could be no dodging it. In delivering the opinion of the court, Judge Martin said:

"At the close of the argument, on Monday last, we thought it our duty, lest the smallest delay should countenance the idea that this court entertain any doubt on the first ground, instantly to declare, *viva voce*, (although the practice is to deliver our opinions in writing,) that the exercise of an authority, vested by law in this court, could not be suspended by any man.

"In any other State but this, in the population of which are many individuals, who, not being perfectly acquainted with their rights, may easily be imposed on, it could not be expected that the judges of this court should, in complying with the constitutional injunction, *in all cases to adduce the reasons on which their judgment is founded*, take up much time to show that this court is bound utterly to disregard what is thus called *martial law*, if anything be meant thereby but the strict enforcing of the rules and articles for the government of the Army of the United States, established by Congress, or any act of that body relating to military matters, on all individuals belonging to the Army or militia in the service of the United States. Yet we are told that, by this proclamation of martial law, the officer who issued it has conferred on himself, over all his fellow-citizens within the space which he has described, a supreme and unlimited power, which, being incompatible with the exercise of the functions of civil magistrates, necessarily supersedes them.

"This bold and novel assertion is said to be supported by the ninth section of the first article of the Constitution of the United States, in which are detailed the limitations of the power of the Legislature of the Union. It is there provided that *the privilege of the writ of habeas corpus shall not be suspended, unless when in cases of invasion or rebellion, the public safety may require it.* We are told that the commander of the military district is the person who is to suspend the writ, and is to do so whenever, *in his judgment*, the public safety appears to require it; that, as he may thus paralyze the arm of the justice of his country in the most important case, the protection of the personal liberty of the citizen, it follows that, as he who can do the *more* can do the *less*, he can also suspend all other functions of the civil magistrate, which he does by his proclamation of martial law." * * * * * * * * * *

"The proclamation of martial law, therefore, if intended to suspend the functions of this court or its members, is an attempt to exercise powers thus exclusively vested in the Legislature. I therefore cannot hesitate in saying that it is in this respect null and void. If, however, there be aught in the Constitution and laws of the United States that really authorizes the commanding officer of a military district to suspend the laws of this State, as that Constitution and these laws are paramount to those of the State, they must regulate the decision of this court." * * * * *

"If it be said that the laws of war, being the laws of the United States, authorize the proclamation of martial law, I answer that in peace or in war, no law can be enacted but by the legislative power. In England, from whence the American jurist derives his principles in this respect, 'martial law cannot be used without the authority of Parliament.' (5 Comyns, 220.) The authority of the monarch himself is insufficient. In the case of Grant *vs.* Sir C. Gould, (2 Hen. Bl. 69,) which was on a prohibition (applied for in the Court of Common Pleas) to the defendant as judge advocate of a court-martial to prevent the execution of the sentence of that military tribunal, the counsel, who resisted the motion, said it was not to be disputed that martial law can only be exercised in England so far as it is authorized by the mutiny act and the articles of war, all which are established by Parliament or its authority, and the court declared it totally inaccurate to state any other martial law as having any place whatever within the realm of England. In that country, and in these States, by martial law is understood the jurisprudence of those cases which are decided by military judges or courts-martial. When martial law is established and prevails in any country, said Lord Loughborough, in the case cited, it is totally of a different nature from that which is inaccurately called martial law, (because the decisions are by a court-martial,) but which bears no affinity to that which was formerly attempted to be exercised in this kingdom *which was contrary to the constitution*, and which has been for a century totally exploded. When martial law prevails, continues the judge, the authority under which it is exercised claims jurisdiction over all *military* persons in *all* circumstances. Even their *debts* are subject to inquiry by military authority. Every species of offense committed by any person *who appertains to the army* is tried, not by a civil judicature, but by the judicature of the corps or regiment to which he belongs.

"This is martial law as defined by Hale and Blackstone, and which the court declared not to exist in England. Yet it is confined to *military* persons. Here it is contended, and the court must admit if we sustain the objection, that it extends to *all* persons, that it dissolves for awhile the government of the State.

"Yet, according to our laws, all military courts are under a constant subordination to the ordinary courts of law. Officers who have abused their powers, though only in regard to their own soldiers, are liable to prosecution in a court of law, and compelled to make satisfaction. Even any flagrant abuse of authority by members of a court-martial, when sitting to judge their own people, and determine in cases entirely of a military kind, makes them liable to the animadversion of the civil judge. (Deloime 447, Jacobs's Law Dict., *verbo* court-martial.) How preposterous then the idea that a military commander may, by his own authority, destroy the tribunal established by law as the asylum of those oppressed by military despotism."

And Judge Derbigny, in the same case, said:

"I will therefore examine how *martial law* ought to be understood among us, and how far it introduces an alteration in the ordinary course of government.

"To have a correct idea of *martial law* in a free country, examples must not be sought in the arbitrary conduct of absolute Governments. The monarch, who unites in his hands all the powers, may delegate to his generals an authority as unbounded as his own. But in a Republic where the Constitution has fixed the extent and limits of every branch of government, in time of war as well as of peace, there can exist nothing vague, uncertain, or arbitrary, in the exercise of any authority.

"The Constitution of the United States, in which everything necessary to the general and individual security has been foreseen, does not provide that in times of public danger the executive power shall reign to the exclusion of all others. It does not trust into the hands of a dictator the reins of the Government. The framers of that charter were too well aware of the hazards to which they would have exposed the fate of the Republic by such a provision; and had they done it the States would have rejected a Constitution stained with a clause so threatening to their liberties. In the mean time, conscious of the necessity of removing all impediments to the exercise of the executive power in cases of rebellion or invasion, they have permitted Congress to suspend the privilege of the writ of *habeas corpus* in those circumstances, if the public safety should require it. Thus far and no further goes the Constitution. Congress has not hitherto thought it necessary to authorize that suspension. Should the case ever happen, it is to be supposed that it would be accompanied with such restrictions as would prevent any wanton abuse of power. 'In England,' says the author of a justly celebrated work on the constitution of that country, 'at the time of the invasion of the Pretender, assisted by the forces of hostile nations, the *habeas corpus* act was indeed suspended; but the executive power did not thus of itself stretch its own authority; the precaution was deliberated upon and taken by the representatives of the people; and the detaining of individuals in consequence of the suspension of the act was limited to a fixed time. Notwithstanding the just fears of internal and hidden enemies which the circumstances of the times might raise, the deviation from the former course of the law was carried no further than the single point we

have mentioned. Persons detained by order of the Government were to be dealt with in the same manner as those arrested at the suit of private individuals; the proceedings against them were to be carried on no otherwise than in a public place; they were to be tried by their peers, and have all the usual legal means of defense allowed to them, such as calling of witnesses, peremptory challenge of jurors,' &c. And can it be asserted that while British subjects are thus secured against oppression in the worst of times, American citizens are left at the mercy of the will of an individual, who may in certain cases, *the necessity of which is to be judged of by himself*, assume a supreme, overbearing, unbounded power? The idea is not only repugnant to the principles of any free Government, but subversive of the very foundations of our own.

"Under the Constitution and laws of the United States, the President has a right to call, or cause to be called into the service of the United States, even the whole militia of any part of the Union, in case of invasion. This power, exercised here by his delegate, has placed all the citizens subject to militia duty under military authority and military law. *That* I conceive to be the extent of the *martial law*, beyond which all is usurpation of power. In that state of things the course of judicial proceedings is certainly much shackled, but the judicial authority exists, and ought to be exercised whenever it is practicable. Even where circumstances have made it necessary to suspend the privilege of the writ of *habeas corpus*, and such suspension has been pronounced by the competent authority, there is no reason why the administration of justice generally should be stopped. For, because the citizens are deprived temporarily of the protection of the tribunals as to the safety of their persons, it does by no means follow that they cannot have recourse to them in all other cases.

"The proclamation of the *martial law*, therefore, cannot have had any other effect than that of placing under military authority all the citizens subject to militia service. It is in that sense alone that the vague expression of *martial law* ought to be understood among us. To give it any larger extent would be trampling upon the Constitution and laws of our country."

Chancellor Kent, when he was chief justice of New York, in the case of a *habeas corpus* for the release of a man arrested by military authority, (reported in 10 Johnson, 333,) said:

"Nor can we hesitate in enforcing a due return to the writ when we recollect that in this country *the law knows no superior*; and that in England, her courts have taught us, by a series of instructions and examples, to exact the strictest obedience to whatever extent the persons to whom the writ is directed may be clothed with power, or exalted in rank.

"If ever a case called for the most prompt interposition of the court to enforce obedience to its process, this is one. A military commander is here assuming criminal jurisdiction over a private citizen, is holding him in close confinement, and contemning the *civil authority* of the State."

In addition to these authorities I find the following note to the case in 3 Martin:

"The doctrine established in the first part of the opinion of the court in the above case, is corroborated by the decision of the district court of the United States for the Louisiana district in the case of *United States vs. Jackson*, in which the defendant, having acted in opposition to it, was fined $1,000. In *Lamb's case*, Judge Bay, of South Carolina, recognized the definition of martial law given by this court, expressing himself thus: 'If by martial law is to be understood that dreadful system, the *law of arms*, which in former times was exercised by the King of England and his lieutenants when *his word was the law* and his *will the power* by which it was *exercised*, I have no hesitation in saying that such a monster could not exist in this land of liberty and freedom. The political atmosphere of America would destroy it in embryo. It was against such a tyrannical monster that we triumphed in our revolutionary conflict. Our fathers sealed the conquest by their blood, and their posterity will never permit it to tarnish our soil by its unhallowed feet, or harrow up the feelings of our gallant sons by its ghastly appearance. All our civil institutions forbid it; and the manly hearts of our countrymen are steeled against it. But if by this military code are to be understood the rules and regulations for the government of our men in arms, when marshaled in defense of our country's rights and honor, then I am bound to say there is nothing unconstitutional in such a system.'" *—Carroll's Law Reports*, 330.

Now, sir, it is plain from the authorities I have read, that the principle announced by Mr. Adams, under whose name the Senator from Massachusetts takes shelter, has no place in the Constitution of your country, as expounded by the courts. I know it has been said by some persons that General Jackson, when he exercised the power of declaring martial law at New Orleans, was sustained by the law; but allow me to say to the Senate that that act of General Jackson has been denounced in every form as unconstitutional. It was so declared by the supreme court of Louisiana in the case I have read; it was so declared by the district court of the United States for the district of Louisiana; and the same principle was declared by Bay in South Carolina, and by Kent in New York. Allow me to tell you that committees in both Houses—a committee of the Senate and a committee of the House of Representatives—declared the same thing. I will read a short extract from the report of the Judiciary Committee of the lower House—a report made, I believe, by the worthy and talented Senator from Maryland, [Mr. PEARCE,] then a member of the House of Representatives:

"There is no martial law known to the laws of the United States but such as Congress has provided for the government of the Army. That other martial law, which General Jackson claimed a right to establish, was never acknowledged in our country, and has never been tolerated in England since the time of William III, more than one hundred and fifty years since, when, in the Declaration of Rights, it was provided 'that the pretended power of suspending laws, and the execution of laws by regal authority, without consent of Parliament, is illegal;' and 'that the pretended power of dispensing with laws by regal authority, as it hath been assumed and exercised of late, is illegal.' These declarations were afterwards, to make assurance doubly sure, incorporated in the Bill of Rights. (See De Lolme on the Constitution, Stephens's edition.) Hume, in his History of England, (fifth vol., 454,) in stating the instruments of power and oppression employed by the Tudors and the Stuarts, after describing the terrible jurisdictions of the courts of Star Chamber and High Commission, says: 'But martial law went beyond even these two courts, in a prompt, arbitrary, and violent method of decision. Whenever there was any insurrection or public disorder the crown employed martial law; and it was during that time exercised not only over the soldiers but *over the whole* people. Any one might be punished as a rebel, or an aider and abettor of rebellion, whom the provost marshal or lieutenant of the county pleased to suspect.'

"It was this martial law which the Declaration of Rights put to an end in England, and which it has reserved for a country, where the people are the source of all power, to see revived and enforced by a republican general. This sort of martial law has no fixed boundaries, no prescribed principles. 'It is,' says Blackstone, (first vol., 413,) 'built on no settled principles, but it is entirely arbitrary in its decisions, and is, in truth, *no law*, but something indulged rather than allowed as a law—a temporary excrescence bred out of the distemper of the State.'

"Lord Loughborough, in 1792, (2 Henry Blackstone, 99,) declared that this vast, vague, and most dangerous power had no existence in England. 'It was contrary to the constitution, and had been for a century totally exploded.' So are the authorities in our own country."

We find judges in England, and all their lawwriters, declaring there is no such power, yet it is claimed here, when the provisions in our Constitution are certainly more explicit than those in the Petition of Right or the Bill of Rights.

I dislike to trouble the Senate with decisions, but the power claimed is so extraordinary, so subversive of the Constitution and every principle of civil liberty, that I should like to put the question beyond dispute by the clearest and most indisputable authority. I will read one or two very brief extracts from a debate in the Senate on refunding the fine imposed on General Jackson by Judge Hall. Mr. BAYARD said:

"Martial law is a code specially applicable to the Army and the Navy and militia when called into actual service, and is a distinct code for their government. Even in time of war, the private citizen, the non-combatant, cannot be subjected to the code which governs those engaged in warfare without a manifest violation of his civil rights."

Yet we find that this man, General Halleck, subjects to punishment those who are not in the military, and makes an assessment which in the very order he says is not a military assessment, going upon the theory announced by the Senator from Massachusetts, that martial law overthrows the whole civil law; that the Constitution and everything goes with it; in the language of Mr. Adams, in the speech from which I have just read, "it is all swept by the board." In that debate, on the refunding of General Jackson's fine, Mr. Buchanan said:

"The Senator from Delaware [Mr. BAYARD] had been discharging his heavy artillery against nothing. He had not even a target to aim at. It had never been contended on this floor that a military commander possessed the power, under the Constitution of the United States, to declare martial law. No such principle had ever been asserted on this [the Democratic] side of the House. He had then expressly declared (and the published report of the debate, which he had recently examined, would justify him in this assertion) that we did not contend, strictly speaking, that General Jackson had any constitutional right to declare martial law at New Orleans; but that, as this exercise of power was the only means of saving the city from capture by the enemy, he stood amply justified before his country for the act. We placed the argument not upon the ground of strict constitutional right, but of such an overruling necessity as left General Jackson no alternative between the establishment of martial law or the sacrifice of New Orleans to the rapine and lust of the British soldiery."

Mr. Berrien, who reported the bill from the Judiciary Committee of the Senate, said in the report:

"In the absence of any specific instructions from the Senate, and looking to the discussions which have led to the reference of the bill, the committee have come to the conclusion that they will best fulfill their duty to the Senate by reporting it with an amendment, placing the restoration of the fine imposed on General Jackson by Judge Hall on grounds which do not involve any censure of either of the parties in this bygone transaction, nor in any degree arraign the conduct of the patriotic citizens of New Orleans; but simply protect the Senate from the possible inference that, in passing this bill, it has acknowledged the legal authority of a military officer to establish martial law within the limits of this free Republic. They accordingly report the bill with an amendment."

I could give many other extracts, but I shall forbear. I have certainly shown, by the highest authority, that the assertion of Mr. Adams was wholly unfounded, and I defy the Senator from Massachusetts, who places the authority of his statement under the shield of that name, to meet the argument, to adduce the law, the decision of the court, or to find the assertion of the power in any elementary writer of any note. I have shown that the power does not exist from the elementary books, I have shown it from the decisions of the courts, I have shown it from the reports of committees of Congress, I have shown it from the debates of Congress. I venture to assert that the power will ever rest under the shade of the name of John Quincy Adams. A great name, I admit, but no more astounding heresy ever fell from the lips of a great man, one utterly subversive of the Constitution, and one that if carried out would overthrow our liberties and give to any commander in time of war the right to proclaim martial law, and substitute his own will for the Constitution and the established law of the land.

On the point of its being sanctioned by the laws of nations, I will read an extract from the able and lucid pamphlet of Judge Nicholas, to which I referred a moment ago. It disposes of that position of Mr. Adams in a more clear and lucid manner than I could do were I to make the effort:

"As to Mr. Adams's other authority, the laws of nations, it is difficult to understand what bearing they can have upon a question of lawful power within this Union. They may define the rights of the conqueror and the duties of the conquered; but that is not what Mr. Adams means. He contemplates an unsuccessful or undetermined invasion merely, and says that 'an invaded country has all its laws and municipal institutions swept by the board, and martial law takes the place of them,' with an incidental power to both our own and the foreign commander to emancipate the slaves. Eminent as Mr. Adams is as an authority on the law of nations, yet his opinion must surely yield to that of the whole American people, as expressed in their Declaration of Independence. This very mode of annoyance towards an enemy by inciting a servile insurrection, is there denounced as contrary to the law of nations and the usages of civilized warfare. It is ranked in atrocity with that other infamous practice of the English Government, the allying itself with the scalping knife and tomahawk. According to the better opinion, then, any invading foreign commander, who should issue such a proclamation as the one indicated by Mr. Adams, would thereby cast himself and those under his command out of the pale of the protection of the usages of civilized warfare. Much rather, therefore, would any commander of ours be considered as absolving himself from the protection of all law, by such a course, and subjecting himself to be rightfully shot by any one who chose so to rid the country of so infamous an incendiary.

"The American people have heretofore lived under the fond delusion that they had the exclusive privilege of making constitutions and laws for themselves, and that the combined will of all the nations of the earth could not rightfully add to or alter these laws in the smallest particular, so far as they operate within our own territory. Nor do the laws of nations themselves make any pretension to the power asserted by Mr. Adams in their behalf. There is no principle of international law better settled, probably none other about which there is less difference of opinion, than that the laws of one nation cannot operate within the territory of another; and, by consequence, neither can the combined laws of two, three, or twenty nations, so operate within the territory of another nation.

"There is a class of politicians in this country who have long been suspected of having no great love or admiration of our republican institutions, viewing them as a useless experiment which must ultimately give way to monarchical government, and therefore as rather impatient for the advent of some bold, great man, sufficiently powerful to do away with the idle trumpery of a Constitution, and relieve us from the trouble of governing ourselves. I must confess it has been heretofore supposed that Mr. Adams did not belong to this school of politicians. But it seems he goes a great way beyond them. They were merely suspected of sighing for a domestic usurper. He is for subjecting our Constitution and laws to the mercy of a foreign invader also, when he thinks it necessary, and to keep it up as long as he thinks it necessary; but for fear an American commander would never have the temerity or iniquity to attempt what he has in view, he claims that the power rightfully belongs to a foreign invader also, having in his eye, no doubt, an invader in particular, that never scrupled about means, however infamous, in the attainment of ends however iniquitous.

"If a foreign invader can strike dead, in the hands of its owners, $400,000,000 worth of property by his mere proclamation, though he be defeated and driven from our territory the next day, it is by a most precarious tenure indeed that we hold all which Government was instituted to protect and guard. For Mr. Adams does by no means limit this power to a mere emancipation of slaves, but says it sweeps the whole Constitution by the board, and substitutes the invader's will in its place. He no doubt looks to

that admired British Government for the invading commander, who is, by proclamation, to emancipate the three millions of his black fellow-citizens. But he should remember that, though it be now the pleasure of that immaculate Government to preach a crusade against negro slavery, she was formerly the patron and even attempted to be the monopolizer of the slave trade; that she even forced the slaves upon this country in despite the remonstrance of our fathers, as she is now attempting to force her opium upon the Chinese; that she may again change her views, drop her crusade agaist negro slavery, and preach a new crusade, as formerly, against the Protestant religion or any other cherished right of New England. Does that also lie at the mercy of her proclamations? Can she thus put down that religion and put up the Catholic or any other in its place?

"But, says Mr. Adams, this is not a mere theory; 'his doctrine has been carried into practical execution.' He cites us to the example of those eminent man-slayers and expositors of the law of nations and of the usages of civilized warfare, Generals Morillo and Bolivar. He says they both did the thing in Colombia, though he does not explain how; after one had emancipated all the slaves, it was still left for the other to do. Neither has he done his argument all the justice he might, in favor of the might of military power, from the example of the best of those two eminent expositors. He forgot to tells us that Bolivar, after having emancipated the blacks, by virtue of the same martial law enslaved the whites, and placed a crown on his own head. We of the South, even, who are so much interested in the subject of slave property, would deem this a much more striking and convincing example of the extent of military power than that of the mere emancipation of slaves."

It is a principle in the American constitutions, not only in the Constitution of the United States, but it is, I believe, distinctly avowed and asserted in the constitution of every State of the Union, that the military shall be subordinate, and shall be kept in subjugation to the civil power, that the law shall be supreme. It is asserted distinctly in the constitution of Massachusetts. On that point I will read one more short extract from Judge Nicholas's pamphlet:

"How differently from his forefathers of Massachusetts does Mr. Adams consider the influence of foreign laws and the overshadowing supremacy of military power. They say in their constitution: 'The people of this Commonwealth are not controllable by any other laws than those to which their constitutional representative body have given their consent.' He says they are controllable by the arbitrary will of a military chief, foreign or domestic; and that even their constitution is in subordination to the law of war and the law of nations. Their Provincial Congress, writing to the Continental Congress, in May, 1775, on the necessity of their 'taking up civil government,' said: 'As the sword in all free States should be subservient to the civil powers, and as it is the duty of the magistrate to support it for the people's necessary defense, *we tremble at having an army, although consisting of our own countrymen, established here without a civil power to provide for and control them.*' This being in time of actual war, a war of revolution, too, what a silly set of old-fashioned fellows that Provincial Congress must have been to be thus sighing for a civil government to control the army, they not knowing, in their simplicity, that it was the undoubted prerogative, by the law of nations, for the military to control the civil power in time of war. Fighting as they were for their lives and liberties, in the midst of an actual war of revolution, they trembled at the idea of an army of even their own countrymen, because there was no adequate civil power to control it. So little of this fear of military sway is there in Mr. Adams, that he contends the military rightfully does and should overmaster and control the civil authority in time of war from invasion or insurrection."

How differently did our fathers act. Martial law was never declared during the war of the Revolution, so far as I know. It was not declared during our war with Great Britain of 1812, save and except by General Jackson, in a single instance at New Orleans. The great and good Washington conducted the war of the Revolution without ever resorting to any such extraordinary power. Indeed, the temper of the times would have forbidden it. The stern patriots who were engaged in that struggle for civil liberty would not permit such a thing to be done; they would not have countenanced it for a single moment. When General Washington resigned his commission at Annapolis, on the 23d of December, 1783, Thomas Mifflin, President of the Continental Congress, addressed him thus:

"You have conducted the great military contest with wisdom and fortitude, invariably regarding the rights of the civil power through all disasters and changes."

That was the highest compliment which could be conferred on that illustrious chief; but in these times we have a President who allows his commanders-in-chief to declare martial law in the States; to issue edicts overthrowing the constitutional rights of the people, and prescribing the qualifications of electors. We find them levying forced contributions, not for military purposes, but in the way of charity, from the people of one of the States of the Union; and all this is borne. Sir, let me tell you that if the representatives of the American people submit to such acts, they surrender their Constitution, they surrender their liberties; and, indeed, in view of all these things, it seems to me that we are yielding and throwing away our liberties faster and more submissively than any free people ever before surrendered their dearest constitutional and civil rights. I will read to the Senate another extract from the speech of Mr. Webster on Jackson's protest. It so clearly points out the danger to free Governments from executive encroachments that he seemed to have looked with prophetic vision to these times:

"Mr. President, the *contest for ages has been to rescue liberty from the grasp of executive power.* Whoever has engaged in her sacred cause, from the days of the downfall of those great aristocracies which stood between king and people to the time of our own independence, has struggled for the accomplishment of that single object. On the long list of the champions of human freedom there is not one name dimmed by the reproach of advocating the extension of executive authority. On the contrary, the uniform and steady purpose of all such champions has been to limit and restrain it. To this end, all that could be gained from the imprudence, snatched from the weakness, or wrung from the necessities of crowned heads has been carefully gathered up, secured, and hoarded as the rich treasures, the very jewels of liberty. To this end, popular and representative right has kept up its warfare against prerogative with various success; sometimes writing the history of a whole age with blood, sometimes witnessing the martyrdom of Sydneys and Russells, often baffled and repulsed, but still gaining on the whole, and holding what it gained with a grasp that nothing but its own extinction could compel it to relinquish.

"Through all this history of the contest for liberty, executive power has been regarded as a lion that must be caged. So far from being the object of enlightened popular trust—so far from being considered the natural protection of popular right—it has been dreaded as the great object of danger.

"Who is he so ignorant of the history of liberty at home and abroad; who is he from whose bosom all infusion of American spirit has been so entirely evaporated as to put into the mouth of the President the doctrine that the defense of liberty naturally results to executive power, and is its peculiar duty? Who is he that is generous and confiding towards power where it is most dangerous, and jealous only of those who can restrain it? Who is he that, reversing the order of State and upheaving the base, would poise the pyramid of the political system upon its apex? Who is he that declares to us, through the President's lips, that the security for freedom rests in executive authority? Who is he that belies the blood and libels the fame of his ancestry by declaring that they, with solemnity of form and force of manner, have invoked the executive power to come to the protection of liberty? Who is he that thus charges them with the insanity or recklessness of thus putting the lamb beneath the lion's paw. No, sir; no, sir. *Our security is in our watchfulness of executive power.* It was the constitution of this department which was infinitely the most difficult part in the great work of creating our Government. To give the executive such power as should make it useful, and yet not dangerous; efficient, independent, strong, and yet prevent it from sweeping away everything by its military and civil power, by the influence of patronage and favor—this, indeed, was difficult. They who had the work to do saw this difficulty, and we see it. If we would maintain our system, we shall act wisely by preserving every restraint, every guard the Constitution has provided. When we and those who come after have done all that we can do and all that they can do, it will be well for us and for them if the Executive, by the power of patronage and party, shall not prove an overmatch for all other branches of the Government.

"I will not acquiesce in the reversal of all just ideas of government. I will not degrade the character of popular representation. I will not blindly confide when all experience admonishes to be jealous. *I will not trust executive power, vested in a single magistrate, to keep the vigils of liberty.*

"Encroachment must be resisted at every step. Whether the consequences be prejudicial or not, if there be an illegal exercise of power, it must be resisted in the proper manner. We are not to wait till great mischief come, till the Government is overthrown, or liberty itself put in extreme jeopardy. We should not be worthy sons of our fathers were we so to regard questions affecting freedom."

The eloquent extract just read from Mr. Webster is so full of wisdom and truth, so applicable to the times, that I wish the great truths contained in it, could be indelibly impressed upon the mind of every American citizen. The principles so eloquently and forcibly set forth by Mr. Webster are utterly at war with Mr. Adams's heresy on martial law.

This doctrine of martial law has not existed in England for two hundred years. I have examined every book on martial law that I could find. Samuels on Military Law (page 188) says:

"The military state receives its laws, as it has been observed, but in a rude and unpolished form, nevertheless with all their rough intrinsic value, in the first instance, from Parliament, through the medium of an annual statute—the mutiny act."

The British Parliament passes the mutiny act annually, and it passes the army appropriations annually. They guard the military more scrupulously than we do. Under our Constitution we can make our appropriations for two years. It was decided distinctly by Lord Loughborough, in a case to which I have alluded, in 2 Henry Blackstone's Reports, that the doctrine has not existed in England since the Petition of Right. I have the Petition of Right here, but I shall not trouble the Senate by reading the clauses that prohibit martial law. In Grant's case, reported in 2 Henry Blackstone's Reports, Lord Loughborough said:

"The suggestion begins by stating the laws and statutes of the realm respecting the protection of personal liberty. It goes on to state that no person ought to be tried by a court-martial for any offense not cognizable by martial law, and so on. In the preliminary observations upon the case, my brother, Marshall, went at length into the history of those abuses of martial law which prevailed in ancient times. This leads me to an observation that martial law, such as it is described by Hale, and such also as it is marked by Mr. Justice Blackstone, does not exist in England at all. Where martial law is established and prevails in any country, it is of a totally different nature from that which is inaccurately called martial law merely because the decision is by a court-martial, but which bears no affinity to that which was formerly attempted to be exercised in this kingdom, which was contrary to the constitution, and which has been for a century totally exploded."

All the martial law we have here is that which necessarily arises under our articles of war. It is a law of Congress, and Congress alone can make it. If you claim any martial law outside of that, you overthrow the Constitution of your fathers. It is settled in England that "martial law, as it exists at present in this kingdom, forms a part of the law of the land. It is enacted by the same authority which is the origin of all the statutory regulation." (Tyler on Military Law, p. 105.) Scott on Military Law asserts the doctrine held by Tyler, and it is declared from the highest authority that the power to declare martial law has been repudiated in England for two hundred years. Mr. Wharton says, in the definition I read sometime since, that it is inconsistent with the Petition of Right. I ask the Senate if the clause in the Petition of Right or in the Bill of Rights which prohibits martial law is any more explicit or clear than our Constitution. Certainly the Petition of Right is not and the Bill of Rights is not more so; and yet you are willing to surrender the power to a Commander-in-Chief to overthrow the Constitution and all the laws of your country, to turn your Congress out of doors, to repudiate your judges, to overthrow the State constitutions, to supersede and overthrow all civil authority, to establish a religion, and compel the people to worship in such form as he may indicate. That is the doctrine announced by the Senator from Massachusetts. I hope it never will be again promulgated by an American Senator, or harbored or entertained for a single moment by an American citizen. It shows a subserviency to the military and executive power that no man bred in the school of American liberty and who properly appreciates constitutional freedom should ever for a moment entertain. It is a doctrine that should be avowed only by despots and tyrants, and asserted and proclaimed only by those who are willing to be the slaves of tyrants.

Senators, if you maintain this Union at all, you must do it through the instrumentality of the Constitution. I have before said that the Union without the Constitution was worthless. The Union is only to be admired, only to be loved, because of the broad, the strong, the impenetrable shield that the Constitution throws around the rights and the liberties of the people. You may admire the country for its wide extent, its broad acres, its magnificent rivers, its noble seas, its gigantic mountains, but you can only love it because of its Constitution, for that secures to us all our rights; and while we defend it, while we protect it, while we maintain it against every usurper, whether he be high or low, as American Senators and the descendants of freemen should do, all will be well; but if we relinquish it, the saddest disasters will follow.

In 1851, Mr. Webster, the eminent statesman of Massachusetts, a man who was not driven off by a single idea, a man who studied the Constitution, who expounded the Constitution with an ability, with a force, with a power, with a cogency, and with a lucidness that perhaps was unequaled by any of our statesmen, said:

"If I have attempted to expound the Constitution, I have attempted to expound that which I have studied with diligence and veneration from my early manhood to the present

day. If I have endeavored to defend and uphold the Union of the States, it is because my fixed judgment and my unalterable affections have impelled me, and still impel me, to regard that Union as the only security for general prosperity and national glory. Yes, gentlemen, the Constitution and the Union! I place them together. If they stand, they must stand together; and if they fall, they must fall together.

"There are some animals that live best in the fire, and there are some men who delight in heat, smoke, combustion, and even general conflagration. They do not follow the things which make for peace. They enjoy only controversy, contention, and strife. Have no communion with such persons, either as neighbors or politicians. You have no more right to say that slavery ought not to exist in Virginia, than a Virginian has to say that slavery ought to exist in New Hampshire. This is a question left to every State to decide for itself; and if we mean to keep the States together, we must leave to every State this power of deciding for itself."

These are the words of a wise man and a great man; and he justly warns you against the results of such a course as is indicated in that brief sentence. I tell you now, Senators, beware of these one-idea men, whether they are politicians or divines. Their teachings have done no good. Let us take warning from and follow the wise teachings of the great Webster, and the illustrious fathers who went before him. They have taught us that we should resist all encroachments upon the Constitution at every hazard, and that the military power should be kept in strict subordination to the civil authority.

It is now proposed under the war power, as it is termed by some here, to overthrow every vestige of the Constitution, to place our rights and liberties in the hands of a single man, to make his will law. That is the doctrine expounded by the Senator from Massachusetts. We have already, in my humble judgment, suffered enough infractions of the Constitution to be committed without a just and manly rebuke of the usurpers, without now disposing of it by wholesale, by surrendering to one man the power to overthrow our system of government. What have we seen within the last year? The President of the United States has added thousands of men to your regular Army and to your Navy without warrant of law, usurping the powers of Congress, which alone has a right to raise armies and provide a navy; and money has been taken from the Treasury without warrant of law to bring the armies unlawfully raised into the field. The writ of *habeas corpus* has been suspended; citizens have been seized without charge and without warrant, although the Constitution says that they shall only be arrested on warrant and for probable cause. Men have been taken from their homes and hurried to distant forts. Hundreds of citizens of my own State, some of them men of the highest character and standing, have been confined for months in your northern bastile without charge, without warrant, who have begged all the time to be confronted with their accusers, who have asked to be tried by the courts, but the usurpers of your Constitution said no. Your Secretary of State issued his order, and men who were his peers in every respect—Governor Morehead, Mr. Stanton, and other gentlemen whom I could name—were hurried to your forts and kept there without law, without warrant, and have since been released, not by virtue of law, but by the will of your Secretary. We have seen the officials of a large city in a neighboring State—the police commissioners of Baltimore—seized in a similar way by the military authorities. They presented their petition to the Senate, demanding that they be either released or handed over to the civil tribunals to be tried, protesting their innocence; and what was the result? Only two members of the Judiciary Committee were in favor of reporting anything for their relief. I reported a preamble and resolution declaring that they should be immediately released, or handed over to the civil authorities for trial; it went on your Calendar last summer, and has remained there ever since; and some ten or twelve votes were the most I could ever get to take it up for consideration.

What else has been done? The Constitution guaranties liberty of speech and freedom of the press. The freedom of the press, which I had been taught to believe was the palladium of our liberties, and formidable only to tyrants, has been overthrown; papers advocating certain views have been denied circulation through the mails. All this has been done under the plea of necessity, which has been the tyrant's plea the world over. We find here that the chosen men of the people and the States, who are placed on the watch-tower of liberty as defenders of the Constitution, have so far failed to speak, as they should, in trumpet tones against those who thus overthrow the Constitution and the liberty of the people. Would our fathers have thus acted? No, sir, no; they, as became the representatives of a great and free people, would have spoken boldly and fearlessly in their places; they would have passed their resolves in condemnation of this abridgment of the rights of the people and this overthrow of constitutional liberty. We, however, do not. I made one effort, but it passed unheeded. If God spares me, I will try once more to get up the resolution to which I allude. For slighter violations of the constitution of Great Britain our English ancestors brought the head of one king to the block, and sent another a wanderer and an exile from his throne and his kingdom.

A wise man of Greece once said, that was the best Government where a wrong done to the poorest citizen was an insult to the whole State. Here, in this once free, happy, and prosperous country, we appreciated the maxim of the Grecian sage; but now we see, with apparent indifference, many of our most distinguished citizens seized without warrant, without charge against them, torn from their homes and families, hurried to distant prisons, and there kept for months in close confinement, all the time protesting their innocence, and demanding a trial in accordance to the Constitution and laws of the country, which was refused them. Some have been released, not by the law, but by the will of the usurpers who imprisoned them; others still languish in the prisons, and Congress has not dared to rebuke those who have thus denied to citizens their constitutional rights.

The right of the people to keep and bear arms is secured by the Constitution. The right to be free from unreasonable seizures and searches is declared. These rights have been disregarded. Indeed, almost every one of the great privileges which the Constitution declares belongs to the citizen has been overthrown. Not content with that, the astounding heresy is now avowed that you must give up the entire Constitution and laws of the United States and all the institutions of the States to the will of the President and to his commanders, under this assumed power to declare martial law. In the name of the liberties of a great people, in the name of the venerated Constitution of my country, I, for one, protest against all these things.

I know, Senators, that my loyalty to the Constitution of my country has caused me to be suspected of disloyalty to the Union of our fathers; but I care not what suspicions may be entertained, I, for one, while I am here, will speak what I believe; I will utter language becoming a Senator representing a brave and a free people. I will fearlessly utter my sentiments and denounce all who endeavor to overthrow the Constitution of my country, which they and I are bound by oath to support, and I will let consequences take care of themselves. I know that in these times, perhaps it may be said that the very speech I have made to-day is an evidence of treason. Sir, if loyalty to the Constitution of my country be treason, then am I a traitor. I have been loyal to that Constitution as I understand it, and I understand it only as our wisest and most illustrious fathers interpreted it. I shall continue in my place to denounce every encroachment on the Constitution of my country, I trust always in a becoming manner, and in such a way as not to exhibit any harsh or acrimonious feelings towards Senators who differ from me; but I mean in a manly, calm way to denounce every encroachment on the Constitution of my country and the liberties of the people, let the consequences be what they may. If I did less I should not discharge my conscientious duty. I intend, above all things, to be on good terms with myself; I will do nothing but what I think is right. Doing that, I am willing to submit my action to the judgment of my countrymen. In the present distempered state of the public mind I will, I have no doubt, receive the harsh censure of some; but in after time I expect my action to be approved by those who love constitutional liberty.

CONFISCATION OF REBEL PROPERTY.

SPEECH OF HON. W. P. CUTLER,

OF OHIO,

IN THE HOUSE OF REPRESENTATIVES,

April 23, 1862,

On the bill (H. R. No. 106) to facilitate the suppression of the rebellion and to prevent its return.

Mr. CUTLER said:

Mr. CHAIRMAN: In the preamble of the bill under consideration I find the following weighty and startling words:

"Slavery has caused the present rebellion in the United States, and there can be no solid and permanent peace and union in this Republic so long as that institution exists."

Sir, I believe these words are true. This conviction imposes upon me the duty not only of urging the President to use his power as provided in the bill, but opens the whole field of inquiry as to what policy is demanded to secure "solid and permanent peace and union." I shall therefore address myself directly to the inquiry whether, under the Constitution, Congress has any right to interfere with the system of slavery in the States.

I approach the subject with some reluctance, because I have, up to the breaking out of this rebellion, held that slavery was a local affair, and that Congress, having no rights over it, had no duties to perform in the premises. But I have always claimed that if the guardians of that institution, in their folly and madness, ever did succeed in giving it nationality, so that I should be held responsible in any way for its future existence, it should have no mercy at my hands.

I am also compelled to approach this question and look at it from the quiet standpoint of a plain business man, making no pretensions to political sagacity, having a thorough dislike for all political strategy, and no taste whatever for the mere agitation of any question. But I find a deep, strong, and rapidly increasing under-current of thought and feeling among quiet, intelligent people, running in the direction of a final and complete solution of this question of slavery.

This inquiry has produced some agitation, and may produce more. I have not in times past furnished, nor do I expect in future to furnish, much contribution to such agitation; but I must say that of one thing I have as thorough a contempt as is consistent with that courtesy I desire at all times to extend to those who differ with me in opinion. I allude to that kind of political management which seeks to control or suppress agitation upon this subject by dint of hard names, scornful epithets, and blustering threats.

I remember once to have read of an eastern monarch marching at the head of the most numerous army ever mustered, who was exceedingly annoyed by the boisterous agitation of the waves of the sea, which threatened to interrupt his progress and defeat his plans. He resorted to a pronunciamiento, and undertook to lecture the sea into obedience. Now, in my humble judgment, Xerxes made a great ass of himself, and lost some money, when he undertook to chain down the sea. There are people to-day who are attempting as foolish a task, and will some time or other be crowned with the same honors. You might as well read the riot act to a West India hurricane as to attempt to scold the people of this country into silence on any subject.

This agitation, sir, will never stop until this whole question of slavery is settled in accordance with the judgment and conscience of an intelligent Christian nation. The short logic now running through the minds of many people is this: slavery is the cause of this war; therefore slavery must be destroyed.

It is quite evident that the mind of the President—with the simplicity, earnestness, and honesty which characterize the man—is running in the same deep and thorough channel. In his recent message, he makes the "abolishment of slavery" a question of "self-preservation," and as such commends it to Congress. As a faithful guardian of the national life, he has uttered a warning voice which it would be unwise, if not criminal, to disregard. While he has shown a proper deference to those interested, and sought

their coöperation in any practical measure, it cannot be supposed that he intends that a question of self-preservation shall ever pass out of the hands of the sovereignty whose life is endangered—for to admit that each State, acting as States, can control and finally determine a question of life and death for the whole nation, is simply absurd.

The question then is upon us, and while my own views are quite decided, and have been formed outside of the arena of prevailing agitation, I shall present them with great diffidence, and in the spirit of earnest inquiry as to what is the right way, disclaiming all right or intention of speaking for anybody but myself. I shall indulge in an independent utterance upon the "vexed question," having a proper regard for differences of opinion and a proper disregard for personal consequences.

It cannot be denied that this general dread and real abhorrence of slavery prevailing in the minds of right-minded people is accompanied with the feeling that nothing can be done to secure its final overthrow without violating the Constitution of the United States. I recognize this wide-spread, universal regard for the Constitution as one of the grand safeguards of national existence, and not to be lightly esteemed by those who give direction to public opinion.

The inquiry therefore meets us at the threshold of the discussion: does the Constitution, by a fair construction of its powers, authorize or permit such interference by Congress with slavery as will lead to its ultimate extinction?

It is not simply in its property aspects that slavery is urged upon our most serious consideration. The relation which that system bears to our democratic institutions of government, the effect which its existence has had and its continuance will have upon their perpetuity, the antagonisms which naturally and necessarily flow from that source, and, above all, the intimate and direct connection between that system and the present rebellion, furnish topics of serious inquiry, and give rise to the question, still more serious, whether the Constitution itself is competent to grapple with impending dangers from this source and supply an efficient remedy.

The inquiry, of course, must lead to an investigation of the real merits of the system of slavery, a careful consideration of its power and tendencies for mischief, and involves the right and duty of Congress in the premises.

Without promising to pursue anything like logical accuracy in the discussion, I offer the following propositions as a basis, and will attempt to prove them sound:

1. It is the right and duty of Congress to destroy every enemy that threatens the national life.

2. Slavery is such an enemy. Therefore it is the right and duty of Congress to destroy slavery.

It will be conceded that our fathers, by the formation of the Constitution, succeeded in creating an absolute sovereignty for all purposes, expressed in the instrument itself. These purposes are clearly set forth in the preamble in the following language:

"We, the people of the United States, in order to form a more perfect union, establish justice, insure domestic tranquility, provide for the common defense, promote the general welfare, and secure the blessings of liberty to ourselves and our posterity, do ordain and establish this Constitution for the United States of America."

Now, whatever other objects, purposes, or aims the people may have had, it is absolutely certain that unity, justice, domestic tranquillity, defense, general welfare, and liberty, were intended to be secured to themselves and posterity, by ordaining and establishing the Constitution. These objects became the law of the new being thus created. It lives to secure them. A blow aimed at any or all of them is a blow aimed at its own life. As a sovereignty created for these objects, it has a right to live.

This right to exist involves the right to destroy enemies. If it has a right to destroy enemies, there must be a corresponding right to discriminate and determine who and what are or are not enemies. If this right of discrimination and determination exists, it will hardly be denied that Congress, acting in its coördinate capacity, is the proper organ of the Government to exercise this function.

I do not go to the preamble in search of a distinct grant of power. I go there to ascertain the purposes for which the Constitution was formed. I assume that the Government established by that instrument is absolutely sovereign to carry out and secure these purposes. To deny to a sovereignty thus formed the power necessary to carry out and secure the purposes of its own creation, really involves the absurdity of denying that it is a sovereignty at all. I need not point out specific clauses, because self-preservation, or, in other words, the carrying out and securing the purposes of its own creation, is the aim, end, substance, and fulfilling of the whole instrument.

No one, surely, can deny that the causes of the present most wicked and outrageous rebellion, which, thus far, has succeeded in destroying the "unity" and "tranquillity" of the nation, are proper subjects of inquiry and determination; and if, upon such inquiry, it shall be found that slavery is its author—or if its identification with this rebellion is such as to demonstrate its utter antagonism with the purposes for which the Constitution was formed—then it is not only the right but the duty of Congress to take such measures as it may deem proper for its destruction as a public enemy. The safety of the people is the supreme law, to which every interest, every institution, every man's life, even, must yield obedience.

But I am met at this point with the objection that slavery is guarantied by the Constitution—that the web of its existence by some mysterious process is so interwoven with the warp and woof of that instrument that to touch slavery you destroy the Constitution.

It is far from my purpose to enter into a nice discussion of constitutional law, but rather to state facts and to pursue those inferences which seem palpable and open to the most slender comprehension. It is a fact that nearly all the controversies which have hitherto prevailed on the subject related to the extension of the system or to the return of fugitive slaves. These controversies are inapplicable to a proposition to destroy the system, upon the ground that it is a public enemy. Granting that the Constitution did guaranty the return of fugitive slaves, it does not follow that it undertook to keep up a supply of fugitives. But we may understand the subject better by inquiring into the facts of the existence of the system in this country, and may thus see whether the Constitution is in any way responsible for it. That slavery in this country had its origin in the forcible abduction of its victims from a foreign country, and that their bondage ensued as a usual status of captives taken in war is true, but that the persons now held in slavery are captives taken in war will not be claimed. The status of those now held in slavery is determined by applying to each individual an old heathen maxim, "*partus sequitur ventrem*," "the child follows the condition of the mother." From whence is that maxim derived? From a nation whom God in His wrath has tried, condemned, executed, and buried out of sight, mainly because it persistently applied that maxim to creatures born in His image, thus perpetuating a system which dishonored Him, and more than anything else wrought out its own national ruin.

Now, this great nation, leading the van of Christian and democratic progress, digs out of the fire and brimstone of Roman perdition this maxim, makes it the very basis and foundation of a system which dooms to slavery the laborers of half a continent, and then coolly throws the responsibility of the abhorrent deed upon the Constitution of the United States. Now, let us see how the case stands. The Constitution says, no person shall be "deprived of liberty without due process of law." This heathen maxim deprives a whole race of liberty, and assigns as the only reason, not that they are black, not that they are captives, but that the mother was a slave. Here is a direct, positive, fatal conflict with the Constitution.

It may be claimed that this maxim has been recognized by judicial and legislative action, and has become the local common law of the slave States. Grant that, it is so. This assumption relieves the Constitution of any paternity of the system, and to this extent, surely, there is no guarantee. No local or common law can repeal or abrogate the Bill of Rights. More than this, the heathen maxim—*partus sequitur ventrem*—works a corruption of blood. Now, if there is any one of the old feudal principles of despotism more thoroughly condemned and abhorred than another, this idea of corruption of blood is that one. It was not only buried by common consent of the Anglo-Saxon race, long before the formation of the Constitution, but the possibility of its resurrection was forever precluded in that instrument; and yet it is the very life, indeed the only blood the system of slavery has in it.

So far is it from being true that slavery is based upon the Constitution, it may be stated as a general proposition, that neither the organic or statutory laws of the slave States themselves undertake to create the relation of master and slave, but treat it as an existing fact. The constitution of Kentucky, adopted in 1850, however, was probably intended to form an exception to this rule. It is there provided, (article 13, section 3:)

"That the right of property is before and higher than any constitutional sanction; that the right of the owner of a slave to such slave and its increase, is the same and as inviolable as the right of the owner of any property whatever."

There we have the higher law of slavery, something above constitutional sanction. The same provision found its way into that graceless political reprobate called the Lecompton constitution. This is not so much an effort to create the institution, as it is an attempt to perpetuate a relation already existing, and to withdraw it from the reach of legislative and judicial interference. It is a concise embodiment of the results of the system and an indorsement thereof by the organic law. This culmination of the slave theory, as stated in the Kentucky constitution, did not satisfy its friends, and hence the demand for what was intended to be a complete panacea for all its ills—the Dred Scott decision. I have thus briefly stated the facts relating to the vitality of slavery, and described the thing which is claimed to be guarantied by the Constitution.

Now, when I am daily met with the demand, most vigorously and earnestly, and with apparent sincerity made, that I shall live up to and respect the guarantees of the Constitution in regard to slavery, I think I have a right to demand, where are those guarantees written in the instrument itself? I do not want outside understandings or conversations to be substituted for the text; but where is it nominated in the bond that the sovereignty created by the Constitution shall enforce that decree of hell by which, with the brevity and point of a thunderbolt, the child born in the image of God is severed from the womb and consigned to the stall of the brute? Give me the text of the organic law of this great nation, which sanctions or enforces the robbery of cradles to supply sinews for a toil creative of luxury for an oligarchy. Where are we bidden to enforce a theory and to protect an interest which declares itself to be above all constitutional sanction?

I claim that the Constitution gives no guarantee whatever for the existence of slavery, but that it lives solely by its own local law, and that local law is in palpable violation of the Constitution.

But I go further, and say that if the life of the institution had been guarantied by the Constitution, if it had drawn its life-blood from that source, if it becomes a public enemy its right to live is forfeited. I say this, because the condition of life for every being is, that it shall not use its powers to strike down the life of its creator. If it does, then its own life is forfeited. And I venture to assert, as an historical fact, that no proper judicial tribunal has ever considered and decided the question, whether, under and by virtue of the Constitution, a child born of a slave mother can in consequence be held to service for life; but, on the contrary, the courts have treated the relation of master and slave as an existing status, without having inquired into its rightfulness.

It is therefore at least an open question whether there can be such a relation under the Constitution, or rather, whether the Constitution does not sweep away every local law that is in direct conflict with its own provisions. And it was to avoid this very question that slaveholding Senators resisted a trial by jury of fugitive slaves. Mr. Ma-

son, of Virginia, on the 19th of August, 1850, in the Senate, said:

"Then again it is proposed, as part of the proof to be adduced at the hearing after the fugitive has been recaptured, that evidence shall be brought by the claimant to show that slavery is established in the State from which the fugitive absconded. Now this very thing, in a recent case in the city of New York, was required by one of the judges of that State, which case attracted the attention of the authorities of Maryland, and against which they protested, because of the indignities heaped on their citizens and the losses sustained in that city. In that case the judge of the State court required proof that slavery was established in Maryland, and went so far as to say that the only mode of proving it was by reference to the statute-book. Such proof is required in the Senator's amendment; and if he means by this that proof shall be brought that slavery is established by existing laws, it is impossible to comply with the requisition, for no such proof can be produced, I apprehend, in any of the slave States. I am not aware that there is a single State in which the institution is established by positive law."

We are thus brought to the consideration of the minor proposition that slavery is a public enemy. It is evident that the main controversy must turn upon the truth of this proposition, for if its enmity were quite apparent, if it stood in the same attitude of hostility as the southern confederacy now stands, the unanimous voice of the people, which now demands the unconditional downfall of that combination, would demand in like manner the extinction of slavery. It is my object to show that it is thus hostile, and that this rebellion is simply slavery in arms against the Constitution.

Let us for a moment look at its past footprints upon this continent, and inquire into its true origin, aims, and results. More than two hundred years ago a vessel landed upon the shores of this wilderness continent, freighted with an idea. True, there was material property and men on board that vessel; but they have all perished with the rubbish of the past. But the idea came for conquest and dominion, and it still lives. That idea had long held sway over Europe, and determined the fate of its people. The idea was simply that the few had a right to control the many, and to appropriate for their own benefit the fruits of the laborer's toil. Then it was called feudalism, its victims villiens; its home was in the mountain crags; its business, war; its wealth, spoils; its pleasant places, the desolations of industry; its law, the will of a chieftain; its prey, the people; its history, the dark ages of Europe.

The organization of regular Governments under monarchies dislodged feudalism from its mountain fastnesses and strongholds, and compromised with its leaders by offers of position at court; but the idea itself was never dislodged from the heart of the gentry of Europe. Driven from its first possessions, it sought other devils more malignant than itself, and started its fortunes in the newly swept and garnished continent of America. I need not trace the development of the feudal or despotic idea into the full grown system of slavery as it now exists. In its new form it is seven times worse than before. It was despotism then, it is despotism now. In Europe it succumbed and gradually vanished before the pale starlight of the monarchies. But while heaven and earth rejoiced over its downfall there, it cunningly steals half a continent here, and bids defiance to God and man, under the Constitution of the United States. But the day of its judgment has come. The cry of the poor has reached the ear of their Almighty friend, and that system, which has hitherto eluded retribution, must stand the scrutiny of mankind, and be judged by its deeds.

Let us examine some of the direct antagonisms between the system and the objects for which the Constitution was formed. As an illustration how entirely it defeats the first object named—that is, "justice"—I need not spend time in arguing that slavery is contrary to natural justice. That point is so universally conceded that it may be assumed as an axiom. The authors of the Constitution decided that "justice" should be one of the objects to be cared for and promoted by that instrument. As it is not limited in terms to any particular class of persons, it is fair to presume that it was intended to reach all who are to be affected by the administration of justice.

It is not necessary for the purpose of my argument to extend the inquiry as to how far every inhabitant of a country may demand justice at the hands of a sovereignty formed by the people for the avowed purpose of establishing justice—or to throw upon the General Government responsibilities in this regard which belong to State Governments. But I do desire to enter a modest but firm protest against the popular view of this question taken by all parties, which contemptuously and scornfully ignores all right of the slave to justice in his personal relations, and without desiring to take a hyper-religious view of the subject, or press Christian ethics improperly into the controversy, I do claim that when God in His providence locates beings formed in His own image within the territorial limits of a sovereignty, professedly based upon justice, there is an obligation somewhere to give heed to His claims in this regard. He has pledged the honor and strength of His government in behalf of the oppressed. Hence it is that "whoever oppresseth the poor reproacheth his Maker." And I venture to say that the Almighty has this day a controversy with this nation because the rights of the poor have been persistently ignored and natural justice denied to them. Now, we may say that a denial of justice to the slave can work no harm to us, because the slave is too weak to vindicate his rights. But the constitutional guardians of a nation's sovereignty cannot afford to enter the lists against such an adversary as we do encounter when we oppress the poor and vex the needy. It may seem easy to stop the mouth of the dumb and turn away the poor and friendless from his right, but their Redeemer is mighty, and no wise counselor of the nation's safety will attempt to thwart His purposes or refuse to coöperate in His plans when He rises in the majesty of His power to vindicate the rights of the poor.

If it shall appear that the power of the sovereignty can be rightfully exercised, directly to carry out the objects of its being, or if this system of crying injustice has made itself obnoxious to interference by this and other delinquencies, and in consequence of outrages upon the nation's life and welfare—permitted by Providence, perhaps, for this very end—there, I say, our responsibility begins. Let us give a moment's heed to His warnings; see what estimate He places upon the rights of the poor, and the pledges He has given to vindicate their cause:

"Rob not the poor because he is poor; neither oppress the afflicted in the gate; for the Lord will plead their cause and spoil the soul of those that spoiled them."—*Proverbs*, xxii, 22, 23.

"Wo unto him that buildeth his house by unrighteousness and his chambers by wrong; that useth his neighbor's service without wages, and giveth him not for his work."—*Jeremiah*, xxii, 12.

"Therefore, thus saith the Lord: ye have not hearkened unto me, in proclaiming liberty, every one to his brother, and every man to his neighbor: behold! I will proclaim a liberty for you, saith the Lord, to the sword, to the pestilence, and to the famine."—*Jeremiah*, xxxiv, 17.

"He shall judge the poor of the people. He shall save the children of the needy, and shall break in pieces the oppressor."—*Psalm* lxxii, 4.

"For the oppression of the poor, for the sighing of the needy, now will I arise, saith the Lord. I will set him in safety from him that puffeth at him."—*Psalm* xii, 5.

Now, if the existence of this huge injustice in the land has aroused the wrath of the Almighty, and if this injustice is in direct contravention of the fundamental purpose of a Government ordained by His providence, then surely an obligation rests upon us to put away the iniquity, and there is no safety to the nation without it.

But there are other antagonisms operating directly against every one of the declared purposes of the Constitution.

The great struggles and controversies of the human race have proceeded from the varied and unceasing attempts of the powerful, the wealthy, and more intelligent, to overreach, harass, and oppress the weak. God, in His mercy, took pity upon them, and instituted republican governments as the only sure refuge of the people. This safety consists, not in the destruction of power or wealth or intelligence, but in placing such checks upon their use that the people are safe. The man of wealth, in a republic, may desire to oppress the poor, but he finds the court-house door as open to his intended victim as to himself. He may desire to oppress the hireling in his wages, but ordinarily the hireling can leave the employment of a hard master and seek a better one.

In the system of slavery these checks are all removed; capital has complete, unquestioned control, not only over labor, but over the laborer. In other cases, the greedy hand of power stands ready to snatch the hard-earned products of toil from the rightful possessor; but this system lays its iron grasp upon the laborer himself, deprives him of manhood, and drives him out among the beasts of the field. All this is in direct and fatal antagonism with the fundamental designs and purposes of this republican Government. The President recognizes fully the importance of this question in that part of his annual message where he speaks of "the effort to place capital on an equal footing with, if not above, labor, in the structure of government," and warns the people to beware of this attempt to "fix new disabilities and burdens upon them until all of liberty is lost."

But it is claimed that these ill effects of the system are confined to an inferior race, and that the great mass of white laborers are not affected. Let me say in reply that human society has not been organized with any such loose joints as this. The effects of a long continued degradation of laborers cannot, in the nature of things, be confined to its immediate victims. The masses are laborers; but the masses are also the sovereigns. A systematic degradation of laborers, even though they have no participation in the duties of sovereigns, works a sure and fatal loss of proper consideration and respect for all who live by labor. If the real sovereigns of any nation are brought into disrespect and contempt, then the power of that nation is weakened and its existence endangered. Now slavery has accomplished this to a most fearful extent; not only at home, in your capital, in your commercial centers—not only does this estimate of vulgarity and inferiority rest upon the laboring sovereigns of this country in the walks of social position, so far as slavery has given tone to social life among us—but Europe is taught, by the masters of the same school, to believe that Americans are a rabble. The governing classes abroad despise you, because you have permitted yourselves to be despised and insulted at home; and to-day, when a continent trembles beneath the tread of six hundred thousand homestead kings, battling for the right to govern and control their own property, they are met with contempt and scorn from an aristocracy abroad sympathizing with the efforts of an aristocracy at home to throttle popular government in its cradle and drive humanity into bankruptcy. When the dignity of human nature has been committed to your care, and you have accepted the trust, you cannot permit it to be trampled upon with impunity without losing your own position among the nations.

Thus is this system in direct antagonism with the very foundations of national existence—that is, national honor.

But the influence of the system is not alone confined to its universal degradation of labor, and consequently of the laboring sovereigns of this country, in the estimation of the civilized world. The men who exercise unlimited and irresponsible power over so large a portion of their fellow-men who constitute the laboring force of their own section, are thereby unfitted to unite with the laborers of another section of a common country in sustaining a republican government.

By this broad assertion, I do not intend to detract from the character of slaveholders any of the fine qualities claimed for them, or bring against them charges of undue cruelty, or to deny that under some forms of government they might get along with their system successfully; but the point I make is, that while they regard and treat the laborers of their own section as chattels—deem man to be merchandise—they will not coöperate with the laborers who are the sovereigns of another section of the common country, upon those terms of equality, forbearance, and courtesy which are absolutely indispensable to the successful administration of the affairs of a republic; I mean that a republic cannot live while this enemy to domestic tranquillity and national honor holds sway.

I stand here as a laborer, from my youth up. I represent a constituency of laborers. I presume it is no discourtesy to say that every member on this floor from the free States, represents such a constituency. The ballots that sent us here were placed in the box by fingers hardened by toil; and

we cannot if we would, and would not, I trust, if we could, shirk any of the reproaches or responsibilities attached to the condition of laborers. But we are met here by those who, from the moment their infant feet could wander from a mother's care, all the way up through youth and manhood, have been trained to regard a laborer as an inferior being; have bought him and sold him and scourged him; have, by the inexorable necessities of the system, denied him earnings, family, wife, children, everything that men desire to live for, and have blotted out from his sight God's revealed pathway to a better world.

Now, is it to be wondered at that scholars from such a school should give evidence of proficiency in their training when they are brought into direct contact with laborers in legislative halls? Is it matter of surprise that time-honored settlements and compromises of vexed questions should be trampled upon, treated with contempt, and all the vials of invective wrath poured upon the freemen who dared to complain or resist? Is it matter of surprise that the overseer's lash should be transferred from the plantation to the Halls of Congress; bluster and threats should form the staple of logic, and pistols, knives, and clubs the conclusions of argument; that executive opportunity should furnish to rebellion all its material to destroy the life of the nation and lay waste its territory? Is it a matter of wonder that like the frogs and vermin of Egypt, this system should crawl up and take possession of the palaces, tables, and bedchambers of this capital? That in the day of the nation's peril the Pharaoh then in power should despise and neglect the opportunities of a nation's salvation, and with hardened heart and blind imbecility invite the Almighty's wrath?

These things are all the legitimate fruits of slavery. Every tree shall be judged by its fruits; and to this judgment the people of this country are now bringing this system. They have a right to pass judgment upon it, or anything else that so intimately concerns their safety and welfare; and I will venture to say that no opinion or sentiment is more rapidly forming in the minds of quiet, thinking, intelligent people than this—that the practical results of this system tend necessarily to fatal divisions and rebellions in our republican Government, and that it is consequently a dangerous foe to public tranquillity and safety.

But I also propose to show that in its neighborhood relations it is an intolerable nuisance, and ought, therefore, to be abated. The system operates directly between master and slave, and if its effects were confined solely to them its neighborhood relations could have no place in the discussion. But this is not the case. There are two classes of persons upon whom it operates, who have rights under the Constitution, and who have at least as strong a claim for protection in those rights as slaveholders.

I refer to non-slaveholders residing in the slave States, and to other citizens temporarily sojourning in those States. When slavery first appeared in our paradise, it came sneaking in like Satan on a primitive enterprise, who "sat, squat like a toad by the ear of Eve," and beguiled her into transgression. Then it had no argument or reasons, no law or constitution, and had no religion; it only asked for a night's lodging; would sleep in a shed, and work faithfully and quietly in the field. But now, in the plenitude of its power, it turns round and preëmpts the whole country by virtue of a night's hospitality. It is full of arguments and reasons, a member of the church in good and regular standing, and has absolved about all the law and constitution there is in the land. Now it finds that a favorable public opinion is necessary to its own existence. The institution cannot prosper unless it is popular, and, like a grist-mill or tavern, it must have the "good will" of neighbors. After it has deprived the mass of its immediate neighbors of all means of education, the task of controlling public opinion was not hopeless. Indeed, a few catch-words and phrases, appeals to prejudices, were sufficient; but this has not always answered. It was found that men would think and talk and print things not favorable to the system.

Assigning as a reason that sentiments, openly avowed, hostile to the system, would encourage revolt among the slaves, thus acknowledging that the inexorable necessities of the system required it, its guardians have actually succeeded in establishing a despotism over their entire territory more rigid and cruel and fraught with more national disgrace than anything that has cursed Europe for the last century. There is no freedom, and has been no freedom of opinion for years in the slave States, even among the free white men. A rigid censorship has been exercised, and a cruel inquisition made as to the sentiments of every man on this subject. No man dare speak or write sentiments hostile to the institution. And this has been avowedly a slavery necessity. I will not take time to go into detail on this subject. Volumes might be penned illustrating the stubborn fact which I have stated, that there is and has been no freedom of opinion, but that the night of despotism had, before the rebellion broke out, settled down all over the land at the bidding of slavery. And I stand here to denounce with unmeasured indignation such a nuisance as absolutely intolerable.

If the miserable slave, toiling in his bondage, has no right to appeal to the nation's sovereignty, if judicial decisions have denied them all right of a hearing, so that they are driven to God alone, surely the burning infamy of such a despotism, exercised upon bone of our bone and flesh of our flesh, men who are white enough to have rights, might startle the guardians of a nation's honor, and lead to the inquiry of abatement.

But slavery has other neighbors. The freemen of the North desire occasionally to prosecute lawful pursuits, or find recreation and pleasure in traveling through the boundaries of States where the Constitution is presumed to be protection and defense. But long before this rebellion broke out such visits were absolutely forbidden, except upon terms involving the personal degradation of northern men. No such visitor was allowed to discuss openly the fundamental dogma of the Declaration of Independence. If he crossed the slave line he must leave behind him his manhood, his conscience, his freedom of thought and speech, and submit to an inquisition as hateful as ever cursed the despotisms of Europe. Now, why this insult upon neighbors? Simply because slavery demanded it, because the guardians of that institution said it could not live unless these degrading restrictions were enforced. It was not because slaveholders were the worst of men, but because the worst of systems required it; and I do not recall this as a personal matter with slaveholders, but to show what they regard as necessary for the existence and prosperity of their institution.

What is to be done with freemen's rights in this regard when reconstruction comes? Do you say they will abandon such naughty ways hereafter? The blistered limb might as well trust a second time the burning heap of coals. No, sir, if the life of the institution has been hitherto dependent upon such neighborhood annoyances, it will be none the less so in future. Do you intend to give up by reconstruction the right to visit the sepulchers of your honored dead, whose bones rest under the surface of a soil redeemed from rebellion by their blood? Or do you intend to confine such pilgrimages to those only who can procure a pass from the chairman of some central committee, who can certify that the holder hereof is "right on the goose?" Do you ask the rightful sovereigns of this country ever again to submit to the insults and outrages of former days? If you do, I think you are mistaken in the temper and determination of the people. There is no remedy for such outrages except by removing their cause. And, I say, if State rights and State institutions are hereafter to inflict such outrages and insults, I would grind them into powder finer than Moses made from the idolatrous calf of the Israelites. I will never consent to leave to posterity to fight this quarrel over again whenever it suits the personal ambition of an oligarchy to conspire against a nation's tranquillity. If no indemnity can be had for the past, security must be made doubly sure for the future.

I have thus passed under review, very briefly and hastily, some of the points of conflict between the system of slavery and the Constitution, and have endeavored to point out its irreconcilable antagonisms and deadly hostilities to a republican government. I have purposely avoided as much is possible the commercial and personal aspects of the subject. The inquiry which I have started as, whether it is an enemy to the nation's sovereignty, and whether its hostility is of that marked and determined character that that supreme law "the safety of the people" requires its annihilation. If I have no right under the Constitution to prosecute this inquiry; if I have no right, acting here as an humble unit among the guardians of the nation's sovereignty, to determine what are and what are not enemies, and to act accordingly; or if I have entirely misjudged as to the real character of the institution itself; then I desire to drop the discussion, for I have no wish to agitate this or any other question merely for the sake of the excitement growing out of such agitation. But this question is upon us in all its length, breadth, and overwhelming magnitude. I desire to have it settled and settled forever. I stand here not acting simply for myself or for a living constituency. I am the trustee of unborn millions, and I try to recognize fully the weighty and solemn responsibility of the trust. I want to know whether I live and whether my children are to live under a sovereignty or not; whether that sovereignty is competent to protect its loyal citizens from insult and outrage wherever its glorious flag waves; whether, when the organic law declares the preservation of its own unity and the domestic tranquillity of the nation to be the objects of its creation, the condition of its existence, I have a right to inquire what enemy has destroyed both unity and tranquillity, and whether, in my action here, I have a right to deal with that enemy as with all other enemies. If this nation is to be a mere province, to be controlled by States and State institutions; if enemies can grow up in our midst, too powerful or too sacred to be touched; if the Constitution was really intended by its authors to commit suicide in the day of its trial, and acknowledge that an enemy to its own unity, a violation of natural justice, a persistent disturber of the domestic tranquillity, a foe to the public welfare, and a destroyer of the people's liberties, may hold sway perpetually without the power of self-defense; if the bold political absurdity of an *imperium in imperio* is not only to be tolerated but allowed to "cry havoc and let loose the dogs of war" upon the national life with impunity and without punishment, this great sovereignty had better at once go into bankruptcy or apply to probate for a guardian.

But I may be asked, why do you not regard slavery now, as formerly, a local thing, which may be allowed to exist beyond the reach of the General Government? I reply, I must judge a tree by its fruits: this rebellion is the ripened fruit of slavery. I may live for years by the side of a neighbor of whose vicious temper I may be well aware, and from whom I may expect some fearful development in crime, but I may treat him all the while as a neighbor, certainly may not touch him as a criminal. His evil disposition may, however, lead him with malice aforethought to take the life of his fellow. Am I expected to treat him, after the overt act, just as I did before? Does the law treat him just as it did before? This rebellion is the overt act of slavery. You may as well ask me to regard with like complacency the quiet house cur sleeping at my feet, and the same animal ranging the streets as a slabbering mad dog. This rebellion is slavery run mad, and God never ordained but one cure for hydrophobia, and that is death.

It may also be urged that Government can only deal with individuals who are the guilty actors in the rebellion. While I deny utterly the propriety of strait-jackets for a sovereignty struggling for its own existence, I desire to say most emphatically that the individual actors in this scene ought to be dealt with with unsparing severity.

When it pleased the Almighty first to establish a constitutional government on earth, when He had given the race an organic law, and had organized the nation of His choice under "statutes and ordinances," and had by His own election designated their rulers and leaders, He was met in His wise and beneficent designs almost at the outset of the enterprise with a most determined and formidable rebellion. "Two hundred

and fifty of the princes of Israel, famous in the congregation, men of renown," with Korah, Dathan, and Abiram at their head, declared that they would not submit to the Lord's election of leaders. "They gathered themselves together against Moses and against Aaron." The issue was fairly made between the constituted authorities and the rebels. Moses placed the matter in the hands of the Lord, and thus we have an instructive lesson as to how He put down a rebellion. Did he argue the right of coercion with them? Did he spend breath in offers of compromise? Did he send after them a gospel of peace and conciliation? No, sir; he sent them quickly down to hell, and passed a general confiscation act, by the prompt execution of which they and "their men, their goods, and everything that pertained to them," "went down alive into the pit, and the earth closed upon them, and they perished from among the congregation," thus affording a terrific testimony of Almighty God against a causeless rebellion.

I have thus briefly examined the first and second general propositions proposed in the outset, namely, that Congress, as the nation's sovereignty, has a right to destroy enemies of the national life; that slavery is such an enemy—which brings me to the conclusion that it is, therefore, the right and duty of Congress to destroy slavery.

It is one thing to have power, it is quite another thing to exercise that power. If the power exists there is a corresponding duty and obligation. And this brings us at once to grapple with the great practical issues of emancipation. It is impossible for me in the few minutes allotted to speak of plans or details—to discuss gradualism, or immediateism, or colonization, and I can only remark generally that the inquiry opens widely the door of expediency in connection with correct principles, brings at once to our most careful consideration the results of so great a change in the condition of one of the mighty laboring forces of the nation, suggests the utmost forbearance towards all interested, demands protection and regulation for the weak, and true conservative regard for the property and commercial interests involved. A more delicate, complicated, and important task has seldom been committed to mortal hands, and yet I am not ready to admit that it cannot be done; I am not willing to suppose that Providence and the Anglo-American race, after having accomplished so many wonders, are to be stalled by a handful of negroes.

When summary vengeance has been visited upon the heads of the reprobate leaders, and the rightful authority of this Government established over every foot of its territory, then the objects of this war are accomplished and it ought to end. I so voted on the 22d of July last. I never intended that this war should be prosecuted for the purpose of abolishing slavery. If emancipation does result from the war, it will be because the war is the eruption of the hitherto slumbering volcano; it will be because the war is a compendium of reasons against the system; because the booming reports from the stolen ordnance of secession have aroused the nation to grapple with its deadliest foe, and assert the right of self-defense, a right never before denied to any being that has a right to live.

I claim that this nation has a right to live; that it has a right to resort to every means of self-defense necessary to self-preservation. That, if in the judgment of Congress, slavery is a public enemy, (and if it is not, I do not want to touch it,) it may and ought to be dealt with at any time as such. And I say that it is an absurdity to hold that a question of self-preservation can only be considered in time of war, and settled only by the war power. Emancipation should be an assertion, not to be mistaken, and never to be forgotten, of the right of the sovereignty to take care of itself, to deal summarily with its own enemies, and to provide for its own tranquillity, defense, and welfare. If resistance is made to laws of emancipation, it will be made at the peril of the lawbreaker

While I have no doubt of the right to confiscate the property of rebels, and to liberate their slaves, and will vote for such a proposition, if nothing better can be done, yet this liberation by the war power may be partial, does not necessarily abolish the system, and must necessarily neglect the important practical details so necessary to the well-being of all parties. Nor do I believe the territorial theory to be correct, so far as it is intended to be used for the purpose of emancipation; for if it be true that those States have really committed suicide, and are dead, then their local laws and institutions are also dead, and the Constitution necessarily prevails all over the territory, acting directly upon all the inhabitants. And whenever the sweet and heavenly breath of the Constitution shall pass through the lungs of a slave he will be free, like the "Spirit of the Lord in the valley of dry bones," proclaiming, "Come from the four winds, O breath, and breathe upon these slain that they may live." You want no additional enactment, no political formula, to determine the status of all "the inhabitants of the land." If, however, the theory be correct that their State existence remains in duress, to be disenthralled by acts of returning loyalty, I would still have the voice of Congress, like an archangel's trumpet on a legitimate errand of resurrection, bid the dry bones of a withering and accursed despotism to live, and rescue the most glorious of earth's nationalities from a premature grave.

Sir, I stand here as a conservative man, with conservative instincts, interests, and purposes. I desire first of all to conserve the life, unity, and permanent tranquillity of this nation. I desire to conserve those great principles of personal liberty which have been winnowed out of the chaff of six centuries, and are garnered up in the Constitution of the United States, not for ourselves and our children merely, but for all future generations of men. As I view this matter, I would as soon think of allowing a nest of vipers to live in the cradle of my children as to permit this system of slavery longer to exist in this country. According to my conservatism, it is simply a question between the children and the snakes. But I do not want to abate one nuisance and set up another in its place. I do not want slave insurrections. I do not want midnight alarms or hearthstones soiled with family blood. I do not want a wandering vagrancy of free blacks, or a promiscuous amalgamation of races. We have heard enough of all this; and it is because I desire to avoid these evils that I insist upon the right and duty of the General Government to take this whole question into its own hands, and deal with it in a business-like, practical, conservative manner. Here is the true field for conservatism to do its work in.

The objection has been urged upon this floor that an act of liberation would "Africanize southern society." Sir, I am not willing to suppose that "southern society" is so feeble a structure that it will be jostled from its position by an act of justice done to an inferior class. It does not follow that because you pay a man for a day's work you are obliged to sleep in the same bed with him. It does not follow that because you make the hovel of the slave "his castle" for purposes of protection, that he is to spend his time sitting in your parlor. It does not follow that because you secure him in enjoying the society of his own family, that his family and yours are to be compounded into one social circle. It does not follow that because you give him the rights of manhood, he is to become an idle, pilfering vagrant, free from the restraints of law and order.

But there is another view of the subject forced upon our attention by the state of things with which we are already surrounded. You may deny the fact or ignore it, but the inexorable logic of events is daily demonstrating that slavery never can be hereafter the same as hitherto. This war before it ends will have totally demoralized the system and rendered it more dangerous to social security, and far less profitable and efficient as a producing force. It is every day teaching the slaves practical lessons of liberty, and practical lessons of the efficiency and power of physical force. All the slumbering energies of "love for liberty" will be evoked from the darkened recesses of the heart of a degraded and downtrodden people. The Almighty never fastened such a motor to the human race as this innate, ineradicable "love for liberty." You may sneer at it or scold about it as you please, but it has done more for human progress, has carried the race up steeper grades, around sharper curves, over rougher tracks, and on the whole with greater speed and safety than all other purely human forces combined, and if I may be permitted to guess about the future, it will be found that the great Conductor of human affairs will have hitched that locomotive to the four millions of slaves; and the question now is, will you, as the proper and appointed guardians, take charge of the train and run it safely and smoothly over the nation's future highway of prosperity, or will you permit it to run as a wild train, without lights, signals, brakemen, or engineers? True conservatism points to the General Government as the only proper and competent authority to save us in future from such fearful collisions, disaster, and ruin.

By acts of Congress already passed, many thousands of slaves all over the slave States are entitled to their freedom. You have already initiated disintegration and destruction to the system. You have already set fire to the end of the fuse, and sooner or later the explosion will carry desolation and ruin unless the conservative power of Congress is interposed properly to direct and control the elements. If five hundred thousand slaves—as has been stated on this floor—are already set free by acts on your statute-book, can it be supposed that the remainder will continue in bondage with the same docility as before? No one would deny the power of the Federal Government to suppress a slave insurrection. Is it any the less their duty to prevent one?

Sir, the only path of safety is in doing just what the Constitution set out to do, just what your fathers pledged the world should be done—"establish justice" and "secure liberty" throughout the land. Then the unity, tranquillity, and welfare of the nation will be secured and made permanent.

I reiterate the words used by the honorable gentleman from Pennsylvania, [Mr. STEVENS,] in the preamble to his bill now under consideration—"slavery has caused the present rebellion, and there can be no permanent peace and union in this Republic so long as that institution exists." Everybody knows this to be true. Our people understand it. Foreign nations know it. The civilized world have their searching eye upon us, to see whether we have the firmness and wisdom to manage this mighty subject. Shall we occupy the ridiculous position of having well-nigh exhausted the blood and treasure of the nation to suppress a rebellion, and leave the admitted cause of it untouched? Shall we quail before threatened party organizations, yield to fierce denunciations, or be misled by predictions of wonderful social evils to result from emancipation? The nation, sir, has been led astray quite long enough with the miserable partisan war cry that emancipation means "to turn the niggers loose." Why, sir, I would not turn four millions of "Yankees" loose and allow them to do as they please. I do not know that anybody or anything in this country is turned quite loose, except it is this system of slavery; and I pray most earnestly that "the strong and mighty angel, having a great chain in his hand," may hasten to lay hold of that devil and turn upon him the key of the bottomless pit. One would suppose, listening to the clamor on this subject, that emancipation was like the turning loose of the four Euphratean angels, who, under the symbol of two hundred thousand thousand horsemen, whose horses had heads like lions and tails like serpents, breathing from their mouths fire, smoke, and brimstone, were sent forth to "destroy the third part of men." Emancipation never has been and never will be sent forth on any such errand. No; it is rather an echo of that sweet song which once ravished human ears when the angel choir announced the advent of earth's great Emancipator, with the shout of "glory to God in the highest, and on earth peace and good will toward men." It is rather a "tree standing by the river of life, whose leaves are for the healing of the nations." It is rather a harbinger and sure precursor of that happy period when—

> "The desert shall blossom and the barren sing;
> When justice and mercy, holiness and love,
> Shall among the people walk, Messiah reign,
> And earth keep jubilee a thousand years."

CONFISCATION OF REBEL PROPERTY.

SPEECH OF HON. WILLIAM ALLEN,

OF OHIO,

IN THE HOUSE OF REPRESENTATIVES,

April 24, 1862.

The House being in the Committee of the Whole on the state of the Union—

Mr. ALLEN said:

Mr. CHAIRMAN: I am reluctant to claim the attention of the committee when matters of more importance than my remarks might receive its consideration. But in view of the discussions which have already been had in this Hall during the present session, I desire in an informal and brief manner to present my views upon some of the measures which now engage the attention of Congress and the country.

Sir, we are in the midst of a civil war of formidable proportions and appalling magnitude. When and with what result that war will end no one can with certainty predict; and perhaps it is neither prudent or profitable at this time to attempt to speculate upon that subject. It is certainly, however, the desire of every patriot that it shall terminate in the speediest possible manner by a return of the people of the rebellious States to their allegiance to the Federal Government, and by a willing submission on their part to its constituted authorities. When that period shall arrive, the people of the country will demand that the army which has been so suddenly called into the military service of the country shall be disbanded, and its gallant soldiers be permitted to return to their peaceful avocations and to the endearments of home, that the country may be as speedily as possible relieved from the financial embarrassment in which it is now involved, and which must continue and increase as long as hostilities continue to exist between the Government and the rebellious States. I believe the loyal people of the country will be willing to make every sacrifice that patriotism can demand to restore the Government to its original unity and strength; that for this purpose, and this alone, they will willingly sacrifice their property and their lives. But when the object of this war is diverted from that for which it was inaugurated, and the great struggle now going on becomes one for the existence of a party or a theory, instead of one for the existence of the Government as our fathers gave it to us, they will not render that cordial support which is necessary to insure the complete triumph of our arms.

I concur most cordially with my colleague, [Mr. HARRISON,] who, in the course of his able speech, submitted to the committee some weeks ago, declared that, in his judgment—

"The predominant sentiment of the people of all the loyal States is that the war must be efficiently prosecuted in conformity to the Constitution, and for its maintenance and preservation, and for no other purpose."

Sir, I have no doubt of that sentiment among at least nine tenths of the people of the loyal States. The war was inaugurated to vindicate the Constitution and the laws, and not for the purpose of violating them. And neither the plea of a military necessity, or any other that can be framed by the ingenuity of man, will be sufficient to justify any of the departments of the Government in violating the Constitution and laws which it is sought to make the people of the rebellious States obey. Sir, there can be no dispute as to the original objects of this war. They are plainly stated in the proclamation of the President, issued on the 15th of April last, as well as in all his subsequent proclamations on the same subject. I will read a portion of his first proclamation, which is as follows:

"Whereas the laws of the United States have been for some time past, and now are, opposed, and the execution thereof obstructed in the States of South Carolina, Georgia, Alabama, Florida, Mississippi, Louisiana, and Texas, by combinations too powerful to be suppressed by the ordinary course of judicial proceedings, or by the powers vested in the marshals by law:

"Now, therefore, I, Abraham Lincoln, President of the United States, in virtue of the power in me vested by the Constitution and the laws, have thought fit to call forth, and hereby do call forth, the militia of the several States of the Union, to the aggregate number of seventy-five thousand, in order to suppress said combinations, and to cause the laws to be executed."

Under this proclamation thousands of our brave countrymen rallied to the rescue of their country. No other appeal was made to them than that which was suggested by this manifesto. No other appeal than that would have produced such an outburst of popular feeling and patriotism. The appeal was made to the people to vindicate and aid in enforcing the laws of the land against those who were in arms against the Government, trampling the Constitution and laws under foot, and was not an appeal to the loyal people to violate them because the people of the disloyal States were doing so. This proclamation of the President was under the authority and in the precise words of the act of Congress passed in the year 1795, but a few years after the Constitution was adopted, and which was passed for the purpose of carrying into effect that clause in the eighth section of the first article of the Constitution which authorizes Congress to provide for calling forth the militia to execute the laws of the Union, suppress insurrections, and repel invasions. The proclamation of the President subsequently issued calling for additional volunteers was based upon the same clause and was for the same purpose—namely, to suppress unlawful combinations against the laws. This resistance to the laws was treated by the Government at the beginning, and ever has been treated, as a rebellion—not as a public war; no war has ever been declared either by Congress or the President, and the rules which govern two sovereignties or nations at war with each other do not apply, except so far as it may become necessary to apply them for our own protection in consequence of the magnitude of the rebellion; for since the war began it has become necessary to send flags of truce to the rebels, to recognize the rank and command of their military officers, exchange prisoners with them, and in many instances to deal with the so-called confederate States as a belligerent power.

But these are only acts growing out of the immediate operations of the armies, and demanded by the exigencies arising in a conflict of arms between two powerful sections of a common country. But when we shall cease to regard the Constitution, and to fight the battles of the country outside of it and the Union, applying in this contest with the rebellious power all the rules of international law regulating two sovereignties at war with each other, we admit the so-called confederate States to be a government, and we should no longer denounce their people as rebels and traitors. Nor have we a right, in that event, to seriously complain if other nations treat them as a government, and claim the right to exercise that intercourse with them which neutral nations are permitted to have with either or both of two belligerent Powers.

But, in addition to the proclamation of the President, to which I have alluded, treating this as an insurrection, we have the act of Congress of July last, which is merely an amendatory act of that of 1795. But it is a loss of time to dwell in showing that the Government has thus far prosecuted hostilities against the seceding States for the purpose of executing the laws and protecting the public property. Every call that has been made for troops, and every other act thus far on the part of the Government, has been for this and no other ostensible purpose.

During the time that recruiting was going on for the Army, if there was any considerable sentiment in favor of prosecuting the war in any other than a constitutional manner, or for any other than a constitutional purpose, it remained for some reason comparatively quiet. This House went so far at the extra session of Congress in July last as to pass almost unanimously certain resolutions offered by the distinguished gentleman from Kentucky, [Mr. CRITTENDEN,] which declared:

"That the existing civil war should not be waged on the part of the Government in any spirit of oppression, nor for any purpose of conquest or subjugation, nor for the purpose of overthrowing or interfering with the rights or established institutions of the States, but to defend and maintain the supremacy of the Constitution, and to preserve the Union with all the dignity, equality, and rights of the several States unimpaired, and that as soon as these objects are accomplished the war ought to cease."

For this resolution I believe every member present at the time, with three or four exceptions, voted. The term "established institutions of the States," would plainly include the institution of slavery, although some persons have tried to avoid that construction by denying slavery to be an institution of civilized society. I will not say that the resolution of the gentleman from Kentucky was adopted as a matter of policy, for the purpose of lulling the suspicions of those who might hesitate to enter the military service for the purpose of fighting to vindicate the anti-slavery sentiment of the country; but I must say that the passage of this resolution, and the suppression for the time being of anti-slavery projects, was very inconsistent with the policy which has been advocated by so many gentlemen on the other side of the House since the beginning of the present session.

From the very first day of this session, resolutions and bills proposing emancipation in various degrees, from the abolition of slavery in the District of Columbia to those proposing its entire abolition in all the States, have been continually introduced, and are now being matured. The first of these measures, the abolition of slavery in the District of Columbia, has already passed the two Houses of Congress by the entire vote of the Republican party, and is now a law. This is but the first act in the programme which the party in power, in my humble judgment, have laid down, and intend to carry out. The passage of this measure will be followed by the announcement of the success of others, all looking to the one grand object of prolonging the war until slavery is abolished in all the States, or until the free States are separated from the slave States in which it is found impossible to abolish the institution. It may yet be denied by many of the leaders of the Republican party that such is the design of the party. But have they not heretofore denied their intention to interfere with slavery in any place where it already existed in the States or in the District of Columbia?

I recollect that during the last Congress a prominent member of the Republican party, then a member of this House, and now a Senator from Ohio, [Mr. SHERMAN,] declared on this floor, in the strongest terms, his opposition to the abolition of slavery in this District while the institution existed in Maryland and Virginia. Now he, with his Republican colleagues, have originated and passed a bill which some of them, less than two years ago, protested against. The same distinguished gentleman, on the 11th day of February, 1861, while a member of this House, introduced the following resolution:

"*Resolved*, That neither the Congress of the United States nor the people of the non-slaveholding States have the constitutional right to legislate upon or interfere with slavery in any of the slaveholding States in the Union."

Which received the unanimous vote of this House. Yet the same gentlemen on the Republican side of the House who supported this resolution are now supporting measures in direct violation of it—measures proposing to interfere with the institution where it exists, not only in the District of Columbia, but in the States. Most of these propositions for emancipation in the States have sought to reach the institution under the head of confiscation of rebel property, by bills providing for confiscation generally, and emancipation particularly. The most recent project on this subject, however, is that which came from the Executive Mansion in the shape of a proposed resolution for the consideration of Congress, as follows:

"*Resolved*, That the United States ought to coöperate with any State which may adopt gradual abolishment of slavery, giving to such State pecuniary aid, to be used by such State in its discretion to compensate for the inconveniences, public and private, produced by such a change of system."

And which was at once adopted by the dominant party in Congress.

Why this message was sent to Congress by the President at the time it was, or what its precise object and meaning are, I have never heard satisfactorily explained. There was to ordinary minds no apparent necessity for such a proposition at the time, as no State had at any time proposed emancipation nor asked Congress to coöperate with it in a measure of that kind; nor is it probable that the *bona fide* citizens of any of the slave States will, for a considerable time, ask any such relief of the national Legislature. A few men from the free States who go into some of the slaveholding States as soldiers or adventurers may go through the forms of voting on the subject, assuming, under

the name of a provisional government or otherwise, to act for the State, and having voted in favor of emancipation, Congress may then proceed to carry out the wishes of these men who are but its own agents, and thus the free States through Congress, under color of the sanction of authority derived in this illegal manner, may do that which it is admitted by the resolutions so unanimously adopted a year ago, that neither Congress nor the non-slaveholding States have the right to do. The people of the free States thus, by the consent of their own citizens, would, by the power of Congress, abolish slavery in these States. This would be about as legal a proceeding as that of a felon sending his accomplice in advance into a neighbor's house, that the accomplice being in the occupancy of the house, assuming to act for the rightful occupant, might confer title to stolen property by such assumed occupancy. If at any short day any request of this kind is made of Congress it will, in my opinion, be through some such subterfuge, for I am satisfied that the *bona fide* citizens of these States do not desire the passage of emancipation bills at this time.

It may be that this suggestion of the President was in part made from the fact that those schemes which proposed emancipation in the States, under the plea of a "military necessity" and without constitutional authority, were so transparently absurd that the Administration was fearful they could not be sustained, and that it was thought best to try to accomplish the great aim by another resort and upon a new idea. And I am further inclined to conjecture that the President became alarmed on account of the conservative position he found himself assuming on this subject, and that being no longer able to resist the "irrepressible conflict" which was waged against him by the *ultra* portion of the Republican party—which I am sorry to believe includes most of its leaders—he sought this proposition as a means of letting himself down from the proud position he had attained in the minds of the conservative masses of the people of the country. Much as I admire the President for the independence of thought and sound judgment which he has on many occasions exhibited, I fear he in this instance yielded to the entreaties of politicians, instead of following the dictates of his own judgment, as well as the feelings and sentiments of the people of the country. For both he and gentlemen on the other side of the House will learn that most of these measures will not be sustained by the people, except in those radical sections of the country where on this subject they are "joined to their idols," and forget the interest of the white man in prosecuting their projects of false philanthropy for the black race.

The late local elections throughout the country, and particularly in the great West, in which the Democracy and other conservative men of the country have achieved the most complete, and in many instances unexpected victories, are but the mutterings of a storm of indignation which will sweep over the entire country, hurling from place those who persist in using this Government for their personal interest and political preferment, while the public Treasury is bleeding to the amount of $3,000,000 per day, (and which is to be replenished by an exorbitant and oppressive system of taxation,) and while thousands of our brave countrymen are laying down their lives upon the battlefield, leaving homes desolate and friends disconsolate, to restore the Government as it was prior to the election of the present Chief Magistrate. Sir, I indulge in no idle prediction when I say that the people neither East or West will much longer be made the dupes of politicians and speculators, for the pitiful consideration of a little wornout "twaddle" about the "negro" and "negro slavery," and for the still less beneficial consideration of having their fertile and beautiful country overrun by an ignorant population of worthless negroes, to annoy and disturb society, driving from employment white persons who rely on daily labor for their support.

Another and to my mind most probable motive in sending to Congress the message alluded to, was to inaugurate a policy looking to an ultimate separation of the Gulf States from the Confederacy, and to enlarge the area of a northern confederacy of free States. I have ever been satisfied that, with all the pretenses of the leading members of the Republican party of devotion to the Union, a majority of them do not in reality desire to see the Union exist as it was, but desire that slavery shall either be abolished in all the States, or that a northern confederacy of free States shall be established in which they may rule supreme. The latter result would be most acceptable to the capitalists of the eastern States, to whom we of the West are made tributaries in all things. If a southern confederacy should maintain control as it would of the Mississippi river, that great natural outlet for our commerce, this would force us for all time to come, as it has since the rebellion, to find an outlet to the eastern cities for our trade, and thus become tributaries to their commercial interests upon their own terms.

We have had an illustration on a small scale during the last few months of the manner in which eastern capitalists would make us subservient to their interests, by the manner in which the railroad interests of the country have been identified with the Government. For several months the Baltimore and Ohio railroad—one of the principal thoroughfares of the country—which was in places destroyed at the beginning of the rebellion, has remained obstructed, from the fact that the Government has not afforded it that protection which was in its power. And this is said to have arisen from the fact that the late Secretary of War and his immediate friends were largely interested in another rival thoroughfare, which has been, during that time, monopolizing the transportation of freight, passengers, troops, and munitions of war, upon such terms as its managers might demand; and the consequence has been that our produce has been taxed to advance the interests of these patriotic gentlemen, as is evidenced from the fact that since the first-named road has been opened there has been a reduction on freight of some five dollars on the ton between Cincinnati and the eastern cities, which amount now goes into the pockets of our people instead of those of eastern railroad capitalists. I only mention this as an instance, less important, of the manner in which we of the West are made to play into the hands of eastern capitalists, for the consideration of their coöperation on the negro question.

The late Secretary of War, while his Department was committing the most gross abuses—according to the statements of his political friends—was loudest in his protestations of devotion to the anti-slavery cause. In proportion as these abuses grew extreme in his Department, he grew extreme in his views, until he became the great champion of the radicals on this subject, receiving their unqualified approbation and applause.

Some months ago the country was thrown into a state of alarm by a letter of Secretary Seward, (an eastern gentleman also,) addressed to the Governors of various States, intimating the necessity of immediately strengthening our coast defenses. Some of the States have proceeded to expend money, as suggested, in increasing their defenses, and it is proposed to reimburse them from the Federal Treasury; a bill is now before one of the committees of the House to receive loans from the States in which such defenses are situated, and to issue the bonds of the Government to the amount so accepted, which is nothing more than the Government issuing its bonds to those States that they may convert them to their use in what they may be pleased to call strengthening their "coast defenses." What the probabilities of foreign intervention were at the time, which was supposed to be the cause of the extraordinary letter from the able Secretary of State, he was best qualified to determine, although he has in more than one instance proven to be no prophet. But this much the far-seeing Secretary well knew, that whether foreign intervention took place or not, his State and his section would lose nothing by these precautions, as all or nearly all the money expended by the Government in this way would go into the hands of eastern gentlemen. Now, since for a time apprehensions of foreign intervention have subsided, it is mooted that it may be necessary to not only strengthen but remodel our whole system of coast defenses, for which very large appropriations must be made, and a host of additional officers be appointed, for fear an iron-clad steamer down about Norfolk called the "Merrimac" may slip into some of the harbors of the great eastern cities, and lay them in ashes before their citizens shall be aware of her approach—an occurrence certainly less probable than foreign intervention was some months ago.

Again, we have before Congress a bill for a Pacific railroad, a measure which, in a proper form, at a proper time, would receive the assent of most of our people; but on examination of the bill, there will be found a clause requiring the iron used in the construction of the road to be of *American manufacture* without regard to its cost; and this at once explains the reason why its passage is urged so earnestly by certain eastern gentlemen from sections interested in the manufacture of iron. Thus it is that nearly every measure in Congress that is of any advantage to any section, is framed with a view of advancing the interests of the East in a special manner. Whether it be tariffs, tax bills, railroad bills, fortifications, Government contracts, or what not, the eastern States are sure to have the "lion's share." And I have no doubt our eastern friends will do all in their power to consummate their measures, while they have their allies in the West who are content with the "negro" for their share of the benefits of the Government; and that the war will be prolonged, if necessary, until they shall have secured the success of their enterprises.

But I am traveling with my remarks outside of the course I had intended to pursue. I was proceeding to notice some of the apparent changes of the policy and sentiments of the Republican party within the last six months on the subject of intervention on the part of the General Government with the institution of slavery.

As a further evidence of a decided change in what appeared to be the policy of the dominant party up to the time the present session began, it will be remembered that shortly after the commencement of the session, the gentleman from Indiana [Mr. HOLMAN] offered a resolution reaffirming the "Crittenden resolutions," passed so unanimously in July last; but this House refused to pass the resolution. The proposition was laid on the table. And when, at a later day, I offered a resolution declaring that "in the judgment of the House, no part of the appropriations now or hereafter made, nor of the taxes now or hereafter laid, should be used in carrying on a war for the purpose of emancipation," it met with a similar fate, those voting to lay on the table being all Republicans, and those voting against laying on the table being Democrats and gentlemen from the border slave States. I thought my resolution a very fair one, and that since there had been so much said on the subject of emancipation during the session, if the majority of the House were opposed to making the war one for that purpose, they would unhesitatingly adopt it; and that while Congress was appropriating money to the amount of some nine hundred millions of dollars annually, and since it was proposed to levy a direct annual tax upon the country of over one hundred millions of dollars, it was due to the great mass of the people who, in my judgment, are opposed to all these emancipation schemes, that they should have some assurance as to the manner in which their money was to be applied. For, as I have already said, while the people of the country will, as I believe, cheerfully contribute all that they have to support the Government, they will not willingly, in a time of general depression and distress, cheerfully submit to a tax on their property eventually amounting to its value, and hand over to the tax-gatherer their last dollar, to be carried to the Federal capital, one portion to be distributed among an army of officers and Government contractors, and the residue applied in keeping an army in the field that these contractors may continue to plunder the Treasury, and the abolition sentiment be vindicated. Much as they may be opposed to the institution of slavery, they will not cheerfully suffer such sacrifices as they are about to be called upon to make, when neither the black nor the white race will be benefited thereby, and when the object of these privations and sacrifices is that of violating the organic law of the Government, instead of sustaining it, as was the declared object at the beginning of the war.

I was struck with much astonishment at the remarks made by the gentleman from Indiana [Mr.

JULIAN] in the course of an able speech which he delivered in the early part of the session. I knew that gentleman was radical in his opinions, but I did not think that he or any other gentleman would publicly announce the sentiments which he did on that occasion. In the course of his remarks he used the following language:

"The nation is greater than the Constitution, because it made the Constitution. We had a country before we had a Constitution, and at all hazards we must save it. The Constitution was made for the people, not the people for the Constitution. Cases may arise in which patriotism itself may demand that we trample under our feet some of the most vital principles of the Constitution."

The gentleman is entitled to great credit for candor of statement, but not, in my judgment, for sound logic. The fact that the nation—or the people who comprise it—through their delegates, framed the Constitution, which was afterwards ratified by the States, does not authorize Congress, which is the creature of the Constitution, to violate that instrument while it remains in force as the organic law of the land. The people of the nation having adopted the Constitution as it is, are bound by its provisions until they amend it in the manner therein provided for, or by common consent annul it. But in no case, while it is in force, can a majority of the people, assuming to be the nation, violate the national compact to the injury of the humblest citizen. While it may be true that the nation is greater than the Constitution, it follows on the same principle that the Constitution is greater than Congress or either of the departments of Government which the Constitution has called into existence. And neither Congress nor any other department of Government can exercise powers not authorized by that instrument, which is the "source of their being."

If it be admitted that either of the departments of Government have the right, in a particular instance, to disregard the Constitution, because, in the opinion of some organization of men over zealous in a particular cause, a military necessity requires the exercise of unconstitutional powers; the same necessity may constitute an excuse for the most flagrant and oft-repeated violations of the Constitution and abuses of power by the officers of Government, when their personal interest or that of their friends prompt them to their commission; and in the end all constitutional as well as natural rights will be at the disposal of our rulers; and instead of having a Constitution and a Union to vindicate we shall find ourselves without hope for the future, serving no other purpose than that of sustaining those in power who are trampling upon the rights which were handed down to us by the patriots of the Revolution.

I know whenever the slavery question arises there is a disposition to pass lightly over all such considerations as I have indicated; but if violations of the Constitution are permitted, they will not stop with measures connected with the institution of slavery, but the same gross violations, under the same plea, will extend to all the operations of the Government upon all subjects. I cannot, therefore, consent to any plain infractions of the Constitution, under any plea whatever. Although I might not be disposed to cavil about the exercise of doubtful constitutional powers when the exercise of such powers were required for the public welfare, yet I have not thus far seen the necessity of Congress or the Executive exercising any powers for the emancipation of slaves, if by any reasonable construction of the Constitution they may do so; and, in my humble judgment, no such power can be exercised by either over any of the slaveholding States of the Union. But it is unnecessary to argue the question of *power* over the States as heretofore understood by all parties. I have already referred to the resolution of the 11th of February, 1862, supported by every Republican member of Congress, not even excepting the distinguished gentleman from Illinois, [Mr. LOVEJOY,] who is so notorious for his radical views on this subject.

I might also refer to the following resolution, offered about the same time by Mr. Palmer, of New York, a Republican, and supported by the entire Republican delegation present in the House at the time:

"*Resolved*, That neither the Federal Government, nor the people or governments of the non slaveholding States, have a purpose or a constitutional right to legislate upon, or interfere with, slavery in any of the States of the Union."

In addition to these resolutions we have had the declarations of the leaders of the Republican party upon all occasions since its organization that they had no intention of interfering with the institutions of any of the States; that it was to the extension of slavery that the opposition of the party was raised, and not against it where it already existed. Those who are now in rebellion against the Government denied the truth of those declarations. They charged that the party was insincere in making them; that the party being based upon the "one idea," that of hostility to slavery, its object was to get control of the Government by these promises of non-intervention, and then bring the whole power of the Government to bear against the institution wherever it existed, and "that the only safety of the slaveholders was to seize their portion of the public arms and public property, that these might not be used in sustaining and waging a war against them and their institutions." The Republican leaders denied those charges, and the resolutions to which I have referred were perhaps intended as further evidence of their sincerity. It is to be lamented, however, that these resolutions, as well as all other measures looking to a peaceful adjustment of our difficulties, were withheld until the Gulf States had withdrawn, and had a government of their own in operation. A heavy responsibility rests upon those who trifled until the last moment with events that were to determine the fate of thirty millions of people. I believe the people of the country and posterity will hold the men responsible who, having the power to propose and adopt measures for conciliation with the people of the South, sneered at their complaints until the time for conciliation had gone.

But what I have to say in regard to the proposed means of emancipation is, that when they are adopted they will confirm the charges made, and the distrust expressed by those who are now in rebellion against the Government; and not only will the people of the South be confirmed in their belief of the insincerity of this party, but the people of the whole country will be brought to the conclusion that such was the policy of the party from the beginning, and that they have secured power by false pretenses. The pledges made to the people by this party are too fresh in their recollection to be so soon forgotten. A standing appeal of the party, when rallying friends to its support, was addressed to those "who desired to see the Government restored as it was in the days of Washington and Jefferson, and to those opposed to peculations and frauds in Government, to rally to the support of the party." "The Government has been restored as it was" with a vengeance. Instead of peace, harmony, and general prosperity, we have war, revolution, and general bankruptcy; instead of freeing the Government of peculations and frauds, we have them increased a hundred fold. The Treasury is bleeding at every pore by the depredations of Government contractors and unfaithful officials.

"Homes for the homeless," were among the pledges of the party; but there seems to have been a condition that those who receive them should serve three years in the Army, fighting for them before enjoying them.

But these are results which may not have intentionally been brought about, at least not by the President, who no doubt would gladly have had his Administration a more prosperous one. But they are results which were foretold years ago by the Democratic party, in the event of the success of a sectional candidate to the Presidency. The Republican party *sneered* at these predictions, and denounced those who made them as "Union croakers," scoffing at the idea of an attempt to disrupt the Union. Time has shown who was right and who was wrong in their views of policy. Let facts speak for themselves. We have the results before us, and let each man judge for himself as to where the responsibility rests.

But to return to the subjects of confiscation and emancipation, which are frequently used as synonymous, but which are very distinct; confiscation meaning to apply to the use of the public Treasury, emancipation being the act of liberating those in bondage. The motive in blending the two subjects together is, no doubt, to carry emancipation, which is the absorbing idea with gentlemen on the other side of the House, under the head of "confiscating property of rebels." Emancipation and confiscation are so distinct that it is entirely useless to consider them in the same bills. No one seriously proposes to sell the negroes of rebels and place the proceeds in the public Treasury, which would be the only way of confiscating them. This would be recognizing them as property, which, I am quite sure our Republican friends will never do.

It has been said by gentlemen on the other side of the House that those who refuse to support bills for the emancipation of the slaves of rebels are for making this species of property more sacred than other property. This is a slight admission on their part that slaves are property, which I have never admitted to be the case, except in those States where the institution exists by municipal regulation, or in those instances where the provision of the Constitution extends for the recapture of fugitive slaves. If slaves are property, and it confiscation bills are to be passed, a general law for confiscating the property of rebels will suffice. But the bills which have been introduced on this subject provide in some manner for confiscating the property of disloyal persons, and then conclude with a section, to which the residue of the provisions are a mere prelude, providing for the emancipation of persons claimed to be held to service or labor by disloyal persons. The object of framing those bills in this way is doubtless to compel gentlemen to vote for the whole of them, including the abolition of slavery, or be liable to the charge of opposing the confiscation of rebel property, which gentlemen suppose a very grave charge, but which I am at all times ready to incur when there is no constitutional authority for such confiscation. The only manner in which the private property of rebels can be confiscated is in pursuance of such laws as have been or may be enacted for the punishment of treason, in obedience to the third section of the third article of the Constitution, which is as follows:

"Treason against the United States shall consist only in levying war against them, or in adhering to their enemies, giving them aid and comfort. No person shall be convicted of treason unless on the testimony of two witnesses to the same overt act, or on confession in open court.

"The Congress shall have power to declare the punishment of treason; but no attainder of treason shall work corruption of blood or *forfeiture, except during the life of the person attainted.*"

If the property of rebels is forfeited, it must necessarily be for treason, as there is no other crime that, by the Constitution, incurs this penalty; before the property can be forfeited the owner must be convicted, and this, according to the section of the Constitution just read, can only be on confession in open court, or on the testimony of two witnesses to the same overt act. The conviction must be through the medium of a court; not only must the conviction be in a court, but the trial in such case according to the second section of the same article of the Constitution, shall be by jury. The conviction must be in pursuance of existing laws defining the degree of guilt. Laws cannot be enacted for the purpose of reaching back to acts not made criminal by statutes existing at the time of their commission, nor can statutes be framed increasing the penalty of crimes already committed beyond their penalty at the time, for it is expressly declared by the Constitution that "no *ex post facto* law shall be passed." Trial for treason, as well as all other crimes, when committed in any State, shall be in the State where committed. When trial and conviction of the party accused is had, which must also be upon presentment or indictment of a grand jury, (fifth article Amendments to the Constitution,) then follows, as the result of that conviction, forfeiture of his property, if annexed as a penalty by existing laws; but the forfeiture is only, at most, during the life of the person attainted. Thus it is that numerous guards and restrictions are thrown around the administration of the punishment of the crime of treason, which is the crime of which those engaged in the rebellion are guilty.

It may be said that laws thus tardy in their operation cannot be executed in a rebellion so formidable, and that we must not thus be restrained in administering punishment to those who have been attempting to overthrow the Government—that there are no courts in many of the States to administer the law on this subject. If the Constitution has not made ample provision for emer-

gencies like the present, it is no part of our duty, sworn as we are to support the present Constitution, to undertake to make a new one. But if we shall succeed in subduing the rebels, so that the practicability of punishing for treason shall arise, there will be no difficulty in executing the law on this subject. But for the present we shall have enough to do in using all the power of the Government in suppressing rebellion and restoring Federal authority in the seceding States. When this is accomplished, the laws can be executed, and not effectually until then. As was suggested by the learned gentleman from Massachusetts, [Mr. THOMAS,] in his very able speech upon this subject, even if the rebellion should not for a time be suppressed in all the seceded States so far as to permit the restoration of the judiciary and the execution of the laws therein, yet many, and perhaps most, of those actively engaged (as leaders at least) in the rebellion, might be tried in some of the States where the judicial authority has not been obstructed, or where it has been restored. For instance: in Tennessee, Kentucky, and Missouri, the military operations of the rebel government have been extensive, and, although many of the leaders have not been actually present in these States in person heading the rebellion, yet they have been constructively present, from the fact that they have directed, controlled, and superintended those military operations, and are therefore liable to trial, conviction, and punishment in some of the loyal States for treason. I suppose the president of the so-called confederate States might be tried in Missouri, Kentucky, Tennessee, Virginia, or Maryland for treason before a court and jury which would administer the law in all its rigor, but, to use an old adage, "as catching is before hanging," it is needless to speculate upon this feature of the question now.

It remains to be seen yet whether the Government will find it practicable to execute the penalty of the law against those in custody of its proper officers, and against the trial and conviction of whom there is no impediment; or even whether the rigor of the law will be visited on those already convicted of that most heinous of crimes, "piracy." If it shall be found impracticable to execute the penalties of the law in these cases, when the remedy is plain, why complain about persons escaping punishment where there is no remedy, or an incomplete one? If the penalty of the law which affects the person cannot be executed against a party in custody, why need the penalty be visited on the property of those not in custody, if it were legal and possible to do so?

The Constitution has provided that "no attainder of treason shall work corruption of blood or forfeiture, except during the life of the person attainted." This is a humane provision, intended to confine the punishment to the person committing the crime, and to prevent the iniquities of the guilty party from being visited on his innocent family; but the confiscation bills alluded to propose to punish the guilty party by taking from his family, who may have been guilty of no crime, their means of subsistence, turning them out of house and home, to become outcasts in the world, for no fault of theirs. I ask if humanity sanctions such measures as those, if there were no constitutional impediment. Another objection to the justice of this absolute confiscation of property, not only for life, but in fee, is that suggested by the same distinguished gentleman from Massachusetts, [Mr. THOMAS,] to whose able remarks I have already adverted, namely: that it takes from the hundreds and thousands of Union men in the disloyal States the means by which they might, in the future, indemnify themselves for outrages committed upon them and their property by the rebels, whose property would be liable to respond to the amount of damages incurred by Union men from their illegal acts. But if the property of rebels is appropriated by the Government, Union men in the disloyal States, who have been dispossessed of their entire property by those in rebellion, whether under the color of so-called confederate law or without the sanction of law, will be left without a remedy for all time to come.

But it is claimed by those who admit that these sweeping acts of confiscation and emancipation have no sanction in the Constitution in times of peace, that Congress, by virtue of the war power, can confiscate the property and emancipate the slaves of rebels. If Congress, or any of the departments of Government, have any "war power," varying from their power in peace, they must derive it from the Constitution, as they are called into existence by it and receive all their powers from it. What is the "war power" of Congress, as it is called? The eighth section of the first article of the Constitution provides that—

"Congress shall have power to declare war, grant letters of marque and reprisal, and make rules concerning captures on land and water."

"To raise and support armies;" "to provide and maintain a navy;" "to make rules for the government and regulation of the land and naval forces."

"To provide for calling forth the militia to execute the laws of the Union, suppress insurrections, and repel invasions."

"To provide for organizing, arming, and disciplining the militia, and for governing such part of them as may be employed in the service of the United States."

The above paragraphs contain all the power that is vested in Congress over the military operations of the country. Congress has the power to declare war; but that power has not been exercised against the disloyal States, for the reason that it would at once be recognizing them as a foreign Power.

The proclamation calling out the present military force was based upon and authorized by the third paragraph quoted, namely: that Congress shall have power "to provide for calling forth the militia to execute the laws of the Union, suppress insurrections," &c. The present military operations are not governed, therefore, by the first paragraph quoted, which applies to a case of war arising between this Government and a foreign Power. Provisions concerning captures, and the granting of letters of marque and reprisal apply also to a war with another Government, in which all the inhabitants are to be treated and held as alien enemies, and their property the subject of capture and prize, without regard to the feelings, sentiments, or course of the individual owner of such property; but certainly no one would favor the capture of the property, either on land or sea, of unoffending Union men, because they might happen to be residents of the disloyal States. It seems to me, then, that the first paragraph gives no power to Congress to forfeit the private property of individuals in the insurrectionary districts, when such property is not used in or designed for the purposes of the rebellion. The power to make rules for the government of the land and naval forces has reference to the organization and discipline of the regular Army, and confers no power upon Congress to authorize the spoliation or appropriation of private property without compensation. The paragraph authorizing the calling forth the militia to suppress insurrections, &c., confers no power beyond the authority to fix the occasion when and the number to which the militia may be called out.

The succeeding and closing paragraph on this subject authorizes Congress, when the militia is thus called out, to provide for organizing, arming, and disciplining them, and for governing such part of them as may be employed in the service of the United States.

When the military force (regular or volunteer) has been organized, armed, and disciplined, it is the province of the Commander-in-Chief to order them, or such portion as may be necessary for the purpose, into the insurrectionary districts, and, by force of arms, repress and subdue those in actual resistance to the laws; but it is no part of the duty of the commanding officer, or his subordinates, to hear and determine who is loyal in sentiment, or who is not; nor to confiscate or emancipate, at pleasure, the property of those that are deemed disloyal. He has nothing to do with those not found resisting the laws or in arms against the Government. Nor has he any right to interfere with the private property of individuals, whether found in actual resistance to the laws or not, unless such property is used directly in aiding or carrying on the rebellion, or actually designed for that purpose. Of course all arms and munitions of war are of the latter class, as well as supplies of any kind designed for the use of those in arms against the Government.

But the fact that private property may indirectly be used to aid in the rebellion by being applied to the use of rebels in arms, when not of itself contraband, furnishes no ground for its capture by a military force engaged in suppressing rebellion. If the people of the seceding States were aliens, and we had a right to deal with them as such under the laws of nations, we would have a right to capture their property wherever found; and in that event no distinction would be made between loyal and disloyal persons, as all citizens of the disloyal States would be presumed to be and treated as enemies. But such is not, or should not be, the policy in this war. We cannot treat loyal Union-loving citizens as enemies, because they reside in disloyal States, where they have already suffered immense hardships at the hands of rebels because they remained loyal. And yet, if we are to confiscate property or emancipate slaves to weaken the enemy, as claimed by some, there is as much necessity to confiscate the property and emancipate the slaves of loyal as of disloyal persons residing in the slave States; for the property of the loyal men in the seceded States forms a part of the resources of the rebel government as much as that of the disloyal. Taxes may be levied upon it in either case for the support of government, or it may be taken in either case to be applied to the purposes of revolution.

It is said that the slaves of the rebel masters must be emancipated, because they are a source of strength to the insurrectionists. That they may be set to work in building fortifications, or even bear arms, or at least may be used on the plantations while their masters fight. The slaves of loyal masters are liable to be used in the same way, if not with the consent of their masters, without it. And whether their masters are in the confederate army or not, the slaves, by their labor, contribute to the resources of and are the basis of the wealth of the confederate government. The same reason, then, that would require confiscation or emancipation in the one case, would in the other. Great complaint has been made of certain military commanders in surrendering slaves, to be used, as has been alleged, in promoting the rebellion. And yet white men, who have been taken prisoners, in arms against the Government, have repeatedly been returned; and these, if not to bear arms, return to contribute by their means to the rebellious movement. These men taken in arms are guilty of treason, and the Constitution does not require their surrender; yet we "swear them, and let them go," or exchange them for those of our own section who may have been taken prisoners by the confederates. And yet, when a black man—whose surrender is required by the Constitution—is given up on claim of his owner, it is a wonderful outrage, and woe be to the military commander who requires the confirmation of the Senate after the act of surrendering one of those fugitives.

But, suppose emancipation bills and confiscation bills are passed in every form in which they have been suggested on the other side of the House. Of what avail will they be? They cannot be successfully carried into effect until the rebellion is suppressed. Even if that most odious and inhuman of all propositions—of arming the slaves—is sought to be carried into effect, in which our soldiers would be as apt to become victims of these ignorant and treacherous creatures as those of the confederates, and which would at most accomplish the inhuman massacre of innocent children and helpless females, you must get to the slaves before you can arm them; and you cannot get to them for this purpose until you have not only conquered the rebel army, but you must first subdue every man, woman, and child in the fifteen slaveholding States, for they would all resist to the last so barbarous an attempt.

There is little danger, however, in my opinion, of this project being carried into execution. It was thought by many before the rebellion that the slaves on the first outbreak would rise *en masse* in insurrection against their masters. No such disposition has been shown on their part as yet. When the inhabitants were compelled to leave Beaufort and vicinity, the negroes made a heavy *charge* on the *abandoned property* of their masters, and, from accounts, could be induced to do nothing but riot on what remained on the deserted plantations, showing no disposition to aid in building intrenchments or perform any manual labor whatever. So it is said to be with the so-called

contrabands brought into this city. They have no disposition to engage in any business or perform any labor whatever, while they can be kept at the Government's expense. There is no danger of a very formidable army being composed out of such a population, under the lead of the kind-hearted gentlemen who would be placed in command. These negroes prefer their freedom for the privilege of living without labor, and our Republican friends will not find it an easy task to get them into the military service or any other service involving labor. Neither, as I apprehend, are there many who seriously contemplate a policy of this kind; but such propositions serve to pander to the prejudices and passions of a certain portion in the loyal States, and serve to further exasperate those in rebellion, and prolong the bloody struggle, which is inuring to the benefit of a certain class, while it impoverishes the great mass.

So far as there is anything practicable in these propositions for emancipation, the country is realizing all it would in case of their passage. Hundreds and thousands of slaves will and do escape wherever the Army advances. They will not be pursued by their owners if disloyal, and the consequence is that they will escape to the North, and we will have our satisfaction of them without the passage of these bills. If this is the natural consequence of the rebellion, all must submit to it. What more do gentlemen who favor emancipation desire? Do they desire that the soldiers of our Army shall be engaged in running down and carrying off negroes, and nothing else? The emancipation now going on without law ought to suffice; especially when it could not be accelerated by congressional enactments.

Again: by your impracticable and unconstitutional enactments, will you add to the efficiency of our grand Army now in the field? Will these brave soldiers fight any more valiantly when the abolition of slavery is declared to be the object of the war, than they do when the perpetuity of the Union is the paramount object? Certainly not. The majority of these men have been opposed to the abolition sentiment when at home, and will not cheerfully vindicate it on the tented field. They have fought at the ballot-box at home against this doctrine, and will not fight in its favor abroad. On the contrary, when the objects and policy of the war has changed, as seems the determination of the party in power, they will conclude that they have been made the dupes of politicians to sustain their schemes of self-aggrandizement, instead of the more glorious purpose of sustaining the "stars and stripes."

Sir, as was said by the gentleman from New York [Mr. STEELE] in his remarks in the early part of the session, "when you adopt your proposed policy you paralyze our grand army."

It is said "Nero fiddled while Rome was burning," and little less than the reckless spirit of that tyrant could induce gentlemen at this critical time in the history of our country, when tens of thousands of our brave countrymen are falling victims to the dire misfortunes of civil war, when the country is in a blaze of discord and ruin, tottering and groaning under the weight of its dreadful calamities, to be forcing upon it the very policy which helped to inaugurate this fearful struggle.

What is to be the effect of these measures upon the loyal people of the border slave States? Sir, you have the testimony of every gentleman present from those States who has addressed the House on the subject, and who is identified by birth, education, and interest with the people of those States. They all concur in saying that they will be disastrous to the Union cause there. I cannot more correctly give the expression of sentiment from gentlemen representing those States, than by reading the following extract from the eloquent and able speech of the gentleman from Kentucky, [Mr. WADSWORTH,] made early in the session. He said:

"News comes to us frequently of once faithful but fainting hearts who have stood manfully with us, succumbing to this destructive agitation. When they read that you intend to proclaim emancipation, to repeal the fugitive slave law, and to exterminate slavery in the States and the District, they faint and fall, and they say you justify the ground upon which the rebellion originally started. Why do you drive them from you? Is it that you may secure the support of the African race? Is it for any benefit which they may bring to you? Do you prefer to fraternize with the negroes of the slave States rather than with the freemen there? This day you have to make that choice. If you are for the emancipation of the slaves, you arm each man of those States against you. You must choose between negro slavery or the white people of fifteen States in opposition to you."

The venerable gentleman from the same State, [Mr. CRITTENDEN,] and his venerable colleague, [Mr. WICKLIFFE,] two distinguished statesmen and patriots, who were the cotemporaries of Clay, Webster, and Jackson and the other statesmen and patriots of those better days of the Republic, have both repeatedly appealed to the dominant party to abstain from the rash measures proposed.

But neither appeals, entreaties, or arguments from any source seem to be heard by those who are determined to use power while they have it to further their political purposes. Sometimes there is a suspension of movements on this subject, but it is only temporary. But why should gentlemen of the party in power pursue the course which has thus far been pursued and is likely to be pursued? They have the complete control of the Government in all its branches, and cannot they afford to be generous? All the patronage of the Government is at their disposal; scarcely a post office in the country which has an annual income of twenty dollars has been permitted to remain in the hands of a Democrat, although he might be ever so loyal, and be found in many instances doing more to sustain the Government than his successor. In all the Departments of the Government—except perhaps in the War Department—the guillotine has been used unsparingly; and even in this Department the appointments of Democrats have been to places in the active service, and will be found to be comparatively few. Yet this fact has not in the least prevented the conservative masses of the country from giving the Government a hearty support. Thousands and hundreds of thousands of Democrats have been found willing to accept the position of high private in the Army at thirteen dollars per month.

Now, while those brave men are in the field fighting to sustain the Government, that the dominant party may enjoy the spoils which they have so long been struggling to possess, should not the leaders of the party be satisfied to enjoy this patronage, without trying to force upon their political opponents the doctrines they have ever abhorred? Yet such seems to be the object; and if any one dares to protest against the policy of this party, he is denounced as an enemy of his country, as if it was necessary to be in favor of the measures and success of the Republican party to be a patriot. Surely these things cannot last. I do not complain of the dominant party enjoying the patronage of the Government; it is their right to do so, although the circumstances which surround the Administration would afford an excellent opportunity for magnanimity. Yet the party is responsible for the acts of its Administration, and but few true Democrats will care to share its responsibilities, and in the end its disgrace, for the consideration of any place, high or low, within its gift.

What I have said in opposition to these measures of emancipation and confiscation has been from an earnest conviction that they are without warrant in the Constitution, and would tend to widen rather than heal the breach now made in the organization of the Government, and because I believe their effect will be to inaugurate a policy that will forever alienate the people of the fifteen slaveholding States of the Union from those of the North and West, and array them further in hostility to a Government which would devise means to deprive them of their constitutional rights rather than to aid them in retaining them. In that event, we will become involved in a long, bloody, and suicidal struggle which will eventually terminate in the total ruin of both sections of the country, and an entire separation of these States.

Sir, I am in favor of that policy which will strengthen the hands of the Union men of the slaveholding States, and which will dissipate the apprehensions of those who have been deluded into the support of the rebel government from the belief that this war is waged for the purpose of confiscating their property and for the desolation of their homes, that they may be induced to again render that willing support to the Government of our fathers necessary to its existence, and without which no free Government can long endure. Let us for the time, forgetting all mere abstract opinions, remembering only that we have a common interest and a common destiny, strike hands on that patriotic sentiment of the hero of New Orleans: "the Union, it must and shall be preserved;" and prosecute this war while prosecute it we must for its original object, "the suppression of rebellion and the execution of the laws."

When we firmly unite on that policy, and not until then, can we confidently indulge the fond hope which pervades the American heart, that the star-spangled banner shall again wave in triumph over every portion of the vast Confederacy.

COURT OF CLAIMS.

SPEECH OF HON. A. G. PORTER,

OF INDIANA,

IN THE HOUSE OF REPRESENTATIVES,

April 15, 1862.

The House having under consideration the motion to reconsider the vote by which the bill to amend an act to establish a court for the investigation of claims against the United States was recommitted to the Committee on the Judiciary—

Mr. PORTER said:

Mr. SPEAKER: It may be well that I should state, before proceeding to explain the provisions of this bill, that in nearly all its leading features it is similar to the bill which passed the Senate, after grave consideration and discussion, at the last session of the Thirty-Sixth Congress. The bill was not reached on the Calendar of the House before the final adjournment.

In the judiciary act of 1789 it was provided that the courts of the United States should have jurisdiction of all suits in law or equity in which the United States were plaintiffs or petitioners; but no provision was made by which a citizen might, under any circumstances, bring suit against the Government to recover a claim of any character which he held upon it. His only chance for relief was by a resort to Congress.

The inconvenience and injustice to the citizen of refusing him a judicial hearing was long felt. In the vast class of controversies arising upon contracts for military and naval supplies, materials, and equipments, for postal service, for the construction of public buildings and other works, &c., the Government was authorized to resort to its courts to enforce the most minute provisions of every contract; but against the citizen seeking redress for a breach, however flagrant, by the Government, of the same contract, the courts were closed. When he turned for redress to Congress, he found himself before a body engrossed with public duties too important to allow a deliberate consideration of his claim, too numerous to hear and investigate it properly if desirous, bound by no judicial precedents securing uniformity of decision, and addicted to delaying for years decisions upon claims which a court could have readily disposed of in a day. A business man ordinarily felt that it was better to submit at once to the loss of his claim than to lose the time, incur the expense, and subject himself to the annoyance and uncertainty incident to its prosecution in each House of Congress. Nor was the Government a gainer by its illiberality in this respect. The Calendar of each House was filled with claims, persistently pressed from Congress to Congress, by dishonest claimants, and more dishonest claim agents, which no court would have entertained, and which had no foundation of justice whatever. Yet these claims, made specious by fraudulent proofs and representations, and strengthened often by skillful combinations between claimants, were frequently passed by Congress, to the great detriment of the Treasury.

Judicial precedents not controlling, an examination by any considerable number of members in either House being impossible, caprice, commiseration, political partiality, or prejudice, the popularity and tact of the member having a claim in charge, a sudden and hasty consideration of the question in a confused or thin House, and perhaps—though very rarely—interest, hidden out of sight, though not less active and potent on that account; all these became elements not seldom controlling, very frequently affecting, the decision of claims.

To correct all these evils, so disreputable to the Government, Congress, in 1855, passed the act establishing the Court of Claims. The court was regarded, in some measure, as an experiment. Final jurisdiction, therefore, was not conferred upon it; though there can be little doubt that it was contemplated that its decisions would be treated as conclusive, unless indeed in very rare and extraordinary cases. Jurisdiction was conferred upon the court to hear and determine all claims founded upon any law of Congress, or upon any regulation of an Executive Department, or upon any contract, express or implied, with the Government, which might be suggested to it by petition; and also of all claims which might be referred to it by either House of Congress.

The bill now under consideration enlarges the jurisdiction of the court, by extending it to all claims for which the Government would be liable in law or equity if it were suable in courts of justice, except such as Congress may, by joint resolution, specially declare shall be disposed of by act of Congress or otherwise, and by giving it also a concurrent jurisdiction with the circuit and district courts of the United States, of all suits or cases against the United States for the title to real estate, or for muniments of title to the same.

The Court of Claims, sir, has shown itself worthy of the confidence of Congress and the country. The judges have commended themselves to public regard by their integrity, diligence, and impartiality. No corrupt or suspicious claim has received their approval. Meritorious claimants, long delayed by the embarrassments incident to a resort to Congress, have been promptly heard and their claims favorably decided. And yet, while the sums claimed in the cases which have been tried and decided amount in the aggregate to $12,000,000, the amount allowed by the court has been but about six hundred and fifty thousand dollars.

Congress has in one significant way, at least, testified its confidence in the court. In two cases only has it allowed a claim rejected by the court, and in one of these the claim was recommended to the favor of Congress, though not being in strict law due, the court could not report a bill to the House for its payment. It is very doubtful, too, if in the other case Congress would not follow the decision of the court, could it reconsider its action.

But notwithstanding this, a practice adopted by the two Houses, growing, perhaps, out of a pride which dislikes to part with the possession of power rather than upon any well-grounded reason, has nearly destroyed the usefulness of the court. There is a provision in the act establishing the court that it shall report to Congress the cases upon which it shall have finally acted, stating in each case the material facts which it shall find established by the evidence, with its opinion in the case, and the reason upon which it is founded, and also the testimony; and that the court shall prepare a bill or bills in those cases which shall have received its favorable decision, &c. Under the practice of the House, the opinion and testimony in each case are referred to the Committee of Claims, where the decision, instead of being treated with the respect due to the solemn adjudication, is regarded, in many instances, with little more consideration than the petition of the claimant; and the delays incident to the progress of claims in either House, after a decision by this court, seem to show the court, under its present organization, to be an impediment in the way of an early adjustment.

The injurious effect of the delays to which claims are subjected, after having received the favorable decision of the court, is strongly set forth in a communication which I have received from the assistant solicitor of the court, in answer to certain questions which I addressed to him. He says:

"When I first came into the court it was attended by a very numerous and highly respectable bar, and the anxiety of claimants to bring their cases to trial was very great. But by the close of the third session after the organization of the court, claimants saw that its judgments, if favorable, helped them very little in Congress, for it required quite as much labor and expense to procure the passage of the bills reported by the court as to procure the passage of those introduced by members. Hence the resort of claimants to this court rapidly declined. But I can state with perfect confidence, derived from long intercourse with claimants and their counsel, that a large majority of those who have ceased to press their claims here, would gladly submit to a trial before any fair judicial tribunal, if its judgments were conclusive."

Now, sir, this bill proposes to transfer to the Court of Claims jurisdiction over all private claims against the Government, whether of a legal or equitable character, except claims arising under foreign treaties and those which Congress shall, by joint resolution, specially declare shall be disposed of by act of Congress or otherwise; and the jurisdiction is made final and conclusive, subject to a right of appeal by either party where the amount in controversy exceeds the sum of $3,000. It makes out of the Court of Claims, which is now a mere commission, a court indeed, and relieves Congress of duties which, from the nature of its organization, it never has been competent fitly to perform.

Nor does it propose anything novel in the administration of justice between Government and citizen. In every cultivated nation in Europe the citizen is allowed judicial redress against the sovereign power. A court is always open to him, and its judgments are treated as conclusive upon both the parties. A few years since, when the establishment of a judicature to decide upon private claims was first attentively considered by Congress, the chairman of the Committee of Claims addressed notes to the several foreign ministers resident at Washington, to ascertain the practice of their respective Governments in relation to the disposal of private claims against them, and the reply of each was, substantially, that they were judicially determined, and that the sovereign was held bound by the decision.

It will be observed that jurisdiction of claims arising upon treaties is withheld from the court. According to the practice of nations, such claims are usually adjusted by commissioners specially appointed for the purpose. Besides, they often partake of a political character, which renders it proper that they should be under the immediate supervision of Congress. For those and other reasons it has been deemed prudent to retain the jurisdiction over them in Congress.

An important feature of the bill is the provision which confers upon the court jurisdiction of all set-offs, counter-claims, claims for damages, whether liquidated or unliquidated, or other demands whatsoever, on the part of the Government against the claimant, and which provides that where upon the trial it is ascertained that the claimant is indebted to the Government, the court shall render judgment to that effect; and that a transcript being filed and recorded in the clerk's office of any district or circuit court of the United States, shall become thereby a judgment of such court, to be enforced in the manner of other judgments. This provision is founded upon the just idea that the Government ought not to be subjected to a judgment in favor of a party to whom, upon a settlement of all transactions, it is not indebted, and upon the wise policy of preventing a multiplicity of suits. It furnishes also an additional safeguard, in cases where the claims are mutual, against fraudulent or exorbitant demands against the Government.

By a provision of this bill every claim against the United States cognizable by the Court of Claims is to be forever barred unless the petition setting forth a statement of the claim be filed in the court, or transmitted to it under the provisions of the bill, within six years after the claim first accrues. In relation, however, to claims which have hitherto accrued, it is provided that they shall not be barred if the petition be filed in the court, or transmitted as aforesaid, within three years after the passage of the act. There are proper saving clauses in behalf of persons under disabilities. This is a very important section. It will soon set at rest the claims which for a generation have been persistently pressed upon successive Congresses, because repeated rejections did not affect the right still further to press them, and which seemed to grow stronger as time deprived the Government of the means of refuting the fictitious pretenses on which they were based. It will require also that claims shall be prosecuted while the facts on which they rest are recent and the evidence is conveniently attainable.

To provide further against attempts to practice frauds upon the Government in the proof, statement, establishment, or allowance of any claim, the bill contains a provision that a corrupt attempt to practice such frauds shall work a forfeiture of the particular claim. This is meant to visit with merited punishment that corrupted moral sense which regards the Government as always a proper prey for fraudulent rapacity.

It has sometimes been argued by persons friendly to the reference of private claims to judicial determination, that the jurisdiction ought to be given to the circuit and district courts. The Judiciary Committee, however, after bestowing the gravest reflection upon the subject, have come to a different conclusion. In addition to the danger of local influences which might be prejudicial to the interests of the Government, is the consideration that access can be had to the public archives only at the capital, and that scarcely any case of importance is decided without reference to some public document. The machinery of the Government has grown so complex, also, that familiarity with its workings is alike needful to the judges and attorneys of the Government, and can only be acquired by experience derived from proximity and constant occasions to observe them.

Indeed, without reference to other reasons, the present condition of the country would render such a transfer of jurisdiction exceedingly improper. In most of the southern States no district or circuit courts now exist. The prejudice and animosity toward the Government, which it may require much time to heal, would cause all prudent men to pause before placing the pecuniary interests of the Government in the keeping of courts and juries there. Nor is another consideration to be overlooked. The important and responsible duties proposed to be transferred to a judicature will, by the provisions of this bill, be performed under the immediate eye of Congress. If any evils shall be found practically to flow from this transfer of jurisdiction from Congress to the court, or if any questionable practices shall spring up, Congress can promptly apply a corrective by modifying the jurisdiction or abolishing the court.

The bill proposes to increase the number of judges to five. The increase of jurisdiction and the great addition of labor which will be imposed upon the court by questions growing out of the rebellion render this increase absolutely needful to enable the court to transact its business. Justice and economy will be alike promoted by a prompt decision of cases. It is the delay of business in courts which, more than everything else, renders them needlessly expensive.

The other provisions of the bill seem hardly to require explanation, and I will pass them by. I will only add that the bill is one of the most important which has engaged the attention of the House, is calculated both to subserve justice and protect the Treasury, and I trust that it will meet with a favorable judgment.

MANAGEMENT OF NAVY DEPARTMENT.

SPEECH OF HON. C. B. SEDGWICK,

OF NEW YORK,

IN THE HOUSE OF REPRESENTATIVES,

April 28, 1862,

On the report of the select committee on Government contracts.

Mr. SEDGWICK. Mr. Speaker, I am grateful to the House for their kindness and courtesy in permitting these resolutions to stand over until to-day out of regard to my convenience. I shall endeavor to discuss one of the subjects presented in the report of the investigating committee, and to discuss it upon its merits, endeavoring in all I may say upon the subject to avoid anything impertinent to the matter under consideration or personal to any member of the House.

The committee had occasion, among other things, to examine certain transactions in the Navy Department, and from that examination they have arrived at certain conclusions which I propose to controvert. The committee say and insist that in the purchase of the vessels which the circumstances of the times had rendered necessary, it was proper for the Navy Department to employ naval officers of experience in that ser-

vice, and that they, from their habits of life, their experience, their knowledge of naval affairs, their education and training, were more competent and better prepared to do that service to the advantage of the Government than any mercantile agency out of the Department and out of the line of its officers which could be employed. They insist that they should be men who are subject to military discipline, and to exemplary and prompt punishment for any misconduct; but that if officers of the Navy could not be employed for that purpose, then the business should be intrusted to those having experience in sea life, and in the building or sailing of vessels, and competent to know of the character, capacity, and value of the various vessels offered to the Government. They complain through the entire report that the purchasing of vessels, which was commenced upon their principles by an experienced officer of the Navy, was taken from him and committed to a man who had been engaged all his life in commercial pursuits, and they insist upon it that this change in the agency of the Government was attended with loss and damage to the Government; that it was a novel experiment; that it was without precedent and without law, and which, instead of securing benefit to the public service, will result in loss to it. In accordance with that resolution, the committee reported the third of this series of resolutions, which is as follows:

That the practice of employing irresponsible parties, having no official connection with the Government, in the performance of public duties which may be properly performed by regular officers of the Government, and of purchasing by private contract supplies for the different Departments, where open and fair competition might be properly invited by reasonable advertisement for proposals, is injurious to the public service, and meets the unqualified disapprobation of this House.

That is the resolution of the committee. One member of the committee, Mr. HOLMAN, of Indiana——

The SPEAKER. The Chair will state that it is not in order to call members by name. The Chair called attention to it the other day. It is contrary to parliamentary rule.

Mr. SEDGWICK. I did it merely for the purpose of calling his attention and to give him an opportunity, which I understand he desires, of separating from the resolutions of the committee the resolution which he introduced; not from the committee, but upon his own personal responsibility.

Mr. HOLMAN. Mr. Speaker, for the purpose of submitting the question more definitely, I will modify the amendment which I offered to the fourth of the series of the resolutions, by substituting for it the following:

Resolved, That Simon Cameron, late Secretary of War, by investing Alexander Cummings with the control of large sums of the public money, and authority to purchase military supplies, without restriction, without requiring from him any guarantee for the faithful performance of his duties, when the services of competent public officers were available, and by involving the Government in a vast number of contracts with persons not legitimately engaged in the business pertaining to the subject-matter of such contracts, especially in the purchase of arms for future delivery, has adopted a policy highly injurious to the public service, and deserves the censure of this House.

Resolved, That the Secretary of the Navy, in the employment of George D. Morgan, without requiring from him any guarantee for the faithful performance of his duties in the purchase of a large number of vessels for the public use, with a compensation dependent on the prices paid for such vessels, and receivable from the seller, instead of employing responsible officers of the Government, has adopted a policy unauthorized by law, destructive of public economy and public confidence, and deserves the censure of this House.

Mr. SEDGWICK. Mr. Speaker, I am obliged to the gentleman from Indiana for doing the justice of separating these resolutions, so that each person whose conduct is impugned by the resolutions of the committee may stand on his own merits, or fall by his own misconduct. I propose to show that the old routine and red-tape system which would lead to purchasing vessels by naval officers on any presumption that they have skill in trading, is a most monstrous proposition which cannot be sustained for one moment, and which any sensible man in this House would reject in his own affairs. In the first place there is nothing in the profession of a naval officer to beget this skill in trade. The whole training of an officer, and all the habits of his life, are entirely inconsistent with the acquisition of any such skill. This matter has been tested by experience. The Department availed itself of the skill and experience of its officers in the first purchases and charters of vessels, when it was found that the necessities of war required that this should be done. They employed a gentleman of age, of mature experience, of great skill in his profession—a man against whose integrity and honesty no person who knows him will ever breathe a suspicion. I refer to Commodore Breese of the Brooklyn navy-yard, a man of sense and discretion, of education and skill in his profession, but as incompetent as a child in all matters concerning the purchase of vessels, as experience has taught us to our cost.

Let me show the House an instance of this. One of the purchases most complained of on the part of the mercantile agent of the Navy Department was that of the Stars and Stripes. She was bought for $55,000, and it is said she cost but $36,000. She was a new vessel, a propeller of four hundred and seven tons. At the time of her purchase she was in the employment of the War Department under a charter, at $10,000 a month. If the committee on Government contracts had examined with particularity every purchase made through the mercantile agent, it would not have found one that would have suited its purposes better than this one in charging extravagance on that branch of the service.

Through an officer of experience, a man responsible to military authority, a man of experience in the service, brought up to a knowledge of naval affairs, the Government purchased two other vessels—one of three hundred and eighty-nine tons and one of three hundred and seventy-eight tons, each of them three years of age, at a cost of $75,000 each. The Stars and Stripes, a new vessel, and of the same class with the other two which were three years older, was purchased by the mercantile agent at $55,000. The one purchased by the mercantile agent, and which has been seized upon as a proof of extravagance, cost $132 a ton new. The others, three years of age, bought by experienced officers of the Government, cost $194 per ton, and were not new. They were in no respect vessels of a superior class to that of whose purchase complaint is made.

That is one specimen. There were other contracts made by that experienced commodore. He chartered from parties in New York several vessels —five from one concern, Cromwell & Co.—the Monticello and Mount Vernon at $8,000 per month; the Huntsville and Montgomery at $10,000 per month, and the R. R. Cuyler at $12,500 per month. From another party he chartered the Dawn at $7,000 and the Daylight at $8,000. In those charter contracts was included an agreement by which the Government had a right to purchase these vessels at the following prices: the Monticello and Mount Vernon at $80,000 each; the Huntsville and Montgomery at $100,000 each; the R. R. Cuyler at $180,000; the Dawn at $45,000, and the Daylight at $60,000—all at $670,000. These same vessels, being for a time in the service of the Government under charters, they would have cost in ten months their whole asking price. They were chartered at ten per cent. on their nominal value, at which the Government had a right to take them. After these charters had been running for a few months, the Government employed a mercantile agent to see if they could be got rid of. That agent went on and purchased the same vessels that were chartered, and for which the above prices were agreed upon between the owners and the experienced agent of the Government, at an aggregate saving of $93,000 in that single transaction—a larger sum than has been paid to him for commissions.

But there was a little something further about that. These vessels, chartered by the official agent of the Government, had been altered to fit them for the naval service, at a cost of over $50,000, and it was estimated that it would have cost about the same amount to restore them to the same condition in which they had been when chartered, and which the Government had agreed to do, on their being returned to the proprietors.

Here, then, is the experience of employing a naval officer in the purchase of vessels. I shall have occasion to call the attention of the House a little further to this subject hereafter, to show that, notwithstanding the responsibility of an officer of the Navy, the Government was not saved from imposition and fraud. After a little experience of that mode of transacting business, the Navy Department concluded to select an agent, of experience in mercantile affairs, to attend to the business of purchasing and chartering vessels. Mr. Morgan was named as a proper person to be employed in that matter. It was not a secret arrangement. It was an open arrangement, known to and advised by other officers of the Government, besides the chief of the Navy Department. There was no concealment about it. The transaction was fair and open. It has been repeatedly avowed, in the reports which from time to time the head of the Navy Department has made to the Executive of the United States and to Congress; and he stands upon it as being the best arrangement which, under the circumstances of the case, it was possible for him to make. The conduct of the business of the agent was fair and open. There was a public advertisement in the principal market for vessels in the United States, stating the description of vessels which he was directed to purchase. There was, in all cases, a fair and open statement of the terms on which he proposed to buy. That is, that the Government was to pay the value of the vessels; and the sellers were to pay the commissions on sale to the broker or to the agent.

It is said by the committee that whenever the Government desired to obtain a knowledge of the character and description of the property purchased, it fell back on officers of the Navy. That is true. That was the manner in which these purchases were conducted. The Department employed a mercantile agent to do the negotiation, to do the trading. In all cases it employed a naval constructor of experience and character to examine into the materials, construction, and condition of the vessels proposed to be bought. They caused an ordnance officer to examine the vessels with a view to ascertain what armament they would carry. They employed an engineer of skill and experience to ascertain the condition and value of the engines and machinery by which these boats were propelled. There was, therefore, a division of labor between the different agents of the Government: the constructor of experience to know what the quality and condition of the vessels was, the engineer and ordnance officers to examine them in the particulars in which they had experience and skill, and the mercantile agent to conduct the negotiation.

It is said that this large business should not have been thrown into the hands of a single agent. But every man of business will see that if any other agent, if two agents of the Government, had been employed in the same market, the only result would have been to make the Government a competitor against itself; it would have resulted in enhancing the price of the property purchased. That was the case in the sending by the Government of agents to Europe to buy arms and supplies for the Army, where each gentleman, anxious to obtain the credit or profit of as large an amount purchased by him as possible, would have no hesitancy in bidding against another agent of the Government employed in the same business.

I have shown how, in a single transaction of this agency of the Government, a large amount of money was saved. In assajling these transactions an official report has been made to Congress, containing a long argument, based upon an attempt to impeach the accuracy of a statement made by the Navy Department, which as printed shows the price asked for one vessel to have been $120,000, and the price paid $23,000, making a difference of $97,000. Now, is it not strange, is it ingenuous, that a mistake so obvious to the mind of any man disposed to let in the light, should be taken hold of, when in all the other papers referring to the transaction the sum appears at $93,000 instead of $23,000? Is it not strange that upon such a basis an attempt should be made to impeach the integrity of the transaction?

Under this arrangement one hundred and thirty-six, and I suppose before this one hundred and fifty vessels, have been purchased, and no one of those vessels which have been purchased through the medium of this mercantile agency has been lost to the Government. Other vessels have been found inefficient, they have not been found suited to the wants of the Government for the purposes

for which they have been purchased. But never one of those vessels purchased by Mr. Morgan has failed to perform all that was expected of it at the time of purchase. Both Captain Woodhull and Flag-Officer Du Pont, and others, have spoken in terms of high praise of the efficiency of the vessels so purchased.

But this transaction is attacked on the ground that extravagant and extraordinary commissions have been paid by the Government. The whole statement of the matter has been made to the House and to the Senate, that there was no agreement upon the part of the Government in regard to the payment of any commissions whatever. The Government had no right to agree to pay Mr. Morgan a salary, or to pay commissions. They left that to the regulation of the agent himself, prescribing only that his commissions should not exceed a certain rate. He was left to make his arrangements with the sellers in accordance with the custom in the city of New York, where these vessels were purchased. It is the rule of the Chamber of Commerce of that city, controlling, as it does, most of the commercial transactions there, that where there is no agreement between the parties, a commission of two and one half per cent. shall be allowed by the seller upon the sale of vessels. That commission, by the universal custom of merchants of that city, is always paid by the seller to the agent or broker who negotiates the sale.

It is true that in particular cases this custom may be varied, it may be more in some instances, and in others it may be less. That is a matter of agreement between the parties; but in no case under this arrangement of the Navy Department has this commission of two and a half per cent. been exceeded, and it has been reduced in some cases to one and a quarter per cent., in others to one per cent., and in others altogether given up and abandoned by the agent.

But it is said that although the Government does not directly pay this commission, yet indirectly it does come out of the public Treasury. Upon that subject the committee have taken a little testimony, to which I shall beg leave to call the attention of the House. In the discharge of their duties they called upon some of the sellers of these vessels, and I refer now to the testimony of Mr. Henry B. Cromwell, who sold to Mr. Morgan, for the Department, the vessels originally chartered by Commodore Breese. In speaking of that transaction he was asked what Mr. Morgan did, and the answer was:

"He beat us down in the price, and got them as low as he could. We sold the vessels at a great reduction. We sold the three for $345,000, when the price stated in the charter-party was $400,000. Morgan is an exceedingly shrewd, sharp fellow. He induced us to take a very large discount off. We ought to have had the price named in the charter-party, but he saw that we had no business for the vessels and wanted to sell them; and hence he induced us to take that low price for them.

"*Question.* What is the practice in relation to the payment of commissions on the purchase and sale of vessels?

"*Answer.* Well, we are charging the stockholders of our company five per cent. for selling these ships to the Government."

In regard to the charter he says:

"They had been in the Government employ four months and a half. In selling we not only reduced the price $55,000, but relinquished all the charter money after three months. We relinquished about eighty thousand dollars on those three ships.

"*Question.* State the amount of money you have paid Mr. Morgan as commissions?

"*Answer.* We have paid him only $3,450; that is, one per cent. upon that sale.

"*Question.* What did he do for that $3,450?

"*Answer.* We had many conferences together, and he beat us down all he could, and made representations that he would return the ships upon our hands. By making such representations he induced the stockholders to sell the vessels."

Then another member of the committee took him up; and for the purpose of showing that Mr. Morgan's commission was in fact paid by the Government, he inquires:

"Do you consider that you paid him for beating you down?

"*Answer.* I suppose that was what the Government employed him for.

"*Question.* But you were to pay him?

"*Answer.* I think the Government ought to have paid him; but he said that one per cent. was to be paid by us. As he said that we were to pay him one per cent., I did not take the trouble to look at the law.

"*Question.* Did he tell you before he made the purchase that you must pay one per cent.?

"*Answer.* Yes, sir.

"*Question.* So you had fair notice that you must put that upon your price, if you chose; that is, that in the price you fixed upon the vessel you must take into consideration the fact that one per cent. was to come out of it?

"*Answer.* I do not suppose we should have sold them for any less if we had not had to pay that one per cent.

"*Question.* Did you not take that one per cent. into consideration in determining your price for the vessels?

"*Answer.* No, sir; I do not think we did, but with close calculators that would have been the natural consequence. I cannot say that I thought of it. It being a small commission, I thought it a matter of no consequence."

That is the evidence of this witness under the examination of two members of the committee. Another member then asked what he would have done with the vessels if he had not sold them to the Government. He replies:

"That was the question, and for that reason we sold them at a much lower price than we built them for. We had thirteen steamers when the war broke out, and we sold five of them. The Monticello is one of the most efficient steamers the Navy Department ever had."

Another witness, (Mitchell,) on page 298 of this report, is asked about the practice as to the payment of brokerage upon the sale of vessels. He replies:

"That depends upon circumstances. If you employ a person to sell a vessel for you, you pay brokerage; but I never paid brokerage to a person employed by anybody else. I was assured by Mr. Morgan that the Government paid him nothing.

"*Question.* How much, in gross, did you pay him?

"*Answer.* It must have been over $11,000.

"*Question.* Before the trade was made, you were advised as to the commissions?

"*Answer.* Yes, sir, he mentioned it to me."

Now, mark the leading, artful questions which this committee put to witnesses for the purpose of inducing them to say that it was the Government that paid the commission:

"*Question.* So that you had an opportunity to put that percentage upon your price?

"*Answer.* Yes, sir; but I did not think of that, for I was anxious that the Government should have the vessels, and I would almost have given the vessels to the Government while the ports at the South needed blockading. We had no difficulty about the price. It seemed a pity that they should lay at the dock when they were so much needed."

The witness is examined in order to show that the Government agent had enhanced the price and paid large prices for the purpose of getting larger commissions, and what does he say in regard to that? The same kind of leading and suggestive question is put to him:

"*Question.* The effect of that was, that the more you got for the vessels the more Mr. Morgan got by way of commissions?

"*Answer.* That would seem to be the case; but Mr. Morgan seemed to work for the Government harder than I thought he would have worked for himself. Morgan was not liberal in his prices, but rather the contrary.

"*Question.* Parties owning vessels were anxious to sell them?

"*Answer.* No doubt they were; but we thought we ought to have got more money for them than we did. The Augusta cost us $170,000, and we sold her for less than $100,000. Of course age had depreciated her value somewhat. She had been running five or six years, but she was always kept in good condition, and recently new boilers had been put into her."

There is nothing to contradict the purport of this testimony. It proves conclusively that in fact, in practice, the commissions were not added to the price or value, and were not therefore indirectly paid by the Government.

The Senate committee say in their report that the value of the vessels, or rather that the *price* of vessels, is fixed by cost to the time of sale, including taxes, insurance, transportation, &c. I went through a course of education once which brought me to the study of political economy, not as a matter of practice but as a matter of theory, and I learned there, if my memory serves me, that *value* or *price* depends upon supply and demand; that when vessels are not wanted by their owners for commerce, but are idle or earning nothing, the owners are glad to part with them without regard to cost and without regard to taxes or commissions. They get what the state of the market or the relation of supply and demand will bring them. If the market is overstocked with the kind of vessels, and commerce is destroyed, and there is no use for them, the owners are willing to get rid of them for any other service, not calculating cost and taxes, but getting the best prices they can, governed by supply and demand. The value in the market is the limit of price; it may be more and it may be less than cost. I do not believe, when real estate is put in market, that the seller adds to the cost of the purchase the expense of the improvements, the trees he has set out, and with all the charges for drawing the deeds and the examination by counsel of the titles, but he sells according to the price in the market, according to the laws of demand and supply.

But it was said that it was the interest of the agent to get the largest price in order to enhance his commissions. I agree that it was the *interest* of the agent to accord the largest prices. Now, if the facts show that the agent, instead of agreeing to pay the largest price, screwed the seller down to the smallest, as these and all the witnesses testify, does it not show that this agent was an honest man, and disregarded his own interest in order to do the best for the interest of his employers? Does not that show the integrity and honesty of this agent? What do the committee say, after a careful examination of all of the facts in this case? They say, on page 34:

"It is not believed that Mr. Morgan *ever yielded* to this temptation to which the vicious principles regulating his compensation exposed him."

They accord to him integrity in the management of this business; and I believe there is no member of that committee, certainly there is not so far as I have heard them speak, who is not open in the expression of that opinion. They do not charge dishonesty against him in their report. They do the Secretary of the Navy, also, the simple justice to stand here and say that there is not any want of integrity, that there has not been the least appearance of dishonest purpose on his part in the transaction of this business. If there is anything in the evidence before that committee to show any dishonesty on the part of the Secretary of the Navy, I ask that it may be presented and pointed out. I do not call upon the committee in their absence, but I say in the presence of the members of the committee, that it does not appear, and no man will have the courage to say that there is anything in this transaction to convict the Secretary of the Navy of any dishonesty or want of integrity in intent or in practice.

Let us look at the matter to see how great was the interest of the agent to enhance the prices. The aggregate of vessels purchased by him, according to a document before us, amounts to nearly three and a half millions of dollars. The prices asked and the prices paid are set out, and it appears that in the aggregate these vessels were purchased between nine hundred thousand and one million dollars less than the price asked. If this agent had acceded to the terms of the owners of the vessels, paying regard to his interest more than to his honor and integrity, he would have put $20,000 of commissions into his pocket. Yet the committee confess he resisted all temptation, and purchased these vessels at a saving of over nine hundred thousand dollars to the Government of the United States, and at a loss of twenty thousand dollars and upwards of commissions to himself.

But it is said that this business might have been transacted for nothing, that we need not have enabled this agent to receive this large amount of commissions. Let us look at this matter. This whole transaction for the purchase of these vessels was without the authority or sanction of law. The Secretary of the Navy had no more right to buy these vessels from the merchant service, and to put them into the Navy, than I had as the chairman of the Committee on Naval Affairs. It was the law of necessity. It was the same law of necessity that put our troops into the field and armed our citizens in advance of the acts of Congress. It was the law of self-preservation, and the Secretary of the Navy acted with promptness and fidelity to the public interests. He did the best he could under the circumstances, and we have sanctioned all that he has done by acts which we have passed subsequently. In the beginning he employed naval officers to purchase these vessels. Why did he stop? I desire to call the attention of the committee, because I believe their purposes are honest and that they do not desire to impose upon the House, to this fact. In speaking of this transaction and the employment of commercial agents, they go on to speak of the purchase of the Roman and Badger, as if it was chargeable to this system of employing commercial agents, whereas in fact the purchase was made through an experienced naval officer.

In its connection, they would seem to imply that the purchase of the two vessels at New Bedford were made under the direction of this commercial agent, whereas they were purchased under the authority and direction of an experienced naval officer. He went to a man in whom he had confidence, a man of as much integrity as lives in the commercial emporium of New York, Mr. Aspinwall, and he turned the matter over to a broker to purchase for him the number of vessels needed. The broker went to New Bedford and purchased these vessels, the Roman and Badger. He charged about double the amount he purchased them for. He reported the sales, and the money was paid over. Did he do it without commission? Could the Navy Department purchase through naval officers without commissions? Not at all. He charged the usual commission as he said, of five per cent. on the purchase of the vessels, and then he charged two and a half per cent. for the advance of the money, making seven and a half per cent. Then he reported the price double what it was, so that he got fifteen per cent. commission out of the Government. And that is a purchase through these men amenable to military court-martial, and of course who cannot be open to this accusation. The nature of the case will not permit it. It will be seen that these vessels were not sold to mercantile agents, but to naval officers of the Government. I call the attention of the committee to the mistake they have made in charging that to a commercial agent. As it appears in the report, it would charge that purchase and the loss of the Government resulting from it to the employment of a commercial agent.

Mr. Speaker, I distrust all of these services to the Government for nothing. I would never employ an agent in my affairs who proposed to work for nothing. Would any man think of engaging an agent to do his trading without compensation? I know of a case in the purchase of vessels for the Government where a patriotic citizen did come forward and purchase vessels for the Government without any charge whatever. It is a rare case. Ninety-nine out of the one hundred agents who do business *for nothing* will cheat you out of principal and interest. I believe in hiring a competent man and paying him for his service. Now, can you prevent commissions being paid? If a naval officer should be selected, does anybody believe that no commissions would be paid? Does any one believe it would be a better principle to establish, buying vessels under such circumstances as these, that owners of vessels should come here and sell to the Government directly without the intervention of brokerage, instead of paying the commercial brokerage regulated by mercantile custom?

They would employ men who had influence with the Government, and we should only get out of the hands of one set of men to be plundered by another. Now, you may look upon this matter as you choose; you may trace this testimony which has been taken upon the subject, and men may theorize, as did the Senate committee, and say "of course this commission came out of the Government—of course the sellers will add it to their prices;" but when you come to the examination of the transactions themselves you will find, in the condition of things which pervaded the country when those transactions were going on, that men did not sit down and cipher out the commission they should pay, and scrupulously and carefully add it to the price, because they were glad, in the stagnation of business and the uncertainty of affairs, to dispose of their vessels at a reasonable price, and pay the commission themselves.

But I want to say a word or two about another branch of these transactions. The committee complain not that the business has not been honestly and fairly conducted, but that the Secretary of the Navy employed a relative to do it. This charge of nepotism is often a just one. I have no objection to shutting out relatives in the transaction of business. As a general rule it is proper. And yet you go through every branch of the Government, go through your own private affairs, and you will find that officers of the Government, that men engaged in business, that men who seek for partners, who seek for confidential clerks, who seek for men to whom they may intrust important business, do not shut out people from their employment because they are related to them. The difficulty and the evil is this, that if you employ an agent *merely because he is a relative*, without regard to his competency, without regard to his integrity, without regard to his knowledge of the business in which he is to be employed, you commit a fault in your own affairs, and a crime in the affairs of the Government. But yet the Secretary of State may employ his son in a confidential relation; the Secretary of the Interior may employ, in the same relation, his son; and other officers of the Government may and will employ, in confidential relations, as secretaries, and upon delicate embassies, and in matters which require trust and confidence, relatives, and nobody has a right to say that it is wrong, unless the parties are governed by relationship and not by a desire to employ the best agents and men whom they can trust.

It is true the Secretary of the Navy did first employ those connected with him by official ties, naval officers, and he found that he had been plundered, that the Government had been plundered, and that frauds had been committed upon him and upon them and upon the country. And here, permit me to say, that the Secretary stood out for a long time, and resorted to all means within his power to prevent the consummation of this fraud in reference to the ships Roman and Badger. But, after requiring affidavit after affidavit in regard to the fairness of the transaction, he was finally compelled to pay for those vessels, because he had employed an officer of the Government, who had employed a confidential friend of his, who had employed a third man to carry out his views. The transaction had gone so far that it was impossible to prevent the payment of the money upon the requisitions that were issued for it, and the necessity was finally yielded to.

Then it was that the Secretary of the Navy looked around to see if he could not find somebody standing in such a relation to him that he could confide in him; a man of business, a man of character, a man of skill, and a man competent for the business he sought to engage him in. He found a man who was related to him, whose capacity was undoubted, whose integrity is certified to by this committee themselves, and proved by responsible witnesses whom they called before them—he found such a man who has saved in a single transaction more money for the Government than has been paid to him for his commissions; a man who has saved large amounts of public money. He found such a man, and he employed him. Is there anything wrong about it? As I said before, there was no secrecy about it, no concealment about it; it was done openly The transaction was proclaimed, and it had the knowledge and sanction of high officers of the Government, besides the Secretary of the Navy, and I ask if it can be fairly impeached here, considering the peculiar circumstances of the times?

Mr. HOLMAN. I would inquire of the gentleman from New York what other member of the Cabinet consented to this way of making purchases—not the purchase by Mr. Morgan, but the paying this commission?

Mr. SEDGWICK. I have named no member of the Cabinet, and I propose to name no one. I repeat what I said, upon my responsibility and reliable information of the fact, that this thing was not done in a corner. It was not done secretly; it was done openly and fairly, and with the knowledge and consent and with the advice of high officers of the Government.

Mr. DAWES. What objection is there to giving names?

Mr. SEDGWICK. I do not feel authorized to mention names.

So much upon that subject. Now, let us look a little further into this matter. I have spoken of economy in the management of public affairs, and of this Department in particular. I have spoken of the practice of this Department in having dared to go outside of routine and red tape in order to transact mercantile affairs through mercantile agents. I say this course is approved by business men, and I desire to call the attention of the House to the opinions of business men—business men in whom this House and the country will have confidence.

Mr. John M. Forbes, a distinguished merchant of Boston, says:

"It was doubtless an oversight (though a natural one) in Mr. Welles not to limit the amount of Mr. Morgan's commissions; but after all, I have no sort of doubt, Mr. Welles was right in principle, viz: employing a business man to do *mercantile work*; nor that in practice, Mr. Morgan must have saved the country a very large sum beyond his commission, if you compare his operations with those of the *most honest naval officers*.

"My opinion ought to be worth something, for I was employed last summer on the same business, minus the commission. Now, I have not the personal knowledge of Mr. Morgan's skill as a ship broker, nor of the ships he bought, not having seen any details about them; but he must be a sad bungler if he has not saved the Government *ten per cent.* upon what naval officers would have given under like circumstances. Moreover, I have watched the operation with great anxiety, and knowing how to make allowances for the routine and old fogyism which they had to contend with in their bureaus, and in their subordinate naval officers, to say nothing of the insubordinate ones, I must say that the administration of Messrs. Welles and Fox together has been a success, and that it would be a great misfortune to have them disturbed or disheartened by congressional criticism, especially so when you pitch into the best things they have done in going out of routine, and trying to carry on the war as *practical men* would do it. You are beginning your reform at the wrong end when you censure a thing that is *well done*, merely because it was not better done, and because it has an unlucky appearance of nepotism, which gives a handle for popular complaint.

"There are infinite reforms that can be made in the Navy Department, but they are all in the direction of assimilating their mode of work with that used by merchants. Had Mr. Welles followed the routine, employed very gallant naval officers to trade for him, and cost the Government twenty per cent. more than now, all would have been smooth water for him; and these attacks now are simply a premium to him to stick to routine, *coûté qu'il coûté*.

"It is this safe routine that is the curse of the navy-yards at such a crisis as this, that has cost enormous sums and enormous delays. I have faith in Mr. Welles's honesty, and a knowledge of Mr. Fox's ability, and I wish I could make you see as I do, that they ought to be encouraged in such innovations, instead of criticised. Their other innovation has been a success also—the building gunboats at private yards."

Mr. R. B. Minturn, an eminent shipping merchant of New York, says, in a letter to Hon. Mr. HALE, chairman of the Committee on Naval Affairs of the Senate:

"In regard to your second inquiry, I can answer without reserve, that I think the vessels purchased by Mr. Morgan were well bought. He has great business capacity and unusual skill in negotiation, with unquestioned integrity. I think it rare that any Government business is managed so faithfully and successfully as were these transactions, and large as is the amount of commission which has been received, I am confident that the result is far more advantageous than if the business had been confided to the officers of the Government, or its other usual agencies."

Allow me to say, now, that if the Department had advertised for ten or twenty schooners, of a certain tonnage and description, for mortar boats, and had given a general description of what was wanted, proposals to be made in ten days, and the Department had bought them in the old-fashioned routine and red-tape way, is there a man of sense in this House who would believe that they would have got better vessels, or at a less price than they did get them? And yet, if the Secretary had adhered to this old and time-honored usage of his Department, no man in the community would have ventured to charge him with a want of integrity or with bad management. This committee, even, would have passed over the whole transaction as an honest and an honorable one, and if it had been even called in question it would have been whitewashed, or red-washed, as being in accordance with red tape and routine, and no one would have objected. And yet, if he ventures out of routine and red tape, he is charged upon in the House and out of the House, and the gentleman from Massachusetts arrays his cohorts of old horses, and men in shoddy are mounted upon them, and the former chairman of the committee [Mr. VAN WYCK] spends his whole summer, I suppose, from the time he was appointed to the time he makes his speech in the House, in preparing scraps of patriotic poetry to run the Secretary down with; I say his whole time, because the journal of the committee shows that the chairman was rarely present at the meetings of the committee, and that he never, during the whole existence of the committee, had spent ten hours of his time in the investigation of the subjects with which the committee was charged.

Mr. HOLMAN. I desire to inform the gentleman from New York that his colleague [Mr. VAN WYCK] is now at the head of his regiment at Yorktown, and is not here to reply.

Mr. SEDGWICK. I know the honorable gentleman from New York, who assailed the Secretary of War and the Secretary of the Navy, has now gone to gather honors and laurels in the field, where I hope he will receive no less honorable scars than he received in the performance of his duties in and around the Capitol. He is a gallant soldier, I have no doubt. He has been tried and not found wanting. [Laughter.]

But I was speaking of the journal of the committee, which shows that during all the time when this matter was being investigated before his committee, he, who was put forward to assail the Secretary of the Navy, was never present at any of its meetings. I do not go out of my way to speak of this, for I speak of what appears in evidence before us, as shown by the records and journal of the committee itself. I speak not at all of the present chairman, [Mr. WASHBURNE,] because he has been faithful and attentive to the duties of the committee.

But let us examine this matter of routine and red tape a little further; for I claim not only that the duties of this Department have been honestly administered, but that they have been economically administered, and that the Department has distinguished itself by saving for the Government in all matters with which it has had to do. I spoke of the building of gunboats—a matter which has been inquired into, as I see by the report of this committee. The Department attempted to build those boats, authorized by Congress at its last session, by the old system of advertising for proposals for contracts. What was the result? They got the proposals, and the Department might have received them and acted upon them and contracted for the boats, for the hulls and boilers, and everything connected with them, and they might have laid out the money of the Government extravagantly and unnecessarily, and no man would have stood up and assailed them for want of economy, because they did it according to the custom of the Department, and complied with all the ceremonials which routine and red tape required. What did they do? They rejected all the proposals that they received, and made private contracts, with the same parties to a great extent, and the result was that they saved under those contracts, from the lowest bids that were offered to the Department, the aggregate sum of $464,000; and that sum they saved by rejecting this routine and red tape and giving out the work as a man would in his own affairs, so as to get all he could for the money which he proposed to spend. And so successfully were the interests of the Department and of the Government cared for in the making of those contracts, that this House has already during its present session passed a resolution, in which the Senate concurred, for the purpose of relieving these very contractors from the hard bargains, as it turned out, which the Department made with them for the building of these vessels and the engines. This House conceded that they were justly entitled to consideration and relief, because they had made contracts that were a good deal more advantageous to the Government than for the contractors.

Now, in the case of the Mercedita, which was cited by a gentleman who addressed the House upon this subject, the sellers of the vessel complained, as he said, of unfair treatment by the Government. I have not time to make a statement of the case at present.

Mr. BLAIR, of Missouri. Did the resolution to which the gentleman has referred apply to the contractors for the gunboats built at the West as well as to those built upon the seaboard?

Mr. SEDGWICK. I think it did not. It was for the relief of certain contractors for engines in the cities of New York and Boston and Philadelphia. Whether it extended in terms to those at the West, I will not say positively, but I think not.

Mr. BLAIR, of Missouri. Is it not the fact that they have reduced the prices agreed upon in the contracts made in the West, and passed a resolution in favor of the eastern contractors?

Mr. SEDGWICK. That I am not informed about. I have procured a statement in reference to the case of the Mercedita, which shows that the owners of the greater part of the vessel never have made any complaints of their treatment by the Government; but that persons interested to a small extent in the purchase have complained, and upon what ground, and for what reasons, I will leave their correspondence with the Department to speak for itself.

Now, sir, I have spoken with regard to the economy with which the Navy Department has been administered. For all supplies for the Department contracts have been made in which the Government has not suffered; and within the last two weeks this House has been called upon to relieve honest contractors with the Navy Department who had agreed to furnish supplies for that Department at a price and upon terms which it turns out, on account of the war and the extraordinary demands for those supplies, would be entirely ruinous to the contractors, although they were disposed honestly to fulfill their engagements. And this House has been called upon to relieve them, and they passed a resolution for their relief understandingly.

Again: this Department has been assailed—I speak not now of the committee, but it has been assailed outside of the committee by newspapers—and I desire here to say that the Department has been assailed by newspapers whose agents and correspondents at the seat of Government have sought for contracts with the Navy Department in vain, which possibly may account for the conduct of their journals at home.

[Here the hammer fell.]

Mr. SEDGWICK. I ask the indulgence of the House to conclude my remarks.

Mr. STEVENS. I wish to say something upon this subject, but I think it right that the gentleman should be permitted to conclude his remarks.

The SPEAKER. Is there any objection to the gentleman from New York continuing his remarks?

There was no objection.

Mr. SEDGWICK. I desire to say a few words upon the extraordinary circumstances under which this Department of the Government found itself at the breaking out of hostilities at the commencement of this Administration. In the home squadron on the 4th of March, 1861, there were twelve vessels in all fit for service. One was in the port of Washington, the Pawnee, a vessel of eight guns; three were in the port of New York, carrying in all seventeen guns; eight vessels of the squadron were in southern and Gulf ports, mounting a hundred and sixty-two guns. The House will perceive that, at the commencement of this war, we had virtually under our control, applicable to the purpose of putting down this rebellion, no armed vessels except those twelve in the home squadron. They have since purchased one hundred and thirty-six vessels, carrying five hundred and eighteen guns. They have caused to be recalled from foreign stations and repaired for the naval service seventy-six vessels of the old Navy, mounting seventeen hundred and eighty-three guns, and they have built, up to this time, about sixty vessels, mounting from two hundred and fifty to three hundred guns. They have increased the number of the seamen in the Navy from about seven thousand to twenty-two thousand. They have employed all the loyal officers whose names were borne upon the Register, decimated as it was by treachery, by resignation, and by perjury. Weeding out the rotten and faithless stuff that incumbered it, they have actively employed all the loyal officers of the Navy. They have employed, to the fullest extent, every navy-yard in the country which was left in our possession in the building and repairs of vessels, and all the private yards and private machine-shops in the country capable of aiding the Government have been employed. In all the branches of this Department there has been nothing but activity and energy from the beginning to the end.

It is said that they have not prevented the creation of a navy by southern rebels and traitors, and that they have not successfully, at all times, blockaded all the ports of the country, and they have been assailed for that reason. Gentlemen will do the Secretary the justice to remember that we have three thousand miles of stormy coast to blockade, with numerous ports. It must be remembered, too, that the blockade was commenced with very small and insignificant means, and that we have made it so efficient that the men engaged in this rebellion in the capital of their boasted empire are suffering for all the necessaries and comforts and luxuries of life for which they depend upon foreign commerce.

But it is said the Nashville has escaped. What if it has? Is that the fault of the Navy Department? Some gentlemen seem to suppose that it is the business of the head of the Navy Department to go about old ocean, like Neptune with his trident, in a small boat, stationing the vessels of the blockading squadron, and that if a vessel escapes the blockade he should be deposed. Why, all this is a very simple matter. This coast of three thousand miles is divided into departments, over each of which a flag officer of a blockading squadron is appointed. It is the business of the Government, as far as they can, to furnish him with such vessels as he requires, and it is his business to see that they are stationed in the best and most judicious method. When the Nashville ran into the port of Beaufort, North Carolina, Flag-Officer Goldsborough, the commanding officer of that department, was pursuing the enemy in the interior waters of North Carolina; he was not with his flagship at his station at Hampton Roads, but was engaged in active service against the enemy. The Secretary of the Navy the next day telegraphed to every navy-yard in the country where there were vessels either ready or in course of preparation, to send them immediately to that station, knowing that Burnside was about to attack the city of Beaufort, and that the Nashville would attempt to escape. He was answered from Boston that the next day a vessel would start from there, and on the third day afterwards another vessel for that station. But because they were disappointed, because he had no vessels at his command, because at Baltimore, where he telegraphed, the vessels upon the stocks could not be got ready in time, it was our bad fortune that no additional vessel could be got there until the Nashville had escaped. The State of Georgia, a vessel upon that station, was driven away for want of coal, and there were only two vessels left to guard that port, and the Nashville escaped.

So in regard to the Merrimac. Iron vessels are a recent invention. The efficiency of iron vessels has been doubted. It was doubted till that memorable contest in Hampton Roads between the Merrimac and the Monitor. Other nations have expended millions upon millions upon iron vessels. At the last session of Congress we made an appropriation of $1,500,000—less than has been expended on experiments upon targets by our neighbors across the water—to construct iron vessels for an experiment. What is the result? We have obtained the Monitor. It is said that the construction of that vessel was delayed by the routine and red tape of the Navy Department, and yet Captain Ericsson, in a public letter, drawn out by such accusations, says that his plan was presented to a board organized immediately upon the passage of our appropriation bill, that he spent two hours before the board in explanation of his plan, that in two hours more they reported favorably upon it, that he started immediately, by direction of the Secretary, without waiting even to sign a contract, and that before the contract could be drawn up in the Department, by order of the Secretary, he commenced the construction of the Monitor, and the iron keel of that vessel was being drawn out at the rolling-mill while the contract was being prepared in the Department. And yet the Navy Department is accused of want of promptness. An appropriation of $10,000,000 was voted by this House at the present session, at an early day, in advance of the knowledge of how these experiments would terminate. And yet, in the report of the investigating committee, its results being stated in the Senate—without any interference on their part, I admit—that appropriation was hung up for near two months in the Senate, while these vessels should have been preparing for service. The interests of the Government were thus jeoparded because, on the alleged frauds asserted by this committee, the national Legislature would not promptly give to the Department the means of putting these vessels afloat. If the contracts for building these iron gunboats could have been made at the time the House voted the appropriation of $10,000,000, the Department, instead of having one iron gunboat, would have had twenty to take care of the Merrimac or any other

vessel that could have been put afloat by the southern confederacy; and before this day we would have had every city on the whole southern coast in our possession. I find no fault with the proceedings of the committee; but I only say that it was the unfortunate result of them that the Department had not the means to build these iron vessels and have them afloat at the time they were wanted.

It is very easy to cry out against the Department for want of promptness. It is very easy to get up a cry of fraud against the Department. It makes the country newspapers inquire "Who is A B or C D?" who has made such terrible denunciations in the House of fraudulent contracts. I know all that, and I know it is unpopular for any man to stand in this House and defend any Department of the Government which he believes to be unjustly accused of want of promptness or want of integrity. I would say in relation to all this matter, that while I will have no part in any attack on individuals, I will vote and desire to vote in the spirit of the resolution offered this morning by the gentleman from Indiana, [Mr. COLFAX.] I desire to see brought forward in the House a bill which shall punish fraud on any Department of the Government as a crime—a bill which will make the penalty so severe and so certain that no man, in or out of office, who engages in a fraudulent transaction, shall escape the responsibility of his acts. I put no shield before any victim who is justly amenable to punishment or censure. If the Secretary of the Navy has been guilty of any base, secret, fraudulent transaction with anybody, with a relative or a stranger, let the ax fall. I do not stand here as his shield or his protector. But if he has managed the affairs of his Department with skill, with activity, with industry; if he has brought about him in the administration of the Navy Department, men whose practical knowledge, whose energy, whose devotion to the service, whose knowledge of the vessels and officers of the Navy—such men as he unquestionably has in his assistant in that office—if he has brought about him such men as counselors, advisers, and assistants, and if the affairs of the Department have been managed with integrity and honesty, do not indulge in this criticism, do not attempt to injure him in the estimation of the country, do not attempt to cripple him in the service by any unjust censure of his conduct.

I say that the head of that Department has produced an administration of the Navy Department worthy of its history and of its olden glories. Hitherto its achievements have been confined to the broad ocean; its flag has floated over her waves; but now it is thundering at the gates of cities, in the very heart of the continent. It is making unsafe the most secret recesses of those traitors who vainly strove to interpose between their treason and its punishment the Alleghanies and the great mountains that rib the continent. The Navy has participated in every glorious contest of the war, and is now levying its contributions on the chief commercial city of the South; and now it is proposed to strike it down by a vote of want of confidence in its head, or by a censure on him for a fraudulent management of its affairs. I protest against that injustice. While the Navy is reviving the memories of its old heroes on new fields and adding new names to its long line of heroes, it is entitled to confidence, and not to censorious and captious criticism. It is willing to be judged by its results. It is willing to give an account, in honest returns of conquest and victory, for every dollar intrusted to its management. Look at the results which this Navy has produced in the war from the moneys furnished to it. I know that this Congress has been liberal, that it has not shut its fist against the fair demands of the Navy Department, and I say that results have been produced worthy of all its liberality. Look at the achievements of the Navy, and say whether, taking the whole management of the Department together, it has not produced effects at least equal to those of any other Department of the Government.

I do not say that the Department or any of its officers are perfect. I do not say that they may not have been defrauded or imposed upon, for no vigilance can secure any Department against fraud; but I say it challenges respect and confidence for integrity, for zeal, for industry, for patriotism, for an honest desire to subserve the public interests. The history of our gallant Navy will suffer no dishonor under its present administration. In its infancy, the name of Paul Jones, in his little craft hardly sufficient to cross the ocean and meet its storms, was a terror in every household along the shores of the Mistress of the Ocean. His name brought such a feeling of terror into their homes as the English poet ascribes to one of its heroes in the southern hemisphere, when he says:

> "Panama's maids shall long look pale,
> When Risingham inspires the tale,
> And Chili's matrons long shall tame
> The froward child with Bertram's name."

A little later our Navy was found thundering at the gates of Tripoli, demanding the release of white and Christian captives from a slavery almost as cruel and intolerable as that which we now inflict on captives from that continent of a darker hue. In its riper years it brought down that "meteor flag," which for a thousand years has "braved the battle and the breeze." And now, standing at the head of new inventions, with its iron boats tested in actual contest, with its mortars seven thousand pounds heavier than any used at the famous siege of Sebastopol, and for the first time launched on ocean vessels, it has ascended the Mississippi, relieving the blockade which has bound the highway of this empire in the great West. It is opening the channels of commerce. It is doing its whole duty to the country. And I ask that you shall not cripple it by declaring that it lacks the confidence of this House of Representatives. If the Department has made a mistake, you have corrected it by legislation. If there was a mistake in not limiting the commissions paid to an agent, you have corrected that by legislation. You must recollect the circumstances of the country when that transaction took place. You must extend to your public servants the justice, not to say the charity, which you would extend to any of your agents or employés in private life. I ask this House to pause before it passes a vote which shall imply a censure on the administration of the Navy Department—a Department which, in its conduct throughout the whole war, has been worthy of the praise instead of the censure of this House.

Statement in regard to the purchase of the Mercedita.

NAVY DEPARTMENT, *February* 18, 1862.

SIR: In answer to your verbal request, I beg leave to state that the Mercedita, a new steamer of ten hundred and seventy tons burden, was tendered to the Department as early as the month of May last, and an examination was ordered. The report, with the information attending it, was such that I declined to purchase the vessel, and was indisposed to spend further time or attention upon it. But persistent importunity and such influences as interested parties brought to bear, and one or two interviews with the chairman of the Naval Committee on the part of the Senate, who appeared as the friend of Mr. Burrell, led the Department to again consider the subject, with results, however, as at first, against the purchase. Intending the subject should here close, I took no further part in any negotiations or bargaining for the Mercedita; my whole opinions, convictions, and prejudices, perhaps, being against the vessel, the agents, jobbers, brokers, and persons interested in and connected with her. Finding themselves unable to effect a sale with me, or to induce me to give the subject further consideration, they turned their attention to others, and finally succeeded in procuring an offer, which, though at first rejected by them, was ultimately accepted, and was doubtless not a profitable one to the sellers. The offer which, in consequence of their importunity, was finally made to them was $30,000 less than they had persistently demanded, and included as a condition that they should make certain radical alterations specified, as requisite by the naval contractor, at an expense of $15,000. In other words, they were to receive $85,000 for a vessel which they valued at $130,000. Although I knew nothing of this offer until it had been made; yet, when it was communicated to me by the Assistant Secretary, I acquiesced in it, notwithstanding my aversion to deal with the parties, because it was plainly a favorable purchase for the Government. I enjoined, however, that there should be vigilance exercised in every movement, and that all alterations and expenditures should be closely scrutinized.

In the month of October, when the alterations were nearly completed, Mr. Morgan required the restoration of certain property belonging to the Government which had been taken from the vessel. This demand was cheerfully acquiesced in by Mr. Seig, who owned most of the vessel, and who has behaved honorably throughout, but was followed soon after by violent denunciation and abuse of naval officers, Mr. Morgan and myself, by J. C. Jewett & Co., small proprietors, which attack has been continued ever since. Having taken no part in the bargain or sale of this vessel, other than supervising and enjoining vigilance upon those whose duty it was to carry forward and complete the transfer, I have given these assaults little attention.

The principal malevolence has been directed against Mr. Morgan, who guarded the public property from depredation, objected to any payment until certain outstanding liens which he had detected were removed, and who received the commission for the transfer made, but of whom it should in justice be said, that he has uniformly stated he held the commissions on this vessel subject to the order of the Department, because, although the labor and responsibility of the transfer, protecting the property and investigating the title, by which the Government was prevented from being defrauded, devolved chiefly on him, he never considered this purchase as his exclusive bargain. About the same time that J. C. Jewett & Co. were called upon to restore the property that had been taken from the Mercedita, and were required to remove the liens which Mr. Morgan had ascertained were outstanding against the vessel, they addressed a very extraordinary communication to Captain William L. Hudson, which excited the just indignation of that officer.

He wrote to the Assistant Secretary, transmitting to him the offensive correspondence, who, after perusing the same and communicating with Mr. Morgan, returned it to Captain Hudson, and also the answer of Mr. Morgan.

I beg leave to subjoin the letter of the Assistant Secretary, the letter of Mr. Morgan, and the recent letter of Captain Hudson, which perhaps will best develop the features of this transaction, and the true character of the jobbers, agents, and lesser owners of the Mercedita. I also send you the letter of Mr. Seig, who owned seven tenths of the Mercedita, who, after learning the course of James C. Jewett & Co., wrote Mr. Morgan that he (Mr. Morgan) had "acted in the most honorable manner, both towards the owners and the Government, and entirely satisfactory to me."

In conclusion, I would remark that, except as assenting to and ratifying the bargain and arrangements made by others, I have had no participation in this matter, or intercourse with any of the owners, jobbers, agents, and others of the Mercedita since declining to purchase her in July last. I may add, however, that the purchase, as finally made and perfected, has not been a disadvantageous one to the Government. In this case, as in all others, it has been my purpose and intention to get for the Government the full value of the money expended, exclusive of commissions and other incidental expenses, which I have insisted should invariably be paid by the sellers. It is, however, an exemplification of the impossibility of satisfying all or reconciling opinions, that while the Mercedita men have been prolific of their abuse of Mr. Morgan and myself for compelling them to pay the commissions, there are others," * * * * "who insist that the commissions are never paid by the sellers but always by the purchasers.

Very respectfully, GIDEON WELLES.

Hon. CHARLES B. SEDGWICK,
Chairman House Naval Committee.

COMMANDANT'S OFFICE, NAVY-YARD,
CHARLESTOWN, *February* 18, 1862.

MY DEAR SIR: I herewith return your letter in relation to the Mercedita affair, and on reading it over this morning feel that you had looked almost with prophetic eye into the roguery, and fairly and honestly unmasked and laid bare a systematic plan of corruption and plunder against the Government in the purchase of that steamer. Burrill is a compound scoundrel, and the Jewetts very little better.

Respectfully, your obedient servant,
W. L. HUDSON, *Commandant.*

G. V. FOX, Esq.,
Assistant Secretary of the Navy, Washington.

NAVY DEPARTMENT, *November* 11, 1861.

MY DEAR SIR: I received the papers in the Mercedita matter, and forwarded them to Mr. Morgan, who has just returned them with his answer, a copy of which is inclosed. So far as I can recollect this matter, it may be stated thus briefly: Charles Burrill (with the look of a dishonest man in his face) came here to sell steamboats generally, and the Mercedita in particular. He might, from his actions, behavior, and appearance, be styled the underground agent. Jewett & Co. were the patriots. They wrote to the President and all the Departments that they were loyal and true, and urged in strong terms that this vessel should be taken on high grounds. A Mr. Gallaher, brother of the paymaster, also appeared on the boards, but he was very unceremoniously tumbled overboard by Jewett & Co., and disappeared after entering a protest at the Department about his commission in the matter. The vessel was examined and objected to on account of the deck for the guns being low. Thus matters stood for several months, this rascal Burrill turning up occasionally at the Department. Finally they went to work upon our board in New York, and from $130,000 came down to $100,000, with an agreement to alter the vessel according to constructor Pook's plan, which involved $15,000 expense. If they have done this faithfully, I have no doubt, as you say, they have had a hard time of it. They came at us with the belief that we were prepared and willing to buy every steamboat at anybody's price, and they have found out their error, and gnash their teeth in bitterness and disappointment. I think your opinion of the whole concern is very happily expressed, and is certainly shared by the Department. I cannot understand how your name was ever mentioned by this Burrill. The Secretary is perfectly indifferent whether it is published or not; so am I. We have not yet finished with this party.

Very sincerely, G. V. FOX.

Captain W. L. HUDSON, *Boston.*

NEW YORK, *November* 8, 1861.

DEAR SIR: I have read the correspondence you sent me, and herewith return it. I never acted more conscientiously than in the purchase of the Mercedita, as the correspondence and all my actions will show. I did not expect any commission, and so stated to Mr. Burrill before the negotiations for her purchase were concluded. I had not much confidence in her owners, and wished to have nothing to do with it, and the whole matter as to purchase and price was referred to your Department, but upon orders to purchase upon Mr. Pook's specifications and examination,

made without any knowledge of mine, I carried out the orders of the Department. But when in the settlement I found the owners had deceived me as to her cost, and Mr. Pook as to her depth, size, and other matters, I determined to claim, as I had a right, the usual ship commission of two and a half per cent., and did so; and wrote the Secretary all the circumstances, adding, that I held it under advisement, crediting to the Department the amount rather than giving it to the owners, who had not only deceived Mr. Pook, but had taken from the Mercedita valuable materials after they had sold her to the Government. Messrs. Jewett & Co. were alone responsible for this last act. Both owners have been to me to ask me to return to them some of the commission received as a favor, each wishing me not to give anything to the other. I wait your advice and directions.

In regard to my position, I shall be glad to do what the Secretary and yourself desire; I firmly believe the commission paid me by sellers has cost the Government nothing. I mean, that if I had notified owners that I was to receive nothing, the cost of the vessels to the Government would have been about the same, and sellers would have paid twice and thrice to brokers what they have paid to me. This amount of the Mercedita's commission stands as I have before stated, and at the time I received it subject to your decision. I took it first because it was just and right, (for this vessel took up much of my time, and led to much correspondence,) though I had not positively claimed it before I discovered their fraud and quarrel; secondly, because as they had deceived the Department in the value of the vessel, I felt it belonged to the Department, and so wrote at the time, and therefore did not relinquish it. If you will remember I talked with you about the matter. In the matter of commissions it has seemed proper to be uniform since the investigating committee made a point of the variation in rates already received. The owners of the Mercedita endeavored to sell her to your Department at $130,000, and finally sold her at equivalent to $85,000.

Yours truly, GEORGE D. MORGAN.

Hon. G. V. FOX, *Assistant Secretary of the Navy.*

NEW YORK, *October* 17, 1861.

GENTLEMEN: A list of several articles taken from the propeller Mercedita has been handed in to Mr. George D. Morgan, who now claims them as being included in the purchase of the boat, and, therefore, property of the United States Government. Mr. Pook insists on having these things, and I, for my part, do not raise any objection to their delivery, which would only be the cause of a useless and avoidable dispute.

I am, gentlemen, your obedient servant,

R. SEIG.

Messrs. JAMES C. JEWETT & Co., *Present.*

No. 43 SOUTH STREET,
NEW YORK, *October* 17, 1861.

DEAR SIR: We received from you this day a paper without signature, headed: "Articles belonging to steamer Mercedita, now in possession of James C. Jewett & Co."

We will immediately see Mr. Westervelt with this paper, and the requisition of Mr. Pook for the alterations, and our letters written at the time we sold the Mercedita to the Government; and whatever Mr. Westervelt says we should do, we by this letter consider ourselves bound to do.

We desire to say here, that the whole paper we consider made out to give us and yourself annoyance. We profess to be too honorable to seek to wrong our Government out of one penny.

We are your obedient servants,

JAMES C. JEWETT & CO.

GEORGE D. MORGAN, Esq., *Present.*

NEW YORK, *November* 20, 1861.

SIR: In regard to your action in the purchase of the steamer Mercedita for the Government, and all your transactions connected therewith, I feel that you have acted in the most honorable manner, both towards the owners and the Government, and entirely satisfactory to me.

I am, sir, your obedient servant,

R. SEIG, *Owner of seven tenths.*

GEORGE D. MORGAN, Esq., *Present.*

Statement.

The first information that the Nashville had succeeded in entering Beaufort harbor, North Carolina, was received at the Department by the Old Point mail at noon on the 6th of March, when immediately the following dispatch was sent by telegraph to Captain Hudson, commanding the navy-yard at Boston: "Send two of the small gunboats immediately off Beaufort, North Carolina, signed G. V. Fox, Assistant Secretary," to which the Department received answer that the Chocura would be sent next day, 7th, and the Penobscot on Monday, 10th.

The Department also, on the same day, March 6, wrote to Captain John Marston, in command of the fleet at Hampton Roads, asking for a more detailed statement of the circumstances attending the running of the blockade by the Nashville, and closing with the following words: "The Department is unable to learn what measures you can take to keep the Nashville in Beaufort, *but they should be characterized by energy*, as that point is threatened by General Burnside, and the Nashville must seek the first opportunity to escape."

On the same day the Department telegraphed to the officer superintending the repairs at Baltimore, asking when the Monticello and Albatross would be ready for sea, and was informed in reply by telegraph that the Albatross would be ready on the 10th, and the Monticello "not for two weeks." By letter next day the Department was informed by the same officer that the Albatross would be ready on Monday, 10th.

On the 7th, the Department wrote to Commander Prentiss, of the Albatross, asking when she would be ready, and urging forward the work, and was informed in reply on the 9th, that she would be ready on the 13th.

On the 15th, 17th, and 19th, the Department, by letter, urged the rapid completion of the necessary repairs to these vessels, but, notwithstanding repeated promises and continued exertion, it was not until the 21st that the Albatross left Baltimore, the Mount Vernon having left on the 17th.

Captain Hudson, in command at the Boston navy-yard, informed the Department, as stated in the first part of this paper, that the Chocura would sail on the 7th, and the Penobscot on the 10th; but on the 8th he was informed and wrote to the Department that the former would require three days for repairs to her machinery, and that the latter could not be ready until the 12th; and on the 10th he telegraphed to the Department that they could not be got off before Wednesday night, (March 12,) although the greatest possible exertion was being made to hurry them.

Notwithstanding the efforts made, the Penobscot was not got to sea until the 12th, and the Chocura until the 17th, "owing to neglect of contractors to complete their work."

On the 17th, Flag-Officer Goldsborough reported to the Department the arrival of the United States steamer State of Georgia at Hampton Roads, from off Beaufort, having come for coals and supplies, and that she would return to her station the moment she had received them.

On the 18th the following letter was received by the Department from Commodore Goldsborough:

UNITED STATES FLAGSHIP MINNESOTA,
HAMPTON ROADS, VA., *March* 18, 1862.

SIR: I have the honor to inform the Department that early this morning I dispatched the United States steamer Chippewa, with all speed, to assist in the blockade off Beaufort, North Carolina; also, that I have given orders to Commander Prentiss, of the United States steamer Albatross, now at Baltimore, to proceed to the same point immediately on the completion of his repairs. The United States steamer State of Georgia will return thither as soon as she has finished coaling and provisioning. * * *

L. M. GOLDSBOROUGH.

HON. GIDEON WELLES, *Secretary of the Navy.*

It was not, as before stated, until the 23d that he was finally enabled to get the Albatross off to her destination.

Extract from a Report of Commander M. Woodhull.

UNITED STATES STEAMER CONNECTICUT,
NEW YORK, *February* 19, 1862.

SIR: * * * * This vessel left New York with an immense weight of cargo. She was deeper by one foot four inches than ever before; her copper was submerged nearly two feet, and the dip of her paddles was about seven feet six inches. You can from these data well imagine the strain she sustained, necessarily, on her engines and hull, notwithstanding, she performed splendidly. She is one of the finest, strongest, and fastest steamers now in the service, and I feel fully justified in saying she is worth every dollar paid for her. *I doubt very much if the Government could duplicate the Connecticut for anything like the amount paid.* Her engines, especially, are master-pieces of engineering skill, and so pronounced by all the many experts who have examined and witnessed their performance.

* * * * * * * * * * *

I am, sir, very respectfully, your obedient servant,

M. WOODHULL,
Commander United States Navy.

Hon. GIDEON WELLES, *Secretary of the Navy, Washington, D. C.*

FRAUDS ON THE TREASURY.

SPEECH OF WILLIAM S. HOLMAN,

OF INDIANA,

IN THE HOUSE OF REPRESENTATIVES,

April 29, 1862,

On the report of the select committee on Government contracts.

Mr. HOLMAN said:

Mr. SPEAKER: I propose to continue briefly this grave and dignified discussion. I shall attempt to consult brevity, because it is desirable that these resolutions should be finally voted upon to-day. I shall speak with a greater degree of freedom, inasmuch as I am entirely impartial in this discussion. The belligerents who have appeared upon the stage in the presence of the House and the country have been animated, while I am cool and dispassionate, and trust I shall be able to speak with impartiality upon the grave questions before the House.

The spectacle presented is somewhat remarkable. I remember to have read somewhere in Roman history that when Tiberius Gracchus came upon the stage of political life, he found everywhere, pervading the public service, fraud and corruption, and he essayed himself to the task of reforming these public abuses. And I have read, sir, that the party of which that illustrious Roman was a member, the patrician, not willing that the abuses which had grown up in their midst, and upon which they had grown rich at the expense of the republic, should be remedied, conspiring together, met Gracchus near the senate chamber of the republic, and smote him to the earth, and stained the portals of the temple of the law with his blood. The conspirators are forgotten, or survive only for the execration of mankind; but Tiberius Gracchus still lives, and history will not consent that his name should be forgotten. In this instance, in somewhat modified form, how wonderfully has history been reproduced. Three of the most distinguished members of the dominant party of the country, eminent for their long connection with the public service, men of unquestioned integrity, whose very names would be a tower of strength and an honor to any political organization, have been assailed in a manner remarkable and unprecedented because they would not connive at the robbery of the Treasury. Sir, I envy them. If I could have my name written upon the history of my country, I should glory in occupying their position — assailed and denounced because, when the Republic is in danger and its loyal sons pour out their blood like water to save it, they had risen above party in their solicitude for their country. Sir, patriotism knows no nobler sacrifice than this.

But it is not my purpose to indulge in general debate. I propose to come to the discussion of the practical questions before the House. The gentleman from Pennsylvania, [Mr. STEVENS,] eminent at least for his position as a lawyer and statesman, has thought proper to assail this committee for questioning the wisdom and integrity of the War Department in the employment of Alexander Cummings, or as the Secretary of War calls him, Dr. Alexander Cummings, in the purchase of certain military supplies for the Government. And the committee proposes, in this connection, or, I had better say—for it is more in accordance with the fact—I propose, by the resolution which I submitted to the House, to censure Simon Cameron, the late Secretary of War, for that employment and the motive which inspired it.

I owe it to the country, I owe it to the House, and I owe it to my own constituents to state the grounds upon which the resolution is based. The resolution is founded on the report only, and not on the general record of the Secretary of War. Alexander Cummings was an editor of a newspaper in the city of Philadelphia. Shortly before the breaking out of the present difficulties he had gone to New York, still retaining his residence in Philadelphia, and became connected with the publication of the paper called the World. He had no general business experience, and no experience in connection with military supplies. When our difficulties broke out there were in the city of New York the ordinary number of men engaged in the public service, in the military departments. There were Colonel D. D. Tompkins, one of the purest and most upright men in the country acting as quartermaster; Major Eaton, assistant commissary general, and Commodore Breese, commander of the navy-yard. It is a remarkable fact, that with these three distinguished public servants right there upon the ground, men whose integrity had been confirmed by forty years of public service, and never called in question, Simon Cameron placed under the control of Alexander Cummings the sum of $2,000,000, to be expended in the city of New York, without restriction or limit, in the purchase of military stores.

Mr. McPHERSON. Did I understand the gentleman to say that the Secretary of War placed under the control of Alexander Cummings the sum of $2,000,000?

Mr. HOLMAN. He placed $2,000,000 of the public treasure under the control of Alexander Cummings.

Mr. McPHERSON. Were not the facts these: that the funds were placed at the disposal of Alexander Cummings and his colleagues by the Secretary of the Treasury, under the direction of the President?

Mr. HOLMAN. I thank the gentleman from Pennsylvania for the interruption, because it enables me to state more clearly the facts connected with the transaction than I otherwise should have done, and because it enables me to bring before the country the strong contrast and difference between two ministers of the Government, the Secretary of the Treasury and the late Secretary of War, and to show the motives by which one of them at least was actuated.

The $2,000,000, as a matter of course, came from the Treasury. It was placed by the Secretary of the Treasury, and subject to their control

as sub-Treasurers, in the hands of Dix, Blatchford, and Opdyke. I desire to call the attention of the House to two, at least, of the names I have mentioned. At least two of those men—Dix and Opdyke—one belonging to the Democratic party, and the other to the Republican party, are eminent in their social as well as in their political associations in the city of New York; the one now a general in the Army, the other the mayor of the imperial city; men whose very names will be a guarantee to the whole country that not one dollar of that $2,000,000 would be improperly expended. Of Mr. Blatchford I know less, because his name is not familiar to the country. The Secretary of the Treasury securely placed that $2,000,000 under their control, and they left the money in the sub-Treasury; yet, strange to tell, the Secretary of War, stating that he desired to procure the services of an honorable and shrewd man to manage affairs in connection with the purchase of supplies in New York, places the whole of that $2,000,000 subject to the draft of Alexander Cummings, a man without experience or established reputation; and so completely was the money under his control—and I speak by the record—that not one single dollar could be drawn from the sub-Treasury, or from the charge of those three distinguished citizens, even for the purpose of paying expenses which they might incur, unless it was upon the draft of Alexander Cummings; and his drafts were not withheld. Within a very few days after this extraordinary power was conferred upon him, he drew a quarter of a million of that money, and put $160,000 of it to his own credit, in connection with his own funds, if he had any, in the Park Bank of the city of New York. If the transaction was honest, why withdraw the money from the sub-Treasury, and deposit in the bank? How eager was this "competent and reliable" agent of Simon Cameron to get the money beyond the control of the sub-Treasurer or of the upright citizens to whom it was confided by the Secretary of the Treasury! The testimony shows that he withdrew the money in a few days. Why withdraw the money from their hands at all? Why take it away from the sub-Treasury? Why deposit to his own account, and mix it up, as he states in his testimony he did, with his own funds? He deposited to his own account $160,000, the other $90,000 being placed in the hands of Mr. Blatchford to meet the expenses of such purchases as Blatchford himself might make.

Mr. VOORHEES. I wish to ask my colleague in this connection whether the Secretary of War required from Mr. Cummings any security, any bond, or any oath, for the faithful application of this money placed in his hands?

Mr. HOLMAN. Not even the oath of office, nor a scratch of the pen—*no security whatever*. At that unfortunate moment, when it was manifest that the nation would be driven to the very last extremity in sustaining its integrity and honor, this large sum of $2,000,000 was placed in the hands of Alexander Cummings, the publisher of a newspaper, without the slightest security for its proper application. It admits of no extenuation or excuse; for what I complain of, and what the country has a right to complain of, is, that at that very time there were in the city of New York the upright and competent officers whom I have mentioned, connected with the several Departments of the Government, through whom these same purchases might have been safely and prudently made.

Mr. McPHERSON. I am not familiar with all the facts of this case, and I wish to ask the gentleman a question from a sincere desire to obtain information. So far as I have been able to examine the documents issued by the various Departments of the Government at that time, I do not find anything from the War Department giving to this gentleman unlimited power over this money; and I do not understand how the War Department could give any such authority to any person over money deposited by the Secretary of the Treasury in the hands of a third person. I hold in my hand a letter of Secretary Chase, dated April 24, 1861, in which he states that drafts for $2,000,000 had gone forward to New York on that day to the credit of Messrs. Dix, Opdyke, and Blatchford, and in which he also states the limitations under which the money was to be applied in the following words:

"The purpose of this fund is to meet only such requisitions as may be directly consequent upon the military and naval measures necessary for the defense and support of the Government. You are therefore authorized and requested to pay such demands upon you, within the above limit, as are presented to you by the duly constituted agents of the Government."

It seems to me that, under that authority of the Secretary of the Treasury, these gentlemen had a check upon the disbursements of the constituted agent of the War Department, and that no part of this money could be expended except by their consent and by their approval. I do not understand how it could be possible for the Secretary of War, even if he so desired, to take this $2,000,000 out of the hands of the parties with whom the Secretary of the Treasury had deposited it, and transfer it to the agent of the War Department.

Mr. HOLMAN. Mr. Alexander Cummings and the Secretary of War took a different view of the case; just the view that I have stated. Mr. Cummings's testimony fully corroborates every word I have uttered. It is before the House and the country. This money was placed in the hands of these three gentlemen by the Secretary of the Treasury, subject to the control of the War Department; and that Department subjected it exclusively to the orders of Governor Morgan or of Alexander Cummings, or of either one of them, in the absence of the other. And I might as well state here that Governor Morgan, of New York, never acted or attempted to act, and never made any purchases; so that, in every sense of the word, whatever was done was the act of Alexander Cummings, and such was the intention of the Secretary of War. I will state further that the gentleman will find on file in the Third Auditor's office the accounts filed for the purpose of meeting this expenditure of this $250,000, indeed of $390,000, filed as expenditures made by Alexander Cummings.

Mr. McPHERSON. I would ask whether there was filed with these vouchers or indorsed upon any of the bills the approval of either of the three gentlemen he has named?

Mr. HOLMAN. I did not examine the vouchers.

Mr. McPHERSON. I think the gentleman is probably laboring under a mistake as to that particular point. I do not see how it is possible that these bills can have been paid without the approval of those gentlemen.

Mr. HOLMAN. There is not a shadow of ambiguity in the language of Mr. Cummings. I am stating my case from his own evidence, and there is not a shadow of ambiguity. If the gentleman from Pennsylvania says that there is, I will certainly permit him to correct me. But the language is explicit. Although the money was placed in the hands of Messrs. Dix, Opdyke, and Blatchford, it was alone subject to his order, and he also drew from the sub-Treasury the $90,000 which Mr. Blatchford expended in purchasing supplies for the Government.

Mr. DAWES. If my colleague will yield to me for a moment, I can call to his mind a portion of the testimony. He will find that Mr. Cummings says that at one time these three individuals claimed that when he made an order upon them for money they had a right to look into his vouchers to see what it was expended for, that he differed with them upon that point, and that after a correspondence it was finally decided by them that they had no right to require of him vouchers, and that all they could do was to honor his orders.

Mr. HOLMAN. I have the testimony before me, and will read it. After speaking of the $2,000,000 being deposited in the hands of Dix, Opdyke, and Blatchford, he is questioned as to the letter of authority to draw the money from them. He says:

"As near as I can remember it, it gave Governor Morgan and myself authority directly to act, and simultaneously with that authority there was a fund placed in the hands of Mr. Opdyke, General Dix, and Mr. Blatchford.

"*Question.* From whom did you obtain that authority?

"*Answer.* From the War Department.

"*Question.* What were you and Governor Morgan authorized to do?

"*Answer.* It authorized us to draw upon the funds in those gentlemen's hands.

"*Question.* By whom was the fund placed in those gentlemen's hands?

"*Answer.* By the Secretary of the Treasury and by the Secretary of War, jointly, I think.

"*Question.* But it was placed there subject to your order?

"*Answer.* Subject to our joint order, or to the order of either of us."

I have already said that Governor Morgan never acted under this extraordinary power. He was not in New York. Alexander Cummings was alone the agent of the Secretary of War. He afterwards states more distinctly and emphatically that those gentlemen, although they had the custody of the $2,000,000, could not use any portion of it, but that the drawing of it from the sub-Treasury had to be upon his own order.

Mr. McPHERSON. If I understood the point of the gentleman's remarks, he complained of the Secretary of War for having intrusted certain parties with the performance of certain duties in the city of New York, and that it was an interference with the regular routine of business in that city. He charges further that the agent of the War Department, under the construction of the parties in interest, had unlimited power over this $2,000,000.

Now, I put it to the gentleman whether he ought to cast any blame upon any officers of the Government, based upon any other transactions than their own? I refer the gentleman to the order of the Secretary of War, in which he appointed Governor Morgan and Alexander Cummings, for the extent of Mr. Cummings's powers. That order is as follows:

DEPARTMENT OF WAR, *April* 23, 1861.

In consideration of the extraordinary emergencies which demand immediate and decisive measures for the preservation of the national capital and the defense of the national Government, I hereby authorize Edwin D. Morgan, Governor of the State of New York, and Alexander Cummings, now in the city of New York, to make all necessary arrangements for the transportation of troops and munitions of war, in aid and assistance of the officers of the Army of the United States, until communication by mails and telegraph is completely reëstablished between the cities of Washington and New York. Either of them, in case of inability to consult with the other, may exercise the authority hereby given. SIMON CAMERON,

Secretary of War.

It seems to me that, taking the two papers together, the intention of the Department at that time was this: the Secretary of the Treasury constituted these three gentlemen (Messrs. Dix, Opdyke, and Blatchford) his representatives in the city of New York, and the Secretary of War constituted Alexander Cummings and Governor Morgan his representatives, and they were to act in concert, and for the reason that at that time it was impossible to have constant and regular intercourse between this city and New York. These two bodies of men occupied the same relations to each other that the War Department and the Treasury Department do here; and the intention of the Government was that these two bodies of men should coöperate.

Mr. HOLMAN. I trust the time consumed by the gentleman from Pennsylvania will not be taken out of my hour.

Mr. McPHERSON. I would not have interrupted the gentleman except from a desire to obtain information. The point I wish to suggest is, whether he is justified in casting any blame upon the Departments of the Government here, except for what they have actually done or authorized, and whether there is anything in the order of the Secretary of War which deserves animadversion. As to what was done under it by Mr. Cummings, that is a different point, on which, also, the gentleman has, I fear, not done complete justice. But on that I cannot trespass further on the time of the gentleman by proposing to give my opinions. On this, I will be glad to get another opportunity, if possible.

Mr. HOLMAN. I take occasion to say here, as I have already said, that so far as the Secretary of the Treasury is concerned, he manifested great prudence and foresight. But every man who knows Alexander Cummings knows that he was not qualified for that position, and that there was no necessity for appointing him at all. There were competent men in the city of New York in the service of the Government ready and prepared to perform the duties that were devolved upon him. I ask to have read some extracts from a letter of General Wool's of 24th July, 1861.

Mr. MOORHEAD. I would like to ask a question at this point.

Mr. HOLMAN. If it be but a single question, I will yield.

Mr. MOORHEAD. The gentleman says there was no necessity for this appointment. I want to ask him whether he recollects the time when this appointment was made?

Mr. HOLMAN. Oh yes, sir.

Mr. MOORHEAD. The gentleman has referred to the officer who then had charge of the navy-yard at New York. I would like to know whether, at that same time, the officer who had charge of the Washington navy-yard, Captain Buchanan, was not believed to be as good and loyal a man as any in the Union? And yet, had it not been for Captain Dahlgren, this yard would have gone into the hands of the enemy. The Government did not know whom to trust. That was the necessity for the appointment of Mr. Cummings.

Mr. HOLMAN. Everybody knows with what embarrassments the Government was surrounded at that time. The committee fully appreciated what was due to the Secretary of War, as well as to Alexander Cummings, in connection with that fact, and has based its report on the state of facts to which the gentleman from Pennsylvania refers. But the committee did not question the integrity of Daniel D. Tompkins or Commodore Breese; and the fact that the Secretary of War should have appointed Alexander Cummings to perform the duties which properly devolved on them, was an assault on their integrity and loyalty.

Mr. MOORHEAD. I am very sorry that they deemed it an assault upon them, while there were so many men in the country in whom there was the most unlimited confidence who proved disloyal.

Mr. HOLMAN. Does the gentleman charge or insinuate that Daniel D. Tompkins, whose head is whitened with the frost of years spent in his country's service, and Major Eaton, and Commodore Breese, whose lives have been passed in the service of their country, and whose names are untarnished, were suspected of disloyalty to the Government?

Mr. MOORHEAD. No, sir. I made no such charge. I only said that it was a time when it was necessary to know who were loyal before they were intrusted with large sums of money.

Mr. HOLMAN. And Alexander Cummings was to be trusted, while men who had spent their lives in the service were to have their fair fame traduced through the implied suspicion of the Secretary of War.

Mr. MOORHEAD. And how long had Captain Buchanan been in the service of the country, and Commodore McCauley, and those other officers who failed to take the Merrimac, as ordered, out of the clutches of the enemy?

Mr. HOLMAN. There have been many instances of disloyalty certainly, but I ask my friend from Pennsylvania whether he intends to suggest a suspicion against the loyalty of either of the three veteran officers connected with the War Department in the city of New York?

Mr. MOORHEAD. No; but I intend to cast suspicion on the resolutions censuring men for doing their duty at that time, and I hope that the House and the nation will put its condemnation on those resolutions.

Mr. HOLMAN. We shall see. I ask for the reading of these extracts from General Wool's letter, written almost at the time when these events occurred, not so remote as that the intervening time might have obscured the transaction.

The Clerk read as follows:

"THE GENERAL DEMURS AT THE SELECTION.—By examination of Secretary Cameron's letter to Alexander Cummings, Esq., it will be perceived that a civilian was charged with the execution of duties that properly belonged to the staff officers stationed in the city of New York, namely, Colonel D. D. Tompkins, assistant quartermaster general; Major Eaton, commissary of subsistence; and Major Thornton, of ordnance; all capable, efficient, and prompt in the discharge of every duty required of them, and under my orders performed the duties assigned to Mr. Cummings."

* * * * * * * * *

"Why should Mr. Cummings be employed, when we had staff officers to perform the duties required of him?"

Mr. HOLMAN. That letter bears date 24th of July. Shortly after the happening of these events, and so near to them that the emergency could not have passed out of the old general's mind, General Wool—will any man question his loyalty?—made the inquiry why this civilian was appointed to perform these duties. The whole country has asked the same question. The House has asked it. Everybody has regarded it as a strange and mysterious transaction. It is strange and mysterious.

But, one step further. Alexander Cummings is not the real man before the House. Nobody proposes to censure him. I trust my friend from Pennsylvania will not be too sensitive on that point. Alexander Cummings has been pressed forward into this contest, just as he was made use of by the late Secretary of War. He is sought to be thrust in between the late Secretary of War and the proper censure of this House. Who is Alexander Cummings? Why does his name become prominent here? Not because the committee has proposed any action in relation to him, but because it has proposed to censure the late Secretary of War for employing a man, wholly irresponsible and incompetent, with authority for the performance of grave public duties, and for placing at his disposal vast sums of money, while there were honest, upright, and loyal officers of the Government duly empowered to perform those very duties, and whom long years of experience had eminently qualified to perform them. That is the ground on which this resolution stands; and neither my friend from Pennsylvania nor any other gentleman can divert the country from the real issues. It is not Alexander Cummings that is to be subjected to the censure of the House, but it is the Secretary of War who employed him for a sinister purpose for duties for which he knew he was incompetent.

But, Mr. Speaker, by means the most remarkable, Alexander Cummings has been thrust forward. I hold in my hand a pamphlet brought before the House by the gentleman from Pennsylvania, [Mr. KELLEY,] a few days ago, in the absence of the committee. It is a most remarkable document. I have asked the question who Alexander Cummings is, and am unable to answer. We heard in 1856 that there were two General Frémonts, and we have heard within the last few days that there are two Sacchis—this debate has made the name famous. And so I undertake to say that the only way to explain certain ambiguities in connection with Dr. Alexander Cummings, is by presuming that there are two of them. It became a matter of some importance to ascertain, by order of the House, who furnished the cargo to the steamer Cataline, in connection with which the first great fraud upon the country was committed. Alexander Cummings testified, without hesitation, on very full examination, that he knew nothing at all about it. And yet, when Commodore Breese came to be examined he furnished a letter from Alexander Cummings, which appears in this report, showing that he himself had purchased the articles with which the steamer Cataline was loaded. And yet, sir, marvelously enough, this same Alexander Cummings has attempted to arraign the committee before the House for doing him injustice in reference to the Cataline—and the gentleman from Pennsylvania [Mr. KELLEY] has done the same thing.

Again: he states in his testimony, under oath, that all he expended out of $2,000,000 was $250,000; and now he states in this pamphlet that the amount expended was $390,000, Is it the same Alexander Cummings? He says distinctly that the amount which he himself expended was $160,000; but according to his statement, made in the presence of the House and of the country, through the gentleman from Pennsylvania, [Mr. KELLEY,] it was $221,734 40—a difference of over sixty thousand dollars. Again he says the amount of money expended under his direction by Blatchford was $90,000; and now he comes and lays before the House a statement that the amount received by Blatchford and expended was $164,000—a difference of $74,000. Which of these statements are we to believe? For I perceive there is a strong sympathy for Alexander Cummings upon the part of many gentlemen. He has been indefatigable. Which statement is to be believed; his statement under oath, or his letter, which has been read in the House?

Because this committee had said to the House and to the country that these accounts have never been settled, we have been the subjects of censure in this Hall and out of it. What are the facts? They show that Alexander Cummings allowed his accounts to go without even presenting them for settlement at the War Department for seven months after he had used this money. They show that his vouchers were not filed at the War Department until December, seven months after his last purchases were made.

But, again—and I am glad the gentleman from Pennsylvania [Mr. STEVENS] is now in his seat—I understood the gentleman to state, most distinctly, that the accounts of Alexander Cummings had all been settled at the War Department. Now, permit me to say, in a single word, that no single voucher has been presented by Mr. Cummings at the quartermaster's department or the commissary department of the General Government for the settlement of one dollar of these expenditures. I learn that the Secretary of War, in December last, referred these papers to the Third Auditor of the Treasury, who reported them back with the statement that he could not settle these accounts; that there was no evidence that this property purchased had gone to the use of the Government. The honest, incorruptible Third Auditor of the Treasury therefore refused to pass these vouchers.

I admit that after this was done, on the 17th day of January I think it was, after Simon Cameron had been removed from his trust as Secretary of War, and was temporarily acting as such, while waiting for his successor to be confirmed, he seized upon that interval to direct the Third Auditor of the Treasury to settle these accounts upon the basis of the vouchers filed, to save his instrument, without any reference to the question whether the property purchased had gone to the benefit of the Government or not. There has been no settlement of these accounts in the manner required by law and the usages of the Department. And I say distinctly, that there is not before the House or upon the records of the War Department, a particle of evidence that any portion of this amount of $390,000 ever inured to the benefit of the Army, either in the shape of supplies furnished, or in any way, shape, or form.

But there is another fact about it—and I am stating my belief upon the record, and not upon any mere suspicion or uncertain evidence. I believe that Mr. Cummings was placed in that position with a view of allowing other men to control this whole matter; for it is a singular fact that after this arrangement was made, Mr. Cummings seems to have done nothing personally. He did not see a single article delivered. They were purchased for him by his clerk, who was never known to him until introduced by Mr. Thurlow Weed, who recommended him for that position. After that, in every stage of the proceedings in these remarkable transactions, Thurlow Weed seems to have cropped out naturally at every point as the master spirit in controlling the events.

It will be remembered that when the steamer Cataline was to be cleared, Mr. Stetson, the apparent owner of that famous vessel, stated that her cargo belonged to his friends; but Hiram Barney, the collector at the port of New York, a cautious and prudent man, believing that all was not right, refused to clear the steamer; but Thurlow Weed, to meet the emergency, assures the collector that the vessel belonged to the Government. It was a strange circumstance in connection with the purchase of the Cataline; it left the fair inference that the vessel was laden by private parties, although chartered by the Government, and intended to be run into the Chesapeake bay at the expense of the Government, for the purpose of private speculation, to be consummated under the noise and tumult and excitement of the times—a private speculation! Then Thurlow Weed is on hand to conduct the negotiations for the transfer of the cargo of the Cataline to the Government, for, in connection with John E. Develin, a sachem of old Tammany Hall, and G. C. Davidson, and O. B. Matteson, the Cataline was purchased on speculation immediately prior to her transfer to the Government.

Now, sir, I believe I have said all I desire to say about Alexander Cummings and his transactions, except this—when the distinguished gentleman from Pennsylvania [Mr. STEVENS] attempted to convict this committee of fraud, in having misstated the purport of a note which Alexander Cummings attached to his testimony relative to the $140,000, he must have known

that he was resorting to a species of pettifogging which would not have been discreditable to a petty piepoudre court. His whole argument upon this point was mere pettifogging, mere jesuitism. He knew that if Alexander Cummings had entire control of this $2,000,000 it was a matter of no consequence whether he said "I retained," or "there is retained." He had entire control of this money, and the gentleman from Pennsylvania knows that the effort of Alexander Cummings to escape from the charges properly made against him, and to relieve his friend, the Secretary of War, by assailing this committee, is a miserable attempt at deception. I was disposed at first to think him a weak, confiding man, a victim of the craft of others, but disposed to be honest. In that spirit he is treated by the report of the committee. I have changed my opinion.

Mr. KELLEY. I will ask the gentleman whether he does not know that that money was retained by Messrs. Dix, Blatchford, and Opdyke, with the consent of the Secretary of the Treasury, to meet certain outstanding obligations, and not to make new purchases or to meet any obligations not yet created, and that apart from those purchases, neither Alexander Cummings nor any other man than Messrs. Dix, Blatchford, and Opdyke had the right to touch one cent of that money.

Mr. HOLMAN. I know this: that the $140,000 was, as is asserted by Alexander Cummings, retained for the purpose of meeting the purchases he had made over and above the $250,000, and that the language used by the Secretary of the Treasury is just precisely what would have been expected from the nature of the whole transaction. He says:

"Your reservation of funds to meet requisition of War Department, through Alexander Cummings, approved.

"S. P. CHASE,
"*Secretary of the Treasury.*"

There is no ground for misapprehension as to that money.

I might ask the question of the gentleman from Pennsylvania [Mr. KELLEY] if it did not consume too much of my time, in reference to this upright, virtuous constituent of his, how it occurs that in his sworn testimony before the committee he asserts that only $250,000 was withdrawn from the Treasury, and that the other $1,750,000 had been returned to Mr. Cisco, the sub-Treasurer, and then stated in his defense before the House, without qualification, that an additional $140,000 is retained by these three gentlemen, without any attempt at explanation.

Mr. KELLEY. I come back to my question. I ask the gentleman from Indiana whether the telegraphic dispatch he has just quoted was not in reply to Messrs. Dix, Blatchford, and Opdyke, announcing that outstanding obligations to the amount of about one hundred and forty thousand dollars existed, and asking that they might retain that sum to meet them.

Mr. HOLMAN. If the House comprehends the answer of the gentleman to my question, I am satisfied. The control of this money was with Alexander Cummings, and Messrs. Dix, Blatchford, and Opdyke were mere custodians, subject to his order. I state the case again: the Secretary of the Treasury placed $2,000,000 in the hands of three eminent citizens for the War Department, and the Secretary of War put it under the control of a personal friend of his own, a newspaper man, who was wholly unfit for the duty, and who squandered $390,000 of the money in a few days, so that the accounts are unsettled up to this time, and admit of no intelligent settlement. Yesterday, when the gentleman from Pennsylvania, the chairman of the Committee of Ways and Means, declared that these accounts were settled, the fact was brought to the attention of the House by the certificate of the proper officer that they were not settled. The venerable chairman of the Committee of Ways and Means, the leader of the House, with airy levity, fresh from the tax bill, turned around and laughingly remarked that it was a matter of no account whatever whether they are settled or not. What opinion can the people have of their statesmen, when in the national Legislature the leading man of the majority exhibits such indifference to the facts? Disposing of hundreds of thousands with a laugh—a matter of no consequence! What, he says, is $390,000, when we are daily expending millions?

Mr. MOORHEAD. My colleague, to whom the gentleman refers, is not now present, and I think that the gentleman from Indiana misrepresents him. My colleague did not, according to my recollection, make the remark the gentleman attributes to him. I do not think that he said anything to justify the gentleman in stating that he looked upon it as a matter of no moment. He stated that the accounts were virtually settled.

Mr. HOLMAN. The House will remember what he said. The colleague of the gentleman, [Mr. KELLEY,] who is in his seat, stated that he had seen a receipt and vouchers for this $390,000. I take occasion to say that no such receipt has been issued. It has not been issued by the quartermaster's department or the commissary department, or by any department authorized to issue such a receipt. And so far as this House is informed, this $390,000 has been squandered, absolutely squandered, for the benefit of the friends of Simon Cameron. The Third Auditor of the Treasury, in his report to the Secretary of War, has stated that there was no evidence before him that the property purchased had ever gone to the use of the Government.

Mr. Speaker, there is another matter connected with the career of Alexander Cummings. Two letters were addressed to him by the Secretary of War, one apparently a private letter, and the other intended for the public. In the first his especial attention is called to the fact that the military supplies will have to be shipped from New York, by the way of Harrisburg, to Baltimore; and the other states in general terms that he wishes to secure the services of an "intelligent, experienced, and energetic man," for pushing forward troops, munitions, and supplies; and that Alexander Cummings being acquainted with the railroad connections in the State of Pennsylvania, he was selected as the agent of the War Department. What did he mean? It is well known that there are only two lines of connection through Pennsylvania, between New York and this city, the one direct through Philadelphia, and the other eighty miles further by the way of Harrisburg. In one letter the attention of Alexander Cummings is called to the fact that all of the supplies were to be shipped by the way of Harrisburg, and in the other he is appointed, it is stated, because of his acquaintance with the railroad connections in Pennsylvania. There were only the two routes to this capital from New York city, and when this rebellion broke out bridges upon both of them within the limits of Maryland were burned down, so that for the purposes in view they stood upon the same footing. Let us see what has been the effects of this knowledge on the part of Alexander Cummings. Troops were shipped from the neighborhood of Philadelphia to Harrisburg, and then from there by the Northern Central road to Baltimore, on their way to this city, a hundred miles around, instead of going upon the direct road from Philadelphia to Baltimore. The Government never paid one dollar for repairing the railroad bridges destroyed by the public enemy upon any road, except $14,000 expended by the Secretary of War for the repairing of the bridges on the Northern Central. The other roads repaired their own bridges, but the Northern Central is repaired at the public expense——

Mr. McPHERSON. Does the gentleman intimate that this occurred during the time Mr. Cummings was employed by the War Department? For, if he does, he is mistaken. It occurred afterwards.

Mr. HOLMAN. I know that these occurrences took place afterwards. Mr. Cummings had no connection with them whatever. I am referring to the origin of these railroad transactions before this time. The extraordinary character of his expenditures, of which the House and the country is fully informed, compelled the withdrawal from him of a fund that was being rapidly squandered. But I also know that the Secretary of War was still eager to employ the man who understood the "railroad connections," and that he was afterwards employed by the Secretary of War to purchase coal, and that under the very eye of a competent quartermaster; and further, that the Secretary of War, with a knowledge of his utter incompetence, did enable him to make a contract with Benedict & Hall, of New York, for seventy-five thousand pairs of shoes. This firm loaned money from time to time, and indorsed notes for this "intelligent, experienced, and energetic man," and he generously gave them this contract, by which they realized $22,500 over what was the fair and legitimate profits of such a contract—$2 20 a pair, when $1 90 was the fair price. Not only that, and after the Secretary of War was aware of the character of the purchases he had made, he employed him as a traveling agent.

The reason why I have referred to these roads in Pennsylvania is this: the policy of the War Department seemed steadily directed to individual aggrandizement at the expense of the people.

The president of the Northern Central road is, singularly enough, the brother-in-law of Simon Cameron, and its vice president is his own son. William Colder, one of its directors, was also one of the heaviest contractors to supply the Government with horses, is a member of the banking firm of Cameron, Colder, Eby & Co., of which Simon Cameron was a member, and which furnished funds to the extent of $800,000, on terms the most favorable, to carry out the contract which Simon Cameron's Department had secured to his partners.

The banking house of which Simon Cameron was a partner furnished the funds to carry out the horse contracts. The fate of these contracts is known. The fact is pregnant with meaning. Horses were purchased in the West, and shipped at great expense to Pennsylvania. They were purchased in Pennsylvania and shipped to the West, and in one instance more than eighty per cent. of them were condemned; in another, a regiment of horse sent from Harrisburg to Louisville, one fourth of the horses were condemned as worthless. But the horse-contract system of the Secretary of War has been vividly described by my colleague n the committee, [Mr. DAWES.]

I am sorry to say to my friend from Pennsylvania [Mr. MOORHEAD] that there has been some want of integrity in the management of public affairs, so far as the contracts made in his own State are concerned. The evidence will show that there has been a general want of fidelity to the public interests in the contracts that have been made in that State.

Mr. MOORHEAD. Mr. Speaker, I protest here and everywhere against sweeping charges like those made by the gentleman from Indiana. If any man in Pennsylvania has been dishonest, and has defrauded the Government, I want to see him exposed; and I will go as far as any other man to do it. But I denounce these sweeping accusations against any men as a class. If they be permitted in this House, no honest man can be found who will accept any contract from the Government, and we will, therefore, in order to obtain Government supplies, be driven into the hands of thieves and sharpers. I know contractors in Pennsylvania who are as honest as the gentleman from Indiana, or any other gentleman upon this floor; and I do not intend that their character shall be impugned by these sweeping charges.

Mr. HOLMAN. All I have to say, in reply to the gentleman, is this: that so far as the evidence before us goes, if the Government would get rid of this army of contractors, in Pennsylvania and elsewhere, it would not sustain the slightest loss. A hungrier or more rapacious set cannot be furnished. I will run the risk of the contracts of the Government being driven into worse hands. If the statements are general, the testimony before the House is special.

But, sir, there is a wonderful connection between the railroads of Pennsylvania and the War Department. It is a singular fact that the State of Pennsylvania furnishes not only the Secretary but also the Assistant Secretary of War, Thomas A. Scott—and I mention him here because it is necessary—who is the vice president of the Pennsylvania Central railroad, and who, at least up to August last, if not since, received a salary of $4,000 a year, while at the same time he was receiving a salary from this Government as a superintendent of Government transportation and Assistant Secretary of War. I say these two employments are inconsistent with each other. The Government must suffer. And I say delib-

erately, that if this employment of Thomas A. Scott has not cost this Government millions of dollars, it has cost hundreds of thousands of dollars. So much for the appointment of a railroad agent, receiving a salary as such, to be the superintendent of the Government transportation and Assistant Secretary of War. No man can defend it. What has been the effect? Why, the committee show, by their report, that in transportation the Government is paying at least thirty-three per cent. higher than is being paid by private parties for the same transportation of freights.

Again, sir, I find the Secretary of War, in his annual report, fixes this matter up in this way. He says:

"Corporations, like individuals, are liable to be governed by selfish motives in the absence of competition. An instance of this kind occurred in the management of the railroads between Baltimore and New York. The sum of six dollars was charged upon that route for the transportation of each soldier from New York to Baltimore. As this rate seemed extravagant to the Department, when considered in connection with the great increase of trade upon these roads, made necessary by the wants of the Government, inquiry was made concerning the expediency of using the roads from New York to Baltimore via Harrisburg. The result was an arrangement by which troops were brought by the last-named route at four dollars each; and, as a consequence, this rate was at once necessarily adopted by all the railroads in the loyal States, making a saving to the Government of thirty-three and a third per cent. in all its transportation of soldiers, and at the same time giving to the railroads, through increased business, a liberal compensation."

Now, sir, there Simon Cameron, as Secretary of War, attempts to impress upon the country that it was through the instrumentality of his Department that the reduction in the rate of transportation of troops was effected. Yet, what was the fact? When Governor Curtin, on the 4th day of June last, called a convention of railroad companies at Harrisburg, for the purpose of adopting some general plan of transportation, Simon Cameron's road, the Northern Central, was represented there by his superintendent, James O. Clark, who, all through, voted against any reduction in the rates of transportation, either of freights or troops. The Pennsylvania Central road was also there represented, and it voted steadily against any reduction. And yet the virtuous Secretary of War attempts, in his report, to create the impression upon the country that it was through his instrumentality that the reduction was made.

Sir, the reduction was not made through that instrumentality. The first road that made a deduction was the road coming by the way of Philadelphia from New York. It was the small roads in the great State of Pennsylvania which reduced the rate of the transportation of troops from three to two cents per mile, but leaving the cost of transporting all species of property for the Government as it was originally, except that the Government, instead of paying through freight, which was the cheapest, was to pay local rates according to the card of the War Department issued on the 12th day of July last, through Thomas A. Scott.

[Here the hammer fell.]

Mr. DAWES obtained the floor.

Mr. F. A. CONKLING. I move that the gentleman from Indiana be allowed to proceed.

Mr. MORRILL, of Maine, objected.

Mr. COX. I desire to say to the gentleman from Maine that this side of the House has not spoken upon this subject.

Mr. HOLMAN. I trust that the fact that I have been interrupted will be taken into consideration.

Mr. DAWES. If the House does not object, the gentleman may have a portion of my time.

No objection was made.

Mr. HOLMAN. The rates fixed by the card of Thomas A. Scott, on the 12th day of July, 1861, did reduce the transportation of troops from three to two cents per mile, but considering the mode of transportation and the vast numbers transported—and nine mills per mile is full cost of such transportation—the railroad interests even here triumphed over the Government. One cent per mile, according to impartial testimony, was ample. But with reference to freights, the prices fixed by that card, only recently modified and only slightly, is a most patent fraud upon the country—the Government paying thirty-three per cent., at a fair estimate, more than private parties.

What is the result of placing the Government at the mercy of the railroads? From eight hundred thousand to a million of dollars is the increase of the earnings of the Northern Central during the current year—nearly fifty per cent. over that of the former year; and upon the other road—the Pennsylvania Central—there has been an increase of $1,350,235. The effect of all this has been to almost double the fair cost to the Government of transportation upon all these thoroughfares.

Mr. McPHERSON. I desire to suggest to the gentleman that the Baltimore and Ohio road was closed all that time, which had the effect to throw all the transportation to and from the West upon these other lines.

Mr. HOLMAN. That accounts for a part, but only a part, of the increase; for, independent of Government transportation, shipments from the West by this route have been limited.

Mr. McPHERSON. A very large part.

Mr. HOLMAN. I will tell the gentleman how to account for another part. There is a regular connection between the Pennsylvania Central and Northern Central at Harrisburg. The Pennsylvania Central and Simon Cameron and his family and friends own the controlling interest in the Northern Central. The same influence that fixed the enormous rates of the card of the 12th of July, arranged that the twenty-five thousand head of beef cattle shipped from the West for this capital should be stopped, unloaded, and reshipped at Harrisburg, instead of coming directly through from Harrisburg to Baltimore; the local freight is nineteen cents per hundred pounds, the through freight but five, so that the effect of reshipping at Harrisburg is to charge the Government fourteen cents additional for every hundred pounds. This policy of shipping to Harrisburg, instead of directly through to Baltimore, while beneficial to both roads, has resulted, I do not hesitate to say, and I speak with caution, in increasing the expense of the Government upon that one item alone, including the incidents to the reshipment, over one hundred and fifty thousand dollars, accruing to the direct benefit of the two roads. And, sir, there is not an intelligent commissary or quartermaster in the country, and especially at Harrisburg, but will tell you that they know of no reason whatever why the reshipment at Harrisburg has been adopted, instead of taking the freight directly through to Baltimore, unless to increase the profits of the railroads. It is by these agencies, sir, that the enormous public debt has been built up. Corporations and officials have fattened, while the nation has grown poor. I make this charge against the late Secretary of War—and, in my judgment, it is the gravest charge which can be made against a public man—that, in the employment of Alexander Cummings for the performance of duties in New York, in regulating the subject of transportation, in making and consummating the contracts to which I have referred, he has been willing, as Secretary of War, for the purpose of advancing the private interests of himself, his friends, and family, to sacrifice the grave public interest committed to his keeping. I charge him with this infidelity to his trust.

Mr. MOORHEAD. Is Cummings a member of his family?

Mr. HOLMAN. I did not say that he was. I believe he is not; but the parties that control the Northern Central road are. And, sir, the World, while Alexander Cummings, its conductor, rioted on the public Treasury, was most tumultuous and noisy in upholding the administration of General Cameron. The World admired and sustained the administration of Simon Cameron, and it was a well-known fact that that paper was controlled by his upright and virtuous agent.

Another thing. My friend and my colleague, [Mr. COLFAX,] who has discussed the subject of General Frémont frequently, has referred to General Ripley. Now, sir, I have before me the report of the present Secretary of War with reference to the purchase of arms, and I propose to call the attention of the House to a few facts contained in that report. First, that Simon Cameron, in making the enormous contracts for arms which he did make, was not acting in the dark. General Ripley, as far back, indeed, as the beginning of our difficulties, suggested the impropriety of adopting the line of policy—the general contract system—that Secretary Cameron ultimately adopted. I refer to the communication of the 11th of June; and I find at the bottom of his letter the following statement:

June 11, 1861.

I beg to commend these remarks to the acceptance and firm adherence of the Secretary of War.

WINFIELD SCOTT.

And yet, contrary to the advice of these two great masters in the profession of arms, so capable of giving him advice upon that subject, he goes on and makes these enormous contracts. I have the report before me. Those contracts, in the aggregate, amount to $46,164,665, and the arms which are to be delivered hereafter, with the Army already well supplied and the national armory in full operation, run up to the enormous sum of over thirty millions of dollars. By those contracts, twenty dollars apiece are to be paid for Springfield rifles; and I say, with a full knowledge of the facts, that those contracts are worth $7,500,000 over and above a legitimate and honest profit. I make that statement on the authority of General Ripley, who is eminently able to speak upon the subject. In this estimate, I allow a profit of three dollars on each arm. I understand my colleague to call in question somewhat his integrity; but my colleague is mistaken. I undertake to say that amid this wide-spread corruption and the hordes of sharpers and brokers and ex-members of Congress and bankers and stock-jobbers and blood-suckers and plunderers who gathered instinctively around the Secretary of War for the purpose of plundering this Government and robbing the people, this old man, General Ripley, stood up like an old Roman, a pillar of virtue in the midst of a wide-spread desert of corruption, a rock and a breakwater against a torrent of fraud. I wish to God this Government was full of such men.

Mr. MOORHEAD. I wish to make a remark in reference to General Ripley, right here.

Mr. HOLMAN. I am already consuming too much of the time of my friend from Massachusetts.

Mr. MOORHEAD. I desire but a few moments. The gentleman's time has been extended. The gentleman refers to General Ripley as having stood up as a breakwater against this general corruption. I have all esteem for General Ripley, but I doubt very much whether the old general has yet waked up to the necessity of providing for this war. I am not exactly certain that he appreciates the character of the war which is going on. I will tell you one thing.

Mr. HOLMAN. Unless it is understood that my friend DAWES's time is not to be restricted, I cannot yield any further.

Mr. MOORHEAD. I should like just to make a statement. I will stand responsible for its truth.

Mr. HOLMAN. Wait until I ascertain whether there is any objection to allowing my friend from Massachusetts to have his time extended.

Mr. MOORHEAD. I have the floor. The gentleman yielded to me.

The SPEAKER. The gentleman from Indiana is entitled to the floor whenever he claims it.

Mr. MOORHEAD. I want to make a statement that will take about two minutes. I presume the gentleman from Indiana wants to hear the whole truth.

Mr. HOLMAN. I want you to state it, provided that I may have an opportunity to state my own views.

Mr. MOORHEAD. Your way is one-sided.

Mr. HOLMAN. I cannot yield the floor unless the time is to be extended.

Mr. OLIN. I hope the gentleman from Indiana will yield to the gentleman from Pennsylvania, who seems to have some charge to make against General Ripley. I hope the gentleman will let it be heard before this House.

Mr. HOLMAN. I will, if it is understood that it is not to come out of my time, or the time of the gentleman from Massachusetts, by whose courtesy I am speaking.

The SPEAKER. The gentleman from Maine [Mr. MORRILL] objects to that.

Mr. HOLMAN. If the gentleman looks at this volume of correspondence, he will find that the old gentleman is fully awake. He will find that he suggested purchases of a larger amount of arms

in the outset than the Secretary of War approved. He will find his policy fully indorsed by General Scott. He will find that, on the 4th day of October, 1861, in his judgment, there had been a sufficient number of contracts for arms given out to be prospectively fulfilled. The wisdom of the old man was manifest there. And yet, after that time the Secretary of War, and his Assistant Secretary Scott, in spite of the remonstrance of General Ripley, gave to the class of men I have enumerated—the lobby of the War Department, the army of contract brokers—contracts for the delivery of arms hereafter, *hereafter*, to the amount of $30,000,000; though, strange to say, as is suggested to me by the gentleman from New York, [Mr. F. A. CONKLING,] he afterwards denied that he had given out any contracts at all; and yet there was—I point to the page of the record—a contract given out, and signed by Mr. Cameron himself, on the 25th day of December, for fifty thousand arms, to be bought in Europe, to the famous jobbers, H. Boker & Co., for an arm that will be piled up in heaps.

Mr. OLIN. I hope now the gentleman from Indiana will give the gentleman from Pennsylvania an opportunity to make any statement he desires in reference to the official conduct of General Ripley. I am very sure the House will give the gentleman an opportunity to reply.

Mr. HOLMAN. I must decline to yield if it is to be taken out of my time.

Mr. DAWES. Yield, and I will take my chance.

Mr. HOLMAN. Very well; I yield to the gentleman from Pennsylvania.

Mr. MOORHEAD. When I was last upon the floor, I was commenting upon the remarks the gentleman was making upon General Ripley's standing up as a breakwater against this corruption, and against these enormous contracts for arms. I commenced by saying that I thought the old general was not awake to the necessity of providing for the exigencies of the times. Now, I do not want, nor do I intend to make any attack upon General Ripley, for I admire him; I think him a good, kind old gentleman. But I want to state what I know to be a fact, and it is this: that, on the 22d of June, 1861, less than a month before the battle of Bull Run, General Ripley, under the belief I suppose that there was no great war going on, that arms were not wanted, that it was not going to be much of a shower, disposed of ten thousand rifled muskets made at Springfield, as good as any arms in the country, to Colt, of New York; he traded them off for pistols, taking pistols in exchange for them. Those arms were wanted afterwards, and an ordnance officer, Major Hagner, who was sent to New York to purchase arms, saw one of those muskets exhibited in a store there, and was told there were ten thousand of them to be had. He said it was impossible, that there were no such arms on sale in the country, that there could not be ten thousand of them, and that it was an entire mistake. The gentleman who exhibited the arm told him he had better inquire. He picked up the arm and looked at it. It was a Springfield musket, and a very good one, and on close examination he found the inspection mark. "Why," said he "this arm has been stolen; send for a detective." The gentleman told him that he thought not; but that if it had been stolen, he had better take a quieter and milder course of investigating the matter than to send for a detective. Upon investigation—I do not pretend to tell the whole story as it was told to me—it turned out that General Ripley had traded these arms for pistols, and he afterwards refused to buy them back, until General Cameron insisted that they should be bought back, and that Colt should give them back at the rate at which he purchased them. Now, that is the reason why I think the old general is not awake to the importance of providing arms, and I give it as a reason why he would disapprove of any contract for arms. But it was the business of the War Department and of the President, and of every one controlling the means of this Government, to provide arms and purchase them from everybody and wherever they could be had, to defend the flag of our country.

Mr. HOLMAN. I am not informed of these facts, but does not the gentleman know that there are contracts for arms exceeding thirty millions of dollars, which have been made with persons *who are not manufacturers of arms, or dealers in arms, and who have no connection with the business at all, but mere brokers?* Does not the gentleman know that these contracts have been given to mere politicians and speculators, and that Simon Cameron himself, as one of his last official acts, authorized the transfer of contracts for rifles, made by him with mere brokers, which would inure to the benefit of the contractors who were thus selling their contracts, to the amount of $450,000? I say that this record before me not only sustains the ability and integrity of General Ripley, and shows him to be one of the purest men, and one of the ablest ordnance officers of this or any other Government, but it shows that Simon Cameron, surrounded as he was by the peculators that infested the War Department, and actuated by motives which no public necessity can explain, did let out contracts to the extent of $30,000,000, to be fulfilled hereafter, when at this moment every one of those contracts might be abrogated without any detriment to the public interests. The arms are not required. No officer of the Ordnance Bureau, which is alone authorized by law to purchase arms, deemed the contracts necessary. General Ripley protested against them. No mortal man, except Simon Cameron and his Assistant Secretary and the contractors themselves, can explain the reason why these contracts were made. These are the contracts that make the tax bill groan.

But, sir, one other matter. The gentleman who has the honor of being chairman of the Committee on Naval Affairs made a speech yesterday in defense of the Secretary of the Navy, and insisted, although I believe he did not say so in so many words, that the object of one of the resolutions now pending is to censure the Navy Department. I will say to the gentleman that the beautiful things he uttered, including the poetry, about our Navy and about its old achievements before Tripoli and elsewhere—every word that he said in its eulogy, of its beginning and progress and development, stirred my heart with exultation and pride; his words will meet the approval of every loyal citizen of the Republic. The Navy is the pride of the country, and always has been. We are proud of the flag that floats defiantly on the highway of nations; but I say to my friend from New York that he cannot evade the true issue. The question is not whether the Navy is efficient or not. I believe the gentleman will not pretend that the Secretary of the Navy is equal to Neptune, the old god of the great deep. I have not heard that, while the little vessels of the rebels have been escaping through our blockading squadron, he was able, like that ancient divinity, to lash the ocean into fury for the purpose of overwhelming them; but I have heard, although I presume not truthfully, that he seemed to be utterly overwhelmed with astonishment when he heard of the temerity of traitor vessels running the blockade of his magnificent fleet—a fleet, to establish which the Government had placed in his hands, without restriction, the largest sum of money ever appropriated by any Government for such a purpose within such a period of time. But I do not assail him; I do not call in question his general administration. It is not necessary for my purpose to do so, however incompetent I may deem him for the position. But I do charge that in one respect—that covered by the resolution—he has acted improvidently, unwisely; and I propose that the House shall censure him, as the Secretary of the Navy, for committing a great public wrong. What is the accusation?

Sir, there are some things so outrageous, so flagrantly wrong, that there can be no argument in aggravation made against them. There are some things so tainted with wrong that all arguments and reasoning in their exposure and denunciation sink down hopelessly, because the offense is greater than any of which the reason or imagination can conceive. This is just one of those cases. The gentleman from New York says that the Government had had experience of the purchase of vessels by regular officers of the Navy—among others, by Commodore Breese, of the New York navy-yard—and that those transactions were all unfortunate. He referred to the Badger and the Roman, names that have become very familiar in the vocabulary of the House. Let me say that there was not a solitary purchase made by Commodore Breese on his own responsibility. Every contract was made in conformity with instructions from the Navy Department, and with restrictions imposed on him.

Let us examine. On the 21st of April, a few days before the purchase of the Badger and Roman, Commodore Breese was directed by the Navy Department to consult with William H. Aspinwall in the purchase of vessels, and to extend to him an acknowledgment on behalf of the Secretary of the Navy for the courtesy shown in tendering his services to the Navy Department. Commodore Breese did refer to Mr. Aspinwall, and Aspinwall nominated an agent to buy those vessels, who did buy them, and the Secretary of the Navy paid for them; and this committee, as has been shown, compelled this agent to disgorge and pay back to the Treasury over six thousand dollars, dishonestly obtained from the Secretary of War in making the purchase. Commodore Breese was honest in all this. There was not the slightest taint of dishonor attached to him. He detected the fraud and pointed it out. But, strange to tell, the Secretary of the Navy did not attempt to remedy it. He paid the money on affidavits, which were frauds on their face. I lose a little faith in the Secretary of the Navy if he read those documents. The Secretary says that the Department had nothing to do with Mr. Starbuck, the broker, or with Mr. Aspinwall; and yet I have here in my hand the letter of the Secretary of the Navy directing that Mr. Aspinwall should be called upon by Commodore Breese and consulted in regard to the purchase of vessels. In every other purchase made by Commodore Breese he was thus hampered.

But I pass to the real matter in issue.

The Secretary of the Navy, in vindication of his mode of purchasing the immense Navy which you authorized, says "that eminent merchants" of New York have approved his system of purchasing vessels by George D. Morgan, through what he calls a commercial agency. I have examined this transaction, and I would like to inform the gentleman from New York of one circumstance in connection with it. It is this: these "eminent merchants," who were so pleased with the Secretary's commercial agency, had sold to George D. Morgan vessels to the extent of $560,000, and I should suppose that they felt exceedingly amiable toward him. Let me call attention to some of these sales, to illustrate them all. There are the Daylight and the Dawn, two vessels bought from one of the "eminent merchants." One of them cost originally $45,000 the other $55,000. They had been chartered by the Government, and remained chartered till one of them realized $40,000 and the other $50,000, the Government meeting every expense, and insuring against all perils; and then George D. Morgan purchased the two vessels, paying for one just what it had cost four years before, and for the other within $10,000 of what it had originally cost, and Mr. Barstow, who received the full value and original cost of his vessels, and $80,000 more, without incurring any peril at all, might well sit down and say that George D. Morgan was one of the sharpest and cleverest men he ever knew in the market. He could say it with great unction, and he did do it, and he is a fair illustration of the list of "eminent merchants" to which the Secretary of the Navy so complacently refers.

Mr. POTTER. Will the gentleman from Indiana permit me to ask him a question?

Mr. HOLMAN. I will yield the floor in a moment. I will refer to one other transaction to illustrate. I take the case of the Santiago de Cuba. I do not find that vessel enumerated among the vessels purchased by Morgan; yet he received a commission. That vessel was purchased in New York from an agent of a company for $200,000. It was purchased directly by the Navy Department here. I wish to relieve George D. Morgan of the responsibility of that trade, although he did receive his two and a half per cent. commission. Trade and commerce were at that time paralyzed, and all the vessels in New York were thrown on the market. Addison M. Burt, a New York broker, was the open agent for the sale of the vessel; he realized out of that transaction as brokerage

the comfortable little sum of $10,000; and I find that the only inquiries made by the Navy Department of the Spanish gentleman who represented the company was the ingenuous inquiry as to whether or not he was a loyal citizen. There was no inquiry made as to the vessel or its capacity, but whether the seller was a loyal citizen of the United States. Of course he knew more about that than anybody else, and singularly enough, replied that he was loyal, and the contract was consummated, and the vessel turned over to the Government. It turned out, also, that in addition to that $10,000 paid to Burt, there was $5,000 paid as commission to the Spanish gentleman, and $10,000 claimed by somebody else as brokerage, and paid; making $25,000 of brokerage in this single transaction really paid by the Government. That is one of the transactions. It is a part and parcel of them all. Considering the condition of our commerce, the vast number of vessels thrown upon the market, and basing my judgment on the testimony alone, I do not hesitate to say that the Government has paid enormous prices for the vessels purchased through George D. Morgan.

But, to the real issue. Admitting the general integrity of the Secretary of the Navy, I put the case thus: is the Secretary of the Navy justifiable in employing his own brother-in-law to purchase vessels to an unlimited extent, and to receive a commission of two and a half per cent. from the seller? I ask if the tendency of that policy is to promote public virtue and integrity and secure a rigid adherence to the best interests of the country upon the part of our public agents? A public officer authorized to purchase vessels to the extent of millions of dollars, and his commission receivable from the seller, and the higher the price paid the larger his commission! It is right! Sir, I undertake to say that language cannot exaggerate the enormity of this transaction, and no reason can foresee the consequences that will follow the sanction of such a policy in encouraging fraud in our public officers. What a case does the Secretary of the Navy present! While the citizen soldiers are imperiling, not simply their fortunes but their lives, to sustain the honor and integrity of their country, to uphold the flag of the Republic on the land and the wave, leaving the endearments of home and of wife and of children, and meeting all the deadly perils of war on the battle-field, or the bloody deck of the man-of-war, for less than $200 per year, with wife and children demanding bread, the Navy Department, Gideon Welles, its Secretary, places in the hands of a member of his own household, of his own family, commissions to the enormous amount of $95,000 for five months' ordinary services, $70,000 of which he admits.

Mr. Speaker, I ask if it is right? Is it calculated to promote economy? I tell the gentleman from New York that such policy sanctioned by this House will have the effect of bringing about —nay, of enlarging—a system of commission and corrupt brokerages in every branch of the public service. Even the heads of the subordinate bureaus and the clerks will be justified in receiving severally their corrupt commissions, and plead as their justification that the Secretary of the Navy has given it his sanction. Indeed, sir, such has already been the effect. I tell you, sir, that in no Government has a more terrible blow been struck at public virtue. It is alarming. Gideon Welles could not have injured his country more than by the inauguration of a policy by which the Government is to pay commissions in every branch of its service in the most corrupting form. If George D. Morgan had received $70,000 directly from the Treasury in the shape of a salary, I do not know that I would have complained; *yes, I would have complained,* while so many of your real nobility, the flower of the nation, were lying upon their couch of straw, or dragging on in the weary march or staining the field of battle with their blood in defense of their country's honor, and the glory of its flag, with the beggarly pittance of $200 per annum! But, sir, it would have been infinitely better, even with the wife and child of the dead soldier crying in vain for justice, that this nation should pay George D. Morgan, the brother-in-law of Gideon Welles, from your Treasury $150,000 per annum, than that this system should be inaugurated of plundering the Government through the system of commissions to be paid by the party who sells to the Government. The higher the price paid, the higher the commission! What virtue shall resist this incentive to corruption! And the eminent merchants, who had reaped its benefits, certified to the excellence of the system!

Sir, I trust that this House will condemn this act, that they will nip this new form of fraud in the bud, and say to the Secretary of the Navy that although he may have discharged all his other duties with fidelity, yet this one act so prostrates the safeguards of public virtue, holds out and suggests such temptations to dishonesty and fraud, that it must receive the censure and condemnation of the American people, as represented in their House of Representatives. In this extraordinary act has not Gideon Welles permitted his high trust to be prostituted to the aggrandizement of his own family?

I regret that I have consumed so much of the time of my friend from Massachusetts, but I must refer to one other subject. Simon Stevens has a claim against this Government for $51,225 for a balance due upon five thousand carbines purchased through him by General Frémont. The gentleman from Pennsylvania [Mr. STEVENS] insists that the purchase was made *from* Simon Stevens. It makes no difference, so far as the merits of this transaction are concerned, whether Frémont purchased from or through Simon Stevens. I care not one cent whether he did or not. I place my objection to the transaction upon broader grounds than the mere quibble whether Stevens was a mere broker, through which the business was done, or whether he was acting as the authorized agent of General Frémont.

Now, sir, Simon Stevens does say, as his illustrious relative, or rather friend, I should say—one gentleman suggests that tutor is the proper expression; yes, sir, tutor, for they have apparently studied politics in the same school—Simon Stevens does assert, as the gentleman from Pennsylvania has said, that he was not an aid-de-camp of Frémont until the 18th of August. The testimony is not *ex parte*, because Simon Stevens is the main witness, as was Alexander Cummings and George D. Morgan in their transactions, and so in each instance, with the single exception of John C. Frémont, the party complaining of the *ex parte* and unfair proceedings of the committee has himself been the main witness.

Simon Stevens, as I understand him, says that he became the aid of General Frémont on the 18th day of August. Those who have examined his testimony say that he shows that a clerk of General Frémont, before this, had requested Stevens to consider himself an aid-de-camp of the general, as Stevens was paraded out of Frémont's headquarters through men with their swords drawn—and very properly, I presume. It is known that some things were done somewhat formally, and other things very informally, at St. Louis. Stevens, however, does not receive his commission. He goes to New York, and you find him seeking an intimate intercourse with Major Hagner, the ordnance officer at New York, just as honest a man as there is in the public service. He wants information from Major Hagner in regard to the purchase of arms. He now denies, it is true, that he was there as the agent of General Frémont, and uses the name of J. Pierpont Morgan, a New York broker, to cover the transaction. Now, give Stevens the benefit of all he claims, and I ask your attention to this testimony in relation to the transaction. I speak from the record. It is before me. Morris Ketchum, another New York broker, the most honest broker I have met with, who advanced to Simon Stevens $46,000 on these very arms, with the prospect of a handsome brokerage, says that he made the advance on the authority of a telegram from Frémont to Stevens, in answer to one from Stevens, in which Frémont says, "Purchase and forward immediately." That sounds very much like an agency, "purchase and forward;" or is the statement of John C. Frémont, as published in the newspapers, that he purchased these arms *from* and not *through* Simon Stevens, sufficient to overcome the sworn testimony of a man who has $46,000 at stake?

Again: Major Hagner says of Simon Stevens, this pupil of the leader of the House:

"On first introducing himself to me he stated that he was an agent of General Frémont.

"*Question.* When was that?

"*Answer.* I should judge it was in July some time.

"*Question.* Subsequent to that, and for how long a time, did he represent himself as acting in that capacity?

"*Answer.* The last time I saw him, prior to this, at Marston's, he called at my hotel. He then told me he had been appointed upon General Frémont's staff, and was to receive an appointment; and he showed me a letter in which General Frémont addressed him as 'Major Stevens.'

"*Question.* As early as July he had represented himself as acting as agent for Frémont?

"*Answer.* Yes, sir. He stated, in the first place, that it was an unfixed kind of a thing. It was a remarkable state of circumstances, so far as ordinary military arrangements go, and I so stated to him. When he first spoke to me upon the subject he said he was buying things for General Frémont, and when he had closed what he wanted to say I said to him, 'this is all very irregular; if you are the authorized agent of Frémont, I should have some assurance of it. I have no objection to giving you information as a private individual, but I can have no official intercourse unless you show me your credentials.' But he never showed me his credentials.

"*Question.* Did he state the character of his credentials?

"*Answer.* He stated that he was to be on General Frémont's staff. That was in July."

It will be borne in mind that it was on the 6th day of August these arms were sold to Frémont. Now, sir, I wish to call the attention of the House to another fact. Captain Collander says, speaking of the delay of these arms at St. Louis:

"*Question.* What interest did Stevens seem to have in the transaction?

"*Answer.* I can hardly tell. I understood he was a member of General Frémont's staff, *and that he was making purchases by the general's order.*"

The record before me is full of evidence that Simon Stevens, the *protegé* of the chairman of the Committee of Ways and Means, was the agent of John C. Frémont in making this extraordinary purchase. If he was, shall he grab from your Treasury $51,225 without consideration. But, sir, we place this transaction upon infinitely higher grounds. We say that the case stands thus: these arms had been manufactured by the Government, and had been condemned and sold by the Government as unfit for the service. General Ripley, who spoke from the record, says:

"The Hall's arms had been tried in service and been reported unfit for use as a military weapon, and none of these arms were issuable to troops. Many had been previously condemned and sold at auction, bringing from six dollars (the highest price for a small lot) to seventy-two cents, and not averaging at auction more than two dollars. The condemnation for use in service was on account of the principle of the arm, and applied to new as much as to damaged arms. In September last a special estimate was received at the Ordnance office for funds to pay for arms purchased by General Frémont or his agents. Among the purchases, as shown by the vouchers accompanying that estimate, were Hall's carbines, (number not remembered, but quite considerable,) at $22 50 each. Whether they were the same arms that Eastman bought or not is not known at this office. The Ordnance office declined to send the funds estimated for, and submitted the estimate to the Secretary of War, giving its reasons therefor, that the purchases were not made as required by law, third section of the act of February 8, 1815; that the prices for some of the articles purchased (specifying, among others, the Hall's carbines—an arm rejected, after trial, from the United States service—at $22 50) were very high; and that there was no evidence that the arms purchased had undergone inspection by a United States officer, or any inspection at all."

Even this particular lot of the Hall carbine was sold to Arthur M. Eastman *by order of the Secretary of War*, for $3 50 each, and Simon Stevens, "the broker" of Frémont, buys them for $12 50 each, and turns them over to Frémont instantly for twenty-two dollars each, and gets a draft on the Treasury for $51,226, seeking a brokerage of $51,226 from the Government he was serving. It is this sum of $51,226 of brokerage we are attempting to intercept, and which has called down upon our heads such fierce denunciation from the apologists of these plunderers. It is a clear case of brokerage, unfortunately so common as to receive the approval of men in high positions. The arm sold is worthless, except where any arm is in demand. The Government, through the War Department, sells it for $3 50 in the midst of the war. Simon Stevens, the adventurer, the pupil of the leader of the House, thrusts himself in between the owner of the arm and the Government, rebuys for $12 50 and sells to Frémont for twenty-two dollars—a difference of $51,226. Shall he consummate his scheme of plunder?

One other word. I heard the other day something said from the other side of the House about the poor children of the African mother who suffer in our midst, and it was said in such plaintive tones that it touched my heart. But it is very remarkable, when the wives and children of those

of our own brave men, whose fathers and husbands have fallen on the field of battle, come before this House and ask for what the Government justly owes them, we hear no such plaintive language and no such stinging sarcasm. I see no gentleman, who is so mindful of the wrongs of the African, rise for the purpose of defending the just claims of the widow and orphan of the soldier who died for his country. I do not see any of them rise and declare that it is the duty of the Government to pay to the children and widows of those who have fallen upon our fields of terrible battle the small pittance that we promise to their dead husbands and fathers. No, sir; there is no wail of grief from these gentlemen for the widow of the dead soldier who fell in defense of your flag, there is no utterance of grief over the sobs of his orphan children. No, sir; their tears have inspired no eloquence. The robbers of the Treasury—the children of another race can alone stimulate their sympathies. The old superstitions are revived. The chairman of the Naval Committee [Mr. SEDGWICK] still worships Gideon Welles, the dispenser of patronage, as the god of the waters; while the chairman of the Ways and Means [Mr. STEVENS] insists that John C. Frémont is the true god. The old idolatry still lives; the idol is still in the temple, and the idolaters still blindly worship. Pompey has a party, Cæsar has a party, but I still trust in God that the vote on these propositions will not justify the despairing language of the Roman patriot, "*My country has no party.*" Yet, sir, the gentlemen who defend the agent of Simon Cameron, the instrument of Thurlow Weed, the doctor of divinity, who forgot the eighth commandment, the robbers of the Treasury—utter no cry of grief over the agony which this wide-spread system of fraud and corruption will force to the heart of the true and the loyal, to homes made desolate by the ravages of war. I will not believe, sir, that at a time like this the gentlemen who have assailed this committee—the leaders of opinion—will sacrifice their country at the demands of party. But time will tell.

Another word, and I am done. I have spoken dispassionately and in no partisan spirit. But I am determined to denounce the plunderers of the Treasury. When the living masses of the people, who are not willing to sell their birthright of freedom for gold or silver, are gathering in countless numbers around the temple of the Republic, and with unselfish and earnest purpose are pressing forward with giant strength to steady its tottering pillars, I am not willing that the crawling robbers shall sap the foundations of its strength. With five thousand of my own brave and true constituents in the field, meeting every peril of war, I will not remain silent when thieves and robbers attempt to undermine the pillars of the State. I invoke the censure of the House upon their heads.

CONFISCATION OF REBEL PROPERTY.

SPEECH OF HON. J. R. DOOLITTLE,

OF WISCONSIN,

IN THE SENATE, *May* 2, 1862.

The Senate having under consideration the bill to confiscate the property and free the slaves of rebels—

Mr. DOOLITTLE said:

Mr. PRESIDENT: The immediate question pending is the amendment of the Senator from Massachusetts to the bill of the Senator from Vermont, to strike out all of the sixth section of his bill, and insert the amendment submitted by the Senator from Massachusetts as a new section.

The PRESIDENT *pro tempore*. That is the direct question before the Senate.

Mr. DOOLITTLE. Upon that direct question I shall not occupy any further time than to say that the distinction in principle between the amendment of the Senator from Massachusetts, and the sixth section of the bill proposed by the Senator from Vermont, is this: the bill of the Senator from Vermont assumes that it belongs to the Executive to judge of what constitutes a military necessity; the amendment of the Senator from Massachusetts assumes that Congress is the judge. It is conceded upon all hands that there is no ground upon which we can set free the slaves of rebels, but on that of military necessity, or upon conviction for crime; and, sir, I believe it is equally clear that what does constitute a necessity in military operations is an executive question. Therefore this section of the bill of the Senator from Vermont rests upon the solid ground of the Constitution. By it Congress simply authorizes the President, when he judges that the military necessities or exigencies of the country require it, to take slaves from their masters and set them free. But, sir, I shall not confine myself to this particular amendment. In my remarks to-day, I shall address myself earnestly, and yet I hope without prejudice or passion, to the consideration of some constitutional and other questions involved in the measure now before the Senate.

Mr. President, I said the other day, and I religiously believe, there never were as grave questions raised in this body as are involved in this bill. The first section by its operation may reach thousands of millions of property. The second section would undoubtedly at once, by an act of Congress, set free within the States, without their consent, or perhaps the vote of one single representative, in either House, of those States, more than two millions of slaves. As a necessary consequence, as those slaves are everywhere intermingled with the slaves of loyal masters, it would force on the emancipation of them all. I believe, therefore, that the second section involves the emancipation by act of Congress of the great masses of all the slaves within the States where the insurrection exists. It is true, it does not directly reach the slaves of loyal masters. It reaches, however, the slaves of all the rebels, and all who in any way aid and abet the rebellion. It is but fair to assume that, at least, the owners of one half of all the slaves in those States do sympathize with the rebellion. The Senator from Kansas [Mr. POMEROY] says that seven eighths of them do. That would make the case still stronger; and my friend from Ohio [Mr. WADE] says "still better." Mr. President, what I say in relation to it is that it makes the question still graver, and the responsibilty of passing such an act still heavier.

Sir, I repeat that never before in this body, nor in any legislative body the sun ever shone upon, were there graver questions raised than these. And yet, under all this responsibility, there are gentlemen who, in their eagerness to press this measure to a vote, smile at constitutional scruples and responsibilities. Sir, I am not one of those; I confess that I can join fully in the language of my colleague, and say, when I am pressed to act upon questions involving such great responsibilities, that I do so with a sense of apprehension—not the fear of any man here or elsewhere, for I know no master on earth, but the fear that in the presence of that God before whom I have taken an oath to support the Constitution, I may be pressed under the excitement of the moment, when passion rules the hour, to trample it under my feet.

Mr. President, we are in arms to-day, we are at war, and for what? It is for this very Constitution; to maintain, protect, and defend its supremacy in every State—everywhere, from Maine to Texas. To maintain that supremacy, we send our sons to the battle-field, we stake all we have and all we are; and I should regard myself wanting in manhood, as cowardly shrinking from the performance of my duty, if, while my sons and my countrymen are in the field fighting the enemy, meeting danger and death in every form, I should not stand here for the defense of the Constitution by every power God has given me, let it be assailed from what quarter it may. The only fear I have is that I may not defend it as I should.

Mr. President, that Constitution, let me say, is just as supreme in reserving powers from this Government as it is in granting powers to it; just as supreme in withholding as in conferring power. If this Government, or any branch of it, if Congress, or the Executive, or the Supreme Court, shall undertake to overturn its provisions and to trample under their feet the rights reserved to the States and to the people by it, it is just as much an attempt at revolution and rebellion as when the men in the insurrectionary States undertake to trample under their feet the powers which by it are given to this Government. Either is revolution; and if either succeeds, it is an end to our whole system of republican government. If the doctrine shall once prevail and be acquiesced in by this Government and by the people of the United States that the Constitution can be overborne, that this Federal Government can usurp powers which are not delegated, but are expressly reserved to the States, the days of this Republic are already passed; the days of the empire have begun; we are preparing to reënact, on perhaps a grander scale, the history of the decline and fall of the empire of Rome. "The maintenance inviolate of the rights of the States, and especially the right of each State to order and control its own domestic institutions according to its own judgment exclusively, is essential to that balance of power on which the perfection and endurance of our political fabric depends." Without that, they cease to be States at all, and the Federal Government becomes one vast consolidated empire. This was as true in the beginning as it was in 1860, when we made it the pledge upon which we came into power; and it will be true forever, whether men in the heat and passion of this hour shall heed it or trample it under their feet.

This Constitution of ours gives to us all the powers which are necessary to meet even the exigencies of civil war. It is just as perfect in this as in every other respect. It meets all the necessities of our situation, whether of war, insurrection, or peace. The idea that at any time, for one single hour, this Constitution, because civil war exists, is dissolved or gives way to martial law, as to something higher and above itself, at the discretion or caprice of the President or Congress, or both together, is a heresy as fatal to free government and as full of all evil as the whisperings of Satan to Eve in the garden of Eden. No, sir, no. The Constitution is just as much above martial as it is above civil law. From it alone is derived all the war powers of the Government, and under it alone can they be exercised.

First of all, Mr. President, let us inquire what powers are given to Congress to meet this exigency? There are three powers. One is the power to declare the punishment of treason;

Another to provide for calling forth the militia to execute the laws of the Union, repel invasion, and suppress insurrection;

And a third distinct and substantive power to make rules concerning captures on land and water. These three powers are the only three given to Congress by the Constitution of the United States, which are specially applicable to this state of things. These three powers are all-sufficient.

When the Constitution was formed, it was a serious question whether there should be any power given to the United States Government to punish treason against it. Under the old Articles of Confederation no such power I believe existed. It, however, is given by the Constitution of the United States, and the same language which gives it puts a limitation upon it. There is the power and there its limitation. There they stand side by side, put into the Constitution in the same clause. We cannot close our eyes to one and open them to the other.

The power to suppress insurrection is a distinct and substantive power, without limitation, except that whatever law shall be passed by Congress and whatever shall be done by the Executive, in suppressing insurrection, should not go beyond the powers usually exercised according to the modern usage of nations in carrying on civilized warfare—the laws of necessity and of humanity.

I beg now to call the attention of Senators for a moment to some of the various bills that are pending. The bill of the Senator from Illinois is framed under those clauses of the Constitution which give Congress power to suppress insurrection and provide for carrying on war under the war power as it is called. I understand him to say that it is not framed under the clause of the Constitution which authorizes Congress to declare the punishment of treason. The bill introduced by the honorable Senator from Vermont exercises both. It declares the punishment of treason; the first three sections are under that clause of the Constitution and are devoted to that. The remaining sections are under other clauses of the Constitution, and clothe the President with extraordinary powers to enable him to suppress the insurrection.

And first, of this power to punish treason. I believe the honorable Senator from Illinois [Mr.

TRUMBULL] agrees with me, that under this clause Congress is not prohibited from declaring that personal estate shall be forfeited upon the conviction of a traitor, but that his real estate cannot be forfeited beyond his life upon the attainder for treason. Since that discussion I have received a copy of an able argument written by Joel Parker, who stands at the head of the law school of Cambridge University. I find he makes the same distinction. He assumes it to be almost too clear for an argument. He says:

"The attainder spoken of in the clause cited from the Constitution being such attainder as, according to the common law, results from a judgment, it seems clear that the forfeiture, which is limited by the Constitution to an estate for life, relates to the same general kind of property which was forfeited by the attainder at common law; and the language of the constitutional provision indicates that this was *real* and not *personal property*. A forfeiture of a *life estate in personal property*, of which the traitor had the absolute title, would certainly be *an anomaly*. But it is clear that the forfeiture on attainder of treason was of real property only, lands, and interests in or rights to lands, and could be no other; for the forfeiture of the personal property of the traitor was the result of the conviction which preceded the judgment and the attainder."

Here is the opinion of Joel Parker, of the Cambridge University; and on that point I desire to refer to one or two more authorities. I read from Blackstone the other day, as you remember, in reply to the Senator from New Hampshire [Mr. HALE] upon that subject; I will read a sentence or two from Chitty's Criminal Law:

"There is this difference between conviction and judgment, that if the traitor die after conviction and before judgment he may pass his real estate, but not his personal property, because the goods and chattels are forfeited on the verdict of guilty, but the lands are not divested until the attainder, which is the pronouncing of the sentence of the court."

Conviction may take place at one term of the court and the sentence not take place until another, and the distinction is so kept up in the common law that if after a conviction a man should die or be killed by an adversary his lands would pass to his heirs, but his personal property would be forfeited.

Again, sir, I read from Coke:

"The difference between a man attainted and convicted is, that a man is said to be convict before he hath judgment; as if a man be convict by confession, verdict, or recreancy. And when he hath his judgment upon the verdict, confession, or recreancy, or upon the outlawry, or abjuration, then he is said to be attaint. And thus is the law taken at this day, notwithstanding some diversity of opinions in our books.

"If a felon be convicted by verdict, confession, or recreancy, he doth forfeit his goods and chattels, &c., presently." * * * * "By the very conviction he forfeiteth his goods and chattels before attainder. And Stanford—speaking of a felon convict by verdict—saith that he shall forfeit his goods which he had at the time of the verdict given, which is the conviction." * * * * "So as by a conviction of a felon, his goods and chattels are forfeited; but by attainder—that is by judgment given—his lands and tenements are forfeited, and his blood corrupted, and not before."—*Coke's Commentaries on Littleton*, vol. 2, sec. 745.

I would not trouble the Senate by reading from these authorities, had it not been urged here that the distinction I raised between personal property and real estate was a distinction without foundation. I refer to these books treating upon the common law, the law of this country when the Constitution was adopted, and in reference to which it was adopted, to show that the words of limitation upon the power of Congress apply to the real estate only of the person attainted. It is clear, therefore, that under this clause of the Constitution, giving to Congress the power to declare the punishment of treason, we may declare the absolute forfeiture of every dollar of the traitor's personal estate upon his conviction; but when we come to touch his real estate, we can forfeit it for his life, and for his life only.

I am aware that Senators here have contended that in the other countries of the world, upon a conviction of treason, men have had not only their personal property confiscated absolutely, but their real property also. I agree to that. Such was the law among the Persians, the Macedonians, the Greeks, the Romans, and in England, too, until they passed a law, to take effect after the death of the Pretender, to restrain its effect. The same power was exercised in this country in most if not all of the colonies during the Revolution; but not under this Constitution. That power was exercised before this Constitution was formed, when there was no such limitation upon them, when the common law was in full force, and the judgment of attainder forfeited all his real estate absolutely, as his personal estate was forfeited upon conviction.

"Among the Persians and Macedonians, not only the criminals convicted of treason were put to death, but all their relations and friends. The descendants of Antiphon, the orator, were disqualified from advancing themselves, by their own merits, to estates and offices in Athens. The posterity of Marius's faction were excluded by a law of Sylla from the same privilege."

This was carried so far that in Rome, under the empire, it was a maxim, as the digest phrases it, *qui civitâ amisit hæredem habere non potest*—he who has lost the rights of a citizen can have no heir. That was the law of the empire. If a man was convicted of treason he lost the rights of a citizen, and could have no heir. So in the days of the republic:

"Antony, Dolabella, Lepidus, were adjudged enemies to the commonwealth, and their estates confiscated. Even Cæsar, who was for mitigating the penalties on the Catilinarian conspirators, moved a confiscation of all their property to the public coffers."

So, too, in England, by the common law, as I have already stated, upon attainder of high treason there was a forfeiture of all lands of inheritance which the offender had in his own right, all into which he had a right to enter, over which he had the power of disposition; but his treason did not forfeit the right of the issue in tail. Gentlemen have said that this provision is only to limit the power so as to prevent the confiscation of estates in tail. By the common law they could not be forfeited; the issue in tail was just as much the object of the original settlement or the grantor as the person himself. The issue in tail took *per formam doni*, from ancestor. This idea that the clause of the Constitution applies only to estates in tail, such estates as were common in England, but hardly existed in this country at all, and to them only, and that it does not apply to freehold estates, or fee simple estates, is without any foundation whatever.

The honorable Senator from Michigan, [Mr. HOWARD,] in his speech detailed the attainders, forfeitures, and confiscations that took place among the colonies. He gave in detail the number of persons whose estates were confiscated, and the bills of attainder that were passed. He stated it truly; but I cannot close my eyes to the fact that all this transpired before this Constitution was formed. It was in view of all this; it was with all these facts before them that our ancestors who formed the Constitution placed this limitation in it. They had been in rebellion themselves. In their own experience they had learned all there is in the passions which dictate and the consequences which follow attainders, forfeitures, and confiscations. They knew it all. With all the lights of human history before them, under the old and under the new dispensation, before and after Christ, when they met in convention to form this Constitution, to found this new Government to be the light and the example of nations, they determined to limit the power of confiscating real estate to the life of the guilty party, even in this highest of political crimes. They determined that to the extent of the homes and lands of the family, the rule should be, *punish the guilty*, but *spare the innocent*. Sir, the Constitution says so, and it was intended to say so.

Sir, they put in that clause knowing what they said, and meaning just what they said. They borrowed it from the statute passed in England which was to take effect after the death of the Pretender, and subsequently postponed not to take effect until after the death of the Pretender's sons. I hold in my hand a book written about the time of the passage of that act, by Sir Charles Yorke, of England, a book written to show the impolicy on the part of the British Government of putting any such restrictions upon the law of forfeiture of real estate for treason. I have read it, and all the arguments upon the one side and the other. I say to gentlemen here, if they will take the trouble to examine it, that it is as clear as the daylight; nothing can make it clearer, that while Congress has the power to declare the punishment of treason, it has not the power to forfeit the real estate of the guilty party, except during his life.

Mr. President, so far from coming to this conclusion from any sympathy for these rebel conspirators, I take occasion to say that I do not believe there is a member of this body who has studied this question with a more anxious determination, if possible, to reach and take hold of the real estate of the leading rebels than the person who now addresses you. But, sir, although it was my wish to find in the Constitution the power of absolute confiscation of their estates in lands, not for life only, but forever, I am, after full examination, convinced, against my wish, that the power to confiscate beyond the life of the offender is not given to Congress, but is expressly forbidden. Finding, as I have, that this is beyond our power, I have drawn a bill reaching after, if you please confiscating, the real estate upon another and an entirely different ground: through the power of taxation. It in no respect is antagonized with this bill, nor is it in conflict with its provisions. I will not take time to explain it now. I may do so on some other occasion when I shall bring it up and ask its passage by the Senate. I will not even read it, though I shall take the liberty of inserting it in the report of my remarks as a part of my speech. It is as follows:

A bill for the collection of direct taxes in the insurrectionary districts within the United States, and for other purposes.

Be it enacted, &c., That when in any State or Territory, or in any portion of any State or Territory, by reason of insurrection or rebellion, the civil authority of the Government of the United States is obstructed, so that the provisions of the act, entitled "An act to provide increased revenue from imposts, to pay interest on the public debt, and for other purposes," approved August 5, 1861, for assessing, levying, and collecting the direct taxes therein mentioned, cannot be peaceably executed, the said direct taxes by said act apportioned among the several States and Territories, respectively, shall be apportioned and charged in each State and Territory, or part thereof, wherein the civil authority is thus obstructed, upon all the lands and lots of ground situate therein, respectively, except such as are exempt from taxation by the laws of said State or of the United States, as the said lands or lots of ground were enumerated and valued under the last assessment and valuation thereof made under the authority of said State or Territory previous to the 1st day of January, A. D. 1861; and each and every parcel of the said lands, according to said valuation, are hereby declared to be, by virtue of this act, charged with the payment of so much of the whole tax laid and apportioned by said act upon the State or Territory wherein the same are respectively situate as shall bear the same direct proportion to the whole amount of the direct tax apportioned to said State or Territory as the value of said parcels of land shall respectively bear to the whole valuation of the real estate in said State or Territory according to the said assessment and valuation made under the authority of the same.

SEC. 2. *And be it further enacted*, That on or before the —— day of —— next the President, by his proclamation, shall declare in what States and parts of States said insurrection exists, and thereupon the said several lots or parcels of lands shall become charged respectively with their respective portions of said direct tax, without any other or further proceeding whatever.

SEC. 3. *And be it further enacted*, That it shall be lawful for the owner or owners of said lots or parcels of land, within sixty days thereafter, to pay the tax thus charged upon the same respectively into the Treasury of the United States, and take a certificate thereof, by virtue whereof the said lands shall be discharged from said tax.

SEC. 4. *And be it further enacted*, That the title in fee simple of, in and to each and every piece or parcel of land upon which said tax has not been paid as above provided, shall thereupon become forfeited to the United States, and, upon the sale hereinafter provided for, shall vest in the United States or in the purchasers at such sale, in fee simple, free and discharged from all prior liens, incumbrances, right, title, and claim whatsoever.

SEC. 5. *And be it further enacted*, That the President of the United States, by and with the advice and consent of the Senate, may appoint a board of three tax commissioners for each of said States in which such insurrection exists, with a salary of $3,000 each per annum, to give security in the sum of $50,000 each, in such form as the Secretary of the Treasury shall direct, and to be approved by him, for the faithful performance of all their duties as such, and to account for and pay over all moneys and other property coming to their hands.

SEC. 6. *And be it further enacted*, That said board of tax commissioners shall enter upon the discharge of the duties of their office whenever the commanding general of the forces of the United States, entering into any such insurrectionary State or district, shall have established the military authority of the United States throughout any parish or district or county of the same, and they shall open one or more offices for the transaction of business.

SEC. 7. *And be it further enacted*, That the said board of commissioners may be authorized, in case the taxes charged upon the said lots and parcels of land shall not be paid as provided for in the third section of this act, to cause the same to be advertised for sale, in a newspaper published in the town or county where situate, and if there be no such newspaper published in said county, or if the publisher thereof refuse to publish the same, then in any other newspaper to be selected by said commissioners in said district, or in the city of Washington, for at least four weeks, and by posting notices of said sale in three public places in the town, parish, or district within which said lands are situate, at least four weeks previous to the day of sale; and at the time and place of sale to cause the same to be severally sold to the highest bidder, pursuant to said notice; in all

cases where the owner of said lots or parcels of ground shall not on or before the day of sale appear in person before the said board of commissioners and pay the amount of said tax, with ten per cent. interest thereon, with the cost of advertising the same, or request the same to be struck off to a purchaser for a less sum than two thirds of the assessed value of said several lots or parcels of ground, the said commissioners shall at said sale strike off the same severally to the United States at that sum, unless some person shall bid a larger sum; and, in that case, the same shall be struck off to the highest bidder, who shall, upon paying the purchase money in gold and silver coin, or in the Treasury notes of the United States, or in certificates of indebtedness against the United States, be entitled to receive from said commissioners their certificate of sale; which said certificate shall be received in all courts and places as *prima facie* evidence of the regularity and validity of said sale, and of the title of the said purchaser or purchasers under the same: *Provided, nevertheless,* That the owner of said lots of ground may, at any time, within sixty days after said sale, appear before the said board of tax commissioners in his or her own proper person, and, if a citizen, upon taking an oath to support the Constitution of the United States, and paying the amount of the said tax, with interest thereon from the date of the said proclamation of the President mentioned in the second section of this act, at the rate of fifteen per cent., together with the expenses of the sale and subsequent proceedings to be determined by said commissioners, may redeem said lots of land from said sale; and any purchaser under the same, having paid moneys, Treasury notes, or other certificates of indebtedness of the United States, shall, upon such redemption being made, be entitled to have the same returned to him by the said commissioners, upon surrendering up the certificates of sale: *And provided further,* That if the owner of said lots of ground, if a minor, a person of unsound mind, or under a legal disability, the guardian, trustee, or other person having charge of the person and estate of such person may redeem the same at any time within two years after the sale thereof, in the manner above provided and with like effect.

SEC. 8. *And be it further enacted,* That at any time within one year after the said sale by said commissioners any person being the owner of any lot or parcel of ground at the passage of this act, who will, by sufficient evidence, prove to the satisfaction of said board of commissioners that he or she, after the passage of this act, has not taken part in the present insurrection against the United States, or in any manner aided or abetted the same; and that, by reason of said insurrection, he or she has been unable to pay said tax, or to redeem said lands from sale within the time above provided for, the said board of commissioners may allow him or her further time to redeem the same, not exceeding two years from the day of sale; and for this purpose they may take the testimony of witnesses, and shall reduce the same to writing; and the United States, or any person claiming an interest in said lands, may appear and oppose the said application. From their decision, the United States or any party in interest, may appeal to the circuit court of the United States for said district, which is hereby authorized to take jurisdiction of the same, as in other cases involving the equity of redemption. And in case said board of commissioners should, for any cause, cease to act before the expiration of one year after said sales, the said circuit court shall have original jurisdiction of the proceeding for redemption as herein provided to take place before the said board of commissioners.

SEC. 9. *And be it further enacted,* That in cases where the owners of said lots and parcels of ground have abandoned the same, and have not paid the tax thereon as provided for in the third section of this act, nor paid the same, nor redeemed the said lands from sale as provided for in the seventh section of this act, and the said board of commissioners shall be satisfied that said owners have left the same to join the rebel forces or otherwise to engage in and abet this rebellion, and the same shall have been struck off to the United States at said sale, the said commissioners shall, in the name of the United States, enter upon and take possession of the same, and may lease the same, together or in parcels, to any person or persons until the said rebellion and insurrection in said State shall be put down and the civil authority of the United States established, and until the people of said State shall elect a Legislature and State officers who shall take an oath to support the Constitution of the United States, to be announced by the proclamation of the President, and until the 1st day of March next thereafter, said leases to be in such form and with such security as shall, in the judgment of said commissioners, produce to the United States the greatest revenue, subject, however, to the approval of the President.

SEC. 10. *And be it further enacted,* That the said commissioners shall, from time to time, make such temporary rules and regulations, and insert such clauses in said leases, as shall be just and proper to secure proper and reasonable employment and support, at wages or upon shares of the crop of such persons and families as may be residing upon the said parcels or lots of land, which said rules and regulations are declared to be subject to the approval of the President, and to be by him submitted to the next session of Congress for their revision and modification.

SEC. 11. *And be it further enacted,* That the said board of commissioners, by and with the approval of the commanding general in said district, may, from time to time, make such temporary rules for the order and government of all persons residing within the said district as shall be just and humane, until the civil authority of the Federal Government shall be established and acknowledged as mentioned in the ninth section, which said rules and regulations shall be approved by the President, and be by him submitted to the next session of Congress for their revision and modification.

SEC. 12. *And be it further enacted,* That the said board of commissioners, under the direction of the President, may be authorized, instead of leasing the said lands vested in the United States, as above provided, to cause the same, or any portion thereof, to be subdivided and sold in parcels not to exceed three hundred and twenty acres to any one purchaser, at public sale, after giving due notice thereof, as upon the sale of other public lands of the United States, for sixty days, and to issue a certificate therefor; and that, at any such sale, any loyal citizen of the United States, or any person who shall have faithfully served as an officer, musician, or private soldier or sailor in the Army or Navy or marine service of the United States, as a regular or volunteer, for the term of three months, may become the purchaser; and upon such sale any person serving in the Army or Navy or marine corps may pay the purchase money, or any part thereof, in certificates of indebtedness for his pay or wages, or in the amount which may be due for bounties to him as an officer or soldier in the Army or Navy or marine corps; and if he shall pay one fourth part of the purchase money, a certificate shall be given him, and he shall have the term of three years in which to pay the remainder, either in money or in certificates of indebtedness from the United States; and any citizen of the United States being the head of a family, and residing in the State or district where said lands are situate, and not the owner of any other lands, may, under such rules as may be established by said board of commissioners, have the right to enter upon and acquire the rights of preëmption in such lands as may be unimproved and as may be selected by said board of commissioners, under the direction of the President, from time to time for such purpose.

SEC. 13. *And be it further enacted,* That the proceeds of said leases and sales shall be paid into the Treasury of the United States, one fourth of which shall be paid over to the Governor of said State wherein said lands are situated, or his authorized agent, when such insurrection shall be put down, and the people shall elect a Legislature and State officers who shall take an oath to support the Constitution of the United States, and such fact shall be proclaimed by the President, for the purpose of reimbursing the loyal citizens of said State, or for such other purpose as said State may direct; and one fourth shall also be paid over to said State as a fund to aid in the colonization or emigration from said State of any free person of African descent who may desire to remove therefrom to Hayti, Liberia, or any other tropical state or colony.

SEC. 14. *And be it further enacted,* That in case the records of the assessments and valuation of the lots of land mentioned in the first section of this act shall be destroyed, concealed, or lost, so as not to come within the possession of the said boards of commissioners, they shall be authorized to take evidence of the same, or to value and assess the same in their own judgment upon such evidence as may appear before them; and no mistake in the valuation of the same, or in the amount of tax thereon, shall, in any manner whatever, affect the validity of the sale of the same or of any of the proceedings preliminary thereto. All such mistakes shall be a matter of account against the Treasury of the United States.

SEC. 15. *And be it further enacted,* That this act shall take effect from and after its passage.

These are its provisions. They speak for themselves. If we undertake to touch the land of these rebels, and to give title to those who settle on it, I would give a valid title, good against all comers, in fee simple, forever; a title that will be adjudged good in all courts and places. Of what avail would it be to give purchasers a pretended title to real estate if, the moment they came into court, they found there was no foundation for their title? I would not hold an idle promise to the ear, and break it to the hope. I would make it a reality indeed. My Anglo-Saxon instincts for land, my desire to punish, ay, to destroy the leaders of these infernal traitors who have brought on the war against the best Government of earth, are as strong as those of any other man. I would take their lands, and let our soldiers buy them and occupy them. I would take their lands and let the poor non-slaveholding whites around them enter them, and even take preëmption rights in the unoccupied lands of the rebel chieftains throughout all the insurrectionary districts. All this I would do. But in proceeding towards it, I would proceed in such manner as to make sure of it; not to make a sudden snatch at it, and fail in obtaining it. I would hold it by a title that would stand judicial investigation; that would stand before the Constitution when this war, with all its passions and excitements, is past; when calm reason shall again assert her peaceful sway in all courts and places, and before the tribunals of the civilized world.

Mr. President, I desire now to call the attention of the Senate to that clause of the Constitution giving war power to this Government to put down insurrection. Upon this subject there is a conflict of opinion; one maintained by the honorable Senator from Illinois, [Mr. TRUMBULL,] and the other by his colleague, [Mr. BROWNING.] But that difference is not so much as to the power, nor as to "who shall exercise it," for both place it in the Executive, as whether the Constitution gives him that power, or whether he is clothed with it by act of Congress. What does the honorable Senator from Illinois [Mr. TRUMBULL] propose? In the conversational debate between him and me the other day, he said that under his bill no property was to be confiscated until actually seized, and further, that no property was to be seized except in the discretion of the President. The other honorable Senator from Illinois, [Mr. BROWNING,] says the President has that power already, under the Constitution, without any act of Congress; that he already has this discretionary power to seize any of the property, and that he needs no legislation to clothe him with that power. The only difference then on that point is simply this: one Senator from Illinois [Mr. BROWNING] holds that the President has that power now as the supreme Executive; the other Senator from Illinois [Mr. TRUMBULL] insists that he has not that power until Congress shall delegate it to him.

Mr. TRUMBULL. The honorable Senator from Wisconsin did not quite understand me, I imagine. I certainly did not say that no property could be seized under this bill except in the discretion of the President. None could be seized in the disloyal districts where the courts are overborne except in his discretion, but in the loyal States of the Union the President has nothing to do with it.

Mr. DOOLITTLE. I referred to those sections of the bill relating to the insurrectionary districts. In the loyal States, as a matter of course, the Senator from Illinois does not claim that the President is acting under the war power; that he is to go with an army to seize property there; it is only where the insurrection holds sway that war measures are to be taken by the President.

And now, sir, upon this very point, contested as it is here, I still believe that if referred to five or seven gentlemen of this body, to be selected by the President *pro tempore*, [Mr. FOOT,] it would be possible to draw a bill in which all who desire earnest and efficient practical measures to suppress this rebellion agree. I am sanguine that it could be done. But our friends think otherwise, and therefore this matter must be discussed in open Senate which would be discussed far better, in my opinion, where gentlemen in free conference in committee can sit down together and in conversational debate take up these various propositions, section by section, and compare them together.

I have never believed that the friends of the country could not agree. There may be difficulties, it is true, but they are not insurmountable. I understand the honorable Senator from Illinois, [Mr. BROWNING,] in his speech, to say that although he believes the President now has power to make these seizures of rebels' slaves, and of rebel property, as war measures, and that Congress by law cannot enlarge his authority to make them, in short, that such law would give him no more power than he now possesses; still, he would not see anything in a bill declaring that the President might exercise that power which could not receive his support. He could regard it as a declaratory act, not conferring power upon, but recognizing existing power in the Executive; and certainly such an act, if the President has not that power under the Constitution, would confer it upon him.

But, sir, another question arises—what may or may not be the subject of capture? We all know that by the law of nations which existed at the time, or the modern usage of civilized nations having the force of law when the Constitution was formed, private property on land was not subject to capture on land unless it was contraband of war. No man, I believe, will deny that. Indeed, our Government has, from the beginning, urged as a new principle, to be adopted in the code of civilized nations, that private unarmed ships, carrying neutral goods, should not be subject to capture on the sea, and, as late as the Paris conference, when Marcy, the great man of Pierce's cabinet, agreed to accept their proposition to abolish privateering, provided they would agree to abolish all war on private property on the ocean not contraband. As the model Republic of the world, as foremost among the Christian nations, that idea has been cherished in our policy. It began with Benjamin Franklin, and has been advocated by all our great men in the interests of freedom, humanity, and peace, from the beginning to this hour. Not only was the law of nations had in view by our fathers when they made the Constitution, but they expressly recognized in

it the binding force of the law of nations. One of the powers given to Congress is this:

"To define and punish piracies and felonies committed on the high seas, AND OFFENSES AGAINST THE LAW OF NATIONS."

What does that mean? The clause of the Constitution recognizes the law of nations existing at the time when it was formed. As all know, or may know who will inquire, by the established usage of civilized nations for a century before the Constitution was adopted, private property on land was not the subject of capture, unless made contraband of war. Now, as to what is or is not contraband of war there is no fixed rule, and therefore there is another provision in the Constitution which of itself gives to Congress a distinct substantive power—power to make rules concerning captures both on land and on water. In a case which has been so often cited in the Senate, Justice Marshall says:

"It would be restraining this clause within narrower limits than the words themselves import, to say that the power to make rules concerning captures on land and water is to be confined to captures which are ex-territorial. If it extends to rules respecting enemy property found within the territory, then we perceive an express grant to Congress of the power in question, as an independent, substantive power, not included in that of declaring war."—*Brown* vs. *United States*, 8 *Cranch*, 126.

This power of regulating captures on land and water is a distinct, independent, substantive power in Congress. The case in which this was decided was this: there was some timber belonging to a British subject, moored, I believe, at Newport, Rhode Island, and drawn out of the water upon the land, nearly a year before the war. The district attorney of the United States filed a libel to seize it as enemy property. Justice Story, in the circuit court, sustained the proceeding. He put it on the ground that, as war existed, by the declaration of Congress, between the United States and Great Britain, the supreme Executive, the President, had the right to order the seizure of any enemy property within the territory of the United States. It came up to the Supreme Court, and was reversed. Justice Story, however, delivered a dissenting opinion. In order to understand precisely the point of difference between him and the majority of the court overruling him, I will read an extract from what he said:

"The sovereignty, as to its execution, rests with the President. If the Legislature do not limit the nature of the war, all the regulations and rights of general war attach upon it. I do not, therefore, contend that modern usage of nations constitutes a rule acting on enemy's property, so as to produce confiscation of itself, and not through the sovereign power; on the contrary, I consider enemy's property in no case whatsoever confiscated by the mere declaration of war; it is only liable to be confiscated at the discretion of the sovereign power having the conduct and execution of the war. The modern usage of nations is resorted to merely as a limitation of this discretion, not as conferring the authority to exercise it. The sovereignty to execute it is supposed already to exist in the President by the very terms of the Constitution; and I would again ask, if this general power to confiscate enemy's property does not exist in the Executive, to be exercised in his discretion, how is it possible that he can have authority to seize and confiscate any enemy's property coming into the country since the war, or found in the enemy's territory? Yet I understood the opinion of my brethern to proceed upon the tacit acknowledgment that the Executive may seize and confiscate such property under the circumstances which I have stated."—8 *Cranch*, 154.

This is from the dissenting opinion of Justice Story. The property being property which was in the country at the time war was declared was not by the modern usage of nations liable to confiscation. Justice Story maintained that, although not confiscated by the declaration of war, the President was invested with the *discretionary power to seize the property*, and he sustained the seizure; but the Supreme Court, Justice Marshall delivering the opinion, held otherwise. They held that the mere declaration of war not only did not confiscate the property in question, but they held further that it did not authorize the seizure of enemy's property by the President found within the territory, unless Congress itself should first by law authorize him to make the seizure. Justice Marshall goes on to say that Congress possesses that power; that both under their general power to declare war and under their independent and substantive power to make rules concerning captures on land and water Congress has the power to declare that enemy's property found within the territory at the breaking out of hostilities might be confiscated.

I therefore hold, sir, that under the Constitution Congress has power to declare what shall and what shall not be contraband of war, and subject to seizure. We cannot, it is true, do so so as to affect the rights or property of the citizens of foreign countries. If we do, and violate the law of nations in that respect, foreign nations may hold us to an account. But as between us and our own citizens, however, Congress has power to declare what shall and what shall not be the subject of capture in war. No foreign Power has any right to interfere between us and our own citizens. That is our business. It is none of theirs. We are responsible to God alone. The law of nations is to us, in that respect, a law upon our discretion. Military necessity is acknowledged by all writers to be a part of the law of nations, and, under some circumstances, that may demand the capture and confiscation of all kinds of personal property. But within the meaning of this clause of the Constitution real estate is not the subject of capture. Capture is of that which can be made prize of war. It must be personal property, personal estate. I grant you, sir, that in the prosecution of war real estate may be occupied; you may enter upon any man's land, loyal or disloyal; dig it all up for intrenchments; cover it with fortifications; tear down its houses, destroy fences, timber, anything, everything; trample everything in pieces. There is no limit to the power of using real estate while the war lasts; but when the war is over you cannot pass title to real estate by an act of war, by any military necessity. Your military necessity is a war necessity. When the war ceases, the necessity is gone. You might just as well say that, if in a great city a conflagration were raging, and the mayor of the city should, as he might, put powder under the building of one of its best citizens and blow it into the air to stop the progress of the flames, he could, at the same time, give a deed to convey the title of the owner to the ground where it stood after the fire was extinguished, as that you can, by any proceedings in the nature of war measures or founded upon military necessity, undertake to give title to real estate. The Government, during the war, can occupy it as long as it pleases; but it cannot give title to the estate beyond the war.

Mr. President, the modern law of nations is certainly clear as to what our belligerent rights over real estate would be if we were invading a foreign jurisdiction. But, sir, we are not invading a foreign jurisdiction. We are simply engaged in suppressing an armed rebellion within our own jurisdiction. We are not invaders. We are not making conquests. Our jurisdiction is rightful over all this real estate. Every foot of it is ours now. We cannot conquer our own. We may repossess it, but not conquer it, for it is all ours now. In point of law, in right, our jurisdiction from here to the Gulf of Mexico, over every foot of the territory, is just as good under the Constitution and before high Heaven now as it will be when we have driven every rebel into the Gulf. We may go upon it anywhere, everywhere, and use it all if necessary to the prosecution of the war. We may hold and occupy just as much or just as little of it as we please. We are not subjugating a foreign territory, and if we were, nothing is now more certain than that the title of private owners would not be affected. We should only acquire jurisdiction to legislate for and govern it. We are entering into our own. The title to real estate within our jurisdiction must be tried and determined in the courts, upon record evidence of paper title. How could any man give in evidence proof of title passed by an act of the sword? How show that it passed from the owner, being a citizen, without trial, without due process of law?

Again, sir, the Constitution, as we have seen, in limiting the punishment of treason, denies the power of Congress to reach the title to real estate beyond the life of the traitors. Every one knows that no man can be a traitor under our Constitution, without levying war, or giving aid and comfort to those who do. Levying war, they are all enemies of course. Owing allegiance while levying war, they are more than enemies, they are rebel enemies. Treason is the only word to express all their guilt, and traitor the only word to define their true character. Now, the Constitution expressly declares that Congress shall not forfeit their real estate by attainder or sentence for treason except during their lives. How can any man contend that one who has not been tried or found guilty may be made to forfeit for his treason more than one who has been found guilty? These are questions upon which we must think and reason, and take counsel, in the language of the Senator from Vermont, of our judgments, and not of our resentments.

They must stand the test of calm judicial investigation, when the war is over and all its passions and excitements are passed away; when you and I and all of us may have passed from earth to give an account before the great Judge of all.

Sir, I agree to, and there is great force in, what was said by the Senator from Indiana, [Mr. WRIGHT.] We may, and we ought to, take personal property to subsist the Army as it moves into the strong insurrectionary districts, as a matter of military necessity. Let fair prices be always paid to men who are loyal or not known to be disloyal, and as to all, a just account should be taken and kept by the Government, for the protection of all good citizens, and to prevent the demoralization of the officers and soldiers of the Army.

Sir, if gentlemen suppose that my views result from too much clemency for the leaders in this rebellion, they are greatly mistaken. No, sir; no. The leading chiefs ought to suffer the extremest penalties of the law. Others still deserve banishment, like the fallen angels from Heaven. Justice should weave for them a "whip of scorpions, and lash them naked through the world." But, sir, for the great mass of these misguided people who have engaged in this rebellion through ignorance, through the intrigues and artful appeals of the great conspirators, who for a whole generation have been inflaming their prejudices and passions up to the point of plunging the country into this gigantic civil war, and for the majority who have been carried into it by force and terror, I do have feelings of clemency, and I would, upon their submission to the laws and authority of the Union, give them amnesty.

But I am of opinion, sir, that in relation to a certain class of these rebels there is, perhaps, another mode in which their real estate can be reached and the title made perfect. I have in my mind the case of Slidell, who, as I understand, owns a large amount of real estate both in Illinois and in Wisconsin, as well as in Louisiana. I am of opinion that where citizens have gone abroad to foreign countries, and have there, outside of our jurisdiction, engaged in acts of hostility to us, by undertaking to obtain the recognition of this southern confederacy as an independent government, it would be within our power to declare persons guilty of such acts in foreign countries beyond our jurisdiction no longer citizens of the United States, *alien enemies*, and to escheat their lands to the United States, and their assigns forever. So, too, perhaps—although that point, I confess, I have not fully examined; I simply throw out the suggestion—those persons who, after the passage of the act, should be engaged in rebellion, and should flee to foreign countries, going outside of the jurisdiction of the United States altogether, with the intention not to return, might be declared to be no longer citizens of the United States, but alien enemies and foreign enemies to the United States; and perhaps their real estate might be escheated for that reason. Of all other provisions, this would reach the estates of the very class we ought to reach, the Floyds, the Davises, the Toombses, and the like, who will flee the country when Richmond and Memphis fall into our hands.

It is no purpose of mine, sir, to take up the time or delay the action of the Senate. I simply desired to express my views upon some of those great questions as to the powers given to us under the Constitution. I have done so, as briefly, frankly, and freely, as I would converse with Senators in the committee-room, I still hope we may agree upon some proper measure. I confess to you that I should much prefer to see all loyal men in this body voting together on a proposition in relation to the confiscation of rebel property. I may be more sanguine than others; but I still believe we may yet agree on some measure which will receive the united, cordial, and hearty support of the friends of the Administration; one which may be at once an efficient means in putting down the rebellion and in punishing its authors.

Mr. President, the rebellion, or rather, to speak more correctly, the great conspiracy which produced this rebellion, to wit, to bring about the dissolution of the Union and the formation of a southern confederacy, began more than thirty years ago. Its pretext then was the tariff question; its pretext now is the slavery question. In looking back into the Congressional Globe, and reading a speech delivered by the honorable Senator from Massachusetts, [Mr. SUMNER,] I find that he quoted from an original letter of General Jackson, what, to-day, seems almost prophecy. I remember he read from the original letter in his handwriting. It was dated May 1, 1833. Writing to a friend a private letter, General Jackson says:

"I have had a laborious task here, but nullification is dead; and its actors and courtiers will only be remembered by the people to be execrated for their wicked designs to sever and destroy the only good Government on the globe, and that prosperity and happiness we enjoy over every other portion of the world. Haman's gallows ought to be the fate of all such ambitious men, who would involve their country in civil war and all the evils in its train, that they might reign and ride on its whirlwinds and direct the storm. The free people of these United States have spoken, and consigned these wicked demagogues to their proper doom. Take care of your nullifiers; you have them among you; let them meet with the indignant frowns of every man who loves his country. The tariff, it is now known, was a mere pretext."

I do not read it all; but in conclusion he says—mark his prophetic words:

"THE TARIFF WAS ONLY THE PRETEXT, AND DISUNION AND A SOUTHERN CONFEDERACY THE REAL OBJECT. THE NEXT PRETEXT WILL BE THE NEGRO OR SLAVERY QUESTION."

And, sir, how true it is! When Calhoun found that he could not unite the people of all the southern States in the scheme for disunion and a southern confederacy upon the tariff, because Louisiana was always willing to consent to a duty to protect the manufacture of sugar, he determined to force on the same thing by raising another issue. He came forward in this body to "force the issue," to use his own language, and that issue was to be forced upon the slavery question. How did he do it? He did it by introducing into this Senate his resolutions to make slavery national and freedom sectional, and by making that memorable speech, in which he said: "slavery once was regarded as a great moral and political evil; that folly and delusion is gone; it is now regarded as the best and most stable basis for free institutions in the world." From that hour down to the present moment, almost thirty years, Calhoun and his followers have been endeavoring to force on disunion and a southern confederacy by making slavery, in which all the southern States had a common interest, the pretext upon which to unite the southern people. This new idea that slavery was a blessing, instead of the curse it was acknowledged to be by all the great men of the revolutionary era, would make slavery of necessity aggressive. He knew that whatever claims to be a good thing is and must be always aggressive. It demands recognition as a good thing. It will have recognition as a good thing. New ideas like new forces entering into the minds of a people, will have expression and development, or rend and destroy whatever stands in their way. He forced this idea, as the fulcrum upon which, like Archimedes, he would move the world, first into all the political assemblies and conventions of the South; then into all the pulpits and conventions of the clergy of the South; into every legislative hall in the South; and at last into the decisions of their courts. He forced it here into both Houses of Congress until, during the last twenty years, we have heard little else from the Representatives from that section except that "slavery is a divine institution, a blessing," and demanding that it should be recognized and regarded as such by every department of this Government, by Congress, the President, and the Supreme Court; and it succeeded.

This idea that slavery is a blessing, demanded the repeal of the Missouri compromise, so that it could enter and bless the Territories of Kansas and Nebraska. It was repealed. It demanded after that that slavery should be established as a blessing in Kansas, even by force of arms, and five thousand of its armed border ruffians crossed the border with arms in their hands and subjugated the Territory. It demanded the formation of the Lecompton constitution, the first clause of which recognized slavery as a blessing, and declared it to be higher and above and before all government, and that it should be protected as such by law forever. It demanded of the timid and time-serving Buchanan that Kansas should be admitted into the Union under that constitution, although known to him and all the world that it was voted down by a majority of ten thousand. Sir, since I have been here, it demanded that Kansas under that constitution, though reeking with perjury and fraud; though putrid, rotten, and corrupt—a stench in our nostrils—should be admitted as a slave State, made so by force of arms. This idea that slavery is a blessing, and should be recognized as such, demanded and received the opinion in the Dred Scott case, which held slavery to be the common law of the Constitution for all the Territories of the United States; and some even maintained that the Mexican law of the Territories, in force when we acquired them, were *ipso facto* repealed and abolished by some mysterious law power in the Constitution itself, which was to give the right to carry slaves into all that vast empire. Beyond all that, this same pretext that slavery was a blessing and ought to be expanded, after the election of Mr. Lincoln, and just before this rebellion broke out, through Toombs and Davis demanded of us what they knew we could not grant—a new Constitution, or rather new provisions in the Constitution, to give new guarantees to secure the extension of slavery; providing, by the express language of the Constitution itself, that slavery should be permitted to go into all Mexico and all Central America, should we ever acquire them.

Under the old ideas of Jefferson and Washington, we lived together in peace in slaveholding and in non-slaveholding States. It is this new idea that slavery is a blessing, which has been used as a pretext, that has made it aggressive, and assert all these demands upon the Government; but, sir, thank God, that new idea is fast passing away. Go into old Virginia anywhere to-day, and what will they tell you about slavery now? Is it a blessing, or is it a curse? Is it a thing to be fostered and encouraged, as Mason used to say here, or is it a blight, a mildew, blasting and destroying her? It has taken Calhoun and his disciples a whole generation to educate the southern mind to this fatal heresy. One year of this war will cure their souls of this terrible delusion. Slavery a blessing! Cotton is king! Where is king cotton now? The public mind, even of the fanatics of the South, is being fast converted. It is coming back to the old ideas of such men as Washington, Jefferson, and Madison, who saw, felt, and admitted slavery to be an evil, and were always looking around them to see the best and the most practicable way in which to have it removed. Sir, the time has come. The way is opening. The true solution of this great trouble is at hand, and is bound to triumph. The old ideas of the Republic, upon which it was founded, the ideas of the men who made the Constitution, men who loved liberty more than they loved slavery, men who only tolerated slavery in the States, but with a fixed determination to rid themselves of it in some practicable way for the permanent good of both races, these ideas are coming back to the Republic, and are spreading themselves like lightning in every quarter of the Republic, South as well as North. I shall not reiterate the views I have heretofore expressed upon this subject. They are well known to the Senate, and to the country.

Mr. President, if Calhoun had been executed for his treason in 1833, there would have been no rebellion now; and perhaps he came nearer his execution than most people are aware. You all know the conspirators in South Carolina proceeded then even to the commission of the overt act. Calhoun was their chief adviser. General Jackson knew it well, and had determined that the law should be put into execution against him; not against the poor misguided men who followed, but against the chief conspirator. He had resolved on his prosecution and trial, and if convicted, his execution for treason. He said that if he had an Attorney General that would not draw an indictment, he would find one that could. Things were approaching the crisis. Calhoun became aware of General Jackson's determination, and sent Letcher, of Kentucky, to confer with him on the subject, and to learn his real intentions. He went to the President's House. It was then already late at night. The President received him with his usual courtesy; but sir, that mild blue eye which at times would fill and overflow with tears like that of a woman, was kindled up that night with unwonted fire. He reasoned with him for a while, then paced his floor. His indignation became fully roused. At times he stormed in passion towering and sublime, till rising to his full height, his frame dilating and quivering, every feature glowing with the living fires within—with that oath which in him never seemed profane, but the struggle of a great soul to take hold on the Almighty for the strength of his purpose, he declared to Letcher that if another step were taken, by the Eternal, he would try Calhoun for treason, and, if convicted, hang him on a gallows high as Haman's. Letcher could not misunderstand his purpose. He saw that he was terribly in earnest. From that interview he hastened to the lodgings of Calhoun. He had retired to his bed. He knocked at his bed-chamber and was admitted. Calhoun received him sitting up in his bed with his cloak around him. Letcher detailed all that occurred, giving entire the conversation between him and General Jackson, and describing the old hero as he took that oath. There sat Calhoun drinking in eagerly every word, and as Letcher proceeded he became pale as death and shivered like an aspen leaf. Yes, sir, Calhoun, great as he was in intellect, quaking in his bed! And for what? Was it from fear? from cowardice? Ah no! It was the consciousness of his guilt. He was the arch-traitor who, like Satan in Paradise, brought "death into the world and all our woe." Within one week he came into the Senate, and voted for every section, section by section, of Mr. Clay's bill, and General Jackson was prevailed upon not to prosecute him for his crime.

I have been told, upon authority upon which I rely, that during the last days of General Jackson at the Hermitage, as he was slowly sinking under the ravages of consumption—that mysterious disease which, while it wastes the body, leaves, if possible, the mind more clear and more near to inspiration—he had a most remarkable conversation with his family physician and friend. While lying upon his bed one day, and speaking of his past administration, he inquired, "What act in my administration, in your opinion, will posterity condemn with the greatest severity?" The physician replied that he was unable to answer; it might be the removal of the deposits. "Oh, no," said the general. "Then it may be the specie circular." "Not at all." "What is it then?" "I can tell you," said he, rising in his bed, his eye kindling up, "I can tell you: posterity will condemn me more because I was persuaded not to try and hang John C. Calhoun as a traitor than for any other act of my life."

Sir, does this not seem to be inspiration now? If Calhoun, the originator of this conspiracy to dissolve the Union and to build up the southern confederacy, had been executed for his treason then, we should have had no rebellion now. It is all false when it is pretended that the abolitionists of this country have brought on this issue. What they have said and done has been seized upon by the conspirators to inflame the southern mind and fire the southern heart for revolution, it is true. Mr. Benton, than whom no man better understood the private operations of these conspirators to work upon the public mind, declares in his work the real truth on that subject. It was Calhoun who forced the issue upon the slavery question by taking this new and novel ground that slavery is a blessing, thereby making it aggressive everywhere.

Upon that pretext he rallied the whole South. The men that met in Charleston in their convention openly stated to the world that this was a work in which they had been engaged for more than thirty years—the whole work of their lives. Slavery has been the pretext by which they combined and united them as one people to plunge into revolution, to lay the foundation of a great slave empire. How have they failed! How just and true are the judgments of Almighty God, even in this world! So far from destroying the Union, it will be reëstablished forever. So far from build-

ing an empire on slavery, they are stabbing it to the vitals. It is dying, if not a suicide, it certainly is dying at the hands of its friends.

What a forcible illustration of that great truth which all history teaches, that no cause suffers so much from its open and avowed enemies as it does from the misguided zeal of its fanatical and impracticable friends!

The fanatical friends of slavery, Calhoun taking the lead, forced on before its time the scheme for the annexation of Texas. It brought to the Union in the end California, a free State, and the Territory of New Mexico, from which slavery was excluded by law. The fanatical friends of slavery forced on the repeal of the Missouri compromise to get slavery into Kansas. It resulted not only in keeping it out of Kansas, but it is fast going out of Missouri. The fanatical friends of a southern confederacy and a great slave empire demanded new constitutional guarantees for slavery expansion, and for that and to establish a slave empire they made war upon the United States. It will result in their utter overthrow, and the whole system has received its death-blow. Let us take warning by their example and adopt wise, practical, and constitutional measures to advance and maintain, with no steps backward, the cause of liberty and Union forever.

Mr. President, there are some minor amendments to the bill to which I should like to call the attention of Senators. It will not be in order to present them now, but I will call the attention of the Senate to the subject. The Senator from Maine, [Mr. MORRILL,] who addressed us yesterday, stated, and I have no doubt it is really the intention of the framer of the bill, that the power to be exercised under this law, is, by the fourth section, to rest in the President, that the seizure is to be made under his direction, in his discretion, and when he judges the military necessities of the country require it. I suggest, therefore, in order that the language may be free from any ambiguity, that the last part of the first section of the bill be so amended as to read as follows:

Shall be seized, forfeited, and confiscated to the United States, as hereinafter provided; and such forfeiture as to real property shall take immediate effect upon the commission of the act of forfeiture, and all right or power to dispose of or alienate the same shall instantly cease and determine upon the commission of the said act of forfeiture.

Certainly this forfeiture ought not to be applied to personal estate before it is seized. Personal estate is of such a nature that it passes from hand to hand. You will find that distinction is always made between personal estate and real estate; that personal estate should be confiscated when it is seized, and not until after it is seized, or upon conviction, or when some given act is to take place. As to the real estate, the forfeiture, whatever it may be, always relates back to the time of the commission of the offense. I shall desire also, at some proper time, to offer this amendment:

That any person, being a citizen of the United States, who shall, after the passage of this act, in any foreign country make an attempt to procure the recognition by any foreign Power of the independence of the so-called confederate States, or shall visit or remain at or near any foreign port or Power for that purpose, shall cease to be a citizen of the United States, and shall thereupon become an alien enemy, and all his real estate, wherever situate within the United States, shall escheat to them, and vest in them and their assigns in fee simple forever.

That is one of the cases which is not embraced in the classes mentioned in the amendment of the Senator from Ohio. There is no provision in the bill or in the amendment of the Senator from Ohio that reaches the class of persons to whom this amendment would apply.

Mr. TRUMBULL. They are included in his amendment.

Mr. DOOLITTLE. I think my friend is mistaken about that.

Mr. TRUMBULL. Foreign ministers, commissioners, and consuls are all mentioned in the amendment as it has been adopted. They are not in the amendment as printed.

Mr. WILSON, of Massachusetts. And heads of departments also.

Mr. DOOLITTLE. There is also an amendment that I desire to move to the bill presented by the Senator from Vermont, but I can move that hereafter when the one under consideration is disposed of. I shall not occupy any further time of the Senate.

CONFISCATION OF PROPERTY.

SPEECH OF HON. T. O. HOWE,

OF WISCONSIN,

IN THE SENATE, *May* 5, 1862.

The Senate having under consideration the bill (S. No. 151) to confiscate the property and free the slaves of rebels—

Mr. HOWE said:

Mr. PRESIDENT: My friends say that I have a bad habit of never speaking upon a question until the Senate gets tired of hearing about it. I think that criticism is very correctly made, and I know it is very kindly meant; but I am not without excuse. That has been the fact heretofore, and my apology for it is that I never like to speak to the Senate upon any question in the world as long as I can help it, and it has so happened heretofore that I could very well stave off the impulse to speak until the Senate had reached that peculiar mood that they did not want to hear. I have a better apology than that for not having spoken earlier in the debate upon this question——

The PRESIDENT *pro tempore*. The Senate will come to order. The Chair will ask that the second rule of the Senate be read, and that rule while it stands on the standing rules of the Senate the Chair will endeavor to enforce.

The Secretary read, as follows:

"2. No member shall speak to another, or otherwise interrupt the business of the Senate, or read any newspaper while the journals or public papers are reading, or when any member is speaking in any debate."

The PRESIDENT *pro tempore*. The Senator from Wisconsin will now proceed.

Mr. HOWE. I see, Mr. President, that I owe a special apology to the Chair for attempting to speak at this late hour; for he who undertakes to address the Senate after the Senate has got tired of hearing, imposes a very heavy additional burden upon the Chair in preserving the order of the Senate.

I was about to say, however, that I had a very good excuse for not having spoken earlier on the subject now pending before the Senate; and that is, that I did not know anything about it. I really have not had any time to attend to this question. That was testified to the Senate the other day by the chairman of the Committee on Finance, under whose immediate direction I have been at work very laboriously for a good many weeks; and I want to say here that whoever undertakes to labor under the whip of the distinguished chairman of the Committee on Finance has not any time to play, nor to do chores. But I happened to be in the Senate on Thursday last and was frightened—you know how timid I am, for I have told you before—at finding we were in imminent danger of taking a vote upon a measure which I knew to be a very important one, and of the merits of which I thought it was high time I knew something. I devoted that evening to hard study. I did not take up the Constitution; but I took up the bills, some of them, such as I had, and I read them; I took up some speeches, and I read them; I considered them, and I came into the Senate on Friday firmly convinced that we were in danger of passing the worst measure that was ever enacted in any body in the world, and I thought if I ever was going to say anything it was time I did. I say that, not as a part of my apology for not having spoken earlier, but as a part of my apology for speaking at all, which is a more difficult matter to excuse, I take it.

But, after all, that is not my sole reason for speaking now. I am induced to do it, more, I think, from the fact that I threatened a speech on Friday last than for any other reason. I have in a great measure got over the convulsion which came upon me on that day. I could get along without speaking now if I had not made any such threat.

There is another reason why I want to say something. I took up a western newspaper last evening, and I found it reported to the country that I had made on Thursday last an "on-the-fence" speech. Well, sir, on that day I did state two facts to the Senate: one was that I had not read these bills; and the other was that I had not made up any opinion upon their merits. Those were both facts. I have two more to state to the Senate now. One is that I have read these bills, and the other is that I have got off the fence. I am not at all undecided to-day, whatever may have been the condition of my mind on Thursday last.

But in speaking to-day, sir, I speak under peculiar embarrassments. Let me state them. First, in the order of debate, I follow two very remarkable speeches, one in favor of this bill, and the other opposed to it. One was the speech of the distinguished Senator from Ohio, [Mr. WADE.] That a man of my style who undertakes to follow a man of his, labors under some embarrassments, everybody will admit. I think a man who should plant a hand organ by the side of a park of artillery in full play, and think to gather any sixpences from the performance, would be reasonable in comparison with a man who should hope to interest the Senate in such plain practical suggestions as I have to offer just after it had listened to such a vehement and eloquent appeal as that with which the Senator from Ohio drenched the Senate on Friday last.

That is one of my embarrassments. Another is that I have to follow a more extraordinary speech than that, submitted to the Senate in opposition to the bill by the Senator from Delaware, [Mr. SAULSBURY,] and the embarrassing fact is that while I speak to the same conclusion to which he argued I seem to be speaking on the side of that Senator. Allow me to repel any such inference. There were sentiments dropped in that speech, the like of which I never listened to before, the like of which I hope never to listen to again. I want to read to him this, and see if they sound to-day just as they did then. The Senator from Delaware said:

"Then, what is to be the result? I presume that local State governments will be preserved. If they are, if the people have a right to make their own laws, and to govern themselves—and I presume that even my friend from Massachusetts will not object to that—they will not only reënslave every person that you attempt to set free, but they will reënslave the whole race."

Sir, I want to suggest to the Senator from Delaware that it is possible we may do a wrong in our legislation upon this as upon other subjects; it is possible we may emancipate a slave in violation of the rights—the legal rights, I mean—of the man who owns him; and if we do that, we are amenable to all such penalties as fall upon that kind of legislation; but I submit to the Senator that the slave we emancipate is not responsible for our conduct. I do not think he is to blame. Least of all are those men to blame who were not slaves, and who have not been emancipated. And because we give liberty to a man when we ought not, or to one to whom we ought not to give it, I do not think it is a Christian reason, I do not think it is a moral reason, and, as a lawyer, I know it is not a legal reason, why those who have never been slaves should be subjected to that condition.

I said that I hoped never to hear that sentiment again; that I never heard the like of it before. It struck me with peculiar force. It impressed me very unpleasantly. I have heard the philosophers say that a single grain of musk would scent a whole room. I do not know how that is; but I know it would not take more than an ounce of such sentiment as that to contaminate a century. I hope the learned Senator from Delaware will give us as little of it as possible.

Sir, he told us he was in favor of that himself, and he told us in the same breath, almost in the same sentence, that he was descended from a long line of ancestors, every one of whom had owned slaves, and every one of whom emancipated them at the age of twenty-one. He, the son of sires who had done so much for emancipation, who had always emancipated their slaves at the very age at which we emancipate our own children, declared upon the floor of the American Senate, and upon the responsibilities of an American Senator, that if we the representatives of the people did this thing or that, he would go, not for emancipation, but for enslaving those who had not been slaves and were in no measure responsible for what we did. *O tempora! O mores!* That strikes me like degeneracy. He told us in that same connection these words:

"I say to you, sir, [Mr. HALE in the chair,] honestly to you, whose voice has been potential in the councils of the nation in behalf of what you call freedom, and to you, gentlemen of the dominant party, who govern the legislation of the hour, that we mean that the United States of America, from the northern lakes to the southern Gulf, from the

Atlantic on the one side to the Pacific on the other, shall be the white man's home; and not only the white man's home, but the white man shall govern, and the nigger never shall be his equal."

Now, let me say I rather like that spirit of emulation and generous rivalry. I am glad the Senator has pitched his standard so high, and I hope he will always be able to demonstrate to the world that the white race is the superior of the black race; but I want to tell him right here that he must get rid of all such sentiments as those, or he will stand no more chance of eclipsing the black race in the march of moral progress than the black race does of eclipsing the angels. I want to say—and that is all I have to say in this connection—that while I may seem to urge many of the conclusions urged upon the Senate by the Senator from Delaware, I am really not echoing his sentiments.

I have another embarrassment in speaking to-day. It is not a little difficult for a busy man to determine what the proposition before the Senate is. Since I formed the purpose of speaking, I have labored industriously to get at it. On Friday, just before the Senate adjourned, I ascertained that an amendment to the original bill, and a very important amendment, proposed by the Senator from Ohio [Mr. SHERMAN] had been adopted. I applied at the desk of the Clerk to get a copy of that amendment. He very politely furnished me one through one of his assistants. I examined it; I took it home with me. To-day, I find the bill, as originally reported by the Judiciary Committee, printed, and I find the amendment of the Senator from Ohio, as printed in the bill, a very different one from that which was furnished me at the desk. The sixth class, as contained in the amendment furnished to me, is not in the bill as printed. Besides, to-day I find upon my desk a great deal less than half a cord of amendments that I had never heard of at all. I suppose the Chair knows precisely what the question is before the Senate. As I do not undertake to know that, I will only speak upon what I understand to be the purpose of the bill, with the different amendments offered and proposed to be offered to it now pending; and yet, in defining that purpose, there is no little difficulty. Those who advocate the bill do not at all agree as to what its purpose is. The title of it declares, in very simple terms, that it is a bill "to confiscate the property and free the slaves of rebels." The Senator from Michigan, [Mr. HOWARD,] in the very able speech he submitted to the Senate some days since, characterized in his opening the bill very differently. He said:

"The great purpose of the present bill is easily comprehended, easily understood, easily stated. It contemplates two classes of persons who have been or now are engaged in the present rebellion against the Government; the first composed of such persons as are absentees, without the United States, owning property within the United States; the other is that class of persons who are resident within the United States, who own property within the limits of the United States; and both classes are, by the plain terms of the bill, described and treated as insurgents, having taken up arms against the Government of their country."

Now, I belong to one of those classes, and so does the Senator from Michigan, and if the purpose of this bill is to fix upon him or upon myself the stigma of being insurgents, I repudiate it.

Mr. HOWARD. Does the Senator from Wisconsin intend to say that either he or I has taken up arms against the Government?

Mr. HOWE. No, sir; I say I have not.

Mr. HOWARD. Then, the Senator mistakes what I said.

Mr. HOWE. I read what you said.

Mr. HOWARD. But you misconstrued it.

Mr. HOWE. "And both classes," that is, those who are without the United States and who own property within it, and those who are within the United States and own property in the United States; "both classes are, by the plain terms of the bill, described and treated as insurgents, having taken up arms against the Government of their country." Now, I say we both belong to the latter class, we both are within the United States, and I suppose we have both a little property, and I hope the Senator from Michigan has a great deal within the United States.

Mr. HOWARD. But we have not taken up arms against the Government.

Mr. HOWE. No, sir; and that is the fault of the bill, if it declares that we have taken up arms:

"The leading purpose of the bill is to declare forfeit and confiscate all the property, real and personal, corporeal and incorporeal, of both these classes of persons, to the United States, it being assumed by the bill, and being so declared, that both classes of persons are beyond the reach of the ordinary process of courts of justice and cannot be served therewith."

That is the purpose of the bill, as defined by the Senator from Michigan in the opening. Subsequently he treats it as a bill to punish treason. Again he treats it as a bill to secure indemnity. And others speak of it as a bill to suppress insurrection. So the Senator from Maine [Mr. MORRILL] argued it the other day, and so I think the Senator from Illinois, [Mr. TRUMBULL,] the chairman of the Committee on the Judiciary, regards it. The Senator from Massachusetts, [Mr. WILSON,] on the contrary, treats it as a bill to emancipate the slaves; and the Senator from Ohio [Mr. WADE] treats it as a bill to raise revenue. My own opinion, which I submit with a great deal of diffidence in the midst of all this conflict, is, that the purpose of the bill is rightly described by its title; that it is simply a bill to confiscate the property and free the slaves of rebels.

Now, sir, I am in favor of all the purposes which different Senators have declared to be the aim of this bill; but I do not consider the bill to be worth the paper upon which it is written for either of them. I would like to punish treason; I would like to secure indemnity against any future rebellion; I would like to suppress this insurrection; I would be glad to emancipate every slave that wears a chain; and I would be very glad, and I have labored very hard, to contrive some measure to raise revenue. We have got one, let me say in passing, nearly perfected, and I was inclined to think it was the worst one I ever heard of, but I think this scheme of the Senator from Ohio is worse than that which we propose to submit by and by.

In the remarks I have to submit this afternoon, Mr. President, I propose to speak upon just three propositions: first, that you have no authority to pass such a measure as this; second, that you ought not to have any such authority; and third, that if there are any members of the Senate who want that authority, the Senator from Maine and the Senator from Ohio are not of that number.

I shall not detain the Senate but a very brief period of time to demonstrate my first proposition, which is that you have no authority to pass this bill. That has been argued, argued by lawyers, ably argued; and when the Senator from Vermont, [Mr. COLLAMER,] and the Senator from Pennsylvania, [Mr. COWAN,] and a great many other Senators have gone over a constitutional question, I think it is becoming in me to let it alone. But allow me to make one suggestion. If you enact this bill into a law to-day, John B. Floyd, I think, will come within the purview of it. I suspect that he is engaged in treasonable practices against the Government, and I suspect that he owns some property. It is said that he took property very freely. I suppose he has not got rid of it all. I apprehend he has some on hand, and he will come within the purview of this bill. Now, then, suppose you enact it into a law to-night, if I should get through with my remarks in season, to-morrow Mr. Floyd has not any property; nay, he goes to bed to-night destitute of any property. I am not about to appeal to the sympathies of the Senate in behalf of Mr. Floyd. In point of fact, I think I am slightly prejudiced against him myself. I am stating to you the operation of the bill. I say if you pass this bill into a law to-night and get the approval of the President to it, Mr. Floyd will go to bed to-night a very poor man; indeed, he will not have any bed to sleep on.

Mr. WADE. He can steal one to-morrow. [Laughter.]

Mr. HOWE. He will do well to-morrow no doubt, because he will start under new impulses and under a new and extraordinary necessity, and what he will do under such a necessity, we can only infer from what he did when he was not under any such necessity. That will be the operation of the bill; and I say when that is done, you have either taken Floyd's private property for the public use, or you have punished a traitor, or you have done both; and as I understand the Constitution you cannot do either. You cannot take private property for public use, unless you make compensation, because the Constitution expressly forbids that to be done. You cannot punish a traitor, for that is the exercise of judicial power which is vested in the judicial department of the Government. You may declare what the punishment shall be, but the judicial power must ascertain who has committed the treason.

I have a little more to say upon the second proposition, which is, that you ought not to have the authority; and that if you were making a Constitution to-day instead of making a law, you ought not and you could not, with any safety to the public, put such a provision as this into it; because, sir, if you have a right to enact a law which operates as a punishment for one crime and upon one person or one class of persons, you may punish any other crime, or any other class of persons, in the same way.

Mr. TRUMBULL. If the Senator from Wisconsin would allow me, I should like to ask him a question right there, if it will not interfere with his argument.

Mr. HOWE. I guess it will not.

Mr. TRUMBULL. I should like to know if the Senator from Wisconsin voted the other day to free the slaves of rebels in the District of Columbia without compensation.

Mr. HOWE. Yes, sir, I did.

Mr. TRUMBULL. I should like to know how he did that if he cannot do this to-day.

Mr. HOWE. Does my friend from Illinois find any fault with that vote?

Mr. TRUMBULL. Not at all; I am very glad of it.

Mr. HOWE. What is the distinction between the two cases? I apprehend there is one; we have always contended that there was. Here resides all the legislative power there is in the world over this little District; but over that district lying south of the Potomac and down on the Gulf we have but a very small measure of legislative power, and that is pointed out to us.

Mr. TRUMBULL. If the Senator will allow me, I should like then to ask him another question. Can he do an unconstitutional act in the District of Columbia any better than anywhere else? Is not the clause of the Constitution on which the Senator relies, that no person shall be deprived of life, liberty, or property without due process of law, just as binding in the District of Columbia as in the State of South Carolina? Can we any more violate it here than there? If we can take the property of a man in the District because he is a rebel, can we not take the property of a man in South Carolina because he is a rebel?

Mr. HOWE. The Senator from Illinois is questioning me upon speeches that others have made, and not upon any remarks I have made myself. I not only do not rely upon the provision of the Constitution which the Senator has just referred me to, but I have made no allusion to it whatever. That the power to terminate the relation of master and slave is a legislative power, I have no more doubt than that the power to determine the relation of parent and child, master and servant, guardian and ward, is legislative. It is as much an act of legislative power as that to create the relation of guardian and ward, master and servant, owner and slave. There is no doubt about it in my mind, and being the exercise of legislative power, so far as the District of Columbia is concerned, it must be performed by the national Legislature, just as in the State of Pennsylvania it had to be performed by the Legislature of Pennsylvania. And because that legislative act must be performed by the Legislature of the District, so far as it relates to slaves within the District, and by the Legislature of Pennsylvania, so far as it relates to slaves within that State, so must it be performed as a legislative act by the Legislature of South Carolina, so far as it relates to slaves within the State of South Carolina, and by the Legislature of every other State, so far as it relates to this peculiar class of persons within that State. A friend suggests to me that we did provide compensation.

Mr. TRUMBULL. Not for the slaves of rebels; only for loyal masters.

Mr. HOWE. I do not place the slightest stress on that circumstance. I believe Pennsylvania emancipated all her slaves without compensation; Massachusetts did; New York did; New Jersey did. Why? Because it was the exercise of a legislative act, and because the legislative power

was vested by their organic laws in their Legislatures; and we did the same thing here because it was the exercise of a legislative act, and legislative power exclusive is given to the Congress of the United States. We have more complete control over people and property in the District of Columbia than the Legislature of New York has over the people and property in that State. And why? Because their legislative powers are limited by the line which divides that which is retained by the States from that which is given to the General Government. There is no such distinction here. We have all the legislative power within the District which the Congress of the United States and the Legislature of New York combined have within the State of New York.

That is my answer to the inquiry of the Senator from Illinois. I did not think it worth while to say a word upon that measure when it was pending here for the emancipation of slaves in the District. We were only exercising a power which was as completely in us as in a State Legislature. We were only exerting precisely the power which had been exerted by the Legislatures of the States north of us, and we were only meting out to the people of the District of Columbia precisely the same measure of justice which we had secured to our own people. What we believed wise and just and expedient for them we proposed here. We had no new policies to impose or to preserve for the people of the District of Columbia. We thought they were entitled to be as free, to be as great, to be as prosperous as we claim that our people at home are; and we claim that that greatness and that prosperity with us are as much due to the free institutions which prevail amongst us as to any other one cause, and we would not withhold these free institutions from the people of the District of Columbia. We cannot make them as great in territory, but we believe it will make them as prosperous.

I said, sir, that I not only believe we had not the authority to enact such a bill as this, but that we ought not to have it. The Senator from Vermont told us the other day that the very purpose of a constitutional restriction was to prevent a tribunal from doing what they wanted to do, or whatever they might want to do. I thought it was a very happy statement of a truth at the time. I thought it was a good hit. I am not sure but that I laughed at it. I declare to-day, having looked into the measure which is before the Senate, that I feel it something like an insult to be told that the men who made our Constitution provided in it such clauses and used in it such terms as withheld from us the authority to enact this bill on the assumption that any Congress would ever assemble here which would want to enact such a bill as this is. I should not have thought of it myself. I no more should have anticipated that a Congress would have ever assembled here which would want to enact such a law as this seems to me than I should have thought of providing by a special law against parricide.

But here is the proposition before us. It is very evident that some want to pass it. I am surprised at it, I confess. But I believe they desire to enact this law, not because they desire its fruits, but because they have not fully understood what its fruits must inevitably be. What is the proposition contained in this bill? Ordinarily, if the law would deter from the commission of crime, it declares that if *any* person, without distinction, shall commit the given crime, *and shall be convicted* of it, he shall incur a given penalty. This bill declares that if *certain* persons shall do certain things, all their property shall become the property of the United States the moment the act is done. If a man commit a murder or a larceny, his life or his liberty or his property is forfeited when he is convicted and the guilt is ascertained by the courts, and the penalty imposed afterwards.

This bill declares if certain men commit treason, their property shall be forfeited at once. The penalty is imposed by the Legislature, and the guilt is afterwards ascertained by the President, or by the Army, or by commissioners. I say it is the punishment of crime; I say you take away the man's property because he has committed a crime; and why not take it away from the man in the same way when he commits any other crime?

Mr. HOWARD. Will my friend from Wisconsin allow me to ask him a question?

Mr. HOWE. Yes, sir.

Mr. HOWARD. The Senator from Wisconsin speaks of this bill as being intended to inflict punishment upon persons guilty of treason. If it was passed, undoubtedly it would have that effect as well as various other effects which it is not necessary for me to allude to. I desire to ask the Senator from Wisconsin, whose infallibility upon questions of constitutional law of course is not to be questioned, whether every act of insurrection and rebellion, circumstances referred to in the Constitution, do not necessarily imply treason also, and whether they are to be punished and put down simply as individual acts of treason?

Mr. HOWE. I guess I should answer the Senator's question in the affirmative if I understood it; but I am really in doubt whether I do understand it.

Mr. HOWARD. I will repeat it again.

Mr. HOWE. I wish he would.

Mr. HOWARD. My question is this: whether every act of insurrection or rebellion referred to in the Constitution of the United States does not in itself imply the commission of the crime of treason, and whether these acts of insurrection or rebellion are to be punished as simply acts of treason, and in no other way?

Mr. HOWE. I do understand that the circumstances specified in the Constitution constituting the crime of treason, when they occur, are treason; and I do understand that when treason is committed, if it is punished at all, it should be punished as treason.

Mr. HOWARD. Then I put my question in another form, for the convenience of the gentleman: whether every act of treason under the Constitution implies legally or necessarily, or even reasonably, the commission of the act of insurrection or rebellion? In short, whether there may not be a distinction, after all, in contemplation of law, between an act of insurrection and rebellion and a simple act of treason?

Mr. HOWE. I dare say there may be; but insurrection is a crime; rebellion is a crime, or it is not, one of the two. If it is not a crime, do not visit it with any penalties. If it is a crime, impose those penalties as you impose them upon other crimes. I take it, counterfeiting is a crime; I take it, perjury is a crime, and if committed, it ought to be punished; but the penalties ought to be visited upon the individual only when the individual has been convicted of the guilt. As it seems to me, if you can enact a law which can take away a man's estate, the whole or any part of it, because he is engaged in insurrection, because he is engaged in a rebellion—I mean, take it away by the act of the Legislature, take it away without trial, take it away without conviction—you may enact a law to take it away from a person engaged in a riot, or because he is engaged in a Republican caucus, if you see fit to declare that exercise crime. It is not because you propose a vindictive punishment on a heinous crime, but it is because you execute the penalty by the decree of the Legislature, and not by the judgment of the judicial tribunal. That is what I wish to call your attention to.

My first reason why we ought not to pass this bill, even if we had the power to do so, is this: you are enacting a law to operate upon men to whom you cannot publish it. The penalties of this law will be incurred, we know, by vast numbers of people within twenty-four hours after it is enacted. You cannot inform them of it; nay, you cannot publish it to them at all. You cannot send a pamphlet down there without getting special authority to do so. Intercourse is prohibited by a law which we ourselves have enacted. I know the same objection can be urged against the enactment of any law of any sort, and is not conclusive against the enactment of this law. It is not our fault that they are in that condition; but it is theirs. The only reflection arising from this state of facts is, that we should be the more careful and cautious as to the character of the law we enact.

My second objection to this bill is, that it will punish, necessarily, a great many innocent people; a large portion of the penalties will fall upon men comparatively innocent, while under it a large class of the men who have the most of the guilt of this insurrection upon their souls will escape. How its penalties will fall upon the innocent I will remark by and by; but just look at the classes which the bill proposes to punish:

"First. Persons hereafter acting as officers of the army or navy of the rebels now or hereafter in arms against the United States."

They are not innocent; they are not necessarily the guiltiest.

"Secondly. Persons hereafter acting as president, vice president, members of congress, heads of departments, judge, foreign minister, consul, or commissioner of the so-called confederate States."

They are not innocent; but they are not necessarily the guiltiest.

"Thirdly. Persons hereafter acting as an officer, whether civil, military, or naval, of any State or Territory, who, by the constitution of the so-called confederate States, are required to take an oath to support said constitution."

Now, I suppose, throughout those States there are State governments, county governments, town governments, or something which answers to those. I suppose they have State officers, county officers, and township officers; and I presume that by the constitution of that government called the confederate government, every one of these men has to take an oath to support it. You only want to punish guilty men. I put the question to the Senate, how guilty is the man who holds a township office in the State of Georgia, and has no other complicity with the insurrection? There is a township there. It must have a government of some sort. Somebody must execute those powers. How guilty is the man who takes one of those township offices or a county office? What has he done, if that is the end of his complicity with the rebellion, which makes us single him out and put him into a class which is to be specially visited with the indignation of the Government?

The Senator from Vermont [Mr. COLLAMER] told us, the other day, of one of the most distinguished jurists, and one of the most distinguished men the world has known, who felt it to be his religious duty, his conscientious duty, to take upon himself the office of chief justice of England under a Government which he believed to be illegitimate. He took the office, and executed its duties. This bill proposes not only to punish all those men who take the first posts and positions under this illegitimate government, but any post, any position whatever under it—confederate, State, county, township.

"Fourthly. Persons who, having held an office of honor, trust, or profit under the United States, shall take up arms against the United States."

These are among the guiltiest of the rebels, but they are not all necessarily the guiltiest.

"Fifthly. Persons who owning property in the loyal States or Territories or the loyal portions of disloyal States shall hereafter assist or give aid and comfort to the present rebellion."

What is the circumstance which distinguishes an individual of this class from every other man in those districts who is engaged in treasonable practices? There is but one distinguishing circumstance. He owns property in the loyal States or in the loyal portions of the insurrectionary States. That is all. Two men live side by side in Eastern Virginia. One owns property in Western Virginia, the other does not. The former is a blacksmith, and shoes the horse of a dragoon. He has thus given aid to the rebellion. All his property, where ever situate, is forfeited to the Government. The other mounts the horse and joins the rebel army, he owns no property in any loyal district and so, although he may own large estates in Richmond, this bill will not harm him.

But I submit that by the terms of this bill the guiltiest class of all, in the rebellious States, are not visited at all. Of all those arrayed in hostility to this Government, in my judgment, the guiltiest are not those who fill the offices, civil, military, and naval, under the confederate government, but they are those who created those offices and required them to be filled. They are not those who command the army, but those who summoned it into the field; not those who fight the battles, but those who made the war.

Before the rebellion was inaugurated the people of South Carolina had a government of their own, clothed with certain powers as legitimate as those we exert. And before any citizen of South Carolina incurred the guilt of treason the government of that State had laid its command upon

every one within its jurisdiction to be a traitor. From the moment the ordinance of secession passed the convention of South Carolina, every subject of the State was compelled to choose between obedience to the State and the authority of the United States. He had to be loyal to the Government of the United States, and disobey the government of his own State; or to obey his own State, and be disloyal to the United States. By this bill it is proposed to punish those who submitted to the command of South Carolina, but to pass unwhipped and unnoticed those who issued that command.

But, sir, I say the penalties of this bill, if it shall become a law, must inevitably fall upon many who are as innocent of treason as any member of the body. Think for a moment of the condition into which the title to every article of property in the rebellious States is put, the moment this bill is enacted. In those States there are still multitudes who are loyal to the old flag and faithful to the old covenant. We have found them upon every district upon which our armies have entered. They are scattered through these States prosecuting their several avocations, laboring, buying, and selling. But when this bill shall have become a law, purchase and sales will be at an end, simply because no man can know of whom to purchase.

Now, if one wishes to purchase a farm, he can ascertain from public records precisely who owns it and every incumbrance upon it. But under a law like this, a patent from the Government of the United States, if twenty-four hours old, will be no evidence that the Government does not still own the land, because it will be no evidence that the grantee has not, in the mean time, committed some act of forfeiture.

Now, if one would purchase a horse or a pair of oxen, he knows it is safe to purchase if the possessor is known to have raised them, or to have purchased of one who did raise. But neither of these facts will warrant a purchase after this bill shall become the law of the land, because neither will be evidence of title in the possessor. He may have held some county or township office which required of him to take an oath of allegiance to the confederate government. He may possess some property in a loyal State, and yet have paid taxes, or in some covert way have aided the rebellion. Under a law like this, if the rebel can conceal the fact of his guilt, the property which his guilt has forfeited may be sold to a loyal purchaser, so that the blow you have aimed only at the fiercest of your enemies may fall upon the steadiest of your friends. And the steadiest of your friends finds his own title slandered by the universal suspicion and uncertainty which has been cast upon all things.

There is another objection. That community, by the bill as it stands amended, is divided into classes. Upon those classes named its penalties are to fall. From all others they are to be withheld. It operates, therefore, to a certain extent, as an act of amnesty to all those engaged in the rebellion who are not included in one or the other of the specified classes. It is not in terms an act of indemnity. It does not in terms exempt any one from all punishment; but that is what you mean by it; to punish those mentioned in these several classes, and to exempt the balance of that community. I have said you have included in these classes some of the most innocent; you have excluded the guiltiest, or a large portion of them; but now I have to call your attention to the number you have excepted from this amnesty. How many are there in this bill upon whom you propose to visit these penalties? How many thousands? How many hundreds of thousands? There is no census which enumerates them; I will not guess at the number; but you know there are many, many thousands. When this act is once passed, there is no exemption from its penalties. Every man who comes within its purview is punished; there is no pardon; there is no remission of sin. The men whom you name here, be they many or few, a thousand or a million, the moment they come within the purview of this act, its penalties strike them, and there is no exemption from them. I shall not quarrel with any Senator about the number, whether there be one thousand or ten; but it is a very extraordinary act of amnesty to proclaim.

The Senator from Vermont the other day seemed to think there was but one precedent for it. He was then talking of the bill as it stood before the Senate at that time, a bill which proposed to visit every rebel with its penalties. He thought there was but one precedent for it, and that was in the celebrated campaign of Judge Jeffreys in the west of England. I never thought I should have to stand forth as the apologist for the "bloody assize;" but I want to assure the Senator from Vermont that, as I understand the history of that campaign, he has done a gross injustice to Chief Justice Jeffreys, in supposing that his campaign there furnishes any precedent for this sort of legislation. Instead of punishing every traitor, that mild and just and lamb-like judge only hung three hundred and twenty out of the whole number engaged in that rebellion. Why cite him as a precedent for this legislation which includes thousands upon thousands, and gives notice to the world that for them there is no escape, not even any pardon?

In 1775, I have understood, there was a very formidable rebellion in this country, organized against the authority of the British Crown. In the first year of that rebellion the ministers of the king attempted to seduce his revolted colonies back to their allegiance, and to secure indemnity against future revolts. The policy they adopted was the policy of this bill; to hold out pardon to the multitude and denounce penalties upon the leaders. The temper of that ministry we understand to have been hard and unrelenting. They cannot justly be suspected of an undue tenderness for traitors. They had a representative in Boston in the person of Governor Gage. He issued his proclamation to the rebels of Massachusetts. He promised the king's pardon to all who should lay down their arms, except those great leaders of whom it was thought necessary to make an example. Those exceptions in the whole colony of Massachusetts numbered just two. John Hancock and Samuel Adams were the only rebels in the whole colony who were excluded from the clemency of the Crown.

Considered in the light of an amnesty I know of but one precedent for this. It is to be found in the history of Virginia. I have heard there was an insurrection in that State a few years since. The insurrectionary force was captained by one John Brown. He commanded I think an army of twenty-two men. I have never understood that he intended or desired to overthrow the Government of the United States or even that of Virginia. But he had some wild impracticable purpose which induced him to visit that State at the head of the force I have named. That insurrection was promptly crushed. That rebellion was even more vigorously punished than we propose to punish this. Governor Wise, reversing the precedent of Governor Gage, and improving upon that, instead of pardoning all but two, he hung all but one, and him he turned over to the Government of the United States for execution. I have always thought that a precedent to be avoided rather than followed, and so I think to-day. It is no administration for us to copy; it is no action for us to imitate. So I conclude we have no authority to enact such a law as this, and I conclude the law is so dangerous and oppressive that no Legislature ought to be authorized to pass it.

I have now to remark that if any one here really desires to enact such a law, the Senator from Maine [Mr. MORRILL] and the Senator from Ohio [Mr. WADE] are not of that number. Their argument is, if I understand it, that the penalties provided in this bill will be regarded as cruel and oppressive; that after the war is over the people will not brook the infliction of severe punishments even upon the guiltiest of their enemies. Therefore they urge if we are to dispense any penalties at all, we must do it now while the strife is going on and our blood is up, although we do it at the risk of confounding the innocent with the guilty.

Thus they oppose the bill offered by the Senator from Vermont as a substitute for this, because, as they argue, it postpones the day of punishment until peace has returned. The Senator from Maine says:

"It postpones the idea of doing anything until a period when we shall be at peace and repose, and when, I repeat, to undertake to prosecute bodies of men, or classes of men, in those districts, would be little less than criminal."

"Little less than criminal" to punish a rebel after the rebellion is crushed and his guilt is determined, but highly patriotic and praiseworthy to punish a whole community under the name of rebels while the war is in progress and their guilt is only guessed at. He continues:

"Sir, when this rebellion has been put down and suppressed, the arts of peace and the comities of peace will be our duty and our office. We shall not feel then that the time has come to institute a general assize, a general inquiry over all the country in rebellion, for the purpose of punishing by indictment, trial, conviction, sentence, forfeiture of estate."

That generous sentiment struck upon the heart of the Senator from Ohio, [Mr. WADE,] and he echoed it in the remarks he made on Friday last. He said:

"Sir, I repeat in conclusion, that any remedy that you provide that has no reference to putting down this rebellion, and only looks to the punishment of traitors after peace shall be proclaimed everywhere, is not a remedy that seems to me to be wise. It would be a kind of vindictiveness. Badly as these men have used us, venomous as they have shown themselves—mutilating our dead, murdering our prisoners, doing every wrong that savage malice could invent—still if they would lay down their arms to-day and come into the fold and ask pardon for their infernal treason, I do not feel that I could coolly go on under the bill of the Senator from Vermont to take their lives. That would be no remedy. It would be wreaking mere vengeance upon those who were deprived of power to defend themselves."

Those two Senators warn us that the country will not tolerate the spectacle of inflicting punishment upon the guiltiest of the rebels after the rebellion is ended; and yet they advocate a measure which will exhibit to the nation thousands upon whom the punishment has been inflicted. They tell you the people will not endure to see such penalties imposed, but they advocate a law which will parade before the people whole brigades of victims upon whom they have been imposed. Thus we are hurried on to do amidst the excitement and the tumult of war that which we foresee will be condemned under the reign of peace.

Thus, like Hubert, charged with the murder of that "pretty child," Senators spur on their alarmed sensibilities with the argument—

> "I must be brief; lest resolution drop
> Out at mine eyes in tender womanish tears."

I submit to the Senate if it be not wiser for us to provide penalties which the nation may impose, as its justice shall dictate, rather than to inflict penalties from which we know its humanity will revolt. Formerly, when a criminal was executed in England, his lifeless body was left to dangle upon the gallows. The barbarous fact is an offense upon the page of every history which records it. But the skeleton corpse annoyed no one but him who traveled by it. To us, however, it is deliberately proposed to endow an unnumbered multitude of skeletons with locomotion, that they may wander through a restored society at will.

Mr. President, the arguments by which this bill has been urged upon the Senate strike me as almost as extraordinary as the provisions of the bill itself. I have paid more attention to the speech of the Senator from Michigan [Mr. HOWARD] than to any other. He is not in his seat, and I will not comment upon the speech as I should have done at some length if he had been here; but I will call the attention of the Senate to one of the considerations he urged in support of this bill, and it has been urged by others besides himself. He urges it as a measure of consolation to those people of the United States who are suffering from this rebellion. He really has persuaded himself, and he would have persuaded the Senate that it will carry comfort and consolation to those people. He really undertakes to make us believe, as I doubt not he has made himself believe, and he tells us in so many words that if we enact this law we can take it to all those widows and orphans who have been bereaved, or may be hereafter bereaved, by the vicissitudes of this war, and it will turn their tears of mourning into tears of joy. Here is his language:

"Sir, pass this confiscation, with proper discriminations. Let its blighting breath fall upon the ringleaders who have betrayed the weak and the unwary, whose poisoned words have frenzied their neighbors, and whose cruel arms have spread desolation where peace and friendship once reigned under the old flag. Carry it into the border States, into Missouri, Kentucky, Tennessee, and Virginia; carry it to the half-burnt cabin where the Union father, the Union mother, and the Union daughters, struggling amidst the ruins of a once happy home, are weeping over the fate of sons and brothers who have fallen in dreadful combat with ma-

rauding traitors; read it to them while in their anguish, and you will change their tears of mourning into tears of joy. You will bring them an assurance that their Government is still mindful of them, is still their protector and avenger."

Sir, I must say it is the most extraordinary comfort and consolation I ever heard tendered to a sorrowing people. If all these reflections were not so very sad, I could almost laugh at the idea of the Senator from Michigan, or anybody else, taking this act of confiscation in his hand, and going to the bereaved people of whom he speaks here, and saying to the widow in Michigan: "Dry your eyes. True, your husband has fallen in defense of the Government, but the Government has made innumerable multitudes of widows in the disloyal States. Widows, by the direct and inevitable consequences of the war, have been made there as well as here; but the Government has made them poor, turned them out upon the world homeless, houseless, owning not even the clothes they wear; be comforted; tell your children to be jolly; there is more suffering in these other portions of the Union than you ever dreamed or heard of; do not weep; rejoice!" Sir, do you think there is a tearful woman, or a tearful child, who would be comforted by such a gospel as that? I do not see the consolation it affords. There is none in it. The Government owes it to itself, owes it to its people, owes the example to the world, to punish the leaders in this rebellion—that is all there is of it. It does not make our sufferings less; it does not diminish our sacrifices; it furnishes us no consolation. Does it furnish any indemnity, as is urged here by other Senators? I am at a loss to understand, sir, how, if you make a few hundred thousands of paupers and leave them afloat in our community, you are going to make the institutions of the country any more stable, or secure the country against future insurrections, by such a step as that.

Mr. President, I am inclined to think if there was not felt here, as elsewhere, very generally, a necessity for doing something to diminish the power of slavery, or rather the power of those who hold slaves in the United States, such a measure as this never would have been thought of. The Senator from Massachusetts [Mr. WILSON] admits that that is a leading purpose of his. The Senator from Ohio [Mr. WADE] denies that he cares much about it in that regard. The Senator from Ohio, I thought, gave to us some remarkably good doctrine upon that point. He told us that slavery was doomed, that it must find an end, and that very speedily. Whether this act was passed or not, he said, the doom of slavery was written. He told us that every steam engine, every locomotive, every telegraph line was a speech, an argument against slavery more potent than was ever made by Wendell Phillips or Lloyd Garrison. I think he is entirely right. They are decidedly the most eloquent lecturers on behalf of free institutions and against slave institutions. My impression is, they are decidedly the most popular lecturers, also, upon those subjects, and I wish we could have, all of us, more confidence in the enterprise and resolution of the Almighty in this regard than we seem to have. The Senator from Ohio told us that He was, undoubtedly, a gradual emancipationist. I agree with him entirely; I think He is a gradual emancipationist. It is very evident He is not an immediate emancipationist. If He is, He has joined that party lately. He was not an immediate emancipationist in 1844, when we secured Texas for the purpose of increasing the power of slavery. He was not in 1850, when we organized territorial governments for a large number of Territories, and refused to prohibit slavery from entering them. I think He was not in 1854, when we repealed the Missouri compromise. Certainly, He has not been an immediate emancipationist until this time; but that He is an emancipationist I have no more doubt than the Senator from Ohio. The Senator from Ohio told us of one sound truth which he proclaimed to a late Senator from a southern State, now leading the forces of this rebellion. It was that he was doing more for the cause of emancipation than all the lecturers we had engaged upon that subject in the northern States. So he was; and I think this reflection ought to be attended to. I think we, by an injudicious, impolitic, and unwise effort to serve the cause of emancipation, may do more to prevent it, to postpone it, than the present president of the so-called confederate States can possibly do.

The Senator from Illinois [Mr. TRUMBULL] the other day did me the justice to say that he was in hopes I would go for some sort of a confiscation bill. He did me no more than justice. I will; I think we ought to pass some such measure. I will go for any measure, I will support any bill which proposes to punish treason after the traitor is convicted; and that conviction should precede punishment, it seems to me, is a proposition that ought not to be controverted. I will go for a measure that defeats the title or the claim of every man who lays claim to a slave, at the same time that it defeats his claim to any and all other kinds of property, or that which he claims to be property. I will go there, and I think we ought to do more: I will go for any measure which any man will stand up here and show me is going to strengthen the Government in the prosecution of the war, or weaken the rebellion.

My friend, the Senator from Maine, [Mr. MORRILL,] insisted upon it that this bill had that operation and that purpose; that its purpose was to enable us to carry on the war and suppress the insurrection; that the gist of it was in the fourth section of the bill. I think he—perhaps I ought not to say that he misunderstands the bill—but I must say that he understands it very differently from what I do. I do not think the fourth section of the bill is the operative one. I do not think it contains the gist of the measure; I think the gist of the measure is to be found in the first section. The first section declares that the property of every person named in these classes, whenever the act of forfeiture is committed, shall be the property of the United States. The fourth section says simply:

> That it shall be the duty of the President of the United States, as often as in his opinion the military necessities of the Army, or the safety, interest, and welfare of the United States in regard to the suppression of the rebellion, shall require, to order the seizure and appropriation, by such officers, military or civil, as he may designate for the purpose, of any and all property confiscated and forfeited under and by virtue of this act.

The first section forfeits all the property belonging to the persons named in it. The fourth section simply tells the President to take possession of that property as fast as he needs it for the purposes of suppressing rebellion. Now, I wish the Senator would explain to us, if that property, the moment the act of treason is committed, becomes the property of the United States, why the President should not take possession of it, why your law should not provide that the whole of it should be taken possession of at once? Why leave him to allow any portion of this property, the whole of which belongs to the United States, in the possession of the rebels, or to be taken possession of by persons who do not own it? It all belongs to the United States. Why not take care of it all? Take possession of all that is your own. If you propose to confiscate only so much property as is needed for the purposes of suppressing the insurrection, that is another thing; but when you undertake to confiscate all the property of a certain class of persons, whether it tends to suppress the insurrection or not, I do not see why you should not direct the executive power of the nation to take possession of it all. After you deprive me of my property, I do not see the slightest objection to your taking possession of it. It is not mine; it does me no good; it leaves me in possession of the means by which I may deceive, defraud, and betray somebody. That is all the good it does.

I will go for any measure that you will show me is calculated to suppress this insurrection. I will go for any measure which will defeat the title, and will give freedom to every slave, black or white, who shall escape from the custody of his master—shall escape from the insurrectionary districts and come into the loyal districts. In their hands, I believe, and I think every one will admit, these persons do give strength to the rebellion. It is for the interest, I had almost said for the highest interest, of the Government that that strength should be taken away from them. We cannot take it away until we get there. When we get there, into any particular district, the insurrection is suppressed for that district. If they come out of those districts, and come to us, I do think it is the duty of the Government to provide that freedom should be their portion forever, and that no man should be permitted to take them back.

A law which will do this, and do this without violating any constitutional right, is a very simple thing. They become in the hands of the rebellion guilty things, as it were, as much as a ship that carries contraband goods, and may be condemned as readily and as properly, and so much strength can be taken away from the rebellion. I myself feel, as I suppose the larger portion of the Senate has felt, that it is a flagrant wrong, as well as a burning shame, that these elements of strength should be taken from the lines of our armies time after time, day after day, and taken back to the service of the rebellion. That ought to be stopped. If the President does not do it of his own motion, or has not the power to do it, as I believe he has, we ought to confer that authority upon him at once. I will say further, that I believe, with all the light which the previous discussion has thrown upon this subject, if it could be recommitted to a committee of the Senate, a bill might be drafted and presented here in twenty-four hours which should give freedom to every slave who would escape from the custody of his master and come into the loyal portions of the United States; which should confiscate property, or condemn or forfeit property, to any extent that almost any Senator here would desire to have it forfeited, and should confer upon the Executive all the authority it is possible for us to confer upon him, and a measure which would receive the sanction of every Senator here, I believe, with the exception of perhaps three or four, and which might be enacted into a law in a week. That can be done; I have no doubt about it. I shall not move for the recommittal; but I would be glad to have such a motion made.

Mr. President, I have had to prepare these remarks very hurriedly. Whether I have said precisely what I intended to say, it is impossible for me now to determine. I am not quarreling about this measure because, in its terms, it is more vindictive or more sweeping than another measure. We have now upon the statute-book a law which denounces death to every man who commits treason. This only denounces forfeitures upon a portion of those who commit treason. Now, I cannot say, no man can say, but what the former act, if executed, would be more sweeping and more cruel than this. The difficulty is this: that this act executes itself; the other remains to be executed by the Government. The other gives opportunity for pardon, gives opportunity to repentance. This gives no opportunity for either. The moment the act is done the punishment is inevitable. It may do the Government good; it may not do it any good. If it gets possession of the property which this bill forfeits, then it will have so much. If it never does get possession of it, the Government is not benefited by the act. Whatever law we propose, therefore, for the punishment of these crimes, heinous as they are, should I think, be so framed as that its penalties can only be visited upon its victims, as the penalties of other laws are, when their guilt has been ascertained and judicially determined.

CONFISCATION OF REBEL PROPERTY.

SPEECH OF HON. J. W. MENZIES,

OF KENTUCKY,

IN THE HOUSE OF REPRESENTATIVES,

May 22, 1862.

The House having under consideration the bills to confiscate the property and free the slaves of rebels—

Mr. MENZIES said:

Mr. SPEAKER: I have listened with attention to the speeches which have been made on the subject before the House. I think it probable that everything of value has been said on either side, as to the constitutionality and expediency of the measures proposed, by those who have preceded me. I listened to-day with pleasure, not unmingled with pain, to the able speech of the gentleman from New Hampshire, [Mr. ROLLINS.] I

was gratified at his ability and fairness of intention, and pained that he entertained views which, in my opinion, would be disastrous to the country if carried into execution. I will not follow him in his discussion of parties and party issues that have heretofore exisfed in the country. We have but little to do to-day with old party organizations. I have no sympathy with any effort to restore any old party upon its old platform. I have no sympathy with any effort to keep in harness the Republican party. My impressions are that new parties will be made upon issues arising from events subsequent to the last presidential election. I expect to act with some party, as I have heretofore done, and with that party which, to my mind, will adhere most closely to the Constitution.

But the subject of confiscation is the matter in hand before the House, and I propose to address myself to it. I do not expect to do more than to state my views and positions in as clear a manner as I am able to employ. On a former occasion, in Committee of the Whole, I intimated that thereafter I would state my opinions on the subject whenever the opportunity was afforded me. I said then, and I now say, that in my place here I have no plea to make for the rebel and traitor while actively engaged in making war upon the Government. I do not plead the Constitution for him. For every other citizen of the United States, and on his account, I claim that the rebel is to be treated in the way that will do the least injury to those who wish to preserve the Constitution. For the sake of our ourselves we are bound to keep within the Constitution in prosecuting the rebel to subjection.

I will classify the people who are inside of the rebel lines: 1. The active fighting rebel. 2. The willing aiding rebel, who does not fight. 3. The non-combatant, who is waiting the event and doing no more than present exigencies demand of him. 4. The man who is coerced to take part. 5. The loyal man, who is punished because he will not assist the rebellion. Within our lines some of the second and third classes may be found.

In prosecuting the war we must treat all of the property employed against us in the same way. We cannot stop to inquire whether or not it belongs to those who do not wish it to be used against us. Property used against us, falling into our hands, should be turned to our advantage. We may exercise all power in regard to it that civilized warfare confers. It is our business to put down the rebellion. Whatever property impedes our armies must yield. At this point the Constitution intervenes, and puts a limit to our power over property. Common sense intervenes to declare any further exercise of power inexpedient. The property of loyal men must be protected unless the enemy is making use of it against us. The property of non-participants must be protected under the Constitution in every part of this broad country. All property is exempt from the military power of the Government, if it is not brought into use against us. It cannot be taken "without due process of law;" nor the property of the rebel, except for the life of the offender.

Federal courts in Kentucky and Ohio have recently decided that giving "aid and comfort" to traitors is not treason——

Mr. SHEFFIELD. If the gentleman will allow me, I wish to correct him. The question decided in the Ohio case by Judge Swayne was a mere question of pleading, and not that the person who gave aid and comfort to the rebel was not guilty of treason by levying war, but simply that the indictment, as it was drawn, did not describe the crime of treason. It was a mere matter of pleading, as I understand it.

Mr. MENZIES. I am glad to be corrected if incorrect. I read a notice of the Cincinnati case in a newspaper, and have only heard of the Kentucky case. I understood the decision to be that adhering to our enemies, giving them aid and comfort, was not treason when that enemy was a traitor.

Mr. SHEFFIELD. It was a mere matter of special pleading.

Mr. NOELL. If the gentleman will allow me, I will state what I understand that decision to be. Judge Swayne decided that the words in the clause of the Constitution to which the gentleman refers had no relation to the citizens of this country in rebellion. That clause applies exclusively to enemies of a foreign country.

Mr. MENZIES. The court decided that the man against whom the allegation was, that he had given aid and comfort to the rebels, was not charged with treason, as I had understood. I had entertained a different opinion.

Mr. SHEFFIELD. As I understand the law, every citizen who gives aid and comfort to the rebels is guilty of treason, and is, in fact, levying war within the meaning of the Constitution. This was decided in the case of Bollman *vs.* Swartwout.

Mr. MENZIES. If they are not traitors, they are very guilty, if anything, morally more guilty than active rebels, and the limitation as to forfeiture for life does not apply to them. That is the question I was considering in case the law was as I supposed it had been decided. But none of the bills before Congress were framed to meet the case suggested.

At this point, Mr. Speaker, I will read the resolution of the House of Representatives adopted July 22, 1861. I will comment on it. It suggests the whole duty of Congress on the subject of confiscation:

"That the present deplorable war has been forced upon the country by the disunionists of the southern States now in revolt against the constitutional Government, and in arms around the capital; that in this national emergency Congress, banishing all feelings of mere passion or resentment, will recollect only its duty to the whole country; that this war is not waged on their part in any spirit of oppression, nor for any purpose of conquest or subjugation, nor purpose of overthrowing or interfering with the rights or established institutions of those States, but to defend and maintain the *supremacy* of the Constitution, and to preserve the Union with all the dignity, equality, and rights of the several States unimpaired; and that as soon as these objects are accomplished the war ought to cease."

The war was forced upon us by the "disunionists of the southern States." If the cotton States had been content with making their experiment of folly without the other slaveholding States, they might have been permitted to break down in the folly and ridiculousness of their traitorous course. But "let us alone" was not then their motto. They must wage war to gain the other slaveholding States. They must have a collision of arms. We were bound to defend and preserve the Government. We are bound to defend and preserve the Government of the United States. But with no "feeling of mere passion or resentment." We must be actuated by "our duty to the whole country." Our war is not waged in any "spirit of oppression." Nor for "conquest or subjugation." It is waged to assert the supremacy of the Constitution over the whole country. When that supremacy is secured the war will be ended. Then every question of property must be tried by the Constitution, and settled in accordance with law. The traitor must be tried by a court of competent jurisdiction. His property, which may have escaped destruction in the war, may be forfeited for the life that may be spared him. He may acknowledge his error, and return to his allegiance. He may be forgiven. Who will be for taking his property as a condition of forgiveness. Might we not refer all questions of property to the "era of good feeling" which will come with the return of peace? We must look at the people on the other side of the rebel lines. We must not forget that many of them honestly believe that the States in which they live had the lawful right to withdraw from the Union. Their active men have been educated to this belief. They hold it as sincerely as any member of this House does any political tenet. The law professors, at their universities, have taught it for the last thirty years, and some even from the beginning of the Government. I know that more than twenty years ago it was earnestly taught at the University of Virginia. We must not neglect to bear in mind that our own Government connived at this claim of the right of secession. May I not say that it was encouraged and taught by our Government? I will not refer to all of the facts which give plausibility to the idea I am suggesting; but will call attention to the message of the President of the United States, of December, 1860. In that paper, as I read it, these people were told that they had the right to secede, or, that we had no lawful power to prevent it, which amounted to the same thing at the juncture of the announcement.

In the progress of the war, we may destroy or use any property which is interposed to prevent our success. We must not permit any man's property to stand in the way of our triumph. We are not bound to prevent the escape of the slaves of rebels if they are in the way of our armies. We are not bound to prevent our soldiers from using them when they can be turned to our advantage. We make no war upon slavery in the States. We are fighting for the Constitution. If slavery is necessarily and incidentally injured in the progress of the war, set the injury down to the account of the rebellion. They would have it. The rebels must attempt the destruction of their bulwark, the Constitution. We must defend it. Their slaves may take advantage of the conflict and confusion to desert such silly masters. Such injury is chargeable to those who make war upon the Government. In no manner, and to no extent, will I feel responsible. I believe the injury will result. And from a conflict which the friends of the Government must sustain to triumph or to defeat, the injury to slavery is inevitable. No unconstitutional act of Congress can increase it. But a disregard of the Constitution by us will at last be the destruction of the Government by our own hands. The rebellion will then be triumphant. We will have done their work for the rebels. Some members of this House concur with me, that a just prosecution of the war will weaken the institution of slavery. They are glad of it. I will raise no question with them for their feeling, good or bad, on this point, if they will spare the Constitution. I may not rejoice with them in the injury to slavery, but will rejoice with them in the preservation of the Constitution. Some of our professed friends have argued against the prosecution of the war. They felt that the injury to which I have been adverting would result. I say to them, that while I do not rejoice in this consequence, I cannot afford to give up the Constitution and the Union to prevent it. The deed is done; the rebels have done it. Whatever is left of the institution will have the protection of the Constitution and the Union.

When a rebellious community is reduced to submission, or its relieved people can return to their allegiance, every question of right within its borders must be tried by the Constitution, and the laws made in pursuance of it. To disregard them in our effort to maintain them, is a contradiction and an absurdity. When you kindle a fire with ice, you may put down the enemies of the Constitution by disregarding it.

We are all for the supremacy of the Constitution, or we ought to occupy that position. We are all for preserving the Government against the rebellion. I ask the friends of the Government to pause at the threshold of confiscation. It is inexpedient. An intention to destroy everything opposing us, which we cannot take and hold, is a position that may aid our cause. To declare that we will interfere with property that does not impede us, will bring such property and its owners into desperate activity against us. Our defeat will be their only hope. Every stab we give the Constitution with your confiscation weapon, will increase the power of the rebels and will weaken us. If the war is prolonged, our people may become reconciled to abolition as a necessity. Prolong the war and make the slaves free by the conflict. This may explain the desire of some for confiscation. I have heard it, but am not willing to believe it. If you intensify the conflict, as I have suggested would be the effect of confiscation, you will prolong the war. The more slaves would be freed in its prosecution. The unreasonable prejudice against slavery and slaveholders is so strong in some that they do not condemn the advising of slaves to rebel against their masters. They assert that all of the bad conduct of confederates is the result of the corrupting influence of slavery. They may dislike the presence of slaveholders. Instances of extraordinary perfidy and cruelty are chargeable to the southern rebels. In all ages and in all parts of the world such things have occurred where rebellion was without a sufficient cause. Acts of perfidy and cruelty always follow perfidious rebellion. Let no man say that there are not as honorable men and as good friends of this Government among slaveholders as are to be found in the land. The statement would not be true.

I am not the advocate of an act of confiscation.

I earnestly hope that none will be passed conflicting with the Constitution. The war powers are sufficient. They afford all the law that is necessary during the war. They are in the hands of the President and the military department. There will be law enough for the rebels when they shall have been reduced to our power. Congress can put its shoulder to the wheel in support of the Army and Navy, and its whole duty will be done. We can make no money by efforts at confiscation. The increased strength given to the rebellion by such efforts will cost us an amount largely in excess of all that we can realize by such a course. I did not intend to argue the extent of our power under the Constitution. I think it will be amplified by a gentleman who is to follow, and who is opposed to extensive confiscation. There is an interpretation given to the word forfeiture that is somewhat new to me. It is understood by some to apply to the right of the children of the offender to inherit. It is obvious to me that it applies to the property of the offender. The men that made the Constitution were looking at the traitors, having them in mind as clearly as we see them. They saw the case of a confederate general who went from Kentucky, one of the most perfidious of rebels. Our fathers intended us to have power to hang him, but not to take his property from his wife and minor children, if we take his life.

I have briefly made a statement of my views. I propose no elaboration. God speed the time when the "war ought to cease." I hope and believe that the end will be honorable to us. When the war is ended, let us have peace—a peace worthy of the name; a peace that will be pacification; a peace that will bring repose and good feeling; a perfect restoration of the Government of the United States to all the powers conferred by the Constitution, supreme over the whole country, and of the States to all of their dignity and rights under the Constitution.

CONFISCATION OF REBEL PROPERTY.

SPEECH OF HON. S. C. FESSENDEN,

OF MAINE,

IN THE HOUSE OF REPRESENTATIVES,

May 22, 1862.

The House having under consideration the bills to confiscate the property and free the slaves of rebels—

Mr. FESSENDEN said:

Mr. SPEAKER: I ask leave of the House to have the resolutions of the Legislature of the State of Maine read at the Clerk's desk.

The resolutions were read, as follows:

"*Resolved*, That we cordially indorse the Administration of Abraham Lincoln in the conduct of the war against the wicked and unnatural enemies of the Republic, and that in all its measures calculated to crush this rebellion speedily and finally, the Administration is entitled to, and will receive, the unwavering support of the loyal people of Maine.

"*Resolved*, That it is the duty of Congress, by such means as will not jeopard the rights and safety of the loyal people of the South, to provide for the confiscation of estates, real and personal, of rebels, and for the forfeiture and liberation of every slave claimed by any person who shall continue in arms against the authority of the United States, or who shall in any manner aid and abet the present wicked and unjustifiable rebellion.

"*Resolved*, That in this perilous crisis of the country, it is the duty of Congress, in the exercise of its constitutional power, to 'raise and support armies,' to provide by law for accepting the services of able-bodied men of whatever status, and to employ them in such manner as military necessity and the safety of the Republic may demand.

"*Resolved*, That a copy of these resolutions be sent to the Senators and Representatives in Congress from this State, and that they be respectfully requested to use all honorable means to secure the passage of acts embodying their spirit and substance."

Mr. FESSENDEN. Mr. Speaker, on the 7th of March, 1862, the Legislature of the State of Maine passed four resolves; in the Senate by a vote of twenty-four *yeas* to four *nays;* and in the House by a vote of one hundred and four in the *affirmative* to twenty-six in the *negative*. It was ordered that a copy of these resolves be sent to the Senators and Representatives from the State in Congress, and "that they be respectfully requested to use all honorable means to secure the passage of acts embodying their spirit and substance." These resolutions have just been read. I intend, as one of the Representatives in this Congress from the State of Maine, to comply with this request; and if the House will bear with me for a short hour, I will give my reasons. To give my reasons is a part of the "honorable means" which it is my duty to employ, in accordance with the will of the State.

Mr. THOMAS, of Massachusetts. Will the gentleman allow me to ask him whether he holds that the course which the Legislature of the State of Maine may have selected in respect to the decision of the constitutional question is one which he is bound to follow, although his own convictions may be to the contrary?

Mr. FESSENDEN. Not under all circumstances.

Mr. THOMAS, of Massachusetts. Do you under these circumstances, when a question of constitutional right is involved?

Mr. FESSENDEN. Not at all. I should be sorry to have the gentlemen refer to them as an admission that I feel myself to be bound by them, whatever my convictions of duty may be. There are, however, some two or three preliminary questions which, from my stand-point, must be decided before I can well proceed to the conclusion to which I hope to arrive. One question is this: is it possible to bring forward a bill by which Congress can constitutionally confiscate the property of rebels, real and personal, and for the forfeiture and liberation of every slave claimed by any person who shall continue in arms against the United States?

I admit it would seem as if it is not possible. Several attempts have been made to frame and bring forward what was declared and believed by some to be such a bill. The Committee on the Judiciary early made the attempt and failed. A minority report from this committee gave us a bill drawn up by the able gentleman from Ohio, [Mr. BINGHAM;] and the able gentleman from Massachusetts, [Mr. THOMAS,] and other gentlemen learned in constitutional law, were of the opinion that it was, in some of its sections, manifestly unconstitutional. We have before us the bills now under consideration, and amendments and substitutes, and still there are gentlemen whose opinion is deserving of great weight, who have no hesitation in declaring that these bills are not constitutional in some of their provisions.

The honorable gentlemen who have introduced these bills have done their best, and failed of accomplishing the object, it may be. And we are bound to believe that the honorable gentlemen, whose opinion it is that these bills are unconstitutional, could have done no better, because in their judgment no bill of confiscation and forfeiture would be constitutional.

Suppose, then, we assume it to be true that it is not possible for Congress to bring forward such a bill as is comprehended in the question proposed. To my mind it follows that the Congress cannot do what rebels, under the protection of the Constitution, have done and may continue to do. They confiscate the property, real and personal, of the loyal subjects of this Government. This act of theirs does not remove them from constitutional protection. Their estate, real and personal, is still made secure to them as far forth as the Constitution of this Government is concerned. Such is the result of this constitutional prohibition; it is protection for the rebels, but no protection for him in his estate who is not a rebel, since the rebel may seize it if he can, and Congress has no power to compensate the robbed loyalist, by saying to him, we will confiscate the rebel's estate, and restore by this means your property.

The rebels can say to the loyalist, your slaves are free, and freed they are. But Congress cannot say to the rebel, your slaves are set free, and the slaves of rebel masters still they are.

A few miles from this city there lives a gentleman who preferred to abandon his homestead rather than be a rebel. His rebel brother stepped in the day he was driven out, and said, "all this property is mine." This rebel, who is worth his thousands, took his brother's estate, and for no other reason than because he would not serve under the rebel flag; and though this loyal man has his homestead to-day, which the rebel brother has been compelled to abandon, rebels in the neighborhood break down his fences, pillage from his barn, carry off his timber—rebels who read in the newspapers, "Congress cannot constitutionally confiscate our property or liberate our slaves." It is good for the rebels—such reading—but it is hard for loyal men. In this regard, the rebels certainly have that which may give them, which does give them, great advantage in this war. They can say to any man who hesitates to cast in his lot with them, "come with us; your estate we take if you do not. You shall pay gold for all the real and personal property you have in the District of Columbia, or New York, or Massachusetts into our treasury. If you do come with us, we do not take your estate; neither will the United States take it. Congress cannot constitutionally confiscate your property or liberate your slaves, though you are a rebel. Read it in the Daily Globe. Do not as able jurists as they have in Congress say this? You retain your estate by fighting on our side, by guarantee both from the South and North." But the United States calls, as she has a right to do, for the services of this man. Yet all that she has to say to him is, "you must let your property, South and North, if the rebels can get hold of it, go to destruction; you must be taxed; you must fight; nor can we constitutionally confiscate a dollar of rebel property to make up your loss, but you will have the satisfaction of knowing that you do all this to preserve the Constitution and save the Union." Sir, it is a Constitution under which, by such a construction of it, men in this condition are subjected to an egregious wrong; and a Union which, if restored, must leave them with heart-burnings such as must exist in the breast of the victims of injustice.

It is an advantage for rebels to be able to make those whom they would influence believe that they would do them no wrong, no harm in body or estate, while they would suffer injury in estate, if not in body, by casting their lot with loyal men.

Again: it is not impossible that the rebels may put their estate, real and personal, to such effective use in the prosecution of this war as to show beyond question that so long as they are permitted to retain their estates the war will not terminate. In this event, this "constitutional barrier" becomes a very serious matter. It is "a dead lock;" and the nation's epitaph would be: "Killed by its Constitution."

Impossible for Congress constitutionally to confiscate the property of rebels, and liberate their slaves! Then it is not true that "the laws of necessity, of self-preservation, of saving our country when in danger, are of higher obligation than a strict observance of the written law," Thomas Jefferson's opinion to the contrary notwithstanding. Says Mr. Jefferson:

"To lose our country by a scrupulous adherence to the written law would be to lose the law itself, with life, liberty, property, and all those who are enjoying them with us; thus absurdly sacrificing the end to the means."

The President of the United States did not admit that he was so bound by "constitutional shackles" that he could not shake them off when this war commenced, and the pressure of stern emergency was upon him, and do that for the doing of which he had no constitutional authority, unless you find it in the spirit of this instrument and not in the letter. He had no idea of losing the country by a scrupulous adherence to the very letter of the Constitution. He is a Hamiltonian President. But notwithstanding this illustrious example, if it be that the property of rebels cannot be constitutionally confiscated and their slaves forfeited, however imperative this measure may seem to be, it follows that the power of Congress in this regard is not coextensive with that of the President. He can do that to save the country which Congress cannot do. Sir, to-day he is dear to the hearts of us all, because, when this extreme case called for a remedy so violent even as that of disregarding the letter of the Constitution, he had the wisdom and patriotism to apply it. He was "constrained to call up, invoke, and put in exercise" "more of power, more of force than the Constitution provides, or than is limited by the Constitution." This is the view which some entertain as to what he actually did. He "was constrained from our necessities to do it." Nor did he "acknowledge before the world," in pursuing this course, "that our institutions are insufficiently founded, and that we are, after all, compelled in the period of trial to resort to the force

which they say is necessary to the existence of nations, and [that] our experiment is a failure;" but he did accede to the soundness of the Jeffersonian doctrine "that circumstances do sometimes occur which make it a duty in officers of high trust to assume authorities beyond the law," and that the Constitution must be so construed that the means shall be proportioned to the end.

But, again: if it is possible to bring forward a constitutional confiscation and liberation bill, is it expedient? Is it expedient to pass such a bill?

I hold it to be expedient, because it is the policy which justice dictates and demands. This rebel war is an extreme case. Let the remedy in whole or in part be as violent as it may, justice demands the application of it. Do you say "confiscation" is no part of the remedy? How do you know that until it is tried? It is not required of us to know the certainty of the remedy before justice would have us use it. Its probability, in an emergency, authorizes and demands its application. Edmund Burke has said: "Justice is of itself the great standing policy of civil society; and an eminent departure from it under any circumstances lies under suspicion of being no policy at all." It is the highest policy of that Government which is bound by the maxim, "*salus populi suprema est lex*," as the only means of obtaining the end. By no other means can the main end of every just Government be attained than by that policy which is based on a supreme regard for justice.

But do you say that the bill proposed would inflict retrospective punishment—a punishment not previously affixed by law—and is therefore inconsistent with justice? This is upon the assumption that in no case has retrospective punishment been justly inflicted. Will any gentleman maintain this? Even Hallam, in his Constitutional History of England, admits "that a punishment not previously affixed by law to the offenses of Strafford should have been inflicted; that he should have been degraded from his rank, and condemned to perpetual banishment, by act of Parliament;" and Macaulay, in his review of Hallam, sustains this principle of retrospective punishment in the case of a powerful and wicked statesman. There are instances of perfidy and atrocity which you cannot reach by a punishment previously affixed by law; but reached they must be, or justice will be outraged. So in this rebellion. The crime on the part of these leading rebels is perfidious and atrocious; and if the bill was not limited in its application to those who continue in rebellion, and was retrospective in its action, it would no more than meet the claims of justice.

Further: I hold it to be expedient to liberate the slaves of rebels because it will be a constitutional step towards the ultimate annihilation, as we may hope, of a moral, social, and political wrong, which alone has at any time imperiled our liberty and prosperity. The peril in which it has put our institutions, and it alone, was so obvious to the now President of the United States, that in 1858 he asked the question, and it was not answered by his opponents by showing that there was any other thing which threatened the existence of this Union and our liberty. He asked the question:

"Has anything ever threatened the existence of this Union save and except this very institution of slavery? What is it that we hold most dear among us? Our own liberty and prosperity. What has ever threatened our liberty and prosperity save and except this institution of slavery?"

Again, in his speech at Ottawa, Illinois, August 21, 1858, Mr. Lincoln said:

"I leave it to you to say whether, in the history of our Government, this institution of slavery has not always failed to be a bond of union, and, on the contrary, been an apple of discord and an element of division in the house. I ask you to consider whether, so long as the constitution of men's minds shall continue to be the same, after this generation and assemblage shall sink into the grave and another race shall arise, with the same moral and intellectual development we have, whether, if that institution is standing in the same irritating position in which it now is, it will not continue an element of division? If so, then I have a right to say that, in regard to this question, the Union is a house divided against itself."

Once more, in his speech at Alton, Illinois, October 15, 1858, in which he clearly defined the status of the Republican party in this regard, and from which it has taken no departure, he said:

"The real issue in this controversy—the one pressing upon every mind—is the sentiment on the part of one class that looks upon the institution of slavery as a wrong, and of another class that does not look upon it as a wrong. The sentiment that contemplates the institution of slavery in this country as a wrong is the sentiment of the Republican party. It is the sentiment around which all their actions, all their arguments circle, from which all their propositions radiate. They look upon it as being a moral, social, and political wrong; and while they contemplate it as such, they nevertheless have due regard to its actual existence among us, and the difficulties of getting rid of it in any satisfactory way, and to all the constitutional obligations thrown about it. Yet, having a due regard for these, they desire a policy in regard to it that looks to its not creating any more danger. They insist that it should, as far as may be, be treated as a wrong, and one of the methods of treating it as a wrong is to make provision that it shall grow no larger. They also desire a policy that looks to a peaceful end of slavery at some time as being wrong. These are the views they entertain in regard to it, as I understand them; and all their sentiments, all their arguments and propositions are brought within this range. I have said, and I repeat it here, that if there be any man among us who does not think that the institution of slavery is wrong in any one of the aspects of which I have spoken, he is misplaced, and ought not to be with us. And if there be a man among us who is so impatient of it as a wrong as to disregard its actual presence among us and the difficulty of getting rid of it suddenly in a satisfactory way, and to disregard the constitutional obligations thrown about it, that man is misplaced if he is on our platform. We disclaim sympathy with him in practical action. He is not placed properly with us."

I would say to the honorable gentleman from New York [Mr. DIVEN] that these are no "garbled extract(s) from Mr. Lincoln's speeches"—I am not in the habit of making such from any man's speeches—"to give the impression upon the House and in the minds of the people, so far as the circulation of his [Mr. FESSENDEN's] speech is concerned, that Mr. Lincoln is the advocate of the abolition of slavery by congressional action or by the war power." But I shall take it for granted that his sentiments in 1858, as they are found in these extracts, are his sentiments in 1862.

Hence, I am led to the remark, that take the constitutional step of liberating the slaves of rebels, and, in my judgment, you adopt a policy in regard to slavery that looks to its not creating any more danger.

Sir, there is great horror manifested on the part of some gentlemen lest the cause of the slave should in some way be identified with this war. Well, sir, if it does not become identified with this war, it will be for the same reason that Catiline rejected the slaves that crowded to enlist in his army: it was "lest he should seem to identify their cause with that of the citizens." The Catiline of this conspiracy, which has culminated in this rebellion, forces slaves into his army, while we reject the slaves that would enlist in our Army; while we reject colored men, be they slaves or not, lest we should seem to identify their cause—the cause of freedom—with that of the citizens. It will be a blot on the page of the history of this nation in ages to come, that though we fought for the preservation of our liberty, it was for *our* liberty, and not for the liberty of humanity—a Catilinish fear controlled us, and we lost the golden opportunity forever.

But the honorable gentleman from Kentucky, [Mr. MALLORY,] who addressed the House this afternoon, asked gentlemen, what do you propose to do with the slaves if, in accordance with your hopes and wishes, they are set free? I reply to that gentleman, we do not propose to do anything with them. We propose to allow them to do for themselves. We propose, in respect to them, to have it known that in no State or Territory in this Union shall they from henceforth be regarded as goods and chattels, to all intents and purposes whatsoever. We propose to let them know that every husband may have his own wife, that every wife may have her own husband; that all parents may have their own children; that they may earn wages, and receive and demand the wages, if withheld, which their labor entitles them to receive; that they may have all the benefits accruing from living under the administration of just laws, and that they may breathe God's free air as white men breathe this air.

The honorable gentleman from Illinois [Mr. RICHARDSON] asserts that the negro race is greatly inferior to that of the white man. Is he fearful that this inferior race will become the superior if these disabilities are removed under which the colored race in the United States has been crushed under the heel of oppression? "The white man shall rule in America," said a Senator in his place, "and the nigger never!" For one, sir, I say, and I believe I express the feelings of my constituents, at least, when I declare that there is no objection to the negro having a fair chance in America; and if he shows himself to be the superior race, the more shame for us, and the more praise for them for coming out at the head when we had placed them and designed to keep them at the very foot of civilization.

Mr. Speaker, I am well aware that in making such quotations as I have from the speeches of Mr. Lincoln, I shall subject myself to the suspicion of being an extremist, an abolitionist. I cannot help it, however. I could not find so much truth so well expressed in any other book at my command. The high encomium which has been passed upon him on this floor, as "a far-seeing statesman and judicious President," will not, I trust, be thought to be the less deserved by reason of my thus making use of his wisdom, by any gentleman on this side of the House; I am sure it will not be by any gentleman on the other side.

I know that the honorable member from Missouri [Mr. ROLLINS] will regard the course which I have taken, the views which I have expressed, as affording additional evidence of the perverted sense or nonsense to which is brought the man of "one idea." But this will be my misfortune. Let me say, however, there is no misfortune in having but "one idea," if it be really a sound one, a live one, "and it be put to living uses in the ages."

To show me my folly, in the course of his speech a few days since, he read an extract from an interesting book, which he cordially commended to the gentleman from Maine, [Mr. FESSENDEN,] and I believe to the gentleman from Illinois, [Mr. LOVEJOY,] and to those who acted with them. I am obliged to the gentleman, and, I assure him that I have given it the attention which it well deserved, both from its high source and its approval by the gentleman himself, who seldom fails to get at the meat of the nut which he can find an opportunity to crack on the head of one whom he regards as an extremist. I will have the extract read. Its diction is so terse, its comparison so admirable, and its logic so forcible, that I cannot forego the pleasure.

The extract was read, as follows:

"Among the objects of interest very often, if not always, to be found at the foot of dams and cataracts, are what are called 'pot holes.' They are round holes worn in the solid rock by a single stone kept in motion by the water. Some of them are very large, and others are small. When the stream becomes dry there they are, smooth as if turned out by machinery, and the hard round pebbles at the bottom by which the curious work was done. Every year, as the dry season comes along, we find that the holes have grown larger, and the pebbles smaller, and that no freshet has been found powerful enough to dislodge the pebbles and release the rock from its attrition.

"Now, if a man will turn from the contemplation of one of these 'pot holes,' and the means by which it is made, and seek for that result and that process in the world of mind which most resemble them, I am sure that he will find them in a man of 'one idea.' In truth, these scenes that I have been painting were all recalled to me by looking upon one of these men, studying his character, and watching the effect of the 'single idea' by which he was actuated. 'There,' said I, involuntarily, 'is a moral pot hole with a pebble in it, and the hole grows larger and the pebble smaller every year.'

"I suppose it is useless to undertake to reform men of 'one idea.' The real trouble is that the pebble is in them, and whole freshets of truth are poured upon them only with the effect to make it more lively in its grinding, and more certain in its process of wearing out itself and them. The little man who, when ordered by his physician to take a quart of medicine, informed him with a deprecatory whimper that he did not hold but a pint, illustrates the capacity of many of those who are subjects of a 'single idea.' They do not hold but one, and it would be useless to prescribe a larger number. In a country like ours, in which everything is new, and everybody is free, there are multitudes of self-constituted doctors, each of whom has a nostrum for curing all physical and moral disorders and diseases—a patent process by which humanity may achieve its proudest progress and its everlasting happiness. The country is full of hobby riders, booted and spurred, who imagine they are leading a grand race to a golden goal, forgetful of the truth that their steeds are tethered to a single idea, around which they are revolving only to tread down the grass, and wind themselves up, where they may stand at last amid the world's ridicule, and stoned to death."

Mr. FESSENDEN. As General Jackson is reported to have said, that by the oath which he took to support the Constitution of the United States, he swore to support it as he understood it, so, I trust, the honorable gentleman will not insist on my giving his construction and application to this extract, but will let me give the construction and application that suits me best.

On analyzing this extract, I find that "the moral

pot hole" is intended to represent the mind of the man of the "single idea;" the "pebble" the "single idea." The single idea grows smaller and the mind grows larger every year. Now, look at this. The pot hole is worn in the solid rock by a single pebble kept in motion by the water. Day after day the water falls incessantly on the pebble, and the pebble strikes persistently on the one place on the rock, until at length the indentation is made; attrition begins and continues until into that solid rock the pebble makes its way, and does the very work and service the God of nature appointed it to do.

How exceedingly apt an illustration have we here of the mighty power there is in a single idea, if there be in it a grain of truth even, much more if it is all truth, well and persistently used to extirpate the evil it is designed to reach. I suggest to the gentleman that influence, as a power, does not consist so much in the number of ideas which a man has, as it does from the nature of the ideas themselves. The one idea of one man may be of vastly more power and vastly greater influence than the twenty ideas of another man, and by it a vast deal more of evil or good may be effected. How was it with Ignatius Loyola, who planted himself in his institute of Jesuitism in the heart of the Catholic Church, permeated that whole vast body, and influenced the counsels, the legislation, the acts of the civilized world? The learned Isaac Taylor says of him:

"It was the task of Loyola to forge upon many hundred minds the idea of the society; and in the execution of this task, far more than in the compilation of its code, he displayed a power and a unity of purpose surpassed by few of the achievements of either philosophers or legislators."

Richard Chevenix Trench, who is thought to be one of the profoundest and most learned thinkers of this or any age, says:

"Certainly there is nothing in the study of the past which fills one with more awe and wonder than the infinite significance of a single man."

True, the history of the world shows how great events, whole epochs, have hung or hinged on some single man—some Luther or Cromwell. Sir, I will be bound to say, it was one idealism which made these men infinite. It was a single but comprehensive masterly idea, using these men as levers that moved the masses, moved the world, moved the ages, and is moving us to-day, carrying us onward, straight onward, over every obstacle to the temple of liberty, the doors of which "thinking bayonets" will now throw wide open, and keep open until the men of this country, of whatever color or language—it matters not—shall enter in. It is to the temple of liberty

"Men of thought—men of action—
Clear the way!"

But, Mr. Speaker, wide apart as the gentleman and myself may be on the question at issue, I think he will admit that it does require the unity and concentration of a single idea to bore the bony shells in which the minds of some men are encased. And many are the instances, alas! when you have reached these minds that you have your labor only for your pains, for you find there no moral pot hole in which to lodge the smallest pebble of truth; but the hole is quite the reverse of moral, in which the truth falls as a pebble dropped into the Dead Sea, where all is dead, and where there is so much corruption that nothing remains to you but despairful forebodings.

In this national crisis, what we want is "that rare courage which dares commit itself to principle, believing that nature is its ally and will create the instruments which it requires, and more than make good any petty and injurious profit which it may disturb." The salvation of the country depends upon its having this want supplied. Such courage here would give to the people what they ask for, a confiscation and liberation bill.

Mr. Speaker, in conclusion, I take this opportunity to remark that, since I have been upon the floor of this House, I have observed that there is no better abused class of men than the abolitionists. I take occasion to say that, in the extracts which I have read this evening from the speeches of Abraham Lincoln, we have abolitionism as I understand it.

Mr. WICKLIFFE. Does the gentleman charge the President with being an abolitionist?

Mr. FESSENDEN. Do I charge him with being an abolitionist? I charge him with the abolitionism avowed by the sentiments which he has uttered, and which utterances I have read to-night; and I declare them to be sufficient abolitionism for me. When gentlemen on the other side of the House charge me with being an abolitionist, I wish them to understand that I am no more of an abolitionist than Abraham Lincoln's sentiments in the matter of slavery sustain me in being. If he is an abolitionist by uttering these sentiments, then so am I.

I say, sir, such were the abolition sentiments which were uttered so long ago as 1835, and from those sentiments the abolitionists have never departed, except those who are called Garrison abolitionists. Time will not permit me to substantiate the truth of this remark by reading the paper I have before me, and which I expect to put into my speech. And such is the abolitionism which I would thank gentlemen to charge me with when they state that I am an unconstitutional abolitionist.

To the Public.

In behalf of the American Anti-Slavery Society, we solicit the candid attention of the public to the following declaration of our principles and objects. Were the charges which are brought against us made only by individuals who are interested in the continuance of slavery, and by such as are influenced solely by unworthy motives, this address would be unnecessary; but there are those who merit and possess our esteem, who would not voluntarily do us injustice, and who have been led by gross misrepresentations to believe that we are pursuing measures at variance not only with the constitutional rights of the South, but with the precepts of humanity and religion. To such we offer the following explanations and assurances:

1. We hold that Congress has no more right to abolish slavery in the southern States than in the French West India Islands. Of course, we desire no national legislation on the subject.

2. We hold that slavery can only be lawfully abolished by the Legislatures of the several States in which it prevails, and that the exercise of any other than moral influence to induce such abolition is unconstitutional.

3. We believe that Congress has the same right to abolish slavery in the District of Columbia that the State Governments have within their respective jurisdictions, and that it is their duty to efface so foul a blot from the national escutcheon.

4. We believe that American citizens have the right to express and publish their opinions of the constitution, laws, and institutions of any and every State and nation under heaven; and we mean never to surrender the liberty of speech, of the press, or of conscience, blessings we have inherited from our fathers, and which we intend, so far as we are able, to transmit unimpaired to our children.

5. We have uniformly deprecated all forcible attempts on the part of the slaves to recover their liberty. And were it in our power to address them, we would exhort them to observe a quiet and peaceful demeanor, and would assure them that no insurrectionary movement on their part would receive from us the slightest aid or countenance.

6. We would deplore any servile insurrection, both on account of the calamities which would attend it, and on account of the occasion which it might furnish of increased severity and oppression.

7. We are charged with sending incendiary publications to the South. If by the term *incendiary* is meant publications containing arguments and facts to prove slavery to be a moral and political evil, and that duty and policy require its immediate abolition, the charge is true. But if this term is used to imply publications encouraging insurrection, and designed to excite the slaves to break their fetters, the charge is utterly and unequivocally false. We beg our fellow-citizens to notice that this charge is made without proof, and by many who confess that they have never read our publications, and that those who make it offer to the public no evidence from our writings in support of it.

8. We are accused of sending our publications to the slaves, and it is asserted that their tendency is to excite insurrection. Both the charges are false. These publications are not intended for the slaves, and were they able to read them they would find in them no encouragement to insurrection.

9. We are accused of employing agents in the slave States to distribute our publications. We have never had one such agent. We have sent no *packages* of our papers to any person in those States for distribution, except to five respectable resident citizens at their own request. But we have sent by mail single papers addressed to public officers, editors of newspapers, clergymen, and others. If, therefore, our object is to excite the slaves to insurrection, the MASTERS are our agents!

10. We believe slavery to be sinful, to be injurious to this and to every other country in which it prevails; we believe immediate emancipation to be the duty of every slaveholder, and that the immediate abolition of slavery by those who have the right to abolish it would be safe and wise. These opinions we have freely expressed, and we certainly have no intention to refrain from expressing them in future, and urging them upon the consciences and hearts of our fellow-citizens who hold slaves or apologize for slavery.

11. We believe that the education of the poor is required by duty, and by a regard for the permanency of our republican institutions. There are thousands and tens of thousands of our fellow-citizens, even in the free States, sunk in abject poverty, and who, on account of their complexion, are virtually kept in ignorance, and whose instruction in certain cases is actually prohibited by law! We are anxious to protect the rights and to promote the virtue and happiness of the colored portion of our population, and on this account we have been charged with a design to encourage intermarriages between the whites and blacks. This charge has been repeatedly, and is now again denied; while we repeat that the tendency of our sentiments is to put an end to the criminal amalgamation that prevails wherever slavery exists.

12. We are accused of acts that tend to a dissolution of the Union, and even of wishing to dissolve it. We have never "calculated the value of the Union," because we believe it to be inestimable, and that the abolition of slavery will remove the chief danger of its dissolution; and one of the many reasons why we cherish and will endeavor to preserve the Constitution is, that it restrains Congress from making any law "abridging the freedom of speech or of the press."

Such, fellow-citizens, are our principles. Are they unworthy of Republicans and of Christians? Or are they in truth so atrocious, that in order to prevent their diffusion, you are yourselves willing to surrender, at the dictation of others, the invaluable privilege of free discussion, the very birthright of Americans? Will you, in order that the abominations of slavery may be concealed from public view, and that the capital of your Republic may continue to be, as it now is, under the sanction of Congress, the great slave mart of the American continent, consent that the General Government, in acknowledged defiance of the Constitution and laws, shall appoint throughout the length and breadth of your land ten thousand censors of the press, each of whom shall have the right to inspect every document you may commit to the post office, and to suppress every pamphlet and newspaper, whether religious or political, which, in his sovereign pleasure, he may adjudge to contain an incendiary article? Surely we need not remind you that, if you submit to such an encroachment on your liberties, the days of our Republic are numbered, and that although abolitionists may be the first, they will not be the last victims offered at the shrine of arbitrary power.

ARTHUR TAPPAN, *President.*
JOHN RANKIN, *Treasurer.*
WILLIAM JAY,
Secretary Foreign Correspondence.
ELIZUR WRIGHT, JR.,
Secretary Domestic Correspondence.
ABRAHAM L. COX, M. D.,
Recording Secretary.
LEWIS TAPPAN,
JOSHUA A. LEAVITT,
SAMUEL E. CORNISH,
SIMEON S. JOCELYN,
THEODORE S. WRIGHT,
Members of the Executive Committee.

NEW YORK, *September* 3, 1835.

All honor to those noble men and their compeers, William Lloyd Garrison not excepted, who more than a quarter of a century since had the Pauline boldness not to take counsel of men, but of truth, and who in their property and persons took the consequences in the outrages to which they were subjected for the sake of the poor slave and the rights of American citizens, white men as well. They have lived to see that "he who has God on his side, is always in the majority." We learned the lesson at their feet, and from their success to rely upon the merits of our cause and upon God, who to the right will give the victory.

I hope that the bills now under consideration will be passed by this Thirty-Seventh Congress.

CONFISCATION—EMANCIPATION.

SPEECH OF W. S. HOLMAN,

OF INDIANA,

IN THE HOUSE OF REPRESENTATIVES,

May 23, 1862.

The House having under consideration the confiscation and emancipation bills—

Mr. HOLMAN said:

Mr. SPEAKER: "Never despair of the Republic" was the noble maxim of ancient liberty which inspired a free people with irresistible courage and gave them the empire of the world. The American people, in a more enlightened age, bearing a greater commission and more responsible to the world of mankind, may learn from it a lesson of fortitude and wisdom. The weakness of a Republic is found in the vascillations and division of public council in the presence of danger, when fortitude is necessary to safety. So auspicious was the beginning of our Republic, so fortunate in its progress and development, that it has attained even in its infancy a position of unexampled greatness by the natural and inherent force of its institutions; and now, after generations of uninterrupted prosperity, with the wisdom of its form of Government unquestioned, meeting the first great vicissitude to which nations and especially Republics are exposed, the fortitude, courage, and constancy of its people are subjected to the judgment of experience. Shall we pass the ordeal in

safety? Shall our policy, based on the experience of the past and the dictates of reason, remain firm and unshaken, or shall it waver with every change of fortune?

The admirable adjustment of the political powers of this nation under its wise Constitution has been the source of its greatness. One nation, but many States; a people eminently free, yet with such a unity of power as to give to their Government stability and strength—a wonderful adjustment of political elements; a Constitution, the offspring of the wisest statesmanship, the ripest experience, the purest patriotism that has adorned the pages of history. So wonderfully has it adjusted the balances of political power that the Government has been compared to the fabled mountain of granite hewed out by the Druids, which the finger of a child might rock, but which the combined force of armies could not remove from its base. While the Federal power might not impair the domestic and limited sovereignty of the States, it was still, in the judgment of its founders, who reared it on the ruins of war, and of the generations who in peace watched the development of its strength, armed with ample powers to defend itself against every enemy at home or abroad; a Government too weak to enslave its people, yet too strong to be readily overthrown.

The Government of the United States is the oldest Government established by a written constitution, creating and limiting all delegated powers and securing their observance by the solemn sanctity of an oath. The Constitution of the United States is the first charter by which a permanent Government has been established. Almost the whole of the new hemisphere is covered by nations where the strongholds of liberty are constitutional limitations. They have, in the main, failed in their development. But the Constitution of the United States is the model of them all. Its mastery over the nation is the secret source of our wonderful progress. It is said by the great historian of this age, "that, on the discovery of the New World, a legend was widely diffused throughout the Old, that it concealed a fountain whose ever-flowing waters reanimated age and restored it to its prime. The legend," says the historian, "was true; but the youth to be renewed was the youth of society, the life to bloom afresh was the life of the race." The renovating principle was the liberty that springs from limitations on political power. Political society was to be organized on a new foundation. The new life of the race was that inexhaustible fountain of freedom—a Government where political power is hedged in by impassable barriers; the freedom that springs up where the boundaries of Government are fixed, where its agents of secret encroachment are fettered. The Constitution of the United States has, indeed, been the regenerator of the race. Is it wise to impair the public faith in its sufficiency and strength? Until the present, the sufficiency of that Constitution to meet every emergency in peace and in war has never been called in question. It has made a great nation. It has successfully resisted its foreign enemies. Against internal enemies it has enrolled a great Army of citizen soldiers, who only ask time to restore its authority. A general spirit of infidelity can only question its sufficiency to lead the nation back from the havoc of war to the blessed shelter of peace.

But, sir, with an Army of half a million of citizen soldiers in the field, summoned by the Constitution to defend it against a treacherous enemy, who are steadily driving that enemy from his strongholds and restoring the authority of the Government, it is announced that the assumption of new and doubtful powers is demanded by the public safety. Sir, is it wise at this time to divide public opinion by new questions of constitutional power? Will jarring factions give strength to the sinews of war? In the first hour of your peril the instinctive wisdom of the nation, trampling on the selfishness of party and the pride of opinion, presented to the country the single issue whether the Constitution of the Republic should be maintained or be permitted to perish under the assaults of treason. With this issue no man could doubt the ultimate result. The motive was irresistible. It appealed to the loyalty and aroused the energy of every citizen. It spoke to his judgment and reason and not to his prejudice or passion, and with a moderation without a precedent, and a unanimity without a parallel, the nation resolved to wage the war for the Constitution in no spirit of mere resentment, but to restore its guarantees and reëstablish its authority. Was this wise? Let the triumphs of your arms tell. But, sir, new issues loom up darkly in the political horizon, and the nation is compelled to meet the question, shall the Constitution be overthrown in the struggle to maintain it?

The Constitution was designed for every emergency. It was not the result of resentment or passion, but of moderation and counsel. If we would interpret it aright, we must rise above the storms of passion and resentment. This rebellion is so out of the course of nature, so infamously wicked, that, in the resentment of the moment, we would trample on every restraint and crush down every barrier to inflict vengeance on the authors of the crime. But, sir, the sanctity of the Constitution, the interests of the generations that are coming, and the cause of constitutional liberty, demand moderation and prudence. We do not wage this war to destroy but to reëstablish; not to overthrow but to restore; not for vengeance, or conquest, or subjugation, but to restore the Union under the old safeguards of the Constitution—a debt which this generation owes to the past and the future. Every State is still a member of the political household, and the Constitution still overshadows all "like the hand of God inverted above them." Treason cannot limit its power, unless it successfully maintain itself by the violence of war. Up to this moment, the triumphs of the Constitution have been uninterrupted. Can your new theories, at best, accomplish any more? In my very soul I abhor this treason. I find for it no word of extenuation. The interests of human nature demand that it shall be crushed; but, in my judgment, the powers of the Constitution are ample for punishment of the crime. In the eagerness to subdue this rebellion, let us not overlook the demands of policy and justice. "Strike, but hear me," is an old maxim. You may justly deprive the traitor of his "life, liberty, or property," but you must do it by "due process of law." The criminal, if even charged with the crime of treason, is entitled to be heard. I would confiscate the rebel's property, but I would confiscate it by legal process. Your army in the field should respect neither the life or the property of the armed traitor. But the object of the war "is to restore the Union." Will extreme measures, beyond the necessity of military force, aid us? Or, with the triumph of our arms, will not the security of constitutional protection be a powerful motive to peace, inducing the deluded traitor to flee to it for shelter? So much for the general act for confiscation.

But what of the other bill for the liberation of persons held to service under the reserved powers of the States? Where does Congress get this power? Sir, shall a great people, struggling with giant strength to uphold constitutional liberty, blinded by agony and seduced by passion, become themselves unfaithful to the Constitution and smite it down? Gentlemen say that a State that has voluntarily left the Union is not shielded by the Constitution. I deny that any State can release herself from the Union. I will not recognize such right by inflicting civil penalties unknown to the Constitution. I will go as far as that instrument permits, and no further. This bill arrogates to Congress a power which the Constitution has expressly denied, which Congress and every department of the Government have denied. I cannot give it my support. Gentlemen say these are war measures authorized by the war-making powers of Congress. Does war enlarge the powers of Congress? Your Army is in the field to uphold the authority of the Constitution and to enforce the laws. Does this increase your powers? No, sir; but one statesman ever even suggested the idea. The Constitution is the same in peace and in war. In the midst of great public commotions its limitations are of more importance than in peace. If you recognize these States as out of the Union, you can pass these laws. If they are in the Union, the Constitution forbids it. The argument of necessity cannot prevail, for the Constitution has not provided for the necessity. It has not placed the military above the civil power. But I have not proposed to discuss the constitutional question. The arguments before the country are unanswerable. The advocates of these extreme measures would command more of the public confidence if they assumed the high ground, more than once advocated on this floor, that constitutional limitations must yield to the necessity of the times. The necessity may seem to be imperative; yet if you yield to that necessity, the Constitution is overthrown.

But these measures, while they would inflict summary vengeance on traitors, overlook the just claims of the loyal men of the disloyal States. Does not every one know that a majority of the rebel States were forced out of the Union against the will of a majority of the people, as expressed at the ballot-box, and that upon this loyal sentiment rests the only hope of restoring the Union? And will not this general emancipation affect alike the loyal citizen and the traitor? Let the willful traitor suffer, but do not involve by your policy in a common ruin the traitor and the loyal citizen who has defied your enemies or only yielded because it was madness to resist.

I plant myself, sir, firmly upon the Constitution. Its powers, in my judgment, are sufficient for any emergency. I question it for the authority for these acts, and it is silent. I will not assume, on any pretense, a power it has denied. Its provisions may seem to be insufficient. The public safety may seem to require the exercise of a power it has not granted. Yet I would rather abide by its matured wisdom, even against an urgent demand of public policy, than by yielding to the demands of the hour grope in darkness and uncertainty for new principles of government amidst the wild chimeras and bewildering speculations which lie beyond the limits of its unerring light. If these acts are necessary to the public safety, let the Constitution itself be changed under its own provisions; but I deny the necessity. I am no apologist for slavery. I know of no argument in its favor. If the abolition of slavery was within your power, and would contribute to restore and give stability to the Government without adding to the inhumanity of war or affecting recognized rights of loyal citizens, I would give the approval of my whole heart and judgment to the emancipation and colonization of every slave of every rebel master. But while the Government maintains its present position, the only one it can maintain with safety—*that the Constitution is still supreme and embraces every State*—I cannot and will not consent to an act in defiance of its authority. I have, sir, ever denied the right of secession; in my judgment, South Carolina and the other States are States of the Union, and the Constitution is still the same over all.

But, sir, independent of the constitutional objection, would this effort at emancipation be wise as a measure of policy? Would it promote the interests of mankind? Has not the recent advance of your Army established the fact that far beyond the loyal border States, in the very heart of the rebellion, there is an ardent devotion to the Union; that when your flag was unfurled, even in the remote regions of Alabama, the young men gathered around it, and the old men shed tears of joy at beholding again the old flag of their fathers? The rebellion was produced by the dishonest pretense that our Government was preparing to abolish slavery, and this act of power would confirm the falsehood and alienate from us almost every man in the South. It would destroy the hopes of restoring the Union, and of building up again on the loyal sentiment of the South the old fraternal relations. This would become not a war for the Union, but a war of subjugation. I protest against this, sir, while there is the shadow of a hope that the Union can be restored. I believe it to be the ardent wish and purpose of conservative and loyal men everywhere to subdue the rebellion, and restore the Union under the old Constitution, without modification or change; and that when Providence shall have given such success to our arms as that the power of the Government cannot be questioned, we should, in a spirit of noble magnanimity, hold out the olive branch of peace and reconciliation, not to the arch-traitors—let them suffer the penalty of their infamous crimes—but to the deluded masses. Such a spirit, sir, may reunite the nation and restore again our

old prosperity—the Constitution unimpaired, and the Government only stronger, because the rage and bitterness of war had only tested but not overthrown the moderation and wisdom of the people.

With such views, I protest, sir, against a policy which will render, not the subjugation of the South, but the restoration of the Union impossible. With me, sir, its restoration rises infinitely above every other consideration. I see in it the only hope for us or for our children. I see in its destruction an anarchy that will lead to despotism. If your emancipation policy did not induce a servile insurrection, how would it aid you? If it did, who does not see that the war would become not a war for the Union, but on both sides a war of fierce and deadly extermination? But, sir, shall we excite by our policy a war in the South, in which not men armed to the teeth, but feeble old age and prattling childhood and defenseless women would be the victims? Humanity and justice and policy forbid it. It is traitors in arms that we will crush. As your Army advances, vast numbers of slaves come within your lines; these you will not surrender to disloyal masters. Would your proclamations, unless they excited insurrection, accomplish any more? If they did, are the free States prepared to open their doors for the millions of this unfortunate population driven from the South?

But will not this policy divide your councils and weaken the strength of your armies? Is not the active concert of your own loyal people and the martial enthusiasm of your soldiers and their devotion to the Constitution of infinitely more moment than any benefit you can derive from these questionable measures? Will the moment never come, sir, when we shall with confidence rely on our constitutional resources and the courage and fortitude of our own people to crush out this infamous rebellion? Have the triumphs of your arms been so poor that you must tear down the Constitution to obtain new powers? Would it increase the number or enthusiasm of your Army? Would it inspire a nobler heroism? Will the Constitution, sealed with the blood of their fathers, and its starry symbol, move the heart of your Army with less enthusiasm, as they face the iron front of battle, than these wild and impracticable schemes before which all that is sacred may perish? The motive you presented as justifying an appeal to arms, the defense of constitutional liberty, was the noblest that ever stired the human soul. Will the destruction of that motive increase the efficiency of your Army? Will it dishearten your enemies? Will fanaticism, or prejudice, or passion, supply the place of the confirmed judgment of the people that the Union as established by the Constitution must be preserved? Your soldiers have resisted the sweet attractions of father and mother and wife and child, and taken up arms for a single purpose, to defend the ancient landmarks of the Constitution and to restore the Union. Will you dare to overthrow the motive which has rendered their courage irresistible? With such an army in the field, inspired by such a motive, and already flushed with successive victories, with the old vacillation which has overthrown so many republics, will you propose a virtual change of the purpose of the war?

But outside of your Army will your circumstances admit of radical divisions of opinion in the loyal States? Right or wrong, if you adopt this policy, and virtually change the purpose of the war, make it a war against slavery, and not a war for the Union, these divisions will exist. While you adhere to the Constitution, you can command the coöperation of every loyal citizen. If you abandon the Constitution, no man in the land is bound to obey you—I speak, sir, of those constitutional guarantees which have ever been recognized as fundamental by the common judgment of the whole people.

The people every where demand that the powers of the Government shall be directed to one end—to crush out the rebellion and restore the Union. War for the Constitution, and not against it. They will protest with one voice against any change in the form of our Government, or the organization of provinces which immense armies must keep in subjection. They have abiding faith in the Constitution, and believe that their safety is involved in maintaining it unimpaired.

On the 22d day of July, when the victorious rebels were pursuing our fugitive army, and gentlemen sat here unrefreshed from their weary flight from that disastrous field, the memory of which your soldiers are wiping out, the venerable statesman of Kentucky seizing upon that moment, when faction was silent in the presence of the impending danger, introduced this resolution:

"*Resolved by the House of Representatives of the Congress of the United States*, That the present deplorable civil war has been forced upon the country by the disunionists of the southern States, now in arms against the constitutional Government, and in arms around the capital; that in this national emergency, Congress, banishing all feelings of mere passion or resentment, will recollect only its duty to the whole country; that this war is not waged on their part in any spirit of oppression, or for any purpose of conquest or subjugation, or purpose of overthrowing or interfering with the rights or established institutions of those States, but to defend and maintain the *supremacy* of the Constitution, and to preserve the Union with all the dignity, equality, and rights of the several States unimpaired; and that as soon as these objects are accomplished the war ought to cease."

I thank him for this, not the least of the illustrious services he has rendered to his country. The resolution received almost the unanimous vote of the House—Burnett, of Kentucky, and Reid, of Missouri, voted against it, and they are now in the rebel army. The people indorsed this resolution as a just declaration of the object of the war. But a majority of this House refused to reaffirm it. Vague schemes of overturning the Constitution, increasing the Federal power, and reducing States into subject provinces, had intervened.

But I appeal from the judgment of this House, and do not hesitate to affirm that a vast majority of the people, at least of the Northwest, are in favor of the principles announced in that resolution. For myself, sir, I indorse and reindorse it; I approve of it in its letter and spirit; not the last clause only, but every word and sentence of it. It is the platform of the Union and the Constitution. In my judgment, whatever may have been the pretense of provocation, based on the abolition sentiment of the North, this war, which is covering this land with the shadows of unutterable agony, has been forced upon the nation by the wicked and selfish ambition of the leaders of the rebellion in their attempt to destroy the Union; abolition furnished a pretense and an occasion; and that, when the authority of the Constitution—the imperishable monument of the sacrifices and wisdom of our fathers—shall be restored, and not till then, the war should cease; for imperishable it is, sir; even if we permit this Republic to fail, the Constitution will still live, if only as a memento of the wisdom and self-denial of our fathers and of the folly and weakness of their children. I supported that resolution, sir, in the dark hour when our army was fleeing before their enemies. I still support it, sir, as embodying the just purpose of the war. And when it is declared, sir, that the war is waged for any other purpose than to maintain the majesty of the Constitution, I shall then, and not till then, despair of the Republic.

To the people of the Northwest the preservation of the Union is of overwhelming necessity. Every material interest, every element of our prosperity, is dependent upon it. If the war is for the Union, under the old guarantees, we may indulge in a confident hope of its ultimate restoration. If it is subverted to subordinate purposes, or to gratify wild and visionary schemes, no man could even indulge in the delusions of hope.

Sir, if the voice of the people could reach this Hall, it would say to the unblushing nullifiers of the national charter: "lay not your hands upon the Constitution. Dare not to touch the covenant of our fathers. Do not, on pretense of the public necessity, impair the public faith in its supremacy. Though trampled upon by traitors, who, with selfish purpose and bloody hands, have resolved on its destruction, it is still the only foundation of our political faith, and the beacon-light of our hope. We will reindorse its obligations, if need be, with the last drop of our blood. With open traitors arrayed against it, if you, its chosen defenders, recreant to faith and duty, shall dare to weaken the strength of its obligations, or tear down its limitations on our delegated power, your names, with theirs, shall only live in the just condemnation of mankind."

Independent of the obligations of the Constitution, the Northwest, if she is true to herself, will never consent to a policy which will diminish the prospect of opening up to her commerce the free navigation of the Mississippi river. The Northwest will not be the mere tributary of any other section of the Union, and will never consent that the value of her produce shall be dependent on the will of the insatiable capitalists of New York and Boston and Philadelphia and Liverpool and London, who own the great railroad connections between the West and the East, and who, since the Mississippi was closed, have seized upon every advance in the price of our produce by more than doubling the cost of transportation. Sir, while the war is waged to restore the Union, we have the double motive of loyalty to the Constitution and imperative necessity to carry it on to a successful termination. We must have a free outlet to our commerce. We will have it, sir, by higher and better guarantees than treaties between independent nations. If we should ever be so weak as to lay down our arms with the Mississippi river flowing through a foreign country and our right to navigate it dependent on treaties, while the capitalists of the East and of England control the channels of our commerce with the Atlantic coast, the Northwest will from that hour sink into a state of political as well as commercial dependence. Sir, there is too much of the self-reliant spirit of our fathers in the Northwest to submit to such dishonor. We will not, for the sake of peace, or to gratify that insane fanaticism which would make the cause of the Union subservient to wild and visionary schemes of radical change, inaugurate a policy which may make our children and our children's children who shall inhabit that great inland empire, a dependent and dishonored people. If we did, sir, eternal infamy should rest upon our memory. That man, sir, who would inspire our enemies, and divide the opinions of loyal men, by proposing peace and dishonor, or by urging a policy which would weaken the public faith in the Constitution, is no friend to his country.

This is no time for experiments. It is no time for divisions of opinion on new issues of policy. The Governments of Europe, seizing upon our misfortunes, are preparing to make this continent the theater of their triumphs, and to plant upon it the principles of despotic power. Can any man be blind to the current of events? Shall France reduce a sister republic to a despotism, and place upon its throne a scion of the decayed house of Hapsburg? Shall England insult the Republic with impunity while we weaken our strength, and remove the hopes of internal peace by impracticable and delusive schemes of policy increasing the rage and bitterness of intestine war? For how impracticable, sir, are those schemes for enfranchising those millions of Africans when, bond or free, they are in the very nature of things, while in our midst, subject to the dominant race, and many States refuse them admission on their soil. If it affected only South Carolina and her associates in treason, it would be justifiable; but it affects the whole nation.

I speak, sir, for at least a part of the people of Indiana. In their name I demand firmness, yet moderation and forbearance. In the cause of the Union she has never faltered. She has seen in the Constitution "the cloud by day, and the pillar of fire by night." She was the first State of the Union to impose, in the cause of the country, an involuntary embargo on her commerce, though her warehouses were filled and her farms covered with the produce designed for the markets of the Gulf. Her gallant army of sixty-five thousand men sprang up as if by enchantment at the cry "for the Union." They have seen the glad winds unfurl your flag on every camp from the Chesapeake bay to the Ozark mountains, and their blood has stained almost every field over which that flag has floated in triumph; they have been inspired by one purpose—the restoration of the Union.

But fanaticism seeks to pervert the war to the purposes of its own gratification. The restoration of the Union as it was under the old constitutional guarantees is no longer the leading motive of many gentlemen on this floor. The consolidation of the Government is not a new idea. Every triumph of your Army develops still stronger the encroachments which are intended

to be made on the original form of the Government. The leading idea must prevail, if the nation shall perish. Sir, the people who love the old Government of their fathers must awake to its dangers. Let them declare that their Army in the field and their Representatives in council shall harbor but one thought—the overthrow of the rebellion and the restoration of the Union as it was—and all will be well. The nation will emerge from the clouds of war to the blessed sunshine of peace, for I cannot doubt the triumph of your arms. As one of the Representatives of Indiana, I have supported, sir, and will still support every just measure of this Administration to restore the Union. No partisan interest shall control me when the Republic is in danger. I place the interest of my country far above every other interest. I will make any sacrifice to uphold the Government. But I will not be deterred from condemning, at this time, this or any other series of measures—the offspring of misguided zeal and passion, or the want of faith in our people—which tend to defeat the hope of a restoration of the Union. The citizen soldier, stricken down in battle, or worn out by the weary march, falls a willing sacrifice for the Constitution of his country, and his dying eyes light up with hope as they catch the gleam of its starry symbol, while we deliberate on measures which would overthrow the one and blot out the stars from the other.

Sir, the voice of the conservative masses must be heard. Let them resolve that the Union shall be restored as it was, and as their fathers made it; that the Constitution shall be maintained in its vigor and strength; that the form of Government shall not be changed or the old landmarks removed, even to the tithe of a hair. Let them repudiate and condemn these wild schemes of radical change in the structure of the Government and their advocates. Let them declare that the triumph of our arms shall be attended by moderation and magnanimity. Let them crush out extravagance in expenditure and peculation upon the public Treasury; and with the blessing of Heaven we will leave to our children the Republic greater, nobler, stronger than it was when we received it from our fathers. Five thousand, sir, of my own brave constituents are in the field. I should hold myself unworthy to be their Representative if any impulse of my heart or word from my lips had been disloyal to the Constitution of my country. And equally should I condemn myself if, while they are defending the Constitution against traitors in arms, I should remain silent when that Constitution is assailed in the council of the Republic, and measures inaugurated which will deprive them and their children of the fruits of their toils and sufferings.

Insatiable war has smitten many of them down far away from the homes of their childhood, the waves of the Chesapeake sound their requiem, and the Potomac laves the sod where they sleep. They have found a soldier's grave in the defiles and on the mountains of Virginia, while Kentucky receives dust as honored as that which she has left on the battle-fields of Tippecanoe and the Thames, and the wild flowers in the silent fields of the far distant prairies will nod with the sigh of the wind over many of their graves. They have fallen with honor in the flower of manhood and youth in the cause of constitutional liberty—their birthright and the heritage of their children.

I will not, sir, hesitate in the support of the cause of constitutional liberty in which they have perished. If the purpose of the war shall be changed to a war upon the institutions of States, and to reduce them to provinces, I should almost despair of the Republic. But I do not despair. I have abiding faith in the constancy of the people. Let their voice be heard above the clamor of passion for the old guarantees of their liberty, the old landmarks of the Republic, and with the noble efforts of your citizens in arms, with wise and moderate counsels, and the blessings of Heaven, we may indulge the confident belief that the sacrifices and sufferings of the nation will be more than compensated by the restoration of the fabric of the Union in all its original beauty and strength. Courage and moderation, and fortitude and patience, inspired by the good genius of the Republic, will triumph.

CONFISCATION OF REBEL PROPERTY.

SPEECH OF HON. R. MALLORY,

OF KENTUCKY,

IN THE HOUSE OF REPRESENTATIVES,

May 21, 1862.

The House having under consideration the bills to confiscate the property and free from servitude the slaves of rebels—

Mr. MALLORY said:

Mr. SPEAKER: I dislike very much to trespass upon the attention of the House at so late an hour of the session, and would not do so were it not that my connection with the committee to which this whole subject of confiscation was referred, renders it necessary that I should, at some time, present before this body my convictions in regard to this great and exciting question.

In the few remarks I intend to submit—I shall be very brief—I will not undertake to follow the argument indulged in by the gentleman from New York who has recently occupied the floor, [Mr. LANSING.] From the scope and tenor of that gentleman's speech, I take it for granted he belongs to a party in this House which is very limited in its numbers. He has announced his solemn conviction that this war must and ought to be waged against the rebels of the South for the extermination of the institution of slavery.

Mr. LANSING. Allow me to correct the gentleman. That is not the position I laid down. I laid down the position that we should emancipate the slaves of the rebels as a means of prosecuting this war.

Mr. MALLORY. I understood the gentleman to assert distinctly the proposition that under the Constitution of the United States, in the reduction of this wanton, unprovoked, and wicked rebellion, this Government had the right to resort to any and every means which it might think necessary to secure that end. I understood that to be the position which the gentleman assumed, and the whole scope and line of his argument appeared to be intended to try to prove that slavery had brought on this war; that there never can be permanent peace in this country as long as that institution exists, and that if the Government of the United States should come to that conclusion, it possessed and ought to exercise the power to exterminate slavery.

I believe, at least I hope, that opinion is shared by few Representatives on this floor. I am not to be led into an argument based upon the supposition that such is the opinion and purpose of a large portion of the members of this House. I will merely protest against and denounce it; I shall assume that it is not, and in the few remarks which I shall submit, I will undertake to confine myself to the legitimate subject before the House, and discuss the confiscation bills reported by the select committee of seven.

I cannot concur in the opinion expressed by many gentlemen for whom I entertain great respect, and whose legal opinions I have been taught to consider correct, that there is in the Constitution of the United States no inhibition on Congress to forfeit the estates of persons who have been guilty of the crime of treason and thereof convicted and attainted. I approach this subject with much diffidence. I do not profess to be so skilled and learned in intricate constitutional questions as many other members on this floor. I am a plain, blunt man, and in that spirit approach every subject which I undertake to discuss. But I think there are great leading provisions of the Constitution of the United States so plain in their import that a wayfaring man, though a fool, cannot err in their construction and true interpretation. I consider that provision which applies to the subject of forfeiture for treason one of these. Unlike the gentleman from Missouri, [Mr. NOELL,] I have been taught to believe that the crime of treason is defined in the Constitution of the United States, and that it is defined so clearly and distinctly that no man can misconceive and misunderstand it. I have been taught that it consists "in levying war against the United States, and in adhering to their enemies, giving them aid and comfort." I have also been taught that the Constitution plainly and unequivocally prohibits the forfeiture of the property of an attainted traitor, except during his lifetime. This is the view in which I have been educated. It is, I think, the view of this subject entertained and expressed by the framers of the Constitution.

The crime of treason is distinctly defined, and, as has been frequently said, no punishment is prescribed for it in the Constitution. That is left for the action of Congress. You are told by the Constitution what treason is, but you are not told what shall be its punishment. In that lies the discretion of Congress. You can declare by your law that the traitor shall suffer death; that he shall be imprisoned for life or a term of years. You can decree by your law that he shall be banished from the country, and deprived of the protection of the Government he has outraged and attempted to subvert. You can do all this; but by the plain provision of the Constitution, when you approach his property and attempt to punish him by confiscating it, you are expressly forbidden to impose the penalty of forfeiture, except during the life of the person attainted. This prohibition, emphatically expressed in the Constitution, applies to the crime of treason by whatever name it may be called. Can you call it murder, and then, as a consequence of conviction and judgment, decree that the estate of the murderer shall be forfeited forever? I apprehend not. This crime is so distinctly described in the Constitution of the United States that when it is committed, call it by any name you please, it is still the crime of treason. You cannot say it is the simple offense of rebellion against the Government of the United States if the act comes within the constitutional definition of treason. You cannot ignore the crime of treason by calling the act rebellion.

If you call an act rebellion, or resistance to the laws of the United States, and punish it by fine, or confiscation, or forfeiture, when you analyze it and find that it consists in "levying war against the United States, adhering to their enemies, giving them aid and comfort," you are forced to the conclusion that whatever may be the *name* given the act, the *crime* is *treason*, and you are at once confronted and controlled in your effort to punish it by all the provisions and limitations of the Constitution concerning treason. No attainder of treason shall work corruption of blood, or forfeiture, except during the life of the person attainted.

This may be an old-fashioned view of the subject. It may not suit the new-fangled notions which of late prevail in this country, but it is my conviction, as solemnly and as fixedly settled in my mind as any great truth inculcated by the fathers of the Republic, and from which I cannot be induced to wander and depart.

I am opposed to the bills reported by the special committee, because this great constitutional fact, limitation, and inhibition, is overlooked and disregarded by them, and because I cannot see anywhere in the bills the slightest respect to that constitutional limitation of our power.

Every forfeiture decreed by this bill, all the confiscation—if you choose to call it by that name—provided for in it, is so provided because the party whose property is to be confiscated has been guilty of the crime of treason against the Government of the United States, and the provisions of this bill are that such property shall be seized by the Government of the United States and sold, and the proceeds put into the Treasury of the United States, as the property of the Government, in fee simple and forever.

I know, Mr. Speaker, an effort has been made by many ingenious, if not learned men, to evade this limitation and restriction by saying you do not attaint the individual guilty of this crime, that you do not pursue the person who has perpetrated it, that you leave him to go at large, institute no trial, do not bring him to judgment and conviction, but institute what gentlemen call a proceeding *in rem* against his property. It is gravely argued that by doing this and letting the offender go at large, you have the right to attach his property and forfeit it for the crime of treason, when you would not have that right if you pursued the party to conviction and attainder. I never can be brought to sanction any such evasion of the Constitution of the United States as this. I can never, from the learning I have had instilled

into me in relation to the meaning of this very instrument, be brought to sanction a proceeding which, ignoring the trial and personal punishment of a party guilty of an offense, jumps over the proceeding against him, and takes hold of his property, so that you can punish him through that, and that alone. One of the greatest bulwarks of that Constitution, if not the greatest, is the clause in which is incorporated that provision of the Magna Charta, that no man shall be deprived of his life, liberty, or property, except by due process of law.

Is this great provision regarded in these proceedings *in rem*? Why is the party punished by the forfeiture of his property? Because he is guilty of treason, or, as the learned gentleman from Massachusetts [Mr. ELIOT] calls it, rebellion. He is punished, by having his property taken from him, because he has been guilty of rebellion against the Government of the United States; that is, bearing arms and levying war against the Government of the United States. It is not rebellion, sir, it is treason; the Constitution compels you to call it treason; it is so necessarily. But says he, and say others, we can ignore the crime; we can let the offender go unpunished in his person; we can disregard the necessity for his conviction of crime, and, by this proceeding *in rem*, by seizing his property, punish him for an offense of which he has never been judicially found guilty. You say that it is proper to punish him for treason or for rebellion, if you choose, and you are guilty of the enormous and outrageous wrong of punishing a man, by depriving him of all his property, before you have found him guilty in a court of justice of the crime for which you punish him. That, I suppose, in the opinion of these gentlemen, is the "due process of law" contemplated by the Constitution of the United States. If it be, I have greatly misconceived that instrument, and the rights secured to us by it.

Now, sir, I have always heard that one of the most infamous and damnable things that could be done was to hang a man and then try him for the offense for which you hang him. Is there any justice in that? But the enormity of such a proceeding is excelled by that of the measures which the distinguished chairman of the committee on confiscation proposes to this House; for in this bill he proposes to take a man's property and forfeit it to the Government without first trying him and proving him guilty of the crime for which he is thus punished, and he is never to be afforded a trial for the offense. The gentleman from Massachusetts and my distinguished friend from Missouri [Mr. NOELL] say this is the "due process of law." If it be, it is such a law as could only be enacted by the vilest despot that ever reigned on the face of God's earth. Our fathers knew nothing of a proceeding of this sort. They were not in the habit of resorting to this hocus pocus, this ground and lofty tumbling, this prestidigitation, for the purpose of getting at the means of punishing a citizen for a crime of which he has never been convicted. The usual practice was—and God grant that we may get back again to that old custom—to arraign him, to confront him with his accuser and witnesses, try him, find him guilty of the offense, and then punish him in his person or in his pocket, or both. The sooner we come back to that old practice, the sooner we acknowledge by our legislation in this Hall the true doctrine and the true teaching of the Constitution of the United States, the sooner will we become the respected body which the Congress of the United States ought to be in the estimation of the people of this country and of the world.

Mr. Speaker, it was not my intention to have pursued this branch of the subject even so far as this. I am candid and free to admit that, in the present juncture of public affairs, with great and imminent dangers impending over and surrounding us, I deem it inexpedient to adopt any act of confiscation or forfeiture of the estates of rebels engaged in this wicked and unprovoked rebellion. I, sir, have no sympathy with that rebellion.

Mr. BINGHAM. Will the gentleman allow me to make an inquiry of him?

Mr. MALLORY. I would rather that the gentleman would allow me to go on with my remarks without interruption.

Mr. BINGHAM. I have no desire to interrupt the line of the gentleman's remarks. I simply wanted to make an inquiry for my own information.

Mr. MALLORY. I will hear the gentleman with a great deal of pleasure.

Mr. BINGHAM. I desire to inquire of the gentleman whether he has ever seen in any commentary upon the Constitution, or in anything connected with the debates in the national convention, or in any of the statutes, any intimation that the word "forfeiture" in the Constitution is necessarily limited to estates?

Mr. MALLORY. Mr. Speaker, in the investigation of this subject, when I found that the Constitution of the United States limited our powers in punishing the crime of treason, so far as the property of the person was concerned, to forfeiture during the life of the party, I inquired what was meant by "forfeiture." I found, on searching the English law, that forfeiture means taking (as a punishment for crime) by the king or Government any property that a man owns, and I supposed that the word forfeiture in the Constitution meant and was intended to mean nothing else; that it applied to property in estate and could apply to nothing else. I did not suppose that it had entered into the imagination of any man to conceive that it had any reference to anything else than the estate of the person attainted. What else could it have been intended to mean? Does it mean that the party attainted of treason should not forfeit his life except during the life of the person so attainted?

Mr. BINGHAM. I am perfectly willing to answer the gentleman's question, if he desires me to do so.

Mr. MALLORY. I will hear the gentleman with pleasure.

Mr. BINGHAM. I undertake to say that a careful examination of the original draft of the Constitution will lead the gentleman himself to the conclusion that the terms "corruption of blood" and "forfeiture," as used in that Constitution, are convertible terms, and that the word "estate" is neither expressed nor implied in that connection.

Mr. MALLORY. Mr. Speaker, I have looked in the books, not perhaps to the same extent, not perhaps with the same research, not perhaps with the same learning and natural acumen as the gentleman, but I have looked at the books with some care in relation to this matter, and that examination has led my mind to the conclusion that corruption of blood and forfeiture were two different things. That is my understanding. I may be very much in error. If I am, I will most cheerfully stand corrected by any learned gentleman upon this floor. I believe that that is the common law. I understand that is the interpretation, not only of common lawyers, but even of uncommon lawyers.

Mr. BINGHAM. Will the gentleman allow me to inquire what the term "corruption of blood" means, if it ever had any significance at all except the forfeiture of one right or another?

Mr. MALLORY. The words "corruption of blood?"

Mr. BINGHAM. Yes, sir.

Mr. MALLORY. I have always understood that by "corruption of blood," which is the result of attainder, all power of transmitting through the blood any estate or inheritance was cut off; that inheritance could *not* be derived by his descendants through one whose blood was corrupted by attaint of treason. This is my understanding of the English law.

Mr. BINGHAM. I would inquire if that is not the forfeiture of a right that pertains to the citizen?

Mr. MALLORY. Unquestionably; the right of inheritance pertains to all citizens, and that right is forfeited and lost by the descendants and heirs of the person whose blood is corrupted, and not by the criminal. It is no loss on his part. It was this corruption of the blood and forfeiture which were worked by attainder of treason by the laws of England, that the provision of our Constitution, on which I have been commenting, was intended to prohibit.

Mr. Speaker, I wish to proceed, in the discussion of this question, to other topics. I wish to review the policy of these measures, and the scope and purpose of those who are its advocates, or at least of a large number of those who are its advocates upon this floor. The learned gentleman from Massachusetts, [Mr. ELIOT,] the chairman of the committee on confiscation, has reported to this House two bills upon the subject. One of them, as he thinks, entirely ignores the subject of slavery; it makes no provision in relation to slaves *eo nomine;* it simply provides that all the property of certain classes, named in the bill, shall be forfeited to the Government of the United States, because of the commission by them of the crime of rebellion, or, as I call it, treason.

Mr. THOMAS, of Massachusetts. Will the gentleman from Kentucky allow me to interrupt him?

Mr. MALLORY. Certainly.

Mr. THOMAS, of Massachusetts. I beg leave to call the attention of the gentleman from Kentucky to the fact that this bill proposes to confiscate the property of thousands who have never committed any crime.

Mr. MALLORY. I am coming to that, sir. That was what I was about to attempt to show. I was about to remark that the first portion of the bill confined its operation to the classes I have spoken of. The second, or some other section of the bill, provides that after the President of the United States has issued his proclamation to the inhabitants of a rebellious State, ordering them to lay down their arms and submit to the Government and laws of the Union, the property of every man who does not obey that proclamation shall become forfeited to the Government of the United States. I contend, with my learned friend from Massachusetts, that this provision of the bill is sweeping and universal, and that, from the very necessities of the case, it embraces all men, of every degree of wealth and character. Do you tell me that if the President of the United States determines to issue his solemn proclamation (and he does issue his proclamations very solemnly) ordering the people of Alabama at the present time to lay down their arms under the penalty not only of losing their lives if they persevere in their rebellion, but of also losing their property, that proclamation can ever be expected to have any effect within the limits of that State? Do you not know that a power hostile to the Government of the United States has control and authority within its limits? Do you believe that by any agency that you or the President can devise, this proclamation can ever find its way into the State of Alabama? And if you were so lucky as to penetrate the bristling lines of the enemy, and to cause the proclamation to be read at every court-house and cross-road in the State of Alabama, do you believe that even the loyal men, those who have reluctantly and unwillingly engaged in this rebellion, those who would willingly lay down their arms (as I believe hundreds in that State would) and aid the Government of the United States in asserting the supremacy of the laws and of the Constitution, do you believe that one of those men has the power to obey that proclamation? History tells us of a lawgiver who hung up his laws so high that they could not be read, and yet required them to be obeyed. It seems to me that the provisions of this act assimilate, in their character of justice and mercy, to the conduct of that lawgiver.

But, sir, this bill, as the gentleman from Massachusetts [Mr. ELIOT] intended to show, is not restricted to other than slave property. I suggest to that distinguished gentleman, that by the provisions of the bill itself, which forfeits all the property of those persons described in it, slaves are included as property, as every other description of property is; that the effect and result of his bill will be that slaves will be proceeded against *in rem*, as every other kind of property will be, and that if his bill be honestly carried out, they will be conveyed to the shambles and sold by the agent of the Government of the United States at public auction, and the proceeds of the sale placed in the Treasury of the United States, to help defray the expenses of the war. I am supposing that both his bills do not pass. I believe he is himself hopeless of the passage of the second bill, but thinks he will get the first bill through. Each bill stands on its own merits. They are to be voted on separately; and I am supposing what the effect of the policy will be if his bill in respect to slaves be rejected, and the bill I am discussing be passed.

Suppose that those charged with the execution of this act, those who conduct these proceedings *in rem*, should decide that slaves are property, they will be obliged, if they deem the law constitutional, to order their sale as they do that of other property. But if they concur in the opinion of the distinguished gentleman from Massachusetts, that there can be no property in man; that a slave is a person, not a chattel; that he is not one in whom property can be held, then how will it be? If he be not property, he is a person responsible for his actions to his God, his country, and the law. He can commit the crime of treason as much as any other individual can commit it. If he has been employed by the rebels; if he has been made to aid rebellion; to further its objects or purposes in any way that may be called levying war against the United States, or giving aid and comfort to the enemy, then he is guilty of the crime of treason against the United States, and can be arraigned, tried, convicted and executed for it. This view of the case cannot be met by the assertion that he acted under duress, that he was obliged to obey his master, and that by the laws of Alabama or any other southern State, if his master ordered him to commit a treasonable act, he could not refuse obedience. He is prevented from setting up that defense, because a minor, who is supposed by law to be under the influence and control of his parents and guardian, as the slave is under the control and influence of his master, can commit the crime of treason, and may be punished for it.

This view of the subject, Mr. Speaker, may not cause the gentleman from Massachusetts to have much objection to this bill, and may not enlist against it many ultra gentlemen on that side of the House. I know that this slavery question embarrasses them very much at this time; and perhaps when my friend finds that he can, by a proceeding *in rem* or in any other way, have these slaves tried, convicted, and executed for treason, he might consider that the most expeditious way of getting rid of slavery in the southern States.

But, Mr. Speaker, I do not suppose that the gentleman from Massachusetts contemplates anything of that sort. I believe, however, that there are a large number of gentlemen on that side of the House who advocate bills for the confiscation of the property of rebels, not because they want to replenish the Treasury of the United States, not because they want to punish those engaged in rebellion against the Government of the United States, not because of any enormous conception they have been induced to entertain of the crime of treason and of the propriety of punishing it, but they have been induced to advocate these bills for the confiscation of the estates of rebels of the South in order to get rid of the institution of slavery. I know that is their object. They have acknowledged it to me in conversation. They have said to me repeatedly that were it not for the fact that they regarded this as a potent agency for emancipation, they would oppose confiscation. That is their avowed and only purpose. And in view of that fact, I want for a few moments to call the attention of those gentlemen to what they have said and pledged upon this subject. I ask them if they have not, in the Congress of the United States, pledged themselves to the belief that neither Congress nor the free States have any power over the institution of slavery in the States where it exists by law?

It is not necessary for me to go back to the various acts and resolutions that corroborate this assertion of mine. I allude to the fact, intending to insert in my printed remarks the resolution offered by the distinguished gentleman from Ohio, now a Senator of the United States, in the last Congress—I mean Mr. JOHN SHERMAN. And I will add that no speech was made during that Congress, no resolution was offered upon the subject of slavery at all, that did not reiterate and declare that neither Congress nor the free States of this Union had any right, either directly or indirectly, to interfere with slavery where it exists by law. And I tell you that, when I went home from the Congress of the United States, and engaged in that arduous struggle in which I went upon the stump for the Union and the Constitution, and against the rebellion in the southern States, there was no argument that I used in that canvass with more effect than the solemn pledge repeatedly made by members of the Republican party on the floor of this House that in no instance would they be induced, either through the agency of Congress or any other agency, to interfere with slavery in the States where it existed.

The people of my State had been taught by demagogues, by advocates of the rebellion there, to believe that the northern States were the sworn enemies of their rights and their institutions. I had been with you, I had mingled with you freely in social intercourse, and here in this Hall, and had everywhere received the assurance and was led to believe that in no instance would you be guilty of such interference. I assured the people of Kentucky of that fact. I assured them that they and their institutions and their rights were as sacred and as secure under the domination of the Republican party as they had ever been. I told the people of Kentucky, as I was told by you in this House, in every speech made by Republicans upon this floor, and by every vote given by them, that all they intended to do upon the subject of slavery was to restrict it to where it existed, to prevent its further extension into the Territories of the United States, and that their intention in this respect was a matter of no moment to the people of the southern States. I told them there was no Territory into which slavery could go if the unlimited right were extended to go into any and every Territory in the possession of the United States. I told them that the Wilmot proviso had been enacted by God Almighty over all these Territories by connecting with them a climate and soil such as to prohibit slavery as effectually as any enactment of Congress could do. I said to them that you were willing even not to go to the extent of inhibiting slavery by congressional enactment in any future Territory; and when you, Mr. Speaker, in the last Congress, brought forward bills for the organization of every foot of territory owned by the people of the United States, you sedulously ignored the Wilmot proviso in those bills, and you did it for a purpose. You did it that it might stand a pledge to the South that you would not in any way interfere with the institution of slavery.

Well, sir, what will my people think at this time of your conduct in the face of all these solemn promises and pledges? I ask you that question in no spirit of passion; I ask the question, God knows, with profound humiliation and sorrow. I ask you, were you in the place of our people, how you would regard the legislation of the present Congress, how you would regard these confiscation bills, in the light of the most solemn pledges, protestations, and promises made in every speech and in every resolution of the last Congress? Have you kept your sworn faith? Have you observed your solemn pledges and promises? I am not here to utter words of crimination or reflection. I am here to ask from my place upon this floor the simple question, if you were in our place, in the place of our people, and we in yours, would you regard us as having carried out the solemn pledges we had made?

I know the gentleman from Ohio over the way [Mr. BINGHAM] will take this view of the question. The gentleman was, perhaps, the only one on that side of the House who, in view of the great events that, in his mind, were speedily to be accomplished, stood out against the resolution of JOHN SHERMAN, and pointed out to those men who advocated and passed it what would be the consequence of its passage. I do not think the distinguished gentleman from Ohio voted for the resolution.

Mr. BINGHAM. Will the gentleman allow me to make this remark? I thought that resolution was unfair to ourselves and unfair to the people of the South. I refused to vote for the resolution as it was introduced and passed on motion of the gentleman from New York, (Mr. Palmer.) I rose in my place to record my vote against it, but my colleague from the Mansfield district asked me to withhold my vote, saying that we would reconsider the resolution and pass another in its place which would not be objectionable. My colleague did introduce a substitute for the resolution, which was passed. When he introduced it, I asked him, as a matter of fairness, that I should be permitted to submit an amendment, to insert these four words: "in time of peace," but he refused, and the resolution was passed under the previous question.

Mr. MALLORY. Yes, sir; and no other gentleman in the whole Republican party in the House took the same view as my distinguished friend from Ohio. That is precisely as I want the fact to go upon record. There was no other gentleman upon the floor of this House to support the gentleman from Ohio in the qualification that the declaration was only intended to be binding in time of peace. He asked them to except times of war, and they refused to do it.

Mr. WADSWORTH. And that vote was taken, I think, on the 9th day of February, when seven States had already seceded from the Union.

Mr. MALLORY. I was aware of that fact, and I am obliged to my colleague for stating it. There was then not war, not actual war, but there was a state of hostilities, and there should have been war. If I had been President of the United States I would have used all the power of the Government to have crushed out this wicked rebellion. In my judgment, nothing less than treason in the Administration prevented the existence, at that time, of an actual state of war. I am not sure, upon reflection, but war had actually commenced—I think the Star of the West had been fired on prior to that time by the rebels in Charleston harbor, and that was an act of war.

Mr. Speaker, I have heard it charged over and over again upon the other side of the Hall that slavery is the cause of this war. To this charge I beg here to enter my most solemn protest and denial. Slavery *per se* is not the cause of this war. I admit that this war has been brought on by the use made of the institution of slavery both at the South and at the North. I admit that this institution of slavery, this right of property in slaves, has been seized by fanatics and madmen, by scoundrels and villains, both in the North and in the South, for the destruction of this Government.

Sir, if it is true that the use made of the institution of slavery brought on this war, is that any reason why it should be exterminated? If it be, is it not equally logical to argue that anything else that *might have* been the cause of this war—anything which, from the history of our country, we are forced to the conclusion could have been easily made the cause of rebellion or war—ought also to be abolished and exterminated? Do not you know that in 1832 South Carolina was upon the eve of occupying the position she occupies now—a position of rebellion against the Government of the United States—because of your tariff laws, and your restrictions upon free trade? Why not, then, abolish the tariff system, and declare by solemn enactment that free trade shall be the permanent policy of this Government, because a tariff may be made the cause of a rebellion? In view of the fact that the State of the distinguished gentleman before me [Mr. THOMAS, of Massachusetts,] was once on the eve of a rebellion against the Government of the United States, and did take some steps in that direction, because restrictions were laid upon commerce, why not say that commerce, because it may be the cause of a rebellion, shall be abolished? Why not say, because we intend that the country shall be safe in the future, because we intend that nothing shall be left which can possibly be used hereafter to incite rebellion and treason, therefore we will abolish commerce.

Is not that argument as logical and as legitimate as that you must abolish slavery because slavery may be the cause of war? [A VOICE. The whisky rebellion.] My friend says, the whisky rebellion. Yes, sir, whisky has been the cause of a rebellion, yet did you ever hear the enemies of that agent of mischief, as it is called by many, propose its destruction for that cause? I have never seen that that was assigned as a reason for its annihilation by the advocates of the "Maine law." I would not lay violent hands on whisky without constitutional warrant. I would say to the gentleman from New York, [Mr. LANSING,] and the gentleman from Massachusetts, [Mr. ELIOT,] who have enlarged upon this subject, that even religion has caused more wars and turmoils than any one other subject, and, according to their theory, we ought, by solemn enactment, to abolish the Christian religion.

Now, I am no propagandist of slavery; I am the owner of slaves, and the descendant of men

who, as far back as I can trace them in America, were the owners of slaves, and I have made the declaration upon this floor that the condition of slavery is the very best condition in which you can place the African race. That is my deliberate conviction. I mean here in the United States of America, and in those States where slavery exists.

I repeat, I am no slavery propagandist. I will never consent to *impose* slavery on an unwilling people. I have said on a former occasion, and repeat here, that if I believed that slavery was inconsistent with the enjoyment of constitutional freedom, I would oppose slavery, and strive to persuade the people of my State to "wipe it out." But I said then, as I assert now, that there was no such incompatibility. Slavery existed at the time the great principles of political liberty were established and put into practice by the adoption of the Constitution of the United States. Those great rights and slavery have coexisted ever since, and can continue to coexist forever. The interference with it by Congress in States where it exists is in violation and destructive of all those great rights.

My conviction is that when these gentlemen shall have worked out their crusade, when they shall have accomplished their object by confiscation and emancipation, by all and every means, constitutional and unconstitutional, under the plea of necessity, they will find themselves in a predicament harder to extricate themselves from than that in which they now are. What do you intend to do with the slaves when they are freed? Where will you give them a tarrying place? Do you expect to place them upon the lands of the South, where the climate is congenial to them, and where the soil yields those products in the cultivation of which their labor is peculiarly profitable? Do you intend to turn the three millions of slaves you may emancipate by this confiscation bill loose among the free whites of the southern States where they are now held in bondage? Do you intend, by a course like this, to inaugurate scenes like those which occurred in Hayti some years ago, a war of extermination between the white and black races, until, after scenes of carnage and horror, that race is swept away—utterly extirpated? I hope not, for the sake of humanity. I hope there is not a man here so deaf to the calls of humanity, so indifferent to its claims, as to propose to inflict upon that race and the white race such a curse as that.

What, then, do you propose to do with them? Do you propose to let them go from the South, redeemed and regenerated as you say, into your free States of the North? Oh, no, you contemplate no such condition as that for them. You exclude them, as you would a leper, from your States. You say they shall not come among you and participate in that liberty of which you boast so much, and which you say should be extended to every human being. You make the emancipated slave a pariah and an outcast. You do not allow him the privileges of a freeman, though you here contend for such privileges for every human being. Deliver me from all such philanthropy and benevolence as that.

Mr. BINGHAM. Allow me to remind the gentleman that his remarks are too general; that he does injustice to a majority of the free States of this Union. A large majority of them do not exclude any African from them.

Mr. MALLORY. I ask the gentleman from Ohio if he is willing to throw open the doors of that great and noble State, that rich, fruitful, and productive State, to the three millions of slaves that may be liberated by these emancipation and confiscation bills?

Mr. BINGHAM. Its doors are open now.

Mr. WICKLIFFE. When did you repeal the law prohibiting them?

Mr. BINGHAM. As soon as we turned the Democratic party out of power. [Laughter.]

Mr. MALLORY. I know that the gentleman from Ohio does not intend that this exodus from the South shall find its way into the State of Ohio, as the Israelites did from Egypt into Palestine. No; he has too much regard for that State, and is too anxious that its fields shall be tilled by free white labor, and has too high a sense of the character and attributes of the Anglo-Saxon race, ever to be willing that the blacks shall go there and be the competitors of the free white men of Ohio for the rewards of labor. It may be that Ohio may now permit the entrance of free negroes occasionally, but when that immense swarm of negroes, worse than the swarm of locusts that destroyed Egypt, commences to pour itself over into that State, the doors will be closed against them, and he knows it.

Mr. BINGHAM. I desire to say to the gentleman that I have no idea myself that under any possible pressure I will ever consent that any man born upon the soil of this Republic, by any vote or word of mine, shall be excluded from the limits of any State, my own included.

Mr. MALLORY. I learn from that that the gentleman is an exception, for that is not the sentiment which prevails among those with whom he is acting. That is not the character of most of these philanthropists and humanitarians.

Mr. COX. I will say, too, that the sentiment of my colleague is not the sentiment of the people of Ohio; and that as soon as they have a chance to restore the Democratic party, they will keep out the blacks and prevent their competing with white labor.

Mr. BINGHAM. I have no doubt of that; but it will be a good while after this before they will have the power.

Mr. MALLORY. Having obtained from the gentleman from Ohio an expression of humanity and benevolence for which I was not unprepared, let me go further, and ask him if he is willing to grant to this horde of blacks, let loose from the southern States, free ingress into Ohio, and bestow upon them all the rights of free white citizens, the rights and privileges and attributes of American free men? Will he allow them to be judges, and members of the Legislature, and members of Congress and Senators from Ohio?

Mr. BINGHAM. I am ready to answer that question. I answered it once before, I thought, to the satisfaction of the gentleman's venerable colleague, [Mr. WICKLIFFE.] I said then, what every gentleman in this House knows right well, that political privileges, among which is the privilege of the elective franchise, belong exclusively and necessarily, under every form of government beneath the sun where it is exercised, to the acting majority, and whenever it accords with the popular sentiment and will, and not before, they may be extended to either black citizens of the United States or any other class of citizens of the United States now excluded from the elective franchise. The fundamental law of the State of Ohio excludes the entertainment of that idea by the citizen, because it limits the elective franchise to white persons. I would prefer that the limitation had not been put there, knowing, as I do, that an overwhelming majority of the men who wrought out our independence scorned to put it into the first charter of the American Government, and, if I recollect aright, by the unanimous vote of the Representatives of eight States, to the vote of the Representatives of two of the smallest in the Confederacy.

Mr. MALLORY. I am obliged to the gentleman from Ohio for his answer. He says that this whole matter to which I have called his attention is to be disposed of by the majority of the white men.

[Here the hammer fell.]

Mr. MALLORY. I hope I shall be permitted to proceed for a few minutes longer.

Mr. BINGHAM. I hope so.

Mr. MALLORY. I am always willing to extend the same privilege to others, and have never objected to it.

The SPEAKER. If there is no objection, the gentleman will proceed.

There was no objection.

Mr. MALLORY. In response to what has fallen from the lips of the gentleman from Ohio, inasmuch as the majority of the people of his State have control of this matter, and inasmuch as he is a great leader in that State, for which leadership he is doubtless qualified by his brilliant talents and his profound learning, I wish to ask him if he will use his great and powerful influence in Ohio so to guide and control that majority as to cause it in its legislative supremacy to concede to the poor liberated Africans these great blessings, the right to hold office in the State of Ohio under its constitution, and the right to vote.

Mr. BINGHAM. The gentleman does me honor overmuch in assuming that I have any great amount of influence among men; but in answer to his question I am very free to say that I do not undertake, according to my own judgment, to accomplish anything except in its right time and in its right season. I do claim, however, for myself, and I have never hesitated to say so, that it is the duty of the majority, in so far as may accord with their own sentiment of the public safety, to extend the elective franchise to all natural-born citizens, and to all naturalized citizens who pay taxes, and are resident within the State; and so the gentleman has my answer.

Mr. MALLORY. Well, his answer is oracular.

Mr. BINGHAM. It may be oracular.

Mr. MALLORY. He told us without hesitation that he would throw open the doors of Ohio to the blacks; he told us that he had no hesitation in saying that the matter of admitting them to vote and hold office depended on the will of the majority; but when I come to the other and more serious question, we have the answer which the House has heard, and which I will not repeat.

Mr. BINGHAM. The gentleman will pardon me for making this suggestion, that in what I have already said I do not recognize the right of the majority to expel any natural-born citizen from any rood of the Republic, or to deprive him of his right to live there, to work there, and to enjoy the fruits of his own toil; but I do recognize the right of the majority, and I have so said before, to limit and restrain the exercise of political privileges, among which is the right of suffrage.

Mr. MALLORY. Then I understand that the gentleman will not say what he would advise the majority to do at this time in relation to this matter. Now, I think it is very clear, whatever may be said by the gentleman, that this class of persons who are to be liberated in the slave States of the South by these laws are not to be admitted, in a great measure at least, into the free States of the North. Two thirds, if not three fourths or four fifths of those States, will exclude them. Now, when you set three millions of men free by your solemn enactment, you are bound by every consideration of justice and humanity to provide for them. If you do not do it, I scorn and detest your humanity. You must provide for these people if you free them. How will you do it? Will you colonize them? Have you, gentlemen, who know that the people of this country are staggering now under the enormous burdens imposed upon them by this terrible and necessary war, ever reflected upon the immense accumulation of taxation you will have to impose upon your constituents if you undertake to colonize and support negroes? If you liberate them, you are bound by every consideration of duty and common honesty to support and provide for them. It is a low estimate to say that it will cost $400 apiece to purchase territory for them, to transport them to it and colonize them there, and to support them until they are able to support themselves. Thus you will impose a debt of $1,200,000,000 upon this already overburdened nation. Are you willing to go home and face this responsibility before your people? Are you willing to go home and say to those who sent you here, "we have taken three millions of happy and contented slaves, who were in the most proper position in which they could be placed by human laws, and conferred upon them the great and inestimable blessing of freedom, and in order not to let these miserable creatures starve and perish in our land, we have determined to tax you to the amount of $1,200,000,000 to colonize and support them?" I would not like to go to my people and tell them that I proposed to make them share in such a burden. I would not be welcomed with the declaration, "Well done, good and faithful servant;" they would repel me from their confidence and trust.

Mr. Speaker, I heard the other day of a distinguished philanthropist on this floor, one of those gentlemen who are strong advocates of these humanitarian schemes, one of those who believe in the equality of the white and black races, one of those who believe that one of the greatest boons ever extended to any people by any legislative body in the world was that tendered by the resolution which was passed a short time since in the offer to those States which will emancipate their slaves of remuneration for the loss and inconvenience

incurred by that emancipation; a friend of mine asked him if he was willing to go home and tell his people that he would tax them to raise the money necessary to remunerate the slaveholders: "No, sir," said he; "I will do no such thing; we do not contemplate any such thing; in my country, when we are about to build a road, and it becomes necessary to ascertain the damage a man may sustain from having the road run through his land, the rule we adopt is to make a jury take an estimate of the injury he will suffer by the road occupying his land, and of the benefit he will derive from its passage through his land, and have the balance struck on either side. I do not think," said he "that there exists a man who would not say that a slave State was more benefited than injured by the abolition of slavery, so that, instead of our paying them for it, they would have to pay us."

My friend [Mr. WADSWORTH] said some time ago that there were two kinds of faith, that good old honest faith which our fathers gave and observed, and that other kind of faith which among the Romans became proverbial and infamous—Punic faith. I leave the House to say which kind would be practiced by those who hold this doctrine.

Mr. Speaker, I will only add, in conclusion, that I believe that, without forced construction, ample power can be derived from the Constitution to put down this rebellion. I believe, sir, that if for any purposes you violate that instrument in its plain teachings; if you exercise powers that are *clearly* not granted, or usurp those that are certainly prohibited, you add incalculably to the difficulty and complication of our position. I protest against such usurpation. I do it not as the defender and advocate of the rebel, who has no right to set up claim under the Constitution and laws of a Government against which he has impiously raised his arm for its destruction; but I do it in my *own* right, and in defense of the rights of my loyal constituents; and in defense of the rights of millions of loyal freemen throughout the Union, I demand that you redeem the solemn pledge you made the country and the world, by which you recruited an army of more than six hundred thousand *men*, not *subjects*, but *free, intelligent volunteers*, and secured the free offer of hundreds of millions of the nation's treasure. In that pledge you solemnly resolve:

"That the present deplorable civil war has been forced upon the country by the disunionists of the southern States, now in arms against the constitutional Government, and in arms around the capital; that in this national emergency, Congress, banishing all feelings of mere passion or resentment, will recollect only its duty to the whole country; that this war is not waged on their part in any spirit of oppression, or for any purpose of conquest or subjugation, or purpose of overthrowing or interfering with the rights or established institutions of those States, but to defend and maintain the *supremacy* of the Constitution, and to preserve the Union with all the dignity, equality, and rights of the several States unimpaired; and that as soon as these objects are accomplished the war ought to cease."

Redeem this, and dark as the prospect now is, the bright morning of a glorious future, one of peace and concord, of prosperity and power, such as no other nation has ever known, will speedily break on us. Disregard it, violate it, and we plunge into a fathomless abyss, from whose dark depths no human vision can see the way of extrication.

POSTAL REFORM.

SPEECH OF HON. JOHN HUTCHINS,

OF OHIO,

IN THE HOUSE OF REPRESENTATIVES,

May 19, 1862,

In favor of the bill (H. R. No. 266) to equalize the rates of postage, establish a uniform method of letter delivery in cities, create a money order system, abolish franking, and for other purposes.

Mr. HUTCHINS said:

Mr. CHAIRMAN: I propose to break in upon the monotony of congressional debate by the discussion of a subject having little or nothing to do with the conduct of the present war or the many important and exciting questions involved in its prosecution.

I know it is next to impossible in the present state of the public mind to get the ear of the House or the country upon any subject not directly or indirectly connected with the rebellion, or the means to be employed in putting it down. By a bill which I have introduced and have had referred to the Committee on the Post Office and Post Roads, I have endeavored to suggest important reforms in our postal system. The subject is important in the present state of the country, for if there ever was a time when the people needed, and when they have a right to demand a postal system, convenient and cheap, that time is the present. The interests of commerce, of manufactures, of agriculture, and the material and social wants of our people, now greatly embarrassed by the war and its consequences, are intimately and inseparably connected with the means of communication afforded by the Post Office Department.

The present postal system of commercial countries owes its origin to the necessities of Government, and although primarily used for State purposes, it soon became the means of conveying intelligence for private persons for a consideration. The subjects and interests to be provided for and accommodated by a postal system are multitudinous, embracing politics, commerce, agriculture, mechanics, education, religion, and all the varied wants and social and material interests of modern civilization. It has been argued with great force that it is not necessarily the province of Government to furnish postal facilities for the people any more than to do their carrying trade generally. The framers of our Constitution did not deem it necessary to make it obligatory on Congress to establish a postal system, but were content to give Congress the power "to establish post offices and post roads;" and whenever, in the judgment of Congress, the postal wants of the Government and of the people can be better provided for by private enterprise than through the agency of the Post Office Department, it will become its duty to repeal all laws "establishing post offices and post roads." I am of the opinion that in all our thickly populated commercial States postal facilities could be as well and cheaply provided by private enterprise as by Government. The agricultural and new States would probably suffer by withholding governmental aid, and in the present state of our country it is not probable that a proposition to repeal the postal laws and abolish the Post Office would meet with the approval or accord with the convenience of the people. It is therefore important that our postal system should be adapted to the business and social wants of the community at as low a rate of postage as is consistent with the revenue interest of the Government.

I have for many years been an admirer of the low and uniform postage which the British Government, through the efforts of Rowland Hill, has adopted with great profit and advantage to its people. Sir Rowland Hill has accomplished more for his country than the most renowned of her statesmen or military heroes. My attention was first called to this subject by the observations of that most careful, practical, and shrewd observer of men and institutions, Samuel Laing, Esq., in his "Notes of a Traveler on the Social and Political State of France, Prussia, Switzerland, Italy, and other parts of Europe," published in this country in 1846. This work was written in 1842, before the success of the system, as a financial measure, had been fairly tested. Mr. Laing, in these observations, only considered the question in its educational and moral aspects. Some years after reading this work, my attention was attracted to the writings in the New York press and articles from the pen of Mr. Pliny Miles, advocating a similar system for this country. I am satisfied that a uniform and low rate of postage is a wise educational, moral, social, commercial, and financial measure. Our law-makers have been approximating a low rate of postage without adopting the principle of uniformity which is the key to a successful system. The States now in rebellion have uniformly and persistently opposed it, and the postal statistics for the last ten years will satisfactorily show the reason why. The following table of statistics for 1856, showing postal finances of twenty States, ten of which are now in rebellion, is a fair average statement for the last ten years. I obtain them from an article in the Banker's Magazine for December, 1857. This article was written by Pliny Miles, who has industriously and perseveringly endeavored to accomplish for this country what Rowland Hill accomplished for Great Britain.

	States.	Postal revenue.	Postal expenses.	No. of letters.	Cost per letter.
	LOYAL STATES.				
1	Massachusetts	$537,639	$385,989	11,382,071	1.5 cts.
2	New York	1,436,100	1,037,316	29,239,943	1.6 "
3	Connecticut	190,994	175,181	3,889,997	2.0 "
4	Rhode Island	62,543	39,344	1,274,257	1.4 "
5	Pennsylvania	591,239	523,796	12,045,803	1.9 "
6	New Hampshire	100,000	99,943	2,077,459	2.2 "
7	Vermont	96,639	117,831	1,968,960	2.7 "
8	Wisconsin	170,369	153,313	3,049,556	2.5 "
9	Iowa	117,415	149,676	2,399,383	2.9 "
10	Ohio	451,707	670,995	9,263,343	3.2 "
	STATES IN REBELLION.				
1	South Carolina	$91,893	$270,437	1,870,449	6.4 cts.
2	North Carolina	71,857	206,068	1,464,668	6.4 "
3	Arkansas	27,892	224,177	567,066	18.3 "
4	Mississippi	74,444	248,708	1,516,765	7.3 "
5	Alabama	109,225	324,868	2,225,414	6.5 "
6	Texas	65,005	251,533	1,383,570	8.0 "
7	Georgia	140,070	336,406	2,853,868	5.1 "
8	Florida	20,058	105,866	408,674	11.5 "
9	Louisiana	163,570	371,411	3,393,854	5.0 "
10	Tennessee	101,485	198,103	2,067,716	4.2 "

Early in the present session of Congress I concluded to draw a postal bill, embracing such parts of the English system as were adapted to our country and its institutions. At my request, Mr. Pliny Miles, secretary of the New York postal reform committee, came to Washington, and has materially aided me in the preparation of the bill which was referred to the Post Office Committee. I received valuable suggestions, as to portions of the bill, from the gentleman from New York, [Mr. F. A. CONKLING,] who represents in part the city of New York. I do not claim for this bill perfection. I think, however, it contains many important and useful reforms in our postal system, and that some such measures are demanded by the business interests of the people, already embarrassed and depressed by this wicked and causeless rebellion, and which must necessarily be further crippled by taxes essential to the maintenance of the Government. The main purpose of the bill is to equalize and reduce to a convenient uniformity our present almost numberless and inconvenient rates of postage. While in some instances it lowers, in others it increases the rates. The following tables show the rates of postage by the law as it now is, and the rates proposed by the bill now under consideration:

RATES OF POSTAGE BY THE PRESENT LAW.

Postage per quarter on regular newspapers and periodicals.

A—Newspapers or periodicals published monthly.
B—Newspapers, &c., published semi-monthly.
C—Newspapers published weekly.
D—Newspapers published semi-weekly.
E—Newspapers published tri-weekly.
F—Newspapers published six times a week.
G—Newspapers published seven times a week.

Weight.	A.	B.	C.	D.	E.	F.	G.
Ounces.	*Cts.*	*Cts.*	*Cts.*	*Cts.*	*Cts.*	*Cts.*	*Cts.*
Not over 1½, in the State	¾	1½	3¼	6½	9¾	19½	22¾
Not over 3, out of the State	1½	3	6½	13	19½	39	45½
3 to 4, everywhere	3	6	13	26	39	78	91
4 to 5	4½	9	19½	39	58½	117	136½
5 to 6	6	12	26	52	78	156	182
6 to 7	7½	15	32½	65	97½	195	227½
7 to 8	9	18	39	78	117	234	273

Postage on transient printed matter.

A—Periodicals.
B—Books, bound or unbound, maps, engravings, lithographs, photographic prints, phonographic paper, and letter envelopes, under 1,500 miles.
C—The same as the last, over 1,500 miles.
D—Seeds or cuttings, in packages weighing not to exceed eight ounces, and not sent over 1,500 miles.
E—The same as the last, over 1,500 miles.
F—Small newspapers and periodicals, published monthly or oftener, and pamphlets, containing not over sixteen octavo pages each, when sent in packages weighing less than eight ounces, are to be charged by the piece, one cent each, which, at an average of one ounce and a half each, would be as stated below.

G—The same articles as the last named, but sent in packages weighing over eight ounces each.

H—Cards, blank or printed, and blanks, (no law or provision whatever for their transmission by mail, in packages weighing less than eight ounces, unless they come under the head of some "article of printed matter," and chargeable with postage at one cent each piece, but if,) in packages weighing eight ounces or over, and sent not over 1,500 miles, are charged as below.

I—The same, sent over 1,500 miles.

Weight.	A.	B.	C.	D.	E.	F.	G.	H.	I.
Ounces.	*Cts.*	*Cts.*	*Cts.*	*Cts.*	*Cts.*	*Cts.*	*Cts.*	*Cts.*	*Cts.*
1	1	1	2	1	2	1	-	-	-
2	1	2	4	2	4	2	-	-	-
3	1	3	6	3	6	2	-	-	-
4	2	4	8	4	8	3	-	-	-
5	3	5	10	5	10	4	-	-	-
6	4	6	12	6	12	4	-	-	-
7	5	7	14	7	14	5	-	-	-
8	6	8	16	8	16	4	4	8	16
9	7	9	18	....	....	....	4½	9	18
10	8	10	20	....	....	....	5	10	20
11	9	11	22	....	....	....	5½	11	22
12	10	12	24	....	....	....	6	12	24
13	11	13	26	....	....	....	6½	13	26
14	12	14	28	....	....	....	7	14	28
15	13	15	30	....	....	....	7½	15	30
16	14	16	32	....	....	....	8	16	32

RATES PROPOSED IN THE PRESENT BILL.

Postage per quarter on regular newspapers and periodicals.

Weight per No.	Once a month.	Twice a month.	Once a week	Twice a week.	Three times a week.	Six times a week.	Seven times a week.
	Cents.	*Cents.*	*Cents.*	*Cents.*	*Cents.*	*Cents.*	*Cents.*
Not over 4 ounces.	3	6	5	10	15	30	35
4 to 8 ozs.	6	12	10	20	30	60	70

Postage on transient printed matter.

All packages of every description of transient printed matter, newspapers, periodicals, pamphlets, pictures, (on rollers or otherwise,) paintings, seeds, cuttings, paper, envelopes, stationery, books in manuscript, printed, or blank, or any mixture of the three, essays, and literary documents:

	Cents.
Weighing not to exceed four ounces	2
Weighing four to eight ounces	4
Weighing eight to sixteen ounces	8
Each half pound or fraction of a half pound after the first pound	4

Comparison of the present with the proposed rates of postage.

	Present.	*Proposed.*
Number of regular rates on letters	3	1
Number of "extra" charges on letters	5	*None.*
Number of rates on transient printed matter up to four pounds	384	9
Rates, payable quarterly, on regular newspapers and periodicals, up to eight ounces,	49	14

The immense gain in simplicity and convenience by the few rates proposed in place of the almost infinitesimal number, with numerous fractions, comprised in the present rates, will be apparent at a glance. The average rates on printed matter in the bill under discussion are as high, or higher, than our present rates. I am thoroughly convinced that more revenue will be realized by the rates provided in this bill than by the rates now charged, and therefore, as a financial measure, this bill, or one like it, would be a success. It will doubtless be said that more letters would be sent by mail on which the Government would realize three cents than drop letters, circulars, &c., on which only one cent is now charged, and consequently there will be more lost than gained by the adoption of the new rates. This would be true if just the same number of letters and circulars, drop letters, &c., should be sent under the equalized rates as under the present rates. This would not be the case. Just how much the number of letters will be increased under the two-cent rate, and how much the number of drop letters and circulars will be increased or decreased, with the efficient and convenient mail delivery contemplated in this bill, we cannot tell by any process of reasoning we may adopt. Experience under the change must settle that question.

I am *firm* in the belief that the number of mail and drop letters will be largely increased under the rates proposed by this bill, and I will soon give substantial reasons for the faith that is in me. I wish to show the fallacies of the argument that the equalization of rates of postage or a reduction of the rates of postage will necessarily decrease the postal revenue. I admit as a mathematical truth that the same number of letters at three cents will produce more revenue than the same number of letters at two cents; and it is equally clear, that the same number of letters at fifty cents will produce much more revenue than the same number at three cents; therefore, I suppose if the present rate were fifty cents, and it were proposed to reduce the rate to three cents, the advocates for the old rate, (and there would be some in and out of Congress,) on the score of revenue, would have a conclusive argument against the reduction! This would not be a practical and business-like view of the question and still there are some who would act upon it.

Suppose the proprietors of the leading daily newspapers in our cities should all act upon the fact that one hundred thousand copies of their papers, at four cents, would produce double the revenue that the same number of copies would at two cents, and should put their papers up at four cents, how much would they make by the change? There is a rate of cheapness or standard of prices that all kinds of business must adopt with a view to profit. In theory it is difficult, yes, impossible to fix it. Experience must be our arbiter and guide in postal as well as other business matters. No man can, with a show of reason, assume that three cents is the lowest rate at which letters can be carried with a view to profit; and no one contends that the Post Office Department should be a source of revenue. It is an unwise mode of taxation. It would be a tax on knowledge; a tax on the affections; a tax on energy; a tax on enterprise, and on every business in the country; a tax that would retard rather than promote national development.

The history of the British postal system is full of instruction upon the subject under discussion. The features of that system were substantially the same from the reign of Queen Anne to the advent of Rowland Hill, with a few changes and modifications in rates. It is worthy of remark that all of the prominent and salutary reforms introduced were by persons not officially connected with the Government or with the post office department, and against the opinion and remonstrance of post office officials. Local letter delivery in cities was introduced by an enterprising private citizen named Dockwra, who was unnoticed by Government until it found he was accommodating the public and making money by the operation. The mail coach, which added immensely to the postal revenues and postal facilities of England, was introduced by the energy of Mr. John Palmer, in no way connected with the post office department, but the manager of the Bath theater, the primary object being to prevent robberies of the mails. When Mr. Palmer suggested that by "building mail coaches of a construction expressly adapted to run at good speed, by horsing them liberally, and attaching an armed guard to each coach, the public would be greatly benefited, and the post office revenue considerably increased," one official person expressed his regret "that the author of the plan should not first have been informed of the nature of the business," and boldly asserted that "the constant endeavors which have long been directed towards the improvement in postal affairs in all situations, and under all circumstances, have made them now almost as perfect as can be, without exhausting the revenues arising therefrom." One other equally wise official asserted that "the method, if adopted, will fling the whole commercial correspondence of the country into confusion, and will justly raise such a clamor as the postmaster will not be able to appease." Mr. Palmer's mail coach system was adopted in August 1784. In the following year Mr. Palmer, in writing to Mr. Pitt, said: "In the progress of this business I have had every possible opposition from the office." The net revenue in 1784 was $980,000. In 1808, under Mr. Palmer's reform, it had increased to $5,500,000.

The rates of postage in England on letters before the adoption of the uniform charge of a penny, were from twopence to one shilling and fourpence sterling; or an average of about sixpence sterling, or twelve cents in United States currency. The argument by which the eminent English post office reformer demonstrated that this uniform rate for all distances would be most likely to succeed in point of revenue and convenience, will be found at length in Rowland Hill's pamphlets on "Postal Reform," and in the article "Post Office," in the Encyclopædia Britannica, eighth edition, volume eighteen, a comprehensive and able essay written by Edward Edwards, Esq., of Manchester, a learned bibliopolist and writer on political economy. As usual, this great reform which has been so successful as a revenue measure, and which has conferred upon the British people such incalculable benefits, was strenuously opposed by post office officials and Government functionaries. Lord Lichfield, then postmaster general, said in the House of Lords, "of all the wild and visionary schemes which I have ever heard of, it is the most extravagant." On another occasion he said, speaking of the anticipated increase of letters, "the mails will have to carry twelve times as much in weight, and therefore the charge for transmission, instead of £100,000 as now, must be twelve times this amount. The walls of the post office would burst; the whole area in which the building stands would not be large enough to receive the clerks and letters." Notwithstanding all such official croaking, Parliament, in 1838, appointed a select committee which had about seventy sittings and examined eighty-three witnesses, in addition to the officers of the department. I make the following extract from this report:

"The principal points which appear to your committee to have been established in evidence are the following:

"1. The exceedingly slow advance and occasionally retrograde movements of the post office revenue during the last twenty years.

"2. The fact of the charge of postage exceeding the cost in a manifold proportion.

"3. The fact of postage being evaded most extensively by all classes of society, and of correspondence being suppressed, more especially among the middle and working classes of the people, and this in consequence, as all the witnesses, including many of the post office authorities, think, of the excessively high scale of taxation.

"4. The fact of very injurious effects resulting from this state of things to commerce and industry of the country, and to the social habits and moral condition of the people.

"5. The fact, as far as conclusions can be drawn from very imperfect data, that whenever, on former occasions, large reductions in the rates have been made, these reductions have been followed in short periods of time by an extension of correspondence proportionate to the contraction of the rates. And as matters of inference from fact and opinion—

"1. That the only remedies, for the evils above stated, are a reduction of the rates, and the establishment of additional deliveries and more frequent dispatches of letters.

"2. That, owing to the rapid extension of railroads, there is an urgent and daily increasing necessity for making such changes.

"3. That any moderate reduction in the rates would occasion loss to the revenue without in any material degree diminishing the present amount of letters irregularly conveyed, or giving rise to the growth of new correspondence.

"4. That the principle of a low and uniform rate is just in itself; and when combined with prepayment and collection by means of a stamp, would be exceedingly convenient and satisfactory to the public."

Rowland Hill's postal reform measure was carried in the House of Commons by a majority of one hundred, and became a law on the 17th day of August, 1839. The officers whose duty it was to carry into execution this measure, in the language of the then Chancellor of the Exchequer (Mr. Baring) were, "unwilling horses," and Colonel Maberly, in his testimony before the postage committee of 1843, stated:

"My constant language to the heads of the departments was: this plan we know will fail."

This official was so stupid as to add:

"*After the first week* it was evident that the number of letters being so much below Mr. Hill's anticipations, that it must fail, inasmuch as it wholly rested upon the number of letters; for without that you could not possibly collect the revenue anticipated."

Mr. Hill's plan, during the first two years of its trial had to contend against unfriendly officials and a period of great commercial depression. An English writer sums up the result of the first two years, in the following language:

"1. The chargeable letters delivered in the United Kingdom, exclusive of that part of the Government correspondence which theretofore passed free, had already increased from the rate of about 75,000,000 a year to that of 208,000,000.

"2. The London district post letters had increased from about 13,000,000 to 23,000,000, or nearly in the ratio of the reduction of the rates.

"3. The illicit conveyance of letters was substantially suppressed.

"4. The gross revenue, exclusive of repayments, yielded about a million and a half per annum, which was sixty-three per cent. on the amount of the gross revenue in 1839,

the largest income which the post office had ever afforded. These results at so early a stage, and in the face of so many obstructions, amply vindicated the policy of the new system. But by its enemies that system was loudly declared to be a failure, until the progressive and striking evidence of year after year silenced opposition by an exhaustive process."

The number of letters passing through the British post office in 1839, the last year of high postage, was 75,908,000; and the number in 1860 was 564,000,000. The UNIFORM and LOW rate of postage in Great Britain has not only been a great success financially, but by the concurrent testimony of writers and travelers of every grade it has conferred incalculable benefits upon the British people.

The following table gives the results of the British post office in revenue, expenditures, number of letters, and amount of money sent in money orders from 1839, the last year of high postage, to 1860. I ask particular attention to this table, for it shows the large and regular increase in the amount of correspondence, as well as the gain to the revenue. It will be remembered that the change in the rates of British postage in January, 1840, was from an average of twelve cents a letter to the one uniform rate of two cents, while the bill now under discussion contemplates no radical or material change whatever:

Statistics of the British Post Office.

Date.	Number of money orders.	Amount of money orders.	Gross revenue.	Postal expenses.	Net revenue.	Number of letters.
1839.....			$12,175,903	$3,784,997	$8,390,906	75,908,000
1840.....	188,921	$1,565,623	7,271,137	4,253,585	3,957,753	168,768,000
1841.....	587,797	4,304,878	8,093,398	4,699,845	3,372,523	196,500,000
1842.....	1,552,845	15,637,508	8,501,534	4,887,922	3,614,622	208,434,000
1843.....	2,111,990	21,683,859	8,783,601	4,903,252	3,880,349	220,450,000
1844.....	2,501,523	25,564,204	9,071,499	4,925,553	4,145,946	242,092,000
1845.....	2,598,893	26,476,977	9,943,832	4,815,832	4,727,971	271,411,000
1846.....	3,176,195	33,066,805	10,321,057	4,637,971	5,683,086	347,069,000
1847.....	3,515,079	35,355,984	11,511,534	5,693,736	5,817,798	380,647,000
1848.....	4,031,185	39,515,886	11,967,910	5,983,600	5,984,310	379,502,000
1849.....	4,348,891	40,763,919	11,361,954	5,538,934	5,823,020	410,817,000
1850.....	4,233,631	40,756,475	11,871,036	5,016,253	6,854,783	448,650,000
1851.....	4,439,713	42,473,493	12,946,486	6,622,814	6,323,672	478,394,000
1852.....	4,661,025	44,402,104	12,796,519	6,520,818	6,275,701	504,491,000
1853.....	4,947,895	47,191,389	13,522,599	6,719,535	6,803,064	544,796,000
1854.....	5,215,290	49,589,976	13,435,493	7,003,289	6,432,204	522,574,000
1855.....	5,466,214	52,312,039	14,419,900	7,532,751	6,887,149	594,002,000
1856.....	5,807,412	55,046,395	14,178,982	8,256,830	5,922,152	
1857.....	6,178,982	58,027,810	16,872,405	8,367,780	8,504,625	
1858.....	6,389,703	60,901,385	16,843,653	8,587,380	8,256,273	
1859.....	6,683,396	63,310,325	17,230,725	8,832,770	8,397,955	
1860.....	6,969,108	66,554,650	18,273,493	9,269,765	9,003,728	
1860.....	7,220,146	69,292,020	18,636,365	9,953,540	8,682,825	
Total...	92,918,645	$895,984,594	$374,483,966	$146,777,435	$127,706,531	7,683,913,000

It will be seen that the net profit of the British post office in 1859 was $9,003,728, and in 1860 it was $8,682,825. It may be asserted by some that although a penny or two cents postage is a financial success in Great Britain, it might not be in this country, having a much larger extent of territory, and our postal expenses necessarily being considerably greater.

The first answer I make to this plea is, that just about one half of the gross postal revenue of Great Britain is net profit, clearly demonstrating that a *one cent rate* there is a compensating one. That, however, is not the principal consideration.

Financially the most profitable rate is the one that will bring the largest gross revenue to the Department. The most casual glance at our postal revenue for the last twenty-five years will show that the lower the rates have been, the larger is the postal income. During the last six years of the highest rates of postage (six to twenty-five cents a letter)—from 1839 to 1845—the postal revenue amounted to $26,950,000. During the next six years, when letter postage had been reduced to five and ten cents, the gross revenue was $29,250,000; and when the last and final reduction was made, in 1851, to the rate of three cents for prepaid letters, the gross income in six years was $41,700,000. Letter postage now is not more than one fifth the average charge previous to the year 1846, and yet our Post Office books show a total revenue of $14,750,000 during the first six years of the lowest rates in excess of the revenue for the same period under the highest rates.

I lay down this proposition as correct, that in a financial point of view the expenditures of our Post Office Department have nothing to do with the rates of postage which should be charged. In a revenue aspect only, the rate of postage which will produce the largest gross income is the most profitable to the Government.

If our reason and experience teach that a given rate will not only increase our postal receipts and at the same time add to the postal facilities and convenience of the people, the Government is derelict in duty and obnoxious to the charge of stupidity if it refuse to adopt it. The argument derived from the success of the British system does not lose its force in its application to this country; for our experience in the reduction of the rates of postage, so far as it goes, teaches the same useful lesson. The following table of statistics of the United States Post Office, from 1839 to 1860 inclusive, will be found important as bearing upon the question under discussion:

Date.	*Postal Revenue.*	*Number of Letters.*
1839.....	$4,477,614	40,298,526
1840.....	4,543,522	40,891,698
1841.....	4,407,726	39,669,534
1842.....	5,029,507	45,265,563
1843.....	4,296,225	38,666,025
1844.....	4,237,288	38,135,592
1845.....	4,439,842	39,958,978
1846.....	4,089,090	53,158,170
1847.....	4,013,447	52,174,811
1848.....	4,161,078	54,094,014
1849.....	4,705,176	61,167,288
1850.....	5,552,971	72,188,623
1851.....	6,727,867	87,462,271
1852.....	5,784,527	104,122,486
1853.....	5,940,724	106,933,032
1854.....	6,955,986	125,207,748
1855.....	7,342,136	132,118,448
1856.....	7,620,892	152,416,440
1857.....	8,053,952	161,079,040
1858.....	8,186,793	163,735,860
1859.....	7,968,484	159,369,680
1860.....	9,218,067	184,361,340
Total.....	$127,752,844	1,952,475,167

The several reductions in the rate of letter postage by laws passed in 1845, 1851, and 1855 have been attended with the most overwhelming success, not only in economy and greatly extended postal facilities to the people, but in largely increased receipts to the Post Office. The amount of correspondence passing through the Post Office annually previous to the first reduction of postage in 1845 had remained almost entirely stationary for many years, the estimated number of letters not exceeding 40,000,000 per annum. Since that time the letters passing through the Post Office at different periods have been as follows: in 1848, 54,000,000 letters; in 1852, 104,000,000; in 1856, 152,000,000, and in 1860, 184,000,000. Thus we see that our inland postal correspondence has more than quadrupled during the last fifteen years. Nor has the financial effect on the revenues of the Post Office been less satisfactory. In order to show in the most striking light the effect of reductions in the rate of postage on the revenues of the Post Office, it will be necessary to see the entire revenue over an equal period when the rates of postage were different. I will take the last six years of the period of high postages—ranging from six to twenty-five cents a letter—from 1839 to 1845; the six years from 1845 to 1851, when letter postage was five and ten cents—the first era of reduced postage—and the following six years, from 1851 to 1857, when the rates were a portion of the time three and five cents, and lastly three cents. The revenue of the Post Office in 1839 was $4,477,614.

During the next eighteen years the exact postal revenue was as follows:

Revenue of the United States Post Office during three equal periods of six years each, forming three eras of high, medium, and low postage:

Postage from six to twenty-five cents.

Year.	*Revenue.*
1840.....	$4,543,522
1841.....	4,407,726
1842.....	5,029,507
1843.....	4,296,225
1844.....	4,237,288
1845.....	4,439,842
Total.....	$26,954,110

Postage five and ten cents.

Year.	*Revenue.*
1846.....	$4,089,090
1847.....	4,013,447
1848.....	4,161,078
1849.....	4,705,176
1850.....	5,552,971
1851.....	6,727,867
Total.....	$29,249,629

Postage five and three cents.

Year.	*Revenue.*
1852.....	$5,784,527
1853.....	5,940,724
1854.....	6,955,986
1855.....	7,342,136
1856.....	7,620,892
1857.....	8,053,952
Total.....	$41,698,147

The revenue under the medium rates (five and ten cents) during six years, as will be seen by the above table, was $2,295,519 more than during the six years of the high rate, (from six to twenty-five cents,) and for the six years of the low rate (three and five cents) it was $14,744,037 more than during the six years of high rates. Other comparisons can be made from the above table. Does this show that a reduction in the rate of postage necessarily decreases postal revenues?

A strong argument is deducible in favor of the bill under discussion from the following

Comparative Postal Statistics of the British and United States Post Offices.

	Great Britain.	*United States.*
Population.....	28,000,000	32,000,000
Number of letters written in 1860.....	564,000,000	184,000,000
Average increase in number of letters yearly.....	23,000,000	8,000,000
Money sent by mail in Post Office money orders yearly..	$69,292,020	*nil.*
Annual profit to the Post Office on money orders.....	$145,000	*nil.*
Post Office revenue in 1840...	$7,251,137	$4,543,522
Post Office revenue in 1860...	$18,636,365	$9,218,067
Per cent. increase of revenue in twenty years.....	157	103
Per cent. increase of population in twenty years.....	7	70
Average number of letters to each person yearly.....	19	6
Average sum paid in postage by each person yearly.....	$0 66	$0 29
Percentage of population that cannot read or write.....	30	5
Letters written in Great Britain from 1856 to 1860, five years.....		2,615,000,000
Letters written in the United States from 1776 to 1860, eighty-five years.....		2,390,000,000

I respectfully commend the above table of comparative statistics to the careful consideration of the able, industrious, and faithful chairman of the Post Office Committee, [Mr. COLFAX,] and I trust he, the House, and the country will take note of its teachings. Why is it, with a population about equal to our white population, that the people of Great Britain write and send by mail three hundred and eighty million more letters per annum than the people of the United States? Why is it that the average increase of the number of letters annually in Great Britain is twenty-three millions, while in the United States it is only eight millions? Why is it that the increase of postal revenue in twenty years in Great Britain is one hundred and fifty-seven per cent., while for the same period in this country it has only been one hundred and three per cent.? It will be noted during the same period the increase of population in Great Britain has been only seven per cent., while in this country it has been seventy per cent. It will be observed, also, that thirty per cent. of the population of Great Britain cannot read or write, while of our white population, in the same condition, there is less than five per cent., and this estimate includes all the States.

The main reason why, in my judgment, these statistics show so favorably to Great Britain, is in the superiority of her postal system over ours. Her rates of postage are so low, and her postal facilities so great, that most of the correspondence of her people is transmitted by mail instead of seeking other channels of transmission; but this cannot be said as emphatically and truly with regard to the correspondence of this country. It will surely not be asserted that the people of the United States are less active, less attentive to business, or less intellectual than the people of Great Britain. It will not be denied that intelligence and education are more generally diffused here than in the British Isles.

If Congress will adopt a low and uniform rate of postage that will stimulate correspondence and accommodate the public with postal facilities, I can see no substantial reason why our active people will not write and send by mail as many letters per annum as passed through the British post office in 1860, to wit: 564,000,000; being 380,000,000 more than passed through our post office during the same year. The average postage of an inland letter, (exclusive of official letters; for, as a general thing, they are heavier than private letters,) according to the official report of the English post office in 1857, was about one and one eighth of a penny, or two and a quarter cents our currency. By this estimate, which is a fair one, (for many of the letters sent by mail will weigh more than half an ounce,) the gross increased revenue to our post office per annum, from this source alone, would be $8,550,000. As a question of revenue, is not the experiment worth trying? Not an instance can be found in the postal history of Great Britain or of this country where an increase in the rate of postage has resulted in a corresponding increase of the postal revenues; and, on the contrary, not an instance can be found, in any country where the rate has been reduced, but what the result has been, in a very brief period, to stimulate correspondence largely, and to increase the revenue. As I have before stated, there must be a limit to the reduction with a view to this result; but I contend that limit is below the rates fixed in this bill.

I will now briefly explain the principal features which this bill proposes to incorporate into our postal system. I will first remark that there is nothing new in the bill but what has been successfully tested by the British system.

1. *Uniformity of rate of two cents for all distances.*—This I regard all-important to the success of the system, as it is economical, convenient, and labor-saving. Where is the necessity or value, financially or otherwise, for the two minimum rates of one and three cents for mail and drop letters, circulars, and other minor articles, when the medium rate of two cents will give us uniformity, and produce as much revenue? By adopting a three cent rate for letters, you break the uniformity attained by the bill; for three cents is too high for drop letters, transient newspapers, and circulars. When the bill was drafted, the rate of letter postage for over three thousand miles was put at eight cents, upon the supposition that that rate would add largely to the revenue. Subsequent examination of our postal statistics has fully satisfied me that this is a mistake; and that the bill should be amended in this particular. There is no reason why our enterprising fellow-citizens, those hardy pioneers who have settled on the Pacific coast, and who have opened to the nations her golden gates, should be taxed fourfold on their business and social correspondence. The number of letters sent between New York and California—probably two thirds of the whole correspondence between the Atlantic and Pacific coasts—in 1860 and 1861, was 1,534,928, or an average of 767,464 letters in one year. Add to this fifty per cent. for other correspondence not through New York, and we have 1,150,000 letters per annum to and from California, Oregon, &c. At the present rate of ten cents per letter, this correspondence produces $115,000 a year. Were this postage reduced to two cents, and were there not an increase of a single letter, the reduction of revenue on the California correspondence would be $92,000.

But we should inevitably have a very large increase on the correspondence between the East and the far West in consequence of so material a reduction in the cost. It would be safe, I think, to assume that correspondence would be tripled within two years. This would give an income from California letters of $69,000, in place of $115,000, or a falling off of only $46,000 per annum. Is it fair, is it just, is it sound national policy to levy this exorbitant tax on a people whose productive wealth is so great—the coining of $50,000,000 a year of solid gold out of the dust of the earth, all of which is essential to our national revenue, the balance of trade, and our commercial prosperity—when the financial result of this high postal charge is not $50,000 a year? This extra tax on the people of our western empire, and the numerous friends they have left behind them in the old States, breaks in upon that uniformity which is so essential to a good postal system.

To show the useless details and vast complication of our present postal rates as opposed to the simplicity, economy, and convenience of one uniform charge for all the letters and minor articles that make up forty-nine fiftieths of our mail matter, the following catalogue is most instructive, giving side by side the present and the proposed rates. I copy it from an article on "uniform postage" in Hunt's Merchants' Magazine for May, 1862:

	Present.	*Proposed.*
1. Mail letter under 3,000 miles	3 cents.	2 cents.
2. Local or drop letter	1 "	2 "
3. Transient newspaper, prepaid	1 "	2 "
4. Pamphlet, one to three ounces in weight	1 "	2 "
5. Book, under 1,500 miles, one ounce in weight	1 "	2 "
6. Circular in blank envelope	1 "	2 "
7. Two circulars in blank envelope	2 "	2 "
8. Two circulars on one sheet	2 "	2 "
9. Circular in envelope with business card printed outside	3 "	2 "
10. Three circulars, in plain or printed envelope	3 "	2 "
11. Book, under 1,500 miles, three ounces in weight	3 "	2 "
12. Book, under 1,500 miles, two ounces in weight	2 "	2 "
13. Book, over 1,500 miles, one ounce in weight	2 "	2 "
14. Pamphlet, weighing from three to four ounces	2 "	2 "
15. Two ordinary newspapers, in one package	2 "	2 "
16. Newspaper to Great Britain or France	2 "	2 "
17. Letter returned to writer, as "dead"	6 " *extra.*	0 "
18. Letter, when "forwarded"	3 " "	0 "
19. Letter, when advertised	1 " "	0 "
20. Mail letter delivered by carrier	1 " "	0 "
21. Mail letter posted in lamp-post box,	1 " "	0 "
22. Circular delivered by carrier	½ " "	0 "
23. Newspaper delivered by carrier	½ " "	0 "
24. Pamphlet delivered by carrier	½ " "	0 "

Is any elaborate argument necessary to show the absurdity and uselessness of this vast number of charges and "extra" charges, when a single stamp of two cents would pay the postage at once, without any further trouble or "extra" charge whatever? I think not.

2. *Letter delivery in cities and towns.*—This is a very important feature of the bill. Our present mode of postal delivery in cities requires an extra charge on all mail letters delivered by carriers, furnishes little accommodation to the public, and produces no revenue to the Department. The following table of comparative postal statistics of London and New York, compiled by Mr. Pliny Miles from official sources, throws a flood of light on this question:

Comparative Postal Statistics of London and New York.

	London.	*New York.*
Population within the postal district	2,500,000	1,000,000
"Mail" letters (sent to a distance) yearly	73,953,000	15,500,000
"Local" or drop letters yearly	63,221,000	1,500,000
Total letters written yearly	137,174,000	17,000,000
Net profit on local letters yearly	$900,000	-
Money sent through the mail in money orders, yearly	$9,177,420	-
Money received through the mail in money orders, yearly	$16,214,125	-
Total number of letters written daily	440,000	54,500
Local or drop letters written daily,	202,600	4,800
Letters and papers delivered by carriers yearly	143,487,000	6,090,600
Letters and papers delivered by carriers daily	460,000	19,500
Total number of letter carriers	1,400	100
Letters, &c., delivered by each carrier yearly	102,490	60,900
Letters, &c., delivered by each carrier daily	341	195
Total number of clerks employed	800	250
Average number of letters to each clerk yearly	171,300	68,000
Average number of letters to each clerk daily	550	220
Average number of letters yearly to each person	55	17
Average "local" letters to each person yearly	25	1¼
Number of letter deliveries daily	12	6
Number of rates of postage on printed matter	9	384
Number of rates of postage on letters	1	3
Number of "extra" charges on letters	0	5
Modes of charging letters by weight,	1	3

What is meant by "postal district" in this table is the space of country accommodated by the city post office. Many persons not living within the city limits of London or New York do most of their correspondence through the city post office. I invite special attention to these figures, carefully compiled from official sources. The local or drop letters in London number 63,221,000 annually, while in New York, they are only 1,500,000. The net profit to the post office department on local letters in London yearly is $900,000. Net profit on local letters in New York nothing! The postage on local letters delivered in London is two cents and in New York one cent. Why, it may be asked, if cheapness stimulates correspondence, and letters are delivered one half cheaper in New York than in London, that so many more local letters are written in the latter than the former place? The reason is obvious. The letter delivery in New York does not accommodate the public. The people are therefore obliged to seek other channels, private messengers and errand boys, for the transmission of their local letters. Suppose the omnibuses on Broadway, instead of running constantly to accommodate the traveling public on that great thoroughfare, should only run six times a day, would the stock in those omnibuses be valuable? Certainly not, for the public would be obliged to go on foot or seek other modes of conveyance. A merchant in London residing miles from the post office, or the point at which he wishes a letter delivered, can drop it into a letter pillar or deposit it in a receiving office near his residence, and by the time a special messenger could deliver it, it will have reached its destination, by the magic of the London letter delivery system. New York is as commercial as London, in proportion to her area and population, and her citizen merchants, manufacturers, mechanics, and artisans are as active, intelligent, and enterprising as the same class in London. Give New York the same postal facilities as London, and she will contribute to the postal revenue as much in proportion to her population as London. New York, Brooklyn, Philadelphia, Baltimore, Boston, Cincinnati, Chicago, St. Louis and Buffalo, have a population of a little over 2,500,000. Were the local correspondence of these cities equal to that of London, (2,500,000 people,) 63,000,000 letters annually, the postage would amount, at the rates proposed in this bill, including the attendant printed matter, to the sum of $1,600,000, as follows:

Local letter postage	$1,417,500
Local printed matter	182,500
	$1,600,000

This revenue is lost to the Department under our present miserable system, or rather want of system of letter delivery in cities. The loss in time to the public in our cities and towns, by the present mode of letter delivery is enormous, and almost beyond the power of accurate estimate. A distinguished citizen of Massachusetts, then a Representative from that State in Congress, and now postmaster of Boston, Hon. J. G. Palfrey, in February, 1849, made an able speech in the House of Representatives on "postage reform," and upon the point under consideration, used the following language:

"And especially there is crying need for a substitution, of a system for collecting and delivering letters from house to house, instead of the foolish and enormous waste of time and labor now expended in visits to the central post office. My belief is, that not ten years will have passed—I hope not half that time—before we shall look back with amazement on our ever having submitted to such inconveniences, when it was so simple and easy a matter to set everything right. The time that has to be used in going a quarter of a

mile, or less distance, to the post office to send or receive a letter, is often worth much more than the postage paid on it. That time the laboring man, who can least afford the loss, and who receives few letters, is constantly obliged to lose over and over again in going to inquire in vain for that which he at last gets. The female in humble condition, beside the same loss of time to her, equally valuable and less at her command, is compelled to go to a public place for the letter she is expecting, and await her turn to inquire for it, amidst the annoyance of a crowd. If, on an average, the time daily spent in the city of New York, in going backwards and forwards on errands to the post office, is equal to an hour each for ten thousand people, ten thousand hours every day are thus employed, which at a dollar for the day of ten hours, amounts to a payment (or a loss, which is the same thing) of $1,000 a day for work which fifty men, employed as carriers in home delivery, would be generously compensated for with $100. The difference is a loss of $900 a day, or nearly a third of a million yearly to the single city of New York, from this miserable lack of economy in labor."

I believe this estimate of Mr. Palfrey is below the truth. In the same speech Mr. Palfrey said:

"The time is to come before long when, by the establishment of that system of home delivery in the cities and towns already matured in England, and capable of adaptation here, a large part of the population will be dispensed of the necessity of ever seeing a post office any more than they now see a sub-Treasury. They will not need to do anything about the letter they expect till it places itself before them at their fireside. They need have no trouble about the letter they wish to send to the remotest corner of the country, except to stamp it, and leave it in a box at their own door."

The time which Mr. Palfrey so confidently anticipated has not yet come; but when it will come, rests with the people and with Congress. The realization has not been vouchsafed to the people for the reason, in part, that the red-tapeocracy of Post Office officials who delight to run in the ruts and grooves of past generations, has failed to urge it upon Congress, and has almost invariably opposed it when coming from other quarters. I do not mean by this to reflect at all upon the present administration of the Post Office Department; for, so far as I have had occasion to observe, the Postmaster General and his able assistants have recommended many valuable reforms during the brief time they have been in office.

There are other important facts to be noted in the foregoing table of comparative statistics of London and New York. The number of letters to each clerk yearly in the London office is 171,500. The number to each clerk yearly in the New York office is only 68,000. The labor saving, in uniform rates, and in letter delivery by carriers, is apparent in the greater amount of work which a clerk can perform in the London office than a clerk in the New York office. The extra labor in sorting and rehandling letters, papers, &c., weighing or estimating rates, and delivering letters from boxes, is much more, under our system, than under the British. A reference to the table of rates, under the law as it now is, and under this bill, will show the force of this statement. How many times in a day has a clerk in New York to handle over the letters, under all the letters of the alphabet, to ascertain whether the letter inquired for is in the box? It is an estimate of an experienced clerk in the New York post office that nine out of ten of all callers at the "general delivery" window fail to receive a letter. When the letters are distributed from the mail bags to boxes, some must go to private boxes, some to general delivery boxes, and some to carriers; and such complex labor contributes the result shown in the table last named. This bill does not dispense with private boxes, if people desire them; but it intends to add facilities in letter delivery which will make them undesirable to most persons.

3. *This bill abolishes the present franking privilege, and provides for the payment of Government postage out of the Treasury.* It provides, also, that members of Congress may send public documents published by order of either House at such rates of postage as are charged on transient printed matter, and that the postage shall be paid from the Treasury, as may be provided in appropriation bills. The benefits of the present franking privilege enjoyed by the people are thus secured to them, and they will know what it costs—a useful item of information. Under this bill members of Congress, like "the rest of mankind," will pay their own private postage, and the abuses of congressional franking will cease. The franking privilege is a stumbling-block in the way of postal reform, and I begin to despair of its repeal unless in the modified form provided in this bill.

4. *The post office money order system as it exists in England is incorporated into this bill.* This is a source of considerable revenue to the British post office, and it accommodates a large class of people who desire to transmit by mail small sums of money. The orders are limited to the sum of twenty-five dollars, so that the legitimate business of public and private bankers who deal in exchange is not materially interfered with. The number of money orders, and the amount of money covered by them, annually passing through the British post office appear in the foregoing tables. The following table will show the net revenue or clear profit to the British office from commissions on money orders for the last ten years:

Profit on Money Orders.

Date.	*Net Revenue.*	*Date.*	*Net Revenue.*
1851	$87,185	1856	$113,370
1852	53,445	1857	120,875
1853	70,745	1858	129,680
1854	80,835	1859	145,575
1855	101,261	1860	142,370

5. *Late letter fee, or an extra charge in stamps on letters mailed after the ordinary time of closing the mails, is provided for in the bill.* This has been tried successfully in England, is a source of some revenue, about fifty thousand dollars a year, and accommodates many business men willing to pay for the accommodation. There must be an hour fixed for closing the mail beyond which letters put into the office must await the next out-going mail. The time in small offices is short, but large offices like London and New York must have more time within which to make up the mail—from an hour and a half to three hours, I believe, is required in those cities. The exigencies of business are such that business men frequently are unable to post all their letters before the usual hour for closing the mails, and it is sometimes very important that a letter or letters should be sent by the out-going mail just closed to the general public. Large business interests may depend upon this. The postmaster provides a "late letter box" into which any person, up to a short time before the mail is to leave, may put letters with additional stamps upon them, and they will go out in the mail. No one is compelled to pay this extra charge. It is regarded as a privilege in Great Britain, and those who avail themselves of it are willing to pay for it.

6. The bill provides that the Postmaster General may, if he think the public service requires it, dispense with way bills, and adopt other regulations which promise greater efficiency and economy in the administration of the Post Office Department.

7. This bill proposes to change the present law of compulsory prepayment by forwarding all letters, whether stamped or not, but adds a penalty of double postage if not prepaid. The present law gives the Post Office much trouble, and not unfrequently works great inconvenience to the public. If a letter is found in the office that has not been prepaid, or with the stamp lost off, the postmaster detains it, and sends a circular to the person addressed, notifying him that such a letter is in the office, and that if he will forward a three cent postage stamp, with postage paid, his letter will be sent to him. By accident, carelessness, or otherwise, a large number of letters daily get into the post office with no stamps on them. They are forwarded in the way I have indicated; but what useless labor, delay, and expense are occasioned!

The last annual report of the British post office estimates the number of letters that have been prepaid, and which are subsequently found in the mails with the stamps lost off, at fifty thousand a year.

Under the English law, which is similar in this respect to the present bill, only one letter in a hundred is posted without being prepaid. The double postage, which is collected on delivery, is a compensation to the post office for sending the letter without stamp. To guard against imposition by unprincipled persons in sending letters, circulars, or business announcements without prepayment, authority is given the Postmaster General to collect the postage of the writer or sender whenever the same is refused by the person addressed; and in case the writer or sender refuses to pay, a fine may be imposed, or imprisonment be inflicted. A few years since, compulsory prepayment was tried in Great Britain, but was condemned by the almost unanimous voice of public opinion, and was abandoned after a trial of a few months.

To some the time may not appear auspicious, in this life-struggle of the Republic, for the introduction of these measures; I regard it otherwise. The statesmen of England, in the darkest periods of their history, have never been unmindful of the importance of postal facilities to the prosperity of their country. In 1829, the British commissioners of revenue inquiry began their report on the post office as follows:

"The facility of frequent, punctual, and quick communication, which the institution of the post office was calculated to secure, may be justly classed among the elements of profitable commerce. It is essential to the purposes of government, and subservient to all the ends of national policy."

The people of Great Britain are probably taxed to a greater extent than any other nation of equal population on the face of the globe, but perhaps not materially higher than we shall be for many years to come. Who can compute the commercial and business advantages that are produced by the low and uniform postage, and all the facilities for distributing correspondence that draws forth about six hundred million letters annually, and provides a cheap and safe mode of remitting money, and which is used yearly to the extent of $70,000,000? Can these advantages and benefits be easily overestimated?

Our enterprising people will not consent to be behind other nations in postal facilities. For several years there has been an urgent and increasing demand from our commercial communities and most populous States, for the leading measures in this bill. During the present session of Congress there has been presented to the House and Senate a petition signed by fifteen thousand of the leading statesmen, bankers, merchants, and business men of New York city, asking substantially for these measures.

The Boston Board of Trade, at a recent meeting, adopted the following resolutions:

"*Resolved*, That, in the judgment of the government of this board, the code of postal law of the United States should be framed with reference, principally, to four things: First, simplicity of plan and detail; second, equality between citizens in office and citizens in private life; third, such rates of postage as shall prevent, as far as practicable, excess or deficiency of revenue; and, fourth, prompt action with *valuable* 'dead' letters and with *all* missent and misdirected ones.

"*Resolved*, That experience under the acts of Congress of March 3, 1845, of March 3, 1851, of August 30, 1852, and of March 3, 1855, by which, collectively, rates were reduced, some progress was made in simplification and several odious and unjust provisions were abolished, together with the marked success of the existing system of Great Britain, warrants a fifth experiment in the same general direction.

"*Resolved*, That we approve of such changes in the present code as shall equalize the rates of postage on both written and printed matter; as shall establish a uniform method of letter delivery in cities and towns; as shall create a post office money order system; as shall abolish franking, except in the official correspondence of the Postmaster General, deputy postmasters, other postal agents, and mail contractors; and as shall provide for the payment of the Government postage out of the Treasury.

"*Resolved*, That we approve of the first section of the bill (H. R. No. 266) referred to the Committee on the Post Office and Post Roads, February 10, 1862; and that we give our hearty assent to the general measure of reform proposed in the sections which follow.

"*Resolved*, That a copy of the foregoing be transmitted to Hon. JACOB COLLAMER, Hon. SCHUYLER COLFAX, Hon. JOHN HUTCHINS, and to the Senators and Representatives in Congress from this Commonwealth."

The Chamber of Commerce of the State of New York has had the subject before that body, and referred it to their executive committee, which has reported, as I am informed, in its favor.

Our loyal citizens are nobly struggling to defend the unity of the nation against the Vandal assaults of traitorous rebels and their sympathizers, and to that end are freely contributing their time, talents, and treasure. To the same end six hundred thousand volunteer soldiers are in the field, far from home and kindred, patiently enduring the fatigues, sufferings, and hazards of war, and freely shedding their blood. Have those loyal citizens and these vast armies of brave soldiers no claims upon the Government for the widest and cheapest postal accommodations?

National burdens, social wants, and the demands of commerce and trade, all combine to urge this measure now upon the consideration of Congress. It will mitigate the calamities of war, and enhance the rich blessings of peace.

CONFISCATION OF REBEL PROPERTY.

SPEECH OF HON. HENRY GRIDER,

OF KENTUCKY,

IN THE HOUSE OF REPRESENTATIVES,

May 22, 1862.

The House having under consideration the bills to confiscate the property and free from servitude the slaves of rebels—

Mr. GRIDER obtained the floor.

Mr. WICKLIFFE. I ask my colleague to yield to me for a moment in order that I may read an extract which will come in very pertinently at the close of the speech by the gentleman from Maine, [Mr. FESSENDEN.]

Mr. GRIDER. I yield for that purpose, if it is not taken out of my time.

Mr. WICKLIFFE. The extract to which I have made reference is as follows:

UNCONSTITUTIONAL LEGISLATION.—That distinguished publicist and lawyer, Professor Joel Parker, of the Cambridge Law School, well known for his adhesion to the political principles of the present Administration, has placed on record the following opinion for the advice of his political friends:

CAMBRIDGE, *May*, 5, 1862.

DEAR SIR: Will you permit me to say that the sooner the Republican party cuts itself loose from all unconstitutional projects (whether they relate to emancipation by proclamation, conquering States and holding them as Territories, confiscation without trial, or any other measure not warranted by the Constitution) the sooner it will begin to provide for its own salvation?

Very truly, yours, JOEL PARKER.

To the Editor of the Boston Journal.

I read that for the benefit of northern people. It will be recognized as good authority by this House.

Mr. GRIDER. Mr. Speaker, I have not undertaken so high and responsible a task as that I am now entering upon for a great while; I have at least not attempted it before during this session of Congress. I am deeply impressed with the weight and responsibility, not only of the pending subject of confiscation, but of all of the subjects which have been clustering around us and demanding our consideration since we have been assembled here. I feel, sir, as a member of this House, unworthy to bear the weight of my portion of the heavy burdens which the country and the times have thrown upon Congress. Yet I give to the business of the nation my closest attention. How else could a gentleman and a patriot feel but oppressed by the responsibility cast upon him? A man who has been accustomed to the priceless blessings of constitutional liberty, who has passed joyous days of peace and prosperity, who has lived amid progress and enlightened civilization—a man who has enjoyed such rights and privileges, and who seeing them in peril of being lost, now comes to assist in rescuing them, must tremble at the vast responsibility of the occasion. We have lately been environed with gloom and appalling difficulties. It may be true of us that the hour may be big with our fate and the destiny of this Republic. It is proper, therefore, for us to take into consideration, with firm and deliberate patriotism, what things become us to do. I would not trifle with the country, for, by so doing, we would injure the cause of truth and the sacred behests of the Constitution which we have inherited, with all its great rights and privileges, from our fathers.

I wish, sir, I were a learned jurist, that I might properly approach this grave question of constitutional law, in order that I might illustrate and make it clear and bright as the beams of the noontide sun, so that all men might come up to a conscientious obedience to the high appeal they have made to Heaven for the discharge of their duties fearless of all consequences here and at home. But, sir, I intend to leave the consideration of these constitutional questions mostly to other gentlemen. I intend to sketch, if I can, some of our legislation. I am satisfied with part of it, and with reference to the other part, I am very frank to say I have come to the conclusion that it has been prejudicial to the interests of a section of the Union, to loyal men of the Union, and that its tendency has been not to allay this rebellion, but to exaggerate and to protract it.

This is a fearful rebellion, the most unprovoked and wicked rebellion that has ever disgraced the history of any country. I ask any man to say where there is an individual citizen who, prior to or at the beginning of this rebellion, could justly be alleged to have any of his constitutional rights or privileges infringed? There was not a citizen who had not every right and privilege granted to him by the Executive and all departments of this Government. No man could say that all of his constitutional rights of every description were not freely and promptly granted. This rebellion, sir, was without apology, wicked in its purpose, and traitorous in its design. That all must admit!

But, sir, I have heard it intimated in this Hall that there are some men who are suspected of being tinctured with this doctrine of secession, and acting with the rebellion, who are therefore to have all of their rights forfeited without personal notice and trial. Looking to the patriotism and the integrity of my constituents true to the Constitution, I have no answer for such remarks.

I had hoped, and I believe that it was the sober conviction of this Congress when we first met, that it was our only duty, that it was our imperative duty, to provide an army and a navy to put down this rebellion, to provide them as we might need them speedily to suppress this rebellion, not to subjugate any one, but to sustain the Constitution and conquer peace for all. I believe now, if we had exclusively directed our attention to that object, we would have, at least in our legislative action, been much more harmonious, much more agreeable to the country, and much more successful. I tell you, Mr. Speaker, that it is the only direct mode to efficiently suppress this rebellion, and to suppress it speedily! All these altercations and excitements are prejudicial. They create a widespread alarm throughout the country. This ought not to be, for if there ever was a time when representative men should act with sober deliberation, bury animosities, and invoke all the nobler principles of humanity that we are taught from above, and with which we are endowed, that time is the present. There ought to be harmony and good feeling among Union men.

Now, sir, I should have been glad, if I had undertaken to make a speech to this House at an early period of this session, to have suggested economy and retrenchment in the expenditures of the Government in a general and liberal sense, and not in a stinted and mean sense—never; but I would have advocated a just economy and retrenchment. I would have given every encouragement to the Government. I would have asked for legitimate legislation here, and for putting down this rebellion speedily. I would have made the Army and Navy strong for that purpose.

Now, sir, I rebuke that spirit which we have seen manifested in this House so often, to elevate or strike down this commander or that commander of our armies. I am for the commander and I am for the army that speediest suppresses this rebellion and brings back the Constitution and the Union as they were. I care nothing for men in comparison with the preservation of the Union and the protection of our people in their original rights. Party names and party creeds, or who shall be elevated and honored hereafter—history and the people are the arbiters of these questions in the future; they are nothing to me *in this hour*, when the very groundwork of American liberty is trembling beneath the shock of treason and secession.

I do not propose to differ with gentlemen in any spirit of rebuke in regard to the cause of this war; but I do differ from them when they say that slavery has been the cause of this war. Slavery was not the cause of this rebellion, and there is no reason why our feelings should be more vindictive against that institution now than they were before this rebellion broke out, or when the Constitution was formed. How shall I illustrate this? We may look back for years for the original and remote causes of this rebellion. Secession is the immediate and moving cause of the present war and distress in the country. I know that secession was superinduced by making the question of slavery the subject of agitation throughout the length and breadth of the land, and by the animadversions and slanders that have been constantly heaped upon the holders of that description of property. Slavery was not the cause of this rebellion. There could have been, and ought to have been, a plain, honest, modest, conciliatory, unambitious consideration of this subject, without secession or rebellion. I will give it a better cause; and no thinking man, no man of integrity and sound moral sentiment, will demur to the cause which I assign for it. It is and has been developing itself more and more for years. It is the moral dereliction on the part of this Government in its representatives, departments, and politicians, misleading and agitating the country; the want of a sufficiently high moral sense of the duties and obligations which rest upon those who have the agency of the Government in their hands. We have neglected, in this House and elsewhere, the moral obligations imposed upon us, and for our dereliction we are now reaping the bitter fruits of this war. I say that this rebellion was caused by moral dereliction, by party struggle, by sectional jealousies and sectional feeling, by crimination and recrimination. All these things, exciting in their character, and not the fact of the existence of slavery—party struggle, sectional jealousies and the consequent sectional dislike, I say, have been the cause of this war. They are the head and front of this rebellion. Was it the powder that made the explosion? No; it was the rash and reckless hand that plied and touched the match. The life of party has been preferred to the preservation of the Constitution and the Government.

I have belonged to a party, like all others. As my colleague has said, I did belong to party, but not now. I belong now only to one set of men, and they are the patriotic men who, in every department of the Government, and in every section, are putting forth every effort for the preservation of the Union and the Constitution and the protection of the rights of all of our citizens under them. I am for the reunion of the people of the sections which are now in arms against each other. I belong to that party, and that party only; I want to belong to no other party in this hour of the country's peril.

I want to read, in confirmation of the position I have taken in reference to the cause of this rebellion, from the Farewell Address of George Washington. O, that we had taken his warnings in time! It will be seen that moral dereliction on the part of the agents of the Government and sectional jealousies have engendered this widespread treason. With wonderful prescience, the Father of his Country gave us this warning:

"In contemplating the causes which may disturb our Union, it occurs, as a matter of serious concern, that any ground should have been furnished for characterizing parties by geographical discriminations; northern and southern; Atlantic and western; whence designing men may endeavor to excite a belief that there is a real difference of local interests and views. One of the expedients of party to acquire influence within particular districts is to misrepresent the opinions and aims of other districts. You cannot shield yourselves too much against the jealousies and heart-burnings which spring from these misrepresentations: they tend to render alien to each other those who ought to be bound together by fraternal affection. The inhabitants of our western country have lately had a useful lesson on this head; they have seen in the negotiation by the Executive, and in the unanimous ratification by the Senate of the treaty with Spain, and in the universal satisfaction at that event throughout the United States, a decisive proof how unfounded were the suspicions propagated among them, of a policy in the General Government, and in the Atlantic States, unfriendly to their interests, in regard to the Mississippi; they have been witnesses to the formation of two treaties; that with Great Britain and that with Spain, which secure to them everything they could desire in respect to our foreign relations, towards confirming their prosperity. Will it not be their wisdom to rely for the preservation of these advantages on the union by which they were procured? Will they not henceforth be deaf to those advisers, if such there are, who would sever them from their brethren and connect them with aliens?"

When I spoke of the moral obligations resting upon the agents of the Government I did not mean that they should all be saints, I only meant that in all branches of the Government there should be a pervading sense of justice and morality. I will read from the same address:

"Of all the dispositions and habits which lead to political prosperity, religion and morality are indispensable supports. In vain would that man claim the tribute of patriotism, who should labor to subvert these great pillars of human happiness, these firmest props of the duties of men and citizens. The mere politician, equally with the pious man, ought to respect and cherish them. A volume could not trace all their connections with private and public felicity. Let it simply be asked, where is the security for property, for reputation, for life, if the sense of religious obligation desert the oaths, which are the instruments of

investigation in courts of justice? And let us with caution indulge the supposition, that morality can be maintained without religion. Whatever may be conceded to the influence of refined education on minds of peculiar structure, reason and experience both forbid us to expect that national morality can prevail in exclusion of religious principles.

"It is substantially true, that virtue or morality is a necessary spring of popular government. The rule indeed extends, with more or less force, to every species of free government. Who, that is a sincere friend to it, can look with indifference upon attempts to shake the foundation of the fabric?"

Such is the instruction from that celebrated and inestimable public document.

In further allusion to the causes which may distract the union of the States, he says:

"I have already intimated to you the danger of parties in the State, with particular reference to the founding of them on geographical discriminations. Let me now take a more comprehensive view, and warn you, in the most solemn manner, against the baneful effects of the spirit of party generally.

"The spirit, unfortunately, is inseparable from our nature, having its root in the strongest passions of the human mind. It exists under different shapes, in all Governments, more or less stifled, controlled, or repressed; but in those of the popular form, it is seen in its greatest rankness, and is truly their worst enemy.

"The alternate domination of one faction over another, sharpened by the spirit of revenge, natural to party dissension, which, in different ages and countries, has perpetrated the most horrid enormities, is itself a frightful despotism. But this leads at length to a more formal and permanent despotism. The disorders and miseries which result gradually incline the minds of men to seek security and repose in the absolute power of an individual, and, sooner or later, the chief of some prevailing faction, more able or more fortunate than his competitors, turns this disposition to the purposes of his own elevation on the ruins of public liberty.

"Without looking forward to an extremity of this kind, (which, nevertheless, ought never to be entirely out of sight,) the common and continual mischiefs of the spirit of party are sufficient to make it the interest and duty of a wise people to discourage and restrain it.

"It serves always to distract the public councils, and enfeeble the public administration. It agitates the community with ill-founded jealousies and false alarms; kindles the animosity of one part against another; foments, occasionally, riot and insurrection. It opens the door to foreign influence and corruption, which find a facilitated access to the Government itself, through the channels of party passions. Thus the policy and the will of one country are subjected to the policy and will of another."

I have read those extracts for the purpose of sustaining the remarks which I have submitted to the House. And I desire now to make one further reflection. I ask every man upon this floor, and every man who has read anything at all, whether the people of the different sections have not been wrought up to this highly excited and dangerous state of feeling; whether the South was not stimulated to go into this secession movement and to take up arms against the Union, by the sectional jealousies and the spirit of party referred to by the Father of his Country, each section alike guilty in producing the excitement? How has it been here? A man from one section of the country gets up and denounces the institutions of another section, and in his own section his denunciations are regarded as very spirited, while they inflame and excite the people against whom they are directed. Sectional jealousy and bad feeling among the people are the inevitable result. When these denunciations of my people and their institutions are published, they are read and applauded, however unjust and illogical they may be shown to be by my friend from Massachusetts, [Mr. THOMAS.] The true interests of the country demand that good feeling should exist between all sections of our people, and that justice should be meted out to all with an even hand. Let party strife cease; let there no longer be a crusade started against the property and rights of any class of the citizens of the United States; let justice and good feeling prevail, and I have no fear for the maintenance of this Union and this Government. It will not be long then before this nation will be more powerful and glorious than ever. We will then take higher rank among the nations of the earth, after having put down a rebellion more gigantic than ever before threatened the existence of any Government. It will seem as if this Government was ordained of God to stand and be politically the model of the whole earth.

Mr. Speaker, the whole work before us is the suppression of this rebellion, and the protection and preservation of the Union as we received it from our fathers. I believe that it will be done. I believe that the Union will be perpetual. I believe that the people of the South, who have been misled and deceived more than any other people by the leading secessionists, will, as soon as their eyes are open to the truth, gladly return to their allegiance.

I come now to say a word or two on another subject. The men from the border States have been taunted by some of the members from the other States with having been lukewarm in favor of the Government. This is not true. There sits a gentleman who has the confidence of this House. Ask him, and he will tell you what the men of the border States have done for this Government. Two thirds of the people of those States, in their devotion to the Union and the Constitution, have been reckless of their property and their lives. For the Government they have suffered more than any man can tell. Pass through the trials which they have encountered, and then gentlemen may appreciate the unsurpassed heroism of their devotion. But we ask nobody's compliments or sympathy. We intend to do our duty to the country to the last, whether gentlemen appreciate it or not. Cheered by a good conscience, from such men we appeal to facts and history. Sir, there are thousands and tens of thousands of men in these border States who have sent their sons to the battle-field, who would rather sink beneath the soil in an instant all their treasures and all their household, themselves included, rather than that this Government should go down.

Now, Mr. Speaker, though I am not a man of much self-confidence, yet I think I am a man of good common sense, and let me tell you and this House that I understand my own people, their feelings and interests, from long and intimate association with them, and yet gentlemen upon this floor, who never saw my constituents, profess to know all about their situation and their wants. Gentlemen of the sea-board, who represent the vast interests of commerce and trade and shipping, of the mercantile and naval marine, let me ask you if we of the border States have ever withheld our support from any of those interests? Never, never. Now, coming from Kentucky, as I do, having scarcely seen a ship in my life, except occasionally upon Lake Erie, or some other of our inland waters, if I should rise up here and tell you that I understood all about commerce, all about navy and dock-yards, all about arms, cannon, and ordnance stores, a great deal better than you do who have had practical experience in connection with these matters all your lives, you would not believe me, would you? Now, gentlemen, I tell you you are precisely in that predicament in reference to the affairs of Kentucky and her people. You tell me that this project of emancipation, as far as you can go, must and shall be carried out. I tell you you know nothing about the interest, feelings, sensibilities, and associations of the people of the border States. Whom, from the State of Kentucky, have you heard get up here and announce that he was a pro-slavery man originally and forever? Not one. That is NOT NOW UP; we stand upon the Constitution, and claim our rights under it. But we were born in the midst of that institution, and we know something about it. I tell you that the legislation of this Congress has been injurious to the interests in the border States through and by this question of slavery. It makes intimations that may not be rightly received and understood; it gives hope to the enemies and does not strengthen the friends of this Union. I did not intend to allude to the abolition of slavery in the District of Columbia; but I will refer simply to the effects and results of it. It is too late to argue against it, for it is a thing of the past. I voted against it, and that is sufficient for the present. Two thirds of the people of Kentucky are good Union men, and one third active, vigilant, and bold secessionists; and they seize upon this matter of emancipation in the District of Columbia, and make their people believe that it is the policy of this Administration to set the slaves free everywhere. This the Administration has denied.

Again: our war orders have been unfortunate, furnishing the secessionists with another argument to uphold their cause. In the first place, slaves were excluded from the camps of the soldiers. That was just and right; but now—and that is what the secessionists seize upon—you have established a new article of war, by which it is ordained that any officer shall be arrested who shall aid in delivering a fugitive slave to his master.

I assure you, gentlemen, that the legislation of this Congress upon the question of slavery is exceedingly difficult to be explained to our constituents, even by those of fervid eloquence, undoubted integrity, and who possess the utmost confidence of their constituents. You are embarrassing us by this legislation, and you have been all the time, and hence it may be supposed that we feel some considerable interest upon this subject.

We are a people of warm temperament; sometimes moved by impulse at the expense of our deliberation. I hope I may have a just deliberation of things and keep cool, for I have made up my mind to take things just as they come, molding events as they transpire to the best of my ability, and then to go home and tell my constituents I am a Union man, and that it is my greatest glory to sustain the Union and the Government our fathers left to us as a sacred inheritance; for the Union first, last, and forever.

Now, I want to read you an extract from the writings of this same Judge Parker, to whom my colleague [Mr. WICKLIFFE] referred a few moments since, and I want to apply his remarks to my argument in reference to this legislation. He says:

"The Constitution [when it was formed] left slavery just as it found it, except in two or three particulars. It provided for an apportionment of representation upon a certain slave basis; but this did not alter the status of the slave, or give Congress any power to change or modify it. It gave authority to Congress to prohibit the slave trade after 1808, and this authority has been exercised. It imposed the duty of delivering up fugitive slaves. Constitutionally and legally speaking, it is as right that this duty should be performed, as it is that the power to prohibit the slave trade should be exercised."

Some men seem to suppose that a thing is constitutional if it concurs with their views of politics. But we have got to look at the whole Constitution and do what it directs, whether it is pleasant or unpleasant. Judge Parker continues:

"Without the Constitution, neither the power nor the duty would have existed. The instrument which confers the one, equally imposes the other. To exercise the power, and refuse to perform the duty, is not merely unconstitutional, it is a fraud."

And now comes the point which more immediately relates to the argument I am making:

"*All State laws, therefore, enacted with a design of evading the performance of the duty, are a violation of a constitutional obligation, and can neither be justified by law nor excused by any code of morals.* The Constitution binds the United States, on application, to protect each State against domestic violence, which may include a servile insurrection; but this does not change the relation of master and slave."

Now, what is the application? It is that *this spirit of legislation in its tendency is against the pledges of the Administration* that slavery is not to be interfered with in the States. Mark you, I have not said it will be interfered with. I receive the President's pledges yet, and mean to do so, as an honest man, as far as is just and proper. He is charged, under God, with the momentous task of suppressing this rebellion and restoring all the people and all the States to their constitutional rights. And mark you, too, that whatever may be the status and condition of a State, that rebellion or insurrection does not change the status, nor the relation of master and slave.

I have made this argument, not in the spirit of complaint against anybody, but to show you that the tendency of this legislation is to increase our embarrassment in particular localities of this Union! Well, if we cannot get sound legislation, we must appeal to the courts and get sound adjudication.

And now I wish to allude to the action of the Legislature of Kentucky. I am proud of being a Kentuckian. I was born on the bluff of our river Kentucky, and I love Kentucky. I pray this Union may be as eternal as her cliffs, and her patriotism as clear and pure as its waters; and I want to show to the House and to the country that when we took our position here in the Halls of Congress, that position was appreciated by Kentucky, and that it was indorsed and ratified as the true position, the true sentiment, the true pathway of patriotism, and the only pathway of safety to the Constitution and the perpetuity of

the Government. I will read a portion of the resolutions of the Legislature of Kentucky:

"2. *Resolved*, That the existing civil war, forced upon the national Government without cause by the disunionists, should not be waged upon the part of the Government in any 'spirit of oppression, or for any purpose of conquest or subjugation, or purpose of overthrowing or interfering with the rights or established institutions of any of the States, free or slave, but to defend and maintain the supremacy of the Constitution and to preserve the Union with all the dignity, equality, and rights of the several States unimpaired; and as soon as these objects are accomplished, the war ought to cease.'

"3. *Resolved*, That in the adoption of the foregoing resolution by the national Congress, with unprecedented unanimity, at its late session, a rule of action was prescribed to the Government from which it cannot depart without a disregard of the plighted faith of the national Legislature, which we would be slow to believe can be seriously entertained. Against any such departure we solemnly protest.

"4. *Resolved*, That the purpose expressed in said resolution is the great end demanded, and that which inspires Kentucky with patriotic ardor to seek their achievement with all her loyal energies and means, in the confident hope of success, and belief that the country saved, in our triumph, to us and to posterity, will still be glorious in the freedom of its people, in the unity of its Government, and the security of society, and worth infinitely more than it cost to save it."

So every gentleman of this House may see Kentucky is with you, has indorsed and pledged herself to your platform in this crisis. The loyal men of Kentucky in the Legislature, in Congress, and before the people, everywhere, have taken that ground. We have pledged ourselves in Congress that the Administration would not back out of that position. If you do you embarrass your friends and give advantage to your enemies. That is quite sufficient to say upon that point.

I do not say that men must surrender conscientious views of personal or political obligation to favor Kentucky or any other State, but I do say that when the pledge was given, when it was received and acted upon as the true foundation and safe groundwork of our course, and when we intend to maintain that position, we have a right to demand that the Representatives in this Hall shall keep their first, best resolution in this great crisis.

Now, a word in reference to the pledges which were given by the President. I do not believe, and I do not intend to believe until I am forced to, that Mr. Lincoln intends to abandon the position he took in his emancipation message. In that same message he solemnly announced that he would never permit the constitutional rights of the States upon the subject of slavery to be interfered with nor invaded. Now, while we hold Congress to their pledges, we hold President Lincoln to his pledges. I believe they will be redeemed. I have no disposition to resist what is right, or to asperse the Administration or anybody that sustains it. The Administration has a heavy responsibility, and needs help—true help—HELP IN GOOD FAITH. I take my own course, expecting to render an account to my constituents, and every man here holds himself similarly responsible. This is no time to attack anything but palpable error and armed traitors. I accord to Mr. Lincoln and to the commanding officers of the Army an intention to carry out their declaration that they will not interfere with slavery in the States. I will not trouble you with much reading, but I want to illustrate *this*. General Butler says:

"It is the desire of the President that all existing rights in all the States be fully respected and maintained. The war now prosecuted on the part of the Federal Government is a war for the Union, and for the preservation of all constitutional rights of States, and citizens of the States in the Union."

That is what President Lincoln says through General Butler, for he has never recalled General Butler from his command. Another general—General Dix—says:

"Special directions have been given not to interfere with the condition of any person held to domestic service; and in order that there may be no ground for mistake or pretext for misrepresentation, commanders of regiments and corps have been instructed not to permit any such persons to come within their lines."

General Sherman says the same thing, in substance. Now, these declarations of commanding officers, under the instructions, or, at least, with the approval of the President, are conclusive upon this subject; and to make it still more conclusive, whenever there has been any commanding general who has departed from this policy, he has been recalled from his command or rebuked by the President. General Hunter is the last. I am bound to receive this testimony, and I do receive it, until another conclusion is forced upon my mind by facts that I shall not invite, and that I will not resist in their true import and meaning, to satisfy me that this is all fiction, and not true. I think these things are exactly right. The only complaint in the world I have to make is, that Congress has passed a law, over Mr. Lincoln and over the commanders, making an additional article of war, that when negroes come into the camps, the officers shall not deliver them up. There may be a good and special reason for this, but the reason is not very striking and palpable. There was no absolute necessity for it. I know mistakes might be made and injustice done, but men ought to be allowed to act in the exercise of a sound discretion! I say, therefore, that the Administration party, in their legislation upon this subject, has discriminated against slavery, and the authority which I have read, from Judge Parker, is that, whenever such discrimination is made either in favor of or against a thing which is itself constitutional, the discriminating legislation is unconstitutional.

Now, sir, I must hasten on, but I want to put myself exactly right upon all these questions, and I want my constituents to know exactly where I stand. I am going to do Mr. Lincoln all the justice that I can do him. I am not going to attack his administration at all. I dare not do it in such perilous times as these. We cannot, if we would, remove him and appoint another, as in the Army. Other gentlemen are welcome to do it, and I shall not rebuke them for doing it. The responsibility is theirs; but I will not take upon myself that responsibility, and for the reason that nothing like party, nothing like sectional feeling, nothing like excitement, nothing like agitation, ought to be permitted to come into this Hall of deliberation until this rebellion is put down and this Government not only maintained, but stronger than ever, and we have once more our glorious flag floating over us all in peace and in union from Maine to Florida, and until such of our troops can come home as survive the inclemency and disease that destroy them in the camp and the perils of the battle-field.

Now, gentlemen, I am coming to another subject which, were it exactly assignable, I would gladly assign over to some other gentleman. I am against this confiscation bill and against this emancipation bill. It is a wrong time to adopt such measures! And that of itself is a very good and sufficient reason for opposing them. I have thought, and could not help thinking, that those who want to take action against slavery now, discriminating against it, are catching time by the forelock, for fear they may never have another opportunity. I hope I am mistaken in this. It is the wrong time! Have we not enough to do to attend to our financial interests and to the interests of our Army and Navy? Are we such a gigantic body in intellect and numbers that we cannot find subject-matters enough for our consideration and deliberation? Is not the task of conducting this rebellion and taking care of the Army and Navy and of the finances of the Government, excluding these vexatious questions, sufficient for all the powers that we can bring to bear during the present rebellion?

Well, gentlemen, it is not only the wrong time, but there is no necessity for it! I will show you that it will not help to put down this rebellion. It will, if you will believe me, extend the rebellion and increase our expenses by reason of the extension of the rebellion beyond what you will get by confiscation. Now, do not you think that we, whose people have been quartered upon and oppressed for months by these armed traitors, can speak honestly and truthfully about this matter? I repeat, that by these measures you will protract this rebellion until it will cost the Government more to suppress it than all the money you can get by confiscation. Now, do not think there is any threat in this, because, protracted or not protracted, I am going to be a Union man, and I tell you that two thirds of the people of Kentucky are going to be Union men even if the rebels get the ascendency and swing them up for their loyalty. I say there is no necessity for confiscation or emancipation. Why? Because the work now on hand is to put down the rebellion. Does any man believe that the emancipation of the slaves will aid in putting down this rebellion? Why, that is the very thing the South *pretended* they took up arms about—that is the very hobby upon which they rode their people into rebellion. If you will only look at this question as reasonable men, you will see at once that it will not; on the contrary, it will retard the putting down the rebellion, and procrastinate the hour of peace and of success.

Let us look at the matter as reasonable men. There is an influence already there against the Union. Some of the people there are in rebellion and have taken up arms against the Government. Well, if you emancipate their slaves you will exasperate them and all their family relations and neighbors. You will infest the country with free blacks. You know how suspicious and jealous men are about their property, and their neighbors, even Union men, will say: "we cannot tell what is coming next; they may take our slaves next; you never saw a storm pass over an orchard and blow the apples off one tree, but what it blew the apples off the others, too." [Laughter.] That is what they will say, and I tell you it is a good argument, because it is predicated upon the experience of humanity and the consciousness of men, for we know other men as we know ourselves. We can put down this rebellion without any confiscation bill; we can put down this rebellion without any emancipation. And when we have accomplished that great end, if it becomes necessary, then consider emancipation and punishing the guilty. Let us consider the question like philosophers when we have time, and the struggle is over. The people who are interested in it will bring it up when it is timely and right, and then, like statesmen and like philanthropic and benevolent men, consider it, if you must, when all the States shall be here to be heard in our deliberations. Some of our people may concur with you, perhaps, and some disagree. But why should you press the matter now when there is no necessity for it, and when it is the wrong time, and when it will do no good and do harm.

[Here the hammer fell.]

Mr. ARNOLD. I hope the gentleman's time will be extended.

There was no objection.

Mr. GRIDER. Mr. Speaker, I have said that this rebellion can be put down easier, better, quicker, without bills of confiscation or emancipation than with them. Confiscation is against the spirit of the age. The authorities in support of it are dug up from the tombs of antiquity. It is too far behind the age. I ask any gentleman of responsibility and moral feeling whether, when these traitors are subdued, the rebellion overcome, and the Government as it was—as we expect will be the case in two or three months—the Government would appropriate to itself the property of these traitors? No sir, you would not have it. If this bill be passed, and the rebellion be put down, before the whole machinery of confiscation is wound up, and the money put into the Treasury, Congress would abandon the idea of having it placed there. We would do as the Swiss Government did. They had a rebellion something like this. I referred to it the other day, and one of the newspapers undertook to correct my statement. But, according to my recollection, some of the cantons got into a rebellion against the confederacy; some were neutral. But they were subdued, brought to terms, and the Government maintained. It had been ordered that the expenses of the war should be defrayed by the rebellious and the neutral cantons; but when the Government was saved, this order was revoked, and all the expenses were paid by the entire confederacy. Therefore I say that this confiscation bill is against the spirit of the age. What do you want with the property of these traitors? It will cost you more to take it and cash it, counting the fraud, perjury, suffering, stealing, and excitement it would produce, than it is worth. It would upturn all social and peaceful relations, even in hope.

Mr. WHALEY. Will the gentleman yield to me for a question?

Mr. GRIDER. Yes; for it will secure me a little more time.

Mr. WHALEY. I understand the gentleman to say he is opposed to any confiscation.

Mr. GRIDER. Yes; any confiscation at all *at present*.

Mr. WHALEY. Does the gentleman expect that the loyal States, which will be so heavily taxed to pay for this war, are to be also taxed to pay for the losses inflicted on Union men in the border slave States?

Mr. GRIDER. If it were proposed to turn over all this fund wrung from traitors to indemnify the Union men who have been plundered and ruined by secession, that would be another question.

Mr. WHALEY. The question I ask the gentleman from Kentucky is, who are to pay these men who have had their buildings burned, their fences destroyed, and their property plundered, and who are now living on charity?

Mr. GRIDER. We have all lost in this rebellion. My town was partly burned up. Whatever losses were inflicted by the Federal Army will be paid for by the Federal Government. As to those caused by the army of traitors, they are the fate of war, and form no ground for a claim on this Government. If this confiscation were to result in indemnifying them, I would not object to it.

I repeat, Mr. Speaker, that confiscation is against the spirit of the age. One of the highest moral sentiments in men and nations is forgiveness. Your learned it when a child at your mother's knee. I have no vengeance to visit on anybody. I cling to my constitutional rights. I cling to the Union. I would vote all the needful supplies of men and money to subdue this rebellion; and then, when we had saved the Government, we could consider all these questions that are now retarding and annoying the action of the people and the Government. Another great moral sentiment, and the most powerful lever to control men, is love. Exasperate these men, confiscate their property, emancipate their slaves, and I ask you whether you do not goad them into desperation? But hold off your confiscation bill, announce, according to the sentiment of the resolution of Kentucky which I have read to you, that this is no war for subjugation or plunder, no war for emancipation, but a war for the maintenance of the whole Government in the spirit of amity and friendship. Tell them that you undertake to control them, not by a bill of confiscation, not by denunciations or emancipation, but by the Constitution and the laws. Say to them, "although you are traitors, and deserve to be punished, as some of you will be, you were once our fellow-citizens; you still are our fellow-citizens, and are under our protection and jurisdiction if you will cease your madness, strife, rebellion, and treason; but 'the Union must be preserved,' and treason shall be overwhelmed and punished. We do not intend you any harm, and would not do you any harm, except to use such force, and no more, as will bring you back to your submission to the Constitution and laws of the land."

What have you got the right to do? You have got the right to put down this rebellion in the quickest and most effective manner. But you have not got the right to use any more force or violence than is necessary. You cannot burn, maim, and torture—no! If you do, then, according to common-law principles, you yourselves become the aggressors. Is not that right? Is it not the true principle of the law? Is not the moral sentiment which I have proposed to you sound? Is it not predicated on well adjusted principles of law?

One more proposition and I am done. I ask you whether magnanimity and forbearance are not greater powers than intolerance and oppression? I am not pleading the cause of those traitors, but I repeat that magnanimity and toleration are mightier levers than punishment and confiscation—toleration in contradistinction to confiscation, or, if you please, torture, or other unusual punishment.

What are we doing? Putting down the rebellion. Then there is another thing which I would have you do. *Falsify* the rumor that this is a war upon slavery, even incidentally, and you will sooner put down this rebellion than you will by passing a bill of confiscation. Whatever gentlemen may believe to the contrary, I know that these people are misled and deceived to an extent beyond that of any people of their intelligence. They were first made mad. Their leaders, their politicians, their demagogues, blindfolded them, and led them into this rebellion. For what? Because they made them believe that there was to be a crusade against slavery, and on their constitutional rights and privileges. *Dispel this delusion*, and they will come back to the old Constitution, the old homestead. They would come, as they ought, like the prodigal, in tears and penitence and confession; but they believe it yet. Governor Andrew Johnson tells you so. Falsify that belief, and you will do more to bring about peace and put down this rebellion than you can do by a thousand bills of emancipation and confiscation. Is it not a much better way? It is the fairest appeal; it is an appeal to reason, and to the interest of a man that will commend you to him, that will bring him back to your home, and make him love you. It is not by goading on to madness; it is not by hunting down with the hue and cry of confiscation and emancipation that you will win him back.

Now, sir, I want it understood that I am no defender of any traitor. I say it is your duty to arrest him, to indict him, to try him fairly, and whatever is the penalty of treason, let him meet it unless the Executive see fit to extend his clemency. I say there is more mercy in that than there is in this wholesale confiscation, than there is in this wholesale emancipation.

Now, sir, upon the proposition of this bill to confiscate the property of a man by proceedings *in rem*, without personal notice, without affording him an opportunity to appear and show cause why the confiscation should not go against him, let me suggest a single thought respecting the legal aspect of the question. I do not know that it is sound, but I believe it is. I assert that the Congress of the United States have no power to emancipate any slave in Kentucky if the constitution of that State prohibit such emancipation. You have no power over the subject. By the Constitution of the country you are estopped, because upon this subject of slavery the constitution of Kentucky is paramount in its authority to the Constitution of the Federal Government, or rather, the Federal has no jurisdiction but to warrant and protect it in the State, it being a local matter belonging exclusively to the municipal authority of the State, and that exclusive jurisdiction on the part of the State does not come into conflict with the Constitution of the United States, or with any law of the United States made in pursuance thereof.

Now, sir, here is another proposition. The constitution of Kentucky, as it now exists, prohibits the emancipation of slaves. It was once just as easy to emancipate your slaves as to do any other act. All you had to do was to take your slaves, Tom, Dick, and Harry to the county court and give them their papers of emancipation. You were not even required to give a bond, unless the negro was old or unable to take care of himself.

But gentlemen in and out of Congress raised this agitation. You brought on this wrangling over that institution, driving us a little further and a little further back, until you succeeded in making strong pro-slavery men of those who were once as sound on the subject of emancipation as you would expect. My colleague [Mr. HARDING] suggests they themselves made the question of emancipation before the people of the State. In the last convention the question was raised whether the people of the State should be permitted in future to amend the constitution of the State one or two clauses at a time. But, sir, those opposed to emancipation refused to accede to that proposition, because they said it was intended to make the constitution of the State an emancipation constitution. They then formed a constitution which is thoroughly pro-slavery, and it cannot be amended for some four or five years yet to come, if it were desirable for this purpose. You cannot emancipate a slave in that State now at all. The only means by which it can be done is to emancipate, and then take your slave out of the State to return no more.

Now, I maintain that if you can emancipate slaves in Kentucky at all by the exercise of Federal power—and I deny that you can—it must be done in conformity with the constitution of Kentucky, unless it be true that in respect to her local institutions the Constitution of the United States is paramount to the constitution of Kentucky. I am perfectly aware that the Constitution of the United States, and the laws made in pursuance thereof, must be the supreme law of the land, anything in the constitution or laws of any State to the contrary notwithstanding. Then, if you undertake to accomplish this object through the passage of a law by the Congress of the United States, you must show the law to be in conformity with the Constitution of the United States, which cannot be done, because no such power is granted.

Now, Mr. Speaker, I propose to read the clause in the Constitution of the United States defining treason. It is in these words:

"Treason against the United States shall consist only in levying war against them, or in adhering to their enemies, giving them aid and comfort. No person shall be convicted of treason unless on the testimony of two witnesses to the same overt act, or on confession in open court."

"The Congress shall have the power to declare the punishment of treason; but no attainder of treason shall work corruption of blood, or forfeiture, except during the life of the person attainted."

Now, sir, I make this point, and I make it simply from the common-sense reading, from the plain import of the language. Whatever is true even of this bill (either of them) proposing to confiscate or emancipate is constitutional—which is denied, and denied by gentlemen who have examined the subject, and are of high legal attainments, having consulted the authorities—still it must be for the lifetime only of the party found to be guilty. But I did not propose to argue the legal or constitutional question, but its policy, practicability, and usefulness in view of the great end to be accomplished—the suppression of the rebellion, maintenance of the Union and Constitution, and handing back, in the majesty, justice, and power of the Government, to every State and every citizen all their constitutional rights restored as before! Rescuing from usurpation the scepter which ambitious and wicked men have been wielding over misguided citizens, with a view to their own elevation; thereby exhausting and burning the substance of the honest industry with infuriated folly, and wounding the sensibilities of the home circle around us with the terrible results of camp and field, bearing back the tale of death and of woe to those that are loved.

But suppose you pass this bill for confiscation. How will you put it into operation? Upon whom will it operate in its consequences? Upon the traitor in arms alone? No! upon wife, children, infants, lunatics, idiots—all without exception—not one saving clause, not one pittance exempted. No! let this not be. The soul that sinneth shall die! Suppose you emancipate the slaves. Will you leave them in a community to demoralize and dissatisfy their race? Will you take charge of them and place them in a better condition than they are now? Unless the Government can do this, or unless the master can do this, the obligation is clear, in all sound morality and Christian duty, to keep them as they are, leaving the high and heavy responsibility of being made answerable to earth and Heaven for the charge which, by Providence, is involved in the case. I say, too, the servant who is a member of a good conscientious family, who know and do their duty in sound benevolence, in view of the relation and the Christian obligation imposed by it, is in the most favorable condition of any portion of the African race at this time. This, as far as I am informed, is true, whether you consider their well being here or their prospects hereafter. But all the black race among us are not in this condition. Neither are all the white race. I am glad Congress has not got the whole world to take care of. We should not know what to do with it. It will be as much as Congress can do, *well* and *quick*, to manage this rebellion! Confiscation and emancipation *now* will give no strength, no means, neither facility or expedition. I therefore invoke at present none of this aid, none of these sympathies.

I wish we had all learned better the eleventh commandment, "Let everybody attend to their own business and let other people's alone." I wish we could learn to love, at least not cultivate inveterate prejudices, personally or sectionally. I would be glad if the flood tide of sympathy, which is being exhausted here would be turned upon the parched sands of Africa, and a respite given till this rebellion is over. I should like to hear the

deep silence of the jungles of Africa startled by the bold note in anguish and sorrow that so often reverberates in this Hall. Thus we might find scope for our fullness of heart; thus we might cherish our philanthropy without the semblance of evil, without the dangerous irritations and excitements that sometimes prevail, growing out of our debates and our legislation. I invoke none of these, I think they are detrimental, especially those influences, that kind of side-bar interposition which come not from statesmen, but from an intentionally irritating source that loves agitation. This is all injurious and misapplied, whether it comes from the oration, lectures, poetry, or song; all these are injuriously invoked upon an inappropriate theme, especially if the intent is irritation.

But, Mr. Speaker, let what will come, we must save the Government. And we will! And I trust before many months to have peace, with all its rich blessings—the Government and the Constitution as we received them—all peace, all glorious, all united. Let whatever may come, Kentucky intends to reindorse and ratify her motto upon the monument of the Father of this Country. By the blessings of God and the precepts of Washington, Kentucky will be the last State to leave the Union. "Never despair of the Republic."

Mr. Speaker, I beg the pardon of the House for having trespassed upon their time so long with these desultory, off-hand remarks; but I have felt it to be a duty to submit the considerations I have to you. Thanking the House for its courtesy in extending my time beyond the hour to which the rules entitled me, I will detain them no longer.

CONFISCATION OF REBEL PROPERTY.

SPEECH OF HON. ELIJAH BABBITT,

OF PENNSYLVANIA,

IN THE HOUSE OF REPRESENTATIVES,

May 22, 1862.

The House having under consideration the bills to confiscate the property and free from servitude the slaves of rebels—

Mr. BABBITT said:

Mr. SPEAKER: The gigantic rebellion which the mad ambition of unprincipled, desperate men has instigated against this most just and beneficent Government that ever blessed the earth, has cast upon this Congress questions of higher magnitude, of greater difficulty, and more momentous in their consequences than has fallen to the lot of any other Congress that ever assembled under our Constitution. It has introduced a derangement of our national organization threatening such disaster to the people and to our governmental unity as the great architects of our Constitution, wise as they were, could, by no possibility, have foreseen; or, if suggested to any of those sagacious and far-seeing minds, the possible occurrence of such a great and causeless rebellion would have seemed to require the existence of such unreasoning madness in a majority of the people of whole States as could have gained no particle of credence with them, because they knew that in the freedom of frequent elections they had provided a peaceful remedy for the redress of all those evils which under despotic governments can be redressed only by the bloody remedies of rebellion and revolution; and therefore the framers of our Constitution made no provision expressly with a view to the suppression of such an astounding attempt at national suicide. That on questions of such difficulty and magnitude, so forced upon us without the aid of any express provision in the Constitution, or any precedent to guide us, there should be diversity of opinion among loyal men is naturally to be expected. Indeed it would be very extraordinary if such diversity did not exist; and hence its existence should be treated with deference, and should, on no occasion, lead any one to impugn or question the motives or patriotism of those who maintain opinions conflicting with his own on the questions thus presented.

There is, however, in this connection one great and vitally important question, rising so high above all others as to serve as a stand-point from which the others may be correctly scanned, on which, I think, all loyal men, of whatever party antecedents, should and probably do agree; and that question is: shall we, regardless of whatever treasure and blood it may cost loyal Union men, whatever time it may consume, and whatever calamity and ruin it may bring upon hardened and unrepenting traitors, maintain this Union, the Union of our fathers, in its entirety, one and inseparable forever? I, Mr. Speaker, answer this question absolutely and unconditionally in the affirmative, and I believe all loyal men should accord to it the same answer. I hold that this war should be prosecuted with unrelaxing energy by every means which God and nature and the rules of civilized warfare have placed at our disposal, till every particle of this great treason shall be exterminated.

No citizen, sir, can more deeply deprecate this bloody and destructive conflict than myself, or more ardently long for a return of the halcyon days of peace; but my mind is indubitably impressed with the conviction that the entire crushing out of every vestige of this causeless, wicked, and murderous rebellion is an absolute necessity to the restoration and preservation of peace. There can be no peace without it. If through our own hesitancy to use the most energetic and efficient means of suppressing this rebellion, we shall allow it to attain any final success, however limited, the prestige and charm of the Union is gone, and there can be no peace thereafter. A hollow truce there might be, but it would be merely a prelude to war. Any severance of the Union under any circumstances would constitute a precedent fraught with the direst evils. Under its baleful influence disappointed ambition, by stirring up and intensifying sectional jealousies, would accomplish other and successive severances. Wars would inevitably ensue between the sections of the thus dissevered Union, and the land would be desolated till its wretched and impoverished inhabitants would find their only relief in becoming the colonial vassals of some of the leading foreign despotisms. The only means by which peace can be restored and preserved is that of restoring the undisputed rule of this one, rightful, national Government over every foot of territory which, at the commencement of this foul and wicked rebellion, constituted the United States of America. In its unity there is glory, honor, and prosperity; in its severance there is degradation, desolation, and death. The rights of small, feeble nations are but the scoff, contempt, and prey of the powerful. Their Governments can accomplish no great object. They seldom produce distinguished or prominently useful men.

If, as alleged by secessionists, there exist between the different sections of this Republic conflicting interests, habits, and manners, so much greater the necessity of modifying and restraining their operation by the genial influence of one just and beneficent Government, such as that of the United States has ever been, extending over the whole, and repressing the feuds of each. All history proves union, and not severance, to be the true policy. England, Scotland, and Wales, differing in interests, habits, and manners, were, while under separate Governments, perpetually at war. United under one Government—still differing as before—they have found perpetual peace. The same may be observed in regard to the Saxon Heptarchy; and the early histories of Italy, Greece, and many other regions teach us the same lesson.

The voices of the wise and good, the friends of freedom and progress throughout the civilized world will, with one accord, proclaim that of this Republic—the world's last and greatest hope of political liberty—there must never be a severance. Let us respond: "No, never!" The same glorious old flag must, and, God permitting, shall continue to wave over the whole old Union, from the sources of the Mississippi downward to the Gulf of Mexico; from the shores of the Atlantic away over the Alleghany, the Rocky, and the Nevada mountains to the great Pacific; and from the St. Lawrence and the lakes to the Rio Grande.

Having thus, Mr. Speaker, attempted to show that an overwhelming necessity exists for the preservation of this Union in its entirety, cost what it may, I come to the consideration of the means of accomplishing it at the least cost of treasure and blood to Union men. In the adoption of measures I would scrupulously regard the rights and interests of loyal men everywhere. And if, from their nature, those could not be fully protected, I would have the Government make ample compensation. But I would adopt the most certain and efficient means for the salvation of this last resting place of liberty on earth, regardless of the calamities or the merited punishment it might bring on those persistent traitors who are utterly regardless of all rights of loyal men, and, wherever they have the power, inflict upon them such savage barbarities as would call a blush of shame to the cheeks of any other savages but themselves. And here I am compelled by my settled convictions to say that, in my opinion, one of the most efficient means of speedily crushing out the rebellion and preserving the Union would be the adoption of measures upon the basis indicated in the bill before us, for freeing from servitude the slaves of persistent rebel masters. I am ready to vote for the adoption of some such measure as a *bona fide* military necessity for the preservation of the Union, and not as warring against State institutions. I would have it affect no loyal State, and would have it so guarded that it could work no pecuniary loss to any loyal citizen; or, if any loyal citizen should unavoidably suffer loss, I would have remuneration provided. In addition to its being a military necessity, I think the measure commendable as inflicting a just, but inadequate, punishment on rebels for the terrible iniquity of instigating and persisting in a rebellion so utterly causeless, godless, and bloody; a rebellion which has sent desolation, rapine, and murder broadcast over the land; has sent bitter mourning into tens of thousands of heretofore happy and joyous dwellings, from which even now the wail of ten thousand widows and orphans, left destitute, is moving heaven and earth for the punishment of these murderers of their husbands and their fathers.

It is said that our brave men in arms are able to put down this rebellion without resorting to the aid or liberation of slaves. This may be so. But at the same time I believe the proposed measure would utterly exterminate the rebellion at incomparably less cost and in fewer months than it might take of years if we should not adopt it. The slave system, unassailed, is the great element of rebel power. In it, as in the locks of Samson, lies the secret of their great strength. Slave labor feeds and clothes their armies, supplies them with all the munitions and means of war. Slave labor sustains the aged and infirm, the women and children, leaving every able-bodied adult white male with nothing to do but fight for the overthrow of the Union. Shorn of this institution, rebeldom would be as powerless as was Samson shorn of his locks in the lap of Delilah. These slaves, composing nearly half the population of the cotton States, are, I believe, about the only true Union men now to be found there. They are now, on compulsion, helping the rebellion. But they would, one and all, gladly and rapidly come over to our side and help us if we would let them, if we would promptly, distinctly, and without reservation, afford them facilities for so doing. I think the time has arrived, and we have reached a point in this great war, when we should employ them on our side, and grant them freedom as a boon for faithful assistance, if they are willing to render it. I would employ them, sir, not to commit devastation, rapine, and murder, as it has been most falsely assumed they would if set free. But I would employ them to render the same service to us, for pay, that they have heretofore rendered for rebels on compulsion; and I would free them because it is right. That they would commit any of those imagined outrages, there is not the slightest probability. Every fact, act, and circumstance connected with their conduct towards their masters in this war, prove them to be, of all people on earth, the most docile and least vindictive. In no instance have any of them manifested the slightest disposition to avenge their wrongs. Peaceably to obtain their freedom seems to be the absorbing desire of their hearts. Besides, if we use them in this war, or if we do not, they will be always under the control of our armies, or our Army officers, and would not be suffered to commit any of the imagined outrages which are the mere chimeras of guilty consciences.

The contest in which we are engaged is a terrible and bloody war, which requires the use of every means at our command, and this among the rest, as a controlling military necessity. The hot season is even now upon us, the summer solstice rapidly approaches. Is there no danger in this? There is imminent peril! We should garrison our southern forts and military stations with blacks without delay. The peril of exposing our brave armies to the deadly malaria of southern swamps is appalling. Think of the devastation of the yellow fever or cholera! Even now rebel traitors are gloating with infernal glee over the by them anticipated sickening and dying of tens of thousands of our brave northern soldiers from the malign influence of the southern climate.

It is objected that, in all the regions beyond our actual military possession, the slaves would, by their rebel masters, be prevented from leaving them or joining us, and thus the measure be rendered of no effect. I answer that the slaves, constituting near half the entire population of the cotton States, and being informed, as they soon would be—for no surveillance could keep it from them—that under the stars and stripes they would certainly find freedom—the great absorbing desire of their souls—it would require the attention of all the armies of all rebeldom to prevent the exodus of its slaves, and thus leave to them no time to fight against the Union. Or, if they should still attempt to fight, each soldier would have to hold a negro by the throat with one hand while fighting against the Union with the other. Only adopt the measure in earnest, and the slaves will come in flocks to our side. Nothing can prevent them. And it would be equally as effective in extinguishing the rebellion as would be the magic power in us of causing the teams, provisions, and munitions of war of the enemy, to leave them and come to us of their own volition. It would be Aladdin's lamp in our hands. It would work like magic in overwhelming the rebel oligarchy; and the loss would fall mainly, if not wholly, on the rebel leaders—for in the cotton States they are the slave owners. Why it is that we should persist in keeping loyal slaves subject to disloyal masters, to our own great and incalculable injury, surpasses my comprehension.

But now, Mr. Speaker, let us consider what the prospect is of speedily exterminating this great and dangerous rebellion without a resort to the measure indicated. I know the indomitable bravery of our soldiers. I know they have strong arms and willing hearts, and probably would ultimately accomplish the object. But how long will it take? And what untold millions is it yet to cost us? How much more of the blood of our best men is to be poured out like water? How many more loving hearts to be wrung with inconsolable grief, in order that we may keep our friends in the service of our enemies? Sir, I would rather bankrupt and beggar every bloody-minded traitor in the seceded States, than have the blood of one more brave loyal citizen unnecessarily shed.

But let us see what means of prolonging this bloody war will be left to the traitors if we are weak enough to protect them in the use of their slaves for that purpose. Passing Virginia and Tennessee, as being nearly reconquered, we find the rebellion still rampant in Alabama, Arkansas, Florida, Georgia, Louisiana, Mississippi, North and South Carolina, and Texas. Though we hold possession of some important points, of limited territorial extent, in several of those States, yet all in them beyond our pickets is still in open and defiant rebellion. These States contain a population of nearly seven millions, and cover a territory about equal in extent to that of all the loyal States. The region is exuberantly productive of provisions and all the raw material necessary to the support of armed men. The march of our armies over it may be greatly obstructed, not alone by rebels in arms, but also by a topography so abounding in woods, ravines, hills, morasses, mountains, creeks, and rivers, and so destitute of good roads and bridges, as to render it peculiarly adapted to a system of guerrilla warfare and defense. When we advert to our revolutionary history, and see that our fathers numbered but three millions—that England, greatly excelling them in men and means, blockaded all our ports, had possession of most of our cities, and marched her armies inland through most of the States, and yet, after eight years of warfare, was fain to withdraw from the contest; and when to this we add the danger of foreign interposition, if the contest is not speedily closed, we may better appreciate the danger incurred in refusing to adopt the proposed effective measure with promptitude. It is well to reflect on what may be the cost of rejecting it. The reducing to order of six to seven millions of united rural people, occupying such extensive territory, and determined on resistance to the last, is a very difficult matter. History records few, if any, instances where it has been effected; but it records no instance where, if as effectually divided as it is perfectly in our power to divide the population of the southern confederacy, it has not been a matter easily accomplished. Why should we persist in endeavoring to accomplish it in the most difficult way? We have thus persisted in it one whole year, and the task is not accomplished. It has cost us about one thousand millions of dollars, for most of which we are in debt. How much more indebtedness are we willing to incur rather than to deprive rebels of the use of their slaves in carrying on their wicked war for the overthrow of the Government whose rule they had felt only in its benefits and blessings, as the earth feels the dews of heaven?

And now a few words in regard to the bill confiscating the property of those who have been leaders in this rebellion. I am in favor of its general features. It may need some small modifications. It is eminently just to provide a fund from the sale of the effects of those who have been the active instigators of this unholy war towards the payment of its expenses. Wherever they have had the power they have despoiled loyal men of their property without mercy. I think a portion of the fund thus raised should be appropriated to reimbursing to loyal men the losses thus sustained. The bill very properly distinguishes between the leaders in this rebellion and those whom they have deceived; and proposes, in the first instance, to confiscate the property of the leaders only. This is lenient, and right. Tens of thousands have taken part in this rebellion because their respective States commanded them to do so; and they saw that the United States Government was in no position to be able to protect them if they refused to obey. Such should not be deprived of their property, and will not be so deprived unless they persist in their treason for sixty days after being, by the President's proclamation, warned to desist.

But it is said those severe—I think them lenient—measures will exasperate the rebels, render them more determined and malignant, and thus protract, instead of shortening, the war. To this I suggest, for the benefit of those to whom this idea seems to be a stumbling-block, that as these penalties only touch the leaders, it is only those who would become thus more exasperated and malignant. These are the slaveholders, and persons who, holding offices under the United States, betrayed their trust, and deserted to the enemy, and officers under the rebel government—perhaps some four hundred and fifty thousand altogether—being mostly slaveholders. These, deprived of their slaves, could not do much harm, however great their malignance might be. Besides, the idea that these may become more malignant in their hatred of the Union and Union men than they now are, is supposing them to possess a capacity for malevolence so high that no being but Satan has ever reached it.

But it is objected to these bills, and all similar ones, that they are violations of the Constitution. Let it be shown that this is so, and I will not support them. I, Mr. Speaker, stand by the Constitution in its letter and its spirit, just as our fathers made it and understood it. I have sworn to support it, and will vote for no act, whatever the supposed necessity, violative of its provisions. We sit here, sir, and perform valid acts of legislation solely by virtue of the Constitution. It is our warrent of attorney to act for and in behalf of our constituents. Beyond it and without it we have no more power than any other congregation of citizens convened of their own motion; and our acts would be of no more binding obligation than would those of such voluntary congregation, except that there would be a presumption that Congress, assuming to act in its official capacity, was acting within the pale of its constitutional powers, till the contrary should clearly appear. The existence of war, sir, cannot enlarge our constitutional powers, though it may call into action existing powers which but for the war would be dormant. The same is equally true in regard to the executive and judicial departments of the Government. It is with regret that I sometimes hear thrown out in this Hall the idea that the perils of war may warrant the exercise of unconstitutional power; that the public safety is the supreme law. Sir, there exists no legitimate power in any department of this Government but by virtue of the Constitution; and the public safety can be secured only by the observance of its provisions, which are sufficiently ample for the purpose.

But I do not see anything in these bills that infringes upon the Constitution. The only provision or clause in the Constitution which seems to give even the color of plausibility to the assumption of unconstitutionality is that which provides "that no attainder of treason shall work corruption of blood, or forfeiture, except during the life of the person attainted." Now, sir, to be attainted of treason, in the sense intended in this clause, is to be convicted thereof by a court and jury; the penalty whereof had ever been death. The framers of the Constitution seem to have thought this a sufficient penalty, without the addition of absolute forfeiture of estate. But as this bill proposes a proceeding *in rem* against the property of the rebel, to which no personal penalty is attached, it comes by no sound rule of construction within the prohibition. And here let me observe that if, as contended, the only way in which we can punish any of the leaders in this great and terrible treason is through a conviction of treason by court and jury, then they must, one and all, go forever unwhipped of justice, because the Constitution provides that the trial in such case shall be by a jury of the State and district within which the treason was committed; where to expect to obtain a conviction would be the very climax of absurdity. In nearly all the districts where acts of treason have been committed it would be impossible to impanel a jury that would not contain persons in complicity with traitors. In most instances nearly the whole panel would be of that stamp. The clause in the Constitution which declares that "no person shall be deprived of his property but by due process of law," is relied on, but does not conflict with this bill, the proceeding under which would be by due process of law, just as are the proceedings *in rem* against property forfeited by our revenue laws, and various other proceedings of like kind.

But I deem it waste of time, Mr. Speaker, to examine and refute in detail all the critical objections which the opponents of these bills predicate upon the Constitution; because they are all based upon the erroneous idea that the rebels can claim for their property all the safeguards which the Constitution has thrown around that of loyal citizens. I deny that they have a right to interpose any such claim any more than would the subject of any foreign nation with which we might be at war. How stands the case? We behold, sir, some millions of men, having an organized government, ruling with absolute sway over a territory larger than that of two or three of the first-class nations of Europe, having an army of several hundred thousand men, claiming to be an independent nation, denying all allegiance to the Government and Constitution of the United States, carrying on a fierce and bloody war for the overthrow of both. How is it, sir, that any man acknowledging allegiance to this belligerent power, and aiding in its unjust and wicked purposes, a self-acknowledged subject of a governmental organization at war with this Union, can claim any of the protections which our Constitution has so beneficently thrown around the property of loyal citizens who acknowledge its obligatory force on themselves? I pronounce the claim as wholly unfounded, and as contrary to the principles of national and municipal law as it is to the principles of equity and common sense. The rebel claims to be a subject of a republic called the confederate

States. The confederate States are at war with the United States. He, by his own showing, is a public enemy of the United States. Our Constitution does not protect the property of our enemies. On the contrary, enemy's property is all liable to be seized. No man can claim under conflicting and inconsistent rights. At common law, and in equity, a party who denies the obligatory force of an agreement or compact is estopped from claiming any benefits under it. And that which a man cannot claim for himself, no other can claim for him.

Now, sir, I base the right to liberate the slaves and confiscate the property of rebels, the avowed subjects of the confederate States, on the law of nations, as a belligerent right, and find the power to do it amply vested in Congress by the Constitution. By it Congress has power "to declare war, to make rules concerning captures on land and water, to raise and support armies, to provide and maintain a navy, to make rules for the government of the land and naval forces," and "to make all laws necessary and proper for carrying into execution the foregoing powers."

Now, Mr. Speaker, by the act of the seceded States, war exists between them and the United States. This brings into legitimate action against them all the war powers of this Government, and the rights which, in accordance with the customs and law of nations, may be exercised in times of war. By these we have the right, if we see fit to use it, to seize sufficient of the property of the rebels in arms, and their aiders and abettors, to remunerate ourselves for all the losses and expenses of this their most causeless, unjustifiable, and wicked war. The right extends to the seizure of both public and private property, as will appear by the following authorities:

"A State taking up arms in a just cause, has a double right against her enemy. 1. A right to obtain possession of her property withheld by the enemy, to which must be added the expenses incurred in pursuit of that object, the charges of the war, and reparation of damages. 2. She has a right to weaken her enemy in order to render him incapable of supporting his unjust violence, a right to deprive him of the means of resistance."—*Vattel's Law of Nations*, book 3, chap. 9, sec. 16, edition 1857.

Again:

"Whenever we have an opportunity we seize on the enemy's property and convert it to our own use."—*Ibid.*, sec. 161.

Now what is meant by "enemy's property?" Vattel answers:

"Everything which belongs to that nation, to the State, to the sovereign, to the subjects, of whatever age or sex, everything of that kind falls under the description of things belonging to the enemy."—*Ibid.*, chap. 5, sec. 73.

"Towns and lands taken from the enemy are called conquests; all movable property taken from him is called booty. This booty naturally belongs to the sovereign making war no less than the conquests, for he alone has such claims against the hostile nation as warrant him to seize on her property and convert it to his own use."—*Ibid.*, chap. 9, sec. 165.

Much more to the same effect might be quoted, but time will not permit. This is sufficient to show the right extending to all property of our enemies. I am well aware that in modern times this right is seldom exercised to its full extent; but nevertheless the right exists, and may, at the option of the belligerent, be fully exercised. In confiscating the property only of the leading rebels, we exercise it but in part. Now, as to the right to set the slaves of an enemy free, Vattel says:

"It has been observed that we may be obliged in conscience to restore to a third party the booty we may have recovered out of the hands of an enemy, who had taken it from him in an unjust war. The obligation is more certain and extensive with regard to a people whom the enemy had unjustly oppressed. We certainly ought so to use our victory as not merely to give them a new master, but to break their chains. To deliver an oppressed people is a noble fruit of victory."—*Ibid.*, chap. 13, sec. 203.

To show that the same belligerent rights exist in a civil war as in a war between independent nations, I quote again from Vattel:

"When a party is formed in a State who no longer obey the sovereign, and are possessed of sufficient strength to oppose him, or when a republic is divided into two opposite factions, and both sides take up arms, this is a civil war."—*Vattel*, book 3, chap. 18, sec. 292.

"Those two parties, therefore, must necessarily be considered as constituting two separate bodies, two distinct societies. They stand, therefore, precisely in the same predicament as two nations who engage in a contest."—*Ibid.*, sec. 293.

Rose *vs.* Himely, 4 Cranch, 272, and Cheviot *vs.* Fousat, 3 Binney, 252, maintain the doctrine that in case of a rebellion, the sovereign possesses both sovereign and belligerent rights, and can act in either character.

It has been earnestly contended by gentlemen on this floor, learned in the law, that because the several secession ordinances of the seceded States are void, those States are still in the Union; and as rebels in arms they and their property cannot be subject to belligerent rights, but that they must be caught and tried by a court and a jury of their own seceded States, and of the districts wherein the acts of treason were committed. But we know such trial would be a farce, and a conviction impossible. This would be making the Constitution a shield to protect from all punishment nearly every traitor who has raised up his bloody hands for its destruction. But we have seen by the authority quoted that we are not thus fettered.

Another position is taken and insisted on, which is that exercising against the rebels the rights of belligerents would be admitting their right to secede. This is simply an absurdity. A body of men can do in fact that which they have no right to do. An admission that they have done the unlawful act is no acknowledgment of its being right. And thus the ordinances of secession have conferred no right upon any of the so-called seceded States to go out of the Union; but they, by force of arms, have gone out in fact, nevertheless. They are *de facto* belligerent States, and we have a right to treat them, and have all along been treating them, as belligerent States; and just so they are treating us. We have, therefore, a right to adopt against them all such measures as may be adopted against any belligerent States, with the single exception that we may not treat as enemies those citizens residing in the seceded States who have been in no complicity with the rebellion; and though we treat them as belligerents, we may, notwithstanding, treat them as traitors also. The remedies are cumulative, just as a criminal guilty of two crimes may be proceeded against for either or both.

It is contended that if there are belligerent rights to be exercised against the property, and in liberating the slaves of rebels, the President, as Commander-in-Chief of the Army and Navy, is to order and conduct them. The difference seems to me unimportant, for if the work is only done, and done so effectually and promptly as to speedily crush treason, and restore peace and order, I shall rejoice with great joy, be it ordered and performed by whatever branch of the Government it may. But the Constitution seems to vest the power in Congress rather than in the executive department. It is to Congress that the power to declare war, to make rules concerning captures, to raise and support armies, to provide and maintain a navy, to make rules for the government and regulation of the land and naval forces, and to make all laws for carrying into execution the foregoing powers is committed. Thus the powers of Congress seem to be express, while those of the President are only implied, from his being Commander-in-Chief. I have no doubt, Mr. Speaker, that it accords with the wishes of the President that Congress should take the responsibility of giving an expression of its views on these highly important questions. If they accord with those of the President, though it should be found that power to act in the matter is in him and not in us, his action in the premises will be none the less valid by reason of any bills we may pass on the subject. But if he thinks the bills wrong in principle or inexpedient, he will of course exercise his constitutional power of vetoing them; and thus their passage can do no harm. And now, Mr. Speaker, having stated my reasons for holding—1, that there is an overwhelming necessity for maintaining the Union which our fathers formed in its entirety, cost what it may; 2, that the time has arrived when a military necessity exists for liberating the slaves of persistent rebels, and employing some of them as a means of crushing this great rebellion, and thereby preserving the Union; and 3, that we have a right to confiscate the property of rebels to pay the expenses of the war, and ought to use it so far as regards the property of the principal instigators and leaders of the rebellion, I close my remarks.

CONFISCATION OF REBEL PROPERTY.

SPEECH OF HON. W. P. SHEFFIELD,

OF RHODE ISLAND,

IN THE HOUSE OF REPRESENTATIVES,

May 23, 1862.

The House having under consideration the bills to confiscate the property and free from servitude the slaves of rebels—

Mr. SHEFFIELD said:

Mr. SPEAKER: I propose to consider the bills which are now before the House, to point out some of their objects, to inquire into the necessity and authority for their passage, to review some of the arguments which have been advanced in their support, and to present such general considerations to the House as seem to me to be worthy of their attention upon these most important measures. I feel profoundly impressed with the magnitude of the subject which is before us. The hopes of the restoration of the Union of our country are being reassured, and it seems now, when our Army and Navy are acting so well their part in the suppression of the rebellion, and when we have reached a point when even cautious men can look forward beyond a few sanguinary fields to the time when the blessings of peace shall again smile upon our once happy but now distracted country, when the half million of men that are now in the Army shall return from their historic fields to bless by their presence those who have mourned their absence and to add the products of their toil to the wealth of the country. The emotions of pleasure which will attend this return are such as the boldest imagination can scarcely comprehend. It is only when the fear that the adoption of these measures may postpone that happy day is presented to my mind, that I feel the full consequences which may ensue from the passage of these bills.

The first of these bills proposes to confiscate the property of seven classes of persons absolutely and without reservation, thousands of whom may never have committed any crime against this Government And the only judicial proceedings which it provides to ascertain whether the property is confiscate is a proceeding against the property itself, a proceeding of which the owner of the property may not have any notice. The first thing which strikes the mind as we look over this bill, is the suggestion made by the gentleman from Massachusetts, [MR. THOMAS,] the other day. The third, fourth, and fifth clauses provide for the forfeiture of the property of a great many persons without their having committed any crime against the United States. The bill was designed, I suppose, to punish traitors, but under its provisions the property of men not involved in the least particle of moral turpitude, not entertaining any views hostile to the Government, may be taken and confiscated. For instance, any person holding the office of town clerk in any town in those States that are in rebellion, which office he may have held for half a century, is subject to the confiscation of his property if he continues to hold his office after the passage of the bill, although he may not even have known of its passage. I appeal to gentlemen whether it would be possible to present a more monstrous proposition than that.

There is a proposition scarcely less objectionable in the sixth class. This class of persons are punished simply for holding property in the loyal States. Other persons, who may have been guilty of precisely the same offense, pass off with impunity, while those who hold property in the loyal States are to be punished for that, and for nothing else.

Again, sir, by the second section of the bill, it is provided that after a certain period, after the issuing of a proclamation, the property of all persons, without distinction, who may be engaged in the rebellion, shall be forfeited. They may have never heard of the proclamation. They probably will not have heard of it. Still, no matter under what circumstances of mitigation, no matter under what circumstances of duress, or under what influence the offense was committed, his

family is to be stripped of every farthing which it may have. It goes upon the principle—

"Take all; curse all; show pity to none,
But tear the famished flesh from the bone!"

The other bill proposes to emancipate the slaves of all persons who shall willfully engage in rebellion. This is proposed to be done by an act of Congress. I ask the attention of legal gentlemen to this bill for a single moment. It defines the crime of treason, and provides a punishment for that offense. It defines the crime of treason substantially as it is defined in the opinion of the Supreme Court of the United States, in Bollman's case, as that opinion is embodied in the Commentaries of Mr. Justice Story on the Constitution, and is as follows:

"If war be actually levied, that is, if a body of men be actually assembled for the purpose of effecting by force a treasonable purpose, all those who perform any part, *however minute, or however remote from the scene of action*, and who are actually leagued in the general conspiracy, are to be considered as traitors."

Now, Mr. Speaker, this bill defines the crime of treason, and provides a punishment for it, to wit: the emancipation of slaves. I submit that by every rule of construction it repeals all other existing laws punishing that crime, and if you pass this bill in its present form, you will have no punishment for treason except simply the emancipation of slaves. I am not willing to go to that extent. It may be said that this act may be amended. So it may. But I am speaking of it as it now is, to show how crude the measures are upon which we are called to vote. I have referred to Bollman's case also for the purpose of meeting a suggestion made last night by the gentleman from Kentucky, [Mr. MENZIES,] that no person can be indicted for treason unless he has actually levied war. Under the authority of the law, as it is there set out, a man in New Orleans may be guilty of levying war in Western Virginia; a man in Savannah may be guilty of levying war in Kentucky, because he is in the conspiracy which levies war in Virginia or in Kentucky.

These measures are sought to be sustained on several grounds. Says the gentleman from Ohio, [Mr. BINGHAM,] the power to pass them is to be inferred, because we have the power to levy taxes and to raise armies.

It is said, again, that Congress has the power to obliterate the States where the rebellion is dominant, and to legislate for those States without reference to any existing vested rights under the authority of the States; that both States and people have committed treason, and have thereby forfeited to the control of Congress all their vested rights. Beyond that there is an indefinite, floating idea that Congress has the power in time of war to override the Constitution, and that the persons in arms against the Government cannot claim the benefits of the Constitution.

Before considering the force of the authority to pass these bills, I propose to consider the authority of the Government to put down the rebellion and to punish traitors. Then I propose to ask if that power is defective, and to see whether these bills supply any deficiency that may exist in the present law. The Government of the United States is a Government with limited powers. It is a Government of powers that are expressed in the Constitution, or are to be necessarily implied from those which are expressed. Under this Government, there are rights reserved to the States. In other words, the people have delegated certain powers to the General Government; other powers they have reserved to the States; and if you go down to the State constitutions, you will find that there, too, the people have reserved powers to themselves. They have said that they were willing to trust Congress with certain powers, and that they were not willing to trust it with any powers but such as they have delegated to it in the Constitution which they have formed. The powers delegated to the General Government are distributed among three departments of the Government. They are so distributed that neither department can come in collision with any other. If one department can come into collision with another department, the powers of the Government would be in perpetual war, and it would be impossible to carry on the Government. This proposition will be conceded.

If the executive power, in prosecuting this war, had the right to issue the proclamation promulgated by General Frémont in Missouri, or any part of that proclamation, I ask gentlemen whether Congress has a concurrent power? I put that question to the ardent friends of that general on this floor. I ask them whether, if they vote for this bill, they do not vote to condemn Frémont, and to condemn every proclamation which would tend to confiscate property or to emancipate slaves, that has been issued by any military commander? If this power can be exercised by the legislative department, then there is a common tenancy of this power between the legislative and executive departments of the Government, and its exercise by the one or the other, or by the one running counter to the other, would produce perpetual discord, and might defeat and even destroy the Government. I submit that the issuing of any proclamation or order necessary, or deemed necessary by the Commander-in-Chief in the execution of war, if warranted by the laws of war, is within the control and authority of the Commander-in-Chief of the Army. But I do not propose to consider that matter at large now. The question is, what authority does the Constitution confer on us to put down this rebellion? We may punish traitors to the full extent that our fathers thought safe to permit us to punish them under the Constitution and the laws. It is the duty of the executive department of the Government to execute the laws. Congress has no executive power, unless to punish contempts against its authority and to impeach officers for official misconduct. That is the extent of the executive power of Congress.

The gentleman from Pennsylvania, who addressed the House so ably yesterday, [Mr. BLAIR,] admitted that the laws of nations were a part of the institutions and conferred certain powers on our Government. I marked the well-chosen language with which he expressed that idea. But who is to execute the law of nations? Is it Congress, or the President, whose office it is to execute laws? The powers of Congress are municipal. We may exercise municipal power over these States when the rebellion is dominant. But if we transcend that power, the people there will come in and say, "you appeal to the Constitution against us. We can assert its benefits against you. We have the same right to defend ourselves in a court of justice as any criminal has. Then, you cannot pass any law against me unless it is warranted by the Constitution. Congress cannot pass any law against me which is a bill of attainder in itself. Why? Because the Constitution prohibits and restricts you from passing a bill of attainder. You cannot take my property except by due process of law. Because in a court of law I am your peer, though had I met you upon the battle-field you might have shot me down by the laws of war; but here, in a court of justice, sitting under our Constitution, every man is alike entitled to the benefits of that Constitution, and the whole power of your armies cannot deny me this right." The accused traitors, then, have the right to assert the benefits of the Constitution, that right which is granted to the meanest subject of the Government, and we cannot deny them that right. The President executes the law. He is the Commander-in-Chief of the Army.

What is the nature of the controversy between the different sections of this country? First, it is rebellion. A rebellion is where a party in a State seek to throw off the authority of the State. The rebels are seeking to throw off the authority of the Government. They are, therefore, in rebellion.

But it is more than a rebellion. It is a rebellion so gigantic, so comprehensive, that it embraces a civil war. And what is civil war? It is a war where the parties in conflict are each contending for the Government. Here the Federal authority is contending not for the absolute control of the State governments, but for that limited and qualified control of those governments which will enable the Federal authority to fulfill to the States their constitutional guarantees, and therefore it is civil war.

What are the rights under each? What are the rights of both? What is the right of the parent Government in a rebellion? I quote an author who is as distinguished in book-making as he is in the field. I refer to General Halleck's remarks upon this subject:

"Mere rebellions, however, are considered as exceptions to this rule, as every Government treats those who rebel against its authority according to its own municipal laws, and without regard to the general rules of war which international jurisprudence establishes between sovereign States."

A single person who resists the execution of a single process of the law may be shot down by the officer, if it is not practicable to otherwise compel his submission. If a combination of persons conspire together to resist all processes of law, they are in rebellion, and they may be all shot down, if necessary, to compel their submission to the law; in such case, if the parties are not killed, they can be punished, after they submit, under and according to law, but not otherwise. Then, our authority to treat these rebels would be very circumscribed; but this strife is more than rebellion, it embraces civil war; and I will not say all, but many of the rights of general war inure in cases of civil war. I therefore admit, for the purposes of the argument, that the rights of general war are superadded to the municipal rights we have against the rebels, to treat and punish them as traitors.

What are these rights of general war? They are fixed by the law of nations, and are a part of our Constitution, though they may not be modified without the consent of nations. Congress cannot alter or control them. They are beyond its reach, for they govern all civilized nations, and Congress cannot legislate but for one nation. For it to attempt to change the law of nations would be to attempt to extend its jurisdiction over all Christian nations. The law of nations depends upon the well-established usages of nations, and that usage cannot be changed but by the consent of those whom it is to bind.

The Government, then, has the rights of general war, and the President executes the laws of war against the rebels precisely as he executes the laws of peace in times of peace. These rebels have a status as a party to a civil war, and their rights and duties are defined by the law of nations. They have a status in England, France, and in Spain. They are acknowledged by all those nations as belligerents. And we are bound to treat them according to the laws of war until we compel their submission to our municipal authority. And if we inflict upon them cruel, inhuman, and unusual punishments, such as are not warranted by the laws of war, it would be the right of other nations who acknowledge them as belligerents, under the law of nations, to interpose and see that justice is administered between us and them according to the law of nations.

Then, what do the laws of nations warrant in cases of this kind? Much has been said upon this subject, and I will ask the Clerk to read a few passages from authorities in relation to it. The book to which I first call your attention is one which has recently received the commendation of the Premier of England. It is a book which is in use in the principal universities of Great Britain, and has been published in one or more of the continental languages. I call the attention of the House to it with some satisfaction, because its distinguished author was a native of my district, and its accomplished editor now resides there:

"By the modern usage of nations, which has now acquired the force of law, temples of religion, public edifices devoted to civil purposes only, monuments of art, and repositories of science, are exempted from the general operations of war.

"Private property on land is also exempt from confiscation, with the exception of such as may become booty in special cases, when taken from enemies in the field or in besieged towns, and of military contributions levied upon the inhabitants of the hostile territory. This exemption extends even to the case of an absolute and unqualified conquest of the enemy's country. In ancient times both the movable and immovable property of the vanquished passed to the conqueror. Such was the Roman law of war, often asserted with unrelenting severity, and such was the fate of the Roman provinces subdued by the northern barbarians on the decline and fall of the western empire.

"A large portion, from one to two thirds, of the lands belonging to the vanquished provincials was confiscated and partitioned among their conquerors. The last example in Europe of such a conquest was that of England, by William of Normandy. Since that period, among the civilized nations of Christendom, conquests, even when confirmed by a treaty of peace, have been followed by no general or partial transmutation of landed property.

"The property belonging to the Government of the vanquished nation passes to the victorious State, which also takes the place of the former sovereign in respect to the

eminent domain. In other respects, private rights are unaffected by conquest."

I now desire to ask the attention of the House to another passage from an author whom I have before cited:

"Private property on land is now, as a general rule of war, exempt from seizure or confiscation; and this general exemption extends even to cases of absolute and unqualified conquest. Even where the conquest of a country is confirmed by the unconditional relinquishment of sovereignty by the former owner, there can be no general or partial transmutation of private property, in virtue of any rights of conquest. That which belonged to the Government of the vanquished, passes to the victorious State, which also takes the place of the former sovereign in respect to the right of eminent domain; but private rights, and private property, both movable and immovable, are, in general, unaffected by the operations of a war, whether such operations be limited to mere military occupation or extend to complete conquest."

That I understand to be the law of war. That is the extent of the war power to take property, which has been so frequently invoked here, and yet by that power, as it is laid down by all modern writers, private property is to be respected, unless it be contraband of war. I do not say that with the march of an invading army down into the country where the rebellion is waged that you may not step out of the way to take private property to sustain the Army. But if you do so, you must make compensation for it. You may, if you please, impress slaves into the service of the Government if they are necessary to the prosecution of the war; but you take them with the obligation to pay for their services to their loyal masters. But we are not bound to make compensation for the public property which we take or the private property which may be captured at sea or upon land which is contraband of war. We may, if we please, levy contributions for the support of our Army upon the enemy's country under the laws of war; but this is a delicate and dangerous power, and should be resorted to only in cases of necessity. Napoleon did it in the Peninsular war, but when he was studying his own life at St. Helena, he dated his downfall from the manner in which he oppressed those who came under his powerful sway by these contributions. The deadly hate which was then inspired he believed to be the origin of that adverse fortune which came upon him, and which broke his power, crushed his spirit, and lost him his empire.

Now, the laws of war, as I understand them, have conferred upon this Government all the authority which nations have thought it wise to commit to a Government to put down a civil war. The Constitution has conferred upon us all the municipal authority which our fathers thought was safe in our hands. In my judgment, this authority is ample, to sweep from the face of the earth every person who opposes the power of the Government by force, and to deprive such persons of every means of using force against the Government; and when those persons lay down their arms and submit to the Government, then the laws of war cease to operate upon them, and they may be proceeded against under the civil authority, and every traitor may be tried, convicted, and hung to pay the penalty of his crime. Pray, is not this authority enough? But if it is not, and gentlemen desire that we should enact further penalties for the punishment of treason, although I prefer to allow the law to remain as it is, yet if gentlemen who differ with me in this will agree upon some measure which will suit them, and which is in accordance with the Constitution, as I am aware that all legislation is based upon compromise and concession, I will vote for a bill which will give additional punishment for treason. For instance: I will vote for a bill such as was reported by the select committee in the Senate, with some modification.

I am not here expecting that every man is going to do precisely as I desire. I am willing to concede something of my opinion to gentlemen who differ with me upon this floor. But I will not agree, I never can agree, to pass any law which embraces this proposition of taking a man's property without due process of law, this *in rem* proceeding which is provided for in this bill. I never can agree to take a man's property by any bill of attainder, which is a bill of pains and penalties and forfeiture without trial, as this bill undertakes to do in respect to slaves. I will not do it because in my judgment it is against the Constitution which I have sworn to support. As to what is a bill of attainder, and for the purpose of showing that an act like the one now under consideration is a bill of attainder I purpose to read a short extract from Story's Commentaries on the Constitution, vol. 3, p. 210:

"A bill of attainder may affect the life of an individual or may confiscate his property, or both."

This learned author deals in eloquent denunciation against all such legislation as this, but I have not time to quote further now.

But before I proceed, I will call the attention of the House to the argument of my valued friend from Massachusetts, [Mr. ELIOT.] He quoted from Grotius to show that we had the power to take all property from the rebels, and then contended that even land was contraband of war. Remember, it is that side of the House which invokes the prejudice of the House and of the country against old musty books, against technical law and technical lawyers; remember, it is the gentleman from Massachusetts who has brought in old Grotius, published two hundred and thirty odd years ago, which contains the ancient Gothic rule that you may take everything from an enemy. You have the control of his life. You may enslave him, says the same authority, and as you may do what you please with him, can you not take his property? That is the rule which the gentleman cites, a rule drawn from the confines of the middle ages. Has modern civilization done nothing to ameliorate the rigor of this ancient rule, so abhorrent alike to our sense of justice and humanity? Ay! Human society has advanced. Civilization has gone on.

We talk of Christian warfare now, and adapt the conduct of our armies as nearly as is practicable in accordance with the modern usages of nations, and bury the rude and barbarous rules of Grotius in the grave of the past.

Away with this talk about technical law and old musty books. Where does it come from? My friend from Massachusetts introduces Grotius. Is he driven to the dire necessity of going back to that dark period of the history of the world to find some authority to support the bill which he is now introducing, in the nineteenth century, and asking the American Congress to adopt? And does he expect us to indorse his act? The Christian rule is laid down by that Christian jurist, Wheaton, and by the other able jurisconsult whose authority I have quoted; and the modern rule is the rule by which we are to be governed. And I believe the laws, as they exist under the Constitution, and the laws of nations, as asserted by these authorities, are ample authority for us to put down this rebellion. Under them we may shoot every man who does not submit to the law. We may march on and make a conquest of the whole territory, if we please, unless those who own the territory submit to the Constitution and the laws unconditionally and without compromise. When they do this, the authority of the military power over them will be at an end, and that of the civil magistrate will begin. I trust we shall permit the Army to move on and to put down the rebellion. I trust that that Army will compel the rebels to submit, and when they do submit, there is no man here who will stretch out further his arm to bridge the chasm between them and us than I will. I will give them then a punishment which will canker this rebellion to its very core. That punishment shall be forgiveness.

The President is the Commander-in-Chief of our armies. If we undertake to command him as to how he shall treat the property of the rebels and how he is to execute the laws of war upon them, then he is not the Commander-in-Chief, and the Constitution is false when it says that it confers that authority upon him; for Congress then would be the Commander-in-Chief of the Army.

I desire to ask the gentleman's attention who introduced these bills to this emancipation scheme. Suppose we declare all of the slaves to be emancipated: what then? Are they free? We have got to remove them by colonization or otherwise before the object of the bill can be accomplished. If we do not, when the rebellion is over the persons now in slavery will be subjected to the local law. They will then have to sue for their freedom under this emancipation act. They may sue in the State courts, if the gentleman is so verdant as to believe that any State court will declare any slave free under this act. If you carry the slave into the Federal courts you will be met by the Dred Scott decision, which says that a black man has no right there. That is a decision, by the by, which although it may be law, I do not think it ought to be.

My friend near me [Mr. DAWES] says that it is not common sense, and he asks me whether I believe that it is? I answer, that I do not believe that it is. But you will be met with the decision, and southern district courts would be willing to say that it would be law. What then? Is this promise of emancipation to the slaves to be made to the ear and broken to the hope? It will amount to nothing unless you remove the slaves from those States. If you are to remove them, then where are you to carry them? We have not money enough to colonize them all; and if you carry them to the State of Illinois, my friend on my right from that State will meet them on its confines with a flaming sword in one hand and the State constitution in the other, and will not permit the poor black man to enter upon that territory. Other northwestern States have similar laws.

Mr. LOVEJOY. I confess that the law of Illinois, to which the gentleman from Rhode Island adverts, is a disgrace to that State. Yet, sir, while the gentleman objects to it, I find him standing up with the very gentlemen who have put that law upon the Illinois statute-book.

Mr. SHEFFIELD. I do not know to whom the gentleman refers; but I will say that he is to be found as often voting with the extreme men on the other side of the House as I am. He votes with them very often when the negro is not involved, and that demonstrates the saying that extremes are never very far apart.

The principle which justifies many of the gentleman's votes, and which justifies the doctrine of State obliteration, justifies the right of secession. I do not pretend to say that the gentlemen from Illinois would justify anything of that kind. But such is the irreversible conclusion of the logic of his doctrines. I hope that the gentleman from Illinois will use his efforts to have that provision wiped from the constitution of Illinois.

Mr. WICKLIFFE. Do not persecute the gentleman from Illinois, [Mr. LOVEJOY.]

Mr. SHEFFIELD. The passage of this bill is attempted to be sustained upon the power to raise armies and collect taxes. The gentleman from Ohio [Mr. BINGHAM] entertained the House with that proposition. Our Government is a Government of expressly delegated powers. The Constitution delegates to it the power to raise armies and collect taxes, but it does not delegate to it the power to emancipate slaves. So we have no such power. If the Constitution had contained a provision authorizing Congress to emancipate slaves, that Constitution could never have been adopted. I will not elaborate this proposition.

The next ground upon which the passage of these bills is sought to be sustained is that the States have committed suicide; that their governments are obliterated, or that Congress has the right to obliterate them. What is the relation which the State governments bear to the Federal Government? The general powers of government under our system is with the States, while certain special powers are carved out and delegated to the nation. Each government is supreme within its sphere. The nation has no power but such as has been delegated to it. If it attempts to assume more, it will be a usurpation. We have no right to invade the State authority or territory of South Carolina but for the purpose of asserting the authority of the Federal Government there to the extent which that authority is given in the Constitution. The smaller States have an interest in this question. For if you can obliterate the State of South Carolina now, hereafter you may obliterate the State of Rhode Island. This is not a consolidated Government, and cannot be made such by Congress, for the people have reserved to themselves and to the States powers which Congress may usurp, but which it can never rightfully exercise. My own State long lingered outside of this Union, and it is the only State, except the State of North Carolina, that ever had any independent standing outside of the Union; because it feared that the Constitution would give to the General Government power to control its local institutions. It

took time to consider well the principles of the Constitution before it adopted them to be their fundamental law. It adopted the Constitution because it was their mature belief that it would not interfere with its local institutions; had our people believed otherwise, they never would, as the history of the time well proves, have adopted the Constitution. Rhode Island was the last of the Old Thirteen States to come into the Union; I firmly believe, as I trust in God, that it will be last to desert any of the principles embraced in the Constitution upon which that Union was founded.

Congress cannot interfere with the State authority but to secure the operations of the Government of the United States while that Government is acting within the scope of its delegated authority. It is true that it is our duty at all hazards, to see that the Federal authority granted by the Constitution is asserted in the rebel States to the extent to which that authority is granted, and it is equally true, that when that authority cannot be asserted by the civil power, that it must be done by military power; but even the military power has no right to interfere with their local institutions, further than is necessary for the purpose of enforcing the legitimate authority of the United States, and leaving their local institutions to be managed by the State authorities, in their own way, so long as they do not interfere with the former authority.

This proceeding *in rem* is not due process of law. What is due process of law, within the meaning of our Constitution? It is the process which was in force at the time of the adoption of the Constitution, which may be modified in form, but not in substance. This process *in rem* makes property criminal. It is derived from the civil and admiralty law, and is used where property is made criminal by the owner, in his use of it in committing a crime. Innocent property cannot be proceeded against in that way.

I was surprised that my friend from Massachusetts [Mr. ELIOT] should have undertaken to argue in favor of such a proposition, when—I think in 1854—my friend undertook to enforce the same doctrine in the supreme court of Massachusetts, in a case which he there presented, he was instructed by that learned tribunal that when he undertook to apply that process to innocent property, it was not due process of law. He received an admonition then from that learned judge, who delivered the opinion of the court, whom he and I and everybody who knew him respected, that I think he ought to have remembered. That tribunal gave us a very proper idea of these proceedings *in rem*. Let me quote, upon this point, from the case of Fisher *vs.* McGirr:

"*Proceedings in rem.*

"The theory of this branch of the law seems to be this: that the property, of which injurious or dangerous use is made, shall be seized and confiscated, because either it is so unlawfully used by the owner or person having the power of disposal, or by some person with whom he has placed and intrusted it, or at least that he has so carelessly and negligently used his power and control over it, that by his default, it has fallen into the hands of those who have made, and intend to make, the injurious or dangerous use of it, of which the public have a right to complain, and from which they have a right to be relieved. Therefore, as well to abate the nuisance, as to punish the offending or careless owner, the property may justly be declared forfeited, and either sold for the public benefit or destroyed, as the circumstances of the case may require, and the wisdom of the legislature direct. Besides, the actual seizure of the property, intended to be offensively used, may be effected when it would not be practicable to detect and punish the offender personally."—1 *Gray*, p. 27.

The case from which I make this extract covers and decides a law containing provisions like this bill to be unconstitutional. There are many analogies between this process *in rem*, as it is sought here to be applied, and general warrant, and to the old writ of assistance. Strange it is to hear a gentleman from Massachusetts undertake to incorporate such a process into the legislation of this country; principles so at variance with those principles which were put forth, at the old town-house in Boston, by him of whom it was said he was "a flame of fire," and that "he then and there breathed into the American Revolution the breath of life." Will not the spirit of Otis rebuke this undertaking? I ask if these measures are not obnoxious to all the objections which I have mentioned? Why, Mr. Speaker, the law has no prejudice; it has no passion, no resentment; but it is an inflexible rule of justice.

Why, sir, pass these bills, and carry out their provisions, what right will be left which may not be violated which is worth preserving? I am not arguing now for rebels. Go and execute justice against them; kill, slay, and destroy them upon the battle-field; put in force against them all the fierce enginery of war, and I am with you in that; but pray do not invade the Constitution, which, when the war is over, we may wish to invoke to protect ourselves. I hope to leave the benefits of this Constitution as a legacy to my children, and I will do what I can to preserve it. If we are to repeal the laws of nations, blot out the Constitution, and turn a deaf ear to the admonitions of history, there would be some pretext in the principles of natural justice in compelling those who caused this war to pay the expenses attendant upon its execution; but from the fall of our first parents to the present hour the innocent have had to suffer with the guilty. And that this should be so seems to be an irreversible law of our being. But if we act from principles of natural justice only, without reference to the Constitution, let us acknowledge it, and not pretend to act under the Constitution while we seek to so palpably violate it.

But there is one other proposition which has influence with me. In July last, when the strongest necessities of this war were upon you, you then sent forth to the world your solemn pledge that you would observe your constitutional obligations, and that you would forbear to interfere with the local institutions of the States. A loyal people, inspired by their love of country, and relying upon that solemn pledge, rallied by the hundred thousand at your authorized summons to fight for the Government. The old Constitution was to be kept sacred, and they were content to imperil their lives in its defense. Many of the brave men whom you thus summoned have fallen either upon the battle-field or in the camp, and have left their kindred the legacy of their devotion to the Constitution and the country. Are we to interpose now, and to violate that Constitution for which was made, and the pledge which induced, such sacrifices? The kindred of those gallant men shall never say to me: "You did it."

Plighted faith is what binds man to man the world over. It forms the basis of our social system. The domestic circle is poised upon this foundation, and the pillars of the State repose in its bosom. In it is the origin of our social and civil rights, and upon maintaining its inviolability depend all of our social and civil enjoyments. Upon faith we rely for our earthly peace, and upon it rest our hopes of heaven. Cloven be that tongue which is stirred to urge its violation, and palsied be that arm which is raised to strike it down.

Confiscation, Emancipation, and Colonization—"Indemnity for the past and security for the future."

SPEECH OF HON. F. P. BLAIR, JR.

OF MISSOURI,

IN THE HOUSE OF REPRESENTATIVES,

May 23, 1862.

The House having under consideration the bills to confiscate the property and free from servitude the slaves of rebels—

Mr. BLAIR, of Missouri, said:

Mr. SPEAKER: The question before the House is one of as grave importance as can engage the attention of Congress during the present most eventful session. It has, I confess, presented some very serious difficulties to me, but I have come to the conclusion, after giving it all the consideration of which I am capable, and the best judgment I could command, that it is within the power of Congress, and that it is the duty of Congress to inflict punishment upon the rebels in arms against the Government, as well by the confiscation of their estates as by the execution of the death penalty, wherever the importance of the individuals implicated in this crime and the safety of the Government justify the rigor of such punishment.

I differ from my colleague, [Mr. PHELPS,] who addressed the House yesterday. I hold that this is not a war to be regulated by international law. It is not a war between nations, but a war between a nation and its own rebellious subjects. International law has no application to such a condition of things. The usages of war and the laws which regulate belligerents and independent Powers have no application when a body of conspirators rebel against an established Government. The punishment which this Government shall inflict upon its own rebellious citizens is regulated by its own discretion, limited only by the organic law of the nation. If we are restrained by the Constitution from inflicting punishment, whether of one description or another, we are clearly bound to observe that limitation. These laws and usages, which regulate wars between independent nations, were well defined by my colleague; but the mistake he made was in their application to our intestine contest. The laws of the civilized world have not held England responsible for shooting the Sepoys of India from the mouths of her cannon, or for the no less barbarous punishments which she has from time to time inflicted upon her rebellious subjects in Ireland and elsewhere, at home or in her revolted colonies. Neither has international law held Napoleon or the Emperor of Austria or Russia or any potentate responsible for the punishment which they have seen proper to inflict upon their revolted subjects. The laws of war between independent Powers recognize captured soldiers as prisoners of war, and invest them with certain rights which the captor is compelled to observe, but rebellious subjects taken in arms or in any act of conspiracy, are by all nations held as traitors, to be dealt with in accordance with the laws of that nation.

Mr. THOMAS, of Massachusetts. With the permission of the gentleman from Missouri, I will ask him a question. When Greece rebelled against the Ottoman Porte, and went into a war to secure her independence, I ask the gentleman whether the European Powers did not feel themselves justified in interposing against the Porte because of the severity with which it punished the rebels? That is pertinent to the gentleman's argument, and I think answers it.

Mr. BLAIR, of Missouri. Did we hear of any of the European Powers interposing when England lashed the rebellious Sepoys to the mouths of her cannon and blew them into eternity?

Mr. THOMAS, of Massachusetts. I undertake to say that they would have been justified in interfering.

Mr. BLAIR, of Missouri. The gentleman's ideas of interference would not suit everybody, and certainly would not suit England.

Mr. THOMAS, of Massachusetts. I know it would not, but the right was there, nevertheless.

Mr. BLAIR, of Missouri. The fact of interference by foreign Powers in extreme cases, or in cases where interest or feeling dictates intervention, argues nothing. The fact stands that it is the accepted law of the world that nations deal with their own revolted subjects, and are restrained by no limitations except those imposed by their own organic law; and in cases where there is no organic law, then by their own discretion. The gentleman from Missouri, my colleague, [Mr. PHELPS,] would make it appear that we are controlled by the laws and usages which regulate wars between independent Powers. On what sound grounds can any gentleman make it appear that we are compelled to treat the prisoners we take as prisoners of war? My colleague asserted yesterday that we had recognized the seceded States as an independent Power.

Mr. PHELPS, of Missouri. My colleague misunderstood me. I stated in my speech yesterday that the laws applicable to belligerents were applicable to the civil war in which this country was at present engaged, with the exception that every person engaged in the war against the Government was liable to be treated as a traitor and punished for the crime of treason.

Mr. BLAIR, of Missouri. The exception is the whole case, and shows the distinction for which I have contended. The only question is, what punishment we shall denounce against the crime of treason. But the point to which I was referring was the statement of my colleague, that by an exchange of prisoners with the rebels we had recognized them as an independent Power. I deny it. We made these exchanges from the die-

tates of humanity, as we have often done with the Indian tribes, to relieve our own people. To relieve one patriot who has fallen into the hands of the rebels, I would be willing to give up a hundred traitors, knowing that we shall get them all back again, when we can mete out to them, without endangering our own men from their retaliation, the punishment due their crime. Now, Mr. Speaker, while I acknowledge this doctrine, and while I am prepared to vote for some measure of confiscation, I do not know which one of those measures now pending before the House tempers justice with mercy in that degree which should command for it the approval of a magnanimous people. Yet, sir, I trust that the Congress of this nation will go in this direction as far as its own dignity and safety will permit, and stop short when justice and humanity require. I go for the punishment and the severest punishment which can be inflicted on those men who have fomented this treason. The chief conspirators, and all those who have led their confiding countrymen into this most detestable rebellion, every man whose position was such as to make him a leader, ought to be punished in the most exemplary manner. I am greatly surprised at the position assumed by some gentlemen coming from the border States. If any one be justified in demanding that these rebels shall be subjected to the rigors of the law it is the men of the border States, those who represent the people whose territory has been devastated from end to end, whose property has been destroyed, and who have been persecuted in every conceivable way. It is the duty of every man who represents such a constituency, if we can find the power in the Constitution to do so, to make an example of the leaders of this rebellion, such as will forever deter others from a repetition of their crime.

Gentlemen who represent northern constituencies have spoken with feeling, and even violence, upon this subject; but they have suffered nothing as compared with the evils which have fallen upon us. "The iron has entered our souls;" yet I would not forget to be just or humane because we have been the victims of injustice and inhumanity; I would carry punishment no further than the dignity and the safety of the Government demand. All beyond this is an imitation of those whose crimes we detest and punish. There have been large numbers of men forced into this rebellion; large numbers who have been persuaded to go into it, and large numbers that have been dragged into it. They belong to that class of men to whom the magnanimity of the Government should grant an amnesty whenever they lay down their arms. God knows it is neither politic or humane to make a war of extermination against a whole people. If we undertake this, all who are thus marked for destruction will be driven to stand together and fight to the end. That will require an expenditure of blood and money which may go beyond the endurance of our people, and such a policy, without sense or justice, under any circumstances, would, in this instance, be marked with extraordinary atrocity, for the reason that many of these men have been dragged and driven into rebellion by the conspirators, with whom our own Government was *particeps criminis*, supplying them with arms, and withholding that protection which the Government was bound to extend to the loyal men of the South. I well recollect that, when the secessionists abandoned these Halls, leaving none but loyal men in both branches, and a Republican majority in each, our Secretary of War was supplying these rebels with arms, and the Executive conniving in their open and flagrant war upon the Government, that Congress failed to pass laws to enable the loyal men of the South to take up arms in their own defense, and in defense of their country. I wrote to influential men in Congress beseeching them to pass laws under which we in the South could organize and take arms against the traitors; but nothing was done. That eagerness which we now see, was not then displayed. It had its excuse, perhaps a good excuse, in the forbearance of the northern people, and their incredulity as to the existence even of the intention to commit so monstrous a crime.

Mr. DAWES. I would inquire of my friend if it was not rather because we listened to the voice of the men of the border States, who importuned us time and again to forbear any legislation that would exasperate their people? Does not my friend recollect that bills were introduced to authorize the President to institute coercive measures, and gentlemen of high standing and influence in the border States came to us with tears in their eyes, begging us to forbear, saying they had all they could do to keep their heads above water, and that any such resolution as that would swamp and overwhelm them; and we listened to that rather, and forbore on that account more than from any other consideration.

Mr. BLAIR, of Missouri. I admit the truth and force of what the gentleman from Massachusetts says, and I have not, and I do not intend in anything I say, to impeach the loyalty and devotion to the country of the northern States. What I intended to show was, that they were misled, and that we were the victims of their mistake, into which they were betrayed, perhaps, by some of those distinguished gentlemen who represented the border States. By whatever influences they were misled, I say we were the victims of their incredulity. Sir, I felt, situated as I was, and living among that people, that the conspirators did not intend to stop short of the dismemberment of the Republic; and I represented, as well as I could, to my friends in Congress, and here at the seat of Government, that that was their diabolical purpose, and I besought them by every argument to come to our aid and give us the means of self-defense, that we might not be coerced. I know that money was contributed by the people of my city to procure arms to defend the public property. The loyal men there, at their own cost, purchased large amounts of arms and ammunition which were refused them at the Government arsenal, with which to protect and defend that arsenal, and which, if it had fallen into the hands of the conspirators, with its sixty thousand stand of arms and immense supply of other warlike munitions, would have disarmed the entire Northwest, and reversed the present attitude of affairs, and led, perhaps, to the recognition of the confederacy. I say it would be unjust in this Government, having furnished arms to the rebels in every State in the South—the Secretary of War and Buchanan's Cabinet, with some honorable exceptions, conniving at this infamous rebellion, and furnishing these people with arms with which to coerce Union men—I say it would be a peculiar atrocity in this Government now, to undertake to punish all alike who have been involved in it. There is a point at which we must stop short. We must be satisfied with restoring the Government and reëstablishing the Union, punishing the leaders and the fomentors of this rebellion; and when we shall have done that, we shall have justified ourselves in the eyes of the world. If we undertake to go further, it will probably tax our utmost strength to accomplish the task, and when accomplished, it will neither redound to our interest or to our honor.

But there is another proposition which is pending and open to discussion: the second bill reported by the select committee to liberate the slaves of all rebels. Sir, I can find it in my conscience to take away the slaves of every man who has entered upon this rebellion, except such as have done so under the constraint of which I have spoken. We have no right to take advantage of our own wrong. We have no right to punish those who have been drawn into this rebellion by our remissness, by our neglect, by our refusal to discharge the constitutional duty of protection. Our Government owed protection to every one of those men, and such as have fallen from our failure should not be held to accountability for acts to which they were constrained by a power armed by the Federal Government, and whose treason was hatched in these very Halls and in the councils of the Executive. Sir, I have heard upon this floor a great many sneers, and I have seen many men turn up their noses here at the idea of there being any Union men in the South. There are Union men in the South whose patriotism has stood as severe a test as that of any man on this floor or elsewhere in this Republic, and much more severe than that of those who have indulged themselves in those cheap proofs of patriotism which consist in reviling those who have passed through the fires of persecution. Such examples at the South are neither few nor isolated. That some men have been found who could not hold out, whose property, whose families, held as pledges in the hands of the secessionists, have constrained them to take up arms against the Government, which, from a mistaken idea of lenity to traitors, failed to protect them—to say that such men exist in the South, is to say no more than that such men exist everywhere in the world. But if we look to what occurred in the earlier stages of the rebellion, if we look to the steadfastness with which the people of Tennessee, Virginia, North Carolina, and even of Georgia and Louisiana, voted against secession, and maintained the cause of the Union, until it was crushed by the arms issued from our own arsenals to the conspirators, and without a finger being lifted by our Government, or without a word being uttered to encourage them, but, on the contrary, from some of the most ultra and eager of those who are now bent upon annihilating these States and sweeping them with universal confiscation, came the cry ringing in their ears of "let them go," in response to Jeff Davis's cry of "let us go;" when we remember these things, we can appreciate the value of the sneers of those gentlemen who, residing at long distances from danger, can come here now, after victory has perched upon our standards, and sneer at the patriotism of those who have endured the heat and the burden of the day.

In regard to this bill for the liberation of the slaves of the rebels, I repeat that I can find it in my heart and conscience to take away every slave from every rebel who has willingly lifted his hand against the Government, but I think that our friends, entering upon this career, in promising themselves, as they seem to do, such a triumphant issue as soon as they shall have passed this bill, are mistaken as to its effects upon the rebels and as regards the slaves who are to be liberated. In the first place, unless we annihilate the State governments, as has been suggested, if we undertake to turn loose this mass of enfranchised slaves upon the soil of those States, we shall find that we have invited upon ourselves a vast deal of trouble, that we have conferred no benefit upon the negro, and have not even secured to him the freedom which we proposed to confer. No man can doubt that if the States are left with their powers intact as States that they will have a certain control over this people, and can, as was stated by my colleague [Mr. PHELPS] yesterday, prohibit the residence of these people within their limits. That is an unquestioned power exercised from time immemorial, and not only by the slave States, but by many of the free States. When these millions of negroes have been liberated they will at the same moment be exiled by the laws of the States, every one of the slave States having laws prohibiting the residence of negroes enfranchised. They will not be able to go to Indiana or Illinois or any of the free States which have prohibited their immigration, and they will pour like an inundation upon those northern States which have not adopted this prohibition. How long will it be before these States also adopt this provision? That they will certainly do it can be safely assumed, because the people of those States have the same prejudices as the people of Illinois and Indiana, and as the people of all the slaveholding States, and the reason why they have not already adopted such laws has been because they were not in any immediate danger of inundation by this class of people. That they will pass such laws is clear from the arguments even of those who are urging the passage of this bill, and who are attempting to reconcile their own people to it by saying that there is no danger of these liberated slaves going North, that they will remain at the South. They either forget or they do not know that all of these southern States have laws prohibiting the residence of this class of people. Some of the free States have the same laws, and Congress can neither repeal nor modify them. I sincerely believe that all the free States will adopt the same laws. What will then become of the negro? Where is the boasted freedom conferred by this bill? It is a bill of exile. It is a bill to make them homeless, houseless, to make them destitute and despairing wanderers upon the face of the earth. The bill introduced by the chairman of the select committee accomplishes nothing for the slave, except to destroy what little allevi-

ation is left to him in his sad life. What is to prevent the States from passing laws against them as vagrants, as a people without visible means of support, being within the States without license, and thus fine them, and imprison them, and sell them, and put them to hard labor. The same thing is done in regard to vagrants in all the States of the Union. Shall we undertake in Congress to regulate the police of the different States? Can we do it? Shall we undertake to say that the slaveholding States shall not execute the same laws against vagrancy as are in operation in New York and all of the free States, and which are made applicable even to people of our own color? If we can dictate to the slave States upon this subject, why have we not dictated to Massachusetts, which has some stringent regulations against emigration from Europe. Foreign emigrants are there subjected to some stringent regulations according to my recollection. The gentleman from Massachusetts [Mr. DAWES] shakes his head, and I may be mistaken.

Mr. DAWES. The only peculiarity we have in Massachusetts is, that we have spent hundreds of thousands of dollars to build houses to support such of them as are unable to support themselves.

Mr. BLAIR, of Missouri. Have you not a regulation there requiring those who bring these immigrants into Massachusetts shall give bonds for their support?

Mr. DAWES. The supreme court knocked all that arrangement in the head.

Mr. BLAIR, of Missouri. But that does not affect the position I have taken upon this subject; and that is, that each one of these States has the power to pass laws to exclude these negroes from their borders. States have done it heretofore, and the power remains unquestioned. California has discriminated in regard to the Chinese; admits them to a residence but exercises a control over them and excludes them from political rights. If there are not stringent regulations with regard to foreign immigrants in Massachusetts, if I have fallen into an error in regard to that matter, I am certainly not mistaken about the fact that there are very few of the northern States in which political rights are conceded to this class of persons. Several northern States exclude them altogether.

Mr. TRAIN. As I understand the law of my State, the decision which my colleague refers does not reach to the extent to which he supposes. The decision of the supreme court was that we had no right to lay a capitation tax upon foreign immigrants; but we do require, and the law stands and is executed, that the shippers and importers of emigrants shall give bond that the State shall not be liable for their support.

Mr. BLAIR, of Missouri. Who will give bond to the State of Massachusetts that her share of the negroes, liberated by this act, and exiled from the South by the State laws, shall not be a charge for their support upon her Treasury? And if none can be found to give that bond, they will be excluded from that haven of rest as well as from their present homes by the act reported by the member from Massachusetts, [Mr. ELIOT.] The point which I make, is that we must take another step if we intend to give freedom and its attendant blessings to the negroes. I say that the moment we enfranchise the slaves of the rebels, that moment we make them homeless and exiles, and that, if we pass this measure, it becomes our duty, especially if we claim to be actuated by humane motives, to take a step forward, and provide them with homes and a country in lieu of that of which we have despoiled them. Their present homes may not be very comfortable to them. I have never fancied life upon a slave plantation, nor favored the institution. It did not require this rebellion to arouse my animosity against it. I had devoted myself to its extirpation before the crime of treason was committed in its name. But, sir, whatever the home of the slave may be, it is better than that provided for him by the act of the distinguished gentleman from Massachusetts. In its results, it will leave them without a home anywhere on the face of the earth. I believe that unless the people of Massachusetts and the other New England States and the people of New York and Pennsylvania are different from the people in all the southern States, and from the people in a great many of the free States, they will also pass these prohibitory laws. The reason why they have not passed these laws heretofore is, that there has been no danger of such an inundation of this class of people as will be occasioned by this act. If antipathy against men of the same race emigrating from Europe could arouse the people of Massachusetts to such fury as to set them to work to pass a law to restrain that immigration which the gentleman has just intimated was declared unconstitutional as to a part of it, how will it be with the people of that State when they are threatened with the immigration of hundreds of thousands of these negroes, liberated by this act and expelled by the slaveholding States by existing laws, which we cannot repeal or control?

Mr. TRAIN. The gentleman from Missouri will allow me to say that the legislation of Massachusetts, as I understand it, grew out of the fact that they were shipping to our country the paupers of Europe, and it was simply a matter of self-protection. It was not that we declined to receive emigrants from Europe, but we did decline to have the paupers of Ireland, the inmates of all the almshouses of England, Ireland, and Scotland landed upon our shores, without some one being made responsible for their support.

Mr. BLAIR, of Missouri. While I differ entirely from the gentleman in regard to that legislation, I am not calling it in question. I am simply stating the facts. If the paupers from Europe—men of our own blood and race—were objects which were to be repelled, I want to know how it will be with the paupers, and worse than paupers, who will be expelled from the southern States by the legislation which is proposed, who are of a different race, of a race between whom and our own race, it is perfectly well understood, there is an ineradicable difference. "Can the Ethiopian change his skin, or the leopard his spots?" The gentleman from Pennsylvania, [Mr. BLAIR,] the other day alluded to this prejudice of race, and spoke of it as unnatural and without foundation in justice or good sense. It is as universal and pervading as the atmosphere. Such sentiments, innate and all-pervading, have always seemed to me to be implanted in our nature not without a purpose, and that purpose was to keep the races distinct and separate, and to preserve them for the occupation of the zones and climates adapted to their physical organization, and no morbid or perverted sentiment of human beings can undo the palpable design of the Creator of the universe, and all attempts to undo it, from whatever motive, either of cupidity or of mistaken philanthropy, has brought swift retribution upon those who have made the attempt. I think that the gentleman from Massachusetts [Mr. ELIOT] who reported this bill, is venturing upon very unsafe ground if he proposes by it the benefit of the negro. He has either gone too far, or he has not gone far enough. There are no States in the Union which give to this class of people the rights of citizens, and the man who insists upon emancipating slaves, and retaining them in a country where every right except that of personal freedom is refused them, that man, in my opinion, is not in favor of emancipation in its large and liberal sense. It is "keeping the word of promise to the ear, and breaking it to the hope." It is simply the gift of personal freedom, unaccompanied by any other rights which make freedom valuable. It is to retain them here as a degraded caste, as they now are in all of the free States. They are not admitted, in any free State, to a full equality with its citizens.

Mr. WALTON, of Vermont. The gentleman will allow me to say that in Vermont they have all the privileges which white men have, except one—they have not the privilege of performing military duty.

Mr. TRAIN. Let me state one fact for the information of my Democratic friend. The Democratic party in Massachusetts elected a black man as representative of the town of Townsend, in my district, in General Court, about five years ago.

Mr. BLAIR, of Missouri. The Democratic party had a right to select anybody they preferred to represent them. I understand, however, that this was a practical joke, and that the authors of it went to the expense of a new suit of clothes to procure the resignation of their successful candidate. The joke will not be likely to be repeated, and least of all by the Democratic party.

Mr. JOHNSON. I desire to say that the Legislature of Pennsylvania adjourned on the 11th of April, and that within a few days of its adjournment several separate and distinct bills were introduced to prevent the immigration of negroes into that State; all induced, I think, by the bills that have been introduced into this and the other branch of Congress.

Mr. DAVIS. Will the gentleman permit me to reply to my colleague?

Mr. BLAIR, of Missouri. If I were to give every gentleman the opportunity of interrupting me on these side issues, I should have no time to myself. I simply desire to say, sir, that I believe these gentlemen are animated by as great a desire as that which actuates me to benefit and raise up these people. But, unless they are ready and willing to do something more than any of them have yet proposed to do, I think they have chosen an exceedingly bad way to attain their ends. I propose, before taking my seat, to offer an amendment to the bill No. 472, emancipating the slaves of the rebels, which, according to my idea, would accomplish not only what is proposed to be accomplished by the bill before the House, but will go further, and give to these people homes in a country suitable to their organization, bringing about, in the process of time, a gradual and complete separation of these two diverse races. I would do this because I believe it is the interest of both races, because I believe that this negro race was made for a tropical region, and that our race was made to occupy and possess the temperate latitudes of the world. I believe that every attempt to bring this negro race, whether as bondmen or freemen, and to mix them up with our people, will, in its results, operate to deteriorate both races alike, bringing with it the seeds of convulsions such as that which we are now experiencing.

The SPEAKER. The Chair desires to understand whether the gentleman from Missouri proposes his amendment now, or simply gives notice of it?

Mr. BLAIR, of Missouri. I simply propose that it may be ordered to be printed; and I will, at the proper time, ask to have a vote taken on it.

The SPEAKER. Does the gentleman propose to offer it as a substitute?

Mr. BLAIR, of Missouri. Not as a substitute, but as additional sections to the bill. I am willing to vote for the sections of the bill as they now stand, if the bill will only go a step further and say that a country shall be provided for these people who are to be liberated in States which prohibit their residence within their limits as free men, if they desire to go there. That is as far as my amendment goes, subjecting these negroes, however, to certain control while they remain in those States, for the purpose of good order, and in order that they may, by their labor, pay the expenses of their transportation to the country which our beneficence may give them. I believe, Mr. Speaker, that this is the method by which we can find the best ground of pacification with the masses of the southern people, with the great non-slaveholding masses of the southern people, who, I assure you, have been driven into this rebellion, not by any love of slavery, not by any desire to perpetuate or extend it, but by an apprehension which has been, from year to year, cultivated and widely spread among them, that it was the design of certain men in this country to emancipate the slaves, and to put them on an equality with the white men. I believe, as fully as I believe anything on earth, that that is the very *animus* of the rebellion, so far as the great mass of the southern people are concerned; certainly with regard to the "rank and file," who alone should be conciliated.

In confirmation of this view, I give an extract from a letter which I have just received from Mr. Arnold Krekel, of St. Charles, Missouri, a German Republican, and one of the ablest and most discreet men in the State of Missouri. He states facts within his own knowledge, which are confirmed by the experience of every man who has any knowledge on the subject. He says:

"In order to do anything with slavery in Missouri it is absolutely necessary to place the separation of the races in the foreground. I have had during the last six months peculiar means of ascertaining the views of the non-slave-

holding class engaged in the rebellion. I must, as provost marshal, have examined at least one thousand persons, four fifths of whom were not the owners of slaves, nor did they feel any interest in the institution, except that they did not want to become the equal of the negro, thus justifying their acts, and alleging that the object of the Government was the liberation of the slaves, which more than any other class would affect the laboring part. Let me add that the southern confederacy has had the *full benefit* of this erroneous impression, and yet with it, the non-slaveholder is beginning to grow sick of the war, which, if successful, might keep him from his dreaded equality with the negro, but would certainly not elevate him to an equality with the slaveholder. Time and reflection will soon work a vast change in the views of the non-slaveholding portion of our people, and unless some rash, foolish, and impracticable scheme shall be set on foot by our over-anxious friends, I can see the practical end of slavery in Missouri. But there is danger in our friends overleaping themselves, and this danger I fear the more on account of the question being made a political hobby by political aspirants."

I believe that influence which the few slaveholders have exerted for the perpetuation of that institution would not have availed to support this rebellion through one campaign, and could have been suppressed by two divisions of our Army. I will not repeat what I have heretofore said in the House on that subject, but it is my conviction that on the basis of that separation of the races, and their removal to some country congenial to the organization of the African race, is to be found the ground of pacification between loyal citizens and the masses of the people of the South; an object certainly not less desirable to us than the welfare of the negro race, which will also be best subserved by this plan. We have great motives for desiring that pacification. I do not mean pacification with the leading traitors; not with any of those conspirators, who, with the oath to support the Constitution, have had their hearts festering with rebellion and hatred against the Government—not with any of that class of people. Sir, I have confronted them in my own State. I know what anguish and suffering they have brought upon us. I am as ready and as willing as any man to mete out to them the full punishment of their treason. But I do not believe that it would be either for the interest or for the honor of the country to carry it further. When we have brought these men to punishment, we owe it to the country, we owe it to the world, that we should again join hands with the great masses of the southern people, and confront with them the designs which we all see the Powers of Europe hatching against the republics of this continent. It was the hour of our weakness that was seized by the monarchs of Europe to intermeddle in the affairs of the republics of this continent, and to seek to compose their own troubles by making compensations for their conflicting pretensions in Europe, and bestowing crowns and thrones in America to those who are compelled to yield up European possessions. We see it asserted in the European papers that it is the design of Louis Napoleon to give to Prince Maximilian of Austria the throne of Mexico, in return for the surrender by Austria of her hold on a portion of Italy.

It therefore becomes our Government not to enter on the course that has been suggested, I am sorry to say, by some of my friends on the other side of the House. It becomes it not to arm the negro race and accept such assistance against our own race; our blood would not long permit us to endure such a spectacle. No remark has been made in this House so derogatory to the courage and prowess of the people of the North, as that submitted to-day by the gentleman from New York [Mr. SEDGWICK] to invoke the aid of these negroes against the people of our blood and race. He who invokes such aid can have no confidence in the courage, the prowess, and the ability of the twenty millions of people who adhere to this Government, to put down the contemptible faction that is now ruling the South. It would put us on a par with those rebels who have brought Indians into this conflict. It would disgust humanity and disgrace the nation.

But, Mr. Speaker, we have a great mission, which ought to lead us to pacification with the mass of the people who have been dragged into this rebellion. We must protect this continent from the designs of the monarchs of Europe; and in no way can we do it so well as in the manner which I propose. Let us provide a country for these free negroes, where they can have civil and political rights, and where they can grow up a free and independent people, under the protection, patronage, and guidance of this Republic. We will thus repay, threefold, the obligations that we owe to that race, which has been always docile and subordinate to our power, which has done its utmost to aid us, but which has now become an incumbrance and a stumbling-block in our path. I would not resort to compulsion. But let us open the way for them to go. Give them a country to go to, and if they are fit for freedom they will go. Here they can never enjoy freedom. I believe they are fit for it. I believe they are fit to found a new empire on this continent. I believe they were designed to found it in the tropics under our supervision. The gentleman from Pennsylvania [Mr. DAVIS] shakes his head. If he denies that they will go, he denies that they are fit for freedom.

Mr. DAVIS. I merely shook my head because I do not believe that any class or nation of men would leave the land of their birth of their own free will and accord.

Mr. BLAIR, of Missouri. The gentleman from Pennsylvania lives on a continent that was peopled by colonists who came here because they were denied the rights of freemen in the land of their birth. He is himself the descendant of those who came here for "conscience sake;" and every white man on this continent is a living and breathing refutation of his statement. The case in hand is in all respects similar, except where it is stronger. In this case there are climatic reasons, and reasons growing out of the difference of races, in addition to the political reasons which led to the colonization of this continent by the white race. I believe that as long as the negro race remains here there is no hope, no possibility, nor is it in any aspect desirable that they should have any share in the political power of the country.

I think that the Almighty intended them for the tropics, or that the tropics were intended for them—one or the other is true. Every attempt on the part of the human race to frustrate that intention has brought destruction on the men who attempted it.

Mr. DAVIS. What would you call the tropics?

Mr. BLAIR, of Missouri. I call that the tropics where white men cannot live and maintain their vigor and energy, in which all experience demonstrates that they cannot propagate and keep up their numbers. That region, I contend, was intended for the negro. The temperate zone, the race-horse region, as it is called, was intended for the white man. Look over the map, and gentlemen will see that the black or colored races have uniformly occupied the warm countries.

To restore the races to the regions designed by the Almighty for their occupation, to which their organizations are adapted, is to conform to nature, to retrieve the error into which we were betrayed by cupidity and crime, to make the races subserve the best interests and comforts of each other by the interchange of the productions of their countries, and make their intercourse one of mutual benefit instead of the mutual injury they have inflicted upon each by their contact in the same country. By liberating these slaves and confiscating the property of the rebels we shall indemnify the nation for injury inflicted by the rebellion; by removing the negro race to a country of their own beyond our limits we shall take the best security against the recurrence in the future of the convulsions which have torn our country, arising from the morbid feeling created by the presence of diverse races in the same community.

CONFISCATION OF REBEL PROPERTY.

SPEECH OF HON. E. G. SPAULDING,

OF NEW YORK,

IN THE HOUSE OF REPRESENTATIVES,

May 23, 1862.

The House having under consideration the bills to confiscate the property and free from servitude the slaves of rebels—

Mr. SPAULDING said:

Mr. SPEAKER: It seems to be right and proper, while we are taxing our own loyal people to pay the enormous expenses of this war, that we should endeavor to make the ringleaders of the rebellion, who have fomented and brought on this terrible state of things, pay as large a portion of these expenses as is possible. To this end it is fit and proper that Congress should exert all the power it possesses in confiscating the property of rebels as lawful prize, and having it sold under an order of the court, and the proceeds thereof paid into the Treasury of the United States; and also that such rebels should be deprived of the labor and services of their slaves, from which they derive their chief support. These propositions are now pending in this House, and we shall be called to vote upon them on Monday next. These are important measures, and I desire to say a few words before giving my vote. After the able arguments that have been made in the Senate and House by those who have been especially charged with the subjects of confiscating the property of rebels and the emancipation of their slaves, I do not deem it necessary for me to make any extended remarks.

Sir, the time has come when we must meet the actual condition of things, and dispose of these and other momentous questions presented for our consideration in a practical way, and with a firm determination to suppress this rebellion and establish law and order in every part of the United States. Success, regardless of the cost, is the all-important thing to be attained. This rebellion must be crushed out, and all the means which God has given us must, sooner or later, be brought into requisition to accomplish that result. The sooner we earnestly put forth every effort, and apply all the means at our command, the sooner will the rebellion be suppressed, and the less of life and treasure will be expended.

What is the actual condition of things? All the horrors of war are upon us. War on a gigantic scale—savage, unrelenting war is waged against us by the rebels. Not only do they kill our brave sons and brothers upon the field of battle, but they murder them stealthily, stab and scalp them when wounded, and disfigure and mangle them after they are dead. The rebels in arms against us are enemies *de facto*, possessed of all the bitterness and determination of the most unrelenting foreign enemies. We are obliged to accept this condition of things. It has been forced upon us by their own acts. The life of the nation is attacked, and a most determined effort made to overthrow the Government of the United States in all of the confederated States. They *are* our enemies. I am disposed, while they are so in rebellion, to treat them as enemies, and give to them only the rights of war, and apply to them all the disabilities and penalties of war.

As alien enemies, throwing off all allegiance to the Government, trampling the Constitution and laws of the United States under their feet, how can they claim any protection from us? As enemies *de facto*, they can claim no rights except the rights of war. Any gentleman on this floor holding up the Constitution as a shield to protect these rebels it seems to me has not duly considered the subject. Is it possible that men who utterly repudiate the Constitution, confederate together, declare war, issue letters of marque and reprisal, and are in open war against us, can claim any rights under the Constitution? The laws of war are against it. Common sense and common justice would revolt at any such claim, even if the public law was not so emphatically against it.

If we were to proceed and indict the traitors in arms against the Government for treason, (as we have an undoubted right to do) under the provisions of the Constitution, then they might in such case claim to have their criminality decided by the court under the strict rules of the common law and the Constitution and statute laws of the United States. In such a case, the argument of the gentleman from Massachusetts [Mr. THOMAS] might have some application. But when the traitors are engaged in actual war, then you apply to them the laws of war. Having themselves repudiated the Constitution, and having expelled the United States courts from all the rebel States, so that you cannot indict and try them under the ordinary forms of judicial proceedings, they cannot complain if you apply to them the laws which are clearly applicable to the position which they have voluntarily, but most criminally, chosen for themselves. Having declared war against the United

States, they must submit to all the rules of civilized warfare, and if their property is confiscated and their slaves emancipated, they have no right to complain.

What is the war power conferred on the President and Congress? By the Constitution, the President is made "Commander-in-Chief of the Army and Navy of the United States, and of the militia of the several States when called into the actual service of the United States." The Constitution confers on Congress the power, first, "to raise and support armies;" second, "to provide and maintain a navy;" third, "to make rules for the government of the land and naval forces;" fourth, "to provide for calling forth the militia to execute the laws of the Union, suppress insurrections, and repel invasions;" fifth, "to grant letters of marque and reprisal;" sixth, "to make rules concerning captures on land and water;" seventh, "to declare war;" eighth, "to make all laws which shall be necessary and proper for carrying into execution the foregoing powers." In pursuance of these war powers conferred on Congress by the Constitution, laws have been passed to carry them into execution. The public laws of nations declare the rights and penalties of war. More than one hundred articles of war have been adopted by Congress for the government of our Army. At the extra session in July last, Congress passed various laws which were then deemed "necessary" to crush out the rebellion. Congress passed those laws, and the President executes them, in accordance with the rights of war.

Among the rights of war is the power to confiscate enemy's property and liberate their slaves. One of the express powers conferred on Congress by the Constitution is to call out the militia "*to suppress insurrections,*" which means that you have unlimited power to effectually suppress the present or any other insurrection. All the means necessary may be employed to suppress it. Nothing within the range of civilized warfare is withheld from you in this crisis. Congress may, in the language of the Constitution, pass "all the laws which may be *necessary* and proper" to suppress the "insurrection." If the laws now on the statute-book are not sufficient, it is our duty to pass other and more stringent laws, confer more power on the President, give him ample power to make our success complete and certain. Let the rebellion be terminated in the shortest time, and with the least possible sacrifice of life and treasure. The continuance of the war is extremely hard and exhausting to our volunteer soldiers, and the enormous expenses will impose heavy burdens upon the people. Every consideration of patriotism and duty requires us to put into active exercise at once all the means within our reach to bring the war to a speedy and successful termination.

What are the rights of war, and what are the ordinary means which may be brought against these rebels to weaken their power and crush out the rebellion? As enemies *de facto* it is conceded you may blockade their ports, preventing all exports and all imports or supplies from abroad; you may cut off all internal supplies by depriving them of the use of railroads, canals, lakes, rivers, and all other means of transportation; you may cut off all communication by mail, telegraph, express, or otherwise; you may capture their vessels, their supply trains, sink their ships, destroy their military stores, and meet them face to face in battle, and kill, capture, and disperse their hostile forces. All these ordinary means have been tried during the last year, and still the ringleaders who fomented this rebellion are more desperate than ever. War, gigantic, unrelenting war, still goes on. The rebels are more determinedly our enemies than ever before, and a call is made by the President for more troops to fight them. In this state of things what is to be done? Are there no other means that can be used to strengthen ourselves and weaken the power of the rebels, and thereby insure their defeat? This is the great question we are now considering. All the authorities sustain the doctrine that you may under the war power confiscate the property of enemies, and may liberate their slaves.

On the power of liberating slaves, John Quincy Adams lays down the doctrine that, in time of war, civil or foreign, "not only the President of the United States, but the commander of an army has the power to order the universal emancipation of the slaves." It is evident, however, that he regarded it as a power subject to the action of Congress. With a call to suppress insurrection, he says, "comes full and plenary power to the Senate and House over the whole subject. It is a war power."

The extreme measures of confiscating the private property of rebels, and the liberation of their slaves, have not yet been tried to any considerable extent during this war. Is it a war measure necessary to success at this time? If it is necessary, will Congress and the President have the courage and the firmness to exercise this power boldly? Will this Government strike these rebels where it will do them the most harm? Will you take from them their property and liberate their slaves? Will you deprive them of the most effective means of carrying on the war? Take away their individual property, and deprive them of the labor and services of their slaves, and you strike a blow at the heart of the rebellion. You would then strike directly at the root of the evil. Give a death-blow to slavery, and you would soon be able to terminate the war.

We have already taken some positive steps in advance on the slavery question during the present session. Slavery has been abolished in the District of Columbia. The capital of the nation is forever freed from the taint of involuntary servitude. We have passed a new article of war, which prohibits commanders of divisions from returning slaves that voluntarily come within their lines. We have extended the ordinance of 1787, prohibiting slavery in all the Territories of the United States. And we have passed a resolution offering pecuniary aid to States that shall enter upon a gradual emancipation of the slaves within their limits. These enactments are in accordance with public sentiment and the progressive spirit of the age. Shall we advance still further in the work of emancipation? This depends somewhat upon the necessity of such a measure and the probable duration of the war. How long is the war to continue? No man here is wise enough to determine how long it will continue, nor how much blood and treasure will be expended in its prosecution. The Richmond Enquirer (official organ of the confederate administration) uses the following language, evidently by authority:

"But we are gratified to say that the time has come when, for the future at least, we all shall be agreed. All voluntary falling back has ended and the fighting has commenced. What the enemy gains henceforth he gains by the bayonet. What we can win from him we will have. We will break his columns, and pursue him into his own country, if God shall prosper our arms. Strike! strike often, strike hard, strike at every opportunity—is henceforth the rule. Vigilance, activity, enterprise, daring, are, we trust, to be its interpreter."

The longer the war continues, the more desperate will it become, and the more certain will it be that slavery is doomed. The advice of the Richmond Enquirer to the rebels, to "strike! strike often, strike hard, strike at every opportunity," shows the desperate character of their cause.

Are we to be struck often, and struck hard at every opportunity, without giving hard blows in return? I trust not. War means to strike often and strike hard on both sides. "An eye for an eye, and a tooth for a tooth." War teaches us to use all the means within our power to strengthen ourselves and to weaken our enemy. Let us weaken him in every possible way within the rules of civilized warfare. We should strike him personally, strip him of his property, and strike the shackles from every slave that by his labor and services gives him support. These are the rights of war, and I am prepared to see them fully enforced.

We have been forced by rebels into this unnatural and unnecessary war. We have already expended over six hundred millions of dollars in its prosecution, besides, what is of far greater consequence, many thousands of our brave soldiers have been slain on the field of battle, and have died by disease brought on by the perils and hardships of the campaign. Is all this blood and treasure to be expended without accomplishing anything beneficial to the nation, to civilization, and the rights of man? I trust not. We now want and must have a final settlement of this whole difficulty. Slavery was the cause of this gigantic and wicked rebellion. Slavery should receive its doom, thereby removing the cause of future difficulty. Rebels have fomented and brought on the war, and their property should pay a large share of the expenses incurred. These questions must now be met. They cannot be postponed. The laws of God and man require us to vote on the side of justice and humanity. I shall, under the circumstances, vote to confiscate the property of leading rebels, and to liberate their slaves.

CONFISCATION OF REBEL PROPERTY.

SPEECH OF HON. A. A. SARGENT,

OF CALIFORNIA,

IN THE HOUSE OF REPRESENTATIVES,

May 23, 1862,

The House having under consideration the bills to confiscate the property and free from servitude the slaves of rebels—

Mr. SARGENT said:

Mr. SPEAKER: I intend to vote for the measures under consideration. I shall do so for two reasons: first, because I believe them to be right; and second, because I believe them to be expedient. I believe them to be right in that I conceive we have full power and jurisdiction under the Constitution to pass such measures; and I believe them to be expedient because sound policy requires us to strike harder blows at this rebellion than any that have heretofore been given, if we expect a prosperous issue to this war.

The debate upon these measures has been long and able, and little of reason or authority is left ungleaned upon either side of the question. I content myself with assigning the reasons which influence the votes I shall give upon, perhaps, the most important subjects of the session. This Congress is called upon to grapple with issues of such momentous character—issues not of our own seeking, but forced upon us by the exigencies of the day—that the wisest may well doubt his own judgment, and hesitate to cast a vote which may be fraught with fearful consequences to the present and future. Upon one hand, as the flames of a fanatic rebellion are spreading devastation over the land, the great necessity is apparent for Congress to devise means by which its consuming fires may be quenched, and an example be made of traitors that shall forever stand as a warning to coming ages. On the other, arises the question, whether our efforts to check the rebellion by threatened confiscation or punishment may not add to the intensity of the hatred now felt towards the Constitution and Union by the rebels in arms, or bring them new allies in the border States.

I think it will be found from the course this discussion has taken that those who doubt the power of Congress to act in the premises are also those who have the greatest fear of exasperating the South. It seems to me, sir, that such gentlemen take counsel principally of their timidity. Upon what other principle do they continually urge that a confiscation act directed against the men who are now engaged in malignant warfare against us will tend to foster rebellion? We propose no confiscation of the property of loyal men. We level not our thunders against the victims of secession rage who now fill southern prisons, or are hunted through the mountains like wild beasts by their former neighbors and friends. It is against the authors of these atrocities, whose hearts are filled with bitter hate against all who cling to the Union of the fathers, who have violated every law human and divine, and now revel in a saturnalia of blood, that we aim our laws of confiscation and reprisal. Think you, sir, that we can add to their fiendish hate; that their ingenuity can invent any new outrages against law or life? Think you, sir, that that spirit of secession, which has been characterized by one of their victims, himself a southern man, (Mr. Brownlow,) as "the spirit of murder and assassination—the spirit of hell," can be rendered more diabolical by any agency of ours? The climax was long since reached. These bitter fruits of secession ripened early in the rebellion. The rebels long ago credited this Government with a design to subjugate and crush them, to free their slaves, and confiscate their property. For a year of almost pusillanimous patience we have witnessed their outrages against even the laws of war. We have

oftener displayed the olive branch than the sword. We have proffered peace without penalty by every means by which we could get access to the southern ear. By presidential messages, by correspondence with foreign nations published to the world, by resolutions and declarations of Congress, by the public press, we have vainly offered to them immunity in their constitutional rights, and endeavored to induce them to resume their place and power in the Union. We have tenderly nursed their sick and wounded, we have extorted their acknowledgment of the excellent conduct of our troops in their conquered cities, we have not laid hand upon even their peculiar institution in the regions traversed by our armies. When southern property has been committed to the flames it has been by southern hands; when a party of helpless women and children was fired upon for expressions of delight upon the display of a flag at New Orleans, it was by southern soldiers. We have even set guards over the property of secessionists who were at the time in open rebellion, to prevent its spoliation. Never was a war so humanely conducted before as it has been by this Administration, never was forbearance so long, never mercy so great.

I ask, gentlemen, what has been the fruit of this policy? Have we witnessed any cessation of the efforts of the rebels? Have we succeeded in bringing them to a more Christian frame of mind? Are they not to-day as fiercely hostile as ever? Nay, sir, has not our policy been injurious to our cause? Will it be denied that it is to-day safer to be a rebel in any one of the seceded States than to be a Unionist, whatever the result of the war as it is at present conducted? With ruthless and unsparing hand the confederate government confiscates or destroys the property of Union men, while the rebel has no reason to fear by any action we have yet taken that he will be injured in person or property if the rebellion is put down. Thus, by our hesitation to pass a bill of this character, we allow a state of things to continue which necessarily gives to the rebellion all that stimulus which springs from a love of property and personal safety.

To those gentlemen who fear that a vote of Congress may tend to exasperate the rebels, I commend the report recently made by the joint committee upon the conduct of the war, in regard to the barbarities committed by those rebels at the very commencement of the war. This committee, in obedience to a resolution of the Senate, have collected evidence concerning the treatment by the rebels at Manassas of the remains of officers and soldiers of the United States killed in battle there, and in the progress of their investigations have developed facts showing a barbarism and cruelty towards wounded and other prisoners that evince in the strongest light the great necessity of refraining from any act on our part that will tend to exasperate rebels! How great a misfortune it would be if by a confiscation or any other law we should diminish the love these traitors have for us! Here is the manner in which these mild-mannered, not-to-be-exasperated rebels, followed up the first considerable battle, as shown by the report to which I allude:

"Dr. J. M. Homiston, surgeon of the fourteenth New York or Brooklyn regiment, captured at Bull Run, testifies that when he solicited permission to remain on the field and to attend to wounded men, some of whom were in a helpless and painful condition and suffering for water, he was brutally refused. They offered him neither water nor anything in the shape of food. He and his companions stood in the streets of Manassas, surrounded by a threatening and boisterous crowd, and were afterwards thrust into an old building, and left, without sustenance or covering, to sleep on the bare floor. It was only when faint and exhausted, in response to their earnest petitions, they having been without food for twenty-four hours, that some cold bacon was grudgingly given to them. When, at last, they were permitted to go to the relief of our wounded, the secession surgeon would not allow them to perform operations, but intrusted the wounded to his young assistants, 'some of them with no more knowledge of what they attempted to do than an apothecary's clerk.' And further, 'that these inexperienced surgeons performed operations upon our men in a most horrible manner; some of them were absolutely frightful.' 'When,' he adds, 'I asked Dr. Darby to allow me to amputate the leg of Corporal Prescott, of our regiment, and said that the man must die if it were not done, he told me that I should be allowed to do it.' While Dr. Homiston was waiting, he says a secessionist came through the room and said, 'they are operating upon one of the Yankee's legs up stairs.' 'I went up and found that they had cut off Prescott's leg. The assistants were pulling on the flesh at each side, trying to get flap enough to cover the bone. They had sawed off the bone without leaving any of the flesh to form the flaps to cover it; and with all the force they could use they could not get flap enough to cover the bone. They were then obliged to saw off about an inch more of the bone, and even then, when they came to put in the sutures, (the stitches,) they could not approximate the edges within less than an inch and a half of each other; of course, as soon as there was any swelling, the stitches tore out and the bone stuck through again. Dr. Swalm tried afterwards to remedy it by performing another operation, but Prescott had become so debilitated that he did not survive.' Corporal Prescott was a young man of high position, and had received a very liberal education.

"The same witness describes the sufferings of the wounded after the battle as inconceivably horrible; with bad food, no covering, no water. They were lying upon the floor as thickly as they could be laid. 'There was not a particle of light in the house to enable us to move among them.' Deaf to all his appeals, they continued to refuse water to these suffering men, and he was only enabled to procure it by setting cups under the eaves to catch the rain that was falling, and in this way he spent the night catching the water and conveying it to the wounded to drink. As there was no light, he was obliged to crawl on his hands and knees to avoid stepping on their wounded limbs; and, he adds, 'it is not a wonder that next morning we found that several had died during the night.' The young surgeons, who seemed to delight in hacking and butchering these brave defenders of our country's flag, were not, it would seem, permitted to perform any operations upon the rebel wounded. 'Some of our wounded,' says this witness, 'were left lying upon the battle-field until Tuesday night and Wednesday morning. When brought in, their wounds were completely alive with larvæ deposited there by the flies, having laid out through all the rain storm of Monday and the hot, sultry sunshine of Tuesday.' The dead laid upon the field unburied for five days; and this included men not only of his own, the fourteenth regiment, but of other regiments. This witness testifies that the rebel dead were carried off and interred decently. In answer to a question whether the confederates themselves were not also destitute of medicine, he replied, 'they could not have been, for they took all ours, even to our surgical instruments. He received none of the attention from the surgeons on the other side, 'which,' to use his own language, 'I should have shown to them had our position been reversed.'"

Horrible as is this picture, much of its repulsiveness may be shaded away by the supposition that the hurry and tumult following a battle may have prevented adequate attention to our wounded, although many circumstances cannot thus be excused; while our practice has ever been, as is that of all civilized nations, to make no discrimination between friend and foe in dealing with the wounded or sick. But what excuse can be offered for such atrocities as the following, out of many recorded in the report?

"The case of Dr. Ferguson, of one of the New York regiments, is mentioned by Dr. Swalm. 'When getting into his ambulance to look after his own wounded he was fired upon by the rebels. When he told them who he was, they said they would take a parting shot at him, which they did, wounding him in the leg. He had his boots on, and his spurs on his boots, and as they drove along his spurs would catch in the tail board of the ambulance, causing him to shriek with agony.' An officer rode up, and, placing his pistol to his head, threatened to shoot him if he continued to scream. This was on Sunday, the day of the battle."

When it is considered that Dr. Ferguson was a non-belligerent, that he was in discharge of professional and humane duties when he was wantonly shot, the temper of the rebels needs little other commentary. That this was not a solitary case, but that our soldiers, while defenseless and in prison, were shot in cold blood, is shown by the testimony of the gallant General Ricketts. He was himself taken prisoner and confined in Richmond, and testified that a number of our men were shot by the sentries:

"In one instance two were shot; one was killed, and the other wounded, by a man who rested his gun on the window sill while he capped it."

The bayoneting of prisoners seems to have been a favorite amusement. General Ricketts said, before the committee:

"I heard of a great many of our prisoners who had been bayoneted and shot. I saw three of them—two that had been bayoneted and one of them shot. One was named Louis Francis, of the New York fourteenth. He had received fourteen bayonet wounds—one through his privates—and he had one wound very much like mine, on the knee, in consequence of which his leg was amputated after twelve weeks had passed; and I would state here that in regard to his case, when it was determined to amputate his leg, I heard Dr. Peachy, the rebel surgeon, remark to one of his young assistants, 'I won't be greedy; you may do it;' and the young man did it. I saw a number in my room, many of whom had been badly amputated. The flaps over the stump were drawn too tight, and some of the bones protruded. A man by the name of Prescott (the same referred to in the testimony of surgeon Homiston) was amputated twice, and was then, I think, moved to Richmond before the taps were healed. Prescott died under this treatment. I heard a rebel doctor on the steps below my room say, 'that he wished he could take out the hearts of the d——d Yankees as easily as he could take off their legs.'"

Louis Francis, himself, testified before the committee. He bore the marks on his person of terrible wounds and maltreatment, and had lost a leg. He was a private in the New York fourteenth regiment. He says:

"I was attacked by two rebel soldiers, and wounded in the right knee with the bayonet. As I lay on the sod they kept bayoneting me until I received fourteen wounds."

In all ages respect for the dead has been held to be a necessary virtue in a brave and generous character. To inflict outrage upon a slain enemy, even, has heretofore been confined to dark corners of the earth. Such practices are too vile and mean to be tolerated in the light of civilization. Hence the fiendish spirit of the rebel leaders is painfully apparent in their treatment of our heroic dead. They were stripped naked, and left for days unburied. Many were buried in trenches, face downward, as a mark of indignity, Some were boiled to get the bones for trophies, and heads cut off that the skulls might be kept for drinking cups. Many human bones were found scattered through the rebel huts, sawed into rings. The report says:

"Daniel Bixby, jr., of Washington, testifies that he went out in company with Mr. G. A. Smart, of Cambridge, Massachusetts, who went to search for the body of his brother, who fell at Blackburn's Ford in the action of the 18th of July. They found the grave. The clothes were identified as those of his brother on account of some peculiarity in the make, for they had been made by his mother; and, in order to identify them, other clothes made by her were taken, that they might compare them. 'We found no head in the grave, and no bones of any kind—nothing but the clothes and portions of the flesh. We found the remains of three other bodies all together. The clothes were there; some flesh was left, but no bones.'"

The statement of residents near the place, white and black, was, that the rebels had boiled portions of the bodies of our dead to obtain their bones as relics.

Governor Sprague appeared before the committee, and gave evidence of matters coming under his own observation. I read from the report:

"The evidence of that distinguished and patriotic citizen, Hon. William Sprague, Governor of the State of Rhode Island, confirms and fortifies some of the most revolting statements of former witnesses. His object in visiting the battle-field was to recover the bodies of Colonel Slocum and Major Ballou, of the Rhode Island regiment. He took out with him several of his own men to identify the graves. On reaching the place he states that 'we commenced digging for the bodies of Colonel Slocum and Major Ballou at the spot pointed out to us by these men who had been in the action. While digging, some negro women came up and asked whom we were looking for, and at the same time said that Colonel Slocum had been dug up by the rebels, by some men of a Georgia regiment, his head cut off, and his body taken to a ravine thirty or forty yards below, and there burned. We stopped digging and went to the spot designated, where we found coals and ashes and bones mingled together. A little distance from there we found a shirt (still buttoned at the neck) and blanket with large quantities of hair upon it, everything indicating the burning of a body there. We returned and dug down at the spot indicated as the grave of Major Ballou, but found no body there; but at the place pointed out as the grave where Colonel Slocum was buried we found a box, which, upon being raised and opened, was found to contain the body of Colonel Slocum. The soldiers who had buried the two bodies were satisfied that the grave had been opened; the body taken out, beheaded, and burned, was that of Major Ballou, because it was not in the spot where Colonel Slocum was buried, but rather to the right of it. They at once said that the rebels had made a mistake, and had taken the body of Major Ballou for that of Colonel Slocum. The shirt found near the place where the body was burned I recognized as one belonging to Major Ballou, as I had been very intimate with him. We gathered up the ashes containing the portion of his remains that were left, and put them in a coffin together with his shirt and the blanket with the hair left upon it.

"'After we had done this, we went to that portion of the field where the battle had first commenced, and began to dig for the remains of Captain Tower. We brought a soldier with us to designate the place where he was buried. He had been wounded in the battle, and had seen from the window of the house where the captain was interred. On opening the ditch or trench, we found it filled with soldiers, all buried with their faces downward. On taking up some four or five, we discovered the remains of Captain Tower, mingled with those of the men. We took them, placed them in a coffin, and brought them home.' In reply to a question of a member of the committee, as to whether he was satisfied that they were buried intentionally with their faces downward, Governor Sprague's answer was: 'Undoubtedly! Beyond all controversy!' and that 'it was done as a mark of indignity.' In answer to another question, as to what their object could have been, especially in regard to Colonel Slocum, he replied: 'Sheer brutality, and nothing else. They did it on account of his courage and chivalry, in forcing his regiment fearlessly and bravely upon them. He destroyed about one half of that Georgia regiment, which was made up of their best citizens.'"

By acts of violence and crime like these the rebels signaled their first victory over the Army of

the Republic. With savage and malignant hate they tortured, slew, and desecrated. The monstrous treason which was commenced in perjury and theft was continued in cowardly cruelty and barbarism. Well may I say the climax of malignity was early reached. But has it diminished by long months of forbearance? Let the score of brave officers and men of General Curtis's command, who were slain by the poisoned food left by the retreating rebels, bear witness. Let the fire-ship, filled with deadly missiles, sent down upon our vessel invited by a flag of truce and displaying another, below New Orleans; the throat-cutting of sick and unarmed men at Shiloh, as they lay in their tents; the frequent murder of parties bearing flags of truce; the dismal tales of southern prison houses; the hanging of Union men; the disregard of age or sex by the rebels in their unrestrained wrath; let these and a thousand other barbarities give testimony how much danger there is of exasperating the traitors in arms.

Well may this committee upon the conduct of the war exclaim, as they draw to the end of the dismal task assigned to them by the special resolution of the Senate:

"Every step of this monstrous treason has been marked by violence and crime. No transgression has been too great, no wrong too startling for its leaders. They disregarded the sanctity of the oaths they had taken to support the Constitution; they repudiated all their obligations to the people of the free States; they deceived and betrayed their own fellow-citizens, and crowded their armies with forced levies; they drove from their midst all who would not yield to their despotism, or filled their prisons with men who would not enlist under their flag. They have now crowned the rebellion by the perpetration of deeds scarcely known even to savage warfare. The investigations of your committee have established this fact beyond controversy. The witnesses called before us were men of undoubted veracity and character. Some of them occupy high positions in the Army, and others high positions in civil life. Differing in political sentiments, their evidence presents a remarkable concurrence of opinion and of judgment. Our fellow-countrymen, heretofore sufficiently impressed by the generosity and forbearance of the Government of the United States, and by the barbarous character of the crusade against it, will be shocked by the statements of these unimpeached and unimpeachable witnesses; and foreign nations must with one accord, however they have hesitated heretofore, consign to lasting odium the authors of crimes which, in all their details, exceed the worst excesses of the Sepoys of India.

"Inhumanity to the living has been the leading trait of the rebel leaders; but it was reserved for your committee to disclose as a concerted system their insults to the wounded, and their mutilation and desecration of the gallant dead. Our soldiers taken prisoners in honorable battle have been subjected to the most shameful treatment. All the considerations that inspire chivalric emotion and generous consideration for brave men have been disregarded. It is almost beyond belief that the men fighting in such a cause as ours, and sustained by a Government which, in the midst of violence and treachery, has given repeated evidences of its indulgence, should have been subjected to treatment never before resorted to by one foreign nation in a conflict with another."

Talk of exasperating men like these! As well might Michael have feared to exasperate the rebellious angels whom he hurled from the battlements of heaven at the fiat of the Almighty. As well might the English have feared to exasperate the Sepoys who slew in cold blood all whom they overpowered. It is only by sharp and sudden blows you can put down this rebellion; not by faint-heartedness; not by calculations how your mortal enemies will regard your measures. Why, sir, the same advice that now seeks to induce us to do nothing that will exasperate rebels, would, if carried to legitimate conclusions, cause our armies to be disbanded, surrender this capital to the enemy, and give over the Union men of the South to hopeless ruin. In the same spirit the last Congress were advised not to pass the force bill, to make no appropriations for the Navy and Army, to do nothing to exasperate the men who had commenced to steal public property, organize rebellion, and trample upon the laws. It will forever remain a blot upon the administration of James Buchanan that for months after the great conspiracy had developed itself by acts of ruthless violence, he wrung his hands in the halls of the White House, and lamented his hard fate, fearing to strike the blow that should save the nation, lest he might exasperate the traitors who bearded him even in his privacy, and publicly denounced him as a falsifier. The nation is a year older than it then was, and we are burdened with a weighty experience. We see that no act or word of conciliation will avail with the secessionists; that this contest must be fought out to the bitter end by every means in our power consistent with the laws of war. The event has proved that it would have been better for the country had this fact been realized in July last. Then we would have had less talk about conciliation—which has been in vain, utterly idle—and more effective blows upon the front of the horrid monster secession.

I am not, therefore, deterred from an affirmative vote upon the pending measures by any effect they may have in exasperating the rebels against the Union. On the contrary, I firmly believe that if these bills become laws, and are vigorously executed in their intention and spirit, they will be an efficient auxiliary to mere military force in crushing out the rebellion. Such laws will make rebellion unsafe. They hang a penalty over the head of the traitor who heretofore has been free from fear of any consequences or contingencies arising from ultimate defeat. They strike at the cause of the rebellion and at its principal promoters. We need such an auxiliary as our armies progress into the cotton States. Else we but disperse the armies of our foe to reunite again as we recede. We produce no change in the condition of society, none in the tenure of property, by any measures heretofore adopted. I can see no path out of our national difficulties even if our armies are always successful, except by keeping at enormous expense as large a force on southern soil to keep down rebellion as we shall have employed to overthrow it, unless we take from rebels the resources which they use to assail us. We may place their property in the hands of the loyal or otherwise put it beyond their reach, but they must be stripped of it. If this is a hard measure to mete out, so is the crime of which they are guilty an enormous one. But confiscation does not punish a whole community even if strictly carried out, especially in the South, where the proportion of poor men is so large. Although there are four millions of slaves in the South there are but four hundred thousand slaveholders. The landed property is in few hands comparatively. Millions would go free of penalty in the South under bills far more stringent than any yet devised, and mercy will step in to lighten the burden of even the most lenient. But the life of the nation demands that such change shall be made in the possession of those resources which go to make up a capacity to wage war as that they shall not again be used to overthrow the Government and deluge the land with blood.

I am not deterred from casting an affirmative vote upon these bills by the fear that those who are now Union men in the South will become secessionists. These men have been dragooned, imprisoned, persecuted, and many murdered by the enemies of the Union. They have had meted out to them the bitterest cup of woe. Their rights have been trampled upon by the very men for whom it is pretended they have now so much tenderness that they will join hands with their oppressors if Congress attempts to confiscate the property of the latter. Such a supposition is inconsistent with all we know of the qualities of human nature. Such men will rather rejoice at any effective blow we can strike at the rebellion which has ruined them, has hunted and hounded them, has slain their relatives and friends, and desolated their hearth-stones. Bitterly must they resent the injuries and indignities they have received from their implacable foes; and they will never object to the measures we take that they bear too stringently upon the authors of their woes. If there is another class of men who are intended by the phrase "Union men of the South," men who have never evinced a sentiment of love for the Union by any act or word to restrain the violence of secessionism, who have stood by while the Government was assailed and private rights violated, they are too feeble in spirit to give weight to either party in this contest. Their loyalty will rise and fall with the varying proportions of the rebellion, and we have nothing to hope or fear from their action. While they afford us no aid to rescue their States, they must not clog our efforts or become an obstacle in our way as we strike at the heart of secession. For one, I do not believe that this class is large at the present day in the South. There may be many non-combatants, who seem to favor secession, and evade personal exposure in its service by contributing their means to the dominant power. But these men are not secessionists at heart, and would be glad to be restored to the peace and security of the Union. Any measures which relieved them from thralldom they would welcome, however they may bow to the prevailing storm.

Mr. Speaker, the progress of this war, and the conduct of Congress and the Administration from its inception, have given plain denial to the allegation that the object of the war has been the abolition of slavery. Notwithstanding that slavery has been the rallying cry of secessionism, that the only complaints against the North have hinged upon the question of slavery, that the rebellion was undertaken to build up a slave empire, and that the political influence of slavery has been the cause of all the evils of the Republic; notwithstanding the gravest provocations have been given to strike the institution from existence, and a decent pretense has offered itself for a whole year to give such direction to the war that not a slave should be left upon the continent; yet we have spared it day by day, and offered every opportunity for our rebellious citizens to return to their allegiance with all their rights and all their peculiar relations untouched. After all this, we are gravely informed to-day by the gentleman from Tennessee [Mr. MAYNARD] that we ought not to free the slaves of rebels, lest we convince the rebels or the border States that what the secessionists have all along charged is true, that we are inimical to the institutions of the South, or that this is an abolition war. Does not that gentleman know, do not the border States know, that if the rebels were to return to-day, or if they had returned any time during the past weary year, that slavery would have been injured by no act of the Government? That it would have had the damning load to carry of having been the cause or pretext of a most dishonorable and fratricidal war, and thus have deserved the execration of mankind, is most true. But that would be a consequence of the folly of its supporters, not of the policy of a forbearing Government. But national patience has a limit. We cannot stand by and see our young men led to death or return mangled and diseased, while we have within our reach a weapon that will deal a death-blow to the rebellion. If that blow must be struck at slavery, who has necessitated it? Is it not better that slavery should die than the nation? If the border States are as loyal as the gentleman asserts—and I do not dispute it—they must desire the end of this war, which has thus far desolated them more than any portion of the country. They must understand the spirit of these measures—that they have been wrung from the American Congress by the necessities of war; as war measures demanded by the public exigency, and withheld as long as there was a hope that the rebellion could be subdued without them. Accepted in this spirit, accepted with the evidences that accompany and which preceded them, they can meet no opposition in the border States; and I kindly suggest that it is the part of patriotism for the gentleman, instead of asserting to his people that these measures are evidence that the *animus* of the Government has always been inimical to "southern rights," and hence secession is self-defense, to show to them that the long forbearance of the Government is evidence that no blow was ever designed to be struck at the South and no interference ever intended with slavery, but that the gigantic proportions of this rebellion, the continued obduracy of the rebels, their atrocities towards southern Union men and northern soldiers, and their increasing and almost successful efforts to induce foreign intervention, and thus the introduction of an alien enemy upon the national soil, have rendered such measures necessary to save the national life, and that they are, therefore, wise, salutary, and just.

The gentleman from Missouri, [Mr. NOELL,] speaking for a border State constituency, has no fear for the effect of a confiscation law in the border States. After an able argument, defending upon principle and policy the confiscation bill pending before the House, he says:

"I say, sir, that so far from this bill producing mischief in the border slave States, it is the only means by which our loyal people can be protected. Why, sir, it is a common thing for these men, as soon as the overwhelming force of the United States troops gets out of sight, to run back into our settlements and burn our houses, drive our wives and children from their homes, and strip them of every dol-

lar's worth of property they have upon the face of the earth. Meet them again and they laugh in your face and tell you there is no law by which they can be punished. You cannot hang five hundred thousand men. That is impossible. Such a law cannot be executed. No one knows better than they do that such is the case; and if we do not reach them in the only way in which we can reach them—through their property—they will continue to commit these disloyal acts and murderous crimes. I believe that if we had passed a confiscation bill at our extra session in July, and these men who own property in that country had known that there was a law in force which could be executed against them effectively, and which would be executed against them if they continued committing these outrages against their fellow-citizens, and these crimes against the Government, much of the mischief they have perpetrated would have been arrested."

I have been led to these remarks, sir, not because I would retaliate upon the South. I would certainly have reprisals upon the property of rebels, so far as may be, toward paying the expenses of the war and lessening the burdens of taxation which the people will soon feel so heavily. But I would not have our soldiers less generous and noble to their enemies, our surgeons less kind, our Government less willing to extend proper mercy. I do not speak in anger so much as in sorrow of the atrocities of the rebels. I deem it necessary to show the spirit of the men whom some gentlemen upon this floor seem to fear we may exasperate, by recalling those acts of the rebels which blot the late pages of our history. But I would not transcend the laws of war in dealing with these public enemies, or violate any principle of the common Constitution. Although I firmly believe in the right of self-defense inherent in the individual and in the nation, and that that right is sanctioned by a law higher than human ordinances, yet in this matter we need but appeal to the laws of war, those well-understood rights of aggression towards a public enemy, for justification of the action contemplated in the pending measures. We propose by these bills to confiscate the property of certain rebels in arms, and to free their slaves. We design to cause the enemy to contribute thus far to the expenses of the war, to weaken his power, and to force him to an equitable peace; and what is of importance as well, as I have indicated, to provide security against future injuries by any renewal of this rebellion. Our warrant for this is found in the practice of nations, and in the written law. In his Summary of the Law of Nations, Professor Martens says, book 8, chap. 3, sec. 9:

"The conqueror has a right to seize on the property of the enemy, whether movable or immovable. These seizures may be made, first, in order to obtain what he demands as his due or equivalent; secondly, to defray the expenses of the war; thirdly, to force the enemy to an equitable peace; fourthly, to deter him or by reducing his strength to hinder him from repeating in future the injuries which have been the cause of the war."

A vital element of the strength of the rebels consists in their slaves, by means of which they till their fields, and thus provide food for their armies, dig their intrenchments, drag and load their cannon, and as has been known in several recent instances, use as soldiers to shoot down the defenders of the Union. The means of resistance of the rebels are largely increased by the multitude of slaves they possess. We propose to weaken them by depriving them of this element of strength. Says Grotius, book 3, chap. 6:

"A State taking up arms has a right to weaken her enemy, in order to render him incapable of supporting his unjust violence, a right to deprive him of the means of resistance. Hence, as from this source originate all the rights which war gives us over things belonging to the enemy, we *have a right to deprive him of his possessions, of everything which may augment his strength and enable him to make war.* This every one endeavors to accomplish in the manner most suitable to him whenever we have opportunity; we seize on the enemy's property and convert it to our own use, and thus, besides diminishing the enemy's power, we augment our own, and obtain at least a partial indemnification or equivalent either for what constitutes the subject of the war or for the expenses and losses incurred in its prosecution; in a word, we do ourselves justice."

This rebellion long ago assumed the proportions of a civil war, and we have treated the rebels as belligerents for many purposes. We have recognized their flags of truce, and exchanged prisoners, maintained a blockade, and condemned as lawful prizes vessels endeavoring to run the blockade. All the law writers insist that the common laws of war apply to and should be observed in every civil war, although it is held that when a sovereign has subdued the opposite party and reduced them to submit and sue for peace, he may except from the amnesty the authors of the disturbances, the leaders of the party; he may bring them to a legal trial, and punish them if found guilty. But during the continuance of the civil war we are invested by the common laws of war with the right to treat rebels as we would alien enemies, and hence deprive them of their property, or weaken their strength or resources, of whatever character. Whatever difference of opinion there may be as to the policy of exercising such rights in a given case, there can be none of the existence of the right. With a cause so just as that which we now maintain against an enemy so regardless of all right, human or divine, so relentless and cruel that even the savage that he employs upon the western border is not charged with half the barbarism of his inciters to slaughter, we are not called upon to seek a mild interpretation of the laws of war, however foreign it has been and will be to our purpose to emulate the public enemy in his atrocities. Chancellor Kent says:

"However strong the current of authority in favor of the modern and milder construction of the law on this subject, the point seems to be no longer open for discussion in this country, and it has become definitely settled in favor of the ancient and sterner rule by the Supreme Court of the United States."—Vol. 1, tenth edition, p. 69.

Professor Parsons says:

"It is a common opinion that civilization has so far mitigated war that it is no longer one of the laws of war to seize, use, or destroy private property. This is a mistake, according to all the authorities on the law of nations. It is undoubtedly true, however, that the modern usages and proprieties of war—and there are such things—would justify the exercise of this right only on the ground of military necessity."

Most certain it is that such military necessity now presses upon us. Our vast armies in the field are draining the resources of the nation, and it is a serious question if the war can be continued another year upon such a scale of expense as is necessary to preserve its efficiency. The prospect of foreign intervention at the invitation of the rebels seems not remote, unless we strike an effective blow at the rebellion. Our troops will soon be decimated by the fierce diseases of an inhospitable climate, while the rebels will gain new strength by the very causes that will work disaster to us. The rebels maintain enormous armies in the field, greater than ever before, and concentrated into effective bodies, and greater exertions are necessary to subdue them. We are called upon to recognize this necessity and act in view of it. That the power so to act is lodged in Congress, I do not doubt. We can legislate concerning the rights of war, and the Executive can only act as we authorize him. By act of Congress he puts an army in the field, feeds, clothes, and maintains it. The Constitution provides that Congress shall have power to declare war, grant letters of marque and reprisal, and make rules concerning captures on land and water. Judge Story has decided that that power

"Includes the exercise of all the ordinary rights of belligerents, and Congress may, therefore, pass suitable laws to enforce them. They may authorize the seizure and condemnation of the property of the enemy, within or without the territory of the United States, and the confiscation of debts due to the enemy."

Chancellor Kent, (vol. 1, p. 76,) in remarking upon the case of the Emulous, (1 Gall.) says:

"On appeal, the Supreme Court establish the principle that war gave to the sovereign full right to take the person and confiscate the property of the enemy wherever found. But the exercise of the right depends on acts of Congress."

Again Mr. Wheaton says:

"It is competent for the national authority to work a transmutation, total or partial, of the property belonging to the vanquished party; and if actually confiscated, the fact must be taken for right. But to work such a transfer of proprietary rights, some positive and unequivocal act of confiscation is essential."

I deem there is nothing in the point that this war is prosecuted upon our own soil by a domestic enemy who cannot be held to the responsibilities of a foreign enemy. In 4 Wheaton, 246, is a decision that, for revenue purposes—the only point in the case—a portion of our territory in the possession of the enemy became foreign; and I confess I am unable to see why it may not become foreign for any purpose of war, if it may for revenue purposes. I have not been able to discover the reason of the rule alleged by some gentlemen to exist, that a domestic enemy, formidable in power and the duration of his rebellion, and adding the crime of violated allegiance to the war he creates, cannot be held amenable to those penalties of war which are inflicted upon a foreign enemy. The reason would seem to be the other way; that a more stringent treatment may be applied to dishonorable traitors than to an honorable foreign foe. Humanity pleads that where rebellion has reached the magnitude of civil war, the sovereign shall deal with those in arms against him by no more stringent rules than those allowed by the common laws of war; and hence Vattel says they should be observed in every civil war. But neither he, nor any other writer that I can find, implies that the sovereign shall not exercise those powers conferred by the laws of war to the fullest extent, and he concedes the right, when the rebellion is crushed, to punish the rebels in a manner that is never applied to a foreign enemy unless he is taken as a spy. Upon any other principle how shall a rebellion ever be crushed? How shall a civil war be ended except by its success? The rebels are restrained by no law of nations, for they are outlaws; and if a sovereign cannot use against them the weapons and measures which are sanctioned in all other warfare, a bounty is offered by the law of nations to treason. We have the curious anomaly of a usage or law having grown up among nations jealous of sovereignty which encourages rebels to wage war for the overthrow of sovereignty. No, sir, the utmost the rule requires is, that while a civil war is raging, the sovereign ought not to deal with his domestic foes more severely than he does with a foreign enemy, but must, for the time, disregard the fact that his enemies are also rebels. But it would be a monstrous doctrine that his belligerent rights are impaired when he is assailed by organized and powerful rebellion. Says Judge Sprague, in the case of the Amy Warwick and cargo, reported in the April number of the Law Reporter:

"In war each belligerent may seize and confiscate all the property of the enemy, wherever found, and this right extends to the property of all persons resident in the enemy's country."

He adds:

"I am satisfied that the United States, as a nation, have full and complete belligerent rights, which are in no degree impaired by the fact that their enemies owe allegiance, and have superadded the guilt of treason to that of unjust war."

And Vattel, in urging upon the sovereign humanity in the conduct of such a war, and that no greater than ordinary belligerent rights shall be exercised, because cruelty to prisoners might lead to reprisals by the public enemy, and the war degenerate into barbarism, urges, as an additional reason, that where civil war attains magnitude and divides the nation, the two parties are *in precisely the same predicament as two nations* who engage in a contest, and being unable to come to agreement, have recourse to arms:

"A civil war breaks the bands of society and government, or, at least, suspends their force and effect; it produces in the nation two independent parties, who consider each other as enemies, and acknowledge no common judge. Those two parties, therefore, must necessarily be considered as thenceforward constituting, at least for a time, two separate bodies, two distinct societies. Though one of the parties may have been to blame in breaking the unity of the State and resisting the lawful authority, they are not the less divided in fact. Besides, who shall judge them; who shall pronounce on which side the right or wrong lies? On earth they have no common superior. They stand, therefore, in precisely the same predicament as two nations who engage in a contest, and being unable to come to an agreement, have recourse to arms."

Congress has recognized this war as existing. We have set armies in the field, and are taxing the people to support them. We now intend to avail ourselves of our full belligerent rights, and exercise those rights against this hostile people which are conferred by the laws of war. If we are waging a constitutional war, all the incidents of our action, in accordance with the laws of war, are constitutional. If we are right in making this war, we are right in weakening the enemy by depriving him of property and slaves. The Constitution cannot give us this war power and yet prevent its exercise. The Constitution nowhere limits the national power to wage war against an armed enemy, domestic or foreign. This continual assumption that we shall proceed unconstitutionally if we treat the rebels as we might constitutionally treat a foreign foe, strikes at the whole war we are waging for the Union, and if true should cause an immediate abandonment of our cause.

Passing from these considerations, I wish to advert for a moment to those objections which are

urged against the passage of these or kindred measures, upon the ground that our past forbearance, the declarations of the President and of our Foreign Secretary, and the resolutions of Congress, have pledged the Government to a different policy, and hence that the passage of these measures would be "a distinct violation of our pledged faith." Sir, we have never pledged ourselves not to put down this rebellion. We have no different understanding of our constitutional rights and duties now than we had a year ago, when those declarations were uttered. I would to-day cheerfully vote for the resolution offered at the extra session by the venerable gentleman from Kentucky, [Mr. CRITTENDEN,] and then adopted:

"That this war is not waged on their [our] part in any spirit of oppression, nor for any purpose of conquest or subjugation, nor purpose of overthrowing or interfering with the rights or established institutions of those States, but to defend and maintain the supremacy of the Constitution, and to preserve the Union with all the dignity, equality, and rights of the several States unimpaired; and that as soon as those objects are accomplished the war ought to cease."

We have not waged and do not intend to wage this war in any spirit of oppression, nor for any purpose of conquest or subjugation, nor purpose of overthrowing or interfering with any rights or institutions of any States, but to maintain the supremacy of the Constitution, and we still intend that the war shall cease as soon as these objects are accomplished. We can only attain these objects by weakening the power of the rebels, by availing ourselves of our belligerent rights. If by that resolution assurance was given that the Government bound itself to inaction, pledged itself not to use any legal means to accomplish the objects named in it, it was a delusion. But it was not so understood by Congress or the country. We left ourselves free to wage this war by all effectual methods consistent with the laws of nations, upon which there is no reservation in our Constitution, until we had secured again the supremacy of the Constitution and saved the Union. If to accomplish these ends it is necessary to take away the slaves of rebels, does the gentleman from Kentucky, or any one else, say we should rather let the Union slide? If to take the property of rebels and transfer it to Union men to make good the losses of the latter, and prevent it from being used again against us, is necessary to maintain the supremacy of the Constitution, will it be charged we violate the spirit or letter of that resolution in so doing, or any plighted faith whatever? Such arguments seem to me to be the fruit of an ingenuity seeking to evade the performance of a plain duty to the country—to be the lingering poison of a party spirit inimical to the national welfare.

All along we have had men in our councils who, while saying one word for us, would say, unintentionally, probably, two for the national adversary. No measure we have thus far taken, however necessary to the public safety, or reasonable, or usual in time of war among civilized nations, has escaped carping criticism. This may spring from a reverence for forms, or from a sympathy with former political associates, or from better motives. But when it is announced in Congress, and circulated by pamphlet among the people as the utterance of a friend of the national cause, that—

"The old landmarks of our Constitution are fading fast enough. We have now no liberty of the press. The great, striking feature of Magna Charta, wrung from King John upon the plains of Runnymede by our great British ancestors—the right to the writ of *habeas corpus*—has gone; more than a thousand of our fellow-citizens, without due process of law, lie rotting in your political bastiles,"

I can but regret that the cause of the Union is thus wounded in the house of its friends. Have we no liberty of the press? The military authorities have prevented descriptions of our works of defense, detailed statements of our forces assembled at various points, and intelligence of intended movements, being published to the enemy; but who shall complain of that except those who wish evil to our brave soldiers who may be betrayed? The Government has refused the use of its mails to sheets filled with rank secession, poisoning the public mind with falsehood, and openly working for the rebels; but is liberty of the press a license to sap the very foundations of society, and lead an armed crusade against law and liberty? Who shall complain of this except those who sympathize with secession? Who of our fellow-citizens has ever been arrested except for outspoken, aggressive treason, flouted in the very face of the Government? Who shall complain of this except those who wish traitors to be unmolested in their nefarious work? "Rotting in political bastiles!" We use no dungeons in our places of confinement—no horrors are therewith associated, except a restraint of person, necessary to the public safety. Why such exuberance of rhetoric, such word painting? It is notorious that thousands of traitors walk the streets unmolested, and give aid and comfort to the enemy by all the advantage a residence among us confers, yet are thus unmolested because of the tenderness of the Government. And the readiness of the Government to release any political adversary upon a mere parole not to aid the rebellion, is equally notorious. If men will engage not to war against the Constitution, they are instantly released, and many who even refused this have been sent across the border. The leniency of the Government, not its strictness, has been cause of reproach. Yet it is compared with despotic French monarchs who, from malevolence or whim, chained their victims to the floor of noisome solitary dungeons, where the light of day never penetrated, and where hopeless years passed over their heads until they forgot the form of their fellows, and were forgotten by the outside world. The allusion is most odious, because it is most unjust, and sounds strangely from a supporter of the Government. But it is at least a gratifying evidence that the liberty of speech yet remains to us.

Mr. Speaker, I have given the reasons which induce me to vote for these measures. I desire to see this rebellion utterly overthrown, and therefore I vote for them. I believe we have the right under the Constitution and laws of war to enact them—that they are both right and expedient, and that we shall be derelict to our duty if this Congress adjourns without doing something for the peace of the country more than is accomplished by tax and appropriation bills. We will talk of compromise and conciliation when the rebels cease to murder our loyal citizens and make their dwellings a desolation. We will talk of forgiveness when they ask it, or will accept it. But as long as their hands drip with the blood of loyalists, and they essay to involve in common ruin the whole structure of our political society, we will meet them sternly with all the weapons which laws, human and divine, supply for our use.

CONFISCATION OF REBEL PROPERTY.

SPEECH OF HON. D. LOOMIS,

OF CONNECTICUT,

IN THE HOUSE OF REPRESENTATIVES,

May 23, 1862.

The House having under consideration the bills to confiscate the property and free from servitude the slaves of rebels—

Mr. LOOMIS said:

Mr. SPEAKER: At a time of imminent danger to an ancient republic, a patriotic orator said: "Let that which every man thinks concerning the republic be inscribed on his forehead." This remark may well be applied to us at the present time, when the grandest fabric of government ever reared by human hands has been assailed and put in peril by its own citizens and subjects. If such inscriptions could have been literally made, what hellish plots and purposes would have appeared on the forehead of many a high official whose lips meanwhile were uttering orisons to "our glorious Constitution and Union." And how the thousand traitorous spies who infested all the council chambers of the Republic would have slunk away into their hiding places "as ghosts troop home to church-yards" before the light of the morning. How, too, the drapery of mere words would have been stripped away from the horrid features of treason in its incipient stages. We all remember the delicate phrases that were used to describe the first overt acts. The Greeks, we are told, had a refinement of phrase for the crime of murder. It was only "making a man mild and quiet." So in the classics of modern treason, to lessen our natural abhorrence of the act, it was called "resuming the sovereignty of the State," while on the other hand any act proposed on the part of the Executive to comply with his sworn duty before God and man to execute the laws, was labeled with the hateful name, "coercing a sovereign State." And what a horrid profanation it was of "the sacred soil of Virginia" for the national troops to occupy the heights across the Potomac when the myrmidons of treason were marching on the nation's capital! But all disguises have now been torn away from this great rebellion, and it stands before a horror-stricken world alone in its guilt and infamy! We may say of it as Macaulay said of the life of Sir Antony Astley Cooper: "Every part of it reflects infamy on every other."

The joint committee on the conduct of the war in their recent report on "the rebel barbarities at Manassas," after citing the evidence before them, truely remark that:

"Every step of this monstrous treason has been marked by violence and crime. No transgression has been too great, no wrong too startling for its leaders. They disregarded the sanctity of the oaths they had taken to support the Constitution; they repudiated all their obligations to the people of the free States; they deceived and betrayed their own fellow-citizens, and crowded their armies with forced levies; they drove from their midst all who would not yield to their despotism, or filled their prisons with men who would not enlist under their flag. They have now crowned the rebellion by the perpetration of deeds scarcely known even to savage warfare. The investigations of your committee have established this fact beyond controversy. The witnesses called before us were men of undoubted veracity and character. Some of them occupy high positions in the Army, and others high positions in civil life. Differing in political sentiments, their evidence presents a remarkable concurrence of opinion and of judgment. Our fellow-countrymen, heretofore sufficiently impressed by the generosity and forbearance of the Government of the United States, and by the barbarous character of the crusade against it, will be shocked by the statements of these unimpeached and unimpeachable witnesses; and foreign nations must with one accord, however they have hesitated heretofore, consign to lasting odium the authors of crimes which, in all their details, exceed the worst excesses of the Sepoys of India.

"Inhumanity to the living has been the leading trait of the rebel leaders; but it was reserved for your committee to disclose as a concerted system their insults to the wounded, and their mutilation and desecration of the gallant dead. Our soldiers taken prisoners in honorable battle have been subjected to the most shameful treatment. All the considerations that inspire chivalric emotion and generous consideration for brave men have been disregarded. It is almost beyond belief that the men fighting in such a cause as ours, and sustained by a Government which, in the midst of violence and treachery, has given repeated evidences of its indulgence, should have been subjected to treatment never before resorted to by one foreign nation in a conflict with another." * * * * * * * * *

"The outrages upon the dead will revive the recollections of the cruelties to which savage tribes subject their prisoners. They were buried in many cases naked, with their faces downward; they were left to decay in the open air; their bones were carried off as trophies, sometimes, as the testimony proves, to be used as personal adornments, and one witness deliberately avers that the head of one of our most gallant officers was cut off by a secessionist to be turned into a drinking cup on the occasion of his marriage. Monstrous as this revelation may appear to be, your committee have been informed that during the last two weeks the skull of a Union soldier has been exhibited in the office of the Sergeant-at-Arms of the House of Representatives, which had been converted to such a purpose, and which had been found on the person of one of the rebel prisoners taken in a recent conflict. The testimony of Governor Sprague, of Rhode Island, is most interesting. It confirms the worst reports against the rebel soldiers, and conclusively proves that the body of one of the bravest officers in the volunteer service was burned."

Listen to the sad story of loyal citizens from the southern States, when they tell you how they have been robbed of every article of property; driven from their homes; hunted down like partridges on the mountains; tortured with all the horrid refinements of cruelty which fiendish ingenuity could invent; and all this merely because

"Unshaken, unsubdued, unterrified
Their loyalty they kept, their love, their zeal
Though single."

I have read accounts from the southern papers glorying in the fact that at the capture of New Orleans several loyal adopted citizens were shot down in cold blood, merely because their hearts leaped with a spontaneous joy when they saw the starry blue of the old flag that in their fatherland they had learned to look upon as the olive branch of peace and good will to the nations, and Heaven's great missionary over all oceans, seas, and inlets of the globe. And, yet, with all this damning record, and with the express declaration of the rebel leaders that they intend to prosecute this war "till their conquering swords hang drip-

ping over the prostrate heads of the North," we have been told by gentlemen on this floor that any confiscation bill is too harsh and barbarous, and that we should offer them instead the olive branch of peace! I fear that such will hardly share the blessing of the "peacemakers" in the Gospel. The short way to lasting peace lies through the tempest of battle, through the red sea of war. A peace must be conquered. We must conquer or be conquered. We fight for national unity and national existence. We fight to make life in the future endurable. We fight to make property secure. We fight to make business and prosperity possible. We can secure peace by crushing out this rebellion, and by founding on an immovable basis the Union erected by our fathers. I believe that all the war powers and all the legislative powers should be called into action in this great emergency, and I consider it both the right and the duty of Congress to provide for the confiscation of the estates of the leading rebels.

But we are told that the Constitution is in the way. But I remember how the Constitution has been perverted from the first in aid of these conspirators against the life of the nation. It has been like a jug with the handle on the rebel side. Every single step which the national Government has taken in the assertion of its rightful prerogatives has been met with the same cry—"Stop; you are violating the Constitution!" At the commencement of the rebellion, the Constitution had become so perverted in its construction as to become like Milton's bridge, that led

"Smooth, easy, inoffensive, down to hell."

As we look backward through the history of the usurpations of the slave power in our land, it seems to have been a deliberate purpose so to emasculate our organic law as to make secession easy. The Constitution was all bristling with vitality and power to guaranty, protect, and extend slavery, although slavery was nowhere named in that sacred instrument, while liberty, though everywhere guarded by the most explicit guarantees, has had no more meaning for many years past, in the estimation of pro-slavery commentators, than it had in the old French dictionary, where it was defined only as "a word of three syllables." The late Administration could find no power in the Constitution to interpose a single obstacle in the way of treason. While faintly arguing that secession was wrong, it said to the seceders: "Don't leave just now. I know you have been grievously wronged and provoked, and I can do nothing to prevent your going, or to harm you after you shall have left. The Government cannot coerce a State." And so it was that "coercion" was monopolized by treason alone. It was not a weapon allowed to the nation. And now it is said "the nation cannot confiscate the property of rebels in arms. They may use confiscation as a weapon against us, but we must not against them!" I do not believe that the Constitution has any such weakness as gentlemen pretend. That proud monument of the combined wisdom of Washington, Franklin, Hamilton, Sherman, Madison, Morris, Pinckney, King, and many other statesmen of exalted virtue and preeminent ability is not a mere painted bubble, launched on the stormy waves of time to be dissolved forever by the breath of a traitor.

And here allow me to digress to say a word in reference to a remark which we often hear about the weakness of a republican form of government and its supposed transient existence. I believe a republic is the only form of human government adapted to the nature of man, and that it is no more transient in its duration than any other form of government. Monarchies, I know, have been and are more numerous than republics. But when it is asserted that the former have always had a longer life, I think the voice of history has been belied. The Roman republic lasted as long as the Roman monarchy of the West. The Carthagenian republic lasted as long as the Spartan monarchy, and the Athenian republic endured a century longer than the Macedonian kingdom. Many a monarchy has been overturned by a plot in the king's palace, or by a riot in a single city. No other Government on the face of the globe could have withstood so gigantic a rebellion as ours. What other Government simply by indicating its wishes could have induced six hundred thousand of its free subjects to leave their quiet homes and accustomed pursuits, and hasten at once to distant fields of battle, that they might make their breasts a shield against the foe, and offer their lives a willing sacrifice on the altar of their country?

But to return to the question of confiscation. I propose to submit a few observations in support of the constitutionality and justice of the proposed confiscation bills now under consideration. It is not my purpose at this time to analyze or discuss the details of these bills or any of the pending amendments. I am not obstinately wedded to any particular form of bill on this subject. My only desire is to select one that is right, just, and most effective.

It has been stoutly asserted by several gentlemen on this floor that we cannot touch the property of a rebel in arms, in pursuance of any legislative act of ours, unless we shall first indict him by a grand jury for the crime of treason, arrest him, and bring him before another jury of the vicinage and convict him, after going through with all the details of a regular trial; and then, after final conviction and sentence of death, it is contended by the gentleman from Maryland [Mr. CRISFIELD] and others that neither the real nor personal estate of such convicted traitor can be forfeited except for the few days that may intervene between the time of the conviction and the execution of the sentence. For instance, if the rebel thus condemned to death happens to own a watch the nation can hold it while the rope is being adjusted, but when the platform drops and the breath of the traitor ceases, it must be handed over at once to the next of kin! The provision of the Constitution thus construed is as follows:

"The Congress shall have power to declare the punishment of treason; but no attainder of treason shall work corruption of blood, or forfeiture, except during the life of the person attainted."—Art. 3, sec. 3.

There is no adjudicated case to determine the true meaning of this provision, and there is great diversity of opinion respecting it. As many as three different interpretations have been suggested during this debate. I have already adverted to one opinion on the subject, which is that neither the real nor personal estate of the convicted traitor can be forfeited except for his life. I will only add to what I have previously said on this point that if the framers of the Constitution only contemplated the forfeiture of property to this very limited extent, it seems strange that it was not altogether prohibited.

A second opinion is, that the Constitution imposes no limit upon Congress relative to the forfeiture of personal estate, while only a life interest in real estate can be taken. The reason given for such a distinction is, that the effect of attainder at common law was to forfeit only the real estate, while the goods and chattels were forfeited upon conviction, only and without attainder. After conviction, the law contemplated a possibility of innocence on the part of the person convicted. But not so after attainder; the person became at once infamous, and corruption of blood and forfeiture of lands followed as a consequence. This construction of the constitutional provision under discussion is the one which I think is most commonly received.

But there is still another view which seems to me not unreasonable. It is, that all the property, both real and personal, belonging to the traitor at the time of his conviction, or accruing to him during his life, may be forfeited absolutely, but that his attainder shall not have the effect to prevent his heirs from inheriting estates through him after his death. In other words, the length of the life of the convicted traitor was not to be the measure and limit of the interest forfeited, but that both corruption of blood and forfeiture, as consequences of attainder, were to cease with the life of the traitor. The most unjust and odious feature of the common law was that which allowed corruption of blood, by attainder, to prevent innocent heirs from ever inheriting any estates that might descend to them through the blood of the person attainted.

But I do not consider it necessary to settle the precise meaning of this provision of the Constitution in order to determine the validity of the confiscation bills now pending, for they who are making war upon the Government are not only *traitors*, to be punished as such, but they are also enemies, and exposed to all the incidents and penalties of war. It seems to me the true basis and justification of the proposed legislation will be found included within the war powers given to Congress. We have the right to take enemy's property in order that we may cripple his resources or replenish our own, and also in order to promote the success, secure the objects, and expedite the conclusion of the war. The following extracts contain the leading principles of public law relating to this subject:

In the language of Professor Martin:

"The conqueror has a right to seize on the property of the enemy, whether movable or immovable. This may be done: 1. In order to obtain what may be demanded to be due. 2. To force the enemy to an equitable peace. 3. To defray the expenses of the war. 4. To deter him, or by reducing his strength to hinder him, from repeating in future the injuries which have been the cause of the war. And with this object in view, a Power at war has a right to destroy the possessions and property of the enemy for the express purposes of doing him mischief."

Says the Supreme Court:

"War gives the full right to take the persons and confiscate the property of the enemy wherever found." "It may be considered as the opinion of all who have written on the *jus belli*, that war gives the right to confiscate."

Grotius, (book 3, cap. 6,) says:

"A State taking up arms has a right to weaken her enemy, in order to render him incapable of supporting his unjust violence, a right to deprive him of the means of resistance. Hence, as from this source originate all the rights which war gives us over things belonging to the enemy, we have a right to deprive him of his possessions, of everything which may augment his strength and enable him to make war. This every one endeavors to accomplish in the manner most suitable to him whenever we have opportunity; we seize on the enemy's property, and convert it to our own use, and thus, besides diminishing the enemy's power, we augment our own, and obtain at least a partial indemnification or equivalent either for what constitutes the subject of the war or for the expenses and losses incurred in its prosecution; in a word, we do ourselves justice."

Judge Sprague, in his learned opinion in the case of the Amy Warwick, decided in the United States district court for the district of Massachusetts in February last, says:

"In war each belligerent may seize and confiscate all the property of the enemy wherever found, and this right extends to the property of all persons resident in the enemy's country."

And again, he says:

"I am satisfied that the United States, as a nation, have full and complete belligerent rights, which are in no degree impaired by the fact that their enemies owe allegiance, and have superadded the guilt of treason to that of unjust war."

The Supreme Court, in 8 Cranch, p. 64, speaking of the new character which the nation assumes in a state of war, says:

"But a new state of things has occurred, a new character has been assumed by this nation, which involves it in new relations and confers on it new rights, which imposes a new class of obligations on our citizens and subjects them to new penalties."

"The nature and consequences of a state of war must direct us to the conclusions which we are to form in this case. In a state of war nation is known to nation only by their armed exterior, each threatening the other with conquest or annihilation."

In the case of the Rapid, which was the case of the forfeiture of the property of a citizen, the court said:

"This is the first case since the organization of the Government in which this court has been called upon to assert the rights of war against the property of the citizen. It is with extreme hesitation, and under a deep sense of the solemnity of the duty which we are now called upon to discharge, that we proceed to adjudge the forfeiture of private rights upon principles of public law highly penal in their nature, and unfortunately too little understood."

But it is claimed that if it is admitted that such a belligerent right exists as I have endeavored to show, the exercise of that right in time of war devolves exclusively on the President, and that by assuming to legislate on the subject, Congress encroaches on the prerogative of the President. I am sure the President does not so regard it, because in his order modifying the proclamation of General Frémont, of August 30, 1861, the only reason given for such modification was that it did not conform to the act of Congress of August 6, 1861, on the subject of confiscation. And again, in the annual message of December last, the whole subject of confiscation was virtually committed to Congress by the President, only reserving to himself the ordinary right of approval or disapproval as in any other case of legislation.

But let us look to the Constitution itself, and see what powers have been given to Congress. Con-

gress has power "to provide for the common defense and general welfare of the United States;" to "declare war, grant letters of marque and reprisal, *and make rules concerning captures on land and* water;" "to raise and support armies," without restriction as to race, color, or condition; "to provide and maintain a navy;" "*to make rules for the government of the land and naval forces;*" "to provide for calling out the militia, to execute the laws of the Union, suppress insurrections, and repel invasions; and also "to make all laws necessary and proper for carrying into execution the foregoing powers." Nothing, it seems to me, could be desired more full and complete as a grant of war powers to Congress. Story, in his Commentaries on the Constitution, says:

"The power to declare war is exclusive in Congress." * * * * "It includes the exercise of all the ordinary rights of belligerents, and Congress may, therefore, pass suitable laws to enforce them. They may authorize the seizure and condemnation of the property of the enemy, within or without the territory of the United States, and the confiscation of debts due to the enemy."

But this question has been definitely settled by the decision of Chief Justice Marshall in the Supreme Court of the United States. In the case of Brown *vs.* The United States, reported in 8 Cranch, the court says:

"Respecting the power of Government, no doubt is entertained. That war gives to the sovereign full right to take the persons and confiscate the property of the enemy wherever found, is conceded. The mitigations of this rigid rule, which humane and wise policy of modern times has introduced to practice, will more or less affect the exercise of this right, but cannot impair the right itself. That remains undiminished, and when the sovereign authority shall choose to bring it into operation, the judicial department must give effect to its will. But until that will shall be expressed, no power of condemnation can exist in the court."

* * * * * * * * * *

"War gives an equal right over persons and property; and if its declaration is not considered as prescribing a law respecting the person of an enemy found in our country, neither does it prescribe a law for his property. The act concerning alien enemies, which confers on the President very great discretionary powers respecting their persons, affords a strong implication that he did not possess those powers by virtue of the declaration of war.

"The 'act for the safe-keeping and accommodation of prisoners of war,' is of the same character.

"The act prohibiting trade with the enemy contains this clause: '*And be it further enacted,* That the President of the United States be, and he is hereby, authorized to give, at any time within six months after the passage of this act, passports for the safe transportation of any ship or other property belonging to British subjects, and which is now within the limits of the United States.'

"The phraseology of this law shows that the property of a British subject was not considered by the Legislature as being vested in the United States by the declaration of war; and the authority which the act confers on the President is manifestly considered as one which he did not previously possess.

"It is urged that, in executing the laws of war, the Executive may seize and the courts condemn all property which, according to the modern law of nations, is subject to confiscation; although it might require an act of the Legislature to justify the condemnation of that property which, according to modern usage, ought not to be confiscated.

"This argument must assume for its basis the position that modern usage constitutes a rule which acts directly upon the thing itself by its own force, and not through the sovereign power. This position is not allowed. This usage is a guide which the sovereign follows or abandons at his will. The rule, like other precepts of morality, of humanity, and even of wisdom, is addressed to the judgment of the sovereign, and although it cannot be disregarded by him without obloquy, yet it may be disregarded.

"The rule is, in its nature, flexible. It is subject to infinite modification. It is not an immutable rule of law, but depends on political considerations, which may continually vary.

"Commercial nations, in the situation of the United States, have always a considerable quantity of property in the possession of their neighbors. When war breaks out, the question, what shall be done with enemy property in our country, is a question rather of policy than of law. The rule which we apply to the property of our enemy will be applied by him to the property of our citizens. Like all other questions of policy, it is proper for the consideration of a department which can modify it at will, not for the consideration of a department which can pursue only the law as it is written. It is proper for the consideration of the Legislature, not of the executive or judiciary.

"It appears to the court, that the power of confiscating enemy property is in the Legislature, and that the Legislature has not yet declared its will to confiscate property which was within our territory at the declaration of war."

Wheaton, in commenting on the above case, says:

"The property cannot be seized and condemned as prize of war without some legislative act expressly authorizing its confiscation. The court held that the law of Congress declaring war was not such an act. That declaration did not, by its own operation, so vest the property of the enemy in the Government, as to support judicial proceedings for its seizure and confiscation. It vested only a right to confiscate, the assertion of which depended on the will of the sovereign power."

In regard to the transfer of private rights of property, Wheaton holds this further language:

"It is competent for the national authority to work a transmutation, total or partial, of the property belonging to the vanquished party, and if actually confiscated, the fact must be taken for right. But to work such a transfer of proprietary rights, some positive and unequivocal act of confiscation is essential. Most of the nations of Europe acquired title to territory they possess by conquests, and private persons have derived their titles from that of the Government, thus obtained."

I know that the decision to which I have just referred relates to a foreign enemy, and not to traitors, who are making war on the Government to which they owe allegiance. But it is equally applicable to the latter, who are as much, yea, more, the enemies of the country. In the case of a foreign war, every subject is constructively an enemy, whether actually so or not. In the case of rebels in arms, every one is an actual enemy. Every reason that can be given for confiscating the property of an enemy in a foreign war will apply with still greater force to a civil war like our own. And every reason that makes an act of Congress necessary or proper in the former case will require it in the latter. The great principle in both cases which justifies such a proceeding against the property is the same, to wit: the right of self-defense; "indemnity for the past and security for the future." The gentleman from Missouri, [Mr. PHELPS,] in his speech yesterday, asked the question, "would you treat a rebel worse than a foreign enemy?" I reply that no greater lenity should at any rate be shown him, and in many cases justice would require greater severity, for in addition to the guilt of making actual war on the Government, the rebel has voluntarily violated the sacred obligation of allegiance, and has committed the crime of treason, which includes all other crimes.

It has been asserted by several gentlemen during this debate, that the law of nations no longer allows the confiscation of private property on land. But whatever ameliorations may have been introduced in practice the right, I apprehend, still exists. Manning, in his work on the law of nations, (p. 136,) says:

"It [that is, private property on land] is still liable to seizure under circumstances constituting in themselves a necessity *of which the conqueror is the judge.*"

And Chancellor Kent says:

"However strong the current of authority in favor of the modern and milder construction of the law on this subject, the point seems to be no longer open for discussion in this country, and it has become definitively settled in favor of the ancient and sterner rule by the Supreme Court of the United States."—Vol. 1, tenth edition, p. 69.

Professor Parsons says:

"It is a common opinion that civilization has so far mitigated war that it is no longer one of the laws of war to seize, use, or destroy private property. This is a mistake, according to all the authorities on the law of nations. It is undoubtedly true, however, that the modern usages and proprieties of war—and there are such things—would justify the exercise of this right only on the ground of military necessity."

The reason, I suppose, for any mitigation of the ancient rule in practice is, that in most cases the owner of such property is only constructively an enemy, and is not to be held personally responsible as his Government is; but this reason is not applicable to rebels in arms, each one of whom is himself a belligerent, and personally responsible.

Another consideration should also be borne in mind as applicable to the war in which we are now engaged. The rebels have all along confiscated the private property of loyal men, and a just retaliation demands of us and justifies the exercise of this right.

The gentleman from Missouri [Mr. PHELPS] warned us against this measure on account of the danger that other nations in time of war might seize upon it as a precedent against us. And he asked the question, "what if England should apply the rule to us?" I do not think there is the least danger of this, because England would not be unmindful of the fact that our enemies in this war are also our own subjects, and she would be the last nation to adopt such a precedent. And what nation in a war with England would for a moment claim the right to seize her subjects and blow them out of the mouths of cannon because instances could be adduced to show that England had so done to strike terror into the hearts of her rebellious subjects who had made war upon her?

But let us pass to consider what many regard as the most objectionable thing in the bills now before the House. I refer to the proposition to forfeit the slaves of willful traitors. We not only take away the inanimate property of a rebel in arms, but actually propose to release the living souls that he has degraded to the level of things. Why should gentlemen affect such holy horror at this? Is there the least injustice in such a proposition? Pray tell me by what divine tenure does the blood-stained traitor hold a title deed in his brother man that can never be nullified, even as a penalty of treason, and which must be considered paramount to the necessities of war and the life of the nation? According to a Hindoo law, the penalty denounced against a particular crime was to be remitted only in case the inducement to its commission was the present of an elephant, that being a douceur too magnificent for any one to be expected to refuse. So in this country slavery is our elephant, for which all penalties are to be remitted, however atrocious the crime! I trust, however, by this time we have seen enough of the diabolical nature of slavery, and its implacable hostility to all free institutions, at least to refuse to the slave-owner, who is guilty of treason, any extraordinary privileges over other traitors.

But we are continually reminded that this House has declared by solemn resolution that the release of the slaves is not the object of the war. I stand by that resolution still. Neither the destruction of the institution of slavery, nor the destruction of private property or human life, can be placed among the objects of the war; but all these things may be indispensable means of bringing the war to a close. What has slavery done that it should now be entitled to such extraordinary privileges and such tender treatment? To use the forcible language of another:

"It has been a leaven of disorder and strife through fifty years of our history; it has flatly contradicted every generous word we have spoken for freedom and human rights; it has condemned and disallowed the great democratic ideas having their embodiment in our governmental fabric; it has clutched eagerly and savagely at every new rood of territory opened for national occupation; it has been a standing protest against what we boasted as the freer and purer civilization of the western world; an anomaly amid our laws, institutions, and social system; an internal and irreconcilable antagonism to our unity, liberty, and progress—at home a pest, disgrace abroad. It has opened purposely that great chasm that stretches to-day its black gaping seam across the breadth of the land; it has kindled the baleful and devouring fires of civil war; it gave the stormy signal of battle and bloodshed before Sumter's silent walls; it has drawn millions of treasure from commerce and industry, and hundreds of thousands of lives from pleasant homes and peaceful pursuits to subdue its mad rage against the mother that sheltered it so long and tenderly, and has crimsoned the turf of our land, that has been green these many years beneath heaven's dews and showers, with the red life of loyal hearts.

"Shall this evil thing be the only thing of which we shall be tender and careful, now that the national will can go forth unfettered? Shall everything else the land has rich and dear be sacrificed in this extremity, and slavery alone be saved? Shall we who love the country give up the earnings of frugal and toiling years, give up our family hopes and comforts, give up our Sabbaths and Sabbath ordinances, give up our sons and brothers, and hold life itself ready to the call, that slavery, which has struck at the country's heart, may come out of the strife with every plume unshorn? Are we sacrificing so much that we may gather again the scattered flock of States with this wolf in the midst? Do we build again the temple of the national unity with this bombshell as one of the stones of the rising walls, its fuse burning, and another explosion sure? Shall we conquer a peace by such suffering and outlay, and bind up with it in its covenant and treaty the same old element of rending and strife?

"A few years will pass, and among our cities and villages will be seen half-built houses, half-tilled fields, enterprises of improvement and enlargement arrested in mid-career, men moving about scarred and maimed, with crutches instead of implements of labor in their hands, monuments and relics of fierce battles and wasting campaigns, and our children will ask us, 'what was gained by the great war?' Shall we have nothing to show for it all, no answer to give but this, 'a new lease of life for slavery?'"

I believe it is just and right to confiscate the property and to free the slaves of every leading and willful traitor. If ever justice and the public exigency demanded such a measure, it is now. If any enemies on God's green earth ever deserved such treatment, then these traitors to God and man deserve it, who have lifted their blood-stained and parricidal hands against a Government they had

never felt save in its blessings. Shall we hesitate to do legally what the rebels have all along been doing illegally? The infernal fires of this rebellion have been fed by property of loyal men which has been confiscated. No other people ever perpetrated such gigantic robberies as these confederate rebels have done. They have raised no money by taxing themselves, and have obtained no revenue from imports and little from loans. But the authorities in each seceding State signalized their treason by confiscating all the Federal property they could lay their hands on. Forts, arsenals, arms, navy-yards, marine hospitals, post offices, army stores, mints, and coin to the amount of many millions, were all swept into their coffers, even before the nation had summoned a single soldier to its standard! Millions of debts due northern merchants, and millions of property owned by loyal citizens at the South have also been taken by them, and have been sent back to us in the shape of shot and shell and deadly weapons, which have shrouded the once cheerful and happy firesides of many thousand households in the North with a life-long woe. Must we allow this Government to be thus plundered of millions upon millions of property? Must rebels be allowed to sit at banquet over the confiscated estates of loyal men? Must a debt of $1,000,000,000 be rolled by rebel hands upon the loyal working men of this country, and yet shall we sit here trembling and in fear lest the passage of these bills shall hurt somebody's feelings?

"No! by each spot of haunted ground,
Where Freedom weeps her children's fall—
By Plymouth's rock and Bunker's mound;
By Griswold's stained and shattered wall;
By *Lyon's* ghost, by *Baker's* shade;
By all the memories of the dead;
By their enlarging souls which burst
The bands and fetters round them set;
By the free Pilgrim spirit nursed
Within our inmost bosom yet;
By all above, around, below—
Be ours the indignant answer—No!"

CONFISCATION OF REBEL PROPERTY.

SPEECH OF HON. I. N. ARNOLD,

OF ILLINOIS,

IN THE HOUSE OF REPRESENTATIVES,

May 23, 1862.

The House having under consideration the bills to confiscate the property and free from servitude the slaves of rebels—

Mr. ARNOLD said:

Mr. SPEAKER: I listened on yesterday with great respect to the eloquent argument of the gentleman from Kentucky [Mr. GRIDER] against this bill. He made an affecting appeal to the forbearance and magnanimity of this House in behalf of *traitors* whose hands are red with the blood of the brave and patriotic soldiers of Illinois and Kentucky, killed in this most wicked war. He appealed to us in behalf of those who drop poison in the cup which they hand to the famishing soldier; who treacherously hide torpedoes in abandoned fortifications to murder the brave men whom they dare not meet in open, honorable warfare. Towards such men, treacherous, cruel, reckless, restrained by no law, human or divine, seeking to kill, murder, and destroy every loyal man, and to take the life of the nation, we are asked to extend "magnanimity and forbearance." Sir, we have all along, since the beginning of this rebellion, been too magnanimous and forbearing, until our very kindness and forbearance to the rebels and traitors has been regarded by them as an indication of our weakness and cowardice. They must be made to feel our power. They must be made to respect the majesty of that justice which punishes crime. It will be time to be magnanimous and forgiving when they throw down their arms and appeal to the mercy of that Government they have failed to destroy.

In the face of the stupendous events transpiring in our midst, the slavery question cannot be ignored. It is idle to seek to ignore it. It will *not down* at the bidding of any. We must grapple and meet it. The skillful physician might as well ignore the existence of a terrible disease threatening the death of his struggling patient, as the statesman seek to ignore or disregard the disease of slavery, now threatening the life of the nation. No man has spoken more wisely, cautiously, philosophically, on this subject than the President of the United States. Listen to the words of Abraham Lincoln, spoken at Springfield in 1858. He said:

"A house divided against itself cannot stand. I believe that this Government cannot endure permanently half slave and half free. I do not expect the house to fall. I do not expect the Union to dissolve, but I do expect it will cease to be divided. It will become all one thing or all the other. Either the opponents of slavery will arrest the further spread of it and place it where the public mind will rest in the belief that it is in the course of ultimate extinction, or its advocates will push it forward, until it shall become alike lawful in all the States the old as well as the new, North as well as South."

When Abraham Lincoln uttered these sentiments, sagacious and truthful as they are, he did not dream of any conflict between liberty and slavery but a moral one. That contest was fought out in 1860 at the ballot-box, and freedom triumphed. The weapons of freedom by which that victory was achieved were the press, free speech, the lecture, the pulpit, the newspaper, the school house, the church; above all, the free, honest ballot. We fought against the encroachments of the aristocracy of slavery with ballots and not with bullets. We believed

"There was a weapon firmer set,
And better than the bayonet;
A weapon that comes down as still
As snow-flakes fall upon the sod,
But executes a freeman's will,
As lightnings do the will of God."

Slavery, like all great wrongs, has always resorted to violence. It used the bowie-knife of the border-ruffians in Kansas. Its weapons have been lynch law and mob violence to silence the freeman's tongue and shut the patriot's mouth. It was a peaceful moral conflict, where reason should contend against wrong, which the late Senator from New York termed the "*irrepressible conflict.*"

Freedom having triumphed at the ballot-box, slavery appealed to the sword, and brought upon the country this terrible desolating war. The contest still rages. It is idle to seek to disguise it; we fight for liberty and the Constitution. The rebels fight for slavery and the subversion of constitutional liberty. It is liberty against slavery, right against wrong, civilization against barbarism. The rebels, fighting for a barbarous institution, fight like inhuman barbarians.

Commencing the contest with perjury, with robbery, with larceny, they have disgraced the American name by their unparalleled brutalities. They poison wells and springs; they hold out to the famishing soldier the food charged with arsenic. The cup of southern hospitality, in rebel hands, has become the cup of death to the confiding soldier. They murder wounded men on the field of battle; they violate the sancity of a flag of truce; they desecrate and mutilate the remains of the gallant soldiers who fall, in a manner more infamous than the savages of those barbarous islands where the light of Christianity has never penetrated.

I ask what has transformed the noble, humane, generous, Christian gentlemen of the South into such barbarians? How is it that the land which produced a Washington, a Henry, a Jefferson, a John Marshall, now produces a Floyd, a Wise, a Jefferson Davis? Whence the degeneracy of this noble race? It is true we recognize many noble exceptions to this degeneracy. No more patriotic and unselfish men ever lived than the Union men of the slave States.

I have quoted the words of Abraham Lincoln uttered in 1858; listen to the words of the President of the United States to-day, still calm and cautious, seeking "to control the whirlwind and direct the storm." In the light of the past, hear his utterances of to-day.

On the 6th of March last the President solemnly proposed to Congress the inauguration of a gradual system of emancipation. His proposition was heard with delight, and adopted by large majorities of both Houses of Congress. His proposition was welcomed by the world as "an authentic, definite, and solemn proposition of the nation" gradually and peacefully to terminate the existence of human slavery. It was a proposition which will culminate in making freedom not only "national," but universal, wherever the flag of our Union floats. This message struck the key-note, and gave form to the grand idea of liberty throbbing for expression in the popular heart. The institution of slavery, having the sin of this rebellion on its head, must, in process of time, cease to exist. Its prolonged life is incompatible with the national life, and it must die. "I believe," says Abraham Lincoln, "this Government cannot endure permanently half slave and half free."

The President desires the inevitable change to be peaceful, gradual, constitutional. Hence he says to the loyal slaveholders:

"I do not argue, I beseech you to make the argument for yourselves. You cannot, if you would, be blind to the signs of the times. The proposal makes common cause, for a common object, casting no reproach upon any." * * * * "The change it contemplates would come gently as the dews of heaven—not rending or wrecking anything. Will you not embrace it? So much good has not been done by one effort in all past time, as in the providence of God, it is now your high privilege to do. May the vast future not have to lament that you have neglected it."

To this earnest appeal of the President, every lover of liberty throughout the world responds, "amen." And thus, and to this end, the President abrogates the proclamation of freedom issued by the blunt and gallant Hunter, and gives to South Carolina, even, her hands dripping with the blood of this civil war, one more chance for submission and gradual change. Lovers of liberty, and patriots, impatient of this delay in striking at the great criminal, I pray you trust Abraham Lincoln. Have faith in the President. He will not neglect the opportunity which the providence of God has given him. Peacefully, "gently as the dews of heaven," will come the blessings of liberty—if it may be. Like the bright beams of the morning sun, dispelling the darkness, clouds, and exhalations of black night, so will freedom dispel the darkness and barbarism of slavery. "You cannot," men of the border States, patriots of the border States, "be blind to the signs of the times." I beg you to join hands with the President; help to make this one great, homogeneous, free people. "So much good has not been done by one effort in all past time." Look at this capital, now free, but so long paralyzed by slavery; look across yonder noble river to Arlington House, crumbling to ruin; take your melancholy way to Alexandria and Mount Vernon; go down yonder most magnificent Chesapeake bay to the ancient city of Norfolk; see those great tributary rivers, the Potomac, the Rappahannock, the York, and the James; sir, on the banks of these waters, now so lonely and desolate, should have been the seat of empire. Virginia was, should have been, would have been, the empire State of this Union but for slavery. I have lately sailed over these magnificent waters, seen their beauty, their natural advantages, and their desolation. There is no more melancholy spectacle than the material decay and moral degeneracy of the "Old Dominion." Oh, border State men and men of the free States, why stay the hand that strikes down the great cause of this ruin and desolation? Why will you seek to restore to life and vigor this cursed institution of slavery, now dying by its own hand? Why not let the suicide of slavery be consummated? Democrats of the free States, if you warm this insidious viper again into life, if you take it to your bosoms and restore its power, be sure, like the serpent in the fable, it will sting you to death. Remember, I beseech you, its treatment of your idol, Douglas.

In urging the passage by Congress of these acts the suggestions which I beg leave to present for consideration naturally range themselves under one or other of the following heads:

I. The right of Congress to pass such a confiscation law.

II. The justice and expediency of such a law.

I. The right of Congress to pass a *general* confiscation law.

The right of Congress to pass an act for the confiscation of the property of persons engaged in the existing insurrection has, to a certain extent, already received the sanction of Congress. The act to "further provide for the collection of duties, approved July 13, 1861," authorized the seizure

and condemnation of all goods and chattels *in transitu* between the loyal and insurrectionary States, together with the vessel or vehicle conveying the same, and the act of August 6, 1861, authorized the confiscation of property used for insurrectionary purposes, and forfeited the claim of the master to the service of any person held by him to service, when the slave was employed by the master to aid the insurrection in the manner therein stated.

The preceding legislation rests for its legality upon the same basis as the law now proposed. The extent to which Congress will go in the exercise of its power is a question of policy; the nature and source of the power is the same. It is a right belonging to the Government, under the law of nations, in time of war, and which is included in the power to declare war conferred by the Constitution. The right to confiscate and condemn enemy's property in time of war was very fully considered and settled in the case of Brown *vs.* The United States, reported first in 2 Gallison's Reports, and decided on appeal in the Supreme Court, in 8 Cranch. In that case the property libeled consisted of a quantity of lumber belonging to a British subject, and found after the declaration of war in New Bedford, Massachusetts. In the case below, Judge Story, after the most learned review of all the authorities, arrived at the following conclusions:

1. That a nation may lawfully confiscate the debts of her enemy during war or by way of reprisal, and cited Ware *vs.* Hylton, 3 Dallas, 199.

2. That the right of confiscation of the goods of an enemy found within the dominions of a belligerent Power is universally admitted, citing all the leading writers on public law.

3. Story held that, without any act of Congress, the mere declaration of war did, *ex vi termini*, authorize the capture of all enemy's property wherever, by the law of nations, it could be lawfully seized, and that where no act of Congress was made on the subject, the benefit of all such captures must inure to the use of the Government. He adhered to this opinion in the appellate court, and maintained that "the right of confiscation resulted not from the express provisions of any statute," but "from the very state of war which subjects the hostile property to the disposal of the Government." "The power to declare war includes all the powers incident to war and necessary to carry it into effect." "He was at a loss to perceive how the power existed to seize and capture enemy's property which was without our territory at the commencement of the war, and not the power to seize that which was within it at the same period." "Neither are expressly given or denied; and how can either be assumed except as an incident of war on national and public principles?" That if the legislature did not limit the nature of the war, all the regulations and rights of general war attach upon it.

In the opinion of the majority of the court, given by Chief Justice Marshall, it was held—

"That, respecting the power of the Government, no doubt was entertained." "That war gives to the sovereign full right to take the persons and confiscate the property of the enemy wherever found, is conceded."

But that the mere declaration of war did not, of itself, enact a confiscation of property within the territory of the belligerent. That the power of confiscating enemy's property is in the legislature, and that an act of Congress is necessary to authorize proceedings for the condemnation of enemy's property within the country at the commencement of the war. This authority conclusively settles the power of Congress to confiscate the property of enemies in time of war, and the necessity for the passage of an act of Congress to authorize such condemnation.

I beg leave to read, in confirmation of these views, the following extract from a work on The Laws of War, by General Halleck:

"The necessity of self-preservation, and the right to punish an enemy, and to deprive him of the means of injuring us, by converting these means to our own use against him, lie at the foundation of the rule, and constitute the right of a belligerent to enemy's property of any kind; and it is difficult to see why this right should be restricted to a particular species of property, to cattle, horses, money, ships, goods, and not include lands and immovables," &c.

I add, why restrict to horses or lands if "contrabands," negroes, especially if more hurtful to us in the hands of the enemy, are more useful under our own control? The slave States live, to a considerable extent, on the labor of their slaves. Like the Jew, the traitors would be forced to exclaim, "you take my life when you do take from me the means whereby I live."

The only remaining question is, is there any difference in respect to the power of Congress to confiscate the property of enemies, growing out of the fact that the enemies whose property is to be affected are not citizens of a foreign country which is at war with the United States, but citizens of the United States who are in insurrection against and waging war upon their own Government?

This subject received the most elaborate and thorough examination in the case of the United States *vs.* the Bark Hiawatha, and United States *vs.* Bark Octavia, and other vessels, recently decided by Judge Betts in the southern district of New York. In these cases Judge Betts held:

"That under the law of nations, the rights incident to a war waged by a Government to subdue an insurrection or revolt of its own subjects or citizens are the same in regard to neutral Powers as if the hostilities were carried on between independent nations, and apply equally in captures of property for municipal offenses as prize of war, citing Rose *vs.* Nimely, 4 Cranch, 241-293; Appendix, 509; 7 Wheaton, 306.

"That the insurgents, so far as their own acts can make them, are as alien and foreign from the United States Government as if they assumed the names of citizens and subjects of Mexico and South America.

"They thus make themselves armed enemies, and wage war against the United States to accomplish its dismemberment and destruction. It can be of no consequence under what name or appellation these enemies unite and act, whether as State secessionists, southerners, or slaveholders. They are in every just contemplation of our system of Government insurgents and rebels against a common Government, and waging war for its overthrow.

"I consider the outbreak in particular States, as also in the confederate States, as an open and flagrant civil war waged against the United States. That citizens of the United States levying war against the United States are enemies of the Government notwithstanding their residence within the Union, and that the property possessed and held by them in a state of war, out of and against the authority of the United States, becomes thus the property of enemies of the Government, subject to confiscation when arrested at sea, and persons continuing within the authority and dominion of such enemies are clothed with the character and responsibilities of enemies because of their residence, without regard to their private sentiments."

It is conceded that the words "arrested at sea" were used simply with reference to the facts of the cases before him. There is no difference in principle between the right of confiscation of enemies' property on sea or on shore. The only difference is in respect to the admiralty jurisdiction. This case establishes the position that the rebels are public enemies in war against this Government, and liable to the same penalties, in the way of confiscation of property, as the alien enemies of a foreign Government with which we were in a state of war. (For full opinion of Judge Betts in this case, see New York Evening Post of October, 1861.)

Civil war is called by Grotius "a mixed war, public on the side of the established Government and private on the part of the people resisting its authority, and gives belligerent rights against the rebels and other nations aiding them." (Wheaton's International Law, p. 4, chap. 1, sec. 7; Vattel, book 3, chap. 18, secs. 292-295.)

The law, as pronounced in the above opinion of Judge Betts, is similarly stated in the opinion of the district court of Pennsylvania for the eastern district, in the case of The United States *vs.* Ship General Parkhill, which was, in that case, condemned as being the property of citizens of Charleston, enemies of the United States; also in the case of The United States *vs.* Schooner Tropic Wind, in the admiralty court in the District of Columbia. These opinions in these cases review the whole law, and arrive at the same conclusions above stated.

The power of Congress to confiscate the property of all persons engaged in the present insurrection, and to pass an act for that purpose, conferring authority upon the proper tribunals of the country to enforce such right, may be considered as settled. It is *res adjudicata*. It is based alike upon reason and authority, and cannot now be considered as an open question.

II. The justice and expediency of such a law.

1. If in the case of ordinary war between foreign Powers, the property of alien enemies is subject to be confiscated, how much more should that of these, who are not only enemies but rebels, who are not as belligerents but traitors, and not only so, but rebels and traitors to the best, mildest, and most benignant Government which exists on earth. What can be said or thought in extenuation of the crime of men who are plotting the overthrow of the American Union and the destruction of American liberty? The atrocious wickedness of this rebellion is beyond all expression, and its utter want of all sufficient justification or excuse makes it the more unparalleled in its criminality. The annals of the world furnish no counterpart to it. In time of profound peace and prosperity, with no just cause of complaint, no evils or wrongs of any kind beyond the reach of legislation, these men have rushed this great country into this terrible and desolating civil war. They are seeking to destroy the great Republic in which the hopes of humanity are centered. Surely there should be no half-way measures with such men; there should be no sympathy for such treason; there should be no disposition to deal softly in such a case. Justice demands that these rebels and traitors to the Republic should be dealt with as such. The citizens of the loyal States demand that these men, while acting as rebels and traitors, should in every possible way be made to feel the consequences of their crimes, that they should be made to suffer as much as possible in every way in which it is in our power to affect them so long as they remain in arms against us, and there is no more potent and effective method than through the loss of their property.

2. Not only do justice and right demand such a measure, but it is necessary as a measure of retaliation. For months these people have been seizing and confiscating the property of the citizens of the loyal States. They did so for a long period without even any pretense of law or authority of their own, and they have since attempted to give to their proceedings the pretended sanction of law by enacting in their pretended congress a general sweeping act of confiscation of all the property of citizens of the loyal States. It would be hard, indeed, for the citizens who are loyal to the Constitution and the Union to be compelled to submit to the confiscation of their property by these rebels for no other cause than because they remain true to the Government of their fathers, while these rebels and traitors are permitted to retain all which belongs to them in the loyal States. This is in truth a reward for treason. The traitors are allowed all their own property, and also all the spoils of that of loyal citizens found within their reach.

In the border States, where victory and defeat alternate, and whole sections of country are alternately in possession of the contending parties, the present system is a premium on treason. Its effect is to throw the powerful influence of the property interest on the side of rebellion. For if a man in these States declares for the Union, and the confederates are victorious, all he has is swept away by them, while if he declares for the confederates, and the Unionists succeed, his property is entirely safe under the existing legislation. The property of Jeff Davis himself could not lawfully be interfered with as the law now stands, unless it could be made to appear that it had been used directly in aiding the rebellion.

3. Such a measure is demanded to meet the wishes of the loyal American people at this time. They demand in every quarter of the country that these men should be dealt with as they deserve; that they should not only be termed rebels and traitors, but made to feel the punishment which belongs to such crimes. The unanimous voice of the country demands such a measure, and it will be hailed in every section with entire approval.

4. No measure would give to the country more satisfactory assurance that the Government was in earnest in its design to suppress this rebellion. It would evince the firm, determined spirit which the people expect and demand.

Mr. Speaker, I have seen with regret that there is a party in the country seeking to divide the North; a party which is the especial guardian and protector of slavery; a party that is industriously sowing the seeds of discord and division, seeking to create distrust of their Government in the minds of the people; men who exaggerate and magnify the frauds and corruptions of subordinates, and

proclaim and use them, not to secure purity, retrenchment, and economy, but simply to make political capital. These men hate a black loyalist, however brave and patriotic, more than a white traitor. They will split hairs on technical quibbles to save rebels. They seem to think it is better that ninety-nine traitors should escape, rather than have one negro go free. They are ever holding up the Constitution as a shield to protect the traitors, while such traitors are making war upon it. Such men attack the President and attack the Secretary of War. Why is Mr. Stanton so bitterly assailed by those men? Simply because he is in earnest, and means to crush the rebels and punish the traitors at any sacrifice. He is for his country, and has no remote sympathy with traitors. His offense has "this extent, no more."

Slavery is the corner-stone of this rebellious confederacy. Can you have permanent peace with slavery the dominant power in the land? Has not our country sacrificed enough for this institution? Turn over the pages of the last year's history. How many noble, gallant spirits have passed away. Their names and memories will live in our hearts; they will brighten our country's history, and hallow forever our national songs. But for slavery they would have all been living to-day. Lyon and Winthrop and Ellsworth and Baker and Wallace, and a host of other gallant patriots, all martyrs in this cause. But the undistinguished, brave privates and subordinates, hurried into nameless graves. Let us remember that each has left a vacant place around some hearthstone in some family circle. Go anywhere in the West, into any church, in town, city, village, or country, and the dark habiliments of mourning meet your eye. The sad faces of widows, mothers, and sisters tell how wide-spread are the victims of this treason. There has fallen no gallant soldier in all this year of desolation, but, if there had been no slavery in our land, would to-day have been living each in his own family circle. When you see a wounded soldier on his crutch, when you see him with an arm or a leg shot away, struggling, with his impaired powers, to gain a livelihood, you remember, and be sure that he will never forget, that slavery caused his wounds.

Now, who are the conservatives who would preserve an institution so destructive. There are those who adopt the name of conservatives to preserve slavery from destruction, rebel property from confiscation, and rebel necks from the halter. From all such conservatives "Good Lord, deliver us." There is another class who wish to preserve the Constitution, the life of the nation, liberty, and all which is dear to us. To preserve these by destroying through peaceful, constitutional means the great enemy of all—slavery; of this class of conservatives the noblest type, in my judgment, is found in honest Abraham Lincoln.

Mr. DIVEN. I wish to inquire of the gentleman from Illinois whether he referred to the case decided by Chief Justice Marshall, where the property of a British subject was taken, he not being present.

Mr. ARNOLD. It is the case of a British subject whose property was found in this country.

Mr. DIVEN. I know the case. I ask the gentleman if he knows of any case in modern warfare where the property of private citizens has been taken for the public use? If the gentleman has such a case, I should like to hear it. I have looked in vain for such a case.

Mr. ARNOLD. I ask the gentleman to listen to the comments of Chancellor Kent.

Mr. DIVEN. I have read them.

Mr. ARNOLD. I will read. In the Commentaries of Chancellor Kent, (vol. 1, p. 67,) after commenting on the case of Brown, the case referred to by the gentleman from New York, he says:

"When the case was brought up, on appeal, before the Supreme Court of the United States, the broad principle was assumed that war gave to the sovereign full right to take the persons and confiscate the property of the enemy, wherever found; and that the mitigation of this rigid rule, which the wise and humane policy of modern times had introduced into practice, might more or less affect the exercise of the right, but could not impair the right itself."

Commending this declaration of the great judge of New York to the consideration of the gentleman, I yield the floor.

CONFISCATION AND LIBERATION.

SPEECH OF HON. G. W. JULIAN,

OF INDIANA,

IN THE HOUSE OF REPRESENTATIVES,

May 23, 1862.

The House having under consideration the bill to confiscate the property and free from servitude the slaves of rebels—

Mr. JULIAN said:

Mr. SPEAKER: Before closing the debate on the measures of confiscation and liberation now before us, I desire to submit some general observations which I hope may not be regarded as irrelevant to these topics, or wholly unworthy of consideration. I do not propose to discuss these particular measures. I deem it wholly unnecessary. I believe everything has been said on the one side and on the other which can be said, and far more than was demanded by an honest search after the truth. Certainly, I shall not argue at any length the power of Congress to confiscate the property of rebels. I take it for granted. I have not allowed myself, for a single moment, to regard the question as open to debate, nor do I believe it would ever have been seriously controverted had it not been for the infectious influence of slavery in giving us false views of the Constitution of the United States. It was ordained "to form a more perfect union, establish justice, insure domestic tranquillity, provide for the common defense, promote the general welfare, and secure the blessings of liberty to ourselves and our posterity." I take it for granted that our fathers meant to confer, and did confer, upon us, by the terms of the Constitution, the power to execute these grand purposes, and made adequate provision for the exercise of that power. I feel entirely safe in indulging this reasonable intendment in their favor; and I hand over to other gentlemen on this floor, and in the other end of the Capitol, the ungracious task of dealing with the Constitution as a cunningly-devised scheme for permitting insurrections, conniving at civil war, and rendering treason to the Government safer than loyalty.

Sir, I have little sympathy for any such friends of the Union, and I honor the Constitution too much and regard the memory of its founders too sacredly to permit myself thus to trifle with the work of their hands. The Constitution is not a shield for the protection of rebels against the Government, but a sword for smiting them to the earth, and preserving the nation's life. Every man who has been blessed with a moderate share of common sense, and who really loves his country, will accept this as an obvious truth. Congress has power—

"To declare war; to grant letters of marque and reprisal; to make rules concerning captures on land and water; to raise and support armies; to provide and maintain a navy; to make rules for the government and regulation of the land and naval forces; to provide for calling forth the militia to execute the laws of the Union, suppress insurrections, and repel invasions; and *to make all laws which shall be necessary and proper for carrying into effect the foregoing powers.*"

Here we find ample and express authority for any and every measure which Congress may see fit to employ, consistently with the law of nations and the usages of war, which fully recognize the power of confiscation. And yet for long, weary months we have been arguing, doubting, hesitating, deprecating.

As to what is called slave property, we have been most fastidiously careful not to harm it. We have seen a lion in our path at every step. We have seemed to play the part of graceless stipendiaries of slaveholding rebels, seeking, by technical subterfuges and the ingenious arts of pensioned attorneys in desperate cases, to shield their precious interests from all possible mischief. So long have we been tugging in the harness of our southern taskmasters that even this horrid conspiracy of rebel slave-masters cannot wholly divorce us from the idea that slavery and the Constitution are one and inseparable. Sir, while I honor the present Congress for its great labors and the many good deeds it has performed, I must yet count it a shame and a reproach that we did not promptly enact an efficient confiscation bill in December last, which would have gone hand in hand with our conquering legions in the work of trampling down the power of this rebellion, and restoring our bleeding and distracted country to the blessings of peace. Many thousands of dear lives and many millions of money would thus have been spared; for which a poor atonement, indeed, can be found in the learned constitutional arguments against confiscation, which have consumed so much of the time of the present session of Congress.

Mr. Speaker, this never-ending gabble about the sacredness of the Constitution is becoming intolerable, and it comes from exceedingly suspicious sources. We find that just in proportion as a man loves slavery, and desires to exalt it above all "principalities and powers," he becomes most devoutly in love with the Constitution, as *he* understands it. No class of men among us have so much to say about the Constitution as those who are known to sympathize with Jefferson Davis and the pirate crew at his heels. It will not be forgotten that the red-handed murderers and thieves who set this rebellion on foot went out of the Union yelping for the Constitution, which they had conspired to overthrow, through the blackest perjury and treason that ever confronted the Almighty. I remember no men who were so zealously on the side of the Constitution or so studiously careful to save it from all detriment as Breckinridge and Burnett, while they remained nominally on the side of the Union. Every graceless miscreant who has wallowed in the filthy mire of slavery till he has outlived his own conscience, every man who would be openly on the side of the rebels if he had the courage to take his stand, every opponent of a vigorous prosecution of the war by the use of all the powers of war, will be found fulminating his dastardly diatribes on the duty of standing by the Constitution. I notice, also—and I do not mean to be offensive—that the Democratic leaders who have recently issued a semi-rebel address from this city, are most painfully exercised lest the Constitution should suffer in the hands of the present Administration.

Mr. Speaker, I prefer to muster in different company. I prefer to show my fealty to the Constitution by treating it as the charter of liberty, as the foe of rebellion, and as amply armed with the power to save its own life by crushing its foes. Sir, who are these men in whose behalf the Constitution is so persistently invoked? They are rebels, who have defied its power, and who, by taking their stand outside of the Constitution, have driven us to meet them on their own chosen ground. By abdicating the Constitution, and conspiring against the Government, they have assumed the character of public enemies, and have thus no rights but the rights of war, while in dealing with them we are bound by no laws but the laws of war. Those provisions of the Constitution which define the rights of persons in time of peace, and which must be observed in dealing with criminals, have no application whatever to a state of war, in which criminals acquire the character of enemies. The powers of war are not unconstitutional, because they are recognized and provided for by the Constitution; but their function and exercise are to be regulated by the law of nations governing a state of war, and not by the terms of the Constitution applicable to a state of peace. Hence I must regard much of this clamor about the violation of the Constitution on our part as the sickly higgling of pro-slavery fanatics, or the poorly disguised rebel sympathy of sniveling hypocrites. We must fight traitors where they have chosen to meet us. They have treated the Constitution as no longer in force, and we should give them all the consequences, in full, of their position. By setting the Constitution at naught, they have rested their case on the naked power of lawless might; and, therefore, we will not give them due process of law, by trying, convicting, and hanging them according to the Constitution they have abjured; but we will give them, abundantly, due process of *war*, for which the Constitution makes wise and ample provision.

I have referred, Mr. Speaker, to the influence of slavery in giving us false views of the Constitution. It has also given us false ideas as to the character and purposes of the war. We are fighting, it is said, for the Union as it was. Sir, I should be glad to know what we are to understand by this. If it means that these severed and bel-

ligerent States must again be united as one and inseparable, with secession forever laid low, the national supremacy vindicated, and the old flag waving over every State and every rood of the Republic, then I agree to the proposition. Every true Union man will say amen to it. But if, by the Union as it was, we are to understand the Union as we beheld it under the thieving Democracy of the last Administration, with such men as Davis, Floyd, Mason, and their God-forsaken confederates, restored to their places in Congress, in the Army, and in the Cabinet; if it means that the reign of terror which prevailed in the southern States for years prior to this rebellion shall be reëstablished, by which unoffending citizens of the free States can only enter "the sacred soil" of slavery at the peril of life; if, by the Union as it was, be meant the Union as it was with another James Buchanan as its king, and Chief Justice Taney as its anointed high priest, steadily gravitating, by the weight of its own rottenness, into the frightful vortex of civil war; then I am not for the Union as it was, but as I believe it will be when this rebellion shall have worked out its providential lesson. I confess that I look rather to the future than the past; but if I must cast my eye backward, I shall select the early Administrations of the Government, when the chains of the slave were crumbling from his limbs, and before the Constitution of 1789 had been mutilated by the servile Democracy of a later generation.

Mr. Speaker, this clamor for the Union as it was comes from men who believe in the divinity of slavery. It comes from those who would restore slavery in this District if they dared; who would put back the chains upon every slave made free by our Army; who would completely reëstablish the slave power over the national Government as in the evil days of the past, which have culminated at last in the present bloody strife, and who are now exhorting us to "leave off agitating the negro question, and attend to the work of putting down the rebellion." Sir, the people of the loyal States understand this question. They know that slavery lies at the bottom of all our troubles. They know that but for this curse this horrid revolt against liberty and law would not have occurred. They know that all the unutterable agonies of our many battle-fields, all the terrible sorrows which rend so many thousands of loving hearts, all the ravages and desolation of this stupendous conflict, are to be charged to slavery. They know that its barbarism has molded the leaders of this rebellion into the most atrocious scoundrels of the nineteenth century, or of any century or age of the world. They know that it gives arsenic to our soldiers, mocks at the agonies of wounded enemies, fires on defenseless women and children, plants torpedoes and infernal machines in its path, boils the dead bodies of our soldiers in cauldrons, so that it may make drinking cups of their skulls, spurs of their jaw bones, and finger joints as holiday presents for "the first families of Virginia" and the "descendants of the daughter of Pocahontas." They know that it has originated whole broods of crimes never enacted in all the ages of the past, and that, were it possible, Satan himself would now be ashamed of his achievements, and seek a change of occupation. They know that it hatches into life under its infernal incubation the very scum of all the vallainies and abominations that ever defied God or cursed his footstool. And they know that it is just as impossible for them to pass through the fiery trials of this war without feeling that slavery is their grand antagonist, as it is for a man to hold his breath and live.

Sir, the loyal people of these States will not only think about slavery, and talk about it, during the progress of this war, but they will seek earnestly to use the present opportunity to get rid of it forever. Nothing can possibly sanctify the trials and sufferings through which we are called to pass but the permanent establishment of liberty and peace. If this is not a war of ideas, it is not a war to be defended. As a mere struggle for political power between opposing States, or a mere question of physical strength or courage, it becomes impious in the light of its horrid baptism of fire and blood. It would rank with the senseless and purposeless wars between the despotisms of the Old World, bringing with it nothing of good for freedom or the race. What I said on this floor in January last, I repeat here now, that the mere suppression of this rebellion will be an empty mockery of our sufferings and sacrifices, if slavery shall be spared to canker the heart of the nation anew, and repeat its diabolical deeds. Sir, the people of the United States and the armies of the United States are not the unreasoning machines of arbitrary power, but the intelligent champions of free institutions, voluntarily espousing the side of the Union upon principle. They know, as does the civilized world, that the rebels are fighting to diffuse and eternize slavery, and that that purpose must be met by a manly and conscientious resistance. They feel that

"Thrice is he armed who hath his quarrel just!"

and that nothing can "ennoble fights" but a "noble cause." Mr. Speaker, I can conceive of nothing more monstrously absurd, or more flagrantly recreant, than the idea of conducting this war against a slaveholders' rebellion as if slavery had no existence. The madness of such a policy strikes me as next to infinite. Here are more than a million of men called into deadly strife by the struggle of this black power to diffuse itself over the continent, and strike down the cause of free government everywhere, deluging these otherwise happy States with suffering and death without parallel in the history of the world; and yet so far has this power perverted the judgment and debauched the conscience of the country, that we are seriously exhorted to make still greater sacrifices, in order to placate its spirit and spare its life. I thank God that such a policy is simply impossible. The hearts of the people of the free States, and of the soldiers we have sent into the field, beat for liberty; and without their love of liberty, and the belief that it is now in deadly peril, the rebellion would have triumphed, just as the struggle of our fathers, in 1776, would have ended in failure, if it had been possible to make them ignore the great question of human rights which nerved their arms and fired their hearts.

My colleague, [Mr. VOORHEES,] in his speech the other day, was quite eloquent in his condemnation of the financial management of this war, and quite painstaking in his effort to show the magnitude of the debt it is creating. He would do well to remember that when Mr. Chase took charge of the Treasury, the Government could only borrow money by paying one per cent. per month, while United States six per cent. bonds are now at two per cent. premium over American gold. As to the immense burden which this war is heaping upon us, it has been chiefly caused by the mistaken policy of tenderness towards the rebels, and immunity for their pet institution; and this policy has been steadily and strenuously urged by my colleague and his Democratic associates. It has been far less the fault of the Administration than of some of our commanding generals, and of conservative gentlemen in both Houses of Congress, who have sought by every means in their power to accommodate the war policy of the Government to the equivocal loyalty of the border States. Many precious lives and many millions of money were sacrificed by the military policy which neither allowed the army of the Potomac to march against the enemy nor go into winter quarters during the dreary months which preceded the order of the President directing a combined movement on the 22d of February last. The policy of delay, which has also sought to spare slavery, was never accepted by the President of his own choice, but under the influence of those both in and out of the Army in whom he reposed confidence at the time.

I rejoice now to find events all drifting in a different direction. I believe rebels and outlaws are to be dealt with according to their character. I trust slavery is not much longer to be spared. Congress has already sanctioned the policy of gradual abolition, as recommended by the President, who himself recognizes slavery as the grand obstacle to peace. We have abolished slavery in this District, and thus branded it with national reprobation. We have prohibited it in all national territory now owned or hereafter to be acquired. We have enacted a new article of war, prohibiting our Army from aiding in the recapture of fugitives, and I trust we shall promptly repeal the fugitive slave law of 1850, or at least suspend its operation during the rebellion. We have given freedom to multitudes of slaves through our confiscation act of last July, and by receiving them into our camps and retaining them in our service. We have enacted the homestead bill, which at once recognizes the inalienable rights of the people and the dignity of labor, and thus brands the slave power as no act of the nation ever did before. Since that power has ceased to dominate in Congress we are perfecting and shall soon pass a bill for the construction of a Pacific railroad, and another for the abolition of polygamy in Utah. Our watchwords are now—freedom, progress.

Those patriotic gentlemen who have been anxious to hang "abolitionists," as equally guilty with the rebels, are changing their tune. We are reconsidering the folly of dealing with rebels as "misguided brethren," who must not be exasperated, and while we shall not imitate their barbarities, we are learning to apply to their case the gospel of "an eye for an eye, and a tooth for a tooth." We are waging war in earnest; we are beginning to love freedom almost as dearly as the rebels love slavery; we are animated by a measure of that *resentment* which the rebellion demanded in the very beginning, and has constantly invoked during the progress of the war; and when these troubles are passed the people will honor most those who have sought to crush the rebellion by the quickest and most desperate blows, and who, in the language of Governor Andrew, of Massachusetts, have been willing to "recognize *all* men, even black men, as legally capable of that loyalty the blacks are waiting to manifest, and let them fight with God and nature on their side." The proclamation of General Frémont, giving freedom to the slaves of rebels in Missouri, has done more to make his name a household word than could all the military glory of the war; and I rejoice that, while the President saw fit to revoke the recent sweeping order of General Hunter, he took pains to couple that revocation with words of earnest warning, which have neither meaning nor application, if they do not recognize the authority of the Executive, in his military discretion, to give freedom to the slaves. That this authority will be executed, at no very distant moment, I believe most firmly. The language of the President obviously implies it, and foreshadows it among the thick-coming events of the future. Conservatives and cowards may recoil from it, and seek to postpone it, but to resist it, unless Congress shall assume it, will be to wrestle with destiny.

Mr. Speaker, I shall support the two measures of confiscation and liberation now before us, for the same reason which led me to support the confiscation bill of last July. They look in the right direction, and I am glad to see any advance step taken by Congress. But I shall retain, at any rate, my faith in the President, and in that logic of events which shows, amid all the seeming triumphs of slavery, that the anti-slavery idea has been steadily and surely marching towards its triumph. The victories of slavery, in fact, have been its defeats. It triumphed in the Missouri compromise of 1820; but that triumph, by begetting new exactions, kindled and diffused an unslumbering anti-slavery sentiment, which kept pace with every usurpation of its foe. It triumphed in the annexation of Texas; but this, by paving the way for the Mexican war, more fully displayed its spirit of rapacity, and led to an organized political action against it, which finally secured the control of the Government. It triumphed in 1850, in the passage of the fugitive slave act, the Texas boundary bill, the overthrow of the Wilmot proviso, and the inauguration of the policy of popular sovereignty in our Territories, which afterwards brought forth such bloody fruits in Kansas; but these measures, instead of glutting the demands of slavery, only whetted its appetite, and brought upon it the roused and intensified hostility of the people. It triumphed in the repeal of the Missouri restriction; but this was, perhaps, the most signal defeat in the whole history of its career of aggression and lawlessness, completely unmasking its real character and designs, and appealing to both conservatives and radicals to combine against it. It triumphed again in the Dred Scott decision and the election of James Buchanan as President; but this only enabled slave-breeding Democracy to grow to its full stature,

and bud and blossom into that perfect luxuriance of diabolism through which the Republican party mounted to power. Slavery triumphed, finally, when it clutched the national Treasury, sent our Navy into distant seas, plundered our arsenals, fired on our flag, and sought to make sure its dominion by wholesale perjury, treason, rapine, and murder; but all this was only a grand challenge to the nation to meet it in mortal combat, giving us the right to choose any weapons recognized by the laws of civilized warfare. Baffled and overborne in all its previous encounters, slavery has now forced upon the nation the question of liberty or death; and I cannot doubt that the triumphs of freedom thus far will be crowned by final victory in this grand struggle. The cost of our victory in treasure and blood and the length of the struggle will depend much upon the madness or the wisdom which may dictate our policy; but I am sure that our country is not so far given over to the care of devils as to allow slavery to come out of this contest with its life. To believe this, would be to take sides with "the fool" who "hath said in his heart, there is no God."

The triumph of anti-slavery is sure. In the day of its weakness, it faced proscription, persecution, violence, and death, but it never deserted its flag. It was opposed by public opinion, by the press, the religious organizations of the country, and by great political parties which it finally rent in twain and trampled under its feet. It is now the master of its own position, while its early heroes are taking their rank among "the noble of all ages." It has forced its way into the presidential chair, and rules in the Cabinet. It dictates the legislation of Congress and speaks in the Courts of the Old World. It goes forth with our armies, and is every hour more and more imbuing the soldiers of the Republic with its spirit. Its course is onward, and while

"The politic statesman looks back with a sigh,
There is doubt in his heart, there is fear in his eye;"

and even those slimy doughfaces and creeping things that still continue to hiss at "abolitionism," betray a tormenting apprehension that their day and generation are rapidly passing away. In the light of the past the future is made so plain that "he that runs may read." In the year 1850, when the slave power triumphed through the "final settlement" which was then attempted, I had the honor to hold a seat in this body; and I said, in a speech then delivered, that—

"The suppression of agitation in the non-slaveholding States will not and cannot follow the 'peace measures' recently adopted. The alleged death of the Wilmot proviso will only prove the death of those who have sought to kill it, while its advocates will be multiplied in every portion of the North. The covenant for the admission of additional slave States will be repudiated, while a renewed and constantly increasing agitation will spring up in behalf of the doctrine of 'no more slave States.' The outrage of surrendering free soil to Texan slavery cannot fail to be followed by the same results, and just as naturally as fuel feeds the flame which consumes it. The passage of the fugitive slave bill will open a fresh wound in the North, and it will continue to bleed just as long as the law stands unrepealed. The existence of slavery in the capital of the Republic, upheld by the laws of Congress, must of itself keep alive an agitation which will be swelled with the continuance of the evil. Sir, these questions are no longer within the control of politicians. Party discipline, presidential nominations, and the spoils of office, cannot stifle the free utterance of the people respecting the great struggle now going on in this country between the free spirit of the North and a domineering oligarchy in the South. Here, sir, lies the great question, and it must be met. Neither acts of Congress nor the devices of partisans can postpone or evade it. It will have itself answered. I am aware that it involves the bread and butter of whole hosts of politicians; and I do not marvel at their attempts to escape it, to smother it, to hide it from the eyes of the people, and to dam up the moral tide which is forcing it upon them. Neither do I marvel at their firing of guns and bacchanalian libations over 'the dead body of the Wilmot.' Such labors and rejoicings are by no means unnatural, but they will be followed by disappointment. It is vain to expect to quiet agitation by continued concessions to an institution which is becoming every hour more and more a stigma to the nation, and which, instead of seeking new conquests and new life, should be preparing itself with grave clothes for a decent exit from the world; concessions revolting to the humanity, the conscientious convictions, the religion, and the patriotism of the free States."

Sir, I speak to-day in the spirit of these words, uttered nearly twelve years ago, and verified by time. A small band of men in Congress braved public opinion, the ruling influences of the time, and every form of proscription and intimidation, in standing by the cause which was overwhelmingly voted down. But although outvoted, it was not conquered. Says Carlyle:

"It is in vain to vote a false image true. Vote it, and revote it, by overwhelming majorities, by jubilant unanimities, the thing is *not so;* it is *otherwise* than so, and all Adam's posterity voting upon it till doomsday cannot change it."

The history of reform bears unfailing witness to this truth. The cause which bore the cross in 1850 wears the crown to-day. "No power can die that ever wrought for truth," while the political graves of recreant statesmen are eloquent with warnings against their mistakes. Where are those northern statesmen who betrayed liberty in 1820? They are already forgotten, or remembered only in their dishonor. Who now believes that any fresh laurels were won in 1850 by the great men who sought to gag the people of the free States and lay the slab of silence on those truths which to-day write themselves down, along with the guilt of slavery, in the flames of civil war? Has any man in the whole history of American politics, however deeply rooted his reputation or godlike his gifts, been able to hold dalliance with slavery and live? I believe the spirit of liberty is the spirit of God, and if the giants of a past generation were not strong enough to wrestle with it, can the pigmies of the present? It has been beautifully said of Wilberforce that he "ascended to the throne of God with a million of broken shackles in his hands, as the evidence of a life well spent." History will take care of his memory, and when our own bleeding country shall again put on the robes of peace, and freedom shall have leave to gather up her jewels, she will not search for them among the political fossils who are now seeking to spare the rebels by pettifogging their cause in the name of the Constitution, while the slave power is feeling for the nation's throat. No; God is not to be mocked. Justice is sure. The defenders of slavery and its despicable apologists will be nailed to the world's pillory, and the holiest shrines in the temple of American liberty will be reserved for those who shall most faithfully do battle against this rebellion, as a gigantic conspiracy against the rights of human nature and the brotherhood of our race.

CONFISCATION—EMANCIPATION.

SPEECH OF HON. A. HARDING,

OF KENTUCKY,

IN THE HOUSE OF REPRESENTATIVES,

May 24, 1862.

The House having under consideration the bills to confiscate the property and free from servitude the slaves of rebels—

Mr. HARDING said:

Mr. SPEAKER: It is not my purpose to address the House at any great length. I have been suffering from ill health for some days past, but being somewhat relieved to-day, I desire to make an appeal to gentlemen in this House, and in doing it, I promise, if gentlemen will give me their attention, to utter not a solitary word that can excite passion or arouse prejudice. I deprecate from my heart every feeling of passion or prejudice in times like these. I should have hope for my country if gentlemen could rise above mere matters of passion and vengeance, and, forgetting the present, look only to the future. For myself, I would not indulge in any feeling of passion or revenge. I would adopt no measures but with a view to the ultimate perpetuity of this Government; and although I have been to some extent silent, I have witnessed with much anxiety the course of events here, and I have been driven to the conclusion that the fearful dangers that now threaten this country are not sufficiently appreciated. I apprehend that the imminent peril to which our Government is exposed is not sufficiently considered. I know that the wicked course of this rebellion has been calculated to arouse passion and prejudice in northern men; and the danger is that gentlemen will act upon the impulse of passion and prejudice, and not with an eye to the future prosperity and perpetuity of this great, free Government. I ask gentlemen what, after we have fretted our brief hour upon the stage, and passed away, will party triumphs avail here? What is a momentary triumph to this or that party, if our children, and our children's children, for centuries to come, are to be borne down and oppressed by the iron tread of despotism? That is the question which we ought to look to.

When gentlemen here are disposed to indulge in passion and revenge, and extend no mercy to rebels, it may have some small influence on them to remember another Government, a high and holy Government, and that the whole of us, the whole human race, are rebels against that pure and holy Government. If the prayer uttered here every morning by our venerable Chaplain—under the sanction of this body—"forgive us our trespasses as we forgive those that trespass against us," had any lodgment in the minds of those Christian gentlemen, it would banish all passion from them. What is the whole human race but a race of rebels against a high and holy and pure Government? After eighteen hundred years, it still revolts. Here and there a few have grounded their arms and returned to their allegiance. But the great mass are still in rebellion, though the melting voice of mercy is heard from every pulpit in the land every Sabbath. Those men who have no mercy and no feeling of forgiveness are themselves rebels against a higher and holier Government than earth ever saw. How shall a man, after uttering that prayer for forgiveness, turn on his fellow-man, seize him by the throat, and say, "pay me what thou owest;" men who are ten thousand talents in debt and have not a farthing to pay? Sir, what would be thought of the filial love and loyalty of a family of sons gathered around the death-bed of a father—I allude not to those who at that hour would be plundering their father's coffers, but to sons who at such a time would engage in wrangling and disputing, some of them proposing to administer a rash and unknown remedy, one that might, peradventure, produce death? All, however, can agree on some safe remedy, but a portion of the family are utterly opposed to administering this untried nostrum. Who would be the true friends of the father; those who would administer a rash and untried remedy, saying that "peradventure it may do good," or those who would abstain from everything that could possibly do harm? What is our condition here now? We can all agree in taking measures to preserve the Union and the Government. We can all agree in providing the means to suppress and put down this rebellion. But these measures of confiscation and emancipation are believed by many to be fatal to all hopes of a restoration of the Union. Yet there are many here disposed rashly to try experiments. Which, I ask, is the best and truest friend of the Government?

The first of these bills proposes to confiscate the property of several classes. It goes on from class to class, till there is one provision which virtually involves all other classes, and applies, in fact, to nearly the whole of those who have been in rebellion. Here is a sweeping confiscation measure. Look at the extent of it. It proposes to confiscate the last cent, to strip persons literally of everything, leaving them neither clothes to wear nor bread to eat. Everything is to be stripped from them, and they are to be turned out of house and home without a farthing.

The second bill reported by the gentleman from Massachusetts, [Mr. ELIOT,] and now under consideration, proposes to emancipate the slaves of most of the rebels, and, indeed, of all the rebels. Here the darling object of emancipation shows itself. In the confiscation bills sixty days are given to these people to return to their allegiance, after which time, if they do not return, all their property is to be confiscated. In the emancipation bill there is no such time allowed. But the gentleman from New York, [Mr. SEDGWICK,] comes in with his amended bill, and carries the measure a little further. He proposes to emancipate all the slaves. It applies to the slaves of loyal as well as of disloyal men. It makes it the duty of the officers of the various departments of eleven States to invite into their lines and to enroll all the slaves, whether they belong to loyal or disloyal masters. Old and young, male and female, aged, infirm men and women, and helpless infants, all are to be enrolled; and so many as may be necessary are to be put into active ser-

vice. Here the object shows itself. It is to emancipate the slaves of the entire South.

Now, an attempt to justify any one of these measures on constitutional grounds would be actually laughed at, if men were not blinded by passion. Confiscate a man's property. Punish him for the crime of treason without trial, and then try him afterwards. Call treason by another name, and then punish it in a way that, under the Constitution, treason cannot be punished. No matter what name you call it, it is still the same. Treason is treason, and is clearly defined in the Constitution. Giving it another name does not change the thing. It is treason still; and this is the sheerest evasion in the world, such as gentlemen will be ashamed of two years hence.

But it is not my purpose to enter at length into the constitutional argument. I have a shorter way of coming at it, if the consciences of gentlemen can be aroused. I know full well that there is one thing which the human mind, when it goes in search of it, never fails to find. Man's mind is so constituted that whenever he resolves to do an act, and then turns about to find a reason, a plausible excuse for it, he never fails to find it. Men sometimes adopt their scriptural theories and sectarian notions in advance, resolve to embrace the tenets of a certain sect, and then go to the Bible to search for the proof to sustain them. Thus it is that that best of all books has been mangled and tortured and perverted and crucified in the house of its professed friends. Our Constitution is sharing that same fate now. Gentlemen resolve to do a thing, and then set out in search of some justification or plausible excuse; and they always find it. But I have a shorter way of coming at it. I intend to prove that these wholesale measures, and this war on slavery, are confessedly unconstitutional. I intend to do it by evidence which gentlemen themselves cannot question. I intend to appeal directly to the majority here who are controlling the legislation of the House. Would it be too strong an expression for me to use if I were to say that you, gentlemen, voted on the 11th of February, 1861, that you could not even legislate on the subject of slavery in any State of the Union without violating your oaths? Why, you have recorded it under the sanctions of your office here as members of Congress, at a time when there was less passion operating than there is now, but when all the fearful consequences of this war were staring you in the face. You have said yourselves that, to legislate on this question of slavery in any State was to violate the Constitution, and you have sworn that you would not do that. I had the security of your oaths to present to my constituents. We were armed in that way. Now, I want no dodging in regard to this. If any gentleman can answer, and show that my position is false, let him do it.

Here is a resolution to which I beg to call the attention of gentlemen. I will call up witnesses here whose judgment, legal ability, and honesty cannot be gainsayed. Out of your own mouths, gentlemen, I will prove it. Here is the resolution:

"That neither the Congress of the United States nor the people or governments of the non-slaveholding States have the constitutional right to legislate upon or interfere with slavery in any slaveholding State in this Union."

Whose names do we find to this resolution? Mark you, this is language which will admit of no equivocation. It is an express declaration that Congress has no constitutional right to legislate upon the subject of slavery in *any way* in the States where it exists; that to do it is a direct violation of the Constitution; but you have sworn that you will not violate the Constitution, and therefore you have sworn that *you will* not legislate upon this subject.

But who do we find voting for that resolution? I see here the name of the present Speaker of this House, and he is good authority with me. I see the name of JOHN A. BINGHAM, the same gentleman from whom we have heard from time to time in this House. I see the name of SAMUEL S. BLAIR, I suppose the same gentleman whom I see over the way. I see the name of Mr. DAWES here. I see the name of Mr. ELIOT, the same gentleman who reported these bills, and I see the names of most of the gentlemen who have introduced bills upon this subject.

Mr. DAWES. I have introduced no bill upon this subject.

Mr. HARDING. I did not say the gentleman had introduced a bill upon the subject. I said, however, that his name was here as having voted for this resolution, declaring that there is no constitutional power in Congress to legislate upon the subject of slavery in any State. The gentleman has sworn to support the Constitution of the United States, and therefore I take it for granted he cannot vote for these bills. I do not see how any man who voted for that resolution can vote for a measure now which he has by his vote solemnly declared he has no power to do.

I find here, too, Mr. Speaker, the name of CHARLES B. SEDGWICK, and I suppose it is the gentleman who yesterday offered an amendment to one of these bills now under consideration. I see here too the names of JOHN A. GURLEY, JOHN HUTCHINS, OWEN LOVEJOY, HORACE MAYNARD, and many other gentlemen upon the other side of the House, who are now urging the passage of these measures. I see the name of JUSTIN S. MORRILL. I take him to be the gentleman whom I so highly regard sitting on my right.

I say to these gentlemen that they may explain the inconsistency of their conduct as they please, they cannot make the country believe that their acts in voting for these measures is not in direct conflict with their solemn declarations so lately made. You have said that to legislate in any way upon this subject would be a violation of the Constitution. But you have sworn that you will not violate the Constitution; and we have, therefore, your solemnly recorded vote, and your solemnly recorded oath, that you will not legislate upon this subject. Have you changed your minds since that time? If you have, you have reason to distrust the judgment to which you have now come; and you ought to take the sober second thought before you proceed further.

Now, the next proposition I have to present is to submit whether there is any man so blind as not to see that this is a direct proposition to legislate upon the subject of slavery in the States where it exists, and not to legislate upon it partially and indirectly, as was said by the gentleman from Illinois, [Mr. KELLOGG,] who has just addressed the House; but as proposed by the gentleman from New York, [Mr. SEDGWICK,] to blot out the institution, to sweep away, in the progress of our armies, the slaves of the loyal and disloyal alike. Is not that plainly and unequivocally legislation upon the subject of slavery? Can any man say that it is not? Is there any question upon the subject? And have you not all sworn that you will not legislate upon it? Do you expect, after the feverish excitement of the hour shall have passed away, that posterity will not hold you responsible? Sir, it is a fearful weight of responsibility that will rest upon the members of this Congress; and that will be seen in its full force when the fair and impartial historian shall record these acts.

Sir, we ought to look forward to the future, we ought, in imagination, to glide far down the stream of time, and look at the generations that shall come after us; those future generations will either bless our memory for carrying the ship of State safely through the storm, or they will execrate our memory and folly for allowing it to be wrecked and destroyed.

Well, sir, if the proposed legislation is not in accordance with the Constitution, where is your apology or excuse for insisting upon it? You do not understand how we border State men have struggled, how we have fought against secession, and contended for the conservatism of the North. The declarations of the extreme fanatics and abolitionists have been paraded before our people as the sentiments of the entire northern people. You do not know, as we do, to what means the leaders of this rebellion in Kentucky, and all over the South, have resorted to, to bring the people of the South into their measures.

The intemperate utterances of Garrison, of Wendell Phillips, and other extreme fanatics, have been published everywhere in the South as the opinions of the northern people. The doctrines of a man who hesitates not to avow that for nineteen years has he endeavored to take nineteen States out of the Union, are there published as your doctrines. To meet this it was necessary on our part to gather up the temperate utterances of the North, to quote to them the remarks of the conservative men of the North, declaring that it was not your purpose in prosecuting this war to crush out the institution of slavery. I always found that whenever I could succeed in convincing them that your object was not to destroy the institution of slavery, they were for the Union; but whenever the secessionists could succeed in making them believe that it was the purpose of the North to interfere with slavery in the States, they were ready to go with them. That was the great question of debate. I recollect, on returning from the extra session of Congress last summer, I was met by respectable farmers who anxiously inquired what was the prospect, whether this was to be a war upon slavery? I assured them that it was not; and I referred them to the resolutions passed in this House, to the Crittenden resolutions, in proof of the assertion that the northern people were prosecuting the war in good faith to preserve the Union, and not for the abolition of slavery. But I was asked whether I believed these northern men would keep their pledges, whether they might not, after all, disregard their promises. I confess I felt somewhat indignant that such a question should be asked. I asked these men if they supposed that gentlemen elected to Congress, because of their uprightness and honorable character, would abandon the solemn pledges they had sworn to carry out? Now, Mr. Speaker, if you pass these bills, what, I ask you, shall I say to these farmers; what shall I say to my people when I return again?

What were the assurances given and the arguments used to induce the people of Tennessee to return to their loyalty by General Campbell, William B. Stokes, Governor Andrew Johnson, and other speakers at a very large meeting held in the city of Nashville on the 12th day of this month? I beg to call the attention of the House for a moment to some extracts from the speeches made at that meeting. Mr. Stokes stated:

"People went about declaring that the South had no rights in the Territories. That was false. A most rigid law protecting slavery was passed in New Mexico, and no act of Congress had declared it void." * * * * "The Republican party came forward and established the principle of non-intervention in the Territories of Dakota, Nevada, and Colorado. It was established by law that Congress should not interfere."

At the same meeting, another speaker, referring to the delusion under which many of the people of that State were resting, said:

"He wished to see them lay down their arms and come back to their allegiance. He pronounced as false and lying the representation that their property would be confiscated; that their slaves would be sold to pay the expenses of the war. No such things would happen."

All these things we have dilated upon time and again in the border States. And they were presented to that Tennessee audience just at the very time when you were here breaking down all these arguments, prohibiting slavery in all the Territories, and pressing your confiscation and emancipation measures. Yes, sir, it is a melancholy reflection that, when this brave Governor of Tennessee and others are telling the people of the South that all their rights will be protected under the Constitution, it is gravely proposed here to confiscate all their property, emancipate their slaves, and deprive them of all of their rights. Yes, sir, at the very time when those people are told that the charges of the secessionists are false and lying; that this is not an abolition war, but one only for the preservation of the Government and the restoration of the Union, and that all of their rights under the Constitution will be protected—I appeal to the good sense of this House whether this is the proper time to be pressing such measures?

Mr. Speaker, what was it that drove the masses of the southern States into this rebellion? I have no apology to offer for the fire-eaters, for they are wise as serpents and equally as venomous. I have no apology to offer for men like Phillips, who boldly avows that for nineteen years he has been steadily laboring for the disruption of this Union. If gentlemen want to know the true cause of this rebellion I can state it in a very few words. It is patent to all who will take the trouble to look into it, and it does not require much argument. The true cause of this rebellion is neither more nor less than this: desperately wicked men at the North and at the South have been constantly raising and

agitating these sectional questions for the purpose of destroying this Union. Yes, sir, that is the cause, and if this Government had two years ago selected two or three hundred chosen leaders of this agitation, from the North and the South, and had hung them or transported them beyond our limits, we would not now have this rebellion, but, on the contrary, continued peace and prosperity. What drove the masses of the South to unite their fortunes with the secessionists but the ever-present fear with which they had been possessed that it was the design of the North to interfere unjustly with their rights of property under the Constitution? Insane fanatics at the North, men who were unceasing in their denunciations of the institution of slavery, and open in their avowal to use every means, whether lawful or not, to secure its extinction in every part of the country, furnished the arguments to the disunionists at the South, against which the loyal men, to a great extent, were powerless. These arguments, that the Government would be used for the purpose of striking down the rights of the southern people, induced the large majority of them to pledge themselves to this rebellion. The wily secessionists at the South were not slow to take advantage of these denunciations and threats of the anti-slavery agitators at the North; and it is our misfortune and the misfortune of the country that they used them with such great success.

Now, sir, I never found or conversed with a rebel who did not admit that this was the best Government the world ever saw, and better than any he ever expected to see again. But when I would ask him, "why then, will you leave it?" the uniform response has been, "we are about to lose it; the South is to be trampled under foot; the Constitution is to be set aside; the rights of property under it are to be disregarded; the North have the power, and they declare that they will trample the South under their feet; and we must leave the Union to save ourselves." That is what drove thousands of them into this rebellion. They did not expect a better government. They feared that the power of the North was to be put into requisition to crush out the institution of slavery.

What, then, is it that this House proposes to relieve them of that great fear which besets them, and which has driven them into this rebellion? How do you propose to bring them back into this Union? Will these sweeping confiscation and emancipation measures do it? It seems to me, Mr. Speaker, that some strange infatuation has taken possession of the members on the other side of the House, that an unaccountable delusion has seized them. When the people of the South have been driven into this rebellion by the fear that the North would trample upon their rights and utterly destroy the institution of slavery, is it the way to bring them back by doing in reality the thing which they only feared? What injustice! What absurdity!

How was it that most of the border States were kept in the Union? We who toiled night and day know how it was done. You adopted the resolution of my venerable colleague, [Mr. CRITTENDEN,] and you adopted what is called the Sherman resolution. You declared that to legislate on the subject of slavery was a violation of the Constitution of the United States, and, in view of your solemn oaths, you declared that you would not legislate on the subject of slavery. When these resolutions were passed unanimously, we began to have strong hopes of the restoration of the Union. When it was thus solemnly declared that the Government would preserve the rights of slavery and all other rights, we dispersed the hosts of rebellion in the border States.

What were the results of the passage of the Sherman resolution? The people of my own district, when I was running against an able and wily opponent, rolled me up a majority of nearly eight thousand. So it was all over the State. That was the result. We could press these resolutions upon the secessionists as the oath of the men who passed them. My colleague's resolution was passed, and what was the result? Kentucky soon had thirty thousand troops in the field fighting for this Union. An election took place in August after the passage of the Crittenden resolutions, and the Union men secured seventy-odd members of the Legislature to twenty-odd opposition. We have voted money and taxes for the Government, and now everything is going on right in that State.

What do you propose to do? You propose that we shall go home and tell our people that we have deceived them—that it is the design of Congress to emancipate the slaves. You ask us to tell them that the true object of the North henceforth is to crush out slavery; to tell them that we have misled them. For, sir, if these pledges, solemn as they are, be broken, have we not misled them? I protest that I have done it innocently. I believed them to be all true. I would have risked anything that the Sherman resolution and my colleague's resolution would have been adhered to. Yet it is now proposed to disregard them. The proposition to emancipate these slaves is in direct violation of the Sherman resolution—in direct violation of all of our pledges. You said that you would not legislate on the subject, because you had not the power to legislate on it; and yet it is now proposed that we shall legislate upon it with an unsparing hand.

Is it not absurd to talk about the war power? Where do you get your power to legislate at all? From the Constitution. Where, then, in the Constitution do you find the power given to legislate on these questions? There is no such power of legislation given by the Constitution. It is absurd to talk about the war power. It does not belong to your department. You have under the Constitution no power to legislate on this subject. You have given sworn testimony that you had not. And you have solemnly declared that if you had the power you would not exercise it.

I propose now to say a few words in regard to the policy of these measures. Men far removed from the scene of conflict, looking at what the Union men have had to bear, might well suppose that they would be moved by a spirit of vengeance. The Union men of Kentucky would be justified, if men anywhere could be, in demanding vengeance; and doubtless they would be moved by such feelings, if they were not influenced by the Christian spirit of forgiveness, and a strong desire to have the Union preserved. On the 19th of October last, I, myself, was compelled to fly from my home at the hour of midnight with my wife and two children, and have not been back since.

But would I, in my action here, indulge in passion and the spirit of revenge in consequence of that? No, sir. To restore this Government and preserve it, I would sacrifice all such feelings and every political prospect I have on earth. I would trample them all under my feet. I would abandon my place in this House; for public life has for me no charm I would not gladly give up for my country. I would abandon everything of the kind if this Government could be restored. But we know full well that if we pass these sweeping confiscation and emancipation measures, it will strengthen and band together every one engaged in this rebellion. Why, sir, if Jeff Davis and his cabinet had now the control of this matter, if they could draw the bill and frame it for us, they would ask nothing better than what has been proposed by the gentleman from New York, [Mr. SEDGWICK.] The unquestionable effect, I know, will be to unite, as one man, these southern rebels, and all our expenditure of blood and treasure will have been in vain. Why, you do not want to exterminate and kill them all off. If the Government is ever to be restored, you must preserve the Union feeling in the southern States. These very measures, the fear of which drove them into rebellion, you propose now to inaugurate to bring them back. How absurd! The effect will inevitably be to strengthen and bind together as one, the whole of these southern men, and at the same time weaken and divide the North.

Mark that. Do I want any better illustration of that, than what I see upon this floor? Let gentlemen wake up and forget their passions. How is it here? Do we not see that the introduction of these measures has brought upon us the most acrimonious debate? Are not gentlemen at all times strenuously and uncompromisingly opposed to each other upon this floor? I do not allude to men from the slave States only. Look to Massachusetts, to Indiana, to Illinois, to New York, and to Pennsylvania, and from each of those States are men who are strongly opposed to these measures, as uncompromisingly opposed to them as I or any other man. The effect, as we all see, is to divide and distract our counsels in this very House; and let the division of sentiment be as great in the country as it is in this House, and what is to become of the country? Let the same division take place in the North as is visible here, and you divide and weaken the North, and array one party against another; while, at the same time, you unite the South as one man.

I have been told repeatedly by reputable officers from the North, that such would be the case, not only as relates to the people at the North, but as relates to the armies of the North. They tell me that there is imminent danger if these measures are persevered in and carried out it will produce a rebellion in the Army. They tell me that two thirds of the soldiers say they entered this war to fight for the Union, and that they will not be dragooned into fighting for abolition.

Mr. PHELPS, of Missouri. I wish to interpose a remark just here. I have frequently talked with the soldiers of the northern States, and they tell me, both officers and privates, that if they are called upon to fight a war for emancipation of the slaves, they will lay down their arms, and that it would be a question of debate upon which side they would fight if that were announced as the policy of the Government.

Mr. HARDING. That is the case I have no doubt. I have been told so by men of high respectability in the North. I know myself how it is in the West. I know that in southern Illinois, in Kentucky, in Indiana, in those central regions, men have been led into this war for the Union. You have given us pledges from the time of the Chicago platform down to the present time, solemn pledges as could be given, that this was not to degenerate into a war of abolition; and in that view the people of the country have taken up arms to defend the Union. If the war is turned into an abolition war, cannot they turn round and proclaim that they were deluded, that they have been led blindfolded into this war; and will they not rebel and lay down their arms? You cannot delude these common sense men. It would produce rebellion. With a rebellion in the northern army, what would become of our country?

Mr. LANSING. I desire to ask of the gentleman this single question: if these bills before the House should become a law, whether, in the judgment of the gentleman, Kentucky would join the rebellion?

Mr. HARDING. I cannot undertake to answer for Kentucky further than I myself am concerned. I know this: I know I went home and told my constituents that we had what we considered the sworn pledge of the North, as honest men, that they could not legislate upon this subject; and when gentlemen asked me whether I believed that northern men would keep that pledge, I felt somewhat indignant. I had so strong faith in that pledge, that I asked them if they thought it possible that men, who had solemnly sworn that they had no legislative power over this subject, and had given their pledge that they would not use such power, could possibly forget and trample under foot all their solemn pledges? I did not myself think it possible for it ever to be made a question here, whether these pledges were to be kept. But if these bills are passed, how can I meet my constituents? Do not you see that you virtually give us the lie, and arm the secessionists against us with the very arguments we have used heretofore?

What the State of Kentucky may do I cannot say; but for myself, I have this to say: I have no more hope of free government in the confederate States than I have in the bloody States of Mexico, where a Government rises in revolution to-day and sinks and perishes in blood to-morrow. I never can, therefore, unite my destiny with the confederate States. But if you pass these measures which you have sworn that you will not pass; if you adopt the very thing, the fear of which drove the South to rebelion, the voice of Henry Clay might be evoked in vain to quell the storm. The storm is rising now. I get letters every day, showing the state of feeling which exists. I received one this morning, and if I had time I would read extracts from it. An intelligent man, who had been a steadfast secessionist, but had not joined the army, heard of my complaint of him, and he wrote me

to state that he loved this Union, and regarded it above all other Governments the world ever saw; and he said, "give me any assurance now that, under the pretext of making a war to preserve the Union, this is not to be a gigantic John Brown raid, to destroy slavery in the South, then I am for the Union, will fight for it, and spill the last drop of blood I have for it."

Gentlemen, can you expect that the passage of these measures will have any other effect than what I have described? Look at the States of Illinois, Indiana, and Kentucky. These States have said in their constitutions that no free negroes shall hereafter be allowed to settle within their borders. Here you propose to emancipate all the slaves of rebel masters, in defiance of all constitutional provisions. You are legislating upon the subject with a free and unsparing hand. But, gentlemen, is there not something higher than this which should occupy your minds? Throw aside everything of resentment and passion. Look to the future and not to the present. What can you do with these slaves? You propose to unhouse them, with large families, aged and helpless men and women and infant children, and throw them suddenly upon the world without a particle of property, and destitute of all political and social rights and privileges. That is all a magnificent humbug. If the question was now for the first time made, whether slaves should be brought into this country, perhaps no man would use stronger arguments against it than I would. But it is not now an original question, and it must be viewed in the light of a settled institution.

To emancipate such families of slaves as I have described is to give them freedom stripped of every thing but the name. They are a degraded class at best. What do you purpose to do with them to better their condition? At a time when this nation is reeling and staggering, like a drunken man, under the crushing weight of the war debt, the idea of imposing an additional burden of taxation sufficient for the purpose of colonizing all these slaves, is as wild as a madman's dream. We know that the northern States will not assume this additional burden. And if this policy shall prove to be disastrous, our Government will sink, and the last hope of free government in this country will utterly perish. Because if you divide and distract the North and unite the South, my hopes are gone. Some men are sanguine. I confess, sir, that I have been a little sanguine at times, but exceedingly despondent at others.

What will be the effect of these measures of confiscation and emancipation on the border States of the South? I know that their effect will be to divide the people and weaken the power of the Government. In my judgment, it is the weakest and most disastrous policy ever thought of. Sir, the tree of liberty, planted by the hand of the immortal Washington—its thirsty roots watered by the blood of our revolutionary sires—its young leaves and tender branches bedewed by the tears of widows and orphans whose husbands and fathers had fallen in battle—thus nourished, it took deep root—its branches extended and towered until the oppressed of all nations gathered under it; and just at the time when from its extended branches clusters of ripe fruit are at the same moment falling on the shores of the Atlantic and Pacific ocean, the traitorous cry is heard: "Cut it down! why cumbereth it the ground?" And now the great question is, whether its sheltering branches shall wave over our children for centuries to come, or whether, by our madness and folly, it shall fall and perish, and the long night of despotism stretch over posterity for ages and ages to come?

Sir, in my gloomiest moments for the fate of this country—and I have many of them—still when I looked back to the revolutionary struggle of our fathers, I thought I saw evidence that this free Government was established by Providence for some great and grand design, perhaps not yet accomplished. It has ever seemed to me that our fathers were led on as certainly and securely as were the children of Israel. When our fathers came up from the red sea of the Revolution, and were passing through the dark and bloody wilderness, though the smitten rock was not seen to pour forth its waters to give them drink, though the manna was not seen to fall from Heaven to give them bread, and though the pillar of cloud by day and of fire by night was not seen to move before them, still they were safely led on by an invisible hand. And if the design of that Allwise Being, in the establishment of this free Government, is not yet accomplished, then we shall pass through the storm, and all will yet be safe; and in that rests my ultimate hope. But, sir, there is a fearful responsibility resting upon us, and we should be ready to make concessions of every sort to each other in order to preserve this Government. We shall prove ourselves to be a degenerate race, and the future historian will brand us as a degenerate race, if we have not the prudence and wisdom to preserve and transmit this Government to posterity.

Sir, rather let my tongue cleave to the roof of my mouth, and my right hand forget its cunning, than do anything to jeopardize this great Government, fraught with all the rich blessings of civil and religious liberty. Whenever, in the history of the past, any people, blessed with good government, have, in their madness and folly, crucified and destroyed it, the curse of Heaven seems to have rested upon them. And rest assured, if by rash policy our constitutional liberty shall fall, it will know no resurrection morn. No angel form will ever descend to roll away the stone where the mangled body of constitutional liberty sleeps—it will sleep, and sleep on, an eternal sleep. And yet, sir, upon a great question like this, gentlemen here seem to be thinking about their own personal success, and little matters of policy. Oh, how I long to see the day when men can rise up to the importance of this great question, and cast aside every party and personal consideration.

[Here the hammer fell.]

CONFISCATION OF REBEL PROPERTY.

SPEECH OF HON. W. A. RICHARDSON,

OF ILLINOIS,

IN THE HOUSE OF REPRESENTATIVES,

May 24, 1862.

The House having under consideration the bills to confiscate the property and free from servitude the slaves of rebels—

Mr. RICHARDSON said:

Mr. SPEAKER: I propose to reply to a single point which has arisen during the progress of this debate.

Republican members have frequently quoted Judge Douglas within the last few days, and quoted him, too, for their own party purposes. And now I desire to remind them and the country that in all his speeches in reference to this war Judge Douglas took the broad and statesmanlike position that this war should be conducted for the preservation of the Constitution and the enforcement of the laws; for nothing more, nothing less. His position is so clearly defined that a few brief extracts from his last speeches will at once vindicate the truth of history, and place him in the proper light before his countrymen. At Springfield, Illinois, in a speech made before the Legislature during the month of May, 1861, he said:

"The first duty of an American citizen, or of a citizen of any constitutional Government, is obedience to the Constitution and laws of his country. I have no apprehension that any man in Illinois or beyond the limits of our own beloved State, will miscontrue or misunderstand my motive. So far as any of the partisan questions are concerned, I stand in equal, eternal, and undying opposition to the Republicans and the secessionists."

And again in the same speech, he remarks:

"Hence I repeat that I am not prepared to take up arms or to sanction a policy of our Government to take up arms to make any war upon the rights of the southern States; upon their institutions; upon their rights of persons or property; but, on the contrary, would rush to their defense and protect them from assault; but while that is the case I will never cease to urge my countrymen to take up arms to fight to the death in defense of our indefeasible rights. [Long continued applause.] Hence if a war does come, it is a war of self-defense on our part. It is a war in defense of our own just rights; in defense of the Government which we have inherited as a priceless legacy from our patriotic fathers; in defense of those great rights of freedom of trade, commerce, transit, and intercourse from the center to the circumference of our great continent. These are rights we must struggle for and never surrender."

And in the last great effort of his life, his speech at Chicago, made but a few days prior to his death, he said:

"We must not invade constitutional rights. The innocent must not suffer, nor women and children be the victims. Savages must not be let loose."

Neither Republican members nor Republican officials anywhere can find anything in the above extracts, nor in any speech or letter of Judge Douglas, which will justify them in the slightest violation of the Constitution. On the contrary, every act of his public life, and even his dying injunction to his children, condemns unequivocally all the unconstitutional legislation which you propose, and all the unconstitutional acts of which your party officials have been guilty.

The Republican party, through its President, through this House, and through the Senate, had given a construction to the Constitution showing the absence of power to pass just such bills as you are now advocating and intending to pass. In his inaugural address, after having taken his solemn oath to support the Constitution, Mr. Lincoln said:

"I have no purpose, directly or indirectly, to interfere with the institution of slavery in the States where it exists. I believe I have no lawful right to do so, and I have no inclination to do so."

The House of Representatives of the Thirty-Sixth Congress, a majority of whose members were Republicans, passed the following resolution unanimously:

"That neither the Congress of the United States nor the people or governments of the non-slaveholding States have the constitutional right to legislate upon, or interfere with, slavery in any of the slaveholding States in the Union."

By the organic acts of the Territories of Nevada, Colorado, and Dakota, the Republican party, by its own legislation, had recognized and approved the doctrine of popular sovereignty, which Judge Douglas regarded as essential to the removal from these Halls of the most disturbing question of the country.

I do not presume that when Judge Douglas thus strongly asserted the necessity of maintaining inviolate the Constitution of his country that he for a moment suspected that you would ever attempt the violation of the pledges which your Republican Congress had given the people, and which your Republican President has reiterated. But the bills now under consideration propose to violate not only your pledges but at the same time the Constitution. You forget your promises; you advocate these bills, and urge their passage through this House.

CONFISCATION OF REBEL PROPERTY.

SPEECH OF HON. G. W. DUNLAP,

OF KENTUCKY,

IN THE HOUSE OF REPRESENTATIVES,

May 24, 1862.

The House having under consideration the bills to confiscate the property and free from servitude the slaves of rebels—

Mr. DUNLAP said:

Mr. SPEAKER: Numerous bills and joint resolutions similar to those now under consideration were pending in this House on the 31st of January last, when I had the pleasure of addressing the Committee of the Whole on the state of the Union. At the close of my remarks then published, I expressed a wish to discuss another topic, which was exciting much interest in the public mind, but a rule of the House limiting my time forbade the performance of the task. I allude to the confiscation bill.

Confiscation and emancipation are not synonymous or convertible terms, yet the zealous advocates of each have labored faithfully to embody them both in the generic term of the former. Confiscation is but the forfeiture of estate to the public use by virtue of the acts of the owner, which the law condemns and affixes the penalty. We are, then, prompted to inquire what acts can superinduce the confiscation and forfeiture of estate. The Constitution defines the crime of treason thus:

"Treason against the United States shall consist only in levying war against them, or in adhering to their enemies, giving them aid and comfort."

The penalty for treason belongs to the legislative department, under certain restrictions and limitations contained in the supreme law:

"The Congress shall have power to declare the punishment of treason; but no attainder of treason shall work cor-

ruption of blood, or forfeiture, except during the life of the person attainted."

Why was this restriction placed upon the legislative power in affixing penalties for this crime? The rigid exactions of the English law, in their practical operations, had impressed the human heart with the cruelties attendant upon the punishments inflicted by involving the innocent in the unholy sacrifice. The wise counselors and framers of our organic law, looking back upon the cruelties of monarchical requisitions, resolved to mitigate the harshness of the practical rule, and incorporated the mild and benign provision above.

Judge Story, in his Commentaries upon the Constitution, says:

"It is well known that corruption of blood, and forfeiture of the estate of the offender, followed as a necessary consequence at the common law, upon every attainder of treason. By corruption of blood, all inheritable qualities are destroyed. In addition to this, the person attainted forfeits all his lands and tenements which he possesses, relating back to the time of the treason committed, and all his goods and chattels from the time of his conviction."

It is manifest that the preceding quotations contemplate a judicial attainder, a trial and conviction for treason. No seizure of a man's estate can be had upon the speculation that he is a traitor, and then confiscated without due proceedings touching his guilt. I do not gainsay the right of temporary seizure, and the holding until judicial action can be had against the alleged offender; but I do resist the seizure and confiscation without conviction. The bill before us proceeds *in rem* against the property, not the person. It personifies the inanimate thing, and condemns it to the public use as if it had guilty vitality, and suffers the owner to go unpunished. Why is the thing confiscated? It must be because of guilt in the occupant or owner. Suppose the estate of an alleged rebel is seized and confiscated to the public use, the items of property scattered into divers hands, and subsequently the owner is tried for the offense of treason and acquitted: where is your power of restoration to him you have thus injured? You cannot congregate his scattered effects; you cannot pay him in money; the property has been sacrificed; officers have been paid out of its proceeds; your Treasury, the recipient of a limited sum, cannot return him the real value of his loss. Some heirloom, some cherished gift of a fond mother, some beloved object of priceless value, may have fallen a victim in this crusade against property, never to be restored, "even many days hence."

By the act of 1790, the punishment of treason is death. No lesser penalty will satisfy the law. Although Congress had the power to add to this penalty forfeiture of estate during the life of the guilty one, found such by due process of law and conviction, it has never yet been incorporated in our statutes. We may mitigate the penalty for treason by commuting the punishment to imprisonment for life, or for a term of years. It has not been done. The object of all law is to punish the guilty, not the innocent. If the parent suffer the penalty of death for his attempt to destroy his Government, the guilty has suffered. Will you attaint his blood, and visit his guilt upon his innocent and helpless offspring by stripping them of the nourishment of life? You answer no, because there is a constitutional inhibition.

But I insist that the bill before us does even more than this. You strip the parent himself, his wife and children, of the comforts of life, yea, the bed upon which they rest their wearied limbs, the cradle that woos helpless innocency to balmy sleep, and turn them out wanderers upon a desert waste, upon the allegation that the father is a rebel. You give him no trial; you convict him not; you listen to none of the palliations that might redeem him from his apparent rebellious position. I offer no apology for treason. The fomenter and conspirator that conceived and brought forth in iniquity the wickedness that lurked in his traitorous bosom, and developed it in his attempt to involve in one common ruin thirty millions of happy people, must have meted out to him that condign punishment which nature and nature's God and the insulted laws demand.

But should it be so with all, even though they be in arms? Does not humanity answer, no? When Tennessee, unembarrassed, was called to the polls to speak for the Union or against it, her voice by seventy thousand majority was heard to cry aloud, in the language of the hero of the Hermitage, "the Union *must* be preserved." Even then, with the million against it, her demagogues, party leaders, and ambitious conspirators were plotting treason in the halls of legislation. The fatal die was cast, the bond of Union was pronounced broken, and an appeal made to the people for an indorsement of the act. The Gulf States poured in their hordes of armed men, and overwhelmed the citizen with a military despotism. The elective franchise was exercised with sheer mockery, and by a minority vote one star was stricken from the galaxy of States at the behest of this political heresy of secession. To-day, four fifths of the people are in arms. Conscription laws, fear for personal safety, duress, and false imprisonment, have nominally fixed the destiny of her people. Where now is her large Union sentiment? It is stifled by surrounding circumstances, and hedged in by a false power that overwhelms it. Are all such disloyal? None escape the forfeiture in this bill. The "pound of flesh" must be yielded up.

But Congress shall have no power to pass any "bill of attainder" or "*ex post facto* law." Here the eminent jurist, Judge Story, with singular perspicuity comments:

"Bills of attainder, as they are technically called, are such special acts of the Legislature as inflict capital punishments upon persons supposed to be guilty of high offenses, such as treason and felony, without any conviction in the ordinary course of judicial proceedings. If an act inflicts a milder degree of punishment than death, it is called a bill of pains and penalties. But in the sense of the Constitution, it seems that bills of attainder include bills of pains and penalties; for the Supreme Court have said, 'a bill of attainder may affect the life of an individual, or may confiscate his property, or both.'"

Again:

"No man shall be deprived of his life, liberty, or property without due process of law."

The bill before us deprives the citizen of his property, simply by its own enactment, without judicial process and without any trial whatever of the alleged rebel by a jury of his peers. The property, and not the person, is the subject of denunciation. Grasping, indeed, must be that Government which would involve in one common ruin one fourth of its people, by reducing them to penury and want; and that, too, without a hearing. The doctrine to me is monstrous, without a constitutional guarantee for its guidance or its consummation. With the crime of treason defined, the penalty fixed by law under constitutional restraints, the limit of our power is confiscation during the life of the offender upon judicial attaint:

"The right to forfeit is an incident merely to the power to punish guilt. The guilt cannot be ascertained by the Legislature, nor otherwise than by a direct criminal proceeding, and a judicial determination thereon."

Again: will the proposed confiscation hasten the termination of the war? Will it woo and win back the erring rebel, or exasperate him to deeds of deeper malignity? I am answered by some that his hate to the Union cannot be increased or enlarged, by others that the utterance of the sentiment is but a phantasy. Dispassionately, what will be the practical result of such a sweeping act? Will destitution produce love or hate towards the power that drives to want? When we have beggared a people, what inducement is left to invite a return to loyalty? The misery wrought will concentrate and consolidate as one man all who have fallen victims to the common power, and enkindle anew every dormant energy against the oppressor's hand. The seeds of discord and hate will be sown in the young hearts that now cannot appreciate a wrong, and untold generations will cultivate the feeling of revenge. If there be those above all others who have felt the pangs and smarts of secession, in its bitterness of wrongs committed in devastating a beautiful and happy country by plundering the wealth of its citizens, the border States stand forth as the greatest sufferers. True to their loyalty and love of country, while they would dispute every inch of ground and repel the invader of their soil at the cost of their warm heart's blood, they will not sacrifice a great principle of constitutional right to accomplish an end fatal to ultimate national prosperity. Our Union must be restored. We have but one light to our pathway in its accomplishment—adherence implicitly to the Constitution.

Lest, however, the term confiscation should prove ineffectual in its far-reaching power to accomplish that great desideratum—the emancipation of the slaves of rebels—a bill with provisions commensurate with the necessity forms another link in the great design of terminating the war. Happy, thrice happy, is he whose mental vision can lift the vail and see his country redeemed by this liberating process. The emancipation of rebels' slaves is total freedom to the race. The demoralizing effects of liberating a part, to mingle with the residue of the slave population, will dissatisfy them, and work interminable mischief and ultimate ruin. The boon of freedom, with beggary and starvation, will be but the stepping-stone to destruction. By the census of 1860, we have one million of slaves over fifty and under six years of age, whose support, as a class, must be a tax upon the bounty of the public. The philanthropy of the age provides no means of sustenance to this class and no homes for the residue. Wanderers through the land, charity, cold and calculating, cannot lend them even a helping hand. Will you affix to the bill a clause of colonization? Will you transport, at public expense, this population proposed to be redeemed from bondage? A sinking Treasury answers, no. Will you distribute them, when franchised, *pro rata*, according to Federal population, among the free States? You hurl back the proposition as preposterous, because already constitutional barriers have been interposed to their admission. Will you trample upon the State constitutions, whose provisions prohibit emancipation without colonization? You profess to love the slave States, and desire a restoration of the Union upon the principles of the Constitution. Then why not consider their interests and respect their local laws? These should be grave questions, and not the sport of an hour. With pledges sacredly recorded in the book of time, the dominant political party of the day announced with unanimity the following, in February, 1861:

"*Resolved*, That neither the Federal Government nor the people or governments of the non-slaveholding States have a purpose or a constitutional right to legislate upon or interfere with slavery in any of the States of the Union."

Will you answer, this was the policy in time of peace? I respond, already had seven States nominally seceded from the Union, the Star of the West had been driven back to sea by warlike demonstrations, and the dark night of portending war hung like a pall upon our national horizon. Yielding, however, to your pacific intentions when the sentiment above was recorded, I will bear you gently through the course of time to 22d July last, when war, with all its dread consequences, swept over the land, when our national arms were borne down by superior numbers, in solemn council the following resolution met with universal sanction:

"*Resolved by the House of Representatives of the Congress of the United States*, That the present deplorable civil war has been forced upon the country by the disunionists of the southern States, now in revolt against the constitutional Government and in arms around the capital; that in this national emergency Congress, banishing all feelings of mere passion or resentment, will recollect only its duty to the whole country; that this war is not waged on their part in any spirit of oppression, nor for any purpose of conquest or subjugation, nor purpose of overthrowing or interfering with the rights or established institutions of those States, but to defend and maintain the *supremacy* of the Constitution, and to preserve the Union with all the dignity, equality, and rights of the several States unimpaired; and that as soon as these objects are accomplished, the war ought to cease."

Then you were opposed to "overthrowing or interfering with the rights or established institutions of the States," while to-day all the guarantees of the past pledges of non-interference are forgotten, the obligation to support the Constitution upon which you based this non-intervention is disregarded, and the voices then heard in behalf of private and sacred rights are now clamorous for their invasion. As early as 1790, our predecessors announced that they "had no authority to interfere for the emancipation of slaves within any of the States." The wisdom of the past seventy years, commencing with the birth of our Constitution, developing itself in the action of its framers, breathing its true spirit, has at last yielded to stern necessity, the offspring of cruel persecution. The pledges of the past were the hopes of the border States in this their peculiar crisis. Their orators and advocates pointed with pride to security against an invasion of their rights, sanctioned by time and the ties of kindred associa-

tions. Pass the bills under consideration, and we enter upon a new life. A new stage is erected before us, and upon it, for weal or for woe, we will have to encounter the realities of an untried experiment.

A fatal delusion has seized the public mind. Unwise and impolitic legislation has disturbed past security; private rights are disregarded, and the capital of the nation is surrounded with daily scenes that threaten the safety of the citizen. The abolition of slavery in the District of Columbia has made it the refuge and asylum for the escaped slave, and the daring adventurer in search of his property finds a prison for his temporary home. Private property has been taken without just compensation, and even then not appropriated to public use. The slave set free by our legislation has been made a competent witness against his former master, to establish his disloyalty, and upon such testimony the gratuity or pittance allowed for his property is denied him. The doctrine of the abolition of color in the transmission of the mails has been announced in solemn council in the other end of the Capitol; but it met with prompt disapprobation by the people's Representatives. This act, praiseworthy in its character, constituted a gleam of hope against dangerous legislation. Expressly repudiating the power of the Federal Government to legislate touching the rights of master and servant in the States, a special committee has been raised to inquire into and report on the propriety of the emancipation of slaves in the border States. With such legislation, no one can be "blind to the signs of the times." Unity of sentiment, so essential to the accomplishment of the great goal to which we are all tending, has yielded unwilling obedience to sectional action. Ours is a common cause, and in this time of peril the heart of the nation should pulsate as the heart of one individual. Let the Union constitute the elevated aim of our proudest aspirations, and with an eye single to its restoration let us adhere with unyielding tenacity to our constitutional obligations, and legislate for our whole country, the brightest, best, and freest home of God's gift to man.

CONFISCATION OF REBEL PROPERTY.

SPEECH OF HON. A. J. CLEMENTS,

OF TENNESSEE,

IN THE HOUSE OF REPRESENTATIVES,

May 24, 1862.

The House having under consideration the bills to confiscate the property and free from servitude the slaves of rebels—

Mr. CLEMENTS said:

Mr. SPEAKER: In this day and hour of our country's greatest trial for self-preservation and the maintenance of free and popular government, when contending with one of the most causeless and formidable rebellions the world has ever seen, I deem it to be my duty, as a member of this House, to raise my voice in behalf of the liberties of the people, and especially of those of my own State. Amidst all the untold sufferings visited on them, a majority are still loyal to the Government of their fathers and the cause of liberty. Although civil war has been for the last ten months sweeping over that State, and destroying the property and liberties of the people, spreading devastation throughout its length and breadth, they still remember their duty to the Government that has always given them protection.

In the present struggle for the preservation of the Union, they are ready and willing to give their all in support of the Government, and for the expulsion of the last vestige of treason from the continent.

In the grand army of near seven hundred thousand volunteers that are now in the "tented field," undergoing all the hardships that belong to the soldier's life, I am proud to know that there are among them several thousands of Tennesseeans, as noble patriots as ever fought in behalf of the cause of freedom. I also feel additional pride in the fact that from my own county of Macon not less than two thirds of its adult male citizens are numbered in their ranks. In this conflict, the political problem that has so long convulsed the world, as to what kind of government should rule over mankind, is to be solved; and the fact will be demonstrated to the world that monarchy and despotism shall no longer be the ruling powers, but that republican Government shall from this time hence be maintained. I am proud to be able to say that Tennessee has in part, and is ready to furnish her full quota of troops to engage in this bloody struggle, and to assist in settling this long-disturbing question in behalf of the right of the people to self-government.

After the rebellion is put down, the question as to how the Government shall treat those who have taken up arms against its authority seems to be one of the greatest interest to all true lovers of their country; and as it is a question of so much importance to discharge our duties as the Representatives of the people, we should give it our most candid consideration, and look to the Constitution and the laws by which to determine our action. In the light of these we see that we have no right to confiscate property beyond the lifetime of the person guilty of treason. That this is the case, every member of this House is well aware, and all will agree that it is a wise provision of the Constitution. But that Congress has power to confiscate during the life of the offender, (through the legal process of law,) the property of all persons committing treason against the Government, no one can dispute. But, under the present circumstances, is it wise to do so? All, I believe, would unite in saying it is not.

There is not a Government of any importance in the great family of nations that would bring so many people into ruin by confiscation. And should the great American Republic do an act that the Governments she claims to be an example to would not do? I think she should not!

The first or fundamental principle upon which our Government was founded, was that of the political rights of man, or, as stated in the Declaration of Independence, it was "that all men are created equal; that they are endowed by their Creator with certain inalienable rights; that among these are life, liberty, and the pursuit of happiness." These are the principles upon which our Government was organized, and which were embodied in the Constitution. It was the design of the framers of that instrument to establish a system of Government based upon the will of the people; and instead of making the will of the people comply with the Constitution and the laws, they ordained that the Constitution and the laws should comply with the will of the people. The power of the Constitution of the United States and those of the States are separate and distinct from each other. Where the one ends the other begins, and each is paramount in its own sphere, or, more correctly speaking, has complete jurisdiction, and neither has a right to interfere with the laws of the other.

The Constitution expressly says that a person shall not be put twice in jeopardy of life and limb for the same offense. That a person cannot by the same act lay himself liable to double punishment by the laws of one of the States and those of the United States, is so clear as not to be disputed. And if a person cannot in the same act violate the laws of the United States and those of a State, it must follow that it would be incompatible with the principles of the Government to say that the judicial authorities of each take cognizance of the same offense; if they did so, we would have a consolidated Government, or something worse. But that is not the case. We have two systems of government in one, and where one has authority the other has no authority.

That the real intention of the Constitution is to recognize the laws of the States as being paramount to all others in their own spheres, or that their jurisdiction is exclusive as it regards their local affairs, is admitted on all hands; and it is equally clear that the Government has no right in any manner whatever to invade or interfere with these local rights of the States; but it has never been disputed that the Federal Government is bound to protect the States in the enjoyment of their constitutional rights.

The Union at present is composed of thirty-four States, each State, to a greater or less extent, has climate, soil, and mineral wealth, varying from the others; some having iron, some coal, some adapted to the growth of corn and wheat, some to rice, cotton, and sugar, and others to the raising of cattle, sheep, and other animals. And, as a general thing, each State has in some respects peculiar natural resources of wealth; and therefore the framers of the Constitution, in their wisdom, gave to each State complete legislative power to enact and execute its own laws, subject to the limitations of that instrument. They believed the people of each State knew better what laws would invite a development of their resources than persons residing in parts of the country remote from them, and possessing different interests, and varying in soil and productions. And upon this system of equal local rights, as a basis, rests our national Constitution—the supreme law of the land. This Constitution institutes a Government for purposes common to all the States. It controls the foreign relations, and the inter-State relations. It declares war, makes treaties of peace and commerce. It has the exclusive right of coining money, supporting a postal system, and protecting the great international system of commerce by securing free trade among the States. This community of interests enables the several States to mutually and freely exchange the excess of their own productions with each other; and thus the people of each State can enjoy the benefits to be derived from the productions of all. It is to these great fundamental principles of our Government that we are indebted for our hitherto unequaled prosperity as a nation. If we preserve these rights, we preserve our Government; if not, we lose all. In this consists the life of the nation; and if the life departs, the body will decay. If the national or State governments either transcend the bounds of their legislative authority, we have a national tribunal that will correct the irregularity, and point out to each its proper functions.

To maintain the Constitution and enforce the laws is the sworn duty of the President, and in discharging this duty he has the right to employ the Army and Navy, and to call out the militia of the United States.

In the present causeless rebellion an exigency has arisen calling these latent powers of the national Government into action. A part of the people having taken up arms to prevent the execution of the laws, and to establish a Government owing no allegiance to this, the President, in accordance with his solemn duty, has called out the militia to reëstablish the authority of the laws, protect the loyal citizens in the enjoyment of their rights, and bring the guilty to punishment. The Government is not waging this war against States, but against individuals; it is endeavoring to reëstablish its authority, and assist the loyal citizens in reclaiming the governments of their States from the chaos in which the mobs, calling themselves conventions, have thrown eleven of the States of this Union. The State constitutions and laws are the same as they were before the States claimed to have seceded. Those Legislatures or conventions which assumed to sever the States from the Union simply committed treason, and from that time forward their legal authority ceased, and all their subsequent acts were null and void; so the laws of the States remain as they were before the rebellion.

When the rebellion shall have been suppressed, they who have attempted to overthrow its authority and by their false teaching involved the country in this unholy war should be dealt with as the law directs; and upon the gallows they should atone to an injured people for their enormous crimes. If not apprehended, their property should be confiscated during their lives; their slaves, if any, should be emancipated and colonized, and themselves driven into exile, with remorse for their companion, to wander, like Cain, hated and despised by all nations.

The question is asked, can Congress emancipate slaves? I would say, not of loyal citizens; but it can order the removal of those of rebels, because they have forfeited their right of property by committing treason against the Government. If that be emancipation, Congress, in my judgment, has the right. But I think it very clear that Congress has no right to emancipate even the slaves of rebels, except on condition of their removal from the States, as required by the State laws—in other words, it has the right to emancipate the slaves of rebels, but no right to leave them

in the States. The violation of the law does not consist in emancipating the slaves of rebels, but in leaving them in the States, in violation of their laws, after they have been emancipated; for the States have not committed State suicide, but exist in the loyal people, and not in the rebels; and as the rights of the loyal citizens exist now the same as they did previous to the rebellion, the laws must be respected by the Government the same as they were.

What should be done with the slaves of the leaders of this rebellion? This is a question of the greatest magnitude and interest to the people of this country, and should command the candid consideration of every member of this House. There is but one of three ways to dispose of these negroes. We must return them to their rebel masters, sell them, or colonize them beyond the limits of the United States. Shall they be returned? They should not. The Government has no right to sell them. Then, in my opinion, the only true way to dispose of them is to remove them from the States, and colonize them in Africa, Hayti, Central or South America.

A general amnesty should be granted to the deluded followers of these wicked leaders. They should be invited to return to their allegiance to the Government which desires their welfare. In the States of Maryland, Kentucky, Missouri, and the parts of Tennessee and Virginia within the lines of our Army, where the people are protected, if they hereafter, by word or action, give aid to the rebellion, they should have their property confiscated, or be heavily fined and imprisoned; and as our Army takes possession of the revolted districts, all who are protected by the Federal authority and afterwards give aid to the rebel cause should be subjected to the same penalties. But the privates and subalterns in the rebel army should have an opportunity given them to return to loyalty. We should not close the door against them until they have had it in their power to choose for themselves. Those within the protection of the Federal authorities should be constrained to submit to its laws, or be dealt with as their crimes deserve. To the deluded and misguided rebel soldiers, who were coerced into their army by the mad ravings of ambitious leaders, let us leave open the door and invite them to come back to the flag of their country.

A bill of this character would, I believe, meet the demands of the country, and do justice to all. Under such conditions the guerrilla war now raging throughout the southern country would soon cease. There would be no more recruiting within our lines for the rebel army; and as our Army would advance, the people would be informed of the magnanimity and generosity of the Federal Government to those who would come forward and accept its proffered pardon, and also its power and authority to enforce and execute its demands. I think this policy would have a far better effect than a sweeping confiscation act applying to all alike. More stringent provisions would, instead of doing good, do much injury, as those in the rebel army could not return to their homes, and avail themselves of its benefit; and we could not expect, after we had confiscated their property, to induce them to be loyal to the Government. Thus dealt with, we must either drive them into exile, where they would spend their days in plotting revenge against this country, confine them in prisons to chafe and fret like untamed beasts through their whole lives, or fight them as guerrilla robbers and outlaws, deeming themselves beyond the reach of mercy or forgiveness. This rigorous policy would satisfy a few vindictive people, living remote from those who would inevitably suffer, but not the masses of the people, nor the demands of justice. Property cannot be confiscated until the authority of the Union is reëstablished, after which it is the duty of the Government to look to the interests of the whole country alike. A law should not be enacted which is impracticable as well as impolitic. Such unnecessary harshness would inaugurate a reign of terror that would last for years, and destroy the peace and prosperity of the country.

As to emancipated slaves, the Government is the only power that can colonize them; for the States are by the Constitution of the United States expressly prohibited from the acquisition of territory. The powers of the States extend no further than their territorial bounds, and they could not colonize them, therefore, nor give them protection beyond their State limits. Illinois, and several of the northern States, have passed laws excluding negroes from their territories. Most, if not all, the southern States have laws prohibiting slaves from being emancipated without being removed beyond the limits of the State. If citizens cannot emancipate their slaves without removing them beyond the limits of the State, can Congress do so? Congress has no more right to emancipate the slaves of rebels, and leave them within the States, in violation of the State laws, to the injury of loyal citizens, than it has to liberate and send them to Illinois or any other State in violation of their laws. Suppose Congress emancipates the slaves of certain rebels, and does not remove them from the States as required by their laws, will not the citizens of the States endeavor to execute their laws requiring all emancipated slaves to be removed beyond their borders, or be sold into bondage again? In such a case, the Government has no right to interfere with the execution of the laws; but if called upon by the State authority, would, by the Constitution, be required to give to the States its aid in the execution of such laws by which the States would sell the same slaves again into bondage. Whether this be right between man and man, as decreed by Him that rules the universe, I cannot say. But the law so exists in the States, and was so willed by the people, and has so existed for years. If they be unjust, let us look to the will of the people for their repeal, and not to military power. There are laws passed by the States relating to their local institutions, and if interfered with by the Government would certainly unite the most of the loyal citizens South in opposition to such interference, and would as certainly divide the northern people in the effort to so interfere in violation of the Constitution and laws; and the result would be the overthrow of the Government, as all people with unclouded minds can well see. If a law be a bad law, it should be changed by a legal process. It is in the preserving of these principles in their integrity that exists the security of the people.

We have no States out of the Union, and all are equally entitled to protection; for the States claiming to have seceded have not committed State suicide, but still exist in the power and authority of the loyal citizens, the rebels only having forfeited their rights to State and national protection.

If the Constitution is trampled down in one respect, may it not be in all? Such a precedent would be liable to cause a greater rebellion than the present one. This rebellion is causeless; that would be just. Such a violation of the rights of the States would cause an uprising of the people in opposition to it equal to the one we have seen in the loyal sections in support of their country. If we wish to make others obey the laws we must ourselves obey them. If we desire to make others submit to the Constitution we must ourselves support the Constitution; for if we disobey the Constitution and the laws, what better are we than the rebels? In that case, neither would support the Constitution and the laws. Whether slavery as a local or State institution is just, is not for me here to argue. My purpose is to support the Constitution of the United States, the supreme law of the land, and under it claim for the people of my State all that they as loyal citizens of the United States are entitled to. Though slavery may be unjust, it is supported and protected by the municipal laws of the land, which is the declared will of the people of the States in which it exists, and so recognized by the Federal Constitution.

Slavery, as an institution, I believe to be broken down. Many thousands will be as a consequence of and not by the purpose of the war, liberated. It is circumscribed, there being no more territory adapted to slave labor. It now has no national power, nor ever should have had, as it is a local institution. It is surrounded by its enemies on all sides. The present war will cause a development of the natural resources for the cultivation of cotton in other countries, and cause our cotton market to depreciate, and consequently the value of slave property.

In portions of the cotton States where rebellion has swept away all civil law for the present, only military law exists, under which no slave can be recovered. Under such circumstances it is entirely discretionary with slaves whether they remain with their masters or not. If they leave their masters there is no law by which they can be reclaimed. The rebels, in committing treason, forfeited all their rights to hold property under the laws they endeavored to cast off.

The question will arise as to where the title to the slaves exists. Is it in the rebels, in the Federal Government, or in the slaves themselves? This is a question, as the laws now are, that can only be decided by our courts. The Government cannot own slaves, and has no right to sell them. Then has a slave a right to bring suit against his rebel master for his freedom, or what right has the rebel master to claim his return under the laws he has taken up arms to destroy? This is a question I deem to be pregnant with consequences of the gravest importance.

From these consequences of the rebellion the value of slaves will be greatly impaired; in fact, they will be worth but little. If the Government will do its duty, and not allow, in any way whatever, the rights of States to be trampled on, will not the southern people, when brought back to reason, accept of the proposition of the President adopted by Congress?

In 1790 there were only about five hundred thousand slaves in all the States. In 1860, seventy years afterwards, there were near four millions of slaves, beside free blacks. At the same rate of increase there will be, in seventy years from this time, near forty millions of slaves. These slaves will all be in the southern States. The antagonism existing between the white and black races as to social and political equality in the same Government, with other causes, will induce the whites gradually to leave the South. The slaves are tied there by the laws of the States; but the natural antipathy of the two races will cause an emigration from the South to Northwest of the non-slaveholding whites, until near the whole South will be abandoned to the black race. The child is now born who will see fifty millions of slaves in these States, if the institution continues. But is it reasonable to suppose that these people will be held in bondage more than forty or fifty years?

In view of these facts and considerations, will the southern people, if capable of self-government and of enacting such laws as will best promote their welfare and that of their posterity, much longer continue this institution? Will they not do away with it and avert from their descendants one of the greatest calamities that ever visited a people in the tide of time? I ask, in the spirit of the Constitution, will the people of the States not remove it? If the will of the people be the law of the States, can we come to any other conclusion than that they will remove this evil? When they are aroused to a sense of their responsibility to their children and the millions that are to inhabit the southern States in the future, then will the tide of emigration be changed, and instead of the whites leaving, the blacks will be liberated by the State laws and be sent out of the States. At this time we expect to be relieved of slavery and the black population, if our laws are respected by the Government.

When this effort is made, let the Government be just and beneficent to both races, and deliver the blacks from slavery and the whites from the curse of an amalgamation with these liberated slaves, which will certainly follow if they are not separated. Then let the Government in all its wealth and strength, clothed in the power of the Constitution and the laws, march up to the doors of the State constitutions and receive these people and return them to the land of their forefathers. The effect of this policy would be to build up the young and prosperous republic of Liberia, which seems to have been planted there by the hand of Providence for the deliverance of this country, for the christianizing and civilizing of Africa. By the time the slaves shall all have been deported to Liberia, there would be, in the now infant republic, a population of some eight or ten millions. This number and their posterity, armed with the Christian religion, civilization, and the present improvements in the arts and sciences, with a republican Government, would extend their light and power from the west to the east and around the African coast, until

they would embrace the whole continent, and be the means of christianizing and civilizing all their fellow-men that inhabit that rich division of the earth. They would in time do for Africa and its people what the Pilgrim Fathers, who settled upon the Atlantic coast, have done and will do for this continent and its savage inhabitants. As they subdued the wilderness and carried the Christian religion, the arts and sciences, and republican Government, from the east to the west, the savages retreated westward, until we have surrounded them. They can retreat no longer, and their savage traits, by the aid of the schools in their midst, will be subdued, as the wilderness has been. They will be forced to submit to the principles of republican Government, and become a christianized, civilized, intelligent, and happy people.

This Government, if we but do our duty, will become the great agency of Providence in this scheme of sending light, freedom, and civilization to the dark corners of the earth. To do this, we must unite our people as they once were. If we fail in this, we fail in all; for it is the unity of the will of the whole people which is the basis of the Government. Our people once were united, because their interests were connected with the preservation of our common country. But as soon as the disappointed politicians of the South induced them to believe that the present Administration would no longer respect their constitutional rights, they rebelled against its authority, but not against the principles upon which it was founded, as they were made to believe that the local laws of the States would be disregarded, and their slaves emancipated and placed upon an equality with the whites. It is this misrepresentation of ambitious men which has caused so many of the southern people to take up arms against the Government. It is true the leaders of this rebellion are desirous of changing the form of government, but the people are not; for they are as loyal to the principles of the Government as ever they were. Put down the rebellion and remove these fears, and they will soon be the united people they formerly were. We by so doing will receive the thanks of future generations; but if we do not, we will justly receive their condemnation. The President and the people will save the Government if Congress will let them do it. If the Constitution, and with it free and popular government, be swept away, and one common ruin be visited on this once peaceful and happy people, the blame should not be laid to the President and the people, but at the door of Congress.

CONFISCATION OF REBEL PROPERTY.

SPEECH OF HON. J. W. NOELL,

OF MISSOURI,

IN THE HOUSE OF REPRESENTATIVES,

May 26, 1862.

The House having under consideration the bills to confiscate the property and free from servitude the slaves of rebels—

Mr. NOELL said:

Mr. SPEAKER: The debate on the confiscation bill is now about closed. Before the vote is taken I beg to make a few remarks. I have watched the discussion closely, and have observed with some surprise that the opponents of the bill have been constantly fighting what is not in it. Gentlemen seem to be impressed with the idea that this bill proposes to punish men for what they have done. Sir, this bill does not propose to touch a dollar's worth of property for any rebellious act that has already been committed. The gentleman from Kentucky, [Mr. HARDING,] a few days ago, spoke eloquently upon the sentiment of mercy and forgiveness as exhibited by our heavenly Father to fallen man. Sir, I appreciate his just sentiments, and hold that this bill is framed on the principles he so much reveres. While it forgives past offenses, it prohibits a repetition of crime, and imposes a penalty for disobedience. So does the mercy and justice of God exhibit itself. We are called upon to cease our rebellion, and if we do not, we are told that we shall be cast into outer darkness.

But, sir, gentlemen ask us not only to forgive the past, but ask us to give indemnity to rebels in regard to future crimes. This, too, at the sacrifice of loyal men. We are told, sir, that this bill will punish the innocent as well as the guilty. Gentlemen have dwelt eloquently on the probabilities that the wives and children of rebels will share the punishment inflicted on the guilty. There may be cases of hardship which no human foresight could guard against. But the same objection exists against every penal law. If we are not to punish crime lest the execution of the laws may injure those who stand in a near relation to the criminal, we shall have to abolish all our criminal laws. Wherever life, liberty, or property is reached in the punishment of crime, the family of the criminal shares his punishment. It is one of those imperfections that attach to all human laws and all human institutions. Whenever gentlemen can attain perfection they may be able to present perfect work. Until that time, I must accept the best regulations of human affairs that can be obtained, and be content with that which falls far short of perfection.

But, sir, while this nice sense of justice and strong expression of charity is indulged in on behalf of those who will persist in being traitors, I should like to know if all compassion and sympathy for loyal men is to be suppressed. Is it true that our Constitution was made for the protection of traitors, and has no principle of security for loyal men? Are our homes to be desolated, and our wives and children to be stripped of the means of subsistence with impunity by rebels; and when we ask of the Government to hold rebel property as security against their depredations, are we to be told that the Constitution has placed that property beyond the reach of any practical legislation?

Sir, from the very beginning of this rebellion, it has been built up, sustained, and walled around by constitutional objections urged by Union men. When the Star of the West entered Charleston harbor unarmed, with food for our starving soldiers, it was denounced as a violation of the Constitution and an indignity to the sovereignty of South Carolina. When the President called for volunteers to defend this capital against the threatened attack of the rebels, Union men North and South cried out there is no warrant for it, it is an usurpation of power.

When my colleague from the St. Louis district, with General Lyon, marched upon a nest of traitors at Camp Jackson, and broke up their camp and baffled the scheme to take Missouri out of the Union, Union men were found declaring that the constitutional rights of the citizens of Missouri had been trampled under foot. When, sir, treason had invaded every avenue of society in the border States, and was executing its plans through its emissaries and spies, in defiance of the Government, and it became necessary to suspend the privilege of the writ of *habeas corpus*, one universal howl was raised, "the constitutional rights and privileges of the citizens have been taken away." And now, sir, when it is proposed to reach the property of men who, in spite of fifteen months' experience, will persist in murdering a whole nation and watering a continent with blood, it cannot be done without a violation of the Constitution!

We are told by the gentleman from Kentucky [Mr. HARDING] that whenever men determine to do a thing they can always find excuses for it. Yes, sir, that is true; and whenever men determine not to do a thing, they can always find good reasons. When posterity shall read the history of the present time, they will scarcely understand how it is that a Government like ours could not do a single act to save itself from destruction without violating the law of its own existence. But such seems to be the fact, and volumes of good reasons have been furnished by its professed friends to show that it is a matchless system of perfection, yet more helpless and imbecile than an infant.

Sir, I know that I stand almost alone among southern men on this question. But, sir, this is not the first time in my life I have thus stood. When this wicked conspiracy first developed itself in this House during the first session of the Thirty-Sixth Congress, I, humble and unknown as I was, met and denounced it at the threshold. Mine was the solitary voice from Missouri that was heard here in rebuke of the odious heresy of secession. Even my worthy colleague, [Mr. PHELPS,] then, as now, the oldest member of the House, who spoke so eloquently here a few days since on this question, was then silent. I stood alone among southern Democrats. I thank my God that he gave me the moral courage to stand alone in a just cause. I know, sir, that the secession vote in Missouri, in connection with the *quasi* or conditional Union men, constitutes a very large minority, if not a majority. Perhaps, sir, in standing up here for the safety and security of the loyal people there, I may be signing my political death-warrant. But, sir, if I go down, I will go down like the heroes of the Cumberland, with my flag still flying, and my last act shall be that of pouring a broadside into the ranks of treason!

Sir, I would as soon pocket the thirty pieces of silver for which Judas sold his Lord and Master, as to hold public position by the votes of traitors.

I was charmed with the eloquence of the distinguished gentleman from Massachusetts, [Mr. THOMAS,] a few days since. To his patriotic sentiments I heartily subscribe. In his devotion to the Constitution, I claim to go as far as he. We look at it, however, from a different stand-point, and give it a different construction. When I heard his impassioned language, my pleasure was not unmixed with pain. My mind ran back to the desolation and ruin of my own section. I wondered how it could be that a gentleman hailing from a district in the Old Bay State, which had furnished so many jewels in the crown of our national glory, could find no balm in the Constitution to cure the ills of patriots and loyalists, or guarantees for their security and protection.

Sir, must I go back to the persecuted Union men of Missouri who have been robbed and plundered without mercy by their rebel enemies, and tell them that the Constitution is in the way of any effective legislation that would hold the enemies' property as security for their safety? Must I tell them that their wives will have again to do like the mother of Ishmael—take up their little ones and flee to the wilderness. Sir, I intend to meet these people, and I intend to meet them as one conscious of having done his whole duty by them. I would not barter the affection and regard of these true and faithful hearts for all the secession votes that could be piled upon me, nor for all the honors that earth can give. They have been true to the country; I will be true to them.

CONFISCATION OF REBEL PROPERTY.

SPEECH OF HON. ALFRED ELY,

OF NEW YORK,

IN THE HOUSE OF REPRESENTATIVES,

May 26, 1862.

The House having under consideration the bills to confiscate the property and free from servitude the slaves of rebels—

Mr. ELY said:

Mr. SPEAKER: More than thirteen months have now elapsed since this war began by the attack on Fort Sumter. During all this time the war has raged by land and sea, along a dividing frontier of two thousand miles, from Hampton Roads to the mountains of New Mexico, and along a coast line of still more interminable length. It has steadily enlarged its proportions until we have under arms six hundred thousand men, rivaling the military power of the first French empire in the height of its glory, and a fleet upon the ocean and upon our inland waters not short of that which enabled England so long to baffle and finally to overcome the great Napoleon. These naval and military preparations have been sustained by a system of loans greater than those which even the genius of Pitt conceived to be possible, but sustained by the confidence and resources of a young, heroic, and intelligent people; and which are about to be still further sustained by a system of taxation more searching than any example of British or French finance, but self-imposed, and which will be cheerfully borne by a nation that deems no sacrifice too great for the preservation of country and of liberty.

Contemplating the duration of this war, and the vastness of the scale upon which it has been and is being carried on, we cannot but be struck with the strength of the resistance which has made such

a war necessary, which even now protracts it, and which makes it impossible to predict the term in which it will end. The enemy betrays no loss of heart or hope, under his total expulsion from two States, under a rigid blockade, which entails the loss of commerce and destroys the cultivation of his great agricultural staples, and under the loss of harbors, forts, and sea-ports, ending with the loss of the chief seat of his financial strength—opulent and populous New Orleans. The invasions to which the seceding States have been subjected, extending even to northern Alabama and Mississippi, the partial loss of Tennessee, (including its beautiful capital on the Cumberland river,) the conscriptions which their people have suffered, the robbery inflicted upon them by the enforced circulation of a worthless paper currency, and, finally, the demand made upon them that they shall destroy their own most valued property by conflagration, have all been borne without, as yet, any outward manifestation that their adhesion is yet shaken to a cause which has brought them nothing but privation, misery, death on the battle-field, or still more lingering death in hospitals, and which threatens them with a starvation which will reach even their firesides and families.

It is too plain that a rebellion having such power to sustain itself against the vast exertions of the nation, and still obstinate under such an accumulation of self-inflicted calamities, must be stimulated by some cause of extraordinary power, and my own judgment is most clear that we can never hope to subdue it except by the adoption of some new line of policy. We have tried armies and navies, and can hope for no greater displays of endurance and successful courage than have already been given by our brave soldiers and sailors. A new remedy is needed for a disease which has so far baffled everything which has been tried, and this new remedy is to be found in a statesmanship which shall comprehend the true character of the unnatural disorder with which we are contending.

We must, in the first place, adopt a system of measures which will countervail the policy of punishment and terror by which the rebel leaders coerce unanimity among their people. They menace and they execute the confiscation of all the property of those who fail in allegiance to their guilty cause, and even of those who seek to avoid the hazards of civil war by absence in foreign countries. They make no exceptions and grant no exemptions. From the very commencement of this war they have evinced no hesitation or weakness on that point. They know how powerful a motive the threatened loss of property is, and they have availed themselves of it to the uttermost. They have tolerated no enemies, and even no neutrals in their midst. They have said by the language of their statutes, and of their execution of those statutes, that everybody within their exterior lines must choose between adhesion to the rebel cause and being stripped of every species of property. As yet we have had no countervailing policy, but have suffered the continuance, even to this day, of a condition of things which makes it the interest of every man at the South who has a dollar to lose to cast his fortunes with the rebel dynasty. It is on that side that safety lies, because we have provided no efficient and practical penalties against rebellion.

We have laws which make treason a capital offense, but nobody anywhere expects to see such laws executed against millions of people. There is practical, personal immunity for those at the South who join against us in this struggle, while those there who might be inclined to join with us are deterred from doing so by punishments not less sternly executed than sternly menaced.

In the next place, we must strike at the great cause of this rebellion by a punishment which will reach the motives which prompted it, and which now, more than all things else, give it unity and efficiency. It is a rebellion in the interest of the institution of slavery. It was started simply and solely because that institution had encountered a political check in the result of a presidential election, rendering it doubtful if its schemes of universality and perpetuity could be realized within the Union, and determining its managers to seek their ends in a new confederacy outside of the Union. To men acting upon motives like that, no threatened punishment will be so appropriate and so efficient as that of the liberation of their slaves altogether, if they shall persist in their career of rebellion. It meets them at the very point upon which their interests and their passions are concentrated, and warns them that if they seek the aggrandizement of a peculiar institution at the cost of our peace and nationality, they do so at the hazard, if they fail, of losing the institution altogether.

Nor will this punishment be less effective in weakening the strength of the rebellion than in counteracting the motives which stimulate it. It is slavery which has induced these men to rebel; so, also, it is slavery which has enabled them to sustain their rebellion so obstinately. It is by the hands of slaves that these multiplied intrenchments are erected, which meet us at every point of our progress. It is slaves who perform all the duties of the enemy's camp, and in instances not few, it is by slaves that his artillery is worked against our brave soldiers. But above all, it is by the labor of slaves that agriculture, the basis of southern society, is maintained, while the whole white population is left disposable for military service. It is this which has enabled the rebellion to keep on foot armies so vast. It is because the slave has worked, while the master has fought, that the South may almost be said to have demonstrated the capacity to wage perpetual war without exhaustion. And it is thus that to deprive rebels of their slaves is to deprive them of a resource without which rebellion cannot be sustained.

If it is expedient to dissuade men from rebellion by the menace of the practical punishment of confiscation if they persist in it, and if it is expedient to reduce them to subjection by cutting off the great source of their strength, our constitutional power to do both things, as proposed by the two bills reported by the gentleman from Massachusetts, [Mr. ELIOT,] from the select committee of this House, is most ample, while the motives we have to exercise that power are multiplied and urgent.

War has no other rule than the rule of the strongest. It is a condition of violence, in which each party seeks the destruction of the other. The law of nations subjects lives and property, private and public, to the will of the victor; and whatever of either life or property is spared, is spared from motives of clemency or policy. This is a harsh description of the rights of war, and it is because "grim-visaged war" can truly be described in no other way. War signifies blood, wounds, and death, the conflagration of towns and the devastation of fields.

Domestic or civil war stands upon the same footing in respect to its rights as foreign war, according to the uniform opinion of publicists, and all sound reasoning tends to the same conclusion. It is the same trial of strength, and presents the same alternative of conquering or being conquered. Domestic war frequently furnishes more motives to severity, and more moral justification for it, than foreign war. Domestic war cannot be waged without the violation by one party to it of the peculiar political and social obligations which members of the same community owe to each other. How preëminently true is that of the rebellious party to the unnatural and causeless strife now going on in this country! If it was permitted to man to execute the judgments of Heaven, with what terrible thunderbolts do its authors deserve to be stricken down!

It is in vain to say that the struggle in which we are engaged is not war. Which of the circumstances that define war is wanting in the picture which current events present to us? Are not vast armies on foot, and do not vast navies ride the seas? Does not every day bring its fearful tales of battles, of skirmishes, of surprises, of the investment of towns, and of the surrender of forts? Is not the press filled with lists of killed and wounded and of prisoners? Do we not hear constantly of exchanges of prisoners, of flags of truce, of the paroling of officers and men, and of armistices for the purpose of burying the dead? If this is peace, what is war?

I have spoken of the absolute rights of war, but how far short of the full exercise of those rights these bills go will be apparent from an inspection of them. They do not touch either life, limb, or liberty. They sell nobody into captivity. They only reach property, and of those only who, after fair warning, shall persist in armed rebellion, or in aiding and abetting armed rebellion. And they respect and preserve all just claims upon the property of creditors who are themselves loyal. Is it possible to frame bills with more tenderness for all collateral interests consistently with making them at all effective for any good object?

This bill emancipates the slaves of persistent rebels. Most clearly such rebels are entitled to no rights whatever, and least of all to the right of dominion over others. That is itself an odious right exercised by sufferance, and only by those who keep themselves within the law. It is by the law that slavery is maintained, and when allegiance to the law is thrown off, all parties are remitted to the equality of nature. When the master becomes a rebel, the slave becomes free. It is only this obvious deduction of sound logic which these bills embody in legal phrase.

There is no foundation whatever for denouncing these bills as cruel and inhuman. One would suppose, from hearing these denunciations, that we were floating on the smooth and summer sea of peace. And yet we are in the midst of war, taking the lives or mangling the bodies and limbs of rebels whom we encounter in battle, without inquiring whether they are in the ranks against us by their own free consent, or by duress and conscription. We perform all the stern duties and exercise all the stern rights of war when we deal with life and limb. It is only when it is proposed to deal with property that we become suddenly tender; and many suspicious circumstances indicate that this tenderness for property in general is a mere cover for a tenderness for a peculiar species of property, which itself exists only by a perpetual denial of the rights of human nature. We never hear of wives made widows, or of children made orphans, by slaughter in battle, as a reason against war upon the rebellion. It is only when it is proposed to confiscate the property of rebels that the sufferings of families are portrayed, as if poverty was worse than widowhood or orphanage, and as if poverty was not the ordinary accompaniment of both.

It is only by the confiscation of the property of those who shall persist in rebellion that society can be organized upon a loyal basis at the South, after the military resistance of the rebellion shall have been put down. Great as is the task of subduing that resistance, the task is perhaps greater, and certainly it is equally indispensable, to secure the future quiet of the region now torn and tossed by this tempest of political passions. It is essential, not only to the security of the Union, but to the safety of the friends of the Union, few or many, at the South, that the disloyal element should be shorn of its power of future mischief.

Those may well be called malignant rebels who remain in official position under the rebel dynasty after the passage of these bills, or who, not holding official position, shall continue, for the space of sixty days after a proclamation from the President, to be in arms, either as principals or abettors, against the Government. It is against such descriptions of persons that these bills are aimed. It is such men against whom the penalty of confiscation is demanded. It is not safe to leave them in the enjoyment of the property which gives them the influence and power which they have used to plunge us into the untold calamities of this war. It will be suicidal folly to do so, and it is contrary to the uniform judgment and experience of mankind. There never was a civil war in which the victors felt secure while the conquered were left in the possession of their estate.

Those whose pride is wounded by an incurable smart, must be deprived of the means of future vengeance. Safety lies in no other policy. The Norman conquest of England was made permanent by a change of the titles of nearly all the real estate of the kingdom—an example of severity which goes far beyond the requirements of the present case, or what is here proposed. The great French Revolution acquired its enduring strength from the transfer of the estates of the Church and the emigrating *noblesse*. Our own ancestors did not think that they had thoroughly severed that British connection, against which the Declaration

of Independence was aimed, until they had deprived those who adhered to the British Crown of every dollar of personal property, and especially of every acre of land which they held in the country. The statute-books of every one of the States, during the Revolution, are full of acts of confiscation. It is to-day the policy of most of the States to confine the privilege of owning land to citizens, and to deny it to aliens, even of nationalities with which we are at peace. This policy is adopted upon the theory that real estate ought not to be owned by those who may become enemies. With what infinitely greater force does that apply to those who are already our enemies, and who are sure to break out into new hostilities, if we leave them the means of recuperating their strength.

The men who have instigated this rebellion, not upon the impulse of a day, but as the culmination of passions which have been nursed for a generation, and which have not merely become as enduring as life, but which will be transmitted as an heir-loom of hate from father to son, are the great land barons of the South. They have nursed their pride in stately mansions, and by the contemplation of broad acres. They will never forgive or forget the grief of the defeat which is impending over them. They never can or will become truly loyal; and if we leave them in possession of the estates which have made them powerful, it is impossible that the South will be in our day anything but a slumbering political volcano, liable at any moment to belch forth smoke and fire and devastating lava.

The condition of the Union men of the South will be deplorable indeed, if this war is so terminated as to leave the rebels in the control of that section of the country, as they will be left, if measures of confiscation are not passed and enforced. In that event, nothing awaits these Union men but an eternal proscription, political and social, infinitely worse in degree than if the rebellion had been finally successful. Less clemency is to be hoped for from the rebels, smarting with defeat, than if mollified by victory. Baffled in their attempts to overthrow the Government, it is with redoubled fury that they will turn upon their neighbors who have adhered to the Government. The Union men of the South understand this well. They know that they cannot live in the same community with the leaders of this rebellion; that expulsion is the certain fate of one party or of the other, and that if the rebels escape punishment and retain their estates, no other fate remains to themselves but exile, if they are even fortunate enough to get off with their lives. If this is a hard alternative, it is one of the results of the fierce animosities of civil war, and let the forfeit be paid, not by the innocent, but by the guilty. To spare the rebel is to punish the loyal; and that has as little of the quality of mercy as it has of the quality of justice. Like all mistaken mercy, it is cruelty to those that deserve to be protected.

Sir, while I believe that strict justice and sound policy equally call for severe and stringent measures against the leaders and master spirits of this rebellion, I would avoid an indiscriminate punishment of the less guilty masses who may have participated in it. Many have been dragged into it by force of circumstances beyond their control, while many others have been ignorantly led into it by crafty men, who have deceived their intellects and perverted their moral perceptions by gross falsehoods and base appeals to their worst passions and prejudices. To such I would hold out every inducement to retrace the false steps which they have taken, and return to their allegiance. I would adopt a policy toward them tending to remove their false prejudices against the Federal Government and the people of the loyal States, and to reclaim and reform them as far as possible, and not to exasperate and embitter them against us. I would teach them to look upon their rebellious leaders as their wost enemies and persecutors, who have wickedly plunged them into an abyss of misery and woe, and to regard the Federal Government as their true friend and protector. Thousands of them are yearning for the freedom, the happiness, security, and prosperity which they have insanely cast away. I would teach them to look to the restoration of the Union, and the reëstablishment of the authority of the Federal Government throughout their territory, as the basis of their only hope for regaining any portion of the inestimable blessings which they have thus madly thrown away.

In short, I would do everything in my power to build up a Union party throughout the rebellious States, numerous and strong enough to seize the reins of political power there, and wield it for the restoration and preservation of our once glorious Union. Unless this can be accomplished, the contest in which we are engaged is indeed a hopeless one. We may conquer the entire South, lay waste her fair fields, and desolate her homes by our superior numbers, resources, and military prowess; but if the great mass of the inhabitants of that vast territory are to remain our enemies, with bitter hatred against the Union and the people of the loyal States perpetually rankling in their hearts, the cost of enforcing and maintaining the authority of the Federal Government over them will be greater than we can bear; and, besides, there will be no national object in maintaining it. We must build up a true Union party in the South, and in my judgment the policy which will most tend to accomplish that result may be expressed in these words: severity towards the leaders and master spirits of the rebellion, and leniency towards the less enlightened and less guilty masses, who shall manifest a disposition to lay down the arms of their rebellion and return to their allegiance.

In closing this summary of the reasons which call upon us now to pass an efficient measure of confiscation, I will quote the language of eminent writers upon the law of nations, upon the nature and object of the power to confiscate the property of enemies, in order that it may be seen how completely applicable it is to our present situation. Says Grotius:

"In war we have a right to deprive the enemy of his possessions, of anything which may augment his strength, and enable him to make war. Whenever we have an opportunity, we seize an enemy's property, and convert it to our own use, and thus *diminish* his power and *augment* our own, and obtain at least a partial indemnification for what constitutes the subject of the war, or for expenses or losses incurred in its prosecution; in a word, we do ourselves justice."

In the language of Professor Martin:

"The conqueror has a right to seize on the property of the enemy, whether *movable* or *immovable*. This may be done: 1. In order to obtain what may be demanded to be due. 2. To force the enemy to an equitable peace. 3. To defray the expenses of the war. 4. To deter him, or, by reducing his strength, to hinder him, from repeating in future the injuries which have been the cause of the war. And with this object in view, a Power at war has a right to destroy the possessions and property of the enemy for the express purpose of doing him mischief."

If indemnity for the expenses of a war may be sought in the property of an enemy, when more justly than in this war, brought upon us without the color of justification, and entailing expenditures so unparalleled? If confiscation is justifiable in order to "force the enemy to an equitable peace," when more so than now, when six hundred thousand of our citizens, sufferings the hardships of the camp, are eager to return once more to their families and firesides, whenever they can do so with the conviction that their patriotic object is accomplished? If in dealing with an enemy it is lawful so to conduct as "to hinder him from repeating in future the injuries" we have suffered, in respect to what enemy can it be more so than one in our very midst?

If, then, all fair considerations point to the conclusion that persistent rebels should be punished by the deprivation of their estates, and by the emancipation of their slaves, and if the power so to punish them belongs to this Government, in what branch of it does it reside? Is it an executive or a legislative power? Undoubtedly the latter, as shown by the plain reading of the Constitution, and by the decisions of our highest courts.

It is to Congress that the Constitution confides the power of making "rules concerning captures on land and water," and upon this Chief Justice Marshall observed, in the case of Brown *vs.* The United States, (8 Cranch, 110,) that it is "an independent substantive power not included in that of declaring war." Manifestly this is so, or it need not have been granted to a body to which the power of "declaring war" had already been granted. The distinction pointed out by Chief Justice Marshall between the two powers is, that whereas a state of war gives the right of universal confiscation, yet that the exercise of this right depends so much upon discretion and upon circumstances, and is so much softened in practice by considerations of humanity and forbearance, that it was necessary, in framing the Constitution, not merely to designate the branch of the Government which should have the power to declare war, but also the branch which should have the power to make "rules concerning captures on land and water." This they did, by confiding that power to Congress.

Chief Justice Marshall's language is:

"That war gives to the sovereign full right to take the persons and confiscate the property of the enemy, where ever found, is conceded. The mitigations of this rigid rule, which the humane and wise policy of modern times has introduced into practice, will more or less affect the exercise of this right, but cannot impair the right itself."

And again he says:

"It may be considered as the opinion of all who have written on the '*jus belli*,' that war gives the right to confiscate, but does not itself confiscate, the property of the enemy."

And he concludes that—

"It appears to the court that the power of confiscating enemy's property is in the legislature."

That is, indeed, where the express words of the Constitution place it by declaring that it is Congress which shall have the power to make "rules concerning captures on land and water."

This is not inconsistent with the well-settled principle that generals in the field, representing the constitutional Commander-in-Chief, may appropriate to military use all persons and things belonging to the enemy. That is an essential part of the duty of carrying on war which devolves upon the Executive after the legislative power has declared war. But it differs totally from the power of transferring titles to property from one party to another, which is involved in the idea of confiscation, and which belongs solely to the legislative branch of the Government.

It is in vain, then, that we shall shelter ourselves from the duty of passing the bills now under discussion by saying that they contemplate an exercise of power which belongs elsewhere. The power belongs to us, and to us alone, and it is upon our heads that the indignation of the people will fall, if there is a failure to exercise it in a spirit equal to the great emergencies of the wants which are upon us.

No loyal man questions the abstract justice of subjecting the property of those who are actively and willingly engaged in carrying on this rebellion to the payment of the enormous debt which it will entail upon the nation. Some gentlemen, however, entertain doubts of our constitutional power to do so. Can it be, Mr. Speaker, that while the people of the loyal States are freely casting their treasures at the feet of the Government, to be used in putting down this wicked rebellion, and cheerfully incumbering their estates with a burden of taxation which must weigh heavily upon their posterity for generations to come, the property of the rebels themselves is so hedged around with constitutional protection that we may not touch it for the same purpose? If so, the framers of our Constitution committed an error fatal to the perpetuity of the Government which they sought to establish.

I admit, sir, that on a conviction of treason the judgment can only operate to forfeit the estate of the person so convicted for the period of his natural life; but the class of persons against whom the penalties of these bills are directed, though guilty of treason, are something more than mere traitors—they are public enemies, waging war against us under the authority and through the instrumentality of a government or political organization, as foreign to us and to our Government as is the Government of Austria or Russia. This government is located upon our own territory, it is true, but it is none the less foreign to our Government for that reason. The legal status of those who are banded together under that form of government known as the southern confederacy is in some respects precisely the same, in relation to us, as if they were located on one of the South Sea Islands. Certainly it is no more favorable to them. Or it is in some respects precisely the same as if they were foreigners in fact, who had invaded our territory and set up a government of

their own within our limits, under the authority of which they were waging war against us. It is true that by reason of their allegiance they are incurring liabilities which would not attach to foreign enemies—the liability to be tried in our courts for treason, and punished capitally, if convicted. But while they are banded together under a form of government wholly foreign to the Government of the United States, through the instrumentality of which they are prosecuting a relentless war against us, surely the fact that they are at the same time committing the crime of treason does not limit our right to inflict upon them whatever injuries to their persons or property we might inflict, consistently with the laws of nations, upon foreign foes.

Whatever may be said upon the question of our right to confiscate the property of a foreign foe situated in his own country, no one will deny that according to the laws of nations we have a perfect right to confiscate the property, whether real or personal, of a foreign enemy, if found upon our own territory and within our own rightful jurisdiction. If it be true that the legal status of those who are banded together under that spurious institution known as the government of the confederated States, and who under its usurped authority are waging war against us, is the same in respect to us as that of a foreign enemy, or if it is no more favorable to them than that of a foreign enemy, then we have an undoubted right to provide by law for the confiscation and forfeiture of every acre of land and every article of personal property belonging to them which may be found and seized within our territorial limits.

Although the State of South Carolina, considered as a political organization, no longer exists as a member of this Union, still the territory is there, and is as much a part and parcel of our national domain, and within our rightful jurisdiction, as is the territory of Massachusetts. The State, as a political institution, no longer exists as a member of this Union, because it is wholly destitute of an organization. There is not a single person within its boundaries vested with any political authority who recognizes any allegiance to the Government of the United States, or who is recognized by that Government as a legitimate public functionary. Whatever of government exists there is usurped, and wholly foreign and antagonistic to the Government of the United States. The territory is ours, and our jurisdiction of right still extends over it, although the State itself, as a political institution, forming part of this Union, has ceased to exist, or is at least in abeyance. I do not deny that the loyal people of that territory, if there are any there, have a right to reorganize their State government as a member of the Union, whenever they shall have the power to do so; but it is clear that no vestige of such an organization now exists there.

I do not claim that we have a right to confiscate the property of rebellious citizens of the so-called southern confederacy because they are traitors. I claim it because they are public enemies, and because the property which we propose to seize and confiscate is within our own territorial limits, and subject to our rightful jurisdiction. As to our right to do so, upon this ground, I have not the slightest scruple.

Mr. Speaker, if I close what imperative duty has required me to say this day with a personal allusion to myself, you will believe, I am sure, that it is in no spirit of egotism, but to explain the depth and earnestness of my convictions upon this subject. Five months a prisoner at the enemy's capital, I saw nothing there to induce me to hope that this rebellion can be repressed without measures of stern energy; nor did the scenes either of my captivity, or of the battle which led to it, tend to soften my impressions as to the malignant spirit of the enemy, or as to what is due as a measure of retribution, at once politic and just, for the sufferings our soldiers have endured in this war.

At this stage of the struggle, when the public mind is occupied with animated and stirring descriptions of battles, and diverted by the magnitude of results from the sufferings of individuals, we appreciate the heroism and patriotism of our glorious soldiers of the regular Army and of the volunteers, but appreciate too feebly the extent of their devotion and sacrifices. History will give them the meed of ample justice in this respect.

I have seen them terrible in their might, ready to brave a thousand deaths for their country. I have seen them, too, struggling with disease, starving for food, immured in rebel dungeons, subjected to nameless outrages and indignities, yet patient in their sufferings, and resigned to the bitterness of their lot. I have seen them maimed in limb, and crippled in body, yet with souls rich in the patriotic exultation that it was sweet thus to suffer, and thus to die for their country. Of these brave men it may truly be said that the luster of Grecian heroism pales before that of the fortitude of the captives of Bull Run. In no page of history can more impressive examples be found of protracted death without a sigh, and of life terminating with the single thought of country and of liberty. I thank God that a kind Providence permitted me to feel their crosses, and to bear a portion of their pains, and that I can now testify to what they have endured from what I have myself seen and know. With such men our armies can never fail, for the sword of Gideon is with them.

It is at the enemy's capital, also, that I have seen manifestations of a spirit of malignant and confirmed hate, which will yield to no blandishments of concession and compromise, and can only be repressed by signal punishment, and by the complete deprivation of the means of future outbreaks. The capital execution of all the men who deserve punishment is impossible, because repugnant to the spirit of the age. To deprive them of their estates is a practical measure, because it is a penalty merciful in comparison with their misdeeds, while it is the least measure of punition consistent with the national safety. It is not in irresolution and weak counsels that we shall find safety in this crisis of our country's fate. We must rise to the full magnitude of the drama in which we are actors, and comprehend the length and breadth of the struggle in which we are engaged. It is one between two systems of social policy, transferred to the battle-field after a contest in the political forum extending through the period of a generation. It did not come over us like a summer's cloud, to be dissipated by a summer's sun.

The treason which, long latent, has now broken out into arms, is inveterate, and hardened with the animosities of years. As we know that to repress it on the battle-field calls for military preparations most gigantic, so we shall find that to eradicate it as a disease from the body-politic will require a statesmanship which is comprehensive and decisive.

Above all, let us never forget that the destinies intrusted to our charge are too precious to be hazarded by experiments of indiscriminate mercy to the guilty. This country is too great, its history is too long and too heroic, and its possible future too grand, to permit us to jeopard its existence by weakly failing to strike boldly and heavily at those who seek to overthrow it. The stern patriot of antiquity who did not spare his own son, when that son's treason menaced the safety of Rome, should be the exemplar of those who are the guardians of the still greater American Republic. Upon no occasion more exigent than this could it be said that the public safety is the supreme law, towering far above and beyond all other considerations. It is our country which is to be saved or lost, and it is in country that all interests of life, liberty, property, and family are indissolubly bound up.

CONFISCATION OF REBEL PROPERTY.

SPEECH OF HON. J. P. C. SHANKS,

OF INDIANA,

IN THE HOUSE OF REPRESENTATIVES,

May 23, 1862.

The House having under consideration the bills to confiscate the property and free from servitude the slaves of rebels—

Mr. SHANKS said:

Mr. SPEAKER: I had not thought to occupy the time of the House with an expression of my views upon the nation's troubles, their cause or cure, preferring to vote and act as a working rather than a talking member. I am now induced to express myself frankly, and if I should have occasion to refer to the positions taken by other gentlemen I will hope to be understood. I must confess I am not well pleased with the position o. many of those who have preceded me in the discussion of these subjects. I think, sir, that the common acceptation as the result of the doctrine of secession, and of the acts of the rebels in pursuance of that doctrine, namely, that eleven States have seceded or revolted from the national Union, or that any one of them has so revolted or seceded, is but a crude thought and needs correction, requiring but little reflection to correct the error, but certainly important that the correction be made now. Much wrong has, I fear, been done to the cause of the Union by inconsiderate declarations against the State of South Carolina and many other southern States, charging of those States that which, when we consider the character of our State and national Governments, together with the cause, manner, and progress of the rebellion, we recognize at once to be an impossibility.

Sir, there has been no revolt, rebellion, or secession of any State from the national compact. Geographically and materially, of course, all that country constituting the southern States, and parts of States which under the provisions of the national Constitution had, and are still entitled to, but of the will of a part of their own people have not now, a representation in these Halls, remains the same. No convulsion of nature has separated by impassable barriers the grand proportions of this country, extending as it did and still does from the St. Lawrence and lakes on the north to the Rio Grande and from ocean to ocean, the home of a great and powerful people, with the best organized constitutional government in the world. And, sir, as that form of government wisely established by our fathers within these borders as the home of freemen, a city of refuge for the oppressed of all nations, must and of necessity does leave all persons free to think upon any and all subjects, there has not been, and cannot be, in accordance with the genius of our institutions, a national or governmental rule for thoughts, whether in religion, politics, or morals; and hence a difference of opinion upon the God-head, the Cabinet, or the slavery of a portion of the human race can produce no effect upon the national compact, for in all the time intervening since the adoption of the Constitution such has been the case. The Church has divided on the first, politicians on the second, and the lovers of freedom and of oppression on the third. Then, sir, if the country constituting the thirty-four States, and the Territories surrounded by them, and owned and held by our people as purchased in common, remains geographically and materially the same; if the freedom of thought among the people of a State or of the United States cannot of itself destroy the binding effect of a written compact, solemnly, prudently, and, in fact, entered into, I submit that there has been no secession of a State or States, geographically, or on account of free opinions. Nor can there be, legally or constitutionally, until all the people of the States which originally or subsequently adopted the Constitution shall have participated in the agreement for separation.

Those who made the Constitution are entitled to the credit of best knowing the purposes for which they made it, and they have wisely set forth those purposes in the preamble to that instrument, in which the first great truth asserted is that "we, the people of the United States, in order to form a more perfect union," wherein they declare that it is the people of the United States, do this thing, making it necessary to a legal or constitutional separation that the people of the United States should be consulted, and should agree to the act of separation; and our fathers showed most conclusively by the adoption of the Constitution that they were not satisfied with the then existing guarantees thrown around the people and States by the Articles of Confederation under which they then and had for some time carried on the Government; but to form a more perfect union, and also for the further high and holy purposes "to establish justice, insure domestic tranquillity, provide for the common defense, promote the general welfare, and secure the blessings of liberty to ourselves and our posterity," did ordain the Consti-

tution for the United States of America, a preamble in words replete with expressions of the noblest purpose, and promising the grandest future to the unborn millions who were destined to live under a Government so benign in its tendencies, in a country presenting almost every variety of climate and soil.

Here is a compact, a very bond of union, giving within its own terms the purposes of its making, worded in the present tense, so that it reads to us as to our fathers, and in time to come, the same expressive now. Every reader feels that he has helped to make and in honor bound to sustain it. Such is the impression made on me when I read that instrument. As the revealed will of God causes all men to feel, when reading it, that the whole volume is addressed to them individually as collectively, so of the Constitution, expressive, generous, comprehensive, and protective. All honest men must love and obey its most evident purposes. Nor is the Constitution deficient in provisions to carry out the great purposes declared in its preamble. Those for organizing and conducting its various legislative, judicial, and executive functions, are just and equitable; its strong and efficient limitations and powers are most wisely distributed and ably expressed in the instrument itself. Then, sir, if it is a fact that a contract cannot be legally rescinded only by all the parties to the contract, there has been no legal separation of these States, and most assuredly those who seek by their own acts to break a contract they have entered into or indorsed, cannot be allowed to plead their own wrong; hence no advantage can accrue from that source, even though the effort be by force to violate that in which they were bound by voluntary agreement and indorsement. Then there has been no legal nor compulsory legal separation. But not only has there been no legal adjustment between the whole people, by which the terms of national compact have been severed, but what is still more novel, and in view of the magnitude of the principle involved, surprising, is that members speak of the secession of States when there has not been, in fact, so much as a civil indorsement of the acts of assumption by which those traitorous usurpers in those States have declared thirteen States to have seceded from the Union, constitutional power, and protection. Sir, in no single instance have the people in any one of those States, or in all of them, collectively, or in any portion of them, either in State or confederate capacity, when untrammeled by bayonets, (and I believe I am within bounds even without this exception,) voted or indorsed acts of secession, or even elected legislators, Governors, or conventions upon that issue, or for that purpose.

But, sir, putting this case in its worst form against us, I now insist that if a majority of the citizens of a State should declare that State absolved from the bond of Union it would not necessarily be so absolved, because such cause, if carried out, establishes by a wrong what it could not do by right, by sustaining a majority in the State in its compulsion of a minority to permit a flagrant outrage on the honor of both, and the whole State being but a minority of the Government, the demand to rule a majority for the same unjust purposes of violating their oaths, contracts, and patriotic duties. But the reverse of this is true as to majorities in all those States; the bayonets of the minority have controlled the unarmed majority. Led on and armed as the minority was by those who had long planned the rebellion, and during the corrupt administration of Pierce and the imbecile and insane rule of Buchanan, through their respective Secretaries of War, Jefferson Davis and John B. Floyd, plundered the national armories, both of whom are now, as then, leading traitors, published on the national records as such, and known so to be by those who corruptly appointed them. Sir, instead of this being the secession of States, it is in truth but the climax of the treason engendered among the political pro-slavery aspirants in those States, (I say pro-slavery because there is not a man either North or South who favors this rebellion who does not also favor slavery,) who have had the address by prearrangements against such a chance to put in nomination, and to elect in thirteen out of fifteen slave States Governors and State officers, and in many instances majorities of the Legislatures and conventions who were covered all over with treason and rebellion, though not known to the people at the time of election; and from these political traitors and not from the people come the purposes of secession. The poor and laboring masses who constitute the majority are made victims to a war which they did not wage, and from which can come only wrong and loss to them, because if its purposes fail it will of course be ill for them, and if successful, it will be the consummate success of slaveholders and the further degradation of the poor white people; and as the best evidence of this they have already been ignored in elections and voice in affairs which are of so much import to them as the life or death of the Government. It is those villainous Governors, Legislatures, and conventions, laboring in the cause of slavery, which have plunged the people into falsehood and war.

But again: a State is but a corporation created for a particular purpose, in these cases as integral parts of the Union, the subordinate governments and political parts of a greater, which is the national Government. The thirteen original States were that many colonies of Great Britain, holding relations to that similar to those of our Territories to the national Government. Next, they were colonies united, from necessity, for a purpose of joint interest, then United States. Successful because united, they carried on their confederate Government under the articles prepared for that purpose, which constituted the organic law of the United States of America up to the adoption of the present Constitution. And all States admitted since that time, as well as those which then adopted that instrument, are equally bound by its provisions as each individual who resides in a Government is bound by the laws thereof. If it were possible for a corporate or political State to step aside from the purpose of its creation or of its adoption, joint interest, and liability, or if it were possible for the inhabitants thereof to cause, permit, or compel such State to take such step, the necessary legal result would be that it would cease to be a State, the act would be a revolution *in toto*, and the people resolved into the simple elements of society, without a Government in form, and no law but that of nature, wholly dependent on the national Government for territorial organization or on their own recuperative energies for the organization of a government for themselves. Here it is that I am compelled to differ from many gentlemen on this floor, for whose opinions I have the highest regard. They think that such time and facts have reached us. I do not think so; nor can I until the people of those States have had an untrammeled opportunity to speak for themselves at the ballot-box; nor then, until the Federal arm is powerless to save the national Government intact from internal and external assaults by force to destroy it.

But neither of these positions could be allowed, even if possible in fact, without the permission of a most flagrant outrage by our Government and people upon those loyal persons of the unfortunate States and of the States themselves, and upon the national Constitution, violating the sacred provision of power and duty set forth in article four, section four, of that instrument, "the United States shall guaranty to every State in the Union a republican form of government, and shall protect each of them against invasion, and on application of the Legislature, or of the executive when the Legislature cannot be convened, against domestic violence," which makes it the duty of the United States to "guaranty to every State in the Union a republican form of government," and to protect each of them against invasion and domestic violence; and until the Federal arm has fallen, paralyzed, and its power gone, this provision of that instrument demands that the whole national Government and whole people act with promptness in maintaining the State governments intact. So the act of those revolutionists is in a State, simply as to that State, a domestic violence; if from other States, an invasion, in either case to be put down with the national authority by the nation's power. But whoever of those persons, of mature eye and sound mind, of their own free will levy war upon the United States, or adhere to their enemies, giving them aid and comfort, are guilty of treason against them, and to be punished severally as the statutes of the United States in such case provide, at the time of the act. Sir, a State of this Union, organized under or having adopted the Constitution of the United States, can no more secede from the Union and remain the same political State than can a religious organization for the building of a church become of its own will and act a chartered railroad company, and remain the same religious corporation.

Sir, these States have not seceded, nor can they. Successful revolution alone can sunder the national compact. Therefore, the legislation of Congress should be, in all its objects and tendencies, towards those States and people as though all were peace, except such legislation as will secure the full exercise of the war power of the Government for the careful, speedy success of the Army, which, under the control and discretion of Congress, should protect those States against invasion and domestic violence, guaranteeing rights and imposing duties under the Constitution, and meantime, and at all times, protect the Government and people against traitors everywhere. In States, Territories, forts, arsenals, dock-yards, and in this moral death-head, the national capital and its surroundings, or whether in the Army or Navy, on bench or at the bar, in Church or State, the unerring stroke of the nation's power should be felt on each unfaithful head and heart, making the impression deep and abiding in the minds of men that to be a traitor to the Government of the United States is but the prelude to a traitor's death by authority; and for its protection, let it be known that treason and death enter the same heart at the same time, producing a common result, and all may yet be well. Then, sir, our national difficulties grow out of the fact that a portion of the people of the slave States have corruptly seized their State governments, and levied war against the Government of the United States; thus, by the terms of the Constitution, individually committing treason against them, and individually responsible; the numbers engaged do not change this principle any more than the arraignment of one hundred felons at the bar of a court would change the legal character or liability of one of them.

Sir, these troubles have come upon us like those which sometimes befall the family circle, when a son who has been too kindly cherished and cared for rises up against his parents, brothers, and sisters, his heart filled with treason against those who have showered their blessings upon him until he has lost sight of their value in their profuseness and constancy. So these slaveholders, whose teachings and practices are at variance with the principles of liberty and genius of free government, have for years sought the ruin of the Constitution of which the masses of them have never been firm supporters; demanding, like the drone, not only that they should have the privileges common to the hive, but especially that of living on the proceeds of the unpaid toil of others, and to control the hive itself, which course has at least but a doubtful show for the most common construction of honesty, and even this chance much decreased when it requires, to sustain this villainous and barbaric policy, the subjugation of the poor of all classes, the violation of the strongest ties of nature among the slaves, the absolute chatteldom of humanity; fulminating in deep-seated treason to the Government because of its freedom, having added Kentucky, Tennessee, Alabama, Florida, Louisiana, Missouri, Mississippi, Arkansas, and Texas to the Union as States, in the extension of slavery, made an attack in these Halls, and in the Territory, to lay waste Kansas by the same policy, and being repulsed, finally seek to destroy the Government which they had sworn to save, and in double treachery attempt to take from the Union, for the benefit of slavery extension, what they had added to it for the same purpose; nor satisfied with this, have laid their accursed hands upon a portion of the original States, feeding their morbid appetites at the great depot of slavery and oppression which has grown up in them, prompted by the damnable gains which these crimes bring them.

The free men of this country watched, with anxious fears, the spread of slavery and wickedness, which is so alarmingly generated in such societies, the sacrifice of that pure love of liberty

which alone can sustain republics, resting as they do upon the maintenance of justice among the people by the people's will, and still hoped that, in time, they would return to duty, foolishly believing, as some of us did, the falsehoods of that power, systematically promulgated for our deception, teaching us the false and wicked doctrine that they were opposed to slavery only as it was an incumbent necessity with them, blaming England for a crime which we were daily aiding to extend and perpetuate; we believed the falsehood, and bore with the sophism until the slave power became a public, as it had long been a private, criminal, not only against the four millions of wretched captives to its power, and the laboring masses who were compelled to compete with this system of unpaid toil, with their character depreciated in society with that of their labor, because done by degraded slaves; the education of their families necessarily neglected, but its combinations for dominion and special rule were felt throughout this vast domain, traducing alike Presidents, Cabinets, Senates, and Houses, gathering the Supreme Court within its meshes, boldly seeking the lives of free white men who opposed its march of power on the plains of our western Territories; it finally attempts to crush the national Government, that it might build on the foundation laid by the sons of freedom, a government, the chief corner-stone of which is slavery. Sir, treason follows in the wake of slavery, reveling in the wrongs from which it springs and is itself supported. Sir, slavery is but treason against humanity, and ingratitude for service rendered, the combination and transition being an easy one to treason against the free Government of our fathers and ingratitude for kindness rendered by a too generous people. Seventy years ago, Maryland's efficient statesman, Hon. William Pinkney, taught this doctrine in a speech to the Maryland Legislature in relation to slavery. He said:

"That the dangerous consequences of this system of bondage have not as yet been felt, does not prove they never will be. At least the experiment has not been sufficiently made to preclude speculation and conjecture. To me, sir, nothing for which I have not the evidence of my senses is more clear than that it will one day destroy that reverence for liberty which is the vital principle of a republic."

Again he says:

"While a majority of your citizens are accustomed to rule with the authority of despots within particular limits, your youths are reared in the habits of thinking that the greater rights of human nature are not so sacred but they may, with innocence, be trampled on, can it be expected that the public mind should glow with that generous ardor in the cause of freedom which can alone save a Government like ours from the lurking demon of usurpation? Do you not dread the contamination of principle? Have you no alarms for the continuance of that spirit which once conducted us to victory and independence, when the talons of power were unclasped for our destruction? Have you no apprehensions left, that when the votaries of freedom sacrifice also at the gloomy altars of slavery, they will at length become apostates from the former? For my own part, I have no hope that the stream of general liberty will flow forever, unpolluted, through the foul mire of partial bondage, or that they who have been habituated to lord it over others will not in time be base enough to let others lord it over them. If they resist, it will be the struggle of pride and selfishness, not of principle."

How true is the prophecy, and in deepest sorrow the patriots of this land, who saw the tendency of these things, and watched their course, now deplore the consequence. Where slavery does more, treason does most abound. Along the border slave States, where free men commingle with their society, there is diffused through the moral and mental depression some of the genial fire and generous love of liberty and good government. It is this, and this alone, which saves the border States from the fate of those more remote in the moral death which now pervades them. But, sir, we are at war. Wicked persons, in the support of human bondage in those slave States, have, in violation of the Constitution and law, attacked the Federal power, and beleaguered the national capital. For the suppression of this most causeless rebellion Congress has voted authority and supplies, and our President has promptly called on the people for an army and navy which is now in the service of the Government, numbering in all not less than six hundred and forty thousand men, every one of whom have voluntarily entered the service of the country, and the entire number, saving some twenty thousand, within ten months past. This vast Army has been clothed, armed, and provisioned, with transportation, ammunition, navy, and naval stores. The national Government has, for the preparation for war, labored hard and well, committing some serious errors; but other than this could not be expected. Our people were not trained to war; our Government supplies had been plundered by traitors in high places under Buchanan, and who have not all been eradicated; jobbers upon the public credit have stripped the Treasury of much money by contracts wrung from hurried and needy Departments; military blunders and delays, which are only too common in the beginning of all wars, have given the rebels a great advantage, opening the initiative rebellion into a terrible war.

Congress proposing, as a matter of stern necessity, to tax the people heavily, who are already bearing up under a high tariff on the common articles of household use, commerce at a dead lock, prices depreciated, banks suspended, employments uncertain, with a daily average national expense of over one million of dollars, with a debt already incurred of near six hundred millions of dollars; the people are asking what will Congress, the Administration, and the Army do, believing that the Administration and the Army will execute their trust as well as we will ours. I shall content myself with saying some things which I think Congress should do.

1. Congress should vote liberal supplies for the Army, and by precautionary provisions secure its proper application.

2. Congress should see that the war is promptly prosecuted to the entire suppression of the rebellion.

3. Congress should replenish the Treasury of the nation, so far as possible, by the confiscation of the property of those who have levied war against the United States, or aided and abetted their enemies, giving them aid and comfort.

4. Congress should, so far as possible, remove every obstacle to the success of our arms by weakening the enemy and strengthening our forces.

The first of these propositions I leave, without comment, in the hands of the Committee of Ways and Means, with full confidence, an earnest of which I have seen with pleasure in the recent legislation of this House. The second, with our volunteer army. The third is now with the House, to whom I am looking with anxious hope for a bill confiscating the property of whatsoever kind, from such person as that proposition includes, compulsory upon the Executive to see it duly executed, relying for authority for such law on the plain terms and inference of the Constitution and the necessities of the case. I would punish these as other criminals. I am at a loss to know why the mail boy who opens a letter in his charge should be fined and imprisoned, while murderers, mail robbers, traitors, and their abettors, go free. His is a betrayed trust; theirs assuredly no less. You take by fine (which is no more or less than the confiscation to the amount of the fine) the property of him who counterfeits your coin, but will not confiscate the property of the rebels who have coined money, robbed the nation of her coin, and the mint in which it was coined. You lay and propose to collect, under directory and compulsory provisions, taxes from loyal persons, many of whom are in the Army at this time, in the service of their country, and yet those violators of law who have plundered the nation of arms and means go unpunished. You lay heavy tariffs on the common necessities of life, compelling the soldier's wife, be she ever so poor, her children ever so needy, to pay high prices for sugars, tea, coffee, and molasses, and even bread, to carry on this war in defense of the Government. You borrow money on the credit of the United States, and tax loyal men to pay it and its interest. You regulate commerce; but these men destroy your regulations. For this you would fine loyal men, but traitors go unwhipped of justice. You establish "uniform laws on the subject of bankruptcy:" these men have bankrupted thousands, against all laws. You establish post offices and post roads at the nation's expense: these men with impunity destroy both, as well as all public improvement in roads, bridges, and are to be protected. You constitute tribunals inferior to the Supreme Court: these men destroy and betray what you constitute. You pass laws to deprive and punish piracies, and felonies committed on the high seas: these men violate your laws, destroy your commerce, and yet you will not punish them. You raise and support armies at the expense of honest men and patriots, to war with those protected traitors, and on the same terms you provide and maintain a Navy, to be destroyed by the perils of the seas, and traitorous batteries, erected on the banks of our navigable rivers and harbors, and by stolen vessels clad in stolen iron, armed with stolen guns, sink your vessels in your own harbors: and yet you will not strike them. You provide for calling forth the militia, and the militia came forth with the purest impulse, but came to perish in camp, or on the field, or barbarously shot at the sentinels' posts; while traitors are at higher wages employed in Government offices under the shade of the Capitol, and the property of open rebellionists protected even in this city, under the false doctrine of constitutional provisions. You are directed to exercise exclusive control over this District and over such places as are owned by the General Government, for dock-yards, forts, magazines, and arsenals. Yet you save the property of traitors here and fail to enforce your law on half the nation, and yet propose to protect the property of those who, residents of this District, with arms oppose the Constitution itself.

Sir, history has no account of the wicked kindness we have manifested toward these disturbers of the public quiet. I say wicked, because I cannot comprehend how a man can be other than wicked who suffers to be sacrificed the lives and property of his own loyal family to accommodate the highwaymen who has attacked them. As a Congress, we are here to take care of the people's interest, to save their Government and Constitution, sworn to do it, and cannot look at this case as exclusively our own, but as a most important agency in which God and humanity are deeply interested. Christ suffered death at the hands of murderers; but that was personal to himself. He had a right to do so if he so chose. But he took cords and scourged the money changers from the temple, because he there guarded the house of his Father, and could not betray his trust. Let this Congress profit by the example. I would say to traitors, "go from the land you have betrayed, from the people whose fathers, husbands, and sons you have murdered, from the widows and orphans your brutality has made, from the society you have basely robbed; go hence from the United States; go under the full penalties of the law of treason, which is death;" and to this Congress I now say, "see that these things are done." God would not suffer a traitor to remain in Heaven, and directed Michael to war Satan on that charge, who gave him no time to fortify, but made an immediate advance movement upon his forces, driving him beyond the borders of that goodly country. Whether Satan owned property in Heaven or not we have no record; but judging from the manner of his exit, we would necessarily infer that if he had it was confiscated, as none would seem to have been delivered to him. Nor does it appear that he was presented with any in his new abode, as we hear of him subsequently in "an exceeding high mountain," proposing to barter that which he did not own.

But, sir, we are told that we can only render effective a confiscation law by the power of the Army. So I admit; but insist that we cannot do it with the Army unless we have such law to enforce; so we cannot save the Union only by the Army, nor could we with it if we had no Union to save. I insist, sir, that the laws of war, as applicable under the law of nations in conflict with different established Powers, cannot be legally enforced against these rebels any more than can the law of nations be brought to bear in the settlement of any other violation of the municipal law of the land by our own citizens, within our own national domain.

I am surprised at the position of some gentlemen here. It does seem to me that if we treat those men as a foreign Power, then this is a war of conquest; crime does not lie at the door of individuals in a war between nations. If we treat them as seceding or seceded States, we admit the doctrine of secession and this to be a war upon them in their State or confederated State capacity. In such cases the laws of war would control, but when we have adopted either of these positions

we have thereby recognized, at least, the possibility of the severance of these States and dismemberment of the Republic. This is not the language of the Constitution, nor is it the voice of our people, who alone can do that thing. Such course would release any man on laying down his arms; indeed it would not be treason if he was not a citizen. Sir, we must not drive the Executive to make as well as execute laws governing our own internal policy. All legislative power granted in the Constitution is in "a Congress of the United States, which shall consist of a Senate and House of Representatives." I grant you that a military necessity, arising with a particular command, grows instantly into law, but it goes no further than necessity and that command.

It is the people's demand that Congress do pass a confiscation law. And, sir, was it not for the fact that the confiscation of the slaves of rebels was also in contemplation, there would be little opposition to the measure. But I think that the friends of slavery, if patriots, must see that directed as it is intended by its supporters against individuals who have committed treason, it is no attack upon, or violation of the State sovereignty or State powers, since there is no State constitution recognizing treason against the United States, or protecting it. So the punishment of a traitor by confiscation of his property, is not attack on the State or institution of the State in which the traitor resides, any more than the arrest, fine, and imprisonment by the national Government of a counterfeiter of coin is an attack on the laws, constitution, or sovereignty of the State where he resides. And seizing the property of a rebellious subject to weaken or punish him, is no violation of the right of him who is not rebellious, and does not affect the State. But there seems to be upon the part of those who have made themselves the simple supporters of slavery, so much short-sighted prejudice and incurable selfishness, that they seem to think the lives, property, and social relations of the true free white man as of minutely less importance than the title of those men to their slaves. Either their prejudice against the negro, or their interest in him as a slave, is stronger than their love for the convenience and safety of the defenders of their country, or of their families neglected in their absence in the Army of the nation.

Brutus said that he slew Cæsar, not because he loved him less, but because he loved Rome more. These men who are so tender of the rebels' title and constitutional privileges, must necessarily plead in defense of their desire to continue slavery in the hands of men who, for slavery, are seeking the overthrow of the Government; that it is not that they love the Union, Constitution, liberty, the lives of our soldiers, the welfare of the widows and orphans which this war is making, the commerce sacrified, education and social progress hindered by the war less, but that they love slavery more.

But this question seems to present more than ordinary differences of opinion as to the expediency of confiscating rebels' property, and we are treated to the special objection by the gentleman from Kentucky, [Mr. DUNLAP,] who, in his remarks the other day, said:

"But there is a third party here who would liberate the slaves of rebels and turn them loose upon society. What will be the effect of such an act? Turn loose the rebel slaves in Kentucky, and will they not demoralize the slaves of the loyal men? Will they not disturb all the relations which exist within the quiet and peaceful families of the entire State? Yes, such will be the effect. You tell me there is no fear to be entertained from the freedom of the slaves. Sir, when you demoralize the slaves of Union men by those you would set free, you will bring about incendiarism, death, and destruction to the loyal men of the whole State, and destroy all the social relations which now exist.

"But suppose you pass your emancipation law. It is the duty of the President to see that all the laws are faithfully executed. He is bound to execute such a law if you pass it. If the loyal and disloyal masters of the South adhere to their right to maintain their own institutions, and deny the right of the Executive to execute the law, the President will be met with resistance. To what extent I do not know; but if they do resist, one or both, the President will take the Army and Navy to put down opposition to the enforcement of the law. When he attempts to do that you have a second war in the nation. You have now a great war, with six hundred thousand men arrayed upon the part of the Union to suppress this rebellion, and you have half as many, or more, in the rebellious States in opposition to you; and if you send forth the national forces to enforce such a law, you will have to double the force which the nation now has.

"Sir, I think if there is any evil greater than another, it is that of demoralizing the slaves of loyal men, by the slaves of disloyal men set free. And such will surely be the result, and to the extent I have mentioned, if you adopt the policy to which I have referred."

This you see could not happen with property, so there would be, in the absence of the common fate of rebel slavery with rebel property, but little opposition. But the position of the gentleman places its advocates as inimical to the true character of free men. It holds the possible inconvenience to the loyal slaveholders by associations of his slaves with free negroes as of more importance to this House and the country than any other interest in this contest; greater than the sacrifice of home, property, family relation, health, comfort, and life, of those true free white men who are now far from their own homes and families in defense of the homes of these loyal slaveholders. Our soldiers place the evils to their country, brought on by those slavery propagandists, as above their convenience and their lives, and hence offer both for their settlement. Not so with slaveholders, however. Not content with the wrongs already done, the few who remain attached to the Government claim a greater protection for slavery than freemen get for themselves. Freemen have to bear the contamination as well as the bayonets, muskets, and artillery of traitors themselves, which I am inclined to hold as an "evil greater" than the association of slaves with free negroes. If slavery is of such reprehensible character that it cannot even bear contact with a free negro it must be of a doubtful character, and insufficient to justify patriots in supporting it. Sir, I will be excused, I hope; but whether I am or not, I now, in kindness, but with fullest meaning, say that the man who puts a condition between himself and the defense of his Government is not unconditionally loyal to that Government. He who adheres to a privilege which he or his friends have exercised under the Government, in preference to the Government itself, is not a safe sentinel at the door of the nation's power. However, I think the gentleman did not speak of himself.

Sir, the true patriot has no condition; he offers or he accepts none; he is radically for his country; his property, time, health, and life, are all at his country's disposal; not only so, but he will carry them to the battle-field and offer them upon the altar of his country, while these semi-patriots find excuses for rebels, slavery, on the hypothesis of an injury arising from the association of negroes among themselves. What this is less than inchoate disloyalty I am at a loss to comprehend; and especially am I staggered with the loyalty of the man who could here assert, as the gentleman did in the same speech, as follows:

"But permit me to say that I have been taught in the past that treason was committed by overt act. I have been taught that silence or inaction was not treason; that treason may be in the heart, but that until it is developed it is not treason."

Great God! Do men, patriots, Congressmen, defend treason by law, excuse it on constitutional protections, take advantage of the freedom-protecting clause of a Constitution to defend treason and traitors against it—do this in the name of patriotism? Is it an excuse for disloyalty that you can evade the law?

Sir, the man who is no more honest than the law compels him to be, is faithless to the law which he stubbornly obeys. If the gentleman had said that they wished to be quiet, and, as I fully believe for him even against his speech, to avoid making Kentucky a battle-field, and particularly until her true men could be prepared, I would have admired the saying. I could not say so much for what I have heard.

As to the other gentleman from Kentucky, [Mr. WADSWORTH,] who spoke to us of the intention of Kentucky to defend the rebel's right to his property in his slaves, that confiscation of rebels' slaves would be odious to him, and that if Congress should pass such law, "justice, honor, and humanity, everything that is honorable in the human character would compel them [the loyal men of Kentucky] to throw down their arms;" who talked of Kentucky fighting the Government as well as the rebels for slavery, and says that our northern troops are fighting to sustain them in their slave property—I must confess that I am not so much surprised, but would advise him that the man whose home was then and is now defended and only safe because the freemen of the North, who despise slavery as a heartless ingratitude, are in Kentucky in arms to quell this most accursed rebellion of slaveholders, should, as a matter of the most common propriety, refrain from associating their patriotism with the injustice and disregard of the better rights and duties of men. While the true men of my State and district are defending his home, I will not carelessly pass over without refuting that remark, and suggesting that it is not the most agreeable to be thus spoken to by a man who has not a home only as our people protect it for him. Sir, if I could not go to my district and find support enough among my constituents to defend that district from treason in it and in my State, I would hesitate before I threatened the defenders of my home and my Government.

There is one other matter to which I wish to refer, having been raised in a slave State, and having spent the past summer and fall in the Army. In Virginia and Missouri I know what slavery is both in peace and in war. I have taken care to notice the temper and integrity of the slaves. I do assure you that they are as anxious to gain their liberty as you would be, similarly situated; that their hopes for freedom is of this Government, and that they are true and loyal; having but one hope and one desire, their judgment takes that single channel; their patriotism is unconditional and pure; they are frequently well posted, and would make good guides and informants in the country around their masters' homes; they furnish the best evidences of the loyalty of their masters, because all overt acts are done by them at his bidding. Considering their long and studied degradation, they are remarkably truthful and intelligent, relating with childlike simplicity what has come under their care, always willing to accompany you for the verification of their statement; seldom cowardly, they follow an army into the battle and fearlessly perform any duty. Where the cannon balls plowed the earth, and men fell around them, I have seen these blacks perform with alacrity every order assigned them. They would joyously meet the power which liberates them, and in thankful humility obey the orders of their deliverers.

This is the time of all others to release the slaves of rebels. Such law could only be enforced by the Army. Hence the Army would be on the spot to quell any possible outbreak. The southern man who can read the future by the experience of the past would hail with joy a passage to liberation under such protection; for I tell you that the time is coming when the master will be happy in his escape from the gathering wrath of wronged millions, under the care and direction of usurpers, who will lose no knowledge of crime in the history of the present rebellion. Slaves are always powerful engines in the hands of their deliverer. Rome defended herself thus against the armies of Carthage under Hannibal, and our own General Jackson defended New Orleans with freemen and slaves whom he made free. We can secure the friendship of four millions of people by the single act of confiscation, and we lose the confidence and sympathy of the civilized world without it. Already the devotion of the slaves to our cause is provoking action in the war department of the so-called southern confederacy. I will here incorporate in these remarks a letter from J. P. Benjamin, secretary of war of Jefferson Davis to the Governor of Virginia:

CONFEDERATE STATES OF AMERICA,
WAR DEPARTMENT, RICHMOND, *January* 8, 1862.

SIR: I have the honor to inform you that General Whiting has telegraphed to this department that he has taken up some eighteen or twenty negro women and children, residing within Virginia, against whom the proof of correspondence with the enemy is too strong to permit them to remain in front of our lines on the Potomac. They have been sent to the rear of our army. The husbands of these negro women are now with the enemy. I will thank you to inform me what disposition shall be made of these women and children. They cannot be permitted to remain in front of our lines, and there are no accommodations for them in the rear.

Your obedient servant,
J. P. BENJAMIN, *Secretary of War.*

HON. JOHN LETCHER, *Governor of Virginia.*

These negro men are true; and even their women and children are purer patriots than their boasting, honorable, humane, and chivalric masters. We have been taught for many years by those oppressors of mankind that the system of slavery

was beneficial to the slave, as compared with the African tribes in their own country, proclaiming themselves the constituted guardians over the persons and property of this unfortunate people. But it now seems to me that, regardless of opinions heretofore held by many, that these non-producing leaches had a right to wrong honest laboring men and women, and their unoffending and helpless children, forever dooming them to ignorance, separation, unpaid labor, or brutish sale; that now, when these oppressed and long-wronged people, be they ever so humble and poor, are willing to be true to our troubled Government; that in every sense of both policy and justice, that we should not turn with senseless prejudice our backs upon them, and particularly we should not protect those traitors to them and the Government by still holding with the nation's strong arm the power of boastful traitors over its humble, innocent, but honorable friends. It is time these guardians were called to strict account for the basest frauds and wrongs ever committed on court or ward. A settlement is due; and those wards rise up and ask this court to dismiss their guardians, for reasons good in any other court-majority, treason, and fraud.

These slaves also insist that the education which they have received from those masters has been damaging to them, for while professing Christianity themselves, they have made the most ruinous impressions against that cause in the minds of those who cannot find Christian meekness in the face of those traitorous masters and murderers, who teach that the laborer is worthy of his hire, yet plunder the slaves through life of their daily wages. The solemnity of the marriage bond, which has the sanction of Father and Son, violated by the professed followers of both. That the kingdom of heaven is like unto little children, while plundering the cradle of heaven's emblems for the nearest market and highest price. The doctrine of equal justice, while practicing these enumerated wrongs, chattelizing humanity, and hawking alike parent and child in handcuffs, without crime, at the public shambles; and, finally, teaching treason to those unwilling ears, and compelling those persons to war on a Government which they love and those to whom they look for help. I stand here to speak for these oppressed people, and this world has no jeers or torments which I would not cheerfully meet and endure for those, who, in the hour of my country's peril, remain her friends.

If it is, as claimed, praiseworthy for white men in the southern States, who have long reaped the rich harvest of this Government's blessings, to remain loyal, how much more so is it for those wretched, wronged, and untutored slaves, to cling with patriotic devotion to a Government which never has protected them from the lash and auction block. What a commentary upon humanity and upon the defenders of traitors here upon this floor! The very nation should bow in sackcloth and ashes before a wise, just, and insulted God, and with devotion to duty strike this accursed treason fair in the face by removing its cause, when those robbed and wretched slaves and free blacks who have, by the decisions of your Supreme Court, been denied citizenship, who have long been denounced by the Government and people, published as national vagabonds, now in the hour of our nation's peril, every one true, patriotically true, to the flag and Union, while their pampered masters openly betray the Government and murder loyal citizens simply because they are loyal. And yet the traitors have friends here, active defenders here, while the cries of the manacled slave are only heard to be forgotten.

Freemen who are now enduring the hardships and expenses of this causeless war, are demanding why all this; and you refuse the friendship of four millions of people situated where they could be our best allies; and why continue to protect traitors in their oppression? It almost seems to me that for the hardness of our hearts in past and present times, the words of Paul are being verified: "And for this cause God shall send them strong delusion that they should believe a lie; that they all might be damned who believed not the truth, but had pleasure in unrighteousness." If a people ever took pleasure in unrighteousness, it is this slavery and treason, by which we lose the confidence of God and civilized men. Sir, I would free in the States the slaves of all who did not boldly support the Government. I would send commissioners with the Army who would settle each case in accordance with the master's conduct, and not leave it to subsequent trial and false proofs.

It does to me seem most singular that in the nineteenth century we are called upon to legislate among civilized men upon the subject of treason against a Government because it was too free and generous in its purposes, a treason in favor of slavery and against freedom; and what, if possible, is still more strange, that an American Congress should be so unaccountably infatuated with the high crime of slavery that it falters and falls before it even in its treasons. What has slavery done for the Government which entitles it to this strong protection in the hands of traitors?

The history of the continued efforts and almost unbroken success of the slave power to fasten upon the nation the burdens and crimes of slavery, despite the astonished and violated religious, moral, and political intelligence of civilized and enlightened men and nations, as well as in direct insult and personal wrong of a large majority of our own people, by an assumed and erroneous exercise of power in the national Government, turns to shame and fills with deep mortification every patriot who has seen the strong arm of Federal power, in the hands of those treacherous men, powerless for good, and only powerful for crime.

CONFISCATION OF REBEL PROPERTY.

SPEECH OF HON. JOHN HUTCHINS,

OF OHIO,

IN THE HOUSE OF REPRESENTATIVES,

May 24, 1862.

The House having under consideration the bills to confiscate the property and free from servitude the slaves of rebels—

Mr. HUTCHINS said:

Mr. SPEAKER: I am satisfied that a confiscation bill such as the one under consideration, or one more stringent and sweeping, is demanded by the loyal people of this country. Such a bill, in my judgment, should have been passed at the extra session of Congress, but a majority of the House thought otherwise.

Early in the present session of Congress, divers propositions were submitted to the House, and by a majority vote they were all referred to the Judiciary Committee, supposed, at least, to be the legal adviser of the House. That committee having deliberated some two or three months, finally reported that in the opinion of a majority of the committee none of the several bills ought to pass, and recommended that they do not pass. So it is fair to presume that a majority of the committee at that time were opposed to any confiscation bill, for the reason that if they could not select one from the numerous bills before them, as a matter of course, their legal ability, if they desired a confiscation bill, would have enabled them to draft and present one to the House. They did not do so. I am glad, however, to notice that at least one member of that committee, by a speech which he made in this House to-day, has given us to understand that he has changed his mind as to the propriety of the passage of a confiscation bill, and, as I understand him, he gives his assent to the bill which has been reported by the select committee.

The Judiciary Committee failing to agree upon a bill, this House, some few weeks ago, appointed a select committee, and that committee, by a majority vote, agreed upon two bills, and they are now before the House for its consideration. I shall support them most cheerfully, although I would have preferred more stringent bills in some respects. But I am satisfied to take them, as perhaps the best I can get under the circumstances, and I have no hesitation in voting for the amendment introduced by the gentleman from New York, [Mr. SEDGWICK.]

One of the questions which have most occupied the attention of the House during this discussion is, the constitutional power to pass a confiscation bill. I have no doubt whatever of the power of Congress to pass these bills in the present state of the country. The gentleman from Kentucky who addressed us this afternoon [Mr. HARDING] seemed to think that those of us who voted for a certain resolution which he read, were committed, as Republicans, against any confiscation bill that interfered at all with the relation of master and slave, on account of that resolution. That resolution; in substance declared, that Congress had no power to legislate upon the question of slavery in the States. That principle was correct as a general proposition. But it does not follow, as a matter of course, that if slaveholders combine to rebel and make war upon this Government, that the Government may not, as a punishment for their crime, either confiscate their property or liberate their slaves. This Government may do, under the war power for suppressing rebellion, what there is no occasion for its doing in times of peace. Everybody understands that.

It is said that no man shall be deprived of life or liberty without due process of law; but have we not shot down hundreds of men in the State of Virginia, under the exercise of the war power, without due process of law? There has been very much said during this discussion about the war power. I do not propose to discuss it, for it has been clearly stated; and the point in debate seems to be whether Congress can, under any provision of the Constitution, exercise, by legislation, the war power. I claim that Congress can, under an express provision of the Constitution. The Constitution gives Congress power "to declare war, grant letters of marque and reprisal, and make rules concerning captures on land and water;" "to raise and support armies, but no appriation of money to that use shall be for a longer term than two years;" "to provide and maintain a navy;" "to make rules for the government and regulation of the land and naval forces;" "to provide for calling forth the militia to execute the laws of the Union, suppress insurrection, and repel invasion;" "to provide for organizing, arming, and disciplining the militia, and for governing such part of them as may be employed in the service of the United States, reserving to the States, respectively, the appointment of the officers, and the authority of training the militia, according to the discipline prescribed by Congress."

Now, clearly this allows Congress to regulate the exercise of this power which is here expressly delegated. I admit that under the Constitution of the United States, the President, in the absence of any legislation on the part of Congress, may, as Commander-in-Chief, execute the war power, may liberate slaves, and may seize the property of rebels without any act of Congress. But I submit whether it is not safer to let this power be regulated by the Representatives of the people, than to allow it to be exercised by the President of the United States? I therefore have no difficulty on the legal questions involved in the passage of these laws. I will resolve all doubts in favor of the maintenance of the Government, and against the traitors in arms to overthrow it.

We have had arguments here from several gentlemen, that the laws of war, as recognized and understood between independent nations, do not authorize the seizing and confiscating of private property. I am not disposed to controvert that position. I believe it is correct, as understood in the law books, and by writers on national law. But does not any man, with the least reflection, see the great distinction between its application to two belligerent nations, and the right of a nation to punish its own rebellious citizens? War originates between nations, not on account of the crimes of any of the private subjects of the nations going to war. They are entirely innocent. Some question of policy or of national honor is involved, which does not affect the relations of private individuals. It would, therefore, be unwise and inhuman for a nation to go and take the private property of persons who are not at all to blame. But a nation engaged in endeavoring to suppress a rebellion, is released from obligations that govern nations by the laws of war. The rebel is a criminal, and may be treated as such. The distinction, I think, is perfectly clear and plain, and, therefore, the argument adduced on that point has no weight with me.

Objection is made to the bill liberating slaves, and

especially to the amendment proposed by the gentleman from New York, [Mr. SEDGWICK.] I will make the remark here, that if the rebels do not escape punishment for their crimes, it will not be because able and zealous lawyers have not advocated their cause on this floor. We have had argument after argument to convince us that it was unlawful to take the property of a rebel or to liberate his slaves. The gentleman from Massachusetts [Mr. THOMAS] made, this afternoon, what I regard as a most extraordinary argument on this point. He says it is not to be tolerated at all that you shall confiscate a man's property without a judicial trial by jury. That was the point. The rebel must be tried before a jury; and if you do not provide for such a trial, you violate the Constitution. That was the position of the gentleman from Massachusetts. That certainly could not have been his position at the extra session of Congress. I have before me two laws, for both of which he voted, whereby property is forfeited to the United States without any jury trial whatever. One of these laws is to be found on page 319 of the laws passed at the extra session. The first section of this law provides that property "used or employed in aiding, or abetting, or promoting insurrection, shall be seized, confiscated, and condemned."

The fourth section provides that slaves used in the rebellion shall be free in the same way, without any trial. The simple fact that the property has been employed, and that the slaves have been used in the rebellion, confiscates the property and gives the slaves their liberty. That is the law. There is no trial by jury provided. Turn to the Journal, and you will find that the gentleman from Massachusetts voted for this law. On what ground? The property does not commit any crime? He voted to confiscate that property and to vest it in the United States simply because the owner has committed a crime.

The other law is entitled "An act to provide for the collection of duties on imports, and for other purposes." The fifth section provides:

"That whenever the President, in pursuance of the provisions of the second section of the act entitled 'An act to provide for calling forth the militia to execute the laws of the Union, suppress insurrections, and repel invasions, and to repeal the act now in force for that purpose,' approved February 28, 1795, shall have called forth the militia to suppress combinations against the laws of the United States, and to cause the laws to be duly executed, and the insurgents shall have failed to disperse by the time directed by the President, and when said insurgents claim to act under the authority of any State or States, and such claim is not disclaimed or repudiated by the persons exercising the functions of government in such State or States, or in the part or parts thereof in which said combination exists, nor such insurrection suppressed by said State or States, then and in such case it may be lawful for the President, by proclamation, to declare that the inhabitants of such State, or any section or part thereof, where such insurrection exists, are in a state of insurrection against the United States; and thereupon all commercial intercourse by and between the same and the citizens thereof and the citizens of the rest of the United States shall cease and be unlawful so long as such condition of hostility shall continue; *and all goods and chattels, wares and merchandise, coming from said State or section into the other parts of the United States, and all proceeding to such State or section, by land or water, shall, together with the vessel or vehicle conveying the same, or conveying persons to or from such State or section, be forfeited to the United States.*"

Section six provides—

"That from and after fifteen days after the issuing of the said proclamation, as provided in the last foregoing section of this act, any ship or vessel belonging in whole or in part to any citizen or inhabitant of said State or part of a State whose inhabitants are so declared in a state of insurrection, found at sea, or in any port of the rest of the United States, shall be forfeited to the United States."

For what reason is this property forfeited? Simply for the reason that the inhabitants of any portion of a State are in a condition of insurrection against the Government of the United States. The forfeited property may not have been used in the rebellion at all, but the fact that it is owned by a citizen of a State which has rebelled, or the resident of a district which is in rebellion, is sufficient cause for its forfeiture. The gentleman from Massachusetts [Mr. THOMAS] voted for that law, forfeiting the property to the United States without "due process of law."

The bare fact that the vessel referred to in the sixth section is owned wholly or in part in a rebellious State forfeits it. And does not every one know, as a matter of history, that under the law a large number of vessels were seized in New York and other harbors, to be confiscated by the courts? It was the solemn judgment of the gentleman from Massachusetts, last July, that that was a constitutional law, and now he stands here and argues by the hour that to take the property of rebels who are really guilty, and to forfeit it without a jury trial, is unconstitutional. I am not at all troubled with any of these constitutional scruples. I have been amazed at witnessing the pettifogging arguments and quibbles that have been made use of here to shield the rebels and their property. There was force in the remark made by the gentleman from Virginia [Mr. WHALEY] this afternoon, after the speech made by the gentleman from Massachusetts, that if we cannot confiscate the property of rebels, the Constitution is not worth anything. He said in substance, with great force and power, "the rebels confiscate property without any regard to forms, and if we cannot punish them the Government is powerless." The gentleman from Massachusetts asserted that if we violated the Constitution in this way, and did not provide for a jury trial, the Constitution is not worth the parchment on which it is written. He seemed amazed that we should think of confiscating the property of rebels.

The bill which relates to the liberation of slaves of rebels I regard as important, for the reason that the Administration, if it has any policy on this subject, has not defined it clearly to the understanding of the country. I am sorry that it is so. I would prefer that every general in the field should know precisely what rule is to guide him concerning the slaves of rebels, in all places where our Army is in occupation. But the Administration has not seen fit to give us a policy, and each general issues such orders as his political bias or notions of military necessity may dictate. I concede that the President is patriotic. I know the difficulties that surround him. I know the pure motives that actuate him in the administration of the Government, and I wish he could have seen his duty as clearly to interfere with some of those proclamations and orders in the interest of slavery as he has seen it to be his duty to interfere with those that interfere with the institution. I am not aware that the President has modified or changed a single order which generals have issued, protecting rebels in the enjoyment of what they call slave property.

The amendment of the gentleman from New York [Mr. SEDGWICK] is as follows:

That every commanding military or naval officer whose military district shall embrace any portion of the abovenamed States may, and it shall be his duty, by proclamation or otherwise, to invite all loyal persons to come within his lines and be enrolled in the service of the United States; and it shall be his duty to enroll every such loyal person and to employ such of them as may be necessary in the service of the United States, and no person so enrolled and declaring his loyalty to the United States shall ever thereafter be held to involuntary service or labor, (except as a punishment for crime,) any law or regulation of any State to the contrary notwithstanding: *Provided*, That if the slaves of any person or persons who have been and continued loyal to the Government of the United States shall be made free by the operation of this section, such loyal citizen or citizens shall be entitled to just and reasonable compensation for his claim to the service or labor of such slave: *And provided further*, That if the slaves of any person or persons who are minors or married women shall be made free by the operation of this section, they shall also be entitled to just and reasonable compensation for their claim to the service or labor of such slaves.

It is said that colored men should not be employed as soldiers in suppressing this rebellion. I, sir, have no scruples against their employment, provided it is necessary, and provided it is more convenient to employ them than other classes of our citizens. I can see no reason why loyal white men should be obliged to go to the South, with its sultry climate, and endure all the dangers and hardships of that climate, from tenderness to the views of loyal slaveholders. I think the negro is good enough to shoot down rebels; and surely they are good enough for that if in the estimation of some they are not good for anything else. The employment of colored men as soldiers, where necessary, is not a new idea in this country. We have instances of their being so employed. It is well known that the State of Rhode Island, during the revolutionary war, provided that those of her slaves who would go into the Army of the United States, and fight their battles, should enjoy their liberty. Numbers of them were enrolled, and fought nobly and gallantly. In 1842, Dr. Harris, a revolutionary veteran, in a public address, made a statement of the manner in which these emancipated slaves fought. I make a few extracts:

"When stationed in the State of Rhode Island, the regiment to which I belonged was once ordered to what was called a flanking position—that is, upon a place which the enemy must pass in order to come round in our rear, to drive us from the fort. This pass was everything, both to them and to us; of course, it was a post of imminent danger. They attacked us with great fury, but were repulsed. They reinforced, and attacked us again, with more vigor and determination, and again were repulsed. Again they reinforced, and attacked us the third time with the most desperate courage and resolution, but a third time were repulsed. The contest was fearful. Our position was hotly disputed and as hotly maintained.

"But I have another object in view in stating these facts. I would not be trumpeting my own acts; the only reason why I have named myself in connection with this transaction is to show that I know whereof I affirm. There was a *black* regiment in the same situation. Yes, a regiment of *negroes* fighting for *our* liberty and independence—not a white man among them but the officers—stationed in this same dangerous and responsible position. Had they been unfaithful, or given way before the enemy, all would have been lost. *Three times in succession* were they attacked, with most desperate valor and fury, by well disciplined and veteran troops, and *three times* did they successfully repel the assault, and thus preserve our army from capture. They fought through the war. They were brave, hardy troops. They helped to gain our liberty and independence."

I have here also the proclamation of General Jackson to the colored inhabitants of Louisiana, and his address to the colored soldiers of his army. The proclamation is an invitation and appeal for the colored people of Louisiana to volunteer to defend their country. They did volunteer, and on the 18th December, 1814, he issued to them the following address:

"Soldiers! When, on the banks of the Mobile, I called you to take up arms, inviting you to partake the perils and glory of your white fellow-citizens, I expected much from you, for I was not ignorant that you possessed qualities most formidable to an invading enemy. I knew with what fortitude you could endure hunger and thirst, and all the fatigues of a campaign. *I knew well how you loved your native country*, and that you, as well as ourselves, had to defend what *man* holds most dear—his parents, wife, children, and property. *You have done more than I expected.* In addition to the previous qualities I before knew you to possess, I found among you a noble enthusiasm, which leads to the performance of great things.

"Soldiers! the President of the United States shall hear how praiseworthy was your conduct in the hour of danger, and the representatives of the American people will give you the praise your exploits entitle you to. Your general anticipates them in applauding your noble ardor.

"The enemy approaches; his vessels cover our lakes; our brave citizens are united, and all contention has ceased among them. Their only dispute is, who shall win the prize of valor, or who the most glory, its noblest reward."

The New Orleans Picayune, in giving an account of the celebration of the battle of New Orleans, in that city, in 1851, says:

"Not the least interesting, although the most novel feature of the procession yesterday, was the presence of ninety of the colored veterans who bore a conspicuous part in the dangers of the day they were now for the first time called to assist in celebrating, and who, by their good conduct in presence of the enemy, deserved and received the approbation of their illustrious commander-in-chief. During the thirty-six years that have passed away since they assisted to repel the invaders from our shores, these faithful men have never before participated in the annual rejoicings for the victory which their valor contributed to gain. Their good deeds have been consecrated only in their memories, or lived but to claim a passing notice on the page of the historian. Yet, who more than they deserve the thanks of the country, and the gratitude of succeeding generations? Who rallied with more alacrity in response to the summons of danger? Who endured more cheerfully the hardships of the camp, or faced with greater courage the perils of the fight? If, in that hazardous hour, when our homes were menaced with the horrors of war, we did not disdain to call upon the colored population to assist in repelling the invading horde, we should not, when the danger is past, refuse to permit them to unite with us in celebrating the glorious event, which they helped to make so memorable an epoch in our history. We were not too exalted to mingle with them in the affray; they were not too humble to join in our rejoicings.

"Such, we think, is the universal opinion of our citizens. We conversed with many yesterday, and, without exception, they expressed approval of the invitation which had been extended to the colored veterans to take part in the ceremonies of the day, and gratification at seeing them in a conspicuous place in the procession.

"The respectability of their appearance and the modesty of their demeanor made an impression on every observer, and elicited unqualified approbation. Indeed, though in saying so we do not mean disrespect to any one else, we think that they constituted decidedly the most interesting portion of the pageant, as they certainly attracted the most attention."

Here is an authentic account of one brave colored man who fought under General Jackson. His name was Jeffrey:

"In the charge made by General Stump against the enemy, the Americans were repulsed and thrown into disorder,

General Stump being forced to retire in a manner by no means desirable, under the circumstances. Major Jeffrey, who was but a common soldier, seeing the condition of his comrades, and comprehending the disastrous results about to befall them, rushed forward, mounted a horse, took command of the troops, and, by an heroic effort, rallied them to the charge—completely routing the enemy, who left the Americans masters of the field. He at once received from the general the title of major, though he could not, according to the American policy, so commission him. To the day of his death, he was known by that title in Nashville, where he resided, and the circumstances which entitled him to it were constantly the subject of popular conversation. Major Jeffrey was highly respected by the whites generally, and revered, in his own neighborhood, by all the colored people who knew him.

"A few years ago, receiving an indignity from a common ruffian, he was forced to strike him in self-defense; for which act, in accordance with the laws of slavery in that, as well as in many other of the slave States, he was compelled to receive, on his naked person, *nine and thirty lashes with a raw hide!* This, at the age of seventy-odd, after the distinguished service rendered his country—probably when the white ruffian for whom he was tortured was unable to raise an arm in its defense—was more than he could bear; *it broke his heart*, and he sank to rise no more, till summoned by the blast of the last trumpet to stand on the battle-field of the general resurrection."

This affecting incident illustrates the noble character of this colored man, and the terrible barbarism of the institution which enslaves his race.

Commodore Chauncey, during the war of 1812, in a letter to Captain Perry, dated on board the Pike, off Burlington Bay, July 13, testifies to the value of colored seamen. Here is an extract from his letter:

"SIR: I have been duly honored with your letters of the 23d and 26th ultimo, and notice your anxiety for men and officers. I am equally anxious to furnish you, and no time shall be lost in sending officers and men to you as soon as the public service will allow me to send them from this lake. I regret that you are not pleased with the men sent you by Messrs. Champlin and Forrest; for, to my knowledge, a part of them are not surpassed by any seamen we have in the fleets; and I have yet to learn that the color of the skin, or the cut and trimmings of the coat, can affect a man's qualifications or usefulness. I have nearly fifty blacks on board this ship, and many of them are among my best men; and those people you call soldiers have been to sea from two to seventeen years, and I presume that you will find them as good and useful as any men on board of your vessel, at least, if I can judge by comparison, for those which we have on board this ship are attentive and obedient, and, as far as I can judge, many of them excellent seamen; at any rate, the men sent to Lake Erie have been selected with a view of sending a fair proportion of petty officers and seamen, and I presume, upon examination, it will be found they are equal to those upon this lake."

I know it is the business of quite a number of the members of this House to slander and belittle the colored population; to say that they are idle and vicious, and will not work, and are useless for any purpose but slavery. Now, there is a colored man in this city, whose father was a slave, who is worth a large sum of money, and able, pecuniarily, to buy up the whole horde of those slanderers of his race. Although the colored people of this District have been oppressed and degraded, they have, in the face of all disadvantages and obstacles, accumulated a large amount of property, valued at six or seven hundred thousand dollars. They have erected churches, and are educating their children. Heretofore, although they have been compelled to pay excessive taxes, no part of the amount which they contributed has gone to the education of their own children; but the law has been changed in that regard, and they will have an opportunity of showing that they can educate their children, and are entitled to the same rights which we enjoy. The great issue now is, whether the institution of slavery shall be allowed to break up this Government. I have here the statement of the vice president of the so-called confederate States, in which he says:

"The new constitution [confederate] has put at rest *forever* all the agitating questions relating to our peculiar institutions—African slavery, as it exists among us, the proper status of the negro in our form of civilization."

He then goes on to assert that it was understood by the framers of the Constitution that slavery was only to be temporary in this country. That it was soon to pass away; that it would be evanescent; and that understanding was based on the idea that slavery was morally and politically wrong. That was the sentiment of the founders of the Constitution, and this rebellion is because this Government, in its action, gives promise that the policy of the fathers shall be returned to. All slaveholders and those who sympathize with the institution of slavery, more or less sympathize with this rebellion. I say that this is the cause of the whole difficulty now, and I think that this nation is false to its own interests, false to humanity, false to the claims of justice, if it does not destroy the institution on the occasion now presented. I do not propose to interfere with slavery in any State that has not seceded and made war upon the Government.

I believe we have the constitutional right to put an end to slavery in the States in rebellion, and in fact the President intimates pretty strongly in his recent proclamation modifying or repealing General Hunter's, that the time may soon arrive, in the progress of this war, when, in the exercise of the power which he unquestionably possesses as Commander-in-Chief, he will declare the slaves of all rebels free. And he kindly intimates to the border State men that they might as well do the work of emancipation themselves, by accepting the liberal terms which Congress, on his recommendation, has proposed. The whole opposition to the liberation of the slaves of rebels, in my judgment, is the fear that it will destroy slavery in the rebel States, and, in the end, in the now loyal slave States.

I am satisfied that a large majority of the loyal citizens, who are now in earnest in putting down this rebellion, as well as the officers and soldiers in the field, are for the confiscation of the property of rebels, and the liberation of their slaves.

I have before me a letter from the major of an Illinois regiment, who was in the battle at Fort Donelson, and also at the battle of Pittsburg Landing. In speaking on the subject of confiscation, he says:

"I must say that we have heard with feelings of disappointment of the opposition exhibited in Congress to the confiscation principle. The majority of those who are obliged to suffer, toil, and die upon the battle-field in defense of our country, cannot appreciate the sentiment that constitutional policy requires that traitors and rebels should be protected in the possession of their property."

I commend that to the consideration of my friend from Massachusetts. I suppose he has not read as much law upon the subject as the gentleman has. He goes on to say:

"It is hard to fight men who would destroy our Government, who are daily killing our comrades, and then be obliged to protect their property."

This is from a major of an Illinois regiment, written to the gentleman from the Galena district, [Mr. WASHBURNE.]

Mr. THOMAS, of Massachusetts. John Smith?

Mr. HUTCHINS. No, sir. Major Melancthon Smith—one of that numerous family who has some common sense, if he has not any law. [Laughter.] That is the sentiment of the soldier in the field. The gentleman from Missouri, [Mr. PHELPS,] said the other day he believed if this Congress should pass these confiscation bills a large majority of those in the field would lay down their arms. My information is entirely different. I do not believe it. My information is that men who have gone into this war strong pro-slavery men, who have seen the barbarism with which Union men are treated, their buildings burned and their property destroyed, now realize the necessity of taking hold of this war in earnest, and confiscating the property of rebels, and making it pay in part the expenses of the war; and they are wondering why it is that we can stand here higgling and quibbling about constitutional questions.

The gentleman from Massachusetts [Mr. THOMAS] objects to this bill confiscating all the property of leading rebels as too sweeping, stripping them of all their property, and pronounces it unmerciful, and said that "the majority of the committee allowed no mercy to enter the committee room." As one member of the committee, I object to this charge. The mercy of the committee does not run in the same direction as the mercy of the gentleman from Massachusetts. The committee have mercy to loyal men, and framed this bill as an act of justice to them. The gentleman from Massachusetts [Mr. THOMAS] occupies his time and uses his learning in framing excuses to shield rebels from the punishment which their crimes merit.

Now, sir, if these laws are passed, as I trust they will be, the President will then have a rule of action laid down for him to follow. The President and the Army will understand what the people of this country demand in the suppression of the rebellion. I think we should use every measure that will tend to cripple the power of the rebels consistent with the laws of war. I do not claim anything else. I will not detain the House longer at this time.

Mr. THOMAS, of Massachusetts. I was not present to hear the gentleman's opening remarks; but I understand he saw some inconsistency between the position now taken by me and former votes which I have given in this House.

Mr. HUTCHINS. I did, and I will tell the gentleman wherein I think his inconsistency lies. I understood him to-day to take the position that we cannot punish a rebel nor deprive him of his property without what the gentleman calls due process of law; that is, without a jury trial——

Mr. THOMAS, of Massachusetts. Except in cases where the property is found in violation of our laws, as in case of a violation of the revenue laws, and as in the cases covered by the statute of August last, which involves precisely the same principle. Property which violates the blockade is taken, not because of any guilt or offense on the part of the owner, but because it is found in violation of the law of blockade, and, like property found in violation of the revenue laws, is a subject of forfeiture. And so in relation to slaves who are used for the actual purposes of rebellion. I therefore voted for the law of August, 1861, and indeed drew the second section of that law myself. I cannot discover the slightest inconsistency between that action and the position I have taken to-day.

Mr. ELIOT. In your judgment.

Mr. THOMAS, of Massachusetts. Whose judgment would my colleague have me take?

Mr. ELIOT. Your own.

Mr. THOMAS, of Massachusetts. Then why make such a remark?

Mr. HUTCHINS. I referred to the "*Act further to provide for the collection of duties on imports, and for other purposes.*"

Mr. THOMAS, of Massachusetts. I hope the gentleman will read it.

Mr. HUTCHINS. I have the law before me. I did explain the fifth and sixth sections of it. The fifth section in substance provides that whenever the President, in pursuance of the act of the 28th of February, 1795, shall have called forth the militia to suppress combinations against the laws of the United States, &c., and the insurgents shall have failed to disperse by the time directed by the President, &c., then, and in such case, it may be and shall be lawful for the President, by proclamation, to declare that the inhabitants of such State or any section or part thereof where such insurrection exists, are in a state of insurrection against the United States; and thereupon all commercial intercourse between the same and the citizens thereof, and the citizens of the rest of the United States, shall cease and be unlawful so long as such condition of hostility shall continue; *and all goods and chattels, wares and merchandise, coming from said State or section into other parts of the United States, and all proceeding to such State or section, by land or water, together with the vessel or vehicle conveying the same, or conveying persons to or from such State or section, shall be forfeited to the United States.*

The sixth section forfeits to the United States any ship or vessel belonging in whole or in part to any citizen or inhabitant of said State or part of a State whose inhabitants are so declared in a state of insurrection, found at sea or in any port of the rest of the United States fifteen days after issuing said proclamation. The point I make upon the gentleman from Massachusetts is this: that this law and the other one referred to, liberating slaves, for which he voted at the extra session, forfeits to the United States certain property and liberates certain slaves, without that "due process of law," trial by jury, and conviction. I understand the gentleman to claim that these confiscation bills are unconstitutional, because they do not provide for trial by jury and conviction by a court. Now, why is it that citizens of these insurrectionary States, under the laws to which I have referred, can constitutionally have their property taken from them if the gentleman's views of to-day are correct?

Mr. THOMAS, of Massachusetts. I can tell the gentleman why. It is by a most familiar principle of law; by the same principle under which, while you may not seize the property of private

individuals on land, yet, by the law of nations, all property on the sea found in violation of the revenue laws, or of the laws of blockade, is subject to seizure and forfeiture. By the same principle on which England enforced its blockade of the Crimea. It is, under the law of nations, the right of every nation to regulate the entries to and departures from its own ports; and therefore this law which the gentleman has read follows the same principle precisely as the revenue laws. The distinction is just as broad and well defined as the common law itself.

Mr. HUTCHINS. I should like to ask the gentleman from Massachusetts what unlawful act these goods have committed?

Mr. THOMAS, of Massachusetts. They have violated the laws and regulations of the United States Government in respect to entering the ports of the United States.

Mr. HUTCHINS. Then you punish the goods for entering the port?

Mr. THOMAS, of Massachusetts. On precisely the same principle that you forfeit a ship's cargo for violating the revenue laws.

Mr. HUTCHINS. Does the passage of a law declaring the inhabitants of certain districts in a state of rebellion take away the right of trial by jury, for which the gentleman contends? Does that make goods seeking to enter a port, subject to forfeiture?

Mr. THOMAS, of Massachusetts. There is an interdiction placed upon that district of country for the purpose of suppressing the rebellion, a non-intercourse act is declared, and goods found in violation of it are subject to forfeiture, as they were under the non-intercourse act of 1808, on the same principle that goods found in violation of the revenue laws are subject to forfeiture.

Mr. HUTCHINS. Does not the liberation of the slaves and the forfeiture of the property of rebels who are found in violation of the law, follow the same principle?

Mr. THOMAS, of Massachusetts. That is an entirely different matter.

Mr. HUTCHINS. In both instances the right of forfeiture without trial by jury, by reason of the rebellion, follows. I think the two cases are parallel. I am sorry the gentleman from Massachusetts cannot see it.

CONFISCATION OF REBEL PROPERTY.

SPEECH OF HON. F. C. BEAMAN,

OF MICHIGAN,

IN THE HOUSE OF REPRESENTATIVES,

May 24, 1862.

The House having under consideration the bills to confiscate the property and free from servitude the slaves of rebels—

Mr. BEAMAN said:

Mr. SPEAKER: Propositions looking to the confiscation of the property of rebels have been before the country for several months, and have been elaborately discussed in and out of Congress. Some gentlemen upon this floor, I understand, utterly deny the legal power of confiscation; while others, without raising the question of constitutional authority, suggest doubts as to the expediency of its exercise. On the other hand, among those who agree that treason deserves punishment, and that the authors of the present vast national indebtedness should contribute in some degree to its discharge, much difference of opinion exists as to the proper details of the law to be adopted for that purpose. Evidence of these dissonant opinions sufficiently appears in the numerous resolves and bills introduced, as well into the Senate as into the House of Representatives. That the minds of men should somewhat differ under present circumstances is to me no cause for marvel. During a period of seventy years our people seemed content with a Government wholly created or controlled by themselves. Bating some slight insurrections, too insignificant to excite serious apprehension, the Government had no occasion to resort to force. Unparalleled individual success, unrivaled public prosperity, and the largest personal liberty consistent with orderly society, seemed to be sufficient guarantees for preserving the Constitution against internal violence; and nothing occurred to suggest an inquiry into the latent powers and resources of the Government for its own conservation. But suddenly, and almost without premonition, the country is involved in civil war—a war of such gigantic proportions as to endanger the existence of the Republic, to call forth all the resources of the country, and to invoke all the constitutional powers of the Government for its suppression. It was this new, strange, and unexpected condition of affairs that created, for the first time in our history, the necessity of examining the fundamental law with a view to ascertain how far its provisions will warrant an interference with private property and private rights as a punishment for treason. That intelligent minds and able lawyers would arrive at somewhat different results was to be expected. The importance of the subject, various habits of thought, sectional feeling, conflicting interests, fancied or real, partisan bias, peculiar notions of constitutional construction—all these would tend to lead the minds of men to discordant conclusions. Perhaps the bills now before the House—the one touching the confiscation of property, and the other contemplating the freedom of certain persons held to service—are the productions of minds more or less operated upon by some, if not all, of such influences. I am not quite certain that either of these bills is in all respects precisely in accordance with the predilection of a single member of the committee that reported them. But they presented grounds upon which a majority of the committee could agree, and I trust they will find like favor with the House.

Mr. Speaker, I shall not, at this late hour, attempt a constitutional argument. I am relieved from that duty by the discussions already had, as well on this floor as in the other wing of the Capitol. The examination of the provisions of the Constitution bearing upon the bills now under consideration has been thorough, minute, and exhaustive, and the gleaner will find little to compensate him for his toil. For myself, I find no impediment in the way of legislation, nothing in the organic law to prevent the adoption of measures necessary to the safety of the Government. I do not believe, nor will the people be easily convinced, that the framers of the Constitution intended to withhold from the Government the powers essential to its own preservation. It was ordained in order to secure the blessings of liberty, not to encourage rebellion, treason, and despotism. It was created to protect loyal citizens, rather than to screen traitors. It was intended to have a reasonable construction—a construction that would insure its supremacy and perpetuate its existence. The right of self-preservation and the power to use all suitable and available means for that end, are inherent in all Governments without express provisions for that purpose; nor is this rule changed by the fact that the Government is based upon a written Constitution. This doctrine is clearly stated and well illustrated and enforced by the President in his message of the 5th of July last, in speaking of this very rebellion, in which he says:

"The whole of the laws which were required to be faithfully executed were being resisted, and failing of execution in nearly one third of the States. Must they be allowed to finally fail of execution, even had it been perfectly clear that by the use of the means necessary to their execution, some single law, made in such extreme tenderness of the citizen's liberty that, practically, it relieves more of the guilty than of the innocent, should, to a very limited extent, be violated? To state the question more directly, are all the laws but one to go unexecuted, and the Government itself go to pieces, lest that one be violated? Even in such a case, would not the official oath be broken if the Government should be overthrown, when it was believed that disregarding the single law would tend to prevent it?"

In other words, it would be a solecism to say that the spirit of the Constitution can be violated in the act of preserving the Government, if no more be done than is positively necessary to that end. We need not, however, invoke any powers not plainly granted or existing by necessary implication in the charter of our liberties; nor need we insist upon loose, latitudinarian constructions. I do not believe that it should be twisted, bent, or strained, so as to meet the exigency of every occasion not fairly within its scope. On the contrary, I hold that it should be regarded as a rule, or system of rules, firm and inflexible, and expounded according to established principles of enlightened jurisprudence. At the same time there is a consideration that it would be unwise to overlook, and idle to attempt to conceal. Ours is a government of the people, the masses of whom are not lawyers, nor jurists, but who, nevertheless, are endowed with plain, practical common sense, and with capacity for rational comprehension. In the North, certainly, they cheerfully submit to a rigid administration of the laws; but being without professional knowledge or skill, they naturally have more regard for right and substantial justice than for technicality and form. The fine-spun theories and sophistry of certain eminently "constitutional gentlemen" they do not care perhaps to investigate. They would not stop to procure a license to enter a neighbor's burning dwelling-house in order to rescue a child from devouring flames. They would not hesitate to plunge into the water within one of your cities to save a man from drowning, because of municipal regulations against bathing within certain corporate limits.

There are some principles and theories understood by philosophers and jurists, not comprehensible to the common people. There are, nevertheless, certain facts and principles of ethics, as well as of law, patent to the minds both of the learned and the unlearned. The husbandman and the artisan, equally with the scholar, statesman, and divine, clearly distinguish the great dividing line between virtue and vice. Very slight knowledge of the history of nations enabled the American citizen to understand that he was blessed with the enjoyment of the best Government in the world; and now without the light radiating from luminous treatises on the Constitution, he knows that his Government has been wickedly assaulted and besieged by traitors, and that it has been in imminent peril of utter annihilation. He knows that, in order to resist that assault, the industrial and commercial interests of the country have been paralyzed, and that the wealth of the nation has flowed out of the Treasury like running waters. He knows and sees that his native land is being fertilized with the heart's blood of his countrymen, of his neighbors, perhaps of his near and dear kindred. He has learned, possibly, that the skull of his first-born son has been transformed into a drinking cup, to flow with sparkling wine on the marriage day of his murderer. And he believes and clearly understands that this rebellion is unconstitutional violence, and that this destruction of life is unconstitutional murder.

Sir, uninstructed by these scholastic, subtle, constitutional gentlemen, he thought he had a Government legally competent to punish unconstitutional acts. On many national anniversary days he had mingled with his countrymen around the old flagstaff, and listened with patriotic pride to glowing eulogies upon the American Constitution, and the strength and resources of his cherished Government. Was this all fancy, a mere Utopian dream? Did seven hundred thousand men, at the call of their President, rush to the field of slaughter and of death in the defense of a mere abstraction, an imaginary Government? They do not, they will not believe it; and no Protean hand can so manipulate the Constitution as to make them sensible of such folly. They read the Constitution, and plainly discover provisions against treason and rebellion; but they search in vain for any clause or sentence securing the property of rebels against confiscation. They find that "no attainder of treason shall work corruption of blood, or forfeiture, except during the life of the person attainted;" but the bills under consideration propose no attainder whatever, they provide for no conviction of treason.

The Constitution fairly construed is a shield for protection, but false interpretation may transform it into an instrument for evil. I fear that this framework of our Government has been sometimes slandered and traduced. I imagine that it has sometimes been charged with wrongs of which it was entirely innocent. Misinterpretation of the Constitution is an expedient frequently, because conveniently resorted to, when it is sought to defeat measures which on other grounds would not be objectionable. It will not, however, escape the notice of observant minds that the Constitution is most cherished and held most sacred by its peculiar guardians when the negro or peculiar institution is in the slightest danger. It is,

however, usually considered safe, comprehensive, clear, and ample on all propositions calculated to enhance the power of the divine institution. The Constitution staggered very little, if at all, under the purchase of Louisiana and the admission of Texas. It was not heard to utter a single groan when Cuba, *nolens volens*, was about to come to its embraces. Did any gentleman every hear one of these guardians of the Constitution complain of a violation of that instrument because of the seizure and condemnation of persons under the fugitive slave law without due process of law and trial by jury?

Mr. Speaker, the disturbance in the southern States is no longer sedition nor insurrection; it is rank rebellion of a dangerous tendency. It has reached that point where it is manifest that moral suasion and mild measures are ineffectual and inapplicable. It is not a subject for negotiation. It is a struggle for supremacy, and must be decided by the preponderance of force. It has been prosecuted by the rebels with such vigor and with such circumstances of persistence, cruelty, and barbarity, that the Government is compelled, by the obligations of self-preservation and in justice to loyal citizens, to employ all means consistent with this age of civilization to bring it to a speedy and final termination. In devising and adopting such means, it is obviously essential that we have some reference to the origin, aims, and character of the contest in which we are engaged. I would not wantonly utter one word calculated, unnecessarily, to excite the popular mind; yet, on great questions involving the existence of the nation every man in the slightest degree connected with public affairs should speak frankly and plainly.

The original and continuing cause of the rebellion is slavery, and all attempts to conceal or disguise the fact are simply absurd. I know it, you know it, and the rebels avow it. I hesitate not to express the opinion that had it originated in any other cause it would not have lived to be six months old. Had Puritan New England adopted ordinances of secession on the 19th day of December, 1860, and inaugurated war, because the Government would not give protection to her manufactures, to-day Boston would be in ruins and Lowell would not retain a sufficient number of spindles to spin a pound of cotton. In that case the Constitution would have been deemed clear, ample, and sufficient. But there is a striking difference between tariffs and negroes. John Brown invaded the Commonwealth of Virginia, and was hung by the neck until he was dead. James M. Mason and Jeff Davis have only made war against the United States—they are simply "our misguided southern brethren." Slavery has inaugurated war; slavery has battered down your forts; slavery has robbed your mints; slavery has murdered your citizens; and slavery still lives to decimate your armies, exhaust your Treasury, and influence your legislation.

I am in favor of confiscating the enemy's property and placing the proceeds in the Treasury which has been depleted by treason. It would be just as an indemnity; it is necessary as a punishment. I am in favor of liberating the slaves of rebels; it would weaken the enemy, and, in part, remove the cause of the war. That we have clear, constitutional warrant for such legislation, I have not a shadow of doubt. All patriots and loyal men revere the Constitution. We have substantial evidence that our people will guard it with their lives. I speak not by official authority, but I am informed that fifty thousand of our noble men have already offered up the greatest and most precious possible sacrifices upon the altar of their country, and have gone to join the company of like martyrs of Lexington and Bunker Hill. And now our armies have penetrated into an unwonted region, whose climate is surcharged with miasmatic pestilence almost as destructive of life as the Asiatic cholera. Sir, unconstitutional acts of violence and wickedness have occasioned the raising of your mighty armies; violation of the Constitution has created a national indebtedness of six hundred millions of dollars, more or less; unconstitutional murder and assassination have furrowed the country with soldiers' graves and caused the atmosphere surrounding a great nation to become tremulous with the wailings of widows and orphans. Yet we are daily and hourly warned to beware of violating the Constitution. Jeff Davis battered down Sumter, proclaiming at the same time that it was unconstitutional to coerce a State or to disarm traitors. The rebel slave-master goes into the camp of your soldiers with his hands reeking with loyal blood and demands the surrender of his escaped slave, claiming it as a right under the Constitution—that Constitution which he has repudiated, lacerated, spit upon, and trampled under his feet. Sir, the mighty people of this country are not technical lawyers, but they have ears that can hear, eyes that can see, hearts that can feel, and minds that can understand, and they will not be convinced by sophistry, however ingenious, that the Constitution protects only the property and lives of traitors.

If the Government has erred in the conduct of this war, it has done so on the side of clemency and indulgence. Conciliatory proclamations have met with contempt. Mild legislation has only increased the conceit of the rebels, and incited them to greater acts of boldness. In the mean time, what has been the conduct of the rebels? Men, on mere suspicion of Union sentiments, have been driven from their homes, cast into prison, or scourged, and ignominiously put to death. Their estates have been confiscated to furnish means for protracting this inhuman struggle. The leaders of the rebellion, so far from regarding the claims of the Constitution, do not even respect the rules of civilized warfare. On what principle do they claim rights under that instrument, every command of which they have disobeyed, every principle of which they have violated? The only duty that the Constitution owes them is that of punishment, a duty imperatively demanded by justice to the loyal North. The people who have raised the men and the means for the defense of the Government are becoming urgent, restless, almost clamorous. They demand justice at the hands of their Representatives. They have seen their estates reduced and impaired by violations of the Constitution; they invoke the aid of that Constitution, and insist that the wrongdoers shall be compelled, in some degree, to make reparation. If you would put down the enemy, you must take away his means of subsistence. The destruction of a few thousand men by bullets will avail little, especially if you lose five of your own in camp while you kill one of the enemy. Is it cruel to deprive him of his property? It is still more so to take away his life; yet you do not hesitate for that purpose to employ the most terrible engines of destruction of ancient or modern invention. It is a false theory that counsels inefficient measures and a temporizing policy.

A just regard for humanity and for the economy of treasure and of life dictates vigorous proceedings with the view to a speedy and exemplary termination of the war. There are four millions of beings in the South loyal to their Government, who are compelled against their will to fight against their country. They raise cotton and sugar, hoe corn, dig trenches, build fortifications, and, it is said, carry muskets. They in fact comprise almost the entire industrial population of the rebel States. They are the sinews of war, a large element of southern wealth, and the main pillar as well as the innocent cause of the rebellion. Remove that population and you end the struggle. Release them from their fetters, and allow them to dig your trenches and build your fortifications, and you save the lives of your soldiers by the same act that weakens your enemies. It seems to me that a proposition so plain as this needs little argument or illustration to enforce it. It matters little whether these people bear arms, nor whether they are actually employed in military operations; they nevertheless constitute a large portion of the workingmen of the South, and they furnish means for the support of the army. Remove from the population of the North, in the same proportion, her farmers, artisans, and manufacturers, and the Government would never conquer this rebellion, especially if their energies and services were secured and employed by the enemy. It seems to me a strange spectacle to behold a Government straining every nerve to preserve its existence against the assaults of a ruthless foe, and at the same time aiding or permitting that foe to retain the unwilling services of a population of four millions of oppressed but loyal citizens. Disguise it as you may, you have thus far, in effect, compelled that unfortunate people to be disloyal. You have compelled them to be traitors. You have compelled them to dig trenches and erect fortifications for the enemy. You have compelled them to apply the torch to the enemy's powder that has sent death and destruction into the midst of your own people. Is this course sound policy? Is it justice? Is it humanity? Is it statesmanship?

I say that these acts have been performed, in effect, by your compulsion; because, instead of encouraging that people to come to your aid and to serve their country, you have repelled them. Let it be proclaimed that they are free, and that they will be protected by the strong arm of the Government, and they will rally around the standard of their country, as children flee from danger to the arms of their parent. It is too late to urge that they are satisfied with their condition. The dusky population of frosty Canada, the late clamor for a fugitive slave law, the migrations from Missouri, the recent exodus from Maryland and Virginia into this city, the constant arrival of deserters to our camps, and the splendid exploit of Robert Small, and his brave fellow-slaves on board the Planter, sufficiently refute all such pretenses. Why, then, do you hesitate to grant justice to these loyal men—justice to the North, justice to the Government, and justice to the rebels? Freedom to the slaves of rebel masters would be but simple justice, because they are faithful, and comprise all or nearly all the true men of the cotton States. With the gentleman from Missouri [Mr. NOELL] "I take the broad ground that ten loyal men are entitled, in any given State, to more consideration than a million of traitors, and so far as I am concerned, I will undertake to carry it out in every vote and every act while I have the privilege of occupying a seat upon this floor." Though often repelled from your camps by bristling bayonets, they have continued faithful; waiting patiently for an opportunity to serve their country, and have repeatedly communicated to the Government information of the highest importance.

It would be justice to the North, because she has already sacrificed too much of life in a war waged by rebel masters, and much more of that priceless treasure will hereafter perish, which might be saved by a judicious employment of the blacks in relieving to some extent our men in the unhealthy climate in which they are located. It is unjust, it is improvident, it is cruel, to allow our gallant people to die of disease by thousands and tens of thousands, when men are ready, willing, and even anxious to save them. It would be justice to the Government, because it is entitled, in times of great peril, to the cordial, active, and efficient support of all its people. It would be condign justice to the traitors, because they have used their slaves in carrying on the war, violated every principle of the Constitution, and forfeited all claim to its protection. I do not inquire whether it would be justice to the claims of humanity, in the sight of Him who holds in His hand the destinies of all the political Powers of the earth, and notes and punishes the sins of nations as well as of individuals. Though not forgetting that the sagacious and pure-minded Jefferson trembled for his country when he reflected that "God is just," and declared that "the Almighty has no attribute that can take sides with us in such a contest," I leave this topic, trusting that we may not realize in our case the words of Macbeth:

> "We but teach
> Bloody instructions, which, being taught, return
> To plague the inventor: this even-handed justice
> Commends the ingredients of our poisoned chalice
> To our own lips."

But once more I ask, why do you hesitate? Are you restrained by constitutional scruples? Is it constitutional to kill a rebel but unconstitutional to permit his slave to cease to war against his Government? The amendment proposed by the gentleman from Tennessee [Mr. MAYNARD] makes the selling of a pair of shoes, with the knowledge and intent that the same shall be used and employed for the purpose of hostile operations against the United States, treason; and provides that the party convicted shall suffer death by hanging. Is it lawful to execute a traitor, but unlawful to permit his slave to become a loyal man?

The gentleman from Missouri [Mr. NOELL] urges, with much force of argument, the necessity of confiscating the enemy's property. Is it lawful to strip him of his cotton, tobacco, and sugar, but unlawful to liberate the man who raises them? Who shall interpose the objection? Certainly not the rebel. He is estopped. He denies that there is any Federal Constitution, unless, peradventure, he has occasion to reclaim a fugitive slave. He claims that he belongs to a foreign government. He says that he owes allegiance to the confederate States; that he is a belligerent, a foreign foe.

But we are told that the attempt to take away the slaves of our enemies would be a hazardous experiment, and we are warned against the dangers of impolicy and rashness. We are told that such a proposition would excite, alarm, and exasperate the rebels; that it would cause them to be obstinate, determined, desperate; that it would excite them to deeds of daring and heroism. Sir, these warnings may be timely, and emanating from unclouded judgment and far-seeing statesmanship; but they rest upon principles too occult, too profound, to be clear and manifest to ordinary minds. The inauguration of the present intestine war seems to have been deliberate, commencing with ordinances of secession, and progressing with the raising of vast armies, the destruction of property, and the spilling of blood. Does any one believe that it was projected for a mere matter of pastime? Can it be doubted that the rebels are in earnest? Does any man imagine that they will ever yield and lay down their arms until compelled to do so by force? Do they now employ anything less than their entire resources, energy, and skill? Will the taking away of four millions of their population—three fourths or more of their industrial classes—increase their hopes, courage, and capacity for evil? This is singular logic. If there is anything in the argument, it proves too much. It impeaches the action of those who employ it. It proves that your vessels of war should be taken out of service; that your ordnance should be withdrawn from the field, and placed in your arsenals; and that your armies should be paid off, and mustered out of service. According to this argument, you must not cannonade the enemy's forts; it will exasperate him. You must not shoot down his troops; it will exasperate him. You must not take and imprison his soldiers; it will exasperate, strengthen, and make him desperate. It seems to me that the bare statement of such a proposition is its sufficient refutation.

But it is said that the liberation of the slaves of rebels will be displeasing to the border States. I ask on what principle? They are not rebels, and this proceeding would not touch their slaves. They have no sympathy with treason, and it would not interfere with their property. The border States, on principle, would seem to have the same relation to the rebellion with their more northern sisters. Each is struggling to maintain the Government against treason. Each has the same interest in success, and why should not each have the same desire to cripple the enemy? The emancipation of Howell Cobb's slaves would not affect that class of persons in Kentucky; but it would reduce his substance and diminish his power. Would it weaken the institution, and is the universality of slavery a condition essential to its usefulness? Then I answer that it is of very dangerous tendency; and I suggest to gentlemen of the border States that we should ponder well the lessons of the last year and let them make an indelible impression upon our minds. We would do well to give attention to "the signs of the times."

I have already remarked that some gentlemen from the border States favor the confiscation of property, but, nevertheless, object to the liberation of slaves. The propriety of this distinction is not quite apparent to my mind. Is a harmless ox, quietly ruminating or grazing in his pasture, more dangerous to the Government than a slave in the trenches or in the discharge of his duties as a gunner? If the rebel may be lawfully deprived of his interest in his ox, is it unlawful to take away his slave? What clause in the Constitution, what principle of law, of morals, or of justice, creates or warrants this subtle distinction? I should omit, however, to state the whole argument, did I neglect to say that I understand some of these gentlemen to concede that slaves might be lawfully confiscated like other property; but that they could not be legally emancipated, as *that would be an interference with the relations of persons.* In reply to this position, I remark that the confiscation of a rebel's slave would essentially sever all relations existing between the parties; I need hardly add that freedom from bondage would produce the same result. The principle of both emancipation and confiscation assumes the right to deprive the rebel of his property, and if that be admitted, it does not lie with him to direct or control the disposition of it.

Another objection has been urged against the passage of the bills under discussion which I must briefly consider. It has been repeatedly intimated on this floor that the passage of these bills, and especially of the one contemplating a contingent emancipation of slaves, would create dissensions at the North, and seriously impair the efficiency of the Army. Indeed gentlemen have gone the length to predict that it would result in mutiny, and cause the troops to lay down their arms and disband. And to give speciousness to this remarkable—I might say incredible—prophecy, it is asserted that the soldiers of the North did not desert their farms, shops, and other place of business in order to make a crusade against slavery. Sir, I freely admit the fact, and to this extent agree, that they did not enlist with the view to make war upon slavery. But I take the liberty to assert, and I do so not without some knowledge of northern sentiment, that our brave soldiers—true-hearted, humane, and liberty-loving as they are brave—did not leave their families, sacrifice their property, and hazard their lives with the view to strangle freedom, nor to become the guardians of slavery. Nor were they animated by a desire to slaughter their fellow-men, or to lay their hands on any species of property belonging to the rebels. Their object was manifest: it was to crush the rebellion, and protect the flag of their fathers which had been brutally and treacherously assaulted by perjured parricides; and they proceeded to the tented field with the fixed determination to use all available means consistent with the rules of civilized warfare and the laws of their country to make a speedy termination of their mission. Whatever impedes their onward march they will remove from their pathway, be it cotton, tobacco, sugar, or slaves. And while they will not interfere with the rights of loyal men, be assured that under no conceivable circumstances, unless in unwilling obedience to express orders and military discipline, will they turn aside from the appropriate duties of a soldier, to catch, return, or drive back to bondage the poor wretched panting fugitive who seeks and bravely struggles for that liberty so sweet and dear to every human heart.

Has this objection been made upon due consideration and in sincerity and good faith? Does any sane man believe that northern freemen engaged in this war for the purpose of protecting and sustaining slavery? Why should they secure to the master his slave, rather than his cotton, his horse, or his ox? What cause of animosity have they against the poor bondman? What interest have they in maintaining and perpetuating the peculiar institution? What object have they in strengthening the resources of the enemy? Whence comes this deep and all-absorbing love of slavery in the hearts of northern freemen—a love that commands them to forget country, the graves of murdered brothers, and even the necessary means of self-preservation? Does it come from party ties and party influences? The love of country is stronger than the love of party. Republicans are not wedded to the institution, and slavery slew Democracy in the Charleston convention. Slavery, according to a Senator from South Carolina, made these same northern freemen mud-sills. Slavery made Kansas a field of blood. Slavery has destroyed freedom of speech and freedom of the press. Slavery has whipped, driven from their homes, and even hung, inoffensive native-born American citizens. Slavery has smitten with blight and mildew fifteen States of the Union, and barbarized millions of our population. And finally, slavery has made war upon the United States, and has already slain fifty thousand of her loyal men. Mutiny, disband, and lay down their arms because you remove poison from their cups, and turn pistols from their breasts! Mutiny, disband, and lay down their arms lest you should, in self-defense, strangle the monster, the serpent in this our garden of Eden—the author of all our woes!

Sir, in behalf of the brave, self-sacrificing, patriotic men from my own State, I distinctly and positively deny the unjust charge. It does them infinite wrong. It impeaches their integrity; it insults their understanding. They are not crusaders against slavery; they are not abolitionists; they will not infract the Constitution; they are not mutineers! But they will, at all hazards, crush the rebellion and punish traitors; and should slavery be slain in the house of its friends, they will, as in duty bound, submit to that dispensation of Providence with pious fortitude, and with that humble resignation that becomes good soldiers and true Christians.

Mr. Speaker, I have spoken with frankness, but, I trust, without passion or malevolence. A fearful responsibility now rests upon this Congress and upon every man connected with governmental affairs, that should banish all personal and party considerations. Mindful of the conflicting opinions manifested in this House, I know that I am liable to arrive at erroneous conclusions; but with impressions on my mind amounting to conviction, I cannot neglect to follow the plain dictates of reason and judgment. It is painful to reflect that in the mistaken but conscientious discharge of duty we may be the instrument of disaster and ruin; but it is frightful to consider that by inattention, timidity, and trifling we may bring upon our skirts the blood of gallant men, and become accessory to the downfall of the cherished Government of our fathers.

CONFISCATION OF REBEL PROPERTY.

SPEECH OF HON. JOHN H. RICE,

OF MAINE,

IN THE HOUSE OF REPRESENTATIVES,

May 24, 1862.

The House having under consideration the bills to confiscate the property and free from servitude the slaves of rebels—

Mr. RICE, of Maine, said:

Mr. SPEAKER: While we are passing through this terrible ordeal of war, this fearful tragedy of blood—as the firm earth trembles under the armed tread of advancing thousands, and drinks with eager thirst the life-blood of contending hosts—as God's pure sunlight is obscured by the dun smoke of battle, and overhanging, weeping clouds are lighted up by the lurid glare of burning towns, villages, and hamlets—as the waters of our extended coasts and mighty rivers are vexed by the cleaving keels of vast armadas, and the grand anthems of their roaring, rushing tides are hushed to comparative silence in direful discords, born of human genius and directed by human passion—as death and desolation sit brooding over the more immediate scenes of strife, and sorrow and mourning pervade all the land, and

> "Each new morn,
> New widows howl; new orphans cry; new sorrows
> Strike Heaven on the face;"

while, "amid this hell that surrounds us," we pursue with fearless tread the path of duty and of destiny, groping our way through the thick darkness by the thunder peal and lightning flash of battle, and with eager, hopeful vision peer through the parting clouds, and think we see in the early future the bright bow of promise and of peace again spanning our southern horizon; as with undaunted hearts and eager steps the patriot sons of the Republic pursue their matricidal brothers, and on scores of battle-fields send up their shouts of victory; and in the name of "Abraham," and according to his promise, "hold, occupy, and possess the property and places belonging to the Government;" as in State after State the black flag of slavery and rebellion goes down in defeat and disgrace, and the heaven-gemmed banner of our fathers is set up in victory and honor, in the name of liberty and union—

> "Down they go, the brave young riders; horse and foot together fall;
> Like a plowshare in the fallow, through them plows the northern ball."

Amidst these rapidly transpiring and most

mighty events, in which not only our national existence is involved, but the grand experiment of popular government is to be finally tried and tested, it becomes us, the chosen Representatives of the supreme power in the land—the people—to weigh well the responsibilities resting upon us, and in the light of our past history, as far as need be, diligently to inquire into the causes of our present calamities; and then, with purpose single to the preservation, perpetuation, unity, and welfare of the country, fearlessly and firmly discharge the great duties which are and will be pressing upon us; each responsible to himself, to his country, and to his God, for the purity of his intentions.

Under circumstances of ordinary magnitude I would not for a single moment detain the House in the expression of any opinions and convictions upon passing events and pending measures, nor venture a single word of advice or caution as to our future proceedings and duties; but, sir, through the partiality and favor of a generous and intelligent constituency, being placed here to deliberate and act upon these questions of the most vital importance to them and to the country, I do not feel at liberty to remain entirely silent, but briefly to state the principles and convictions by which I am actuated and governed in the discharge of those duties.

Mr. Speaker, I assume, what every fair and candid mind must admit, and what has been and will be most fully established in the unerring lights and facts of our history as a people, that all our serious political difficulties, now culminated in this accursed rebellion, have had their origin, growth, and nourishment in the abnormal anti-republican system of African slavery, unjustly forced upon the unwilling colonies by their unnatural mother, against the protestations of our revolutionary sires; and because of which, among other wrongs and oppressions, they asserted and won their independence, and transmitted to us, their descendants, the best country ever vouchsafed by God to his children, and the most perfect system of government ever devised by the wisdom of man. As slavery can only exist in palpable violation of the natural rights of the enslaved, and by the exercise of powers on the part of the slave-master in constant violation of the plainest principles of right and justice, it follows that the system cannot possibly exist in any political organization founded upon principles approximating to equality of civil rights, without continual conflict, collision, and disturbance. Slavery may exist peacefully, rank in all its wrongs and sufferings, in a political despotism, sustained and upheld by absolute, unquestioned power, but never in a Government in which the popular heart is permitted to beat responsive to the dictates of justice and humanity, and a free tongue and a free press are secure in the discussion of the rights of the people, the principles of their Government, and the duties and responsibilities of its officers.

Slavery being in itself wrong, can, as a system, only be secure in wrong government; being contrary to natural right and justice, it knows no laws but those of aggression and force; being in the habitual exercise of despotic power over an inferior race, it learns to despise and disregard the rights of all races. Living in luxuriant idleness upon the unrequited toil of others, it regards all manual labor as base and ignoble. All along our history we see the antagonism between free labor and slave labor, between the slave States and the free States. While the free States have been passive and yielding, content with the blessings of free labor, the slave States have been exacting and aggressive, seeking and holding almost continually political ascendency in the Government. As the arid sands of the desert slowly and surely advance upon the surrounding verdure, cursing it with desolation, until stayed by natural or artificial barriers, so slavery extends its chains and blight over free institutions and free soil, unless restrained by human laws of prohibition, or God's decrees written upon the snow-clad mountains.

Notwithstanding this "irrepressible conflict," we have, as a nation and a people, attained a degree of power and prosperity never before reached by any nation or any people in so short a time; but day by day, as we grew, while the expanding blossoms of human intellect and human industry were multiplying and ripening year by year into the rich fruits of peace and happiness; while our commerce was expanding into gigantic proportions, and our daring keels were plowing each ocean, sea, and river, laden with the productions of our soil or the results of our skill and industry; while the mighty West, "the granary of the world," was producing untold millions of golden cereals and sending it forth to feed or curse the nations, as they called for bread or whisky—the extremes of good and evil—while our manufactures, directed by the genius, intelligence, and energy of free labor, were springing forward with youthful vigor, and successfully contending in the markets of the world; while, obedient to the "open sesame" of the hardy miner, the sterile earth was opening its unwilling doors and yielding up its rich primeval hoards; while the centripetal forces of steam and electricity, as applied to railroad and telegraph, were welding us together in iron bands of mutual interest, and wires flashing with human thought; even while cotton *was* king, and the nation was thus prosperous and happy, reposing with fancied security in the pleasant orchards of peace, this accursed monster, this alien ingrate—the slave power—was pouring into the open portals of its life "the leprous distillment," the concentrated poisons of secession and rebellion. While the nation's breast was being constantly, ofttimes needlessly, wantonly bared, to the amazement of the world and our own shame, that this insatiate Jew might relentlessly exact the "pound of flesh" as "nominated in the bond;" nay, more! while yielding to the hard conditions of the contract, extorted under new and most repulsive forms and proceedings, we, in the most servile and cowardly manner, permitted this political Caliban, not only to occupy and prostitute the seats of power, honor, and emolument in the land, but to openly and wantonly violate all contracts, all compromises, all decency. The public Treasury was repeatedly prostituted to the purchase of foreign territory for the aggrandizement of slavery and the perpetuation of its power. By fraud and brute force, regardless of the plighted faith of the nation, the defenseless, semi-civilized Indians were cheated and driven from their lands, their homes, and the graves of their fathers, into the wilderness beyond the Mississippi, that the coffers of the slaveholder might be increased by the enforced labor of the more docile negro. By threats and arrogance the nation was badgered into a "compromise," by which the principle and policy of prohibition of slavery in the national domain as held and practiced by "the fathers of the Republic," was abandoned, and slavery obtained all it *then* deemed necessary for its purposes. By political jugglery and wrong an unjust war was precipitated upon a sister republic, by which she was despoiled of her territory, and that territory, by indirection, received into the Union as a slave State, with stipulations that four other States might be formed within its borders, for the sole purpose that slavery might obtain and retain political ascendency in the Senate. And having clasped within its incestuous embrace the virgin plains and prairies secured to it by the Missouri compromise, with unprecedented perfidy and political bribery it smote down that enactment that it might curse and forever bind with its clanking chains the territory thereby dedicated to freedom.

The slave power has evaded and violated, or sought to evade and violate, every provision of the Constitution which stood in the way of its unhallowed lust for power and aggrandizement, and perverted and distorted all its provisions, by which slavery was *permitted under the local State laws*, into original, absolute rights created in and by the Constitution, and therefore entitled to special protection thereby, wherever its broad ægis might extend. It has abridged the right of petition, and sought its abrogation when directed against its vile pretensions; violated the public mails; denied and prevented the freedom of speech and of the press; imprisoned, maltreated, and murdered American citizens without trial or form of law; sought to abridge the freedom of debate in the House and Senate by rude threats, cowardly assaults, and the barbarous duel; prostituted, debauched, and destroyed two great political parties; permitted and encouraged venality and corruption in public office; encouraged and protected the piratical slave trade; stalked into the halls of public justice, assumed the judicial ermine, and, with unbandaged eyes and broken scales, enunciated opinions and recorded decrees alike disgraceful to civilization and subversive of well-established law; and under color thereof procured infamous legislation and diabolic executive orders and decrees, whereby rapine, arson, and red-handed murder were let loose upon the devoted plains of Kansas; and originated, organized, and nourished a vast conspiracy by which it might subvert the Constitution, overthrow the Government, and usurp despotic power, whenever free labor should dare to assert its rights and power through the prescribed forms of law.

Thus plethoric in sin, audacious in power, mad with rage at its defeat in Kansas, and trembling with fear before the earnest indignation of the people, but sustained and upheld by a corrupt and infamous Administration, slavery was for the first time in our history to be brought face to face in deadly conflict, upon issues clear and distinct, and evidence drawn from its own record and acts, with free labor before freedom's peaceful arbiter, in the presidential election of 1860. From this contest slavery shrank in conscious guilt and weakness, and at once prepared to perpetrate the crowning act of its iniquity—the *dénouement* of the great conspiracy. To-day, in the light of recent events, we behold with amazement the vast extent and perfect organization of that conspiracy, and shuddering at the narrow escape and rejoicing in the miraculous salvation of the nation, bow down in adoration and awe before that Almighty wisdom which protects the just in their weakness and confounds the wicked in their strength. The conspirators were in places of trust and power throughout the Federal Government, in the House and in the Senate, in the Army and in the Navy, in the court and in the Cabinet, in the Capitol and in the Executive Mansion. In most of the slaveholding States they were in almost undisputed power, legislative and executive; and in the free States, "sitting at the receipt of customs," and in other places of Federal trust were many men wearing the secret livery of the conspirators, who, for their treachery and treason, were to receive new lease of office under the assassins of constitutional liberty.

In pursuance of their purposes they withdrew from the Charleston convention, leaving those who were willing to concede to them all their rights, more than their rights, under the Constitution, that they might, by misrepresentation and falsehood, more effectually deceive the southern masses and lash them into fury against the entire North, except only the few who should adhere to the new organization, and, through subsidized presses and traitorous cabals, increase their discontent, and promise them aid and sympathy. Then, in quick succession, followed the transfer of arms and munitions of war from the North to the South; withdrawal of the military forces to distant posts, and our naval vessels to distant seas; secession of States by the usurping conspirators against the will of the people thereof; seizure of forts, arsenals, and navy-yards; robbery of the Treasury and mints; withdrawal of traitors and conspirators, in unmolested ostentation, from the Halls of Congress; the weak, semi-traitorous policy of the late Executive, (only saved passively on the side of his own Government by the energy, firmness, and patriotism of the present Secretary of War, and those who coöperated with him in the Cabinet;) the retirement of the foiled and defeated conspirators from the Cabinet; the attempted assassination of the President elect in the city of Baltimore; the inauguration of President Lincoln, and the retirement of—*Miss Lane* from the Executive Mansion. Then followed the days of active preparation on the part of the conspirators, and apparent paralysis on the part of the Government, until fire was opened upon the starving garrison of Sumter, the capital menaced by the armed rebels, and patriot blood sprinkled upon the pavements of a rebellious city. Then the great heart of the nation was struck and vibrated with strange emotion, and in a day, by the transforming spirit of patriotism, we became a nation of warriors. Parties, politicians, and pro-slavery rebel sympathizers in the North were swept away before the burning indignation of the people, and the mighty hosts of freedom stood united in deadly array against the armed cohorts of slavery—the Gov-

ernment against the rebellion, constitutional right against despotic wrong.

From that day until the present the war has raged on with constantly increasing cost and suffering—six hundred thousand men in the field, and $600,000,000 expended, and the end not yet. The Government still seeks to extend its fatherly care over *all* the States, and the rebels still revel in their savage barbarities. They cut up the bones of our slain soldiers and make them into rings and drinking cups, and we permit them to strut through our streets "on parol of *honor;*" they rob Union men of their property and drive them into their army, or to hide themselves in the caves of the earth and mountain fastnesses; and we compel our soldiers to stand guard over the households and property of rebels, that they may not be disturbed in their slumbers nor molested in their worldly interests; they sustain themselves in rebellion by the labor and arms of their slaves, and boast of them as the great element of their strength, and we hesitate to give them liberty and employment against their rebel oppressors; they arm the relentless savages against us, and we permit our pro-slavery generals to drive loyal negroes back to their rebel masters; they organize and arm their slaves and compel them to work and fight against the Union, and we reverse the orders of our generals releasing them from their service; they disregard all the laws and usages of civilized warfare, rob, scalp, and murder our wounded soldiers even under the sacred folds of the white flag, and we in our abundant faith still hope by kindness to win them back to loyalty and love; they burn and desolate their own homes as they retire before our advancing armies, declaring that they will never submit, but, in alliance with his "yellow majesty," fight and defeat us, and we yet desire them to resume their rights of citizenship, attend "peace conventions" and "conservative meetings," sign the "pamphlet edition" of the "Democratic address," and be "all right" at the next presidential election.

Upon this record and these facts we are to legislate and act in reference to this rebellion and its cause. And, Mr. Speaker, I am free to say that, in my judgment, the time has come when we should cease to treat the rebels with more leniency than the laws of civilized warfare demand. While the war lasts, let us follow it with all the earnestness and energy of which we are capable, and with all the pains and penalties which by the laws of civilized warfare we are permitted to inflict. Let us cease to remember that the rebels in arms against the Government were ever the recipients of its protection and its blessings; or, if we do so remember, let it only be to remind us that the fact imparts the darkest hue to their crimes and deserves the direst punishment. When we throw off all these restraints, all hopes of bringing them back to their duty and their allegiance other than by the stern, relentless inflictions and penalties incident to the laws which they have invoked, the sooner the horrors of this war will cease, the sooner will the power and the dignity of the Government be acknowledged and vindicated, and our brave soldiers be permitted to lay aside the habiliments of war and resume the more congenial avocations of peace.

When the several departments of the Government—executive and legislative—shall resolve to pursue and finish the war with an eye single to the restoration of the Government throughout all the rebellious States, upon the eternal principles of right and justice, neither swerving to the right hand nor to the left, lest any interest, party, or class shall be crushed, but with steady march and iron heel annihilating whatsoever may stand between it and its object, the glorious result will be speedily accomplished. When each of us here in the halls of legislation shall be actuated singly by this desire, I think the people will soon be rejoiced at the cessation of debate and the promptitude and efficiency of action which the state of the country demands. Then we shall hear no more diatribes and disquisitions upon questions of international law and constitutional powers. The occupation of those who so earnestly and endlessly contend for the reconstruction of the Government precisely as it was before the rebellion, and that the framers of our fundamental law curtailed its governmental powers for the punishment of and its preservation against internal enemies will be gone. Those gentlemen here who sigh and labor for the restoration of their party organization and power by the preservation of the institution of slavery must be sadly disappointed, for it cannot be in the providence of God nor the permission of an intelligent people. That dark broad river upon which they have so long floated, regardless of its murmuring sighs and turbulent lashings, and which has so effectively driven their party machinery, crushing under its ponderous wheels the principles and purposes of its early organization, is being rapidly dried up at its fountains, dissipated along its course, and will soon be lost in the broad ocean of universal freedom, and these floating wrecks and blood-stained wheels will be forever buried beneath its peaceful waters or fretted away in rottenness against its repulsive shores.

Mr. Speaker, what is to-day in the Halls of Congress the great element of discord? What divides our counsels and procrastinates our action? What produces speeches and discussion *ad nauseam*, to the neglect of the public interest and the complaint of the people? The answer in a breath is, slavery! And we are forcibly admonished by the fact that it is absolutely impossible to have peace and quietness in the land until the power of that institution is effectually subdued. We may deprecate its agitation here as we please. Its friends may shut their eyes in obstinacy to the fact that it is the fruitful cause of all our troubles in peace and war, and by denunciation and menace seek to shield it from the thrusts of its enemies and the shafts of destiny. All is in vain! A vast majority of the loyal citizens of the country see in it the great criminal which has caused the rebellion; see it nursing from its bloody lacteals the most atrocious barbarisms of civil war; see it as the determined opponent of returning peace; and demand of their Representatives that they shall, in their action here, go to the utmost verge of their constitutional power to effect its overthrow, and thereby restore the Government and the Union in *permanent* peace. I, sir, for one, shall most cheerfully bow to their will and obey their behests. I regard it as a consuming fire in the midst of our republican institutions—a corroding poison in the life blood of the body-politic, and shall therefore by all constitutional means seek to subdue and eradicate it. I believe it to be the underlying, moving cause of all our present dangers and sufferings, and shall therefore strike at it as I would strike at the pulsating heart of the rebellion.

Mr. Speaker, the constituency which I have the honor to represent upon this floor have always been and now are willing to concede to slavery all its rights under the Constitution. We have never sought to overthrow that instrument in its acme of human wisdom and grandeur, nor to evade its provisions, but, on the contrary, have peacefully submitted to judicial expositions and constructions thereof in favor of slavery, which we deemed extra-judicial and infamous. While peace prevailed, we yielded to it the right to exist and be protected under the local law, but having now reared its audacious head in open rebellion against the power of the Government, we will not shield it from the storm which it has evoked. It has "sown the wind," let it "reap the whirlwind." By the laws of peace it was entitled to protection, and had it. By the laws of war it is entitled to annihilation. In God's name let it still have its right.

I do not doubt, Mr. Speaker, that there are many loyal slaveholders—that such are holding seats in this body—but I exceedingly regret that they are still disposed to combat, with so much heat and energy, every attempt to weaken this rebellion by striking down its main support; that they are so ready to interpose their shields of defense whenever it is approached by the Government or its soldiers in this its vulnerable point; that they so reject, with indignation and scorn the President's proposition for the peaceful solution and eradication of our difficulties, with ample indemnity to themselves. I know how men love political power, how it grows with their growth, and strengthens with their strength, but I cannot quite understand how true loyalty can, in this hour of the nation's peril, hesitate to strike at the nourishing mother of the rebellion; how disinterested patriotism can deliberately organize in opposition to the Government, and reconstruct parties upon the crumbling foundation of secession and rebellion.

Let not gentlemen be longer blinded by their prejudices or governed by their ambition for political power. Let us note carefully the pregnant signs of the times, the irresistible logic of events. It is as impossible, in divine justice, to subdue this rebellion and restore the Government over the rebellious States with the material and political power of slavery preserved intact and in full vigor, as to reinstate Lucifer in the circle of angels surrounding the throne of the Almighty, with his heart still burning with infernal fires and his menacing hand still raised against omnipotent power. It cannot be! Even now the fatal arrow has entered its cold, inhuman heart, and already its extremities are contracted and cold in the death throes of dissolution. Let the border States beware, lest they too shall be caught in the death grip of the dying monster. Once and again the voice of timely warning and tender entreaty has gone out to them from the Executive Mansion, and they heed it not; but the hand of destiny will not be stayed; God's justice cannot be averted. It is not in the power of Presidents and Congresses to stay the march of events. The war will go on, prolonged by the desperation and madness of the rebels, until, of necessity, the tones of warning and entreaty shall be changed to the hard, harsh notes of executive mandates and decrees based upon united legislative action.

With these views and sentiments I cannot do otherwise than vote for the bill for the emancipation of the slaves of rebels.

And now, what does justice and policy require us to do in regard to the confiscation of the property of rebels? The bill pending provides for such confiscation for the purpose, as expressed in its title, "the payment of the expenses of the present rebellion, and for other purposes." Who should pay these expenses? Loyal citizens or rebels? They who have caused them to be incurred or those who sought to avoid it? Our loyal constituents or their rebel enemies? The innocent or the guilty? It would seem that these questions could be readily and easily answered, but we find ourselves, I fear, very nearly equally divided in their solution. These men have rebelled against the Government without cause or extenuating circumstances, compelled us to incur vast expense to maintain it against their criminal blows, and now is presented to us the question, *who shall pay?* We who shall vote for the bill answer, *the rebels!* Those who vote against it, *our constituents!* A most strange rule of action, surely. A singular exhibition of justice on the part of the latter.

In the tax act which we passed a few weeks ago, we refused to levy a tax upon the labor or income which the slaveholders exact and receive from the persons held by them as slaves, which is by far the most considerable of the material and available wealth of the rebels; and many, also, voted against a tax upon cotton, the staple production of rebel soil. The honorable gentlemen who voted against these propositions, I venture to predict, will be found generally voting against these measures of emancipation and confiscation; but how they can harmonize their action with the principles of right and fairness, or explain it to the satisfaction of their constituents, if they are loyal and intelligent, is more than I can divine. It would seem to be inflicting pains and penalties upon loyal citizens, and offering to rebels a bounty, by relieving them not only from punishment, but from taxation also.

Much stress is laid upon the alleged suffering which will be brought upon the innocent wives and children of the rebels by the adoption of these measures, and tender-hearted sympathetic gentlemen here in their eloquent appeals in their behalf seem to forget the thousands of hearts and homes in the loyal States made sad and desolate by the fratricidal hands of these rebels, urged on to acts of the most fiendish atrocity by these same *innocent wives*. Sir, I believe that I am not hard-hearted nor vindictive, and I have always been and am now opposed to offensive wars of all kinds, and think it a sad commentary upon the boasted civilization of the age that they are so often waged, but I nevertheless believe in the right of self-defense, individual and national; and when engaged

in such a war, I do not believe in that refinement of Christian sympathy which requires us to love our enemies *better* than ourselves—many gentlemen upon this floor seem to have reached that sublimated point. While the war lasts I would only remember our own sufferings and the just punishment due to the traitors; that it may be conducted with greater energy and swifter vengeance, to the end that it may sooner cease, so that in peace we may return to thoughts and acts of mercy.

But let us inquire if, in fact, such universal distress and wide-spread ruin must fall upon "our deluded brethren of the South" by the enforced payment of this war debt. How much is the amount, and what the means for payment? By examination, I find the valuation of real and personal estate, in 1860, in the slave States, (excluding Maryland and Delaware,) to be as follows:

	Real Estate.	*Personal Estate.*
Alabama	$155,034,089	$277,164,673
Arkansas	63,254,740	116,956,590
Florida	21,722,810	47,206,875
Georgia	179,801,441	438,430,946
Kentucky	277,925,054	250,287,639
Louisiana	280,704,988	155,082,277
Mississippi	157,836,737	351,636,175
Missouri	153,450,577	113,485,274
North Carolina	116,366,573	175,931,029
South Carolina	129,772,684	359,546,444
Tennessee	219,991,180	162,504,020
Texas	112,476,013	155,316,322
Virginia	417,952,228	239,069,108
	$2,286,289,014	$2,842,617,372

Amounting, in the aggregate, to $5,128,906,386. I will assume that one third part of this amount is owned by loyal citizens, which, I think, may be regarded as a liberal estimate in favor of loyalty, and then we have subject to confiscation $3,419,270,924. One fourth part of this sum will give us $854,817,731. By the honorable Treasurer's estimate, I understand that our national debt, on the 1st day of July next, will not exceed $600,000,000; so that one fourth part of the rebels' property, at their own valuation, will pay our entire debt, and leave a surplus of $250,000,000 for contingencies, if they see fit to lay down their arms at that time; and if not, we can run the war three years more, at the same rates, upon their capital, and then fall back upon our own.

Mr. Speaker, it would be disingenuous not to admit that many of those who oppose these measures do so wholly or in part upon the ground that we have not the constitutional power to enact them, some contending that the power rests exclusively in the executive branch of the Government, and others that it does not exist at all. I have not, in the brief remainder of the hour allotted me, time to fully discuss these important questions, nor is it necessary to do so after the very full and exhaustive debate which has already been had here, and their free discussion throughout the country. Having been fortunately spared from the civil commotions and wars which have usually beset other nations in their early history, we are, to a great extent, without juridical arguments and judicial decisions in our own courts touching these questions, and it is not, therefore, very surprising that conflicting opinions are entertained by eminent statesmen and lawyers regarding them. But let me respectfully suggest to honorable gentlemen here, that the only correct and safe rule for us to follow in our construction and application of doubtful constitutional and legal prerogatives and rights, in our present emergency, is to lean decidedly and firmly to the side of *the Government, the people, and liberty;* and against *anarchy, the rebels, and slavery.* If we err on the side of the former, correction can be made by the judicial branch of the Government, and the *constitutional rights of the rebels protected*, as contended for; if on the side of the latter, by refusal to exercise real or doubtful powers, *the Government may be subverted*, without our knowing whether it be done in strict accordance with *constitutional rights* and the technicalities of international law or not. To use a homely illustration, we shall be in the condition of the farmer, who rushed to the rescue of his dog in a fight with a wood-chuck, and in striking at the wood-chuck killed the dog. He said it added greatly to the poignancy of his grief that the dog should die, thinking the fatal blow was dealt by the wood-chuck.

I think it unkind in our super-technical friends here, who are restrained by constitutional scruples, that they refuse to let these new and, may be, vital questions be tested in the tribunals by which they swear; and not only unkind to the living, but unjust to the memory of the canonized dead who framed the Constitution; for if the Government which they inaugurated shall be broken up, and the stars of liberty which they lighted be forever quenched in the horrors and darkness of this rebellion, it is all-important to their fame that (if possible) they may be exonerated from the charge of having created this great and wondrous work, *only* withholding from it *the right of self-preservation.* But if gentlemen will not yield this much, and the dreaded catastrophe shall come, which God avert, and you shall be forced to hastily doff your constitutional slippers and conservative night-gowns for the rude brogans of common sense and habiliments of progress, in which to escape from the crumbling walls of the Capitol to the saddened homes of your constituents, clustering with their fond memories of the *past*, and some of them hallowed by monuments and mausoleums dedicated to departed wisdom, patriotism, and greatness; when you shall be met with the cry, "'Watchman, what of the night?'—why is the temple of liberty destroyed?" and you shall repeat yourselves, and answer, "All is lost! *we had not the constitutional power to save it!*"—then, amid the storm which shall burst upon you from the inappreciative masses, may each and all of you be sustained by that spirit of peace and goodwill toward *all* men which is so richly enjoyed by the distinguished gentleman from Massachusetts, [Mr. THOMAS,] and, more moderately, by my excellent friends on this side of the House, the gentleman from New York [Mr. DIVEN] and the gentleman from Rhode Island, [Mr. SHEFFIELD,] and which so eminently fits them for translation from these scenes of earthly strife to the celestial realms of eternal peace.

I have only to add in this connection, that I believe with the honorable and able gentleman who reported these bills, that we have ample powers under the Constitution and the laws to pass them, and that justice, expediency, and the public necessity require us to do so. When the conspirators were plotting their treason, and secretly moving in its execution, they were secret enemies of the Government, and were liable to indictment, trial, conviction, and punishment for treason, by "due process of law"—*the laws of peace.* When they took arms in their hands, and by open, organized force defied, resisted, and sought to subvert the Government, they became "public enemies," and are still liable to punishment by due process of law—*the summary laws of war;* by which their lives are forfeited, all their property liable to confiscation, and their slaves to emancipation. Blackstone says:

"The natural justice of forfeiture or confiscation of property *for treason* is founded in this consideration: that he who has violated the fundamental principles of government, and broken his part of the original contract between king and people, *hath abandoned his connection with society*, and hath no longer any right to those advantages which before belonged to him purely as a member of the community."

And Vattel, in treating upon civil war, says:

"The war between the two parties stands on the same ground in every respect as a public war between two different nations." * * * * "We have a right to deprive an enemy of his possessions, of *everything that may augment his strength and enable him to make war.* This every one endeavors to accomplish in the manner most suitable to him."

So these powers existed and do exist at common law and under the international law, and all history shows that they have been most fully exercised by all nations. They are incident to sovereignty. With us sovereignty is in the people; and these powers, by the Constitution, may be exercised by Congress, their agent, unabridged and unrestricted, except only that "no attainder of treason shall work corruption of blood, or forfeiture, except during the life of the person attainted;" and upon this restriction mainly turns the argument as to our right to confiscate the property of rebels now in arms, and more particularly their real estate. Was it intended to lessen the penalties for the crime of treason against the guilty; or was the intention only to prevent, in some degree, the sins of the traitor being visited upon his innocent children? I accept the definition of the word "attainder" given by my learned friend, the gentleman from Rhode Island, [Mr. SHEFFIELD.] He says:

"I understand [it] to mean a consequence upon the conviction of crime, which corrupts the blood and forfeits the property of the person attainted. The child of the attainted felon becomes a stranger and an outlaw in the land of his fathers. It was so in the English law."

In the light of this definition it is easy to understand what was sought to be accomplished by this provision of the Constitution, simply to remove this harsh rule as to the innocent, and to leave it in full force as to the guilty. If the intention had been otherwise, the words "except during the life of the person attainted" would have been omitted, and then the effect contended for by those who would have the restriction apply to the guilty as well as the innocent would be plain. Upon what rule of construction these words of exception can be treated as mere surplusage I do not see. Forfeiture was an incident of attainder, and the terms are convertible, meaning one and the same thing. Omit either, and the *practical* effect of the language is the same; still, I imagine, if the word "forfeiture" had been omitted, we should not have this controversy, but that all would concur that the intention was not to remit the penalty of confiscation against *all* the property of the traitor, but only that the blood of his children should not be attainted for his crime, not that the property of the criminal should be preserved for his children, but that they might be relieved from the disability of all inheritance incident to his attainder.

If this provision of the Constitution applies at all to the crime of treason in time of war, I think this must be its true construction. If it applies only in cases of conviction and judgment, as "by due process of law," in time of peace, then it must have been the intention, in view of the greater offense of treason organized into rebellion and civil war, to leave the harsh rule of the common law unrestricted and in full force during the continuance of the war.

In conclusion, Mr. Speaker, I have only to say that, through the favor of providence and the ardent patriotism of the people, I have full faith that we shall effectually subdue this monstrous rebellion, and make the power of the Government respected throughout all the States, and that the nation, through this great tribulation, will be purified and socially regenerated, so that it may run the race of empire with renewed vigor and glory, and forever remain in fact, as in theory, "the chosen land of liberty."

CONFISCATION OF REBEL PROPERTY.

SPEECH OF HON. L. HANCHETT,

OF WISCONSIN,

IN THE HOUSE OF REPRESENTATIVES,

May 26, 1862.

The House having under consideration the bills to confiscate the property and free from servitude the slaves of rebels—

Mr. HANCHETT said:

Mr. SPEAKER: In the course of the debates of this House, occasioned by the various propositions and inquiries, suggested by the extraordinary condition of the country, the question has often been asked, and as often answered, in one way or another, "What are we fighting for?" The question can hardly be asked too often, until the proper answer shall be found and made the basis of harmonious and effectual conduct. As I understand the objects and purposes of the war on our part, they are not to reconstruct the Union, for the work of construction was gloriously done by our fathers, and we do not for a moment admit that their work in that behalf has as yet been undone. Not the foul and unholy conspiracy which, in the ripeness of its long-maturing plans, and in the perfection of its organization, more than a year ago threw off all disguises, and bade defiance to the authority of the Union; not the various processes resorted to in rebellious districts for the purpose of creating a *pseudo* government, independent of and hostile to the Government of the United States; nor even the supplanting of the judicial and executive authority in certain portions of the country; not these nor all the concomitant deeds of insur-

rection and treason have as yet succeeded in dissolving that fabric of free confederate Government established by the men of the Revolution. The Union, as formed by them, still exists; and to preserve its existence we are now struggling. We seek not to create or organize new governments, nor to overthow any that have hitherto existed; but only to preserve the present in all its parts in full and complete vigor; to sustain the just power and constitutional supremacy of the Federal Government; and to preserve all the constitutional rights of the respective States, united by a common bond of the highest solemnity and force within the competency of human enactments. We make no war upon or against States, but against individuals of every State or district who defy and seek to destroy the Government of the United States. To that end the war should be prosecuted, until this unholy rebellion is utterly crushed out, until not a single traitor shall be left in arms or go unpunished, unless he be saved in the folds of a gracious amnesty.

But while such is the purpose of this war on our part, forced upon the loyal people of the Union by the wicked conspirators against its peace and integrity, the Government has not merely the right to subdue the rebellion, but so to prosecute the war, in view of its origin, as to remove, so far as may be, the causes on which its rise and progress depend. Whether the Government shall do so is merely a question of policy, not of constitutional power.

In the present deplorable condition of the country, considering the great strength and enormous proportions of the treasonable combinations which now assail the Government and seek its destruction, those charged with its preservation, in order to understand and appreciate the strength of the Government and its powers, are turned by the logic of necessity to a careful consideration of the elements which enter into and form the very basis of its structure. When we do this, we shall be able to meet and correctly solve the questions before us.

Mr. Speaker, from the beginning of this unhappy struggle to the present time we have heard almost every hour loud and loyal utterances in behalf of the Union. We read in the daily press encomiums upon the Union. We are told that we are fighting for the Union. What Union do gentlemen mean? Of what Union does the press so lavishly give expression to its admiration and devotion? Does all this mean the union of the North or northern States against the South or southern States? No. Sir, I suppose it to mean the union of all the States forming the great confederate Government of the United States—a Government instituted by States and the people thereof, and endowed with all the power necessary for its own preservation against internal and external enemies.

It has been more than intimated upon this floor that in order to subdue the rebellion, and secure the permanent supremacy of the Constitution and laws of the United States, it is absolutely necessary to blot out the political existence of the several States comprising the district of country where treason and rebellion are, for the time, in the ascendency.

It has been said in this House that—

> "The rebels have demanded a 'reconstruction' on the basis of slavery; let us give them a 'reconstruction' on the basis of freedom. Let us convert the rebel States into conquered provinces, remanding them to the status of mere Territories, and governing them as such in our discretion."

Unjust as this proposition practically executed would be toward the loyal citizens in the States wherein insurrection prevails, and whose voices have been drowned in the wild waves of secession which have rolled over them, it would also, in my judgment, be the death blow to our cherished system of confederate Government. You cannot degrade a State to the condition of a Territory or conquered province without violating the fundamental principles of that system. A State may decline or forego for a time her privileges in the Union by refusing or neglecting to exercise them, and Federal authority within her limits may require to be maintained by Federal power, but her constitutional status must remain unchanged, or the whole fabric of Union is subverted. I understand others to take the same view of the subject, going a little further, perhaps, and intimating that the Government must repudiate the responsibilities of the Union in regard to the rebellious States "which it imposes upon itself."

These views, it seems to me, are quite as subversive of the principles of the Constitution and Government as secession itself. Indeed, sir, they are based upon the very doctrines of secession, because they necessarily admit that the Union is already dissolved by the voluntary withdrawal of several States, and accordingly propose to treat such States as no longer of the Union.

The Federal Government depends for its very existence, not upon the loyal men here and there in different localities, but upon the maintained rights and constitutional status of the individual States and Union supremacy over all—the latter in nowise derogatory to the former, but both completing the circle of federative Government, and realizing the great idea of the fathers of the Republic. When this war shall have been brought to a successful close, if any State shall have been shorn of her rights or shall have declined from her proud position among the sisterhood of the great Republic, it will be caused by the mad, wicked, and suicidal action of her own degenerate sons, and I hope in nowise occasioned by the policy, conduct, or usurpation of the Federal Government. Sir, it is as essential to the very existence and supremacy of the Government, as formed by our fathers, that the respective States shall be preserved in all the amplitude of their powers, integral and intact, as it is to put down the rebellion itself; for without this there can be no Union, and consequently no such Government as our fathers established. There may be, indeed, a Government based upon a union of a portion of the States only, but such is not the system inaugurated by the Constitution; and to admit it would be to admit that the rebellion was successful, and that we are now to establish, not a reconstructed, but an altogether new Government. This I will never admit.

What, sir, would have been the condition of the Government when rebellion first raised its defiant crest if it had not had the loyal States of the North and Northwest to call to its support, endowed with powers adequate to the emergency they were required to meet? The Federal Treasury bankrupt, its armories and arsenals despoiled and depleted, its armies strewed in squads or battalions all over the vast territory of the Union, and its Navy dispersed to the distant quarters of the globe, and treason itself creeping out in almost every district of the country and Department of the Government. Then it was that the loyalty of these States spake with the authority of their own, and not only hushed the voice of treason at home, but raised, armed, and sent forth their legions of freemen to the defense of the nation and its capital. Although, in common parlance, we speak of disloyal States, we use this language rather to indicate the district of territory where rebellion is most rife, than to convey the idea that the State itself, in its organism, is disloyal. It may be that a majority of the people in the territory of a given State are disloyal; it may be that the public functionaries are traitors to their State as well as the United States; but a State cannot go out of the Union and remain the State it was before; for as the Constitution of the United States is a part of the constitution and laws of each State, and subordinates the provisions of the latter to the conceded supremacy of the former, compacting and harmonizing both, the destruction of the one necessarily rends the other. If you expurgate from the constitution of a State the principles, doctrines, and inhibitions of the Constitution of the United States, you thereby not only radically change the State constitution and revolutionize the State government, but you also violate the Constitution of the United States, and break down and destroy the whole political system inaugurated by that instrument. And this is evident from the fitful struggles of Virginia, and other southern States which have tried to secede, to reorganize their municipal systems, and to organize another confederacy, to which they may attach themselves and be at rest. It is to restore the people of these States to their political rights, to protect the States which their leaders are endeavoring to destroy, to restore them to all their constitutional rights in the Union, and give rest, peace, and security to their agitated, maddened, and affrightened population, as well as to maintain the constitutional power and authority of the Union over all the States, and preserve the political creed of our fathers, that we prosecute this war. Talk of subjugating States! Sir, we cannot do this without subjugating ourselves. As well might we talk of subjugating the Supreme Court or any other coordinate department of the Government. But we can subjugate traitors, and that we ought to do, and thus restore our unfortunate sister States to the home of their youth.

Mr. Speaker, the system of government founded by our fathers, which has shed its blessings not only upon their descendants, but equally upon the stranger, the homeless, and the exile, is solemnly given us in charge to defend, protect, and preserve. It is worthy of all sacrifices which its emergencies may require. It is the only Government ever founded upon the great principles of human equality. The liberty of Rome was for the Romans only; the liberties of ancient Greece were confined to the Grecians alone. But American liberty is the rightful, God-given heritage of man, not because he is an American citizen, but because he is a man; because it is the birthright of man, born equal in all that respects civil rights to his brother man. Hence this Government commands the sympathies of mankind, appealing to their hopes, and promising a realization of their aspirations; and so long as it is true to the vital principles of its organization, so long will it enjoy the favor of the God of truth. But in so far as it voluntarily departs from that principle, it will provoke the anger of God, and forfeit the blessings of His providence. If we fail to sustain and preserve this Government upon the principles of justice, liberty, and equality—and upon no other principles can it be preserved—the last hope of free government on earth will expire with our failure, and the rising dignity of man will again recede to the conditions of despotism, degrading and barbarous alike to the despots and their victims; for government, like individuals, must conform to natural laws, prospering and progressing in proportion to their observance; suffering and retrograding upon persistent violation.

Mr. Speaker, we have two great sources from which we discover and are enabled to apply the principles upon which this Government is organized—the one the Declaration of Independence, and the other the Constitution of the United States—the former declaratory of the principles of free, equal, and just government; the latter reducing them to systematic, regular, and authoritative application—the former declaring that all men are created free and equal; the latter prescribing the rules by which that freedom and equality shall be practically enjoyed and permanently secured. These are the great lights which our fathers have hung up to illuminate our pathway—the guides for the legislative, executive, and judicial departments of the Government. We need none other. They are ample for all our purposes. The chosen people of God had their pillars of cloud by day and of fire by night by which the hosts of Israel marched to their land of promise. We have the Declaration of Independence and the Constitution of the United States—the two great pillars of our Government, sufficient for our guidance in counsel or in camp, in peace or in war. *To these the nation must cling for support, not to the one only, but to both, under all circumstances and in all emergencies.* Because, if in putting down the rebellion, we outrage or violate the Constitution and the fundamental principles of the Government, we shall find ourselves accomplishing the same result which the rebels seek. If, when the rebels shall have been subdued, we shall emerge from the surges of civil discord with a broken Constitution, a revolutionized and subverted Government, we shall have poured out our blood and treasure to a fell purpose. If, on the other hand, we crush the rebellion and still maintain the Constitution and the system of Government inaugurated thereby, we shall present for the admiration of mankind the most sublime spectacle of free Government the world ever saw.

The Declaration of Independence is not less essential to a complete exposition of our institutions than is the Constitution of the United States. To perpetuate the principles solemnly declared in

the one and to preserve the framework inaugurated by the other are objects and purposes for which we should be willing to sacrifice our lives and fortunes. The rebellion strikes at both. It not only seeks to throttle the Constitution, but to obliterate the political creed of our fathers. If successful, human equality, and, consequently, civil liberty are destroyed, and constitutional government, organized for their protection and security, is broken down. These objects the rebel leaders do not hesitate to avow. It will be seen, therefore, that the principles, motives, and object of the contending parties are diametrically opposite. Hence this is a death struggle for constitutional freedom and equality on the one hand, and a despotic oligarchy on the other. The one or the other must perish. It is in vain to think of making terms with such a foe.

Mr. Speaker, when public attention is concentrated upon one all-absorbing object of interest, it is all the more important that the trusted servants of the people be more than ever watchful, and take special care that all acts and measures of the Government be rigidly tried by the constitutional test. I have heard it said that in times like these, when we have an army of over half a million of men in the field, armed and equipped and supported at the enormous expense of $2,000,000 per day, for the purpose of crushing an unholy rebellion against the just authority of the Government, it is no time to stand upon nice constitutional questions. Sir, I believe that such is just the time—not to stand upon such questions, indeed—but to meet them and decide them promptly and correctly, and to use all necessary means to crush and put down the rebellion and punish the traitors. To this end it is not necessary, in my opinion, to violate the Constitution or disregard the fundamental doctrines of our political system. Because all the powers necessary for these purposes the Constitution vests in the Government. The Constitution was made for all persons who loyally seek its protection, but not for those who traitorously seek its destruction. Talk about the constitutional rights, guarantees, and protection to men actually in arms against the Constitution! The thing is an absurdity on its face. Why, this is to make the Constitution a *felo de se*—a traitor to itself—giving aid and comfort to its own enemies. This cannot be. The rebels having forfeited all their rights, including life itself, it follows that the Government may constitutionally use against them all such means as may be necessary to put down the rebellion, limited only by the laws of civilization and humanity. What these means shall be is simply a question of sound policy.

It is said that a question may arise as to who shall exercise these powers; which department of Government shall put in operation these means. To my mind the answer is obvious. It is just that department whose duty it is to act. If the duty be executive, the President is invested with the power; if it be legislative, Congress; if judicial, the courts; and if the means be beyond the reach of these departments, acting in a civil capacity, then the President, as the head and Commander-in-Chief of the Army and Navy, *must* exercise the power and adopt the means, according to his discretion. But suppose the President corruptly uses this military power against loyal citizens who have forfeited no right. Then impeach him. If he has acted arbitrarily, or oppressively, that same good old covenant of the fathers provides that terrible remedy, with its crushing penalties. But there are occasions, in times of invasion and rebellion, when the innocent may be liable to unjust suspicions, and suffer undeserved restraint. But this often occurs in the course of civil administration. The innocent is sometimes accused of crime, arrested, and imprisoned for long months, waiting a trial, when his innocence shall be established. Such is the uncertainty of human administration, even in quiet times, under the best of Governments. It is the misfortune of the individual, to which all are liable, and to which all good citizens must submit. How much more liable are such mistakes (for such they may be called) to occur when rebellion is rampant in the land, and when traitors and rebel spies are operating all over the country! Sir, gentlemen are mistaken when they confine this rebellion and its treasonable operations to what they are pleased to call the disloyal States. Its agencies and ramifications extend over the entire country; and the means requisite to its suppression must be applicable everywhere. Geographical lines are as inapplicable to the means of preservation as they have proved to be to the agencies of destruction. A rebel spy or traitor in New York is infinitely more dangerous to the Union than one in Charleston; and, if comparison does not scorn the application, a thousand times more wicked. Wherever the evil is, or in any manner suggests its presence, there the remedy should be applied.

It is said that the President has authorized arrests without the intervention of the judicial power, and has suspended the writ of *habeas corpus* when applied for in behalf of the persons so arrested. I would not allude to this subject but for the reason that it is intimately connected with the tenor of my remarks, and for the further reason that not only on this floor, but in the other end of the Capitol, as well as by a portion of the press of the country, the President and his Cabinet Ministers have been charged with a violation of the Constitution, with the usurpation of powers not delegated to that department of the Government, with the assumption of the rights and functions of the legislative department, and with an attempt to break down the great fundamental safeguards of constitutional freedom.

I propose to examine briefly the *habeas corpus*—not in the light of judicial authority and decisions, but upon original principles. I confess, sir, that when this question was first suggested, looking at the matter from the English point of view and in the light of authorities, it did seem to me that the power of suspending that writ of right and liberty was vested in Congress alone; but subsequent reflection and investigation have led me to an entirely different conclusion. I shall not here attempt to go into a history of that writ, or an enumeration of the causes which led to its firm establishment in the British constitution, as one of the bulwarks of English liberty; suffice it to say, that it was extorted, so to speak, from the Crown in behalf of the public. Every power and privilege of the kind in England, conceded by the Crown, was so much gained by the people, wrested from Norman usurpation by Anglo-Saxon energy and pluck. Here, all powers granted to any of the departments are grants, direct or implied, *from* the people, while in England the power of suspending the benefit of this writ was vested in Parliament, for the very reason that the writ and its benefits had been wrested *from the control of the Crown*. In this country, that power and control became vested in the people on the Declaration of Independence, and they were at liberty to vest it in any one of the departments of the Government which they were about to institute. In England but one department emanated from or was controllable by the people. The king was imposed upon the nation by hereditary accident, over which they had no control; the judiciary was but a creature of such a king. One branch of their Legislature was also hereditary; the other, the House of Commons, only represented the popular will, and was supposed to constitute the ever-watchful guardian of English liberty. It was well, therefore, that the British people should vest the power of suspending the great bulwark of English liberty—the writ of *habeas corpus*—in Parliament alone.

But, sir, no such causes operate or conditions obtain here. Every department of this Government (except the judiciary perhaps) is directly responsible to the people, and endowed with functions prescribed by a written, specific charter, framed and adopted by the people in their sovereign capacity. It was, therefore, competent that they should vest this or any other power of the Government, in such department thereof as the exigencies of the nation might require. The right to the writ was vested in the people; the power of suspending its benefits is a grant from the people to the person or department which they have seen fit to trust therewith. The British constitution differing in this respect from our own—the theory of executive power, as established by the former, differing in its origin and *investiture* from that of this Government—it follows that English decisions, precedent, and *dicta*, are not, in all cases, applicable to our system. But, so accustomed are we to recur to English precedents, and in all, save what relates to the fundamental structure of Government, and the source and mode of *investiture* of its several powers, are the judicial, legislative, and administrative formula of the British Government so similar to our own, that we are too apt to overlook fundamental differences when the real state of the case actually demands the most careful discrimination. Hence, it is not at all remarkable that we find in elementary works upon constitutional law, in loose *dicta* of judges, in the general discussions of constitutional questions, in excerpts from *quasi* judicial literature, passages strewed here and there tending to establish the doctrine that the power of suspending the writ of *habeas corpus* is in Congress alone—thus substituting the English constitution for our own, the British Crown for our Executive, and Parliament for our Congress; leaving out of sight, for the moment, the great fact that the powers of the Crown and Parliament, peers of the realm, and lords of the judiciary, all reverted to and vested in the people and States of this country on our final separation. Laws were retained, sir, but constitutions were made anew. Precedents were, indeed, revered and followed until the line of demarkation between the new system and the old was reached; then precedent was swept away by the breath of a new political philosophy.

Mr. Speaker, I think there can be no doubt that the President has been entirely right in the exercise of all the powers which he has used, not only in the suspension of the writ of *habeas corpus*, but in the arrests which have been ordered. If fault is to be found, it is in the sparing of power, not in its usurpation. It is not necessary to enter into a detail of the distribution of constitutional powers now. It is only necessary to recur to the preamble of the Constitution to discover the source of all power conferred by that instrument. It organizes the three essential departments of the Government, and defines the powers committed to each, and imposes such inhibition upon them, respectively, as, in the judgment of its framers, were deemed necessary; and declares certain rights which were to be held sacred to the people, and to be suspended only upon the occurrence of events therein specified.

The only reference to the writ of *habeas corpus* to be found in that instrument, is in the second clause of the ninth section of the first article, which reads as follows:

"The privilege of the writ of *habeas corpus* shall not be suspended, unless in cases of rebellion or invasion the public safety may require it."

The framers of the Constitution seemed to think this inhibition upon the powers granted or implied to the Government they were about to inaugurate necessary, lest some one or other of the departments might seek other occasions than those mentioned for suspension. The language is not that of grant, but of inhibition. It is not addressed to one department more than another, and the implication is, that but for it the benefits of the writ might be suspended at discretion or upon mere caprice. It is not merely inhibitory upon Congress, but upon all officers and departments of the Government. In the recess of Congress, if the emergency contemplated by the Constitution should arise, I have no doubt that the Executive might exercise the discretion and the power of suspending or rather disregarding the writ, in order to promote the public safety and preserve the Government. This seems to be proper and necessary, according to the natural laws of self-defense and the right of self-preservation, applicable alike to individuals and to governments, and which cannot be limited by agreement in the one case nor by written constitutions in the other. In times of rebellion or invasion, when the executive power is that on which the chief reliance of the nation is placed, that must necessarily be the department to which the inhibition is more especially addressed. The occasions contemplated are sudden, and the remedy should be prompt. The executive power acts promptly, the legislative deliberately, the judicial slowly and by regular process.

It would seem, therefore, that the power of suspension in the article referred to, is an act execu-

tive in character, and not judicial or legislative, and the prescription of the limits of its exercise must, therefore, be peculiarly referable to the executive. If this reasoning is correct, the President is right as far as he has gone in the premises. Let the legislative power promptly support him and supply all the deficiencies with which a halting prudence may incumber him. Under our political system each fundamental department of the Government must be the sole judge of its own powers, responsible only to the people of the nation. And I repeat that the Constitution, properly construed and acted upon, confers all the powers upon the various departments of the Government, each acting in its appropriate sphere, necessary to crush out this wicked rebellion and visit condign punishment upon the traitors—whether they shall be found North or South—whether in open arms or in secret complicity—whether wielding the musket, the spade, the pen, or the purse. Wherever treason shall lift its head, there follows the conserving and avenging power of the Constitution.

Mr. Speaker, as a part of the Government, Congress has its duties to perform. We have our constitutional obligations resting upon us. We are to provide the means, raise, equip, and support the armies, and whenever the military power shall have reëstablished the authority of the Constitution, to provide for the due administration of the laws, and the restoration to the loyal people of the blessings of civil jurisprudence.

I took occasion to say in the early part of my remarks that the Government had not only the right to subdue the rebellion, but so to prosecute the war as to remove and obviate, as far as possible, the causes and conditions upon which its recurrence might depend. The petitions which I have had the honor to present to this House on the subject of the emancipation of slaves of rebels express but a slight indication of the tone of public opinion in the district which I have the honor to represent. Everywhere the effects of the rebellion are felt; hearth-stones, hitherto the shrine upon which the domestic affections laid their daily offerings, are in many instances made desolate, and the vital energies of the nation, which for years have been occupied in the pursuits of peace and the enlargement of the area of civilization, freedom, and happiness, are now concentrated for the purpose of defending the glorious Union under whose auspices we have lived and prospered.

Sir, it is but natural that the amazed sentiment of a confiding and loyal people should seek relief from the terrible bewilderment into which the outbreak of the rebellion plunged them, so causeless, so unexpected, so wicked, and profane, that our peace-loving and law-abiding citizens were not only surprised at the progress it had made, but oppressed by the enormity of its fiendish machinations.

Is it any wonder, then, that the public mind should leap from cause to effect, from disorder to remedy, from conjecture to reason, to find relief from the very pressure of excitement? At first public attention was directed to the chief conspirators in this unholy work, then to the motives which could possibly inspire them, and then to the underlying causes which were competent to effect such diabolical inspiration. A great crime, hitherto unconceived, had suddenly been stalked. The soul shuddered in view of its hideousness, and staggered under the weight of its apprehension towards the pillars of its support—reason and faith. This was natural, inevitable. Relief must be had. Reason was invoked to go out in search of cause and remedy, and faith pointed to the only remedy—the loyalty of the human heart to the great principles of human happiness and progress. It is not surprising, then, that the public mind, in these times of peril, should exercise all its powers to classify, arrange, and concentrate all its discoveries in regard to the origin, the cause, the remedy for, and the future security against, these stupendous crimes.

Hence, sir, it is assumed in numerous petitions presented to this House (some of which I have had the honor to present) that the rebellion finds its root and nourishment in the system of chattel slavery at the South. This, in whole or in part, is true. It is so declared by the leading rebel conspirators themselves. Without quoting extracts from the public addresses and *quasi official* documents, it will at once occur to the recollection of members of this House that these rebel leaders have vauntingly proclaimed to the world that slavery was the great element of their political strength. The slaves of rebels are relied upon to produce the great staple which is to supply them with the sinews of war. Every able-bodied slave may be said to represent or become a substitute at home for an armed rebel in camp. So long as the slaves of rebels are compelled to remain quiet upon the plantations, performing their daily task of productive labor, just so long are they, both directly and indirectly, contributing to the support of the rebellion, as much so as the slave who builds fortifications and intrenchments or the soldier who carries the musket. He who feeds and clothes the enemy becomes a portion of the rebellious force. He may be the involuntary instrument of others, but he is not the less an effective agent. The charger who bears the armed warrior upon the field of battle is seized or killed, not because of his value, but because of the aid which he renders the foe; not because he is the property of the enemy, but because he serves the enemy. And upon the same principle he would be seized in the furrow as in the charge, as well in preparing the soil for the future sustenance of the enemy as when hauling material for his winter quarters. And into this aspect of the case the idea of property does not enter. There is no *ad valorem* consideration in it whatever. The use to which the one or the other is put, the effect of the service to the advantage of the enemy or to the prejudice of the Government, constitutes the basis (though, perhaps, not the sole basis) of our right and of our action. Whenever it becomes apparent that the slaves of rebels are directly or indirectly aiding the insurrectionists, that moment the Government has a perfect right to annul the relation in virtue of which the rebel master commands the service of such slave. Of this there can be no manner of doubt. There can be no constitutional impediment to such action on the part of the Government, for the Constitution, as before remarked, grants no rights or protection to those who are in arms against it or are giving aid and comfort to its enemies. It is not a *felo de se*. With the forfeiture of his life the traitor forfeits all that pertains to his personality. Whatever rights of property may be preserved to his heirs, his are absolutely forfeited and gone forever. The slave who grooms his horse, who carries his armor, who hoes his corn, as well as the corn, the horse, and the armor, is alike forfeited with his life.

It may become a question as to what department of the Government shall exercise these powers, and to what extent the exigencies of the case and sound policy require the exercise of them. In other words, the question is rather one of discretion than of doubtful authority.

Mr. Speaker, we are in a state of actual war—civil war—a war against rebellion. But the Government has not declared war. It pretends to no power to declare war against any of the States or people of the Union. A portion of its citizens have taken up arms and made war upon the nation, and every department of the Government, to a greater or less extent, in one form or other, has recognized the fact. The laws of war, therefore, must govern the conduct of the military power which carries it on. When the insurrectionary force is so great as to preclude civil administration, the military alone can prescribe the rules of conduct, and those rules can neither be uniform or general, but varying according to the exigencies of the time and occasion. Whenever, by reason of insurrection or invasion, the civil administration is suspended, the military administration takes its place, and proceeds according to the emergency which calls for its interposition, regulated by the laws of war, as recognized among civilized nations. The local laws of the place, State, or country are necessarily suspended, not only because their administration is impossible, but because they are inadequate and unadapted to the wants and purposes of the war power, which becomes a law unto itself. Now, this is precisely our case in the southern portion of the Union. I know of no district of any considerable extent south of the lines of the Federal Army, where the laws of the United States can be executed by the usual civil functionaries. To what purpose, then, would be the enactment of other laws by Congress, having special reference to such a condition of affairs, when their execution is impossible? They would be declaratory of the legislative will—*an assertion of what we would do if we could, and what we intend ultimately to do*, but without sanction or force, except as the Army should progressively subdue the rebellion, and reinaugurate civil administration.

The war power, about which so much has been said, and properly said, is not confined exclusively to the Executive, though the immediate conduct of the war is confided to that department; a large portion of its incidents, purposes, objects, and results, is, in a considerable degree, dependent upon Congress.

To this end the Constitution gives to Congress the following specific grants:

"To establish tribunals, inferior to the Supreme Court, which may be exercised in aid of either the civil or military administration."

"To declare war, grant letters of marque and reprisal, and to make rules concerning captures on land and water;

"To raise and support armies, but no appropriation of money to that use shall be for a longer time than two years;

"To provide and maintain a navy;

"To make rules for the government of the land and naval forces;

"To provide for the calling forth the militia, to execute the laws of the Union, suppress insurrections, and repel invasion;

"To provide for the organizing, arming, and disciplining the militia, and for governing such part of them as may be employed in the service of the United States."

These, sir, are the war powers conferred upon Congress; powers absolutely essential, it must be admitted, and without the exercise of some one or all of which no war could be of long duration, either foreign or domestic. But they comprise, after all, but a small portion of the power incident to a state of war, the control of causes which produce it, or the mode of its prosecution, or the terms or conditions on which it shall cease.

At first blush, it would seem that the framers of the Constitution contemplated no war as liable to exist, except such as might be formally declared; and hence, perhaps, intended to lodge the war-making power with Congress alone. But experience has demonstrated the error, if such was their supposition. War has been, and may be, forced upon the nation without the formal action of Congress. The fathers did, indeed, provide against insurrection and invasion; but these seem to have been regarded as merely temporary incidents, effervescences, or casualties of the day. The idea of such a rebellion as now exists was too heinous, too extravagantly wicked and atrocious, to be suggested to minds so pure and patriotic as theirs. And yet in the framework of the Government so closely did they adhere to and comprehend the real philosophy of free, constitutional government, that all conditions resulting from the perversity of human nature at home, as well as from aggressive forces from abroad, are provided against. But the active conduct of the war, whether civil or foreign, whether formally declared, or rushed upon a people by invasion of their territory or other forcible aggressions, must ever be vested in the executive power of the Government. Hence the Constitution provides that that power shall be vested in a President of the United States; that the President shall be Commander-in-Chief of the Army and Navy of the United States; that, by and with the advice and consent of the Senate, he shall appoint all officers not therein provided for, military as well as civil; that, with the like consent, he shall have power to make treaties; that such treaties, the Constitution, and laws made in pursuance of the Constitution, shall be the supreme law of the land, anything in the constitution or laws of any State to the contrary notwithstanding; and that the President shall take care that the laws shall be faithfully executed.

Now, Mr. Speaker, with the power of Congress to raise and support armies, and the foregoing powers conferred upon the President, we have ample authority in the General Government to remove every obstacle to the peace and integrity of the Union—even, if necessary, to abolish slavery, or any other institution created or upheld by State law. Suppose, sir, we were in the midst of a foreign war, and, in the judgment of the President and Senate, the only means of preserving the nation was to abolish slavery in all the States,

and a treaty should be made to that effect and duly ratified. Such treaty would be the supreme law of the land, and slavery would be wiped out, anything in the constitution or laws of any State to the contrary notwithstanding. Precisely so in case of civil war. If to suppress the insurrection, which has become so formidable as to defy the laws of the Union, and even the force of the Constitution itself, which is the supreme law, it should become necessary to abolish slavery, in whole or in part, there is constitutional power in the Government to do it. And of such necessity the Government must be the sole judge. Here State power cannot act, except through the General Government. If slaves, or slavery as an organized institution, tend to aid the rebellion, the Government has the undoubted right to remove it, to any extent that shall be necessary.

Mr. Speaker, I believe the time has come to exercise this power, so far as the leading rebels themselves are concerned, because so long as they can maintain their armies upon the borders of the insurrectionary districts, and keep their slaves at service in the interior, the latter will continue to be the backbone of the rebellion. It is admitted, that while our own soldiers are subjected to painful toil upon burning sands and in pestilent marshes, the rebel troops are spared such exposures, which are borne by the slaves of rebels, often in sight of our own camps. Will any one say that these negroes, who are performing such involuntary service against us, are beyond the power of the Government? Oh, no! we are told that the slaves of all rebels, actually employed in hostile force against the Government, may be set free. Why limit it to such slaves as are *directly* employed in the war service? Sir, what is the war service? Is not the slave performing involuntary service on the rebel plantations, raising and harvesting the wheat and corn that subsist the rebel army, as effectually aiding the rebellion as the slave who loads the grain on wagons and conveys it from camp to camp? Is he who raises or produces subsistence or supplies for the rebels, actually less in their service than he who carries it to and for them? Is he less employed in aiding the rebellion who furnishes a recruit for a rebel army than the recruit himself?

Sir, the distinction attempted to be made in regard to the slaves directly engaged in the war and those of rebels at work on their plantations at home is utterly untenable. They are all alike an efficient source of strength to the rebel cause. However much they may embarrass their masters when disaster overtakes them, they constitute their chief reliance for the means of sustaining their armies. Why, then, this terrible dread of removing, so far as is in the power of the Government, the obligation of servitude which they feel resting upon them? What is there so *sacred* about this relation of master and slave that it should be reverenced, even in the case of the most atrocious rebel? Whence does it derive its mystic authority for that defiant ukase, "Hands off; touch me not!" when every other relation in society yields to the exigencies of the times? The relation of husband and wife, parent and child, all the ties of society must yield to the terrible exigencies of this civil war, except that of master and slave. Sir, it is a foolish prejudice, nay, sir, a wicked perversion of judgment, of reason, of law, and justice. While the so-called confederate government has confiscated every particle of the property of loyal men within their reach; nay, more, sir, when this same self-styled confederacy has commissioned piratical rovers to capture upon the high seas our unoffending, unarmed merchant ships, to plunder their cargoes, imprison their crews, and burn their vessels; when the heavens crimson and the waves blush at the glaring outrages of these piratical hell-hounds, shall we sit here deliberating in cool debate about the justice of depriving them of their slaves? No, sir; if a blow can be struck in that direction, let it fall—the heavier the better. But we are told that this policy would be violently opposed by and would tend to alienate the hearts of the loyal slaveholders.

Shall we be told and required to believe that truly loyal men, slaveholders or non-slaveholders, can stand *indifferently* by and see their rebel neighbors turning their slave products against the *Government which they love so devotedly?* What, sir! loyal slaveholders witnessing the slaves of rebels striking down the Constitution, and crying out, "Let the Constitution fall, but spare the rebels their slaves! We love the Union above all things. The slaves of our rebel neighbors, with their masters, have seized upon its vitals, are tearing it limb from limb—are throttling it. But let the Union gasp—touch not a single hair of slavery. If you do, we fear for the fate of the Union. You will alienate the loyal Union men of the South." Is this the loyalty of Union slave-owners? Do they prefer the security and preservation of the slave property of traitors to the maintenance and preservation of the Government?

Sir, such loyalty is not worth the breath that gives it utterance. It is a foul slander upon the word—it is a shame upon the good old Anglo-Saxon, our mother tongue. It is treason disguised, crouching under the despicable folds of selfishness and timidity.

Mr. Speaker, in my judgment, a Union man, North or South, who prefers slavery to his country, who prefers the alleged rights of rebels to their slaves to the preservation of our glorious framework of free government, is a monster of political and moral incongruities.

But, sir, while all along I have endeavored to abstain from all utterances, in substance or in form, that might be calculated to inflame passion, to check recuperating patriotism, or disturb the serenity of conservative loyalty, I am willing to go still further and consider the doubts, the apprehended difficulties, the fretted sensibilities, the seemingly unconquerable prejudices which appear to oppress loyal men in the slaveholding States. They are startled at every proposition, however remote, for the dissolution of the relation of master and slave. A rebel may be stripped of lands and tenements, goods and merchandise, may be mulcted in penalties and forfeitures, may be arraigned, tried, convicted, hanged, and they all say amen; but to attempt to dissolve the relation of master and slave, even when the former is shuddering upon the gallows, is said to be enough to put loyalty to flight and to subvert altogether the Union sentiment in the South. Why is this so?

The only plausible objection which I have seen or heard urged to the emancipation of the slaves of leading rebels is, that it would turn loose among the loyal slave-owners a large number of freed men, and that they would be overrun by free negroes corrupting their own slaves and disturbing society in its various departments. To these objections of loyal slaveholders there are various answers. I prefer to begin with the first, the all-comprehensive answer. If slavery has brought these evils upon the country, and if to arrest the traitors in their unholy work it is necessary to dissolve the relation of servitude between them and their slaves, whoever loves his country is bound to yield to its necessities. That patriotism which only rises to the level of self-interest, and which quivers at the approach of personal sacrifice, is unworthy an American citizen. While tract after tract of land in the northern States may be swept away from the owners, from sheer inability to pay the increased taxes thereon, how can any truly loyal man grumble at a vague fear that the emancipation of the slaves of his disloyal, traitorous neighbor may possibly put him to inconvenience, that his own slaves may be corrupted and demoralized, and all that sort of thing? But let me ask the loyal slaveholders if they are quite sure that these results will follow the dissolution of the bond between rebels and their slaves? The same power which gives efficiency to the mandate of liberation is competent to and doubtless will provide an adequate police and economical establishment for the restraint and employment of the slaves, so that there will be but little difficulty in inaugurating a system of free, paid, and productive labor upon the very soil where slave labor has been employed for the purpose of subverting the Government.

But again, loyal slaveholders have no right to complain of this policy of emancipating the slaves of rebels. Every man who invests his capital in property of any kind is presumed to do so with a full knowledge of all the incidents, relations, characteristics, and casualties to which the same is subject. He who invests his money in gunpowder does so with the full knowledge that it is explosive, that it is extra hazardous; so he who chooses to brave the moral sense of mankind by affecting to *own* man as property does so with a full appreciation of all moral, social, and political consequences. He who pays his money for human brains and human legs does so with the full knowledge that brains were made to think, and that legs were made to run. He takes his risk for time and eternity, for peace and for war, for good or for evil, subject to all the incidents of his unnatural tenure.

Let me here say, for I cannot enlarge upon this subject, that when the slaves of rebels are stripped from their masters, emancipated, free, slavery will thenceforth take care of itself. It will cease to be a political power in the country. Loyal men will not desire its malign supremacy, and rebels will be glad of such personal immunity as may be granted them. But we are asked, what shall be done with the liberated slaves? Let me ask what has been done with them heretofore? They have performed various feats—they have done nearly all the labor of the field, the household, and the shops. They have reared and demoralized a haughty and disloyal aristocracy, and reduced the poor whites in their midst to a condition of hopeless degradation.

Shall we send them out of the country—colonize them abroad? Sir, in the first place, we have no right to expatriate them without their consent, until, by their own wrongful acts, they forfeit their God-given right to live upon the soil of their birth. In the next place, we cannot at present spare them from the country. Their free labor will be as essential to the cultivation of free soil as their slave labor has been to slave soil. A long time must elapse before free white labor, in anything like an adequate amount, could be found to supply their place. They are inured to toil, they are adapted to the kind of labor needed; and, from their known docility, they would cheerfully submit to any educational policy or economical system which politic justice and wise humanity should suggest. The same plantations would remain spread out before them, inviting their labor. The same fields which have been the scenes of their terrible wrongs would become their happy and peaceful homes.

No, sir; we cannot afford to send away from the country such a vast capital of labor. To do so would be to turn the rich plantations of the South into barren deserts, and leave the remaining loyal slaveholders lonely denizens of solitary oases in the midst of wide-spread desolation.

Again: on the score of economy and justice towards the loyal people of the nation, the present is certainly a most unpropitious time to inaugurate such a policy. Suppose that three fourths of all the slaves in the rebellious districts (say three millions in number, and this is a low estimate) are to be paid for and sent out of the country under this colonization scheme. If each slave thus liberated and sent away costs the Government $500, you have the small sum of $1,500,000,000, chiefly to be paid by the loyal people of the country, already prostrated by the enormous taxes incident to the rebellion. Ought the people to be required to submit to this additional and unnecessary burden, merely to gratify or appease the villainous traitor who seeks by force of arms the destruction of the Government and the utter overthrow of all free institutions? I say no—never! I would sooner give him the halter than compensation for his pretended property in human flesh and blood.

But so far as regards material aid to such of the negro race as may desire to emigrate, the question is quite another thing. I am ready and willing to render them all such aid as wise humanity may suggest and their necessities may require. I will not enlarge further upon this subject, because it seems to me that a mere statement of these facts is sufficient to show the absurdity and utter impracticability of the whole scheme. But, to conclude this subject, I will simply suggest that, in my judgment, it will be a much more wise policy for the Government to leave this question to be settled and adjusted by commercial negotiations and those laws of nature which regulate and control the migration of the races of the human family.

Mr. Speaker, we must meet these questions.

We cannot skulk them if we would. The logic of events frequently outstrips the calculations of the actors, and results march on in advance of the policy intended to modify their courses, while we may be lingering with stupid gaze upon the trail of passing events, and drabbling the skirts of our philosophy in the wake of military and naval expeditions. The question of slavery is so intimately connected with the rise and progress of this war that it is every day working out its own solution. Nothing now can save it but the early and unconditional submission of the rebels to the Constitution and the laws. No matter how gravely or hoarsely or shrilly we may prate of constitutional recognitions and guarantees, no power, no caution, no orders of military chieftains can save slavery from extinction as fast as our armies advance upon rebel soil.

Sir, I trust and hope that the Administration see the matter in this light, and that they are prepared to institute the necessary regulations to make the transition from slavery to freedom easy and safe. This transition, resulting from the advance of the military or war power, must of necessity be regulated in a great measure by that power. To that end, whatever legislation the Administration desires, I am willing to afford; any aid necessary and in our power to give, so far as I am concerned, shall be given upon the very first suggestion. But let not this Administration be unmindful of the vast responsibilities which the Constitution of the country has devolved upon them in these times of the nation's trials and dangers. Let them not think that they can escape the mighty issues which this rebellion has placed chiefly in their hands. A confiding people, with their treasures in hand, are hastening to their country's altar. A Congress willing to supply all necessary means are waiting suggestions. History waits to record her judgment upon executive conduct. Her justice is inexorable; her sentences are not always executed by posterity.

Mr. Speaker, I have confidence in the wisdom and patriotism of the Administration. I am willing and anxious to hold up their hands in every legitimate effort to crush out this rebellion; but while I would not in the slightest degree encroach upon their peculiar functions and duties, I shall nevertheless insist upon the full prerogatives of this branch of the Government. All the people ask of the Administration is, that they shall act up to the full measure of their extraordinary responsibilities, which the extraordinary exigencies of the nation have devolved upon them. That they yield neither to local prejudices or interest on the one hand, nor neglect the plain suggestions afforded by current events on the other; and that to save the loyalty of a few slaveholders the patriotic aspirations of millions of unconditional Union men be not divided and crushed.

ORIGIN AND OBJECTS OF THE WAR.

SPEECH OF HON. T. L. PRICE,

OF MISSOURI,

IN THE HOUSE OF REPRESENTATIVES,

May 26, 1862.

The House having under consideration the bills to confiscate the property and free from servitude the slaves of rebels—

Mr. PRICE said:

Mr. SPEAKER: It is not my purpose to trespass long upon the attention of the House, but I desire very briefly to express my views upon the origin and objects of the present war. Harmony of sentiment upon these topics in the loyal States, and amongst the law-makers of the nation, would be worth a hundred regiments in suppressing the wicked rebellion that threatens destruction to the liberties of a continent. I do not flatter myself that I can bring harmony out of discord or order out of confusion, but if I can contribute in the smallest degree to such a result the labor will be well rewarded.

For the real cause or origin of the present war, we must go quite behind the negro, the tariff, cotton, and every other pretext that has been thrust forward at different times by the South, as a sufficient cause for precipitating upon the country a bloody revolution. We must find the true cause of our present troubles in the lust of power, the restless and insatiable ambition of a few political demagogues. The outbreak of rebellion in Charleston, a little more than one year ago, was only the culmination of a conspiracy that was hatched in the same hotbed of treason thirty years since. Some of the original conspirators have lived through this period, and now boast of their bad designs and rejoice in the consummation of their wickedness. So long as the General Government was left in their hands, and they were allowed to monopolize its offices of trust and emolument, and use its power for the promotion of their selfish interests, they condescended to rule over the country. The moment that the popular will decreed a change in the Administration, that was likely to result in a more equal distribution of governmental power and patronage, they were ripe for rebellion. As a matter of course, they used any and every pretext to stir up sectional animosity and fire the hearts of the southern people; for, without their coöperation, what was intended to be a grand revolution would end in a miserable insurrection. Sorry am I to say, that, for this purpose, they found abundance of fuel in the North with which to kindle and replenish the fires of sedition. They seized upon slavery and the general repugnance to the institution in the free States, and made this the rallying-cry among the people. While the President elect and the conservative masses of the North and Northwest, who had placed him in the seat of power, gave every assurance of a sacred observance of all constitutional guarantees, the fanatical few preached disunion at the North as openly as the secessionists of the South. These canting Pharisees could see no sins or short-comings, no injustice or misery at home, but found the embodiment of all unrighteousness in the system of domestic slavery. They could turn a deaf ear to the wants and woes of neighbors and kindred, to groan in spirit over the fancied sorrows of poor Sambo. So utterly crazed are they upon the subject that they would sacrifice the liberties of twenty-six millions of civilized people to give freedom to four millions of African slaves. The abolition preachers and press of the North are responsible for furnishing the material to kindle the fires of revolution in the South. Even now, they glory in their bad eminence and call themselves the chosen apostles of liberty. As they have aided to bring on the calamity, may they have, in addition to the scorn and condemnation of all just men, their full share in the sufferings of a war-cursed nation!

But the great guilt of inaugurating the rebellion, of actually levying war and commencing hostilities against the United States, belongs to those whose souls were so deeply dyed with treason of twenty or thirty years' growth, that they cared little about the justness of their cause so that their monstrous villainy could be consummated. Neither had they any decent respect for the opinion of the world, but used their pretexts and subterfuges merely to blind and deceive the common people, and induce them to take part in the rebellion. To this end, every means and appliance were used which a wicked ingenuity could invent. The southern press was thoroughly subsidized, and through the whole course of originating and prosecuting the war it has done little else than to propagate lies and slanders upon the Government and the whole body of the loyal people. No southern slave has exhibited more abject and groveling servility to his master than the southern press to the traitors who had bought it. Added to the lying newspapers, a troop of loud-mouthed, unscrupulous demagogues scoured every part of the disaffected country, poisoning the minds of the people with their sophistries, banding them together in secret organizations, and binding them together under an oath of treason. No men ever worked harder or more persistently in the prosecution of their bad designs than these self-constituted missionaries of rebellion. Conscious themselves that they were already attainted traitors in the eye of justice, they labored under the peculiar stimulus of a prospective halter, which could only be avoided by the success of their diabolical plans.

The time chosen for the *dénouement* of the plot was altogether most propitious. A corrupt and venal Administration had charge of the national Government, and the leading members of the Cabinet were working for the single purpose of bringing the proposed insurrection to a successful issue. In Cabinet meetings, and directly under the eyes of the "old functionary," plans were matured and measures adopted to strip the loyal States of all means of defense, and to supply arms and munitions to the rebels. The contents of northern arsenals and armories made rapid transit to be placed under southern guardianship; so much of the fleet as was under the command of traitor officers was distributed at convenient points on the southern coast, and the remainder sent on voyages to the extremities of the earth. For such wickedness as that of Floyd and his coworkers at Washington—swearing loyalty and planning rebellion at the same moment—earth must invent a name and hell a fitting punishment; while the imbecility, treachery, and turpitude of that bad old man, their master, will carry down his hated name to an immortality of scorn and infamy.

Thus was the machinery of secession and revolution contrived and put in motion at Washington. The example thus set of perjury, theft, and robbery, was faithfully copied in all the revolting States. There was a similarity of plan and execution, evincing a wonderful degree of harmony among the conspirators. This unanimity of sentiment and action appears natural enough when we consider that very few understood all the secrets of the proposed rebellion. For fear of marring the plot, and introducing confusion into their counsels only a few leading demagogues in each State were allowed the position of active authors and movers of the traitorous schemes. The masses of the people had nothing to do with concocting the plans for secession, only a softer name for rebellion. They were kept in profound ignorance of what was doing in the secret midnight sessions of those who were conspiring against the Government of their country. The people were not even allowed to sanction or reject by a popular vote the action of these revolutionists. They were expected to accept with meek submission, and execute with zealous energy, the mandates of their self-constituted guardians.

In this connection may be seen the true cause of the rebellion, and the real animus of the southern aristocracy. Taking South Carolina as an example, it is merely a republic in name, and in practice a miserable despotism. The people have less practical influence in managing or controlling the affairs of its government than in any constitutional monarchy of Europe. This work is done exclusively by the privileged few who desire to add to their already feudal system of government the gaudy trappings of a feudal nobility. Even the temporary success of the so-called southern confederacy would see those of the chivalry who could pay for their badges bedizened with more orders than modern heraldry ever dreamed of. It is this unrepublican fondness for distinction, parade, and display; this itching for fame, and insatiable thirst for power, that has led to all our present troubles. South Carolina politicians and wealthy planters desired to become lords temporal; and Charleston merchants desired to become princes under king cotton, and control the commerce of the world. With the madman's purpose of accomplishing these objects, they inaugurated a revolution. I utter no threats nor imprecations, nor shall I shed tears of pity if the bold traitors who invoked this storm should be whelmed forever beneath its fiery waves. It would only be poetic justice if that pestilent triangle, that has never grown anything but rice, tar, and treason, should be devoured by the fires of its own kindling.

In my own State, the means used to drag her into rebellion were precisely similar to the agencies that had been so successful in the States further south. There was the same secret banding and organization of politicians and placemen of high and low degree. We had a secessionist for Governor, in the person of Claiborne Fox Jackson, who obtained his office by perjuring his soul—swearing fidelity to the Union against all his antecedents and instincts, and then casting aside the vail of hypocrisy long before the day of his inauguration. We had a son of Palmettodom for Lieutenant Governor, and another from the same blissful region to conduct a secession paper,

established by the patronage of a secession legislature. With such agencies in active operation—with a net-work of secret organizations spread all over the State; with bands of secessionists and their sympathizers enlisted and armed in almost every county; with the idle, dissolute, and desperate from the purlieus of towns and from the cross-road grog-shops, leagued in the same cause; with almost every office of trust and emolument monopolized by revolutionists; with the press, the stump, and the pulpit all crying out for southern rights and cursing Yankee tyranny—is it strange that the shadow of a great terror should have fallen upon the State, and that "the hearts of men failed them for fear and for looking after the things that were to come?" There was a time when no man dared speak freely with his neighbor, for no man knew who were his enemies. In many portions of the State loyal men fled for their lives, and a reign of anarchy and terror was settling down upon the whole Commonwealth. While the secession forces were thoroughly organized and acting in concert under secret oaths, Union men were without any leader or concert of action, and being mainly composed of quiet and peaceable citizens, the substantial property-holders of the country, were frequently overcome by the defiant tone and noisy threats of their enemies.

And all this was foretold to us years before in Missouri, by a voice whose echoes still linger about the chambers of this great edifice. Thomas H. Benton, one of the noblest statesmen of America—a man whose thoughts and deeds will illustrate our history long after the Republic he served has followed him to the grave—told us, with the inspiration of prophecy, of the coming danger, and pointed out the time when the conspiracy would culminate in rebellion. After a long life of devotion to his country a merciful Providence hid him in the grave, that he might not witness the approaching calamity. And his old compeers in the Senate—Douglas, Clay, Webster, and Jackson, patriots all, differing in many things but one in their undying loyalty and love for the Union—these, too, are all gone from us, and we only know that

> "There was a Brutus once that would have brooked
> The eternal devil *to save his country's honor*,
> As easily as a king."

Shades of the mighty dead! If you still linger about these haunts of your earthly fame, oh, breathe upon the nation the spirit of loyalty, that it may bring again the angel of peace!

Fortunately for Missouri help came in the hour of her extremity, and she was saved from the crime and shame of political suicide. The plans of the conspirators, though full of cunning and audacity, were destined to be overthrown. If the Governor had publicly repudiated his paramount allegiance to the national Government, that Government still knew its rights, and knowing, had both the will and the power to maintain them. Right here I must speak a word of justice to that noble few who, knowing the designs of the traitors, took prompt measures to frustrate them. Among that little band, and the real leader of the movement, was my worthy colleague from St. Louis; [Mr. BLAIR;] and when the storm has cleared away, and peace is fully restored, that State will honor the sagacity and boldness that saved her from the fate of her old mother, Virginia. Old Virginia! the mother of States and of Presidents, living in peace, with lovely daughters settled all around her, yet seduced by ambition, and selling her virtue for an humble footstool beside the throne of King Cotton! How are the mighty fallen!

Without stopping longer to dwell upon the secession movements that brought on the war, let us consider for a moment the mode of its prosecution, and the objects that are to be accomplished before it can cease. The real object of the war, as announced by the highest official authority, is not conquest, but simply to preserve the national integrity, repossess the property and places that have been taken from us, and compel, if necessary, obedience to the violated laws and Constitution of the country. If it is a war in defense of the nation's life, and cannot end until the traitors who have sought to destroy our peace and happiness—nay, our very nationality—shall lay down their arms, and submit to be governed by the laws which they themselves helped to frame. If there had been any acts of wrong or oppression on the part of the General Government; if the people had been burdened with unnecessary taxes, and foul injustice done to individuals or States; if a starving multitude, whose substance had been devoured by corrupt and greedy officials, had cried for bread, then there might have been just cause for a revolution to destroy tyrants and restore the rights of an oppressed people. But so far from this, there was not a murmur of complaint among the people in all the land. With no taxes to pay; with perfect protection in the pursuit of every legal and laudable avocation; commerce and manufactures bringing prosperity to a thousand towns and cities, and a fruitful soil and genial climate filling the farmer's storehouses with grain and his coffers with cash; with the blessings of kindly social intercourse, and intellectual and moral training brought to every hamlet and neighborhood, no nation upon the face of the earth enjoyed more rational liberty, or were the recipients of richer and more varied blessings than the people of the United States. But the same spirit of unhallowed and unbridled ambition that first bred rebellion in Heaven, and transformed angels of light into spirits of darkness, sought the accomplishment of its wicked designs in the destruction of the unity, peace, and happiness of this great people. To defeat their purpose, this war is waged, and for such an object our cause must and will be successful. God gave America to be free, to become a sure refuge for the oppressed of all nations; nor will he suffer the light of liberty, so lately kindled, to be extinguished in a night of anarchy or a sea of blood.

But the duration of the war and the amount of mischief it may accomplish must depend greatly upon the spirit in which it is conducted by the loyal part of the nation. If the war is waged for any other purpose than that of restoring the Union and vindicating the honor of violated laws, no man can tell where it shall end, or what untold wretchedness and misery shall follow in its course. I am aware that there are those who regard domestic slavery as the sole cause of the existing strife, and hence urge the destruction of that institution as the only means of putting an end to the contest. No policy more fatal than this to the whole nation can possibly be imagined. Such a course would extinguish the last spark of loyal sentiment in the South, unite them as one man in the prosecution of an endless conflict, and we could only conquer a peace by transforming that whole region into an unpeopled solitude. Whether the four millions of slaves thus liberated should become a greater curse to themselves than to the white inhabitants among whom they would become outcasts and vagrants, experience alone would determine. But I feel no apprehension of such a change in the public mind as would lead to the adoption of this infernal policy. Upon this subject the American people owe a debt of gratitude to Abraham Lincoln for the firmness and consistency he has exhibited from the commencement of his administration to the present time. None but himself can ever know the amount of external pressure that has been brought to bear to force him from the path of constitutional right. Firm in his own integrity, and conscious of the justice and equity of his course, he has thus far remained "steadfast and immovable," in spite of the thousand influences that have been brought to bear. Like the old Roman soldier, when attacked by a crowd of brigands and cut-throats, he has planted his back against the rock of the Constitution, and will die in his tracks before he will surrender his position. All honor to the President for his moral courage and conservative patriotism! His well-known views upon the subject of slavery as a domestic institution, and his earnest desire that those directly interested should take steps for its gradual abolishment, connected with his rigid observance of all constitutional guarantees, exhibit his conduct in a light to demand unqualified applause.

I need hardly say here that I am utterly opposed to any measure which looks to the emancipation of slaves without the free consent of their owners. The whole subject is one with which Congress and the General Government have nothing to do; and the less it is meddled with the sooner our present troubles will end. Whenever the people—the *bona fide* property holders of my State—desire to take action upon the subject with reference to a prospective change of system, they shall meet with no opposition from me. But I protest, and ever shall protest, against any sudden or violent action upon so grave a subject as this. Sudden emancipation, without proper provision being made for the manumitted slaves, would prove a terrible curse to them, as well as to the people among whom they had lived. The immediate emancipation of the slaves in the United States would demoralize the whole nation, and leave the black race to dwindle and die out like the Indian tribes who once inhabited these valleys, and gave name to every lake, stream, and mountain on the continent. I voted against the bill for emancipating the slaves of rebels, and against all such measures I shall continue to protest, as directly calculated to injure the slave, at the same time that they increase the horrors and atrocities of the war, and lengthen its duration.

With regard to another subject—the confiscation of the property of rebels—which has been before Congress in different shapes, I have had more difficulty in determining the course of action proper to pursue. The practice of general confiscation, as a penalty for political crimes, naturally belongs to a ruder and more barbarous age than the present; and our fathers, not anticipating the commission of such unnatural crimes as have disgraced the history of the present time, made no proper provision for its exercise in the Constitution which they framed. That instrument, as comprehensive and perfect as any fundamental law ever devised by the wisdom of man, must be preserved if we would save our periled liberties. It was violated by our enemies in the first act of secession passed in South Carolina, and since that time it has been trodden and spit upon in every rebel State. If we abandon this sheet anchor of our liberties we shall drift out upon an unknown and stormy sea, without compass or rudder, and must go down in the vortex that has swallowed so many republics before our time. Once openly violate the Constitution we have solemnly sworn to maintain, and no bounds can be placed where radicalism and fanaticism shall pause. Mutilate this sacred chart of freedom, and the Union which we so dearly cherish will not be worth a year's purchase. For this reason I felt compelled to vote against the general confiscation bill that has just passed in this House. I did this, not because I am opposed to visiting with a just punishment the authors and leaders of the present mostrous rebellion, but because of its sweeping provisions, and the doubt of its conformity to the Constitution. I should take great pleasure in voting for a measure that was obviously free from these objections. I have no word of pity or prayer for clemency for the real authors of the great calamity that has been brought upon the nation. I would have them suffer a penalty of death or perpetual banishment, that future plotters of treason might take warning from their bad example and gloomy fate. But with the leaders the work of signal retribution should stop. Thousands upon thousands have been duped, deluded, or dragged into this rebellion who were at the outset as loyal as you or I; and while we cannot commend their sagacity in being utterly deceived and led astray by the "lying wonders" propagated by secession leaders and orators, we should strive to save them from the consequences of their own madness and folly.

In a sweeping measure of this kind, reaching down to the common soldier, and involving him in the same fate with his better-informed and more guilty commander, there is a practical difficulty which I fear has not been fully appreciated. If the radicals should succeed in passing all the bloody measures they propose—and I believe they are so determined upon extreme measures that they would rather lose the confiscation bill than fail to have emancipation go along with it—there would not be a loyal man left in any of the seceded States. Who then is going to buy the confiscated estates when they are put up at auction? Do you intend to drive the population into the sea, and resell the cotton and sugar plantations as you do the wild lands of the West?

If this is to be your policy, proceed at once to enact the bloody code, and the more sanguinary the better it will be for your purpose; then in-

struct the President to free all slaves by proclamation, and warn the five or six millions of white inhabitants—men, women, and children—to abandon their homes, and flee for refuge to some foreign country; then send three millions of armed men to enforce the order, and if they are not met and driven back by the combined armies of Christendom, the work may be accomplished. In that case, we should have a vast unpeopled and unproductive territory, and four millions of wandering, half-starved vagrants. The fact is, these extreme measures of sweeping vengeance will be utterly inoperative and impracticable, if enacted, and will do nothing but kill themselves and expose us to the just censure of the civilized world.

For this reason, I would have a discriminating measure that should punish the guilty leader, and pardon, upon submission, his deluded followers. This Government is strong enough to be magnanimous as well as just. We owe to ourselves, as well as to a decent respect for the opinion of the Christian world, the exercise of moderation and magnanimity. A spirit of vindictive vengeance belongs to a cowardly soul, and there is no more reason for inflicting fearful and indiscriminate punishment upon conquered rebels, than there is for being frightened from our propriety and letting Governors make fantastics of themselves in calling upon the masses to defend the capital, because a rebel general has outwitted one of ours, and made a successful dash at a stray regiment and a train of wagons. Bring forward a measure that shall punish the guilty authors of the war and extend pardon to the deluded and returning masses, and I will unite cordially in its support. At the same time, if you will so amend the law against treason as to graduate the penalty from death to fine and imprisonment, according to the turpitude of the crime, you will find judges and juries who will aid in carrying it into faithful execution.

CONFISCATION OF REBEL PROPERTY.

SPEECH OF HON. W. KELLOGG,

OF ILLINOIS,

IN THE HOUSE OF REPRESENTATIVES,

May 24, 1862.

The House having under consideration the bills to confiscate the property and free from servitude the slaves of rebels—

Mr. KELLOGG, of Illinois, said:

Mr. SPEAKER: To restore the Government in its functions, unity, and power, and to preserve the Constitution intact, should be, and doubtless is, the desire and object of all true men. In considering the various propositions before the House, this object should be kept constantly in view; for though the rebellion be crushed, yet if we have infracted the Constitution and dissolved its great bonds, we have indeed accomplished little more than the rebels themselves designed—the destruction of the Constitution.

Mr. Speaker, from the reflection I have been able to give this subject, I am satisfied that the passage by Congress of a judicious confiscation bill will be in consonance with the spirit of the Constitution and materially tend to the restoration of the Government. In this, like all other Governments, there are two great elements of the administration of its powers: one to be brought into exercise when the physical power is developed in arms and armies, the other to manifest itself through judicial tribunals. The war power, so called, is a part of and incident to every Government, and whether written expressly in our Constitution or not, is nevertheless a part of it. No Government can exist permanently without it. It is its shield. It is that power alone to which recourse can be had when its existence is threatened by invasion from abroad, or civil war within its own limits. To deny this power would be to deny the right and power of self-protection. These powers are both written in the Constitution, and do in nowise conflict with each other.

The Constitution declares in express terms the war power. It is as clearly laid down, it is as distinctly marked out, as any express power that is given by the Constitution. But even were it not declared in express terms, I assume that the Government cannot exist without it. The moment you form a government with the view of exercising the functions of a government, that moment you give to it the great element of self-preservation, which is no more nor less than the war power. The power to protect itself.

Mr. Speaker, if our Government does not possess that power to-day, it is a failure, a rope of sand, it is a useless thing that we have reverenced for many years. If, sir, we, as a nation, have not the power of self-preservation, it is time that the people of this Government, with its great prosperity and its great inherent elements of power, should bestir themselves, and fix it as a cardinal principle of the Constitution. But, sir, no need of this. The Constitution expressly declares, in language not to be mistaken, that the Government shall have power to declare war and to raise armies. What more can be asked? What is the object of the power to declare war? None other than the object of maintaining the Union in perpetuity; for in this Christian era of the world Governments should have no other object than the maintenance of their rights, their dignity, the happiness and prosperity of the people, and the perpetuity of their existence; and this Government has all the power which is necessary to accomplish that high object. And incident to that, I assume, is the power of the confiscation of the property of enemies, engaged either in civil war or in war between two nations or Governments.

The short time allowed by the rules of the House for the discussion of this subject, requires that we should glance as hastily as possible at some of the main points necessary to be considered and discussed. I confess, sir, that I have been somewhat surprised in the discussion that has taken place in this House by men of eminent learning and patriotic motives, who have seemed to rack their brains to find some reason why we have not the power to effectually and speedily crush out this rebellion. When this Government is struggling with mighty throes under the great events that are upon it, when its very existence is threatened, its true friends should seek first to find authority for that reasonable power which will sustain it and transmit it to posterity in perpetuity.

On the contrary, here in this House, efforts are being made, with great ingenuity, to show that the Constitution is limited in its power of accomplishing the very object for which it was formed. I think that a wrong construction has been put upon it. I think a wrong construction has been placed upon the law of nations, to which it is important to refer in considering the rights and duties of nations in the exercise of this power.

It has been said that there is no power of confiscation of the property of public enemies. Sir, to my mind, if there is any one proposition of law which is well settled in this Government and by the law of nations, it is the power to confiscate the property of enemies, and that that power exists in Congress; and, in my judgment, it should to-day be exercised.

But, Mr. Speaker, my object to-day is more particularly to suggest some authorities to the House, and to call the attention of Congress to the well-established principle of the laws of war, than to make any appeal to the House. I shall, therefore, proceed to suggest such authorities as I have been enabled to collect, and which I think will fully and clearly establish the right of Congress to pass a confiscation act with a view to cripple the energies and power of the enemy, and to reimburse ourselves for the expenditures of this war.

In considering this subject, it is proper to refer to authorities which have been recognized by the nations generally as good authorities, and so expressly recognized by our own courts. I read first from "Vattel on the Laws of Nations:"

"A State taking up arms in a just cause has a double right against her enemy; first, a right to obtain possession of her property withheld by her enemy, to which must be added the expenses incurred in pursuit of that object, the charges of the war, and the reparation of damages; for, were she obliged to bear these expenses and losses, she would not fully recover her property or obtain her dues. Second, she has a right to weaken her enemy, in order to render him incapable of supporting his unjust violence; a right to deprive him of the means of resistance."

Have you an enemy in the field with whom your armies are engaging whose armies are formidable and whose warfare is ruthless and determined? What is your first right? Your first right and your first duty is to cripple your enemy by taking from him the means of carrying on his unjust war against you; keeping this well-established principle fully in view, there will be little difficulty in deriving from the Constitution, expounded by the law of nations, the right to confiscate the property of the rebels now in arms.

To those who talk most feelingly of the rights of those in arms against the Government, and yet demand a speedy suppression of this rebellion by the power of the nation, I submit right here this proposition: how would you most successfully cripple the rebels in their power of offense or resistance? The answer forces itself upon the lips of every man. By taking from them the means of supporting and maintaining armies. That reason lies at the base of this right to take the property of the enemy. Vattel continues:

"Hence, as from their source, originate all the rights which war gives us over things belonging to the enemy. I speak of ordinary cases and what particularly relates to the enemy's property. On other occasions, the right of punishing him produces new rights over the things which belong to him, as it also does over his person. These we shall presently consider.

"We have a right to deprive our enemy of his possessions, of everything which may augment his strength and enable him to make war. This every one endeavors to accomplish in the manner most suitable to him. Whenever we have an opportunity, we seize on the enemy's property and convert it to our own use; and thus, besides diminishing the enemy's power, we augment our own, and obtain, at least, a partial indemnification or equivalent, either for what constitutes the subject of the war, or for the expenses and losses incurred in its prosecution; in a word, we do ourselves justice."

Mark you, because you have the right to cripple the enemy and prevent him from sustaining armies in the field, you have the right to take all that belongs to the enemy, all that by which he supports his armies. Gentlemen should not tax their brains to find authority for rejecting the doctrine of the right of confiscation, for the proposition is not only fully established by authorities, but is consonant with justice and reason. This is but the commencement of a long series of authorities fixing beyond question the right of confiscation.

I would ask the gentlemen who doubt the power under the general provisions of the laws of war to confiscate an enemy's property, to revolve in their own minds how it is that this irresistible reasoning and cogent conclusions of the writer on international law are to be overcome. I am told, perhaps, that this book was written so long ago that it is not entitled to credit. I leave that for those who seek for subterfuges to resist the overwhelming logic of this writer. That I may not be mistaken in this matter, I will read from another authority, and one of the older ones too.

Bynkershoek, in his Treatise on the Law of War, speaking of cases where treaties between nations may change the rule and right of confiscation of enemy's property, says:

"But if there are no such treaties, or if the goods and actions are not taken away within a limited time, it is asked, what is the law in that case? And surely, such being the state of war, that enemies are on every legal principle proscribed and dispoiled of everything, it stands to reason that everything belonging to the enemy which is found in the hostile country changes its owner. It is, besides, customary, in almost every declaration of war, to proclaim that the goods of enemies, as well those found among as those taken in war, shall be confiscated."

And again he says:

"If we follow the strict law of war, even immovables may be sold, and their proceeds lodged in the public treasury, as is done with movables."

It is here declared that you may take the property, the land, and everything which belongs to the enemy, that you may cripple him and prevent him doing you wrong and injury, and any nation that is warred against, that will not take the ordinary and most effective means to resist that war and bring it to a speedy termination, illy discharges the duty of a sovereign State.

Lest, however, I shall be charged with reading authorities of rigor which are not sustained by modern practice and decisions, I propose to read now from the decisions of our own courts. I read from the opinion of the court delivered by Chief Justice Marshall, a man learned in the law, and whose opinions, in court or out of court, are entitled to great respect and consideration. In the celebrated case of Brown *vs.* The United States,

Chief Justice Marshall, as a part of his opinion in that case, declares:

"Respecting the power of Government, no doubt is entertained. That war gives to the sovereign full right to take the persons and confiscate the property of the enemy where ever found, is conceded. The mitigations of this rigid rule, which the humane and wise policy of modern times has introduced into practice, will more or less affect the exercise of this right, but cannot impair the right itself. That remains undiminished, and when the sovereign authority shall choose to bring it into operation, the judicial department must give effect to its will."

In another portion of the same opinion, it is declared, not only by a majority of the court, but by the dissenting judge also, that that power exists in Congress. If we have not the constitutional power, I would rather make any sacrifice than to adopt this kind of legislation. If we have the power, I am anxious for its exercise; and it does behoove us well to consider it, for the destruction of but one bond of the Constitution, to my mind, would be more dreadful, under existing circumstances, than the marching of armies.

Speaking of the proposition that modern practice had changed the rule of law, the same judge uses this language:

"This rule appears to be totally incompatible with the idea that war does of itself vest the property in the belligerent Government. It may be considered as the opinion of all who have written on the *jus belli*, that war gives the right to confiscate, but does not itself confiscate the property of the enemy; and their rules go to the exercise of this right."

Judge Marshall makes no mincing, halting, doubting argument, but declares in that cool, deliberate language that commends itself to the heart and brains of every man, that the right to confiscate property generally does exist, and I ask the opponents of this doctrine to meet this authority. Certainly they will not meet it by saying that it too is of so ancient a date that it should not be considered as a correct exposition of the law.

Justice Story, in that case, differed with the court on the question of what kind of special legislation was necessary to authorize the courts to interpose; but upon the power of confiscation in Congress there was no disparity of opinion between them, and he says, in the same case:

"In respect to the goods of an enemy found within the dominions of a belligerent Power, the right of confiscation is most amply admitted by Grotius, and Puffendorf, and Bynkershoek, and Burlamaqui, and Rutherforth, and Vattel. I do not find any denial in authorities which are entitled to much weight; and I therefore consider the rule of the law of nations to be that every such exercise of authority is lawful, and exists in the sound discretion of the sovereign of the nation."

I should have no occasion to go further and cite authorities—for the right of confiscation generally of all property of the enemy seems to be so conclusively shown that it would be a useless waste of time to read them—but in view of the fact, that an American commentator has been cited here to sustain the denial of this right, and to show that there was no such power—I refer to Chancellor Kent, an able commentator on the law of nations—therefore I deem it my duty to read a little further upon that point; and that, too, from this same distinguished commentator. I was surprised when I heard the gentleman from Missouri [Mr. PHELPS] read that authority as evidence of the want of power to confiscate. So much confidence had I in his opinion that I supposed myself in error, and I examined, to some extent, the writings of that commentator upon the subject. But while I will not enter into a controversy with any gentleman upon that subject, I will present the plain and unmistakable language of that writer, and leave it for the House and the country to judge who has most faithfully cited him as authority. I read from the first volume of Kent's Commentaries:

"When hostilities have commenced, the first objects that naturally present themselves for detention and capture, are the persons and property of the enemy found within the territory on the breaking out of the war. According to strict authority, a State has a right to deal as an enemy with persons and property so found within its power, and to confiscate the property, and detain the persons as prisoners of war."

Had that been read before, I would not have detained the House to read it, but there is the acknowledgment by this American commentator, in the most unequivocal language, that there is a power of confiscation over all the property of the enemy, and the right to detain their persons as prisoners.

What more can be asked from American authorities to sustain the position I have taken than those I have cited? But I again read from Justice Kent. In citing some authorities which seemed to oppose this view of the law, Kent himself summed them up, and declared the law to be as follows:

"But however strong the current of authority in favor of the modern and milder construction of the rule of national law on this subject, the point seems to be no longer open to discussion in this country; and it has become definitely settled in favor of the ancient and sterner rule, by the Supreme Court of the United States.

"When the case was brought up on appeal before the Supreme Court of the United States, the broad principle was assumed that war gave to the sovereign full right to take the persons and confiscate the property of the enemy wherever found; and that the mitigations of this rigid rule, which the wise and humane policy of modern times had introduced into practice, might more or less affect the exercise of the right, but could not impair the right itself."

In this he cites the very decision I have read, and acknowledges it to be the law. Then, sir, why, in good faith, should not gentlemen have read the conclusion to which the commentator comes in acknowledging, in the fullest possible manner, the right to confiscate enemy's property and seize their persons as prisoners?

But I must pass on to another portion of this subject. Having established, as I think, the power in war to confiscate the property, both movable and immovable, of enemies for the benefit of the State, I come now to apply this rule and law of nations to the present condition of our unhappy country. When rebellion becomes so formidable as to require the mustering of armies to suppress it, it becomes a civil war, and it is to be conducted upon the principles and the laws of war. The traitors add to their offense of treason the higher crime of civil war, and may be treated, not only as rebels guilty of treason by the laws of the land, but may be treated also as a public enemy. To support this proposition, I will read some authorities upon that point. I wish my position to be understood. I hold that these rebels now in arms are subject to the civil law as traitors; having committed treason, they are subject to punishment by the courts under the Constitution; having risen to a higher crime, that of levying civil war, engaging in and assuming the character of public enemies, they may be treated as such. They are treated as public enemies; and, deny it as you will, before I close I will show that the laws of nations treat them not only as traitors, but as public enemies, and that they are entitled to the same rule of warfare while in the field, and are bound to bear the burdens which pertain to a condition of public war; yet in nowise are they exempt from punishment for the crime of treason by the courts. Judging this matter by the laws of nations, I find this to be the rule:

"When a party is formed in a State who no longer obey the sovereign, and are possessed of sufficient strength to oppose him, or, when in a republic, the nation is divided into two opposite factions, and both sides take up arms—this is called *civil war*.

"Setting, therefore, the justice of the case wholly out of the question, it only remains for us to consider the maxims which ought to be observed in a civil war, and to consider whether the sovereign in particular is, on such an occasion, bound to conform to the established laws of war.

"A civil war breaks the bonds of society and Government, or at least suspends their force and effect; it produces in the nation two independent parties, who consider each other as enemies and acknowledge no common judge. Those two parties, therefore, must necessarily be considered as thenceforward constituting, at least for a time, two separate bodies, two distinct societies. Though one of the parties may have been to blame for breaking the unity of the State and resisting the lawful authority, they are not the less divided in fact. Besides who shall judge them? Who shall pronounce on which side the right or wrong lies? On earth they have no common superior. They stand, therefore, in precisely the same predicament of two nations who engage in a contest, and being unable to come to an agreement, have recourse to arms.

"This being the case, it is very evident that the common laws of war, those maxims of humanity, moderation, and honor, which we have already detailed in the course of this work, ought to be observed by both parties in every civil war."—*Vattel's Law of Nations.*

Again: the same writer declares that—

"When the sovereign has subdued the opposite party, and reduced them to submit and sue for peace, he may except from the amnesty the authors of the disturbances—the heads of the party. He may bring them to a legal trial, and punish them, if they are found guilty."

The law is most clear and plain, that when a rebellion rises to that condition that the nation is bound, for its preservation, to meet armies with armies, to inaugurate all that pertains to war, the belligerents should carry on such war according to the rules and laws of war, and are to be governed in their action by those rules. Sir, this rebellion has become a civil war, and the parties engaged in it are entitled to the rule and code of civilized warfare. They are also bound to bear the penalties and burdens which are incident to that warfare, one of which is confiscation, as I think I have most fairly shown.

Again, sir. These authorities fully sustain me in the proposition that, having subdued them by arms, they are not exempt from the penalties of treason, but that they sustain the double character of traitors to the Government and public enemies of the nation; that all that pertains to war between two enemies pertains to this war, and that having crushed out the rebellion, the civil law, and the jurisdiction of the courts may be brought to bear, and the penalties of the law be enforced upon them for their acts of treason. And this, in my judgment, does not at all conflict with the proposition that we have a right to confiscate their property because they are public enemies.

But it may be said that this is all from the books merely, and has no application to the present rebellion. I wish to call the attention of gentlemen who entertain such an opinion to the condition of things as they really exist now in the country. There are to-day six hundred thousand men arrayed in armies upon the side of the Government, and probably four hundred thousand men in the rebel armies; perhaps more. These armies meet everywhere, deluging the country with blood, and shall we say longer that this is a mere pitiable rebellion? No, sir, it has risen up in the scale of warfare, in the number and power of belligerents, in its atrocities perpetrated by the rebels, and its results, until it has become the most momentous war of the age.

I am aware that many have entertained the theory that the rebel armies were not belligerents and enemies as understood by the law of nations. This I have long thought was a grave error. There is no disguising the sad fact that there is not an element or characteristic of war in its fullest development that has not and is not constantly manifesting itself in the civil war now desolating the country. A glance at the condition of the rebel government and forces will not fail to dispel this illusion from the mind of any dispassionate and fair man. They have assumed a government, with all the machinery, forms, and functions of a government; have organized, armed, and equipped an army and navy; built forts to defend cities; and have and do subsist armies. Our armies meet theirs in sanguinary conflict, prisoners are captured and held until exchanged by arrangements of the belligerent parties in strict conformity with the rules war. We besiege their fortified positions with immense armies, and when they are driven from cities and districts of country, military governors are appointed to administer temporary governments therein, and to aid and protect the civil authorities—and that, sir, where the authorities of the Government had been obstructed and overthrown by the force of rebel armies; we send and receive flags of truce, and under their protection prisoners are exchanged, according to the usages of war.

Again, sir. We have declared, and with the power of our Navy enforced, the blockade of many of the important ports of the country, and have required foreign nations to respect such blockade, a proceeding totally inconsistent with the doctrine that war does not exist. Neutral nations are only bound to respect a blockade when declared and enforced by belligerent Powers, the object of which is to destroy the commerce of the enemy, and prevent him from receiving material aid in sustaining armies and carrying on a war. On this ground and for these reasons all neutral nations are required by the laws of nations to respect a blockade so declared and sustained. That our own Government and many powerful foreign Governments have applied this doctrine of the law to the present condition of the country our intercourse with them and their declarations and acts abundantly attest. All this has been done and is being done because of the belligerent power of the rebel forces on the one side, and the necessary war force on the part of the Government to conquer and subdue this wide-spread civil war. And now, sir, with all these facts standing so prominently before the mind of this House, will any gentleman

say that war does not exist? I think not. No one, candid with himself, howsoever much he may desire to defeat this bill, will longer rely on the shallow pretense that war is not in the land. Was not Vattel right when he said that when a nation was divided into two opposing parts, which take the field against each other, although one be rebel in its character, war does then exist in fact, and should be conducted by the rules and laws of civilized warfare.

Now, sir, I ask, will any man say that we have a right to omit any of the means known to civilized warfare to cripple our enemy and prevent his sustaining his army in the field to strike down our fellow-citizens who are willing to peril—yea, sacrifice—their lives to uphold the flag and the Union and preserve the Government from the hands of the spoilers.

Mr. Speaker, it is also written in the Constitution of this Government that we may suppress rebellion. I heard it stated the other day that the framers of the Constitution never did contemplate such a condition of things. That, sir, is the greatest mistake in the world. They did contemplate it. They had read the history of the world. They knew what might arise and they provided for this very case. It was not, I think, quite just to those who framed the Constitution to say that they did not contemplate that a condition of things like that which now distracts the country might occur. The Constitution says that, in order to suppress rebellion, Congress may call out the militia, which is the reliance and the military power of the nation. We may call upon the entire physical power of the Government; we may put the whole strength of the nation into the field to suppress insurrection or to repel invasion. We have the same power to suppress rebellion that we have to repel an invasion by a foreign Power.

The Constitution declares that Congress shall have power "to declare war," "to raise and support armies," "to provide for calling forth the militia to execute the laws of the Union, to suppress insurrections, and repel invasions."

It will be seen that the Constitution contemplates three events in which Congress shall have the power to set in motion the military arm and power of the Government against an armed force: the first, when war is declared by the Government; the second, when a war of insurrection is set on foot within the Union; the third, when the country is invaded by a foreign Power. In the latter two, the language is identical, and in the first substantially the same. The object to be attained by the exercise of the war power mentioned in the class of cases just referred to is precisely the same, the protection of the Government; and the rule of construction in considering what power is necessarily implied in order to carry into execution either of these express powers must doubtless be the same. The preservation of the Government from destruction by insurrection and rebellion is as important as to preserve it from destruction by an invading Power; and the implied means to accomplish that object are certainly as clearly given in the former as in the latter case. The power to declare war and repel invasion carries with it, by clear implication, the right to prosecute a war to the accomplishment of that object, by all the means and in the manner recognized by the laws of nations and of war. The right to grant letters of marque and reprisal is given in express terms, and yet so clearly is that power an incident to war, that had it not been mentioned in the Constitution, it would nevertheless have been within the power of Congress. Justice Story, in his opinion in the case of Brown *vs.* The United States, (8 Cranch,) says:

"The power to declare war, in my opinion, includes all the powers incident to war, and necessary to carry it into effect. If the Constitution had been silent as to letters of marque and captures, it would not have narrowed the authority of Congress. The authority to grant letters of marque and reprisal, and to regulate captures, are ordinary and necessary incidents to the power of declaring war."

And on the subject of implied powers, Mr. Madison, in commenting on that portion of the Constitution which declares that Congress shall have power to make all laws necessary to carry into execution the powers vested by the Constitution in the Government of the United States, says:

"Had the Constitution been silent on this head, there can be no doubt that all the particular powers requisite as means of executing the general powers would have resulted to the Government by unavoidable implication. No axiom is more clearly established in law or in reason, than that wherever the end is required, the means are authorized; wherever a general power to do a thing is given, every particular power necessary for doing it is included."

The doctrine of implied powers has also received the sanction of the Supreme Court of the United States. That court, in the case of the United States *vs.* Fisher *et al.*, (2 Cranch,) declares the law to be that "Congress must possess the choice of means, and must be empowered to use any means which are in fact conducive to the exercise of a power granted by the Constitution." It would seem that a proposition so consonant with reason could not require further authorities to sustain it.

Mr. Speaker, by this doctrine of implied power when war is once declared by Congress, the right and power follows to prosecute the war by all the means known and recognized by civilized nations to the accomplishment of the object for which it was declared, and most prominent among these means, as I have, I think, clearly shown, is the right of confiscation of the property of the enemy. The grant of power to suppress a war of insurrection is as ample and unlimited as the power to declare war or repel invasion. The same means are requisite, and the same force necessary, in the former as in the latter case. The object to be attained is the same, and equally important. If, then, the right of confiscation exists in one case, it certainly does in the other. War, in its fullest extent does exist, and is indispensable to suppress the present rebellion, and for the accomplishment of that object Congress may exercise all the legislative power necessary to effect it; and in this, as in other wars—and none have been, and I trust never will be, more determined and extended than this—the destruction of the enemies' commerce by blockade and the confiscation of their property are among the proper and necessary means to be used for that purpose. Sir, we should not ignore the startling facts which present themselves on every side, but at once meet them with measures commensurate with the object to be attained and the exigencies of the times. No other Government would hesitate, no other nation would fail promptly to use this power, so clearly legitimate, in an exigency like this. The history of nations is replete with its exercise.

The learned writer on national law, Bynkershoek, cites, with approbation, numerous cases in which the property, both real and personal, of rebels engaged in civil war has been confiscated to the State in common with that of foreign enemies; and if any gentleman is curious to see the authority to which I allude, I cite him to "Bynkershoek's Laws of War."

But, sir, we are not wholly without precedent in our own country. In many of the colonies, in that of Massachusetts in particular, as I recollect the history of the early days of the Republic, the goods and lands of those who adhered to the Crown of Great Britain were confiscated, and the title by which much real estate in that State is now held springs from colonial confiscation laws.

It has been said, Mr. Speaker, that there are provisions in the Constitution which are inconsistent with this view of constitutional power, and which limit the action of Congress in this regard. Let us look for a moment and see if this is not only an assumption of the opponents of the bill, put forth to defeat it, rather than having any existence in fact. Foremost among the provisions which it is claimed limit the power of Congress, is the following:

"No person shall be deprived of life, liberty, or property without due process of law; nor shall private property be taken for public use without just compensation."

The term "due process of law" is well understood to mean a proceeding in the judicial tribunals of the country. This, it is assumed, no one will deny. If property cannot be taken without the action of judicial tribunals—and this I understand to be the reasoning of those who deem this measure unconstitutional—how can property be seized in default of the payment of taxes levied by the General Government? In the mode of collecting taxes heretofore pursued by the Government, and that embodied in the tax bill now before the House, to which no one objects on the score of unconstitutionality, there is not the semblance of a trial either of the fact of the non-payment of the taxes, the right to seize the property, or any other fact connected with the transaction. It would seem that the sticklers for a strict construction of the Constitution, so strict in fact as to deprive the Government of the necessary power of self-preservation, should find in this provision a limitation on the power of Congress to authorize the seizure of property for the non-payment of taxes. But the answer to this proposition is, that by another provision of the Constitution Congress has the "power to lay and collect taxes." In this, however, there is no express grant of power to seize, without trial, the property of a citizen, and unless there is some implied power given to Congress to adopt such means as it may think necessary to carry into execution the general power to lay and collect taxes, most clearly the citizen cannot be deprived of his property because of the non-payment of his taxes without a due and regular hearing in the courts of the country.

But, sir, I assume that every department of the Government, judicial, legislative, and executive, from the commencement of the Government, have decided that the general power "to lay and collect taxes" carries with it, by necessary implication, the power in Congress to adopt such means as in its judgment will best secure the object of the general grant of power, which is the collection of the taxes levied; and thus alone on what may be termed an implied power rests the constitutionality of the mode and method of collecting the revenue of the country by taxation, and yet it is as clear, well-defined, and certain, as any authority on which we base our action. Precisely analogous is the principle that the general power to declare war and suppress insurrections by the armed power of the nation carries with it the power to adopt such measures and means as Congress may deem necessary to its accomplishment, and the seizure and sale of property in one, and the confiscation of property in the other case, are the means that Congress may, and, with propriety, should adopt. And I think I hazard nothing in saying that on examination of the various grounds assumed by those who deem this measure in conflict with some provision of the Constitution, they will be found as untenable as the one just referred to.

Mr. Speaker, I will conclude my remarks on this branch of the subject by repeating that the Constitution declares that we may suppress rebellion by the power of war. The courts decide that confiscation of property is an incident to the war power. I say, then, that Congress has the right, under the Constitution, in order to suppress this rebellion, by the exercise of the war power, to confiscate the property of our rebel enemies. In all this we see the wisdom of those who shaped and fashioned the Government, and indicated and defined its powers. They not only provided for its prosperity and the administration of justice in time of peace, but provided for administering all its power in time of war. They guarded well the rights of loyal citizens, while they provided abundantly the power to protect itself against a foreign foe or a traitorous rebellion; and we are unfaithful to our constituents, untrue to the past, unmindful of the future, and false to ourselves, if we do not employ all the means committed to our keeping to preserve intact the Constitution and the entirety and perpetuity of the Union.

And now, sir, having considered the power of Congress, I propose for a few moments to consider the policy of the measure. In considering a measure of this kind with a view to the policy of adopting it, it is important to consider the military power, and the condition and mode of warfare of the enemy whom it is designed to affect. The military strength of the enemy I have to some extent considered. Their condition is such that seems to point directly to this mode of procedure against them. Unlike other belligerents, they have no revenues or public property that may be sequestered; all of that character of property now rightfully belongs to the Government. Hence the impossibility of resorting to the confiscation of public property which is not unfrequently resorted to to cripple an enemy and to reimburse the expenses

of a war. And, therefore, I can hardly consider the objection to the confiscation of private property, under these circumstances, as other than a pretense to effect the defeat of the measure, and an unwillingness to strike in this manner an effectual blow at the rebel power. They are a rebel and seditious belligerent armed power within the territorial limits of the United States, possessing the means to sustain and subsist armies, and their property is being freely used for that purpose. Under these circumstances, every sense of justice and sound policy would seem to dictate that we should take from them the means of sustaining armies and continuing this most unjust and unparalleled war. We propose to tax the loyal portion of our nation to sustain our Army and Navy to an amount that savors of confiscation. Why should we not take from the enemy their property and thereby cripple their resources, and at the same time compel them to bear their just proportion of the expense of a war inaugurated by them without a shadow of reason, but for purposes only known to the enemies of free constitutional Government?

Their mode of warfare, Mr. Speaker, would seem to justify, if not demand, the most rigorous policy known to the laws of war. They plunder and destroy the property of Union men wherever they have the physical power to do so. The sad desolation that has marked the march of their armies has left a record of ruthless warfare more dark than that of barbarous ages. In Virginia, Kentucky, Tennessee, and Missouri, the homes of loyal men are made desolate, their dwellings burned, and themselves and families driven from the land, while traitorous rebels are secure in their possessions, the laws of the land respecting the rights of citizens. The rebels have immunities from violence and wrong that true loyal men are deprived of by the rebel hordes that infest and plunder the country. Smoldering ruins but too plainly mark the place from which loyal men have been driven. Prisoners, that the changing fates of war have placed in their power, are treated with more than savage cruelty, deprived of wholesome diet, confined in crowded prisons where pestilence ravages and destroys; they are murdered in cold blood by a ruthless soldiery for attempting to inhale, from their prison windows, the pure air of heaven. In the most brutal manner have they murdered our wounded soldiers who fell upon the field nobly, bravely defending and fighting under the flag of the Union. They have employed ruthless savages to make war upon our people, and permitted them, while under their command, to scalp and mutilate the dead, wounded and dying of our countrymen. They have despoiled the grave of its dead; have digged therefrom, with their unholy hands, the bodies of those who fell in battle, for the hellish purpose of making from their bones articles to adorn their persons; and of the skull of a brave officer they made a drinking cup for use at their revels, where humanity would refuse to enter, and where devils alone did congregate.

When driven from their strongholds, they conceal beneath the surface of the earth, in frequented places, infernal machines, which, when pressed by feet of weary soldiers, explode, and thus they murder them. Many have fallen victims to this mode of inhuman assassination. Who does not blush for his kind and his country when he reviews the dreadful record of this civil war?

And who will not say that the savage warrior, with the bleeding scalp of his enemy at his girdle, is not an angel of light compared with those who, reared in a civilized and Christian land, can perpetrate such atrocities? For this a dreadful retribution will and must follow. Vengeance will not always slumber; the blood of our slain cries from the red field of strife for a deep and terrible retribution. It will come.

Sir, I would not retaliate; I would not adopt measures of extreme rigor; but I would take from them the means to again blacken the history of the world by the continuance of such dreadful and unnatural crimes.

Who can complain of the policy of confiscating the property of rebels in arms? Certainly they cannot; for they have adopted the policy of capture and confiscation in its greatest extent. The Senator from Kentucky [Mr. DAVIS] introduced and urged the passage of a more stringent confiscation bill than the one now before the House. Many gentlemen of Missouri and Virginia urge the passage of this bill; and the gentleman from Missouri [Mr. NOELL] advocated the enactment of this bill in an able and effective speech, as did also his colleague, [Mr. BLAIR.] Whence, then, comes the opposition? Mainly from the northern States; from gentlemen whose constituents are being sacrificed by thousands to put down and crush out this rebellion. Let them settle that account with their own people when they shall meet face to face, when the woe and mourning for those slain in battle shall convince them that war is in the land

Now, what do we propose? We propose that the really guilty shall be punished and their property confiscated. I desire that those who have instigated this rebellion shall be punished, I care not how severely. Those that have led the southern portion of this Confederacy to murderous acts against the Government, and have induced unthinking men to attempt, by violence, its destruction, should be made to bear the penalty of treason and feel the weight and burden of the war they have induced. We should not in our legislation strike at the unthinking and the unwitting dupes of designing men, but we should strike at those whose heads have conceived and whose hearts have been enlisted in this work. For them I have no sympathy; to them but little mercy is due; they are rebels, and they are engaged in a war against a Government the best on earth. I propose to reach them, and them alone. Sir, this bill, forgetting all the past, the horrid past, that will stand for all time upon the records of the history of my country, proposes to condemn them to the loss of the very means by which they carry on this war. I would not reach the masses. I would leave them to be wooed back to their allegiance to the Government. You cannot, you should not, sacrifice whole communities, but you can punish the leaders of the rebellion. The history of the world does not furnish an instance in which such a rebellion has been raised against a Government, and in which its leaders were not punished. I would woo back the men of the South who till their farms—the young men who, under excitement, have been led to deeds of disloyalty by the false statements of their leaders. I would woo them back, but ask me not to woo back the arch-traitors themselves. As well might you attempt to woo the tiger from his lust of blood, or lure the arch-fiend from his sulphurous home to the realms of light and peace from which he fell by like rebellion, as to lure back these men who lead the rebel armies and have instigated and continued this war of insurrection. Mr. Speaker, I do not feel at liberty to rest here without doing all in my power to cripple their energies and put an end to this desolating war. I tried to avert it. I wish it could have been averted. I had hoped that they would return to their allegiance.

But that time has passed, and we are derelict in our duty if we halt and hesitate longer in this emergency.

It has been my fortune, sir, to visit recently the homes of my constituents. We have sent many thousands to the field. How many of them may return is for the future to determine. Thousands will never return; they have sealed their devotion to their country with their lives; the altar of our common country has long been red with the blood of sacrifice. Go where you will through our State, and on the streets you will see maimed and disabled soldiers. Mothers and sisters nurse the sick and wounded, while fathers bury their dead slain in battle. But the heart of that people is sound; they have no fears of the result of this conflict; they have set their hearts on the preservation of the Union, and, if need be to accomplish it, they will send one hundred thousand more true men to the field.

But, sir, they expect us to do our duty; they will do theirs. They will demand of us—they do demand of us—to, in all constitutional ways, strike down the power of those who strike them. Sir, if we are as true to ourselves and our country as are our constituents to the Union, we will not hesitate in our action to-day.

CONFISCATION OF REBEL PROPERTY.

SPEECH OF HON. B. F. THOMAS,

OF MASSACHUSETTS,

IN THE HOUSE OF REPRESENTATIVES,

May 24, 1862.

The House having under consideration the bills to confiscate the property and free from servitude the slaves of rebels—

Mr. THOMAS, of Massachusetts, said:

Mr. SPEAKER: Before proceeding to the discussion of the measures before the House, I hope I may be pardoned for making one or two preliminary suggestions. At as early a day as December, 1860, I expressed my earnest conviction of the course to be pursued by the Government and people of this country in relation to secession—that it was but another and an unmanly form of rebellion, and that it must be met at the threshold and crushed by arms; that after an ordinance of secession, as before, it was the duty of the Government to execute in every part of this indivisible Republic the Constitution and the laws.

But I believed then, and believe now, that the life of the States is just as essential a part of this Union as the life of the central power; that their life is indeed one life; and when the gentleman from New York, [Mr. SEDGWICK,] yesterday assured the House that the statement made by me in a former speech, "that when the conflict of arms ceases the nation will remain, and the States will remain essential parts of the body politic," "was one of those old and audacious propositions which cannot fail to shock the common sense of mankind," I felt that either he or I had wholly misconceived the nature and structure of the Government under which we live. *E pluribus unum.* Of many States, one nation. The Union is not a graveyard for the burial of dead commonwealths. The body politic is safer with a sound limb than with a dead one. But the gentleman from New York has made progress in this doctrine of State suicide, and assures the House not only of the death of the States, but that the people "by permission of the military power and not before," can form new governments and seek again admission here. Mark the words, "by permission of the military power, and not before." Where are we drifting, Mr. Speaker, and what is the end. These are not hasty words, but the deliberately uttered language of one, who no less by culture and capacity than by your appointment, is a leader of the House. "By permission of the military power, and not before." I repeat the question, where are we drifting, what is the end?

I was guilty of another audacious act in the view of the gentleman from New York. I awoke St. Paul from the dead to give countenance to my doctrine. The gentleman must pardon me, Mr. Speaker; I must be an old fogy. It never occurred to me that the epistles of Paul were among the dead things of the past. I supposed they were the well-spring of immortal life, and, like the gospels, the same to-day, yesterday, and forever. I am bound to presume this was a heedless remark, for I am sure the gentleman can have no sympathy with the new school of philosophy which has outgrown the Gospel, and which, making equal war with the Christian church and with the Union, has issued the new evangel, in which abstract love of the race is substituted for practical love of our neighbor, confusion for social order, freedom from restraint for the liberty of obedience. But let this pass.

Mr. Speaker, no man can desire more earnestly than I do the suppression of this rebellion, and the restoration of order, unity, and peace. But there are two things I cannot, I will not do. I will not trample beneath my feet the Constitution I have sworn before God to support. I will not violate even against these rebels the law of nations as recognized and upheld by all civilized and Christian States. I believe I must do both, to vote for these bills, and at the same time do an act unwise and especially adapted to defeat the end in view, if that end be the restoration of the Union and the salvation of the Republic.

I propose very briefly to examine the bills before the House (and especially that as to confis-

cation of property) under the law of nations and under the Constitution of the United States, and then to say a word upon their policy.

The positions assumed by the friends of these measures are, that we may deal with those engaged in this rebellion as public enemies and as traitors; that regarding them as enemies, we may use against them all the powers granted by the law of nations; and viewing them as rebels or traitors, we may use against them all the powers granted by the Constitution; and that in either view, these bills can be sustained.

Dealing with them as public enemies, it is said that under the existing law of nations we have a clear right to confiscate the entire private property on the land as well as the sea, real and personal, of those in arms, and of non-combatants who may in any way give aid and comfort to the rebellion. This first bill sweeps over the whole ground. I deny the proposition, Mr. Speaker. In the name of that public law whose every humane sentiment it violates; in the name of that civilization whose amenities it forgets and whose progress it overlooks; in the name of human nature itself whose better instincts it outrages, I deny it. Such is not the law of nations.

To give a plausible aspect to the proposition, the advocates of this bill have gone back to Grotius and to Bynkershoek for the rules of war, and even then have omitted to give what Grotius calls the *temperamenta*, or restraints upon the rules. You might as well attempt to substitute the code of Moses for the beatitudes of the Gospel. Anything can be established by such resort to the authorities. By the older writers you can prove not only that all the property of the vanquished may be taken, but that every prisoner may be put to death. By Grotius I can show that all persons taken in war are slaves, and that this is the lot even of all found within the enemy's boundaries when the war broke out; that this iron rule applies not to men only, but to their wives and children; nay, further, that the master has over the slaves the power of life and death. (*De Jure Belle et Pacis*, book 3, chap. 7, secs. 1, 2, and 3.) I cite a short passage from the chapter referred to:

"The effects of this right are unlimited, so that the master may do anything lawfully to the slave, as Seneca says. There is no suffering which may not be inflicted on such slaves with impunity; no act which may not in any manner be commanded or extorted; so that even cruelty in the masters, towards persons of servile condition, is unpunished, except so far as the civil law imposes limits and punishments for cruelty. In all nations alike, says Caius, we may see that the masters have the power of life and death over slaves. He adds afterwards that by the Roman law limits were set to this power, that is, on Roman ground. So Donatus in Terence, 'what is not lawful from a master to a slave?'"

By Bynkershoek you may establish that the conqueror has over the vanquished the power of life and death, and the power of selling them into slavery; that everything is lawful in war; the use of poison and the destruction of the unarmed and defenseless. (Law of War, Duponceau's translation, pp. 2, 18, 19, 20.)

But what then, Mr. Speaker? Does any man suppose that these writers give us the laws of war as upheld, sanctioned, and used by the Christian and civilized States of to-day? Nothing would be further from the fact. Commerce, civilization, Christian culture, have tempered and softened the rigor of the ancient rules; and the State which should to-day assume to put them in practice would be an outcast from the society of nations. Nay, more, they would combine, and rightfully combine, to stay its hand. For the modern law of war, you must look to the usages of civilized States, and to the publicists who have explained and enforced them. Those usages constitute themselves the laws of war.

In relation to the capture and confiscation of private property on the land, I venture to say, with great confidence, and after careful examination, that the result of the whole matter has never been better stated than by our own great publicist, Mr. Wheaton:

"But by the modern usages of nations, which has now acquired the force of law, temples of religion, public edifices devoted to civil purposes only, monuments of art, and repositories of science, are exempted from the general operations of war. Private property on land is also exempt from confiscation, with the exception of such as may become booty in special cases, when taken from enemies in the field or in besieged towns, and of military contributions levied upon the inhabitants of the hostile territory. This exemption extends even to the case of an absolute and unqualified conquest of the enemy's country."—*Elements of International Law*, p. 421.

It is not too much to say that no careful student of international law will deny that this passage from Mr. Wheaton fairly expresses the modern usage and law upon the subject; but you will permit me to refer for a moment to the doctrine stated by my illustrious predecessor, whose name has been so often invoked in this debate, John Quincy Adams. "Our object," he says, in a letter to the Secretary of State, "is the restoration of all the property, including slaves, which, by the usages of war among civilized nations, ought not to have been taken." "All private property on shore was of that description. It was entitled by the laws of war to exemption from capture." (Mr. Adams to the Secretary of State, August 22, 1815.)

Again, he says, in a letter to Lord Castlereagh, February 17, 1816:

"But as by the same usages of civilized nations private property is not the subject of lawful capture in war upon the land, it is perfectly clear that in every stipulation private property shall be respected, or that upon the restoration of places during the war, it shall not be carried away."—4 *American State Papers*, pp. 116, 117, 122, 123.

A volume might be filled with like citations from modern writers. I will content myself with perhaps the latest expression, and from a great statesman, a native of Massachusetts, and of my own county of Worcester:

"The prevalence of Christianity and the progress of civilization have greatly mitigated the severity of the ancient mode of prosecuting hostilities." * * * * "It is a generally received rule of modern warfare, so far at least as operations upon land are concerned, that the persons and effects of non-combatants are to be respected. The wanton pillage or uncompensated appropriation of individual property by an army even in possession of an enemy's country, is against the usage of modern times. Such a proceeding at this day would be condemned by the enlightened judgment of the world, unless warranted by particular circumstances. Every consideration which upholds this conduct in regard to a war on land favors the application of the same rule to the persons and property of citizens of the belligerents found upon the ocean."—*Mr. Marcy to the Count de Sartiges*, July 28, 1856.

Such I believe to be the settled law and usage of nations. A careful examination of the arguments made on this subject has served but to strengthen and deepen this conviction.

I do not forget, Mr. Speaker, that the case of Brown *vs.* The United States, (8 Cranch, 110,) has been often referred to in this debate as affirming the contrary rule. The points decided in that case I have before stated to the House. The points, the only points, decided were that British property found in the United States on land, at the commencement of hostilities, (war of 1812,) could not be condemned as enemy's property without an act of Congress for that purpose, and that the declaration of war was not sufficient. Gentlemen have referred to the *obiter dicta*, the discussions of the judges, as the decision of the court. The distinction is familiar and vital, but has been lost sight of in this debate. Only the points necessarily involved in the result constitute the decision. Let me illustrate the matter by a familiar case, that of Dred Scott. It is the matter outside of the decision, what a distinguished jurist has called the slopping over of the court, that was so fruitful in mischief. The point decided by the majority of the court was that Dred Scott was not a citizen of Missouri, so as to be able to maintain an action in the courts of the United States upon the ground of such citizenship. Under the conflicting decisions in the courts of Missouri, I have always thought that case might have been decided either way without attracting public attention or animadversion. All that was said outside of that point has no more legal force than the paper on which it was written. Use the sayings of the judges in that case as they have used those in Brown *vs.* The United States, and you can establish the rightful existence of slavery in the Territories, the invalidity of the Missouri compromise, and, God only knows, how many other errors in history and law. Treat what is said by the majority of the court outside of the point decided as argument—and it is nothing more—and slavery in the Territories is without any legal prop or support. And I may say, in passing, Mr. Speaker, there never was in my judgment a plausible argument even to establish the power and right of the master to take his slave into the Territories and hold him in servitude. Slavery exists by local law and usage only. It has no extra territorial power. The moment the slave, with the consent of the master, is taken beyond the line of the place where the law tolerates its existence, the chains fall from his limbs. Property in the slave there may be by local municipal law, but not by the law of nature and of nations, not by that universal, immutable law of which Cicero speaks so divinely in the *Republic*. May I give the Latin, Mr. Speaker? "*Nec erit alia lex Romæ, alia Athenis, alia nunc, alia posthac; sed et omnes gentes et omni tempore una lex et sempiterna et immutabilis continebit.*" Nobler thought in nobler words never fell from human lips or pen.

But I return from this digression to say, Mr. Speaker, that the distinction sought to be established by the passages cited from the discussions, in the case of Brown *vs.* The United States, between the law of war and the mitigations of that law which the usages of modern nations have introduced, has no foundation in principle. It is in the usages of civilized and Christian nations that we are to seek the law of nations. As the law-merchant has grown up from the usages of trade and commerce, so has the modern law of nations grown up from the usages of enlightened States. The ancient barbarous rules of war have been tempered and softened by commerce, by the arts, by diffused culture, and, more than all, by the spirit of the Gospel; and all Christian States recognize with joy and with obedience the milder law. In the jurisprudence of nations, as in our own, there is one law felt above all others, the law of progress. Apparently at rest, it is ever silently moving onward, quickened, purified, and illumined by the inspiration of that higher law, "whose seat is the bosom of God, and its voice the harmony of the world." The great, prophetic thought of Pascal may yet be realized—"*Deux lois suffisent pour régler la république chrétienne, mieux que toutes les lois politiques: l'amour de Dieu, et celui du prochain.*"

I do not know that I can more fitly conclude what I can say, in the brief time allotted to me, on the capture and confiscation of the private property of rebels, viewed in the light of international law, than in the words of John Marshall, near the close of his judicial life:

"It may not be unworthy of remark that it is very unusual, even in cases of conquest, for the conqueror to do more than to displace the sovereign and assume dominion over the country. The modern usage of nations, which has become law"—

mark the words, Mr. Speaker, "the modern usage of nations, which has become law"—

"would be violated; that sense of justice and of right which is acknowledged and felt by the whole civilized world would be outraged, if private property should be generally confiscated and private rights annulled. The people change their allegiance; their relation to their ancient sovereign is dissolved; but their relations to each other and their rights of property remain undisturbed. If this be the modern rule, even in cases of conquest, who can doubt its application to the case of an amicable cession of territory?"—*United States vs. Percheman*, 7 *Peters*, 51.

It is against the light of these considerations and authorities, and against the prevailing law and judgment of the Christian world, that it has been so often confidently, I will not say flippantly, asserted on this floor that there could be no doubt of our power, under the law of nations, to seize and confiscate the entire property of the rebels, as public enemies.

I pass to the second branch of the subject, our power under the Constitution to pass these bills. It has been often said, in the course of this debate, and in terms without qualification, that the rebels hold to us the twofold relation of enemies and traitors, and that we may use against them all the appliances of war and all the penalties of municipal law. To a certain limited extent the proposition is sound. Treason consists in levying war against the United States. The act of treason is an act of war, and you use the powers of war to meet and subdue traitors in arms against the Government.

It is also true that, in the relations between the Government and its subjects, the rightful power of punishment does not necessarily cease with the war; but is it also true that you can exercise both powers at the same time? And is not here the utter fallacy of this whole argument? Take an example. You have been accustomed to exchange flags of truce; you have recognized, to a certain

extent, belligerent powers. An officer of the rebel army comes to you under a flag of truce: can you take him from under that flag and hang him for treason? He stands to you in the double relation of enemy and traitor, but you cannot touch a hair of his head while he is under that white flag. Take another case. You have stipulated for an exchange of prisoners of war. The cartel has been sent, and the prisoner of war is on his way to make the exchange. Does any man on this floor say that you can take him on his way and try and hang him? And if not, why not? The plain answer is, because having recognized him as under the law of nations, while he is subject to its power, he is entitled to its protection.

Pass what bills we may, Mr. Speaker, when the war is ended these questions will come up to be settled. I hope I may be pardoned for saying, with great respect, to my friends on all sides of the House, that they will be as difficult questions as statesmen or jurists were ever called upon to decide, and that it is wise to reserve, as far as possible, our judgment. No thoughtful man will content himself with the declaration that belligerent rebels have no rights. Passion may say that, reason never. Passion, sooner or later, subsides, and reason reascends the judgment seat, and these questions must be answered there and to that august tribunal before which the conduct of men and nations passes in view—the enlightened opinion of the Christian world. Such questions are, how far, *flagrante bello*, (while war was raging,) with respect to prisoners of war the civil power was restrained; how far the treating with rebels and exchanging them as prisoners of war may affect their punishment as traitors, either in person or property. I express no opinion, except to say they must be calmly met and answered.

But assuming, for the sake of the argument, that during the war even, and while recognizing their belligerent rights, you may visit upon the rebels the full force and weight of the municipal law, I proceed to inquire whether the mode proposed by these bills is in conformity to the organic and supreme law, the Constitution of the United States. I am not to be deterred from this discussion by any suggestions from weak or wicked men—none other can make them—of leniency to rebels and compassion for traitors. There is but little elevation in contempt, but such suggestions do not rise high enough to meet it. They pass by me as the idle wind. If a man has no other arrows in his quiver let him use these; I am content.

The favorite argument, Mr. Speaker, of those who claim for Congress the power to confiscate the property of traitors without trial by jury is, that the want of this power would show a fatal weakness in the Constitution and a lack of wisdom and foresight in its framers. They will not believe the Constitution is so weak and helpless, so incapable of self-defense. Nothing, in my judgment, so shows its majesty and strength, pray God, immortal strength. The powers of war are almost infinite. The resources of this vast country spring to your open hand. All that men have, even their lives, are at the service of their country; and in this great conflict how nobly and freely given. You can raise an army of seven hundred thousand men; you can give them all the best appliances of war; you can cover your bays and rivers and seas with your Navy; you can blockade a coast of three thousand miles; you may cut down the last rebel on the field of battle. Such is the power of war. But, Mr. Speaker, when you shall have used all these powers, when peace shall have been restored, or when the rebels shall come and lay themselves at your feet, or be taken captive by your arms, then, also, will the power of that Constitution be made manifest; then, also, will this Government be shown to be the most powerful and the noblest on the earth, not because the captured rebel is at your mercy, but because he is not. Because, under the shield of the Constitution, the rebel at your feet is stronger than armies, stronger than navies. You cannot touch a hair of his head or take from him a dollar of his property until you shall have tried and condemned him by the judgment of his peers and by the law of the land. Does this show the weakness of the Constitution, or does it show its transcendent strength? Are these written constitutions established to give to Government power, without limit, over the property, liberty, and life of the citizen, or are they made to define and limit the power of the Government, and to shield and protect the rights of the subject?

I have always been taught that the people is the sovereign; that these constitutions are carefully-defined grants from the sovereign power, so framed as to establish justice, and at the same time secure the blessings of liberty and the protection of law even to the humblest and meanest citizen. I know, Mr. Speaker, that these are getting to be old-fashioned sentiments. Magna Carta is soiled and worm-eaten. The Bill of Rights, the muniments of personal freedom, habeas corpus, trial by jury, what are they all worth in comparison with this new safeguard of liberty, the proceeding *in rem*?

Was you ever at Runnymede, Mr. Speaker? I remember going down, on a beautiful day in July, from Windsor Castle to the plain, and crossing the narrow channel of the Thames to that little island on which, more than six centuries ago, in the early gray of morning, those sturdy barons wrested from an unwilling king the first great charter of English freedom—the germ of life of the civil liberty we have to-day. I could hardly have been more moved had I stood in the village and by the manger in which was cradled "the Son of Mary and the Son of God." From the gray of that morning streamed the rays which, uplifting with the hours, coursing with the years, and keeping pace with the centuries, have encircled the whole earth with the glorious light of English liberty—the liberty for which our fathers planted these Commonwealths in the wilderness; for which they went through the baptism of fire and blood in the Revolution; which they imbedded and hoped to make immortal in the Constitution; without which the Constitution would not be worth the parchment on which it was written.

But I must not linger by the way, Mr. Speaker. What do these bills propose? The immediate object is to confiscate the property of the rebels. For what end? For punishment, is it not? If you strip these men of their property, it is not because they are innocent, although this bill does, in fact, confiscate the property of persons who may be guiltless of any offense. But the theory of the bill is to punish men for the crime of rebellion, or treason, or give it what name you will. The bill, indeed, recites, as an ulterior purpose, the payment of the expenses of the rebellion. But there is no man on this floor so verdant as to suppose this means much. If the courts enforce the statute, (I believe they will not,) how much treasure can you wring from those States, poor at the best, but whom the close of this war will leave impoverished, scared, and swept, as by fire? You might as well pasture your cattle on the desert of Sahara. The land will indeed be left, but who will be your purchasers, when they know they must take at the best a doubtful title, but a sure, bitter, and lasting feud. The strife and hate growing out of the confiscations of the Revolution are scarcely yet appeased, and it was with these confiscations fresh in the memories of the framers of the Constitution that the limitation of the power of forfeiture was adopted. There never was a wilder dream than that of paying the expenses of the rebellion with the fruits of confiscation.

The real object of the bill is punishment, the punishment of an offense clearly defined in the Constitution, of the highest offense known to the laws. The punishment is the forfeiture of the property of the offender. The forfeiture is to be established before judicial tribunals, and upon proof of the guilt of the owner. You have, then, these three elements: punishment—upon proof of the commission of crimes—before a judicial tribunal. One element is wanting. One has been diligently excluded—trial by jury. Human ingenuity has been exhausted to shut the door against it, and your bill is like Hamlet with the Prince of Denmark omitted by particular request. Here is the plain imperative mandate of the Constitution, which he who runs may read:

"The trial of all crimes except in cases of impeachment, shall be by jury."—*Constitution*, art. 3, sec. 2.

The property to which the bill applies is not, under the law of nations, prize, it is not booty, it is not contraband of war. It is not enforced military contribution. It is not property used or employed in the war or in resistance to the laws, and, therefore, clearly to be distinguished from that covered by the statute of August 6, 1861. It is private property outside of the conflict of arms, forfeited not because it is the instrument of offense, but as a penalty for the crime of the owner. The disguise of the proceeding *in rem* is too thin and transparent. No lawyer, no man of common sense will be deceived by it. The proceeding in spirit, in substance, and effect, is the punishment of treason by the forfeiture of a man's entire estate, real and personal, without trial by jury, and in utter disregard of the provision of the Constitution which limits the forfeiture for treason to the life of the person attainted. (Article 3, section 3.)

Was there ever a bolder contrivance to get around the plainest and most sacred provisions of the Constitution than this attempt to get a man's farm, his cattle and fodder, his plow, spade, and hoe into a maritime court and try them by the law of prize? With all respect for my excellent friends upon the committee, such a proposition "shocks our common sense" as well as our sense of justice and right. You make the plea of necessity, and necessity is the mother of invention, but do you expect to satisfy sensible men, when reason resumes its sway, that under a Constitution which defines treason to consist in levying war against the United States, which will not suffer the traitor to be condemned except by the judgment of his peers, and when condemned will not forfeit his estate except during his life, you can, by this proceeding *in rem*, without indictment, without trial by jury, without the proof of two witnesses, (article 3, section 3,) for treason, for the act of levying war, deprive him of all his estate, real and personal, for life and in fee? Nay, more; and that, after he has thus been punished, without trial by jury, and by the loss of his whole estate, you can, for the same act of levying war, try him and hang him? To suggest a doubt whether, after all, this is plain sailing under the flag of the Constitution, is to have too nice constitutional scruples!

I have touched but upon one or two legal objections to these bills. Their name is legion; but I must hasten to a more minute examination of the bills themselves. I do not wish to say the bills are hastily drawn. If right in principle, defects of form or want of detail can be supplied. In attempting, however, legislation, involving a new principle, or a new application of a principle, it is a pretty good test to let it be run through the machinery of a carefully-drawn statute, and see how it works. I should have liked that test applied here.

Looking now to the general features of the confiscation bill, I desire the House to observe that the bill, though not in form, is in substance and effect retroactive. It takes effect from its passage. It applies to all acts committed after its passage. As there are whole districts, States even, where the law cannot be promulgated, and who will remain in ignorance of its passage, the law, as to them, will be *ex post facto*. They will neither know, nor have the means of knowing, of the existence of the penalty when the act is committed. Will you say it is their own fault? I beg you to consider that, since your protection has been lost and until it is restored, there has been and can be no really free choice with the individual citizen whom he shall obey. What measure of punishment would you mete to a citizen of Jacksonville, who, after the withdrawal of your army, should yield to the powers that be, though certainly *not* ordained of God?

I ask the attention of the House and a just and humane people, if these words shall ever reach them, to the wide sweep of this bill. You would infer from the arguments of its friends that the bill was to reach only the leaders and instigators of rebellion. How, if that were so, the limitation and the payment of the expenses of rebellion from confiscation would hang together, has not been explained. But the *fact* is far otherwise.

The first section includes several classes, and first, all officers of the rebel army or navy, non-commissioned as well as commissioned. Officers of high rank should be included; but there is no sound reason whatever for going down to sergeants and corporals. The second, third, and fourth classes embrace persons who shall hold certain

offices in the confederate States, or any of them, including judges of the State courts and members of State Legislatures and conventions. In all these cases the mere holding of the office is made the ground of confiscation, without regard to the manner in which the duties shall be discharged or to whether those duties involve any active service against the national Government; men, it may be, whom the rebellion found in office, and who continue in the regular exercise of their functions. Here, for example, is the judge of probate or surrogate of a county. Rebellion breaks out; men will die and estates must be settled and care had of widows and orphans. To visit this man with the confiscation of his estate for continuing quietly to discharge his duties, is equally harsh and absurd.

The same remark applies, possibly with increased force, to persons embraced in the fifth class, those holding any office or agency under any of the States of the confederacy or any of the laws thereof, whether such office or agency be State or municipal in its name or character. Every justice of the peace, notary public, town clerk, treasurer, selectman, assessor, constable, overseer of the poor, undertaker, even, must resign his functions or become a pauper. The result, if successful, is a suspension of civil order, or, on the other hand, the severest punishment for a venial offense, if it be an offense.

The second section includes all persons who, being engaged in rebellion, or aiding and abetting it, shall not, within sixty days after proclamation from the President, desist and return to their allegiance. Sixty days seems to be a reasonable notice; but if the parties are in such condition that the notice cannot reach them, then it is not notice. What may be fairly and justly required is that men shall return to their allegiance the moment they have reasonable assurance of permanent protection from the national Government. It is idle to look for it before such protection is possible. To ask a man in the interior of a cotton State to abjure the rebel government and return to his allegiance in the present condition of things, is to ask a moral impossibility. To confiscate his property for not doing so, cannot be justified.

A word upon another harsh feature of the bill. With respect to every person within its scope, and without the least discrimination as to degrees of guilt, a clean sweep of property is made. There is no exemption of necessary household furniture, or of provisions, or of tools of trade. Nothing is spared—the bed on which the wife sleeps, the cradle of the child, the pork, or flour barrel. Taken in connection with the fact that the bill declares that the President *shall* cause the seizure to be made, and not merely that he *may*, that provision is made for the sale of perishable property, and that none is made for the remission, in whole or part, of the forfeiture, and we cannot fail to understand the spirit in which the bill is conceived, or the impression it will not fail to make on the friends of this country abroad, who cannot fully appreciate the bitterness which civil conflict engenders, or, if they do, will not pardon statesmen for yielding to its influence. It is plain that the angel of mercy never found his way to the committee room; or, if he went in with my friend from Kentucky, [Mr. MALLORY,] or my friend from New Jersey, [Mr. COBB,] he was politely bowed out, with the assurance that neither rebels nor those dependent upon them had any rights.

I ought, however, to add, Mr. Speaker, that looking upon seizure and confiscation as a penalty for crime—treason or rebellion—the President, under his general power of pardon, might remit the punishment. But then the other conclusion will follow, that without trial by jury, no valid forfeiture can be effected.

The second bill, for the emancipation of the slaves of rebels, is much broader in its scope, including every person who shall engage in rebellion or aid or abet it. The insertion of the word "willfully," lawyers will see, does not affect the legal construction. There are considerations of humanity in favor of this bill which do not apply to the first; but it is not restricted to slaves used in the rebellion, and *no* form of judicial proceeding is provided. The constitutional objections apply to it with at least equal force.

That the bills before the House are in violation of the law of nations and of the Constitution I cannot—I say it with all deference to others—I cannot entertain a doubt. My path of duty is plain. The duty of obedience to that Constitution was never more imperative than now. I am not disposed to deny that I have for it a superstitious reverence. I have "worshiped it from my forefathers." In the school of rigid discipline by which we were prepared for it, in the struggles out of which it was born, the seven years of bitter conflict, and the seven darker years in which that conflict seemed to be fruitless of good, in the wisdom with which it was constructed and first administered and set in motion, in the beneficent Government it has secured for more than two generations, in the blessed influences it has exerted upon the cause of freedom and humanity the world over, I cannot fail to recognize the hand of a guiding and loving Providence. But not for the blessed memories of the past only do I cling to it. He must be blinded with excess of light, or with the want of it, who does not see that to this nation, trembling on the verge of dissolution, it is the only possible bond of unity. With this conviction wrought into the very texture of my being, I believe I can appreciate this conflict, can understand the necessity of using all the powers given by the Constitution for the suppression of this rebellion. They are, as I believe, and as the progress of our arms attests, ample for the purpose. I do not, therefore, see the wisdom of violating or impairing the Constitution in the effort to save it, or of passing from the pestilent heresy of State secession to the equally fatal one of State suicide. The fruits of the first are anarchy and perpetual border war; of the second the growth of military power, the loss of the centrifugal force of the States, the merging of the States in the central Government; a republic in name and form, in substance and effect a despotism.

Mr. Speaker, at a time like this the individual is nothing, the country everything. He cannot truly serve or love his country who is anxious about himself. He cannot have a single eye to the welfare of the Republic if both eyes are turned homeward. He cannot keep step to the music of the Union who is grinding fantasias for the village of Buncombe. One may desire, however, not to be wholly misunderstood. It has been said that I am opposed to any emancipation of the slaves of rebels. Nothing can be further from the truth. The first provision for emancipation, that in the statute of August 6, 1861, liberating all slaves employed in the rebellion, I drew with my own hand, believing now, as then, that it is valid and just. For the abolition of s avery in this District, for the interdiction of slavery in the Territories, for the new article of war forbidding the officers of the Army to surrender fugitives from service, my votes are on record. I voted for the resolution recommended by the President for aid to the States in the work of gradual emancipation, though I could not fail to see that it was on the verge of authority, and must perhaps finally rest, like the purchase of Louisiana, upon general consent. My views of the power of the Commander-in-Chief on the subject of emancipation are fully stated in remarks submitted to the House on the 10th of April. I will not repeat them. They are ample for any emergency. In the bill I introduced "for the more effectual suppression of the rebellion," but which, in the present temper of the House, I thought it useless to press, I have indicated a practical method by which the slaves of rebels may be emancipated, as the penalty for crime, upon conviction or default of the offender. But, Mr. Speaker, I have kept my eye steadily upon the end for which this war is waged, the only end for which it can be justified—the integrity of the Union. I have firmly resisted, and shall continue firmly to resist, every effort, open or disguised, to convert this war for the Union into a war for emancipation, at the risk—no, not at the risk, for the words do not express what I mean or feel; with the moral certainty—of defeating the purpose for which the war was begun. With these convictions, it is scarcely necessary to say I cordially approve the course of President Lincoln in modifying the proclamation of General Frémont, and declaring null and void the order of General Hunter. For the wisdom and patriotism which have illustrated the course of this great magistrate he has my sincere respect and gratitude.

A word upon the policy and wisdom of these measures.

A great work has been done by this nation. It is easy to find fault. In operations upon so large a scale, requiring so many agencies, mistakes and blunders will be made. But a just criticism, looking upon the work as a whole, cannot fail to commend the patriotism of the people and the energy of the Government. I know it has been prettily said that we have prosecuted this war upon "a rose-water policy." I do not know that I fully comprehend what is meant, but probably the rebels, in view of that long blockade, with the fresh memories of Port Royal, Newbern, Pulaski, Donelson, Pea Ridge, Shiloh, the lower Mississippi, and Yorktown, and the ever tightening folds of the constriction, might say, with Juliet, the

> ——"rose
> By any other name would smell as sweet."

Our armies and navies are victorious. The war seems to be drawing to a close. There is reasonable ground to hope that before the next session of Congress the power of the rebellion will be broken, and the sword have substantially done its work. But I cannot conceal from myself that our great difficulties lie beyond the conflict of arms. It is the part of wise courage to look them calmly in the face, to gauge them, and gird up our loins to meet them. Action will be needed, not words, judgment, not passion. Unless there be calm and fearless statesmanship, your victories will have been won in vain—a statesmanship that honors and respects the people, but is willing to abide its sober second thought.

Civil wars, like family feuds, have been fierce, bitter, and unrelenting. The bitterness and ferocity manifested towards us by the rebels cannot but arouse the spirit of retaliation and thirst for vengeance. If we yield to the fierce temptation, the war will become one of extermination. Thus far, while prosecuting the war with vigor, we have shown the moderation and humanity becoming a great people. I pray we may continue in this course. There is wisdom in the fable of the sun and the north wind. There is power in forbearence, in magnanimity, in obedience to the law we seek to enforce, in the spirit of forgiveness, in the "mercy which seasons justice." Christ knew what is in man; the Gospel is not a lie. There never was a juster war than that which we are waging. It is strictly a war of self-defense—the defense of a free and beneficent Government against traitors in arms against her. But we may not forget that to those in the southern States who believe in the right of secession this war cannot but wear the aspect of a war of invasion and subjugation. This terrible mistake may account for their bitterness, but it is no palliation for their barbarities.

Mr. Speaker, upon no subject has there been more or looser declamation than on the causes of this rebellion. At one moment we are assured that slavery is the one great criminal, at the next that it was brought about by the fraud, falsehood, and violence of a few unprincipled leaders.

Passing this subject now with the remark that masses of men are not easily moved, that civil convulsions are fed by deeper fires, I ask your attention to two facts which seem to be clearly established. The first is, that when the acts of secession were passed the majority of the people of the revolting States, with the exception of South Carolina, were loyal to the Union; and the second is, that to-day their feelings are changed, their loyalty turned to treason and love to hate. Passion is eloquent; but do not content yourselves with bitter denunciation. Pause, I beseech and adjure you, and inquire what is the cause.

The war brought to their homes and firesides will account for much; but do you not believe that a conviction has been settling down into the minds of men, who at the beginning of our troubles were loyal, that these extreme measures point to some other end than the restoration of the Union with the rights of the States preserved; that they mean subjugation and reconstruction "by permission of the military power, and not before?" Once committed to this policy, once afloat on that sea of revolution, neither you nor I may live to reach the haven of Union and peace.

If these measures shall be finally adopted, I pray God I may prove a false prophet, and that out of this nettle danger we may pluck the flower safety; that His strength may be manifested in our weakness, and that He may overrule all our errors and shortcomings for the good of our beloved country.

CONFISCATION OF REBEL PROPERTY.

SPEECH OF HON. CHAS. R. TRAIN,

OF MASSACHUSETTS,

IN THE HOUSE OF REPRESENTATIVES,

May 24, 1862.

The House having under consideration the bills to confiscate the property and free from servitude the slaves of rebels—

Mr. TRAIN said:

Mr. SPEAKER: It is impossible for me to approach the great question before us in any spirit of vindictiveness, nor does it appear to me to be proper to legislate with any such feelings. In surveying the condition of the country, we shall see enough of misery and distress to temper our indignation with sorrow. Doubtless the distress has been unequally distributed, and many have suffered who were innocent, while many have escaped who were guilty. Such is the lot of humanity. One may count the leaders in this giant insurrection upon their fingers. These men should be visited with condign punishment, and I am prepared to vote for any measure to this effect. I believe it will be judicious, too, to enact such a law as will serve to deter men who have fortunes at stake from continuing in arms now, or taking them up again in the future; but I dissent from those who think that such a confiscation act should be passed as will impoverish the families of rebels, and punish them indiscriminately; nor do I believe that the Treasury of the United States would be replenished from this source, for it would probably cost quite as much to reduce the property of the rebels to the possession of the Government as the value of the property itself. Any one who has examined our history during and after the close of the Revolution, will be satisfied that if all constitutional doubts could be withdrawn, we can have now no assurance that this remedy could be applied with any satisfactory consequences. In the language of another: "Confiscation, in a legal and technical sense, is attended with difficulties. It was not resorted to at all in case of the original proprietors of our soil, whose titles were suspended, if not extinguished, by a more summary process. It was applied pretty largely to the Tories of the Revolution, but the process was tedious, and the results not altogether satisfactory. If the rebels, like the Tories, should colonize them and their heirs with them, it would be relieved of some of its difficulties, but would still be a sore one to professional conveyancers, who could hardly be reconciled to the salvation of the country at the expense of serious informalities in the title of real estate."

But apart from this consideration, I do not like this mode of punishment, and I distrust its efficiency for any good end. To punish a whole body of people for the madness to which they have been incited by long and studied purpose on the part of a band of political conspirators who have inflamed their passions with the recital of imaginary wrongs, and turned their hearts against a Government so mild and lenient that they have scarcely felt its rule, would be, in my judgment, neither politically wise nor substantially just. The greatness of the nation should be shown by its magnanimity as well as its power. The people are not versed in law, and our form of Government is complex; they have been confused and perplexed with the antagonistic requirements of the State and Federal Governments.

Among the numerous bills which have been introduced in this and the other House for the punishment of treason, several of them are designed to abolish slavery, while few of them show this either in the title or preamble. The honorable chairman of the Committee of Ways and Means boldly marches forward to this direct object, and asserts that the longer continuance of the system is incompatible with peace. This may be true to some extent; but believing that this rebellion has struck the death-knell of the institution, I will not seek its overthrow by unconstitutional and therefore unjust means.

It is needless for me to say that I hate and until now have feared the institution of slavery; but much as I detest the system, I cannot agree that it shall be made responsible for all the evils which afflict the nation; and it seems to me that those gentlemen who can see no other element of discord than this in the country are blind to the occurrences of the past or ignorant of the political history of the Republic. If slavery had never existed, the nullification theories of South Carolina would have resulted in rebellion; and certainly it will be conceded that the attempt to overthrow this Government was begun and instigated by that portion of the States which had least to complain of in reference to any interference with their domestic concerns. The pernicious political tenets taught in the State rights schools of the South have borne legitimate fruit in this rebellion, and the people of this nation will learn henceforth that their paramount obedience is due, where alone it can be enforced, to the United States of America; they will learn this by a lesson which will impress itself more thoroughly upon their minds than by all they have gathered from the ingenious political essays of Virginia or Massachusetts statesmen. In order to apply a proper remedy we should not deceive ourselves as to the nature of the disease. The constant cry of "invasion," the question asked so often and with such emphasis by the insurgents, and, no doubt, in most cases with sincerity, "what have you come here for?" sufficiently attests that the true character of this Government has yet to be learned by very many of its citizens. The unity of the Republic has been lost sight of or pushed aside by the nearer presence of the State government.

As a rule, the people of our country are law-abiding; they believe that a majority, acting in a legislative capacity, under constitutional restrictions, can do almost anything, while a class of politicians, both North and South, have avowed the doctrine that a constitutional convention can do and undo all things at will. This was held in Massachusetts as late as 1853, and nothing but the intelligence of her people, and the fact that they could not be excited by artful harangues which have deluded our brethren of the South, prevented the amendment of her fundamental law in an unconstitutional way, and in violation of the rights of minorities. Very undefined notions prevail among us with regard to the powers of such a convention, which powers are exhausted, in truth, after the first convention has set the machine of government in motion, and also upon the matters of sovereignty and allegiance.

According to my views of the structure of our Government, there are, rightly speaking, no such correlative attributes as sovereignty and allegiance in the internal relations of this Republic; we are citizens, not subjects, and we owe no allegiance anywhere, but simply obedience to our fixed and written constitutions, and the laws passed in pursuance of them. Our Government is founded upon the theory that all power is originally derived from the people, and that even their power has its limitations. The people acting at the outset through the machinery of conventions, established certain fundamental principles which were to govern and restrict subsequent legislation, and any acts of the Legislatures departing from this so constituted authority, are of no binding effect. This division of power is plainly marked in the constitutions of the several States, and in that of the United States.

It is this pestilent doctrine of State rights, in my judgment, and the consequent doctrine that a constitutional convention may do all things at will, with the cowardice of loyal men in some of the slave States, which has brought upon us this rebellion. For example, I believe no fact is capable of plainer proof (and if I am mistaken I will thank any of her delegation present to correct me) than that the convention of Virginia usurped powers not conferred upon it, and passed what was called an ordinance of secession in defiance of the expressed will of a majority of her people. Of course, the first step taken, it was not so difficult to keep up a forced unanimity thereafter, with the impassioned cries of "invasion," and the angry exclamation of "what do you come here for?" But the people of Virginia elected a convention of Union men, and forbade them taking any step, without submitting the same to them at the polls, changing the relations of the State to the General Government. This prohibition was disregarded. The State was handed over to the confederate States a month before the people were allowed to vote, and armed troops from Louisiana, Georgia, Alabama, South Carolina, and elsewhere occupied her "sacred soil." It is idle to suppose that Virginia statesmen did not know they were guilty all this time of usurpation. Upon inquiry of my friends I learn that the argument chiefly relied on was that, so soon as the State took an attitude of revolution, it was believed a peaceable separation would result. Fatal error! and what deep and bitter humiliation it has cost the Old Dominion! The first test vote taken in the Richmond convention disclosed, as was to have been expected from the popular elections, a large Union majority; but thenceforth all sorts of appliances were brought to bear by the revolutionists to reverse this judgment. Men were sent from various parts of the State. Commissioners were received from seceded States—none from the North were invited—and with hot and fiery harangues in doors and out, the convention was besieged day and night, until finally a vote was obtained on the 17th of April, 1861, of 86 to 55, in favor of what was called an ordinance of secession. I believe I state these things correctly; if not, there are gentlemen present from Virginia who were members of that convention, and who can correct me if in error.

Now, what excuse can be given, here or hereafter, for those members of that convention who were elected as Union men, but afterwards yielded their trust, betrayed their constituents, surrendered their judgments and their conscientious convictions to the clamor of secession? (I see that one George W. Brent, elected as Union delegate to that convention from the city of Alexandria, by more than six hundred majority, is now serving on Beauregard's staff.) It is claimed that Virginia resumed her sovereignty. She never was sovereign, but helped form this national Union, and owes all she is to it. As cities owe their chartered powers to the State governments, so do the States owe their powers and privileges to the United States; and Mississippi, which furnishes the president of the so-called confederate States, would long since have been the subject of reprisal for her repudiated bonds but for the power and protection of the United States. I can find some extenuation for the conduct of those unreflecting youths of Virginia—especially such as have been educated to false principles in her military schools—who, bearded like the pard, and rejoicing, each, like another Alexander, in his Bucephalus, were only too ready to exchange the holiday pageantry of their mock tournaments for the stern and manly realities of war. The soldier is impelled to warfare by his training, and where a conflict is raging between foreign Powers, he has a right to favor either of the contending parties with his good wishes, and, if there be no obligation to prevent, with his personal services. But what is to be said of those officers of our Army and Navy who, educated, many of them, by the bounty of the nation, have accepted trusts at the hands of their country that they might the more easily betray and destroy her? Is it in the power of human language to fathom the depth of their infamy? One of them, a Virginian, commanded the reinforcements at Bull Run, and, at a critical juncture, sighed, it was said, for four more regiments; the regiments came, and he had the satisfaction of seeing the flag under which he was born and nurtured, and to which he owed all that he was, go down before him. Some days after that battle he is represented to have been seen towards nightfall pacing in front of his tent, looking haggard and careworn. What must have been the bitterness of his remorse when, no longer sustained by the *gaudia certaminis*, he reflected upon his true position! There are some lines in the Siege of Corinth so applicable to him then and there, changing but

a single word, that I cannot forbear repeating them:

"And through the night, as on he wandered,
And o'er the past and present pondered,
And thought upon the glorious dead
Who there in better cause had bled,
He felt how faint and feebly dim
The fame that could accrue to him,
Who cheered the band, and waved the sword,
A traitor in a *traitorous* horde;
And led them to the lawless siege,
Whose best success were sacrilege.
Not so had those his fancy numbered,
The chiefs whose dust around him slumbered,
Their phalanx marshaled on the plain,
Whose bulwarks were not then in vain.
They felt devoted, but undying;
The very gale their names seemed sighing;
The waters murmured of their name;
The woods were peopled with their fame;
The silent pillar, lone and gray,
Claimed kindred with their sacred clay;
Their spirits wrapped the dusky mountain,
Their memory sparkled o'er the fountain;
The meanest rill, the mightiest river,
Rolled mingling with their fame forever.
Despite of every yoke she bears,
That land is glory's still and theirs!"

Ay, and as the renown of Greece is to be found in the learning of Athens and the endurance of Sparta, in her heroes and statesmen, her Cimon, and Pericles and Demosthenes, so does the glory of Virginia belong to her Washington, and the Henrys and Marshalls and Pendletons and Randolphs of her earlier and better days; and when this wretched Breckinridge uprising shall have passed away and taken its place in history beside the whisky insurrection and Shay's rebellion, and when its instigators shall have been consigned to that ignominy and oblivion which surely awaits them, the names I have cited will still survive, "exempt from mutability and decay," to illustrate the true glory of the Old Dominion.

Mr. Speaker, the Virginia and Kentucky resolutions of 1798, with the latitude assigned by them to State supremacy, have done their work. They were originally brought forward, I believe, with no higher motive than to embarrass the administration of John Adams; but the germ of dissolution then planted has been industriously nursed by designing men and inborn traitors until now the country is reaping the bitter fruit. For example: slavery has added its influence in bringing about the rebellion, and a most potent and sinful one. It is an unmitigated curse and a deadly evil; but this rebellion would have occurred without it. When you add the workings of slavery to the doctrines I have alluded to, every hour brings you with lightning speed to practical secession. Slavery debases every white person with which it comes in contact, socially and politically. It creates a difference of classes incompatible with a republican form of government; it makes the master impatient of control, and insubordinate as a citizen of the State, as it compels the master to hold a large amount of land to make slavery profitable; it creates a landed aristocracy, who, living upon the labor of others, learn to look down with contempt upon those who regard labor as honorable; and finally, it creates a class of poor whites, who with the rights of citizens, are as ignorant and degraded as the blacks, and who were easily inflamed to political madness, when the masters, rankling at the loss of political power, and to some of them the still greater loss of the opportunity to steal from the public Treasury, applied the doctrine of State rights and practically of open secession. If, then, the event of the rebellion shall annihilate the doctrine of State rights, the Union may be restored, though slavery remains "*stat nominis umbra.*"

Those of my friends who regard slavery as the cause of the rebellion, demand its immediate extinction by emancipation, either by act of Congress, or under what is termed the "war power," or the power of self-preservation. Others seek the same result by confiscation, so called; and this has been received with great favor in the free States, and by none more so than by Massachusetts, more especially because it has been supposed to be the readiest mode of compelling the rebels to contribute to the expenses of the war. Although I favored this at the outset, a careful consideration of the subject has satisfied my own mind of its unconstitutionality and inexpediency. Emancipation by congressional legislation is now conceded to be an unconstitutional interference with the rights of the States. How, then, are the traitors to be punished, the expenses of the war to be paid, and the abolition of slavery hastened in a constitutional way? In the Gulf States the number of loyal men is too small to be regarded. In Maryland, Virginia, Kentucky, and, perhaps, Missouri, there are a few who are to be considered. If I were the President, I would deal with this matter in a practical and summary way. Congress should not be troubled with passing any enactments in reference to slavery. Wherever the Union Army advanced I would encourage the slaves to come within the Federal lines. I would treat them kindly, feed, clothe, and instruct them, and use them in every capacity of which I found them capable. Does my honorable friend from Kentucky say that this would create a most horrible servile war? I answer, the masters have created this war, and the means indicated are the shortest way to end it; first, by weakening the power of the enemy, and second, by increasing the power of the Union forces. Does my friend declaim against the practice of using black men for troops? I reply, that I have the best authority in the world for it. Negroes fought, and fought bravely, at the battle of Bunker Hill. The first man who lost his life at the Boston massacre in State street was a negro, and my own townsman. After the battle of Bunker Hill, Washington wrote to the President of Congress in this wise:

"It has been represented to me that the free negroes who have served in this army are very much dissatisfied at being disbanded. As it is to be apprehended that they may seek employ in the ministerial army, I have presumed to depart from the resolution respecting them, and have given license for their being enlisted. If this is disapproved of by Congress I will put a stop to it."

Washington's biographer (see Sparks, vol. 3, page 218) makes this note on the passage:

"At a meeting of the general officers previously to the arrival of the committee from Congress in camp, it was unanimously resolved, that it was not expedient to enlist slaves in the new army, and by a large majority negroes of every description were excluded from enlistment. When the subject was referred to the committee in conference, this decision was confirmed. In regard to free negroes, however, the resolve was not adhered to, and probably for the reason here mentioned by General Washington. Many black soldiers were in the service during all stages of the war."

For example, a whole battalion was raised in Rhode Island. Another was brought by our French allies from St. Domingo, and fought in the bloodiest battle of the Revolution, at Savannah. It afterwards achieved distinction fighting against the British in its own country. Though Congress thus yielded to Rutledge, there seems to have been no doubt on the part of the best judges that the blacks made good soldiers. Henry Laurens wrote to Washington, March 16, 1779:

"Had we arms for three thousand such black men as I could select in Carolina, I should have no doubt of success in driving the British out of Georgia, and subduing East Florida before the end of July."

Washington replied:

"The policy of our arming slaves is, in my opinion, a moot point, unless the enemy set the example. For should we begin to form battalions of them, I have not the smallest doubt, if the war is to be prosecuted, of their following us in it, and justifying the measure upon our own ground. The contest then must be, who can arm fastest. And where are our arms? Besides, I am not clear that a discrimination will not render slavery more irksome to those who remain in it. Most of the good and evil things of this life are judged of by comparison; and I fear a comparison in this case will be productive of much discontent in those who are held in servitude. But as this is a subject that has never employed much of my thoughts, these are no more than the first crude ideas that have struck me on the occasion."

Afterwards, in 1782, when Colonel John Laurens complained to Washington that the Legislature of South Carolina had refused to give him leave to raise "a regiment of black levies," the latter spoke of the failure as due to the fact that the spirit of freedom had subsided and every selfish passion had taken its place, and predicted that the zealous colonel would have no better success in Georgia. Can there be any doubt what the Father of his Country would do in the present state of facts? Not one of the facts which sustained his "crude ideas" against arming the enslaved blacks in 1779 now exists, save on the side of the secessionists, who have "set the example," and thus removed the only one which could exist on our side. We can arm faster than they, and the more discontented their or our doing so makes the remaining slaves, the better for us.

Mr. Speaker, I have selected Virginia as the chief subject of my comments because, although the hotter blood of South Carolina led off in this rebellion, the pestilent dogmas of the political school of Virginia, from whose loins have sprung so many of the southern States, have had a potent agency in bringing on the present deplorable condition of our country. Virginia, as I have said, undertook in her convention to resume her sovereignty, but, in truth, she never had any sovereignty to resume; in company with others of the original thirteen colonies she declared her independence of Great Britain, and this declaration was not the sole act of Virginia, but the *united* act of her and her sister colonies, separately and alone—none of them could have coped with the power of England, but then, as now, the strength of the Republic which they inaugurated was in union. The Confederation which was first made was only abandoned for a firmer and closer union, and to this union I am bound by ties as strong as any which can bind a citizen to his country. Ireland may have a right to sever her association with Great Britain; Poland, triparted Poland, might rightly, if she could, reassert her nationality, but, Virginia, which never was independent, had no right and no just cause, moral or political, to endeavor the destruction of the Government which she was so largely instrumental in establishing. The Farewell Address of her venerated Washington contained, among the rest of its disregarded injunctions, these memorable words—"cherish your national Union."

The student of our history as a nation does not need to be reminded that, at the outset of our career, there were radical political differences between Washington and Jefferson; the latter was tinctured with the French philosophy prevailing at his time, which had a powerful advocate in the infidel Paine; and, according to their views, there could be no such thing as a permanent system of law for social government, but each succeeding generation was to make a new code to suit the shifting relations of men and things. There was, in their view, no rock of fundamental law, but only the quicksands of never-ending revolution. I was educated in the school of Washington. I believe in the sanctity of compacts, the majesty of law, and the perpetuity of principles.

Having thus set forth the bias of my feelings and prejudices, if such they be, it will hardly be expected that I should join in any scheme for reaching the destruction of slavery by violating the obligations of the Constitution. Our fathers were quite as wise, and certainly as honest as we are; they believed, in their zeal for universal liberty, that they had provided for the ultimate and not far distant extinction of slavery. The chance and change of commerce and the arts have baffled their anticipations thus far; but the madness of southern politicians, which has led them to rush their system against the bosses of the buckler of freedom, is likely to bring about that end which they so ardently desired. Satisfied in my own mind that the system of slavery is now at length in a condition to be a suppliant, and no longer a dictator, I am content to abide the issue of events.

From the disunionists of the North, who find in the rebellion an excuse for overthrowing the plainest constitutional provisions, I turn to the loyal men of the border States, and say: gentlemen, what do you advise? You see that slavery is demoralized as a system, and that they who have made it a stalking-horse for party, have ruined it pecuniarily. What shall we do? The problem of how to deal with millions of human beings in your midst, is one which concerns you more nearly than those whom I represent; but my constituents are law-abiding, and with no good feeling for slaveholders, as such, they will yet stand by the contract of their fathers. They are for the good old rule of their English ancestors—fair play; and they will not strike you, now that you are down; on the contrary, they regard the loyal men of slave States as having peculiar claims to be heard and regarded in this civil war. They agree with you that law, and not temporary majorities of political parties, is the true conservation of this Republic. They believed, with you, that the doctrine of nullification, which has ripened into secession, was effectually put to rest, so far as human reason could do this, by the renowned reply of the great

Massachusetts statesman to the South Carolina Senator—Hayne; and they know, for they are a reading people, that a judicial decision of the highest court of South Carolina has declared that the paramount allegiance of her citizens is due not to the State but to the United States. (*Vide* 4 Hill's S. C. Reports.) All this they know, and they are sensible enough also to appreciate the true causes of this rebellion. They say to you, whatever of sin there was in the original indulgence of the system of African servitude, their fathers bore equally with yours, and they are willing to join you in shaking off the incubus from the shoulders of the Republic; but they will not do this thing in the spirit which has actuated self-styled reformers in denouncing the covenant of their fathers with yours; they will approach the great question with kindness and forbearance, and while they will set their faces as flint against the further extension of slavery, they will aid you, whenever you are ready to move, in getting rid of the system in your midst.

It may be too soon to mark out the final course to be pursued in restoring the former relations of the States, but I am happy to believe that whenever the time comes when we can take counsel together again, we will be able to arrange our difficulties without the intervention of those who have been chiefly instrumental in creating them. So long as the pestilent heresy of State sovereignty is taught and practiced upon, we never can hope for permanent peace, for whether it be slavery or the tariff, religion or infidelity, there will always be a pretext for resorting to this easy method of wreaking party vengeance. The ultraists of both sections made this war, but they have not fought it; philanthropists and philosophers set the people by the ears, but they do not often participate actively in the contests which they provoke. Let them stand back now and suffer the soldiers of the Union to make the terms of the amnesty.

Finally, I stand upon the proclamation of the President of the United States, whose wisdom and sagacity have made him the strongest man in the hearts of the American people that now lives. I say to my friends of the border States that they have never, in my judgment, looked at this matter as they should have done. I say to Missouri, to Virginia, to Maryland, to Tennessee, planting myself upon the policy of the Administration, "you cannot, if you would, be blind to the signs of the times. I beg of you a calm and enlarged consideration of them, ranging if it may be, far above personal and partisan politics. This proposal makes common cause for a common object, casting no reproaches upon any. It acts not the Pharisee. The change it contemplates would come gently as the dews of heaven, not rending or wrecking anything. Will you not embrace it? So much good has not been done by one effort in all past time, as in the providence of God it is your high privilege to do. May the vast future not have to lament that you have neglected it." You cannot expect that our people will fight this war and allow the rebel States to inaugurate a system of guerrilla warfare, and not turn around and use every means which the God of nature has put into our power to rebuke it. Governor Letcher has issued a proclamation calling out guerrilla parties to shoot down our pickets. I tell you when that system is inaugurated, we will inaugurate a system which will put arms into the hands of every black man who is able to fire a musket; and the rule will then be, let the strongest prevail; and the institution of slavery must stand back.

Mr. BROWN, of Virginia. Most that my friend, as I shall call him, has said, meets my approbation; but as he saw proper, in his opening remarks, to say that the rebellion was occasioned in part from the cowardice of the men of the border States, I desire to remind him that at least there is an exception. When, in the convention of Virginia, those seventy-eight votes against fifty-five passed the ordinance of secession, the delegates from Western Virginia seceded from Richmond, and returned home. They called upon their constituents to assemble and make common cause in resisting the movement of Virginia to join the southern confederacy. The people responded most heartily to the call; and although we numbered less than three hundred thousand inhabitants, we resolved that we would meet not only Virginia, but that we would meet the whole southern confederacy in conflict, if this Government did not interfere and assist us. So far as the Government gave any indication of the ground it would occupy, it was given by Mr. Buchanan, who declared that this Government had no power to use coercive measures; and we had no assurance whatever that this Government would back us up in our efforts, and yet we bid defiance to the seceders of Virginia and the southern disorganizers and we armed ourselves with such old fire-arms as we could gather in our community. We organized and were ready for the fight before the three months volunteers had organized. Our men of Western Virginia, aided by some three or four hundred men from Pennsylvania, took Grafton, and drove the southern troops from the town before General Kelly with the three months men came there.

Mr. TRAIN. We know that the convention of Virginia, with a majority of Union men, passed a secession ordinance. That is the point.

Mr. BROWN, of Virginia. I am not speaking of Eastern Virginia at all. I am speaking of that portion of Virginia that organized, at the hazard of their lives and fortunes, to meet this southern organization. I do not desire to hear the name of "coward" applied to that noble band.

Mr. TRAIN. I undertake to say that never was such moral cowardice exhibited as was exhibited by the Union men of Virginia who went into that convention.

Mr. BROWN, of Virginia. My dear sir, you do not understand——

Mr. TRAIN. I want to understand.

Mr. BROWN, of Virginia. The true Union men were only fifty-odd, and they could not defeat the ordinance.

Mr. TRAIN. How did it happen that they allowed the act to pass, when they went there in a large majority?

Mr. BROWN, of Virginia. There were only some fifty that passed through the ordeal.

Mr. WHALEY. Mr. Speaker, the feeble state of my health and strength will not permit me to indulge in any lengthy remarks, but I am desirous of replying to a question which the gentleman from Massachusetts [Mr. TRAIN] put to my colleague, [Mr. BROWN,] and that was, why did Virginia secede from the Union when Union men had a large majority in the convention which passed the ordinance of secession? That question is fully answered by saying, that three thousand southern ruffians and cut-throats from South Carolina and Georgia surrounded that convention, and by brute force compelled the adoption of the ordinance. In short, Virginia was mobbed out of the Union. I have seen and conversed with many of the men who voted for that ordinance, and who fled from the State immediately after the convention adjourned; and they told me they were true and loyal men, but that they were compelled, to save their lives, to vote for the ordinance. They only lacked moral courage. That is the way in which Virginia was voted out of the Union. After they were mobbed out of the Union, the people of Western Virginia arrayed themselves in opposition to that act, and we found that we had many friends to support us in our neighbors, Ohio and other States. We appealed to the people of the loyal States, and Massachusetts, responding to our call, loaned us two thousand stand of arms. That was our rallying point, and henceforth we declared that we never would submit to the ordinance of the Richmond convention; that rather than do that, our loyal people would leave their bones to bleach around their native hills, and their blood to nourish the soil of their beloved State. The people of Western Virginia have never had that credit to which they are entitled for their patriotism and loyalty to the Government.

The gentleman from Massachusetts [Mr. TRAIN] spoke of the people of Tennessee. I ask any reasonable man where was ever greater patriotism shown than has been shown by the people of Eastern Tennessee? Surrounded by disloyalty on every side, shut off from all loyalty by a chain of hills and Kentucky neutrality on one side, and by a violent, murderous, and cut-throat crew upon the other, yet under the leadership of noble Johnson, Etheridge, Maynard, and Brownlow, names which will be placed on the corner-stones of monuments which will be erected by future generations to perpetuate their enduring fame, they struggled along, and endured all that mortal could endure to show their devotion to the Union; and I cannot endure to hear any man, come from whatever State he may, speak disrespectfully of this loyal people of Tennessee. If the policy is carried out which is contended for by some of the gentlemen who are opposed to confiscation, let me tell them, however honest they may be in their opinions to the contrary, the united South and their sympathizers in the North will once more take possession of this Government and fill every seat in this House with traitors, and our liberty will be at an end.

If we receive them back into full fellowship, with their hands all dripping with the blood of their countrymen, do you suppose that we of Western Virginia can live upon Virginia soil; do you suppose that the patriots of East Tennessee can remain quietly in their homes? No, sir. I say to the gentleman from Massachusetts, [Mr. THOMAS,] if it is unconstitutional to confiscate the property of these rebels, our Constitution is a failure and our Government is at an end; and I had rather go with my family and live among the wild savages of the West than remain in Western Virginia. My health, and everything I possessed, has already been sacrificed to the Union cause, and I have nothing left but a shattered constitution. I have suffered to that extent that it has been impossible for me to participate in the debates on this floor since I have had the honor to take my seat among you, and to that cause must be attributed the brevity of my remarks upon this occasion.

A few days since, while the gentleman from Kentucky [Mr. GRIDER] was speaking upon this bill, and was making an argument upon the abolition of slavery, I inquired of him whether he was in favor of any kind of confiscation? He replied that he was not. I then inquired whether the Union men of Kentucky, or of any of the border slave States expected that the people of the loyal States, in addition to the great war tax which must necessarily be levied to support our armies now bravely fighting for the Constitution and the Union, will pay an additional tax to pay the Union men in the border slave States for their losses; and whether they ever expected to received a dollar under such a policy as is advocated by the opponents of this bill? He replied that he did not; that such was the fortune of war.

"INDEMNITY FOR THE PAST AND SECURITY FOR THE FUTURE."

SPEECH OF HON. J. M. ASHLEY,

OF OHIO,

IN THE HOUSE OF REPRESENTATIVES,

May 23, 1862.

The House having under consideration the bills to confiscate the property and free from servitude the slaves of rebels—

Mr. ASHLEY said:

Mr. SPEAKER: If by anything I may say to-night I shall contribute a thought that will facilitate the passage of either of the bills before us, I shall have discharged my duty to my constituents and the country. It was not my purpose, Mr. Speaker, until this afternoon to speak on this subject at all, and I only propose to do so now briefly. I intend to support the bills reported by the select committee on confiscation, and shall vote and urge the friends of these measures to vote against all amendments and substitutes now offered, or which may be offered, unless they are mere verbal amendments, or such as a majority of the committee are willing to accept. I shall do this as a practical man, earnestly desiring the enactment of the most effective confiscation bills, and not because the bills reported by the special committee are, in my judgment, the best that could be framed, but because they are the best which, under all the circumstances, we can probably get during this Congress, if, indeed, we can pass any practical confiscation measure at all. The discussion of the past week has revealed the

fact, unexpected to me, and I doubt not unexpected to the country, that a large number, if not a majority, of the members of this House are opposed to any act of confiscation, and though we shall secure the votes of some who within a week have been regarded as hostile to all forms of confiscation, yet I fear the unusual number of absentees from this side of the House will secure the defeat of one if not of both these bills.

CONFISCATION AND EMANCIPATION THE ONLY HOPE OF THE REPUBLIC.

Mr. Speaker, in my judgment, an enduring peace can be secured only by conquering the rebels, confiscating their property, and emancipating their slaves. As a punishment for traitors in arms against the Government, and as an act of simple justice to the loyal citizens of all sections, we should pass without further delay both these bills. We should pass them as war measures, to punish rebels, and intimidate all who may be disposed to give them aid and comfort. Had these measures been passed at the extra session in July last, I believe they would have saved us thousands of valuable lives, and millions of money, by enabling us to terminate the war at least a year earlier than it can now be closed.

I do not intend, Mr. Speaker, at this late hour of the evening, to enter into an elaborate discussion, either of the constitutionality or practicability of these measures. The constitutionality of all the propositions before us has been ably and eloquently discussed in the other branch of Congress, and by some of the ablest lawyers on this floor, and I shall not take up the time of the House to-night by an elaborate discussion of what has been so well and thoroughly done already.

AN HONORABLE AND ENDURING PEACE CANNOT BE SECURED BY COMPROMISE.

Mr. Speaker, this rebellion is the most causeless, unprovoked, and wicked which the history of the world records, and no punishment, however severe, that may be visited upon the heads of the leaders by this Government, can be unjust. The conspirators having forced the country into civil war, have left us the alternative of surrendering or crushing it. The voice of the people demands that it shall be crushed and not compromised. The legitimate end of all war is the establishment of justice and peace, and I repeat what I said on another occasion, "that no peace can be honorable and enduring which is made over the prostrate form of justice." That war is a calamity, especially a civil war such as now unhappily desolates our country, all concede; yet there are evils greater than civil war. The loss of liberty, of national honor, or the dismemberment of our territory, are greater evils than war. Sir, I know that this war has brought in its train consequences and controversies which will not end with the life of this generation. I will not attempt to paint its horrors. Our brave soldiers are yielding up their lives on every battle-field, consecrating the soil which treason has polluted, with their blood. Their peaceful northern homes are made desolate, and bereavement and sorrow have entered their once happy dwellings. They are dying that the Union of our fathers may survive and constitutional liberty be preserved. For these great sacrifices what encouragement have the northern people had? The treatment of our volunteers, so far as I have been able to witness it in the army of the Potomac during the past winter, has had but few parallels in any country. While many of their officers, careless of their wants or their necessities, have lounged about the hotels and other places in this city, their patriotism and heroism have been severely tested by a patient endurance of privations, exposure, and neglect, almost without a murmur. Sir, their conduct and their example deserve the praise and the thanks of the nation. But the intelligent American volunteer soldier wants to know for what he is fighting; and if it be for a principle worth dying for, whether, if he is victorious, that principle shall triumph. Thus far he has had but little encouragement of this character to cheer and stimulate him in his dreary camp life, on his tedious marches, or in the din of battle. On the contrary, he has had much to discourage him, and his constant fear by day and by night has been, that at last, after all his sacrifices, politicians will step in and dictate a compromise with the rebels which will exempt them from all punishment for their crimes, leave them in undisputed possession of all their property, and thus offer a premium to rebellion and treason.

MISTAKEN POLICY OF THE GOVERNMENT TOWARDS REBELS.

The demoralizing policy caused by treating the rebels and the property of rebels as if they were loyal citizens is everywhere marked among our soldiers. The whole military power is used, and has been used, by the army of the Potomac to protect the property of notorious rebels who have been guilty of the most savage barbarities upon unoffending Union men because of their devotion to the Government. This policy has forced men who otherwise would have been loyal to the Government to unite with its enemies. A single case will illustrate thousands. A friend, some months ago, gave me an instance of a northern man who had married in Virginia. His prepossessions, education, and interest were all with the Government; but a brief experience of our policy made it necessary for him, as I doubt not it has made it necessary for thousands of others, to unite with the rebels. When asked how he, a northern man, could become a secessionist, he replied that it "was safest and paid. When your Army are here," he said, "I am protected, and my property, as well as all secessionists. When the confederate army are here, I am safe, and my property is safe, while all who are suspected of being Unionists are not only despoiled of all they possess, but, if able-bodied men, are often pressed into the rebel army." When I said, while discussing the Arizona bill, "*that thus far we had done more to encourage treason than to terrify traitors,*" I intended to denounce this policy of retaining traitors in office, and shielding and protecting traitors and their property by our Army; and I do most emphatically denounce that policy, or rather that want of policy, which releases the murderers of our soldiers on parole of honor and the oath of allegiance. What is oath or honor to these assassins and barbarians? How many times have they been released and violated both, returning again to the rebel army to take the lives of the very men who had spared their own.

Sir, the attempt to subdue this rebellion by imposing all the burdens of the war upon the loyal people of the nation and *kissing* the rebels will fail, ignominiously fail. One year's sad experience of this policy, it would seem to me, ought to be sufficient to wake up the Government to the fact that this is not a rose-water war, and that the traitors cannot be induced to return to their allegiance by kindness and promises.

I will not take up the time of the House in enumerating the instances in which parties have been arrested and released, nor will I attempt to describe the barbarous treatment of our prisoners, our wounded and dead, by the same men to whom such protection and leniency have been shown. It is enough to say here, that it is a policy which does gross injustice to loyal southern men in the localities where our armies command the country, and necessarily outrages every sentiment of justice in our own troops, and, as a consequence, destroys the efficiency of our Army. In my intercourse with the soldiers, this was the burden of their complaint, to which they added the fear that such temporizing would end at last in *a cowardly compromise.*

SOLDIERS FIGHTING YOUR BATTLES IN FAVOR OF CONFISCATION.

No men in this nation are more astounded at, or feel more deeply, the apathy of Congress on this question of the confiscation of property of rebels than the soldiers who are fighting your battles, while you are here hesitating as to whether you will release the rebels from all the burdens of this most expensive war, and impose a tax upon the loyal people which of itself will amount to a confiscation bill. Sir, if this question of the confiscation of the property and the liberation of the slaves of rebels could be submitted to a vote of our Army now scattered throughout the southern States, there would be no doubt about its passage, as, I regret to say, there is great doubt today whether both these needful and righteous measures will be enacted into a law by the vote of the American Congress.

CONSTITUTIONALITY OF CONFISCATION UNDER THE WAR POWER.

Mr. Speaker, the stern necessities of war may and often must disregard private rights. The laws of war, in time of war, supersede all other laws, whether organic or statute. The great safeguard of individual rights, the *habeas corpus*, is suspended, private property of all kinds is taken whenever, in the opinion of the commanding general, it may be necessary; persons are arrested, tried, convicted, and executed by court-martial; the protections which the Constitution throw around the citizen in time of peace yield amid the din of battle to the inexorable laws of war, by which alone, at such a time as the present, can the life, liberty, and property of the citizen be protected in the States where our armies are in the field.

The Constitution provides that Congress shall have power—

"To declare war, grant letters of marque and reprisal, and make rules concerning captures on land and water."

"To raise and support armies, but no appropriation of money to that use shall be for a longer term than two years."

"To provide and maintain a navy."

"To make rules for the government of the land and naval forces."

"To provide for calling forth the militia to execute the laws of the Union, suppress insurrections, and repel invasions."

"To provide for organizing, arming, and disciplining the militia, and for governing such part of them as may be employed in the service of the United States, reserving to the States respectively the appointment of the officers, and the authority of training the militia according to the discipline prescribed by Congress."

"To make all laws which may be necessary and proper for carrying into execution the foregoing powers, and all other powers vested by this Constitution in the Government of the United States, or in any department or office thereof."

Congress being clothed with these ample powers by the express letter of the Constitution, and having recognized the existence of war, and raised and equipped an army to resist the rebels in arms against the Government, the laws of war are at once called into exercise, and supersede all other laws whenever, in the opinion of the Commander-in-Chief, the necessity for it exists.

JOHN QUINCY ADAMS AND OTHERS ON THE WAR POWER.

This being our condition to-day, the question is, what are the laws of war, as recognized by the law of nations? John Quincy Adams, than whom no abler or more comprehensive statesman has ever dignified and adorned the position of Chief Magistrate, said, in speaking of this subject:

"I lay this down as the law of nations. I say that military authority takes, for the time, the place of all municipal institutions, and slavery among the rest; and that, under that state of things, so far from its being true that the States where slavery exists have the exclusive management of the subject, not only the President of the United States, but the commander of the Army, has power to order the universal emancipation of the slaves." * * * *

"From the instant that the slaveholding States become the theater of a war, civil, servile, or foreign, from that instant the war powers of Congress extend to interference with the institution of slavery, in every way in which it can be interfered with, from a claim of indemnity for slaves taken or destroyed, to the cession of States, burdened with slavery, to a foreign Power." * * * * "It is a war power. I say it is a war power; and when your country is actually in war, whether it be a war of invasion or a war of insurrection, Congress has power to carry on the war, and must carry it on, according to the laws of war; and by the laws of war, an invaded country has all its laws and municipal institutions swept by the board, and martial power takes the place of them. When two hostile armies are set in martial array, the commanders of both armies have power to emancipate all the slaves in the invaded territory."

On the 25th of May, 1836, in the House of Representatives, Mr. Adams made one of the greatest speeches of his life. In defining the power of Congress and the President over the question of slavery in time of peace as well as in time of war, he said:

"There are then, Mr. Chairman, in the authority of Congress and of the Executive two classes of powers, altogether different in their nature, and often incompatible with each other—the war power and the peace power. The peace power is limited by regulations, and restricted by provisions, prescribed within the Constitution itself. The war power is limited only by the laws and usages of nations. This power is tremendous; it is strictly constitutional, but it breaks down every barrier so anxiously erected for the protection of liberty, of property, and of life."

* * * * * * * * * *

"There are, indeed, powers of peace conferred upon Congress which also come within the scope and jurisdiction of the laws of nations; such as the negotiation of treaties of amity and commerce, the interchange of public ministers and consuls, and all the personal and social inter-

course between the individual inhabitants of the United States and foreign nations and the Indian tribes, which require the interposition of any law; but the powers of war are all regulated by the laws of nations, and are subject to no other limitation." * * * * "It was upon this principle that I voted against the resolution reported by the slavery committee, 'that Congress possesses no constitutional authority to interfere in any way with the institution of slavery in any of the States of this confederacy;' to which resolution most of those with whom I usually concur in this House gave their assent. I do not admit that there is, even among the peace powers of Congress, no such authority; but in war there are many ways by which Congress not only have the authority, but are bound to interfere with the institution of slavery in the States. The existing law prohibiting the importation of slaves into the United States from foreign countries is itself an interference with the institution of slavery in the States. It was so considered by the founders of the Constitution of the United States, in which it was stipulated that Congress should not interfere in that way with the institution prior to the year 1808."

He then goes on to show how the war power may be used:

"But the war power of Congress over the institution of slavery in the States is yet far more extensive. Suppose the case of a servile war, complicated, as to some extent it is even now, with an Indian war; suppose Congress were called to raise armies, to supply money from the whole Union to suppress a servile insurrection: would they have no authority to interfere with the institution of slavery? The issue of a servile war may be disastrous; it may become necessary for the master of the slave to recognize his emancipation by a treaty of peace; can it for an instant be pretended that Congress, in such a contingency, would have no authority to interfere with the institution of slavery in any way in the States? Why, it would be equivalent to saying that Congress have no constitutional power to make peace. I suppose a more portentous case, certainly within the bounds of possibility—I would to God I could say not within the bounds of probability."

After concluding this part of his argument, he points out with prophetic words the danger of a civil and servile war, and of the southern States becoming "the battle-field upon which the last great conflict will be fought between slavery and emancipation." He says:

"Do you imagine that your Congress will have no constitutional authority to interfere with the institution of slavery, in any way, in the States of this Confederacy? Sir, they must and will interfere with it—perhaps to sustain it by war; perhaps to abolish it by treaties of peace; and they will not only possess the constitutional power so to interfere, but they will be bound in duty to do it by the express provisions of the Constitution itself. From the instant that your slaveholding States become the theater of war, civil, servile, or foreign, from that instant the war powers of Congress extend to interference with the institution of slavery in every way by which it can be interfered with, from a claim of indemnity for slaves taken or destroyed to the cession of a State burdened with slavery to a foreign Power."

If the laws of war laid down by Mr. Adams be the admitted laws of war, then, under the war power, Congress may not only confiscate the property of rebels and emancipate their slaves, but it may do any act which the laws of war, as recognized by civilized nations, will permit, to crush out this rebellion and restore the Union. Blackstone says:

"The natural justice of forfeiture or confiscation of property for treason is founded in this consideration: that he who has thus violated the fundamental principles of government, and broken his part of the original contract between king and people, *hath abandoned his connection with society*, and hath no longer any right to those advantages which before belonged to him purely as a member of the community."

Professor Martens, in his work on the Law of Nations, in treating of this subject, says that—

"The conqueror has a right to seize on the property of the enemy, whether movable or immovable. These seizures may be made, first, in order to obtain what he demands as his due or equivalent; secondly, to defray the expenses of the war; thirdly, to force the enemy to an equitable peace; fourthly, to deter him, or by reducing his strength to hinder him, from repeating in future the injuries which have been the cause of the war."

When the United States were engaged in a war with Mexico, in 1846, Mr. Marcy, who was then Secretary of War, declared that—

"*An invading army had the unquestioned right to draw its supplies from the enemy without paying for them, and to require contributions for its support, and thus make the enemy feel the weight of the war.*"

Judge Sprague, in his learned opinion in the case of the Amy Warwick, decided in the United States district court for the district of Massachusetts in February last, says:

"In war each belligerent may seize and confiscate all the property of the enemy wherever found, and this right extends to the property of all persons resident in the enemy's country."

Our right to confiscate the property and emancipate the slave of a public enemy being conceded, it seems to me that justice demands that we use the power to the fullest extent, so as to secure "indemnity for the past and security for the future."

THE JUSTICE OF CONFISCATION.

The war power of Congress under the Constitution being then authoritatively settled, I now proceed to consider very briefly the justice of the proposed confiscation acts.

Mr. Speaker, it appears to me that justice demands, while we are taxing the loyal citizens of the nation, to pay the expense of putting down this formidable rebellion, we should use all the power we possess to compel the rebels to pay their proportion of the expense. This would seem to be the least that even the rebels themselves could ask. If a combination of citizens, enter into a conspiracy against the Government, they take upon themselves all the consequences of their rebellious acts, and if they fail, it does not lie with them to complain of the action of the Government against which they rebelled. Having established a rebellious and traitorous government, in open violation of the Constitution, which declares that—

"This Constitution, and the laws of the United States which shall be made in pursuance thereof, and all treaties made, or which shall be made, under the authority of the United States, shall be the supreme law of the land, and the judges in every State shall be bound thereby, anything in the constitution or laws of any State to the contrary notwithstanding."

And it further provides that—

"No State shall enter into any treaty, alliance, or confederation, grant letters of marque and reprisal, coin money, emit bills of credit, make anything but gold and silver coin a tender in payment of debts, pass any bill of attainder, *ex post facto* law, or law impairing the obligation of contracts, or grant any letters of nobility."

The third clause of the same section declares that—

"No State shall, without the consent of Congress, lay any duty of tonnage, keep troops or ships of war in time of peace, enter into any agreement or compact with another State or with a *foreign* Power, or engage in war unless actually invaded or in such imminent danger as will not admit of delay."

And the legally constituted officers of the rebellious States having violated every one of these provisions, and expelled all the civil and military officers of the United States, and declared war against the United States, there is no way in which the disloyal citizens of States thus guilty can be reached except by our Army, under the rules of war, and they cannot honorably complain if, after invoking the arbitrament of the sword, they find that "they who use the sword shall perish by the sword," and that as a punishment for their crimes their property is confiscated, and their slaves emancipated.

LOYAL PEOPLE DEMAND CONFISCATION AND EMANCIPATION.

Mr. Speaker, I trust that both Congress and the President will have the courage, in this hour of trial, to meet these questions as become statesmen, and boldly exercise whatever power the Constitution provides for our safety and deliverance. If the voice of the loyal people could be heard in this Hall to-night, it would demand of the Government that it strike the rebels in their most vulnerable point; it would demand that we should confiscate their property and emancipate their slaves. The people of this country are eminently a practical people, and they cannot comprehend the cause of our hesitation and inaction. They demand that we shall weaken the enemy by all means which the laws of war will justify. They demand that we shall deprive every slave-master of his slave, upon whose labor both he and his family subsist; that we shall take his property and declare his rights as a citizen forfeited. They know that if we wish to strike a fatal blow at the very heart of the rebellion, and conquer a speedy and enduring peace, if we wish to go to the very root of the evil and make a like rebellion impossible hereafter, that wherever we have the constitutional power we will destroy slavery utterly and forever.

STATE REBELLION STATE TREASON.

The honorable gentleman from Massachusetts, [Mr. THOMAS,] in his speech on the 10th of April, in speaking of the relation of the States to the national Government, said "*that their life was one;*" that "the body is one, and hath many members, and all the members of that body, being many, are one body." The argument of the honorable gentleman, as I understand it, is this: that if, from any cause, one or more of the State governments should cease permanently to exercise their functions, or become a part of another government, a dissolution of the Union and destruction of the national Government by this act would be accomplished, because one or more of the members had ceased to be a part of the body. In other words, the life of both national and State Governments being one, the death of a State government would necessarily be the death of the national Government.

I dissent from this theory, and am gratified to know that the Administration is not governed by it. I embrace, rather, the doctrine declared by John Quincy Adams in the speech from which I have quoted, that the "national Government may cede a State burdened with slavery to a foreign Power," without destroying the Government of the United States.

Sir, if it becomes necessary, to save the life of the nation, under the war power you may arrest the Legislatures of sovereign States, as the President has done; may depose Governors of States and appoint new ones, as the President has done, without incurring the censure of Congress, or, so far as I know, of a single loyal member of it. I adopt, in all its length and breadth, the position of the distinguished Senator from my own State, Hon. BENJAMIN F. WADE, when he declared that—

"As no jurist has yet undertaken to define the limits to which a man might go in the honest defense of his life when assailed, so no statesman would undertake to limit the powers that the Government might use to preserve its life when assailed by traitors. I defy the gentleman to make an argument worthy of the name against that proposition."

I do not design, Mr. Speaker, at this time to enter into a lengthy discussion of the power of a State to commit suicide by rebellion and levying war on the national Government. I reserve that for consideration until the question comes before us of providing temporary civil governments for the safety and protection of loyal citizens while engaged in the work of reconstructing their State governments. I think it proper, however, in this connection to refer to an important historical fact. I quote from the proceedings of the convention which framed the national Constitution. Luther Martin, a delegate from Maryland, offered the following provision:

"That no act or acts done by one or more of the States against the United States, or by any citizen of any one of the United States, under the authority of one or more of the said States, shall be deemed *treason*, or *punished as such*; but, in case of war being levied by one or more of the States against the United States, the conduct of each party towards the other, and their adherents respectively, shall be regulated by the laws of war and of nations."

Had this provision been adopted as part of the Constitution of the United States, it is clear that the citizens of no State could have been punished for treason against the United States when obeying the laws and ordinances of their own States; and if the United States could not punish the treason either of a State or the citizens of a State, practically that which we call a national Government would be no Government at all, but a mere voluntary confederation between sovereign States, to be broken at the pleasure of any one of the parties whenever in the estimation of the other the contract has been violated, the party believing itself wronged claiming the right to judge of the infraction of said compact, and to determine for itself its own action. The very fact that the proposition was voted down is the best evidence that the convention intended to leave the States, as well as the people of the States, in case of rebellion, just where I claim the Constitution has left the subject, to the Government and control of Congress. The Constitution empowers Congress to punish treason, and requires it to see that each State has secured to it a republican form of Government. Shall we discharge this duty, by punishing traitors and securing to the loyal citizens of the rebel States governments republican in form. I trust we shall.

I cannot forbear, in passing, to quote a paragraph from the excellent speech of the able chairman of the committee on confiscation touching this subject. It is full of meaning, and will afford food for serious reflection to all the opponents of these

measures. After claiming that a State may commit treason, he says:

"If, then, a State may commit treason, and if no laws exist under the Constitution for its appropriate punishment, it may become the duty of Congress to make such fit enactments as will declare a forfeiture of its powers and functions as a State, and provide for its political reconstruction. What it may be needful to do, time will develop. But it is a heresy, to be condemned at once, in my judgment, to hold that a State cannot be guilty of treason, and that laws may not be made under our Constitution for its punishment."

The honorable gentleman from New York, [Mr. SEDGWICK,] in the remarkable speech which he delivered to-day, and to which we all listened with so much pleasure and instruction, in referring to the same subject, said:

"Now, sir, when these States go back to the source of power—the people—by permission of the military power, and not before, and shall form new constitutions and governments, and ask again to be represented in the councils of the nation which they have so basely abandoned, and so traitorously betrayed, it may be in the power of Congress to impose the terms on which they shall be admitted."

STATE RIGHTS AND STATE SOVEREIGNTY.

Mr. Speaker, there must, of necessity, be a supreme power in every nationality representing the public will. This political authority is called sovereignty. It is admitted by all, that the whole people, properly represented in convention, may alter or abolish their present national Government, and establish another; but the people of the several States cannot exercise this power. They may change their several State constitutions and laws, with such limitations and restrictions as are imposed by the national Constitution. They may make such alterations only as do not change their relations to the General Government or violate any of the provisions of the Constitution of the United States. They may make such changes as shall not impair the authority of the Government of the United States over the people or governments of said States; provided always, in addition to these restrictions, that in any change they may make, their form of government shall be republican. This is the extent of State rights and State sovereignty. The States have local and municipal powers, subject to the Constitution of the United States. State secession is, therefore, State revolution. The Administration has assumed that the States which have made war upon the United States have, by their rebellion, destroyed their constitutional governments. In accordance with this doctrine, they have recognized the new State governments formed by the loyal people of Western Virginia, and the loyal people of Missouri, as the lawful governments for these States, and they are both represented in the United States Senate by Senators, elected either by the Legislature or appointed by the Governor of States acting under the new State government, while, at the same time, the old State governments, claiming to be the only constitutional governments, are still in operation within these States, and local officers, elected by an admitted majority of the people of their respective States, are exercising, or claiming to exercise, the functions of these several offices. If their State rebellion has not destroyed the old State governments, and disqualified the disloyal State and county officers for administering these governments, by what authority do a *minority* of the people establish new State governments, and secure their recognition, as they have, of the President of the United States and both branches of the American Congress.

The President has appointed Andrew Johnson military Governor of Tennessee, and Edward Stanly military Governor of North Carolina. The address delivered by Governor Johnson on his arrival at Nashville correctly reflects, beyond question, the views of the President and Cabinet, for certainly Governor Johnson would never have been sent on so important a mission without well-considered instructions. He said, in his appeal to the people of Tennessee, that

"The State government has disappeared, the executive has abdicated, the Legislature has dissolved, the judiciary is in abeyance." * * * * "In such a lamentable crisis, the Government of the United States could not be unmindful of its high constitutional obligations to guaranty to every State in the Union a republican form of government. This obligation the national Government is now attempting to discharge. I have been appointed, in the absence of the regular established State authorities, a military Governor for the time being."

Governor Johnson speaks of the "performance by the Government of its constitutional duty to the State," under that guarantee of the national Constitution, which declares that "the United States shall guaranty to every State in the Union a republican form of government." He declares that the "old State government has disappeared," and that the Government of the United States is under obligations, which it cannot disregard, to give the loyal people of the States, whose governments have thus disappeared, protection and a republican government. If the old State governments are not destroyed by the action of their State officers and people, who are in rebellion, by what constitutional authority does the Government of the United States recognize the new State governments of Virginia and Missouri, and attempt to establish governments in Tennessee and North Carolina? If constitutional governments exist in all the rebel States, it is usurpation and revolution on the part of a minority of the people in said States, or of the General Government, if either attempt to establish new State governments and displace the old governments.

TREASON OF CITIZENS AND TREASON OF STATES.

Mr. Speaker, it would seem, if a citizen, by committing treason, justly forfeits his right to life and property, that States which commit treason, and make war upon the Government, should forfeit all the rights guarantied to them by the Constitution, and that the very men who are now in arms against the Government of the United States should not be permitted to come into these Halls and again assume the direction and control of the Government whenever it suits their convenience, and whenever such a course shall be deemed necessary to shield them from the punishment of their crimes. From the first, I have been anxious to have such a policy adopted by the Administration as should secure the Government against a conspiracy which might send other rebels back into these Halls, in the garb of Union men, for the purpose of securing an inglorious compromise. I have urged the adoption of a policy which I thought would make such a conspiracy unsuccessful, if attempted, and at the same time secure every truly loyal citizen in all his rights, by the organization of such temporary civil governments as would enable them to control the new governments in their own way, when they come to reorganize them after the restoration of peace. The question of providing temporary governments for the districts of country now in rebellion against the United States, has been so little understood, and so persistently misrepresented, that I was pleased to hear two gentlemen of such acknowledged legal ability as the gentleman from New York, [Mr. SEDGWICK,] and the gentleman from Massachusetts, [Mr. ELIOT,] refer, even incidentally, to a subject of such manifest importance. These governments which have been destroyed, must of necessity be reconstructed, unless the authority of the traitors now administering them is legalized by our sanction. If these State governments are to be reorganized—and I trust they are—provision should be made by Congress for securing the exclusive right of such reorganization to the loyal citizens of all States now in rebellion, and to the loyal citizens alone. In depriving those now in rebellion of the rights of electors, and securing that right to loyal citizens alone, a guarantee is obtained for the organization of governments which will be true to the Constitution and the Union. It seems to me that our future peace and safety demand this as the very least we should ask. This accomplished, and the confiscation bills passed, which are now before us, we shall have, when peace returns, no return of a privileged class to control and administer the Government, but a return of men who are true and loyal, devoted heart and soul to the Union and the preservation of constitutional liberty, and who will demand that a majority shall govern, as prescribed by the supreme Constitution.

THE CONSTITUTION MUST NOT BE VIOLATED EVEN TO PUNISH REBELS.

Mr. Speaker, whatever power I may rightfully exercise under the Constitution for the restoration and security of the country, I will exercise; no more, no less. I will not hesitate to use all power clearly given in crushing out the rebellion and removing its admitted cause. The national Constitution, as I have shown, confers, by express provision, the war power on Congress, and the laws of war are ample for the confiscation of all enemy property, and the overthrow of any institution which stands in the way of complete success and the speedy restoration of peace. If I could be convinced that these acts were unconstitutional, they could not have my vote, for however anxious I may be to punish rebels, I will not disregard my oath and violate the Constitution of my country to do it. My first and highest duty as a Representative is to uphold and defend the Constitution, which is my shield, and the shield of every citizen, and I will not do any act which offends any of its provisions. On the question of our right to confiscate the property and emancipate the slaves of rebels under the war power, I have no doubt; and I have no concealments as to what I believe to be our duty.

THE DAYS OF SLAVERY NUMBRED IF THE GOVERNMENT DOES ITS DUTY.

More than a year ago, I proclaimed to the constituency which I have the honor to represent, my purpose to destroy the institution of slavery if it became necessary to save the country—as I believed then and still believe it is—in every State which had rebelled, or which should rebel, and make war upon the Government. I then demanded, as I now demand, "that not a single slave claimed by a rebel slave-master shall be delivered up if he escapes or be left in the wake of our advancing and victorious armies." I then declared, as I now declare, that "justice, no less than our own self-preservation as a nation, required that we should confiscate and emancipate, and thus secure indemnity for the past and security for the future."

THE TAX BILL.

SPEECH OF HON. J. A. McDOUGALL,

OF CALIFORNIA,

IN THE SENATE, *May* 30, 1862.

The Senate having under consideration, as in Committee of the Whole, the bill (H. R. No. 312) to provide internal revenue to support the Government and pay interest on the public debt, and an amendment being proposed by Mr. SIMMONS to raise the tax on whisky from twenty cents to twenty-five cents a gallon till January 1, 1863, and after that to thirty-five cents—

Mr. McDOUGALL said:

Mr. PRESIDENT: I did not design seeking the attention of the Senate upon this motion, and would not do so but for the reason suggested by the chairman of the Committee on Finance, that this amendment involves a series of amendments operating upon the whole system of taxation as reported from the committee, and for the further reason that the Senator from Ohio, a member of the Finance Committee, and other gentlemen, have entered into a general discussion of the subject. It may be remembered by some Senators that when the chairman of the Committee on Finance made his report, I at the same time presented to the Senate an amendment in the form of a substitute, and which I desired, at a proper time, to move as a substitute. The present range of discussion induces me to present my general views before the pending question is taken.

Mr. President, I undertake to address the Senate on this subject with great hesitation. I feel my own ignorance of this complex question, one which has engaged for the last half century many of the ablest minds in Europe, and which, by cause of our good fortune and great prosperity, has not been made the subject of discussion or inquiry in this country. It is a subject full of difficulty, as the experience of England particularly has shown. At an early day after my appointment to the Committee on Finance, knowing that it was a part of my duty to inquire into this matter, I asked of the fathers of the Senate whether they had studied this question, and from them all I received an answer in the negative. It is a question new to us all; but it is a question we are required to solve. We are charged with the construction and production of a measure of taxation adequate to our present and prospective necessities. To that labor should have been devoted the careful study of the best minds in the

public service. I regret that I am called upon to say that it has received no such attention.

A bill is presented here of one hundred and fifty pages and one hundred and seventeen sections. Its volume would indicate care and consideration, but upon examination it will be found that if there has been care it has only resulted in confusion, and that it has been framed in ignorance of or ignoring all the progress made in this department of political science during the last half century. A measure passed by our Congress pending the last war with Great Britain, before the great lights of modern politico-economical science had systematized anything about the law of internal revenue—a law of 1813, which was buried in 1815—has been exhumed to make the backbone, limbs, ribs, and articulations of this system of finance. A system of taxation is the most grave business of legislation, as grave as is this war. With war upon our hands, armed enemies in the field, and vast expenditures of blood and treasure, and vast personal privations, taxation is to be superadded—taxation, which is always a subject of earnest objection on the part of the people subjected to the tax. It is a necessity, and at the same time it is a burden, a burden that all feel. It seems somewhat strange to me that in undertaking this important business of Government, the experience and counsel of the learned men who have taught the policy of internal revenue in the English Parliament, or the great writers in Great Britain and on the continent who have made this subject a specialty, have been almost altogether ignored, and that we should have taken a fossil buried for fifty years and undertaken to give it life anew.

The result is a bill without system, without policy, without form, without organization; a bill that, if passed into a law, it will take a hundred years for our courts to interpret, and then they will only make it law by construction. When I first examined the bill, anxious as I was to go for any system of revenue, and knowing the country was perfectly able to stand the required amount of taxation, I felt and thought I could not support, and that the country would not stand, the measure in the form presented for our approval. For these reasons I have looked about to see if some better method of securing to the Government means for carrying on the Government on the peace establishment, and for maintaining the war against the rebels, might not be produced.

Early in the present session, a committee of three gentlemen from the Boston Board of Trade, gentlemen of large experience in matters of finance, came to this city to advise with the Senate Committee on Finance upon this subject. They discussed before the committee both the subject and system of taxation, and they attracted my particular attention by their apparent mastery of the subject discussed. I sought the full development of their views by interrogatories of my own in committee, and by subsequent conversation. I was impressed by these gentlemen with the soundness of their general opinions. It was a novel proposition which was made by them. Objections were started. I started several myself, which were very promptly answered, and upon full consideration I have not yet been able to find a single objection that can be well maintained. The views presented by the Boston Board of Trade were fully indorsed by the Chamber of Commerce in the city of New York. That chamber was represented here by a deputation from New York. Again, the same subject was brought before the Board of Trade of the city of Philadelphia, and they concurred in the same policy.

Now, sir, I am not, I never was, I never hope to be, a master of the subject of finance as connected with national revenue. But when I want best to understand how revenue can be derived, what interests can be most safely touched for the purpose of revenue, I go to some persons who have studied these things, and who are able to arrange and bring together the data, and resolve the questions that belong to the subject; and where can be found in this country three abler bodies of men than the Chamber of Commerce of New York, the Board of Trade of Boston, and the Board of Trade of Philadelphia? It is to be observed that with the proposed subject of taxation they are particularly familiar. They propose to tax trade—the very business in which they are most engaged. They say that the business of trade, the business of making the exchanges of the country, can most conveniently, economically, and justly furnish the revenue required by the Government. Here we have the distinct authority of enterprise, of commerce, and of capital, and their advice to the Government is that it should derive its revenue from their own sphere of business, from a source with which they are perfectly conversant. For the measure and the views I propose to present, I am chiefly indebted to their suggestions and advice.

Mr. President, in entering upon this discussion, I propose in this instance to give my general views as to what we have to undertake, and then proceed to the mode of its accomplishment. I shall not undertake the elaboration of details; for all purposes of my argument I can accept either of the extreme statements as to our present and prospective indebtedness. I will admit, if you please, the indebtedness at the end of the present fiscal year will be $750,000,000, and that at the termination of the rebellion it will be $1,000,000,000, or even $1,500,000,000, and what of that? I do not belong to the party of alarmists. I see no cause for alarm either in the figures or the fact. When Great Britain, with nineteen millions of people, emerged from the American and French wars, she owed $4,500,000,000; and what had England to rely upon? England's wealth? No. It is not wealth and capital that pay taxes: it is production that pays taxes. What is produced every current year pays its tribute to the support of Government. Otherwise, if it were not production, and it depended on capital or accumulations, a country would become weaker year by year, and the result would be national impoverishment and bankruptcy. England did not pay out of her capital or her wealth the great burdens of her French and American wars. She paid them out of her energies, her enterprise, her industry, what she every year produced, or by her enterprise brought from foreign lands through the agency of her commerce spread upon every sea. I do not like this constant cry of danger ahead, of an empty and bankrupt Treasury. There is no just cause for such alarm; and as authority for the opinion I express, I will read some few things that some wise men have said. I will go back to a writer whose work was published immediately after the close of the French war. Ricardo is regarded among economists as a high authority. Observe that Ricardo's work was published in 1819, and at that day he says:

"Notwithstanding the immense expenditure of the English Government during the last twenty years, there can be little doubt but that the increased production on the part of the people has more than compensated for it. The national capital has not merely been unimpaired, it has been greatly increased, and the annual revenue of the people, even after the payment of their taxes, is probably greater at the present time than at any former period of our history.

"For the proof of this we might refer to the increase of population, o the extension of agriculture, to the increase of shipping and manufactures, to the building of docks, to the opening of numerous canals, as well as to many other expensive undertakings; all denoting an increase both of capital and of annual production."—*Ricardo's Political Economy*, p. 136.

This was written just as Great Britain came out of a war which charged a debt of over eight hundred and fifty millions of pounds sterling, more than four thousand two hundred millions of dollars. It is time we should cease to be alarmed about the burden of this war, which I say the American people can maintain for ten years with as much and more efficiency than has been as yet exhibited. If there has been any great mistake it is this, that we did not long since duplicate our force in the field, that we did not make time a part of the essence of the war in which we are engaged. If five hundred thousand men were not enough, we should have put a million of men in the field. Had this been done, there would be no war to-day in the Republic, there would be no enemy at Richmond, no rebel armies in the West. I will read from Mr. Mill, who I believe is regarded now as, if not the first, at least equal to the first of all the modern writers upon politico-economical science. He is discussing the text of Ricardo and says thus:

"A country which, like England, accumulates capital not only for itself, but for half the world, may be said to defray the whole of its public expenses from its overflowings, and its wealth is probably at this moment as if it had no taxes at all. What its taxes really do is to subtract from its means, not of production but of enjoyment; since whatever any one pays in taxes, he could, if it were not taken for that purpose, employ in indulging his ease, or in gratifying some want or taste which at present remains unsatisfied."—*Mill's Political Economy*, vol. 2, p. 370.

The philosophy of this is well stated by McCulloch, the author of the Commercial Dictionary, with which we are all familiar. I read from a volume in which he treats specially of the subject of taxation, and the value of his authority will not, I think, be questioned. He is speaking of a doctrine advanced by Hume, with which he does not altogether agree:

"The operation of this principle has been strikingly evinced in the financial history of this country since the commencement of the American war. That contest, and the more recent struggle with revolutionary France, occasioned a vast increase of taxation, and an expenditure that has no parallel in the history of the world. The public debt, which amounted to about one hundred and forty-five millions in 1772, amounted to about eight hundred and forty-four millions in 1817; and in addition to the immense sums raised by borrowing, the gross produce of the taxes levied in the United Kingdom during the late war exceeded the enormous sum of thirteen hundred millions sterling! And yet the rapid increase of population, the wonderful progress and improvement of agriculture, manufactures, and commerce, the extension and embellishment of towns and cities; the formation of so many new docks, roads, and canals; and the infinite variety of expensive undertakings entered upon and completed in all parts of the country during the continuance of hostilities, show clearly that the savings of the mass of the people greatly exceed the warlike expenditure of Government and the unprofitable expenditure of individuals."—*McCulloch on Taxation*, p. 8.

Again, speaking of a notion advanced which he is about to answer, that what is spent in war is taken from the national wealth, he says:

"But this, though a popular, is a very doubtful conclusion. A speculation of this sort is necessarily, indeed, incumbered with so many difficulties as to admit of little else than probabilities; though these, we think, go far to warrant the belief that, but for the contests in which we have been engaged since the Revolution, the greater portion of the wealth expended in carrying them on would never have existed. Smith forgot that an increase of taxation has the same powerful influence over a nation that an increase of his family, or of his necessary expenses, has over a private individual. The constantly increasing pressure of taxation during the war begun in 1793, was felt by all classes, and gave a spur to industry, enterprise, and invention, and generated a spirit of economy that we should have in vain attempted to excite by any less powerful means. Had taxation been very oppressive, it would not have had this effect, but it was not so high as to produce either dejection or despair, though it was at the same time sufficiently heavy to render a very considerable increase of industry and parsimony necessary to prevent it from encroaching on the fortunes of individuals, or, at all events, from diminishing the rate at which they had previously been increasing. Man is not influenced solely by hope, he is also powerfully operated on by fear. Taxation brings the latter principle into the field. To the desire of rising in the world, implanted in the breast of every individual, an increase of taxation superadds the fear of being cast down to a lower station, of being deprived of conveniences and gratifications which habit has rendered all but indispensable, and the combined influence of the two principles produces results that could not be produced by the unassisted agency of either. Without the American war and the late French war, there would have been less industry and less frugality, because there would have been less occasion for them. And we incline to think that those who inquire dispassionately into the matter, will most probably see reason to conclude that the increase of industry and frugality, occasioned by these contests, more than sufficed to defray their enormous expense, and that the capital of the country is probably about as great at this moment as it would have been had they not occurred."—*Ibid.*, p. 10.

Now, Mr. President, observe, all these things are said in England by eminent economists in the face of the debt growing out of their long struggles both with our country and on the continent of Europe—a debt four times as large as is anticipated to be the debt the result of this war; and let me ask how was England better able to pay the interest on this debt than we? I say not as well able. It may be thought by some a paradox in politico-economical science; but understand, I insist that taxation is to come out of production. When the war with France was ended, Great Britain had but nineteen millions of people, not equal to the population of the free States, and then what were her means of production? Had she more genius in the invention of means to save labor than have we? We have been in advance of her in that respect, and are to-day. Had she our fruitful fields, our virgin soil? Had she our vast inland trade or a commerce such as we now possess? Had she capital? Yes; she had capital; but there has been no want of capital with us for all purposes of profitable production. We have always been able, from the war of 1812 to this time, to find the capital that would engage productive labor, and then we are, as a people,

almost all producers. As compared with England, there is a percentage of twenty per cent. of producers in favor of this country. The ambition, the intelligence, and the enterprise of our people enable us to produce more per man than is produced by the people of any other country in the world. Therefore, I say we have no occasion to be apprehensive of the burden of this war, even if it is to be a war of years.

England raises an annual tax of about four hundreds millions of dollars. For the relative positions, of the United States and Great Britain, and the several capacities of the two countries to bear taxation, it may be worth while to look at a few figures; for those figures I am indebted to the very able and useful work on statistics of Mr. Bigelow, of Boston. He is discussing the dependent condition of England. England imports per annum for home consumption the value of $379,000,000, including articles used for food to the amount of $260,000,000. Of raw material used in her manufactures, she imports the value of $359,000,000; of her exports, the raw material for which is furnished by Great Britain and her dependencies, there is but $153,000,000, or about one fifth of the whole, and her imports are in excess of her exports about one hundred and twenty millions of dollars per annum; that is, the balance of trade appears to be that much against her. As against this rather startling set of facts, we export food, we produce the raw material for nearly all of our own manufactures, we have a country with every character of climate, every quality of soil; we have in abundance iron and coal and gold and silver and copper, wheat and corn and wine and oil and labor and skill and enterprise, and everything that makes a nation; and the balance of account between ourselves and the outside world for seven years past is in our favor to the amount of $96,000,000. It is a terrible thought that a country upon which Heaven has smiled as it has smiled on ours should be engaged in a fratricidal war, but it is undoubtedly a punishment awarded by Providence for the sins of the nation. We have needed the purification of fire. But, Mr. President, all countries have had civil wars. England has had them and outlived them. We have already nearly outlived the present unprovoked rebellion. I have presented these figures but to show the strength of the slumbering giant who has so long reposed unarmed beneath the protecting shadow of the Constitution established by our fathers.

Mr. President, permit me again to recur to English authority. In a recent work by Mr. Norman, on the subject of taxation, he concludes with the following paragraph:

"We have only to believe ourselves rich, and we are rich. We have only to place faith in our means, and they will be found sufficient for every needful or rational purpose. But real weakness may be created by yielding to apprehensions which have their origin only in ignorance; and many of the worst effects of national poverty may be produced by an insufficient appreciation of the strength of our resources, and by a short-sighted impatience of fiscal pressure, which is really light in itself, and utterly insignificant when compared with the value and importance of the objects for the attainment of which it is imposed."—*Norman on Taxation*, p. 90.

Sir, it is worthy of remark that the views of the economists and philosophers have the sanction of the inspiration of the poet:

"The gods in bounty work up storms about us,
That give mankind occasion to exert
Their hidden strength."

It is now, in time of peril and of war, that we feel how strong we are, and we are teaching the nations of the earth how strong we are. I am not afraid of taxation, but I am afraid of an ill-devised system of taxation; and such I hold to be the system which appears as the one presented by the House and the Finance Committee of the Senate. Here let me say with regard to the committee, as it became a subject of discussion yesterday, that, of its seven members, there were five who were opposed to the bill; and I have yet to learn whether there was any one of the committee that approved it. The objections were openly and plainly stated in committee by various members. I did not hear any member on the Committee on Finance say that he thought this was a wise or a prudent bill, or such as should be passed by this Congress. I understood it to be advised by two of the committee because it came from the House of Representatives. Although the House of Representatives must originate measures of revenue, we have, as I understand, jurisdiction over them here; and I understand it to be as much the duty of the Senate to inquire into the policy of the House measures for revenue, as into any other question that may be submitted to this body.

I say for myself that we have to provide for a permanent revenue of $100,000,000. Suppose $60,000,000 will pay the present establishment of the Government outside of the extraordinary war expenses, we shall have to meet greater expenses hereafter—I believe $100,000,000 will cover them. I think no fair estimate can be made beyond that. I grant, then, $100,000,000 as the amount of revenue required for expenditures after the war shall have been substantially closed. Now, it is said that in July our debt will be $750,000,000. Add $250,000,000 for additional war expenses: we then have, as the aggregate of indebtedness, $1,000,000,000. We have no business to provide for more than the interest on $1,000,000,000. What is that interest? There has been a discussion between the chairman of the Committee on Finance and the Senator from Ohio and the Senator from New York on this subject. The $150,000,000 of Treasury notes now provided for by law, as also the indebtedness not bonded, bears no interest. That is part and parcel of the debt. But a small portion, and that only for a short time, will bear seven and three tenths per cent. Our six per cent. bonds have been ranging at a premium of from two and a half to four per cent.

Mr. SHERMAN. If my friend will allow me, I will give him the most accurate figures to be received in regard to the amount of the public debt, inasmuch as the chairman of the committee has made a statement on that subject.

Mr. McDOUGALL. I am not particular. I do not propose to go into details.

Mr. SHERMAN. The total expenditures of the Government from July 1, 1861, to May 22, 1862, including all that have been adjusted, were $441,600,000. The old debt was $70,400,000, so that the total debt on the 22d of May was $512,000,000. I suppose to that there might safely be added two months' expenses of the war. I should think $600,000,000 would cover the whole debt.

Mr. McDOUGALL. I should think most likely so; but I am looking the thing fully in the face. I take the largest figures. The proposition I advance is consistent with any amount of taxation. The proposition from the committee is not. The amount of revenue to be derived under the substitute I propose can be enlarged or reduced by very simple appliances. I do not anticipate that this war will involve us in more than a thousand millions of debt, and then I think the Senator from New York was right when he stated that against that should not be charged more than five per cent. interest for the reason that our stocks are at a premium, and a part of the indebtedness will not at any time be bearing interest. That, however, is a calculation I have not gone into, and it is not material. Suppose it is six per cent. instead of five, it only makes the difference of $10,000,000 per annum in the demand for revenue, a difference not in the least alarming.

I will now proceed to state my particular objections to the measure brought forward from the committee; and the first objection I make to it is that it involves an army of officers. The Senator from Rhode Island enumerated in the bill sixty-two different rates of duties and ninety-five varieties to be inspected.

Mr. SIMMONS. That was only on twenty-six of the general subjects.

Mr. McDOUGALL. I understand that: not on all; and observe all these varieties and all these subjects belong to every city, town, and village in the Union. And what skill and knowledge in the various specialities of trade will be required to determine the quantity and quality of these various articles. Where we have custom-houses only spread on the borders of our seas, how difficult is it to get an appraiser who is able to tell the exact quality and value of a piece of Chinese crape, or an article of silks from France. You have got to have the same skill in all the inspectors throughout the country, or have a number of inspectors representing each different branch of trade.

Put this bill in force, appoint your collectors, your inspectors, and your assessors, put them in the field, and they will be an army strong enough to take Richmond, or this capital if you please. I hold the greatest evil of republican institutions to be the multitude of offices that are created, the multitude of officers permitted, and the multitude of men seeking for office. Compté, one of the first of modern philosophers, in discussing the various kinds of institutions among men, charges that as the one radical evil of free institutions, the multitude of offices, and the multitude of men seeking office, disturbing the peace and health of the State, disturbing the just enactment and true administration of the laws; not only obstructing, but preventing the true management of the great machine of government, by particular personal appliances and interests. If there is anything that we in this Government are called upon to take note of and to furnish a remedy for, it is the multitudes of offices that have been created under our institutions. Sir, I undertake to say that there are now in existence five officers for every one required to carry on the machinery of Government; and with one really qualified and competent official for every five now in public employment, this entire Government could be carried on with much more perfectness than it is to-day.

I object to the army of officers to carry on this great machine, and the country will object to it. I should object to it most particularly if I were in a majority in this body, and immediately responsible for its administration. Indeed, whether in the majority or minority, I would not dare to sanction the imposition of this measure on the country. Again, I object to it from the complexity of the system. It has a different law for every subject of taxation. It commences with forty pages of preliminary machinery, and then, of the more than one hundred remaining pages, two thirds are taken up with additional and special machinery—machinery, if it is machinery at all, I have not yet been able to understand, and I doubt whether the very able chairman of the committee understands it; and I know it never will be understood over the United States as long as it may be permitted to continue a law, if it shall ever become one. There are not less than one hundred pages of machinery; first, general machinery, inapplicable to many of the special items; then special machinery for each different classification or subject of taxation. When the bill first came from the House, I put fly leaves between the pages, and sat down and tried to analyze it—tried to masticate and digest it. I found it an impracticable thing, and gave it up. I pronounce it perfectly indigestible.

I object again to the manner in which auctioneers are made the subject of taxation. In the first place, they must be taxed as auctioneers, and then separately taxed as merchants; that is, pay two licenses. Now, what should be the reason for a law against auctioneers? I had thought that they were men who most promptly transacted the business of the country. In San Francisco nearly all the trade sales are conducted by auctioneers. Your merchant from New York, or Boston, or Philadelphia ships his merchandise to San Francisco. It is sent to the regular sales and sold in open market. That is the way much of our wholesale business is done. Is it not a good way of doing business? Is it not the fairest way of doing business? It is the fairest and most legitimate way of trading between man and man, for every man has his right upon the word of the seller, amidst fair and open competition.

Then I object again to this whole system of licenses. When the Constitution was formed, the question of internal taxes was considered, among other things, and although it was conceded that there was concurrent jurisdiction in the States and the Federal Government to levy internal taxes in such form as either might choose, yet possible collision between the several authorities was regarded as a grave and not to be overlooked difficulty; and therefore Mr. Hamilton himself suggested—for I do not propose to rely upon my own authority upon a subject of which I do not profess to be master—that both the Federal and State governments, in looking to subjects of taxation, should avoid the same subjects of taxation; and I will read a couple of paragraphs from Mr. Ham-

ilton on that subject, showing how seriously the matter was considered at that early day as one of the difficulties that might lead to conflict between the State and Federal authorities.

"As to a supposition of repugnancy between the power of taxation in the States and in the Union, it cannot be supported in that sense which would be requisite to work an exclusion of the States. It is indeed possible that a tax might be laid on a particular article by a State which might render it *inexpedient* that a further tax should be laid on the same article by the Union; but it would not imply a constitutional inability to impose a further tax. The quantity of the imposition, the expediency or inexpediency of an increase on either side, would be mutually questions of prudence; but there would be involved no direct contradiction of power. The particular policy of the national and of the State system of finance, might now and then not exactly coincide, and might require reciprocal forbearances. It is not, however, a mere possibility of inconvenience in the exercise of powers, but an immediate constitutional repugnancy, that can by implication alienate and extinguish a preëxisting right of sovereignty."

And again:

"As to the interference of the revenue laws of the Union, and of its members, we have already seen that there can be no clashing or repugnancy of authority. The laws cannot, therefore, in a legal sense, interfere with each other; and it is far from impossible to avoid an interference even in the policy of their different systems. An effectual expedient for this purpose will be mutually to abstain from those objects which either side may have first had recourse to."

This is the advice and counsel of a man whose policy is at the foundation of the finances of the Republic, mutually to abstain from those subjects of taxation which either the Union or the States may first have had recourse to. Now, licenses are authorized by State laws. Under State laws, towns issue licenses, cities issue licenses. There is hardly a subject of license in this bill that is not made the subject of State license, many of town license; and now a person who wants to engage in an occupation has to go to the president of the town council, to the comptroller of the State, and to the agent of the United States; and when he has got these three licenses, he may go to work. It is unsound policy, it is not required, it is meddling with the affairs of individuals.

All license systems are more or less unjust. There is the auctioneer who sells twenty-five dollars' worth a day, and the auctioneer who sells $25,000 a day, both taxed alike. There is the young fellow going to the bar who has not earned his first fee, and there is my friend to the right [Mr. BROWNING] accumulates his thousands per annum. I remember very well when I went where I first met that gentleman. When I arrived in the county of Pike, in the State of Illinois, I had some books and some good clothes, and if I remember right, three dollars in my pocket. If the venerable judge to whom I applied for license had asked me to pay ten dollars as a condition precedent, I should have had no chance to earn my first fee. This whole system of licenses is wrong. It runs through all departments of business. The tallow chandler who dips fifty candles a day has to pay the same tax with a man who has his $50,000 invested. If small communities and towns are compelled to resort to this oppressive and unjust system of taxation, let not this great Government engage in it. It is a system that restrains young energy, that breaks down the power of the young man full of heart, without money in his pocket. It is a system altogether unworthy of the Federal Government. Towns assess a license tax to keep down grocery keepers, or make them more respectable. It belongs to the business of towns who have charge of their particular police, but does not belong to the Federal Government. Here are grocery licenses, licenses for tallow chandlers, licenses for everybody. Here is a license for doctors. I venture to say that one out of six of the young doctors that go out West, when they get to the town where they expect to make their homes, have not enough to pay their first week's board. How are they going to practice? Men who have the most enterprise, the most character, who have the most will and courage, are the men who adventure the most, and they generally stop when they cannot go any further.

The whole system, I say, is wrong. It is only justified in local jurisdictions as a matter of police. For instance, a town council may want to take jurisdiction over groceries, to keep down low places, and to know what places are authorized by law. They will, as a matter of police, issue licenses for say twenty or fifty dollars. It may be good policy; I am inclined to think it is; but for the Federal Government to undertake to do that which is only justified as a matter of police belonging to the local jurisdiction is a violation of all legitimate rules of national legislation.

Again: I object to the tax on manufactures. It was affirmed by the Senator from Rhode Island, and admitted by the Senator from Ohio—one, the oldest and best instructed member of the Senate in matters of revenue, and the other for a long time recognized as an able chairman of the Committee of Ways and Means in the other branch of Congress—that this tax must fall upon the consumer. I cannot agree exactly to the affirmation or the admission, for I am inclined to think that taxes, after all, in some way or other, adjust themselves around so as to be on almost everybody's shoulders, except special taxes. I object to the tax more particularly as inconveniently, unequally, and unjustly applied, and as being, as was proved by the Senator from Rhode Island, a particular burden on the laboring poor. And, again, this tax is a demand for money before money is realized. It is asking for that which the parties taxed may not have, whereas in a tax on sales the price is considered in the purchase and the money in the hands of the vendor. Here, again, is a singular and most offensive tax: the specific tax on the slaughtering of cattle, sheep, and hogs; a capitation tax. Publish such a provision in the law to the people of this country, tell them that when they go in the morning for a little meat for the family meal they have got to pay a tax to the butcher, and the children, the women, the old people will cry out against it.

Again: the bill imposes a tax upon the salaries of all persons in the service of the Government. That is considered a happy subject of legislation, which excites the particular satisfaction of the Senator from Ohio, I believe. Why should men in public employment be specially taxed? Is it because they are specially paid? It has been my impression, it is the result of all my experience, that men in office who are fit for office are, as a general rule, inadequately paid. It has been so from the commencement of the Government until now. Who is there here in the Senate who does not make a sacrifice of his personal revenue in undertaking to discharge the duties of his office? I take it there is not one man here who does not make a personal sacrifice in coming here, and some of them to large amounts. And do they take any advantage by coming here? I have learned to think that an office seldom dignifies a man, a man may dignify an office. What do we take by coming here? We take the abuse, the malignant assaults of adversaries who regard the characters of public men as without the pale of courtesy or law. I do not make this a matter of complaint; nor do I complain of inadequate compensation; but I will remark here that what we want is better pay and better services, as a general thing, and with better pay and services we could dispense with four fifths of our officials. I hold a tax upon the salaries of officers in the employment of the Government to be the rankest demagogism. I do not believe in this kind of legislation; I cannot be made to believe in it. I believe ours to be a great, powerful, and just Government and people, and that this kind of legislation does not represent the judgment or heart of the country.

Again: I object to the tax on advertisements, and I do this with no fondness for the press, for which I have no particular regard. I have never sought their favor, and never feared their assaults. But here are advertisements taxed. Why make them a subject of taxation? A person wants to inquire for information; he is a seeker after knowledge of some particular thing; he wants to know something, and you make it a subject of taxation; and in that way tax the press, the vehicle of communication, and by taxing the press tax the person who inquires.

And now, Mr. President, I desire to enter my special protest against all those subjects of taxation which create a charge upon individual, intellectual, and commercial contact, upon moral, intellectual, and material intercommunication. Such taxation is against every rule of public policy. It has been considered wise policy to promote the construction of railroads, canals, and telegraphs, to construct piers and light-houses and harbors in aid of foreign intercourse and trade. This has been regarded as of the first public importance. If it is true policy to advance these interests and enterprises, there can be no good cause to disturb or impair them by impositions and charges. It has been held by the most eminent writers and thinkers that one of the first elements of the progress of civilization was facility of intercommunication and contact. Guizot, in his History of Civilization, presents this view, and illustrates it by reference to the cities and States which sprung up on the shores of the Mediterranean. Even the pirates, robbers, chiefs, and kings who sailed after the golden fleece and fought before the walls of Troy, returned not only with the spoils of war, but with the lessons of art and wisdom, wherewith they laid the foundations of States.

In former times communication by water furnished convenient means of contact, and intellectual as well as commercial exchanges. The Greek seekers after wisdom received their lessons from the priesthood of Egypt, the astrologers and wise men of Syria and the further East. The commerce of the coast of Palestine gave Solomon the opportunity to acquire his great wisdom. In more modern Western Europe, Portugal, Venice, Holland, and England, may be cited as instances illustrating the same idea. In ancient times water was the great medium of contact and communication. Greece, for instance, had no egress except seaward; behind and on either side were rugged mountains, impenetrable forests, and savage enemies. The facilities furnished by water for convenient communication gave great advantage to an extended coast line in considering the value and power of a State. There has been a great change in this respect. Iron has become a more important medium than water, and railroads and telegraphs more important than extended lines of coast. We are indeed entering upon the age of iron, the age prophesied by the great Swedenborg, when ways of iron would, to a great extent, supersede ways by water, and who declared that ways of iron were to be the great agents of a new and higher civilization. I believe Swedenborg was right, and that he was what he thought himself to be, a man inspired. I repeat, sir, we should encourage these enterprises, not repress them. We gave a bonus for a telegraph to the Pacific to secure its construction, now we propose to tax it. We have given many millions of acres of land to build up railroads in the West, now we seek to break them down. We have abundant subjects of taxation without engaging in these inconsistencies. This bill charges three per cent. on gross receipts for passenger travel.

Of the gross receipts of the best railroads in the United States, not more than forty per cent. goes into profits. There is not that average; but you propose to tax them three per cent. on gross receipts; and what does it amount to? It amounts to at least eight per cent. on the profits of good roads, and probably takes the entire profits of inferior roads, for some of them hardly pay at all. You do not tax William B. Astor, or anybody else who lives upon his accumulated wealth any like sum. You hardly reach him at all; but the great machines of commerce, the great time and labor-saving machines of our age, which are to do more for us than any other instrument of power, is laid under a tax the heaviest charge in this bill. The Senator from Maine may say a railroad company have represented to the committee that they expected to be taxed, and they will stand this tax. That may be so with one or two railroads of the whole number in the United States; but suppose they think they have to be taxed, and are glad to get off as well as they can, is that a reason why wise men in council should determine to tax them if it is against public policy? I say, no.

Here again is the subject of coal. You say you want to reach everything. I insist that this is the great error of the bill and not any argument in its defense; we should not attempt to reach everything. Coal is the motive power that drives all our machinery, and that is enabling one man to do the work of a hundred—one of the things that when a nation finds anywhere about hidden in her earth, she feels rich because of it, and promotes its development. Every development of that kind is something to be promoted, because it is a facility to the aggregation of our national wealth—not that

I mean to say it needs particular promotion, but it is not a thing to be made the subject of taxation.

Again: I object to this universal system of stamps. Here are several pages of stamp duties. Everything is to be stamped, from the pill-box to the locomotive. The child is not to be allowed to take its medicine until it is stamped. Stamps must be everywhere, presenting themselves to every eye at every moment. The little girls will be computing what each stamp costs, and how many stamps there are in the house, and the boys will be doing the same, and the wives will be inquiring into the same matter. Stamps will be seen coming into the door a dozen times a day; they will be seen in rows in every house, and the nursery will be full of them, each one saying the Government charges three cents, five cents, or ten cents; perhaps, for peppermint for the baby the poor woman pays what would buy her a loaf of bread. These things may seem expedient or necessary. I cannot think so.

Gentlemen of large wealth, who live in stately homes, and whose relations have been with old communities, may not understand this as well as I undertake to understand it, who have lived out in the West when the West was a wilderness, and have lived among people where the smallest amount of money was regarded as of great value. Send this bill out into the West, requiring that everything that they purchase from the village apothecary and from everybody else shall be stamped—for the stamps are required for a thousand classes of things—requiring that a promissory note which a man makes for twenty dollars shall be stamped; that every contract which he makes shall be stamped; that he cannot lease his farm or his corn patch or anything else without a stamp, and it will cause complaint and dissatisfaction. The thing is absurd, impracticable. It never can be carried into effect, and will only be the subject of ridicule and evasion. A stamp tax put upon a certain class of commercial paper, put upon deeds to be registered, upon wills to be probated, things that belong to the records of the country, can be made so that the country will not feel it, and only men of commerce will have to do with it, and they will pay it promptly, and it will yield really a large and substantive revenue; but this general system of stamps is a thing that never can be executed.

Again, Mr. President, I object to this tax on insurances. Insurance is a tax paid by the insured for protection against loss, and this is a tax upon a tax. If those who engage in insurance pay a tax upon the income they derive from their investments, this surely should be satisfactory.

Mr. President, it is vain to attempt to enumerate the multitude of objections which may, as I think, be justly raised to this bill. I will content myself with reaffirming that it is an unintelligible, as well as impracticable measure, one which, I trust, will not be forced upon the country, particularly at this time of general privation and suffering.

As soon as I became satisfied that I could not support the House bill, I undertook to look about for some other system or plan of taxation. The Boston committee arrived in Washington, laid their views, orally and in print, before the committee. As I have said, they appeared to be men of counsel, and familiar with the subject they discussed. At the suggestion of members of the committee, with great care they organized their views into the form of a bill. I may here repeat that their views were approved by the Chamber of Commerce of New York and the Board of Trade of Philadelphia. I have discussed the same views with many intelligent men of business, and I find the same views generally, I might almost say universally, approved.

In the substitute I design presenting I have not followed all the details of the Boston bill. It will be found, however, that I have adopted the same principle, and generally pursued the exact form of its provisions.

The principal difference between the Boston bill and the substitute that I propose is stamp agents in lieu of postmasters, although I do not doubt but that it would be convenient to a large extent to give the two offices to the same person. The stamp agent has but to receive the stamps, sell them, and pay over to the Government, for which a very small per cent. will be sufficient compensation. The inspectors are to see that every person whose sales are over $200 in any one month returns to him a stamped account of sales monthly. He keeps an open list of all persons in his district subject to be taxed, with the amount of monthly returns by each party, subject to public inspection; and both the stamp agents and inspectors make their several returns to the Commissioner of Internal Revenue.

This same system runs through every form of taxation—stamps to be furnished for all returns, and the inspector to see the returns made to him properly stamped.

The system is exceedingly simple; there can be no misunderstanding it, either as to the machinery or subjects of taxation. It is true there are some inaccuracies in the modification as printed. I did not regard it as perfected when I brought it before the Committee on Finance. I proposed to have it discussed and matured there, and understood that this course met the views of the chairman of the committee, but found, as soon as the House bill had been gone through with, the chairman unwilling to consider any other measure. These inaccuracies I have corrected since, and the principle being adopted, but little time need be required in perfecting the bill.

Mr. SHERMAN. What officer examines the statements as to their correctness?

Mr. McDOUGALL. First, the inspector is bound to furnish a list to everybody who is subject to taxation, who is to report to him in ten days. He is bound then to make up a complete list of every person taxable in his district. He is bound to keep a list of the amount which the party returns as the subject of taxation.

Now, let me say a few words upon the tax on sales. I undertake to say from my knowledge of business, there is not a town in the West, where business is more loosely done than it is in the older States, where there are six men in trade that each man does not know just about the amount of every other man's business. This bill provides, as it is printed, that every person whose sales are over one hundred dollars per month shall make a return. My own proposition is, that every person whose sales are over two hundred dollars per month shall make the return; for if I am correct in my estimates, we do not need as much as will be raised by this measure. It would be very difficult to go through and discuss this bill item by item, fact by fact; but every person whose sales are over two hundred dollars per month is bound to make his return regularly under penalty. The great point of this measure, as the Boston gentlemen present it, is this: that every merchant knows the amount of every other merchant's business. He knows where he buys, how much he bought, and the amount paid. The clerk knows how much his principal has purchased, and how much he has sold. Half a dozen persons surrounding him can detect him in a falsehood or a fraud, if he attempts it. The consequence is, we can get true and just returns. I ask if it is not the exact way of getting a revenue. I say it is exact. There is another question as to whether it is just or not. There are money-lenders in every town who know just about how much a man buys, how much he sells, how much he trusts, and how much he gets cash for. Trading men cannot deceive the revenue on this subject. Their business is all open to the inspector. Trade cannot be done in the dark. A farmer who has a thousand bushels of wheat cannot get it out of his barn and into a warehouse without somebody knowing he has sold it; and when a man knows that somebody else knows the thing of which he is about to speak, he will not swear falsely. It is one of the simplest things in the world to get a just and true statement as to the amount of sales

These men of commerce say—and they should be authority—that a tax on sales is the simplest, safest, and most just tax. The sale involves a money transaction. A man who sells receives the price, or what he regards as its equivalent. Having received the price, he is prepared to pay. One of the great objections to the bill reported from the committee is, that it demands from people what they have not got. When you charge a tax on sales, you always charge it on what a man has received, on what he has in his pocket, which he is bound to account for to the Government.

It is said that we can derive, by a tax of one per cent. on sales, $115,000,000 of revenue. It is very easy to compute what we would derive upon proper returns. I have estimated that we would derive from that source $80,000,000 of revenue without taxing any person whose sales amount to less than $200 per month, so as not to tax the mechanic who sells the product of his own single-handed labor, or the small farmer. I propose, then, the tax on raw whisky, beer, and ale, as the committee have reported it; twenty cents on whisky, and one dollar per barrel on beer and ale, which may be increased as the demands of the country may require. I do not think the demands on the Treasury will be as great as is anticipated. Those two items will make a revenue of $26,000,000, and I think $30,000,000. I propose a tax, and to accept the same figures as in the committee bill, on tobacco, snuff, and cigars, which is estimated at $20,000,000.

I propose, then, a tax on fixed incomes. I differ with the Senator from Rhode Island on that subject. How can you tax the income of a lawyer who keeps no books? It is not the habit of lawyers to keep an exact account either of their expenditures or incomes. They spend all the money they get, generally. It is their own, unless it happens to be their clients, and then they pay it over. How are you going to get at the income of a merchant—a man whose life is engaged in venture, whose every enterprise is a risk of fortune, and who, if at the end of a lifetime of friendly and adverse fortune, is able to go quietly to his home among his people, and sit down and rest for the evening of his days, is a fortunate man? How are you going to get at his income?

Mr. SIMMONS. Does the Senator want an answer?

Mr. McDOUGALL. I do not ask for an answer at present. You can give me an answer when I have concluded. However, I will hear it now.

Mr. SIMMONS. If the Senator will look at the provisions of the income tax, passed last August, he will find that that provides that a man shall render an account of his income for the year preceding the 1st of January of each year. His year's business ends at the 1st of January, and his income tax will be payable in six months afterwards. I do not suppose I keep much better books than the Senator. I carry on a farm and have a little book, and I set down most of the little matters in relation to it; but I do not believe there is a man of business in the country who does not know his income. The Senator speaks of men in business, where there is a great deal of venture, as he calls it. These credits, I believe, are sometimes very long, but scarcely ever more than six months. If I make up a balance-sheet on the 1st of January, 1862——

Mr. McDOUGALL. The Senator can make a speech after I get through.

Mr. SIMMONS. I shall not take more than one minute more. You can get your breath, and by that time I shall be through. If I make up my accounts by the 1st of January, 1862, seven eighths of all due to me will mature before the 1st of July following; and if I had any loose notes about, that had not matured, I should know how to go into the market and sell them and close my books, and know just what I would make; and that is my income.

Mr. McDOUGALL. I understand that perfectly. The gentleman lends money; he has cash notes drawing interest, and he knows just how solvent his debtors are. That is a very simple kind of business. I know there is not a person engaged in that business in the United States who cannot compute his income pretty closely all the year round. But how is it with the men who venture in commerce, where the article they purchase at fifty dollars a ton to-day, and in which they invest $50,000, may be thirty dollars to-morrow or eighty dollars? How about those men who may be ruined or made prosperous by the accident of a day, news from Europe or from the East, war, or some treaty of peace, if you please? How about those?

Mr. SIMMONS. I will tell you about those, if you will give me half a moment. We do not tax a man's property. We tax his income. If last year he made a great income on his ships we ought to tax it. If those ships are not worth half as much this year, not having half as much freight, then we only tax him half as much on his income.

Mr. McDOUGALL. If I have any idea of commerce and its business, a man, say the master of $100,000, goes into trade; his trade runs prosperously along through a series of years, where he expects that he has means enough on hand to carry on an advancing and progressive business, but where in one day a single calamity like that which came in 1836, or came at the commencement of the present year, may destroy the most prosperous fortune: who has an income then?

If you put the tax on expenditures, you may approximate a truer standard; and that is just what I suggest, for it is the substance of the proposition of a tax on sales. A tax on sales may be illustrated in this way: what would go into this tax from the expenses of a young mechanic, a boy as he first goes from his instructions, for clothing, &c., would probably amount to a tax of one or two per cent. on fifty dollars. Ordinarily, if I remember right, a young mechanic having no family does not spend more than that outside of what he pays for his board. Another man, a man of wealth, with an income of thirty or forty thousand dollars, will expend in the same way, not merely for his household expenses, but in various ways to gratify his taste, probably twenty-five or thirty thousand dollars. He is very apt to do it; and everything he buys pays a tax. Everything that the young man buys pays the tax; but let me say that the tax to be paid by internal revenue, both by the boy and the person of large fortune, will be infinitely less than the tariff tax which the country now bears in proportion to its amount of revenue.

I propose, then, that we shall tax sales, and why? Because we can find out what is sold and what is the subject of sale, with the exception of diamonds and jewelry, things that the Jews will hide. That cannot be helped. There must always be more or less mischief of that kind, just as there is under the tariff. But what goes into traffic is a subject of the census, is a matter of inquiry, a matter of rivalry. Every merchant in every town is concerned to see that his neighboring merchant does not cheat the revenue; for if he does he gets the advantage of him.

I also propose to tax income, not the income of the merchant whose capital is invested in commerce, for the merchant is as much of a producer as the man who tills the soil. He who conducts it from hand to hand, who labors in that vocation, is increasing its value and producing wealth to the country. I do not tax the man who builds up machinery, workshops, and factories, whose capital is employed to support labor, for capital and labor are the two great elements of strength that enable us to pay taxes; that is active employed capital and labor. I do not tax employed capital or labor, but fixed capital, such as a man derives from rents, which comes to him as a matter of course. I tax the man who collects his interest on State and corporate securities, but not mortgages. If you tax mortgage interest, the borrower has to pay it; but bonded interests of railroad companies, of all organized companies, of cities, towns, and States of the United States, and of foreign countries, all fixed revenue where the party deriving the revenue has no relation either to active capital or to labor—they are all legitimate subjects of taxation, and have been so held by the best economists.

Then, again, I propose to tax inheritances. I am trying to avoid asking a man to give what he has not got. That is the mischief of this bill from the committee. It asks a man to give what he has not got. Inheritances are things that no one has been possessed of until they pass through administration. We have no particular or fixed right in any other person's estate, no matter how near of kin he may be; certainly none in the estate of a stranger. England has adopted a policy by which she imposes as high a tax as ten pounds per cent. where a legacy is given to a person who is foreign to the blood of the testator. We can derive as large a revenue as England from this source, and from what no other person has got any special or particular right to. It is true, we generally feel that a child has a right to inherit from a parent; but suppose there should be taken out of that a tax of one per cent. for the administration of the laws for the benefit of the child, that would be no burden. I propose an ascending scale as high as eight per cent. to persons who are alien to the blood of the testator. That is less than the English rule. Those who pay it, never having had it, never feel the loss of it. Those are taxes that can be most conveniently collected. Estates pass here more readily than they do in England; and it would be a large source of revenue.

Under these various sources of revenue, as I have stated, and putting the income of the tariff at only $50,000,000—and I try to make small figures—I make a revenue of $203,000,000, and I know, as near as I can know anything that depends upon this kind of computation, that I am far below the fact. I say it will yield a revenue of $203,000,000, and it does not ask a person for anything he has not got, and does not employ a large number of officers. The tax on sales of goods is where the money is paid. The tax on income is where the rent or the interest has been received. The tariff, of course, is collected as the law now provides. The tax on tobacco, snuff, and whisky is paid when the money is received; because I propose, if I should be successful in maintaining my substitute, to adopt the provision with regard to the transfer of raw whisky to the place of sale upon being bonded, the bonds being payable in sixty days.

I am not disposed at this late hour of the evening to continue the discussion of this bill; I know the Senate are remaining here, not so much for the purpose of hearing what I have got to say as for the purpose of getting to the end of this controversy. I have taken up much more time than I designed doing; and yet I am not willing to relinquish a subject of this importance without giving it a full discussion. It has not been discussed. Observe, Senators, that there has been no discussion on this subject, a subject of the most vital importance, more important than any confiscation bill. If I remember aright, I have been told when they confiscated the Church property of France as a basis of the assignats issued by the National Assembly, the whole Church property confiscated did not pay the expense of administration. I say that this subject, more important than any confiscation bill, more important than any subject involving the question of the relation of the slave to his master, more important than any that has been discussed in this Hall—this subject of the gravest moment to the country, where we are going into every house, and taking money to support the war, asking what many have not got—this question has not been discussed in this Senate. We have discussed detailed statements. No one has undertaken to present to the Senate the grave considerations that belong to a measure which may be felt in every farm-house and in every workshop, as well as in every lordly hall throughout all the land. I may be wrong; I may be greatly wrong. I have been seeking to be advised. I have not had advice here, and I will take the privilege of saying I have not had much advice from my associates on the Finance Committee. We took a raw bill; recognized to be a raw, immature, unformed thing from the House of Representatives which they ignore themselves, and we must take that and swallow it. We do not know how long this war will last. It may for years yet; and we want a policy of taxation. We want a system upon which we can graft additional policy. The bill that I propose is one that adopts a uniform system as to every subject of taxation. You can add at any time, if you please, twenty-five cents or ten cents on whisky, or on tobacco or on inheritances, or any of the subjects named. There are subjects enough which the Government can raise revenue upon without hurting the country, subjects enough to raise, independent of our tariffs, $300,000,000 per annum.

Now observe, expenditure is immediately related to production. Production is the subject of taxation. We must every year make the subject-matter out of which taxes are taken, or else there is a loss to the national capital. Expenditure and taxation being equivalent to production, there is no loss. If production is greater than taxation and expenditure, there is a national gain. England has gained through all her wars by the strength and will and energy of her people. Our energy is being expressed now with greater force than in any previous time. We will produce every year more than the equivalent of our expenditure and our revenue.

I am thoroughly satisfied that if the Senate will consider the bill reported by the committee, it must be vastly modified. It has been very much improved since it came to us, both in the Committee on Finance and in the Senate, but its whole system is wrong; it is complicate; it should be simple. I propose a simple measure. It should be levied upon as few subjects as possible, or have as few specialities as possible. I propose a general rule to govern them all; and then, by my proposition, outside of sales, nothing is taxed except what is admitted by all to be legitimate subject of taxation.

The gentleman from Rhode Island abandoned his position. He was in favor of a tax on sales. He was with me in favor of the Massachusetts proposition. He abandoned it; and at whose instance? He says, in a very complimentary way, that it was at the instance of the Senator from Ohio, [Mr. SHERMAN,] who told him no other country had ever done that except Spain, and Spain was no authority. That is an old fogy reason. We have done a thousand things that no other country has ever done on the face of the earth, and we are able to do a thousand more. Because no other country than Spain has done it, I consider no reason why we should not.

Mr. SHERMAN. I think I can convince you that in regard to a tax on sales you are wrong.

Mr. McDOUGALL. Perhaps you can. I have talked with men whom I consider the most approved masters on this subject in the United States, and they have generally been engaged in the business of convincing me that I was right. I suggested, as the gentleman from Ohio very well knows, to the gentlemen presenting the views of the Boston committee, various objections to this plan, in committee, which were met to my satisfaction, and I think to the satisfaction of the committee. There was no answering them; and I can see no reason why this, it being a general system taxing all sales and being made uniform, cannot be carried out. I have no objection to it because Spain once tried it, or is trying it now; nor have I any objection to it because nobody else has ever tried it. I think we are a new people with new conditions, and when the men of commerce, the first men of our commercial cities, say commerce can best stand this tax, they should be recognized as the highest authority; and I shall maintain them as authority so far as my conduct is concerned in voting upon this measure.

CONFISCATION OF REBEL PROPERTY.

SPEECH OF HON. J. W. KILLINGER,

OF PENNSYLVANIA,

IN THE HOUSE OF REPRESENTATIVES,

May 23, 1862.

The House having under consideration the bills to confiscate the property and free from servitude the slaves of rebels—

Mr. KILLINGER said:

Mr. SPEAKER: Those who observed my course in the Thirty-Sixth Congress, will bear me witness that I was solicitous for an amicable adjustment of the sectional difficulties which then already threatened the peace of the country and the integrity of the Federal Union. Soon after Mr. Lincoln's election, it became manifest that we were in the face of civil war. Congress did what was possible, to the verge of humiliation, to avert it.

The first pretext for its inauguration was the personal liberty bills of several of the States. We requested, by a unanimous vote, said States to review their legislation on the subject, and most of them proceeded to do so. Next, it was complained that Congress might interfere with slavery in the States. Accordingly we resolved, by a unanimous vote, that neither Congress nor the non-

slaveholding States had the right so to legislate. Next it was complained that settlers from the slave States were excluded from the Territories. Accordingly we passed bills organizing all the Territories of the United States by a unanimous vote, which carefully ignored the slavery question, and left its disposition to the actual settlers. Finally, Congress adopted an amendment to the Constitution prohibiting interference with slavery in the States; and but for the stubborn refusal of the Senators from the seceded States to vote, the Crittenden resolutions would have received the sanction of a majority vote in the United States Senate. Mr. Lincoln reiterated these conservative positions when he came into power, and yet treasonable counsels and ambitious designs prevailed in eleven States, and civil war had become an existing fact.

Just as solicitous as I was heretofore for peace, and an avoidance of the horrors of civil war, I am now anxious for the prosecution of the war with vigor. I am, indeed, for war to the bitter end—stern, unrelenting war, without armistice or compromise, as the speediest mode of solving the great problem devolved upon us in the providence of God. Subjugation is a word that has no terrors for me, and rather than witness the success of the traitors in their mad efforts to pull down the pillars of the Republic, I would reduce them to colonial vassalage, lay waste their fields with fire and sword, and annihilate every living thing within their limits.

If I have any fault to find with the military management of our affairs, and I rarely venture on so delicate a topic, it is that the operations in the field have been conducted with mistaken leniency. Need I recount the devilish expedients to which the rebels have resorted in their conduct of the war? The softened usages of modern warfare have been wantonly and uniformly disregarded. They respect no flag of truce; they mutilate dead bodies; they poison food and drink; they confiscate the property of loyal men; and they are hopelessly sunk in the depths of depravity and iniquity. In such a savage conflict, we but prolong hostilities by temporizing with the leaders and releasing their followers on parole of honor. Mercy shown to such devils in human shape is cruelty to loyal men. History records no such instances of savage ferocity, and brutal conduct generally, as every day's account from the seat of war brings to our knowledge. If we would hasten to the end of the struggle, we must infuse more of a retaliatory spirit into it, wage it in more deadly earnest, and exterminate the chiefs in crime and authority. As the British put down the Sepoy rebellion in India, so must we crush out the savages of the seceded States. It would rejoice me to see Charleston a heap of ruins, and its leaders in rebellion swing without judge or jury.

I take occasion, in this connection, to bear testimony to the general fidelity and patriotism with which Mr. Lincoln has discharged the responsible duties of his position. I do not mean to give my approval to everything that has been said and done by individuals holding places of trust or profit under him. In such a vast and complicated machinery as we have had to set in operation it was not unreasonable to find a screw loose occasionally, but nothing has been developed to implicate him in any improper transaction. On the contrary, he continues, and most justly, to possess the confidence of the people, and his administration has been signally successful. The public credit is the barometer of national confidence. A year ago it was at a low ebb, and the public securities were selling at a ruinous discount. Mr. Buchanan left as a legacy approaching bankruptcy a Government verging on dissolution, and the dissevered fragments of a once glorious Union. Now, the public securities command a premium, the public councils have been invigorated, and the people have unbounded confidence in the integrity of the President and the stability of the Government.

The one great duty which the President has proposed to himself, in dealing with the great rebellion, and in which I desire to sustain him in my humble way, is "to keep the integrity of the Union prominent as the primary object of the contest." Congress has solemnly pledged its faith and that of the people to the same object. On the strength of this we have put in the field a mighty army, and are about placing heavy burdens upon the people in the shape of taxation. No complaint has been or will be made, so long as we maintain our position with the President fairly and squarely upon the broad ramparts of the Constitution, faithful to its teachings, and not unmindful of its obligations.

The confiscation of the property and effects of rebels in arms against the United States is suggested as a measure of indemnity for the past and as a military necessity for the future. Obviously, such a measure requires the safeguards of legislation to be thrown around it, in order that its exercise may not lead to lawlessness and injustice. Regarding "property and effects" as the sinews of war, I believe that it is our duty to deprive the rebels of them to the extent of our ability, because in so doing we weaken them, and strengthen ourselves. The pretexts for this rebellion having been entirely groundless, as the rebel commissioners to England admitted in their official communications, we have a double right to insist on complete indemnification according to the rules of civilized warfare. If such a measure is in conflict with the letter or spirit of our Constitution, I shall regret it; but until it is so declared by competent authority, I shall hold to the belief that it is wise, urgent in its necessity, and accordant with the genius of our free institutions.

The emancipation of the slaves of rebels by congressional action is also urged. Waiving for the present the inquiry into our power over the subject-matter, I desire to say that if such a scheme appears to be a military necessity, in that high and solemn sense which calls for its adoption as a means of maintaining the Government, I will favor it. Mr. Lincoln has said we must use all means which are indispensable to the maintenance of the Union and the Constitution; and as the Commander-in-Chief of the Army and Navy, he is invested with large discretion in this direction. From what I have already said of him, it may be inferred that I have sufficient confidence in his patriotism and fidelity to intrust its decision to him. Thus far he has not believed such a scheme to be an element of strength, and has not favored it.

It will be observed that the reasons which may be urged in favor of confiscation do not apply to emancipation. It will not replenish our Treasury to the amount of a single dollar under the construction which those who favor its passage give to it. They are unwilling to acknowledge any such right of property in the negro as will enable the Government to realize any revenue from its seizure and sale. For myself, I have to say that I am not sensitive on that subject. While the tax bill was pending in the House, I voted for the tax proposed to be laid upon the owners of slaves, but the singular combination of slaveholders, slavery sympathizers, and those who look upon the negro from the humanitarian stand-point, defeated that most just measure. In view of the great burden of taxation laid upon free labor, I think it right that a portion should be laid upon slave labor. While some of my colleagues were unwilling to do this act of justice to the white tax payers, they are now favoring a scheme that will deluge the free States with this degraded form of labor, and involve the Government in millions of expense.

That this is literally true I need only refer to the experience we have already had of the workings of the slave exodus. Within sight of the Capitol I have seen hundreds of runaway negroes, a charge upon Government liberality, and under the protection of United States soldiers. So, also, we are informed, agents and missionaries are sent to the southern coast under Government patronage, to teach contraband negroes their alphabet and impart religious instruction to them. I need hardly say that I disapprove the precedent and the principle involved in these cases. It is an abuse of power and a misapplication of the public revenues. If we expect to keep pace, in our educational and missionary enterprises, with the increasing swarm of freed negroes, we must enlarge our revenues, and add materially to the taxation imposed upon free labor.

Except where they can be made useful, I think this class of persons ought to be left to themselves. They are at present a heavy burden to their owners, and I propose to leave the burden rest where it properly belongs. They have become consumers instead of producers. They must be fed, clothed, and watched continually. Those of them that are of any account at all are rapidly disposing of themselves without aid or comfort from Congress. They find the door open, and need only to "march on" to their deliverance from bondage.

Although this scheme assumes to be limited in its operation to rebels, it is manifest that it is directed against the institution of slavery, as such. With three or more millions of slaves set loose in the slave States, assuming that the scheme would be of practical effect, uncared and unprovided for, loyal men would have no security for life or property. It would involve insubordination and insurrection. Such outbreaks in the border States which are in the Union, and entitled to the protection of the Government, would be elements of weakness rather than of strength. We cannot afford to lose or be indifferent to those States. They are the walls of partition between the free States and the ruin and devastation which have marked this fearful civil war. Nobly have our patriot brothers withstood the pressure in those States, and may my right hand forget its cunning when I desert them in their extremity.

It is against sound policy to press such a total abolition of slavery as this bill will suddenly effect, involving, as it does, elements of mischief and dissension. We are now a unit on the war for the Union, while the South is becoming divided as our victorious flag advances. Can we improve our condition by dividing our people and uniting the enemy? We run the risk, too, of demoralizing that great Army which is now in front of the enemy, and under the inspiring war cry of the Union and the Constitution! In God's name, let well enough alone, let Union sentiments revive and strengthen, and have faith that Providence will complete the work on our hands!

The President's policy is the wisest and most statesmanlike which has come under my observation. With him, I am not indifferent to the solemn duties devolved upon us by the exigencies of the present time. With him, I am anxious that this great struggle for national existence shall not degenerate into a violent and remorseless revolution. I voted cheerfully for his resolution to initiate gradual emancipation, and on its basis we abolished slavery in this District. The two principles, of compensation to loyal owners and colonization to distant lands, made that measure palatable to me. My desire is that these two great principles shall march hand in hand, so that we may be relieved of the negro population, North and South, as rapidly as possible. By pursuing this policy, we shall succeed in removing every element of sectional discord, revive the drooping energies of loyal men in the border States, reinvigorate and give value to their worn-out lands, increase the national revenues by enlarging the national wealth, and finally restore to their native latitudes a down-trodden and much injured race. Their departure will be the signal for increased activity in all the departments of free white labor. Their presence in our struggle adds nothing to our power and strength. They have given no indications of fighting qualities. If they possessed them, they would before this have struck a decisive blow for themselves. The history of the world attests the fact that they who deserve to be free must free themselves.

The President, in his late proclamation, has reserved the question involved to himself, as one of military necessity, and I doubt not his power of calling to such service as they may be adapted, the entire negro population of the country, North and South, free and slave, for the purposes of general defense and the maintenance of the Government. However humiliating to our national pride such an expedient might be, it is entirely consistent with the scope of my argument, that to preserve the Government and crush treason we ought to use all the means which God and nature have placed at our disposal. It will be perceived that it is not out of any concern for the slaveholder that I refuse to prostitute my position to the blind and unreasoning clamor for abolition. My conviction is that instead of aiding, it will weaken the Union cause. It will breed dissension among ourselves, throw millions of help-

less negroes, old and young, sick and decrepit, on our hands, and create universal consternation among our friends in the border States, upon whom we must depend for the revival of Union sentiments, and the restoration of the authority of the United States.

We are in danger of doing too much, not too little, on this interminable negro question. We have already passed statutes without number to regulate it, and after all it will require our heaviest artillery finally to dispose of it. It is in a fair way of settling itself, without further congressional intervention; and if only our agitators would join our victorious columns, instead of distracting the public counsels, they might render good service in this behalf. But I have observed that pseudo philanthropists and humbug humanitarians never dose themselves with the physic they prescribe to their credulous victims.

I am well aware there is a large and influential element in the country which holds different views, and lends itself to the prosecution of the war for abolition purposes alone. But I prefer to treat the question in its military aspect and political results, entirely ignoring the wild vagaries of negro equality and negro rights. The people at large sustain the war because they hope thereby to restore the Union and maintain the Constitution in its original integrity. I am sure that our volunteers went into the field with that purpose. Under that inspiring watchword we have raised our men and money, and can continue to raise them. If the institution of slavery, or any other thing, stands in the path of our progress let our brave soldiers strike it down. I will not, here or elsewhere, raise an arm or give a vote to shield it from the blow. But whether it outlives the struggle or dies in the last ditch, the Constitution must be maintained and the Union must be restored.

If there be virtue in the confiscation bill, "the property and effects" of the rebel leaders in the seceded States will be swept into the Treasury, including negroes held to service. If I am right in this conclusion, there is no necessity for an abolition act. The law will hold as property and effects all the objects which are regarded and treated as such by the local law and custom of the respective States. Why then should not negroes fall under the terms of the act in the slave States? Since the foundation of the Government slaves have been seized in execution, sold, and the proceeds paid to the Government in cases where it became necessary to collect revenue due the United States in slave States. Thousands of dollars have been realized from this source, where sureties became liable for the defalcation of principals. And we all know that an assignment in any State of "property and effects" carries with it all the property recognized as such by the local law. So that on the plainest principles, and the most favorable legal construction, we have provided for the seizure and sale of the rebel owner's slaves in our confiscation act, and whenever the act comes to be enforced in slaves States, the judges of those States must give it the construction for which I contend.

Candor, however, requires me to say, that in my judgment neither abolition nor confiscation, in this sweeping, wholesale way, will amount to much in the prosecution of the war, or the speedy restoration of peace. Congress ought to confine itself to voting men and money, and leave the general management of the war in its details to the President. Paper bullets, such as we issue from this place, are the most inoffensive of weapons, and abolition harangues are as impotent for good as Quaker guns. We have no civil officers to administer any laws on these subjects in the States to which they are especially applicable, and our experience thus far ought to teach us that we must rely for success on our strong right arm. In the present exigency, hard knocks are more effective than hard words.

The moment that peace is restored law and order will take the place of military force, the States resume their original place in the family of States, and be restored to their original rights and dignities. Nothing is surer than that their State constitutions, and the laws enacted under them, so far as they are consistent with the Constitution of the United States, will again be supreme within their respective limits. If they tolerate slavery, it will again be in existence, and by lawful warrant of authority. Our power over the subject will cease and determine with the occasion which called it into existence. This cannot be gainsayed if we are sincere in our professed purpose to restore the Union and the authority of the Constitution over the seceded States. All the clamor about abolition, then, results in nothing, unless the people, who alone have the power over the subject, choose a different policy, or we change the fundamental law of the land. The political power of slavery has already been broken beyond restoration, and in that respect this fearful struggle will not have been barren of results. But as a domestic institution in a sovereign State loyal to our Constitution, it is beyond the reach of our artillery, and cannot be permanently affected by it. Public opinion in the respective States, the supreme power in a free Government, alone can control and restrain it.

It would, indeed, be extreme folly to wage so momentous a struggle, involving so much of life and treasure, if we did not hope thereby to restore the Union and maintain the Constitution. Nearly a hundred years of prosperity and peace have elapsed since our patriot fathers laid broad and deep the foundations of the Republic, on the basis of constitutional safeguards and restrictions, and I am for steadily adhering to the teachings of that period, and the obligations of that Constitution. The insane notion that the Constitution was made for peace, and can be trifled with in time of war, is the most dangerous of political heresies, and would involve us in all the horrors of anarchy and military despotism. And to wage a fierce and unending civil war in the interest, supposed or real, of the negro race, is against all my convictions of right and duty, and I insist that the Government has proposed no such folly to the people. If it had, the people would have been slow to respond. But strong in the faith and fixed in the assurance that this is a white man's war for national existence, the people are prompt to sustain the President in his policy, and thus uphold the honor and maintain the integrity of the Republic.

I regret to see that a large portion of the supporters of Mr. Lincoln no longer give his Administration and policy a cordial support. Instead of standing by the chief of their choice in his conservative and patriotic course, they run after the false gods which abolition has set up, and prostrate themselves before the Juggernaut of negro worship. I counsel them to return to the true faith, to stand by the precepts of their much-lauded Chicago platform, and be subject to the Constitution in all its parts, to which many of them have sworn obedience. In all I have said and done on these exciting questions, it will be admitted by every candid man that I am in the line of safe precedents, if our beloved Chief Magistrate is pursuing the right path. Having unbounded confidence in him and respect for his policy, I feel that I am also in concert with the great body of the people, who share with me that confidence and respect. No man and no platform and no party can stand a moment before the hot breath of an indignant people in attempts to substitute the abolition policy and platform for that of Abraham Lincoln!

Thus, briefly, I have endeavored, without passion or prejudice, to set forth the reasons for the faith which is in me. I have passed that period in my political career when the fitful gleam of a passing notoriety can obscure my sense of duty, or the fear of an unreasoning clamor can deter me from doing what I believe to be right. I only desire the candid consideration of my fellow-citizens to the weight and propriety of the conclusions and judgments to which I have come after earnest reflection and a sincere desire to discharge my duty.

Since the vote was taken on the bill referred to in these remarks, another measure has been introduced looking to the punishment of the rebel officials by taking from them their negroes, in addition to the penalties now prescribed by law for treason. This is limited in its operation; proposes to remove the negroes from this country, and may be regarded as free from many of the objections which I have urged against the original bill. Its introduction at least shows that conservatism is a power in this House as well as in the country. As a war measure, this may have some merit, and I am willing to give it a fair and candid consideration when it comes up for action. Not having had an opportunity as yet to consider it in detail, I reserve my opinion upon it until then.

CONFISCATION AND EMANCIPATION.

SPEECH OF HON. J. A. GURLEY,

OF OHIO,

IN THE HOUSE OF REPRESENTATIVES,

May 26, 1862.

The House having under consideration the bills to confiscate the property and free from servitude the slaves of rebels—

Mr. GURLEY said:

Mr. SPEAKER: In December last I brought into this House a bill with the following title: "A bill to confiscate the property of rebels, to liberate their slaves, and to employ and colonize them." It was at least the expression of my own views of the subject of confiscation at that time; but I shall heartily support bills of a corresponding character, embracing similar objects, like those now before us for consideration, although I should prefer to see ingrafted upon one of them a provision for the employment, pay, and protection, by competent agents, of liberated slaves upon confiscated estates, when not required for service in the Army; also, one or two other amendments, looking to the indemnity of those who have been swindled by southern repudiators. I proposed colonization upon our own lands in the South for the present, under the belief that it is more than doubtful whether we can afford to lose from that section of the country the labor of so many people, whose industry is more valuable than silver or gold, independent of the fact that it is impossible to transport them for several years to a distant country. But from the beginning confiscation, in some form, I have regarded as a public and military necessity, warranted also by the Constitution; and why decisive action upon it has been so long delayed, and why so great a variety of opinions should prevail in reference to it, I am unable to understand.

For a period of more than one year the Government of the United States has been engaged in a terrific struggle, involving its very existence, and at a cost of hundreds of millions of dollars, and at the sacrifice of tens of thousands of lives of brave and loyal citizens. We have run, and are still running, the risk of foreign intervention and the utter subversion of our institutions; and yet, in the light of all these facts, Congress is to-day debating, with the skill and dexterity of a good prosecuting attorney, the question whether it is precisely, even to the *breadth of a hair*, in correspondence with the Constitution to use, for purposes of self-defense and other objects, the property of those who would plunge a dagger into the very vitals of the only great and free Republic upon the earth. Sir, if this slothful action on our part, amid such pressing necessities and awful perils, is not a sad spectacle, over which even good angels might weep, what shall we say of it?

While the enemy has seized everything in the South in the shape of property belonging to those who uphold the Government; while they receive the income from large estates in the North, and use it for the purchase of powder and lead wherewith to shoot down our fathers, brothers, and sons, for no crime, but for the exercise of one of the highest virtues accorded to individuals and nations; while they even draw in rents and interest from this District of Columbia, the seat of our national capital, more than ten thousand dollars per month, which they use to secure our destruction, we gravely debate from week to week whether we shall not, by confiscation infringe, perhaps, to the extent of a *shade* or *shadow*, that great organic law which the united energies of eleven great States are now directed to overthrow. Sir, the question is often seriously asked, I have no doubt, by our countrymen, are these members of Congress acting the part of patriots and statesmen, of men who *will* save the best Government in the world at all hazards, or are they playing the part of some village lawyer who can see nothing higher than a mathematical conformity to law pre-

cedents, some of which are as aged and musty as the oldest castles of feudal times? Why, sir, the subject was hardly brought into the Halls of Congress before a search was made, with the keen relish of the best-trained huntsmen, for some law or governmental precedent wherewith to secure its speedy condemnation before the country. So far as the Constitution is concerned, we all, of course, believe in and mean to maintain it in letter and spirit; but a difference of opinion in reference to some of its provisions is unavoidable, and what we object to now is, that merest *hair splitting* that is going on in the face of the most imperious demand for practical legislation to put down the rebellion and save the country. Precision so remarkable may be very important, much more so than I can realize; but the question of life and death to the Republic, and questions relating to a remedy for the horrible wrongs heaped upon our people and Government, far transcend the mere technicalities and unimportant criticisms of a written statute or Constitution; and I respectfully submit, that if the decision is to be pressed on such grounds, if we cannot move upon the subject of confiscation except in the light of ancient precedents, both in English and American law and legislation, which are really not against the measure, but favorable to it, we ought first to consider well the fact that we are without any exact precedent for the Government under which we live. The world itself never contained any Constitution exactly like ours—never, sir, a Government, State and national, with a combination of powers so peculiar. There is no precedent for the revolution now going on, none for the strange rebellion that has lifted itself up against the rights of God and man. We look in vain for corresponding causes in the history of the past, in a country where all the people were the authors and controllers of their own Government.

For the latter reason I claim that the authors of the present rebellion are guilty of a higher political crime than was ever committed by any people from the beginning of the world to the present hour, and are therefore deserving of a severer punishment. Do you ask why? I answer, because they have rebelled in the most enlightened age of the world; not against kingly authority, but against a Government of which they, in common with the people whom they fight, are the real authors. As I remarked in this Hall in January, 1861, before the rebellion fully broke out, there is no excuse, no apology whatever, for rebellion against a Government where the people themselves make and control it. Violent revolutions are justifiable against kingly despotism, without doubt, but not against a Government where each man is himself a ruler. Revolution against that is a high crime, is a leap in the dark. It is wild anarchy and if successful, must end in military rule, in general war, and general oppression.

The truth is, these rebels are political murderers, as well as suicides; they have thrust a dagger at the heart of a Republic which their own hands and brains helped to create; and if they are finally successful, self-government may be considered as at an end.

Amid a bloody rebellion like the present, in the exercise of a calm reason and judgment, we must *make* precedents, if necessary, as we are making progress against it, and are making important history also. Who believes that our fathers, the wise and great men of early times, who founded our institutions, intended that any Congress, much more that the Representatives of thirty millions of people, should debate several months whether it is their duty to crush out an infernal rebellion by the most signal and efficient means in their power, or whether they shall prolong one of the most destructive wars of modern times, simply in deference to some contradictory opinions of lawyers as to the meaning of certain clauses of the Constitution?

Sir, the sharp instincts of the people, which are not mystified by the cunning arguments of mere politicians, are generally right. The people are always ahead of their Representatives upon every important subject of legislation; but they decided long ago that self-preservation, if nothing beyond, requires the instant seizure of rebel property where ever it can be reached. This they have asked from the beginning; and so far as those in the West are concerned, they are amazed at our delays and seeming imbecility; but then they had not calculated, I suppose, that amid the rage and madness of rebellion and scenes of death, desolation, and wide-spread ruin, their Representatives were to stop by the wayside and argue for weeks sharp and shadowy and attenuated constitutional questions, any more than that the mariner whose ship, having sprung a leak, and is slowly settling into the ocean far from land, should stop and engage in a fruitless discussion about the lawfulness of throwing the freight overboard. The cry at such a moment is, "Over with it, and then every man to the pumps and work for life!"

But do not those who object to confiscation realize that by refusing to seize the property of rebels they signify their intention to fasten the burden of this war upon the loyal people who are defending the Government by their lives and property rather than upon their enemies? Why should they be made to support the treason of the South, while the traitors themselves escape taxation? By refusing to take the property of rebels to compensate in part for our pecuniary losses, we consent that our own people shall suffer the penalty of their crimes. Against such a course I utter my protest, and say that no proposition can be more reasonable or just than the one that those who commenced the war shall contribute of their means to pay its expenses. We tax our own people heavily to carry it on, and yet some gentlemen seem very sensitive about touching the property of traitors lest they should stir them up to renewed anger and cause them to fight more fiercely. Sir, they have already done their utmost to destroy the Government, and now I demand that they pay the penalty of their crimes. In my judgment, every vote cast against a fair confiscation bill is an indirect vote to relieve rebels and their aiders and abettors from the just consequences of their murderous designs, and place the burden of the war upon our own innocent farmers, mechanics, and merchantmen. Such a vote is a discrimination against loyalty itself, unintentional though it may be on the part of some, and will add strength to the enemies of the country, and assist to prolong the war. I will never consent that the loyal citizens of this country shall, after fighting its battles, be compelled to pay what the simplest justice demands that their enemies shall pay. Ah! sir, we have no time to lose in the task before us. These rebels are working with the malignity and activity of fiends; they are casting arrows and firebrands in all directions; they have surely fired that great temple of freedom of which Washington was the master-builder, and our right to seize such incendiaries and all their property needs no vindication—it is the instinctive and the inherent right of self-defense.

Mr. Speaker, I shall not stop to argue the question whether or not a confiscation bill is authorized by the Constitution, for we have already had in the two Houses speeches enough on that subject to fill a large volume; they are rich with authorities on both sides—learned, wise, and profound; and since grave judges and wise Senators and Representatives differ widely on the subject, I prefer to assume the common-sense position that the men who framed the organic law of our Government never intended that its provisions should be so construed as to destroy any of its own safeguards; that it should never be erected into a defensive barrier against a Government of which it is itself the solid basis. Its authors never intended to tie the hands of legislators, judges, nor the Commander-in-Chief, that traitors might run riot over a country; they gave us, sir, a Constitution that has within it the element of perpetuity, and which undoubtedly permits confiscation, and even emancipation, when they become absolutely essential to national salvation.

It has been most clearly shown in the Senate, as well as here, that confiscation laws are and have been common to all the leading Governments of the world; that during our revolutionary struggle also there were no less than eighty-eight enactments on the subject in the several States; but now, when the nation is trembling with the shock of a gigantic rebellion, and its authors are red with the blood of innocent victims, we stop and higgle for three months over questions of form and precedent, and whether we shall not hurt some murderous scoundrel's feelings if we take away his property, especially if we free his negroes!

But why theorize further on this subject? The men called rebels have no rights whatever in the Constitution; those who have drawn the sword and pointed the rifle against the defenders of the Government have no more rights there than the highwayman, who points his pistol at your heart and demands your life or your money. What we now have to do is, to consider the best means to protect the nation from their assaults, but not to let it die, lest we should mistake the meaning of some obscure provision of the Constitution, if any such there be, which we do not admit.

It is possible, sir, that I may be regarded as somewhat irreverent towards those "conservative" gentlemen who have recently united to save the Constitution from a violation which they suppose a confiscation act will bring upon it, and who demand precedents for everything we do. It is quite probable, sir, that my reverence for conservatives is not as profound as it should be, for my faith in that class of gentlemen has been much weakened in reading their history in Noah's time. They were the cause of a great calamity in those days, for although carefully warned by God's prophet that the world was about to be drowned, or would be if the people did not repent, they nevertheless spent their entire time in fiercely denying it because they could find no law nor precedent for such a flood, and none whatever for his great awkward looking ark. They mocked at Noah's message, and demanded precedents, as gentlemen now do here. They persisted in this business, and doubtless called many a "caucus" on the subject, till finally the water reached their chins; but strange to say, this did not cure them of their incredulous fogyism; and as I read the account, they turned away, uttering a very tough oath at Noah, and declaring that they did not believe that there was going to be much of a shower after all! Of course, all these extra conservatives were drowned together, as they deserved to be.

Mr. Speaker, more than once our sympathy has been invoked upon this floor in behalf of the families of those in arms against us; but I submit whether this is the time and place for appeals of this kind. When the rebels have shown signs of repentance and laid down their arms, then will come the suitable moment to wake up compassion in their behalf. Then I will go as far as any man to provide bread for the hungry and clothes for the naked. I will most heartily forgive the deceived and erring rebels when it is proper to do so; but up to this very hour they have exhibited no intention to cease their unnatural warfare. On the contrary, not content with killing our people, they mutilate their bodies, and everywhere proclaim in the South that they will fight till exterminated; and all this for no other reason than the one that we are determined to preserve a Government that has made their homes in common with ours the happiest of any upon the face of the earth. But, sir, how is it that gentlemen have so much compassion for suffering rebel families, while they manifest none towards our own people, who are being shot down and destroyed by disease in camp by thousands and tens of thousands, for no crime? Open the pages of some of your largest western newspapers, and see entire columns filled with the names of the dead, the dying, and the wounded, who fell fighting for a Republic that is the last hope of the patriot and friend of freedom in all lands. Bear in mind that these papers carry to thousands of families the first news that the children are fatherless, wives husbandless, and fathers and mothers childless. The wail of the orphan and the widow is heard throughout the North, and in some of the western States nearly every town mourns its dead, who have fallen defending the flag of their country. The whole land is already filled with mourners, and hundreds will hereafter walk our streets bearing the evidence in the limbs they have lost and the scars they carry that they offered themselves a sacrifice upon the battle-field that the nation itself might not perish. But have the extra conservative Democrats of this House no compassion for these, our own people? None for the soldiers that are dying and suffering for their country? If they have, do they show it by their every attempt to resist the adoption of

measures to speedily terminate this war under the plea of constitutional scruples and extravagant expenditures to carry it on? Is a doubt about the meaning of the Constitution to weigh against the life of a nation, and be thrown into the scale against the wide-spread sufferings of a loyal people?

I observe that some truly loyal southern gentlemen upon this floor are in favor of confiscation, while others are not. My friend from the Louisville district, [Mr. MALLORY,] a very sound Union man, is against it; and this is true of several members called democratic—gentlemen who are for a vigorous prosecution of the war. But what shall be said of those other conservative Democrats who, in the very midst of this great struggle, denounce, as did the gentleman from Indiana [Mr. VOORHEES] the other day, the Administration which is straining every nerve to maintain national honor and national existence? Have they forgotten that the very men who now control the confederate government and congress were their own leaders in this House eighteen months ago? Why, sir, the present speaker of the rebel congress was the Democratic candidate for Speaker in *our* very last Congress. He received every Democratic vote upon this floor, or nearly so. The rebel Pryors, Bococks, Garnetts, Crawfords, Winslows, Branches, Keitts, "extra Billy" Smiths, and Burnetts, were the peculiar lights of Democracy in this House, as everybody knows; and I have not a doubt but to-day they are quite as much opposed to the war that our Administration is making upon *them*, as are the peace Democrats upon this floor. On this subject they seem to agree as well as they did in former times, especially in their denunciations of the Republican party, which stepped in to rescue the Government when a Democratic Administration was about to hand it over to the rebels. The speech referred to had precisely the same ring about it, to my ears, as had the speeches of the aforesaid leaders of Democracy, just before they turned their backs upon the old Government.

But, sir, leaving this subject, go with me if you please to Eastern Tennessee and witness the horrible tortures inflicted by those whose property you refuse to confiscate lest their families should suffer. On this subject I ask attention to the narrative of Parson Brownlow, as given in New York:

"In the county of Knox, where I reside, and only seven miles west of the town of Knoxville, they caught up Union men, tied them upon logs, elevated the log upon blocks six or ten inches from the ground, put the men upon their breasts, tying their hands and feet under the log, stripped their backs entirely bare, and then, with switches, cut their backs literally to pieces, the blood running down at every stroke. They came into court when it was in session, and when the case was stated, the judge replied, 'These are revolutionary times, and there is no remedy for anything of the kind.' Hence, you see, our remedy is in our own hands; and, with the help of guns and swords and sabers we intend, God willing, to slay them when we get back there wherever we find them.

"In the jail where I lay they were accustomed to drive up with a horse and cart, with an ugly, rough, flat-topped coffin upon it, surrounded by fifteen to forty men, with bristling bayonets, as a guard to march in through the gate into the jail-yard, with steady, military tread. We trembled in our boots, for they never notified us who was to be hanged, and you may imagine how your humble servant felt; for if any man in that jail, under their law, deserved the gallows, I claim to have been the man. I knew it, and they knew it.

"They came sometimes with two coffins, one on each cart, and they took two men at a time and marched them out. A poor old man of sixty-five and his son of twenty-five were marched out at one time and hanged on the same gallows. They made that poor old man, who was a Methodist class leader, sit by and see his son hang till he was dead, and they called him a damned Lincolnite Unionshrieker, and said, 'Come on, it is your turn next.' He sank, but they propped him up and led him to the halter, and swung both off on the same gallows. They came after that, for another man, and they took J. C. Haum out of jail—a young man of fine sense, good address, and of excellent character—a tall, spare-made man, leaving a wife at home with four or five helpless children. My wife passed the farm of Haum's the other day, when they drove her out of Tennessee and sent her on to New Jersey—I thank them kindly for doing so—and saw his wife plowing, endeavoring to raise corn for her suffering and starving children. This is the spirit of secession, gentlemen. And yet you have a set of God-forsaken, unprincipled men at the North who are apologizing for them and sympathizing with them.

"Hanging is going on all over East Tennessee. They shoot them down in the fields, they whip them, and, as strange as it may seem to you, in the counties of Campbell and Anderson they actually lacerate with switches the bodies of females, wives and daughters of the Union men—clever, respectable women. They show no quarter to male or female; they rob their houses and then throw them into prison."

It has been truly stated that some of the rebels have fired upon defenseless women and children; they have poisoned wells and springs; they have tempted hungry soldiers with food containing arsenic; drinking cups they made of human skulls, spurs of jaw bones, and finger joints they sent as holiday presents to females as brutish as themselves. These, let me say to the gentlemen of the conservative school, are the class of tormentors and devils whose slaves and other property you will not confiscate through fear of exasperating the rebels or of an infringement of the Constitution. Have you more respect and regard for a doubtful construction of that instrument and of the feelings of such rebels than for the lives and misfortunes of your own countrymen? Sir, a little experience in a fire of persecution like this is well calculated to drive this sort of cold conservatism out of a man; I hope and trust in God that no one here will ever experience the bitter sorrows of these poor Tennesseeans, but if they do, they will certainly ever after see the Constitution in an entirely new light.

But how far shall confiscation extend? Shall it reach the slaves of disloyal masters? Why not? Have they not been called property upon this floor a thousand times—as much so as horses and cattle? Is it not true that they are sustaining the rebellion by their labor and mechanical skill to an extent that is impossible to estimate by figures? Is it not true that the aggregate labor of two or three millions of persons, who are simply passive and obedient, is now being thrown into the scale against the Government of Washington, Jefferson, Madison, and Adams?

I see not, sir, why property in slaves so called should be regarded as more sacred in title than houses, lands, gold, and silver. True, the man who is called a slave bears the image of God; there is upon him the moral impress of the Almighty; it is generally believed, also, that he has a soul or spirit that is immortal, and it is the common expectation that he will sit down in heaven side by side with his master. But is it for this that *he* must, amid all the changes and chances of Government, of war and peace, irrevocably remain in servitude, while every other species of property is taken from rebels? Is it, then, true that property in husbands, wives, and children is so intensified in value that even hard coin may be taken, but these never? By what rule, pray, of justice, human or divine, or of law, shall we seize the horses of rebels and pass by their slaves, when one of the latter is practically worth in this war twenty of the former? But so jealous are we of the legal rights of the loyal masters that we do not by any bill propose to touch their slaves. They stand by the Constitution and laws; that is enough for the Government to know; we must stand by and protect them; and however much we may desire it, we do not, at present, expect the freedom of even that monarchical Government upon whose shores it is said "slaves cannot breathe," nor France, which long ago sundered the chains of every bondman, nor yet despotic Russia, which sets free twenty millions of serfs, and gives them each a small farm to till. Standing as we do upon the Constitution and the law, we do not permit ourselves to even attempt such rapid strides of progress and such majestic feats of advancing civilization, although it would ill become us to close our eyes to the stern fact that had there been no slavery in this country a million of men, brothers of a great nation, brothers by blood and marriage, brothers in language and in a common destiny and interest, would not now be seen face to face in arms and intent upon each other's destruction. Had there been no rebel masters this nation would never have been plunged into this wicked war, and the sons, brothers, and fathers of our people would not have been called to lay down their lives by thousands upon the battlefield. It is on account of the crimes of the former that streams of blood and treasure are flowing to save our imperiled Government, and he who would shield the institution of slavery in the confederate States at the sacrifice of thousands of precious lives, and at the continued cost of widows' and orphans' tears, if not a madman, has at least no realizing sense of the great cause of the rebellion which we seek to crush. If, sir, the institution of slavery receives damage by this war we are not responsible for it. Let those who commenced it charge it to themselves, where it belongs, and accept the natural consequences of their folly. If it is swept out of existence in the confederate States amid the clash of arms and the upheaving of the fiery elements of rebellion, let the men who fired the first gun at Fort Sumter remember that this result is but the echo of that gun which everywhere awoke the loyal people to the defense of the Government against conspirators.

Is it replied that we can make an end of this war without resorting to confiscation? Suppose we admit that we can. The real practical question at issue is, not what twenty millions of people may do, but whether we shall prolong this war, sacrifice lives without number, pour out rivers of blood and untold treasures, rather than seize rebel property, including slaves, so as to speedily close the contest, and in some degree indemnify innocent sufferers. Besides, we have no right to assume a single unnecessary risk where freedom and the highest civilization are in peril; we are under the most solemn obligations, the highest that can rest upon any people, to throw with the least possible delay every weight within our reach into the balance against the rebel power; and indecision as to the means to be used against it, when we know what they are, indecision at a moment when Government, home, family, and property are in jeopardy, is almost the equivalent of criminality.

But there is another very important reason to be given why the power of the enemy should be speedily weakened by all the means at our command. There is at least some danger of foreign intervention in our affairs, and of a recognition of a southern confederacy. That the idea has been seriously entertained by the English and French Governments there can be no reasonable doubt; and our last advices from Europe clearly indicate the fact that the subject is still under consideration. Some three months ago, as I was informed by an agent sent out by our Government to Europe, the French Emperor seriously debated whether or not he should favor southern recognition. One day he had about resolved upon it, but on a subsequent day concluded to wait for further developments. Near this period, as our army was lying upon the banks of the Potomac, as it had done for several months, he sent for an American, long a resident in Paris—a gentleman in whom he had great confidence—and questioned him very closely as to the meaning of our apparent inactivity. The truth is, the delay of the army, however necessary it may have been, to strike decisive blows against the rebels, was, naturally enough, although erroneously, interpreted as an indication that we had not the power or skill to crush them out; and now, unless we close the contest substantially within a few months, which, however, I feel confident we shall, we may look for foreign interference in some form.

Thanks to our good and sagacious President for dividing the army at the critical moment, and ordering all the commanders to advance at once against the enemy. This defeated southern recognition, for the result was a succession of victories in the West, which saved the Government from so great a humiliation. Whereas we then had one army, with a single commander, we have now some eight separate divisions, with as many generals, all emulating each other in the noble work of restoring everywhere the authority of the General Government. As I have said, the signal success of our arms in the West that immediately followed the action of the President, made recognition impossible at that time. I will only add that when, in January last, in my zeal for a more vigorous prosecution of the war, I on this floor advocated the division of the army that was afterwards made by the Commander-in-Chief, my position on this subject was ridiculed by a colleague. I said: "Divide the army among competent generals, widely separated, so as to bring out emulation and enterprise, and give the spring to deeds of daring and genuine chivalry;" but I was answered in a speech replete with derision and low ridicule; too low, indeed, to merit a reply. In less than thirty days from that time, however, the theory I defended became, as we have seen, the practical policy of the Government, and has remained so to this day; and what is more, the

result has been what I then predicted in the following paragraph:

"Sir, only give our western generals full power to march against the enemy at will, and the war, so far as the Southwest is concerned, will close in ninety days, with the possession of the Mississippi river from our northern frontier to the Gulf. Untie the red tape about their hands, and they will soon find their way there, or perish in the attempt; for never were soldiers in such terrible earnest as ours are in the West to-day. Say to the generals, push on your columns, march forward as you will, but crush the rebellion at all hazards, and it will as surely be done as that the father of waters moves towards the sea."

Subsequent events have completely vindicated the truth of those remarks. The division of the Army, and the general supervision of the President over the whole, has proved a complete success. Our generals and soldiers in the West will soon close the war there, for they are in sober earnest, and mean *fight all the time*. Give us a reasonable confiscation law, and you will add to our forces another great element of power, and whether the war shall close this month or months to come, one conclusion is certain: the rebellion will end by making ours the most powerful Government upon the face of the earth.

CONFISCATION OF REBEL PROPERTY.

SPEECH OF HON. A. S. WHITE,

OF INDIANA,

IN THE HOUSE OF REPRESENTATIVES,

May 26, 1862.

The House having under consideration the bills to confiscate the property and free from servitude the slaves of rebels—

Mr. WHITE, of Indiana, said:

Mr. SPEAKER: I shall not attempt at this late hour to argue this question at large. There are times when the strife of argument must cease, and when reason is silenced in the tempest of emotion. The grasp of tyranny may absolve the citizen from his allegiance, and remand him to his imprescriptible rights; and so, conversely, a nation may be so far outraged and endangered by its members as to justify the extremest measures for the preservation of the national life, a thousand times more sacred than the life of an individual. Even in peaceful times we proclaim outlawry against desperadoes, and the sheriff shoots down the unconvicted felon who, with deadly defiance, resists the process of law. The Constitution has made the State the avenger of its citizens against the wrongs inflicted by a fellow-citizen; but when the danger is imminent, he takes redress into his own hands. These are exceptional cases, but their practice does no violence to constitutional government.

There are some crimes so flagrant as to admit of no palliation, and scarcely of pardon. Even in the merciful code of our Christian religion its author has revealed one sin "which cannot be forgiven, either in this world or in that which is to come." In the mildest penal code of Europe there are some crimes, especially those which strike at the structure or foundations of society, that cannot after conviction receive the royal clemency. I have been astonished, therefore, that so just and condign a measure as this should meet with any opposition. If the popular sentiment is united upon any single item of policy in these critical times, it seems to me to be so upon that of confiscation against the leading rebels. Forbearance to them is cruelty to our Government, and is to bring dishonor on the bleeding wounds of thousands of our brave defenders, the flower and hope of our country. I have been more astonished to listen to voices in this Hall, clothed with the highest embellishments of rhetoric, whose guarded protestations of devotion to our cause gave no proof of their earnestness by any exhibition of indignant zeal against the rebellion; whose rounded periods had not one single word condemnatory of the authors of this rebellion; but with ingenious labor and an unnatural perversity strove rather to fling the blame on sections who were first to fly to the armed rescue of our capital, and to characterize by the stale and worn-out clamor of "abolition" the heroic efforts and self-sacrificing struggles of noble men who sought to strike down treason in whatever form it might present itself, whether it came "as an angel of light or goblin damned," and to meet the death-struggle according to its exigency; endeavoring thus, I will not say designedly, but in effect, to turn the popular wrath from the guilty authors and plotters of our ruin to our own allies, who with us, side by side, fill the ranks of our country's defenders. Or, varying their attack, to dart their arrows, like the Camanches, beneath the bellies of their fast-flying steeds at the head of the Administration, while they themselves crouch to the pommel to avoid the opposing blow drawn from the quiver of the brief records of the past. An Administration, too, that has renounced the shibboleth of party and has selected its leading counselors and generals from the ranks of their own associates. Some of these ungenerous accusers are orators whose pathos can move the multitude to tears, or transfix the Senate with surprise; with intellectual powers little inferior to those of Sheridan, of whom the great English poet said:

"When the loud cry of trampled Hindostan
Arose to heaven in her appeal from man,
His was the thunder, his the avenging rod,
The wrath, the delegated voice of God
That shook the nations through his lips; and blazed
Till vanquished Senates trembled as they praised."

But here the parallel ceases. The British orator hurled his anathemas against the plundering tyrant who had violated British liberty in the persons of her Indian subjects. Our Sheridans point their bolts against loyal classes and an Administration struggling with difficulties such as have surrounded none of its predecessors—difficulties which its accusers, not itself, have produced, and which in their nature have involved the country in a common danger from which it can only be extricated by mutual forbearance among the loyal, and by the union of all true men.

If this was but the mar-plot of individual politicians it would be less significant, although this is a time when politics should yield to patriotism, and mere civil contentions should be forgotten. But late events have shown that even in the midst of the strife and perils of war there is to be an organized opposition to cripple the arm of the Administration. As noxious trees that have been cut down sometimes shoot their sprouting roots afar off among our furrows, perplexing the husbandman, so we have seen this party shooting up its second growth of useless saplings from beneath our plowshare, and poisoning the crop that patriotic hands were planting. I will not allow it a time-honored name, or that it can trace its lineage to that immortal chieftain who made the year 1832 memorable in our annals, and whose political virtue is now the cherished heritage of his country. If he had, like the late manifesto of his pretended followers, roared against treason as "gentle as a sucking dove," the dynastic reign of despotism, aimed at alike by Calhoun and Davis, would have fastened itself upon this country long ago. It is said that the human body changes the identity of its particles once in each short series of years. Political organizations have a longer life, but thirty years of atmospheric influence have sufficed to change the identity of the Jackson Democracy; its healthy particles have been molded into other organizations, the most honorable and comprehensive of which is known now as the Union party; its unhealthy particles, with the like elements of cotemporary parties, are now in treason, or are effete.

An eloquent member [Mr. KELLEY] has illustrated the fate of a party once high-toned and honorable, but not so far proof against the degenerating influences of bad associations and heretical doctrines but that one of its segments flew from the circle of imperial rule into the depths of treason, while the other, for its faltering virtue, was buried in Alpine ruins by the avalanche of public opinion—by the fate of a Swiss village overwhelmed by the mighty land-slide of the Alps. Had this rebellion been engendered among a party in the minority, who had for years been denied the favor and patronage of the Government, and who justly or unjustly might have preferred seeming complaints against the tyranny of the majority, it would not have presented such a solecism in human affairs. Or had the defection of one of its constituent parts influenced merely the fate of a party contest, instead of striking at the life of the nation with such amazing resources and preparations as could only have been gathered by the gross dereliction of the party in power, it would have been but a trivial affair. But unfortunately the retributions that vice or folly are sure to bring do not affect alone the guilty author or his sympathetic ally. This terrible *finale* of a corrupt Administration has involved the country in a common ruin. Here was a dominant and trusted party, gathered from all sections of the Union, claiming traditionary purity and extraordinary virtue, to whom the people had confided the ensigns of their power and all the holy guarantees of family, personal, and national security. Confidingly we sat under the shadow of their Alps, until suddenly a thousand voices of terror, echoing and reëchoing along our peaceful valleys, have startled us with the dreadful cry, "The avalanche! the avalanche!"

I have treated this question in the foregoing aspect, not from any partisan motive but defensively, and to ward against a substitute proposed under party authority, for vigorous measures; which is a transfer of power from the present Administration back into hands that have occasioned or permitted the wrong, and who can only maintain their ascendency by calling again to their alliance the rebellious element. This is not the democracy of the people, who are now willing to merge into the only party that I invoke, or that the President favors—the party of the Union. We have had enough of past experience now to adopt the policy of our virtuous President, sanctioned by Mr. Douglas, which is to draw but one line of distinction, to wit: between the friends and the enemies of the Union. Our danger is imminent enough to call for most decisive measures against the latter class.

It may be, sir, that the picture is overdrawn that these are not superhuman and unnatural agencies or desperate resistances fired by ambition and bent on destruction, against whom we war. It may be that our national confusion is too trivial to produce any eccentricities in the system, or call for any unusual exertion of the national strength; that our ship is not so tempest-tost but she will obey the rudder in the hands of some Palinuran pilot like the learned gentleman from Quincy, [Mr. THOMAS;] though I confess I should have had more confidence in his auguries if his experience had been in Mediterranean seas, where

"Far on the right his dogs foul Scylla hides,
Charybdis roaring on the left presides,
And in her greedy whirlpool sucks the tides,"

instead of the smooth judicial waters of Massachusetts bay. To my apprehension it seems more probable that the cry of captain and pilot will soon be "all hands to the pumps," and that, compass and rudder both abandoned, our only guiding hope will be the north star.

Is this a time, sir, for special pleading and county-court constructions, for spinning constitutional cobwebs around our national strength that shall catch poor loyal flies, but furnish a highway of invasion for the cruel spiders of treason? We well remember who it is that on this floor have been preaching strict construction forty years, and for what purpose and with what intent. We have seen the culmination of their argument resulting, under their own regime, in the strange anomaly of not strengthening the States, but of turning the disorganized powers of Government back upon itself, and wresting them to its own destruction. With the symbols intrusted to it by the people, with the badges of empire and nationality denied to the States and lodged alone in the Union, with what Chatham called the "genius of the Constitution" to guide and animate its powers and to elevate them to rational action instead of merely mechanical functions, it is impossible but that it must rightfully be clothed with an inherent strength equal to any emergency of peace or war. The Constitution could not in terms define these emergencies, but must grow with the growing wants of the nation—inviolate and identical the while—as the shield which once covered three millions of freemen is the same shield when recast to cover thirty millions. The first and most signal illustration of this adaptation of the Constitution to meet the growing and unforeseen exigencies of the future was in the purchase of new territory under the administration of Mr. Jefferson. The first caviler for strict construction was Callendar, in his famous phillipics against Washington and the elder Adams; the latest (with the exceptions we

have witnessed in these Halls) were Toombs and his colleagues, in their famous proclamation and manifesto of a few months ago.

I have only to say that the Opposition here who are interposing a constitutional shield to ward off our terrors from the traitors, and arguing that the backs of our friends are broad enough to bear the burden, are found with very bad judicial associates, and have not learned from very approved masters; and their doctrines, if they do not excite our suspicion, are at least entitled to our most sublime disregard.

The legal right of confiscation is disputed upon two grounds: first, that it is unconstitutional and beyond the scope of the sovereign powers granted to the Federal Government; and secondly, that it is in conflict with public or international law and those conventional humanities of war that protect private property in an invaded country from seizure by the invading belligerent.

It is enough in regard to the first objection to present one or two analogies or contrasts. The power to make and declare war and to provide for the general defense, (which comprehends the existence of the Government and the fountains from which it derives that existence,) are lodged exclusively in the Federal Government. When the people require a duty from the Government, they necessarily surrender every power and instrumentality necessary to perform that duty. Of these the three principal instrumentalities, the power of taxation, the power of enrollment and enlistment, and the power of embargo, virtually place in the hands of the Government the lives and fortunes of every one of its citizens for its own preservation; and of these the only one that must of necessity be uniform and embrace all sections and classes is the first—taxation. There are various other incidental powers which, in their exercise, may be local, partial, and discriminating. I enumerate simply the power to declare martial law, to suspend the *habeas corpus*, to raise subsidies and supplies, to appropriate private property for military uses, to declare void and null any insurrectionary State or municipal government, and to substitute new Governors, judges, and magistrates under Federal military authority; in a word, to suspend almost every individual privilege that the citizen may claim, either under State or Federal authority, in time of peace. In peace the people are everything; the State is nothing. In war the State is all in all; it is the ark of the covenant. All that we have is threatened with hostile destruction, and, dearest of all, our Government itself; and we place life, fortune, and privilege, all, in the hands of the Government. I do not say that this surrender should not be controlled by law and regulated by the representatives of the people. So far as they are executive powers merely, they are lodged with the President.

Now, if the State may thus demand of every one of its loyal citizens a surrender of all that he has, his life included, (and of the above schedule almost the only item for which compensation can be made is property,) for the sake of strengthening the Government in the hour of its great trial, it would be strange, indeed, if it could not appropriate the property of rebels, which would have the twofold effect of strengthening the State and weakening the enemy. If the right to seize and appropriate this property is thus proved, I shall leave it to him who is hardy and bold enough to claim it for the rebel, the right of compensation; and yet the clause of the Constitution, declaring that private property shall not be taken for public use without just compensation has been more than once quoted by gentlemen in this very argument. The right to seize is a sovereign power, springing from the necessities of war; the duty to compensate is an equity which the citizen must prove. I leave to those who have the taste the task of asserting or proving this right in favor of conspirators who have roused half an empire to revolt, "*non ego!*" In regard to the second objection, the immunity that the laws of modern war secure to private property in an enemy's country, the rule is subject to many exceptions, which all the publicists lay down, and is confined strictly to the property of non-combatants. It proves nothing in this argument, its policy being obviously to disrobe war of its barbarous and devastating attribute. The victor, by exacting stringent terms of peace, may, through the sovereign with whom he treats, incumber and burden the very property he has spared in war.

Feeling, sir, that our liberties and our very Government are not only violently threatened but greatly endangered, and with the sad and mournful picture before our eyes of a possible future just at hand, when the Constitution, so misquoted, shall have no acknowledged existence, but shall yield to revolutionary forces; when brigands shall be our legislators, and some usurping tyrant our President; when the laws shall be powerless, and each man shall carry his rights on the point of his sword; when arts and learning and domestic security shall wither and die—feeling and fearing all this, we have roused the national energies to prevent such anarchy. Was it a chimera, and were those fears groundless? For more than three hundred years large portions of our own continent, sprung from a people then the most refined and enterprising in all Europe, have furnished historic examples of the possibility of such a condition—in defiance of every advantage of climate and soil, and the varied bounties of nature—in spite, too, of our example, and of the progress of constitutional government in Europe. In this effort to perpetuate our liberties and privileges, so dear to us, so valuable to mankind, we have been deeply wounded in our national sensibilities. The blood of our brethren has flowed profusely. In almost every house are those who lament in secret chambers their loved ones slain in battle or victims of the camp's contagion; but nature, who kindly provides a medicament for her own inflictions, would at length cure all this, and cicatrize our wounds. The ever-flowing series of humanity would soon refill its empty channels, and in this respect "grim-visaged war" would come to be regarded only as one of the ordinary ministers of death. Nationally, we should soon replace this loss, while the sobs of private anguish would be drowned in the jubilant shouts of a whole people returned to freedom and to good government. Perhaps, if this were all, it might not even obstruct the exercise of that divine precept of our holy religion that has been invoked on this floor, the forgiveness of our enemies as we hope to be forgiven by our Almighty Judge.

But public justice is another thing. In this mighty effort our national resources have been drained almost to exhaustion; public burdens are now piled up mountain high; and that great enemy to equal privileges and republican government, burdensome taxation, falls upon this generation with a crushing weight, perhaps to be transmitted to the next. Such is the condition of the loyal States. How greatly is it aggravated in the revolted States, and how are our loyal brethren there (those who shall survive the tyranny and treachery of their foes) to shake off this mountain from their shoulders? When their unconquerable will shall be unfettered, they will still be unable to lift their heads among men, because they will be the victims of poverty and the vassals of fortune. Plundered, outcast, and robbed of their possessions, can a paternal and generous nation leave them in this wilderness in the holy name of the Constitution? I will not be one of the judges to pronounce such a doom against my suffering brethren. Let the guilty atone for it! Let *their* estates yield the ransom! Nothing in heaven or earth can be more condign, nothing more constitutional. A different course would summon against us the shades of Madison, of Jay, and of Hamilton; and justice would frown displeasure from her bandaged eye-balls.

It is to restore our national vitality and to propitiate the great ends of justice that this measure of confiscation is proposed. It is to operate on the guilty alone. Incidentally, its moral effect will be to hasten the conclusion of the war, and to restore our wearied soldiers to their much loved homes. In the language of the sage of Quincy, which I have once before quoted at this session, "were we to slumber in indolence, or fold up our arms and proclaim to the world *that we are palsied by the will of our constituents*, would it not be to cast away the bounties of Providence, and doom ourselves to a perpetual inferiority?" The constituent will to which Mr. Adams here referred, was their will as expressed in the Constitution; and this beautiful apostrophe was a patriotic and fearless appeal to the powers of Government to aid in one of the beneficent objects of peace. Happily for the nation, this appeal prevailed against contemporary cavilings, as ours will now. Its monuments and its trophies are seen everywhere to deck our land and enrich our commerce, and who feels that the Constitution has been scarred?

How much stronger warrant have we, the Representatives of the people, reflecting their majesty, their justice, their will, and especially their patriotism and their high powers of war, to employ the Constitution to save itself and redeem the country. Now, when the corpses of our friends

"Manure the fields of Thessaly;

when financial burdens have been forced upon us so grievous as to breed discontent and endanger the well-working of our system; when chaos sits brooding over the border States, and thousands there, whose hearts beat true to their country, have been hurled by terror, tyranny, or rapine from every social and personal enjoyment, shall the Constitution prove a shield to the traitor, and his ghastly smile be permitted amid the ruin he has created? Shall we leave loyal men in the midst of elemental strife, and introduce the disloyal to the high places of society and to its choicest gifts? If so, nothing is more profitable than treason. It has a double reward; first, in the privileges it has usurped or stolen, and next, in the guarantees of the Government. In that purer system from which all our examples are drawn, the suffering and persecuted Christian, while he is admonished that "if in this life only he has his reward, he is of all men the most miserable," is sustained and encouraged by the promise that in the coming state, the retributions of eternal justice will restore the balance. If analogies can be drawn from the order of nature and of Providence for the solution of human affairs, it is apparent that our governmental system has received such a shock that the social element must be reconstructed, and retributive justice can only be vindicated by the policy now proposed. Thus will its homogenious affinities be preserved, and thus will the Constitution perpetuate itself—in peace our glory and our ornament; in war the sure defense of the humblest citizen who clings to its protection.

In a war between independent nations, the victorious party exacts indemnity from the conquered in the treaty of peace. This is usually in the form of new commercial privileges secured, territorial concessions, or stipulated sums paid. The nation thus compensated, having suffered a common burden, and none of its members at fault, devotes these acquisitions, with all the prizes gained in war, to the common treasury. In the case of outrages or spoliations committed upon any of its citizens by a foreign Power without a declaration of war, it demands from that Power indemnity to the party injured. This is public law, and is what a nation, when its rights have been established by a successful appeal to the highest arbitrament—that of arms—owes to its own dignity or to its injured citizens. Our Constitution is declared to be ordained for one of the leading principles for which the code of public law was created, "to establish justice." If disagreements arise in regard to the construction of the international code, the only appeal is to the conscience of the civilized world. We appeal to the conscience of the nation. Whether we are now engaged in a war, in the public acceptation of the term, or whether the acts of the rebels are unauthorized acts of spoliation, cannot vary the duty or the rights of the Government. If it is a war, it is so far anomalous that there is no ostensible Power to treat with, and therefore our reclamations must be made upon the individual parties who wage it, as it would be if they were irresponsible or nomadic tribes. If it is a spoliation without a public declaration of defiant hostility, there are many and obvious reasons why the principles of public law in a parallel case should apply, and why we cannot be remanded to the inferior municipal jurisdictions for redress, among which it may be sufficient to cite the following:

First, it is on a scale and of such proportions that adequate indemnity can neither be reached nor enforced through these tribunals. Powerless to prevent the wrong, they have to yield their

functions to the armed majority of the nation. The guiding and governing genius of the mischief, who

"Rides the whirlwind and directs the storm,"

often works through unwilling agents, through conscripts, whose repentance should readily purchase amnesty, and he could scarcely be recognized or punished by the strict rules of the common law, though his offense smelt to Heaven and he stood condemned in the judgment of the State.

Secondly, the blow is aimed mainly at the nation, and the wrong cannot be measured by the ordinary standards of computation governing courts and juries, and it must not be forgotten that whatever may be the character of this struggle on the side of the assailants, on ours it has all the badges and the dignity of war, and that this is essentially a measure in aid of the military arm. That it will operate also as a measure of redress does not make it unjust.

To conclude. Those who would reduce this unparalleled rebellion to the standard of a mere penal offense or crime against municipal law would virtually grant it an impunity. We have seen that the courts cannot reach it; and if we can point no terrors but those which our armies administer, the rebels are in a better condition than we. Some we may send to death in open combat. Have they not an equal chance to sacrifice our loyal countrymen? Do they scruple to aim at the lives of our sons by dastardly guerrilla warfare? Suppose that we conquer them in the field, it is but to translate them from self-imposed hardships, which nothing but their rage enabled them to sustain, to gentle confinement and well-ventilated prison-yards, to be discharged on the speedy return of peace "unwhipped of justice," for the procurement of honors that may perhaps be denied to our languishing soldiers returned from the gloomy prisons of the South, or perchance full-fledged with the spoils of their Union neighbors, to foment a new rebellion or scatter misrule through the land.

Sir, this is not what the people demand either through their oral will or their written Constitution. They know the pangs to which the Constitution and liberty itself have been subjected, and they have already determined who shall pay the ransom; and there is no danger but their righteous judgment will properly discriminate in favor of the deluded or unwilling masses who are entitled to your amnesty, while the fate of the guilty leaders who have broken a twofold faith, as citizen and magistrate, to this beneficent Government shall serve as a perpetual warning against future treason. For thirty years we have watched and feared the growth of this evil from latent seeds that have floated in the procreating atmosphere of centuries. We have tested its implacable nature and we have proved it irreconcilable with republican freedom by the gigantic nature of its first open struggle. We must meet it with a giant's strength even if, like the fabled Jove, we have to release our heaven-born allies, the Briarean forces of our Constitution, from their dark confinement. Our consolation is that if its powers are Titanic, they are but earth-born and must yield to the superior influence of civilization, and to those better principles which, in the providence of God, have thus far been our guide and our defense.

CONFISCATION OF REBEL PROPERTY.

SPEECH OF HON. R. H. NUGEN,

OF OHIO,

IN THE HOUSE OF REPRESENTATIVES,

May 26, 1862.

The House having under consideration the bills to confiscate the property and free from servitude the slaves of rebels—

Mr. NUGEN said:

Mr. SPEAKER: I am reluctant to claim the attention of the House when matters of more importance than my remarks should receive its consideration; but in view of the discussion which has already been had in this Hall during the present session, I desire, in an informal and brief manner, to present my views upon some of the measures which now engage the attention of Congress and the country.

Sir, we are in the midst of a civil war of formidable proportions and appalling magnitude. When and with what result that war will end no one can with certainty predict, and perhaps it is neither prudent nor profitable at this time to attempt to speculate upon that subject. It is certainly, however, the desire of every patriot that it shall terminate in the most speedy manner possible.

By a return of the people of the rebellious States to their allegiance to the Federal Government, and by willing submission on their part to its constituted authority, when that period shall arrive the people of the country will demand that the army which has been so suddenly called into the military service of the country shall be disbanded, and its gallant soldiers be permitted to return to their peaceful avocations and endearments of home, that the country may be as speedily as possible relieved from the financial embarrassments in which it is now involved, and which must continue to increase so long as hostilities continue to exist between the Government and the rebellious States. I believe the loyal people of the country will be willing to make every sacrifice that patriotism can demand to restore the Government to its original unity and strength; that for this purpose, and this alone, they will willingly sacrifice their property and their lives. But when the object of this war is diverted from that for which it was inaugurated, and the great struggle now going on becomes one for the existence of a party or a theory, instead of one for the existence of the Government as our fathers gave it to us, they will not render that cordial support which is necessary to insure the complete triumph of our arms.

I concur most heartily with my colleague, [Mr. HARRISON,] who, in the course of his able speech, submitted to the House some weeks ago, declared that in his judgment the predominant sentiment of the people of all the loyal States is, that the war must be efficiently prosecuted in conformity to the Constitution, and for its maintenance and preservation, and for no other purpose.

Sir, I have no doubt of the existence of that sentiment among at least nine tenths of the people of the loyal States. They were inaugurated to vindicate the Constitution and the laws, and not for the purpose of violating them; and neither the plea of a military necessity, nor any other that can be framed by the ingenuity of man, will be sufficient to justify any of the departments of Government in violating the Constitution and laws which it is sought to make the people of the rebellious States obey.

Sir, there can be no dispute as to the original objects of this war. They are plainly stated in the proclamation of the President, issued on the 15th of April last, as well as in his subsequent proclamations on the same subject. I will read a portion of his first proclamation, which is as follows:

"Whereas the laws of the United States have been for some time past, and now are, opposed, and the execution thereof obstructed in the States of South Carolina, Georgia, Alabama, Florida, Mississippi, Louisiana, and Texas, by combinations too powerful to be suppressed by the ordinary course of judicial proceedings, or by the powers vested in the marshals by law:

"Now, therefore, I, Abraham Lincoln, President of the United States, in virtue of the power in me vested by the Constitution and the laws, have thought fit to call forth, and hereby do call forth, the militia of the several States of the Union, to the aggregate number of seventy-five thousand, in order to suppress such combinations, and to cause the laws to be executed."

Under this proclamation thousands of our brave countrymen rallied to the rescue of their country. No other appeal was made to them than that which was suggested by this manifesto. No other appeal than that would have produced such an outburst of popular feeling and patriotism.

The appeal was made to the people to vindicate and aid in enforcing the laws of the land against those who were in arms against the Government, trampling the Constitution and laws under foot, and was not an appeal to the loyal people to violate them because the people of the disloyal States were doing so. This proclamation of the President was under the authority and in the precise words of the act of Congress passed in the year 1795, but a few years after the Constitution was adopted, and which was passed for the purpose of carrying into effect that clause in the eighth section of the first article of the Constitution which authorizes Congress to provide for calling forth the militia to execute the laws of the Union, suppress insurrection, and repel invasions. The proclamation of the President subsequently issued, calling for additional volunteers, was based upon the same clause, and was for the same purpose, namely, to suppress unlawful combinations against the laws. This resistance to the laws was treated by the Government at the beginning, and ever has been treated, as a rebellion—not as a public war; no war has ever been declared either by Congress or the President, and the rules which govern two sovereignties or nations at war with each other, do not apply, except so far as it may become necessary to apply them for our own protection in consequence of the magnitude of the rebellion; for since the war began, it has become necessary to send flags of truce to the rebels, to recognize the rank and command of their military officers, exchange prisoners with them, and in many instances to deal with the so-called confederate States as a belligerent Power.

But these are only acts growing out of the immediate operations of the armies, and demanded by the exigencies arising in a conflict of arms between two powerful sections of a common country. But when we shall cease to regard the Constitution, and to fight the battles of the country outside of it and the Union, applying, in this contest with the rebellious power, all the rules of international law regulating two sovereignties at war with each other, we admit the so-called confederate States to be a government, and we should no longer denounce their people as rebels and traitors. Nor have we a right, in that event, to seriously complain if other nations treat them as a government, and claim the right to exercise that intercourse with them which neutral nations are permitted to have with either or both of two belligerent Powers.

But, in addition to the proclamation of the President, to which I have already alluded, treating this as an insurrection, we have the act of Congress of July last, which is merely an amendatory act of that of 1795. But it is a loss of time to show that the Government has thus far prosecuted hostilities against the seceding States for the purpose of executing the laws and protecting the public property. Every call that has been made for troops, and every other act thus far on the part of the Government, *has been for this and no other ostensible purpose.*

During the time that recruiting was going on for the Army, if there was any considerable sentiment in favor of prosecuting the war in any other than a constitutional manner, or for any other than a constitutional purpose, it remained for some reason comparatively quiet. This House went so far at the extra session of Congress in July last as to pass almost unanimously certain resolutions offered by the distinguished gentleman from Kentucky, [Mr. CRITTENDEN,] which declared:

"That the existing civil war should not be waged on the part of the Government in any spirit of oppression, nor for any purpose of conquest or subjugation, nor for the purpose of overthrowing or interfering with the rights or established institutions of the States, but to defend and maintain the supremacy of the Constitution and to preserve the Union with all the dignity, equality, and rights of the several States unimpaired, and that as soon as these objects are accomplished the war ought to cease."

For this resolution I believe every member present at the time, with three or four exceptions, voted. The term "established institutions of the States," plainly included the institution of slavery, although some persons have tried to avoid that construction by denying slavery to be an "institution" of civilized society. I will not say that the resolution of the gentleman from Kentucky was adopted as a matter of policy, for the purpose of lulling the suspicions of those who might hesitate to enter the military service for the purpose of fighting to vindicate the anti-slavery sentiment of the country; but I must say that the passage of this resolution, and the suppression for the time being of anti-slavery projects, was very inconsistent with the policy which has been advocated by so many gentlemen on the other side of the House since the beginning of the present session.

From the very first day of this session, resolutions and bills proposing emancipation in various degrees, from the abolition of slavery in the Dis-

trict of Columbia to those proposing its entire abolition in all the States, have been continually introduced and urged, and are now being matured and most likely will be passed.

The first of these measures, the abolition of slavery in the District of Columbia, has already passed the two Houses of Congress by the entire vote of the Republican party, and is now a law. This is but the first act in the programme which the party in power, in my humble judgment, have laid down, and intend to carry out.

The passage of this measure will be followed by the announcement of the success of others, all looking to the one grand object of prolonging the war until slavery is abolished in all the States, or until the free States are separated from those slave States in which it is found impossible to abolish the institution. It may yet be denied by many of the leaders of the Republican party that such is the design of the party. But have they not heretofore denied their intention to interfere with slavery in any place where it already existed in the States or in the District of Columbia?

I recollect that during the last Congress a prominent member of the Republican party, then a member of this House, and now a Senator from Ohio, [Mr. SHERMAN,] declared on this floor, in the strongest terms, his opposition to the abolition of slavery in this District while the institution existed in Maryland and Virginia. Now he, with his Republican colleagues, have originated and passed a bill which some of them, less than two years ago, protested against.

The same distinguished gentleman, on the 11th day of February, 1861, while a member of this House, introduced the following resolution:

"*Resolved*, That neither the Congress of the United States nor the people of the non-slaveholding States have the constitutional right to legislate upon or interfere with slavery in any of the slaveholding States of the Union."

This received the unanimous vote of this House. Yet the same gentlemen on the Republican side of the House who supported this resolution are now supporting measures in direct violation of it; measures proposing to interfere with the institution where it exists, not only in the District of Columbia but in the States. Most of these propositions for emancipation in the States have sought to reach the institution under the head of confiscation of rebel property, by bills providing for confiscation generally, and emancipation particularly.

The most recent project on this subject, however, is that which came from the Executive Mansion in the shape of a proposed resolution for the consideration of Congress, as follows:

"*Resolved*, That the United States ought to coöperate with any State which may adopt gradual abolishment of slavery, giving to such State pecuniary aid, to be used by such State in its discretion to compensate for the inconveniences, public and private, produced by such a change of system."

This was at once adopted by the dominant party in Congress. Why this message was sent to Congress by the President at the time it was sent, or what its precise object and meaning are, I have never heard satisfactorily explained. There was to ordinary minds no apparent necessity for such a proposition at the time, as no State had at any time proposed emancipation nor asked Congress to coöperate with it in a measure of that kind; nor is it probable that the *bona fide* citizens of any of the slave States will, for a considerable time, ask any such relief of the national Legislature. A few men from the free States who go into some of the slaveholding States as adventurers may go through the forms of voting on the subject, assuming, under the name of a provisional government or otherwise, to act for the State; and having voted in favor of emancipation, Congress may then proceed to carry out the wishes of these men who are but its own agents; and thus the free States, through Congress, under color of the sanction of authority derived in this illegal manner, may do that which it is admitted by the resolutions so unanimously adopted a year ago that neither Congress nor the non-slaveholding States have the right to do.

The people of the free States thus, by the consent of their own citizens, would, by the power of Congress, abolish slavery in these States. This would be about as legal a proceeding as that of a felon sending his accomplice in advance into a neighbor's house, that the accomplice, being in the occupancy of the house, assuming to act for the rightful occupant, might confer title to stolen property by such assumed occupancy.

If at any short day any request of this kind is made of Congress, it will, in my opinion, be through some such subterfuge; for I am satisfied that the *bona fide* citizens of these States do not desire the passage of emancipation bills at this time, and so their Representatives here inform us.

It may be that this suggestion of the President was in part made from the fact that those schemes which proposed emancipation in the States, under the plea of a "military necessity," and without constitutional authority, were so transparently absurd that the Administration was fearful they could not be sustained, and that it was thought best to try to accomplish the great aim by another resort and upon a new idea. And I am further inclined to conjecture that the President became alarmed on account of the conservative position he found himself assuming on this subject, and that, being no longer able to resist the "irrepressible conflict" which was waged against him by the *ultra* portion of the Republican party, (which, I am sorry to believe, includes most of its leaders and nearly all the rank and file,) he sought this proposition as a means of letting himself down from the proud position he had attained in the minds of the conservative masses of the people of the country.

Much as I admire the President for the independence of thought and sound judgment which he has on many occasions exhibited, I fear he in this instance yielded to the entreaties of politicians, instead of following the dictates of his own judgment, as well as the feelings and sentiments of the people of the country. For both he and gentlemen on the other side of the House will learn that most of these measures will not be sustained by the people, except in those radical sections of the country, where, on this subject, they are "joined to their idols" and forget the interests of the white man in prosecuting their projects of false philanthropy for the black race.

The late local elections throughout the country, and particularly in the great West, in which the Democracy and other conservative men of the country have achieved the most complete and in many instances unexpected victories, are but the mutterings of a storm of indignation which will sweep over the entire country, hurling from place those who persist in using this Government for their personal interest and political preferment, while the public Treasury is bleeding to the amount of millions per day, (and which is to be replenished by an exorbitant and oppressive system of taxation,) and while thousands of our brave countrymen are laying down their lives upon the battle-field, leaving homes desolate and friends disconsolate, to restore the Government as it was prior to the election of the present Chief Magistrate.

Sir, I indulge in no idle prediction when I say that the people neither East nor West will much longer be made the dupes of politicians and speculators, for the pitiful consideration of a little worn-out "twaddle about the negro" and "negro slavery," and for the still less beneficial consideration of having their fertile and beautiful country overrun by an ignorant and vicious population of worthless negroes, to annoy and disturb society, driving from employment white persons who rely on daily labor for their support.

Another, and to my mind most probable motive in sending to Congress the message alluded to, was to inaugurate a policy looking to an ultimate separation of the Gulf States from the Confederacy, and to enlarge the area of a northern confederacy of free States. I have ever been satisfied that, with all the pretenses of the leading members of the Republican party of devotion to the Union, a majority of them do not in reality desire to see the Union exist as it was, but desire that slavery shall either be abolished in all the States, or that a northern confederacy of free States shall be established, in which they may rule supreme. The latter result would be most acceptable to the capitalists of the eastern States, to whom we of the West are made tributaries in all things. If a southern confederacy should maintain control, as it would, of the Mississippi river, that great natural outlet for our commerce, this would force us for all time to come, as it has since the rebellion, to find an outlet to the eastern cities for our trade, and thus become tributaries to their commercial interests upon their own terms.

We have had an illustration on a small scale during the last few months of the manner in which eastern capitalists would make us subservient to their interests, by the manner in which the railroad interests of the country have been identified with the Government. For several months the Baltimore and Ohio railroad, one of the principal thoroughfares of the country, which was in places destroyed at the beginning of the rebellion, has remained obstructed, from the fact that the Government has not afforded it that protection which was in its power. And this is said to have arisen from the fact that the late Secretary of War and his immediate friends were largely interested in another rival thoroughfare, which has been during that time monopolizing the transportation of freight, passengers, troops, and munitions of war, upon such terms as its managers might demand; and the consequence has been that our produce has been taxed to advance the interests of these patriotic gentlemen, as is evidenced from the fact that since the first-named road has been opened there has been a reduction on freight of some five dollars on the ton between Cincinnati and the eastern cities, which amount now goes into the pockets of our people instead of those of eastern railroad capitalists. I only mention this as an instance, less important, of the manner in which we of the West are made to play into the hands of eastern capitalists for the consideration of their coöperation on the negro question.

The late Secretary of War, Mr. Cameron, while his Department was committing the most gross abuses—according to the statements of his political friends—was loudest in his protestations of devotion to the anti-slavery cause. In proportion as these abuses grew extreme in his Department, he grew extreme in his views, until he became the great champion of the radicals on this subject, receiving their unqualified approbation and applause.

Some months ago the country was thrown into a state of alarm by a letter of Secretary Seward, (an eastern gentleman also,) addressed to the Governors of various States, intimating the necessity of immediately strengthening our coast defenses. Some of the States have proceeded to expend money, as suggested, in increasing their defenses, and it is proposed to reimburse them from the Federal Treasury; a bill is now before one of the committees of the House to receive loans from the States in which such defenses are situated, and to issue the bonds of the Government to the amount so accepted, which is nothing more than the Government issuing its bonds to those States that they may convert them to their use in what they may be pleased to call strengthening their "coast defenses." What the probabilities of "foreign intervention" were at the time, which was supposed to be the cause of the extraordinary letter from the able Secretary of State, he was best qualified to determine, although he has in more than one instance proven to be no prophet. But this much the far-seeing Secretary well knew, that whether foreign intervention took place or not, his State and his section would lose nothing by these precautions, as all, or nearly all, the money expended by the Government in this way would go into the hands of eastern gentlemen.

Now, since for a time apprehensions of foreign intervention have subsided, it is mooted that it may be necessary to not only strengthen but remodel our whole system of coast defenses, for which very large appropriations must be made, and a host of additional officers be appointed, for fear an iron-clad steamer, down about Norfolk, called the Merrimac, may slip into some of the harbors of the great eastern cities and lay them in ashes before their citizens shall be aware of her approach, an occurrence certainly less probable than foreign intervention was some months ago.

Again, we have before Congress a bill for a Pacific railroad, a measure which, in a proper form, at a proper time, would receive the assent of most of our people; but on examination of the bill, there will be found a clause requiring the iron used in the construction of the road to be of American manufacture, without regard to its cost; and

this at once explains the reason why its passage is urged so earnestly by certain eastern gentlemen from sections interested in the manufacture of iron. A proposition made by my colleague [Mr. Cox] to buy the iron in the cheapest market for railroad iron of the desired kind, was voted down by the friends of the bill. Thus it is that nearly every measure in Congress that is of any advantage to any section is framed with a view of advancing the interests of the East in a special manner; whether it be tariffs, tax bills, railroad bills, fortifications, Government contracts, or what not, the eastern States are sure to have the "lion's share." And I have no doubt our eastern friends will do all in their power to consummate their measures, while they have their allies in the West who are content with the "negro" for their share of the benefits of the Government; and that the war will be prolonged, if necessary, until they shall have secured the success of their enterprises.

But I am traveling with my remarks outside of the course I had intended to pursue. I was proceeding to notice some of the apparent changes of the policy and sentiments of the Republican party within the last six months on the subject of intervention on the part of the General Government with the institution of slavery. As a further evidence of a decided change in what appeared to be the policy of the dominant party up to the time the present session began, it will be remembered that shortly after the commencement of the session, the gentleman from Indiana [Mr. HOLMAN] offered a resolution reaffirming the "Crittenden resolutions," passed so unanimously in July last; but this House refused to pass the resolution. The proposition was laid on the table. And when, at a later day, I offered a resolution declaring that, "in the judgment of the House, no part of the appropriations now or hereafter made, nor of the taxes now or hereafter laid, should be used in carrying on a war for the purpose of emancipation," it met with a similar fate—those voting to lay on the table being all Republicans, and those voting against laying on the table being all Democrats and gentlemen from the border slave States. I thought my resolution a very fair one; and that since there had been so much said on the subject of emancipation during the session, if the majority of the House were opposed to making the war one for that purpose, they would unhesitatingly adopt it; and that while Congress was appropriating money to the amount, for the past year, of $491,445,984 11, which is the amount of the public debt up to May 29, 1862, and since it was proposed to levy a direct annual tax upon the country of over one hundred millions of dollars, it was due to the great mass of the people who, in my judgment, are opposed to all these emancipation schemes, that they should have some assurance as to the manner in which their money was to be applied. For, as I have already said, while the people of the country will, as I believe, cheerfully contribute all that they have to support the Government, they will not willingly, in a time of general depression and distress, cheerfully submit to a tax on their property which is approximating to its value, and hand over to the tax gatherer their last dollar, to be carried to the Federal capital, one portion to be distributed among an army of officers and Government contractors, and the residue applied in keeping an army in the field that these contractors may continue to plunder the Treasury, and the abolition sentiment be vindicated. Much as they may be opposed to the institution of slavery, they will not cheerfully suffer such sacrifices as they are about to be called upon to make, when neither the black nor the white race will be benefited thereby, and when the object of these privations and sacrifices is that of violating the organic law of the Government, instead of sustaining it, as was the declared object at the beginning of the war.

I was struck with much astonishment at the remarks made by the gentleman from Indiana [Mr. JULIAN] in the course of an able speech which he delivered in the early part of the session. I knew that gentleman was radical in his opinions, but I did not think that he or any other gentleman would publicly announce the sentiments which he did on that occasion. In the course of his remarks he used the following language:

"The nation is greater than the Constitution, because it made the Constitution. We had a country before we had a Constitution, and at all hazards we must save it. The Constitution was made for the people, not the people for the Constitution. Cases may arise in which patriotism itself may demand that we trample under our feet some of the most vital principles of the Constitution."

The gentleman is entitled to great credit for candor of statement, but not, in my judgment, for sound logic. The fact that the nation, or the people who comprise it, through their delegates, framed the Constitution, which was afterwards ratified by the States, does not authorize Congress, which is the creature of the Constitution, to violate that instrument while it remains in force as the organic law of the land. The people of the nation having adopted the Constitution as it is, are bound by its provisions until they amend it in the manner therein provided for, or by common consent annul it. But in no case, while it is in force, can a majority of the people, assuming to be the nation, violate the national compact to the injury of the humblest citizen. While it may be true that the nation is greater than the Constitution, it follows, on the same principle, that the Constitution is greater than Congress or either of the departments of Government which the Constitution has called into existence; and neither Congress nor any other department of Government can exercise powers not authorized by that instrument which is the "source of their being."

If it be admitted that either of the departments of Government have the right, in a particular instance, to disregard the Constitution, because in the opinion of some organization of men, overzealous in a particular cause, a military necessity requires the exercise of unconstitutional powers, the same necessity may constitute an excuse for the most flagrant and oft-repeated violations of the Constitution and abuses of power by the officers of Government, when their personal interest or that of their friends prompts them to their commission; and in the end all constitutional, as well as natural rights, will be at the disposal of our rulers; and instead of having a Constitution and a Union to vindicate, we shall find ourselves without hope for the future, serving no other purpose than that of sustaining those in power who are trampling upon the rights which were handed down to us by the patriots of the Revolution.

I know whenever the slavery question arises there is a disposition to pass lightly over all such considerations as I have indicated; but if violations of the Constitution are permitted, they will not stop with measures connected with the institution of slavery, but the same gross violations, under the same plea, will extend to all the operations of the Government upon all subjects. I cannot, therefore, consent to any plain infractions of the Constitution under any plea whatever. Although I might not be disposed to cavil about the exercise of doubtful constitutional powers when the exercise of such powers were required for the public welfare, yet I have not thus far seen the necessity of Congress or the Executive exercising any powers for the emancipation of slaves, if by any reasonable construction of the Constitution they may do so; and in my humble judgment no such power can be exercised by either over any of the slaveholding States of the Union. But it is unnecessary to argue the question of power over the States as heretofore understood by all parties. I have already referred to the resolution of the 11th of February, 1862, supported by every Republican member of Congress, not even excepting the notorious gentleman from Illinois, [Mr. LOVEJOY,] who is so well known for his radical views on this subject.

I might also refer to the following resolution offered about the same time by Mr. Palmer, of New York, a Republican, and supported by the entire Republican delegation present in the House at the time:

"*Resolved*, That neither the Federal Government nor the people or governments of the non-slaveholding States have a purpose or a constitutional right to legislate upon or interfere with slavery in any of the States of the Union."

In addition to these resolutions, we have had the declarations of the leaders of the Republican party, upon all occasions since its organization, that they had no intention of interfering with the institutions of any of the States; that it was to the extension of slavery that the opposition of the party was raised, and not against it where it already existed. Those who are now in rebellion against the Government denied the truth of those declarations. They charged that the party was insincere in making them; that the party being based upon the "one idea"—that of hostility to slavery—its object was to get control of the Government by these promises of non-intervention, and then bring the whole power of the Government to bear against the institution wherever it existed, and "that the only safety of the slaveholders was to seize their portion of the public arms and public property, that these might not be used in sustaining and waging a war against them and their institutions." Those Republican leaders denied those charges, and the resolutions to which I have referred were, perhaps, intended as further evidence of their sincerity. It is to be lamented, however, that these resolutions, as well as all other measures looking to a peaceful adjustment of our difficulties, were withheld until the Gulf States had withdrawn and had a government of their own in operation. A heavy responsibility rests upon those who trifled until the last moment with events that were to determine the fate of thirty millions of people. I believe the people of the country and posterity will hold the men responsible who, having the power to propose and adopt measures for conciliation with the South, sneered at their complaints until the time for conciliation had gone.

But what I have to say in regard to the proposed measures of emancipation is, that when they are adopted they will confirm the charges made and the distrust expressed by those who are now in rebellion against the Government; and not only will the people of the South be confirmed in their belief of the insincerity of this party, but the people of the whole country will be brought to the conclusion that such was the policy of the party from the beginning, and that they have secured power by false pretenses. The pledges made to the people by this party are too fresh in their recollection to be so soon forgotten.

"The Government has been restored as it was" with a vengeance. Instead of peace, harmony, and general prosperity, we have war, revolution, and general bankruptcy. Instead of freeing the Government of peculations and frauds, we have them increased a hundred fold. The Treasury is bleeding at every pore by the depredations of Government contractors and unfaithful officials.

"Homes for the homeless," were among the pledges of the party, but there seems to have been a condition that those who receive them shall serve three years in the Army, fighting for them before enjoying them.

But these are results which may not have intentionally been brought about, at least not by the President, who, no doubt, would gladly have had his administration a more prosperous one. But they are results which were foretold years ago by the Democratic party, in the event of the success of a sectional candidate to the Presidency. The Republican party sneered at these predictions, and denounced those who made them as "Union savers" and "Union croakers," scoffing at the idea of an attempt to disrupt the Union. Time has shown who was right and who was wrong in their views of policy. Let facts speak for themselves. We have the results before us, and let each man judge for himself as to where the responsibility rests.

But to return to the subjects of confiscation and emancipation, which are frequently used as synonymous, but which are very distinct—confiscation meaning to apply to the use of the public Treasury, emancipation being the act of liberating those in bondage. The motive in blending the two subjects together is, no doubt, to carry emancipation, which is the absorbing idea with gentlemen on the other side of the House, under the head of "confiscating the property of rebels." Emancipation and confiscation are so distinct that it is entirely useless to consider them in the same bills. No one seriously proposes to sell the negroes of rebels and place the proceeds in the public Treasury, which would be the only way of confiscating them. This would be recognizing them as property, which I am quite sure our Republican friends will never do.

It has been said by gentlemen on the other side of the House, that those who refuse to support bills for the emancipation of the slaves of rebels,

are for making this species of property more sacred than other property. This is a slight admission on their part that slaves are property, which I have never admitted to be the case, except in those States where the institution exists by municipal regulation, or in those instances where the provision of the Constitution extends for the recapture of fugitive slaves. If slaves are property, and if confiscation bills are to be passed, a general law for confiscating the property of rebels will suffice. But the bills which have been introduced on this subject provide in some manner for confiscating the property of disloyal persons, and then conclude with a section, to which the residue of the provisions are a mere prelude, providing for the emancipation of persons claimed to be held to service or labor by disloyal persons. The object of framing these bills in this way is doubtless to compel gentlemen to vote for the whole of them, including the abolition of slavery, or be liable to the charge of opposing the confiscation of rebel property, which gentlemen suppose a very grave charge, but which I am at all times ready to incur when there is no constitutional authority for such confiscation. The only manner in which the private property of rebels can be confiscated, is in pursuance of such laws as have been or may be enacted for the punishment of treason, in obedience to the third section of the third article of the Constitution, which is as follows:

"Treason against the United States shall consist only in levying war against them, or in adhering to their enemies, giving them aid and comfort. No person shall be convicted of treason unless on the testimony of two witnesses to the same overt act, or on confession in open court.

"The Congress shall have power to declare the punishment of treason; but no attainder of treason shall work corruption of blood or forfeiture, except during the life of the person attainted."

If the property of rebels is forfeited, it must necessarily be for treason, as there is no other crime that, by the Constitution, incurs this penalty; before the property can be forfeited the owner must be convicted, and this, according to the section of the Constitution just read, can only be on confession in open court, or on the testimony of two witnesses to the same overt act. The conviction must be through the medium of a court; not only must the conviction be in a court, but the trial in such case, according to the second section of the same article of the Constitution, shall be by jury. The conviction must be in pursuance of existing laws defining the degree of guilt. Laws cannot be enacted for the purpose of reaching back to acts not made criminal by statutes existing at the time of their commission, nor can statutes be framed increasing the penalty of crimes already committed beyond their penalty at the time, for it is expressly declared by the Constitution that "no *ex post facto* law shall be passed."

Trial for treason, as well as all other crimes, when committed in any State, shall be in the State where committed. When trial and conviction of the party accused is had, which must be upon presentment or indictment of a grand jury, (fifth article Amendments to the Constitution,) then follows, as the result of that conviction, forfeiture of his property, if annexed as a penalty by existing laws; but the forfeiture is only, at most, during the life of the person attainted. Thus it is that numerous guards and restrictions are thrown around the administration of the punishment of the crime of treason, which is the crime of which those engaged in the rebellion are guilty. It may be said that laws thus tardy in their operation cannot be executed in a rebellion so formidable, and that we must not thus be restrained in administering punishment to those who have been attempting to overthrow the Government; that there are no courts in many of the States to administer the law on this subject. If the Constitution has not made ample provision for emergencies like the present, it is no part of our duty, *sworn as we are to support the present Constitution*, to undertake to make a new one. But if we shall succeed in subduing the rebels, so that the practicability of punishing for treason shall arise, there will be no difficulty in executing the law on this subject.

But for the present we shall have enough to do in using all the power of the Government in suppressing rebellion and restoring Federal authority in the seceding States. When this is accomplished, the laws can be executed, and not effectually until then. As has been suggested by the learned gentleman from Massachusetts [Mr. THOMAS] in his very able speech upon this subject, even if the rebellion should not for a time be suppressed in all the seceded States so far as to permit the restoration of the judiciary and the execution of the laws therein, yet many, and perhaps most, of those actively engaged (as leaders at least) in the rebellion, might be tried in some of the States where the judicial authority has not been obstructed, or where it has been restored. For instance, in Tennessee, Kentucky, and Missouri, the military operations of the rebel government have been extensive, and although many of the leaders have not been actually present in these States in person heading the rebellion, yet they have been constructively present, from the fact that they have directed, controlled, and superintended those military operations, and are therefore liable to trial, conviction, and punishment in some of the loyal States for treason.

I suppose the president of the so-called confederate States might be tried in Missouri, Kentucky, Tennessee, Virginia, or Maryland for treason before a court and jury which would administer the law in all its rigor; but, to use an old adage, "as catching is before hanging," it is needless to speculate upon this feature of the question now.

It remains to be seen yet whether the Government will find it practicable to execute the penalty of the law against those in custody of its proper officers, and in the trial and conviction of whom there is no impediment; or even whether the rigor of the law will be visited on those already convicted of that most heinous of crimes, piracy. If it shall be found impracticable to execute the penalties of the law in these cases, when the remedy is plain, why complain about persons escaping punishment where there is no remedy, or an incomplete one? If the penalty of the law, which affects the person, cannot be executed against a party in custody, why need the penalty be visited on the property of those not in custody, if it were legal and possible to do so?

The Constitution has provided that "no attainder of treason shall work corruption of blood or forfeiture, except during the life of the person attainted." This is a humane provision, intended to confine the punishment to the person committing the crime, and to prevent the iniquities of the guilty party from being visited on his innocent family; but the confiscation bills alluded to propose to punish the guilty party by taking from his family, who may have been guilty of no crime, their means of subsistence, turning them out of house and home to become outcasts in the world, for no fault of theirs. I ask if humanity sanctions such measures as those, if there were no constitutional impediment. Another objection to the justice of this absolute confiscation of property, not only for life, but in fee, is that suggested by the same distinguished gentleman from Massachusetts, [Mr. THOMAS,] to whose able remarks I have already averted, namely, that it takes from the hundreds and thousands of Union men in the disloyal States the means by which they might, in future, indemnify themselves for outrages committed upon them and their property by the rebels, whose property would be liable to respond to the amount of damages incurred by Union men from their illegal acts. But if the property of rebels is appropriated by the Government, Union men in the disloyal States who have been dispossessed of their entire property by those in rebellion, whether under the color of so-called confederate law or without the sanction of law, will be left without a remedy for all time to come.

Congress, as I have said, at the extra session, last July, passed by nearly a unanimous vote the Crittenden resolution I have quoted. It was also passed unanimously by the convention which met in Columbus last summer, and nominated David Tod for Governor of Ohio.

Now, Mr. Speaker, I am willing to carry out this resolution to the letter, and vote for all the men and all the money that is wanted for the purpose of establishing Federal authority; but not one dollar will I vote for which is to be raised by taxing my constituents to buy negroes or emancipate them, and thus interfere with the "established institutions of the States." I will do all in my power as an individual and as a Representative of a loyal constituency to maintain this Government. I believe it can only be maintained by strict adherence to the Constitution; and I am willing to compare my action in that respect with the action of the Republican majority of this Congress. In conclusion, I submit that action to the people, who alone, in the last resort, are to decide what is best for their own government and happiness.

EMANCIPATION AND ITS RESULTS—IS OHIO TO BE AFRICANIZED?

SPEECH OF HON. S. S. COX,

OF OHIO,

IN THE HOUSE OF REPRESENTATIVES,

June 3, 1862.

The House being in the Committee of the Whole on the state of the Union—

Mr. COX said:

Mr. CHAIRMAN: At the beginning of our civil conflict this House passed almost unanimously a resolution offered by the gentleman from Kentucky [Mr. CRITTENDEN] as to the character of the war. It was a pledge that the war should not be waged in hostility to the institutions of any of the States. On the faith of its pledge men and money were voted. Since then that pledge has been broken both in this House and out of it.

Sir, I have watched with anxiety the conduct of this House. No heed is given here to the warning of loyal Union men from slave States. Their advice is met with the cry "oh, they are for slavery; and no pro-slavery man can be loyal." No attention is paid to old-time political opponents, whose friends are the majority in the field. For aiding to preserve the Union, which they have been taught by their party canons to revere, they are treated to taunts and slander.

Measures like those from Massachusetts, which would hold States as conquered fiefs; which would recognize republics abroad because they are black; which would create equality of black and white, such as passed the Senate, in carrying the mails; which abolished slavery in this District; which, like the acts of confiscation and emancipation here urged, are to free the whole or a portion of the black population; all these measures, sir, are subversive of the institutions of the States, and have created apprehension and distrust.

Before the President can crush this revolt he must reassure and reanimate the public mind. He has already done well in crushing the Frémont and Hunter proclamations. He has done well in protecting General McClellan from the fanatics, who hungered for his overthrow. He has done well in many other respects, from which I would not detract by any hostile criticism now. I would sustain my country and its Constitution, even if I were not on oath so to do. It is in this spirit that I wish that there were no ambiguity in our public counsels. This war can have no end until the President clears away all uncertainty. The more definite the object the more firm will the Government be in asserting it. Its generals may conquer, but cannot hold. It may by physical force subdue, but it must do more to reinstate public confidence. It must control the civil and moral elements, by whose influence alone can the subdued be reconciled. I am anxious to believe that the President means right. But, of the men who control this Congress, I speak plainly. They pull down; they do not build up. They have an activity in destroying; nothing of the genius of man in constructing. Salvation is not their forte. It is their conduct which creates ambiguity.

There is something needed in making successful civil war besides raising money and armies. You must keep up the confidence and spirit of the people. It must not only be animated by a noble passion at the outset, but it must be sustained by confidence in the cause. You dispirit the Army and destroy its power, if you give forth an uncertain sound. Is there a member here who dare say that Ohio troops will fight successfully or fight at all, if the result shall be the flight and movement of the black race by millions northward to their

own State? Our soldiers will endure great sacrifices, if they think that they are planting the flag over States where it has been shamelessly dishonored, and if they believe that the United States, as they have been made by our Constitution and constellated by time, are to be again enstarred in full brilliancy. But when you make men homeless, when you crape the doors and bedew the eyes of the bereaved; when bloody calamity darkens the hearth and heavy taxes oppress labor, there must be no ambiguity of policy.

You wish to put down this rebellion; yet you despise the counsels of the Union men of the South, who tell you that your anti-slavery crusade adds to the rebel army day after day thousands of soldiers and to the southern treasury millions of money. You presume on their forbearance, not caring to know that their lips are often sealed here, because by denouncing you, the secession element, which is kept alive by your action in their States, will point to their denunciations of their conduct as a justification of the rebellion. You will justify this crime to history, provided only your vengeance and your election are made sure.

Sir, I fear and distrust much which I cannot, from motives of prudence and patriotism, utter. Is it the policy here, as it would seem to be, to force the Union men South into some rash expression or act, by such proclamations as Hunter's, and such legislation as we have had, and then to charge this rashness as an excuse for converting the war into a St. Domingo insurrection, turning the South into one utter desolation? Is it in anticipation of this that we have arms for negroes sent to South Carolina and Louisiana? We can get no information on these subjects, though we strive for it. Are we to be deceived by the prevarication of this Congress in regard to extreme measures? In the mean time, are these extreme measures to be taken as the Army advances with its triumphant flag? In the name of God, is no man's hand to be raised to retard the downward, hellward course of these extreme men? Will not the President at once leap to fill the niche in history pointed out to him by my friend from Kentucky, [Mr. CRITTENDEN?] He has done so many noble acts, in spite of the lashings of his friends, will he not change this equivocal situation and give us reassurance in our doubt and trouble, like that which inspired his proclamation, and like that which dictated the Crittenden resolve? Such assurance would make the country ring with his praises. It would make our taxation light, our duty clear, and our patriotism resplendent beyond all that is written in the annals of man.

I trace the murmurs of discontent which come to us from Army and people to the alliance between Republicans and abolitionists. That alliance may be natural, but it is not patriotic. The Philadelphia platform of no more slave States, and Republicanism with its Chicago dogma of no more slave territory, may be innocent in intention, but, allied with abolitionism, with its raids and war upon slavery everywhere, and its defiance of the Constitution, it is crime.

Is this alliance the forerunner of that perfect Union when "liberty shall be proclaimed throughout all the land and to all the inhabitants thereof?" Is it the dawn of that millennial day which shall reflect back the saber, the musket, and the torch in the hands of the enfranchised African, already urged and voted for by thirty members of this House?

We want no more poetry about striking off chains and bidding the oppressed go. Plain people want to know whether the chains will not be put upon white limbs; and *whither* the oppressed are to go. If the industry of the North is to be fettered with their support; if they are to go to Ohio and the North, we want to know it. Nay, we want, if we can, to stop it.

As I am anxious to see our country restored to its former condition, I would protest against this ambiguous policy. I have seen a year of cruel distrust of our generals because they were faithful to our Constitution and the Union. I have seen in and out of this House the thieves of character sliming over good men's names as if they were no better or more loyal than their own, because such men had a policy not based on the visions of African freedom. The blood of our brave soldiers flows like water in aid of a holy cause. It would be a criminal silence for me to forbear to characterize this cruel, fraudulent change of that holy cause into such dangerous and suicidal schemes.

Gentlemen on the other side of this Chamber have been determined to discuss the causes of this rebellion. One would have supposed that prudence on that theme would have sealed them into silence. Slavery, they say, is the only cause; and their logic is, eradicate the cause, and the war will stop. Slavery is the occasion, but not the cause. Slavery has existed for nearly seventy years, and the United States prospered in its unity. Slavery agitation, North and South, is the cause, and it has been carried on by both abolition and secession. It takes two millstones to grind the grist. From the beginning of secession I denounced it. I believe, in view of all its consequences, that it is the worst crime since the scene on Calvary. But, sir, I am at as great a loss how to apportion the guilt between secession and the abolition which begat it, as I would be to apportion the guilt of the crucifixion between Judas and the Roman soldiers. If there is any difference, it is in favor of the bold parricide, and against the insidious betrayer.

And now, as the climax of this abolitionism, we find the Governor of Massachusetts, when called on to send more troops to the aid of the Government, laying down conditions—conditions to his loyalty. He is willing for his people to crowd the road with recruits, if only the blacks are to be freed by the war and Hunter's proclamation is left untouched by the President. But if this be not done, it will be a heavy draft on the patriotism of Massachusetts. *If* the blacks are to be freed; *if* slavery is to be uprooted. Shakspeare says, "your 'if' is a great peacemaker." This abolition "*if*," sir, is an infamous traitor. I could name members on the other side of the House who, though few in number, have kept their faith without ambiguity. But the body of them are led by another class of unmistakable hue, who are ready to follow the conditional loyalty of the Massachusetts Governor, and to free negroes, regardless of constitutional limitations and consequences.

These destructives, however they profess, when they come to vote, like the hues in a prism, melt imperceptibly into each other. Though we imagine that we see a difference between them, yet they altogether make up that light which is to guide us in our troubles. God help us when such light leads! Such friends are like those in the rebel army who approach our soldiers with white flags, crying "don't fire! we are Union men; don't fire!" and at the very moment of our confidence they inflict their deadly treachery upon our flag!

But it is ever thus. History shows it. Extreme men drag the moderate men with them. The devil, it is said, holds his own by a hair. He has entered into this majority as he entered into the swine; and they will, by diabolic impulse, be driven *at last* into the sea. At last; but when is that time to come? When the country is ruined? Must these northern fanatics be sated with negroes, taxes, and blood, with division North and devastation South, and peril to constitutional liberty everywhere, before relief shall come? They will not halt until their darling schemes are consummated.

History tells us that such zealots do not and cannot go backward. Robespierre, the gentle judge at Arras, in 1783, resigned rather than condemn a criminal to death. In ten years after, filled with the enthusiasm of Rosseau, he claimed for the blacks in the French colonies a participation in political rights, and exclaimed, not unlike members here, "Let the colonies perish rather than a principle!" But he was the same Robespierre who led the Jacobins to demand the king's head in 1792, who established the reign of terror, and whose motto was, "that to live was a crime." He could take no step backward. Onward, onward from excess to excess, until his name became the obloquy of the world. Only his own death, by the same terrorism, ended his terrible rule.

The same result took place at Rome, in the time of Gracchus. It is so everywhere when passion is driven to excess.

Our only safety now lies in moderate and patriotic counsels, not rash and vindictive action. *Libertatem in me requiro, non in pertinacia, sed quâdam moderatione positam putabo.* Mr. Speaker, do not think I overstate these perils from the extreme men of this House and the country. Have not our best men, like Clay and Douglas, warned us of this time? Does not the venerable statesman of Kentucky [Mr. CRITTENDEN] continue to warn, in vain? Your records are crowded with remonstrances of the great and good men of the Republic against this sectional warfare against a social system, to result in a war of ruin. I appeal to you now, as I did more than a year ago to the extreme men of the South, to halt, to consider, before it is entirely too late.

One thing is sure, that out of all this ambiguity, the tendency of legislative action here is to free the slaves of the South and hurl them in hordes upon the North. Events, says Phillips, are grinding out the freedom of the negro; and these abolition bills are events. The confiscation bill passed last week, and the emancipation bill, resurrected by a majority of four after its temporary death, have this meaning. They would never have been urged here but for this object. They will not aid to pay the expenses of the war. That part of the title of the confiscation bill which so affirms is a hypocritical falsehood. The gentleman from Missouri [Mr. PHELPS] has demonstrated that. Even Wendell Phillips laughs at such bills; "you might as well," he says, "call upon the poorhouse to pay the expenses of the town. Take away the slaves, and they have not enough left to pay one month's expenses of the war." The Tribune sneers at *such* confiscation, and with more than its usual sense, when it says, that they amount to nothing, that you must first get the land and the negroes, and that then the expenses of confiscation and the general amnesty which must follow to all but the leaders, will render your confiscation valueless.

Such bills are not constitutional. That was shown conclusively by the learned jurist [Mr. THOMAS] from Massachusetts, as well as by the Senators from Pennsylvania [Mr. COWAN] and Vermont, [Mr. COLLAMER.] They contravene the first and third articles of the Constitution:

"No bill of attainder or *ex post facto* law shall be passed."

"The trial of all crimes, except in cases of impeachment, shall be by jury; and such trial shall be held in the State where the said crimes shall have been committed; but when not committed within any State, the trial shall be at such place or places as the Congress may by law have directed."

"Treason against the United States shall consist only in levying war against them, or in adhering to their enemies, giving them aid and comfort."

"No person shall be convicted of treason unless on the testimony of two witnesses to the same overt act, or on confession in open court."

"The Congress shall have power to declare the punishment of treason, but no attainder of treason shall work corruption of blood, or forfeiture, except during the life of the person attainted."

They contravene the following provisions, among the amendments of the Constitution:

"ART. 5. No person shall be held to answer for a capital or otherwise infamous crime, unless on a presentment or indictment of a grand jury, except in cases arising in the land and naval forces, or in the militia, when in actual service, in time of war and public danger; nor shall any person be subject, for the same offense, to be twice put in jeopardy of life or limb; nor shall be compelled in any criminal case to be a witness against himself, nor to be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use without just compensation.

"ART. 6. In all criminal prosecutions the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the State and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor, and to have the assistance of counsel for his defense."

If, when swearing to sustain these clauses of the Constitution, we have not taken "dicers' oaths," we must refuse all legislation which attaints any one for treason. We can declare the punishment of treason, to be meted out by "due process of law" in the proper tribunals. We have already done so. It is death. But for every crime there must be trial and conviction. It is the very essence of despotism to confiscate without such legal impeachment. Against such legislative tyranny the authors of our Constitution framed express clauses. They did it, as Judge Story says, (2 Story's Commentaries, section 1344,) to guard against the injustice and iniquity which England inflicted "in

times of rebellion or of gross subserviency to the Crown, or of violent political excitements—periods in which all nations are most liable (as well the free as the enslaved) to forget their duties and to trample upon the rights and liberties of others."

The sentiment of the accomplished men of Congress being against these bills as unconstitutional, resort was next had to the law of nations to justify them. Members who a year ago claimed that this rebellion was not a civil war, are now quick to find out that it is so, when it will answer the purposes of vengeance and emancipation. The Secretary of War, in his order of April 9, 1862, expressly recognized the rebellion as a "civil war." When, a year ago, I embodied the doctrine, that from the formidable character and number of the insurgents, the laws of civil war, as between belligerent nations, ought to obtain, copied though my resolution was from Vattel himself, gentlemen inconsiderately voted it down. Vattel (book 3, chap. 33, sec. 295,) and other authoritative publicists declare what is a public war:

"The war between the two parties stands on the same ground, in every respect, as a public war between two different nations. They decide their quarrel by arms, as two different nations would do. The obligation to observe the common laws of war toward each other is, therefore, absolute."

Since then, flags of truce, exchange of prisoners, and other rules of civilized warfare have been practiced by our Government. England and France have recognized this relation. Now, if the laws of war as between nations prevail in this contest, as gentlemen now argue, then I point to the humane code that private property on land shall not be confiscated, except it be contraband of war. That slaves are contraband when used on fortifications, and are confiscate, is no question now, since Congress has enacted a law making each slave so used confiscate to the State. But if by the laws of the States slaves are personal property, as the courts have decided, then the law of nations reaches them.

That law of nations has no exceptions but contraband. It is so admitted by all. America, at least, has acted on it. Franklin, in his treaty with Prussia, Washington, in his letter to Rochambeau, Hamilton, Jefferson, Clay, John Quincy Adams, Pierce, Marcy, Lincoln, and Seward have taken it for granted. It is too late to question it. They sought to extend it, in the interest of humanity, from the land to the sea. I have this session, in a speech on neutral maritime rights, elucidated this doctrine and its history. I have shown that this was the object of the Paris conference in 1856, and of the Marcy amendment proposed to the great maritime Powers. To this doctrine the assent of forty-six Powers was given, at the request of France. And this was the object of Mr. Dayton and Mr. Adams and our other European ministers last summer, when, by Mr. Seward's instruction and under President Lincoln's direction, our nation sought to have all private property, not contraband of war—*munitions de guerre*—free from seizure and confiscation by the cruisers and privateers of belligerents at sea, *as it was already thus free upon land.* I therefore boldly affirm that this Administration, to its lasting honor, is not only committed to this doctrine, but have favored its extension from the land to the sea. The great men of Europe and of this country have agreed to that doctrine. It was urged to soften the horrors of war, to save mankind from cruel and unjust violence, to limit war and its horrors to the combatants, to reduce the conflict to a duello between armies, and to save the sea, as the land was already saved by law, from being the theater of cruel, predatory, and barbarous practices. The reason urged for this doctrine is, that it enables men to make peace, lasting and fraternal, unembittered by cruelties to helpless women and children, to non-combatants, and men of productive industry and peaceful occupations in private life. It is the doctrine of the Saviour of mankind.

The wise men of this Congress have urged, upon similar principles, that all laws of vengeance, confiscation, and emancipation will only prolong and stimulate the rebellion, postpone peace, and frustrate the reassertion of Federal authority. While I would punish the rebel leaders for treason by death, without mercy; while I would do it without vengeance, in the name and majesty of the Republic which they have tried to dispart and destroy, I would not make laws, in the very agony of the strife, whose effect will be to strengthen treason, to prolong the contest, and destroy all hopes of reunion.

But, sir, my opposition to such bills proceeds mainly from other and more conclusive reasoning. Granting that these bills are constitutional, and that they are according to the law of nations, a more momentous question arises. It is no less than the *preservation of the people and society of the North.* You free the slaves to punish treason; you free the slaves because you hate slavery. But what if the punishment falls upon the loyal North? Shall Ohio suffer because South Carolina rebels? Shall the North be destroyed or impaired in its progressive prosperity, by your projects of wholesale freedom of the slaves, because it will punish, cripple, or destroy slavery or the South?

It is beyond doubt that a large number of the four millions of slaves will be freed incidentally by the war. Already ten thousand are freed in South Carolina; as many more in Virginia; and perhaps as many more in the West. It has been computed that already some seventy thousand blacks are freed by the war. I see it stated authoritatively that more contrabands followed General Banks's retreat down the Virginia valley than his troops numbered. These are being scattered North, are becoming resident in this District and supported by the largesses of the Federal Treasury. It is said that eighteen thousand rations are daily given out to negroes by our Government. This is but a small number of those who are freed, or to be freed, by these bills. The mildest confiscation bill proposed will free not less than seven hundred thousand slaves. The bill which is before us frees three millions, at least. The bills which receive the favor of the majority of the Republican party will free four millions. Nothing less will satisfy this Congress. That is now apparent. If you do not free all, say the extremists, your war is rose-water. If not all, no peace is possible.

It may have been wrong to have held them in slavery. Is it right to set them free, to starve? What is to be done with them? This is the riddle, more difficult than that of the Ethiopian Sphynx. Like that fabled monster, with the man's head and the lion's body, it has a puzzle, and we have no Œdipus to solve it. One gentleman proposes to free the slaves, apprentice them awhile to raise money, and then colonize them. This scheme has its advocates. Regardless of constitutional restrictions, he would have us first free them, or as many as are owned by rebels, and buy as many as are owned by loyal men, and then, by the money raised by apprenticeship, deport them to Mexico, South or Central America. What though it enslave the white labor of the North for a half century! What though it diverts the Federal Government into a grand master of apprentices! What though it cost millions! What though it destroy the productive industry of a dozen States! It would be a happy riddance at any price. Such is the argument.

But another class says to this scheme: "No; you have no right to send away against his will the African, born here. You have no right to buy him. He is entitled to privileges equally with you, direct from the hand of his heavenly Father, who gave him a charter to live and own himself." This side is championed by the gentleman from Illinois, [Mr. LOVEJOY.] Between these two charmers the simple black man stands as a comic paper depictured him, with grinning mouth and hesitating mind, not knowing which to choose. But, like the maiden in the song, he is willing to yield to either one when the other dear charmer's away. [Laughter.] One of my colleagues, who speaks most nearly the sentiments of the majority here, [Mr. BINGHAM,] has met the question like a man, if not like a statesman. While the gentleman from Kentucky [Mr. MALLORY] was addressing the House; after he had shown that colonization, at his least estimate of $400 per slave, would impose a debt of $1,200,000,000, and after he had shown conclusively that to free them and place them on the lands of the South, where the climate was congenial and the productions suited to their labor, there would be reënacted the scenes of Hayti—a war of extermination between black and white, until after scenes of carnage and horror, the black man would be swept away—he asked:

"What, then, do you propose to do with them? Do you propose to let them go from the South, redeemed and regenerated as you say, into your free States of the North? Oh, no, you contemplate no such condition as that for them. You exclude them, as you would a leper, from your States.

"Mr. BINGHAM. Allow me to remind the gentleman that his remarks are too general; that he does injustice to a majority of the free States of this Union. A large majority of them do not exclude any African from them.

"Mr. MALLORY. I ask the gentleman from Ohio if he is willing to throw open the doors of that great and noble State—that rich, fruitful, and productive State, to the three millions of slaves that may be liberated by these emancipation and confiscation bills?

"Mr. BINGHAM. Its doors are open now.

"Mr. WICKLIFFE. When did you repeal the law prohibiting them?

"Mr. BINGHAM. As soon as we turned the Democratic party out of power. [Laughter.]

"Mr. MALLORY. I know that the gentleman from Ohio does not intend that this exodus from the South shall find its way into the State of Ohio, as the Israelites did from Egypt into Palestine. No; he has too much regard for that State, and is too anxious that its fields shall be tilled by free white labor, and has too high a sense of the character and attributes of the Anglo-Saxon race, ever to be willing that the blacks shall go there and be the competitors of the free white men of Ohio for the rewards of labor. It may be that Ohio may now permit the entrance of free negroes occasionally, but when that immense swarm of negroes, worse than the swarm of locusts that destroyed Egypt, commences to pour itself over into that State, the doors will be closed against them, and he knows it.

"Mr. BINGHAM. I desire to say to the gentleman that I have no idea myself that under any possible pressure I will ever consent that any man born upon the soil of this Republic, by any vote or word of mine, shall be excluded from the limits of any State, my own included.

"Mr. COX. I will say that the sentiment of my colleague is not the sentiment of the people of Ohio; and that as soon as they have a chance to restore the Democratic party, they will keep out the blacks and prevent their competing with white labor.

"Mr. BINGHAM. I have no doubt of that; but it will be a good while after this before they will have the power."

Here, then, is the issue directly made with my colleague. He denies, first, that the States have the right to forbid the immigration of blacks within their borders.

Mr. BINGHAM. My colleague I am sure does not intend to do me injustice. The proposition which he has just stated is not as I have stated it myself.

Mr. COX. I have done the gentleman the justice to quote all his remarks.

Mr. BINGHAM. I wish my colleague to understand that I confined my remark to native-born citizens.

I. I will not spend much time, sir, to controvert this doctrine. Such laws have existed in western States and in Ohio unchallenged. Judge Douglas was right when, in his contest with Mr. Lincoln, he maintained that these Commonwealths were for white men. Aside from the question of policy, there is an admitted right, in each State, to make or unmake its citizenship; to declare who is and who is not entitled thereto. That will not be denied. When Minnesota came here for admission, that was settled. But my colleague seems to admit that political privileges, like that of suffrage, may be fixed by State laws. Indeed, the Supreme Court have decided that the State has the exclusive right so to do. If so, by what reason can a State deprive the black race of the right of suffrage, on which depends all laws, all protection, all assessment of taxes, all punishments, even the matter of life and death, and yet not have power to forbid such black race, as a dangerous element, from mingling with its population? The constitution of Illinois, just submitted to the people, denies to the negro the right of emigrating to, or having citizenship in, that State. Hitherto the same prohibition has existed in Illinois and Indiana, and other western States. In Virginia, as a police regulation, free negroes were forbidden to emigrate to that State. It was never disputed—never, until Oregon applied for admission. Her constitution provided that no person of African descent, though free, and no Chinaman, should emigrate to that State, or should have right of suffrage or hold property. In the Globe of the Thirty-Fifth Congress (p. 193, *et seq.*,) the debate is reported. A Senator from Maine denied the right thus to exclude black men, who were citizens of his own State, by a decision of the supreme court of Maine. He held, as I suppose my colleague [Mr. BINGHAM] holds, that no one portion of the *citizens* of the United States can interfere with the rights of another portion of the citizens of the

United States, and that negroes are citizens. In disregarding the decision of the Federal court against negro citizenship, I am at a loss to see what sanction the supreme court of Maine, or the *ipse dixit* of my colleague, ought to have. But, waiving that, it was answered by a Republican Senator from Illinois, [Mr. TRUMBULL,] who denied that negroes ought to be placed on an equal footing, in the States, with white citizens. Judge Douglas, whose word is now so sacred where once it was so contemned, said:

"As to the power of a State to exclude negro population from her limits, I had hoped there was no dispute at this day. If Maine chooses to encourage a colored instead of a white population, it is their right to do so. There are matters which belong to the sovereignty of each State to decide for itself. Maine has decided one way, Illinois another. I thought that for several years we had recognized this doctrine completely."

He might well have thought so, with the Kansas Topeka constitution in his mind, which the Republicans had indorsed, and which made it the duty of the first Legislature to pass laws to prohibit the introduction of free negroes into Kansas. At the conclusion of the debate it was generally conceded that although members might, in their discretion, vote against Oregon on account of this prohibition of free negroes, that after a State was admitted, she had the full right to make what police regulations she pleased as to her population. Oregon was admitted with this constitution. No question has ever been raised, either in the courts of her State or the United States, as to the legality of her prohibition. I know that my colleague, in the most brilliant speech of his life, argued against the exclusion of negroes from Oregon as unconstitutional, inhuman, and atrocious. He argued the question ably. He distinguished between the conventional rights of suffrage and the natural right of locomotion and emigration. He is consistent to-day with his record then; but, in my opinion, consistently wrong. It never was intended, and it is not so written in the Constitution, that the States should give up the right to regulate the character of their immigration. If it were not so, there could be no safety to property, liberty, or life, under State institutions. A community of Mormons or Thugs might take possession of a State, and there would be no remedy. This reserved right for self-protection to the State has never been given up, nor can the delegation of this power be inferred from any general phrase in the instrument like that which declares that "the citizens of each State shall be entitled to all the rights and immunities of citizens of the several States." If it were thus inferable, we might then conclude that the Supreme Court of the United States were wrong in deciding that negroes were not citizens. But history and precedent show that the Supreme Court were right; and although they decided it in the Dred Scott case, no one contends that this part of that decision was *coram non judice*. It is authoritative upon all citizens.

Mr. THOMAS, of Massachusetts. Will the gentleman allow me to say that I deny it.

Mr. COX. The question of jurisdiction in that case depended on citizenship; and when the question of jurisdiction was decided against Dred Scott, because he was not a citizen, it has been argued that the rest of the decision was *coram non judice*. It was perfectly proper in that case to decide as to the citizenship; for on that turned the question of jurisdiction.

2. The right and power to exclude Africans from the States North, being compatible with our system of State sovereignty and Federal supremacy, I assert that it is impolitic, dangerous, degrading, and unjust to the white men of Ohio and of the North, to allow such immigration.

By the census of 1860, in Ohio, we have thirty-six thousand two hundred and twenty-five colored persons out of a population of two millions three hundred and thirty-nine thousand five hundred and fifty-nine. As a general thing, they are vicious, indolent, and improvident. They number as yet one black to about sixty-three whites; but their ratio of increase, during the last ten years, has been 43.30 per cent., while that of the white increase is only 17.82 per cent.

About one tenth of our convicts are negroes. I gather from the census of 1850 that four tenths of the female prisoners are blacks, although they compose but one eightieth of the female population of Ohio. In Massachusetts the convicts in the penitentiary are one sixth black; Connecticut, one third; New York, one fourth. In Ohio the blacks are not agriculturists. They soon become waiters, barbers, and otherwise subservient to the whites. They have just enough consequence given to them by late events to be pestilent. The resistance of the abolitionists to the Federal authority in Ohio, within the past three years, was abetted by colored men, some of whom had received schooling enough at Oberlin to be vain and ostentatiously seditious.

The last Legislature of Ohio, by their committee, gave their proteges this certificate of character in their report:

"The negro race is looked upon by the people of Ohio as a class to be kept by themselves—to be debarred of social intercourse with the whites—to be deprived of all advantages which they cannot enjoy in common with their own class.

"Deprived of the advantages here enumerated, it could not be expected that he should attain any great advancement in social improvement. Generally, the negro in Ohio is lazy, ignorant, and vicious."

If this be true, it would be well to inquire why energetic legislation was not had, in view of the emancipation schemes here impending, to prevent this lazy, ignorant, and vicious class from overrunning our State. Such legislation was asked and refused.

If further testimony is needed as to the feeling of the people of Ohio and the Northwest as to the blacks, I refer you to the speech of an Ohio Senator, [Mr. SHERMAN.] Speaking in favor of emancipation in this District, he balanced himself on the slackwire after this fashion:

"This is a good place to begin emancipation for another reason. *This is a very paradise for free negroes.* Here they enjoy more social equality than they do anywhere else. In the State where I live we do not like negroes. We do not disguise our dislike. As my friend from Indiana [Mr. WRIGHT] said yesterday, the whole people of the northwestern States are, for reasons, whether correct or not, opposed to having many negroes among them, and that principle or prejudice has been ingrafted in the legislation of nearly all the northwestern States."

It is a fine thing, the Senator thinks, to free the negroes here; not so good in Ohio. Here they have a paradise; in Ohio, its opposite, I suppose. If the Senator could visit Green's Row, within the shadow of this Capitol, henceforth "Tophet and black Gehenna called, the type of hell," and note the squalor, destitution, laziness, crime, and degradation there beginning to fester; if he could visit the alleys in whose miserable hovels the blacks congregate, he would hardly be reminded of the paradise which Milton sang, with its amaranthine flowers, [laughter,] its blooming trees of life, its golden fruitage, its amber rivers rolling o'er elysian flowers, its hills and fountains and fresh shades, its dreams of love, and its adoration of God. Alas! he would find nothing here to remind him of that high estate in Eden, save the fragrance of the spot and the nakedness of its inhabitants. [Laughter.]

If the rush of free negroes to this paradise continues, it would be a blessing if Providence should send Satan here, in the form of a serpent, and an angel to drive the descendants of Adam and Eve into the outer world. If it continues, you will have no one here but Congressmen and negroes, and that will be punishment enough. [Laughter.] You will have to enact a fugitive law, to bring the whites to their capital. [Laughter.]

The condition of the negroes here is not unlike their condition in Ohio. Perhaps it is worse here than in Ohio, for their numbers are so much more here in proportion to the population.

This population already on our hands in Ohio we can take care of; but if we cannot stop more from coming into Ohio, there is no sense in beginning to colonize the free blacks which we have on hand. I make no proposition as to them now. They do not, except in certain localities, interfere greatly either with our laws or our labor. But the question of allowing more to come in, is the question I discuss, not as to what we shall do with what we have. This is a question as gigantic as the schemes of emancipation. It is a practical question, as the war is already throwing them within our borders in great numbers.

Slavery may be an evil, it may be wrong for southern men to use unpaid labor, but what will be the condition of the people of Ohio when the free jubilee shall have come in its ripe and rotten maturity? If slavery is bad, the condition of the State of Ohio, with an unrestrained black population, only double what we now have partly subservient, partly slothful, partly criminal, and all disadvantageous and ruinous, will be far worse.

I do not speak these things out of any unkindness to the negro. It is not for the interest of the free negroes of my State that that class of the population should be increased. I speak as their friend when I oppose such immigration.

Neither do I blame the negro altogether for his crime, improvidence, and sloth. He is under a sore calamity in this country. He is inferior, distinct, and separate, and he has, perhaps, sense enough to perceive it. The advantages and equality of the white man can never be his. As Dr. Fuller expresses it:

"He sees and knows that it is his color only, that color given him by God, which excludes him and his posterity from this noble and ennobling competition. And now, what must be the effect upon his character? It is impossible but that the worst feelings, envy, hatred, vindictiveness, will secretly work in his bosom, rendering him unhappy in himself, and dangerous to the country. Already have we had fearful premonitions flashing up here and there; and rest assured, nothing but fear represses the utterance, deep and loud, of passions which are only the more fierce because as yet they can have no vent. If the *free African* is to remain in this country, he must either enjoy social equality and amalgamate with the white race, which is impossible, or he will be discontented, unhappy, and will be ultimately exterminated. He would not be fit for freedom, he would not be a man, if he could be satisfied with his position."

If history teaches anything, it is that it is as hard to make a servile people free as a free people slaves, and that a conflict of races, which must result from this policy of emancipation, will only end in the destruction of the weaker. Rome, Greece, West India, all point to the great mistake of breaking rudely the social system of a people. It was only the other day that the news from Jamaica told us of the insurrection of slaves, and their attack on a principal city. A year or so ago, if we are to credit Andrew Johnson, the insurrection of negroes in East Tennessee was caused by a fear that the whites would exterminate the negro population *en masse*, from a jealousy of negro labor. In this city, at any moment, we may look for an *emeuté* occasioned by the crowding out of white labor by black contrabands. The Government is now paying, to support negroes, thousands of dollars weekly, out of the hard-earned money of the people, raised to put down the rebellion; so at Fortress Monroe; so at Port Royal. When I offered a resolution of inquiry as to the amount thus diverted, on motion of the member from Illinois [Mr. LOVEJOY] it was voted down.

Let us heed the lesson which history has given in other times, as to what is convenient and advantageous under similar circumstances. France broke the fetters from the Haytien blacks, under the lead of Jacobins like the member from Illinois. In less than a half century, the industry and commerce of Hayti were annihilated; the Sabbath, the family, and the school became obsolete; the missionaries were more in danger—as the historian of the West Indies, Mr. Edwards, says—of being eaten than of being heard. [Laughter.] Baptist, Methodist, and Episcopalian ministers were expelled with a persecution equal to that exhibited lately on the mountains of Syria. Hayti was free! But her freedom was the freedom of fiends. Unschooled and undisciplined, she ran riot in her liberty. Her career has but one advantage. It admonishes us of what our fate shall be if we are launched on the same stormful sea.

Mr. LOVEJOY. Will the gentleman allow me a moment?

Mr. COX. No, sir; I will not.

Mr. LOVEJOY. Then I raise the question of order, that I am entitled to ask the gentleman a question, inasmuch as he alluded to some member from the State of Illinois. I want to know to whom he referred. He called some gentleman from Illinois a Jacobin.

Mr. COX. That is no point of order; but I will tell the gentleman in confidence whom I meant. I meant him. [Laughter.]

Mr. LOVEJOY. That is what I wanted to know. Now, I want to ask the gentleman another question.

Mr. COX. I did not mention anybody's name; but the gentleman at once saw the appropriateness of the appellation.

Mr. LOVEJOY. We will try that when I come to answer the gentleman.

The CHAIRMAN. Does the gentleman from Ohio yield the floor to the gentleman from Illinois?

Mr. COX. I do not.

The London Times gives a truthful picture of the freed negro of Hayti, which has its counterpart here already:

"The negro is a lazy animal, without any foresight, and therefore requiring to be led and compelled. He is decidedly inferior, very little raised above a mere animal. He is void of self-reliance, and is the creature of circumstances, scarcely fitted to take care of himself; has no care for to-morrow; has no desire for property strong enough to induce him to labor; lives from hand to mouth. In Jamaica emancipation has thrown enormous tracts of land out of cultivation, and on these the negro squats, getting all he wants with very little trouble, and sinking, in the most absolute fashion, back to the savage state."

But it may be urged that there were too many blacks for the whites in the West Indies, and the experiment failed in consequence. Then let us go to Canada, where our slaves are under English laws, and in the midst of people not specially prejudiced. The testimony is that settlements at Chatham, Dawn, Amherstburg, Buxton, Dresden, and other points are utter failures. It was soon discovered that the blacks preferred charity to labor. The blacks proved lazy, shiftless, improvident, "there not being more than three or four families of a different character out of the one hundred and fifty which comprised the settlement at Buxton. They suffer terribly in winter for want of clothing. The Dresden settlement, planned on the principle of the Socialists, proved a total failure. A few years since Chatham was a bright and prosperous village; but now more than a quarter of its population are negroes, and three fourths of them are worthless idlers and petty thieves."

But it may still be urged that in the North—in Ohio—the free negro will work, will rise, will add to the security of the State and the prosperity of the people. I select one from a string of black gems. I select it from the district of my friend, [Mr. HARRISON,] who will avouch its correctness. Greene county, Ohio, has nearly fifteen hundred negroes. The following extract from the Xenia (Ohio) News, (a Republican paper in Greene county,) will give some idea of their condition:

"There are about one hundred negroes in Greene county who are always out of employment. A part of these are those who have lately been freed by their masters, and furnished with a bonus, on which they are now gentlemanly loafing. Our jail is continually filled with negroes committed for petty offenses, such as affrays, petty larceny, drunkenness, assault and battery, for whose prosecution and imprisonment the town of Xenia has to pay about five hundred dollars per annum. And to such persons going to jail is rather a pleasure than a disgrace. They are better fed and lodged there than when vagabondizing round our streets.

"We have seen negro prostitutes flaunting down Main street, three or four abreast, sweeping all before them indiscriminately. We have seen ladies of respectability running upon the cellar doors, and even into gutters, to avoid being run over by these impudent hussies. It was only the other evening that we saw a lady completely turned around by some black girls, who never deviated from their path in the middle of the sidewalk, and our own cheek has burned with indignation at the lecherous smile of invitation which has been flung into our faces by these swarthy demoiselles. Other gentlemen have complained of the insulting boldness of their address. But we are sickened with the recital. It is a disagreeable task to lance the sore which has long been gathering unheeded; and it is equally so to probe this evil, which unawares is growing in our midst. As we have in a former number already said, we feel no prejudice against the black man on account of color, or for mere degradation; but, at the same time, we are unwilling that we should be morally infected by contact with an inferior race, the result of which contact is in no way beneficial to the black, and highly injurious to the white."

Some years ago, there was a negro colony established in Brown county, Ohio, as to which the Cincinnati Gazette said that "in a little while the negroes became too lazy to play." A Senator in Ohio characterized the colony as follows:

"The black settlement in Brown county was made in 1819, the original number located there being four hundred and twenty, for whom about two thousand acres of land were procured. From the commencement there has been no improvement in their morals or habits. Idleness and vice are the prevailing concomitants. The cost of criminal prosecutions has been very large in proportion to the number of inhabitants, and keeps up a proportionate average with their increase. In the vicinity of this settlement, there is not a family within two miles who are not kept in constant dread of depredations or injury of some sort. Everything valuable that can be removed is stolen. They are absolutely compelled to confine themselves to what is merely necessary to support life, for anything beyond from hand to mouth must inevitably fall a prey to the lurking vagrants, who, far worse than a gang of gypsies, are hovering around seeking literally what they may devour. And this state of things is not confined to any section alone; it extends in a greater or less degree wherever this portion of the population is permanently located."

It might be a profitable calculation to ascertain what will be the depreciation of property in Ohio, if the numberless itinerant blacks from the South are to be admitted to the State. The House will remember the ineffectual efforts of Gerritt Smith to make a black agricultural colony in New York. He was obliged to confess that "the mass of them rot both physically and morally." I could produce similar evidence from the New York Tribune, but the strength of the statement would not be increased by quoting from such a cesspool of iniquity.

I lay down the proposition that the white and black races thrive best apart; that a commingling of these races is a detriment to both; that it does not elevate the black, and it only depresses the white; that the history of this continent, especially in Hispano-America, shows that stable civil order and government are impossible with such a population. In Peru their commingling has led to the decay and degradation of their progeny. Dr. Tschudi, in his travels in Peru, enumerates some dozen crosses of the negro, Indian, and white, with their various and vicious products. The character of these mixed races is that of brutality, cowardice, and crime, which has no parallel in any age or land. If you permit the dominant and subjugated races to remain upon the same soil, and grant them any approach to social and political equality, amalgamation, more or less, is inevitable. It has invariably followed this blending of people, however opposite the original stocks. In illustration, let me quote the remark of a distinguished divine, Dr. McGill:

"Look at Mexico, where the proud Castillian, the subjugated Indian, and the barbarous African slave were all made free and equal just about one generation, or thirty-two years ago, by a single decree, to meet what was considered 'a military necessity.' More than half of the whole population is already mixed blooded; and just as amalgamation advances, degradation deepens; anarchy prevails; laws, constitutions, and the ballot-box are a mockery; wave after wave of military despotism has left that republic of more than eight millions of souls, one of the fairest regions under heaven for the acquisition of wealth and glory, without money, without credit, without commerce, without union, without religion, until at length the ambition of Spain herself seeks to remand the abject people to their old repudiated thralldom."

Is this the fate to be commended to the Anglo-Saxon-Celtic population of the United States? Tell me not that this amalgamation will not go on in the North. What means the mulattoes in the North, far exceeding, as the census of 1850 shows, the mulattoes of the South? There are more free mulattoes than there are free blacks in the free States. In Ohio, there are seven mulatto children for one in Virginia, according to the negro population; and in Indiana and Illinois, there are five for one in Tennessee and Georgia! As the white people of the North do not marry blacks, these mulattoes must have been born out of wedlock. While, then, there are more mulattoes in the free States than blacks; in the South, on the contrary, there is only one mulatto to twelve blacks! How does this occur? I leave it to my colleague from the Portage district, [Mr. EDGERTON,] who gave us his opinions, in a pert way, about the Democratic address. It is recorded that in his county a white woman of Akron sued out a *habeas corpus*, (for the writ runs there yet, at least where there is *color* of right,) to take a mulatto baby from a Mrs. Jones, a negro woman, under whose care it had been placed by its white mother, and who had become attached to the pickaninny. In the course of the discussion, Mrs. J. told the white woman that she thought "if the white folks were mean enough to have nigger babies, they ought to be willing to let colored people bring them up." [Laughter.] So the judge decided. These little straws show how to account for the preponderance of mulattoes North.

The mixture of the races tends to deteriorate both races. Physiology has called our attention to the results of such intermarriages or connections. These results show differences in stature and strength, depending on the parentage, with a corresponding difference in the moral character, mental capacity, and worth of labor. The mulatto is not long lived. It is a fact that no insurance company will insure their lives. In New England there is one blind negro for every 807, while at the South there is one for every 2,635. In New England there is one insane negro for every 980, while in the South one for 3,080. If they were the only insane persons there I would not complain. They catch it there from the whites. [Laughter.] It is neither philanthropic nor congenial to send the negro to the North, where he wilts; when at the congenial South he increases in numbers, even in slavery! Our statistician (Mansfield, p. 41, Ohio Statistics, 1861,) boasts that Ohio has men of greater height, by actual measurement, than England, Belgium, or Scotland, and in breadth of chest nearly equal to that of Scotland, and above all others. I do not offer myself as a specimen. [Laughter.] But how long before the manly, warlike people of Ohio, of fair hair and blue eyes, in a large preponderance, would become, in spite of Bibles and morals, degenerate under the wholesale emancipation and immigration favored by my colleague?

The free negroes will become equal, or will continue unequal to the whites. Equality is a condition which is self-protective, wanting nothing, asking nothing, able to take care of itself. It is an absurdity to say that two races as dissimilar as black and white, of different origin, of unequal capacity, can succeed in the same society when placed in competition. There is no such example in history of the success of two separate races under such circumstances.

Less than sixty years ago, Ohio had thousands of an Indian population. She has now but thirty red men in her borders. The negro, with a difference of color indelible, has been freed under every variety of circumstances; but his freedom has too often been nominal.

Prejudice, stronger than all principles, though not always stronger than lust, has imperatively separated the whites from the blacks. In the school-house, the church, or the hospital, the black man must not seat himself beside the white; even in death and at the cemetery the line of distinction is drawn.

To abolish slavery the North must go still further and forget that fatal prejudice of race which governs it, and which makes emancipation so illusory. To give men their liberty, to open to them the gates of the city, and then say, "there, you shall live among yourselves, you shall marry among yourselves, you shall form a separate society in society," is to create a cursed caste, and replace slaves by pariahs.

Again: it is neither convenient nor advantageous to the State of Ohio to have this influx of blacks. It may be abstractly wrong to debar them from our State; but some one has wisely said, that "the abstract principles of right and wrong we know, but not the processes, nor the duration of their working out in history. All white handkerchiefs in Exeter Hall will not force the general congress of nations to decide questions otherwise than by the laws of convenience and advantage."

Were there no prejudices or instincts against the color or race in our midst, a true State policy would forbid such a horde of Africans as emancipation would send to Ohio. Ohio has a larger circuit of slave territory abutting on her border than any other northern State. The Ohio river runs over five hundred miles along our border, dividing us from Kentucky and Virginia. Illinois and Indiana forbid all negroes from their States. Since 1850 Iowa and Wisconsin have had the same policy. Is Ohio to be the only asylum for the slaves of Virginia and Kentucky and the other States South? Suppose these schemes of emancipation succeed, or suppose they do not: and the emancipation incident to the war goes on, what proportion of the slaves of the South will cross into Ohio? They will not go to Canada, not now. They will move into lower Ohio, with the consuming power of the army worm. By the census in Virginia and Kentucky alone, the colored people number seven hundred and ninety thousand one hundred and two!

How many of these blacks would come to Ohio? Is it high to calculate that one half of those in Virginia and Kentucky, and one fourth of those south of Kentucky and Virginia will find a lodgment in Ohio? If the philanthropy of my colleague [Mr. BINGHAM] obtains, such will be the result.

In spite, however, of the laws of Illinois, Indiana, and other western States, the slaves of the Mississippi valley will, if freed, seek the Northwest. They will slip through into Illinois, Iowa, Kansas, and Indiana. The gentleman from Indiana, [Mr. JULIAN,] the other day, said that in his part of the State the law was a dead letter. He is no doubt partially correct.

In the past ten years the ratio of increase of free colored people in the United States has been 10.97 per cent., that of the slaves 23.38 per cent., and that of the white 38.12 per cent. In California the negroes have increased 296.67 per cent. compared to the white increase of 310.84 per cent. There are no laws of prohibition in California; while in Oregon, where such laws exist, the whole ratio of increase is 299.96 per cent., compared with a *loss* of 41.54 per cent. of blacks! In other States there is this ratio: Illinois, white increase 101.49, black only 30.04; Iowa, white increase 251.22, black increase 207.21; Indiana, white increase 37.14, black *loss* 3.49; Wisconsin, white increase 154.10, black 133.22. In these States the law forbids blacks; but in spite of it they get in, but not to that extent which they do in Ohio and Michigan, where such laws do not exist. In the latter State the white increase is 87.89 per cent., the black is double, viz: 164.15! It will be perceived by an examination of the census, that it is in the Northwest that the black race is increasing; while in other States further East and North, they do not increase in the same ratio. It is the Northwest which will be Africanized by the schemes here proposed.

The slaves in the Mississippi valley alone, in the States of Arkansas, Kentucky, Louisiana, Mississippi, Missouri, and Tennessee, number 1,499,079. This does not include the free blacks, who would be compelled to share the exodus. Then Kansas, Nebraska, Iowa, Minnesota, Wisconsin, Michigan, Illinois, Indiana, and Ohio would be their asylum, but as the States west of Ohio are in advance of us in preventing this vicious immigration, Ohio, under the welcome of my colleague and his friends, would have more than her fair quota.

Temporizing politicians cannot blink this question. While they advocate emancipation, some of them present an alternative—colonization. If more negroes are to be freed, and my State is to be their asylum, I am of Jefferson's opinion, that their freedom ought to be accompanied with emigration to some other land, compulsory, if necessary. But Greeley and others do not pretend to colonization, to mitigate abolition. The fact that many who honestly contemplate abolition are willing to lay a tax of thousands of millions to colonize, is a confession that they believe that free negroes cannot exist in the country without its ruin.

It has been said that we ought to free the African, even though we build a bridge of gold over the chasm from slavery to freedom! It will prove a Bridge of Sighs to both black and white. Its piers and arches are to be built out of the moil and toil of American labor.

But to its cost: I have some data on which to calculate. In 1858, I voted, (according to an old law existing since the time of Mr. Monroe) money to send back slaves taken on board the slave-ship Echo, on the 21st of August, 1858. That law requires all such slaves to be taken back to Africa, and supported there for one year on the coast. This is a humane law, but an expensive one. By a contract made between the Colonization Society and Mr. Buchanan, (see Ex. Doc., second session Thirty-Fifth Congress, vol. 2, part 1,) the Government agreed to pay $45,000, or $150 apiece, for the transportation and support of the three hundred Africans one year. It did not include buying lands for them. There was no expense for compensation to slave-owners. Now, if the slaves of the South are to be paid for at the rate of $300 apiece, the amount paid here in the District, and land is to be bought besides, you may approximate to the result of this enormous Utopian scheme.

Mr. Goodhue, a gentleman who is connected with the Government, and a statistician, makes this estimate:

"By the census of last year, there were 3,952,801 slaves in the United States and Territories. I have already shown that 454,441, which belonged to the border States, would be worth, at $300 each, $136,382,300. There remain to be disposed of, therefore, 3,498,360 slaves embraced in the country subject to the rebels, but including, of course, large numbers belonging to friends of the Union, who have been constrained into obedience to the rebel authorities against their wills. At the rate of $300, the slaves in the rebel States would be worth $1,049,508,000; and adding the cost of compensation to the border States, at the same rate, the aggregate expense of emancipation would be $1,185,840,300. Or, for the convenience of round numbers, the cost of emancipation would be, at $300 per head, $1,200,000,000."

Add to this $1,200,000,000 the cost of transportation and maintenance for a year, at $150 per negro, and you have $1,800,000,000. Add further, for the price of the soil to be bought for them, say $10,000,000, and the cost of starting them in a strange land, without roads, houses, teachers, and leaders, $10,000,000 more, and you may approach the stupendous result.

This is no violence of mine upon arithmetic. This is the cool calculation of men eager to carry out, at small cost, their schemes. I give credit to the motive which prompts colonization. But where are these enormous sums to come from? "Oh, the war expenses are as much, and ought to pay it;" or, as Sir Boyle Roche would say, "every man ought to give his *last* guinea to protect the remainder." Are not the war expenses already run up to such a sum that men flounder in their calculation of them? But, it is said, the war expenses are not yet done, and by this scheme we may save the remainder. I would like to think so. Such schemes of emancipation will only prolong the war and add to its expenses. This enormous tax is to be paid, it is said, in thirty-seven years, at an annual tax of $150,000,000! We are to use our credit by bonds, and thus establish a national debt. Great as our resources are, this burden is too enormous. It leaves no hope. It creates despair. Ask the question of the people: "Can you meet these liabilities in addition to the war debt, now estimated by Senator SIMMONS, at the end of July, 1862, at $550,000,000, and to be doubled before the war is over, supposing that it will end in a year?"

Such a scheme even destroys a large portion of the means to pay for itself. The labor of the negroes after they are freed and colonized is nothing, worse than nothing. It is a loss to the country of just what it will take in time and trouble to replace it by other labor equally good. It is a loss to the country of the labor and laborers themselves, estimated at $600,000,000.

Then we have the following results:

Cost of compensation to owners of slaves	$1,200,000,000
Cost of deportation and maintenance one year	600,000,000
Cost of land to be purchased, bridges, houses, roads, &c	20,000,000
Loss of the labor and laborers to the country and to the masters before a new supply of labor can be had	600,000,000
Debt already, according to Secretary Chase's last report	491,445,984
War debt additional by 1863, according to Senator Simmons	500,000,000
	$3,411,445,984

This sum almost equals the national debt of Great Britain, which, as the accumulation of centuries, amounts to the sum of £757,486,997, or about $3,787,000,000! Here is a bridge of gold for the African exodus! Ohio builds one span of one tenth, to cost $34,114,459; my district pays one twentieth of that, or $1,705,722. But how much of the accumulations of our people will this sum take? Secretary Chase tells us that, according to the census of 1860, the real and personal property of the people of the United States is $16,102,924,116! Hence *one fifth* of all we have would scarcely meet this enormous liability!

In the name of advantage, economy, sense, and humanity, will not the people repudiate this prodigious expenditure? The men who levy it, sir, are running a desperate hazard. Where secession has placed, by the tax to put it down, only yokes of wood on the people, which they will cheerfully bear, this schemes makes yokes of iron! Think you the authors of so grand a scheme can escape the vengeance of the people by resignation or exile? Theirs will be a doom worse than that of the Gracchii or Robespierre!

But these dreamers do not intend to buy and colonize. Their ethics, like their speeches, are cribbed from the pharisaical spoutings of Exeter Hall. The House has voted down the project of colonization proposed by the gentleman from Missouri, [Mr. BLAIR.] They will not so outrage human nature—not they. What! says Wendell Phillips, export the four millions which are the fulcrum of the lever by which the nation is to be restored! Oh, no. Is not this the land of their birth? Even the colonization members do not propose coercion. Their bills deny compulsion. What then?

III. It is proposed to free all, and leave chance to distribute them among the people. Chance, sir, is a poor economist and a worse ruler. Let us consider the effect of this proposition.

A distinguished Senator from Vermont [Mr. COLLAMER] fixed the proportion of this distribution at one negro to every five or six whites.* He was right. By the census of 1860, there are in the United States 27,008,081 whites and 3,999,535 slaves. If the slaves were distributed equally North and South this would make one negro to every seven whites; but if all are driven North by social convulsion, as shown by the gentleman from Kentucky, [Mr. MALLORY,] it would make more than one black for every five white persons.

But we know that the African will not go to New England, at least in such numbers as to other States. He does not thrive there. In Boston the city register shows that for the last five years there were 134 births to 376 deaths among the colored people.

If Ohio were open, as my colleague advocates, we would have, at least, twice as many negroes flock into that State as to the rest of the North, and twice as many in central and southern Ohio as in northern Ohio; or one negro for every three white persons in the State, and perhaps twice that ratio in southern and central Ohio. Take Massachusetts as a fair average of the North. There every inducement is offered to his immigration. He is made a voter; he is admitted to the bar; he is even made better than a white man in suffrage, provided the white man comes from Germany or Ireland. Yet, in a population of 1,231,065, the blacks number only 9,454, or one black to 130 of the population; while in Ohio, with not double the population, there is one black to 63 of the population. The increase of blacks in Ohio is 43.30 per cent., while in Massachusetts it is only 23.96 per cent. So that I am justified, not alone by the census, but most by the geographical position and nearness of Ohio to the South and the extent of its slave State border, in inferring that she would receive more than double the number assigned to the States north by Mr. COLLAMER's apportionment. What, then, would be the result? Ohio

* I refer to the following in the speech of Senator DOOLITTLE, of Wisconsin, made at this session:

"A distinguished gentleman from Vermont was first elected to Congress in 1843. One of the well-to-do farmers in his neighborhood called upon him, the evening before he was to leave for Washington, to pay his respects. He found him in his office, and told him that he came for that purpose, and to bid him good-bye. 'And now, judge,' said he, 'when you get to Washington, I want to have you take hold of this negro business, and dispose of it in some way or other; have slavery abolished, and be done with it.' 'Well,' said the judge, 'as the people who own these slaves, or claim to own them, have paid their money for them, and hold them as property under their State laws, would it not be just, if we abolish slavery, that some provision should be made to make them compensation?' He hesitated, thought earnestly for a while, and, in a serious tone, replied: 'Yes, I think that would be just, and I will stand my share of the taxes.' Although a very close and economical man, he was willing to bear his portion of the taxes. 'But,' said the judge, 'there is one other question: when the negroes are emancipated, what shall be done with them? They are a poor people; they will have nothing; there must be some place for them to live. Do you think it would be any more than fair that we should take our share of them?' 'Well, what would be our share in the town of Woodstock?' he inquired. The judge replied: 'There are about two thousand five hundred people in Woodstock; and if you take the census and make the computation, you will find that there would be about one for every five white persons; so that here in Woodstock our share would be about five hundred.' 'What,' said he, 'five hundred negroes in Woodstock! Judge, I called to pay my respects; I bid you good evening;' and he started for the door, and mounted his horse. As he was about to leave, he turned round, and said: 'Judge, I guess you need not do anything more about that negro business on my account.' [Laughter.] Mr. President, perhaps I am not going too far when I say that honorable gentleman sits before me now, [Mr. COLLAMER.]

"Mr. COLLAMER. As the gentleman has called me out, I may be allowed to say that the inhabitants of the town were about three thousand, and the proportion was about one to six."

has 2,303,374 white people. She would then have, at a ratio of one black to every three persons, an addition of 767,791 to her black population! My district, composed of Franklin, Licking, and Pickaway counties, where negroes seem to congregate more than among their professed friends in northern Ohio, would have scattered among its 110,941 persons, blacks to the number of 36,980! This is nearly equal to the whole population of Licking county! They would be distributed as follows: Licking, 12,370; Franklin, 16,787; and Pickaway, 7,823.

But even this does not do justice to the inexorable figures, for my district is peculiarly blessed with negro population. Whether it is because the people are more generous in their treatment of the blacks; whether Kentucky and Virginia families who settled in it are more numerous; or what it is, still it is true, by the census of 1860, that with a population in my district of about one twentieth of the whole population of the State, it has one fourteenth of its blacks, or 2,660 out of 36,673.

	Whites.	*Blacks.*
Licking has	36,868	143
Franklin has	48,783	1,578
Pickaway has	22,530	939
	108,181	2,660

One would suppose that in the Western Reserve, where the profession of philanthropy is ever arising in prayer, in speech, and in print, where for years they cultivated no civil discipline, which interfered with their notions of slavery, there would be throngs of blacks. Is it so? Thou iron-tongued census, speak!

Colored persons in—	
Ashtabula	25
Cuyahoga, (Cleveland)	894
Lake	36
Mahoning	61
Portage	76
Trumbull	80
Geauga	7
Loraine, (Oberlin)	549
Medina	38
Summit	88
Total	1,854

So that, in these ten counties of the Western Reserve, there are but a few more Africans than in one county of my district! Why they especially avoid Ashtabula I cannot say. Is it the prodigal profession and scant practice of humanity? [Laughter.] Or has Giddings, with a view to protect property and keep up its price, coaxed them into Canada, where, happily, he is now domiciled? And there is Geauga, with not as many negroes as Fulton county has Indians! What a commentary on representative fidelity is here! The member from Ashtabula, Mahoning, and Trumbull [Mr. HUTCHINS] speaks for one hundred and sixty-six negroes; but from his piteous ado, one would suppose that he represented at least as many Africans as the king of Dahomey. [Laughter.] And there is my smiling colleague from the northwest, [Mr. ASHLEY,] whose rotund form is ready to become like Niobe—all tears—by his grief for the poor negro; [laughter;] whose gushes of eloquence in their behalf remind one of the Arab lyrics in praise of the dark maidens of Abyssinia when they sung: "Oh! the black amber! the black amber! Its perfume by far, is sweeter than all else on earth or in star; the lotus of Nile, the rose of Cashmere, my senses enthrall when thou art not here." [Great laughter.] Yet, from the whole eleven counties of his district, he cannot count as many negroes by half as live in my own county.

I am not particularly proud of representing a greater number of Africans than my colleagues. I think, so far as the chattering goes about their inalienable rights and everlasting wrongs, I am entirely unsuited to represent them; yet I hope that in actual kindness to them I do represent the white people of my district, whose practical benevolence has attracted to that portion of the State an undue share. What I fear is, and what I deduce is, that this disproportionate share will be continued when the bills voted for by my colleagues are law, and the black exodus has begun.

I understand that it is the intention of some of my Republican colleagues to begin the work of negro immigration by taking a drove of these free negroes to their districts. If they will keep them on the reserve, I will not complain. Their motives may be good; humanity and duty may require it of them, since their clamor has brought them into their helplessness here; but such humanity will be like giving a crumb to a hungry man. The work of negro emancipation is stupendous, the expense enormous, and the result will be a perfect failure.

But I propose, sir, to make a further analysis of this subject. I have the honor, as it is fondly believed by some, to be a prospective constituent of either my friend from the Clark district, [Mr. SHELLABARGER,] or the honored representative of the Madison district, [Mr. HARRISON,] with whose votes I so often concur. The Legislature of Ohio has made for my especial contemplation a new district, composed of the counties of Clark, Madison, Franklin, and Greene. If my two friends, who do not agree well in their votes, will consent to make the race next fall, I will, perhaps, edge in a conservative word for the general welfare. I commend to them this question I am discussing.

This new district, sir, is rich in colored materials. It was the select asylum for the blacks in their northern movement. Greene county, to which I have referred for the chastity of its African damsels, is a second Paradise for free negroes. The benevolence of Horace Mann at Antioch College, led the blacks to believe that here they would repose in the green pastures as contentedly as their brethren bask in the rays of a Congo sun. They were to be elevated without effort to an equality with the white race; and here they gathered to witness the miracle. That it has not been effected is no fault of the distinguished philanthropist. The people of Greene county well understand why it can never be accomplished. Let me then take this new district in hand for a moment:

	Whites.	*Negroes.*	*Total.*
Franklin has	48,783	1,578	50,361
Madison has	12,739	276	13,015
Clark has	24,808	492	25,300
Greene has	24,722	1,475	26,197
	111,052	3,821	114,873

Here are twice as many negroes as in the whole Western Reserve. One negro to every three white persons would give:

Franklin	16,461
Madison	4,246
Clark	8,269
Greene	8,240

Making in all a total of blacks in this new district of 37,017! A very pretty mosaic! A sweet and fragrant nest! And this is the Afric's coral strand, to which my missionary labors are to be directed! Why, here are one tenth of the negroes of Ohio in this district, with only one twentieth of the population of the State! So that in this district, if the ratio continued, we should have twice as many as our fair share, (at one negro to three of the white population,) or some eighty thousand negroes!

How will this immigration of the blacks affect labor in Ohio and in the North?

First, directly, it affects our labor, as all unproducing classes detract from the prosperity of a community. Ohio is an agricultural State. Negroes will not farm. They prefer to laze or serve around towns and cities. This is evident from the census of Cincinnati, Cleveland, Toledo, Dayton, Columbus, Zanesville and Chillicothe, where more than three fourths of the blacks of Ohio are to be found. But is it said that the plantation hands, when free, will work the lands? Such is not the experience on the Carolina coast. A writer in the Boston Journal, from Port Royal, on the 14th of May, 1862, estimates that there are ten thousand contrabands on the islands. They have planted some corn, potatoes, and cotton, under the Government direction. This writer says:

"It is difficult to make the negroes work, or induce them to, (if that sounds better North,) as they find something to eat from Massa Lincoln, and seem to feel they are not 'free niggers' if they work. So they often take a day or several days to themselves, when their services are perhaps most needed, and go to Hilton Head or Beaufort. For instance, some ground had been prepared for plowing and planting, but just as they were needed the few men who understood that part went off for two days without the least notice, thus delaying the planting, which was even then late. Until some method is adopted to make them feel the necessity of work for their own good, Government will receive but little benefit comparatively."

Will they do any better North? We know what they have done. There are exceptions. I speak of the masses of blacks. Have they done any better at Fortress Monroe, or even here, under military surveillance? Let their condition answer. Food for the present is what they crave; and when that is had, no more work till they crave again.

But suppose they do work, or work a little, or a part of them work well; what then is the effect upon our mechanics and laboring men? It is said that many of them make good blacksmiths, carpenters, &c., and especially good servants. If that be so, there are white laborers North whose sweat is to be coined into taxes to ransom these negroes; and the first effect of the ransom is to take the bread and meat from the families of white laborers. If the wages of white labor are reduced, they will ask the cause. That cause will be found in the delusive devices of members of Congress. The helps of German and Irish descent, the workmen and mechanics in the shop and field, will find some, if not all, of these negroes, bought by their toil, competing with them at every turn. Labor will then go down to a song. It will be degraded by such association. Our soldiers, when they return, one hundred thousand strong, to their Ohio homes, will find these negroes, or the best of them, filling their places, felling timber, plowing ground, gathering crops, &c. How their martial laurels will brighten when they discover the result of their services! Labor that now ranges at from one to two dollars per day, will fall to one half. Already, in this District the Government is hiring out the fugitives at from two to eight dollars per month, while white men are begging for work. Nor is the labor of the most of these negroes desirable. No system of labor is so unless it be steady. They will get their week's wages, and then idle the next week away. Many will become a charge and a nuisance upon the public charity and county poor tax. One hundred of the fifteen hundred negroes of Greene county, as we have seen, were drones and scamps. So in Brown county. Randolph's negroes, taken to Mercer county, were nuisances. If they are distributed into the country, they may work for a little time and for small wages, and work well for a time; but when work grows irksome, and they "become too lazy to play," they will steal. Corn and chickens disappear in their vicinage, with the facility of shirts from the hedges where Falstaff marched his tatterdemallions.

And for this result *directly* to northern labor, what compensation is there to the southern half of our country by their removal? Herein lies the indirect effect of their immigration upon northern labor. By this emancipation, the labor system of the South is destroyed. The cotton, which brought us $200,000,000 per annum, a good part of which came to Ohio to purchase pork, corn, flour, beef, machinery, &c., where is it? Gone. What of the cotton fabric, almost as common as bread among the laboring classes! With four millions of indolent negroes, its production is destroyed, and the ten millions of artisans in the world who depend on it for employment, and the hundred million who depend on it for clothing, will find the fabric advanced a hundred per cent. So with sugar, and other productions of slave labor. For all these results, labor will curse the jostling elements which thus disturb the markets of the world.

Another indirect effect upon the labor of the North, and especially of Ohio, is that the markets of the South will be closed, not by blockade, but forever. Our prices of corn, wheat, pork, beef, &c., will be reduced by a contracted market. The surplus in Ohio the past year was, of grain, 25,000,000 bushels; of hogs, 1,000,000; of cattle, 300,000, exports from the State, or more than $50,000,000 worth; while other articles of export were worth $50,000,000 more. This production is above that which Ohio can use. If our market is restricted who suffers? The farmer. If he suffers, who will pay the taxes in Ohio? Prices must be remunerative or agriculture suffers. If agriculture suffers in Ohio, every man, woman, and child feels it. If this scheme for Africanizing the State, by destroying southern labor, succeeds, no fostering care or scientific skill can make up the loss to the farmer. Such schemes, by destroying the sources of labor, destroy themselves.

Yet these dreamers cling to their notions with the happy impudence of Munchausen, who went to the moon for the silver hatchet by means of a Turkey bean which grew up to its horns. When his bean was dried by the heat, he twisted a rope of straw by which to descend, fastening one end to the horns. Alas! like many similar schemes, it was too short. But, holding fast by the left hand, with his right he cut the long and useless upper part, which, when tied to the lower end, brought him safely to the earth! Such will be the result of these lunatic experiments upon the labor systems of the country. The sooner they descend from the moon with their rope of straw the better. Thus, with loss to the South and damage to the North, both irreparable, and no gain to either, the year of negro jubilee is to be ushered into existence.

In conclusion, then, if the negro cannot be colonized without burdens intolerable, and plans too delusive; if he cannot be freed and left South without destroying its labor, and without his extermination; if he cannot come North without becoming an outcast and without ruin to northern industry and society, what shall be done? Where shall he go? He answers for himself. The *pater familias* of a drove of negroes, the other day in the valley of Virginia, was asked, "where are you going?" "Dun' no, massa, dun' no; gwine somewhere, I recken." [Laughter.] His friends can answer very little better. But such answer is not statesmanship.

What shall be done? I answer, Representatives! that our duty is written in our oath! IT IS IN THE CONSTITUTION OF THE UNITED STATES! Leave to the States their own institutions where that instrument leaves them, keep your faith to the Crittenden resolution, be rid of all ambiguous schemes and trust under God for the revelation of His will concerning these black men in our land, and the overthrow by our power of this rebellion. Have you no faith in God, who writes the history of nations? Great as is our power, wise as is our system of Government, brave as are our soldiers, unequaled as are our fleets of iron, it is only for Him to breathe upon us and our power will fade. I know that His power can solve these dark problems of our fate. Let us do our duty to the order established by our fathers, under His wise inspiration, and all may be well.

In this night of our gloom, my faith has been in Him, even as my oath to the Constitution which He inspired, is made, "so help me God!" Cleaving to that—I can see the dawn of hope! Leaving it, I see nothing but perjury, fraud, and a darker night of disaster. In our Constitution alone, under God—is our national salvation enshrined.

But I have no faith in, and no hope of this Congress, for they have no faith in God or the Constitution. Greece had a law called the indictment of illegality, whereby any man was tried and punished in a common court like a criminal for any law which had passed on his motion in the assembly of the people, if that law appeared unjust or prejudicial to the public. If there were such a law here how few of the majority of this House would escape the dock of the criminal and the rope of the gibbet. The member from Illinois [Mr. LOVEJOY] would then receive the beatitudes which follow suspended animation. [Laughter.] But what of the member from Pennsylvania, [Mr. KELLEY?] He has been ever ready, in his defense of black men and black character, to assail personally those with whom he differed. He could not pass by my humble speech as to Hayti without some sarcastic flings and much misrepresentation, which he refused to allow me to answer. He did not like my style of description, and wondered why there was no laugh at my humor about the negro in court dress. He is more successful. He never speaks but he is laughed at. His speeches have been well described as being every word a sepulcher, every sentence a tomb, and every speech a graveyard. [Laughter.] In this grave-yard he thought to bury me, as he had buried others. But even that voice—*vox preterea nihil*—which is likened to the "cry of an itinerant bull in pursuit of society, moaning upon the broad prairies of the West," [great laughter,] would, if that Grecian law existed, be choked forever. He would then find his melo-dramatic performances close before the fifth act, in a tragedy, which an admiring audience would applaud to the echo! Faithless to their own resolves, faithless to the President's message and proclamations, faithless to their pledges to the Army and to the people, faithless to the memories of the past and the hopes of the future, faithless to the Constitution and to the God of their oath—these maddened zealots pursue the work of destruction. A few short months, and even the blacks of America will curse them as their worst enemy. This Congress, which ought to be engaged in holding up the hands of the Executive, and in giving aid and counsel in putting down this armed rebellion, has striven to circumvent the plans of the President by their immature and vindictive bills of confiscation. It has been coopering away at the vessel, hooping it around with infinite pains by emancipation, while its bottom, like the tub of Danaides, is full of holes, and can hold no water.

Weary in watching its mad designs of revolution—and its crazy crotchets of black freedom—and for the self-preservation of my native State and North from the black immigration with which it is threatened, I shall go to my home and ask the ballot to speak its denunciation. A few months and that expression will be had. On it depends the fate of the Republic. My belief is, that the people will write the epitaph of this Congress, nearly as Gladstone wrote that of the Coalition ministry during the Crimean war:

Here lie the ashes of the Thirty-Seventh Congress!
It found the United States in a war of
gigantic proportions, involving
its very existence.
It was content to wield the scepter of power
and accept the emoluments of office;
and used them to overthrow
the political and social system of the country, which
it was sworn to protect.
It saw the fate of thirty-four white commonwealths in peril;
but it babbled of the
Negro!
It saw patriotic generals and soldiers in the
field, under the old flag;
It slandered the one, and in the absence of the other
it destroyed his means of labor.
It talked of liberty to the black, and
plied burdens of taxation on white people
for schemes Utopian.
The people launched at it the thunderbolt
of their wrath,
and its members sought to avoid punishment,
by creeping into dishonored
political graves!
Requiescat!

THE NEW CONSPIRACY.

SPEECH OF HON. S. EDGERTON,

OF OHIO,

IN THE HOUSE OF REPRESENTATIVES,

May 28, 1862.

The House being in the Committee of the Whole on the state of the Union—

Mr. EDGERTON said:

Mr. CHAIRMAN: It is but seldom that I trouble the House with any views of mine. I am generally content to express my views by recording my vote on measures that are brought before this body. And, indeed, I am ill prepared to-day to discuss any question, owing to the condition of my health; but the difficulty of obtaining the floor is usually so great that I cannot forego this opportunity.

It will be apparent, Mr. Chairman, from what we have seen for the last few weeks, and more especially from what we witnessed on this floor yesterday, that while the Government of the United States is engaged with a powerful enemy in the field, it has also here an organized foe to contend with. While this Government is exerting all its powers to crush out this rebellion, attacks are to be made upon it at home to weaken its power and paralyze its arm in crushing out the treason that stalks abroad in the land. That effort has taken form and organization. I find it in the form of an address issued by certain men in this House. I have in my hand the address issued by certain Democratic members upon this floor, which is certainly a very suggestive document. It is suggestive not only from the names signed to it, but very suggestive from the names that are not signed to it. It is suggestive from what it contains, and far more suggestive from what it does not contain. I shall not at this time undertake to discuss the modesty of these gentlemen in thus addressing the people of the country. I may not question their right to issue this address, but I see that it has not appended to it the names of a majority of the Democratic members of this House. I find the name of no New England Democrat attached to it. I find not the name of that loyal Democrat from Indiana [Mr. HOLMAN] affixed to it. I fail to discover the name of my loyal Democratic colleague from the district adjoining my own [Mr. NUGEN] attached to it. Nor do I find the influential member of the war committee [Mr. ODELL] there. I said that a majority of the Democratic members of this body had failed to sign it, though I do not know how many may have responded to the invitation which I see appended to the address in the shape of a note. The paper is left open, like a subscription book, for any one to take stock in the concern who wishes. From all the northern States there are Democrats who have not joined in issuing this address.

If I am correctly informed, I may state, too, that the meeting at which this address was adopted was not of the most harmonious character. If reports have not been incorrectly sent forth, there was discord and contention there. But I will proceed to the character of this address.

There is nothing very peculiar in the address itself. The substance of it might have been culled from the speech of any traitor on this floor in the last two years. There is nothing new in it. I see in it no complaint or even disapprobation of the southern rebellion. A person reading it would little suspect that it was written at the capital of a nation in the throes of revolution, that this nation had on that day more than half a million of men in the field struggling for the maintenance of the Constitution and the laws. No, sir, there is no word of condemnation of treason in this so-called Democratic address. For aught that appears in it, Jeff Davis and all his traitor cabinet might have signed it with propriety. The summing up of the address is in these words:

"The great immediate issue is—to maintain the Constitution as it is, and to restore the Union as it was."

"Maintain the Constitution as it is!" Who has proposed to change the Constitution? Not the Republicans. Who, I repeat, has proposed to change the Constitution? The rebels now in arms against the Constitution, and the very men who signed this paper. Why, Mr. Chairman, for years past there has been an effort made by a certain class of the Democratic party to change the fundamental law of this land. Two years ago, it is well known to members here, how violent, fierce, and untiring those men were to change the Constitution of our country. On the 16th day of January, 1861, Mr. Garnett, a noted rebel from Virginia, used the following words on this floor:

"What the minority section needs is power—power to secure its rights against a majority section, differing in opinions and institutions, and animated by fixed hostility to those of the minority. The danger to the minority is not only in hostile legislation, but in a hostile use of Federal patronage and influence, and in the absence of such positive protection as its interests may require, whether in our foreign relations, in expansion by territorial acquisition, or in forming new States by colonization in such acquisition. To secure all this the South *must have an absolute veto in every department of the Government.*"

"The South must have an absolute veto in every department of this Government," says M. R. H. Garnett. Well, sir, on the 7th day of February, of the same year, my colleague from the Dayton district, [Mr. VALLANDIGHAM,] who, by the way, is the author of this address and the father of this movement, the leader in this assault upon the Government—my colleague from the Dayton district brought in the following proposition:

Joint resolution proposing amendments to the Constitution.

Whereas the Constitution of the United States is a grant of specific powers delegated to the Federal Government by the people of the several States, all powers not delegated to it nor prohibited to the States being reserved to the States respectively, or to the people; and whereas it is the tendency of stronger Governments to enlarge their powers and jurisdiction at the expense of weaker Governments, and of majorities to usurp and abuse power and oppress minorities, to arrest and hold in check which tendency compacts and constitutions are made; and whereas the only effectual constitutional security for the rights of minorities, whether as people or as States, is the power expressly reserved in constitutions of protecting those rights by their own action; and whereas this mode of protection by checks and guarantees is recognized in the Federal Constitution,

as well in the case of the equality of the States, in representation and the suffrage in the Senate, as in the provision for overruling the veto of the President, and for amending the Constitution, not to enumerate other examples; and whereas, unhappily, because of the vast extent and diversified interests and institutions of the several States of the Union, sectional divisions can no longer be suppressed; and whereas it concerns the peace and stability of the Federal Union and Government that a division of the States into mere slaveholding and non-slaveholding sections, causing hitherto, and from the nature and necessity of the case, inflammatory and disastrous controversies upon the subject of slavery, ending already in present disruption of the Union, should be forever hereafter ignored; and whereas this important end is best to be attained by the recognition of other sections without regard to slavery, neither of which sections shall alone be strong enough to oppress or control the others, and each be vested with the power to protect itself from aggressions: Therefore,

Be it resolved by the Senate and House of Representatives of the United States of America, in Congress assembled, (two thirds of both Houses concurring,) That the following articles be, and are hereby, proposed as amendments to the Constitution of the United States, which shall be valid to all intents and purposes as part of said Constitution when ratified by convention in three fourths of the several States.

ARTICLE XIII.

SEC. 1. The United States are divided into four sections, as follows:

The States of Maine, New Hampshire, Vermont, Massachusetts, Rhode Island, Connecticut, New York, New Jersey, and Pennsylvania, and all new States annexed and admitted into the Union, or formed or erected within the jurisdiction of any of said States, or by the junction of two or more of the same or of parts thereof, or out of territory acquired north of said States, shall constitute one section, to be known as the North.

The States of Ohio, Indiana, Illinois, Michigan, Wisconsin, Minnesota, Iowa, and Kansas, and all new States annexed or admitted into the Union, or erected within the jurisdiction of any of said States, or by the junction of two or more of the same or of parts thereof, or out of territory now held or hereafter acquired north of latitude 36° 30', and east of the crest of the Rocky mountains, shall constitute another section, to be known as the West.

The States of Oregon and California, and all new States annexed and admitted into the Union, or formed or erected within the jurisdiction of any of said States, or by the junction of two or more parts of the same or of parts thereof, or out of territory now held or hereafter acquired west of the Rocky mountains and of the Rio Grande, shall constitute another section, to be known as the Pacific.

The States of Delaware, Maryland, Virginia, North Carolina, South Carolina, Georgia, Florida, Alabama, Mississippi, Louisiana, Texas, Arkansas, Tennessee, Kentucky, and Missouri, and all new States annexed and admitted into the Union, or formed or erected within the jurisdiction of any of said States, or by the junction of two or more of the same or parts thereof, or out of territory acquired east of the Rio Grande and south of latitude 36° 30', shall constitute another section, to be known as the South.

SEC. 2. On demand of one third of the Senators of any one of the sections on any bill, order, resolution, or vote, to which the concurrence of the House of Representatives may be necessary, except on a question of adjournment, a vote shall be had by sections, and a majority of the Senators from each section shall be necessary to the passage of such bill, order, or resolution, and to the validity of every such vote.

SEC. 3. Two of the electors for President and Vice President shall be appointed by each State, in such manner as the Legislature thereof may direct, for the State at large. The other electors to which each State may be entitled, shall be chosen in the respective congressional districts into which the State may at the regular decennial period have been divided, by the electors of each district having the qualifications requisite for electors of the most numerous branch of the State Legislature. A majority of all the electors in each of the four sections in this article established, shall be necessary to the choice of President and Vice President; and the concurrence of a majority of the States of each section shall be necessary to the choice of President by the House of Representatives, and of the Senators from each section to the choice of Vice President by the Senate, whenever the right of choice shall devolve upon them respectively.

SEC. 4. The President and Vice President shall hold their offices each during the term of six years, and neither shall be eligible to more than one term except by the votes of two thirds of all the electors of each section, or of the States of each section, whenever the right of choice of President shall devolve upon the House of Representatives, or of the Senators from each section, whenever the right of choice of Vice President shall devolve upon the Senate.

SEC. 5. The Congress shall by law provide for the case of a failure by the House of Representatives to choose a President, and of the Senate to choose a Vice President, whenever the right of choice shall devolve upon them respectively, declaring what officer shall then act as President; and such officer shall act accordingly until a President shall be elected. The Congress shall also provide by law for a special election for President and Vice President in such case, to be held and completed within six months from the expiration of the term of office of the last preceding President, and to be conducted in all respects as provided for in the Constitution for regular elections of the same officers, except that if the House of Representatives shall not choose a President, should the right of choice devolve upon them, within twenty days from the opening of the certificates and counting of the electoral votes, then the Vice President shall act as President, as in the case of the death or other constitutional disability of the President. The term of office of the President chosen under such special election shall continue six years from the 4th day of March preceding such election.

ARTICLE XIV.

No State shall secede without the consent of the Legislatures of all the States of the section to which the State proposing to secede belongs. The President shall have power to adjust with seceding States all questions arising by reason of their secession; but the terms of adjustment shall be submitted to the Congress for their approval before the same shall be valid.

ARTICLE XV.

Neither the Congress nor a Territorial Legislature shall have power to interfere with the right of the citizens of any of the States within either of the sections to migrate upon equal terms with the citizens of the States within either of the other sections, to the Territories of the United States; nor shall either have power to destroy or impair any rights of either person or property in the Territories. New States annexed for admission into the Union, or formed or erected within the jurisdiction of other States, or by the junction of two or more States, or parts of States, and States formed with the consent of the Congress out of any territory of the United States, shall be entitled to admission upon an equal footing with the original States, under any constitution establishing a government republican in form, which the people thereof may ordain, whenever such States shall contain, within an area of not less than thirty thousand square miles, a population equal to the then existing ratio of representation for one member of the House of Representatives.

There, sir, is a proposition to amend the Constitution so as to divide the country into four great sections, leaving every section at the mercy of each of the others, placing the whole of the free States of the Union at the mercy of the slaveholding States. The proposition further proposes that when any one of those sections shall think proper to go out of the Union, they may go away peaceably. It was virtually a proposition legalizing secession, and making it easy. That, sir, was the proposition of my colleague from the Dayton district, who is now in favor of maintaining the Constitution as it is. Then he was in favor of changing the fundamental law of the land. Then he was in favor of transferring the power of this Government into the hands of the southern section of the Union. I am glad, heartily glad, that these gentlemen have so reformed. But my colleague was not the exception; those who joined with him in this address were all clamorous for a change of the Constitution. They who now talk so loudly about maintaining the Constitution as it is, then assailed us upon this floor, because we would not join them at the dictation of Jeff Davis and the traitors of this rebellion.

But that is not all. It is said that a certain class of persons should have good memories; so should politicians. Certainly these gentlemen lack that faculty, for in this very address in which they talk about maintaining the Constitution as it is, they make complaint against the Republican party because only fifteen months ago they were not for altering the Constitution. Hear what they say:

"We do not propose to consider now the causes which led to the present unhappy civil war. A fitter time will come hereafter for such discussion. But we remind you now that COMPROMISE made your Union, and COMPROMISE fifteen months ago would have saved it. Repeated efforts were made at the last session of the Thirty-Sixth Congress to this end. At every stage, the great mass of the South, with the whole Democratic party, and the whole Constitutional Union party of the North and West, united in favor of certain amendments to the Constitution."

Thus, Mr. Chairman, they complain of us for not joining them fifteen months ago in remodeling the Constitution of our fathers, and yet to-day set themselves up as the especial champions of the Constitution as it is.

But there is another statement in this address. It says that the Democratic party has always been loyal to this Government. Mr. Chairman, such a declaration as that at this time, when we are in the midst of the revolution in which we have been plunged by this Democratic party, is perfectly astounding. Have gentlemen forgotten the administrations of Franklin Pierce and James Buchanan? Have they forgotten the history of that party during the last Congress? It was my fortune to be a member of the Thirty-Sixth Congress, and I know well how loyal the Democratic party was to the Government of the United States during that period. How was it when South Carolina, that hot-bed of secession, had left the Union, seized the property of the Government within her limits and sent out her emissaries through the other slaveholding States to fire the southern heart, to set it on fire of hell? They went out two by two, as the unclean beasts entered the ark, and everywhere they went robbery, arson, murder, and every crime that the ingenuity of men could devise, or the devil inspire, followed in their train. They sowed broadcast the dragon's teeth of secession, and a harvest of armed men leaped in their footsteps. Where was the loyalty of the Democratic party then? What were its acts? Whenever any effort was made on this floor to sustain the Government and maintain the *Constitution as it is and the Union* as it was, we were met, sir, with sneers, with threats, and derision! At the other end of the avenue sat your Democratic President, a gray-haired imbecile, surrounded by his chosen council of robbers, while thieves filled up and glutted all the highways and byways to power. Treason, in the name of Democracy, was then installed in power, and used that power which a confiding people had intrusted them with to destroy the best Government in the world—the Government which our fathers had bequeathed to us after a long and bloody struggle, and which had profusely scattered its blessings upon all like the dews of heaven. Yet those men talked of loyalty to the Government. In this it must be admitted that they exhibited more than the usual amount of impudence and depravity.

Mr. Chairman, when we brought forward propositions for calling out the militia, in order to sustain the Government and defend Government property, how were we met by those who now style themselves Democrats? They met us everywhere with the cry of "coercion," "coercion." Under these false colors they assisted treason to come rapidly to a head and to overrun this entire land. It is rather late for these gentlemen to parade their loyalty to the Government before the country. Who, sir, are the leaders of the armed rebellion against the Government, which has threatened its overthrow? They were Democrats—they were members of the Democratic party. Who was Jefferson Davis? Who was Barnwell Rhett? Who was John C. Breckinridge? Who, in fine, were the whole crew of conspirators against this Republic? They were leading members of the Democratic party, which it is now proposed to resurrect. They were not unknown men. They were not of the rank and file—they were the high priests, the Warwicks of the party. They made and unmade Presidents, they ruled conventions, and dictated the course that should be pursued. They laid down the platform which they demanded should be followed implicitly, and which the Democrats who signed this address always followed as the day follows the night. They were the men who controlled the entire action of that party.

It comes, therefore, with a very bad grace from those who have been in sympathy with the southern traitors to denounce this side of the House, and to boast of their own exceeding loyalty to the Government. It does not become them to talk of fidelity to the Constitution, which they sought to destroy by amendments under the dictation of traitors. It will not do for them to urge the loyalty of the Democratic party when there are none, in this House or out of it, so ignorant as not to know that it was that party which gave rise to this rebellion, and which all along has strengthened the hands of traitors. Yes, sir, I do doubt these men. I doubt them when they come before this House and avow their fidelity to the Constitution. I doubt any man who prates so much about the Constitution. They have always been a very uncertain class of men that would bear watching. More than eighteen hundred years ago way down in Judea they asked: "Why do ye that which is not lawful to do on the Sabbath day?" Great sticklers for the law, profound constitutional expounders, were those old Pharisees. Had those old sinners been members of this House they would have called a caucus of conservatives, or they would certainly have signed their names to this Democratic address with my colleague, for which subscribers are so imploringly petitioned. They would have raised more constitutional doubts and quirks and quibbles than ever troubled the brain of Lord Eldon or the gentleman from Massachusetts, [Mr. THOMAS.]

No, sir, this Democratic party has neither heretofore, nor now, shown any marked loyalty to the Government. When the traitors who represented the seceded States upon this floor left this Hall they left behind them the seeds of their noxious doctrine, and I very much fear warm sym-

pathizers in their hellish treason. I know that in the northern States there are at this time men calling themselves Democrats, who are, in reality, as deep-dyed traitors as Jefferson Davis or ex-Secretary Floyd. Yet they are the very men who talk unceasingly of adherence to the Federal Constitution. They are the men who would seem to be unstinted in their admiration of the Constitution, which we know they have trampled under their feet whenever the leading secession traitors demanded it with as much indifference as the elephant treads down the grass. This address of the panic Democracy, stripped of its verbiage and brought out in its true light, would read nearly as follows:

"The great Democratic party has been broken in pieces. What John Randolph predicted has come to pass. The masters, our natural allies, are running from their niggers, and the niggers are running from their masters. The fearful auguries of Jefferson are being fulfilled. The judgments of an offended God are already upon us. There is no other way to reunite our forces and get into power again but by a louder and more vigorous cry against the rascally abolitionists. The old stalking horse, abolition, on which so many Democratic victories have been won in days gone by, must be again brought into the field with renewed energy, and if all Democrats will but cry loud enough, they may expect one more Democratic victory, and perhaps another 'twenty years of power and rule,' with like glorious results. Though our old friends, the apostles of secession and rebellion, Messrs. Yancey, Rost, and Mann, most stoutly declared to Earl Russell that 'it was from no fear of losing their niggers that they got up the rebellion,' we all now see the deplorable state of things brought about by the pernicious doctrine of the infatuated abolitionists, that the Declaration of Independence is true to the letter, that all men are entitled to life, liberty, and the pursuit of happiness. The very 'corner-stone' of the Democratic party has been knocked out, and if we cannot reunite the masters and their niggers, to say nothing of that numerous company of all shades and complexions as the result of the happy connection of master and slave, the Democratic party can never recover its former status, and slavery will be no more forever. Freedom for 'all men,' that great heresy of the fathers of the Republic, will be the established law and practice of the nation, when no labor can be had without pay, no man can sell his own children, or separate at will husband and wife, parent and child, brother and sister. Our 'southern brethren' will be no better off than the 'mudsills,' 'greasy mechanics,' and 'hard-fisted farmers' of freedom. The 'white trash' of the South will have a chance to get up a little in the world, and learn to read and write, and, perhaps, cipher, and get a great many other Yankee notions into their brains as the result of abolition. What Jefferson, Washington, and a host of revolutionary worthies said about slavery, can be said anywhere with perfect safety—no lynching, no tar or feathers. We shall have no more of the barbarous treatment of the dead and dying, no more brutal exhibitions of chivalry in the Halls of Congress upon unarmed Senators for freedom of speech. In view of such a sad state of things as will exist under the abolition of slavery, the Democratic party are called upon by all their past associations with the slaveocracy, to rally around the old standard of slaveholding alliance. The great rebellion of our 'southern brethren' must be treated with extreme kindness, without reproaches or complaints.

"In case that the powers that be, or expect to be, should demonstrate the fact that one slaveholder is *not* a match for five Yankees who work for a living, then we must take measures to restore our old friends, the ringleaders in the rebellion, to their former standing in the Democratic ranks, giving them all they ask, and thus with the time-honored cry of abolition, clutch again the reins of Government, share its honors and its spoils, yielding in a magnanimous spirit to the lords of creation.

"For more than twenty years, mark the period, the Democratic party, with short intervals, *controlled* the *power* and *policy* of the Government, and had everything their own way, and 'behold the fruits' at the end of their rule; Buchanan, Breckinridge, Floyd, Cobb, Toucey, Davis, Benjamin, Toombs, Wigfall, and a host of other distinguished worthies, graduates from the great Democratic school, having shared the honors and emoluments of the pure and elevated rule of the party—having had access to the nation's Treasury, taking its mints, custom-houses, arsenals, forts, &c., as trophies of this long and happy period of instruction in the science of government; and following in its wake the uprising of a chivalrous people, skilled in all the arts of civilized warfare, as exhibited by their extraordinary valor, and the humane treatment of their captives; bidding defiance to the 'corrupt, venal wireworkers of Albany, the sour-krout Germans, the vile, sensual, animal, brutal, infidel, superstitious democracy of the North and Northwest, the stupid democracy of Canada, and arrogant, tyrannical New England,' and the rest of mankind, as more fully set forth in De Bow's Review, the very elite of slaveholding literature, which says that all government is a usurpation, that the few of the chivalry must govern the masses.

"Now, in view of these transcendent results of 'twenty years rule,' and the 'broken and dishonored fragments of a once glorious' Democratic party, and the terrible consequences which will ensue if we cannot put things back just as they were, and reëstablish upon an enduring basis the time-honored relation of master and slave, as the true platform of Democratic 'power and rule,' the party can never rise to its former grandeur, and the nation will be lost forever if the Democratic party don't save it. We see but one way by which our hopes can be revived. There is but one fulcrum which will wake the slumbering energies of the party, as we said in the outset, and that is the old cry of abolition—no matter what Yancey, Rost and Mann, honest, high-minded souls, said to Earl Russell, that was for the English and French abolitionists, and a *master* stroke of Democratic policy. Our policy *here* is to save the Democratic party, and if it cannot be saved by the masters and their niggers—allowing every white man to have as many niggers as he wants—then there is no salvation for us. Let all Democrats then come to the rescue. Let the watchword be, death to abolition! Long live slavery and the Democratic party! All yoke in side by side with marked and branded slaves, and the year of jubilee will come."

But, Mr. Chairman, I cannot dwell longer on this point. I have other matters to attend to, and unless I hurry on, I fear that my hour will have expired before I can finish them. Now, I have said that my colleague from the Dayton district of Ohio [Mr. VALLANDIGHAM] was the father, the concoctor, and the writer of this address. It is proper, therefore, that we should look into his record, for it is an invariable rule that the offspring will ever partake of the nature of the parent. It is my purpose to trace the record of my colleague, and to show what has been his action in the past. I want to show what were his sympathies and his feelings in the very recent past, so that we may better judge of the real character of the movement which he has inaugurated. So long ago as 1860 my colleague, in an address which he delivered before the Cooper Institute, of New York, made use of the following very remarkable language:

"If any one or more of the States of this Union should at any time secede for reasons, of the sufficiency and justice of which, before God, and the great tribunal of history, they alone may judge, much as I should deplore it, *I never would, as a Representative in the Congress of the United States, vote one dollar of money whereby one drop of American blood should be shed in a civil war.*"

In 1860, then, he openly avowed that he would vote no money to stay the rising of this rebellion, or to prevent the consummation of the infamous doctrine of secession. He would vote no money to disperse and destroy the men who appeared defiantly in arms against the honor and the dignity of this nation, and who threatened the integrity of the Constitution and the destruction of the Government. I will say for my colleague that this bold declaration, which he made in 1860, he has lived up to with scrupulous fidelity; for, so far as I know, he has never yet voted one dollar to sustain either the Army or Navy of the country in the prosecution of this war.

Mr. PENDLETON. I ask my colleague to yield to me for a moment.

Mr. EDGERTON. Certainly.

Mr. PENDLETON. I want to call my colleague's attention to the fact that the gentleman whose record he is attacking is not in his seat at this time.

Mr. BLAKE. But the gentleman was in his seat when my colleague began his speech, and could not have helped knowing that it would have special reference to his record.

Mr. EDGERTON. I saw my colleague from the Dayton district in his seat when I rose, and I made particular allusion to him and his connection with the Democratic address long before he left the Hall. It is my purpose, in following his record, to point to that which is patent to every member of this House. I shall certainly do him no injustice.

Mr. PENDLETON. The gentleman will understand that I do not ask him to desist from the speech which he is making, and that my only purpose is to call his attention to the fact which I have already stated. I call my colleague's attention, and the attention of the House, to the fact that the gentleman whose record is being attacked is now absent from the Hall.

Mr. EDGERTON. It is not my fault if my colleague from the Dayton district is not present. Allusion was made to him before he left, and he could not have been unaware of the fact that I intended to trace his record upon these questions. That may appear cruel, and I do not wonder that my colleague left; who could endure such a record?

Now, Mr. Chairman, I have said that my colleague was the leader. I wish to show in that connection that all the speeches which have been made by men of the same sympathies and opinions are only a rehash of the speech of my colleague at the extra session. While they have no complaints to make of the rebels, they denounce what they call the extravagance of the Administration, and they attempt to paralyze the energies of the Government by charging before the people that we are running hopelessly into debt.

On the 7th of January, 1861, after Major Anderson had made his masterly movement from Fort Moultrie to Fort Sumter, Mr. Adrain, of New Jersey, introduced the following resolution:

"*Resolved*, That we fully approve of the bold and patriotic act of Major Anderson in withdrawing from Fort Moultrie to Fort Sumter, and of the determination of the President to maintain that fearless officer in his present position, and that we will support the President in all constitutional measures to enforce the laws and preserve the Union."

Voting for that resolution there were 124 members, and against it 53, among whom was my colleague, the author and signer of the Democratic address.

On the 19th of January, 1861, Mr. Howard, of Michigan, introduced the following resolution:

"*Resolved*, That the message be referred to a special committee of five members of this House, and that they be instructed to report on the same as early as possible; and that said committee make immediate inquiry, and report: 1. Whether any executive officer of the United States has been or is now treating or holding communication with any person or persons concerning the surrender of any forts, fortresses, or public property of the United States, and whether any demand for such surrender has been made, when, and by whom, and what answer has been given. 2. Whether any officer of this Government has at any time entered into any pledge, agreement, or understanding with any person or persons not to send reinforcements to the forts of the United States in the harbor of Charleston, and the particulars of such agreement, pledge, or understanding; when, where, and with whom it was made, and on what consideration. 3. What demand for reinforcements of the said forts has been made, and for what reason such reinforcements have not been furnished. 4. Where the ships of the United States are now stationed, with what commands, and with what orders. 5. Whether the custom-house, post office, arsenal, and other public buildings of the United States at Charleston have been seized and are held in possession by any person or persons, and the particulars of such seizure and possession. 6. Whether any revenue cutter of the United States has been seized and is now held in possession by any person or persons, and the particulars thereof; and whether any efforts have been made by the head of the Treasury Department to recapture or recover possession of said vessel. That the committee have power to send for persons and papers, to take testimony, and report from time to time, as facts material to the national safety and national honor may be disclosed by the evidence."

That very reasonable proposition received a vote of 133 to 62, and among those who voted in the negative was my colleague from the Dayton district.

January 14, 1861, Mr. Stanton, of Ohio, introduced the following resolution. It was during the terrible days when this city was in imminent peril of being seized by assassins and traitors. It was when the Government was in hourly danger of being subjugated, and when this city was thronged with the hordes of secession, that this House was called upon to vote for the following resolution:

"*Resolved*, That the Committee of the Whole on the state of the Union be discharged from the further consideration of House bill No. 860, to provide for organizing and disciplining the militia of the District of Columbia, and that the same may be made a special order for to-morrow, the 15th instant, and from day to day until finally disposed of."

Voting against that resolution I find the name of my colleague from the Dayton district. I will say, also, that he voted against the loan bill during the same session.

I come now to the extra session of Congress. On the bill reported from the Committee of Ways and Means for the collection of duties on imports, the vote was, yeas 156, nays 10; and among the latter I find the name of my colleague. It is an important fact, too, that of the ten who voted against it two are now in armed rebellion against the Government.

A MEMBER. What are their names?

Mr. EDGERTON. Mr. Burnett, of Kentucky, and Mr. Reid, of Missouri. On the bill for a national loan and for other purposes, the vote was 153 for, to 5 against it. I find the name of my colleague of the Dayton district recorded in the negative; religiously true to his pledge, he would vote no money, though the enemy was in sight of our capital. Of those five, two are now in the rebel army. I will say that on every measure which has been brought forward in this House to sustain the Government in its present struggle, and to give it power to crush this rebellion, my colleague has persistently, uniformly, and consistently—if it is proper to use the word in that connection—voted against them. I say, so far as my knowledge goes, he has voted against the Government at all times.

On the 11th of July last, Mr. HOLMAN put the following interrogatory to my colleague, and mark the answer:

"Mr. HOLMAN. While the gentleman censures the Administration, let me ask him whether, with his own constituents, he is resolved that the Union shall be maintained?"

A very simple question, and easily answered. Now hear my colleague:

"Mr. VALLANDIGHAM. My votes shall speak for me on that subject. My position is defined in the resolution just read. I am answerable to my conscience and my constituents, and not to the gentleman from Indiana."

As Captain Cuttle would say, "that is an answer as is an answer." "My vote shall speak for me." Yes, they have spoken, and *every time against the Government*. The resolution to which my colleague refers, was no answer to the question; it had no answer in it; or if it had, the answer was so qualified and restricted that no one could find it. It is like the goddess that the old Romans exhibited on certain festive occasions, who was so covered over with flowers and flounces and furbelows that no goddess could be seen.

But this is not all of my colleague's record. My colleague, it is well known—or at least it is known to this House—went with that notorious traitor, Breckinridge, to the city of Baltimore, and there addressed, or tried to address, the traitors assembled on that occasion. It is a well-known fact that there was in Kentucky a rebel camp named Vallandigham, after my colleague. I understand further, that, at a rebel meeting in Kentucky, my colleague was posted on flaming handbills to speak to the rebel traitors. My colleague, I think, has said that he did not know of their using his name in this way, but they must have known him; and they did *know* him. There is one thing in reference to the rebels, and that is, that they always *know* their man. They would not have placed the name of my friend from the Louisville district of Kentucky [Mr. MALLORY] on the bills to speak at a secession meeting. They *know* their man, and they never *mistake* him.

More than that. My colleague, during the dark days of the last session of the Thirty-Sixth Congress, when this House was filled with traitors—when State after State had gone out of the Union—my colleague, in my presence, and in the presence of others, said *that the troops of Ohio, before they should march through his district to coerce the South, would have to march over his dead body*. True it is that he denies it; but in that his memory is at fault. There were others who heard it, who are now members of this House.

This, Mr. Chairman, is the record of my colleague. This is the record which he gives to the world and to posterity. When he talks about the Constitution, and when he talks about peace, what does he mean? I will not undertake to state what he means by the Constitution. Certainly he *does not mean* that old and venerated Constitution which our fathers made, and which he has sought to subvert. I will leave it for others to state what sort of a peace we would have, if we obtain the peace which he seeks. Gentlemen may cry peace, peace; but there will be no peace until this rebellion has been crushed out of the land, and the Constitution *as it is* vindicated and sustained. We have called our armies into the battle-field, and the question must now be settled by the stern arbitrament of the sword. It cannot be settled by compromise. It must be settled by cold steel. The only compromises that can now be allowed are the bullet and the bayonet.

Gentlemen, too, talk about reconstruction. There is no reconstruction in the matter. When traitors submit to the laws of the land, when armed rebels give up their arms, and when the secession leaders are surrendered to their merited fate, this war will end, and not till then. There can be no peace while that dirty flag of secession flaunts in our face. A proposition for peace at this time made upon this floor by any member ought to insure his instant expulsion. The rebels do not ask for peace. They ask for no quarter. It is their attorneys who come forward and ask for peace. The rebels are as defiant to-day as when the war broke out. Why, then, do we hear this talk about peace with these Sepoys, who murder our wounded soldiers in cold blood, and who cut off their heads and carry them as horrid trophies through the land? We can have no peace until they are subdued, until these Thugs are driven into the Gulf. The bones of our brethren are now worn as trinkets by these barbarians. It is more than idle to talk of peace with such men. There will be no peace until they are completely subdued; and any action which we may take towards a peace until they are subdued, will serve only to strengthen the rebellion.

Who knows the exultation and the joy with which this Democratic address was read in the camps of the secessionists? Who can describe the thrill of delight which ran through the ranks of the followers of Jeff Davis when they read that address, and found, while there was no condemnation of the rebellion, there was a bitter denunciation of the true men of the North and of Mr. Lincoln's administration? Who can tell how that address animated the hearts and strengthened the arms of the rebels to strike another and a more deadly blow at the hearts of our brothers and sons? Who can deny that the whole tenor and effect of this address, instead of striking at the traitors, is to bolster up their cause, and to strengthen their hands against the Government?

But, Mr. Chairman, I must hurry on. There is another thing which you hear from politicians of a certain class, the cry of extravagance. A systematic effort is made to alarm the people, and to get up a panic on the alleged extravagance of the Administration. They know that to weaken confidence in the Government and to impair its credit, will serve the rebel cause; so they enlarge the figures, and endeavor to impress the public with the belief that a fearfully heavy tax is to be imposed upon them. They try to drive the people from supporting the Government, by threats held out to them on the subject of taxation. These pupils of Cobb and Floyd have become on a sudden great economists. These men are mistaken in reference to the people. They have formed a low and vulgar estimate of the people of the country.

The history of the world presents no parallel to the uprising of the American masses for the defense of their venerable flag and the free institutions of which it is the symbol. With one accord they rushed to arms. They left their implements of husbandry in the fields, and the tools of their trade in the workshops. They were willing to sacrifice everything, that the laws might be enforced and the Government preserved. They were willing to pour out their blood and their treasures without stint; and yet these men who signed this Democratic address seemed to be of the opinion that the American people were willing to sit down and coolly calculate the cost of this struggle for their liberties. When the Lacedemonians sought to barter the liberties of Greece, "Go," said the Athenian embassadors, "and tell the Lacedemonians the people of Athens would not take all the gold either above or under the ground for the liberties of Greece." I tell these gentlemen to announce to the world that the American people will not barter their liberties for all the gold above or under the earth. They have a higher appreciation of their liberties. They will let their fathers and sons go to the field of conflict; they will submit to taxation; they will submit to every sacrifice, rather than their institutions shall be infringed upon or destroyed.

There is another effort being made, and a studied effort to create a jealousy between the West and the East. When this rebellion was culminating, in nearly every speech of the class to which I refer, we were told, and the South was told, that the people of the West ought not, and would not go with New England; that their interests were not with New England, and if the South did secede, there would be not two, but four republics. The other day the gentleman from Indiana [Mr. VOORHEES] run in the same groove—played the same tune about the East. He made an attack on Massachusetts. Massachusetts has been for years the favorite subject for denunciation by the red-handed traitors now in arms against the Government. I have no word of defense to make for Massachusetts. Her sons can vindicate her in this House and upon the field of battle. I will say, however, that I respect Massachusetts for her industry and enterprise. I admire Massachusetts for her literature, her morality, and benevolence. I *love Massachusetts for her devotion to constitutional liberty and the inalienable rights of man*. Yet these men would prejudice the people of the West against Massachusetts. The interests of Massachusetts and New England are the interests of Ohio and the West, and are wedded together by the strong bonds of mutual interest and affection, which nothing can separate.

While I have said thus much in condemnation of this new conspiracy and of the traitorous Democrats who are now in arms to destroy the Government, I wish to do justice to the loyal Democrats both in this House and in the field, who are now doing valiant service for their country. When the hour came to decide between party and country, they promptly enrolled themselves in their country's cause. They brought their party flags and laid them down at the altar of their country, resolved in this hour of national peril to know no flag but the flag of the Union. It was an exhibition of patriotism worthy of the best days of the Roman republic. Honor to their names. This is no time, Mr. Chairman, to assail our Government. She needs all her sons, for we are in war, a war with barbarians.

"Hark! heard ye not those hoofs of dreadful note?
Sounds not the clang of conflict on the heath?
Saw ye not whom the reeking saber smote,
Nor saved our brethren ere they sunk beneath
Tyrants and tyrants' slaves? the fires of death—
The bale fires flash on high, from rock to rock,
Each volley tells that thousands cease to breathe;
Death rides upon the sulphury siroc;
Red battle stamps his foot and nations feel the shock."

They that are not with the Government in this day of its trial, are against it—its enemies—and should be so considered and treated. Sir, there is but one way to peace, and that is the highway of war; but peace will come, the noise of battle will pass away, and the "garments rolled in blood," and the nation will be strengthened and ennobled by the fiery trials through which it is made to pass. Yes, peace will come when our flag floats again over every fortress in the land; when treason is wiped out forever; when these rebellious States are redeemed and regenerated; then peace and liberty will come and dwell together. We will then gather back those wandering and erratic orbs, and place them once more on the azure field of our dear old flag, there to shine in united and harmonious luster through coming time.

HAYTI AND LIBERIA.

SPEECH OF HON. THOS. D. ELIOT,

OF MASSACHUSETTS,

IN THE HOUSE OF REPRESENTATIVES,

June 3, 1862,

On the bill (S. No. 184) to authorize the President of the United States to appoint diplomatic representatives to the republics of Hayti and Liberia.

Mr. ELIOT said:

Mr. SPEAKER: The recognition of Haytien independence is among the duties to be discharged by the present Congress, as an act both of justice and of policy. A bill similar in its provisions to the bill now before the House should have become a law many years ago. Certainly of Hayti, and it is concerning that people that I intend to speak, national recognition should have been long since cheerfully given. If President Jeffrard were not a patriot, as he has been found to be by his entire administration hitherto, if he were not a statesman, "clothed and in his right mind," especially if he were vindictive, as the race of which he is perhaps the chief in this age are ignorantly called, the time might be at hand when he would prefer to dispense with our tardy welcome, for he and his people may prosper without us as well as we and our people may prosper without them. There are but few loyal States in this Union that are not richer every year because of Hayti, nor is there one that might not multiply annually the results of Haytien commerce if Haytien independence were by our Government cordially recognized.

It is one of the marvels of modern diplomacy, and it will always be reckoned among those suicidal acts for which but one cause may be justly assigned, that we have suffered this half century

to pass away without consenting to perform an act of simple national justice, and to receive what would have been, so far as we desired it, a monopoly of commercial intercourse.

The considerations of republican justice and of high national policy fitly to be urged in behalf of the speedy passage of the bill pending before Congress for Haytien recognition demand attention.

The history of that island upon which, in December, 1492, Columbus set up a "large cross" "as an indication," in the words of his diary, "that your highnesses [Ferdinand and Isabella] possess the country, and principally for a token of Jesus Christ our Lord, and the honor of Christianity"—from the time of its discovery until the present day, is full of romantic interest. Three hundred and seventy years ago it was said of it, "the houses and towns are very handsome, and the inhabitants live in each settlement under the rule of a sovereign judge, to whom they pay implicit obedience. Their magistrates are persons of excellent manners and great reserve, and give their orders by a sign with the hand, which is understood by all with surprising quickness." Columbus was seeking gold. Las Casas, in his abridgment of the Journal of Columbus, says that the admiral "hoped to find, at his return from Castile, a ton of gold collected from the natives, and that mines and spices will have been discovered, and all these in such abundance that before three years the king and queen may undertake the recovery of the Holy Sepulcher." And in his own diary Columbus added:

"For I have before protested to your highnesses that the profits of this enterprise shall be employed in the conquest of Jerusalem, at which your highnesses smiled, and said you were pleased, and had the same inclination."

In a letter which Columbus wrote to Don Rafael Sanchez, treasurer of Ferdinand and Isabella, he says:

"In the island named Espanola there are lofty and beautiful mountains, large cultivated tracts, woods, fertile fields, and everything adapted to the purposes of agriculture, the pasturage of cattle and the erection of houses. The excellence of the harbors here and the abundance of the streams which contribute to the salubrity of the climate, exceed imagination. Here are found divers sorts of precious drugs, gold, and metals."

In a letter to Luis De Santangel, comptroller of the treasury, written "on board the caravel, off the Azores, February 15, 1493," Columbus says:

"There are palm trees in these countries of six or eight sorts." * * * * "Beautiful forests of pines are found, and fields of vast extent. Here is also honey and fruits of a thousand sorts, and birds of every variety. The land contains mines of metals, and inhabitants without number. The island of Espanola is preëminent in beauty and excellence, offering to the sight the most enchanting view of mountains, plains, rich fields for cultivation and pastures for flocks of all sorts, with situations for towns and settlements. Its harbors are of such excellence that their description would not gain belief; and the like may be said of its abundance of large rivers, the most of which abound in gold. The trees, fruits, and plants of the island differ from those of Juana, and the place contains a great deal of spicery, and extensive mines of gold and other metals."

In the same letter, speaking again of Hispaniola, Columbus says:

"This is a most beautiful island, and although I have taken possession of them all in the name of their highnesses, and every one of them remains in their power and as much at their disposal as the kingdoms of Castile, and although they are all furnished with everything that can be desired, yet the preference must be given to Espanola, on account of the mines of gold it possesses and the facilities it offers for trade with the continent and countries this side and beyond that of the great Can, which traffic will be great and profitable. I have accordingly taken possession of a place which I have named Villa de Navidad, and built there a fortress, which is at present complete and furnished with a sufficiency of men for the enterprise; with these I have left arms, ammunition, and provisions for more than a year, and expert men and all necessary arts."

Columbus supposed that he was describing a portion of India. He believed during his life that he had thrown open a new way to the ancient commercial regions. He died in poverty and disgrace, a disappointed man, ignorant that he had made known a new continent, separated from the whole civilized world by two immense seas.

Aristotle, in his work Concerning Heaven and Earth, declared that one might pass from India to Cadiz in a few days. And Seneca said that a ship might speedily sail, with a fair wind, from western Spain to India. Fernando, the son and biographer of Christopher Columbus, referring to Seneca, said:

"If, as some assure us, he was the author of the tragedies which go by his name, we may be certain that he refers to this fact in the chorus to Medea:

"'Venient annis
Secula seris, quibus Oceanus
Vincula rerum laxet, et ingens
Pateat tellus, Typhisque novos
Detegat orbes, nec sit Terris
Ultima Thule.'"

In the last days will come a time when ocean shall loose the bonds of things. A great land shall be discovered. A Typhis shall disclose new worlds, and Thule shall cease to be the end of the earth!

Hispaniola or San Domingo, or Hayti, as the natives call it, (the Highland country,) is known to be one of the richest and most productive, as well as one of the largest of the West India Islands. It is nearly four hundred miles in length and about one hundred and fifty miles at its widest breadth. After its discovery by Columbus, the western portion of the island was occupied by the French. The character of the country, as its name implies, is mountainous, but on its mountain sides are gardens that blossom in luxuriance. The healthful breezes from the hills, although their latitude is but about twenty degrees north of the equator, invigorate and inspire the inhabitants whose good fortune has cast their lives in those pleasant places. All along the coast are roadsteads and commodious harbors. The noble bay of Samana on the southeastern coast is about sixty miles in length. Within it whole fleets may ride in safety. A river, navigable inland, running from these mountains a course of nearly one hundred miles, pours itself into this entrance from the ocean. Other bays and harbors are found along the coast with safe channels and good anchorage, although elsewhere the shore, rock-bound and dangerous, prevents approach.

Port au Prince, the capital of Hayti, is built upon its western coast. The harbor there is from eighteen to twenty-one feet in depth.

The tourists and historians who have recently described this country confirm the glowing statements of Columbus as to its soil and climate and various vegetable productions. The mountains and valleys, fertile and well watered, yield plentifully all that may supply the wants or the luxuries of the inhabitants. And the statements which I shall submit for examination show that an amount and variety of produce are yearly exported which entitle the Haytien Government to a high rank among commercial nations. There are twenty-two rivers and many smaller streams which have their source in the highlands of the interior, and which run in different courses to the sea; and at a distance from the sea of some thirty miles is an inland lake, with a circumference of over sixty miles, whose waters are salt and of the specific gravity of ocean water. The forest and other trees of this rich country are highly valuable. Large quantities of oak and pine, suitable for ship timber, are found. The mahogany wood, the manchineel tree, variegated like our Tennessee marble, and taking as high a polish, grow in profusion. The iron wood and rare Brazil and satin woods are found in abundance. The cotton and palm trees are of great size and every variety. The coffee, cotton, and sugar cane are there in native and high luxuriance. The plantain and vanilla, rice and ginger, tobacco, turmeric, and indigo are plentiful and of fine quality. The fruits and vegetables proper I will not attempt to specify. From a soil of great fertility, and under a climate so varied, it would not be easy to name a fruit or vegetable or flower that this Queen of the Antilles does not claim among her products. Nor is she without great mineral wealth. But the hand of enterprise is needed there to develop and make available her mineral productions.

Of the earlier political history of Hayti it is not of importance to speak at length. With its present and its future we have now to do. In 1793 there were in the French possessions at St. Domingo about five hundred thousand slaves. By one act of the commissioners of France, on the 29th of August of that year, they were made free. This was a war measure. Freedom was proclaimed under the war power, and as a measure of military expediency. For some years before this emancipation, civil war raged between the white men and the mulattoes. The negroes looked on, not concerned in their slavery where defeat or victory might come. The planters were negotiating with England for aid, and the Government of Spain had planted its standard, holding at that moment several strong positions upon the island. Two agents of the French Government then represented the republic. They watched the progress of the war, and observed with clear eye that the possessions of France were about to be wrested from her hands. Polonel and Southonax were there, but they had no army able to cope with England and Spain. They could wait for no reinforcements from home, for the English army was on its way. Just then they converted a half million of neutrals into an army of allies. Within thirty days after freedom was declared the soldiers of England appeared. But they had delayed too long. France had acted. The Convention at Paris hastened to ratify the act of emancipation, which was confirmed in February, 1794. A soldier and a statesman appeared, and Toussaint L'Overture, with a small army of negro soldiers, offered himself to France. For nearly four years the war continued, when Spain and England retired, and the French republic possessed what had belonged to Spain. For some years after this, the history of Hayti was made by this remarkable man. Toussaint was the opener of Haytien greatness. He was not only a military genius. He organized the Government and regulated labor and enforced a peace which at once brought wealth to the planter, secured wages to the laborer, invited commerce to the island, and won for himself the respect of the civilized world. But Toussaint trusted Napoleon, and died a prisoner in France.

The armies of the republic were, however, not able to conquer this island of freed men, and in 1804 they were driven from her shores. During the last half century these people have maintained their independence and have governed themselves. They achieved an independence more ample than we fought for in 1776, and without foreign aid. We contended for political freedom. They had first to secure their civil rights as men. We had money from abroad and heroic friends and munitions of war. They fought their own fight, with their own men, without aid from abroad, and without sympathy or countenance or comfort from one civilized nation of the earth. We were of England's best blood. The Pilgrims of the North and the Huguenots and the Cavaliers of the South were born of free parents and educated to freedom. They were used to arms. Sons of brave sires, they were fitted by birth, by culture, by education, by wealth, by all the means and appliances of modern civilization to create for themselves a nation, and to command respect. Hayti was a nation of negroes. Nearly one half her people had been imported slaves, and they had been trained in the schools of slavery. Opposed to them were the best soldiers of Europe: Napoleon's men with Napoleon's generals in command. Yet they contended successfully, and secured a national independence which they have now maintained these fifty years.

There is no civilized nation, I believe, of political importance, that has not long ago recognized Haytien independence. England, France, Spain, Prussia, Russia, Austria, Italy, Holland, the States of Germany, Sweden, Denmark, Mexico, and Brazil, have severally welcomed her as an equal and as a friend. The first Powers in the world have to-day their consuls general at the capital of Hayti. At Saint James and in Paris, our own embassadors meet upon equal terms before Queen and Emperor the accomplished embassadors commissioned by Jeffrard to represent his people.

President Lincoln, in his message to us in December last, said:

"If any good reason exists why we should persevere longer in withholding our recognition of the independence and sovereignty of Hayti and Liberia, I am unable to discover it."

At this hour the Republican party controls, or should control, the administration of our Government. For acts and for omissions, that party will be held responsible. But this is no party question, much less is it a question first presented to us by the party now in power. Thirty-five years ago the commercial interests of the Union, sea-board and inland, urged upon Congress the importance of speedy action. England was then

establishing friendly and intimate relations with a people whose nationality she had already acknowledged. Ten years ago an able memorial was addressed to Congress, now upon the files of the Senate, asserting in strong terms and with clear argument the national reasons why the Government of the United States should no longer delay to recognize the sovereignty of Hayti. Men of all political opinions have committed themselves to the justice and the moral necessity of such recognition. Since that time the steady and rapid growth of Hayti as a nation, her Christian civilization, and her varied commerce, have still further removed the question from the arena of party politics and made it national. It is as a national question that I proceed to consider it.

More than twenty-five years ago England acknowledged Haytien independence, and at this time every considerable civilized Power of the world, with one exception, holds intercourse with her as an admitted sovereignty. This condition of things settles the fact of independence. It will not be made a question that this nation is self-sustaining and fully equal to the functions of self-government. But although our own Government have failed hitherto to acknowledge that independence, yet, such are the laws of commercial life, our commercial relations have become so important and are so growing in value, that among sixty nations with whom we hold intercourse, more than one half of them are of less value to us than Hayti is. No act is wanting but one of national recognition on our part to enhance largely the mutual advantages of Haytien commerce to us and to them. Soon after the able administration of Jeffrard commenced, he took measures to ascertain the maritime and commercial business of his people, and in the statistical tables officially published we have proof how important to them our commerce is, and how important to us its continuance will be. In an official paper, published at Port au Prince in September, 1860, there is an article on the commerce between the United States and Hayti. I give a portion of it as published in this country by Mr. Redpath, who has labored so earnestly for Haytien independence and so successfully for American emigration there.

"The navigation of the United States in Hayti employs, under the American flag, one half of the foreign ships that frequent our port. As these vessels are generally smaller than those which come from Europe, they represent only forty-two per cent. of the total tonnage. But it should be remarked that, thanks to their full cargoes both in arriving and returning, they can fix their rate of freight at more favorable terms than their competitors. The remark which has almost become an axiom, that the navigation of a people develops itself in proportion to the products exported, finds here a new proof. The value of the importations from the United States, and the amount of the duty paid by them to the Treasury, is about forty per cent. of the total. It represents $2,250,000 worth of imports, of which ninety per cent. arrive under the American flag. The chief of these importations are pork, in its different forms, and flour, which amount to about fifty per cent. of them. Subjoined are figures of the quantities introduced, and of the indication of their value:

Candles	$20,000
Butter and cheese	40,000
Gold and silver	65,000
Furniture and manufactured woods	25,000
Cotton stuffs	220,000
Flour	500,000
Salt beef	20,000
Fish	230,000
Pork, ham, and lard	475,000
Iron	30,000
Soap	215,000
Articles of which similar are produced in the country:	
Lumber and shingles	70,000
Rice	110,000
Other articles	65,000
Tobacco, in leaves and manufactured	150,000
Refined sugar	15,000
	$2,250,000

"Pork, building woods, tobacco, rice, refined sugar, amount to forty per cent. on the total importation. In proportion as our general industry shall develop itself, the importation of these articles will diminish, for we are quite as well situated as the United States to produce such articles. It is greatly to be desired that our culture of tobacco, rice, and sugar, should be sufficiently advanced, in order to exclude from the list of our consumptions the productions of the southern States of the Union. This reduction, however, would hardly impede our commerce with the United States, whose growth in the arts and manufactures increases every day. What our exchanges would lose on the one side, they would gain on the other."

During the first six months of 1860, the commerce of Port au Prince, which has a population of about twenty thousand persons, is thus stated:

"The import tonnage has risen to 17,865 tons, and the exports to 19,860. As usual, the United States hold the first rank, and are represented in the following table by 9,600 tons.

France	5,000 tons.
England	2,000 "

Hanover, Denmark, Sweden, Hamburg, Belgium, Holland, and Spain complete the list.

The amount of the invoices of importation is $1,438,145, Spanish.

For the United States	$665,400
For England	343,870
For France	228,680

The countries named above make up the difference.

The amount of exportation, reduced into Spanish dollars, at the rate of fourteen Haytien dollars to one Spanish, $1,408,000. This comprises:

France	$775,000
United States	275,000
England	190,000

And the other countries.

The import duties amount to $300,000:

United States	$104,000
France	74,000
England	53,000
Other countries	69,000

The export duties amount to $275,000:

France	$13,500
United States	46,000
England	33,000
Other countries	61,000

Exportation comprises the following products:

Coffee	15,000,000	pounds.
Logwood	8,400,000	"
Cotton	93,000	"
Cocoa	685,000	"
Mahogany	88,000	feet.

The exportation of coffee in French vessels has amounted to 7,500,000 pounds.

American	2,300,000	pounds.
English	1,835,000	"
Danish	1,060,000	"
Swedish	750,000	"
Other countries	1,555,000	"

"It will be observed, on examining the above figures, that the imports and exports are nearly to the same amount—a fact which, if it were general, would indicate a healthy condition in the commerce of importation."

* * * * * * * * * *

"By far the largest portion of the exports and imports occur in the months of September, October, November, and December. During the first six months of every year, not more than one third of the annual exports and imports are made. The foregoing figures, therefore, must be regarded in the light of this fact, to give a true result in estimating the yearly commerce of the capital.

"So far, for the commerce between the States and Hayti, and for the trade of the chief port. These subjoined figures, which are also official, will give an idea of the general commerce of the Republic:

"The commerce of Hayti employs annually between five and six hundred vessels, giving a total of about seventy thousand tons, distributed among the following nations:

	Ships.	*Tonnage.*
United States	250	30,000
England	90	12,000
France	70	12,000
German, Danish, Swedish, Russian, Holland, Belgium, Italian, Central America, Spanish	50	8,000
	50	7,000

"To these figures must be added twenty-five per cent., in order to arrive at their registry tonnage; for the Haytien mode of computation gives invariably between twenty-five and thirty per cent. less than the ship's register.

"The import duties paid to the State, under the Empire, averaged between $800,000 and $900,000 annually, and were derived as follows:

United States	$300,000
England	190,000
France	190,000
Other Flags	180,000

"The annual exportations of the principal staples may be estimated thus:

Coffee	50,000,000	lbs. Haytien.
Logwood	50,000,000	" "
Cotton	700,000	" minimum.
Cocoa	1,200,000	lbs. Haytien.
Mahogany	2,500,000	feet reduced."

It is plain that intercourse with us has been profitable to them; but it is equally plain that a large proportion of the articles imported into Hayti from this country may be obtained by her, with less convenience, through the British provinces. For some years prior to the administration of Mr. Jeffrard, American vessels were permitted to enter at Port au Prince as favorably as those of England. There had been a law imposing an additional duty of ten per cent. on vessels from Governments not represented at Hayti. This was repealed by the Emperor Soulouque, who received at his capital the commercial agent of our Government, on condition that he might appoint commercial agents, (who should be citizens of the United States,) at New York, Philadelphia, and Boston. But such a condition of things cannot be expected to continue. Mr. Jeffrard has too high a respect for himself and for his Government to continue to the United States privileges which have, it is fair to presume, not been withdrawn by him, because he had good reason to hope and to believe that the time was at hand when the United States, who were the first people to free themselves from colonial dependence upon a European Government, would consent to acknowledge Hayti, who, next after ourselves in point of time, successfully accomplished a similar independence.

But, sir, if it be for the interest of Jeffrard to continue and to extend our mutual intercourse, it is not of less importance to us than to them. We are natural, commercial allies of Hayti. We have what she wants, and she has in large abundance that which we need. From our middle and western and northern States there is nothing which we produce in greater quantities than we consume that she is not ready to buy. Let me state her commerce with a single one of our maritime cities. I find in an article prepared by Mr. Henry Melrose a statement of Haytien trade with Boston for the year 1861. It is, in brief, as follows:

"To commence with the imports, the value of the coffee imported from Hayti into Boston for the year 1861 amounted to $405,427. The value of the importations of logwood, for the same period, was $140,569. Of cotton, the shipments were small, and the value was estimated at only $8,683. That of lignumvitæ was still less, it being only $4,680. So that the total value of the year's imports amounted to $559,359.

"From the list of exports, it appears that the quantity of alewives shipped to Hayti, during the last year, was 12,689 barrels and 62 half barrels; butter, 8,720 pounds, 2,499 kegs, 880 pails, 57 jars, 4 boxes, and 635 packages; bread, 548 barrels, 30 boxes, 101 barrels, and 32 other packages of various kinds; of beef, 395 barrels, 111 half barrels, 15 quarter barrels, 32 kegs, and two other packages; boards, 616,501 feet; codfish, 36,543 quintals, 3,281 drums, 4 half drums, 80 quarter drums, and 776 boxes; candles, 10 cases, 2,847 boxes, and 5,000 pounds; segars, 23,500; crackers, 612 cases, 1,146 kegs, 635 tins, and 160 other packages; cheese, 3,082 boxes and 6,792 pounds; flour, 25,324 barrels; lard, 3,477 kegs, 3,400 pails, 82 cases, 220 packages, 29,190 pounds, and several packages of other denominations; mackerel, 9,997 barrels, 481 half barrels, and 131 other packages; pork, 13,187 barrels; rice, 101 barrels, 3,567 half barrels, and 19,740 pounds; sugar, 233 barrels, 304 boxes, 152 half barrels, and 30,916 pounds; soap, 116,930 boxes, 225 quarter boxes, and 100,800 pounds; tobacco, 35,000 pounds, and 71 packages of various kinds; fish, 955 barrels, 227 packages, and 2,920 boxes; house frame, 121,461 feet; and hams, 7,399 loose, 5,175 pounds, and 244 barrels, tierces, or casks. Other articles were exported in smaller proportions.

"The conveyance of those exports called into requisition the services of 305 vessels, chiefly brigs and schooners, varying in size from 150 to 300 tons. Of that number, there were 5 barks, 149 brigs, and 151 schooners; and assuming that each vessel had a crew of six men, the trade would thus give employment to upwards of 1,800 seamen. To how many thousands of other persons this branch of commerce gives regular employment it would be difficult to determine, but judging from the list of exports, the number must be very large.

"Let the facts, however, speak for themselves.

Value of Imports.

"The value of the Haytien imports into the port of Boston for the year ending December 31, 1861, were—

Coffee	$405,427
Logwood	140,535
Cotton	8,683
Lignumvitæ	4,680
	$559,359

Number of Vessels Employed.

Barks	5
Brigs	149
Schooners	151
	305

I regret that it is not yet in our power to show the commerce of Hayti and all the United States during the year 1861. Our annual volume of Commercial Relations will exhibit it in due time. But in the reports annually published by Congress from the Secretary of the Treasury on the commerce and navigation of the United States, will be found valuable tables, from which I have had prepared with care statements showing our commercial intercourse for the year ending June 30, 1860. I shall publish these statements with my remarks, and I ask attention to them.

A.

Statement of goods, wares, and merchandise of the growth, produce, and manufacture of the United States exported to Hayti during the year ending June 30, 1860.

Adamantine and other candles	93,386 pounds	$13,452
Apples	125 barrels	473
Ashes, pot and pearl	2 cwt	16

Beef	1 tierce .... 837 barrels....	$11,282
Beer, ale, porter, and cider, (casks)	555 gallons....	106
Beer, ale, porter, and cider, (bottles)	264 dozens...	439
Biscuit or ship bread	1,041 barrels.... 1,356 boxes, &c.	6,535
Boards, plank, and scantling	3,130 M.	53,619
Books and maps		148
Bricks, lime, and cement		2,830
Brooms and brushes of all kinds		206
Butter	211,644 pounds...	34,875
Cable and cordage	101 cwt.....	989
Carriages, and parts of, railroad cars, and parts of,		3,018
Cheese	121,137 pounds...	13,422
Copper and brass, and manufacturers of		2,135
Drugs and medicines		13,127
Earthen and stone ware		926
Fire engines		120
Fish, dried or smoked	55,652 cwt	192,046
Fish, pickled	11,562 barrels ...	65,668
Gold and silver coin		87,756
Gunpowder	575 pounds...	81
Hams and bacon	137,476 pounds...	15,546
Hats, (of fur or silk)		4,260
Hats, (palm leaf)		4,179
Lumber		3,491
Horses	2 horses....	450
Hops	1,171 pounds...	168
Household furniture		19,950
Ice	130 tons.....	320
Manufactures of India rubber		337
Indian corn	57 bushels...	56
Indian meal	201 barrels ...	863
Iron, castings	20 cwt	60
nails	95,824 pounds...	3,374
manufactures of		69,282
Manufactures of gold, silver, and gold leaf		187
Lard	675,163 pounds...	81,987
Lard oil	10 gallons...	13
Lead	4,150 pounds...	250
Leather	2,367 pounds...	410
boots and shoes...	3,203 pairs.....	3,469
Linseed oil	2,552 gallons...	1,765
Manufactured tobacco	44,579 pounds...	5,450
Manufactures of cotton, printed, painted, or dyed,		110,102
white and other duck..		9,810
duck		1,570
other manufactures.....		106,235
glass		1,584
hemp, thread		30
others		249
marble and stone		759
tin		710
wood		12,893
Molasses	375 gallons ...	63
Morocco and other leather not sold per pound..		411
Musical instruments		268
Oil, spermaceti	25 gallons ...	38
Oil, whale and other fish.	5,747 gallons ...	4,050
Onions		1,238
Paints and varnish		3,309
Paper and stationery		2,412
Pork	27,230 barrels ...	463,233
Potatoes	1,568 bushels...	1,172
Printing presses and type		5,585
Rice	351 tierces.... 13,175 barrels ...	114,446
Rye, oats, and other small grain and pulse		4,577
Saddlery		1,737
Salt	80 bushels...	16
Shingles	1,417,000.....	10,573
Skins and furs		122
Soap	2,602,132 pounds...	207,857
Spermaceti candles.....	2,275 pounds...	790
Spirits from grain.....	354 gallons...	180
molasses.....	84 gallons...	28
other materials,	432 gallons...	162
Spirits of turpentine.....	2,284 gallons...	1,221
Staves and heading.....	3,000.....	73
Sugar, brown.....	44,880 pounds...	4,200
refined.....	173,208 pounds...	16,101
Tallow	210 pounds...	20
Tar and pitch.....	503 barrels ...	1,146
Tobacco, leaf.....	32 hhds ..... 11 cases..... 5,649 bales.....	73,019
Trunks and valises		405
Umbrellas, parasols, and sun-shades		24
Vinegar	3,883 gallons ...	415
Wearing apparel		709
Wheat flour	86,209 barrels ...	535,013
All other articles manufactured		17,882
raw		5,634
Total value of exports in American vessels...		2,159,744
Total value of exports in foreign vessels.....		282,161
Total value of exports from the United States to Hayti		2,441,905

B.

Statement of goods, wares, and merchandise of the growth, produce, and manufacture of foreign countries, exported to Hayti during the year ending June, 30, 1860:

Coffee	25,905 pounds...	$2,781
Coins, gold		9,500
Beer, ale, and porter.....	30 gallons....	20
Clothing, ready made		340
Copper, manufactures of		477
Cotton, manufactures of, plain		1,131
bleached, printed, painted, or dyed		90
Fish, dried or smoked....	25,281 cwt.....	96,696
Herrings	1,070 barrels....	$2,700
Mackerel	628 barrels....	4,140
Other fish, dried, smoked or pickled	6,927 barrels....	30,510
Fish in oil, sardines, &c		90
Flax, manufactures of		776
Figs	1,661 pounds...	183
Prunes	2,765 pounds...	321
Raisins	27,929 pounds...	2,991
Other fruit, green, ripe, or dried		32
Glass, window		5
Gums, Arabic, Barbary, Copal, &c	240 pounds...	75
All other gums and resins in a crude state	202 pounds...	48
Gunny bags		2,030
Hemp, and manufactures of burlaps		2,380
Hemp, and manufactures of cotton bagging	2,949 runn'g yds.	352
Hemp, and manufactures of osnaburgs		3,532
not specified		7,174
Indigo	2,868 pounds...	1,626
Iron, fire arms		50
not specified		25
Matting		10
Nuts, almonds	376 pounds...	54
others		111
Oil, castor	5 gallons....	7
essential, expressed, or volatile		2,986
linseed	40 gallons....	25
olive	225 doz. bots.	850
Pens, metallic		186
Printed books and magazines, in English		240
Raw hides and skins		200
Silk, manufactures of		301
Spices, cassia	2,660 pounds...	547
cinnamon	30 pounds...	6
cloves	3,073 pounds...	254
ginger, ground	2,000 pounds...	240
nutmegs	1,903 pounds...	831
pepper	63,567 pounds...	5,780
pimento	743 pounds...	64
Spirits, brandy	160 gallons...	235
from grain	578 gallons...	264
from other material	428 gallons...	202
cordials	113 gallons...	147
Sugar, loaf and other refined	404,965 pounds...	39,677
Tin, and manufactures of plates and sheets		2,951
Tobacco, cigars	367,000.....	2,967
Wine, in casks, madeira..	10 gallons...	29
port	10 gallons...	30
sherry and St. Lucar,	56 gallons...	240
red wines	455 gallons...	296
champagne	34 doz. bots.	257
Wine, in bottles, claret...	85 doz. bots.	351
Madeira	5 doz. bots.	41
port	2 doz. bots.	38
other	5 doz. bots.	40
Zinc, nails	110 pounds...	70
sheets	830 pounds...	70
other manufactures of		64
Value of merchandise not enumerated above..		940
Value of merchandise exported to Hayti, free of duty		12,281
Value of merchandise exported to Hayti paying duty		219,496
Total		$231,777
Value of merchandise exported to Hayti in American vessels		$212,910
Value of merchandise exported to Hayti in foreign vessels		18,867

C.

Statement of goods, wares, and merchandise of the growth, produce, and manufacture of foreign countries, imported into the United States from Hayti, during the year ending June 30, 1860.

MERCHANDISE FREE OF DUTY.

Articles, the produce of the United States brought back		$2,865
Coffee	15,621,751 pounds...	1,679,657
Gold		900
Silver		18,010
Copper, (old)		1,150
Cotton, (unmanufactured)		23,825
Dye-woods, in sticks		239,918
Effects, personal and household		8
Old junk and oakum		25
Rags of every material, except wool		433
Seeds, trees, shrubs, bulbs, plants, and roots not otherwise provided for		10
Specimens of natural history		25
All other articles		1,241
Total		$1,968,067

MERCHANDISE PAYING DUTIES AD VALOREM.

Cocoa	323,499 pounds...	$25,128
Flax, (linens bleached or unbleached)		467
Limes		25
Gums, (Arabic, Barbary, Copal, &c.,)	1,700 pounds...	314
All other gums and resins, in a crude state	2,507 pounds...	246
Hats and bonnets of straw or other vegetable substances		23
Honey	15,086 gallons....	5,210
Cables, chain	35,610 pounds...	347
Old and scrap iron	487 cwt.....	223
Jute, sisal grass, coir, &c.	35 cwt.....	120
Molasses	64 gallons....	13
Musical instruments		$25
Linseed oil	254 gallons....	201
Raw hides and skins		22,690
Spices, (cassia)	26 pounds...	5
Ginger	8,294 pounds...	391
Spirits	30 gallons....	37
Sirup of sugar cane	2,160 pounds...	113
Tobacco, (cigars)	55,000.....	286
Wood, (lignumvitæ)		439
Wood, (mahogany)		30,783
Merchandise not enumerated above		7,510
Total of merchandise paying duty, *ad valorem*,		94,656
Total of merchandise, free of duty		1,968,067
Total of merchandise imported into the United States from Hayti		$2,062,723
Imported in American vessels		1,921,180
Imported in foreign vessels		141,543

The immense value to us, from whatever portion of our common country we may come, of this great commerce is now apparent. It is but the beginning of what it shall be if statesmanlike counsels shall prevail. The commercial nations of Europe are very mindful of our present relations with Hayti, and are skillfully seeking at this moment to strengthen their own connections there, and to anticipate and neutralize the effect of our proposed recognition. England has summoned from the East Indies, and has dispatched to the Court of the Queen of the Antilles, Mr. Spencer St. John, as her chargé d'affaires and consul general. Mr. Henry Byron, long resident at Hayti, is his vice consul. The Marquis de Forvin Janson represents France, and Señor Antonio Alvarez is there from Spain. These are all new appointments, and the officers are said to be able and experienced diplomatists. If the United States would retain her commerce with Hayti she should, under the bill now before the House, select accomplished representatives to guard her great and growing interests.

Regarded as a question of state policy, affecting mere pecuniary interests, such legislation is of more importance to us than our costly negotiations with Japan, where less than one twentieth part in value of our products is received at an immense expenditure of money. Hayti purchases from us $1,200,000 more of our exports than are taken by Norway and Sweden combined. We import from Hayti more by fifty per cent. than we receive from Turkey. Even Russia, with her immense region of territory and her population of seventy millions of people, does not receive of our industry more than is already made available by Haytien commerce to the five or six hundred thousand persons of that West India island, and while this is true it is also a fact that our imports from Russia fall short of those from Hayti about five hundred thousand dollars annually.

The importance of these interests to us is well understood in Europe. In France, many years ago, a work was published by her Government in which it is said:

"Favored by their proximity to Hayti, the Americans are determined on reducing the price of their salt provisions, their flour, soap, &c., to so low a figure that European competition is out of the question. They export from their warehouses at New York wines, hardwares, hats, caps, French silks, and English manufactures. They furnish the Haytiens with the oils and pastes of Italy, and monopolize the sale of candles, tapers, cheese, and timber for building. They maintain the same superiority in the export trade. They take three fourths of the different woods cut in Hayti, two thirds of all the coffee exported, and are the exclusive exporters of fustic, and nearly so of tortoise shell. In fine, the commercial superiority of the United States extends over every part of the empire, and in its rapid progress bids fair to exclude altogether the vessels as well as the merchants of Europe. Among the countries with which the United States have commercial intercourse, Hayti holds the ninth rank as respects tonnage. All the States are more or less interested in Haytien trade. The northeastern States find a market there for their fish and other merchandise; Pennsylvania, Northern Virginia, Maryland, Ohio, Indiana, Kentucky, Illinois, and Missouri, for their salted pork; Vermont, New York, Massachusetts, Missouri, and Ohio for their salted beef; Philadelphia and Boston, North and South Carolina, Virginia, and Kentucky, for their household furniture, their rice, and tobacco. The manufactories of New England, New York, and Pennsylvania have already secured an extensive market in Hayti for their cheap cotton textiles, and successfully compete with European manufacturers."

Such was the review of American commerce with Hayti given many years ago officially in France. There can be no doubt that the monopolies then prophesied might have been realized if the opportunities offered to us had been appreciated and accepted. It ought not to be wondered

at that our pertinacious refusal to extend the ordinary courtesies of national recognition had crippled the energies of our merchants and disabled the enterprise of our citizens. Never has it been more important to us than now to find a welcome and a certain market for our wealth of agriculture and our infinite industrial products. Nor has there been a time when it was so essential as now that we should enter into treaties with the Government of Hayti. Treaties are not made until nationalities are admitted. We need her harbors for our national vessels, and the time is at hand when we may find nowhere else so opportune and fit accommodation.

Within a few years past invitations have been extended from the Haytien Government for such emigration as a portion of our population now begins earnestly to seek. Providence opens to us an answer to the earnest cry of philanthropy for a home for those who are houseless and without home here. But first, this bill must become a law and fit treaties must be made and rights recognized and friendly intercourse established. It is fortunate for us that such a man as Fabre Jeffrard conducts the Haytien administration. He is a true man and a wise statesman. Already the influence of his administrative ability is felt in the assured security of life and of property under his rule. He loves his country, and if his public life shall be continued he will make her great at home and everywhere respected.

There was recently a court-martial ordered at Port au Prince to try certain conspirators against the Government. There were twenty-eight accused and twelve condemned to death. Jeffrard, in a proclamation issued by him in January last, commuted their sentence. And these are the reasons he assigns:

"At the moment of ordering the execution of this sentence, filled with the sentiments of humanity, of which I have given more than one proof, and to which the interest of my country has sometimes obliged me to do violence, I have asked myself if the life of these citizens, led astray for a moment by blind ambition, could not be spared this once, without endangering society. Everything has counseled clemency! The reprobation with which the criminal movement of November last was received, the complete isolation of its authors, the perfect tranquillity which the country has enjoyed before as well as since this attempt, and which these madmen, notwithstanding their efforts, could not in the least disturb, and finally the stability of the republic. Using the power guarantied by the Constitution, I have commuted their sentence of death to that of imprisonment.

"Citizens! The Government of the republic is able to show itself generous, because it possesses that powerful force which the sympathies and devotion of the people give.

"To maintain its power, it does not need, like those odious and tyrannical systems, to impress terror by its inflexibility in chastisement. It will ever be, with the aid of Providence and the concurrence of good citizens, that I shall endeavor to counteract all attempts against public order, that I may thereby the more effectually insure that security which is so necessary to the country for its moral and material advancement, as well as the development of its commercial relations with foreign nations.

"Done at the National Palace of Port au Prince the 29th of January, 1862, in the fifty-ninth year of the independence. JEFFRARD."

A republic whose citizens, after an independence of sixty years, have chosen such a President, should be made welcome by us among the family of nations.

AGRICULTURAL COLLEGES.

SPEECH OF HON. J. S. MORRILL,

OF VERMONT,

IN THE HOUSE OF REPRESENTATIVES,

June 6, 1862.

The House being in the Committee of the Whole on the state of the Union, and having under consideration the bill donating public lands to the several States and Territories which may provide colleges for the benefit of agriculture and the mechanic arts—

Mr. MORRILL, of Vermont, said:

Mr. CHAIRMAN: I shall avail myself of the parliamentary privilege to-day, of general debate, to make a speech without the pepper and spice of party or sectional politics, and yet I hope one not without some interest to the House. I shall discuss a measure which has heretofore received a generous support on the part of Democratic members, almost the undivided support of the South American members, (formerly so-called,) and, with about two exceptions, the undivided support of the members on this side of the House; I mean the land college bill, for which I hope to obtain the favor of a large proportion of the present House.

Mr. Chairman, among all the measures before Congress since I have been a member, there have been few, save those designed to maintain the credit of these United States, which my judgment and heart have more approved than this measure providing for the education of the industrial classes of young men of our country. Just in itself, benevolent in its scope, demanded by the wisest economy, it will add new securities to the perpetuity of republican institutions. Wronging nobody, it will prove a blessing to the whole people now and for ages to come.

The bill, or one like it, has once passed Congress by very large majorities, but unfortunately, among other sins which President Buchanan now has leisure to repent of, is his veto upon a bill of this character. Under more favorable auspices it is now again brought forward. If it passes, as I cannot doubt it will pass, Mr. Slidell, were it convenient for him to be here, could hardly command a veto from the present patriotic occupant of the White House, as he was charged with having done on a former occasion. With this Congress my humble services here will terminate, and the only favor I have to ask of the House is to vote upon this measure squarely on its merits. If its character challenges approval, if the times more than ever persuade to its adoption, then give such a vote as will wake into life the instrumentalities whereby a solid, useful, and practical education can be had on terms within the reach of thousands willing and expecting to work their way through the world by the sweat of the brow.

It is true that some measures which we have been considering, of more or less merit, I have thought it inopportune to press at this particular juncture of affairs; but I do not include this among them. Instead of being postponed, it is a measure that should have been initiated at least a quarter of a century ago, and if it had been, our taxable resources would now have been far greater than they are, and the absence of all military schooling would at the outset of the present rebellion have been less conspicuous in the loyal States. Agriculture might long ere this have felt its influence; the statistics of the country might have been more abundant and valuable; the young men might have had more of fitness for their sphere of duties, whether on the farm, in the workshop, or in the battle-field.

Something of military instruction has been incorporated in the bill in consequence of the new conviction of its necessity forced upon the attention of the loyal States by the history of the past year. A total unpreparedness presents too many temptations even to a foe otherwise weak. The national school at West Point may suffice for the regular Army in ordinary years of peace, but it is wholly inadequate when a large army is to be suddenly put into service. If we ever expect to reduce the Army to its old dimensions, and again rely upon the volunteer system for defense, each State must have the means within itself to organize and officer its own forces. With such a system as that here offered—nurseries in every State—an efficient force would at all times be ready to support the cause of the nation and secure that wholesome respect which belongs to a people whose power is always equal to its pretensions.

This bill proposes to establish at least one college in every State upon a sure and perpetual foundation, accessible to all, but especially to the sons of toil, where all the needful science for the practical avocations of life shall be taught, where neither the higher graces of classical studies nor that military drill our country now so greatly appreciates will be entirely ignored, and where agriculture, the foundation of all present and future prosperity, may look for troops of earnest friends, studying its familiar and recondite economies, and at last elevating it to that higher level where it may fearlessly invoke comparison with the most advanced standards of the world. The bill fixes the leading objects, but properly, as I think, leaves to the States considerable latitude in carrying out practical details. Some of the States already have colleges started on the principles here embodied—as Pennsylvania, New York, Michigan, Maryland, Ohio, and Iowa—but these linger with a very incomplete staff of professors, as might be expected from the scantiness of their funds. The aid tendered here will enable these States to fully equip these institutions or to found others where it may be thought wise to give military science something of greater prominence. Some States perhaps may have more literary colleges than are or can be liberally sustained. Part of these may be easily transformed so as to come within the terms here proposed. Every State will be the judge of its own requirements, and I have no doubt each will feel sufficient interest in the subject to make a judicious disposition of the grant.

Against all speculation or squandering this bill is most stringently guarded. The entire fund is to be held good and wholly devoted to the object, as the States are to pay all incidental expenses, even the first cost of the buildings and their subsequent repairs. But it cannot be doubted that in every State this charge will be mainly a nominal one, as many towns will be likely to strive to secure the location of these institutions within their limits, and an active competition will arise from the tender of lands and buildings in order to obtain an end so desirable.

If these colleges should be established, it is to be hoped the donation of lands, with some little outside aid, will be sufficient at no remote period to offer instruction free of any charge for tuition, and that through connection with farms which may be attached indigent young men, by voluntary labor of a few hours each day, may, where desirable, give an equivalent, wholly or in part, for their board. Certainly the opportunity of obtaining a sound education adapted to the wants of the individual will be offered at reduced rates, a love of useful labor will be promoted, and thus health and usefulness cannot but be advanced among those who otherwise might waste a life in uncultured ignorance or cultivated imbecility.

Not one in fifty of those young men who apply to us to be nominated as candidates for the Military or Naval Schools can be gratified. All these young men feel conscious of their ability to do something honorable for themselves and their country, and their ambition takes the direction of these schools mainly because they know not how elsewhere to obtain a fitting education. The numbers of this class will now be greatly augmented. The ability of parents to educate their children will be curtailed, while the desire to obtain an education, especially a military one, will have been increased. These young men, if this bill should pass, will find a field open to them large enough to satisfy all reasonable ambition.

There is no appeal that comes so resistlessly to our sympathy—and there are few men here, I dare say, who have not felt it—as that of a bright-eyed boy, without means, but strong in virtues and noble aspirations, seeking the temporary aid that will enable him to achieve a liberal education. Let the corner-stones of these land colleges be laid, and this army of lads, who are so soon to take charge of the institutions of our country, will, with all the enthusiasm of faith and hope, "thank God and take courage!"

The question, "What shall we do with the public lands?" has long been one of the most interesting political problems to be solved. In ordinary times our taxation has been so light that the revenue obtained from this source might have been reimbursed from other sources without much complaint; but now we have not only to curtail expenses, but to enlarge the circle of every revenue bill. From the seeming vastness of our public lands, magnified by all the wastes, mountains, waters, and deserts, it has been thought impossible to overestimate their extent or value; and on the theory that they were inexhaustible, they have always, when sold, been held at an inconsiderable price—scarcely more than the fees for transfer and record of title in older countries—and, when given away, the mile-squares have been bestowed with a lavishness only equaled in the days of feudalism. The legislator, from his dizzy height, has looked over all the broad area, and like one of old has been ready to say to all with unappropriated votes, "all this will I give thee, if thou wilt fall down and worship me!" Grants for railroads and military bounties have been made with such loose abundance as to destroy the gifts and more

than satisfy all demands, whether of the hardy pioneer or the velvet-footed speculator. Our bounty has proven a deluge rather than a refreshing shower. All markets have been glutted, until these Government largesses, sweated and consumed by their own reeking fatness, have shrunk to less than half of their original value, and in part now remain, having conferred benefits only by halves, to clog the operations of Government in its hour of largest beneficence and largest need.

The Government price for land, except to actual settlers for five years, is now $1 25 per acre, and if it were five dollars per acre it would be no dearer than $2 50 was twenty years ago to the settlers of Indiana and Illinois, and cheaper than any other land of equal value now to be had under the most enlightened and liberal Government of the world. Even in Australasia, where they sell land at auction for all it will bring, the upset price in the poorest colonies has been not less than one pound sterling or about five dollars, and then what more they can get, while the best lands and those within three miles of any town are held much higher. To the 500,000 farmers in France, who own upon an average but seven acres each, $1 25 per acre must appear a bagatelle, and to the Irish farmers who in some rare localities pay £10 to £30 (or $50 to $150) rent per acre, it must look like a *bull* on the part of Brother Jonathan.

Those who have given this subject that attention it deserves, know settlement has already approached the limits of most of the profitable farming lands within our domain. Some of the lands are fertile, but destitute of wood or of water. The red man still wanders on the verge, and where he has disappeared the prairie wolf remains at least to frighten sheep. With some good, there is much poor land in our western Territories. An acre may be worth the Government price, provided there is a dozen prairie chickens upon it! In the new States there is much land yet to be had of great value at very low prices, but comparatively little of this remains in the hands of Government. In our Territories the fertile lands are not found to be universal, as they were nearly so in Illinois and Iowa, but they lie in parcels—here a little and there a little—embroidering the margins of streams, and standing forth in greater beauty from the rule of contrast—oases in the deserts.

There were, September 30, 1861, of surveyed public lands 134,218,330 acres, the unsurveyed being many times greater. Of these lands it is proposed to donate to the States for these colleges, if all should accept the conditions, about 9,000,000 acres, or 6,000,000, if only the loyal States should be able to avail themselves of the grant. It is an inconsiderable grant in proportion to our means, and not a large one in proportion to the object in view. We have now abandoned the public lands as capital, with the design of deriving a larger revenue from those who may settle upon them and make them fruitful. And here these land colleges come in to aid in the plan of improving, not only the new lands, but also the old, and thereby extending the basis of taxation and revenue. A tract of land to a man who knows how to make it a real homestead, with all its train of joys, is a blessing; but to all others it is at best a bauble, and often a curse. To give all men an opportunity by their own labor to obtain a substantial support is a problem most Governments endeavor to solve. We have a higher and possibly more difficult task, which is to combine the largest freedom with the largest rewards of labor—free government and personal independence—and this can only be done by the largest knowledge. Success in working out this problem secures the immortality of our Republic. The man who earns but fifty cents a day cannot be taxed one fourth part of it, or twelve and a half cents, without starving his children; but let him earn two dollars a day and he will pay double the amount, or twenty-five cents, and not only survive it, but ask the tax gatherer to stop and dine!

The policy of the Government towards the Territories and the new States has been liberal, as it deserves to be; but I think few who have not read the report of the Secretary of the Interior are aware of the extent of that liberality. Within the last four years there have been granted to States and Territories, and reserved from sale, 49,754,606 acres. Each new State now has university lands, salt-spring lands, public building lands, and 500,000 acres each, under the act of 1841. One eighteenth part of all the lands are also at once given to the new States for schools. We have given them, up to 1861, 9,998,497 acres for railroads. Then we have surrendered all the swamp lands, amounting within the past four years to 3,910,310 acres; and the entire claims of the several States under this head amount to 57,895,577 acres. Added to all this, we give the land States five per cent. on all sales of land within their borders after they are admitted as States. This is not treating these States as step-children. The four States of California, Minnesota, Oregon, and Kansas are entitled to 15,632,635 acres for school purposes alone. Beyond all we have passed the homestead law.

All the bounty land warrants and scrip issued under different acts of Congress embrace an aggregate of 71,717,172 acres. Of this amount, all the warrants have been located except 7,454,720 acres. If the present bill should pass, it would only about double the quantity now afloat, and scarcely exceed the amount allotted to some single States. The total amount of unsold and unappropriated lands is 1,046,290,093 acres; and, after deducting the proposed donation to these colleges, we could quadruple the amount and still retain over 1,000,000,000 acres to be disposed of under the homestead act. Not so much as one per cent. will be abstracted.

This heritage may be so heedlessly overrun as to be soon wasted, leaving behind nothing but the estate of a prodigal, or it may be so managed as to hold all comers and give them unsurpassed prosperity for centuries.

As soon as lands pass from the hands of the Government they become subject to local taxation, and that is clearly to be desired by land States and Territories. The scrip issued will go into the hands of *bona fide* settlers, because such will be the only purchasers to be found, unless at a depreciation of price, and these will be obtained by the several States disposing of their scrip on a credit and retaining the lien on the land. Such an arrangement will not certainly be to the disadvantage of the land States.

Saying nothing of what might be due from the new States to the old on the score of reciprocal generosity, by the present bill the land States will obtain their just proportion according to population, and it is not too much to say at the same time that more young men will be beneficiaries of these institutions in the other States who will become residents *of* than will be educated *by* the land States themselves. These States, therefore, should be more deeply interested in the measure than all others, and I invoke their Representatives to its just appreciation.

In a speech I had the honor to make in this House (April 20, 1858,) prior to the passage of the bill of which this is mainly a copy, I attempted to show, by the facts of the census of 1850, compared with those of 1840, including other State returns, that there was a constant and widely pervading diminution of crops per acre under our go-ahead system of farming, and that the main relief sought was such as that practiced by flocks of wild pigeons, which no sooner strip and waste one field than they take wing and fly further on.

If this deduction has any foundation, without some speedy and efficient remedy—reaching to every State, for there are none without more or less of lean-faced districts, poor farms, and poorer farmers—this agricultural decline will, at no remote time in the age of the nation, produce calamitous results. The census of 1860 is not yet published, so that a full comparison of another decennial period is impracticable, and, if the latest census tables were now at hand, the statistical information is too limited to afford more than a meager account of what it would be useful, if not creditable, for us as a people to know and to spread out on the record. By the courtesy of the Superintendent I have gleaned some facts which still indicate, I regret to say, the retrograde march of agriculture, and showing that the positions heretofore assumed have only too much support in the census of 1860. The facts are by no means agreeable—not calculated to puff us up with pride—but they should be resolutely examined to find, if possible, adequate measures of reparation predicated upon the wants of all the States.

By the returns it appears the New England States have increased their number of horses, but to about the same extent have diminished the number of oxen, and it would be hard to say whether the gain or loss is the most profitless. All of these States, except Rhode Island, have increased the product of butter, and all fall off in the quantity of cheese, as well as the number of sheep, swine, and (except Maine and Vermont) in the quantity of potatoes. Of wheat, the whole quantity produced is pitiably small, being only 1,077,285 bushels, and of that 431,127 bushels is produced in Vermont. New York, in 1850, produced 13,121,448 bushels of wheat, and only 8,681,100 bushels in 1860, showing a decrease of 4,440,348 bushels. The number of sheep in New York—

In 1840 was	5,118,777
In 1850 was	3,453,241
In 1860 was	2,617,855

This state has nearly 2,000,000 acres or one seventh part more land under cultivation than there was ten years ago, and yet the hay crop was less by 164,011 tons. The following table illustrates the position of New York:

	1850.	1860.
Horses	447,014	303,725
Milch cows	931,324	1,123,634
Oxen	178,909	121,702
Other cattle	767,406	727,837
Wool, (pounds)	10,071,301	9,454,473
Wheat, (bushels)	13,121,448	8,681,100
Sheep	3,453,241	2,617,855
Hay, (tons)	3,728,797	3,564,786
Swine	1,018,252	910,178

This is anything but complimentary to our system of agriculture, and yet few of the old States are doing so well as New York.

In seventeen of the States—nearly all the old—there has been a loss in the number of sheep, and the number in 1860 is 22,679,386, against 21,723,220 in 1850, or a gain only of 956,166 in ten years! But for the new States the loss would have been large, and the gain in the State of California (1,058,134) is more than equal to that of the whole Union.

Pennsylvania, with 46,000 square miles of territory, and 2,906,115 people, should raise as many sheep as England, with about 51,000 square miles of territory, and 17,000,000 people, and yet England has 30,000,000 sheep, and Pennsylvania but 1,631,540, which gives to England nearly two sheep for every inhabitant, and 590 for every square mile, while Pennsylvania has little more than one to every two inhabitants, and only 35 to the square mile. With our unlimited cheap lands, we should export millions of wool, but England in fact has, the past year, supplied us with millions both of the raw and manufactured.

Flax and hemp, as crops, have nearly been blotted out of the Union, though considerable flax seed is still raised, to be crushed for the oil, while the fiber, the most valuable part, is thrown away. Home manufactures, in 1850, amounted to $27,486,219, but in 1860 they declined to $24,326,744; so that women, in this branch of industry so intimately related to agriculture, notwithstanding the 4,000,000 more of women, are really toiling and spinning less than ten years ago, and but little more than they appear to have done according to the statistical information recorded in the days of King Solomon.

The loss in the "hog crop" in many of the States is considerable, and not compensated even by whisky. Six States (Maine, Massachusetts, New Hampshire, South Carolina, Tennessee, and Vermont) produce less corn than they did ten years ago. The old States exhibit little increase of corn—scarcely equaling the marvelous growth of some single new State.

I have been furnished with the Ohio annual agricultural reports, containing statistical returns of that State—so creditable in matter and form that they deserve to be the model for her sister States—and these corroborate the positions assumed, that is to say, the fact of the increasing unproductiveness of our long cultivated lands. Ohio is a fair State to put on to the witness stand. She is wise, brave, and rich enough to court the test, to declare the whole truth, in order to find a cure for any defects in time. This annual self-inspection—not less useful to States than to persons—discloses the real deficiencies, and all that is then needed is proper instruction as to the rem-

edy. Ohio is the eldest of the great western States—large, populous, and neither old and worn out, nor young and undeveloped—the golden link between the old States and the new. Her fate may be anticipated by some, and will be followed, perhaps, with unequal steps, by all the rest. It will not soil a phrase of politicians to say, "as goes Ohio, so goes the Union."

By the reports referred to it appears that 87,821 acres *more* land devoted to the culture in 1858 than in 1850, produced 1,454,412 bushels less wheat. (*Vide* Report 1854, p. 542.) The average product is also stated to be 11.35 per acre in 1858, against 18.78 in 1850, or a falling off of nearly 7.50 bushels per acre. That this is not confined to one season may be seen by taking the whole eight years after 1850 together, and the falling off was over four bushels to the acre for the entire crops. This proves the steady and unmitigated decline as to the whole State, whatever particular localities may exhibit, in the capacity of the soil, at the yearly rate of nearly one bushel per acre. The substances necessary to the production of wheat are in the process of being annually exhausted, and they are not returned, though not lost to the world where they go, for we have long fattened British Durhams according to the magnitude of our exports, and, I regret to say, British hate, by any diminution of our imports. It is no answer to say that the profits of the farmer have not diminished because prices have advanced in even a greater ratio than the diminution of the crop. The fact will still remain that the land grows less and less capable of supporting its population. Other fields may open, but this is closing. Starvation, though distant, is still visible in the skeleton at the end of the road. Land that will not produce corn or wheat may be devoted to some other crop, but the product is likely to be less valuable. It may sustain cattle, but not men. Grazing, properly conducted, may renovate the soil, but that husbandry, while it requires fewer numbers in its conduct, also supports fewer numbers. Its profits may be gratifying to the few, but they are banishment to the many. In China few animals are raised for slaughter, because all the land is needed to supply food for man. In Ireland their live stock has recently increased, but Irishmen have sadly dwindled. Drive out men and you give room for brutes, but the change is not pleasant to contemplate.

It must be remembered that even the old States have a vast amount more of lands improved now, and a greater population, than they had ten years ago, and from these causes alone should have made a large increase of crops. But it would appear that these new lands and larger forces are becoming necessary to counterbalance the deterioration of the older fields. It is a striking fact that the increased production is derived from new lands, either in the new States or lands freshly cultivated in the old States. The long cultivated lands appear to be declining at the very time when they should be advancing to a higher and more remunerative fertility. Our grain growing region is rapidly retreating westwardly. The States that now furnish corn to any extent beyond their own consumption are few in number, and destined soon to be less.

That there is a gratifying advance of agricultural wealth within the past ten years in many respects is true, but with our magnificent opportunity, and with an eye on the future, it certainly is not wholly satisfactory. We are in the rear of Europe, and that will never be satisfactory. The English have what they call exhausting, restoring, and cleaning crops. But we seem to have got so far only as to adopt the exhausting crops. *There* capital finds the most solid security invested in land and its improvements. *Here* such enterprises spoil a man's credit on *the exchange*. The true system of farming would seem to be to make the land more fertile than it is in its natural state, and every succeeding crop better than the last. By our mode, the earliest crops are seldom subsequently equaled, and the last are apt to be the worst.

The proportion of population of the United States engaged in agriculture in 1840 was 77.4 per cent., but in 1850 it had fallen to 44.69 per cent. In 1860 the percentage is doubtless still less, as we find the increase of population much the largest in towns and cities, and in some rural districts the population has positively diminished. Taking the cities and towns with over five thousand inhabitants, the increase has been 60.43 per cent., and all the rest of the country only 31.96 per cent., or the former nearly double of the latter. If all the villages, towns, and cities should be included the fact would be shown in a much stronger light. This tendency to desert the rural districts and to shun manual labor can only be checked by making the country more attractive and more remunerative. The architectural monuments of opulence have risen in the towns and cities at the expense of the more solid and pervading evidences of a nation's prosperity, which are to be mainly found in the unostentatious improvements of the buildings and cultivated fields of the rural population.

I will not attempt to enumerate what has been done and is now in progress by European nations to promote agricultural education. It would occupy too much space. It is enough to know that they all seem eager to place their people ahead in the great race for the mastery. Our nation has been the first to test the value of iron-clad ships, but we lag immeasurably behind in improving the resources necessary to support such ships. The efforts of our foreign rivals are on the most liberal and persistent scale, and have thus far been in the main successful, and this is proven by their continued annual appropriations for this object. Among these Governments, that of Louis Napoleon, as usual, occupies a prominent position. Many crops in France, within a few years, have been doubled; some have been quintupled; live-stock has been doubled in number and value; and, while the profits of farmers and the wages of laborers have also been doubled, taxes on land have been actually diminished. The Second Empire may not claim credit for the whole of these improvements, but the services of the present Emperor have been so great, according to a late writer, "that one of the charges brought against him by his uncompromising opponents is, that these benefits have caused the nation to forget even that loss of freedom by which they have been purchased."

Coveting, as we do, American freedom, let us show that it is not held with the smallest diminution of other blessings, material or educational, so dearly purchased under other forms of government.

Ireland, with a soil of much more natural fertility, and a climate of far greater salubrity than England or Scotland, has been oftener threatened with the perils of famine than any other civilized country of the world. All this is traceable to bad farming, through a system possibly forced upon the people by political and social connection with England. They have raised grain crops in abundance and some cattle; but too poor to consume them at home, these have been sent to England, while potatoes remained the chief fare for gaunt Irish laborers. Even the bones of the few cattle slaughtered at home, carefully gathered, have been sent to England, where science and capital had made the discovery of their agricultural value.

After the failure of the potato crop in 1847, in the brief period of about eight years, cholera and emigration reduced the population of Ireland from eight millions to six millions, or fully one fourth, and those who remained were either too feeble to arrest the downward tendency of their soil to sterility, or they were preparing to emigrate, and therefore scourged the reluctant soil to bring forth one harvest more, and then, farewell! England could have borne the exodus of the Irish, but the vanishing rent was less tolerable. The Fishmongers' Society and others owned estates there, and these must be rescued. England deserves praise for the hearty manner with which she undertook the task of improving Irish farming and Irish farmers; and it is to be noted that no capital was used more effectively than that which has been and is being expended for the establishment and support of agricultural schools and colleges. Already the face of the country presents a nobler aspect; the number of cattle raised has been largely augmented; labor is better paid and fed; and we are now beginning to recognize Ireland as in fact the *Emerald* Isle, or the first grass country of the world.

Whether our own country is following the cast-off system of Ireland or not, is a grave question. If we export to England the virgin products of our soil—and those the most exhausting crops cultivated, the cereals, tobacco, and oil-cake—it is a process which makes England a garden at the expense of American farms; and we may well forebode the day when it will be no longer possible to furnish cheap food to our multiplying and dependent millions, and certainly not possible to respond to the foreign demand of either commerce or famine. If it be true that the man who sells hay will soon raise no hay to sell, because there is no return of manure, the same result is equally apparent from the export of other crops upon the consumption of which on the farm the reproductive energies of the soil depend for supplies.

Should no effort be made to arrest the deterioration and spoliation of the soil in America, while all Europe is wisely striving to teach her agriculturists the best means of hoarding up capital in the lands on that side of the Atlantic, it is easy to see that we are doomed to be dwarfed in national importance, and not many years can pass away before our ships will be laden with grain not on their outward but homeward voyage. Then, with cheap bread no longer peculiar to America, our free institutions may be thought too dear by those of whom even empires are not worthy—the men with hearts, hands, and brains—vainly looking to our shores for life, liberty, and the pursuit of happiness.

There is and can be no mode by which the resources of a country can be so fully developed as by educating the vast numbers who are to devote their lives to agricultural employments as tillers or owners of the soil. By this means each man is trained to bring into action his whole mental and physical force. The immense loss of power through ignorance is saved. The factory girls in America receive two or three times the pay that the same class obtain in other lands; but this is not all the generous gift of the employers, for they secure, in the better educated American girl, a superior and more valuable labor. Intelligent labor is found to be hardly too dear at any price. This is eminently true in agriculture. A dull, uncultured man, though physically a giant, does little work for which brute power might not often be easily substituted. He may move mountains, but the inevitable mouse only appears. The skilled and thoroughly trained farmer is sure to harvest larger crops and with less labor than his unskilled and untrained neighbor. Science, working unobtrusively, produces larger annual returns and constantly increases fixed capital, while ignorant routine produces exactly the reverse.

The mere dispersion of population over a wider territory improves neither the soil nor the cultivators of the soil, but both for the time are made rather the worse by experiments and theories which new conditions ever impose.

There are evils in an extremely dense population, but, except in cities, our country as yet has reached no such point. The rural population is nowhere crowded. The new Territories, sparsely settled, naturally desire accessions. Their unoccupied spaces furnish none of the means to support a State. If they suddenly make drafts upon the old States to fill their vacant spaces, the aggregate wealth and power of the country is weakened, for not so much is contributed to the new as has been subtracted from the old. The dispersion tends to destroy, not markets merely, but that skill a dense population by a division of labor always assembles. Whatever advantages were held under the old condition of things have been abandoned, while whatever advantages may result from the new order of things are yet distant and imperceptible.

It is the destiny of many young men of the East to find homes in the West. They can only be retained on the Atlantic slope long enough to receive their education, and that will not repress their enterprise for travel. Foreign emigration and eastern combined, will bring gray hairs into the western prairies full soon in the life of a nation. "In every nook of the world where any good is to be got," it is said, "there is to be found a Scot, a rat, and a Newcastle grindstone," and perhaps it might be added, *a Yankee and a jack-*

knife. Our young men will go, we expect them to go, but let them go laden with the spoils of the school-house and college—a capital worth more than gold—and then they will prove of priceless value to our common country wherever ultimately located—proudly and forever wearing the name of an American citizen.

It is of the highest moment that at this time we make no blunder in the guidance of the industry of the country when all its resources must be taxed more severely than ever in all our previous history. While we are compelled to place most unusual burdens upon the people—none of whom can escape—let us pass one act they will all hail with delight. If they are made to carry weight, let them have some chance to increase their strength. The people are called upon unceasingly to do something for their Government, and they do not fail to respond because it is their Government, but it would not chill their patriotism if the Government should for once do something for them.

Undoubtedly agricultural chairs or professorships should be founded in all our colleges and universities. Every man owns or expects to own land at some period of his life, and it could certainly do him no harm to be taught how to manage landed property. If made a part of the regular course of studies, an opportunity would be given to acquire information that might in the changing circumstances of the world prove of the highest value in practical life. But these professorships, as important as they are admitted to be, would not satisfy the whole demand. The present institutions are hardly more than equal to the task of supplying the learned professions, so called, with their annual reinforcements, while others are wanted where the idea of labor shall be uppermost, and where the *esprit du corps* of those instructed will seek highest honor in no other direction.

It is true, nearly all the more modern sciences are, more or less, related to agriculture or the mechanic arts, and they are liberally recognized by professorships in most of our institutions of learning; but, as generally taught, there is little special application to agriculture or the arts. It is too far removed from any expectation of practical use, and, as with some merely ornamental branches, only so much of technical knowledge is given as it might be unpardonable for a gentleman to be without.

The prejudice against educated farmers arises from the fact that, while those usually styled such may be truly educated in some sense, they have no real agricultural education, and are no more fitted for their duties in that sphere than the areonaut is fitted for a railroad engineer. When we have a race of educated farmers—men who have parted with their conceit for absolute knowledge—practically illustrating their education by their works, they will not turn out sailors on horseback, as it may be admitted some of the so-called book farmers have done. Merely practical men have looked at science as though it were a goddess in the clouds, to be worshiped only by fanatics and afar off, when it is really a handmaid, beautiful, and busy everywhere at saving labor and capital.

Men who are not farmers often by choice or chance have estates come into their charge, and then find themselves entirely unequipped—having had little theory and no practice—to manage them successfully. Such estates must be disposed of for the most any neighbor chooses to give, or the owner will have an outlay and not an income while it remains in such hands. This mortification could not happen if only general ideas of farming economy were more widely taught. That man only is independent who feels able to support himself and family by the plow whenever other avocations are closed; and he may feel sure his taste has become vitiated if he indulges the idea that other avocations are more fruitful of health, honors, or happiness, than that of the genuine American farmer. The business of agriculture is sometimes thought to be uninviting by those in other walks of life, and they shun any investigations of the great truths which underlie and surround it, as much as they would shun instruction in the craft of a tinker, lest they should some day be called upon to mend their neighbor's pot.

The experience of other nations in war, in arts, and in the sciences, is unhesitatingly resorted to, and all progress therein is appropriated as common property of the world; but in legislation, philosophy, and education, reform based upon the most valid tests of foreign examples is treated with the coldest hospitality. It is not a sufficient reason because agricultural and military education has been extensively ingrafted upon the systems of other nations that the same policy should be transplanted here; but confuting the stupid idea that success is impossible, it is a reason why we should earnestly investigate the subject, and, if our necessities show that we stand in as much or more need than those who have successfully led the way, it is a strong argument why the policy should be adopted.

Popular common school education has been slowly combating the prejudices of the world for generations. Starting from the Sunday afternoon catechism in Protestant Europe and America, it required two centuries to arrive at its present condition. At this moment the cause is receding in Prussia, but gaining in England and elsewhere. We mock the timid pace with which other nations adopt our plan of universal education, but forget what laggards we are in an adjoining field where they appear so much in the advance. Whoever is at the lowest round of the ladder manifests the least inclination to rise, and those highest up have the most ambition for still greater achievements. Among the motives which should stimulate us is the desire to improve man himself, and added to this we have all that moves our great European competitors, namely, the increase of wealth and power. Manufactures take no step until agriculture produces a surplus beyond what is required for its own consumption, and from this surplus arises raw material and cheap bread, which make the arts and manufactures flourish. From these results commerce. Trade derives all its support from the basis furnished by agriculture and manufactures. Then follows the necessity of military and naval protection. In a free Government we have proved—notwithstanding some, "in time of temptation, fall away"—that patriotism is spontaneous; but doubtless many valuable lives would have been saved in the progress of this plague-spotted rebellion had we not so long assumed that military discipline was also spontaneous. If ever again our legions are summoned to the field, let us show we are not wholly unprepared. These colleges, founded in every State, will elevate the character of farmers and mechanics, increase the prosperity of agriculture, manufactures, and commerce, and may to some extent guard against the sheer ignorance of all military art which shrouded the country, and especially the North, at the time when the tocsin of war sounded at Fort Sumter. This latter view becomes more important from the suggestive discovery that in any grave controversy the old Governments of the world are not our friends. Our obituary is the only service for which they manifest any alacrity. They would see us humbled. Clearly our growth is an eyesore to aristocracy. In peace they would buy and sell with us, but in war they would sell us and buy our enemies. Commercially they find us, when docile, at least useful; but politically they would shun us as a pestilence that walketh at noonday. We can only be secure at home and abroad by being ready at all times to "ask nothing but what is clearly right, and submit to nothing wrong," and with Jacksonian nerve accept any responsibility of our position. The true way to nurse patriotism, after having institutions really worth a struggle, is to inspire our people with confidence, by giving them proper training, that they are equal to their mission and that failure is impossible.

Some may argue that the institutions proposed will turn out unsuccessfully. It may be that they will, but the object more than compensates the risk. If put into incompetent and unworthy hands, they will of course fail, and so would free government itself. But this would impute an imbecility upon the Legislatures of the several States they have not deserved. Let us not believe they will prove inert, helpless, or wanting in capacity to develop so palpable a boon. I have faith in the sagacity of the people to profit by the experience of the world, and that they will mold these institutions in a form, and place them in charge of such men, as will secure permanent usefulness and enduring honor to the whole country.

CONFISCATION OF REBEL PROPERTY.

SPEECH OF HON. C. A. WICKLIFFE,

OF KENTUCKY,

IN THE HOUSE OF REPRESENTATIVES,

May 26, 1862.

The House having under consideration the bills to confiscate the property and free from servitude the slaves of rebels—

Mr. WICKLIFFE said:

Mr. SPEAKER: The debate upon these two bills in this House is about closed, and we shall soon be called to vote. Upon the issue of that vote depends the fate of this Union, its future existence under that Constitution which is its bond—a Constitution made by our fathers "to form a more perfect union, to establish justice, and insure domestic tranquillity." It is this charter under and by which alone we are assembled, and from which alone we derive the power of legislation for a free people. No powers not delegated in that instrument have we a right to assume or exercise. When we assembled in this Hall we took an oath and appealed to God that we would support this Constitution. Let us in this time of excitement of feeling, justly excited, I own, by the wrongs inflicted by those who were once if they are not now our fellow-citizens of the South, keep and observe that oath. They have violated the Constitution, and without just cause undertaken to defy the authority of the Government of the United States. They are in open rebellion, and have made war upon the Government of the United States, with the design and intention of overthrowing and destroying it, and have established for themselves a government which they have been pleased to call the confederate States. They have by armed force seized the forts, the navy-yards, the arms, arsenals, ships, money, which were the property and the right of the whole people in their united relations as a Government for the protection and benefit of the whole Union. They made open and flagrant war against the best Government ever formed by man. These facts need no aid of eloquence to paint the wrong or the turpitude of the originators of the conspiracy. All who are engaged in rebellion, in making war upon the United States, are guilty of treason, and subject to the penalties imposed by the Constitution and the laws of the United States then and now in force. Let us see what that crime is, and what the punishment declared by the Constitution and the laws of Congress:

"Treason against the United States shall consist only in levying war against them, or in adhering to their enemies, giving them aid and comfort. No person shall be convicted of treason, unless on the testimony of two witnesses to the same overt act, or on confession in open court.

"The Congress shall have power to declare the punishment of treason; but no attainder of treason shall work corruption of blood, or forfeiture, except during the life of the person attainted."

Congress, in 1790, (vol. I, Statutes at Large, 112,) by law declared that any person who shall be adjudged guilty of treason against the United States shall suffer death. In the same act it is declared, in section twenty-four, that no conviction or judgment for "the offense of treason shall work corruption of blood or forfeiture of estate." The people, jealous of their rights, proposed, and they were adopted, several articles, called amendments to the Constitution; among these were the following:

"ART. 5. No person shall be held to answer for a capital or otherwise infamous crime, unless on a presentment or indictment of a grand jury, except in cases arising in the land or naval forces, or in the militia, when in actual service in time of war and public danger; nor shall any person be subject, for the same offense, to be twice put in jeopardy of life or limb; nor shall be compelled in any criminal case to be a witness against himself, nor to be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use without just compensation.

"ART. 6. In all criminal prosecutions the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the State and district wherein the crime shall have been committed, which district shall have been previously

ascertained by law, and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor, and to have the assistance of counsel for his defense."

It is worthy of note, nay, sir, of admiration, by all lovers of constitutional and personal liberty, to see with what distinctness the safeguards of liberty, security of property, freedom of speech, of the press, the rights of conscience in the worship of God, have been vouchsafed to the American citizen. It is our duty, our high privilege, as the Representatives of the people, not to violate these sacred provisions, or to permit others to violate them with impunity.

Mr. Speaker, I might stop here and ask the advocates of these bills, is not the law now upon the statute-book broad enough to embrace every crime of treason, every offense enumerated in all your bills? Have you no power to enforce them? Have you not persons subject to process now in your power? Where are the thousands of officers and men taken with arms in their hands in *flagrante bello?* Why not try them, punish them, under your law as it now stands? If they are not guilty of treason, there are none remaining to be captured, guilty. Are these efforts merely to reach the negro, to emancipate? I leave others to answer. Do not understand that I am opposed to the infliction of a just legal punishment prescribed by law according to "due process of law." No, sir; no. Let those who have with open eyes and guilty hearts excited and prosecuted this rebellion be tried and punished under the law, and according to law.

One other clause of the Constitution must not be overlooked in our deliberations upon these bills, and the many others upon the same subject which have been introduced in this and the other House. "The trial of all crimes, except in cases of impeachment, shall be by jury, and such trial shall be held in the State where the said crimes have been committed, but when not committed within any State, the trial shall be at such place or places as Congress may by law have directed."

These remarks have been made to show that the law, as it now stands upon the statute-book, is ample to punish all who are guilty of treason, or rebellion, as it is termed in the bills, who deserve punishment.

You cannot change the nature or degree of the offense of treason by calling the offense by another name. Open rebellion and resistance by force of arms by citizens, though they act under an organized form of government made by themselves, is treason, and to be punished as treason. You may by legislation lessen the punishment, but you cannot exceed that fixed by the Constitution. To call treason by another name, that you may have a pretext to violate the Constitution to reach the estate of the offender, is a subterfuge unworthy the American Congress—an open abuse of power.

That my opinions and the remarks I may make on this occasion may be understood, I state the following principles which are clearly sustained by the Constitution, the laws of the United States, and the laws of nations, and the laws which govern civilized nations and people in war:

1. The Constitution, and the laws of the United States made in pursuance thereof, and all treaties made under the authority of the United States, are the supreme law of the land in time of war or rebellion, as well as in time of peace, anything in the constitution or laws of any State to the contrary notwithstanding.

2. The right to disregard and violate the Constitution, or any part thereof, by either of the departments of the Government, does not exist any more in time of war or rebellion than in time of peace.

3. That the powers vested in Congress by the Constitution of the United States are not enlarged by a state of war, but are ample and full to enable the Government to suppress a rebellion, or to prosecute a war, without the exercise of powers not granted therein.

4. A disregard of the provisions of the Constitution, under the plea of *necessity*, by Congress, is dangerous to free government, and ultimately will make it a despotism if controlled by an unprincipled majority, dangerous to private rights and destructive of public liberty.

5. That no State has the right, by any act, ordinance, or law, to absolve itself or any citizens from their obligations and duties imposed by the Constitution of the United States.

6. A rebellion and open resistance to the Constitution, and the laws of the United States made in pursuance thereof, cannot abrogate the same; but during such rebellion and resistance the rights and powers of the Constitution do extend to the citizens in every portion of the United States, and the right and power of the Government, though obstructed, are not destroyed. And when that obstruction shall be overcome, the State governments and the citizens thereof are restored to all the rights and privileges secured by the Constitution.

7. That open and forcible resistance, by arms, by the citizens of any portion of the United States is treason, to be punished as such by the power of the Government under the provisions and limitations of the Constitution.

8. That a citizen not engaged in actual war, but who resides within the territory of a *de facto* government, which is in rebellion and at war with the United States, is not guilty of treason by obeying the orders of such *de facto* government, or by contributing to its support.

9. That neither the Executive nor military has the right to seize the property of a non-combatant in any of the seceded States, and confiscate the same, even under the authority of an act of Congress. "No person shall be deprived of life, liberty, or property, without due process of law," is the language of the Constitution. Therefore, all wholesale bills confiscating estates, or property of any kind, whether land, slaves, or chattels, are in violation of the laws of Christian warfare, and forbidden by the Constitution of the United States.

Many of these positions are self-evident and need not be illustrated. The assumption is that a State cannot by any act or ordinance absolve itself or the citizens thereof from the obligations it owes as a member of the Union, or its citizens from their allegiance to the United States Government; neither can a State deprive a citizen of his right of protection, or his privileges as a citizen of the United States. Nor can the United States deny to the citizen that protection which is the consideration for his allegiance. These reciprocal rights may be obstructed by force, but when that obstruction is removed the rights and obligations revive and operate in full force. A State cannot commit suicide and extinguish its political existence as a State and a member of the Union but in one way, and that is by successful revolution. Until the consummation of that revolution, the Constitution, with all its privileges and blessings, extends over every foot of the territory of every State, and to every citizen thereof. These principles must decide the character of the present war between the seceded States and the United States, and so far must control that war and exempt it from some of the rules which govern a war between alien independent nations. In a war between such nations, there exists no right to punish the soldier or citizen of the enemy for treason, or to take his life except in battle. In a rebellion like that now existing in the South, the right to punish the captive taken in arms for treason, with all its legal consequences, is unquestionable, if the rebellion fail. But in a war to suppress a rebellion, the parties engaged must regard and respect the rules of civilized warfare during its existence.

Mr. Speaker, this brings me to the consideration of the question so much and so often discussed in this House, "what are the now recognized laws of war between civilized nations?" The chairman of this *well selected* committee, [Mr. ELIOT,] to whom had been referred all the wild, mad, and unconstitutional bills, twenty in number, has given to the House the two bills under consideration. I have carefully collected all of these bills. I shall have them bound, and, with an appropriate title page, preserved, that they may remain and be read after the excitement of the day shall have subsided, that those who may survive me shall take warning from the evidences which they afford of an utter disregard of the Constitution of the country and the danger to civil liberty which such disregard threatens. And if our liberty and constitutional Government shall survive the assaults made upon it at this hour, or if it shall fail, then they may find among the many causes of its overthrow these evidences of the reckless efforts of legislators, who substitute passion for patriotism as a rule of action in the exercise of official duties and powers.

Mr. Speaker, I cannot undertake to analyze all of these bills. All of them, without an exception, in their provisions propose to forfeit the whole of the estate of the citizen for the crime of treason without a trial by jury. They all ignore that great right secured by Magna Charta and hallowed by the Constitution of the United States, conviction by jury, and judgment of guilt before punishment or forfeiture.

This Congress of the United States, if these bills pass, may be in after days, if not now, justly entitled to the honorable distinction of "the first star chamber of the United States," and will appropriate to itself the glories of the Parliament of England in its worst days.

The learned chairman has predicated the right and power to pass these bills upon the false but assumed fact that the lands, the money, the rights and credits, the cotton, the horse, the mule, the negro of the South, are guilty agents, active and powerful in the commencement and prosecution of this rebellion. They are offending agents, responsible instruments, and therefore the Government may seize them and confiscate them for their guilt, not that of the owner. Oh, no! He says:

"I frankly admit if the Congress of the United States were to undertake to pass a law to punish the crime of treason within the limitations prescribed in this clause, [the clause defining and punishing treason,] they could not attach to the sentence and judgment attainting persons for treason the forfeiture of estate for a greater period than during the life of the person attainted."

He adds:

"But this bill makes no such proposition. So far as it is intended to operate upon citizens of the United States it waives the crime of treason, and undertakes to punish in another form and for another offense altogether different from that contemplated by the second clause of the Constitution."

Is this so? What offenses does the gentleman propose to punish in his first bill by these words?

"Any person hereafter acting as an officer of the army and navy of the rebels in arms against the Government of the United States."

Does the chairman contend that the offense here described is not treason? This is the offense for which he proposes to forfeit the whole of the offender's estate forever without trial by due process of law. In his second bill I suppose he means to provide also punishment for a different offense other than treason. What is it as printed in his bill?

"That if any person within any State or Territory of the United States shall, after the passage of this act, willfully engage in armed rebellion against the Government of the United States, or shall willfully aid and abet, or adhere, &c., every such person shall thereby forfeit all claim to the service or labor of any persons, commonly known as slaves, and all such slaves are hereby declared free and forever discharged from such servitude."

I put it to the gentleman, as a lawyer, if he were upon the bench, where the passion of the partisan politician, the accursed stultifying influence of abolition, should give way to the high duties of the sworn judge, would he instruct the jury who had the accused on trial that the facts, if proved by two witnesses, did not constitute treason in the prisoner? Such sophistry as is used in this debate to delude an honest but excited nation at this time, is unworthy an age of enlightened jurisprudence and professional honesty. It is unworthy the high character which once belonged to the American Congress.

Mr. Speaker, the whole of these bills are an attempt to punish treason, but all of them in their provisions are in violation of the Constitution.

This is a rebellion extended in its proportions to civil war. The United States, reserving to the Government the right of imposing and inflicting the legitimate punishment for treason when and where it is deserved, are bound to conduct it, the war, by the Constitution, by the law of nations, the laws of war as recognized by the civilized world. If you depart from these, adopt the promptings of passion, cruelty, and revenge, you will call down the condemnation of an outraged national sentiment and of a Christian world.

Our duty, Mr. Speaker, is to put down this rebellion, call back by a spirit of justice—ay, sir, if you will have it, of forbearance and forgiveness—those who have sinned against their Government and their God. I admit this cannot be done now without war, and in war blood must necessarily be shed. Sorrow and mourning will cover the land. The Government and the Union must be preserved. I am not wont to approve the opinions or to follow the advice of an abolitionist, but on the present occasion I will read the advice and admonition of one who seems not to have lost all of his common sense, though he honestly, no doubt, desires the freedom of the slaves of the South.

The editor of the Boston Journal, well known, no doubt, to the delegation from Massachusetts, in his paper recommends to his friends in Congress the true course, and advises that Congress

pursue it. He is indorsed by the Boston Post upon this subject. He says:

"The true course, in our judgment, is to put down the rebellion by the plain strong arm, break up and disperse the revolutionary power, reassert the authority of the Government, and then, when we are clearly in a situation to protect the rebel citizen if he returns to his allegiance, we may wisely as well as rightfully denounce confiscation against him if he contumaciously refuses to return. In this way confiscation, properly guarded and constitutionally administered, may promote the reëstablishment of the Union—but in no other. In any other way, confiscation can serve only to gratify the spirit of vengeance, while prolonging and embittering the strife of brethren."

This man writes and speaks sensibly, if he is an abolitionist. He has not lost his senses; the balance wheel of his mind does not work backwards, nor does it rush his thoughts on to the advocacy of such measures as are now before us. I concur with him when he says that in any other way confiscation can serve only to gratify the spirit of vengeance, while prolonging and embittering the strife of brethren. I thank God there is one abolitionist in Massachusetts who has the soul to recognize the holy influence of that word, "brethren." Brethren, in a national point of view, they are, though in arms against us.

I will call to my aid the sound position of one other public journal, whose well-known antipathy to slavery has placed its editor in the front rank of the abolitionists of the present day. He uses this language:

"This rebellion, which has assumed the proportions of a civil war, has brought upon our Government the complicated obligations and responsibilities both of quelling an insurrection by legal process and of carrying on a war according to what the civilized world calls the laws of war. The latter is most imperative and demands the first attention."

I read these words under the hope they may command the respect of the members of this House who belong to the same school as those editors, though they may not know it; but if knowing it, they have not by word admitted it in open debate. If this war is to be carried on and governed by the laws of nations, it becomes very important to know and understand what those laws now permit, not what they may have in centuries past allowed. The advocates of these bills, one and all, have each, in their turn, referred us to the laws of nations to be found in authors whose opinions have been overruled and disavowed by the practice of all civilized nations and by recent decisions and writers of the present age.

One would suppose from the speech of the chairman who reported these bills that one of the main objects he has is to convert this war and the Army into the noble office of collecting the debts due by the South to his constituents and others North. He asks his friends "what does our duty demand of us, and what will our people rightfully expect?" He answers the question by referring to the bill. In that he has taken care to provide first for the payment of those debts, which in the aggregate he states to be $300,000,000. True, the bill provides that the creditors must be loyal men, and they must make their claim good before the high and soon to be installed "Chancellor of the Exchequer"—the Secretary of the Treasury—who is to decide upon the justice of the claim without jury, and who may, for all I know, have the same test for loyalty that the member from Pennsylvania [Mr. HICKMAN] and the member from New York [Mr. SEDGWICK] have avowed in this House. Under the pretext that the estates of rebels are to be seized and sold to pay or indemnify the United States for the expenses of the war; the real object and purpose and effect of the measure is first to pay $300,000,000 of private debts due to the North and East. Is there a sane man in this House who believes that $300,000,000 will ever be realized by the operations of this bill?

I dismiss this part of the subject; the device is too shallow to deceive sensible men. The title of the bill should be changed; it should read, "a bill to seize and take the estate, real and personal, from citizens living in rebellious States by the strong arm of the military power, to pay the creditors of the North, leaving their wives and children penniless and to starve."

If what has been said of the constitutional power of the House to pass these bills, if what has been said, particularly by the able, eloquent, and distinguished jurist from Massachusetts, [Mr. THOMAS,] has not convinced all who have heard him, then I can say to them as Abraham said to Dives, "neither will they be persuaded though one rose from the dead."

Mr. Speaker, all the authorities, ancient and modern, which have been read and referred to in this debate by the advocates of this bill relate to the rights of war between alien and independent nations; none of them refer to the kind of war in which we are engaged, a war to subdue our own citizens to obedience to our and their own Constitution and laws. If our Constitution was silent as to the punishment for rebellion, or otherwise treason, if it did not limit the power of Congress as to the extent of punishment and of forfeiture and confiscation, then, with some plausibility, it might be contended that Congress could extend the punishment to the fortune of the rebel or traitor absolutely and forever. Without an examination of the authorities cited and the explanations of extracts torn from the context and read, I will content myself with reading authorities of undoubted credit—American jurists, whose opinions are authority in every clime where law is made and enforced for the protection of the life, liberty, and property of the citizen.

I denounce, in the outset, the monstrous idea that a commander of an invading army (I mean a foreign army) can, by proclamation or force, according to civilized law, the law of war as it is termed, seize private property, except so far as it may be necessary to support and feed his army. He has no right to take such property to fill his own or his nation's coffers. I also deny that such invader, by proclamation, can abolish the institutions or dissolve the relations of society in any portion of any invaded civilized nation longer than he remains with brute force sufficient to enforce his orders. So soon as he withdraws his power, the original rights of the citizens revive. And with more confidence do I deny the right and power of the President of the United States, as Commander-in-Chief, or any of his officers, high or low, by proclamation or by force, to free the slaves of the citizens of the States where the institution exists by State law. I in like manner deny to Congress the power to do it themselves, or to authorize it to be done by the Executive under a pretended war power.

The idea that in this Government any of the departments derive powers not in the Constitution, under the plea of "necessity," is absurd. Who is to judge of the necessity? What is to measure the extent and imminence of that necessity which shall authorize the commander of the Army to trample the Constitution under his feet, bid defiance to all law but his own will? The power derived from necessity, that necessity to be judged of by an ambitious and unprincipled commander, if submitted to, may be wielded to the destruction of all civil government and the liberty of the citizen. The laws of war for the government of the American Army are to be found in the enactments of Congress called the Rules and Articles of War. They were made to rule in time of war as well as time of peace. Every officer in the Army is sworn to support the Constitution.

The general or commander-in-chief who has declared, when at the head of an army, that the people were in the field and he was at their head, and would have everything according to their expectations from him—"now we have only extra constitutional Government; no civil rights, so to speak; all ordinary peaceful rules were to be set aside"—is not fit to command an army in a country whose freedom has been won by the sword and secured by a written Constitution. This sentiment, I fear, is not confined to the man that uttered it. It has not been rebuked when and where it should have been. I have no power to rebuke it, but I have to denounce it here, and will everywhere. There are certain rights which an army may exercise when in the field and when in an enemy's country.

I deny to the Army of the United States, or its conductor in this war, greater powers than would be allowed to that of an alien enemy. The right to capture public property, whether the Army need it or not, the right to destroy it or remove it, is not questioned; but I deny the right to seize and capture private property on land, I care not of what kind. The rules of civilized war forbid it. The authorities, foreign and American, upon this subject have been so often read in this debate that I shall content myself with quoting only a few of them. I shall add one of our own Government, which has not been noticed by those who have preceded me in this debate.

Gentlemen have referred to authors of past centuries to sustain the right of the victorious army to subjugate a conquered people, and to strip them of their estates, real and personal; and from those rules of uncivilized warfare claim, (under the tyrant's plea of necessity) in this enlightened and Christian age, the right and power of an American army to exterminate the white race of the South; in the benign language of some, drive them into the Gulf, and repeople the States with the loyal citizens from the East. One member from Illinois [Mr. LOVEJOY] proposes to divide out the lands to the slaves who are to be emancipated.

I shall not enlarge my remarks by an examination of those authorities in detail, but content myself with reference to authorities which are now acknowledged as evidences of what the humanity and Christianity of the nations of the present age have recognized as the laws of war, and the rights of a triumphant and invading army.

Our Government in war, but more particularly in this war, made necessary by the rebellion of a large portion of her citizens, has the right to use all the means or instrumentalities of war, so far as they are adapted to secure the end designed by the war, to wit, to maintain the Constitution, enforce the laws, and preserve or restore the Union. In doing this, the Government is restrained by the Constitution, and cannot rightfully disregard the salutary restraints of that sacred charter, designed to protect the life, the liberty, and property of the citizen. The Constitution was made for a time of war as well as peace. Its provisions are not enlarged or restricted by a state of war. It is the supreme law of the land in war as well as in peace. The doctrine "that in war laws are silent" is the doctrine of a past age, the language of the tyrant, invoked now by a tyrannical party to justify a disregard of the plain provisions of that Constitution they have sworn to support.

Mr. Speaker, I have not denied the right of a belligerent to seize and capture public property. Cases may arise, and in the progress of an army often occur, where private property may also be seized, confiscated, or destroyed when it is found, and when used in the army of the enemy, whether with or without the owner's consent. An army may take for its consumption and support private property upon land. They may take and destroy private property on its way to supply the enemy—property attempted to be introduced in violation of a blockade.

In support of these positions, I will refer to some of the authorities and writers upon national law, so often referred to by others in this debate. Wellington, who, though not a compiler of national law, must be regarded as one who not only understood and practiced the arts of war, but obeyed the laws thereof as recognized in his day, has left his opinion on this subject to be admired by all just men. The requisitions of an army such as I have described, that great general and statesman "declared were iniquitous as a system, for which the British soldier was unfit." Mr. Wheaton, an American jurist of high and acknowledged ability, in his treatise upon the laws of nations and war, announces it as a rule of international law, now established and recognized by all civilized nations, that private property on land is not subject to capture. This rule, he contends, extends now by the usages of nations "to cases of absolute and unqualified conquests of the enemy's country." (Wheaton's Elements of International Law, 421; Vattel, 147; Kent's Commentaries, vol. 1, pp. 103, 104.)

"By the modern usage of nations, which has now acquired the force of law, temples of religion, public edifices devoted to civil purposes only, monuments of art, and repositories of science, are exempted from the general operations of war.

"Private property on land is also exempt from confiscation, with the exception of such as may become booty in special cases, when taken from enemies in the field or in besieged towns, and of military contributions levied upon the inhabitants of the hostile territory. This exemption extends even to the case of an absolute and unqualified conquest of the enemy's country. In ancient times both the movable and immovable property of the vanquished passed to the conqueror. Such was the Roman law of war,

often asserted with unrelenting severity, and such was the fate of the Roman provinces subdued by the northern barbarians on the decline and fall of the western empire.

"A large portion, from one to two thirds, of the lands belonging to the vanquished provincials was confiscated and partitioned among their conquerors. The last example in Europe of such a conquest was that of England, by William of Normandy. Since that period, among the civilized nations of Christendom, conquests, even when confirmed by a treaty of peace, have been followed by no general or partial transmutation of landed property.

"The property belonging to the Government of the vanquished nation passes to the victorious State, which also takes the place of the former sovereign in respect to the eminent domain. In other respects, private rights are unaffected by conquest."

I now desire to ask the attention of the House to another passage from an author:

"Private property on land is now, as a general rule of war, exempt from seizure or confiscation; and this general exemption extends even to cases of absolute and unqualified conquest. Even where the conquest of a country is confirmed by the unconditional relinquishment of sovereignty by the former owner, there can be no general or partial transmutation of private property, in virtue of any rights of conquest. That which belonged to the Government of the vanquished, passes to the victorious State, which also takes the place of the former sovereign, in respect to the right of eminent domain; but private rights, and private property, both movable and immovable, are, in general, unaffected by the operations of a war, whether such operations be limited to mere military occupation or extend to complete conquest."

Upon this question of the exemption from capture of private property I shall content myself by reference to the action and position of our own Government upon the subject whenever she has, in her high national character, held intercourse with other nations.

In one instance she spoke through and by her agent, her representative at a foreign Court—John Q. Adams—when he was the statesman of America, not when he had exchanged that high and enviable position for the leadership of a party to make war upon the compromises of the Constitution of the United States, aiming to destroy a great interest protected from the assaults of a factious majority by that sacred charter.

In the war between the United States and England in 1812, the British army and navy, by proclamation, proclaimed freedom and protection to all the slaves who would leave their owners and enter the lines of the army or the ships of war, (not as sailors or soldiers.) Many thousands abandoned their owners and were taken and protected by the military power of our enemy. By the treaty of peace at Ghent it was, among other things, stipulated that private property seized and carried away by the British army or navy should be returned or paid for.

Mr. Adams, then the representative of this Government at St. James's, in conducting the correspondence with the British minister, in demanding a fulfillment of the treaty of Ghent, used the following language:

"Public property, by the usages of war, is liable to be taken and removed; but as to private property and slaves, they ought never to be taken." * * * * "Our object was the restoration of all property, including slaves, which by the usages of war among civilized nations ought not to have been taken. All private property on land was of that description. It was entitled, by the laws of war, to exemption from capture. Slaves were private property. The act of seducing them from their masters by a promise of freedom was in violation of the laws of war."

This was the language and sentiments of Mr. Adams in his best days, representing the opinions and rights of the United States at a foreign Court. I do not regret it; I have no right to do so for his sake, but I do regret for my country, that this distinguished man, after he had been ejected by the voice of his countrymen from the presidential chair, ever consented to enter upon the theater of political strife and become the founder, and for life the leader, of that party in the North which has made constant and, I fear, successful war upon the institution of slavery within the States. I am bound to ascribe his hatred of the South and her institutions to his overthrow in 1828 as President. I served with him in Congress after he left the executive chair. I watched and listened to his debates in that body; and after my own retirement I was not surprised when I read his debate on the bill to refund the fines imposed upon General Jackson by the district court at New Orleans. It is on his wild, heated, and monstrous doctrine uttered on that occasion, when it was not necessary or pertinent to the question under discussion, that advocates of emancipation by the war, of the present day, base their claim of the power. I will read it as I now find it in a speech of the high priest of abolition of the present day:

"I lay this down as the law of nations. I say that the military authority takes for the time the place of all municipal institutions—slavery among the rest. Under that state of things, so far from its being true that the States where slavery exists have the exclusive management of the subject, not only the President of the United States but the commander of the army has power to order universal emancipation of slaves."

This position, so absurd, yet coming from a man who had filled the office of Chief Magistrate of the nation, was universally condemned, and most triumphantly refuted by able jurists and statesmen of the day. It has slept condemned as a political heresy until the present hour.

It is upon this speech of Mr. Adams that it is now claimed by the party in power that in a state of war, of insurrection or rebellion, the Constitution, the laws of Congress, the laws of the States, civil rights, social relations, and municipal institutions are subject, for the time, to the war power—they are silent and inoperative. Any man, no matter how incompetent to command an army or unwilling to fight a battle, may, by his word, abrogate and abolish forever institutions established by the laws of the States and protected by the Constitution. He may seize and destroy private property, leave the citizen with his wife and children penniless to starve. He who utters such a sentiment, no matter whether he be the Commander-in-Chief or general of division or brigade, is not worthy to be trusted by a free and confiding people. I here in my place denounce him as a tyrant and traitor to his Constitution and country, and arraign him as such before the civilized world, and more particularly before the people of the United States.

Mr. Speaker, I turn from this fatal error of a great man to one more authority upon this question of taking private property by the war power. You will remember, sir, that England, France, and the other Powers of Europe, by treaty or compact of declaration, declared that privateering—the seizing of private property on the high seas by a belligerent vessel—should no longer exist as a belligerent right by the laws of nations. The United States were invited to join in this declaration, or, in other words, national legislation. All the Powers then recognized the law well settled, that private property on land was exempted from capture and confiscation; they wished to extend the same rule to private property on the high seas.

The opinion of this Government upon this question, by the then Secretary of State, in a letter addressed to the Powers of Europe, was expressed in these words by Mr. Marcy:

"The wanton pillage or uncompensated appropriation of individual property by an army in possession of an enemy's country, is against the usage of modern times.

"It is a generally received rule of modern warfare, so far, at least, as it operates upon land, that the persons and effects of non-combatants are to be respected. Such a mode of proceeding at this day [that is the capture of private property] would be condemned by the enlightened judgment of the world, unless warranted by special circumstances.

"Every consideration which upholds this sentiment in regard to the conduct of war on land favors the application of the same rule to the persons and property of belligerents found on the high seas."—*Executive Documents*, 1856-57.

An authority for the passage of those bills cannot, is not to be found in the Constitution, the laws of nations, nor in any other law, human or divine—the power to pass them is claimed by a majority of this House, under the false pretense of punishing for crime or treason, and "crush out," as the phrase is, this rebellion. If gentlemen expect to put down the rebellion, to conquer a peace, to maintain the Constitution, to enforce the laws, and restore the union of the States by the agency of those laws in whole or in part, I say to them in no spirit of disloyalty myself, but I say it in sorrow, because I believe what I say, there is not a man in this House will live to see the end of the present contest. You may enlarge your Army and Navy, you may win victories, but you will have no Union. You yourselves, seeking to enforce and maintain the Constitution over the South, by your acts in the selection of your means of war, violate the Constitution and the laws of the civilized world. If you scatter the army of the enemy by superior force, you will find no peace. You will destroy the hopes of the Union men in those States; you will prevent those heretofore desirous to return from returning to their allegiance to the Government of their fathers; you deny to them the benefit of that law which all nations recognize. That measure of the law is acknowledged by all nations. It is this: when a usurper is in the possession of the Government, the subject is excused and justified in obeying and giving him assistance; otherwise, under a usurpation, no man could be safe, if the lawful prince had a right to hang for obedience to the powers in being, as the usurper would certainly do for his disobedience. (4 Black. Com., 76.)

You have but to apply this rule to the present condition of our Government to see the manifest injustice you propose to do by your acts of confiscation and emancipation. Our Government has been unable to protect their citizens in the rebellious States; of course they had to give willingly, or by force, their allegiance to the government which afforded them protection.

Mr. Speaker, this legislative war, this military and army raid against the property of the South and the institution of slavery as it exists in the several States, including States not in and which never were in rebellion to this Government, is wrong; it is not only in violation, as I think I have shown, of the Constitution and the laws of civilized nations, but it is palpably shameful, and unblushingly violates the pledges of this House, the Senate, and the Executive of the United States, should he concur with you in your opinions, and by the assumed power of war override the Constitution, the rights and liberties of the people. I hope and pray to my God that the President may be guided by the Constitution and by his published opinions on this subject. It is in his power to accomplish a great work, if he will, in this hour of doubt, of almost despair among the Union men everywhere except in the despotism of abolition: ignore slavery, let it take care of itself. If those who own slaves, who are to blame for this war, shall suffer by the legitimate exercise of all the constitutional power necessary to maintain and defend the Constitution and restore the Union, be it so, it was their fault. Confiscation and emancipation cannot be necessary to put down the rebellion. If it cannot be done by legitimate and civilized war, you cannot do it by so conducting your arms and inflicting your penalties to the point of exterminating the whole race of the South and the destruction or confiscation of all the property, leaving nothing for helpless woman or infant child.

Sir, I have said this legislative war, this attempt to change and pervert the war from its original, avowed, national, and constitutional purposes, was a fraud upon the nation, which, if persisted in, the act will stamp with infamy and disgrace those who, disregarding the Constitution, forgetting their solemn pledges to a confiding, brave, and magnanimous people, under pretense of restoring the Union by the army, shall convert it into a John Brown raid upon a great and an alarming scale. Sir, I will perpetuate these pledges; I call upon those who made them to redeem them. I invoke the approving aid of my countrymen in this my feeble, but honest, earnest, patriotic, Union-loving appeal to the powers that be to pause not by the wayside, but restore the Union as it was, with all the States governed by an unbroken Constitution, the bond of that Union.

Mr. Speaker, great efforts have been made by the abolition party, in and out of Congress, to convince others, if not themselves, that slavery caused this rebellion—that slavery is itself rebellion. By accident my attention was called, and I read the speech of a notorious, if not a distinguished man. To one who did not know who was at war within the United States it would appear most evident that slavery was a *State*, and a living, active power engaged in this war. I regret to know and fear that it is the purpose of this abolition war party, nay, such is now an uncontradicted fact, that the slaves of the South are now being armed, to be used against the white population. Of this I shall have more to say hereafter.

Sir, I have again and again, in the clamor of debate in this House, heard the cry that the slave power had ruled this nation for fifty years. It was insolent, overbearing, selfish, dictatorial, and treasonable. What do gentlemen mean by "the slave power?" Where does it lie, and how has it acted

unfriendly to the prosperity, the advancement of the glory, and the protection of the liberty of this country? Do you mean by the term slave power, that power wielded by President Washington and others in the formation of the Constitution? Do you mean the power wielded by President Jefferson and his Democratic supporters in arresting the unconstitutional and consolidatory measures of John Adams? Do you mean the measures and powers exercised by James Madison, Monroe, Jackson—all of whose public acts have illustrated the true principles of a true republican Government, and the glory of our nation and country at home and abroad? It was this same slave power the gentlemen now hate and condemn, that acquired by the gallantry of General George Rogers Clark, and gave to the Union, that territory northwest of the Ohio, upon which have been established five States, now represented on this floor. It was this same despised slave power that gave to you Louisiana, California, Oregon, Texas, and Florida. It was this same slave power that vindicated the honor of the nation in defense of "free trade and sailors' rights," and established our maritime equality as a nation, and our ability to maintain that independence consecrated by the blood of our fathers against any Power who dared to assail it. It was this same slave power which, wielded by Jackson, taught the French king to respect our rights as a nation, and to pay our citizens what was due them by the wrongs of imperial audacity.

This is what the slave power, as you call it, has done for the country and Government, whose blessings you now enjoy, but whose powers you are wont to abuse.

Slavery you charge to be the cause of this rebellion. You have assumed this position. You are laboring to impose it upon the honest citizens of the North and East, that you may justify yourselves in the efforts now being made to do what you have said upon your oaths you had no wish or power to do—to interfere in any manner with slavery as it exists in the States under and by virtue of State law. You said you had not the power and you swore you would not do it. Your resolution passed in February, 1861, after seven States had seceded. Read the resolutions you voted for unanimously, and ask yourselves the question, have I violated these resolutions? And let your consciences answer the question:

"*Resolved*, That neither the Federal Government nor the people or governments of the non-slaveholding States have a purpose or a constitutional right to legislate upon or interfere with slavery in any of the States of the Union.

"*Resolved*, That those persons in the North who do not subscribe to the foregoing proposition are too insignificant in numbers and influence to excite the serious attention or alarm of any portion of the people of the Republic, and that the increase of their numbers and influence does not keep pace with the increase of the aggregate population of the Union."

The resolution of July, 1861, the day after the battle of Bull Run, is as follows:

"That in this national emergency, Congress, banishing all feelings of mere passion or resentment, will recollect only its duty to the whole country; that this war is not waged upon our part in any spirit of oppression, nor for any purpose of conquest or subjugation, nor purpose of overthrowing or interfering with the rights or established institutions of those States, but to defend and maintain the supremacy of the Constitution, and to preserve the Union with all the dignity, equality, and rights of the several States unimpaired; and that as soon as these objects are accomplished the war ought to cease."

It will do no harm to publish again the open and avowed opinions and pledges of the President again and again, made upon this subject.

I will call attention to the opinions of the President, and those who elected him, upon this subject of slavery as it existed in the States. The party, in their platform at Chicago, pledges him and themselves to this emphatic declaration:

"*Resolved*, That the maintenance of the rights of the States, and especially the right of each State to order and control its own domestic institutions according to its own judgment, exclusively, is essential to that balance of power on which the perfection and endurance of our political fabric depends; and we denounce the lawless invasion by armed force of the soil of any State or Territory, no matter under what pretext, as among the gravest of crimes."

The President in his inaugural address pledged himself to the observance of this principle, and I shall rely confidently on his fulfillment of that pledge. He said in that address:

"I have no purpose, directly or indirectly, to interfere with the institution of slavery in the States where it exists. I believe I have no lawful right to do so, and I have no inclination to do so."

In all his messages, that of July particularly, he has maintained the same regard for the rights of the States, and the sacredness of their institutions, as declared by him in March, 1861.

General Butler has not been silent upon this question of slavery, connected and affected as it may be by this war. He shall speak for himself. In his letter to the Governor of Massachusetts, he utters the following sound opinions:

"On the morning following my landing, I was informed that the city of Annapolis and environs were in danger from an insurrection of the slave population, in defiance of the laws of the State. What was I to do? I had promised to put down a white mob, and to preserve and enforce the laws against that. Ought I to allow a black one any preference in a breach of the laws? I understood that I was armed against all infractions of the laws, whether by white or black, and upon that understanding I acted, certainly with promptness and efficiency."

Again, in the same letter, and speaking on the same subject, the following sentiments occur:

"I appreciate fully your excellency's suggestion as to the inherent weakness of the rebels, arising from the preponderance of their servile population. The question then is, in what manner shall we take advantage of that weakness? By allowing, and of course arming, that population to rise upon the defenseless women and children of the country, carrying rapine, arson, and murder—all the horrors of St. Domingo a million times magnified—among those whom we hope to reunite with us as brethren, many of whom are already so, and all who are worth preserving will be when this horrible madness shall have passed away or be thrashed out of them? Would your excellency advise the troops under my command to make war in person upon the defenseless women and children of any part of the Union, accompanied with brutalities too horrible to be named? You will say, 'God forbid!' If we may not do so in person, shall we arm others so to do, over whom we have no restraint, exercise no control, and who, when once they have tasted blood, may turn the very arms we have put in their hands against ourselves, as a part of the oppressing white race?

"The reading of history, so familiar to your excellency, will tell you the bitterest cause of complaint which our fathers had against Great Britain in the war of the Revolution was the arming, by the British Ministry, of the red men with the tomahawk and the scalping knife against the women and the children of the colonies, so that the phrase, 'may we not use all the means which God and nature have put in our power to subjugate the colonies?' has passed into a legend of infamy against the leader of that Ministry who used it in Parliament. Shall history teach us in vain? Could we justify ourselves to ourselves? Although with arms in our hands, amid the savage wildness of camp and field, we may have blunted many of the finer moral sensibilities, in letting loose four millions of worse than savages upon the homes and hearths of the South, can we be justified to the Christian community of Massachusetts? Would such a course be consonant with the teachings of our holy religion? I have a very decided opinion upon the subject, and if any one desires—and I know your excellency does not—this unhappy contest to be prosecuted in that manner, some instrument other than myself must be found to carry it on."

General McClellan, in his address to the citizens of Virginia when he entered that State at the head of his gallant army, proclaimed to her citizens the following encouraging words:

"Notwithstanding all that has been said by the traitors to induce you to believe that our advent among you will be signalized by interfering with your slaves, understand one thing clearly: not only will we abstain from all such interference, but we will, on the contrary, with an iron hand, crush any attempt at insurrection on their part."

On the 22d day of April, 1861, Mr. Seward, writing to Mr. Dayton, our minister at the Court of the Emperor Napoleon, and treating of the subject of the present rebellion, said:

"I need not further elaborate the proposition that the revolution is without a cause; it has not even a pretext.

"It is just as clear that is without an object. Moral and physical causes have determined inflexibly the character of each one of the Territories over which the dispute has arisen, and both parties, after the election, harmoniously agreed on all the Federal laws required for their organization. The Territories will remain in all respects the same, whether the revolution shall succeed or shall fail. The condition of slavery in the several States will remain just the same whether it succeed or fail. There is not even a pretext for the complaint that the disaffected States are to be conquered by the United States if the revolution fail; for the rights of the States and the condition of every human being in them will remain subject to exactly the same laws and forms of administration whether the revolution shall succeed or fail. In the one case the States would be federally connected with the new confederacy; in the other they would, as now, be members of the United States; but their constitutions and laws, customs, habits, and institutions, in either case, will remain the same.

"It is hardly necessary to add to this incontestable statement the further fact that the new President, as well as the citizens through whose suffrages he has come into the Administration, has always repudiated all designs whatever, and whenever imputed to him and them of disturbing the system of slavery as it is existing under the Constitution and laws. The case, however, would not be fully presented if I were to omit to say that any such effort on his part would be unconstitutional, and all his actions in that direction would be prevented by the judicial authority, even though they were assented to by Congress and the people."

Under date of April 10, 1861, Mr. Seward wrote to Mr. Adams, the American minister to England; and in his official instructions to him, spoke as follows:

"You will indulge in no expressions of harshness or disrespect, or even impatience, concerning the seceded States, their agents, or their people; but you will, on the contrary, all the while remember that those States are now, as they always heretofore have been, and, notwithstanding their temporary self-delusion, they must always continue to be, equal and honored members of this Federal Union, and that their citizens, throughout all political misunderstandings and alienations, still are and always must be our kindred and countrymen."

I will quote no more, though much more remains, to establish the position assumed by the Administration, by Congress, and the officers of the Army, that this war (being forced upon the United States) is to be prosecuted for the maintenance of the Constitution and the restoration of the Union as it was. To give it now a different purpose, to wage it for the destruction of the States, the abolition of slavery, would be a fraud so infamous that it would call down upon its authors the anathemas of all good and honest men.

Your names are recorded in the Journal; they cannot be obliterated. What are you now doing by these bills? You are determined to make this a war to emancipate the slaves; your leaders in this House have said they are not for the Union as it was; unless slavery is abolished, they want no Union. What is your Army doing at this time in this District with the slaves of the State of Maryland? The slaves of the citizens of Maryland are seduced by the promise of freedom and protection of the Army to flock into this District. The attempt to return them under and in obedience to the Constitution and laws of the United States by the judiciary is openly resisted; and the slaves taken by order of the military Governor of this District, by armed force out of jail, are liberated and secreted, and the jailor and deputy marshal and his jailor imprisoned. This is done in the presence of the Executive and Congress, and no step, no order made to rebuke the outrage. Well may it have been said by a major general of the Army, "now we have only extra constitutional government; no civil rights, so to speak."

I have said if the owners of slaves of the South suffer by the efforts to put down the rebellion by the legal and constitutional operations of the Army, the consequences are legitimate, and I shall make no complaint, no opposition. What I have objected to, and what I shall object to, is, that some of the officers in command of divisions and squads are guilty of seducing the slaves to run away from their owners and seek protection in the Army; and this Congress has approved it, and by law aided and abetted the illegal practice. Under this system of wrong you are now misapplying the money appropriated to feed and support the Army in feeding and clothing runaway negroes. The Government, without law, has engaged in the business of planting cotton under the auspices of the Secretary of the Treasury, and at the expense of the tax paying people. I have some curious and amusing facts relating to this subject, but I pass them by.

All this is bad enough, but the purpose of arming these runaway and captured negroes as soldiers to be mustered into the army upon an equality with the white volunteer citizen soldier has been determined on. I see the fact stated. It is not contradicted. I have by written request to the War Department asked if it was true that General Hunter is ordered or permitted to organize a brigade of these slaves and receive them into the military service of the United States. I have no reply. I was unwilling to believe this, and now the conviction is forced upon me against my will.

Mr. Speaker, what can I say, what language can I use that will be respectful to this House, and sufficiently strong to express my abhorrence of the act. I have introduced a bill to prohibit this outrage, this wrong upon humanity, this stigma upon the character of the nation which no repentance, not of long rolling years, will efface. I have no hope that it will pass either House of Con-

gress. My only hope is in the President. He has the power, and can revoke the hellish order. The effect of this negro army will be what I fear some desire. It will excite an insurrection of the blacks of the States wherever these armed slaves shall go. Put arms into the hands of slaves, and you cannot control them or discipline them to obedience. We shall soon have, in addition to the evils and sorrows of a civil war, added to our affliction the horrors of a servile insurrection, the extent of which no man can tell. May God in his mercy so overrule those in power that this evil shall not be done.

Mr. Speaker, I had intended to have discussed the policy of these bills, which propose to confiscate the whole property of the people of eleven States, and to emancipate four millions of slaves in the midst of this population, thus stripped of homes and the means of living in the country of their fathers. The statement of the object and effect of these bills is enough to shock the sensibility of every man who has a soul to be saved by pardoning grace. There are those who now advocate these measures upon the mistaken honest opinion that they are right and will aid in the restoration of the peace and union of the country. To such allow me to say they will find themselves in error. Those who do not want the Union restored will not be disappointed; they will live to see the country ruined, a Constitution disregarded, and military despotism triumphant over the life, liberty, and property of the citizen.

Mr. Speaker, I may be blamed by some for the opinions I have expressed. Be it so. I have the consolation of knowing that I am not influenced by a desire to give aid or countenance to this rebellion.

It has been said in this House that Kentucky was slow and unwilling to unite her destinies with the Union party in the effort to suppress by force this rebellion. She was unwilling: she was anxious to preserve a position not hostile to the Union, but such an one as would allow her at the right time and in the proper manner to exert her power, not by arms, but by reason, with her sister States, to stay the ravages of war, to try and adjust the difficulties honorably to both sections, and thus restore to harmony that Union so dear to all. He who thinks she will not strike for the honor and glory of our common country when duty requires, knows nothing of her past history. Our fathers, after the treaty of peace in 1783, were left in the then district of country separated by a mountainous wilderness from the most of the States. The heroic struggles of Kentucky with the savages, if now recorded, would be regarded by many as fabulous. Kentucky, under the lead of Wayne, in 1794, closed the war of the Revolution on the battle-fields of Ohio. In the battle-fields of Tippecanoe, of the Raisin, of the Thames, of New Orleans, and later, in Mexico, the blood of her sons consecrated the soil. Her soldiers now in the field still maintain her fame.

I read and referred to the resolution of Congress to which you gave your undivided assent and vote. I put the question to you and appeal to you as men of honor, have you not determined in council to disregard this pledge to the world? Have you not wittingly passed laws at this session, in relation to the Army, and forcing it, if need be, to aid your purposes of emancipation in the prosecution of the war, which you said was waged for no purpose of revenge, but to preserve the Government and restore the Union, without destroying the State governments or interfering with their domestic institutions? I appeal to that tribunal, the people, whose judgment will condemn you.

Efforts have been made in this House, by resolution which you refused, to obtain the facts as to the operation of your measures, to know out of what appropriation of the people's money, raised for the support of the Army, runaway negroes were supported, cotton plantations stocked and worked by and at the expense of the Government. I see it stated upon the authority of a report of a committee, that the idle slaves at Fortress Monroe alone have cost us for their support $62,000 for the last five months. This is but a small item of the whole expense.

Sir, I have a word to say which is personal to myself. When the selfish and sectional action of bad men, North and South, the unholy contest for power and plunder threatened the peace and the dissolution of the Union, I was where my age and condition of life required me to be, at home in private life. Nearly fifty years of my life has been devoted to the service of a country and Government I loved. I had shared her honors and her dangers, rejoiced in her prosperity, loved almost to idolatry her Constitution, the bond of our Union. I contemplated with pride her progress, power, and glory. She seemed to me of all nations to be blessed of God. To save her from destruction I was and am now ready to make any sacrifice which honor and obedience to the Constitution will allow. Old and crippled, unsuited to the turmoil of political strife, my fellow-citizens have sent me here to do all I can to aid those who, like them and myself, desire a restoration of the Union as it was, the preservation of the Constitution, and the enforcement of the laws. I have honestly and faithfully attempted to carry out their will, and he who, in this House or out of it, whispers aught against the verity of this declaration, or insinuates that I am not faithful and true to the Union, falsifies, and the truth is not in him.

In the presence of that God to whom we are all accountable, I declare my opinion that these measures are violative of the Constitution, not designed by those who have advocated them to effect the restoration of the Union as it was, but that they are an effort of the Abolitionists to prevent such a result, to convert this war into an abolition war—into a John Brown raid upon a national scale. From your acts, I appeal to the American people to rally to the rescue, and save their country. I say to them if they desire peace, if they desire the preservation of the Constitution, the restoration of the Union as it was, by the exercise of that power for good under the Constitution and in the Union, remove from their places those men who have for years striven to destroy this Government, whose rallying cry is that the "Constitution is an agreement with death and a covenant with hell." This party has increased in numbers, become bold and insolent in power, and must be overcome, or the Government our fathers gave us will soon be no more.

CONFISCATION OF REBEL PROPERTY.

SPEECH OF HON. E. P. WALTON,

OF VERMONT,

IN THE HOUSE OF REPRESENTATIVES,

May 24, 1862.

The House having under consideration the bills to confiscate the property and free from servitude the slaves of rebels—

Mr. WALTON, of Vermont, said:

Mr. SPEAKER: There are many things involved in the questions before the House in which I believe a very large majority in each branch of Congress agree, and indeed in most things that are essential. It is agreed that treason and rebellion are monstrous crimes, if so it be that the two are not always to be resolved into that one greatest crime known to the laws. It is agreed that the punishment should be both certain and terrible, to the ends that this generation may have justice, and their children security for future tranquillity. It is agreed that treason must not be made easy, nor civil war, with its concomitants of wholesale robbery, piracy, and murder, go unavenged. It is agreed that death is a deserved punishment, at least for the chief conspirators and controlling actors in the crime. It is agreed also by most members of this body, and by all I presume with whom it is my choice politically to act, that as slavery was the chief cause of the attempted ruin of the country, so ought it to be the chief sufferer. And finally it is agreed that, either as an addition to or alternative for the punishment of death, and in some mode—by confiscation, fine, or forfeiture—the guilty should be forced to make some atonement and compensation for their crime through their property.

This agreement in all the important results to be accomplished is exhibited in two schemes now before the House. These are that which is embraced in two bills reported from a select committee of the House by the gentleman from Massachusetts, [Mr. ELIOT,] the one confiscating the property of rebels and the other emancipating their slaves, and the substitute for both of these bills, which I have proposed by way of amendment to each. The substitute I have offered is in substance the bill reported by a select committee of the Senate, with two important amendments borrowed from a substitute moved by my colleague, [Mr. MORRILL.] The fact that these schemes are the results of the labors of special committees of both Houses commend them to favorable consideration; and the further fact that both agree substantially in results, differing mainly in modes, gives assurance that a substantial and satisfactory act is within our reach. We have only to harmonize the difference in modes. I believe that the demands of justice, as well as the demands and just expectations of our constituents, will secure the enactment of some statute embracing the purposes of the two schemes I have named; and I am solicitous only for the success of that which shall fully comport with our constitutional powers, and will therefore be most efficient; because such an act, and such only, can ever be carried into effect by the Executive and sustained by the courts. The enactment of an unconstitutional and ineffective statute would be an insult to our constituents, a mockery of justice, and proof of the grossest infidelity to our high trust. It would be criminal in us so to trifle with the gravest questions of criminal jurisprudence.

I have said the two schemes agree substantially in contemplated results. The House scheme leaves the penalty of death untouched, and the effect of it will be to add the loss of slaves and the forfeiture of property to the penalty of death. It is a reversal of the rule—"to be hung and pay forty shillings." We are to take the property when we can find it, and hang the owner when we can catch him. The Senate scheme, which I have proposed, agrees in retaining the death penalty for past treason, and differs in providing the alternative of death to the traitor and emancipation of his slaves, or his imprisonment, together with a heavy fine, reaching all the property, if the court shall deem that proper, and the emancipation of his slaves for future offenses. It differs also in defining conspiracy to subvert the Government by force, or inciting to rebellion or insurrection, as new crimes, and provides punishment for those crimes. These provisions have been rendered necessary by decisions of the Supreme Court, (cited in Brightly's Digest, p. 9,) and the second section of the Senate bill is therefore a valuable feature. These are crimes heretofore unprovided for.

As to slavery, both schemes agree in emancipating the slaves of rebels, and also in barring disloyal persons from recovery of fugitives. But there are very material differences in favor of the substitute I have proposed, and these are additions to the Senate scheme. These are that no discharged slave, or descendants of a discharged slave, shall ever be reënslaved by any authority whatever; that the court in discharging shall give to each slave a certificate of freedom, which shall be a protection forever to the person discharged, and to all descendants; and that if any person so discharged and declared free shall be arrested as a slave, any judge of a United States court shall discharge such person on *habeas corpus*, and punish the offender as a kidnapper. These provisions were taken from the amendment of my colleague, [Mr. MORRILL,] and I submit that they are absolutely necessary to give practical and permanent effect to whatever scheme of emancipation we may adopt. Emancipation will be in vain, if every slave State may again fasten the chain we have broken. A mere legislative declaration of freedom to the slaves of rebels, without any process to carry it into effect, without any record proof of the fact of freedom, without a certificate of that fact in the hands of every person emancipated, and without any guard against future bondage, would but mock the hopes of multitudes who are waiting for deliverance. Yet such, I am sorry to say, is the House scheme. It is just that, and nothing else; and I regard it as little better than the late proclamation of a most worthy man and excellent officer who hails from my own State, General Phelps, or than that later proclamation of General Hunter, which the President, in the execution of his own policy of emancipation, was forced to ignore.

As to property, both schemes agree in the present seizure or sequestration of all property, both real and personal, of such classes of men as have been most mischievous and most responsible for the rebellion; and as to these classes the two schemes substantially agree. Both also agree in seizing or sequestering the property as well as discharging the slaves of all persons who engage in rebellion, or aid and abet it, at any time sixty days after proclamation by the President warning them against it. In the disposition of the avails of the property, however, there is a material difference; and it is that the House scheme allows loyal creditors of rebels to take pay out of the rebellion fund in the Treasury, while the substitute leaves creditors solely to their legal right of prior lien, and does not undertake to pay them from the Treasury, or to contest the suits and settle the estates of rebels.

Finally, in facility of execution there is substantial agreement; the one forfeits and the other sequesters forthwith. Both carry the property to the courts for disposal—the one at common law and the other in admiralty—and although the substitute carries the owner also for trial, as the House scheme does not, it is to be noted that the former forfeits all the property and frees all the slaves of the accused, if he shall neglect or refuse, after public notice, to appear for trial. This provision of the Senate scheme is not novel in civil cases, certainly in this country, and in flight for treason it has warrant in the source from which the muniments of the Constitution were drawn; I mean the laws of England. (4 Blackstone's Commentaries, p. 380.)

There are four provisions in the substitute I have moved which are not in the House scheme, to wit: every person guilty of either of the offenses named is to be forever incapable and disqualified to hold any office under the United States; the President may proclaim pardon and amnesty, whenever advisable, with all exceptions necessary to meet the ends of justice, this, of course, not applying to persons convicted; Africans may be employed and organized for the suppression of treason, insurrection, or rebellion; and the President may provide for the colonization of such emancipated slaves as may voluntarily elect to emigrate to, in any suitable country which will receive them, and accord to them the privileges of freemen, but this does not give authority to purchase territory for that purpose.

It thus appears that both schemes substantially agree in scope and purpose, and both are based upon the same cause at the bottom; that is, crime, and the crimes of treason or rebellion and insurrection. The radical differences are as to the modes of proceeding. The House scheme finds its authority in the so-called war powers of the Government, and undertakes to set aside all the muniments of the Constitution for the protection of life, liberty, and property; to subordinate the judicial to the war power, and to force the courts to condemn the property of rebels for their crime without indictment, arraignment, trial by jury, and conviction. The Senate scheme, on the other hand, provides for a proceeding purely criminal, resting its authority upon the unquestioned provisions of the Constitution, and scrupulously respecting all its restrictions.

I doubt the propriety and efficiency of the House scheme; I doubt whether it can be sustained in the courts; I doubt whether it will not prove an utter failure; and without attempting a formal argument, which might well employ the utmost powers of the ablest constitutional lawyers, I propose to state some of the grounds of my doubts. By my office here, I am compelled to examine and decide, though not a lawyer at all, upon legal questions of greatest magnitude; and I must do it as well as I may.

The first objection is to the principle upon which the House scheme proceeds. It is based upon crime, but it does not proceed upon the principle of punishing crime, nor do its advocates derive our right to adopt it from the clear and unquestioned power of Congress to punish crime. On the contrary, they derive our right from other sources entirely: first, as incident to the constitutional power to declare war, raise and supply armies and navies, and call out the militia to suppress insurrections; and second, as derived from the laws of nations, which authorize, as they claim, the confiscation of "enemy property." There has been abundance of argument, *pro* and *con*, on these two points, and I propose to add very little to it. This Government certainly has all the powers of war belonging to any civilized and Christian nation; but the Constitution itself, as I understand it, distributes those powers to the three great divisions of Government—legislative, executive, and judicial. Congress has its special province to declare war, raise and support armies and navies, and make rules for their government. The President is to execute our acts for this purpose. I subscribe to the doctrine of Judge Story, "that when the legislative authority to whom the right to declare war is confided, has declared war in its most unlimited manner, the executive authority, to whom the execution of the war is confided, is bound to carry it into effect. He has a discretion in him as to the manner and extent, but he cannot lawfully transcend the rules of warfare established among civilized nations. He cannot lawfully exercise powers or authorize proceedings which the civilized world repudiates and disclaims." (8 Cranch, 153.) Then all judicial questions, growing out of war, belong to the courts. They have admiralty and maritime jurisdiction by the Constitution itself, which Congress, therefore, can neither diminish nor enlarge; and that jurisdiction covers cases of prize or capture on navigable water. By a special clause, Congress has power "to declare war, grant letters of marque and reprisal, and make rules concerning captures on land and water;" and that authorizes Congress to turn over to the courts all cases of captures on land. Chief Justice Marshall, speaking for the Supreme Court, decided that point in Brown's case, which has been quoted as the leading authority on this question, but he derived the power solely from the words "make rules concerning captures on land and water," and expressly repudiated the claim which is now set up from the general war powers. It is, said he, "an independent, substantive power, not included in that of declaring war." (8 Cranch, 126.) Now, I suggest that inasmuch as the war powers are thus constitutionally distributed, the restrictions of the Constitution operate upon these powers as upon all others. The Constitution must be consistent with itself. Except when law martial sets aside all other laws—and that can only be in districts or places under military control—all laws must stand intact, and the Constitution itself must stand, in all its parts, as the supreme law of the land. I make this point, therefore, that Congress cannot wrest the war power so as to overturn all the restrictions of the Constitution upon the jurisdiction and forms of proceeding in the courts, even during war, except when martial law has been proclaimed; and much less can it provide that these restrictions shall not apply when the war power itself shall have been exhausted, and civil power shall have been completely restored over conquered territory. Precisely that is what the House scheme undertakes to do. I have no faith in it.

Now, I claim this great difference in favor of the Senate scheme, which I offer to the House: that it leaves the war power intact, and all the rights incident to civil war in full force, to be executed by the President and his military subordinates in their fullest extent. With our direction, by the act of August last, he has the right, and it is his duty, to confiscate all property and free all slaves used in rebellion. I presume he could have done that without the act, or, at least, that he could capture property used in war, and that Congress then could turn that property over to the courts for condemnation. Without authority from Congress, generals in the field can levy contributions for the support of the Army, as did General Scott in Mexico; they can take property for that purpose; they can take, and if they cannot remove, they can destroy whatever would be used by the enemy against them; they can destroy buildings occupied by the enemy; they can, if need be, destroy whatever is in their way, either of attack or retreat, from the burning of a house, barn, or bridge, to the destruction of a hamlet or a city; and finally, they may, whenever necessary, or even most convenient to put an end to the war, proclaim liberty to slaves, and turn them from enemies to friends and co-workers in putting down rebellion—and I believe they ought to do it. That may be justified under the war power as a means of ending war. It cannot be justified for other purposes—clearly not to prolong war. All these powers are incident to civil war, and we have the right to use them against rebels in arms, as well as against their aiders and abettors. All these things can be truly said to be incident to the war power; but they belong to the conduct of the war by the Executive, after Congress shall have declared war. These, too, are all operations in the field, and depend upon the exigencies and proprieties of the occasion, and must be limited to the occasion. My second point is, that they are as completely distinct from the legislative power to declare war, though flowing from it, as are the executive functions from legislative functions; and therefore Congress can derive to itself no new or incidental powers from this source. I cannot assent to the argument which vests in Congress alone all the powers accorded in war by the law of nations to each nation in its sovereign capacity. That is to make Congress supreme; to assume for it executive functions; to give it control over the operations of armies in the field and navies on the seas, and finally over the courts in all cases growing out of war. That is the theory of the House scheme. It looks to me like the consolidation of all power in Congress.

I repeat that the Senate scheme impairs none of these rights and powers incident to war, but rather leaves them all in full force, and adds to them. It adds to them, constitutionally and justly, emancipation and confiscation as punishment for crime, to be executed both during the war and after the war, just as fast and as far as judicial authority can be enforced. The House scheme, on the other hand, assumes for Congress doubtful powers derived from war. It is therefore tied to the war, and must die with the war. That is my third point. If we set aside the powers of Congress that are perpetual, and tie ourselves only to those that are exceptional and ephemeral, belonging only in war and not in peace, then our acts will end with the war. Perhaps work commenced in war may be completed afterward; but new seizures cannot be made after the war. That certainly is the law as to captures on the seas, as I shall have occasion to show hereafter; and the principle applies as well to captures on land. I doubt, therefore, whether an act based on the war power solely will not be as dead as was the alien acts after the occasion had passed; and, by the way, I must add, that the House scheme is far less carefully gaurded than were the alien act of June, 1798, and the alien enemy act of July of the same year. Those acts provided specifically for trial and conviction before an alien could be imprisoned, or an alien enemy be deported. The President had power to order them off, but they were to be proven guilty before imprisonment or banishment. The House scheme orders the President to seize the property of rebels, and then it puts the burden of proof upon the accused. Suppose A and B accuse C as a rebel, contrary to the fact. The property of C is to be seized, by any kind of power, civil, military, or naval; it is "subject to seizure, prize, and capture;" and when seized, unless C shall appear in court and prove his innocence, his property will be condemned. Yet C will not be cited to appear, and will not have even constructive notice to appear. That is the House scheme, and this illustration seems to me to be strongly condemnatory. We did not so monstrously violate the rights of persons charged with being alien enemies. Why should we do it in respect to our own citizens? Why should we forget that loyal men may be falsely accused? Why strike down all the defenses for innocence? Just here lies a broad distinction between the rules of foreign and civil war. In foreign war, all the citizens of belligerent nations are enemies, and if citizenship be proved, it is enough. In civil war the rule applies only to hostile persons; and individual and personal guilt is to be proved—proved, I will say, if the process is judicial. Then the case is taken out of the war power of Congress, and we ought to dismiss the argument drawn from that source.

This brings me to the second branch of the argument in defense of the House scheme, which is,

that by the law of nations "enemy property" is subject to confiscation, and therefore that Congress may confiscate the property of everybody engaged in this rebellion or aiding it, and in whatever mode it shall choose. The law of the case is disputed, and to-day numerous authorities upon both sides of the question have been cited by the gentleman from Illinois, [Mr. KELLOGG,] and the gentleman from Massachusetts, [Mr. THOMAS.] Why should we rest our authority to confiscate on a disputed and doubtful point in the laws of nations, when, under the Constitution itself, we have ample authority to do the same thing? I suppose I know the true answer to that question. It is not that we cannot confiscate under the Constitution, but that we cannot confiscate in the particular way desired by the inventors of the House scheme. In short, they resort to the laws of nations to get rid of the Constitution, and in the very spirit of an ardent politician who informed me the other day that "the Constitution is played out!" Well, sir, if the country cannot be saved otherwise, I shall submit to the breaking down of the Constitution; I shall have to regard it as a failure, as being "played out," and wait for a new one; but I do not believe it is necessary to do that in order to free the slaves and confiscate the property of rebels. The Constitution is broad enough to secure all that; and under my oath of fidelity to it, I confess that I prefer to act clearly under all its sanctions and within all its restrictions. Nay, more, I am bound so to act, or the oath of office is a mockery.

Now, I call attention to the fact that all the authority drawn from the laws of nations as to "enemy property" is in respect to alien enemies, and all of it applies to the case of war between different nations, rather than to civil war. In case of war between two nations, all the citizens indiscriminately of each are enemies of the other, and the property confiscated is not taken as the property of the individual citizen, to punish or injure him, but as the property of the belligerent nation, and to injure it, or to secure indemnity. It is a belligerent right. We do not recognize the confederate States as an independent nation at war with this Government, but persistently deny to them belligerent rights; and therefore we must excuse them from belligerent liabilities. How then can we apply the law of "enemy property" to this case? I deny our right, and I deny the fact as to this scheme. It does nothing of the sort, and therefore the argument from the laws of nations does not touch the case at all. The scheme does not reach the property of *all* citizens of rebel States, as every act would do under the law of nations, at least as that law has been construed by supporters of the House scheme. Under that law, every citizen of the opposing nation would be an enemy, and the rule of "enemy property" would extend to all. This scheme does no such thing, but in terms it is limited. In terms it does a very different thing. It is not conformed to the sweeping rule against "enemy property," but is specific. It confiscates the property of particular persons, and for a particular reason, to wit, those who are particularly responsible for the rebellion, and for the reason that they are guilty of the crime of treason. The guilty are to be singled out, and their guilt is to be proved, or ought to be; and I anticipate that the courts will so hold, and therefore give little favor to an act which utterly ignores the broad distinction between a nation of alien enemies, and mixed communities of our own nation, a part loyal, and not subject to our act, and a part justly deserving of all its rigor. Precisely here the Senate scheme comes in to remove the difficulty. It provides that the crime shall be proved; or, if the accused flees trial, he shall by his own act forfeit his rights. It proceeds not upon the laws of nations, which do not meet the case, but upon our own supreme law, which does meet the case, and which Congress and the courts are alike bound to respect.

I know of but one clause in the Constitution from which it is possible, on the most liberal construction, to derive to Congress power to adopt the House scheme. It is that clause which authorizes it to "make rules concerning captures on land and water." Judge Story said, in reference to the entire paragraph from which the above clause is taken, that this "includes the exercise of all the ordinary rights of belligerents; and Congress may, therefore, pass suitable laws to enforce them. They may authorize the seizure and condemnation of the property of the enemy within and without the territory of the United States; and the confiscation of debts due to the enemy." (2 Story on the Constitution, sec. 1177.) These, be it observed, are belligerent rights from which we have excluded ourselves. They apply to alien enemies, to nations of enemies, whereas in civil war they can apply only to the persons parties to the war. More than that: except so far as it concedes to Congress powers which Judge Story claimed for the President after Congress had declared war, the above is substantially but a transcript from Judge Story's dissenting opinion in Brown's case, in which he had the concurrence of but one other judge. The law of the court in that case was stated by Chief Justice Marshall, and it was that the power of Congress is to be drawn from the clause "make rules concerning captures on land and water," as "an independent sovereign power, not included in that of declaring war." (8 Cranch, p. 126.)

Now let us consider the clause in the light of that decision of the Supreme Court. The House scheme says that all the property of rebels shall be subject to "seizure, prize, and capture." Does saying so make it so? The Constitution speaks only of "captures on land and water," and I admit that prizes, in the legal meaning of the term, are captures on the water. But why add "seizures," and what is meant by it? If it be anything distinct from "captures," it has no warrant in the Constitution. It is not within the clause I have quoted; and it is not in the Constitution at all, except in the prohibition against unreasonable searches and seizures without warrant. "Without warrant." I observe, by the way, that this scheme makes no provision for warrant, as did the alien enemy act; but let that pass. Whoever consults the Madison Papers, or Elliot's Debates, will find that "military captures" only were first contemplated by the framers of the Constitution—"military captures" was the original phrase in two resolutions. The phraseology was subsequently changed, in an independent provision, so as to include "captures on land and water;" and finally, in the Constitution itself, this clause was connected with the power "to declare war" and "grant letters of marque and reprisal." Why so connect these powers if it was not to limit Congress to captures made in and during war? Must it not exclude captures made when the party capturing had notice that war had been concluded? In fact this is the law. I cite 1 Kent's Commentaries, 179 and 181, stating only the latter case. It is that a capture, made before a treaty of peace has taken effect, is null if the captor had been previously informed that such a treaty had been agreed upon. This covers a capture made *before* war had been concluded; and Judge Kent said of it, in reference to other opinions, that this appeared to be "the better and more reasonable opinion." In Brown's case Judge Story said a sovereign may confiscate the debts of his enemy "during the war, or by way of reprisal," (8 Cranch, p. 143;) and again, that he may seize hostile property afloat in his ports "at the commencement of the war," (8 Cranch, 150.) But his argument rested entirely on the power of the President to *carry on or execute* the war which Congress had declared, and the conclusion, therefore, is that his authority will cease with the war. If that be true of the authority of the Executive, it is equally true of the authority of Congress under the war powers.

Now, I take the word "seizures" in this scheme to mean something entirely distinct from "military captures," or captures in war, or seizures and captures during the war, else the word would not have been used. It would have sufficed to say prize and capture. I take it to mean the seizure of rebel property where war does not exist and has not existed at all, as in loyal States; and there we can take contraband property and seize the property of rebels, but not under the war power. Property is made contraband by war, but we can seize and condemn it under the power to regulate commerce between the States and with foreign nations; and rebel property can be seized by the civil power, as the Senate scheme proposes to seize it. In truth, we need no military capture except at the theater of war, and we cannot well have it anywhere else. I take it also that "seizure" in this scheme means the taking of rebel property where the Army has done its work, and civil power has been restored; in short, when and where the war has been ended. If not that, the scheme will accomplish little, and is hardly worth the breath we are spending upon it. If it does mean that, can it be fairly or truly said that such seizures are captures in or during war? On that question hangs the constitutionality and validity of this scheme; on that depends the right of Congress to compel proceedings *in rem*, and to extend admiralty jurisdiction to captures on land. It all hangs on a very slender thread, and I fear the lawyers will break it. I will only add that the Senate scheme avoids this dubious authority, and the question whether real estate is subject of prize and capture in war—that is, in the sense of depriving owners of their personal rights, not questioning the right of conquest—by limiting proceedings *in rem* to "personal property seized by the Army and Navy."

There was one other point in the argument of the committee, as stated by its chairman, [Mr. ELIOT,] which is that the restrictions of the Constitution do not apply, because this scheme is against property, and not against persons; in other words, that the muniments of the Constitution are for the defense of personal rights alone. I reply, in the words of the Constitution itself: "no person shall be deprived of life, liberty, *or property*, without due process of law." Coke defines "due process of law" to mean "due presentment and indictment, and being brought in to answer thereto by due process of the common law;" and Judge Story adds, "so that this clause [of the Constitution] in effect affirms the right of trial according to the process and proceedings of the common law." That is, it secures indictment, arraignment, and proof in open court, and trial by jury. There were exceptions to this rule in England, and always have been in this country. Prize cases, and cases of forfeiture for violation of the revenue laws, if on navigable waters, are the exceptions. These belong to admiralty courts, where there is no trial by jury. Captures on land, however, are tried on the common law side of the court, and cases *in rem* seem not to be an exception there. (8 Wheaton, 391.) Moreover, where the case was one of crime, falling within admiralty jurisdiction, the trial has been transferred to common law, and has, of course, been by jury, both in England and in this country. (4 Blackstone's Commentaries, p. 266; United States judiciary act, 1789, sec. 9, still in force.) The House scheme proposes to abolish this distinction as to crime, for it proposes to forfeit for the crime of treason without trial by jury. It seems also to abolish the distinction between captures on water and captures on land. The plan is compact and ingenious. First, all sorts of property of certain traitors "are declared lawful subjects of seizure and of prize and capture;" and second, the courts are required to "conform as nearly as may be to proceedings in prize cases, or to cases of forfeiture arising under the revenue laws." The plan itself is evidence of a deliberate purpose to avoid all the muniments of the Constitution for the defense of life, liberty, and property; and the argument of the gentleman from Massachusetts is a confession of the fact. They were not made for property, says he; this is a proceeding against property. They were made for persons; this is not a proceeding against persons, and for proof he added that we may hereafter catch the persons and hang them.

This brings out the scheme in its entire length, depth, and breadth. It is an *addition* to the existing law against treason; and to the penalty of death it adds confiscation of all property, both real and personal. That will be the actual effect of it if hereafter we shall catch and convict the traitor. It is more: it provides for the infliction of one part of the penalty for treason—all that is new—without indictment, arraignment, and trial by jury. If you can forfeit property for treason without trial and conviction of the owner in due process of law, why may you not hang him in the same way? I see nothing to prevent but the Constitu-

tion; that, I think, is in the way. I am not a lawyer, and therefore perhaps I cannot appreciate the excellency and beauty of this new judicial machine. It may be patentable for novelty, for it is entirely unlike that constructed by our fathers and deposited for safe-keeping within the Constitution itself. But I do not believe that we can adopt it under our power "to promote the progress of science and useful arts by securing for a limited time to authors and inventors the exclusive right to their respective writings and discoveries;" nor do I believe that my friend from Massachusetts would go for it if he were to receive, in his own person exclusively, the effect as well as the benefit of his right as discoverer.

The Constitution itself empowers us to punish treason, prescribes the mode of trial, and limits the punishment. There must be indictment, arraignment, and jury trial, by general provisions applicable to criminal cases; and then there are provisions applicable specially to treason, namely:

"No person shall be convicted of treason unless on the testimony of two witnesses to the same overt act, or on confession in open court."

That prescribes the mode of conviction. Again:

"The Congress shall have power to declare the punishment of treason, but no attainder of treason shall work corruption of blood, or forfeiture, except during the life of the person attainted."

Here is a limitation of punishment. There may be "attainder;" but the traitor cannot be attainted on conviction simply, but by judgment.

"When sentence of death, the most terrible and highest judgment in the laws of England, is pronounced, the immediate, inseparable consequence by the common law is attainder." * * * * "This is after judgment; for there is a great difference between a man convicted and attainted, though they are frequently, through inaccuracy, confounded together. After conviction only a man is liable to none of these disabilities; for there is still in contemplation of law a possibility of his innocence." * * * * "Upon judgment, therefore, of death, and not before, the attainder of a criminal commences." * * * * "The consequences of attainder are forfeiture, and corruption of blood."—4 *Blackstone's Commentaries*, pp. 373, 374.

Here is the source of our constitutional provisions. There may be the punishment of death, and there can be no attainder without judgment of death. There may be attainder and forfeiture; but the Constitution expressly declares that attainder shall not work either corruption of blood or forfeiture of property, "except during the life of the person attainted." You can forfeit all the property of a traitor if you do not hang him; but you cannot forfeit property and hang him also. Yet the latter will in fact be the law if the House scheme shall be adopted. It will forfeit first, and then the owner may be hung on conviction under the existing law. No sane man can deny that such a law, if embraced in a single statute, would be unconstitutional. Can we dodge the Constitution by making two statutes, one for death and the other for forfeiture? Can we do indirectly what we cannot do directly? Can we dodge all the requisitions of the Constitution for trial by jury by giving jury trial for the life of a criminal, and refusing it for his property? One trial and judgment in England carried both penalties, and so our fathers unquestionably understood it. Never would they have put in the limitation as to forfeiture if they did not so understand it. The scheme looks to me like an artful dodge, and still a dodge that will hazard the validity of the scheme.

The avowed purpose of the advocates of the House scheme is to avoid trial by jury, and its ingenious machinery is adapted to that purpose. For that they make all property subject of seizure, prize, and capture; and our power to go to that length, by way of making rules concerning captures in war, is doubtful. For that they prescribe a proceeding *in rem*—which, by the way, is rather ludicrous if applied to slaves, unless my friends are ready to count them as chattels, and to avoid that, they give us an emancipation bill, which provides for no judicial proceeding at all, and is, I fear, good for nothing at all. And for the same purpose they attempt to force captures on land into courts of admiralty; which is clearly beyond our power, unless the seizures under this scheme can be brought within the legal meaning of "captures." Now, consider the express provisions of the Constitution in respect to trial by jury in all criminal cases except impeachments, and in all suits at common law where the value involved exceeds twenty dollars; consider that by the very terms of this scheme the forfeiture is for treason, not in form, but in fact; consider the doubtful questions involved in the machinery of the bill; consider also that nearly all the cases are to be tried by judges now on the bench, and in the very States where your act will be most sternly resisted; consider that many of them, who are not impeachable, have little sympathy or favor for your purpose; and finally, that even the impeachable cannot be purged from the bench until they shall have decided upon the validity of your act, and then tell me, as reasonable and candid men, whether there is even a fair probability that such an act will, to any considerable extent, ever be enforced. I believe the chances are most decidedly against it, and I object that the scheme is impracticable. Give me at least something that will be valid; something that can be executed somewhere; something that will give one example, if but one it be, of just retribution for that crime which is, most emphatically, a crime without a cause, and yet the sum of all villainies.*

On the violent presumption, however, that the House scheme will be sustained by the courts—courts in rebel States, not to say courts of rebel judges—I submit that the machinery of the scheme in respect to trial by jury is inadequate. There is a screw loose. Indictment, arraignment, and trial in the usual form are excluded; but I suspect that after all the jury is not excluded, and therefore that all the objections to jury trial exist in full force against this scheme. The bill provides that the proceedings shall be *in rem*, and "conform as nearly as may be to proceedings in prize cases, or to cases of forfeiture arising under the revenue laws." Prize cases are admiralty cases. Let us see what the law is as to proceedings in civil cases there, for the framers of the scheme will not permit criminal proceedings. "Saving to suitors, in all cases, the right of a common-law remedy, where the common law is competent to give it." (Judiciary Act, 1789.) Trial by jury, if the case is suitable for it—that is the spirit of the act. Does this evade it? Now for the law as to criminal cases in admiralty: "and the trial of issues in fact, in the district courts, in all causes except *civil* causes of admiralty and maritime jurisdiction, *shall be by jury*." I quote both passages from the ninth section of the judiciary act of September 24, 1798, which is still the law of the land. That act was cotemporaneous with the Constitution, and its provisions show how careful our fathers were to preserve trial by jury. The upshot of it is that every case for which a jury is competent shall be tried by jury, even when belonging to admiralty jurisdiction, other cases alone being reserved for the judges. This, be it observed, is as to captures and seizures on water. By inference, seizures and captures on land are left for the jury. Now for the practice of the courts. I will cite a case *in rem* which covers the whole ground—the Sarah, (8 Wheaton, 391:)

"In the trial of all cases of seizure on land, the court sits as a court of common law. In all cases of seizure made on waters navigable by vessels of ten tons burden and upwards, the court sits as a court of admiralty. In all cases at common law, *the trial must be by jury*."

Granting that the scheme is to be sustained, I reach this result: if nobody appears, either in person or by counsel, to contest, there will be condemnation by the court. Just that and all of that you will have by the Senate scheme. If cases shall be contested, and jury trial demanded, especially in all seizures on land, which will constitute nineteen twentieths of the seizures, you must have trial by jury. You have avoided indictment and all the muniments of the Constitution but one: you have not avoided trial by jury. You have attempted to do it all, and by that attempt you will not only hazard an utter failure of the scheme as a nullity, and invoke a clamor as loud and as damaging as followed the alien and sedition act, but if your scheme stands, it will stand with all the imagined difficulties of a jury trial, which you charge upon the Senate scheme. I submit that the Senate scheme will be equally efficient, that it will be infinitely more likely to stand the test in the courts, and that even rebels and their sympathizers cannot make headway against it. It is safely intrenched in the Constitution.

In essence the proceeding under both of these schemes is criminal; in essence the cases will be criminal; and therefore they do fitly fall, and ought to be made to fall, within the full and explicit provisions of the Constitution for all criminal cases. By the terms of the House scheme, the property of rebels and their abettors is forfeited because they are rebels. Guilt is the sole condition of forfeiture, and it is personal guilt. It is precisely like forfeiture to the Crown in England for certain felonies, and there it is a part or a consequence of conviction, and the forfeiture *in rem* attaches only by the conviction of the offender—of course on indictment, arraignment, and trial by jury. (12 Wheaton, 14.) If the rebel has fled, like Slidell and Mason, then the case will be precisely that of flight on an accusation of treason in England, where the jury must find the flight before the party shall forfeit his goods and chattels. (4 Blackstone, 380.) And since a part of this scheme is to avoid trial by jury, by turning the cases over to admiralty, I will add that in England felony in admiralty, by statute 28 Henry VIII, was turned over to commissioners for trial, "the indictment being first found by a grand jury of twelve men, and afterwards tried by another jury, as at common law." (4 Blackstone, 266.) These were the laws of our fathers; these were the sources of the manifold and explicit provisions of the Constitution for the protection of life, liberty, and property. In the spirit of these was the judiciary act of 1789, and in that spirit is and has been the practice of the courts. I prefer the Senate scheme, because it respects and preserves the muniments of the Constitution. For that reason I shall vote for it, and for that reason I urge it. I urge it in no factious spirit; and I now say that if it shall not be acceptable to the House, and if the House scheme shall be preferred, I am too modest to set up my judgment against that of the majority. I shall defer to the majority, and mark my abhorrence of treason by voting for their bill. My record shall be unquestionable on that point. But I invoke my friends not to fear trial by jury, even in the now rebel States. If their people cannot be trusted with that on returning allegiance, they cannot be trusted at all; they cannot be trusted with the privileges of voting, or of holding office, or of bearing arms, and we had better keep them out of the Union than in it. We had better provide at once for outlawry. They would be traitors still. In any event, however, there will be less trouble with juries than with judges, for we can purge the jury box of every man who is scrupulous of convicting for treason. We cannot purge the court, at least we cannot do it in time to meet the emergency. Our remedy then is, not to send these cases to the judges, but to the jury, since the judges will be bound by the verdicts of the juries. When the juries shall be purged of all disloyal men, and even of the loyal, if they are scrupulous of convicting, there will be no good reason to doubt their efficiency; no argument against juries in these cases that will not lie against juries in all cases.

Let it not be said that rebels have forfeited all rights or that we make the muniments of the Constitution protection to the guilty. Never, never! They are all for the innocent, and only for the innocent. But fix the stain of guilt, and the gates of the Constitution are open, the portcullis is raised, the moat is bridged, and the traitor passes to the gibbet. Till guilt is fixed, how know you that the accused is not a loyal man, the victim of villains, who seek his blood; of rapacity, which covets his property; of vengeance, perhaps, for the very reason that he has not violated his allegiance to his country, plunged it into all the horrors of civil

* While preparing this speech for the press, the decision of Judge Sprague, of Massachusetts, in the case of the Amy Warwick and cargo, came to hand. It fully sustains the main objections to the House scheme. Judge Sprague said:

"Confiscations of property, not for any use that has been made of it, which go not against an offending thing, but are inflicted for the personal delinquency of the owner, are punitive, and punishment should be inflicted only upon due conviction of personal guilt. What offenses shall be created and what penalties affixed must be left to the justice and wisdom of Congress, within the limits prescribed by the Constitution. Such penal enactments have no connection whatever with the decisions of prize courts enforcing belligerent rights upon property captured at sea during the war."

In the face of that decision, by an eminent, loyal judge, it is vain to expect different views to prevail with others who are far less inclined to severity.

war, and bonded futurity for its cost? Let it not be said that we know that Davis and Stephens and the host of civil and military leaders in rebellion are self-proved traitors. These are not the men to stand trial. They will flee, as Mason and Slidell have fled; they will go as outlaws from the land, or call upon the mountains to fall upon them and hide them from the avenging sword of justice. We will take them if we can, but if we cannot, we will take the property they leave behind them. Above all, when by armies, such as the world never before hath seen, we indicate our superiority in the field; when by public credit, unimpaired by the vastest drafts, we indicate our wealth of means; when under this terrible trial we are in all ways showing ourselves invincible among the nations of the earth, let us not also show that our Constitution is a failure, and despotism our sole resource against anarchy and treason. Let us not count life, liberty, and property too lightly; let us not despise trial by jury. I say of it and of my country, as Blackstone said of it and of England:

"So that the liberties of England cannot but subsist so long as this palladium remains sacred and inviolate, not only from all open attacks—which none will be so hardy as to make—but also from all secret machinations, which may sap and undermine it, by introducing new and arbitrary methods of trial by justices of the peace, commissioners of the revenue, and courts of conscience. And however convenient these may appear at first—as doubtless all arbitrary powers, well executed, are the most convenient—yet let it be again remembered, that delays and little inconveniences in the forms of justice are the price that all free nations must pay for their liberty in more substantial matters."

THE ADMINISTRATION AND ITS ASSAILANTS.

SPEECH OF HON. E. McPHERSON,

OF PENNSYLVANIA,

IN THE HOUSE OF REPRESENTATIVES,

June 5, 1862.

The House being in the Committee of the Whole on the state of Union—

Mr. McPHERSON said:

Mr. CHAIRMAN: If I know the chief and cherished purposes of the gentleman from Indiana [Mr. VOORHEES] and the gentleman from Ohio, [Mr. VALLANDIGHAM,] and have discerned the spirit which pervades the speeches of the former and the address of the caucus of the unhappy fourteen,* drafted by the latter, they are to undermine the confidence of the people in the President and his Administration, and to persuade or cajole or frighten them from a firm, cordial, and immovable support of his coercive war policy to the suppression of rebellion, the subjugation of rebels, and the restoration of the authority of the Government over every acre of its soil. I understand them to seek to effect this purpose by assailing the general conduct of affairs; by charging extravagance, recklessness, and corruption upon the Administration; by predicting the early bankruptcy of the Government; and by inflaming the public with unfounded and exaggerated assertions, and absurd and unsound predictions. I understand them further, while lamenting the present condition of the country, and foreshadowing a darker future, to offer to the people one ray of hope, assuring them that the only escape from present and prospective calamities is in the elevation to power of a new political party which they are forming, of which they are, if not the architects, the master-spirits, and which they commend as an infallible panacea.

NATURE OF THE ATTACK.

Mr. Chairman, I accept the controversy tendered by these gentlemen. I defend the President and his acts. I deny the charges of extravagance and corruption. I repel the prediction of impending or actual bankruptcy. I scout the ridiculous estimates upon which these charges are based; and I reprobate as unwise, unnecessary, and unwarranted, the organization of a new party, based on opposition to the President and his policy, while I condemn the spirit of the movement, and pronounce its declared principles enfeebling and destroying. I claim for the Administration that it is not only worthy of, but is justly entitled to, the unreserved and generous confidence of the people, and of every man of the people, who is devoted to the preservation and perpetuation of the Union as the greatest political good, without which all other interests, rights, and possessions are comparatively valueless.

THEIR UNFITNESS AT THIS PERIOD.

Sir, I do not wonder that the gentlemen referred to realize that their self-appointed task is as ungracious as it is hopeless. No rotundity of speech; no pompous or repeated protestations of pure and lofty and unselfish purpose; no self-delusions, can drive from the public the conviction that such a work, at such a time, is in the highest degree unfit, unwelcome, and unworthy. They are themselves not insensible to these considerations, for, feeling them, they both seek to justify their course by arguing that it does not involve infidelity to their Government, and by broadly asserting that, *in a certain sense*, they will sustain it against all foes at home or abroad. "*In a certain sense!*" What a world of meaning is comprehended in this qualifying clause. How suggestive of danger to those engaged, of warning to those sought to be enticed.

Mr. Chairman, I will not trust myself to discuss the motives of gentlemen. It does not become this place to cast, or attempt to cast, a suspicion upon any one's loyalty, or a stain upon any one's patriotism. Least of all should I thus assail a member of the American Congress, of whom the suspicion of even a shade of disloyalty is an imputation of guiltiness equal to any and every crime. But in times of great public danger, when savage foes have banded for the overthrow of the Government, the extinction of American nationality, and the degradation of free institutions, and when armed hosts, inflamed with hate, possessed by demoniac passions, and brutalized by slavery, are pointing their gleaming bayonets at the nation's heart, and cleaving down the sons of our pride, is it not, to say the least, inopportune, that those whose great responsibility it is to meet these grave events and save our matchless institutions, must withdraw themselves from these duties to protect their reputation from the fierce warfare of partisan malignity? But the friends of this Administration make no pleas, and seek to escape no responsibility. They are willing to meet its enemies at all times, on all points, and as firmly and courageously as they have met the armed enemies of the country. And they will bury both in the common, dishonored grave which the people will dig.

Now to the charges:

SIZE OF THE DEBT.

1. It is asserted that the national debt is already $1,000,000,000. The subjoined official statement of the Secretary of the Treasury, sent to this House, shows that it was as follows on the 29th May, 1862:

Under what act.	*Rate of interest.*		*Amount.*
Loans 1842	6		$2,883,364 11
Loans 1847	6		9,415,250 00
Loans 1848	6		8,908,341 80
Loans 1858	5		20,000,000 00
Loans 1860	5		7,022,000 00
Loans 1861	6		18,415,000 00
Texan indemnity	5		3,461,000 00
			70,104,955 91
Treasury notes issued prior to 1857, interest stopped	-	$105,111 64	
Under act December 23, 1857, interest stopped	-	175,900 00	
Under act December 17, 1860, interest stopped	-	221,650 00	
Under acts June 22, 1860, and February and March, 1861	6	2,767,900 00	
Under acts March 2, July 17, and August 5, 1861	6	111,600 00	
			3,382,161 64
Three years 7.3 bonds,	7.3	120,523,450 00	
Twenty years bonds	6	50,000,000 00	
			170,523,450 00
Oregon war debt	6		878,450 00
United States notes, no interest	-		145,880,000 00
Certificates of indebtedness	6	47,199,000 00	
Five-twenty years bonds	6	2,699,400 00	
			49,898,400 00
Amount carried forward			$440,670,417 55
Amount brought forward			$440,670,417 55
Four per cent. temporary loan	4	5,913,042 21	
Five per cent. temporary loan	5	44,865,524 35	
			50,778,566 56
Total amount of public debt			$491,448,984 11

Average rate of interest paid on the entire debt is 4.354 per cent. per annum.

Of the debt, $74,253,967 55 are a legacy from Buchanan; that due to the war is $417,195,016 56.

The gentleman from Indiana [Mr. VOORHEES] fixed the sum at $1,095,000,000, which he arrived at in this way: Having heard the chairman of the Ways and Means Committee [Mr. STEVENS] say during the winter that our daily expenses were then $3,000,000, he *assumed* that they had been $3,000,000 per day for the whole past year, and that, hence, the debt at present is $1,095,000,000, or three hundred and sixty-five times $3,000,000. Having by this *assumptive* process created an immense debt, he, with refreshing confidence in his arithmetic, added the comprehensive remark, that "no intelligent and candid person" will deny that our indebtedness at this moment is equal to that vast sum. The gentleman from Ohio, [Mr. VALLANDIGHAM,] in his address, contents himself with the naked assertion, not giving any evidence, or decrying those who deny it. In truth, they are both wrong on this important point, over five hundred millions of dollars. The gentleman from Indiana plumes himself on the discovery that the Secretary of the Treasury was mistaken about twenty-five millions of dollars in his estimate of the revenue from duties the current fiscal year. Wherein has he the advantage of the Secretary? At most, the Secretary erred twenty-five millions in an estimate of an uncertain trade at a most unsettled period. The gentleman from Indiana, who cannot excuse this, erred to the extent of $500,000,000 in the statement of an ascertained fact.

THE DEBT OF A YEAR HENCE.

2. It is further asserted that our debt, one year hence, if the war should continue, will amount to $2,000,000,000. This estimate is based upon the other estimate, that the Government will spend, the whole of the next year, at the average rate of $3,000,000 per day. This is an egregious blunder. The average daily expenditure in the War and Navy Departments is less than one million of dollars, and the average daily expenditure, in all branches of the Government, is a shade over one million. So that, upon the basis of present operations, the public debt one year hence will not exceed $1,000,000,000, showing an error in this statement of the gentleman from Indiana of $1,000,000,000. He proceeds upon the false assumption that we now, and will henceforth spend $3,000,000 daily. The gentleman from Ohio [Mr. VALLANDIGHAM,] in his address says the "daily expenditures are at the rate of $4,000,000." The *difference* between these two false prophets is about the true sum.

This point is settled by the official statement of the Secretary of the Treasury and the well-ascertained average daily expenditure, as shown on the books of the Treasury.

As to the probable amount of debt a year hence, there is another method of reaching it, namely, by consulting the appropriations asked by the various Departments for the operations of the fiscal year just closing, as well as that soon to commence. These figures have been furnished by the gentleman from Vermont, [Mr. MORRILL,] and are to this effect:

The appropriations for the fiscal year ending June 30, 1862, were	$586,000,000
The appropriations for the fiscal year ending June 30, 1863	544,082,000
Total appropriations for the two fiscal years,	$1,130,082,000

That is, if all the money estimated for and appropriated shall be expended, the public indebtedness will be by June 30, 1863, should the war be continued on the present basis, $1,130,000,000; in which event the amount will be $870,000,000 *less* than the prediction of the gentleman from Indiana. In his apparent anxiety to swell the sum, and sustain his estimates, he supposes that, owing to the increased expenses of transportation grow-

*Since the address was first printed, the name of Hon. Nehemiah Perry, of New Jersey, has been added, making the number of signers *fifteen*.

ing out of an invasion of the enemy's country, our expenditures will be proportionately heavier next year than this, forgetting that our Army is now supplied with arms, equipments, tents, and all the *materiel* of war, which need not be soon replaced, and that the cost of recruiting, organizing, preparing, and bringing this large army into the field need not be repeated, both which causes will greatly diminish expenses. Besides, he is in error in supposing that we cannot subsist the Army to any extent on the enemy. They cannot, if they would, destroy everything. Already we have successfully subsisted portions of the Army in that way, and it can be continued, at least to some extent. General Scott pursued a flying enemy, and from the time he left Jalapa in Mexico he laid the country under contribution for subsistence. Why cannot we, in the rebellious region?

CHARGE OF FINANCIAL MISMANAGEMENT.

3. The gentleman from Indiana creates alarming figures by comparing the debt, at his figures, with the assessed value of the real and personal property of the country, as shown by the census of 1860, forgetting that these assessments are, on an average, one half under the market value; that his statement of the amount of the public debt is double the actual indebtedness, and that our annual productions would support a debt of $4,000,000,000 without involving as heavy taxation as exists in England. Our debt a year hence will scarcely exceed one fourth of the ready capacity of the people to bear. In this connection the gentleman from Indiana charges that the debt is due to "the financial mismanagement and fraud of the party in power," and he grows pensive over the minute and careful calculation that every sixth ox, every sixth horse, every sixth sheep, and every sixth hog in all his district is doomed, in cold blood, to be charmed, beslimed, and swallowed by the horrid monster begotten by this war!

But what is meant by "financial mismanagement?" Wherein has it occurred, and by whom? Is it in the amount borrowed? I have shown it is one half less than he asserted, and a mere trifle compared with the resources of the country. Is it in the rate at which it was borrowed? Why, Buchanan borrowed at from twelve to thirty-six per cent. in time of peace; this Administration has not paid over seven and three tenths per cent. for any, has paid six for part, is paying five and even four, and, including the circulation it has furnished, constituting the best currency we have ever had, the average rate of interest on the whole debt is a little below four and one half per cent. Is it in the persons from whom borrowed? The patriotic banks were first approached, and after them the people rushed forward, and the bonds are all held at home, and by all classes of society, and are in active demand above par. Is it disagreeable to the gentleman that this debt is held at home, that the Government is thereby strengthened, and the world convinced of our ability to wage the war, and our determination to achieve success? Was it "financial mismanagement" in the Secretary to husband the resources of the Government, uphold its credit, protect its securities, and guard the Treasury at every point? Or should Mr. Chase have imitated the devices of Cobb, who studiously depreciated the public securities, undermined the public credit, and then threw the bonds on the market to bring what they might amid the fangs of sharpers? Unjust, intolerable, and atrocious as were many parts of the speech of the gentleman from Indiana, that was the most inexplicable and unnatural which ignored the patient care, clear intelligence, and anxious fidelity of the able and sagacious head of the Treasury, one of the wise and pure men of the West. I can understand why the wondrously successful conduct of our finances, the sinews of our war, has called forth wailing from the London Times and the money-changers of England, and groans from disappointed and malicious haters of the Government, both in and beyond the loyal States, yet I cannot but think that, while in this problem lay the question of the determination of the contest, its happy solution deserved to be, as it was, the occasion of heartfelt and general rejoicing and congratulation among the earnest men of the country. The two leaders of the proposed new party, raising a discordant sound, call even this great success *mismanagement*. Surely their perceptions are wholly perverted, though their hearts may be devoted to the Government, as they claim, "in a certain sense."

COMPARISON OF EXPENSES WITH MEXICAN WAR.

4. The gentleman from Indiana further declares—with emphasis and particularity, that—

"The Mexican war, though a foreign and distant one, in which we paid the soldier substantially the same that we pay him now, cost this Government, under the wise and honest administration of James K. Polk, in proportion to the number of men engaged, man for man, but little more than one fourth the amount now being expended on a war waged at our very door-steps."

This is a most extraordinary statement, and as indefensible as extraordinary. Leaving out of view the unqualified indorsement of Mr. Polk's administration, whose policy, to say the least, initiated the present complications of the country, and without which it might have for many years avoided, if not wholly escaped, the present rebellion; and, overlooking the allusion to the Mexican war, the waging of which I have for years believed, and now more firmly than ever, was prompted by men who then had in view the development, *through it*, of the infernal conspiracy which has lately burst upon us, and whose cold sagacity but too accurately measured the influences then and thus made active, I meet the substantive assertions of the proposition with a flat denial.

Let us see how the case stands.

DIFFERENCE OF PAY.

In comparing the two wars, the gentleman from Indiana states that "we then paid the soldier substantially the same that we now pay him." This is matter of history, and easily tested. What is the fact? *Then* we paid infantry seven dollars per month, and cavalry eight. *Now* we pay infantry thirteen dollars per month, and cavalry fourteen. Since that time, the pay of commissioned officers has been increased twenty dollars per month, and ten cents has been added to the commutation value of the ration—making an average increase of the compensation of officers of between twenty and twenty-five per cent. We also, at the extra session of July last, changed the soldier's ration, and increased its cost about one fourth. When, in view of such facts, the gentleman from Indiana said the pay now is *substantially* what it was then, did he merely illustrate his idea of "*substantial sameness*," of which we have had several like illustrations; and will have more, or did he speak rashly, sweepingly, and, as in other cases, in ignorance or disregard of the truth?

OTHER IMPORTANT CONSIDERATIONS.

There are several other manifest considerations which enter into this comparison made by the gentleman from Indiana, but to which he has wholly neglected to allude or give mention. When the Mexican war broke out, the Government had on hand immense supplies of guns, small arms, and all the munitions of war—the accumulation of years of peace. When this rebellion broke out, the Government was bare of everything necessary to make war. In the Pensacola and Norfolk navy-yards it lost its largest collection of heavy guns. In the arsenals and forts located in the disloyal States, to which Floyd had removed many thousands of the best patterns of muskets and rifles, the rebels found, while the Government lost, vast stores of the greatest value; and Government was compelled to abandon and destroy its largest armory to prevent its falling into the hands of the enemy. As a consequence, Government was wholly unprepared to fill the demands of the occasion. It could not quickly equip and arm the hundreds of thousands who were ready to flock to its standard; and it was forced into European markets to supply itself with articles of prime necessity. Foreign manufacturers, taking advantage of our necessities, controlled prices to their great benefit; and, further to cripple, unfriendly Governments interposed to embarrass and delay the shipment of our purchases. This great Army was literally created, and the urgency of the circumstances, and our defenseless condition subjected us to every sort of annoyance and imposition. But for all this the administration of President Lincoln is in nowise responsible. And it lies not in the mouth of the gentleman from Indiana to rebuke it, if in recovering itself from the slough in which Buchanan's base administration left the Government, heavy expenses were incurred, mistakes made, or even frauds committed. All these things were more or less inevitable from the condition of the country.

The gentleman from Indiana intimates that his political friends would have conducted the Government more honestly and economically. I think their past history does not at all justify this flattering opinion; and I know that some of the frauds of which the gentleman has complained, and some smaller ones of which he does not particularly speak, were perpetrated, or attempted to be perpetrated, by persons of his political faith. Those who remember the Buchanan administration and its horrid malpractices, will not regret that its friends are now out of power, whether reference be had to the safety of the Treasury, or, what is even more important, their doubtful and halting fidelity to the great duties of the hour. But, in addition to the facts previously mentioned, it must be remembered that many of the oldest and most skillful and valuable heads of the bureaus resigned and went South, and new men occupied their places, to struggle with all the risks accruing upon heavy responsibility suddenly devolved. If the country suffered from this cause, this Administration is not responsible—rather those Administrations which nursed traitors in high places, which systematically excluded true men from posts of honor and importance, and which thus trained men under the Government into an efficiency which fitted them to strike the heaviest blows and inflict the deepest wounds.

THE ACTUAL FIGURES.

But, coming to the distinct allegation, I deny that the proportionate expenses per man were during the Mexican war little more than one fourth the amount now expended per man. I can find no warrant for this statement, but the reverse. I take as the test the year of greatest activity, that which witnessed the capture of the city of Mexico, and all its antecedent victories. If the gentleman will examine the war report of Mr. Marcy, dated December 2, 1847, (Ex. Doc., first session, Thirtieth Congress, vol. 2, p. 45,) he will find the strength of the Army thus stated:

Regulars	21,509
Volunteers	22,027
Total	43,536

The expenditures for the year ending June 30, 1847, are stated in the documents accompanying the President's message of December, 1847, to have been:

Army proper	$17,880,842 91
Mexican hostilities	16,001,226 42
Armories, arsenals, and munitions of war,..	1,617,216 28
	$35,499,285 61

Or, to state it differently, the expenses of the Army from April 1, 1847, to April 1, 1848, as subsequently shown by Secretary of the Treasury Meredith, (Ex. Doc., first session, Thirty-First Congress, vol. 2,) were $34,981,160 55.

The average annual expense per man was thus $815 40, although General Scott subsisted on the enemy beyond Jalapa. The average monthly expense per man was $67 95.

From October 1, 1861, to May 22, 1862, a period of about eight months, the expenditures of the War Department, as shown by the gentleman from Massachusetts, [Mr. DAWES,] were $305,118,208, at the average rate of $38,114,776 per month. Upon the basis of having had five hundred and seventy-five thousand men under pay *for that entire period*, the average monthly expense per man has been $66 28. If we estimate the number at five hundred thousand, the average monthly expense per man rises to $76 23. Instead of the comparison being favorable to our Mexican experience, it is the reverse; and we have a general result which, notwithstanding the peculiar embarrassments of the Government, and the unprecedented nakedness of every form of supplies, is the best and most satisfactory evidence of the fidelity, integrity, and prudence with which the public interests have been guarded. All this, too, although the wider field of our operations and greater activity of our armies add to

the necessary expenditures an indefinite but considerable percentage. War is, of course, expensive, and in the multiplicity of officials and the nature of their business, there will doubtless be some infidelity; but I believe the present management is securing as rigid accountability and faithful expenditure as can be expected or is usually secured by Governments.

CHARGES OF FRAUD.

I know, Mr. Chairman, we have had a great outcry about immense frauds; but if all be true, as asserted, they bear a very feeble relation to the entire operations, and they are, and have been, most grossly exaggerated. The gentleman from Indiana declaims as loudly on this subject as any one I have heard, and yet he points out very little. I will enumerate his specifications:

He complains of the purchase of stores in New York by Alexander Cummings, and says that a "*large* sum was lost." I doubt whether in the worst view $5,000 were lost by Government in that affair, and not a cent by the fraud of any one. A few inferior articles were bought, which are not serviceable; but this is perfectly consistent with the integrity of the parties, as the investigating committee say, and is due to the haste with which, under pressure of peril to the capital, the commissions were executed.

He next complains of General Cameron's contract for guns, all of which a commission, composed of Hon. Joseph Holt of Kentucky, David Davis of Illinois, and Hon. R. Dale Owen of Indiana, have revised. An abstract of their report has been given to the public. *Not a word goes to show that the Government has lost a cent by them.*

He next complains of General Frémont's extravagance, by which he says $550,000 were spent in the erection of forts at St. Louis, the building of a pontoon bridge at Paducah, the construction of railroad cars, the purchase of forage, and the like. Most of these were legitimate objects of expenditure. It is not stated what proportion of the whole sum was wasted, for we have only *general allegations*, which are usually safe, besides being convenient. It is certain, the charge carries less than it appears.

His last specification is the connection of George D. Morgan with the purchase of vessels for the Navy, in which his commissions reached $70,000. I disapproved of the act of the Secretary in employing a civilian on such duty, at that time, and with that form of compensation, and I voted for the resolution of censure on that ground. I do not know that excessive prices were paid for the vessels, and I believe that the purchases were more fairly and honestly made than were those under Buchanan for the Paraguay expedition.

These are the only items on which the mountain of declamation is based. Analyzed, they sink to insignificance. To be sure, he quotes vague opinions and rash declarations from two or three Senators and Representatives; but they are worth nothing, are not based upon evidence, and represent nothing but the excited fancies of their authors. I wish it understood that the fustian of the gentleman from Indiana about the corruption of the Administration rests on a few petty items, all occurring near the outbreak of the rebellion, and in a period of alarm and excitement such as has never been witnessed in this country; that not one of them has been clearly proved fraudulent; and that all of them can be explained as, for the most part, occurring through the error, inexperience, or ignorance of new employés or agents. What else could be expected under the tremendous pressure of the great events which transpired in April, May, and the early summer of 1861, when the very life of the nation was in instant peril, and the most prodigious efforts were put forth to save it? Whoever expects the accuracy, method, and security of ordinary transactions amid such scenes and in the presence of such dangers, is either fearfully ignorant of practical affairs or unreasoningly exacting. Whatever frauds are now attempted, the Administration and its friends will use every effort to prevent or correct, and they will do all in their power to punish the fraudulent, indifferent whether the blows fall upon friends or foes. Upon this all good men are united.

PREDICTIONS OF FUTURE ANNUAL EXPENDITURE.

Here ends the chapter of fact, as painted by the gentleman from Indiana; leaving which, he disports with even greater freshness in the domains of fancy. We have seen how disguising and distorting have been his versions of past events; how much richer and rosier are his fervid inventions, we will see hereafter.

Having shown how large the debt is and will be, he proceeds to narrate what sums the people will *annually* pay, making it up in four grand items:

Interest on public debt, (which he considers "a very low estimate")	$100,000,000
Ordinary expenses of Government	150,000,000
Pensions, (which he says "no well-informed person will pretend will be less" than)	100,000,000
Margin for claims, contingent expenses, &c..	50,000,000
Grand total.	$400,000,000

Of course this is fabulous and preposterous. The gentleman from Massachusetts [Mr. DAWES] has shown its utter groundlessness. The estimate of interest is thrice as large as it will be, if the debt be not swelled much beyond present size. It is twice as large as it will be, if the debt should reach $1,000,000,000, for he calculates upon a much higher rate of interest than Government is paying or will pay, and a much larger debt than it has or will have. As to his estimate of ordinary expenses, it is one third too high. There is no reason why they should exceed $100,000,000 upon the cessation of hostilities. They are more likely to be less than greater. His estimate for pensions ($100,000,000) is absurd beyond all comparison. He says he meant to include the bounty of $100 to soldiers in it; but that is not part of our *annual* payment, for Government does not propose to give the bounty more than once. The gentleman from Massachusetts allowed $24,000,000 for pensions per annum. The Pension Bureau estimate the sum at $6,000,000, and our Pension Committee at $8,000,000, per annum. The gentleman from Indiana is sixteen times beyond the one, and twelve beyond the other.

A margin of $50,000,000 *per annum*, for claims, contingents, and unforeseen expenses, is five times what will be needed. The gentleman from Massachusetts [Mr. DAWES] estimates the annual expenses, upon the basis of the present debt, at $201,678,053. Some of his figures are too liberal; but this sum will allow the creation of a considerable sinking fund to pay the debt. Yet his calculations reduce those of the gentleman from Indiana *fifty per cent.!* At most, our expenses will not be over one half the estimate of the gentlemen on the other side. Our tariff will yield an average of $50,000,000 per annum,* thus further reducing the direct burdens of the people. Sir, I know that taxes are unwelcome, and tax gatherers rarely received with pleasure. But when the people of the loyal States remember that this is the purchase money for their freedom, the security of their property, the safety of themselves and families, and the preservation of the unity of this people and the vigor of this Government; when they further remember that all these precious rights and interests have been put in jeopardy by a base and wicked band of conspirators, who have long plotted and labored, with infernal hate and supernal skill; that while plotting against the Government, they were, by the connivance of deceitful Presidents and treacherous Secretaries, actually filling its high offices; that by these agencies they organized a most formidable rebellion, having meanwhile strengthened themselves to resist every form of attack, and weakened the power of the Government to protect itself and suppress them; that, by herculean efforts, all these devices and preparations have been reduced to naught; and that, by the overwhelming power of an aroused free people, their country has been saved—they will, disregarding the alarms of the timid, the predictions of the croaking, the machinations of the unworthy, and the blandishments of the ambitious, manfully meet all the responsibilities which these events may cast upon them. Not only will they, as good citizens, sustain their Government by the prompt payment of their taxes, but they will suspiciously watch every man who suggests reasons why they should shirk their duties, avoid their obligations, and bring discredit on the nation. Sir, who anticipates the reverse result knows nothing of the American character. Let caucuses meet, addresses be written, speeches be made, and intrigues be begun and carried on. They will not avail to seduce our citizens from their fidelity. They will do no more than separate the true men from the false, and will knit the former into a firmer and more invincible phalanx.

* In illustration of the revenue from this source upon the revival of business, it may be stated that the receipts from duties on imports in May were $6,222,405 68.

HEAVY FREIGHTS.

I might stop here; but the gentleman from Indiana makes other complaints which, though not germane, demand notice. One is, that "it costs sixty cents to freight a bushel of corn from the Wabash river to New York, and leaves from seven to fourteen cents to the farmer"—a terrible extortion, which the Administration did not commit, and for the correction of which I respectfully refer the gentleman to his two distinguished political friends from New York, members of this House, who are believed to be closely connected with the management of railroads which compose part of the line from the Wabash to New York. I do not know through what other agency he will as speedily liberate his constituents from this oppression.

THE MORRILL TARIFF.

Respecting the other complaint, referring to the Morrill tariff, wherein he denounces it as interfering with his right to buy where he can buy cheapest, and as benefiting only the manufacturers of New England and the iron-mongers of Pennsylvania, I desire to ask him what would be the present condition of the country, if, carrying out his theory, turning ourselves into producers of raw materials, and opening our markets to unrestricted or scarcely restricted trade with the immense, concentrated, ever-aggrandizing capital of Europe, we had become, as we inevitably would have become, as dependent upon Europe as the South has been upon the North—as little self-sustaining and self-reliant. Would we have escaped insult, injury, intervention? Let the gentleman consider the position of Mexico, and answer.

What is so powerful a protection as *power?* Would the gentleman have his country safe? Then must she be strong. How can she be strong without the exercise which comes from the development of all the elements of strength within her? The narrow theory of the gentleman looks not beyond to-day—anticipates not the contingencies which affect national existence, and provides not for them. It would provincialize his country; repress ambition, invention, and progress; crush out every distinctive feature of the American character, paralyze energy, and fit us for the yoke which our masters, the capitalists of Europe, would quickly prepare for us. Call you this *statesmanship?* God forbid that an American Legislature should ever so think.

THE IRON INTEREST.

Not only does the gentleman oppose this self-protecting and self-progressing system, but he flings especially at the "iron-mongers of Pennsylvania." Sir, this is the very madness of the moon.

What is iron, that the gentleman reprobates the growth of its manufacture? It is a national necessity. Without it, we cannot defend our harbors from a foe, our commercial cities from bombardment, or our long sea-coast from ravages at every point. Without it, we cannot hold the forts upon which millions have been spent, or protect our commerce, whitening every sea. Without it, this capital is insecure, and untenable against easy attack. Without it, we cannot maintain our position among the Powers of the world, much less grow in influence and importance. It is as completely essential to national life as is the bread we eat to our physical life. It is not enough that we have inexhaustible supplies of the ore, limestone, and coal. We must have the product in the highest form of manufacture—in the most advanced condition in which ingenuity and skill, mind and machinery, capital and labor, have been able to place it. We cannot have these necessary conditions fulfilled unless the Government, by

legislation, fosters and leads it up to the highest point required, at least as generously, steadily, and appreciatively as rival Governments have fostered and are fostering theirs. Had the theory of the gentleman from Indiana prevailed in former years, when advocated with persistence, if not with wisdom, we would this day be at the mercy of our enemies. Containing within ourselves everything necessary to protect us from a world in arms, we would be in the humiliating position of inability to defend our institutions, assert our rights, and save the continent from being parceled out among the monarchs of Europe, or reduced to colonial subjection. Recent events have betrayed the real feeling of Europe towards us. He who, in the light of them, recommends a policy whose effect would be to place us in its gripe, carries his theories to the very verge of treason. For no truly patriotic person would have this country dependent upon Europe for any essential of defense or any means of offense.

EFFECTS OF THE REBELLION.

This rebellion, atrocious as it is, will bear many good fruits. One will be to forever dispose of those specious theories which have weakened the Government, and were the foundation on which secession rests. Another, to explode those false doctrines of political economy which, forgetting the nature of man and ignoring the ambition of nations, the clashing of interests, the temptations of power, and the allurements of weakness, would regulate our legislation by delusive notions of the benefits of unrestricted trade among all nations rather than by the safer standard of regard for our own interests and self-protection, as well against the covert assaults of foreign trade as the open assaults of foreign enmity.

Because the address of the caucus of the unhappy fourteen practically adopts the specious theories which are the life's breath of secession; and places its signers upon the high road to denationalization and disunion, I reprobate them as enfeebling and destroying. Because the doctrines of the speeches of the gentleman from Indiana would chain the country to European aristocracy and wealth, would keep it chained, and shut it out from the magnificent destiny which awaits us, if we be true to ourselves, mindful of our powers, and careful of our resources, I repudiate them, and call upon the people to disown and frown upon both as inimical to their prosperity, independence, and freedom.

POSITION OF THE PRESIDENT.

Least of all will the attacks of these gentlemen impair the position of the President, who, beginning his administration in the darkest and most troublous period of our history, has overcome prejudices, won respect, and secured admiration, at home and abroad, by unfaltering and single-minded devotion to duty. The cares of his great office have not confused him; its patronage has not corrupted him; its brilliancy has not dazzled him. Self-poised, he has steadily controlled the current of events—with fortitude bearing reverses, with calmness enjoying successes, with manliness meeting all. Pure in heart, no one can assail his integrity, and the people love him. Great in mind, he grasps, in all its parts, the momentous present, and the people admire him. Brave in spirit, he advances to great deeds, and the people applaud him. Rarely are so great and fitting qualities combined. They who seek to undermine and overthrow him, will themselves be crushed. Rather let them cease their needless warfare, become useful instead of mischievous, patriotic instead of factious.

CONFISCATION OF REBEL PROPERTY.

SPEECH OF HON. JOHN LAW,

OF INDIANA,

IN THE HOUSE OF REPRESENTATIVES,

May 26, 1862.

The House having under consideration the bills to confiscate the property and free from servitude the slaves of rebels—

Mr. LAW said:

Mr. SPEAKER: I intended to have remained a silent spectator of the contest which has been going on in the House, for nearly a week, between the supporters and opponents of the bills No. 471 and No. 472, presented by the chairman from the select committee on confiscation. The first: "A bill to confiscate the property of rebels for the payment of the expenses of the present rebellion, and for other purposes." The second: "To free from servitude the slaves of rebels engaged in, or abetting the existing rebellion against the Government of the United States." But the consequences of these measures appear to me so momentous, the result of them of such importance to the future interests of the country, that I could not well avoid taking part in the debate, knowing, as I do, that a large majority of my constituents, when acquainted with the scope and extent of these proceedings, will agree with me both as to their unconstitutionality and their policy. I shall, however, in discussing them, confine myself strictly to the subject-matters in debate, avoiding other subjects upon which I may hereafter address the House.

The difference between a civil war and a foreign one is, that in the former you are at war only with those in rebellion. In the latter all the people of one nation are at war with all those of the other. There is no discrimination as in a war between ourselves. One half of the people in the seceded States, for aught we know, are loyal; even those forced into the field against their wishes, and who must either fight or be imprisoned, ought not to suffer the penalties of those who voluntarily enlist. Reason and humanity teach this, and the proposition was sustained by Justice Nelson in our Supreme Court in the clause quoted by the gentleman from Massachusetts in his admirable and logical speech on the question of "the relation of the seceded States to the Union." You may fail to protect your loyal subjects, but you cannot condemn them. You cannot confiscate their property. If you can, the government of Nero and Caligula was not worse than your own. The plea which says "military necessity" authorizes the confiscation of all property found within the borders of those States, whether of loyal or rebel men, even though the former may have been forced into the rebellion by superior force, is a tyrant's act, and will receive, as it will merit, the condemnation of every just and honorable man. Yet the bill before the House makes no distinction in the matter. That one instrument which to us is a "guide by day and a pillar of fire by night," must be preserved in all its parts; a violation of one leads to a violation of all. We must construe it as our fathers construed it, as the highest tribunal of the country has construed it. It is plain and simple, the "wayfaring man" can understand it as well as the greatest jurist, if he has a knowledge of its terms. For upwards of seventy years it has been tried in the crucible of statesmen and jurists, and, "like refined gold, it has come out purer and brighter" as every experiment has been made in explaining its terms and language. Like the works of all finite beings, it may be defective, but every year of our progress proves that the more difficult our relations, the more complicated our affairs as a nation, the only sure test of our action and its wisdom is best manifested by our adherence to those rules which our fathers laid down for our government in the richest legacy they ever bestowed on their children.

What is the end which we seek to accomplish when this unhappy contest is brought to a close? There are but two answers to this question. The first is a division, as Abraham said to Lot, "let there be no strife, I pray thee, between thee and me, and between my herdmen and thy herdmen, for we be brethren. Is not the whole land before thee? Separate thyself, I pray thee, from me. If thou wilt take the left hand, then I will go to the right, or if thou depart to the right hand, I will go to the left;" and, judging from the language and conduct of some of the ultra men of the Republican party, this is the object they seek to accomplish—division—Mason and Dixon's line to be the boundary.

Secondly. To preserve the Union and the Constitution in their unity and integrity; "to vindicate in every part of this Republic," one and indivisible, "its supreme law," this is the grand object, the one thing sought by every loyal man, not only in this House but in the country. This is the object for which your soldiers rallied around the flag of the Union when it was thrown to the "battle and the breeze." It is the one, and the sole one, for which they are shedding their blood like water on every battle-field of your country. It is for this, and this alone, they lay dead and buried in your fields and forests far from their homes filling a soldier's grave, or are now maimed and wounded laying in your hospitals by thousands.

Sir, there are now fifteen hundred of these noble fellows, many of them from my own district, laying in the hospitals at Evansville, where I reside, cared for, attended, and nursed, as if they were their own relatives, by my own fair countrywomen—Indiana's daughters—friends and foes equally cared for. War is a terrible calamity at all times. How much more so when carried on between father and son, brother and brother, uncle and nephew, as it is now carried on by us? A terrible vengeance awaits the authors of it, not only here, but hereafter.

Sir, the man who dreams of closing the present unhappy contest by reconstructing this Union upon any other basis than that prescribed by our fathers, in the compact formed by them, is a madman; ay worse, a traitor, and should be hung as as high as Haman.

When a man tells me that the object of the war is (and without that object "he would not vote a single dollar or a single man to carry it on") the abolition of slavery, wherever it exists, in the United States, I tell him he is making war upon the Constitution itself, and is as dangerous to the peace and liberty of the country as the veriest secessionist in the rebel army, and should meet with the same punishment at the hands of the loyal men of the country. Slavery must exist, and will exist, in every State where it is now allowed under the provisions of the Constitution, by *force of that instrument;* and until it is amended, and until the amendment is made as prescribed by the organic law, the right to hold slaves is as clear and defined as the holding of any other species of property. The right of these men to their slaves is vested in them as fully and clearly as any other right they possess, and this view of it has been sanctioned and sustained by every jurist and statesman of any eminence from the formation of the Constitution to the present day.

Sir, the proposition for confiscating the entire property of these men, *real and personal*, not only of those in arms, but of those who aid them—of the whole property of eleven States and six millions of people—and, at the same time, emancipating their slaves, without ascertaining whether they were guilty or innocent, is, to my mind, the most shocking proposition ever submitted to a deliberative assembly since the world began. No inquiry is made into the different degrees of guilt—no inquiry whether the parties organized the rebellion, or were forced into it against their will, because you were utterly powerless to protect them within twenty miles of the city. Why, sir, were not we, the Representatives of the people, sitting here within these Halls, almost within hearing of the enemy's guns, not a year since, and doubtful whether we ourselves should not be obliged to abdicate the capital? Yet, by your act, without indictment, you punish a whole people, the innocent as well as the guilty, and apply to them not even the same rules of evidence you would require to convict a felon. By such an act, you will defeat the great end so desirable to be accomplished, and to accomplish which we are now carrying on the war: "the restoration of the Union as it was—the Constitution as it is." You take from the rebel every inducement to submission, and give him the strongest motives for resistance.

Sir, pass these acts; confiscate, under these bills, the property of these men; emancipate their negroes; place arms in the hands of these human gorillas to murder their masters and violate their wives and daughters, and you will have a war such as was never witnessed in the worst days of the French Revolution, and horrors never exceeded in St. Domingo, for the balance of this century, at least.

I will not argue the legal and constitutional objections that may be made to these acts, one and all, as has been fully shown by my friends from Kentucky and Massachusetts, [Messrs. CRITTENDEN and THOMAS.] The provisions of the Constitution "lay directly in the path, and are fatal

obstructions to any legislation confiscating property as the penalty of treason, except as the result of the judicial trial and sentence of the offender." Though, under the Constitution, upon conviction and trial for treason, you take a "life estate" only, under these bills you get the fee-simple.

Sir, the difference between judicial action and legislative confiscation is as wide and distinct as the imagination of man can conceive. This confiscation is a legislative, not a judicial proceeding. There is no court, no jury, no trial. You decide here upon information alone—without process, without complaint, and without indictment—that these people are guilty; you deny them even the poor privilege of pleading "not guilty;" you act as witness, judge, executioner; you decide what punishment they shall suffer; you deny them all right of trial. To such gross injustice, in the name of the Constitution we have all sworn to obey, I protest; and if my name stands recorded alone against these bills, it shall be so entered, and go down to posterity among the records of the Thirty-Seventh Congress. Sir, I know no better or truer remarks on this same subject than those made by Mr. Clay, in his speech on abolitionism, delivered in the United States Senate, February 7, 1839. (See Colton's "Clay's Speeches," vol. 2, p. 139:)

"This property [slave] is diffused throughout all classes and conditions of society. It is owned by widows and orphans, by the aged and infirm, as well as by the sound and vigorous. It is the subject of mortgages, deeds of trust, and family allotments. It has been made the basis of numerous debts contracted upon its faith, and is the sole reliance, in many instances, of creditors within and without the slave States, for the debts due them. And now it is rashly proposed, by a single feat of legislation, to annihilate that enormous property—to annihilate without indemnity, and without compensation to its owners. Does any conscientious man believe it possible to effect such an object without convulsion, revolution, and bloodshed?

"Abolition should no longer be regarded as an imaginary danger. The abolitionists, let me suppose, succeed in their present aim, in turning the inhabitants of the free States against the inhabitants of the slave States; union on the one side will beget union on the other, and the process of reciprocal consolidation will be attended with all the violent prejudices, embittered passions, and implacable animosities which ever degraded or deformed human nature. A virtual dissolution of the Union will have taken place, while the form of its existence remains. The most valuable element of union, mutual kindness, the feelings of sympathy, the fraternal bonds which now happily unite us, will have been extinguished! One section will stand in menacing and hostile array against the other. Collision of opinion will be quickly followed by the clash of arms. I will not attempt to describe scenes which now happily lie concealed from our view. Abolitionists themselves would shrink back in dismay and horror at the contemplation of desolated fields, conflagrated cities, murdered inhabitants, and the overthrow of the finest fabric of human government that ever rose to animate the hopes of civilized man."

Sir, this great and good man, this patriot and statesman, rests from his labors, and literally "his works do follow him." Let us, while we revere his memory, cherish his instructions and follow his advice. The abolition party have succeeded in their design (even at that early period agitated) of "turning the inhabitants of the free States against the inhabitants of the slave States." "A virtual dissolution of the Union" has taken place, "while the mere form of its existence alone remains."

"One section stands in hostile array against another," and yet the abolitionist does not "shrink back in dismay and horror" at the contemplation of the miseries he has created, or the mischief he has done; but day after day, week after week, is forming some new plan, concocting some new scheme by which all prospect of reunion is made impracticable and impossible. What to him is "the overthrow of the finest fabric of government the world ever saw, so that the black race is put on an equality with the white—the negro raised to the condition of a white man, with equal rights and equal privileges. The whole political fabric, raised by our fathers with so much care, with so much wisdom, at such an enormous sacrifice of blood and treasure, may, for all he cares, topple to the ground, a mass of ruins, which no human skill can ever again reconstruct.

Before dismissing this branch of the subject, there is one question which I wish to put to the chairman of the committee who reported these bills.

The second section of the first article of the Constitution provides:

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

The slave population of the United States, under the census of 1860, was 3,953,587, or, in round numbers, say 4,000,000. Now, at the extra session of Congress last summer, you levied a direct tax of $20,000,000 on all the States, loyal as well as disloyal, free as well as slave. In all the latter, the slaves are valued as property. The aggregate value cannot be less than $1,600,000,000. If you confiscate their property and emancipate these slaves, you utterly annihilate the property; the tax that the owners of these slaves would have had to pay must be paid by the owners of real or personal property in the slave States, or by owners of the same description of property in the free States. The Government cannot lose it. Our taxes are laid in proportion to the pressing wants of the Treasury. If you compel non-slaveholders of the border States to make up this deficiency, you have, in return for the loyalty of these people, who saved the border States to the Government, imposed on them an undue burden of taxation.

Let us who reside in the non-slaveholding States not flatter ourselves that this will not be the result. If we expunge by our legislation $1,600,000,000 of property in the slaveholding States, it is easy to see that the amount of taxation which, without emancipation or confiscation, would have been collected in the slaveholding States, must, from necessity, be apportioned among the free States.

The financial affairs of the Government must at all hazards be protected. The Treasury must not be so depleted as that the credit of the Government is endangered or destroyed. It is due to our public creditors, to our gallant Army and Navy, that this should not be so. The money must be had at all hazards, come from what quarter it may.

Will the free States willingly have added to the enormous taxation under which they will suffer from direct taxation and impost and excise duties, this additional burden, being that proportion of the direct tax levied on the slave States, if no emancipation takes place? Is this the premium that the abolitionist is willing to pay for the abolition of slavery? I do not know what Massachusetts may do, but I do know the western States would not pay a dollar of it. The negro is not the article they purchased, nor is that the price they agreed to pay for it.

Mr. Speaker, much, during the discussion we have had here the last week, has been said in reference to the "laws of nations;" and the right to confiscate the property, real and personal, of persons engaged in this rebellion, or who have aided and abetted it, is, by those who claim that right, drawn from the principles of elementary writers on international law—Vattel, Grotius, Puffendorf, and those who have treated on the subject in the last century. These musty and moth-eaten works have been pored over, and quoted as authority for these outrageous, illegal, and unconstitutional bills now under consideration. Even our own elementary works—Wheaton, Story, Kent—have been searched over, page by page, and line by line, to afford a justification for this most unjust and arbitrary conduct on the part of our Government.

Sir, when "might made right," during the times of the Roman emperors, their captives—kings and their families—were carried to Rome, chained to the chariots of their conquerors, while their followers were taken to the capitol and forced into a contest with each other, as gladiators in the arena, or into the more dreadful one with wild beasts, in order to afford amusement to the bloodthirsty and debased populace of the imperial city. But in this more enlightened age, when civilization and Christianity go hand in hand, the rights of the conquered are provided for and their persons and property guarded. We need not look into the past for a rule to guide us; we need not even consult our own elementary writers to learn our duties as a civilized and Christian nation, either in a foreign or a civil war. Our own Government has settled this question themselves, and settled it in accordance with the philanthropy and spirit of the age we live in.

The American principle, and I might say the principle of all civilized countries, is stated clearly and fully in a dispatch from one of the clearest-headed statesmen this or any other country ever produced—Hon. William L. Marcy, in his letter to Count de Sartiges, as late as July, 1856. In his letter of that date to the French Minister, (Ex. Doc. No. 1, third session of Thirty-Fourth Congress, vol. 1, part 1, 1856–57,) he says:

"The prevalence of Christianity and the progress of civilization has greatly mitigated the severity of the ancient mode of prosecuting hostilities. War is now an affair of Governments. 'It is the public authority which makes and carries on war: individuals are not permitted to take part in it unless authorized to do so by their Government.' It is a generally received rule of modern warfare, so far at least as operations upon land are concerned, that the persons and effects of non-combatants are to be respected. The wanton pillage or uncompensated appropriation of individual property by an army, even in possession of an enemy's country, is against the usage of modern times. Such a mode of procedure, at this day, would be condemned by the enlightened judgment of the world."

The same principle has been laid down for the action of the Government, and recognized as the true policy, in the letter of the present Secretary of State to the ministers of the United States in Great Britain, France, Russia, Prussia, Austria, Belgium, Italy, and Denmark, in his circular to those gentlemen of as late a date as April 24, 1861, and approved by President Lincoln.

What does this astute diplomatist and able statesman, with a very strong proclivity (if I do not err in judging from his writings) to the ultra theories of the Republican party, say, in his "circular," in reference to this very doctrine of confiscation of private property in time of war?

"The advocates of benevolence, and the believers in human progress, encouraged by the slow but marked meliorations of the barbarities of war which have obtained in modern times, have been, as you are well aware, recently engaged with much assiduity in endeavoring to effect some modifications of the law of nations in regard to the rights of neutrals in maritime war. In the spirit of these movements, the President of the United States, in the year 1854, submitted to the several maritime nations two propositions, to which he solicited their assent, as permanent principles of international law, which were as follows:

"'1. Free ships make free goods; that is to say, that the effects or goods belonging to subjects or citizens of a Power or State at war are free from capture or confiscation, when found on board of neutral vessels, with the exception of articles contraband of war.

"'2. That the property of neutrals on board an enemy's vessel is not subject to confiscation, with the exception of articles contraband of war.'"

Again, in the same circular:

"For your own information, it will be sufficient to say that the President adheres to the opinion expressed by my predecessor, Mr. Marcy, (above quoted,) that it would be eminently desirable, for the good of all nations, that the property and effects of private individuals, not contraband, should be exempt from seizure and confiscation by national vessels in maritime war. If the time and circumstances were propitious to a prosecution of the negotiations, with that object in view, he would direct that it should be assiduously pursued."—*Message and Documents*, 1861–2, part 1, pages 34–36.

The same principles that apply to the seizure and confiscation of the property and effects of private individuals, not contraband, by national vessels in maritime war, apply with more force to the effects of private individuals on land; and the seizure of them by us in the war we are carrying on with citizens of our common country, many of whom have been forced into the rebel army by conscription, and against their consent, and who have never entertained any other than loyal feelings towards the Government, would be an act of the grossest injustice, of wanton cruelty, and "condemned by the enlightened judgment of all civilized nations."

Let us not, then, in this nineteenth century, return to the barbarism of former ages, and wantonly pillage and confiscate "individual property," more especially that of those who, although in a state of rebellion, are our kindred, "bone of our bone, flesh of our flesh." Should these bills pass, what a bloody and vindictive page will these acts furnish to the future historian in his history of this fratricidal contest!

Sir, I had thought the object of the war was to "restore the Union as it was," and preserve the "Constitution as it is." So think and so believe my people. In their name, in the name of the conservative people of the country, in the name of humanity, in the name of justice, I appeal to you to pause before you pass these bills. You have the power to pass them; you can do so if you will. But I ask you to reflect on the consequences that will follow such an act—a war, the end of which no man can foresee—a contest, the

end of which no man can calculate. Generations yet unborn will feel the effect of these measures, and a spirit of hatred and hostility between those who should be bound together by every tie that can bind man to his fellow-man—a common country, a common language, a common interest—will lead to a war of extermination, more bitter and vindictive than the world ever witnessed. You will alienate the border States, you will quench every spirit of patriotism and brotherly love now existing to a very great degree even in the States that have seceded, and in its place encourage a feeling of hostility that will not be effaced during your life or mine, or the lives of those who are to come after us.

CONFISCATION OF REBEL PROPERTY.

SPEECH OF HON. H. MAYNARD,

OF TENNESSEE,

IN THE HOUSE OF REPRESENTATIVES,

May 23, 1862.

The House having under consideration the bills to confiscate the property and free from servitude the slaves of rebels—

Mr. MAYNARD said:

Mr. SPEAKER: I agree most cordially with the friends of these bills in their avowed purpose to suppress insurrection and to punish treason; and I am sure, if their experience in this rebellion had been similar to mine, their views in regard to the means of accomplishing this purpose would not be very unlike. Our fathers, when they framed our Government, knowing the bitterness of political strife, and the tendency to violence in the punishment of political offenses, thought proper to confine themselves and us, in this regard, within comparatively narrow limits. Within those limits, whether we would or not, we must walk. While, therefore, I disclaim for Congress or for the Government any wild, limitless, unmeasurable powers, I am not of those who would tithe the mint, anise, and cumin of the Constitution to the neglect of weightier matters, going to the life, the very existence of the country. I do not propose to take the Constitution and hold it up as a shield to protect rebels and traitors; but, on the other hand, I intend to use it as a spear to follow them and strike them wherever I have the power. Rebellion must be suppressed; treason must be punished. It has pained me to see many doubtless excellent and loyal citizens of our country spending themselves upon the constitutional question whether the President has or has not, without the assent of Congress, power to suspend the privilege of the writ of *habeas corpus*. The occasion for its suspension contemplated by the Constitution—rebellion—is manifestly upon us. Every candid man who loves his country more than he hates his political opponents will admit that there are hundreds and thousands of cases in which the public safety requires the privilege to be suspended. If any gentleman thinks that the President has not the power to do it under the Constitution—I most certainly do not—let him introduce a bill into this House forthwith to give him that power. Although this question has been largely and angrily discussed here and elsewhere, and the President denounced as a usurper and a tyrant by reason of his action, not a single bill, strange to say, has been introduced and pressed to its passage for that purpose; but we chop logic and write pamphlets on the subject quite at our leisure, as though rebellion were not thundering at the capital and treason clutching at our throats.

It is in this spirit, Mr. Speaker, that I approach the discussion of this question, sincerely desiring to do my humble part in accomplishing what I deem the most desirable object, the reassertion of our authority, and the reëstablishment of our flag over every portion of our common country. I am obliged to say, however, and I do it frankly and in the outset, that I cannot give my assent to the two bills that have been introduced by the committee. I shall in brief terms state the reasons why, and then I will ask the attention of the House to a measure that I myself propose for their consideration.

In the first place, I doubt very much the power of Congress, under the Constitution, to pass either of these bills. To say the least of it, it is doubtful, and I am opposed to the exercise by this Congress, at this time, in its present state of incomplete organization, of any doubtful powers, when, as I conceive, there are enough at our command about which there is no doubt. I have listened with a great deal of interest to the arguments which have been addressed to the House upon the one side and the other, with respect to the constitutional power of Congress to pass bills of this character. We have just had a very able argument from the gentleman from New York, [Mr. SEDGWICK,] and we had another, a few days ago, from the chairman of the committee reporting these bills, endeavoring to maintain their constitutionality under what is called the "war power." Well, sir, I have only to say, that if the "war power" confers this authority, then no legislation is necessary. War once declared or recognized, the President is clothed in full with all the "war power" belonging to the Government, and no legislation can increase it. Either he has now the power to do the very things proposed by these bills, or he has not. If he has it, legislation is superfluous; if he has it not, no legislation can give it to him. Upon either hypothesis, it ought to be decisive. The chairman of the committee condensed the whole argument from the "war power" into this illustration; he says: "Jefferson Davis may be slain in battle with blood upon his hands without due process of law, and our brave dead were not murderers before their martyrdom." Very true; Mr. Lincoln, if he were to meet Jeff Davis on the field of battle might take his life; that is war. But it does not follow that if he were to meet him accidentally as the two were riding as private gentlemen through the country, he would have the same right, or that he would have the right to send an emissary to assassinate him in his office or in his bed; killing under such circumstances would be simply murder. Nor would he have the right, with a view of distracting his attention from public affairs, or of withdrawing him from the control of his army, to send an emissary to ravish his wife, to put to death his infant children, or aged parents, or to burn and desolate his home, whether that emissary were a white man sent from this city under the inducement of pay, or a black man, stimulated to the act by a proclamation and the promise of freedom. He has no such right, and we can give him no such right.

Again: if Jefferson Davis were to come and surrender himself as a prisoner to the President, the latter could not lawfully order him to be taken out and shot, and we cannot give him that right. It is no part of the war power. It does not follow, therefore, that since a rebel may be slain red-handed in battle, his property may be seized wherever it is to be found, whether it be slaves or any other kind of property. The war power, as it is called, is a part of the law of nations, and depends upon approved national usage. It can neither be enlarged nor diminished by legislation. We may declare war and make peace; we may create and supply armies and navies, or we may refuse to do both; but the war power belongs to the President, as the Commander-in-Chief of the Army and Navy, and is defined by the code of international law. If violated, every other nation would be justified in interfering, since it concerns them all alike.

But, sir, I am not disposed to discuss that point further, for it is my purpose to present other views of this very wide subject—a subject far too wide to be considered in a single hour. In the next place, had we power to pass these bills, were their constitutionality undoubted, I would still think we ought not to do it. In my opinion, it would be unwise, improper, and improvident legislation. They will do no good. They will neither strengthen ourselves nor weaken our foes. On the 6th of last August you passed a bill confiscating all property in active employment against the Government, whatever it might be. Has one dollar's worth of property been taken under that act? Has it ever operated to weaken our enemies? On the other hand, how has it been used by them? No sooner was the ink dry with which that bill was signed, than it was circulated by the whole rebel press of the South, with all sorts of comments to stimulate, stir up, excite, and exasperate. As to putting down this rebellion by the operation of such measures, by mere paper edicts, whether legislative enactments or Executive proclamations, you might as well attempt to stop a mad elephant by shooting him in the ear. You would enrage and infuriate him, but it would be of no avail in arresting his wild and desperate onset.

The gentleman from New York [Mr. SEDGWICK] anticipated this view of the case in some very happily-turned ironical remarks, saying that the House would be told that we must not adopt his policy because it would make the rebels mad. That is not the spirit and meaning of my suggestions. I beg gentlemen to look at what is now the actual state of affairs in districts where the rebellion prevails. A few weeks ago the Potomac was blockaded; the Baltimore and Ohio railroad was blockaded; and the enemy were almost within hearing of your Capitol. Where are they now? What else? You see by every paper that their troops are demoralized, and are deserting, not individually, but by scores and hundreds. What else? When the year for which they had enlisted in the confederate service had expired, and they claimed the right to go home, the congress at Richmond passed a general conscription bill, bringing every man into their service between the ages of eighteen and thirty-five. Sir, does that indicate that the masses of the people in those portions of the country are at heart in favor of this rebellion; that they are already so "mad" that nothing can enrage them further? What has been the result of the conscription act? Why, hundreds and thousands, to my personal knowledge, are fleeing from the South in order to escape its effects. The evidences are numerous and gratifying that public sentiment is moving actively, and in the right direction. Is it wise to adopt a policy we know to be distasteful without the strongest assurance that it will both add to our own strength and weaken that of our adversaries?

Mr. NOELL. I would state, in connection with that point, that I have just received information from home that there are about a thousand such persons in my district making their way home.

Mr. MAYNARD. I shall add nothing to the remarks made by other gentlemen with reference to the effect of a general attempt to confiscate property.

I ask attention a moment to the bill to which my friend over the way [Mr. SEDGWICK] has addressed himself—the emancipation bill. I do it with great self-distrust, with great hesitation, after his very sweeping remark—qualified, indeed, yet including me in the general condemnation—that no slaveholder is a loyal man. I forgive him the expression, for he knew not whereof he affirmed. But, sir, if he had seen old men, slaveholders, who believed that it was right to hold that kind of property, who believe so still; if he had seen them dragged from their fields, taken to prison, kept there under circumstances of great personal outrage, and then sent to the far South, there to linger and die, simply because they refused to take the oath of allegiance to the confederate States, I am sure he would repent his expression, and abate somewhat of its severity. I refer to this in no unkindly spirit, for I feel nothing of the sort. His argument illustrates and is a type of a sentiment which prevails to some extent, not only here, but outside. It is this: that slavery is the cause of this rebellion, and that to abolish slavery will necessarily crush out and end the rebellion, upon the principle that the cause removed the effect ceases. This proposition, so stated, is, in my opinion, defective in two very material respects. In the first place, it is not true, in any just sense, that slavery is the cause of the rebellion; and, in the second place, if it were so, the abolition of slavery would not tend, in the slightest degree, to suppress it. Let me cite one or two facts in corroboration of my statement. I hold in my hand an address of Governor Pierpont to the people of the State of Virginia, in which he uses this language:

"Those largely interested in slave property in Virginia never believed the institution was in danger by hostile legislation in Congress. The party which had always been in favor of the Constitution, the Union, and the enforcement of the laws, and opposed to those who claimed to be the peculiar protectors of the institution, had its greatest strength in the large slaveholding districts of the State."

The statement thus made with reference to Virginia will, I verily believe, apply to the entire South; it certainly will to my own State.

Mr. WADSWORTH. Will the gentleman yield to me for a moment?

Mr. MAYNARD. I can refuse my friend from Kentucky without discourtesy, yet I would be sorry to disoblige him.

Mr. WADSWORTH. I merely want to make a statement with reference to Kentucky.

Mr. MAYNARD. Very well, I yield.

Mr. WADSWORTH. It appears by the assessors' books of the State of Kentucky that over eighty per cent. of the slaves of that State are owned by Union men, whose blood has been shed upon every battle-field since Kentucky entered on this war.

Mr. MAYNARD. We have all seen the statements made by the southern commissioners, Messrs. Yancey, Mann, and Rost, to Earl Russell, that "it was from no fear that the slaves would be liberated that secession took place." The inaugural address of Mr. Jefferson Davis ascribes the rebellion to "a long career of class legislation directed, not to the general welfare, but to the aggrandizement of the northern section of the Union." The Louisville Courier, on the 15th of January last, declared that "the slavery question is merely the pretext, not the cause of the war;" and other similar avowals might be quoted. No, gentlemen, I beg leave to say that slavery is not the cause of this rebellion, nor is it the agitation of slavery. Although your agitation, and the acts and declarations of extreme men, have been used as very important instruments, as weapons which the men concerned in this movement found suited to their hands, and used with great power, yet that was not the cause. If they had not found those weapons they would have found others. If they had not had excuses in the slavery agitation they would have found other excuses. Had you given them blank paper and let them write upon it their demands in reference to slavery, and then recorded these demands in the statute-books in the form of law, they would not have been satisfied. They did not wish to be satisfied. They intended not to be satisfied. With these men slavery was not an end, but a means. By a peculiar process of reasoning we might ascribe the whisky insurrection to the rye and corn fields of Pennsylvania. No grain, no whisky; no whisky, no rebellion. So we might reason, no slavery, no abolition agitation. But we cannot add, no abolition agitation, no rebellion; for rebellion was determined upon, and this pretext wanting, some other would have been devised. If they had found no other cause for seceding, they would have found it in the fishery bounties and the navigation laws. Secession and a disruption of the country was with them a conclusion foregone.

It is but justice to our Democratic friends to say that although these men were inside of that party and professed to work with them, the party, as such, ought not to be held responsible for their acts. We know very well the tyranny which they attempted to exercise over this party by continually introducing new party tests which were exceedingly distasteful to all but themselves, and which they believed the northern Democracy would not tolerate. They went to the last national convention at Charleston and Baltimore to effect the disruption and downfall of the party, as a means of securing the elevation of Mr. Lincoln and the success of the Republicans, and thereby realizing the object for which they had been working for years: an Administration supported and opposed with reference to geographical lines rather than political sentiments. Hence they attempted to enforce such conditions upon the platform of their party as would effect its defeat in the North, and in this way broke up the convention, not only dividing, but hopelessly demoralizing, the party. They meant mischief, and accomplished it.

Mr. PHELPS, of Missouri. In confirmation of the remark made by the gentleman from Tennessee I desire to state that, as a general rule, those who sustained Mr. Breckinridge in the last Presidential election declared that they preferred the election of Abraham Lincoln to that of Stephen A. Douglas, believing that Abraham Lincoln was sounder on the slavery question than Stephen A. Douglas. That was the declaration made by the United States Treasurer, appointed under Mr. Buchanan, William C. Price, who was then a candidate against me for Congress.

Mr. MAYNARD. Yes, sir; it was not that they hated Mr. Lincoln less, but that they hated Mr. Douglas more. It will be recollected that Mr. Benjamin, now in Davis's cabinet, said substantially the same thing in the Senate, in a speech made after Mr. Lincoln's nomination and before the meeting of the convention at Baltimore.

Mr. PHELPS, of Missouri. Yes; they wanted revolution.

Mr. MAYNARD. Just so. That lies at the foundation of this movement. That is its origin. It is idle to seek it either in wrongs suffered or wrongs apprehended. They were neither. The object was disunion *per se et pro se*—disunion for its own sake. But suppose that slavery were the cause of this rebellion; suppose it had been brought about because the slaveholders were led to suppose that Mr. Lincoln and the Republican party would take measures to abolish slavery, do you think it would quiet their apprehensions or make their action anything less determined, to see Congress attempting to do the very thing that their leaders told them you were going to do; to see you laboring industriously to give the lie to all your past professions, to all the assurances made in your behalf, and to justify all the worst calumnies of your most unscrupulous enemies? I could sympathize with the remarks of the gentleman from the Louisville district of Kentucky [Mr. MALLORY] on that point, after having for months, through my district and in other districts in my State, vindicated the Republican party against the charges brought against it for the purpose of exciting the popular odium and stirring up hatred. Pass this bill, and I shall be told, when I go home, that I was deceiving my people. These rebel leaders will turn round and say to them, "see what we told you; we told you the truth, and these Union men deceived you." That will be binding a heavy load upon our shoulders. It will be placing the Union men of the South in a position hardly less unenviable than the one assigned to us by the gentleman from New York, [Mr. SEDGWICK,] that as we are inside of hostile States, our property, much or little, may be taken from us by the Government, and confiscated at will. I shall be very much gratified if the speech just made by that gentleman does not find its way across our lines, is not published in every secession newspaper, used to stir up and excite the rebels on the one hand and to discourage the loyal on the other, and pointed out as a sample of what the party in possession of the Government propose to do. I beg of you, gentlemen, to pause before you strike a blow which will injure your friends far more than it will injure your enemies, even if it does not do the latter a service. You remember with what staring incredulity you regarded all the warnings of danger given you by southern Union men; how you looked upon secession, rebellion, war, national peril, as idle tales, the visions of distempered fancy or the croakings of displaced politicians; what inextinguishable laughter you indulged in at the expense of Union saving and Union savers. And is it not just possible that we may, more correctly than you, apprehend the causes of this whelming movement of which we have so long been studious? Will you not at least give us a patient hearing, and hesitate to adopt a policy against which we with one voice protest, deprecating it as fraught with more of mischief to us than to our oppressors? Have we given so few and so slight assurances of our patriotism that you will not accord us a candid attention, to say nothing of a generous confidence? Is it nothing in your eyes that we have again and again imperiled our all, even to our lives, by our devotion to the Federal Government—friends, family, honor, reputation, the toilsome accumulations of years, all that deserves a good name among things below? And have not our opportunities to study this enormity been immensely greater than yours? We in the midst of it, you hundreds of miles distant; we fighting it hand to hand in a life and death encounter, you so far away as scarcely to hear the echoes of the distant battle. To find the hidden springs of events is always accounted fortunate because difficult and rare—*felix qui potuit rerum cognoscere causas.*

Even if you were unmistakably right in your philosophy, I think we might aid you somewhat in its practical application; but if we are right, the neglect of what seems to us so obviously judicious, may lead to consequences which none would deplore so sincerely as we, because none would suffer half so much from them. Believe me, gentlemen, I am not speaking in the interest of slavery; I am speaking in the interest of my country. If I know my own heart, I have but one thought, but one single object. If I can see reëstablished the power and authority of this Government throughout this land, from the rivers to the sea; if I can leave to my children the same country under the Constitution, the same liberty under law, to which I am indebted for all I have and am, then, and not until then, can I adopt the sublime formula of Christian resignation—*nunc, Domine, dimittas.*

I know it is very hard to persuade gentlemen who have brought their minds to think that there is but one object to be accomplished in this world. They look at that object until it becomes the rod that swallows up all others. At the close of the last century there arose a class of philosophers who sought to accomplish one great object, the rights of man; not the rights of the black man simply, but the rights of universal man. Three institutions, each in their view "the sum of all the villainies," stood in their way and must be overthrown—monarchy, the nobility, and the Christian religion. "Liberty, equality, and fraternity" were the words with which they beguiled themselves and their followers. Never were more honeyed accents from human lips; never were bloodier deeds by human hands. They became so intent in pursuing this one idea of human rights, in opposition to social order and established institutions, that at length they saw but that one thing worth seeking, and they marched straight forward to it though the road lay through seas of blood. Burke has, in a few words, given his estimate of the effect of that sort of philosophizing upon human character. I read the paragraph in no unkind spirit, but with a thorough conviction of its truth. He says:

"Nothing can be conceived more hard than the heart of a thorough-bred metaphysician. It comes nearer to the cold malignity of a wicked spirit than to the frailty and passion of man. It is like that of the principle of evil himself, incorporeal, pure; unmixed, dephlegmated, defecated evil. It is no easy operation to eradicate humanity from the human breast. What Shakspeare calls 'the compunctious visitings of nature,' will sometimes knock at the hearts and protest against their murderous speculations. But they have a means of compounding their nature. Their humanity is not dissolved. They only give it a long prorogation. They are ready to declare that they do not think two thousand years too long a period for the good they pursue. It is remarkable that they never see any way to their projected good but by the road of some evil. Their imagination is not fatigued with the contemplation of human suffering through the wild waste of centuries of misery and desolation. Their humanity is at their horizon, and, like the horizon, it always flies before them." * * * *

"These philosophers consider men in their experiments no more than they do mice in an air pump, or a recipient of mephitic gas."

I confess that I am reminded in recurring to this passage of my boyhood of some remarks that fell from the gentleman from New York, [Mr. SEDGWICK.] He seems entirely to disregard in the measures which he advocates the prejudices, if you please to call them so, the unreasonable prejudices if you will, of millions of men, although those measures will at a blow disturb, break up, and destroy the life-long ideas, the established habits, the social relations of millions more. That is nothing. A great good is to be attained, and no matter how. Everything that stands in the way must go by the board—Constitution, law, individual right. Strike the blow, regardless whether it fall on stalwart manhood, or groaning age and helpless infancy.

But I am consuming more time than I intended. My purpose was to make an affirmative and not a negative speech. I stated in the outset that I thought some additional legislation was necessary to punish traitors and to protect loyal men. I think so.

Allusion has been made to the action of the military Governor placed by Federal authority over the State of Tennessee. I was for a time there, and I found a condition of things in which it was safer for a man to be a traitor than to be a loyal citizen; safer in his person and safer in his property. I am not alone in my opinion as to the fact that stronger measures are required for the punishment of treason. I call the attention of my friend from the Louisville district of Kentucky to a pas-

sage from the admirable paper published in his district; I refer to the Louisville Journal, the chief editor of which ranks among the ablest political writers of the country. He uses this language:

"The most stringent measures must be adopted to punish treason, before we can expect to escape marauding, robbery, or insolent threats against the Government. When it is ascertained beyond all doubt that loyal men will be protected from loss, or compensated if they suffer from raids, and when those who furnish Morgan's gang or Champ Ferguson's cut throats with means or information are conscious that they or their aiders and abettors will be severely punished, we shall have no more of guerrilla bands or of warnings to Union men that their loyalty is distasteful to the rebel leaders."

Mr. MALLORY. I hope my friend from Tennessee will allow me to say that I share in the feeling expressed by the editor of the Louisville Journal? I am the last man in the world, in view of the injury these men have inflicted upon my State, as well as the State of Tennessee, to make an effort to screen them from just punishment. But let me inform my friend that the description of punishment to which that editor refers is the punishment which the law now provides for inflicting upon traitors. The State of Kentucky has made provision for the arrest of these traitors and bringing them to trial and punishment in our courts. And whenever they shall be found guilty, I am willing to see them hung. This editor, I tell my friend, does not mean the punishment of these men by the forfeiture of their estates, which, in many instances, would fall upon the innocent rather than the guilty.

Mr. MAYNARD. The State of Kentucky has been fortunate in retaining the State government in the hands of loyal men, through whom they have been able to enact suitable laws to meet the present emergency. In my own State we have not been thus fortunate; and it is necessary that we should have some stringent Federal legislation for our protection. Our people demand it. They want to be able to punish treason and treasonable practices.

Mr. MALLORY. Will the gentleman allow me to say further, that in the State of Kentucky we have a law upon our statute-book which virtually outlaws all who have gone from the State and taken up arms against the Federal Government. They are not permitted to exercise the elective franchise, they are not permitted to sit on juries, nor can they hold any office in the State.

Mr. PHELPS, of Missouri. And I will state that a similar law will probably be soon enacted in Missouri.

Mr. MAYNARD. The people in these States feel the necessity to which I allude and provide for it. We must do the same. I most cordially agree in the remark I have quoted from the Louisville Journal. It is most vitally essential that we should have some most stringent measures to prevent guerrilla operations such as have prevailed both in Kentucky and in my own State; otherwise, when the armies in the South are broken up, we are to have a great deal of this small war—*petite guerre*, I believe military men call it. Men gathering themselves together in bands of fifty, one hundred, or five hundred, going about as marauding parties, plundering, stealing, robbing our citizens. Sir, our people have already suffered very greatly by this species of warfare, and some vigorous legislation is necessary. I have, therefore, entertaining these views, prepared a bill which, before I conclude, I will offer as an amendment to the amendment proposed by the gentleman from Vermont [Mr. MORRILL] to House bill No. 471.

The first section defines what acts of war committed by a citizen of full age shall be punished as treason with death. Voluntarily entering into the service against the Government, recruiting soldiers for such service, furnishing them with material of war and supplies, holding any office, either legislative or executive in its character, under a government in hostility to this. It further provides that if such person shall theretofore have held any office under the Government of the United States, he shall be adjudged in a fine at least equal to the proved value of his entire estate.

Let me explain. The extent of the powers of this Government to seize the property of traitors is one that we have heard very largely and ably discussed on the one side and on the other. It is precisely a judicial question, to be settled by the courts. A fine can unquestionably be imposed. We can provide for that. It remains to determine how it shall be collected. I propose to leave this question to the courts, where it will have ultimately to be decided.

By the second section, I propose to punish another class of offenders, not as guilty of treason, but of misprision of treason. Says Blackstone:

"Misprisions are, in the acceptation of our law, generally understood to be all such high offenses as are under the degree of capital, but nearly bordering thereon." * * * * "Misprisions are generally divided into two sorts: negative, which consist in the concealment of something which ought to be revealed; and positive, which consist in the commission of something which ought not to be done."—4 *Blackstone's Commentaries*, p. 119.

This definition gives a correct view of the class of offenses embraced in this section of the bill. Actions which, though hostile in their character, might possibly not be esteemed belligerent, though treasonable, perhaps do not amount to treason. Even if, by a latitudinous construction of the phrase "levying war," used in the Constitution, they might be condemned as treason, it would confound our ideas of comparative criminality to punish them as such. Of this sort are the concealment of hostile persons, so as to enable them to elude pursuit, and the suppression of knowledge of their movements and plans on the one hand, and communicating to them intelligence of our movements and plans, for a like purpose, on the other.

My friend from Kentucky, [Mr. MALLORY,] the other day, in his very able argument against these bills, took the position, if I understood him, that no act which, under his reading of the Constitution, amounts to treason can be proceeded against as an offense of a lower degree. It must be declared treason, and tried and punished as such.

Mr. MALLORY. You did not understand me correctly.

Mr. MAYNARD. I am glad that I did not understand him correctly, for I regretted to think him assuming a position so untenable—the same which has been taken by others. Now, sir, I understand that when the Constitution provides that treason against the United States shall consist only in levying war against them, it fixes a point beyond which we cannot go in defining treason and affixing punishment; but we may stop as much short of that point as we choose. Nothing but levying war can be declared treason; yet we are not obliged to declare and punish as treason every act of war. I ask the attention of the House to a passage or two from the decision of Chief Justice Marshall, in a case which has been more than once cited in the discussion of another question. (*Ex parte* Bollman & Swartwout, 4 Cranch, 75.) He says:

"However flagitious may be the crime of conspiring to subvert by force the Government of our country, such conspiracy is not treason. To conspire to levy war and actually to levy war are distinct offenses. The first must be brought into open action by the assemblage of men for a purpose treasonable in itself, or the fact of levying war cannot have been committed." * * * * *

"Crimes so atrocious as those which have for their object the subversion by violence of those laws and those institutions which have been ordained in order to secure the peace and happiness of society, are not to escape punishment because they have not ripened into treason. The wisdom of the legislature is competent to provide for the case."

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"It is therefore more safe as well as more consonant to the principles of our Constitution that the crime of treason should not be extended by construction to doubtful cases; and that crimes not clearly within the constitutional definition, should receive such punishment as the legislature in its wisdom may provide."

For those reasons, and moved by considerations of that sort, I have provided for a certain class of offenses, that, whether they may or may not amount to treason, shall be deemed misprisions of treason, and shall be punished by imprisonment not less than five years, and by a fine not exceeding the estate of the guilty party.

I call the attention of the House to another and further provision which, or something tantamount to it, the condition of our country eminently requires should pass into law. It punishes as high misdemeanors acts like these: putting into circulation, for seditious purposes, false intelligence touching military operations, popularly known as working the "grape-vine telegraph;" preventing loyal citizens discharging their civil duties to the Government; refusing to take the oath of allegiance when lawfully required, and as required; urging citizens to burn their property and their means of transportation, in order to embarrass and retard the progress of our troops; insulting our flag; insulting our soldiers by spitting on them, by reviling them, and by various other offensive manifestations, which, by their discipline, they are not permitted to resent. Such treasonable practices I would punish as offenses against the law, and various other acts, which gentlemen can see by looking at the printed bill. I want secessionists to know that there is a law punishing their vile tribe, and protecting the loyal from their insolence. Any one who has lived in secessiondom, and witnessed the condition of things there, fully understands the evils to which I allude.

By another section, I provide that those offenses shall be presented by grand juries, and punished only after trial and conviction, in either the circuit or the district courts.

I know that many suppose such an enactment would be a dead letter upon the statute-book, because we could never get any one convicted under it. I assure gentlemen that they are mistaken in that. Wherever the Government has reasserted its power—and it is only there that any law can be effective—we find no indisposition among loyal men to seek the protection of law. I shall be glad if the popular indignation do not administer justice with indiscriminate rigor. As to the effect of such a proceeding against their person by trial and conviction, and against their property by proceedings *in rem*, there can be no comparison. A single verdict of a jury will have more moral effect than the gaining of a battle. It will prove that the Government has triumphed, that order has been restored, that law reigns supreme, and that the rebellion has been put down now and forever.

I have another provision of some importance, to which I call the attention of the House. It is this: that before any Federal officer, civil, military, or naval, shall enter upon the duties of his office, or shall receive any of its emoluments, he shall take an oath, according to a prescribed formula, to the effect that he has not been actively concerned in rebellion; and if it shall be proved afterwards that he has sworn falsely, that he shall be punished for perjury, removed from office, and declared ineligible for any office of honor, profit, or trust under the Federal Government.

I provide further, that those who institute suits in the Federal courts or act as attorneys or jurors, those who receive passports to travel, those who receive our Government shall be required to take the oath of allegiance to it. Provide for placing the offices, honors, and emoluments of the Government within the reach exclusively of loyal men, and for prosecuting and punishing the disloyal, and it will have a better effect in putting down this rebellion than acts of confiscation and proclamations of freedom. It pervades all classes of society, and is felt by all alike. Confiscation and emancipation edicts are necessarily directed at the affluent few, and generally the least culpable; for they who have been most active and pestilent in fomenting this strife have been precisely those who have no property to confiscate and no slaves to set free.

In this connection, I invite the attention of the House to a *projet* of a law sent me by a gentleman from Kentucky, who, though a stranger to me, I learn is a man of fair character and well instructed in the law. I will not take time to read it, but will append it to my remarks. (Appendix.) Suffice it for the present that under the constitutional provision that "the members of the several State Legislatures, and all executive and judicial officers of the several States shall be bound by oath or affirmation to support the Constitution," this plan proposes to remove from office every incumbent who shall act or speak, or aid, abet, and assist any rebellion or conspiracy against the Government. In other words, it contemplates a purgation of the State officers from disloyalty. How important and necessary this is, many of us, unhappily, too well understand. Blows in this direction will be felt. They will tell. And I invite all gentlemen who desire to vindicate our national honor, to restore our authority, and to preserve the integrity of our country under the Government given us by our fathers, more than to court the favor of traitors or to cultivate Utopian schemes of philanthropy, to address themselves to this character of legislation. The criminal laws now on our stat-

ute-books are powerless against treason, and I fear will so continue to be.

It was with much pain that I heard the proposition announced and carefully elaborated that the seceded States had organized themselves into a government; that they had become a sort of distinct nationality; a *quasi* separate political power. What consequences would result from that dogma that they had the legal right to do all the acts of sovereignty which they have attempted, and that it is not in our power to change or annul them? It would, for example, make legal all their acts confiscating the property of loyal citizens. It would legalize the proceedings which have been set on foot for the sequestration of my own humble estate in Tennessee. I hold in my hand the writ which was served upon my wife at our home, while I have been representing my people upon this floor. I will append it to my remarks, that those curious in such matters may examine it. (Appendix.) Perhaps some gentlemen may value it as a precedent. When I return I would find my property in the hands of a purchaser or sub-purchaser from the confederate government, and I would, according to this doctrine, be powerless to interpose to have it restored to me. I protest against any such assumption on the part of Congress or of any other department of the Government. As a question of political ethics it is monstrous. It accords to the secessionists the full benefit of the freebooter's maxim—

"That they shall take who have the power,
And they shall keep who can;"

while to those of us who have been trying, at an immense sacrifice, to uphold the flag of our country, and to sustain its Constitution and laws, it is simply cruelty. It is a pusillanimous betrayal by the Government of its citizens, disgraceful to any civilized Power. Whatever may betide, every Government owes to its loyal citizens protection, full, ample, complete.

If the people of the seceded States are a separate and distinct Government, why call them traitors to your own? The President understands the whole philosophy of the situation, and with that wisdom which has characterized his entire administration, he has denounced the rebels as simply a combination of persons acting in defiance of all law and government. This was a heavy blow to the secessionists, who expected to be recognized as an independent Power and treated as such. I have heard their men acknowledge that Mr. Lincoln's proclamation, dealing with them as a body of insurgents, and not as a confederacy of States, was most disastrous to the success of the rebellion.

But it is gravely maintained, here and now, that they have acted as States, and that we must treat them as States, involving all alike, loyal and disloyal, in the same condemnation. What then becomes of the northern debts in those States, moneys due in the South to parties in the North, sequestrated under proceedings instituted by authority of the concern in Richmond? I shall be sorry, less for myself than for other men who have been loyal to the Government, and who have suffered so terribly for their loyalty, if any idea like that shall prevail. It places them between the upper and nether millstone—crushed by both, and protected by neither. They have been pursued by the confederates for resisting their authority; they are scourged by the Government for succumbing to a power which they were unable to resist, and from which they could not escape. Great God! you have suffered a usurpation to ripen into a tyranny, and then you would proscribe its victims for giving way to their persecution. You have failed to give protection; now you deal out vengeance. In the name of the loyal men of the South, I protest against a doctrine so barbarous and so cruelly unjust. Theories fraught with consequences so iniquitous must be radically, incurably wrong. And because, for the comfort and safety of our people, soldiers and citizens, who have fallen into the hands of the insurgents, we have sent and received flags of truce, negotiated exchanges, and adopted other usages of war as they prevail between nations, it no more affects our relation to them or theirs to us than would the payment to an Indian of ransom for a stolen child, or a reward to a footpad for a priceless heirloom or inestimable jewel of which he had robbed you on the road, change the one from a lurking savage, or elevate the other into the walks of legitimate commerce. The relation is still the same, the Government grappling with a powerful rebellion, the loyal on the one side, traitors on the other.

And this relation to the Government is individual, personal to the parties themselves. The expression, *loyal and disloyal States*, except as a phrase of convenience, is a solecism which ought to be banished along with the other heresies of the State-rights school of politics. A dozen ordinances of secession lurk snugly behind it. It does not in the slightest degree strengthen the position, that they who so readily concede to the insurgents the attributes of a separate power do it under a full belief that they will be subdued, and with the purpose of then treating the region of country which they have been able to control as a conquered province, seizing the property of all indiscriminately, and molding their local institutions at will. Such powers do not flow from the repossession of our own territory, whether it has been seized from us by domestic violence or foreign invasion. Suppose war with Great Britain to have grown out of the Trent imbroglio; suppose—and the supposition is far from improbable—she had seized upon the harbor of Portland, and overcome the State of Maine; the people of that State, powerless to resist, would have had no alternative but submission to a *de facto* authority, and for the time being would have been practically subjects of her Britannic Majesty, and until, by our powers of recuperation, we had restored them to the jurisdiction of the flag; does anybody suppose, in that case, that the people of the unfortunate State would have lost any of their rights in the Federal Government; that any question of "getting back into the Union" would ever arise; that we could confiscate any property by the mere right of conquest?

Reference has been made to the present novel condition of my own State, as if that sustained the theory I am now discussing. The following language will convey the reasoning and the conclusion arrived at:

"Take an illustration which an honorable gentleman [Mr. THOMAS, of Massachusetts] has pronounced to the House. Tennessee has seceded, has passed a secession ordinance, and sustained it by force. Has she forfeited her right as a State? It has been said, 'the voice of her eloquent Senator is heard in the Capitol, her venerable judge sits in the highest judicial tribunal, and exercises the highest functions of government, her Representatives mingle in our councils, and her loyal citizens greet with tears of joy the banner of our advancing hosts.' That is all true, or was true when it was spoken. But that same courageous, manly, and honorable Senator now sits in the Governor's chair of Tennessee; not called there by the suffrages of the citizens of the State, under the laws of the State, but selected by the Commander-in-Chief of the Army of the United States. Her Legislature is driven out at the point of the bayonet; the functions of her magistrates are suspended at the will of a military Governor. That venerable judge holds the circuit in his district under the protection of Federal bayonets, and at the will of a military Governor. Before that State can be rightfully represented here, she must go back to the people—the source of political power—and, by the action of a popular convention, her Legislature and Governor and magistrates must be reinstituted. Elections must be ordered by new laws, and the whole machinery of government must be started afresh. It is said that we levy taxes, that we call on her for her contingent of troops, and that all these are, doubtless, mistakes. They are mistakes, when one third or one half of her citizens can enlist under the banners of an enemy, and when one third or one half of her taxes go to the support of a hostile government. But all these mistakes are the legitimate result of the dread appeal to war. Its laws are framed to meet the necessities of the occasion; and the death of States and the crushing out of institutions are among its dread but acknowledged prerogatives."

Such are the rigorous conclusions arrived at by the gentleman from New York, [Mr. SEDGWICK.] From his point of view, well founded in the facts, irrefragable in their logic, and in their nature excellent and satisfactory. The style has the cautious reserve and cool authority of a master accustomed to command and expecting to be obeyed. It is a representative expression of a certain element, larger or smaller, both in this House and in the country, and as such entitled to respect.

In marked contrast with this truculent and ferocious piece of metaphysics, I invite attention to Governor Johnson's views of the facts and philosophy of the situation, which, as of one who comes scarred from the strife, are possibly quite as likely to be correct as those of an idle spectator, looking on from a safe and prudent distance. When entering on the duties of his present office he prepared an address to the people of Tennessee. After vindicating the policy of Congress and the President, he proceeds:

"In this spirit, and by such co3peration, has the President conducted this mighty contest, until, as Commander-in-Chief of the Army, he has caused the national flag to float undisputed over the capitol of our State. Meanwhile the State government has disappeared; the Executive has abdicated; the Legislature has dissolved; the judiciary is in abeyance. The great ship of State, freighted with its precious cargo of human interests and human hopes, its sails all set, and its glorious flag unfurled, has been suddenly abandoned by her officers and the mutinous crew, and left to float at the mercy of the winds, and to be plundered by every rover upon the deep. Indeed, the work of plunder has already commenced. The archives have been desecrated; the public property stolen and destroyed; the vaults of the State bank violated, and its treasures robbed, including the funds carefully gathered and consecrated for all time to the instruction of our children.

"In such a lamentable crisis, the Government of the United States could not be unmindful of its high constitutional obligation to guaranty to every State in this Union a republican form of government, an obligation which every State has a direct and immediate interest in having observed towards every other State, and from which by no act on the part of the people in any State can the Federal Government be absolved. A republican form of government, in consonance with the Constitution of the United States, is one of the fundamental conditions of our political existence, by which every part of the country is alike bound, and from which no part can escape. This obligation the national Government is now attempting to discharge.

"I have been appointed, in the absence of the regular and established State authorities, as military Governor for the time being, to preserve the public property of the State—to give the protection of the law, actively enforced, to her citizens, and as speedily as may be, to restore her government to the same condition as before the existing rebellion."

So far as there is a discrepancy in the statement of the facts, it is needless to say on which side the truth lies; and as to the two philosophies, no sane man can doubt which will be accepted by nine tenths of the American people. "The death of States and the crushing out of institutions" was not the purpose for which they entered upon this war. They intended the life of States and the preservation of institutions. Such has been, is, and, I venture to affirm, will be the policy of the President and his administration. It was this high conserving policy that led him to unclothe of his senatorial robes the great tribune of the people, and intrust to his hands the labor of reinstating this great Commonwealth, in whose councils he had long been so conspicuous. He was sent not to destroy, but to save; not to create new relations, but to restore and preserve the old. He found the "machinery" all perfect, complete; but motionless. The engineer and the workmen had fled; the fires had gone out, the water had cooled in the boilers. Another engineer is put on duty; other workmen are summoned to his aid. The fires are rekindled, the valves open one by one, the piston rod begins to play, and as by degrees the belts are refitted to the shafting, the wheels renew their motion and hum their accustomed song of industry. The State was not dead, its government was not destroyed; merely its functions for a time usurped and its action perverted; its relations to the Federal system suspended by violence. When the violence is overcome and the usurpation is subdued, the former relations become active and the functions of the government legitimate—the State exists as before. It has not been conquered, it has been rescued. It has not been subjugated, it has been disenthralled. In times like these words are things, and should be very carefully handled.

In accordance with this theory has been the conduct both of the President and Governor Johnson. They do not deem a popular convention necessary to reorganize the community into a body politic. They do not require new laws to authorize elections. They recognize the laws anterior to the usurpation as still in force, and are providing for their execution. Justice, public and private, is administered in the Federal, State, and municipal tribunals. Popular elections are held; and as fast as the State is delivered from the power of hostile troops, the ballot-box resumes its sway. The post offices are reopened; postmasters and a district attorney have been nominated and confirmed. We have impeached a faithless judge, that his place may be filled with some one more worthy. Local officers, magistrates, sheriffs, constables, jailors, clerks, registers, all perform their ordinary functions. Condemned felons still grind in the prison-house under their original sentences. The Government has interposed only for the preservation of the State authority. We are giving practical effect to the sublime and simple creed of Mr. Clay,

impressed anew upon the popular heart by being adopted as the litany of a political party: "THE UNION, THE CONSTITUTION, AND THE ENFORCEMENT OF THE LAWS."

I now formally submit my amendment.

APPENDIX A.

An Act the better to preserve the Union.

Whereas the existing disloyalty manifested by the present southern rebellion renders it necessary for further remedy to enforce the provision of the Constitution of the United States requiring that "the members of the several State Legislatures, and all executive and judicial officers of the several States, shall be bound by oath or affirmation to support said Constitution," which was intended to be observed, and should be specifically enforced, and Congress has the power to do so by a law that will be paramount to that of any constitution or law of any State or Territory whose officers, &c., may so offend: Therefore,

Be it enacted, That whenever any of the aforenamed members of a State Legislature, or aforenamed officers of a State or Territory, or delegates, or commissioners, or other officers whatever, created by virtue of any law, resolution, or charter of incorporation by any State or Territorial Legislature, shall, after being duly sworn and assumed the said office or trust, act or speak, or aid, abet, and assist, or give aid and comfort to disloyalty, or to any rebellion or conspiracy, or assist in the same, against the United States, or be guilty of an act of treason, in fact, the said office shall be forfeited and vacated. The proceedings to enforce the same may be by an indictment or by petition in the United States district court for the district in which the office is to be exercised, in the nature of an information stating the alleged grounds or facts against the party charged, in connection with the office or trust held by him. The petition may be, on the information of any one, filed by the district or any other attorney of the court, or of any State court. Where an indictment is found, bail may be required as for felony. Where the petition is filed, a writ requiring the arrest of the party charged may be issued by order of court in term time, or by the clerk in vacation, and heard as other criminal cases; and on a hearing and conviction of the party charged, the office or trust shall be declared forfeited and vacated, with costs against the party charged; and where he shall be a member of a Legislature, or delegate to any convention (called by a Legislature) to alter or amend a State constitution or for any other purpose, he shall forfeit his salary and fees and be fined $1,000. If a State Governor or other State officer, or if an appellate or circuit judge, or mayor of a city, he shall be fined $1,500; if a county or city officer, $800, or other officer, $500, one third of which to go to the informer or prosecutor, and collected as other fines of the United States.

2. And whenever any such office shall be so vacated, it shall be the duty of the court so hearing and deciding to cause the same to be certified to the proper officer or department of the State, provided by its constitution or laws to fill the vacancy. And if it should be a Governor of a State, and not be filled within thirty days from causes of disloyalty, it shall be filled by the President of the United States by a loyal appointee *pro tempore*, to fill the office for the State pursuant to its constitution and laws, as near as may be, until done in due and regular form by the constitution of the State. Appeals may be taken by the United States or the defendant, when granted by a judge of the Supreme Court of the United States, on a copy of the record to him, and shall be docketed for first day of next term thereafter.

3. And whenever any such persons are so charged as aforesaid, on petition being filed they may be arrested, held to bail, and upon a preliminary hearing and presumption, grant a temporary prohibition issued against their exercising the office or place until the cause is heard.

4. This shall take effect from its passage, and shall pertain only to the office or trust and its mal-administration, and disloyalty, and not bar any prosecution for treason or conspiracy under existing laws, for acts constituting that offense under existing laws.

APPENDIX B.

To Hon. West H. Humphreys, Judge of the District Court of the Confederate States of America for the District of Tennessee:

The confederate States of America, through Landon C. Haynes, the receiver for the eastern district of Tennessee, respectfully represent unto your honor that within the jurisdiction of this court there are [various items of property specifically enumerated.] The said States, by said receiver, show that said property, real, and personal, and mixed, belongs to one Horace Maynard, who has his domicil and who resides in Kentucky, or some one of the States or districts of the United States, and who is in actual hostility to the government of the confederate States of America, and who adheres to the enemy of said States, by speeches, words, and acts, giving them aid and comfort in Kentucky and other places in the United States, and is an alien enemy to said confederate States. All of which are situate and being in the counties of Knox and Campbell, in the State and within the district of said receiver. And the said confederate States further represent that the said property, debts, claims, choses in action, are, as said States have been informed by said receiver, under the control and supervision of Mrs. Maynard, wife of said Horace Maynard, and the said W. P. Washburn, who resides in Knox county, in this State, which property is liable to be seized, under the act of the confederate congress for the sequestration of the estates, property, and effects of alien enemies. The said Mrs. Maynard and Washburn are required to set forth, on oath, and specifically to describe said property, and debts, and choses in action, as they have full knowledge of the same, and answer the interrogatories herewith filed, on oath, and marked exhibit A, as a part of this petition.

The confederate States of America, through said receiver, therefore pray that the said persons having supervision and control of said property, as aforesaid, who reside in the county of Knox, be made parties to this petition, and that a copy thereof, together with notice, be issued by the clerk of this court to the marshal or his deputy, to be served on said persons. Said confederate States further pray that your honor direct said property to be seized and sequestrated, and placed in the hands of said receiver, and by him sold or disposed of upon such terms and conditions as your honor may direct. And on final hearing, the confederate States pray for all such other, further, and different relief in the premises as may be consistent with the act of the confederate congress.

LANDON C. HAYNES,
Receiver for the Eastern District of Tennessee.

A true copy of the original.
WILLIAM G. MCADOO, *Clerk, &c.*

EXHIBIT A.

Interrogatories of the Receiver.

To ——— ———:

SIR: You will please file written answers, sworn to before some justice of the peace or the confederate court clerk, to the following interrogatories:

1. Have you now, or have you had in your possession or under your control since the 21st day of May last, (1861,) and if yea, at what time, any land or lands, tenement or tenements, hereditament or hereditaments, chattel or chattels, right or rights, credit or credits, within the confederate States of America, held, owned, possessed, or enjoyed, for or by an alien enemy; or in or to which any alien enemy had, and when, since that time, any right, title or interest, either directly or indirectly?

2. If you answer any part of the foregoing interrogatory in the affirmative, then set forth specifically and particularly a description of such property, right, title, credit, or interest, and if you have disposed of it in whole or in part, or of the profit or rent or interest accruing therefrom, then state when you made such disposition, and to whom; and where such property now is, and by whom held?

3. Were you since the 21st day of May, 1861, and if yea, at what time, indebted, either directly or indirectly, to any alien enemy or alien enemies? If yea, state the amount of indebtedness if one, and of such indebtedness if more than one; give the name or names of the creditor or creditors, and the place or places of residence, and state whether, and to what extent, such debt or debts have been discharged, and also the time and manner of the discharge.

4. Do you know of any land or lands, tenement or tenements, hereditament or hereditaments, chattel or chattels, right or rights, credit or credits, within the confederate States of America, or any right or interest, held, owned, possessed or enjoyed, directly or indirectly, by, or for one or more alien enemies since the 21st day of May, 1861, or in or to which any one or more alien enemies had since that time any claim, title, or interest, direct or indirect? If yea, set forth specifically and particularly what and where the property is, and the name and residence of the holder, debtor, trustee, or agent.

5. State all else that you know which may aid in carrying into full effect the sequestration act of the 30th August, 1861, and state the same as fully and particularly as if thereunto specially interrogated.

———— ————,
Receiver for the Eastern District of Tennessee.

Rule.

Garnishees to whom written or printed interrogatories are addressed, may make appearance by filing written answers, sworn to before a justice of the peace or other competent officer, unless specially ordered by the court to appear in person.

BANKRUPT LAW.

SPEECH OF HON. ELIJAH WARD,

OF NEW YORK,

IN THE HOUSE OF REPRESENTATIVES,

June 3, 1862.

The House being in the Committee of the Whole on the state of the Union—

Mr. WARD said:

Mr. CHAIRMAN: The recent action of this honorable body, in postponing until the third Monday of December next all consideration of the bill reported by the special committee "to establish a uniform system of bankruptcy throughout the United States," is viewed with much surprise and regret by a large class of our citizens who are bowed down by pecuniary obligations, from which there can be no relief except through the provisions of such a law. Supposing that adequate measures to relieve honest but insolvent debtors, and to afford creditors increased facilities for collecting their just debts, would be reported early, or at the proper time, during the present session of Congress, I purposed making some remarks when the bill should be discussed, but as the House has, I think inconsiderately, and without a full knowledge of the subject, summarily disposed of it for a time, I deem it my duty to my constituents, and to the country itself, to bring forward the chief points of the question to a fair and just consideration of the Representatives of the people. Such an act I regard as of vast public moment, and one that should not be delayed, even in a crisis like the present, unparalleled in the history of nations, when treason is seeking to overthrow the Government. While crushing out this most unnatural rebellion, we should not be unmindful of important measures, which, in addition to conferring present benefits upon the people, will also contribute to the future welfare of the country upon the return of peace.

A more deep interest is felt on this subject in our commercial cities than in other sections of the Union. The benefits of a well-regulated bankrupt law would be confined to no locality, but affect all parts of the country. The objections to such an act are chiefly made by those who, from the nature of their pursuits, are least conversant with the operations of commerce, and who will be the least affected by the proposed change. It would be conducive, I think, to the common weal if, on this point, something were yielded to the mature judgment of the people in those places which are chiefly concerned in this subject—to the commercial classes, who, by their energy, do so much to give life and vitality to industry and production throughout every State. Some concessions should be made by each for the common good. If trade and commerce are fettered, a corresponding injury is felt in the agricultural and mechanical districts. Every portion of the country looks to New York and other commercial cities for capital and business facilities. Stagnation or paralysis, to whatever extent they prevail in the great emporia, injure the national system of trade to its most remote extremities.

The enactment of a just bankrupt law, impartially and by proper rules regulating the relations and interests of debtor and creditor, has demanded the attention of Congress ever since the organization of our Government. I deem the attention of the House is now especially due to the subject in consequence of the effects produced by the present rebellion, the ruin of many honorable and loyal men, who, by their commercial and manufacturing pursuits, promoted in better times the prosperity and employment of labor in the North, contributing at the same time no little to supply the necessities and comforts of life to the South, thus tending to unite the two sections of our country by the firm bond of frequent intercourse and material interests, now for a time suddenly snapped asunder to the infinite injury of the States composing this Union, and of the world itself. The rebellion which we are struggling to repress has its victims, not only on the battle-field, but also in the ranks of commerce. The abundant crops of the North, and the foreign demand for our breadstuffs, have preserved many of our citizens from the experience of these disasters—perhaps from a knowledge of their existence. In other cases, the manufacture of fire-arms, clothing, and other articles necessary for the welfare of the Army, or progress of the war, has occasioned a local and limited prosperity; but the pressure caused by cutting off the southern trade increased the mercantile failures so greatly that in the aggregate last year they exceeded by 2,041, or more than forty per cent., the number of those who became insolvent in the great crisis of 1857. A careful estimate of these failures shows that they amounted to 6,993 in 1861, while in 1857 they were only 4,932. In this calculation those only are included whose separate liabilities amount to at least $5,000. Were it possible to enumerate the smaller debtors who have failed from the same causes the aggregate would be enormously increased. We cannot restore their lost wealth to men who have been overwhelmed by calamities which they did not merit, and of which they could not foresee the origin or consequences, but it is at once our duty and our wisest policy to enable those who are thus embarrassed and are willing to surrender all they possess on earth for the benefit of their creditors, to labor again with renewed hopes on behalf of themselves and their families, thus also contributing to the enlargement and reinvigoration of that commerce and those varied industrial pursuits on which the collection of the large revenue imperatively required for national purposes now so greatly depends.

Mr. Chairman, there are many friends of the Union in the southern States who have lost their

property through their loyalty to the Constitution, and whose losses we should endeavor to alleviate. Whenever peace is restored the solvent merchant of the South will no doubt pay his obligations, but we need such a law as shall interpose between the debtor and the creditor in the South as well as in the North, so as to counteract the tendency of popular and neighborly feeling to do injustice, and favor home creditors instead of those residing at a distance, or in other States, by facilitating preferential or fraudulent assignments, the system now unfortunately prevailing. In this way creditors will receive their just proportion of whatever assets may remain. The same laws which tend to create general dividends, and to make men honest, will operate in each section of the Union upon the same human nature, and tend to produce the same results. The South is already deeply impoverished, and as long as she remains so, the interests of our merchants must suffer with her. On the return of peace, the restoration of prosperity to all parts of the Union will be no less conducive to northern than to southern interests. A humane and permanent bankrupt law, enacted by the General Government, will save millions of dollars to the northern creditors, and prevent endless delay and litigation.

In 1841 an extra session of Congress was called, chiefly for the purpose of adopting some measures of relief for the embarrassed condition of the country, and especially for the relief of debtors. In my judgment, this class of our fellow-citizens never deserved our attention so much as at the present time. Comparatively few of the recent insolvencies have resulted from headlong speculations like those which culminated in 1837. Many debtors yet remain weighed down by the cares and difficulties caused by the financial embarrassments of 1857, when, in eight weeks alone, after a long-continued expansion of loans and the circulating medium, the banks of the city of New York called in $21,000,000 of bank debt, and the other thirteen hundred and fifty banks of the United States adopted the same policy. The revulsion was not confined to this country or this continent, but swept over the world, and was, perhaps, felt with more severity by other nations than our own. No foresight on the part of many who were then substantial and prosperous men of business could have provided against the complicated disasters of that year. Prudent men, engaged in their ordinary pursuits, were struck down without any sufficient warning, and many who had reason to believe themselves rich, and beyond the reach of the casualties of fortune, suddenly became bankrupts. But while the number of those who were reduced to insolvency is greater than in 1857, it is equally certain that the causes of their difficulties were unanticipated alike by the Government and merchants of this country. So far as commercial causes alone were concerned, the prospects of a successful and stable business were seldom more flattering than theirs were a year and a half ago. The causes of recent insolvencies are for the most part entirely political, and the unfortunate men who have thus been ruined should no more be punished for these misfortunes than for any of the numerous accidents to which mankind is liable.

The present indebtedness of the southern to the northern States is carefully estimated to be about $300,000,000, of which $159,000,000 are due to the city of New York, $24,000,000 to Philadelphia, $19,000,000 to Baltimore, and $7,600,000 to Boston. By the losses thus incurred many men of honor and integrity, whose means of meeting all their pecuniary engagements were as little doubted by themselves as by all who knew them, are undergoing the slow torture of mercantile failure, hopeless and lifelong if they are not relieved by the Government of their country. In not a few cases the amount of their debts is many times less than that due to them by their former customers in the southern States. Last year in the city of New York, nine hundred and thirteen mercantile houses became insolvent, whose separate liabilities were in no case under $50,000, and in several instances amounted to some millions. Out of two hundred and sixty-six leading dry-goods houses reported good when the rebellion began, only sixteen remain, and their condition is precarious. These firms cannot well be spared from our commercial circles at this present crisis. The common rules of humanity require our sympathy in their behalf, and no less do justice and a regard for the interests of the Republic require that after a strict examination of the affairs of each insolvent, if he uprightly and honorably surrenders his property for the benefit of his creditors, he shall be permitted to begin the world anew.

Sir, it is a striking fact, and little to our credit, that while in most respects the United States adopt a system more lenient to the debtor than that existing in any other nation, they should not have adopted such measures for exacting justice to creditors and affording relief to honest and unfortunate debtors, as England, France, and most other commercial countries have long ago adopted and found by long-tried experience to be at once expedient and humane. The just protection of the weak and unfortunate is eminently characteristic of our institutions and of the customs and wishes of our people; and yet no wise and equitable law exists by which each bankrupt may be compelled to distribute his assets fairly and impartially among his creditors, and may then be free to devote his energy and ability to future acquisitions. Our States have, for the most part, long ago abolished imprisonment for debt, but we yet continue to treat misfortune as if it were a crime, and leave debtors as prisoners at large. They may indeed use their personal labor to earn a livelihood, but the reward of successful industry arises far more from savings and the accumulation of capital than from labor alone; and from these opportunities they are debarred. The hand of the law cuts them to the quick through one of the most honorable and sacred instincts of our nature, by disabling them from making any provision for their families. The insolvent debtor can make no saving for the support of himself, his wife and children, when he is disabled from earning the means of subsistence, either by sickness, or by those natural infirmities of advanced age to which sooner or later we must all succumb. All savings are prohibited, and nearly all hope for his future life is destroyed. Many thousands of the most deserving of our fellow-citizens are in this condition. Many, alike from the liberal enjoyment of riches and from moderate competence, have thus been reduced to poverty and want. If their sufferings affected themselves alone, or arose from their own imprudence and recklessness, they would be less worthy of our sympathy, but they arise in many cases from causes which no ordinary wisdom could have foreseen, yet less could have controlled. Insolvency among mercantile men is one of those calamities of which it may well be said, "let him who thinketh he standeth take heed lest he fall." The various casualties arising from commercial changes, the dishonesty of employés, losses by fire or on the ocean, or through civil war, make daily additions to the number of failures. It is estimated that throughout our great commercial cities in ordinary times five per cent. of the persons engaged in business fail every year. Ninety-five per cent. of our chief business men become insolvent at least once in their life-times, and most of those who ultimately succeed have at some time passed through the same ordeal and been dependent upon the leniency or indulgence of their creditors. In many—perhaps in most—cases the honest debtor is met by his creditors in the spirit of justice. Creditors who adopt this line of action will surely not complain of a law making the course they pursue obligatory upon other creditors, thus preventing fraudulent and preferential assignments and much expensive litigation and delay.

Those who conscientiously oppose such a law as will tend to render justice to both parties by exacting from the debtor all he possesses, to be divided equally among his creditors, guarding by stringent and effective laws against fraud, and restore him again to active life, are, I think, influenced rather by habit and custom than by due consideration. A bankrupt law, properly regulated, is a necessary element of every well-adjusted commercial system. Commerce has always been and always will be attended with many hazards. In an early period of human history, before credit became an element generally recognized in commercial transactions, and when the artificial wants of the people were few and unimportant, the risks attending the exchange of commodities were chiefly those connected with carriage from place to place, including dangers from the elements and from the invasions and robberies incident to an unsettled condition of society. Trade was chiefly limited to payments in hand. The code of laws was founded upon principles less humane and exalted than those we now recognize as of the highest wisdom. The unfortunate debtor was regarded as a criminal who could only discharge his obligations to a wronged and indignant community by a protracted or life-long confinement in prison, or by becoming a slave for a term of years or for life. It may have been that the losses which then occurred were often caused either by collusion with others or by some violation of common honesty. In our time we have ceased to hold the common carrier responsible for those calamities or injuries which are caused by the act of God or of the public enemy, but the debtor is not the less held to his obligations, although the losses which have overwhelmed him are caused by war or rebellion, or by those natural causes in which man had no direct or immediate agency.

In periods of early history, the annals of all maritime and trading nations are red with the blood in which the laws as to debtors have been written. There was a period in Roman history when the body of the debtor was divided among his creditors; and in our century and time he has been placed in close confinement, with no means of subsistence except such as were afforded by the charity of friends, as if by these means he would have been enabled to discharge his debts to his creditors. The heart sickens, in this age of better humanity, at the recital of those disasters which in former times overtook the poor delinquent and those who, under Providence, were naturally dependent upon him for sustenance and support.

The history of Great Britain affords us many instructive suggestions on this subject. Occupying only a narrow territory, her commerce, more vast than was attained by any other country, is supported by a system of credit. The most close investigation of economic science and a careful practical application of sound principles are necessary to maintain the prosperity, it might almost be said even the existence, of her people. Her credit system, like our own, is liable to many reverses, which the records of her courts of bankruptcy, stringent as they are, show to be unavoidable. The peculiar hazards necessarily attendant upon widely diversified commercial operations early induced her statesmen to turn their attention to some method of rapidly and certainly distributing the remaining assets of insolvent debtors. Accordingly, about the year 1543, (35 Henry VIII,) more than three centuries ago, Parliament enacted the first bankrupt law in that kingdom. It is worthy of notice that early legislation upon this subject arose from a regard to the interests of creditors only. It was intended chiefly to guard against the frauds which, even at that period, and under the former system of severe punishment, were supposed to account for a large proportion of the failures. It had become a common occurrence for delinquent debtors to flee from the kingdom in order to avoid the imprisonment consequent upon failure, taking with them whatever valuables they could carry; and the first enactments of bankruptcy were for the purpose of preventing these summary and inconvenient methods of payment. Severity towards debtors had been found to defeat its own purposes. From time to time these laws have been modified for the benefit of debtors. From the first enactment of a bankrupt law in England, they have been regarded as necessary parts of every well-adjusted commercial code. The broad principle is fully recognized, that whoever shall, in good faith, surrender all his property for the equal benefit of his creditors, shall be discharged from his debts. The law of that country now provides both for voluntary and compulsory bankruptcy, and the interest of both parties, so far as they can be protected by statutory provisions.

For many reasons, a bankrupt law is more necessary in the United States than in any other country. Although we rank high among the chief maritime and commercial nations, transacting a vast trade between the different States of our own

Union, and a widely-extended commerce throughout the world, our business is done with comparatively limited capital, and is, therefore, attended with more than ordinary hazard. A common spirit of enterprise arises from the general intelligence of our people, the character of our institutions, and the unlimited resources of our wide-spread country. But nearly all business men unavoidably encounter greater perils than in European nations. The financial revulsions which occur in all commercial countries are here peculiarly severe. Our business men depend, to a great extent, upon the facilities and paper money furnished by the banks. Great fluctuations continually occur in the amount of the currency, loans, and discounts obtained from these institutions. Upon this subject the panic of 1837 is suggestive. In January, 1834, bank loans and discounts amounted to $324,119,499, but in the corresponding date of 1837 they reached the amount of $525,115,702, having increased more than sixty per cent. in three years.

The extraordinary expansion in the circulation and loans, stimulated by the removal of the public deposits from the United States Bank to the State banks in October, 1833, led to a great increase in importations, which rose up from $108,118,311, in 1833, to $189,980,035 in 1836, and largely affected the sale of public and other lands. The receipts from the public lands in 1833, were $3,967,682, and in 1836, $24,877,179. The overtrading and speculation thus engendered were brought to a close in 1837 by the "specie circular," and the panic of that year ensued, resulting in the suspension of specie payments by the banks and in a general bankruptcy.

Instead of a natural increase in the loans and discounts of the banks, in accordance with the increase of population and the exchangeable products of the country, they continued to decrease until 1843, when they were only $254,544,937, or less than half of the amount six years before. Not until 1854, a period of seventeen years, did they again attain the same amount as in 1837. They then had gradually increased to $684,456,887 by January 1, 1857, but in the year following were suddenly diminished by more than $100,000,000. The circulation in current bank notes fluctuated in the same manner. From $94,839,570, about January 1, 1834, it increased to $149,185,890 in 1837, decreased to $58,563,608 before 1843, then gradually increased to $214,778,822 at the beginning of 1857, but during that year was suddenly diminished by about $60,000,000, or nearly one third its amount, being only $155,208,344 on January 1, 1858.

The financial revulsion of 1857, the effects of which are yet in existence, arose from causes, in some respects, different from those of 1837. Until 1857 commerce and bank facilities had seemingly kept pace with the population and resources of the country. The cause of the reverses may chiefly, I think, be traced to the increased diversions of capital from its legitimate purpose to railroad enterprises and western land speculations. Prior to 1858, about 24,290 miles of railways were constructed at a cost of not less than $1,000,000,000. An impetus was thus given to land operations along the lines of many new routes of travel. From 1854 to 1856, inclusively, the proceeds from land sales amounted to $20,404,691—26,691,670 acres were appropriated to bounty land warrants, and 18,372,550 acres more were granted by the Thirty-Fourth Congress to railroads.

These figures taken from the financial report of the Secretary of the Treasury, furnish an unerring index to some of our commercial revulsions. The system should be familiar to us all. For many consecutive years there is a gradual increase in the circulating medium and in the accommodations of the banks. When the crisis approaches money is said to be abundant. Those who receive loans from the banks are enabled to extend their own credit, and give credit in return to the numerous traders, manufacturers, and adventurers, who, in this country, are never at a loss for opportunities of speculations or public improvements. Notes of hand, mortgages, stocks, and even real estate itself, being then readily convertible into money, become, to a considerable extent, a medium of exchange, and swell the volume of the currency. The system pervades every class of society. Hope and inexperience ever suggest that the new prosperity will be permanent and progressive. Each epoch presents new features. The lessons of past teachings are held to be inapplicable to the present time, and are unconsidered, or where they are remembered, the days of adversity are confidently believed to be remote. Personal property of nearly all kinds is bought and sold on an extended system of credit. Stocks are negotiated, which, when the time of pressure arrives, are swept away by earlier liens. The amount of railroad stocks and securities alone, which ceased to have any cash or negotiable value in 1857-58 is believed to have been not less than $500,000,000. Real estate is often bought and deemed the most secure investment, a quarter or half of the purchase money being paid down, and a bond and mortgage given for the balance. The mortgage is foreclosed during the revulsion, at a sale where there is little competition or none at all, and the mortgagor is held for the remaining balance of the debt. In many cases the rent of costly edifices in large cities is diminished at least one half of its previous amount. Public works are suspended. Manufactories are stopped, wholly or in part; and the grain itself, which would have been exchanged for other products, remains in the granaries of the farmer or unthreshed upon the prairies, for need of the requisite money or mutual confidence to bring it to market.

Suddenly, and without any warning intelligible to the public, a financial collapse occurs. Men whose credit was unimpeachable, and whose pecuniary responsibility was as little doubted by themselves as by others, become unable to sell their property or negotiate new loans, while they are required to pay the debts they have already contracted. Their "means have been invested." Tens of thousands become insolvent who have abundant property to pay the whole of their debts, if it could be sold at the average price of the few preceding years; but the relative value of money and of property has been changed. Frequently creditors are willing under such circumstances to release the debtor and assist him with credit in renewed exertions, but their good intentions are frustrated by others who insist on the full letter of the law which gives them their pound of flesh, and continue the useless bondage of the debtor. He is free to go where he chooses, but he can accumulate no saving, either for the benefit of his family, for his own use in sickness or old age, or as a small capital by which he might be enabled to pay the debts conscientiously contracted in more prosperous times, with full belief in his ability to pay them. He is like those who are said to have been sentenced laboriously to draw water, pouring it into empty vessels whence it escapes as quickly as it enters. This is the penalty our laws inflict on undeserved pecuniary misfortune. No sooner does the debtor begin to accumulate than he is stripped by the creditor. Hence subterfuges are adopted. Recourse is often had to indirect ownership, sometimes involving actual perjury without offending against legal enactments, but destroying self-respect and inflicting the penalties of conscious guilt upon the perpetrator, who often drifts on gradually through much suffering, to greater and greater demoralization. His family is reared and its character formed amid a cloud of adverse circumstances. If we cannot make men honest, we can lessen the temptations which often lead them to do wrong.

Let us see who is benefited by the laws which inflict so much misery upon debtors, even when they are honest, and upon their no less innocent families. The percentage of debts paid out of insolvent estates is larger where bankruptcy laws exist. The experience of England is conclusive on this point, for the chief object of the bankrupt law of that country, found by the experience of several centuries to be attained, is to render the estate of the bankrupt available in liquidation of his liabilities before it can be concealed by fraud or dissipated by bad management, or other means. As the morals and philosophy of trade advanced, it was found that humanity to the debtor did not diminish the payment of debts, but had the contrary effect; and then the present creditable system found a place in the statute-books of England. The creditor at once receives the proceeds of the bankrupt's estate, and the debtor is wholly released from his liabilities.

Business men of the widest commercial knowledge concur in the belief that such a law would produce good results in our own country. The belief has a broad foundation in human nature itself. The first intentions of men are less selfish than their second thoughts. The trader, who has recently become insolvent, is both able and willing to do more for his creditors than he is either able or willing to do after long protracted despair and insolvency. Those who, for commercial purposes, have made this subject their special study, affirm that, whenever a moderate compromise has been offered immediately after failure, and been repelled, in hopes of obtaining a better settlement, the creditors, in ninety cases out of a hundred, would afterwards be glad if they could compromise the debt at a less percentage, but usually fail to realize anything—the debt becoming a total loss.

An attempt to settle with their creditors is usually one of the first efforts on the part of those who become insolvent. If the debtor fails in this through want of concurrence among his creditors, and the claims against him are pressed, he foresees long years of thralldom and embarrassment, and his next impulse is to secure provision for himself and family. In his despair of meeting with justice, he often has recourse to many subterfuges, few of which ever reach the public ear; but the common course is to make a preferential assignment, permitted by law, thus placing his assets in the hands of one or more friends, from whom he hopes to obtain employment or assistance in business, or perhaps support and money from the actual proceeds. The remainder of his creditors remain unsatisfied, and he bids them defiance. Creditors, on the other hand, fearing assignments of this kind, often submit to compromises which they know to be unjust. A proper bankrupt law prohibiting these assignments would diminish, if it did not destroy, such dangers, and thus befriend the creditor. In many cases through these assignments, or by other means, the debtor is tempted to keep all he can until some such terms as he thinks favorable can be effected. From this time he leads a surreptitious and demoralizing life. Perhaps one creditor alone objects to the offers made. The debtor is determined not to pay one unless he can pay all. It is necessary his family should be maintained. Time passes, and his assets are diminished. Often the creditor, fearing preferential assignments, hesitates to use legal measures. The only dividend that can now be offered seems paltry. The debtor finding that neither the world nor the world's law befriend him, and believing that the bondage of debt will be perpetual, not unfrequently sets aside the common restraints of prudence and morality, and becomes an incubus and injury to society, instead of devoting his intellect and energies to its benefit. If of a nature too scrupulous and honorable to yield readily to temptation, his sufferings are severe and constant. He endeavors to provide for those dependent upon him, but their respect for him is diminished by his own loss of conscious independence, and the change experienced in the social position of them all, arising not from the necessity of proper retrenchment. This he and they can meet, but society always attaches a certain degree of odium to the insolvent, who in his turn is humiliated, and often so far depressed that he resorts to dissipation as the means of finding a temporary forgetfulness. He feels weak and degraded in the eyes of that little domestic circle of his wife and children, of those whom he is bound by every honorable and sacred instinct of our nature to maintain and defend at all legitimate hazards, by the daily labor of his life, receiving in return as his natural right the cherished equivalent of their affection and respect. He can bestow upon them nothing more than a temporary subsistence, taking care at best that he never has at his command more than the savings of a limited number of days. The law has done all it can to make honesty no longer the best policy for him, and the only hope he has of worldly prosperity, or of competence, consists in practicing dishonorable concealments.

It is urged by many persons that the bankrupt act of 1841 was unpopular, and led to the overthrow of the party that was chiefly instrumental in its passage. I regard such an objection as unworthy of statesmen of wide and liberal views,

who comprehend a true and enlarged commercial policy. The passage of that act was preceded by an extraordinary financial panic, resulting in general insolvency, the causes of which I have briefly traced already. There was no relief for these bankrupts except through the passage of such a law. It was urged upon exaggerated grounds, as to the number of the insolvents and the amount of their indebtedness, and formed a part of the series of financial measures of the party then in power. Under a great pressure, it was passed. It was objectionable in some respects; in these particulars it could have been afterwards amended; but in its main features it would have operated beneficially. As soon as the voluntary applicants, who were 33,739 in number, with an aggregate indebtedness of $440,934,615 01, were relieved, or in the process of relief, the law was repealed—just when, through the involuntary clause, it would have become serviceable to the creditor—contributed largely to prevent future panic, and exercised a wholesome influence upon trade and commerce. The error was not in the passage of the act of 1841, but in its early repeal before it had received a fair trial.

Another prominent argument against affording relief to the unfortunate but honest debtor who has become the victim of casualties which, perhaps, as in the case of our present war, the statesmen and Government of our country were unable to prevent or foresee, is founded upon the fact that the assets of those who became bankrupt under the law of 1841 yielded only a small percentage to their creditors. Merely a moment's reflection would be sufficient to make it plain to any man that the losses then brought within the reach of statistical research were the accumulated losses of many previous years, created under the operation of laws like those now existing, when, as now, there was no general law of bankruptcy. No such enormous aggregate of hopeless debt could have been accumulated under a permanent bankrupt law. In almost every case the creditor would have compelled an equitable distribution of the estate of the insolvent before it was lost by delay, or the debtor would have availed himself of the prospects opened to every honest man by just enactments before his assets had been so fully consumed or squandered. These losses were incurred under a legal system permitting preferential assignments, and thus encouraging unjust concealments. Under a proper system the creditor would not be restrained by threats from enforcing his claims, but would compel bankruptcy and obtain a dividend before the estate could be concealed by fraud or dissipated in the maintenance of the despairing and entrammeled debtor.

It should also be borne in mind that a large portion of the liabilities of bankrupts in 1841 was created in the purchase of unimproved property, partly paid for in cash, and the remainder secured by bond and mortgage. After the panic the mortgagor failing to meet the principal, the real estate was sold, and bought in by the mortgagee, at, in many cases, less than the amount of the mortgage; thus securing his cash payment, and finally the whole property. The bankrupt act did not disturb prior liens. Again, the assets were put up at auction by the general assignee, in many cases, without an investigation as to their value, and were bought up by some friend of the bankrupt, who had more accurate information as to them.

Sir, reckless speculators will continue to encounter risks whatever may be the statutes, but the history of the world assures us that the most flagrant speculations have occurred where insolvent debtors were treated as criminals. We are yet without experience to guide us as to the comparative percentage paid under the present system, and the amount that would be paid under a just, stringent, and permanent law of bankruptcy; but it is worthy of note, that while under the insolvent laws of England, which release the body but do not discharge the debt, few dividends are made, a dividend is almost always made under the bankrupt law which encourages integrity, by permitting the debtor to have brighter prospects for the future, by releasing him alike from prison and the debt—giving him no hope of prosperity but through perfect honesty, yet allowing him through this course of conduct a relief, complete and permanent. Such laws present all possible motives for honesty, and powerful incentives to abstain from fraud.

Sir, it seems to be a just view of the case, in accordance with the opinions usually entertained by business men, that the parties to commercial transactions, where credit is given, are, to a certain extent, adventurers in common. For fraud or dishonesty, the guilty should be punished—but in sales on credit, the risk is borne by each party, although not in equal proportions. The vendor inquires closely as to the pecuniary means of the purchaser, his habits of life, his knowledge of business, and his adaptation to its pursuits. He calculates the chances of his customer's success, by inquiries as to the competition he will experience, his practice of selling on time or credit, and by information from all possible sources. In this case he may be regarded as an insurer of his own debts, and generally charges his debtor a higher price upon credit than for cash. In those cases where misfortune and not his own crime has overwhelmed the debtor, he should, upon surrender of his effects, meet with an honorable discharge.

Mr. Chairman, various systems of insolvency regulating the relations of debtor and creditor prevail in different States. Special enactments for this purpose are necessary in every commercial community. In some cases his present assets are distributed, and he obtains no release from the debt—his future acquisitions being deemed also the property of his creditors. In others the person of the debtor is discharged, and he is free to acquire property in future, if a specified proportion of his creditors vote in his favor. In yet other cases he is discharged if his assets pay a certain percentage of his debts, and the consent of his creditors is not essential to his release.

Insolvent laws, of which any debtor, whether imprisoned or not, may have the benefit, exist in California, Michigan, Ohio, Indiana, Louisiana, Missouri, Connecticut, New York, Massachusetts, and Rhode Island. Those persons who are imprisoned on civil process are alone entitled to relief in Delaware, Maryland, Tennessee, North Carolina, South Carolina, Georgia, Alabama, Mississippi, Illinois, and New Jersey. In Maine, New Hampshire, Kentucky, and Virginia, the relief is confined to debtors charged in execution.

In California, Michigan, and Massachusetts, statutes provide for the discharge of the insolvent from the debt itself, if his assets are assigned and distributed among his creditors, while in many other States his person only is excepted. In the State of New York the insolvent laws enable the debtor, with the consent of "two thirds in value" of his creditors, and on the due surrender and disclosure of his property, to be discharged from all his debts contracted within the State, with certain exceptions.

For commercial purposes the different States are a unit. At present their laws do not extend beyond the limits of the separate States, and the persons subject to their separate jurisdiction. In this varied legislation of the different States we find a valid reason for comprehensive enactments. A law which will embrace the whole Union in its provisions has now become indispensable. Nothing less can relieve our insolvent citizens from the heavy pecuniary obligations which oppress their energies, blight their future, and deprive the country of the benefit of their services and industry.

The aggregate number of failures during several years, and the amount of the indebtedness, considering only those cases in each of which the debts amount to $5,000 or more, and leaving out the numerous class of insolvents who owe less, is estimated as follows:

	Failures.	*Liabilities.*
1857	4,932	$291,750,000
1858	4,225	95,749,662
1859	3,913	64,394,000
1860	3,676	79,807,845
1861	6,993	207,210,427
Totals	23,739	$738,911,934

Many of these liabilities have been discharged by voluntary compromise, but this condition of our commercial affairs clearly requires the intervention of Congress, and this honorable body will fail in the discharge of an important duty if it does not perform its share in affording proper relief.

Upon this subject some differences of opinion exist between the commercial and agricultural interests—the former urging a bankrupt law, and the latter inclining to oppose it. I see no good ground for opposition. Both parties would, I think, be satisfied with such an act, as in its voluntary provision, should apply to all persons, but in its compulsory clauses only refer to those who are merchants using the trade of merchandise, all retailers of merchandise, bankers, factors, brokers, undertakers, and insurers. The agricultural interests would not be injuriously affected by such an act. It seems to me that we can meet upon this subject in a spirit of harmony, and, without the imaginary rivalry of different interests, adopt some suitable measure that will do justice to that class of our citizens in whose behalf I now appeal to this honorable body.

Society itself has at all times an interest in the subsequent life and exertions of the bankrupt. The hope or expectation of future acquisition by conducing to the industry, honesty, and morality of the unfortunate debtor contributes to the welfare of the community. A due regard for the public good demands that the future acquisitions of the debtor who has faithfully surrendered all he owned for the benefit of his creditors, should be placed under his own control, and fully justifies prudent and careful enactments for that purpose.

APPENDIX No. 1.

Tables showing the expansion in loans, discounts, and circulation by banks, from 1834 to 1837, the rapid increase of importations, and the proceeds of the sales of public lands, affecting

THE PANIC OF 1837.

Statistics of the banks, from January 1, 1834, to January 1, 1837.

Date.	No. of banks.	Capital.	Circulation.
January 1, 1834....	506	$200,105,144	$94,389,570
January 1, 1835....	558	231,250,337	103,692,495
January 1, 1836....	676	324,240,292	140,301,638
January 1, 1837....	680	378,421,168	149,185,890
Increase	174	$178,316,024	$54,796,320

Date.	Deposits.	Specie.	Loans and discounts.
January 1, 1834..	$75,666,986	.....	$324,119,441
January 1, 1835..	83,081,365	$43,937,625	365,163,834
January 1, 1836..	115,104,440	40,019,594	457,506,680
January 1, 1837..	127,397,185	37,915,340	525,115,702
Increase.....	$51,730,199	.....	$200,996,261
Decrease	.....	$6,022,985	

Amount of importations from 1833 to 1837, inclusive.

	Imports.	*Per capita as to population.*
1833	$108,118,311	$6 25
1834	126,521,332	7 09
1835	149,895,742	8 64
1836	189,980,035	10 93
1837	140,989,217	7 53

Receipts from the sales of public land from 1833 to 1837, inclusive.

1833	$3,967,682 55
1834	4,857,600 69
1835	15,757,600 75
1836	24,877,179 86
1837	6,766,236 52

APPENDIX No. 2.

PANIC OF 1857.

Statistics of the banks from 1854, when the discounts, for the first time in seventeen years, exceeded those of 1837.

Date.	No. of banks.	Capital.	Circulation.
January 1, 1854....	1,208	$302,376,071	$204,689,207
January 1, 1855....	1,307	332,117,288	186,952,223
January 1, 1856....	1,398	343,874,272	195,747,950
January 1, 1857....	1,416	370,834,686	214,778,822

Date.	Deposits.	Specie.	Loans and discounts.
January 1, 1854.	$188,188,744	$59,410,253	$557,397,779
January 1, 1855.	190,400,342	53,944,546	576,144,758
January 1, 1856.	212,705,662	59,314,063	634,183,280
January 1, 1857.	230,351,352	58,349,838	684,456,887

Length of railways in the United States, with the chief dates of their construction, to 1857, inclusive.

	Miles.
1848 and earlier	5,265
1849	932
1850	1,253
1851	1,506
1852	2,022
1853	2,437
1854	2,196
1855	3,927
1856	2,011
1857	2,851
Total	*24,290

Amount of importations from 1854 to 1857, inclusive.

1854	$304,562,381
1855	261,468,520
1856	314,639,942
1857	360,890,141

Proceeds of sales of public lands from 1852–53 to 1856–57, inclusive.

1852–53	$1,667,084 99
1853–54	8,470,798 39
1854–55	11,497,049 07
1855–56	8,917,644 93
1856–57	3,829,486 64

In the Thirty-Fourth Congress, 1856–57, 18,371,550 acres were granted to railroads; and under the act of 1855, 26,710,670 acres were granted for bounty lands, prior to September 30, 1857.

Statistics of the banks, January 1, 1861.

Number	1,569
Capital	$396,425,599
Loans, &c.	660,804,217
Specie	72,359,352
Circulation	190,255,977

APPENDIX No. 3.

Summary statement exhibiting the number of applicants for relief, amount of their debts, &c., under the bankrupt act of 1841, and other proceedings had thereon in the several district courts of the United States, so far as the same had been received at the Department of State.

STATISTICS OF THE SYSTEM OF BANKRUPTCY OF 1841

Districts.	Number of applicants for relief.	Number discharged from debts.	Number refused discharge.	Applications still pending.	Number of creditors given by applicants.	Aggregate debts given in by applicants.	Aggregate property surrendered by applicants.	Percentage paid—in cents and fractions.	Aggregate roll of judicial proceedings.
Maine	3,478	2,456	27	630	83,927	$16,529,300 01	$5,449,511 90	0.46	$37,325 00
New Hampshire	1,792	1,641	49	102	41,761	3,732,623 19	1,973,834 42	0.84	98,330 52
Massachusetts	3,350	3,114	63	.....	95,154	24,752,932 81	15,468,546 19	4	6,148 00
Connecticut	1,537	1,413	7	55	33,814	10,469,273 00	.....	0.71	.....
Northern district of New York	5,598	4,756	39	803	171,103	51,556,405 25	1,167,487 94	13.66	34,466 00
Southern district of New York	2,550	2,121	369	420	109,485	120,580,415 00	140,417 82	1	110,000 00
New Jersey	810	769	25	16	33,673	17,811,303 47	19,186 79	0.97	11,413 27
Eastern district of Pennsylvania	1,799	1,438	16	314	65,678	31,965,723 68	99,253 20	.....	11,995 20
Maryland	490	346	17	108	12,962	5,745,451 49	1,903,951 69	1	1,981 50
Eastern district of Virginia	1,189	913	15	261	23,468	8,713,116 10	20,783 00	.....	99,005 73
Western district of Virginia	1,566	1,504	4	12	78,101	3,957,032 66	23,985 49	0.06	43,197 68
South Carolina	277	206	4	66	8,113	5,538,831 00	817,907 00	2.18	14,324 00
Northern district of Alabama	891	780	4	37	26,335	6,048,162 00	96,723 00	0.25	31,838 85
Southern district of Alabama	718	680	7	31	24,642	25,023,243 64	100,000 00	.....	23,889 25
Southern district of Mississippi	872	861	.....	3	22,772	46,156,542 40	6,332,666 64	0.006	23,588 10
Middle district of Tennessee	1,313	1,121	1	221	35,248	7,014,840 00	315,678 00	4.5	40,403 00
Kentucky	2,373	1,387	14	972	81,139	16,241,171 48	5,499,171 75	0.8	.....
Illinois	1,592	1,319	1	264	48,728	14,498,396 23	3,569,524 89	0.07	29,481 25
Arkansas	178	104	10	64	3,847	1,811,674 50	138,966 87	0.19	3,506 22
Michigan	671	645	1	12	22,408	16,731,685 00	159,674 70	0.027	41,810 54
East Florida	27	23	1	.....	727	324,523 82	247,117 33	1	500 00
West Florida	16	14	1	1	249	114,404 39	14,897 00	7.66	480 00
Southern district of Florida	3	3	.....	.....	44	.....	.....	.....	.....
Wisconsin	315	276	39	.....	7,644	2,532,444 00	5,925 00	.....	.....
Iowa	223	192	31	.....	5,130	844,552 88	2,613 65	0.05	5,241 08
Washington county, District of Columbia	284	184	2	62	5,335	1,940,412 84	159,017 53	0.27	4,601 16
Alexandria county, District of Columbia	33	25	.....	5	836	191,164 20	1,356 74	9.07	303 19
Total from twenty-seven States and Territories	33,739	28,991	706	4,463	1,049,603	$440,934,615 01	$43,697,307 13	.....	$602,332 64

APPENDIX No. 4.

STATISTICS RELATING TO RECENT BANKRUPTCY.

The following statistics refer exclusively to failures of at least $5,000 each:

	No. failures.	*Liabilities.*
1857	4,932	$291,750,000
1858	4,225	95,749,662
1859	3,913	64,394,000
1860	3,676	79,807,845
1861	6,993	207,210,427
Totals	23,739	$738,911,934

It is estimated that in 1857–58–59 the liabilities of swindling and absconding debtors were $10,635,500
Liabilities paid in full 39,315,000
Paid preferred creditors 286,400,000

During this same period of three years the average settlement, when made, was thirty-one per cent.; of these forty-two per cent. failed again in payment.

*The above railways were constructed at an expense exceeding $1,000,000,000.

In 1857–58–59–60–61, the liabilities of insolvents in the eastern States were $120,521,921
In the middle States 376,937,955
In the western States 153,787,978
In the southern States 86,910,628
Total *$738,158,482

Amount of liabilities in the principal cities of the United States,† through failures, in 1857–58–59–60–61.

New York	$257,314,411
Buffalo	6,046,000
Boston	73,221,921
Philadelphia	72,947,299
Chicago	19,219,759
Cincinnati	15,841,021
Amount carried forward	$444,590,411
Amount brought forward	$444,590,411
New Orleans	17,597,000
St. Louis	7,417,874
Providence	7,070,000
Baltimore	13,979,500
Detroit	5,120,675
Louisville	3,817,189
Dubuque	3,615,000
Charleston	3,581,000
Richmond	2,500,965
Total	$509,298,614

Failures in northern and southern States.

Year.	Northern States.		Southern States.	
	No.	Amount.	No.	Amount.
1857	4,257	$265,818,000	675	$25,932,000
1858	3,113	73,608,747	1,112	22,140,915
1859	2,959	51,314,000	954	13,080,000
1860	2,733	61,739,474	943	18,068,371
1861	5,935	178,632,170	1,058	28,578,257
Totals	18,997	$631,112,391	4,742	$107,799,543

Amount of debt due from southern to northern merchants.

The total mercantile indebtedness of the South to northern merchants is carefully estimated to be $300,000,000. The following sums are computed to be thus due to the chief northern commercial cities:

New York	$159,800,000
Philadelphia	24,600,000
Baltimore	19,000,000
Boston	7,600,000

The total indebtedness of those who became insolvent in the northern States in the year 1861 is $178,632,170, against $61,739,474 the preceding year. The number of failures exceeds that of 1857 by 1,678, being 4,257 in 1857, and 5,935 in 1861. The total number of failures in 1861 in the southern States, as far as known, is 1,058, being 383 more than in 1857; but these failures probably much exceed the estimates.

As the indebtedness of those failures, where the debts amount to less than $5,000, is computed to be *at least* one third in addition to the foregoing estimates, the number of the failures is probably quite as great as that of larger failures.

*Does not include California.

† The failures in the southern States, except those in Baltimore, Louisville, and St. Louis, the State of Delaware, and the District of Columbia, are computed up to May 1, 1861, only.

POLICY AND OBJECT OF THE WAR.

SPEECH OF HON. A. L. KNAPP,

OF ILLINOIS,

IN THE HOUSE OF REPRESENTATIVES,

June 5, 1862.

The House being in the Committee of the Whole on the state of the Union, and having under consideration the bill for the enlistment of minors—

Mr. KNAPP said:

Mr. CHAIRMAN: In the history of nations, not unlike in this respect that of individuals, great crises at times occur, when every action is fraught with interest, every step a measure of most vital and lasting importance, and destined in their effect upon that history, as safety and prosperity or ruin and destruction is the result, to an everlasting remembrance of gratitude or an immortality of infamy.

In such a crisis, without parallel in the records of nations, whether in the magnitude of the stake at issue or the greatness of the means employed in the contest, is our country placed to-day. And to us, as the exponents of her legislative will, and the authors of her general policy, are the eyes of our great constituency directed. In our hands are now, thanks to the successes of our arms, placed the destinies of the Republic.

At an earlier period in the rebellion, before the ensign of the Republic had emerged in triumph from the smoke of decisive conflict, and while armies such as rebellion had never before raised stood arrayed in the field, flaunting their banners in sight of the Council Chambers of the nation, and thundering almost at the very gates of the capital, the issues of national existence were in the hands of those whom patriotism had summoned from the quiet avocations of peace and the endearments of home to take their place in the ranks of their country's defenders.

Right nobly, Mr. Chairman, have they performed their duty, as the records of the last few months will ever attest; and now, while the "waning proportions" of this rebellion give confident promise of its entire suppression and the restoration of law and constitutional authority to their wonted and accustomed spheres, it devolves upon us to perfect the work so gloriously carried for-

ward thus far, and see that the results of so much labor, treasure, and priceless blood, by our action does not "turn to ashes on our lips." When, but a little more than one year ago, the nation awoke from its sleep of seeming security by the echoes of the guns trained by American citizens upon a national fort and garrison, every doubt was dissipated as to the nature of the contest breaking upon us and the means necessary and indispensable to be used on our part to vindicate the outraged honor of the nation and to bring to justice the traitors who had wrought this work.

In common with thousands, many gallant spirits of whom have since proved their devotion to their country by the offering of their lives, I believed that this ordeal might have been avoided without sacrifice of honor to either section of the country. But when the sword was drawn, and the question submitted to the arbitrament of war, the last argument ever employed, no alternative remained but submission to traitorous demands, on the one hand, or the acceptance of the trial by arms to which we were invited on the other. Simultaneous with the mustering forth of the hosts who, in response to the call of the constituted authorities, flocked to the standard of the Republic, as never before men came to the defense of an assaulted country, arose also an anxious desire to fully understand the policy which would be adopted in the prosecution of the struggle, and to hear announced the principles which would characterize the contest. Nor was this, Mr. Chairman, from the peculiar nature and causes of the coming strife and the circumstances surrounding us, either undesirable to know or unreasonable to expect.

With a country unequaled in extent, fertile in resources almost beyond example, peopled by a brave and high-souled race, their institutions social and domestic were essentially variant in each section, which most unfortunately had given rise to bitter animosity of feeling, and at length had become the dividing line and basis of political action.

The result of the last election was to place in power a political party by the vote of a geographical section of the Union, and whose success in the other was regarded as fraught with danger, great if not absolute, to constitutional rights.

In addition to this, the peculiar structure and form of our Government received and deserved consideration—a collection of States, independent in all save conceded powers, and which out of their abundance each had surrendered part for the common good of the whole, and all cemented and bound by an instrument in which the rights of either were clearly defined.

It was also no war against a foreign foe upon which the country was entering, where the shortest road to peace was by the infliction of as much injury as possible in the least time and with the least expense, consistent with the dictates of humanity and the laws of war. Those whom we were to meet in the field of deadly strife were of the same nation, owing it as much as ourselves allegiance and patriotic devotion, bound together by the ties of kindred as well as those of political association, possessing rights personal and of property, which the clouds of war cannot obscure and shut from our sight, for they stand written in that instrument which to vindicate and uphold our brothers and sons have gone forth to battle. While the future looked dark and threatening, but amidst the lowering clouds, then unbroken by strife, the people heard with great satisfaction the President elect, on the steps of this building, declare as his belief, and avow as a maxim of his political action:

"That the maintenance inviolate of the rights of the States, and especially the right of each State to order and control its own domestic institutions, according to its own judgment exclusively, is essential to that balance of power on which the perfection and endurance of our political fabric depend."

And in continuation to say:

"That in doing so, I only press upon the public attention the most conclusive evidence of which the case is susceptible that the property, peace, and security of no section are to be in nowise endangered by the now incoming Administration."

The nation, I say, Mr. Chairman, heard these utterances of the Chief Magistrate with much satisfaction, and almost against hope trusted the fearful, desolating blast of civil strife would pass from us; and when the necessities of the country at last demanded the armed presence of the citizen soldier, in the call for his services from the Executive was this declaration:

"That they were required to suppress said combinations, and to cause the laws to be duly executed, and that the first service assigned to the forces hereby called forth will probably be to repossess the forts, places, and property which have been seized from the Union; and in every event, the utmost care will be observed, consistently with the object aforesaid, to avoid any devastation, any destruction of or interference with property, or any disturbance of peaceful citizens of any part of the country."

Whatever differences of political opinion had before this divided public sentiment in the loyal States, or however much men everywhere had clung to the hope and belief in the practicability of a peaceful solution of the questions which tore and rent the land, upon terms alike honorable to each section of the country, yet when the integrity of the Union, the maintenance of our political institutions intact and unimpaired, and the preservation of our nationality itself became the issues involved; then, with a unanimity and enthusiasm unparalleled in history, the great and true hearted masses of the country arose and rallied around its standard, never so dear before, with the firm determination that its Government should be sustained, its laws obeyed, and those who so insolently defied its authority should be made to feel its power. From the city and the town, the village and the hamlet, from the hill and the plain, all classes and occupations sent forth their representatives to take part in the impending conflict. They came imbued with the consciousness of the justice of their cause, their arms nerved with strength through the love they bore their land, attended with the prayers, the hopes, the tears of a great and loyal people. The object to be secured as *then* announced and understood, was well worthy of such a demonstration, well worthy of the rallying of the loyal sons of the Republic. No dreams of vain ambition or military glory filled their hearts, or animated the courage of this great band; they abandoned the comforts and attractions of home, family, and friends, not to build up or sustain the sinking fortunes of a party, or enlarge the bounds of empire; not to ravage and destroy and wipe out of existence charters of great States, or to overwhelm in one wild ruin the social and domestic institutions of those they had taken up arms against. Far otherwise, indeed, were the purposes which had called this mighty host into being. They came to uphold the Government of the country they loved, to sustain the Constitution of their fathers, to enforce respect and obedience to the laws of their joint creation, and to preserve the nationality which was their glory and renown. Not clearer are the beams of the unclouded sun in his meridian strength, not better defined are the immutable laws of our natural life, than were the purposes to accomplish which these men came forth to battle.

They are expressed in the words of the Chief Magistrate of the nation, they are reiterated by his private counselors; they are written in the records of your diplomacy on almost every page of ministerial instruction; they have been proclaimed by your generals at the head of their advancing legions; they stand imprinted on the journals of your legislation, declared by the representatives of the people. Everything which could give expression to intention or clearly indicate a policy bears testimony to-day, and will so long as your history lasts, for what objects you drew the sword. I shall cite some of these evidences here to show the correctness of my statement, and with the further view to contrast them with the action of this Congress during the present session, and show the wide divergence from the original patriotic policy.

It would be vain to search for clearer exposition of the relations of the Federal Government to the present rebellious States, as either affected by the present civil war or in a state of peace and harmony, than are to be found in the mass of voluminous correspondence emanating from the present State Department to the various diplomatic representatives of our country at foreign Courts, submitted to us at the commencement of the present session of Congress.

Coming from so eminent a statesman as the head of the State Department, they would, from that fact alone, be worthy of serious consideration, but when, in addition to that, we consider that under the rules which obtain in the administration of the Government, the "executive proceedings" of this officer of State, "are, unless disavowed or revoked by the President, proceedings of the United States," they become to us an all-sufficient guide and exposition to the views of the Administration.

In opening his official correspondence with our ministers at London and Paris in April of last year, Mr. Seward, at great length and with much perspicuity, reviews the condition of our domestic affairs and our rights and duties in the management of the same; and in suggesting to Mr. Adams the proper course to be observed by him in reference to the States then and now in rebellion, and also their agents and people, in his intercourse with the Government to which he was accredited, instructs him:

"You will indulge in no expressions of harshness or disrespect, or even impatience concerning the seceding States, their agents, or their people. But you will, on the contrary, all the while remember that those States are now, as they always heretofore have been, and, notwithstanding their temporary self-delusion, they must always continue to be, equal and honored members of this Federal Union, and that their citizens, throughout all political misunderstandings and alienations, still are, and always must be, our kindred and countrymen."

In the same letter, alluding to the motives which produced the disturbed condition of our affairs, and their groundlessness, he says:

"It may be stated, perhaps, without giving just offense, that the most popular motives in these discontents was an apprehension of designs on the part of the incoming Federal Administration hostile to the institution of domestic slavery in the States where it is tolerated by the local constitutions and laws."

* * * * * * * * * *

"Even the present disunion movement is confessedly without any better cause than an apprehension of dangers which, from the very nature of the Government, are impossible; and speculations of aggressions, which those who know the physical and social arrangements of this continent must see at once are fallacious and chimerical."

A few days later than the date of this letter, after actual war had been levied against the Union, and Fort Sumter, by all the appliances of modern warfare, had been wrested from the possession of its sole and lawful owners by the forces of the pretended confederate States, and with the full measure of their atrocious guilt before him, and all its possible consequences, we may fairly presume, carefully weighed and determined in the mind of the statesman, we find Mr. Seward declaring to Mr. Dayton, at Paris, the then situation of affairs, and results to flow therefrom, in the following language.

"I need not further elaborate the proposition that the revolution is without a cause; it has not even a pretext.

"It is just as clear that it is without an object. Moral and physical causes have determined inflexibly the character of each one of the Territories over which the dispute has arisen, and both parties after the election harmoniously agreed on all the Federal laws required for their organization. The Territories will remain in all respects the same whether the revolution shall succeed or shall fail. The condition of slavery in the several States will remain just the same whether it succeed or fail. There is not even a pretext for the complaint that the disaffected States are to be conquered by the United States if the revolution fail; for the rights of the States, and the condition of every human being in them, will remain subject to exactly the same laws and forms of administration, whether the revolution shall succeed or whether it shall fail. In the one case, the States would be federally connected with the new confederacy; in the other, they would, as now, be members of the United States; but their constitutions and laws, customs, habits, and institutions in either case will remain the same."

To my mind nothing can be clearer than the correctness of the principles set forth in these papers, and while appreciating, as I believe I fully do, the enormity of the guilt which justly attaches to the authors of this rebellion, yet, sir, I also cannot fail to perceive that by no acts of theirs, at least such as they have attempted, can they change or in any manner alter their relations as individuals to the laws of the country, or divest their respective States of any of their rights as members of this Confederacy. By every theory of our Government, as expressed by Congress and every branch of the Administration, the people of these insurrectionary States are still citizens as much as ourselves of one common country, entitled to every right secured in the Constitution—their States still integral parts of the Union. In illustration of this idea, I again quote from Mr. Seward in his letter of May 6, 1861, to Mr. Clay, our minister at St. Petersburg:

"The President will not forget, nor will he allow you to for-

get, that he is the Magistrate of the insurrectionary, as he is also of the loyal States, and in all his dealings concerning the plotters, aiders, and abettors of this great conspiracy, he will constantly remember that the people in whose name they act, and whose power they abuse, *are still citizens of the Republic.*"

Sir, other Cabinet officers have also added their testimony to what I have already referred to, in showing the policy to be pursued in the earlier stages of this war. In August last, Mr. Secretary Smith, in addressing a meeting of patriotic citizens in Rhode Island, thus emphatically declared:

"That this is not a war upon the institution of slavery, but a war for the restoration of the Union and the protection of all citizens in the South as well as the North in their constitutional rights."

The clearness of this declaration is only equaled by the soundness of the sentiment; and the purity of the patriotic devotion to the Constitution is worthy of the highest meed of praise.

On the 23d of last July, the Attorney General, in answer to a letter from the United States marshal of Kansas, inquiring whether he should assist in the execution of the fugitive slave law, thus writes him:

ATTORNEY GENERAL'S OFFICE, *July* 23, 1861.

J. L. MCDOWELL, *U. S. Marshal, Kansas:*

Your letter of the 11th July, received 19th, (under frank of Senator Lane of Kansas,) asks advice whether you should give your official services in the execution of the fugitive slave law.

It is the President's constitutional duty to "take care that the laws be faithfully executed." That means all the laws. He has no right to discriminate, no right to execute the laws he likes, and leave unexecuted those he dislikes. And of course you and I, his subordinates, can have no wider latitude of discretion than he has. Missouri is a State in the Union. The insurrectionary disorders in Missouri are but individual crimes, and do not change the legal status of the State, nor change its rights and obligations as a member of the Union.

A refusal by a ministerial officer to execute any law which properly belongs to his office, is an official misdemeanor, of which I have not a doubt the President would take notice.

Very respectfully, EDWARD BATES.

In addition to the declaration of the President in his inaugural address, and from which I have heretofore quoted, as indicating his opinion at that time of the rights not only of States, but of individuals in the possession of their property, secured to them by the local law, I call the attention of the House and the country to his message to this Congress at the special session in July last, as also to the one delivered to us at the commencement of the present session. Upon your assembling, in pursuance to the call of the Executive last summer, while the capital of the nation was a beleaguered city, when war had raised its "hideous front" throughout the land, and armies had met in conflict upon the field of battle, the President, in his first message to a Congress called to devise measures for the protection of the country and the perpetuation of the Union, among other things said:

"Lest there be some uneasiness in the minds of candid men as to what is to be the course of the Government towards the southern States after the rebellion shall have been suppressed, the Executive deems it proper to say it will be his purpose then, as ever, to be guided by the Constitution and the laws; and that he will probably have no different understanding of the powers and duties of the Federal Government relatively to the rights of the States and the people, under the Constitution, than that expressed in the inaugural address."

When, after the lapse of several months, you again met in these Halls in accordance with the requirements of the Constitution, the condition of affairs, so far as the war was concerned, remained the same. National armies had been met in the field by insurgent forces, and amidst the shock of battle thousands of patriots had rendered the last act of devotion to their country which patriotism could demand or love of country inspire. Lyon and Baker had tasted the bitterness of death that their country might live. With these facts of record on the page of history, the President, in his message to us, says:

"The war continues. In considering the policy to be adopted for suppressing the insurrection, I have been anxious and careful that the inevitable conflict for this purpose shall not degenerate into a violent and remorseless revolutionary struggle. I have, therefore, in every case, thought it proper to keep the integrity of the Union prominent as the primary object of the contest on our part, leaving all questions which are not of vital military importance to the more deliberate action of the Legislature." * * * *

"We should not be in haste to determine that radical and extreme measures, which may reach the loyal as well as the disloyal, are indispensable.

"The inaugural address at the beginning of the Administration, and the message to Congress at the late special session, were both mainly devoted to the domestic controversy out of which the insurrection and consequent war have sprung. Nothing now occurs to add or substract to or from the principles or general purposes stated and expressed in those documents."

If, in the opinion of the President, nothing up to that time had occurred to change or alter his views of the "principles or general purposes" which he had expressed in regard to the condition of the country, or the progress or treatment of this rebellion, I may well be pardoned for inquiring, what has occurred since to cause a change of view or alteration of plan; if, as stated by him on the 4th of March, when installed into his great office, he had "no purpose or intention to interfere with the institution of slavery in the States where it exists," and believed "in the right of each State to order and control its domestic institutions according to its own judgment exclusively, as a thing essential to the balance of power, upon which the perfection and endurance of our political fabric depend;" and when communicating to us last December his views of the then state of the nation, now so much in his keeping, he could reindorse these propositions as containing sentiments requiring nothing to be added to or substracted from; whence, then, arises the necessity for any departure from the plans so clearly laid down and expressed for the suppression of the rebellion, and the bringing to justice of those who to-day stand as they then stood, arrayed in hostile attitude to the Government?

Has our measure of success been so scant since we met here, in following that plan, as to demand a change? Have our armies in the field achieved so few triumphs during the last six months as to cause the heart to faint and grow weary with hope deferred? Has the flag of the rebellion been supplanted in so few places by the banner of the stars as to induce the belief that never again shall we see it wave over a whole country, the emblem of an undivided nation's sovereignty?

Let the condition of Missouri, Kentucky, Arkansas, and Tennessee, to-day answer. From the intrenchments of Henry and Donelson does there come no note of encouragement, no word of cheer in this hour of extremity? Have the thousands of the gallant sons of the Northwest, whose bones lie moldering at Pea Ridge and Shiloh, died in vain? Have their sacrifices been attended with no result? Does the fact that a major general of your Army is to-day issuing his orders from the queen city of the South give no assurance of returning sway to your laws? Does the recent order of the President opening several ports on our lately blockaded coast to the peaceful and lawful commerce of the world indicate no substantial advantages secured? Does the transfer of the great army which for months has threatened your capital to the defense of its own from your advancing hosts, and the uninterrupted control of the beautiful river where so lately upon its banks hostile batteries poured their fire upon your armed as well as defenseless marine, give no sense of relief to an anxious and loyal people?

I turn from this branch of my subject, Mr. Chairman, so full of suggestive thought, to another Department of the Government, which has almost wholly engrossed the attention of the nation—I mean the War Department, and the operations of our commanders in the field—to see what we find there as illustrating the object and purposes for which the energies of the country more particularly under its control have been enlisted and engaged.

In writing to General Butler at Annapolis, who had solicited some instructions from the Department, Mr. Cameron, on the 8th of August last, says:

"It is the desire of the President that all existing rights in all the States be fully respected and maintained. The war now prosecuted on the part of the Federal Government is a *war for the Union*, for the prosecution of all the constitutional rights of the States and the citizens of the States in the Union." * * * * * * *

"You will, however, neither authorize nor permit any interference by the troops under your command with servants of peaceable citizens in a house or field; nor will you in any measure encourage such servants to leave the lawful service of their masters; nor will you, except in cases where the public good may seem to require it, prevent the voluntary return of any fugitive to the service from which he may have escaped."

In the various military departments into which the country was divided, upon assuming the command delegated to them, and in accordance, we are authorized to believe, with the policy and communicated views of the Administration, we find distinguished military leaders announcing to the people among whom they came, to direct the armies intrusted to their direction, the policy which would control and govern their action. The sentiments of these addresses to which I shall refer, are entirely in accordance with the principles of constitutional law, and speak the language of patriots, earnestly seeking the restoration of the Union through the maintenance inviolate of the Constitution.

From his headquarters, on the 26th day of May, 1861, the young general of the West, who *to-day* possesses so large a share of the confidence of *this House*, as he ever has that of his *patriotic* countrymen, thus addressed the Union men of Western Virginia, among whom, at the head of a gallant army, he was going to carry that flag he has since borne with so much distinction to himself and honor to the nation it represents:

"The General Government cannot close its ear to the demands you have made for assistance. I have ordered troops to cross the river. They come as your friends and your brothers—as enemies only to the armed rebels who are preying upon you. Your laws, your families, and your property are safe under our protection. All your rights shall be religiously respected. Notwithstanding all that has been said by the traitors to induce you to believe that our advent among you will be signalized by interference with your slaves, understand one thing clearly: not only will we abstain from all such interference, but we will, on the contrary, with an iron hand, crush any attempt at insurrection on their part."

From his headquarters, at Chambersburg, on the 3d of June last, General Patterson thus, to the like purport, instructed the troops of the United States under his command in the department of Pennsylvania, whom he was about to lead to the field, as to the object for which their efforts were to be put forth:

"You are going on American soil to sustain the civil power, to relieve the oppressed, to retake that which is unlawfully held. You must bear in mind you are going for the good of the whole country, and that, while it is your duty to punish sedition, you must protect the loyal, and, should the occasion offer, *at once suppress servile insurrection.*"

Even when landing upon the soil of the State of South Carolina, to whom will ever belong the infamy of inaugurating this fearful strife, and whose people, if any, are to be peculiarly the sufferers above others—a righteous retribution would award to them a full and complete measure of punishment—General Sherman could proclaim as his course that—

"In obedience to the orders of the President of the United States of America, I have landed upon your shores with a small force of national troops. The dictates of a duty which, under these circumstances, I owe to a great sovereign State, and to a proud and hospitable people, among whom I have passed some of the pleasantest days of my life, prompt me to proclaim that we have come among you with no feelings of personal animosity, no desire to harm your citizens, destroy your property, or interfere with any of your lawful rights, or your social or local institutions, beyond what the causes herein alluded to may render unavoidable."

If "lawful rights and social or local institutions" can receive no harm from the army of the Union, fighting against treason in the State of South Carolina, it is surely not too much to expect with confidence that the same measure of immunity from interference will be extended to all sections of the country in which the valor of our troops shall reëstablish the national supremacy.

About to enter the counties of Accomac and Northampton, in Virginia, at the head of his command, on the 13th of November last, General Dix addressed the people of those counties as to the object of his coming; and in order to quiet apprehensions as to the probable course he would pursue, and give assurance of his respect for lawful and constitutional rights, he informed them that—

"The military forces of the United States are about to enter your counties as part of the Union. They will go among you as friends, and with the earnest hope that they may not by your own acts be forced to become your enemies. They will invade no rights of persons or property; on the contrary, *your laws, your institutions, your usages, will be scrupulously respected.* There need be no fears that the quietude of any fireside will be disturbed, unless the disturbance is caused by yourselves. Special directions have been given not to interfere with the condition of any person held to domestic service; and in order that there may be no ground for mistake or pretext for misrepresentation, commanders of regiments and corps have been in-

structed not to permit any such persons to come within their lines."

The military operations of the last few months are full of illustrations of similar intent and purpose. After the occupation of Roanoke Island by our troops on the 18th of February last, and after the defeat and dispersion of the rebel force by the efforts of our Army and Navy then engaged, and in view of the broad field thereby open to the entrance of the Union arms and the restoration of the authority of the nation, those two accomplished officers, who, to-day, stand so deservedly high in the estimation of the whole people—General Burnside and Commodore Goldsborough—thus jointly addressed the people of the State of North Carolina, from the scene of their late victory:

"The mission of our joint expedition is not to invade any of your rights, but to assert the authority of the United States, and to close with you the desolating war now brought upon your State by comparatively a few bad men in your midst." * * * * * * * *

"They impose upon your credulity by telling you of wicked and diabolical intentions on our part; of a desire to destroy your freedom, demolish your property, liberate your slaves, injure your women, and such like enormities; all of which, we assure you, is not only ridiculous, but utterly and willfully false." * * * * *

"These men are your worst enemies. They, in truth, have drawn you into your present condition, and are the real disturbers of your peace and the happiness of your firesides. We invite you in the *name* of the *Constitution*, and in that of virtuous loyalty and civilization, to separate yourselves at once from these malign influences, to return to your allegiance, and not compel us to resort further to the forces under our control. The Government asks only that its authority may be recognized; and we repeat, in no manner or way does it desire to interfere with your laws constitutionally established, your institutions of any kind whatever, your property of any sort, or your usages in any respect."

But one other quotation, Mr. Chairman, and I have finished the evidence I intend to cite, drawn from the declarations of our commanders in the field to the people they were seeking to bring again into the fold of the Union. On the 23d of February last, within a very few days after the brilliant and decisive conflicts which gave to us the forts on the Tennessee and Cumberland rivers, and in which the brave and noble troops of my own State bore so large a part, and proved their ability to maintain the reputation of her sons, as "the bravest of the brave," whether striking at foreign enemies or struggling with domestic foes, and when surveying the work which still lay before his army, General Halleck, from the "headquarters of the department of the Missouri," made an appeal to his troops, from which I quote the following, as eminently worthy the indorsement of every patriot in the land:

"The major general commanding the department desires to impress upon all officers the importance of preserving good order and discipline among their troops, as the armies of the West advance into Tennessee and the southern States."

"Let us show to our fellow-citizens in those States that we come merely to crush out rebellion and restore to them peace and the benefits of the Constitution and the Union, of which they have been deprived by selfish and unprincipled leaders.

"They have been told that we come to oppress and plunder. By our acts we will undeceive them; we will prove to them that we came to restore, not to violate, the Constitution and the laws.

"In restoring to them the glorious flag of the Union we will assure them that they shall enjoy under its folds the same protection of life and property as in former days. Soldiers! let no excess on your part tarnish the glory of our arms.

"The orders heretofore issued in this department in regard to pillaging and marauding, the destruction of private property, and the stealing or concealment of slaves, must be strictly enforced.

"It does not belong to the military to decide upon relation of master and slave. Such questions must be settled by the civil courts. No fugitive slave will therefore be admitted within our lines or camps, except when specially ordered by the general commanding."

Mr. Chairman, I have cited these extracts from these various proclamations as showing the policy which was to be adopted in carrying on this war, and the reasons which appealed to the patriotism of every loyal son of the country to come forward and give it the support of his arm in the field; nor was their effect otherwise than great. Coming from those who had been selected by the Commander-in-Chief for their supposed fitness and ability to perform the work committed to them, they partook of the nature of their appointment, and in them the nation read the declared will and purpose of the Executive. In my own State I know full well what effect has been produced there by such sentiments as are contained in these proclamations. Thousands of men whose bravery has been proved on the severest fought fields in this war, and whose loyalty to the country is as unquestioned as has ever been their opposition to the political tenets of the party in power, came forward at the first call upon their State for the services of her sons.

They came not halting on the way, nor shrinking from danger when the battle raged around them. The cause for which they bared their breasts to the pitiless storm of war, as they understood it, was one for which, in the quiet avocations of humble but patriotic life they had ever contended. Never achieving political success by an alliance with or aid of traitors, they had no wish so dear as to see the overthrow of treason. Guiltless of assaults upon or infractions of the Constitution in the past, they were ready and willing to strike with arms for its present defense, as they had ever done by their ballots. Never regarding it as other than a covenant with brothers, and the bond of that Union which they had ever "accustomed themselves to think and speak of as the palladium of their political safety and prosperity," they considered no personal sacrifice too great if it served to transmit unimpaired the same inheritance to their children.

I need attempt no eulogy upon these men; their deeds are part of the history of the country. The vacant places by the firesides of many homes will to bruised hearts ever prove the keenest sorrow, and the mound which rises above their heads will ever mark to those hearts the grave of buried joys.

The authentic character which attached to these proclamations, in the opinion of the people, was very much heightened and their weight increased by the action of the President in September last; when, upon a memorable occasion, a general of his own creation, and intrusted to the command of a very important military department, in pursuance of a preconceived intention on his part to do away "with the red tape of the Washington people," and inflated with the sublime importance of being "at the head of the people in the field," determined to step beyond the well-defined limits of the law which had been enacted in these Halls only a few weeks before, and give to his own fanatical ideas the effect which is only produced by being "prescribed by the supreme power of the State." The President, in view of the dangerous results likely to proceed from so flagrant a violation of law, on the 3d of September, in a letter which he deemed of sufficient importance to justify its transmission by a special messenger, very delicately suggests to his exalted subordinate the anxiety his proclamation had given him, and requests that he will, "as of his own motion," so modify part of his proclamation as to make it conform to the legislation of Congress upon that subject. The prompt action of the President, thus repudiating the policy indicated by General Frémont as the one which would govern in the department of the West, and which was directly and entirely at variance with that promulged in all the others I have cited, and, contrary to the one adopted by Congress, gave the country reason to believe, as it did believe, that those which had received at least the silent approval of the Administration and remained unqualified or openly dissented from, spoke its views and reflected its opinions.

Not alone in this instance, Mr. Chairman, has the President set aside or modified the action of his subordinates when in violation of the principles as stated and set out in these documents.

Although not shown by the official records of the country, yet the fact is well known to all, and has been the subject of eulogy upon this floor by gentlemen of distinguished position and occupying the station of leaders of their party here, that the late Secretary of War, whose instructions to a general of the Army I have referred to, and which met the sanction of the Executive, in his annual report to the Chief Magistrate of the condition of matters in his Department, feeling the imperative necessity of retrieving his somewhat impaired hold upon the confidence of the country in his official purity by some bold stroke, in the admiration of which past misdeeds would be obscured by the new halo of glory, went so far in that document as to suggest and enforce, with much specious reasoning, a clear and wide departure from the recognized policy of the Administration in the treatment of a particular class of persons, and to recommend their entire emancipation from the authority of their masters; and further, to urge that—

"If it shall be found that the men who have been held by the rebels as slaves are capable of bearing arms and performing efficient military service, it is the right, and may become the duty of this Government, to arm and equip them and employ their services against the rebels, under proper military regulation, discipline, and command."

No one who has read the suppressed portions of this report, of which I have given an extract and fair specimen, can fail to perceive the irreconcilable nature of the difference which exists between it and the views announced on every page of the history of this Administration; and its suppression by the Executive clearly indicates his repudiation, *up to that time* at least, of the sentiments contained in it, as tending, beyond all question, to degenerate this contest "into a violent and remorseless revolutionary struggle." This *slight* admonition, when taken in connection with the expressive testimonial recently tendered the distinguished exile by a vote of this House for some operations of his, will shed a peculiar luster upon one page at least of his history, and afford food for reflection during the period of his transportation.

Such, Mr. Chairman, is the record of the pledges of the officers of the Government from the highest official civil station, and the military chiefs of the country; their purport is entirely harmonious, and has met the cordial approbation of the people. Looking to nothing but the suppression of armed rebellion and the preservation of constitutional rights, they have, with singular uniformity, disclaimed all interference with the local policy or domestic institutions of any of the States. Even the most violent and unrelenting of the foes of the Union, reeking with the guilt of this rebellion in its conception and execution, have been assured that the great shield of the Constitution did and should protect any citizen of the Republic in all his rights of person or property, however great his faithlessness, however extreme his guilt.

And to demonstrate fully and place beyond all controversy or doubt the relation of the States of the Union to the Federal Government, as affected by the power of the latter and the intentions of the people of the northern States towards those of the southern, I need only call to your recollection the expressed opinion of the House in February of the last year to completely settle the same. At that time, while the work of disintegration of the Union, so far as State action could do it, was steadily going forward, the House, with full knowledge of the causes alleged in support of such suicidal action, and desirous of placing upon record their declaration of the falsity of them, on motion of a leader of the present dominant party, and who have since indorsed him, [Mr. SHERMAN,] did resolve:

"That neither the Federal Government nor the people or government of the non-slaveholding States have a purpose or constitutional right to legislate upon or interfere with slavery in any of the States of the Union.

"That those persons in the North who do not subscribe to the foregoing propositions are too insignificant in number and influence to excite the serious attention or alarm of any portion of the people of the Republic, and that the increase of their number and influence does not keep pace with the increase of the aggregate population of the Union."

This declaration of Congress unquestionably strengthened the Union sentiment of the South, and encouraged to renewed effort those who were then sincerely endeavoring to stem the waves of fanaticism which were threatening to ingulf the whole of the southern States; they pointed to it with confident assurance as another pledge of your political faith and intention, on your part, to abstain from any interference with their social and domestic institutions. And when later the terrible issues of war had been presented on the one hand and accepted on the other, when the arbitration of the sword and bayonet had been resorted to as the only means of a final settlement of the questions involved, what was your action under such circumstances.

The country well recollects with unappeasable sorrow and deep humiliation the disastrous 21st of July, when a national army, broken, routed, and disgraced, fled a mass of struggling, bleeding fugitives from the first decisive engagement of the

struggle. Hardly had the sound of the cannon died upon your ears, while the streets of the capital were filled by the panic-stricken survivors of that disgraceful defeat, which had been witnessed in person by many who to-day sit in this Hall, with almost entire unanimity on the next day, this House declared:

"That this war is not waged on our part in any spirit of oppression, nor for any purpose of conquest or subjugation, nor purpose of overthrowing or interfering with the rights or established institutions of those States, but to defend and maintain the supremacy of the Constitution, and to preserve the Union with all the dignity, equality, and rights of the several States unimpaired; and that as soon as these objects are accomplished, the war ought to cease."

The resolution was worthy of the distinguished statesman whose name it bears, whose efforts for the preservation of the Union will live so long as the Union has a single devotee, and whose name will be remembered and cherished when that of others who seek to separate this fair inheritance will only be mentioned to be execrated. It was eminently worthy of a national Congress, which sent it to the country as the expression of their determination, and that, too, at a time when the infirmities of human nature, actuated by an intense love of country, might, if anything would, almost excuse a departure from the strict line of constitutional right and justice towards those who had inflicted this deep humiliation.

In all these authorities no single contradiction can be perceived, nothing dim or oracular, nothing variant from the high and holy duty incumbent upon all of aiding by every means in his power to suppress this rebellion, and to restore the *Union as it was, and preserve the Constitution as it is*—to maintain the proud temple of our liberty in all its perfect beauty—not to suffer "the life of the building to be stolen thence."

But, sir, over this policy there has come a change, and, during the session of this Congress, now extending over a period of six months, the country has seen, with ineffable disgust, the amount of time worse than wasted, and the careful attention bestowed upon subjects which in no way can possibly aid the triumph of our cause. While the country is struggling in the throes of a rebellion which is enlisting all its energies, pouring forth the blood of her sons like water, expending treasure without stint, we have sat in these Halls wrangling over questions which can only serve to create division among the people and excite alarm for the safety of our own liberties in the minds of the most loyal.

When the history of this session of Congress is fully written, and the calm judgment of the people shall have passed upon our work, there can be no doubt of the verdict it will receive.

With opportunities such as no American representative ever before possessed of earning the gratitude of all who really desire the preservation of the republic, by the adoption of measures not alone calculated to aid and support the efforts of our armies in the field, but to rekindle upon altars now disused the almost extinct fires of patriotism and loyalty; instead of all this, the madness of fanaticism seems to reign triumphant where reason alone should bear sway. In a very brief manner I propose to examine part of the record of our legislation and see how far it justifies me in making the charge I have.

I will not be accused of misrepresentation when I assert that the larger part of the time of this session, so far, has been occupied in discussing measures or projects having in view the abolition of slavery in some form or other, or racking ingenuity itself to discover how in some manner the negro can be benefited, and always at the expense of the white man; at his expense in procuring freedom for the former, at his expense in maintaining him after he is free, at his cost in the future by bringing this newly freed labor into competition with the white laborer of the North.

On the first day of the session, before the message from the President had been received, or the condition of the country had received the least consideration, and before you had expunged from the roll the names of members then serving in the armies of rebellion, this *all-important* subject was brought before the House by the gentleman from Massachusetts [Mr. ELIOT] in a series of resolutions which assert the doctrine "that the safety of the State is the highest law," and before it all rights of property must give way, and then assuming that our present condition is so desperate that resort must be had to this doctrine, concludes with the following resolution:

"That therefore we do hereby declare that, in our judgment, the President of the United States, as the Commander-in-Chief of our Army, and the officers in command under him, have the right to emancipate all persons held as slaves in any military district in a state of insurrection against the national Government, and that we respectfully advise that such order of emancipation be issued whenever the same will avail to weaken the power of the rebels in arms, or to strengthen the military power of the loyal forces."

In order that the storms which, in this Hall, in times past, have raged so fiercely about these questions, might still be heard rising above the din of the actual conflict their agitation has caused, the distinguished gentleman from Pennsylvania [Mr. STEVENS] comes forward with his statements of the causes of our present unparalleled difficulties and the remedy which, in his judgment, would alone give peace and quiet to our agitated country. The resolutions which he offers, together with their preamble, are as follows:

"Whereas slavery has caused the present rebellion in the United States; and whereas there can be no solid and permanent peace and union in this Republic so long as that institution exists within it; and whereas slaves are now used by the rebels as an essential means of supporting and protracting the war; and whereas by the law of nations it is right to liberate the slaves of an enemy to weaken his power: Therefore,

"*Be it resolved by the Senate and House of Representatives of the United States of America in Congress assembled*, That the President be requested to declare free, and to direct all of our generals and officers in command to order freedom to all slaves who shall leave their masters, or who shall aid in quelling this rebellion.

"SEC. 2. *And be it further resolved*, That the United States pledge the faith of the Union to make full and fair compensation to all loyal citizens who are and shall remain active in supporting the Union for all the loss they may sustain by virtue of this act."

Thus early, Mr. Chairman, was this subject introduced for our consideration, by those who control the legislation of this body, and in such a shape as, if ever adopted, will, in the judgment of a large portion of the people, render inevitable the total and lasting disruption of the confederacy.

Each of these propositions contains the substance of what has hitherto divided and still divides loyal sentiment in both Houses of Congress, as well as that of the people, and has received most elaborate examination, to the exclusion of matters of infinitely more importance. If the division of opinion, sir, on these questions was confined to the national Legislature, although that in a time like this would be unfortunate, yet when its effect upon the country, so plainly to be seen, is to divide and distract the people at home, it is then that the disastrous consequences can only be fully realized.

With no feasible plan suggested for the disposition of this large class of our population, (a consideration waiving for the moment the question of power and right, which imperatively demands the earnest attention of every man who has a voice to be heard or vote to give upon the subject,) these resolutions propose to change entirely the social condition of this whole race—to bring about and consummate the very condition of things, the fear of which the gentleman from the St. Louis district, [Mr. BLAIR,] in his recent speech, alleged was the cause of this rebellion. The preamble to the resolutions of the gentleman from Pennsylvania, [Mr. STEVENS,] in relation to the causes of the rebellion, and the necessity of doing away with the cause he alleges, before a permanent peace can be expected are both simply errors in point of fact, and the clear judgment of the gentleman and the many who have advocated these propositions upon this floor have been warped by their feelings, and prejudice has given a bias to reason.

Slavery is not the cause, it is only the instrument that has been seized hold of to give to this rebellion a greater volume and range, by appealing to the interest of those whose wealth, to a great extent, consisted in this species of property, than it could otherwise have possibly attained.

This, from the nature of the case, was accomplished without serious trouble. While the possession of property of any kind, the world over, never fails to beget conservatism of ideas and action, yet, whenever fears for its safety are aroused, no length so great but it will be attained in defense of its possession and rights. In regard to those holding slaves is this especially true; the tenure by which in this day they are held has its foundation exclusively in the guarantees given by law, and that, in its turn, is but the reflection of popular sentiment, always liable to change. By appealing to the platform of the party coming recently into power, no one could fail to perceive in it a decided hostility to the institution itself, and which only professed to be restrained by want of constitutional power from entirely annihilating the whole system wherever it existed, and in regard to the extent of which deficiency, and the measure of restraint, they have never yet been able to agree. While their party platform has spoken one language, sufficient if adhered to to quiet apprehension as to any arbitrary act of authority affecting the institution in the States, yet those who instigated this rebellion had no lack of material with which to excite the fear of those holding the property interest in this subject. Many of your distinguished leaders, both in this House and the other branch of Congress, have, time and again, denied the existence of all claimed constitutional guarantees, and openly repudiated any obligation resting upon them therefrom. A Senator who to-day sits in the other end of this Capitol and prates loudly of his loyalty to the Government, the country well remembers that when asked, a few years ago, by his peer in that Chamber, whether he was in favor of carrying into effect a certain provision of the Constitution, replied, "is thy servant a dog that he should do this thing?" My colleague [Mr. LOVEJOY] has asserted, during this session, in debate, "that by persistence in false assertions and declarations, spread all over the country, this generation has been educated into the belief that slavery had some sanction, some guarantee, some protection, some defense in the Constitution of the Government, while in fact it had none."

Distinguished members of the party, not in official station, but by their talents exercising a vast influence over popular sentiment in their State and section, have also contributed by their action in unsettling confidence in the ability of constitutions to restrain the excited passions of a people when roused by heated party animosity. Appealing with burning eloquence to the long-inflamed and deep-seated prejudices of a section of the Union against the social system of another, it was not so easy to believe that the storm that rancor and hate had raised would pause ere invading the rights of others, the object of their wrath, by mere paper guarantees, guarantees the instrument in which they were contained, in the same section, had been denounced as "a covenant with death and an agreement with hell." Only a few weeks since the nation saw the appearance of one of the most distinguished of these men, at this capital, and in the hearing of many officials of this Government, and a large auditory of admiring and approving listeners, declare sentiments reeking with the foulest treason; and applauded the declaration that he, the speaker, "had been laboring for nineteen years to take nineteen States out of the Confederacy," and appealed to the friend who sat at his side for proof of the statement "that he had heard him curse the Constitution a hundred times."

When, a day or two after this exhibition of treason, this miscreant visited these Halls, where loyalty alone should have place, in violation of the rules of both the bodies who have assembled, while the flag of the Union he had labored so assiduously to disgrace was waving over these Chambers, the doors of either House, as if by some magic talisman he possessed, (can it be that it was the sentiments he had so recently expressed?) opened at his approach, and he stood and was received as an honored guest upon these floors. I, myself, saw the second officer in the nation descend from his official place and greet with a warm reception, as an apparent co-worker in a labor of love, this base reviler of the work of the purest patriots whose history enriches the annals of nations.

Other courtesies, from almost equally high officials in other departments, were lavished upon this man; who, in contemplating the honors he was in this city the recipient of, may for a time forget that he must ever remain the despised of patriots. While I cordially approve the spirit that would not listen to his treason in a city further West, I cannot but deprecate the manner in which

it was manifested towards him. The Constitution secures to him freedom of speech and protection from assault, in the same manner and to like extent that it would secure a fair trial to the most abandoned wretch or the guiltiest of parricides.

Other actions have been eulogized upon this floor which are ill-calculated to give any very satisfactory assurance that rights of either person or property are safe, although secured by the highest written pledges. In a discussion in this Hall, on the 6th of January last, of a resolution of inquiry as to the cause of a disaster to the national arms, I regret, for my own State, that one of her Representatives [Mr. LOVEJOY] should make it the occasion to deliver a panegyric upon a justly convicted and executed felon. In speaking of the impatience of the nation for some decided movement in the field, he said:

"They are standing just as the old hero, John Brown, stood on the scaffold. John Brown, whose soul, thank God, is marching on. I call him an *old* hero, saint, and martyr."

Can it be wondered at, Mr. Chairman, that hatred the most violent should exist on the part of those among whom that tragedy took place, and all the worst passions of an infirm human nature should be aroused, when the principal actor, his hands red with the blood of peaceful citizens, whose hospitality he had so cruelly betrayed, whose rights to life he had with violence assailed, should be applauded on the floor of the American Congress; and, after a righteous retribution had been visited upon him, his name should, by a Representative of the people, be added to the bright list of heroes, martyrs, and saints? If I am told that this is but the sentiment, as it is the expression of one individual, to that I reply, that individual opinion determines party sentiment not less than conventional action, for the one is but the result of the other. And again, the gentleman is the Representative of a numerous and highly intelligent constituency, who, with the full knowledge of his views, have repeatedly indorsed them by successive reëlection of their exponent to a seat in this body.

But, sir, to return to the causes alleged of this rebellion, as stated in these resolutions, and I do it only for a moment, to quote the opinion of a gentleman as conversant with this whole subject as any man here, whose life, I think, has ever been spent in a slave State. I denied that the proposition I have been considering was true, and incidentally have alluded to other things which, in my judgment, more immediately produced our present troubles; and I desire now to again place upon record an extract from the speech of the gentleman from Missouri, [Mr. BLAIR.] In reference to this matter, he says:

"To superficial observers, who believe that the rebellion grew out of slavery, and is, as they term it, a slaveholders' rebellion, and when it is known to be true that the non-slaveholding regions of the South are for the Union, it is natural that it should occur to them that the proper course to carry all the non-slaveholders against the rebellion would be to decree emancipation. But a closer scrutiny demonstrates the contrary to be true; such a scrutiny demonstrates that the rebellion originated chiefly with the non-slaveholders resident in the strongholds of the institution, not springing, however, from any love of slavery, but from an antagonism of race and hostility to the idea of equality with the blacks involved in simple emancipation. This idea among non-slaveholders was naturally of greater intensity in proportion to the number of slaves about them, and its force in extinguishing Union feeling diminished as we approach the high and mountain regions where the slaves are few.

"Every man acquainted with the facts knows that it is fallacious to call this 'a slaveholders' rebellion.' If such was the fact, two divisions of our Army could have suppressed it without difficulty; the negroes themselves could easily put down the two hundred and fifty thousand slaveholders; but it is a matter of history that slaveholders, as a body, were the last and most reluctant to join the rebellion. The representative men of that interest, like Badger of North Carolina, Aiken of South Carolina, and Alexander H. Stephens of Georgia, struggled as long as there was hope against the rebellion, and for the obvious reason that the entire interests of the slaveholders were put in extreme jeopardy. It was the *negro question* and not the *slavery question* which made the rebellion—questions entirely different, and requiring entirely different treatment; and it is as necessary to understand the distinction to enable us to deal with it successfully as it is that the physician should know the disease which he is called on to treat and to cure. If the rebellion was made by two hundred and fifty thousand slaveholders for the sake of perpetuating slavery, then it might be a complete remedy to extirpate the institution; but if the rebellion has grown out of the abhorrence of the non-slaveholders for emancipation and amalgamation and their dread of 'negro equality,' how will their discontent be cured by the very measure the mere apprehension of which has driven them into rebellion?"

In corroboration of this, I also call the attention of the House to the statement made by another gentleman from Missouri, [Mr. PHELPS,] whose long experience upon this floor, no less than his knowledge of the subject and well-known patriotism, gives to his opinion value. Says he:

"The slaveholders, or the majority of them, were the last to give in to this rebellion in those States which are now in arms against the Government of the United States."

In my judgment, the opinion of gentlemen like these, whose lives have been spent in the midst of this institution of slavery, who have carefully watched for years the rising fears of the people among whom they have lived, outweigh "a whole theater" of those who know nothing about it, and who have ever regarded it with a prejudiced and malignant eye. In view of the position so clearly assumed, as I have shown, by every department of the Government at the opening of the war, it may not be out of place to trace the altogether different policy sought to be established in regard to the treatment to be extended to slaves, as advocated by many gentlemen at this session.

Among the first who addressed the House was the gentleman from Massachusetts, [Mr. ELIOT,] who, in speaking to his resolutions, and alluding to a desire on the part of some to see a return to the old state of things, by which I understand to be meant a restoration of the old Union, says:

"No matter how, a few months ago, loyal men might have yearned that the old state of things should be restored, the *status ante bellum* is impossible. The first blow struck at Fort Sumter rendered it impossible. No, sir; no, sir. Reconstruction must come; but in the rebellious and seceding States, when it comes, it shall come, I believe, without the presence of the slave."

The gentleman, further on, in speaking of the suppressed portion of Mr. Cameron's report, an extract from which I have already submitted, and in which is urged the policy of emancipating the slave and enrolling him into the Army of the United States, indorses it as a paper "which contains good law, good patriotism, good statesmanship, and good common sense." The gentleman, it seems, differed with the President in his appreciation of this document; and he also regrets the modification of General Frémont's proclamation by the same high authority. To the gentleman, "it was a blow struck in the right direction, by the right man, at the right time, and under the right circumstances; and there was hardly a man whose heart, if it was loyal, did not leap with joy to read it."

It is evident that the heart of the President did not perform any very great feats of the kind on this occasion; but I trust, in view of his recent effort in a similar case, no inference prejudicial to his loyalty will be drawn therefrom. The able speech of the gentleman from Kansas, [Mr. CONWAY,] while it is utterly destructive, in my opinion, of the whole theory of our Government, is yet entirely consistent with itself, and deserves notice. Upon the point I am considering he says:

"The abolition of slavery is no longer a 'contraband proposition.' It has been elevated by events into a measure of widespread public importance, demanding the favorable consideration of statesmen. It is no longer the shibboleth of a sect or party, but the overruling necessity of a nation. To retain slavery under existing circumstances in our body politic, would, in my judgment, evince the very worst kind of folly or wickedness. To eliminate it forever should be the unwavering determination of the Government."

That this shall be the result of the present struggle, if in the power of the gentleman to accomplish, is fully manifest from another part of the same speech. In commenting upon the fearful expenses we are incurring and will in the future incur, the gentleman remarks:

"This is the immense sacrifice we are making for freedom and Union; and yet is it all to be squandered on a subterfuge and a cheat. For one, I shall not vote another dollar or man for the war until it assumes a different standing and tends directly to an *anti-slavery* result."

The war, when prosecuted for the preservation of the Union with every constitutional right of each State or section unimpaired, is then, in the opinion of the gentleman, "a subterfuge and cheat."

Conditions to one's loyalty in this hour of peril, have been supposed to detract from the quality of the article; but the exquisite harmony between the gentleman's general political views and those entertained by the majority upon this floor, and his acknowledged soundness upon the main question, will relieve him from any unpleasant position which, to others not in full standing in the African church, might be somewhat annoying.

With equal clearness in the expression of the same opinion, the gentleman from Indiana [Mr. JULIAN] says:

"I know it was not the purpose of this Administration at first to abolish slavery, *but only to save the Union and maintain the old order of things.*" * * * "Not for all the wealth or honors of the universe should we withhold our suffrage from the proposition 'to proclaim liberty throughout all the land, to all the inhabitants thereof.' Our failure to give freedom to four million slaves would be a crime only to be measured by that of putting them in chains if they were free."

Further on, he again says:

"We have no true battle-cry. We are fighting *only for the Union*, and taking pains to tell mankind that this does not mean freedom."

Sir, the gentleman was entirely correct in his statement for what this war was commenced, and furnishes conclusive proof of the truth of the proposition I have been endeavoring to establish. I know that by far the larger part of the soldiers from my own State enlisted in this struggle "to save the Union and maintain the old order of things." For this object, thus clearly announced, with this for their "battle-cry," they are fighting to-day; for this consummation they will ever strike; to this glorious object

"They are true, to the last of their blood and their breath;
And like reapers, *have* descended to the harvest of death."

The gentleman from Ohio, [Mr. BINGHAM,] whose eloquent voice has been heard so often upon this question, in swelling periods and with much elegance of diction, in the discussion of a resolution relating to a measure of finance, thus joins in the strain of his friend from Indiana, and tells us to—

"Pass your laws liberating four million slaves held by the rebels, and thereby break every unjust yoke in that rebel region, and let the oppressed go free, in obedience to that command which comes to us as a voice out of heaven, 'Proclaim liberty throughout all the land, to all the inhabitants thereof;' and when this is accomplished there will be such an exodus of these children of oppression from the house of their bondage as the world has not seen since that exodus of God's people which the dark-eyed daughters of Israel 'celebrated with timbrel and dance.'"

Pass such a law, Mr. Chairman, and if the success of our arms is complete and entire, and thereby such a law be made operative, this "glorious exodus" will assuredly take place; but to them, to continue the elegant simile of the gentleman, there will be "by day no pillar of cloud to lead them the way, or by night a pillar of fire to give them light;" no land of promise from any mountain top will dawn upon their enraptured vision, but "a fugitive and a vagabond" will they ever be in this Canaan of ours.

I know not what other States may do, but I feel assured, Mr. Chairman, that my own State will never suffer her fair and fertile plains to be overrun with such a swarm of worse than locusts to eat out her substance, and—when compelled by stern necessity and the weariness of charity to labor at all—to compete with and drive the honest white laborer from the field of his willing and remunerative toil.

The gentleman from Maine [Mr. FESSENDEN] deprecates the idea of the war policy of the Cabinet being founded upon pacification without conquest, and without disturbing slavery, and says:

"Do not ask us to believe that the end is to be the restoration of the Union with slavery intact. Let us at least cheer our hearts with the thought, the hope, that it may be otherwise."

A short time afterwards, in reply to the gentleman from Kentucky, [Mr. WADSWORTH,] he says that—

"I much more desire the extermination of slavery, if it can be constitutionally effected, as I believe it can, than I do to see *the Union restored.*"

This frank confession of the gentleman clearly indicates what the country is perceiving in the action of this Congress, that the extirpation of slavery is the main and primary object of this contest on their part, and without this the preservation of the Union is but of trifling and secondary importance.

The distinguished leader from Pennsylvania [Mr. STEVENS] fully shares in the belief of the necessity of freeing the slaves, and in his judgment, "those who now furnish the means of war, but who are the natural enemies of slaveholders, must be made our allies; universal emancipation must be proclaimed to all." In most perfect har-

mony with this line of policy, when considered with known facts, is the recent emancipation proposition of the President, and by the adoption of which the nation stands pledged to become the purchaser of all slaves whom their owners are willing to sell. The vast sums it would require to fulfill this pledge, if ever accepted, would alone make us pause before adding this immense weight to the already grievous burdens which for long years will crush honest industry in the dust.

The intimation in the concluding portion of the message, together with its repetition more recently since, speaks a language too plain to be misunderstood, and in view of its certain rejection by those to whom it is more immediately addressed, the proposition while preferring "no claim of right by Federal authority to interfere with slavery within State limits," yet plainly foreshadows the intention to take without compensation that for which compensation had been refused. The great end would be attained, admitted rights subordinated to the requirements of "indispensable means," and the offer to buy would justify the taking of that which the owner had declined to sell.

The recent vote of the House upon this question, by which they rejected the bill consummating this policy, disclosed the fact that a large majority of the dominant party were, and are yet, in favor of the measure; and up to that time party discipline had not succeeded in forcing a support from a few of its members, whose judgments could not then approve the measure, and who were insensible to the frowns or smiles of power. The reconsideration of the vote, however, again brings the question before us; and the success of that effort admonishes me that it is but the forerunner of the triumph of the measure; and the extracts I have quoted from the remarks of gentlemen has been done to show the animus which prompts the action. But, sir, it matters perhaps but little what we may do; the high and dangerous acts of power already exercised by the Executive warn us against surprise at any further encroachment from that quarter; and in the recent proclamation relative to General Hunter's action, is clearly foreshadowed the intention to assume absolute control of this subject, and to exercise the power, whatever our action may be. The history of nations teaches us that power is ever stealing from the many to the few, and when submitted to, continues until endurance ceases to be tolerable, and once gone, like the remission of sins, is never attained without the shedding of blood.

The act confiscating all the property of those in rebellion deserves, at least, a mere mention in this exhibit of unconstitutional legislation.

I say, Mr. Chairman, unconstitutional, for the arguments made in both these Houses have yet been unanswered, and will remain so; coming, as they have, from the most eminent in ability in either House, and from the ranks of the dominant party, these efforts will remain not less proof of their clear perception of legal principles than their supreme respect for the Constitution. The plea mainly urged in their support, that in a state of war you may by all means consistent with humanity and in your power weaken the strength of your adversary and add to your own, signally fails in this case to afford the least justification, for not until this rebellion shall be subdued and the armed opposition crushed out, can any provision of either this or the emancipation scheme be made in the slightest degree effectual. When this is done, and the triumph of your arms is complete, the enforcement of either of these measures becomes a measure of punishment for past offenses, and in no respect a means by which to achieve success.

Not content with conferring freedom upon this race, it is earnestly sought to enroll them in the armies of the Republic, and elaborate arguments and heated appeals are made by gentlemen in both Houses of Congress to ingraft this odious feature upon the policy of the war; confessing thereby the want of confidence in the power or devotion of the freemen of the North to maintain their sovereignty and Government, they would appeal for help to the crouching slave of the rebel; and when by his aid your power is again established, with what vehemence would be urged his right to enjoy all the privileges of a Government his arm had assisted to preserve.

But not limiting their efforts to individuals, we see an attempt to utterly destroy the States themselves, to reduce to the condition of Territories each of the seceded States, and govern them by our own views of what their and our necessities may seem to require. This idea, monstrous as it is, is an unblushing violation of the Constitution which binds the nation "to guaranty to every State a republican form of government," and is a distinct outrage upon the rights of every loyal citizen of any of these States, each of whom are entitled to claim at our hands the benefit of the provision I have referred to, yet found fifty-six gentlemen on the other side of the Chamber who were unwilling that a bill to effect this object should be laid upon the table. The gentleman from Massachusetts [Mr. ELIOT] says upon this point, in alluding to South Carolina, "suppose it should be that in the order of God's providence the territory of that State shall be divided, and belong to the surrounding States, the object of the war will be accomplished, the peace of the country will be restored, treason will be put down, rebellion will be overcome, and the rightful authority of the laws and the Constitution will be maintained." It certainly is not so easy to see how all these very desirable results will be attained, or the object of this war, as I understand it, accomplished, by the partition of the State of South Carolina; especially when the "surrounding States" are to be the recipients of the dissevered fragments; however, as this is to be attained in some way by the providence of the Almighty, I am disposed to concede its possibility, improbable as it may appear. The gentleman from Kansas [Mr. CONWAY] also, upon this subject, declares that "the wishes of the masses of our people are to conquer the seceded States to the authority of the Union, and hold them as subject provinces." The gentleman from Indiana [Mr. JULIAN] prescribes the same remedy: "Let us," says he, "convert the rebel States into conquered provinces, remanding them to the status of new Territories, and governing them as such in our discretion."

In this review of measures proposed and adopted by the party in power, it would be incomplete if I failed to notice some others, indicative of their determination to abandon the least pretension to the high conservative ground at the opening of this contest they seemed to occupy, and which some few distinguished and honorable exceptions have been and are yet endeavoring fruitlessly to maintain.

In the abolition of slavery in this District, although probably within the limits of power, yet the violation of good faith to the States which ceded the territory must ever remain manifest while the history of the facts connected with the cession exists; but at this juncture of our affairs, when so much depends upon strengthening the hands of the Union men of the South, and inspiring them to fresh efforts as our arms open the way for peaceful triumphs under the old flag, no measure could be more disheartening. Their influence is not lightly to be esteemed, for they constitute the nucleus around which, if ever, must gather the elements of returning loyalty to the Government, and upon which it must ultimately alone rest for its support. Your armies may be justly and properly used to crush armed rebellion, and thus secure the bringing of traitors to justice; and in this I bid them God speed; but until the structure of our Government is changed, they can never become the permanent means of power. No one has pretended that this act was at all necessary for the success of our cause; it stands as an act of authority over the rights of those whose wishes were never consulted in the matter, or opportunity given for their expression.

The recent application of the principle of prohibition to all the Territories of the Union in the absence of the least necessity to protect them from slavery, and after the organization by the party in power of the last remaining ones in a manner agreeable to them, shows a disposition to abandon positions voluntarily assumed, and which have given satisfaction to the country, for no other purpose apparently than to show your power, and by continuing the agitation demonstrate the falsity of your professions, if indeed it was not intended to drive from the support of the Government every citizen of every slave State.

While this race is in our midst, and measures for their benefit have been discussed in more shapes than Proteus ever could have assumed, it would be surprising if the same race abroad had not received consideration. A philanthropy which turns a reluctant ear to the just claims of our own citizens, whose fathers and husbands have fallen in this strife, in order that no time may be consumed on measures not intended for the benefit of its especial favorites, must needs be insincere, if it fails to search creation's limits for similar objects of its regard. The search has been made, the effort successful, and in the recognition of the sable sovereignties of Hayti and Liberia, even though by the neglect of our white constituents, we show our sense of the paramount importance of this race, and that wherever situated, they shall, in any event, receive our regard.

The cost of this contest is accumulating a load of debt which no man now living will, in all human probability, fail to be annually reminded of; and as an evidence of the *extreme care* bestowed upon this part of our duties, in order that its rigid scrutiny at our hands may be perceived, I will only mention that when, a short time ago, a bill was submitted to us by the Committee of Ways and Means, and never before considered in the House, appropriating the trifling sum of $30,000,000, and that for the most suspicious of all objects—a deficiency—that committee, whose word is law, kindly consented to give us thirty minutes for its examination before pressing it to a vote; a minute for each million, as the gentleman from Massachusetts [Mr. THOMAS] very pertinently observed.

From the whole tenor of these measures as thus briefly examined, I ask is it not fairly inferable that the original policy in prosecuting this war is now sought to be entirely changed, and instead of the war being prosecuted for the restoration "of the Union as it was, and to maintain the old order of things," when every man's rights received some respect, the odious policy of abolition is in the future to direct the continuation of the struggle? Against such a change, of all others, in the name of a loyal people, who have sent thousands of their sons and brothers to the field to fight the battles of the Constitution and put down the rebellion, I feel myself imperatively bound to protest; the very name and measures of abolition were always nothing but hateful to them, which they never sustained by their votes, nor would ever uphold by their arms.

It may further be well asked, whether the adoption of this policy, and the abandonment of the one first proclaimed and avowed by every department of the Government at the commencement of the contest, is not a fraud upon the loyal and anti-abolition part of the people, *intended* and *designed* to enlist their efforts in the name of the Union, in a crusade against constitutional rights and privileges; and when, through their efforts, success over treason shall have been achieved, then to deliver them bound hand and foot in the camp of a faction, not less enemies of the country than the traitors they had overcome. Go on, then, and demonstrate to the country that the great Republican party, whose mission was to bring back the Government to the principles of the fathers, is faithless to its pledges and to the Constitution; prove that its regard for law is but a cheat, that its high-sounding professions of attachment to the principles of the Constitution, but empty sound; and that it will now subvert both to gratify the pestilent demands of abolition.

Why should it now prevail in the councils of the nation? Does its damning record of perfidy to law in the past qualify it to-day to become our champion in a contest with treason?

Before the commencement of this struggle but one single triumph graced its banners, and that, sir, of a character which strikingly illustrates its nature, and in connection with the role it has played in bringing on this rebellion, will ever illumine its history. Seeking to divide that it might conquer, with slow but insidious steps it sought and found entrance to the fold of the Church, and among those whose hearts had been touched by the holy fire from the same altar, and who together had partaken around a common table of the simple but affecting emblems of a divine expiation, it sowed the seed of bitterness and hate. Those who for long years had earnestly and jointly labored in their divine mission became to each other more than strangers. They parted more in anger than in sorrow, and in the disruption of that great

Church, whose communicants are scattered all over this broad land, the nation felt the sundering of one great ligament which had bound it together. The first blow to our unity had been given, and the rending asunder of the bonds of religious fellowship became, as it was, the precursor of the present attempt to dissolve the political connection. In the present effort to overthrow the Constitution, with such trophies to point to in the past, to this party may justly be awarded a division of the honor with treason, of being the attempted assassins of the Republic. In the effect of its proposed measures upon the white race and their liberties, I repeat here the words of the great and departed statesman of Kentucky, delivered in the Senate of his country long years ago. Says Mr. Clay:

"The liberty of the descendants of Africa in the United States is incompatible with the safety and liberty of the European descendants. Their slavery forms an exception, resulting from a stern and inflexible necessity, to the general liberty in the United States. We did not originate, nor are we responsible for, this necessity. Their liberty, if it were possible, could only be established by violating the incontestable powers of the States, and of subverting the Union. And beneath the ruins of the Union would be buried, sooner or later, the liberty of both races."

Mr. Chairman, there is no one more desirous than myself of seeing this rebellion suppressed and its instigators and guilty leaders receive the fullest punishment due to their most heinous crime. This I firmly believe can be done, and that effectually, by strictly pursuing the plan marked out in the beginning, and in this path achieving success without its being at the expense of the Constitution. I am not one of those who, like the gentleman from Indiana, [Mr. JULIAN,] regard that instrument as a thing to be trampled upon, even thereby to achieve any result. He says:

"Not that the Constitution is so absolutely perfect or so entirely sacred that we can in no event disregard it."

How this sentiment can be reconciled with the oath which he took when admitted to his seat as a member of this House, the only pledge he was required to give of his faithfulness, I leave for him and other equally skillful casuists to determine. Strike down that instrument in ever so small a part, and a greater blow than unsuccessful treason could inflict will have been given. Stricken in the house of its friends, the nation may indeed mourn for the faithlessness of its pledged defenders.

For long years it has served as a bright light to guide and direct the efforts of men everywhere striving for the blessings of a free popular Government, while to each of us it has proved a shield and protection. Formed in our weakness, it has encompassed us with its blessings in our strength. We have seen it expand by its own force over nearly twice as many States as first received its care, and with not more solicitude does the parental heart entwine itself in loving folds around each new pledge of their affection, than has this instrument sought the welfare of its youngest born.

Your armies may triumph on a thousand fields and gather imperishable renown, but if in conflict with treason you conquer by any other sign, the fruits of victory will wither and perish in your hands. The nation weeps to-day for the loss of her sons who have fallen in her defense; their memory she will cherish as part of her jewels, but to this grief, great as it is, add not that other sorrow of seeking success over the broken ruins of the foundation and corner-stone of her greatness.

From out of the smoke of the sacrifice now ascending to heaven from all over this broad land, may we see ere long the genius of the Constitution and the Union issuing radiantly forth; it will be with gouts of blood upon her robe, but clad, I trust, in the garments of peace, and upon her brow a crown of unextinguished stars.

COMMERCIAL RELATIONS WITH THE BRITISH PROVINCES.

SPEECH OF HON. F. A. PIKE,

OF MAINE,

IN THE HOUSE OF REPRESENTATIVES,

June 3, 1862.

The House being in the Committee of the Whole on the state of the Union—

Mr. PIKE said:

Mr. CHAIRMAN: A few weeks since, my State Legislature sent here resolutions, which I had the honor to present, upon the commercial relations between this country and the outlying British provinces on the north and east of us, and I desire to speak for an hour upon a subject which they deemed of sufficient importance to arrest the attention of Congress. As the continuance of the war increases the pressure upon our financial resources it becomes more necessary to do what we can to enable the tax payers to bear easily, and without inconvenience, the burdens imposed upon them. There is this intimate connection between commerce and war—as the one flourishes or declines, the other can be prosecuted with more or less efficiency.

It has been necessary for Congress to exercise, with some rigor, its odious power of taxation; and during the discussions of the many details of the act, we caught glimpses of the workings of the treaty of 1854, facetiously called the reciprocity treaty. The views we thus obtained were not favorable. It was found to stand in the way of fit and wholesome taxation. Moderate assessments, which were made by the Committee of Ways and Means, and would have yielded considerable revenue, were abandoned because of this treaty. Thus it interposed itself between us and our necessities, and deprived the Government of important support at this critical juncture.

But we did not see its worst features. It not only deprives Government directly of an amount of money that would otherwise come into the Treasury, but it inflicts the more serious injury of restricting and impoverishing the trade of the country, and thus rendering it less able to contribute in future to the public necessities. This is a grave charge against a measure which had the almost unanimous consent of Congress to its initiation; for we know that the experience of other nations, running all through modern history, has shown an immense capacity of taxation in every commercial community whose trade is left undisturbed. Our own experience furnishes the same testimony. We have already, at another period of our history, taken from our people, by means of taxation, very much more, in proportion to their possessions, than we shall be obliged to do now. In 1816, when our population was about eight millions, and valuation not over two thousand millions, we raised from taxation and tariff about forty-eight millions, or six dollars per head. When this rebellion shall be crushed we shall have eight times the wealth we had at that time, and shall be called upon but for three or at most four times the amount then furnished. It is evident, sir, that we have but to address ourselves earnestly and wisely to the contributing interests of the country and see that they do not suffer in their business operations, and this burden of taxation will be carried lightly and easily.

We are now engaged in discussing some of the questions that sought a solution at the hands of Congress when the collector was last sent among the people by the General Government. The Congress of 1816 had to do with the laws of navigation, making endeavors to support a declining commerce in its contest with the great maritime nation of the earth, and to encourage the efforts of our infant manufactures. To-day, after the lapse of forty-six years, we congratulate ourselves that the people we call upon by taxation have won the leading position among commercial nations, owning five and a half millions of tonnage, and are busily engaged in pushing their manufactures into foreign markets in competition with the capital and experience of the Old World. This is a cheering result, and one not obtained without great effort.

This country, sir, has witnessed two great industrial struggles since the formation of our Federal Constitution. The wisest men of the nation have borne part in them. They have taxed the wits of the strongest men of all portions of the country. One runs back to a period anterior to the formation of the Constitution, and indeed had a large influence in its creation, and the other springs more immediately from the necessities occasioned by the second war with England.

When we began our career as an independent Power, our two and a half millions of people were scattered along the sea-coast and the immediate vicinity of the great rivers. They had not then pushed away from the shores where they and their fathers were landed from the Old World. There was "ample scope and verge enough" for the display of all their activities within the sound of the ocean and the rivers falling into it.

They were therefore necessarily commercial. The cotton-gin had not been invented, and Charleston built ships. Cotton factories as yet were not, and New England was engaged in what King James termed the honest and apostolic calling of fishing. They were ready "to fetch and carry by sea;" and years before, to the siege of Louisburg transported their own troops in their own vessels.

But commerce found Great Britain its great rival. The peace of 1783 was a hundred and thirty years after the establishment of Cromwell's navigation system. These celebrated laws had at that time accomplished their original purpose of destroying the supremacy of the Dutch, and England was wielding Van Tromp's broom and boasting herself as mistress of the seas.

The contest began with the individual States, but it was soon found that they were no match for her. It required concerted action, most wisely and efficiently directed, to produce a marked effect. The thirteen States, with conflicting and changing laws, were repeatedly furnishing new victims for the triumph of the navigation acts. Our efforts from 1783 to 1789 to make a commercial treaty utterly failed, and our ministers came back from London to press upon the people of the Confederacy the necessity of consolidation in the aspect we should present to foreign Powers, and the result was the Federal Constitution. The power of establishing duties upon imports and shipping was taken from the States and given to Congress.

Then commenced our real rivalry with Great Britain in the race for the commerce of the world. The uniform system of commercial policy laid down by the First Congress, Mr. Huskisson said in Parliament, in 1826, was the first heavy blow aimed at the navigation of England. This was quickly followed up. The men who had furnished brains for the Revolution were in full power. Jefferson's report of 1793 was followed by the adoption of Madison's resolutions in January of 1794. The plan of the campaign was matured. Parliament had rejected Pitt's liberal proposition of commercial reciprocity, and acting under the influence of shipbuilders, who urged a special interest, and of refugees, who insisted upon punishing the nation they had deserted, arrogantly asserted that the object of England was not reciprocity or liberality, but to raise as many sailors and as much shipping as possible.

The counteracting force to be employed against the antagonism of the English position was retaliatory law. As Mr. Jefferson said in his report, there were two methods of removing onerous foreign restrictions: "by friendly arrangements with the several nations where they exist, or by separate action of our own Legislature for counteracting the effect." The first we failed in. The commissioners who negotiated the treaty of 1783 were entirely unable to conclude a commercial treaty, and our first minister, Mr. Adams, was equally unsuccessful. But the passage of our navigation acts brought about the treaty of 1794, usually known as Jay's treaty, and the first we were able to agree upon with our great antagonist.

This treaty did not authorize trade with the British colonies in America; Great Britain forbade all intercourse with them except in British vessels. At that time we were rapidly increasing in shipping; our whole tonnage at the time of the formation of the Constitution was but two hundred thousand tons. This had tripled when Jay made his treaty, and notwithstanding the annoyances and obstacles the overshadowing power of Great Britain threw in its way, it continued its wonderful increase, and before the second war with England had arrived at the respectable figure of one million four hundred and twenty-four thousand seven hundred and eighty-four tons, considerably more than two thirds of which was engaged in foreign voyages.

These antagonisms continued for eighteen years after Jay's treaty, and could no longer exist without war. And what with direct war ourselves, and a cessation of hostilities between the nations of Europe, whose carrying we had been doing, our commerce suffered so great a check, that in 1832 we had no more tonnage than in 1810. It was, however, in a more healthy state, for the coast-

wise voyages employed considerably more than the foreign.

But while the war had little effect upon the contest of antagonistic navigation laws, it gave birth to another enemy of British supremacy. The cessation of intercourse with England necessitated the production of what we consumed, and while the embargo and blockade largely diminished the tonnage, it created manufactures.

From this time for a series of years we discussed the doctrines of protection to domestic industry; we cultivated an American system, whose leading feature was to render us independent of foreign looms; and afterwards we carried along the two contests hand in hand.

Having arranged the terms of intercourse with Great Britain, the trade of the colonies naturally presented itself, and became of increasing importance. As early as 1773 the trade of the colonies with the West Indies was about three million dollars. But we were not allowed to carry our timber, fish, cattle, and provisions to the West Indies, and receive in exchange their coffee, sugar, molasses, and rum. Nor could we go in our vessels to Nova Scotia and New Brunswick and get their plaster. The rigidity of the old navigation laws was nowise relaxed as to the colonies.

Immediately after the war we passed an act making an offer of reciprocity with any nation that chose to have intercourse with us. But this produced no effect. In 1818, and again in 1820, Congress acted upon the subject, and the legislation of the latter year amounted to prohibition. As Nova Scotia would not allow our vessels to go up the Bay of Fundy for plaster, so we prohibited English vessels from bringing plaster to us. American and provincial vessels met on the lines and exchanged cargoes. In the West Indies our vessels carried our produce to the free port of St. Thomas, and brought from it the productions of the British West Indies carried there in British vessels.

Persistence in our demands for reciprocal trade at last induced a relaxation in the navigation laws, and a few ports in the colonies were opened to us. But, unfortunately, we relented too soon; in 1830 Mr. McLane made his arrangement for trade with Great Britain, which, although nominally reciprocal, worked so badly as to drive our vessels almost entirely out of the trade in provincial productions, and gave an immense impetus to colonial tonnage. It was, like the present arrangement for exchange of products with the colonies lying north of us, nominally a reciprocity treaty. Like that, it was avoided and evaded by our nimble neighbors, and inured entirely to their advantage. Our ports were thrown open freely to their vessels, and in turn our vessels were allowed to go only to such ports as produced nothing for shipment to us. Complaints were made, but were ineffectual until the arrangement had been a long time in operation, and then were only partially successful. But the history of it is interesting, as showing the ingenuity of our neighbors of the provinces in evading the plain intent of a commercial treaty.

And the Ashburton treaty of 1842, negotiated while we were complaining of the operation of the McLane arrangement, is another illustration of colonial bad faith. It provided for the free navigation of the St. John river, and that the lumber of the valley of the upper St. John might be shipped on the same terms as provincial lumber. But almost the whole of the lumber of New Brunswick was cut on provincial land, and immediately on the negotiation of the treaty of 1842, New Brunswick struck off all charge for stumpage on her land, and instead of it put on an export duty which should be alike applicable to British and American lumber. Thus, while parting with her claim to the territory, she made our people pay her for what constituted its chief value, the lumber upon it.

But these contests about the rights of navigation, marked as they are in our history by treaties, commercial arrangements, antagonistic laws, congressional speeches, diplomatic correspondence, embargoes, and even war itself, came to an end with the repeal of the British navigation act in 1849. They commenced with our existence as a nation, when we had less than two hundred thousand tons of shipping, and ended with a grand American commercial marine of three million three hundred and thirty-four thousand tons—surpassing that of any nation in the world, except Great Britain, and nearly equaling hers.

Thus ended one of the great industrial struggles of which I have spoken.

Let me say here, that those who think this southern derangement of trade is to be destructive of our commerce, have but a limited idea of its mission and employment. We deal with the world. No portion of the thousand million inhabitants of the earth who desire to buy and sell—to obtain the productions of other nations or send theirs abroad—are unfamiliar with the American flag. If England is to obtain cotton from India, our vessels will be there to carry it, well satisfied that the longer the voyage the larger the freight. So long as nations continue to produce variously, according to their climate and soil, and thus keep up an interchange of products, our ships will be needed; and, although we may suffer inconvenience from the loss of special trades, others will supply their places, and the increase of our tonnage will keep pace with the increasing wealth of the world.

The primary object of the other effort of which I have spoken was more limited in its scope. We began with an effort to supply ourselves. We endeavored to conquer our own market. It was a contest between the high-priced labor of America and the low-priced labor of Europe. Tariffs were invoked by our labor; but commerce was restless under restraints on trade, considering them her natural enemies. Had it not been that the tariff afforded statesmen the easiest modes of revenue, the contest would have been much longer and more doubtful. The discussions of the great presidential campaigns of Clay turned upon this issue, and although the candidate was defeated, the system continued. The improvements in machinery and our constantly increasing wealth prevailed, and besides supplying our own wants, we now export nearly forty millions of manufactures to places where we come in direct competition with the manufactures of Europe.

You will have noticed, sir, that the navigation contests which I have alluded to rather than sketched, were mainly for colonial trade. The British provinces are contiguous, and our trade with them goes back to the early history of the country. The early exchange of products with the West Indies, and afterwards with the maritime provinces east of us, was almost a necessity to both countries. The people of these northern provinces are, like ours, active and thrifty, and of course great and profitable consumers of manufactures. However the laws were, there would be trade between us. On our part we were always quite willing to have a free exchange of products with them, and make the same arrangement with regard to shipping that we made with the maritime nations of the world. But Great Britain had the expense of maintaining fleets and armies to protect them, and always insisted upon a monopoly of trade as compensation for the outlay; and when at last she gave up her navigation laws and threw open the trade of the provinces to the rest of the world, it was rather in obedience to her own interests than the wishes of the colonies. We are accustomed to think of Great Britain as having only about thirty millions of population, but we should recollect that she has machinery equivalent in its power of production to eight million laboring men; and it is this immense population for which she acts. This drives her along in her progress towards unrestricted trade, because it needs constantly increasing markets, and the more intimate the connection she can have with other nations of the world the more goods she can sell them. The English trader will sends his good abroad, and he demands of the Government full liberty to use any ship to go to any port where there are consumers who can pay a profit.

This arrangement made in 1854 for exchange of products with the provinces was one of the incidents in the history of commerce and navigation which was intended on our part to mark the advanced ideas of the time in which it was made. Both countries had tired of commercial contests by means of legislative enactments, and were willing to resort to the other means specified by Jefferson, "friendly arrangements." The provinces were trading with Great Britain as they were with the rest of the world. Baltic timber was admitted into British markets on the same terms as provincial, and provincial ships sent for sale to Liverpool found Maine ships there as readily taking a British register as themselves. On the other hand, the provinces were enjoying what they call a "responsible Government," and charged the same duties on Manchester cotton and Sheffield cutlery as they did on that made in Massachusetts and Connecticut. They were rapidly increasing in population, and our trade with them had grown with their growth, and, in the various ways I have described, checked and encouraged alternately, helped and rebuffed by turns, in 1854 it had come to amount to the very considerable sum of $33,000,000, of which nearly three quarters was our export to them. We were selling to the provinces nearly one third of our whole export of manufactures.

This certainly was a favorable state of things for us. The population of the provinces did not exceed two millions and a half, and in the year ending in June, 1854, the last year before the treaty, we sold them $24,566,000, of which over eight millions were our domestic manufactures, and took of them in return about eight millions of raw materials, and the balance in money.

But nations, sir, any more than individuals, are not satisfied with doing well. Certain interests among us aimed to improve their condition, and we cannot do better, in making up our judgment of the effects of the commercial bargain then made, than to enumerate the expectations formed by the various interests of the benefits to result to them.

Manufacturers were clamorous for the treaty. Massachusetts was willing to sacrifice the interests of Maine, if thereby she could get the cheap wood of New Brunswick and Nova Scotia; and while thus cheapening these productions, would at the same time enlarge the circle of her customers, and increase her sales in provincial markets. She expected great gains from this treaty.

Commerce would, of course, share in the business necessary for the transportation of the increased bulk of exports and imports, and was easily persuaded into a desire for the adoption of the measure. Ships are supposed to abhor all burdens upon trade, or restrictions imposed at custom-houses.

The great West was promised the free navigation of the St. Lawrence. John Quincy Adams, before Stevenson perfected the locomotive, or De Witt Clinton dug his "great ditch," had written of the free navigation of the St. Lawrence as one of the desirable events of the future, and now enthusiastic western gentlemen in their imaginations saw long lines of vessels carrying their cereals down the lakes and out of the St. Lawrence in the fall of the year, finding a profitable market for them in Liverpool, and after doing a thrifty business during the winter, return in the spring at the opening of these inland seas, bringing with them the riches of Europe.

Two political interests were invoked in aid of these material ones: the free trade cotton interest was called upon with confidence to encourage this movement in the direction of unrestricted intercourse with foreign countries, under the full expectation that in time it would ripen into an abolition of custom-houses, and the opening of the coastwise trade to free competition. They were in the latter years of their dynasty infatuated with the idea of free trade, and anything having a tendency towards it commanded their ready assent.

And in the disappointment and chagrin felt at the North on account of the passage of the Kansas-Nebraska bill, the suggestion was favorably entertained that by increasing the exchanges between the two countries, and multiplying the intercourse, "an era of good feeling" would occur, and these valuable provinces drop easily into our circle of States, and lend a powerful aid in future struggles with the slave power for the control of the General Government.

Thus I count upon my fingers the five causes of this commercial arrangement.

It is true the fisheries were talked of and adjusted; and so was the free navigation of the St. John; but neither interest lent much aid in the initiation of the treaty.

Were the private history of the treaty to be written, I believe it would be found that provincial interests were chiefly instrumental in placing it in

a desirable light before those whose business it was to consummate it. It is well known that Canada spent considerable sums to aid in lubricating its passage through the channels of official routine in this city. McKenzie, after the passage of the treaty, charged the Government, upon the floor of the Canadian Parliament, with the expenditure of sums of money in Washington, and the Government officers did not deny it; and my informant, himself a member of that Parliament at the time, adds, "they could not deny it."

A material aid in bringing about the adoption of this unfortunate treaty was the report of the special agent of the Treasury, authorized by resolution of the Senate to gather up statistics of the lake trade. Appointed in 1851, he set himself diligently at work in the business of concocting this unprofitable bargain. Like a good judge, "extending his jurisdiction" altogether beyond the "lake trade," he swept over the whole industrial pursuits of the country, and made a report which embraced a huge volume, plethoric of statistics of the productions of every section of the country from Maine to Texas. It was redolent of suggestions for the extension of western railroads and the improvement of western harbors, and eloquent upon the increase and magnitude of the "lake trade," which needed only a good outlet to make itself felt in the markets of Europe. It certainly did great credit to the industry and ability of its author.

But such a mass of matter literally overwhelmed the respectable gentlemen at that time composing the Congress. No efficient or organized opposition was made to the movement, and in the absence of vigorous statement to the contrary, it was taken for granted that this great mass of trade, so fully described, was to come into our hands and swell all the channels of commerce until they should cry, "hold! enough."

Such were the "great expectations" with which this treaty set out; and though carefully "brought up by hand," like poor Pip, it was destined to severe disappointment.

We have now had seven full years of this treaty, and can tell its merits. The returns we now have show that it has disappointed every expectation formed by its originators, and that in no one particular has it fulfilled the promises made for it in advance of its consummation.

In examining the statements of trade since the treaty has been in operation, we should bear in mind that for some years before it was negotiated we had a rapidly increasing trade with the provinces. The table I have here gives it from 1827. Since 1854 the proportion of the population of the provinces has increased rapidly, running from about two million seven hundred thousand to three million two hundred and seventy-one thousand five hundred and seventy in 1861. That portion of the United States contiguous to the provinces has also increased, but not so rapidly.

Had, then, the laws in force at the time of the treaty remained undisturbed, we could reasonably have calculated upon an increase of trade in proportion to the increase of population, or rather considerably faster than population, because on both sides of the lines the wealth of the people has for a score of years largely outrun their numerical increase.

But how is the fact? Here are the figures. It will be recollected that the treaty was approved by Congress in August, 1854, and that the fiscal year ending June 30, 1854, was the last fiscal year prior to the treaty:

Table showing the trade between the United States and British North America.

Year ending June 30—	*Imports.*	*Exports.*	*Total.*
1827.....	$415,000	$2,704,014	$3,149,014
1849.....	2,826,880	5,632,106	8,494,986
1854.....	8,927,560	24,566,660	33,494,220
1855.....	15,136,734	27,906,020	43,042,754
1856.....	21,310,421	29,029,349	50,339,870
1857.....	22,124,296	24,262,482	46,386,778
1858.....	15,806,519	23,651,727	39,458,246
1859.....	19,727,551	28,154,174	47,881,725
1860.....	23,851,381	22,706,328	46,557,709
1861.....	23,062,933	22,745,613	45,808,546

This table is very instructive. It shows that we exported to the provinces in 1854 nearly ten times as much as in 1827.

Had our exports and imports after 1854 continued in ratio of the increase of provincial population, in 1861 we should have exported $29,480,232, and imported $10,713,072, leaving the balance of trade, about twenty millions, in our favor. Instead of that, we see by the table that the balance of trade for the first time in our history is against us, we having absolutely diminished our exports and tripled our imports.

In 1854 we exported about three dollars for one of imports, and now, in the last two years, have imported about a million and a half more than our exports.

So far as mere amount goes, we are evidently losing some seven millions of trade annually—a trade nearly three times the amount of our exports to the provinces in 1827.

I am aware, sir, that this is not a sure criterion of the value of any trade; but it approximates. When the country continues to import year by year more than it exports, one of two things occurs: we either run up a foreign debt, or pay the balance with specie. As in private life, if the farmer continues to buy more than the productions of his farm will pay for, he must either liquidate the balance by a draft on a reserved fund, or he must give the trader a mortgage on the homestead. As with individuals so with nations, which are but aggregations of individuals.

Nor does it need an adept in political economy to get at the characteristics of profitable and unprofitable trade. A pithy definition of a profitable trade is given by Lord Lauderdale, in his Essay on Public Wealth, and quoted in the report to which I referred:

"Those trades may be esteemed good which consume our products and manufactures, upon which the value of our land and the employment of our poor depend; that increase our seamen and navigation, upon which our strength depends; that supply us with such commodities as we absolutely want for carrying on our trade or for our safety, or carry out more than they bring in, upon which our riches depend."

Tried by these tests, it will be found that the effects of the treaty have been disastrous; for it will be seen that the consumption of our products and manufactures has diminished, the navigation and seamen employed in the trade with the maritime provinces have been almost exclusively provincial, and that the supply of raw material furnished us, so far from being absolutely necessary, has come in competition with our own productions, to their great injury.

These are the general aspects of the working of the treaty. When we examine it more particularly, and especially with reference to the interests I have mentioned as being active in originating it, we find similar results.

In 1854 we exported of our manufactured articles to the provinces, $8,034,390. In 1860, which is the last year statistics have been furnished, the amount was $6,582,515. Without the treaty it is fair to presume the export of our manufactures would have increased *paripassu* with the increase of population; and if so, in 1860 the export should have been nine and a half millions, or about a half more than it actually was.

The reason for this is given in the report of Mr. Hatch, who, in accordance with the direction of the Secretary of the Treasury, made an examination of this trade and reported upon it about two years since. He says that the Canadians, having accomplished an open market with us by means of the treaty, went to work immediately to derive from it the greatest possible benefit to themselves. This they attempted in two ways: one, to bring the trade of the upper lakes through all their canals and export it either by way of their Grand Trunk railroad to Portland, or out of the St. Lawrence. The other was, to place a heavy duty upon American manufactures, and thus effect the double purpose of cropping a large revenue off the imports from the United States, and at the same time encourage the establishment of domestic manufactures among themselves.

The Canadians have certainly manifested considerable ingenuity in the adoption of measures to bring about the results they desired. They established an increased tariff of duties. This was an old device. But, in addition to this they made their rates *ad valorem*, valuing the import at the place where it was last purchased. Had Canada been one of the United States, the great entrepots of its imports and exports would have been New York and Portland. But under this law, goods purchased in Europe or the West Indies and coming to New York, and thence transhipped, paid duty on their value in New York, while the same goods, if imported into Canada by way of the St. Lawrence, paid duty on their value in Europe or the West Indies.

By way of aiding this law, the tolls on their canals were skillfully arranged. Vessels passing through the upper or Welland canal paid full toll; if they continued their voyage down through the other canals and landed their cargo at Montreal or Quebec, or carried it out of the St. Lawrence, ninety per cent. of this toll was refunded.

The Canadians have been following our example and building canals and railroads. Luckily, Great Britain made large contributions towards the cost, but the province has done enough to involve itself in a very large debt. The public debt of Canada is nearly fifty million dollars, and incurred almost wholly on account of the public works, and this system of public works is made use of to change the natural course of trade in the modes I have mentioned.

The tariffs of Canada are given in Mr. Hatch's report. They have been constantly increasing until, in 1859, they ranged from twenty to forty per cent. on our manufactured articles. The last tariff was adopted with the special view of protecting their manufactures. This was avowed by the members of Parliament who passed it. They had made sure of the foreign markets by means of the treaty of 1854, and throwing off all ideas of liberality or reciprocity, determined to make the most of their position during the life of the bargain.

Several marked results have followed this course of legislation. I will specify them: diminished shipments to them of our manufactures, as already shown in the figures I have given. Large revenue to Canada from the articles we sell her, and none at all to our Government on the articles which she sells us—in 1854 we received $1,243,403 for duties on goods imported from Canada, now we do not obtain enough to pay the revenue officers along the lines; on the other hand, Canada taxes twenty to forty per cent. on some eight or ten millions of goods she imports from us, collecting annually nearly two million dollars. The rapid growth of manufacturing establishments in Canada—Mr. Hatch says they now manufacture everything, from a shoe peg to a locomotive engine; Mr. WARD, in his report from the Committee on Commerce, says that citizens of Rochester and Buffalo have transferred their manufacturing establishments into Canada in consequence of these discriminations; I may add the same thing has occurred in New England. Foreign hides pay a duty if used in the United States; if exported to Canada there is a drawback; and tanned there and made into shoes, they are protected from competition with our manufactures by a duty of twenty per cent. Lynn shoemakers are taking advantage of this new order of things, and putting up shops in Montreal. Maine lumbermen are going to Canada and New Brunswick to avail themselves of the special advantages these localities now present to carry on their employment with profit. And, finally, trade has been driven down the lakes, out of the St. Lawrence, or over the Grand Trunk road. Detroit has been robbed of a valuable trade for the benefit of Portland and Quebec. Mr. Galt, in his recent report, which has been furnished to members, states the amount of this diversion of trade to be millions. These are the results—injurious alike to our revenues and our manufactures.

Commerce fares no better. It is true that there has been an increased import from the maritime provinces; but any one at all familiar with that trade knows that those provinces send us their wood and plaster and fish and coals in their own vessels. Every Boston paper contains a long list of arrivals of provincial vessels. As our exports have diminished, of course there has been less employment for tonnage in the business of carrying goods to them. In 1860 the provincial tonnage entered into the United States from the maritime provinces was 475,051 tons. Our tonnage for the same year was 184,062 tons; but of this, some fifty or sixty thousand tons were represented by two steamboats plying between St. John and Boston; and each making a weekly trip during the summer season, multiplied their tonnage some thirty or forty times for the year. In

1854 the American tonnage was 121,105, and the provincial 358,460, giving since then an increase of American tonnage in this trade of 62,957 tons, and an increase of provincial 116,591 tons, or nearly two to one.

And in this connection I may say a word about the trade with the lower provinces, as they are called. The Committee on Commerce have confined their investigations to the Canadian trade, and say in their report that it is quite probable there are compensations for the injuries to our trade with that province to be found in a profitable trade with the maritime provinces. But it is not so. It is quite true that they have not made the efforts to injure our trade which we witness in Canada, because their situation will not allow them to do so. But when New Brunswick had an opportunity to defraud us of our rights under the Ashburton treaty by means of an export duty, she did so promptly. I know of no reason for supposing she will change her course in the future.

The effect of the treaty in our intercourse with these provinces has been to diminish our exports to them, and increase very largely their sales to us. I have not been able to obtain a comparative statement of the Nova Scotia trade, but I have a statement of that with New Brunswick for a series of years. Their commercial year coincides with the natural. The reciprocity treaty went into effect in New Brunswick, November 12, 1854, so that 1855 was the first full year under the treaty.

Table showing the trade between the United States and New Brunswick, reckoned in sterling.

	Exports.	*Imports.*
1853	£574,070	£121,858
1854	714,234	97,930
1855	782,762	123,127
1856	714,515	173,485
1857	638,510	158,697
1858	564,245	163,702
1859	675,095	235,014
1860	688,217	248,378

I call attention to this table, but I cannot dwell upon it. It explains itself. It exhibits a losing trade on our part, and an increasing one for the province. And one half the value of this import of about thirteen hundred thousand dollars was in various kinds of wood that came in competition with similar productions of Maine.

The third cause I spoke of as inducing the treaty was the navigation of the St. Lawrence. How valuable this has been we learn from a single fact. It has been ascertained that for six years of the operation of the treaty only forty American vessels passed seaward through the St. Lawrence, and of these less than one half ever returned. A portion of this number of vessels were steamboats thrown out of employ on the lakes by the competition of railroads. The free navigation of the St. Lawrence was valuable in theory as affording an outlet for the States of the Northwest, but in practice it is found that canals and railroads have rendered it entirely worthless.

Of the political aspect of the treaty I wish to say but a word. It is not worth while to waste time upon the free-trade theories of which I have spoken, but the failure of the treaty to fraternize our neighbors is so marked that I cannot help adverting to it. We have had during the year a full development of "the era of good feeling" we were promised, and it comports well with the other expectations formed from the workings of this treaty. You are familiar with the tone of the Canadian press; the New York papers have fully reported it. But you may not be aware that the maritime provinces were equally bitter.

In New Brunswick but one of the numerous political papers stood out for fair play and no interference in behalf of the South, and that one was mobbed and its type thrown into the street. An American could scarcely travel on their steamboats or visit their hotels and mingle with their people, and escape jeers and insults. I had prepared extracts from their leading press to verify my statement, but the limits of the hour exclude them. Prominent among them was a newspaper edited by a leading citizen of St. John, who was active in initiating this treaty, and has since 1854 held the profitable office of commissioner under it. The last newspapers I have seen were earnest for the interference of France and England in favor of the South, and cautioned their readers not to credit the account of Union victories, because the telegraph and press were under the control of the Federal Government.

Nova Scotia was still more hostile. She commenced at once to trade with the confederacy, and sent her vessels, loaded with fish, to run the blockade. She is represented by Mr. Howe, who for years has had preëminence in her councils. As the province has been liberal, so Mr. Howe has been liberal, and heretofore on our side of the lines he has played the rôle of a Democrat, because that style suited his Nova Scotia constituency. But Mr. Howe is prompt in snuffing the popular breeze. The showman exhibiting the pantomime of Rip Van Winkle, when he comes to the period in the life of the celebrated sleeper where he wakes from his slumber in the mountains and comes back to his native village, and, unaware of the changes that have occurred during his long absence, proposes to the ragamuffin crowd around him three cheers for King George, and in return is greeted with a shower of stones—when he comes to this point the showman naively remarks that public speakers should be taught by this "to ascertain the tenets of their auditory before expressing their own opinions." Mr. Howe early learned the lesson, and makes no such blunders. I read an extract from a speech made by him in December last at Manchester, England, where he had gone on public business, because, in Mr. Howe's opinion—and I know no better judge—he was expressing the feelings of Nova Scotia:

"In America England and her flag were in bad odor. Every 4th of July, the day on which they declared their independence, they read the bill of indictment against the old country, called the Bill of Independence, which was full of the grievances of the period, and thousands were excited to believe that everything that was true of England a century ago was true now.

"Now, they—the inhabitants of British North America—wished the South success with all their hearts and souls." * * * * "From the bottom of his soul, supposing England held her hand, he did not believe the North could overrun and conquer the South. Supposing any two of them were to shoulder their muskets and march from the borders of Maine down to the end of Texas, he believed they would be dead men before they got there, even if there was no enemy to fight." * * * * * "Supposing, however, the southern States were overrun, northerners would require what Sam Slick called a place as big as all out doors to keep the southerners in. Like the boy's nose, that had been wiped over and over again, but would not stay wiped, they would have to thrash the southerners over and over again, but they would not stay thrashed." * * * * "For the good, therefore, of the northern States, that they might hereafter be prosperous and powerful and useful to the world, the wisest thing they could have done when the southern States declared their independence, would have been to have said, go and frame institutions for yourselves.

"He (Mr. Howe) was English on both sides of the house, and they might well imagine how their reception that night affected him.

"They read in the northern papers that the southerners were a beggarly parcel of rascals, with no pluck, no courage, no patriotism; but, notwithstanding this, every time they fought the South licked them." * * * * * "They had nothing to do from year's end to year's end but to ride about and shoot, and that was what they were doing now, [laughter,] the only difference being that, instead of shooting squirrels, deer, and raccoons, they were shooting Yankees! [Laughter and cheers.]"

I will not take up the time of the House in details of the opinions of the other maritime provinces. They are smaller, and their hostility equally strong. Descendants of the refugees of our revolutionary times hold leading places in all these provinces, and for many long years have "nursed their wrath" against our political institutions, until now, when it was supposed opportunity favored our destruction, these men crawl out from under the gloss of complacency, assumed in their long and profitable intercourse with us, and whenever and wherever the utterance of hatred can injure us and help the enemy, there is to be found its most intense expression.

But they will wait some time longer before they can realize their hopes of a great provincial marine which shall be consequent upon the destruction of our Government. Thank God, their malignant prophecies will not be fulfilled in the lifetime of this generation; we shall live yet to teach them and the mother country that

"Power in all its pride is less than justice."

Thus, sir, I have demonstrated that the treaty has failed in everything it undertook to do. A few words as to the future and I have done.

I concur with Mr. Hatch that the tricks of the provinces relative to our intercourse with them under the treaty, fully justify us in declaring it void. "A broken treaty is no treaty." But what then?

The Committee on Commerce recommend the appointment of a commission looking to the arrangement of terms of unlimited intercourse with them, and instance the German Zoll-Verein as a model for our imitation.

But, sir, it is an absurdity to talk of a Zoll-Verein with the provinces as provinces. Mr. Galt, in his report, states it not a whit too strongly when he says it is "wholly inconsistent with the maintenance of their connection with Great Britain." And as to general free trade with us, and if with us, of course with England and the rest of the world, it is sufficient to say, that the provinces need revenue, and while the men who manage their affairs find it so much easier to raise it through the custom-house than to assess direct taxes, they will not hazard their position and influence by countenancing a change. Canada gets $4,500,000 annually by means of a tariff, and New Brunswick some $600,000, and these sums will not be assessed upon those provinces as our States assess their populations. We may look upon this as an established fact.

And we too need revenue; we are entering upon an era of taxation. The people of the provinces, ceasing to be customers, have come to be rivals. Our own policy has created the rivalry. They are increasing rapidly. Canada, in the last decade, increased thirty-six per cent.; New England but fifteen; New York twenty-five; Ohio eighteen; and Pennsylvania twenty-six. They number now considerably more than we did when we commenced our national career. We cannot afford to lose the large revenue we should derive from their productions, nor can our farmers and mechanics afford to pay the large taxes which shall be assessed upon them in the future, and contest for markets with people comparatively free of taxation. Notwithstanding the debts these provinces have foolishly incurred, they are still lightly taxed. Where they pay one dollar of direct and indirect tax, we shall pay three; we run the race with them, carrying weight. The western wheat-grower can get no advantage of Canada West in soil or climate, and he will produce under a burden of taxation that the Canadian escapes. It is but fair that the Canadian producer, who has the benefit of our market, should pay the same as our own producer does to sustain them. They should not get all the advantages and bear none of the burdens.

Upon these terms it will be easy to arrange a true reciprocity. Let there be a free exchange of products, bearing such light tax as will be equivalent to the internal impost we assess upon our own productions. It will be cheaper for both countries to collect their revenues in this way than by means of the machinery we are about to create.

As to the fisheries, I would fall back upon the rights recognized in the treaty of 1783, and foolishly yielded by the convention of 1818. These fisheries were secured by the outlay of the common treasure of all the colonies prior to our Revolution, and defended more than once by the heroism of soldiers and sailors of colonies that afterwards became States of this Union. I would defend what our fathers fought for and bequeathed to us. I know that it is said that at the time of the formation of this treaty there was great danger of collision, and that two ships of war had sailed for the fishing grounds with conflicting instructions from their respective Governments. But surely no fears born of past threats need disturb our equanimity. When we have disposed of the principals in this rebellion, we can then turn our attention to the accessories. We shall demand our rights with confidence, and they will be yielded to us. Or, if otherwise,

"Shall we resign
Our hopes, renounce our rights, forget our wrongs,
Because an impotent lip beneath a crown
Cries, 'Be it so?'"

No, sir, no. With no disposition to play the braggart, or indulge in idle boastings, we may yet say with confidence, that the powers of this Government, now happily rescuing itself from the efforts of the formidable conspiracy which threatened its existence, are ample to protect the rights of all its citizens, however humble. We shall soon have conquered our domestic foes, and in doing

so shall have done deeds of valor and made patriotic sacrifices that will compel the admiration and win the respect of the world. We shall enter on a new career of prosperity, sobered it may be, but nowise shorn of our inclination or our power to assert our rights and maintain them against all opposition, however formidable or wherever found.

CAUSES OF THE REBELLION.

SPEECH OF HON. W. P. NOBLE,

OF OHIO,

IN THE HOUSE OF REPRESENTATIVES,

June 6, 1862.

The House being in the Committee of the Whole on the state of the Union—

Mr. NOBLE said:

Mr. CHAIRMAN: Being one of the youngest members of this body, and having seldom occupied its time, I trust I shall not be suspected of affectation when I say that it is with great diffidence that I now intrude any remarks upon its consideration. Nevertheless, for the purpose of setting myself right before the country upon some of the questions involved in the political difficulties that now distract and disturb our beloved and once happy, peaceful, and prosperous country, I am induced to forego what has been heretofore my determination, and to claim the indulgence of the committee for a brief period of time.

I had hoped that this everlasting slavery agitation, which has occupied so much of the time of Congress in days gone by, would not now be renewed, but that this Congress would turn its attention entirely to the suppression of the rebellion and the restoration of the Union. In the palmiest days of the Republic the agitation of this question was fraught with nothing but evil continually; and that it has contributed more than all other causes to bring down upon the country the dark clouds now hovering over it, I think no observant man will deny. Our country is now involved in a fratricidal war; one section is arrayed in hostile strife against the other, brother shedding the blood of brother, depleting our land of its wealth and prosperity, filling it with mourning, and sowing the seeds of wretchedness and misery. If, then, there is any one thing we should all desire to accomplish by our action here more than all others, it should be the speedy and successful termination of this deadly strife, the establishment of peace, and the full and complete restoration of our glorious Union, with its Constitution unimpaired. That it is the sincere desire of every true and patriotic member of this body to accomplish this, I have no question; but as to the mode and manner of bringing it about there seems to be a great diversity of opinion, some among us contending that this can only be done by the total abolition of slavery, while others see in any attempt to do this nothing but certain and permanent destruction of the Government.

Mr. Chairman, I should never have considered it as any part of my duty, or even my legitimate privilege, so long as the war existed, to go back and investigate the origin and causes which have led to the rebellion, but should have been content to look only to the means of crushing out and putting it down; but the issue is forced upon us; forced upon us, too, by those whose every act, word, and deed show a dissatisfaction with the Constitution as it is, as it was made by the fathers of the Republic. I will not say that these identical men, but will say that this same class of men, have always been dissatisfied with that sacred instrument, and with the construction given to it by our Government. I refer, sir, to that class of men, some of whom have declared that "the Constitution of the United States is an agreement with death and a covenant with hell;" some of whom have even gone so far as to propose a dissolution of the Union in advance of that proposition as made by the present rebels, and now openly boast of continuous efforts for nineteen years to break up the Government.

Mr. Chairman, I do not charge that all these men who make this issue here have, prior to this rebellion, been guilty of these hostile declarations and hostile acts against the Constitution; but I will ask, as I find them all now acting in harmony touching all the radical measures tending to turn the whole brunt of the war to the total abolition of slavery, openly declaring that they will accept nothing short of its accomplishment, is it a far-fetched conclusion that they all belong to the same party—the party that is opposed to the restoration of the Constitution as it is? Ah, but, says one, this change is now made necessary, necessary so as to remove the cause of this rebellion; and slavery is the cause. Sir, find me a man here that desires to accomplish the passage of any measure whatever, and I will guaranty that the most potent argument he resorts to is that of *necessity*. Find me an officer of the Government who has plundered the public Treasury of hundreds of thousands of the people's money, and arraign him for the illegal transaction, and in defense you will hear him urge the plea of necessity. Whenever I find on my table a batch of bills proposing large appropriations of money, amounting to millions upon millions, to be expended in particular locations, and, of course, tending to enhance private property in those particular locations, I feel sure that I shall hear an argument on the great necessity of the expenditure. This is always the case; this plea is always urged. Of course, no other consideration ever moved the advocate of any measure excepting this, and this alone.

But, Mr. Chairman, I have learned not to take for granted *mere statement;* I must have facts and circumstances reasonably inducing the conclusions contended for. When I hear the mere declaration made that slavery is the cause of this rebellion, without any statement of facts or circumstances, that necessarily or reasonably induce that belief, I have but little confidence in it; yet it has become so common, and so frequent and favorite a remark with the class of men here who are determined to bring about universal emancipation, that I have no doubt they themselves believe it to be true, not from any well-founded reasons, but from having stated it so often. It will be borne in mind, however, that those Representatives upon this floor who live in the slave States, and who have manifested their love for the Union as strongly as any others here, and who certainly should know something of the facts occurring under their immediate observation, all, without one single exception, agree in a denial of this allegation. The honorable gentleman from Missouri, [Mr. BLAIR,] declared in his place upon this floor, a few days since, that the history of this rebellion would show that the slave-owners were the very last men to engage in it. The gentleman from Kentucky, [Mr. WADSWORTH,] declared that the assessors' returns just taken in Kentucky, showed nearly nine tenths of all the owners of slaves in that State to be true and loyal citizens. In short, all the gentlemen upon this floor representing slave-holding districts agree to the truth of this proposition.

Let us examine, then, and see how it is that it is claimed slavery has been the cause of this war, and whether there is any truth in the allegation. In order to understand the question fully, let us first see what relation slavery bears to the Federal Government, if any. To do this thoroughly, we must look at the political organization and status of both the Federal and the State Governments, and fully understand the origin and powers of each respectively. It has been quite a common error with some to look upon the Federal Government as a consolidated government, capable of legislating by its Congress upon all subjects whatsoever, with scarcely any limit; while, on the other hand, the error has been equally glaring, if not as common, that it was not a consolidated government for any purpose, but that all, or nearly all, the powers of legislation belonged to the individual States, within their several territorial jurisdictions. Thus, the tendency has been, on the one hand, to claim for the Federal Government more powers than it really possessed under the Constitution; while on the other, it has been to deny to it those, or some of those powers which it really does possess. And I fear, Mr. Chairman, that this conflict of opinion, arising as it does necessarily out of a want of a thorough knowledge of our governmental system, has been, to a very great extent, the cause of our present national troubles.

When the original thirteen colonies severed themselves from the mother country, they did so each retaining its independent existence; so that each became in and of itself a separate government, a sovereignty as complete and independent in itself as any Government on earth; neither one owing any duty or obligation whatever to any of the others, save as they might mutually create such obligations thereafter. In this condition they were equal; none possessed any right that was not possessed equally by all the others. And though each was a nation in and of itself of unlimited powers of sovereignty, yet to attain this freedom, this independence and nationality, they had acted in concert for two years before any union was formed between them; then they formed and entered into what is called the Articles of Confederation. By these articles it is provided that, "this Confederation shall be inviolably observed by every State, and the Union shall be perpetual." Congress, in ratifying these articles, uses these words:

"And we do further solemnly plight and engage the faith of our respective constituents, that they shall abide by the determination of the United States in Congress assembled, on all questions, which by the said Confederation are submitted to them, and that the articles thereof shall be inviolably observed by the States we respectively represent, and that the Union shall be perpetual."

These Articles of Confederation, Mr. Chairman, formed, or served as the only constitution of the United States for about eleven years after their adoption. It could scarcely be expected that any people adopting an entirely new system of government could be so successful as to obtain a perfect system on the first trial. At the end of about eleven years it had been found by experience that the system of raising the necessary revenues for the support and maintenance of the Federal Government was defective; and with a view to a thorough revision of the Articles of Confederation and the adoption of such alterations and provisions therein as might remedy this evil and render the Federal Constitution adequate to the exigencies of the Government and the preservation and maintenance of the Union, a convention of delegates was called, chosen by the several States, for the performance of that duty. The result was the formation and adoption of the present Federal Constitution, which was afterwards ratified by a convention of each of the States, chosen by the people thereof, thus emanating as nearly and as directly from the people as possible, and, having been thus ratified by them, it became the primary law of the land. It will be seen, therefore, that by the formation of the Federal Government, the individual States became divested of certain powers which they possessed before as sovereign States, and that these powers became vested in the Federal Government, thus creating two separate and distinct governments, with separate and distinct powers, yet designed by the wisdom of those who created and formed them to operate together in harmony, each performing its own peculiar duties and exercising its own defined rights and powers without any encroachment upon the other. This Constitution fully and clearly defines the powers and duties of the Federal Government.

It would follow, therefore, without any express provision upon the subject, that all powers not granted by the several States to the Federal Government, in and by this Constitution, would remain with the States, for the reason that the States, in the first instance, and before the formation of the Federal Government, each possessed all the powers of an independent sovereignty, and they were only divested of those that were conferred upon and vested in the Federal Government by the Articles of Confederation in the first instance, and the Constitution afterwards. But that there should be no mistake or misconstruction, the tenth article of the amendments to the Constitution provides expressly that the powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively or to the people.

I say then, Mr. Chairman, there can be no reasonable quibble as to what are and what are not the powers of the Federal Government. It is true that disputes sometimes arise between citizens, and sometimes between legislators and other Government officers, as to what Congress may or may not do under the Constitution; but the Constitution has provided the Supreme Court as the

tribunal by which all such disputes may be finally settled and determined; and, when so settled and determined, that it is the bounden duty of every good and every loyal citizen to abide by and submit to such decision, I certainly need not argue. Were it otherwise, and every citizen were left free to give his own interpretation to the Constitution, and to govern his actions accordingly, our Government would become a mockery; there would be no stability, certainty, or confidence in it; we should be derided by, and become the laughing-stock of other nations; we should quarrel and fight among ourselves—I claiming a certain proposition to be the law, and you denying it, and each endeavoring to support his own views, would tend directly to bring us into conflict, and to destroy all law and order, and leave us like a ship without a rudder or a compass, exposed in the darkness of night to the stormy deep, with nothing to guide or direct her, subject to be wrecked or foundered at any moment, without the power to escape. It is to avoid these evils that constitutions and laws are provided for the benefit of society, so that all, recognizing their force, obeying their mandates, and, in case of dispute, submitting to the decision of the proper tribunals, may live together, enjoying all the benefits of government and society in peace and harmony.

I have shown, Mr. Chairman, that our national Government is one of limited and defined powers, powers delegated to and conferred upon it by the individual States; and that all other governmental powers, not so delegated and conferred, or expressly prohibited to the States in the Constitution, remain with the States. The Federal Government, then, and all the powers belonging to it, is as distinct and as thoroughly separated from the interference and control of the State government as if the two were separated by the widest ocean, and neither has any more right to interfere with or trespass upon the powers justly belonging to the other than Great Britain would have to interfere and dictate the policy of the Government of the United States; neither has any one State the right or the power to interfere in the domestic affairs of any other State of the Union any more than it would have to interfere in the affairs of any foreign Government. This is the system of our Government, a system made necessary by the circumstances surrounding it at its formation; a system securing to the people of each State perfect control of all its local and domestic affairs, and in reference to such local and domestic affairs perfect independence from the other States and from the Federal Government; and at the same time securing perfect equality of rights among all the States. Who dare say this system, though somewhat complex, is not a wise one; and that the fathers of the Republic erred in its construction? Who will say that the people of the different States and sections of the Union, while yielding with good faith perfect obedience to the principles and requirements of this system; in short, while living up to the Constitution in spirit and in truth, would ever have cause of quarrel? And who dare say there is not good faith and intelligence enough in the people to thus observe and perform all the obligations of the Constitution? To deny it, sir, is to deny the wisdom of the fathers, to deny the capacity of the people for self-government. This I am not prepared to do, and do not see how I could hold an argument on this subject with those who are. It would be like contending on the subject of divine inspiration with a disbeliever.

Our whole system is founded in the assumption that the people are capable of self-government, and to deny their capacity is to admit the system a failure. If, then, our Constitution is what I claim it to be, the institution of slavery is an institution known only to the States which have adopted it. It is entirely local in its nature, and cannot be legally known in any of the other States, or by the Federal Government, save only so far as by the Constitution and the laws made in pursuance of the Constitution, the Federal Government is bound to give it protection by providing for the return of fugitives. While I freely declare that I abhor slavery as an institution, and that no one can regret its introduction or existence in the Union more than I do, yet I am bound to say there is no way under the Constitution of disposing of it, or even in the least degree legally interfering with it, except only by the States and the people where it exists. *The other States and other people have no right legally to interfere in any way, shape, or manner whatever. If slavery is a sin, it is the sin of the States adopting it, and not of the other States, or of the Federal Government. These having no power or control over it whatever, have no responsibility for its existence whatever.* Let this question of its sin or its righteousness be settled between them and their God. And let us adopt for our guidance the principle embraced in the words of the great poet, wherein, addressing himself to the Author of his being, he says:

> "Let not this weak unknowing hand
> Presume Thy bolts to throw,
> And deal damnation round the land,
> On each I judge Thy foe."

This was intended to be so by the framers of the Government; for while the individual States saw and acknowledged the necessity for the Federal Union, it is evident that they were not disposed to surrender their State authority one whit beyond what was absolutely necessary to form and maintain a Federal Union. No one desired an empire or a consolidated government; but the whole intention was to leave the State governments just as they were before, save that by concession of certain powers they sought to form a Union with limited powers. This they finally accomplished by a spirit of compromise; it could be done in no other way. *Any attempt now to violate this compromise, as found in the terms and provisions of this Constitution, is disloyalty to the Government, and tends directly to its dissolution;* whether such attempt be on the part of one portion of the Union to secede from the other portion, or whether it be found in an attempt to violate the plain provisions of the Constitution in an effort on the part of the Federal Government to legislate upon the subjects reserved to the States. All violations have the same tendency.

Abolitionism in a slave State—that is, the advocacy of doctrines proposing the abolition of slavery in a slave State by the people of that State, or by others properly appealing to the people of that State with their consent—is legitimate and proper; because every person may, in a legal and proper way, propose and advocate such reforms as he chooses. But abolitionism in a free State, where there is no slavery and no prospect of any proposition ever being made to institute or establish it, is illegitimate; and so far as it tends to stir up strife, discord, sectional hatred, and ill will, it is not only illegitimate, but is absolutely reprehensible, and should be discountenanced by every lover of peace, by every lover of the Constitution and friend of good order. Equally and even more reprehensible are the doctrines and efforts of all those in the slave States who in any way advocate or attempt to enforce upon the people of the free States any recognition or tolerance of the institution of slavery, excepting only as required by the Constitution in the surrender of fugitives.

The people of the free States dislike slavery, and hence exclude it from their territory, as they have the right to do; while the people of the slave States, on the other hand, have provided for and now tolerate its existence, as they have an *equal* right to do. If a fugitive slave escapes into a free State, the Constitution has provided that he shall be delivered up to the owner or person to whom the service is due. If this is not right, then the Constitution is wrong, but this is as it was made by the fathers; and if we, their posterity, are dissatisfied with any of its provisions, they have wisely provided the means of amendment by peaceful means. No resort to arms is necessary. No cause of sectional quarrel exists; and no violations of the Constitution should be tolerated.

The founders of our Government never intended that the people of one State should become the judges or censors of the people of any other State. As well might the people of the United States take upon themselves the duty of regulating the morals and dictating the political policy of Great Britain or France. As well might one man in any neighborhood or community assume to himself the power and privilege of supervising the moral and religious conduct of all his neighbors, and dictate to them what they should and should not do, in a moral and religious sense, without allowing or tolerating in them any freedom of conscience whatever. God never intended that any one man or class of men should thus rule the conscience and morals of his fellow-man; hence God has not given him the power to do so. The only means given to man by which he may do this is by education and moral suasion; by elevating the moral man, and not by the exercise of strong-handed power.

But I am met with the allegation that slavery is morally wrong, and hence it ought not to be tolerated. This proposition corresponds with my own instincts and my education; hence I have no disposition to take issue upon it; but as I claim the right to think for myself upon this subject as a free moral agent, shall I deny the same right to my neighbor, who possesses advantages of education and moral instruction in every sense equal to myself? The people of the free States all claim the right to think and act for themselves upon this subject, the right to mold and shape their own State policy in reference thereto. Shall they deny to the slave States the same right to think and act for themselves upon the same subject; the right to mold and shape their own policy in reference thereto, in every sense upon terms of exact equality with themselves? This species of intolerance, upon any subject of dispute whatever, would keep us in a constant broil and strife. In trying to enforce upon others our own moral convictions, against their will, we should be led constantly into the commission of greater wrongs than could possibly occur by freedom of thought and of toleration.

Singular as it seems to us in the free States, this is a subject on which the communities of the free and slave States are divided in opinion. Go where you will in the slave States, and wherever you find even a teacher in the pulpit, or a politician asking office, who gives himself up to the agitation of this subject at all, in nine cases out of every ten he assumes and teaches the extreme pro-slavery views, with but very little liberality or toleration; and I may add that very nearly the reverse of this occurs in the free States.

I concede that there are very many on both sides, the most respectable of politicians, and the most truly Christian teachers, who disapprove of this kind of agitation altogether; but is it not singular that Christian teachers, educated equally well, and that, too, in the same schools of religion, if I may so speak, should have their opinions upon this subject *inverted* by the mere fact of a residence upon one or the other side of a sectional line? And is it not strange, also, that these agitators on either side generally choose to promulgate their doctrines just where they can have no other effect than that of inducing sectional hostility and hatred? Abolitionism in a free State, and pro-slavery doctrines in a slave State, and this, too, where no change is proposed on either side. There are, however, very strong reasons for this course on both sides; the people of a free State would not be likely to treat with great attention one who should undertake to introduce among them the institution of slavery; and it is said that the people of slave States do not generally listen with much respect to harangues upon abolitionism.

I will not say that these agitations are designed by all who engage in them to divide the people of the two sections of our country, and to engender between them a spirit of hatred, ill will, and strife, but that they have that direct tendency, I think no one who considers the subject will deny. The passions and prejudices of mankind are frequently more susceptible than their reason; especially is this the case in times of high political excitement; hence, not unfrequently have we witnessed politicians, both North and South, appealing to these baser passions, more for the purpose, no doubt, of success at the ballot-box, than for any other political end. Who that has stood by and heard the southern extremists berate the people of the North, charging them—all classes of them, indiscriminately—with all manner of evil, and with all manner of violations of law; and has then passed over on the other side and heard the northern extremists depicting in highly-wrought colors the many evils of slavery, generally winding up with the detailed particulars of the mobbing of some poor inoffensive individual, charged with the crime of abolitionism, of which he was probably not guilty, will now say he has not witnessed the sowing of the

seeds of discord, which have finally taken deep root and culminated in this rebellion? The man of mature years has lived to little purpose who fails to see the tendency of this course so extensively indulged in by the political leaders on either side. As long, however, as practical conservative men could have entire control of the affairs of Government the public had little to fear even from this course; but it was constantly engendering sectional hostility, and begetting a spirit of encroachment, a desire on the one hand to ask and demand congressional intervention to secure more enlarged guarantees and greater protection to the institution of slavery, and on the other hand to claim congressional intervention to control and limit the institution, and to exclude it from the Territories, regardless of the wishes of the people thereof; each party, of course, founding his claim upon his own construction of the Federal Constitution.

I assume, then, that this claim in favor of congressional intervention on either hand, to either exclude or protect slavery in the newly acquired Territories, regardless of the wishes of the inhabitants and people interested, has always, during the history of this Government, engendered sectional strife and discord; and whenever it has been attempted, has threatened the overthrow of the Government; and whenever Congress has determined against such interference, and discouraged or refused such agitation, harmony and fraternal feeling have again been restored.

From the organization of the Federal Government under the Constitution until the year 1820, when congressional intervention was first proposed, there was peace and fraternal feeling among all the people of the Union, so far as the slavery question was concerned; but in the organization of all the Territories up to this time no attempt was made at congressional interference. At that time, on its first attempt, the Union was threatened, and was only saved by the compromise which followed, known as the Missouri compromise. In this memorable controversy, the majority of the North in Congress demanded that Congress should forever prohibit slavery in all the territory acquired from France, extending from the State of Louisiana to the British possessions on the North, and from the Mississippi river to the Rocky mountains. The South, on the other hand, then stood upon the ground of non-intervention, firmly denying the right of Congress to interfere with the subject. They did not then ask any protection by Congress, as they have since. The issue was made up by one party affirming itself for, and the other affirming itself against congressional intervention. That compromise was really what it purports to be; it was accomplished by each party yielding a portion of what was claimed by it, for the sake of peace and the Union.

Again: after the acquisition of California and New Mexico, an attempt to organize a territorial government for this newly acquired Territory in 1849 and 1850 was made the occasion for a renewal of the same agitation, and was in almost every respect similar to the Missouri controversy of thirty years previous, and the Union was again threatened as severely as ever before; but by the interposition of the patriots of that day, led on by the immortal Clay, of Kentucky, the Union was again arrested from danger by the adoption of the compromise measures of that period, by which it was distinctly agreed that all questions pertaining to slavery in the Territories and in the new States to be formed therefrom were to be left to the decision of the people residing therein, by their appropriate representatives, to be chosen by them for that purpose. *Thus the doctrine of non-intervention by Congress was adopted as the true policy of the Federal Government;* and again, for a time, peace and fraternal feeling prevailed and continued to prevail between the two sections until congressional intervention was again proposed and demanded, persistently and resolutely, since when there has been no peace, and can be none until practical men, disposed to conduct the legislation and the administration of the affairs of Government *upon the basis of the Constitution as it is*, shall take the place of those who, regardless of its obligations, seek now to warp it to meet their own views.

What is remarkable is, that congressional intervention on this last occasion was demanded on both sides—the one to exclude slavery from, and the other to protect and secure slavery in, the Territories—each urging its claims as a matter of right under the Constitution, and each utterly refusing to accept anything short of the accomplishment of its ends. Thus a conflict was almost inevitable; it could scarcely be avoided. True, there was a conservative party in the North, composed of the old National Whigs and Douglas Democracy, who still adhered to the spirit of the compromise measures of 1850, and firmly planted themselves upon the great doctrines of non-intervention by Congress upon the subject, and proposed to leave the whole subject to be disposed of by the people of the Territories, through their representatives; but this conservative party was in a hopeless minority, and alone could do nothing to control the public affairs of the country, or to save it from what they saw and predicted would follow.

There was also a conservative party in the South who planted themselves upon the Constitution, but they, too, were in a hopeless minority. That portion of the radical fanatics of the South who had acted with the Democratic party demanded that a new plank should be incorporated in the platform of that party, pledging it to the principle of congressional intervention in favor of such security and protection to slavery as they demanded; and on the refusal of the Democratic party to make this change, they separated from and repudiated their former political associates at the Charleston convention, and openly declared that they preferred the success of their most bitter and radical opponents, who advocated the new plank of political principles on the other side, of congressional action to exclude slavery from the Territories; not because they preferred this to non-intervention, but because it would tend to exasperate the people of their section, and thus enable them the more easily to break up the Government, and sever entirely from all connection with the Union, determined to either sustain this new principle in the construction of the Constitution or to dissolve the Government. The radical politicians on the other side, who had also determined to incorporate the said new doctrine of exclusion by congressional action, also firmly adhered to their determination; not because it would tend to ameliorate the condition of the slave, nor because it would remove the bonds of slavery from one single soul, for it would do neither, but because it would tend to limit the territorial jurisdiction of slavery, and thus, as it was claimed, tend to limit its political power, and *nothing more.*

In conclusion, then, I affirm that slavery was not the cause of the war. There was no real cause for the rebellion. It had its origin in the illegitimate and heated agitation of the slavery question, between the abolitionists of the North and fire-eaters of the South. It was a wicked attempt by ambitious men, dissatisfied with our present Government, to break it up, and establish another upon its ruins more aristocratic in its nature, and more suited to their taste; and the criminations and recriminations thus indulged in on either side, together with the threatened invasion of political rights, all conspired to produce a sectional hatred among the people of the South against those of the North, and enabled these desperate leaders to carry the masses with them in the rebellion. The whole thing was thus carried forward upon a falsehood; it could have been done in no other way, for I say here that whatever ground of complaint may have existed against individual States who had, by legislative acts, attempted to obstruct the execution of those laws of Congress in which the slave States alone were interested, whatever complaint might justly have been made against individuals and societies for advocating, proposing, attempting, or threatening such obstructions, there never was a time when just complaint could be made against the Federal Government itself. It had at all times been faithful to its obligations under the Constitution upon this subject, regardless of all the higher law and kindred teachings of some of its citizens. When it failed to do this, and not before, complaint might have been made.

To restore the Constitution permanently, and to renew the harmony and fraternal feeling which is necessary to the peace and prosperity of the country, it is absolutely necessary to crush out all rebellion against the Government, and place in power those who will in future conduct all the affairs of Government upon the basis of the Constitution as it is in all its parts, without any exception. No one of its provisions is of more binding force than any other; discard one, and we may as well discard the whole. Our only safety is in a full and complete restoration. This done, then to insure our future safety and prosperity, it will only be necessary *to observe and faithfully keep, in spirit and in truth*, the anxious injunctions of the Father of his Country in his Farewell Address to the people of the United States, as set forth in the following extract:

"The unity of government, which constitutes you one people, is also now dear to you. It is justly so, for it is a main pillar in the edifice of your real independence; the support of your tranquillity at home, your peace abroad; of your safety, of your prosperity, of that very liberty which you so highly prize. But as it is easy to foresee that from different causes and different quarters much pains will be taken, many artifices employed to weaken in your minds the conviction of this truth—as this is the point in your political fortress against which the batteries of *internal* and external enemies will be most constantly and actively (though often covertly and insidiously) directed, it is of infinite moment that you should properly estimate the immense value of your national Union to your collective and individual happiness. That you should cherish a cordial, habitual, and immovable attachment to it, accustoming yourselves to think and speak of it as of the palladium of your political safety and prosperity, watching for its preservation with jealous anxiety, discountenancing whatever may suggest even a suspicion that it can in any event be abandoned, *and indignantly frowning upon the first dawning of every attempt to alienate any portion of our country from the rest, or to enfeeble the sacred ties which now link together the various parts.*"

CONFISCATION OF REBEL PROPERTY.

SPEECH OF HON. A. G. PORTER,

OF INDIANA,

IN THE HOUSE OF REPRESENTATIVES,

June 4, 1862.

Mr. PORTER having moved to reconsider the vote by which the bill of the House No. 472, to free from servitude the slaves of rebels engaged in abetting the existing rebellion against the Government of the United States, was rejected, addressed the House, as follows:

Mr. SPEAKER: My purpose in moving to reconsider the vote by which the bill reported from the special committee by the gentleman from Massachusetts [Mr. ELIOT] was rejected, was, as I have heretofore explained, to enable me to offer an amendment limiting the slaves to be emancipated by virtue of the provisions of the bill to those held by the conspirators who originated this rebellion and those conspicuous classes who have chiefly fostered and encouraged it and been its main pillars and supports. The previous question having been sustained before I had an opportunity to offer an amendment, there was no way left but a resort to this circuitous and awkward method to reach the object which I desired to attain.

The bill reported by the gentleman from Massachusetts provided for an indiscriminate and sweeping liberation of the slaves of all persons who have been implicated, however remotely or indirectly, in this rebellion. It seemed to me to inflict a severe and excessive chastisement upon many who have been drawn into the rebellion by monstrous misrepresentation, misapprehension and delusion, and who, if the pressure which has overborne them were for a day removed, would instantly and gladly return to their allegiance. But this was by no means the gravest objection. I feared that it would render insecure the right to persons held to service by loyal men, under the solemn protection of the Federal Constitution in the rebellious States, who have under every circumstance of insult, oppression, and humiliation, been faithful to their allegiance. Nor was I less apprehensive that it would tend to create a not ill-founded uneasiness and alarm in the minds of loyal men in the border slaveholding States, who, however much their conduct may have been lightly criticised, have exhibited their devotion to the Union by sending into the field many thousand brave men to vindicate the insulted honor of our flag and restore the supremacy of the Constitution.

The kind of a bill, which, in my judgment, ought to be passed, is one which will deprive of their slaves all those conspicuous criminals who, by their official and social positions, are the chief

support of the rebellion, and without whom it could not continue for an hour.

At the proper time, therefore, if the motion to reconsider shall prevail, I will move to recommit the bill to the special committee on confiscation, with instructions to report in its stead the substitute which I send to the Clerk's desk to be read.

The Clerk read, as follows:

Strike out all after the enacting clause, and insert:

That all right, title, interest, and claim whatever, of every person comprehended within the following enumerated classes, in and to the service or labor of any other person or persons held to service or labor in any State under the laws thereof, is hereby declared forfeited, and such persons so held to service or labor, commonly called slaves, are hereby declared forever discharged from such service or labor, and to be freemen, to wit: First, of every person who shall hereafter act as an officer of the army or navy of the rebels in arms against the Government of the United States. Secondly, of every person who shall hereafter act as president, vice president, member of congress, judge of any court, cabinet officer, foreign minister, commissioner, or consul of the so-called confederate States of America. Thirdly, of every person who shall hereafter act as Governor of a State, member of a convention or Legislature, or judge of any State court of the so-called confederate States of America. Fourthly, of every person who, having held an office of honor, trust, or profit in the United States, shall hereafter hold an office in the so-called confederate States of America. Fifthly, of every person who shall hereafter hold any office or agency under the government of the so-called confederate States of America, or under any of the several States of the said confederacy, or the laws thereof, whether such office or agency be national, State, or municipal in its name or character: *Provided*, That the persons thirdly and fifthly above described shall have accepted their appointment or election since the date of the pretended ordinance of secession of the State, or shall have taken an oath of allegiance to the so-called confederate States. Sixthly, of every person not embraced in the foregoing classes who, after the passage of this act, being actually, willfully, and without coercion or compulsion engaged in armed rebellion against the Government of the United States, shall not, within sixty days after public warning and proclamation duly given and made, at his discretion, by the President of the United States, lay down his arms and return to his allegiance to the United States.

SEC. 2. *And be it further enacted*, That the President shall appoint one or more commissioners for each State by whose laws persons are held to service or labor for life, to make a list of the names and residences of the persons in the States respectively held to service and labor by any person or persons described in the foregoing section, and in the fourth section of an act entitled "An act to confiscate property used for insurrectionary purposes," approved August 6, 1861, and of the names of the persons claiming to be entitled to such service or labor, which list shall be returned as speedily as may be to the district court of the United States for the district where the persons so held to service or labor may reside; and immediately on such return the district court shall publish the said list of names and an order requiring all persons claiming the service or labor of any of the persons named in the list to appear and show cause why the person or persons owing labor or service should not be discharged therefrom under this act at the next term of said court; and on failure of any one to appear and claim the service or labor of any of the persons reported to owe the same, such person or persons shall be declared free by the court; and on appearance the claimant shall file with his application an affidavit that he has not belonged and does not belong to any of the classes of persons specified in the first section of this act, and that he will forever bear true faith and allegiance to the United States; and if not being comprehended in either of the classes specified in the first, second, third, fourth, or fifth specifications of the first section of this act, he shall have been engaged in armed rebellion against the Government of the United States after having received sixty days' warning by proclamation of the President, as above provided, and shall allege that he has been so engaged under compulsion, he shall, in addition, state in his affidavit the fact and the manner of compulsion, and prove the same, *prima facie*, to the satisfaction of the court; and upon such affidavit having been filed and proof made, the attorney for the United States, or any one on behalf of the person held to service or labor, must prove to the satisfaction of the court that the claimant did so engage in armed rebellion without the compulsion alleged, and on failure of such proof the person whose service or labor is claimed shall be restored to the claimant; but on the failure or refusal of any claimant to take any affidavit above required, or to prove the compulsion when it is alleged as an excuse, the court shall declare the person whose service or labor is claimed free from such service or labor; and the court shall give every person so declared free a certificate of the fact under the seal of the court; and such certificate shall be conclusive evidence of the freedom of such person from all service or labor against all persons whatsoever, and in all courts of the States or of the United States; and any person so declared free, if thereafter seized or imprisoned or held in duress in any way by any person under a claim to such person's service or labor, shall be forthwith discharged on *habeas corpus* by any court or judge of the United States; and the court or judge acting on said writ shall commit for trial for kidnapping the person so holding the said freedman; and on conviction of seizing or holding the said freedman, knowing him to have been declared free by a court of the United States, the person so convicted shall be sentenced to be confined at hard labor in the penitentiary for not less than one year nor more than five years; and any person corruptly swearing falsely in any proceeding under this act shall be guilty of perjury, and liable, on conviction, to the penalties thereof.

SEC. 3. *And be it further enacted*, That any person or persons held to service or labor by persons embraced in the classes specified in the first section of this act, if omitted from the commissioner's list, may, on summary application to the district court of the United States for the district in which he resides, be placed on the list, and shall be entitled to the same proceedings and benefits, and subject and entitled to the same judgments, and to be dealt with in the same manner as if his name had been placed on the list by the commissioners. And if the commissioners cannot complete their lists prior to the first term of the district court of the United States for any district, they shall be allowed to continue and pursue their investigations till they shall be completed and ended; and the compensation of each shall be not more than $2,000.

SEC. 4. *And be it further enacted*, That no person discharged under this act, or the act entitled "An act to confiscate property used for insurrectionary purposes," approved August 6, 1861, nor the descendants of any such person, shall ever be reduced to involuntary servitude by any law or regulation of any State; and every such person shall always be entitled to be discharged by any court or judge of the United States, on *habeas corpus*, from any such servitude.

SEC. 5. *And be it further enacted*, That whenever any person or persons claiming to be entitled to the service or labor of any other person or persons, commonly called slaves, shall seek to enforce such claim, he or they (as the case may be) shall, in the first instance, and before any order shall be made for the surrender of the person, establish, not only a legal and valid claim to such service or labor, but also make and file an affidavit that he or they have not belonged, and do not belong, to any of the classes of persons specified in the first section of this act; and it shall be a sufficient defense to any such claim that the claimant has belonged, or does belong, to either of said classes.

SEC. 6. *And be it further enacted*, That the President of the United States is hereby authorized to negotiate for the acquisition, by treaty or otherwise, of lands or countries in Mexico, Central America, or South America, or in the islands of the Gulf of Mexico, or for the right of settlement upon the lands of said countries; and whenever any lands shall have been so acquired, or whenever the right of settlement shall have been so secured in any of said lands, then the President shall cause all the persons who shall have been liberated under the provisions of this act to be removed, with their own consent, at such times and under such regulations as he may deem expedient, to the countries so acquired, or in which the right of settlement has been so secured, and shall cause a reasonable quantity of land, not exceeding forty acres to any individual, or eighty acres to the head of a family, to be set apart for the use of such liberated persons, and shall guaranty to all such persons so removed all the civil and political rights secured to all other citizens in said countries; and for the purpose of paying the expense of the purchase of such lands or countries as aforesaid, (if the same cannot be acquired by treaty,) and the removal of said persons, the President shall use such moneys as Congress may from time to time direct, arising out of the sales of the property formerly owned by rebels, and which shall have been confiscated to the use of the United States.

SEC. 7. *And be it further enacted*, That every person embraced in any of the classes specified in section one of this act shall forever hereafter be incapable of holding or exercising any office of honor, trust, or profit under the Government of the United States.

Mr. BINGHAM. I ask the gentleman from Indiana to allow me to suggest an amendment for the purpose of making clear the legal effect of the second section of the substitute which he proposes.

Mr. PORTER. I shall be compelled to decline the request of the gentleman from Ohio. If I open the way for one I must admit all. I respectfully, therefore, decline to yield.

Mr. BINGHAM. My only purpose was to suggest an amendment for the purpose of carrying out what evidently is his object in the second section of the bill.

Mr. HICKMAN. I rise to a question of order. This is not the time to offer amendments. There has been no reconsideration, and it is not competent, therefore, for any amendment to be offered.

The SPEAKER. The Chair thinks the question of order cannot be raised until some amendment is proposed to be offered.

Mr. HICKMAN. The gentleman from Ohio desired to offer an amendment, as I understood.

The SPEAKER. The Chair did not so understand him.

Mr. PORTER. While I cannot give way to the gentleman from Ohio to offer an amendment, I am willing to hear his suggestion.

Mr. THOMAS, of Massachusetts. I rise to a question of order. I do not understand that it is in order for the gentleman to yield the floor, and I must object to any proceeding that is not strictly in order.

Mr. DAWES. I should like to make an inquiry of the gentleman from Indiana.

Mr. HICKMAN. I object to the gentleman from Indiana giving way for any purpose whatever, unless he does it unconditionally.

Mr. DAWES. I was merely going to make the inquiry whether I understood the gentleman from Indiana correctly to indicate his purpose not to permit any amendment whatever to his proposition.

Mr. BINGHAM. I must object to any inquiry. If the gentleman from Indiana cannot be permitted to yield to one side, I object to his yielding to the other.

Mr. THOMAS, of Massachusetts. I will merely say that I am willing that there shall be a free inquiry, if the question can be opened to all of us.

Mr. DAWES. I wish to say, with the consent of my friend from Ohio——

Mr. BINGHAM. I object.

Mr. PORTER. The question having been put by the gentleman from Massachusetts, I have the right, notwithstanding it may have been out of order, to answer it. I will, therefore, say that it is not my purpose at this time to receive amendments, nor do I suppose that any amendment is in order. My purpose is, if the motion to reconsider shall prevail, to move to recommit the bill to the special committee, with instructions to report the substitute which has been read at the Clerk's desk, unless it shall be the desire of the House to act finally upon it at this time. When that substitute shall have been reported, it will be within the discretion of the House to receive or refuse amendments.

Mr. Speaker, I have said that the purpose of this bill was to strike an effective blow at the leaders of this rebellion, but not at the same time, like the bill reported by the gentleman from Massachusetts, to menace or disturb the constitutional rights of the loyal citizens of the slaveholding States. I have said that its purpose was to deprive the leaders of this rebellion of their property in slaves, but at the same time not to destroy the security of the domestic institutions of any of the slaveholding States.

Mr. WICKLIFFE. Will the gentleman allow me to ask him a question?

Mr. HICKMAN. I object.

Mr. PORTER. The point of order having been made, I must decline to yield to anybody.

I do not affect to disguise, sir, that if the substitute which I have indicated shall be enacted, it will operate to emancipate a very large number of slaves. Nor, sir, do I doubt that it will quite nearly, if not altogether, destroy the institution of slavery as a mere political and governing power. Nor is that to be lamented. But it will not destroy it as a domestic institution, nor impair, in any way, the rights of the loyal people of the slaveholding States. I think there are few persons of sober judgment who will not now admit that if the institution of slavery had not been wielded, as it has been for the last few years, as a political power, it would have been far more secure, and that the interests of those concerned in it will be best subserved by forever withdrawing it from the fields of political strife. The emancipation of the large number of slaves who would be set free by the operation of the substitute which has been read, would not tend, if allowed to take place peacefully, to weaken or imperil the rights of loyal men in the slaveholding States to persons held to service, nor disturb their industrial interests, nor loosen the foundations of social order. A conspicuous proof of the truth of this assertion is furnished by the State of Maryland. With the exception of a partial insecurity in that part of the State next to an extensive border upon a free State, arising from facilities of escape, there is no State in which slaves are held more securely than in the State of Maryland. Yet, according to the census of 1860, with a slave population of eighty-seven thousand one hundred and eighty-eight, she has a free colored population of eighty-three thousand seven hundred and eighteen. One half, therefore, within a small fraction, of the colored population of that State are free. Yet who has ever heard that the presence of that free population has excited uneasiness or alarm among the owners of slaves, or has weakened the tenure by which slaves are held to service, or has injured the industrial interests of the State?

In 1859, when the slavery agitation was at its height, there was held in Baltimore what was distinctly known as the "slaveholders' convention of the State of Maryland." It was a large assemblage, and none but slaveholders were admitted as members. A resolution that the Legislature of the State should be requested, at its next session thereafter, "to terminate free-negroism in Maryland a'

an early day, and on the most advantageous terms to the white population," was defeated, and a resolution was adopted that the convention considered "any measure for the general removal of the free blacks from the State of Maryland as impolitic, inexpedient, and uncalled for by any public exigency which could justify it." The report, which embraced this resolution, was prepared and presented to the convention by a distinguished Democratic statesman of the State of Maryland, now honorably representing that State in the other wing of this Capitol, [Mr. PEARCE.] I quote from the report the following significant passages:

"The existence of so large a number of free blacks in the midst of a slaveholding State, is believed to be of itself an evil, and this evil is readily perceived to be greater when it is considered that a portion of them are idle, vicious, and unproductive. *This, however, is not the case with the majority of them, and their removal would, as the committee believe, be far greater than all the evils the people of Maryland ever suffered from them.* In the city of Baltimore it is estimated that there are more than twenty-five thousand of them, employed chiefly as domestic servants or laborers in various departments of industry. In many of the rural districts of the State, where labor is by no means abundant, they furnish a large supply of agricultural labor, and it is unquestionable that quite a large portion of our soil could not be tilled without their aid. In some districts they supply almost all the labor demanded by the farmers. Their removal from the State would deduct nearly fifty per cent. from the household and agricultural labor furnished by people of this color, and indispensable to the people of the State; would produce great discomfort and inconvenience to the great body of householders; would break up the business and destroy the property of large numbers of land owners and land renters—a class whose interests are entitled to as much consideration as those of any other portion of our citizens; would be harsh and oppressive to those people themselves; would violate public sentiment, which is generally not only just, but kindly, and would probably lead to other evils which the committee forbear to mention. We are satisfied that such a measure could not receive the legislative sanction, and would not be tolerated by the great body of the people of Maryland, *even with that sanction.* The committee, therefore, cannot recommend their expulsion from the State. Still more unwilling should they be to favor any measure which looked to their being deprived of the right to freedom which they have acquired by the indulgence of our laws and the tenderness of their masters, whether wise or unwise, or which they have inherited as a birthright."

This, sir, is the tribute which the slaveholders of Maryland have paid to the character of their free colored population. It is the most authoritative expression which could possibly be uttered. I cite it to show that the emancipation proposed by the substitute which I have offered would produce no rude shock of the social system of the South, would not suddenly overthrow their domestic institutions, nor be, in any way, calamitous to their agricultural and other industrial interests. The freedmen would remain, as in Maryland, to fill up, peacefully and efficiently, the several departments of industry. Traitors would, indeed, be deprived of the rewards wrung from their labor, of the wealth represented in their persons, and of the influence which that wealth confers upon them; but society would suffer no detriment.

The deductions from this example are so apposite, that I cannot forbear to allude further to the State of Maryland. The reckless agitators who desired to expel the free negroes from the State, having failed to secure the approval of the slaveholders' convention, nevertheless introduced a kindred proposition into the next Legislature—that Legislature so largely disloyal in its composition, that a majority, I believe, were placed under arrest by the Government on account of their undisguised sympathy for the rebel cause. They succeeded in procuring the passage of a law, limited in its provisions to the great slaveholding counties of St. Mary's, Calvert, Howard, Kent, Baltimore, Worcester, Somerset, Talbot, Queen Anne's, Prince George's, and Charles, providing that all negroes, male and female, over twelve years of age, should hire themselves out to "industrious and respectable citizens," to labor and service by the year, and, in the event that they did not, they were to be exposed to sale to the highest bidder for the term of one year. Children from four to twelve years of age were to be bound out by the boards of commissioners, the males to serve until twenty-one years of age, the females to the age of thirty. Any negro, hired or bound, who should abscond, secrete himself, or run away from service was to be sold into slavery for life, and the proceeds of the sales were to be appropriated to the school fund of the proper county for the education of white children. This infamous enactment could not make its way through the Legislature, until a provision was inserted that it should not take effect in any of the counties to which it was applicable, until approved by the people by an expression at the polls. It was thought, however, that a sufficient bribe had been offered to the cupidity of slaveholders to induce them to make haste to put it into effect.

But, sir, what was the result? The expression was taken at the presidential election of 1860, and in but a single county did it secure the approval of a majority of the voters. In the great county of Baltimore, against a vote of 681 cast for it, 5,354 votes were cast against it. In Howard county, 55 votes were cast for it and 1,397 against it; in Kent county, 74 votes were cast for it, and 1,502 against it; and these are little less than fair samples of the whole. The law, let it be said to the honor of the people of Maryland, was repudiated by them with utter scorn and disgust. Sir, I cite this, in the face of timid and apprehensive speculation, as the result of the practical experience of a slaveholding people. It is worth a world of theoretical arguments, in reference alike to the effect of emancipation, of the presence in large numbers among the servile class of a free population of their own color, and of the results to the industry and wealth of the State. It shows how entirely groundless and visionary are the apprehensions, invented by many mistaken though honest minds, in others of the border slaveholding States, to alarm themselves and us.

I am sure that the Representatives of the free border States would not willfully do anything tending to trench upon the rights of their neighbors in the slaveholding States, or to inflict upon them needless injury. There are no two States, perhaps, that are more indissolubly attached to each other by the ties of intimate commercial intercourse, of kindred, and of cherished memories, than Indiana and Kentucky. We in Indiana can never forget that when in our infant territorial condition our homes were invaded by a barbarous and savage foe, and our helpless women and children were exposed to the merciless cruelties of the tomahawk and the scalping knife, the brave young men of Kentucky volunteered to flock to our aid, in order to drive back the cruel invaders. We remember, sir, the gifted and gallant Daviess and the brave and intrepid Owen, who both fell at Tippecanoe, and whose remains repose within our borders beneath the soil of the battle-field. Indiana has erected a monument to their memory, and their graves will be a perpetual remembrancer of the debt of gratitude which we owe to the people of Kentucky. Nor, I trust, will Kentuckians ever fail gratefully to remember that when recently their State was invaded by a foe which has imitated many of the examples of savage barbarity, coming to desolate their fields, to insult their households, and overthrow their civil institutions, the gallant soldiers of Indiana, in almost countless thousands, rushed to their soil to assist in rendering them protection. The graves of our gallant young men who fell at Mill Spring, at Wildcat, and at Rowlett's, are a touching memorial of the hereditary friendship of the two States, and the token of a brotherhood which I fervently trust in God may be perpetual.

But while we will do nothing that will invade the rights or impair the safety of the border slaveholding States, no false delicacy shall induce us to withhold the rough hand of punishment from those atrocious conspirators who have added to the ordinary guilt of treason the eternal ignominy of having conspired to overthrow a Government from which they have experienced nothing but blessings, and under whose beneficent protection the people have enjoyed a degree of liberty, equality, and prosperity never before enjoyed by the most favored nations. To fail to punish them memorably would be treason to posterity.

Nor is there any punishment which we could inflict, next to the forfeiture of their lives, which would strike them so vitally as the liberation of their slaves. The ownership of slaves is, in the South, the badge of social distinction. It brings the possessor in sympathy with the governing classes. It is the basis of permanent political influence. A connection with it has enabled the conspirators—having failed with other agencies, and aiming for their own ambitious purposes to overthrow the Government—to make it the instrument for spreading alarm and discontent and kindling the flames of civil war. Let them feel that they have taught instructions which, being taught, return to plague the inventor. If the detested counterfeiter forfeits the instrument of his crime; if the smuggler, engaged in unlawful trade, forfeits the vessel and cargo employed in it; if the slave-trader forfeits the ship used for the purposes of his infernal traffic, and the law sanctions and human nature applauds—with how much more justice should traitors forfeit their slaves who have made slavery the instrument of rebellion, and have brought on a war which has exhausted the treasures of the nation, broken up its commerce and industry, desolated its choicest fields and habitations, and filled it with sorrow, and wailing, and unutterable woe! Sir, if we should allow the red-handed conspirators, who have brought on this war, to revel in the rewards wrung from the labor of bondmen, the blood of the murdered brave, fallen in battle, would cry to us from the ground. Familiar though I am, from no short residence in a slaveholding State, with the feelings and prejudices of the people, I stand here amazed when I see the loyal Representatives from the States of Kentucky and Missouri and Tennessee controlled by timid apprehension, pleading, as it were, for traitors, by begging that they shall be spared from the loss of the slaves who have not seldom been made to build the intrenchments and fortifications, and to man the guns and help to fill the regiments before which their own gallant and devoted brave have fallen in the strife of battle.

Mr. PHELPS, of Missouri. I desire to propound an interrogatory to the gentleman from Indiana. He has appealed to the delegation of the State of Missouri.

Mr. PORTER. I have no indisposition to yield to the gentleman from Missouri, if it be in accordance with the pleasure of the House. I know that there is no more patriotic man in the House, and none more disposed to do whatever he thinks is best to overthrow this rebellion. I believe that he gravely errs, however, when he seeks to shelter the conspirators engaged in attempting to overthrow the Government from the forfeiture of their slaves.

Mr. PHELPS, of Missouri. The gentleman from Indiana has correctly stated my position—that it is my desire to do whatever I can to suppress this rebellion, and to restore the Union. But my judgment does not agree with his on the question of the government of the African race in this country. It is a question of subordination. I believe that the African race can better be kept in order and in subordination by having masters, than they can be by being suddenly turned loose upon any community. So thought the people of Indiana. And the gentleman from Indiana has appealed to me to know why the delegation from the State of Missouri object to the passage of such a bill. Why, sir, did the people of Indiana object to this very people migrating to their State? If you emancipate the slaves in Missouri, under existing laws of that State they are to be expelled from it. Where are they to go? Not to Indiana, because the citizens of that State have said that they do not want any more free negroes. Nor do we want free negroes in Missouri.

This view of the question is entirely one of expediency. I have expressed the opinion that Congress has not the authority to confiscate property of any description. I hope to have the opportunity at some future time to address the House on this question. Because the gentleman from Indiana has now appealed to the delegation from Missouri, I desired to correct him on this point. The gentleman is not willing to receive the manumitted slave into his State. It is because they are a subordinate people, and incapable of taking care of themselves, as a class, that they are not wanted in Indiana. You will not receive them in Indiana, and we do not want them in Missouri.

Mr. PORTER. I propose, before I get through, to allude to the policy of Indiana; but it is enough to say here that in Indiana we have a sufficient laboring population of white people for all the purposes of agricultural and other industry. In the organization of our State government, we elected in favor of the white race by prohibiting the in-

stitution of slavery. But in Missouri, you preferred to have your resources developed and your industrial interests prosecuted by a negro population. You chose the institution of negro slavery, and you chose it, as the lawyers would say, *cum onere*—with its burdens. History had shown it never to have been a relation of undisturbed and long continuing permanence; and the lights of history were around you. You agreed, therefore, in accepting its advantages, to submit to all the inconveniences which might necessarily spring from it in the course of time and events. If, therefore, to quell present rebellion and to destroy the seeds which might germinate future trouble, it is needful to set at liberty the bondmen of traitors, the inconveniences to follow (if there be any) and the duty to be just to the freedmen, is yours, and you cannot fairly shift either the burden or the duty upon us. But I had anticipated your argument by citing the example of Maryland, where the policy both of expelling and of reducing again to servitude the free colored population has been condemned by an overwhelming popular expression, upon the express ground that they were profitably employed in the several departments of industry, and that any plausible conveniences which it might be alleged would follow their removal or reënslavement would be far more than overweighed by great and manifest injury to the State. Missouri would not be likely to suffer worse evils than Maryland.

I propose now, Mr. Speaker, to explain very briefly the provisions of the substitute which I have offered for the bill reported by the gentleman from Massachusetts.

The first section specifies the several classes of persons whose slaves are to be emancipated. And first in the list, because most conspicuous in crime, are the officers of the army and navy of the insurgents. These, in good part, were educated at the expense of the Government, and engaged by the most solemn pledges which could bind the consciences of men to maintain with their lives the honor of its flag. They falsely deserted the Government at the earliest hour of its extremity, and hastened to lend to treason all the advantages of skill and science which their education had conferred. The heaviest calamities which the nation can inflict ought to be visited upon them, and they should not be allowed to subsist upon the labor of men who, however degraded in the social scale, are far better entitled to the enjoyment of freedom and the protection of benign laws than themselves.

The second and third specifications embrace all those who shall hold prominent official positions under the government of the so-called confederate States, or of any State claiming to be a member thereof. This will reach chiefly those faithless public men who, while holding and enjoying the rewards of honorable offices under the Government of the United States, were engaged in secret combination to subvert it, and were using all the advantages of official station and patronage to extend the ramifications of the wide-spread conspiracy which has ripened into rebellion and war.

The fourth and fifth specifications embrace those whose offices cannot be precisely named, but who are involved in the criminality of maintaining the machinery by which the color of nationality is given to the rebel organization, and are engaged, in great part, in enforcing obedience to laws subjecting to penalties those who hold fast to their allegiance to the Union.

The sixth specification goes an important step further. It extends to those who, in spite of the manifestation of the power of the Government to preserve itself, still shall persist, after timely and solemn warning, in remaining in arms against it and stubbornly resisting its authority. It does not embrace those who shall be in arms under conscription, or who cannot escape from service without subjecting themselves to the stern penalties of military law; but it is meant to reach those contumacious spirits who, in the face of all light and from implacable hatred of the Union, mean stubbornly to oppose it to the end. Whatever may be the number whom this specification may embrace, can the justice of the punishment be otherwise than universally approved?

The time and the occasions when the President shall issue his proclamations of warning, are left to his own discretion, in order particularly that they may be made in such manner as fairly to come to the knowledge of the persons to whom they are addressed.

The second section of the substitute is of the highest importance to an efficient bill, and it supplies what I regard as a grave omission in the bill of the gentleman from Massachusetts. That bill, after declaring what slaves shall be emancipated, provides that whenever any person claiming the labor or service of any such slaves shall seek to *enforce* his claim, it shall be a sufficient defense thereto that he was engaged in the rebellion, &c.; and that whenever any person claiming to be entitled to the service or labor of any other person shall seek to *enforce* such claim, he shall, before any order of surrender shall be made, establish not only such claim, but also that he had not aided, assisted, or countenanced the rebellion; but no penalty is prescribed against the rebel who shall persist, notwithstanding the right of the slave to be released, to hold him in servitude; nor is any remedy provided by which the slave thus held shall recover his freedom. Only the case of an escape and an attempt of the claimant to recover by legal proceedings the escaped slave, is provided for. But the substitute which I have offered provides for the appointment of commissioners in each of the slaveholding States whose duty it shall be to make lists of the slaves of all persons embraced in the specifications of the first section, together with the names of the masters. The lists, when prepared, are respectively to be reported to the district courts of the United States for the proper districts, and the claimants are to be notified of the filing of the lists and required to show cause why their slaves shall not be declared free.

If a claimant fails to answer to the summons, a record is made of the emancipation of his slaves, and certificates of freedom are issued to them. If he appears, it is incumbent upon him to make an affidavit, and show by *prima facie* proof that he never has belonged to any of the classes named in the first section, and likewise to state in his affidavit that he will bear true faith and allegiance to the United States; otherwise the slaves are declared and certificated free men. But if the affidavit and proof are presented, then it is incumbent upon the attorney of the Government or slaves to overcome this proof by preponderating evidence to the contrary, and upon such preponderating evidence being adduced, the slaves are, of course, declared free, and receive certificates. These certificates are to be conclusive evidence of freedom in all courts of the States and the United States.

The substitute offered also provides that if a slave, emancipated under its provisions, shall be held in servitude or restraint under a claim to his service or labor, he shall forthwith be discharged upon *habeas corpus* by any judge of a United States court. In this way a sure remedy is provided, to guard against a prejudice which might, in some cases, if the remedy were limited to State tribunals, be hurtful, if not fatal, to his application. Under the laws now in force, regulating the jurisdiction of the United States courts, the *habeas corpus* can only be granted where the person sought to be released is held under color of the authority of the United States. This additional legislation is therefore indispensable to the efficacy of an emancipation bill, and its omission from the bill reported by the gentleman from Massachusetts is a grave one.

While the public record and certificate of emancipation, of which I have spoken, are for the benefit of the slave entitled to liberation, they are not, however, to be indispensable to the assertion of his freedom. If, having escaped from his master, the latter seeks to enforce his claim to service, it will be incumbent on him to prove, not only a valid claim, but that he never belonged to any of the classes named in the first section of the substitute.

The last feature of the substitute to which I shall allude is that which provides for the acquisition by treaty or otherwise of lands in Mexico, Central America, South America, or the islands of the Gulf, for the colonization of the negroes emancipated under its provisions. It is designed to inaugurate a policy which will gradually and peacefully draw off from us a race which, from the prejudices of caste and the aversions of color, must always be an alien and degraded one. It is founded upon the idea of establishing our colored population in tropical homes, under circumstances which will incite them to industry, and repay temporary outlay by the solid and enduring benefits arising from commercial intercourse. Already our trade with the colony of Liberia is greater than our trade with the vast empire of Russia; our commerce with the colored race of Hayti exceeds our commerce with Russia; and if a wise and considerate policy is pursued in the practice of colonization in the tropical zone of our continent, much more important results may be safely anticipated. The policy of my own State, to which the gentleman from Missouri has alluded, has not been prompted by a mere cold and selfish prejudice against the colored race. The State has purchased lands in Liberia for such of the colored population as may choose to emigrate thereto, and has for many years made liberal annual appropriations to aid in the voluntary colonization of her colored inhabitants. She treats humanely those who do not choose to go; but she desires a separation of the races. The acquisition of lands in the countries mentioned will not be difficult or expensive. The inhabitants being composed of mixed races, there is no prejudice against color. Guatemala and Honduras have already signified their readiness to receive such colored inhabitants as we will send to them. The proprietors of the large grant in the province of Chiriqui are ready to receive them. Providence seems to be tempting them, by the greatest inducements, to settle in these auspicious tropical climes. And what more just—what more fit in the retributions of Providence—than that the moneys derived from the confiscated property of the rebel leaders, who have endeavored to pervert the institution of slavery into an agency to subvert the Government, should be the means at once of removing and elevating the colored race?

I have thus, Mr. Speaker, hastily glanced at the prominent features of the amendment, in the nature of a substitute, which it is my purpose to offer, if the motion to reconsider shall prevail. It is not, indeed, so broad and sweeping in its provisions as the original bill; but it will be much more efficient within the sphere of its application. The universal sense of the people will sanction it, as measuring out punishment where it is deserved, and inflicting a blow, at the right time and in the right place, upon the unscrupulous chiefs who have led the movement to overthrow the Government. When they shall have been brought down from the proud elevation to which their wealth and social position have exalted them, by the stern hand of an incensed Government, the deluded people, after they shall have had a brief time to recover from the wretched infatuation which has misled and excited them, will be happy to take refuge from the accumulated evils which rebellion has brought upon them, under the laws of that benign Government which so long furnished them shelter and protection; and no "star of destiny" (about which they have heard so much) will be to them so bright and auspicious as that which symbolizes to each his own State in the azure field of the old flag

The motion to reconsider prevailed—ayes 84, noes 64; and the bill was recommitted, with instructions to report Mr. PORTER's substitute

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ADDITIONAL TREASURY NOTES.

SPEECH OF HON. JOSEPH BAILY,

OF PENNSYLVANIA,

IN THE HOUSE OF REPRESENTATIVES,

June 17, 1862.

The House being in the Committee of the Whole on the state of the Union—

Mr. BAILY said:

Mr. CHAIRMAN: I happen to be one of those old enough to have voted for that great and good man Andrew Jackson. About the period of his second election that old hero grappled the heresy of nullification by the throat. When he sent Commodore Elliott down to Charleston, and laid a few of our old-fashioned frigates broad-side to that arrogant city, and filled the forts in the harbor full of soldiers, there was no grumbling then; everything the old man did to crush that little rebellion was approved by the Democratic party of that day.

I remember well, when the report came North, (news did not travel as fast at that time as it does now,) that he had expressed a determination to hang Calhoun as high as Haman, but one voice was heard, and that was to applaud his declaration. A compromise with treason was unwisely but honestly made at that time; the old hero was prevented from crushing that foolish outbreak by force, as he would have done; and the nation is now reaping the bitter fruits of that blunder. If Jackson had been let alone in his great purpose of maintaining the supremacy of the Constitution and laws by the strong arm of power, and punished a few of the bad men engaged in that movement, it is hardly likely we should now be called upon to make such tremendous efforts to quell rebellion.

The bold, bad men in the South, who have lately boasted that they have been engaged for thirty years in preparing the public mind in that region for the present outbreak, would hardly have commenced their task of treason at so early a day if Jackson had been let alone. These men were permitted to go unpunished, and they have at last involved their country in the most cruel and causeless civil war on record. They have committed a great crime. They are now in armed rebellion against a Government that never did them wrong. They have enjoyed more than their share of its patronage; have had a majority of the Presidents and Vice Presidents, of Cabinet officers and foreign ministers; and yet, in the face of all these benefits, because, as they hypocritically allege, the Government would not do what they knew it had no constitutional power to do, to suppress abolition societies and presses, they have risen up in armed rebellion to destroy it. This is a subterfuge. The abolition of slavery had but little influence upon the bold and unscrupulous leaders of this rebellion. They made potent use of that element of discord to beguile the honest masses of the South into treason, but the leaders knew better. They knew well that Mr. Lincoln would be in a minority in both branches of the present Congress, and would be powerless to do them harm if he desired. It was a question of power that moved these leaders to rebellion and not the question of abolition. They are natural aristocrats, and perceived with mingled fear and hate the surprising growth of the North and West in all the elements of greatness—numbers, wealth, and intelligence—and feared these elements would some day be used to curtail their influence over the Government and its patronage. That was the prominent, leading motive for their treason, and not the abolition of slavery. If the latter motive had actuated them, why did their self-constituted government offer to England and France the abolition of slavery in thirty years, as the price for their acknowledgment and an alliance to aid in destroying our Government?

It will not do to close our eyes to the enormity of this crime or the condition of things that fearfully surround us. This is a war of elemental principles—of aristocracy against democracy; and its effects, for good or evil, will be felt to the utmost bounds of civilization. If the former succeeds, the cause of constitutional liberty will be put back a thousand years. If the latter triumphs, as it most certainly will, the bold men who are raising their voice against tyranny over the whole earth will be inspired with a new vigor in their efforts to establish equal rights and constitutional freedom for all civilized men. In this great emergency, what is the duty of the Government and the people who are loyal to it? Are we merely to look on like servile wretches and permit these traitors to destroy our Government, without an effort to save it? Are we reduced to so mean a condition that, after the short period of seventy-three years of national existence, four fifths of the American people became so venal and cowardly as to permit the other fifth to overthrow their Government? No, sir. We have plenty of good and brave men yet who are willing to peril their all in defense of their country. We may have men among us who try to alarm the fears of the people about debt and taxation.

But these things are of no avail. The great majority of the people have resolved, in their heart of hearts, that there is but one way about it. This rebellion is to be put down, cost what it may. The people well know that if it is permitted to succeed, ruin and desolation will follow. The protection the laws afford to life and property will be swept away with the destruction of the Government. The people know this well, and hence the patriotic uprising of six hundred and fifty thousand armed men to crush out this foul blot on the fair fame of our country. Debt and taxation were not a consideration with the people when they sent these brave men forth to battle for their country. They knew well that debt and taxation would be the result of the herculean efforts they were making to save this Government, and all true men will bear these burdens cheerfully.

There is no use now in talking about the causes that may have produced this rebellion—about abolition and the conduct of enthusiasts. We have the terrible and tangible fact staring us in the face, that a portion of the people of the United States have arrayed themselves in armed rebellion against their country. Some of the States, in violation of the Constitution, have entered into alliances with each other to destroy the Government; have raised armies and navies; seized the property of the Government, and commenced this unholy purpose while still enjoying its patronage. After committing these monstrous and treasonable outrages, the self-constituted government into which these traitorous States had entered, audaciously declares that all it wants is to be let alone. Very likely. The perpetrator of crime always desires that. The wishes of these bad men cannot be gratified. The Government of the United States is obliged to see that the laws be faithfully executed, and cannot consent that rebels against its authority anywhere shall be let alone. They are to be punished; and to do this armed men are required.

The men who arm and go forth to fight for their country must be maintained and paid for their time, and to do this Congress must provide the Executive with the means. Hence the necessity of this bill. I shall vote for it with pleasure, because it provides the necessary means and is the least burdensome to the people, because it is in the nature of a loan without interest. Talk about cost when the existence of such a Government as this is at stake. The trustee of the rights of man throughout the world, we will, as we ought, incur the curses of mankind if we stop short, for fear of expense, in our efforts to maintain its supremacy. What signify a thousand millions or five thousand millions compared with the existence of a nation that has produced such startling results in the history of the world in the short space of three quarters of a century? Why, sir, it has conquered a wilderness overspreading a continent, and peopled it. It has produced the raw material with which the people of the earth have clothed themselves. In a very short time it will produce food sufficient to sustain the wants of all mankind. Its manufactures are carried in its own ships to every port on the earth. It has tamed the lightning and made it the means of transmitting thought. It has made the terrific power of heated vapor submissive to its will and compelled it to perform labor equal to the efforts of millions of men. Its educational institutions excel in number and usefulness those of all other nations, and its gallant soldiers and sailors have never met a foe able to conquer them.

These are a few of the great results produced by a great people under the benign influence of this greatest and best form of government, in a period much short of a century. Will a people who have accomplished these great purposes in so short a time be alarmed at a debt of $1,000,000,000 incurred in the preservation of their Government? I think not, when they ascertain the share each one will be liable to pay. In eight years more we shall have a population of forty millions and over. Divide $1,000,000,000 by this number and we have the trifling sum of twenty-five dollars, for which each one of the people will be liable, the interest on which, per year, is $1 50. Double this amount of indebtedness, and you have the sum of fifty dollars as the liability of each one, subject to an annual interest of three dollars—not very alarming figures to a great and free people. The ordinary revenue has most generally been sufficient to defray the ordinary expenditures of the Government heretofore, and we may confidently expect that to be the case hereafter, at least as soon as we have peace, and trade and business have resumed their usual channels.

The people have a right, and certainly will exercise it, to hold the agents of the Government to a faithful performance of duty. The man who will, in this great emergency, impose upon his Government by a fraudulent compliance with the terms of his contract, or the public officer who abuses his trust, is more hateful than a rebel, and ought to be more severely dealt with. The drum-head court-martial is the only remedy for that class of men. A little exercise of that kind of remedy would have a most salutary effect at this time. Plunderers are to be found among all people. They are bold and insinuating, and when money is to be expended are the first to offer their services, but the last when fighting is to be done. Cowardice and theft are twin brothers, and always in company; always at work in dark and dirty places, ready to cheat an individual or a nation.

The great and only purpose of the Government, in my judgment, should be to maintain and defend the Constitution as it is, and to restore the Union as it was prior to the rebellion. The framers of that sacred instrument, the Constitution, certainly clothed this Government with powers of sovereignty ample and sufficient to defend it against all foes, either internal or external. The resort to powers of doubtful character, or not warranted by the Constitution, is dangerous, and will be injuriously felt hereafter when resorted to as a precedent. The war power, so much talked about in this Hall, is but the power of the despot at best, and should be resorted to only as limited and qualified by the provisions of the Constitution.

The folly of confiscation of property by any other than a judicial process, and for a longer period than the life of the offender, will probably be fully demonstrated when you offer it for sale. Purchasers will look at the Constitution, and exercise their own judgment as to the character of the title you propose to vest. But little will be realized from this project, or I have not studied well the cautious character of our people. Why stretch the powers of the Constitution to effect emancipation when the work you propose to do is being better done by the rebels themselves? Have a little patience, gentlemen, and the object you have in view will be accomplished without violating the provisions of that instrument. The rebels themselves have numbered the days of slavery. Their offer to abolish it in thirty years will destroy all respect for the institution among its best friends. The moral restraint that has heretofore kept the slave in submission has been in a measure removed. Rebellion has schooled him to notions of freedom. The master whose interest it was to train him to ideas of submission has, by his example, inspired him with vague ideas of liberty; and when he returns to his plantation, instead of respect and submission to his authority, he will find a spirit of insubordination not to be controlled by the old power of moral influence. The master will become tired of an institution not only costly but dangerous, and he will resort to free labor for safety. Let these questions of doubtful utility alone, and cling to the one straightforward and determined idea of crushing this accursed rebellion by the recognized powers of the Constitution. A resort to powers beyond the provisions of that instrument is an admission of the weakness of the Government.

I conscientiously believe it to be the duty of every Democrat to support the President in the exercise of every constitutional power to suppress this unjustifiable rebellion, and with as much cordiality and disinterestedness as we rendered to Andrew Jackson in his efforts to destroy nullification. We would not be consistent if we pursued any other course. The Democratic party has ever claimed strict fidelity to the Constitution as one of the great landmarks in its organization. Armed rebellion is not in accordance with the provisions of that instrument, but subversive of them. The only safety is in strict obedience to it and the laws; any other course leads to anarchy. Let us cling to it as the great hope of mankind, and interpose the potency of our strong arms against every unlawful effort to impair its sacred provisions. A portion of our people have arrayed themselves in arms against the authority of the Government, and for the purpose of destroying the

Constitution. It is our duty to assist in rescuing it from the assaults of these bad men; and if in doing so, it has become necessary to baptize our fair fields in the blood of the true and the false alike, so be it. The crime and the fault shall not be ours. The responsibility be with those who imposed this dreadful necessity upon the Government. Actuated by this sentiment, near four hundred thousand Democrats have armed and marched forth to defend their country, and we will be recreant to our principles if we do not assist in providing the necessary means for their support and comfort. My course is fixed. Come what may, I will stand by my country and its brave defenders in this dread hour of peril.

LOSSES BY THE REBELLION.

SPEECH OF HON. E. H. WEBSTER,

OF MARYLAND,

IN THE HOUSE OF REPRESENTATIVES,

June 19, 1862.

The House having under consideration the bill relating to claims for the loss and destruction of property belonging to loyal citizens, and damages thereto by the troops of the United States, during the present rebellion—

Mr. WEBSTER said:

Mr. SPEAKER: It has been some weeks since this bill was reported to the House from the Committee of Claims, but owing to circumstances over which the friends of the bill had no control, although a special order, it has been necessary to postpone it upon several different occasions. It is now, however, before the House for consideration, and I trust that we shall continue that consideration until the bill is passed. It is a very important bill to a great many people, and especially to those who live in the border States, or more properly the central States on both sides of Mason and Dixon's line. It is a bill, as its title states, providing for compensation for the loss and destruction of property belonging to loyal citizens, and damages done thereto by the troops of the United States, during the present rebellion.

The Legislature of my State, at its last session, passed a resolution instructing its Senators and requesting its Representatives to use their utmost efforts to procure the passage of some such bill as this. The State convention of Missouri a few days since passed a similar resolution, and I think the Legislature of Kentucky did the same thing.

I know a deep interest is felt by the people of that State in the passage of some such measure. The use and destruction of property by the Army in these States, as well as in others not mentioned, has been immense. Why, sir, on the eastern bank of the Potomac river, from one end to the other, is found one vast scene of waste and destruction. So, too, beyond the Potomac, in Virginia. Such, too, is the fact upon both sides of the Ohio river, and especially in the State of Kentucky; and such is especially the case in the State of Missouri. Destruction of property necessarily followed the military occupation of these portions of the country, as it also necessarily followed the movement of troops through them. I say necessarily followed, without any blame being properly attached to the troops or the officers in command of the troops. The Army must have provisions and forage, and frequently the commissary and quartermaster cannot furnish them. Grain and grass are trampled down by the movements of armies; buildings are necessarily occupied by officers and troops and are injured, and forests are necessarily cut down and fences destroyed for fuel for the troops.

While the loyal people who have suffered these losses do not complain, yet they look to the Government to give them that redress which is their right. The Government has always furnished the redress which this bill looks to. In 1816, after the war with Great Britain, a bill more comprehensive in its features than this was passed. I believe, also, a similar bill was passed after the Mexican war. Why, sir, the Constitution itself, in that provision which declares that "private property shall not be taken for public use without just compensation," enunciates the very principle which lies at the foundation of this bill. I take it for granted that no gentleman will hold that the Government is not bound to pay in the cases mentioned in this bill. The question in my mind is not, shall the Government pay in such cases, but does this bill provide the best machinery by which compensation can be secured to loyal sufferers.

The provisions of this bill are few and simple. It provides for a commission, to be composed of three commissioners, whose duty it shall be to investigate claims of the nature and character mentioned in the third section of the bill, who shall have power to hold their meetings at such places as they may deem most convenient for the claimants, and shall report their conclusions and awards to the Secretary of War, to be by him reported to Congress. There are two other tribunals to which claims of this character might be presented under existing laws for adjudication. These are the Committees of Claims of the two Houses of Congress and the Court of Claims. Since the meeting of Congress this session a great number of claims of this character have been presented to that committee of this House. And it was the knowledge which the committee had that there were hundreds and thousands of other claims which must be presented, if no other means were prepared for their adjudication, which induced them to bring in this bill. It is a bill which in its main features meets with the entire approbation of every member of that committee. I say it was because the committee knew of the great number of claims which must come before it, and the long time which must elapse before the committee could adjudicate them, and the further time which must elapse before Congress could act upon them, and because they were aware of the fact that a great number of these claimants live far away from the capital, and cannot give their claims their personal attention, but must employ claim agents to look after them, whose fees would eat up the major part of the claims, and whose interest in the claims will induce them, by means of *ex parte* evidence, gotten up as they see fit, without any one to represent the Government in the preparation of the case, to make them larger against the Government than the honest claimants themselves would make them—I say it was because they were aware of these facts that they were induced to bring in this bill, believing it would not only save the Government itself from unjust and exorbitant claims, but also provide a more convenient, a speedier, and a juster means of adjudication for the claimant.

These claims might also go to the Court of Claims, but that court is already burdened with an immense amount of business. It is already occupied to the extent of its ability upon other claims of a different character. I have no doubt that a majority of these claims will come from beyond the Alleghanies, and the same objection lies to having them all submitted to the Court of Claims, in regard to the difficulty of the claimants presenting themselves before said court, as lies in reference to the Committees of Claims of the House and Senate.

It was in view of these facts, and because the committee felt it to be its duty to provide some fair, just, and speedy means by which the claims of loyal and honest claimants may be adjusted, that this bill was brought in. I say *loyal*, because this bill expressly excludes from its benefits all but loyal citizens, men true to the Government, men who have not failed to discharge their duty to their country, men who have suffered in their property by means of the action of their own Government, that Government which they intend hereafter as heretofore to support and preserve. And I hold that it is just that this provision should be in the bill. I hold that it is just that men who endeavor to break up the Government, to destroy the country, to destroy the rights, privileges, and property of the loyal men of the country, should not be entitled to come before any of its tribunals and ask that their losses, occasioned by the war which they have originated, should be made good to them.

But, sir, the men who have stood true to the country, the men who have given up their means and their property to support the Army in the field, the men, loyal if they are, whose property has been taken by authority of the Government of the United States, without their consent, ought and should, by all the principles of justice, by all the precedents which this Government in its legislation has set, and by the very fundamental doctrine upon this subject laid down in the Constitution itself, have speedy redress at the hands of us, their Representatives.

But, Mr. Speaker, I sought the floor not for the purpose of discussing the main features of this bill. It seems to me so proper that some measure of the kind should pass that I think a discussion of the leading features entirely unnecessary. When this bill was introduced, upon the 14th of April last, I submitted an amendment.

Mr. THOMAS, of Massachusetts. I desire to inquire of the gentleman what classes of property he means to cover by this bill? Suppose a man owns property in a city which has been shelled, or property which, by a shot thrown in battle, has been destroyed; does the gentleman mean that the Government of the United States shall indemnify for that loss?

Mr. WEBSTER. Shot thrown by whom?

Mr. THOMAS, of Massachusetts. Thrown by our own troops.

Mr. WEBSTER. Well, sir, the property for which this bill is designed to afford indemnity, is specified in the third section of the bill. If my friend from Massachusetts will read it, he will see what these classes of property are.

Mr. THOMAS, of Massachusetts. I have read it without being able to find out, and that is the reason I asked the question.

Mr. WEBSTER. I beg leave to say to my friend from Massachusetts, that I do not believe the bill does cover that class of claims. The leading feature of the bill is, that it is intended to pay for such property as shall be taken by the authority of the United States, or by the authority of some officer of the United States, for the use of the soldiers of the United States. If the gentleman will read the third section, he will see that it is restricted to property taken, occupied, or destroyed for the use of the troops of the United States, by the order of the commandant of the corps for whose use the same is occupied, taken, or destroyed. The gentleman will see that the class of cases to which he refers is not included in this bill.

Mr. NOELL. I wish to make a suggestion to the gentleman from Maryland. I suggest to him that the provisions of the bill only require these commissioners to investigate and report their proceedings. Everything that they do under this bill has to undergo the supervision of Congress afterwards.

Mr. WEBSTER. I have already stated that very fact. The buildings mentioned in the third section of the bill, and which are to be paid for by the Government of the United States if destroyed or injured, are buildings taken for the use and occupation of the troops of the United States. This bill does not even go so far as the bill of 1816 went in regard to the destruction of houses and property, because that bill provided that buildings which were destroyed by the enemy in consequence of having been occupied or used by the troops of the United States should be paid for by the United States; and the legislation of Congress from that day to this has recognized claims of that character. Congress has never refused to pay them, and the files of this House and of the Committee of Claims are full of such cases. I repeat, then, that this bill is not as comprehensive and does not cover as many classes of claims as did the bill of 1816, passed after the last war.

Again, as the gentleman from Missouri suggests, this commission is not a commission of final award. All that they can do is to examine cases, and when they have examined and determined upon them their determinations, with all the proofs and with their opinions and conclusions, are to be reported to the Secretary of War and he is to report the same to Congress, and the final adjudication is here.

Mr. ROSCOE CONKLING. Will the gentleman from Maryland allow me to ask him a question?

Mr. WEBSTER. With a great deal of pleasure, sir.

Mr. ROSCOE CONKLING. I propose to the gentleman this inquiry: whether, under the existing law, if property is taken by the authority to which he has referred several times, a certificate is not given to the person from whom it is taken, and whether upon that certificate there is not machinery already established by which he can receive

indemnity? I want to follow it with another question.

Mr. WEBSTER. I am obliged to the gentleman from New York for asking me that question. I have to put an emphatic negative upon the theory which the gentleman seems to have in his mind upon that subject. I answer his question with an emphatic no. I know of my own knowledge that in a great number of instances property has been taken by the command of officers of the Army in my own State, in which no certificate has been given and in which no redress can be had at the proper department here. I have gone myself with numerous claims, some of them from my own neighborhood, to the Quartermaster General's department, claims proved on oath by disinterested parties before magistrates, and with the certificates of county clerks upon them to the official character of the magistrates, claims clearly and positively proved, but because it had been impossible to get the proper vouchers from the accounting officers in charge of the troops at the time, the department has referred the claimants, in every instance, to Congress for redress.

Mr. WICKLIFFE. Will the gentleman permit me to say a word in answer to the gentleman from New York?

Mr. WEBSTER. In a moment.

Mr. ROSCOE CONKLING. Will the gentleman allow me a moment?

Mr. WEBSTER. I will give the gentleman the floor for a short time, if he desires it.

Mr. ROSCOE CONKLING. I asked the gentleman one question, and he is answering another.

Mr. WEBSTER. No, sir; I am on that very question. I say that there are a great many cases where property has been taken by the orders of competent authorities, the officers in command of troops, where no certificate of that fact has been given, and in which no certificate can be obtained.

Mr. ROSCOE CONKLING. I asked no such question as that.

Mr. WEBSTER. Then I misunderstood the gentleman.

Mr. ROSCOE CONKLING. The abuse of any law reflects very little light upon its scope or validity. I did not ask the gentleman what officers have done, in point of fact, in the State of Maryland. My inquiry was whether the law, as it now stands, does not provide that in cases where the commandant of a given district takes property for the use of the Army, he shall give to the person from whom it is taken a certificate of the fact.

Mr. WEBSTER. I admit that what the gentleman states is the law, but it is a sad fact for many people that because officers of the Army cannot in some cases, and in other cases where they can, do not, discharge their duty and obey the law, they suffer thereby.

Mr. ROSCOE CONKLING. I do not differ with the gentleman at all as to the proposition that he now states, that nobody should suffer because that law was disregarded; but I put my question as a preliminary inquiry in order to ask him if he proposes by this bill to amplify the scope or multiply the classes of claims which are to be paid, or does he intend his bill to provide indemnity for those who ought to receive certificates if the law as it now stands were carried out?

Mr. WEBSTER. Well, I will say this to the gentleman: that it is not intended to provide by this bill that the proper accounting officers in the Quartermaster General's department shall have any other class of claims brought before them than that which now properly goes before them; but the committee do intend to provide a tribunal before which honest loyal claimants may come with those classes of claims which they cannot have adjudicated before the department; not, however, enlarging the principles upon the subject of compensation to claimants which the Government has always recognized.

Mr. WICKLIFFE. I will state this fact: neither the quartermaster's department nor the subsistence department will pay one dollar for supplies or for the use of property unless there was a contract made between the quartermaster and the man who sets up the claim before the property was taken or the services rendered. In cases where there was not a contract before the property was taken, the departments will not pay the claims.

Mr. WEBSTER. I think, from the facts already stated, that the class of claimants provided for in this bill cannot get their claims settled by the proper accounting officers in this city. They would infinitely prefer that the proper accounting officers here should pay them. They would get their money sooner, and have less trouble in proving their claims. In every case where a claim has come to my knowledge, it has first gone to those officers, because the parties interested preferred to go there, and not being able to get the redress there to which they were entitled, they came to the Committee of Claims, the tribunal provided by this House for such cases.

But, Mr. Speaker, as I before remarked, I did not rise to discuss the main features of this bill. When it was introduced by the chairman of the Committee of Claims, I offered an amendment to it. That amendment is to the tenth and last section of the bill, which provides that the commissioners shall not take cognizance of any claim against the United States for the loss, value, or services of any slave or person of color. My amendment is to strike out that part of the section, leaving in it, however, the provision that no person who has engaged or shall engage in the present rebellion against the Government of the United States shall derive any benefit under this act. I opposed that feature of the bill in regard to slaves in committee, and endeavored to have it stricken out, but the committee thought best to retain it. At the same time the committee agreed that I should have the opportunity of proposing my amendment in the House, and of having a vote of the House on it.

Mr. Speaker, this is an unjust discrimination, in my opinion, against loyal men who have claims against the Government for services of their slaves. I am not speaking at present about compensation for loss of slaves. I do not believe, and never have believed, that this Government is bound to pay for runaway negroes. If, in the march of our Army through southern States, negroes run away with it, or if individual officers or privates in the Army see fit to steal negroes from their masters, to whom they are individually responsible in the courts, and as much as they would be disgraced thereby, and should be punished by the Government as for any other theft, yet I do not believe that the Government is bound to pay for said slaves. So, too, if a loyal master puts his slave into the Army in any capacity, and that slave is lost in battle or otherwise, I do not hold to the opinion that the Government is bound to pay for him. I know that, in years gone by, when reports from the Committee of Claims came from southern men themselves, that committee and the House declined to pay for slaves killed in battle, when they were in service with the consent of their masters. The reason being that, when a master makes his contract for the service of his slave, he takes into consideration the risk of that service. He has a valid claim against the Government for wages for the service of his slave, but for nothing else.

Now, it is a fact known to everybody who knows anything about the Army, that in all the wars in which this country has been engaged a great number of slaves have been employed; some of them as servants to their owners, officers in the Army, and the Government has always paid the master for their services. In many instances masters, who were not themselves in the Army, have hired their slaves as teamsters and in other capacities. The Government has always recognized this class of cases through its proper officers here. Suppose a case of this character arises, as it may and will arise, in which the proof may not be satisfactory to the proper officers here, is it not fair to provide that the owner, having a valid claim, may go before a commission, as he might go before the Committee of Claims, and ask compensation?

Now let me put a case as an illustration. Your illustrious predecessor, Mr. Speaker, a distinguished general now in the field, (General Banks,) recently found it necessary to fall back, in the face of the enemy, through the Shenandoah valley, till he reached the Maryland heights. Suppose that he had deemed it proper to erect fortifications there in a short space of time, and had called on the loyal slaveholders of Maryland to send their servants to aid in the work; and suppose that when this work was accomplished a forward movement of the Army took place, and the quartermaster or other officer, whose duty it was to give certificates for the work, had been ordered forward suddenly and been killed in battle, by which the owners of the slaves were prevented getting their vouchers, would Congress refuse compensation under such circumstances? I ask, therefore, whether the commission provided for in this bill should not have the same class of cases before it for adjudication?

Let me put another case to you. It is necessary to move the forces of our Army across a river. A loyal slaveholder owns a ferry and boats, and uses his slaves as ferrymen. The Government takes possession of the ferry boats and the ferry men, and have their troops carried across. The boats are overloaded and are lost, and the negroes themselves are lost. Now, without going into the question of compensation for the loss of the slaves, would not the Government be bound to pay for their services as well as for the loss of the property itself—the boats destroyed? This is a hypothetical case as I put it, but it is a reality. There is an instance of it in the adjoining county of Prince George. A loyal slaveholder, owning but one slave, it is true, and him only for two years, he being a slave for a term of years, owned also a ferry boat, of which the slave was ferry man. The forces of the United States wanting to cross the river—the Potomac—took possession of the ferry boat. The ferry man protested that they were overloading the boat, and that he could not reach the other side of the river with it. He protested against going over with the boat so overloaded, declaring that his life and the lives of all of them would be lost in the attempt. He was willing to carry over as many men as the boat would hold, but the officer in charge compelled him to endeavor to take the boat across with all the men in it which the officer had put in. The result was the boat was sunk; the ferryman himself lost his life, together with the officer in charge and a number of soldiers.

Now, I hold, that in a case of that kind, the Government should not only pay for the service of the slave, but I go further, and hold that when an officer has thus impressed a slave against his consent, and consequently against his owner's consent, and has used him for the service of the Government, and that slave's life is destroyed, the Government should give fair and reasonable compensation to his owner for his loss, as well as for his services. You cannot apply to such a case the principle that applies to the other case that I have mentioned, namely, that he was in the service with the consent of his owner, and under a contract made by his owner which included the chances of his destruction. In this case he is impressed into the service, taken against his master's will, and I therefore hold that the Government is responsible for his loss. But in order to show, I think, the injustice of this section of the bill, it is not necessary I should rely on cases of this character. I am putting my objection now to the section upon this one simple question of service. It does seem to me so clear, so fair, so reasonable, that when I voluntarily hire my slave to the Government, and permit him to go into the Army in any capacity for the good of the country, I should have compensation for his services, that I think gentleman cannot hesitate to adopt my amendment. I understand that there is some provision made by the War Department, some order of the War Department, in reference to paying for the services of the contrabands, as they are called; that a statement of labor and wages is kept, of contrabands coming into particular posts, and that to a certain extent, the War Department has determined that in case of loyal owners, they shall have a claim against the Government for the wages of their slaves employed by that Department.

But I am not speaking of that class of cases at all. I am speaking of slaves that are not contraband, or, in other words, are not fugitives; of slaves that have gone into the service of the country by the consent of their owners, or by the compulsion of the Government without the consent of their owners.

But I have another objection to that portion of the section, besides the fact that in excluding claims for the services of slaves you make an unjust discrimination against the loyal men of the

slave States. I object to it for the further reason that I want to see at least one bill pass this House that shall not have this question of slavery mixed up with it. My objection to this section of the bill springs not only from the fact that I think it discriminates unjustly against loyal slaveholders, but also from a general principle which has guided my action not only in this Congress and the preceding one, but which has also governed my entire political life, and that is, that all agitation or legislation by Congress on the subject of slavery, either for or against the interests of that institution, should be discountenanced by every lover of his country, as leading to sectional excitements, animosities and strife, and that as it was the right of the people of each State to determine for themselves the question of slavery within their own limits, so it was the wisest and safest policy to leave to them all discussion and agitation in reference to it, either as to its benefits or its evils, its perpetuation or abolishment. And I desire now to see this House progress with that legislation which I regard proper and necessary for the interests of the country, and not fritter away its time upon questions which are uncalled for and unnecessary, always irritating and frequently mischievous.

Why, sir, as far as this bill itself is concerned, I think it very doubtful whether, under the provisions of the third section—which determines the classes of claims to be considered by the commissioners—if the tenth section should be striken out, any claim could be made for compensation for the loss or service of a slave; and while I am not willing to ascribe unworthy motives to my colleagues on the committee, and say that they introduced this subject into the bill for the purpose of keeping up agitation, yet I will say that its chief effect will be to produce excitement and irritation, without the possibility of any good resulting from it.

Mr. MAYNARD. Will my friend from Maryland permit me to ask what the meaning of this section is? Is it the intention to provide that no slave or free person of color shall be employed by the Government. The language is, "no claim for any slave or person of color." Now, I happen to know, as a matter of fact, that there are many free negroes employed by the Government. If they have any property they are liable to lose it, and if they have rendered services to the Government, certainly they ought not to be excluded from compensation.

I will also say that we have in the military service of the United States, slaves, quite a number of them, with the consent and approbation of their loyal owners, many of whom are serving with them. Now, I ask if it is treating them justly to take them from the service and support of the wives and families of these loyal men, and yet by our legislation deprive them of all compensation?

Mr. WEBSTER. I would be very glad to hear my friend, but as I have not much time left, I must interrupt him and proceed with what I have to say.

Mr. MAYNARD. I desired to know the meaning of this clause of the bill. My friend, who is a member of the committee, I presume can explain it. I cannot understand it.

Mr. WEBSTER. My construction of this clause of the tenth section agrees with that of the gentleman from Tennessee. I believe that under this portion of the section which I am seeking to strike out, that no person of color, whether slave or free, can bring any claim before this commission for losses or services. The language of the section is plain and transparent. The section says that "the said commissioners shall not take cognizance of any claim against the United States for the loss, value, or services of any slave or person of color," of any negro, bond or free. I know this will appeal to the sympathy of some gentlemen on the other side of the House. I know they will be disposed to strike out, at least, the words "or person of color," so that the free negro or "person of color," may have no injustice done him. In my judgment, however, the best way is to get rid of the whole subject; to strike out the whole clause, so that injustice may be done to no man, whether he be the highest or the lowest in the land.

But, sir, to return to the subject I was discussing when interrupted by my friend from Tennessee, I have been always and am especially now, against all discussion and agitation by Congress, on the subject of slavery; and I did hope that when Congress assembled at the present session, it would, eschewing all subjects of irritation among the friends of the Union, devote itself to that legislation which was most conducive to the suppression of rebellion; to the crushing out of treason most foul and disgraceful; to the protection of Union men in each and every State; to the restoration of the Union, with the rights of States unimpaired; to the vindication of the Constitution as the supreme law of the land; and to the reëstablishment of the Republic, in the midst of the nations and against the hopes and machinations of nobles and kings, upon its ancient foundations, never more to be assailed by traitors at home, ever more to be feared by enemies abroad. It was in this spirit, I feel convinced, we met in the extra session in July last. The President had declared this to be his purpose in calling out the military forces of the country. His Secretary of State, by his authority, had instructed our ministers so to declare to all the Governments to which they were accredited, and we ourselves, shortly after we met together, in the following resolution offered by my friend, the venerable statesman from Kentucky, [Mr. CRITTENDEN,] and adopted with an almost unanimous vote, solemnly enunciated the principles which would control our action and the purposes we sought to accomplish:

"*Resolved by the House of Representatives of the Congress of the United States*, That the present deplorable civil war has been forced upon the country by the disunionists of the southern States, now in arms against the constitutional Government, and in arms around the capital; that in this national emergency, Congress, banishing all feelings of mere passion or resentment, will recollect only its duty to the whole country; that this war is not waged on their part in any spirit of oppression, or for any purpose of conquest or subjugation, or purpose of overthrowing or interfering with the rights or established institutions of those States, but to defend and maintain the *supremacy* of the Constitution, and to preserve the Union with all the dignity, equality, and rights of the several States unimpaired; and that as soon as these objects are accomplished the war ought to cease."

Armed, sir, with all these facts—and more effective arms could not have been furnished to the loyal men of the border States for their fierce contest with disunion—I went home to my people, after the adjournment of the extra session, and in public meetings everywhere proclaimed to them that this Congress was imbued with a patriotic and catholic spirit, that no inclination existed to interfere with any of their rights, but that the one, all-absorbing, all-controlling purpose was the restoration of the Union and the preservation of the Constitution. And when we returned to our places in this Hall in December last, I expected and believed that Congress would ardently and uninterruptedly devote itself to this, and to no other work. But I must confess I have been disappointed. Day after day, week after week, and month after month, has this pernicious question of slavery been dragged into our deliberations, to irritate and divide the honest friends of the Union. I make this confession with great reluctance and with great regret. I speak not as a party man, nor in the interest of any party. Sir, the Union men of my State have cast to the winds all old party feelings. The bonds which formerly bound them to party organizations have been snapped asunder like the green withes upon the limbs of the sleeping Samson. Two parties only are found there now—the friends of the Union and the enemies of the Union; the men who stand for the protection of the Government, for the upholding of its flag, and for the enforcement of its laws, and the men who desire to see those laws set at defiance, that flag trampled in the dust, and that Government broken in pieces. I repeat, sir, these are the only parties in my State to-day, as they are the only parties in the other border States.

Why, sir, look at the delegation from my State on this floor, and see how old party lines have ceased to exist. At the last presidential election my friend who sits in front of me [Mr. CRISFIELD] voted for Breckinridge. My colleagues, the one who sits immediately in front of me [Mr. CALVERT] and the one who sits behind me, [Mr. LEARY,] and myself, voted for Bell. My other colleagues [Mr. THOMAS and Mr. MAY] voted for Douglas. The people of the State, when they came to send a delegation to Congress, selected men from all the old parties, and sent them here to deliberate and determine, not for party, but for that which is higher and holier than party, their country.

Neither were we sent here as sectional men to labor and appeal only for the good of our own section, and our peculiar institutions. Sir, as you are aware, Maryland is a slaveholding State; but our people did not elect us to perpetuate slavery, as, I doubt not, your constituents did not elect you to destroy it. We were elected to labor and legislate for the good of the entire country, and to-day, if the Union men of Maryland believed that the institution of slavery stood between them and their country's good, between them and the preservation of the Union, without any intermeddling on your part, or the part of others, they would lay their own hands upon it and destroy it. They are willing to make any and all sacrifices that could be demanded of a patriotic people for so holy an object.

But, sir, my people in their heart of hearts believe, as I believe, that this constant agitation of the question of slavery, this almost uninterrupted discussion of emancipation and abolition, is not at all conducive to the putting down of the rebellion and the preservation of the Union. They believe that so far from being beneficial to the cause of the Union, it is, at this particular juncture of our affairs, positively mischievous and destructive.

What good has been done to the country by all this agitation? Has it strengthened the bonds between men of the several sections of the Union? Has it united more closely the loyal men of the free States and the slave States? Has it added to our forces in the field? Has it weakened or destroyed the forces of our enemy? Has it, in fine, aided your soldiers in achieving success for their country, and honor for themselves? No, sir, no; it has done none of this. The victories which have crowned the armies of the Republic, presaging, as they do, the final triumph of the Government, have been won not by your legislation, but in spite of it, by the courage of your brave soldiers, and the skill and gallantry of their officers.

Now, let us look at some of these acts of legislation with which we have been keeping up this agitation during the present session, and see what necessity there was for them. You saw fit to adopt a new regulation for the United States Army, that no officer should use the force under his command to return runaway slaves to their masters. That was entirely unnecessary. There was no officer in the United States Army who was using the force under him for any such purpose. There was no man in any of the slave States who desired that any officer should do it. Certainly, no loyal man of the slave States desired that any portion of the Army should be taken from its legitimate duties for the purpose of hunting up fugitive slaves.

Mr. BINGHAM. I hope the gentleman from Maryland will let me interrupt him just at that point.

Mr. WEBSTER. The gentleman from Ohio must excuse me, as I have only ten minutes of my hour left.

I repeat, there was no public necessity for such an Army regulation. Its only effect was to produce some little excitement here, and some little irritation in certain portions of the country at the time of its passage. I care nothing about it; my people care nothing about it. It was a matter of no importance. Afterwards a bill was introduced into this House and passed, and I believe is now a law, prohibiting slavery in all the Territories of the United States. By that law you only reënact the decree of the Almighty. You do no practical good, either to the white man or the negro, to the freeman or the slave. No sensible slaveholder ever would have taken his slaves to any of our Territories. It is true, the prohibition in this bill is made to apply to territory hereafter acquired. But everybody knows that the terms upon which territory may hereafter be acquired will be determined at the time of its acquisition, and that the attempt on our part to fix conditions now is simply ridiculous. As far as I am concerned, I care not what conditions you fix to future acquisitions of territory, for I am against all such acquisitions. I hope the boundaries of the Republic never will be further extended, either in the interest of slavery or freedom. The gentleman who introduced this bill [Mr. LOVEJOY] knew such legislation was

not necessary to exclude slavery from the Territories, but he also knew it would produce irritation, excite discord, and keep alive sectional agitation; hence it was too important a measure not to be introduced.

What next was done? You passed a bill, which has gone into effect, abolishing slavery in the District of Columbia. The people of the District petitioned for no such legislation. The people of the country generally did not demand it. I do not perceive that any great amount of good has been done by it. It is true I see on the streets a greater number of idle negroes, dressed in holiday attire, but I cannot perceive any material difference between Washington as a slave city and Washington as a free city. If gentlemen who exhibited so much interest in the matter feel more comfortable now I cannot say that I feel less so.

Mr. LOVEJOY. Let me say a word.

Mr. WEBSTER. I hope the gentleman will not interrupt me. I did not approve of this bill at the time of its passage. I do not approve of it now. I think it an act of injustice on the part of the Government to deprive owners of their property without their consent, and not give them a full consideration therefor. I think they ought to have been paid the fair and full value of their slaves, whether that value was one dollar or one thousand dollars each. And more than that, I think the passage of that bill was an act of bad faith toward the State of Maryland, which ceded this District to the General Government. It ceded this District certainly without any idea that slavery would be here abolished before it had been abolished in that State, or without the consent of that State. But the act has been passed, and I do not propose to reopen that question. It was irritating to the people of my State. It was irritating to the people of the District. It has been done, nevertheless. And although my people do not agree in the justice and wisdom of that legislation, still they are willing to submit to it. It is the law of the land, and they are willing to abide by it, as they have ever shown their willingness to stand by the law.

But what effects have followed such legislation? The people of the border States are becoming dissatisfied. They are unhappy. They are apprehensive. They are losing confidence in Congress. They begin to fear that you intend to keep up this agitation at all times and under all circumstances, without regard to their wishes or interests, until their institutions are entirely destroyed. It is for this reason, to quiet their apprehensions, to relieve their anxieties, to give them renewed confidence in the wisdom and moderation of Congress, that I propose to strike this subject out of the bill. It is for this reason, too, that I appeal to gentlemen from the northern States to stop all further legislation on the subject. Surely you have already redeemed all the pledges you can have made to your constituents on this question. You have gone to the full extent of the Chicago platform. You have legislated against slavery wherever you have claimed the constitutional right of legislation. You have abolished it in this District, and have prohibited it from all the Territories. I tell gentlemen, in all sincerity, too, that while this kind of legislation is distasteful to the loyal men of the border States, rendering them unhappy and apprehensive, it gives the liveliest satisfaction to the disunionists among them. They expect it to aid their sinking cause, to swell their diminished ranks, and to furnish some justification for their unholy cause. You are thus giving "aid and comfort" to the enemies of the Union. I speak in a fraternal spirit. I desire to see peace, concord, harmony, earnest and hearty coöperation prevailing in the ranks of the Union. I know that we differ so widely in our views on this one question, and on it alone, that its agitation but leads to dissension, to discord, to alienation, and to division in those ranks. I repeat, then, let us have no more of it. I think the Union men of the border States have some right to make this request. I think they have some claim on the moderation, the liberality, the confidence and support of their northern brethren. They are engaged in the same great cause, I trust, with them—the preservation and perpetuation of free constitutional government. They are, like them, pouring out their treasure in this great cause. For it they stand with them on bloody battle-fields. For it, with them, they are achieving a common renown and filling common graves.

It is true, Mr. Speaker, the Union men of the border States were exceedingly anxious to avoid this conflict. They did not rush thoughtlessly or gladly into this war. They were willing, ay, desirous of making every effort and every sacrifice, consistent with the nation's honor and its existence, to prevent this fratricidal strife. History will tell with what zeal and earnestness they besought their embittered brethren of the South not to lay violent hands upon the Government which had never oppressed them, which, in all human probability, never would oppress them, and under which they had grown so great and prosperous. History will tell, too, with what earnestness they also appealed to their scarcely less embittered brethren of the North, peaceably and fraternally to remove all cause of real or imaginary complaint.

It was natural, too, as it was proper, they should seek to avoid a conflict, that they should hesitate to rush into war, horrid, internecine war, a war which would rage within their own borders, among friends and brethren and kindred, as well as between neighboring and sister States. Their animosities had not been excited by sectional contests, their institutions were the same as that of their southern brethren, and the warmest sympathies and the kindliest affection existed between them.

But notwithstanding all this, when the war was forced by the disunionists upon the country, when all question of a peaceable settlement of difficulties was passed, when the only issue left for them was shall the Union be destroyed, or shall it be preserved by the only means which could accomplish it, the crushing out of rebellion by force, the Union men of the border States no longer hesitated. Moved by the purest patriotism, by the holiest love of country, they yielded not to the touching and seductive appeals of their southern brethren, but rising above the aroused fears and prejudices and passions of their section, they took their unalterable position for the Union of their fathers, and are now striking in its behalf though friends and kindred stand in their way.

I know, Mr. Speaker, that great misapprehension exists in the minds of many in reference to the amount of aid given the Government by the border States in this hour of peril and contest. Some indeed go so far as to say that so far from assisting the Government they are an actual burden, requiring armed occupation to keep them in subjection. How false is this opinion, how unjust to the Union men of the border States, and how unbecoming to those who entertain it, let a few plain facts and figures determine.

In the first place, I assert that the border States, in proportion to their loyal white population, have now more men in the field than any other class of States. Statistics prove it. By the census of 1860 there are 2,741,271 white population in the States of Delaware, Maryland, Kentucky, Missouri, and Western Virginia—estimating Western Virginia at 250,000. From these States we have, according to a report made to the Senate a few days since by the chairman of the Committee on Military Affairs of that body, [Mr. WILSON, of Massachusetts,] and furnished from the Adjutant General's office, at this time 72,850 men in the field, or one in thirty-eight of our entire white population, secessionists and disunionists of every grade included. Take from this number one third of the population for secessionists, sympathizers with secession, and men opposed to the war, as they say—and I think this is about a fair division—this will leave one in every twenty-five of the entire loyal white population in the Army of the United States. Now, the northern States, with their white population of 18,683,530, have, according to the same report of Mr. WILSON, 531,413 men in the field, or one to thirty-five of their white population. Thus, gentlemen will perceive that these much-abused border States have almost as many men in the field in proportion to their entire white population as the northern States, and many more than the northern States in proportion to their loyal population.

[Here the hammer fell.]

Mr. WALTON obtained the floor.

Mr. THOMAS, of Massachusetts. I ask that the gentleman may have leave to proceed.

Mr. LOVEJOY. I object.

Mr. WALTON. I will give the gentleman five minutes of my time.

Mr. WEBSTER. I wanted to go somewhat further into the conduct of the Union men of the border States.

Mr. WALL. I object. I do not want to hear the negro question discussed here.

Mr. WEBSTER. I am trying to get the negro out of this question; and not only out of this question, but out of this House altogether. But to proceed. Not only have we put a larger number of men into the field in proportion to our population, excluding one third for those who are not loyal to the Government, but——

Mr. WALL. I rise to a point of order. I object to the gentleman's going on. He has had his hour, and objection was made.

The SPEAKER *pro tempore*, (Mr. GOOCH occupying the chair.) The gentleman is speaking five minutes, by unanimous consent, in the time of the gentleman from Vermont. The Chair overrules the point of order.

Mr. WEBSTER. I say, Mr. Speaker, that the Union men of the border States are doing their full duty, not only in furnishing men, but in all other respects.

Mr. WALL. I rise to a point of order. I made an objection to the gentleman proceeding immediately after the hour was up, and I would like to know how the gentleman has unanimous consent to proceed.

The SPEAKER *pro tempore*. The gentleman from Maryland appealed to the gentleman from Vermont to allow him five minutes of his time. The gentleman from Vermont consented to that, and the question was put to the House whether the House would consent to it. Consent was unanimously given.

Mr. WALL. I objected myself.

Mr. WEBSTER. I trust, Mr. Speaker, these frequent and persistent objections will not come out of the five minutes so kindly given me by my friend from Vermont. But I must hurry on.

We have given our men, we have also given our money. Every border State, I believe, has assumed through its Legislature, without hesitation and without murmur, to pay its full proportion of the direct tax. I saw it stated in one of the morning papers to-day that my own State had paid its quota into your Treasury—the second State to perform this duty.

We have not only given our men and money, but, sir, everywhere throughout my State, in every village and neighborhood, the loyal women have their daily and weekly meetings—their Union relief associations—and are making and contributing thousands and tens of thousands of dollars' worth of comforts and delicacies for your sick and wounded soldiers. And in the city of Baltimore, which some gentlemen seem to consider but a vast camp of treason, our fair women daily in large numbers visit the great military hospitals, and with personal assiduities and gentle ministrations alleviate, as far as possible, the pains and sufferings of your brave but unfortunate soldiers; thus, sir, adorning their patriotism with the sweet works of charity and the holy offices of religion.

The men who, with knowledge of all these facts, can throw doubt upon the loyalty of the great majority of the people of the border States, who can declare that they are kept in the Union simply by force, who can assert that all slaveholders are disloyal, know nothing of the patriotic spirit of the people of whom they speak, and have no correct appreciation of that duty which every good citizen feels to cultivate fraternal relations between every section of his common country; but inclosed in their own sectional and narrow-minded bigotry, they ascribe to all others who differ from them in opinion those very qualities which so highly distinguish themselves.

Now, Mr. Speaker, for the reasons I have given, particular and general, I trust the House will adopt my amendment, and strike out that part of the bill which discriminates against a great class of loyal citizens, a discrimination which is obnoxious to them, which they have not merited, and which, in my judgment, is illiberal, unfair, and improper. But if my amendment should not be adopted, I consider the bill, in its principal provisions, so important to the people who are demanding redress

at our hands, that I shall feel it my duty to vote for it.

Mr. Speaker, thanking my friend from Vermont for his courtesy in giving me a portion of his time, I yield him the floor.

THE CONFISCATION BILL.

SPEECH OF HON. J. M. HOWARD,

OF MICHIGAN,

IN THE SENATE, *June* 24, 1862.

The Senate, as in Committee of the Whole, having under consideration the bill (H. R. No. 471) to confiscate the property of rebels for the payment of the expenses of the present rebellion and for other purposes, the question being on the amendment of Mr. CLARK to strike out all after the enacting clause and insert as a substitute Senate bill No. 310—

Mr. HOWARD said:

Mr. PRESIDENT: The immediate question before the Senate is whether the bill reported to this body by a select committee, on the 14th of May last, entitled "An act (S. No. 310) to suppress insurrection and to punish treason and rebellion, and for other purposes," shall be substituted for the bill from the House of Representatives which was called up the other day, entitled "An act to confiscate the property of rebels for the payment of the expenses of the present rebellion, and for other purposes." On the 27th of May the House of Representatives with unusual unanimity passed the bill, the title of which I have last read. It is a bill for which I should be glad to vote. Holding it to be entirely constitutional and valid in its provisions, and eminently necessary for putting down and subduing the rebellion, it seems to me that that of all other bills which have been presented to the Senate is deserving of its consideration and of its approval. That bill purports upon its face to be a war measure. It declares in its first section "that all the estate, property, money, stocks, credits, and effects," of six several classes of persons, which are afterwards enumerated, "shall be declared lawful subjects of seizure and prize and capture wherever found;" and for this purpose, and of course no other purpose, namely, "for the indemnity of the United States against the expenses of suppressing the present rebellion."

It is unnecessary to speak particularly of the several classes of persons whose property is thus struck at by the bill. It is sufficient to say that those classes constitute the ringleaders in the present rebellion; persons who are high in authority in the rebel government, and who undoubtedly have been the principal promoters and abetters of the present civil war. It makes, in short, proper and reasonable discriminations between the ringleaders of the rebellion and the mass of their followers; a discrimination which, in my judgment, we are bound to make upon every principle of justice, of good morals, and good sense. In short, it embodies in itself all the essentials of the bill which was heretofore reported to the Senate by the chairman of the Committee on the Judiciary, and as to which I had occasion heretofore to make some observations.

The question now before the Senate arises upon the motion of the chairman of the select committee, the Senator from New Hampshire, [Mr. CLARK,] and is, whether the bill reported by the select committee of which he was chairman shall be substituted for the bill which has just received the sanction of the House of Representatives, or not. I am earnestly in favor of the passage of the bill from the House, and I am earnestly opposed to the passage of the bill reported by the select committee. When I say "earnestly," I do not intend that it shall be understood that this earnestness arises from any personal feeling towards that committee, or any of its members, or any of their opinions; but I use the term earnest, because my convictions are earnest that the leading provisions of the bill offered as a substitute are in themselves unwarranted by the Constitution of the United States. And it is upon this view that I now propose to say a word to the Senate. I hold the bill of the select committee in all its main provisions relating to the seizure, capture, and condemnation of rebel property, to be totally without support from the Constitution, and in open violation of some of the most important and most precious provisions of that sacred instrument.

What, sir, is this bill? What are the main features of it? In its first section it simply mitigates and reduces the penalty imposed by existing statutes upon the crime of treason, from death by the halter to mere fine and imprisonment. In order that it may be well understood, I will trouble the Senate by reading portions of it. The first section provides—

> That every person who shall hereafter commit the crime of treason against the United States, and shall be adjudged guilty thereof, shall suffer death, and all his slaves, if any, shall be declared and made free; or he shall be imprisoned for not less than five years and fined not less than $10,000, and all his slaves, if any, shall be declared and made free; said fine shall be levied and collected on any or all of the property, real and personal, excluding slaves, of which the said person so convicted was the owner at the time of committing the said crime, any sale or conveyance to the contrary notwithstanding.

I object preliminarily to the passage of this bill because it mitigates and reduces the penalty of treason. At this moment, when treason is rife and flagrant in this country; at a time when, of all others, a severe penalty ought to be inflicted upon it; when our very liberties are at stake, and when the genius of free government is at a deadly grapple with her most deadly foe, I cannot perceive the propriety of mitigating the punishment of treason against the United States. For seventy-two years past the penalty of death for treason has existed upon our statute-books, and I am not aware that any memorial or petition has been presented to either branch of Congress from any portion of the people of the United States, asking for the mitigation of this penalty. Even that class of our fellow-citizens who have been most loud and earnest in their demand for the mitigation of what is called the death penalty for homicide or other crimes, have entirely omitted to memorialize Congress upon the subject of the penalty of treason. They seem to have acquiesced in the penalty affixed to this high crime by our fathers. They seem to have thought that if there be any crime known to the calendar which is deserving of death it is the crime of levying war against the United States, or adhering to their enemies, giving them aid and comfort. Sir, it is the most heinous of crimes. It is a crime for which the polished Athenians denied to the offender even the rite of sepulture. They would not allow him even the honor of being decently buried, but his body was treated like that of a dead dog, and thrown into the streets and shunned by the passers by. Even the rite of burial, the rite which, as Tacitus tells us, is due to us as one of the incidents of human nature, and pertains to the very condition of our being, was denied to the convicted traitor by the most polished and most humane of ancient nations.

I do not think this is the time for the reduction and mitigation of the penalty, and I think, therefore, this section of the bill is objectionable upon that account. It reduces the penalty of treason from the punishment of death to that of simple imprisonment and simple fine. It places the crime of treason, the crime of attacking the very palladium which is the protection of our social and political rights, upon the same ground with larceny, and simply commits the offender to imprisonment for a few years, and to a fine of a few thousand dollars; and if he does not happen to possess the property necessary to pay the fine, then he passes without any punishment, except the imprisonment. It is no reply to this to say that it is left to the discretion of the judge who tries him to impose the penalty of death if he pleases. If you leave to the judge upon the bench the option between the penalty of death in any case and a milder penalty, you make an appeal to his humanity, and you are always sure in such cases to find the mercy and good feeling of the judge dominating in his heart; he will always impose the milder sentence in preference to the more severe; so that we are called upon practically to say that treason shall no longer be punished by death. To those who are now making war upon our Government, who are pursuing with fire and sword the Union people all along the frontiers between the two belligerents, you are saying, in effect, "you may do all this, you may murder, you may burn, you may commit any atrocity which is practicable for you, and still you shall not answer for it in a court of justice with your lives." Sir, I am not prepared at this time to degrade the punishment of treason in this way. I am not inclined to depart from the legislation of our fathers upon this most important subject. To my mind it shows a weakness, a timidity, a disposition to avoid performing towards these rebels what they justly deserve. So much, sir, for the first section of the amendment offered by the Senator from New Hampshire.

The distinctive features of his bill, so far as they relate to the seizure of rebel property, are the following; and I desire to call the particular attention of the Senate to those plain provisions, and to their undoubted, plain effects in law. The fifth section declares:

> That to insure the more speedy termination of the present rebellion, and the apprehension, conviction, and punishment of the persons engaged therein—

Mark the two things to be insured: the first is the termination of the present rebellion; and the second is the apprehension, conviction, and punishment of the persons engaged in it. To secure these things—

> The President is hereby authorized, and it shall be his duty, by the marshals of the respective districts, or such commissioners or other officers as he may appoint for that purpose, to seize and sequester the property, real and personal, of every kind, including choses in action, of such persons as shall have been actively and notoriously engaged in said rebellion.

Observe, one distinct object of the seizure of this property is to insure the apprehension, conviction, and punishment of the persons engaged in the rebellion. It is to be done, not by the military arm, for the military authorities have nothing to do with it under this bill. There is here contained no instruction whatever, no authority to any military man connected with the Union Army to seize the property as an act of war; but the power is given solely to the President of the United States, to his marshals, his judicial officers, and to such commissioners as he may see fit to appoint, to seize the property, real and personal, and all *choses in action*, belonging to "persons notoriously engaged in the present rebellion."

Now, sir, this section contains a direct authority, a direct command to the President of the United States and to his marshals, to seize the property not only of the ringleaders of the rebellion, but of all persons whomsoever who have been engaged in the rebellion, wherever it can be found, without making the slightest discrimination or distinction between the various classes of rebels; making no distinction between the man who has been carried and impelled into the rebel army by the superior pressure of his neighbors and the authorities about him, and those who have of their own accord, for base and malignant purposes, embarked in the same wicked scheme. It sweeps completely and without distinction all the property of every rebel throughout the land and places it in the hands of the President of the United States; for, if the gentleman from New Hampshire will look at his bill, he will see that all rebels, without distinction or discrimination, are subjected to the operation of the seizure clause. To show that I am correct, I will read on. He shall

> Seize and sequester the property, real and personal, of every kind, including choses in action, of such persons as shall have been actively and notoriously engaged in said rebellion—

And this, I take it, includes all persons without distinction—

> and especially of persons hereafter acting as officers of the army or navy of the rebels, now or hereafter in arms against the United States.

Here appears to be an attempt, entirely ineffectual, to classify the rebels, and to apply the seizure and forfeiture to certain classes; but in the drafting of the bill the chairman will perceive that he entirely failed in accomplishing his object, if such was his object. Instead of creating classes, instead of striking at the ringleaders, and them only, he will discover that he has included all rebels of all classes. The high and the low, the rich and the poor, the powerful and the weak, the strong and the defenseless, all are placed in the same category. To me this would be a sufficient reason for voting against his bill, if there were no others. It makes no distinction between the greatly guilty and the slightly guilty; none between the powerful rebel and the weak, helpless rebel, who has

been driven into the rebellion by superior force and irresistible pressure.

But, sir, for what purpose is this seizure made by the President and by his marshals? What is the object of it? Is it to assist in prosecuting the war? Is it treated as a measure of war, as a means of carrying on the war, the object of which is to put down and crush the rebellion? No, sir; that is not the object of the bill. The object of the bill in that respect must be ascertained from the language which it uses. I call the attention of Senators to that language. It is as follows:

And to hold and possess such property for the United States, *to secure the appearance of the offender to take his trial and abide such punishment as shall be adjudged against him.*

It is, therefore, for the express purpose of securing the appearance of the offender to take his trial and abide such punishment as shall be adjudged against him; of course, after a trial in a court of justice. The whole proceeding relates, and is confined, to a court of justice. The end and object of the seizure are, the insuring the appearance of the owner in court, his trial in court, and his punishment by sentence of the court. It is part and parcel of a criminal prosecution in a court of justice, and it is nothing else.

And here I beg to call the attention of my friend from New Hampshire to another important defect in his bill. On looking into it he will discover that it contains no provision whatever by which the property seized is placed within the jurisdiction of the court, or in any way subjected to the orders of the court where the prosecution is had. The court have nothing to do with the property, it is not placed in its possession, and, of course, it has no jurisdiction or power over it. It is to be held by the President of the United States or his officers, and only by him or them, "until the owners thereof can be proceeded against by legal prosecution; and, if convicted, until the property can be levied upon, or be declared forfeited to the United States, as herein provided." Then follows the further provision:

And if the owner of said property shall be discharged on trial, or sooner, by order of the court, said property or the proceeds thereof, if the same shall have been sold, shall be returned to said owner.

Thus it is to be held for an indefinite period of time, and for the specific purpose of insuring the appearance of the offender in court, and to answer to an indictment which may be there found against him, and upon which he may be tried and may be convicted. The bill proceeds, and in section seven provides:

That if the owner of any property which may be seized, as aforesaid, shall flee from justice so that he cannot be brought to trial upon indictment found, and a return upon the process for his arrest that he cannot be found, an order shall be made by the court where said indictment is pending requiring such person to appear before said court at such time as may be fixed therein—

That is, fixed in the order of the court—

and take his trial upon pain of forfeiture of all his property, and the liberation of all his slaves, if he shall fail to do so; which order shall be published in such manner and for such time as the court may determine; and if such person shall not appear and take his trial as required—

That is, as required by the order to be made by the court—

such person shall be taken and deemed to have renounced all claim to any property which may have been seized as aforesaid, or of which he shall be the owner—

Whether seized or not seized—

and he and his heirs shall be forever barred from making any claim or maintaining any action for the recovery thereof, but the same shall be forfeited and become the property of the United States, and his slaves, if any, shall be free.

There is the essence of the bill. The property is seized for a judicial purpose; it is seized in order to constrain the owner when he shall be indicted, but of course not before, to come voluntarily into court, and there answer the indictment that may be found against him by a grand jury under the bill. The property is taken; it is held; it is used; "rented or occupied," in the language of the bill, for that purpose, and for no other purpose; and in case the accused person does not, within the time limited by the order, voluntarily come into court and put in his plea to the indictment which has been found, then the moment the fact of the publication of the order has been sufficiently evidenced to the court and made matter of record, the title of the owner ceases absolutely, and from that time forth, and by the law itself, without any judicial sentence or any judicial examination as to the nature of the title, or the ownership of the property, the title itself passes, *ipso facto*, from the proper owner to the United States; and not only of all the property which has been seized, but all other property, real and personal, of the accused; and he is held to have renounced for himself and his heirs-at-law all right, claim, and title, to the whole, whether seized or unseized, for all time to come. Such, sir, is the progress and such the final result of this criminal prosecution in cases where the owner has not voluntarily appeared in court and pleaded to the indictment. No one can deny that it is a criminal prosecution in the strictest sense of the term. By the plain terms of the bill the seizure is not to promote the war, but the prosecution. It performs no other office, has no end in view but the prosecution. It looks to that, and that only, as the end to be attained, and is as essential a part of the whole proceeding as the indictment itself, so far as the forfeiture is concerned.

Sir, with the utmost respect for the advocates of this bill, and with a feeling of pain and reluctance on my own part, I am impelled to declare that I regard the provisions to which I have thus specially called the attention of the Senate as almost an insult to a lawyer who professes to have a competent knowledge of the principles of criminal law, and of the principles of the Constitution of the United States. Sir, I hold the provision relating to this seizure and forfeiture to be totally void, totally without warrant in the Constitution, and not only without warrant and authority in the Constitution, but absolutely and in plain terms prohibited. And the question now is, whether, entertaining these views, if there are any Senators besides myself who entertain them, we can be called upon to vote for such a bill as this? I cannot so vote.

Sir, I will not talk about conscientious scruples respecting points of law, whether constitutional or otherwise, for I do not think that with a mere naked question of law addressed to our judgments, understandings, conscience has anything to do. We are sworn to support the Constitution, to be sure, and that oath is binding upon our consciences, but we are sworn to support it as it was intended by its framers. To ascertain this intention involves merely exercise of the intellect, and having honestly employed our powers for that purpose there rests upon us as little responsibility to conscience as if we were seeking to solve a problem of mathematics or history.

Now, sir, I shall not accuse those gentlemen who entertain different views from mine on this subject of being guilty of perjury; I shall not assume to mount the judgment seat and to pronounce the doom of perjurers against those who may advocate this bill, because they happen to differ from me on a question of pure constitutional law. I think I have charity enough to pay a proper respect for their opinions, and it will not interrupt in the slightest degree the friendly relations which exist between them and me that we happen to differ on a most important question of constitutional law. But, sir, seeing, as I think I do, a direct and positive prohibition in the Constitution against the passage of such provisions, it will be in vain for them to appeal to me for my vote in support of the amendment offered by the Senator from New Hampshire. I cannot vote for it because I will not consciously violate the Constitution. Let them put confiscation upon its true ground; let them say to the country, "we resort to confiscation as a measure of war, as a measure to cripple the enemy, by seizing and using his property as a means of putting down this rebellion, as a means of executing that clause of the Constitution which enjoins upon us the duty of putting down the rebellion and insurrection;" let them use it and speak of it and treat of it as a means of war, as an instrumentality for annoying and crippling and subduing the rebels, and so far as I can go I will go; but do not let them expect me to follow them when, instead of coming out boldly and manfully and proclaiming to the world that they resort to confiscation as a war measure, they endeavor to cover themselves with the judicial robes and to hide themselves behind the bench of a court of justice. Do not let them seek concealment in the ermine, and attempt to employ the power of the judiciary in perpetrating one of the grossest violations of the Constitution, in my view, that ever was proposed in Congress.

Sir, such is the proceeding in court contemplated by this bill. It cannot be regarded as a trial. Nobody will pretend that the proceeding called for is a trial, but everybody, I take it, without exception, will admit that the proceeding which I have thus referred to is a criminal prosecution. Is it not? Will my friend from New Hampshire [Mr. CLARK] rise in his place and say that the proceeding required by the bill is not a criminal prosecution? Will my friend from Vermont [Mr. COLLAMER] pretend for a moment that it is not a criminal prosecution? Will any one pretend that this entire proceeding, from beginning to end, has not in view the punishment of a traitor in a court of justice? All will admit it. And yet it is idle to pretend that this deprivation of property is the result of a trial. A trial in a criminal prosecution must be by jury. Section two of article three of the Constitution provides that "the trial of all crimes, except in cases of impeachment, shall be by jury." A trial can take place in no other way. Well, here is your crime charged in the indictment on the files of the court; John Doe is charged with treason in a formal indictment: how is that crime to be tried? The Constitution says that "the trial of all crimes, except in cases of impeachment, shall be by jury." This proceeding for the forfeiture of the property does not contemplate the intervention of a jury at all. There is no jury called, although it is, as I said before, a formal prosecution for the crimes of treason and rebellion. The prosecution must be instituted either for the crime of treason, which is referred to in section one, or of some one of the crimes created by the bill itself, in section two. That section I will read:

SEC. 2. *And be it further enacted*, That if any person shall hereafter incite, set on foot, assist, or engage in any rebellion or insurrection against the authority of the United States, or the laws thereof, or shall give aid or comfort thereto, or shall engage in, or give aid and comfort to, any such existing rebellion or insurrection, and be convicted thereof, such person shall be punished by the forfeiture of all his personal property of every kind whatsoever, including choses in action, and by the forfeiture of his life estate in any real property of which he may be the owner, wherever situated within the United States, and by the liberation of all his slaves, if any he have; and all such property, excluding slaves, shall be forfeited to the United States.

The proceeding is instituted for the purpose of punishing in court some person guilty either of treason or of one of these subordinate offenses, analogous to treason. It is, therefore, to all intents and purposes, a criminal prosecution. You have an indictment to be found by a grand jury. That is certainly a sufficient indication that it is a criminal prosecution. But, sir, the Constitution contains some further clauses to which I call the attention of Senators. Article six of the amendments declares that—

"In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the State and district wherein the crime shall have been committed."

If it is a criminal prosecution, as I have shown it to be, then it can only be proceeded with by the intervention of a traverse jury to ascertain the guilt or the innocence of the accused, in the usual forms of law. Here there is no jury called when the owner is to be deprived of his property on a charge of crime. Article fifth of the amendments declares that—

"No person shall be held to answer for a capital or otherwise infamous crime"—

Certainly the crimes described here are all of them infamous—

"unless on a presentment or indictment of a grand jury, except in cases arising in the land or naval forces, or in the militia when in actual service in time of war or public danger; nor shall any person be subject for the same offense to be twice put in jeopardy of life or limb; nor shall be compelled, in any criminal case, to be a witness against himself, nor be deprived of life, liberty, or property without due process of law."

I shall not stop to investigate the question whether the clause I have last read justly relates to any other cases but criminal cases. I think the intention of the framers of that amendment was to confine it to criminal proceedings, and to criminal proceedings alone. Certainly this must be admitted to be a criminal prosecution; and what ever else the provision may mean, it certainly does mean that in criminal prosecutions no person shall be deprived of his property without due process of law. Before a trial has taken place in a Fed-

eral court the Constitution, in my judgment, requires that the accused shall be present in court. There can be no trial in a Federal court unless the accused is present, because the Constitution declares that it shall be the right of every person accused of crime to be tried by an impartial jury.

Now, if this be his right, (and I call the attention of Senators to this,) if it be the right of the accused to be in court when his trial takes place, it follows logically, it strikes me, that he cannot be tried in his absence; he cannot be convicted in his absence; nor can he be deprived of his life, his liberty, or his property in his absence. If it be his right to be tried by an impartial jury, then Congress cannot repeal that right, they cannot modify it in any way, it is his absolute right; and in case the accused is not present in a Federal court at the time his trial is to come off, I insist that the court itself has no jurisdiction, no power to proceed in the trial. It is the duty of the Government—for it is armed with sufficient powers and all necessary facilities—to seize upon and apprehend the offender, and bring him into court, and if he refuses to plead to the indictment, then the powers of the Government are sufficient either to hold him guilty as standing mute or to allow the court to put in for him a plea of not guilty, as is the usual and almost universal practice. But, sir, it is an unheard-of proceeding, I insist, that an accused person in a Federal court may be tried in his absence; and if he cannot be tried in his absence, then you cannot meddle with him in any way; you cannot take from him his liberty or his property. The Constitution says that it shall be his right to be tried by an impartial jury. That plainly implies the indispensable necessity of his being present to exercise his right of challenge to the jury in the mode pointed out by the common law. Certainly a trial cannot be said to be impartial unless the accused has had an opportunity to exercise his right of challenge to the jury; and for that purpose it is absolutely indispensable that he should be in court.

These provisions plainly require an actual trial by a jury before any punishment whatever can be inflicted for the crime charged in the indictment. And the trial is what the Constitution denominates "due process of law" in all criminal cases. What is due process of law?

The meaning of the phrase "due process of law" has been over and over again declared by the highest judicial authorities of this country to be the "law of the land." Here is one law of the land which I presume Senators will not hesitate to include in the "due process of law," and that is the highest law of the land, it is a part of the Constitution itself; it is irrepealable; it cannot be altered by act of Congress. It is that "the trial of all crimes shall be by jury." It is the most essential element embraced "in due process of law." An accused person is not to be deprived of his property without due process of law. He cannot then be deprived of it except by trial by jury, in a criminal case. And yet the bill provides for no such trial; no jury is called, no jury is sworn, no witness is called into court, not even a default is formally entered upon the record against the offender. And yet this bill provides that because he has not appeared in court and pleaded in obedience to an order of the court, which may have been published in a gazette for one day or two days, or four days, or forty days, because he has not appeared and answered to the indictment voluntarily, he shall be stripped of his property and his heirs of all right of inheritance. Will gentlemen call this "due process of law?" Where do they find in the United States a single adjudication that gives the slightest countenance to this new-fangled and to me most absurd idea that what they call process of outlawry is part of the "due process of law" required by the Constitution of the United States? But I will comment more fully upon this favorite theory of outlawry before I close.

The trial by jury, then, Mr. President, is an indispensable mode of ascertaining the guilt of the accused. The language of the Constitution excludes all other modes: "the trial of all crimes shall be by jury;" and we must, in defining "due process of law," in article six of the amendments, in criminal cases, include at least what the Constitution itself includes. A construction of that clause which would leave out trial by jury in criminal cases as a part of the "due process of law" fails, because it disregards the proceeding required by the Constitution itself, and leaves the meaning of the term "due process of law" to be established in one of two ways: first, by the legislation of Congress, or, second, by a reference to the common law without regard either to such legislation or to the Constitution itself. And, first, if Congress may define what is due process of law, then it is clear that their power over the trial of crimes is perfectly boundless and illimitable. I repeat, that if you give to this clause such a construction as may enable Congress by legislation to define what is meant by "due process of law" you open the door entirely; you throw down every barrier which the framers of the Constitution supposed they were erecting against this same power of Congress over the prosecution of crimes. You must, therefore, give up the idea that Congress has any right to define what is "due process of law." Congress has no power to define it. It stands there in the Constitution to mean what the framers intended by it; and we members of Congress are just as much bound by that meaning, whatever it is, as we are by the meaning of any other clause. We have no power whatever to alter it. It means what they intended it to mean, and we cannot by legislation change its meaning.

There is but one other view that can be taken of it; but one other construction which can be placed upon it, or I should rather say there is but one other imaginary use to which this phrase "due process of law" can be put. It will be insisted, as it has been insisted, that under this "due process of law" clause it is competent for Congress to enact a statute by which a person may be outlawed, as he may be outlawed in some cases in England; in other words, that he can be indicted, tried, and convicted in his absence; in short, that he may be outlawed and that he may be punished under the Constitution of the United States, although he was never in the court which convicted him, although he never saw one of the jurors who tried him, although he never listened to a witness who went to testify against him. The advocates of this bill are driven to that absurd use, that absurd application of the phrase "due process of law," in order to support this bill.

I might stop here without going into an investigation of the nature and office of the process of outlawry, and say to my friends on the opposite side, you are estopped by the very terms of the Constitution from making such a use of the phrase "due process of law." By the Constitution itself you are estopped from making such a use of it, because the Constitution says that all crimes shall be tried by a jury, and because trial by jury is by the Constitution itself part of this "due process of law." You are not at liberty to go beyond the terms of the instrument which you are construing. You are not at liberty to disregard other provisions of the Constitution, and to ingraft upon this indefinite phrase, "due process of law," a meaning which is in direct conflict with other clauses of the Constitution.

And, sir, I will say a word on the subject of outlawry, and endeavor to show in what respects that proceeding differs from the one required by the bill. We have seen what the bill requires. It simply requires the court to enter an order, and cause that order to be published a certain number of days, it may be one day, it may be twenty or one hundred days, requiring the person indicted to come into court voluntarily, and answer to the indictment; and in case of his non-appearance thus voluntarily, the fact of his non-appearance is recorded by the court, and then the act itself, by its terms, sweeps away all his property without any reservation, no matter whether it had been seized or not; and this, not because the accused person was guilty of the crime charged in the indictment at all; not because he is guilty of treason, or any of the acts which are made criminal by the second section of this bill, but because he does not voluntarily appear in court to answer the indictment. I ask my learned friend from New Hampshire, where does he find in the Constitution a clause which allows Congress to declare as a crime, and punish as a crime, a want of a voluntary appearance by the accused in a criminal case? Is that a crime? Is it a crime according to any code on earth? No, sir; it is simply nonsense to talk about it being a crime. It is very true, that where a court has the party within its jurisdiction, where it can serve upon him a notice to obey a particular order within a given time, and serves upon him a notice of the order, and the party refuses to comply with the exigency of the order, he may be punished, not for a crime against the laws of the country, but simply as a contempt of the authority of the court. We are well acquainted with that principle; but here the non-appearance in court of the party accused of treason, that is, his omission to come in and answer the indictment voluntarily, is treated as if it were a crime, and made the ground of stripping him of all his property. This is grossly unconstitutional. I undertake to say that such a proceeding was never heard of in a court of justice in any civilized land. It is an anomaly. No such proceedings ever took place in England. Even in the bloodiest and most barbarous days of their monarchy, such a judicial proceeding was never heard of there; and all along I am speaking of this proceeding simply and solely as a judicial proceeding, not a military measure. I wish the distinction to be kept up. I need not again tell the Senate or the country that I am in favor of a bill to confiscate the property of the ringleaders of the rebellion; but I put it solely upon the war-making power of Congress, not the judicial power. I use it as I would the sword, to cripple and subdue the enemy in prosecuting the war against him. The difference between the war-making power and the power of the courts to hear and determine a case pending in court is too broad to escape the attention of any one. Under the Constitution, the Army may and must do what the court cannot. The Army prosecutes by arms the supreme appeal of the State against violence and wrongs which it is impossible for a court of justice to redress.

Now, sir, this proceeding is likened to that ancient and severe proceeding known in England as outlawry. Let us compare it for a moment with the proceedings in outlawry, and see where the analogies are, whether, after all, it is a proceeding of outlawry, whether it falls short of it, and, indeed, whether it has any analogy to it. The analogy will turn out to be so thin and flimsy as to be almost imperceptible to a microscopic eye. In England, according to ancient usage—a usage not much employed, I take it, in modern days—a grand jury of a county may find an indictment for felony against an individual; he may not be within the realm; but the process known as outlawry is resorted to in such a case for the purpose of convicting and punishing him. What are the proceedings? They are very numerous and very intricate, and you may say very liberal, giving the accused all reasonable time to appear in court and make his defense. Here are the proceedings: first, an indictment by the grand jury; second, the issue of the *capias* to arrest the offender; third, the sheriff's return upon the *capias* that the accused is not found; fourth, the *alias capias*, returnable at the next court, several months in the future; fifth, the return of the last *capias*, not found; sixth, the *pluries capias*, returnable to the next court; seventh, the return of this *pluries capias*, which is the third process for his arrest, not found; eighth, the writ of *exegent*, commanding the sheriff to cause the accused to be called from county court to county court until he is outlawed as prescribed by law; ninth, the writ of proclamation, requiring the sheriff to make proclamation for three days in open court of the county at the quarter sessions, and also at the door of the church of the parish where the accused resides, to give himself up to the sheriff; tenth, the return of these two writs, the *exegent* and proclamation. I ought to say here that the writs of *exegent* and proclamation are contained generally in the same paper, although they are essentially different mandates. Eleventh, the second writ of *exegent* and the second writ of proclamation, issued to the sheriff to perform the same ceremony; twelfth, the return of these two writs, showing that the accused has been duly called and proclaimed by the sheriff, as commanded in the writs; thirteenth, the judgment entered by the two coroners of the county that, according to the laws and customs of England, the person accused is outlawed. The last, the fourteenth step, is the

sheriff returns into the court where the indictment is pending, the record of all these proceedings; and this record is held by the English courts to be not a punishment for a mere contempt of court, but a conviction of the crime charged in the indictment; for such is the effect of an outlawry.

Lord Kenyon, in speaking of the legal effect of a judgment of outlawry, uses these words:

"As that is a general question, we took the opinion of all the judges of England, who took time to consider it thoroughly; and I am authorized to deliver it as their unanimous opinion that the outlawry is a conviction."—*King* vs. *Yandall*, 4 *T. R.*

Chitty, in commenting on the subject of outlawry, uses this language:

"Outlawry in capital offenses amounts to a conviction of the crime of which the defendant is indicted, as much as if he had been actually found guilty by the verdict of a jury, and if he be subsequently taken and committed to prison, the justices of jail delivery may award execution against him. And attainder, corruption of blood, and forfeiture of all estate, real and personal, accrue at once from the judgment being pronounced against him."

Now, Mr. President, I insist that such a proceeding as this, the ancient English proceeding of outlawry, is distinctly prohibited by the Constitution of the United States. A crime cannot be tried in that way in the Federal courts, because the Constitution declares that the trial of all crimes shall be by jury, and that "in all criminal prosecutions the accused shall enjoy the right"—not the mere privilege which he might waive but the "right of being tried by an impartial jury;" so that an accused person in a Federal court cannot be proceeded against in outlawry. Those proceedings are excluded by the very terms, intent, and meaning of our Constitution. The framers of the instrument took it for granted that there would be sufficient power and ability in the judicial officers of the United States to seize an accused person, bring him into court, and compel him to answer to the accusation. And they also thought that in case he could not be found and be forced to be present and have the jury and witnesses before his eyes, it was far better that he should not be tried at all; and I think so, too. The idea of trying and punishing a man in his absence is to me inhuman and atrocious.

This bill prosecutes for a crime, but takes from the accused his constitutional right to a trial by jury. It tries him in his absence; it punishes him in his absence; it takes his property from him in his absence, upon an indictment, and in the course of a criminal prosecution.

If it be said that an outlawry is due process of law, it must also be admitted that in adopting the fifth amendment to the Constitution the States intended to repeal the then existing requirement that the trial of all crimes should be by jury. Let me call the attention of my friend from New Hampshire to this point. Does he suppose that in adopting the fifth article of the amendments the States which ratified it intended to repeal or relax the second section of the third article? The fifth article declares that the accused shall not be deprived of his property without due process of law. Article third, section two, declares that "the trial of all crimes, except in cases of impeachment, shall be by jury." Did the framers of this amendment intend to repeal or in any way to modify the second section of the third article? Did they intend, by the amendment so carefully worded, to open the door to the introduction of this process of outlawry, and to authorize Congress to provide for the trial of an accused person in his absence? That is a question which I wish Senators on the opposite side of this question to solve, if they are able to furnish a solution.

There is another question which I desire that they may consider: whether, when the States that adopted the "due process of law" amendment, adopted the other amendment, declaring that "in all criminal prosecutions the accused shall enjoy the right to a speedy and public trial by an impartial jury," they intended to make that clause contradictory of the clause providing for "due process of law?" because if you give to the phrase "due process of law" such a meaning as will authorize the trial of a man in his absence, you certainly contradict the amendment which declares that in all criminal prosecutions the accused shall enjoy the right to a speedy trial by an impartial jury. It cannot be impartial unless the accused is present to confront his accuser, to cross examine his witnesses, and especially to exercise his right of challenging the jury and get rid of such of them as may be hostile to him or partial. He is to be tried by an impartial jury; and there must be some way by which that impartiality is to be tested; and he, in the very nature of things, is the sole person in existence who can properly exercise the right of challenging them to ascertain whether or not they are impartial.

To show that I am not mistaken in my view of the meaning and legal effect of the words "due process of law," I will venture to trouble the Senate a moment with a few citations of authority. Speaking of this clause, Justice Story remarks:

"The other part of the clause is but an enlargement of the language of Magna Charta '*nec super eum ibimus, nec super eum mittimus, nisi per legale judicium parium suorum vel per legem terræ,*' neither will we pass upon him, or condemn him, but by the lawful judgment of his peers, or by the law of the land. Lord Coke says that these latter words *per legem terræ*, (by the law of the land,) mean by due process of law; that is, without due presentment or indictment, and being brought in to answer thereto by due process of the common law."

I next call the attention of Senators to some observations applicable to this question made by Justice Curtis in the case of Greene vs. Briggs, to be found in 1 Curtis Reports. The facts of the case were briefly these: the State of Rhode Island had passed what is known as a liquor law; by that law authority was given to certain magistrates to issue a warrant to search houses or other places where it was supposed liquors were kept illegally for sale; and, on the liquor being seized, certain proceedings were had in regard to it, with a view to its destruction; notice was left at the residence of the keeper or owner to appear in court at a certain time, and show cause why it should not be destroyed. If no sufficient cause was shown, the magistrate proceeded to adjudge that the liquor should be destroyed. The question arose whether this proceeding against the liquor for the purpose of destroying it was "due process of law," and whether it was constitutional and valid. The court held that it was not; the act required that before the owner of the property could come in and defend, he should give a bond for the payment of costs, which the owner of the liquor in this case refused to do. He contested the validity of the act, as being an infringement of that clause of the State constitution which provides that no person shall be "deprived of life, liberty, or property, but by the laws of the land." The court remark:

"To require security for the payment of the penalty and costs, as a condition for having a trial, so far as I am informed, is a novelty in criminal jurisprudence; and, in my opinion, it is not only essentially unjust, but in conflict with that clause of the Constitution which secures the accused from being deprived of his life, liberty, or property, unless by the judgment of his peers, or the law of the land. Natural right requires that no man should be punished for an offense until he has had a trial, and been proved to be guilty; and a law which should provide for the infliction of punishment upon a mere accusation, without any trial, if the accused should fail to furnish two sureties to pay the penalty which might, after the trial, be adjudged against him, would be viewed by all just minds as tyrannical; for it would treat the innocent who are unable to furnish the required security, as if they were guilty, and would punish them, while still presumed innocent, for their poverty or want of friends.

"And it is equally clear that such a law would not be 'the law of the land,' within the settled meaning of that important clause in the constitution. Certainly this does not mean any act which the Assembly may choose to pass. If it did, the legislative will could inflict a forfeiture of life, liberty, or property, without a trial. The exposition of these words, as they stand in Magna Charta, as well as in the American constitutions, has been, that they require 'due process of law;' and in this is necessarily implied and included the right to answer to and contest the charge, and the consequent right to be discharged from it, unless it is proved. Lord Coke, giving the interpretation of these words in Magna Charta, (2 Inst., 50, 51,) says they mean due process of law, in which is included presentment or indictment, and being brought in to answer thereto. And the jurists of our country have not relaxed this interpretation.

"It follows, that a law which should preclude the accused from answering to and contesting the charge, unless he should first give security in the sum of $200, with two sufficient sureties, to pay all fines and costs, and which should condemn him to fine and forfeiture, unheard, if he failed to comply with this requisition, would deprive him of his liberty or property, not by the law of the land, but by an arbitrary and unconstitutional exertion of the legislative power."

There is a strange similarity in principle between this case and the present bill. Here the proposition is to punish a man by depriving him of his property, not because he has committed crime, not because he was the owner of the liquor or engaged in the illegal sale of the liquor, but because, not having been proved to have committed any crime known to the law, he omits to come into court. Under the bill, the crime for which he is deprived of his property is his omission to come in and answer to an indictment; it is because of that omission, and only that omission, that his property is taken away from him! Sir, whatever may be the character of the accused, whether rebel or Union man, whether black or white, no matter under what Government he may have been raised, if he is under the folds of the American flag, protected by the ægis of the American Constitution, and his prosecution is in an American court, he cannot be punished by a deprivation of property in that mode; and I should feel that I was disgracing my country, my Constitution that protects all alike, if I were to vote for a measure that contemplated such an outrage.

I shall not weary the Senate with citations further than may be necessary.

Mr. CLARK. Will the Senator allow me to ask him to give the page, if he is going to read it.

Mr. HOWARD. Yes, sir; the case I read from is in 18 Howard's Supreme Court Reports, page 272. The question arose upon the warrant of an officer of the Treasury issued against some collector for the collection of a balance struck against him on the books of the Treasury. The counsel for the defendant insisted that such a warrant from a mere Treasury officer was a violation of the Constitution, as not being "due process of law," and that, therefore, the property of the defaulter could not be seized and sold upon the warrant. The Supreme Court, however, did not regard that clause of the Constitution as applying to the case. They held the warrant to be constitutional and valid, because it was a process in very general use in England at the date of our Constitution, as a means of collecting the debts due to the Crown from revenue officers. They put it upon that ground and no other; but they say in the course of their decision:

"That the warrant now in question is legal process, is not denied. It was issued in conformity with an act of Congress. But is it 'due process of law?' The Constitution contains no description of those processes which it was intended to allow or forbid. It does not even declare what principles are to be applied to ascertain whether it be due process. It is manifest that *it was not left to the legislative power* to enact any process which might be devised. The article is a restraint on the legislative as well as on the executive and judicial powers of the Government, and cannot be so construed as to leave Congress free to make any process 'due process of law' by its mere will."

Congress cannot of its own will make any process of law due process of law. We must construe the clause with reference to other clauses in the instrument. By such a reference, we shall find ourselves barred and foreclosed from asserting that the proceeding authorized by the bill constitutes "due process of law." In criminal prosecutions there can be no trial without a jury; and you cannot strip a man of his property, in such a prosecution, without ascertaining his guilt. This bill requires no trial, whether by jury or outlawry. Under the English proceeding from two to three years may elapse after the finding of the indictment before judgment of outlawry is pronounced. Here the forfeiture of the estate of the accused may take place in ten days, or in five days; nay, sir, in a single day after the seizure and the finding of the indictment, and in the absence of the accused. In outlawry the whole proceeding is totally void as to person and property, unless there is a formal judgment of outlawry; while this bill does not provide for any judgment at all. The court is not to enter any judgment on its records; it tries no crime; it impannels no jury; it examines no witnesses; it simply issues an order, and causes it to be published for as few or as many days as it may see fit, for the voluntary appearance of the accused; and if he does not appear, his property is forfeited to the Government, and his heirs are robbed of their inheritance. It seizes the property of the accused, and leaves it in the hands of the President. It does not even place it within the jurisdiction of the court; it makes that court the mere instrument of ascertaining the fact that he has not appeared and taken his trial. And this is all the court is to do before the forfeiture of the property.

And is not that a notable cause for stripping a man of his property? For this omission to appear

and take his trial, the law (according to the bill) strips him and his heirs of all title to his property, and declares it forfeited to the United States. Observe, sir, this forfeiture is not on account of the owner having committed the crime charged in the indictment; not at all, for he has not been tried for that crime; but it is solely and exclusively on account of his non-appearance in court. He may be innocent, and still, under this proceeding, his property may be taken from him. He may be in the most loyal of the loyal States, and yet his property may be seized and forfeited, simply because he does not see fit, if he knew the fact, to go from Maine to Kentucky, or some other State, and put in a voluntary appearance to the indictment. He may be totally ignorant of the proceedings which have been taken against him; he may be absent and out of the country; he may be entirely ignorant and entirely innocent, and yet this bill seizes his property without his knowledge, and, while he is without offense before God or man, forfeits it to the United States.

And this summary, this reckless proceeding, which is without party, without trial, without evidence of any guilt, without conviction, judgment, or sentence, is dignified with the name of "outlawry," and is upheld by the Senator from Vermont and the Senator from New Hampshire as due process of law.

The bill punishes the crime of non-appearance to answer voluntarily to the indictment by taking away all the property of the accused without trial or hearing of any kind; thus using the court to do an act which Congress has not the manliness to do as an act of war, and which the court is forbidden to do by the Constitution.

And after all this, after the man's property has been taken, forfeited to the United States, and the avails of it have gone into the Treasury of the United States and been used for the purpose of carrying on the Government, this same indictment still remains undisposed of, no trial having taken place, and the accused person liable at any moment, when he comes within reach of the process of the court, to be arrested and tried. The owner, as I have remarked, may be absent and innocent, entirely ignorant of the proceeding; the owner may be an infant without a protector or guardian; may be a *feme covert;* nay, sir, the owner may be dead and in his grave at the moment this judgment of outlawry, as it is absurdly called, is pronounced upon his property; and in all these cases the bill provides no remedy whatever for the injustice the court is called upon to commit. Are we doing honor to the judicial department of the Government when, seeking to shun the exercise of the war-making power, we ask them to lend themselves to such a proceeding?

This is but a mock confiscation. It is unworthy of the Senate, unworthy of our Government. It is a disgrace to the ermine. It is seeking to use as a degraded instrument of violating the Constitution the courts of justice, around whom we ought always to cling with our best affections, our profoundest respect, and our most vigilant protection. I will never consent to degrade a court by putting it in such a position. On the contrary, sir, I would on this, as on all occasions where the attempt shall be made thus to dishonor the judiciary—I would shout, with an earnest voice, *Procul hinc! procul este profani!*

Why are we called upon to vote for so strange and anomalous a measure? Where, sir, is the necessity for it? Is it not more manly, more becoming us as the friends of the Union, to walk up fairly to the question of confiscation, and say, as we may say with truth, that it is but an ordinary power of waging war, and that we will resort to it as a war power, not suffering the judiciary to have anything to do with it except to try questions that may arise as to the legality or illegality of the captures which we may make in pursuance of a regular act of confiscation. No, sir; away with all this shuffling and evasion of the main point in issue, and let us come up and say war; war to the knife; war to confiscation; war to any extent, to put down this rebellion and restore the reign and efficiency of the Constitution. The rebels have held out to us the glaved hand; they have thrown down the gauntlet; they have said to us, "we are at war with you; we dare you to the field; we are your equals and your foes, if we are able we will subvert your Government; we will demolish your capital; we will overthrow all your institutions, and we will treat you as a conquered people if we have it in our power." To do this, they do not hesitate, and they have not hesitated, to confiscate all the property of loyal men that they can lay their hands on. They have not hesitated to confiscate the $200,000,000 of indebtedness now due from southern debtors to northern creditors. Have they any qualms of conscience about it? Do they hesitate about it? Not at all, sir. They are bold; they act openly and above board. Although their constitution is in precisely the same language as our own on this subject, I fancy there are no such debates in their congress relative to confiscation as are now amusing our public and detaining us here. There is, sir, something even admirable in their boldness, and though I most cordially detest them and their principles, I should not hesitate to be influenced in my conduct towards them by the old maxim of war, *fas est et ab hoste doceri.*

PACIFIC RAILROAD.

SPEECH OF HON. J. A. McDOUGALL,

OF CALIFORNIA,

IN THE SENATE, *June* 11, 1862.

The Senate having under consideration the bill to aid in the construction of a railroad and telegraph line from the Missouri river to the Pacific ocean, and to secure to the Government the use of the same for postal, military, and other purposes—

Mr. McDOUGALL said:

Mr. PRESIDENT: I have sought to avoid argument and have asked action, and did hope that the amendments from the Senate's committee might be considered, with such objections as Senators thought it to be their duty to present. I trusted that the Senate was prepared to act upon it without extended argument. Indeed, although as chairman of the committee it is my duty to both explain and maintain the provisions of the bill, I feel at the present time altogether indisposed to reason about it, either in gross or in detail. It is now some ten years of time, during which time I have been persistently urging this great measure, as well here as on the shores of the Pacific. I have lost faith in talking; I seek action. The action proposed is requested, I will not say solicited, by the citizens of the Republic on the western slope of our continent. I feel further justified in saying a measure such as this has been for years demanded by the nation—East and West, North and South—its importance, nay, its necessity, I do not at this time regard as a fit subject for argument in this Senate.

The measure, as now presented to the Senate, is substantially the measure of the last Congress presented by General Curtis, as chairman of the special committee of the House of Representatives to that body, and which bill then met with the approbation of that body, and with the approval generally of the friends of the enterprise, to make a railroad across the continent. Wherein the measure has been changed, I think it has been improved. I believe I had the honor, in the Thirty-Third Congress, to present, in the House of Representatives, the first bill ever brought before that body proposing and providing for this work. I have examined all subsequent proposed legislation, and I think myself altogether qualified both to assert and maintain that the bill, as now presented, is by far the most sufficient, well-considered, and complete that has been presented for the consideration of Congress; indeed I may say that it was with an infinite satisfaction I saw so complete and perfect a measure upon so complex and difficult a subject sent from the House to the Senate. In my judgment, the bill is sufficient for the great work proposed.

The bill has been before the Senate for some time, printed, and on the desks of Senators. Senators will remember that, at an early day, I requested attention to the provisions of the bill, and stated that I did not propose argument. I desired action; the action of the Senate forces upon me more or less of a discussion; but, sir, I trust the Senate will pardon me if I cannot engage in the thousandth time made argument on the importance of this great work to this Republic and the world; the thought of its magnitude in this aspect pains me; I am not intellectually large enough to contemplate it.

I will, however, undertake briefly to consider some of the objections suggested to the bill, and more especially to the objections as to the present propriety of action by the Government. It is said that we have now pending a stupendous and exhaustive social war, and that therefore any great charge upon our Treasury would be unwise. The substance of this objection grows out of ignorance of the bill, that is, if substance can grow out of ignorance; and I am inclined to think it can, so far as objections are concerned. The bill does not charge the Government. To assume that it does, will be found to be an unconsidered mistake. The road completed on the plan proposed, must be a matter of governmental as well as of general and particular economy. I am not much in the habit of dealing in the details of figures, and I know that figures may be multiplied into the most magnificent falsehoods, but there is a certain field within the rules of progression where they may be relied upon, and I shall undertake to rely upon elementary and reliable figures.

The bill controls the general direction of the main line, and it also controls the general direction and points of connection of the branches. Maps indicating all the proposed routes within the scope of the bill were long since printed by the vote of the Senate. The possible distance of main line and branches can be very closely approximated. There can be no estimate of distance and Government liability which can involve the Government in anything more than the full issue of bonds, when the road and branches shall have been completed, of $63,000,000.

Mr. President, it has now to be observed that no bond can issue until forty miles of the road is completed and approved; it may be safely premised that no call for bonds can be made until some time in the year 1863, and that no interest can be charged against the Government until December 31, 1863. Suppose at that time the enterprise has progressed full up to the terms of the bill—a supposition which is our hope—the Government will then have loaned her credit to the enterprise to the amount of $3,600,000, upon which the sum of interest will be $216,000, a sum expended every year for twenty several purposes of no great or paramount interest. When the road shall have been completed, assuming the figures and the bonds issued to be $62,880,000, the maximum estimate, and the entire interest will be but $3,773,800 per annum.

I understand, sir, that to some gentlemen these figures may seem large; but permit me to call the attention of these gentlemen to some facts, practical business facts. In 1860, General Curtis, as chairman of the House committee, estimated the amount paid yearly by the Government for the transportation provided for by this bill at some $6,000,000. The present able chairman of the House committee took occasion to inquire directly of the Government the exact amount of cost to the Government for this service, and found it to be $7,357,000 per annum, or about one hundred per cent. more than the full charge of interest against the Government when the road shall have been completed. I now call the attention of Senators to this consideration, or rather to this pregnant fact, not to be ignored or avoided, that is, that the difference between interest ($3,773,800) and present cost, ($7,357,000,) with the five per cent. reserved to the Government by the bill, would necessarily pay the Government bonds and interest years before the Government bonds would mature. I have stated all I desire to state on the question of Government economy. I might say much more, but think that for the occasion I have said enough; much more I trust rests in direct suggestion.

I now propose to say something about the economy of this measure to the nation, the people of the nation, what is saved to aid in their aggregate prosperity and progress. I hold in my hand a statement in round figures which I assure the Senate I have prepared with some care, and which I am confident may be relied upon as not incorrect except in so far as it fails to express the full difference I propose to state. I shall understate the case I present by tens of millions.

The present cost and loss of the transportation of men and merchandise between Boston, New York, Philadelphia, and Baltimore on the one side, and San Francisco on the other, from the best compiled statistics, may be stated thus:

Passenger transits both ways, including overland transits, 100,000, averaging $150 per capita	$15,000,000
Time of passenger transits, average forty days, and counting them as dead labor while in transit, and otherwise their average labor worth two dollars per diem	8,000,000
Freights both ways around the Horn, 215,000 tons, at an average of twenty dollars per ton.	4,200,000
Value of freights both ways, other than gold and silver, $110,000,000. On this, by the reason of twice passing through the tropics, there is, from leakage, sweating, and other causes, a loss of not less than seven per cent. not covered by insurance	7,700,000
Insurance, and gross losses uninsured; that is, where parties are their own insurers, three per cent.	3,300,000
Interest on the capital which may be considered dead while 135 days in transitu—say four per cent.	4,400,000
Government transportation, as stated	7,357,000
Isthmus transportation (excluding passengers) and insurance on the same	3,250,000
Freights to Nevada Territory, employing 2,000 teams 200 days each year, at a cost of twenty-five dollars per team	10,000,000
Passenger transits to and from Nevada	2,500,000
Passengers and freights to and from Denver and Salt Lake, estimated without data at	10,000,000
	$75,807,000

Mr. President, it will be observed that the aggregate of this sum is large, much larger per annum than the aggregate of credit we ask from the Government. Sir, I am confident it is an understatement. I will now present another set of figures; the figures which I think will express the national or popular difference, as you please, between the present and proposed cost of transits and transportation.

The cost of the same business and service by a continuous line of railroad from San Francisco to the point of delivery east, and the reverse, may be stated thus:

Two hundred and fifteen thousand tons, at $30	$6,450,000
Interest on $110,000,000, for ten days, one third per cent.	366,666
One hundred thousand passenger transits, at $50 each	5,000,000
Ten days each passenger in transit, loss $2 per diem	2,000,000
One hundred tons gold and silver, $300 per ton,	30,000
Isthmus merchandise	1,250,000
Nevada, Utah, and Colorado passengers and freights, estimated	2,500,000
Damage and insurance	1,600,000
Government freights and transportation, computed as equal to interest	3,773,800
	$22,970,466

The result of these figures presents what may seem to some a startling result, but permit me to assure Senators that it is not beyond the boundaries of fact. I state the results, $75,807,000 as the present charge; $22,970,466 as the sum of the charge against the country, its industry and enterprise, upon the present scale of business, if this proposed measure can be made a thing accomplished. The figures show a direct and certain saving to the national wealth of over fifty million dollars per annum. I think I might as justly say $75,000,000, but I dislike to place figures on paper which I cannot maintain with exactness.

I did not wish to speak, and I am now unwilling to speak at length; but, as I have been forced to speak, I will make a brief attempt to overcome what I think an error of opinion on the part of several Senators, otherwise expressing a favorable opinion of this measure. They say, or I understand them to say, that this will not be a self-supporting road. I am unable to think that this opinion is chargeable to anything else than a failure to inquire into the details of the business before us. The road, its cost, its running cost, its wear and tear, the business it must and will command, and the amount of compensation it may demand—all these problems lie within the range of careful approximation. Computing only the present business as I have stated it, with the charges I have named, and the gross receipts of the road would be over $20,000,000; and if gentlemen will examine the tables of the increase of passenger business alone, caused by the substitution of railroads for other means of transit, as prepared for both this country and Europe, they will find the increase to be from four hundred to fourteen hundred per cent. If we should assume the minimum as the increase by this road, we would have immediately added to the estimate of the present business $20,000,000 per annum. Indeed, sir, it is vain to talk about the business of this line of transit. Let the line be established. One road will not do the business; two roads will not do it; the offered business will demand the facilities of many lines of road.

Mr. President, if there is one thing more than any other in which this Government has failed in its great office, it is in so long delaying this great work. The examples set us by Russia, France, and England, even in her distant possessions in Australia and India, furnish marked contrasts to our national sluggishness—I think I may say, in a certain sense—our national timidity. There appears to be an apprehension that this enterprise is too gigantic to be undertaken, and particularly at this time. If Senators will examine the figures and see what the Government may be required to pay, and when the payments may be demanded, gentlemen voting appropriations of $500,000,000 in a day will, I think, surrender their apprehensions. Increase of taxation is apprehended. Without discussing this matter, I will content myself with quoting a brief paragraph from an eminent English author. Eisdell, treating of the wealth of nations, as related to taxation, remarks:

"There is one way in which taxation may be successfully employed as an instrument for the accumulation of property and the advancement of national opulence. That is when its proceeds, instead of being expended in ostentatious, useless, or unprofitable consumption, are applied to roads, or to pay off a public debt, or construct works of public utility, which yield a profit or advantage to the nation equivalent to their cost, or, in short, any other productive employment. In this way, we have already observed, the effect of taxation in enriching a country is direct and powerful."

The soundness of this doctrine is understood by the intelligent, enterprising, live Governments of the Old World, and not only understood, but practiced upon. Now, Mr. President, it can hardly be required that I should attempt to discuss the details of this bill; it has been some time before the Senate and the country. Maps showing the country and the several feasible lines for a road were printed by order of the Senate early in the session. The bill as it passed the House provided for the commencement of the main trunk line at the one hundred and second meridian west from Greenwich, thence west to the Pacific. The committee of the Senate have reported an amendment starting the main trunk at the one hundredth meridian, between the Platte river and the Republican fork of the Kansas. By reference to the map Senators will perceive that this limitation as to the point of departure will be about just to the three great systems centering at St. Louis, Chicago, and running through the center of Illinois, Indiana, and Ohio. It will also accommodate the new Northwest—Wisconsin, Minnesota, and Nebraska. Besides, this limitation is perfectly consistent with the engineering problem yet to be solved, that is, with the extension of the line of the main trunk either by the South Pass, Fort Bridger, Denver, or the head of the Arkansas, as either may be determined most economical or expedient.

The money and land provisions of the bill are, I think, well understood. I will content myself with the confident expression of an opinion, based upon a careful consideration of the bill, a very extensive knowledge of the particular difficulties to be overcome, and some small knowledge of engineering and railroad building, that the measure, carried out, is sufficient to secure the speedy construction of the road. I say the speedy construction of the road, for while the 1st July, 1876, is the time given, if I live so long, I expect to cross over a continuous line of road from the Atlantic to the Pacific, central through our States and Territories, as early as the year 1870.

I have not desired to speak on this subject; I have trusted that Senators had examined the measure. If explanation is required, I am prepared to make it. If objection exists in the opinion of any Senator, of course, they should be presented. Further than this, I trust the friends of the measure will be silent, except to vote. I did not propose to speak at all, but as far as possible to avoid all discourse; I have been forced thus far. The bill and amendments have been carefully considered by a committee of ten Senators; the report is made, no member of the committee objecting.

I trust the Senate will accept my suggestion, and permit the amendments to be read through, and if any Senator wishes to reserve any one of them, let the reservation be made. When the bill and amendments have been read through, we will know where we are, and we shall have made some progress.

PUBLIC DEBT, LIABILITY, AND EXPENDITURES.

SPEECH
OF
HON. CLEMENT L. VALLANDIGHAM,
OF OHIO,

IN THE HOUSE OF REPRESENTATIVES,

June 30, 1862.

The House having under consideration the bill to construct a ship canal for the passage of armed and naval vessels from the Mississippi river to Lake Michigan, and for other purposes—

Mr. VALLANDIGHAM said:

Mr. SPEAKER: Desiring on Friday last to leave for home at an early hour this morning, it would very greatly have suited my convenience to have addressed the House on that day; but inasmuch as the chairman of the Committee of the Whole, [Mr. DAWES,] after due deliberation and upon solemn advice, decreed that it was not in order, pending a revenue measure, to discuss the general subject of revenue and expenditures, but only the particular items of the bill, I was obliged to remain, in order that I might speak to-day.

Of this I will not now complain. It is but a part of the sum of human disappointments to which we are all subject.

The bill before us appropriates $200,000, and pledges the faith of the United States to the extent of $10,000,000 more. While, as a western man, I should gladly support any measure really and honestly for the interest of the West, I am constrained to oppose this bill. I am against it, first, because, in my deliberate judgment, it is wholly without constitutional warrant. I oppose it further, because the debt and expenditures of the Government to-day are too great to justify any such further assumption of liability as this measure contemplates. And it is upon this point alone that I now propose to address the House.

My purpose is not to produce an electioneering document. At the instance of others, if at all, and not by any act of mine, shall my remarks of to-day be published and distributed in pamphlet. My object is to vindicate the truth of financial history; to ascertain, as nearly as may be possible, the actual and full amount of the debt, liability, and expenditures of the Government—a debt every dollar of which, fairly and honestly incurred, must be paid; for REPUDIATION is but treason in another form.

I desire also to vindicate gentlemen on this side of the Chamber who have so gratuitously, wantonly, and unjustly been censured and assailed even to the extent of insinuations against their loyalty, for but repeating the statements of others as to the enormous expenditures and indebtedness of the Government. I propose further to justify by the proof those Republican members of the Senate and this House upon whose authority we of the Democratic party here and through the country have made the statements which have so alarmed the Secretary of the Treasury and his retainers. Official accuracy and veracity of any kind are rare virtues in this day, and wherever found, are worthy of special commemoration and praise.

Sir, I see nothing to be gained, but much, very much to be lost by the vain effort to conceal the real extent of the public debt and expenditures. In private life nothing so much indicates and generally nothing so certainly precedes disastrous bankruptcy as an attempt dishonestly to cover up or withhold the true condition of a business man in embarrassed circumstances. And the same principle applies equally to a Government.

The gentleman from Indiana, [Mr. VOORHEES,]

and the other Democratic members of this House, who put forth recently a certain "address" to the people, have been unsparingly denounced here and elsewhere for asserting that the public debt to-day, the end of the present fiscal year, amounts to from seven hundred to one thousand million dollars, and that the expenditures average now from two to near four million dollars per day.

Now, sir, upon what authority did we assert, and had we a right to assert it? No Democratic member of this House has access, or at least familiar access, to the Treasury Department, none certainly to its secrets. We have not the means of knowing, by the inspection of its records, what amount of indebtedness has already been incurred, nor what the expenditures are. Such access and means of knowledge belong alone to the Republican members of the Senate and House of Representatives, and above all to the members of that party which compose the Committee of Ways and Means in the House, and the Committee on Finance in the Senate, and whose business it is to deal with the Treasury.

A large, a generous charity, therefore, I say, ought to be extended to us who, after three and four months' repeated and specific statements officially from Senators and Representatives as to the amount of debt and expenditures, have but put upon record before the people that which we derived from their authority. I propose then, sir, in the first place, to review and collate what has been said upon this subject within the past eleven months in this House and the Senate.

On the 25th of July, 1861, the chairman of the Committee of Ways and Means said:

"It must be recollected that the demand on the Treasury is well nigh *a million dollars a day.*"—*Congressional Globe*, extra session, 1861, p. 267.

Again: on the 5th of August, 1861, ten days later, he said:

"I am alarmed at the expense we are incurring. This day, and *every day* for some time, the nation has incurred an expense of some *one million two hundred and fifty thousand dollars.* I cannot see where the money is to come from."—*Ibid.*, p. 448.

That, sir, was before the notion that the Constitution authorized the making of the promissory notes of the United States, or anything else except gold and silver, a "legal tender," had ever entered the brain of any one, and before the Secretary of the Treasury had compassed and devised his extraordinary scheme of a grand national paper mill for the manufacture of money by steam.

Again: the gentleman from Massachusetts, [Mr. DAWES,] who was thrust forward here the other day as the advocate to defend, upon special retainer, and abet the Secretary of the Treasury in his deliberate effort to underestimate the true amount of the public debt and daily expenditures of the Government, and who, by some sort of financial legerdemain, contrived to prove them to be somewhat less than one million dollars a day, himself, on the 13th of January last, said:

"Mr. Speaker, it takes $2,000,000 *every day* to support the Army in the field."

Mark you, not as he here subsequently suggested, that on that particular 13th of January, or the day before or the day after, or any other one day, that was the expenditure, but "every day." And this, too, for the Army alone.

But he proceeds:

"One hundred millions have been expended since we met here in the *beginning of December, upon an Army in repose.*

Ah! indeed. Why, sir, that is at the rate of $2,380,000 a day for the preceding six weeks, with the Army "in repose." He adds:

"What they will be when that great day shall arrive—if it shall ever arrive—when our eyes shall be gladdened with the sight of the Army in motion, *I do not know.*"—*Congressional Globe*, 1861-62, vol. 2, p. 299.

Well, sir, our eyes were at length "gladdened with the sight of the Army in motion." The grand army of the Potomac did actually move; and yet is then of all others precisely the time which the gentleman selects for severe censure upon members on this side of the House for intimating the mere suspicion that the expenses which he could not even estimate might be seven or eight hundred thousand dollars more a day with the army "in motion" than his own statement of the expenditure for the same army "in repose."

But he proceeds again:

"Another $100,000,000 will go with this, as the $100,000,000 more I have here enumerated, outside of the daily support of the Army, have gone"—

Outside of the daily support of the Army, indeed! Why, sir, that is $200,000,000 in six weeks, or at the rate of $4,760,000 a day. Oh, what a "traitor" to assert it!

"Another $100,000,000, I say, must be added to this before the 4th of March!"

How long before the 4th of March? But $300,000,000 for full three months are $1,200,000,000 a year; or, if he means only $200,000,000, that itself is at the rate of $800,000,000 a year for the Army alone, to say nothing of the other legitimate expenses of the Government, nor of the gigantic plunder and peculation which have disgraced it.

But the gentleman from Massachusetts proceeds next in elegiac strain:

"Sir, what it may cost to put down this rebellion, I care very little, provided it may be put down; but, sir, faith without works is dead, and I am free to confess that my faith sometimes fails—my faith in men, not in the cause."

Thus heavily and despairingly, on the 13th of January, the Pilgrim of Massachusetts bore upon his vicarious back the huge burden or pack of the sin of this Administration's indebtedness, as he struggled on sorrowfully in the financial Slough of Despond; what cross—what sort of a "cross" it was at the sight of which, some months later, this vast burden rolled from his shoulders, no doubt some future Democratic Bunyan, languishing in the cells or casemates of your military prisons, will hereafter disclose.

On the 28th of January, 1862, the gentleman from New York, [Mr. SPAULDING,] a member of the Committee of Ways and Means, said:

"But with a Navy and an Army of six hundred thousand in the field, requiring, with the other expenses of the Government, an *average* daily expenditure of *more* than $1,600,000"—

How much more? But at that sum alone, it equals $584,000,000—

"this new system of banking will not afford relief to the Treasury in time to enable the Secretary to meet the pressing demands that are made upon him."—*Congressional Globe*, 1861-62, p. 524.

Again: on the 4th of February, 1862, the gentleman from New York, [Mr. ROSCOE CONKLING,] assuming to estimate the expenditure, ordinary and extraordinary, from that date to July 1, 1862, at $300,000,000, said:

"This last item is at the rate of $2,000,000 per day for one hundred and fifty days. If $45,000,000 a month is taken as the estimate, the item will be $225,000,000. But it will then reach $300,000,000, because there is an item of a hundred millions nearly which will be payable at the close of the war, growing out of bounty acts, and it has been nowhere included."

And estimating the entire debt to July 1, 1862, at $806,000,000, he exclaimed:

"Eight hundred and six millions! Who can credit these figures when he remembers that the world's greatest tragedian closed his bloody drama at St. Helena, leaving the public debt of France less than seventy millions of pounds?"

Rank disloyalty, all this! Sir, had I presumed to speak thus, my fidelity to my country would have been utterly denied, and the gentleman from Massachusetts would have added at least one page more to the suspicions and innuendoes of his speech of the 27th of May. The gentleman from New York adds:

"This enormous debt amounts, for each congressional district represented upon this floor, to $4,210,000, and when the war is ended it will be more than five million dollars. Let every gentleman ponder upon the fact that there is more than three hundred thousand dollars of interest to be paid every year by his congressional district."—*Congressional Globe*, 1861-62, p. 635.

Again: in the letter of the Secretary to the gentleman from New Hampshire, [Mr. EDWARDS,] setting down the public debt at a more moderate figure than any one else, nevertheless declared it "appalling," estimating it at $650,000,000 upon the 1st of July, 1862.

The chairman of the Committee of Ways and Means again, on the 6th of February, said:

"The *daily* expenses of the Government are now about $2,000,000. To carry us on until the next meeting of Congress would take $600,000,000 more, making, before legislation could be had at next session, about $700,000,000 to be provided for. We have already appropriated $350,000,000, making our entire debt $1,050,000,000."—*Congressional Globe*, 1861-62, p. 687.

On the 12th of the same month, the chairman of the Committee on Finance in the Senate, the Senator from Maine, [Mr. FESSENDEN,] said:

"Sir, we are contracting a large debt. At the end of this fiscal year, (July 1, 1862,) I suppose it will be, in round numbers, $750,000,000; and at the end of the succeeding year, if the war should continue, $1,500,000,000."—*Congressional Globe*, 1861-62, p. 765.

Still further: on the 19th of February, the gentleman from New York [Mr. SPAULDING] said:

"One million six hundred thousand does not cover the *daily* expenditures."—*Congressional Globe*, 1861-62, p. 883.

And, on the same day, the gentleman from Maine [Mr. PIKE] estimated our "enormous expenditures at from one to two million dollars a day." (Congressional Globe, 1861-62, page 887.)

Still further, the chairman of the Committee of Ways and Means, [Mr. STEVENS,] on the 20th of February, 1862, said:

"Now, in less than a year, taking the public debt at what my colleague makes it—*I make it more*—$1,200,000,000, what will the interest be upon it at seven and three tenths per cent., for it will all center at that rate of interest?"—*Congressional Globe*, 1861-62, p. 900.

And again, on the 8th of April:

"I suppose our debt on the 1st of July next will not be less than $800,000,000. When some time since I had occasion to address the House on the Treasury note bill, I stated our daily expenses at $2,000,000. They are now, and *have been for some time past*, over three million dollars *a day.* It is plain, therefore, that the sum I have stated will be rather *below* than above our indebtedness at the end of this fiscal year."—*Congressional Globe*, 1861-62, p. 1577.

And the Senator from Maine, [Mr. FESSENDEN,] again, on the 30th of May, declared that, taking the old debt and the appropriations for the years 1861-62, the whole amount would reach $670,000,000; and added:

"The Senator can judge for himself whether, taking into consideration the odds and ends, unsettled claims, deficiencies, &c., which will be likely to come in upon us, we shall fall short of $700,000,000."—*Congressional Globe*, 1861-62, p. 2446.

On the 31st of May, the Senator from Iowa, [Mr. GRIMES,] said:

"The Senator said yesterday, I believe, that the public indebtedness now was only $550,000,000, and that the amount of interest we were paying was only a little upwards of four per cent. But when you come to examine that, you find included the amount that was unliquidated, that was outstanding, that had not been reduced to writing, and we do not know much about, and was not drawing interest at all; and when we struck the balance then, it reduced the average rate somewhere in the neighborhood of four and a half per cent. I predict that our indebtedness will amount at the end of the year to $1,500,000,000. You cannot approximate to the amount of it now. You have got ten thousand incidental expenses growing out of this war. You have got to pay damages, untold damages; nobody can compute them. I think that the real expenses of the war will be one third greater than they are nominally.

"I have not the most remote idea that the Secretary of the Treasury or anybody else knows what is the amount, or can come within several million dollars what will be the expenses of the present fiscal year. I presume all the charter parties for all these vessels that have been engaged in transporting troops during the first two months have not come in to be settled at the end of this quarter.

"Mr. HARRIS. Ten months have.

"Mr. GRIMES. We are talking about what are the expenses of the present fiscal year. They come in quarterly. These returns have not been made *during the last two months, and during that time this army has been transported, and we have employed a very large amount of transportation*, the aggregate of which I have no means of reaching, but I know *it is immense.*

"Mr. HARRIS. There is no use in deceiving ourselves about this thing. I have heard so much clamor here about spending two or three millions a day, that I want the truth to be known.

"Mr. GRIMES. *The truth is, there are none of us who know anything about it.* We can come within a hundred millions of it, probably, and not nearer."—*Congressional Globe*, 1861-62, p. 2474.

Strange to say, this declaration was made in the Senate some days after the speech of the gentleman from Massachusetts.

On the 6th of June, the chairman of the Finance Committee of the Senate, [Mr. FESSENDEN,] said:

"I gave the other day, and I can give perhaps a little more accurately to-day, the amount of those appropriations for the present year. The appropriations for the year ending June 30, 1862, were, at the second session of the Thirty-Sixth Congress, $71,000,000, and at the special session, and at this session of Congress thus far, $535,000,000, making $606,000,000. Then if you add to that the old debt of $70,000,000, you have $676,000,000 as the total amount. Gentlemen must be perfectly aware from their experience, when you take into consideration the state of the country at the present time, the contracts that have been made, the outstanding claims, the expenditures of which no record, necessarily, can be made in a time like this, with so vast an expenditure, and the deficiencies that we are called upon almost every day of the session to meet, that you may safely add twenty or thirty million dollars to that estimate which I have thus stated, and in that way you have got a little

over seven hundred millions. I see no escape from the conclusion that at the end of the year, taking the appropriations and liabilities together, we certainly make no unreasonable estimate if we call the amount of what is owing from us, provided nothing has been paid, $700,000,000."—*Congressional Globe*, 1861-62, p. 2606.

Such, sir, were the repeated and reiterated statements of Senators and Representatives, all of them of the Republican party—the chairman of the Ways and Means in the House, the chairman of the Finance Committee of the Senate, the organs in this Capitol of the Treasury Department, the official mouthpieces of the Secretary, men having daily access to and in daily communication with him—statements not uttered once and at random, but repeated over and over again and with all possible accuracy and minuteness of detail. Charity, a little charity, I pray you, sir, towards those of us who, having no entrance within the inner courts of the temple of the Treasury, and no right to penetrate its hidden mysteries, are forced to content ourselves with standing in awe at its vestibule, that we may catch the whispered echoes of the oracle within.

And now, sir, I propose to prove beyond an honest controversy, that the statements of the Republican Senators and Representatives, upon whose authority we of the Democratic party repeated them, were justified to the fullest extent, by the estimates, by the appropriations, by the authorized indebtedness, and by the actual indebtedness, as appears from official records, the authenticity and verity of which cannot be impeached.

First, as to the "ESTIMATES." These, indeed, are by no means reliable, because every two or three months, and possibly every two or three weeks, we have additional estimates from the Treasury Department to supply the continually recurring deficiencies. There is a discrepancy between the estimates for the present fiscal year, made in July last and those submitted on the 1st of December of $213,904,000. The estimates of the 1st of July were $318,519,000; and yet, during a short session of five weeks, Congress appropriated over and above these estimates the sum of $47,985,000. Last December the Secretary of the Treasury sent in supplementary estimates, asking additional appropriations to the extent of $213,904,000. On the 15th page of his annual report, of that date, he sums up the total of the estimated expenditures for the fiscal year 1862 at $543,406,000, or at the rate of $1,500,000 every day in the year. Deducting the estimate of receipts, $36,809,000, you have as the amount of debt to-day, estimated by the Secretary of the Treasury himself seven months ago, the sum of $506,596,000. To this add the debt up to July 1, 1861, of $90,867,000, and you have a sum total of $597,464,519. And yet, with even this enormous amount, he has been forced since to confess errors to the extent of two or three hundred million dollars in his estimates for the year. And on the 28th of January the gentleman from New York [Mr. SPAULDING] declaring that the Secretary "substantially agreed with him as to what the expenses would be," summed up the debt at $650,000,000, or nearly $53,000,000 more than the Secretary, in his report, had set it down only seven weeks earlier.

I pass next to the "APPROPRIATIONS." What further deficiencies are to come in, or are now pending, I know not; but the amount of appropriations already made by Congress for the fiscal year ending to-day, is $608,126,496; and for the coming fiscal year, 1862-63, the appropriations provided for in bills now between the two Houses, having passed one or the other, are for the Army alone $521,980,445, or at the rate of $820 a man, and for the naval service $42,427,771—an aggregate of $564,408,000 for the Army and Navy alone. Adding to that $1,818,000 for the Indian department, you have $566,227,000. And to this must be added $28,318,000 in bills already become laws, in all, the sum of $594,543,000 for the next fiscal year, making as the grand aggregate of the appropriations already provided for by this Congress since the 4th of July last, the enormous sum of $1,104,976,881 66.

I proceed next to ascertain the amount of authorized indebtedness, for which this House, the Senate, and the President, have pledged the faith of the Government. In the first place, the appropriations, as I have said, amount to $581,526,000. Deducting from that the estimated receipts, adding to them $9,000,000 for error, from customs, lands, and all the other ordinary sources, $46,000,000, we have $535,526,000. But this does not include the $10,200,000 proposed to be pledged by this bill for the ship canal from Lake Michigan to the Mississippi river, nor the $64,860,000 for the Pacific railroad, for which the faith of the Government is now pledged, nor the $3,500,000 for the enlargement of the locks of the Oswego and Erie canal, nor the $5,000,000 for the ship canal around the falls of Niagara, nor the other one hundred projects of disinterested patriots and philanthropic projectors in this House and outside of it for augmenting the number and extending still more widely the circulation of the "legal tender" notes of the United States.

There is yet another form of authorized indebtedness: loans and Treasury notes. By the act of July 17, 1861, we empowered the Secretary of the Treasury to contract a debt of $250,000,000 in bonds, at his discretion. By the act of the 25th of February, 1862, $500,000,000 more in bonds were authorized, and $100,000,000 in Treasury notes; and by an act passed a day or two subsequently, $10,000,000, in addition, of demand notes; and by the act which has already passed this House, is now pending in the Senate, and will probably become a law in a few days, $150,000,000 more of "legal tender;" making of authorized indebtedness in these two forms a grand aggregate of $1,010,000,000.

And now, sir, for the purpose of arriving at a fair estimate of the daily expenditures of the Government, I propose to take the Army as the test or standard. According to the statement of the Adjutant General of May 21, 1862, furnished to the chairman of the Military Committee of the Senate, and the report of the Secretary of War in December last, the number of men in the regular and volunteer forces on the 21st day of May was 637,988, divided thus—regulars, 20,334; volunteers, 617,654. On the 21st of May there were in these two arms of the military service, 26 major generals, 207 brigadier generals, 1,200 staff officers, including brigade surgeons and additional paymasters, one retired Lieutenant General drawing whole pay, and a full quota of officers attached to the department of the Adjutant General, quartermaster, subsistence, pay, ordnance, Inspector General, and medical departments, and the corps of engineers and topographical engineers.

Now, from statements made at the pay office, I present here a sum total for pay and subsistence alone, including forage and servants, of the regular and volunteer Army, amounting to $17,290,916 72 a month, being at the rate of $207,491,000 a year, and $576,363 a day; and this, let it be remembered, for pay and subsistence alone. What the actual amount of other expenditures for the Army are in full, it is utterly impossible to learn, in advance of actual returns, which cannot be had for some months to come; but I have ascertained the proportion which pay and subsistence bear to the other expenses in time of peace, by the actual expenditure returned, and in time of war, by estimate for the present year, and I find it to be exactly two fifths. Assuming that as a basis of calculation, we have $518,745,500 a year as the total expenses of the Army, $3,000,000 less, by the way, than the appropriations already made for the coming year; being at the rate of $43,228,000 a month, and $1,440,000 a day.

These other expenses, sir, include cost of clothing, camps and garrison equipage, ordnance and medical stores, supplies, purchase of cavalry and artillery horses, (to be replaced at least once in four months,) medical and hospital department, (in time of war enormously beyond anything in time of peace,) the transportation and subsistence of prisoners of war, and the purchase of arms, ordnance stores, gunpowder, and lead, amounting in the appropriations already made for the current fiscal year to $35,000,000, or not far from the sum for which contracts were made by authority of the late Secretary of War, Mr. Cameron. But above and beyond all as to cost, is "transportation," (by railroad, steamboats, sailing vessels, and wagon trains,) including, in time of war as a very heavy item, the transportation of the sick and wounded. Now, sir, I submit to the candid judgment of the House, that it is but a fair and reasonable estimate to say, that at least twenty per cent. also should be added to the aggregate of these and other expenses, not including pay and subsistence of the army, for additional cost and waste, and wear and tear, or destruction or capture in time of war. Adding this, you have a total expenditure of $580,996,400 a year; or $49,249,000 a month, and $1,642,485 a day, for the Army alone.

To this I add now the expenditures for the Navy. Having no means of actual knowledge of the amount, I apply the only or at least the next best test, the appropriations for the current fiscal year, amounting, at the last three sessions of Congress, to the sum of $101,778,762 30. Adding this to the Army expenditure, you have, as the aggregate, the sum of $682,775,162 30, being at the rate of $56,897,930 per month, and $1,896,598 per day for the entire year round. Sir, the gentleman from Massachusetts [Mr. DAWES] was right, except that, tried by his own standard, his "disloyalty" was a little more exaggerated than mine.

So much, sir, as to the cost of the Army and the Navy.

But there is yet another army, the horde of thieves and plunderers, less numerous, it may be, but more formidable, more consuming far to the Treasury than the legions of brave men who go forth baring their bosoms to the storm of battle. These are the cankers of troubled times and a fierce strife—

> "A pitchy cloud
> Of locusts, warping on the *eastern* winds."

They are the "somebodies" who, with the aid of their official allies in high places, have, in the language of the gentleman from Massachusetts, [Mr. DAWES,] on the 25th of April last, in the days of his innocency and before his fall, "plundered the Treasury well nigh in that single year, the first year of a Republican Administration, as much as the entire current yearly expenses of the Government during that administration (Mr. Buchanan's) which the people hurled from power because of its corruption."

And there is yet another army, sir, to be paid and subsisted—an army more reputable certainly than your plunderers, but more in numbers also and not less devastating in their march. I mean the host of assessors and tax gatherers whom you are to-day enlisting to go forth into every dwelling house, every business house, upon every farm, into every city, every town, every village, and every hamlet, into palace and hovel alike, throughout the land, carrying anxiety and dismay at every step.

And these constitute the very priesthood of that accursed Trinity of WAR, TAXATION, and EMANCIPATION, before whose cruel shrine the gentleman from Maine [Mr. PIKE] bows down in idolatrous worship; a Trinity compared with which Juggernaut is merciful and the Ganges humane; a Trinity upon whose bloody and consuming altar the fairest country and the noblest structure of government the world ever saw is offered up day by day as a sacrifice.*

I proceed now, sir, to the question of the actual indebtedness and liabilities to-day. On the 4th of March, 1861, the public debt was $72,289,278 68. On the 28th of January, 1862, that debt, according to the statement of the Treasury Department, as produced here by the gentleman from New York, [Mr. SPAULDING,] amounted to the sum of $306,764,613 34. On the 29th of May, 1862, according to the letter of the Secretary of the Treasury, the debt was $491,445,984 11. Deducting the $90,867,828 68 of debt to July 1, 1861, there remains the sum of $400,578,155 43 as the amount of debt incurred during the present fiscal year ending to-day. Thus the increase from January 28, 1862, to May 29, 1862—a period of three months—is shown, not by conjecture, but by the record, to have been $184,681,370 77, being at the rate of $61,560,456 a month, and $2,052,000 a day, or very nearly the exact sum estimated in January

* "Our duty to-day is to tax and fight. Twin brothers of great power; to them in good time shall be added a third; and whether he shall be of executive parentage, or generated in Congress, or spring, like Minerva, full-grown from the head of our Army, I care not. Come he will, and his name shall be Emancipation. And these three—TAX, FIGHT, and EMANCIPATE—shall be the TRINITY of our salvation. In this sign we shall conquer."—*Speech of Mr. Pike, of Maine, in the House of Representatives, February* 5, 1862; *Congressional Globe*, p. 658.

and February, in debate here and in the Senate, as the average daily expenditure.

And now, sir, as to the statement or letter of the Secretary of the Treasury, submitted on the 4th of June, as a sort of codicil to the speech of the gentleman from Massachusetts, I have a word to say. On the 8th of January last I offered a resolution calling on the Secretary of the Treasury for a statement of the floating debt. It was adopted; and after three weeks' incubation, he hatched out the following answer:

"I transmitted without delay copies of this resolution to the heads of other Executive Departments, and required them to furnish me such statements as would enable me to furnish the information desired. As soon as the necessary information shall be received, the result will be transmitted to the House."

Well, sir, inasmuch as the result has never been transmitted to this House, I have a right to assume that the necessary information has never been obtained. In that assumption I am fully sustained by the declaration of the Secretary of the Treasury, on the 31st of May—two days after this statement was made out—to the chairman of the Finance Committee in the Senate. I read from the official report of the debates in that body:

"MR. FESSENDEN. The Secretary of the Treasury speaks simply of what appears on the books of his office. I know it from his own mouth, for I asked this question, 'How much is our indebtedness?' He gave me the amount. Said I, 'How much is the unliquidated floating debt?' He replied, '*How should I know? I have no means of telling.*'"

Such, sir, was the declaration of the Secretary of the Treasury in reference to the floating debt as late as the last of May; and it is to be construed as a part of his letter to this House.

But this statement is not the public debt to July 1, 1862. Thirty-two days' expenditure must be added to it, which, at the rate of Army and Navy expenditures above, would make $60,791,000, or, assuming the entire daily expenditure at $2,000,000 in round numbers, then $64,000,000, or an aggregate of $555,445,984 11.

Again: this statement purports to be what it is not—"the public debt" to May 29, 1862. It is only the funded and liquidated debt, that for which the Government has executed its paper in due form of law. It is that which in the language of the Senator from Maine appears on the books of the Treasury, and no more.

Again: it does not include what was in process of liquidation, which the Secretary of the Treasury estimated, as stated in the Senate by the Senator from New York, [Mr. HARRIS,] on the 31st of May, at $20,000,000.

Again: it does not include the floating and unliquidated debt, the amount of which the Secretary of the Treasury declared he did not know, and had no means of telling. Have we no means of conjecture? Let us see.

On the 28th day of January last, the gentleman from New York [Mr. SPAULDING] said:

"There is now over $100,000,000 of accrued indebtedness, in different forms, that should be paid at an early day."—*Congressional Globe*, p. 523.

On the 6th of February the chairman of the Committee of Ways and Means said:

"There is now a floating debt, audited and unaudited, of at least $180,000,000."

And the gentleman from New York, [Mr. ROSCOE CONKLING,] on the same day, estimated it at $200,000,000. I need here but barely to allude to the declaration of the Senator from Iowa, [Mr. GRIMES,] on the 31st of May:

"That there was none of us that knew anything about it, and that no man could compute it."

Sir, this floating or unliquidated debt is made up of all the liabilities or obligations of every kind against the Government, for which it has not executed its public Government paper in some form or other. It is in the nature of book account, but very much broader. And just here let me say that with quite as much fairness and honesty might some merchant doing an immense and widely extended business undertake, when charged with impending bankruptcy, to prove his solvency and show the amount of his indebtedness by producing a memorandum of promissory notes issued or bonds executed by him, as the Secretary of the Treasury to palm off upon the country a table or statement of the funded debt as a full or fair exhibit of the indebtedness and liabilities of the Government.

The floating debt includes the unsettled accounts for the pay and subsistence of the Army and Navy, for arms, ordnance, ammunition, military stores, medical stores, transportation, and whatever else enters into the province of the Paymaster General or the Quartermaster General. So, too, it includes all the unsettled accounts of the Navy Department, a Department having the care of a Navy of some fifteen hundred vessels, or more, from the largest and noblest steam frigate down to the humblest transport; one half, or more, of them hired at from fifty dollars to seven hundred and fifty dollars a day; and covering a sea and river coast of nearly four thousand miles in extent.

Sir, the Secretary does not pretend to include any part of these liabilities in his statement; and yet, in two months, for the Army and Navy alone, they would amount to $113,795,000. But if only the pay and subsistence accounts were in arrear, the amount would be $34,581,832. But the two months not included were the months of March and April, in which a large part of the army of the Mississippi valley was transported southward into Kentucky and Tennessee, and the entire army of the Potomac was carried by an immense fleet of transports—and these are still in the service—from opposite Washington to the peninsula between the York and James rivers. Now, it does seem to me that I fix a most moderate estimate—I should be glad, as a tax payer and a citizen of the United States, to find that I have over-estimated it—when I assume the floating debt to be $140,000,000, or half way between the estimate in January of the gentleman from New York [Mr. SPAULDING] and that of the chairman of the Committee of Ways and Means.

Again: the statement of the Secretary of the Treasury does not include the balance due to the States for advances. We have already appropriated $25,000,000 for that purpose, and accounts to the extent of $15,000,000 have been presented at the Treasury Department; and it is there estimated that the sum total will reach from twenty to twenty-five million dollars. Estimating it at $22,000,000, and deducting the $7,500,000 already paid, there remain $14,500,000 yet to be paid.

Again: it does not include bounties already due, and for the payment of which a bill appropriating $5,028,000 has passed this House, and is now in the Senate; nor does it include pensions already due, not less than $4,000,000 in amount.

Again: it does not include the unpaid interest on the public debt up to July 1, 1862, the amount of which I am only able to conjecture from the estimates of the Secretary of the Treasury and the appropriations. Assuming these as tests, I place it at $14,000,000.

Again: it does not include the liability incurred by the passage of the Pacific railroad bill, estimated by the gentleman from Pennsylvania [Mr. CAMPBELL] at $64,800,000. Nor does it include the liability assumed by the enlistment act of July, 1861, for bounties, $56,700,000. These, indeed, are not yet payable; but the liability is absolute, and must continually increase with new enlistments.

Sir, I say nothing here of the cost assumed by the pledge given by Congress and the Executive, to pay for the slaves of loyal citizens in the border slave States, equal, at the rate fixed for the District of Columbia, an average of $300 for each slave, to $1,000,000,000. I pass it wholly by in the reckoning, because, in my deliberate judgment, the States and the people, North and South—for the West I speak confidently—will indignantly repudiate and rebuke both the pledge and its authors.

Again: this statement does not include claims for damages—actual, not speculative; for property of loyal citizens taken and destroyed by Federal authority. Of course it would be but the merest conjecture to estimate the amount, but assuming the lowest conceivable limit, I put it down at $50,000,000.

Again: it does not include the expenses of collecting the internal tax. By the act of August, 1861, the States that should assume the collection of the direct tax were allowed fifteen per cent. It would be fair, in my judgment, to set down the cost of collection, under the bill we have just passed, at twenty per cent; but that I may allow no possible room for cavil, I estimate it at only ten per cent.; which, assuming the amount of tax collected under both tax bills to be $113,925,000, the estimate of the gentleman from Vermont, [Mr. MORRILL,] would give the sum of $11,392,000.

And now, sir, so far further as this statement is to be regarded, and for that purpose it was put forth as a test of expenditures, these items also must be added:

1. Receipts from customs, lands, and other ordinary sources, estimated by the Secretary of the Treasury in December at $36,809,731,24, but which he has shown in his letter of the 11th of June to this House to have reached in the month of May the sum of $6,900,000, at the rate of $82,000,000 a year, or nearly $50,000,000 more than his estimate. I assume them to be $46,000,000.

2. The actual receipts from the Post Office Department, which, if a statement made the other day by the chairman of the Committee on the Post Office and Post Roads [Mr. COLFAX] be correct, I may fairly set down at $8,000,000. To this also must be added, what I am unable to estimate, the amount of the direct tax which the States have already paid into the Treasury. Pennsylvania, I understand, has paid; so has Maryland; and Ohio also, in part, at least.

I present now, sir, in conclusion, the following summary of debt, expenditure, and liabilities to July 1, 1862:

To May 29, 1862		$491,445,984 11
Add thirty-two days to July 1, at $2,000,000 a day	64,000,000 00	
"In process of liquidation," May 29	20,000,000 00	
Floating debt, deducting preceding item	120,000,000 00	
Balance due the States for advances	14,500,000 00	
Bounties already payable	5,028,000 00	
Pensions already payable	4,000,000 00	
Interest on public debt to July 1, 1862	14,000,000 00	
Aggregate of certain and fixed items	732,473,984 11	
Add for liability incurred by Pacific railroad bill	64,800,000 00	
For bounties pledged by the enlistment act of July, 1861, but not yet payable	56,700,000 00	
For expenses of collecting internal taxes	11,392,500 00	
Total of actual debt and absolute liabilities already accrued or assumed	865,366,484 11	
Add liability for pensions to or on behalf of all who may be injured or die in battle or by sickness in the service—estimated	10,000,000 00	
For contingencies and for claims for damages to loyal citizens for property taken or destroyed by authority of the United States	50,000,000 00	
Total of actual and absolute and contingent liabilities	925,366,484 11	
Deducting from this the debt to March 4, 1861	72,289,278 68	
There remain	853,077,205 43	
Add receipts from customs, lands, and other ordinary sources, from March 4, 1861, to July 1, 1862	49,396,424 00	
From Post Office Department within same period	10,087,324 00	
Grand aggregate of actual debt and expenditures and absolute and contingent liabilities, chargeable to this Administration during the first fifteen months of its existence		$912,560,953 43

Being at the rate of for every month $60,837,330.
For every day, $2,027,911.

And yet, according to the Senator from Iowa, [Mr. GRIMES,] this is not the full amount by perhaps $100,000,000; and, indeed, is some six hundred million dollars less than his own actual but loose estimate.

Such is the appalling exhibit of the debt, liability, and expenditures of this Government within the past fifteen months; and now, sir, I submit, in view of all these things, that it would have been decent and becoming in the gentlemen who have so lavishly bestowed their censure upon others, had they been content to expose error, if error there had been, without imputation of unfairness and dishonesty, and, above all, without insinuations of disloyalty to the Government under which we were born, and the preservation of which unimpaired, just as we received it from our fathers, we are committed unalterably by every tie of birth and kindred and language, by every obligation of allegiance and of honor, and by every sentiment and sympathy of our hearts.

Sir, I put these facts and figures upon record now for no present partisan purpose, but that they may remain and abide the test of the future, when conjecture shall have become certainty, and the Treasury Department have been obliged to yield up the secrets of its prison-house.

SHIP CANAL.

SPEECH OF HON. A. B. OLIN,

OF NEW YORK,

IN THE HOUSE OF REPRESENTATIVES,

June 30, 1862.

The House having under consideration the bill to construct a ship canal for the passage of armed and naval vessels from the Mississippi river to Lake Michigan, and for other purposes—

Mr. OLIN said:

Mr. SPEAKER: I do not propose to occupy the attention of the House for any considerable length of time. I am well aware, in the discussion of the question before the House at the present time, it is a perfectly legitimate argument against it to show to the House that, considering the amount of indebtedness the country has already contracted, it would be unwise and impolitic to create any further liability on the part of the General Government. Of course, the argument of the gentleman from Ohio [Mr. VALLANDIGHAM] is, in my judgment, a legitimate one against the bill under consideration; but I think it will not have escaped the attention of the House that the speech to which we have just listened was one of the gentleman's efforts to show whatever measure was proposed with a view to maintain the integrity of the Government and the supremacy of the laws was an unwise measure, which it were better to abandon at once.

Now, sir, I have not undertaken to trouble myself with the amount of the indebtedness which the Government has already incurred in the effort to suppress this rebellion—in the prosecution of this war. That duty has not particularly devolved upon me, and I am willing that the responsibility should rest in the hands of those to whom the people of the country and this House have committed it. If they have expended money unnecessarily, when we get through this difficulty I will be as ready as any gentleman to hold them to a strict accountability. I cannot consent, however, when the whole fabric of the Government is in flames, to inquire whether the neighbor who comes in to help extinguish them, has blacked his boots or has come through the front yard. It is not time for the consideration of questions of that character. Whatever is necessary to be done I hope will be done—economically, but resolutely and promptly—and woe to that public minister or private agent who betrays his country's trust at such a time.

I know how difficult it is, Mr. Speaker, particularly on this occasion, to examine calmly and dispassionately a measure of this importance. I fear (but I do not know how it may be) that there are now lying dead of our fellow-citizens, in and about Richmond, more than twenty thousand. I repeat, I do not know how this may be; but I do know the feverish anxiety that is throbbing in the breast of every man in this House to hear and learn the details of the contest which has taken place before the rebel capital. It is idle to hope that members of this House are differently framed from other people; and, of course, it is idle to expect that deliberate judgment, that statesmanship that does and ought to belong to a body of this description in times like these.

Mr. Speaker, I regard this measure as one of the most important that has yet been before this House during the present session of Congress. I trust that, in reference to it, we will not be found wanting in ability to comprehend its transcendent importance, and act wisely in reference to it.

We are in the midst of great events. We are daily and swiftly writing history here—history which will be read for instruction or admonition through all coming time. I hope that the judgment of posterity will be that this Congress has not been found totally inadequate to the task that the people and Providence have assigned us. But I know that while human nature remains as it is, that it requires something more than the ordinary wisdom vouchsafed to man if he always acts discreetly, always acts wisely, and always judges correctly in an exigency like this.

I say that this measure, in my judgment, is an important one. Let me, if I can, call the attention of the House to one or two considerations which I think will determine its significance and importance. If gentlemen will cast their eye upon the map which has been spread before the House, they will see that there is a line of lake and river coast from Milwaukee round by Chicago and through Lakes Michigan, Huron, Erie, Ontario, and the St. Lawrence river, to near the Vermont line. You all know that lake and river coast-line is the boundary of the grain growing garden of the world; and that this country is filled with a thrifty, enterprising, agricultural population, the most so of any upon this continent. Now, compared with this district, the cities of Boston, New York, and Philadelphia are no more important to our national strength. That people, who have to furnish the food of the world, will at last rule the world. New York, Boston, Philadelphia, and other like places are unquestionably worthy of the protection of the General Government, but with all their resources, they cannot furnish the bread of our people. Why, sir, the great productive energies of that portion of the country in breadstuffs not only fed its own population, not only sustained the million of men that have been prosecuting this war for more than a year, but even a surplus of grain is now on hand which can find no market. While all this vast expenditure of means and consumption of breadstuffs have been going on, the people of that agricultural district have been burning their corn for fuel, because it was cheaper than ordinary fuel.

No Government in the world, save ours, could have prosecuted war for so long a time, and on so vast a scale, without bringing a large portion of its population to the verge of starvation. Nay, the very interruption of the channels of trade and manufacture in Europe, the failure of the ordinary supply of cotton required by France and England occasioned by this rebellion, has already created more inconvenience, more deprivation, and more apprehension for the future, than have been felt up to this time, in the free and loyal States of this Union. What I wish to press upon the attention of this House, is the fact, that if a district of country bordering upon the lakes, such as this district is, were actually invaded, overrun but for a single season, the power of the country would receive a severe shock, and its resources to carry on this struggle, either as against a foreign or a domestic enemy, more crippled than it would be by a sacrifice of half your cities.

If that be so, the problem is, is it prudent, is it wise, under the existing state of things, to attempt some protection against any threatened interference with interests so vast and so essential to our national strength.

Now, Mr. Speaker, permit me to call your attention to what I think is the present pulsation of the public mind in reference to the question as to whether it is proper at this time to incur any expenditure to guard against a possible contingency of a conflict with England or France. Now, sir, although nurtured and born in the old Democratic party, (not this modern one,) and although every aspiration of my soul is now for the prevalence and diffusion of its fundamental doctrines, I have never been one of those who have been habitually and persistently upon all occasions attempting to excite the public mind or the public prejudice against the English people. I have always been proud to remember that we came from that noble stock; that almost everything which is worthy of the world, and worthy of a higher destiny than the world has yet seen, has sprung from that same old Anglo-Saxon race.

But I confess, sir, that my faith, my reverence, and my attachment for that same people have undergone, during the last twelve months, a pretty severe trial. Allusion has already been made during this discussion to a debate which recently took place in both Houses of the British Parliament, in which a certain order of General Butler at New Orleans was seized upon and represented as a very disgraceful thing, and in which Earl Russell, Lord Palmerston, and I know not who else, prayed God that the American Government, out of self-respect, might disapprove of that order. I only allude to this as one of a thousand evidences which are occurring daily, as seen in the British press, in the British Parliament, showing a persistent and determined hostility to the free and loyal States of this Government, and an entire sympathy and cordiality with those who are in rebellion to subvert it.

What was that order in reference to the women of New Orleans which so shocked the sensibilities of these English gentlemen? I repeat, sir, what was the order? Why, simply that those women who, lost to the proprieties and dignity of their sex, undertook to insult and abuse the Union soldiers, and thereby excite acts of violence, should be subject to penalties provided by law for lewd women. In other words, if they continued to act like lewd women; they should be punished as lewd women; that is, sent to jail. Now, what is there in all this to shock the civilization of the world? Certainly, nothing. And yet this order, so obviously just and proper, is affected to be understood by English gentlemen in the British Parliament a license to commit those nameless outrages which too often stained the English character and the English soldier during the Peninsular war.

I allude to this matter simply as evincing the blind and unreasoning prejudice which fills the minds of British gentlemen towards this country. It is too true there has been often expressed by the aristocratic class of Great Britain the hope that some unforeseen contingency would happen in the history of this people which would finally dissolve the Union and destroy the Government, and thereby secure their ascendency as a manufacturing and commercial nation among the nations of the earth.

While I do not believe that the great mass of the English people have anything but the kindest hopes and wishes towards the free and loyal States; while they are looking on with intense anxiety to see the result of this struggle, to know whether it be possible, upon this sin-cursed earth, for man to enjoy the right of self-government, it is unquestionably true that the ruling class of England, not only those of them who are known as the Whig but the conservative or properly Tory party, are secretly anxious in their hearts that, somehow or other, this unfortunate controversy should end in the destruction of this Confederacy.

Read the recent articles in the English journals, and look at the persistent misrepresentations of every victory that has been won by the Federal forces. See the feverish anxiety with which they begin to talk about intervention when victory after victory of the Union forces seemed to indicate that this unholy war was about to have an early termination. The more those chances were increased the more persistent these papers became in urging their Government to interfere and put an end to this struggle. The last and favorite theme urged is that the longer the war is waged, the deeper settled would be the hostility between the two sections, and the more impossible to bring about any reconstruction of the Government.

Now, if these be conceded facts, does it not become us to place ourselves in a position of security, so far as we can, against all interference from abroad? I say, speaking from the best lights I have, if your army is defeated before Richmond, news of such defeat will only have time to reach the French and British Cabinets and return here before you are notified by such Cabinets that this war is a useless and hopeless one, and that it ought to be discontinued.

I regret to feel constrained to say this. I have not been one of those upon this floor who have indulged in squeamish alarms, but, as God is my judge, I believe in my soul if your army before Richmond receives anything like a substantial reverse this Government will be notified, as soon as the forms of diplomacy can accomplish that purpose, that this struggle has continued long enough, and that, in their judgment, it is impossible to reduce the people of the so-called seceded States to a submission to the Federal authority.

Now, I may be mistaken. I may be under some foolish excitement upon this subject, and my opinions may be worth very little; but look carefully at the question, I beg you. In what position would States bordering upon the lakes be if you are notified by Great Britain in a very short time that this war must cease, and with these entire western lakes flooded with a fleet of gunboats? I suppose there is no man in this House who does not know—and if he does not know he ought not to be here—that in order to a successful campaign, as against Canada or upon our northern frontier, it is indispensable for you to have the command of these lakes.

The treaty of 1817, by which this Government stipulated not to put but one vessel of war upon our Champlain, and two upon the other lakes, to be armed each with one sixteen-pounder gun, had scarcely dried upon the paper on which it was written before Great Britain commenced a series of improvements recommended as a military measure, and accomplished as a military measure, in order to control these lakes.

Lord Wellington said in Parliament, in 1823 I think—and he used to be of some authority in military matters until we have learned (it seems to me) that men who know little or nothing about military affairs knew as much as anybody—that it was indispensable to a successful campaign on the northern frontier, as against the United States, to have the control of the lakes; and if this war has taught us anything in the world it has taught us this, that wherever we can approach a hostile force with our vessels of war and with troops upon land at the same time, we have very little difficulty in accomplishing whatever we desire. I think this war has taught us that one thing at least.

Now, sir, is it wise to attempt to fortify this lake coast that we may thereby preserve from interference all the vast interests connected with this granary of the world, and a granary that is necessary to the successful prosecution of the war for six months? Have you been over across the Potomac and seen what effect is produced upon a country by the march and retreat of an army? If you have, you know what consequences would ensue if an invading army should once march through a great grain-growing country like the West. You would see universal devastation and ruin in its track. Now, if this lake coast is to be fortified and protected, what are the means which wise and prudent statesmanship would dictate in the light of the experience which we have had already in the prosecution of this war? How would you fortify a city like Chicago? By building forts? The city is as near to the lake as you can build a fort, and if the vessels of an enemy can come near enough to throw a ball that will reach the fort, it will be near enough to reach the city itself; and so of almost the entire line of lake coast. I affirm that if this war teaches any lesson at all, it teaches this most significant fact: that, as against an iron-clad vessel, your forts are worth nothing. If this proposition be true, the question resolves itself into simply this, whether you will appropriate, for instance, for the enlargement of the locks of the Erie canal $3,500,000—not more than it would cost to build a single fort at Buffalo or Rochester, or in the vicinity of Sodus bay—forts that will be worth nothing at all when you have built them as against a vessel like the Monitor; or, whether you shall enlarge the locks of these canals, and let into the lakes a fleet of gunboats that will ride triumphant against the Powers of Europe? That is the simple question; and I say that, as between these two modes of military defense, there is not an intelligent man in the Army or Navy, and I trust not a man in this House, who would not say at once that there is more security in an iron-clad gun vessel than there is in half a dozen forts, even if it were practicable to locate these forts so as to be any protection whatever.

Mr. Speaker, I am fully persuaded I am not speaking with any selfish reference to the interests of my own State; I am speaking for the interests of the whole country. Let me state some facts to the House. This measure may be defeated as a great many other measures have been defeated during my experience in this House. We are quite apt to suppose that the expenditure of a small amount of money in any one of the States of the Union is just so much withheld from some other State, and so believing, when all other objections seem unavailing to defeat the measure, it suddenly becomes, in the language of the gentleman from Ohio, [Mr. VALLANDIGHAM,] unconstitutional. I shall begin to think by and by, with a constituent of my friend from Massachusetts, [Mr. DAWES,] that "the Constitution is about played out," since it is always appealed to here as authority for any mad scheme proposed, or an obstacle in the way of a measure the most salutary. But let me call your attention for a moment to the question whether this is indeed a measure to subserve solely the interests of the State of New York. That State has just completed the work of enlarging this canal to the capacity of seventy-two feet in width—a capacity altogether beyond the present necessities of commerce, and we have no desire that the public money shall be expended at this time for the prosecution of a mere commercial work, however great might be its national importance.

But some of you may ask, why does not the State of New York magnanimously step forward and do this work itself? The reason is simply this: that New York cannot do it. By the constitution of 1846 neither the Legislature nor anybody else could incur a debt of a single dollar above what is authorized by the law in reference to the canals. The people of New York could not do this work without first a fundamental change of their constitution, and then the passage of an act by the Legislature making the necessary appropriation, and incurring this indebtedness. If she could have done it herself, she would have scorned to seek the intervention of the General Government to accomplish this object. What has New York done? Her Representatives on this floor have not proclaimed her greatness or merits. I have heard for five years about the "chivalry of the South." Since that has ceased, we hear quite often of the "great Northwest." I think the gentleman from Illinois [Mr. ARNOLD] has informed us this morning that the "great Northwest" has principally sustained the burdens of this war. Wait, my dear sir, until you count the dead now probably lying unburied! Recollect that of the money which has been voluntarily loaned to the Government to meet the expenses of this war, ninety-five per cent. of the whole amount has been contributed by the State of New York, while more than one hundred thousand of her sons are now on the tented field, and the bones of some of her children are bleaching upon every battle-field which will make the history of this war. New York has not been behindhand. New York stands where she has ever stood, in the path of duty, the friend of the Union, the friend of the West. She has done more than any other State in the Union, more than all other States of the Union, for the development of the West, and at least something for the development of Pennsylvania that now stands sulkily by and refuses all coöperation in this measure.

I say that New York has done more for her development than she is willing to acknowledge, to say the least of it. We have made her mines of iron and coal the perpetual fountains of wealth; our canals and railroads have so cheapened transportation as to diffuse their products all over this continent. New York has come down to the very humble position of being the carriers of those who manufacture and of those who produce. Every man who looks through the statistics of the country and sees the progressive developments and general effect produced on the new States by the far-seeing policy of the State of New York, in respect to her internal improvements, will acknowledge (out of this Hall, if they will not admit it here,) that this has been a policy that has developed the wonderful resources of the West, and made its prairies as populous as the State of New York and the State of Pennsylvania. Does it require anybody to examine these tables, to see that while this great national policy of developing the resources of the whole country has had precisely that effect, it has often appeared to short-sighted selfishness as pernicious to a vast variety of local interests in the State of New York? I illustrate this idea by tables and statistics. Look, for instance, at the wheat-growing district of the Genesee. Before the Erie canal was opened, that district was a garden of wealth; it produced wheat which commanded the highest prices in the market, and which controlled the wheat market of our own State, while your lands in Indiana and Illinois and Wisconsin, although fertile as a garden, were not worth the expense of putting crops into the ground except such as you wanted for your home consumption. It was only when the Erie canal was opened, and your agricultural products found their way to the sea-board, that Genesee land went down in value, and yours of Indiana and Illinois went up.

Turn to the statistics of the tonnage of our canal, and learn whether it is of national or merely local importance. About one thirteenth of its tonnage, as you have been told to-day, is the product of the State of New York, the other twelve thirteenths coming from your magnificent great West. Now, this measure has the singular merit, that while it is, in my judgment, a necessity, and by far the cheapest and most efficient mode of defending our northern frontier, the expenditure would be wise, economical, and statesmanlike by reason of its vast commercial benefits through all time to come, not only to the State of New York, but to the whole continent. It has been suggested to me that I ought not give my support to this measure because, in connection with the enlarging of the locks of our canals, the bill provides some ten million dollars to open a connection from the Mississippi river to Lake Michigan, by which the grain and agricultural produce of the West may be sent down that river and thence all over the world; in other words, that the measure would tend to divert trade and commerce from the State and city of New York. It may be that to some extent such would be the case; but all arguments drawn from mere local and selfish considerations are usually belied by the facts of history. The more the West have to sell the more they will be able to buy. I recollect when in my boyhood a great many sensible persons supposed the building of so many railways throughout the country would render the horse a useless animal; but railroads were multiplied, and the horse was more valuable and more busy than ever before.

So it is with every great, grand, national enterprise like this. Develop the resources of the country, and you benefit the whole country. Look at this scheme for a moment, I beg of you. Construct these two canals in the way prescribed in this bill, and what will you have? You will have an inland river communication for about three thousand miles, running through the great heart of the country from New Orleans to the lakes. Why do we value the Mississippi so much? Why have we heard on so many occasions from gentlemen of the West, "this Union never can be divided; we have an interest in the waters of the Mississippi. We must have free access to its north and to its south." Now, what advantage has the river Mississippi over that canal which will bear upon its bosom the commerce of a world? None at all, except this, perhaps, that God made one and it did not cost anything. We made the other ourselves, and it is equally serviceable for commerce and as a bond of union between all who enjoy their benefits and advantages. It serves the great purpose which all these things do of necessity subserve, binding together the States in one common brotherhood. I would not have voted for the Pacific railroad bill, embarrassed as the finances of the country are, except for the reason that when that great work is completed, the gentlemen from California will be my neighbors. Daily intercourse almost will go on between us. We shall no longer be separated as strangers and aliens in a common household; and those social neighborhood sympathies which develop the inner life are worth more than money. If I mistake not, that was in part at least a consideration which in a great measure controlled the action of this House in voting for that bill at a time like this.

Now, we are told that the country is embarrassed. I am well aware of that. I understand that the policy of the country for a generation to come will be controlled by two gentlemen; and perhaps some ambitious young man on this floor may wish to know who they are. I will tell him. They are the wounded soldier and the tax gatherer. They will shape the policy of the country for the next generation. But I know, too, that there is yet uncalled forth an amount of energy, of wealth, and of resolution that will astonish the world, when the exigency arises which demands it. Sir, "the shot gun" has not been brought out yet. We have hitherto conducted this war on principles with which I am disposed to find no fault on this occasion. But I tell you, when this people come to be aroused, when they see that the death-struggle is upon them, they will not stop to paint their baggage wagons green. They will not wait for the baggage wagon; they will muster in a spirit that would have astonished and delighted Peter the Hermit, and march to the defense of their liberties with whatever weapons they can command; and will, God helping, maintain them,

though England and France league with those in rebellion for their overthrow.

Now, I know that a vast amount of debt, an enormous debt—if we will credit the leader of this new formed Democratic party, [Mr. VALLANDIGHAM]—has been created; but notwithstanding that, I think we should not hesitate an instant to adopt every measure, incur any possible amount of liability which seems to be required to preserve our national life; while fearing no one, yet resolved to conquer—resolved to maintain in all their integrity those institutions which have been the admiration of the great and good.

Mr. Speaker, I hope the House has carefully perused the memorial laid before it by the accredited agent of the State of New York, Hon. S. B. Ruggles, a gentleman long and favorably known throughout the country for his intimate connection with that system of developing the resources of our State—a system which has already passed the limits of State development and made our canals a truly national work.

He has also laid before the House, but at so late an hour that it probably has come to the knowledge of few, a supplement to such memorial in reference to the projected Ottawa canal, which states that the proposed ship canal, pursuing the course of the Ottawa river, and fully fed by its ample waters, will have a volume of one hundred feet wide at bottom, and twelve feet deep, with locks two hundred and fifty feet long and fifty feet wide, and capable of passing vessels of one thousand tons burden; that it leads by a direct route (saving three hundred and forty-two miles in distance) from Montreal to Lake Huron, near the strait of Mackinaw; thus enabling the British Government, by this great interior route, practically secure from military attack, to precipitate its squadrons of gunboats upon this the most important and commanding military passage in our whole chain of interior waters, and thus to seize the very key to the rich commerce of Lake Michigan, which already furnishes three fourths of the breadstuffs borne on these waters.

Let me state one fact that I omitted to allude to in its proper connection. I should have stated that the State of New York pledged themselves to the performance of this work of the enlargement of the locks on the Erie and Oswego canals, so that gunboats may be passed into Lake Erie and Ontario, for the sum of $3,500,000, which this bill proposes to appropriate for that purpose. And if this measure is speedily passed, the State of New York will complete the work by the opening of canal navigation next spring.

Now, in reference to the other project for which provision is made in the bill, although I am in favor of it, yet I may say that it is conceded, I believe, that two years is the shortest period in which it can be accomplished; and that under this bill it will not be completed in less than five years.

Mr. ARNOLD. Oh, no; in less time than that.

Mr. OLIN. The gentleman says no. Perhaps I overstated the time. I would not do injustice to any measure, much less to a measure involving consequences so important as, I think, the measure now before the House does. I must still remark, however, that whatever objection there may be to the project of the Michigan and Illinois canal, in respect to the time that will be required to complete it in, no such objection can apply to the enlargement of the locks of the Erie and Oswego canal, which can be effected during the suspension of navigation, and be completed by the time of the reopening of navigation in the spring.

WHO ARE RESPONSIBLE FOR THIS WAR?

SPEECH OF HON. JOHN D. STILES,

OF PENNSYLVANIA,

IN THE HOUSE OF REPRESENTATIVES,

July 12, 1862.

The House being in the Committee of the Whole on the state of the Union—

Mr. STILES said:

Mr. CHAIRMAN: Having taken my seat in this House but a short time ago, modesty perhaps would dictate that I should remain a silent observer of its proceedings. But, sir, the extraordinary legislation asked for by the majority in both branches of Congress imperatively demands that the few who occupy this side of the Chamber, and who amid threats and taunts have remained "faithful among the faithless," should persistently resist every encroachment of the Constitution, and every infraction of the Government compact up to the last hour of the session.

Mr. Chairman, the death of my lamented predecessor (Hon. Thomas B. Cooper) caused a vacancy in my district, which was, under the laws of my State, filled at a special election. It being the first congressional election since the commencement of hostilities, it attracted considerable attention in this House and throughout the country. It is not my purpose to speak at length of that election, which resulted in my being returned a member of this body; but as the charge of disloyalty reached here before I entered upon my duties, justice to you and to myself must be my apology for its introduction. The New York Tribune, a newspaper well known to the country, contained, a day or two before the election in May last, the following:

"On Saturday next the adjoining counties of Bucks and Lehigh will elect a member of the House of Representatives, to fill the vacancy occasioned by the death of Mr. Cooper, a rank sympathizer with secession. One John D. Stiles, of Allentown, a lawyer, of the same stripe, has been nominated by the Democracy; and George Lear, of Bucks, distinguished at the bar, and just such a man as Thaddeus Stevens and Owen Lovejoy would welcome to the House, has been nominated by the Republicans. The contest comes at a time when the voters in this agricultural district are busy with the plow and the hoe, and a full vote is not expected. Stiles and his set are flooding the counties with the usual slang about abolition; but Lear is active on the stump, and will make so deep a mark that we have strong hopes of electing him.

The day before the election the following article appeared in the Philadelphia Press, published by one Colonel John W. Forney:

"'W,' our ever welcome Allentown correspondent, does not compliment Mr. J. D. Stiles, the present Breckinridge candidate for Congress in the Lehigh district, to fill the vacancy created by the death of Dr. Thomas B. Cooper, when he tries to make him a Douglas Democrat, &c. Mr. Stiles, if he ever cared three straws for the memory or the principles of Douglas, has bravely repented of his experiment. He is now in the hands of the Breckinridgers of the district, and in his speech at Doylestown, on Tuesday last, announced his approval of Dr. Cooper's course, who always voted with these partisans while he was in Congress. Is it not full time that the game of allowing political tricksters to call themselves 'Douglas Democrats' should be closed up? Some of the meanest and most slavish followers of the Breckinridge school use this disguise to get office. Mr. Stiles disdains this sham, and boldly runs on the Breckinridge platform of hostility to the Administration and the war, and utter indifference as to the bravery of our soldiers and the treason of the rebels. We had supposed that 'W.' had seen enough of the treachery and selfishness of politicians to restrain him from arguments in support of such aspirants as Mr. Stiles. Mr. Stiles, if elected to Congress, will go there to do exactly what Douglas did not do before he died, and what he would not have done if he had lived. He will go there to vote as a partisan, not as a patriot; to oppose the administration of Mr. Lincoln, and to labor for such a compromise as would return the traitors to the power which they abused and surrendered. And if he should be chosen, 'W.' and the rest of our friends in the district cannot blame us for not having served this notice upon them in advance."

Immediately after the election the following article appeared in the same New York Tribune:

Bucks county, Pennsylvania, gave over three hundred majority for George Lear, Republican, for Congress, at the late special election; but Lehigh overbalanced it with nine hundred for Stiles, Democrat. The vote, though not full, was large for a special election. Stiles goes to Congress prepared to make peace with the rebels on their own terms.

It will be observed, by a reference to these papers, that my election was distasteful to both these organs, and that I occupy my place without the slightest thanks to either.

The charge of the Tribune, that I entered this House "prepared to make peace with the rebels on their own terms," means *disloyalty* to the Government, as that paper understands that term. It is far from my purpose to enter into a controversy with these gentlemen as to what constitutes *disloyalty*. The *loyalty* of both these journals has long been questioned by many who are opposed to abolitionism.

The verdict of an honest constituency whose sons have fallen in many of the battle-fields in this war, has sufficiently vindicated me against these insidious attacks, and with their decision, and the course I have pursued here, I leave these troubled and vexed patriotic journals, simply remarking that this House has not referred my case to a committee, nor have I been arrested and imprisoned without a hearing. I must therefore conclude that the "notice served in advance" by the Press and the fears of the Tribune have made feint impressions on the members of this House. If my *loyalty* should hereafter be questioned, I have given the House the benefit of the evidence of the Tribune and Press against me.

I did not obtain the floor, Mr. Chairman, for the purpose of vindicating myself upon the course I have pursued here, but as all the votes I have given have been the object of violent attacks against me, I must ask your indulgence for a moment in reference to my vote on the report of the committee of conference on the tax bill. I am aware that I must meet this question directly before the people, where I am prepared to meet it at the proper time. There were many reasons which induced me to vote against the report, some of which are found in the following extract of a speech lately delivered in this House by my personal and political friend from Illinois, [Mr. RICHARDSON.] Upon this subject Mr. RICHARDSON said:

"There is one single other point to which I wish to allude, and I will then take my seat. It is said, both here and elsewhere, that no member is loyal who did not support the tax bill as it passed this House. I am ready to defend that vote here or elsewhere; I feel no uneasinesss upon that point. To-day I might content myself in defense by saying that, if the statements as to our indebtedness and expenditure as made by the Secretary of the Treasury, by the gentlemen [Mr. DAWES and Mr. MCPHERSON] are true, we do not need the vast amount that will be raised under this bill. If the Secretary of the Treasury has not made a truthful statement in this regard, he should not have control of the amount, vast as it will be, which you propose to raise.

"But, sir, there existed reasons that were satisfactory to my mind for the vote given that I shall hereafter elaborate and only briefly allude to now. The amendments made by the Senate in some respects greatly improved the bill, in others made it more objectionable. The principle upon which the bill is based is erroneous and wrong. By your tariff as now arranged, and your tax bill as it passed this House, the support of the Government falls mainly and heavily upon the laborer and producer, not upon capital, which is capable to pay and should be made to pay. Under the operation of the tariff as it now exists, the poor laborer, with a dozen persons in his family, pays into the Treasury, indirectly it is true, more than the richest man in New England. Under the tax bill as it passed this House, and against which I cast my vote, some persons in my district will pay three times as much into the Treasury as the man worth his many millions in the city of New York. Wealth, in great emergencies like this, should pay the taxes; individuals fight the battles.

"The burdens of the tax bill fall most heavily upon the section from which I come, and unequally upon persons residing there. The tax bill, as it passed this House, levied a tax on each hog slaughtered of ten cents; head of cattle, fifty cents; sheep, five cents, unless killed for domestic use. The census does not show the number killed, but the value. In 1860, in Illinois alone, the value of animals slaughtered was over fifteen millions. In the six New England States together the value was less than fifteen millions and one half. The entire tax upon this head would come from the Northwest, and none from the East. Under the bill as it passed this House, the tax upon policies of insurance falls heavily upon us. Upon transfers of real estate, as that changes hands frequently in new settled countries—and in old settled communities the changes are but seldom—the burden again is with us. I might occupy the House in citing similar cases; one other is deemed sufficient at this time. Under the bill, as it passed this House, you levied a duty of fifteen cents upon each gallon of whisky manufactured without regard to its value when manufactured. In Illinois, we raise of corn nearly six times as many bushels as you raise in all New England together, and nearly three times as much as the six New England States together with New York; in the six northwestern States of Indiana, Illinois, Michigan, Iowa, Wisconsin, and Minnesota, about six times as much. A part of this is manufactured into whisky, and it finds a market at home and abroad; it is a cheap article, selling usually at from twelve to twenty cents per gallon. By the bill, as it passed the House, no drawback was allowed for that sent abroad. The tax as fixed by this House destroyed the manufacture in the Northwest, and would have driven into Canada every manufacturer from that section.

"Sir, in the six northwestern States that I have already named, with a population of over five million people, we have no member upon the Committee of Ways and Means, while New England, with a population of a little over three million, has two members; New York, with a population of less than four million people, has two members on that committee. The Committee of Ways and Means originate and report the tax and tariff bills, and I venture the assertion that where any tax is assessed upon an article manufactured in New England, a duty equal to the tax is placed in the tariff bill, so that the price may be increased to the consumer, and thus the New England manufacturer be safe. I will add, sir, one thing more: all of New England's interests are particularly guarded; when tax is to be laid upon things in which they are particularly interested, it is lightly touched. For instance, you levy a duty of three per cent. upon the dividends of insurance companies, bank dividends, &c., and by your tax every hundred dollars' worth of tallow candles pays to the Government $4 50 tax, while one hundred dollars' worth of diamonds pay only three dollars. Upon lager beer, as the bill passed the House, there was a tax of a dollar per barrel; upon piano fortes, four dollars

apiece. A barrel of beer is worth about four dollars. The tax was twenty-five cents on the dollar; on the piano forte one per cent. on the dollar, upon an average. As the law now exists, there is no duty upon pianos, and fifty cents upon the dollar's worth of lager. I might run this parallel through. It is not important I should do so now. It is said we can remedy whatever of wrong there is in this bill at the next session of Congress. Indeed this is the prompt and ready reply when any measure is urged or passed to which objection is made. If wisdom in legislation is exercised, if just and necessary acts are, and unjust and unequal ones are made just and equal, we must look to some future Congress. For one, I have no hope from the present Congress, who have done so much mischief to the country, to civilization, and to mankind.

"I hope, I trust, I believe there is public virtue and intelligence enough among the people to repair, in some degree, the errors and follies this Congress has committed. If there is not, the future of our country is dark and gloomy enough."

I add to the able, fearless, and full vindication contained in this extract, that I justify that vote as a citizen of the great and loyal State of Pennsylvania, with her great iron and mineral interests, which are almost wholly unprotected by the tariff bill which afterwards passed this House, and was considered a part of the tax bill. But, sir, there is still another reason above and beyond all the reasons urged or yet assigned for that vote. I never shall vote for a bill directly taxing my people, unless I see more clearly than I now do that the whole and only object of this war is to maintain the Constitution and restore the Union. But a day or two ago a member of this House, [Mr. SEDGWICK,] high in position with this Administration, said:

"Ebullitions of impotent passion will not move me on the subject. I hope that the two things will end together. I hope that the end of slavery and of this war will be written together upon the same page of the history of this country."

The great western luminary, [Mr. LOVEJOY,] who speaks the true sentiments of the abolitionists here, said in April last:

"There can be no Union till slavery is destroyed." * * * * * "I say you cannot put down the rebellion and restore the Union, without destroying slavery."

Sir, I might multiply pages upon pages from speeches delivered in this House, during the last three months, by leading Republicans and abolitionists, having the confidence of this Administration, to show that their purpose in this war is the emancipation of all the slaves and the subjugation of the South.

No vote of mine shall ever be given to tax the people to purchase the freedom of the slaves, and to thrust upon the border free States a thriftless horde of negroes, to eat out our substance and compete with free white labor. With such a record before me, I shall patiently await the verdict of the people upon my course, never yielding my own convictions of right, though condemned a thousand times. This attempt to justify will, I am aware, give to the abolitionists new evidence as to what they call *disloyalty*. No man is *loyal* unless he bows to the insatiable maw of abolitionism. By their standard of loyalty I never want to be tried.

But, sir, time admonishes me that I must hasten on.

The time is near upon us when the principles of the great national Democratic party will be vindicated. The charge of disloyalty that meets us everywhere, and that goes to the country from this Congress, and that this war is chargeable to the Democratic party, will need some evidence when the issue is fairly made up. I may be over sanguine; but I predict that many, very many of the judgments here pronounced will be reversed by the people. We must patiently wait future events, and see how an outraged, deceived, tax-ridden, and betrayed people will respond.

There was a time when this war could have been avoided. The Crittenden proposition, if adopted, would have saved the Republic that is this hour in most imminent danger. The Republican party refused to accept the olive branch.

Senator Douglas, in his great speech in January, 1861, spoke of the proposition in these words:

"I believe this to be a fair basis of amicable adjustment. If you of the Republican side are not willing to accept this, nor the proposition of the Senator from Kentucky, [Mr. Crittenden,] pray tell us what you are willing to do?

"I address the inquiry to the Republicans alone; for the reason that, in the committee of thirteen, a few days ago, every member from the South, including those from the cotton States, [Messrs. Toombs and Davis,] expressed their readiness to accept the proposition of my venerable friend from Kentucky [Mr. Crittenden] as a final settlement of the controversy, if intended and sustained by the Republican members.

"Hence the sole responsibility of our disagreement, and the only difficulty in the way of an amicable adjustment, is with the Republican party."

The Republicans rejected it, saying, "no compromise," "no arbitration," "no adjustment;" "no union with slavery."

The leading Republicans in Congress, and that party everywhere, indorsed the Helper book. Speaking of the Republican party, it says:

"Inscribed on our banner is *no coöperation with slaveholders in politics—no fellowship with them in religion—no association with them in society.*"

Speaking of the Republican party, Wendell Phillips said:

"It is the party of freedom against slavery. It is the northern party against slavery."

Who, then, is responsible? Somebody is responsible for the untold and unutterable miseries of all these battle-fields. Some party is responsible for the destruction of our trade and commerce and the universal desolation that comes to us upon the wings of the wind from every portion of this continent. A fearful responsibility rests somewhere for this sudden rupture of the ties of blood and kindred that rend so many loving hearts—that has placed in deadly conflict brother against brother, and father against son; that has made us a nation of mourners; that has carried in its wake woe and sorrow to every hearthstone in the land.

Before this organized opposition of one section against another, plenty smiled upon a happy, prosperous nation. From a population of three millions, in less than a century it had swelled to over thirty millions. We had stretched our empire across this continent, from sea to sea, and from lake to gulf, filling it with towns and cities. How changed the scene now. Desolation to every interest meets us on every side. Another commercial revulsion threatening us, trade crippled, the heavy tread of the soldier's horse around the capital, the groans of the wounded and dying reaching our ears, universal bankruptcy staring us in the face.

Abolitionism has at last accomplished its work over a Constitution well nigh broken, and through the fearful ravages of a bloody civil war. Its history is being written with the best blood of the nation—it is being written amid the sorrows and wailings of countless widows, sisters, mothers, and orphans, all over the land. Let it be written truly. Let the responsibility rest where it belongs, upon the abolitionists, who preferred war to slavery.

Mr. Chairman, every impulse of my heart is for the preservation of this Government. Beyond it we have nothing dearer than life itself. I shall maintain it here and protect it everywhere. I shall be able to defend it before my people, because I have never contributed to break it down. I shall be able to defend it in the name of the Democratic party, which have always stood by it when threatened by invasion from without and within. I shall be able to protect and defend it before the loyal people of my State, while the members of this abolition party, now loud in denunciation of my course, will shrink before the terrible condemnation that awaits them by an indignant people.

SERVICE OF THE MILITIA.

SPEECH OF HON. J. HARLAN,

OF IOWA,

IN THE SENATE, *July* 11, 1862.

The Senate having under consideration the bill to amend the act calling forth the militia to execute the laws of the Union, to suppress insurrections, and repel invasions—

Mr. HARLAN said:

Mr. PRESIDENT: I think there can be no doubt but that the President has the power, under existing laws, to call out more troops; and he is probably acting in pursuance of that authority in the intimations given to the Governors of the States that more would be accepted. One object, I believe, in passing this bill, is to enable him to call them out for a longer period than the law now authorizes, should he deem it necessary. If this bill shall become a law it will also be an intimation to the President that in the opinion of Congress a change of policy is desirable in the particulars that have been referred to by the Senators who have spoken this morning. Nor do I think that such an intimation by Congress ought to be or would be considered by the President offensive or undesirable. None who understand the frankness of his nature could entertain such an opinion. If, in the opinion of Congress, any change of policy, however small or great, is desirable, I have no doubt he would be gratified with a clear, unequivocal expression of that opinion. Hence, if the President has the power to do all that is contemplated by the proposed amendments, their adoption can do no harm, and may do good. It divides the responsibility; and should he find it necessary to follow this intimation, he will have the support of Congress. And, on the other hand, if existing laws do not, as some suppose, confer on him this power, it is clearly granted by the provisions of this bill and pending amendments. The people, also, have a right to know that the President's policy is approved by their immediate representatives in the national legislature. I therefore differ in opinion with the Senator from Pennsylvania, [Mr. COWAN,] if I understand correctly the views presented by him this morning on this point; and still more radically in relation to the relative rights of the Government and the people of the rebellious States. If I understood him correctly in the expression of his views on this subject a few days since, they are quite similar to if not identically the same as those entertained by Jefferson Davis, and so frequently expressed by him and his associate conspirators on this floor during the last Congress. If I understood his speech correctly, he believes that when the people within the limits of any State, with considerable or practical unanimity, are opposed to the Government of the United States, and desire to release themselves from its restraints, they have a right to dissolve the Union and to organize a new Government for themselves.

Mr. COWAN. What I said upon the subject is in print. I was aware at the time that perhaps the argument involved a double postulate; that it would not be comprehended; but I think no gentleman will charge that there is anything like secession in it. I held simply this, and I trust the Senate will pardon me for the explanation under the circumstances: we derive our authority from two sources. We have the Constitution as one source. From that we derive a portion of our authority. We derive authority from the fact that we are a nation; and the laws of nations entitle us to do the same things that other nations have the right to do. I stated, as I remember most distinctly, that at the outset of this rebellion we had a right to take one of two courses: we had the right to assume that these States were out of the Union; and we could, by virtue of our power as a nation, make war upon them; could make conquest of them, and subjugate them. If we did that, I think it was conceded on all hands we did it not by virtue of any constitutional authority we had, but we might do it by virtue of our powers simply under the law of nations. The question came up, and we solemnly and unanimously decided here that we would not take that course; we decided that the Union was still intact; that the States had not seceded; and that we would proceed against them upon our constitutional authority to suppress rebellion, and in discharge of our constitutional guaranty that we would suppress it.

Mr. HOWARD. Will the Senator from Pennsylvania allow me to ask him a question?

Mr. HARLAN. I object to a discussion of this kind. I gave way for an explanation on the part of the Senator from Pennsylvania.

The PRESIDENT *pro tempore*. The floor is at the command of the Senator from Iowa.

Mr. HOWARD. I desire to ask the Senator from Pennsylvania where in the Constitution he finds the principle he has now announced, that it was the right of the Government of the United States to assume one of the two courses; one of those two courses being a permission of the seceding States to go out of the Union, and to be treated as a foreign State; for that is plainly the proposition which he has here announced. I deny any such right on the part of a State, whether it be the unanimous act of its people or simply a majority of its people.

Mr. HARLAN. I perceive that the Senator from Pennsylvania must anwer, if he answers at all, such an interrogatory at considerable length; and hence I will request him to waive his explanation until I am through. I shall not occupy the floor long.

Mr. COWAN. I will not answer that question; but I desire to say half a dozen words more.

Mr. HARLAN. I do not desire to misrepresent the Senator himself; and if he wishes to explain his own statements on the point alluded to by me, I think he has a right to do so, and I will yield for that purpose very cheerfully.

Mr. COWAN. I did not expect that the Senator from Iowa would express himself in such offensive phrase as he has done. I did not expect that while he was endeavoring to combat my doctrines he would say they were the same doctrines which Jefferson Davis advocated upon this floor. There is a courtesy that everybody will understand, and I supposed that I was entitled to it from my friend from Iowa. I am sorry he did not yield it. It does not disturb me, because I have made up my mind in these controversies not to be disturbed with anything of that kind. But I desire to say this: that what I suppose was taken to resemble secession was the fact that I asserted, proceeding as we did upon the ground that we would not make conquest and subjugation, if, at the end of that time, it was found that there were no loyal people there, I said there was an end of it, unless we fell back upon our rights as a nation to make conquest and subjugation; and that was the whole of it. I say so still, and am prepared to stand upon it anywhere. I think it is unexceptionable.

Mr. HARLAN. I did not use the name of the rebel chief in this connection for the purpose of forming an offensive association of names, and had no intention of giving offense. I alluded to what appeared to me to be similarity of argument, and not similarity of character. And I suppose it possible for the rebel Davis to entertain correct opinions on the theory of government, while his conduct has been so disastrous to the interests of the nation, and especially to his own section of the country. Abating any offensive features of the allusion, I will reiterate that the Senator, as I understood him, repeated the arguments of the rebel Senators who occupied seats on the other side of the Chamber about a year since. They maintained that the people of a State had the right to dissolve their connection with this Government, and either remain as an independent State, assuming a distinct nationality, or to affiliate with other States for that purpose; that the people of a State of the Union may, at their own election, renounce their allegiance to the Federal Government without consultation with the people of any other State, or of all the remaining States combined; that the continuance of the Union depended on the volition or caprice of the people of each of its parts. I understood the Senator to lay down the same premises. He said that when this war broke out, everybody supposed that a large part of the people of the rebellious districts were loyal; that the war was prosecuted on our part to enable these loyal people to organize and maintain their State governments under the Constitution, as heretofore; but that if there were no loyal people in any one of these States, it was the end of the controversy; that all just Governments derived their powers from the consent of the governed. Now, Mr. President, as it seems to me, the only conclusion that can be derived from this process of reasoning is, that if the people of a State, with substantial unanimity, desire to secede, they have the right to do so. Nor do I understand the Senator to have opposed this doctrine this morning. He would not have advised the people of any State to secede; he does not think it was best for them to secede; he thinks it a great calamity that they should attempt to secede; he did not, and perhaps does not still believe that the people of any one of these States did, with anything like unanimity, give their voluntary assent to any act of secession; but nevertheless, if they did, in fact, with ordinary unanimity, desire to dissolve the Union, and are still disloyal, and deliberately resist the authority of the Government of the United States, I understand him to maintain that we have no constitutional authority to put them down. I disagree with him. If every inhabitant of any one of the States of the Union desired to secede, I do not admit they have the right to dissolve the Union. I maintain that the provision in the Constitution which says, "the citizens of each State shall be entitled to all the privileges and immunities of citizens of the several States," is in direct conflict with that assumption. I claim, as a citizen of the United States from the State of Iowa, that I have a right to the protection of the United States in South Carolina, in Georgia, in Louisiana, and that it is the duty of this Government to afford me the same protection in any other State of the Union that I can claim of this Government in the State in which I happen to reside. Whenever interest, pleasure, or curiosity induces me to enter another State of the Union, the national Government has pledged me its protection. This is an unconditional obligation. It does not depend on the people of the particular locality. I am no less a citizen of the United States in South Carolina than in Iowa, and my right to claim protection of person and property, and redress of grievances, is as complete in any other State as in that of my domicil. This view, however, pertains not alone to the individual rights of each citizen. It is equally applicable to the people of the nation in the aggregate. The people of the whole country have the right, in common, to navigate the waters of every part, to carry on commerce, and to use either land or water in making a common defense against a foreign enemy. The rivers, harbors, inlets, bays, and forts in Louisiana, Georgia, or in South Carolina, are as much the property of the people of Iowa as of the people of the States named. We are taxed to improve the one and to construct the other, and have a right to demand that they shall be held for the common good. The harbors at New Orleans, Charleston, or New York have not been improved and fortified for the people of those localities alone; they are seaports for the people of the interior as much as for those of the coast. And in practice it may be quite as important for the welfare of the people whom I represent in part that a foreign enemy should be met and repelled at New Orleans as at Keokuk or Dubuque.

Nor do I admit the truth of the Senator's corollary that harmonious opposition to the authority of the United States by the people of the rebel States would render it impossible for us to crush the rebellion. I know it is frequently asserted that six or eight million people, fighting for a specific purpose, can never be overcome. These assertions, I think, are made without reflection, and usually by popular orators from the hustings; but when made seriously, in a grave, deliberative body, perhaps the public welfare may require a serious answer. At least members of Congress ought to try it by the light of history before adopting it as a controlling fact in legislating for the perpetuity of a great nation; and they need not travel back very far on the page of history to discover how surprisingly naked the falsehood stands. Ireland was crushed, Scotland was overthrown, and all their people were merged with the English in a common nationality. The English themselves have been more than once completely overrun, and were finally subjugated, and their whole feudal system completely changed. Poland has been conquered, divided, and her nationality wiped out, so that she no longer has a place among the family of nations.

Mr. COWAN. Allow me to ask the gentleman whether it was not the dissensions of Poland, the very fact that she was not united, that caused her overthrow?

Mr. HARLAN. I will answer by asking where is Hungary, a more recent case of rebellion? There were many million people practically united, a martial people, highly cultivated, struggling against a despotic power for their independence, who, within the memory of these boys acting as pages, have been crushed by the superior military power of their enemies.

Mr. COWAN. If the gentleman will allow me, I will refer to Hungary as one of the strongest examples against his theory. I will ask him whether there were not in Hungary three or four distinct races of men; that they have never been able to unite them in one solid compact body; and whether it was not by means of their dissensions that the Austrians were enabled to overcome them; whether they do not divide and conquer them always?

Mr. LANE, of Kansas. If the Senator from Iowa will permit me, I wish to say but a single word. The Senator from Pennsylvania is opposing a proposition upon this floor that he well knows will divide and array four million people against six million in these rebellious States.

Mr. HARLAN. Although what the Senator from Pennsylvania says may be technically true, that the inhabitants of Hungary, many ages back, may have originated in different nationalities, he knows very well that in that struggle they were practically united.

Mr. COWAN. Oh, no.

Mr. HARLAN. The Austrians never were able to organize a loyal army in Hungary from her own people until they had crushed out the armies led by the Magyars, and scattered their leaders as fugitives over the face of the earth. Nor was there any division of the armed inhabitants of Poland to obstruct the success of her armies in fighting for a nationality then as old and as firmly established as the other nations of Europe. Poland was crushed because her enemies were able to wield superior physical power.

But, sir, the history of the world is full of illustrations. Where is Mexico? Ten million people practically united, a large part of them of Castilian origin, imperious and martial in spirit and habits, accustomed to the use of arms, as a profession and for amusement, from childhood, inhabiting a country far more difficult than the rebel States, and led by a gallant and successful general, whose successes had secured him the title of the Napoleon of America, were crushed by your own arms, when your entire population did not equal the present population of the loyal States of the Union. You sent your armies and munitions of war a thousand miles by sea to invade their homes, and fought them many hundreds of miles south of New Orleans, and yet, in two short years, you completely crushed her armies, and scattered them in guerrilla bands to prey on their own people like a cloud of locusts. Her nationality was so crushed that your generals were compelled to organize for them a provisional government with which to make treaties of peace and amity, your own Government dictating the terms. But, sir, I need not repeat minor examples. I will ask the Senator, if France, within his own memory, was not crushed by the opposing Powers of Europe? In civilization and refinement, in a knowledge of the arts and sciences, in the martial spirit of her people, in the courage, experience, skill, and renown of her field marshals, France has no superior; and yet, while under the leadership of Napoleon the Great, France was crushed. The Emperor of the French was carried by his captors to an island in the deep sea, where he lived the captive of jealous kings, and died a prisoner of State. France, standing at the head of the nations, was compelled to receive a ruler dictated by her conquerors!

Is it necessary to consume more time in refutation of the assumption, that if the people of the rebel States are united they cannot be conquered? If Ireland could be crushed, if Scotland could be crushed, if England could be crushed, if Poland could be crushed, if Hungary could be crushed, if Mexico could be crushed, and if France herself could be crushed, why may not twenty-four loyal States crush out the rebellion in ten States? If the people of the twenty-four loyal States admit their inability, it will be a mournful confession of inferiority which will make their memory a stench in the nostrils of their own posterity.

But, sir, the people of the rebel States are not united. The amendments now pending have been offered on the assumption that there are nearly four million people within the limits of those States who are loyal. In all the States tolerating slavery there are said to be four million slaves. Excluding Delaware, Maryland, Western Virginia, Kentucky, Tennessee, and Missouri, probably the negroes are equal to three sevenths of the entire population.

Mr. DAVIS. About three millions and a half, or in that neighborhood.

Mr. HARLAN. The Senator from Kentucky informs me three and a half millions, or in that neighborhood. Probably two sevenths of the

whole population and of our race, within the limits of these States, are loyal; or, in the aggregate, five sevenths of the whole population, black and white. This is not an extravagant estimate. We all know from concurrent history, that a large number of the soldiers in the rebel armies are serving by compulsion; and hundreds of thousands of non-combatants are compelled by these armed conscripts to submit to the rebel authority, to avoid personal violence and the confiscation of their property. The folly of our own Government and commanding generals in the field has exercised no small share of influence in producing this result. We have carefully protected the property of rebels in both loyal and disloyal States, and have spurned the assistance of the loyal portions of communities under the civil control of rebel leaders. The object of this bill is to inaugurate a different policy; to secure the organization of the loyal people in the disloyal districts, under the flag of the Union, and make it the interest of all loyal people to aid in establishing the supremacy of the Constitution and the laws; thus adopting in practice the adage, "divide and conquer," used in its highest and most honorable sense.

This policy is demanded by the highest and most sacred considerations of humanity. It would shorten the struggle, and consequently save hundreds of millions of treasure and tens of thousands of valuable lives. What could be greater folly than to fight the whole population of the rebel districts, when only about two sevenths are your real enemies. What but madness or real disloyalty at heart could induce any commanding general to compel the five sevenths, or less, as the case may be, to acquiesce in and indirectly support the rebellion? Is it not a duty that we owe to ourselves, as well as to them, to avail ourselves of this proffered aid?

I know some of the Representatives and Senators from slaveholding States object to the arming of colored people, and I will consider these objections presently.

We have seen, when examined in the light of history, no sane man could reasonably doubt the ability of the twenty-four loyal States to crush the rebellion in ten States, if the people of the ten were acting as a unit; we have seen also that nothing but the most stupid blindness, if not criminality on our part, can secure unanimity in the rebel districts; hence, that we can crush the rebellion speedily if we act wisely. If any one doubts the correctness of this conclusion, let us judge of our ability in the future by what we have achieved during the past year. It is but a few days more than a year since the war was commenced by the rebels at Fort Sumter, near Charleston. Since then political animosities in all the free States, on which the leaders of the rebellion counted so largely for succor, have been substantially buried; and although we commenced almost without an army and without a navy, whatever there was of rebellious feeling in Delaware has been suppressed; whatever rebellion existed in Maryland has been destroyed; the rebellion in one third of Virginia, the western part of Virginia, has been entirely put down, so that I believe there is hardly a guerrilla left to annoy the peaceful inhabitants; the rebellion in Kentucky has been crushed out, the rebel armies within her limits have melted away into guerrilla bands, and these are rapidly disappearing. Tennessee is under the control of the old flag. The rebellion has been crushed in Missouri. Although overwhelmed from Arkansas to Iowa but a few months since with rebel armies, which controlled the whole country, now her own home guards are able to furnish ample protection to the peaceful pursuits of life. Whatever of rebellion existed in the Territories has been suppressed; large rebel armies have been driven out of New Mexico. The Mississippi river has been opened from Cairo to its mouth; nearly every fortification on either bank has been captured and is now garrisoned by loyal troops. All the great cities of the South threatened or controlled by the rebellion have been captured and are in your possession. St. Louis, Baltimore, Alexandria, Wheeling, Norfolk, Lexington, Nashville, Memphis, New Orleans, and a host of towns of minor importance, are all in your possession. Two cities of some political consequence and of less commercial importance, Richmond and Charleston, only remain in the possession of the rebels. The entire coast from the Rio Grande to the Potomac, and all its defenses, are in your possession, and are defended by strong garrisons. The rebel fleets have been swept from the sea. Not a rebel ship, I believe, remains afloat to excite the cupidity of sailor or marine. Every armed rebel boat has been captured, sunk, or destroyed. The rebels, I believe, have not one gun or man afloat on river, harbor, lake, or ocean. While your gallant Navy has thus effectually destroyed every vestige of rebellion within reach of its guns, your Army has not been idle, as is demonstrated in the general results mentioned. Not to particularize hundreds of great successes, yet of minor importance, I might mention the capture of two large rebel armies, with all their guns, supplies, and equipments—one at Fort Henry, the other at Donelson. They have crushed, routed, and dispersed another at Pea Ridge; so that what remains of the rebel forces west of the Mississippi is a greater curse to their own friends than annoyance to the Union troops. They have crushed and scattered another, far more gigantic in its proportions, at Corinth, so that nothing much superior to a guerrilla warfare is now carried on in either Louisiana or Mississippi. Your troops have secured a firm lodgment within the limits of every one of the rebel States. And even in front of Richmond, where the enemy have concentrated all their forces, apparently for a last desperate effort, and where I doubt not, on account of this concentration, they outnumbered our own gallant army more than two to one, after a series of pitched battles, extending over a period of seven or eight days, the Union flag is still floating in triumph, the army rests in a more secure position than when the first gun was fired by the enemy, its columns unbroken, undaunted in spirit, buoyant and confident; its flanks fully protected by a fleet of gunboats, and its communication with its supplies perfectly secure. If properly reinforced and supported by the Government and people, of which I have no doubt, this gallant, unconquered, and unconquerable army of the Potomac will be able, notwithstanding the check which it has received, to accomplish the object of the campaign in the course of the next thirty days.

Then, I inquire in all candor, for the cause of the despondence which has been manifested in this Chamber. After this review of their achievements, are we not content with it as the fruits of their toil and exposure for but a single year. The armies of Rome, during her most palmy days, never accomplished half so much in so short a period. It is true many men have fallen in the field of battle; some have been killed and many wounded, and many more have fallen on account of exposure and sickness incident to camp life. And still others have been uselessly sacrificed by drudgery from which it seems to be the purpose of the Senate to relieve them in the future, and which may be set down as the fruits of the folly, bigotry, or inexperience of generals, who are, in the main, officers of great ability and merit. But all these losses, when added together, are comparatively trivial; they have not diminished the probabilities of our speedy triumph in the least; nor has the physical power and strength of the nation been diminished on account of the war one iota. I do not doubt but that an enumeration of the population of the United States, if taken to-day, would show our increase during the past year, notwithstanding those losses, to have been as great as it has been during any other year of the existence of this nation. The Almighty never inflicts on a people two great calamities at the same time. When they are cursed with a war that is sweeping away its thousands, He never has, I think I may say without irreverence He never will, afflict them at the same time with pestilence and famine. I know that the rebels have been counting on the destruction of our armies by plagues and fevers. I have not. I have known that the people of the whole country would be more vigorous and healthy during the continuance of this civil war than they have been for an age past. It is in the order of Providence that it should be so; and if Senators will but look around them they will find that it has been so since the war commenced. You have had no cholera, you have had no yellow fever, you have had no plagues or famine to sweep away your people. The Almighty has visited us with one great curse during the past year—civil war. This has carried off its thousands. None have died with cholera, plague, or yellow fever; and the ordinary diseases of the country have been of a milder type than usual. We are probably numerically stronger to-day than we were the day the rebels opened their batteries on Fort Sumter.

The Senator from New York [Mr. KING] says he does not despair of the Republic. Nor do I. Why should I despair? Mr. President, I do not doubt our final success. We not only have the power, but in my judgment will continue to possess the power, if we are but faithful to ourselves, to crush out whatever still exists of this rebellion. I know that the enemy have counted more strongly on divisions of our own people at home than they have on their own inherent internal strength. I know, also, that northern sympathizers with the rebels are still struggling to secure the organization of a rebel party in the loyal States. I therefore sympathize fully with Senators who have expressed a strong desire that we should not be separated at home by political controversies or party politics; that our united strength should be brought to bear to crush the rebellion, a result so earnestly desired by every patriot at home and every lover of liberty throughout the world.

But, sir, men will have their political opinions; they will express them here and elsewhere. They will talk on the subject of slavery as well as every other subject of practical interest to the human heart. It is useless for Senators to condemn the people for doing so. Wherever a free people exist, free speech will remain; and wherever free speech remains, there will certainly be an expression of diverse opinions on every imaginable subject. This may have its evils, but it also has its advantages; and as it is one of the incidents of civil liberty, it must be tolerated. And I confess, Mr. President, that this expression of a difference of opinion here or elsewhere is not a cause of discouragement with me. When we come to a vote on practical measures for an earnest prosecution of the war, we find but little difference of opinion. All of these measures are adopted in this body and in the correlative branch of Congress with sufficient unanimity.

I am not, however, blind to what seems to me to be the intimations of an overruling Providence, as this struggle progresses, and I would express it, of course, with great deference; but in my judgment this struggle will not be closed until slavery shall have been practically terminated. I believe that the overruling hand of God is in this war. I believe that He has suffered us to come to blows for the very purpose of developing this great good to the human family. There are but two civilized, enlightened nations on earth that permit human slavery within the limits of their home Governments—our own and one in South America. Some others permit it in their colonies, but not at their home Government. A century or so since, all tolerated slavery in some form. But during the last hundred years Christianity has achieved great triumphs. Liberty of conscience is now tolerated in a wonderful degree by nearly all the great nations. The Christian religion has been carried into every quarter of the globe. There are now between two and three hundred million Christians in the world. Nearly one third of the inhabitants of the earth are Christians, and they control all the enlightened nations. It is impossible that these principles should be inculcated without producing their legitimate fruits—the amelioration of the human family. The man who has "fallen among thieves" attracts the sympathy of the Christian world. God intended that it should be so. He intended that those who are sick and in prison should be visited by the hand of mercy; He intended that the naked should be clothed, that the hungry should be fed, that the widow and the orphan should be sheltered, that the weak should be protected, that the oppressed should go free. These purposes of Providence have culminated in a system of free schools embracing the poor in nearly every enlightened nation; in the improvement of prisons and prison discipline; in the liberation of slaves; in the enfranchisement of serfs; in the construction of asylums for the insane; in the education of the deaf and dumb, and blind, and of idiots; and in

the erection and support of hospitals and retreats for the afflicted with every species of loathsome disease. The people of the United States have kept pace with the other Christian nations in every benevolent work except remembering our bondmen as if we were in bonds with them, and doing unto them as we would that they should do unto us, had our relative conditions been reversed. When reproached by other nations for acting the laggard, we have arrayed many excuses, but have had one substantial reason, as a nation, for declining to terminate this system within our limits.

It has been maintained by all our jurists that within the limits of any State of the Union the national Congress has no constitutional authority to interfere in the regulation of the institutions that relate exclusively to the internal policy of its people; that the national Government may do whatever is necessary for our external defense, internal peace, and for the promotion of the general welfare; but that the people of each State must be permitted to be the exclusive judge of the propriety of its own local laws, applicable to its own people alone; that on all these subjects this Government should not interfere, should not impose its opinions, nor suffer itself to be used as an instrument in the hand of the people of any other State or States for imposing their opinions and views on the people of any other State. Nobody has entertained that opinion more honestly than I have, nor has anybody been more anxious to carry it out in practice; having, during my short public career, ever maintained this doctrine, both in public and private, as well as by my votes in the Senate.

But, in my judgment, this disability has been removed, and this brings me to consider the further suggestion of the Senator from Pennsylvania, and urged by other Senators. They maintained that all the States that have been in this Union are still in the Union; that, theoretically, the Union has not been dissolved, that a State once existing as a member of this Union cannot, by any act of its own people, be annihilated and cease to be a member of the Union; that once a State always a State, or as others have presented it, "the king never dies; the prince is always in existence." Well, sir, I have anticipated in part the answer to this theory. The argument is superficial. It is the common-law doctrine, applicable to rights of persons and property in a State, that *has not died and cannot die.* Titles acquired under one prince are not destroyed by the existence of an interregnum; the title does not terminate on account of the death of the grantor, but must be construed to be a grant from his successor, and this perpetuity of title is not to be terminated even during the period when there is *no prince.* So far as the holder of the franchise or the grantee under the prince is concerned, the prince *cannot die;* that is, the grant continues, the franchise is still good, the title valid, though the king be dead.

To those who argue that a State cannot cease to exist, I inquire where is Poland? Is it still a State? Where is Sparta and the other States of Greece? Where is Carthage? Where is Rome—that Rome over which the consuls presided and the Cæsars ruled? Where is Egypt—that Egypt which was the nursery of learning and the arts before the foundations of the pyramids were laid? Where is Judea, once a State so brilliant and powerful under the reign of King David? Where is Scotland, once the rival of England, whose death has become immortal in the fame of her warrior clans led by her Bruces? But why pursue this subject? An absurdity needs no refutation. To state it is to expose it. It is futile to argue that the tyrants who destroyed Poland, as the wolf and the jackall dismember their prey taken in a common chase, had no right to do so: the conclusive fact still exists—Poland was destroyed. She has ceased to exist as a State! She no longer has a place among the nations! If Sparta and Judea and Scotland and Poland ceased to exist as States, so may South Carolina and Georgia and Florida and any other State. If Scotland died by the hand of England, South Carolina may commit suicide! The possibility of terminating the life of a State is the question of controversy, and not the manner of the death.

If a State government may be destroyed by the people residing within its own boundaries, we inquire in the next place if some of the States of this Union have not been destroyed. If these States have not, in contemplation of law and the Constitution, ceased to exist, they are still States; and if States, they are either in the Union or out of the Union as States.

Now, what is a State? It is not, I apprehend, the land on which a people may happen to live; nor is it the people that may happen to live on the land. It is such a legal organization of the people in one compact community as will enable it to protect the rights of each and all against all intruders, usually denominated a government, with such officers as will enable it to enact laws and administer justice, and hold intercourse with other States or nations. I inquire if, in South Carolina, there now exists such a State? If so, is it in the Union? If it is a State still in the Union, where is its Governor, where is its Legislature, where is its judiciary? If you recognize it as a State, you must recognize the organs through which the people act. You cannot claim that it is a State because the land is there on which the people live, nor merely because there are people living on the land; but it must be because there is such a political or civil organization of that people as enables you to recognize their existence through their officers—executive, legislative, and judicial.

If you admit that such a State exists within the limits of South Carolina, I humbly submit that it is out of the Union. There is no Governor there whom you can recognize as a Governor; there is no Legislature there that you can appeal to as a Legislature; there are no judges there before whom your people can claim a trial of their rights, and whose adjudications you can recognize as valid.

If a people exist there without an Executive, without a Legislature, and without a judiciary system which you can recognize, is it a State? I maintain that it is not a State; and I think I am sustained in this conclusion by the language of the Constitution itself. It says:

"The Senators and Representatives before mentioned, and the members of the several State Legislatures, and all executive and judicial officers, both of the United States and of the several States, shall be bound by oath or affirmation to support this Constitution; and the judges in every State shall be bound thereby, anything in the Constitution or laws of any State to the contrary notwithstanding."

Now, sir, I submit that there is no such Governor, that there are no such judges in any one of the rebel States, that their State organization has ceased to exist; it has been obliterated by their own wicked people. You can no longer recognize the people within those boundaries as a State. You have no means of reaching them through any State organization; and if there is no civil organization through which you can reach them as the people of a State, the State has ceased to exist.

I submit, in the next place, that the President, in administering the laws in these rebel districts, has assumed that no State government exists. If Tennessee and North Carolina are still States of the Union, what right had your President to appoint Governors for their people. If these rebel districts are still States of the Union, what constitutional right has the President to proceed to suppress an insurrection unless requested to do so by the Legislatures thereof, or, during their recess, by the Governors. Again, if these districts are still States of the Union what right has the President to commission the officers of their militia called into the service of the United States, the Constitution expressly reserving the right to appoint the officers to the States respectively from which they are called. Has not the President treated the people of these rebel districts in all these respects precisely as if they were Territories of the United States? Is it possible for him to administer the laws of the United States within their limits in any other manner?

It is therefore manifest that you are compelled, in your official action, to hold and govern them as organized Territories, or to acknowledge their independence. In what, then, does any one of these rebel States differ from Nebraska, from Washington, from Dakota, from Colorado, or any other Territory of the Union? In nothing whatever except the naked pretense that a State government once existing can never cease to exist, in violation of the historical fact that they have ceased, and do cease to exist, either through the madness of their own people, or in consequence of the superior strength of their enemies. Your President has elected to consider the State governments within these old State boundaries extinct. For all practical purposes they are dead. All the State laws lié as a dead letter on the statute-books, unless you choose to revive them. But if you have power to revive them and give them vitality, you may enact other laws as you would enact laws for any other Territory. The people are citizens of the United States; they have a right to claim the protection of the laws of the United States; and your President, with your sanction, is proceeding to organize provisional local governments within the limits of those States as rapidly as they are overrun by your armies. It is true that he expects, and we expect, that when this rebellion shall have been suppressed, these people will reorganize their State governments, and become members of the Union. But while this practical death continues, Congress and the President are responsible for the character of their civil governments and their local institutions, as in any other Territory of the United States.

In my opinion you have not only the right to govern the people of these rebel States as Territories, but it is your duty to do so. And, moreover, that you can never suppress the rebellion in any other manner. Civilized people cannot live with each other in large numbers without a civil government. Property must be bought and sold, wills must be made, deaths will occur, estates must be administered, marriages must be solemnized, debts must be collected, and criminals must be punished. If you do not furnish them the necessary legal means for the transaction of all this business, even loyal men must adopt the rebel government. Every civilized community soon learns that a bad government is better than none; hence they will submit to an illegitimate prince to avoid anarchy.

But if you have the right, and it is your duty to organize temporary governments for these districts as you do for other Territories, you have the right to extend to them all general laws enacted for the people of the Territories. You have the same discretion in the one case that you have in the other. As to these rebel States, you are no longer restrained by the Constitution from liberating the slaves if the interests of the country and the perpetuity of the Union require it. That they will be liberated before the war is concluded, I have not the slightest doubt; and I may as well state that this conviction is derived in part from what is known to be the will and wish and prayerful expectation of the slaves themselves. I think one of the most conclusive evidences of the immortality of the human soul is the existence throughout the whole human family of a desire for immortality; and I believe it is the opinion of theologians who have written on this subject, that an all-wise Being of infinite mercy and wisdom and omnipotent power would not implant in the mind of all people of all ages a longing, thirsting desire to live forever, and intend to thwart that wish. He could not be a good Being and implant that desire, and at the same time intend to thwart it. It is inconsistent with all the ideas we have of His perfection. Well, sir, we know that these people—and there are four millions of them—have been anxiously looking forward to the time when they shall be liberated. They have been praying for it, and they now hail your troops as they enter the rebel States as the messengers of their liberation, and it is only by thrusting them from your ranks at the point of the bayonet that you can prevent them from uniting with you to suppress the enemies of the country. I do not believe that the Almighty Being who rules the world, a Being of infinite wisdom and goodness, will thwart the wish of this great multitude of His children. Their ancestors were brought here in a very degraded condition. By their associations with civilized communities they have been greatly improved. They have attained that condition in the scale of existence which requires a change in their relations. I have no doubt the time has arrived when the Almighty intends that they shall be free, and men read events very blindly, as blindly as did the Pharaohs of Egypt, who can look at this great subject in any other light. You may delay the fulfillment of this purpose of Provi-

dence until all the plagues that visited Egypt have been poured out on this nation and until the blood of the first born of the entire nation has commingled with the waters of your rivers, before you yield to this intimation of infinite wisdom; but in the end it will be accomplished; if not with your concurrence, it will be by the intervention of other nations.

My reasons for this I will state as briefly as I can. First, we have not and never have had the heafty friendship of any monarchy on earth. Our Government was organized on principles in direct conflict with their theory of civil society. They have always maintained that the masses of the people are incapable of self-government, and if now ours should be destroyed, it would afford overwhelming practical proof of the utter futility of all efforts to support a republic. Despots will point with a sneer to the failure of "the great Republic across the Atlantic" as the last fearful example of the folly of mankind in this respect. They have therefore a great stake in this issue. If by any act of theirs, or by any influence they are able to bring to bear, not dangerous in its ultimate consequences to their own existence, they can secure the permanent dissolution of the Union, and in the end the division of the residue into many fragments, to be trampled under foot or spit upon at the caprice of the great Powers, they will have furnished a demonstration of man's incapacity for self-government that all the lovers of freedom in the world will not be able to refute. Who, then, can doubt their disposition to aid the rebellion?

But they cannot intervene without a pretext that will meet the approval of the moral sense of mankind. No merely material interest will justify their intervention in favor of a rebellion against an established Government. The example might be contagious. It is not the interest of crowned heads to sanction insurrections. The scarcity of cotton will never induce England or France to intervene. The support of their operatives directly from their public treasuries until a supply can be secured from other quarters would cost them much less than the cost of a war with the United States for a single month. To interpose an armed mediation would be equivalent to a declaration of war which they cannot afford to make for cotton. They will not, therefore, at the beginning, probably, propose a direct armed intervention in favor of the rebels. When intervention comes, if it ever should come, it will be a moral intervention. They will advise us to agree to a dissolution; they will advise us that the material interests of both parts of the country and the welfare of the human family require it. If we persist in our purposes, as we shall, they may induce the rebels to adopt an act of emancipation on condition of recognition. They can then exhibit us to the world as the persistent prosecutors of a war for dominion, and against the interests of humanity. They will prove this from our own State papers, written by our great Secretary of State since this struggle commenced, in which he has distinctly informed the great Powers that the relative condition of the people in the rebellious States is to remain unchanged, let this struggle terminate as it may.

Hence, in the contingency I have supposed we would be placed before the democracy of Europe clearly in the wrong, fighting for dominion and the perpetuity of slavery. With the sympathies of the masses of Europe against us, with the four million slaves probably armed in support of the rebellion, with the promise of freedom as the reward of their success, and with the predisposition of all the crowned heads to suffer republics to destroy themselves, my confidence in our ultimate success would be greatly diminished. We would, of course, still succeed, if God continued to be on our side. But in that contingency, I am not certain that we could count on His blessing. If Napoleon and England should interpose to create a new nationality, and to liberate four million slaves, they might claim to be intervening in the interests of mankind, and in accordance with the great ideas that control the civilization of the age. Putting the intervention on this ground, I am not certain that you could safely rely on the friendship of the Emperor of the Russians, on whose support we have relied more strongly than on any other nation. After having liberated the serfs of his own empire, how could he be expected to make a diversion in our favor, and thus assist to rivet the shackles on our slaves? I believe we may count on his friendship to checkmate our enemies in the Old World, always, when we deserve it; but could we expect him, after having carried into effect this great edict making citizens of many millions of his own serfs, to interpose in the face of the other Christian nations to enable us to perpetuate slavery within our limits? It would be unreasonable to expect it. We should therefore anticipate them by making it the interest of many millions of the people of the rebel States to assist us, and the interests of humanity that we should triumph.

If we act wisely and in accordance with these intimations of an overruling Providence, I do not believe the combined Powers of the earth can put us down or intervene between us and the certain achievement of a glorious destiny; hence I was gratified beyond measure with the statement made by the Senator from Kentucky, in his place on the floor of the Senate, a day or two since, that if the perpetuation of this Union required it, every slave that he owned should freely go, and every slave owned by his neighbors in Kentucky would be freely given to save the country. I believe that the time is now at hand when these great sacrifices are demanded, when some plan for the liberation of the slaves, especialy in the rebel States, should be adopted, and the able-bodied men incorporated into our armies, if we would successfully maintain this struggle for the perpetuation of our nationality. As I conceive, the door has been thrown open by the hand of God. There is no longer any constitutional difficulty. These State governments having been destroyed, the country and the people still remaining under our jurisdiction within the boundaries of the United States, it is not only right, but it is our duty, to organize temporary civil governments and maintain them until the people shall have reorganized their State governments under the provisions of the Constitution. If this is the correct view of the subject, you may pass whatever laws, within the limits of those rebel States, that might be rightfully enacted for any other Territory under the jurisdiction of the United States, and in which no State government exists, including laws for the liberation of slaves, and their organization for the common defense.

Hitherto good men throughout the North and West have justified the continuance of slavery, as the Senator from Pennsylvania did to-day, on the plea that we have no power to abolish it within the States; that this toleration of slavery was a part of the original bargain when the Constitution was adopted; that you and I were parties to that contract. I have faithfully lived up to it until the State governments within the limits of these rebel States have been destroyed by the wickedness of their own people, and the country reduced to the condition of a Territory. But now they have no civil government that we can recognize under the Constitution; the people and the country are still within the limits and under the jurisdiction of the United States. I would therefore interpose, and give them a government as I would any other community within our jurisdiction having none that can be recognized by us or by other nations. I would enact for their government just such laws as in my judgment their interests and the interests of the nation and of humanity demand.

If I read the signs of the times correctly, this has become a necessity. We cannot, if we persist in our folly, thwart the ultimate purposes of the Almighty. By His providential interposition He has thrown open the door for the liberation of a nation of bondmen; He has removed the constitutional impediment; He has caused their assistance to be necessary for the perpetuity of the Union and the integrity of the nation. If we accept of this high destiny, all the nations of earth combined against us would be as flax in the flames; but if we are not equal to the demands of the age, and obstinately refuse to follow the plain intimations of Providence, this great work will be handed over to other nations, or will be wrought out by the rebels themselves, and our nation will become permanently divided.

But if we adopt this policy, Senators inquire, what shall be done with the liberated slaves? I answer, muster a portion of the able-bodied men into the service of the Republic, employ them in your camps and fortifications as laborers, on your transports and gunboats as laborers and sailors, and, if necessary, let them participate in the glories of the battle-field, and bear their just proportion of the burdens and dangers of this great conflict. And as for the residue, let them alone; let them take care of themselves hereafter, as many of them have heretofore.

Senators talk of them as *savages*, as if they had been recently caught in the jungles of Africa and brought to our shores, without a language, without knowledge, without civilization. This was true of their ancestors, but not of the present generation. A great change has been wrought in their condition; they are now comparatively well civilized. There are eleven thousand of these men that you call savages right at your door; in the District of Columbia. By an act of this Congress some one or two thousand more have been set free. When that bill was under discussion, I remember that the Senator from Kentucky, [Mr. DAVIS,] and some other Senators, in whose wisdom I generally confide, and for whose opinions I have very high respect, told us that if such a law should be enacted the slaughters of St. Domingo would be reënacted; that these black people could not live in peace as freemen among a white people; that a war of races would spring up, which would result in the destruction of the one race or the other.

Has this prediction been fulfilled? Have any riots occurred? Have any murders been committed by these freed men? Not one! On the passage of that law these ignorant people, as you may deem them, collected in their churches and school-houses where they were accustomed to worship, to praise the Almighty for their deliverance; and after this manifestation of gratitude they all quietly returned to the peaceful pursuits of life; since which everything has progressed as usual. These people are now, as heretofore, laborers in your fields and shops, and servants in your houses. Nobody has been damaged; no riots have arisen; society has not been discomposed in the least, notwithstanding the very extraordinary speeches of the gentlemen who happened to represent what are called the border States in the two branches of Congress. If Senators will open their eyes and look at these people, they will discover that they are no longer savages, but, in a comparative point of view, highly civilized. They provide for their own wants, they provide their own food and clothing and shelter, and for the education of their own children, for the support of their own churches and schools, and bury their own dead; and during the seven years of my service at the capital of the nation I have never seen a negro beggar—not one. I have seen white beggars; I have seen white boys and girls begging for a penny of each passer by at the crossings; I have seen stalwart men and women, of almost every nationality, begging in your streets and thoroughfares; but never yet have I seen a negro beggar in the streets of the capital of the nation.

In Baltimore, within an hour's run from this capital, it is said there are about thirty-eight thousand colored people. Of these about two thousand two hundred are slaves. There are nearly thirty-six thousand free colored people living in the commercial metropolis of Maryland, and no one conversant with their condition will dare to assert on the floor of the Senate that they are either paupers or criminals. There, as here, they provide for their own wants; by the sweat of their own brow they earn their own bread. They feed, clothe, and shelter their own families, bury their own dead, educate their own children, and there as here, support their own peculiar forms of religious worship. With these illustrations right at your door, and within an hour's ride of the capital, will any Senator stand on the floor of the American Senate, and forfeit his reputation for candor in declaring these people to be savages? They are more highly civilized than the children of Israel when they were led out of Egypt by the hand of God, and probably fully equal to them, in this respect, when they returned from Babylon. They will compare very favorably in civilization with the masses of the peasantry of Europe, and I challenge any one who is curious to the comparison. And yet with thousands of these free colored people all around us, directly before our

eyes, a standing gigantic demonstration of this inexcusable falsehood, Senators persist in debate in calling them savages, and insist that they shall not be armed in the defense of our common country, lest it may shock the sensibilities of mankind, and stimulate the great Powers to interfere and end a war that under such a policy must result in the indiscriminate slaughter of men, women, and children. I am amazed at such speeches from the lips of American Senators, whose candor ought not to be lightly called in question. But is it possible that these Senators do not know that every nation on earth having colored inhabitants has incorporated them into its armies? On this subject permit me to quote a few passages on concurrent history:

"NEGROES UNDER MONARCHICAL GOVERNMENTS.—The monarchial Governments of Europe and America, those that tolerate slavery, and those that do not, alike agree in employing negroes armed for the public defense. They find that the burdens of war, and the sacrifice of life it occasions, are too great to be borne by the white race alone. They call upon the colored races, therefore, to share in the burden, and to encounter, in common with the whites, the risks of loss of life.

"Thus, we find that in the Spanish colony of Cuba, with a population one half slaves and one sixth colored, a militia of free blacks and mulattoes was directed by General Pezuela (Governor General) to be organized in 1854 throughout the island, and it was put upon an equal footing with regard to privilege with the regular army. This measure was not rescinded by Governor General Concha in 1855, but the black and mulatto troops have been made a permanent corps of the Spanish army. (Condensed in the very phrases of Thrasher's preface to his edition of Humboldt's Cuba.)

"In the Portuguese colonies on the coast of Africa, the regiments are chiefly composed of black men. At Prince's Island the garrison consists of a company of regular artillery of eighty, and a regiment of black militia of ten hundred and fifty-eight rank and file, of which the colonel is a white man. At St. Thomas's there are two regiments of black militia. In Loando, the Portuguese can, on an emergency of war with the natives, bring into the field twenty-five thousand partially civilized blacks armed with muskets. Successful expeditions have actually been made with five thousand of them accompanied with three or four hundred white soldiers. (From Valdez's Six Years on the West Coast of Africa. London: 1861. Two vols. 8vo.)

"In the Dutch colony of the Gold Coast of Africa, with a population of one hundred thousand, the garrison of the fortress consists of two hundred soldiers, whites, mulattoes, and blacks, under a Dutch colonel.

"In the capital of the French colony of Senegal, on the same coast, at St. Louis, the defense of the place is in the hands of eight hundred white and three hundred black soldiers. (The preceding facts are also from Valdez.)

"In the Danish island of St. Croix, in the West Indies, for more than twenty-five years past, there have been employed two corps of colored soldiers, in the presence of slaves. (From Tuckerman's Santa Cruz.)

"In Brazil, notwithstanding its three million slaves, its monarchical Government employs all colors and races in the military service, either by enlistment or forcible seizure. The police of the city of Rio de Janeiro is a military organization, composed mostly of colored men, drilled and commanded by army officers. The navy is principally manned by civilized aborigines. (Hidder; Ewbank.)

"The course pursued by the British Government in Jamaica, Sierra Leone, and Hindostan, is so notorious as simply to need to be mentioned.

"In Turkey, no distinction of color or race is made in the ranks of the regular army. Distinction is made, however, on the ground of difference of faith. The army is composed of Mohammedans. Christians and Jews are never recruited. The result is one which the Government of Turkey to-day contemplates with alarm. For the last two hundred years, having been frequently engaged in war, her Mohammedan population has been greatly reduced thereby, while her Christian population, at one time greatly inferior in numbers, has now by peace so extraordinarily increased as to bid fair soon to divide the empire. And she dare not now, in her strength, arm them as her soldiers as conscripts, notwithstanding her desire to do it."

Is it probable that the English, French, Spanish, Portuguese, Brazilians, Turks, Danes, and Dutch, after reviewing their own colored regiments in Canada, South America, Africa, the East and the West Indies, would suffer materially in their sensibilities in witnessing regiments of colored men in South Carolina?

The Senator from Kentucky [Mr. DAVIS] has suggested that it would be dangerous to arm negroes on account of the peculiarities of their character. He says that when they once obtain the smell or taste of blood they become demons, and are controlled with great difficulty. But this objection cannot apply to them as soldiers; their qualities and capacity in this respect have been tested by the Dutch, English, and French. The question has therefore been settled. I drew the inference, however, that in the opinion of the Senator, arming slaves would unfit them forever for the service of their masters. I do not complain of him for bringing this to the attention of the Senate. I believe wise statesmen have entertained the same opinion in every age; our ancestors were equally impressed with this conviction, and consequently always provided for the emancipation of slaves who had served in our armies. This principle has not been overlooked by my colleague [Mr. GRIMES] in preparing the pending amendments to this bill. They provide that colored men may, at the discretion of the President, enter the military and naval service of their country, and that all those who respond to this call shall, at the conclusion of the struggle, be entitled to their freedom. This is right; no slave who has borne arms as a soldier or seaman would afterwards be fit for slavery.

I am reminded that one of these amendments also provides that their wives and children shall be freed. Well, Mr. President, could a wiser policy be adopted or one better calculated to prompt them to fight with determination for the perpetuity of your institutions than the prospect of their own liberty and the liberty of their wives and of their children and children's children for all time to come? An army composed of such soldiers could never be conquered.

But, Mr. President, many may be liberated by the provisions of this bill and necessary kindred measures during the progress of the war who may not be needed, and who may be unfit for the public service. What shall be done with them? My answer has been partially given under another head. I will only add here one other reflection. We have seen that wherever free colored people are found in this country they provide for themselves. They do not become a burden on society. No considerable number of them become either paupers or criminals. If they have not proved incompetent to provide for themselves heretofore, the presumption is that no considerable number of them will hereafter. But if they should, then interpose with legal provisions for their protection as you would for the protection of paupers of any other class. When other men, women, or children, in civilized society, are found to be incapable of taking care of themselves, the laws require the courts of probate to appoint guardians of their persons and property, who are required to give bond and approved security for the faithful execution of the guardianship. The ear of the court is ever open to the complaint of the ward, whether made by him in person or by "his next friend." The guardian is thus bound by law and stimulated by public opinion to execute faithfully and humanely this trust. Let the same principles of justice apply to black paupers that are applied to paupers of any other color. If justice and humanity require such restraints to secure the rights and interests of orphans and paupers and *non compos* of our own color and race, how much more dangerous must it be to place infants and paupers of another race and color under the absolute control of self-appointed guardians without the slightest restraints of law, to be worked or punished or sold or used as unrestrained passion or caprice might prompt. If any of the liberated slaves should prove incapable of providing for themselves, apply the same principles of justice to them that you now apply to such persons of any other class, and the whole difficulty will have been met and overcome. In my State we have the same laws for the protection and management of paupers of all classes, and I believe this is done in a majority of the States without causing the slightest difficulty. And there is no necessity for a distinction in this respect in a rebel State. If large numbers of these people are destitute of intelligence or capacity to provide for themselves and to protect their own interests in any given locality, it creates no necessity for a new rule. The application of the principles that protect the few will be sufficient to protect larger numbers. If, therefore, a majority of liberated Africans were found by experience to be incompetent to provide for themselves, society would not receive the slightest shock. They would receive the protection of guardians appointed by the courts, under bond with approved security, responsible to the tribunals of justice for their conduct; and society would receive the advantages of their labor and service afterwards as before, and the laborer would be secured in the enjoyment of the proceeds of his toil.

But we have seen that this allegation of incompetency to provide for themselves is not true. It may be partially true in limited localities and in certain communities, but as a general proposition, it is totally false. On this point it might not be amiss to give the testimony of a rebel Senator, by whose side I sat in the old Chamber for several years. I refer to the rebel Robert Toombs. In private conversation he told me repeatedly that there was no practical difficulty in liberating the slaves; he said it was all a pretense; the men who asserted this doctrine were demagogues; he said that he defended slavery because, in his judgment, it was right; it was for his interest and the interest of his people to perpetuate it; and almost every old Senator here will recognize such a statement as characteristic of his boldness and candor. My friend from New Hampshire says that he told him the same thing.

Mr. HALE. With the Senator's permission I will state it. Mr. Toombs did say to me once and more than once in conversation, that anybody who pretended that white men could not labor where negroes did, stated what was not true. He said that where black men could labor white men could; and, said he, "I do not make my slaves work because white men cannot do the work, but I do it because I prefer to have them work for me; but the pretense that white men cannot work where black men can, is all nonsense; they can; but we make black men work because we like to make them do it a great deal better than we do to work ourselves."

Mr. HARLAN. Wise statesmen and candid men, all over the slave States, admit the same thing. It is only from the lips of politicians, I will not say demagogues, for that would be offensive, that we hear of the impossibility of preserving peace and order in a community composed in part of free negroes. They talk of the practical difficulties in the way of emancipation, until they have impressed society with the conviction that free negroes are exceedingly dangerous to civil society. When examined candidly in the light of our own experience and that of other nations, these supposed difficulties vanish; the mountain becomes at once but a molehill. While the Senator from New Hampshire was speaking, some one handed me a note stating that the navy in Brazil is composed of negroes, with the exception of the officers. My colleague and the chairman of the Committee on Naval Affairs tell me that time out of mind our own Navy has been supplied in part with colored seamen. Hence we perceive that they may be used with impunity in our armies and Navy, for the common defense in time of war, and that they may be governed and controlled, as freemen, in times of peace without the slightest danger to civil society.

Then, if there is no practical difficulty, and the hand of God has thrown open their prison doors, and you no longer are embarrassed by constitutional impediments, and it is your interest to do so, why not adopt a policy which may probably result in the liberation of all the slaves in the rebel States? I admit that the passage of this bill and amendments may have that effect; I think it will. I think that will be the practical effect of the policy proposed. The bill provides for the liberation of all those that shall have been employed in the armed service of the United States, with their wives and children; and I do not doubt that it will lay the foundation for the liberation, sooner or later, of the mass of the colored population of the rebel districts, and ultimately of the whole country. This does not alarm me. A careful examination of the whole subject, including a candid analysis of the arguments of objectors, my own observation, and the observations of others of the highest intelligence, illustrated by the history and experience of other nations, convinces me that this policy will not involve us in the slightest danger. I know other Senators have expressed great fear. But I do not think they have examined the subject with sufficient care. The Senator from Kentucky [Mr. DAVIS] has been very earnest in urging the greatest forbearance. It is manifest to all acquainted with his candor that he entertains the most serious apprehensions. He has repeatedly cautioned the Senate against a policy that he evidently fears might cause a repetition of the bloody scenes of St. Domingo. But a careful examination of that case will prove that it is always more dangerous to do wrong than to act justly.

It is hardly necessary for me to inform the Senator that the French Deputies had provided by law for the freedom of all the slaves on the island; but their masters resisted the decree, and attempted by force to continue their bondage contrary to law. Smarting under this flagrant injustice, the slaves undertook the vindication of their own rights under the laws of France; and in their redress of this grievance they did commit some acts of barbarity. They did it, however, in defense of their legal rights. By law they were free. Their masters attempted the folly of continuing their bondage in violation of law, and they suffered a fearful penalty. But, sir, were these negroes singular in this? Did they not in this act very much like white people? You, sir, would have acted substantially as they did; so would the Senator from Kentucky himself. All men love liberty. Slavery is sufficiently galling when sanctioned by the law of the land; but should you attempt to impose on any one chains contrary to law, could you expect him to submit to the outrage? You would not, Mr. President; nor would I; nor would the Senator from Kentucky. Under these circumstances very few would have hesitated to strike for their liberty. Had it been done by white men it would have received the praise of mankind. It was this persistence in a gigantic wrong by the slaveholders, in violation of the law of the land, that drenched St. Domingo in blood.

But admitting that there is no practical difficulty, I am aware that Senators and others frequently suggest that this policy would inaugurate a condition of society which white people would not tolerate. They inquire "what will you do with the blacks even if they should prove to be competent to provide for their own support; will you put them on a platform of equality with the white people; will you make this mass of negroes throughout the whole country equal with your own sons and daughters? Are you in favor of the equality of the races?" When I have heard such suggestions from the stump during the excitement of political campaigns, I have sometimes answered in terms of ridicule; but that does not become this presence, and I shall, therefore, for once, treat the interrogatories with a careful and candid analysis.

Then what is meant by the phrase "equality of negroes with white men?" Do Senators mean physical equality; that the liberation of a negro slave would necessarily make him physically equal to the white man? The inquiry alone in this analytical form renders it ridiculous. I apprehend that his skin would still be black; that his lips would be thick; that his heel would be long; that his foot would be flat; that his skull would be thick; and that he would be less symmetrical and beautiful in form than the white man, and probably less capable of enduring fatigue and toil in a climate adapted equally to the temperament of each. It is probable that the white race is capable of greater endurance than any other race of men on earth. It is not, therefore, I conclude, the apprehension of physical equality that excites this apparent alarm.

Then is it mental equality? Do they intend to inquire if, in our opinion, this would make the negro equally acute in his mental perceptions with the white man; make his memory equally retentive, his powers of comparison and reasoning equally reliable, or his logic equally conclusive, or his will equally persistent with that of the white man? I apprehend that nobody anticipates any such result from the enactment of any law. His physical and mental organization would remain afterwards as before, subject to the ordinary laws of creation and cultivation.

Then is it moral equality to which objection is made? By moral capacity I suppose is meant that power of the human mind or heart that recognizes moral obligations as the concomitant of certain relations in life; that is to say, when I perceive that a certain human being is my father, and another one is my child, there springs up an emotion that we call moral obligation to reverence the one and to provide for the other. When we perceive the relations that exist between members of a family, as husband and wife, brother and sister, the same kind of spontaneous emotion springs up, usually denominated moral obligation. When we contemplate the relation that exists between the citizen and the Government, the subject and the prince, between man and man as members of the human family, or between man as the creature and God as the Creator, we experience certain emotions, which we denominate patriotism, loyalty, humanity, and piety, and which prompt us to perform corresponding acts; they are called moral acts, because they are said to spring from this feeling of moral obligation. Now, is it equality in these respects to which Senators object; do they object to making colored men free, and to allowing them to "know" their own wives and to be able to recognize their own children, lest they may experience moral emotions—feelings of obligation to provide for them and protect them on a platform of equality with white men? I apprehend that it is not the kind of equality that gentlemen refer to, and which they fear may result in the destruction of human society.

Perhaps some one would suggest that it is social equality with negroes that white men loathe: Hence I now pay my respects to the apprehension of evil under this head. What is meant by social equality? I suppose that the social intercourse of men with each other is the result of the mutual discovery on their part of a congeniality resulting from common aspirations, desires, inclinations, and tastes, and which prompt them to seek common means of enjoyment. Now, I inquire, if it is necessary to pass a law to regulate a man's associations, would you expect to be able by the enactment of a law of Congress to make any one the equal or the inferior of the Senator from Kentucky as a social being, or to make any other two gentlemen, without reference to race or color, the equals of each other in a social point of view? Is social intercourse a fit subject of legislation? Do not our associations grow out of and depend on other causes? Are they not the inevitable result of similarity of habits, tastes, dispositions, temperament, and congeniality of spirit? In a free country is it possible to control social intercourse by the enactment of a law? You might have covered the statute-books of Kentucky all over with laws to the contrary, and Hon. Richard M. Johnson would have associated with a negro wench as his wife. They were the social equals of each other. Intellectually he was probably her superior, but socially, they were exact equals. In temperament, disposition, and tastes, each found the other a boon companion. This was not the result of the legal abilities or disabilities of either. He was a free man, and she, I believe, was a slave. This association did not spring from her liberation; this social equality was not the result of abolition. It occurred in a slave State, in the bosom of a slaveholding community. Nor was it an isolated case, as is demonstrated beyond all dispute or cavil by the presence of an immense mulatto population in every slaveholding State.

It may be objected that this illustration pertains more to the family relations than to social intercourse. But I answer, it is all the more conclusive on that account. The family relations furnish the most sacred means of social intercourse; it gives society a permanency which makes its members more directly amenable to the civil authorities. Hence, if even here men follow their tastes regardless of the restraints of law, how would you hope to control by legal enactments the more miscellaneous social intercourse of life. It is literally impossible. It does not depend on legal provisions.

Mr. DAVIS. Will the honorable Senator permit me to ask him a question?

Mr. HARLAN. Certainly.

Mr. DAVIS. I ask the honorable Senator if in a good many of the northern States the free negro is not allowed to vote.

Mr. HARLAN. I will come to that in a moment.

Mr. DAVIS. I ask if in the State of Massachusetts he is not allowed to practice law.

Mr. SUMNER. Certainly, a law to her honor.

Mr. DAVIS. I was addressing my question to the honorable Senator from Iowa. I ask the honorable Senator, too, whether in Massachusetts there was not a law some time ago forbidding intermarriage between the white race and the negro race, and whether that law within the last few years has not been repealed. Is that to your honor, too?

Mr. HARLAN. Was that last question addressed to me?

Mr. DAVIS. No. I addressed that to the Senator from Massachusetts.

Mr. SUMNER. Most certainly, I consider every law that overturns any relic of slavery to the honor of Massachusetts.

Mr. DAVIS. I ask the Senator if he would consider a general matrimonial alliance between the two races in Massachusetts to their honor?

Mr. HARLAN. I must interpose here.

Mr. DAVIS. I beg your pardon.

Mr. HARLAN. I have great respect for the Senator from Kentucky, and have had since I began to notice our public men; although he may have known but little of me, being somewhat his junior, I have known him a long time, and have contemplated his character with great pleasure during his whole political career. I know that the Senator does not trifle with any subject, that he speaks with candor, and that he propounds these questions with the expectation of a candid reply.

[The honorable Senator here gave way temporarily for the consideration of reports from committees of conference; after which he proceeded.]

When I gave way I was stating that social equality was the result of mutual wishes, desires, tastes, and purposes on the part of the individuals seeking social intercourse, and was not a legitimate subject of legislation. I will not pursue this further than to say that the possession of wealth by some, and the destitution of others, rendering them *unequal in ability* to command the means of common enjoyment, must exert a powerful influence on social intercourse. With this modification, the position I have taken appears to me to be impregnable. And this leads me to reply in regular order to the interrogatories of the Senator from Kentucky. First, whether the people of the free States of different colors are inhibited by the State laws from intermarriage. This question might have been propounded with greater propriety by me to him, as I have no doubt he is more familiar with the statutory provisions of the various States; but I will answer that in some of the free States there is no such law. In some of them such laws existed for a time and were then repealed. I remember that in Indiana, the State in which I was brought up, a law existed for a year or so requiring every young man, on application for marriage license, to make satisfactory proof, by oath or otherwise, that his intended bride was not a negress; but the young men rebelled against this requirement. They regarded it as an imputation on their tastes, habits, and associations, and the law was repealed. They did not deem that such a presumption, as applicable to them, was just; that no officer had a right to presume that they could entertain a desire to seek a negress for a wife. I suppose the Senator is now sufficiently answered on that point. If I were disposed to be facetious, I would inquire of him if he deemed it necessary in Kentucky to prevent the intermarriage of white people with negroes, to prohibit it by a penal statute. Such a law would be a standing insult to the white population of his State. There may be a few such intermarriages in any State, either with or without the sanction of law; and without the sanction of law more of them occur in slave communities than in the free States, so that an application of the argument involved in his interrogatory is directly in favor of the liberation of the slave population. Have there been any such marriages consummated in Washington city between the white people and the slaves who were liberated a few months since by a law of Congress? I think none have occurred; and the apprehension is perfectly groundless. Sir, is there no other reason for the separation of the black and white races, in their matrimonial alliances, than the penalties of the criminal law? Has the hand of nature fixed no barrier to such loathsome associations? Will they instinctively spring into each other's arms in the absence of legal restraints? Are the charms of the negro wench so far superior to those of the Caucasian maid as to enable the first to outstrip the latter in a fair competition for the attentions of the sterner sex? And do your young men deem themselves so far inferior in gallantry to the sable sons of Africa as to need the assistance of a criminal code to exclude the latter when paying their devotions at the shrine of female loveliness? Are they not content with the natural

superiority with which nature has clothed them? Sir, in my State we have no such law. None is needed. I suppose no such law exists in the Senator's own State; if so, it is a standing disgrace to the people, for it implies that their tastes lead them to such associations.

The Senator inquired whether political equality was not implied in the suggestions of the proposition before the Senate and the argument that I have attempted to present. To this I reply that there is no such thing as political equality in nature. Political equality never did, and never will, exist between all the members of any civil society, whether of the same or of different races. It does not exist here. It does not exist in any one of the States of this Union. In the first place, about one half of the entire white population of the whole country is disfranchised; can exercise no political privileges whatever; can neither vote nor hold office nor bear arms. I refer to that better portion of society which always commands our highest regards. And perhaps their exclusion from the political arena ought to be considered as the result of our reverence for them, and not in the nature of a disability. Another very large proportion of the white population are disfranchised; all those under twenty-one years of age, even of the males, are entirely excluded from the enjoyment of political privileges. And all those of foreign birth who have lived in the country less than five years are entirely excluded under your naturalization laws. Hence you perceive there is but a small fraction of the entire population of this country who are politically enfranchised, and these enjoy political privileges in various degrees.

I will not pursue this branch of the subject further than to remark that I suppose the principle on which political rights are conferred on members of any civil community is a supposed capacity on their part to hold, enjoy, and exercise these privileges with safety and advantage to society itself. It is supposed to be inconsistent with the safety and perpetuity of civil society that those under twenty-one years of age, as a general rule, should be permitted to hold the reins of Government, or to control the policy of the State; and hence they are excluded. It is on the ground of incapacity—not that all under that age are incompetent, but that a majority probably are; and the rule is made general on account of the difficulty of legislating for each individual. The same may be said of our adopted fellow-citizens. All do not require a residence of five years to qualify them for the performance of the duties of American citizens. Some are as intelligent when they first land on our shores as the average, at least, of the native inhabitants; but, as a general rule, a residence of five years would be necessary to familiarize them with our institutions and laws, so as to enable them to exercise discreetly and safely the rights of citizenship.

The Indians, as a class, are excluded on the same ground; small bands and remnants of tribes alone are included as voters; and these only by special acts of Congress, when their attainments and their improved position in the scale of civilization would seem to justify it. When supposed to be incompetent to exercise these rights safely, they are universally excluded. So it should be in relation to the negro population. The same principles should be applied. My own State, for example, excludes the whole negro population from the enjoyment of the right of suffrage and the right to hold office, not on account of color, but on account of supposed incapacity to exercise those rights safely for themselves or others. All of them are not, but a very large majority are believed to be incompetent to exercise discreetly these high prerogatives; and as we cannot very well legislate in relation to each individual, all are excluded.

I understand that several of the free States of the Northwest, Illinois and Indiana, and perhaps others, have enacted similar laws. They exclude them because, in their judgment, they are incompetent; the principle on which all other classes are excluded which are not permitted to exercise these privileges. Their liberation from slavery would produce no immediate change in their character in this respect, and would not involve the necessity of clothing them with high civil trusts. Nor could this continued disability on their part be justly considered a hardship; as well might the land-lubber complain that he is not permitted to stand at the helm and guide the ship, when the safety of all on board requires that it should be navigated by the most experienced seaman. The welfare of the negroes themselves requires that the ship of State should be guided by experienced hands; they have no more right to complain of this exclusion than any other class which we have mentioned. They may enjoy all the blessings of civil liberty without the right to vote and hold office. Unnaturalized foreigners are as free before as they are after their naturalization. Ladies and minor children are free; they are citizens of the Republic, citizens of the various States, and yet they do not participate in the enjoyment of any of these political privileges. In the exclusion of any and all of these classes from the enjoyment of political rights, the States act on the same principle; they are supposed to be, if they are not in fact, incompetent, and the safety of the community requires that they should be thus excluded until the requisite intelligence shall be secured.

Then, sir, if I have answered the Senator's questions sufficiently, I inquire what has become of the taunt of "negro equality?" What has become of the sneering inquiry, whether those who propose to arm the black men and at the end of their military service to give them freedom, intend to secure their equality with the white race? We have seen that the liberation of negro slaves does not imply that they and the white man will thence become physically equal, mentally equal, morally equal, socially equal, or politically equal; but they shall be equal with the white race in their right to themselves and the enjoyment of the proceeds of their own labor; they shall from that time forward be in a position to fulfill the conditions of the original curse that man should earn his bread by the sweat of his own face; that he shall earn it for himself and those immediately dependent on him, and not be compelled to earn it for another. They will be equal with white men in their right to justice and the protection of the laws; they shall have an equal right to the free use of their own bodies, their own intellects, their own moral affections, and the right to apply the proceeds of their own labor to the promotion of their own welfare and the welfare of their dependent families; and if it shall be found by experience that any of them are incompetent to provide for themselves and their families, they will have a right to demand the appointment of a guardian for their protection. No other equality is implied in the Declaration of Independence, and none other is demanded by the friends of emancipation.

Examined, then, from any point of view which suggests itself to my mind, I am able to perceive no objection to the result which is contemplated with so much apparent alarm by Senators from States tolerating slavery. All declamation and argument designed to demonstrate the danger of a free negro population to the peace and quiet of a white community is triumphantly refuted by the rapid increase of the beautiful commercial metropolis of Maryland in population and wealth, although its streets swarm with free negroes. Sir, the condition of thirty-six thousand free negroes of Baltimore is a standing daily refutation of their alleged inability to provide for themselves, and to become peaceable members of civilized society.

This brings me to consider, in conclusion, the censure of the Senate by the Senator from Pennsylvania. He inquired, why do you not listen on these exciting subjects to the representatives from the border States; why do you not follow their advice, and thus steer clear of the quicksands and breakers that seem to interrupt the progress of the ship of State? This implies that we do not meet here on terms of perfect equality as members of a deliberative body, in which each one can demand only a respectful hearing, and then an honest judgment of his peers based on the merits of the case. It implies a kind of superiority on the part of the Senators from slave States to require a blind acquiescence in their views without considering their facts and weighing their reasons.

Now, sir, I protest against any such implication. A Senator who occupies a seat on this floor from a slave State has no right to demand a concurrence in his views; he has no right to dictate the policy of the nation. All he has a right to require of this Senate is a respectful, candid hearing, and then a candid, honest judgment. The Senate was not organized to record edicts; it is supposed to be a deliberative body of peers. Senators are expected to listen patiently, and to carefully weigh all that can be said on all sides of every great national question, and then to express, in the form of laws, their solemn judgment. It is as much the duty of the Senator from Kentucky to follow my advice as it is my duty to follow his. It may be thought, however, that those who are surrounded by slavery ought to be better judges of the effects of legislation affecting the relation of master and slave, and of the legislation calculated to advance the welfare of such communities. This should be admitted to be true in a qualified sense; in discussing every local question they have a right to extraordinary indulgence, just as every other Senator has when questions are pending of deep local interest to their immediate constituents. But, on the other hand, their statements, which are in the nature of evidence, must be received with many grains of allowance. Their testimony is not disinterested. They have a direct, certain interest in the subject of controversy. They are therefore to be heard as a witness who testifies for himself. Under the ordinary rules of judicial tribunals, they would not be permitted to testify in such a case; they would be excluded from the jury-box, and would not be permitted to adjudicate the cause. If, however, you admit their competence as witnesses, as jurors, and judges, by what extraordinary rules of judicature do you claim that they shall be the only witnesses who shall be examined, the only jurors who shall be sworn, and the exclusive judges in their own case? This appears to me to be the very climax of presumption.

Sir, these Senators, instead of coming into this deliberative body with superior claims to consideration on the subject of slavery, come under that class of disabilities which should require us to weigh with extraordinary care their arguments and their statements of facts; for when tried by our experience and observation of their previous counsel, we are not encouraged to rely on it implicitly in the future. We have evidence that they are not infallible advisers, but are men of like passions and like weaknesses with ourselves. A majority of the Senators from what are called the border States have steadily opposed every measure adopted for the prosecution of this war for the suppression of the rebellion. Had their advice been followed, the rebellion would have culminated long since in the inauguration of some one of the chief rebels as the President of the Republic, and we would have come to the end of our experiment of self-government. They have not given the slightest consideration to that overwhelming conviction of the public mind in the free States, that slavery is in a certain sense the cause of the war so needlessly commenced and waged against our nationality. They have steadily and persistently opposed every measure calculated in the most remote degree to affect its perpetuity, or to bring it under the restraints of law. The only fair interpretation of which their votes and speeches are susceptible, with two or three honorable exceptions, is that slavery is the paramount institution in this country, for the protection of which the Constitution was adopted, and without which the Constitution and Government are worthless.

Sir, this is as we should expect, when we reflect that nearly every Senator and Representative from the so-called border States are slaveholders themselves, and represent communities ruled and governed by slaveholders almost exclusively. The first incident calling my attention to this fact was the election of the one hundred members of the recent constitutional convention in the State of Kentucky. These delegates represented, nominally, a community composed of many hundreds of thousands of non-slaveholding whites, and a few thousand slaveholders only, and yet every delegate was a slaveholder. The non-slaveholding interests were without a representative. From my subsequent observation I am convinced that this is but an illustration of the general rule in slaveholding communities. Slaveholders hold nearly all the offices of honor and trust; they control society, and the local legislation of the respective States, as absolutely as if non-slaveholders had no existence. They are completely ignored

in every discussion. And until a very recent period the same imperious policy controlled Congress. And even now Senators from slaveholding States imperiously demand that their suggestions shall be blindly adopted; and when, at the close of a discussion, they find themselves occasionally in the minority—that they have been treated only as peers, and not as superiors, some of them manifest a stolid indifference to the fate of the nation by absenting themselves from the Chamber for weeks in succession, and others denounce the majority and predict the most dire consequences as the fruits of our stupidity. Nothing has been more persistently asserted than the consolidation of the population of all the slave States in opposition to the Government of the United States if their suggestions were not implicitly followed. And yet we have in no community realized any such result. The passage of every law on this subject, enacted during the present Congress, has in my opinion made us stronger in every border State.

The non-slaveholders of the border States cannot have failed to perceive what is patent to the world, that whatever remains of secession within their limits is fostered and cherished by slaveholders. This has been true since the commencement of the rebellion. Your policy and your arms have met with a stronger resistance from those in authority, chiefly slaveholders, than from any other class of these communities. The Governors of all those States refused or declined to comply with the President's requisition for troops to defend the Union. The Governor of Kentucky, and a large number of those at the head of public affairs, are believed to be still untrustworthy. This was true in Maryland. Although the Governor stood firm in his loyalty, your authorities were compelled to arrest, I believe, a majority of the members of her Legislature, to prevent that State from formally seceding from the Union, while I have no doubt nine tenths of her people are loyal to the heart; but the ruling members of society were disloyal slaveholders. And this I believe to be true in every border State. Those from whom you have most to fear are those who have been enjoying the patronage of the State and national Governments for ages. The most obtuse cannot fail to perceive that slaveholders originated this rebellion, and are now sustaining and controlling it. How foolish, then, for this Government to ignore another class of white people in the slave States. It is my solemn conviction that their interests require the termination of slavery. It is my duty, therefore, as a Senator of the United States, in legislating for the nation, to consider their welfare as much as the welfare of their more wealthy slaveholding neighbors.

If the measures adopted by this Congress and the one now pending should diminish the power of the few who have hitherto led society, the policy will increase the power of the masses; and I have not so poor an opinion of those who do not own slave property in the slave States, as to believe them incompetent to comprehend their own true interest. When you adopt a policy here for the welfare of the whole nation, and especially for the welfare of the laboring classes, they will be no more slow to perceive their true interest than the population in your State or mine. In my opinion, therefore, the adoption of these measures will give the Union increased strength in the border States.

It has been suggested, however, I believe, by the Senator from Pennsylvania, during this discussion, that the enlistment of negroes for companions in the ranks, would discourage the enlistment of white men. The amendments now pending, do not contemplate such an association. The colored men and white men will be organized into separate companies and regiments.

I do not, then, Mr. President, anticipate any bad consequences which can legitimately flow from the passage of this bill or the amendments proposed by my colleague. I think the legitimate effect will be to weaken slavery. I have no doubt on this subject. I do not vote for this measure on that account; but I will not vote against the bill on that account. I will follow the policy which has been suggested, not only by my political friends in Iowa, but by my political opponents. The Democrats of my State urge the prosecution of this war for the supremacy of the laws, regardless of the consequences to slavery. They look on that institution as in some way lying at the very foundation of the rebellion, and they do not desire me to treat it with gloved hands, but to adopt whatever policy, so far as my humble influence will extend, may be calculated to crush out the rebellion and to secure the perpetuity of the Union, and if slavery should be swept by the board they will not be among the mourners at its funeral.

I would not, if I know the convictions of my own heart, do an act that comes in conflict with the provisions of the Constitution of the United States. I do not perceive how, by any fair construction, under any known rule of interpretation, the passage of this bill can conflict with that instrument. The Senator from Illinois, [MR. BROWNING,] for whose judicial opinions I have a very profound respect, expressed the opinion, as I understood him, that the emancipation of the black recruit as a reward for faithful service in the armies of the country, would conflict with the constitutional rights of his master; that black men might be employed in the military service, but that provision should be made for their restoration to their masters at the end of the war.

Mr. BROWNING. Will the Senator permit me to correct him?

Mr. HARLAN. Certainly.

Mr. BROWNING. I have not expressed any such opinion. What I said was, that in freeing the slave of a rebel master, whom we received into our service, that clothed us with no power to manumit his mother, wife and children, if they were the property of a loyal man. That is what I said. I said nothing about an inability to confer freedom upon the slaves of rebels whose services we accepted.

Mr. HARLAN. I did not, I think, misapprehend the Senator, but must have been very unfortunate in my statement of my comprehension of his position. I do not, however, agree with the Senator in the proposition which he has just stated, that we are bound to inquire whether the black recruit has a *loyal* or a *disloyal* master. If he is a sound, healthy man, capable of performing military duty, the Government is under no obligations to inquire whether he has or has not a master, or whether the master is loyal or a rebel. Whenever it becomes necessary for the defense of the Government, you have a right to coerce the service of every able-bodied inhabitant, without reference to his color or position in society. As I have asked on this floor before, what better is a negro than a white boy? Your son or mine may be taken as a volunteer or as a conscript before he is twenty-one years of age, and while he owes his parent the whole of his service. The Government does not inquire whether the father is loyal or disloyal; the only question propounded is, is the boy capable of performing the service the Government needs? If they find him physically and mentally competent, they enroll him and place him in the ranks; as I apprehend we have a right to do in relation to black men, without inquiring whether they are slaves or freemen, whether their masters are loyal or disloyal; and if we ascertain that any of them are slaves, and if in our opinion they would become, on account of such a provision, more valuable as soldiers or as laborers, we may offer them their freedom, and provide also for the freedom of their families. I will not enter into an examination of the question whether the loyal owner may not demand and receive just compensation for the services of such slaves from the Government. An investigation of that question is not pertinent to the issue joined. We propose to enlist these colored men, and put them in the trenches to dig ditches and to erect fortifications, and when found necessary, and when the parties are found competent, to arm them in the defense of the country.

They are, then, if we act wisely, to be taken wherever they can be found, wherever their services are needed, without any inquiry as to the loyalty or disloyalty of those who claim to be their owners. No slave-owner can have a stronger or higher claim to the services of his negro slave than I have to the services of my minor son. You disregard my claim; you enlist him in the service without consulting me, and without inquiry into my loyalty or disloyalty. The relation of master and slave is surely no more sacred than that of parent and child. If you may coerce the service of the child, why not of the slave? But if you have the constitutional right to do so, has it not become a solemn duty, so as to relieve our white troops, now so much prostrated by the hard labor and fatigue of camp life, in a climate to which they have not been accustomed? These troops are among our very best and most patriotic citizens. They are intelligent men. They know perfectly that the decimation of their ranks by hard labor and toil in the ditches was unnecessary. They know that they have endured all this useless toil on account of the blind infatuation of their commanding generals, in excluding from their lines healthy men, acclimated, capable of performing all this drudgery and toil, without serious danger to themselves. It appears to them and to me as if these generals had a higher regard for the welfare of negroes and their rebel masters than for their own troops and their loyal families at home. This bill and pending amendments are proposed to secure a change of policy on this subject. I would be an unfaithful representative of the brave volunteers serving in our armies if I failed to give it my earnest support. They need the assistance of these contrabands to preserve their own health and to save their lives, now imperiled to secure the supremacy of the laws. And they demand that we shall preserve the Union, and let slavery take care of itself, if it can. If it should perish during the struggle for nationality, in the opinion of a large majority of them it will be a blessing to the country, and tend to promote the welfare of the human race.

ORIGIN OF THE REBELLION.

SPEECH OF HON. F. W. KELLOGG,

OF MICHIGAN,

IN THE HOUSE OF REPRESENTATIVES,

July 12, 1862.

The House being in the Committee of the Whole on the state of the Union—

Mr. KELLOGG, of Michigan, said:

Mr. CHAIRMAN: The rebellion against the Government, which commenced in South Carolina in 1860, has at length become so formidable as to cause the most profound anxiety—and I might say alarm—throughout the loyal States. Never before has the world witnessed a civil war in which such numbers were engaged, and principles of such importance were involved, and where the very existence of a great and powerful nation depended upon the result of the contest. A million men are in arms to decide whether this Government, under which we have grown so rich and powerful, shall be destroyed, or whether it shall be preserved, and transmitted to our posterity with all its historic glories and associations, and with all its power to benefit and to bless them complete and unimpaired. In this decision the nations of the Old World feel a deep interest, and the condition of our country and its probable destiny are the great questions of the day with the statesmen, the philosophers, and the leading minds of Europe. Those who love liberal institutions and believe in human progress, sympathize with us and look upon our cause as their own; but the ruling classes, in France and England especially, are alarmed at the rapid growth of the Republic, and ardently desire a dissolution of the Union as the only way in which its power can be forever destroyed, and a stop put to the progress of liberal ideas and to a desire for democratic institutions. They have given aid and comfort to our enemies in many ways, and continue to do so, and there is manifestly a strong desire to interfere in the settlement of our difficulties, to compel us to submit to their dictation, and to humble us in the eyes of the whole world. The English press and Parliament improve every opportunity for denouncing us and encouraging the rebels, while Napoleon inspires them with new hopes and stimulates them to fresh exertions, by his evident determination to obtain a foothold on this continent, contrary to the wishes and traditions of our Government, which, but for this rebellion, would never permit him to march his armies to Mexico.

Other causes combine with this hatred of our

institutions to create a feeling in the Old World in favor of such an intervention in our affairs as shall lead to a termination of the war. The derangements of trade and commerce and the depression of business are calamities as vast in their proportions as the war which caused them, and affect those countries as severely as our own. The commercial cities and the great centers of manufacturing industry in Europe are suffering severely, and starving thousands pray for peace and the plenty and prosperity which follow in her train. They believe the war to be the cause of all the evils under which they are suffering; but instead of condemning the guilty authors of this unnatural rebellion, they sympathize with them as the injured party, and denounce this Government because it will not commit suicide or suffer a band of rebels and traitors to put an end to its existence, and parcel out its territory among themselves. The press is, to a great extent, the parent of this feeling, and nearly every paper published in England or France has done what it could to foster and increase it. The London Times, the leading paper in Europe, has distinguished itself by a hatred of the United States Government that would satisfy the devil himself, and all other powers and principalities who hate democratic institutions and labor to destroy them. It declares that the demand of the rebel States for independence was "too natural to be resisted at the sword's point by a Government founded on insurrection only," and this insulting comment on the origin of our Government is a part of the reasoning by which they attempt to justify the people and Government of England in giving them their sympathy and aid. It affirms that Europe has suffered enough already from this war, that the confederate States can never be conquered, and expresses a hope that France will interfere and put an end to this unnatural contest. These articles are producing the effect intended, and should hostilities continue a few months longer with no decided success on our part, we shall be compelled to make peace with the rebel States on their own terms, or engage in a war with France and England.

Sir, it is idle to deny this, and if we are wise we shall prepare for the worst, and by a more vigorous prosecution of the war crush out the rebel armies ere any European Power shall be ready to assist them. The people are willing to make any sacrifice to save their country, and never will consent to a peace upon any terms but the unconditional submission of all who are in rebellion against the Government. It is the fixed purpose of almost the entire population of the loyal States to preserve the Union and the Constitution and enforce obedience to national authority and law at any cost of blood and treasure. Of this I have no doubt whatever. The numerous letters which I receive from my constituents are of the most patriotic character, and breathe but one feeling in reference to the war. All are anxious for its termination, as all good men should be, but it must be terminated in no other way than by the suppression of the rebellion and by depriving its guilty authors of all power to disturb the peace of the country again forever. Mercy, though undeserved, may be shown to all so far as may consist with public safety, and I doubt not will be, but we must provide against the possibility of another civil war. However much good men may differ as to "indemnity for the past," all unite in demanding "security for the future."

Mr. Chairman, I believe these are not the opinions of Republicans only, but of the people generally, and I am glad to witness a disposition among loyal men everywhere to act together at the coming elections, and disappoint those enemies of the Republic at home and abroad who hope, through the influence and machinery of party, to divide and destroy us. Actuated by such noble motives and patriotic feelings the people of Oregon united in the support of good men at the late election, and have notified us that they will not be represented in the next Congress by men of doubtful loyalty. Let us follow their example everywhere, and elect no man to any office in the State or nation who has the slightest sympathy with the rebellion, and is not in favor of a vigorous prosecution and speedy termination of the war. This is the way of safety and success, and there is no other. A prominent Democrat writes me that he is advising his political friends to unite in supporting the Administration as the only way by which we can be saved from national disgrace and ruin. Said he:

"I do not like all the planks in your platform, and I am afraid some of your legislation will not work as well as you anticipate; but we must sustain the President, for in no other way can we prevent foreign intervention and bring this terrible war to a successful close. This is not a time, in my opinion, for division and party strife, when foreign fleets are hovering on our coast, and two powerful nations are watching for an opportunity to secure the dissolution of the Union and the independence of the rebel States."

Sir, I cannot doubt that hundreds of thousands of Democrats agree with my friend, and, governed by the same motives, will give a cordial support to the Administration. Would to God that all would do so, and that this patriotic feeling might pervade society, and save us, as it surely would, from all the perils that surround us. But there are men who would rather "rule in hell than serve in heaven," and some such are seeking to divide us now by a revival of party feeling and party strife, careless as to the evils they may inflict upon their country, if they can only secure place and power to themselves. So was it in the Revolution, when our fathers were struggling against such fearful odds for national existence and independence. There were tories and traitors then who denounced the Continental Congress, and advocated a compromise with George III, and who attributed the war, with all its calamities, to those fanatical abolitionists, Adams, Hancock, and Washington, who wished to abolish the power of Great Britain on this continent, and secure the blessings of a free and independent Government to themselves and to their posterity.

In 1814 a powerful party denounced the war in which we were engaged as wicked and unnecessary, as originating in a hatred of England, and without any good and sufficient cause. A few of their leaders assembled in secret conclave, and after due deliberation published an address to the people, in which they denounced the administration of President Madison, declared its course in the conduct of the war unconstitutional, and expressed their fears for the safety of the Union and the liberties of the people unless the Federal party were placed in power. The address recently published in this city, over the signatures of fourteen gentlemen, is of a similar character with the famous, or rather infamous, address of the Hartford convention. Like that, it aims to destroy the confidence of the people in the Administration, and deprive it of their support in time of war when the nation is in danger. It will encourage the rebels to hope for a change of men and measures that will be favorable to them, and thus nerve them for the fight a few months longer, till France and England come to their aid and we have the world in arms against us. They commence with declaring that "the present Administration was chosen by a party, and in all civil acts and appointments has recognized, and still does, its fealty and obligations to that party."

Mr. Chairman, the President was elected by a party, and the chief officers under the Government are necessarily filled by his friends, who understand his policy and will aid him to carry it out. But less attention has been paid to party in the new appointments than under any administration since that of John Quincy Adams. If numerous removals were made it was because it was necessary to the safety of the Government. If we except the few friends of Judge Douglas, almost the entire body of office-holders, at the close of the administration of James Buchanan, were tainted with treason and could not be trusted, yet what numbers of them still remain in the employ of the Government. In this city there are hundreds of Democratic clerks in the different Departments, some of whom have wives and daughters who denounce the Government daily, and rejoice openly at every success of the rebel arms. One half of the office-holders in the United States to-day held office under James Buchanan; and I believe a majority of them will use their influence for the overthrow of this Administration; yet no man has been removed for many months, unless his loyalty was questioned.

I affirm that President Lincoln has done more, far more, for his political opponents than was ever done by any of his predecessors. If we look at the military appointments, we find almost two thirds of them are Democrats, some worthily bestowed, some not; but for the misdeeds of all the President is held responsible. He has lavished patronage and power on a party whose leaders praise and blame him alternately, and who will requite his generosity by the ruin of his administration if they are able to effect it, which I pray God they never may be. But the Democratic party is well represented in the Cabinet also, and in every department of the Government.

Gideon Welles, the able Secretary of the Navy, was the high priest of the party in New England for a quarter of a century; his conduct has justified the choice of the President. In little more than twelve months he has inaugurated a new system of naval warfare, dispelled the dream of England's supremacy on the seas, created a Navy that has filled the rebels with terror wherever it can float, and to-day its guns protect the army of the Potomac.

Montgomery Blair, whose administration of the Post Office Department marks an era in its history, by making it more prolific of good to the people than ever before, was a leading Democrat, and alike with his distinguished father, enjoyed the confidence of General Jackson and of the entire party.

Hon. S. P. Chase, the head of the Treasury Department, where he is worth more than a thousand cannon in the field, and who has inspired national hope by saving national credit, was for years an acknowledged leader in the Democratic party, and "the noblest Roman of them all."

Edwin M. Stanton, the great Secretary of War, was called into the Cabinet of James Buchanan in the last days of his Administration, and, faithful to the Constitution, held a legion of traitors at bay, and saved the Republic from shipwreck and ruin. His conduct at that critical period, and his great abilities and ardent patriotism, led to his selection by President Lincoln for the important position he fills so well; and from that moment he has been denounced in the most unsparing terms by party leaders, because he will not lend his aid to their unholy purposes. But the people appreciate his tireless efforts to serve them and to serve his country, and higher honors may be in store for him, to the confusion of his enemies and the joy and delight of all good men.

Sir, these distinguished members of the Democratic party were the leaders of its hosts when some of those who denounced them were learning their alphabet, and they have not changed their principles. As well could a leopard change his spots. They were Democrats then, and they are Democrats now; and a miserable fraction of the party, who have sold themselves to the support of slavery, will never be able to deprive them of the confidence of the American people. If there ever was an Administration that ignored party and appointed men without reference to their political principles, it is the present one. The address declares further, that the object of the proposed party organization is "to maintain the Constitution as it is, and to restore the Union as it was." Sir, I am glad these gentlemen have seen the error of their ways and propose to aid us in maintaining the Constitution as it is; for it is not long since they were exceedingly anxious to make radical changes in this charter of our rights and liberties, and fountain of our prosperity and power. The Crittenden resolutions, so called, the adoption of which they advocated and urged, were nothing less than *amendments to the Constitution which would have changed its whole character forever*—amendments which, had they been proposed in the convention that framed the Constitution, would not, in my opinion, have received a single vote; and which, had we adopted them, would have cursed our country more than Egypt was cursed by the judgments of Jehovah when they refused to let Israel go.

But these gentlemen, if I understood them, were not only in favor of these amendments but of any others necessary to satisfy the slaveholding interest, no matter what they were; for their motto seemed to be, anything rather than a loss of power. Sir, I am glad that they have given up this idea of amending the greatest political paper that ever emanated from the human mind; and I hope they will agree with us hereafter in maintaining the

Constitution as it is, and compelling obedience, if necessary, to its provisions. They assure us, also, that they wish "to restore the Union as it was;" and no one need except to such a declaration. If they are in earnest, let them give a hearty support to the Administration, and their wishes will soon be gratified. They inform us, further, that "they do not propose to consider the causes now which led to this unhappy civil war;" which I regret exceedingly. I am sorry they did not conclude to come to the confessional for the good of their souls, and, while acknowledging their guilt in this matter, promise to go and sin no more.

Mr. Chairman, the people know what caused this war, and none of these diatribes about abolition and negro equality and other trash of a like character will deceive them for a moment. When the Democratic party proved false to its great cardinal principles, and agreed to wield the whole power of this Government to extend and perpetuate the worst possible form of despotism—human slavery—civil war became inevitable. It is the legitimate offspring of this unnatural union of slavery with the Democratic party, and while such a union lasts, permanent peace in the country is impossible. Again, we read in this address that "compromise made the Union, and compromise would have saved it fifteen months ago."

Sir, I wish I could infer from this paragraph that these fourteen gentlemen believe it must be saved by some other means than by a compromise now, for I am sick and weary of this mode of dealing with difficulties. The compromises we have made with slavery have alike increased its powers and its demands till it can only be satisfied with the entire control of the Government.

The great and good men to whom we are indebted for a name among the nations of the earth believed that slavery would gradually die out under the beneficent influence of the principles which they had planted in the Constitution. But they were mistaken; and better, far better, would it have been for them and their posterity had they grappled with this great question, and settled it then and forever. Had the Constitution provided for the extinction of slavery at some period in the future, they might not have secured its adoption at once, but they *would* have succeeded, for to such men nothing was impossible. What heart-burnings and strife—what loss of blood and treasure—what mournings, lamentations, and woe should we have been saved from, and how our beloved country, under the influence of such a provision, would have bounded forward in a career of prosperity and power. But they left the work undone, and bequeathed the Herculean task to their posterity, and after compromising with this curse of our country for half a century, we find ourselves involved in a civil war. The slave States have been the aggressors, and are resolved to rule the Republic or destroy it, and the only alternative now is to enforce obedience to the laws and the requirements of the Constitution, or submit to a dissolution of the Union.

Another paragraph in this address claims our attention. The fourteen gentlemen who signed it inform us that the Democratic party has controlled the power and policy of the Government, with short intervals, for sixty years, and then, with a marvelous complacency and confidence in their ability to mislead the people, they inquire if the fruits of their policy do not recommend it to the nation, and prove that their party organization ought not to be abandoned. Mr. Chairman, the democratic element preponderates in our institutions, and a Democratic party, by that name or some other, will always control the power and policy of the Government. A majority of the people for many years were members of the old Democratic party; but when its leaders consented to make the support of slavery the chief plank in their platform, the dissensions and divisions which were the result of this determination reduced their numbers rapidly, and led to their defeat at the national elections in 1860. During the administration of James Buchanan this attempt to enthrone slavery in the nation culminated in a conspiracy to compel the adoption of such amendments to the Constitution as the South demanded, and to obtain the control of the national Government, or failing in this, to dissolve and destroy the Union.

I do not believe that any considerable number of persons South or North desired to destroy the Union, but expected the North would submit to whatever the South demanded, if a civil war was the only alternative. In this great effort to compel the adoption of amendments to the Constitution which were shocking to the moral sense of the people, James Buchanan, the leader of the Democratic party, and the President of the United States, acted a part which will make his name forever infamous. He is the greatest criminal of modern times, and no pirate ever died upon a gallows so deserving of such a doom as this bold, bad man, who let loose the demons of discord and civil war to ravage a country which had honored him with its confidence, and given him the proudest position in the world. His friends attempt to excuse his conduct, and say that he was old and feeble and irresolute, and unable to resist the traitors around him who were using the Government for its own destruction.

But there is no truth in this whatever. The life of James Buchanan has been consistent throughout, and his subserviency to the South for half a century had prepared him for the commission of any crime whatever for the advancement of the interests of slavery. At the time of his nomination his zeal and ability to serve his party were unquestioned, and with the politicians of the South he was an especial favorite. They knew the author of the Ostend manifesto, and his elevation to the Presidency was necessary to the success of their unholy purposes. The history of his Administration proves that they were not mistaken in their man, and justified the confidence which they reposed in him. When Congress assembled in December, 1860, and the southern wing of the Democracy declared their determination to dissolve the Union, what treatment did these traitors receive at the hands of James Buchanan? He was the President of the United States, a first-class Power, with a population of thirty millions, and territory enough for half a dozen empires. The tonnage of her mercantile marine equaled that of Great Britain; the ships of her merchant princes were in every sea, and in all the elements of wealth and power she had no equal among the nations of the earth. Did he use the powers with which the people had clothed him to crush this rebellion in the bud, and save the nation from a civil war? No, sir; no! The course which he pursued filled the world with amazement, and proved his complicity with the traitors in their treason.

South Carolina, famous for tories and traitors in the Revolution, and with a smaller population, including her slaves, than the city of New York, had determined to secede from the Union and set up for herself as an independent power, if no other States should join her fortunes. As the work of preparation went on the people almost doubted whether it was real, and Europe watched the progress of events with astonishment, and the most intense anxiety. At length the message of the President was published, and its effect at home and abroad was very great. The London Times said:

> "Never for many years can the United States be to the world what they have been. Mr. Buchanan's message has been a greater blow to the American people than all the rants of the Georgian Governor or the ordinances of the Charleston convention."

The President, after denying the right of a State to secede, declared that he could not "coerce" a State to remain in the Union, and Congress was as powerless as the Executive. Said he:

> "Congress has many means of preserving the Union by conciliation, but the sword was not placed in their hands to preserve it by force."

The purport of the whole was that South Carolina, if she chose, could set the nation at defiance and the business of thirty millions of people could go on, or stop, according to her pleasure, and we were helpless in the matter. This nation, that would not hesitate to declare war against any Power in Europe, if she had sufficient cause, must ask permission of this petty State to be, and beg her to remain in the Union, "conciliating" her by all means, if we had to allow her to remodel our form of government, and amend the Constitution to suit her wishes, and accept it as our own. Nor would even such a settlement be final, for fresh demands might be made in a few years, and again "conciliation" would be necessary. Sir, the humblest slave on a southern plantation was not more completely in the power of his master than was this nation in that of South Carolina, according to the message of this Democratic President. Our business as a people and our credit and character as a nation were entirely at her mercy. Do what she would we could not coerce her. Our only remedy was "conciliation!"

Mr. Chairman, this disgrace of our nation in the eyes of all Europe and this humiliation at home were the "fruits" of the policy of this so-called Democratic organization which these fourteen gentlemen ask us to revive again. Will the people be likely to gratify them?

But we have more samples of these "fruits" to which the fourteen gentlemen aforesaid ask our attention. When James Buchanan was inaugurated our country was in a state of great prosperity—commerce and manufactures were flourishing, the prices of our staple articles of produce were high, and money was abundant. He first disturbed the peace of the country by his attempt to force slavery into Kansas. In this he was foiled, but he had roused the passions of the people—spilled the blood of her citizens in the needless contest which he forced upon them, and prepared the way for a civil war. The course he pursued aggravated the ill-will and discontent which prevailed between different sections of the country, and finally ended in open rebellion in the southern States. With the more than imperial power which he possessed he might have suppressed the rebellion in a month, and saved us from all the horrors of a civil war. But this was not a part of the policy of the party then. For two years the chief members of his Cabinet had been making preparations, under his direct supervision, to strengthen the South and weaken the North for the conflict which they had resolved on. Up to the last day of his administration he gave all the aid in his power to those whom he knew were preparing to take up arms against the Government, and his aid and assistance helped to make this rebellion more formidable than was ever known in any other country in ancient or modern times.

But the President was not alone in this matter. In his raid upon Kansas some of his party friends forsook him, but in the doctrines of his infamous message and his do-nothing policy his party sustained him almost to a man; and what was the result of it? The civil war in which we are engaged, and from the effects of which we cannot recover in a century. In vain shall we attempt to describe the wide-spread ruin it will cause throughout the country. The human mind cannot conceive the extent and magnitude of the evils which must flow from it for many years to come. Five years ago we were prosperous, powerful, and happy, but what is our condition now? Tens of thousands of our business men are bankrupt; the hum of peaceful industry is stilled; the land is bristling with bayonets and trembling with the tread of armed legions, and a whole people are engaged in preparation for war.

Sir, this war, ere it is ended, will fill the land with widows and orphans, cost us half a million of lives, and fasten a debt of fifteen hundred millions upon us, which must be paid by the industry and labor of the nation. What more of horror and misery the future may have in store for us I do not know; but for all the calamities which have already befallen us, and all the evils to come which are the progeny of this unnatural rebellion, the administration of James Buchanan and the party who sustained it are responsible to God and man.

Sir, these are the "fruits" of the policy of a pro-slavery party which these fourteen gentlemen would again place in power for the well-being of the people! They would revive the same organization and adopt the same policy which has already wrought such ruin in the land, and brought upon us so much sorrow and shame. They may plead the purity of their motives, and declare their devotion to their country, and patriotic desire to promote our best interests by so doing, but it will not avail them now. Their party is one whose whole political faith is comprised in a persistent love of slavery and hatred of abolition, and that love and hatred they would carry into practice in the administration of our national affairs. With such a party and such a policy peace hereafter

would be impossible. They may baptize it the Democratic party, but it has no more right to that name, ever dear to the hearts of thousands, and round which cluster such glorious memories and hallowed recollections, than have the despotic Governments of France and Austria. A platform and party more anti-democratic cannot well be imagined, and the people, the intelligent, liberty-loving people of the Union, will not lend themselves to its support. They have had enough of the "fruits" of the policy of such a party to last them for a lifetime, and the fourteen gentlemen will appeal to them in vain.

Mr. Chairman, I have said more than I intended about this address, but must notice another paragraph ere I leave it. The address says "the bitter waters of secession flow from the unclean fountains of abolitionism." "That fountain must be dried up." Sir, I suppose they mean that all those who talk about slavery should be told to "dry up." But, seriously, if anything ought to be done, and must be done, to promote the welfare of the people, there must be a way to do it; but I confess I do not see how these gentlemen will dry up the fountain of abolitionism while slavery exists in the land. When a French monarch told a venerable clergyman, who implored him not to persecute the Protestant churches of the realm, that he would destroy them all unless they gave up the preaching of their pestilent heresies, the old servant of God replied: "Sire, the Church is an anvil that has worn out a great many hammers." Mr. Chairman, LIBERTY is an anvil also that has worn out a great many hammers; and should the fourteen gentlemen make an assault upon our liberties in the form proposed, they may find it a wearing operation to themselves ere they are done with it.

This talk about stopping all discussion of the question of slavery is sheer nonsense. They might as well talk of drying up the Mississippi, or of "conciliating" South Carolina, and bringing her back into the Union without "coercion." The people of this country will say what they please about slavery or any other question that interests them, the fourteen gentlemen to the contrary notwithstanding; and if any institution in this country cannot stand this discussion of its merits or demerits, it must go down, for it cannot exist here. The right to speak or to print our own thoughts on all subjects has been purchased too dearly to ever be surrendered. It is necessary to human progress and human happiness, and without it a Government of the people cannot exist. Sir, it is but a few years since the Democratic party denounced slavery as a great political evil, and opposed its further extension on this continent, and had they continued to do so, we should have witnessed its gradual extinction and escaped a civil war.

But the politicians of the South obtained the control of the party and succeeded in changing its policy to suit themselves, by which it lost the support of northern freemen who objected to this transfer, and adhered to the faith and principles of the fathers of democracy. The gentlemen who propose to revive the party organization now, seem unable to learn wisdom from the past, and stubbornly adhere to the same policy which has already proved so fatal. Their address, as I understand it, is but a revised edition of the message of President Buchanan denouncing the North as the cause of the war, in spite of the evidence of facts to the contrary, and declaring their determination to sustain slavery, even to the putting down of all who are opposed to it, as if it were a national institution and more sacred than the Constitution itself. Sir, I venture to predict that no party with such a platform will ever again control the Government of the United States. The whole history of that policy proves that it ought to be abandoned, and it will be, and this attempt to revive it will utterly fail.

Mr. Chairman, the doctrine of secession, or the right of a State to secede from the Union, under any conceivable circumstances, is a political heresy which cannot be tolerated, and we ought not to speak of it as a possibility. We have heard men, in their madness, propose a dissolution of the Union unless slavery was abolished; but no considerable number advocated such an idea, and the people gave no heed to it whatever. Sir, I am in favor of a perpetual union of these States under any and all circumstances, with slavery or without slavery, content to wait till, under the influence of a free press, correct principles shall prevail. Slavery is a temporary evil, and must disappear before the onward march of civilization, no matter who may offer it protection. It may last half a century yet—though I hope not; but what is that, even, in the lifetime of a nation? Under this Government I was born, and under it I expect to die, and whether slavery is abolished or not, my last prayer will be for the perpetual union of these United States. There is nothing in the origin of the doctrine of secession that should commend it to our attention. What individuals may have advocated it in the early days of the Republic, I shall not now inquire; but the Hartford convention of 1814 first proclaimed it as a remedy for alleged grievances. In their address to the people denouncing the war and the administration of President Madison, they say:

"Events may prove that the causes of our calamities are deep and permanent."

And after a few more speculations, they add that—

"Whenever it shall appear that these causes are radical and permanent, a separation by equitable arrangement will be preferable to an alliance by constraint."

This reasoning would have been perfectly satisfactory to Jeff Davis himself; and the idea of a peaceable separation by equitable arrangement was adopted by him and his followers, and advocated as the proper policy for both parties. But the whole is at war with reason and common sense. We might as well talk of tearing a man limb from limb and call it a peaceable separation of his body as to talk of a peaceable separation of these States. It is simply impossible, and a civil war for years to come is but a slight calamity compared with that of a dissolution of the Union. The doctrines of the address from which I quoted cannot find an advocate in New England now; and if, half a century ago, some of her citizens failed in their duty to the Government, she has nobly atoned for it in this second war for independence, and washed out every stain upon her escutcheon in the blood of the best and bravest of her sons.

I am sorry to say that some men of influence, whose loyalty is undoubted, profess to believe that a small minority of the States may rightfully demand our consent to their peaceable withdrawal from the Union, if it is the almost unanimous wish of their citizens to do so. They base this supposed right upon that part of the Declaration of Independence which affirms that all just Governments owe their authority to the consent of the governed, and declare that if six or seven States wish to leave the Union and set up an independent government, we should allow them to do so. Sir, I do not understand the Declaration of Independence as teaching any such doctrine, nor has the Constitution in any way conferred upon a minority the right to control the Government or destroy the Republic itself. The will of a majority of the people fairly expressed, according to the forms of law, must be obeyed or there is an end of all republican forms of government. A minority may believe that they have just cause to complain of a Government of which they are a part, but the necessities of the nation must be consulted in preference to the interests, or supposed interests, of any part or section of it.

When Thomas Jefferson purchased Louisiana, he did not ask the people whether they preferred to unite their fortunes with a then feeble and insignificant Republic or remain a colony of France and share its glory and imperial splendor. He saw the possession of that territory and the mouth of that great river was necessary to our prosperity and power, and bought it of Napoleon, and pleased or not pleased, consenting or not consenting, the people with their territory became a part of the United States. If it was necessary to own that portion of the continent then, it is far more necessary now, and it is impossible to suppose the people will ever consent to part with it. The possession and control of that great river and the business upon its waters is not a question of law or morals, but of necessity and power. There are more than twenty thousand miles of natural steamboat navigation on the Mississippi and its tributaries, and in any given time in the last ten years, before the rebellion, there was three times as much American life and property afloat on these rivers as upon the Atlantic and Pacific oceans. The control of such a river we can never surrender to any Power, and it will ever remain the natural outlet of the trade and commerce of the great Northwest.

Mr. Chairman, it is impossible to calculate the value of the Union to the people of these States. Under this Government they have enjoyed the largest liberty possible in any social or political system, while the increase of wealth and population, for the last half century, has been without a parallel in the history of the world. National pride has been gratified, also, by the increase of national power, and the certain knowledge that in half a century more the United States must be by far the most powerful nation on the globe. But the great Powers of Europe have witnessed our rapid growth with great uneasiness; and, perceiving the immense power we shall soon be able to wield, are untiring in their efforts to divide and destroy us. They profess to believe our institutions are an experiment that must finally fail, and do what they can to create distrust in the stability of our Government. The London Times and other English papers declare the American Union a nuisance; affirm that democratic arrogance is insufferable; and that a division of our territory, and consequent destruction of power, would be a blessing to the world. They are anxiously hoping for the success of the rebellion, and watch the movements of the different armies with feverish feeling and anxiety. Sir, a few short months must determine whether this nation, by a loss of territory, shall become a third rate Power, or whether by suppressing the rebellion and maintaining the Union we shall preserve our present power and position, and attain to ultimate supremacy among the nations of the earth. Pride and patriotism alike urge us on to the greatest efforts for the salvation of our country; and every impulse and feeling is intensified a thousand fold by the indignation every American citizen must feel at this officious intermeddling in our affairs, and this exultant and unconcealed desire for the dissolution of the Union.

For the purpose of strengthening the Union and the Government, the President has urged the abolition of slavery in the border States, and recommended Congress to compensate them, to some extent, from the national Treasury for the losses they may sustain. His message on this subject is the most important State paper of the day. It inaugurates a new era in the history of our country by proffering the aid of the national Government in the removal of the only disturbing element in our political system, and must meet with the hearty approval of the people. How the great body of the slaveholders may look upon this movement in favor of emancipation I do not know, but many of the most prominent among them recommend its adoption and give it their support. They understand the signs of the times, and would prepare the way for what sooner or later is inevitable. Opposition on the part of a majority of those directly interested may postpone the adoption of those measures for a short time, but nothing can prevent some action on this question for a long period. Every consideration that can operate upon the mind of man demands the abolition of slavery. Christianity and humanity alike cry out against it as an enormous wrong; and the continual excitement which it causes in the country exasperates the people and adds to the number of its enemies. It has been the bane of our politics for half a century, creating and destroying parties, and filling the country with discord and contention. For the last ten years, if a school teacher was to be employed, or a clergyman settled, or a constable or justice of the peace elected in any one of the thirty-four States, the first question asked was, "what are his opinions on slavery." In this way it has become an unmitigated nuisance, and the people will not tolerate it much longer. We are told to "let it alone," but we might as well talk of letting a rebel army alone when it was marching upon the capital. It is aggressive in its nature, always encroaching upon the rights of others, and at war with liberal institutions everywhere. In thirteen of the States where it has the control of the local government, freedom of speech and freedom of the press are unknown, and the laws which it enacts and enforces are more oppressive and tyrannical than the decrees of the despots of Austria.

Sir, I am sorry to say that a desire to do justice to a race of men whom we have robbed of their rights, and treated more like cattle than like human beings, has had very little to do with the creation of the feeling against slavery which is almost universal now. Had the negro alone been the victim, without involving the people of the free States in his sufferings, he might have continued another century in captivity ere the Christian feelings and principles of the people would have led them to cry out against it. But the system under which he suffered has cursed the whole country, and at this moment threatens the existence of the nation. Slavery is the sole cause of the war; and deny it who will, the people know it, and will hold it responsible for this rebellion. We might talk of the cost of the war and of taxation for years to pay the debt it has created; but that is the very least of the evils it has inflicted upon the country. Seven hundred thousand of the citizens of the Republic have volunteered in defense of the Government, and left their business and their homes for the battle-field and camp. Three hundred thousand more are called for now, and are hastening from every city and village in the land to put an end to this war, and save their country from ruin. Such an army was never seen on earth before in any nation. They are not hirelings and mercenaries, but intelligent men who enlist from a sense of duty, and are influenced alone by motives of patriotism. The flower of the young men in our academies and colleges, and the noblest and best citizens of our cities and villages have joined the Army. Hundreds of thousands of them will never return, but sacrifice their lives in the service of their country. The names of these heroes will be household words for generations to come, and their children's children will repeat them with exultation and pride; but their joyous presence will never more gladden the homes and the loved ones they left behind them. We shall know how well they have done their duty, and embalm their names in song and story; but who shall relieve the anguish of those who loved them; who shall dry up the tears of their widowed wives and orphan children?

For all this, and far more, slavery is responsible; and when the great account shall be made up against it, the people will demand its abolition in tones of thunder. While the evils it has inflicted upon us are of such fearful magnitude, the future is full of gloom and danger. There are now four million slaves in the Union, and, if nothing is done, there will soon be thrice that number. Is any man so mad as to suppose this can go on unchecked much longer? It is impossible. This war has awakened the people and sealed the doom of slavery; and its friends will do well to make terms for themselves while they have an opportunity. The attempt to alarm the people of the free States by asserting that they will soon be overrun with negroes, if slavery is abolished, is unworthy of any attention. There are hundreds of thousands of free negroes in the slave States now who could have emigrated North, but who choose to remain where they are, as would all who are set free hereafter. They are needed as laborers, and those who have farms and plantations would have to employ them for years to come, or let their property go to waste. Great numbers of them, with trifling aid from the national Government, would doubtless emigrate to countries which offer them advantages they never can enjoy here. In a few years the number of emigrants from Europe and the northern States to the fertile fields of the sunny South would be so great that the negroes remaining would be but a fraction of the population, and too insignificant in numbers to be noticed.

Mr. Chairman, the laws we have enacted, authorizing the employment of the slaves of rebels and the emancipation of themselves and their families is a step in the right direction, and will receive the hearty approval of the people. Thus far in the prosecution of this war slavery has received the special protection of the Government, and we have steadily refused to accept the services of men who were anxious to assist us, and treated them more like enemies than friends. Most of our generals in command have refused to receive these fugitives within their lines, and have thus compelled them to remain with their rebel masters and labor for their benefit and for the support of the rebel cause. Meantime our own soldiers have been compelled to perform the severest labor in a climate to which they are unaccustomed, and the effect has been to fill the hospitals and unfit large numbers of the men for active service. This course is so contrary to the plainest dictates of common sense that it would be impossible to account for it did we not know the intense pro-slavery feeling of many of the officers in command, and their apparent determination to protect this pet institution of the South at all risks whatever. There is no reason under heaven why colored men should be exempt from duty and not be compelled to labor, and fight, too, if required, at a time like this, when the Government needs all the aid it can obtain from any quarter. Let them be enrolled in regiments, subjected to military discipline, and perform all the labor of the camp, which has been so destructive to the health and lives of our men. Once assured of freedom and protection within our lines, the slaves would leave the rebel States in such numbers as to make it impossible for them to keep their armies in the field, and the war would soon be ended.

Why should we hesitate to invite them to join the armies of the Union? General Washington enlisted slaves in great numbers in the Revolution, and all who were mustered into the service of the United States were declared free men. The bravery of these men and their devotion to the cause of their country are well known. General Jackson enlisted all the colored men, slaves or free, that he could get at New Orleans, and in a general order commended their bravery and good conduct in the strongest terms. Why not follow the example of these illustrious men, and bring this war to a speedy termination? The rebels are fighting with the desperation of despair for the destruction of all we hold dear, and we *must* use all the means in our power if we intend to defeat them. Jeff Davis has ordered the enlistment of mulattoes throughout the South, and it is well known that tens of thousands of slaves are employed by his order, and render great service to the rebel cause. On every battle-field, from Yorktown to Richmond, numbers of colored men have been found among the slain who were clothed in rebel uniforms, and had served, beyond a doubt, as soldiers in the army.

But why search for precedents in the past or present for employing slaves and colored men to aid us in suppressing this rebellion when we cannot succeed without them? Sir, we may talk of the bravery of our troops, and of our ability to vanquish the South, but we deceive ourselves if we suppose we shall not be compelled to tax our energies to the utmost to accomplish it. We have cherished the absurd idea that the rebels will give up the contest when we have taken Richmond, and perhaps Mobile and Charleston, but we shall waken from our delusion a few months hence, and find that something more is necessary to success. They are profoundly in earnest, and their resources for carrying on a defensive war are very great. They have a large population scattered over an immense territory, and while three million slaves remain to raise food for their families and their armies, all their able-bodied men can take the field, and we shall find it impossible to conquer them. There is but one way in which we can strike terror to their hearts and destroy their last hope of success, and that is by the offer of freedom and protection to all the slaves in rebel States who desert their masters and come within the lines of our armies. Deprived of their support, they could not hold out against us, and the war would soon be at an end.

Sir, those who love slavery and those who still dream of "conciliating" the rebels and causing them to lay down their arms, may call this an abolition measure, and speak of it with contempt; but the progress of events will soon convince the people that this course must be taken if we intend to preserve the Union and the Constitution of our country.

Mr. Chairman, the opponents of the Administration denounce the legislation of the present Congress as mischievous and injurious to the country, but the people will have to pronounce judgment upon our proceedings, and I am willing to abide by their decision. When Congress assembled on the 4th of July last, the Treasury was empty, United States stocks were at a ruinous discount, the Government was without credit, and thirteen States were in open rebellion against it. Since then we have raised an army of seven hundred thousand men, armed and equipped them, and furnished them with all that was necessary for active service. We have provided for raising three hundred thousand more, making in all one million men, and the largest army ever raised in ancient or modern times. We have built and equipped a powerful Navy; and yet, with all this vast expenditure, the credit of the Government is good and money is abundant. We have provided for the payment of the interest on the national debt, and for the creation of a sinking fund for its gradual extinction. We have abolished slavery in the District of Columbia, where its existence for so long a period has been a disgrace to the nation, and have prohibited its introduction into any of the Territories of the United States. We have passed a homestead law, giving a farm of one hundred and sixty acres to every man who will settle upon and cultivate it. Such a donation was never made before by any Government to any people. Every sober and industrious man may have a home hereafter for himself and family, and poverty and want should be unknown. Tens of thousands of families will soon be ready to avail themselves of the beneficent provisions of this law; and I do not hesitate to say that the people will derive more benefit from its enactment than from all the congressional legislation of the last quarter of a century.

Sir, it is with feelings of pride and pleasure that I call attention to the fact that the people are indebted to the Republican party alone for the passage of this law. Some of our opponents sustained the bill; but it never could have become a law by the votes of a Democratic Congress. Southern politicians were almost unanimous in their opposition to it, and would have successfully opposed the adoption of such a policy while they had the control of the Government.

The passage of a law authorizing and aiding the construction of a Pacific railroad is of the greatest national importance, and the most stupendous undertaking of the age we live in. It binds the Atlantic and Pacific States together in one indissoluble union, and will be the great highway of trade and travel from Europe to the Indies forever.

Other laws of great public importance have been enacted; ample means have been placed at the disposal of the President for the prosecution of the war; and this branch of the national Government have done all in their power to provide for the public safety and promote the general welfare.

Mr. Chairman, I trust the threatening aspect of affairs at home and abroad will arouse the people, and stimulate them to make those great efforts and sacrifices which are necessary at a time like this. Let party platforms be laid aside, and party feeling be forgotten in a patriotic devotion to our country; and let all loyal men, of whatever creed, who would preserve the Union and maintain the Constitution as the supreme law of the land, unite in giving a hearty support to the administration of Abraham Lincoln, and our country will be saved.

ADMISSION OF WEST VIRGINIA.

SPEECH OF HON. JACOB B. BLAIR,

OF VIRGINIA,

IN THE HOUSE OF REPRESENTATIVES,

July 16, 1862,

The bill providing for the admission of the State of West Virginia into the Union being under consideration—

Mr. BLAIR, of Virginia, said:

Mr. SPEAKER: Did I fail to raise my voice in behalf of the bill now before the House I would feel as if I had almost committed a crime by my inaction against as loyal and confiding a constituency as ever honored a Representative on this floor with their suffrage. And if, in the few remarks I propose to submit for the consideration of the House, I shall be able to contribute in the smallest degree towards its passage, my highest hopes, my most sanguine expectations will be fully realized.

Mr. Speaker, let me inquire, first, what is the object and purpose of this bill? It is simply a bill giving the consent of Congress to the erection and

admission into the Union of a new State, to be called West Virginia, carved out of and within the jurisdiction of the State of Virginia. Now, the first question which naturally presents itself is, does Congress possess that power; for, if it does not, the whole matter is disposed of at once, and it would be useless to pursue the subject further. Happily for the friends of this bill the Constitution of the United States is, I think, explicit on this point. The third section of the fourth article reads as follows:

"New States may be admitted by the Congress into this Union; but no new State shall be formed or erected within the jurisdiction of any other State; nor any State be formed by the junction of two or more States, or parts of States, without the assent of the Legislatures of the States concerned, as well as of the Congress."

Now, in this case, as I have remarked before, it is proposed to form and erect a new State within the jurisdiction of the State of Virginia. Under this clause of the Constitution, Congress has the unquestionable right to give its consent and permit it to be done if it sees proper to do so. The only restriction to the exercise of this power is, that it must first appear that the consent of the Legislature of the State out of which the new State is proposed to be erected has been obtained. If, then, I can show, Mr. Speaker, that the Legislature of the State of Virginia, that Legislature referred to in the clause of the Constitution which I have just read, has given its consent to the formation of the proposed new State, then not only the spirit but the letter of the Constitution will have been complied with.

Mr. Speaker, I find accompanying the memorial asking Congress to give its consent to the erection of the proposed new State an act purporting to have been passed by the Legislature of the State of Virginia on the 13th day of May, 1862, the first section of which reads as follows:

"That the consent of the Legislature of Virginia be, and the same is hereby, given to the formation and erection of the State of West Virginia, within the jurisdiction of this State, to include the counties of Hancock, Brooke, Ohio, Marshall, Wetzel, Marion, Monongalia, Preston, Taylor, Tyler, Pleasants, Ritchie, Doddridge, Harrison, Wood, Jackson, Wirt, Roane, Calhoun, Gilmer, Barbour, Tucker, Lewis, Braxton, Upshur, Randolph, Mason, Putnam, Kanawha, Clay, Nicholas, Cabell, Wayne, Boone, Logan, Wyoming, Mercer, McDowell, Webster, Pocahontas, Fayette, Raleigh, Greenbrier, Monroe, Pendleton, Hardy, Hampshire, and Morgan, according to the boundaries and under the provisions set forth in the constitution for the said State of West Virginia, and the schedule thereto annexed, proposed by the convention which assembled at Wheeling on the 26th day of November, 1861."

Here, it will be observed, is the free and unqualified consent of a body styling itself the Legislature of the State of Virginia given to the erection of the State of West Virginia within the jurisdiction of the State of Virginia; and by the third section of the same act, the Governor of the State is directed to transmit said act to the Senators and Representatives of the Commonwealth in Congress, together with a certified original of the said constitution and schedule; and that the said Senators and Representatives be requested to use their endeavors to obtain the consent of Congress to the admission of the State of West Virginia into the Union.

Now, was this act passed by the Legislature of the State of Virginia contemplated by the Constitution? I maintain it was; and that the truth of this proposition may be the more apparent, it will be necessary to take a brief review of what has taken place during the last twelve or eighteen months in the State of Virginia.

In the winter of 1860 and 1861 the Legislature of Virginia, then in session in the city of Richmond, the capital of the State, without authority of law or the consent of the people of Virginia, called a convention of the people of the State to meet at that place on the 14th day of February, 1861. This convention met, and in the month of April in that year, having become inoculated with a terrible and loathsome disease then raging in the southern States, called secession, passed an ordinance purporting to withdraw the State of Virginia from the Union, and dissolving all connection with the United States. Soon after, if not before the passage of this ordinance, they sent armed men to take forcible possession of all the arms, munitions of war, and other public property within the State, whether belonging to the State of Virginia or the United States. The old flag which Washington had borne in triumph through a seven years' war, the ensign of our national existence, the dread of tyrants, and which is too sacred to be touched by the hands of traitors, then floating over the dome of the capitol of the State and the custom-house, the property of the United States, was taken down, trampled under foot, and the confederate flag, the ensign of treason, was hoisted in its place. At the head of this daring and wicked conspiracy against the Constitution and Government of the United States, was the Governor, lieutenant governor, attorney general, and nearly all, if not all, who held office under or had been appointed to carry on the machinery of the State. Here was an anomaly in the history of the State, if not in the United States. A State in truth and in fact still a member of the Union, because she possessed no power to withdraw or sever her connection, of her volition, from the Union, but without any agents to give direction to or keep in motion her internal machinery.

What ought the loyal people to have done under these circumstances? The question is as easily answered as it is asked. Suppose any given number of men were engaged in carrying on some great establishment—I care not what—and all the hands in their employ, not having the fear of God before their eyes, but being moved and instigated by the devil, should come to the conclusion not to work or carry on the establishment longer under the old firm, but that they would transfer the whole concern over to some new firm. What would the owners do? Stop the business? No, if they were sensible men—and I am arguing on that supposition—they would get a new set of hands or agents, take possession of the whole or such part of the establishment as they could, and put the old machinery in motion again.

This is precisely, Mr. Speaker, the case in Virginia. The people of that State were engaged in carrying on the State government. They had employed a Governor to recommend, and a Legislature to enact, such laws as would meet the wants, and protect the people in the enjoyment of those three great essentials, to secure which all republican governments are formed, namely, life, liberty, and the pursuit of happiness. They also had in their employ a Lieutenant Governor, attorney general, and divers other agents, to aid in carrying on the machiney of the State. But lo, and behold! these servants of the good people of Virginia who, before entering upon the duties of their offices, had called upon the God of the universe to bear witness that they would not only support the constitution of Virginia, but that which was paramount to it—the Constitution of the United States; being influenced by the fell spirit to which allusion has already been made, broke the solemn vows that they had recorded in heaven, committed treason against the United States, forfeited their offices by passing and giving aid and comfort to those who did pass the so-called ordinance of secession withdrawing Virginia from the Union, and by conveying and giving aid and comfort to those who did convey to the so-called southern confederacy—which was at war with the United States—the entire State of Virginia, including all her forts, arsenals, dock-yards, and munitions of war. I repeat the question again: what should or ought the loyal people of Virginia to have done under these circumstances? I answer, they ought to have done just what they did do. They met in convention in the city of Wheeling on the 11th day of June, 1861, and, among other things, they declared—

"That the offices of all those who adhere to the said convention and Executive, [that is, the convention which passed the ordinance of secession and the Executive who advised it,] whether legislative, executive, or judicial, are vacated."

They then proceeded to appoint a Governor, Lieutenant Governor, attorney general, secretary of State, treasurer, and auditor, all of which offices had become vacant by the treasonable acts of those who held them. And here I beg gentlemen to mark well this fact, that this was a reorganization of the *whole* State, and not merely a part, as some have supposed. The persons appointed to fill the various offices I have just named were appointed to act as such for the whole State, and to continue in office for six months, or until their successors were elected and qualified.

Again: no one who had been appointed or elected to any office within the State, and who did not adhere to the self-styled southern confederacy, was removed from or disturbed in the enjoyment of his office. The third of the series of ordinances passed by the convention which assembled at Wheeling on the 11th of June, 1861, was as follows:

"3. The delegates elected to the General Assembly on the 23d day of May last, and the senators entitled under existing laws to seats in the next General Assembly, who shall qualify themselves by taking the oath or affirmation hereinafter set forth, shall constitute the Legislature of the State, to discharge the duties and exercise the powers pertaining to the General Assembly. They shall hold their offices for the terms for which they were respectively elected. They shall assemble in the city of Wheeling on the —— day of ——, and proceed to organize themselves, as prescribed by existing laws, in their respective branches. A majority in each branch of the members, qualified as aforesaid, shall constitute a quorum to do business. A majority of the members of each branch thus qualified, voting affirmatively, shall be competent to pass any act specified in the twenty-seventh section of the fourth article of the constitution of the State."

Here, again, it will be observed that the delegates elected to the General Assembly on the 23d of May, previous to the assembling of said convention, and at the regular time fixed by the laws of the State, as well as the senators entitled, under the existing laws, to seats in the General Assembly, together with such delegates and senators, under the ordinances of the said convention or existing laws to fill vacancies, who should qualify themselves by taking the required oath, should constitute the Legislature of Virginia, and that a majority of each branch of the members qualified thus should constitute a quorum to do business. Thus, Mr. Speaker, was the government of Virginia reorganized and restored, and the machinery of the State put again in motion, which has continued in motion up to this hour. What loyal citizen in the State, let me ask, has been deprived of the least of his rights? None—not one.

But, sir, it is argued by some that the Legislature of the State thus organized, and which has given its consent to the erection of the new State, is not the Legislature contemplated by the Constitution of the United States, because only a minority of the counties of the State are represented. Now, in answer to this objection, I have this to say, that I am one of those who believe that the loyal people of the State constitute the citizens of the State, and that they only are entitled to seats in, or to be represented in the law-making power of the State. Those who are traitors and claim to owe no allegiance to the Government, are to be regarded as alien enemies, or as though they did not exist, until they return to their allegiance. If this proposition be true, then the Legislature which has given its consent to the formation of the proposed new State is the Legislature contemplated by the Constitution, as a majority of the loyal citizens of the State are represented in that body.

But, Mr. Speaker, whether I be right or wrong in the view I have taken of the legality or constitutionality of the reorganized or restored government of Virginia, as it is called, I think it matters but little, for I must submit whether it can longer be considered an open question, after its repeated acknowledgment by not only the Executive but the legislative branches of the Government of the United States during the last twelve months. The present excellent Governor of Virginia, Francis H. Pierpont, was elected or chosen Governor of the State on the 20th day of June, 1861, and on that day entered upon the duties of his office. The very next day, June 21, 1861, he addressed a note to the President of the United States, in his official capacity, informing the President of the disturbed condition of things in Virginia, and invoking military force and aid from the Government of the United States to suppress the rebellion and protect the people of the Commonwealth from domestic violence, which I will read for the information of the House:

COMMONWEALTH OF VIRGINIA, EXECUTIVE DEPARTMENT,
WHEELING, *June* 21, 1861.

SIR: Reliable information has been received at this department from various parts of the State that large numbers of evil-minded persons have banded together in military organizations with intent to overthrow the government of the State; and for that purpose have called to their aid like-minded persons from other States, who, in pursuance of such call, have invaded this Commonwealth. They are now making war on the loyal people of the State. They are pressing citizens against their consent into their military

organization, and seizing and appropriating their property to aid in the rebellion.

I have not at my command sufficient military force to suppress this rebellion and violence. The Legislature cannot be convened in time to act in the premises; it therefore becomes my duty, as Governor of this Commonwealth, to call on the Government of the United States for aid to repress such rebellion and violence.

I therefore earnestly request that you will furnish a military force to aid in suppressing the rebellion, and to protect the good people of this Commonwealth from domestic violence.

I have the honor to be, with great respect, your obedient servant, F. H. PIERPONT, *Governor.*

HIS EXCELLENCY THE PRESIDENT OF THE UNITED STATES.

To this note the President of the United States, through the Secretary of War, Mr. Cameron, made the following reply:

WAR DEPARTMENT, WASHINGTON, *June* 25, 1861.

SIR: In reply to your application of the 21st instant, for the aid of the Federal Government to repel from Virginia the lawless invaders now perpetrating every species of outrages upon persons and property, throughout a large portion of the State, the President directs me to say that a large additional force will soon be sent to your relief.

The full extent of the conspiracy against popular rights, which has culminated in the atrocities to which you refer, was not known when its outbreak took place at Charleston. It now appears that it was matured for many years by secret organizations throughout the country, especially in the slave States. By this means, when the President called upon Virginia, in April, for its quota of troops then deemed necessary to put it down in the States in which it had shown itself in arms, the call was responded to by an order from the chief confederate in Virginia to his armed followers, to seize the navy-yard at Gosport; and the authorities of the State, who had till then shown repugnance to the plot, found themselves stripped of all actual power, and afterwards were manifestly permitted to retain the empty forms of office only because they consented to use them at the bidding of the invaders.

The President, however, never supposed that a brave and free people, though surprised and unarmed, could long be subjugated by a class of political adventurers always adverse to them; and the fact that they have already rallied, reorganized their government, and checked the march of these invaders, demonstrates how justly he appreciated them.

The failure, hitherto, of the State authorities, in consequence of the circumstances to which I have adverted, to organize its quota of troops called for by the President, imposed upon him the necessity of providing himself for their organization; and this has been done to some extent. But instructions have now been given to the agents of the Federal Government to proceed hereafter under your directions, and the company and field officers will be commissioned by you.

I have the honor to be, very respectfully, your obedient servant, SIMON CAMERON, *Secretary of War.*

HON. FRANCIS H. PIERPONT, *Governor Commonwealth of Virginia, Wheeling, Va.*

Here, Mr. Speaker, is an unqualified recognition of Governor Pierpont as the Governor of the State of Virginia, and of the restored government thereof, as early as the 21st day of June, 1861.

Again, on the 26th of the same month, in the same year, the Secretary of the Interior inclosed Governor Pierpont, as Governor of Virginia, the following certificate:

DEPARTMENT OF THE INTERIOR, WASHINGTON.

To His Excellency Francis H. Pierpont, Governor of the Commonwealth of Virginia:

I, Caleb B. Smith, Secretary of the Interior, do hereby certify that, in discharge of the duty devolved on me by the provisions of an act of Congress, approved May 23, 1850, entitled "An act providing for the taking of the seventh and subsequent censuses of the United States, and to fix the number of the members of the House of Representatives, and provide for their future apportionment among the several States" as provided for by said act in the manner directed by the twenty-fifth section thereof. And I do further certify that the Commonwealth of Virginia is entitled to eleven (11) members in the House of Representatives for the Thirty-Eighth Congress, and until another apportionment shall be made according to law.

In testimony whereof I have hereunto subscribed my name and caused the seal of the Department of [L. S.] the Interior to be affixed, this 25th day of June, A. D. 1861.

CALEB B. SMITH.

I could multiply the evidence from the same department of the Government, but I deem it unnecessary to do so.

Now, sir, how is it with the legislative department of this Government? Has it not in more than one instance not only recognized Governor Pierpont as the Governor of Virginia, but the Legislature which has given its consent, for the purpose already stated, to be the legitimate government of the State of Virginia? In proof of this fact, I will first cite my own case. Hon. JOHN S. CARLILE having resigned his seat in this House, a vacancy thereupon occurred in the eleventh congressional district of Virginia. The Constitution of the United States provides "that when vacancies happen in the representation from any State the executive authority thereof shall issue writs of election to fill such vacancies." In compliance with this clause of the Constitution, Governor Pierpont issued a writ of election to fill the vacancy I have referred to. I had the honor to be returned by the good people of the eleventh congressional district, at that election, and on the first day of the present session I came here, and on the motion of my friend from Illinois, [Mr. RICHARDSON,] I was permitted to take my seat as a member of this House, and up to this hour have heard no one question the right, or doubt the authority of Governor Pierpont to issue the writ of election, or in any way contest my right to a seat here. Then, here, again, is the case of my esteemed friend and colleague from the first congressional district, [Mr. SEGAR,] who came here under similar circumstances to mine; and he, too, and I think very justly, was permitted to be sworn in and take his seat as a member of this House.

Now, Mr. Speaker, I maintain that these official acts of Governor Pierpont, which have thus received sanction and approval of not only the Executive of the United States, but of this House, estop every member on this floor from calling in question the legality or constitutionality of either of the three coördinate branches of the restored government of Virginia.

But, sir, if there be a member on this floor who, after all this evidence, still entertains even a lingering doubt whether the Legislature of the reorganized government of Virginia is in point of fact the Legislature of the entire State of Virginia, that doubt should be removed by the fact that the Senate of the United States has, by an almost unanimous vote, admitted to seats in that body two gentlemen who were chosen by this very Legislature to represent the State of Virginia in the Senate of the United States. Let us turn to that clause of the Constitution of the United States which points out the manner in which the Senators are chosen, and see if the language employed is not precisely the same as is used in the clause of the same providing for the admission into the Union of new States formed within the jurisdiction of another State. It reads thus:

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

Mark you, they are to be chosen by the "Legislatures" of the States. Now, sir, it is manifest that the Senate of the United States committed a grave error in admitting the two gentlemen I have referred to as Senators from and to represent the State of Virginia in that body if they were not chosen by the Legislature of the State of Virginia. I ask members of this House if they are prepared to say, by casting their votes against this bill, that that learned and dignified body, chosen on account of their ability, learning, and moral worth, have, by admitting to seats on the floor of the Senate the two Senators from Virginia, trampled under foot the Constitution which they had sworn to support. I think not. If, then, the Legislature of the restored government is the proper and legitimate Legislature to choose Senators to represent the State of Virginia in the Senate of the United States, it follows, I think, as a logical conclusion, that it possesses the power and is the proper body to give its consent to the erection of a new State within the jurisdiction of the State of Virginia. In other words, if it be the Legislature of Virginia for any of the purposes mentioned in the Constitution of the United States, it possesses the power to exercise all the functions conferred on the Legislature of the State by that instrument.

Mr. Speaker, having now, as I think, shown that the Legislature of the restored government of Virginia is the legitimate and constitutional Legislature of Virginia, and consequently possessed of full power to give the consent required by the Constitution of the United States to the formation and erection of the proposed new State, I now propose to offer some reasons why Congress should not withhold its consent to the admission of West Virginia into the Union. But before proceeding to do so, I desire to disabuse the minds of all those who may be laboring under the impression that this project of erecting a new State within the jurisdiction of Virginia has been set on foot and the idea suggested since the commencement of this war. Nothing, sir, could be further from the facts. The question of the division of the State has not only been suggested, but to a greater or less extent agitated for the last forty years.

The desire of the people west of the Alleghany mountains to be separated from those residing east of the mountains, has grown out of causes wholly unconnected with this war, and of which I will speak before I conclude my remarks.

I have always thought, and still think, that there are but few who will take the trouble to examine the map of the State of Virginia who will not be convinced that not only justice demands that the people occupying the western slope of the Alleghany mountains should be permitted to form a new State out of that territory in order that they might pass laws suitable to their own wants and peculiar condition, but that it is the interest of those residing east of that range of mountains that such a separation should be made. What commercial intercourse, let me ask, exists between them? None, literally none. My colleague in the Senate, in that excellent speech of his delivered on presenting the memorial to that body asking that Western Virginia might be admitted into the Union, gave it as his opinion that there had not been over fifty thousand dollars of traffic and commerce between the two sections during the last twenty years. I thought the estimate a high one, and so remarked to my colleague from the tenth district, [Mr. BROWN,] who replied that there never had been but one commercial transaction come under his observation, and that was an exchange of two dogs. How could it be otherwise when there are no railroads, canals, or water communication between the two sections of the State? There stand the Alleghany mountains, between the valley and the great Northwest, with their immense base and lofty summits speaking by the authority of the God of nature to those who reside on either side, saying, "thus far shalt thou come, and no further."

Mr. Speaker, Virginia has spent millions upon millions in wild schemes of internal improvements, and notwithstanding she has had Henry A. Wise for her Governor, a man in whose head, I will venture to say, more wild impracticable, and, I might as well add, devilish schemes originated than in the brain of any other man, yet he never seriously dreamed of, much less suggested, the idea of pushing a railroad through the Alleghanies. Deprived, therefore, of any road connecting the two sections of the State, except two narrow mud turnpike roads, the location of either of which, in many places, would puzzle the most skillful engineer to find, it may be imagined that the commerce between the eastern and western parts of the State is not very extensive, and the intercourse between the people somewhat limited.

The two roads I have referred to are the Staunton and Parkersburg and the Northwestern turnpike roads. The former is located from Staunton to Parkersburg, and the latter from Winchester to Parkersburg. It is my fortune, Mr. Speaker, to reside at the city of Parkersburg, on the banks of the river Ohio, where, as I have already said, these two roads terminate. I know, therefore, whereof I speak when I declare that there are not one hundred travelers that pass over these two roads from Staunton or Winchester to Parkersburg, or *vice versa*, during an entire year. Before this war commenced, our delegates to the General Assembly, and all others who desired to visit the city of Richmond, the capital of the State, were of necessity compelled to leave the State in order to get there, unless they went by way of Staunton and Winchester, over one of the roads I have mentioned.

Again: the habits, tastes, and industrial pursuits of the people residing in the two sections of the State are as unlike each other as perhaps any two States in the Union. Those who reside east of the Alleghany mountains have long been distinguished as the F. F. V's. They are a kind and hospitable people, generally men of wealth and ease. They know but little and care less about the arts and sciences of the day. They raise but little more corn or wheat than is necessary for their own use, depending entirely on raising a crop of young negroes to add to their yearly wealth. Not so with the people of the west. They are generally limited in means, but a hardy, industrious, and energetic people. While they do not claim by birth or otherwise to be

superior to their eastern brethren or their countrymen at large, they do maintain they are the equals of either. This difference in the interests, habits, and social institutions of the two sections of the State, coupled with the fact that there can never be to any extent any commercial intercourse between them, renders it almost if not quite impossible to enact laws suitable to the wants and circumstances of both. That negro slavery requires laws of a more stringent and peculiar character than any other species of property, I think all will admit; and that these laws are distasteful if not inimical to the interests of those who do not own slaves, I think is equally clear.

Now, if this be true of negro slavery generally, is it not doubly so in a State like Virginia, where all, or nearly all, of those who own slaves reside east of the Alleghany mountains? If any one has doubted the truth of this proposition, I think in the history of the legislation of Virginia may be found the most conclusive evidence. Prior to the year 1850, that part of Virginia lying between the Blue Ridge and the Alleghany mountains, known as the valley of Virginia, was almost as much neglected by the State as that part lying west of the Alleghanies. The two sections contained a white population of nearly one hundred and fifty thousand more than the residue of the State, and yet they were in a minority in both branches of the General Assembly. It was in the year 1850, Mr. Speaker, that the convention was called which formed the present constitution of Virginia. It is a period in the history of the State which will long be remembered by not only those who were members of that convention, but by the people of the State at large. The people of the west and valley, smarting under the wrongs and injustice that had been done them through a long series of years, laid aside for once all party considerations and elected their best and truest men to represent them in said convention, and instructed them to demand that the representation in the Legislature should thereafter be based on the white population of the State, and not on the mixed or arbitrary basis as it then was. As soon as the convention met it was apparent that the eastern part of the State was not disposed to yield to the demands of the valley and the west. Day after day, and week after week passed, until several months were spent in discussing what was called the white and mixed basis, and so violent was the discussion at times that it was feared that a compromise of conflicting views was impossible, and that the convention would break up in a row and leave the difficulty to be settled at the point of the sword. But finally the slave interest triumphed, and by the terms of the compromise the rights and interests of the people residing west of the Alleghanies were wholly disregarded, and the people doomed to perpetual bondage unless released by the passage of this bill. It was, in truth and in fact, a compromise between the valley, the former ally of the west, and the eastern part of the State, to which the delegates west of the Alleghanies were compelled to give their consent. How was this compromise effected, and what were its terms? The delegates residing east of the Blue Ridge said in substance to the delegates residing in the valley, "you know that part of Virginia lying west of the Alleghany mountains is principally settled by emigrants from western Pennsylvania, the State of Ohio, and the New England States. You also know that they are opposed to the institution of slavery, and if they were not, slavery can never exist there to any extent for two obvious reasons: first, because the laws of climate forbid it, and secondly, a slave has but to cross the line into Pennsylvania, or the Ohio river into the State of Ohio, and he is free. This being the case, slavery has only a nominal existence there. Now, you people of the valley, like we of the east, have sprung from quite a different stock. We do not belong to the "mudsills" of society. You, like we, are largely interested in not only protecting but continuing the institution of slavery. This being the case, come let us reason together; let us compromise this matter, and take care of ourselves; and let this mongrel race beyond the Alleghanies take care of themselves;" and, Mr. Speaker, to make a long story a short one, the east and the valley struck a bargain by which they secured for themselves the control of the legislative department of the State until the day of judgment and a day after, and leaving those residing west of the Alleghanies to shift for themselves the best they could. They formed a constitution for the State of Virginia, and to show the House how shamefully the west was treated, I will read three or four lines of the twenty-third section of article four of that delectable instrument:

"Every slave who has attained the age of twelve years shall be assessed with a tax equal to and not exceeding that assessed on lands of the value of $300. Slaves under that age shall not be subject to taxation."

Here you will perceive that all slaves over twelve years of age are only taxed equal to and not to exceed that assessed on land of the value of $300, while all slaves under twelve years of age are wholly exempt from taxation. By this little provision no less than $200,000,000 worth of property of the citizens of the valley and those residing in the eastern part of the State was relieved from taxation, while every knife and fork; every bed, whether feather or straw; every horse, mare, and gelding, whether blind, spavined, or wind-broken; every old clock, whether it had refused to tell of the passing hours or not; in a word, every species of property, real, personal, and mixed, west of the Alleghany mountains, was taxed, taxed, taxed!

Now, Mr. Speaker, where and how was this money spent, thus wrung from the hard earnings of the people of the west? Look upon the map, and you will find the question incontrovertibly answered. See how the eastern part of the State is checkered over with railroads in every direction—no less than five, and perhaps more, running to and through the city of Richmond—all having been built, either in whole or in part, at the expense of the State. Now, sir, look west of the Alleghanies, and see how many you will find there. Here is the Baltimore and Ohio railroad, running along the line between Virginia and Pennsylvania, and terminating at the city of Wheeling. How much did the State contribute to that great improvement? Not a dollar! On the contrary, it was years before she would even give her consent that it should be built at all over the soil of Virginia. Then, again, here is a branch of the same road, known as the Northwestern Virginia railroad, which has its terminus at the city of Parkersburg, not one dollar to build which did the State contribute. Sir, we petitioned the Legislature of the State for fifteen or twenty years for the privilege of building that road over our own soil, with our own means, before our prayer was granted. Why, Mr. Speaker, this partial legislation? Why was the west deprived of the benefits so lavishly showered upon the east? We all know in the west the reason. They did not attempt to conceal the fact that they regarded us unsound on the slavery question; and that every railroad and turnpike made through the western part of the State would induce emigration to that part of the State; and that every man that settled there added that much to the strength of the west. Hence it was the policy of our eastern brethren to retard in every way possible the settlement of the west.

Now, sir, I ask whether it is possible for a State to prosper where such antagonistic interests exist. Is it not the interest of both that a division should take place, that each may pass such laws as their respective wants and interests may require?

But it is argued by those who oppose this bill, that we should wait until the whole State is restored and every county in the State is fully represented in the Legislature, and then get the consent of the Legislature, and Congress will admit us at once. In reply to this reasoning I have this to say: that the people of the west are not disposed to let the present opportunity pass, when they can accomplish that which they have so long desired to attain, and which justice and right demand should be done. History affords but few instances where men clothed with power voluntarily give it up. It was once said by one of Virginia's most gifted sons, that there was no way of judging the future but by the past; and if we look in this instance to the past to ascertain what our eastern brethren would be most likely to do in regard to this question when (if ever) they shall be fully represented in the Legislature of the State, we are forced to the conclusion that, instead of giving their consent to the erection of a new State within the jurisdiction of Virginia, they would, if possible, rivet the chains more tightly upon us, and compel us to pay not only our just proportion of the debt of the State before the passage of the ordinance of secession, but any debt that has been contracted by Letcher & Co. in prosecuting this unholy war against the United States.

Again, it is argued that if the Legislature of the State, when the whole State is restored, will not give its consent to the erection of the new State, a convention of the people of the State can be called, and a new constitution be framed, and many if not all the grievances now complained of by the west will be corrected, and a division of the State rendered unnecessary. This reasoning, Mr. Speaker, is fallacious. By an examination of the constitution of Virginia it will be seen that the valley and the eastern part of the State have a majority in both branches of the General Assembly, and is it reasonable to suppose that they will consent to the calling of a convention to frame a new constitution in order to yield to the west that which has heretofore been denied her, and which will greatly and materially abridge the rights of the east? Certainly not. But, sir, if a convention was called, the delegates from the east and the valley would form a majority of the convention, and consequently the west would be still at their mercy; for let it be borne in mind that while the valley was, to some extent, prior to the year 1850, identified with the west, since that period, by the clause in the constitution of 1850 to which I have already referred, and by connecing the valley and the east together by building the Tennessee, the Central, and the Manassas Gap railroads, it is now fully identified with the east. Now, I ask any candid man to tell me what relief have we residing west of the Alleghanies to expect by waiting until the whole State is restored for anything else that can or may happen in the future. Sir, we are doomed to perpetual bondage unless Congress grants us relief by the passage of this bill. And instead of it being a bill entitled "A bill for the admission of the State of Western Virginia into the Union, and for other purposes," it ought to be entitled "A bill for the release of three hundred and thirty-four thousand white people residing west of the Alleghanies from a worse than Egyptian bondage, and for the admission of the new State of West Virginia into the Union."

Sir, if peace to our distracted country was proclaimed to-morrow, and every sword now drawn in deadly strife returned to its scabbard, it would bring no peace to Western Virginia. The old feuds and differences existing between the two sections of the State, arising out of the conflict of interests that I have already mentioned, intensified by what has grown out of this war, preclude the idea of the two sections of the State ever living in peace under the same State government again. The boundary of the proposed new State embraces an area of twenty-four thousand square miles, and an aggregate white population of over three hundred and thirty-five thousand; also an aggregate slave population at the beginning of the war of a little over twelve thousand, which it is reasonable to suppose is not now more than half that number. It is the opinion of every one, I believe, without an exception, who has written about or examined the internal wealth of the several States of the Union, that Virginia contains more resources of wealth than any other State; and that these resources are principally confined to that part of Virginia embraced within the lines of the new State all will admit. Look at her wells of oil on the banks of the Little Kanawha river, pouring forth their hundreds of barrels per day; her immense beds of bituminous and cannel coal, her deposits of ore, her waterfalls, and her forests of timber. Then, sir, look at her lands; say nothing about their adaptation to the growth of wheat, corn, and for grazing; as a wool-growing country it has no superior, if it has an equal on the globe. Many have already embarked in that enterprise and have met with the most gratifying success, and I will venture to predict that before many years West Virginia will be the great wool-growing as well as manufacturing region of the United States.

Mr. Speaker, Virginia is one of the oldest States in the Union. As I have remarked before, it is conceded that she possesses more elements of wealth than, perhaps, any other State, and yet

it is a humiliating fact that she is at least fifty years, if not more, behind her daughter Ohio in population, wealth, and nearly everything that makes a State great and prosperous. Why is this? I repeat the question, why is this? Sir, to my mind the reason is obvious. When not affirming and reaffirming the resolutions of 1798-99 and discussing political abstractions, we were wasting our time and energies in the vain endeavor to reconcile irreconcilable interests between the two sections of the State, instead of dividing the State on the line made by nature into two independent States, that the inhabitants of each might develop their own internal wealth and pass laws suitable to their own wants and conditions. Sir, we cannot, even with your aid, recall the past, but we may with it improve the future.

Mr. Speaker, in reference to the question of slavery in the new State, I have but a word or two to say. The laws of climate forbid its existence there, nor is it the desire or wish of the people that it should be a slave State. Hence it was that I cheerfully consented that that question might be settled at once by inserting the clause contained in this bill. The further extension of slavery under this Government has become an obsolete idea. And if one of the results of this war be the extinction of slavery in the border States, and the shaking to its very center the institution in every southern State, let the South remember that it was she that filled the goblet, and if she is compelled to drink its contents to its very dregs, she cannot say to the border States, "you did it."

Mr. Speaker, there is another consideration which, although not germane to this bill, I cannot refrain from alluding to before closing my remarks. It is the noble and patriotic stand taken by the people of northwestern Virginia at the very commencement of this causeless and unfortunate war. Yes, sir, the news had hardly reached the patriotic people of northwest Virginia that an ordinance of secession had passed withdrawing Virginia from the Union, before they had met, and, kneeling before the altar of their country, they resolved that, come what might, they would stand by the old flag and the Union which their fathers had bequeathed to them. How they kept their resolve, let incontrovertible facts answer.

The tenth congressional district, represented on this floor by my colleague, [Mr. BROWN,] and my own district, the eleventh, containing together a white population of not over one hundred and twenty-five thousand, have now in the service of the United States over eleven thousand men exclusive of those who have come from other parts of the country and enlisted in Virginia. Sir, one little county in my district—a county within whose limits a traitor dare not enter—with a voting population of about one thousand, has sent to the field four hundred and sixty men. I allude to the glorious and patriotic county of Ritchie. Tell me, sir, where are the two congressional districts and where the county that has in proportion to its population turned out as many men for this war? They cannot be found.

Mr. Speaker, when the impartial historian shall write the history of this war, the heroic and patriotic course of the people of northwestern Virginia will form not only one of its most interesting but brightest chapters. Sir, bound as we are to the great West by ties made by the God of nature, we could not if we would, and would not if we could, change our relations to the Government of the United States; no, sir, no. Let me say to the Representatives on this floor from Ohio, Indiana, Illinois, and other western States, that your destiny is ours, and that whatever is in store for you in the impenetrable future is likewise in store for us. Come, therefore, and aid us in the passage of this bill, to the end that we may be erected into a new State, that you with us may share in the riches and blessings that will flow by developing the incalculable mineral wealth of northwest Virginia, which will, in the future as in the past, unless our request is granted, remain buried in the bosom of our mountains.

Mr. Speaker, one word more and I have done. It is said by those who desire some excuse, if I may so speak, to oppose this bill, that they cannot bear the idea of dividing the old Commonwealth of Virginia, which has given birth to so many great statesmen, and around whose history so many delightful associations cluster. Sir, I yield to no man in the regard, not to say love, I have for the good old Commonwealth. It was on her soil I first opened my eyes to the light of heaven. I read with childish pride, and point with delight to her history and the part her sons have taken heretofore in the councils of the nation. Nay more, I would obliterate, if possible, from the memory of man the humiliating and unjustifiable position she now occupies towards that Government she has contributed so largely to build up. But what of all this? Did she lose any of her historic renown when she ceded to the General Government the territory now comprising the great Northwest, or when she permitted her daughter, Kentucky, to set up for herself, that she might have a name in history? No, sir; no! And thus it will be if her youngest daughter, West Virginia, is permitted to assume all the responsibilities of one of the States of this Union. Instead of detracting from her fame and history, it will add to both, and the time will come when she will point with pride and pleasure, as did the Spartan mother, to her children, and say "these are my jewels."

Mr. Speaker, pass this bill and you will carry joy and gladness to every loyal heart in northwestern Virginia. Pass it, and you buoy up the hearts and strengthen the arms of those that have grown faint and weak in defending their homes, and maintaining that Government which is the hope of the friends of constitutional liberty throughout the civilized world. Yes, pass it, and you will do that which justice and right demand, and we will ever celebrate the event as we do the birthday of our national existence, with bonfires and illuminations, and songs of thanksgiving and praise.

LAWS OF THE UNITED STATES.

PUBLIC ACTS OF THE THIRTY-SEVENTH CONGRESS

OF THE

UNITED STATES,

Passed at the Second Session, which was begun and held at the City of Washington, in the District of Columbia, on Monday, the 2d day of December, A. D. 1861, *and ended on Thursday, the 17th day of July, A. D.* 1862.

ABRAHAM LINCOLN, President. HANNIBAL HAMLIN, Vice President, and President of the Senate. SOLOMON FOOT was elected President of the Senate, *pro tempore,* on the 31st day of March, and so acted until the 21st day of May inclusive; he was again elected on the 20th day of June, and continued so to act until the end of the session. GALUSHA A. GROW, Speaker of the House of Representatives.

[The Index to the Laws follows the Index to the Appendix.]

CHAPTER I.—An Act to further promote the Efficiency of the Navy.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That whenever the name of any naval officer now in the service, or who may hereafter be in the service of the United States, shall have been borne on the Naval Register forty-five years, or shall be of the age of sixty-two years, he shall be retired from active service, and his name entered on the retired list of officers of the grade to which he belonged at the time of such retirement.

SEC. 2. *And be it further enacted,* That the President of the United States be, and he is hereby, authorized to assign any officer who may be retired under the preceding section of this act to shore duty, and such officer thus assigned shall receive the full shore pay of his grade while so employed.

SEC. 3. *And be it further enacted,* That the President of the United States, by and with the advice and consent of the Senate, shall have the authority to detail from the retired list of the Navy for the command of squadrons and single ships such officers as he may believe that the good of the service requires to be thus placed in command; and such officers may, if upon the recommendation of the President of the United States they shall receive a vote of thanks of Congress for their services and gallantry in action against an enemy, be restored to the active list, and not otherwise.

SEC. 4. *And be it further enacted,* That the President of the United States shall have the authority to select any officer from the grades of captain or commander in the Navy, and assign him to the command of a squadron with the rank and title of a "flag officer;" and any officer thus assigned shall have the same authority and receive the same obedience from the commanders of ships in his squadron holding commissions of an older date than his that he would be entitled to receive were his commission the oldest; and to receive, when so employed, the pay to which he would have been entitled if he were on the active list of the Navy.

SEC. 5. *And be it further enacted,* That all officers retired under the provisions of this act shall receive the retired pay of their respective grades as fixed by law.

SEC. 6. *And be it further enacted,* That promotions shall be made in the place of officers retired under the provisions of this bill as is now provided by law.

SEC. 7. *And be it further enacted,* That the Secretary of the Navy be, and is hereby, authorized to cause two hundred "medals of honor" to be prepared, with suitable emblematic devices, which shall be bestowed upon such petty officers, seamen, landsmen, and marines as shall most distinguish themselves by their gallantry in action and other seamanlike qualities during the present war, and that the sum of one thousand dollars be, and the same is hereby, appropriated out of any money in the Treasury, for the purpose of carrying this section into effect.

SEC. 8. *And be it further enacted,* That the hours of labor in the navy-yards of the United States shall be the same as in the private ship-yards at or nearest to the post where such navy-yard is established, and the wages to be paid to all employés in such yards shall be, as near as may be, the average price paid to employés of the same grade in private ship-yards or workshops in or nearest to the same vicinity, to be determined by the commandant of the navy-yard.

APPROVED, December 21, 1861.

CHAP. II.—An Act to increase the Duties on Tea, Coffee, and Sugar.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That from and after the date of the passage of this act, in lieu of the duties heretofore imposed by law on articles hereinafter mentioned, there shall be levied, collected, and paid on the goods, wares, and merchandise herein enumerated and provided for, imported from foreign countries, the following duties and rates of duty, that is to say: First. On all teas, twenty cents per pound. Second. On coffee of all kinds, five cents per pound. Third. On raw sugar, commonly called Muscovado or brown sugar, and on sugars not advanced above number twelve, Dutch standard, by claying, boiling, clarifying, or other process, and on sirup of sugar or of sugar cane, and concentrated molasses or concentrated melado, two cents and a half per pound, and on white and clayed sugar, when advanced beyond the raw state, above number twelve, Dutch standard, by clarifying or other process, and not yet refined, three cents per pound; on refined sugars, whether loaf, lump, crushed, or pulverized, five cents per pound; on sugars after being refined, when they are tinctured, colored, or in any way adulterated, and on sugar candy, eight cents per pound; on molasses, six cents per gallon: *Provided,* That all sirups of sugar or of sugar cane, concentrated molasses or concentrated melado, entered under the name of molasses, or any other name than sirup of sugar or of sugar cane, concentrated molasses or concentrated melado, shall be liable to forfeiture to the United States, and the same shall be forfeited.

APPROVED, December 24, [1861.]

CHAP. III.—An Act relative to Courts-Martial in the Army.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That in time of war the commander of a division or separate brigade may appoint general courts-martial, and confirm, execute, pardon, and mitigate their sentences, as allowed and restrained in the sixty-fifth and eighty-ninth articles of war to commanders of armies and departments: *Provided,* That sentences of such courts extending to loss of life or dismission of a commissioned officer shall require the confirmation of the general commanding the army in the field to which the division or brigade belongs: *And provided further,* That when the division or brigade commander shall be the accuser or prosecutor, the court shall be appointed by the next higher commander.

APPROVED, December 24, 1861.

CHAP. IV.—An Act to provide for Allotment Certificates among the Volunteer Forces.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the President of the United States shall appoint, for each State having volunteers in the United States service, not exceeding three persons, who shall be authorized by the President's commission to visit the several departments of the Army in which volunteers from their respective States may be, and there procure from said volunteers from time to time their respective allotments of their pay to their families or friends, duly certified in writing, and by them, or by some commissioned officer of such department, attested in pursuance of such orders as may be made for that purpose by the Secretary of War, and upon which certified allotment the several paymasters shall, at each regular payment of troops, give drafts payable in the city of New York, to the order of such persons to whom said allotments were or may be made.

SEC. 2. *And be it further enacted*, That the persons appointed as commissioners to carry into effect the preceding section of this act shall receive no pay or emoluments whatever from the Treasury of the United States.

SEC. 3. *And be it further enacted*, That the fifth section of the act of twelfth June, eighteen hundred and fifty-eight, giving sutlers a lien upon the soldier's pay, be and the same is hereby repealed; and all regulations giving sutlers rights and privileges beyond the rules and articles of war be, and the same are hereby, abrogated.

APPROVED, December 24, 1861.

CHAP. V.—An Act making an Appropriation for Gunboats on the Western Rivers.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the sum of one million of dollars be, and the same is hereby, appropriated, out of any money in the Treasury not otherwise appropriated, for gunboats on the western rivers.

APPROVED, December 24, 1861.

CHAP. VI.—An Act making Appropriations for the Payment of Invalid and other Pensions of the United States for the year ending the thirtieth of June, eighteen hundred and sixty-three.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums be, and the same are hereby, appropriated, out of any money in the Treasury not otherwise appropriated, for the payment of pensions for the year ending the thirtieth of June, eighteen hundred and sixty-three:

For invalid pensions under various acts, six hundred and forty thousand dollars.

For pensions under acts of eighteenth March, eighteen hundred and eighteen, fifteenth May, eighteen hundred and twenty-eight, and seventh June, eighteen hundred and thirty-two, twenty-five thousand dollars.

For pensions to widows of those who served in the revolutionary war, under the third section of the act of fourth July, eighteen hundred and thirty-six, the acts of seventh July, eighteen hundred and thirty-eight, third March, eighteen hundred and forty-three, seventeenth June, eighteen hundred and forty-four, second February and twenty-ninth July, eighteen hundred and forty-eight, and second section act of third February, eighteen hundred and fifty-three, two hundred thousand dollars.

For pensions to widows and orphans, under first section act fourth July, eighteen hundred and thirty-six, act of twenty-first July, eighteen hundred and forty-eight, first section act of third February, eighteen hundred and fifty-three, and act third June, eighteen hundred and fifty-eight, three hundred and forty thousand dollars.

For Navy invalid pensions, forty-five thousand dollars.

For Navy pensions to widows and orphans, under act of eleventh August, eighteen hundred and forty-eight, two hundred thousand dollars.

For privateer invalid pensions, six hundred dollars: *Provided*, That no pension shall be paid under this act to any person who has been engaged in the present rebellion against the Government of the United States, or who has in any way given aid and comfort to those engaged in the rebellion.

APPROVED, January 8, 1862.

CHAP. VIII.—An Act to promote the Efficiency of the Dead Letter Office.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Postmaster General be authorized to return all dead letters, except those containing circulars and other worthless matter, to their writers, whenever their names can be ascertained. All valuable letters to be charged treble, and all others double, the ordinary rate of postage, to be collected from the writers.

SEC. 2. *And be it further enacted*, That, to enable this to be done, the Postmaster General is authorized to employ not exceeding twenty-five additional clerks, at salaries not exceeding an average of eight hundred dollars per year, and no one to receive over twelve hundred dollars per year: *Provided*, He is satisfied that the receipts for dead letter postage will amount to a sum sufficient to pay the aggregate compensation of the said clerks. And he shall report to the next session of Congress the additional income from this source, with its cost and statistical results.

APPROVED, January 21, 1862.

CHAP. IX.—An Act in relation to the Letters of Sailors and Marines in the service of the United States.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the provisions of the act of July twenty-second, eighteen hundred and sixty-one, authorizing soldiers to send letters through the mails of the United States without pre-payment of postage, is hereby extended to the sailors and marines in the actual service of the United States, under such regulations as the Post Office Department shall provide, the postage thereon to be paid by the recipients.

APPROVED, January 21, 1862.

CHAP. X.—An Act to authorize the President to appoint two additional Assistant Secretaries of War.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the President be, and he is hereby, authorized to appoint, by and with the advice and consent of the Senate, two additional Assistant Secretaries of War, whose salary shall each be three thousand dollars per annum, who shall perform all such duties in the office of the Secretary of War belonging to that Department as shall be prescribed by the Secretary of War, or as may be required by law. The offices of these additional Secretaries to continue for one year.

APPROVED, January 22, 1862.

CHAP. XI.—An Act amending the provisions of the second section of the Act of January twenty-fourth, eighteen hundred and fifty-seven, enforcing the Attendance of Witnesses before Committees of either House of Congress.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the provisions of the second section of the act entitled "An act more effectually to enforce the attendance of witnesses on the summons of either House of Congress, and to compel them to discover testimony," approved January twenty-fourth, eighteen hundred and fifty-seven, be amended, altered, and repealed, so as to read as follows: That the testimony of a witness examined and testifying before either House of Congress, or any committee of either House of Congress, shall not be used as evidence in any criminal proceeding against such witness in any court of justice: *Provided, however*, That no official paper or record, produced by such witness on such examination, shall be held or taken to be included within the privilege of said evidence so to protect such witness from any criminal proceeding as aforesaid; and no witness shall hereafter be allowed to refuse to testify to any fact, or to produce any paper touching which he shall be examined by either House of Congress, or any committee of either House, for the reason that his testimony touching such fact, or the production of such paper, may tend to disgrace him or otherwise render him infamous: *Provided*, That nothing in this act shall be construed to exempt any witness from prosecution and punishment for perjury committed by him in testifying as aforesaid.

APPROVED, January 24, 1862.

CHAP. XII.—An Act authorizing an increase of the Clerical Force in the War and Navy Departments.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, in addition to the clerical and other force now authorized by law in the War Department and its bureaus, the Secretary of War is hereby authorized to appoint as follows: In the office of the Secretary of War, four clerks of class one; in the office of the Adjutant General, eighteen clerks of class one, and two messengers; in the office of the Quartermaster General, ten clerks of class one, and one messenger; in the office of the Surgeon General, two clerks of class one, and one laborer; in the office of the Paymaster General, eight clerks of class one, and one messenger; in the office of the Chief of Engineers, one clerk of class one; in the office of the Chief of Ordnance, three clerks of class one; in the office of the Commissary General, three clerks of class one, and one laborer. And the Adjutant General is authorized to employ in his office any number, not exceeding ten, of non-commissioned officers, to be selected by him from the Army, in addition to his present clerical force.

SEC. 2. *And be it further enacted*, That the Secretary of the Navy be authorized to employ four additional clerks of class one for that Department.

APPROVED, January 27, 1862.

CHAP. XIII.—An Act to provide for the Protection of Overland Emigrants to California, Oregon, and Washington Territory.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, for the protection of emigrants on the overland routes between the Atlantic States and California, Oregon, and Washington Territory, the sum of twenty-five thousand dollars be, and the same is hereby, appropriated, out of any money in the Treasury not otherwise appropriated, to be expended under the direction of the Secretary of War, if, in his judgment, the same may be necessary.

APPROVED, January 27, 1862.

CHAP. XIV.—An Act to pay the Expenses of the Special Committee of the House of Representatives, appointed July eighth, eighteen hundred and sixty-one, to ascertain and report in regard to Contracts with any Department of the Government for Provisions, Supplies, Transportation, &c.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That there be appropriated, out of any moneys in the Treasury not otherwise appropriated, the sum of ten thousand dollars, or so much thereof as may be necessary, to pay the expenses of the special committee of the House of Representatives appointed on the eighth day of July, eighteen hundred and sixty-one, to ascertain and report in regard to contracts made with any Department of the Government for provisions, supplies, transportation, &c.; and said sum shall be drawn from the Treasury upon the order of the Sergeant-at-Arms of the House of Representatives, as the same shall be required from time to time by the committee having such investigation in charge.

APPROVED, January 31, 1862.

CHAP. XV.—An Act to authorize the President of the United States, in certain cases, to take possession of Railroad and Telegraph Lines, and for other Purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the President of the United States, when in his judgment the public safety may require it, be, and he is hereby, authorized to take possession of any or all the telegraph lines in the United States, their offices and appurtenances; to take possession of any or all the railroad lines in the United States, their rolling-stock, their offices, shops, buildings, and all their appendages and appurtenances; to prescribe rules and regulations for the holding, using, and maintaining of the aforesaid telegraph and railroad lines, and to extend, repair, and complete the same, in the manner most conducive to the safety and interest of the Government; to place under military control all the officers, agents, and employés belonging to the telegraph and railroad lines thus taken possession of by the President, so that they shall be considered as a post road and a part of the military establishment of the United States, subject to all the restrictions imposed by the rules and articles of war.

SEC. 2. *And be it further enacted*, That any attempt by any party or parties whomsoever, in any State or district in which the laws of the United

States are opposed, or the execution thereof obstructed by insurgents and rebels against the United States, too powerful to be suppressed by the ordinary course of judicial proceedings, to resist or interfere with the unrestrained use by Government of the property described in the preceding section, or any attempt to injure or destroy the property aforesaid, shall be punished as a military offense, by death, or such other penalty as a court-martial may impose.

SEC. 3. *And be it further enacted*, That three commissioners shall be appointed by the President of the United States, by and with the advice and consent of the Senate, to assess and determine the damages suffered, or the compensation to which any railroad or telegraph company may be entitled by reason of the railroad or telegraph line being seized and used under the authority conferred by this act, and their award shall be submitted to Congress for their action.

SEC. 4. *And be it further enacted*, That the transportation of troops, munitions of war, equipments, military property, and stores, throughout the United States, shall be under the immediate control and supervision of the Secretary of War and such agents as he may appoint; and all rules, regulations, articles, usages, and laws in conflict with this provision are hereby annulled.

SEC. 5. *And be it further enacted*, That the compensation of each of the commissioners aforesaid shall be eight dollars per day while in actual service; and that the provisions of this act, so far as it relates to the operating and using said railroads and telegraphs, shall not be in force any longer than is necessary for the suppression of this rebellion.

APPROVED, January 31, 1862.

CHAP. XVII.—An Act making appropriations for the Consular and Diplomatic Expenses of the Government for the year ending thirtieth June, eighteen hundred and sixty-three, and additional Appropriations for the year ending thirtieth June, eighteen hundred and sixty-two.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums be, and the same are hereby, appropriated, out of any money in the Treasury not otherwise appropriated, for the objects hereafter expressed, for the fiscal year ending the thirtieth of June, eighteen hundred and sixty-three, namely:

For salaries of envoys extraordinary, ministers, and commissioners of the United States at Great Britain, France, Russia, Prussia, Spain, Austria, Brazil, Mexico, China, Italy, Chili, Peru, Portugal, Switzerland, Rome, Belgium, Holland, Denmark, Sweden, Turkey, New Granada, Bolivia, Ecuador, Venezuela, Guatemala, Nicaragua, Sandwich Islands, Costa Rica, Honduras, Argentine Confederation, Paraguay, and Japan, three hundred and one thousand dollars.

For salaries of secretaries of legation, forty-three thousand three hundred and fifty dollars.

For salaries of assistant secretaries of legation at London and Paris, three thousand dollars.

For salary of the interpreter to the legation to China, five thousand dollars.

For salary of the secretary of legation to Turkey, acting as interpreter, three thousand dollars.

For salary of the interpreter to the legation to Japan, two thousand five hundred dollars.

For compensation to an interpreter to the consulate at Kanagawa, fifteen hundred dollars.

For contingent expenses of all the missions abroad, fifty thousand dollars.

For contingent expenses of foreign intercourse, one hundred thousand dollars.

For expenses of intercourse with the Barbary Powers, three thousand dollars.

For expenses of the consulates in the Turkish dominions, namely, interpreters, guards, and other expenses of the consulates at Constantinople, Smyrna, Candia, Alexandria, and Beirut, two thousand five hundred dollars.

For the relief and protection of American seamen in foreign countries, two hundred thousand dollars.

For expenses which may be incurred in acknowledging the services of the masters and crews of foreign vessels in rescuing citizens of the United States from shipwreck, seven thousand five hundred dollars.

For the purchase of blank books, stationery, arms of the United States, seals, presses, flags, postages, and for the payment of miscellaneous expenses of the consuls of the United States, including the preservation of the archives of the consulates, forty-five thousand dollars.

For office rent for those consuls general, consuls, and commercial agents, who are not allowed to trade, including loss by exchange thereon, twenty-seven thousand three hundred and seventy dollars.

For salaries of consuls general at Quebec, Calcutta, Alexandria, Havana, Constantinople, Frankfort-on-the-Main; consuls at Kanagawa and Nangasaki, in Japan, Liverpool, London, Melbourne, Hong Kong, Glasgow, Mauritius, Singapore, Belfast, Cork, Dundee, Demarara, Halifax, Kingston, (Jamaica,) Leeds, Manchester, Nassau, (New Providence,) Southampton, Turk's Island, Prince Edward's Island, Havre, Paris, Marseilles, Bordeaux, La Rochelle, Lyons, Moscow, Odessa, Revel, St. Petersburgh, Matanzas, Trinidad de Cuba, Santiago de Cuba, San Juan, (Porto Rico,) Cadiz, Malaga, Ponce, (Porto Rico,) Trieste, Vienna, Aix-la-Chapelle, Canton, Shanghai, Fouchou, Amoy, Ningpo, Beirut, Smyrna, Jerusalem, Rotterdam, Amsterdam, Antwerp, Funchal, Oporto, Saint Thomas, Elsineur, Genoa, Basle, Geneva, Messina, Naples, Palermo, Leipsic, Munich, Leghorn, Stuttgardt, Bremen, Hamburg, Tangiers, Tripoli, Tunis, Rio de Janeiro, Pernambuco, Vera Cruz, Acapulco, Callao, Valparaiso, Buenos Ayres, San Juan del Sur, Aspinwall, Panama, Laguayra, Honolulu, Lahaina, Capetown, Falkland Islands, Venice, Stettin, Candia, Cyprus, Batavia, Fayal, Santiago, (Cape de Verdes,) Saint Croix, Spezzia, Athens, Zanzibar, Bahia, Maranham Island, Para, Rio Grande, Matamoras, Mexico, (city,) Tampico, Paso del Norte, Tabasco, Paita, Tumbez, Talcahuano, Carthagena, Sabanillo, Omoa, Guayaquil, Cobija, Montevideo, Tahiti, Bay of Islands, Apia, Lanthala, Bristol, Cardiff, Malta, St. John, (Newfoundland,) St. John, (New Brunswick,) Pictou, (Nova Scotia,) La Union, Barbadoes, Bermuda, Antigua, Nantes, Napoleon Vendee, Nice, Lisbon, Gottenburg, Tehuantepec, Santos, St. Catherine, Balize, Gaspe Basin, Valencia, Port Mahon, Martinique, Taranto, Santander, Galatz, Bilbao, Scio, Paramaribo, Macao, Stockholm, Ancona, Otranto, Swatow, La Paz, Bergen, Trinidad, Barcelona, Quebec, Maricaibo, Algiers, Port au Prince, San Domingo, (city,) Monrovia, Cape Haytien, Aux Cayes, and Newcastle-upon-Tyne; commercial agents at San Juan del Norte, St. Paul de Loanda, (Angola,) Gaboon, St. Marc, Curaçoa, and Amoor River, three hundred and fifty-one thousand five hundred and fifty dollars. And the salary of the consul at Bremen shall be three thousand dollars, to commence on the first day of January, eighteen hundred and sixty-two; and the consul at Pictou (Nova Scotia) shall receive a salary of fifteen hundred dollars, to commence on the first day of January, eighteen hundred and sixty-two; and the salary of the consul at Swatow shall be thirty-five hundred dollars, to commence on the twenty-first day of September, eighteen hundred and sixty; and the consul at Port Mahon shall receive a salary of fifteen hundred dollars: *Provided*, That all consular officers whose respective salaries exceed one thousand dollars per annum shall be subject to the provisions of the fifth section of the act to regulate the diplomatic and consular systems of the United States, approved August eighteen, eighteen hundred and fifty-six; and their respective consulates shall be included in schedule B, of the list of salaried consulates: *And provided further*, That no appointments of consuls shall hereafter be made, nor the compensation of consuls raised, under the act of August two, eighteen hundred and sixty-one, except to the places herein mentioned. And the consul at Newcastle-upon-Tyne shall receive a salary of fifteen hundred dollars per annum, commencing on the first day of January, eighteen hundred and sixty-two.

For interpreters to the consulates in China, four thousand five hundred dollars.

For salaries of the marshals for the consular courts in Japan, China, Siam, and Turkey, seven thousand dollars.

For rent of prisons for American convicts in Japan, China, Siam, and Turkey, and for wages of the keepers of the same, nine thousand dollars.

SEC. 2. *And be it further enacted*, That the following sums be and the same are hereby appropriated for the service of the year ending the thirtieth June, eighteen hundred and sixty-two, namely:

For compensation and increased salaries to sundry consuls, under the act of second August, eighteen hundred and sixty-one, fifty-four thousand one hundred and eleven dollars and ninety-seven cents.

To meet an extraordinary emergency which has arisen in bringing from Sidney, New South Wales, eight seamen, belonging to the ship "Junior," charged with the crimes of mutiny and murder, a guard of seven men, and also eleven of the crew as witnesses, fifteen thousand and seven dollars and ninety-two cents, or so much thereof as may be just and fair; said sum to be expended under the direction of the Secretary of State.

APPROVED, February 4, 1862.

CHAP. XVIII.—An Act authorizing the Secretary of the Interior to strike from the Pension Rolls the names of such persons as have taken up arms against the Government, or who may have in any manner encouraged the rebels.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior be, and he is hereby, authorized and directed to strike from the pension rolls the names of all such persons as have or may hereafter take up arms against the Government of the United States, or who have in any manner encouraged the rebels or manifested a sympathy with their cause.

APPROVED, February 4, 1862.

CHAP. XIX.—An Act making appropriations for the Support of the Military Academy for the year ending the thirtieth of June, eighteen hundred and sixty-three.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums be, and the same are hereby, appropriated, out of any money in the Treasury not otherwise appropriated, for the support of the Military Academy for the year ending the thirtieth of June, eighteen hundred and sixty-three:

For pay of officers, instructors, cadets, and musicians, one hundred thousand dollars.

For commutation of subsistence, four thousand one hundred and sixty-one dollars.

For forage for officers' horses, one thousand four hundred and forty dollars.

For pay in lieu of clothing to officers' servants, sixty dollars.

For current and ordinary expenses, as follows: repairs and improvements, fuel and apparatus, forage, postage, stationery, transportation, printing, clerks, miscellaneous and incidental expenses, and departments of instruction, thirty-five thousand dollars.

For gradual increase and expense of library, one thousand dollars.

For expenses of the board of visitors, one thousand five hundred dollars.

For forage of artillery and cavalry horses, five thousand dollars.

For supplying horses for artillery and cavalry practice, one thousand dollars.

For repairs of officers' quarters, one thousand five hundred dollars.

For targets and batteries for artillery exercise, one hundred and fifty dollars.

For furniture for hospital for cadets, one hundred dollars.

For annual repairs of gas pipes and retorts, three hundred dollars.

For warming apparatus for academic and other buildings, three thousand dollars.

For kitchen of cadets' mess hall, one thousand dollars.

For latrines at cadets' camp ground, one thousand dollars.

APPROVED, February 10, 1862.

CHAP. XX.—An Act to authorize an additional Issue of United States Notes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Treasury, in addition to the fifty millions of notes payable on demand of denominations not less than five dollars, heretofore authorized by the acts of July seventeenth and August fifth, eighteen hundred and sixty-one, be, and he is hereby, authorized to issue like notes, and for like purposes, to the amount of ten millions of dollars, and said notes shall be deemed part of the loan of two hundred and fifty millions of dollars authorized by said acts.

APPROVED, February 12, 1862.

CHAP. XXI.—An Act authorizing the Detail of Naval Officers for the service of the War Department.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the President of the United States be, and he is hereby, authorized to temporarily detail three competent naval officers for the service of the War Department in the inspection of transport vessels, and for such other services as may be designated by the Secretary of War.

APPROVED, February 12, 1862.

CHAP. XXII.—An Act making an Appropriation for the Purchase of Cotton and Tobacco Seed for general Distribution.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That there be, and is hereby, appropriated, out of any money in the Treasury not otherwise appropriated, the sum of three thousand dollars, for the purchase of cotton seed, and one thousand dollars for the purchase of tobacco seed, under the superintendence of the Secretary of the Interior, for general distribution: *Provided*, That the said cotton seed shall be purchased from places where cotton is grown as far north as practicable.

APPROVED, February 13, 1862.

CHAP. XXIII.—An Act to authorize the Construction of Twenty Iron-clad Steam Gunboats.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Navy is hereby authorized and empowered to cause to be constructed, by contract or otherwise, as he shall deem best for the public interest, not exceeding twenty iron-clad steam gunboats for the use of the Navy of the United States.

SEC. 2. *And be it further enacted*, That the sum of ten million dollars be, and hereby is, appropriated, out of any money in the Treasury not otherwise appropriated, to carry out the purpose of this act.

APPROVED, February 13, 1862.

CHAP. XXIV.—An Act to amend an Act entitled "An Act to regulate Trade and Intercourse with the Indian Tribes, and to preserve Peace on the Frontiers," approved June thirtieth, eighteen hundred and thirty-four.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the twentieth section of the "Act to regulate trade and intercourse with the Indian tribes, and to preserve peace on the frontiers," approved June thirtieth, eighteen hundred and thirty-four, be, and the same is hereby, amended so as to read as follows, to wit:

"SEC. 20. *And be it further enacted*, That if any person shall sell, exchange, give, barter, or dispose of any spirituous liquor or wine to any Indian under the charge of any Indian superintendent or Indian agent appointed by the United States, or shall introduce or attempt to introduce any spirituous liquor or wine into the Indian country, such person, on conviction thereof before the proper district court of the United States, shall be imprisoned for a period not exceeding two years, and shall be fined not more than three hundred dollars: *Provided, however*, That it shall be a sufficient defense to any charge of introducing or attempting to introduce liquor into the Indian country if it be proved to be done by order of the War Department, or of any officer duly authorized thereto by the War Department. And if any superintendent of Indian affairs, Indian agent or sub-agent, or commanding officer of a military post, has reason to suspect or is informed that any white person or Indian is about to introduce or has introduced any spirituous liquor or wine into the Indian country, in violation of the provisions of this section, it shall be lawful for such superintendent, agent, sub-agent, or commanding officer, to cause the boats, stores, packages, wagons, sleds, and places of deposit of such person to be searched; and if any such liquor is found therein, the same, together with the boats, teams, wagons, and sleds used in conveying the same, and also the goods, packages, and peltries of such person, shall be seized and delivered to the proper officer, and shall be proceeded against by libel in the proper court, and forfeited, one half to the informer and the other half to the use of the United States; and if such person be a trader, his license shall be revoked and his bond put in suit. And it shall moreover be lawful for any person in the service of the United States, or for any Indian, to take and destroy any ardent spirits or wine found in the Indian country, except such as may be introduced therein by the War Department. And in all cases arising under this act Indians shall be competent witnesses."

APPROVED, February 13, 1862.

CHAP. XXV.—An Act making an Appropriation for completing the Defenses of Washington, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the sum of one hundred and fifty thousand dollars be, and the same is hereby, appropriated, out of any money in the Treasury not otherwise appropriated, for completing the defenses of Washington: *Provided*, That all arrearages of debts already incurred for the objects of this act shall be first paid out of this sum: *And provided further*, That no part of the sum hereby appropriated shall be expended in any work hereafter to be commenced.

SEC. 2. *And be it further enacted*, That the fifth section of the act of twenty-eighth September, eighteen hundred and fifty, providing for the discharge from the service of minors enlisted without the consent of their parents or guardians, be, and the same hereby is, repealed: *Provided*, That hereafter no person under the age of eighteen shall be mustered into the United States service, and the oath of enlistment taken by the recruit shall be conclusive as to his age.

SEC. 3. *And be it further enacted*, That no volunteers or militia from any State or Territory shall be mustered into the service of the United States on any terms or conditions confining their service to the limits of said State or Territory, or their vicinities, beyond the number of ten thousand in the State of Missouri and four thousand five hundred in the State of Maryland heretofore authorized by the President of the United States or Secretary of War to be raised in said States.

SEC. 4. *And be it further enacted*, That the second section of the act of the tenth of April, eighteen hundred and six, shall be, and the same is hereby, so amended as to read as follows:

"SEC. 2. *And be it further enacted*, That in time of war or rebellion against the supreme authority of the United States, all persons who shall be found lurking as spies, or acting as such, in or about the fortifications, encampments, posts, quarters, or headquarters of the armies of the United States, or any of them, within any part of the United States which has been or may be declared to be in a state of insurrection by proclamation of the President of the United States, shall suffer death by sentence of a general court-martial."

SEC. 5. *And be it further enacted*, That the fifty-fifth article of the first section of act of tenth April, eighteen hundred and six, chapter twenty, be, and the same is hereby, so amended as to read as follows:

"ARTICLE 55. Whoever, belonging to the armies of the United States in foreign parts, or at any place within the United States, or their Territories, during rebellion against the supreme authority of the United States, shall force a safeguard, shall suffer death."

APPROVED, February 13, 1862.

CHAP. XXVII.—An Act to prohibit the "Coolie Trade" by American citizens in American vessels.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That no citizen or citizens of the United States, or foreigner coming into or residing within the same, shall, for himself or for any other person whatsoever, either as master, factor, owner, or otherwise, build, equip, load, or otherwise prepare, any ship or vessel, or any steamship or steam-vessel, registered, enrolled, or licensed, in the United States, or any port within the same, for the purpose of procuring from China, or from any port or place therein, or from any other port or place, the inhabitants or subjects of China, known as "coolies," to be transported to any foreign country, port, or place whatever, to be disposed of, or sold, or transferred, for any term of years or for any time whatever, as servants or apprentices, or to be held to service or labor. And if any ship or vessel, steamship, or steam-vessel, belonging in whole or in part to citizens of the United States, and registered, enrolled, or otherwise licensed as aforesaid, shall be employed for the said purposes, or in the "coolie trade," so-called, or shall be caused to procure or carry from China or elsewhere, as aforesaid, any subjects of the Government of China for the purpose of transporting or disposing of them as aforesaid, every such ship or vessel, steamship, or steam-vessel, her tackle, apparel, furniture, and other appurtenances, shall be forfeited to the United States, and shall be liable to be seized, prosecuted, and condemned in any of the circuit courts or district courts of the United States for the district where the said ship or vessel, steamship, or steam-vessel, may be found, seized, or carried.

SEC. 2. *And be it further enacted*, That every person who shall so build, fit out, equip, load, or otherwise prepare, or who shall send to sea, or navigate, as owner, master, factor, agent, or otherwise, any ship or vessel, steamship, or steam-vessel, belonging in whole or in part to citizens of the United States, or registered, enrolled, or licensed within the same, or at any port thereof, knowing or intending that the same shall be employed in that trade or business aforesaid, contrary to the true intent and meaning of this act, or in anywise aiding or abetting therein, shall be severally liable to be indicted therefor, and, on conviction thereof, shall be liable to a fine not exceeding two thousand dollars, and be imprisoned not exceeding one year.

SEC. 3. *And be it further enacted*, That if any citizen or citizens of the United States shall, contrary to the true intent and meaning of this act, take on board of any vessel, or receive or transport any such persons as are above described in this act, for the purpose of disposing of them as aforesaid, he or they shall be liable to be indicted therefor, and, on conviction thereof, shall be liable to a fine not exceeding two thousand dollars and be imprisoned not exceeding one year.

SEC 4. *And be it further enacted*, That nothing in this act hereinbefore contained shall be deemed or construed to apply to or affect any free and voluntary emigration of any Chinese subject, or to any vessel carrying such person as passenger on board the same: *Provided, however*, That a permit or certificate shall be prepared and signed by the consul or consular agent of the United States residing at the port from which such vessel may take her departure, containing the name of such person, and setting forth the fact of his voluntary emigration from such port or place, which certificate shall be given to the master of such vessel; but the same shall not be given until such consul or consular agent shall be first personally satisfied by evidence produced of the truth of the facts therein contained.

SEC. 5. *And be it further enacted*, That all the provisions of the act of Congress approved February twenty-second, eighteen hundred and forty-seven, entitled "An act to regulate the carriage of passengers in merchant vessels," and all the provisions of the act of Congress approved March third, eighteen hundred and forty-nine, entitled "An act to extend the provisions of all laws now in force relating to the carriage of passengers in merchant vessels and the regulation thereof," shall be extended and shall apply to all vessels

owned in whole or in part by citizens of the United States, and registered, enrolled, or licensed within the United States, propelled by wind or by steam, and to all masters thereof, carrying passengers or intending to carry passengers from any foreign port or place without the United States to any other foreign port or place without the United States; and that all penalties and forfeitures provided for in said act shall apply to vessels and masters last aforesaid.

SEC. 6. *And be it further enacted*, That the President of the United States shall be, and he is hereby, authorized and empowered, in such way and at such time as he shall judge proper to the end that the provisions of this act may be enforced according to the true intent and meaning thereof, to direct and order the vessels of the United States, and the masters and commanders thereof, to examine all vessels navigated or owned in whole or in part by citizens of the United States, and registered, enrolled, or licensed under the laws of the United States, wherever they may be, whenever, in the judgment of such master or commanding officer thereof, reasonable cause shall exist to believe that such vessel has on board, in violation of the provisions of this act, any subjects of China known as "coolies," for the purpose of transportation; and upon sufficient proof that such vessel is employed in violation of the provisions of this act, to cause such vessel to be carried, with her officers and crew, into any port or district within the United States, and delivered to the marshal of such district, to be held and disposed of according to the provisions of this act.

SEC. 7. *And be it further enacted*, That this act shall take effect from and after six months from the day of its passage.

APPROVED, February 19, 1862.

CHAP. XXVIII.—An Act making Appropriations for the Construction, Preservation, and Repairs of certain Fortifications and other Works of Defense for the year ending thirtieth of June, eighteen hundred and sixty-three, and additional Appropriations for the year ending thirtieth June, eighteen hundred and sixty-two.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums be, and they are hereby, appropriated, out of any money in the Treasury not otherwise appropriated, for the construction, preservation, and repairs of certain fortifications and other works of defense for the year ending the thirtieth of June, eighteen hundred and sixty-three:

For Fort Montgomery, at outlet of Lake Champlain, New York, one hundred thousand dollars.

For Fort Knox, at narrows of Penobscot river, Maine, one hundred thousand dollars.

For fort on Hog Island Ledge, Portland harbor, Maine, one hundred thousand dollars.

For continuation of works at Fort Scammel, Portland harbor, Maine, seventy-five thousand dollars.

For Fort Warren, Boston harbor, Massachusetts, seventy-five thousand dollars.

For Fort Winthrop, Boston harbor, Massachusetts, fifty thousand dollars.

For fort at New Bedford harbor, Massachusetts, one hundred thousand dollars.

For fort at Willet's Point, opposite Fort Schuyler, New York, two hundred thousand dollars.

For fort on site of Fort Tompkins, Staten Island, New York, two hundred thousand dollars.

For fort at Sandy Hook, New Jersey, three hundred thousand dollars.

For Fort Delaware, Delaware river, sixty thousand dollars.

For Fort Carroll, Baltimore harbor, Maryland, two hundred thousand dollars.

For Fort Calhoun, Hampton Roads, Virginia, two hundred thousand dollars.

For Fort Taylor, Key West, Florida, two hundred thousand dollars.

For Fort Jefferson, Garden Key, Florida, two hundred thousand dollars.

For fort at Fort Point, San Francisco bay, California, two hundred thousand dollars.

For fort at Alcatraz Island, San Francisco bay, California, one hundred and fifty thousand dollars.

For contingencies of fortifications, including field works, five hundred thousand dollars.

For bridge trains and equipage for armies in the field, two hundred and fifty thousand dollars.

For tool and siege trains for armies in the field, two hundred and fifty thousand dollars.

SEC. 2. *And be it further enacted*, That the following sums be, and the same are hereby, appropriated, out of any money in the Treasury not otherwise appropriated, for the year ending thirtieth June, eighteen hundred and sixty-two:

For fortifications on the northern frontier, including fortifications at Ogdensburg, Oswego, at the mouth of Genesee river, Niagara, Buffalo, Detroit, Fort Gratiot, Mackinaw, and the Sault Sainte Marie, seven hundred and fifty thousand dollars.

For Fort Montgomery, at outlet of Lake Champlain, New York, fifty thousand dollars.

For Fort Knox, Penobscot river, Maine, fifty thousand dollars.

For fort on Hog Island Ledge, Portland harbor, Maine, fifty thousand dollars.

For Fort Winthrop and exterior batteries, Boston harbor, Massachusetts, fifty thousand dollars.

For fort at New Bedford harbor, Massachusetts, fifty thousand dollars.

For Fort Adams, Newport harbor, Rhode Island, fifty thousand dollars.

For Fort Schuyler, East river, New York, twenty-five thousand dollars.

For fort at Willet's Point, opposite Fort Schuyler, New York, fifty thousand dollars.

For Fort Richmond, Staten Island, New York, twenty-five thousand dollars.

For fort on site of Fort Tompkins, Staten Island, New York, fifty thousand dollars.

For commencement of casemate at battery on Staten Island, New York, one hundred thousand dollars.

For new battery at Fort Hamilton, at the Narrows, New York, one hundred thousand dollars.

For Fort Mifflin, near Philadelphia, Pennsylvania, twenty-five thousand dollars.

For new fort opposite Fort Delaware, on Delaware shore, two hundred thousand dollars.

For Fort Monroe, Hampton Roads, Virginia, fifty thousand dollars.

For Fort Taylor, Key West, Florida, one hundred thousand dollars.

For Fort Jefferson, Garden Key, Florida, one hundred thousand dollars.

For additional fort at the Tortugas, Florida, two hundred thousand dollars.

For fort at Ship Island, coast of Mississippi, one hundred thousand dollars.

For contingencies of fortifications, one hundred thousand dollars.

For bridge trains and equipage, two hundred and fifty thousand dollars.

For defense in Oregon and Washington Territory, at or near the mouth of Columbia river, one hundred thousand dollars, if, in the judgment of the President, the same, or any part thereof, should be advisable.

SEC. 3. *And be it further enacted*, That the following sum be, and the same is hereby, appropriated, out of any money in the Treasury not otherwise appropriated, for the fiscal years ending June thirty, eighteen hundred and sixty-two, and June thirty, eighteen hundred and sixty-three:

For the erection of temporary works in Maine, and in the harbor at Portsmouth, New Hampshire, when, in the judgment of the President, the expenditure of the same, or any part thereof, shall be advisable, five hundred and fifty thousand dollars.

For the erection of temporary works in Narragansett bay, when, in the judgment of the President, the expenditure of the same, or any part thereof, shall be advisable, two hundred thousand dollars.

APPROVED, February 20, 1862.

CHAP. XXIX.—An Act making an Appropriation to Illuminate the Public Buildings.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the sum of one thousand dollars, or so much thereof as may be necessary, be, and the same is hereby, appropriated, payable out of any money in the Treasury not otherwise appropriated, to enable the Commissioner of Public Buildings to carry out the order of Congress for the illumination of the public buildings on the twenty-second of February, eighteen hundred and sixty-two.

APPROVED, February 20, 1862.

CHAP. XXX.—An Act to authorize a change of Appropriations for the Payment of necessary Expenditures in the service of the United States for Indian Affairs.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior be, and is hereby, authorized to pay to Benjamin Davis, late superintendent of Indian affairs for the Territory of Utah, such sums as may be found due to him on the settlement of his accounts as superintendent, said payment not to exceed the sum of nine thousand seven hundred and thirty dollars and ten cents, and which shall be paid out of the unexpended balance of the appropriation made by the act entitled "An act to supply deficiencies in the appropriation for the service of the fiscal year ending thirtieth June, eighteen hundred and sixty," approved May twenty-fourth, eighteen hundred and sixty, for the payment of Indian agents in Utah.

APPROVED, February 22, 1862.

CHAP. XXXI.—An Act making Appropriations for the Signal Service of the United States Army.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That officers temporarily serving as signal officers shall receive, for the time they are so serving, the pay and emoluments of cavalry officers of their respective grades.

SEC. 2. *And be it further enacted*, That the following sums be, and they are hereby, appropriated, out of any money in the Treasury not otherwise appropriated, namely:

For the manufacture or purchase of signal equipments and signal stores, to equip and supply the forces now in the field, twenty thousand dollars.

For contingent expenses of the signal department, one thousand dollars.

For the manufacture or purchase of signal equipments and signal stores, for countersign signals, to prevent the collision of friendly regiments, thirty-four thousand nine hundred and fifty dollars.

APPROVED, February 22, 1862.

CHAP. XXXII.—An Act making additional Appropriations for the support of the Army for the year ending thirtieth of June, eighteen hundred and sixty-two.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums be, and the same are hereby, appropriated, out of any money in the Treasury not otherwise appropriated, for the service of the year ending thirtieth of June, eighteen hundred and sixty-two:

For pay of two and three years volunteers, fifty million dollars.

For payments to discharged soldiers for clothing not drawn, fifty thousand dollars.

For subsistence in kind for two and three years volunteers, twenty-six million six hundred and sixty-eight thousand nine hundred and two dollars.

For transportation of the Army and its supplies, fourteen million eight hundred and eighty-one thousand dollars.

For the purchase of cavalry and artillery horses, one million six hundred and sixty-one thousand and forty dollars.

For clothing, camp and garrison equipage, twelve million one hundred and seventy-three thousand five hundred and forty-six dollars and seventy-seven cents.

For regular supplies, incidental expenses, transportation, barracks and quarters, clothing, camp and garrison equipage, keeping, transporting, and supplying prisoners, and other supplies and services of the Quartermaster's department, to thirtieth of June, eighteen hundred and sixty-two,

and to be divided among the said several heads of appropriation herein named, as the exigencies of the service may require, seventy-six millions five hundred thousand dollars.

For the armament of fortifications, eight hundred and thirty-four thousand dollars.

For the current expenses of the ordnance service, two hundred thousand dollars.

For ordnance, ordnance stores and supplies, including horse equipments for all the mounted troops, one million nine hundred and twenty-four thousand dollars.

For purchase of arms for volunteers and regulars, and ordnance and ordnance stores, seven millions five hundred thousand dollars.

For the medical and hospital department, one million dollars.

For amount required to refund to the States expenses incurred on account of volunteers called into the field, fifteen million dollars.

APPROVED, February 25, 1862.

CHAP. XXXIII.—An Act to authorize the Issue of United States Notes, and for the Redemption or Funding thereof, and for Funding the Floating Debt of the United States.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Treasury is hereby authorized to issue, on the credit of the United States, one hundred and fifty millions of dollars of United States notes, not bearing interest, payable to bearer, at the Treasury of the United States, and of such denominations as he may deem expedient, not less than five dollars each: *Provided, however*, That fifty millions of said notes shall be in lieu of the demand Treasury notes authorized to be issued by the act of July seventeen, eighteen hundred and sixty-one; which said demand notes shall be taken up as rapidly as practicable, and the notes herein provided for substituted for them: *And provided further*, That the amount of the two kinds of notes together shall at no time exceed the sum of one hundred and fifty millions of dollars, and such notes herein authorized shall be receivable in payment of all taxes, internal duties, excises, debts, and demands of every kind due to the United States, except duties on imports, and of all claims and demands against the United States of every kind whatsoever, except for interest upon bonds and notes, which shall be paid in coin, and shall also be lawful money and a legal tender in payment of all debts, public and private, within the United States, except duties on imports and interest as aforesaid. And any holders of said United States notes depositing any sum not less than fifty dollars, or some multiple of fifty dollars, with the Treasurer of the United States, or either of the Assistant Treasurers, shall receive in exchange therefor duplicate certificates of deposit, one of which may be transmitted to the Secretary of the Treasury, who shall thereupon issue to the holder an equal amount of bonds of the United States, coupon or registered, as may by said holder be desired, bearing interest at the rate of six per centum per annum, payable semi-annually, and redeemable at the pleasure of the United States after five years, and payable twenty years from the date thereof. And such United States notes shall be received the same as coin, at their par value, in payment for any loans that may be hereafter sold or negotiated by the Secretary of the Treasury, and may be reissued from time to time as the exigencies of the public interests shall require.

SEC. 2. *And be it further enacted*, That to enable the Secretary of the Treasury to fund the Treasury notes and floating debt of the United States, he is hereby authorized to issue, on the credit of the United States, coupon bonds, or registered bonds, to an amount not exceeding five hundred millions of dollars, redeemable at the pleasure of the United States after five years, and payable twenty years from date, and bearing interest at the rate of six per centum per annum, payable semi-annually. And the bonds herein authorized shall be of such denominations, not less than fifty dollars, as may be determined upon by the Secretary of the Treasury. And the Secretary of the Treasury may dispose of such bonds at any time, at the market value thereof, for the coin of the United States, or for any of the Treasury notes that have been or may hereafter be issued under any former act of Congress, or for United States notes that may be issued under the provisions of this act; and all stocks, bonds, and other securities of the United States held by individuals, corporations, or associations, within the United States, shall be exempt from taxation by or under State authority.

SEC. 3. *And be it further enacted*, That the United States notes and the coupon or registered bonds authorized by this act shall be in such form as the Secretary of the Treasury may direct, and shall bear the written or engraved signatures of the Treasurer of the United States and the Register of the Treasury, and also, as evidence of lawful issue, the imprint of a copy of the seal of the Treasury Department, which imprint shall be made under the direction of the Secretary, after the said notes or bonds shall be received from the engravers and before they are issued; or the said notes and bonds shall be signed by the Treasurer of the United States, or for the Treasurer by such persons as may be specially appointed by the Secretary of the Treasury for that purpose, and shall be countersigned by the Register of the Treasury, or for the Register by such persons as the Secretary of the Treasury may specially appoint for that purpose; and all the provisions of the act entitled "An act to authorize the issue of Treasury notes," approved the twenty-third day of December, eighteen hundred and fifty-seven, so far as they can be applied to this act, and not inconsistent therewith, are hereby revived and reënacted; and the sum of three hundred thousand dollars is hereby appropriated, out of any money in the Treasury not otherwise appropriated, to enable the Secretary of the Treasury to carry this act into effect.

SEC. 4. *And be it further enacted*, That the Secretary of the Treasury may receive from any person or persons, or any corporation, United States notes on deposit for not less than thirty days, in sums of not less than one hundred dollars, with any of the Assistant Treasurers or designated depositaries of the United States authorized by the Secretary of the Treasury to receive them, who shall issue therefor certificates of deposit, made in such form as the Secretary of the Treasury shall prescribe, and said certificates of deposit shall bear interest at the rate of five per centum per annum; and any amount of United States notes so deposited may be withdrawn from deposit at any time after ten days' notice on the return of said certificates: *Provided*, That the interest on all such deposits shall cease and determine at the pleasure of the Secretary of the Treasury: *And provided further*, That the aggregate of such deposit shall at no time exceed the amount of twenty-five millions of dollars.

SEC. 5. *And be it further enacted*, That all duties on imported goods shall be paid in coin, or in notes payable on demand heretofore authorized to be issued and by law receivable in payment of public dues, and the coin so paid shall be set apart as a special fund, and shall be applied as follows:

First. To the payment in coin of the interest on the bonds and notes of the United States.

Second. To the purchase or payment of one per centum of the entire debt of the United States, to be made within each fiscal year after the first day of July, eighteen hundred and sixty-two, which is to be set apart as a sinking fund, and the interest of which shall in like manner be applied to the purchase or payment of the public debt as the Secretary of the Treasury shall from time to time direct.

Third. The residue thereof to be paid into the Treasury of the United States.

SEC. 6. *And be it further enacted*, That if any person or persons shall falsely make, forge, counterfeit, or alter, or cause or procure to be falsely made, forged, counterfeited, or altered, or shall willingly aid or assist in falsely making, forging, counterfeiting, or altering, any note, bond, coupon, or other security issued under the authority of this act, or heretofore issued under acts to authorize the issue of Treasury notes or bonds; or shall pass, utter, publish, or sell, or attempt to pass, utter, publish, or sell, or bring into the United States from any foreign place with intent to pass, utter, publish, or sell, or shall have or keep in possession or conceal, with intent to utter, publish, or sell, any such false, forged, counterfeited, or altered note, bond, coupon, or other security, with intent to defraud any body corporate or politic, or any other person or persons whatsoever, every person so offending shall be deemed guilty of felony, and shall, on conviction thereof, be punished by fine not exceeding five thousand dollars, and by imprisonment and confinement to hard labor not exceeding fifteen years, according to the aggravation of the offense.

SEC. 7. *And be it further enacted*, That if any person, having the custody of any plate or plates from which any notes, bonds, coupons, or other securities mentioned in this act, or any part thereof, shall have been printed, or which shall have been prepared for the purpose of printing any such notes, bonds, coupons, or other securities, or any part thereof, shall use such plate or plates, or knowingly permit the same to be used for the purpose of printing any notes, bonds, coupons, or other securities, or any part thereof, except such as shall be printed for the use of the United States by order of the proper officer thereof; or if any person shall engrave, or cause or procure to be engraved, or shall aid in engraving, any plate or plates in the likeness or similitude of any plate or plates designed for the printing of any such notes, bonds, coupons, or other securities, or any part thereof, or shall vend or sell any such plate or plates, or shall bring into the United States from any foreign place any such plate or plates, with any other intent or for any purpose, in either case, than that such plate or plates shall be used for printing of such notes, bonds, coupons, or other securities, or some part or parts thereof, for the use of the United States, or shall have in his custody or possession any metallic plate engraved after the similitude of any plate from which any such notes, bonds, coupons, or other securities, or any part or parts thereof, shall have been printed, with intent to use such plate or plates, or cause or suffer the same to be used, in forging or counterfeiting any such notes, bonds, coupons, or other securities, or any part or parts thereof, issued as aforesaid, or shall have in his custody or possession any blank note or notes, bond or bonds, coupon or coupons, or other security or securities, engraved and printed after the similitude of any notes, bonds, coupons, or other securities, issued as aforesaid, with intent to sell or otherwise use the same; or if any person shall print, photograph, or in any other manner execute or cause to be printed, photographed, or in any manner executed, or shall aid in printing, photographing, or executing any engraving, photograph, or other print or impression, in the likeness or similitude of any such notes, bonds, coupons, or other securities, or any part or parts thereof, except for the use of the United States and by order of the proper officer thereof, or shall vend or sell any such engraving, photograph, print, or other impression, except to the United States, or shall bring into the United States from any foreign place any such engraving, photograph, print, or other impression, for the purpose of vending or selling the same, except by the direction of some proper officer of the United States, or shall have in his custody or possession any paper adapted to the making of such notes, bonds, coupons, or other securities, and similar to the paper upon which any such notes, bonds, coupons, or other securities shall have been issued, with intent to use such paper, or cause or suffer the same to be used, in forging or counterfeiting any of the notes, bonds, coupons, or other securities, issued as aforesaid, every such person so offending shall be deemed guilty of a felony, and shall, on conviction thereof, be punished by fine not exceeding five thousand dollars, and by imprisonment and confinement to hard labor not exceeding fifteen years, according to the aggravation of the offense.

APPROVED, February 25, 1862.

CHAP. XXXIV.—An Act making Appropriations for sundry Civil Expenses of the Government for the year ending the thirtieth of June, eighteen hundred and sixty-three, and additional Appropriations for the year ending the thirtieth of June, eighteen hundred and sixty-two.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums be, and the

same are hereby, appropriated for the objects hereafter expressed, for the fiscal year ending the thirtieth June, eighteen hundred and sixty-three, viz:

SURVEY OF THE COAST.

For the survey of the Atlantic and Gulf coasts of the United States, (including compensation of civilians engaged in the work, and excluding pay and emoluments of officers of the Army and Navy, and petty officers and men of the Navy employed on the work,) one hundred and seventy-eight thousand dollars.

For continuing the survey of the western coast of the United States, (including compensation of civilians engaged in the work,) one hundred thousand dollars.

For continuing the survey of the Florida reefs and keys, (including compensation of civilians engaged in the work, and excluding pay and emoluments of officers of the Army and Navy, and petty officers and men of the Navy employed on the work,) eleven thousand dollars.

For publishing the observations made in the progress of the survey of the coast of the United States, (including compensation of civilians employed in the work,) five thousand dollars.

For repairs of steamers and surveying schooners used in the coast survey, five thousand dollars.

To supply deficiency in the fund for the relief of sick and disabled seamen, two hundred thousand dollars: *Provided*, That the Secretary of the Treasury is hereby authorized to rent either of the several marine hospitals to the proper authorities of the cities, towns, or counties in which said hospitals are located, and contract with such authorities for the relief of the sick and disabled seamen entitled to relief under the act of third of May, eighteen hundred and two, and in cases of infectious diseases to make such regulations for their relief as he deems expedient.

For the discharge of such miscellaneous claims, not otherwise provided for, as shall be admitted in due course of settlement at the Treasury, five thousand dollars.

LIGHT-HOUSE ESTABLISHMENT.

For the Atlantic, Gulf, and Lake Coasts, viz:

For supplying the light-houses and beacon-lights with oil, glass chimneys, wicks, and other necessary expenses of the same, repairing and keeping in repair the lighting apparatus, one hundred and fifty-four thousand six hundred and ninety-eight dollars and eighty cents.

For repairs and incidental expenses, refitting and improving all the light-houses and buildings connected therewith, one hundred and two thousand two hundred dollars.

For salaries of five hundred and ninety-six keepers of light-houses and light-beacons and their assistants, two hundred and thirteen thousand one hundred and ninety-three dollars and thirty-three cents.

For salaries of forty-three keepers of light-vessels, twenty-three thousand nine hundred dollars.

For seamen's wages, repairs, supplies, and incidental expenses of forty-five light-vessels, one hundred and seventy thousand nine hundred and sixty-seven dollars and seventy cents.

For expenses of raising, cleaning, painting, repairing, remooring, and supplying losses of beacons and buoys, and for chains and sinkers for the same, one hundred and twelve thousand three hundred and fifty dollars.

For expenses of visiting and inspecting lights and other aids to navigation, two thousand dollars

For the Coasts of California, Oregon, and Washington:

For supplying nineteen light-houses and beacon lights with oil, glass chimneys, chamois skins, polishing powder, and other cleaning materials, transportation, expenses of keeping lamps and machinery in repair, publishing notices to mariners of changes of aids to navigation, seventeen thousand two hundred and seventy dollars.

For repairs and incidental expenses of nineteen light-houses and buildings connected therewith, ten thousand dollars.

For salaries of forty-three keepers and assistant keepers of light-houses, at an average not exceeding eight hundred dollars per annum, twenty-five thousand eight hundred dollars.

For expenses of raising, cleaning, painting, repairing, remooring, and supplying losses of floating buoys and beacons, and for chains and sinkers for the same, and for coloring and numbering all the buoys, ten thousand dollars.

For maintenance of the vessel provided for by the act of eighteenth August, eighteen hundred and fifty-six, for transportation of supplies and materials, and for repairs of light-houses, and buoys service, and for inspecting purposes, thirty thousand dollars.

For commutation of fuel and quarters for officers of the Army serving on light-house duty, the payment of which is no longer provided for by the quartermaster's department, five thousand two hundred and thirty-nine dollars and seventy-nine cents.

For compensation of two inspectors of customs acting as superintendents for the life-saving stations on the coasts of Long Island and New Jersey, three thousand dollars.

For compensation of fifty-four keepers of stations, at two hundred dollars each, ten thousand eight hundred dollars.

For contingent expenses of the life-saving stations on the coasts of Long Island and New Jersey, twenty thousand dollars.

For hire of carts on the public grounds, one thousand and ninety-five dollars.

For purchase and repair of tools used in the public grounds, two hundred dollars.

For purchase of trees and tree-boxes, to replace, where necessary, such as have been planted by the United States, to whitewash tree-boxes and fences, and to repair pavements in front of the public grounds, three thousand dollars.

For annual repairs of the Capitol, water-closets, public stables, water-pipes, pavements, and other walks within the Capitol square, broken glass, and locks, and for the protection of the building, and keeping the main approaches to it unencumbered, six thousand dollars.

For annual repairs of the President's House and furniture, improvement of grounds, purchase of plants for garden, and contingent expenses incident thereto, five thousand dollars.

For fuel, in part, of the President's House, two thousand four hundred dollars.

For lighting the Capitol and President's House, the public grounds around them, and around the Executive offices, and Pennsylvania avenue, Bridge and High streets in Georgetown, Four-and-a-half street, Seventh, and Twelfth streets across the mall, fifty thousand dollars.

For additional fixtures, and lighting and repairing the building and footways of the custom house and post office in Georgetown, in the District of Columbia, two hundred and fifty dollars, or so much thereof as may be necessary.

For purchase of books for library at the Executive Mansion, to be expended under the direction of the President of the United States, two hundred and fifty dollars.

For repairs of the Potomac, Navy-Yard, and upper bridges, and the roads appurtenant thereto, six thousand dollars.

For repairs of Pennsylvania avenue, and watering the same, ten thousand dollars.

For public reservation number two, and Lafayette square, two thousand dollars.

For taking care of the grounds south of the President's House, and keeping them in order, one thousand dollars.

For repairs of water-pipes, five hundred dollars.

For cleaning out the sewer-traps on Pennsylvania avenue, and repairing the same, three hundred dollars.

For repairs of all the furnaces under the Capitol, five hundred dollars.

For repairing Delaware avenue, north of C street north, one thousand dollars.

For paying one half of the expenses of sewer-traps at the intersection of Fourth street west with E street north, two hundred dollars.

GOVERNMENT HOSPITAL FOR THE INSANE.

For the support, clothing, and medical treatment of the insane of the Army and Navy and of the revenue service, and of the District of Columbia, at the asylum in said District, forty thousand five hundred dollars.

For finishing, furnishing, heating, and lighting of additional accommodations in the East wing, five thousand dollars.

For improvements of the grounds about the hospital and farms, two thousand dollars.

PATENT OFFICE.

For collection of agricultural statistics, investigations for promoting agriculture and rural economy, and the procurement, propagation, and distribution of cuttings and seeds, of new and useful varieties, and for the introduction and protection of insectivorous birds, and for investigations to test the practicability of preparing flax and hemp as a substitute for cotton, sixty thousand dollars: *Provided, however*, That in the expenditure of this appropriation, and especially in the selection of cuttings and seeds for distribution, due regard shall be had to the purposes of general cultivation and the encouragement of the agricultural and rural interests of all parts of the United States.

For expenses of receiving, arranging, and taking care of copyright books, charts, and other copyright matter, one thousand six hundred dollars.

Exploring Expeditions.

For preservation of the collections of the exploring and surveying expeditions of the Government, four thousand dollars.

Botanic Garden.

For grading, draining, procuring manure, tools, fuel, and repairs, purchasing trees and shrubs for botanic garden, to be expended under the direction of the Library Committee of Congress, three thousand three hundred dollars.

For pay of horticulturist and assistants in the botanic garden and green houses, to be expended under the direction of the Library Committee of Congress, five thousand one hundred and twenty-one dollars and fifty cents.

SURVEY OF THE PUBLIC LANDS.

For surveying the public lands, (exclusive of California, Oregon, Washington, New Mexico, Kansas, Nebraska, Utah, Dakota, Colorado, and Nevada,) including incidental expenses and island surveys in the interior, and all other special and difficult surveys demanding augmented rates, to be apportioned and applied to the several surveying districts according to the exigencies of the public service, including expenses of selecting swamp lands, in addition to the unexpended balances of all former appropriations for the same object, which will be absorbed by work under contract, ten thousand dollars.

For surveying the public lands and private land claims in California, to be disbursed at the rates prescribed by law for the different kinds of work, ten thousand dollars.

For surveying the public lands and private land claims in New Mexico, five thousand dollars.

For surveying the public lands in Kansas and Nebraska, also outlines of Indian reservations, ten thousand dollars.

For salary of the clerk detailed for the special service in the General Land Office to attend to the unfinished surveys in the States, where the offices of the surveyors general have been closed, two thousand dollars.

For surveying the public lands in Oregon, to be disbursed at the rates authorized by law, five thousand dollars.

For surveying the public lands in Washington Territory, at the rates authorized by law, five thousand dollars.

For surveying the public lands in Dakota Territory, five thousand dollars.

For surveying the public lands and private land claims confirmed in Colorado Territory, five thousand dollars.

For surveying the public lands and private land claims confirmed in Nevada Territory, five thousand dollars.

For the necessary expenses in carrying into effect the act of seventeenth July, eighteen hundred and sixty-one, and the act of fifth August, eighteen hundred and sixty-one, in addition to the appropriations made by those acts, one hundred and fifty thousand dollars.

For support, care, and medical treatment of forty transient paupers, medical and surgical patients, in some proper medical institution in the

city of Washington, to be selected by the Commissioner of Public Buildings, six thousand dollars.

To supply a deficiency of appropriation for repairs of the Capitol made by W. S. Wood, late Commissioner of Public Buildings, nine hundred and thirty-four dollars and seventy-eight cents.

To enable the Commissioner of Public Buildings to pay for the purchase and repair of plate, and repair of gas-fittings for the President's House, two thousand six hundred and thirteen dollars.

SEC. 2. *And be it further enacted*, That the following sums be, and the same are hereby, in like manner appropriated for the service of the year ending the thirtieth of June, eighteen hundred and sixty-two:

For the necessary expenses in carrying into effect the act of seventeenth of July, eighteen hundred and sixty-one, and the act of fifth of August, eighteen hundred and sixty-one, in addition to the appropriations made by those acts for those objects, one hundred thousand dollars.

For amount required for clerks and messenger in the office of the assistant treasurer at Boston, from first January to thirtieth June, eighteen hundred and sixty-two, one thousand five hundred dollars.

For amount required for clerks, messenger, and watchmen, in the office of the assistant treasurer at New York, from first January to thirtieth June, eighteen hundred and sixty-two, five thousand two hundred dollars.

For amount required for clerks and messenger in the office of the assistant treasurer at St. Louis, from first January to the thirtieth June, eighteen hundred and sixty-two, eighteen hundred dollars.

To enable the Commissioner of Public Buildings to pay for painting in the interior of the Capitol, and for general repairs, three thousand two hundred dollars.

To enable the Commissioner of Public Buildings to have the old furnace under the Library of Congress removed, and a new one erected in its place, three hundred and twenty-five dollars.

For a deficiency on account of papering and painting the President's House in the autumn of eighteen hundred and sixty-one, four thousand five hundred dollars.

To enable the Commissioner of Public Buildings to pay the bill of William H. Carryl and Brother for furniture for the President's House, six thousand eight hundred and fifty-eight dollars and eighty cents.

To enable the Commissioner to pay a bill of P. and T. Berry for granite work and materials for the north front of the Patent Office Building, seven thousand ninety-three dollars and thirteen cents.

To enable the Commissioner to pay five per cent. on eight thousand seven hundred and fifty-eight dollars and ten cents, retained on that sum due P. and T. Berry on granite work on the west wing of the Patent Office Building in eighteen hundred and fifty, four hundred and thirty-seven dollars and ninety-four cents.

For support of patients in the Government hospital, five thousand dollars.

To pay J. B. Blake for work done by him when Commissioner of Public Buildings, twenty-two dollars and eighteen cents.

For expenses attending the removal to and occupation of Building at corner of F and Fifteenth streets, for the Surgeon General's and Paymaster General's offices, for the six months ending thirtieth of June, eighteen hundred and sixty-two, seven thousand eight hundred dollars.

SEC. 3. *And be it further enacted*, That the following sums be, and the same is hereby, appropriated for the service of the year ending thirtieth of June, eighteen hundred and sixty-three: For expenses of building corner of F and Fifteenth streets, occupied by the Surgeon General's and Paymaster General's offices, eight thousand eight hundred dollars.

SEC. 4. *And be it further enacted*, That the Secretary of the Treasury be, and he is hereby, authorized and empowered to lease the property of the United States in the city of Burlington, Iowa, upon which is the United States marine hospital, first giving thirty days' notice thereof; or if he shall deem it more expedient for the Government to retain the title to said property, that he be authorized to use it for the sick and wounded soldiers of the United States, or to discharge all officers and servants of the Government connected therewith, and to close the hospital.

APPROVED, March 1, 1862.

CHAP. XXXV.—An Act to authorize the Secretary of the Treasury to issue Certificates of Indebtedness to Public Creditors.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Treasury be, and he is hereby, authorized to cause to be issued to any public creditor who may be desirous to receive the same, upon requisition of the head of the proper Department in satisfaction of audited and settled demands against the United States, certificates for the whole amount due or parts thereof not less than one thousand dollars, signed by the Treasurer of the United States, and countersigned as may be directed by the Secretary of the Treasury; which certificate shall be payable in one year from date or earlier, at the option of the Government, and shall bear interest at the rate of six per centum per annum.

APPROVED, March 1, 1862.

CHAP. XXXVI.—An Act fixing the number of the House of Representatives from and after the third March, eighteen hundred and sixty-three.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That from and after the third day of March, eighteen hundred and sixty-three, the number of members of the House of Representatives of the Congress of the United States shall be two hundred and forty-one; and the eight additional members shall be assigned one each to Pennsylvania, Ohio, Kentucky, Illinois, Iowa, Minnesota, Vermont, and Rhode Island.

APPROVED, March 4, 1862.

CHAP. XXXVII.—An Act to provide for the Appointment of additional Clerks in the Office of the Assistant Treasurer at New York, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Assistant Treasurer of the United States at New York be, and he hereby is, authorized to appoint, from time to time, by and with the consent and approbation of the Secretary of the Treasury, such other clerks, messengers, and watchmen, in addition to those already employed by him, as the exigencies of the public business may require, at rates of compensation to be fixed by the Secretary of the Treasury: *Provided*, That such rates shall in no case exceed those now allowed by law for the several persons similarly employed in the office of the said Assistant Treasurer. The compensation for such additional clerks, messengers, and watchmen, for the current and next fiscal year, shall be paid out of any moneys in the Treasury not otherwise appropriated. Estimates for compensation for such additional clerks, messengers, and watchmen, after the next fiscal year, shall be submitted by the Secretary of the Treasury with his annual estimates.

SEC. 2. *And be it further enacted*, That the said Assistant Treasurer of the United States at New York be, and he hereby is, further authorized to appoint, with the approbation of the Secretary of the Treasury, a competent person from among his clerks who shall be called the Deputy Assistant Treasurer of the United States. The said Deputy Assistant Treasurer, in addition to the duties performed by him and any others which he may be required to perform by the said Assistant Treasurer, is hereby authorized to witness the execution of any and all transfers of Government stock and powers of attorney, and sign all receipts for patent fees and bullion receipts, with like effect as if the same were witnessed and signed, respectively, by the said Assistant Treasurer in person. The said Deputy Assistant Treasurer shall receive an additional compensation of one thousand dollars per annum, to be paid out of any money in the Treasury not otherwise appropriated: *Provided*, That the total compensation received by him shall not exceed three thousand dollars per annum.

SEC. 3. *And be it further enacted*, That the sum of two thousand five hundred dollars be, and the same is hereby, appropriated, out of any money in the Treasury not otherwise appropriated, for the purchase of blank checks, for the use of the sub-Treasury.

APPROVED, March 6, 1862.

CHAP. XXXVIII.—An Act requiring an Oath of Allegiance and to support the Constitution of the United States, to be administered to Masters of American Vessels clearing for foreign or other ports during the present Rebellion.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That it shall be the duty of the several collectors of the customs at the ports of entry within the United States, during the continuance of the present rebellion, to cause to be administered to each and every master of any American ship or vessel, steamship or steam vessel, which shall be about to clear for any foreign port or place, or for any port or place within the United States, the oath of allegiance required by chapter sixty-four of the acts of the year eighteen hundred and sixty-one; which oath shall be duly taken by such masters before such vessels shall be permitted to clear as aforesaid.

SEC. 2. *And be it further enacted*, That the oath or affirmation aforesaid may be taken before the collector of customs at the port from which such vessel is about to clear, or before any justice of the peace or notary public or other person who is legally authorized to administer an oath in the State or district where the same may be administered. And that any violation of such oath shall subject the offender to all the pains and penalties of willful and corrupt perjury, who shall be liable to be indicted and prosecuted to conviction for any such offense before any court having competent jurisdiction thereof.

APPROVED, March 6, 1862.

CHAP. XXXIX.—An Act to fulfill Treaty stipulations with Hanover.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums be, and the same are hereby, appropriated, out of any money in the Treasury not otherwise appropriated, to enable the President to fulfill the stipulations contained in the third and fourth articles of the treaty between the United States and Hanover, of the sixth of November, eighteen hundred and sixty-one, namely: to carry out the stipulation contained in the third article of said treaty, forty three thousand four hundred and fifty-four dollars and sixteen cents. To carry out the stipulation contained in the fourth article of said treaty, ten hundred and forty-two dollars and ninety cents, or so much thereof as may be necessary to pay the interest provided for in said article.

APPROVED, March 13, 1862.

CHAP. XL.—An Act to make an additional Article of War.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That hereafter the following shall be promulgated as an additional article of war for the government of the Army of the United States, and shall be obeyed and observed as such:

ARTICLE —. All officers or persons in the military or naval service of the United States are prohibited from employing any of the forces under their respective commands for the purpose of returning fugitives from service or labor, who may have escaped from any persons to whom such service or labor is claimed to be due, and any officer who shall be found guilty by a court-martial of violating this article shall be dismissed from the service.

SEC. 2. *And be it further enacted*, That this act shall take effect from and after its passage.

APPROVED, March 13, 1862.

CHAP. XLI.—An Act making Appropriations for the Legislative, Executive, and Judicial Expenses of the Government for the year ending thirtieth of June, eighteen hundred and sixty-three, and additional Appropriations for the year ending thirtieth of June, eighteen hundred and sixty-two.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums be, and the same are hereby, appropriated, out of any money in the Treasury not otherwise appropriated, for the objects hereinafter expressed, for the fiscal year ending the thirtieth of June, eighteen hundred and sixty-three, namely: but nothing herein contained shall be construed as in any manner impairing the right to reduce the compensation of any officer of the Government, or to abolish any existing office.

LEGISLATIVE.

For compensation and mileage of Senators, two hundred and forty thousand four hundred and thirty dollars: *Provided*, That the second mileage due by law shall be paid at the present session as soon as certified by the Presiding Officers of the Senate and House: *And provided further*, That the foregoing proviso shall not be construed to include more than two mileages for the present Congress.

For compensation of the officers, clerks, messengers, and others receiving an annual salary in the service of the Senate, viz: Secretary of the Senate, three thousand six hundred dollars; officer charged with disbursements of the Senate, four hundred and eighty dollars; chief clerk, two thousand five hundred dollars; principal clerk and principal executive clerk in the office of the Secretary of the Senate, at two thousand one hundred and sixty dollars each; eight clerks in the office of the Secretary of the Senate, at one thousand eight hundred and fifty dollars each; keeper of the stationery, one thousand seven hundred and fifty-two dollars; two messengers, at one thousand and eighty dollars each; one page, at five hundred dollars; Sergeant-at-Arms and Doorkeeper, two thousand dollars; assistant doorkeeper, one thousand seven hundred dollars; postmaster to the Senate, one thousand seven hundred and fifty dollars; assistant postmaster and mail-carrier, one thousand four hundred and forty dollars; two mail boys, at nine hundred dollars each; superintendent of the document room, one thousand five hundred dollars; two assistants in document room, at one thousand two hundred dollars each; superintendent of the folding room, one thousand five hundred dollars; two messengers, acting as assistant doorkeepers, at one thousand five hundred dollars each; seventeen messengers, at one thousand two hundred dollars each; superintendent in charge of Senate furnaces, one thousand two hundred dollars; assistant in charge of furnaces, six hundred dollars; laborer in private passage, six hundred dollars; two laborers, at four hundred and eighty dollars each; clerk or secretary to the President of the Senate, one thousand seven hundred and fifty-two dollars; clerk to the Committee on Finance, one thousand eight hundred and fifty dollars; clerk to the Committee of Claims, one thousand eight hundred and fifty dollars; clerk of printing records, one thousand eight hundred and fifty dollars; Chaplain to the Senate, seven hundred and fifty dollars—making seventy-nine thousand and fourteen dollars.

For contingent expenses of the Senate, viz:

For stationery, twelve thousand dollars.

For newspapers, three thousand dollars.

To pay John C. Rives for printing five hundred copies of the Diplomatic Correspondence of the United States, from seventeen hundred and seventy-six to seventeen hundred and eighty-three, for the State Department, fifteen thousand dollars.

For printing the Congressional Globe and Appendix, which are hereafter to be bound under the supervision of the superintendent of Public Printing, according to the provisions of section five of the "joint resolution in relation to the public printing," approved thirtieth of June, eighteen hundred and sixty, eighteen thousand dollars.

For reporting proceedings in the Daily Globe for the second regular session of the Thirty-Seventh Congress, thirteen thousand dollars.

For the usual additional compensation to the reporters of the Senate for the Congressional Globe for reporting the proceedings of the Senate for the second regular session of the Thirty-Seventh Congress, eight hundred dollars each, four thousand dollars.

For clerks to committees, pages, horses, and carry-alls, fifteen thousand five hundred dollars.

For Capitol police, ten thonsand two hundred and twenty-four dollars.

For expenses of heating and ventilating apparatus, fourteen thousand dollars.

For miscellaneous items, twenty thousand dollars.

For compensation and mileage of members of the House of Representatives and delegates from Territories, six hundred and twenty thousand dollars.

For compensation of the officers, clerks, messengers, and others receiving an annual salary in the service of the House of Representatives, viz: Clerk of the House of Representatives, three thousand six hundred dollars; two clerks, at two thousand one hundred and sixty dollars each; eleven clerks, at one thousand eight hundred dollars each; principal messenger in the office, one thousand seven hundred and fifty-two dollars; three messengers, at one thousand two hundred dollars each; messenger to the Speaker, one thousand seven hundred and fifty-two dollars; clerk to the Committee of Ways and Means, one thousand eight hundred dollars; clerk to the Committee of Claims, one thousand eight hundred dollars; Capitol police, ten thousand six hundred and twenty dollars; Sergeant-at-Arms, two thousand one hundred and sixty dollars; clerk to the Sergeant-at-Arms, one thousand eight hundred dollars; messenger to the Sergeant-at-Arms, one thousand two hundred dollars; postmaster, two thousand one hundred and sixty dollars; one messenger in the office, one thousand seven hundred and forty dollars; four messengers, at one thousand four hundred and forty dollars each; two mail boys, at nine hundred dollars each; Doorkeeper, two thousand one hundred and sixty dollars; superintendent of the folding room, one thousand eight hundred dollars, two messengers, at one thousand seven hundred and fifty-two dollars each; one messenger, at one thousand seven hundred and forty dollars; five messengers, at one thousand five hundred dollars each; six messengers, at one thousand two hundred dollars each; eleven messengers, to be employed during the session of Congress, at the rate of one thousand two hundred dollars each per annum; Chaplain to the House of Representatives, seven hundred and fifty dollars—making ninety-three thousand six hundred and eighteen dollars.

For contingent expenses of the House of Representatives, viz:

For cartage, two thousand dollars.

For twenty-four copies of the Congressional Globe and Appendix for each member and delegate of the second regular session of the Thirty-Seventh Congress, and one hundred copies of the same for the House Library, fourteen thousand dollars.

For the compensation of clerks to committees, and temporary clerks in the office of the Clerk of the House of Representatives, fourteen thousand four hundred dollars.

For folding documents, including materials, thirty thousand dollars.

For fuel and lights, including pay of engineers, firemen, and laborers, repairs, and materials for engine room, twelve thousand dollars.

For furniture, repairs, and packing boxes for members, ten thousand dollars.

For stationery, twelve thousand dollars.

For horses, carriages, and saddle horses, seven thousand five hundred dollars.

For laborers, seven thousand dollars.

For miscellaneous items, thirty thousand dollars.

For newspapers, twelve thousand five hundred dollars.

For pages and temporary mail boys, four thousand eight hundred dollars.

For reporting proceedings in the Daily Globe for the second regular session of the Thirty-Seventh Congress, at seven dollars and fifty cents per column, eight thousand dollars.

For the usual additional compensation to the reporters of the House for the Congressional Globe for reporting the proceedings of the House for the second regular session of the Thirty-Seventh Congress, eight hundred dollars each, four thousand dollars.

Library of Congress.

For compensation of Librarian, three assistant Librarians, messenger, and laborers, ten thousand dollars.

For contingent expenses of said Library, one thousand dollars.

For purchase of books for said Library, five thousand dollars.

For purchase of law books for said Library, two thousand dollars.

Public Printing.

For compensation of the Superintendent of Public Printing, and the clerks and messenger in his office, nine thousand seven hundred and fourteen dollars.

For contingent expenses of his office, namely: For blank-books, stationery, postage, advertising for proposals for paper, furniture, traveling expenses, cartage and labor in storing and transportation of paper, and miscellaneous items, two thousand seven hundred dollars.

For the public printing, one hundred and twenty-five thousand four hundred and eighty-four dollars and fifty-two cents.

For paper for the public printing, one hundred and eighty-three thousand five hundred and sixty-nine dollars.

For lithographing and engraving, namely: Senate, forty thousand dollars; House of Representatives, fifty thousand dollars; making ninety thousand dollars.

For the public binding, two hundred and twenty-six thousand eight hundred and forty dollars and seventy-five cents.

Court of Claims.

For salaries of three judges of the Court of Claims, the solicitor, assistant solicitor, deputy solicitor, clerk and assistant clerk, and messenger thereof, twenty-seven thousand three hundred dollars.

EXECUTIVE.

For compensation of the President of the United States, twenty-five thousand dollars.

For compensation of the Vice President of the United States, eight thousand dollars.

For compensation of Secretary to sign patents for lands, one thousand five hundred dollars.

For compensation to the Private Secretary, steward, and messenger of the President of the United States, four thousand six hundred dollars.

For contingent expenses of the Executive office, including stationery therefor, one thousand dollars.

DEPARTMENT OF STATE.

For compensation of the Secretary of State and Assistant Secretary of State, clerks, messenger, assistant messenger, and laborers in his office, fifty-seven thousand eight hundred dollars.

For the Incidental and Contingent Expenses of said Department.

For losses on drafts of consuls, marshals of the United States, consular courts, and interpreters, for the period ending June thirtieth, eighteen hundred and sixty-three, ten thousand dollars.

For rent of prison, wages of keepers of the same, and care of offenders at Amoy, from July first, eighteen hundred and sixty, to June thirtieth, eighteen hundred and sixty-one, in pursuance of the provisions of the act approved June twenty-second, eighteen hundred and sixty, the sum of eight hundred and fifty-eight dollars and twenty-seven cents.

For publishing the laws in pamphlet form, and in newspapers of the States and Territories, and in the city of Washington, seventeen thousand one hundred and twenty-five dollars.

For proof-reading, and packing the laws and documents for the various legations and consulates, including boxes and transportation of the same, five thousand dollars.

For stationery, blank-books, binding, furniture, fixtures, and repairs, ten thousand dollars.

For miscellaneous items, two thousand five hundred dollars.

For copper-plate printing, books, and maps, two thousand dollars.

For extra clerk hire and copying, five thousand dollars.

Northeast Executive Building.

For compensation of four watchmen and two laborers of the northeast executive building, three thousand six hundred dollars.

For contingent expenses of said building, viz: For fuel, light, repairs, and miscellaneous expenses, four thousand five hundred dollars.

TREASURY DEPARTMENT.

For compensation of the Secretary of the Treasury, Assistant Secretary of the Treasury, clerks, messenger, assistant messenger, and laborers in his office, fifty-three thousand eight hundred dollars.

For compensation of the First Comptroller, and the clerks, messenger, and laborers in his office, thirty-three thousand seven hundred and forty dollars.

For compensation of the Second Comptroller, and the clerks, messenger, and laborer in his office, twenty-eight thousand two hundred and forty dollars.

For compensation of the First Auditor, and the clerks, messenger, assistant messenger, and laborer in his office, forty-two thousand nine hundred and forty dollars.

For compensation of the Second Auditor, and the clerks, messenger, assistant messenger, and laborer in his office, thirty-eight thousand one hundred and forty dollars.

For compensation of the Third Auditor, and the clerks, messenger, assistant messenger, and laborers in his office, ninety-three thousand four hundred and forty dollars.

For compensation of the Fourth Auditor, and the clerks, messenger, and assistant messenger in his office, thirty-one thousand nine hundred and forty dollars.

For compensation of the Fifth Auditor, and the clerks, messenger, and laborer in his office, seventeen thousand eight hundred and forty dollars.

For compensation of the Auditor of the Treasury for the Post Office Department, and the clerks, messenger, assistant messenger, and laborers in his office, one hundred and eighty-two thousand seven hundred and forty dollars.

For compensation of the Treasurer of the United States, and the clerks, messenger, assistant messenger, and laborers in his office, twenty-eight thousand seven hundred and forty dollars.

For compensation of the Register of the Treasury, and the clerks, messenger, assistant messenger, and laborers in his office, fifty-three thousand three hundred and forty dollars.

For compensation of the Solicitor of the Treasury, and the clerks and messenger in his office, eighteen thousand five hundred and forty dollars.

For compensation of the Commissioner of Customs, and the clerks, messenger, and laborer in his office, twenty thousand four hundred and forty dollars.

For compensation of the clerks, messenger, and laborer of the Light-House Board, nine thousand two hundred and forty dollars.

Contingent Expenses of the Treasury Department.

In the office of the Secretary of the Treasury:

For copying, labor, blank-books, binding, sealing ships' registers, translating foreign languages, advertising, and extra clerk hire for preparing and collecting information to be laid before Congress, and for miscellaneous items, twenty thousand dollars.

For compensation of additional clerks who may be employed by the Secretary, according to the exigencies of the public service, fifty thousand dollars.

In the office of the First Comptroller:

For furniture, blank-books, binding, stationery, public documents, State and Territorial statutes, and miscellaneous items, one thousand eight hundred dollars.

In the office of the Second Comptroller:

For blank-books, binding, stationery, and miscellaneous items, including subscription to the National Intelligencer, to be bound and preserved for the use of the office, one thousand two hundred dollars.

In the office of the First Auditor:

For blank-books, binding, stationery, and miscellaneous items, subscription to the National Intelligencer, including one thousand five hundred dollars for furnishing rooms in the Treasury building for the office, and expenses of removing the office from its present location, three thousand dollars.

In the office of the Second Auditor:

For blank-books, binding, stationery, office furniture, and miscellaneous items, including two of the daily city newspapers, to be filed, bound, and preserved for the use of the office, and for additional office furniture for the contemplated increase of the clerical force of the office, two thousand dollars.

In the office of the Third Auditor:

For blank-books, binding, stationery, office furniture, carpeting, two newspapers, preserving files and papers, bounty land service, and miscellaneous items, two thousand two hundred dollars.

In the office of the Fourth Auditor:

For contingent expenses of the office, one thousand five hundred dollars.

In the office of the Fifth Auditor:

For blank-books, binding, office furniture, and miscellaneous expenses, in which are included two daily newspapers, one thousand dollars.

In the office of the Auditor of the Treasury for the Post Office Department:

For blank-books, binding and ruling, furniture, carpeting, stationery, horse and carriage for the use of the office, labor, lights, and miscellaneous items, ten thousand one hundred and fifty dollars.

In the office of the Treasurer:

For contingent expenses of the office, one thousand five hundred dollars.

In the office of the Register:

For ruling and full-binding books for recording collectors' quarterly abstracts of commerce and navigation, and blank abstracts for their use, blank-books, binding, and stationery, arranging and binding canceled marine papers, cases for official papers and records, and miscellaneous items, including office furniture and carpeting, six thousand dollars.

Office of the Solicitor of the Treasury:

For blank-books, binding, stationery, labor, and miscellaneous items, and for statutes and reports, two thousand two hundred dollars.

Office of the Commissioner of Customs:

For blank-books, stationery, and miscellaneous items, two thousand dollars.

Light-House Board:

For stationery, miscellaneous expenses, and postage, six hundred dollars.

For the general purposes of the Southeast Executive Building, including the Extension.

For compensation of twelve watchmen and eleven laborers of the southeast executive building, thirteen thousand eight hundred dollars.

For contingent expenses of said building, fuel, light, labor, and miscellaneous items, twenty thousand dollars.

DEPARTMENT OF THE INTERIOR.

For compensation of the Secretary of the Interior, and the clerks, messenger, assistant messengers, watchmen, and laborers in his office, forty-one thousand seven hundred dollars.

For compensation of the Commissioner of the General Land Office, and the recorder, draughtsman, assistant draughtsman, clerks, messengers, assistant messengers, packers, watchmen, and laborers in his office, one hundred and seventy-five thousand four hundred and forty dollars.

For additional clerks in the General Land Office, under the act of third March, one thousand eight hundred and fifty-five, granting bounty land, and for laborers employed therein, fifty-eight thousand four hundred dollars: *Provided*, That the Secretary of the Interior, at his discretion, shall be, and he is hereby, authorized to use any portion of said appropriation for piece work, or by the day, week, month, or year, at such rate or rates as he may deem just and fair, not exceeding a salary of twelve hundred dollars per annum.

For compensation of the Commissioner of Indian Affairs, and the clerks, messenger, assistant messenger, watchmen, and laborer in his office, thirty-one thousand nine hundred and forty dollars.

For compensation of the Commissioner of Pensions, and the clerks, messenger, assistant messengers, watchmen, and laborers in his office, one hundred and ten thousand five hundred and forty dollars.

Contingent Expenses—Department of the Interior.

Office of the Secretary of the Interior:

For books, stationery, furniture, fuel, lights, and other contingencies, and for books and maps for the library, seven thousand dollars.

For casual repairs of the Patent Office building, fifteen hundred dollars.

For expenses of packing and distributing Congressional journals and documents, in pursuance of the provisions contained in the joint resolution of Congress approved twenty-eighth January, eighteen hundred and fifty-seven, and act fifth February, eighteen hundred and fifty-nine, six thousand dollars: *Provided*, That the said journals and documents shall be sent to such libraries and public institutions only as shall signify a willingness to pay the cost of the transportation of the same.

Office of Indian Affairs:

For blank-books, binding, stationery, fuel, lights, and miscellaneous items, including two of the daily city newspapers, to be filed, bound, and preserved for the use of the office, five thousand dollars.

General Land Office:

For cash system and military patents, under laws prior to thirtieth September, eighteen hundred and fifty; patent and other records; tract-books and blank-books for this and the district land offices; binding plats and field notes; stationery, furniture and repairs of same, and miscellaneous items, including two of the daily city newspapers, to be filed, bound, and preserved for the use of the office; also, for contingent expenses, in addition, under swamp land act of twenty-eighth September, eighteen hundred and fifty, military bounty land acts of twenty-eighth September, eighteen hundred and fifty, and twenty-second March, eighteen hundred and fifty-two, and act thirty-first August, eighteen hundred and fifty-two, for the satisfaction of Virginia land warrants, and for contingent expenses under act of third March, eighteen hundred and fifty-five, granting bounty lands, patent and other records, stationery, and miscellaneous items, on account of bounty land under said act, thirty thousand dollars.

For fuel, lights, and incidental expenses attending the same, including pay of furnace-keeper, two thousand dollars.

Pension Office:

For stationery, binding books, furniture and repairing the same; miscellaneous items, including two daily city newspapers, to be filed, bound, and preserved for the use of the office; and for engraving and retouching plates for bounty land warrants, printing and binding the same, ten thousand dollars.

For compensation of the Commissioner of Public Buildings, and the clerk and messenger in his office, four thousand two hundred dollars.

For stationery, blank-books, plans, drawings, and other contingent expenses of the office of the Commissioner of Public Buildings, five hundred dollars.

Surveyors General and their Clerks.

For compensation of the surveyor general of Wisconsin and Iowa, and the clerks in his office, eight thousand three hundred dollars.

For compensation of the surveyor general of Oregon, and the clerks in his office, seven thousand five hundred dollars.

For compensation of the surveyor general of California, and the clerks in his office, fifteen thousand five hundred dollars.

For compensation of the surveyor general of Washington Territory, and the clerks in his office, seven thousand dollars.

For compensation of the surveyor general of New Mexico, and the clerks in his office, seven thousand dollars.

For compensation of translator in the office of the surveyor general of New Mexico, one thousand eight hundred and twenty-six dollars and nine cents.

For compensation of the surveyor general of Kansas and Nebraska, and the clerks in his office, eight thousand three hundred dollars.

For compensation of the surveyor general of Minnesota, and the clerks in his office, eight thousand three hundred dollars.

For compensation of the surveyor general of the Territory of Colorado, and the clerks in his office, seven thousand dollars.

For compensation of the surveyor general of the Territory of Dakota, and the clerks in his office, eight thousand three hundred dollars.

For rent of surveyor general's office in Oregon, fuel, books, stationery, and other incidental expenses, one thousand four hundred dollars.

For rent of surveyor general's office in California, fuel, books, stationery, and other incidental expenses, including pay of messenger, four thousand dollars.

For office rent for the surveyor general of Washington Territory, fuel, books, stationery, and other incidental expenses, two thousand dollars.

For rent of the surveyor general's office in New Mexico, fuel, books, stationery, and other incidental expenses, two thousand nine hundred and fourteen dollars and thirty-six cents.

For office rent of the surveyor general of Kansas and Nebraska, fuel, books, and incidental expenses, two thousand dollars.

For rent of the surveyor general's office in the Territory of Colorado, fuel, books, stationery, and other incidental expenses, two thousand dollars.

For rent of the surveyor general's office in the Territory of Dakota, fuel, books, stationery, and other incidental expenses, two thousand dollars.

For salary of the recorder of land titles in Missouri, five hundred dollars.

WAR DEPARTMENT.

For compensation of the Secretary of War, and the clerks, messenger, assistant messenger, and laborer in his office, twenty-five thousand dollars.

For compensation of the temporary clerks and messengers in the office of the Secretary of War, ten thousand six hundred and eighty dollars.

For compensation of additional clerks, messengers, and laborers in the offices of the Secretary of War, Adjutant General, Surgeon General, Quartermaster General, Paymaster General, Chief Engineer, Chief of Ordnance, and Commissary General, appointed under authority of act of January twenty-seventh, eighteen hundred and sixty-two, sixty-three thousand three hundred and sixty dollars.

For compensation of the clerks and messenger in the office of the Adjutant General, thirteen thousand six hundred and forty dollars.

For compensation of the clerks and messenger in the office of the Quartermaster General, sixteen thousand four hundred and forty dollars.

For compensation of the temporary clerks and messengers in the Quartermaster General's office, fifteen thousand four hundred and eighty dollars.

For compensation of the clerks and messenger in the office of the Paymaster General, twelve thousand four hundred and forty dollars.

For compensation of the temporary clerks in the office of the Paymaster General, nine thousand dollars.

For compensation of the clerks, messenger, and laborer in the office of the Commissary General, ten thousand and forty dollars.

For compensation of the temporary clerks in the office of the Commissary General, six thousand four hundred dollars.

For compensation of the clerks and messenger in the office of the Surgeon General, five thousand two hundred and forty dollars.

For compensation of the temporary clerk in the office of the Surgeon General, one thousand six hundred dollars.

For compensation of the clerks, messenger, and laborer in the office of Topographical Engineers, ten thousand six hundred and forty dollars.

For compensation of temporary clerks in the office of Topographical Engineers, three thousand two hundred dollars.

For compensation of the clerks and messenger in the office of the Chief Engineer, eight thousand two hundred and forty dollars.

For compensation of the clerks and messenger in the office of the Colonel of Ordnance, twelve thousand two hundred and forty dollars.

For compensation of the temporary clerks in the office of the Colonel of Ordnanee, two thousand four hundred dollars.

Contingent Expenses of the War Department.

Office of the Secretary of War:

For blank-books, stationery, books, maps, extra clerk hire, and miscellaneous items, eight thousand dollars.

Office of the Adjutant General:

For blank-books, binding, stationery, and miscellaneous items, three thousand two hundred dollars.

Office of the Quartermaster General:

For blank-books, binding, stationery, and miscellaneous items, four thousand dollars.

Office of the Paymaster General:

For blank-books, binding, stationery, and miscellaneous items, one thousand five hundred dollars.

Office of the Chief Engineer:

For blank-books, binding, stationery, and miscellaneous items, one thousand five hundred dollars.

Office of the Surgeon General:

For blank-books, binding, stationery, and miscellaneous items, one thousand dollars.

Office of the Colonel of Ordnance:

For blank-books, binding, stationery, and miscellaneous items, two thousand dollars.

Office of the Colonel of Topographical Engineers:

For blank-books, binding, stationery, and miscellaneous items, two thousand dollars.

For the general purposes of the Northwest Executive Building.

For compensation of superintendent, four watchmen, and two laborers of the northwest executive building, three thousand eight hundred and fifty dollars.

For labor, fuel, light, and miscellaneous items, five thousand dollars.

For the general purposes of the Building corner of F and Seventeenth streets.

For compensation of superintendent, four watchmen, and two laborers for said building, three thousand eight hundred and fifty dollars.

For fuel, compensation of firemen, and miscellaneous items, five thousand five hundred dollars.

NAVY DEPARTMENT.

For compensation of the Secretary of the Navy, Assistant Secretary of the Navy, and the clerks, messenger, assistant messenger, and laborer, in his office, forty-three thousand two hundred dollars.

For compensation of additional clerks in the office of the Secretary of the Navy, appointed under authority of act of the twenty-seventh of January, eighteen hundred and sixty-two, four thousand eight hundred dollars.

For compensation of the Chief of the Bureau of Navy-Yards and Docks, and the clerks, messenger, and laborer in his office, fourteen thousand one hundred and forty dollars.

For compensation of the Chief of the Bureau of Ordnance and Hydrography, and the clerks, messenger, and laborer in his office, twelve thousand three hundred and forty dollars.

For compensation of the Chief of the Bureau of Construction, Equipment, and Repairs, and of the Engineer-in-Chief, and the clerks, messenger, and laborers in his office, twenty-one thousand three hundred and forty dollars.

For compensation of the clerks, messenger, and laborer in the Bureau of Provisions and Clothing, eight thousand eight hundred and forty dollars.

For compensation of the Chief of the Bureau of Medicine and Surgery, and the clerks, messenger, and laborer in his office, nine thousand five hundred and forty dollars.

Contingent Expenses of the Navy Department.

Office Secretary of the Navy:

For blank-books, binding, stationery, labor, plans, drawings, maps, newspapers, books, periodicals, and miscellaneous items, two thousand eight hundred and forty dollars.

Bureau of Yards and Docks:

For stationery, books, plans, drawings, and miscellaneous items, eight hundred dollars.

Bureau of Ordnance and Hydrography:

For blank-books, stationery, and miscellaneous items, seven hundred and fifty dollars.

Bureau of Construction, Equipment, and Repairs:

For blank-books, binding, stationery, printing, and miscellaneous items, eight hundred dollars.

Bureau of Provisions and Clothing:

For blank-books, stationery, and miscellaneous items, seven hundred dollars.

Bureau of Medicine and Surgery:

For blank-books, stationery, and miscellaneous items, four hundred and fifty dollars.

For the general purposes of the Southwest Executive Building.

For compensation of five watchmen of the southwest executive building, three thousand dollars.

For contingent expenses of said building, viz:

For labor, fuel, lights, and miscellaneous items, four thousand four hundred dollars.

POST OFFICE DEPARTMENT.

For compensation of the Postmaster General, three Assistant Postmasters General, and the clerks, messenger, assistant messengers, watchmen, and laborers of said Department, one hundred and fifty-eight thousand two hundred and twenty dollars.

For compensation of twenty-five additional clerks, to be appointed by the Postmaster General under the second section of the act entitled "An act to promote the efficiency of the dead letter office," approved January twenty-first, eighteen hundred and sixty-two, twenty thousand dollars.

Contingent Expenses of the Post Office Department.

For blank-books, binding, and stationery, fuel for the General Post Office building, including the Auditor's office, oil, gas, and candles, printing; repairs of the General Post Office building, office furniture, glazing, painting, whitewashing, and for keeping the fireplaces and furnaces in order, for watchmen, engineer, (for steam engine,) laborers, repairs of furniture, and for miscellaneous items, thirty thousand dollars.

MINT OF THE UNITED STATES.

At Philadelphia.

For salaries of the director, treasurer, assayer, melter and refiner, chief coiner and engraver, assistant assayer, assistant melter and refiner, and seven clerks, twenty-seven thousand nine hundred dollars.

For wages of workmen and adjusters, one hundred and eleven thousand eight hundred dollars.

For incidental and contingent expenses, including repairs and wastage, fifty thousand dollars.

For specimens of ores and coins to be preserved in the cabinet at the Mint, three hundred dollars.

For transportation of bullion from New York assay office to the United States Mint for coinage, twenty thousand dollars.

At San Francisco, California.

For salaries of superintendent, treasurer, assayer, melter and refiner, coiner, and six clerks, thirty thousand five hundred dollars.

For wages of workmen and adjusters, one hundred and five thousand dollars.

For incidental and contingent expenses, forty-five thousand and forty dollars.

Assay Office, New York.

For salaries of officers and clerks, twenty-four thousand nine hundred dollars.

For wages of workmen, forty thousand dollars.

For incidental and contingent expenses, in addition to other available means, thirty-five thousand dollars.

GOVERNMENTS IN TERRITORIES.

Territory of New Mexico.

For salaries of governor, three judges, and secretary, twelve thousand dollars.

For contingent expenses of said Territory, one thousand dollars.

For interpreter and translator in the executive office, five hundred dollars.

For compensation and mileage of the members

of the Legislative Assembly, officers, clerks, and contingent expenses of the Assembly, twenty thousand dollars: *Provided*, That five thousand dollars, or so much thereof as may be necessary, shall be used to revise and print the laws of New Mexico.

Territory of Utah.

For salaries of governor, three judges, and secretary, twelve thousand dollars.

For contingent expenses of said Territory, one thousand five hundred dollars.

For compensation and mileage of the members of the Legislative Assembly, officers, clerks, and contingent expenses of the Assembly, twenty thousand dollars.

Territory of Washington.

For salaries of governor, three judges, and secretary, twelve thousand five hundred dollars.

For contingent expenses of said Territory, one thousand five hundred dollars.

For compensation and mileage of the members of the Legislative Assembly, officers, clerk, and contingent expenses of the Assembly, twenty thousand dollars.

Territory of Nebraska.

For salaries of governor, three judges, and secretary, ten thousand five hundred dollars.

For contingent expenses of said Territory, one thousand dollars.

For compensation and mileage of the members of the Legislative Assembly, officers, clerks, and contingent expenses of the Assembly, twenty thousand dollars.

Territory of Colorado.

For salaries of governor, three judges, and secretary, nine thousand seven hundred dollars.

For contingent expenses of said Territory, one thousand dollars.

For compensation and mileage of the members of the Legislative Assembly, officers, clerks, and contingent expenses of the Assembly, twenty thousand dollars.

Territory of Nevada.

For salaries of governor, three judges, and secretary, nine thousand seven hundred dollars.

For contingent expenses of said Territory, one thousand dollars.

For compensation and mileage of the members of the Legislative Assembly, officers, clerks, and contingent expenses of the Assembly, twenty thousand dollars.

Territory of Dakota.

For salaries of governor, three judges, and secretary, nine thousand seven hundred dollars.

For contingent expenses of said Territory, one thousand dollars.

For compensation and mileage of the members of the Legislative Assembly, officers, clerks, and contingent expenses of the Assembly, twenty thousand dollars.

JUDICIARY.

For salaries of the Chief Justice of the Supreme Court, and eight associate justices, fifty-four thousand five hundred dollars.

For salaries of the district judges, one hundred and fifteen thousand seven hundred and fifty dollars.

For salary of the circuit judge of California, six thousand dollars.

For salaries of the chief justice of the District of Columbia, the associate judges, and the judges of the criminal court and the orphans' court, fifteen thousand seven hundred and fifty dollars.

Office of the Attorney General.

For salaries of the Attorney General, Assistant Attorney General, and the clerks and messenger in his office, twenty thousand three hundred dollars.

Contingent expenses of the office of the Attorney General, namely:

For fuel, labor, furniture, stationery, and miscellaneous items, three thousand dollars.

For the purchase of law and necessary books for the office of the Attorney General, two hundred and fifty dollars.

For legal assistance and other necessary expenditures in the disposal of private land claims in California, ten thousand dollars.

For special and other extraordinary expenses of California land claims, twenty thousand dollars.

For salary of the reporter of the Decisions of the Supreme Court, one thousand three hundred dollars.

For compensation of the district attorneys, eighteen thousand five hundred and fifty dollars.

For compensation of the marshals, eleven thousand dollars.

For defraying the expenses of the Supreme, circuit, and district courts of the United States, including the District of Columbia; also for jurors and witnesses, in aid of the funds arising from fines, penalties, and forfeitures incurred in the fiscal year ending June thirtieth, eighteen hundred and sixty-three, and previous years; and likewise for defraying the expenses of suits in which the United States are concerned, and of prosecutions for offenses committed against the United States, and for the safe-keeping of prisoners, one million dollars.

INDEPENDENT TREASURY.

For salaries of the assistant treasurers of the United States at New York, Boston, Charleston, and Saint Louis, sixteen thousand five hundred dollars.

For additional salaries of the treasurer of the Mint at Philadelphia of one thousand dollars, and of the treasurer of the branch mint at New Orleans of five hundred dollars, one thousand five hundred dollars.

For salaries of five additional clerks authorized by the acts of sixth August, eighteen hundred and forty-six, and paid under acts of twelfth August, eighteen hundred and forty-eight, third March, eighteen hundred and fifty-one, third March, eighteen hundred and fifty-five, and twenty-seventh July, eighteen hundred and sixty-one, six thousand dollars.

For salary of additional clerks, messengers, and watchmen in office of assistant treasurer at Boston, five thousand nine hundred dollars.

For salaries of clerks, messengers, and watchmen in the office of the assistant treasurer at New York, twenty-one thousand one hundred dollars.

For additional amount for clerks, messenger, and watchmen in office of assistant treasurer at New York, ten thousand four hundred dollars.

For salaries of clerks, messengers, and laborers in the office of the assistant treasurer at Saint Louis, four thousand five hundred dollars.

For salaries of nine supervising and fifty local inspectors, appointed under act of thirtieth August, eighteen hundred and fifty-two, for the better protection of the lives of passengers, by steamboats, with traveling and other expenses incurred by them, eighty thousand dollars.

For contingent expenses, under the act sixth August, eighteen hundred and forty-six, for the safe-keeping, collection, transfer, and disbursement of the public revenue, in addition to premium which has been or may be received on transfer drafts: *Provided*, That no part of said sum shall be expended for clerical services, five thousand dollars.

For compensation to the laborer in charge of the water-closets in the Capitol, four hundred and thirty-eight dollars.

For compensation to the public gardener, one thousand four hundred and forty dollars.

For compensation of a foreman and twenty-one laborers employed in the public grounds, thirteen thousand four hundred dollars.

For compensation of the keeper of the western gate, Capitol square, eight hundred and seventy-six dollars.

For compensation of two day watchmen employed in the Capitol square, one thousand two hundred dollars.

For compensation of two night watchmen employed at the President's House, one thousand two hundred dollars.

For compensation of the doorkeeper at the President's House, six hundred dollars.

For compensation of the assistant doorkeeper at the President's House, six hundred dollars.

For compensation of one night watchman employed for the better protection of the buildings lying south of the Capitol, and used as public stables and carpenters' shops, six hundred dollars.

For compensation of watchmen employed on reservation number two, six hundred dollars.

For compensation of four drawkeepers at the Potomac bridge, and for fuel, oil, and lamps, three thousand two hundred and sixty-six dollars.

For compensation of two drawkeepers at the two bridges across the Eastern Branch of the Potomac, and for fuel, oil, and lamps, one thousand one hundred and eighty dollars.

For salary and other necessary expenses of the Metropolitan police for the District of Columbia, one hundred thousand dollars.

For furnace-keeper at the President's House, six hundred dollars.

To enable the Commissioner of Public Buildings to employ a keeper of the three furnaces under the old hall of the House of Representatives, six hundred dollars.

For a deficiency for the present fiscal year for keeping said furnaces nine months, four hundred dollars.

Expenses of the Collection of Revenue from Lands.

To meet the expenses of collecting the revenue from the sale of public lands in the several States and Territories:

For salaries and commissions of registers of land offices and receivers of public moneys, two hundred and fifteen thousand two hundred dollars.

For expenses of depositing public moneys by receivers of public moneys, twenty-seven thousand five hundred and fifty dollars.

For incidental expenses of the several land offices, forty thousand dollars.

PENITENTIARY.

For compensation of the warden, clerk, physician, chaplain, assistant keepers, guards, and matron of the penitentiary of the District of Columbia, sixteen thousand and eighty dollars.

For compensation of three inspectors of said penitentiary, seven hundred and fifty dollars.

For the support and maintenance of said penitentiary, thirteen thousand two hundred and ninety-three dollars and seventy-five cents.

SEC. 2. *And be it further enacted*, That the following sums be, and the same are hereby, appropriated, out of any money in the Treasury not otherwise appropriated, for the service of the fiscal year ending thirtieth of June, eighteen hundred and sixty-two, viz:

For keeping in repair and partially finishing and furnishing the Post Office building, to be expended under the direction of the Postmaster General, twenty thousand dollars.

For paper and printing blanks for the Executive Departments, thirty thousand dollars.

For compensation of the officers, clerks, messengers, and others receiving an annual salary in the employ of the House of Representatives, three thousand seven hundred and sixty-seven dollars and twenty-four cents.

For compensation of clerks to committees, and temporary clerks in the office of the Clerk of the House of Representatives, eight hundred and twelve dollars.

For twenty-four copies of the Congressional Globe and Appendix for each member and Delegate in the first regular session of the Thirty-Seventh Congress, four thousand seven hundred and seventy-eight dollars and forty cents.

For folding documents, ten thousand dollars.

For furniture and repairs, and boxes for members, seven thousand dollars.

For newspapers, nine thousand three hundred dollars.

For stationery, eight thousand three hundred and seventy dollars.

For contingent expenses of the Senate, namely:

For compensation of three messengers appointed under authority of a resolution of the Senate of July nineteenth, eighteen hundred and sixty-one, three thousand six hundred dollars.

For binding, twenty thousand dollars.

For lithographing and engraving, thirty thousand dollars.

For stationery, twelve thousand dollars.

For reporting proceedings, three thousand dollars.

For Congressional Globe and Appendix, at the

first session of the Thirty-Seventh Congress, six thousand one hundred and eighty-four dollars and twenty cents.

For clerks to committees; pages, horses, and carry-alls; seven thousand dollars.

For miscellaneous items, thirty thousand dollars.

For Capitol police, one thousand five hundred dollars.

For compensation of the surveyor general of Illinois and Missouri, two thousand dollars.

For rent of the surveyor general's office in New Mexico, fuel, books, stationery, and other incidental expenses, nine hundred and fourteen dollars and thirty-six cents.

For contingent expenses of the office of the Fourth Auditor, seven hundred dollars.

For the payment of the salaries of two clerks in the Attorney General's office, appointed under authority of act of second August, eighteen hundred and sixty-one, one thousand four hundred dollars.

For compensation of additional clerks, messengers, and laborers in the offices of the Secretary of War, Adjutant General, Surgeon General, Quartermaster General, Paymaster General, Chief Engineer, Chief of Ordnance, and Commissary General, appointed under authority of act of January twenty-seventh, eighteen hundred and sixty-two, twenty-six thousand four hundred dollars.

For compensation of two Assistant Secretaries of War, appointed under act of January twenty-two, eighteen hundred and sixty-two, one year from the date of their appointment, six thousand dollars.

For compensation of additional clerks in the office of the Secretary of the Navy, authorized by act of January twenty-seven, eighteen hundred and sixty-two, two thousand dollars.

For necessary expenses for supply of water-pipes, hydrants, hose, apparatus, and employment of firemen for the protection of the public stores and hospitals in the city of Washington, the sum of ten thousand dollars, or so much thereof as may be necessary for that purpose, to be expended under the direction of the Secretary of War: *Provided*, That no more than one fireman shall be employed at each store or hospital, and at a compensation not exceeding five hundred dollars per annum.

To enable the Commissioner of Public Buildings to replace the thin glass in the roof of the Library of Congress with glass of a proper thickness, and to ventilate the library, nine hundred dollars.

For putting the plates of the exploring expedition in order for preservation, and transporting them and the other effects of the expedition to Washington, to be preserved in some of the public buildings or at the Smithsonian Institution, two thousand dollars, to be expended under the Joint Committee on the Library of Congress; and if any part of this appropriation shall remain unexpended for these purposes, the same may be applied, if necessary, to the completion of volume twenty-three of the works of said exploring expedition, or to the payment of any arrears of rent, or claims for service due on account of any of said works.

For completing the work on the Patent Office building, so far as to preserve the materials already prepared, fifteen thousand dollars.

To pay the mileage and salaries of John Kline, Joseph Segar, and John M. Butler, while contesting seats in the House of Representatives, per resolution of the House of Representatives of March fourth, eighteen hundred and sixty-two, nine thousand dollars; but only so much salary or mileage shall be paid to either as he would have been entitled to up to the time of his rejection, if he had been duly elected.

SEC. 3 *And be it further enacted*, That the President of the United States is hereby authorized to expend during the fiscal year ending the thirtieth of June, eighteen hundred and sixty-three, so much of the appropriation of second of March, eighteen hundred and sixty-one, as he may deem expedient and proper, not exceeding in the whole ten thousand dollars, for compensation to the United States marshals, district attorneys, and other persons employed in enforcing the laws for the suppression of the slave trade, for any services they may render, and for which no allowance is otherwise provided for by law.

SEC. 4. *And be it further enacted*, That from and after the first day of July next, and until otherwise ordered by the President, the Territories of Utah and Colorado shall constitute one surveying district; and the duties of surveyor general in said district shall be performed by the surveyor general of Colorado; and the surveying district of Nevada shall be united to that of California, the duties of the surveyor general of the former shall be performed by the surveyor general of California; and the transfer of the effects and archives of the said offices shall be made under the instruction of the Commissioner of the General Land Office.

SEC. 5. *And be it further enacted*, That the Postmaster General be, and he is hereby, authorized and empowered to carry into effect the provisions heretofore made by law for refitting and repairing in the city of Philadelphia the building now owned by the United States, on Chestnut street, for the use of a post office and the holding of the United States courts in said city: *Provided, nevertheless*, That the whole expense of said alterations and improvements shall not exceed in cost the unexpended balance heretofore appropriated by law for that purpose.

SEC. 6. *And be it further enacted*, That the President shall appoint in the Department of the Interior, by and with the advice and consent of the Senate, a competent person, who shall be called the Assistant Secretary of the Interior, whose salary shall be three thousand dollars, payable in the same manner as the salary of the Secretary of the Interior, who shall perform such duties in the Department of the Interior as shall be prescribed by the Secretary, or may be required by law, and who shall act as the Secretary of the Interior in the absence of that officer.

APPROVED, March 14, 1862.

CHAP. XLIII.—An Act for a Joint Commission for the preservation of the Atlantic Fisheries.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the President of the United States is hereby authorized to appoint a commissioner, to meet such commissioner as may be appointed on the part of Great Britain, and also one on the part of France, together to form a joint commission to frame measures to protect the fisheries off the coast of Newfoundland and North America against deterioration and destruction by means of set lines on the spawn banks, and like destructive practices.

SEC. 2. *And be it further enacted*, That, to enable the President to carry into effect this act, the sum of three thousand dollars be, and the same is hereby, appropriated, out of any money in the Treasury not otherwise appropriated.

APPROVED, March 15, 1862.

CHAP. XLIV.—An Act to amend "An Act to incorporate the Columbia Institution for the Instruction of the Deaf and Dumb and the Blind," and to make Appropriations for the benefit thereof.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the sum of four thousand four hundred dollars per annum, payable quarterly, shall be allowed for the payment of salaries and incidental expenses of said institution; and that four thousand four hundred dollars be, and is hereby, appropriated for that purpose, out of any moneys in the Treasury not otherwise appropriated, for the fiscal year ending June thirty, eighteen hundred and sixty-three.

SEC. 2. *And be it further enacted*, That the sum of nine thousand dollars be, and the same is hereby, appropriated, out of any moneys in the Treasury not otherwise appropriated, for the erection, furnishing, and fitting up of two additions to the buildings of said institution.

SEC. 3. *And be it further enacted*, That all receipts and disbursements under this act shall be reported to the Secretary of the Interior, as required in the sixth section of the act to which this is an amendment.

APPROVED, March 15, 1862.

CHAP. XLV.—An Act to authorize the purchase of Coin, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Treasury may purchase coin with any of the bonds or notes of the United States, authorized by law, at such rates and upon such terms as he may deem most advantageous to the public interest; and may issue, under such rules and regulations as he may prescribe, certificates of indebtedness, such as are authorized by an act entitled "An act to authorize the Secretary of the Treasury to issue certificates of indebtedness to public creditors," approved March first, eighteen hundred and sixty-two, to such creditors as may desire to receive the same, in discharge of checks drawn by disbursing officers upon sums placed to their credit on the books of the Treasurer, upon requisitions of the proper departments, as well as in discharge of audited and settled accounts, as provided by said act.

SEC. 2. *And be it further enacted*, That the demand notes authorized hy the act of July seventeenth, eighteen hundred and sixty-one, and by the act of February twelfth, eighteen hundred and sixty-two, shall, in addition to being receivable in payment of duties on imports, be receivable, and shall be lawful money and a legal tender, in like manner, and for the same purposes and to the same extent, as the notes authorized by an act entitled "An act to authorize the issue of United States notes, and for the redemption or funding thereof, and for funding the floating debt of the United States," approved February twenty-fifth, eighteen hundred and sixty-two.

SEC. 3. *And be it further enacted*, That the limitation upon temporary deposits of United States notes with any assistant treasurers or designated depositaries, authorized by the Secretary of the Treasury to receive such deposits, at five per cent. interest, to twenty-five millions of dollars, shall be so far modified as to authorize the Secretary of the Treasury to receive such deposits to an amount not exceeding fifty millions of dollars, and that the rates of interest shall be prescribed by the Secretary of the Treasury not exceeding the annual rate of five per centum.

SEC. 4. *And be it further enacted*, That, in all cases where the Secretary of the Treasury is authorized by law to reissue notes, he may replace such as are so mutilated or otherwise injured as to be unfit for use with others of the same character and amount; and such mutilated notes, and all others which by law are required to be taken up and not reissued, shall, when so replaced, or taken up, be destroyed in such manner and under such regulations as the Secretary of the Treasury may prescribe.

APPROVED, March 17, 1862.

CHAP. XLVI.—An Act authorizing Floats to issue in satisfaction of Claims against the United States for Lands sold by them within the Las Ormigas and La Nana Grants, in the State of Louisiana.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That it shall be the duty of the Commissioner of the General Land Office to issue and deliver to the respective owner or owners of the Las Ormigas and La Nana tracts of land, formerly situate in the parish of Natchitoches, now parishes of Sabine and De Soto, in the State of Louisiana, or to his or their assigns or other legal representatives, certificates or floats, in the usual form, for so much land as may have been at any time heretofore sold, donated, granted, or reserved by the United States within said tracts of land or either of them; and which certificates or floats may be located by the owner or holder thereof on any lands belonging to the United States, and subject to private entry at a price not exceeding one dollar and twenty-five cents per acre, and which certificates or floats shall be in full satisfaction of all claims against the United States for lands so sold, donated, granted, or reserved: *Provided*, That as a condition precedent to the issuing of the floats hereinbefore authorized, the claimant, or claimants, shall present to the Commissioner of the General Land Office satisfactory evidence of title thereto, and that such

claimants have been and continue to be loyal to the Government of the United States: *And provided further*, That such certificates and floats shall not exceed in gross seventeen thousand four hundred and seventy-seven and sixty-two hundredths acres.

SEC. 2. *And be it further enacted*, That this act shall take effect immediately.

APPROVED, March 17, 1862.

CHAP. XLVII.—An Act to provide for the Appointment of Sutlers in the Volunteer Service, and to define their Duties.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the inspector generals of the Army shall constitute a board of officers, whose duty it shall be to prepare, immediately after the passage of this act, a list or schedule of the following articles which may be sold by sutlers to the officers and soldiers of the volunteer service, to wit: Apples, dried apples, oranges, figs, lemons, butter, cheese, milk, sirup, molasses, raisins, candles, crackers, wallets, brooms, comforters, boots, pocket looking-glasses, pins, gloves, leather, tin wash-basins, shirt buttons, horn and brass buttons, newspapers, books, tobacco, cigars, pipes, matches, blacking, blacking brushes, clothes brushes, tooth brushes, hair brushes, coarse and fine combs, emery, crocus, pocket handkerchiefs, stationery, armor oil, sweet oil, rotten stone, razor strops, razors, shaving soap, soap, suspenders, scissors, shoe-strings, needles, thread, knives, pencils, and Bristol brick. Said list or schedule shall be subject, from time to time, to such revision and change as, in the judgment of the said board, the good of the service may require: *Provided always*, That no intoxicating liquors shall at any time be contained therein, or the sale of such liquors be in any way authorized by said board. A copy of said list or schedule, and of any subsequent change therein, together with a copy of this act, shall be, without delay, furnished by said board to the commanding officer of each brigade and of each regiment not attached to any brigade in the volunteer service, and also to the Adjutant General of the Army.

SEC. 2. *And be it further enacted*, That immediately upon the receipt from said board of said list or schedule and a copy of this act by the commanding officer of any such brigade, the acting brigadier general, surgeon, quartermaster, and commissary of said brigade shall constitute a board of officers, whose duty it shall be to affix to each article in said list or schedule a price for said brigade, which shall be by them forthwith reported to the commanding officer of the division, if any, to which said brigade is attached, for his approval, with or without modification, and who shall, after such approval, report the same to the inspector generals, and the same, if not disapproved by them, shall be the price not exceeding which said articles may be sold to the officers and soldiers in said brigade. Whenever any brigade shall not be attached to a division said prices shall then be reported directly to the inspector generals, and if approved by them, shall be the price fixed for such brigade as aforesaid; and whenever any regiment shall be unattached to any brigade, the acting colonel, lieutenant colonel, major, and captains thereof shall constitute the board of officers by whom the price of said articles shall be fixed for said regiment in the same manner as is herein provided for an unattached brigade. The prices so fixed may be changed by said boards respectively from time to time, not oftener than once in thirty days, but all changes therein shall be reported in like manner and for the same purpose as when originally fixed.

SEC. 3. *And be it further enacted*, That it shall be the duty of the commanding officer of each brigade, immediately upon receipt of a copy of said list or schedule and copy of this act, as herein provided, to cause one sutler for each regiment in his brigade to be selected by the commissioned officers of such regiment, which selection shall be by him reported to the Adjutant General of the Army; the person so selected shall be sole sutler of said regiment. And the commanding officer of each unattached regiment shall, in like manner, cause a selection of a sutler to be made for said regiment, who shall be sole sutler of said regiment. Any vacancy in the office of sutler from any cause shall be filled in the same way as an original appointment.

SEC. 4. *And be it further enacted*, That the sutlers chosen in the manner provided in the preceding section shall be allowed a lien only upon the pay of the officers, non-commissioned officers, and privates of the regiment for which he has been chosen, or those stationed at the post to which he has been appointed, and for no greater sum than one sixth of the monthly pay of each officer, non-commissioned officer, or private, for articles sold during each month; and the amount of one sixth or less than one sixth of the pay of such officer, non-commissioned officer, or private, so sold to him by the sutler, shall be charged on the pay-rolls of such officer, non-commissioned officer, or private, and deducted from his pay and paid over by the paymaster to the sutler of the regiment or military post, as the case may be: *Provided*, That if any paymaster in the service of the United States shall allow or pay any greater sum to any sutler than that hereby authorized to be retained from the pay of the officers, non-commissioned officers, musicians, and privates, for articles sold by any sutler during any one month, then the amount so allowed or paid by the paymaster shall be charged against the said paymaster and deducted from his pay and returned to the officer, non-commissioned officer, musician, or private, against whom the amount was originally charged. And any captain or lieutenant commanding a company who may certify any pay-roll bearing a charge in favor of the sutler against any officer, non-commissioned officer, musician or private, larger or greater than one sixth of the monthly pay of such officer, non-commissioned officer, musician, or private, shall be punished at the discretion of a court-martial: *Provided, however*, That sutlers shall be allowed to sell only the articles designated in the list or schedule provided in this act, and none others, and at prices not exceeding those affixed to said articles, as herein provided: *And provided further*, That the sutlers shall have no legal claim upon any officer, non-commissioned officer, musician, or private, to an amount exceeding one sixth of his pay for articles sold during any month. He shall keep said list or schedule, together with a copy of this act, fairly written or printed, posted up in some conspicuous part of the place where he makes said sales, and where the same can be easily read by any person to whom he makes said sales.

SEC. 5. *And be it further enacted*, That it shall be the duty of the inspector generals to cause the place of sale and articles kept for that purpose, by said sutlers, to be inspected from time to time, once in fifteen days at least, by some competent officer, specially detailed for that duty, and such changes in said place, or in the quality and character of the articles mentioned in said list or schedule, so kept as shall be required by said officer, shall be conformed to by each sutler. And such officer shall report each inspection to the inspector generals.

SEC. 6. *And be it further enacted*, That no person shall be permitted to act as sutler unless appointed according to the provisions of this act; nor shall any person be sutler for more than one regiment; nor shall any sutler farm out or underlet the business of sutling or the privileges granted to him by his appointment; nor shall any officer of the Army receive from any sutler any money or other presents; nor be interested in any way in the stock, trade, or business of any sutler; and any officer receiving such presents, or being thus interested, directly or indirectly, shall be punished at the discretion of a court-martial. No sutler shall sell to an enlisted man on credit to a sum exceeding one fourth of his monthly pay within the same month; nor shall the regimental quartermasters allow the use of Army wagons for sutlers' purposes; nor shall the quartermasters' conveyances be used for the transportation of sutlers' supplies.

SEC. 7. *And be it further enacted*, That any sutler who shall violate any of the provisions of this act shall, by the colonel, with consent of the council of administration, be dismissed from the service, and be ineligible to a reappointment as sutler in the service of the United States.

APPROVED, March 19, 1862.

CHAP. XLVIII.—An Act to provide for the Appointment of Clerks in the Office of the Assistant Treasurer at Boston, to fix their Salaries, and provide for the absence of the Assistant Treasurer, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That from and after the first day of January, eighteen hundred and sixty-two, in lieu of the clerks heretofore authorized and provided, the Assistant Treasurer at Boston be, and he is hereby, authorized to appoint, with the approbation of the Secretary of the Treasury, one chief clerk at a salary of fifteen hundred dollars per annum, and one disbursing clerk at a salary of fifteen hundred dollars per annum, and one other clerk at a salary of twelve hundred dollars per annum, and one messenger at a salary of seven hundred dollars per annum; and the compensation for such clerks for the current and next fiscal year be, and the same is hereby, appropriated, out of any money in the Treasury not otherwise appropriated.

SEC. 2. *And be it further enacted*, That, in case of the sickness or unavoidable absence of the Assistant Treasurer, he may, in his discretion, authorize the chief clerk to act in his place, and to discharge all the duties required by law of the Assistant Treasurer.

APPROVED, March 19, 1862.

CHAP. XLIX.—An Act to secure to the Officers and Men actually employed in the Western Department, or Department of Missouri, their Pay, Bounty, and Pension.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of War be, and he is hereby, authorized and required to allow and pay to the officers, non-commissioned officers, musicians, and privates who have been heretofore actually employed in the military service of the United States, whether mustered into actual service or not, where their services were accepted and actually employed by the generals who have been in command of the department of the West, or the department of the Missouri, the pay and bounty as in cases of regular enlistment.

SEC. 2. *And be it further enacted*, That the officers, non-commissioned officers, musicians, and privates so employed, who may have been wounded or incapacitated for service, shall be entitled to and receive the pension allowed for such disability: *Provided*, That the length and character of their enlistment and service be such as to entitle them, under existing laws, to such pension.

SEC. 3. *And be it further enacted*, That the heirs of those killed in battle, or of those who may have died from wounds received while so in service, shall be entitled to receive the bounty and pay to which they would have been entitled had they been regularly mustered into service: *Provided*, That the bounty and pay referred to in this act shall not be payable unless their term of enlistment and service be of such duration as to entitle them to receive the same, according to existing laws.

APPROVED, March 25, 1862.

CHAP. L.—An Act to facilitate Judicial Proceedings in Adjudications upon Captured Property, and for the better administration of the Law of Prize.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That whenever any property captured as prize shall be brought into any district of the United States for adjudication, it shall be the duty of the prize commissioners for such district forthwith to receive, seal, and safely keep the same, until process shall be issued out of the court, under which the same shall be placed in the custody of the marshal of such district. It shall be the further duty of said prize commissioners, at the time of taking such possession, and from time to time pending the adjudication, to examine into the condition of said property, and report to the court if the same, or any part thereof, be perishing or perishable, or deteriorating in value; and if the same be so found by the court, upon said report or other evidence, the court may thereupon

order an interlocutory sale thereof by the United States marshal, and the deposit of the gross proceeds of such sale in the registry of the court to abide the further order of the court, whether a claim to said property has or has not been interposed. It shall be the further duty of the said prize commissioners to receive from the prize master all the papers and documents, and forthwith to proceed to take the testimony of the witnesses prescribed by law, pursuant to the rules and under the interrogatories adopted by the court, and separately from each other and unattended by counsel, and the said papers, documents, and testimony, securely to seal with their seals, and as soon as practicable deposit in the registry of the court; and thereafter, promptly and without unnecessary delay, the court shall proceed to hearing and adjudication.

SEC. 2. *And be it further enacted*, That all reasonable and proper claims and charges for pilotage, towage, wharfage, storage, insurance, and other expenses incident to the bringing in and safe custody and sale of the property captured as prize, shall be a charge upon the same, and having been audited and allowed by the court, shall, in event of a decree of condemnation or of restitution on payment of costs, be paid out of the proceeds of any sale of the property, final or interlocutory, in the custody of the court. In case of a decree of restitution upon payment of costs, where no sale has been made, such charges and expenses shall constitute part of said costs to be paid by the claimant.

SEC. 3. *And be it further enacted*, That the prize commissioners, and also the district attorney, acting for the United States, and the counsel for the captors, shall be entitled to receive a just and suitable compensation for their several and respective services in each prize case or proceeding; and the same shall be adjusted and determined by the court upon due consideration of the facts and circumstances of each case, and of the services actually rendered therein; and the same, when so adjusted, shall, in case of final condemnation or restitution on payment of costs, be paid out of the proceeds of the prize property in the custody of the court, or when no sale has been made, in whole or in part, as the court may direct by the claimant.

SEC. 4. *And be it further enacted*, That whensoever a final decree of condemnation of property captured as prize shall have been made, unless an interlocutory sale has been made as hereinbefore provided for, the property shall be sold by the United States marshal pursuant to the practice and proceedings in admiralty, and the gross proceeds of such sale shall be forthwith deposited in court; and thereupon the prize commissioners shall proceed, under the direction of the court, to take the requisite evidence, and report the same to the court, to the end that a final decree shall be made determining what public ships of the United States are entitled to share in the prize, and whether the prize was of superior, equal, or inferior force to the vessel or vessels making the capture, and within thirty days after the entry of the same the clerk of the court shall transmit to the Treasury of the United States the moneys so deposited in court, together with a certified copy of the said decree, after deducting from said moneys the costs of court, and the charges and expenses hereinbefore provided for.

SEC. 5. *And be it further enacted*, That the provisions of this act shall apply as well to cases now pending as to all future cases of maritime captures, and to captures and seizures made under the laws for the abolition of the slave trade; and all laws and parts of laws inconsistent herewith are hereby repealed.

APPROVED, March 25, 1862.

CHAP. LI.—An Act in addition to an Act to refund and remit the Duties on Arms imported by States, approved July ten, eighteen hundred and sixty-one.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the authority given to the Secretary of the Treasury to refund and remit the duties and imposts on all arms imported into the United States by or for the account of any State as provided in the act to which this is an addition, shall extend to arms for which orders or contracts were made prior to the first day of January, eighteen hundred and sixty-two: *Provided*, That said Secretary shall have satisfactory proofs exhibited to him that the said arms were actually purchased in a foreign country for account of a State, and that the price paid for the same by the State was only the first cost, and the usual and customary charges attending the purchase and importation of the same, exclusive of duty.

APPROVED, April 2, 1862.

CHAP. LII.—An Act to provide for the equitable settlement of the Accounts of the Officers and Crews of the Frigate Congress and other vessels.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the proper accounting officers of the Treasury be, and they hereby are, authorized and directed to settle, upon the principles of justice and equity, the accounts of the officers, sailors, marines, and crews of the United States frigate Congress, the sloop Cumberland, and of any other vessel or vessels-of-war, the books of which were lost or destroyed in consequence of the naval engagements at Hampton Roads on the eighth and ninth of March, anno Domini one thousand eight hundred and sixty-two.

SEC. 2. *And be it further enacted*, That the Secretary of the Navy be, and he is hereby, authorized to furnish to the sailors, marines, and crews of any of the vessels engaged in the naval actions in the foregoing section mentioned, whose bedding, clothing, or other property was lost or destroyed therein, with an amount sufficient to cover their losses, and not exceeding sixty dollars to each man, to be paid in kind or in money, at the discretion of the flag officer of the North Atlantic squadron.

APPROVED, April 2, 1862.

CHAP. LIII.—An Act to prohibit the Allowance or Payment of Pensions to the Children of Officers and Soldiers of the War of the Revolution.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That from and after the passage of this act no claim for a pension, or for an increase of pension, shall be allowed in favor of the children or other descendants of any person who served in the war of the Revolution, or of the widow of such person, when such person or his widow died without having established a claim to a pension.

APPROVED, April 2, 1862.

CHAP. LIV.—An Act for the Release of certain Persons held to Service or Labor in the District of Columbia.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That all persons held to service or labor within the District of Columbia by reason of African descent are hereby discharged and freed of and from all claim to such service or labor; and from and after the passage of this act neither slavery nor involuntary servitude, except for crime, whereof the party shall be duly convicted, shall hereafter exist in said District.

SEC. 2. *And be it further enacted*, That all persons loyal to the United States, holding claims to service or labor against persons discharged therefrom by this act, may, within ninety days from the passage thereof, but not thereafter, present to the commissioners hereinafter mentioned their respective statements or petitions in writing, verified by oath or affirmation, setting forth the names, ages, and personal description of such persons, the manner in which said petitioners acquired such claim, and any facts touching the value thereof, and declaring his allegiance to the Government of the United States, and that he has not borne arms against the United States during the present rebellion, nor in any way given aid or comfort thereto: *Provided*, That the oath of the party to the petition shall not be evidence of the facts therein stated.

SEC. 3. *And be it further enacted*, That the President of the United States, with the advice and consent of the Senate, shall appoint three commissioners, residents of the District of Columbia, any two of whom shall have power to act, who shall receive the petitions above mentioned, and who shall investigate and determine the validity and value of the claims therein presented, as aforesaid, and appraise and apportion, under the proviso hereto annexed, the value in money of the several claims by them found to be valid: *Provided, however*, That the entire sum so appraised and apportioned shall not exceed in the aggregate an amount equal to three hundred dollars for each person shown to have been so held by lawful claim: *And provided further*, That no claim shall be allowed for any slave or slaves brought into said District after the passage of this act, nor for any slave claimed by any person who has borne arms against the Government of the United States in the present rebellion, or in any way given aid or comfort thereto, or which originates in or by virtue of any transfer heretofore made, or which shall hereafter be made by any person who has in any manner aided or sustained the rebellion against the Government of the United States.

SEC. 4. *And be it further enacted*, That said commissioners shall, within nine months from the passage of this act, make a full and final report of their proceedings, findings, and appraisement, and shall deliver the same to the Secretary of the Treasury, which report shall be deemed and taken to be conclusive in all respects, except as hereinafter provided; and the Secretary of the Treasury shall, with like exception, cause the amounts so apportioned to said claims to be paid from the Treasury of the United States to the parties found by said report to be entitled thereto as aforesaid, and the same shall be received in full and complete compensation: *Provided*, That in cases where petitions may be filed presenting conflicting claims, or setting up liens, said commissioners shall so specify in said report, and payment shall not be made according to the award of said commissioners until a period of sixty days shall have elapsed, during which time any petitioner claiming an interest in the particular amount may file a bill in equity in the Circuit Court of the District of Columbia, making all other claimants defendants thereto, setting forth the proceedings in such case before said commissioners and their action therein, and praying that the party to whom payment has been awarded may be enjoined from receiving the same; and if said court shall grant such provisional order, a copy thereof may, on motion of said complainant, be served upon the Secretary of the Treasury, who shall thereupon cause the said amount of money to be paid into said court, subject to its orders and final decree, which payment shall be in full and complete compensation, as in other cases.

SEC. 5. *And be it further enacted*, That said commissioners shall hold their sessions in the city of Washington, at such place and times as the President of the United States may direct, of which they shall give due and public notice. They shall have power to subpena and compel the attendance of witnesses, and to receive testimony and enforce its production, as in civil cases before courts of justice, without the exclusion of any witness on account of color; and they may summon before them the persons making claim to service or labor, and examine them under oath; and they may also, for purposes of identification and appraisement, call before them the persons so claimed. Said commissioners shall appoint a clerk, who shall keep files and [a] complete record of all proceedings before them, who shall have power to administer oaths and affirmations in said proceedings, and who shall issue all lawful process by them ordered. The Marshal of the District of Columbia shall personally, or by deputy, attend upon the sessions of said commissioners, and shall execute the process issued by said clerk.

SEC. 6. *And be it further enacted*, That said commissioners shall receive in compensation for their services the sum of two thousand dollars each, to be paid upon the filing of their report; that said clerk shall receive for his services the sum of two hundred dollars per month; that said marshal shall receive such fees as are allowed by law for similar services performed by him in the Circuit Court of the District of Columbia; that the Secretary of the Treasury shall cause all other reasonable expenses of said commission to be audited and allowed, and that said compensation, fees, and

expenses shall be paid from the Treasury of the United States.

SEC. 7. *And be it further enacted*, That for the purpose of carrying this act into effect there is hereby appropriated, out of any money in the Treasury not otherwise appropriated, a sum not exceeding one million of dollars.

SEC. 8. *And be it further enacted*, That any person or persons who shall kidnap, or in any manner transport or procure to be taken out of said District, any person or persons discharged and freed by the provisions of this act, or any free person or persons with intent to reënslave or sell such person or persons into slavery, or shall reenslave any of said freed persons, the person or persons so offending shall be deemed guilty of a felony, and on conviction thereof in any court of competent jurisdiction in said District, shall be imprisoned in the penitentiary not less than five nor more than twenty years.

SEC. 9. *And be it further enacted*, That within twenty days, or within such further time as the commissioners herein provided for shall limit, after the passage of this act, a statement in writing or schedule shall be filed with the clerk of the Circuit Court for the District of Columbia, by the several owners or claimants to the services of the persons made free or manumitted by this act, setting forth the names, ages, sex, and particular description of such persons, severally; and the said clerk shall receive and record, in a book by him to be provided and kept for that purpose, the said statements or schedules on receiving fifty cents each therefor, and no claim shall be allowed to any claimant or owner who shall neglect this requirement.

SEC. 10. *And be it further enacted*, That the said clerk and his successors in office shall, from time to time, on demand, and on receiving twenty-five cents therefor, prepare, sign, and deliver to each person made free or manumitted by this act, a certificate under the seal of said court, setting out the name, age, and description of such person, and stating that such person was duly manumitted and set free by this act.

SEC. 11. *And be it further enacted*, That the sum of one hundred thousand dollars, out of any money in the Treasury not otherwise appropriated, is hereby appropriated, to be expended under the direction of the President of the United States, to aid in the colonization and settlement of such free persons of African descent now residing in said District, including those to be liberated by this act, as may desire to emigrate to the Republics of Hayti or Liberia, or such other country beyond the limits of the United States as the President may determine: *Provided*, The expenditure for this purpose shall not exceed one hundred dollars for each emigrant.

SEC. 12. *And be it further enacted*, That all acts of Congress and all laws of the State of Maryland in force in said District, and all ordinances of the cities of Washington and Georgetown, inconsistent with the provisions of this act, are hereby repealed.

APPROVED, April 16, 1862.

CHAP. LV.—An Act to reorganize and increase the efficiency of the Medical Department of the Army.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That there shall be added to the present medical corps of the Army ten surgeons and ten assistant surgeons, to be promoted and appointed under existing laws; twenty medical cadets, and as many hospital stewards as the Surgeon General may consider necessary for the public service, and that their pay and that of all hospital stewards in the volunteer as well as the regular service shall be thirty dollars per month, to be computed from the passage of this act. And all medical cadets in the service shall, in addition to their pay, receive one ration per day either in kind or commutation.

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

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

SEC. 4. *And be it further enacted*, That the Surgeon General, assistant surgeon general, medical inspector general, and medical inspectors, shall, immediately after the passage of this act, be appointed by the President, by and with the advice and consent of the Senate, by selection from the medical corps of the Army, or from the surgeons in the volunteer service, without regard to their rank when so selected, but with sole regard to qualifications.

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

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

SEC. 7. *And be it further enacted*, That the provisions of this act shall continue and be in force during the existence of the present rebellion and no longer: *Provided, however*, That when this act shall expire, all officers who shall have been promoted from the medical staff of the Army under this act shall retain their respective rank in the Army, with such promotion as they would have been entitled to.

APPROVED, April 16, 1862.

CHAP. LVI.—An Act to authorize the Postmaster General to establish Branch Post Offices in Cities.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Postmaster General be authorized and directed, when in his judgment the public interest or convenience may require it, to establish one or more branch post offices, to facilitate the operation of the post office in any city or place which, in the opinion of the Postmaster General, may require such additional accommodations for the convenience of the inhabitants; and it shall be the duty of the Postmaster General to prescribe the rules and regulations for the branch post office which may be established by virtue of this act. And the Postmaster General is hereby authorized to charge one cent, in addition to the regular postage, for every letter deposited in any branch post office to be forwarded by mail from the principal office, and which shall be prepaid by stamp, and one cent for every letter delivered at such branch office, to be paid on delivery: *Provided*, That no letter shall be sent from the principal office to such branch office for delivery contrary to the request of the party to whom the same may be addressed: *And provided*, The expense of such branch service shall not exceed the receipts on account thereof.

SEC. 2. *And be it further enacted*, That the tenth section of an act entitled "An act to establish certain post routes, and for other purposes," approved March third, eighteen hundred and forty-seven, be, and hereby is, repealed.

APPROVED, April 16, 1862.

CHAP. LVII.—An Act making additional Appropriations for the Naval Service for the year ending June thirty, eighteen hundred and sixty-two.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums be, and they are hereby, appropriated, to be paid out of any money in the Treasury not otherwise appropriated, for the service of the year eighteen hundred and sixty-two:

For the purchase of vessels and necessary alterations incurred in fitting them for service, two million five hundred and thirty thousand dollars.

For the purchase of additional vessels, two million dollars.

For the purchase of nautical instruments, books, maps, and charts, twenty thousand dollars.

For repairs at Observatory, freight, and transportation, three thousand dollars.

For the ordnance foundery at the Washington navy-yard, fifty thousand dollars.

For ordnance, one million dollars.

SEC. 2. *And be it further enacted*, That the sum of seven hundred and eighty-three thousand two hundred and ninety-four dollars, being the amount necessary to be provided, as estimated by a board appointed for that purpose, to pay for and finish the Stevens battery now partially constructed at Hoboken, New Jersey, be, and the same is hereby, appropriated, out of any money in the Treasury not otherwise appropriated, for the immediate completion of said battery: *Provided*, That in the contract for the completion of said vessel it shall be stipulated that no part of the money claimed by Edwin A. Stevens to have been heretofore expended by him upon said vessel shall be refunded until the amount of said claim shall be established to the satisfaction of the Secretary of the Navy, and the payment of said sum shall be contingent upon the success of said vessel as an iron-clad, sea-going, war steamer, to be determined by the President, and such contract shall stipulate the time within which the vessel shall be completed: *Provided, nevertheless*, That said money shall not be expended unless the Secretary of the Navy is of opinion that the same will secure to the public service an efficient steam battery.

SEC. 3. *And be it further enacted*, That the sum of thirteen million dollars be appropriated, out of any money in the Treasury not otherwise appropriated, to enable the Secretary of the Navy to construct iron-clad steam vessels of war.

SEC. 4. *And be it further enacted*, That the Secretary of the Navy be authorized to commute the Navy ration of coffee and sugar for the extract of coffee combined with milk and sugar, to be procured in the same manner and under like restrictions and guarantees as are preserved meats, pickles, butter, and desiccated vegetables, if he shall believe it will be conducive to the health and comfort of the Navy, and not more expensive to the Government than the present ration, and if it shall be acceptable to the men.

APPROVED, April 17, 1862.

CHAP. LVIII.—An Act making Appropriations for the service of the Post Office Department during the fiscal year ending the thirtieth of June, eighteen hundred and sixty-three.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums be, and the same are hereby, appropriated for the service of the Post Office Department for the year ending the thirtieth of June, eighteen hundred and sixty-

three, out of any moneys in the Treasury arising from the revenues of the said Department, in conformity to the act of the second of July, eighteen hundred and thirty-six:

For transportation of the mails, (inland,) six million nine hundred and sixty-one thousand dollars.

For compensation to postmasters, two million two hundred and thirty-four thousand dollars.

For clerks in the offices of postmasters, eight hundred and forty-six thousand dollars.

For ship, steamboat, and way letters, twelve thousand dollars.

For office furniture in the post offices, two thousand dollars.

For advertising, thirty-six thousand dollars.

For mail bags, seventy-five thousand dollars.

For wrapping paper, forty-five thousand dollars.

For mail locks, keys, and stamps, fifty-six thousand dollars.

For mail depredations and special agents, seventy-five thousand dollars.

For miscellaneous payments, one hundred and eighty-seven thousand dollars.

For postage stamps and stamped envelopes, ninety thousand dollars.

For payments of balances due to foreign countries, two hundred and thirty thousand dollars.

For payments to letter carriers, one hundred and fifty-two thousand dollars.

For transportation of foreign mails, four hundred and sixty-five thousand dollars.

For compensation of twenty-five additional clerks in the Post Office Department, authorized by the "Act to promote the efficiency of the Dead Letter Office," approved January twenty-first, eighteen hundred and sixty-two, from the date of their appointment to the thirtieth of June, eighteen hundred and sixty-two, eight thousand eight hundred dollars.

SEC. 2. *And be it further enacted*, That if the revenues of the Post Office Department shall be insufficient to meet the appropriations of this act, then the sum of two million one hundred and twenty thousand dollars, or so much thereof as may be necessary, be, and the same is hereby, appropriated, to be paid out of any money in the Treasury not otherwise appropriated, to supply deficiencies in the revenue of the Post Office Department for the year ending the thirtieth June, eighteen hundred and sixty-three.

SEC. 3. *And be it further enacted*, That the sum of one million dollars is hereby appropriated, out of any money in the Treasury not otherwise appropriated, for the service of the California central route.

SEC. 4. *And be it further enacted*, That all acts and parts of acts heretofore passed requiring that the Postmaster General, in causing the transportation of mails by steamships between the United States and any foreign port or ports, or between any ports of the United States, touching at a foreign port, shall give preference to American over foreign steamships, when departing from the same port for the same destination within three days of each other, be, and the same are hereby, repealed.

SEC. 5. *And be it further enacted*, That the Postmaster General be, and he is hereby, authorized to establish a coast mail, not less than semi-monthly, by steam vessels, between San Francisco and Crescent City, in the State of California, including service at the intermediate ports: *Provided*, That the sum to be paid for such service shall not exceed the sum of twenty thousand dollars per annum.

APPROVED, April 17, 1862.

CHAP. LIX.—An Act to establish a Branch Mint of the United States at Denver, in the Territory of Colorado.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That a branch of the mint of the United States be located and established at Denver, in the Territory of Colorado, for the coinage of gold.

SEC. 2. *And be it further enacted*, That, for carrying on the business of said branch, the following officers shall be appointed as soon as the public interest shall require their service, upon the nomination of the President, by and with the advice and consent of the Senate, namely: one superintendent, one assayer, one melter and refiner, and one coiner; and the said superintendent shall employ as many clerks, subordinate workmen, and laborers, under the direction of the Secretary of the Treasury, as may be required. The salaries of the said officers shall be as follows: To the superintendent, the sum of two thousand dollars; to the assayer, the sum of eighteen hundred dollars; to the melter and refiner, eighteen hundred dollars; to the coiner, eighteen hundred dollars; to the clerks, subordinate workmen, and laborers, such wages and allowances as are customary according to their respective stations and occupations.

SEC. 3. *And be it further enacted*, That the officers and clerks to be appointed under this act, before entering upon the execution of their offices, shall take an oath or affirmation, before some judge of the United States or of the supreme court of said Territory, faithfully and diligently to perform the duties of their offices, and shall each become bound to the United States of America, with one or more sureties, to the satisfaction of the director of the mint or the secretary of the Territory of Colorado and of the Secretary of the Treasury, with the condition of the faithful performance of the duties of their offices.

SEC. 4. *And be it further enacted*, That the general direction of the business of said branch of the mint of the United States shall be under the control and regulation of the director of the Mint at Philadelphia, subject to the approbation of the Secretary of the Treasury; and for that purpose it shall be the duty of the said director to prescribe such regulations and require such returns periodically and occasionally, and to establish such charges for parting, assaying, refining, and coining, as shall appear to him to be necessary for the purpose of carrying into effect the intention of this act in establishing said branch; also for the purpose of preserving uniformity of weight, form, and finish in the coin stamped at said branch.

SEC. 5. *And be it further enacted*, That said branch mint shall be a place of deposit for such public moneys as the Secretary of the Treasury may direct. And the superintendent of said branch mint, who shall perform the duties of treasurer thereof, shall have the custody of the same, and also perform the duties of assistant treasurer; and for that purpose shall be subject to all the provisions contained in an act entitled "An act to provide for the better organization of the treasury, and for the collection, safe-keeping, transfer, and disbursement of the public revenue," approved August six, eighteen hundred and forty-six, which relates to the treasury of the branch mint at New Orleans.

SEC. 6. *And be it further enacted*, That the superintendent of said branch mint be authorized, under the direction of the Secretary of the Treasury, and on terms to be prescribed by him, to issue in payment of the gold dust and bullion deposited for assay and coinage or bars, drafts, or certificates of deposit, payable at the Treasury or any sub-Treasury of the United States, to any depositor electing to receive payment in that form.

SEC. 7. *And be it further enacted*, That all the laws and parts of laws now in force for the regulation of the Mint of the United States, and for the government of the officers and persons employed therein, and for the punishment of all offenses connected with the mint or coinage of the United States, shall be, and they are hereby, declared to be in full force in relation to the branch of the mint by this act established, as far as the same may be applicable thereto.

SEC. 8. *And be it further enacted*, That the sum of seventy-five thousand dollars be, and the same is hereby, appropriated, out of any money in the Treasury not otherwise appropriated, to carry into effect the provisions of this act, and to meet the expenses of the current year, and for the fiscal year ending the thirtieth of June, eighteen hundred and sixty-three.

APPROVED, April 21, 1862.

CHAP. LXIII.—An Act relating to Highways in the County of Washington and District of Columbia.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That from and after the passage of this act, it shall be lawful for the levy court of Washington county, in the District of Columbia, to alter, repair, widen, and regulate the public roads and highways in said county, and to lay out additional roads as hereinafter specified.

SEC. 2. *And be it further enacted*, That all roads within said county of Washington which have been used by the public for a period of twenty-five years or more as a highway, and have been recognized by the said levy court as public county roads, and for the repairs of which the said levy court has appropriated and expended money, are declared public highways, whether the same have been recorded or not; and any person who shall obstruct the free use of said highways, or any one of them, without authority from said levy court, shall be subject to a fine for each and every offense of not less than one hundred or more than two hundred and fifty dollars, to be imprisoned till the said fine and the costs of suit and collection of the same are paid; said fines to be collected in the name of the United States, for the use of the levy court.

SEC. 3. *And be it further enacted*, That within one year from the passage of this act the levy court shall cause the surveyor of the said county of Washington to survey and plat all such roads as are named in the last preceding section, and have the same recorded among the records of said county now used for recording surveys and plats of other public county roads; and, in making said survey, the county surveyor shall follow, as nearly as possible, the lines and boundaries heretofore used and known as a highway, and he shall cause the lines and boundaries of the same to be permanently marked and fixed by the erection of stones or posts at the different angles thereof.

SEC. 4. *And be it further enacted*, That all such roads as are named in the second section of this act as have been obstructed by any person or persons in any manner within the last six years shall be reopened by the levy court, if, in the judgment of said court, the public convenience requires it; and the expenses thereby incurred shall be paid by the person or persons who shall have obstructed the same, which expenses shall be collected as fines are required to be collected under the second section of this act.

SEC. 5. *And be it further enacted*, That hereafter, in laying out new roads in said county of Washington, the levy courts shall cause such roads to be of a width of not less than fifty nor more than one hundred feet, and it may also cause the width of any of the existing roads in said county to be increased to not more than one hundred feet, and change the location of any of them, as the said levy court may deem best for the public interest; and for the purpose of opening or widening such roads, the said levy court is hereby empowered to cause to be condemned any land or lands necessary for the same, as other lands are now condemned by law.

SEC. 6. *And be it further enacted*, That in any case where materials shall be necessary for making or repairing a public road, if the levy court cannot agree with the owner as to their purchase, the said court may proceed in the same manner for condemning said materials as in cases of condemnation of land for the purposes of a public road.

SEC. 7. *And be it further enacted*, That no field or garden, or yard, in actual cultivation, shall be laid open or used as a public highway until after the usual time of taking off the crops growing thereon.

SEC. 8. *And be it further enacted*, That the requirement in the existing laws, that members of the levy court shall be appointed from among the justices of the peace in the county of Washington, is hereby repealed.

APPROVED, May 3, 1862.

CHAP. LXVI.—An Act to amend an Act entitled "An Act to provide increased Revenue from Imports, to pay interest on the Public Debt, and for other purposes, approved August five, eighteen hundred and sixty-one.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the provision in the fifty-third section of the act "to provide increased revenue from imports, to pay interest on the public debt, and for other purposes," approved August five, eighteen hundred and sixty-one, allowing such portion of the tax as may be assessed by any

State, Territory, or the District of Columbia "to be paid and satisfied, in whole or in part, by the release of such State, Territory, or District, duly executed, to the United States, of any liquidated and determined claim of such State, Territory, or District, of equal amount against the United States: *Provided*, That in case of such release, such State, Territory, or District shall be allowed the same abatement of the amount of such tax as would be allowed in case of the payment of the same in money," shall be construed as applying to such claims of States for reimbursement of expenses incurred by them in enrolling, subsisting, clothing, supplying, arming, equipping, paying, and transporting its troops employed in aiding to suppress the present insurrection against the United States, as shall be filed with the proper officers of the United States before the thirtieth of July next. And in such cases the abatement of fifteen per centum shall be made on such portion of said tax as may be paid by the allowance of such claims, in whole or in part, the same as if the final settlement and liquidation thereof had been made before the thirtieth of June.

APPROVED, May 13, 1862.

CHAP. LXVII.—An Act to establish a Port of Entry in the Collection District of Beaufort, South Carolina.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That a port of entry and delivery shall be, and is hereby, established in the collection district of Beaufort, in the State of South Carolina, at or near Hilton Head, to be called the port of Port Royal, which shall be subject to the same regulations and restrictions as other ports of entry and delivery in the United States; and there shall be appointed a collector of the customs, to reside at said port, who shall receive a salary of fifteen hundred dollars per annum. And the Secretary of the Treasury shall have power to appoint, on the nomination of the collector, such inspectors, weighers, gaugers, measurers, and other officers as may be necessary for the collection of the revenue at said port, whose compensation shall not exceed the rates allowed to similar officers at other ports of entry and delivery in the United States.

APPROVED, May 13, 1862.

CHAP. LXIX.—An Act to provide for the deficiency in the Appropriation for the Pay of the two and three years Volunteers, and the Officers and Men actually employed in the Western Department.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That there be, and hereby is, appropriated, out of any money in the Treasury not otherwise appropriated, the sum of thirty millions of dollars, or so much thereof as may be necessary, to enable the Government to pay the two and three years volunteers called into the service of the United States, being an additional amount required for the fiscal year ending June thirtieth, eighteen hundred and sixty-two.

SEC. 2. *And be it further enacted*, That there be, and hereby is, appropriated, out of any money in the Treasury not otherwise appropriated, the sum of one hundred thousand dollars, or so much thereof as may be necessary, to carry into effect the act approved March twenty-fifth, eighteen hundred and sixty-two, to secure pay, bounty, and pensions to officers and men actually employed in the western department, or department of Missouri.

APPROVED, May 14, 1862.

CHAP. LXX.—An Act to facilitate the Discharge of enlisted Men for Physical Disability.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the medical inspector general, or any medical inspector is hereby authorized and empowered to discharge from the service of the United States any soldier, or enlisted man, with the consent of such soldier or enlisted man, in the permanent hospitals, laboring under any physical disability which makes it disadvantageous to the service that he be retained therein, and the certificate in writing of such inspector general or medical inspector, setting forth the existence and nature of such physical disability, shall be sufficient evidence of such discharge: *Provided, however*, That every such certificate shall appear on its face to have been founded on personal inspection of the soldier so discharged, and shall specifically describe the nature and origin of such disability; and that such discharge shall be without prejudice to the right of such soldier or enlisted man to the pay due him at the date thereof, and report the same to the adjutant general and the surgeon general.

APPROVED, May 14, 1862.

CHAP. LXXI.—An Act to regulate the time of holding the Courts of the United States for the District of Kentucky, and for other Purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the circuit and district courts of the United States for the district of Kentucky shall hereafter commence and be held as follows: At Covington on the third Monday of April and on the first Monday of December; at Louisville on the third Monday of February and first Monday of October; at Frankfort on the third Monday of May and first Monday of January, and at Paducah on the third Monday of March and first Monday of November.

SEC. 2. *And be it further enacted*, That if neither of the judges of said courts be present at the time for opening court, the clerk may open and adjourn the court from day to day for four days, and if the judge does not appear by two o'clock, p. m., of the fourth day, the clerk shall adjourn the court to the next stated term. But either the circuit or district judge, by written order to the clerk within the first three days of his term, may adjourn court to a future day within thirty days of the first day, of which adjournment the clerk shall give notice by posting a copy of said order on the front door of the court-house where the court is to be held; and the district judge, and, in his absence, the circuit judge, may order a special term of the circuit court, designated in a similar order, to be published in a similar manner, and in one or more newspapers in the place where the court is held; and by said order the judge may prescribe the duties of the officers of court in summoning jurors, and in the performance of other acts necessary for the holding of such special term, or the court may by its order, after it is opened, prescribe the duties of its officers and the mode of proceeding, and any of the details thereof.

SEC. 3. *And be it further enacted*, That such number of jurors shall be summoned by the marshal at every term of the circuit and district courts, respectively, as may have been ordered of record at the previous term; and in case there is not a sufficient number of jurors in attendance at any time, the court may order such number to be summoned as, in its judgment, may be deemed necessary to transact the business of the court. And a grand jury may be summoned to attend every term of the circuit or district court by order of court. The marshal may summon juries and talesmen in case of a deficiency, pursuant to an order of court made during the term; and they shall serve for such time as the court may direct.

SEC. 4. *And be it further enacted*, That a special term of any district court may be held at any time that the district judge may order by giving notice thereof on the front door of the court-house where the court is to be held, and in some respectable newspaper, if there be any, at the place.

SEC. 5. *And be it further enacted*, That the district judge may adjourn the court from time to time to suit the convenience of litigants and to meet the necessities of the business; and the intervention of a term of a district or circuit court at another place shall not preclude the power to adjourn over to a future day.

SEC. 6. *And be it further enacted*, That the terms of the circuit and district courts shall not be limited to any particular number of days, nor shall it be necessary to adjourn by reason of the intervention of a term of the court elsewhere; but the business of the courts at two places may proceed, there being a judge present at each place, or the court intervening may be adjourned over, as herein provided, till the business of the court in session is concluded.

SEC. 7. *And be it further enacted*, That a clerk shall be appointed at every place of holding circuit and district courts for the district of Kentucky, in like manner and subject to the same duties and responsibilities that other clerks are subject to in other independent districts; the deputy clerks at Covington, Louisville, and Paducah, shall perform the duties of the offices, respectively, till clerks are duly appointed and qualified.

SEC. 8. *And be it further enacted*, That commissioners appointed by the courts of the United States to take bail, affidavits, and so forth, shall have like powers to take surety of the peace and for good behavior, according to the act of July sixteen, seventeen hundred and ninety-eight, that other officers designated by said act now have.

SEC. 9. *And be it further enacted*, That all process which shall not have been returned when this act takes effect shall be returnable to the terms, respectively, herein fixed; and the clerk, upon issuing original process in a civil action, shall make it returnable to the court nearest to the county of the residence of the defendant, or of that defendant whose county is nearest a court, if he have information sufficient, and shall immediately, upon the payment by the plaintiff of his fees accrued, send the papers filed to the clerk of the court to which the process is made returnable; and whenever the process is not thus made returnable, the defendant or defendants may, upon motion, on or before the calling of the cause, have it transferred to the court to which it should have been sent had the clerk known the residence of the defendant or defendants when the action was brought.

SEC. 10. *And be it further enacted*, That in case of the existence of bail bonds for the appearance of persons to answer, it shall be the duty of the clerk to call the parties at the time they are bound to appear, and, if they fail, to enter the same on his minutes, on which entry a judgment may afterwards be made of record by the court; and if the party appears, the clerk shall take another bond, with sureties similar to the first, for further appearance at the next succeeding term of the court; and if the party fail to give bond and surety, then he shall stand committed by order of the clerk till he does comply.

SEC. 11. *And be it further enacted*, That all laws and parts of laws inconsistent herewith are hereby repealed, and this act shall be in force from and after its passage.

APPROVED, May 15, 1862.

CHAP. LXXII.—An Act to establish a Department of Agriculture.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That there is hereby established at the seat of Government of the United States a Department of Agriculture, the general designs and duties of which shall be to acquire and to diffuse among the people of the United States useful information on subjects connected with agriculture in the most general and comprehensive sense of that word, and to procure, propagate, and distribute among the people new and valuable seeds and plants.

SEC. 2. *And be it further enacted*, That there shall be appointed by the President, by and with the advice and consent of the Senate, a "Commissioner of Agriculture," who shall be the chief executive officer of the Department of Agriculture, who shall hold his office by a tenure similar to that of other civil officers appointed by the President, and who shall receive for his compensation a salary of three thousand dollars per annum.

SEC. 3. *And be it further enacted*, That it shall be the duty of the Commissioner of Agriculture to acquire and preserve in his Department all information concerning agriculture which he can obtain by means of books and correspondence, and by practical and scientific experiments, (accurate records of which experiments shall be kept in his office,) by the collection of statistics, and by any other appropriate means within his power; to collect, as he may be able, new and valuable seeds and plants; to test, by cultivation, the value of such of them as may require such tests; to propagate such as may be worthy of propagation, and

to distribute them among agriculturists. He shall annually make a general report in writing of his acts to the President and to Congress, in which he may recommend the publication of papers forming parts of or accompanying his report, which report shall also contain an account of all moneys received and expended by him. He shall also make special reports on particular subjects whenever required to do so by the President or either House of Congress, or when he shall think the subject in his charge requires it. He shall receive and have charge of all the property of the agricultural division of the Patent Office in the Department of the Interior, including the fixtures and property of the propagating garden. He shall direct and superintend the expenditure of all money appropriated by Congress to the Department, and render accounts thereof, and also of all money heretofore appropriated for agriculture and remaining unexpended. And said Commissioner may send and receive through the mails, free of charge, all communications and other matter pertaining to the business of his Department, not exceeding in weight thirty-two ounces.

SEC. 4. *And be it further enacted*, That the Commissioner of Agriculture shall appoint a chief clerk, with a salary of two thousand dollars, who in all cases during the necessary absence of the Commissioner, or when the said principal office shall become vacant, shall perform the duties of Comsioner, and he shall appoint such other employés as Congress may from time to time provide, with salaries corresponding to the salaries of similar officers in other Departments of the Government; and he shall, as Congress may from time to time provide, employ other persons, for such time as their services may be needed, including chemists, botanists, entomologists, and other persons skilled in the natural sciences pertaining to agriculture. And the said Commissioner, and every other person to be appointed in the said Department, shall, before he enters upon the duties of his office or appointment, make oath or affirmation truly and faithfully to execute the trust committed to him. And the said Commissioner and the chief clerk shall also, before entering upon their duties, severally give bonds to the Treasurer of the United States, the former in the sum of *of* ten thousand dollars, and the latter in the sum of five thousand dollars, conditional to render a true and faithful account to him or his successor in office, quarter yearly accounts of all moneys which shall be by them received by virtue of the said office, with sureties to be approved as sufficient by the Solicitor of the Treasury; which bonds shall be filed in the office of the First Comptroller of the Treasury, to be by him put in suit upon any breach of the conditions thereof.

APPROVED, May 15, 1862.

CHAP. LXXIII.—An Act to incorporate the Washington and Georgetown Railroad Company.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That Eliab Kingman, Franklin Tenney, J. J. Coombs, Sayles J. Bowen, Charles H. Upton, Henry Addison, Hallett Kilbourn, and their associates and assigns, be and they are hereby created a body-corporate, under the name of the "Washington and Georgetown Railroad Company," with authority to construct and lay down a double track railway, with the necessary switches and turnouts, in the cities of Georgetown and Washington, in the District of Columbia, through and along the following avenues and streets: commencing on Bridge street, at the intersection with High street, or at such point on said Bridge street east thereof, in the city of Georgetown, as may be designated hereafter by the corporate authorities thereof, along said Bridge street to its intersection with the street running to the tubular bridge over Rock Creek to Pennsylvania avenue, in the city of Washington; along said avenue to Fifteenth street west; along said street south to said avenue; along said avenue to the foot of the Capitol grounds; thence around the southern boundary of the Capitol grounds; and along their southern boundary easterly to Pennsylvania avenue; along said Pennsylvania avenue to Eighth street east, or Garrison street; and along said street south to the navy-yard gate, with a lateral road running along the eastern front of the Capitol from the southern to the northern gate, and thence by "A" street to the depot of the Baltimore and Ohio railroad; and thence from said depot through First street west to Pennsylvania avenue, so as to intersect with said main road; also, a double or single track branch railway, commencing at Boundary street north and running down Seventh street west to Pennsylvania avenue and to the Potomac; also, a railway commencing at Boundary street and running down Fourteenth street west and New York avenue to Pennsylvania avenue to a point of intersection with said first-mentioned railway, with the right to run public carriages thereon drawn by horse power, receiving therefor a rate of fare not exceeding five cents a passenger for any distance between the termini of either of the said main railway, or between the termini of either of said branch railways, or between either terminus of said main railway and the terminus of either of said branch railways: *Provided*, That the use and maintenance of said road shall be subject to the municipal regulations of the cities of Washington and Georgetown, respectively, within their several corporate limits, and that whenever the Capitol grounds shall be enlarged, then the said routes shall be made to conform thereto.

SEC. 2. *And be it further enacted*, That said roads shall be deemed real estate, and they, together with other real property and the personal property of said body corporate, shall be liable to taxation as other real estate and personal property in the cities aforesaid, except as hereinafter provided.

SEC. 3. *And be it further enacted*, That the said railway shall be laid in the center of the avenues and streets, as near as may be, without interfering with or passing over the water or gas pipes, in the most approved manner adapted for street railways, with rails of the most approved patterns, to be determined by the Secretary of the Interior, laid upon an even surface with the pavement of the streets; and the space between the two tracks shall not be less than four feet nor more than six feet, and the carriages shall not be less than six feet in width, the gauge to correspond with that of the Baltimore and Ohio railroad.

SEC. 4. *And be it further enacted*, That the said corporation, hereby created, shall be bound to keep said tracks, and for the space of two feet beyond the outer rail thereof, and also the space between the tracks, at all times well paved and in good order, without expense to the United States or to the cities of Georgetown and Washington.

SEC. 5. *And be it further enacted*, That nothing in this act shall prevent the Government, at any time, at their option, from altering the grade or otherwise improving Pennsylvania avenue, and such other avenues and streets as may be occupied by said roads, or the cities of Washington and Georgetown from so altering or improving such streets and avenues as may be under their respective authority and control; and in such event it shall be the duty of said company to change their said railroad so as to conform to such altered grade and pavements.

SEC. 6. *And be it further enacted*, That this act may at any time be altered, amended, or repealed by the Congress of the United States.

SEC. 7. *And be it further enacted*, That nothing in this act shall be so construed as to authorize said body-corporate to issue any note, token, device, scrip, or other evidence of debt to be used as a currency.

SEC. 8. *And be it further enacted*, That the capital stock of said company shall be not less than three nor more than five hundred thousand dollars, and that the stock shall be divided into shares of fifty dollars each, and shall be deemed personal property transferable in such manner as the by-laws of said company may direct.

SEC. 9. *And be it further enacted*, That the said company shall place first-class cars on said railways, with all the modern improvements for the convenience and comfort of passengers, and shall run cars thereon during the day as often as every five minutes, except as to Seventh and Fourteenth streets, and on these once in fifteen minutes each way, and until twelve o'clock at night as often as every half hour; and throughout day and night as much oftener as public convenience may require.

SEC. 10. *And be it further enacted*, That said company shall procure such passenger rooms, ticket offices, stables, and depots at such points as the business of the railroad and the convenience of the public may require. And the said company is hereby authorized to lay such rails through transverse or other streets as may be necessary for the exclusive purpose of connecting the said stables and depots with the main tracks. And the said company is hereby authorized to purchase or lease such lands or buildings as may be necessary for the passenger rooms, ticket offices, stables, and depots above mentioned.

SEC. 11. *And be it further enacted*, That all articles of value that may be inadvertently left in any of the cars or other vehicles of the said company shall be taken to their principal depot and entered in a book of record of unclaimed goods, which book shall be open to the inspection of the public at all reasonable hours of business.

SEC. 12. *And be it further enacted*, That said corporation shall, on demand of the President of the United States, Secretary of War, or Secretary of the Navy, cause to be transported over said railway any freight cars laden with freight for the use of the United States; the officers causing such service to be done shall pay a reasonable compensation therefor.

SEC. 13. *And be it further enacted*, That within five days after the passage of this act the corporators named in the first section, or a majority of them, or if any refuse or neglect to act, then a majority of the remainder, shall cause books of subscription to the capital stock of said company to be opened and kept open, in some convenient and accessible place in the city of Washington, from nine o'clock in the forenoon till five o'clock in the afternoon, for a period to be fixed by said corporators, not less than two days, and said corporators shall give public notice, by advertisement in the daily papers published in the city of Washington, of the time when and the place where said books shall be opened, and subscribers upon said books to the capital stock of the company shall be held to be stockholders: *Provided*, That every subscriber shall pay at the time of subscribing twenty-five per centum of the amount by him subscribed to the treasurer appointed by the corporators, or his subscription shall be null and void. If at the end of two days a larger amount than the capital stock of said company shall have been subscribed, the books shall be closed, and the said corporators named in the first section shall forthwith proceed to apportion said capital stock among the subscribers *pro rata*, and make public proclamation of the number of shares allotted to each, which shall be done and completed on the same day that the books are closed: *Provided further*, That nothing shall be received in payment of the twenty-five per centum at the time of subscribing except money or checks or certificates of deposit indorsed "good" by the president or cashier of some good solvent bank or banks. And when the books of subscription to the capital stock of said company shall be closed, the corporators named in the first section, or a majority of them, and in case any of them refuse or neglect to act, then a majority of the remainder, shall, within twenty days thereafter, call the first meeting of the stockholders of said company, to meet within ten days thereafter, for the choice of directors, of which public notice shall be given for five days in two public newspapers, published daily in the city of Washington, or by written personal notice to each stockholder by the clerk of the corporation; and in all meetings of the stockholders each share shall entitle the holder to one vote, to be given in person or by proxy.

SEC. 14. *And be it further enacted*, That the government and direction of the affairs of the company shall be vested in the board of directors, seven in number, who shall be stockholders, and who shall hold their office for one year and till others are duly elected and qualified to take their places as directors; and the said directors (a majority of whom, the president being one, shall be a quorum) shall elect one of their number to be president of the board, who shall also be president of the company; and they shall also choose a treasurer, who shall give bonds with surety to said

company, in such sum as the said directors may require, for the faithful discharge of his trust. In case of a vacancy in the board of directors by the death, resignation, or otherwise, of any director, the vacancy occasioned thereby shall be filled by the remaining directors.

SEC. 15. *And be it further enacted*, That the directors shall have full power to make and prescribe such by-laws, rules, and regulations, as they shall deem needful and proper touching the disposition and management of the stock, property, estate, and effects of the company, not contrary to the charter, or to the laws of the United States, and the ordinances of the cities of Washington and Georgetown.

SEC. 16. *And be it further enacted*, That there shall be an annual meeting of the stockholders for choice of directors, to be holden at such time and place, under such conditions, and upon such notice, as the said company in their by-laws may prescribe; and said directors shall annually make a report in writing of their doings to the stockholders and to Congress.

SEC. 17. *And be it further enacted*, That the Mayor, Common Council, and the several officers of the Corporations of the cities of Georgetown or Washington, and the said Corporations are hereby prohibited from doing any act or thing to hinder, delay, or obstruct the construction or operation of said railroad, as herein authorized.

SEC. 18. *And be it further enacted*, That the said company shall have at all times the free and uninterrupted use of their road-way, and if any person or persons shall willfully and unnecessarily obstruct or impede the passage on or over said railway, or any part thereof, or shall injure or destroy the cars, depot stations, or any property belonging to said railway company, the person or persons so offending shall forfeit and pay for every such offense the sum of five dollars to said company, and shall remain liable, in addition to said penalty, for any loss or damage occasioned by his, her, or their act, as aforesaid; but no suit shall be brought unless commenced within sixty days after such offense shall have been committed.

SEC. 19. *And be it further enacted*, That unless said corporation shall make and complete their said railways between the Capitol and Georgetown within sixty working days from and after the company shall have been organized, and from the Capitol to the Navy-Yard within sixty days thereafter, and on said Seventh street, and from said Boundary street, on Fourteenth street, to the point of intersection as aforesaid, within six months from the approval of this act, then this act shall be null and void and no rights whatsoever shall be acquired under it.

SEC. 20. *And be it further enacted*, That all acts and parts of acts heretofore passed, which are inconsistent with any of the provisions of this act, are, for the purposes of this act, hereby repealed, so far as the same are inconsistent herewith.

APPROVED, May 17, 1862.

CHAP. LXXV.—An Act to secure Homesteads to Actual Settlers on the Public Domain.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That any person who is the head of a family, or who has arrived at the age of twenty-one years, and is a citizen of the United States, or who shall have filed his declaration of intention to become such, as required by the naturalization laws of the United States, and who has never borne arms against the United States Government or given aid and comfort to its enemies, shall, from and after the first January, eighteen hundred and sixty-three, be entitled to enter one quarter section or a less quantity of unappropriated public lands, upon which said person may have filed a preëmption claim, or which may, at the time the application is made, be subject to preëmption at one dollar and twenty-five cents, or less, per acre; or eighty acres or less of such unappropriated lands, at two dollars and fifty cents per acre, to be located in a body, in conformity to the legal subdivisions of the public lands, and after the same shall have been surveyed: *Provided*, That any person owning and residing on land may, under the provisions of this act, enter other land lying contiguous to his or her said land, which shall not, with the land so already owned and occupied, exceed in the aggregate one hundred and sixty acres.

SEC. 2. *And be it further enacted*, That the person applying for the benefit of this act shall, upon application to the register of the land office in which he or she is about to make such entry, make affidavit before the said register or receiver that he or she is the head of a family, or is twenty-one years or more of age, or shall have performed service in the Army or Navy of the United States, and that he has never borne arms against the Government of the United States or given aid and comfort to its enemies, and that such application is made for his or her exclusive use and benefit, and that said entry is made for the purpose of actual settlement and cultivation, and not either directly or indirectly for the use or benefit of any other person or persons whomsoever; and upon filing the said affidavit with the register or receiver, and on payment of ten dollars, he or she shall thereupon be permitted to enter the quantity of land specified: *Provided, however*, That no certificate shall be given or patent issued therefor until the expiration of five years from the date of such entry; and if, at the expiration of such time, or at any time within two years thereafter, the person making such entry, or, if he be dead, his widow; or in case of her death, his heirs or devisee; or in case of a widow making such entry, her heirs or devisee, in case of her death; shall prove by two credible witnesses that he, she, or they have resided upon or cultivated the same for the term of five years immediately succeeding the time of filing the affidavit aforesaid, and shall make affidavit that no part of said land has been alienated, and that he has borne true allegiance to the Government of the United States; then, in such case, he, she, or they, if at that time a citizen of the United States, shall be entitled to a patent, as in other cases provided for by law: *And provided further*, That in case of the death of both father and mother, leaving an infant child, or children, under twenty-one years of age, the right and fee shall enure to the benefit of said infant child or children; and the executor, administrator, or guardian may, at any time within two years after the death of the surviving parent, and in accordance with the laws of the State in which such children for the time being have their domicil, sell said land for the benefit of said infants, but for no other purpose; and the purchaser shall acquire the absolute title by the purchase, and be entitled to a patent from the United States, on payment of the office fees and sum of money herein specified.

SEC. 3. *And be it further enacted*, That the register of the land office shall note all such applications on the tract-books and plats of his office, and keep a register of all such entries, and make return thereof to the General Land Office, together with the proof upon which they have been founded.

SEC. 4. *And be it further enacted*, That no lands acquired under the provisions of this act shall in any event become liable to the satisfaction of any debt or debts contracted prior to the issuing of the patent therefor.

SEC. 5. *And be it further enacted*, That if, at any time after the filing of the affidavit, as required in the second section of this act, and before the expiration of the five years aforesaid, it shall be proven, after due notice to the settler, to the satisfaction of the register of the land office, that the person having filed such affidavit shall have actually changed his or her residence, or abandoned the said land for more than six months at any time, then and in that event the land so entered shall revert to the Government.

SEC. 6. *And be it further enacted*, That no individual shall be permitted to acquire title to more than one quarter section under the provisions of this act; and that the Commissioner of the General Land Office is hereby required to prepare and issue such rules and regulations, consistent with this act, as shall be necessary and proper to carry its provisions into effect; and that the registers and receivers of the several land offices shall be entitled to receive the same compensation for any lands entered under the provisions of this act that they are now entitled to receive when the same quantity of land is entered with money, one half to be paid by the person making the application at the time of so doing, and the other half on the issue of the certificate by the person to whom it may be issued; but this shall not be construed to enlarge the maximum of compensation now prescribed by law for any register or receiver: *Provided*, That nothing contained in this act shall be so construed as to impair or interfere in any manner whatever with existing preëmption rights: *And provided further*, That all persons who may have filed their applications for a preëmption right prior to the passage of this act, shall be entitled to all privileges of this act: *Provided further*, That no person who has served, or may hereafter serve, for a period of not less than fourteen days in the Army or Navy of the United States, either regular or volunteer, under the laws thereof, during the existence of an actual war, domestic or foreign, shall be deprived of the benefits of this act on account of not having attained the age of twenty-one years.

SEC. 7. *And be it further enacted*, That the fifth section of the act entitled "An act in addition to an act more effectually to provide for the punishment of certain crimes against the United States, and for other purposes," approved the third of March, in the year eighteen hundred and fifty-seven, shall extend to all oaths, affirmations, and affidavits, required or authorized by this act.

SEC. 8. *And be it further enacted*, That nothing in this act shall be so construed as to prevent any person who has availed him or herself of the benefits of the first section of this act from paying the minimum price, or the price to which the same may have graduated, for the quantity of land so entered at any time before the expiration of the five years, and obtaining a patent therefor from the Government, as in other cases provided by law, on making proof of settlement and cultivation as provided by existing laws granting preemption rights.

APPROVED, May 20, 1862.

CHAP. LXXVI.—An Act making Appropriations to reimburse the Contingent Fund of the Office of the Secretary of the Treasury, including Compensation of additional Clerks who may be employed according to the exigencies of the public service, and for temporary Clerks, for the current fiscal year and for the year ending June thirtieth, eighteen hundred and sixty-three, and to provide for the employment of additional Clerks in the Office of the Assistant Treasurer at St. Louis.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums be, and the same are hereby, appropriated, out of any money in the Treasury not otherwise appropriated, for the purposes hereafter expressed, viz:

To reimburse the contingent fund of the office of the Secretary of the Treasury, for additional clerks authorized by the act of July twenty-seventh, eighteen hundred and sixty-one, and for temporary clerks in the Treasury Department for the year ending thirtieth June, eighteen hundred and sixty-two, fifty thousand six hundred and fifty dollars.

For temporary clerks in the Treasury Department for the year ending June thirtieth, eighteen hundred and sixty-three, one hundred and three thousand dollars: *Provided*, That the Secretary of the Treasury be, and he is hereby, authorized in his discretion to classify the temporary clerks so authorized according to the character of their services, or assign to such of them as he shall see fit any compensation not exceeding that of clerks of the first class.

For the necessary furniture, stationery, and labor consequent upon the increased clerical force, seven thousand dollars.

SEC. 2. *And be it further enacted*, That from and after the thirtieth day of June, eighteen hundred and sixty-two, there shall be employed in the office of the Assistant Treasurer at St. Louis a chief clerk and teller with an annual salary of eighteen hundred dollars, and one assistant clerk with an annual salary of twelve hundred dollars; and the sum of three thousand dollars is hereby appropriated, out of any money in the Treasury not otherwise appropriated, to pay the salaries of said chief clerk and assistant clerk for the fiscal year ending June thirty, eighteen hundred and

sixty-three: *Provided*, That the clerks hereby authorized are to be in the place of all other clerical force now authorized by law for said office.

APPROVED, May 20, 1862.

CHAP. LXXVII.—An Act to provide for the public Instruction of Youth in Primary Schools throughout the County of Washington, in the District of Columbia, without the limits of the Cities of Washington and Georgetown.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the levy court of the county of Washington, in the District of Columbia, at their first meeting after the passage of this act, shall appoint seven intelligent inhabitants of the said county, who shall reside without the limits of the cities of Washington and Georgetown, two of whom shall be residents of that portion of the said county lying and being west of Rock Creek, three between Rock Creek and the Eastern Branch, and two east and south of the Eastern Branch, to be Commissioners of Primary Schools for said county, which said commissioners shall hold their offices until the second Monday in May, in the year one thousand eight hundred and sixty-three, and until others are appointed in their places; and in case any of the said commissioners thus appointed or to be appointed as aforesaid shall refuse to serve, or die, or remove from the county, or become incapable of serving, the vacancy or vacancies shall be filled by the levy court as soon as practicable.

SEC. 2. *And be it further enacted*, That each of the said commissioners, before he enters upon the execution of his office, and within fifteen days after notification of his appointment by the said levy court, shall take and subscribe an oath before some justice of the peace of the said county, in form following, that is to say: "I, ——, do solemnly and sincerely promise and swear (or affirm, as the case may be) that I will in all things, to the best of my knowledge and ability, well and truly execute the trust reposed in me as commissioner of primary schools for the county, without favor or partiality;" and every justice of the peace before whom such oath shall be taken shall, without fee or reward, certify the same in writing, and, within eight days thereafter, transmit or deliver said certificate to the clerk of the levy court for record.

SEC. 3. *And be it further enacted*, That it shall be the duty of the commissioners of primary schools, or a majority of them, to divide the county into seven suitable and convenient school districts, two of which shall be located west of Rock Creek, three between Rock Creek and the Eastern Branch, and two east and south of the Eastern Branch, and to alter and regulate the same as hereinafter provided. And it shall be the further duty of the commissioners of primary schools aforesaid, immediately after the formation or alteration of any such school districts in said county, to describe and number the same, and deliver the description and number thereof, in writing, to the clerk of the levy court, who is hereby required to receive and record the same in the records of that court without fee or reward: *And provided*, That in laying off said school districts, or in altering the same, no tracts, or parts of tracts, of land lying contiguous and forming one farm, shall be divided so that portions of the same property shall be included in two separate districts.

SEC. 4. *And be it further enacted*, That the said commissioners may alter and change the school districts with a view to their better arrangement and the more general convenience of the people: *Provided, however*, That unless the trustees of the districts so to be altered or changed shall assent thereto, no such alteration or change shall be made.

SEC. 5. *And be it further enacted*, That it shall be the duty of the county collector to notify the different officers to be appointed, in virtue of the provisions of this act, of their appointments within ten days after his having received notice of such appointments from the appointing power, whose duty it shall be to give such notice to the county collector aforesaid.

SEC. 6. *And be it further enacted*, That the said commissioners shall hold two stated meetings in each year, which meetings shall be held at such place and at such times as shall be determined on by said commissioners, and of which they shall give public notice in each of said school districts, and such other meetings as circumstances may from time to time require; but if less than three members attend any meeting no business shall be transacted thereat, except that of adjourning to some time and place to be agreed on by the commissioners present, and at all meetings of said commissioners the treasurer of the school fund of the county hereinafter to be appointed shall attend and lay before them his books and accounts for their inspection and examination.

SEC. 7. *And be it further enacted*, That the said commissioners shall cause to be kept a regular record of all their acts and proceedings in a book to be kept for that purpose, and said record, or a copy thereof, certified to be correct under the hands and seals of a majority of said board of commissioners shall be considered evidence of their acts and proceedings in all judicial proceedings. And the board of commissioners aforesaid shall have power to appoint a clerk, prescribe his duties, and pay him a salary, and also to allow the treasurer of the school fund, hereinafter to be appointed, an annual compensation for his services out of the general school fund, hereinafter to be provided: *Provided*, That neither the said clerk nor treasurer shall be paid more than one hundred dollars per annum.

SEC. 8. *And be it further enacted*, That on the second Monday in May, in the year eighteen hundred and sixty-three, and annually thereafter, the said levy court shall appoint one of said board of commissioners from each primary school district; and the said commissioners appointed as aforesaid shall, each acting in his respective district, examine all persons who shall offer themselves as candidates for teaching in such district; and in such examination it shall be the duty of the commissioners aforesaid to inquire, and, so far as he shall be enabled thereto, to ascertain and inform himself as to all the qualifications mentioned and contained in the certificate hereinafter specified and given in form; and if he shall be satisfied as to the sufficiency of such qualifications he shall certify in writing, under his hand, and deliver such certificate to the person so examined by him as aforesaid in form and substance following, viz: "I, the undersigned, resident commissioner of primary schools of district No. ——, do certify that I have examined ——, and do believe he (or she, as the case may be) is of a good moral character, and of sufficient learning and ability, and in all other respects well qualified to teach a primary school. Given under my hand the —— day of ——, in the year of our Lord one thousand eight hundred and ——. ——, Commissioner of primary school district No. —;" and dismiss any intemperate, cruel, negligent, or immoral teachers, and cause to be put up in every school-house such general system of rules and regulations as may be adopted by the board of commissioners, which board shall also direct what books shall be used, and what branches shall be taught; and the resident commissioners aforesaid shall visit the schools in each of their respective districts at least twice a year, exercise a general supervision, and endeavor to promote a full, equal, and useful instruction of the youth of said county.

SEC. 9. *And be it further enacted*, That whenever any school district shall be formed by the commissioners of primary schools as aforesaid it shall be the duty of the said commissioners, within twenty days thereafter, to make a notice in writing describing the metes and bounds of such district, and appoint a time and place for the first district meeting, and notify the taxable white inhabitants residing in such district as aforesaid, by public advertisements to be put up at the most public places of the said district, at least six days before the time of such meeting; and in case such notice shall not be given as aforesaid, or the inhabitants of such district when so notified shall neglect or refuse to assemble or form a district meeting in pursuance of such notice, or in case any district, having been formed or organized in pursuance of such notice, shall, in the opinion of the commissioners aforesaid, be dissolved by adjournment without day, or from any other cause whatever, it shall and may be lawful for the commissioners aforesaid, or any one of them, at any time thereafter, to renew such notice, and the white inhabitants of such district liable to pay taxes as aforesaid shall assemble together, in pursuance of such notice, and when so assembled in district meeting it shall and may be lawful for them, or a majority of such of them as shall be present at such district meeting, to adjourn to any other time or place; and at such first or any future legal district meeting it shall and may be lawful for them, or a majority of them as shall be present as aforesaid, to adjourn from time to time as occasion may require, to fix on a time and place for holding their future annual meetings, which annual meetings they are hereby authorized and required to hold; to choose by ballot three trustees to manage the concerns of such school district, and one district collector; also to designate a suitable and central site for a school-house; to vote a tax on the property in such school district owned by white persons, sufficient, in addition to the proportion of the school fund (hereinafter to be provided for) allotted to such school district, to purchase, lease, or rent a site for a school-house; to build, lease, or rent and keep in repair said house; to supply fuel, books, stationery, and furniture; to pay the salary of a teacher, and all other necessary expenses: *Provided, however*, That no location of a school-house shall be fixed upon unless the same be approved by a majority of the commissioners, and no change shall be made after such school-house shall have been built but by consent of a majority of said commissioners; all the expenses incurred by making such change shall be defrayed by donation or by levies authorized to be made by a majority of the white citizens of such school district upon the assessable property therein owned by white persons.

SEC. 10. *And be it further enacted*, That the clerk of the levy court shall annually, without fee or reward, make out for the trustees of primary school districts, or such of them as shall apply for the same, copies from the assessment books of said county of all the assessable property in said district or districts.

SEC. 11. *And be it further enacted*, That all meetings of the school districts, held for the purpose aforesaid, shall be organized by appointing a president and clerk *pro tempore*, who shall take minutes of the proceedings, specifying particularly the amount of tax voted by said meetings, and deliver the same, certified under their hands and seals, within ten days after such meeting, to the commissioners of primary schools, or any one of them, to be delivered by them or him to the clerk of the commissioners, and by him to be recorded in a book kept for that purpose.

SEC. 12. *And be it further enacted*, That all tax to be voted by the citizens of any and every school district in said county, under and by virtue of this act, shall be levied on all the assessable property in said district owned by white persons, agreeably to the assessments of the last preceding county tax.

SEC. 13. *And be it further enacted*, That it shall be the duty of the levy court of the county aforesaid, at their first meeting after the passage of this act, and in each succeeding year thereafter, when the annual county levy is made, to impose and levy a school tax of one eighth of one per cent. on all the assessable property of said county, without the limits of the cities of Washington and Georgetown, owned by white persons, for the support of primary schools hereby authorized in said county, which tax shall be due at the same time, and shall be collected by the county collector in the same manner and under the same regulations and restrictions as are prescribed by law in relation to the collection of other county taxes, and which are hereby made applicable to the collection of the school tax imposed by this act, and when collected shall be paid to the treasurer of the levy court, who is hereby constituted and appointed treasurer of the primary school fund for said county, and who shall qualify by making oath or affirmation that he will well and faithfully discharge the duties required of him by law as treasurer of the school fund for said county, and not use the same to his own use or advantage, and he shall also give bond to the United States, with two good and sufficient sureties, conditioned for the faithful discharge of the duties required of him by this act, which bond, being approved by the commissioners of primary schools aforesaid,

shall be filed with the clerk of the circuit court of the District of Columbia, who is hereby required to file the same without fee or reward; and a copy of the said bond, under seal of said court, shall be sufficient evidence of the making thereof.

SEC. 14. *And be it further enacted*, That it shall be the duty of the trustees of each school district, whenever a district meeting shall have voted a sufficient tax for that purpose, to purchase a suitable site for their school-house, and to build, keep in repair, and furnish such school-house with necessary fuel, books, stationery, and appendages; and it shall be the further duty of the trustees aforesaid to agree with and employ all teachers to be employed in such district: *Provided*, That no teachers shall be employed by them who shall not have received the certificate of approbation from the commissioners of primary schools aforesaid, as hereinbefore provided; and it shall be the further duty of the trustees to pay the salaries of teachers out of the apportionment of the school fund for their respective districts which shall come into their hands through the commissioners aforesaid, so far as the same shall be sufficient for that purpose.

SEC. 15. *And be it further enacted*, That before the trustees of any school district shall enter upon the duties of their office, they shall each take an oath or make affirmation before a justice of the peace of said county, or one of the commissioners of primary schools, who is hereby authorized to administer the same, that he will well and truly discharge the duties pertaining to his said office of trustee, without prejudice or partiality, and according to law; and it shall be the duty of the said trustees of each of said school districts, or a majority of them, to furnish, at the expiration of their term of service, to the commissioners aforesaid, a correct statement of all money transactions done by them in virtue of their office as trustees of said primary school district.

SEC. 16. *And be it further enacted*, That it shall be the duty of the commissioners of primary schools aforesaid to apportion all moneys which shall come into the hands of the treasurer of the school fund aforesaid, under and by virtue of the provisions of this act, after paying the salaries of the clerk of the commissioners and the treasurer of the school fund, for the use of primary schools aforesaid, as soon as may be after such moneys shall be received by the said treasurer, equally among the several school districts in said county which shall have complied with the provisions of this act; and all moneys so to be apportioned by the commissioners, as aforesaid, shall be caused to be paid by them, according to such apportionment, to the trustees of the district to which such moneys shall be apportioned as aforesaid, whose receipts therefor shall be good and sufficient evidence of such payment, which moneys, so to be received by the trustees, as aforesaid, shall be applied and expended by them, after the apportionment for the first year, in paying the salaries of the teachers to be employed by them, and for no other purpose: *Provided*, That no moneys apportioned, as aforesaid, except the apportionment made for the first year, shall be paid by the commissioners aforesaid, until the white taxable inhabitants, and the trustees of the district to which such moneys shall be apportioned, as aforesaid, shall have substantially complied with the provisions of this act: *And provided further*, That it shall not be lawful for the commissioners aforesaid to draw any moneys from the hands of the treasurer of the school fund aforesaid, after paying the salaries of the clerk of the commissioners and the treasurer of the school fund aforesaid, except by draft in favor of the trustees of the school district to which such moneys shall be apportioned as aforesaid; and all moneys which shall be apportioned by the commissioners as aforesaid, and which shall remain unpaid for the space of two years thereafter, either from the omission or neglect of the trustees of the primary school district entitled to receive the same to apply therefor and to make the necessary certificates to entitle them to the same, or from any defect in such certificates, said moneys shall, after the expiration of said term, be added to the moneys next thereafter to be apportioned by the said commissioners, and shall be apportioned and paid together with such moneys as aforesaid.

SEC. 17. *And be it further enacted*, That the trustees of each school district shall hold their office till their successors shall be elected and qualified, and in case of vacancy such vacancy shall be filled by the remaining trustees within one month; and in case the said trustees shall fail to fill such vacancy within that time, then it shall be the duty of the commissioners of primary schools as soon as may be thereafter.

SEC. 18. *And be it further enacted*, That if any trustee of any primary school district shall make a false certificate or report, by means whereof any moneys shall be fraudulently obtained from the commissioners aforesaid, such trustee signing such certificate or report shall forfeit and pay double the amount so fraudulently obtained to the commissioners of primary schools, to be recovered, with costs of suit, by action of debt before any court of justice, or any justice of the peace having cognizance thereof, in the name of said commissioners; and such sum, exclusive of the cost of suit, shall be applied, when recovered, to the use of the primary school in such district.

SEC. 19. *And be it further enacted*, That the said trustees shall keep an account of their proceedings in a book kept for that purpose, and shall also keep an account against the district collector for the sums authorized to be collected, and for other sums paid into his hands, and shall give him credit for the sums legally paid by him, also for his legal commissions, and for such taxes as cannot be collected by legal steps and proper diligence; and that said collector shall have the keeping of all moneys collected by him, and other sums paid into his hands, subject to the written order of a majority of the trustees, drawn in favor of such persons having claims against said school district, and he shall report to the trustees whenever required the amount of funds in his hands and a full statement of his accounts.

SEC. 20. *And be it further enacted*, That the trustees of any primary school district in said county shall be, and they are hereby, authorized, in their discretion, to require from any child attending school the payment of any sum of money not exceeding one dollar a month, to be applied to the payment of the expenses of said district school; and in the exercise of this power the trustees aforesaid may, from time to time, discontinue the payment thereof altogether, or may graduate the payments according to the ability of the children and the exigencies of the school.

SEC. 21. *And be it further enacted*, That it shall be the duty of the trustees of each school district, whenever a district meeting shall have voted a district tax, as soon as may be, to make a rate bill or tax list, which shall raise the sum voted for, in due proportion on all the taxable property in such district, agreeably to the assessment of the last preceding county tax, and to annex to such tax list or rate bill a warrant, and to deliver the same to the collector of such district, which warrant shall be substantially as follows:

"COUNTY OF WASHINGTON, D. C., *ss:*

To ——, collector of the —— district, in the county aforesaid, greeting:

You are hereby required and commanded to collect from each of the inhabitants of said district the several sums of money written opposite to the name of each of said inhabitants in the annexed tax list, and within sixty days after receiving this warrant to pay the amount of the moneys by you collected to the order of the trustees of said district or a majority of them; and if any one or more of said inhabitants shall neglect or refuse to pay the same, you are hereby further commanded to levy on the goods and chattels of each delinquent, and make sale thereof according to law.

Given under our hands and seals this —— day [of] ——, A. D. ——. P, Q, R, } Trustees."

And if the sum or sums payable by any person named in such tax list or rate bill shall not be paid by him or collected by virtue of said warrant within the time therein limited, it shall be lawful for the trustees aforesaid to renew such warrant in respect to such delinquent person or persons.

SEC. 22. *And be it further enacted*, That it shall be the duty of the trustees of each district to make a report to the commissioners of primary schools on or before the thirty-first day of December in each year, in which report shall be stated the sums received from different sources, the amount expended, and in what manner, the number of children taught in said school, and the whole number of white children in said district between the ages of five and sixteen years.

SEC. 23. *And be it further enacted*, That the collector of each school district shall give bond with security, to the satisfaction of the trustees, for the faithful discharge of the duties of his office, and shall have the same power and authority, and have the same fee for collecting, and be subject to the same rules, regulations, and duties, with respect to the collection of the district tax as by law appertain to the office of collector of the county tax; and the said county collector may be eligible as the school district collector.

SEC. 24. *And be it further enacted*, That each organized school district shall be a corporation by the name of "Primary School District, No. —," (the blank to be filled with an appropriate number,) with power to take and hold by devise, bequest, and donation, real and personal estate for the use of the primary school in said district, and may alien and sell the same, when, in the opinion of the trustees and resident commissioner of said district, it will be for the interest and advantage of the primary school in said district, and invest the money arising from the sale in some safe and profitable stock, and the dividends received from the same apply to the use of such primary school, and in their corporate name prosecute and maintain actions for injury done to the grounds, houses, property, school-houses, appurtenances, and furniture, and may sue for and receive all moneys due them, or for real and personal property to which they may be entitled.

SEC. 25. *And be it further enacted*, That when any land in any school district in said county may become charged for the payment of any school tax, and the collector of the tax can find no personal property in said district liable for or chargeable with the payment of the same, the said collector shall be, and is hereby, directed and required to return to the trustees of the said district, at such time or times as the said trustees shall direct or require, a list of such lands and the amount of taxes thereon respectively due, and the names of the persons respectively chargeable with the payment of the same, and the said trustees shall thereupon have and exercise, in relation to said lands, all the powers which might or could be exercised by the levy court of said county in like cases, and the collector of said school district shall have the same powers and authority, and be subject to the same rules, regulations, and duties in the premises as by law appertain to the office of the collector of county taxes in like cases.

SEC. 26. *And be it further enacted*, That in case the trustees of any school district should not be able to purchase or lease a suitable site for the erection of their school-house, they shall have power to value and assess a convenient lot, with the improvements thereon, if any, not exceeding one acre of land for that purpose, and the decision of the said trustees as to the worth of the said land and improvements, if any, shall be final and conclusive, unless an appeal shall be prosecuted as hereinafter provided, and the amount of damage for the land and improvements, if any, so valued and assessed as aforesaid, being paid or offered to be paid to the person or persons entitled to receive the same, of which payment or offer to pay a certificate, signed by a majority of the said trustees, and recorded among the land records of Washington county, or a copy of such record duly certified and sealed, shall be sufficient evidence; the said trustees, in their corporate character, shall be thenceforward considered the lawful owners of the said land and improvements, if any, and all right, title, estate, and interest therein, at law or in equity, shall be vested in them for the purpose aforesaid: *Provided, however*, That if the owner or owners of the said land and improvements, if any, his, her, or their guardian or guardians, trustee or trustees, shall conceive him, her, or themselves aggrieved by such valuation and assessment, and shall, within thirty days after the payment of the valuation so offered as aforesaid, notify to the said trustees the same in writing, it shall and may be lawful, and it shall be the duty of the said trustees, or a majority of

them, to issue their warrant to the Marshal of the District of Columbia, commanding him to summon a jury of six freeholders of the school district, not interested in the matter, to appear, on a day by the said trustees to be appointed, on the premises; and any one of the said trustees, or any justice of the peace of the said county, is authorized to administer an oath or affirmation, as the case may be, to each and every person so summoned as aforesaid, that he will, without favor, affection, partiality, or prejudice, assess the damages sustained by the person or persons at whose request the said inquisition shall be taken, by reason of his, her, or their land and improvements, if any, about to be made as aforesaid, and the persons so summoned and qualified as aforesaid shall thereupon proceed to value and assess the damages accordingly: *Provided*, That if such appeal from the assessment and valuation of the said trustees be confirmed by the jury herein directed to be summoned and qualified as aforesaid, or should the same be reduced to a lower rate of valuation and assessment by the said jury, the party appealing in that case shall pay the whole expense incurred thereby, otherwise the trustees, in their corporate character as such, shall pay the expense incurred by reason of such appeal.

SEC. 27. *And be it further enacted*, That the said trustees or the said jury, as the case may be, immediately after they shall have completed their valuation and assessment or inquisition, as aforesaid, and done all things required of them, or either of them, as the case may be, under the provisions of this act, shall make out a fair statement of their proceedings, setting forth in the same a full and distinct description of the land or real estate and improvements, if any thereon, as valued by them or either of them, as the case may be, and all matters and things connected with the said valuation and assessment, and the performance of the duties required of them by this act, and to the said copy, fairly to be written out as aforesaid, they shall subscribe their names and thereunto affix their seals, and they shall deposit the same in the office of the clerk of the circuit court of the District of Columbia, and it shall be the duty of the said clerk to preserve a record of the said proceedings without fee or reward; and a copy of such record, certified by the said clerk under the seal of the said court, shall be evidence of all matters therein stated, in the same manner as certified copies of other records are evidence.

SEC. 28. *And be it further enacted*, That in the event of an appeal and the inquisition of a jury, as provided by this act, the amount of damages for the land or real estate and improvements so valued and assessed as aforesaid, being paid or offered to be paid as aforesaid, the said trustees, in their corporate character as aforesaid, shall thenceforward forever thereafter be considered the lawful owners of the said land and improvements as aforesaid, and all right, title, interest, and estate therein, at law or in equity, shall be vested in the said trustees for the purpose aforesaid: *Provided*, That it shall not be lawful to locate the said site in the orchard or garden, nor within three hundred yards of any dwelling of any person or persons whatever, without the assent of the proprietor of such orchard, garden, or dwelling, as the case may be.

SEC. 29. *And be it further enacted*, That if any treasurer or collector, having any school funds in his hands, or neglecting or refusing to obtain such funds as by law authorized and directed, shall refuse to pay for two weeks any order of the said commissioners or trustees, or a majority of either, drawn in conformity to the requisitions of this act, such treasurer or collector shall be liable, on proof thereof before any court of justice or justice of the peace having cognizance, and without stay of execution, to pay the full amount of said order and interest thereon, at the rate of twenty per centum per annum, from the first refusal until the day of payment, by way of damages.

SEC. 30. *And be it further enacted*, That if any collector, appointed or acting under the provisions of this act, shall in any case collect more than is due, the person aggrieved shall have his remedy against such collector by suit or warrant, and if he recover he shall have judgment for double the amount improperly and unjustly extorted from him, and costs.

SEC. 31. *And be it further enacted*, That the levy court of Washington county shall exercise a general supervision over the proceedings of said commissioners, may examine their books and papers, and shall prosecute for any delinquencies or violations of their duty; and the said commissioners shall exercise the same power over the proceedings, books, and papers of the trustees in the several school districts, and shall prosecute for all violations of this act by them committed.

SEC. 32. *And be it further enacted*, That the trustees of the several school districts shall have the power of exercising discipline in their respective schools by the expulsion of the refractory pupil, or such other punishment as may be necessary to correct the evil, and carry out the great ends of education, moral and intellectual; and they may permit any of the said school-houses to be used for public worship.

SEC. 33. *And be it further enacted*, That any white resident of said county shall be privileged to place his or her child or ward at any one of the schools in said county she or he may think proper to select.

SEC. 34. *And be it further enacted*, That it shall not be lawful for a member of the levy court of said county to be a commissioner of primary schools, or trustee of any of the school districts, nor for any person to be at the same time commissioner and trustee as aforesaid.

SEC. 35. *And be it further enacted*, That the said levy court may, in its discretion, and if it shall be deemed by said court best for the interest and welfare of the colored people residing in said county, levy an annual tax of one eighth of one per cent. on all the taxable property in said county outside the limits of the cities of Washington and Georgetown, owned by persons of color, for the purpose of initiating a system of education of colored children in said county, which tax shall be collected in the same manner as the tax named in section thirteen of this act. And it shall be the duty of the trustees elected under section nine to provide suitable and convenient rooms for holding schools for colored children, to employ teachers therefor, and to appropriate the proceeds of said tax to the payment of teachers' wages, rent of school-rooms, fuel, and other necessary expenses pertaining to said schools, to exercise a general supervision over them, to establish proper discipline, and to endeavor to promote a full, equal, and useful instruction of the colored children in said county. It shall be lawful for such trustees to impose a tax of not more than fifty cents per month on the parent or guardian of each child attending such schools, to be applied to the payment of the expenses of the school of which such child shall be an attendant; and in the exercise of this power the trustees may, from time to time, discontinue the payment altogether, or may graduate the tax according to the ability of the child and the wants of the school. And said trustees are authorized to receive any donations or contributions that may be made for the benefit of said schools by persons disposed to aid in the elevation of the colored population in the District of Columbia, and to apply the same in such manner as in their opinion shall be best calculated to effect the object of the donors, said trustees being required to account for all funds received by them, and to report to the commissioners, in accordance with the provisions of section twenty-two of this act.

SEC. 36. *And be it further enacted*, That this act be, and the same is hereby, declared public and remedial, and shall be construed by all courts of justice according to the equity thereof; and no proceeding of the inhabitants or of the trustees of any school district, or of the commissioners of primary schools, or any other officer created under the provisions of this act, shall be set aside or adjudged to be void for defect of form, or for any irregularity therein, so as the requisitions of the said act are substantially complied with.

APPROVED, May 20, 1862.

CHAP. LXXVIII.—An Act prescribing the Qualification of Electors in the Cities of Washington and Georgetown, in the District of Columbia.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That in all municipal elections in the cities of Washington and Georgetown, in the District of Columbia, during the existence of the present rebellion, every person who shall offer to vote at any such election, and who shall be challenged by any legal voter on the ground of disloyalty to the Government of the United States, shall, before his vote shall be received, in addition to the requirements now established by law, take and subscribe to the following oath or affirmation, namely: "I do solemnly swear (or affirm, as the case may be) that I will support, protect, and defend the Constitution and Government of the United States against all enemies, whether domestic or foreign; that I will bear true faith, allegiance, and loyalty to the same, any ordinance, resolution, or law of any State convention, Legislature, or order or organization, secret or otherwise, to the contrary notwithstanding, and that I do this with a full determination, pledge, and purpose, without any mental reservation or evasion whatsoever; and, further, that I have always been loyal and true to the Government of the United States. So help me God." The said oath or affirmation may be taken before any justice of the peace, notary public, or other person legally authorized to administer oaths in the District of Columbia; and the production of the certificate, in writing, of any such justice of the peace, notary public, or other person so authorized to administer oaths, with a copy of such oath or affirmation, that said oath has been taken and subscribed to by the person producing such certificate, shall be deemed by the commissioners of election sufficient evidence of the fact. And it shall also be lawful for the commissioners of election, or any one of them, during the time of holding such elections, to administer said oath. And any person or persons violating said oath, or making any false statement in taking the same, shall be subject to all the pains and penalties of willful and corrupt perjury, and shall be liable to be indicted and prosecuted to conviction before any court in said District of Columbia having competent jurisdiction thereof.

APPROVED, May 20, 1862.

CHAP. LXXIX.—An Act to provide for the Codification and Revision of the Laws of the District of Columbia.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the President of the United States be, and he is hereby, authorized and empowered to appoint, by and with the advice and consent of the Senate, three suitable persons, learned in the law, to revise and codify the laws of the District of Columbia.

SEC. 2. *And be it further enacted*, That the persons who shall be thus appointed shall render a final report of their revision and codification to Congress on or before the first Monday of December next.

APPROVED, May 20, 1862.

CHAP. LXXX.—An Act to authorize the Appointment of Medical Store-keepers and Chaplains of Hospitals.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of War be authorized to add to the medical department of the Army medical store-keepers, not exceeding six in number, who shall have the pay and emoluments of military store-keepers in the Quartermaster's department, who shall be skilled apothecaries or druggists, who shall give the bond and security required by existing laws for military store-keepers in the Quartermaster's department, and who shall be stationed at such points as the necessities of the Army may require: *Provided*, That the provisions of this act shall remain in force only during the continuance of the present rebellion.

SEC. 2. *And be it further enacted*, That the President of the United States is hereby authorized to appoint, if he shall deem it necessary, a chaplain for each permanent hospital, whose pay, with that of chaplains of hospitals heretofore appointed by him, shall be the same as that of regimental chaplains in the volunteer force; and who shall be subject to such rules in relation to leave of absence

from duty as are prescribed for commissioned officers of the Army.

APPROVED, May 20, 1862.

CHAP. LXXXI.—An Act supplementary to an Act approved on the thirteenth July, eighteen hundred and sixty-one, entitled "An Act to provide for the Collection of Duties on Imports, and for other purposes."

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Treasury, in addition to the powers conferred upon him by the act of the thirteenth July, eighteen hundred and sixty-one, be, and he is hereby, authorized to refuse a clearance to any vessel or other vehicle laden with goods, wares, or merchandise, destined for a foreign or domestic port, whenever he shall have satisfactory reason to believe that such goods, wares, merchandise, or any part thereof, whatever may be their ostensible destination, are intended for ports or places in possession or under control of insurgents against the United States; and if any vessel or other vehicle for which a clearance or permit shall have been refused by the Secretary of the Treasury, or by his order, as aforesaid, shall depart or attempt to depart for a foreign or domestic port without being duly cleared or permitted, such vessel or other vehicle, with her tackle, apparel, furniture, and cargo, shall be forfeited to the United States.

SEC. 2. *And be it further enacted*, That whenever a permit or clearance is granted for either a foreign or domestic port, it shall be lawful for the collector of the customs granting the same, if he shall deem it necessary, under the circumstances of the case, to require a bond to be executed by the master or the owner of the vessel, in a penalty equal to the value of the cargo, and with sureties to the satisfaction of such collector, that the said cargo shall be delivered at the destination for which it is cleared or permitted, and that no part thereof shall be used in affording aid or comfort to any person or parties in insurrection against the authority of the United States.

SEC. 3. *And be it further enacted*, That the Secretary of the Treasury be, and he is hereby, further empowered to prohibit and prevent the transportation in any vessel, or upon any railroad, turnpike, or other road or means of transportation within the United States, of any goods, wares, or merchandise of whatever character, and whatever may be the ostensible destination of the same, in all cases where there shall be satisfactory reasons to believe that such goods, wares, or merchandise are intended for any place in the possession or under the control of insurgents against the United States; or that there is imminent danger that such goods, wares, or merchandise will fall into the possession or under the control of such insurgents; and he is further authorized, in all cases where he shall deem it expedient so to do, to require reasonable security to be given that goods, wares, or merchandise shall not be transported to any place under insurrectionary control, and shall not, in any way, be used to give aid or comfort to such insurgents, and he may establish all such general or special regulations as may be necessary or proper to carry into effect the purposes of this act; and if any goods, wares, or merchandise shall be transported in violation of this act, or of any regulation of the Secretary of the Treasury, established in pursuance thereof, or if any attempt shall be made so to transport them, all goods, wares, or merchandise, so transported or attempted to be transported, shall be forfeited to the United States.

SEC. 4. *And be it further enacted*, That the proceedings for the penalties and forfeitures accruing under this act may be pursued, and the same may be mitigated or remitted by the Secretary of the Treasury in the modes prescribed by the eighth and ninth sections of the act of July thirteenth, eighteen hundred and sixty-one, to which this act is supplementary.

SEC. 5. *And be it further enacted*, That the proceeds of all penalties and forfeitures incurred under this act, or the act to which this is supplementary, shall be distributed in the manner provided by the ninety-first section of the act of March second, seventeen hundred and ninety-nine, entitled "An act to regulate the collection of duties on imports and tonnage."

APPROVED, May 20, 1862.

CHAP. LXXXII.—An Act to authorize the Corporation of Georgetown, in the District of Columbia, to lay and collect a Water Tax, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Mayor, Recorder, Aldermen, and Common Council of Georgetown, in the District of Columbia, shall have full power and authority to levy and collect a tax not exceeding sixty cents per front foot on all lots and parts of lots within said corporate limits in front of or parallel to which water mains have been or may hereafter be laid; or, in their discretion, to appropriate from the corporate funds generally so much money as may be necessary to supply the inhabitants of said town with Potomac water from the aqueduct mains or pipes now laid or to be laid in the streets of said town by the United States; and to make all laws and regulations for the proper distribution of the same, subject to the restrictions prescribed by this act, and the act approved March the third, eighteen hundred and fifty-nine, and entitled "An act to provide for the care and preservation of the works constructed by the United States for bringing the Potomac water into the cities of Washington and Georgetown, for the supply of said water for all Government purposes, and for the uses and benefit of the inhabitants of said cities."

SEC. 2. *And be it further enacted*, That said Corporation shall have full power and authority to collect such taxes, when so fixed, in advance or otherwise, through such agents, collectors, or commissioners, as they may designate and appoint; and upon the failure of any owner of said lot or lots, or part thereof, to pay said taxes, to sell the same; or to stop the supply of water to the same, or to distrain and sell the personal effects of such owner; and in the case of any sale the same proceedings shall be observed as are adopted in enforcing the collection of the general tax of said town; and generally to enact such laws as may be necessary to furnish the inhabitants of said town with pure and wholesome water, and to carry into complete effect the powers herein granted: *Provided*, That the taxes levied by virtue of this act shall never be a source of revenue other than as a means of supplying said town with water.

SEC. 3. *And be it further enacted*, That in levying said front foot tax, said Corporation shall, in all cases where a lot or lots, or part thereof, may be situated at the intersection of two streets and fronting on the same, so reduce and graduate the tax thereon as not to exceed in all a tax upon one hundred feet front; and shall, in all cases where said property may have a front on any one or more streets, of more than one hundred feet, so reduce and graduate the tax thereon as not to exceed a tax upon one hundred feet front.

SEC. 4. *And be it further enacted*, That all ordinances and resolutions or parts thereof relating to the distribution of Potomac water through said town, and the collection of a water tax, and the ordinances and resolutions heretofore passed by said Corporation particularly mentioned in this section, be, and the same are hereby, ratified and confirmed, said ordinances and resolutions being described and identified as follows, to wit: A resolution approved April the twenty-third, eighteen hundred and fifty-nine, entitled "A resolution authorizing the tapping of water mains;" a resolution approved May the seventh, eighteen hundred and fifty-nine, entitled "A resolution authorizing the laying of a water main up High street;" an ordinance approved May the ninth, eighteen hundred and fifty-nine, entitled "An ordinance authorizing the distribution of the Potomac water through the city of Georgetown;" a resolution approved May the fourteenth, eighteen hundred and fifty-nine, entitled "A resolution repealing a part of a resolution for laying a water main up High street;" an ordinance approved July the second, eighteen hundred and fifty-nine, entitled "A supplement to an ordinance authorizing the distribution of the Potomac water through the city of Georgetown, approved May the ninth, eighteen hundred and fifty-nine;" a resolution approved July the second, eighteen hundred and fifty-nine, entitled "A resolution approving of certain contracts for distributing water through the town;" a resolution approved August the twentieth, eighteen hundred and fifty-nine, entitled "A resolution in relation to the water distribution;" a resolution approved September the seventeenth, eighteen hundred and fifty-nine, entitled "A resolution authorizing the water board to purchase water pipes;" a resolution approved September the seventeenth, eighteen hundred and fifty-nine, entitled "A resolution in relation to water distribution;" a resolution approved September the twenty-fourth, eighteen hundred and fifty-nine, entitled "A resolution supplementary to a resolution, entitled 'A resolution in relation to the water distribution, approved August the twentieth, eighteen hundred and fifty-nine;'" a resolution approved September the twenty-fourth, eighteen hundred and fifty-nine, entitled "A resolution in relation to the redemption of water stock;" a resolution approved October twenty-ninth, eighteen hundred and fifty-nine, entitled "A resolution in relation to water mains;" a resolution approved November the fifth, eighteen hundred and fifty-nine, entitled "A resolution approving the contract for patent water-pipes for Road street;" a resolution approved November the nineteenth, eighteen hundred and fifty-nine, entitled "A resolution repealing a portion of the resolution approved April the twenty-third, eighteen hundred and fifty-nine, in relation to tapping water mains."

SEC 5. *And be it further enacted*, That in case of a failure to pay any taxes whatever laid by said corporation by virtue of its vested powers, it shall be lawful to sell, in the discretion of the collector or other proper officer, either the real or personal estate, or both, of the delinquent tax-payer; and so much of the eighth section of the act approved May the twenty-sixth, eighteen hundred and twenty-four, entitled "An act supplementary to the act 'to incorporate the inhabitants of the city of Washington,' passed the fifteenth of May, one thousand eight hundred and twenty, and for other purposes," as is in the following words, viz: "*Provided*, That no sale of real estate shall be made but where the owner or tenant of the property has not sufficient personal estate out of which to enforce a collection of the debt due," be, and the same is hereby, repealed.

SEC. 6. *And be it further enacted*, That the person or persons appointed to collect any taxes imposed by said Corporation in pursuance of its vested powers shall have authority to collect the same by distress and sale of the goods and chattels of the person chargeable therewith, but no such sale shall be made unless ten days' previous notice thereof be given in some newspaper printed in the District of Columbia, aforesaid; and the provisions of the acts of Maryland now in force within said District relating to the right of replevying personal property taken in execution for public taxes shall apply to all cases of personal property taken by distress to satisfy taxes imposed by virtue of the corporate powers aforesaid.

SEC. 7. *And be it further enacted*, That said corporation shall have power and authority to repair any of the footways of the streets in said town, and to impose and collect such tax or taxes on the lot or lots, or parts thereof, adjoining the same, as may be necessary to pay the expense of such repairs.

SEC. 8. *And be it further enacted*, That so much of the first section of the act approved May thirty-one, eighteen hundred and thirty, entitled "An act to amend the charter of Georgetown," as is in the following words, viz: "*Provided*, That nothing in this act shall change the manner of giving notice of the sales of property owned by persons not residing in the District of Columbia," be, and the same is hereby, repealed.

APPROVED, May 21, 1862.

CHAP. LXXXIII.—An Act providing for the education of Colored Children in the Cities of Washington and Georgetown, District of Columbia, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That from and after the passage of this act it shall be the duty of the municipal authori-

ties of the cities of Washington and Georgetown, in the District of Columbia, to set apart ten per centum of the amount received from taxes levied on the real and personal property in said cities owned by persons of color; which sum received for taxes, as aforesaid, shall be appropriated for the purpose of initiating a system of primary schools for the education of colored children residing in said cities.

SEC. 2. *And be it further enacted*, That the boards of trustees of public schools in said cities shall have sole control of the fund arising from the tax aforesaid, as well as from contributions by persons disposed to aid in the education of the colored race, or from any other source, which shall be kept as a fund distinct from the general school fund; and it is made their duty to provide suitable rooms and teachers for such a number of schools as, in their opinion, will best accommodate the colored children in the various portions of said cities.

SEC. 3. *And be it further enacted*, That the board of trustees aforesaid shall possess all the powers, exercise the same functions, and have the same supervision over the schools provided for in this act as are now exercised by them over the public schools now existing in said cities by virtue of the laws and ordinances of the Corporation thereof.

SEC. 4. *And be it further enacted*, That all persons of color in the District of Columbia, or in the corporate limits of the cities of Washington and Georgetown, shall be subject and amenable to the same laws and ordinances to which free white persons are or may be subject or amenable; that they shall be tried for any offenses against the laws in the same manner as free white persons are or may be tried for the same offenses; and that upon being legally convicted of any crime or offense against any law or ordinance, such persons of color shall be liable to the same penalty or punishment, and no other, as would be imposed or inflicted upon free white persons for the same crime or offense; and all acts or parts of acts inconsistent with the provisions of this act are hereby repealed.

APPROVED, May 21, 1862.

CHAP. LXXXIV.—An Act to provide for the settlement of the Accounts of John A. Smith, Clerk of the Circuit Court and Criminal Court of the District of Columbia.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That in all settlements of accounts for fees, emoluments, and allowances by the clerk of the circuit and criminal courts of the District of Columbia, the accounting officers of the Treasury shall not hold said clerk responsible for any fees or charges not actually collected by him from the parties liable therefor, whenever the failure to make such collection shall be shown to result from the insolvency, non-residence, or other inability of the parties liable therefor; and the affidavit of said clerk that he has in vain used due diligence to collect said fees, accompanied by a certificate of the district attorney that he believes that the money cannot, by due diligence, be collected, shall be held and deemed sufficient proof for the allowance to said clerk of all fees and charges not actually collected by him; and said clerk shall thereupon be entitled to a credit in all settlements of his accounts heretofore made, in which he is charged for said uncollected fees, and said former settlements are hereby opened for the purpose of giving him said credit upon his affidavit and the certificate of the district attorney being produced to the proper accounting officers, in support of the credit so claimed by him.

SEC. 2. *And be it further enacted*, That the clerk of said circuit and criminal courts of the District of Columbia shall be credited in all settlements of account (made heretofore or which may be made hereafter) out of the fees collected by him, or due to him, a salary of twenty-five hundred dollars per annum for his services as clerk of said criminal court during the period in which he has received no compensation for his said services; and in all settlements made, or to be made, he shall be allowed out of his said fees collected by or due to him, in either of said courts, his proper and legal allowances, and all proper expenses; and it shall be the duty of the proper accounting officers to restate all former settlements of said accounts and settle the same in conformity with the provisions of this act.

SEC. 3. *And be it further enacted*, That all laws and parts of laws inconsistent with the provisions of this act be, and the same are hereby, repealed.

APPROVED, May 26, 1862.

CHAP. LXXXV.—An Act to amend an Act entitled "An Act making Appropriations for the service of the Post Office Department during the fiscal year ending the thirtieth of June, eighteen hundred and sixty-three," approved April seventeenth, eighteen hundred and sixty-two.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the provision of the first section of the act entitled "An act making appropriations for the service of the Post Office Department during the fiscal year ending the thirtieth of June, eighteen hundred and sixty-three," approved April seventeenth, eighteen hundred and sixty-two, which appropriates the sum of eight thousand eight hundred dollars "for compensation of twenty-five additional clerks in the Post Office Department, authorized by the 'Act to promote the efficiency of the dead letter office,' approved January twenty-first, eighteen hundred and sixty-two, from the date of their appointment to the thirtieth of June, eighteen hundred and sixty-two," be, and the same is hereby, so amended that the said sum of eight thousand eight hundred dollars shall be payable out of the appropriation made out of any money in the Treasury not otherwise appropriated, to supply deficiencies in the revenue of the Post Office Department for the year ending the thirtieth of June, eighteen hundred and sixty-two, contained in the third section of the act entitled "An act making appropriations for the service of the Post Office Department during the fiscal year ending the thirtieth of June, eighteen hundred and sixty-two," approved March second, eighteen hundred and sixty-one.

APPROVED, May 26, 1862.

CHAP. LXXXVI.—An Act to reduce the Expenses of the Survey and sale of the Public Lands in the United States.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That contracts for the survey of the public lands shall not become binding upon the United States until approved by the Commissioner of the General Land Office, except in such cases as said Commissioner shall otherwise specially order.

SEC. 2. *And be it further enacted*, That the printed manual of instructions relating to the public surveys, prepared at the General Land Office, and bearing date February twenty-second, eighteen hundred and fifty-five, the instructions of the Commissioner of the General Land Office, and the special instructions of the surveyor general when not in conflict with said printed manual, or the instructions of said Commisssioner, shall be taken and deemed to be a part of every contract for surveying the public lands of the United States.

SEC. 3. *And be it further enacted*, That the Commissioner of the General Land Office shall have power, and it shall be his duty, to fix the prices per mile for public surveys which shall in no case exceed the maximum established by law; and that, under instructions to be prepared by said Commissioner, an accurate account shall be kept by each surveyor general of the cost of surveying and platting private land claims, to be reported to the General Land Office, with the map of such claim, and that patents shall not issue for any such private claim until the cost of survey and platting shall have been paid into the Treasury of the United States by the claimant.

SEC. 4. *And be it further enacted*, That from and after the first day of July next, and upon the recommendation of the Commissioner of the General Land Office, approved by the Secretary of the Interior, the President may order that the Territories of Utah and Colorado shall constitute one surveying district, the duties of surveyor general in said district to be performed by the surveyor general of Colorado; and the surveying district of Nevada shall be united to that of California, the duties of the surveyor general of the former to be transferred to the surveyor general of California; and the transfer of the effects and archives of the offices to be made under the instructions of the Commissioner of the General Land Office.

SEC. 5. *And be it further enacted*, That upon the recommendation of the Commissioner of the General Land Office, approved by the Secretary of the Interior, the President may order the discontinuance of any land office, and the transfer of its business and archives to any other land office within the same State or Territory.

SEC. 6. *And be it further enacted*, That from and after the first day of July next the compensation of registers and receivers in all the land offices in the United States shall be an annual salary of five hundred dollars to each, with the fees and commissions now prescribed by law, and, to be paid by claimants, an additional fee in donation cases of five dollars for each final certificate for one hundred and sixty acres, ten dollars for three hundred and twenty acres, and fifteen dollars for six hundred and forty acres; to be accounted for in the same manner as fees and commissions in warrant and preëmption locations, with limitations as to maximum of salary prescribed by existing laws, and in accordance with such instructions as shall be given by the Commissioner of the General [Land] Office.

SEC. 7. *And be it further enacted*, That in regard to settlements which by existing laws are authorized in certain States and Territories upon unsurveyed lands, which privilege is hereby extended to California, the preëmption claimant shall be, and is hereby, in all cases, required, from and after the first day of September, eighteen hundred and sixty-two, to file his declaratory statement within three months from the date of the receipt at the district land office of the approved plat of the township embracing such preëmption settlement: *Provided*, The provisions of this section shall not be held to authorize preëmption and settlement of mineral lands, which are hereby exempted from the provisions of this act.

SEC. 8. *And be it further enacted*, That from and after the first day of July next, and until otherwise ordered by the President, the duties of the register and receiver of New Mexico shall be transferred to and devolve upon the surveyor general of that Territory, and it shall and may be lawful for the President, in like manner, to transfer the duties of register and receiver in any district to the surveyor general where the public interest may require such transfer.

SEC. 9. *And be it further enacted*, That from and after the first day of July next the salary of the surveyor general of California shall not exceed three thousand dollars per annum, and [the] salaries of the surveyor general of Oregon and Washington shall not exceed two thousand five hundred dollars each per annum, and should the surveying districts of Utah and Nevada be hereafter established by order of the President, each as an independent district, the salaries of the surveyor general shall not exceed three thousand dollars each for said districts.

SEC. 10. *And be it further enacted*, That when the settlers in any township or townships, not mineral or reserved by Government, shall desire a survey made of the same, under the authority of the surveyor general of the United States, and shall file an application therefor in writing, and deposit in a proper United States depository, to the credit of the United States, a sum sufficient to pay for such survey, together with all expenses incident thereto, without cost or claim for indemnity on the United States, it shall and may be lawful for said surveyor general, under such instructions as may be given him by the Commissioner of the General Land Office, and in accordance with existing laws and instructions, to survey such township or townships, and make return thereof to the general and proper local land office: *Provided*, The townships so proposed to be surveyed are within the range of the regular progress of the public surveys embraced by existing standard lines or bases for the township and sub-divisional surveys.

APPROVED, May 30, 1862.

CHAP. XC.—An Act for the survey of Grants or Claims of Land.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That all claims or grants of land in any of the States or Territories of the United States, derived from any foreign country or Government, shall be surveyed under the direction of the proper officers of the Government of the United States upon the application of the parties claiming or owning the same, and at their expense, which shall be paid or secured to the satisfaction of the Secretary of the Interior before the work shall be performed; but nothing in the law requiring the executive officers to survey land claimed or granted under any laws of the United States shall be construed either to authorize such officers to pass upon the validity of the titles granted by or under such laws, or to give any greater effect to the surveys made by them than to make such surveys *prima facie* evidence of the true location of the land claimed or granted, nor shall any such grant be deemed incomplete for the want of a survey or patent when the land granted may be ascertained without a survey or patent.

APPROVED, June 2, 1862.

CHAP. XCI.—An Act to allow the State of California an additional Representative in the Thirty-Seventh Congress.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That as the census has never been reliably taken in the State of California until the year eighteen hundred and sixty, and as it appears that the said State had sufficient population to entitle her to three Representatives in the Thirty-Seventh Congress, and as three Representatives have been duly elected to the Thirty-Seventh Congress under the supposition that the said State was entitled to the same, as appears by the certificate of the Governor thereof, and as direct taxes have been apportioned to and paid by said State under the census of eighteen hundred and sixty, therefore the said State shall be allowed three Representatives in the Thirty-Seventh Congress, and for that purpose the whole number of Representatives is hereby increased one, until the beginning of the Thirty-Eighth Congress.

APPROVED, June 2, 1862.

CHAP. XCII.—An Act abolishing certain Collection Districts and reducing Compensation of Officers of Customs in California.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the collection districts of Monterey, San Diego, Sacramento, Sonoma, San Joaquin, and San Pedro, heretofore established by law, are hereby abolished, and the same attached to the collection district of San Francisco; and there shall be appointed, in the usual manner, an inspector at each of the following places: Monterey, San Diego, Sacramento, Benicia, Stockton, San Pedro; and the salary of each of the said inspectors shall be one thousand dollars per annum.

SEC. 2. *And be it further enacted*, That from and after the first day of July, eighteen hundred and sixty-two, the annual compensation of the collector of the customs for the district of San Francisco shall be six thousand dollars; of the naval officer, four thousand five hundred dollars; of the surveyor, four thousand dollars; of the principal appraisers, twenty-five hundred dollars each; and of the assistant appraisers, two thousand dollars each; and the office of an additional appraiser general to be employed on the Pacific coast, created by the act of Congress entitled "An act making appropriations for the civil and diplomatic expenses of the Government for the year ending the thirtieth of June, eighteen hundred and fifty-four," approved March third, eighteen hundred and fifty-three, be and the same is hereby abolished.

APPROVED, June 2, 1862.

CHAP. XCIII.—An Act to prevent and punish Fraud on the part of Officers intrusted with making of Contracts for the Government.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That it shall be the duty of the Secretary of War, of the Secretary of the Navy, and of the Secretary of the Interior, immediately after the passage of this act, to cause and require every contract made by them, severally, on behalf of the Government, or by their officers under them appointed to make such contracts, to be reduced to writing, and signed by the contracting parties with their names at the end thereof, a copy of which shall be filed by the officer making and signing the said contract in the "Returns Office" of the Department of the Interior (hereinafter established for that purpose) as soon after the contract is made as possible, and within thirty days, together with all bids, offers, and proposals to him made by persons to obtain the same, as also a copy of any advertisement he may have published inviting bids, offers, or proposals for the same; all the said copies and papers in relation to each contract to be attached together by a ribbon and seal, and numbered in regular order numerically, according to the number of papers composing the whole return.

SEC. 2. *And be it further enacted*, That it shall be the further duty of the said officer, before making his return, according to the first section of this act, to affix to the same his affidavit in the following form, sworn to before some magistrate having authority to administer oaths: "I do solemnly swear (or affirm) that the copy of contract hereto annexed is an exact copy of a contract made by me personally with ——; that I made the same fairly without any benefit or advantage to myself, or allowing any such benefit or advantage corruptly to the said ——, or any other person; and that the papers accompanying include all those relating to the said contract, as required by the statute in such case made and provided." And any officer convicted of falsely and corruptly swearing to such affidavit, shall be subject to all the pains and penalties now by law inflicted for willful and corrupt perjury.

SEC. 3. *And be it further enacted*, That any officer making contracts, as aforesaid, and failing or neglecting to make returns of the same, according to the provisions of this act, unless from unavoidable accident and not within his control, shall be deemed, in every case of such failure or neglect, to be guilty of a misdemeanor, and, on conviction thereof, shall be punished by a fine of not less than one hundred dollars, nor more than five hundred dollars, and be imprisoned for not more than six months, at the discretion of the court trying the same.

SEC. 4. *And be it further enacted*, That it shall be the duty of the Secretary of the Interior, immediately after the passage of this act, to provide a fit and proper apartment in his Department, to be called the "Returns Office," within which to file the returns required by this act to be filed, and to appoint a clerk to attend to the same, who shall be entitled to an annual salary of twelve hundred dollars, and whose duty it shall be to file all returns made to said office, so that the same may be of easy access, filing all returns made by the same officer in the same place, and numbering them as they are made in numerical order. He shall also provide and keep an index book, with the names of the contracting parties, and the number of each and every contract opposite to the said names; and he shall submit the said index book and returns to any person desiring to inspect the same; and he shall also furnish copies of said returns to any person paying for said copies to said clerk, at the rate of five cents for every one hundred words, to which said copies certificates shall be appended in every case by the clerk making the same, attesting their correctness, and that each copy so certified is a full and complete copy of said return; which return, so certified under the seal of the Department, shall be evidence in all prosecutions under this act.

SEC. 5. *And be it further enacted*, That it shall be the duty of the Secretary of War, of the Secretary of the Navy, and of the Secretary of the Interior, immediately after the passage of this act, to furnish each and every officer severally appointed by them with authority to make contracts on behalf of the Government, with a printed letter of instructions, setting forth the duties of such officer under this act, and also to furnish therewith forms, printed in blank, of contracts to be made, and the affidavit of returns required to be affixed thereto, so that all the instruments may be as nearly uniform as possible.

APPROVED, June 2, 1862.

CHAP. XCIV.—An Act to establish a Land Office in Colorado Territory, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That all the lands belonging to the United States, to which the Indian title has been or shall be extinguished, shall be subject to the operations of the preëmption act of the fourth of September, eighteen hundred and forty-one, and under the conditions, restrictions, and stipulations therein mentioned: *Provided, however*, That when unsurveyed lands are claimed by preëmption, notice of the specific tracts claimed shall be filed within six months after the survey has been made in the field; and on the failure to file such notice, or to pay for the tract claimed within twelve months from the filing of such notice, the parties claiming such lands shall forfeit all right thereto, provided said notices may be filed with the Surveyor General, and to be noted by him on the township plats, until other arrangements have been made by law for that purpose.

SEC. 2. *And be it further enacted*, That the public lands within the Territory of Colorado, to which the Indian title is or shall be extinguished, shall constitute a new land district, to be called the Colorado district; and the President is hereby authorized to appoint, by and with the advice and consent of the Senate, a register and receiver of public moneys for said district, who shall be required to reside at the place at which said office shall be located, and they shall have the same powers, perform the same duties, and be entitled to the same compensation as are or may be prescribed by law in relation to land offices of the United States in the State of Kansas.

SEC. 3. *And be it further enacted*, That an act entitled "An act to graduate [and reduce] the price of the public lands to actual settlers and cultivators," be, and the same is hereby, repealed.

APPROVED, June 2, 1862.

CHAP. XCV.—An Act to establish certain Post Routes, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following be established as post roads:

CALIFORNIA.

From San Juan to New Idria.

From San Diego, via Santa Isabel, to Buena Vista.

From San Diego, via San Luis Rey, San Juan Capistrano, and Anaheim, to the city of Los Angelos.

From Chico to Humbug Valley.

From Quincy to Richmond.

From Cuison, Nevada Territory, to Aurora, California.

From Lancha Plana, via Poverty Bar, Jenny Lind, Brushville, Salt Spring Valley, Copperopolis, and Jeffersonville, to Sonora.

CONNECTICUT.

From New Milford to Washington.

INDIANA.

From Valparaiso, via Tassinong and Garris Bridge, to Rensselaer.

From Livonia, via Claysville, to Campbellsburg.

From Columbus, via Bethany, New Bellsville, and Christiansburg, to Houston.

From Rensselaer, via Meadville and Brook, to Kent Station.

From Kendallville, via Rome and Wolcottville, to La Grange Centre.

From Outlet, Indiana, via West Creek, Sherburnville, and Yellow Head, to Momence, Illinois.

From Madison, via Middle Fork, Big Creek, Churchill's Mill, and Benville, to Butlerville.

From Mount Carmel, Indiana, to Harrison, Ohio.

From New Point, via Rossburg and Saint Maurice, to Clarksburg.

From Madison, via North Madison, Middle Fork, Big Creek, Churchill's Mills, and Benville, to Butlersville.

From Annapolis, via Wright's Mills, Sylvania, Harveysburg, and Van Dorn's Mills, to Covington.

From Paris, via Lancaster, to Dupont.

From Clinton, via Jones, Indiana, to Logan, Illinois.

From Cloverdale to Spencer.

From Wabash, via Milies and Mount Vernon, to Somerset.

From Bremen, via Hepton and Milltown, to Etna Green.

From Clark's Hill, via Jefferson, to Frankfort.

From Attica, via Rob Roy, Coal Creek, Steam Corner, Harrisburg, Wright's Mills, and Sylvania, to Annapolis.

From Kokomo, via Stanton and Ervin, to Poplar Grove.

ILLINOIS.

From Catlin to Chilicothe.

From Yellow Head, Illinois, to Hanover, Indiana.

From Bloomington to Brook's Grove.

From Bloomington, via Cheney's Grove, Baxton, and Blue Grass, to Danville.

From Fredericksville, via Centre, Newberrytown, and Jasper, to Ripley.

From Bath to Summum.

From Clifton, via L'Evable and Martinton, to Middleport.

From Rock City, via Rock Grove, Josephine, and Shueyville, to Monroe.

From Carrolton to New Bedford.

From Mound Junction to Mound City.

From Cambridge, via Lynn, to Centre Ridge.

From Elmore, via West Jersey, to Jordan.

From Columbus, via Bethany, to Liberty.

From Mokina, via Hadley, to Gooding's Green.

From Bellville, via Millstadt, to Columbia.

From Smithton, via Floraville, to Waterloo.

From Marissa to Coultersville.

From Pinckneyville to Duquoin.

From Illinoistown, via Coulterville Station, to Millstadt.

From Floraville to Hecker.

From Greenville, via Cottonwood Grove, Pleasant Prairie, and Walshville, to Litchfield.

From Tamana, via Acton and Spring Garden, to Moore's Prairie.

From Claremont, via Stringtown, Chauncey, and Hardinsville, to Robinson.

From Toulon, via Elmira, Osceola, and Neponset, to Sheffield.

From Salem to McLeansboro.

IOWA.

From Waterloo, via Buckingham, Crystal, Spring Creek, and Green Mountain, to Marshalltown.

From Decorah, via Burr Oak Springs and Spillville, to Fort Atkinson.

From Ida, via Correctionville, to Sioux City.

From Council Bluffs, via Crescent City, Fairview, Harris Grove, Jeddo City, Twelve-Mile Grove, Olmstead, and Mantano, to Denison.

From Waukon, via Rossville, Volney, and Council [Hill,] to McGregor.

From Fort Dodge, via Leesburg and intermediate county seats, to Sioux City.

From Fort Dodge, along the west bank of Des Moines river, via county seat of Palo Alto county, to Spirit Lake.

From Eddyville, via Centreville, Corydon, Lone Mount, Bedford, Clarinda, and Sidney, to Nebraska City.

From McGregor to Garnaville.

From Des Moines City, via Adel, Panora, Guthrie Centre, Bear Grove, Escurce, Buck Creek, Newtown, and Keg Creek, to Council Bluffs.

From Corydon to Osceola.

From the City of McGregor, via Elkader and Volga City, to Strawberry Point.

From Dodgeville, via Morning Sun, Virginia Grove, and Cairo, to Columbus City.

From Independence, via Brandon, to Vinton.

From Clayton to McGregor.

From Atranto, via Stacyville and Wentworth, to Saratoga.

From Charles City, via Rockford, Mason City, Chapin, Goldfield, and Eagle Grove, to Fort Dodge.

From Glenwood, Iowa, to Nebraska City, Nebraska Territory.

From Waverly to Shell Rock.

From Dalmanutha to Guthrie Centre.

From Hook's Point to Webster City.

From Brooklyn to Askalusa.

From Cedar Falls to New Hampton.

From Des Moines to Magnolia.

From Des Moines, Iowa, to Saint Joseph, Missouri.

From Eddyville, Iowa, to Nebraska City, Nebraska Territory.

From Eddyville to Des Moines.

From Waukon, via French Creek, Union City, Winnebago, and Crooked Creek, to Brownsville, Minnesota.

KANSAS.

From Topeka, via Auburn, Burlingame, Superior, Key West, Ututmwa, Burlington, Leroy, Deocha Falls, Geneva, and Iola, to Humboldt.

From Topeka, via Mission Creek, to Council Grove.

From Iowa Point to White Cloud.

From White Cloud, via Hiawatha and Sabetha, to Seneca.

From Lawrence, via Willow Springs, to the Sac and Fox Agency.

From Emporia, via Eagle Creek, Madison Centre, Willow Creek, and Wolf Creek, to Eureka.

From Seneca, via Centralia, Nottingham, Barrett's Mill, and Irving, to Manhattan.

From Junction City, via Gatesville, to Washington, Washington county.

KENTUCKY.

From Winchester, via Boonsboro' and Foxtown, to Richmond.

From Lancaster to Buckeye.

From Mount Pleasant to Crank's Creek.

From Bryantsville to Harrodsburg.

From Greensburg, via James Whitlock's, on Greasy Creek, to Edmonton.

From Lancaster to Crab Orchard.

MARYLAND.

From Saint Nicholas to Broad Creek Neck.

From Queenston, via Wye Mills and Hillsborough, to Denton.

From Beckleysville, via Grave Run Mills, to Hampstead.

MAINE.

From Skowhegan to Athens.

From New Sharon to Farmington.

From Jonesport, via Addison Point, to Columbia.

MICHIGAN.

From Muskegan, via Mead's and Pent Water, to Manistee.

From Bebee's Station, via Memphis, Baker's Corners, West Berlin, and Capac, to Merrillville.

From Mount Clemens, via Waterbury, Macomb, Brookline, and Armada Corners, to Romeo.

From Avery, on Michigan Central railroad, via Troy, to Laketon.

From Coopersville, via Lamont, to Eastmanville.

From Nankin, via Perrinsville and Wallace, to Detroit.

From Grand Rapids, through the township of Wyoming, Byron, Dorr, and Salem, to Allegan.

From New Buffalo, via Laketon, to Saint Joseph's.

From Newaygo, via Frémont, Pewoma, Greenwood, Otto, Hart, and Were, to Pent Water.

From Hillsdale, via North Adams, Moscow, Baldwin Mills, and Somerset, to Jackson.

From Sturgis, via Centreville, Mendon, and Brady, to Kalamazoo.

From Leonidas, via Sherwood, Dry Prairie, Pine Creek, and Leroy, to Battle Creek.

From Romeo, via Armada, to Bebee's Station.

From Saint John's, via Keystone, Pompeii, and Ithaca, to Saint Louis.

From Port Austin, via Pinepog, Pigeon River, and Wild Fowl Bay, to Sibbewaing.

From Hillsdale, via Cambria, West Woodbridge, Morgansville, West Bridgewater, Lambertson Corners, and West Buffalo, to Bryan.

From Manistee, via Rush Lake, Portage, Planting Ground, Bar Lake, Herring Creek, Frankport, Point Betsey, North Unity, and Leland, to North Port.

From Ontonagon, Michigan, via Bayfield, Wisconsin, and La Point, to Superior, Winconsin, during the opening of navigation.

From Shawamo, Wisconsin, via Stations one, two, three, and four, to Kewenaw Bay, Michigan.

From Station four to Marquette.

From Station four to National, (Minnesota Mine.)

MISSOURI.

From Rochester, via Empire Prairie, Douglass, Island City, Mount Pleasant, and Hugginsville, to Smithton.

From Smithton, Missouri, to Mount Air, Iowa.

From Hermann, via Smith's Prairie, Douglass Prairie, and Samuel Smith's, to Rolla.

From Cameron, via Plattsburg and Liberty, to Kansas City.

From Leavenworth to Farley.

From Vienna to Rolla.

MINNESOTA.

From Garden City, via Gray's, Fairmount, and Tuttle's, to Spirit Lake.

From Leavenworth, Minnesota, via Lake Shetac and Sioux Falls, to Sioux City, Iowa.

From Mankato, Minnesota, via Leavenworth, Brown's Crossings, Lake Shettek, and Brula Crossings, to Vermillion, Dakota Territory.

From La Crescent, via Troy, Chatfield, Frankford, Grand Meadow, Mower City, Lansing, Austin, and Albert Lea, to Winnebago City.

From Winona, via Minnesota City, Elba, and Quincy, to Rochester.

From Owatanna, via Wilson, Saint Mary's, and Winnebago Agency, to Mankato.

From Lake City, via Rochester, High Forest, Root River, Mower City, and Lansing, to Austin.

From La Crosse, Wisconsin, via Brownsville, Sheldon, Dedham, Preston, Carimona, Forestville, Spring Valley, Grand Meadow, Mower City, Lansing, Frankfort, Austin, Sumner, Albert Lea, Freeburn, Walnut Lake, and Winnebago City, to Shebaville, Minnesota.

From Torah, via Lake George and Grove Lake, to Alexandria.

From Detroit, Michigan, to Dunleith, Minnesota, (by steamer.)

From Cook's Valley, via Watkins Mills and Lathrop's Store, to Rochester.

From St. Paul, via West St. Paul, Eagartown, Rose Mount, Lakeville, Christiana, Hazlewood, Shieldsville, Killkenny, Cordova, Cleveland, and Kasota, to Mankato.

From St. Paul, via Fort Snelling, Eden Prairie, and Chaska, to Carver.

From Watertown, via Winstead, Lake Byron, Lake Jenny, and Greenleaf, to Kandiyohi.

From Green Lake, via Norway Lake, to Lonburg.

NEW YORK.

From Blair, via Farmersville and Lincoln, to Elton.

From Norwich, via South Plymouth and North Pharsalia and Pharsalia, to Cincinnatus.

From Middleport, via Jeddo and North Ridgeway, to County Line.

From Bush, via Centre and Jackson Run, to Warren, Pennsylvania.

From Bainbridge, via Guilford Centre and Guilford, to Norwich.

From Scio to Bolivar.

NEW JERSEY.

From Simens Point to English Creek.

From Wertsville to Kingoes.

From Mount Holly, via Lumberton, to Medford.

NEW HAMPSHIRE.

From Boscawen to Webster.

From Plaistow, via Hampstead and Danville, to Sandown.

From Canaan, Vermont, to Connecticut Lake, New Hampshire.

OHIO.

From Albany to Marshville.

From Osnaburg, via Mapleton and Robertsville, to Paris.

From Inland to Greentown.

From South Woodbury to Ashley.

From New Madison to Brinley's Station.

From Bucyrus, via Leitimberville, New Winchester, and Olentangy, to Bucyrus.

From Winter's Station, via Bettsville and Fort Seneca, to Tiffin.

From Republic, via Bloomville, South Bloom, Lykens, and Broken Sword, to Bucyrus.

From Bucyrus, via Oceola, Poplar, and Melmore, to Tiffin.

From Nevada, via Seal, Belle Vernon, Sycamore, Mexico, McCrutchinsville, Berwick, New Rigle, and Watson's Cross Roads, to Fostoria.

From Arcadia to Cass.

From Knight's Station, Michigan, via Riga, to Southeast corner of Richfield Township, Ohio, and thence, via Java, to Swanton Station.

From Blissfield, Michigan, via Metamora, Ai Post Office, and Java, to Swanton, Ohio.

From Clayton, Michigan, via Medina, Canandaigua, and Momence, Michigan, to Chesterfield, Emery, Tedrow, Ottokee, and Wauseon, Ohio.

From Hudson, Michigan, via Mill Creek, Master's Corners, and Domestic, to West Unity, Ohio.

From Archibald, Ohio, via Elmira, Blanc, Gorham Centre, and Handy, Ohio, to Attica and Momence, Michigan.

From West Unity, Ohio, via Domestic, Primrose, Wright, and Woods, Ohio, to Pittsford, Michigan.

From Pioneer, via Deer Lick and West Jefferson or Dubois Corners, to Bryan.

From Pioneer, Ohio, via Amboy, and Ransom, to Hillsdale, Michigan.

From West Jefferson, via Montpelier and Bridgeport, Ohio, and Morgansville, Woodbridge, Cambria, Cambria Centre, and Cambria Village, to Hillsdale, Michigan.

From Antwerp, via Hicksville, Milo, and Panama, to Edgerton.

From Edgerton, via Saint Joseph's, Sheline's Mills, and Spring Lake, Ohio, and South Camden, and Reading Village, to Hillsdale, Michigan.

From Bryan, via Williams Centre, Farmer's Centre, Arrowsmith, and Cicero, to Hicksville.

From Defiance, via Brunersburg, McCally's and Evansport, to Stryker.

From Farmer's Centre, via Ney and Brunersburg, to Defiance.

From Wauseon, via Lena and Ridgeville Corners, to Defiance.

From Florida to Adam's Station.

From Colton, via Beta, Lavonia, and West Barre, to Wauseon.

From Perrysburg, via Lovett's Grove and Bowling Green, to Portage.

From Fostoria, via Brown's Corners, Eagleville, and Woodbury, to Portage.

From Perrysburg, via Stony Ridge, to Woodville.

From Elmore, via Woodville, to Pemberville.

From Gilead to New Westfield.

From Gilead to Providence.

From Delphos, via Ottoville, Hamer, Murat, and Charloe Junction, to Defiance.

From Columbus Grove to Kalida.

From Leipsic Station to Leipsic Village.

From Buckey's, via Gilboa, Oak Ridge, and McComb, to Findlay.

From Defiance, via Ayersville, New Bavaria, Redgland, and Medray, to Leipsic.

From Paulding to Emerald Station.

From Emerald Station, via Cranesville and Motherspaw, to Georgetown.

From Gilead, via Odessa and Shank, to Napoleon.

From Paulding, via Paine's, to McGill's.

From Mount Blanchard, via Houcktown and Elm Grove, to Finley.

From West Jefferson, via West Canaan, to Darby Creek.

From Mount Blanchard to Forrest.

PENNSYLVANIA.

From Carlisle, via Carlisle Springs, Sterret's Gap, Shermansdale, and Warm Springs, to Landisburg.

From New Bloomfield, via Dellville, Grier's Tavern, and Bashinger's Store, to Morleytown.

From Callinsburg, via Loro and Nickleville, to Oil City.

From Ansonville, via McGarvey's and Westover's, to Cherrytree.

From Garland, via Southwest, Enterprise, Pleasantville, Plummer, and Rouseville, to Oil City.

From Williams' Grove, via Grayhampton, to Shivey's.

From Oxford, via Hopewell Cotton Works, Glen Roy, Oak Hill, Goshen, and Wakefield, to Peter's Creek.

From Springfield Furnace to Bruce.

From Tioga, via Bailey Creek, Rutland, and Harlansville, to Columbia Cross Roads.

From Schuylkill Haven to Fremont.

From Cowdersport to Shippen.

From Huntington, via Wilsonia, Donation, Croanover's Mills, and Cumminsville, to Ennisville.

From Nicholson Depot, via Niven and Springville, to Auburn Four Corners.

From Columbia to Silver Springs.

From Kittaning to Punxsatawney.

From Ebensburg, via Bethel Station and Strongtown, to Newman's Mills.

From Greensburg, via Pleasant Unity, to Stahlstown.

From Centreville to Annandale.

From Clarington, via Millstone and Raught's Mills, to Arago.

From Economy, via Scottsville, New Sheffield, Seventy-six, and Green Garden, to Holt.

From Brownsville, via Lake Como, to Tallmansville.

From Fresh Lake Centre to Jackson Valley.

From Tannersville to Mildenberger's.

From Merwinesville to Tannersville.

From Bethlehem, via Schoenersville, Weaversville, and Kreidersville, to Petersville.

From Nazareth, via Moorestown, Kleckner-ville, Petersville, Newhartsville, Cherryville, and Berlinsville, to Slatington.

From Bethlehem, via Hanoverville, to Kleckner-ville.

From Lebanon, via Jonestown and Fredericksburg, to Monroe Forge.

From Saltsburg, via Coal Port, Elder's Ridge, Long Run, Shady Plain, Cochran's Mills, and Hilman's, to Kittaning.

From Lancaster to Quarryville.

From Newry, via Blue Knob and Switzer, to Saint Clairsville.

From Reynolds to Rochdale.

From Callensburg to Emlenton.

From Washington to Rice's Landing.

VERMONT.

From West Randolph, via Randolph and East Randolph, to Chelsea.

From Whiting to Shoreham.

WISCONSIN.

From Munche's Post Office, via Monroe's Corner, in the town of Erie, to the village of Hartford.

From the village of Barton, Washington county, to Billman's Corners, in the town of Wayne.

From Sturgeon Bay, via Egg Harbor and Fish Creek, to Ephraim, in Dorr county.

From Avoca, Iowa county, via the villages of Highland and Linden, to the city of Mineral Point.

From Barton to Eckel's Corners, in the town of Addison, in the county of Washington.

From Watertown, via Ixenia, Concord, and Farmington, to Johnson's Creek, in Jefferson county.

From Appleton, via Centre, to Shaw-wa-no.

From Mill Haven, via Forbes Valley, Dorsett, Wilton, Wellington, and Moore's Creek, to Sparta.

COLORADO.

From Denver, via Colorado City, and Conejos, to Santa Fé.

From Pueblo, via Huerfan, to Trinidad.

From Fort Wise, via Bent's Old Fort, Pueblo, and Cañon City, to Laurette.

From Colorado City to Cañon City.

From Colorado City to Laurette.

From Denver, via Jefferson and Hamilton, to Laurette.

From Laurette, via Oro City, to Washington Gulch.

From Oro City to Coach Creek.

From Hamilton, via Breckenridge, to Lincoln City.

From Jefferson, via Parkville, to Delaware City.

From Denver, via Idaho and Empire City, to Salt Lake City.

From Denver, via Golden City, to Central City.

From Central City to Silver City.

From Central City, via Gold Dirt and Gold Hill, to Boulder.

From Denver to Boulder.

From Denver, via Fort St. Vrain, to Laporte.

From Fort St. Vrain to Junction Ranch, (mouth of Beaver Creek.)

From Denver to Russellville.

From Conejos to Animas City.

From Laurette, via Montgomery City, to Breckenridge.

From Central City to Idaho.

DAKOTA.

From Sioux City, Iowa, via Willow Point, Elk Point, Vermillion, Yankton, Bon-Homme, Skinner's, Choteau Creek, and Greenwood to Fort Randall, Dakota Territory.

From Dakota, Nebraska Territory, via St. John's, Poncah, Dixon, St. James, Helena, Frankfort, Niobrara, and Poncah Agency, to Fort Randall.

From Fort Randall to Platte Creek.

From Yankton to Sioux Falls City.

From Sioux Falls City, via Sheteck City and New Brunswick, to New Ulm, Minnesota.

From Vermillion, Dakota Territory, via Iowa, to Poncah, Nebraska Territory.

From Bon-Homme, via Springfield, Dakota Territory, to Niobrara, Nebraska Territory.

From Elk Point to Bruli Creek, Dakota Territory.

NEBRASKA.

From Marshalltown, via Nevada, Boonsborough, Jefferson, Canalton, Denison, and Onawayin, Iowa, to Decatur, Nebraska.

From Plattsmouth to Fort Kearney, on south side of Platte river.

From Dakota City, via Poncah, St. James, St. John's, Franklin, Niobrara, and other intermediate offices, to Fort Randall, Dakota.

From Brownsville, via Nemeha City, Monterey, Scott's, Rodenberg's, and Middleburg, to Sabetha, in Kansas.

From Falls City, via Geneva, Rodenberg's, Scott's, and Long Branch, to Monterey.

From White Cloud, via Falls City and Table Rock, to Beatrice.

From Falls City, via Middleburg and Athens, to Pawnee City.

From Falls City, via Salem and Pawnee City, to Otos Agency, (Dennison.)

From Arago, via Falls City, to White Cloud, Kansas.

From Peru, via Brownsville, Nemeha City, and Falls City, to Atchison.

From Brownsville, via Falls City, to Highland, Kansas.

From Falls City to Hiawatha, Brown county, Kansas.

From Brownsville, via Monterey and Franklin, Long Branch Post Office, to Table Rock.

From Nebraska City, via St. Frederick and McClure's, to Table Rock.

From Plattsmouth, via Glendale, Fountain Station, Salt Creek, Lake Station, Burnhill's, McCabe Station, McFarland's, O'Donnell's, Brackett's, Big Martin's, Bissell, Mabine, and Junction City, to Fort Kearney.

NEW MEXICO.

From Taos to Cimmaron.

From Abiqui to Garland.

NEVADA.

From Carson City to Virginia City.

From Carson City to Aurora.

From Dayton to Humboldt.

UTAH.

From Springville, via Fairview and Mount Pleasant, to Springtown.

From Toquerville, via Pocketville and Grafton, to Adventure.

From Virgin City, via Grafton, to Rockville.

From Denver City, Colorado Territory, to Provo, Utah Territory.

WASHINGTON.

From Walla-Walla to Pierce City and Orifino, via Lewiston.

From Seattle to Snohomish.

From Walla-Walla, via Lewiston and Pierce City, to Elk City.

From Walla-Walla, via Antoine Planies and the Cœur d'Alene Mission, to Hell Gate.

From Lewiston to Florence City.

SEC. 2. *And be it further enacted*, That the Postmaster General is hereby authorized to change the terminus of existing mail routes connecting with or intersecting railroads when the postal service can be thereby improved.

SEC. 3. *And be it further enacted*, That the Postmaster General be, and he is hereby, authorized to fix the salaries of special agents of the Post Office Department, employed on temporary service, at any sum less than the amount designated for such service by law.

APPROVED, June 2, 1862.

CHAP. XCVI.—An Act to authorize the President of the United States to appoint Diplomatic Representatives to the Republics of Hayti and Liberia, respectively.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the President of the United States be, and he hereby is, authorized, by and with the advice and consent of the Senate, to appoint diplomatic representatives of the United States to the republics of Hayti and Liberia, respectively. Each of the said representatives so appointed shall be accredited as commissioner and consul-general, and shall receive the compensation of commissioners according to the act of Congress approved August eighteen, eighteen hundred and fifty-six: *Provided*, That the annual compensation of the representative at Liberia shall not exceed four thousand dollars.

APPROVED, June 5, 1862.

CHAP. XCVII.—An Act supplemental to "An Act granting the right of way to the State of Missouri, and a portion of the Public Lands, to aid in the construction of certain Railroads in said State," approved June tenth, eighteen hundred-and fifty-two.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the time required by the act to which this is supplemental, for the completion of the road therein described, "from the city of Saint Louis to such point on the western boundary of said State as may be designated by the authority of said State," as well as the time of reversion to the United States of the lands thereby granted to the State of Missouri for the use of said road, is hereby extended for ten years from the tenth day of June, eighteen hundred and sixty-two: *Provided*, That in case said company fail to complete said road within the time as thus extended, the said lands shall then revert to the United States.

APPROVED, June 5, 1862.

CHAP. XCVIII.—An Act for the collection of Direct Taxes in insurrectionary districts within the United States, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That when in any State or Territory, or in any portion of any State or Territory, by reason of insurrection or rebellion, the civil authority of the Government of the United States is obstructed so that the provisions of the act entitled "An act to provide increased revenue from imports, to pay interest on the public debt, and for other purposes," approved August fifth, eighteen hundred and sixty-one, for assessing, levying, and collecting the direct taxes therein mentioned, cannot be peaceably executed, the said direct taxes, by said act apportioned among the several States and Territories, respectively, shall be apportioned and charged in each State and Territory, or part thereof, wherein the civil authority is thus obstructed, upon all the lands and lots of ground situate therein, respectively, except such as are exempt from taxation by the laws of said State or of the United States, as the said lands or lots of ground were enumerated and valued under the last assessment and valuation thereof made under the authority of said State or Territory previous to the first day of January, anno Domini eighteen hundred and sixty-one; and each and every parcel of the said lands, according to said valuation, is hereby declared to be, by virtue of this act, charged with the payment of so much of the whole tax laid and apportioned by said act upon the State or Territory wherein the same is respectively situate, as shall bear the same direct proportion to the whole amount of the direct tax apportioned to said State or Territory as the value of said parcels of land shall respectively bear to the whole valuation of the real estate in said State or Territory according to the said assessment and valuation made under the authority of the same; and in addition thereto a penalty of fifty per centum of said tax shall be charged thereon.

SEC. 2. *And be it further enacted*, That on or before the first day of July next, the President, by his proclamation, shall declare in what States and parts of States said insurrection exists, and thereupon the said several lots or parcels of land shall become charged respectively with their respective portions of said direct tax, and the same, together with the penalty, shall be a lien thereon, without any other or further proceeding whatever.

SEC. 3. *And be it further enacted*, That it shall be lawful for the owner or owners of said lots or parcels of lands, within sixty days after the tax commissioners herein named shall have fixed the amount, to pay the tax thus charged upon the same, respectively, into the Treasury of the United States, or to the commissioners herein appointed, and take a certificate thereof, by virtue whereof the said lands shall be discharged from said tax.

SEC. 4. *And be it further enacted*, That the title of, in, and to each and every piece or parcel of land upon which said tax has not been paid as above provided, shall thereupon become forfeited to the United States, and, upon the sale hereinafter provided for, shall vest in the United States or in the purchasers at such sale, in fee-simple, free and discharged from all prior liens, incumbrances, right, title, and claim whatsoever.

SEC. 5. *And be it further enacted*, That the President of the United States, by and with the advice and consent of the Senate, may appoint a board of three tax commissioners for each of said States in which such insurrection exists, with a salary of three thousand dollars each per annum, to give security in the sum of fifty thousand dollars each, in such form as the Secretary of the Treasury shall direct, and to be approved by him, for the faithful performance of all their duties as such, and to account for and pay over all moneys and other property coming to their hands: *Provided*, That said commissioners shall not receive pay under the provisions of this act until they shall have entered upon the discharge of their duties.

SEC. 6. *And be it further enacted*, That the said board of tax commissioners shall enter upon the discharge of the duties of their office whenever the Commanding General of the forces of the United States, entering into any such insurrectionary State or district, shall have established the military authority of the United States throughout any parish or district or county of the same, and they shall open one or more offices for the transaction of business.

SEC. 7. *And be it further enacted*, That the said board of commissioners shall be required, in case the taxes charged upon the said lots and parcels of land shall not be paid as provided for in the third section of this act, to cause the same to be advertised for sale in a newspaper published in the town, parish, district, or county where situate, and if there be no such newspaper published in said county, or if the publisher thereof refuse to publish the same, then in any other newspaper to be selected by said commissioners in said district, or in the city of Washington, for at least four weeks, and by posting notices of said sale in three public places in the town, parish, district, or county within which said lands are situate, at least four weeks previous to the day of sale; and at the time and place of sale to cause the same to be severally sold to the highest bidder for a sum not less than the taxes, penalty, and costs, and ten per centum per annum interest on said tax pursuant to said notice; and the said commissioners shall, at said sale, strike off the same severally to the United States at that sum, unless some person shall bid the same or a larger sum; who shall, upon paying the purchase-money in gold and silver coin, or in the Treasury notes of the United States, or in certificates of indebtedness against the United States, be entitled to receive from said commissioners their certificate of sale; which said certificate shall be received in all courts and places as prima facie evidence of the regularity and validity of said sale, and of the title of the said purchaser or purchasers under the same: *Provided*, That the owner of said lots of ground, or any loyal person of the United States, having any valid lien upon or interest in the same, may, at any time, within sixty days after said sale, appear before the said board of tax commissioners in his or her own proper person, and, if a citizen, upon taking an oath to support the Constitution of the United States, and paying the amount of said tax and penalty, with interest thereon from the date of the said proclamation of the President mentioned in the second section of this act, at the rate of fifteen per centum per annum, together with the expenses of the sale and subsequent proceedings to be determined by said commissioners, may redeem said lots of land from said sale; and any purchaser, under the same, having paid moneys, Treasury notes, or other certificates of indebtedness of the United States, shall, upon such redemption being made, be entitled to have the same, with the interest accruing after said sale, returned to him by the said commissioners, upon surrendering up the certificates of sale: *And provided further*, That if the owner of said lots of ground shall be a minor, a non-resident alien, or loyal citizen beyond seas, a person of unsound mind, or under a legal disability, the guardian, trustee, or other person having charge of the person or estate of such person may redeem the same at any time within two years after the sale thereof, in the manner above provided, and with like effect: *And provided further*, That the certificate of said commissioners shall only be affected as evidence of the regularity and validity of sale by establishing the fact that said property was not subject to taxes, or that the taxes had been paid previous to sale, or that the property had been redeemed according to the provisions of this act.

SEC. 8. *And be it further enacted*, That at any time within one year after the said sale by said commissioners, any person being the owner of any lot or parcel of ground at the passage of this act, who shall, by sufficient evidence, prove to the satisfaction of said board of commissioners that he or she, after the passage of this act, has not taken part in the present insurrection against the United States, or in any manner aided or abetted the same; and that, by reason of said insurrection, he or she has been unable to pay said tax, or to redeem said lands from sale within the time above provided for, the said board of commissioners may allow him or her further time to redeem the same, not exceeding two years from the day of sale; and for this purpose they may take the testimony of witnesses, and shall reduce the same to writing; and the United States, or any person claiming an interest in said lands, may appear and oppose the said application. From their decision the United States or any party in interest may appeal to the district court of the United States for said district, which is hereby authorized to take jurisdiction of the same, as in other cases involving the equity of redemption. And in case said board of commissioners should, for any cause, cease to act before the expiration of one year after said sales, the said district court shall have original jurisdiction of the proceeding for redemption, as herein provided, to take place before the said board of commissioners.

SEC. 9. *And be it further enacted*, That in cases where the owners of said lots and parcels of ground have abandoned the same, and have not paid the tax thereon as provided for in the third section of this act, nor paid the same, nor redeemed the said land from sale as provided for in the seventh section of this act, and the said board of commissioners shall be satisfied that said owners have left the same to join the rebel forces or otherwise to engage in and abet this rebellion, and the same shall have been struck off to the United States at said sale, the said commissioners shall,

in the name of the United States, enter upon and take possession of the same, and may lease the same, together or in parcels, to any person or persons who are citizens of the United States, or may have declared on oath their intention to become such, until the said rebellion and insurrection in said State shall be put down, and the civil authority of the United States established, and until the people of said State shall elect a Legislature and State officers, who shall take an oath to support the Constitution of the United States, to be announced by the proclamation of the President, and until the first day of March next thereafter, said leases to be in such form and with such security as shall, in the judgment of said commissioners, produce to the United States the greatest revenue.

SEC. 10. *And be it further enacted*, That the said commissioners shall from time to time make such temporary rules and regulations, and insert such clauses in said leases as shall be just and proper to secure proper and reasonable employment and support, at wages or upon shares of the crop of such persons and families as may be residing upon the said parcels or lots of land, which said rules and regulations are declared to be subject to the approval of the President.

SEC. 11. *And be it further enacted*, That the said board of commissioners, under the direction of the President, may be authorized, instead of leasing the said lands vested in the United States, as above provided, to cause the same, or any portion thereof, to be subdivided and sold in parcels not to exceed three hundred and twenty acres to any one purchaser, at public sale, after giving due notice thereof, as upon the sale of other public lands of the United States, for sixty days, and to issue a certificate therefor; and that, at any such sale, any loyal citizen of the United States, or any person who shall have declared on oath his intention to become such, or any person who shall have faithfully served as an officer, musician, or private soldier or sailor in the Army or Navy or marine service of the United States, as a regular or volunteer, for the term of three months, may become the purchaser; and if upon such sale any person serving in the Army or Navy or marine corps shall pay one fourth part of the purchase-money, a certificate shall be given him, and he shall have the term of three years in which to pay the remainder, either in money or in certificates of indebtedness from the United States; and any citizen of the United States, or any person who shall have declared his intention to become such, being the head of a family, and residing in the State or district where said lands are situate, and not the owner of any other lands, may, under such rules as may be established by said board of commissioners, have a right to enter upon and acquire the rights of preëmption in such lands as may be unimproved and vested in the United States, and as may be selected by said board of commissioners, under the direction of the President, from time to time for such purpose.

SEC. 12. *And be it further enacted*, That the proceeds of said leases and sales shall be paid into the Treasury of the United States, one fourth of which shall be paid over to the Governor of said State wherein said lands are situated, or his authorized agent, when such insurrection shall be put down, and the people shall elect a Legislature and State officers who shall take an oath to support the Constitution of the United States, and such fact shall be proclaimed by the President for the purpose of reimbursing the loyal citizens of said State, or such other purpose as said State may direct; and one fourth shall also be paid over to said State as a fund to aid in the colonization or emigration from said State of any free person of African descent who may desire to remove therefrom to Hayti, Liberia, or any other tropical state or colony.

SEC. 13. *And be it further enacted*, That in case the records of assessments and valuation of the lots of land mentioned in the first section of this act shall be destroyed, concealed, or lost, so as not to come within the possession of the said boards of commissioners, they shall be authorized to take evidence of the same, or to value and assess the same in their own judgment upon such evidence as may appear before them; and no mistake in the valuation of the same, or in the amount of tax thereon, shall, in any manner whatever, affect the validity of the sale of the same or of any of the proceedings preliminary thereto.

SEC. 14. *And be it further enacted*, That the said tax commissioners shall keep a book or books, in which they shall enter or cause to be entered the amount or quota of said direct tax assessed on each tract or parcel of land; which said amounts shall be distinctly stated in the advertisement, or notice of sale, together with a description of the tract to be sold, and an entry shall be made in said book, or books, of each tract sold, together with the name of the purchaser, and the sum for which the same may have been sold. A transcript or transcripts of said book or books, duly verified by said commissioners, and said books when said commission shall expire, shall be filed in the office of the Secretary of the Treasury of the United States, and said books and transcripts, and copies of said books and transcripts duly certified by the Secretary of the Treasury, shall be evidence in any court in the United States. The said commissioners may employ a clerk, whose compensation shall be twelve hundred dollars per annum.

SEC. 15. *And be it further enacted*, That the thirteenth section of the act of August fifth, eighteen hundred and sixty-one, entitled "An act to provide increased revenue from imports, to pay interest on the public debt, and for other purposes," shall be so construed as not to exempt from taxation property above the value of five hundred dollars, but to exempt from taxation property above the value of five hundred dollars, or less, owned by individuals, notwithstanding the provisions of said act.

SEC. 16. *And be it further enacted*, That this act shall take effect from and after its passage.

APPROVED, June 7, 1862.

CHAP. XCIX.—An Act to incorporate the Mount Olivet Cemetery Company, in the District of Columbia.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That Edward A. Knight, Charles J. White, and Charles D. Bowling, and their successors, be, and they are hereby, created a body-politic and corporate by the name and title of "The Mount Olivet Cemetery Company," and by that name may have perpetual succession, may sue and be sued in the courts of law and equity, and other competent tribunals, may have and use a common seal, and the same may destroy, alter, and renew at pleasure, may associate with them such other persons in said company to any number not exceeding nine, may fill all vacancies which may occur in their own body, and may from time to time ordain such by-laws, not inconsistent with the laws in force in the District of Columbia, as they may deem necessary or proper for said company.

SEC. 2. *And be it further enacted*, That said corporation may acquire, hold, and dispose of such estate, real, personal, and mixed, as may be necessary or proper for the purposes of said corporation: *Provided*, The said corporation shall not own at any one time more than one hundred acres of land in the county of Washington, and without the limits of the city of Washington: *And provided further*, That at least thirty acres in one body be set apart and used for the purposes of a cemetery.

SEC. 3. *And be it further enacted*, That burial lots in said cemetery may be sold, leased, or otherwise disposed of by said corporation to the lot-holders, upon such conditions and subject to such regulations as said corporation or the board of managers may prescribe, and a certificate under the seal of said corporation, of the ownership or other interest in any lot aforesaid, shall in all respects have the same effect as any conveyance from said corporation of said lot would have, if executed, acknowledged, and recorded as conveyances of real estate are required by law to be; which certificate shall be entered in a book kept by said corporation for that purpose, the same to be open to the inspection of all persons interested; and burial lots in said cemetery shall not be subject to the debts of the lot-holders thereof, and the land of the said corporation dedicated to the purposes of a cemetery shall not be subject to taxation of any kind.

SEC. 4. *And be it further enacted*, That the affairs of said corporation may be conducted by such board of managers as the said corporation may ordain, to be composed of the corporators, or any selected number thereof, and such other persons as the said corporation may elect.

SEC. 5. *And be it further enacted*, That no streets, lanes, alleys, roads, or canals, of any sort, shall be opened through the property of said corporation exclusively appropriated and used for the purposes of a cemetery: *Provided*, That nothing herein contained shall be so construed as to authorize said corporation to obstruct any public road, or street, or lane, or alley, now actually opened and used as such.

SEC. 6. *And be it further enacted*, That any person who shall willfully destroy, mutilate or deface, injure or remove, any tomb, monument, gravestone, or other structure or work placed in said cemetery, or any fence, railing, or work for protection or ornament of said cemetery, or any tomb, monument, gravestone, or other structure or work thereon, or shall willfully destroy, cut, break, or remove any tree, shrub, or plant, within the limits of said cemetery, shall be considered guilty of a misdemeanor, and, on conviction thereof before any magistrate or justice of the peace, shall be punished by fine, at the discretion of the justice, according to the aggravation of the offense, of not less than five nor more than fifty dollars.

SEC. 7. *And be it further enacted*, That the said corporation shall provide for the return, from time to time, to the corporation of Washington, of reports of all interments made in said cemetery, of persons who may have died within the limits of the city of Washington, in such manner as may be prescribed from time to time by said corporation of Washington.

SEC. 8. *And be it further enacted*, That nothing in this act shall be so construed as to authorize said corporation to issue any note, token, device, scrip, or other evidence of debt, to be used as a currency; and each of the corporators in said corporation shall be held liable, in his individual capacity, for all the debts and liabilities of said corporation, however contracted or incurred, to be recovered by suit as other debts or liabilities before the court or tribunal having jurisdiction of the case.

SEC. 9. *And be it further enacted*, That it shall be lawful for Congress, at any time hereafter, to alter, amend, or repeal the foregoing act.

APPROVED, June 10, 1862.

CHAP. CI.—An Act to protect the Property of Indians who have adopted the habits of civilized life.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That whenever any Indian, being a member of any band or tribe with whom the Government has or shall have entered into treaty stipulations, being desirous to adopt the habits of civilized life, shall have had a portion of the lands belonging to his tribe allotted to him in severalty, in pursuance of such treaty stipulations, it shall be the duty of the agent and superintendent of such tribe to provide that such Indian shall be protected in the peaceful and quiet occupation and enjoyment of the lands so allotted to him.

SEC. 2. *And be it further enacted*, That whenever any person of Indian blood belonging to a band or tribe who receive, or are entitled to receive, annuities from the Government of the United States, and who has not adopted the habits and customs of civilized life, and received his lands in severalty by allotment, as mentioned in the foregoing section of this act, shall commit any trespass upon the lands or premises of any Indian who has received his lands by allotment, as aforesaid, it shall be the duty of the superintendent and agent of such band or tribe to ascertain the damages resulting from such trespass; and the sum so ascertained shall be withheld from the payment next thereafter to be made, either to the band or tribe to which the party committing such trespass shall belong, as in the discretion of the superintendent he shall deem proper, and the sum so retained shall be paid over by the said agent or

superintendent to the party injured, with the approval of the Secretary of the Interior.

SEC. 3. *And be it further enacted*, That in case the trespasser shall be the chief or headman of a band or tribe, in addition to the penalties above provided for, it shall be the duty of the superintendent of Indian affairs in his district to suspend the said trespasser from his office for three months, and during that time to deprive him of all the benefits and emoluments connected therewith: *Provided*, That the said chief or headman may be sooner restored to his former standing if the superintendent shall so direct.

APPROVED, June 14, 1862.

CHAP. CII.—An Act providing for the selection of Jurors to serve in the several Courts in the District of Columbia.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That it shall be the duty of the register of Washington city, and of the respective clerks of the city of Georgetown and the levy court of Washington county, in the District of Columbia, within one month after the passage of this act, and on or before the first day of February in each year thereafter, to make a list of such of the white male citizens, tax-payers, residing within their respective jurisdictions as they shall judge best qualified to serve as jurors in the courts of the said District, in which lists may be included, in the discretion of the officer making the same, the names of such qualified persons as were on the list of the previous year but did not serve as jurors, and the lists thus made by the register and clerks aforesaid shall be kept by them, respectively, and be delivered over to their successors in office.

SEC. 2. *And be it further enacted*, That the officers aforesaid shall select from the list of the register of Washington city the names of four hundred persons, from that of the clerk of Georgetown eighty persons, and from that of the clerk of the levy court forty persons, which proportion, after the year eighteen hundred and sixty-three, may be varied from year to year according to the increase or decrease of population in the respective jurisdictions, by order of the judges of the circuit court of Washington county.

SEC. 3. *And be it further enacted*, That the Mayors of the cities of Washington and Georgetown, all judicial officers, salaried officers of the Government of the United States, commissioners of police, and those connected with the police or fire department, counselors and attorneys at law, ministers of the Gospel and priests of every denomination, practicing physicians and surgeons, keepers of hospitals, asylums, almshouses, or other charitable institutions created by or under the laws relating to the District of Columbia, captains and masters and other persons employed on vessels navigating the waters of said District, and keepers of public ferries, shall be exempt from jury duty, and their names shall not be placed in the list aforesaid.

SEC. 4. *And be it further enacted*, That the names selected from said lists shall be written on separate and similar pieces of paper, which shall be so folded or rolled up that the names cannot be seen, and placed in a box, to be provided by the register and clerks aforesaid, which box shall be sealed, and after being thoroughly shaken, shall be delivered to the clerk of the circuit court of Washington county for safe-keeping.

SEC. 5. *And be it further enacted*, That the said register and clerks, and the clerk of the circuit court, shall, at least ten days before the commencement of each term of the circuit or of the criminal court, meet at the City Hall in Washington city, and then and there the clerk of the circuit court shall publicly break the seal of said box and proceed to draw therefrom the names of so many persons as are required; and if the jury about to be drawn is intended for service in the criminal court, the twenty-three persons whose names shall be first drawn shall constitute the grand jury; and the twenty-six persons whose names shall next be drawn shall constitute the petit jury for that term; but in a capital case where the said panel shall have been exhausted by reason of challenge or otherwise, the court before whom such capital case is pending may, in its discretion, order additional names to be drawn; and if all of the names in the box shall have been drawn out and no jury found, the court may order the marshal to summon talesmen until a jury shall be found. And if a jury be required for the circuit court, the twenty-six persons whose names shall first be drawn shall constitute the jury for that term, and the names of the persons drawn as aforesaid shall not be again placed in such box for the period of two years. If any person whose name is so drawn shall have died or removed from the District, or has become otherwise disabled from serving as a juror, the said register and clerks shall draw from the box another name, who shall serve instead; and after the requisite number of jurors shall have been so drawn, the said box shall be again sealed and delivered to the clerk of the circuit court as aforesaid.

SEC. 6. *And be it further enacted*, That it shall be the duty of the marshal of the District of Columbia, at least five days before the meeting of the court for which a jury is required, to notify each person drawn, by serving on him a notice in writing of his selection as a juror of the court he is to attend, and of the day and hour he is to appear; which notice shall be given to each juror in person, or be left at his usual place of residence; a copy of which notice, with his certificate stating when and in what manner the original was served, shall be returned by the said marshal to the court before the commencement of the term for which the said jurors were drawn.

SEC. 7. *And be it further enacted*, That in case either of the officers whose duty it is to make out the lists aforesaid shall neglect or refuse to act, or in case either of them shall be interested in any action or proceeding pending in the said circuit or criminal court, the chief judge of the circuit court shall appoint a fit and proper person to discharge the duty instead; and if the persons selected as jurors do not attend, the court may order the marshal to summon other respectable tax-payers, possessing the other legal qualifications, to supply the deficiency. And if at any time there should not be, by reason of challenge or otherwise, a sufficient number of jurors to make up the panel, the court shall order the marshal to summon as many talesmen as are necessary for that purpose.

SEC. 8. *And be it further enacted*, That no person shall be competent to act as a juror unless he be a citizen of the United States, a resident of the District of Columbia, over twenty-one and under sixty-five years of age, a good and lawful man, who has never been convicted of a felony or misdemeanor involving moral turpitude. And a person may be excused by the court from serving on a jury when, for any reason, his interests or those of the public will be materially injured by his attendance, or when he is a party in any action or proceeding to be tried or determined by the intervention of a jury at the term for which he may be summoned, or where his own health or the death or sickness of a member of his family requires his absence.

SEC. 9. *And be it further enacted*, That if any officer named in the first section of this act shall put on the list he is required to make, the name of any person at his own request, or on the request of any other person, or shall be guilty of any fraud or collusion with respect to the drawing of jurors, he shall be deemed guilty of a misdemeanor, and shall be punished by a fine of not less than one hundred dollars, and imprisoned in the county jail not less than six days, for each and every offense. And if the clerk of the circuit court shall draw from the box a greater number of names than is required by the court, in accordance with the provisions of this act, or shall put in said box any name after the same has been delivered to him as aforesaid, or shall be guilty of any fraud or collusion in respect to the drawing of jurors, he shall be deemed guilty of a misdemeanor, and shall be punished by a fine of not less than one hundred dollars, and be imprisoned in the county jail not less than sixty days, for each and every offense.

SEC. 10. *And be it further enacted*, That if any person selected as a juror and duly notified to attend according to the requirements of this act, shall, without sufficient cause, neglect to attend agreeably to such notice, he shall be fined by the court in a sum not exceeding twenty dollars for every day he shall be absent during the sitting of said court.

SEC. 11. *And be it further enacted*, That the names on the lists specified in the second section of this act shall be selected, as near as may be, from among the citizens of the several wards of the cities of Washington and Georgetown, and the three divisions of the county of Washington outside the limits of said cities formed by the Eastern Branch of the Potomac river and Rock creek, in proportion to the number of taxable inhabitants residing in said wards and districts, respectively.

APPROVED, June 16, 1862.

CHAP. CIII.—An Act defining additional Causes of Challenge and prescribing an additional Oath for Grand and Petit Jurors in the United States Courts.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, in addition to the existing causes of disqualification and challenge of grand and petit jurors in the courts of the United States, the following are hereby declared and established, namely: without duress and coercion to have taken up arms, or to have joined any insurrection and rebellion, against the United States; to have adhered to any rebellion, giving it aid and comfort; to have given, directly or indirectly, any assistance in money, arms, horses, clothes, or anything whatever, to or for the use or benefit of any person or persons whom the person giving such assistance knew to have joined, or to be about to join, any insurrection or rebellion, or to have resisted, or to be about to resist with force of arms, the execution of the laws of the United States, or whom he had good ground to believe had joined, or was about to join, any insurrection or rebellion, or had resisted, or was about to resist, with force of arms, the execution of the laws of the United States, and to have counseled and advised any person or persons to join any insurrection and rebellion, or to resist with force of arms the laws of the United States.

SEC. 2. *And be it further enacted*, That at each and every term of any court of the United States, the district attorney, or other person acting for and on behalf of the United States in said court, may move, and the court in their discretion may require the clerk to tender to each and every person who may be summoned to serve as a grand or petit juror or venireman or talesman in said court, the following oath or affirmation, namely: "You do solemnly swear (or affirm, as the case may be) that you will support the Constitution of the United States of America; that you have not, without duress and constraint, taken up arms, or joined any insurrection or rebellion against the United States; that you have not adhered to any insurrection or rebellion, giving it aid and comfort; that you have not, directly or indirectly, given any assistance in money, or any other thing, to any person or persons whom you knew, or had good ground to believe, had joined, or was about to join, said insurrection and rebellion, or had resisted, or was about to resist, with force of arms, the execution of the laws of the United States; and that you have not counseled or advised any person or persons to join any rebellion against, or to resist with force of arms, the laws of the United States." Any person or persons declining to take said oath shall be discharged by the court from serving on the grand or petit jury, or venire, to which he may have been summoned.

SEC. 3. *And be it further enacted*, That each and every person who shall take the oath herein prescribed, and who shall swear falsely to any matter of fact embraced by it, shall be held to have committed the crime of perjury, and shall be subject to the pains and penalties declared against that crime.

APPROVED, June 17, 1862.

CHAP. CIV.—An Act making provision for raising Property of the United States sunk in the waters thereof.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Navy be, and

he is hereby, authorized and empowered to contract with such person or persons as he shall deem most for the public service for raising such vessels, their armaments, stores, or equipments, belonging to the United States, and sunk in the waters thereof; and that the sum of one hundred thousand dollars be, and the same is hereby, appropriated to carry the provisions of this act into effect.

APPROVED, June 17, 1862.

CHAP. CV.—An Act to authorize the Secretary of the Treasury to change the Names of certain Vessels.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Treasury be, and hereby is, authorized to change the name of the schooner "Frank Pierce," owned by A. Emerson and Company, of Youngstown, State of New York, to that of "General Sigel;" and also to change the name of the vessel "Maury," owned by A. A. Low and Brothers, of Brooklyn, State of New York, to that of "Benefactress;" and also to change the name of the bark "Henry H. Didier," owned by William Applegarth and William Hubbard, of Baltimore, State of Maryland, to that of the "Flora;" and to grant said vessels registers in said respective names.

APPROVED, June 17, 1862.

CHAP. CVIII.—An Act to direct the Secretary of the Treasury to issue American Registers to certain Vessels.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Treasury is hereby directed to issue American registers to the vessels "North Star" and "Dolphin," of the Oswego collection district, in the State of New York, the same being Canadian-built vessels, but now owned by American citizens.

APPROVED, June 18, 1862.

CHAP. CIX.—An Act providing that the Officers of Volunteers shall be paid on the Pay-Rolls of the Regiments or Companies to which they belong.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That company officers of volunteers shall be paid on the muster and pay-rolls of their company, party, or detachment, and not otherwise, except when such officer may be on detached service without troops, or on leave of absence.

APPROVED, June 18, 1862.

CHAP. CX.—An Act making Appropriations for Postal Service on Post Routes established at the present session of Congress.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the sum of one hundred and fifty thousand dollars is hereby appropriated, out of any money in the Treasury not otherwise appropriated, for postal service on such mail routes established by the present Congress as the Postmaster General may deem necessary and expedient.

APPROVED, June 18, 1862.

CHAP. CXI.—An Act to secure Freedom to all Persons within the Territories of the United States.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That from and after the passage of this act there shall be neither slavery nor involuntary servitude in any of the Territories of the United States now existing, or which may at any time hereafter be formed or acquired by the United States, otherwise than in the punishment of crimes whereof the party shall have been duly convicted.

APPROVED, June 19, 1862.

CHAP. CXII.—An Act to change the location of the Port of Entry for the Puget Sound Collection District.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That from and after the first day of October, eighteen hundred and sixty-two, the port of Port Townsend, in the district of Puget Sound, in Washington Territory, is hereby abolished as a port of entry; and that Port Angelos be, and is hereby, established as the port of entry and delivery for the said district from and after the said date.

APPROVED, June 19, 1862.

CHAP. CXVI.—An Act to change the Port of Entry for the District of Brunswick, Georgia.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That from and after the first day of July, eighteen hundred and sixty-two, the port of entry for the district of Brunswick, Georgia, shall be Brunswick, and that Darien shall be abolished as the port of entry.

SEC. 2. *And be it further enacted*, That there shall be a deputy collector appointed, according to law, to reside at Darien, and to exercise such powers as the Secretary of the Treasury, under the revenue laws, may prescribe.

APPROVED, June 20, 1862.

CHAP. CXIX.—An Act to provide Internal Revenue to support the Government and to pay Interest on the Public Debt.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That for the purpose of superintending the collection of internal duties, stamp duties, licenses, or taxes imposed by this act, or which may be hereafter imposed, and of assessing the same, an office is hereby created in the Treasury Department to be called the office of the Commissioner of Internal Revenue; and the President of the United States is hereby authorized to nominate, and, with the advice and consent of the Senate, to appoint, a Commissioner of Internal Revenue, with an annual salary of four thousand dollars, who shall be charged, and hereby is charged, under the direction of the Secretary of the Treasury, with preparing all the instructions, regulations, directions, forms, blanks, stamps, and licenses, and distributing the same, or any part thereof, and all other matters pertaining to the assessment and collection of the duties, stamp duties, licenses, and taxes, which may be necessary to carry this act into effect, and with the general superintendence of his office, as aforesaid, and shall have authority, and hereby is authorized and required, to provide proper and sufficient stamps or dies for expressing and denoting the several stamp duties, or the amount thereof in the case of percentage duties, imposed by this act, and to alter and renew or replace such stamps from time to time, as occasion shall require; and the Secretary of the Treasury may assign to the office of the Commissioner of Internal Revenue such number of clerks as he may deem necessary, or the exigencies of the public service may require, and the privilege of franking all letters and documents pertaining to the duties of his office, and of receiving free of postage all such letters and documents, is hereby extended to said commissioner.

GENERAL PROVISIONS.

SEC. 2. *And be it further enacted*, That for the purpose of assessing, levying, and collecting the duties or taxes hereinafter prescribed by this act, the President of the United States be, and he is hereby, authorized to divide, respectively, the States and Territories of the United States and the District of Columbia into convenient collection districts, and to nominate, and, by and with the advice and consent of the Senate, to appoint an assessor and a collector for each such district, who shall be residents within the same: *Provided*, That any of said States and Territories, and the District of Columbia, may, if the President shall deem it proper, be erected into and included in one district: *Provided*, That the number of districts in any State shall not exceed the number of Representatives to which such State shall be entitled in the present Congress, except in such States as are entitled to an increased representation in the Thirty-Eighth Congress, in which States the number of districts shall not exceed the number of Representatives to which any such State may be so entitled: *And provided further*, That in the State of California the President may establish a number of districts not exceeding the number of Senators and Representatives to which said State is entitled in the present Congress.

SEC. 3. *And be it further enacted*, That each of the assessors shall divide his district into a convenient number of assessment districts, subject to such regulations and limitations as may be imposed by the Commissioner of Internal Revenue, within each of which he shall appoint one assistant assessor, who shall be resident therein; and each assessor and assistant assessor so appointed, and accepting the appointment, shall, before he enters on the duties of his appointment, take and subscribe, before some competent magistrate or some collector, to be appointed by virtue of this act, (who is hereby empowed to administer the same,) the following oath or affirmation, to wit: "I, A B, do swear or affirm (as the case may be) that I will bear true faith and allegiance to the United States of America, and will support the Constitution thereof, and that I will, to the best of my knowledge, skill, and judgment diligently and faithfully execute the office and duties of assessor for (naming the assessment district) without favor or partiality, and that I will do equal right and justice in every case in which I shall act as assessor." And a certificate of such oath or affirmation shall be delivered to the collector of the district for which such assessor or assistant assessor shall be appointed. And every assessor or assistant assessor acting in the said office without having taken the said oath or affirmation shall forfeit and pay one hundred dollars, one moiety thereof to the use of the United States, and the other moiety thereof to him who shall first sue for the same, with costs of suit.

SEC. 4. *And be it further enacted*, That before any such collector shall enter upon the duties of his office, he shall execute a bond for such amount as shall be prescribed by the Commissioner of Internal Revenue, under the direction of the Secretary of the Treasury, with not less than five sureties to be approved as sufficient by the Solicitor of the Treasury, containing the condition that said collector shall faithfully perform the duties of his office according to law, and shall justly and faithfully account for and pay over to the United States, in compliance with the order or regulations of the Secretary of the Treasury, all public moneys which may come into his hands or possession; which bond shall be filed in the office of the First Comptroller of the Treasury. And such collector[s] shall, from time to time, renew, strengthen, and increase their official bonds, as the Secretary of the Treasury may direct.

SEC. 5. *And be it further enacted*, That each collector shall be authorized to appoint, by an instrument of writing under his hand, as many deputies as he may think proper, to be by him compensated for their services, and also to revoke any such appointment, giving such notice thereof as the Commissioner of Internal Revenue shall prescribe; and may require bonds or other securities, and accept the same from such deputy; and each such deputy shall have the like authority, in every respect, to collect the duties and taxes levied or assessed within the portion of the district assigned to him which is by this act vested in the collector himself; but each collector shall in every respect be responsible both to the United States, and to individuals, as the case may be, for all moneys collected, and for every act done as deputy collector by any of his deputies whilst acting as such, and for every omission of duty: *Provided*, That nothing herein contained shall prevent any collector from collecting himself the whole or any part of the duties and taxes so assessed and payable in his district.

SEC. 6. *And be it further enacted*, That it shall be the duty of any person or persons, partnerships, firms, associations, or corporations, made liable to any duty, license, stamp, or tax imposed by this act, when not otherwise and differently provided for, on or before the first day of August, eighteen hundred and sixty-two, and on or before the first Monday of May in each year thereafter, and in all other cases before the day of levy, to make a list or return to the assistant assessor of the district where located, of the amount of annual income, the articles or objects charged with a special duty or tax, the quantity of goods, wares, and merchandise made or sold, and charged with

a specific or ad valorem duty or tax, the several rates and aggregate amount according to the respective provisions of this act, and according to the forms and regulations to be prescribed by the Commissioner of Internal Revenue, under the direction of the Secretary of the Treasury, for which such person or persons, partnerships, firms, associations, or corporations are liable to be assessed under and by virtue of the provisions of this act.

SEC. 7. *And be it further enacted*, That the instructions, regulations, and directions, as hereinbefore mentioned, shall be binding on each assessor and his assistants, and on each collector and his deputies, in the performance of the duties enjoined by or under this act; pursuant to which instructions the said assessors shall, on the first day of August, eighteen hundred and sixty-two, and on the first Monday of May in each succeeding year, and from time to time thereafter, in accordance with this act, direct and cause the several assistant assessors to proceed through every part of their respective districts, and inquire after and concerning all persons being within the assessment districts where they respectively reside, owning, possessing, or having the care or management of any property, goods, wares, and merchandise, articles or objects liable to pay any duty, stamp or tax, including all persons liable to pay a license duty, under the provisions of this act, (by reference as well to any lists of assessment or collection taken under the laws of the respective States, as to any other records or documents, and by all other lawful ways and means, especially to the written list, schedule, or return required to be made out and delivered to an assistant assessor by all persons owning, possessing, or having the care or management of any property, as aforesaid, liable to duty or taxation,) and to value and enumerate the said objects of taxation, respectively, in the manner prescribed by this act, and in conformity with the regulations and instructions before mentioned.

SEC. 8. *And be it further enacted*, That if any person, owning, possessing, or having the care or management of property, goods, wares, and merchandise, articles or objects liable to pay any duty, tax, or license, shall fail to make and exhibit a written list when required, as aforesaid, and shall consent to disclose the particulars of any and all the property, goods, wares, and merchandise, articles and objects liable to pay any duty or tax, or any business or occupation liable to pay any license, as aforesaid, then, and in that case, it shall be the duty of the officer to make such list, which, being distinctly read, consented to, and signed, by the person so owning, possessing, or having the care and management as aforesaid, shall be received as the list of such person.

SEC. 9. *And be it further enacted*, That if any such person shall deliver or disclose to any assessor or assistant assessor appointed in pursuance of this act, and requiring a list or lists, as aforesaid, any false or fraudulent list or statement, with intent to defeat or evade the valuation or enumeration hereby intended to be made, such person so offending, and being thereof convicted on indictment found therefor in any circuit or district court of the United States held in the district in which such offense may be committed, shall be fined in a sum not exceeding five hundred dollars, at the discretion of the court, and shall pay all costs and charges of prosecution; and the valuation and enumeration required by this act shall, in all such cases, and in all cases of undervaluation or understatement in such lists or statements, be made, as aforesaid, upon lists, according to the form prescribed, to be made out by the assessors and assistant assessors, respectively; which lists the said assessors and assistant assessors are hereby authorized and required to make according to the best information they can obtain, and for the purpose of making which they are hereby authorized to enter into and upon all and singular the premises, respectively; and from the valuation and enumeration so made there shall be no appeal.

SEC. 10. *And be it further enacted*, That in case any person shall be absent from his or her place of residence at the time an assistant assessor shall call to receive the list of such person, it shall be the duty of such assistant assessor to leave at the place of residence of such person, with some person of suitable age and discretion, if such be present, otherwise to deposit in the nearest post office a written note or memorandum, addressed to such person, requiring him or her to present to such assessor the list or lists required by this act within ten days from the date of such note or memorandum.

SEC. 11. *And be it further enacted*, That if any person, on being notified or required, as aforesaid, shall refuse or neglect to give such list or lists within the time required, as aforesaid, it shall be the duty of the assessor for the assessment district within which such person shall reside, and he is hereby authorized and required, to enter into and upon the premises, if it be necessary, of such persons so refusing or neglecting, and to make, according to the best information which he can obtain, and on his own view and information, such lists of property, goods, wares, and merchandise, and all articles or objects liable to duty or taxation, owned or possessed, or under the care or management of such person, as are required by this act, including the amount, if any, due for license; and in case of refusal or neglect to make such lists, except in cases of sickness, the assessors shall thereupon add fifty per centum to the amount of the items thereof; and the lists, so made and subscribed by such assessor, shall be taken and reputed as good and sufficient lists of the persons and property for which such person is to be taxed for the purposes of this act; and the person so failing or neglecting, unless in case of sickness or failure to receive the notice, shall, moreover, forfeit and pay the sum of one hundred dollars, except where otherwise provided for, to be recovered for the use of the United States, with costs of suit.

SEC. 12. *And be it further enacted*, That whenever there shall be in any assessment district any property, goods, wares, and merchandise, articles, or objects, not owned or possessed by, or under the care or management of any person or persons within such district, and liable to be taxed as aforesaid, and no list of which shall have been transmitted to the assistant assessor in the manner provided by this act, it shall be the duty of the assistant assessor for such district, and he is hereby authorized and required to enter into and upon the premises where such property is situated, and take such view thereof as may be necessary, and to make lists of the same, according to the form prescribed, which lists, being subscribed by the said assessor, shall be taken and reputed as good and sufficient lists of such property, goods, wares, and merchandise, articles or objects, as aforesaid, under and for the purposes of this act.

SEC. 13. *And be it further enacted*, That the owners, possessors, or persons having the care or management of property, goods, wares, and merchandise, articles or objects, not lying or being within the assessment district in which they reside, shall be permitted to make out and deliver the lists thereof required by this act (provided the assessment district in which the said objects of duty or taxation are situated, is therein distinctly stated) at the time and in the manner prescribed to the assistant assessor of the assessment district wherein such persons reside. And it shall be the duty of the assistant assessor who receives any such list to transmit the same to the assistant assessor where such objects of taxation are situate, who shall examine such list; and if he approves the same, he shall return it to the assistant assessor from whom he received it, with his approval thereof; and if he fails to approve the same, he shall make such alterations therein as he may deem to be just and proper, and shall then return the said list, with such alterations therein or additions thereto, to the assistant assessor from whom he received the said list; and the assistant assessor, where the person liable to pay such tax resides, shall proceed in making the assessment of the tax upon the list by him so received, in all respects as if the said list had been made out by himself.

SEC. 14. *And be it further enacted*, That the lists aforesaid shall, where not otherwise specially provided for, be taken with reference to the day fixed for that purpose by this act, as aforesaid, and where duties accrue at other and different times, the lists shall be taken with reference to the time when said duties become due; and the assistant assessors, respectively, after collecting the said lists, shall proceed to arrange the same, and to make two general lists, the first of which shall exhibit, in alphabetical order, the names of all persons liable to pay any duty, tax, or license under this act residing within the assessment district, together with the value and assessment, or enumeration, as the case may require, of the objects liable to duty or taxation within such district for which each such person is liable, or for which any firm, company, or corporation is liable, with the amount of duty or tax payable thereon; and the second list shall exhibit, in alphabetical order, the names of all persons residing out of the collection district, owners of property within the district, together with the value and assessment or enumeration thereof, as the case may be, with the amount of duty or tax payable thereon as aforesaid. The forms of the said general list shall be devised and prescribed by the assessor, under the direction of the Commissioner of Internal Revenue, and lists taken according to such forms shall be made out by the assistant assessors and delivered to the assessor within thirty days after the day fixed by this act as aforesaid, requiring lists from individuals; or where duties, licenses, or taxes accrue at other and different times, the lists shall be delivered from time to time as they become due. And if any assistant assessor shall fail to perform any duty assigned by this act within the time prescribed by his precept, warrant, or other legal instructions, not being prevented therefrom by sickness or other unavoidable accident, every such assistant assessor shall be discharged from office, and shall, moreover, forfeit and pay two hundred dollars, to be recovered for the use of the United States, with costs of suit.

SEC. 15. *And be it further enacted*, That the assessors for each collection district shall, by advertisement in some public newspaper published in each county within said district, if any such there be, and by written or printed notifications, to be posted up in at least four public places within each assessment district, advertise all persons concerned of the time and place within said county when and where the lists, valuations, and enumerations made and taken within said county may be examined; and said lists shall remain open for examination for the space of fifteen days after notice shall have been given as aforesaid. And said notifications shall also state when and where within said county, after the expiration of said fifteen days, appeals will be received and determined relative to any erroneous or excessive valuations or enumerations by the assistant assessors. And it shall be the duty of the assessor for each collection district, at the time fixed for hearing such appeal as aforesaid, to submit the proceedings of the assistant assessors, and the lists taken and returned as aforesaid, to the inspection of any and all persons who may apply for that purpose. And the said assessor for each collection district is hereby authorized, at any time within fifteen days from and after the expiration of the time allowed for notification as aforesaid, to hear and determine, in a summary way, according to law and right, upon any and all appeals which may be exhibited against the proceedings of the said assistant assessors: *Provided*, That the question to be determined by the assessor, on an appeal respecting the valuation or enumeration of property, or objects liable to duty or taxation, shall be, whether the valuation complained of be or be not in a just relation or proportion to other valuations in the same assessment district, and whether the enumeration be or be not correct. And all appeals to the assessor, as aforesaid, shall be made in writing, and shall specify the particular cause, matter, or thing respecting which a decision is requested; and shall, moreover, state the ground or principle of inequality or error complained of. And the assessor shall have power to reëxamine and equalize the valuations as shall appear just and equitable; but no valuation or enumeration shall be increased without a previous notice, of at least five days, to the party interested, to appear and object to the same, if he judge proper; which notice shall be given by a note in writing, to be left at the dwelling-house, office, or place of business of the party by such assessor or an assistant assessor.

SEC. 16. *And be it further enacted*, That the said

assessors of each collection district, respectively, shall, immediately after the expiration of the time for hearing appeals, and, from time to time, as duties, taxes, or licenses become liable to be assessed, make out lists containing the sums payable according to the provisions of this act upon every object of duty or taxation in and for each collection district, which lists shall contain the name of each person residing within the said district, owning or having the care or superintendence of property lying within the said district which is liable to the said tax, or engaged in any business or pursuit requiring a license, when such person or persons are known, together with the sums payable by each; and where there is any property within any collection district liable to the payment of the said duty or tax, not owned or occupied by or under the superintendence of any person resident therein, there shall be a separate list of such property, specifying the sum payable, and the names of the respective proprietors, where known. And the assistant assessor making out any such separate list shall transmit therefrom to the assistant assessor where the persons liable to pay such tax reside or shall have their principal place of business, copies of the list of property held by persons so liable to pay such tax, to the end that the taxes assessed under the provisions of this act may be paid within the collection district where the persons liable to pay the same reside or may have their principal place of business. And in all other cases the said assessor shall furnish to the collectors of the several collection districts, respectively, within ten days after the time of hearing appeals, and from time to time thereafter as required, a certified copy of such list or lists for their proper collection districts; and in default of performance of the duties enjoined upon assessors by this section they shall severally and individually forfeit and pay the sum of five hundred dollars to the use of the United States, and, moreover, shall forfeit their compensation as assessors: *Provided*, That it shall be in the power of the Commissioner of Internal Revenue to exonerate any assessor as aforesaid from such forfeitures, in whole or in part, as to him shall appear just and equitable.

SEC. 17. *And be it further enacted*, That there shall be allowed and paid to the several assessors and assistant assessors, for their services under this act, to each assessor three dollars per day for every day employed in making the necessary arrangements and giving the necessary instructions to the assistant assessors for the valuation; and five dollars per day for every day employed in hearing appeals, revising valuations, and making out lists agreeably to the provisions of this act; and one dollar for every hundred taxable persons contained in the tax list, as delivered by him to said collectors, and forwarded to the Commissioner of Internal Revenue; to each assistant assessor three dollars for every day actually employed in collecting lists and making valuations, the number of days necessary for that purpose to be certified by the assessor and approved by the Commissioner of Internal Revenue; and one dollar for every hundred taxable persons contained in the tax list, as completed and delivered by him to the assessor. And the said assessors and assistant assessors, respectively, shall also be allowed their necessary and reasonable charges for stationery and blank-books used in the execution of their duties, and the compensation herein specified shall be in full for all expenses not otherwise particularly authorized: *Provided*, The Secretary of the Treasury shall be, and he is hereby, authorized to fix such additional rates of compensation to be made to assessors and assistant assessors in the States of California and Oregon and the Territories as may appear to him to be just and equitable in consequence of the greater cost of living and traveling in those States and Territories, and as may, in his judgment, be necessary to secure the services of competent and efficient men, provided the rates of compensation thus allowed shall not exceed the rates paid to similar officers in such States and Territories respectively. In cases where a collection district embraces more than a single congressional district, the Secretary of the Treasury may allow the assessor such compensation as he may deem necessary.

SEC. 18. *And be it further enacted*, That each collector, on receiving a list, as aforesaid, and from time to time as such lists may be received from the said assessors, respectively, shall subscribe three receipts; one of which shall be given on a full and correct copy of such list, which list shall be delivered by him to, and shall remain with, the assessor of his collection district, and shall be open to the inspection of any person who may apply to inspect the same; and the other two receipts shall be given on aggregate statements of the lists aforesaid, exhibiting the gross amount of taxes to be collected in his collection district, one of which aggregate statements and receipts shall be transmitted to the Commissioner of Internal Revenue, and the other to the First Comptroller of the Treasury; and all lists received from time to time, as aforesaid, shall be in like form and manner transmitted as aforesaid.

SEC. 19. *And be it further enacted*, That each of said collectors shall, within ten days after receiving his annual collection list from the assessors, respectively, as aforesaid, give notice, by advertisement published in each county in his collection district, in one newspaper printed in such county, if any such there be, and by notifications to be posted up in at least four public places in each county in his collection district, that the said duties have become due and payable, and state the time and place within said county at which he will attend to receive the same, which time shall not be less than ten days after such notification; and all persons who shall neglect to pay the duties and taxes so as aforesaid assessed upon them to the collector within the time specified, shall be liable to pay ten per centum additional upon the amount thereof, the fact of which liability shall be stated in the advertisement and notifications aforesaid. And with regard to all persons who shall neglect to pay as aforesaid, it shall be the duty of the collector, in person or by deputy, within twenty days after such neglect, to make a demand personally, or at the dwellings or usual places of business of such persons, if any they have, for payment of said duties or taxes, with the ten per centum additional aforesaid. And with respect to all such duties or taxes as are not included in the annual lists aforesaid, and all taxes and duties the collection of which is not otherwise provided for in this act, it shall be the duty of each collector, in person or by deputy, to demand payment thereof, in manner aforesaid, within ten days from and after receiving the list thereof from the assessor; and if the annual and other duties shall not be paid within ten days from and after such demand therefor, it shall be lawful for such collector or his deputies to proceed to collect the said duties or taxes, with ten per centum additional thereto, as aforesaid, by distraint and sale of the goods, chattels, or effects of the persons delinquent as aforesaid. And in case of such distraint it shall be the duty of the officer charged with the collection to make, or cause to be made, an account of the goods or chattels which may be distrained, a copy of which, signed by the officer making such distraint, shall be left with the owner or possessor of such goods, chattels, or effects, or at his or her dwelling, with some person of suitable age and discretion, with a note of the sum demanded, and the time and place of sale; and the said officer shall forthwith cause a notification to be published in some newspaper within the county wherein said distraint is made, if there is a newspaper published in said county, or to be publicly posted up at the post office, if there be one within five miles, nearest to the residence of the person whose property shall be distrained, and in not less than two other public places, which notice shall specify the articles distrained, and the time and place for the sale thereof, which time shall not be less than ten nor more than twenty days from the date of such notification, and the place proposed for sale not more than five miles distant from the place of making such distraint: *Provided*, That in any case of distraint for the payment of the duties or taxes aforesaid the goods, chattels, or effects so distrained shall and may be restored to the owner or possessor, if prior to the sale payment of the amount due or tender thereof shall be made to the proper officer charged with the collection of the full amount demanded, together with such fee for levying, and such sum for the necessary and reasonable expense of removing, advertising, and keeping the goods, chattels, or effects so distrained as may be prescribed by the Commissioner of Internal Revenue; but in case of nonpayment or tender, as aforesaid, the said officers shall proceed to sell the said goods, chattels, or effects at public auction, and shall and may retain from the proceeds of such sale the amount demandable for the use of the United States, with the necessary and reasonable expenses of distraint and sale, and a commission of five per centum thereon for his own use, rendering the overplus, if any there be, to the person whose goods, chattels, or effects shall have been distrained: *Provided*, That there shall be exempt from distraint the tools or implements of a trade or profession, one cow, arms, and provisions, and household furniture kept for use, and apparel necessary for a family.

SEC. 20. *And be it further enacted*, That in all cases where the property liable to distraint for duties or taxes under this act, may not be divisible, so as to enable the collector by a sale of part thereof to raise the whole amount of the tax, with all costs, charges, and commissions, the whole of such property shall be sold, and the surplus of the proceeds of the sale, after satisfying the duty or tax, costs and charges, shall be paid to the owner of the property, or his, her, or their legal representatives; or if he, she, or they cannot be found, or refuse to receive the same, then such surplus shall be deposited in the Treasury of the United States, to be there held for the use of the owner, or his, her, or their legal representatives, until he, she, or they shall make application therefor to the Secretary of the Treasury, who, upon such application, shall, by warrant on the Treasury, cause the same to be paid to the applicant. And if the property advertised for sale as aforesaid cannot be sold for the amount of the duty or tax due thereon, with the costs and charges, the collector shall purchase the same in behalf of the United States for an amount not exceeding the said tax or duty, with the costs and charges thereon. And all property so purchased may be sold by said collector under such regulations as may be prescribed by the Commissioner of Internal Revenue. And the collector shall render a distinct account of all charges incurred in the sale of such property, and shall pay into the Treasury the surplus, if any there be, after defraying the charges.

SEC. 21. *And be it further enacted*, That in any case where goods, chattels, or effects sufficient to satisfy the duties imposed by this act upon any person liable to pay the same, shall not be found by the collector or deputy collector, whose duty it may be to collect the same, he is hereby authorized to collect the same by seizure and sale of real estate; and the officer making such seizure and sale shall give notice to the person whose estate is proposed to be sold, by giving him in hand, or leaving at his last and usual place of abode, if he has any such within the collection district where said estate is situated, a notice, in writing, stating what particular estate is proposed to be sold, describing the same with reasonable certainty, and the time when and the place where said officer proposes to sell the same; which time shall not be less than ten nor more than twenty days from the time of giving said notice; and the said officer shall also cause a notification to the same effect to be published in some newspaper within the county where such seizure is made, if any such there be, and shall also cause a like notice to be posted up at the post office nearest to the place of residence of the person whose estate shall be so seized, and in two other public places within the county; and the place of said sale shall not be more than five miles distant from the estate seized. At the time and place appointed, the officer making such seizure shall proceed to sell the said estate at public auction, offering the same at a minimum price, including the amount of duties with the ten per centum additional thereon, and all charges for advertising, and an officer's fee of ten dollars. And if no person offers for said estate the amount of said minimum, the officer shall declare the same to be purchased by him for the United States, and shall deposit with the district attorney of the United States a deed thereof, as hereinafter specified and provided; otherwise the same shall be declared to be sold to the highest bidder. And said sale may

be adjourned by said officer for a period not exceeding five days, if he shall think it advisable so to do. If the amount bid shall not be then and there paid, the officer shall forthwith proceed to again sell said estate in the same manner. If the amount bid shall be then and there paid, the officer shall give his receipt therefor, if requested, and within five days thereafter he shall make out a deed of the estate so sold to the purchaser thereof, and execute the same in his official capacity, in the manner prescribed by the laws of the State in which said estate may [be] situated, in which said deed shall be recited the fact of said seizure and sale, with the cause thereof, the amount of duty for which said sale was made, and of all charges and fees, and the amount paid by the purchaser, and all his acts and doings in relation to said seizure and sale, and shall have the same ready for delivery to said purchaser, and shall deliver the same accordingly, upon request therefor. And said deed shall be prima facie evidence of the truth of the facts stated therein; and if the proceedings of the officer, as set forth, have been substantially in pursuance of the provisions of this act, shall be considered and operate as a conveyance to the purchaser of the title to said estate, but shall not affect the rights of third persons acquired previously to the claim of the United States under this act. The surplus, if any, arising from such sale shall be disposed of as provided in this act for like cases arising upon sales of personal property. And any person whose estate may be seized for duties, as aforesaid, shall have the same right to pay or tender the amount due, with all proper charges thereon, prior to the sale thereof, and thereupon to relieve his said estate from sale, as aforesaid, as is provided in this act for personal property similarly situated. And any collector or deputy collector may, for the collection of duties imposed upon any person by this act, and committed to him for collection, seize and sell the lands of such person situated in any other collection district within the State in which said officer resides; and his proceedings in relation thereto shall have the same effect as if the same were had in his proper collection district; and the owners, their heirs, executors, or administrators, or any person having an interest therein, or any person on their behalf, shall have liberty to redeem the land sold as aforesaid within one year from and after recording the said deed, upon payment to the purchaser, or in case he cannot be found in the county where the lands are situate, to the collector for the use of the purchaser, his heirs, or assigns, of the amount paid by the purchaser, with interest on the same at the rate of twenty per centum per annum. And it shall be the duty of every collector to keep a record of all sales of land made in his collection district, whether by himself or his deputies, in which shall be set forth the tax for which any such sale was made, the dates of seizure and sale, the name of the party assessed, and all proceedings in making said sale, the amount of fees and expenses, the name of the purchaser, and the date of the deed; which record shall be certified by the officer making the sale. And it shall be the duty of any deputy making sale, as aforesaid, to return a statement of all his proceedings to the collector, and to certify the record thereof. And in case of the death or removal of the collector, or the expiration of his term of office from any other cause, said record shall be deposited in the office of the clerk of the District Court of the United States for the district within which the said collector resided; and a copy of every such record, certified by the collector, or by the clerk, as the case may require, shall be evidence, in any court, of the truth of the facts therein stated. And when any lands sold as aforesaid shall be redeemed as hereinbefore provided, the collector or clerk, as the case may be, shall make an entry of the fact upon the record aforesaid, and the said entry shall be evidence of such redemption. And the claim of the Government to lands sold under and by virtue of the foregoing provisions shall be held to have accrued at the time of seizure thereof.

SEC. 22. *And be it further enacted*, That if any collector shall find upon any lists of taxes returned to him for collection property lying within his district which is charged with any specific or ad valorem tax or duty, but which is not owned, occupied, or superintended by some person known to such collector to reside or to have some place of business within the United States, such collector shall forthwith take such property into his custody, and shall advertise the same, and the tax charged upon the same, in some newspaper published in his district, if any shall be published therein, otherwise in some newspaper in an adjoining district, for the space of thirty days; and if the taxes thereon, with all charges for advertising, shall not be paid within said thirty days, such collector shall proceed to sell the same, or so much as is necessary, in the manner provided for the sale of other goods distrained for the nonpayment of taxes, and out of the proceeds shall satisfy all taxes charged upon such property, with the costs of advertising and selling the same. And like proceedings to those provided in the preceding section for the purchase and resale of property which cannot be sold for the amount of duty or tax due thereon shall be had with regard to property sold under the provisions of this section. And any surplus arising from any sale herein provided for shall be paid into the Treasury, for the benefit of the owner of the property. And the Secretary of the Treasury is authorized in any case where money shall be paid into the Treasury for the benefit of any owner of property sold as aforesaid, to repay the same, on proper proof being furnished that the person applying therefor is entitled to receive the same.

SEC. 23. *And be it further enacted*, That the several collectors shall, at the expiration of each and every month, after they shall, respectively, commence their collections, transmit to the Commissioner of Internal Revenue a statement of the collections made by them, respectively, within the month, and pay over monthly, or at such time or times as may be required by the Commissioner of Internal Revenue, the moneys by them respectively collected within the said term, and at such places as may be designated and required by the Commissioner of Internal Revenue; and each of the said collectors shall complete the collection of all sums annually assigned to him for collection, as aforesaid, shall pay over the same into the Treasury, and shall render his final account to the Treasury Department as often as he may be required, and within six months from and after the day when he shall have received the collection lists from the said assessors or assistant assessors, as aforesaid. And the Secretary of the Treasury is authorized to designate one or more depositories in each State, for the deposit and safe-keeping of the moneys collected by virtue of this act; and the receipt of the proper officer of such depository to a collector for the money deposited by him shall be a sufficient voucher for such collector in the settlement of his accounts at the Treasury Department; and the Commissioner of Internal Revenue may, under the direction of the Secretary of the Treasury, prescribe such regulations with reference to such deposits as he may deem necessary.

SEC. 24. *And be it further enacted*, That each collector shall be charged with the whole amount of taxes by him receipted, whether contained in lists delivered to him by the assessors, respectively, or delivered or transmitted to him by assistant assessors from time to time, or by other collectors; and shall be credited with the amount of duties or taxes contained in the lists transmitted in the manner above provided to other collectors, and by them receipted as aforesaid; and also for the duties or taxes of such persons as may have absconded, or become insolvent, prior to the day when the duty or tax ought, according to the provisions of this act, to have been collected: *Provided*, That it shall be proved to the satisfaction of the First Comptroller of the Treasury that due diligence was used by the collector, and that no property was left from which the duty or tax could have been recovered. And each collector shall also be credited with the amount of all property purchased by him for the use of the United States, provided he shall faithfully account for, and pay over, the proceeds thereof upon a resale of the same as required by this act.

SEC. 25. *And be it further enacted*, That if any collector shall fail either to collect or to render his account, or to pay over in the manner or within the times hereinbefore provided, it shall be the duty of the First Comptroller of the Treasury, and he is hereby authorized and required, immediately after such delinquency, to report the same to the Solicitor of the Treasury, who shall issue a warrant of distress against such delinquent collector and his sureties, directed to the marshal of the district, therein expressing the amount of the taxes with which the said collector is chargeable, and the sums, if any, which have been paid. And the said marshal shall, himself, or by his deputy, immediately proceed to levy and collect the sum which may remain due, by distress and sale of the goods and chattels, or any personal effects of the delinquent collector, giving at least five days' notice of the time and place of sale, in the manner provided by law for advertising sales of personal property on execution in the State wherein such collector resides; and furthermore, if such goods, chattels, and effects cannot be found sufficient to satisfy the said warrant, the said marshal or his deputy shall and may proceed to levy and collect the sum which remains due, by distress and sale of the goods and chattels, or any personal effects, of the surety or sureties of the delinquent collector, giving notice as hereinbefore provided. And the bill of sale of the officer of any goods, chattels, or other personal property, distrained and sold as aforesaid, shall be conclusive evidence of title to the purchaser, and prima facie evidence of the right of the officer to make such sale, and of the correctness of his proceedings in selling the same. And for want of goods and chattels, or other personal effects of such collector or his sureties, sufficient to satisfy any warrant of distress, issued pursuant to the preceding section of this act, the lands and real estate of such collector and his sureties, or so much thereof as may be necessary for satisfying the said warrant, after being advertised for at least three weeks in not less than three public places in the collection district, and in one newspaper printed in the county or district, if any there be, prior to the proposed time of sale, may and shall be sold at public auction by the marshal or his deputy, who, upon such sale, shall, as such marshal or deputy marshal, make and deliver to the purchaser of the premises so sold a deed of conveyance thereof, to be executed and acknowledged in the manner and form prescribed by the laws of the State in which said lands are situated, which said deed so made shall invest the purchaser with all the title and interest of the defendant or defendants named in said warrant existing at the time of seizure thereof. And all moneys that may remain of the proceeds of such sale after satisfying the said warrant of distress, and paying the reasonable costs and charges of sale, shall be returned to the proprietor of the lands or real estate sold as aforesaid.

SEC. 26. *And be it further enacted*, That each and every collector, or his deputy, who shall exercise or be guilty of any extortion or willful oppression, under color of this act, or shall knowingly demand other or greater sums than shall be authorized by this act, shall be liable to pay a sum not exceeding double the amount of damages accruing to the party injured, to be recovered by and for the use of the party injured, with costs of suit, and shall be dismissed from office, and be disqualified from holding such office thereafter; and each and every collector, or his deputies, shall give receipts for all sums by them collected and retained in pursuance of this act.

SEC. 27. *And be it further enacted*, That a collector or deputy collector, assessor or assistant assessor, shall be authorized to enter, in the day time, any brewery, distillery, manufactory, building, or place where any property, articles, or objects, subject to duty or taxation under the provisions of this act, are made, produced, or kept, within his district, so far as it may be necessary for the purpose of examining said property, articles, or objects, or inspecting the accounts required by this act from time to time to be made. And every owner of such brewery, distillery, manufactory, building, or place, or persons having the agency or superintendence of the same, who shall refuse to admit such officer, or to suffer him to examine said property, articles, or objects, or to inspect said accounts, shall, for every such refusal, forfeit and pay the sum of five hundred dollars.

SEC. 28. *And be it further enacted*, That if any

person shall forcibly obstruct or hinder a collector or deputy collector in the execution of this act, or of any power and authority hereby vested in him, or shall forcibly rescue, or cause to be rescued, any property, articles, or objects, after the same shall have been seized by him, or shall attempt or endeavor so to do, the person so offending shall, for every such offense, forfeit and pay the sum of five hundred dollars.

SEC. 29. *And be it further enacted*, That in case of the sickness or temporary disability of a collector to discharge such of his duties as cannot under existing laws be discharged by a deputy, they may be devolved by him upon one of his deputies: *Provided*, That information thereof be immediately communicated to the Secretary of the Treasury, and shall not be disapproved by him: *And provided further*, That the responsibility of the collector or his sureties to the United States shall not be affected or impaired thereby.

SEC. 30. *And be it further enacted*, That in case a collector shall die, resign, or be removed, the deputies of such collector shall continue to act until their successors are appointed; and the deputy of such collector longest in service at the time immediately preceding may and shall, until a successor shall be appointed, discharge all the duties of said collector; and for the official acts and defaults of such deputy a remedy shall be had on the official bond of the collector, as in other cases; and of two or more deputy collectors, appointed on the same day, the one residing nearest the residence of the collector at the time of his death, resignation, or removal, shall in like manner discharge the said duties until the appointment of a successor; and any bond or security taken of such deputy by such collector, pursuant to the fifth section of this act, shall be available to his heirs or representatives to indemnify them for loss or damage accruing from any act of the proper deputy so continuing or so succeeding to the duties of such collector.

SEC. 31. *And be it further enacted*, That it shall be the duty of the collectors aforesaid, or their deputies, in their respective districts, and they are hereby authorized, to collect all the duties and taxes imposed by this act, however the same may be designated, and to prosecute for the recovery of the same, and for the recovery of any sum or sums which may be forfeited by virtue of this act; and all fines, penalties, and forfeitures which may be incurred or imposed by virtue of this act, shall and may be sued for and recovered, in the name of the United States, or of the collector within whose district any such fine, penalty, or forfeiture shall have been incurred, in any proper form of action, or by any appropriate form of proceeding, before any circuit or district court of the United States for the district within which said fine, penalty, or forfeiture may have been incurred, or before any other court of competent jurisdiction; and where not otherwise and differently provided for, one moiety thereof shall be to the use of the United States, and the other moiety thereof to the use of the person who, if a collector or deputy collector, shall first inform of the cause, matter, or thing whereby any such fine, penalty, or forfeiture was incurred.

SEC. 32. *And be it further enacted*, That if any person, in any case, matter, hearing, or other proceeding in which an oath or affirmation shall be required to be taken or administered under and by virtue of this act, shall, upon the taking of such oath or affirmation, knowingly and willingly swear or affirm falsely, every person so offending shall be deemed guilty of perjury, and shall, on conviction thereof, be subject to the like punishment and penalties now provided by the laws of the United States for the crime of perjury.

SEC. 33. *And be it further enacted*, That separate accounts shall be kept at the Treasury of all moneys received from internal duties or taxes in each of the respective States, Territories, and collection districts; and the separate accounts shall be kept of the amount of each species of duty or tax that shall accrue, so as to exhibit, as far as may be, the amount collected from each source of revenue, with the moneys paid to the collectors and deputy collectors, and to the other officers employed in each of the respective States, Territories, and collection districts, an abstract in tabular form of which accounts it shall be the duty of the Secretary of the Treasury, annually, in the month of December, to lay before Congress.

SEC. 34. *And be it further enacted*, That there shall be allowed to the collectors appointed under this act, in full compensation for their services and that of their deputies in carrying this act into effect, a commission of four per centum upon the first hundred thousand dollars, and two per centum upon all sums above one hundred thousand dollars; such commissions to be computed upon the amounts by them respectively paid over and accounted for under the instructions of the Treasury Department: *Provided*, That in no case shall such commissions exceed the sum of ten thousand dollars per annum, except as hereinafter provided. And there shall be further allowed to each collector his necessary and reasonable charges for stationery and blank-books used in the performance of his official duties, which, after being duly examined and certified by the Commissioner of Internal Revenue, shall be paid out of the Treasury: *Provided*, That the Secretary of the Treasury be authorized to make such further allowance as may be reasonable in cases in which, from the territorial extent of the district, or from the amount of internal duties collected, it may seem just to make such allowance; but the whole compensation shall not exceed ten thousand dollars, except in collection districts embracing more than one congressional district.

SEC. 35. *And be it further enacted*, That when any duty or tax shall have been paid by levy and distraint, any person or persons or party who may feel aggrieved thereby may apply to the assessor of the district for relief, and exhibit such evidence as he, she, or they may have of the wrong done, or supposed to have been done, and after a full investigation the assessor shall report the case, with such parts of the evidence as he may judge material, including also such as may be regarded material by the party aggrieved, to the Commissioner of Internal Revenue, who may, if it shall be made to appear to him that such duty or tax was levied or collected, in whole or in part, wrongfully or unjustly, certify the amount wrongfully and unjustly levied or collected, and the same shall be refunded and paid to the person or persons or party as aforesaid, from any moneys in the Treasury not otherwise appropriated, upon the presentation of such certificate to the proper officer thereof.

SEC. 36. *And be it further enacted*, That in all cases of distraint and sale of goods, or chattels, for non-payment of taxes provided for in this act, the bill of sale of such goods or chattels given by the officer making such sale to the purchaser thereof shall be conclusive evidence of the right of the officer to make such sale, and of the correctness of his proceedings in selling the same.

SEC. 37. *And be it further enacted*, That if for any cause, at any time after this act goes into operation, the laws of the United States cannot be executed in a State or Territory of the United States, or any part thereof, or within the District of Columbia, it shall be the duty of the President, and he is hereby authorized, to proceed to execute the provisions of this act within the limits of such State or Territory, or part thereof, or District of Columbia, so soon as the authority of the United States therein shall be reëstablished, and to collect the sums which would have been due from the persons residing or holding property, goods, wares, or merchandise, object or article therein liable to any duty, license, or tax, with interest at the rate of six per centum per annum thereon from the time such duty, license, or tax ought to have been paid until paid in the manner and under the regulations prescribed in this act, so far as applicable, and where not applicable the assessment and levy shall be made and the time and manner of collection regulated by the instructions and directions of the Commissioner of Internal Revenue, under the direction of the Secretary of the Treasury.

SEC. 38. *And be it further enacted*, That the officers who may be appointed under this act, except within those districts within any State or Territory which have been or may be otherwise specially provided for by law, shall be, and hereby are, authorized, in all cases where the payment of such tax has not been assumed by the State, to perform all the duties relating to or regarding the assessment and collection of the direct tax imposed by an act entitled "An act to provide increased revenue from imports, to pay interest on the public debt, and for other purposes," approved August fifth, eighteen hundred and sixty-one, or any direct tax which may be hereafter enacted: *Provided*, That the sum of nineteen thousand three hundred and twelve dollars, direct tax, laid upon the Territory of Nebraska by said act, shall be paid and satisfied by deducting said amount from the appropriation for legislative expenses of the Territory of Nebraska for the year ending thirtieth of June, eighteen hundred and sixty-three, and no further claim shall be made by said Territory for legislative expenses for said year: *Provided further*, That the State of Tennessee shall have until the first day of December next to assume the payment of her portion of said tax.

SPIRITS, ALE, BEER, AND PORTER.

SEC. 39. *And be it further enacted*, That it shall be the duty of the collectors, within the respective districts, to grant licenses for distilling, which licenses shall contain the date thereof, the sum paid, and the time when the same will expire, and shall be granted to any person, being a resident of the United States, who shall desire the same, by application, in writing, to such collector, upon payment of the sum or duty payable by this act upon each license requested. And at the time of applying for said license, and before the same is issued, the person so applying shall give bond to the United States in such sum as shall be required by the collector, and with one or more sureties, to be approved by said collector, conditioned that in case any additional still or stills, or other implements to be used as aforesaid, shall be erected by him, his agent or superintendent, he will, before using, or causing or permitting the same to be used, report in writing to the said collector the capacity thereof, and information from time to time of any change in the form, capacity, ownership, agency, or superintendence, which all or either of the said stills or other implements may undergo; and that he will, from day to day, enter, or cause to be entered, in a book to be kept for that purpose, the number of gallons of spirits that may be distilled by said still or stills, or other implements, and also of the quantities of grain or other vegetable productions, or other substances put into the mash-tub, or otherwise used by him, his agent, or superintendent, for the purpose of producing spirits, which said book shall be open at all times during the day (Sundays excepted) to the inspection of the said collector, who may make any memorandums or transcripts therefrom; and that he will render to the said collector, on the first, tenth, and twentieth days of each and every month, or within five days thereafter, during the continuance of said license, an exact account, in writing, taken from his books, of the number of gallons of spirits distilled and sold, or removed for consumption or sale, by him, his agent, or superintendent, and the proof thereof, and also of the quantities of grain or other vegetable productions, or other substances, put into the mash-tub, or otherwise used by him, his agent or superintendent, for the purpose of producing spirits, for the period or fractional part of a month then next preceding the date of said report, which said report shall be verified by affidavit in the manner prescribed by this act; and that he will not sell or permit to be sold, or removed for consumption or sale, any spirits distilled by him under and by virtue of his said license, until the same shall have been inspected, gauged, and proved, and the quantity thereof duly entered upon his books as aforesaid; and that he will, at the time of rendering said account, pay to the said collector the duties which by this act are imposed on the spirits so distilled; and the said bond may be renewed or changed, from time to time, in regard to the amount and sureties thereof, according to the discretion of the collector.

SEC. 40. *And be it further enacted*, That the application in writing made by any person for a license for distilling, as aforesaid, shall state the place of distilling, the number and capacity of the still or stills, boiler or boilers, and the name of the person, firm, company, or corporation using the same; and any person making a false statement in either of the said particulars shall forfeit

and pay the sum of one hundred dollars, to be recovered with costs of suit.

SEC. 41. *And be it further enacted*, That, in addition to the duties payable for licenses herein provided, there shall be paid, on all spirits that may be distilled and sold, or removed for consumption or sale, of first proof, on and after the first day of August, eighteen hundred and sixty-two, the duty of twenty cents on each and every gallon, which shall be paid by the owner, agent, or superintendent of the still or other vessel in which the said spirituous liquors shall have been distilled; which duty shall be paid at the time of rendering the accounts of spirituous liquors so chargeable with duty, required to be rendered by this act: *Provided*, That the duty on spirituous liquors and all other spirituous beverages enumerated in this act shall be collected at no lower rate than the basis of first proof, and shall be increased in proportion for any greater strength than the strength of proof.

SEC. 42. *And be it further enacted*, That the term first proof used in this act and in section six of the act of March second, eighteen hundred and sixty-one, entitled "An act to provide for the payment of outstanding treasury notes, to authorize a loan, to regulate and fix the duties on imports, and for other purposes," shall be construed, and is hereby declared to mean, that proof of a liquor which corresponds to fifty degrees of Tralles' centesimal hydrometer, adopted by regulation of the Treasury Department, of August twelfth, eighteen hundred and fifty, at the temperature of sixty degrees of Fahrenheit's thermometer; and that in reducing the temperatures to the standard of sixty, and in levying duties on liquors above and below proof, the table of commercial values, contained in the manual for inspectors of spirits, prepared by professor McCulloh, under the superintendence of Professor Bache, and adopted by the Treasury Department, shall be used and taken as giving the proportions of absolute alcohol in the liquids gauged and proved according to which duties shall be levied.

SEC. 43. *And be it further enacted*, That there shall be designated by the collector in every assessment district where the same may be necessary one or more inspectors, who shall take an oath faithfully to perform their duties in such form as the Commissioner of Internal Revenue shall prescribe, and who shall be entitled to receive such fees as may be fixed and prescribed by said commissioner. And all spirits distilled as aforesaid by any person licensed as aforesaid shall, before the same is used, or removed for consumption or sale, be inspected, gauged, and proved by some person so as aforesaid designated for the performance of such duties, and who shall mark upon the cask or other package containing such spirits, in a manner to be prescribed by said commissioner, the quantity and proof of the contents of such cask or package, with the date of inspection and the name of the inspector. And any person who shall attempt fraudulently to evade the payment of duties upon any spirits distilled as aforesaid, by changing in any manner the mark upon any such cask or package, shall forfeit the sum of five hundred dollars for each cask or package so altered or changed, to be recovered as hereinbefore provided. And the fees of such inspector shall in all cases be paid by the owner of the spirits so inspected, gauged, and proved. And any such inspector who shall knowingly put upon any such cask or package any false or fraudulent mark shall be liable to the same penalty hereinbefore provided for each cask or package so fraudulently marked. And any person who shall use any cask or package so marked, for the purpose of selling spirits of a quality different from that so inspected, shall be subject to a like penalty for each cask or package so used.

SEC. 44. *And be it further enacted*, That the owner or owners of any distillery may erect, at his or their own expense, a warehouse of iron, stone, or brick, with metal or other fire-proof roof, to be contiguous to such distillery; and such warehouse, when approved by the collector, is hereby declared a bonded warehouse of the United States, and shall be used only for storing distilled spirits, and to be under the custody of the collector or his deputy. And the duty on the spirits stored in such warehouse shall be paid when and as it is sold or removed from such warehouse for sale.

SEC. 45. *And be it further enacted*, That every person who, on the first day of August, eighteen hundred and sixty-two, shall be the owner of any still, boiler, or other vessel, used or intended to be used for the purpose of distilling spirituous liquors, as hereinbefore provided, or who shall have such still, boiler, or other vessel under his superintendence, either as agent for the owner or on his own account, and every person who, after said day, shall use or intend to use any still, boiler, or other vessel, as aforesaid, either as owner, agent, or otherwise, shall from day to day make true and exact entry, or cause to be entered, in a book to be kept by him for that purpose, the number of gallons of spirituous liquors distilled by him, and also the number of gallons sold, or removed for consumption or sale, and the proof thereof, which book shall always be open in the daytime, Sundays excepted, for the inspection of the said collector, who may take any minutes, memorandums, or transcripts thereof, and shall render to said collector, on the first, tenth, and twentieth days of each and every month in each year, or within five days thereafter, a general account in writing, taken from his books, of the number of gallons of spirituous liquors distilled and sold, or removed for consumption or sale, and the proof thereof, for the period or fractional part of a month preceding said day, or for such portion thereof as may have elapsed from the date of said entry and report to the said day which shall next ensue; and shall also keep a book or books, in a form to be prescribed by the Commissioner of Internal Revenue, and to be open at all seasonable hours for inspection by the collector and assessor of the district, wherein shall be entered, from day to day, the quantities of grain, or other vegetable productions, or other substances put into the mash-tub by him, his agent, or superintendent, for the purpose of producing spirits; and shall verify, or cause to be verified, the said entries, reports, books, and general accounts, by oath or affirmation, to be taken before the collector or some other officer authorized by the laws of the State to administer the same according to the form required by this act, where the same is prescribed; and shall also pay to the collector the duties which by this act ought to be paid on the spirituous liquors so distilled and sold, or removed for consumption or sale, and in said accounts mentioned, at the time of rendering an account thereof.

SEC. 46. *And be it further enacted*, That the collector of any district may grant a permit to the owner or owners of any distillery within his district to send or ship any spirits, the product of said distillery, after the quantity and proof thereof shall have been ascertained by inspection according to the provisions of this act, to any place without said district, and within the United States; and in such case the bill of lading or receipt (which shall be in such form as the Commissioner of Internal Revenue may direct) of the same shall be taken in the name of the collector of the district in which the distillery is situate, and the spirits aforesaid shall be consigned, in such bill of lading or receipt, to the collector of the district in which the place is situate, whither the spirits is sent or shipped, and the amount of duties upon said spirits shall be stated in the receipt; and upon the arrival of the spirits, and upon the demand of the collector aforesaid, the agent of the distillery (and the name of the agent, for the convenience of the collector, shall always appear in the bill of lading or receipt) shall pay the duties upon the said spirits, with the expense of freight, and every other expense which has accrued thereupon; and the said collector, upon the payment of the duties aforesaid, shall deliver the bill of lading or receipt and the spirits to the agent of the said distillery; and if the duties are not paid as aforesaid, then the said spirits shall be stored at the risk and cost of the owner or agent thereof, who shall pay an addition of ten per centum thereupon; and all the general provisions of this act in reference to liens, penalties, and forfeitures, as also in reference to the collection, shall apply thereto, and be enforced by the collector of the district in which the spirits may be: *Provided*, That no permit shall be granted, under this section, for a quantity less than fifty barrels: *And provided further*, That the Commissioner of Internal Revenue, under the direction of the Secretary of the Treasury, may make such further regulations, and require such further securities, as he may deem proper in order to protect the revenue, and to carry out the spirit and intent of this section.

SEC. 47. *And be it further enacted*, That distilled spirits may be removed from the place of manufacture for the purpose of being exported, or for the purpose of being redistilled for export, and refined coal oil may be removed for the purpose of being exported, after the quantity of spirits or oil so removed shall have been ascertained by inspection, according to the provisions of this act, upon and with the written permission of the collector or deputy collector of the district, without payment of the duties thereon previous to such removal, the owner thereof having first given bond to the United States, with sufficient sureties, in the manner and form and under regulations prescribed by the Commissioner of Internal Revenue, and in at least double the amount of said duties, to export the said spirits or oil or pay the duties thereon within such time as may be prescribed by the commissioner, which time shall be stated in said bond: *Provided*, That any person desiring to give such bond shall first make oath, before the collector or deputy collector to whom he may apply for a permit to remove any such spirits or oil, in manner and form to be prescribed by said commissioner, that he intends to export such liquors or oil, and that he desires to obtain said permit for no other purpose whatever; and any collector or deputy collector is hereby authorized to administer such oath: *And provided further*, That no such removal shall be permitted where the amount of duties does not exceed the sum of three hundred dollars, nor in any case where the person desiring such permission has failed to perform the obligation of any bond previously given to the United States for the removal of any such articles, until the same shall have been fully kept and performed. And the collector of the district in which any such bond may be given is authorized to cancel said bond on payment of said duties, with interest thereon, at a rate to be fixed by said Commissioner, and all proper charges, if said liquors or oil shall not have been exported, or upon satisfactory proof that the same have been duly exported as aforesaid. And in case of the breach of the obligation of any such bond, the same shall be forthwith forwarded by the collector of the district to the Commissioner of Internal Revenue, to be by him placed in the hands of the First Comptroller of the Treasury, who shall cause the same proceedings to be taken thereon, for the purpose of collecting the duties, interest, and charges aforesaid, as are provided in this act in case of a delinquent collector.

SEC. 48. *And be it further enacted*, That the entries made in the books of the distiller, required to be kept in the foregoing section, shall, on the first, tenth, and twentieth days of each and every month, or within five days thereafter, be verified by oath or affirmation, to be taken as aforesaid, of the person or persons by whom such entries shall have been made, which oath or affirmation shall be certified at the end of such entries by the collector or officer administering the same, and shall be, in substance, as follows: "I do swear (or affirm) that the foregoing entries were made by me on the respective days specified, and that they state, according to the best of my knowledge and belief, the whole quantity of spirituous liquors distilled and sold, or removed for consumption or sale, at the distillery owned by ———, in the county of ———, amounting to —— gallons, according to proof prescribed by the laws of the United States."

SEC. 49. *And be it further enacted*, That the owner, agent, or superintendent aforesaid, shall, in case the original entries required to be made in his books by this act shall not have been made by himself, subjoin to the oath or affirmation of the person by whom they were made the following oath or affirmation, to be taken as aforesaid: "I do swear (or affirm) that, to the best of my knowledge and belief, the foregoing entries are just and true, and that I have taken all the means in my power to make them so."

SEC. 50. *And be it further enacted*, That on and after the first day of August, eighteen hundred and sixty-two, there shall be paid on all beer, lager beer, ale, porter, and other similar fermented liquors by whatever name such liquors may be called, a duty of one dollar for each and every barrel containing not more than thirty-one gallons, and at a like rate for any other quantity or for fractional parts of a barrel, which shall be brewed or manufactured and sold or removed for consumption or sale within the United States or the Territories thereof, or within the District of Columbia, after that day; which duty shall be paid by the owner, agent, or superintendent of the brewery or premises in which such fermented liquors shall be made, and shall be paid at the time of rendering the accounts of such fermented liquors so chargeable with duty, as required to be rendered by the following section of this act: *Provided*, That fractional parts of a barrel shall be halves, quarters, eighths, and sixteenths, and any fractional part containing less than one sixteenth shall be accounted one sixteenth; more than one sixteenth, and not more than one eighth, shall be accounted one eighth; more than one eighth, and not more than one quarter, shall be accounted one quarter; more than one quarter, and not more than one half, shall be accounted one half; more than one half, shall be accounted one barrel.

SEC. 51. *And be it further enacted*, That every person who, on said first day of August, eighteen hundred and sixty-two, shall be the owner or occupant of any brewery or premises used or intended to be used for the purpose of brewing or making such fermented liquors, or who shall have such premises under his control or superintendence, as agent for the owner or occupant, or shall have in his possession or custody any vessel or vessels intended to be used on said premises in the manufacture of beer, lager beer, ale, porter, or other similar fermented liquors, either as owner, agent, or otherwise, shall, from day to day, enter or cause to be entered in a book to be kept by him for that purpose, and which shall be open at all times, except Sundays, between the rising and setting of the sun, for the inspection of said collector, who may take any minutes or memorandums or transcripts thereof, the quantities of grain, or other vegetable productions or other substances, put into the mash-tub, or otherwise used for the purpose of producing beer, or for any other purpose, and the quantity or number of barrels and fractional parts of barrels of fermented liquors made and sold, or removed for consumption or sale, keeping separate account of the several kinds and descriptions; and shall render to said collector, on the first day of each month in each year, or within ten days thereafter, a general account, in writing, taken from his books, of the quantities of grain, or other vegetable productions or other substances, put into the mash-tub, or otherwise used, for the purpose of producing beer, or for any other purpose, and the quantity or number of barrels and fractional parts of barrels of each kind of fermented liquors made and sold, or removed for consumption or sale, for one month preceding said day; and shall verify or cause to be verified the said entries, reports, books, and general accounts, on oath or affirmation, to be taken before the collector or some officer authorized by the laws of the State to administer the same according to the form required by this act where the same is prescribed; and shall also pay to the said collector the duties which, by this act, ought to be paid on the liquor made and sold, or removed for consumption or sale, and in the said accounts mentioned, at the time of rendering the account thereof, as aforesaid. But where the manufacturer of any beer, lager beer, or ale, manufactures the same in one collection district, and owns or hires a depot or warehouse for the storage and sale of such beer, lager beer, or ale in another collection district, he may, instead of paying to the collector of the district where the same was manufactured the duties chargeable thereon, present to such collector or his deputy an invoice of the quantity or number of barrels about to be removed for the purpose of storage and sale, specifying in such invoice, with reasonable certainty, the depot or warehouse in which he intends to place such beer, lager beer, or ale; and thereupon such collector or deputy shall indorse on such invoice his permission for such removal, and shall at the same time transmit to the collector of the district in which such depot or warehouse is situated a duplicate of such invoice; and thereafter the manufacturer of the beer, lager beer, or ale so removed shall render the same account, and pay the same duties, and be subject to the same liabilities and penalties as if the beer, lager beer, or ale so removed had been manufactured in the district. The Commissioner of Internal Revenue may prescribe such rules as he may deem necessary for the purpose of carrying the provisions of this section into effect.

SEC. 52. *And be it further enacted*, That the entries made in the books required to be kept by the foregoing section shall, on said first day of each and every month, or within ten days thereafter, be verified by the oath or affirmation, to be taken as aforesaid, of the person or persons by whom such entries shall have been made, which oath or affirmation shall be certified at the end of such entries by the collector or officer administering the same, and shall be, in substance, as follows: "I do swear (or affirm) that the foregoing entries were made by me on the respective days specified, and that they state, according to the best of my knowledge and belief, the whole quantity of fermented liquors either brewed or brewed and sold at the brewery owned by ——, in the county of ——, amounting to —— barrels."

SEC. 53. *And be it further enacted*, That the owner, agent, or superintendent aforesaid shall, in case the original entries required to be made in his books shall not have been made by himself, subjoin to the oath or affirmation the following oath or affirmation, to be taken as aforesaid: "I do swear (or affirm) that, to the best of my knowledge and belief, the foregoing entries are just and true, and that I have taken all the means in my power to make them so."

SEC. 54. *And be it further enacted*, That the owner, agent, or superintendent of any vessel or vessels used in making fermented liquors, or of any still, boiler, or other vessel used in the distillation of spirits on which duty is payable, who shall neglect or refuse to make true and exact entry and report of the same, or to do, or cause to be done, any of the things by this act required to be done as aforesaid, shall forfeit for every such neglect or refusal all the liquors and spirits made by or for him, and all the vessels used in making the same, and the stills, boilers, and other vessels used in distillation, together with the sum of five hundred dollars, to be recovered with costs of suit; which said liquors or spirits, with the vessels containing the same, with all the vessels used in making the same, may be seized by any collector of internal duties, and held by him until a decision shall be had thereon according to law: *Provided*, That such seizure be made within thirty days after the cause for the same may have occurred, and that proceedings to enforce said forfeiture shall have been commenced by such collector within twenty days after the seizure thereof. And the proceedings to enforce said forfeiture of said property shall be in the nature of a proceeding in rem, in the circuit or district court of the United States for the district where such seizure is made, or in any other court of competent jurisdiction.

SEC. 55. *And be it further enacted*, That in all cases in which the duties aforesaid, payable on spirituous liquors distilled and sold, or removed for consumption or sale, or beer, lager beer, ale, porter, and other similar fermented liquors, shall not be paid at the time of rendering the account of the same, as herein required, the person or persons chargeable therewith shall pay, in addition, ten per centum on the amount thereof; and, until such duties with such addition shall be paid, they shall be and remain a lien upon the distillery where such liquors have been distilled, or the brewery where such liquors have been brewed, and upon the stills, boilers, vats, and all other implements thereto belonging, until the same shall have been paid; and in case of refusal or neglect to pay said duties, with the addition, within ten days after the same shall have become payable, the amount thereof may be recovered by distraint and sale of the goods, chattels, and effects of the delinquent; and, in case of such distraint, it shall be the duty of the officer charged with the collection to make, or cause to be made, an account of the goods, chattels, or effects which may be distrained, a copy of which, signed by the officer making such distraint, shall be left with the owner or possessor of such goods, chattels, or effects, at his, her, or their dwelling, with a note of the sum demanded, and the time and place of sale; and said officer shall forthwith cause a notification to be published in some newspaper, if any there be, within the county, and publicly posted up at the post office nearest to the residence of the person whose property shall be distrained, or at the court-house of the same county, if not more than ten miles distant, which notice shall specify the articles distrained, and the time and place proposed for the sale thereof, which time shall not be less than ten days from the date of such notification, and the place proposed for sale not more than five miles distant from the place of making such distraint: *Provided*, That in every case of distraint for the payment of the duties aforesaid, the goods, chattels, or effects so distrained may and shall be restored to the owner or possessor if, prior to the sale thereof, payment or tender thereof shall be made to the proper officer charged with the collection, of the full amount demanded, together with such fee for levying and advertising, and such sum for the necessary and reasonable expenses of removing and keeping the goods, chattels, and effects so distrained as may be allowed in like cases by the laws or practice of the State or Territory wherein the distraint shall have been made; but in case of non-payment or neglect to tender as aforesaid, the said officer shall proceed to sell the said goods, chattels, and effects at public auction, after due notice of the time and place of sale, and may and shall retain from the proceeds of such sale the amount demandable for the use of the United States, with the said necessary and reasonable expenses of said distraint and sale, as aforesaid, and a commission of five per centum thereon for his own use; rendering the overplus, if any there be, to the person whose goods, chattels, and effects shall have been distrained.

SEC. 56. *And be it further enacted*, That every person licensed as aforesaid to distill spirituous liquors, or licensed as a brewer, shall, once in each month, upon the request of the assessor or assistant assessor for the district in which his business as a distiller or brewer may be carried on, respectively, furnish the said assessor or assistant assessor with an abstract of the entries upon his books, herein provided to be made, showing the amount of spirituous liquor distilled and sold, or removed for consumption or sale, or of beer, lager beer, ale, porter, or other fermented liquor made and sold, or removed for consumption or sale, during the preceding month, respectively; the truth and correctness of which abstract shall be verified by the oath of the party so furnishing the same. And the said assessor or assistant assessor shall have the right to examine the books of such person for the purpose of ascertaining the correctness of such abstract. And for any neglect to furnish such abstract when requested, or refusal to furnish an examination of the books as aforesaid, the person so neglecting shall forfeit the sum of five hundred dollars.

LICENSES.

SEC. 57. *And be it further enacted*, That from and after the first day of August, eighteen hundred and sixty-two, no person, association of persons, or corporation shall be engaged in, prosecute, or carry on, either of the trades or occupations mentioned in section sixty-four of this act, until he or they shall have obtained a license therefor in the manner hereinafter provided.

SEC. 58. *And be it further enacted*, That every person, association of persons, partnership or corporation, desiring to obtain a license to engage in any of the trades or occupations named in the sixty-fourth section of this act, shall register with the assistant assessor of the assessment district in which he shall design to carry on such trade or occupation, first, his or their name or style; and in case of an association or partnership, the names of the several persons constituting such association or partnership and their places of residence; second, the trade or occupation for which a license is desired; third, the place where such trade or occupation is to be carried on; fourth, if

a rectifier, the number of barrels he designs to rectify; if a peddler, whether he designs to travel on foot, or with one, two, or more horses; if an innkeeper, the yearly rental of the house and property to be occupied for said purpose; or, if not rented, the assistant assessor shall value the same. All of which facts shall be returned duly certified by such assistant assessor, both to the assessor and collector of the district; and thereupon, upon payment to the collector or deputy collector of the district the amount as hereinafter provided, such collector or deputy collector shall make out and deliver a license for such trade or occupation, which license shall continue in force for one year, at the place or premises described therein.

SEC. 59. *And be it further enacted*, That if any person or persons shall exercise or carry on any trade or business hereinafter mentioned for the exercising or carrying on of which trade or business a license is required by this act, without taking out such license as is in that behalf required, he, she, or they shall, for every such offense, respectively, forfeit a penalty equal to three times the amount of the duty or sum of money imposed for such license, one moiety thereof to the use of the United States, the other moiety to the use of the person who, if a collector, shall first discover, and if other than a collector, shall first give information of the fact whereby said forfeiture was incurred.

SEC. 60. *And be it further enacted*, That in every license to be taken out under or by authority of this act shall be contained and set forth the purpose, trade, or business for which such license is granted, and the true name and place of abode of the person or persons taking out the same; if for a rectifier, the quantity of spirits authorized to be rectified; if by a peddler, whether authorized to travel on foot, or with one, or two, or more horses, the time for which such license is to run, and the true date or time of granting such license, and—except in the case of auctioneers and peddlers—the place at which the trade or business for which such license is granted shall be carried on: *Provided*, That a license granted under this act shall not authorize the person or persons, association or corporation mentioned therein, to exercise or carry on the trade or business specified in such license in any other place than that mentioned therein, but nothing herein contained shall prohibit the storage of goods, wares, or merchandise in other places than the place of business.

SEC. 61. *And be it further enacted*, That in every case where more than one of the pursuits, employments, or occupations hereinafter described, shall be pursued or carried on in the same place by the same person at the same time, except as therein mentioned, license must be taken out for each according to the rates severally prescribed.

SEC. 62. *And be it further enacted*, That no auctioneer shall be authorized by virtue of his license as such auctioneer to sell any goods or other property at private sale; and if any such person shall sell any such goods or commodities, as aforesaid, otherwise than by auction, without having taken out such license as aforesaid for that purpose, he or she shall be subject and liable to the penalty in that behalf imposed upon persons dealing in or retailing, trading, or selling any such goods or commodities without license, notwithstanding any license to him or her before granted, as aforesaid, for the purpose of exercising or carrying on the trade or business of an auctioneer, or selling any goods or chattels, lands, tenements, or hereditaments by auction, anything herein contained to the contrary notwithstanding: *Provided always*, That where such goods or commodities as aforesaid are the property of any person or persons duly licensed to deal in or retail, or trade in, or sell the same, such person or persons having made lawful entry of his, her, or their house or premises for such purpose, it shall and may be lawful for any person exercising or carrying on the trade or business of an auctioneer, or selling any goods or chattels, lands, tenements, or hereditaments, by auction as aforesaid, being duly licensed for that purpose, to sell such goods or commodities as aforesaid, at auction, for and on behalf of such person or persons, and upon his, her, or their entered house or premises, without taking out a separate license for such sale. The provisions of this section shall not apply to judicial or executive officers making auction sales by virtue of any judgment or decree of any court, nor public sales made by executors and administrators.

SEC. 63. *And be it further enacted*, That upon the death of any person or persons licensed under or by virtue of this act, or upon the removal of any such person or persons from the house or premises at which he, she, or they were authorized by such license to exercise or carry on the trade or business mentioned in such license, it shall and may be lawful for the person or persons authorized to grant licenses to authorize and empower, by indorsement on such license, or otherwise, as the Commissioner of Internal Revenue shall direct, the executors or administrators, or the wife or child of such deceased person, or the assignee or assigns of such person or persons so removing as aforesaid, who shall be possessed of and occupy the house or premises before used for such purpose as aforesaid, in like manner to exercise or carry on the same trade or business mentioned in such license, in or upon the same house or premises at which such person or persons as aforesaid deceased, or removing as before mentioned, by virtue of such license to him, her, or them, in that behalf granted, before exercised or carried on such trade or business for or during the residue of the term for which such license was originally granted, without taking out any fresh license or payment of any additional duty, or any fee thereupon for the residue of such term, and until expiration thereof: *Provided always*, That a fresh entry of the premises at which such trade or business shall continue to be so exercised or carried on as aforesaid shall thereupon be made by and in the name or names of the person or persons to whom such authority as aforesaid shall be granted.

SEC. 64. *And be it further enacted*, That on and after the first day of August, eighteen hundred and sixty-two, for each license granted the sum herewith stated shall be respectively and annually paid. Any number of persons carrying on such business in copartnership may transact such business at such place under such license, and not otherwise.

1. Bankers shall pay one hundred dollars for each license. Every person shall be deemed a banker within the meaning of this act who keeps a place of business where credits are opened in favor of any person, firm, or corporation, by the deposit or collection of money or currency, and the same, or any part thereof, shall be paid out or remitted upon the draft, check, or order of such creditor, but not to include incorporated banks or other banks legally authorized to issue notes as circulation, nor agents for the sale of merchandise for account of producers or manufacturers.

2. Auctioneers shall pay twenty dollars for each license. Every person shall be deemed an auctioneer within the meaning of this act whose occupation it is to offer property for sale to the highest or best bidder.

3. Wholesale dealers in liquors of any and every description, including distilled spirits, fermented liquors, and wines of all kinds, shall pay one hundred dollars for each license. Every person, other than the distiller, or brewer, who shall sell, or offer for sale, any such liquors or wines in quantities of more than three gallons at one time, to the same purchaser, shall be regarded as a wholesale dealer in liquors within the meaning of this act.

4. Retail dealers in liquors, including distilled spirits, fermented liquors, and wines of every description, shall pay twenty dollars for each license. Every person who shall sell or offer for sale such liquors in less quantities than three gallons at one time, to the same purchaser, shall be regarded as a retail dealer in liquors under this act. But this shall not authorize any spirits, liquors, wines, or malt liquors to be drank on the premises.

5. Retail dealers shall pay ten dollars for each license. Every person whose business or occupation is to sell or offer to sell groceries, or any goods, wares, or merchandise, of foreign or domestic production, in less quantities than a whole original piece or package at one time, to the same person, (not including wines, spirituous or malt liquors, but not excluding drugs, medicines, cigars, snuff, or tobacco,) shall be regarded as a retail dealer under this act.

6. Wholesale dealers shall pay fifty dollars for each license. Every person whose business or occupation is to sell, or offer to sell, groceries, or any goods, wares, or merchandise, of foreign or domestic production, by one or more original package or piece at one time, to the same purchaser, not including wines, spirituous or malt liquors, shall be deemed a wholesale dealer under this act; but having taken out a license as a wholesale dealer, such person may also sell, as aforesaid, as a retailer.

7. Pawnbrokers shall pay fifty dollars for each license. Every person whose business or occupation is to take or receive, by way of pledge, pawn, or exchange, any goods, wares, or merchandise, or any kind of personal property whatever, for the repayment or security of money lent thereon, shall be deemed a pawnbroker under this act.

8. Rectifiers shall pay twenty-five dollars for each license to rectify any quantity of spirituous liquors, not exceeding five hundred barrels or casks, containing not more than forty gallons to each barrel or cask of liquor so rectified; and twenty-five dollars additional for each additional five hundred such barrels, or any fractional part thereof. Every person who rectifies, purifies, or refines spirituous liquors or wines by any process, or mixes distilled spirits, whisky, brandy, gin, or wine with any other materials for sale under the name of whisky, rum, brandy, gin, wine, or any other name or names, shall be regarded as a rectifier under this act.

9. Distillers shall pay fifty dollars for each license, and every person or copartnership who distills or manufactures spirituous liquors for sale, shall be deemed a distiller under this act: *Provided*, That any person or copartnership distilling or manufacturing less than three hundred barrels per year shall pay twenty-five dollars for a license: *And provided further*, That no license shall be required for any still, stills, or other apparatus used by druggists and chemists for the recovery of alcohol for pharmaceutical and chemical purposes which has been used in those processes: *And provided further*, That distillers of apples and peaches, distilling or manufacturing less than one hundred and fifty barrels per year from the same, shall pay twelve and one half dollars for a license for that purpose, and for a greater quantity as other distillers.

10. Brewers shall pay fifty dollars for each license. Every person who manufactures fermented liquors of any name or description, for sale, from malt, wholly or in part, shall be deemed a brewer under this act: *Provided*, That any person who manufactures less than five hundred barrels per year shall pay the sum of twenty-five dollars for a license.

11. Hotels, inns, and taverns shall be classified and rated according to the yearly rental, or, if not rented, according to the estimated yearly rental of the house and property intended to be occupied for said purposes, as follows, to wit: All cases where the rent or the valuation of the yearly rental of said house and property shall be ten thousand dollars or more shall constitute the first class, and shall pay two hundred dollars for each license; where the rent or the valuation of the yearly rental shall be five thousand dollars and less than ten thousand dollars, the second class, and shall pay one hundred dollars for each license; where the rent or the valuation of the yearly rental shall be twenty-five hundred dollars and less than five thousand dollars, the third class, and shall pay seventy-five dollars for each license; where the rent or the valuation of the yearly rental shall be one thousand dollars and less than twenty-five hundred dollars, the fourth class, and shall pay fifty dollars for each license; where the rent or the valuation of the yearly rental shall be five hundred dollars and less than one thousand dollars, the fifth class, and shall pay twenty-five dollars for each license; where the rent or the valuation of the yearly rental shall be three hundred dollars and less than five hundred dollars, the sixth class, and shall pay fifteen dollars for each license; where the rent or the valuation of the yearly rental shall be one hundred dollars and less than three hundred dollars, the seventh class, and shall pay ten dollars for each license; where the rent or the valuation of the yearly rental shall be less than one hundred dollars, the eighth class, and shall pay five dollars for each license. Every place where

food and lodging are provided for and furnished to travelers and sojourners, in view of payment therefor, shall be regarded as a hotel, inn, or tavern under this act. All steamers and vessels upon waters of the United States, on board of which passengers or travelers are provided with food or lodging, shall be required to take out a license of the fifth class, as aforesaid, under this act. The rental or estimated rental shall be fixed and established by the assessor of the proper district at its proper value, but at not less than the actual rent agreed on by the parties: *Provided*, That if there be any fraud or collusion in the return of actual rent to the assessor, there shall be a penalty equal to double the amount of licenses required by this section, to be collected as other penalties under this act are collected.

12. Eating-houses shall pay ten dollars for each license. Every place where food or refreshments of any kind are provided for casual visitors and sold for consumption therein, shall be regarded as an eating-house under this act. But the keeper of any eating-house having taken out a license therefor shall not be required to take out a license as a confectioner, anything in this act to the contrary notwithstanding.

13. Brokers shall pay fifty dollars for each license. Any person whose business is to purchase or sell stocks, coined money, bank notes, or other securities for themselves or others, or who deals in exchanges relating to money, shall be regarded a broker under this act.

14. Commercial brokers shall pay fifty dollars for each license. Any person or firm, except one holding a license as wholesale dealer or banker, whose business it is, as the agent of others, to purchase or sell goods, or seek orders therefor, in original or unbroken packages or produce, or to manage business matters for the owners of vessels, or for the shippers or consignors of freight carried by vessels, or whose business it is to purchase, rent, or sell real estate for others, shall be regarded a commercial broker under this act.

15. Land warrant brokers shall pay twenty-five dollars for each license. Any person shall be regarded as a land warrant broker within the meaning of this act who makes a business of buying and selling land warrants, and of furnishing them to settlers or other persons under contracts to have liens upon the land procured by means of them according to the value agreed on for the warrants at the time they are furnished.

16. Tobacconists shall pay ten dollars for each license. Any person whose business it is to sell, at retail, cigars, snuff, or tobacco in any form, shall be regarded a tobacconist under this act. But wholesale and retail dealers, and keepers of hotels, inns, taverns, having taken out a license therefor, shall not be required to take out a license as tobacconists, anything in this act to the contrary notwithstanding.

17. Theaters shall pay one hundred dollars for each license. Every edifice erected for the purpose of dramatic or operatic representations, plays, or performances, and not including halls rented or used occasionally for concerts or theatrical representations, shall be regarded as a theater under this act.

18. Circuses shall pay fifty dollars for each license. Every building, tent, space, or area where feats of horsemanship or acrobatic sports are exhibited, shall be regarded as a circus under this act.

19. Jugglers shall pay for each license twenty dollars. Every person who performs by sleight of hand shall be regarded as a juggler under this act. The proprietors or agents of all other public exhibitions or shows for money, not enumerated in this section, shall pay for each license ten dollars: *Provided*, That no license procured in one State shall be held to authorize exhibitions in another State; and but one license shall be required under this act to authorize exhibitions within any one State.

20. Bowling-alleys and billiard-rooms shall pay according to the number of alleys or tables belonging to or used in the building or place to be licensed. When not exceeding one alley or table, five dollars for each license; and when exceeding one alley or table, five dollars for each additional alley or table. Every place or building where bowls are thrown or billiards played, and open to the public with or without price, shall be regarded as a bowling-alley or billiard-room, respectively, under this act.

21. Confectioners shall pay ten dollars for each license. Every person who sells at retail confectionery, sweetmeats, comfits, or other confects, in any building, shall be regarded as a confectioner under this act. But wholesale and retail dealers having taken out a license therefor, shall not be required to take out a license as confectioner, anything in this act to the contrary notwithstanding.

22. Horse dealers shall pay for each license the sum of ten dollars. Any person whose business it is to buy and sell horses or mules shall be regarded a horse dealer under this act: *Provided*, That if such horse dealer shall have taken out a license as a livery-stable keeper no new license shall be required.

23. Livery-stable keepers shall pay ten dollars for each license. Any person whose occupation or business is to keep horses for hire or to let shall be regarded as a livery-stable keeper under this act.

24. Cattle brokers shall pay for each license the sum of ten dollars. Any person whose business it is to buy and sell and deal in cattle, hogs, or sheep, shall be considered as a cattle broker.

25. Tallow chandlers and soap makers shall pay for each license the sum of ten dollars. Any person whose business it is to make or manufacture candles or soap shall be regarded a tallow chandler and soap maker under this act.

26. Coal-oil distillers shall pay for each license the sum of fifty dollars. Any person who shall refine, produce, or distill crude petroleum or rock oil, or crude coal oil, or crude oil made of asphaltum, shale, peat, or other bituminous substances, shall be regarded a coal-oil distiller under this act.

27. Peddlers shall be classified and rated as follows, to wit: when traveling with more than two horses, the first class, and shall pay twenty dollars for each license; when traveling with two horses, the second class, and shall pay fifteen dollars for each license; when traveling with one horse, the third class, and shall pay ten dollars for each license; when traveling on foot, the fourth class, and shall pay five dollars for each license. Any person, except persons peddling newspapers, bibles, or religious tracts, who sells or offers to sell, at retail, goods, wares, or other commodities, traveling from place to place, in the street, or through different parts of the country, shall be regarded a peddler under this act: *Provided*, That any peddler who sells, or offers to sell, dry goods, foreign and domestic, by one or more original packages or pieces, at one time, to the same person or persons, as aforesaid, shall pay fifty dollars for each license. And any person who peddles jewelry shall pay twenty-five dollars for each license: *Provided*, That manufacturers and producers of agricultural tools and implements, garden seeds, stoves, and hollow ware, brooms, wooden ware, and powder, delivering and selling at wholesale any of said articles, by themselves or their authorized agents at places other than the place of manufacture, shall not be required, for any sale thus made, to take out any additional license therefor.

28. Apothecaries shall pay ten dollars for each license. Every person who keeps a shop or building where medicines are compounded or prepared according to prescriptions of physicians, and sold, shall be regarded an apothecary under this act. But wholesale and retail dealers, who have taken out a license therefor, shall not be required to take out a license as apothecary, anything in this act to the contrary notwithstanding.

29. Manufacturers shall pay ten dollars for each license. Any person or persons, firms, companies, or corporations, who shall manufacture by hand or machinery, and offer for sale any goods, wares, or merchandise, exceeding annually the sum of one thousand dollars, shall be regarded a manufacturer under this act.

30. Photographers shall pay ten dollars for each license when the receipts do not exceed five hundred dollars; when over five hundred dollars and under one thousand dollars, fifteen dollars; when over one thousand dollars, twenty-five dollars. Any person or persons who make for sale photographs, ambrotypes, daguerreotypes, or pictures on glass, metal, or paper, by the action of light, shall be regarded a photographer under this act.

31. Lawyers shall pay ten dollars for each license. Every person whose business it is, for fee or reward, to prosecute or defend causes in any court of record or other judicial tribunal of the United States or of any of the States, or give advice in relation to causes or matters pending therein, shall be deemed to be a lawyer within the meaning of this act.

32. Physicians, surgeons, and dentists shall pay ten dollars for each license. Every person (except apothecaries) whose business it is, for fee and reward, to prescribe remedies or perform surgical operations for the cure of any bodily disease or ailing, shall be deemed a physician, surgeon, or dentist, as the case may be, within the meaning of this act.

33. Claim agents and agents for procuring patents shall pay ten dollars for each license. Every person whose business it is to prosecute claims in any of the Executive Departments of the Federal Government, or procure patents, shall be deemed a claim or patent agent, as the case may be, under this act.

SEC. 65. *And be it further enacted*, That where the annual gross receipts or sales of any apothecaries, confectioners, eating-houses, tobacconists, or retail dealers, shall not exceed the sum of one thousand dollars, such apothecaries, confectioners, eating-houses, and retail dealers shall not be required to take out or pay for license, anything in this act to the contrary notwithstanding; the amount or estimated amount of such annual sales to be ascertained or estimated in such manner as the Commissioner of Internal Revenue shall prescribe, and so of all other annual sales or receipts, where the rate of the license is graduated by the amount of sales or receipts.

SEC. 66. *And be it further enacted*, That nothing contained in the preceding sections of this act, laying duties on licenses, shall be construed to require a license for the sale of goods, wares, and merchandise made or produced and sold by the manufacturer or producer at the manufactory or place where the same is made or produced; to vintners who sell, at the place where the same is made, wine of their own growth; nor to apothecaries, as to wines or spirituous liquors which they use exclusively in the preparation or making up of medicines for sick, lame, or diseased persons; nor shall the provisions of paragraph number twenty-seven extend to physicians who keep on hand medicines solely for the purpose of making up their own prescriptions for their own patients.

SEC. 67. *And be it further enacted*, That no license hereinbefore provided for, if granted, shall be construed to authorize the commencement or continuation of any trade, business, occupation, or employment therein mentioned, within any State or Territory of the United States in which it is or shall be specially prohibited by the laws thereof, or in violation of the laws of any State or Territory: *Provided*, Nothing in this act shall be held or construed so as to prevent the several States, within the limits thereof, from placing a duty, tax, or license, for State purposes, on any business matter or thing on which a duty, tax, or license is required to be paid by this act.

MANUFACTURES, ARTICLES, AND PRODUCTS.

Specific and Ad Valorem Duty.

SEC. 68. *And be it further enacted*, That on and after the first day of August, eighteen hundred and sixty-two, every individual, partnership, firm, association, or corporation, (and any word or words in this act indicating or referring to person or persons shall be taken to mean and include partnerships, firms, associations, or corporations, when not otherwise designated or manifestly incompatible with the intent thereof,) shall comply with the following requirements, that is to say:

First. Before commencing, or, if already commenced, before continuing, any such manufacture for which he, she, or they may be liable to be assessed, under the provisions of this act, and which shall not be differently provided for elsewhere, within thirty days after the date when this act shall take effect, he, she, or they shall furnish to the assistant assessor a statement, subscribed and sworn to, or affirmed, setting forth the place where the manufacture is to be carried on, name of the manufactured article, the proposed market for the

same, whether foreign or domestic, and generally the kind and quality manufactured or proposed to be manufactured.

Second. He shall within ten days after the first day of each and every month, after the day on which this act takes effect, as hereinbefore mentioned, or on or before a day prescribed by the Commissioner of Internal Revenue, make return of the products and sales or delivery of such manufacture in form and detail as may be required, from time to time, by the Commissioner of Internal Revenue.

Third. All such returns, statements, descriptions, memoranda, oaths and affirmations, shall be in form, scope, and detail as may be prescribed, from time to time, by the Commissioner of Internal Revenue.

SEC. 69. *And be it further enacted*, That upon the amounts, quantities, and values of produce, goods, wares, merchandise, and articles manufactured and sold, or delivered, hereinafter enumerated, the manufacturer thereof, whether manufactured for himself or for others, shall pay to the collector of internal revenue within his district, monthly, or on or before a day to be prescribed by the Commissioner of Internal Revenue, the duties on such manufactures: *Provided*, That when thread is manufactured and sold or delivered exclusively for knitted fabrics, or for weaving or spooling, as provided for in the seventy-fifth section of this act, the duties shall be assessed on the articles finished and prepared for use or consumption to the party so finishing or preparing the same, and any party so finishing or preparing any cloth or other fabrics of cotton, wool, or other materials, whether imported or otherwise, shall be considered the manufacturer thereof for the purposes of this act; and for neglect to pay such duties within ten days after demand, either personal or written, left at his, her, or their house or place of business, or manufactory, the amount of such duties may be levied upon the real and personal property of any such manufacturer. And such duties, and whatever shall be the expenses of levy, shall be a lien from the day prescribed by the commissioner for their payment aforesaid, in favor of the United States upon the said real and personal property of such manufacturer, and such lien may be enforced by distraint, as provided in the general provisions of this act: *And provided further*, That in all cases of goods manufactured, in whole or in part, upon commission, or where the material is furnished by one party and manufactured by another, if the manufacturer shall be required to pay under this act the tax hereby imposed, such person or persons so paying the same shall be entitled to collect the amount thereof of the owner or owners, and shall have a lien for the amount thus paid upon the manufactured goods: *And provided further*, That the taxes on all articles manufactured and sold, in pursuance of contracts bona fide made before the passage of this act, shall be paid by the purchasers thereof, under regulations to be established by the Commissioner of Internal Revenue.

SEC. 70. *And be it further enacted*, That, for neglect or refusal to pay the duties provided by this act on manufactured articles, as aforesaid, the goods, wares, and merchandise manufactured and unsold by such manufacturer, shall be forfeited to the United States, and may be sold or disposed of for the benefit of the same, in manner as shall be prescribed by the Commissioner of Internal Revenue, under the direction of the Secretary of the Treasury. In such case the collector or deputy collector may take possession of said articles, and may maintain such possession in the premises and buildings where they may have been manufactured, or deposited, or may be. He shall summon, giving notice of not less than two, nor more than ten days, the parties in possession of said goods, enjoining them to appear before the assessor, or assistant assessor, at a day and hour in such summons fixed, then and there to show cause, if any there be, why, for such neglect or refusal, such articles should not be declared forfeited to the United States. Such persons or parties interested shall be deemed to be the manufacturers of the same, if the articles shall be at the time of taking such possession upon the premises where manufactured; if they shall at such time have been removed from the place of manufacture, the parties interested shall be deemed to be the person in whose custody or possession the articles shall then be. Such summons shall be served upon such parties in person, or by leaving a copy thereof at the place of abode or business of the party to whom the same may be directed. In case no such party or place can be found, which fact shall be determined by the collector's return on the summons, such notice, in the nature of a summons, shall be given by advertisement for the term of three weeks in one newspaper in the county nearest to the place of such sale. If, at or before such hearing, such duties shall not have been paid, and the assessor or assistant assessor shall adjudge the summons and notice, service and return of the same, to be sufficient, the said articles shall be declared forfeit, and shall be sold, disposed of, or turned over to the use of any department of the Government, as may be directed by the Secretary of the Treasury, who may require of any officer of the Government in to whose possession the same may be turned over the proper voucher therefor: *Provided*, That the proceeds of the sale of said articles, if any there be after deducting the duties thereon, together with the expenses of summons, advertising, and sale, or the excess of the value of said articles, after deducting the duties and expenses accrued thereon, when turned over to the use of any department of the Government, shall be refunded and paid to the manufacturer, or to the person in whose custody or possession the articles were when seized. The Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, may review any such case of forfeiture, and do justice in the premises. If the forfeiture shall have been wrongly declared, and sale made, the Secretary is hereby authorized, in case the specific articles cannot be restored to the party aggrieved in as good order and condition as when seized, to make up to such party in money his loss and damage from the contingent fund of his Department. Immediate return of seizures so forfeited shall be made to the Commissioner of Internal Revenue by the collector or deputy collector who shall make any such seizure. Articles which the collector may adjudge perishable may be sold or disposed of before declaration of forfeiture. Said sales shall be made at public auction, and notice thereof shall be given in the same manner as is provided in this section in case of forfeiture.

SEC. 71. *And be it further enacted*, That any violation of, or refusal to comply with, the provisions of the sixty-eighth section of this act, shall be good cause for seizure and forfeiture, substantially in manner as detailed in the section next preceding this, of all manufactured articles liable to be assessed under the provisions of this act, and not otherwise provided for; and such violation or refusal to comply shall further make any party so violating or refusing to comply liable to a fine of five hundred dollars, to be recovered in manner and form as provided in this act.

SEC. 72. *And be it further enacted*, That in case of the manufacture and sale or delivery of any goods, wares, merchandise, or articles as hereinafter mentioned, without compliance on the part of the party manufacturing the same with all or any of the requirements and regulations prescribed in this act in relation thereto, the assistant assessor may, upon such information as he may have, assume and estimate the amount and value of such manufactures, and upon such assumed amount assess the duties, and said duties shall be collected in like manner as in case the provisions of this act in relation thereto had been complied with, and to such articles all the foregoing provisions for liens, fines, penalties, and forfeitures, shall in like manner apply.

SEC. 73. *And be it further enacted*, That all goods, wares, and merchandise, or articles manufactured or made by any person or persons not for sale, but for his, her, or their own use or consumption, and all goods, wares, and merchandise, or articles manufactured or made and sold, except spirituous and malt liquors, and manufactured tobacco, where the annual product shall not exceed the sum of six hundred dollars, shall be and are exempt from duty: *Provided*, That this shall not apply to any business or transaction where one party furnishes the materials, or any part thereof, and employs another party to manufacture, make, or finish the goods, wares, and merchandise or articles, paying or promising to pay therefor, and receiving the goods, wares, and merchandise or articles.

SEC. 74. *And be it further enacted*, That the value and quantity of the goods, wares, and merchandise required to be stated, as aforesaid, and subject to an ad valorem duty, shall be estimated by the actual sales made by the manufacturer, or by his, her, or their agent, or person or persons acting in his, her, or their behalf; and where such goods, wares, and merchandise have been removed for consumption, or for delivery to others, or placed on shipboard, or are no longer within the custody and control of the manufacturer or manufacturers, or his or their agent, not being in his, her, or their factory, store or warehouse, the value shall be estimated by the average of the market value of the like goods, wares, and merchandise, during the time when the same would have become liable to and charged with duty.

SEC. 75. *And be it further enacted*, That from and after the said first day of August, eighteen hundred and sixty-two, upon the articles, goods, wares, and merchandise, hereinafter mentioned, which shall thereafter be produced and sold, or be manufactured or made and sold, or removed for consumption, or for delivery to others than agents of the manufacturer or producer within the United States or Territories thereof, there shall be levied, collected, and paid the following duties, to be paid by the producer or manufacturer thereof, that is to say:

On candles, of whatever material made, three per centum ad valorem.

On all mineral coals, except such as are known in the trade as pea coal and dust coal, three and a half cents per ton: *Provided*, That for all contracts of lease of coal lands made before the first day of April, eighteen hundred and sixty-two, the lessee shall pay the tax.

On lard oil, mustard-seed oil, linseed oil, and on all animal or vegetable oils not exempted nor provided for elsewhere, whether pure or adulterated, two cents per gallon: *Provided*, That red oil or oleic acid, produced in the manufacture of candles, and used as a material in the manufacture of soap, paraffine, whale and fish oil, shall be exempted from this duty.

On gas, illuminating, made of coal, wholly or in part, or any other material, when the product shall be not above five hundred thousand cubic feet per month, five cents per one thousand cubic feet; when the product shall be above five hundred thousand, and not exceeding five millions of cubic feet per month, ten cents per one thousand cubic feet; when the product shall be above five millions, fifteen cents per one thousand cubic feet; and the general average of the monthly product for the year preceding the return required by this act shall regulate the rate of duty herein imposed; and where any gas company shall not have been in operation for the year next preceding the return as aforesaid, then the rate shall be regulated upon the estimated average of the monthly product: *Provided*, That the product required to be returned by this act shall be understood to be the product charged in the bills actually rendered by any gas company during the month preceding the return, and all gas companies are hereby authorized to add the duty or tax imposed by this act to the price per thousand cubic feet on gas sold: *Provided further*, That all gas furnished for lighting street lamps, and not measured, and all gas made for and used by any hotel, inn, tavern, and private dwelling-house, shall be subject to duty, and may be estimated; and if the returns in any case shall be understated or underestimated, it shall be the duty of the assistant assessor of the district to increase the same as he shall deem just and proper: *And provided further*, That coal tar produced in the manufacture of illuminating gas, and the products of the redistillation of coal tar thus produced, shall be exempt from duty: *And provided further*, That gas companies so located as to compete with each other shall pay the rate imposed by this act upon the company having the largest production.

On coal illuminating oil, refined, produced by the distillation of coal, asphaltum, shale, peat, petroleum, or rock oil, and all other bituminous substances, used for like purposes, ten cents per gallon: *Provided*, That such oil refined and produced by the distillation of coal exclusively shall

be subject to pay a duty of eight cents per gallon, anything in this act to the contrary notwithstanding: *And provided further*, That distillers of coal oil shall be subject to all the provisions of this act, hereinbefore set forth and specified, applicable to distillers of spirituous liquors, with regard to licenses, bonds, returns, and all other provisions designed for the purpose of ascertaining the quantity distilled, and securing the payment of duties, so far as the same may, in the judgment of the Commissioner of Internal Revenue, and under regulations prescribed by him, be necessary for that purpose.

On ground coffee, and all preparations of which coffee forms a part, or which is prepared for sale as a substitute for coffee, three mills per pound.

On ground pepper, ground mustard, ground pimento, ground cloves, ground cassia, and ground ginger, and all imitations of the same, one cent per pound.

On sugar, refined, whether loaf, lump, granulated, or pulverized, two mills per pound.

On sugar, refined or made from molasses, sirup of molasses, melado or concentrated melado, two mills per pound.

On all brown, Muscovado, or clarified sugars produced directly from the sugar cane, and not from sorghum or imphee, other than those produced by the refiner, one cent per pound.

On sugar candy and all confectionery, made wholly or in part of sugar, one cent per pound.

On chocolate, and cocoa prepared, one cent per pound.

On saleratus, and bicarbonate of soda, five mills per pound.

On starch, made of potatoes, one mill per pound; made of corn or wheat, one and a half mills per pound; made of rice or any other material, four mills per pound.

On tobacco, cavendish, plug, twist, fine cut, and manufactured of all descriptions, (not including snuff, cigars, and smoking tobacco prepared with all the stems in, or made exclusively of stems,) valued at more than thirty cents per pound, fifteen cents per pound; valued at any sum not exceeding thirty cents per pound, ten cents per pound.

On smoking tobacco prepared with all the stems in, five cents per pound.

On smoking tobacco made exclusively of stems, two cents per pound.

On snuff manufactured of tobacco, ground dry or damp, of all descriptions, twenty cents per pound.

On cigars, valued at not over five dollars per thousand, one dollar and fifty cents per thousand.

On cigars, valued at over five and not over ten dollars per thousand, two dollars per thousand.

On cigars, valued at over ten and not over twenty dollars per thousand, two dollars and fifty cents per thousand.

On cigars, valued at over twenty dollars per thousand, three dollars and fifty cents per thousand.

On gunpowder, and all explosive substances used for mining, blasting, artillery, or sporting purposes, when valued at eighteen cents per pound or less, five mills per pound; when valued at above eighteen cents per pound, and not exceeding thirty cents per pound, one cent per pound; and when valued at above thirty cents per pound, six cents per pound.

On white lead, twenty-five cents per one hundred pounds.

On oxide of zinc, twenty-five cents per one hundred pounds.

On sulphate of barytes, ten cents per one hundred pounds: *Provided*, That white lead, oxide of zinc, and sulphate of barytes, or any one of them, shall not be subject to any additional duty in consequence of being mixed or ground with linseed oil, when the duties upon all the materials so mixed or ground shall have been previously actually paid.

On all paints and painters' colors, dry or ground in oil, or in paste with water, not otherwise provided for, five per centum ad valorem.

On clock movements made to run one day, five cents each; made to run more than one day, ten cents each.

On pins, solid head or other, five per centum ad valorem.

On umbrellas and parasols made of cotton, silk, or other material, five per centum ad valorem.

On screws, commonly called wood screws, one and a half cent per pound.

On railroad iron, and all other iron advanced beyond slabs, blooms, or loops, and not advanced beyond bars or rods, and band, hoop, and sheet iron, not thinner than number eighteen wire-gauge, and plate iron not less than one eighth of an inch in thickness, one dollar and fifty cents per ton; on railroad iron, rerolled, seventy-five cents per ton; on band, hoop, and sheet iron, thinner than number eighteen wire-gauge, plate iron less than one eighth of an inch in thickness, and cut nails and spikes, two dollars per ton: *Provided*, That bars, rods, bands, hoops, sheets, plates, nails, and spikes, manufactured from iron upon which the duty of one dollar and fifty cents has been levied and paid, shall be subject only to a duty of fifty cents per ton in addition thereto, anything in this act to the contrary notwithstanding; on stoves and hollow ware, one dollar and fifty cents per ton of two thousand pounds; cast iron used for bridges, buildings, or other permanent structures, one dollar per ton: *Provided*, That bar iron used for like purposes shall be charged no additional duty beyond the specific duty imposed by this act; on steel in ingots, bars, sheets, or wire not less than one fourth of an inch in thickness, valued at seven cents per pound or less, four dollars per ton; valued at above seven cents per pound, and not above eleven cents per pound, eight dollars per ton; valued above eleven cents per pound, ten dollars per ton.

On paper of all descriptions, including pasteboard and binders' boards, three per centum ad valorem.

On soap, castile, palm oil, erasive, and soap of all other descriptions, white or colored, except soft soap and soap otherwise provided for, valued not above three and a half cents per pound, one mill per pound; valued at above three and a half cents per pound, five mills per pound.

On soap, fancy, scented, honey, cream, transparent, and all descriptions of toilet and shaving soap, two cents per pound.

On salt, four cents per one hundred pounds.

On pickles and preserved fruits, and on all preserved meats, fish, and shell fish in cans or air-tight packages, five per centum ad valorem.

On glue and gelatine of all descriptions in the solid state, five mills per pound.

On glue and cement, made wholly or in part of glue, to be sold in the liquid state, twenty-five cents per gallon.

On patent or enamelled leather, five mills per square foot.

On patent Japanned split, used for dasher leather, four mills per square foot.

On patent or enamelled skirting leather, one and a half cent per square foot.

On all sole and rough or harness leather, made from hides, imported east of the Cape of Good Hope, and all damaged leather, five mills per pound.

On all other sole or rough leather, hemlock tanned, and harness leather, seven mills per pound.

On all sole or rough leather, tanned in whole or in part with oak, one cent per pound.

On all finished or curried upper leather, made from leather tanned in the interest of the parties finishing or currying such leather not previously taxed in the rough, except calf skins, one cent per pound.

On bend and butt leather, one cent per pound.

On offal leather, five mills per pound.

On oil-dressed leather, and deer skins dressed or smoked, two cents per pound.

On tanned calf skins, six cents each.

On morocco, goat, kid, or sheep skins, curried, manufactured, or finished, four per centum ad valorem: *Provided*, That the price at which such skins are usually sold shall determine their value.

On horse and hog skins tanned and dressed, four per centum ad valorem.

On American patent calf skins, five per centum ad valorem.

On conducting hose of all kinds for conducting water or other fluids, a duty of three per centum ad valorem.

On wine, made of grapes, five cents per gallon.

On varnish, made wholly or in part of gum copal or other gums or substances, five per centum ad valorem.

On furs of all descriptions, when made up or manufactured, three per centum ad valorem.

On cloth and all textile or knitted or felted fabrics of cotton, wool, or other materials, before the same has been dyed, printed, bleached, or prepared in any other manner, a duty of three per centum ad valorem: *Provided*, That thread or yarn manufactured and sold or delivered exclusively for knitted fabrics, or for weaving, when the spinning and weaving for the manufacture of cloth of any kind is carried on separately, shall not be regarded as manufactures within the meaning of this act; but all fabrics of cotton, wool, or other material, whether woven, knit, or felted, shall be regarded as manufactures, and be subject to the duty, as above, of three per centum ad valorem.

On all diamonds, emeralds, and all other jewelry, a tax of three per centum ad valorem.

On and after the first day of October, eighteen hundred and sixty-two, there shall be levied, collected, and paid, a tax of one half of one cent per pound on all cotton held or owned by any person or persons, corporation, or association of persons; and such tax shall be a lien thereon in the possession of any person whomsoever. And further, if any person or persons, corporations, or association of persons, shall remove, carry, or transport the same from the place of its production before said tax shall have been paid, such person or persons, corporation, or association of persons, shall forfeit and pay to the United States double the amount of such tax, to be recovered in any court having jurisdiction thereof: *Provided, however*, That the Commissioner of Internal Revenue is hereby authorized to make such rules and regulations as he may deem proper for the payment of said tax at places different from that of the production of said cotton: *And provided further*, That all cotton owned and held by any manufacturer of cotton fabrics on the first day [of] October, eighteen hundred and sixty-two, and prior thereto, shall be exempt from the tax hereby imposed.

On all manufactures of cotton, wool, silk, worsted, flax, hemp, jute, India-rubber, gutta-percha, wood, willow, glass, pottery-ware, leather, paper, iron, steel, lead, tin, copper, zinc, brass, gold, silver, horn, ivory, bone, bristles, wholly or in part, or of other materials, not in this act otherwise provided for, a duty of three per centum ad valorem: *Provided*, That on all cloths dyed, printed, bleached, manufactured into other fabrics, or otherwise prepared, on which a duty or tax shall have been paid before the same were so dyed, printed, bleached, manufactured, or prepared, the said duty or tax of three per centum shall be assessed only upon the increased value thereof: *And provided further*, That on all oil-dressed leather, and deer skins dressed or smoked, manufactured into gloves, mittens or other articles on which a duty or tax shall have been paid before the same were so manufactured, the said duty or tax of three per centum shall be assessed only upon the increased valuation thereof: *And provided further*, That in estimating the duties upon articles manufactured when removed and sold at any other place than the place of manufacture, there shall be deducted from the gross amount of sales the freight, commission, and expenses of sale actually paid, and the duty shall be assessed and paid upon the net amount after the deductions as aforesaid: *And provided further*, That printed books, magazines, pamphlets, newspapers, reviews, and all other similar printed publications; boards, shingles, and all other lumber and timber; staves, hoops, headings, and timber only partially wrought and unfinished for chairs, tubs, pails, snathes, lasts, shovel and fork handles; umbrella stretchers, pig iron, and iron not advanced beyond slabs, blooms, or loops; maps and charts; charcoal; alcohol made or manufactured of spirits or materials upon which the duties imposed by this act shall have been paid; plaster or gypsum; malt; burning fluid; printers' ink; flax prepared for textile or felting purposes, until actually woven or fitted into fabrics for consumption; all flour and meal made from grain; bread and breadstuffs; pearl barley and split peas; butter; cheese; concentrated milk; bullion, in the manufacture of silverware; brick; lime; Roman cement; draining tiles; marble; slate; building stone; copper, in ingots or pigs; and lead, in

pigs or bars, shall not be regarded as manufactures within the meaning of this act: *Provided*, That whenever, by the provisions of this act, a duty is imposed upon any article removed for consumption or sale, it shall apply only to such articles as are manufactured on or after the first day of August, eighteen hundred and sixty-two, and to such as are manufactured and not removed from the place of manufacture prior to that date.

AUCTION SALES.

SEC. 76. *And be it further enacted*, That on and after the first day of August, eighteen hundred and sixty-two, there shall be levied, collected, and paid on all sales of real estate, goods, wares, merchandise, articles, or things, at auction, including all sales of stocks, bonds, and other securities, a duty of one tenth of one per centum on the gross amount of such sales, and every auctioneer making such sales, as aforesaid, shall at the end of each and every month, or within ten days thereafter, make a list or return to the assistant assessor of the district of the gross amount of such sales, made as aforesaid, with the amount of duty which has accrued, or should accrue thereon, which list shall have annexed thereto a declaration under oath or affirmation, in form and manner as may be prescribed by the Commissioner of Internal Revenue, that the same is true and correct, and shall at the same time, as aforesaid, pay to the collector or deputy collector the amount of duty or tax thereupon, as aforesaid, and in default thereof shall be subject to and pay a penalty of five hundred dollars. In all cases of delinquency in making said list or payment the assessment and collection shall be made in the manner prescribed in the general provisions of this act: *Provided*, That no duty shall be levied under the provisions of this section upon any sales by judicial or executive officers making auction sales by virtue of a judgment or decree of any court, nor to public sales made by executors or administrators.

CARRIAGES, YACHTS, BILLIARD-TABLES, AND PLATE.

SEC. 77. *And be it further enacted*, That from and after the first day of May, eighteen hundred and sixty-two, there shall be levied, collected, and paid, by any person or persons owning, possessing, or keeping any carriage, yacht, and billiard-table, the several duties or sums of money set down in figures against the same respectively, or otherwise specified and set forth in schedule marked A.

SCHEDULE A.

Carriages, Yachts, Billiard-Tables, and Plate.

Carriage, gig, chaise, phæton, wagon, buggy-wagon, carry-all, rockaway, or other like carriage, the body of which rests upon springs of any description, kept for use, and which shall not be exclusively employed in husbandry or for the transportation of merchandise, and valued at seventy-five dollars or over, including the harness used therewith, when drawn by one horse, one dollar.

Carriages of like description drawn by two horses, and any coach, hackney-coach, omnibus, or four-wheel carriage, the body of which rests upon springs of any description, which may be kept for use, for hire, or for passengers, and which shall not be exclusively employed in husbandry or for the transportation of merchandise, valued at seventy-five dollars, and not exceeding two hundred dollars, including the harness used therewith, drawn by two horses or more, two dollars.

Carriages of like description, when valued above two hundred dollars, and not exceeding six hundred dollars, five dollars.

Carriages of like description, valued above six hundred dollars, ten dollars.

Pleasure or racing vessels, known as yachts, whether by sail or steam, under the value of six hundred dollars, five dollars.

Yachts valued above six hundred dollars, and not exceeding one thousand dollars, ten dollars.

And for each additional one thousand dollars in value of said yachts, ten dollars.

Billiard-tables, kept for use, ten dollars.

Plate of gold, kept for use, per ounce troy, fifty cents.

Plate of silver, kept for use, per ounce troy, three cents.

Provided, That silver spoons or plate of silver, to an amount not exceeding forty ounces, as aforesaid, belonging to any one person, shall be exempt from duty.

SLAUGHTERED CATTLE, HOGS, AND SHEEP.

SEC. 78. *And be it further enacted*, That on and after the first day of August, eighteen hundred and sixty-two, there shall be levied, collected, and paid by any person or persons, firms, companies, or agents or employés thereof, the following duties or taxes, that is to say:

On all horned cattle, exceeding eighteen months old, slaughtered for sale, thirty cents per head.

On all calves and cattle under eighteen months old, slaughtered for sale, five cents per head.

On all hogs, exceeding six months old, slaughtered for sale, when the number thus slaughtered exceeds twenty in any one year, ten cents per head.

On all sheep, slaughtered for sale, five cents per head: *Provided*, That all cattle, hogs, and sheep, slaughtered by any person for his or her own consumption, shall be exempt from duty.

SEC. 79. *And be it further enacted*, That on and after the date on which this act shall take effect, any person or persons, firms, or companies, or agents or employés thereof, whose business or occupation it is to slaughter for sale any cattle, calves, sheep, or hogs, shall be required to make and render a list at the end of each and every month to the assistant assessor of the district where the business is transacted, stating the number of cattle, calves, if any, the number of hogs, if any, and the number of sheep, if any, slaughtered, as aforesaid, with the several rates of duty as fixed therein in this act, together with the whole amount thereof, which list shall have annexed thereto a declaration of said person or persons, agents or employés thereof, as aforesaid, under oath or affirmations, in such manner and form as may be prescribed by the Commissioner of Internal Revenue, that the same is true and correct, and shall at the time of rendering said list, pay the full amount of duties which have accrued or should accrue, as aforesaid, to the collector or deputy collector of the district, as aforesaid; and in case of default in making the return or payment of the duties, as aforesaid, the assessment and collection shall be made as in the general provisions of this act required, and in case of fraud or evasion, the party offending shall forfeit and pay a penalty of ten dollars per head for any cattle, calves, hogs, or sheep so slaughtered upon which the duty is fraudulently withheld, evaded, or attempted to be evaded: *Provided*, That the Commissioner of Internal Revenue shall prescribe such further rules and regulations as he may deem necessary for ascertaining the correct number of cattle, calves, hogs, and sheep, liable to be taxed under the provisions of this act.

RAILROADS, STEAMBOATS, AND FERRY-BOATS.

SEC. 80. *And be it further enacted*, That on and after the first day of August, eighteen hundred and sixty-two, any person or persons, firms, companies, or corporations, owning or possessing, or having the care or management of any railroad or railroads upon which steam is used as a propelling power, or of any steamboat or other vessel propelled by steam-power, shall be subject to and pay a duty of three per centum on the gross amount of all the receipts of such railroad or railroads or steam-vessel for the transportation of passengers over and upon the same; and any person or persons, firms, companies, or corporations, owning or possessing, or having the care or management of any railroad or railroads using any other power than steam thereon, or owning, possessing, or having the care or management of any ferry-boat, or vessel used as a ferry-boat, propelled by steam or horse-power, shall be subject to and pay a duty of one and a half per centum upon the gross receipts of such railroad or ferry-boat, respectively, for the transportation of passengers over and upon said railroads, steamboats, and ferry-boats, respectively; and any person or persons, firms, companies, or corporations, owning, possessing, or having the care or management of any bridge authorized by law to receive toll for the transit of passengers, beasts, carriages, teams, and freight of any description over such bridge, shall be subject to and pay a duty of three per centum on the gross amount of all their receipts of every description. And the owner, possessor, or person or persons having the care and management of any such railroad, steamboat, ferry-boat, or other vessel, or bridge, as aforesaid, shall, within five days after the end of each and every month, commencing as hereinbefore mentioned, make a list or return to the assistant assessor of the district within which such owner, possessor, company, or corporation may have his or its place of business, or where any such railroad, steamboat, ferry-boat, or bridge is located or belongs, respectively, stating the gross amount of such receipts for the month next preceding, which return shall be verified by the oath or affirmation of such owner, possessor, manager, agent, or other proper officer, in the manner and form to be prescribed from time to time by the Commissioner of Internal Revenue, and shall also, monthly, at the time of making such return, pay to the collector or deputy collector of the district the full amount of duties which have accrued on such receipts for the month aforesaid; and in case of neglect or refusal to make said lists or return for the space of five days after such return should be made as aforesaid, the assessor or assistant assessor shall proceed to estimate the amount received and the duties payable thereon, as hereinbefore provided in other cases of delinquency to make return for purposes of assessment; and for the purpose of making such assessment, or of ascertaining the correctness of any such return, the books of any such person, company, or corporation shall be subject to the inspection of the assessor or assistant assessor on his demand or request therefor; and in case of neglect or refusal to pay the duties as aforesaid when the same have been ascertained as aforesaid, for the space of five days after the same shall have become payable, the owner, possessor, or person having the management as aforesaid, shall pay, in addition, five per centum on the amount of such duties; and for any attempt knowingly to evade the payment of such duties, the said owner, possessor, or person having the care or management as aforesaid, shall be liable to pay a penalty of one thousand dollars for every such attempt, to be recovered as provided in this act for the recovery of penalties; and all provisions in this act in relation to liens and collections by distraint not incompatible herewith, shall apply to this section and the objects therein embraced: *Provided*, That all such persons, companies, and corporations shall have the right to add the duty or tax imposed hereby to their rates of fare whenever their liability thereto may commence, any limitations which may exist by law or by agreement with any person or company which may have paid, or be liable to pay, such fare to the contrary notwithstanding.

RAILROAD BONDS.

SEC. 81. *And be it further enacted*, That on and after the first day of July, eighteen hundred and sixty-two, any person or persons owning or possessing, or having the care or management of any railroad company or railroad corporation, being indebted for any sum or sums of money for which bonds or other evidences of indebtedness have been issued, payable in one or more years after date, upon which interest is, or shall be, stipulated to be paid, or coupons representing the interest shall be or shall have been issued to be paid, and all dividends in scrip or money or sums of money thereafter declared due or payable to stockholders of any railroad company, as part of the earnings, profits, or gains of said companies, shall be subject to and pay a duty of three per centum on the amount of all such interest or coupons or dividends whenever the same shall be paid; and said railroad companies or railroad corporations, or any person or persons owning, possessing, or having the care or management of any railroad company or railroad corporation, are hereby authorized and required to deduct and withhold from all payments made to any person, persons, or party, after the first day of July, as aforesaid, on account of any interest or coupons or dividends due and payable as aforesaid, the said duty or sum of three per centum; and the duties deducted as aforesaid, and certified by the president or other proper officer of said company or corporation, shall be a receipt and discharge, according to the

amount thereof, of said railroad companies or railroad corporations, and the owners, possessors, and agents thereof, on dividends and on bonds or other evidences of their indebtedness, upon which interest or coupons are payable, holden by any person or party whatsoever, and a list or return shall be made and rendered within thirty days after the time fixed when said interest or coupons or dividends become due or payable, and as often as every six months, to the Commissioner of Internal Revenue, which shall contain a true and faithful account of the duties received and chargeable, as aforesaid, during the time when such duties have accrued or should accrue, and remaining unaccounted for; and there shall be annexed to every such list or return a declaration under oath or affirmation, in manner and form as may be prescribed by the Commissioner of Internal Revenue, of the president, treasurer, or some proper officer of said railroad company or railroad corporation, that the same contains a true and faithful account of the duties so withheld and received during the time when such duties have accrued or should accrue, and not accounted for, and for any default in the making or rendering of such list or return, with the declaration annexed, as aforesaid, the person or persons owning, possessing, or having the care or management of such railroad company or railroad corporation, making such default, shall forfeit, as a penalty, the sum of five hundred dollars; and in case of any default in making or rendering said list, or of any default in the payment of the duty, or any part thereof, accruing or which should accrue, the assessment and collection shall be made according to the general provisions of this act.

BANKS, TRUST COMPANIES, SAVINGS INSTITUTIONS, AND INSURANCE COMPANIES.

SEC. 82. *And be it further enacted*, That on and after the first day of July, eighteen hundred and sixty-two, there shall be levied, collected, and paid by all banks, trust companies, and savings institutions, and by all fire, marine, life, inland, stock, and mutual insurance companies, under whatever style or name known or called, of the United States or Territories, specially incorporated or existing under general laws, or which may be hereafter incorporated or exist as aforesaid, on all dividends in scrip or money thereafter declared due or paid to stockholders, to policy holders, or to depositors, as part of the earnings, profits, or gains of said banks, trust companies, savings institutions, or insurance companies, and on all sums added to their surplus or contingent funds, a duty of three per centum: *Provided*, That the duties upon the dividends of life insurance companies shall not be deemed due, or to be collected, until such dividends shall be payable by such companies. And said banks, trust companies, savings institutions, and insurance companies are hereby authorized and required to deduct and withhold from all payments made to any person, persons, or party, on account of any dividends or sums of money that may be due and payable, as aforesaid, after the first day of July, eighteen hundred and sixty-two, the said duty of three per centum. And a list or return shall be made and rendered within thirty days after the time fixed when such dividends or sums of money shall be declared due and payable, and as often as every six months, to the Commissioner of Internal Revenue, which shall contain a true and faithful account of the amount of duties accrued or which should accrue from time to time, as aforesaid, during the time when such duties remain unaccounted for, and there shall be annexed to every such list or return a declaration, under oath or affirmation, to be made in form and manner as shall be prescribed by the Commissioner of Internal Revenue, of the president, or some other proper officer of said bank, trust company, savings institution, or insurance company, respectively, that the same contains a true and faithful account of the duties which have accrued or should accrue, and not accounted for, and for any default in the delivery of such list or return, with such declaration annexed, the bank, trust company, savings institution, or insurance company making such default shall forfeit, as a penalty, the sum of five hundred dollars.

SEC. 83. *And be it further enacted*, That any person or persons owning or possessing, or having the care or management of any railroad company or railroad corporation, bank, trust company, savings institution, or insurance company, as heretofore mentioned, required under this act to make and render any list or return to the Commissioner of Internal Revenue, shall, upon rendering the same, pay to the said Commissioner of Internal Revenue the amount of the duties due on such list or return, and in default thereof shall forfeit as a penalty the sum of five hundred dollars; and in case of neglect or refusal to make such list or return as aforesaid, or to pay the duties as aforesaid, for the space of thirty days after the time when said list should have been made and rendered, or when said duties shall have become due and payable, the assessment and collection shall be made according to the general provisions heretofore prescribed in this act.

SEC. 84. *And be it further enacted*, That on the first day of October, anno Domini eighteen hundred and sixty-two, and on the first day of each quarter of a year thereafter, there shall be paid by each insurance company whether inland or marine, and by each individual or association engaged in the business of insurance from loss or damage by fire, or by the perils of the sea, the duty of one per centum upon the gross receipts for premiums and assessments by such individual, association, or company during the quarter then preceding; and like duty shall be paid by the agent of any foreign insurance company having an office or doing business within the United States.

SEC. 85. *And be it further enacted*, That on the first day of October next, and on the first day of each quarter thereafter, an account shall be made and rendered to the Commissioner of Internal Revenue by all insurance companies, or their agents, or associations or individuals making insurance, except life insurance, including agents of all foreign insurance companies, which shall contain a true and faithful account of the insurance made, renewed, or continued, or indorsed upon any open policy by said companies, or their agents, or associations, or individuals during the preceding quarter, setting forth the amount insured, and the gross amount received, and the duties accruing thereon under this act; and there shall be annexed to and delivered with every such quarterly account an affidavit, in the form to be prescribed by the Commissioner of Internal Revenue, made by one of the officers of said company or association, or individual, or by the agent in the case of a foreign company, that the statements in said accounts are in all respects just and true, and such quarterly accounts shall be rendered to the Commissioner of Internal Revenue within thirty days after the expiration of the quarter for which they shall be made up, and upon rendering such account, with such affidavit, as aforesaid, thereto annexed, the amount of the duties due by such quarterly accounts shall be paid to the Commissioner of Internal Revenue; and for every default in the delivery of such quarterly account, with such affidavit annexed thereto, or in the payment of the amount of the duties due by such quarterly account, the company, or agent, or association, or individual making such default shall forfeit and pay, in addition to such duty, the sum of five thousand dollars.

SALARIES AND PAY OF OFFICERS AND PERSONS IN THE SERVICE OF THE UNITED STATES, AND PASSPORTS.

SEC. 86. *And be it further enacted*, That on and after the first day of August, eighteen hundred and sixty-two, there shall be levied, collected, and paid on all salaries of officers, or payments to persons in the civil, military, naval, or other employment or service of the United States, including Senators and Representatives and Delegates in Congress, when exceeding the rate of six hundred dollars per annum, a duty of three per centum on the excess above the said six hundred dollars; and it shall be the duty of all paymasters, and all disbursing officers, under the Government of the United States, or in the employ thereof, when making any payments to officers and persons as aforesaid, or upon settling and adjusting the accounts of such officers and persons, to deduct and withhold the aforesaid duty of three per centum, and shall, at the same time, make a certificate stating the name of the officer or person from whom such deduction was made, and the amount thereof, which shall be transmitted to the office of the Commissioner of Internal Revenue, and entered as part of the internal duties; and the pay-roll, receipts, or account of officers or persons paying such duty, as aforesaid, shall be made to exhibit the fact of such payment.

SEC. 87. *And be it further enacted*, That for every passport issued from the office of the Secretary of State, after the thirtieth day of June, eighteen hundred and sixty-two, there shall be paid the sum of three dollars; which amount may be paid to any collector appointed under this act, and his receipt therefor shall be forwarded with the application for such passport to the office of the Secretary of State, or any agent appointed by him. And the collectors shall account for all moneys received for passports in the manner hereinbefore provided, and a like amount shall be paid for every passport issued by any minister or consul of the United States, who shall account therefor to the Treasury

ADVERTISEMENTS.

SEC. 88. *And be it further enacted*, That on and after the first day of August, eighteen hundred and sixty-two, there shall be levied, collected, and paid by any person or persons, firm, or company, publishing any newspaper, magazine, review, or other literary, scientific, or news publication, issued periodically, on the gross receipts for all advertisements, or all matters for the insertion of which in said newspaper or other publication, as aforesaid, or in extras, supplements, sheets, or fly-leaves accompanying the same, pay is required or received, a duty of three per centum; and the person or persons, firm or company, owning possessing, or having the care or management of any and every such newspaper or other publication, as aforesaid, shall make a list or return quarterly, commencing as heretofore mentioned, containing the gross amount of receipts as aforesaid, and the amount of duties which have accrued thereon, and render the same to the assistant assessor of the respective districts where such newspaper, magazine, review, or other literary or news publication is or may be published, which list or return shall have annexed a declaration, under oath or affirmation, to be made according to the manner and form which may be from time to time prescribed by the Commissioner of Internal Revenue, of the owner, possessor, or person having the care or management of such newspaper, magazine, review or other publication, as aforesaid, that the same is true and correct, and shall also, quarterly, and at the time of making said list or return, pay to the collector or deputy collector of the district, as aforesaid, the full amount of said duties; and in case of neglect or refusal to comply with any of the provisions contained in this section, or to make and render said list or return, as aforesaid, for the space of thirty days after the time when said list or return ought to have been made, as aforesaid, the assistant assessor of the respective districts shall proceed to estimate the duties, as heretofore provided in other cases of delinquency; and in case of neglect or refusal to pay the duties, as aforesaid, for the space of thirty days after said duties become due and payable, said owner, possessor, or person or persons having the care or management of said newspapers or publications, as aforesaid, shall pay, in addition thereto, a penalty of five per centum on the amount due; and in case of frand or evasion, whereby the revenue is attempted to be defrauded, or the duty withheld, said owners, possessors, or person or persons having the care or management of said newspapers or other publications as aforesaid, shall forfeit and pay a penalty of five hundred dollars for each offense, or for any sum fraudulently unaccounted for; and all provisions in this act in relation to liens, assessments, and collection, not incompatible herewith, shall apply to this section and the objects herein embraced: *Provided*, That in all cases where the rate or price of advertising is fixed by any law of the United States, State, or Territory, it shall be lawful for the company, person or persons, publishing said advertisements, to add the duty or tax imposed by this act to the price of said advertisements, any law, as aforesaid, to the contrary, notwithstanding: *Provided further*, That the receipts for advertisements to the amount

of one thousand dollars, by any person or persons, firm, or company, publishing any newspaper, magazine, review, or other literary, scientific, news publication, issued periodically, shall be exempt from duty: *And provided further*, That all newspapers whose circulation does not exceed two thousand copies shall be exempted from all taxes for advertisements.

INCOME DUTY.

SEC. 89. *And be it further enacted*, That for the purpose of modifying and reënacting, as hereinafter provided, so much of an act, entitled "An act to provide increased revenue from imports to pay interest on the public debt, and for other purposes," approved fifth of August, eighteen hundred and sixty-one, as relates to income tax; that is to say, sections forty-nine, fifty, (except so much thereof as relates to the selection and appointment of depositaries,) and fifty-one, be, and the same are hereby, repealed.

SEC. 90. *And be it further enacted*, That there shall be levied, collected, and paid annually, upon the annual gains, profits, or income of every person residing in the United States, whether derived from any kind of property, rents, interest, dividends, salaries, or from any profession, trade, employment, or vocation carried on in the United States or elsewhere, or from any other source whatever, except as hereinafter mentioned, if such annual gains, profits, or income exceed the sum of six hundred dollars, and do not exceed the sum of ten thousand dollars, a duty of three per centum on the amount of such annual gains, profits, or income over and above the said sum of six hundred dollars; if said income exceeds the sum of ten thousand dollars, a duty of five per centum upon the amount thereof exceeding six hundred dollars; and upon the annual gains, profits, or income, rents, and dividends accruing upon any property, securities, and stocks owned in the United States by any citizen of the United States residing abroad, except as hereinafter mentioned, and not in the employment of the Government of the United States, there shall be levied, collected, and paid a duty of five per centum.

SEC. 91. *And be it further enacted*, That in estimating said annual gains, profits, or income, whether subject to a duty, as provided in this act, of three per centum, or of five per centum, all other national, state, and local taxes, lawfully assessed upon the property or other sources of income of any person aforesaid, from which said annual gains, profits, or income of such person is or should be derived, shall be first deducted from the gains, profits, or income of the person or persons who actually pay the same, whether owner or tenant, and all gains, profits, or income derived from salaries of officers, or payments to persons in the civil, military, naval, or other service of the United States, including Senators, Representatives, and Delegates in Congress, above six hundred dollars, or derived from interest or dividends on stock, capital, or deposits in any bank, trust company, or savings institution, insurance, gas, bridge, express, telegraph, steamboat, ferry-boat, or railroad company, or corporation, or on any bonds or other evidences of indebtedness of any railroad company or other corporation, which shall have been assessed and paid by said banks, trust companies, savings institutions, insurance, gas, bridge, telegraph, steamboat, ferry-boat, express, or railroad companies, as aforesaid, or derived from advertisements, or on any articles, manufactured, upon which specific, stamp, or ad valorem duties shall have been directly assessed or paid, shall also be deducted; and the duty herein provided for shall be assessed and collected upon the income for the year ending the thirty-first day of December next preceding the time for levying and collecting said duty, that is to say, on the first day of May, eighteen hundred and sixty-three, and in each year thereafter: *Provided*, That upon such portion of said gains, profits, or income, whether subject to a duty as provided in this act of three per centum or of five per centum, which shall be derived from interest upon notes, bonds, or other securities of the United States, there shall be levied, collected, and paid a duty not exceeding one and one half of one per centum, anything in this act to the contrary notwithstanding.

SEC. 92. *And be it further enacted*, That the duties on incomes herein imposed shall be due and payable on or before the thirtieth day of June, in the year eighteen hundred and sixty three, and in each year thereafter until and including the year eighteen hundred and sixty-six and no longer; and to any sum or sums annually due and unpaid for thirty days after the thirtieth of June, as aforesaid and for ten days after demand thereof by the collector, there shall be levied in addition thereto, the sum of five per centum on the amount of duties unpaid, as a penalty, except from the estates of deceased and insolvent persons; and if any person or persons, or party, liable to pay such duty shall neglect or refuse to pay the same, the amount due shall be a lien in favor of the United States from the time it was so due until paid, with the interest, penalties, and costs that may accrue in addition thereto, upon all the property, and rights to property, stocks, securities, and debts of every description from which the income upon which said duty is assessed or levied shall have accrued, or may or should accrue; and in default of the payment of said duty for the space of thirty days, after the same shall have become due, and be demanded, as aforesaid, said lien may be enforced by distraint upon such property, rights to property, stocks, securities, and evidences of debt, by whomsoever holden; and for this purpose the Commissioner of Internal Revenue, upon the certificate of the collector or deputy collector that said duty is due and unpaid for the space of ten days after notice duly given of the levy of such duty, shall issue a warrant in form and manner to be described by said Commissioner of Internal Revenue, under the directions of the Secretary of the Treasury, and by virtue of such warrant there may be levied on such property, rights to property, stocks, securities, and evidences of debt, a further sum to be fixed and stated in such warrant, over and above the said annual duty, interest, and penalty for nonpayment, sufficient for the fees and expenses of such levy. And in all cases of sale, as aforesaid, the certificate of such sale by the collector or deputy collector of the sale, shall give title to the purchaser, of all right, title, and interest of such delinquent in and to such property, whether the property be real or personal; and where the subject of sale shall be stocks, the certificate of said sale shall be lawful authority and notice to the proper corporation, company, or association, to record the same on the books or records, in the same manner as if transferred or assigned by the person or party holding the same, to issue new certificates of stock therefor in lieu of any original or prior certificates, which shall be void whether canceled or not; and said certificates of sale of the collector or deputy collector, where the subject of sale shall be securities or other evidences of debt, shall be good and valid receipts to the person or party holding the same, as against any person or persons, or other party holding, or claiming to hold, possession of such securities or other evidences of debt.

SEC. 93. *And be it further enacted*, That it shall be the duty of all persons of lawful age, and all guardians and trustees, whether such trustees are so by virtue of their office as executors, administrators, or other fiduciary capacity, to make return in the list or schedule, as provided in this act, to the proper officer of internal revenue, of the amount of his or her income, or the income of such minors or persons as may be held in trust as aforesaid, according to the requirements hereinbefore stated, and in case of neglect or refusal to make such return, the assessor or assistant assessor shall assess the amount of his or her income, and proceed thereafter to collect the duty thereon in the same manner as is provided for in other cases of neglect and refusal to furnish lists or schedules in the general provisions of this act, where not otherwise incompatible, and the assistant assessor may increase the amount of the list or return of any party making such return, if he shall be satisfied that the same is understated: *Provided*, That any party, in his or her own behalf, or as guardian or trustee, as aforesaid, shall be permitted to declare, under oath or affirmation, the form and manner of which shall be prescribed by the Commissioner of Internal Revenue, that he or she was not possessed of an income of six hundred dollars, liable to be assessed according to the provisions of this act, or that he or she has been assessed elsewhere and the same year for an income duty, under authority of the United States, and shall thereupon be exempt from an income duty; or, if the list or return of any party shall have been increased by the assistant assessor, in manner as aforesaid, he or she may be permitted to declare, as aforesaid, the amount of his or her annual income, or the amount held in trust, as aforesaid, liable to be assessed, as aforesaid, and the same so declared shall be received as the sum upon which duties are to be assessed and collected.

STAMP DUTIES.

SEC. 94. *And be it further enacted*, That on and after the first day of October, eighteen hundred and sixty-two, there shall be levied, collected, and paid, for and in respect of the several instruments, matters, and things mentioned, and described in the schedule (marked B) hereunto annexed, or for or in respect of the vellum, parchment, or paper upon which such instruments, matters, or things, or any of them, shall be written or printed, by any person or persons, or party who shall make, sign, or issue the same, or for whose use or benefit the same shall be made, signed, or issued, the several duties or sums of money set down in figures against the same, respectively, or otherwise specified or set forth in the said schedule.

SEC. 95. *And be it further enacted*, That if any person or persons shall make, sign, or issue, or cause to be made, signed, or issued, any instrument, document, or paper of any kind or description whatsoever, without the same being duly stamped for denoting the duty hereby imposed thereon, or without having thereupon an adhesive stamp to denote said duty, such person or persons shall incur a penalty of fifty dollars, and such instrument, document, or paper, as aforesaid, shall be deemed invalid and of no effect.

SEC. 96. *And be it further enacted*, That no stamp appropriated to denote the duty charged on any particular instrument, and bearing the name of such instrument on the face thereof, shall be used for denoting any other duty of the same amount, or if so used, the same shall be of no avail.

SEC. 97. *And be it further enacted*, That no vellum, parchment, or paper, bearing a stamp appropriated by name to any particular instrument, shall be used for any other purpose, or if so used, the same shall be of no avail.

SEC. 98. *And be it further enacted*, That if any person shall forge or counterfeit, cause or procure to be forged or counterfeited, any stamp or die, or any part of any stamp or die, which shall have been provided, made, or used in pursuance of this act, or shall forge, counterfeit, or resemble, or cause or procure to be forged, counterfeited, or resembled, the impression, or any part of the impression, of any such stamp or die, as aforesaid, upon any vellum, parchment, or paper, or shall stamp or mark, or cause or procure to be stamped or marked, any vellum, parchment, or paper, with any such forged or counterfeited stamp or die, or part of any stamp or die, as aforesaid, with intent to defraud the United States of any of the duties hereby imposed, or any part thereof, or if any person shall utter, or sell, or expose to sale, any vellum, parchment, or paper, article or thing, having thereupon the impression of any such counterfeited stamp or die, or any part of any stamp or die, or any such forged, counterfeited, or resembled impression, or part of impression, as aforesaid, knowing the same respectively to be forged, counterfeited, or resembled; or if any person shall knowingly use any stamp or die which shall have been so provided, made, or used, as aforesaid, with intent to defraud the United States; or if any person shall fraudulently cut, tear, or get off, or cause or procure to be cut, torn, or got off, the impression of any stamp or die which shall have been provided, made, or used in pursuance of this act, from any vellum, parchment, or paper, or any instrument or writing charged or chargeable with any of the duties hereby imposed, then, and in every such case, every person so offending, and every person knowingly and willfully aiding, abetting, or assisting in committing any such offense as aforesaid, shall be deemed guilty of felony, and shall,

on conviction thereof, forfeit the said counterfeit stamps and the articles upon which they are placed, and be punished by fine not exceeding one thousand dollars, and by imprisonment and confinement to hard labor not exceeding five years.

SEC. 99. *And be it further enacted*, That in any and all cases where an adhesive stamp shall be used for denoting any duty imposed by this act, except as hereinafter provided, the person using or affixing the same shall write thereupon the initials of his name, and the date upon which the same shall be attached or used, so that the same may not again be used. And if any person shall fraudulently make use of an adhesive stamp to denote any duty imposed by this act without so effectually cancelling and obliterating such stamp, except as before mentioned, he, she, or they shall forfeit the sum of fifty dollars: *Provided, nevertheless*, That any proprietor or proprietors of proprietary articles, or articles subject to stamp duty under schedule C of this act, shall have the privilege of furnishing, without expense to the United States, in suitable form, to be approved by the Commissioner of Internal Revenue, his or their own dies or designs for stamps to be used thereon, to be retained in the possession of the Commissioner of Internal Revenue, for his or their separate use, which shall not be duplicated to any other person. That in all cases where such stamp is used, instead of his or their writing, his or their initials and the date thereon, the said stamp shall be so affixed on the box, bottle, or package, that in opening the same, or using the contents thereof, the said stamp shall be effectually destroyed; and in default thereof shall be liable to the same penalty imposed for neglect to affix said stamp as hereinbefore prescribed in this act. Any person who shall fraudulently obtain or use any of the aforesaid stamps or designs therefor, and any person forging, or counterfeiting, or causing or procuring the forging or counterfeiting any representation, likeness, similitude or colorable imitation of the said last-mentioned stamp, or any engraver or printer who shall sell or give away said stamps, or selling the same, or, being a merchant, broker, peddler, or person dealing, in whole or in part, in similar goods, wares, merchandise, manufactures, preparations, or articles, or those designed for similar objects or purposes, shall have knowingly or fraudulently in his, her, or their possession any such forged, counterfeited likeness, similitude, or colorable imitation of the said last-mentioned stamp, shall be deemed guilty of a misdemeanor, and, upon conviction thereof, shall be subject to all the penalties, fines, and forfeitures prescribed in section ninety-three of this act.

SEC. 100. *And be it further enacted*, That if any person or persons shall make, sign, or issue, or cause to be made, signed, or issued, or shall accept or pay, or cause to be accepted or paid, with design to evade the payment of any stamp duty, any bill of exchange, draft or order, or promissory note for the payment of money, liable to any of the duties imposed by this act, without the same being duly stamped, or having thereupon an adhesive stamp for denoting the duty hereby charged thereon, he, she, or they shall, for every such bill, draft, order, or note, forfeit the sum of two hundred dollars.

SEC. 101. *And be it further enacted*, That the acceptor or acceptors of any bill of exchange or order for the payment of any sum of money drawn, or purporting to be drawn, in any foreign country, but payable in the United States, shall, before paying or accepting the same, place thereupon a stamp indicating the duty upon the same, as the law requires for inland bills of exchange, or promissory notes; and no bill of exchange shall be paid or negotiated without such stamp; and if any person shall pay or negotiate, or offer in payment, or receive or take in payment, any such draft or order, the person or persons so offending shall forfeit the sum of one hundred dollars.

SEC. 102. *And be it further enacted*, That the Commissioner of Internal Revenue be, and is hereby, authorized to sell to and supply collectors, deputy collectors, postmasters, stationers, or any other persons, at his discretion, with adhesive stamps or stamped paper, vellum, or parchment, as herein provided for, upon the payment, at the time of delivery, of the amount of duties said stamps, stamped paper, vellum, or parchment, so sold or supplied, represent, and may thereupon allow and deduct from the aggregate amount of such stamps, as aforesaid, the sum of not exceeding five per centum as commission to the collectors, postmasters, stationers, or other purchasers; but the cost of any paper, vellum, or parchment shall be added to the amount, after deducting the allowance of per centum, as aforesaid: *Provided*, That no commission shall be allowed on any sum or sums so sold or supplied of less amount than fifty dollars: *And provided further*, That any proprietor or proprietors of articles named in schedule C, who shall furnish his or their own die or design for stamps, to be used especially for his or their own proprietary articles, shall be allowed the following discount, namely: on amounts purchased at one time of not less than fifty nor more than five hundred dollars, five per centum; on amounts over five hundred dollars, ten per centum. The Commissioner of Internal Revenue may from time to time make regulations for the allowance of such of the stamps issued under the provisions of this act as may have been spoiled or rendered useless or unfit for the purpose intended, or for which the owner may have no use, or which through mistake may have been improperly or unnecessarily used, or where the rates or duties represented thereby have been paid in error or remitted; and such allowance shall be made either by giving other stamps in lieu of the stamps so allowed for, or by repaying the amount or value, after deducting therefrom, in case of repayment, the sum of five per centum to the owner thereof.

SEC. 103. *And be it further enacted*, That it shall be lawful for any person to present to the Commissioner of Internal Revenue any instrument, and require his opinion whether or not the same is chargeable with any duty; and if the said commissioner shall be of opinion that such instrument is not chargeable with any stamp duty, it shall be lawful for him, and he is hereby required, to impress thereon a particular stamp, to be provided for that purpose, with such word or words or device thereon as he shall judge proper, which shall signify and denote that such instrument is not chargeable with any stamp duty; and every such instrument upon which the said stamp shall be impressed shall be deemed to be not so chargeable, and shall be received in evidence in all courts of law or equity, notwithstanding any objections made to the same, as being chargeable with stamp duty, and not stamped to denote the same.

SEC. 104. *And be it further enacted*, That on and after the date on which this act shall take effect, no telegraph company or its agent or employé shall receive from any person, or transmit to any person, any dispatch or message without an adhesive stamp denoting the duty imposed by this act being affixed to a copy thereof, or having the same stamped thereupon, and in default thereof shall incur a penalty of ten dollars: *Provided*, That only one stamp shall be required, whether sent through one or more companies.

SEC. 105. *And be it further enacted*, That on and after the date on which this act shall take effect, no express company or its agent or employé shall receive for transportation from any person any bale, bundle, box, article, or package of any description, without either delivering to the consignor thereof a printed receipt, having stamped or affixed thereon a stamp denoting the duty imposed by this act, or without affixing thereto an adhesive stamp or stamps denoting such duty, and in default thereof shall incur a penalty of ten dollars: *Provided*, That but one stamped receipt or stamp shall be required for each shipment from one party to another party at the same time, whether such shipment consists of one or more packages: *And provided also*, That no stamped receipts or stamp shall be required for any bale, bundle, box, article, or package transported for the Government, nor for such bales, bundles, boxes, or packages as are transported by such companies without charge thereon.

SEC. 106. *And be it further enacted*, That all the provisions of this act relating to dies, stamps, adhesive stamps, and stamp duties, shall extend to and include (except where manifestly inapplicable) all the articles or objects enumerated in schedule marked C, subject to stamp duties, and apply to the provisions in relation thereto.

SEC. 107. *And be it further enacted*, That on and after the first day of August, eighteen hundred and sixty-two, no person or persons, firms, companies, or corporations, shall make, prepare, and sell, or remove for consumption or sale, drugs, medicines, preparations, compositions, articles, or things, including perfumery, cosmetics, and playing-cards, upon which a duty is imposed by this act, as enumerated and mentioned in schedule C, without affixing thereto an adhesive stamp or label denoting the duty before mentioned, and in default thereof shall incur a penalty of ten dollars: *Provided*, That nothing in this act contained shall apply to any uncompounded medicinal drug or chemical, nor to any medicine compounded according to the United States or other national pharmacopœia, nor of which the full and proper formula is published in either of the dispensatories, formularies, or text-books in common use among physicians and apothecaries, including homœopathic and eclectic, or in any pharmaceutical journal now used by any incorporated college of pharmacy, and not sold or offered for sale, or advertised under any other name, form, or guise, than that under which they may be severally denominated and laid down in said pharmacopœias, dispensatories, text-books, or journals, as aforesaid, nor to medicines sold to or for the use of any person, which may be mixed and compounded specially for said persons, according to the written recipe or prescription of any physician or surgeon.

SEC. 108. *And be it further enacted*, That every manufacturer or maker of any of the articles for sale mentioned in schedule C, after the same shall have been so made, and the particulars hereinbefore required as to stamps have been complied with, who shall take off, remove, or detach, or cause or permit, or suffer to be taken off, or removed or detached, any stamp, or who shall use any stamp, or any wrapper or cover to which any stamp is affixed, to cover any other article or commodity than that originally contained in such wrapper or cover, with such stamp when first used, with the intent to evade the stamp duties, shall for every such article, respectively, in respect of which any such offense shall be committed, be subject to a penalty of fifty dollars, to be recovered, together with the costs thereupon accruing, and every such article or commodity as aforesaid shall also be forfeited.

SEC. 109. *And be it further enacted*, That every maker or manufacturer of any of the articles or commodities mentioned in schedule C, as aforesaid, who shall sell, send out, remove, or deliver any article or commodity, manufactured as aforesaid, before the duty thereon shall have been fully paid, by affixing thereon the proper stamp, as in this act provided, or who shall hide or conceal, or cause to be hidden or concealed, or who shall remove or convey away, or deposit, or cause to be removed or conveyed away from or deposited in any place, any such article or commodity, to evade the duty chargeable thereon, or any part thereof, shall be subject to a penalty of one hundred dollars, together with the forfeiture of any such article or commodity: *Provided*, That medicines, preparations, compositions, perfumery, and cosmetics, upon which stamp duties are required by this act, may, when intended for exportation, be manufactured and sold, or removed without having stamps affixed thereto, and without being charged with duty, as aforesaid; and every manufacturer or maker of any article, as aforesaid, intended for exportation, shall give such bonds and be subject to such rules and regulations to protect the revenue against fraud as may be from time to time prescribed by the Secretary of the Treasury.

SEC. 110. *And be it further enacted*, That every manufacturer or maker of any of the articles or commodities, as aforesaid, or his chief workman, agent, or superintendent, shall, at the end of each and every month, make and sign a declaration in writing that no such article or commodity, as aforesaid, has, during such preceding month, or time when the last declaration was made, been removed, carried, or sent, or caused, or suffered, or known to have been removed, carried, or sent from the premises of such manufacturer or maker, other than such as have been duly taken account of and charged with the stamp duty, on pain of

such manufacturer or maker forfeiting for every refusal or neglect to make such declaration one hundred dollars; and if any such manufacturer or maker, or his chief workman, agent, or superintendent, shall make any false or untrue declaration, such manufacturer or maker, or chief workman, agent, or superintendent, making the same, shall forfeit five hundred dollars.

SCHEDULE B.

Stamp Duties.

Agreement or contract, other than those specified in this schedule; any appraisement of value or damage, or for any other purpose; for every sheet or piece of paper upon which either of the same shall be written, five cents.

Bank check, draft, or order for the payment of any sum of money exceeding twenty dollars, drawn upon any bank, trust company, or any person or persons, companies, or corporations, at sight or on demand, two cents.

Bill of exchange, (inland,) draft, or order for the payment of any sum of money exceeding twenty and not exceeding one hundred dollars, otherwise than at sight or on demand, or any promissory note except bank notes issued for circulation, for a sum exceeding twenty and not exceeding one hundred dollars, five cents.

Exceeding one hundred dollars and not exceeding two hundred dollars, ten cents.

Exceeding two hundred dollars and not exceeding three hundred and fifty dollars, fifteen cents.

Exceeding three hundred and fifty dollars and not exceeding five hundred dollars, twenty cents.

Exceeding five hundred dollars and not exceeding seven hundred and fifty dollars, thirty cents.

Exceeding seven hundred and fifty dollars and not exceeding one thousand dollars, forty cents.

Exceeding one thousand dollars and not exceeding fifteen hundred dollars, sixty cents.

Exceeding fifteen hundred dollars and not exceeding twenty-five hundred dollars, one dollar.

Exceeding twenty-five hundred dollars and not exceeding five thousand dollars, one dollar and fifty cents.

And for every twenty-five hundred dollars, or part of twenty-five hundred dollars in excess of five thousand dollars, one dollar.

Bill of exchange (foreign) or letter of credit, drawn in but payable out of the United States, if drawn singly, or otherwise than in a set of three or more, according to the custom of merchants and bankers, shall pay the same rates of duty as inland bills of exchange or promissory notes.

If drawn in sets of three or more: for every bill of each set, where the sum made payable shall not exceed one hundred and fifty dollars, or the equivalent thereof, in any foreign currency in which such bills may be expressed, according to the standard of value fixed by the United States, three cents.

Above one hundred and fifty dollars and not above two hundred and fifty dollars, five cents.

Above two hundred and fifty dollars and not above five hundred dollars, ten cents.

Above five hundred dollars and not above one thousand dollars, fifteen cents.

Above one thousand dollars and not above one thousand five hundred dollars, twenty cents.

Above one thousand five hundred dollars and not above two thousand two hundred and fifty dollars, thirty cents.

Above two thousand two hundred and fifty dollars and not above three thousand five hundred dollars, fifty cents.

Above three thousand five hundred dollars and not above five thousand dollars, seventy cents.

Above five thousand dollars and not above seven thousand five hundred dollars, one dollar.

And for every two thousand five hundred dollars, or part thereof, in excess of seven thousand five hundred dollars, thirty cents.

Bill of lading or receipt, (other than charter-party,) for any goods, merchandise, or effects, to be exported from a port or place in the United States to any foreign port or place, ten cents.

Express:

For every receipt or stamp issued, or issued by any express company, or carrier, or person whose occupation it is to act as such, for all boxes, bales, packages, articles, or bundles, for the transportation of which such company, carrier, or person, shall receive a compensation of not over twenty-five cents, one cent.

When such compensation exceeds the sum of twenty-five cents, and not over one dollar, two cents.

When one or more packages are sent to the same address at the same time, and the compensation therefor exceeds one dollar, five cents.

Bond:

For indemnifying any person who shall have become bound or engaged as surety for the payment of any sum of money, or for the due execution or performance of the duties of any office, and to account for money received by virtue thereof, fifty cents.

Bond of any description other than such as may be required in legal proceedings, and such as are not otherwise charged in this schedule, twenty-five cents.

Certificate of stock in any incorporated company, twenty-five cents.

Certificate of profits, or any certificate or memorandum showing an interest in the property or accumulations of any incorporated company, if for a sum not less than ten dollars and not exceeding fifty dollars, ten cents.

For a sum exceeding fifty dollars, twenty-five cents.

Certificate:

Any certificate of damage, or otherwise, and all other certificates or documents issued by any port warden, marine surveyor, or other person acting as such, twenty-five cents.

Certificate of deposit of any sum of money in any bank or trust company, or with any banker or person acting as such—

If for a sum not exceeding one hundred dollars, two cents.

For a sum exceeding one hundred dollars, five cents.

Certificate of any other description than those specified, ten cents.

Charter-party.

Contract or agreement for the charter of any ship or vessel, or steamer, or any letter, memorandum, or other writing between the captain, master, or owner, or person acting as agent of any ship or vessel, or steamer, and any other person or persons for or relating to the charter of such ship or vessel or steamer, if the registered tonnage of such ship or vessel, or steamer, does not exceed three hundred tons, three dollars.

Exceeding three hundred tons and not exceeding six hundred tons, five dollars.

Exceeding six hundred tons, ten dollars.

Contract:

Broker's note or memorandum of sale of any goods or merchandise, stocks, bonds, exchange, notes of hand, real estate, or property of any kind or description issued by brokers or persons acting as such, ten cents.

Conveyance:

Deed, instrument, or writing, whereby any lands, tenements, or other realty sold shall be granted, assigned, transferred, or otherwise conveyed to, or vested in, the purchaser or purchasers, or any other person or persons by his, her, or their direction, when the consideration or value exceeds one hundred dollars and does not exceed five hundred dollars, fifty cents.

When the consideration exceeds five hundred dollars and does not exceed one thousand dollars, one dollar.

Exceeding one thousand dollars and not exceeding two thousand five hundred dollars, two dollars

Exceeding two thousand five *thousand* [hundred] dollars and not exceeding five thousand dollars, five dollars.

Exceeding five thousand dollars and not exceeding ten thousand dollars, ten dollars.

Exceeding ten thousand dollars and not exceeding twenty thousand dollars, twenty dollars.

And for every additional ten thousand dollars, or fractional part thereof, in excess of twenty thousand dollars, twenty dollars.

Dispatch, telegraphic:

Any dispatch or message, the charge for which for the first ten words does not exceed twenty cents, one cent.

When the charge for the first ten words exceeds twenty cents, three cents.

Entry of any goods, wares, or merchandise at any custom-house, either for consumption or warehousing, not exceeding one hundred dollars in value, twenty-five cents.

Exceeding one hundred dollars and not exceeding five hundred dollars in value, fifty cents.

Exceeding five hundred dollars in value, one dollar.

Entry for the withdrawal of any goods or merchandise from bonded warehouse, fifty cents.

Insurance, (life:)

Policy of insurance, or other instrument by whatever name the same shall be called, whereby any insurance shall be made upon any life or lives—

When the amount insured shall not exceed one thousand dollars, twenty-five cents.

Exceeding one thousand and not exceeding five thousand dollars, fifty cents.

Exceeding five thousand dollars, one dollar.

Insurance, (marine and inland:)

Each policy of insurance or other instrument, by whatever name the same shall be called, by which insurance shall be made or renewed, upon property of any description, whether against perils by the sea or by fire, or other peril of any kind, made by any insurance company, or its agents, or by any other company or person, twenty-five cents.

Lease, agreement, memorandum, or contract for the hire, use, or rent of any land, tenement, or portion thereof—

If for a period of time not exceeding three years, fifty cents.

If for a period exceeding three years, one dollar.

Manifest for custom-house entry or clearance of the cargo of any ship, vessel, or steamer, for a foreign port—

If the registered tonnage of such ship, vessel, or steamer does not exceed three hundred tons, one dollar.

Exceeding three hundred tons and not exceeding six hundred tons, three dollars.

Exceeding six hundred tons, five dollars.

Mortgage of lands, estate, or property, real or personal, heritable or movable whatsoever, where the same shall be made as a security for the payment of any definite and certain sum of money lent at the time, or previously due and owing or forborne to be paid, being payable; also any conveyance of any lands, estate, or property whatsoever, in trust to be sold or otherwise converted into money, which shall be intended only as security, and shall be redeemable before the sale or other disposal thereof, either by express stipulation or otherwise; or any personal bond given as security for the payment of any definite or certain sum of money exceeding one hundred dollars and not exceeding five hundred dollars, fifty cents.

Exceeding five hundred dollars and not exceeding one thousand dollars, one dollar.

Exceeding one thousand dollars and not exceeding two thousand five hundred dollars, two dollars.

Exceeding two thousand five hundred dollars and not exceeding five thousand dollars, five dollars.

Exceeding five thousand dollars and not exceeding ten thousand dollars, ten dollars.

Exceeding ten thousand dollars and not exceeding twenty thousand dollars, fifteen dollars.

And for every additional ten thousand dollars, or fractional part thereof, in excess of twenty thousand dollars, ten dollars.

Passage ticket, by any vessel from a port in the United States to a foreign port, if less than thirty dollars, fifty cents.

Exceeding thirty dollars, one dollar.

Power of attorney for the sale or transfer of any stock, bonds, or scrip, or for the collection of any dividends or interest thereon, twenty-five cents.

Power of attorney or proxy for voting at any election for officers of any incorporated company or society, except religious, charitable, or literary societies, or public cemeteries, ten cents.

Power of attorney to receive or collect rent, twenty-five cents.

Power of attorney to sell and convey real estate,

or to rent or lease the same, or to perform any and all other acts not hereinbefore specified, one dollar.

Probate of will, or letters of administration: Where the estate and effects for or in respect of which such probate or letters of administration applied for shall be sworn or declared not to exceed the value of two thousand five hundred dollars, fifty cents.

To exceed two thousand five hundred dollars and not exceeding five thousand dollars, one dollar.

To exceed five thousand dollars and not exceeding twenty thousand dollars, two dollars.

To exceed twenty thousand dollars and not exceeding fifty thousand dollars, five dollars.

To exceed fifty thousand dollars and not exceeding one hundred thousand dollars, ten dollars.

Exceeding one hundred thousand dollars and not exceeding one hundred and fifty thousand dollars, twenty dollars.

And for every additional fifty thousand dollars, or fractional part thereof, ten dollars.

Protest:

Upon the protest of every note, bill of exchange, acceptance, check or draft, or any marine protest, whether protested by a notary public or by any other officer who may be authorized by the law of any State or States to make such protest, twenty-five cents.

Warehouse receipt for any goods, merchandise, or property of any kind held on storage in any public or private warehouse or yard, twenty-five cents.

Legal documents:

Writ, or other original process, by which any suit is commenced in any court of record, either law or equity, fifty cents.

Provided, That no writ, summons, or other process issued by a justice of the peace, or issued in any criminal or other suits commenced by the United States or any State, shall be subject to the payment of stamp duties: *And provided further*, That the stamp duties imposed by the foregoing schedule B on manifests, bills of lading, and passage tickets, shall not apply to steamboats or other vessels plying between ports of the United States and ports in British North America.

SCHEDULE C.

Medicines or preparations:

For and upon every packet, box, bottle, pot, phial, or other inclosure, containing any pills, powders, tinctures, troches or lozenges, sirups, cordials, bitters, anodynes, tonics, plasters, liniments, salves, ointments, pastes, drops, waters, essences, spirits, oils, or other preparations or compositions whatsoever, made and sold, or removed for consumption and sale, by any person or persons whatever, wherein the person making or preparing the same has, or claims to have, any private formula or occult secret or art for the making or preparing the same, or has, or claims to have, any exclusive right or title to the making or preparing the same, or which are prepared, uttered, vended, or exposed for sale under any letters-patent, or held out or recommended to the public by the makers, venders, or proprietors thereof as proprietary medicines, or as remedies or specifics for any disease, diseases, or affections whatever affecting the human or animal body, as follows: where such packet, box, bottle, pot, phial, or other inclosure, with its contents, shall not exceed, at the retail price or value, the sum of twenty-five cents, one cent.

Where such packet, box, bottle, pot, phial, or other inclosure, with its contents, shall exceed the retail price or value of twenty-five cents, and not exceed the retail price or value of fifty cents, two cents.

Where such packet, box, bottle, pot, phial, or other inclosure, with its contents, shall exceed the retail price or value of fifty cents, and shall not exceed the retail price or value of seventy-five cents, three cents.

When such packet, box, bottle, pot, phial, or other inclosure, with its contents, shall exceed the retail price or value of seventy-five cents, and shall not exceed the retail price or value of one dollar, four cents.

When such packet, box, bottle, pot, phial, or other inclosure, with its contents, shall exceed the retail price or value of one dollar, for each and every fifty cents or fractional part thereof over and above one dollar, as before mentioned, an additional two cents.

Perfumery and cosmetics:

For and upon every packet, box, bottle, pot, phial, or other inclosure, containing any essence, extract, toilet water, cosmetic, hair oil, pomade, hair dressing, hair restorative, hair dye, tooth-wash, dentifrice, tooth-paste, aromatic cachous, or any similar articles, by whatsoever name the same heretofore have been, now are, or may hereafter be called, known, or distinguished, used or applied, or to be used or applied as perfumes or applications to the hair, mouth, or skin, made, prepared, and sold or removed for consumption and sale in the United States: where such packet, box, bottle, pot, phial, or other inclosure, with its contents, shall not exceed, at the retail price or value, the sum of twenty-five cents, one cent.

Where such packet, box, bottle, pot, phial, or other inclosure, with its contents, shall exceed the retail price or value of twenty-five cents, and shall not exceed the retail price or value of fifty cents, two cents.

Where such packet, box, bottle, pot, phial, or other inclosure, with its contents, shall exceed the retail price or value of fifty cents, and shall not exceed the retail price or value of seventy-five cents, three cents.

Where such packet, box, bottle, pot, phial, or other inclosure, with its contents, shall exceed the retail price or value of seventy-five cents, and shall not exceed the retail price or value of one dollar, four cents.

Where such packet, box, bottle, pot, phial, or other inclosure, with its contents, shall exceed the retail price or value of one dollar, for each and every fifty cents or fractional part thereof over and above the one dollar, as before mentioned, an additional two cents.

Playing cards:

For and upon every pack of whatever number, when the price per pack does not exceed eighteen cents, one cent.

Over eighteen cents and not exceeding twenty-five cents per pack, two cents.

Over twenty-five and not exceeding thirty cents per pack, three cents.

Over thirty and not exceeding thirty-six cents per pack, four cents.

Over thirty-six cents per pack, five cents.

LEGACIES AND DISTRIBUTIVE SHARES OF PERSONAL PROPERTY.

SEC. 111. *And be it further enacted*, That any person or persons having in charge or trust, as administrators, executors, or trustees of any legacies or distributive shares arising from personal property, of any kind whatsoever, where the whole amount of such personal property, as aforesaid, shall exceed the sum of one thousand dollars in actual value, passing from any person who may die after the passage of this act possessed of such property, either by will or by the intestate laws of any State or Territory, or any part of such property or interest therein, transferred by deed, grant, bargain, sale, or gift, made or intended to take effect in possession or enjoyment after the death of the grantor or bargainor, to any person or persons, or to any body or bodies-politic or corporate, in trust or otherwise, shall be, and hereby are, made subject to a duty or tax, to be paid to the United States, as follows, that is to say:

First. Where the person or persons entitled to any beneficial interest in such property shall be the lineal issue or lineal ancestor, brother or sister, to the person who died possessed of such property, as aforesaid, at and after the rate of seventy-five cents for each and every hundred dollars of the clear value of such interest in such property.

Second. Where the person or persons entitled to any beneficial interest in such property shall be a descendant of a brother or sister of the person who died possessed, as aforesaid, at and after the rate of one dollar and fifty cents for each and every hundred dollars of the clear value of such interest.

Third. Where the person or persons entitled to any beneficial interest in such property shall be a brother or sister of the father or mother, or a descendant of a brother or sister of the father or mother of the person who died possessed, as aforesaid, at and after the rate of three dollars for each and every hundred dollars of the clear value of such interest.

Fourth. Where the person or persons entitled to any beneficial interest in such property shall be a brother or sister of the grandfather or grandmother, or a descendant of the brother or sister of the grandfather or grandmother of the person who died possessed, as aforesaid, at and after the rate of four dollars for each and every hundred dollars of the clear value of such interest.

Fifth. Where the person or persons entitled to any beneficial interest in such property shall be in any other degree of collateral consanguinity than is hereinbefore stated, or shall be a stranger in blood to the person who died possessed, as aforesaid, or shall be a body-politic or corporate, at and after the rate of five dollars for each and every hundred dollars of the clear value of such interest: *Provided*, That all legacies or property passing by will, or by the laws of any State or Territory, to husband or wife of the person who died possessed, as aforesaid, shall be exempt from tax or duty.

SEC. 112. *And be it further enacted*, That the tax or duty aforesaid shall be a lien and charge upon the property of every person who may die as aforesaid, until the same shall be fully paid to and discharged by the United States; and every executor, administrator, or other person who may take the burden or trust of administration upon such property shall, after taking such burden or trust, and before paying and distributing any portion thereof to the legatees or any parties entitled to beneficial interest therein, pay to the collector or deputy collector of the district the amount of the duty or tax, as aforesaid, and shall also make and render to the assistant assessor of the district a schedule, list, or statement of the amount of such property, together with the amount of duty which has accrued or should accrue thereon, verified by his oath or affirmation, to be administered and certified thereon by some magistrate or officer having lawful power to administer such oaths, in such form and manner as may be prescribed by the Commissioner of Internal Revenue, which schedule, list, or statement shall contain the names of each and every person entitled to any beneficial interest therein, together with the clear value of such interest, which schedule, list, or statement shall be by him delivered to such collector; and upon such payment and delivery of such schedule, list, or statement, said collector or deputy collector shall grant to such person paying such duty or tax a receipt or receipts for the same in duplicate, which shall be prepared as is hereinafter provided; such receipt or receipts, duly signed and delivered by such collector or deputy collector, shall be sufficient evidence to entitle the person who paid such duty or tax as having taken the burden or trust of administering such property or personal estate to be allowed for such payment by the person or persons entitled to the beneficial interest in respect to which such tax or duty was paid; and such person administering such property or personal estate shall be credited and allowed such payment by every tribunal which, by the laws of any State or Territory, is or may be empowered to decide upon and settle the accounts of executors and administrators; and in case such person who has taken the burden or trust of administering upon any such property or personal estate shall refuse or neglect to pay the aforesaid duty or tax to the collector or deputy collector, as aforesaid, within the time hereinbefore provided, or shall neglect or refuse to deliver to said collector or deputy collector the schedule, list, or statement of such legacies, property, or personal estate under oath, as aforesaid, or shall deliver to said collector or deputy collector a false schedule or statement of such legacies, property, or personal estate, or give the names and relationship of the persons entitled to beneficial interests therein untruly, or shall not truly and correctly set forth and state therein the clear value of such beneficial interest, or where no administration upon such property or personal estate shall have been granted or allowed under existing laws, the proper officer of the United States shall com-

mence such proceedings in law or equity before any court of the United States as may be proper and necessary to enforce and realize the lien or charge upon such property or personal estate, or any part thereof, for which such tax or duty has not been truly and justly paid. Under such proceedings the rate of duty or tax enforced shall be the highest rate imposed or assessed by this act, and shall be in the name of the United States against such person or persons as may have the actual or constructive custody or possession of such property or personal estate, or any part thereof, and shall subject such property or personal estate, or any portion of the same, to be sold upon the judgment or decree of such court, and from the proceeds of such sale the amount of such tax or duty, together with all costs and expenses of every description to be allowed by such court, shall be first paid, and the balance, if any, deposited according to the order of such court, to be paid under its direction to such person or persons as shall establish their lawful title to the same. The deed or deeds, or any proper conveyance of such property or personal estate, or any portion thereof, so sold under such judgment or decree, executed by the officer lawfully charged with carrying the same into effect, shall vest in the purchaser thereof all the title of the delinquent to the property or personal estate sold under and by virtue of such judgment or decree, and shall release every other portion of such property or personal estate from the lien or charge thereon created by this act. And every person or persons who shall have in his possession, charge, or custody, any record, file, or paper, containing or supposed to contain any information concerning such property or personal estate, as aforesaid, passing from any person who may die, as aforesaid, shall exhibit the same at the request of the collector of the revenue, his deputy or agent, and to any law officer of the United States, in the performance of his duty under this act, his deputy or agent, who may desire to examine the same; and if any such person, having in his possession, charge, or custody, any such records, files, or papers, shall refuse or neglect to exhibit the same on request, as aforesaid, he shall forfeit and pay the sum of five hundred dollars; and in case of any delinquency in making the schedule, list, or statement, or in the payment of the duty or tax accruing, or which should accrue thereon, the assessment and collection shall be made as provided for in the general provisions of this act: *Provided*, In all legal controversies where such deed or title shall be the subject of judicial investigation the recital in said deed shall be presumed to be true, and that the requirements of the law had been complied with by the officers of the Government.

SEC. 113. *And be it further enacted*, That whenever by this act any license, duty, or tax of any description has been imposed on any corporate body, or property of any incorporated company, it shall be lawful for the Commissioner of Internal Revenue to prescribe and determine in what district such tax shall be assessed and collected, and to what officer thereof the official notices required in that behalf shall be given, and of whom payment of such tax shall be demanded.

SEC. 114. *And be it further enacted*, That all articles upon which duties are imposed by the provisions of this act, which shall be found in the possession of any person or persons, for the purpose of being sold by such person or persons in fraud thereof and with the design to avoid payment of said duties, may be seized by any collector or deputy collector who shall have reason to believe that the same are possessed for the purpose aforesaid, and the same shall be forfeited to the United States. And the proceedings to enforce said forfeiture shall be in the nature of a proceeding in rem in the circuit or district court of the United States for the district where such seizure is made, or in any other court of competent jurisdiction. And any person who shall have in his possession any such articles for the purpose of selling the same with the design of avoiding payment of the duties imposed thereon by this act, shall be liable to a penalty of one hundred dollars, to be recovered as hereinbefore provided.

APPROPRIATION.

SEC. 115. *And be it further enacted*, That the pay of the assessors, assistant assessors, collectors, and deputy collectors, shall be paid out of the accruing internal duties or taxes before the same is paid into the Treasury, according to such regulations as the Commissioner of Internal Revenue, under the direction of the Secretary of the Treasury, shall prescribe; and for the purpose of paying the Commissioner of Internal Revenue and clerks, procuring dies, stamps, adhesive stamps, paper, printing forms and regulations, advertising, and any other expenses of carrying this act into effect, the sum of five hundred thousand dollars be, and hereby is, appropriated, or so much thereof as may be necessary.

ALLOWANCE AND DRAWBACK.

SEC. 116. *And be it further enacted*, That from and after the date on which this act takes effect there shall be an allowance or drawback on all articles on which any internal duty or tax shall have been paid, except raw or unmanufactured cotton, equal in amount to the duty or tax paid thereon, and no more, when exported, the evidence that any such duty or tax has been paid, to be furnished to the satisfaction of the Commissioner of Internal Revenue, by such person or persons as shall claim the allowance or drawback, and the amount to be ascertained under such regulations as shall, from time to time, be prescribed by the Commissioner of Internal Revenue, under the direction of the Secretary of the Treasury, and the same shall be paid by the warrant of the Secretary of the Treasury on the Treasurer of the United States, out of any money arising from internal duties not otherwise appropriated: *Provided*, That no allowance or drawback shall be made or had for any amount claimed or due less than twenty dollars, anything in this act to the contrary notwithstanding: *And provided further*, That any certificate of drawback for goods exported, issued in pursuance of the provisions of this act, may, under such regulations as may be prescribed by the Secretary of the Treasury, be received by the collector or his deputy in payment of duties under this act. And the Secretary of the Treasury may make such regulations with regard to the form of said certificates and the issuing thereof as, in his judgment, may be necessary: *And provided further*, That in computing the allowance or drawback upon articles manufactured exclusively of cotton when exported, there shall be allowed, in addition to the three per centum duty which shall have been paid on such articles, a drawback of five mills per pound upon such articles, in all cases where the duty imposed by this act upon the cotton used in the manufacture thereof has been previously paid; the amount of said allowance to be ascertained in such manner as may be prescribed by the Commissioner of Internal Revenue, under the direction of the Secretary of the Treasury.

SEC. 117. *And be it further enacted*, That if any person or persons shall fraudulently claim or seek to obtain an allowance or drawback on goods, wares, or merchandise, on which no internal duty shall have been paid, or shall fraudulently claim any greater allowance or drawback than the duty actually paid, as aforesaid, such person or persons shall forfeit triple the amount wrongfully or fraudulently claimed or sought to be obtained, or the sum of five hundred dollars, at the election of the Secretary of the Treasury, to be recovered as in other cases of forfeiture provided for in the general provisions of this act.

SEC. 118. *And be it further enacted*, That the sum of sixty thousand dollars, appropriated to complete the capitol in New Mexico, by the second section of an act of Congress approved June twenty five, eighteen hundred and sixty, and the sum of fifty thousand dollars, appropriated for military roads in New Mexico, by act of Congress approved March two, eighteen hundred and sixty-one, be, and the same are hereby, credited to the Territory of New Mexico in payment of the direct annual tax of sixty-two thousand six hundred and forty-eight dollars levied upon said Territory under the eighth section of an act of Congress approved August five, eighteen hundred and sixty-one, to be taken up on account of said direct tax under said [act] as the same may fall due to the United States from said Territory.

SEC. 119. *And be it further enacted*, That so much of an act entitled "An act to provide increased revenue from imports, to pay interest on the public debt, and for other purposes," approved August fifth, eighteen hundred and sixty-one, as imposes a direct tax of twenty millions of dollars on the United States, shall be held to authorize the levy and collection of one tax to that amount; and no other tax shall be levied under and by virtue thereof, until the first day of April, eighteen hundred and sixty-five, when the same shall be in full force and effect.

APPROVED, July 1, 1862.

CHAP. CXX.—An Act to aid in the construction of a Railroad and Telegraph Line from the Missouri River to the Pacific Ocean, and to secure to the Government the use of the same for Postal, Military, and other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That Walter S. Burgess, William P. Blodget, Benjamin H. Cheever, Charles Fosdick Fletcher, of Rhode Island; Augustus Brewster, Henry P. Haven, Cornelius S. Bushnell, Henry Hammond, of Connecticut; Isaac Sherman, Dean Richmond, Royal Phelps, William H. Ferry, Henry A. Paddock, Lewis J. Stancliff, Charles A. Secor, Samuel R. Campbell, Alfred E. Tilton, John Anderson, Azariah Boody, John S. Kennedy, H. Carver, Joseph Field, Benjamin F. Camp, Orville W. Childs, Alexander J. Bergen, Ben. Holliday, D. N. Barney, S. De Witt Bloodgood, William H. Grant, Thomas W. Olcott, Samuel B. Ruggles, James B. Wilson, of New York; Ephraim Marsh, Charles M. Harker, of New Jersey; John Edgar Thompson, Benjamin Haywood, Joseph H. Scranton, Joseph Harrison, George W. Cass, John H. Bryant, Daniel J. Morell, Thomas M. Howe, William F. Johnson, Robert Finney, John A. Green, E. R. Myre, Charles F. Wells, junior, of Pennsylvania; Noah L. Wilson, Amasa Stone, William H. Clement, S. S. L'Hommedieu, John Brough, William Dennison, Jacob Blickinsderfer, of Ohio; William M. McPherson, R. W. Wells, Willard P. Hall, Armstrong Beatty, John Corby, of Missouri; S. J. Hensley, Peter Donahue, C. P. Huntington, T. D. Judah, James Bailey, James T. Ryan, Charles Hosmer, Charles Marsh, D. O. Mills, Samuel Bell, Louis McLane, George W. Mowe, Charles McLaughlin, Timothy Dame, John R. Robinson, of California; John Atchison and John D. Winters, of the Territory of Nevada; John D. Campbell, R. N. Rice, Charles A. Trowbridge, Ransom Gardner, Charles W. Penny, Charles T. Gorham, William McConnell, of Michigan; William F. Coolbaugh, Lucius H. Langworthy, Hugh T. Reid, Hoyt Sherman, Lyman Cook, Samuel R. Curtis, Lewis A. Thomas, Platt Smith, of Iowa; William B. Ogden, Charles G. Hammond, Henry Farnum, Amos C. Babcock, W. Seldon Gale, Nehemiah Bushnell and Lorenzo Bull, of Illinois; William H. Swift, Samuel T. Dana, John Bertram, Franklin S. Stevens, Edward R. Tinker, of Massachusetts; Franklin Gorin, Laban J. Bradford, and John T. Levis, of Kentucky; James Dunning, John M. Wood, Edwin Noyes, Joseph Eaton, of Maine; Henry H. Baxter, George W. Collamer, Henry Keyes, Thomas H. Canfield, of Vermont; William S. Ladd, A. M. Berry, Benjamin F. Harding, of Oregon; William Bunn, junior, John Catlin, Levi Sterling, John Thompson, Elihu L. Phillips, Walter D. McIndoe, T. B. Stoddard, E. H. Brodhead, A. H. Virgin, of Wisconsin; Charles Paine, Thomas A. Morris, David C. Branham, Samuel Hanna, Jonas Votaw, Jesse L. Williams, Isaac C. Elston, of Indiana; Thomas Swan, Chauncey Brooks, Edward Wilkins, of Maryland; Francis R. E. Cornell, David Blakely, A. D. Seward, Henry A. Swift, Dwight Woodbury, John McKusick, John R. Jones, of Minnesota; Joseph A. Gilmore, Charles W. Woodman, of New Hampshire; W. H. Grimes, J. C. Stone, Chester Thomas, John Kerr, Werter R. Davis, Luther C. Challiss, Josiah Miller, of Kansas; Gilbert C. Monell, Augustus Kountz, T. M. Marquette, William H. Taylor, Alvin Saunders, of Nebraska; John Evans, of Colorado; together with five commissioners to be appointed by the Secretary of the Interior, and all persons who shall or may

be associated with them, and their successors, are hereby created and erected into a body-corporate and politic in deed and in law, by the name, style, and title of "The Union Pacific Railroad Company;" and by that name shall have perpetual succession, and shall be able to sue and to be sued, plead and be impleaded, defend and be defended, in all courts of law and equity within the United States, and may make and have a common seal; and the said corporation is hereby authorized and empowered to lay out, locate, construct, furnish, maintain, and enjoy a continuous railroad and telegraph, with the appurtenances, from a point on the one hundredth meridian of longitude west from Greenwich, between the south margin of the valley of the Republican river and the north margin of the valley of the Platte river, in the Territory of Nebraska, to the western boundary of Nevada Territory, upon the route and terms hereinafter provided, and is hereby vested with all the powers, privileges, and immunities necessary to carry into effect the purposes of this act as herein set forth. The capital stock of said company shall consist of one hundred thousand shares of one thousand dollars each, which shall be subscribed for and held in not more than two hundred shares by any one person, and shall be transferable in such manner as the by-laws of said corporation shall provide. The persons hereinbefore named, together with those to be appointed by the Secretary of the Interior, are hereby constituted and appointed commissioners, and such body shall be called the Board of Commissioners of the Union Pacific Railroad and Telegraph Company, and twenty-five shall constitute a quorum for the transaction of business. The first meeting of said board shall be held at Chicago at such time as the commissioners from Illinois herein named shall appoint, not more than three nor less than one month after the passage of this act, notice of which shall be given by them to the other commissioners by depositing a call thereof in the post office at Chicago, post paid, to their address at least forty days before said meeting, and also by publishing said notice in one daily newspaper in each of the cities of Chicago and Saint Louis. Said board shall organize by the choice from its number of a president, secretary, and treasurer, and they shall require from said treasurer such bonds as may be deemed proper, and may from time to time increase the amount thereof as they may deem proper. It shall be the duty of said board of commissioners to open books, or cause books to be opened, at such times and in such principal cities in the United States as they or a quorum of them shall determine, to receive subscriptions to the capital stock of said corporation, and a cash payment of ten per centum on all subscriptions, and to receipt therefor. So soon as two thousand shares shall be in good faith subscribed for, and ten dollars per share actually paid into the treasury of the company, the said president and secretary of said board of commissioners shall appoint a time and place for the first meeting of the subscribers to the stock of said company, and shall give notice thereof in at least one newspaper in each State in which subscription books have been opened at least thirty days previous to the day of meeting, and such subscribers as shall attend the meeting so called, either in person or by proxy, shall then and there elect by ballot not less than thirteen directors for said corporation; and in such election each share of said capital shall entitle the owner thereof to one vote. The president and secretary of the board of commissioners shall act as inspectors of said election, and shall certify under their hands the names of the directors elected at said meeting; and the said commissioners, treasurer, and secretary shall then deliver over to said directors all the properties, subscription books and other books in their possession, and thereupon the duties of said commissioners and the officers previously appointed by them shall cease and determine forever, and thereafter the stockholders shall constitute said body-politic and corporate. At the time of the first and each triennial election of directors by the stockholders two additional directors shall be appointed by the President of the United States, who shall act with the body of directors, and *to* be denominated directors on the part of the Government; any vacancy happening in the Government directors at any time may be filled by the President of the United States. The directors to be appointed by the President shall not be stockholders in the Union Pacific Railroad Company. The directors so chosen shall, as soon as may be after their election, elect from their own number a president and vice president, and shall also elect a treasurer and secretary. No person shall be a director in said company unless he shall be a bona fide owner of at least five shares of stock in the said company, except the two directors to be appointed by the President as aforesaid. Said company, at any regular meeting of the stockholders called for that purpose, shall have power to make by-laws, rules, and regulations as they shall deem needful and proper, touching the disposition of the stock, property, estate, and effects of the company, and inconsistent herewith, the transfer of shares, the term of office, duties, and conduct of their officers and servants, and all matters whatsoever which may appertain to the concerns of said company; and the said board of directors shall have power to appoint such engineers, agents, and subordinates as may from time to time be necessary to carry into effect the object of this act, and to do all acts and things touching the location and construction of said road and telegraph. Said directors may require payment of subscriptions to the capital stock, after due notice, at such times and in such proportions as they shall deem necessary to complete the railroad and telegraph within the time in this act prescribed. Said president, vice president, and directors shall hold their office for three years, and until their successors are duly elected and qualified, or for such less time as the by-laws of the corporation may prescribe; and a majority of said directors shall constitute a quorum for the transaction of business. The secretary and treasurer shall give such bonds, with such security, as the said board shall from time to time require, and shall hold their offices at the will and pleasure of the directors. Annual meetings of the stockholders of the said corporation, for the choice of officers (when they are to be chosen) and for the transaction of annual business, shall be holden at such time and place and upon such notice as may be prescribed in the by-laws.

SEC. 2. *And be it further enacted*, That the right of way through the public lands be, and the same is hereby, granted to said company for the construction of said railroad and telegraph line; and the right, power, and authority is hereby given to said company to take from the public lands adjacent to the line of said road, earth, stone, timber, and other materials for the construction thereof; said right of way is granted to said railroad to the extent of two hundred feet in width on each side of said railroad where it may pass over the public lands, including all necessary grounds for stations, buildings, workshops, and depots, machine shops, switches, side tracks, turntables, and water stations. The United States shall extinguish as rapidly as may be the Indian titles to all lands falling under the operation of this act and required for the said right of way and grants hereinafter made.

SEC. 3. *And be it further enacted*, That there be, and is hereby, granted to the said company, for the purpose of aiding in the construction of said railroad and telegraph line, and to secure the safe and speedy transportation of the mails, troops, munitions of war, and public stores thereon, every alternate section of public land, designated by odd numbers, to the amount of five alternate sections per mile on each side of said railroad, on the line thereof, and within the limits of ten miles on each side of said road, not sold, reserved, or otherwise disposed of by the United States, and to which a preëmption or homestead claim may not have attached, at the time the line of said road is definitely fixed: *Provided*, That all mineral lands shall be excepted from the operation of this act; but where the same shall contain timber, the timber thereon is hereby granted to said company. And all such lands, so granted by this section, which shall not be sold or disposed of by said company within three years after the entire road shall have been completed, shall be subject to settlement and preëmption, like other lands, at a price not exceeding one dollar and twenty-five cents per acre, to be paid to said company.

SEC. 4. *And be it further enacted*, That whenever said company shall have completed forty consecutive miles of any portion of said railroad and telegraph line, ready for the service contemplated by this act, and supplied with all necessary drains, culverts, viaducts, crossings, sidings, bridges, turnouts, watering places, depots, equipments, furniture, and all other appurtenances of a first class railroad, the rails and all the other iron used in the construction and equipment of said road to be American manufacture of the best quality, the President of the United States shall appoint three commissioners to examine the same and report to him in relation thereto; and if it shall appear to him that forty consecutive miles of said railroad and telegraph line have been completed and equipped in all respects as required by this act, then, upon certificate of said commissioners to that effect, patents shall issue conveying the right and title to said lands to said company, on each side of the road as far as the same is completed, to the amount aforesaid, and patents shall in like manner issue as each forty miles of said railroad and telegraph line are completed, upon certificate of said commissioners. Any vacancies occurring in said board of commissioners by death, resignation, or otherwise, shall be filled by the President of the United States: *Provided, however*, That no such commissioners shall be appointed by the President of the United States unless there shall be presented to him a statement, verified on oath by the president of said company, that such forty miles have been completed, in the manner required by this act, and setting forth with certainty the points where such forty miles begin and where the same end; which oath shall be taken before a judge of a court of record.

SEC. 5. *And be it further enacted*, That for the purposes herein mentioned the Secretary of the Treasury shall, upon the certificate in writing of said commissioners of the completion and equipment of forty consecutive miles of said railroad and telegraph, in accordance with the provisions of this act, issue to said company bonds of the United States of one thousand dollars each, payable in thirty years after date, bearing six per centum per annum interest, (said interest payable semi-annually,) which interest may be paid in United States treasury notes or any other money or currency which the United States have or shall declare lawful money and a legal tender, to the amount of sixteen of said bonds per mile for such section of forty miles; and to secure the repayment to the United States, as hereinafter provided, of the amount of said bonds so issued and delivered to said company, together with all interest thereon which shall have been paid by the United States, the issue of said bonds and delivery to the company shall ipso facto constitute a first mortgage on the whole line of the railroad and telegraph, together with the rolling stock, fixtures and property of every kind and description, and in consideration of which said bonds may be issued; and on the refusal or failure of said company to redeem said bonds, or any part of them, when required so to do by the Secretary of the Treasury, in accordance with the provisions of this act, the said road, with all the rights, functions, immunities, and appurtenances thereunto belonging, and also all lands granted to the said company by the United States, which, at the time of said default, shall remain in the ownership of the said company, may be taken possession of by the Secretary of the Treasury, for the use and benefit of the United States: *Provided*, This section shall not apply to that part of any road now constructed.

SEC. 6. *And be it further enacted*, That the grants aforesaid are made upon condition that said company shall pay said bonds at maturity, and shall keep said railroad and telegraph line in repair and use, and shall at all times transmit dispatches over said telegraph line, and transport mails, troops, and munitions of war, supplies, and public stores upon said railroad for the Government, whenever required to do so by any Department thereof, and that the Government shall at all times have the preference in the use of the same for all the purposes aforesaid, (at fair and reasonable rates of compensation, not to exceed the amounts paid by private parties for the same kind of service;) and all compensation for services rendered

for the Government shall be applied to the payment of said bonds and interest until the whole amount is fully paid. Said company may also pay the United States, wholly or in part, in the same or other bonds, Treasury notes, or other evidences of debt against the United States, to be allowed at par; and after said road is completed, until said bonds and interest are paid, at least five per centum of the net earnings of said road shall also be annually applied to the payment thereof.

SEC. 7. *And be it further enacted*, That said company shall file their assent to this act, under the seal of said company, in the Department of the Interior, within one year after the passage of this act, and shall complete said railroad and telegraph from the point of beginning as herein provided, to the western boundary of Nevada Territory before the first day of July, one thousand eight hundred and seventy-four: *Provided*, That within two years after the passage of this act said company shall designate the general route of said road, as near as may be, and shall file a map of the same in the Department of the Interior, whereupon the Secretary of the Interior shall cause the lands within fifteen miles of said designated route or routes to be withdrawn from preemption, private entry, and sale; and when any portion of said route shall be finally located, the Secretary of the Interior shall cause the said lands hereinbefore granted to be surveyed and set off as fast as may be necessary for the purposes herein named: *Provided*, That in fixing the point of connection of the main trunk with the eastern connections, it shall be fixed at the most practicable point for the construction of the Iowa and Missouri branches, as hereinafter provided.

SEC. 8. *And be it further enacted*, That the line of said railroad and telegraph shall commence at a point on the one hundredth meridian of longitude west from Greenwich, between the south margin of the valley of the Republican river and the north margin of the valley of the Platte river, in the Territory of Nebraska, at a point to be fixed by the President of the United States, after actual surveys; thence running westerly upon the most direct, central, and practicable route, through the Territories of the United States, to the western boundary of the Territory of Nevada, there to meet and connect with the line of the Central Pacific Railroad Company of California.

SEC. 9. *And be it further enacted*, That the Leavenworth, Pawnee, and Western Railroad Company of Kansas are hereby authorized to construct a railroad and telegraph line from the Missouri river, at the mouth of the Kansas river, on the south side thereof, so as to connect with the Pacific railroad of Missouri, to the aforesaid point, on the one hundredth meridian of longitude west from Greenwich, as herein provided, upon the same terms and conditions in all respects as are provided in this act for the construction of the railroad and telegraph line first mentioned, and to meet and connect with the same at the meridian of longitude aforesaid; and in case the general route or line of road from the Missouri river to the Rocky Mountains should be so located as to require a departure northwardly from the proposed line of said Kansas railroad before it reaches the meridian of longitude aforesaid, the location of said Kansas road shall be made so as to conform thereto; and said railroad through Kansas shall be so located between the mouth of the Kansas river, as aforesaid, and the aforesaid point, on the one hundredth meridian of longitude, that the several railroads from Missouri and Iowa, herein authorized to connect with the same, can make connection within the limits prescribed in this act, provided the same can be done without deviating from the general direction of the whole line to the Pacific coast. The route in Kansas, west of the meridian of Fort Riley, to the aforesaid point, on the one hundredth meridian of longitude, to be subject to the approval of the President of the United States, and to be determined by him on actual survey. And said Kansas company may proceed to build said railroad to the aforesaid point, on the one hundredth meridian of longitude west from Greenwich, in the Territory of Nebraska. The Central Pacific Railroad Company of California, a corporation existing under the laws of the State of California, are hereby authorized to construct a railroad and telegraph line from the Pacific coast, at or near San Francisco, or the navigable waters of the Sacramento river, to the eartern boundary of California, upon the same terms and conditions, in all respects, as are contained in this act for the construction of said railroad and telegraph line first mentioned, and to meet and connect with the first mentioned railroad and telegraph line on the eastern boundary of California. Each of said companies shall file their acceptance of the conditions of this act in the Department of the Interior within six months after the passage of this act.

SEC. 10. *And be it further enacted*, That the said company chartered by the State of Kansas shall complete one hundred miles of their said road, commencing at the mouth of the Kansas river, as aforesaid, within two years after filing their assent to the conditions of this act, as herein provided, and one hundred miles per year thereafter until the whole is completed; and the said Central Pacific Railroad Company of California shall complete fifty miles of their said road within two years after filing their assent to the provisions of this act, as herein provided, and fifty miles per year thereafter until the whole is completed; and after completing their roads, respectively, said companies, or either of them, may unite upon equal terms with the first named company in constructing so much of said railroad and telegraph line and branch railroads and telegraph lines in this act hereinafter mentioned, through the Territories from the State of California to the Missouri river, as shall then remain to be constructed, on the same terms and conditions as provided in this act in relation to the said Union Pacific Railroad Company. And the Hannibal and St. Joseph railroad, the Pacific Railroad Company of Missouri, and the first named company, or either of them, on filing their assent to this act, as aforesaid, may unite upon equal terms, under this act, with the said Kansas company, in constructing said railroad and telegraph, to said meridian of longitude, with the consent of the said State of Kansas; and in case said first named company shall complete their line to the eastern boundary of California before it is completed across said State by the Central Pacific Railroad Company of California, said first named company is hereby authorized to continue in constructing the same through California, with the consent of said State, upon the terms mentioned in this act, until said roads shall meet and connect, and the whole line of said railroad and telegraph is completed; and the Central Pacific Railroad Company of California, after completing its road across said State, is authorized to continue the construction of said railroad and telegraph through the Territories of the United States to the Missouri river, including the branch roads specified in this act, upon the routes hereinbefore and hereinafter indicated, on the terms and conditions provided in this act in relation to the said Union Pacific Railroad Company, until said roads shall meet and connect, and the whole line of said railroad and branches and telegraph is completed.

SEC. 11. *And be it further enacted*, That for three hundred miles of said road most mountainous and difficult of construction, to wit: one hundred and fifty miles westwardly from the eastern base of the Rocky mountains, and one hundred and fifty miles eastwardly from the western base of the Sierra Nevada mountains, said points to be fixed by the President of the United States, the bonds to be issued to aid in the construction thereof shall be treble the number per mile hereinbefore provided, and the same shall be issued, and the lands herein granted be set apart, upon the construction of every twenty miles thereof, upon the certificate of the commissioners as aforesaid that twenty consecutive miles of the same are completed; and between the sections last named of one hundred and fifty miles each, the bonds to be issued to aid in the construction thereof shall be double the number per mile first mentioned, and the same shall be issued, and the lands herein granted be set apart, upon the construction of every twenty miles thereof, upon the certificate of the commissioners as aforesaid that twenty consecutive miles of the same are completed: *Provided*, That no more than fifty thousand of said bonds shall be issued under this act to aid in constructing the main line of said railroad and telegraph.

SEC. 12. *And be it further enacted*, That whenever the route of said railroad shall cross the boundary of any State or Territory, or said meridian of longitude, the two companies meeting or uniting there shall agree upon its location at that point, with reference to the most direct and practicable through route, and in case of difference between them as to said location the President of the United States shall determine the said location; the companies named in each State and Territory to locate the road across the same between the points so agreed upon, except as herein provided. The track upon the entire line of railroad and branches shall be of uniform width, to be determined by the President of the United States, so that, when completed, cars can be run from the Missouri river to the Pacific coast; the grades and curves shall not exceed the maximum grades and curves of the Baltimore and Ohio railroad; the whole line of said railroad and branches and telegraph shall be operated and used for all purposes of communication, travel, and transportation, so far as the public and Government are concerned, as one connected, continuous line; and the companies herein named in Missouri, Kansas, and California, filing their assent to the provisions of this act, shall receive and transport all iron rails, chairs, spikes, ties, timber, and all materials required for constructing and furnishing said first-mentioned line between the aforesaid point, on the one hundredth meridian of longitude and western boundary of Nevada Territory, whenever the same is required by said first-named company, at cost, over that portion of the roads of said companies constructed under the provisions of this act.

SEC. 13. *And be it further enacted*, That the Hannibal and Saint Joseph Railroad Company of Missouri may extend its roads from Saint Joseph via Atchison, to connect and unite with the road through Kansas, upon filing its assent to the provisions of this act, upon the same terms and conditions, in all respects, for one hundred miles in length next to the Missouri river, as are provided in this act for the construction of the railroad and telegraph line first mentioned, and may for this purpose use any railroad charter which has been or may be granted by the Legislature of Kansas: *Provided*, That if actual survey shall render it desirable, the said company may construct their road, with the consent of the Kansas Legislature, on the most direct and practicable route west from St. Joseph, Missouri, so as to connect and unite with the road leading from the western boundary of Iowa at any point east of the one hundredth meridian of west longitude, or with the main trunk road at said point; but in no event shall lands or bonds be given to said company, as herein directed, to aid in the construction of their said road for a greater distance than one hundred miles. And the Leavenworth, Pawnee, and Western Railroad Company of Kansas may construct their road from Leavenworth to unite with the road through Kansas.

SEC. 14. *And be it further enacted*, That the said Union Pacific Railroad Company is hereby authorized and required to construct a single line of railroad and telegraph from a point on the western boundary of the State of Iowa, to be fixed by the President of the United States, upon the most direct and practicable route, to be subject to his approval, so as to form a connection with the lines of said company at some point on the one hundredth meridian of longitude aforesaid, from the point of commencement on the western boundary of the State of Iowa, upon the same terms and conditions, in all respects, as are contained in this act for the construction of the said railroad and telegraph first mentioned; and the said Union Pacific Railroad Company shall complete one hundred miles of the road and telegraph in this section provided for, in two years after filing their assent to the conditions of this act, as by the terms of this act required, and at the rate of one hundred miles per year thereafter, until the whole is completed: *Provided*, That a failure upon the part of said company to make said connection in the time aforesaid, and to perform the obligations imposed on said company by this section and to operate said road in the same manner as the main line shall be operated, shall forfeit to the Government of the United States all the rights, privileges, and franchises granted to and conferred upon said

company by this act. And whenever there shall be a line of railroad completed through Minnesota or Iowa to Sioux city, then the said Pacific Railroad Company is hereby authorized and required to construct a railroad and telegraph from said Sioux city upon the most direct and practicable route to a point on, and so as to connect with, the branch railroad and telegraph in this section hereinbefore mentioned, or with the said Union Pacific Railroad, said point of junction to be fixed by the President of the United States, not further west than the one hundredth meridian of longitude aforesaid, and on the same terms and conditions as provided in this act for the construction of the Union Pacific Railroad as aforesaid, and to complete the same at the rate of one hundred miles per year; and should said company fail to comply with the requirements of this act in relation to the said Sioux city railroad and telegraph, the said company shall suffer the same forfeitures prescribed in relation to the Iowa branch railroad and telegraph hereinbefore mentioned.

SEC. 15. *And be it further enacted*, That any other railroad company now incorporated, or hereafter to be incorporated, shall have the right to connect their road with the road and branches provided for by this act, at such places and upon such just and equitable terms as the President of the United States may prescribe. Wherever the word "company" is used in this act it shall be construed to embrace the words "their associates, successors, and assigns," the same as if the words had been properly added thereto.

SEC. 16. *And be it further enacted*, That at any time after the passage of this act all of the railroad companies named herein, and assenting hereto, or any two or more of them, are authorized to form themselves into one consolidated company; notice of such consolidation, in writing, shall be filed in the Department of the Interior, and such consolidated company shall thereafter proceed to construct said railroad and branches and telegraph line upon the terms and conditions provided in this act.

SEC. 17. *And be it further enacted*, That in case said company or companies shall fail to comply with the terms and conditions of this act, by not completing said road and telegraph and branches within a reasonable time, or by not keeping the same in repair and use, but shall permit the same, for an unreasonable time, to remain unfinished, or out of repair, and unfit for use, Congress may pass any act to insure the speedy completion of said road and branches, or put the same in repair and use, and may direct the income of said railroad and telegraph line to be thereafter devoted to the use of the United States, to repay all such expenditures caused by the default and neglect of such company or companies: *Provided*, That if said roads are not completed, so as to form a continuous line of railroad, ready for use, from the Missouri river to the navigable waters of the Sacramento river, in California, by the first day of July, eighteen hundred and seventy-six, the whole of all of said railroads before mentioned and to be constructed under the provisions of this act, together with all their furniture, fixtures, rolling stock, machine shops, lands, tenements, and hereditaments, and property of every kind and character, shall be forfeited to and be taken possession of by the United States: *Provided*, That of the bonds of the United States in this act provided to be delivered for any and all parts of the roads to be constructed east of the one hundredth meridian of west longitude from Greenwich, and for any part of the road west of the west foot of the Sierra Nevada mountain, there shall be reserved of each part and installment twenty-five per centum, to be and remain in the United States Treasury, undelivered, until said road and all parts thereof provided for in this act are entirely completed; and of all the bonds provided to be delivered for the said road, between the two points aforesaid, there shall be reserved out of each installment fifteen per centum, to be and remain in the Treasury until the whole of the road provided for in this act is fully completed; and if the said road or any part thereof shall fail of completion at the time limited therefor in this act, then and in that case the said part of said bonds so reserved shall be forfeited to the United States.

SEC. 18. *And be it further enacted*, That whenever it appears that the net earnings of the entire road and telegraph, including the amount allowed for services rendered for the United States, after deducting all expenditures, including repairs, and the furnishing, running, and managing of said road, shall exceed ten per centum upon its cost, exclusive of the five per centum to be paid to the United States, Congress may reduce the rates of fare thereon, if unreasonable in amount, and may fix and establish the same by law. And the better to accomplish the object of this act, namely, to promote the public interest and welfare by the construction of said railroad and telegraph line, and keeping the same in working order, and to secure to the Government at all times (but particularly in time of war) the use and benefits of the same for postal, military, and other purposes, Congress may, at any time, having due regard for the rights of said companies named herein, add to, alter, amend, or repeal this act.

SEC. 19. *And be it further enacted*, That the several railroad companies herein named are authorized to enter into an arrangement with the Pacific Telegraph Company, the Overland Telegraph Company, and the California State Telegraph Company, so that the present line of telegraph between the Missouri river and San Francisco may be moved upon or along the line of said railroad and branches as fast as said roads and branches are built; and if said arrangement be entered into, and the transfer of said telegraph line be made in accordance therewith to the line of said railroad and branches, such transfer shall, for all purposes of this act, be held and considered a fulfillment on the part of said railroad companies of the provisions of this act in regard to the construction of said line of telegraph. And, in case of disagreement, said telegraph companies are authorized to remove their line of telegraph along and upon the line of railroad herein contemplated without prejudice to the rights of said railroad companies named herein.

SEC. 20. *And be it further enacted*, That the corporation hereby created and the roads connected therewith, under the provisions of this act, shall make to the Secretary of the Treasury an annual report wherein shall be set forth—

First. The names of the stockholders and their places of residence, so far as the same can be ascertained;

Second. The names and residences of the directors, and all other officers of the company;

Third. The amount of stock subscribed, and the amount thereof actually paid in;

Fourth. A description of the lines of road surveyed, of the lines thereof fixed upon for the construction of the road, and the cost of such surveys;

Fifth. The amount received from passengers on the road;

Sixth. The amount received for freight thereon;

Seventh. A statement of the expense of said road and its fixtures;

Eighth. A statement of the indebtedness of said company, setting forth the various kinds thereof: Which report shall be sworn to by the president of the said company, and shall be presented to the Secretary of the Treasury on or before the first day of July in each year.

APPROVED, July 1, 1862.

CHAP. CXXI.—An Act changing the Name of the American-built Schooner "Curtis Mann" to that of "Supply."

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the collector of the customs of the port of Detroit be, and he is hereby, authorized, under the direction of the Secretary of the Treasury, to issue a new register, license, or enrollment, to the American-built schooner "Curtis Mann," in the name of the "Supply," the same being owned by H. N. Strong.

APPROVED, July 1, 1862.

CHAP. CXXII.—An Act changing the Name of the American-built Schooner "Tom Dyer" to that of "Dolphin."

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the collector of the customs of the port of Detroit be, and he is hereby, authorized, under the direction of the Secretary of the Treasury, to issue a new register, license, or enrollment, to the American-built schooner "Tom Dyer," in the name of the "Dolphin," the same being owned by H. N. Strong.

APPROVED, July 1, 1862.

CHAP. CXXIII.—An Act to provide for the appointment of an Indian Agent in Colorado Territory.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the President be, and he is hereby, authorized to appoint, by and with the advice and consent of the Senate, or during the recess thereof and until the end of its next session after such appointment, an agent for the Grand River and Wintah bands of Indians, in the Territory of Colorado, at a salary of fifteen hundred dollars per annum.

APPROVED, July 1, 1862.

CHAP. CXXIV.—An Act for the Relief of William B. Dodd and others.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Treasury be, and he is hereby, directed to pay, out of the appropriation to complete the road from Mendota to the Big Sioux river, contained in the act approved March third, eighteen hundred and fifty-five, entitled "An act making appropriations for the support of the Army for the year ending the thirtieth of June, eighteen hundred and fifty-six, and for other purposes," into the hands of Horace Austin, of Saint Peter, Minnesota, who is hereby appointed a commissioner to dispose of the same, the sum of three thousand two hundred and seventy dollars, the same having been estimated for in said appropriation, and being for completing a part of said road, to be paid out by him as follows, to wit: The said commissioner shall give notice to all persons having claims against William B. Dodd for labor or materials furnished in the construction of said road, by publication in a newspaper of general circulation in the neighborhood where said road is situated, for ninety days, and by posting written or printed notices in three public places in each county through which said road passes, to present and prove their claims within the ninety days aforesaid; and all such claims, so presented and proved within the time limited, he shall pay to the parties respectively, and the residue, after the liquidation of such claims, and the payment of the expenses of this commission, he shall pay to the said William B. Dodd.

APPROVED, July 1, 1862.

CHAP. CXXV.—An Act to incorporate the Guardian Society and reform Juvenile Offenders in the District of Columbia.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That Amos Kendall, John M. Broadhead, Zenas C. Robbins, Sayles J. Bowen, Nehemiah B. Northrup, Benjamin B. French, Joseph Bryan, Peter N. Higinbotham, Thomas C. Jenner, David W. Heath, James R. Barr, Matthew Waite, Samuel A. H. McKim, John R. Nourse, and Stephen Prentiss, and their associates and successors, being members of said society, by paying into its treasury the sum of two dollars annually, or life members, by paying fifty dollars at one time, or ten dollars annually, for six years, are hereby incorporated and made a body-politic by the name of the "Guardian Society" for the purpose of encouraging and aiding impartially such of the poor, the ignorant, and the vicious as can be induced to make such efforts as they ought for the improvement of their condition, and by that name shall have perpetual succession, with the power to use a common seal, to sue and be sued, to plead and be impleaded, in any court of the United States, to collect subscriptions, make by-laws and rules needful for the government of said corporation not repugnant to the laws of the United States; may have, hold, and receive real and personal estate, by purchase, gift, or devise; may use, sell, or convey the same for the purposes

and benefit of said corporation; may choose such officers and teachers as they may deem necessary, prescribe their duties, and fix their compensation.

SEC. 2. *And be it further enacted*, That they may, at their discretion, receive into a house of industry provided by said society any minors, under the age of eighteen years, who shall be convicted of any crime, offense, or misdemeanor, other than such as are capital or punishable by imprisonment for life; and such person[s] shall be committed by the court or magistrate before whom the conviction shall be had, to said house of industry, with an alternate sentence to the jail or penitentiary of the District of Columbia if the trustees decline to receive or keep them, and to the commitments shall be annexed the names and residences of the witnesses examined, and the substance of the evidence given.

SEC. 3. *And be it further enacted*, That the court may, with the consent of accused persons, or their parents or guardians in writing, arrest proceedings at any time, and commit them to the house of industry.

SEC. 4. *And be it further enacted*, That the trustees may receive any children at the request of the parents or guardians, or next friend, or the mother, if the father be dead, or has abandoned his family, or does not provide for their support, or is an habitual drunkard; such parents, guardians, or next friend, or mother, making a written surrender of such children.

SEC. 5. *And be it further enacted*, That the trustees shall not be required to receive any offenders known to be extremely vicious, nor to keep any who may prove incorrigible, or whose continuance may be deemed injurious; and those whom any two of the trustees or the superintendent, if duly authorized by the board, shall refuse to receive or keep, shall be disposed of according to their alternate sentences.

SEC. 6. *And be it further enacted*, That persons committed as witnesses, and those under the age of eighteen years committed for trial, shall be placed in the house of industry instead of the jail or penitentiary, unless they are so vicious that placing them in it should be deemed injurious.

SEC. 7. *And be it further enacted*, That no commitment shall be for a shorter term than until the offender is reformed or twenty-one years of age, except such as may be committed for trial or as witnesses; but any of them who may be deemed to be thoroughly reformed may be discharged during good behavior, on the order of the board of trustees, duly entered upon their record.

SEC. 8. *And be it further enacted*, That the superintendent may, with the concurrence of the board of trustees, govern the inmates, preserve order, enforce discipline, impart instruction in the veneration and love of God, in morality, useful knowledge, and some regular course of labor, and establish rules for the preservation of health and their proper physical, intellectual, and moral training, until they are reformed and discharged, or twenty-one years of age, or remanded as incorrigible. The trustees may bind out, with their consent, by indenture, any who may appear to be sufficiently reformed, where they will have the benefit of good example, wholesome instruction, and other means of improvement in virtue and knowledge, and the opportunity of becoming intelligent, moral, and useful members of society. They may appoint a committee of one or more of their own number to execute and deliver indentures, which shall be filed and kept in the office of the house of industry. The superintendent may let out inmates to hire during the daytime to employers whose work is not too distant from the house of industry for him to have the general inspection of their conduct and the treatment they receive.

SEC. 9. *And be it further enacted*, That if any apprentices prove untrustworthy and unreformed, the trustees may, at their discretion, permit their return, and order the indentures canceled. Fugitives from the house of industry, or from apprenticeship, may be arrested and returned to the house of industry by a sheriff, constable, police officer, or an officer of the house of industry, on the written order of any two of the trustees or the superintendent.

SEC. 10. *And be it further enacted*, That persons under the age of eighteen years shall be entitled to a private examination and trial, if they request it in writing, at which only the parties shall be admitted, their parents, guardians, or other legal representatives.

SEC. 11. *And be it further enacted*, That the expenses of maintenance of the inmates committed for offenses against the people, or for trial, or as witnesses, shall be paid by the county, and those of persons committed by parents, guardians, or next friends, shall be paid by the persons committing them, unless the trustees shall otherwise determine. The rates of expenses shall be fixed by the board of trustees.

SEC. 12. *And be it further enacted*, That the grounds, and the buildings thereon, for the use of said society, shall be exempt from taxation.

APPROVED, July 1, 1862.

CHAP. CXXVI.—An Act to punish and prevent the practice of Polygamy in the Territories of the United States and other places, and disapproving and annulling certain Acts of the Legislative Assembly of the Territory of Utah.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That every person having a husband or wife living, who shall marry any other person, whether married or single, in a Territory of the United States, or other place over which the United States have exclusive jurisdiction, shall, except in the cases specified in the proviso to this section, be adjudged guilty of bigamy, and, upon conviction thereof, shall be punished by a fine not exceeding five hundred dollars, and by imprisonment for a term not exceeding five years: *Provided, nevertheless*, That this section shall not extend to any person by reason of any former marriage whose husband or wife by such marriage shall have been absent for five successive years without being known to such person within that time to be living; nor to any person by reason of any former marriage which shall have been dissolved by the decree of a competent court; nor to any person by reason of any former marriage which shall have been annulled or pronounced void by the sentence or decree of a competent court on the ground of the nullity of the marriage contract.

SEC. 2. *And be it further enacted*, That the following ordinance of the provisional government of the State of Deseret, so called, namely: "An ordinance incorporating the Church of Jesus Christ of Latter Day Saints," passed February eight, in the year eighteen hundred and fifty-one, and adopted, reënacted, and made valid by the Governor and Legislative Assembly of the Territory of Utah by an act passed January nineteen, in the year eighteen hundred and fifty-five, entitled "An act in relation to the compilation and revision of the laws and resolutions in force in Utah Territory, their publication, and distribution," and all other acts and parts of acts heretofore passed by the said Legislative Assembly of the Territory of Utah, which establish, support, maintain, shield, or countenance polygamy, be, and the same hereby are, disapproved and annulled: *Provided*, That this act shall be so limited and construed as not to affect or interfere with the right of property legally acquired under the ordinance heretofore mentioned, nor with the right "to worship God according to the dictates of conscience," but only to annul all acts and laws which establish, maintain, protect, or countenance the practice of polygamy, evasively called spiritual marriage, however disguised by legal or ecclesiastical solemnities, sacraments, ceremonies, consecrations, or other contrivances.

SEC. 3. *And be it further enacted*, That it shall not be lawful for any corporation or association for religious or charitable purposes to acquire or hold real estate in any Territory of the United States during the existence of the territoral government of a greater value than fifty thousand dollars; and all real estate acquired or held by any such corporation or association contrary to the provisions of this act shall be forfeited and escheat to the United States: *Provided*, That existing vested rights in real estate shall not be impaired by the provisions of this section.

APPROVED, July 1, 1862.

CHAP. CXXVII.—An Act to provide for additional Medical Officers of the Volunteer Service.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That there shall be appointed by the President, by and with the advice and consent of the Senate, forty surgeons and one hundred and twenty assistant surgeons of volunteers, who shall have the rank, pay, and emoluments of officers of corresponding grades in the regular Army: *Provided*, That no one shall be appointed to any position under this act unless he shall previously have been examined by a board of medical officers to be appointed by the Secretary of War, and that vacancies in the grade of surgeon shall be filled by selection from the grade of assistant surgeon on the ground of merit only: *And provided further*, That this act shall continue in force only during the existence of the present rebellion.

SEC. 2. *And be it further enacted*, That from and after the passage of this act, brigade surgeons shall be known and designated as surgeons of volunteers, and shall be attached to the general medical staff under the direction of the Surgeon General; and hereafter such appointments for the medical service of the Army shall be appointed surgeons of volunteers.

SEC. 3. *And be it further enacted*, That instead of "one assistant surgeon," as provided by the second section of the act of July 22d, 1861, each regiment of volunteers in the service of the United States shall have two assistant surgeons.

APPROVED, July 2, 1862.

CHAP. CXXVIII.—An Act to prescribe an Oath of Office, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That hereafter every person elected or appointed to any office of honor or profit under the Government of the United States, either in the civil, military, or naval departments of the public service, excepting the President of the United States, shall, before entering upon the duties of such office, and before being entitled to any of the salary or other emoluments thereof, take and subscribe the following oath or affirmation: "I, A B, do solemnly swear (or affirm) that I have never voluntarily borne arms against the United States since I have been a citizen thereof; that I have voluntarily given no aid, countenance, counsel, or encouragement to persons engaged in armed hostility thereto; that I have neither sought nor accepted nor attempted to exercise the functions of any office whatever, under any authority or pretended authority in hostility to the United States; that I have not yielded a voluntary support to any pretended government, authority, power, or constitution within the United States, hostile or inimical thereto. And I do further swear (or affirm) that, to the best of my knowledge and ability, I will support and defend the Constitution of the United States against all enemies, foreign and domestic; that I will bear true faith and allegiance to the same; that I take this obligation freely, without any mental reservation or purpose of evasion, and that I will well and faithfully discharge the duties of the office on which I am about to enter, so help me God;" which said oath, so taken and signed, shall be preserved among the files of the court, House of Congress, or department to which the said office may appertain. And any person who shall falsely take the said oath shall be guilty of perjury, and on conviction, in addition to the penalties now prescribed for that offense, shall be deprived of his office and rendered incapable forever after of holding any office or place under the United States.

APPROVED, July 2, 1862.

CHAP. CXXIX.—An Act to establish a Land District in the Territory of Nevada, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the public lands of the United States in the Territory of Nevada shall constitute a land district, to be called the District of Nevada, the office for which shall be established at such place within said district as the President of the United States may from time to time direct,

and the preëmption laws are hereby extended to said Territory.

SEC. 2. *And be it further enacted*, That the President be, and he is hereby, authorized to appoint, by and with the advice and consent of the Senate, a register and receiver for said district, who shall be required to reside at the site of said office, and who shall have the same powers and perform the same duties as are now or may hereafter be prescribed by law for other land officers, and whose compensation shall be the same as allowed to such officers by the act approved April twenty, eighteen hundred and eighteen, entitled "An act for changing the compensation of receivers and registers of the land offices."

SEC. 3. *And be it further enacted*, That when the settlers in any township or townships, not mineral or reserved by Government, shall desire a survey made of the same under the authority of the Surveyor General of the United States, and shall file an application therefor in writing, and deposit in a proper United States depository to the credit of the United States a sum sufficient to pay for such survey, together with all expenses incident thereto, without cost or claim for indemnity on the United States, it shall and may be lawful for said Surveyor General, under such instructions as may be given him by the Commissioner of the General Land Office, and in accordance with existing laws and instructions, to survey such township or townships, and make return thereof to the general and proper local land office: *Provided*, That the townships so proposed to be surveyed are within the range of the regular progress of the public surveys embraced by existing standard lines or bases for the township and subdivisional surveys.

APPROVED, July 2, 1862.

CHAP. CXXX.—An Act donating Public Lands to the several States and Territories which may provide Colleges for the benefit of Agriculture and the Mechanic Arts.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That there be granted to the several States, for the purposes hereinafter mentioned, an amount of public land, to be apportioned to each State a quantity equal to thirty thousand acres for each Senator and Representative in Congress to which the States are respectively entitled by the apportionment under the census of eighteen hundred and sixty: *Provided*, That no mineral lands shall be selected or purchased under the provisions of this act.

SEC. 2. *And be it further enacted*, That the land aforesaid, after being surveyed, shall be apportioned to the several States in sections or subdivisions of sections, not less than one quarter of a section; and whenever there are public lands in a State subject to sale at private entry at one dollar and twenty-five cents per acre, the quantity to which said State shall be entitled shall be selected from such lands within the limits of such State, and the Secretary of the Interior is hereby directed to issue to each of the States in which there is not the quantity of public lands subject to sale at private entry at one dollar and twenty-five cents per acre, to which said State may be entitled under the provisions of this act, land scrip to the amount in acres for the deficiency of its distributive share; said scrip to be sold by said States, and the proceeds thereof applied to the uses and purposes prescribed in this act, and for no other use or purpose whatsoever: *Provided*, That in no case shall any State to which land scrip may thus be issued be allowed to locate the same within the limits of any other State, or of any Territory of the United States, but their assignees may thus locate said land scrip upon any of the unappropriated lands of the United States subject to sale at private entry at one dollar and twenty-five cents, or less, per acre: *And provided further*, That not more than one million acres shall be located by such assignees in any one of the States: *And provided further*, That no such location shall be made before one year from the passage of this act.

SEC. 3. *And be it further enacted*, That all the expenses of management, superintendence, and taxes from date of selection of said lands, previous to their sales, and all expenses incurred in the management and disbursement of the moneys which may be received therefrom, shall be paid by the States to which they may belong, out of the treasury of said States, so that the entire proceeds of the sale of said lands shall be applied without any diminution whatever to the purposes hereinafter mentioned.

SEC. 4. *And be it further enacted*, That all moneys derived from the sale of the lands aforesaid by the States to which the lands are apportioned, and from the sales of land scrip hereinbefore provided for, shall be invested in stocks of the United States, or of the States, or some other safe stocks, yielding not less than five per centum upon the par value of said stocks; and that the moneys so invested shall constitute a perpetual fund, the capital of which shall remain forever undiminished, (except so far as may be provided in section fifth of this act,) and the interest of which shall be inviolably appropriated, by each State which may take and claim the benefit of this act, to the endowment, support, and maintenance of at least one college where the leading object shall be, without excluding other scientific and classical studies, and including military tactics, to teach such branches of learning as are related to agriculture and the mechanic arts, in such manner as the Legislatures of the States may respectively prescribe, in order to promote the liberal and practical education of the industrial classes in the several pursuits and professions in life.

SEC. 5. *And be it further enacted*, That the grant of land and land scrip hereby authorized shall be made on the following conditions, to which, as well as to the provisions hereinbefore contained, the previous assent of the several States shall be signified by legislative acts:

First. If any portion of the fund invested, as provided by the foregoing section, or any portion of the interest thereon, shall, by any action or contingency, be diminished or lost, it shall be replaced by the State to which it belongs, so that the capital of the fund shall remain forever undiminished; and the annual interest shall be regularly applied without diminution to the purposes mentioned in the fourth section of this act, except that a sum, not exceeding ten per centum upon the amount received by any State under the provisions of this act, may be expended for the purchase of lands for sites or experimental farms, whenever authorized by the respective Legislatures of said States.

Second. No portion of said fund, nor the interest thereon, shall be applied, directly or indirectly, under any pretense whatever, to the purchase, erection, preservation, or repair of any building or buildings.

Third. Any State which may take and claim the benefit of the provisions of this act shall provide, within five years, at least not less than one college, as described in the fourth section of this act, or the grant to such State shall cease; and said State shall be bound to pay the United States the amount received of any lands previously sold, and that the title to purchasers under the State shall be valid.

Fourth. An annual report shall be made regarding the progress of each college, recording any improvements and experiments made, with their cost and results, and such other matters, including State industrial and economical statistics, as may be supposed useful; one copy of which shall be transmitted by mail free, by each, to all other colleges which may be endowed under the provisions of this act, and also one copy to the Secretary of the Interior.

Fifth. When lands shall be selected from those which have been raised to double the minimum price, in consequence of railroad grants, they shall be computed to the States at the maximum price, and the number of acres proportionally diminished.

Sixth. No State while in a condition of rebellion or insurrection against the Government of the United States shall be entitled to the benefit of this act.

Seventh. No State shall be entitled to the benefits of this act unless it shall express its acceptance thereof by its Legislature within two years from the date of its approval by the President.

SEC. 6. *And be it further enacted*, That land scrip issued under the provisions of this act shall not be subject to location until after the first day of January, one thousand eight hundred and sixty-three.

SEC. 7. *And be it further enacted*, That the land officers shall receive the same fees for locating land scrip issued under the provisions of this act as is now allowed for the location of military bounty land warrants under existing laws: *Provided*, Their maximum compensation shall not be thereby increased.

SEC. 8. *And be it further enacted*, That the Governors of the several States to which scrip shall be issued under this act shall be required to report annually to Congress all sales made of such scrip until the whole shall be disposed of, the amount received for the same, and what appropriation has been made of the proceeds.

APPROVED, July 2, 1862.

CHAP. CXXXIII.—An Act making Appropriations for the support of the Army for the year ending the thirtieth of June, eighteen hundred and sixty-three, and additional Appropriations for the year ending thirtieth of June, eighteen hundred and sixty-two, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums be, and the same are hereby, appropriated, out of any money in the Treasury not otherwise appropriated, for the support of the Army for the year ending the thirtieth of June, eighteen hundred and sixty-three.

For the recruiting service of the Army, namely:

For the enlistment of recruits, for quarters, fuel, stationery, straw, postage, bunks, compensation to citizen surgeons for medical attendance, transportation from rendezvous to depots, and all other expenses until put in march to join regiments, one hundred and eighty thousand dollars.

For purchase of books of tactics and instructions for volunteers, fifty thousand dollars.

For pay of the Army, eight million nine hundred and five thousand three hundred and eighteen dollars.

For commutation of officers' subsistence, one million five hundred and seventy-four thousand one hundred and eighty-six dollars and fifty cents.

For commutation of forage for officers' horses, two hundred and eighty-three thousand four hundred and fourteen dollars.

For payments to discharged soldiers for clothing not drawn, one hundred and fifty thousand dollars.

For payments in lieu of clothing for officers' servants, seventy-one thousand six hundred and thirty dollars.

For pay of volunteers under acts of twenty-second and twenty-fifth of July, eighteen hundred and sixty-one, two hundred and twenty-six million two hundred and eighty-three thousand two hundred and eighty-two dollars: *Provided*, That the President shall not be authorized to appoint more than forty major-generals, nor more than two hundred brigadier-generals. And all acts and parts of acts authorizing a greater number of major and brigadier generals than are above provided for, are hereby repealed.

For subsistence in kind for regulars and volunteers, seventy-eight million three hundred and eighty-six thousand six hundred and forty dollars and eighty cents.

For the regular supplies of the quartermaster's department, consisting of fuel for the officers, enlisted men, guard, hospitals, storehouses, and offices; of forage in kind for the horses, mules, and oxen, of the quartermaster's department at the several posts and stations, and with the Armies in the field; for the horses of the several regiments of cavalry, the batteries of artillery, and such companies of infantry as may be mounted, and for the authorized number of officers' horses when serving in the field and at the outposts, including bedding for the animals; of straw for soldiers' bedding, and of stationery, including blank-books for the quartermaster's department, certificates for discharged soldiers, blank forms for the pay and quartermaster's departments; and for the printing of division and department orders and reports, thirty-six million nine hundred and twelve thousand dollars.

For the incidental expenses of the quartermaster's department, consisting of postage on letters and packets received and sent by officers of the Army on public service; expenses of courts-martial and courts of inquiry, including the additional compensation of judges advocate, recorders, members, and witnesses, while on that service, under the act of March sixteenth, eighteen hundred and two; extra pay to soldiers employed, under the direction of the quartermaster's department, in the erection of barracks, quarters, storehouses, and hospitals; in the construction of roads and on other constant labor, for periods of not less than ten days, under the acts of March second, eighteen hundred and nineteen, and August fourth, eighteen hundred and fifty-four, including those employed as clerks at division and department headquarters; expenses of expresses to and from the frontier posts and armies in the field; of escorts to paymasters and other disbursing officers and to trains where military escorts cannot be furnished; expenses of the interment of officers killed in action, or who die when on duty in the field, or at posts on the frontiers, or at other posts and places when ordered by the Secretary of War, and of non-commissioned officers and soldiers; authorized office furniture; hire of laborers in the quartermaster's department, including the hire of interpreters, spies, and guides for the Army; compensation of clerks of the officers of the quartermaster's department; compensation of forage and wagon masters, authorized by the act of July fifth, eighteen hundred and thirty-eight, for the apprehension of deserters, and the expenses incident to their pursuit; and for the following expenditures required for the several regiments of cavalry, the batteries of light artillery, and such companies of infantry as maybe mounted, viz: the purchase of traveling forges, blacksmiths' and shoeing tools, horse and mule shoes and nails, iron and steel for shoeing, hire of verterinary surgeons, medicines for horses and mules, picket ropes, and for shoeing the horses of the corps named; also, generally, the proper authorized expenses for the movements and operations of an army not expressly assigned to any other department, twenty million eight hundred and thirty-six thousand seven hundred and fifty dollars.

For the purchase of cavalry and artillery horses, five million four hundred thousand dollars.

For mileage, or the allowance made to officers of the Army for the transportation of themselves and their baggage, when traveling on duty without troops, escorts, or supplies, one million two hundred and ninety-one thousand six hundred dollars.

For transportation of the Army, including the baggage of the troops when moving, either by land or water; of clothing, camp, and garrison equipage, from the depots at Philadelphia and New York, to the several posts and Army depots, and from those depots to the troops in the field; and subsistence from the places of purchase and from the places of delivery under contract, to such places as the circumstances of the service may require them to be sent; of ordnance, ordnance stores, and small-arms, from founderies and armories to the arsenals, fortifications, frontier posts, and Army depots; freights, wharfage, tolls, and ferriages; for the purchase and hire of horses, mules, oxen, and harness, and the purchase and repair of wagons, carts, and drays, and of ships, and other sea-going vessels, and boats required for the transportation of supplies and for garrison purposes; for drayage and cartage at the several posts; hire of teamsters; transportation of funds for the pay and other disbursing departments; the expense of sailing public transports on the various rivers, the Gulf of Mexico, and the Atlantic and Pacific; and for procuring water at such posts as, from their situation, require that it be brought from a distance; and for clearing roads, and removing obstructions from roads, harbors and rivers, to the extent which may be required for the actual operations of the troops in the field, forty million dollars.

For hire or commutation of quarters for officers on military duty; hire of quarters for troops; of storehouses for the safe-keeping of military stores, of grounds for summer cantonments, for the construction of temporary huts, hospitals, and stables, and for repairing public buildings at established posts, four million two hundred and thirty-four thousand dollars.

For heating and cooking stoves, ninety thousand dollars.

For maintenance of gunboat fleet proper, two million one hundred and sixty thousand dollars.

For maintenance of steam rams, one hundred and eighty thousand dollars.

For contingencies of the Army, five hundred thousand dollars.

For clothing for the Army, camp and garrison equipage, and for expenses of offices and arsenals, thirty-nine million three hundred and twenty-two thousand five hundred and thirteen dollars and twenty-five cents.

For constructing and extending the telegraph for military purposes, and for expenses in operating the same, five hundred thousand dollars.

For the medical and hospital department, including pay of private physicians, purchase and repair of surgical instruments, purchase of extra hospital bedding, clothing, ice, pay of male citizens as hospital attendants; the maintenance of sick and wounded soldiers, placed in private houses or hospitals; and other necessary comforts for the sick and convalescing in the various military hospitals, five million seven hundred and five thousand nine hundred and eighty-four dollars.

For contingent expenses of the Adjutant-General's department at department headquarters, two thousand dollars.

For supplies, transportation, and care of prisoners of war, three million three hundred and seventy-three thousand seven hundred and twenty-eight dollars.

For armament of fortifications, one million sixty-two thousand five hundred dollars.

For the current expenses of the ordnance service, seven hundred and thirty-two thousand six hundred dollars.

For ordnance, ordnance stores, and supplies, including horse equipments for all mounted troops, seven million three hundred and eighty thousand dollars.

For the manufacture of arms at the national armory, one million eight hundred thousand dollars.

For repairs and improvements and new machinery at the national armory at Springfield, Massachusetts, one hundred and fifty thousand dollars.

For the purchase of gunpowder and lead, one million one hundred thousand dollars.

For additions to, and extension of shop-room, machinery, tools, and fixtures at arsenals, five hundred thousand dollars.

For the purchase and manufacture of arms for volunteers and regulars, and ordnance and ordnance stores, thirteen million dollars.

For surveys of military defenses, one hundred and fifty thousand dollars.

For purchase and repair of instruments, ten thousand dollars.

For printing charts of lake surveys, ten thousand dollars.

For continuing the survey of the Northern and Northwestern lakes, including Lake Superior, one hundred and five thousand dollars.

For completion of Fort Clinch, Amelia Island, Florida, one hundred and fifty thousand dollars.

For secret service fund, and to reimburse the contingent fund of the Army, five hundred thousand dollars.

For payment of bounty to volunteers, and to the widows and legal heirs of such as may die or be killed in the service of the United States, authorized by the fifth and sixth sections of an act entitled "An act to authorize the employment of volunteers to aid in enforcing the laws and protecting public property," approved July twenty-second, eighteen hundred and sixty-one, twenty millions of dollars, or so much thereof as may be found necessary.

For collecting, organizing, and drilling volunteers, in addition to any sums heretofore appropriated for that purpose, five millions of dollars.

For providing for the comfort of discharged soldiers, who may arrive in the principal cities of the United States so disabled by disease or by wounds received in the service as to be unable to proceed to their homes, and for forwarding destitute soldiers to their homes, two millions of dollars, to be applied and expended under the direction of the President of the United States.

For enlarging, repairing, and furnishing the northwest executive building, twenty thousand dollars.

For grading and improving that part of Judiciary square, in the city of Washington, upon which the general hospital of the United States is located, four thousand dollars, to be expended under the direction of the Surgeon General.

SEC. 2. *And be it further enacted*, That so much of the seventh section of the act approved third March, eighteen hundred and fifty-one, entitled "An act to found a military asylum for the relief and support of invalid and disabled soldiers of the United States," as requires that "all moneys, not exceeding two thirds of the balance on hand, of the hospital fund and of the post fund of each military station, after deducting the necessary expenses," shall be set apart for the support of the military asylum, be, and the same is hereby, repealed.

SEC. 3. *And be it further enacted*, That the enlisted men of the Ordnance department now designated as master-workmen shall hereafter be designated and mustered as sergeants; those now designated as armorers, carriage-makers, and blacksmiths shall be designated and mustered as corporals; those now designated as artificers shall be designated and mustered as privates of the first class; and those now designated as laborers shall be designated and mustered as privates of the second class: *Provided*, That the pay, rations, and clothing now authorized by law to the respective grades of enlisted ordnance men shall not be changed.

SEC. 4. *And be it further enacted*, That in all cases where recruiting officers have in good faith paid the two dollars for bringing accepted recruits to the rendezvous, before receiving notice of the repeal of the regulation allowing the same, the accounts of such officers shall be allowed in settlement by the Treasury Department.

SEC. 5. *And be it further enacted*, That there shall be added to the clerical force of the Surgeon General's office one clerk of class one and one clerk of class two; and there shall be added to the clerical force of the Paymaster General's office twenty clerks of class two and twenty clerks of class one; and there shall be added to the clerical and other force of the Adjutant General's office four clerks of class two, six clerks of class one, and ten other clerks, at a monthly compensation of sixty dollars each; and the Adjutant General may detail ten more non-commissioned officers of the Army as clerks in his office; and the sum of fifty-one thousand two hundred dollars is hereby appropriated, out of any money in the Treasury not otherwise appropriated, to pay the salaries of the clerks hereby authorized.

SEC. 6. *And be it further enacted*, That section five of the act "to authorize the employment of volunteers to aid in enforcing the laws and protecting public property," approved July twenty-second, eighteen hundred and sixty-one, and section five of the act "to increase the present military establishment of the United States," approved July twenty-nine, eighteen hundred and sixty-one, shall be so construed as to allow twenty-five dollars of the bounty of one hundred dollars therein provided to be paid immediately after enlistment to every soldier of the regular and volunteer forces hereafter enlisted during the continuance of the existing war, and the sum of seven millions five hundred thousand dollars is hereby appropriated for such payment.

SEC. 7. *And be it further enacted*, That all the aides-de-camp appointed by authority of the act approved fifth August, eighteen hundred and sixty-one, entitled "An act supplementary to an act entitled 'An act to increase the present military establishment of the United States,'" approved July twenty-nine, eighteen hundred and sixty-one, shall be nominated to the Senate for its advice and consent.

SEC. 8. *And be it further enacted*, That the President of the United States be, and he hereby is, authorized, by and with the consent of the Senate, to appoint as many military storekeepers in the Quartermaster's department of the Army as the

exigencies of the service may require; provided the whole number of military storekeepers in that department shall not exceed twelve.

SEC. 9. *And be it further enacted*, That the following sums be, and the same are hereby, in like manner, appropriated out of any money in the Treasury not otherwise appropriated, for the service of the year ending the thirtieth of June, eighteen hundred and sixty-two:

For the construction and maintenance of the gunboat fleet proper, four hundred thousand dollars.

For purchasing, construction, and maintenance of steam rams, four hundred thousand dollars.

For pay of private physicians, purchase and repair of surgical instruments, purchase of extra hospital bedding, clothing, ice, and other necessary comforts for the sick and convalescing in the various military hospitals, one hundred and twenty-five thousand dollars.

For compensation of chaplains of hospitals, from the date of the commencement of their service to the thirtieth of June, eighteen hundred and sixty-two, twelve thousand dollars.

For the contingent expenses of the Paymaster General's office for the year ending thirtieth of June, eighteen hundred and sixty-two, one thousand dollars.

SEC. 10. *And be it further enacted*, That the Secretary of War be authorized to commute the Army ration of coffee and sugar, for the extract of coffee combined with milk and sugar, to be procured in the same manner and under like restrictions and guarantees as preserved meats, pickles, butter, and desiccated vegetables are procured for the Navy, if he shall believe it will be conducive to the health and comfort of the Army, and not more expensive to the Government than the present ration, and if it shall be acceptable to the men.

SEC. 11. *And be it further enacted*, That the restriction or limitation contained in the proviso to the joint resolution, approved April sixteenth, eighteen hundred and sixty-two, transferring the superintendency of the Capitol extension from the War Department to the Department of the Interior, shall not be so construed or applied as to prevent the completion of, and the payment for, the painting now in progress on the wall over the stairway on the western side of the south wing agreeably to the terms of the contract made between General M. C. Meigs, on behalf of the Government, and E. Leutze, the artist, on the ninth day of July, eighteen hundred and sixty-one.

APPROVED, July 5, 1862.

CHAP. CXXXIV.—An Act to reorganize the Navy Department of the United States.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That there shall be established in the Navy Department the following bureaus, to wit:

First. A Bureau of Yards and Docks.

Second. A Bureau of Equipment and Recruiting.

Third. A Bureau of Navigation.

Fourth. A Bureau of Ordnance.

Fifth. A Bureau of Construction and Repair.

Sixth. A Bureau of Steam Engineering.

Seventh. A Bureau of Provisions and Clothing.

Eighth. A Bureau of Medicine and Surgery.

SEC. 2. *And be it further enacted*, That the President of the United States, by and with the advice and consent of the Senate, shall appoint from the list of officers of the Navy, not below the grade of commander, a chief for each of the Bureaus of Yards and Docks, Navigation, Equipment and Recruiting, and of Ordnance, and shall in like manner appoint a chief of the Bureau of Construction and Repair, who shall be a skillful naval constructor; and shall also appoint a chief of the Bureau of Steam Engineering, who shall be a skillful engineer, and be selected from the list of chief engineers of the Navy; and shall also appoint a chief of the Bureau of Medicine and Surgery, who shall be selected from the list of the surgeons of the Navy, and a chief of the Bureau of Provisions and Clothing, who shall be selected from the list of paymasters of the Navy of not less than ten years' standing; each of which chiefs of bureaus shall receive a salary of three thousand five hundred dollars per annum, unless otherwise heretofore provided for by law, which shall be in lieu of all other compensation whatever. The said chiefs of bureaus to hold their said offices for the term of four years: *Provided*, That nothing herein contained shall be construed to affect any provision heretofore made by law for special cases.

SEC. 3. *And be it further enacted*, That the Secretary of the Navy shall appoint the follow[ing] clerks and other officers, to wit:

For the office of the Secretary of the Navy, a chief clerk, who shall receive a salary of two thousand two hundred dollars per annum; one clerk at a salary of eighteen hundred dollars, who shall also be disbursing clerk with a salary of two hundred dollars; five clerks with a salary of sixteen hundred dollars each; three clerks with a salary of fourteen hundred dollars each; four clerks with a salary of twelve hundred dollars each; one messenger at nine hundred dollars per annum; one assistant messenger at seven hundred dollars, and two laborers at six hundred dollars each per annum.

For the Bureau of Yards and Docks, one civil engineer, who shall receive a salary of two thousand dollars; one chief clerk at eighteen hundred dollars; one clerk at sixteen hundred dollars; three clerks at fourteen hundred dollars each; one draughtsman at fourteen hundred dollars; one clerk at twelve hundred dollars; one messenger at eight hundred and forty dollars; and two laborers at six hundred dollars each per annum.

For the Bureau of Equipment and Recruiting, one chief clerk, who shall receive a salary of eighteen hundred dollars; two clerks at a salary of fourteen hundred dollars each; one clerk at a salary of twelve hundred dollars; one messenger at a salary of eight hundred and forty dollars.

For the Bureau of Navigation, one chief clerk at eighteen hundred dollars; one clerk who shall receive a salary of fourteen hundred dollars; one clerk at twelve hundred dollars; one messenger at eight hundred and forty dollars.

For the Bureau of Ordnance, one assistant, to be selected from the commissioned officers of the Navy, with the pay of three thousand dollars per annum; one draughtsman at fourteen hundred dollars; one clerk at fourteen hundred dollars; one messenger at eight hundred and forty dollars per annum; and one laborer at six hundred dollars; and one laborer at four hundred and eighty dollars per annum.

For the Bureau of Construction and Repair, one chief clerk at a salary of eighteen hundred dollars a year; one draughtsman at fourteen hundred dollars per annum; five clerks at a salary of fourteen hundred dollars each; one at twelve hundred dollars; one messenger at a salary of eight hundred and forty dollars per annum; and one laborer at six hundred dollars per annum.

For the Bureau of Steam Engineering, one chief clerk at a salary of eighteen hundred dollars; one draughtsman at fourteen hundred dollars; one clerk at fourteen hundred dollars; one assistant draughtsman at twelve hundred dollars; one messenger at eight hundred and forty dollars salary per annum; and one laborer at six hundred dollars per annum.

For the Bureau of Provisions and Clothing, one chief clerk with a salary of eighteen hundred dollars; four clerks with a salary of fourteen hundred dollars each; one clerk with a salary of twelve hundred dollars; one messenger with a salary of eight hundred and forty dollars per annum; and one laborer with a salary of six hundred dollars per annum.

For the Bureau of Medicine and Surgery, two clerks with a salary of fourteen hundred dollars each; and one messenger with a salary of eight hundred and forty dollars per annum.

For the protection of the building occupied by the Department, one day watchman and two night watchmen at a salary of six hundred dollars each per annum, and for the general care of the building, furnace, and grounds, one laborer at a salary of six hundred dollars, and one laborer at a salary of three hundred and sixty dollars.

SEC. 4. *And be it further enacted*, That the Secretary of the Navy shall assign and distribute among the said bureaus such of the duties of the Navy Department as he shall judge to be expedient and proper; and all of the duties of the said bureaus shall be performed under the authority of the Secretary of the Navy, and their orders shall be considered as emanating from him, and shall have full force and effect as such.

SEC. 5. *And be it further enacted*, That all estimates for specific, general, and contingent expenses of the Department, and of the several bureaus, shall be furnished to the Secretary of the Navy by the chiefs of the respective bureaus, and all such appropriations shall be under the control and expended by the direction of the Secretary of the Navy, and the appropriation for each bureau shall be kept separate in the Treasury.

SEC. 6. *And be it further enacted*, That the chiefs of the respective bureaus of the Navy Department shall be authorized to frank all communications from their respective bureaus; and all communications to their bureaus on the business thereof shall be free of postage.

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

APPROVED, July 5, 1862.

CHAP. CXXXV.—An Act making Appropriations for the Current and Contingent Expenses of the Indian Department, and for fulfilling Treaty Stipulations with various Indian Tribes for the year ending June thirtieth, eighteen hundred and sixty-three.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums be, and they are hereby, appropriated, out of any money in the Treasury not otherwise appropriated, for the purpose of paying the current and contingent expenses of the Indian department and for fulfilling treaty stipulations with the various Indian tribes—

For the current and contingent expenses of the Indian department, namely:

For pay of superintendents of Indian affairs and of the several Indian agents, per acts of fifth June, eighteen hundred and fifty, twenty-seventh February, eighteen hundred and fifty-one, thirty-first July, eighteen hundred and fifty-four, third March, eighteen hundred and fifty-five, eighteenth August, eighteen hundred and fifty-six, third March, eighteen hundred and fifty-seven, nineteenth June, eighteen hundred and sixty, twenty-fifth June, eighteen hundred and sixty, eighth and thirteenth February, eighteen hundred and sixty-one, and per fifteenth article of treaty of nineteenth April, eighteen hundred and fifty-eight, with the Yanctons, ninety-one thousand two hundred and fifty dollars.

For the pay of the several Indian sub-agents, per act of thirty-first July, eighteen hundred and fifty-four, six thousand dollars.

For the pay of clerk to superintendent at Saint Louis, Missouri, per act of twenty-seventh June, eighteen hundred and forty-six, one thousand two hundred dollars.

For the pay of interpreters, per acts of thirtieth June, eighteen hundred and thirty-four, twenty-seventh February, eighteen hundred and fifty-one, and eighteenth August, eighteen hundred and fifty-six, twenty-four thousand nine hundred dollars.

For pay of twenty laborers for reservations in California, twelve thousand dollars.

For presents to Indians, five thousand dollars.

For provisions for Indians, eleven thousand eight hundred dollars.

For buildings at agencies and repairs thereof, ten thousand dollars.

For contingencies of the Indian department, thirty-six thousand five hundred dollars.

For the employment of temporary clerks by superintendents of Indian affairs on such occasions and for such periods of time as the Secretary of the Interior may deem necessary to the public service, five thousand dollars.

For fulfilling treaty stipulations with the various Indian tribes:

Blackfoot Nation.

For seventh of ten installments as annuity, to be expended in the purchase of such goods, provisions, and other useful articles as the President, at his discretion, may, from time to time, determine, per ninth article of the treaty of seven-

teenth October, eighteen hundred and fifty-five, twenty thousand dollars.

For seventh of ten installments as annuity, to be expended in establishing and instructing them in agricultural and mechanical pursuits, and in educating their children, and promoting civilization and Christianity, at the discretion of the President, per tenth article of the treaty of seventeenth October, eighteen hundred and fifty-five, fifteen thousand dollars.

Chasta, Scoton, and Umpqua Indians.

For eighth of fifteen installments of annuity, to be expended as directed by the President, per third article treaty eighteenth November, eighteen hundred and fifty-four, two thousand dollars.

For eighth of fifteen installments for the pay of a farmer, per fifth article treaty eighteenth November, eighteen hundred and fifty-four, one thousand dollars.

For eighth of ten installments for pay of physician, medicines, and expense of care of the sick, per fifth article treaty eighteenth November, eighteen hundred and fifty-four, one thousand five hundred dollars.

For eighth of fifteen installments for pay of teachers and purchase of books and stationery, per fifth article treaty eighteenth November, eighteen hundred and fifty-four, one thousand two hundred dollars.

Chippewas of Lake Superior.

For two thirds of twenty-first of twenty-five installments in money, per fourth article treaty fourth October, eighteen hundred and forty-two, and eighth article treaty thirtieth September, eighteen hundred and fifty-four, eight thousand three hundred and thirty-three dollars and thirty-three cents.

For two thirds of twenty-first of twenty-five installments for the pay of two carpenters, per fourth article treaty fourth October, eighteen hundred and forty-two, and eighth article treaty thirtieth September, eighteen hundred and fifty-four, eight hundred dollars.

For two thirds of twenty-first of twenty-five installments in goods, per fourth article treaty fourth October, eighteen hundred and forty-two, and eighth article treaty thirtieth September, eighteen hundred and fifty-four, seven thousand dollars.

For two thirds of twenty-first of twenty-five installments for the support of schools, per fourth article treaty fourth October, eighteen hundred and forty-two, and eighth article treaty thirtieth September, eighteen hundred and fifty-four, one thousand three hundred and thirty-three dollars and thirty-three cents.

For two thirds of twenty-first of twenty-five installments for the pay of two farmers, per fourth article treaty fourth October, eighteen hundred and forty-two, and eighth article treaty thirtieth September, eighteen hundred and fifty-four, six hundred and sixty-six dollars and sixty-seven cents.

For two thirds of twenty-first of twenty-five installments for the purchas[e] of provisions and tobacco, per fourth article treaty fourth October, eighteen hundred and forty-two, and eighth article treaty thirtieth September, eighteen hundred and fifty-four, one thousand three hundred and thirty-three dollars and thirty-three cents.

For eighth of twenty installments in corn, goods, household furniture, and cooking utensils, agricultural implements and cattle, carpenters' and other tools and building materials, and for moral and educational purposes, per fourth article treaty thirtieth September, eighteen hundred and fifty-four, nineteen thousand dollars.

For eighth of twenty installments for six smiths and assistants, per second and fifth articles treaty thirtieth September, eighteen hundred and fifty-four, five thousand and forty dollars.

For eighth of twenty installments for the support of six smiths' shops, per second and fifth articles treaty thirtieth September, eighteen hundred and fifty-four, one thousand three hundred and twenty dollars.

For sixth of twenty installments for the seventh smith and assistant, and support of shop, per second and fifth articles treaty thirtieth September, eighteen hundred and fifty-four, one thousand and sixty dollars.

For support of a smith, assistant, and shop, for the Bois Forte band, during the pleasure of the President, per twelfth article treaty thirtieth September, eighteen hundred and fifty-four, one thousand and sixty dollars.

For support of two farmers for the Bois Forte band, during the pleasure of the President, per twelfth article treaty thirtieth September, eighteen hundred and fifty-four, one thousand two hundred dollars.

Chippewas of the Mississippi.

For one third of twenty-first of twenty-five installments in money, per fourth article treaty fourth October, eighteen hundred and forty-two, and eighth article treaty thirtieth September, eighteen hundred and fifty-four, four thousand one hundred and sixty-six dollars and sixty-seven cents.

For one third of twenty-first of twenty-five installments for the pay of two carpenters, per fourth article treaty fourth October, eighteen hundred and forty-two, and eighth article treaty thirtieth September, eighteen hundred and fifty-four, four hundred dollars.

For one third of twenty-first of twenty-five installments in goods, per fourth article treaty fourth October, eighteen hundred and forty-two, and eighth article treaty thirtieth September, eighteen hundred and fifty-four, three thousand five hundred dollars.

For one third of twenty-first of twenty-five installments for the support of schools, per fourth article treaty fourth October, eighteen hundred and forty-two, and eighth article treaty thirtieth September, eighteen hundred and fifty-four, six hundred and sixty-six dollars and sixty-seven cents.

For one third of twenty-first of twenty-five installments for the purchase of provisions and tobacco, per fourth article treaty fourth October, eighteen hundred and forty-two, and eighth article treaty thirtieth September, eighteen hundred and fifty-four, six hundred and sixty-six dollars and sixty-seven cents.

For one third of twenty-first of twenty-five installments for the support of two smiths' shops, including the pay of two smiths and assistants, and furnishing iron and steel, per fourth article treaty fourth October, eighteen hundred and forty-two, and eighth article treaty thirtieth September, eighteen hundred and fifty-four, six hundred and sixty-six dollars and sixty-seven cents.

For one third of twenty-first of twenty-five installments for pay of two farmers, per fourth article treaty fourth October, eighteen hundred and forty-two, and eighth article treaty thirtieth September, eighteen hundred and fifty-four, three hundred and thirty-three dollars and thirty-three cents.

For eighth of twenty installments of annuity in money, per third article treaty twenty-second February, eighteen hundred and fifty-five, twenty thousand dollars.

Chippewas, Pillager, and Lake Winnibagoshish Bands.

For eighth of thirty installments of annuity in money, per third article treaty twenty-second February, eighteen hundred and fifty-five, ten thousand six hundred and sixty-six dollars and sixty-six cents.

For eighth of thirty installments of annuity in goods, per third article treaty twenty-second February, eighteen hundred and fifty-five, eight thousand dollars.

For eighth of thirty installments for purposes of utility, per third article treaty twenty-second February, eighteen hundred and fifty-five, four thousand dollars.

For eighth of twenty installments for purposes of education, per third article treaty twenty-second February, eighteen hundred and fifty-five, three thousand dollars.

For eighth of fifteen annual installments for the support of two smiths and smiths' shops, per third article treaty twenty-second February, eighteen hundred and fifty-five, two thousand one hundred and twenty dollars.

For pay of an engineer to grist and saw mill at Leech Lake, six hundred dollars.

Chippewas of Saginaw, Swan Creek, and Black River.

For seventh of ten equal installments in coin, to be distributed per capita, in the usual manner of paying annuities, per second article of the treaty of second August, eighteen hundred and fifty-five, ten thousand dollars.

For seventh of ten installments for the support of one blacksmith shop, per second article of the treaty of second August, eighteen hundred and fifty-five, twelve hundred and forty dollars.

Chippewas, Menomonees, Winnebagoes, and New York Indians.

For education during the pleasure of Congress, per fifth article treaty eleventh August, eighteen hundred and twenty-seven, one thousand five hundred dollars.

Chickasaws.

For permanent annuity in goods, per act of twenty-fifth February, seventeen hundred and ninety-nine, three thousand dollars.

Choctaws.

For permanent annuity per second article treaty sixteenth November, eighteen hundred and five, and thirteenth article treaty twenty-second June, eighteen hundred and fifty-five, three thousand dollars.

For permanent annuity for support of light-horsemen, per thirteenth article treaty eighteenth October, eighteen hundred and twenty, and thirteenth article treaty twenty-second June, eighteen hundred and fifty-five, six hundred dollars.

For permanent provision for education, per second article treaty twentieth of January, eighteen hundred and twenty-five, and thirteenth article treaty twenty-second June, eighteen hundred and fifty-five, six thousand dollars.

For permanent provision for blacksmith, per sixth article treaty eighteenth October, eighteen hundred and twenty, and thirteenth article treaty twenty-second June, eighteen hundred and fifty-five, six hundred dollars.

For permanent provision for iron and steel, per ninth article treaty twentieth January, eighteen hundred and twenty-five, and thirteenth article of treaty twenty-second June, eighteen hundred and fifty-five, three hundred and twenty dollars.

For interest on five hundred thousand dollars, at five per centum, for education, support of the Government, and other beneficial purposes, to be applied under the direction of the general council of the Choctaws, in conformity with the provisions contained in the tenth and thirteenth articles of the treaty of twenty-second June, eighteen hundred and fifty-five, twenty-five thousand dollars.

Comanches, Kiowas, and Apaches of Arkansas River.

For ninth of ten installments for the purchase of goods, provisions, and agricultural implements, per sixth article treaty twenty-seventh July, eighteen hundred and fifty-three, eighteen thousand dollars.

For expenses of transportation of the ninth of ten installments of goods, provisions, and agricultural implements, per sixth article treaty twenty-seventh July, eighteen hundred and fifty-three, seven thousand dollars.

Creeks.

For permanent annuity in money, per fourth article treaty seventh August, seventeen hundred and ninety, and fifth article treaty seventh August, eighteen hundred and fifty-six, one thousand five hundred dollars.

For permanent annuity in money, per second article treaty sixteenth June, eighteen hundred and two, and fifth article treaty seventh August, eighteen hundred and fifty-six, three thousand dollars.

For permanent annuity in money, per fourth article treaty twenty-fourth January, eighteen hundred and twenty-six, and fifth article treaty seventh August, eighteen hundred and fifty-six, twenty thousand dollars.

For permanent provision for blacksmith and assistant, and for shop and tools, per eighth article treaty twenty-fourth January, eighteen hundred and twenty-six, and fifth article treaty seventh August, eighteen hundred and fifty-six, eight hundred and forty dollars.

For permanent provision for iron and steel for shop, per eighth article treaty twenty-fourth January, eighteen hundred and twenty-six, and fifth

article treaty seventh August, eighteen hundred and fifty-six, two hundred and seventy dollars.

For permanent provision for the pay of a wheelwright, per eighth article treaty twenty-fourth January, eighteen hundred and twenty-six, and fifth article treaty seventh August, eighteen hundred and fifty-six, six hundred dollars.

For blacksmith and assistant and shop and tools during the pleasure of the President, per fifth article treaty fourteenth February, eighteen hundred and thirty-three, and fifth article treaty seventh August, eighteen hundred and fifty-six, eight hundred and forty dollars.

For iron and steel for shop during the pleasure of the President, per fifth article treaty fourteenth February, eighteen hundred and thirty-three, and fifth article treaty seventh August, eighteen hundred and fifty-six, two hundred and seventy dollars.

For wagon maker during the pleasure of the President, per fifth article treaty fourteenth February, eighteen hundred and thirty-three, and fifth article treaty seventh August, eighteen hundred and fifty-six, six hundred dollars.

For assistance in agricultural operations during the pleasure of the President, per eighth article treaty twenty-fourth January, eighteen hundred and twenty-six, and fifth article treaty seventh August eighteen hundred and fifty-six, two thousand dollars.

For education during the pleasure of the President, per fifth article treaty fourteenth February, eighteen hundred and thirty-three, and fifth article treaty seventh August, eighteen hundred and fifty-six, one thousand dollars.

For the sixth of seven additional installments for two blacksmiths, assistants, shops and tools, per *thirtieth* [thirteenth] article treaty twenty-fourth March, eighteen hundred and thirty-two, and fifth article treaty seventh August, eighteen hundred and fifty-six, one thousand six hundred and eighty dollars.

For the sixth of seven additional installments for iron and steel for shops, per thirteenth article treaty twenty-fourth March, eighteen hundred and thirty-two, and fifth article treaty seventh August, eighteen hundred and fifty-six, five hundred and forty dollars.

For thirty-second of thirty-three installments for education, per fourth article treaty fourth January, eighteen hundred and forty-five, and fifth article treaty seventh August, eighteen hundred and fifty-six, three thousand dollars.

For nineteenth of twenty installments for education, per fourth article treaty fourth January, eighteen hundred and forty-five, and fifth article treaty seventh August, eighteen hundred and fifty-six, three thousand dollars.

For five per centum interest on two hundred thousand dollars for purposes of education, per sixth article treaty seventh August, eighteen hundred and fifty-six, ten thousand dollars.

Delawares.

For life annuity to chief, per private article to supplemental treaty twenty-fourth September, eighteen hundred and twenty-nine, to treaty of third October, eighteen hundred and eighteen, one hundred dollars.

For interest on forty-six thousand and eighty dollars, at five per centum, being the value of thirty-six sections of land set apart by treaty of eighteen hundred and twenty-nine for education, per resolution of the Senate nineteenth January, eighteen hundred and thirty-eight, and fifth article treaty sixth May, eighteen hundred and fifty-four, two thousand three hundred and four dollars.

Iowas.

For interest in lieu of investment on fifty-seven thousand five hundred dollars, balance of one hundred and fifty-seven thousand five hundred dollars, to the first July, eighteen hundred and sixty-three, at five per centum, for education or other beneficial purposes, under the direction of the President, per second article treaty nineteenth October, eighteen hundred and thirty-eight, and ninth article treaty seventeenth May, eighteen hundred and fifty-four, two thousand eight hundred and seventy-five dollars.

Kansas.

For interest in lieu of investment on two hundred thousand dollars, at five per centum, per second article treaty fourteenth January, eighteen hundred and forty-six, ten thousand dollars.

Kickapoos.

For ninth installment of interest, at five per centum, on one hundred thousand dollars for education, per second article treaty eighteenth May, eighteen hundred and fifty-four, five thousand dollars.

For ninth installment on two hundred thousand dollars, to be paid in eighteen hundred and sixty-two, per second article treaty eighteenth May, eighteen hundred and fifty-four, nine thousand dollars.

Menomonees.

For seventh of twelve installments for continuing and keeping up a blacksmith shop, and providing the usual quantity of iron and steel, per fourth article treaty eighteenth October, eighteen hundred and forty-eight, and third article treaty twelfth May, eighteen hundred and fifty-four, nine hundred and sixteen dollars and sixty-six cents.

For seventh of ten installments of annuity upon two hundred thousand dollars, balance of three hundred and fifty thousand dollars for cession of lands, per fourth article treaty eighteenth October, eighteen hundred and forty-eight, and third article treaty twelfth May, eighteen hundred and fifty-four, twenty thousand dollars.

For seventh of fifteen installments for pay of miller, per third article treaty twelfth May, eighteen hundred and fifty-four, six hundred dollars.

Miamies of Kansas.

For permanent provision for blacksmith and assistant, and iron and steel for shop, per fifth article treaty sixth October, eighteen hundred and eighteen, and fourth article treaty fifth June, eighteen hundred and fifty-four, nine hundred and forty dollars.

For permanent provision for miller, in lieu of gunsmith, per fifth article treaty sixth October, eighteen hundred and eighteen, fifth article treaty twenty-third October, eighteen hundred and thirty-four, and fourth article treaty fifth June, eighteen hundred and fifty-four, six hundred dollars.

For interest on fifty thousand dollars, at five per centum, for educational purposes, per third article treaty fifth June, eighteen hundred and fifty-four, two thousand five hundred dollars.

For third of twenty installments upon two hundred thousand dollars, per third article treaty fifth June, eighteen hundred and fifty-four, seven thousand five hundred dollars.

Miamies of Indiana.

For interest on two hundred and twenty-one thousand two hundred and fifty-seven dollars and eighty-six cents, uninvested, at five per centum, for Miami Indians of Indiana, per Senate's amendment to fourth article treaty fifth June, eighteen hundred and fifty-four, eleven thousand and sixty-two dollars and eighty-nine cents.

Miamies, Eel River.

For permanent annuity in goods or otherwise, per fourth article treaty third August, seventeen hundred and ninety-five, five hundred dollars.

For permanent annuity in goods or otherwise, per third article treaty twenty-first August, eighteen hundred and five, two hundred and fifty dollars.

For permanent annuity in goods or otherwise, per third and separate article to treaty thirtieth September, eighteen hundred and nine, three hundred and fifty dollars.

Nisqually, Puyallup, and other Tribes and Bands of Indians.

For eighth installment, in part payment for relinquishment of title to lands, to be applied to beneficial objects, per fourth article treaty twenty-sixth December, eighteen hundred and fifty-four, fifteen hundred dollars.

For eighth of twenty installments for pay of instructor, smith, physician, carpenter, farmer, and assistant if necessary, per tenth article treaty twenty-sixth December, eighteen hundred and fifty-four, six thousand seven hundred dollars.

Omahas.

For the fifth of ten installments of this amount, being second of the series, in money or otherwise, per fourth article treaty sixteenth March, eighteen hundred and fifty-four, thirty thousand dollars.

For eighth of ten installments for support of a miller, per eighth article treaty sixteenth March, eighteen hundred and fifty-four, six hundred dollars.

For eighth of ten installments for support of blacksmith and assistant, and iron and steel for shop, per eighth article treaty sixteenth March, eighteen hundred and fifty-four, nine hundred and forty dollars.

For eighth of ten installments for support of farmer, per eighth article treaty sixteenth March, eighteen hundred and fifty-four, six hundred dollars.

For keeping in repair the grist and saw mill provided for by the eighth article of the treaty of sixteenth March, eighteen hundred and fifty-four, three hundred dollars.

For supplying the smith's shop with tools, and keeping the same in repair, per eighth article of the treaty of sixteenth March, eighteen hundred and fifty-four, three hundred dollars.

For an engineer, one thousand two hundred dollars.

Osages.

For interest on sixty-nine thousand one hundred and twenty dollars, at five per centum, being the value of fifty-four sections of land set apart second June, eighteen hundred and twenty-five, for educational purposes, per Senate resolution nineteenth January, eighteen hundred and thirty-eight, three thousand four hundred and fifty-six dollars.

Ottoes and Missourias.

For fifth of ten installments, being the second series, in money or otherwise, per fourth article treaty fifteenth March, eighteen hundred and fifty-four, thirteen thousand dollars.

For eighth of ten installments for pay of miller, per seventh article treaty fifteenth March, eighteen hundred and fifty-four, six hundred dollars.

For eighth of ten installments for blacksmith and assistant, and iron and steel for shop, per seventh article treaty fifteenth March, eighteen hundred and fifty-four, nine hundred and forty dollars.

For eighth of ten installments for farmer, per seventh article treaty fifteenth March, eighteen hundred and fifty-four, six hundred dollars.

For keeping in repair the grist and saw mill provided for by the seventh article of the treaty of fifteenth March, eighteen hundred and fifty-four, three hundred dollars.

For supplying the smith's shop with tools, and keeping the same in repair, per seventh article of the treaty fifteenth March, eighteen hundred and fifty-four, three hundred dollars.

For an engineer, one thousand two hundred dollars.

Ottawas and Chippewas of Michigan.

For seventh of ten equal annual installments for educational purposes, to be expended under the direction of the President, according to the wishes of the Indians, so far as may be reasonable and just, per second article of the treaty of thirty-first July, eighteen hundred and fifty-five, eight thousand dollars.

For seventh of ten installments for the support of four blacksmith shops, per second article of the treaty of thirty-first July, eighteen hundred and fifty-five, four thousand two hundred and forty dollars.

For seventh of ten installments of principal, payable annually for ten years, to be distributed per capita, in the usual manner of paying annuities, per second article of the treaty of thirty-first July, eighteen hundred and fifty-five, ten thousand dollars.

For interest on two hundred and thirty-six thousand dollars, unpaid part of the principal sum of three hundred and six thousand dollars, for one year, at five per centum per annum, to be distributed per capita, in the usual manner of paying annuities, per second article of the treaty of thirty-first July, eighteen hundred and fifty-five, eleven thousand eight hundred dollars.

For seventh of ten equal annual installments on thirty-five thousand dollars, in lieu of former treaty stipulations, to be paid per capita to the Grand River Ottawas, per second article of the

treaty of thirty-first July, eighteen hundred and fifty-five, three thousand five hundred dollars.

Ottawas of Kansas.

For their proportion of the permanent annuities in money, goods, or otherwise, payable under the fourth article of the treaty of third August, seventeen hundred and ninety-five, second article of the treaty of seventeenth November, eighteen hundred and seven, fourth article of the treaty of seventeenth September, eighteen hundred and eighteen, and fourth article of the treaty of twenty-ninth August, eighteen hundred and twenty-one, two thousand six hundred dollars.

Pawnees.

For last of five installments in goods and such articles as may be necessary for them, per second article treaty twenty-fourth September, eighteen hundred and fifty-seven, forty thousand dollars.

For support of two manual labor schools annually, during the pleasure of the President, per third article treaty twenty-fourth September, eighteen hundred and fifty-seven, ten thousand dollars.

For pay of two teachers, under the direction of the President, per third article treaty twenty-fourth September, eighteen hundred and fifty-seven, one thousand two hundred dollars.

For purchase of iron and steel, and other necessaries for the shop, during the pleasure of the President, per fourth article treaty twenty-fourth September, eighteen hundred and fifty-seven, five hundred dollars.

For pay of two blacksmiths, one of whom to be a gunsmith and tinsmith, per fourth article treaty twenty-fourth September, eighteen hundred and fifty-seven, one thousand two hundred dollars.

For compensation of two strikers or apprentices in shop, per fourth article treaty twenty-fourth September, eighteen hundred and fifty-seven, four hundred and eighty dollars.

For fifth of ten installments for farming utensils and stock during the pleasure of the President, per fourth article treaty twenty-fourth September, eighteen hundred and fifty-seven, one thousand two hundred dollars.

For pay of farmer, per fourth article treaty twenty-fourth September, eighteen hundred and fifty-seven, six hundred dollars.

For fourth of ten installments for pay of miller, at the discretion of the President, per fourth article treaty twenty-fourth September, eighteen hundred and fifty-seven, six hundred dollars.

For fourth of ten installments for pay of an engineer, at the discretion of the President, per fourth article treaty twenty-fourth September, eighteen hundred and fifty-seven, one thousand two hundred dollars.

For compensation to apprentices, to assist in working the mill, per fourth article treaty twenty-fourth September, eighteen hundred and fifty-seven, five hundred dollars.

Pottawatomies.

For permanent annuity in silver, per fourth article treaty third August, seventeen hundred and ninety-five, one thousand dollars.

For permanent annuity in silver, per third article treaty thirtieth September, eighteen hundred and nine, five hundred dollars.

For permanent annuity in silver, per third article treaty second October, eighteen hundred and eighteen, two thousand five hundred dollars.

For permanent annuity in money, per second article treaty twentieth September, eighteen hundred and twenty-eight, two thousand dollars.

For permanent annuity in specie, per second article treaty twenty-ninth July, eighteen hundred and twenty-nine, sixteen thousand dollars.

For life annuity to chief, per third article treaty twentieth October, eighteen hundred and thirty-two, two hundred dollars.

For life annuity to chiefs, per third article treaty twenty-sixth September, eighteen hundred and thirty-three, seven hundred dollars.

For education during the pleasure of Congress, per third article treaty sixteenth October, eighteen hundred and twenty-six, second article treaty twentieth September, eighteen hundred and twenty-eight, and fourth article treaty twenty-seventh October, eighteen hundred and thirty-two, five thousand dollars.

For permanent provision for the payment of money in lieu of tobacco, iron, and steel, per second article treaty twentieth September, eighteen hundred and twenty-eight, and tenth article of the treaty of the fifth and seventeenth June, eighteen hundred and forty-six, three hundred dollars.

For permanent provision for three blacksmiths and assistants, per third article treaty sixteenth October, eighteen hundred and twenty-six, second article treaty twentieth September, eighteen hundred and twenty-eight, and second article treaty twenty-ninth July, eighteen hundred and twenty-nine, two thousand one hundred and sixty dollars.

For permanent provision for iron and steel for shops, per third article treaty sixteenth October, eighteen hundred and twenty-six, second article treaty twentieth September, eighteen hundred and twenty-eight, and second article treaty twenty-ninth July, eighteen hundred and twenty-nine, six hundred and sixty dollars.

For permanent provision for fifty barrels of salt, per second article of treaty twenty-ninth July, eighteen hundred and twenty-nine, two hundred and fifty dollars.

For interest on six hundred and forty-three thousand dollars, at five per centum, per seventh article of the treaty of the fifth and seventeenth June, eighteen hundred and forty-six, thirty-two thousand one hundred and fifty dollars.

Pottawatomies of Huron.

For permanent annuity in money or otherwise, per second article treaty seventeenth November, eighteen hundred and seven, four hundred dollars.

Quapaws.

For education during the pleasure of the President, per third article treaty thirteenth May, eighteen hundred and thirty-three, one thousand dollars.

For blacksmith and assistant, shop and tools, and iron and steel for shop, during the pleasure of the President, per third article treaty thirteenth May, eighteen hundred and thirty-three, one thousand and sixty dollars.

For farmer during the pleasure of the President, per third article treaty thirteenth May, eighteen hundred and thirty-three, six hundred dollars.

Rogue Rivers.

For ninth of sixteen installments in blankets, clothing, farming utensils, and stock, per third article treaty tenth September, eighteen hundred and fifty-three, two thousand five hundred dollars.

Sacs and Foxes of Mississippi.

For permanent annuity in goods or otherwise, per third article treaty third November, eighteen hundred and four, one thousand dollars.

For interest on two hundred thousand dollars, at five per centum, per second article treaty twenty-first October, eighteen hundred and thirty-seven, ten thousand dollars.

For interest on eight hundred thousand dollars, at five per centum, per second article treaty eleventh October, eighteen hundred and forty-two, forty thousand dollars.

Sacs and Foxes of Missouri.

For interest on one hundred and fifty-seven thousand four hundred dollars, at five per centum, under the direction of the President, per second article treaty twenty-first October, eighteen hundred and thirty-seven, seven thousand eight hundred and seventy dollars.

Seminoles.

For the sixth of ten installments for the support of schools, per eighth article treaty seventh August, eighteen hundred and fifty-six, three thousand dollars

For the sixth of ten installments for agricultural assistance, per eighth article treaty seventh August, eighteen hundred and fifty-six, two thousand dollars.

For the sixth of ten installments for the support of smiths and smiths' shops, per eighth article treaty seventh August, eighteen hundred and fifty-six, two thousand two hundred dollars.

For five per centum interest on two hundred and fifty thousand dollars, to be paid as annuity, per eighth article treaty seventh August, eighteen hundred and fifty-six, twelve thousand five hundred dollars.

For interest on two hundred and fifty thousand dollars, at five per centum, to be paid as annuity, they having joined their brethren west, per eighth article treaty seventh August, eighteen hundred and fifty-six, twelve thousand five hundred dollars.

Senecas.

For permanent annuity in specie, per fourth article treaty twenty-ninth September, eighteen hundred and seventeen, five hundred dollars.

For permanent annuity in specie, per fourth article treaty seventeenth September, eighteen hundred and eighteen, five hundred dollars.

For blacksmith and assistant, shop and tools, and iron and steel, during the pleasure of the President, per fourth article treaty twenty-eighth February, eighteen hundred and thirty-one, one thousand and sixty dollars.

For miller during the pleasure of the President, per fourth article treaty twenty-eighth February, eighteen hundred and thirty-one, six hundred dollars.

Senecas of New York.

For permanent annuity, in lieu of interest on stock, per act of nineteenth February, eighteen hundred and thirty-one, six thousand dollars.

For interest, in lieu of investment, on seventy-five thousand dollars, at five per centum, per act of twenty-seventh June, eighteen hundred and forty-six, three thousand seven hundred and fifty dollars.

For interest at five per centum, on forty-three thousand and fifty dollars, transferred from Ontario Bank to the United States Treasury, per act of twenty-seventh June, eighteen hundred and forty-six, two thousand one hundred and fifty-two dollars and fifty cents.

Senecas and Shawnees.

For permanent annuity in specie, per fourth article treaty seventeenth September, eighteen hundred and eighteen, one thousand dollars.

For blacksmith and assistant, shop and tools, and iron and steel for shop, during the pleasure of the President, per fourth article treaty twentieth July, eighteen hundred and thirty-one, one thousand and sixty dollars.

Shawnees.

For permanent annuity for educational purposes, per fourth article treaty third August, seventeen hundred and ninety-five, and third article treaty tenth May, eighteen hundred and fifty-four, one thousand dollars.

For ninth installment of interest, at five per centum, on forty thousand dollars for education, per third article treaty tenth May, eighteen hundred and fifty-four, two thousand dollars.

For permanent annuity for educational purposes, per fourth article treaty twenty-ninth September, eighteen hundred and seventeen, and third article treaty tenth May, eighteen hundred and fifty-four, two thousand dollars.

Six Nations of New York.

For permanent annuity in clothing and other useful articles, per sixth article treaty eleventh November, seventeen hundred and ninety-four, four thousand five hundred dollars.

Sioux of Mississippi.

For interest on three hundred thousand dollars, at five per centum, per second article treaty twenty-ninth September, eighteen hundred and thirty-seven, fifteen thousand dollars.

For twelfth of fifty installments of interest, at five per centum, on one million three hundred and sixty thousand dollars, per fourth article treaty twenty-third July, eighteen hundred fifty-one, sixty-eight thousand dollars.

For twelfth of fifty installments of interest, at five per centum, on one hundred and twelve thousand dollars, being the amount in lieu of the reservations set apart in the third article of Senate's amendment of twenty-third June, eighteen hundred and fifty-two, to treaty twenty-third July, eighteen hundred and fifty-one, five thousand six hundred dollars.

For twelfth of fifty installments of interest, at five per centum, on one million one hundred and sixty thousand dollars, per fourth article treaty

fifth August, eighteen hundred and fifty-one, fifty-eight thousand dollars.

For twelfth of fifty installments of interest, at five per centum, on sixty-nine thousand dollars, being the amount allowed in lieu of the reservation of lands set apart by the third article of Senate's amendment of twenty-third June, eighteen hundred and fifty-two, to treaty fifth August, eighteen hundred and fifty-one, three thousand four hundred and fifty dollars.

Treaty of Fort Laramie.

For second of five installments, at the discretion of the President, in provisions and merchandise, for payment of annuities, and transportation of the same, to certain tribes of Indians, seventy thousand dollars.

Umpquas, (Cow Creek Band.)

For ninth of twenty installments in blankets, clothing, provisions, and stock, per third article treaty nineteenth September, eighteen hundred and fifty-three, five hundred and fifty dollars.

Umpquas and Calapooias, of Umpqua Valley, Oregon.

For third of five installments, of the second series, of annuity for beneficial objects, to be expended as directed by the President, per third article treaty nineteenth September, eighteen hundred and fifty-three, two thousand three hundred dollars.

For eighth of ten installments for the pay of a blacksmith, and furnishing shop, per sixth article treaty twenty-ninth November, eighteen hundred and fifty-four, one thousand five hundred dollars.

For eighth of fifteen installments for the pay of a physician and purchase of medicines, per sixth article treaty twenty-ninth November, eighteen hundred and fifty-four, two thousand dollars.

For eighth of ten installments for the pay of a farmer, per sixth article treaty twenty-ninth November, eighteen hundred and fifty-four, one thousand dollars.

For eighth of twenty installments for the pay of a teacher and purchase of books and stationery, per sixth article treaty twenty-ninth November, eighteen hundred and fifty-four, one thousand four hundred and fifty dollars.

Winnebagoes.

For interest on one million one hundred thousand dollars, at five per centum, per fourth article treaty first November, eighteen hundred and thirty-seven, fifty-five thousand dollars.

For sixteenth of thirty installments of interest on eighty-five thousand dollars, at five per centum, per fourth article treaty *thirtieth* [thirteenth] October, eighteen hundred and forty-six, four thousand two hundred and fifty dollars.

Yancton Tribe of Sioux.

For fourth of ten installments to be paid to them or expended for their benefit, commencing with the year in which they shall remove to and settle and reside upon their reservation, per fourth article treaty nineteenth April, eighteen hundred and fifty-eight, sixty-five thousand dollars.

Calapooias, Molalla, and Clackamas Indians, of Willamette Valley.

For third of five installments of annuity for beneficial objects, per second article treaty twenty-second January, eighteen hundred and fifty-five, eight thousand dollars.

Poncas.

For fourth of five installments to be paid to them or expended for their benefit, commencing with the year in which they shall remove to and settle upon the tract reserved for their future homes, per second article treaty twelfth March, eighteen hundred and fifty-eight, twelve thousand dollars.

For fourth of ten installments for the establishment and maintenance of one or more manual labor schools, under the direction of the President, per second article treaty twelfth March, eighteen hundred and fifty-eight, five thousand dollars.

For fourth of ten installments, or during the pleasure of the President, to be expended in furnishing said Indians with such aid and assistance in agricultural and mechanical pursuits including the working of the mill provided for in the first part of this article, as the Secretary of the Interior may consider advantageous and necessary for them, per second article treaty twelfth March, eighteen hundred and fifty-eight, seven thousand five hundred dollars.

Dwamish and other Allied Tribes in Washington Territory.

For third installment on one hundred and fifty thousand dollars, under the direction of the President, per sixth article treaty twenty-second January, eighteen hundred and fifty-five, twelve thousand dollars.

For third of twenty installments for the establishment and support of an agricultural and industrial school, and to provide said school with a suitable instructor or instructors, per fourteenth article treaty twenty-second January, eighteen hundred and fifty-five, three thousand dollars.

For third of twenty installments for the establishment and support of a smith and carpenter shop, and to furnish them with the necessary tools, per fourteenth article treaty twenty-second January, eighteen hundred and fifty-five, five hundred dollars.

For third of twenty installments for the employment of a blacksmith, carpenter, farmer, and physician who shall furnish medicines for the sick, per fourteenth article treaty, twenty-second January, eighteen hundred and fifty-five, four thousand six hundred dollars.

Makah Tribe.

For third installment on thirty thousand dollars, under the direction of the President, per fifth article treaty thirty-first January, eighteen hundred and fifty-five, two thousand five hundred dollars.

For third of twenty installments for the support of an agricultural and industrial school, and for pay of teachers, per eleventh article treaty thirty-first January, eighteen hundred and fifty-five, two thousand five hundred dollars.

For third of twenty installments for support of a smith and carpenter shop, and to provide the necessary tools therefor, per eleventh article treaty thirty-first January, eighteen hundred and fifty-five, five hundred dollars.

For third of twenty installments for the employment of a blacksmith, carpenter, farmer, and physician who shall furnish medicines for the sick, per eleventh article treaty thirty-first January, eighteen hundred and fifty-four, four thousand six hundred dollars.

Walla-Walla, Cayuse, and Umatilla Tribes.

For third of five installments of eight thousand dollars, under the direction of the President, per second article treaty ninth June, eighteen hundred and fifty-five, eight thousand dollars.

For third of twenty installments for the purchase of all necessary mill fixtures and mechanical tools, medicines, and hospital stores, books and stationery for schools, and furniture for the employés, per fourth article treaty ninth June, eighteen hundred and fifty-five, three thousand dollars.

For third of twenty installments for the pay and subsistence of one superintendent of farming operations, one farmer, two millers, one blacksmith, one wagon and plow maker, one carpenter and joiner, one physician, and two teachers, per fourth article treaty ninth June, eighteen hundred and fifty-five, eleven thousand two hundred dollars.

For third of twenty installments for the pay of each of the head chiefs of the Walla-Walla, Cayuse, and Umatilla bands, the sum of five hundred dollars per annum, per fifth article treaty ninth June, eighteen hundred and fifty-five, one thousand five hundred dollars.

For third of twenty installments for salary for the son of Pio-pio-mox-mox, per fifth article treaty ninth June, eighteen hundred and fifty-five, one hundred dollars.

Yakima Nation.

For third of five installments for beneficial objects, at the discretion of the President, per fourth article treaty ninth June, eighteen hundred and fifty-five, ten thousand dollars.

For third of twenty installments for the support of two schools, one of which is to be an agricultural and industrial school; keeping in repair school buildings, and for providing suitable furniture, books, and stationery, per fifth article treaty ninth June, eighteen hundred and fifty-five, five hundred dollars.

For third of twenty installments for the employment of one superintendent of teaching and two teachers, per fifth article treaty ninth June, eighteen hundred and fifty-five, three thousand two hundred dollars.

For third of twenty installments for the employment of one superintendent of farming and two farmers, two millers, two blacksmiths, one tinner, one gunsmith, one carpenter, and one wagon and plow maker, per fifth article treaty ninth June, eighteen hundred and fifty-five, nine thousand four hundred dollars.

For third of twenty installments for keeping in repair saw and flouring mills, and for furnishing the necessary tools and fixtures, per fifth article treaty ninth June, eighteen hundred and fifty-five, five hundred dollars.

For third of twenty installments for keeping in repair the hospital, and providing the necessary medicines and fixtures therefor, per fifth article treaty ninth June, eighteen hundred and fifty-five, three hundred dollars.

For third of twenty installments for the pay of a physician, per fifth article treaty ninth June, eighteen hundred and fifty-five, one thousand four hundred dollars.

For third of twenty installments for keeping in repair the buildings required for various employés, and for providing the necessary furniture therefor, per fifth article treaty ninth June, eighteen hundred and fifty-five, three hundred dollars.

For third of twenty installments for the salary of such person as the said confederated tribes and bands of Indians may select to be their head chief, per fifth article treaty ninth June, eighteen hundred and fifty-five, five hundred dollars.

Nez Percé Indians.

For third of five installments for beneficial objects, at the discretion of the President, per fourth article treaty eleventh June, eighteen hundred and fifty-five, ten thousand dollars.

For third of twenty installments for the support of two schools, one of which to be an agricultural and industrial school; keeping in repair school buildings, and for providing suitable furniture, books, and stationery, per fifth article treaty eleventh June, eighteen hundred and fifty-five, five hundred dollars.

For third of twenty installments for the employment of one superintendent of teaching and two teachers, per fifth article treaty eleventh June, eighteen hundred and fifty-five, three thousand two hundred dollars.

For third of twenty installments for keeping in repair blacksmiths', tinsmiths', gunsmiths', carpenters', and wagon and plow makers' shops, and for providing necessary tools therefor, per fifth article treaty eleventh June, eighteen hundred and fifty-five, five hundred dollars.

For third of twenty installments for the employment of one superintendent of farming, and two farmers, two millers, two blacksmiths, one tinner, one gunsmith, one carpenter, and one wagon and plow maker, per fifth article treaty eleventh June, eighteen hundred and fifty-five, nine thousand four hundred dollars.

For third of twenty installments for keeping in repair saw and flouring mills, and for furnishing the necessary tools and fixtures therefor, per fifth article treaty eleventh June, eighteen hundred and fifty-five, five hundred dollars.

For third of twenty installments for keeping in repair the hospital, and providing the necessary medicines and furniture therefor, per fifth article treaty eleventh June, eighteen hundred and fifty-five, three hundred dollars.

For third of twenty installments for pay of a physician, per fifth article treaty eleventh June, eighteen hundred and fifty-five, one thousand four hundred dollars.

For third of twenty installments for keeping in repair the buildings for the various employés, and for providing the necessary furniture therefor, per fifth article treaty eleventh June, eighteen hundred and fifty-five, three hundred dollars.

For third of twenty installments for the salary of such person as the tribe may select to be their head chief, per fifth article treaty eleventh June, eighteen hundred and fifty-five, five hundred dollars.

Flatheads and other Confederated Tribes.

For third installment on one hundred and twenty thousand dollars for beneficial objects, at the discretion of the President, per fourth article treaty sixteenth July, eighteen hundred and fifty-five, six thousand dollars.

For third of twenty installments for the support of an agricultural and industrial school, keeping in repair the buildings, and providing suitable furniture, books, and stationery, per fifth article treaty sixteenth July, eighteen hundred and fifty-five, three hundred dollars.

For third of twenty installments for providing suitable instructors therefor, per fifth article treaty sixteenth July, eighteen hundred and fifty-five, one thousand eight hundred dollars.

For third of twenty installments for keeping in repair blacksmiths', tin and gunsmiths', carpenters', and wagon and plow makers' shops, and providing necessary tools therefor, per fifth article treaty sixteenth July, eighteen hundred and fifty-five, five hundred dollars.

For third of twenty installments for the employment of two farmers, two millers, one blacksmith, one tinner, one gunsmith, one carpenter, and one wagon and plow maker, per fifth article treaty sixteenth July, eighteen hundred and fifty-five, seven thousand four hundred dollars.

For third of twenty installments for keeping in repair saw and flouring mills, and for furnishing the necessary tools and fixtures therefor, per fifth article treaty sixteenth July, eighteen hundred and fifty-five, five hundred dollars.

For third of twenty installments for keeping in repair the hospital, and providing the necessary medicines and furniture therefor, per fifth article treaty sixteenth July, eighteen hundred and fifty-five, three hundred dollars.

For third of twenty installments for pay of a physician, per fifth article treaty sixteenth July, eighteen hundred and fifty-five, one thousand four hundred dollars.

For third of twenty installments for keeping in repair the buildings required for the various employés, and furnishing necessary furniture therefor, per fifth article treaty sixteenth July, eighteen hundred and fifty-five, three hundred dollars.

For third of twenty installments for the pay of each of the head chiefs of the Flathead, Kootenay, and Upper Pend d'Oreilles tribes, per fifth article treaty sixteenth July, eighteen hundred and fifty-five, fifteen hundred dollars.

Confederated Tribes and Bands of Indians in Middle Oregon.

For third of five installments of eight thousand dollars for beneficial objects, at the discretion of the President, per second article treaty twenty-fifth June, eighteen hundred and fifty-five, eight thousand dollars.

For third of fifteen installments for pay and subsistence of one farmer, one blacksmith, and one wagon and plow maker, per fourth article treaty twenty-fifth June, eighteen hundred and fifty-five, three thousand five hundred dollars.

For third of twenty installments for pay and subsistence of one physician, one sawyer, one miller, one superintendent of farming operations, and one school teacher, per fourth article treaty twenty-fifth June, eighteen hundred and fifty-five, five thousand six hundred dollars.

For third of twenty installments for payment of salary to the head chief of said confederated bands, per fourth article treaty twenty-fifth June, eighteen hundred and fifty-five, five hundred dollars.

Molel Indians.

For third of ten installments for keeping in repair saw and flouring mills, and for the pay of necessary employés, the benefits of which to be shared alike by all the confederated bands, per second article treaty twenty-first December, eighteen hundred and fifty-five, one thousand five hundred dollars.

For third of five installments (in addition to the installments specified in the treaty of twenty-ninth November, eighteen hundred and fifty-four, with the Umpquas and Calapooias of Umpqua valley) for furnishing iron and steel and other materials for the smith and tin shops provided for in said treaty, and for the pay of the necessary mechanics, per second article treaty twenty-first December, eighteen hundred and fifty-five, one thousand eight hundred dollars.

For third of ten installments for the pay of a carpenter and joiner to aid in erecting buildings and making furniture for said Indians, and to furnish tools in said service, per second article treaty twenty-first December, eighteen hundred and fifty-five, two thousand dollars.

For pay of teachers to manual labor school, for all necessary materials therefor, and for the subsistence of the pupils, per second article treaty twenty-first December, eighteen hundred and fifty-five, three thousand dollars.

For third of five installments for the pay of an additional farmer, per second article treaty twenty-first December, eighteen hundred and fifty-five, eight hundred dollars.

Qui-nai-elt and Quil-leh-ute Indians.

For third installment on twenty-five thousand dollars for beneficial objects, under the direction of the President, per fourth article treaty first July, eighteen hundred and fifty-five, two thousand dollars.

For third of twenty installments for the support of an agricultural and industrial school, and for pay of suitable instructors, per tenth article treaty first July, eighteen hundred and fifty-five, two thousand five hundred dollars.

For third of twenty installments for support of smith and carpenter shop, and to provide the necessary tools therefor, per tenth article treaty first July, eighteen hundred and fifty-five, five hundred dollars.

For third of twenty installments for the employment of a blacksmith, carpenter, and farmer, and a physician who shall furnish medicines for the sick, per tenth article treaty first July, eighteen hundred and fifty-five, four thousand six hundred dollars.

S'Klallams.

For third installment on sixty thousand dollars, under the direction of the President, per fifth article treaty twenty-sixth January, eighteen hundred and fifty-five, five thousand dollars.

For third of twenty installments for the support of an agricultural and industrial school, and for pay of suitable teachers, per eleventh article treaty twenty-sixth January, eighteen hundred and fifty-five, two thousand five hundred dollars.

For third of twenty installments for the employment of a blacksmith, carpenter, farmer, and a physician who shall furnish medicines for the sick, per eleventh article treaty twenty-sixth January, eighteen hundred and fifty-five, four thousand six hundred dollars.

Indian Service in New Mexico.

For the general incidental expenses of the Indian service in New Mexico, presents of goods, agricultural implements, and other useful articles, and to assist them to locate in permanent abodes, and sustain themselves by the pursuits of civilized life, to be expended under the direction of the Secretary of the Interior, fifty thousand dollars.

Indian service in the District of Country leased from the Choctaws for the Indians lately residing in Texas.

For the expenses of colonizing, supporting, and furnishing agricultural implements and stock; pay of necessary employés; purchase of clothing, medicine, iron, and steel; establishment and maintenance of schools, and building houses for the Indians lately residing in Texas, in lieu of those abandoned in that State, to be expended under the direction of the Secretary of the Interior, twenty-two thousand eight hundred and twenty-five dollars.

For the Wichitas and other affiliated Bands.

For the expenses of colonizing, supporting, and furnishing said bands with agricultural implements and stock, pay of necessary employés, purchase of clothing, medicines, iron, and steel, and maintenance of schools, and building agency houses, to be expended under the direction of the Secretary of the Interior, thirty-seven thousand eight hundred dollars.

Indian service in California.

For the general incidental expenses of the Indian service in California, including traveling expenses of the superintending agents, seven thousand five hundred dollars.

Miscellaneous.

For transportation, and necessary expenses of the delivery of Pawnee, Ponca, and Yancton Sioux annuity goods and provisions, ten thousand dollars.

For transportation, and necessary expenses of the delivery of annuities and provisions to the Indian tribes in Minnesota and Michigan, twenty thousand three hundred and fifty dollars and sixty-two cents.

For expenses of transportation and delivery of annuity goods to the Blackfeet Indians for the year, seventeen thousand dollars.

For transportation and necessary expenses of the delivery of annuities and provisions to the Chippewas of Lake Superior, five thousand seven hundred and sixty-two dollars and sixty-three cents.

For transportation and necessary expenses of the delivery of annuities and provisions to the Chippewas of the Mississippi, three thousand eight hundred and eighty-six dollars and seventy-five cents.

For compensation of five extra clerks employed in the Indian Office, under the act of fifth August, eighteen hundred and fifty-four, and third March, eighteen hundred and fifty-five, and under appropriations made from year to year, seven thousand dollars.

For compensation of one clerk in the Indian office, to enable the Secretary of the Interior to carry out the regulations prescribed to give effect to the seventh section of the act of March third, eighteen hundred and fifty-five, granting bounty lands to Indians, fourteen hundred dollars.

For compensation of two extra clerks in the Indian office, employed to carry out the treaty with the Chickasaws in the adjustment of their claims, two thousand eight hundred dollars.

For expenses attending the vaccination of Indians, two thousand five hundred dollars.

For the payment to the Shawnees of the residue of seven hundred thousand dollars, to be paid after the termination of the seven years stipulated for in the third article of the treaty of tenth May, eighteen hundred and fifty-four, eighty-nine thousand dollars.

Umpquas and Calapooias of Umpqua Valley.

For the first and second installments of the second series of annuities of two thousand three hundred dollars each, not heretofore asked for, for beneficial objects, to be expended as directed by the President, four thousand six hundred dollars.

For medallions of the President of the United States for distribution to Indian tribes, five thousand dollars.

For the general incidental expenses of the Indian service in Oregon and Washington Territory, including insurance and transportation of annuity goods and presents, (where no special provision therefor is made by treaties,) and office and traveling expenses of the superintendent and sub-agents, thirty-five thousand dollars.

For defraying the expenses of the removal and subsistence of Indians in Oregon and Washington Territory (not parties to any treaty) and for pay of necessary employés, fifty thousand dollars: *Provided*, That all appropriations heretofore or hereafter made to carry into effect treaty stipulations, or otherwise, in behalf of any tribe or tribes of Indians, all or any portion of whom shall be in a state of actual hostility to the Government of the United States, including the Cherokees, Creeks, Choctaws, Chickasaws, Seminoles, Wichitas, and other affiliated tribes, may and shall be suspended and postponed wholly or in part at and during the discretion and pleasure of the President: *Provided further*, That the President is authorized to expend such part of the amount heretofore appropriated and not expended and hereinbefore appropriated for the benefit of the tribes named in the preceding proviso as he may deem necessary, for the relief and support of such individual members of said tribes as have been driven from their homes and reduced to want on

account of their friendship to the Government. And an account shall be kept of the sums so paid for the benefit of such tribe, which account shall be rendered to Congress at the commencement of the next session thereof. And all purchases of articles for the purposes above set forth, shall be made on advertisement, as provided in other cases, and an account shall be rendered of all such purchases, with a statement of the prices paid therefor: *And provided further*, That in cases where the tribal organization of any Indian tribe shall be in actual hostility to the United States, the President is hereby authorized, by proclamation, to declare all treaties with such tribe to be abrogated by such tribe, if, in his opinion, the same can be done consistently with good faith and legal and national obligations.

To carry into effect the treaty of February eighteen, eighteen hundred and sixty-one, with Arapahoes and Cheyenne Indians of the Upper Arkansas river, viz:

For surveying the exterior of the reservation, and dividing the same between the two tribes, estimated to be three hundred and fifty miles, at an expense of ten dollars per mile for surveying, three thousand five hundred dollars.

For the first of fifteen installments of annuity of thirty thousand dollars, to be expended for their benefit, that is to say, fifteen thousand dollars per annum for each tribe, commencing with the year in which they shall remove to and settle upon their reservations, for the fiscal year ending June thirty, eighteen hundred and sixty-two, thirty thousand dollars.

Also for the same object for the fiscal year ending June thirty, eighteen hundred and sixty-three, thirty thousand dollars.

For transportation and necessary expenses of delivering of annuities, goods, and provisions to the Arapahoes and Cheyenne Indians of the Upper Arkansas river for the fiscal year ending June thirty, eighteen hundred and sixty-two, five thousand dollars.

Also for the same object for the fiscal year ending June thirty, eighteen hundred and sixty-three, five thousand dollars.

For the purpose of negotiating a treaty with the Chippewas of northern Minnesota, and the extinguishing of their title to the lands in that vicinity, or so much thereof as may be needed for that purpose, to be expended under the direction of the Secretary of the Interior, fifteen thousand dollars.

For defraying the expenses of negotiating a treaty with the Shoshonees or Snake Indians, or so much thereof as may be needed, to be expended under the direction of the Secretary of the Interior, twenty thousand dollars.

For amount in the hands of late agent W. W. Dennison, unaccounted for, belonging to the Ottoes and Missourias, eighteen thousand nine hundred and seventy dollars and seven cents.

For deficiency in the contingent fund of the Indian department for the balance of the half year ending June thirty, eighteen hundred and sixty-two, ten thousand dollars.

SEC. 2. *And be it further enacted*, That after the end of the present fiscal year the salary of the superintendent of Indian affairs for the northern and for the southern districts of California shall be three thousand dollars.

SEC. 3. *And be it further enacted*, That the sum of forty thousand dollars, or so much thereof as may be necessary, be, and the same is hereby, appropriated to enable the President to negotiate a treaty with the Nez Percé Indians of Oregon and Washington Territory, for the relinquishment of a portion or all of their present reservation, or its exchange for other lands.

SEC. 4. *And be it further enacted*, That under any of the appropriations contained in this act for the purpose of negotiating treaties, there shall be no new engagements entered into to pay moneys to any Indian tribe; that all payments to be made under such treaties shall be made in specific articles of clothing and agricultural implements.

SEC. 5. *And be it further enacted*, That hereafter no goods shall be purchased by the Indian Department, or its agents, for any tribe, except upon the written requisition of the superintendent in charge of the tribe, and only upon public bids in the mode prescribed by law for the purchase of other supplies.

SEC. 6. *And be it further enacted*, That the Secretary of the Interior be, and he is hereby, directed to cause settlements to be made with all persons appointed by Indian councils to receive moneys due to incompetent or orphan Indians, and to require all moneys found to be due to said incompetent or orphan Indians to be returned to the Treasury of the United States; and all moneys so returned shall bear an interest at the rate of six per centum per annum, until paid by order of the Secretary of the Interior to those entitled to the same; and no money shall hereafter be paid to any person or persons appointed by any Indian council to receive moneys due to incompetent or orphan Indians, but the same shall remain in the Treasury of the United States until ordered to be paid by the said Secretary to those entitled to receive the same, and shall bear six per centum interest until so paid.

SEC. 7. *And be it further enacted*, That the following sums be, and the same are hereby, in like manner, appropriated, out of any money in the Treasury not otherwise appropriated, for the Indian service in California:

For salaries of clerks to superintendents of Indian affairs for the northern and southern districts of California, for three quarters of the fiscal year ending June thirtieth, eighteen hundred and sixty-two, at eighteen hundred dollars per annum, twenty-seven hundred dollars.

For the same service for the fiscal year ending June thirty, eighteen hundred and sixty-three, at one thousand five hundred dollars per annum, three thousand dollars.

For compensation of five supervisors for the reservations in California, to instruct the Indians in husbandry, for fiscal year ending June thirty, eighteen hundred and sixty-three, authorized by act of June nineteen, eighteen hundred and sixty, nine thousand dollars.

For the purchase of cattle for beef and milk, together with clothing and food, teams and farming tools for Indians, for the fiscal year ending June thirty, eighteen hundred and sixty-three, for the northern district of California, twenty-five thousand dollars.

For the same for the southern district of California, for the fiscal year ending June thirty, eighteen hundred and sixty-three, fifteen thousand dollars: *Provided*, That the Secretary of the Interior is hereby authorized and directed to inquire into the expediency of reducing the Indian reservations in California to two in number; the proper places for the same; the probable expense thereof; the propriety of disposing of any of the reservations, and the value thereof, and of the property thereon; of the manner and terms of such disposal; and, in what manner, in his judgment, the expense of the Indian department in that State can be reduced and its system simplified without injury to the same, and report thereon to the next regular session of Congress.

APPROVED, July 5, 1862.

CHAP. CXXXVIII.—An Act to grant the right of Preëmption to Settlers on certain Lots in Wisconsin.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Commissioner of the General Land Office be, and he is hereby, directed to cause survey to be made of that portion of lots numbered ten and eleven, lying east of the River au Diable, in township twenty-three north, of range twenty-one east, in the State of Wisconsin, and which portion was not embraced by the confirmatory provisions of the act of Congress approved February twenty-one, eighteen hundred and twenty-three, entitled "An act to revive and continue in force certain acts for the adjustment of land claims in the Territory of Michigan."

APPROVED, July 11, 1862.

CHAP. CXXXIX.—An Act in relation to the Post Office Department.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the time fixed for the limitation of suits against the sureties of postmasters by the third section of the act of Congress, entitled "An act to reduce into one the several acts establishing and regulating the Post Office Department," approved March third, one thousand eight hundred and twenty-five, shall not be considered as running in any State or part thereof, the inhabitants whereof have been by proclamation of the President declared in a state of insurrection, during the time the insurrection shall continue.

SEC. 2. *And be it further enacted*, That any oath required by law to be taken by any contractor, postmaster, clerk, or employé of the Post Office Department, in any part of the United States mentioned in the preceding section, may be taken before any officer, civil or military, holding a commission under the United States, and such officer is hereby authorized to administer and certify such oath.

APPROVED, July 11, 1862.

CHAP. CXL.—An Act to carry into effect the Treaty between the United States and Her Britannic Majesty for the Suppression of the African Slave Trade.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That to carry into effect the provisions of the treaty between the United States and Her Britannic Majesty for the suppression of the African slave trade, the President be, and he is hereby, authorized to nominate, and by and with the advice and consent of the Senate to appoint, a judge, and also an arbitrator on the part of the United States to reside at New York; a judge and also an arbitrator to reside at Sierra Leone; and a judge and also an arbitrator to reside at the Cape of Good Hope.

SEC. 2. *And be it further enacted*, That the said judge at New York shall be paid at the rate of two thousand five hundred dollars, and the said arbitrator there at the rate of one thousand dollars a year, and the said judges at Sierra Leone and the Cape of Good Hope shall be paid at the rate of two thousand five hundred dollars a year, respectively, and the said arbitrators at these two places at the rate of two thousand dollars a year, respectively, the said salaries to begin with the acceptance of their commissions by the said judges and arbitrators respectively.

SEC. 3. *And be it further enacted*, That the judge of the court at New York, whose appointment is authorized by this act, shall have power to appoint a clerk or registrar to the said court, who shall receive such fees for his services as are allowed by law to the clerk of the court of the United States for the southern district of New York for similar services; and it shall be the duty of the marshal of the southern district of New York, and he is hereby, authorized to serve all processes and execute all orders and decrees of the said court, for which he shall be allowed fees in the discretion of the judge of the said court.

SEC. 4. *And be it further enacted*, That all acts and parts of acts of Congress inconsistent with the stipulations of the treaty aforesaid and with the present act be, and the same are hereby, repealed.

APPROVED, July 11, 1862.

CHAP. CXLI.—An Act for the Relief of the Widows and Orphans of the Officers, Seamen, and Marines of the United States Ships Cumberland and Congress.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the widow, or child, or children, and in case there shall be no widow, or child, or children, then the parent or parents, and if there be no parents, the brothers and sisters of the officers, seamen, and marines, and others in service who were lost in the United States ships Cumberland and Congress, including captains' clerks, shall be entitled to and shall receive, out of any money in the Treasury not otherwise appropriated, a sum equal to twelve months' pay of their respective deceased relations aforesaid, in addition to the pay due to the said deceased at the date of the loss of said vessels.

APPROVED, July 11, 1862.

CHAP. CXLII.—An Act to authorize an additional issue of United States Notes, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Treasury is hereby authorized to issue, in addition to the amounts heretofore authorized, on the credit of the United States, one hundred and fifty millions of dollars of United States notes, not bearing interest, payable to bearer at the Treasury of the United States, and of such denominations as he may deem expedient: *Provided*, That no note shall be issued for the fractional part of a dollar, and not more than thirty-five million shall be of lower denominations than five dollars; and such notes shall be receivable in payment of all loans made to the United States, and of all taxes, internal duties, excises, debts, and demands of every kind due to the United States, except duties on imports and interest, and of all claims and demands against the United States, except for interest upon bonds, notes, and certificates of debt or deposit; and shall also be lawful money and a legal tender in payment of all debts, public and private, within the United States, except duties on imports and interest, as aforesaid. And any holder of said United States notes depositing any sum not less than fifty dollars, or some multiple of fifty dollars, with the Treasurer of the United States, or either of the assistant treasurers, shall receive in exchange therefor duplicate certificates of deposit, one of which may be transmitted to the Secretary of the Treasury, who shall thereupon issue to the holder an equal amount of bonds of the United States, coupon or registered, as may by said holder be desired, bearing interest at the rate of six per centum per annum, payable semi-annually, and redeemable at the pleasure of the United States after five years, and payable twenty years from the date thereof: *Provided, however*, That any notes issued under this act may be paid in coin, instead of being received in exchange for certificates of deposit as above specified, at the direction of the Secretary of the Treasury. And the Secretary of the Treasury may exchange for such notes, on such terms as he shall think most beneficial to the public interest, any bonds of the United States bearing six per centum interest, and redeemable after five and payable in twenty years, which have been or may be lawfully issued under the provisions of any existing act; may reissue the notes so received in exchange; may receive and cancel any notes heretofore lawfully issued under any act of Congress, and in lieu thereof issue an equal amount in notes such as are authorized by this act; and may purchase, at rates not exceeding that of the current market, and cost of purchase not exceeding one eighth of one per centum, any bonds or certificates of debt of the United States as he may deem advisable.

SEC. 2. *And be it further enacted*, That the Secretary of the Treasury be, and is hereby, authorized, in case he shall think it inexpedient to procure said notes, or any part thereof, to be engraved and printed by contract, to cause the said notes, or any part thereof, to be engraved, printed, and executed, in such form as he shall prescribe, at the Treasury Department in Washington, and under his direction; and he is hereby empowered to purchase and provide all the machinery and materials, and to employ such persons and appoint such officers as may be necessary for this purpose.

SEC. 3. *And be it further enacted*, That the limitation upon temporary deposits of United States notes with any assistant treasurer, or designated depositary authorized by the Secretary of the Treasury to receive such deposits, to fifty millions of dollars be, and is hereby, repealed; and the Secretary of the Treasury is authorized to receive such deposits, under such regulations as he may prescribe, to such amount as he may deem expedient, not exceeding one hundred millions of dollars, for not less than thirty days, in sums not less than one hundred dollars, at a rate of interest not exceeding five per centum per annum; and any amount so deposited may be withdrawn from deposit, at any time after ten day's notice, on the return of the certificate of deposit. And of the amount of United States notes authorized by this act, not less than fifty millions of dollars shall be reserved for the purpose of securing prompt payment of such deposits when demanded, and shall be issued and used only when, in the judgment of the Secretary of the Treasury, the same, or any part thereof may be needed for that purpose. And certificates of deposit and of indebtedness issued under this or former acts may be received on the same terms as United States notes in payment for bonds redeemable after five and payable in twenty years.

SEC. 4. *And be it further enacted*, That the Secretary of the Treasury may at any time until otherwise ordered by Congress, and under the restrictions imposed by the "Act to authorize a national loan, and for other purposes," borrow, on the credit of the United States, such part of the sum of two hundred and fifty millions mentioned in said act as may not have been borrowed, under the provisions of the same, within twelve months from the passage thereof.

SEC. 5. *And be it further enacted*, That any part of the appropriation of ten thousand dollars for the detection and bringing to trial of persons engaged in counterfeiting the coin of the United States, made by the act entitled "An act making appropriations for the legislative, executive, and judicial expenses of the Government for the year ending thirtieth of June, eighteen hundred and sixty-one," approved June twenty-three, eighteen hundred and sixty, may be applied in detecting and bringing to trial and punishment persons engaged in counterfeiting Treasury notes, bonds, or other securities of the United States, as well as the coin of the United States. And to carry into effect the preceding sections of this act the sum of three hundred thousand dollars is hereby appropriated, out of any money in the Treasury not otherwise appropriated.

SEC. 6. *And be it further enacted*, That all the provisions of the act entitled "An act to authorize the issue of United States notes, and for the redemption or funding thereof, and for funding the floating debt of the United States," approved February twenty-five, eighteen hundred and sixty-two, so far as the same can or may be applied to the provisions of this act, and not inconsistent therewith, shall apply to the notes hereby authorized to be issued.

APPROVED, July 11, 1862.

CHAP. CXLIII.—An Act making further Appropriations for sundry Civil Expenses of the Government for the year ending thirtieth of June, eighteen hundred and sixty-three, and additional Appropriations for the year ending thirtieth June, eighteen hundred and sixty-two.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums be, and the same are hereby, appropriated for the objects hereafter expressed, for the fiscal year ending thirtieth of June, eighteen hundred and sixty-three, viz:

For completing the west wing of the Treasury building, five hundred thousand dollars.

For painting the outside of the old portion of the Capitol, eight thousand dollars.

To pay the amount provided for under and by virtue of an act entitled "An act to facilitate communication between the Atlantic and Pacific States by electric telegraph," or so much thereof as may become payable under said act, forty thousand dollars.

For the purpose of enabling the Commissioner of Public Buildings and Grounds to remove the Army bakery from the basement floor of the Capitol and to repair the damage caused by said bakery, the sum of eight thousand dollars, or so much thereof as may be necessary.

For constructing burglar-proof vaults for the assistant treasurer at New York, and for fire-proof file cases for the collector at New York, and for the incidental expenses of a change of location of these offices, one hundred thousand dollars.

For annual repairs to custom-houses, including a new roof for the Milwaukee custom-house, and repairing the damage by fire, ten thousand dollars.

For repairing the Government warehouses, wharves, and fences, at Staten Island, fifteen thousand dollars.

For the salary of a commissioner and consul general to the republic of Hayti, seven thousand five hundred dollars.

For the salary of a commissioner and consul general to the republic of Liberia, four thousand dollars.

For compensation of four additional draw-keepers for the two draws at the Potomac bridge, three thousand and sixty-six dollars.

SEC. 2. *And be it further enacted*, That the compensation of the Treasurer of the United States shall be four thousand dollars a year, to commence on the first day of July, eighteen hundred and sixty-two.

SEC. 3. *And be it further enacted*, That the following sums be, and the same are hereby, appropriated, to supply deficiencies in the appropriations for the fiscal year ending the thirtieth of June, eighteen hundred and sixty-two, out of any money in the Treasury not otherwise appropriated.

To supply the deficiency in the appropriation for lighting the Capitol and public grounds, twelve thousand dollars.

And the act incorporating the "Washington Gas-Light Company" is hereby so amended as to prohibit the said company from receiving, after the first day of July, eighteen hundred and sixty-two, more than twenty-eight cents per hundred cubic feet of gas furnished by it to the Government, and thirty cents to other customers, subject to a discount of not less than ten per centum on all bills for gas, if paid at the office of said company within five days from the rendition thereof, provided all arrears shall have been previously paid.

To supply a deficiency in the appropriation for the seventh census, three thousand dollars, or so much thereof as may be found necessary.

For compensation to Henry K. Brown, James R. Lambdin, and John F. Kensett, for thirteen months' service as art commissioners, appointed by the President of the United States under acts of Congress of June twelfth, eighteen hundred and fifty-eight, and March third, eighteen hundred and fifty-nine, nine thousand dollars.

To pay the amount due under and by virtue of the act entitled "An act to facilitate communication between the Atlantic and Pacific States by electric telegraph," for the period embraced between November one, eighteen hundred and sixty-one, and June thirty, eighteen hundred and sixty-two, twenty-six thousand six hundred and thirty dollars and forty-four cents.

To supply deficiency in the appropriation for incidental and contingent expenses, including wastage at the mint of the United States at Philadelphia, twenty-three thousand six hundred and forty-three dollars and eighty-four cents.

For additional expenses in transportation of bullion and coin between the assay office and the Mint for the year eighteen hundred and sixty-one, twenty-one thousand dollars.

For compensation of Assistant Secretary of the Interior, per act of fourteenth of March, eighteen hundred and sixty-two, from fourteenth of March to thirtieth of June, eighteen hundred and sixty-two, eight hundred and seventy-five dollars.

For compensation of the Assistant Secretary of the Interior during the fiscal year ending thirtieth June, eighteen hundred and sixty-three, three thousand dollars.

For compensation of four additional draw-keepers for the two draws at the Potomac bridge, from the dates of their several appointments to the thirtieth of June, eighteen hundred and sixty-two, three hundred and ninety-five dollars and forty cents.

To supply a deficiency in the appropriation for the contingent fund of the Senate for furniture, fitting of rooms, gas fitting, repairing, painting, painting materials, and other miscellaneous items, ten thousand dollars.

APPROVED, July 11, 1862.

CHAP. CXLIV.—An Act making Appropriations for the Payment of the Bounty authorized by the sixth section of an Act entitled "An Act to authorize the employment of Volunteers to aid in enforcing the Laws and protecting Public Property," approved July twenty-second, eighteen hundred and sixty-one, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums be, and the

same are hereby, appropriated, out of any money in the Treasury not otherwise appropriated, for the objects hereinafter expressed, namely:

For payment of the bounty to widows, children, fathers, mothers, brothers, and sisters of such volunteers as may have died or been killed, or may die or be killed, in service, authorized by the sixth section of an act entitled "An act to authorize the employment of volunteers to aid in enforcing the laws and protecting public property," approved July twenty-second, eighteen hundred and sixty-one, five millions of dollars, or so much thereof as may be found necessary: *Provided*, That said bounty shall be paid to the following persons, and in the order following, and to no other person, to wit: first, to the widow of such deceased soldier, if there be one; second, if there be no widow, then to the children of such deceased soldier, share and share alike; third, if such soldier left neither a widow, or child, or children, then, and in that case, such bounty shall be paid to the following persons, provided they be residents of the United States, to wit: first, to his father, or if he shall not be living, or has abandoned the support of his family, then to the mother of such soldier; and if there be neither father nor mother as aforesaid, then such bounty shall be paid to the brothers and sisters of the deceased soldier, resident as aforesaid.

For compensation of twenty additional clerks, hereby authorized to be employed in the office of the Commissioner of Pensions, to wit: For fifteen clerks of the first class, eighteen thousand dollars; for five clerks of the second class, seven thousand dollars.

SEC. 2. *And be it further enacted*, That the sum of three thousand dollars, or so much thereof as may be found necessary, be, and the same is hereby, appropriated for the expenses of the committee on disloyal employés of the Government, appointed by resolution of the House of Representatives, July eight, eighteen hundred and sixty-one.

SEC. 3. *And be it further enacted*, That that part of the sixth section of the act "to authorize the employment of volunteers to aid in enforcing the laws and protecting public property," approved July twenty-second, eighteen hundred and sixty-one, which secured to the widow, if there be one, and if not, the legal heirs of such volunteers as die or may be killed in service, in addition to all arrears of pay and allowances, a bounty of one hundred dollars, shall be held to apply to those persons who have enlisted in the regular forces since the first day of July, eighteen hundred and sixty-one, or shall enlist in the regular forces during the year eighteen hundred and sixty-two, and be paid to the heirs named in this act; and that the bounties herein provided for shall be paid out of any money appropriated for bounty to volunteers.

APPROVED, July 11, 1862.

CHAP. CXLV.—An Act to amend an Act entitled "An act to divide the State of Illinois into two Judicial Districts," approved February 13, 1855.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the counties of Hancock and McDonough, in the State of Illinois, be, and the same are hereby, detached from the northern district of Illinois, and the same are hereby attached to the southern district of Illinois, and said counties shall hereafter constitute a part of said southern district of Illinois the same as if said counties had originally belonged to said southern district.

SEC. 2. *And be it further enacted*, That in any suit or suits pending at the time of the passage of this act either in the circuit or district court of the northern district of Illinois where any such suit or suits could originally have been brought in the southern district of Illinois if said counties of Hancock and McDonough had, at the time of commencing any such suit or suits, formed a part of said southern district, any party to any such suit or suits, upon application to the court, upon the oath either of such party, his or her agent or attorney, may have any such cause, together with the original files thereof and a certified copy of the recorded orders or decrees in said cause, transferred to the southern district of Illinois; any such cause, when so transferred, shall be heard and determined by the circuit or district court, as the case may be, in and for said southern district of Illinois, as if such cause had been originally commenced in the circuit or district court in and for said southern district.

SEC. 3. *And be it further enacted*, That all process issued out of either the circuit or district court for the northern district of Illinois prior to the passage of this act, and not served before its passage, shall be served and returned in the same manner as if this act had not been passed.

SEC. 4. *And be it further enacted*, That in all causes pending either in the circuit or district court for the northern district of Illinois at the time of the passage of this act, which shall proceed to final judgment or decree without being removed from said northern to said southern district according to the provisions of this act, such judgments or decrees shall have like effect as though said counties of Hancock and McDonough had not been detached from said northern district; and any party thereto shall be entitled to have any such judgments or decrees executed by like final process or otherwise, the same as if the said counties of Hancock and McDonough had not been detached from said northern district, which said process shall also be executed and returned in the same manner as if said counties had not been detached from said northern district.

SEC. 5. *And be it further enacted*, That so much of the act to which this is an amendment as is in conflict herewith be, and the same is hereby, repealed.

APPROVED, July 11, 1862.

CHAP. CXLVI.—An Act concerning certain Lands heretofore granted to the State of Iowa.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the five sections of land granted to the State of Iowa, by the third subdivision of section six of an act entitled "An act supplemental to the act for the admission of the States of Iowa and Florida into the Union," approved March third, eighteen hundred forty-five, be, and the same are hereby, released and discharged from the limitation contained in said section; and the General Assembly of the State of Iowa may make such disposition of said land as may be deemed best for the interests of said State.

APPROVED, July 11, 1862.

CHAP. CXLVII.—An Act to abolish certain Ports of Delivery in the Mississippi Valley.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the several laws constituting Hannibal, in the State of Missouri, Hickman and Columbus, in the State of Kentucky, Chattanooga and Knoxville, in the State of Tennessee, and Tuscumbia, in the State of Alabama, and Shreveport, in the State of Louisiana, ports of delivery, be, and the same are hereby, repealed.

APPROVED, July 11, 1862.

CHAP. CXLVIII.—An Act for the establishment of certain National Arsenals.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That there shall be, and hereby is, established a national arsenal at Columbus, in the State of Ohio; at Indianapolis, in the State of Indiana; and on Rock Island, in the State of Illinois, for the deposit and repair of arms and other munitions of war.

SEC. 2. *And be it further enacted*, That for the purpose of carrying this act into effect, the sum of one hundred thousand dollars for each arsenal named in the preceding section be, and the same is hereby, appropriated out of any money in the Treasury not otherwise appropriated.

APPROVED, July 11, 1862.

CHAP. CXLIX.—An Act to change the place of holding the Circuit and District Courts of the United States for the District of West Tennessee.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That hereafter the circuit and district courts of the United States for the district of West Tennessee shall be holden on the first Mondays in April and October, in the town of Huntingdon, in the county of Carroll, in said district, instead of the town of Jackson, the place heretofore fixed by law. And all process, civil and criminal, which may have been, or hereafter may be, issued, returnable to said courts at Jackson, shall be returned to said courts at Huntingdon; and all books and records of every kind, pertaining to said courts, shall be transferred from said town of Jackson to said town of Huntingdon.

APPROVED, July 11, 1862.

CHAP. CL.—An Act to authorize the Secretary of the Treasury to appoint a Deputy Collector of the Customs at Chincoteague Island, in the State of Virginia.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Treasury be, and he is hereby, authorized to appoint, according to law, a deputy collector of customs to reside on Chincoteag[u]e Island, in the State of Virginia, and to exercise such powers, under the revenue laws, as he, the Secretary of the Treasury, may prescribe; the compensation of the said deputy collector to be the legal fees on the business he may transact, and no more.

APPROVED, July 11, 1862.

CHAP. CLI.—An Act relating to Schools for the education of Colored Children in the Cities of Washington and Georgetown, in the District of Columbia.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the duties imposed on the board of trustees of the public schools in the cities of Washington and Georgetown, in the District of Columbia, by virtue of an act entitled "An act providing for the education of colored children in the cities of Washington and Georgetown, District of Columbia, and for other purposes," approved May twenty-first, eighteen hundred and sixty-two, be, and the same are hereby, transferred to Daniel Breed, Sayles J. Bowen, and Zenas C. Robbins, and their successors in office, who are hereby created a board of trustees of the schools for colored children in the cities aforesaid, and who shall possess all the powers and perform all the duties conferred upon and required of the trustees of public schools in the said cities of Washington and Georgetown by the aforesaid act.

SEC. 2. *And be it further enacted*, That the before-named trustees shall hold their offices for the respective terms of one, two, and three years, to be determined by lot, and it shall be the duty of the Secretary of the Interior, on the first day of July, eighteen hundred and sixty-three, and annually on that day thereafter, to appoint from among the residents of the said cities a trustee in place of the one whose term has expired or is about to expire. And the Secretary of the Interior is also authorized to fill vacancies in said board of trustees whenever, from any cause, such vacancies may occur.

APPROVED, July 11, 1862.

CHAP. CLIV.—An Act to amend an Act entitled "An Act to aid in the construction of a Railroad and Telegraph Line from the Missouri River to the Pacific Ocean, and to secure to the Government the use of the same for Postal, Military, and other purposes," approved July 2, 1862.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the first meeting of the commissioners named in the act entitled "An act to aid in the construction of a railroad and telegraph line from the Missouri river to the Pacific ocean, and to secure to the Government the use of the same for postal, military, and other purposes," approved July second, eighteen hundred and sixty-two, and of the five commissioners directed by said act to be appointed by the Secretary of the Interior, shall be held at Bryan Hall, in the city of Chicago, in the State of Illinois, on the first Tuesday of September next, at twelve o'clock, at noon. A notice of said meeting, to be signed by

at least ten of the commissioners named in said act, shall be published at least once a week during the six successive weeks commencing on the twentieth of July, one thousand eight hundred and sixty-two, in one daily newspaper in each of the cities of Boston, New York, Philadelphia, Cincinnati, Chicago, and St. Louis, and no other notice of said meeting shall be requisite.

APPROVED, July 12, 1862.

CHAP. CLV.—An Act supplementary to the "Act for the release of certain Persons held to Service or Labor in the District of Columbia," approved April sixteen, eighteen hundred and sixty-two.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the oath or affirmation required by the second section of the act entitled "An act for the release of certain persons held to service or labor in the District of Columbia," to verify the statements or petitions in writing filed before the commissioners, under the act aforesaid, of persons holding claim to service or labor against persons of African descent, freed and discharged therefrom, under the act aforesaid, may in all cases in which the persons holding claims, as aforesaid, are infants or minors, be made by the guardian or by any other person, whether separately or jointly, having the custody, management, or control by law of the person and property of such infants or minors; and that in all cases in which the persons holding claims as aforesaid are non-residents of the District of Columbia, or resident absentees, the oath or affirmation required as aforesaid may be made by the attorney or agent of said non-resident or resident absentees; and in all cases in which the statements or petitions, required as aforesaid, of persons in the military or naval service of the United States, shall have been or may be hereafter verified before any commander of any military post, or of any officer having a separate command of any military force in the field, or before any captain, commander, or lieutenant commanding in the Navy, the same shall be received and deemed valid, to all intents and purposes, as fully as if the verification had been or were made before any officer competent by law to take and administer oaths and affirmations: *Provided*, That the commissioners shall be satisfied that, at the time of the verification aforesaid, the person making the same was employed in the military or naval service of the United States within the jurisdiction of a rebellious State or Territory, and unable to make the oath or affirmation required, as aforesaid, before any officer authorized by law to take or administer the same, holding allegiance to the United States.

SEC. 2. *And be it further enacted*, That if any person having claim to the service or labor of any person or persons in the District of Columbia by reason of African descent, shall neglect or refuse to file with the clerk of the circuit court of the District of Columbia the statement in writing, or schedule provided in the ninth section of the act approved April sixteen, eighteen hundred and sixty-two, to which this is supplementary, then it shall be lawful for the person or persons, whose services are claimed as aforesaid, to file such statement in writing or schedule setting forth the particular facts mentioned in said ninth section; and the said clerk shall receive and record the same as provided in said section, on receiving fifty cents each therefor.

SEC. 3. *And be it further enacted*, That whenever the facts set forth in the said statement or schedule shall be found by the commissioners to be true, the said clerk and his successors in office shall prepare, sign, and deliver certificates, as prescribed in the tenth section of the act to which this is supplementary, to such person or persons as shall file their statements in pursuance of the foregoing section, in all respects the same as if such statements were filed by the person having claim to their service or labor.

SEC. 4. *And be it further enacted*, That all persons held to service or labor under the laws of any State, and who at any time since the sixteenth day of April, anno Domini eighteen hundred and sixty-two, by the consent of the person to whom such service or labor is claimed to be owing, have been actually employed within the District of Columbia, or who shall be hereafter thus employed, are hereby declared free, and forever released from such servitude, anything in the laws of the United States or of any State to the contrary notwithstanding.

SEC. 5. *And be it further enacted*, That in all judicial proceedings in the District of Columbia there shall be no exclusion of any witness on account of color.

APPROVED, July 12, 1862.

CHAP. CLVI.—An Act relating to Trust Funds of several Indian Tribes invested by the Government in certain State Bonds abstracted from the custody of the late Secretary of the Interior.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Treasury be, and hereby is, directed to cause to be entered upon the proper books of his Department the following credits to the Indian tribes herein named, to wit: to the Delawares the sum of four hundred and twenty-three thousand nine hundred and ninety dollars and twenty-six cents; to the Iowas the sum of sixty-six thousand seven hundred and thirty-five dollars; and to the confederate bands of Kaskaskias, Peorias, Piankeshaws, and Weas the sum of one hundred and sixty-nine thousand six hundred and eighty-six dollars and seventy-five cents; which said amounts are for and in place of the same amounts heretofore invested by the Government under treaty stipulations with said tribes in the bonds of the States of Missouri, Tennessee, and North Carolina, which were stolen while in the custody of Jacob Thompson, late Secretary of the Interior, in whose Department they had been deposited for safe-keeping.

SEC. 2. *And be it further enacted*, That said entries shall be and remain evidence that the United States holds the said several sums named in trust for said tribes respectively, and the Treasurer of the United States is hereby authorized and directed to pay to said tribes, respectively, on requisitions from the Secretary of the Interior, interest on the sums credited as aforesaid, at the rate of five per centum per annum, in semi-annual payments, on the first days of January and July in each year, the first of said payments to be on the first day of January, eighteen hundred and sixty-three.

SEC. 3. *And be it further enacted*, That all interest which said tribes may have had in said bonds, as aforesaid, is hereby terminated, and the same is vested in the United States; and any recovery, or reclamation of the same, or any part thereof, shall be for the use and benefit of the United States.

SEC. 4. *And be it further enacted*, That the sum of fifty thousand and sixty-six dollars and sixty-four cents is hereby appropriated, out of any money in the Treasury not otherwise appropriated, for the payment of interest to the tribes aforesaid on the sums invested in the bonds aforesaid, from the date of the last payment of interest on said bonds to the first day of July, eighteen hundred and sixty-two, to wit: the sum of thirty-two thousand three hundred and seven dollars and ninety-one cents to said Delawares, five thousand and thirty-two dollars and twenty-three cents to said Iowas, and twelve thousand seven hundred and twenty-six dollars and fifty cents to the said confederate bands of Kaskaskias, Peorias, Piankeshaws, and Weas.

SEC. 5. *And be it further enacted*, That this act shall take effect and be in force only in relation to such of the tribes aforesaid as shall file with the Secretary of the Interior their assent, in writing, to so much thereof as relates to them respectively.

APPROVED, July 12, 1862.

CHAP. CLVII.—An Act to provide for the quieting of certain Land Titles in the late disputed Territory of the State of Maine, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Treasury be, and he is hereby, authorized and required to pay, out of any money in the Treasury not otherwise appropriated, to Laura A. Stebbins, of Bangor, in the State of Maine, Catherine C. Ward, of Roxbury, in the State Massachusetts, Rufus Mansur, of Houlton, in the State of Maine, and James A. Drew, of Chelsea, in the State of Massachusetts, the sum of thirty-three hundred and fifty-three dollars each, being in all the sum of thirteen thousand four hundred and twenty-two dollars, in full compensation for three thousand three hundred and fifty-three acres of land, including the timber previously taken therefrom, in the half township in the State of Maine, granted by the State of Massachusetts, to the late General Eaton, and called the "Eaton Grant," to which said parties lost title by the operation of the fourth article of the treaty of ninth August, eighteen hundred and forty-two, "to settle and define the boundary between the United States and the possessions of her Britannic Majesty in North America:" *Provided*, That the said Laura A. Stebbins, Catherine C. Ward, Rufus Mansur, and James A. Drew shall execute deeds of release to the parties holding "possessory" or "equitable possessory claims" to the said three thousand three hundred and fifty-three acres of land, or any portion thereof, as described in the reports made to the Governor and Council of Maine by Ebenezer Hutchinson and others, commissioners under a resolution passed by the Legislature of said State on the twelfth day of April, eighteen hundred and fifty-four, and the plan of surveys accompanying said reports, and of the record in the land office of said State: *And provided also*, That it shall appear to the satisfaction of the land agent of said State of Maine that such deeds of release do effectually convey a good title to said lands, except so far as said titles have been affected by the operation of the treaty aforesaid: *And provided further*, That if it shall appear to the said land agent that the aforesaid parties are incompetent to make such deeds of release to the whole of said lands, then they shall be entitled to receive a pro rata only of the compensation provided in this act for so much thereof as they shall convey as aforesaid.

SEC. 2. *And be it further enacted*, That the Secretary of the Treasury be, and he is hereby, authorized and required to pay, out of any unappropriated money in the Treasury, to Edmund Monroe and Benjamin Sewall, of Boston, in the State of Massachusetts, the sum of thirteen thousand five hundred and forty dollars, in the proportion of three fourths thereof to the former and one fourth to the latter, in full compensation for three thousand three hundred and eighty-five acres of land, including the timber previously taken therefrom, in the western half of "Plymouth township," so called, in the State of Maine, and the sum of six thousand seven hundred and sixty-eight dollars to Rufus Mansur, of Houlton, Maine, and James A. Drew, of Chelsea, Massachusetts, in full compensation for sixteen hundred and ninety-two acres of land, including the timber previously taken therefrom, in the eastern half of said township, to which the said parties severally lost title by the operation of the fourth article of the aforesaid treaty: *Provided*, That the regulations, restrictions, and provisions contained in the provisos to the first section of this act shall be made, to all intents and purposes, applicable to this section.

SEC. 3. *And be it further enacted*, That the Secretary of the Treasury be, and he is hereby, directed to pay, out of any money in the Treasury not otherwise appropriated, to Laura A. Stebbins, of Bangor, Maine, and Catherine C. Ward, of Dorchester, Massachusetts, the sum of six thousand six hundred and forty-seven [dollars;] and to Edmund Monroe and Benjamin Sewall, of the city of Boston, in Massachusetts, the sum of seven thousand six hundred and thirty-five dollars, in the proportion of three fourths of the same to said Monroe, and one fourth to said Sewall; and to James A. Drew, of Chelsea, Massachusetts, and Rufus Mansur, of Houlton, Maine, the sum of nine thousand three hundred and twenty-eight dollars; the said several sums being in full compensation, at the rate of one dollar per acre, for timber taken from lands owned by said parties, respectively, and located in the Eaton Grant and

Plymouth township, (so called,) in the State of Maine, and within the district recognized as the "disputed territory," and which timber was taken off and lost to the proprietors in consequence of the diplomatic arrangement entered into between the United States and Great Britain in eighteen hundred and thirty-two, by which both parties agreed to abstain from the exercise of jurisdiction in said territory: *Provided*, That the payments authorized and required by this act may be made, in whole or in part, at the option of the Secretary of the Treasury, in any of the bonds of the United States, bearing interest at the rate of six per centum per annum, which have been, or may hereafter be, authorized by law to be issued.

APPROVED, July 12, 1862.

CHAP. CLVIII.—An Act to provide for the payment of Fines and Penalties collected by or paid the Justices of the Peace in the District of Columbia under the acts of Congress approved the third and fifth of August, eighteen hundred and sixty-one, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the several justices of the peace of the District of Columbia who have imposed fines under the acts of Congress approved the third and fifth days of August, eighteen hundred and sixty-one, shall, on or before the fifteenth day of July, eighteen hundred and sixty-two, make a full and faithful report of their doings in that behalf, stating the name of the party, the amount of fine imposed, and the name of the witnesses examined in each case, to the superintendent of metropolitan police, and shall pay over all moneys in their hands arising from such fines to the said superintendent; and such of said justices as shall fail by the time specified to make such report, and comply with the other provisions of this law, shall be liable to a fine of not less than three hundred nor more than five hundred dollars, to be collected from said justices by prosecution in the criminal court in the said District of Columbia; and it shall be the duty of the superintendent of metropolitan police to inspect the dockets kept by the said justices of the peace, for the purpose of ascertaining the amount so collected as aforesaid by them; and the said justices shall submit their dockets to the inspection of the said superintendent; and failing to do so, shall pay a fine of not less than fifty nor more than one hundred dollars, to be collected as above.

SEC. 2. *And be it further enacted*, That said justices of the peace shall, on or before the fifteenth day of July in each and every year, make a full and faithful report of their doings as aforesaid, for the preceding year, to the superintendent of metropolitan police, and shall pay over all moneys in their hands arising from such fines to the said superintendent; and if any justice of the peace of the District of Columbia shall fail to comply with the provisions of this law, he shall be liable to a fine of not less than three hundred nor more than five hundred dollars, to be collected as provided in the first section of this act.

APPROVED, July 12, 1862.

CHAP. CLIX.—An Act for the Relief of the Register of the Land Office at Vincennes, Indiana, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior be, and he is hereby, authorized to make such allowance for office rent during the temporary continuance of the land office at Vincennes, Indiana, as may, in his opinion, be just and proper.

SEC. 2. *And be it further enacted*, That the said Secretary be authorized to adjust the account of John Moore, postmaster at Vincennes, Indiana, and allow him, at the usual rates for such services, compensation for the custody of the books, papers, and so forth, of the land office at Vincennes, Indiana, during the time the same were in his charge, under instructions from the Commissioner of the General Land Office, dated September third, eighteen hundred and fifty-eight; these allowances to be paid out of the appropriation for incidental expenses of district land offices: *Provided*, That the total sum paid under this act shall not exceed five hundred dollars.

APPROVED, July 12, 1862.

CHAP. CLX.—An Act for Relief in the Land Claim in California known as the Claim of Francisco Soberanes to a tract of land known as "Saujon de Santa Rita."

Whereas, in the district court of the United States for the southern district of California, in the case of Francisco Soberanes *vs.* The United States, for the rancho lying in the State of California known by the name of Saujon de Santa Rita, a decree filed on the ninth day of February, eighteen hundred and fifty-eight, was entered, confirming to the said Soberanes the said tract of land known by the name of Saujon de Santa Rita: and whereas, on the presentation of the mandate of the Supreme Court of the United States, dismissing the appeal to the said Supreme Court of the United States in said cause, the said decree was made final by a decree of said district court, rendered on the first day of November, eighteen hundred and sixty: and whereas the land confirmed as aforesaid lies in the northern district of California, as ascertained by a final survey of the same: Therefore,

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the said decrees of the district court of the United States for the southern district of California shall be, and they are hereby declared to be, as valid and effectual as if the same had been rendered by the district court of the United States for the northern district of California.

APPROVED, July 12, 1862.

CHAP. CLXI.—An Act conferring a Land Claim in the State of Iowa, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the grant of lands to the then Territory of Iowa for the improvement of the Des Moines river, made by the act of August eight, eighteen hundred and forty-six, is hereby extended so as to include the alternate sections (designated by odd numbers) lying within five miles of said river, between the Raccoon fork and the northern boundary of said State; such lands are to be held and applied in accordance with the provisions of the original grant, except that the consent of Congress is hereby given to the application of a portion thereof to aid in the construction of the Keokuk, Fort Des Moines, and Minnesota railroad, in accordance with the provisions of the act of the General Assembly of the State of Iowa, approved March twenty-two, eighteen hundred and fifty-eight. And if any of said lands shall have been sold or otherwise disposed of by the United States before the passage of this act, excepting those released by the United States to the grantees of the State of Iowa under the joint resolution of March second, eighteen hundred and sixty-two, the Secretary of the Interior is hereby directed to set apart an equal amount of lands within said State to be certified in lieu thereof: *Provided*, That if the said State shall have sold and conveyed any portion of the lands lying within the limits of this grant the title of which has proved invalid, any lands which shall be certified to said State in lieu thereof by virtue of the provisions of this act shall inure to, and be held as a trust fund for the benefit of, the person or persons respectively whose titles shall have failed as aforesaid.

APPROVED, July 12, 1862.

CHAP. CLXIII.—An Act increasing temporarily the Duties on Imports, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That from and after the first day of August, anno Domini eighteen hundred and sixty-two, in lieu of the duties heretofore imposed by law on the articles hereinafter mentioned there shall be levied, collected, and paid, on the goods, wares, and merchandise, herein enumerated and provided for, imported from foreign countries, the following duties and rates of duty, that is to say:

On sirup of sugar, or of sugar cane, or concentrated molasses, or concentrated melado, two cents per pound;

On all sugar not above number twelve, Dutch standard in color, two and one half cents per pound;

On all sugar above number twelve, and not above number fifteen, Dutch standard in color, three cents per pound;

On all sugar above number fifteen, not stove-dried, and not above number twenty, Dutch standard in color, three and one half cents per pound;

On all refined sugar in form of loaf, lump, crushed, powdered, pulverized, or granulated, and all stove-dried or other sugar above number twenty, Dutch standard in color, four cents per pound: *Provided*, That the standards by which the color and grades of sugars are to be regulated shall be selected and furnished to the collectors of such ports of entry as may be necessary, by the Secretary of the Treasury, from time to time and in such manner as he may deem expedient;

On sugar candy, not colored, six cents per pound; on all other confectionery, made wholly or in part of sugar, and on sugars, after being refined, when tinctured, colored, or in any way adulterated, ten cents per pound;

On molasses, six cents per gallon: *Provided*, That all sirups of sugar or sugar cane, concentrated molasses, or concentrated melado, entered under the name of molasses or any other name than sirup of sugar, or of sugar cane, concentrated molasses, or concentrated melado, shall be liable to forfeiture to the United States, and the same shall be forfeited;

On cigars of all kinds, valued at five dollars or less per thousand, thirty-five cents per pound; valued at over five dollars and not over ten dollars per thousand, sixty cents per pound; valued at over ten and not over twenty dollars per thousand, eighty cents per pound; valued at over twenty dollars per thousand, one dollar per pound; and in addition thereto on all cigars valued at over ten dollars per thousand, ten per centum ad valorem: *Provided*, That paper cigars, or cigarettes, including wrappers, shall be subject to the same duties imposed on cigars;

On snuff, thirty-five cents per pound;

On tobacco, in leaf, unmanufactured and not stemmed, twenty-five cents per pound;

On stemmed, and tobacco manufactured of all descriptions, not otherwise provided for, thirty-five cents per pound.

SEC. 2. *And be it further enacted*, That from and after the day and year aforesaid, in addition to the duties heretofore imposed by law, on the articles hereinafter mentioned, and included in this section, there shall be levied, collected, and paid on the goods, wares, and merchandise herein enumerated and provided for, imported from foreign countries, the following duties and rates of duty, that is to say:

On brandy, for first proof, twenty-five cents per gallon;

On other spirits, manufactured or distilled from grain or other materials, for first proof, fifty cents per gallon;

On cordials, and liquors of all kinds, and arrack, absynthe, kirschenwasser, ratafia, and other similar spirituous beverages not otherwise provided for, twenty-five cents per gallon;

On bay rum, twenty-five cents per gallon;

On ale, porter, and beer, in bottles, or otherwise, five cents per gallon;

On all spirituous liquors not otherwise enumerated, sixteen and two thirds per centum ad valorem: *Provided*, That no lower rate or amount of duty shall be levied, collected, and paid, on brandy, spirits, and all other spirituous beverages, than that fixed by law for the description of first proof, but shall be increased in proportion for any greater strength than the strength of first proof: *And provided further*, That bottles containing wines subject to ad valorem duties shall be liable to and pay the same rate of duty as that fixed upon the wines therein contained.

SEC. 3. *And be it further enacted*, That from and after the day and year aforesaid, in addition to the duties heretofore imposed by law on the articles hereinafter mentioned and included in this section, there shall be levied, collected, and paid,

on the goods, wares, and merchandise, herein enumerated and provided for, imported from foreign countries, the following duties and rates of duty, that is to say:

On bar iron, rolled or hammered, comprising flats not less than one inch or more than seven inches wide, nor less than one quarter of an inch or more than two inches thick; rounds not less than one half an inch nor more than four inches in diameter; and squares not less than one half an inch nor more than four inches square, not exceeding in value the sum of fifty dollars per ton, two dollars per ton; exceeding in value the sum of fifty dollars per ton, three dollars per ton;

On bar iron, rolled or hammered, comprising flats less than one quarter of an inch thick or more than seven inches wide; rounds less than one half an inch or more than four inches in diameter, and squares less than one half an inch or more than four inches square, five dollars per ton;

On all iron imported in bars for railroads and inclined planes made to patterns and fitted to be laid down on such roads or planes without further manufacture, one dollar and fifty cents per ton;

On boiler or other plate iron, five dollars per ton;

On iron wire, drawn and finished, not more than one fourth of an inch in diameter nor less than number sixteen, wire-gauge, one dollar per one hundred pounds; over number sixteen and not over number twenty-five, wire-gauge, one dollar and fifty cents per one hundred pounds, over or finer than number twenty-five, wire-gauge, two dollars per one hundred pounds: *Provided*, That wire covered with cotton, silk, or other material, shall pay five cents per pound in addition to the foregoing rates;

On hollow ware, glazed or tinned, one half cent per pound;

On sadirons, tailors' and hatters' irons, stoves and stove plates, one fourth of one cent per pound;

On band and hoop iron and slit rods, and all other descriptions of rolled or hammered iron, not otherwise provided for, five dollars per ton;

On cut nails and spikes, one fourth of one cent per pound;

On iron cables and cable chains, or parts thereof, seventy-five cents per one hundred pounds: *Provided*, That no chains made of wire or rods of a diameter less than one half of one inch shall be considered a chain cable;

On anvils, one dollar per one hundred pounds;

On anchors, or parts thereof, fifty cents per one hundred pounds;

On wrought board nails, spikes, rivets, bolts, bed-screws, and wrought hinges, one fourth of one cent per pound;

On chains, trace chains, halter chains, and fence chains, made of wire or rods, not under one fourth of one inch in diameter, one fourth of one cent per pound; under one fourth of one inch in diameter and not under number nine, wire-gauge, one half of one cent per pound; under number nine, wire-gauge, five per centum ad valorem;

On blacksmiths' hammers, and sledges, and axles, or parts thereof, one half of one cent per pound;

On horseshoe nails, one cent per pound;

On steam, gas, and water tubes, and flues of wrought iron, one fourth of one cent per pound;

On wrought iron railroad chairs, and wrought iron nuts and washers, ready punched, five dollars per ton;

On smooth or polished sheet iron, by whatever name designated, one half cent per pound;

On sheet iron, common or black, not thinner than number twenty, wire-gauge, three dollars per ton; thinner than number twenty, and not thinner than number twenty-five, wire-gauge, four dollars per ton; thinner than number twenty-five, wire-gauge, five dollars per ton;

On tin plates galvanized, galvanized iron, or iron coated with any metal by electric batteries, one half cent per pound;

On locomotive tire, or parts thereof, one cent per pound;

On mill-irons, and mill cranks of wrought iron, and wrought iron for ships, steam engines, and locomotives, or parts thereof, weighing each twenty-five pounds or more, one fourth of one cent per pound;

On screws commonly called wood-screws, one cent and a half per pound;

On screws, washed or plated, and all other screws of iron, except wood-screws, five per centum ad valorem;

On all manufactures of iron, not otherwise provided for, five per centum ad valorem;

On cast iron, steam, gas, and water pipes, twenty-five cents per one hundred pounds; on all other castings of iron, not otherwise provided for, nor exempted from duty, five per centum ad valorem: *Provided*, That the following descriptions of iron, manufactures of iron, and manufactures of steel, shall not be subject to any additional duty or rates of duty under the provisions of this act, that is to say: iron in pigs; cast iron butts and hinges; old scrap iron; malleable iron, and malleable iron castings, not otherwise provided for; cut tacks, brads, and sprigs; cross-cut, mill, pit, and drag saws;

On steel in ingots, bars, sheets, or wire, not less than one fourth of an inch in diameter, valued at seven cents per pound or less, one fourth of one cent per pound; valued at above seven cents per pound and not above eleven cents per pound, one half cent per pound; valued above eleven cents per pound, and on steel wire and steel in any form, not otherwise provided for, five per centum ad valorem;

On skates valued at twenty cents or less per pair, two cents per pair; when valued at over twenty cents per pair, five per centum ad valorem;

On iron squares, marked on one side, two cents and a half per pound; on all other squares made of iron or steel, five cents per pound;

On files, rasps, and floats, of all descriptions, two cents per pound, and in addition thereto, five per centum ad valorem;

On all manufactures of steel, or of which steel shall be a component part, not otherwise provided for, five per centum ad valorem: *Provided*, That no allowance or reduction of duties for partial loss or damage shall be hereafter made in consequence of rust of iron or steel, or upon the manufactures of iron or steel, except on polished Russia sheet iron;

On bituminous coal, ten cents per ton of twenty-eight bushels, eighty pounds to the bushel; on all other coal, ten cents per ton of twenty-eight bushels, eighty pounds to the bushel;

On coke and culm of coal, five per centum ad valorem.

SEC. 4. *And be it further enacted*, That from and after the day and year aforesaid, in addition to the duties heretofore imposed by law on the articles hereinafter mentioned and included in this section, there shall be levied, collected, and paid on the goods, wares, and merchandise herein enumerated and provided for, imported from foreign countries, the following duties, and rates of duty, that is to say:

On copper rods, bolts, nails, spikes, copper bottoms, copper in sheets or plates, called braziers' copper, and other sheets and manufactures of copper, not otherwise provided for, five per centum ad valorem;

On zinc, spelter, and teutenegue, unmanufactured, in blocks or pigs, twenty-five cents per one hundred pounds;

On zinc, spelter, and teutenegue, in sheets, one half of one cent per pound;

On lead, in pipes and shot, three fourths of one cent per pound;

On brass, in bars or pigs, and old brass, fit only to be remanufactured, five per centum ad valorem.

SEC. 5. *And be it further enacted*, That from and after the day and year aforesaid, in lieu of the duties heretofore imposed by law on the articles hereinafter mentioned, and on such as may now be exempt from duty, there shall be levied, collected, and paid on the goods, wares, and merchandise enumerated and provided for in this section, imported from foreign countries, the following duties and rates of duty, that is to say:

Acid, boracic, five cents per pound; citric, ten cents per pound; oxalic, four cents per pound; sulphuric, one cent per pound; tartaric, twenty cents per pound; gallic, fifty cents per pound; tannic, twenty-five cents per pound;

Alum, patent alum, alum substitute, sulphate of alumina, and aluminous cake, sixty cents per one hundred pounds;

Argols, or crude tartar, six cents per pound; cream tartar, ten cents per pound;

Asphaltum, three cents per pound;

Balsam copaiva, twenty cents per pound; Peruvian, fifty cents per pound; tolu, thirty cents per pound;

Blanc fixe, enamelled white, satin white, or any combination of barytes and acid, two cents and a half per pound;

Barytes and sulphate of barytes, five mills per pound;

Burning fluid, fifty cents per gallon;

Bitter apples, colocynth, or coloquintida, ten cents per pound;

Borax, crude, or tincal, five cents per pound; refined, ten cents per pound;

Borate of lime, five cents per pound;

Buchu leaves, ten cents per pound;

Camphor, crude, thirty cents per pound; refined, forty cents per pound;

Cantharides, fifty cents per pound;

Cloves, fifteen cents per pound; cassia, fifteen cents per pound; cassia buds, twenty cents per pound; cinnamon, twenty-five cents per pound;

Cayenne pepper, twelve cents per pound; ground, fifteen cents per pound; black pepper, twelve cents per pound; ground, fifteen cents per pound; white pepper, twelve cents per pound; ground, fifteen cents per pound;

Cocculus Indicus, ten cents per pound;

Cuttle-fish bone, five cents per pound;

Cubebs, ten cents per pound;

Dragon's blood, ten cents per pound;

Emery, ore or rock, six dollars per ton; manufactured, ground, or pulverized, one cent per pound;

Ergot, twenty cents per pound;

Epsom salts, one cent per pound; glauber salts, five mills per pound; Rochelle salts, fifteen cents per pound;

Fruit ethers, essences or oils of apple, pear, peach, apricot, strawberry, and raspberry, made of fusil oil or of fruit, or imitations thereof, two dollars and fifty cents per pound;

French green, Paris green, mineral green, carmine lake, wood lake, dry carmine, Venetian red, vermillion, mineral blue, Prussian blue, chrome yellow, rose pink, extract of resin or analine colors, Dutch pink, and paints and painters' colors, (except white and red lead and oxide of zinc,) dry or ground in oil, and moist water colors, used in the manufacture of paper-hangings and colored papers and cards, not otherwise provided for, twenty-five per centum ad valorem;

Ginger root, five cents per pound; ginger ground, eight cents per pound;

Gold leaf, one dollar and fifty cents per package of five hundred leaves; on silver leaf, seventy-five cents per package of five hundred leaves;

Gum aloes, six cents per pound; benzoin, ten cents per pound; sandarac, ten cents per pound; shellac, ten cents per pound; mastic, fifty cents per pound; copal, kowrie, damar, and all gums used for like purposes, ten cents per pound;

Honey, fifteen cents per gallon;

Iodine, crude, fifty cents per pound; resublimed, seventy-five cents per pound;

Ipecacuanha, or ipecac, fifty cents per pound;

Jalap, fifty cents per pound;

Licorice root, one cent per pound; paste or juice, five cents per pound;

Litharge, two and one fourth cents per pound;

Magnesia, carbonate, six cents per pound; calcined, twelve cents per pound;

Manna, twenty-five cents per pound;

Nitrate of soda, one cent per pound;

Morphine and its salts, two dollars per ounce; mace and nutmeg, thirty cents per pound;

Ochres and ochery earths, not otherwise provided for, when dry, fifty cents per one hundred pounds; when ground in oil, one dollar and fifty cents per one hundred pounds;

Oils, fixed or expressed, croton, fifty cents per pound; almonds, ten cents per pound; bay or laurel, twenty cents per pound, castor, fifty cents per gallon; mace, fifty cents per pound; olive, not salad, twenty-five cents per gallon; salad, fifty cents per gallon; mustard, not salad, twenty-five cents per gallon; salad, fifty cents per gallon;

Oils, essential or essence, anise, fifty cents per pound; almonds, one dollar and fifty cents per pound; amber, crude, ten cents per pound; rectified, twenty cents per pound; bay leaves, seventeen dollars and fifty cents per pound; bergamot, one dollar per pound; cajeput, twenty-five cents

per pound; caraway, fifty cents per pound; cassia, one dollar per pound; cinnamon, two dollars per pound; cloves, one dollar per pound; citronella, fifty cents per pound; cognac or œnanthic ether, two dollars per ounce; cubebs, one dollar per pound; fennel, fifty cents per pound; juniper, twenty-five cents per pound; lemons, fifty cents per pound; orange, fifty cents per pound; origanum, or red thyme, twenty-five cents per pound; roses, or otto, one dollar and fifty cents per ounce; thyme, white, thirty cents per pound; valerian, one dollar and fifty cents per pound; all other essential oils, not otherwise provided for, fifty per centum ad valorem;

Opium, two dollars per pound;

Opium, prepared for smoking, eighty per centum ad valorem;

Paraffine, ten cents per pound;

Paris white, when dry, sixty cents per one hundred pounds, when ground in oil, one dollar and fifty cents per one hundred pounds;

Pimento, twelve cents per pound; when ground, fifteen cents per pound;

Potash, bichromate, three cents per pound; hydriodate, iodate, iodide, and acetate, seventy-five cents per pound; prussiate, yellow, five cents per pound; prussiate, red, ten cents per pound; chlorate, six cents per pound;

Petroleum and coal illuminating oil, crude, ten cents per gallon; refined, or kerosene, produced from the distillation of coal, asphaltum, shale, peat, petroleum, or rock oil, or other bituminous substances, used for like purposes, twenty cents per gallon;

Putty, one dollar and fifty cents per one hundred pounds;

Quinine, sulphate of, and other salts of quinine, forty-five per centum ad valorem;

Rhubarb, fifty cents per pound;

Rose leaves, fifty cents per pound;

Rum essence or oil, and bay rum essence or oil, two dollars per ounce;

Saltpeter, or nitrate of potash, crude, two cents per pound; refined, three cents per pound;

Seeds, anise, five cents per pound; star anise, ten cents per pound; canary, one dollar per bushel of sixty pounds; caraway, three cents per pound; cardamom, fifty cents per pound; cummin, five cents per pound; coriander, three cents per pound; fennel, two cents per pound; fe[n]ugreek, two cents per pound; hemp, one half cent per pound; mustard, brown, three cents per pound; white, three cents per pound; rape, one cent per pound; castor seeds or beans, thirty cents per bushel;

Sugar of lead, four cents per pound;

Tartar emetic, fifteen cents per pound;

Varnish, valued at one dollar and fifty cents or less per gallon, fifty cents per gallon, and twenty per centum ad valorem; valued at above one dollar and fifty cents per gallon, fifty cents per gallon, and twenty-five per centum ad valorem;

Vanilla beans, three dollars per pound;

Verdigris, six cents per pound;

Whiting, when dry, fifty cents per one hundred pounds; when ground in oil, one dollar and fifty cents per one hundred pounds;

Acetous, benzoic, muriatic, and pyroligneous acids, cutch or catechu, orchil and cudbear, safflower and sumac, ten per centum ad valorem;

Arsenic in all forms, ammonia, and sulphate and carbonate of ammonia; bark, cinchona, Peruvian, Lima, Calisaya, quilla, and all other medicinal barks, flowers, leaves, plants, roots, and seeds, not otherwise provided for; cobalt, and oxide of cobalt; gums, amber, Arabic, jedda, senegal, tragacanth, myrrh, and all other gums and gum resins not otherwise provided for; quassia wood; smalts; sarsaparilla; tapioca; tonqua beans, and sponges, twenty per centum ad valorem; acetic acid, twenty-five per centum ad valorem;

Santonine and glycerine, thirty per centum ad valorem;

On all pills, powders, tinctures, troches or lozenges, sirups, cordials, bitters, anodynes, tonics, plasters, liniments, salves, ointments, pastes, drops, waters, essences, spirits, oils, or other medicinal preparations or compositions, recommended to the public as proprietary medicines, or prepared according to some private formula or secret art as remedies or specifics for any disease or diseases or affections whatever affecting the human or animal body, fifty per centum ad valorem;

On all essences, extracts, toilet waters, cosmetics, hair oils, pomades, hair dressings, hair restoratives, hair dyes, tooth washes, dentrifices, tooth pastes, aromatic cachous, or other perfumeries or cosmetics, by whatsoever name or names known, used or applied as perfumes or applications to the hair, mouth, or skin, fifty per centum ad valorem.

SEC. 6. *And be it further enacted*, That from and after the day and year aforesaid, in addition to the duties heretofore imposed by law on the articles hereinafter mentioned, and on such as may now be exempt from duty, there shall be levied, collected, and paid, on the goods, wares, and merchandise enumerated and provided for in this section, imported from foreign countries, a duty of ten per centum ad valorem, that is to say:

Antimony, crude;

Assafœdita;

Beeswax;

Blacking of all descriptions;

Building stone of all descriptions, not otherwise provided for;

Calomel;

Catsup;

Civet, oil of;

Cobalt ores;

Extract of indigo; extract of madder; extract and decoctions of logwood, and other dyewoods;

Flints, and flint, ground;

Flocks, waste or shoddy;

Furs, dressed, when not on the skin;

Garancine;

Ginger preserved, or pickled;

Green turtle;

Grindstones, unwrought, or wrought or finished;

Gutta-percha, unmanufactured;

Isinglass or fish glue;

Japanned ware of all kinds, not otherwise provided for;

Lastings, mohair cloth, silk, twist, or other manufacture of cloth woven or made in patterns of such size, shape, and form, or cut in such manner as to be fit for shoes, slippers, boots, bootees, gaiters, and buttons, exclusively, not combined with India-rubber;

Mats of cocoa-nut;

Matting, China, and other floor matting, and mats made of flags, jute, or grass;

Manufactures of gutta-percha;

Milk of India-rubber; medicinal preparations not otherwise provided for;

Music, printed with lines, bound or unbound,

Musical instruments of all kinds, and strings for musical instruments of whipgut or catgut, and all other strings of the same material;

Nickel;

Osier or willow, prepared for basket makers' use;

Philosophical apparatus and instruments;

Plaster of Paris, when ground;

Quills;

Strychnine;

Staves for pipes, hogsheads, or other casks;

Teeth, manufactured;

Thread lace and insertings;

Woolen listings.

SEC. 7. *And be it further enacted*, That, in addition to the duties heretofore imposed by law on the articles hereinafter mentioned and provided for in this section, there shall be levied, collected, and paid, on the goods, wares, and merchandise herein enumerated, imported from foreign countries, the following duties and rates of duty, that is to say:

On chocolate and cocoa, prepared, one cent per pound;

On copperas, green vitriol, or sulphate of iron, one fourth cent per pound;

On linseed, flax seed, hemp seed, and rape seed oil, three cents per gallon;

On saleratus and bicarbonate of soda, one half cent per pound;

On caustic soda, one half cent per pound;

On salt, in sacks, barrels, other packages, or in bulk, six cents per one hundred pounds;

On soap, fancy, scented, honey, cream, transparent, and all descriptions of toilet and shaving soap, two cents per pound; all other soap, five per centum ad valorem;

On spirits of turpentine, five cents per gallon;

On starch of all descriptions, one half cent per pound;

On white and red lead, dry or ground in oil, fifteen cents per one hundred pounds;

On oxide of zinc, dry or ground in oil, twenty-five cents per one hundred pounds.

SEC. 8. *And be it further enacted*, That from and after the day and year aforesaid, in lieu of the duties heretofore imposed by law on the articles hereinafter mention[ed], and on such as may now be exempt from duty, there shall be levied, collected, and paid, on the goods, wares, and merchandise enumerated and provided for in this section, imported from foreign countries, the following duties and rates of duty, that is to say:

On anchovies, preserved in salt, thirty per centum ad valorem;

On andirons, made of cast iron, one cent and one fourth per pound;

On barley, pearl or hulled, one cent per pound;

On bonnets, hats, and hoods, for men, women, and children, composed of straw, chip, grass, palm leaf, willow, or any other vegetable substance, or of silk, hair, whalebone, or other material, not otherwise provided for, forty per centum ad valorem;

On braids, plaits, flats, laces, trimmings, sparterre, tissues, willow sheets and squares, used for making or ornamenting hats, bonnets, and hoods, composed of straw, chip, grass, palm leaf, willow, or any other vegetable substance, or of hair, whalebone, or other material, not otherwise provided for, thirty per centum ad valorem;

On books, periodicals, pamphlets, blank-books, bound or unbound, and all printed matter, engravings, bound or unbound, illustrated books and papers, and maps and charts, twenty per centum ad valorem: *Provided*, That all imported cotton and linen rags for the manufacture of paper shall be free of duty;

On bristles, ten cents per pound;

On candles and tapers, stearine and adamantine, five cents per pound; on spermaceti, paraffine, and wax candles and tapers, pure or mixed, eight cents per pound; on all other candles and tapers, two and one half cents per pound;

On chicory root, two cents per pound; on chicory ground, burnt, or prepared, three cents per pound;

On acorn coffee and dandelion root, raw or prepared, and all other articles used or intended to be used as coffee, or a substitute for coffee, and not otherwise provided for, three cents per pound;

On coloring for brandy, fifty per centum ad valorem;

On cork wood, unmanufactured, thirty per centum ad valorem; on corks, fifty per centum ad valorem;

On cotton, one half cent per pound;

On feathers and downs for beds or bedding, of all descriptions, thirty per centum ad valorem;

On ostrich, vulture, cock, and other ornamental feathers, crude or not dressed, colored, or manufactured, twenty per centum ad valorem; when dressed, colored, or manufactured, forty per centum ad valorem;

On feathers and flowers, artificial and parts thereof, of whatever material composed, not otherwise provided for, forty per centum ad valorem;

On fire crackers, fifty cents per box of forty packs, not exceeding eighty to each pack; and in the same proportion for a greater number;

On fruit, shade, lawn, and ornamental trees, shrubs, plants, and bulbous roots, and flower seeds, not otherwise provided for, thirty per centum ad valorem;

On gloves, made of skins or leather, forty per centum ad valorem;

On gunpowder, and all explosive substances used for mining, blasting, artillery, or sporting purposes, valued at less than twenty cents per pound, six cents per pound; valued at twenty cents or over per pound, six cents per pound, and twenty per centum ad valorem in addition thereto;

On garden seeds, and all other seeds for agricultural and horticultural purposes, not otherwise provided for, thirty per centum ad valorem;

On hides, raw, and skins of all kinds, whether dried, salted, or pickled, ten per centum ad valorem;

On hollow-ware and vessels of cast iron, not otherwise provided for, one cent and one fourth per pound;

On hops, five cents per pound;

On human hair, raw, uncleaned, and not drawn, twenty per centum ad valorem; when cleaned or drawn, but not manufactured, thirty per centum ad valorem; when manufactured, forty per centum ad valorem;

On lead ore, one dollar per one hundred pounds;

On marble, white statuary, in block, rough, or squared, seventy-five cents per cubic foot; veined marble, and marble of all other descriptions, not otherwise provided for, in block, rough, or squared, forty per centum ad valorem;

On all manufactures of marble, marble slabs, marble paving tiles, and marble sawed, dressed, or polished, fifty per centum ad valorem;

On manufactures of bladders, thirty per centum ad valorem;

On manufactures of India-rubber and silk, or of India-rubber and silk and other materials, fifty per centum ad valorem;

On mustard, ground, in bulk, twelve cents per pound; when inclosed in glass or tin, sixteen cents per pound;

On plates engraved, of steel, copper, wood, or any other material, twenty-five per centum ad valorem;

On plumbago or black lead, ten dollars per ton;

On potatoes, twenty-five cents per bushel;

On percussion caps, fulminates, fulminating powders, and all articles used for like purposes, not otherwise provided for, thirty per centum ad valorem;

On playing cards, valued at twenty-five cents or less per pack, fifteen cents per pack; valued above twenty-five cents per pack, twenty-five cents per pack;

On pens, metallic, ten cents per gross;

On pen-holder tips, metallic, ten cents per gross;

On pen-holders, complete, ten cents per dozen;

On lead pencils, one dollar per gross;

On rice, cleaned, one cent and a half per pound; paddy, three quarters of one cent per pound; uncleaned rice, one cent per pound;

On sago and sago flour, one cent and a half per pound;

On sheathing copper, and sheathing metal or yellow metal not wholly of copper nor wholly or in part of iron, ungalvanized, in sheets forty-eight inches long and fourteen inches wide, and weighing from fourteen to thirty-four ounces per square foot, three cents per pound;

On tin in pigs, bars, or blocks, fifteen per centum ad valorem;

On tin in plates or sheets, terne, and tagger tin, twenty-five per centum ad valorem; on oxide, muriatic, and salts of tin and tin foil, thirty per centum ad valorem.

SEC. 9. *And be it further enacted*, That, in addition to the duties heretofore imposed by law on the articles hereinafter mentioned and included in this section, there shall be levied, collected, and paid, on the goods, wares, and merchandise herein enumerated and provided for, imported from foreign countries, the following duties and rates of duty, that is to say:

On Wilton, Saxony, and Aubusson, Axminster, patent velvet, Tournay velvet, and tapestry velvet carpets and carpeting, Brussels carpets wrought by the Jacquard machine, and all medallion or whole carpets, five cents per square yard; on Brussels and tapestry Brussels carpets and carpeting, printed on the warp or otherwise, three cents per square yard; on all treble-ingrain and worsted chain Venetian carpets and carpetings, three cents per square yard; on hemp or jute carpeting, two cents per square yard; on all other kinds of carpet and carpeting, of wool, flax, or cotton, or parts of either or other material (except druggets, blockings, and felt carpets and carpetings,) not otherwise provided for, five per centum ad valorem: *Provided*, That mats, rugs, screens, covers, hassocks, bedsides, and other portions of carpets or carpeting, shall pay the rate of duty herein imposed on carpets and carpeting of similar character; on all other mats, screens, hassocks, and rugs, five per centum ad valorem;

On woolen cloths, woolen shawls, and all manufactures of wool, of every description, made wholly or in part of wool, not otherwise provided for, a duty of six cents per pound, and, in addition thereto, five per centum ad valorem;

On goods of like description, when valued at over one dollar per square yard, or weighing less than twelve ounces per square yard, a duty of six cents per pound, and, in addition thereto, ten per centum ad valorem;

On endless belts or felts for paper, and blanketing for printing machines, five per centum ad valorem;

On flannels, of all descriptions, five per centum ad valorem;

On hats of wool, ten per centum ad valorem;

On woolen and worsted yarn, of all descriptions, five per centum ad valorem;

On clothing ready made, and wearing apparel of every description, composed wholly or in part of wool, made up or manufactured wholly or in part by the tailor, seamstress, or manufacturer, six cents per pound, and, in addition thereto, five per centum ad valorem: *Provided*, That Balmoral skirts, or goods of like description, or used for like purposes, made wholly or in part of wool, shall be subjected to the same duties that are levied upon ready-made clothing;

On blankets of all kinds, made wholly or in part of wool, five per centum ad valorem;

On all delaines, cashmere delaines, muslin delaines, barege delaines, composed wholly or in part of worsted, wool, mohair, or goat's hair, and on all goods of similar description, not exceeding in value forty cents per square yard, two cents per square yard;

On bunting, worsted yarns, and on all other manufactures of worsted or of which worsted shall be a component material, not otherwise provided for, five per centum ad valorem;

On oil cloth for floors, stamped or printed, of all descriptions, five per centum ad valorem;

On coir floor matting and carpeting, five per centum ad valorem.

SEC. 10. *And be it further enacted*, That from and after the day and year aforesaid, in addition to the duties heretofore imposed by law on the articles hereinafter mentioned and provided for in this section, there shall be levied, collected, and paid, on the goods, wares, and merchandise herein enumerated, imported from foreign countries, the following duties and rates of duty, that is to say:

First. On all manufactures of cotton, bleached or unbleached, and not colored, stained, painted, or printed, and not exceeding one hundred threads to the square inch, counting the warp and filling, and exceeding in weight five ounces per square yard, one fourth of one cent per square yard; on finer or lighter goods of like description, not exceeding one hundred and forty threads to the square inch, counting the warp and filling, one half cent per square yard; on goods of like description, exceeding one hundred and forty threads, and not exceeding two hundred threads to the square inch, counting the warp and filling, three fourths of one cent per square yard; on like goods, exceeding two hundred threads to the square inch, counting the warp and filling, one cent per square yard; on all goods embraced in the foregoing schedules (except jeans, denimes, drillings, bedtickings, ginghams, plaids, cottonades, pantaloon stuffs, and goods of like description, not exceeding in value the sum of sixteen cents per square yard,) if printed, painted, colored, or stained, they shall be considered to have been bleached goods, and there shall be levied, collected, and paid a duty of one cent per square yard, in addition to the rates of duty provided for bleached goods: *Provided*, That upon all plain woven cotton goods, not included in the foregoing schedules, and upon cotton goods of every description, the value of which shall exceed sixteen cents per square yard, there shall be levied, collected, and paid, a duty of five per centum ad valorem: *And provided further*, That no cotton goods, having more than two hundred threads to the square inch, counting the warp and filling, shall be admitted to a less rate of duty than is provided for goods which are of that number of threads.

Second. On spool and other thread of cotton, ten per centum ad valorem.

Third. On shirts and draws, wove or made on frames, composed wholly of cotton and cotton velvet, five per centum ad valorem.

Fourth. On all cotton jeans, denimes, drillings, bedtickings, ginghams, plaids, cottonades, pantaloon stuffs, and goods of like description, not exceeding in value the sum of sixteen cents per square yard, two cents per square yard; and on all manufactures composed wholly of cotton, bleached, unbleached, printed, painted, or dyed, not otherwise provided for, five per centum ad valorem.

Fifth. On all brown or bleached linens, ducks, canvas paddings, cot-bottoms, burlaps, drills, coatings, brown hollands, blay linens, damasks, diapers, crash, huckabacks, handkerchiefs, lawns, or other manufactures of flax, jute, or hemp (or of which flax, jute, or hemp shall be the component material of chief value,) five per centum ad valorem; on flax or linen threads, twine and packthread, and all other manufactures of flax, or of which flax shall be the component material of chief value, and not otherwise provided for, five per centum ad valorem.

SEC. 11. *And be it further enacted*, That from and after the day and year aforesaid, in addition to the duties heretofore imposed by law on the articles hereinafter mentioned and provided for in this section, there shall be levied, collected, and paid, on the goods, wares, and merchandise herein enumerated, imported from foreign countries, the following duties and rates of duty, that is to say:

On jute, Sisal grass, sun hemp, coir, and other vegetable substances not enumerated, (except flax, tow of flax, Russia and manilla hemp, and codilla, or tow of hemp,) five dollars per ton;

On jute butts, one dollar per ton;

On tarred cables, or cordage, one fourth of one cent per pound;

On untarred manilla cordage, one fourth of one cent per pound;

On all other untarred cordage, one half cent per pound;

On hemp yarn, one cent per pound;

On coir yarn, one half cent per pound;

On seines, one half cent per pound;

On cotton bagging, or other manufactures not otherwise provided for, suitable for the uses to which cotton bagging is applied whether composed in whole or in part of hemp, jute, or flax, or any other material valued at less than ten cents per square yard, three fourths of one cent per pound; over ten cents per square yard, one cent per pound;

On sail duck, five per centum ad valorem;

On Russia and other sheetings, made of flax or hemp, brown and white, five per centum ad valorem; and

On all other manufactures of hemp, or of which hemp shall be a component part, not otherwise provided for, five per centum ad valorem;

On grass cloth, five per centum ad valorem;

On jute yarns, five per centum ad valorem;

On all other manufactures of jute or Sisal grass, not otherwise provided for, five per centum ad valorem: *Provided*, That all hemp, or preparations of hemp used for naval purposes by the Government of the United States, shall be of American growth or manufacture: *Provided further*, The same can be obtained of as good quality and at as low a price.

SEC. 12. *And be it further enacted*, That from and after the day and year aforesaid, in lieu of the duties heretofore imposed by law on the articles hereinafter mentioned, and on such as may now be exempt from duty, there shall be levied, collected, and paid, on the goods, wares, and merchandise enumerated and provided for in this section, imported from foreign countries, the following duties and rates of duty, that is to say:

On all brown earthernware and common stoneware, gas retorts, stoneware not ornamented, and stoneware above the capacity of ten gallons, twenty per centum ad valorem;

On China and porcelain ware, gilded, ornamented, or decorated in any manner, forty per centum ad valorem;

On China and porcelain ware, plain white, and not decorated in any manner, and all other earthen, stone, or crockery ware, white, glazed, edged, printed, painted, dipped, or cream-colored, composed of earthy or mineral substances, and not otherwise provided for, thirty-five per centum ad valorem;

Slates, slate pencils, slate chimney-pieces, man-

tels, slabs for tables, and all other manufactures of slate, forty per centum ad valorem;

On unwrought clay, pipe clay, fire clay, and kaoline, five dollars per ton;

On fuller's earth, three dollars per ton;

On white chalk, four dollars per ton; on red and French chalk, ten per centum ad valorem; on chalk of all descriptions, not otherwise provided for, twenty-five per centum ad valorem;

On all plain and mold and press glassware, not cut, engraved, or painted, thirty per cent ad valorem;

On all articles of glass, cut, engraved, painted, colored, printed, stained, silvered or gilded, not including plate-glass silvered, or looking-glass plates, thirty-five per centum ad valorem;

On fluted, rolled, or rough plate-glass, not including crown, cylinder, broad, or common window glass, not exceeding ten by fifteen inches, seventy-five cents per one hundred square feet; above that, and not exceeding sixteen by twenty-four inches, one cent per square foot; above that, and not exceeding twenty-four by thirty inches, one cent and a half per square foot; all above that, two cents per square foot: *Provided*, That all fluted, rolled, or rough plate-glass, weighing over one hundred pounds per one hundred square feet, shall pay an additional duty on the excess at the same rates herein imposed;

On all cast polished plate-glass, unsilvered, not exceeding ten by fifteen inches, three cents per square foot; above that, and not exceeding sixteen by twenty-four inches, five cents per square foot; above that, and not exceeding twenty-four by thirty inches, eight cents per square foot; above that, and not exceeding twenty-four by sixty inches, twenty-five cents per square foot; all above that, fifty cents per square foot;

On all cast polished plate-glass, silvered, or looking-glass plates, exceeding ten by fifteen inches, four cents per square foot; above that, and not exceeding sixteen by twenty-four inches, six cents per square foot; above that, and not exceeding twenty-four by thirty inches, ten cents per square foot; above that, and not exceeding twenty-four by sixty inches, thirty-five cents per square foot; all above that, sixty cents per square foot: *Provided*, That no looking-glass plates, or plate-glass silvered, when framed, shall pay a less rate of duty than that imposed upon similar glass, of like description not framed, but shall be liable to pay, in addition thereto, thirty per centum ad valorem upon such frames;

On porcelain and Bohemian glass, glass crystals for watches, paintings on glass or glasses, pebbles for spectacles, and all manufactures of glass, or of which glass shall be a component material, except crown, cylinder, and other window glass, not otherwise provided for, and all glass bottles or jars filled with sweetmeats, preserves, thirty-five per centum ad valorem.

SEC. 13. *And be it further enacted*, That from and after the day and year aforesaid, in addition to the duties heretofore imposed by law on the articles hereinafter mentioned, there shall be levied, collected, and paid, on the goods, wares, and merchandise enumerated and provided for in this section, imported from foreign countries, a duty of five per centum ad valorem, that is to say:

Argentine, alabatta, or German silver, manufactured or unmanufactured;

Articles embroidered with gold, silver, or other metal;

Articles worn by men, women, or children, of whatever material composed, made up, or made wholly or in part by hand, not otherwise provided for;

Britannia ware;

Baskets, and all other articles composed of grass, ozier, palm leaf, straw, whalebone, or willow, not otherwise provided for;

Bracelets, braids, chains, curls, or ringlets composed of hair, or of which hair is a component material;

Braces, suspenders, webbing, or other fabrics, composed wholly or in part of India-rubber, not otherwise provided for;

Brooms and brushes of all kinds;

Canes and sticks for walking, finished or unfinished;

Capers, pickles, and sauces of all kinds, not otherwise provided for;

Caps, hats, muffs, and tippets of fur, and all other manufactures of fur, or of which fur shall be a component material;

Caps, gloves, leggins, mits, socks, stockings, wove shirts and drawers, and all similar articles made on frames, of whatever material composed, worn by men, women, and children, and not otherwise provided for;

Card cases, pocket books, shell boxes, souvenirs, and all similar articles, of whatever material composed;

Carriages and parts of carriages;

Clocks and parts of clocks;

Clothing, ready made, and wearing apparel of whatever description, of whatever material composed, except wool, made up or manufactured wholly or in part by the tailor, seamstress, or manufacturer;

Coach and harness furniture of all kinds, saddlery, coach and harness hardware, silver plated, brass plated, or covered, common tinned, burnished, or japanned, not otherwise provided for;

Combs of all kinds;

Compositions of glass or paste, when set;

Composition tops for tables, or other articles of furniture;

Comfits, sweetmeats, or fruits preserved in sugar, brandy, or molasses, not otherwise provided for;

Cotton cords, gimps, and galloons;

Cotton laces, cotton insertings, cotton trimming laces, and cotton braids, colored or uncolored;

Court-plaster;

Cutlery of all kinds;

Dolls and toys of all kinds;

Encaustic tiles;

Epaulets, galloons, laces, knots, stars, tassels, tresses, and wings, of gold, silver, or other metal;

Fans and fire-screens of every description, of whatever material composed;

Frames and sticks for umbrellas, parasols, and sunshades, finished or unfinished;

Furniture, cabinet and household;

Furs, dressed;

Hair pencils;

Hat bodies of cotton or wool, or of which wool is the component material of chief value;

Hair cloth, hair seatings, and all other manufactures of hair, not otherwise provided for;

Ink, printers' ink, and ink powder;

Japanned, patent or enamelled leather, or skins of all kinds;

Jet and manufactures of jet, and imitations thereof;

Leather, tanned, of all descriptions;

Maccaroni, vermicelli, gelatine, jellies, and all similar preparations;

Manufactures of bone, shell, horn, ivory or vegetable ivory;

Manufactures of paper, or of which paper is a component material, not otherwise provided for;

Manufactures of the bark of the cork tree, except corks;

Manufactures, articles, vessels, and wares, not otherwise provided for, of gold, silver, copper, brass, iron, steel, lead, pewter, tin, or other metal, or of which either of these metals or any other metal shall be the component material of chief value;

Manufactures not otherwise provided for, composed of mixed materials, in part of cotton, silk, wool, or worsted, hemp, jute, or flax;

Manufactures of cotton, linen, silk, or worsted, if embroidered or tamboured, in the loom or otherwise, by machinery or with the needle or other process, not otherwise provided for;

Manufactures of cedar wood, granadilla, ebony, mahogany, rosewood, and satin wood;

Manufactures and articles of leather, or of which leather shall be a component part, not otherwise provided for;

Manufactures, articles, and wares, of papier mache;

Manufactures of goats' hair or mohair, or of which goats' hair or mohair shall be a component material, not otherwise provided for;

Manufactures of wood, or of which wood is the chief component part, not otherwise provided for;

Morocco skins;

Muskets, rifles, and other fire-arms;

Needles, sewing, darning, knitting, and all other descriptions;

Oil-cloth of every description, of whatever material composed, not otherwise provided for;

Paper boxes, and all other fancy boxes;

Paper envelopes;

Paper-hangings, and paper for screens or fire-boards; paper, antiquarian, demy, drawing, elephant, foolscap, imperial, letter, and all other paper not otherwise provided for;

Pins, solid head or other;

Plated and gilt ware of all kinds;

Prepared vegetables, meats, fish, poultry, and game, sealed or unsealed, in cans or otherwise;

Ratans and reeds, manufactured or partially manufactured;

Roofing slates;

Scagliola tops for tables or other articles of furniture;

Sealing-wax;

Side arms of every description;

Silver-plated metal, in sheets or other form;

Stereotype plates;

Still bottoms;

Twines and packthread, of whatever material composed, not otherwise provided for;

Type metal;

Types, new;

Umbrellas, parasols, and sunshades;

Velvet, when printed or painted;

Wafers;

Water colors;

Watches and parts of watches, and watch materials, and unfinished parts of watches;

Webbing, composed of wool, cotton, flax, or any other materials, not otherwise provided for.

SEC. 14. *And be it further enacted*, That, from and after the day and year aforesaid, there shall be levied, collected, and paid on all goods, wares, and merchandise of the growth or produce of countries beyond the Cape of Good Hope, when imported from places this side of the Cape of Good Hope, a duty of ten per cent. ad valorem, *and* in addition to the duties imposed on any such articles when imported directly from the place or places of their growth or production.

SEC. 15. *And be it further enacted*, That upon all ships, vessels, or steamers, which, after the thirty-first day of December, eighteen hundred and sixty-two, shall be entered at any custom-house in the United States from any foreign port or place, or from any port or place in the United States, whether ships or vessels of the United States, or belonging wholly or in part to subjects of foreign powers, there shall be paid a tax or tonnage duty of ten cents per ton of the measurement of said vessel, in addition to any tonnage duty now imposed by law: *Provided*, That the said tax or tonnage duty shall not be collected more than once in each year on any ship, vessel, or steamer having a license to trade between different districts of the United States, or to carry on the bank, whale, or other fisheries, whilst employed therein, or on any ship, vessel, or steamer, to or from any port or place in Mexico, the British provinces of North America, or any of the West India islands: *Provided, also*, That nothing in this act contained shall be deemed in anywise to impair any rights and privileges which have been or may be acquired by any foreign nation under the laws and treaties of the United States relative to the duty on tonnage of vessels: *Provided further*, That so much of the act of August eighteen, eighteen hundred and fifty-six, entitled "An act to authorize protection to be given to citizens of the United States who may discover deposits of guano," as prohibits the export thereof, is hereby suspended for one year from and after the passage of this act.

SEC. 16. *And be it further enacted*, That from and after the passage of this act, in estimating the allowance for tare on all chests, boxes, cases, casks, bags, or other envelope or covering of all articles imported liable to pay any duty, where the original invoice is produced at the time of making entry thereof, and the tare shall be specified therein, it shall be lawful for the collector, if he shall see fit, or for the collector and naval officer, if such officer there be, if they shall see fit, with the consent of the consignees, to estimate the said tare according to such invoice; but in all other cases the real tare shall be allowed, and may be ascertained under such regulations as the Secretary of the Treasury may from time to time prescribe;

but in no case shall there be any allowance for draft.

SEC. 17. *And be it further enacted*, That from and after the first day of November, eighteen hundred and sixty-two, no goods, wares, or merchandise subject to ad valorem or specific duty, whether belonging to a person or persons residing in the United States or otherwise, or whether acquired by the ordinary process of bargain and sale, or otherwise, shall be admitted to entry, unless the invoice of such goods, wares, or merchandise be verified by the oath of the owner or one of the owners, or in the absence of the owner, one of the party who is authorized by the owner to make the shipment and sign the invoice of the same, certifying that the invoice annexed contains a true and faithful account, if subject to ad valorem duty and obtained by purchase, of the actual cost thereof, and of all charges thereon, and that no discounts, bounties, or drawbacks are contained in the said invoice but such as have actually been allowed on the same; and when consigned or obtained in any manner other than by purchase, the actual market value thereof, and if subject to specific duty, of the actual quantity thereof; which said oath shall be administered by the consul or commercial agent of the United States in the district where the goods are manufactured, or from which they are sent; and if there be no consul or commercial agent of the United States in the said district, the verification hereby required shall be made by the consul or commercial agent of the United States at the nearest point, or at the port from which the goods are shipped, in which case the oath shall be administered by some public officer, duly authorized to administer oaths, and transmitted with a copy of the invoice to the consul or commercial agent for his authentication; and this act shall be construed only to modify, and not repeal, the act of March first, eighteen hundred and twenty-three, entitled "An act supplementary to, and to amend an act entitled 'An act to regulate the collection of duties on imports and tonnage,' passed second March, one thousand seven hundred and ninety-nine, and for other purposes," and the forms of the oaths therein set forth shall be modified accordingly. And there shall be paid to the said consul, vice consul, or commercial agent, by the person or persons by or in behalf of whom the said invoices are presented and deposited one dollar for each and every invoice verified, which shall be accounted for by the officers receiving the same, in such manner as is now required by the laws regulating the fees and salaries of consuls and commercial agents: *Provided*, That nothing herein contained shall be construed to require for goods imported under the reciprocity treaty with Great Britain, signed June fifth, eighteen hundred and fifty-four, any other consular certificate than is now required by law: *And provided further*, That the provisions of this section shall not apply to invoices of goods, wares, and merchandise imported into the United States from beyond Cape Horn and the Cape of Good Hope, until the first day of April, one thousand eight hundred and sixty-three: *And provided further*, That the provisions of this section shall not apply to countries where there is no consul, vice consul, or commercial agent of the United States.

SEC. 18. *And be it further enacted*, That, from and after the date aforesaid it shall be the duty of consuls and commercial agents of the United States, having any knowledge or belief of any case or practice of any person or persons who obtain or should obtain verification of invoices as described in the preceding section, whereby the revenue of the United States is or may be defrauded, to report the facts to the collector of the port where the revenue is or may be defrauded, or to the Secretary of the Treasury of the United States.

SEC. 19. *And be it further enacted*, That from and after the passage of this act, the act entitled "An act to provide for the payment of outstanding Treasury notes, to authorize a loan, to regulate and fix the duties on imports, and for other purposes," approved March two, eighteen hundred and sixty-one, be, and the same is hereby, amended as follows, that is to say: first, in section twelve, before the word "eighteen," where it first occurs, strike out "less than;" second, in section twenty-three, after the words "artists residing abroad," strike out "provided the same be imported in good faith as objects of taste and not of merchandise," and insert, "provided the fact, as aforesaid, shall be certified by the artist, or by a consul of the United States;" and in the same section, before the word "orpiment," insert, "ores of gold and silver."

SEC. 20. *And be it further enacted*, That the sixth section of an act entitled "An act to extend the warehousing system by establishing private bonded warehouses, and for other purposes," be, and the same is hereby, amended so that the additional duty of one hundred per centum shall not apply to the invoice or appraised value of the merchandise withdrawn, but shall be so construed as to require for failure to transport and deliver within the time limited, a duty to be levied and collected of double the amount [to] which said goods, wares, and merchandise would be liable upon the original entry thereof.

SEC. 21. *And be it further enacted*, That all goods, wares, and merchandise, which may be in the public stores or bonded warehouse on the first day of August, eighteen hundred and sixty-two, may be withdrawn for consumption upon payment of the duties now imposed thereon by law, provided the same shall be so withdrawn within three months from the date of original importation; but all goods, wares, and merchandise which shall remain in the public stores or bonded warehouse for more than three months from the date of original importation, if withdrawn for consumption, and all goods on shipboard on the first day of August, eighteen hundred and sixty-two, shall be subject to the duties prescribed by this act: *Provided*, That all goods which now are or may be deposited in public store or bonded warehouse after this act takes effect and goes into operation, must be withdrawn therefrom, or the duties thereon paid within one year from the date of original importation, but may be withdrawn by the owner for exportation to foreign countries, or may be transhipped to any port of the Pacific or western coast of the United States at any time before the expiration of three years from the date of original importation; such goods on arrival at a Pacific or western port, as aforesaid, to be subject to the same rules and regulations as if originally imported there; any goods remaining in public store or bonded warehouse beyond three years shall be regarded as abandoned to the Government, and sold under such regulations as the Secretary of the Treasury may prescribe, and the proceeds paid into the Treasury: *Provided further*, That merchandise upon which duties have been paid may remain in warehouse in custody of the officers of the customs at the expense and risk of the owners of said merchandise, and if exported directly from said custody to a foreign country within three years, shall be entitled to return duties, proper evidence of such merchandise having been landed abroad to be furnished to the collector by the importer, one per centum of said duties to be retained by the Government: *And provided further*, That all drugs, medicines, and chemical preparations, entered for exportation and deposited in warehouse or public store, may be exported by the owner or owners thereof in the original package, or otherwise, subject to such regulations as shall be prescribed by the Secretary of the Treasury: *And provided further*, That the third or last proviso to the fifth section of an act entitled "An act to provide increased revenue from imports, to pay interest on the public debt, and for other purposes," approved the *sixth* [fifth] day of August, eighteen hundred and sixty-one, be, and the same is hereby, repealed; and no return of the duties shall be allowed on the export of any merchandise after it has been removed from the custody and control of the Government; but nothing herein contained shall be held to apply to or repeal section thirty of the act entitled "An act to provide for the payment of outstanding Treasury notes, to authorize a loan, to regulate and fix the duties on imports, and for other purposes," approved March second, eighteen hundred and sixty-one, or section four of an act entitled "An act to provide increased revenue from imports, to pay interest on the public debt, and for other purposes," approved August fifth, eighteen hundred and sixty-one.

SEC. 22. *And be it further enacted*, That the privilege of purchasing supplies from the public warehouses duty free be extended, under such regulations as the Secretary of the Treasury shall prescribe, to the vessels-of-war of any nation in ports of the United States which may reciprocate such privilege towards the vessels-of-war of the United States in its ports.

SEC. 23. *And be it further enacted*, That all acts and parts of acts repugnant to the provisions of this act be, and the same are hereby, repealed: *Provided*, That the existing laws shall extend to, and be in force for, the collection of the duties imposed by this act, for the prosecution and punishment of all offenses, and for the recovery, collection, distribution, and remission of all fines, penalties, and forfeitures, as fully and effectually as if every regulation, penalty, forfeiture, provision, clause, matter, and thing to that effect, in the existing laws contained, had been inserted in and reënacted by this act.

SEC. 24. *And be it further enacted*, That *in* the ninety-fifth section of the act entitled "An act to provide internal revenue to support the Government and [to] pay interest on the public debt," approved July first, eighteen hundred and sixty-two, be so amended that no instrument, document, or paper, made, signed, or issued prior to the first day of January, eighteen hundred and sixty-three, without being duly stamped, or having thereon an adhesive stamp to denote the duty imposed thereon, shall for that cause be deemed invalid and of no effect: *Provided, however*, That no such instrument, document, or paper shall be admitted or used as evidence in any court until the same shall have been duly stamped, nor until the holder thereof shall have proved to the satisfaction of the court that he has paid to the collector or deputy collector of the district within which such court may be held the sum of five dollars, for the use of the United States.

SEC. 25. *And be it further enacted*, That no part of the act aforesaid, in relation to stamp duties, shall be held to take effect before the first day of September, eighteen hundred and sixty-two. And so much of said act as relates to the appointment of collectors and assessors shall be held to take effect on the twenty-first day of July, eighteen hundred and sixty-two, instead of from and after its approval by the President.

APPROVED, July 14, 1862.

CHAP. CLXIV.—An Act making Appropriations for the Naval Service for the year ending thirtieth of June, eighteen hundred and sixty-three, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums be, and they are hereby, appropriated, to be paid out of any money in the Treasury not otherwise appropriated, for the year ending the thirtieth of June, eighteen hundred and sixty-three:

For pay of commission, warrant, and petty officers and seamen, including the engineer corps of the Navy, eleven million six hundred and seventeen thousand one hundred and nine dollars.

For the repair and equipment of vessels of the Navy, eleven million four hundred thousand dollars.

For fuel for the Navy, to be purchased in the mode prescribed by law for other materials, and for the transportation thereof, two million one hundred and sixty thousand dollars.

For the purchase of hemp and other materials for the Navy, five hundred and forty thousand dollars.

For ordnance and ordnance stores, including incidental expenses, five million one hundred and fifty thousand dollars.

For provisions for commission, warrant, and petty officers and seamen, including engineers and marines attached to vessels for sea service, three million three hundred and fifty-one thousand five hundred and twenty-one dollars and twenty-five cents: *Provided*, That the preserved meat forming part of the Navy ration may be prepared and packed under the direction of the Secretary of the Navy, if he shall deem it advisable; and that the cattle or fresh beef therefor may be pur-

chased under his directions, and from this appropriation; and that he be authorized to do whatever else may be necessary for the procuring, preparing, and packing said preserved meat in the most approved and advantageous manner; the expense for machinery and tools to be defrayed from the last named sum, and not to exceed five thousand dollars.

For surgeons' necessaries and appliances for the sick and hurt of the Navy, including the engineer and marine corps, twenty-seven thousand nine hundred dollars.

For contingent expenses that may accrue for the following purposes: freight and transportation; printing and stationery; advertising in newspapers; books, maps, models, drawings; purchase and repair of fire-engines; for machinery, of every description, and the patent right to use the same; repair of and attending to steam engines in navy-yards; purchase and maintenance of horses and oxen, and driving teams, carts, timber-wheels, and the purchase and repair of workman's tool's; postage of public letters; telegrams, fuel, oil, and candles for navy-yards and shore stations; pay of watchmen and incidental labor not chargeable to any other appropriation; transportation to and labor attending the delivery of provisions and stores on foreign stations; wharfage, dockage, and rent for docking vessels; for furniture for Government houses; traveling expenses of officers and others under orders; funeral expenses; store and office rent; fuel; commissions and pay of clerks to navy agents and storekeepers; flags, awnings, and packing boxes; premiums, and other expenses of recruiting; apprehending deserters; per diem pay to persons attending courts-martial, courts of inquiry, and other services authorized by law; pay to judges advocate; pay to lithographers; pilotage and towage of vessels, and assistance to vessels in distress; and for bills of health and quarantine expenses of vessels of the United States Navy in foreign ports, one million seven hundred thousand dollars.

For clothing for the Navy, six hundred thousand dollars.

For the charter of vessels, stores, extra laborers, and purchase of additional steam vessels, three million dollars: *Provided*, That hereafter, in all cases where the officers of the Navy can be made available, consistently with the public service, in making contracts for the charter of vessels and the purchase of additional steam vessels, no other person or persons shall be employed; nor shall such officers, when so employed, receive any compensation in addition to their official pay; and when any other person or persons than an officer of the Navy shall be employed, the compensation shall not exceed the sum of five thousand dollars for all contracts for purchases or charters in any one year made under the provisions of this act.

For pay of lithographer for the year ending June, eighteen hundred and sixty-two, three hundred dollars.

For repairs, painting, and raising the roof of the Navy Department building, finishing and furnishing the same, twenty thousand dollars.

MARINE CORPS.

For pay of officers, non-commissioned officers, musicians, privates, clerks, messengers, stewards, and servants; for rations and clothing for servants; additional rations for five years' service; for undrawn clothing and rations; bounties for reënlistments, six hundred and ninety six thousand one hundred and ninety-eight dollars and thirty cents.

For the support of five hundred and eighty men authorized to be enlisted for the marine corps, by the President of the United States, on the twenty-second of November, eighteen hundred and sixty-one, seventy-four thousand seven hundred and sixty-seven dollars and forty cents.

For provisions, one hundred and forty-three thousand four hundred and forty-five dollars.

For clothing, one hundred and thirty-four thousand six hundred and sixty dollars.

For fuel, thirty thousaud eight hundred and ninety-four dollars and fifty cents.

For military stores, namely: pay of armorers, repair of arms, purchase of accouterments, ordnance stores, flags, drums, fifes, and other instruments, fifteen thousand dollars.

For transportation of officers, their servants, and troops, and expenses of recruiting, twenty-two thousand dollars.

For repairs of barracks, and rent of offices where there are no public buildings for that purpose, eight thousand dollars.

For completing repairs of Charlestown barracks, ten thousand four hundred and fifty-eight dollars and ninety-seven cents: *Provided*, That the same can be fully completed for that sum; and no part of the money hereby appropriated shall be expended until it is satisfactorily ascertained that the said building can be completed therewith.

For contingencies, namely: Freight, ferriage, toll, carriage, wharfage; purchase and repair of boats; compensation to judges-advocate; per diem for attending courts-martial, courts of inquiry, and for constant labor; house rent in lieu of quarters; burial of deceased marines; printing, stationery, postage, telegraphing; apprehension of deserters; oil, candles, gas; repairs of gas and water fixtures, water rent, forage, straw, barrack furniture; bed sacks, spades, shovels, axes, picks, carpenters' tools; keep of a horse for the messenger; pay of matron, washerwoman, and porter at the hospital headquarters, forty-five thousand dollars.

NAVY-YARDS.

Portsmouth, New Hampshire.

For machine shop and smithery, fitting and furnishing the same, reservoir, capstan for sheers, quay wall near landing, extension of storehouse number eleven one hundred feet, repairs and increase of ordnance machinery and shops, and repairs of all kinds, two hundred and thirty-two thousand thirty-two dollars.

For futtock saw-mill and building, ten thousand dollars.

Boston.

For paving and draining at new shops; coal-house for foundery, smithery, and for other purposes; reservoir and steam pump, or pipes for Cochituate water; water-closets; repairs and increase of ordnance machinery and shops, and repairs of all kinds, two hundred and fifty-three thousand five hundred dollars.

For house foundation and heavy Nesmith hammer for heavy forgings, sixty-two thousand dollars.

For the purchase of land and wharf adjoining the navy-yard at Charlestown, Massachusetts, owned by Oakman and Eldridge, and extending from Charles River to Water-street, and containing about one hundred and twenty thousand square feet, one hundred and twenty-three thousand dollars.

For futtock saw-mill and building, ten thousand dollars.

New York.

For dredging channels; building and repairing scows; rebuilding long dock; repairs to shiphouses; quay walls; extension of sewer; boiler house; foundery shed; machinery for machine shop, foundery, boiler shop, and smithery; repairs of machinery, boilers; repairs of engines in machine shop; repairs and increase of ordnance machinery and shops, and repairs of all kinds, three hundred and twenty thousand eight hundred and forty-six dollars.

For a cylinder for roasting coffee, four hundred dollars.

Philadelphia.

For extension of joiners' shop, storehouses and smithery; repairs of dry dock; dredging; repairs and increase of ordnance machinery and shops, and repairs of all kinds, one hundred and twenty-eight thousand seven hundred and forty-six dollars:

Washington.

For machinery and tools; paving; gas works; repairs and increase of ordnance machinery and shops, and repairs of all kinds, one hundred and twenty-six thousand nine hundred and eighty-five dollars.

Mare Island.

For completion of derrick, foundery and equipment; grading; completing officers' houses; gas works; two iron wharf-cranes; machinery and tools for smithery; cisterns; scows, lighters, stages and pile-driver; drainage and sewerage; boat-house and slip, and repairs of all kinds, one hundred and ninety-six thousand three hundred and fifty-two dollars: *Provided*, That no expenditure for completing officers' houses shall be incurred until complete plans and specifications, with estimates of cost in detail, shall be furnished to and approved by the Secretary of the Navy, and the work shall be done by contract after due and public advertisement for proposals; but no portion of this appropriation shall be expended unless the work can be completed for the sum hereby appropriated.

Sackett's Harbor.

For repairs of all kinds, one thousand five hundred dollars.

HOSPITALS.

Portsmouth, New Hampshire.

For purchase of twenty-seven and three hundred and fifty-five thousandths acres of land on Seavey's island, adjacent to the Kittery navy-yard, fourteen thousand five hundred dollars: *Provided*, That the Chief of the Bureau of Yards and Docks be, and he is hereby, authorized to purchase that portion of Seavey's island lying west of the road, for such sum as to him may seem reasonable and advantageous to the Government.

For hospital on Seavey's island, ten thousand dollars: *Provided*, That no building shall be erected or extended until complete plans and specifications and estimates of the cost in detail shall be furnished to and approved by the Secretary of the Navy, and contracts therefor shall be let upon due and public advertisement.

Boston.

For extension of hospital and repairs of buildings, seventy-one thousand five hundred dollars: *Provided*, That no building shall be erected or extended until complete plans and specifications and estimates of cost in detail shall be furnished to and approved by the Secretary of the Navy, and contracts therefor shall be let upon due and public advertisement.

New York.

For repairs and improvements, and house for surgeon and director of the lab[o]ratory, twenty-one thousand five hundred dollars.

Philadelphia.

For furniture and repairs of same; house cleaning and whitewashing; repairs to furnaces, grates, and ranges; gas and water rent; painting wall on Shippen street, and general repairs, five thousand three hundred dollars.

For support of beneficiaries, twenty-seven thousand dollars.

MAGAZINES.

Bo ston.

For general repairs of buildings, addition to magazine and wall around magazine grounds, thirty-two thousand nine hundred and thirteen dollars.

New York.

For improvement of armory; house for storage of loaded shells, and repairs of all kinds, fifty-five thousand two hundred and forty-nine dollars.

Philadelphia.

For repairs of wharf and magazine at Fort Mifflin, one thousand five hundred dollars.

Washington.

For repairs of magazine and ordnance buildings, six thousand dollars.

Mare Island.

For repairs of all kinds, two thousand dollars.

For pay of superintendents, naval constructors, and all the civil establishments at the general navy-yards and stations, one hundred and four thousand five hundred and eighty-four dollars: *Provided*, That hereafter no salaries shall be paid to any employé in any of the navy-yards except to those designated in the estimate. All other persons shall receive a per diem compensation for the time during which they were actually engaged.

NAVAL OBSERVATORY.

For the purchase of nautical instruments, repairs of the same, and of astronomical instruments, and for the purchase of nautical books, maps, and charts, and for backing and binding the same, sixty thousand dollars.

For wages of instrument maker, watchman, porter, and laborers; for keeping grounds in order; for fuel, lights, freights, transportation, and postage; for repairs to buildings and inclosures, and contingent expenses, thirteen thousand dollars.

For pay of four aids to be employed at the observatory and hydrographical office, four thousand dollars.

For wages of watchmen, and contingent expenses of the Naval Academy, twenty-two thousand seven hundred and ninety-seven dollars.

For the pay of mileage of the visitors to the Naval Academy, one thousand dollars.

For preparing for publication the American Nautical Almanac, twenty-five thousand eight hundred and eighty dollars.

SEC. 2. *And be it further enacted*, That the pay of any captain in the Navy who shall, in pursuance of law, perform duty as chief of a bureau in the Navy Department, shall be the pay of a captain in the Navy "on other duty," to take effect from the date of the "Act regulating the pay of the Navy," approved June one, eighteen hundred and sixty.

SEC. 3. *And be it further enacted*, That the pay of the clerks of the navy-yard and navy agency at Mare Island shall be as follows, viz: one clerk to navy agent, two thousand dollars per annum; one clerk to navy agent, fifteen hundred dollars; one clerk to the commandant, fifteen hundred dollars; one clerk of the yard, fifteen hundred dollars; one clerk to the paymaster and inspector of provisions, and so forth, fifteen hundred dollars; one clerk to the naval constructor, nine hundred dollars; one clerk to the civil engineer, nine hundred dollars, one draughtsman to civil engineer, twelve hundred dollars; one steward to paymaster, seven hundred and fifty dollars.

SEC. 4. *And be it further enacted*, That from and after the first day of September, eighteen hundred and sixty-two, the spirit ration in the Navy of the United States shall forever cease, and thereafter no distilled spirituous liquors shall be admitted on board of vessels-of-war except as medical stores, and upon the order and under the control of the medical officers of such vessels, and to be used only for medical purposes. From and after the said first day of September next there shall be allowed and paid to each person in the Navy now entitled to the spirit ration five cents per day in commutation and lieu thereof, which shall be in addition to their present pay.

SEC. 5. *And be it further enacted*, That the orders, regulations, and instructions heretofore issued by the Secretary of the Navy be, and they are hereby, recognized as the regulations of the Navy Department, subject, however, to such alterations as the Secretary of the Navy may adopt, with the approbation of the President of the United States.

SEC. 6. *And be it further enacted*, That the pay of the secretary of a commander of a squadron shall hereafter be fifteen hundred dollars a year and one ration.

SEC. 7. *And be it further enacted*, That chaplains in the Navy shall be no less than twenty-one nor more than thirty-five years of age at the time of their appointment as such.

SEC. 8. *And be it further enacted*, That the President of the United States be, and he is hereby, authorized to annually appoint ten acting midshipmen for education at the Naval Academy, who shall be selected from the sons of officers or soldiers who distinguis[h]ed themselves in the service of the United States, or from the sons of officers or men in the naval or marine service of the United States who have thus distinguished themselves.

SEC. 9. *And be it further enacted*, That the District of Columbia shall be regarded for all the purposes of appointment to the Naval Academy as a congressional district, their appointment thereto to be designated by the President of the United States from residents of the District.

APPROVED, July 14, 1862.

CHAP. CLXV.—An Act for the relief of Preëmptors on the Home Reservation of the Winnebagoes, in the Blue-earth Region, in the State of Minnesota.

Whereas certain individuals have memorialized Congress, setting forth that they were bona fide actual settlers, under the preëmption laws of the United States, in the tract of country known as the eighteen-mile-square home reservation of the Winnebagoes, in the blue-earth region, Minnesota, at a period of time when the Indian title had been extinguished, and prior to the setting apart by legal divisions of the said Indian home reservation, under the second article of the treaty of the twenty-seventh of February, eighteen hundred and fifty-five, and that by reason of the setting apart of said home reservation they were forced from their settlements and subjected to loss and damage by the destruction of their improvements: Therefore,

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That it shall and may be lawful for each of such settlers, within three months from and after the passage of this act, to file his declaratory statement with the proper register and receiver, descriptive of the tract so settled upon and improved; and under such regulations as may be prescribed by the Secretary of the Interior, said settler shall be permitted to establish his claim by the production of testimony showing compliance with all the requirements of the preëmption law up to the period when said settler was ousted by reason of the premises falling within the aforesaid Indian home reservation; that the testimony required under this act shall be the affidavit of the claimant himself, taken before the register and receiver, and shall show the date of the commencement and the period of continuance of his improvements, the extent of the same, size of his habitation, the time and labor required in its construction, extent of other improvements, and the cost to him and value of the same, and value of crop derived from the same. The affidavit to be corroborated by disinterested testimony.

SEC. 2. *And be it further enacted*, That upon the return of such testimony to the Department, it shall be the duty of the Secretary of the Interior finally to adjudge the validity or invalidity of each claim; and in regard to those shown to be bona fide under the preëmption law, to report a list of the same, with all the testimony, to Congress, stipulating such award as should be paid as damages growing out of the loss and destruction of such improvements, by reason of the appropriation of such settlements to the Indian reservation, as aforesaid: *Provided*, That the land officers of the local land office herein mentioned shall not receive any additional pay or fees for the services hereby required of them.

APPROVED, July 14, 1862.

CHAP. CLXVI.—An Act to grant Pensions.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That if any officer, non-commissioned officer, musician, or private of the Army, including regulars, volunteers, and militia, or any officer, warrant, or petty officer, musician, seaman, ordinary seaman, flotilla-man, marine, clerk, landsman, pilot, or other person in the Navy or marine corps, has been, since the fourth day of March, eighteen hundred and sixty-one, or shall hereafter be, disabled by reason of any wound received or disease contracted while in the service of the United States, and in the line of duty, he shall, upon making due proof of the fact according to such forms and regulations as are or may be provided by or in pursuance of law, be placed upon the list of invalid pensions of the United States, and be entitled to receive, for the highest rate of disability, such pension as is hereinafter provided in such cases, and for an inferior disability an amount proportionate to the highest disability, to commence as hereinafter provided, and continue during the existence of such disability. The pension for a total disability for officers, non-commissioned officers, musicians, and privates employed in the military service of the United States, whether regulars, volunteers, or militia, and in the marine corps, shall be as follows, viz: lieutenant-colonel, and all officers of a higher rank, thirty dollars per month; major, twenty-five dollars per month; captain, twenty dollars per month; first lieutenant, seventeen dollars per month; second lieutenant, fifteen dollars per month; and non-commissioned officers, musicians, and privates, eight dollars per month. The pension for total disability for officers, warrant, or petty officers, and others employed in the naval service of the United States, shall be as follows, viz: captain, commander, surgeon, paymaster, and chief engineer, respectively, ranking with commander by law, lieutenant commanding, and master commanding, thirty dollars per month; lieutenant, surgeon, paymaster, and chief engineer, respectively, ranking with lieutenant by law, and passed assistant surgeon, twenty-five dollars per month; professor of mathematics, master, assistant surgeon, assistant paymaster, and chaplain, twenty dollars per month; first assistant engineers and pilots, fifteen dollars per month; passed midshipman, midshipman, captains' and paymasters' clerk, second and third assistant engineer, masters' mate, and all warrant officers, ten dollars per month; all petty officers, and all other persons before named employed in the naval service, eight dollars per month; and all commissioned officers, of either service, shall receive such and only such pension as is herein provided for the rank in which they hold commissions.

SEC. 2. *And be it further enacted*, That if any officer or other person named in the first section of this act has died since the fourth day of March, eighteen hundred and sixty-one, or shall hereafter die, by reason of any wound received or disease contracted while in the service of the United States, and in the line of duty, his widow, or, if there be no widow, his child or children under sixteen years of age, shall be entitled to receive the same pension as the husband or father would have been entitled to had he been totally disabled, to commence from the death of the husband or father, and to continue to the widow during her widowhood, or to the child or children until they severally attain to the age of sixteen years, and no longer.

SEC. 3. *And be it further enacted*, That where any officer or other person named in the first section of this act shall have died subsequently to the fourth day of March, eighteen hundred and sixty-one, or shall hereafter die, by reason of any wound received or disease contracted while in the service of the United States, and in the line of duty, and has not left or shall not leave a widow nor legitimate child, but has left or shall leave a mother who was dependent upon him for support, in whole or in part, the mother shall be entitled to receive the same pension as such officer or other person would have been entitled to had he been totally disabled; which pension shall commence from the death of the officer or other person dying as aforesaid: *Provided, however*, That if such mother shall herself be in receipt of a pension as a widow, in virtue of the provisions of the second section of this act, in that case no pension or allowance shall be granted to her on account of her son, unless she gives up the other pension or allowance: *And provided further*, That the pension given to a mother on account of her son shall terminate on her remarriage: *And provided further*, That nothing herein shall be so construed as to entitle the mother of an officer or other person dying, as aforesaid, to more than one pension at the same time under the provisions of this act.

SEC. 4. *And be it further enacted*, That where any officer or other person named in the first section of this act shall have died subsequently to the fourth day of March, eighteen hundred and sixty-one, or shall hereafter die, by reason of any wound received or disease contracted while in the service of the United States, and in the line of duty, and has not left or shall not leave a widow, nor legitimate child, nor mother, but has left or may leave an orphan sister or sisters, under sixteen years of age, who were dependent upon him for support, in whole or in part, such sister or sisters shall be entitled to receive the same pension as such officer or other person would have been entitled to had he been totally disabled; which pension to said orphan shall commence from the death of the officer or other person dying, as aforesaid, and shall continue to the said orphans until

they severally arrive at the age of sixteen years, and no longer: *Provided, however*, That nothing herein shall be so construed as to entitle said orphans to more than one pension at the same time, under the provisions of this act: *And provided further*, That no moneys shall be paid to the widow, or children, or any heirs of any deceased soldier on account of bounty, back pay, or pension, who have in any way been engaged in or who have aided or abetted the existing rebellion in the United States, but the right of such disloyal widow or children, heir or heirs of such soldier shall be vested in the loyal heir or heirs of the deceased, if any there be.

SEC. 5. *And be it further enacted*, That pensions which may be granted, in pursuance of the provisions of this act, to persons who may have been, or shall be, employed in the military or naval service of the United States, shall commence on the day of the discharge of such persons in all cases in which the application for such provisions is filed within one year after the date of said discharge; and in cases in which the application is not filed during said year, pensions granted to persons employed as aforesaid shall commence on the day of the filing of the application.

SEC. 6. *And be it further enacted*, That the fees of agents and attorneys for making out and causing to be executed the papers necessary to establish a claim for a pension, bounty, and other allowance, before the Pension Office under this act, shall not exceed the following rates: For making out and causing to be duly executed a declaration by the applicant, with the necessary affidavits, and forwarding the same to the Pension Office, with the requisite correspondence, five dollars. In cases wherein additional testimony is required by the Commissioner of Pensions, for each affidavit so required and executed and forwarded, (except the affidavits of surgeons, for which such agents and attorneys shall not be entitled to any fees,) one dollar and fifty cents.

SEC. 7. *And be it further enacted*, That any agent or attorney who shall, directly or indirectly, demand or receive any greater compensation for his services under this act than is prescribed in the preceding section of this act, or who shall contract or agree to prosecute any claim for a pension, bounty, or other allowance under this act, on the condition that he shall receive a per centum upon, or any portion of the amount of such claim, or who shall wrongfully withhold from a pensioner or other claimant the whole or any part of the pension or claim allowed and due to such pensioner or claimant, shall be deemed guilty of a high misdemeanor, and upon conviction thereof shall, for every such offense, be fined not exceeding three hundred dollars, or imprisoned at hard labor not exceeding two years, or both, according to the circumstances and aggravations of the offense.

SEC. 8. *And be it further enacted*, That the Commissioner of Pensions be, and he is hereby, empowered to appoint, at his discretion, civil surgeons to make the biennial examinations of pensioners which are or may be required to be made by law, and to examine applicants for invalid pensions, where he shall deem an examination by a surgeon to be appointed by him necessary; and the fees for each of such examinations, and the requisite certificate thereof, shall be one dollar and fifty cents, which fees shall be paid to the surgeon by the person examined, for which he shall take a receipt, and forward the same to the Pension Office, and upon the allowance of the claim of the person examined, the Commissioner of Pensions shall furnish to such person an order on the pension agent of his State for the amount of the surgeon's fees.

SEC. 9. *And be it further enacted*, That the Commissioner of Pensions, on application made to him in person or by letter by any claimants or applicants for pension, bounty, or other allowance required by law to be adjusted and paid by the Pension Office, shall furnish such claimants, free of all expense or charge to them, all such printed instructions and forms as may be necessary in establishing and obtaining said claim; and in case such claim is prosecuted by an agent or attorney of such claimant or applicant, on the issue of a certificate of pension or the granting of a bounty or allowance, the Commissioner of Pensions shall forthwith notify the applicant or claimant that such certificate has been issued or allowance made, and the amount thereof.

SEC. 10. *And be it further enacted*, That the pilots, engineers, sailors, and crews upon the gunboats and war vessels of the United States, who have not been regularly mustered into the service of the United States, shall be entitled to the same bounty allowed to persons of corresponding rank in the naval service, provided they continue in service to the close of the present war; and all persons serving as aforesaid, who have been or may be wounded or incapacitated for service, shall be entitled to receive for such disability the pension allowed by the provisions of this act, to those of like rank, and each and every such person shall receive pay according to corresponding rank in the naval service: *Provided*, That no person receiving pension or bounty under the provisions of this act shall receive either pension or bounty for any other service in the present war.

SEC. 11. *And be it further enacted*, That the widows and heirs of all persons described in the last preceding section who have been or may be employed as aforesaid, or who have been or may be killed in battle, or of those who have died or shall die of wounds received while so employed, shall be paid the bounty and pension allowed by the provisions of this act, according to rank, as provided in the last preceding section.

SEC. 12. *And be it further enacted*, That the Secretary of the Interior be, and he is hereby, authorized to appoint a special agent for the Pension Office, to assist in the detection of frauds against the pension laws, to cause persons committing such frauds to be prosecuted, and to discharge such other duties as said Secretary may require him to perform; which said agent shall receive for his services an annual salary of twelve hundred dollars, and his actual traveling expenses incurred in the discharge of his duties shall be paid by the Government.

SEC. 13. *And be it further enacted*, That all acts and parts of acts inconsistent with the provisions of this act be, and the same are hereby, repealed.

APPROVED, July 14, 1862.

CHAP. CLXVII.—An Act to establish certain Post Roads.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the bridge partly constructed across the Ohio river at Steubenville, in the State of Ohio, abutting on the Virginia shore of said river, is hereby declared to be a lawful structure: *Provided*, That when completed, if constructed without a draw, it shall leave an unobstructed headway in the channel of the river of not less than ninety feet above low-water mark, and such channel or water-way shall have an unobstructed width of not less than three hundred feet between the piers next to said channel or water-way; and one of the spans next adjoining thereto shall not be less than two hundred and twenty feet in length; or said bridge, if constructed with a draw, the same to be constructed under the limitations and conditions provided in the fourth section of this act.

SEC. 2. *And be it further enacted*, That the said bridge and Holliday's Cove railroad are hereby declared a public highway, and established a post road for the purpose of transmission of mails of the United States, and that the Steubenville and Indiana Railroad Company, chartered by the Legislature of the State of Ohio, and the Holliday's Cove Railroad Company, chartered by the State of Virginia, or either of them, are authorized to complete, maintain, and operate said road and bridge when completed, as set forth in the preceding section, anything in any law or laws of the above named States to the contrary notwithstanding.

SEC. 3. *And be it further enacted*, That it shall be lawful for any other railroad company or companies, whose line or lines of road may now or shall hereafter be built to the Ohio river, above the mouth of the Big Sandy river, in accordance with the terms of the charter or charters of such company or companies, to build a bridge across said river for the more perfect connection of any such roads and for the passage of trains thereof, under the limitations and conditions hereafter provided.

SEC. 4. *And be it further enacted*, That any bridge erected under the privileges of this act may, at the option of the company or companies building the same, be built either as a draw bridge, with a pivot or other form of draw, or with unbroken and continuous spans: *Provided*, That if the said bridge shall be made with unbroken and continuous spans, it shall not be of less elevation than ninety feet above low-water mark over the channel of the said river; nor in any case less than forty feet above extreme high water, as understood at the point of location, measuring for such elevation to the bottom chord of the bridge; nor shall the span of such bridge, covering the main channel of the river, be less than three hundred feet in length, with also one of the next adjoining spans of not less than two hundred and twenty feet in length, and the piers of said bridge shall be parallel with the current of the river as near as practicable: *And provided, also*, That if any bridge built under this act shall be constructed as a draw bridge, the same shall be constructed with a span over the main channel of the river, as understood at the time of the erection of the bridge, of not less than three hundred feet in length, and said span shall not be less than seventy feet above low water mark, measuring to the bottom chord of the bridge, and one of the next adjoining spans shall not be less than two hundred and twenty feet in length; and also that there shall be a pivot-draw constructed in every such bridge, at an accessible and navigable point, with spans of not less than one hundred feet in length, on each side of the central or pivot pier of the draw: *And provided, also*, That said draw shall always be opened promptly, upon reasonable signal, for the passage of boats whose construction may not, at the time, admit of their passing under the permanent spans of said bridge, except that said draw shall not be required to be opened when engines or trains are passing over said bridge, or when passenger trains are due, but in no case shall unnecessary delay occur in the opening of said draw after the passage of such engines or trains.

SEC. 5. *And be it further enacted*, That any bridge or bridges erected under the provisions of this act shall be lawful structures, and shall be recognized and known as post routes, upon which also no higher charge shall be made for the transmission over the same of the mails, the troops, and munitions of war of the United States, than the rate per mile which the company or companies erecting such bridge may from time to time receive on the balance of their line or lines for such services, and the officers and crews of all vessels, boats, or rafts navigating the said Ohio river are required to regulate the use of the said vessels, and of any pipes or chimneys belonging thereto, so as not to interfere with the elevation, construction, or use of any of the bridges erected or legalized under the provisions of this act.

APPROVED, July 14, 1862.

CHAP. CLXVII.—An Act to amend an Act entitled "An Act to prohibit the sale of Spirituous Liquors and Intoxicating Drinks in the District of Columbia in certain cases," approved August fifth, eighteen hundred and sixty-one.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That any person offending against the provisions of the act entitled "An act to prohibit the sale of spirituous liquors and intoxicating drinks in the District of Columbia, in certain cases," approved August fifth, eighteen hundred and sixty-one, may be tried before any justice of the peace for the District of Columbia, and, upon conviction, shall pay a fine of twenty dollars, or, in default of such payment, shall be committed to the jail in Washington county, in the District of Columbia, for thirty days.

SEC. 2. *And be it further enacted*, That any person licensed, or who shall hereafter be licensed, to sell spirituous liquors, or intoxicatieg drinks within said District, who shall suffer or permit any soldier or volunteer in the service of the United States, or any person wearing the uniform of such soldier or volunteer, to drink any spirituous liquor, or intoxicating drink upon his premises

shall be deemed guilty of the same offense mentioned in the act hereby amended, and upon conviction before any justice of the peace as aforesaid, shall be punished in the manner prescribed by this act.

SEC. 3. *And be it further enacted*, That any person convicted under the provisions of this act, and the act hereby amended, shall forfeit his license to sell spirituous liquor, and intoxicating drink; and any license thereafter granted to any such person during the continuance of the existing rebellion shall be void.

SEC. 4. *And be it further enacted*, That all fines collected under the provisions of this act, and the act hereby amended, shall be paid to the levy court of Washington county, in the District of Columbia, for the use of said court.

APPROVED, July 14, 1862.

CHAP. CLXIX.—An Act to further provide for the Collection of the Revenue upon the Northern, Northeastern, and Northwestern Frontier, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That from and after the first day of October next, the master or manager of every vessel which is enrolled or licensed for carrying on the coasting trade on the northern, northeastern, and northwestern frontiers of the United States shall, before the departure of his vessel from any port, file a manifest of his cargo with the collector and obtain a clearance; and if said vessel shall touch at any of the ports of the United States, and there receive on board any goods, wares, or merchandise, or discharge any portion of her cargo, the master or manager shall report to the collector such arrival and produce his manifest, and it shall be the duty of the collector to indorse thereon, certified by himself, a description of the goods, wares, or merchandise so taken on board or unladen, and return the same to the master or manager, who shall deliver to the collector of the port at which the unlading of the cargo is completed, the manifest to be placed on file in his office. And the owner or owners of every vessel whose master or manager shall neglect to comply with the provisions of this section, shall forfeit and pay to the United States the sum of twenty dollars for each and every offense, one half for the use of the informer, and for which sum the vessel shall be liable, and may be seized and proceeded against summarily by way of libel in any district court of the United States having jurisdiction of the offense.

SEC. 2. *And be it further enacted*, That collectors and surveyors of the collection districts on the said frontiers are authorized to keep on sale, at their several offices, blank manifests and clearances required for the business of their districts, and to charge the sum of ten cents and no more for each blank which shall be prepared and executed by them.

SEC. 3. *And be it further enacted*, That goods imported under the reciprocity treaty with Great Britain may be entered at any port on the northern, northeastern, and northwestern frontiers of the United States, upon satisfactory evidence being given to the collector at the port where such goods are offered for entry, that they are of the growth or production of Canada, without the consular certificate now required.

SEC. 4. *And be it further enacted*, That for every entry of goods at any custom-house on the northern, northeastern, and northwestern frontiers of the United States, a fee of forty cents shall be charged by the collector, and accounted for to the Government.

SEC. 5. *And be it further enacted*, That the Secretary of the Treasury be, and he is hereby, authorized in all cases where ports may be opened within the limits of insurrectionary States, during the existing rebellion, to appoint special agents to perform the functions of the ordinary officers subordinate to the Treasury Department at such ports: *Provided*, That the compensation to be allowed such temporary officers shall not exceed that paid to permanent officers of the same position during the year eighteen hundred and fifty-nine, nor exceed the compensation ordinarily allowed to such official agents.

APPROVED, July 14, 1862.

CHAP. CLXX.—An Act in relation to the Election of Representatives to Congress by single Districts.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That in each State entitled in the next and any succeeding Congress to more than one Representative, the number to which such State is or may be hereafter entitled shall be elected by districts composed of contiguous territory, equal in number to the number of Representatives to which said State may be entitled in the Congress for which said election is held, no one district electing more than one Representative: *Provided*, That the provisions of this act shall not apply to the State of California so far as it may affect the election of Representatives to the Thirty-Eighth Congress: *And provided further*, That in the election of Representatives to the Thirty-Eighth Congress from the State of Illinois, the additional Representative allowed to said State by an act entitled "An act fixing the number of the House of Representatives from and after the third day of March, eighteen hundred and sixty-three, approved March fourth, eighteen hundred and sixty-two, may be elected by the State at large, and the other thirteen Representatives to which the State is entitled by the districts as now prescribed by law in said State, unless the Legislature of said State should otherwise provide before the time fixed by law for the election of Representatives therein.

APPROVED, July 14, 1862.

CHAP. CLXXI.—An Act to establish additional Post Roads.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following be established as post roads:

CALIFORNIA.

From Carson, Navada Territory, to Aurora, California.

From Ione City, via Lancha Plana, Poverty Bar, Jenny Lind, Brushville, Salt Spring Valley, Copperopolis, O'Byen's Ferry, and Jefferson, to Sonora.

DELAWARE.

From Townsend, via Black Bird, to Deakynesville.

MASSACHUSETTS.

From Hancock to Lanesborough.

INDIANA.

From Grandview, via Newtonville, Buffaloville, Santa Claus, and Morgan Hill, to Ferdinand.

From Madison, via Brooksburg and Braytown, to Mount Stirling, and thence via Howe and Mannible to Madison.

From Freedom, in Owen county in Indiana, by way of Arney, intersecting the present established route at Hauserville.

From Harrison, Ohio, to Mount Carmel, Indiana.

From Ogden to Rushville.

From Sullivan, via Merom, Indiana, and Palestine, Illinois, to Robinson, Illinois.

From New Point, (Rossburgh Post Office,) via Saint Maurice, to Clarksburgh.

From Waterloo City to Angola.

From Bremen, via Hepton and Millward, to Leesburgh.

ILLINOIS.

From Metamora, via Low Point and Washburn, to Lacon.

From Toulon, via Elmira, Osceola, and Neponset, to Sheffield.

From Shelbyville, via Holland, Accommodation, and Mowkinson, to Freemanton.

MAINE.

From Wilton to Weld.

MICHIGAN.

From Frankfort, via Benzonia, to Traverse City.

From Ionia to Stanton.

From Middleville to Wayland.

From Miles, via Berrien Centre, Berrien Springs, Eau Claire, Pipestone, and Sodus, to Saint Joseph.

IOWA.

From Des Moines, Polk county, to Dalmanutha, Guthrie county.

From Decatur City, via Terre Houte, Decatur county, to Eagleville, Harrison county, Missouri.

MISSOURI.

From Perryville, via Brihle's Store and Stamer's Mill, to Greene.

From the old depot of the North Missouri Railroad Company, in First street, Saint Louis, via the railroad track, through blocks two hundred and thirty-four and two hundred and thirty-three, and along Lewis street, as the railroad has been located by the Government of the United States, thence through block two hundred and twenty-seven, to Front or Levee street, and along said track laid on said street to the depots, respectively, of the Pacific and Iron Mountain railroads.

MARYLAND.

From Fallston to Pleasantville.

From Berkleyville to Hempstead.

NEW HAMPSHIRE.

From Union, via Wakefield, North Wakefield, Wolfborough, Ossipee, Ossipee Centre, and Effingham Falls, to Freedom.

From Greenfield, via Bennington, to Antrim.

NEW YORK.

From Bloomingdale to Brighton.

OHIO.

From Cherry Valley, via West Andover and Andover, Ohio, to Espyville, Pennsylvania.

From Cold Water to New Bremen.

PENNSYLVANIA.

From Barnsville to Mahonoy City.

From Pine Grove, via Friedensburg, to Schuylkill Haven.

From Easton, via Martin's Creek, Boston, and Mount Bethel, to Dill's Ferry.

From Miltenberger's, via Philip Kresge's to Tannersville.

From Moscow, via Slote's Corners, Dalesville, and Springbrook, to Pittston.

From Centreville, via Bovard's Mills, to Annandale.

From Warfordsburg, via Mount Airy, Emmaville, and Cherry Grove, to Bloody Run.

From Brickerville, via Eberly's Store and Lincoln, to Ephrata, Lancaster county.

VERMONT.

From Barton Landing, via Coventry and Salem, to Newport.

From Chelsey to Williamstown.

COLORADO.

From Denver, via Burlington and Laporte, to Fort Laramie.

From Cache Creek, via Pencha Pass, to Conejos.

From Colorado City to Russellville.

From Pueblo, via Huerfano to Trinidad, on the Purgatorie.

From Cannon City, via the Arkansas Route and Pass, to Camp Crittenden, in Utah Territory.

WASHINGTON.

From Walla-Walla to Fort Colville.

From Vancouver City to Walla-Walla.

From Fort Madison, via Muckeltre Atsalada, to Coveland.

APPROVED, July 14, 1862.

CHAP. CLXXII.—An Act concerning the Courts of the United States in and for the District of Michigan.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That in addition to the courts now provided by law to be held in the district of Michigan, a general term of the circuit court of the United States for said district of Michigan shall be held annually at the court room in the city of Detroit on the second Monday of February, and that all writs, bills, pleas, suits, appeals, recognizances, indictments, and all other proceedings, civil and criminal, shall be proceeded with at said term in like manner as now at the June and October terms of said court.

APPROVED, July 14, 1862.

CHAP. CLXXIII.—An Act to extend the Territorial Limits of the Territory of Nevada.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That all that part of the territory of the United States included in the following limits, namely: beginning at the point of intersection of the forty-second degree of north latitude with the thirty-eighth degree of longitude west from Washington; thence running south on the said thirty-eighth degree of west longitude until it intersects the northern boundary line of New Mexico; thence due west to the thirty-ninth degree of longitude west from Washington; thence with said thirty-ninth degree north to the intersection of said forty-second degree of north latitude; thence east with said forty-second degree of north latitude to the place of beginning, be, and the same is hereby, attached to and made a part of the Territory of Nevada, subject to the limitations, restrictions, and provisions of the act organizing the Territory of Nevada.

APPROVED, July 14, 1862.

CHAP. CLXXIV.—An Act for changing the Place for holding the September Term of the District Court of the United States in the District of Maine.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the district court of the United States now held at Wiscasset, in the district of Maine, on the first Tuesday of September of each year, be hereafter held at Bath, in said district, on the same day in each year.

SEC. 2. *And be it further enacted*, That all indictments, suits, informations, actions, proceedings, and recognizances of every kind, whether civil or criminal, shall have day in court, and be proceeded in, heard, tried, and determined in Bath, in the same manner and on the same day they might be in Wiscasset aforesaid.

APPROVED, July 14, 1862.

CHAP. CLXXV.—An Act repealing the Law requiring Bonds of Paymasters and Assistant Paymasters to be approved by the Judge or Attorney of the District in which such Paymaster or Assistant Paymaster shall reside.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the law requiring the official bond of a paymaster or assistant paymaster in the Navy to be approved by the judge or attorney of the United States for the district in which such paymaster or assistant paymaster shall reside, be, and the same is hereby, repealed, and such bond shall be deemed and taken to be satisfactory and sufficient whenever the Secretary of the Navy shall be satisfied on such evidence as he shall consider proper, that such bond ought to be approved and accepted.

APPROVED, July 14, 1862.

CHAP. CLXXVII.—An Act to authorize the Secretary of the Navy to accept the Title to League Island, in the Delaware River, for Naval Purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Navy be, and he is hereby, authorized to receive and accept from the city authorities of the city of Philadelphia the title to League Island, in the Delaware river, together with the marsh east of, and adjacent thereto, within the First ward of the said city of Philadelphia, together with all riparian rights and privileges thereunto belonging and appertaining, to be used for naval purposes by the Government of the United States: *Provided*, That said title shall not be accepted and received unless the same shall be perfect and indefeasible to the whole island to low water mark; nor, if upon more thorough examination and survey of the premises by a competent board of officers to be by him appointed, he shall discover that the public interests will not be promoted by acquiring the title as aforesaid.

SEC. 2. *And be it further enacted*, That the board of officers to be appointed by the Secretary of the Navy, according to the provisions of the first section of this act, shall, before proceeding to any decision of the question hereinbefore referred to them, make a survey and examination of the harbor of New London, Connecticut, and its surroundings, with reference to its capacity and fitness for a naval depot and navy yard, and whether the public interests will not be promoted by establishing a naval depot and navy yard in or near said harbor of New London instead of League Island; and that they also make the same investigation in regard to the waters of Narragansett Bay.

APPROVED, July 15, 1862.

CHAP. CLXXVIII.—An Act to amend the Act of the third of March, 1837, entitled "An Act supplementary to the Act entitled 'An act to amend the Judicial system of the United States.'"

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That hereafter the districts of Maryland, Delaware, Virginia, and North Carolina shall constitute the fourth circuit; the districts of South Carolina, Georgia, Alabama, Mississippi, and Florida, shall constitute the fifth circuit; the districts of Louisiana, Texas, Arkansas, Kentucky, and Tennessee, shall constitute the sixth circuit; the districts of Ohio and Indiana shall constitute the seventh circuit; the districts of Michigan, Wisconsin, and Illinois shall constitute the eighth circuit; and the districts of Missouri, Iowa, Kansas, and Minnesota, shall constitute the ninth circuit; and the circuit courts in the districts heretofore included within any circuit of the United States, which by this act are attached to a different circuit, shall be held at the same times and places as are now prescribed by law, and the circuit courts in districts which by this act are for the first time attached to circuits shall be held at the same times and places as are now prescribed by law for holding the district courts in said districts, except in the district of Iowa, in which the circuit court shall be holden at the capital of the State on the second Tuesday in May and November of each year, at which times and place terms of the district court shall be holden: *Provided*, This act shall not interfere with the terms of said district court now provided by law for said district. The allotment of their chief justice and the associate justices of the said supreme court to the several circuits shall be made as heretofore.

SEC. 2. *And be it further enacted*, That so much of any act or acts of Congress as vests in the district courts of the United States for the districts of Texas, Florida, Wisconsin, Minnesota, Iowa, and Kansas, or either of them, the power and jurisdiction of circuit courts be, and the same is hereby, repealed; and there shall hereafter be circuit courts held for said districts by the chief or associate justices of the Supreme Court, assigned or allotted to the circuit to which said districts may respectively belong, and the district judges of such districts, severally and respectively, either of whom shall constitute a quorum; which circuit courts, and the judges thereof, shall have like powers and exercise like jurisdiction as other circuit courts and the judges thereof; and the said district courts, and the judges thereof, shall have like powers and exercise like jurisdiction as the district courts, and the judges thereof in the other circuits.

SEC. 3. *And be it further enacted*, That all actions suits, prosecutions, causes, pleas, process, and other proceedings, relative to any cause, civil or criminal, (which might have been brought and could have been originally cognizable in a circuit court,) now pending in, or returnable to the several district courts of Texas, Florida, Wisconsin, Minnesota, Iowa, and Kansas, acting as circuit courts, (or so empowered to act,) on the first day of October next, shall be, and are hereby, declared to be, respectively, transferred, returnable, and continued to the several circuit courts constituted by this act, to be holden within the said districts, respectively, and shall be heard, tried, and determined therein, in the same manner as if originally brought, entered, prosecuted, or had in such circuit courts. And the said circuit courts shall be governed by the same laws and regulations as apply to the other circuit courts of the United States; and the clerks of the said courts, respectively, shall perform the same duties, and shall be entitled to receive the same fees and emoluments which are by law established for the clerks of the other circuit courts of the United States.

SEC. 4. *And be it further enacted*, That all acts and provisions inconsistent with this act be, and the same are hereby, repealed.

APPROVED, July 15, 1862.

CHAP. CLXXIX.—An Act to extend the provisions of the Act of August four, eighteen hundred and fifty-two, entitled "An Act to grant the Right of Way to all Rail and Plank Roads, &c.," for the term of five years, and to amend the same.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the provisions of the act entitled "An act to grant the right of way to all rail and plank roads, and macadamized turnpikes passing through the public lands belonging to the United States," approved August four, eighteen hundred and fifty-two, and of the act extending the same to all of the public lands of the United States, approved March three, eighteen hundred and fifty-five, be, and the same are hereby, extended for the term of five years from the fourth day of August, eighteen hundred and sixty-two.

SEC. 2. *And be it further enacted*, That the right of way for a railroad through the public lands of the United States lying in Wasco county, in the State of Oregon, be, and the same is hereby, granted to the Oregon Steam Navigation Company.

APPROVED, July 15, 1862.

CHAP. CLXXX.—An Act to prevent Members of Congress and Officers of the Government of the United States from taking consideration for procuring Contracts, Office, or Place, from the United States, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That any member of Congress or any officer of the Government of the United States who shall, directly or indirectly, take, receive, or agree to receive, any money, property, or other valuable consideration whatsoever, from any person or persons for procuring, or aiding to procure, any contract, office, or place, from the Government of the United States or any department thereof, or from any officer of the United States, for any person or persons whatsoever, or for giving any such contract, office, or place to any person whomsoever, and the person or persons who shall directly or indirectly offer or agree to give, or give or bestow any money, property, or other valuable consideration whatsoever, for the procuring or aiding to procure any contract, office, or place, as aforesaid, and any member of Congress who shall directly or indirectly take, receive, or agree to receive any money, property, or other valuable consideration whatsoever after his election as such member, for his attention to, services, action, vote, or decision on any question, matter, cause, or proceeding which may then be pending, and may by law or under the Constitution of the United States be brought before him in his official capacity, or in his place of trust and profit as such member of Congress, shall, for every such offense, be liable to indictment as for a misdemeanor in any court of the United States having jurisdiction thereof, and on conviction thereof shall pay a fine of not exceeding ten thousand dollars, and suffer imprisonment in the penitentiary not exceeding two years, at the discretion of the court trying the same; and any such contract or agreement, as aforesaid, may, at the option of the President of the United States, be absolutely null and void; and any member of Congress or officer of the United States convicted, as aforesaid, shall, moreover, be disqualified from holding any office of honor, profit, or trust under the Government of the United States.

APPROVED, July 16, 1862.

CHAP. CLXXXI.—An Act to amend an Act entitled "An Act to create a Metropolitan Police District of the District of Columbia, and to establish a Police therefor," approved August six, eighteen hundred and sixty-one.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the act entitled "An act to create

a Metropolitan police district of the District of Columbia, and to establish a police therefor," approved August six, eighteen hundred and sixty-one, be, and the same is hereby, amended as follows:

SEC. 1. *And be it further enacted*, That all property, or money alleged or supposed to have been feloniously obtained, or which shall be lost or abandoned, and which shall be thereafter taken into the custody of any member of the Metropolitan police force, or criminal court of the District of Columbia, or which shall come into custody of any justice of the peace, shall be, by such member or justice, or by order of said court, given into the custody of and kept by an officer, who shall be appointed and may be removed by the Board of Police, known as "property clerk" of the Metropolitan police district, and all such property and money shall be particularly registered by said property clerk in a book kept for that purpose, which shall contain also a record of the names of the persons from whom such property or money was taken, the names of all claimants thereto, the time of the seizure, and any final disposition of such property and money. Whenever property or money shall be taken from persons arrested, and shall be alleged to have been feloniously obtained, or to be the proceeds of crime, and whenever so brought with such claimant and the person arrested before some magistrate for adjudication, and the magistrate shall be then and there satisfied from evidence that the person arrested is innocent of the offense alleged, and that the property rightfully belongs to him, then said magistrate may thereupon, in writing, order such property or money to be returned, and the property clerk, if he have it, to deliver such property or money to the accused person himself, and not to any attorney, agent, or clerk of such accused person. If any claim to the ownership of such property or money shall be made on oath before the magistrate, by or in behalf of any other persons than the persons arrested, and the said accused person shall be held for trial or examination, such property or money shall remain in the custody of the property clerk until the discharge or conviction of the persons accused. All property or money taken on suspicion of having been feloniously obtained, or of being the proceeds of crime, and for which there is no other claimant than the person from whom such property was taken, and all lost property coming into the possession of any member of the said Metropolitan police force, and all property and money taken from pawnbrokers as the proceeds of crime, or by any such member from persons supposed to be insane, intoxicated, or otherwise incapable of taking care of themselves, shall be transmitted as soon as practicable to the property clerk of the Metropolitan police district, to be duly registered and advertised for the benefit of all persons and parties interested, and for the information of the public as to the amount and disposition of the property so taken into custody by the police. All property and money that shall remain in the custody of the property clerk for the period of six months without any lawful claimant thereto, after having been three times advertised in public newspapers, shall be sold at public auction, and the proceeds of such sale shall be paid into the policemen's fund: *Provided*, That horses and other animals taken by the police and remaining unclaimed for twenty days may be advertised and sold upon ten days' public notice, and all perishable property to be sold at once. If any property or money placed in the custody of the property clerk shall be desired as evidence in any police or other criminal court, such property shall be delivered to any officer who shall present an order to that effect from such court; such property, however, shall not be retained in said court, but shall be returned to said property clerk, to be disposed of according to the previous provisions of this act. And the annual compensation of said property clerk, as also the clerk (who shall hereafter be known as secretary of the board of police) shall be twelve hundred dollars each, payable monthly.

SEC. 2. *And be it further enacted*, That it shall be the duty of the Board of Metropolitan Police to set apart a sanitary police company, to consist of not exceeding ten persons, who shall be selected from among the police, and to assign to said company such especial duties, by the rules and regulations, as may be publicly advantageous; and also to appoint not exceeding three surgeons of police, who shall receive an annual compensation of three hundred dollars each, and discharge such duties as may be required of them by the board of police. The metropolitan sanitary company is hereby empowered, under such distribution of power and duty as may be made by the rules and regulations, to visit and make inspection of all ferry boats, manufactories, slaughter-houses, tenement-houses, and edifices suspected of, or charged with, being unsafe, and to attend to such other matters relating to health as are complained of and entered upon the complaint-book kept by order of the board, and to take all necessary legal measures for promoting the security of life or health generally, and upon or in said boats, manufactories, houses, and edifices, and to make report of inspection and action in the premises to the Board of Metropolitan Police. Whenever said board shall be satisfied, by such report, that any ferry boat, manufactory, slaughter-house, tenement-house, or edifice is maintained, or that any other act is being about to be committed, in any manner prejudicial to the lives or health of the public, it shall, after due entry upon its minutes of the circumstances, cause complaint to be made, founded upon such report and circumstances, before any magistrate of the metropolitan police district, who shall, in a summary way, such complaint made under oath, issue his proper warrant, reciting therein the name of the member or members of the metropolitan sanitary police company, for the arrest of the person in charge of said ferry boat, manufactory, slaughter-house, tenement-house, and edifice, or otherwise committing any act that may be derogatory to the public health, to the end that he may be brought before such magistrate, and the complaint of insecurity of the life or health of the public so made be duly investigated according to the law of examination into misdemeanors. If said magistrate shall be satisfied, on a summary hearing thereof, that such charge of insecurity of the lives or health of the public is founded on reasonable and probable cause, he may, by his order in writing, command any such ferry boat to cease running, or any business in such manufactory or slaughter-house to cease, or impose such fine as by law may be attached to such offense upon the person so offending, until the cause of complaint aforesaid shall be removed to the satisfaction of the Board of Metropolitan Police.

SEC. 3. *And be it further enacted*, That if any member of the metropolitan police force, or if any two or more householders shall report in writing, under his or their signature, to the superintendent of the metropolitan police force that there are good grounds (and stating the same) for believing any house, room, or premises within the said metropolitan police district to be kept or used as a common gaming house, common gaming room, or common gaming premises, for therein playing for wagers of money at any game of chance, or to be kept or used as a bawdy house, or for lewd and obscene public amusement or entertainment, or as a house of prostitution, or for purposes of prostitution, or the deposit or sale of lottery tickets or of lottery policies, it shall be lawful for the superintendent of metropolitan police to authorize any member or members of the police force to enter the same, who shall forthwith arrest all persons there found offending against law, and seize all implements of gaming, or lottery tickets, or lottery policies, and convey any person so arrested before the nearest police magistrate, and bring the articles so seized to the office of the Board of Metropolitan Police. It shall be the duty of the said superintendent of the metropolitan police force to cause such arrested persons to be rigorously prosecuted, such articles seized to be destroyed, and such room or house to be closed, and not used again for such unlawful purposes.

SEC. 4. *And be it further enacted*, That the Board of Metropolitan Police shall possess powers of general police supervision and inspection over all licensed pawnbrokers, licensed venders, licensed hackman and cartmen, dealers in second-hand merchandise, intelligence office keepers, auctioneers of watches and jewelry, and suspected private banking houses, and other doubtful establishments within the said metropolitan police district; and in the exercise and furtherance of said supervision may, from time to time, empower members of the police force to fulfill such special duties in the aforesaid premises as may be ordained by the Board of Metropolitan Police. The said board may direct the superintendent to empower any member of the metropolitan police force, whenever such member shall be in search of property feloniously obtained, or in search of suspected offenders, to examine the books of any pawnbroker or his business premises, or the business premises of any licensed vender or dealer in second-hand merchandise, or intelligence office keeper, or auctioneer of watches and jewelry, or suspected private banking house, or other doubtful establishment. Any such member of the metropolitan police, when thereto authorized in writing by the said superintendent, and having in his possession a pawnbroker's receipt or ticket, shall be allowed to examine the property purporting to be pawned or pledged, or deposited upon said receipt or ticket, in whosoever possession said property may be; but no such property shall be taken from the possessor thereof without due process or authority of law. Any willful interference with said superintendent of police, or with any member of the metropolitan police force, by any of the persons hereinbefore named in this section, whilst in official and due discharge of duty shall be punishable as a misdemeanor.

SEC. 5. *And be it further enacted*, That the Board of Metropolitan Police may, from time to time, without expense to the United States, establish stations and station houses, or sub-stations and sub-station houses, at least one to each precinct, for the accommodation thereat of members of the police force, and as temporary places of detention for persons arrested and property taken within the precinct. No person holding office under this act, or the act to which this is an amendment, shall be liable to military or jury duty, nor to arrest on civil process, or to service of subpœnas from civil courts whilst actually on duty. The members of the board of police, the superintendent, and secretary are hereby vested with all the powers conferred by law upon notaries public and justices of the peace in the District of Columbia. The members of the board of police, and of the police force of the said metropolitan police district, shall possess in every part of the District of Columbia all the common law and statutory powers of constables, except for the service of civil process and for the collection of strictly private debts, in which designation fines imposed for the breach of corporation ordinances shall not be included; but the said Board of Metropolitan Police shall not enforce any law or ordinance discriminating between persons in the administration of justice.

SEC. 6. *And be it further enacted*, That the said board of police shall have power, and it shall be their duty, from time to time, to select and employ from among the duly appointed and qualified justices of the peace for the county of Washington such justice or justices as may be required, and as it may deem proper, to sit at the respective station houses for the hearing of such charges as may be brought against persons arrested and carried to said station houses; and every person who shall be sentenced to pay a fine and cost, or either, shall satisfy the same before being released by payment or by giving security to the satisfaction of the justice imposing such fine and costs. And when such security shall be taken the justice shall be held personally liable to said Board of Police for the amount of the fine and costs to be collected of him as a debt due and payable.

SEC. 7. *And be it further enacted*, That no member of the metropolitan police force, under penalty of forfeiting the salary or pay which may be due to him, shall withdraw or resign, except by permission of the Board of Metropolitan Police, unless he shall have given to the superintendent one month's notice, in writing, of such intention. There shall be no limitation or restriction of place of residence to any member of the metropolitan police force, other than residence within the metropolitan police district, and it shall be the duty

of said board of police to cause the location of the patrolmen to be changed from time to time, as the efficiency of the force shall require.

SEC. 8. *And be it further enacted*, That the said board of police may appoint not exceeding six detectives, who shall receive a monthly compensation of seventy dollars each.

SEC. 9. *And be it further enacted*, That the board of police, for meritorious and extraordinary services rendered by any member of the police force, in the due discharge of his duty, may permit any member of the police force to retain for his own benefit any reward or present tendered him therefor; and it shall be cause of removal from the metropolitan police force for any member thereof to receive any such reward or present without notice thereof to the Board of Metropolitan Police. Upon receiving said notice, the said board may either order the said member to retain the same, or shall dispose of it for the benefit of the policemen's fund. All fines imposed by the board of police upon members of the metropolitan police force, by way of discipline, and collectable from pay or salary, and all rewards, fees, proceeds of gifts, and emoluments, that may be paid and given for account of extraordinary services of any member of the metropolitan police force, (except when allowed to be retained by said member,) shall be paid to the treasurer of the Board of Metropolitan Police, unless otherwise appropriated by the board of police.

SEC. 10. *And be it further enacted*, That the several members of the police force, including the commissioners of police, shall have power and authority to immediately arrest without warrant, and to take into custody any person who shall commit, or threaten or attempt to commit, in the presence of such member, or within his view, any breach of the peace or offense directly prohibited by act of Congress, or by any ordinance of the city or county within which the offense is committed, threatened, or attempted; but such member of the police force shall immediately and without delay upon such arrest convey in person such offender before the nearest magistrate, that he may be dealt with according to law.

SEC. 11. *And be it further enacted*, That for the better exercise of the powers and duties hereinbefore enumerated, the board of police is hereby authorized immediately, and from time to time hereafter, but without expense to the United States, to cause to be collected into a compact form all the laws and ordinances in force in the said District having relation and applicable to police and health, and publish the same in a form easily accessible to all members of the community, as the police code of the said District; and the said code so prepared, and such rules as the said board of police may from time to time adopt for the purpose of enforcing and carrying out the provisions thereof shall constitute the law of the said District upon the matters therein contained. All laws, or parts of laws inconsistent with the provisions of this act be, and the same are hereby, repealed.

APPROVED, July 16, 1862.

CHAP. CLXXXII.—An Act making supplemental Appropriations for sundry Civil Expenses of the Government for the year ending June thirtieth, eighteen hundred and sixty-three, and for the year ending June thirtieth, eighteen hundred and sixty-two, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums be, and the same are hereby, appropriated for the objects hereinafter expressed, for the fiscal year ending the thirtieth of June, eighteen hundred and sixty-three, viz:

For mileage and per diem compensation to witnesses, and other incidental expenses of the High Court of Impeachment in the case of West H. Humphreys, judge of the district court of the United States for the State of Tennessee, ten thousand dollars.

For laborers employed about the Hall of Representatives, one thousand dollars.

For repairing custom-house and post office at Bangor, Maine, six thousand dollars.

For salary of clerk to Committee on Public Lands authorized by resolution of the House of Representatives of May twenty-seventh, eighteen hundred and sixty-two, eighteen hundred dollars, said salary to commence with the date of said resolution, and the sum herein mentioned shall be the amount of his salary annually.

For painting iron fence around Lafayette Square, and in front of the President's House, one thousand dollars.

To enable the President to carry out the act of Congress for the emancipation of the slaves in the District of Columbia, and to colonize those to be made free by the probable passage of a confiscation bill, five hundred thousand dollars, to be repaid to the Treasury out of confiscated property, to be used at the discretion of the President in securing the right of colonization of said persons made free, and in payment of the necessary expenses of their removal.

For clerk hire in the consolidated land office at Des Moines, Iowa, to be disbursed by the register at a rate not exceeding three dollars per day, from the thirty-first day of December, eighteen hundred and sixty-one, to the thirtieth of June, eighteen hundred and sixty-three, one thousand six hundred and thirty-eight dollars.

For the pay of a commissioner and incidental expenses, under the "Act for the codification and revision of the laws of the District of Columbia," approved May twentieth, eighteen hundred and sixty-two, the sum of three thousand dollars. And so much of the above recited act as authorizes the appointment of more than one commissioner be, and the same is hereby, repealed.

SEC. 2. *And be it further enacted*, That the appropriations heretofore made for furnishing the Department of State with Howard's Reports of the Supreme Court of the United States, be applied to Reports of the Supreme Court of the United States, under whatsoever name published.

SEC. 3. *And be it further enacted*, That the salary of the Assistant Secretary of the Treasury shall be the same as the Assistant Secretary of the Navy, to commence with the present fiscal year.

SEC. 4. *And be it further enacted*, That the following sums be, and the same are hereby, appropriated for the objects hereinafter expressed, for the year ending thirtieth of June, eighteen hundred and sixty-two, viz:

For coal and firemen to warm the Library of Congress, on account of a deficiency, for the fiscal year ending June thirtieth, eighteen hundred and sixty-two, and for the present fiscal year, twelve hundred dollars.

For the fund of the Patent Office, fifty thousand eight hundred and fifty-five dollars and forty-nine cents, to supply a deficiency existing under the act of March second, eighteen hundred and sixty-one, entitled, "An act in addition to an act to promote the progress of the useful arts:" *Provided*, That the fourteenth section of said act be, and the same is hereby, repealed.

To supply deficiencies in the appropriation for rent of survey or general's office in California, fuel, books, stationery, and pay of messenger, two thousand dollars.

For service on such of the routes authorized by the "Act establishing additional post routes" as in the opinion of the Post Office Department may be necessary, ten thousand dollars.

For expenses in carrying into effect the treaty with Great Britain for the suppression of the slave trade, the sum of fifteen thousand dollars, or so much thereof as may be necessary.

SEC. 5. *And be it further enacted*, That the office of clerk in charge of unfinished surveys in the General Land Office, under act of twenty-second January, one thousand eight hundred and fifty-three, be, and the same is hereby, abolished, and the duties thereof shall be transferred to the principal draughtsman of the General Land Office, or such other clerk as the Commissioner of said office may designate.

SEC. 6. *And be it further enacted*, That the sum of fifteen thousand dollars be appropriated, out of any money in the Treasury not otherwise appropriated, for the purchase of artificial limbs for soldiers and seamen disabled in the service of the United States, to be expended under the direction of the Surgeon General.

APPROVED, July 16, 1862.

CHAP. CLXXXIII.—An Act to establish and equalize the grade of Line Officers of the United States Navy.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the active list of line officers of the United States Navy shall be divided into nine grades, taking rank according to the date of their commissions in each grade, as follows, viz:

First. Rear admirals.
Second. Commodores.
Third. Captains.
Fourth. Commanders.
Fifth. Lieutenant Commanders.
Sixth. Lieutenants.
Seventh. Masters.
Eighth. Ensigns.
Ninth. Midshipmen.

SEC. 2. *And be it further enacted*, That the number of officers allowed to each grade shall not exceed nine rear admirals, eighteen commodores, thirty-six captains, seventy-two commanders, one hundred and forty-four lieutenant commanders, one hundred and forty-four lieutenants, one hundred and forty-four masters, and one hundred and forty-four ensigns.

SEC 3. *And be it further enacted*, That the vessels of the United States Navy shall be divided into four classes, to be commanded, as near as may be, as follows:

First rates, by commodores.
Second rates, by captains.
Third rates, by commanders.
Fourth rates, by lieutenant commanders.

Lieutenant commanders may be assigned as first lieutenants of naval stations and of vessels not commanded by lieutenant commanders.

SEC. 4. *And be it further enacted*, That the Secretary of the Navy shall appoint an advisory board of not less than three officers, senior to those to be reported upon, who shall carefully scrutinize the active list of line officers above, and including the grade of masters in the line of promotion, and report to him in writing those who, in the opinion of the board, are worthy of further promotion in the following words: We hereby certify that —— —— has the moral, mental, physical, and professional qualifications to perform efficiently all his duties, both at sea and on shore, of the grade to which he is to be promoted, and recommend him for promotion.

SEC. 5. *And be it further enacted*, That the officers recommended shall be immediately commissioned, according to their present seniority, in the following grades and numbers, viz: eighteen commodores, thirty-six captains, seventy-two commanders, one hundred and forty-four lieutenant commanders, one hundred and forty-four lieutenants, one hundred and forty-four masters, and one hundred and forty-four ensigns: *Provided*, That this number of officers remain upon the active list after the action of the board, otherwise so soon as the graduates from the Naval Academy are available for promotion.

SEC. 6. *And be it further enacted*, That a similar advisory board shall be appointed at least once in every four years: *Provided*, That the same officers shall not be eligible for two successive terms.

SEC. 7. *And be it further enacted*, That nine rear admirals may be appointed by the President, by and with the advice and consent of the Senate, who shall be selected, during war, from those officers upon the active list not below the grade of commanders, who have distinguished themselves, or shall hereafter most eminently distinguish themselves by courage, skill, and genius, in their profession: *Provided*, That no officer shall be promoted to this grade unless, upon recommendation of the President, by name, he has received the thanks of Congress for distinguished service. During times of peace vacancies to this grade shall be filled by regular promotion from the list of commodores, subject to examination as aforesaid.

SEC. 8. *And be it further enacted*, That whenever, upon the recommendation of the President of the United States, any officer of the Navy now upon the active list, not below the grade of commander, has received, or shall receive, by name, during the present war, a vote of thanks of Congress for distinguished service, such officer shall not be retired except for cause until he has been

fifty-five years in the naval service of the United States.

SEC. 9. *And be it further enacted*, That any line officer of the Navy or marine corps may be advanced one grade, if, upon recommendation of the President, by name, he receives the thanks of Congress for highly distinguished conduct in conflict with the enemy, or for extraordinary heroism in the line of his profession.

SEC. 10. *And be it further enacted*, That any person who shall have received or shall hereafter receive a temporary appointment as acting volunteer lieutenant or acting master in the Navy from civil life authorized by the act of Congress of July twenty-four, eighteen hundred and sixty-one, may be confirmed in said appointment in the Navy, and placed in the line of promotion from the date of said confirmation, if, upon the recommendation of the President, he receives the thanks of Congress for highly meritorious conduct in conflict with the enemy: *Provided*, The number of officers allowed in each grade by this act shall not be increased thereby. Seamen distinguishing themselves in battle, or by extraordinary heroism in the line of their profession, may be promoted to forward warrant officers, or acting masters' mates, as they may be best qualified, upon the recommendation of their commanding officer, approved by the flag-officer and the department. Upon such promotion they shall receive a gratuity of one hundred dollars and a medal of honor to be prepared by the Navy Department.

SEC. 11. *And be it further enacted*, That the students at the Naval Academy shall be sty[l]ed midshipmen *and* until their final graduating examination, when, if successful, they shall be commissioned ensigns, ranking according to merit. The number allowed at the academy shall be two for every member and delegate of the House of Representatives, two for the District of Columbia, and ten at large. They shall be between the ages of fourteen and seventeen, physically sound and well formed, and of robust constitution. They shall be examined for admittance into the academy according to the regulations which shall be issued by the Secretary of the Navy, and if rejected shall not have the privilege of another examination for admission to the same class, unless recommended by the board of examiners. The President shall select the two from the District of Columbia and the ten at large, and the President shall also be allowed three yearly appointments of midshipmen, who shall be not over eighteen years of age, who shall be selected from boys enlisted in the Navy, and who have been at least one year in the service, six months of which shall have been sea service. From and after the fifth of March, eighteen hundred and sixty-three, the nomination of candidates for admission into the Naval Academy shall be made between the fifth of March and the first of July of each year upon the recommendation of the member or delegate, from actual residents of his district, and they shall be examined for admission in July: *Provided*, That when any candidate who has been so nominated shall upon examination be found physically or mentally disqualified for admission, the member or delegate from whose district he was so nominated shall be notified to recommend another candidate, who shall be examined in September following. And it shall be the duty of the Secretary of the Navy, as soon after the fifth of March as possible, to notify, in writing, each member and delegate of any vacancy that may exist in his district; and if said member or delegate neglects to recommend a candidate by the first of July in that year, then it shall be the duty of the Secretary of the Navy to fill the vacancy. Midshipmen deficient at any examination shall not be continued at the academy, or in the service, unless upon recommendation of the academic board; nor shall any officer of the Navy who has been dismissed by sentence of a court-martial, or suffered to resign to escape one, ever again become an officer of the Navy: *Provided, however*, That no greater number of midshipmen shall be appointed by the President at large under this or any other law of Congress than shall be allowed by the provisions of this section.

SEC. 12. *And be it further enacted*, That the three senior rear admirals shall wear a square blue flag at the mainmast head; the next three at the foremast head; and all others at the mizen

SEC. 13. *And be it further enacted*, That the relative rank between officers of the Navy and Army shall be as follows, lineal rank only to be considered:

Rear admirals with major generals.
Commodores with brigadier generals.
Captains with colonels.
Commanders with lieutenant colonels.
Lieutenant commanders with majors.
Lieutenants with captains.
Masters with first lieutenants.
Ensigns with second lieutenants.

SEC. 14. *And be it further enacted*, That there may be allowed upon the retired list nine rear admirals and eighteen commodores. The rear admirals shall be selected by the President, by and with the advice and consent of the Senate, from those captains who have given the most faithful service to their country. The eighteen commodores shall be recommended from the list of captains by an advisory board of admirals. After the above numbers are commissioned, promotion to those grades upon the retired list shall be by seniority, subject to an advisory board.

SEC. 15. *And be it further enacted*, That from and after the passage of this act the annual pay of the several ranks and grades of officers of the Navy on the active list, hereinafter named, shall be as follows:

Rear admirals, when at sea, shall receive five thousand dollars;

When on shore duty, four thousand dollars;

When on leave of absence, or waiting orders, three thousand dollars.

Commodores, when at sea, shall receive four thousand dollars;

When on shore duty, three thousand two hundred dollars;

When on leave of absence, or waiting orders, two thousand four hundred dollars.

Captains, when at sea, shall receive three thousand five hundred dollars;

When on shore duty, two thousand eight hundred dollars;

When on leave of absence, or waiting orders, two thousand one hundred dollars.

Commanders, when at sea, shall receive two thousand eight hundred dollars;

When on shore duty, two thousand two hundred and forty dollars;

When on leave of absence, or waiting orders, one thousand six hundred and eighty dollars.

Lieutenant commanders, when at sea, shall receive two thousand three hundred and forty-three dollars;

When on shore duty, one thousand eight hundred and seventy-five dollars;

When on leave of absence, or waiting orders, one thousand five hundred dollars.

Lieutenants, when at sea, shall receive one thousand eight hundred and seventy-five dollars;

When on shore duty, one thousand and five hundred dollars;

When on leave of absence, or waiting orders, one thousand two hundred dollars.

Masters, when at sea, shall receive one thousand five hundred dollars;

When on shore duty, one thousand two hundred dollars;

When on leave of absence, or waiting orders, nine hundred and sixty dollars.

Ensigns, when at sea, shall receive one thousand two hundred dollars;

When on shore duty, nine hundred and sixty dollars;

When on leave of absence, or waiting orders, seven hundred and sixty-eight dollars.

Midshipmen shall receive five hundred dollars.

SEC. 16. *And be it further enacted*, That whenever any officer of the Navy, of a class subject by law or regulation to examination before promotion to a higher grade, shall have been absent on duty at the time when he should have been examined, and shall have been found qualified at a subsequent examination, the increased rate of pay to which he may be entitled shall be allowed to him from the date when he would have received it had he been found qualified at the time when his examination should have taken place.

SEC. 17. *And be it further enacted*, That in calculating the graduated pay of boatswains, gunners, carpenters, and sailmakers in the Navy, as established by law, the sea-service shall be computed from the dates of their appointments or entry into the service in their respective grades in lieu of the dates of their warrants.

SEC. 18. *And be it further enacted*, That the Secretary of the Navy be, and he hereby is, authorized to assign clerks and laborers attached to one bureau to duty in another, and also to detail a surgeon or assistant surgeon, or passed assistant surgeon, as assistant to the Bureau of Medicine and Surgery, who shall receive the highest shore pay of his grade.

SEC. 19. *And be it further enacted*, That all officers while at sea, or attached to a sea-going vessel, shall be allowed one ration.

SEC. 20. *And be it further enacted*, That the relative rank between officers of the Navy and Army on the retired list shall be the same as on the active list, and the annual pay of retired naval officers shall be as follows, namely:

Admirals, two thousand dollars.
Commodores, eighteen hundred dollars.
Captains, sixteen hundred dollars.
Commanders, fourteen hundred dollars.
Lieutenant commanders, thirteen hundred dollars.
Lieutenants, one thousand dollars.
Masters, eight hundred dollars.
Ensigns, five hundred dollars.

And no ration shall be allowed to any officers of the Navy on the retired list. And the pay of all naval officers appointed by virtue of an act entitled "An act to provide for the temporary increase of the Navy," approved July twenty-fourth, eighteen hundred and sixty-one, shall be the same as that of officers of a like grade in the regular Navy.

APPROVED, July 16, 1862.

CHAP. CLXXXIV.—An Act to amend an Act entitled "An Act to further promote the efficiency of the Navy," approved December twenty-first, eighteen hundred and sixty-one.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section eight of an act to further promote the efficiency of the Navy, approved December twenty-first, eighteen hundred and sixty-one, be amended so as to read as follows: That the hours of labor and the rate of wages of the employés in the navy-yards shall conform, as nearly as is consistent with the public interest, with those of private establishments in the immediate vicinity of the respective yards, to be determined by the commandants of the navy-yards, subject to the approval and revision of the Secretary of the Navy.

APPROVED, July 16, 1862.

CHAP. CLXXXV.—An Act transferring the Western Gunboat Fleet from the War to the Navy Department.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the western gunboat fleet constructed by the War Department for operations on the western waters shall be transferred to the Navy Department, which will be hereafter charged with the expense of its repair, support, and maintenance: *Provided*, That all vessels now under construction or repair by authority of the War Department shall be completed and paid for under the authority of that Department from appropriations made for that purpose.

SEC. 2. *And be it further enacted*, That this act shall take effect and be in force from and after its passage.

APPROVED, July 16, 1862.

CHAP. CLXXXVI.—An Act to enlarge the Lake Superior Land District, in the State of Michigan.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That all that portion of the present "Cheboygan district," in the State of Michigan, lying west of Lake Michigan and south of the

line dividing townships forty-one and forty-two north, including Saint Martin's and the adjacent islands near the entrance to "Big Bay De Noc," now forming a part of the present Cheboygan district, and subject to sale at Traverse city, in said State, be, and the same is hereby, attached to the "Lake Superior district," and the lands therein be subject to sale and entry at the site of the land office for said district.

SEC. 2. *And be it further enacted*, That this act shall not take effect until three months after the date of its approval.

APPROVED, July 16, 1862.

CHAP. CLXXXVII.—An Act to impose an additional Duty an Sugars produced in the United States.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, in addition to the duties imposed by the act entitled "An act to provide internal revenue to support the Government, and to pay interest on the public debt," approved July first, eighteen hundred and sixty-two, on all brown muscovado or clarified sugars produced directly from the sugar cane, there shall be levied, collected, and paid, under the provisions of said act, upon all such sugars produced in the United States, a duty of one cent per pound; and such additional duty and the duty specified in the act aforesaid shall be levied, collected, and paid [on] all such sugars, not manufactured for consumption in the family of the producer, in the hands of the producer or manufacturer thereof or of his agent or factor, on the day of the approval of this act by the President: *Provided*, That within States or parts of States declared to be in insurrection the said duties may be collected in such manner and by such officers as the President may direct until the insurrection so declared shall cease or have been suppressed.

SEC. 2. *And be it further enacted*, That the provisions of this act shall not apply to sugar manufactured from sorghum.

APPROVED, July 16, 1862.

CHAP. CLXXXVIII.—An Act to punish the fraudulent sale or use of Postage Stamps.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That any person who shall willfully remove or cause to be removed from any postage stamp or stamped envelope the cancelling or defacing marks thereon, with intent to use the same or cause the use of the same the second time, or shall knowingly or willfully sell or buy such washed or restored stamps, or offer the same for sale, or give or expose the same to any person for use, or knowingly use the same, or prepare the same with intent for the second use thereof, every such person shall, upon conviction thereof, be adjudged guilty of felony, and shall be punished by imprisonment not exceeding three years or by fine not exceeding one thousand dollars, or by both imprisonment and fine as aforesaid; and one half such fine, when collected, shall be paid to the informer.

APPROVED, July 16, 1862.

CHAP. CLXXXIX.—An Act in relation to the Competency of Witnesses, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the laws of the State in which the court shall be held shall be the rules of decision as to the competency of witnesses in the courts of the United States, in trials at common law, in equity, and admiralty.

SEC. 2. *And be it further enacted*, That so much of section twenty-nine of an act entitled "An act to establish [the] judicial courts of the United States," approved September twenty-four, seventeen hundred and eighty-nine, as requires, in cases punishable with death, twelve petit jurors to be summoned from the county where the offense was committed, be, and the same is hereby, repealed.

APPROVED, July 16, 1862.

CHAP. CXC.—An Act prohibiting the confinement of Persons in the Military Service of the United States in the Penitentiary of the District of Columbia, except as a Punishment for certain Crimes, and to discharge therefrom certain Convicts by sentence of Courts-Martial, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That hereafter no person in the military service of the United States, convicted and sentenced by a court-martial, shall be punished by confinement in the penitentiary of the District of Columbia, unless the offense of which such person may be convicted would by some statute of the United States or at common law, as the same exists in the said District, subject such convict to said punishment.

SEC. 2. *And be it further enacted*, That all such persons in the military service, as aforesaid, who have heretofore been, or may hereafter be, convicted and sentenced by a court-martial for any offense which, if tried before the criminal court of said District, would not subject such person to imprisonment in said penitentiary, and who are now and may hereafter be confined therein, shall be discharged from said imprisonment, upon such terms and conditions of further punishment as the President of the United States may, in his discretion, impose as a commutation of said sentence.

SEC. 3. *And be it further enacted*, That upon the application of any citizen of the United States, supported by his oath, alleging that a person or persons in the military service, as aforesaid, are confined in said penitentiary under the sentence of a court-martial for any offense not punishable by imprisonment in the penitentiary by the authority of the criminal court aforesaid, it shall be the duty of the judge of said court, or, in case of his absence or inability, of one of the judges of the circuit court of said District, if, upon an inspection of the record of proceedings of said court-martial, he shall find the facts to be as alleged in said application, immediately to issue the writ of habeas corpus to bring before him the said convict; and if, upon an investigation of the case, it shall be the opinion of such judge that the case of such convict is within the provisions of the previous sections of this act, he shall order such convict to be confined in the common jail of said District, until the decision of the President of the United States as to the commutation aforesaid shall be filed in said court, and then such convict shall be disposed of and suffer such punishment as by said commutation of his said sentence may be imposed.

SEC. 4. *And be it further enacted*, That no person convicted upon the decision of a court-martial shall be confined in any penitentiary of the United States, except under the conditions of this act.

APPROVED, July 16, 1862.

CHAP. CXCV.—An Act to suppress Insurrection, to punish Treason and Rebellion, to seize and confiscate the Property of Rebels, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That every person who shall hereafter commit the crime of treason against the United States, and shall be adjudged guilty thereof, shall suffer death, and all his slaves, if any, shall be declared and made free; or, at the discretion of the court, he shall be imprisoned for not less than five years and fined not less than ten thousand dollars, and all his slaves, if any, shall be declared and made free; said fine shall be levied and collected on any or all the property, real and personal, excluding slaves, of which the said person so convicted was the owner at the time of committing the said crime, any sale or conveyance to the contrary notwithstanding.

SEC. 2. *And be it further enacted*, That if any person shall hereafter incite, set on foot, assist, or engage in any rebellion or insurrection against the authority of the United States, or the laws thereof, or shall give aid or comfort thereto, or shall engage in, or give aid and comfort to, any such existing rebellion or insurrection, and be convicted thereof, such person shall be punished by imprisonment for a period not exceeding ten years; or by a fine not exceeding ten thousand dollars, and by the liberation of all his slaves, if any he have; or by both of said punishments, at the discretion of the court.

SEC. 3. *And be it further enacted*, That every person guilty of either of the offenses described in this act shall be forever incapable and disqualified to hold any office under the United States.

SEC. 4. *And be it further enacted*, That this act shall not be construed in any way to affect or alter the prosecution, conviction, or punishment of any person or persons guilty of treason against the United States before the passage of this act, unless such person is convicted under this act.

SEC. 5. *And be it further enacted*, That, to insure the speedy termination of the present rebellion, it shall be the duty of the President of the United States to cause the seizure of all the estate and property, money, stocks, credits, and effects of the persons hereinafter named in this section, and to apply and use the same and the proceeds thereof for the support of the Army of the United States, that is to say:

First. Of any person hereafter acting as an officer of the army or navy of the rebels in arms against the Government of the United States.

Secondly. Of any person hereafter acting as president, vice president, member of congress, judge of any court, cabinet officer, foreign minister, commissioner or consul of the so-called confederate States of America.

Thirdly. Of any person acting as governor of a State, member of a convention or legislature, or judge of any court of any of the so-called confederate States of America.

Fourthly. Of any person who, having held an office of honor, trust, or profit in the United States, shall hereafter hold an office in the so-called confederate States of America.

Fifthly. Of any person hereafter holding any office or agency under the government of the so-called confederate States of America, or under any of the several States of the said confederacy, or the laws thereof, whether such office or agency be national, State, or municipal in its name or character: *Provided*, That the persons thirdly, fourthly, and fifthly above described shall have accepted their appointment or election since the date of the pretended ordinance of secession of the State, or shall have taken an oath of allegiance to, or to support the constitution of the so-called confederate States.

Sixthly. Of any person who, owning property in any loyal State or Territory of the United States, or in the District of Columbia, shall hereafter assist and give aid and comfort to such rebellion; and all sales, transfers, or conveyances of any such property shall be null and void; and it shall be a sufficient bar to any suit brought by such person for the possession or the use of such property, or any of it, to allege and prove that he is one of the persons described in this section.

SEC. 6. *And be it further enacted*, That if any person within any State or Territory of the United States, other than those named as aforesaid, after the passage of this act, being engaged in armed rebellion against the Government of the United States, or aiding or abetting such rebellion, shall not, within sixty days after public warning and proclamation duly given and made by the President of the United States, cease to aid, countenance, and abet such rebellion, and return to his allegiance to the United States, all the estate and property, moneys, stocks, and credits of such person shall be liable to seizure as aforesaid, and it shall be the duty of the President to seize and use them as aforesaid or the proceeds thereof. And all sales, transfers, or conveyances of any such property after the expiration of the said sixty days from the date of such warning and proclamation shall be null and void; and it shall be a sufficient bar to any suit brought by such person for the possession or the use of such property, or any of it, to allege and prove that he is one of the persons described in this section.

SEC. 7. *And be it further enacted*, That to secure the condemnation and sale of any of such property, after the same shall have been seized, so that it may be made available for the purpose afore-

said, proceedings in rem shall be instituted in the name of the United States in any district court thereof, or in any territorial court, or in the United States district court for the District of Columbia, within which the property above described, or any part thereof, may be found, or into which the same, if movable, may first be brought, which proceedings shall conform as nearly as may be to proceedings in admiralty or revenue cases, and if said property, whether real or personal, shall be found to have belonged to a person engaged in rebellion, or who has given aid or comfort thereto, the same shall be condemned as enemies' property and become the property of the United States, and may be disposed of as the court shall decree and the proceeds thereof paid into the Treasury of the United States for the purposes aforesaid.

SEC. 8. *And be it further enacted*, That the several courts aforesaid shall have power to make such orders, establish such forms of decree and sale, and direct such deeds and conveyances to be executed and delivered by the marshals thereof where real estate shall be the subject of sale, as shall fitly and efficiently effect the purposes of this act, and vest in the purchasers of such property good and valid titles thereto. And the said courts shall have power to allow such fees and charges of their officers as shall be reasonable and proper in the premises.

SEC. 9. *And be it further enacted*, That all slaves of persons who shall hereafter be engaged in rebellion against the Government of the United States, or who shall in any way give aid or comfort thereto, escaping from such persons and taking refuge within the lines of the Army; and all slaves captured from such persons or deserted by them and coming into the control of the Government of the United States; and all slaves of such persons found *on* [or] being within any place occupied by rebel forces and afterwards occupied by the forces of the United States, shall be deemed captives of war, and shall be forever free of their servitude, and not again held as slaves.

SEC. 10. *And be it further enacted*, That no slave escaping into any State, Territory, or the District of Columbia, from any other State, shall be delivered up, or in any way impeded or hindered of his liberty, except for crime, or some offense against the laws, unless the person claiming said fugitive shall first make oath that the person to whom the labor or service of such fugitive is alleged to be due is his lawful owner, and has not borne arms against the United States in the present rebellion, nor in any way given aid and comfort thereto; and no person engaged in the military or naval service of the United States shall, under any pretense whatever, assume to decide on the validity of the claim of any person to the service or labor of any other person, or surrender up any such person to the claimant, on pain of being dismissed from the service.

SEC. 11. *And be it further enacted*, That the President of the United States is authorized to employ as many persons of African descent as he may deem necessary and proper for the suppression of this rebellion, and for this purpose he may organize and use them in such manner as he may judge best for the public welfare.

SEC. 12. *And be it further enacted*, That the President of the United States is hereby authorized to make provision for the transportation, colonization, and settlement, in some tropical country beyond the limits of the United States, of such persons of the African race, made free by the provisions of this act, as may be willing to emigrate, having first obtained the consent of the Government of said country to their protection and settlement within the same, with all the rights and privileges of freemen.

SEC. 13. *And be it further enacted*, That the President is hereby authorized, at any time hereafter, by proclamation, to extend to persons who may have participated in the existing rebellion in any State or part thereof, pardon and amnesty, with such exceptions and at such time and on such conditions as he may deem expedient for the public welfare.

SEC. 14. *And be it further enacted*, That the courts of the United States shall have full power to institute proceedings, make orders and decrees, issue process, and do all other things necessary to carry this act into effect.

APPROVED, July 17, 1862.

CHAP. CXCVI.—An Act to authorize payments in Stamps, and to prohibit circulation of Notes of less denomination than One Dollar.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Treasury be, and he is hereby, directed to furnish to the Assistant Treasurers, and such designated depositaries of the United States as may be by him selected, in such sums as he may deem expedient, the postage and other stamps of the United States, to be exchanged by them, on application, for United States notes; and from and after the first day of August next such stamps shall be receivable in payment of all dues to the United States less than five dollars, and shall be received in exchange for United States notes when presented to any Assistant Treasurer or any designated depositary selected as aforesaid in sums not less than five dollars.

SEC. 2. *And be it further enacted*, That from and after the first day of August, eighteen hundred and sixty-two, no private corporation, banking association, firm, or individual shall make, issue, circulate, or pay any note, check, memorandum, token, or other obligation, for a less sum than one dollar, intended to circulate as money or to be received or used in lieu of lawful money of the United States; and every person so offending shall, on conviction thereof in any district or circuit court of the United States, be punished by fine not exceeding five hundred dollars, or by imprisonment not exceeding six months, or by both, at the option of the court.

APPROVED, July 17, 1862.

CHAP. CXCVII.—An Act to amend an Act entitled "An Act to amend an Act entitled 'An Act in relation to the Acts prohibiting the Slave Trade.'"

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That it shall and may be lawful for the President of the United States to enter into arrangement, by contract or otherwise, with one or more foreign Governments having possessions in the West Indies or other tropical regions, or with their duly constituted agent or agents, to receive from the United States, for a term not exceeding five years, at such place or places as shall be agreed upon, all negroes, mulattoes, or persons of color, delivered from on board vessels seized in the prosecution of the slave trade by commanders of United States armed vessels, and to provide them with suitable instruction, and with comfortable clothing and shelter, and to employ them, at wages, under such regulations as shall be agreed upon, for a period not exceeding five years from the date of their being landed at the place or places agreed upon: *Provided*, That the United States incur no expenses on account of said negroes, mulattoes, or persons of color, after having landed them at the place or places agreed upon: *And provided further*, That any arrangement so made as aforesaid may be renewed by the President of the United States from time to time, as may be found necessary or desirable, for periods not exceeding five years on each renewal.

SEC. 2. *And be it further enacted*, That the President of the United States be, and he is hereby, authorized to issue instructions to the commanders of the armed vessels of the United States, directing them, whenever it shall be practicable, and under such rules and regulations as he shall prescribe, to proceed directly to such place or places as shall have been agreed upon with any foreign Government, or its duly constituted agent or agents, under the provisions of the first section of this act, and there deliver to the duly constituted authorities, or agents of such foreign Governments, all negroes, mulattoes, or persons of color, delivered from on board vessels seized in the prosecution of the slave trade, afterwards taking the vessel and persons engaged in prosecuting the slave trade to the proper place for trial and adjudication.

APPROVED, July 17, 1862.

CHAP. CXCVIII.—An Act authorizing the Secretary of the Treasury to change the name of the Steamship "Coatzacoalcos" to "America."

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Treasury be, and he is hereby, authorized and directed to change the name of the steamship "Coatzacoalcos," now owned by Marshall O. Roberts, of New York city, to that of "America," and to issue a register in that name.

APPROVED, July 17, 1862.

CHAP. CXCIX.—An Act to provide for the more prompt Settlement of the Accounts of Disbursing Officers.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That from and after the passage of this act any officer or agent of the United States who shall receive public money which he is not authorized to retain as salary, pay, or emolument, shall render his accounts monthly, instead of quarterly, as heretofore; and such accounts, with the vouchers necessary to the correct and prompt settlement thereof, shall be rendered direct to the proper accounting officer of the Treasury, and be mailed or otherwise forwarded to its proper address within ten days after the expiration of each successive month. And in case of the non-receipt at the Treasury of any accounts within a reasonable and proper time thereafter, the officer whose accounts are in default shall be required to furnish satisfactory evidence of having complied with the provisions of this act; and for any default on his part, the delinquent officer shall be deemed a defaulter, and be subject to all the penalties prescribed by the sixteenth section of the act of August sixth, eighteen hundred and forty-six, "to provide for the better organization of the Treasury, and for the collection, safe-keeping, transfer and disbursement of the public revenue:" *Provided*, That the Secretary of the Treasury may, if in his opinion the circumstances of the case justify and require it, extend the time hereinbefore prescribed for the rendition of accounts: *And provided further*, That nothing herein contained shall be construed to restrain the heads of any of the Departments from requiring such other returns or reports from the officer or agent, subject to the control of such heads of Departments, as the public interests may require.

APPROVED, July 17, 1862.

CHAP. CC.—An Act to define the Pay and Emoluments of certain Officers of the Army, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That officers of the Army entitled to forage for horses shall not be allowed to commute it, but may draw forage in kind for each horse actually kept by them when and at the place where they are on duty, not exceeding the number authorized by law: *Provided, however*, That when forage in kind cannot be furnished by the proper department, then, and in all such cases, officers entitled to forage may commute the same according to existing regulations: *And provided further*, That officers of the Army and of volunteers assigned to duty which requires them to be mounted, shall, during the time they are employed on such duty, receive the pay, emoluments, and allowances of cavalry officers of the same grade respectively.

SEC. 2. *And be it further enacted*, That major generals shall be entitled to draw forage in kind for five horses; brigadier generals for four horses; colonels, lieutenant colonels, and majors, for two horses each; captains and lieutenants of cavalry and artillery, or having the cavalry allowance, for two horses each; and chaplains, for one horse only.

SEC. 3. *And be it further enacted*, That whenever an officer of the Army shall employ a soldier as his servant he shall, for each and every month during which said soldier shall be so employed, deduct from his own monthly pay the full amount paid to or expended by the Government per month on account of said soldier; and every officer of the Army who shall fail to make such deduction shall,

on conviction thereof before a general court-martial, be cashiered.

SEC. 4. *And be it further enacted*, That the first section of the act approved August six, eighteen hundred and sixty-one, entitled "An act to increase the pay of privates in the regular Army and in the volunteers in the service of the United States, and for other purposes," shall not be so construed, after the passage of this act, as to increase the emoluments of the commissioned officers of the Army. And the eighth section of the act of twenty-second July, eighteen hundred and sixty-one, entitled "An act to authorize the employment of volunteers to aid in enforcing the laws and protecting public property," shall be so construed as to give to quartermaster sergeants the same compensation as to regimental commissary sergeants.

SEC. 5. *And be it further enacted*, That so much of the aforesaid act approved twenty-second July, eighteen hundred and sixty-one, as authorizes each regiment of volunteers in the United States service to have twenty-four musicians for a band, and fixes the compensation of the leader of the band, be, and the same is hereby, repealed; and the men composing such bands shall be mustered out of the service within thirty days after the passage of this act.

SEC. 6. *And be it further enacted*, That each brigade in the volunteer service may have sixteen musicians as a band, who shall receive the pay and allowances now provided by law for regimental bands, except the leader of the band, who shall receive forty-five dollars per month with the emoluments and allowances of a quartermaster's sergeant.

SEC. 7. *And be it further enacted*, That in lieu of the present rate of mileage allowed to officers of the Army when traveling on public duty, where transportation in kind is not furnished to them by the Government, not more than six cents per mile shall hereafter be allowed, unless where an officer is ordered from a station east of the Rocky mountains to one west of the same mountains, or vice versa, when ten cents per mile shall be allowed to him; and no officer of the Army or Navy of the United States shall be paid mileage except for travel actually performed at his own expense, and in obedience to orders.

SEC. 8. *And be it further enacted*, That so much of section nine of the aforesaid act, approved July twenty-second, eighteen hundred and sixty-one, and of section seven of the "Act providing for the better organization of the military establishment," approved August third, eighteen hundred and sixty-one, as defines the qualifications of chaplains in the Army and volunteers, shall hereafter be construed to read as follows: That no person shall be appointed a chaplain in the United States Army who is not a regularly ordained minister of some religious denomination, and who does not present testimonials of his present good standing as such minister, with a recommendation for his appointment as an Army chaplain from some authorized ecclesiastical body, or not less than five accredited ministers belonging to said religious denomination.

SEC. 9. *And be it further enacted*, That hereafter the compensation of all chaplains in the regular or volunteer service or Army hospitals shall be one hundred dollars per month and two rations a day when on duty; and the chaplains of the permanent hospitals, appointed under the authority of the second section of the act approved May twentieth, eighteen hundred and sixty-two, shall be nominated to the Senate for its advice and consent, and they shall, in all respects, fill the requirements of the preceding section of this act relative to the appointment of chaplains in the Army and volunteers, and the appointments of chaplains to Army hospitals, heretofore made by the President, are hereby confirmed, and it is hereby made the duty of each officer commanding a district or post containing hospitals, or a brigade of troops, within thirty days after the reception of the order promulgating this act, to inquire into the fitness, efficiency, and qualifications of the chaplains of hospitals or regiments, and to muster out of service such chaplains as were not appointed in conformity with the requirements of this act, and who have not faithfully discharged the duties of chaplains during the time they have been engaged as such. Chaplains employed at the military posts called "chaplains' posts" shall be required to reside at the posts, and all chaplains in the United States service shall be subject to such rules in relation to leave of absence from duty as are prescribed for commissioned officers of the United States Army stationed at such posts.

SEC. 10. *And be it further enacted*, That so much of the fifth section of the act approved July twenty-second, eighteen hundred and sixty-one, as allows forty cents per day for the use and risk of the horses of company officers of cavalry, and the tenth section of the aforesaid act, approved August three, eighteen hundred and sixty-one, be, and the same are hereby, repealed.

SEC. 11. *And be it further enacted*, That whenever an officer shall be put under arrest, except at remote military posts or stations, it shall be the duty of the officer by whose orders he is arrested to see that a copy of the charges on which he has been arrested and is to be tried shall be served upon him within eight days thereafter, and that he shall be brought to trial within ten days thereafter, unless the necessities of the service prevent such trial; and then he shall be brought to trial within thirty days after the expiration of the said ten days or the arrest shall cease: *Provided*, That if the copy of the charges be not served upon the arrested officer, as herein provided, the arrest shall cease; but officers released from arrest under the provisions of this section may be tried whenever the exigencies of the service will permit, within twelve months after such release from arrest: *And provided further*, That the provisions of this section shall apply to all persons now under arrest and awaiting trial.

SEC. 12. *And be it further enacted*, That whenever the name of any officer of the Army or marine corps, now in the service, or who may hereafter be in the service of the United States, shall have been borne on the Army register or Naval register, as the case may be, forty-five years, or he shall be of the age of sixty-two years, it shall be in the discretion of the President to retire him from active service and direct his name to be entered on the retired list of officers of the grade to which he belonged at the time of such retirement; and the President is hereby authorized to assign any officer retired under this section or the act of August third, eighteen hundred and sixty-one, to any appropriate duty; and such officer thus assigned shall receive the full pay and emoluments of his grade while so assigned and employed.

SEC. 13. *And be it further enacted*, That all contracts made for, or orders given for the purchase of, goods or supplies by any Department of the Government shall be promptly reported to Congress by the proper head of such department if Congress shall at the time be in session, and if not in session said reports shall be made at the commencement of the next ensuing session.

SEC. 14. *And be it further enacted*, That no contract or order, or any interest therein, shall be transferred by the party or parties to whom such contract or order may be given to any other party or parties, and that any such transfer shall cause the annulment of the contract or order transferred, so far as the United States are concerned: *Provided*, That all rights of action are hereby reserved to the United States for any breach of such contract by the contracting party or parties.

SEC. 15. *And be it further enacted*, That every person who shall furnish supplies of any kind to the Army or Navy shall be required to mark and distinguish the same, with the name or names of the contractors so furnishing said supplies in such manner as the Secretary of War and the Secretary of the Navy may respectively direct, and no supplies of any kind shall be received unless so marked and distinguished.

SEC. 16. *And be it further enacted*, That whenever any contractor for subsistence, clothing, arms, ammunition, munitions of war, and for every description of supplies for the Army or Navy of the United States, shall be found guilty by court-martial of fraud or willful neglect of duty, he shall be punished by fine, imprisonment, or such other punishment as the court-martial shall adjudge; and any person who shall contract to furnish supplies of any kind or description for the Army or Navy *he* shall be deemed and taken as a part of the land or naval forces of the United States, for which he shall contract to furnish said supplies, and be subject to the rules and regulations for the government of the land and naval forces of the United States.

SEC. 17. *And be it further enacted*, That the President of the United States be, and hereby is, authorized and requested to dismiss and discharge from the military service either in the Army, Navy, marine corps, or volunteer force, in the United States service, any officer for any cause which, in his judgment, either renders such officer unsuitable for, or whose dismission would promote, the public service.

SEC. 18. *And be it further enacted*, That the President of the United States shall have power whenever in his opinion it shall be expedient, to purchase cemetery grounds, and cause them to be securely inclosed, to be used as a national cemetery for the soldiers who shall die in the service of the country.

SEC. 19. *And be it further enacted*, That so much of the act approved the fifth of August, eighteen hundred and sixty-one, entitled "An act supplementary to an act entitled 'An act to increase the present military establishment of the United States,'" approved the twenty-ninth of July, eighteen hundred and sixty-one, as authorizes the appointment of additional aides-de-camp, be, and the same is hereby, repealed. But this repeal shall not be construed so as to deprive those persons already appointed, in strict conformity with said act of the fifth of August, eighteen hundred and sixty-one, from holding their offices in the same manner as if it had not been repealed.

SEC. 20. *And be it further enacted*, That the different regiments and independent companies heretofore mustered into the service of the United States as volunteer engineers, pioneers, or sappers and miners, under the orders of the President or Secretary of War, or by authority of the commanding general of any military department of the United States, or which, having been mustered into the service as infantry, shall have been reorganized and employed as engineers, pioneers, or sappers and miners, shall be, and the same are hereby, recognized and accepted as volunteer engineers, on the same footing, in all respects, in regard to their organization, pay, and emoluments as the corps of engineers of the regular Army of the United States, and they shall be paid for their services, already performed, as is now provided by law for the payment of officers and non-commissioned officers and privates of the engineer corps of the regular Army.

SEC. 21. *And be it further enacted*, That any alien, of the age of twenty-one years and upwards, who has enlisted or shall enlist in the armies of the United States, either the regular or the volunteer forces, and has been or shall be hereafter honorably discharged, may be admitted to become a citizen of the United States, upon his petition, without any previous declaration of his intention to become a citizen of the United States, and that he shall not be required to prove more than one year's residence within the United States previous to his application to become such citizen; and that the court admitting such alien shall, in addition to such proof of residence and good moral character as is now provided by law, be satisfied by competent proof of such person having been honorably discharged from the service of the United States as aforesaid.

SEC. 22. *And be it further enacted*, That there shall be added to the Adjutant General's department, by regular promotion of its present officers, one colonel, two lieutenant colonels, and nine majors; and that the grade of captain in said department shall thereafter be abolished, and all vacancies occurring in the grade of major shall be filled by selection from among the captains of the Army.

APPROVED, July 17, 1862.

CHAP. CCI.—An Act to amend the Act calling forth the Militia to execute the Laws of the Union, suppress Insurrections, and repel Invasions, approved February twenty-eight, seventeen hundred and ninety-five, and the Acts amendatory thereof, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That whenever the President of the United States shall call forth the militia of the

States, to be employed in the service of the United States, he may specify in his call the period for which such service will be required, not exceeding nine months; and the militia so called shall be mustered in and continue to serve for and during the term so specified, unless sooner discharged by command of the President. If by reason of defects in existing laws, or in the execution of them, in the several States, or any of them, it shall be found necessary to provide for enrolling the militia and otherwise putting this act into execution, the President is authorized in such cases to make all necessary rules and regulations; and the enrollment of the militia shall in all cases include all able-bodied male citizens between the ages of eighteen and forty-five, and shall be apportioned among the States according to representative population.

SEC. 2. *And be it further enacted*, That the militia, when so called into service, shall be organized in the mode prescribed by law for volunteers.

SEC. 3. *And be it further enacted*, That the President be, and he is hereby, authorized, in addition to the volunteer forces which he is now authorized by law to raise, to accept the services of any number of volunteers, not exceeding one hundred thousand, as infantry, for a period of nine months, unless sooner discharged. And every soldier who shall enlist under the provisions of this section shall receive his first month's pay, and also twenty-five dollars as bounty, upon the mustering of his company or regiment into the service of the United States. And all provisions of law relating to volunteers enlisted in the service of the United States for three years, or during the war, except in relation to bounty, shall be, and the same are, extended to, and are hereby declared to embrace, the volunteers to be raised under the provisions of this section.

SEC 4. *And be it further enacted*, That, for the purpose of filling up the regiments of infantry now in the United States service, the President be, and he hereby is, authorized to accept the services of volunteers in such numbers as may be presented for that purpose, for twelve months, if not sooner discharged. And such volunteers, when mustered into the service, shall be in all respects upon a footing with similar troops in the United States service, except as to service bounty, which shall be fifty dollars, one half of which to be paid upon their joining their regiments, and the other half at the expiration of their enlistment.

SEC. 5. *And be it further enacted*, That the President shall appoint, by and with the advice and consent of the Senate, a judge advocate general, with the rank, pay, and emoluments of a colonel of cavalry, to whose office shall be returned, for revision, the records and proceedings of all courts-martial and military commissions, and where a record shall be kept of all proceedings had thereupon. And no sentence of death, or imprisonment in the penitentiary, shall be carried into execution until the same shall have been approved by the President.

SEC. 6. *And be it further enacted*, That there may be appointed by the President, by and with the advice and consent of the Senate, for each army in the field, a judge advocate, with the rank, pay, and emoluments, each, of a major of cavalry, who shall perform the duties of judge advocate for the army to which they respectively belong, under the direction of the judge advocate general.

SEC. 7. *And be it further enacted*, That hereafter all offenders in the Army charged with offenses now punishable by a regimental or garrison court-martial, shall be brought before a field officer of his regiment, who shall be detailed for that purpose, and who shall hear and determine the offense, and order the punishment that shall be inflicted; and shall also make a record of his proceedings, and submit the same to the brigade commander, who, upon the approval of the proceedings of such field officer, shall order the same to be executed: *Provided*, That the punishment in such cases be limited to that authorized to be inflicted by a regimental or garrison court-martial: *And provided, further*, That, in the event of their being no brigade commander, the proceedings as aforesaid shall be submitted for approval to the commanding officer of the post.

SEC. 8. *And be it further enacted*, That all officers who have been mustered into the service of the United States as battalion adjutants and quartermasters of cavalry under the orders of the War Department, exceeding the number authorized by law, shall be paid as such for the time they were actually employed in the service of the United States, and that all such officers now in service, exceeding the number as aforesaid, shall be immediately mustered out of the service of the United States.

SEC. 9. *And be it further enacted*, That the President be, and he is hereby, authorized to establish and organize army corps according to his discretion.

SEC. 10. *And be it further enacted*, That each Army corps shall have the following officers and no more attached thereto, who shall constitute the staff of the commander thereof: one assistant adjutant general, one quartermaster, one commissary of subsistence, and one assistant inspector general, who shall bear, respectively, the rank of lieutenant colonel, and who shall be assigned from the Army or volunteer force by the President. Also three aides-de-camp, one to bear the rank of major, and two to bear the rank of captain, to be appointed by the President, by and with the advice and consent of the Senate, upon the recommendation of the commander of the Army corps. The senior officer of artillery in each Army corps shall, in addition to his other duties, act as chief of artillery and ordnance at the headquarters of the corps.

SEC. 11. *And be it further enacted*, That the cavalry forces in the service of the United States shall hereafter be organized as follows: each regiment of cavalry shall have one colonel, one lieutenant colonel, three majors, one surgeon, one assistant surgeon, one regimental adjutant, one regimental quartermaster, one regimental commissary, one sergeant major, one quartermaster serge[a]nt, one commissary serge[a]nt, two hospital stewards, one saddler sergeant, one chief trumpeter, and one chief farrier or blacksmith, and each regiment shall consist of twelve companies or troops, and each company or troop shall have one captain, one first lieutenant, one second lieutenant, and one supernumerary second lieutenant, one first sergeant, one quartermaster sergeant, one commissary sergeant, five serge[a]nts, eight corporals, two teamsters, two farriers or blacksmiths, one saddler, one wagoner, and seventy-eight privates; the regimental adjutants, the regimental quartermasters, and regimental commissaries to be taken from their respective regiments: *Provided*, That vacancies caused by this organization shall not be considered as original, but shall be filled by regular promotion.

SEC. 12. *And be it further enacted*, That the President be, and he is hereby, authorized to receive into the service of the United States, for the purpose of constructing intrenchments, or performing camp service, or any other labor, or any military or naval service for which they may be found competent, persons of African descent, and such persons shall be enrolled and organized under such regulations, not inconsistent with the Constitution and laws, as the President may prescribe.

SEC. 13. *And be it further enacted*, That when any man or boy of African descent, who by the laws of any State shall owe service or labor to any person who, during the present rebellion, has levied war or has borne arms against the United States, or adhered to their enemies by giving them aid and comfort, shall render any such service as is provided for in this act, he, his mother and his wife and children, shall forever thereafter be free, any law, usage, or custom whatsoever to the contrary notwithstanding: *Provided*, That the mother, wife and children of such man or boy of African descent shall not be made free by the operation of this act except where such mother, wife or children owe service or labor to some person who, during the present rebellion, has borne arms against the United States or adhered to their enemies by giving them aid and comfort.

SEC. 14. *And be it further enacted*, That the expenses incurred to carry this act into effect shall be paid out of the general appropriation for the Army and volunteers.

SEC. 15. *And be it further enacted*, That all persons who have been or shall be hereafter enrolled in the service of the United States under this act shall receive the pay and rations now allowed by law to soldiers, according to their respective grades: *Provided*, That persons of African descent, who under this law shall be employed, shall receive ten dollars per month and one ration, three dollars of which monthly pay may be in clothing.

SEC. 16. *And be it further enacted*, That medical purveyors and storekeepers shall give bonds in such sums as the Secretary of War may require with security to be approved by him.

APPROVED, July 17, 1862.

CHAP. CCII.—An Act to allow and pay to the State of Missouri the amount of Money expended by said State in the arming and paying of Troops employed in the Suppression of Insurrection against the laws of the United States.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the State of Missouri shall be entitled to a credit against the direct tax apportioned to said State by the "Act to provide increased revenue from imports, to pay interest on the public debt, and for other purposes," approved August fifth, eighteen hundred and sixty-one, for all sums of money expended by said State in the arming, equipping, subsisting and paying of troops organized under the ordinances of the convention of said State, passed during the year eighteen hundred and sixty-one, and employed in concert with the Federal authorities in suppressing insurrection against the United States, and enforcing the laws thereof.

SEC. 2. *And be it further enacted*, That, for the purpose of ascertaining the amount due to said State for moneys so expended, the Secretary of War shall, immediately after the passage of this act, by commission or otherwise, cause the accounts to be examined, and a report made to him of the amount due, which being approved by the Secretary of War, and by him certified to the Secretary of the Treasury, the amount thereof shall be allowed to said State, and deducted from the amount apportioned thereto by the aforesaid act, and the remainder only, if any, shall be collected as therein prescribed: *Provided*, That, in the adjustment of accounts under this act, no greater rate of compensation shall be allowed than was provided for by the laws of the United States applicable to the arming, equipping, subsisting, and payment of volunteers, in force at the time of the enrollment of such troops of Missouri.

SEC. 3. *And be it further enacted*, That if said State shall assume and pay into the Treasury the balance of said direct tax, if any, at such time as may be fixed by the Secretary of the Treasury, or should said expenditures be found to be equal to the tax, the deduction or discount of fifteen per centum, as prescribed in the fifty-third section of the said recited act, shall be allowed on the whole amount thus apportioned.

APPROVED, July 17, 1862.

CHAP. CCIII.—An Act to suspend temporarily the operation of an act entitled "An act to prevent and punish Fraud on the part of Officers intrusted with making of Contracts for the Government," approved June two, eighteen hundred and sixty-two.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the operation of the act entitled "An act to prevent and punish frauds on the part of officers intrusted with making of contracts for the Government," approved June two, eighteen hundred and sixty-two, be, and the same is hereby, suspended until the first Monday of January, eighteen hundred and sixty-three.

APPROVED, July 17, 1862.

CHAP. CCIV.—An Act for the better Government of the Navy of the United States.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, from and after the first day of September next, the following articles be adopted, and put in force for the government of the Navy of the United States:

ARTICLE 1. The commanders of all fleets, squadrons, naval stations, and vessels belonging to the Navy, are strictly enjoined and required to show in themselves a good example of virtue,

honor, patriotism, and subordination; to be vigilant in inspecting the conduct of all who may be placed under their command; to guard against and suppress all dissolute and immoral practices, and to correct all who may be guilty of them, according to the laws and regulations of the Navy, upon pain of such punishment as a general court-martial may think proper to inflict.

ART. 2. The commanders of vessels and naval stations, to which chaplains are attached, shall cause divine service to be performed on Sunday, whenever the weather and other circumstances will allow it to be done; and it is earnestly recommended to all officers, seamen, and others in the naval service, diligently to attend at every performance of the worship of Almighty God. Any irreverent or unbecoming behavior during divine service shall be punished as a general or summary court-martial shall direct.

ART. 3. The punishment of death, or such other punishment as a court-martial shall adjudge, may be inflicted on any person in the naval service—

First. Who shall make, or attempt to make, or unite with, any mutinous assembly, or knowing of the same, or of any intended mutiny, shall not forthwith communicate it to his superior or commanding officer, or being witness to, or present at, any mutiny, shall not do his utmost to suppress it;

Second. Or shall disobey the lawful orders of his superior officer, or strike or assault, or attempt or threaten to strike or assault him, while in the execution of the duties of his office;

Third. Or shall give, hold, or entertain any intercourse or intelligence to or with any enemy or rebel, without leave from the President of the United States, the Secretary of the Navy, the commander-in-chief of the fleet, or the commander of a squadron; or, in case of a vessel acting singly, from his commanding officer;

Fourth. Or shall desert, or entice others to desert to an enemy or rebel;

Fifth. Or shall receive any message or letter from an enemy or rebel, or be aware of the unlawful reception of such letter or message, and fail to take the earliest opportunity to inform his superior or commanding officer thereof;

Sixth. Or shall, in time of war, desert or betray his trust, or entice or aid others to desert or betray their trust, or shall sleep upon his watch, or leave his station before regularly relieved;

Seventh. Or shall intentionally or willfully suffer any vessel of the Navy to be stranded or run upon rocks or shoals, or improperly hazarded, or shall willfully or maliciously injure any vessel of the Navy, or any part of her tackle, armament, or equipment, whereby the safety of the vessel shall be hazarded, or the lives of the crew exposed to danger, or shall set on fire or otherwise unlawfully destroy any public property not then in the possession of an enemy, pirate, or rebel;

Eighth. Or shall strike, or attempt to strike, the flag to an enemy or rebel without proper authority, or when engaged in battle shall treacherously yield or pusillanimously cry for quarter;

Ninth. Or shall in time of battle display cowardice, negligence, or disaffection, or withdraw from or keep out of danger to which he should expose himself; or shall desert his duty or station, or entice others to do so; or shall not properly observe the orders of his commanding officer and use his utmost exertions to carry them into execution, when ordered to prepare for, join in, or when actually engaged in battle, or while in sight of an enemy;

Tenth. Or when commanding a fleet, squadron, or vessel acting singly, shall, upon the probability of an engagement, or on sight of any armed vessel of an enemy or rebel, neglect to prepare and clear his ship for action; or shall not, upon signal for battle, use his utmost exertions to join in battle, or shall fail to encourage in his own person his inferior officers and men to fight courageously; or shall not do his utmost to overtake and capture or destroy any vessel which it is his duty to encounter; or shall not afford all practicable relief and assistance to vessels belonging to the United States or their allies when engaged in battle.

ART. 4. Spies, and all persons who shall come or be found in the capacity of spies, or who shall bring or deliver any seducing letter or message from an enemy or rebel, or endeavor to corrupt any person in the Navy to betray his trust, shall suffer death, or such other punishment as a court-martial shall adjudge.

ART. 5. The crime of murder, when committed by an officer, seaman, marine, or other person belonging to any public ship or vessel of the United States, without the territorial jurisdiction of the same, may be punished with death by the sentence of a court-martial.

ART. 6. In any case where a naval court-martial is authorized to adjudge the punishment of death it may sentence the person convicted to imprisonment for life, or for a stated term, at hard labor, and such sentences of imprisonment and hard labor may be carried into execution in any prison or penitentiary under the control of the United States, or the use of which shall be allowed by the Legislature of a State; and persons convicted by a court-martial and imprisoned in the prison or penitentiary of any State or Territory shall in all respects be subject to the same discipline and treatment and under the same control as convicts sentenced by the courts of the State or Territory in which such prison or penitentiary is situated.

ART. 7. Such punishment as a court-martial shall adjudge may be inflicted on any person in the Navy:

First. Who shall be guilty of cruelty, oppression, or maltreatment of those subject to his orders;

Second. Or shall be guilty of profane swearing, falsehood, drunkenness, gambling, fraud, theft, or any other scandalous conduct tending to the destruction of good morals;

Third. Or shall quarrel with, strike, or assault any other person in the Navy, or use provoking or reproachful words, gestures, or menaces, or endeavor to foment quarrels between other persons in the Navy, or send or accept a challenge to fight a duel, or act as second in a duel;

Fourth. Or shall treat with contempt his superior officer, or be disrespectful to him in language or deportment whilst in the execution of his office; or shall join in or abet any combination to weaken the lawful authority of, or lessen the respect due to his commanding officer;

Fifth. Or shall be negligent or careless in obeying orders, or culpably inefficient in the performance of duty;

Sixth. Or shall knowingly make or sign, or shall aid, abet, direct, or procure the making or signing any false muster, or shall execute, or attempt or countenance any fraud against the United States, or shall waste, embezzle, or fraudulently buy, sell, or receive any ammunition, provisions, or other public stores, or, having the power to prevent it, shall knowingly permit such waste, embezzlement, sale, or receipt;

Seventh. Or shall, through inattention or negligence, suffer any vessel of the Navy to be stranded or run upon a rock or shoal, or hazarded;

Eighth. Or shall, when on shore, plunder, abuse, or maltreat any inhabitant or injure his property in any way;

Ninth. Or shall refuse or fail to use his utmost exertions to detect, apprehend, and bring to punishment all offenders, and aid and assist all persons appointed for the purpose;

Tenth. Or shall, in time of peace, desert or attempt to desert, or aid or entice others to desert; or shall be absent from his station or duty without leave, or after his leave shall have expired;

Eleventh. Or shall, when rated or acting as master-at-arms, refuse to receive such prisoners as shall be committed to his charge, or having received them shall suffer them to escape, or dismiss them without orders from the proper authority;

Twelfth. Or shall, when attached to any ship or vessel appointed as convoy to merchant or other vessels, fail diligently to perform his duty, or shall demand or exact any compensation for his services, or shall maltreat the officers or crews of such merchant or other vessels;

Thirteenth. Or shall take, receive, or permit to be received on board the vessel to which he is attached any goods or merchandise for freight, sale, or traffic, except gold, silver, or jewels, for freight or safe-keeping, or shall demand or receive any compensation for the receipt or transportation of any other article than gold, silver, or jewels, without authority from the President of the United States or the Secretary of the Navy;

Fourteenth. Or shall violate or refuse obedience to any lawful general order or regulation issued by the Secretary of the Navy;

ART. 8. All offenses committed by persons belonging to the Navy, which are not specified in the foregoing articles, shall be punished as a court-martial shall direct; but in no case shall punishment by flogging be inflicted, nor shall any court-martial adjudge punishment by flogging.

ART. 9. All offenses committed by persons belonging to the Navy, while on shore, shall be punished in the same manner as if they had been committed at sea.

ART. 10. No commander of a vessel of the Navy shall inflict any other punishment upon a commissioned or warrant officer than private reprimand, suspension from duty, arrest or confinement, neither of which shall continue longer than ten days, except a further period be necessary to bring the offender to a court-martial; nor shall he inflict, or cause or permit to be inflicted, upon any petty officer or person of inferior rating, or marine, any punishment for a single offense or at any one time other than one of the following punishments, viz:

First. Reduction of any rating established by himself.

Second. Confinement with or without irons, single or double, such confinement not to exceed ten days, unless necessary in the case of a prisoner to be tried by court-martial.

Third. Solitary confinement on bread and water not exceeding five days.

Fourth. Solitary confinement not exceeding seven days.

Fifth. Deprivation of liberty on shore.

Sixth. Extra duties.

No other punishment shall be permitted on board of vessels belonging to the Navy, except by sentence of a general or summary court-martial. Summary courts-martial may disrate any rated person for incompetency. All punishments inflicted by the commander, or by his order, except reprimands, shall be fully entered upon the ship's log.

ART. 11. General courts-martial may be convened as often as the President of the United States, the Secretary of the Navy, or commander-in-chief of a fleet or squadron shall deem it necessary: *Provided*, That in the waters of the United States no commander-in-chief of a fleet or squadron shall convene a general court-martial unless by express authority from the President of the United States: *Provided also*, That no general court-martial shall consist of more than thirteen nor less than five commissioned officers as members; and as many officers shall be summoned on every such court as can be convened without injury to the service, so as not to exceed thirteen; and the senior officer shall always preside, the others taking place according to their rank; and in no case where it can be avoided without injury to the service shall more than one half the members, exclusive of the president, be junior to the officer to be tried.

ART. 12. The president of the court is authorized and required to administer the following oath or affirmation to the judge-advocate or person officiating as such: "I, A B, do swear (or affirm) that I will keep a true record of the evidence given to, and the proceedings of, this court; nor will I divulge or by any means disclose the sentence of the court until it shall have been approved by the proper authority; nor will I at any time divulge or disclose the vote or opinion of any particular member of the court, unless required so to do before a court of justice in due course of law." This oath or affirmation being duly administered, each member of the court, before proceeding to trial, shall take the following oath or affirmation, which the judge-advocate, or person officiating as such, is hereby authorized to administer: "I, A B, do swear (or affirm) that I will truly try, without prejudice or partiality, the case now depending, according to the evidence which shall come before the court, the rules for the government of the Navy, and my own conscience; and that I will not by any means divulge or disclose the sentence of the court until it shall have been approved by the proper authority; nor will I at any time divulge or disclose the vote or opinion of any particular member of the court unless required so to do before a court of justice in due course of law."

ART. 13. All testimony given to a general court-martial shall be on oath or affirmation, which the president of the court is hereby authorized to administer; and if any person shall refuse to give his evidence as aforesaid, or shall prevaricate, or shall behave with contempt to the court, it shall and may be lawful for the court to imprison such offender at their discretion: *Provided*, That the imprisonment in no case shall exceed two months. And every person who shall commit willful perjury on examination on oath or affirmation before such court, or who shall corruptly procure, or suborn, any person to commit such willful perjury, shall and may be prosecuted by indictment or information in any court of justice of the United States, and shall suffer such penalties as are authorized by the laws of the United States in cases of perjury, or the subornation thereof. And in every prosecution for perjury, or the subornation thereof under this act, it shall be sufficient to set forth the offense charged on the defendant, without setting forth the authority by which the court was held, or the particular matters brought or intended to be brought before said court.

ART. 14. The following oath shall be administered to witnesses before courts-martial and courts of inquiry: "You do solemnly swear (or affirm, as the case may be) that the evidence you shall give in the case now before this court shall be the truth, the whole truth, and nothing but the truth, and that you will state everything within your knowledge and recollection in relation to the charges. So help you God," (or this you do under the pains and penalties of perjury.)

ART. 15. The person accused shall be furnished with a true copy of the charges, with the specifications, at the time he is put under arrest; nor shall any other charges than those so exhibited be urged against the person to be tried before the court, unless it appear to the court that intelligence of such charge had not reached the officer ordering the court when the person so tried was put under arrest, or that some witness material to the support of such charge, who was at that time absent, can be produced, in which case reasonable time shall be given to the person to be tried to make his defense against such new charge. Every officer so arrested is to deliver up his sword to his commanding officer, and to confine himself to the limits assigned him, under the pain of dismission from the service.

ART. 16. When the proceedings of any general court-martial shall have commenced, they shall not be suspended or delayed on account of the absence of any of the members, provided five or more be assembled; but the court is enjoined to sit from day to day, Sundays excepted, until sentence be given, unless temporarily adjourned by the authority which convened the court. And no member of said court shall, after the proceedings are begun, absent himself therefrom, unless in case of sickness or orders to go on duty from a superior officer, on pain of being cashiered.

ART. 17. If a member of a court-martial shall, from any legal cause, fail to attend after the commencement of a case, and witnesses shall be examined during his absence, the court must, when he is ready to resume his seat, cause every person who may have been examined in his absence to be called into court, and the recorded testimony of each witness must be read over to him, and such witness must acknowledge the same to be correct, and be subject to such further examination as the said member may require; and without a compliance with this rule, and an entry of it upon the record, a member who shall have been absent during the examination of a witness shall not be allowed to sit again in that particular case.

ART. 18. Whenever a court-martial shall sentence an officer to be suspended, the court shall have the power to suspend his pay and emoluments for the whole or any part of the time of his suspension.

ART. 19. All sentences of courts-martial which shall extend to the loss of life shall require the concurrence of two thirds of the members present, and no such sentence shall be carried into execution until confirmed by the President of the United States. All other sentences may be determined by a majority of votes, and carried into execution on confirmation of the commander of the fleet, or officer ordering the court, except such as go to the dismission of a commissioned or warrant officer, which are first to be approved by the President of the United States.

ART. 20. Every officer who is by this act authorized to convene courts-martial shall have power on revisal of its proceedings to remit or mitigate, but not to commute the sentence of any such court, which by this act he is authorized to approve and confirm.

ART. 21. It shall be the duty of a court-martial, in all cases of conviction, to adjudge a punishment adequate to the character and nature of the offense committed; but the members of a court may recommend the person convicted as deserving of clemency, and state on the record their reasons for so doing.

ART. 22. The judgment of every court-martial shall be authenticated by the signature of the president; and all the members of the same who may be present when the said judgment shall be pronounced, and also of the judge-advocate.

ART. 23. Courts of inquiry may be ordered by the President of the United States, the Secretary of the Navy, or the commander of a fleet or squadron, provided such court shall not consist of more than three members, who shall be commissioned officers, and a judge-advocate, or person to do duty as such; and such courts shall have power to summon witnesses, administer oaths, and punish contempt, in the same manner as courts-martial. But such courts shall merely state facts, and not give their opinion unless expressly required so to do in the order for convening; and the party whose conduct shall be the subject of inquiry, or his attorney, shall have permission to cross-examine all the witnesses.

ART. 24. The proceedings of the courts of inquiry shall be authenticated by the signature of the president of the court and judge-advocate, and shall, in all cases not capital, or extending to the dismission of a commissioned or warrant officer, be evidence before a court-martial, provided oral testimony cannot be obtained.

ART. 25. The judge-advocate, or person officiating as such, shall administer to the members the following oath or affirmation: "You do swear (or affirm) well and truly to examine and inquire, according to the evidence, into the matter now before you, without partiality or prejudice." After which the president shall administer to the judge-advocate, or person officiating as such, the following oath or affirmation: "You do swear (or affirm) truly to record the proceedings of this court and the evidence to be given in the case in hearing."

SEC. 2. *And be it further enacted*, That the proceeds of all ships and vessels, and the goods taken on board of them, which shall be adjudged good prize, shall, when of equal or superior force to the vessel or vessels making the capture, be the sole property of the captors; and when of inferior force, shall be equally divided between the United States and the officers and men making the capture.

SEC. 3. *And be it further enacted*, That the prize money belonging to the officers and men shall be distributed in the following manner:

First. To the commanding officer of a fleet or squadron, one twentieth part of all prize money awarded to a vessel or vessels under his immediate command.

Second. To the commander of a single ship, one tenth part of all prize money awarded to the ship, under his commander, if such ship, at the time of making the capture, was under the immediate command of the commanding officer of a fleet or squadron, and three twentienths if his ship was acting independently of such superior officer.

Third. The share of the commanding officer of the fleet or squadron, if any, and the share of the commander of the ship, being deducted, the residue shall be distributed and apportioned among all others doing duty on board, and borne upon the books, according to their respective rates of pay in the service.

Fourth. When one or more vessels of the Navy shall be within signal distance of another making a prize, all shall share in the prize, and money awarded shall be apportioned among the officers and men of the several vessels according to the rates of pay of all on board who are borne upon the books, after deducting one twentieth to the flag-officer, if there be any such entitled to share

Fifth. No commander of a fleet or squadron shall be entitled to receive any share of prizes taken by vessels not under his immediate command; nor of such prizes as may have been taken by ships or vessels intended to be placed under his command before they have acted under his immediate orders, nor shall a commander of a fleet or squadron, leaving the station where he had the command, have any share in the prizes taken by ships left on such station after he has gone out of the limits of his said command, nor after he has transferred his command to a successor.

Sixth. No officer or other person who shall have been temporarily absent on duty from the vessel, on the books of which he continued to be borne while so absent, shall be deprived, in consequence of such absence, of any prize money to which he would otherwise be entitled.

SEC. 4. *And be it further enacted*, That a bounty shall be paid by the United States for each person on board any ship or vessel-of-war belonging to an enemy at the commencement of an engagement which shall be sunk or otherwise destroyed in such engagement, by any ship or vessel belonging to the United States, or which it may be necessary to destroy in consequences of injuries sustained in action, of one hundred dollars, if the enemy's vessel was of inferior force; and of two hundred dollars, if of equal or superior force; to be divided among the officers and crew in the same manner as prize money; and when the actual number of men on board any such vessel cannot be satisfactorily ascertained, it shall be estimated according to the complement allowed to vessels of their class in the Navy of the United States; and there shall be paid as bounty to the captors of any vessel-of-war captured from an enemy, which they may be instructed to destroy, or which shall be immediately destroyed for the public interest but not in consequence of injuries received in action, fifty dollars for every person who shall be on board at the time of such capture.

SEC. 5. *And be it further enacted*, That the commanding officer of every vessel, or the senior officers of all vessels of the Navy, which shall capture or seize upon any vessel or vessels as a prize, shall carefully preserve all the papers and writings found on board, and transmit the whole of the originals, unmutilated, to the judge of the district to which such prize is ordered to proceed, with the necessary witnesses, and a report of the circumstances attending the capture, stating the names of vessels claiming a share thereof; and the commanding officer of every vessel in the Navy entitled to or claiming an award of prize money shall, as early as practicable after the capture, transmit to the Navy Department a complete list of the officers and men of his vessel entitled to share, inserting thereon the quality of every person rating, on pain of forfeiting his whole share of prize money resulting from such capture, and suffering such further punishment as a court-martial shall adjudge.

SEC. 6. *And be it further enacted*, That any armed vessel in the service of the United States which shall make a capture, or assist in a capture, under circumstances which would entitle a vessel of the Navy to prize money, shall be entitled to an award of prize money in the same manner as if such vessel belonged to the Navy; and such prize money shall be distributed and apportioned in the same manner and under the same rules and regulations as provided for persons in the naval service, and paid under the direction of the Secretary of the Navy.

SEC. 7. *And be it further enacted*, That no person in the Navy shall take out of a prize, or vessel seized as a prize, any money, plate, goods, or any part of her equipment, unless it be for the better preservation thereof, or absolutely necessary for the use of any of the vessels or armed forces of the United States, before the same shall be adjudged lawful prize by a competent court; but the whole, without fraud, concealment, or embezzlement, shall be brought in, and judgment passed thereon, upon pain that every person offending herein shall forfeit his share of the capture, and suffer such further punishment as a court-martial shall adjudge.

SEC. 8. *And be it further enacted*, That no person in the Navy shall strip off the clothes, or pillage, or in any manner maltreat, persons taken on board a prize, on pain of such punishment as a court-martial shall adjudge.

SEC. 9. *And be it further enacted*, That all ransom money, salvage, bounty, or proceeds of forfeiture or confiscation, accruing or awarded to any vessel of the Navy, shall be distributed and paid to the officers and men entitled thereto, in the same manner as prize money, under the direction of the Secretary of the Navy.

SEC. 10. *And be it further enacted*, That any person entitled to wages or prize money may have the same paid to his assignee, provided the assignment be attested by the captain and paymaster; and in case of the assignment of wages, the power shall specify the precise time they commence. But the commander of every vessel is required to discourage his crews from selling any part of their wages or prize money, and never to attest any power of attorney, until he is satisfied that the same is not granted in consideration of money given for the purchase of wages or prize money.

SEC. 11. *And be it further enacted*, That all money accruing, or which has already accrued, to the United States from sale of prizes shall be and remain forever a fund for the payment of persions to the officers, seamen, and marines who may be entitled to receive the same; and if the said fund shall be insufficient for the purpose, the public faith is hereby pledged to make up the deficiency; but if it should be more than sufficient, the surplus shall be applied to the making of further provision for the comfort of the disabled officers, seamen, and marines.

SEC. 12. *And be it further enacted*, That the district attorneys of the several districts of the courts of the United States, in which any cases of prize are or may be depending, shall, as soon as may be after the passage of this act, furnish to the Navy Department a complete list of all the prize cases which have been determined, or may still be pending within their respective districts, with a statement of the condition of each, in such form and embracing such particulars as the Secretary of the Navy may require, and shall, as often as once in each month, thereafter, furnish a further statement of the condition of every case in their respective districts, and of any further proceedings had therein since their last returns. And the Secretary of the Navy is hereby authorized to appoint an agent or to employ counsel when the captors do not employ counsel themselves, in any case in which he may consider it necessary to assist the district attorneys and protect the interests of the captors, with such compensation as he may think just and reasonable. And it shall be the duty of the several marshals of the United States to furnish to the Navy Department on request, or to its agent, a full and particular statement of the disposition of every prize vessel and cargo, in such form and with such details as the Secretary of the Navy may require, and as often as he may require the same; and said marshals shall also furnish to the Navy Department or their aforesaid agent a full and particular statement of all fees, charges, and allowances of every description, claimed by them in each case of prize, before the same are allowed by the court, and no such charges for disbursements of any kind shall be allowed, unless accompanied by the affidavit of the marshal that the same have been actually and necessarily incurred in the case; and it shall be the duty of the district attorney to attend on the settlement and allowance of all such bills and protect the interests of the United States and of the captors against any improper and unlawful claims. And whenever a final decree of condemnation shall have been made, or any interlocutory sale has been ordered, the property shall be sold by the marshal pursuant to the practice and proceedings in admiralty, and the gross proceeds of such sale shall be forthwith deposited with the assistant treasurer of the United States, at, or nearest to, the place where such sale is made, and the money so deposited shall remain in the Treasury of the United States until a final decree of distribution, or until a decree of restitution shall be made, and a certified copy thereof furnished, upon which the costs of court, and the lawful charges and expenses shall be paid, and the balance distributed according to said decree: *Provided*, That the annual salaries of district attorneys, prize commissioners, and marshals shall in no case be so increased under the several acts for compensation in prize *so* as to exceed, in the aggregate, the following sums, and any balance beyond the several sums shall be paid into the Treasury, viz: district attorneys, six thousand dollars; prize commissioners, three thousand dollars; marshals, six thousand dollars.

SEC. 13. *And be it further enacted*, That every officer, seaman, or marine, disabled in the line of his duty, shall be entitled to receive for life, or during his disability, a pension from the United States, according to the nature and degree of his disability, not exceeding in any case his monthly pay.

SEC. 14. *And be it further enacted*, That in all cases where the crews of the ships or vessels of the United States shall be separated from their vessels, by the latter being wrecked, lost, or destroyed, all the command, power, and authority given to the officers of such ships or vessels shall remain and be in full force as effectually as if such ship or vessel were not so wrecked, lost, or destroyed, until such ship's company be regularly discharged from, or ordered again into, the service, or until a court-martial or court of inquiry shall be held to inquire into the loss of such ship or vessel; and if, by the sentence of such court or other satisfactory evidence, it shall appear to the Secretary of the Navy that all or any of the officers and men of such ship's company did their utmost to preserve her, and after the loss thereof behaved themselves agreeably to the discipline of the Navy, then the pay and emoluments of such officers and men, or such of them as shall have done their duty, as aforesaid, shall go on until their discharge or death; and every officer or man who shall, after the loss of such vessel, act contrary to the discipline of the Navy, shall be punished, at the discretion of a court-martial, in the same manner as if such vessel had not been so lost.

SEC. 15. *And be it further enacted*, That all the pay and emoluments of the officers and men, of any of the ships or vessels of the United States taken by an enemy, who shall appear by the sentence of a court-martial, or otherwise, to have done their utmost to preserve and defend their ship or vessel, and after the taking thereof, have behaved themselves obediently to their superiors, agreeably to the discipline of the Navy, shall go on, and be paid them until their death, exchange, or discharge.

SEC. 16. *And be it further enacted*, That each commanding officer shall, whenever a man enters on board, cause an accurate entry to be made in the ship's books of his name, the date, place, and term of his enlistment, the place or vessel from which he was received on board, his rating, and his descriptive list to include his age, place of birth, and citizenship, with such remarks as may be necessary; and shall, before sailing, transmit to the Secretary of the Navy a complete list or muster-roll of the rated men under his command, showing the particulars above set forth, and also a list of officers and passengers with the date of their entering; and he shall cause similar lists to be made out on the first day of every third month, to be transmitted to the Secretary of the Navy, as opportunities shall occur; accounting in such lists or muster-rolls for any casualties which may have taken place since the last list or muster-roll. He shall not receive on board any man transferred from any other vessel or station to him unless such man be furnished with an account, signed by the captain and paymaster of the vessel or station from which he came, specifying the date of his entry, the period and term of service, the sums paid, the balance due him, the quality in which he was rated, and his descriptive list. He shall cause to be accurately minuted on the ship's books the names of and times at which any death or desertion may occur; and in case of death, shall take care that the paymaster secure all the property of the deceased for the benefit of his legal representative or representatives. He shall cause frequent inspections to be made into the condition of the provisions, and use every precaution for their preservation. He shall, whenever he orders officers and men to take charge of a prize and proceed to the United States, and whenever officers or men are sent from his ship, for whatever cause, take care that each man be furnished with a complete statement of his account, specifying the date of his enlistment, the periods and terms of his service, and his descriptive list; which account shall be signed by the commanding officer and paymaster. He shall cause the articles for the government of the Navy to be hung up in some public part of the ship, and read once a month to his ship's company. He shall cause a convenient place to be set apart for sick or disabled men, to which he shall have them removed, with their hammocks and bedding, when the surgeon shall so advise, and shall direct that some of the crew attend them and keep the place clean. He shall frequently consult with the surgeon in regard to the sanitary condition of his crew, and shall use all proper means to preserve their health, and when his crew is finally paid off he shall attend in person, or appoint a proper officer, to see that justice be done to the men and to the United States in the settlement of the accounts. Any commanding officer offending herein shall be punished at the discretion of a court-martial.

SEC. 17. *And be it further enacted*, That it shall be the duty of the commanding officer of any fleet, squadron, or vessel acting singly, when on service, to send to an Atlantic port of the United States in some public or other vessel, all petty officers and persons of inferior ratings desiring to go there at the expiration of their terms of service, or as soon thereafter as may be, unless in his opinion the detention of such persons for a longer period should be very essential to the public interests; in which case he may detain them or any of them until the vessel to which they belong shall return to such Atlantic port; and in case of such detention the person so sent home, or so detained, shall be subject in all respects to the laws and regulations for the government of the Navy, until their return to an Atlantic port, and their regular discharge; and all persons who shall be so detained beyond their terms of service, or who shall, after the termination of their service voluntarily reënter to serve until the return to an Atlantic port of the vessel to which they belong, and their regular discharge therefrom, shall for the time during which they are so detained, or shall so serve beyond their original terms of service, which shall in no case exceed thirty days after their arrival in an Atlantic port, receive an addition of one fourth of their former pay: *Provided*, That the shipping articles shall hereafter contain the substance of this section.

SEC. 18. *And be it further enacted*, That all officers not holding commissions or warrants, or who are not entitled to them, except such as are temporarily appointed to the duties of a commissioned or warrant officer, or secretaries and clerks, shall be deemed petty officers, and shall be entitled to obedience in the execution of their offices from those of inferior ratings.

SEC. 19. *And be it further enacted*, That the Secretary of the Navy shall cause each commissioned or warranted officer of the Navy, on his entry into the service, to be furnished with a copy of the regulations and general orders of the Department then in force, and thereafter with a copy of all such as may be issued.

SEC. 20. *And be it further enacted*, That all provisions of previous laws which are inconsistent with those of this act, shall be, and are hereby, repealed.

APPROVED, July 17, 1862.

CHAP. CCV.—An Act requiring the Commanders of American Vessels sailing to Foreign Ports and Persons prosecuting Claims, to take the Oath of Allegiance.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the commanders of all American vessels sailing from ports in the United States to foreign ports, during the continuance of the present rebellion, and all persons prosecuting claims either as attorney or on his own account, before any of the departments or bureaus of the United States, shall be required to take the oath of allegiance, and to support the Constitution of the United States, (or affirm, as the case may be,) as

required of persons in the civil service of the United States by the provisions of the act of Congress approved August sixth, eighteen hundred and sixty-one.

SEC. 2. *And be it further enacted,* That the oath or affirmation herein provided for in the first section of this act may be taken before any justice of the peace, notary public, or other person who is legally authorized to administer an oath in the State or district where the same may be administered; and that any violation of such oath by any person or persons taking the same shall subject the offender to all the pains and penalties of willful and corrupt perjury, who shall be liable to be indicted and prosecuted to conviction for any such offense before any court having competent jurisdiction thereof.

APPROVED, July 17, 1862.

PUBLIC RESOLUTIONS.

No. 1.—Joint Resolution expressive of the Recognition by Congress of the gallant and patriotic Services of the late Brigadier General Nathaniel Lyon, and the Officers and Soldiers under his command at the Battle of Springfield, Missouri.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, 1. That Congress deems it just and proper to enter upon its records a recognition of the eminent and patriotic services of the late Brigadier General Nathaniel Lyon. The country to whose service he devoted his life will guard and preserve his fame as a part of its own glory.

2. That the thanks of Congress are hereby given to the brave officers and soldiers who, under the command of the late General Lyon, sustained the honor of the flag and achieved victory against overwhelming numbers at the battle of Springfield, in Missouri; and that, in order to commemorate an event so honorable to the country and to themselves, it is ordered that each regiment engaged shall be authorized to bear upon its colors the word "Springfield," embroidered in letters of gold; and the President of the United States is hereby requested to cause these resolutions to be read at the head of every regiment in the Army of the United States.

APPROVED, December 24, 1861.

No. 2.—Joint Resolution explanatory of an Act entitled "An Act to increase the Duties on Tea, Coffee, and Sugar," approved twenty-fourth of December, eighteen hundred and sixty-one.

Be it resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Treasury be, and he is hereby, authorized and directed to permit goods warehoused at the date of the passage of "An act to increase the duties on tea, coffee, and sugar," approved December twenty-fourth, eighteen hundred and sixty-one, to be withdrawn on payment of the duties imposed by the act entitled "An act to provide an increased revenue from imports, to pay interest on the public debt, and for other purposes," approved August fifth, eighteen hundred and sixty-one; and to refund any excess of duties above those imposed by said last mentioned act, which may have been collected on such goods already withdrawn, any laws or parts of laws to the contrary notwithstanding.

APPROVED, January 11, 1862.

No. 3.—Joint Resolution authorizing Henry Sawyer to accept a Medal.

Be it resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That Henry Sawyer, consul to Surinam, be, and he is hereby, authorized to accept the medal recently transmitted to him by the King of Holland, for an act of humanity in an effort to save the life of a subject of that kingdom.

APPROVED, January 11, 1862.

No. 4.—Joint Resolution for the sale of the Ruins of the Washington Infirmary.

Be it resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the Commissioner of Public Buildings be, and hereby is, directed to sell at public auction all the material, building and otherwise, now remaining on Judiciary Square, of the late "Washington Infirmary," with the condition that the same be removed by the purchaser or purchasers within a reasonable time from the day of sale, to be fixed by the Commissioner, and the avails of said sale may be used by the Commissioner to pay for the taking care of said property since the fire, and to the improvement of said Judiciary Square, he rendering his accounts in the usual manner to the Treasury for the same.

APPROVED, January 18, 1862.

No. 5.—Joint Resolution authorizing the Secretary of the Treasury to transfer certain balances of an Appropriation for Printing of the Second Session of the Thirty-Sixth Congress to the sum appropriated for the First Session of the Thirty-Sixth Congress.

Whereas the appropriation for supplying the deficiencies in the appropriations for printing ordered to be executed by the first session of the Thirty-Sixth Congress has been exhausted, leaving a balance to be provided for of five thousand six hundred and eight dollars and seventy-one cents, and said printing having been completed; and whereas there remains of the appropriation for printing ordered at the second session of the Thirty-Sixth Congress a balance of twenty-five thousand six hundred and eight dollars and fifty-five cents, which will not be required, as the printing for the second session Thirty-Sixth Congress has been completed and paid for: Therefore,

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Treasury be directed to transfer from the balance of the appropriation now standing to the credit of said appropriation on the books of the Treasury for printing for the second session Thirty-Sixth Congress, a sum sufficient to meet the outstanding claim for printing for the first session Thirty-Sixth Congress.

APPROVED, January 21, 1862.

No. 6.—Joint Resolution declaratory of the purposes of Congress to impose a Tax.

Be it resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That, in order to pay the ordinary expenses of the Government, the interest on the national loans, and have an ample sinking fund for the ultimate liquidation of all public debts, a tax shall be imposed which shall, with the tariff on imports, secure an annual revenue of not less than one hundred and fifty million dollars.

APPROVED, January 21, 1862.

No. 7.—A Resolution authorizing certain Officers of the Navy to accept Presents offered by the Japanese Government.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That Captain W. W. McKean, commander of the United States steam frigate Niagara, and such of the officers of that vessel during her late voyage to Japan, and other officers of the Navy as may yet remain in the service of the United States, be authorized to accept the presents recently transmitted to this Government for presentation to them by the Government of Japan.

APPROVED, January 25, 1862.

No. 8.—A Resolution for payment of the Expenses of the Joint Committee of Congress appointed to inquire into the Conduct of the War.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the sum of ten thousand dollars, or so much thereof as may be necessary, be, and the same is hereby, appropriated, to pay the expenses of the joint committee of Congress, appointed to inquire into the conduct of the present war; and that said sum shall be drawn from the Treasury, upon the order of the Secretary of the Senate, as the same shall be required from time to time by the committee having such investigation in charge.

APPROVED, January 27, 1862.

No. 9.—A Resolution in relation to Allotment Certificates of Pay to persons held as Prisoners of War in the so-called confederate States.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of War be authorized to procure from such officers and enlisted men of the United States Army as are now or hereafter may be held as prisoners of war in the so-called confederate States, from time to time, their respective allotments of their pay to their families or friends, certified by them in writing, and only attested in pursuance of such orders as may be made for that purpose by the Secretary of War, and upon which certified allotment the said Secretary of War shall cause drafts to be made payable in the city of New York, or Boston, to the order of such persons to whom said allotments were, or may be made, and to remit said drafts to the address of such person as may be designated in said allotment tickets.

APPROVED, February 6, 1862.

No. 10.—A Resolution for the collection of War Statistics.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That, in order to develope, concentrate, and bring into effective action the mechanical and other resources of the United States, for the suppression of the rebellion and the future defense of this Government, the Superintendent of the Census be authorized to furnish the Secretary of War with such war statistics as from time to time the Secretary may judge necessary for the use of his Department.

APPROVED, February 22, 1862.

No. 11.—A Resolution tendering the Thanks of Congress to Captain Samuel F. Du Pont, and Officers, Petty Officers, Seamen, and Marines under his command, for the Victory at Port Royal.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the thanks of Congress be, and they are hereby, tendered to Captain Samuel F. Du Pont, and through him to the officers, petty officers, seamen, and marines attached to the squadron under his command, for the decisive and splendid victory achieved at Port Royal, on the seventh day of November last.

APPROVED, February 22, 1862.

No. 12.—A Resolution giving the Thanks of Congress to the Officers, Soldiers, and Seamen of the Army and Navy, for their Gallantry in the recent brilliant Victories over the enemies of the Union and the Constitution.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the thanks of Congress are due, and are hereby tendered to the officers, soldiers, and seamen of the Army and Navy of the United States, for the heroic gallantry that, under the Providence of Almighty God, has won the recent series of brilliant victories over the enemies of the Union and the Constitution.

APPROVED, February 22, 1862.

No. 13.—A Resolution for the Relief of the loyal portion of the Creek, Seminole, Chickasaw, and Choctaw Indians.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior be authorized to pay out of the annuities payable to the Seminoles, Creeks, Choctaws, and Chickasaws, and which have not been paid in consequence of the cessation of intercourse with those tribes, so much of the same as may be necessary to be applied to the relief of such portions of said tribes as have remained loyal to the United States, and have been or may be driven from their homes in the Indian Territory into the State of Kansas or elsewhere.

APPROVED, February 22, 1862.

No. 14.—A Resolution providing a Stenographer for the Joint Committee appointed to inquire into the Conduct of the War.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the joint committee on the conduct of the present war be authorized to employ a stenographer, who shall be paid by the Secretary of the Senate out of the money already appropriated to meet the expenses of said committee, at the same rate of compensation as that received by the reporters for the Congressional Globe.

APPROVED, February 22, 1862.

No. 15.—Joint Resolution in relation to certain Railroads in the State of Missouri.

Whereas, by the fourth section of an act of Congress entitled "An act granting the right of way to the State of Missouri, and a portion of the public lands to aid in the construction of certain railroads in said State," approved June the tenth, eighteen hundred and fifty-two, it is provided as follows: "That the said lands, hereby granted to the said State, shall be subject to the disposal of the Legislature thereof, for the purposes aforesaid and no other; and the said railroads shall be and remain public highways for the use of the Government of the United States, free from toll or other charge upon the transportation of any property or troops of the United States;" and whereas the said grant of lands has, by virtue of said act, and of an act of the Legislature of the State of Missouri, been applied in the construction of the Hannibal and Saint Joseph railroad, constructed and owned by the Hannibal and Saint Joseph Railroad Company, and the Pacific railroad by the Pacific Railroad Company, which last mentioned road is finished and running from St. Louis to Rolla; and whereas the ability of said railroad companies to transport the property and troops of the United States over their respective railroads has been greatly impaired by the destruction of bridges, depots, and other property of said companies, and the partial destruction of said roads, and in view of the pressing public necessities, the United States, not waiving the right to have their property and troops transported free from toll or other charge by said railroads, as contemplated by the reservation aforesaid, have resolved as follows: Therefore,

Be it resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of War is hereby authorized to make such an adjustment with the Hannibal and Saint Joseph Railroad Company and the Pacific Railroad Company, for the transportation, past and prospective, of the property and troops of the United States, over said railroads, during the existence of this rebellion, as in view of the public exigency may be just and reasonable, and liquidate the same: *Provided, however*, That the sums paid to said companies shall be as near as may be the cost of transporting such property and troops, and not exceeding the prices fixed by the War Department on the twelfth day of July, eighteen hundred and sixty-one, for transportation by railroads, which adjustment and liquidation shall preclude any further claim on behalf of such companies against the Government for compensation or damages previously accrued, or for the military occupation of the said roads by the United States Government up to the time of the passage of this act: *And provided further*, That the Secretary of War may, in his discretion, withhold from time to time such portion of the moneys which may be due to either of said railroad companies, to indemnify the Government against any failure of such company, to promptly transport such troops and supplies; but nothing herein shall be so construed as to prevent the Secretary of War from taking possession of said railroads and their appurtenances, and applying the same to the exclusive use of the Government whenever, in his judgment, the public interests may require it, without, in such case, compensation to said companies.

APPROVED, March 6, 1862.

No. 16.—A Resolution declaratory of the Intent and Meaning of a certain Act therein named.

Whereas doubts have arisen as to the true intent and meaning of act numbered eighteen, entitled "An act to indemnify the States for expenses incurred by them in defense of the United States," approved July twenty-seven, eighteen hundred and sixty-one:

Be it resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the said act shall be construed to apply to expenses incurred as well after as before the date of the approval thereof.

APPROVED, March 8, 1862.

No. 18.—A Resolution providing for the Payment of the Awards of the Commission to investigate the military Claims in the Department of the West.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That all sums allowed to be due from the United States to individuals, companies, or corporations, by the Commission heretofore appointed by the Secretary of War, (for the investigation of military claims against the Department of the West,) composed of David Davis, Joseph Holt, and Hugh Campbell, now sitting at St. Louis, Missouri, shall be deemed to be due and payable, and shall be paid by the disbursing officers, either in St. Louis or Washington, in each case, upon the presentation of the voucher with the Commissioners' certificate thereon, in any form, plainly indicating the allowance of the claim and to what amount. This resolution shall apply only to claims and contracts for service, labor, or materials, and for subsistence, clothing, transportation, arms, supplies, and the purchase, hire, and construction of vessels.

APPROVED, March 11, 1862.

No. 19.—A Resolution to amend an Act entitled "An Act to carry into effect Conventions between the United States and the Republics of New Granada and Costa Rica."

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the act entitled "An act to carry into effect conventions between the United States and the Republics of New Granada and Costa Rica," approved the twentieth day of February, eighteen hundred and sixty-one, be amended in its sixth and thirteenth sections, so that when a witness refuses or is unwilling to testify, under the provisions of the said act, the proceedings to compel his testimony may be at the suggestion of either party, instead of at the suggestion of any claimant, as is provided in the said act.

APPROVED, March 15, 1862.

No. 20.—A Resolution providing for the Custody of the Letter and Gifts from the King of Siam.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the letter from His Majesty the Major King of Siam to the President of the United States and the accompanying gifts, be deposited in the collection of curiosities at the Department of the Interior.

APPROVED, March 15, 1862.

No. 21.—Joint Resolution authorizing the Secretary of the Navy to inquire into the Causes of the Failure of certain Contracts for steam Machinery, and to remit Penalties connected therewith.

Be it resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Navy be, and he hereby is, authorized and empowered to inquire into the circumstances attending the failure of certain contractors for building steam machinery, to deliver the same within the time specified in their several contracts; and to remit the whole of the penalties for such failure, or a part thereof, as to him may seem just and equitable.

APPROVED, March 17, 1862

No. 22.—A Resolution to authorize the Secretary of War to accept Moneys appropriated by any State for the Payment of its Volunteers, and to apply the same as directed by such State.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That if any State during the present rebellion shall make any appropriation to pay the volunteers of that State, the Secretary of War is hereby authorized to accept the same, and cause it to be applied by the paymaster general to the payments designated by the legislative act making the appropriation, in the same manner as if appropriated by act of Congress; and also to make any regulations that may be necessary for the disbursement and proper application of such funds to the specific purpose for which they may be appropriated by the several States.

APPROVED, March 19, 1862.

No. 23.—A Resolution expressive of the Thanks of Congress to Captain A. H. Foote, of the United States Navy, and to the Officers and Men under his command in the Western Flotilla.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the thanks of Congress and of the American people are due, and are hereby tendered, to Captain A. H. Foote, of the United States Navy, and to the officers and men of the western flotilla under his command, for the great gallantry exhibited by them in the attacks upon Forts Henry and Donaldson, for their efficiency in opening the Tennessee, Cumberland, and Mississippi rivers to the pursuits of lawful commerce, and for their unwavering devotion to the cause of the country in the midst of the greatest difficulties and dangers.

APPROVED, March 19, 1862.

No. 24.—Joint Resolution for the appointment of Theodore D. Woolsey, of Connecticut, a Regent of the Smithsonian Institution, in place of Cornelius C. Felton, deceased.

Be it resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the vacancy in the board of regents of the Smithsonian Institution, of the class other than members of Congress, caused by the decease of Cornelius C. Felton, be filled by the appointment of Theodore D. Woolsey, of Connecticut.

APPROVED, April 2, 1862.

No. 25.—A Resolution to authorize the President to assign the Command of Troops in the same Field or Department to Officers of the same Grade without regard to Seniority.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That whenever military operations may require the presence of two or more officers of the same grade in the same field or department, the President may assign the command of the forces in such field or department without regard to seniority of rank.

APPROVED, April 4, 1862.

No. 26.—Joint Resolution declaring that the United States ought to coöperate with, affording pecuniary aid to any State which may adopt the gradual Abolishment of Slavery.

Be it resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the United States ought to coöperate with any State which may adopt gradual abolishment of slavery, giving to such State pecuniary aid, to be used by such State in its discretion, to compensate for the inconveniences, public and private, produced by such change of system.

APPROVED, April 10, 1862.

No. 27.—Joint Resolution authorizing the Secretary of the Navy to test plans and materials for rendering Ships and Floating Batteries invulnerable.

Be it resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Navy be, and he hereby is, authorized to expend, out of any money in the Treasury not otherwise appropriated, a sum not exceeding twenty-five thousand dollars, for the purpose of testing plans and materials for rendering ships or floating batteries invulnerable.

APPROVED, April 10, 1862.

No. 28.—A Resolution transferring the Supervision of the Capitol Extension and the erection of the new Dome to the Department of the Interior.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the supervision of the Capitol extension and the erection of the new dome be, and the same is hereby, transferred from the War Department to the Department of the Interior. And all unexpended money which has been heretofore appropriated, and all money which may be hereafter appropriated for either of the improvements heretofore mentioned, shall be expended under the direction and supervision of the Secretary of the Interior: *Provided*, That no money heretofore appropriated shall be expended upon the Capitol until authorized by Congress, except so much as is necessary to protect the building from injury by the elements and to complete the dome.

APPROVED, April 16, 1862.

No. 29.—Joint Resolution to supply the Smithsonian Institution with volumes of Wilkes's Exploring Expedition.

Be it resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the officer in charge of the Library of Congress be, and he is hereby, directed to furnish to the officer in charge of the Smithsonian Institution a copy of each of the volumes of the exploring expedition of Captain Wilkes, now in the possession of the library.

APPROVED, April 24, 1862.

No. 30.—A Resolution explanatory of and in addition to the Act of June third, eighteen hundred and fifty-six, granting public lands to the State of Wisconsin to aid in the construction of Railroads in said State.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the word "northerly," in the first section of the act entitled "An act granting public lands to the State of Wisconsin to aid in the construction of railroads in said State," approved June third, eighteen hundred and fifty-six, shall, without forfeiture to said State or its assigns of any rights or benefits under said act, or exemption from any of the conditions or obligations imposed thereby, be construed to authorize the location of the line of railroad in said first section provided for, upon any eligible route within ranges sixteen to twenty-three, inclusive, east of the fourth principal meridian. And the line of railroad as now located according to the records of the General Land Office in pursuance of said act is hereby authorized to be changed to within the above specified limits: *Provided, however*, That upon the construction of said railroad upon the new line, or of a sufficient part thereof, according to the terms of said act, the State of Wisconsin, its grantees or assigns, shall receive upon the route originally located, and in the manner prescribed by the act, the same quantity of lands, and no more or other, except as hereinafter provided for, as it or they would have received if such railroad had been constructed upon the line originally located.

SEC. 2. *And be it further resolved*, That there be, and is hereby, granted to the State of Wisconsin, for the purpose of aiding in the construction of a railroad from the town of Appleton, in said State, to some point on Green Bay, at or near the mouth of Fox river, in said State, so much of the public lands of the United States lying at or near the mouth of said river, in the county of Brown and State of Wisconsin, known as the Fort Howard Military Reserve, as may be required for right of way, tracks, turnouts, depots, workshops, warehouses, wharves, and other railroad uses, not exceeding eighty acres, to be so selected by the State of Wisconsin or her assigns as to exclude the fort therefrom: *Provided, however*, That if no railroad be constructed and in running order between the termini in this section mentioned within three years from the passage of this joint resolution, then this grant shall be void.

SEC. 3. *And be it further resolved*, That the Secretary of the Interior be, and he is hereby, authorized to cause all even sections or parts of even sections of public land that may be brought within six miles of the new line of railroad, as herein provided for, to be sold at the same price and in the same manner as those have been upon the originally located route of railroad. And all purchasers, or their heirs or assigns, within the six-mile limits of the said originally located route, who shall be more than six miles from the new line of route herein authorized, and who have paid the sum of two dollars and fifty cents an acre, shall have the right either to exchange their locations upon the line as first established to the new line, upon the same terms, in like quantities, and in the same manner, as on the line first established as aforesaid, or, at their option, to enter without further payment, anywhere within the Menasha land district, in the State of Wisconsin, an additional quantity of public lands subject to private entry at one dollar and twenty-five cents an acre equal to the quantity entered by them at two dollars and fifty cents an acre, so that the lands originally entered by them shall thus be reduced to the rate of one dollar and twenty-five cents an acre.

SEC. 4. *And be it further resolved*, That the even sections of public lands reserved to the United States by the aforesaid act of June third, eighteen hundred and fifty-six, along the originally located route of railroad north of the said town of Appleton, and along which no railroad has been constructed, shall hereafter be sold at one dollar and twenty-five cents an acre.

APPROVED, April 25, 1862.

No. 32.—Joint Resolution relating to the time of holding the Second Session of the Legislative Assembly of the Territory of Colorado.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the second session of the Legislative Assembly of the Territory of Colorado, now fixed by law for the first Monday of June, one thousand eight hundred and sixty-two, shall be postponed by proclamation of the Governor of said Territory until the first Monday in July, A. D. one thousand eight hundred and sixty-two.

APPROVED, May 21, 1862.

No. 34.—A Joint Resolution authorizing the payment of certain Moneys heretofore appropriated for the completion of the Washington Aqueduct.

Whereas by act of Congress, approved June twenty-five, eighteen hundred and sixty, there was appropriated for the completion of the Washington Aqueduct five hundred thousand dollars, to be expended according to the plans and estimates of Captain Meigs and under his superintendence; and whereas, while the work was in progress and before it was completed, Captain Meigs was removed from such superintendence, and certain parties have claims for work done and materials furnished to and for the completion of said aqueduct which have not been paid: Therefore,

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the superintendent of the Washington Aqueduct be, and he is hereby, authorized to pay to Robert McIntyre and others, according to the amount of their respective claims, for work done and materials furnished for the Washington Aqueduct, under the direction of Captain H. W. Benham and Lieutenant James St. C. Morton, such sum of money as may be necessary, not to exceed five thousand six hundred and six dollars and sixty cents, out of the sum of money heretofore appropriated as aforesaid: *Provided*, That no sum or sums of money shall be paid under this resolution except such as shall be certified to be just and equitable by General M. C. Meigs.

APPROVED, June 14, 1862.

No. 35.—Joint Resolution to change the Name of the Barque "Quebec" to the "General Burnside."

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the name of the barque "Quebec," late of Kingston, Canada, be changed to that of "General Burnside," of Clayton, New York, and that the Secretary of the Treasury be authorized to issue a register therefor.

APPROVED, June 17, 1862.

No. 36.—Joint Resolution transferring [the] supervision of [the] Potomac Water-Works to the Department of the Interior.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the supervision of the Potomac water-works be, and the same is hereby, transferred from the War Department to the Department of the Interior. And all unexpended money which has been heretofore appropriated, and all money which may be hereafter appropriated, for the completion of said water-works, shall be expended under the direction and supervision of the Secretary of the Interior.

APPROVED, June 18, 1862.

No. 37.—A Resolution to encourage Enlistments in the Regular Army and Volunteer Forces.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That so much of the ninth section of the act approved August third, eighteen hundred and sixty-one, entitled "An act [providing] for the better organization of the military establishment," as abolishes the premium paid for bringing accepted recruits to the rendezvous, be, and the same is hereby, repealed, and hereafter a premium of two dollars shall be paid to any citizen, non-commissioned officer or soldier for such accepted recruit for the regular Army he may bring to the rendezvous. And every soldier who hereafter enlists, either in the regular Army or the volunteers, for three years or during the war, may receive his first month's pay in advance, upon the mustering of his company into the service of the United States, or after he shall have been mustered into and joined a regiment already in the service.

APPROVED, June 21, 1862.

No. 38.—Joint Resolution relative to a certain Grant of Land for Railroad Purposes, made to the State of Michigan in eighteen hundred and fifty-six.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the words "Wisconsin State line," in the first section of an act entitled "An act making a grant of lands to the State of Michigan, in alternate sections, to aid in the construction of railroads in said State," approved June third, eighteen hundred and fifty-six, shall, without forfeiture to said State or its assigns of any rights or benefits under said act, or exemption from any of the conditions or obligations imposed thereby, be construed to authorize the location of the line of railroad provided for in said act from Marquette, on Lake Superior, to the Wisconsin State line, upon any eligible route from the township of Marquette aforesaid, to a point on the Wisconsin State line, near the mouth of the Menomonee river, and touching at favorable points on Green Bay, with a view of securing a railroad available for military purposes from Green Bay to the waters of Lake Superior. And the line of railroad as now located in pursuance of said act from Marquette to the Wisconsin State line, according to the records of the General Land Office, is hereby authorized to be changed so as to conform to the route above indicated; which line, when surveyed and the maps and plans thereof filed in the proper office, as required under said act of June third, eighteen hundred and fifty-six, shall confer the same rights upon and benefits to the State of Michigan and its assigns in said new line, as though the same had been originally located under said act.

SEC. 2. *And be it further resolved*, That the provisions of an act of Congress, approved August fourth, eighteen hundred and fifty-two, entitled "An act to grant the right of way to all rail and plank roads and McAdamized turnpikes passing through the public lands belonging to the United States," be, and the same are hereby, extended so as to be applicable to the new line of railroad so as above to be located: *Provided*, The same shall be commenced within two years from the fourth day of August, eighteen hundred and

sixty-two, and shall be completed within five years thereafter.

SEC. 3. *And be it further resolved*, That the Secretary of the Interior be, and he is hereby, authorized to cause all even sections or parts of even sections of public lands that may be brought within six miles of the new line of railroad, as herein provided for, to be sold at the same price and in the same manner those have or might have been, according to the said act of June third, eighteen hundred and fifty-six, upon the originally located route of railroad. And all purchasers, or their heirs or assigns, within the six mile limits of said originally located route, who shall be more than six miles from the new line of route hereby authorized, and who have paid the sum of two dollars and fifty cents an acre, shall have the right either to exchange their locations upon the line as first established to the new line upon the same terms, in like quantities, and in the same manner, as on the line first established, as aforesaid, or at their option to enter, without further payment, anywhere within the Marquette land district, in the State of Michigan, or that of the Grand Traverse land district, in said State, lying north or west of Lake Michigan, an additional quantity of public lands subject to private entry, at one dollar and twenty-five cents an acre, equal to the quantity entered by them at two dollars and fifty cents per acre, so that the lands originally entered by them shall be thus reduced to the rate of one dollar and twenty-five cents an acre.

SEC. 4. *And be it further resolved*, That the even sections of public lands reserved to the United States by the aforesaid act of June third, eighteen hundred and fifty-six, along the originally located route of the Marquette and Wisconsin State Line Railroad Company, except where such sections shall fall within six miles of the new line of road so as aforesaid proposed to be located, and along which no railroad has been constructed, shall hereafter be subject to sale at one dollar and twenty-five cents per acre.

SEC. 5. *And be it further resolved*, That upon the filing in the General Land Office of the lists of said railroad lands, in whole or in part, as now selected and certified in the General Land Office, with the certificate of the Governor of the State of Michigan, under the seal of the State, that said State and its assigns surrender all claim to the lands, as aforesaid, set forth and described in the lists thereof thus certified, and that the same have never been pledged or sold or in anywise incumbered, then the State of Michigan or its assigns shall be entitled to receive a like quantity of land, selected in like manner, upon the new line of road as thus surrendered upon the first line, and to the extent of six sections per mile in the aggregate for every mile of the new line, according to the general provisions of the act of June third, eighteen hundred and fifty-six. And it shall be the duty of the Commissioner of the General Land Office to reoffer for public sale, in the usual manner, the lands embraced in the lists of surrendered lands aforesaid, when duly filed in his office, as herein directed.

APPROVED, July 5, 1862.

No. 39.—A Resolution tendering the Thanks of Congress to Captain Louis M. Goldsborough, and Officers, Petty Officers, Seamen, and Marines under his command, for the Victory at Roanoke Island.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the thanks of Congress be, and they are hereby, tendered to Captain Louis M. Goldsborough, and through him to the officers, petty officers, seamen, and marines attached to the squadron under his command, for the brilliant and decisive victory achieved at Roanoke Island on the seventh, eighth, and tenth days of February last.

APPROVED, July 11, 1862.

No. 40.—A Resolution expressive of the Thanks of Congress to Lieutenant J. L. Worden, of the United States Navy, and to the Officers and Men under his command in the Monitor.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the thanks of Congress and of the American people are due and are hereby tendered to Lieutenant J. L. Worden, of the United States Navy, and to the officers and men of the iron-clad gunboat Monitor, under his command, for the skill and gallantry exhibited by them in the late remarkable battle between the Monitor and the rebel iron-clad steamer Merrimack.

SEC. 2. *And be it further resolved*, That the President of the United States be requested to cause this resolution to be communicated to Lieutenant Worden, and through him to the officers and men under his command.

APPROVED, July 11, 1862.

No. 41.—A Resolution of Thanks to Captain David G. Farragut, of the United States Navy, and to the Officers and Men under his command.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the thanks of the people and of the Congress of the United States are due and are hereby tendered to Captain David G. Farragut, of the United States Navy, and to the officers and men under his command, composing his squadron in the Gulf of Mexico, for their successful operations on the lower Mississippi river, and for their gallantry displayed in the capture of Forts Jackson and St. Philip, and the city of New Orleans, and in the destruction of the enemy's gunboats and armed flotilla.

SEC. 2. *And be it further resolved*, That the Secretary of the Navy be directed to communicate this resolution to Captain Farragut, and through him to the officers and men under his command.

APPROVED, July 11, 1862.

No. 42.—A Resolution for the Relief of the Officers, Non-Commissioned Officers, and Privates of the Battalion of Marines on board the Transport Governor on the third of November, 1861.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the sum of seven thousand one hundred and sixty-three dollars and fifty-one cents be, and the same is hereby, appropriated, out of any money in the Treasury not otherwise appropriated, to compensate the officers, non-commissioned officers, and privates who composed the marine battalion attached to the Port Royal naval expedition under Flag-Officer Du Pont, for the losses of their personal effects by the foundering of the steamer Governor, in which they were embarked, on the third of November last; and that the Secretary of the Navy cause the said sum, or so much thereof as may be necessary, to be paid to them according to the estimated value of their personal effects lost in the manner aforesaid.

APPROVED, July 11, 1862.

No. 43.—A Resolution to compensate the Crew of the United States Steamer Varuna, for Clothing and other Property lost in the public service.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the proper accounting officers of the Treasury be, and they are hereby, authorized, in settling the accounts of the petty officers, seamen, and others of the crew of the United States steamer Varuna, which was sunk during the engagement near New Orleans on or about the twenty-fourth day of April, eighteen hundred and sixty-two, to credit each of them with the amount of sixty dollars to cover their losses of bedding, clothing, and other property, occasioned by the sinking of the said steamer.

APPROVED, July 11, 1862.

No. 44.—Joint Resolution providing for the distribution of Surplus Copies of the Biennial Register for eighteen hundred and sixty-one among the several Bureaus in the Executive Departments.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior be, and he is hereby, authorized and directed to distribute to each of the several bureaus in the Executive Department[s] one or more copies of the Biennial Register for eighteen hundred and sixty-one and eighteen hundred and sixty-two, from the surplus copies now deposited in the Interior Department: *Provided*, That the number of copies delivered to any one bureau shall not exceed two copies.

APPROVED, July 11, 1862.

No. 51.—A Resolution to suspend all Payments under the Act approved twenty-fifth of March, eighteen hundred and sixty-two, entitled "An Act to secure to the Officers and Men actually employed in the Western Department or Department of Missouri, their Pay, Bounty, and Pension," and for other purposes.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of War be, and he is hereby, authorized and directed to suspend all payments under the act approved twenty-fifth March, eighteen hundred and sixty-two, entitled "An act to secure to the officers and men actually employed in the western department, or department of Missouri, their pay, bounty, and pension;" and that there shall be appointed by the President, immediately after the passage of this resolution, by and with the advice and consent of the Senate, three commissioners, to examine all claims arising under the provisions of that act, and report the same, with the facts connected therewith, to the Secretary of War; said commissioners to have such compensation for their services as the Secretary of War may consider just and reasonable: *Provided*, That said commissioners shall be required to examine and report within sixty days after the passage of this resolution upon all such claims as may be presented by persons claiming to have been organized or employed in the State of Missouri, and to have performed service according to the provisions of the said recited act, whereupon payments shall be made as recommended by said commissioners, and as required by said act: *And provided further*, That within ninety days from the passage of this resolution the said commissioners shall examine and report upon all other claims arising under the act aforesaid, when payments shall be made as herein prescribed.

APPROVED, July 12, 1862.

No. 52.—A Resolution to provide for the presentation of "Medals of Honor" to the Enlisted Men of the Army and Volunteer Forces who have distinguished or may distinguish themselves in Battle during the present Rebellion.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the President of the United States be, and he is hereby, authorized to cause two thousand "medals of honor" to be prepared with suitable emblematic devices, and to direct that the same be presented, in the name of Congress, to such non-commissioned officers and privates as shall most distinguish themselves by their gallantry in action, and other soldier-like qualities during the present insurrection. And that the sum of ten thousand dollars be, and the same is hereby, appropriated, out of any money in the Treasury not otherwise appropriated, for the purpose of carrying this resolution into effect.

APPROVED, July 12, 1862.

No. 53.—A Resolution in relation to Contracts with the United States.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That it shall be the duty of the several Executive Departments of the Government to publish in one of the daily newspapers of the city of Washington, of Tuesday of each week, a list of all contracts which shall have been solicited or proposed to each, respectively, during the week next preceding, which list shall state briefly the subject matter of each contract so solicited or proposed to be made, its terms, the name of the proposed contractor and of all persons known to be interested therein, directly or indirectly, and of all persons who solicit, request, or recommend the making of any such contract: *Provided*, That the foregoing provision shall not be applicable to bids made in pursuance of advertisements for contracts or purchases made under existing laws,

but shall apply to all proposed modifications of existing contracts.

APPROVED, July 12, 1862.

No. 54.—A Resolution relating to the Compensation of Senators elected or appointed to fill vacancies.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That in all cases of a vacancy in either House of Congress, by death or otherwise, of any member elected or appointed thereto, after the commencement of the Congress to which he shall have been elected, each person afterwards elected or appointed to fill such vacancy shall be compensated and paid from the time that the compensation of his predecessor ceased: *Provided*, That no member shall receive for his compensation more than three thousand dollars for any one year.

APPROVED, July 12, 1862.

No. 55.—A Joint Resolution authorizing the Secretary of War to furnish extra Clothing to Sick, Wounded, and other Soldiers.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of War be, and he is hereby, authorized to furnish extra clothing to all sick, wounded, and other soldiers who may have lost the same by the casualties of war, under such rules and regulations as the Department may prescribe, during the existence of the present insurrection.

APPROVED, July 12, 1862.

No. 56.—A Joint Resolution authorizing the State of Minnesota to change the line of certain Branch Railroads in said State, and for other purposes.

Whereas by an act of Congress, approved March third, eighteen hundred and fifty-seven, there was granted to the Territory of Minnesota lands to aid in the construction of a railroad from Stillwater, via St. Paul and St. Anthony, to a point between the foot of Big Stone Lake and the mouth of Sioux Wood river, with a branch, via St. Cloud and Crow Wing, to the navigable waters of the Red River of the North, and the northern terminus of which was fixed by the Legislature of said Territory at St. Vincent; and whereas it is now believed that the public interests require a change of location of a part of said branch road: Therefore,

Be it resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That in lieu of that part of the railroad grant to Minnesota Territory by act of Congress, approved third March, eighteen hundred and fifty-seven, which extends northwesterly from the intersection of the tenth standard parallel with the fourth guide meridian, there shall be granted to the State of Minnesota the alternate sections within six mile limits of such new branch line of route as the authorities of the State may designate, having its southwestern terminus at any point on the existing line, between the Falls of Saint Anthony and Crow Wing, and extending in a northeasterly direction to the waters of Lake Superior, with a right of indemnity between the fifteen mile limits thereof, provided this resolution shall take effect from the filing in the General Land Office of the acceptance by the authorities aforesaid of such substitution; whereupon the land north of the intersection aforesaid in the grant as authorized by the said act of third March, eighteen hundred and fifty-seven, being by said acceptance disincumbered of the railroad grant, shall be dealt with as other public lands of the United States.

APPROVED, July 12, 1862.

No. 57.—A Resolution to change the Name of the Schooner Sally McGee to that of Ocean Eagle.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the name of the schooner Sally McGee, late of Baltimore, Maryland, be, and the same is hereby, changed to that of the Ocean Eagle, of Perth Amboy, New Jersey, and that the Secretary of the Treasury be, and he is hereby, directed to issue a register therefor.

APPROVED, July 14, 1862.

No. 58.—Joint Resolution to declare the meaning of "An Act to authorize the President of the United States in certain cases to take possession of Railroad and Telegraph Lines, and for other purposes," approved January thirty-first, eighteen hundred and sixty-two, and to repeal a part of said Act.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That an act entitled "An act to authorize the President of the United States in certain cases to take possession of railroad and telegraph lines, and for other purposes," approved January thirty-first, eighteen hundred and sixty-two, shall not be so construed as to authorize the construction of any railroad, or the completion of any line of road, the greater part of which remained uncompleted at the time of the approval of said act, or to engage in any work of railroad construction. And so much of said act as authorizes the President of the United States to extend and complete any railroad is hereby repealed.

APPROVED, July 14, 1862.

No. 59.—Joint Resolution to grant Pensions to Masters and other Officers upon the Gunboats in the service of the United States.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the masters serving on board of gunboats employed in the service of the United States shall be entitled to all the benefits, including bounty and pension, provided for in an act entitled "An act to grant pensions," passed during the present session of Congress, and the widows, mothers, and heirs of such officers shall be entitled to all the benefits of said act.

APPROVED, July 16, 1862.

No. 60.—Joint Resolution tendering the Thanks of Congress to Captain Andrew H. Foote, of the United States Navy.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the thanks of Congress be, and the same are hereby, tendered to Captain Andrew H. Foote, of the United States Navy, for his eminent services and gallantry at Fort Henry, Fort Donelson, and Island No. Ten, while in command of the naval forces of the United States.

And be it further resolved, That the President of the United States be, and he is hereby, requested to transmit a certified copy of the foregoing resolution to Captain Foote.

APPROVED, July 16, 1862.

No. 61.—Joint Resolution requiring the Superintendent of Metripolitan Police to pay over certain Moneys collected for Fines and Penalties, to constitute a Contingent Fund for certain purposes.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the superintendent of metripolitan police of the District of Columbia shall pay over all such moneys as may be paid to him under the act of Congress entitled "An act to provide for the payment of fines and penalties collected by or paid the justices of the peace in the District of Columbia, under the acts of Congress, approved the third and fifth of August, eighteen hundred and sixty-one, and for other purpose[s]," to the treasurer of the Board of said Metripolitan Police, in whose hands the same shall constitute a "contingent fund" to be disbursed under the order, and for such purposes as the said Board of Police may direct.

APPROVED, July 16, 1862.

No. 62.—A Resolution regulating the employment of Convicts in the Penitentiary of the District of Columbia for their improvement and benefit.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the warden of the penitentiary of the District of Columbia shall, so far as may be practicable, employ the convicts therein in the manufacture of shoes for the use of the Army and Navy, to be made as the War and Navy Departments shall direct; orders for which shall be, by said Departments, given to the warden from time to time upon his request; the shoes to be paid for by said Departments ordering the same at the customary rate for shoes of like quality.

SEC. 2. *And be it further resolved*, That all prisoners that may hereafter be confined in said penitentiary for a term of years, who conduct themselves so that no charge for misconduct shall be sustained against them, shall have a deduction of one month in each year made from the term of their sentence, and shall be entitled to their discharge so much the sooner, upon the certificate of the warden of their good conduct, with the approval of the Secretary of the Interior.

APPROVED, July 17, 1862.

No. 63.—Joint Resolution explanatory of "An Act to suppress Insurrection, to punish Treason and Rebellion, to seize and confiscate the Property of Rebels, and for other purposes."

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the provisions of the third clause of the fifth section of "An act to suppress insurrection, to punish treason and rebellion, to seize and confiscate the property of rebels, and for other purposes," shall be so construed as not to apply to any act or acts done prior to the passage thereof; nor to include any member of a State Legislature, or judge of any State court, who has not in accepting or entering upon his office, taken an oath to support the constitution of the so-called "confederate States of America;" nor shall any punishment or proceedings under said act be so construed as to work a forfeiture of the real estate of the offender beyond his natural life.

APPROVED, July 17, 1862.

No. 64.—Joint Resolution to amend section seventy-seven of "An Act to provide Internal Revenue to support the Government and to pay Interest on the Public Debt," and for other purposes.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That section seventy-seven of an act entitled "An act to provide internal revenue to support the Government and to pay interest on the public debt," be, and the same is hereby, amended by striking out the word "May" and inserting "August."

SEC. 2. *And be it further resolved*, That all the sections of an act entitled "An act to provide internal revenue to support the Government and to pay interest on the public debt," which require any matter or thing to be done on or before the first day of July or August, eighteen hundred and sixty-two, shall be so amended and changed that said matters or things may be so done on or before any other day in the year eighteen hundred and sixty-two not later than the first day of October, eighteen hundred and sixty-two, which may be fixed and determined upon by the Secretary of the Treasury, if in his judgment a later day should be so fixed in order to put said act into practical operation, and all parts of said act having reference to the said dates of the first days of July and August, eighteen hundred and sixty-two, shall be taken and construed as having reference to the said day which may be so fixed and determined upon: *Provided*, That the Secretary of the Treasury shall give public notice of the day so fixed and determined upon, in such manner as he may deem expedient.

APPROVED, July 17, 1862.

No. 65.—A Resolution in relation to the Law of Prize.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That hereafter all moneys arising from the sale of property under the prize laws of the United States, whether under interlocutory or final decree, shall be paid by the marshal into the Treasury of the United States for safe-keeping immediately after the day of sale, instead of the

registry of the court, less the costs and disbursements sworn to by the marshal and taxed by the court; and every clerk of a United States court now having any such moneys in hand shall immediately pay the same into the Treasury of the United States, less the costs and disbursements to be sworn to and taxed as aforesaid, and upon a final decree of condemnation or restitution, it shall be the duty of the Secretary of the Treasury, and he is hereby authorized to pay over the same upon the order of the proper court, and no more shall be retained by any clerk from money received and paid over by him under this resolution as commissions or otherwise, than one per centum upon the first one thousand dollars in each case, and one fourth of one per centum on the excess above that sum, not, however, to exceed two hundred and fifty dollars in any case.

APPROVED, July 17, 1862.

No. 66.—A Resolution releasing to the Heirs at Law of Robert L. Stevens, deceased, all the right, title, and interest of the United States in and to Stevens's Battery.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That all the right, title, and interest of the United States, in and to Stevens's battery be, and the same are hereby, released and conveyed to the heirs at law of the said Robert L. Stevens or their legal representatives.

APPROVED, July 17, 1862.

No. 67.—A Resolution to repeal and modify sections two and three of an Act entitled "An Act to settle the Titles to certain Lands set apart for the use of certain Half-Breed Kansas Indians in Kansas Territory," approved May twenty-six, eighteen hundred and sixty, and to repeal part of section one of said act.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That sections two and three of an act entitled "An act to settle the titles to certain lands set apart for the use of certain half-breed Kansas Indians in Kansas Territory," approved May twenty-six, one thousand eight hundred and sixty, and so much of the first section as authorizes the Secretary of the Interior to decide what persons are heirs to deceased reservees as mentioned therein be, and the same are hereby, repealed.

APPROVED, July 17, 1862.

No. 68.—Joint Resolution further to provide for the Compensation of Members of Congress.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That, until the further order of Congress, the Secretary of the Senate and the Sergeat-at-Arms of the House are directed to receive, as a valid excuse for absence from duty in Congress, active employment in military service for the suppression of the rebellion without pay.

SEC. 2. *And be it further resolved*, That when any Senator or Representative shall hereafter withdraw from his seat in anticipation of the adjournment of Congress and before the adjournment and does not return, he shall, in addition to the sum now deducted for each day, forfeit a further sum equal to the mileage now allowed by law for his return home, and it shall be deducted from his compensation, unless where said withdrawal is with the leave of the Senate or House of Representatives respectively.

APPROVED, July 17, 1862.

No. 59.—Joint Resolution authorizing the Secretary of the Interior to expend, from a fund in the United States Treasury belonging to the Winnebago Indians, the sum of fifty thousand dollars, or so much thereof as may be necessary, for the benefit of said Indians.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior be, and he is hereby, authorized to expend, from a fund in the Treasury of the United States belonging to the Winnebago Indians, the sum of fifty thousand dollars, or so much thereof as may be necessary, to make such improvements upon their lands and purchase such stock and agricultural implements as their necessities may require, and that the amount so expended shall be replaced from the proceeds of the sales of the lands belonging to said Indians, which the Government is now authorized to sell by virtue of an existing treaty with said Indians.

APPROVED, July 17, 1862.

No. 70.—A Resolution to regulate the Compensation for paying Pensions.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That agents for paying pensions shall receive two per centum on all disbursements made by them to pensioners of the United States: *Provided*, That the aggregate compensation to any one agent, paying both Army and Navy pensions, shall not exceed two thousand dollars per annum.

APPROVED, July 17, 1862.

No. 71.—A Resolution making further Appropriations for the Current and Contingent Expenses of the Indian Department, and for fulfilling Treaty Stipulations with the various Indian Tribes, for the year ending June thirty, eighteen hundred and sixty-three.

Whereas certain appropriations agreed to by the Senate of the United States as amendments to the "Act (H. R. 260) making appropriations for the current and contingent expenses of the Indian department, and for fulfilling treaty stipulations with the various Indian tribes, for the year ending June thirtieth, eighteen hundred and sixty-three," approved July fifth, eighteen hundred and sixty-two, were accidentally omitted to be sent to the House of Representatives for concurrence therein; and whereas said appropriations are necessary to be made: Therefore,

Be it resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums be, and they are hereby, appropriated out of any money in the Treasury not otherwise appropriated, for the purpose of paying the current and contingent expenses of the Indian department and fulfilling treaty stipulations with the various Indian tribes:

For Indian service in Nevada Territory:

For pay of interpreter, five hundred dollars.

For presents of goods and clothing to Indians, to be expended by the superintendent of Indian affairs, five thousand dollars.

For incidental expenses in Nevada Territory, including office and traveling expenses, two thousand dollars.

For Indian service in Colorado Territory:

For pay of interpreter, five hundred dollars.

For presents of goods and clothing to Indians, to be expended by the superintendent of Indian affairs, five thousand dollars.

For incidental expenses in Colorado Territory, including office and traveling expenses, two thousand dollars.

For the Indian service in Utah Territory for fiscal year ending June thirty, eighteen hundred and sixty-three:

For interpreter for Shoshonees, one thousand dollars.

For interpreter for Utahs, one thousand dollars.

For interpreter for Ruby Valley agency, five hundred dollars.

For interpreter for Fort Bridger agency, five hundred dollars.

For interpreter for Spanish Fork agency, five hundred dollars.

For presents of goods and clothing to Indians, to be expended by the superintendent of Indian affairs, five thousand dollars.

For incidental expenses in Utah Territory, including office and traveling expenses, two thousand dollars.

APPROVED, July 17, 1862

No. 72.—A Resolution suspending the sale, by Sealed Bids, of the Lands of the Kansas and Sac and Fox Indians.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the sales of the lands of the Kansas and Sac and Fox tribes of Indians of the State of Kansas, by sealed bids, be, and the same are, postponed until the fourth day of March, eighteen hundred and sixty-three, any treaty or law to the contrary notwithstanding.

APPROVED, July 17, 1862.

PRIVATE ACTS.

CHAP. VII.—An Act for the Relief of the Owner of the British ship "Perthshire."

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That there be paid, out of any money in the Treasury not otherwise appropriated, to the order of the proper functionary of Her Britannic Majesty's Government, the sum of one thousand dollars, in full compensation to the owner of the British ship "Perthshire" in consequence of her detention by the United States steamer "Massachusetts," in June last, under the impression that she had unlawfully evaded the blockade of the port of Mobile.

APPROVED, January 17, 1862.

CHAP. XVI.—An Act for the Relief of William Y. Strong.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Treasury be, and is hereby, authorized and required to pay to William Y. Strong, out of any money in the Treasury not otherwise appropriated, fifty dollars; being the amount so by him paid into the public Treasury on the twenty-seventh of January, eighteen hundred and forty-five.

APPROVED, January 31, 1862.

CHAP. XXVI.—An Act for the Relief of Philip Speyer & Co., of the City of New York.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Treasury is hereby authorized to cause two certificates of the loan of eighteen hundred and forty-eight, of one thousand dollars each, with coupons of semi-annual interest from the first of July, eighteen hundred and fifty-four, attached thereto, to be issued to Philip Speyer & Co., or bearer, to replace that number of similar certificates, the property of said Speyer & Co., viz.: number one thousand and fifty-eight, issued to Corcoran & Riggs, or bearer, September first, eighteen hundred and forty-eight, and number eleven hundred and twenty-nine, issued to R. L. Stuart, or bearer, September ninth, eighteen hundred and forty-eight, which were mailed at Frankfort-on-the-Main, in Germany, for New York, on the third day of February, eighteen hundred and fifty-four, with the coupons from said first of July, eighteen hundred and fifty-four, attached, and were never received in New York, and are therefore supposed to be lost or destroyed: *Provided*, That before the issue of such new certificates said Philip Speyer & Co. shall furnish to the acceptance of the First Comptroller of the Treasury such bond or bonds of indemnity as is usually required by the regulations of the Treasury Department for the issue of duplicate certificates of inscribed stock.

APPROVED, February 13, 1862.

CHAP. XLII.—An Act for the Relief of Z. B. Caverly, late Secretary of Legation at Lima, Peru.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That there be paid, out of any money in the Treasury not otherwise appropriated, the sum of nineteen hundred and eighty-eight dollars to the said Z. B. Caverly, late secretary of legation at Lima, Peru, for his services and expenses as special messenger from Lima to Washington in eighteen hundred and fifty-nine, eighteen hundred and sixty, and eighteen hundred and sixty-one, that being the amount of the per diem and expenses of said messenger, after deducting therefrom his salary for the time of such service as secretary of legation.

APPROVED, March 14, 1862.

CHAP. LX.—An Act to authorize the District Court of the United States for the northern district of California to hear and determine upon its merits the Claim of Pedro Chaboya to a certain Tract of Land in California, called La Posa San Juan Bautista.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the district court of the United States for the northern district of California be, and is hereby, authorized and required to hear and decide upon the merits the claim of Pedro Chaboya to a tract of land described in his amended petition, filed in said court on the fifteenth day of June, one thousand eight hundred and fifty-seven, and called "La Posa de San Juan Bautista," in the same manner and with the same jurisdiction as if the claim to the said tract of land had been duly presented to the board of land commissioners under the provisions of the act entitled "An act to ascertain and settle the private land claims in the State of California," approved March third, Anno Domini eighteen hundred and fifty-one, and an appeal had been duly taken from their decision to the said district court by the said Chaboya.

SEC. 2. *And be it further enacted*, That on the said hearing the testimony heretofore taken in said court in relation to the said claim on behalf of the said claimant, or of the United States, may be read subject to all just exceptions to its competency, and additional testimony on either part may be taken under the direction and order of said district court as to the validity of said claim or the extent thereof.

SEC. 3. *And be it further enacted*, That an appeal may be taken from the final decision and decree of said district court to the Supreme Court of the United States by either party, in accordance with the provisions of the tenth section of the said act of March third, eighteen hundred and fifty-one.

APPROVED, April 25, 1862.

CHAP. LXI.—An Act for the Relief of the Owners, Officers, and Crew of the Danish bark "Jorgen Lorentzen."

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That there be paid, out of any money in the Treasury not otherwise appropriated, to the order of the proper functionary of the Government of His Majesty the King of Denmark, the sum of one thousand eight hundred and fifty dollars, as full compensation to the owners of the Danish bark "Jorgen Lorentzen," or their legal representatives, for damages occasioned by reason of the wrongful seizure and detention of the said bark by the "Morning Light," a vessel of the United States blockading squadron, in the month of December last, and also as full compensation to the master, mate, and crew of the said bark, the said sum to be distributed agreeably to the award of Moses Taylor and H. Dollner, Esquires, to whom the claim was referred.

APPROVED, April 25, 1862.

CHAP. LXII.—An Act for the Relief of Francis Hüttmann.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Treasury be, and he is hereby, authorized and directed to adjust the claim of Francis Hüttmann for return of tonnage and light duties illegally exacted and paid by him on the Peruvian bark "Callao," at the port of San Francisco, California, on the fifth day of September, eighteen hundred and forty-eight, amounting to one hundred and twenty-four dollars and eighty cents; and also import duties collected in excess upon the cargo of the said vessel, amounting to the sum of three hundred and fifty dollars and sixteen cents, and to pay him the amount due.

APPROVED, May 1, 1862.

CHAP. LXIV.—An Act for the Relief of Sylvester Crooks.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Treasury is hereby authorized and directed to cancel the transportation bond of Sylvester Crooks, given at the collector's office in the city of New York, in the month of November, eighteen hundred and fifty-nine, for a package of merchandise shipped by him to V. Marzion and Company, San Francisco, California, and marked "F. B., one case."

APPROVED, May 12, 1862.

CHAP. LXV.—An Act for the Relief of the Owners, Officers, and Crew of the Spanish Bark "Providencia."

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That there be paid, out of any money in the Treasury not otherwise appropriated, to the order of the proper functionary of her Catholic Majesty's Government, the sum of two thousand seven hundred and ninety-one dollars and ninety-one cents, as full compensation to the owners of the Spanish bark "Providencia," or their legal representatives, for damages occasioned by reason of the wrongful seizure and detention of said bark by a steamer of the United States blockading squadron, in the month of November last; and also as full compensation to the master, mate, and crew of said bark; the said sum to be distributed agreeably to the two several awards of Moses Taylor, Esquire, to whom the claim was referred for adjustment.

APPROVED, May 12, 1862.

CHAP. LXVIII.—An Act for the Relief of John Skirving.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Treasury be, and he hereby is, directed, out of any money in the Treasury not otherwise appropriated, to pay to John Skirving the sum of eleven hundred and forty-two dollars, in full for his services in making designs, drawings, working drawings, and measurements, in and about the public buildings in the city of Washington, and other expenses attending the same, under the direction of the Commissioner of Public Buildings, from the year eighteen hundred and forty-two to the year eighteen hundred and fifty-two, inclusive.

APPROVED, May 13, 1862.

CHAP. LXXIV.—An Act for the Relief of Lieutenant Colonel Charles F. Ruff, of the United States Army.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of War be, and is hereby, directed to cause to be paid unto Charles F. Ruff, lieutenant colonel of the third regiment of Cavalry, Army of the United States, out of any money in the Treasury not otherwise appropriated, the sum of four hundred and forty-nine dollars, being the amount of pay and emoluments due him for the months of March and April, one thousand eight hundred and sixty-one, as major of the regiment of Mounted Riflemen, United States Army, and never received by him.

APPROVED, May 17, 1862.

CHAP. LXXXVII.—An Act for the Benefit of Robert Small and others.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Navy be, and he is hereby, authorized to cause the steam transport boat "Planter," recently in the rebel service, in the harbor of Charleston, and all of the arms, munitions, tackle, and other property on board of her at the time of her delivery to the Federal authorities, to be appraised by a board of competent officers, and when the value thereof shall be thus ascertained, to cause an equitable apportionment of one half of such value so ascertained as aforesaid, to be made between Robert Small and his associates, who assisted in rescuing her from the enemies of the Government.

SEC. 2. *And be it further enacted*, That the Secretary of the Navy may, if he deems it expedient, cause the sum of money allotted to each individual under the preceding section of this act, to be invested in United States securities for the benefit of such individual, the interest to be paid to him or to his heirs, annually, until such time as the Secretary of the Navy may deem it expedient to pay to him, or his heirs, the principal sum as aforesaid.

APPROVED, May 30, 1862.

CHAP. LXXXVIII.—An Act for the Relief of John Goulding.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That John Goulding be, and hereby is, authorized to apply to the Commissioner of Patents for a renewal and extension, for the term of seven years, from the time of such renewal and extension, the letters-patent heretofore granted to him, for his improvement in machinery for the manufacture of wool and other fibrous substances, and the said Commissioner of Patents is hereby authorized and empowered to grant such renewal and extension, or withhold the same, under the existing laws, in the same manner as if the applications therefor had been seasonably made: *Provided*, That such renewal and extension shall not have the effect or be construed to restrain persons who may be using the machinery invented by said Goulding at the time of the renewal and extension hereby authorized for continuing the use of the same, nor to subject them to any claim or damage for having so used the same.

APPROVED, May 30, 1862.

CHAP. LXXXIX.—An Act for the Relief of Horace M. Hieskell, a Paymaster in the United States Navy.

Whereas Horace M. Hieskell was attached as paymaster to [the] United States receiving ship Pennsylvania, at Norfolk, Virginia, at the time, to wit, on the twentieth of April, eighteen hundred and sixty-one, when said ship was burned by order of the Government or the Commander of the station; and whereas said Horace M. Hieskell, as paymaster aforesaid, is charged by the Department with sundry items for provisions, clothing, and small-stores, which goods were destroyed when said ship was burned: Therefore,

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That Horace M. Hieskell be credited on the books of the Department with the amount of such goods charged against him.

APPROVED, May 30, 1862.

CHAP C.—An Act for the reciprocal extinguishment of certain Claims between the United States and the Representatives of Robert Brent, deceased.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Solicitor of the Treasury be, and he is hereby, directed to discontinue and to cause to be entered, satisfied all suits and proceedings upon the claim of the United States against the representatives of Robert Brent, late Paymaster General of the United States Army, and against the representatives of Robert Y. Brent, his executor; such discontinuance and acknowledgment of satisfaction to be in full of all claims on the part of said Robert Brent, or his representatives in his right against the United States.

APPROVED, June 11, 1862.

CHAP. CVI.—An Act for the Relief of Lieutenant Ulysses S. Grant.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That in the settlement of the accounts with the Treasury with Lieutenant Ulysses S. Grant, as commissary and regimental quartermaster, fourth infantry, there shall be allowed to the said Grant the sum of one thousand dollars, on account of the loss of that amount of public funds in his hands by theft on the night of the sixteenth June, eighteen hundred and forty-eight, the loss being without neglect or fault on the part of said Grant.

SEC. 2. *And be it further enacted*, That if the accounts of the said Grant have been fully settled at the proper accounting office of the Treasury, and the said amount of one thousand dollars accounted for, then and in that case there shall be paid to said Grant the sum of one thousand dol-

lars, out of any money not otherwise appropriated.

APPROVED, June 17, 1862.

CHAP. CVII.—An Act for the Relief of Oliver Spencer Wood.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the proper accounting officers of the Treasury be, and they are hereby, authorized and directed to examine and settle, on principles of equity, the accounts of Oliver Spencer Wood, late temporary naval storekeeper for the United States squadron on the African station, and to make him such allowances, subject to the approval of the Secretary of the Navy, as under the circumstances shall appear to them reasonable and just, such allowances not to exceed the deficiencies with which the said Oliver Spencer Wood now stands charged, amounting to the sum of sixteen hundred and twenty dollars and ninety-seven cents, ($1,620 97.)

APPROVED, June 17, 1862.

CHAP. CXIII.—An Act for the Relief of Rose M. Harte, Widow of Edward Harte.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Commissioner of Patents be, and he is hereby, authorized and required to pay, out of any money belonging to the fund of the Patent Office, not otherwise appropriated, to Rose M. Harte, widow of Edward Harte, the sum of two hundred and seventy-four dollars and eighty cents, in full for certain papers prepared by him, by direction of the Commissioner of Patents, illustrative of the "Progress of Agriculture in the United States during ten years," and also for an article entitled "Railroads of the United States in 1850."

APPROVED, June 19, 1862.

CHAP. CXIV.—An Act for the Relief of the Sufferers by the burning of the Washington Infirmary on the night of November 3d, 1861.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Second Auditor of the Treasuary be, and hereby is, authorized and required to ascertain and determine the amount of property lost by each of the sisters of charity and female servants employed in the Washington Infirmary at the time of its conflagration, which occurred on the night of the third of November, eighteen hundred and sixty-one, and the amount so determined, not exceeding in the aggregate six hundred and twenty dollars, shall be paid, out of any money in the Treasury not otherwise appropriated, to the claimants respectively.

APPROVED, June 19, 1862.

CHAP. CXVII.—An Act for the Relief of Commodore Hiram Paulding.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Treasury be, and he is hereby, authorized and required to pay to Commodore Hiram Paulding, of the United States Navy, out of any money in the Treasury not otherwise appropriated, the sum of twelve hundred dollars, or so much thereof as he may be satisfied is necessary to reimburse him for his expenses incurred in defending himself against a suit brought against him for taking Charles McDonald (one of William Walker's followers) from the steamer Morgan, at San Juan del Norte, in Nicaragua, and sending him on board the United States ship Saratoga, in the year eighteen hundred and fifty-seven, the said Paulding being at the time flag officer in command of the home squadron, and acting in the line of his duty.

APPROVED, June 20, 1862.

CHAP. CXVIII.—An Act to pay B. Y. Shelley for his Claim and Improvements taken from him by the Omaha Reservation in the Territory of Nebraska.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That there be, and hereby is, appropriated, out of any moneys in the Treasury not otherwise appropriated, to Bennecyville Y. Shelley, thirteen hundred and fifteen dollars, in full for all claims of said Shelley against the Government of the United States for his "claim" and improvements thereon, which were taken from him by the United States for the Omaha reservation, in Nebraska Territory, in the year eighteen hundred and fifty-five.

APPROVED, June 20, 1862.

CHAP. CXXXI.—An Act granting a Pension to Lawrence P. N. Landrum, of Taylor County, Kentucky.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior be, and he is hereby, authorized and directed to place the name of Lawrence P. N. Landrum, of Taylor county, State of Kentucky, on the roll of invalid pensions of the United States, and pay to him the sum of ninety-six dollars per annum, to be computed from the twenty-third day of March, in the year one thousand eight hundred and sixty-two.

APPROVED, July 2, 1862.

CHAP. CXXXII.—An Act for the Relief of the President and Directors of the Panama Railroad Company.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Treasury be instructed to pay to the President and Directors of the Panama Railroad Company the sum of seven thousand four hundred and seventy-five dollars, in full of all claims of said company on the United States for the transportation of certain persons from Panama to New York by agreement with Commodore Mervine.

APPROVED, July 2, 1862.

CHAP. CXXXVI.—An Act for the Relief of J. W. Nye.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Treasury be, and he is hereby, authorized and required to pay unto J. W. Nye, out of any money in the Treasury not otherwise appropriated, the sum of fourteen hundred and fifty-four dollars and eighty-four cents, for balance due for furnishing horses and carry-alls, and hauling boxes and other articles, for the use of the House of Representatives for the Twenty-Eighth Congress, under a written contract with the postmaster of the House of Representatives, dated January the fifth, eighteen hundred and fifty-four, and approved by said House of Representatives.

SEC. 2. *And be it further enacted,* That the Secretary of the Treasury be further authorized and required to pay unto J. W. Nye, out of any money in the Treasury not otherwise appropriated, the sum of three thousand four hundred and thirty-two dollars and forty-four cents, for balance due for improvements made on the botanical garden lot, and for damages sustained by said J. W. Nye in being deprived of the use and occupation of the lot according to the terms and conditions contained in a certain lease from the President of the United States to said J. W. Nye.

SEC. 3. *And be it further enacted,* That the Secretary of the Treasury is hereby directed and required, on payment of the sums hereinbefore named, to take receipts from said J. W. Nye, in full satisfaction of all claims for services or damages arising from the aforesaid contracts.

APPROVED, July 5, 1862.

CHAP. CXXXVII.—An Act for the Relief of Brigadier General Joseph G. Totten.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That there be paid to Brigadier General Joseph G. Totten, out of any money in the Treasury not otherwise appropriated, the sum of two hundred dollars, in full for so much advanced by the said Totten for the benefit of the United States in the purchase of certain land of William Aspinwall, for fortifications on Staten Island, in the harbor of New York.

APPROVED, July 5, 1862.

CHAP. CLII.—An Act for the Relief of D. G. Farragut.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the proper accounting officers of the Treasury be, and they are hereby, authorized and instructed to allow to Captain D. G. Farragut, United States Navy, in the settlement of his accounts, the sum of four hundred and seven dollars and nineteen cents, being the amount paid by him as wages to two master's mates on board the United States ship Warren, employed at Mare Island, California.

APPROVED, July 11, 1862.

CHAP. CLIII.—An Act for the Relief of Louisa Abert Byrne.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior be, and he is hereby, authorized and required to place the name of Louisa Abert Byrne, widow of the late Surgeon Bernard M. Byrne, of the United States Army, on the pension roll, at the rate of twenty-five dollars per month, from the sixth day of September, eighteen hundred and sixty, for and during her widowhood.

APPROVED, July 11, 1862.

CHAP. CLXII.—An Act for the Relief of Fanny Mactier Smith.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior be, and he is hereby, authorized and required to place the name of Fanny Mactier Smith, widow of the late Major General Charles Ferguson Smith, of the United States Army, on the pension roll, at the rate of fifty dollars per month, from the first day of May, eighteen hundred and sixty-two, for and during her widowhood.

APPROVED, July 12, 1862.

CHAP. CLXXVI.—An Act granting an Invalid Pension to Hugh H. Howard, of Hockingport, State of Ohio.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior be, and he is hereby, directed to place the name of Hugh H. Howard, of Hockingport, in the State of Ohio, a soldier in the Oregon Indian war, in eighteen hundred and fifty-five and eighteen hundred and fifty-six, upon the pension roll, and allow him a pension at the rate of eight dollars a month from the first day of January, one thousand eight hundred and sixty.

APPROVED, July 14, 1862.

CHAP. CXCI.—An Act for the Relief of Robert M. Evans.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of War be, and he is hereby, authorized to adjust and settle, upon fair and equitable terms, the accounts of Robert M. Evans, for recruiting in and bringing from the State of Indiana to this city, during the months of August and September, eighteen hundred and sixty-one, cavalry troops in pursuance of an order issued on or about the fifteenth day of July, of the same year, by the then Secretary of War: *Provided,* That the amount so paid shall not exceed the sum of five hundred dollars.

SEC. 2. This act to be in force from and after its passage.

APPROVED, July 16, 1862.

CHAP. CXCII.—An Act to confirm and establish a Patent heretofore granted to Etienne Bernot, dated July twenty-four, eighteen hundred and sixty, and to secure to George Somerville Norris, the Assignee of said Patent, the benefit of the full term for which said Patent was granted.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the patent granted to Etienne Bernot on the twenty-fourth day of July, in the year eighteen hundred and sixty, for "an improved machine for cutting files," and which patent, on the face thereof, was granted for the term of fourteen

years from the date of said patent, shall be, and the same is hereby, made a valid grant for the full term of fourteen years from the date of said patent, notwithstanding the fact that a patent had been previously granted in France for the same invention, and notwithstanding that said patent, when issued, ought to have been granted only for the term of fourteen years, to be computed from the date of the said patent, previously issued in France.

SEC. 2. *And be it further enacted*, That the title of George Somerville Norris, as assignee of said patent, under the assignment made to him by said Etienne Bernot, dated October eight, eighteen hundred and sixty, and recorded in the Patent Office, shall be good and valid to vest in said assignee, his executors, administrators, and assigns, the executive right, under the said patent, for the full period of the term of fourteen years from the date of said patent, in like manner and to the same extent as if the said patent, when originally issued, had been validly granted for fourteen years from the date thereof.

APPROVED, July 16, 1862.

CHAP. CXCIII.—An Act to secure one month's Pay and Pension to Margaret Bailey, Widow of George B. Bailey, Lieutenant Colonel in the Ninth Regiment of Virginia Volunteers.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That there be paid to Margaret Bailey, widow of George B. Bailey, late acting lieutenant colonel in the ninth regiment of Virginia volunteers, one month's pay of a lieutenant colonel, for services rendered by her husband as lieutenant-colonel and surgeon, prior to November tenth, eighteen hundred and sixty-one, when he was killed in battle at Guyandott, Virginia.

SEC. 2. *And be it further enacted*, That the Commissioner of Pensions be, and he is hereby, directed to place the name of said Margaret Bailey on the pension roll, at the rate of thirty dollars per month, from the first day of July, eighteen hundred and sixty-two, and to continue during her widowhood.

APPROVED, July 16, 1862.

CHAP. CXCIV.—An Act for the Relief of James N. Müller, Supervising Inspector of Steamboats for the Third Supervising District.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Treasury be, and he is hereby, authorized and required to audit and settle the accounts of James N. Müller for services rendered as supervising inspector of steamboats for the third supervising district, and to allow him the compensation provided by law for the period commencing on the sixth day of August, eighteen hundred and sixty-one, and ending on the second day of December, eighteen hundred and sixty-one.

APPROVED, July 16, 1862.

PRIVATE RESOLUTIONS.

No. 17.—A Resolution for the Relief of William H. Nobles.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior be, and he hereby is, authorized and directed to pay, out of any balance of appropriations for wagon roads under his control, eight thousand one hundred and ninety-nine dollars and ninety-nine cents, being the amount reported by him, under the second section of the Army appropriation act, approved March second, eighteen hundred and sixty-one, to be due to William H. Nobles, late Superintendent of the Fort Ridgely and South Pass Wagon Road.

APPROVED, March 8, 1862.

No. 31.—A Resolution in relation to the Claim of Marshall O. Roberts for the loss of the Steamer "Star of the West."

Whereas the Secretary of War has declined to act upon a claim of Marshall O. Roberts for compensation for the loss of the steamship "Star of the West," while in the service and under the direction of the United States, upon the ground that before his appointment as Secretary of War he had been consulted as counsel in the case: Therefore,

Be it resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the said claim be referred to the Attorney General, with authority to act upon the same in the same manner as the Secretary of War could have done had he not been consulted as counsel in the case, and that such sum as shall be ascertained to be due, if any, be paid in the same manner as if the same had been allowed by the Secretary of War, out of any money in the Treasury not otherwise appropriated.

APPROVED, May 20, 1862.

No. 33.—A Resolution to confirm the Opinion of the Court of Claims adverse to the Claim of Thomas B. Graham.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the opinion of the Court of Claims, adverse to the claim of Thomas B. Graham, be, and hereby is, confirmed.

APPROVED, May 21, 1862.

No. 45.—Joint Resolution to confirm the adverse Decision of the Court of Claims in the Case of C. J. Jenkins and W. W. Mann, Assignees of John McKinnie.

Be it resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the adverse decision of the Court of Claims in the case of C. J. Jenkins and W. W. Mann, assignees of John McKinnie, be, and the same is hereby, confirmed.

APPROVED, July 11, 1862.

No. 46.—Joint Resolution to confirm the adverse Decision of the Court of Claims in the Case of Richard Irvin, Trustee of the Mechanics' Bank, New York.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the adverse decision of the Court of Claims in the case of Richard Irvin, trustee of the Mechanics' Bank, New York, be, and the same is hereby, confirmed.

APPROVED, July 11, 1862.

No. 47.—Joint Resolution to confirm the adverse Decision of the Court of Claims in the Case of Executor of Lewis Warrington and others.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the adverse decision of the Court of Claims in the case of the executors of Lewis Warrington and others be, and the same is hereby, confirmed.

APPROVED, July 11, 1862.

No. 48.—Joint Resolution to confirm the adverse Decision of the Court of Claims in the Case of Abraham King, Administrator of John Mandeville.

Be it resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the adverse decision of the Court of Claims in the case of Abraham King, administrator of John Mandeville, be, and the same is hereby, confirmed.

APPROVED, July 11, 1862.

No. 49.—Joint Resolution to confirm the adverse Decision of the Court of Claims in the Case of Dennis Cronans.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the adverse decision of the Court of Claims in the case of Dennis Cronans be, and the same is hereby, confirmed.

APPROVED, July 11, 1862.

No. 50.—Joint Resolution to confirm the adverse Decision of the Court of Claims in the Case of T. S. J. Johnson.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the adverse decision of the Court of Claims in the case of T. S. J. Johnson be, and the same is hereby, confirmed.

APPROVED, July 11, 1862.

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